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Congressional Record

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*June 11, 1986*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 10, 1986.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Wednesday, June 11, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember, O gracious God, those people whose lives experience pain or anxiety. Teach us to share with those who face difficulty that all of us may enjoy the fruits of Your bountiful creation. May we be good stewards of the gifts You have given, preserving the riches of life and supporting one another with deeds of love and concern. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 109, answered "present" 3, not voting 60, as follows:

[Roll No. 153]

YEAS—261

Ackerman	Daniel	Hall (OH)
Akaka	Darden	Hall, Ralph
Alexander	Daschle	Hamilton
Anderson	de la Garza	Hammerschmidt
Andrews	Dellums	Hatcher
Annunzio	Derrick	Hayes
Anthony	Donnelly	Hefner
Applegate	Dorgan (ND)	Hertel
Archer	Duncan	Holt
Atkins	Durbin	Hopkins
AuCoin	Dwyer	Horton
Barnes	Dymally	Howard
Bateman	Dyson	Hoyer
Bates	Early	Hubbard
Bedell	Eckart (OH)	Huckaby
Beilenson	Eckert (NY)	Hughes
Bennett	Edgar	Hutto
Berman	Edwards (CA)	Jeffords
Biaggi	English	Jenkins
Boland	Erdreich	Johnson
Boner (TN)	Evans (IL)	Jones (OK)
Bonior (MI)	Fascell	Jones (TN)
Bonker	Fazio	Kanjorski
Borski	Feighan	Kastenmeier
Bosco	Fields	Kemp
Boucher	Fish	Kennelly
Boxer	Flippo	Kildee
Brooks	Florio	Kleczka
Broomfield	Foley	Kostmayer
Brown (CA)	Ford (TN)	LaFalce
Broyhill	Frank	Lantos
Bruce	Franklin	Leath (TX)
Bryant	Frost	Lehman (CA)
Burton (CA)	Fuqua	Lehman (FL)
Bustamante	Garcia	Levin (MI)
Byron	Gaydos	Levine (CA)
Callahan	Gejdenson	Livingston
Carper	Gephardt	Long
Chapman	Gibbons	Lujan
Clinger	Gilman	Luken
Coats	Glickman	Lundine
Coelho	Gonzalez	Lungren
Coleman (TX)	Gordon	MacKay
Collins	Gradison	Manton
Combest	Gray (IL)	Markey
Cooper	Gray (PA)	Mavroules
Coyne	Green	Mazzoli
Crockett	Guarini	McCain
McCloskey	Pursell	Stallings
McCollum	Quillen	Stark
McDade	Rahall	Stenholm
McEwen	Rangel	Stokes
McHugh	Ray	Stratton
McKinney	Regula	Studds
McMillan	Reid	Sweeney
Mica	Richardson	Swift
Mikulski	Rinaldo	Synar
Miller (CA)	Ritter	Tauzin
Miller (WA)	Robinson	Taylor
Mineta	Roe	Thomas (GA)
Moakley	Roemer	Torres
Montgomery	Rostenkowski	Torricelli
Morrison (CT)	Roth	Traficant
Morrison (WA)	Rowland (GA)	Traxler
Mrazek	Roybal	Udall
Murphy	Rudd	Valentine
Murtha	Russo	Vento
Myers	Sabo	Visclosky
Natcher	Savage	Volkmer
Nelson	Scheuer	Walgren
Nielson	Schneider	Watkins
Nowak	Schulze	Waxman
Oakar	Schumer	Weaver
Oberstar	Seiberling	Weiss
Obey	Shumway	Wheat
Olin	Sisisky	Whitley
Ortiz	Skelton	Whitten
Owens	Slattery	Williams
Packard	Smith (FL)	Wirth
Panetta	Smith (IA)	Wise
Pease	Smith (NE)	Wolpe
Pepper	Smith (NJ)	Wortley
Perkins	Snowe	Wright
Petri	Solarz	Wyden
Pickle	Spence	Wylie
Porter	Spratt	Yatron
Price	St Germain	Young (MO)

NAYS—109

Armey	Dornan (CA)	Leach (IA)
Badham	Dreier	Lent
Bartlett	Edwards (OK)	Lewis (CA)
Barton	Emerson	Lewis (FL)
Bentley	Evans (IA)	Lightfoot
Bereuter	Fawell	Lloyd
Bilirakis	Fiedler	Lott
Bliley	Frenzel	Lowry (WA)
Boehlert	Gallo	Mack
Boulter	Gekas	Madigan
Brown (CO)	Gingrich	Marlenee
Carney	Goodling	Martin (IL)
Chappie	Gregg	Martin (NY)
Cheney	Gunderson	McCandless
Clay	Hansen	McGrath
Cobey	Hendon	Meyers
Coble	Henry	Miller (OH)
Coleman (MO)	Hiler	Molinari
Conte	Hunter	Monson
Coughlin	Hyde	Moorhead
Courter	Ireland	Parris
Craig	Jacobs	Pashayan
Crane	Kindness	Penny
Dannemeyer	Kolbe	Ridge
Daub	Kramer	Roberts
DeWine	Lagomarsino	Rogers
Dickinson	Latta	Rowland (CT)

Schaefer	Smith, Robert (OR)	Vucanovich
Schroeder	Solomon	Walker
Schuette	Stangeland	Weber
Sensenbrenner	Strang	Whitehurst
Shuster	Stump	Whittaker
Sikorski	Sundquist	Wolf
Skeen	Swindall	Young (AK)
Slaughter	Tauke	Young (FL)
Smith, Denny (OR)	Thomas (CA)	
Smith, Robert (NH)	Vander Jagt	

ANSWERED "PRESENT"—3

Hawkins	Loeffler	Staggers

NOT VOTING—60

Aspin	Ford (MI)	Moody
Barnard	Fowler	Moore
Bevill	Grotberg	Neal
Boggs	Hartnett	Nichols
Breaux	Heftel	O'Brien
Burton (IN)	Hillis	Oxley
Campbell	Jones (NC)	Rodino
Carr	Kaptur	Rose
Chandler	Kasich	Roukema
Chappell	Kolter	Saxton
Conyers	Leland	Sharp
Davis	Lipinski	Shaw
DeLay	Lowery (CA)	Shelby
Dicks	Martinez	Siljander
Dingell	Matsui	Snyder
DioGuardi	McCurdy	Tallon
Dixon	McKernan	Towns
Dowdy	Michel	Wilson
Downey	Mitchell	Yates
Foglietta	Mollohan	Zschau

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So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 479. Joint resolution to designate October 8, 1986, as "National Fire Fighters Day."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 720) "An act to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 347), "Joint resolution to designate the week of May 19, 1986, through May 24, 1986, as 'National Homelessness Awareness Week'."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2211. An act to amend title 11 of the United States Code with respect to bankruptcy proceedings involving debtors who are family farmers, and for other purposes; and

H.R. 2434. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2211), "An act to amend title 11 of the United States Code with respect to bankruptcy proceedings involving debtors who are family farmers, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. HATCH, Mr. GRASSLEY, Mr. DECONCINI, and Mr. HEFLIN, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 426), "An act to amend the Federal Power Act to provide for more protection to electric consumers," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCLURE, Mr. HATFIELD, Mr. WALLOP, Mr. MURKOWSKI, Mr. EVANS, Mr. JOHNSTON, Mr. FORD, Mr. METZENBAUM, and Mr. MELCHER to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 4420, MILITARY RETIREMENT REFORM ACT OF 1986

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. GLICKMAN). Is there objection to the request of the gentleman from Mississippi? The Chair hears none and, without objection, appoints the following conferees:

Messrs. ASPIN, PRICE, BENNETT, MONTGOMERY, and DICKINSON, Mrs. HOLT, and Mr. HILLIS.

As additional conferees when differences concerning titles I, II, and III of the House bill and sections 1 through 12 of the Senate amendment are under consideration: Mrs. SCHROEDER and Messrs. SKELTON, SISISKY, ROBINSON, BUSTAMANTE, HUNTER, BATEMAN, and SWEENEY.

As additional conferees when differences concerning title IV of the House bill and sections 13 through 15 of the Senate amendment are under consideration: Messrs. STRATTON, NICHOLS, DANIEL, DELLUMS, MAVROULES, WHITEHURST, SPENCE, BADHAM, and STUMP.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2591

Mr. McCAIN. Mr. Speaker, I ask unanimous consent that my name be removed from the cosponsor list on H.R. 2591.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2591

Mr. FRANKLIN. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 2591.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A PROPOSAL TO SAVE IRA BY ESTABLISHING NATIONAL TAX AMNESTY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I offer a modest proposal to the other body during their consideration of the landmark tax reform bill.

I propose a trade—establish an NTA to save IRA's.

The NTA is a one-time national tax amnesty along the lines of H.R. 2085, a bill I authored earlier this year. Under NTA, those who have underpaid or failed to pay Federal taxes would have 6 months to pay full amount in exchange for forgiveness on all civil and criminal penalties and one-half interest penalties.

In terms of revenues raised, NTA would do as well as eliminating IRA deductions. The IRA revenues would be about $24 billion. A 6-month national tax amnesty could raise at least that much considering the base which is a $90 billion "tax gap"—the difference between what we get and what we are owed in taxes. All a national tax amnesty would have to do is recoup less than 30 percent of the base, and it would offset retaining the IRA deduction. This process has been enormously successful in many States.

Wiping out the IRA deduction is not tax reform; it is punitive policy against the middle class already victimized by tax laws. More than 77 percent of IRA deductions are claimed by those with incomes under $50,000. To me, it is a simple choice. I choose forcing those who have not paid taxes to do so, over taking an important deduction away from those who have paid their fair share. I urge the other body to as well.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2591

Mr. BATEMAN. Mr. Speaker, I ask unanimous consent that my name be deleted from the list of sponsors of H.R. 2591.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

TO RESUME IS TO RECOVER FROM ILLNESS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the benefits from the resumption of a gold standard were well illustrated by our experience with resumption in 1879. Confidence in the currency was restored. Floating quotations for our dollar disappeared, Business and exports expanded. Gold flowed in from abroad. The Treasury was swamped with orders, from our people and from abroad, for Government securities. It was able to refinance its maturing or callable debt at lower interest rates than it had been compelled to pay under the irredeemable greenbacks.

The Secretary of the Treasury, John Sherman, one of our greatest students of monetary science, said in an address shortly after resumption:

I want to convince everybody that * * * the United States is not bound to have its notes hawked about at a discount, but that a note of the United States may travel around the world, everywhere received as equal to gold coin, and as good as any note ever issued by any nation, either in ancient or modern times."

A depreciated paper money cheats and robs every man who receives it of a portion of the rewards of his labor or production, and, in all times it has been treated by statesmen as one of the greatest evils that can befall a people."

To resume is to recover from illness, to escape danger, to stand sound and healthy in the financial world, with our currency based upon the intrinsic value of solid coin. (Recollections of Forty Years in the House, Senate, and Cabinet, Vol. I-II, by John Sherman, New York, 1895.)

RELEASE THE AMERICAN HOSTAGES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, until an American flag flies at the apex of that beautiful Vietnam Memorial, I will not be able to vote for a gold medal for anything. I will not be able to support H.R. 2591.

Mr. Speaker, I want to thank all of my colleagues who have signed a letter to President Hafez Hassad of Syria asking that he do everything within his power to secure the release of our five American hostages. There has never been a domestic kidnaping, and except for the horror in the kidnaping involved with our entire Embassy staff in Teheran in the nation of Iran, there has never been a circumstance like this in all of our history.

I ask not only President Hassad but every single head of state in all of the Middle East to do all they can to put pressure on the Hezbollah segment of the Shiites to release our American hostages. I hope to take that message to President Hassad soon.

VOTE "YES" ON GOLD MEDALS

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, today the House will have the honor to follow the other body in granting congressional gold medals to the three individuals who built the Vietnam Veterans Memorial.

A "dear colleague" circulated yesterday, however, insinuates, without providing any examples—not a single incident of any kind—that these three men engaged in "self promotion" and "commercialized" the memorial.

In fact, as the signers of the "dear colleague" know, past charges of commercialization were exhaustively investigated by the General Accounting Office, and found to be entirely untrue.

The "dear colleague" also insinuates that these three men were somehow improperly compensated, receiving "generous salaries." In fact, as the signers of this "dear colleague" know, salaries were below that received by a GS-13 Federal employee.

In fact, as the signers of the "dear colleague" know, most of the individuals who have ever received a gold medal from Congress were paid far, far more for the work honored by their gold medals.

Mr. Speaker, I urge the House to vote "yes." It is time to honor those individuals whose great service to our Nation has too often been repaid with unfounded personal attacks.

CIVILIZATION UNDER SIEGE

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, a nation cannot exist in chaos. The worsening crisis of liability insurance is moving us toward the unwinding of the American economic system. The small structure business on which this country has flourished may well be wiped out. Yet here in the Congress there is no sense of urgency about getting hold of the problem. And because of the interstate nature of much of the problem for businesses, it is a situation crying out for congressional oversight.

Over the last few years the American court system has become skewed in some strange manner to represent not the common good of society in liability suits, but to institutionalize the idea of collective social guilt and responsibility for the conduct of any person no matter how much he or she may be individually responsible for what happened.

The tort laws of this country are being interpreted by the Judiciary for Robin Hood. No matter how demeaning it is of our citizens—making them look like hapless innocents at the mercy of the every day world—everyone who walks away from the liability insurance lottery with his pockets filled is happy.

A civilization is judged by the manner in which it regulates the relations of its people—the stabilizing of conflicts. This situation is creating conflict and puts the whole country at risk. It must be urgently addressed.

VIETNAM VETERANS MEMORIAL GOLD MEDALS

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, today the House will be considering H.R. 2591, a bill to award congressional gold medals to Jan Scruggs, Robert Doubek, and John Wheeler, for their leadership in erecting the Vietnam Veterans Memorial for the Nation.

Since its dedication 3½ years ago, the Vietnam Veterans Memorial has captured the Nation's soul. Not only has awareness of the gratitude due to Vietnam veterans become part of the national consciousness, but it has been a catalyst for a long overdue national reconciliation. The memorial is now the most visited shrine in the Nation's Capital with about 25 million people having visited it so far. As the first major memorial established in Washington since before World War II, the Vietnam Veterans Memorial is a major contribution to the Nation.

While it could not have been completed without the active support of hundreds of volunteers, it was Jan Scruggs, Robert Doubek, and John Wheeler who provided the indispensable leadership that made the Vietnam Veterans Memorial a reality. I believe that if ever the recognition offered by the congressional gold medal was deserved, it is deserved by Jan Scruggs, Robert Doubek, and John Wheeler for their leading role in giving the Vietnam Veterans Memorial to our country.

VOTE "NO" ON CONGRESSIONAL GOLD MEDALS

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, this morning the House will consider under suspension the awarding of the congressional gold medal to three nominees. As a Vietnam combat veteran, I rise in reluctant and strong opposition to this measure.

I am mindful of the contributions that these three men made to the Vietnam Veterans Memorial, particularly "The Wall." I am also aware of the efforts of several other veterans who worked without compensation and who prevailed over the objection of the nominees to include a pathway, a statue and the flag.

As a Vietnam veteran, I am grateful for all of their efforts, but I cannot support the awarding of this honor to any of them. Most Vietnam veterans, and probably all combat veterans, carry memories of the sacrifices and heroism of those men and women whose names appear upon the wall. They are aware of the circumstances involved in the 300,000 soldiers who were wounded in Vietnam as well. While the efforts of these nominees were commendable, they were also well compensated. Nothing they have done is comparable to the sacrifice of their slain and wounded comrades.

Mr. Speaker, I urge my colleagues to vote "no" on this measure.

FAULTY FRANKING COMMISSION REGULATIONS

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, yesterday the Franking Commission voted to dismiss a complaint against one of our colleagues who had mailed outside of his district within his State.

That particular colleague had signed, in February, a statement with the FEC indicating that he was a candidate for the Senate. He had announced to the press in his home State that he was a candidate for the Senate.

The Franking Commission dismissed the complaint, saying that he was not, in fact, a candidate because he had not qualified under State law to have his name on the ballot.

I think that is a distinction that our constituents will not understand. They think it's an abuse of the frank, and who can blame them.

We did the same thing with another of our colleagues who is now a candidate for the Senate a few weeks ago. The problem does not lie with our colleagues. The problem lies with the Franking Commission and our franking regulations, both of which make us look bad.

There is a body of thought within the Commission which holds that Members of this House are unwilling to accept accountability, and instead demand a blank check on use of the frank. I do not believe that.

I believe that our franking regulations need improvement, and they need it now. Our constituents need protection against the lack of accountability in the use of their money. Our colleagues need reasonable, understandable regulations which protect their responsible use of the frank.

I will be discussing it with my colleagues over the coming weeks.

VIETNAM VETERANS MEMORIAL GOLD MEDALS

Mr. KOSTMAYER. Mr. Speaker, I rise today in support of H.R. 2591, as amended, a bill to award congressional gold medals to Jan Scruggs, Robert Doubek, and John Wheeler, for their leadership in erecting the Vietnam Veterans Memorial for the Nation.

The creation of the Vietnam Veterans Memorial was an extraordinary achievement. It was dedicated just over 3½ years after the incorporation on April 27, 1979, of the Vietnam Veterans Memorial Fund, Inc. [VVMF] as a nonprofit organization.

Starting with no funds of its own, the VVMF raised over $9 million from trade unions, corporations, foundations, veterans' organizations, and individual American citizens. After intense political lobbying, Congress approved the VVMF's request for a 2-acre site on the Capitol Mall, near the Lincoln Memorial. The national competition through which the Memorial design was selected attracted 1,421 entries, making it the largest such competition ever held. An entirely new technology was created and used to inscribe the 58,000 names. A task originally estimated to require years was done in 3 months. Construction was completed on time and under budget.

While it could not have been completed without the active support of hundreds of volunteers, it was Jan Scruggs, Robert Doubek, and John Wheeler who provided the indispensable leadership that made the Vietnam Veterans Memorial a reality.

Jan Scruggs, a wounded and decorated Vietnam veteran, conceived of the idea of a memorial as a way of honoring those who had died in the Vietnam war, and of healing the great hurt inflicted on returning veterans by a country wanting to forget that war. He founded VVMF, and has served as its president since April 1979. From the beginning he worked tirelessly to promote the idea of the memorial. He wrote numerous articles for publication, enlisted the support of government, business and labor leaders, and secured many major financial contributions. Mr. Scrugg's conception of separating veterans from the devisive national debate over the war, and then honoring those veterans was the most important element of the memorial effort.

Robert Doubek was cofounder of the VVMF. As VVMF executive director, he secured the support of the major veterans organizations and coordinated passage of the site authorizing legislation. He initiated the direct-mail fundraising campaign and directed the design competition. As Memorial project director, he organized the design and construction team and oversaw the completion of the Memorial. He was responsible for verifying the accuracy and completeness of the names inscribed on the walls and originated the name locator directories and the National Park Service volunteer guide program. Finally, he organized and managed the Memorial's dedication ceremony and other public events.

John Wheeler, chairman of VVMF's board of directors, gave several thousand hours of volunteer time to the Memorial project. He recruited many of the volunteers who have served as directors and advisors. His adept political decisions were crucial in steering the project past those who felt the Memorial should dictate a particular interpretation of the Nation's involvement in Vietnam.

The Vietnam Veteran Memorial honors Vietnam veterans with more poignancy than more conventional memorials. Its design seems able to capture all of the ambiguity that the Vietnam war evoked in America.

For Vietnam veterans, the Memorial embodies their pride in having served their Nation—and their rage at a Nation slow to honor and help those who served. For all of us, the Memorial embodies our love for our country—and a tremendous sorrow for those men and women who died for our country.

But the design of the Memorial also provides for a reconciliation of those ambiguities. The names have a power all their own. They turn the Memorial into a quiet place for people to renew their faith in America and its people, and to better understand sacrifice and sorrow. And the black granite, chosen for its reflective quality, seems to draw visitors into a special union with the name. It ensures that we will never forget, never, Mr. Speaker, never.

AWARDING CONGRESSIONAL GOLD MEDALS TO JAN SCRUGGS, ROBERT DOUBEK, AND JACK WHEELER

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the unfinished business is the question of suspending the rules and passing the bill, H.R. 2591, as amended, on which further proceedings were postponed on Monday, June 9, 1986, and on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 2591, as amended.

The vote was taken by electronic device, and there were—yeas 224, nays 186, not voting 23, as follows:

[Roll No. 154]

YEAS—224

Ackerman	Bonior (MI)	Coughlin
Akaka	Borski	Crockett
Alexander	Bosco	Darden
Anderson	Boucher	Daschle
Andrews	Boxer	Dellums
Annunzio	Brooks	Dicks
Atkins	Brown (CA)	DioGuardi
AuCoin	Bruce	Donnelly
Barnes	Bryant	Dorgan (ND)
Bates	Burton (CA)	Durbin
Beilenson	Bustamante	Dwyer
Bennett	Carr	Dymally
Bentley	Chapman	Dyson
Berman	Clay	Early
Biaggi	Coelho	Eckart (OH)
Bilirakis	Coleman (MO)	Edgar
Boggs	Collins	Edwards (CA)
Boland	Conte	English

Evans (IL)	Lehman (FL)	Rinaldo
Fascell	Leland	Roe
Fawell	Levin (MI)	Roemer
Fazio	Levine (CA)	Rose
Feighan	Lipinski	Rostenkowski
Fish	Lloyd	Rowland (CT)
Florio	Long	Roybal
Foglietta	Lott	Russo
Foley	Lowry (WA)	Sabo
Ford (MI)	Luken	Savage
Ford (TN)	Lundine	Saxton
Fowler	Mack	Scheuer
Frank	MacKay	Schroeder
Frost	Manton	Schumer
Garcia	Markey	Seiberling
Gaydos	Martinez	Sharp
Gejdenson	Matsui	Sikorski
Gephardt	Mavroules	Slattery
Gibbons	McCloskey	Smith (FL)
Gilman	McCollum	Snowe
Glickman	McCurdy	Spence
Gonzalez	McEwen	Spratt
Gordon	McHugh	Staggers
Gray (IL)	McKinney	Stallings
Gray (PA)	Meyers	Stark
Guarini	Mica	Stokes
Gunderson	Mikulski	Strang
Hall (OH)	Miller (CA)	Studds
Hall, Ralph	Mineta	Synar
Hamilton	Mitchell	Thomas (GA)
Hawkins	Mollohan	Torres
Hayes	Morrison (CT)	Torricelli
Hefner	Murtha	Towns
Heftel	Natcher	Traficant
Henry	Neal	Traxler
Hertel	Nelson	Udall
Howard	Nielson	Vento
Hoyer	Nowak	Visclosky
Hughes	Oakar	Volkmer
Jacobs	Oberstar	Vucanovich
Jeffords	Obey	Walgren
Jenkins	Olin	Watkins
Jones (NC)	Ortiz	Waxman
Jones (OK)	Owens	Weaver
Jones (TN)	Panetta	Weiss
Kanjorski	Pashayan	Wheat
Kaptur	Pease	Whitten
Kasich	Penny	Williams
Kastenmeier	Perkins	Wirth
Kennelly	Pickle	Wise
Kildee	Price	Wolpe
Kleczka	Pursell	Wright
Kolbe	Rahall	Wyden
Kolter	Rangel	Yates
Kostmayer	Regula	Yatron
Leach (IA)	Reid	Young (MO)
Lehman (CA)	Richardson	

NAYS—186

Anthony	Coyne	Holt
Applegate	Crane	Hopkins
Archer	Daniel	Horton
Armey	Dannemeyer	Hubbard
Aspin	Daub	Huckaby
Badham	de la Garza	Hunter
Bartlett	DeLay	Hutto
Barton	Derrick	Hyde
Bateman	DeWine	Ireland
Bedell	Dickinson	Johnson
Bereuter	Dornan (CA)	Kemp
Bevill	Dreier	Kindness
Bliley	Duncan	Kramer
Boehlert	Eckert (NY)	LaFalce
Boner (TN)	Edwards (OK)	Lagomarsino
Bonker	Emerson	Lantos
Boulter	Erdreich	Latta
Broomfield	Evans (IA)	Leath (TX)
Brown (CO)	Fiedler	Lent
Broyhill	Fields	Lewis (CA)
Byron	Flippo	Lewis (FL)
Callahan	Franklin	Lightfoot
Carney	Frenzel	Livingston
Carper	Fuqua	Loeffler
Chandler	Gallo	Lujan
Chappell	Gekas	Lungren
Chappie	Gingrich	Madigan
Cheney	Goodling	Marlenee
Clinger	Gradison	Martin (IL)
Coats	Green	Martin (NY)
Cobey	Gregg	Mazzoli
Coble	Hammerschmidt	McCain
Coleman (TX)	Hansen	McCandless
Combest	Hatcher	McDade
Cooper	Hendon	McGrath
Courter	Hiler	McMillan
Michel	Roth	Solarz
Miller (OH)	Roukema	Solomon
Miller (WA)	Rowland (GA)	St Germain
Moakley	Rudd	Stangeland
Molinari	Schaefer	Stenholm
Monson	Schneider	Stratton
Montgomery	Schuette	Stump
Moody	Schulze	Sundquist
Moorhead	Sensenbrenner	Sweeney
Morrison (WA)	Shaw	Swindall
Mrazek	Shelby	Tauke
Murphy	Shumway	Tauzin
Myers	Shuster	Taylor
Nichols	Siljander	Thomas (CA)
Oxley	Sisisky	Valentine
Packard	Skeen	Vander Jagt
Parris	Skelton	Walker
Pepper	Slaughter	Weber
Petri	Smith (IA)	Whitehurst
Porter	Smith (NE)	Whitley
Quillen	Smith (NJ)	Whittaker
Ray	Smith, Denny (OR)	Wolf
Ridge	Smith, Robert (NH)	Wortley
Ritter	Smith, Robert (OR)	Wylie
Roberts		Young (AK)
Robinson		Young (FL)
Rogers		Zschau

NOT VOTING—23

Barnard	Dixon	Moore
Breaux	Dowdy	O'Brien
Burton (IN)	Downey	Rodino
Campbell	Grotberg	Snyder
Conyers	Hartnett	Swift
Craig	Hillis	Tallon
Davis	Lowery (CA)	Wilson
Dingell	McKernan	

□ 1045

Messrs. LUJAN, DUNCAN, and COYNE changed their votes from "yea" to "nay."

Mr. CHAPMAN and Mr. CONTE changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CRAIG. Mr. Speaker, I was unavoidably detained in committee today and missed the vote on rollcall 154. If I had been present, I would have voted "no."

REQUEST FOR PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT ON TODAY AND TOMORROW DURING THE 5-MINUTE RULE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have permission to sit during the 5-minute rule on today and tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HENDON. Mr. Speaker, reserving the right to object, has this been cleared through the ranking member on this side?

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield, I was assured that it was. I was advised that he has been notified. I cannot personally attest to it.

Mr. HENDON. Mr. Speaker, could the gentleman withhold the request temporarily until we check on this side?

Mr. DE LA GARZA. I will be happy to.

Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] withdraws his request.

□ 1055

FOR THE "SWEET SIXTEENTH" TIME THE CELTICS ARE CHAMPIONS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, last year at about this time, the whispers of the many who dared think that maybe this wasn't the year of the "sweet sixteenth" were united in one loud voice. The Gallant Five from the Ancient Garden went down at the hands of the Wanton Knights of Hollywood.

This upset the citizens of the proud city on the Charles, but none were as upset as the Great Red One—and no one was more capable of doing something about it.

So with two subtle flicks of his magic cigar
Red fixed his eyes on a distant star
He wished for a clipper, ancient but sturdy
And a mid-western sharp-shooter, a crack-shot from thirty
Then he gathered his warriors on the old parkay plank
He pointed to the rafters, musty and dank
Said "men gather 'round, listen up if you would"
The last banner up there's been there longer than it should
With that they moved in round The Chief and The Bird
They made a solemn pact, each gave it their word
On the socks of Bill Russell and the shorts of The Cooze
They swore they would die before The Naismith they'd lose
With K.C. at the helm, that no-nonsense chap
Our heroes took on every town on the map
In their wake they left carnage and broken desire
Each victory just added to the rage of the fire
'Til all that stood 'tween them and the magic gold ring
Were two towers from Texas who thought they should be King
But while Houston, just to be in the match, was excited
The Green shut them down as if fate had decided
See, the rockets had flash, some skill and some fans
But our boys had a destiny, with prearranged plans
Now the skeptics are believers, the critics beside 'em
As this year total victory was not be denied 'em

So Hail D.J.! Hail Birdman!, Hail Danny and The Chieftian!
Hail Kevin, Bill Walton, K.C., Carlisle and Sighting!
Hail Vincent and Thirdkill! Hail Kite and Scott Wedman!
As for time number sixteen, the Celtics are champions!

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT ON TODAY, AND TOMORROW, JUNE 12, 1986, DURING THE 5-MINUTE RULE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may be allowed to sit during the 5-minute rule on today and tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEAD LETTER DAYS

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, at the beginning of this second session, the distinguished majority whip, Mr. FOLEY, and I distributed little wallet-sized cards to our respective party members on which were noted the significant budget calendar dates for 1986, pursuant to the Gramm-Rudman-Hollings Deficit Control Act enacted last December.

Today I would like to call on my Democratic leadership colleagues to take those little cards out of their wallets—read them, and heed them. Those cards contain critical, red-letter dates for completing various actions under the budget process. And yet, we are letting these crucial deadlines slip by, unheeded and unmet. To quote the British essayist, Charles Lamb, "The red-letter days now become, to all intents and purposes, dead-letter days."

What happened to the April 15 statutory deadline for completing action on a budget resolution? It's a dead-letter; we still don't have a budget resolution some 2 months later. What about the June 10 statutory deadline for reporting all appropriations bills in the House? It too is a dead-letter; not one money bill had been reported as of yesterday's deadline. We're also likely to miss next Sunday's deadline for completing action on reconciliation, and the June 30 deadline for finishing all appropriations bills in the House.

When are we going to get serious around here and start complying with the very laws we have imposed on ourselves? Or is it the intent of the Democrats to make the Deficit Control Act a dead-letter, and turn those red letter days into more red ink days?

HOUSING ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 450 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1.

□ 1100

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to amend and extend certain laws relating to housing, and for other purposes, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 5, 1986, title II of the text of the bill H.R. 4746, which is considered as an original bill for the purpose of amendment, was open to amendment at any point.

Are there further amendments to title II?

Mr. COOPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a brief colloquy with the distinguished chairman of the Subcommittee on Housing and Community Development, the gentleman from Texas [Mr. GONZALEZ], concerning HUD's study on assessing the energy efficiency of log homes.

Mr. Chairman, it is my understanding that there has been an ongoing dispute over the energy efficiency of log homes between HUD and builders of these homes. The dispute has centered on whether log homes, for the purpose of determining FHA and related insurance eligibility, should meet existing energy standards approved by HUD, or whether the unique energy retention capability of logs makes those standards inappropriate as suggested by the log home industry.

It is also my understanding that in an effort to resolve these differences that the Congress directed HUD in 1977 to conduct a study to ascertain the energy efficiency of log homes from which appropriate energy standards could be promulgated. I wonder if the distinguished chairman could tell me the status of this research project previously approved by the Congress.

Mr. GONZALEZ. If the gentleman will yield, Mr. Chairman. The gentleman is correct, there has been an ongoing dispute as to the appropriateness of HUD-approved energy standards to log homes. In an effort to resolve the dispute, HUD was instructed by the 96th Congress to conduct a research project in tandem with the National Bureau of Standards [NBS] to determine the energy efficiency of log homes. Although the basic field research was completed in 1982, for some reason, a full analysis of the data has not been conducted by either the National Bureau of Standards or HUD. As a result, there is no definitive data on which to formulate energy efficiency standards for log homes.

Mr. COOPER. It seems to me that NBS and HUD need to complete their analysis of the test results and come up with some conclusions that will improve access to log homes. Given the potential energy savings for America and the possibilities for cost-effective housing build of logs, couldn't $60,000 in HUD's research budget be used to complete the analysis and develop a standard for log homes?

Mr. GONZALEZ. Funding completion of this project from HUD's research budget would indeed be a wise use of funds, especially in view of the moneys that have already been spent to conduct the tests. It was the intention of Congress that the entire project be completed and supportable conclusions arrived at.

Once the results are tabulated, representatives from HUD, NBS, the Department of Energy, and the log home industry should develop an acceptable energy standard for log homes, or reach agreement on how the industry can meet the existing standards without trading away cost-effectiveness. It's especially important in this era of funding cutbacks that we help more Americans obtain energy-efficient, affordable housing.

Mr. COOPER. Mr. Chairman, I thank the gentleman. I appreciate the cooperation of the distinguished chairman of the subcommittee.

AMENDMENT OFFERED BY MR. GRAY OF ILLINOIS

Mr. GRAY of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAY of Illinois: Page 42, after line 11, insert the following new subsection (and redesignate the subsequent subsections accordingly):

(a) REDUCTION OF RENTAL PAYMENTS FOR ELDERLY FAMILIES.—Section 3(a)(1) of the United States Housing Act of 1937 is amended by inserting before the semicolon the following "(25 percent in the case of an elderly family)".

Mr. GRAY of Illinois. Mr. Chairman, this is a very simple amendment. The existing rental in senior citizens public housing is 30 percent of adjusted gross income. Mr. Chairman, this is forcing an undue hardship on many of our senior citizens who are going into the sunset of their lives. This amendment would merely roll that back to 25 percent, the amount that was prevailing up until 1981.

As an example, when you have a senior citizen drawing the minimum Social Security of under $300 per month, that extra 5 percent takes away $15 of that recipient's income which they need for food, clothing and other important items.

I think without a doubt we are forcing an undue burden on our senior citi-

zens. I know in my own congressional district we have a 15-percent vacancy rate in senior citizen housing because they are moving out of Government-supported housing back into substandard housing whence they came. The whole purpose of public housing for senior citizens is to get them out of that substandard housing, allow them to come and have friendship and fellowship with other senior citizens, have a decent nutritional diet in that public housing project, and now we are doing just the reverse with these exorbitant rents, forcing them back out of public housing, back into the squalor of substandard housing.

So I hope that the Committee will accept this amendment.

I want to commend our distinguished chairman, the gentleman from Texas [Mr. GONZALEZ] and the distinguished ranking member, Mr. MCKINNEY, for what they have done for not only senior citizens but all people living in public housing throughout this country. They have done a Trojan job over the years. I know of no one who has put in more time or more effort into helping our senior citizens and our low-income families. I urge the subcommittee to accept this amendment. If you feel that the 5-percent reduction is a little exorbitant, I hope you will at least take it to conference with the other body and come up with something that will give some relief to those people who are being forced out of the senior citizen housing in this country or who are real pressed in their budget to pay 30 percent of their income for rent.

I urge my colleagues to vote yes on the amendment. Thank you.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. GRAY of Illinois. I would be happy to yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, we just received a copy of the amendment, so I first want to try to understand it.

Is the gentleman's amendment applying to all types of housing programs, section 8 public housing?

Mr. GRAY of Illinois. This is senior citizens housing. Three categories.

Mr. BARTLETT. If the gentleman will further yield, I am having trouble remembering; I don't believe there is a name of Federal housing called senior citizens housing, and I am trying to identify what housing this amendment includes.

Mr. GRAY of Illinois. There are three sections of senior citizens housing affected by my amendment. First, public housing programs, Second, section 8, new construction and section 202. Third, section 8 existing, vouchers and moderate rehabilitation. Those three sections.

Mr. BARTLETT. If the gentleman will further yield, this amendment affects all housing programs so long as that person is a senior citizen.

Mr. GRAY of Illinois. Precisely.

Mr. BARTLETT. If the gentleman from Illinois——

Mr. GRAY of Illinois. It merely lowers rents from the 30 percent of gross income down to 25 percent;

Mr. BARTLETT. If the gentleman will yield further.

Mr. GRAY of Illinois. Yes; I yield.

Mr. BARTLETT. This is somewhat of a surprise, I think, to the House floor. This is a decision that was made in prior years to move that up to 30 percent.

Does the gentleman have a cost estimate, either in terms of how many dollars it would cost to make this change or in terms of how many senior citizens would have to be cut off from the rolls if we had the same amount of dollars expended under the budget? Does the gentleman know how many senior citizens would not be able to be served if we added additional costs?

Mr. GRAY of Illinois. There are two answers to that question. In my case, in my congressional district, which is a 21-county district, we have 15 percent vacancies caused exactly for the reasons I have just alluded to. That is, people cannot afford the high rents in public housing, and they are moving back into substandard housing.

So if we lower the rate, we think we could recoup as much as we would lose by—it is similiar to when I was in the automobile business, when you have a lot of cars on hand, you lower the price of the car and do a volume business.

This is what we would like to do here. The money that we would lose if we did not recoup any additional renters would be about $400 million in all of the programs across the board. But as I say, if we fill those units up with people that are now moving out of the units, we think we could recoup the largest part of that.

Mr. BARTLETT. If the gentleman would yield further.

Mr. GRAY of Illinois. Yes, I would be glad to yield.

Mr. BARTLETT. The cost of this amendment would be $400 million of additional subsidy, but the gentleman believes that would be recouped by providng additional subsidies to people who are not living there now?

Mr. GRAY of Illinois. No, no. I am talking about filling the units back up with people who would be paying the 25 percent, and those units at least in my district are vacant. So we would be getting money back we are now losing.

I hope the Members will support this important amendment. Thank you.

□ 1110

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, nothing would please me more than to say that I would accept this amendment. It is one that I would have offered myself time and time again and, in fact, have done so.

The reason that we have 30 percent of income as rent in assisted housing, which means in our country the housing for the poorest of the poor, is that we had Gramm-Latta and then we had "Grimmer-Latta." And we were compelled into that. We were not actually ever allowed to have and out-and-out floor debate.

It is ironic that all of the Members of the Congress who stand for purity in the process were very eager to jump on that one, which I considered to be a diversion of the processes.

But, nevertheless, that is the history of it. That is how we got 30 percent. We were mandated. The committee never accepted that. We fought against it. We voted against it in the subcommittee.

We then attempted in 1982 and then in 1983 in the Authorization Act for 1983 to restore the traditional 25 percent, but we failed in that attempt.

At this point, though, I am restrained from accepting the gentleman's amendment. I want to congratulate the gentleman for his sensitivity as to just what is going on in the real world. But I have, together with the distinguished gentleman, the ranking member of the subcommittee, after many, many months of effort, forged a compromise which, if I were to accept this, I would consider it to be a violation of the compromise, because it would put these very good-willed Members in an untenable position at this point.

So what we are trying to do is save the baby and the bath water. I am afraid that if I were to accept and then destroy the consensus that has enabled us to get this far, for the first time in the last 5½ years, on an authorization bill on its own feet, I therefore reluctantly must oppose the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I think many of us are concerned. It was 25 percent of income for a long time. The fact is that when it was raised without a debate on this floor in 1981, we since then have fought to reduce it back to 25 percent. So the gentleman's amendment is something that many of us share support for, but understanding that we have a long road to go in terms of the other body and the ad-

ministration in terms of getting this bill enacted.

But I think that the gentleman really reflects the sentiments of many of us in terms of the elderly.

The fact is that we won some battles in terms of this bill, in terms of that issue. Even though the percent is 30, the way that it was implemented was on a gradual basis. Not only that, but we retained the credits that are so important, the credits for those who have medical expenses, the credits for other types of expenses that residents, senior citizen residents, of assisted housing have.

Mr. Chairman, I would like the chairman to explain some of the credits that are present that do in fact lower the overall costs for senior citizens and for other residents that are in housing that have special dietary needs. I think this is the best bet.

Before the chairman does that, the point that I want to make is that I think that the promise here was that if we were to, for instance, increase the rent slightly under the 1981 law, somehow we would be able to provide more help, more assisted housing, for the poor in this country. The fact of the matter is that promise has been broken, that that is not what has occurred, but what rather has occurred is there has been a diminishing support for, of course, assisted housing and for public housing and for senior citizen housing. That, of course, has to be reversed. There are all these high-sounding promises about the fact that that 5 percent is going to go to help more, today we have a more serious problem in terms of housing, in terms of deficient housing, in terms of homeless that we had before.

I would like the chairman to comment about some of the credits that exist that do offset the rent costs.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, this is a very important issue. It goes to the heart of the matter. I realize that we may not be voting on this, and I hope we are not compelled to.

Mr. Chairman, I thank the gentleman from Minnesota, because the gentleman has very much fought against that increase. The gentleman has been in the forefront of the fight and has explained it well.

Mr. Chairman, I did want to point out to my equally distinguished colleague from Illinois, who has a tremendous record of service in this House, and who I highly honor, that there are minor victories that we were able to get. We might have lost the war, but we won a few skirmishes, and these are what I would like to point out to the gentleman that are available in the way of diminishing the harsh impact on the poorest of the poor of a 5-percent increase in the rents.

We had it done this way. We amended the basic 1937 Housing Act in that 1983 effort, and we had this definition: The term "adjusted income" means income that remains after excluding, first, $480 for each member of the family residing in the household other than the head of the household or his spouse who is under 18 years of age or who is 18 years of age or older and is disabled or handicapped or a full-time student; second, $400 for any elderly family—you have that exemption of a flat $400 for any elderly family; third, the amount by which the aggregate of the following expenses of the family exceeds 3 percent of annual family income: one, medical expenses for any elderly family; two, reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family, to the extent necessary to enable any member of such family, including such handicapped member, to be employed; and fourth, child care to the extent necessary to enable another member of the family to be employed or to further his or her education.

So we do have those mitigating factors, but I still believe that it was an error to have raised the rents at a time when our housing starts continue to diminish, particularly to the poor and the poorest of the poor.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I certainly understand the motives of the sponsor, the author, of this amendment, but I think that we need to keep in mind a couple of points.

As the chairman of the subcommittee has pointed out, there is already a credit that is applied against gross income when one calculates the amount that an elderly person or family is going to pay.

Let us just run through a very quick calculation. Let us asume that we have a couple that receives $600 a month in their combined Social Security payments. That is not very much. They have against that a credit of $400. So the amount that they are going to pay in terms of their rent in subsidized housing is going to be applied against only $200. We are talking then about currently they would pay $60 in rent out of $600 of income. That is 10 percent of their income. We are talking about reducing that to $50, which would be 8 percent, if you reduced it to 25 percent.

Now the national average currently, the national average for all Americans, and what they pay as a percent of their income, whether we are talking about rich, poor or middle income, is 28 to 29 percent of their gross income which is paid for their housing.

The example that I gave is obviously one which is significantly below that. Even if you were to leave out the credit that is applied there, then you are talking about reducing it from 30 to 25 percent below the national average.

I know that in my district there are many elderly people who are paying well over the amount even of that national average in terms of the income that they apply, and they are not in subsidized housing. It strikes me as incredible to imagine somehow how reducing the rent from $60 to $50 for that individual or for that family is going to get them into subsidized housing and fill up these units, that they are now in housing that somehow they can get at $50 outside the subsidized housing market that they cannot get at $60.

□ 1120

I just find it incredible to imagine how that is going to happen.

Mr. GRAY of Illinios. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Illinios.

Mr. GRAY of Illinios. I thank the gentleman from Arizona for yielding.

Mr. Chairman, I think the gentleman has put his finger on a very important point and that is that the average citizen in this country is only paying approximately 20 percent of his adjusted gross income for rent, and we are charging our senior citizens, going into the sunset of their lives, 30 percent of adjusted gross income, when the whole purpose of senior citizen housing is to give them a better break on housing in the last days of their lives. I think the gentleman has made a good argument for my amendment.

Mr. KOLBE. If I might reclaim my time, the figure I gave was 28 to 29 percent of gross income. When you talk about the $400 credit, then you are only talking about 10 percent. Twenty-five percent of $200 would be $50. That is 10 percent of their gross income.

Mr. GRAY of Illinios. If the gentleman will yield further, even if they are on a similar basis, we are not doing much for the senior citizens. If we are equating rentals on the open private market with anybody in senior citizen housing—that is, even the same amount, 28—percent, what are we doing for them to get them out of substandard housing and into decent housing where they can get good nutrition, where they can prolong their lives by going down to the recreation room and visiting with other senior citizens? That is the whole purpose of senior citizen housing. So even if we only charge them 28 percent, we are

not giving them any real consideration.

Mr. KOLBE. The point was made by the gentleman from Illinois that we would somehow fill up these vacant units, at least in his district, if we would reduce the amount of income that is paid, adjusted income, from 30 percent to 25 percent. I suggested a little scenario that I ran through there that if you had a $600 income, you are really talking about reducing it from $60 to $50. I cannot conceive of these people finding housing on the outside that they are getting for $60, that somehow reducing it to $50 is now going to get them into subsidized housing.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Minnesota.

Mr. VENTO. I just want to point out that I am glad the gentleman has got up and reaffirmed the support for the credits, because as far as the elderly, they are far more important than the percentage paid, and I think it is important that we have preserved that particular element.

The other aspect, though, is because of the nature of the eligibility standards in terms of public housing, we are increasingly addressing and providing housing for the poorest of the poor. In other words, instead of 80 percent of median income, there was a time when it was everyone below 50. And the fact is that when you have a very low income, whatever percentage you take is a much tougher standard for those with low income. But I think it is important here and I am pleased that the gentleman has pointed out the importance of these particular credits, because they do allow, I think, a more realistic way of approaching this.

Mr. KOLBE. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. GRAY].

The question was taken; and on a division (demanded by Mr. GRAY of Illinois) there were—ayes 11, noes 10.

RECORDED VOTE

Mr. McKINNEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 277, noes 137, answered "present" 1, not voting 18, as follows:

[Roll No. 155]

AYES—277

Ackerman	Bates	Bonior (MI)
Akaka	Beilenson	Bonker
Alexander	Bennett	Borski
Anderson	Bentley	Bosco
Andrews	Berman	Boxer
Annunzio	Bevill	Brooks
Anthony	Biaggi	Brown (CA)
Applegate	Bilirakis	Bryant
Aspin	Boehlert	Burton (CA)
Atkins	Boggs	Bustamante
AuCoin	Boland	Byron
Barnes	Boner (TN)	Carr
Chapman	Hutto	Reid
Chappell	Jacobs	Richardson
Clay	Jeffords	Rinaldo
Clinger	Jones (NC)	Robinson
Coelho	Jones (OK)	Roe
Coleman (TX)	Jones (TN)	Roemer
Collins	Kanjorski	Rogers
Conte	Kaptur	Rose
Coughlin	Kastenmeier	Rostenkowski
Coyne	Kemp	Rowland (CT)
Crockett	Kennelly	Rowland (GA)
Daschle	Kildee	Roybal
de la Garza	Kleczka	Russo
Dellums	Kolter	Sabo
Derrick	Kostmayer	Savage
Dicks	Lantos	Scheuer
Dingell	Leath (TX)	Schneider
DioGuardi	Lehman (CA)	Schroeder
Dixon	Lehman (FL)	Schulze
Donnelly	Leland	Schumer
Dorgan (ND)	Lent	Selberling
Downey	Levin (MI)	Sharp
Duncan	Levine (CA)	Shaw
Durbin	Lewis (FL)	Shelby
Dwyer	Lipinski	Sikorski
Dymally	Lloyd	Sisisky
Dyson	Long	Smith (FL)
Early	Lowry (WA)	Smith (IA)
Eckart (OH)	Luken	Smith (NE)
Edgar	Lundine	Smith (NJ)
Edwards (CA)	MacKay	Snowe
Emerson	Madigan	Solarz
English	Manton	Solomon
Erdreich	Markey	Spence
Evans (IL)	Martin (NY)	Spratt
Fascell	Martinez	St Germain
Fazio	Matsui	Staggers
Feighan	Mavroules	Stallings
Fiedler	Mazzoli	Stangeland
Fish	McCloskey	Stark
Flippo	McCollum	Stokes
Florio	McCurdy	Stratton
Foglietta	McDade	Studds
Ford (MI)	McEwen	Swift
Ford (TN)	McGrath	Synar
Fowler	McHugh	Tauzin
Frank	Mica	Thomas (GA)
Frost	Mikulski	Torres
Fuqua	Miller (CA)	Torricelli
Garcia	Mineta	Towns
Gaydos	Mitchell	Traficant
Gejdenson	Moakley	Traxler
Gekas	Mollohan	Udall
Gephardt	Montgomery	Valentine
Gibbons	Moody	Vento
Gilman	Morrison (CT)	Visclosky
Glickman	Mrazek	Volkmer
Goodling	Murphy	Walgren
Gordon	Murtha	Watkins
Gray (IL)	Myers	Waxman
Gray (PA)	Natcher	Weaver
Guarini	Neal	Weiss
Hall (OH)	Nelson	Wheat
Hall, Ralph	Nowak	Whitley
Hamilton	Oakar	Whitten
Hammerschmidt	Oberstar	Williams
Hatcher	Obey	Wilson
Hawkins	Olin	Wirth
Hayes	Ortiz	Wise
Hefner	Owens	Wolf
Heftel	Panetta	Wolpe
Hertel	Parris	Wortley
Holt	Pashayan	Wright
Hopkins	Pease	Wyden
Horton	Pepper	Yates
Howard	Perkins	Yatron
Hoyer	Price	Young (AK)
Hubbard	Quillen	Young (FL)
Huckaby	Rahall	Young (MO)
Hughes	Rangel	
Hunter	Regula	

NOES—137

Archer	Brown (CO)	Coleman (MO)
Armey	Broyhill	Combest
Badham	Bruce	Cooper
Barnard	Burton (IN)	Courter
Bartlett	Callahan	Craig
Barton	Carney	Crane
Bateman	Carper	Daniel
Bedell	Chandler	Dannemeyer
Bereuter	Chappie	Darden
Bliley	Coats	Daub
Boulter	Cobey	DeLay
Broomfield	Coble	DeWine
Dickinson	Loeffler	Saxton
Dornan (CA)	Lott	Schaefer
Dreier	Lowery (CA)	Schuette
Eckert (NY)	Lujan	Sensenbrenner
Edwards (OK)	Lungren	Shumway
Evans (IA)	Marlenee	Shuster
Fawell	Martin (IL)	Siljander
Fields	McCain	Skeen
Franklin	McCandless	Skelton
Frenzel	McKinney	Slattery
Gallo	McMillan	Slaughter
Gingrich	Meyers	Smith, Denny (OR)
Gradison	Michel	Smith, Robert (NH)
Green	Miller (OH)	Smith, Robert (OR)
Gregg	Miller (WA)	Stenholm
Gunderson	Molinari	Strang
Hansen	Monson	Stump
Hendon	Moorhead	Sundquist
Henry	Morrison (WA)	Sweeney
Hiler	Nichols	Swindall
Hyde	Nielson	Tauke
Ireland	Oxley	Taylor
Jenkins	Packard	Thomas (CA)
Johnson	Penny	Vander Jagt
Kasich	Petri	Vucanovich
Kindness	Pickle	Walker
Kolbe	Porter	Weber
Kramer	Pursell	Whitehurst
LaFalce	Ray	Whittaker
Lagomarsino	Ridge	Wylie
Latta	Ritter	Zschau
Leach (IA)	Roberts	
Lewis (CA)	Roth	
Lightfoot	Roukema	
Livingston	Rudd	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—18

Boucher	Dowdy	McKernan
Breaux	Foley	Moore
Campbell	Grotberg	O'Brien
Cheney	Hartnett	Rodino
Conyers	Hillis	Snyder
Davis	Mack	Tallon

□ 1135

The Clerk announced the following pair:

On this vote:

Mr. Breaux for, with Mr. Hartnett against.

Mr. CARPER changed his vote from "aye" to "no."

Mr. CHAPPELL and Mr. THOMAS of Georgia changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1145

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: Page 90, after line 4, insert the following new section (and conform the table of contents accordingly):

SEC. 245. MODIFICATION OF RESTRICTION ON USE OF ASSISTED HOUSING BY ALIENS.

(a) LIMITATION OF RESTRICTION TO NEW APPLICATIONS.—Section 214(a) of the Housing and Community Development Act of 1980 is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively; and

(3) by adding at the end of the following new paragraph:

"(2) The restriction established in this subsection shall not apply to—

"(A) the continued provision of any financial assistance commenced before the date of the enactment of the Housing Act of 1986;

"(B) the provision of any financial assistance pursuant to a conversion from any other financial assistance; or

"(C) the provision of any financial assistance to an individual displaced from a dwelling as a result of an activity of the Federal Government or an activity approved or assisted by the Federal Government.".

(b) RETENTION OF RESTRICTION ON NONIMMIGRANT STUDENT-ALIENS.—Section 214 of the Housing and Community Development Act of 1980 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

"(1) any alien who—

"(A) has a residence in a foreign country that such alien has no intention of abandoning;

"(B) is a bona fide student qualified to pursue a full course of study; and

"(C) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

"(2) the alien spouse and minor children of any alien described in paragraph (1), if accompanying such alien or following to join such alien.".

(c) CERTIFICATION AND DOCUMENTATION PROCEDURES.—Section 214 of the Housing and Community Development Act of 1980 (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

"(d) In carrying out this section, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

"(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

"(2) if not a citizen or national, provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.".

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYBAL. Mr. Chairman, it is estimated that there are over 13 million individuals in public assisted housing in the United States and that each and everyone of them were placed in public housing because they met HUD regulations in effect at the time of application, interview, and placement.

Today we are offering an amendment seeking to avoid the harsh effects of new and most recent HUD regulations that impose, retroactively, strict documentary requirements proving eligibility, on all present tenants of public housing. We do this not because eligibility requirements should not be met, but because they will be applied retroactively on people already given housing under previous HUD regulations.

This will affect all those aged 18 or older who will be required to provide documentary proof of their eligible immigration status. This massive paperwork burden, scheduled for implementation beginning July 31, will present a very costly bureaucratic nightmare to public housing authorities whose operating expenses are already severely limited.

My amendment prevents retroactive provisions from being applied by exempting from the verification process only those persons currently receiving subsidized housing assistance. It retains the HUD restrictions on Federal assistance to prospective tenants. It permits those families who are displaced by Federal action to receive relocation assistance.

The latest HUD regulations threaten all families in federally assisted housing with eviction or the breakup of the family unit unless they can meet new strict documentation requirements proving eligible immigration status. Approximately 45 percent of HUD residents are elderly and most are presumed to be legal residents. But these senior citizens and others may have been born at home and not in the hospital and have no birth certificate. Honorable discharge from the U.S. Army does not make a person a citizen and if he is unable to find any other documentation, he and his family will be evicted, simply because HUD wishes to impose retroactively a requirement they should have had in effect before all of these people were placed in public housing in the first place.

Further, HUD regulations do not require landlords to provide sufficient time to secure or find required documentation.

The retroactive enactment of the HUD regulations would have a severe impact on citizen members of tenant families. For instance, I know of a family with several children who are citizens, a mother who is a permanent resident alien, and a father who has not yet been able to adjust his residency status. Under the new regulations, all would be evicted unless the father abandoned the family. There are thousands of similar cases throughout the country. A retroactive regulation is unfair, unjust, and cruel and in this instance very expensive.

I am not addressing questions regarding the validity of the regulations as they affect prospective tenants. I know that challenges will be made in the courts on such grounds as the right of privacy of families. However, we cannot wait for the courts to resolve the fairness questions for those persons now living in public housing.

Mr. Chairman, there is no denying the severe hardship that the retroactive HUD regulations would impose on families living in assisted housing and the problems it would create for their communities. I believe that this amendment is a realistic and fair approach. It would grandfather in those placed in housing under HUD regulations which they complied with when they were admitted. It would prevent the expenditure or millions of dollars to reprocess more than 13 million residents and at the same time apply fairness and maintain the family unit.

This humane approach is supported by many national organizations that are aware of the havoc the HUD regulations would cause. These include the National Council of Churches, the National Association of Counties, the National Low-Income Housing Coalition——

The CHAIRMAN. The time of the gentleman from California [Mr. ROYBAL] has expired.

(On request of Mr. GONZALEZ, and by unanimous consent, Mr. ROYBAL was allowed to proceed for 5 additional minutes.)

Mr. ROYBAL. Mr. Chairman, I would like to thank the gentleman from Texas for having the time extended because I would like to include the rest of the organizations that are supporting this amendment. I had already stated that they include the National Council of Churches and the National Low-Income Housing Coalition. They include also the National Rural Housing Coalition, the U.S. Catholic Conference, and the U.S. Conference of Mayors. I urge all my colleagues to join us in supporting this amendment and, on grounds of equity and fairness, to prevent these new HUD regulations from being applied retroactively.

Mr. Chairman, we are not asking for anything new. We are asking simply that a HUD regulation that is now being imposed retroactively be permitted to exempt those already in public housing.

A retroactive law, particularly of this nature, is definitely not fair. Why did HUD not do that to begin with, before these people were placed in public housing? Why did HUD permit these people to be in public housing, with their children, with all their belongings, and then all of a sudden come to the conclusion that they made a mistake then that they want this

House of Representatives now to correct?

□ 1155

I think that while it was a mistake, that we should at least not go along with the retroactive provisions of that order. Let us start now. If they want to impose the law the way it is, the way it should be, then let them do so, but not to do it retroactively, for it will result in the suffering of too many people. I do not think that we in this body want to be a part of that particular situation.

Mr. TORRES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. ROYBAL]. I do not believe that anyone in this Chamber is in favor of illegal immigrants receiving scarce public housing assistance. I too am opposed to such a policy. Drastic cuts in Federal housing have left thousands of eligible families without assistance.

But the issue here is not whether to deny illegal immigrants public housing assistance. The issue is whether this body approves of a policy that will result in the eviction of thousands of innocent families from their homes. If we allow the final HUD regulation to be implemented as published thousands of American children would be forced into the streets, simply because their parents are here illegally.

As Mr. ROYBAL pointed out, senior citizens who are legal residents would be forced to find shelter simply because they cannot locate the proper documentation to prove their legal status.

The amendment offered by Mr. ROYBAL would alleviate these problems by grandfathering those families already receiving subsidized housing. It retains the existing restrictions on assistance to prospective tenants and requires that all prospective tenants certify their citizenship or legal status.

Mr. Chairman, given the hardship to existing subsidized tenants that the HUD regulation would pose. I ask for speedy passage of this amendment. I believe that the amendment represents a realistic and pragmatic approach to dealing with innocent families who may not be able to prove their status and have no where else to turn.

Mr. WYLIE. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, our 1980 Housing Act, as amended by the Omnibus Budget Reconciliation Act of 1981, set forth in law a prohibition against providing assistance under federally assisted housing programs to any alien who is not a lawful resident of the United States, pursuant to the Immigration and Naturalization Act.

Our 1983 housing bill had a provision which put on hold HUD's ability to publish final regulations. That hold period was for 1 year.

HUD has since published a regulation which becomes final in early July.

The amendment before us today would grandfather those illegal aliens already housed in units assisted under our Federal housing programs. It seems to me that to grandfather these illegal aliens in these times of tight budgetary resources is grossly unfair to American citizens.

The impetus of the original statutory provisions in 1980 was that we saw ourselves housing non-Americans whose own country was housing American citizens against their will.

If my colleagues will recall, this was the so-called Vento amendment. The gentleman from Minnesota [Mr. VENTO] offered the amendment when he found that we were housing Iranian students in public housing projects and thus he offered the amendment to make it illegal to house these illegal aliens, who were Iranian students.

Mr. Chairman, to house illegal aliens and deny occupancy to bona fide American citizens in these times when everyone is taking their across-the-board cuts it seems to me is just unfair.

I understand current law on this subject is not perfect. I understand the law is burdensome on public housing authorities and on HUD. On this point, I hope we can clarify exactly how burdensome this provision might be during the conference which is imminent on this housing legislation.

So, Mr. Chairman, I reluctantly must suggest that I oppose the amendment at the present time.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when HUD announced this regulation, there were many people who said that it is about time that we should do this, to have America for Americans, and similar comments. But did they really consider the consequences of this regulation in human terms, I mean?

There is not any clear-cut picture. It is not a question of one family, one person being a citizen or noncitizen of these United States. It is not a question of just taking one family and putting them in the streets.

I can tell you that in the city of New York that if you take them out of public housing, they go into the streets. There is not any other place for them to live. People have to wait 18 years currently under the current housing situation in the city of New York in order to get into the city housing authority under this provision.

It is all right to respond in a Rambo fashion, and I am sympathetic ofttimes to some of that sentiment; but one has to look beyond this regulation.

I understand why, because there are so many people who are citizens, who are without residences, and I appreciate that; but the wrong here, if it is a wrong, was committed at the outset, where there was not any requirement of citizenship when the initial applicants were accepted.

You have 35 to 40 percent of the people in public housing in the city of New York who would be evicted if the HUD regulation were to be enforced and would be maintained. Contemplate, if you will, the maelstrom, the chaos, the time consumed, the cost, the agonies which will be untold just in the stress and strain of the process of litigation.

In the end, how would you like to see the sidewalks of the city of New York speckled with families sitting out there with their furniture in the hot sun and the cold winters? That happened once before in New York town. That happened in my youth. I saw it time and time again, but I would like to believe that we have come a long way. We are in the so-called enlightened state of mind in our Nation with more regard given to human considerations.

I would strongly suggest to those who would support this regulation that they think more carefully of the consequences.

The amendment of the gentleman from California [Mr. ROYBAL], which agrees that prospectively he has no objection, nor would I, but implement or permit the HUD regulations to be implemented henceforth is unkind. It is cruel, unproductive, and would be a blight on our American way of life.

I strongly urge that we vote and pass the Ed Roybal amendment.

I plead to my friends who might think in terms of America for Americans, as I ofttimes do, but make this the exception.

I do not know how many housing projects you have in your respective districts. I have many in mine. We have many in the city of New York. The vacancy rate in New York as far as apartments is concerned is virtually zero. If they are evicted, they will be in the streets.

Can you imagine or envision 35 percent of the population of the public housing in our city being evicted and put into the streets? Would you like to be a party to any such movement? I know you do not. I know that Members and my colleagues here are too kind and concerned with housing, and I am sure they are, as I am; but I am not so sure they have really thought this all the way out or thought the whole process out and what the consequences would be.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield.

Mr. WYLIE. Mr. Chairman, the gentleman does make a good point and I

can understand the position he is coming from, but the members of the delegation from New York do say that there are no vacancy rates n the city of New York, and I guess that is the point I want to make, that there is a dearth of housing and that housing is not available to American citizens in the city of New York. I think that is the point I would want to make.

The CHAIRMAN pro tempore (Mr. CARR). The time of the gentleman from New York has expired.

(By unanimous consent, Mr. BIAGGI was allowed to proceed for 2 additional minutes.)

Mr. BIAGGI. Mr. Chairman, just to respond, I made the point and the gentleman affirmed it clearly. There is not enough housing for the citizens, clearly; but of those hundreds of thousands that have applied, they are not all citizens. We just have a tough, tough almost impossible critical housing situation in the city of New York; but we do not resolve the problem by transposing, by taking people out and putting them in the streets and then taking those who are currently housed in other quarters into public housing, because what will happen to the quarters that are being vacated, that are not public housing, is the rents will skyrocket. Because of rent control they are still able to maintain their ability to stay in those places. The new folks will be evicted and seek admission to those houses and simply will not be able to afford it.

I know how the gentleman feels about housing and at no time have I inferred in any way that he is not sympathetic to the housing problem, but this is a special aspect of it that I would like to address because it is one that is real. It is real.

We are not talking about logistics. We are not talking about a fantasy or imagined scenarios. We are talking about the real consequences. I have seen it once in my life. I would rather not see it again. I would certainly not like to see it again as sponsored by these United States of America.

Mr. TOWNS. Mr. Chairman, I rise in support of the gentleman from California's amendment. In my own congressional district, I have several housing units which receive Federal assistance from HUD that would be adversely affected by the current HUD regulations preventing undocumented aliens from residing in federally assisted housing.

This regulation is likely to cause hardships in a number of cases. First, the minority elderly, because they may not have been born in hospitals or due to other factors, may find it difficult to establish their citizenship or immigration status without proper documentation. Second, many families in public housing or section 8 housing units have some members who are citizens or pemanent residents; in many cases these family members are children. Yet, under the present regulations, the entire family would be forced out of their home. In New York City, because of our housing shortage, it is clear that these families would have no place to go. They would be forced to join the ranks of the homeless who are already underserved.

I hope that my colleagues will join me in supporting this amendment which will go a long way toward easing the burden of enforcement on local housing authorities and protecting families from being forced to join the ranks of the homeless.

AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. ROYBAL

Mr. DORNAN of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN of California to the amendment offered by Mr. ROYBAL: Page 1, line 11, strike "The" and insert the following:

In the case of any family in which any member is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of the subparagraphs (A) through (E) of paragraph (1), the

Page 3, strike line 24 and all that follows through page 4, line 1, and insert the following:

"(2) if not a citizen or national—

"(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age; or

"(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.".

Mr. DORNAN of California. Mr. Chairman, there have been some eloquent words spoken on the House floor this morning on the amendment of the gentleman from California [Mr. ROYBAL], many of them by the gentleman from California [Mr. ROYBAL] himself, that this great Chamber does not want to perform an enormous injustice against innocent people, families, children, people with a tremendous work ethic, who want to participate in the American dream; however, this body did express its will to our Department of Housing and Urban Development and HUD is trying under very difficult circumstances to effectuate what this Chamber desires. This Chamber's desire is that American taxpayers not give American hard-earned tax dollars to people who are not Americans, and yet there is not a Member of this Chamber or any American citizen that I know of who wants to hurt innocent children, who wants to hurt good families; so I think that if we establish as a body a guidance for HUD that wherever there is an American citizen in the family, irrespective of that citizen's age, that is a full citizen of the United States of America and that is not a citizen or a family of that citizen that we want HUD—to put it into the eloquent words of the distinguished gentleman from New York [Mr. BIAGGI]—to see turned into the streets.

□ 1210

All of our great religions in this country are interested in this. Most of our States that have problems with substandard housing or that are trying to build new housing are interested in this. All of them have expressed to Mr. ROYBAL and to me that they have no desire whatsoever to turn out into the streets, particularly in those cases as in my own hometown of Garden Grove, where we are trying to rebuild a decayed area that has become crime infested, and in that area are innocent—and I underline that word "innocent" several times—innocent families who, if they are not able to go into Government housing are simply going to have to be put in the street, or the programs of rebuilding are shut down on this catch 22, that you cannot turn out a family, put them in the street, is not the choice you want, and you cannot put them into any Government-supported housing.

As far as the aspect here of people 62 years of age or over having to affirm their citizenship, we should take the word of honor of senior citizens, many of them who go back 50 years to that period when Mr. BIAGGI spoke of seeing horrors in this country where children were born in camps across this country because everyone was struggling for a job during the Great Depression, and they have no records of birth, civil servants were being laid off in many of our States, and these people who were 12 or younger who came out of that period should, under penalty of perjury, be afforded the honor of affirming their citizenship. This is what the Immigration and Naturalization Service works under, and I think it is unfortunate that HUD is struggling under a tougher standard than INS because we did not clarify in our legislative intent the will of the House. So I hope that my amendment will be accepted.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I gladly yield to the gentleman fron New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, first of all I would like to take the floor to congratulate the gentleman because I think his amendment makes a great deal of sense, but let me go a step beyond.

I think one of the biggest problems that we have had in America, especially among poor people, is to try and keep them together. Our welfare system sometimes is such that we have families living apart so they can continue to maintain themselves.

I congratulate the gentleman and I congratulate the gentleman from California [Mr. ROYBAL] because I think that essentially what we are trying to do is to keep families together. The American dream is keep the family to-

gether. Strong families make for good citizens.

It is also important that people understand that many of these people the gentleman and I are now talking about are taxpayers. They toil. They work every day, and they pay their taxes.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. DORNAN] has expired.

(On request of Mr. GARCIA and by unanimous consent, Mr. DORNAN of California was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. If the gentleman will yield further, based on what my colleague from California said, I really think that he is right on target. I want to take this opportunity to congratulate the gentleman and to thank him personally. I think the amendment makes sense.

Mr. DORNAN of California. I thank the distinguished gentleman.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I am happy to yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, I, too, would like to compliment the gentleman from California for his very thoughtful amendment. Obviously he has given this a considerable amount of time and interest.

The nexus of the gentleman's amendment would provide that if an American citizen is living in the public housing unit, then the other persons living in the unit would be allowed to continue to live there in the public housing unit.

It seems to me that that makes the amendment offered by the gentleman from California much more agreeable to this Member. As I indicated, I think the gentleman is to be complimented and commended for his approach to this very difficult problem.

Mr. DORNAN of California. I thank the gentleman.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the distinguished gentleman from California.

Mr. ROYBAL. I thank the gentleman for yielding.

Mr. Chairman, I would like to know a little bit more about the amendment that the gentleman has proposed. It is my understanding that the amendment will protect those now in public housing who have in the family unit either a citizen or a legal resident. Is that correct?

Mr. DORNAN of California. Yes.

Mr. ROYBAL. It would also protect those individuals who are dispossessed by housing by some Federal action, whether they be legal citizens or not. Is that correct?

Mr. DORNAN of California. Will the gentleman please rephrase that?

Mr. ROYBAL. In the event of some Federal action taking place anyplace in the country that affects individuals, all those individuals would be protected by the use of Federal funds.

Mr. DORNAN of California. What the State of California tells me is that 85 percent or more of these families the gentleman is talking about, when we are trying to rebuild a decaying area, have an American citizen in the family.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. DORNAN of California. The Senate and the churches—a particular hero in this area is our new archbishop in Los Angeles, Roger Mahoney—have said that the churches and the State can easily take up this tiny area of people where it is a totally illegal alien family without any citizens in the family. It also protects those people that the gentleman has spoken out so eloquently in defense of, those who are 62 years of age and over who have no proof of their citizenship. The INS has said they rarely, if ever, find anybody who does not tell the truth; that when they affirm to their citizenship under oath, they are citizens.

So it takes care of everything but a small percentage.

Mr. ROYBAL. If the gentleman will yield further, these people, whether or not they can prove their citizenship by the use of documents, would be protected and Federal moneys can be used for that purpose.

Mr. DORNAN of California. Yes.

Mr. ROYBAL. If the gentleman will yield further, there is another point that I am kind of leery about, and that is the fact that under the gentleman's particular amendment it would be necessary for the housing authority to reprocess all 13 million in Federal housing.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. DORNAN] has again expired.

(On request of Mr. ROYBAL and by unanimous consent, Mr. DORNAN of California was allowed to proceed for 2 additional minutes.)

Mr. DORNAN of California. Mr. Chairman, I understand that the Department of Housing and Urban Development is duplicating all the work that has been done by INS. This is already available by INS and they are not only adhering to a harder standard than the Immigration Service itself, but they are duplicating all of this work.

Mr. ROYBAL. I understand.

Mr. DORNAN of California. So we just need these 2 agencies to work together, and it does not have to be done all over again.

Mr. ROYBAL. If the gentleman will yield further, in order for them to make a determination, they have to ask questions. In order to ask questions, they have to talk to people. They have to interview these 11 million people to find out whether or not, No. 1, they are legal residents or American citizens. In other words, it will not prevent the reprocessing of the 13-million people in public housing.

Mr. DORNAN of California. No. I am told no. And also, when we take each individual project over the next few years, we are not dealing with the enormous figure of 11 to 13 million. For example, in Garden Grove, we are dealing with a very small area called Buena Clinton, and we know already how many families are in there and it is a matter of a few hours, particularly if they use the INS research that is already available.

Mr. ROYBAL. If the gentleman will yield further, I have one hypothetical question.

What will happen to the individual like myself, for example. Suppose I were 60 years of age. I must admit I am a little older than that.

Mr. DORNAN of California. We could never tell.

Mr. ROYBAL. Let us say I was 60 years of age, I served in the armed services. When I was born, I was not born in a hospital. I was born at home. I have no birth certificate.

Suppose I had no documentation, only my discharge papers. HUD or any housing authority would not accept my discharge papers as being an American citizen; therefore, I would be evicted under those circumstances, together with all my family.

Mr. DORNAN of California. Under this perfecting amendment to the gentleman's amendment, he would not even need his discharge papers. He would merely affirm that he is a U.S. citizen and his word of honor would be sufficient.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Will the gentleman from California engage in a colloquy with me on this amendment?

Mr. DORNAN of California. Yes; gladly.

Mr. DURBIN. Let me say first I commend the gentleman, because I believe he is making a positive contribution in this important debate, but I would like to ask the gentleman a few questions so I can clarify what the issue is that we are addressing.

It is my understanding that a person applying for public housing has to fill out some type of application or questionnaire, and among the things asked of that person would be their citizen-

ship status, their source of income, and the like. Usually this is taken under oath, or ascribed to by the person as being truthful and accurate to the best of their knowledge.

Is that the gentleman's understanding as well?

Mr. DORNAN of California. Yes.

□ 1410

Mr. DURBIN. If we have a situation where an individual, for instance, has falsified information concerning their source of income and becomes a resident of public housing as a result of that falsification, the gentleman from California [Mr. DORNAN] would not question the fact that that person is undeserving of public housing and should be evicted.

Mr. DORNAN of California. Absolutely not.

Mr. DURBIN. In this situation, what if we are dealing with a hypothetical where, in fact, two parents, or two would-be parents would make that same application and falsify information as to their citizen status, claiming to be U.S. citizens? They are then admitted to public housing as eligible and shortly thereafter a child is born to them, who, by virtue of the fact of being born in the United States, is an American citizen.

Does the gentleman's amendment suggest, then, that because there is an American citizen within their household, that the falsification of information on their application status regarding citizenship could not or should not be used against them?

Mr. DORNAN of California. That is an excellent question. However, coming back to what the gentleman from California [Mr. ROYBAL] was trying to do with his amendment, and what the gentleman from California [Mr. TORRES] spoke to, and what the gentleman from New York [Mr. BIAGGI] spoke to, I do not believe there is a Member of this Chamber that would want to evict into the streets an American citizen, that child, because of the transgressions of his parents.

There is the line from Scripture that pops into my head: "No room at the inn." I think that this would be a case where the Department of Housing and Urban Development and the INS would have to wrestle with that word "justice" in addressing this problem. It is a good question and I am glad the gentleman brought it up in the colloquy because the people in the bureaucracy on the western side of the city, just down the hill from us, are always trying to read our legislative debate, glean out of it what exactly we meant, but justice to that child, that American citizen, would indicate that it might have to go to the courts.

Mr. DURBIN. Let me say that despite the legal exchange here of hypotheticals, the gentleman from California——

Mr. DORNAN of California. The gentleman has a harder one than that one?

Mr. DURBIN. No; I am going to stop at this point, but I would like to commend both gentlemen from California. I know how difficult this subject matter is and this particular question came to mind during the debate.

I thank the gentleman from California [Mr. DORNAN] for engaging in this colloquy.

Mr. DORNAN of California. Mr. Chairman, in closing with the few seconds I have left, I just want to ask my fellow colleagues to underscore throughout this debate three words: justice, fairness, and the work ethic and vote your conscience.

Mr. GONZALEZ. Mr. Chairman, I rise in support of the Roybal amendment and what I consider to be the perfecting amendment offered by his colleague, the gentleman from California [Mr. DORNAN].

Let me address some things that are actually facts out in that real world where we come from. The question of illegal residents of assisted or public housing has been grossly exaggerated in some instances.

The last thing an illegal individual wants to do, when you really go around and see where they live and all, is to go anywhere near officialdom because they know that the moment they are near any kind of an official governmental activity, they are going to be picked up and deported by INS. So they stay away.

Let me assure my colleagues that in my area, the individuals that are illegal today are in greater number from the Central American countries, particularly El Salvador, than they are from Mexico, for example, where everybody assumes we get the bulk of the illegal flow.

Where they are living is in some of the original, what we call tourist courts built in the 1920's, in San Antonio, which, as late as the 1950's, were being advertised as $1 a day tourist courts. They consist of one room and one small bathroom.

What you have there now is families of these beleaguered human beings, and let me tell you, they are beleaguered. They live in fear every day. They are families that consist of four, five children living in those one-room ancient tourist courts that have been condemned in many instances, but are being rented for as much as $300 a month.

They are not being reported, but they live in fear that they will. They are not going to apply for public housing.

The administrators of our public housing projects in our part of Southwest United States will be the first to tell you that they do not have any kind of a sizable problem with respect to illegal aliens residing in those projects. I think we ought to get that focused.

I think that would answer this question about the hypothetical question about two illegals fraudulently presenting an application and then subsequently to being admitted, giving birth to a child.

I want to compliment the distinguished chairman, the gentleman from California [Mr. ROYBAL], and his colleague, the gentleman from California [Mr. DORNAN], for having struck off a compromise that will go a long way in avoiding the injustices that will manifestly happen if HUD insists on enforcing their announced regulations as of August 1.

The reason for that is that the HUD regulations would impose a mandate on every occupant of public housing, alien, citizen, anybody, and it would bring about real hardship because in our part of the country, for example, and I give that as an example, probably true in other areas, we have many citizens, and I think the gentleman from California pointed out, who have lived in our country for 60, 65, 70 years. Most of them, if not all, are legalized residents of our country.

When they were either brought as infants or came over as children, there were hardly any real immigration restrictions. The reality of life along our borders with Mexico are that you have had an almost indistinguishable line of demarcation there. You have daily to and fro hundreds, thousands of people from one city on the other side, on the Mexican side, coming into the Texas side and Texas citizens going to Mexico.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I believe that any really serious reservation we might have should be dispelled about the Roybal amendment.

The gentleman from California's [Mr. DORNAN] amendment does not strike the pertinent parts of the Roybal amendment that ought to be kept; rather, it perfects. I want to congratulate him on his perfecting language and I ask my colleagues to vote in favor of the Roybal amendment as amended by the gentleman from California [Mr. DORNAN].

Mr. MCKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from California.

MODIFICATION OF AMENDMENT OFFERED BY MR. DORNAN OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. ROYBAL.

Mr. DORNAN of California. Mr. Chairman, I ask unanimous consent for a technical change because of an error on my amendment. Where it says page 3, "strike line 24," it should say "strike line 25."

The CHAIRMAN pro tempore [Mr. CARR]. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKINNEY. Mr. Chairman, I would like to agree with the chairman of the subcommittee, the gentleman from Texas [Mr. GONZALEZ], and with my good friend, the gentleman from California [Mr. ROYBAL], and my good friend, the gentleman from California [Mr. DORNAN]. I think that this has been a legitimate step toward trying to solve a very basic problem in the United States.

□ 1230

It is a problem that is not just limited to immigrants; it is a problem with public housing which is taking on a monstrous proportion that we do not seem to know what to do with, and I call its real root cause very bad administration by public housing authorities.

If you have been reading your Washington papers, you will probably note that the public housing authority of the city of Washington is going to try and sweep the projects. Well, what does this mean? This means put out illegal people who are there.

They are disruptive; they are usually the cause of drug sales; and they usually do not qualify for public housing. Yet throughout the length and breadth of the United States we have this problem of double tenancy and in some cases even triple tenancy.

This is poor administration.

If in fact a European, a Mexican, Peruvian, anybody, is in public housing illegally they are there because the public housing authority has not done its job.

It seems to me that to punish people because bureaucrats do not do their job is just the wrong way to go; and so I strongly support the amendment as modified by the gentleman from California [Mr. DORNAN] and hope that the body will vote for it.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from California [Mr. DORNAN] to the amendment offered by the gentleman from California [Mr. ROYBAL].

The amendment, as modified, to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. ROYBAL], as amended.

The amendment, as amended, was agreed to.

Mr. MORRISON of Connecticut. Mr. Chairman, I ask unanimous consent that the amendment to be offered by the gentleman from the District of Columbia [Mr. FAUNTROY] to title II regarding tenant management be in order at any time prior to the conclusion of consideration of the bill.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to title II?

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—RURAL HOUSING

SEC. 301. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during each of the fiscal years 1986 and 1987 in an aggregate amount not to exceed such sums as may be approved in appropriation Acts.".

"(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1986 and 1987, and to remain available until expended—

"(1) for grants under section 504, such sums as may be provided in appropriation Acts;

"(2) for purposes of section 509(c), such sums as may be provided in appropriation Acts;

"(3) such sums as may be provided in appropriation Acts to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(4) for financial assistance under section 516, such sums as may be provided in appropriation Acts;

"(5) for grants under section 523(f), such sums as may be provided in appropriation Acts;

"(6) for grants under section 533, such sums as may be provided in appropriation Acts; and

"(7) such sums as may be provided in appropriations Acts for the Secretary to administer the provisions of sections 235 and 236 of the National Housing Act and section 8 of the United States Housing Act of 1937.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c) The Secretary, to the extent approved in appropriation Acts for fiscal years 1986 and 1987, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating such sums as may be approved in appropriation Acts. Such authority as is approved in appropriation Acts shall be used by the Secretary to renew rental assistance payment contracts that expire during such fiscal year and to make additional rental assistance payment contracts for existing or newly constructed dwelling units.

SEC. 302. INCOME LEVELS FOR FAMILY ELIGIBILITY

(a) IN GENERAL.—Section 501(b)(4) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the maximum income levels established for purposes of this title for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this title for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 made on or after the date of the enactment of this Act.

SEC. 303. RURAL AREA CLASSIFICATION.

Section 520 of the Housing Act of 1949 is amended by striking "April 30, 1986" in the last sentence and inserting "September 30, 1987".

SEC. 304. RURAL HOUSING ESCROW ACCOUNTS.

Section 501(e) of the Housing Act of 1949 is amended by striking the first sentence and inserting the following: "The Secretary shall, not later than 60 days after the date of the enactment of the Housing Act of 1986, establish procedures under which any borrower under this title may, at the option of the borrower, make periodic payments for the purpose of taxes, insurance, and such other necessary expenses as the Secretary determines to be appropriate.".

The CHAIRMAN pro tempore. Are there amendments to title III?

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 93, after line 9, insert the following new section (and conform the table of contents accordingly):

SEC. 305. STUDY OF MORTGAGE CREDIT IN RURAL AREAS.

The Secretary of Housing and Urban Development shall conduct a study of the availability and use of funds for the purchase and improvement of residential real property in rural areas, particularly in communities that have populations of not more than 2,500 individuals. Not later than April 1, 1987, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Mr. Chairman, I have an amendment to title III requiring the Department of Housing and Urban Development to conduct a study on the availability and use of commercial mortgage funds in rural areas.

My amendment is motivated by constituent contact, personal observations in my home State of Nebraska, and also by testimony the Housing Subcommittee received last year. Basically what it comes down to is a question as to whether, in the renaissance now underway for home ownership, all equally qualified potential homebuyers are able to participate in the dream of owning one's own home.

In small communities and rural areas I am not sure the answer to that question is "yes." If it isn't, I want to know why they are subject to inequitable or discriminatory treatment. I want to know why they are neglected or discriminated against by commercial lending isntitutions and by Federal mortgage guarantee agencies.

Probably most of the Members of this House are aware that some of the agricultural regions of the country are experiencing economic difficulties. There is no question that parts of rural America have fallen upon hard times. At the same time I fear we overlook the fact that there are thousands of rural residents fully capable of meeting the obligations of home ownership mortgage responsibility who are denied this opportunity for homeownership—not because of their relative net worth, but only because they wish to buy or build a home in a small community.

Mr. Chairman, I want to make it clear that I am not tying this amendment to the recent economic decline of our rural areas. It has exacerbated the problem no doubt, but I believe a bias—or programmatic or institutional deficiency has existed, against home mortgage lending in small communities and rural areas for many years. The study should enable us to learn if there is indeed inequitable or discriminatory treatment against prospective homeowners in small communities, and to learn what we might do to rectify that condition.

In conducting the study I would expect HUD to look not only at the amount of mortgage credit available in a particular area, but also to examine the extent to which these funds have actually been utilized by middle-income families. Middle income should be construed as family income in the range of 80 to 125 percent of area median income and the area surveyed should specifically be small communities and the surrounding area outside metropolitan statistical areas. I would hope that data would be available on a county-by-county basis, but certainly it could be based on a combination of economically related counties in nonmetropolitan areas. In addition, this study should concentrate on small communities: Therefore my amendment suggests that the Department exclusively examine those communities with less than 2,500 population and rural areas. Finally my amendment requires the Secretary of HUD to submit to Congress a detailed report setting forth his findings not later than April 1, 1987.

I would be pleased to answer any questions or comments that the chairman or the ranking member of the subcommittee might have.

I am pleased to yield to the distinguished subcommittee chairman, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. I thank my very distinguished and hard-working colleague, a member of the subcommittee, and I want to tell him that I rise in strong support of his amendment.

I should say, Mr. Chairman, that we have shared his concern over a period of years, and the inability of the rural area to receive the allocation of credit that should not have ever been withheld.

It has been a tough uphill fight. As the gentleman knows, our compromise legislation would preserve even the basic rural housing policies and programs that the President would have us eliminate as of last year and this year, in his budget presentation.

We need, of course, at all times the information, but there is no reason why the Farmers Home Administration could not have on their own corrected this. I think the gentleman well knows that the administration, in its testimony through its spokesmen to our committee, denied the need for any substantial allocation of credit to the rural and the low income in the rural areas.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. The gentleman is quite right. The amendment he is offering would provide the study. I cannot see anyone objecting to it. It would verify officially the need for rural credit, even among the moderate-income population; whether it be due to an outright shortage of credit, the unwillingness to make low-cost housing loans, or simply because the Federal Housing Administration section 203 insurance program does not reach these areas.

The fact is the need is there. We know; we have gone out in to the field; the subcommittee has gone in to rural areas, as I have said repeatedly, from the Eastern Shore clear to California and in between from North to South, even near his area, and the fact is the need is there.

Under the gentleman's amendment, the study would help us very much, and I wish to compliment him for offering this amendment. I think I speak for the majority on this side when I say we accept the amendment.

Mr. BEREUTER. I thank the gentleman for his remarks, and I do know that the chairman knows my concern is the availability of commercial credit; and I am not talking about a subsidized credit problem. I thank the chairman for his comments.

Mr. GONZALEZ. I understand.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

(On request of Mr. MCKINNEY and by unanimous consent, Mr. BEREUTER was allowed to proceed for 1 additional minute.)

Mr. MCKINNEY. Will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Connecticut [Mr. MCKINNEY].

□ 1240

Mr. MCKINNEY. I would like to congratulate the gentleman from Nebraska on his amendment. I agree with it. I agree with it more during this particular economic climate we are in in the smaller communities of this country, particularly farm communities and oil communities in the West and Southwest. I think it is an excellent idea that we get to this. There is a certain amount of greed within the financial institutions, sometimes, of our Nation that says, "let's not take a mortgage where the price does not go up to where no one can afford to live in the house." It is interesting in my congressional district housing costs are rising at about 10 percent per annum. That is a tremendous amount of money. But there are housing investments that are severely needed, very good investments; it is just that they do not appreciate at this ridiculous rate.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I would be pleased to yield to my colleague from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman.

Mr. Chairman, I come from the second most agricultural district in the Nation. We have 317 small communities and larger communities in my district, and I know that what the gentleman says the difficulties of getting funding for housing in areas like this particularly at a time when the agricultural economy is so distressed, I think the amendment is important and I support it strongly.

Mr. BEREUTER. I thank my colleague, the gentlewoman from Nebraska.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered

by the gentleman from Nebraska [Mr. BEREUTER].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. SMITH OF NEBRASKA

Mrs. SMITH of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SMITH of Nebraska: Page 93, after line 9, insert the following new section (and conform the table of contents accordingly):

SEC. 305. DEFINITION OF VERY LOW-INCOME FAMILIES.

Section 501(b)(4) of the Housing Act of 1949 (as amended by section 302 of this Act) is further amended by adding at the end of the following new sentence: "For purposes of assistance under section 502, the term 'very low-income families or persons' means families and persons whose incomes do not exceed the applicable level established pursuant to the preceding sentences, or 50 percent of the statewide nonmetropolitan median income (as determined and adjusted by the Secretary of Housing and Urban Development in consultation with the Secretary of Agriculture), whichever amount is higher.".

Mrs. SMITH of Nebraska. Mr. Chairman, I rise to offer an amendment which will appear as section 305 in title III of the bill before the committee affecting rural housing programs—programs funded through my Appropriations Subcommittee on Agriculture and Rural Development.

Mr. Chairman, our legal definitions of income eligibility for rural housing assistance are out of whack.

On the one hand, we cannot find enough families with sufficient credit to technically qualify for a significant portion of the funds already appropriated in one category of assistance, while demand in another category of assistance is so high that many otherwise deserving families will be denied help because of this year's budget cuts.

My amendment addresses this problem by revising the income eligibility requirements so that Nebraska and all other States may make full use of the funds appropriated for rural housing assistance.

What is more, my amendment would not add families or eliminate families from the program. And as the money we are discussing has already been appropriated, it would not add to the budget deficit.

What it would do would be to allow our Nebraska administrators to use money prudently for the intended purpose of providing needed rural housing assistance to deserving families—money that would otherwise be returned to the Treasury and spent for who-know-what purpose. Foreign aid to Israel or Egypt perhaps? Wasteful urban-oriented welfare programs? The Washington, DC, subway system?

I have pledged to the people of the Third Congressional District that I would always fight for a fair share of Federal money appropriated and allocated to help Nebraskans. Regardless of whether the programs were wisely conceived and established, once the money is appropriated, Nebraska should receive and fully use its fair share.

Mr. Chairman, I want to let you know of my appreciation of the Nebraska Association of Home Builders who were instrumental in bringing this situation to my attention, and of the National Rural Housing Coalition which has worked closely with me on this. Both groups fully support my amendment.

My amendment addresses the definitions of two categories of income eligibility. The first one is called very low income, and the second one is called just plain low income.

It has come to my attention that we cannot find enough very low-income families, not only in Nebraska but also in the other States, who are able to meet all the requirements for receiving assistance under this program. In fact, in fiscal year 1985, FmHA was unable to obligate some $500 million in section 502 funds—54.3 percent of funds available.

On the other hand, demand from eligible families qualifying for help in the second category of low-income families should outstrip the supply of funds this year by $840 million if past loan activity is any indication.

In 1985, my home State of Nebraska was only able to obligate 29 percent of the section 502 very low-income category money allotted to it out of the total allotment of $7.7 million for this purpose.

At the same time, this year Nebraska's demand for low-income funds will exceed the supply available by close to 200 percent.

In fiscal year, 1985 Nebraska turned back $8.4 million in section 502 funds. A tragic paradox at a time when our State's agricultural economic condition is quite possibly at its lowest ebb and when, therefore, all Federal dollars spent within our borders are needed as never before.

The Farmer's Home Administration section 502 Single Family Housing Program offers home mortgage financing directly to rural families whose incomes place them in low and very low categories. The Housing Act of 1983 built a targeting provision into the program specifying that 40 percent of section 502 moneys should be set aside for the specific use of housholds falling into the very low-income category.

Very low-income is currently defined as less than 50 percent of area median income, while a family with less then 80 percent of area median income will qualify as low-income. For the purposes of rural housing, an area is usually defined as a county.

My proposed amendment perfects the basis for the definition of very "low-income" families as used by the Farmers Home Administration to include the use of statewide nonmetropolitan median income as a measure along with area median income. The FmHA will be asked to incorporate use of these figures, which HUD already compiles, in order to define "very low-income" households.

The definition of a "very low-income" household will be set at either 50 percent of area median income or 50 percent of State nonmetropolitan median income, whichever is higher. Counties with area median income higher than State nonmetropolitan median income will not be affected by this amendment.

Under the Housing Act of 1937, the Secretary of Agriculture has the authority to adjust definitions of low and very low-income households to reflect the special needs of certain areas. As the Secretary has not acted to include this standard additional HUD measure in order to determine FmHA very low-income households, this amendment seeks to include that measure.

After cuts in FmHA housing funds, many States will run out of section 502 low-income money this year. However, States will continue to show surpluses in their 502 very low-income account. This amendment will shift some of the demand for 502 low-income funds by recognizing that certain applicants who have been applying as low-income applicants, rightfully should be able to apply for very low-income funds.

In other words, the amendment simply and logically seeks to bring the program guidelines in line with the actual demand for services.

I point out to my colleagues that after discussions of this irregularity, language similar to my amendment has been inserted in the housing bill the other body will soon be considering.

My amendment offers only a technical change increasing the effectiveness of the FmHA Section 502 Single Family Housing Program. It does so without expanding or restricting the number of families covered by the program. The amendment has the full support of both industry and consumer groups. I urge its adoption.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I am pleased to accept the amendment offered by the gentlewoman from Nebraska. The subcommittee recognized the problem that her amendment addresses. It gave more flexibility to the FmHA in administering the targeting provision requiring 40 percent of section 502 funds to be used for families of 50 percent or below the applicable area median income in 1983. However, even this does not appear to work. So long as the basis for determining the percentage ceiling is the same as is used for purposes of establishing ceilings for

deep subsidy programs such as section 8, the section 502 eligibility limits will always be too low to realistically expect a substantial number of families at those income levels to afford homeownership with subsidies that merely cover the cost of interest.

Using the State nonmetropolitan income data as the basis for determining the very-low-income eligibility ceiling for section 502 assistance would not result in qualifying any families that were not intended to be qualified. It would merely include them in the very-low-income definition. This would permit the very-low-income percentage target to be better achieved by the States. Being able to so achieve the very-low-income target would free up the funds available and permit loans to be made to low-income families with incomes above 50 but not more than 80 percent of the median. The result, as I see it, would be to permit the section 502 funds approved by the Congress to be used as intended. I therefore urge adoption of the amendment.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Mr. Chairman, the minority side of the aisle has looked at the amendment and agrees with the gentlewoman. I agree also with the comments of the gentleman from Texas, the chairman of the subcommittee.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, I rise today in support of my colleague from Nebraska's [Mrs. SMITH] amendment to title III of the committee bill, H.R. 4746.

It is extremely important. At the present time only 29 percent of the 502 money for low income is able to be used in our State. This definition change is very important. It will help many families not only in Nebraska but in many other States across this country. The gentlewoman is to be commended for her initiative in pursuing this matter.

As a member of the Housing and Community Development Subcommittee of the Committee on Banking, I have participated in hearings analyzing the impact of this type of amendment on rural housing needs. I can only concur with my colleague's amendment which will help provide section 502 single family housing moneys to some additional American and Nebraskan families in the very low income category.

This has been a problem in many States in that the definition of very low income has prevented making use of available section 502 moneys, the gentlewoman's amendment seeks to correct this problem by widening the definition of very low income in the State.

In committee I had been concerned with reaching the median income families, those in the 80–115 percent category of income as well, and to provide loan guarantee moneys without subsidy to this group. I am disappointed the bill does not contain my amendment which indeed was adopted by the full committee, but I shall take up the matter again if a study shows it to be the best alternative.

In my home State of Nebraska only 29 percent of the section 502 very-low-income money allotted to it in 1985 was obligated. This amendment seeks to remedy that situation. Without this chance in the definition proposed by my colleague's amendment there is little chance Nebraska can make use of the 502 moneys allocated to this category.

I urge the support of this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Nebraska [Mrs. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: Page 93, after line 9, insert the following new section (and conform the table of contents accordingly):

SEC. 305. REQUIREMENT OF LOCAL CONSULTATION FOR DOMESTIC FARM LABOR HOUSING.

(a) INSURED LOAN PROGRAM.—Section 514 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(i) The Secretary may not insure a loan under this section (regardless of the number of units proposed to be included in the housing and related facilities involved) unless the application for the loan includes a certification that the applicant has consulted with the unit of general local government in which the housing and related facilities are to be located.".

(b) GRANT PROGRAM.—Section 516 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(j) The Secretary may not provide financial assistance under this section (regardless of the number of units proposed to be included in the housing and related facilities involved) unless the application for the financial assistance includes a certification that the applicant has consulted with the unit of general local government in which the housing and related facilities are to be located.".

(c) APPLICABILITY.—The amendments made by this section shall apply only to applications submitted after the date of the enactment of this Act.

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered and read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Chairman, this amendment pertains to the section 514 and section 516 loan and grant programs of the Farmers Home Administration, and will serve to improve the application and review process.

I understand that the distinguished managers of the bill, the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Connecticut [Mr. MCKINNEY] support this amendment. I thank my colleagues for their concern and interest in this matter, and for their efforts to reauthorize, improve, and establish many housing and community development programs so vital to our Nation.

Mr. Chairman, I urge adoption of my amendment.

Mr. Chairman, among the many rural housing programs reauthorized in this bill are the section 514 loan and section 516 grant programs of the Farmers Home Administration. These two small programs are funded annually in our appropriations bills at combined levels of about $30 million, but they provide critically-needed assistance to farmowners, nonprofit farmworker organizations, States and local governments for the construction and rehabilitation of housing and related facilities for our farmworkers.

My amendment is designed to strengthen and improve the application and review process by ensuring local community involvement in project proposals submitted to Farmers Home for insured loan or grant awards.

Under current Farmers Home regulations, an intergovernmental review of sections 514 and 516 applications is required for projects of 25 units in size or greater. I believe that this requirement is an important one, for it enables State and local regional planning agencies to offer a wide range of comment on issues related to the project and its development, issues which include environmental impact, historic preservation, consistency with overall building, zoning, and development plans and a host of others.

However, in this review process, the body of government able to offer the most direct, relevant, and valuable comment is not always involved. I refer to the body of local, elected officials serving our rural towns and urban cities, as our mayors, our boards of selectmen, our aldermen, town managers, city and town councils.

My amendment to H.R. 4746 will ensure that those elected officials have an opportunity to review and comment upon project proposals that are submitted to Farmers Home for Federal loan or grant commitments. It will amend the 1949 Housing Act to require certification of consultation with the unit of general government in the community in which the housing and related facilities are to be located.

Under the terms of my amendment, the Secretary of Agriculture may not insure a section 514 loan or provide section 516 assistance unless such cer-

tification is provided by the applicant in those cases where the applicant is not the unit of local government. These terms are to apply to each application submitted after the date of enactment of this act, and are not intended to apply to projects which have already received Federal commitment.

As the author of this amendment, I would like to make clear my intent that such consultations with units of local government take place during the most preliminary phases of the application process so that adequate time may be provided for the submission of any appropriate or desired information or comment to Farmers Home for agency review.

I believe that this new requirement is consistent with those already imposed for the vast majority of our Federal housing and community development programs. Certification of local consultation will insure the very minimum—that units of local government have a voice in proposals for Federal investments in their communities. At a time when our staggering Federal deficits require us to place increasing responsibilities on States and localities, the need for intergovernmental reviews take on new importance.

Finally, I believe that expanding the existing requirements to apply to all 514 and 516 projects, regardless of size, will effectively create a better loan and grant program—one that continues our Federal commitments to the construction and rehabilitation of decent, safe, and sanitary housing for our domestic farm laborers and their families in those areas where a critical need exists; one that serves the urgent needs of our farmworkers and the communities of which they are a part.

Mr. Chairman, I urge the adoption of my amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas [Mr. GONZALEZ], the chairman of the subcommittee.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Massachusetts. It would extend the existing provisions in the Farmers Home Administration regulations to all farm labor projects rather than to only those having 25 or more units. It is a good amendment and I urge that the House adopt it.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, the minority accepts the amendment offered by the gentleman from Massachusetts.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONTE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. CHAPPELL: Page 93, after line 9, insert the following new section (and conform the table of contents accordingly):

SEC. 305. PROCEDURES FOR REDUCTION OF INTEREST CREDITS.

Section 521(a)(1)(B) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "In the case of assistance provided under this subparagraph with respect to a loan under section 502, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.".

Mr. CHAPPELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CHAPPELL. Mr. Chairman, the amendment which I am offering today would clarify the intent of the Congress to assure that under the section 502 Rural Homeowner Assistance Program existing borrowers whose incomes increase above the income ceiling for interest credit assistance be permitted to continue to receive such credits if they would not be able to reasonably afford the loan payment without interest credits. It has been brought to my attention that some borrowers are being required to make monthly payments beyond their ability simply because their incomes have increased to levels above the applicable income ceiling limits used to determine initial eligibility for interest credits. In most instances this happens to borrowers whose Farmers Home Administration loans were written when interest rates were very high generally and the corresponding FmHA rate was proportionately high. In such instances the payment required at that high note rate might be more than the borrower can afford and can lead to the borrower defaulting and ultimately FmHA foreclosing on these loans.

Mr. Chairman, I believe this amendment is a good solution to the problem which does not require incurring scarce, newly approved loan authority as would be the case if a new loan at current interest rates were made by FmHA to alleviate the problem for these particular borrowers. It is supported by Farmers Home Administration technical staff as a desirable alternative to the problem and will have no impact on the cost of this bill. I urge my colleagues to adopt this amendment.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

I want to thank the gentleman from Florida for offering this amendment. It would clarify the congressional intent to assure that under the section 502 Rural Homeowners Assistance Program, existing borrowers whose income increases above the income ceiling for interest credit assistance be continued to receive such credits if they would not be able to reasonably afford the loan payment without interest credits.

The gentleman offers a good amendment and a good solution to the problem which does not require incurring scarce newly approved loan authority, as would be the case if a new loan at current interest rates were made by FmHA. We accept the amendment.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, the minority accepts the amendment offered by the gentleman from Florida. It is a good amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida [Mr. CHAPPELL].

The amendment was agreed to.

Mr. McKINNEY. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. KEMP] who could not be here, be allowed to put in his amendment, should he arrive from wherever he is, for title II, at any given time, just as we told the gentleman from the District of Columbia that he could put his amendment in.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—SHELTER ASSISTANCE FOR THE HOMELESS AND DISPLACED

SEC. 401. NATIONAL EMERGENCY FOOD AND SHELTER BOARD.

(a) ESTABLISHMENT.—There hereby is established in the Department of Housing and Urban Development a board to be known as the National Emergency Food and Shelter Board. It shall be the function of the Board to carry out the provisions of this title.

(b) MEMBERSHIP.—The Board shall be composed of 7 members as follows:

(1) the Secretary of Housing and Urban Development, or the designee of the Secretary, who shall be the chairperson of the Board; and

(2) 6 members appointed by the Secretary from individuals who—

(A) have expertise in the provision of shelter and related services to the homeless; and

(B) are recommended by the organizations that are members of the national board of charities constituted under the emergency food and shelter program established in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Pub. L. 99-160).

(c) TERM OF MEMBERSHIP.—

(1) IN GENERAL.—Each member of the Board described in subsection (b)(2) shall be appointed for a term of 2 years.

(2) VACANCIES.—Any vacancy in the Board occurring before the expiration of a term shall be filled in the manner in which the original appointment was made. Any member appointed to fill such a vacancy shall be appointed only for the remainder of such term.

(d) MEMBERS NOT FEDERAL EMPLOYEES.—The members of the Board shall not, by reason of their membership on the Board, be considered to be officers or employees of the Federal Government.

(e) PAY AND EXPENSES.—

(1) IN GENERAL.—Each member of the Board shall serve without pay, allowances, or benefits by reason of such service.

(2) TRAVEL EXPENSES.—Each member of the Board shall, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board under this title, be allowed (except in the case of members of the Board who are officers or employees of the Federal Government) travel expenses while away from their homes or regular places of business, including per diem in lieu of subsistence, equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) MEETINGS.—The Board shall meet not less than 3 times during each fiscal year, at the call of its chairperson or a majority of its members.

(g) STAFF AND OFFICES.—The Secretary shall provide the Board with such staff and office facilities as are necessary to ensure that the Board carries out its functions under this title in an efficient and expeditious manner.

(h) TRANSFERS FROM NATIONAL BOARD OF CHARITIES.—Upon the appointment of members to the Board under subsection (b)—

(1) the national board of charities constituted under the emergency food and shelter program established in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Pub. L. 99-160) shall cease to exist; and

(2) the personnel, property, records, and undistributed program funds of the national board of charities shall be transferred to the Board.

SEC. 402. CONTINUATION OF NATIONAL BOARD OF CHARITIES PROGRAM.

(a) IN GENERAL.—The Board shall continue the emergency food and shelter program established in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Pub. L. 99-160). Activities under such program may include repairs necessary to make emergency shelter facilities safe and sanitary and ensure compliance with local building and related codes.

(b) FUNDING.—Any amount transferred to the Board under section 401(h)(2) shall be utilized by the Board to carry out this section.

(c) COORDINATION WITH TASK FORCE.—In carrying out this section, the Board shall coordinate activities with the Federal Interagency Task Force on Food and Shelter chaired by the Secretary of Health and Human Services, or any successor Federal task force established to deal with the problems of the homeless, to identify vacant and surplus Federal facilities that could be renovated or converted for use as emergency shelter facilities for the homeless.

SEC. 403. SECOND STAGE HOUSING FOR THE HOMELESS AND DISPLACED.

(a) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Board shall carry out a demonstration program in accordance with the provisions of this section to determine the effectiveness of assisting nonprofit organizations in providing housing and supportive services for homeless persons.

(2) PURPOSES.—Such demonstration program shall be designed to determine—

(A) the cost of acquisition, rehabilitation, or acquisition and rehabilitation of existing structures for the provision of housing for homeless persons;

(B) the cost of operating such housing and providing supportive services to the residents of such housing;

(C) the social, financial, and other advantages of such housing and supportive services as an alternative to continued institutionalization of handicapped persons; and

(D) the social, financial, and other advantages of such housing and supportive services as a means of assisting homeless persons.

(b) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Board may provide the following assistance to any eligible nonprofit organization under the demonstration program established in this section:

(A) a non-interest-bearing advance equal to the aggregate cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of an existing structure for use in the provision of housing and supportive services for homeless persons;

(B) annual payments for operating expenses of such housing, not to exceed 80 percent of the annual operating expenses of such housing; and

(C) technical assistance in establishing and operating such housing and providing supportive services to the residents of such housing.

(2) NONREPAYMENT OF ADVANCES.—Any advance provided under paragraph (1)(A) shall not be required to be repaid if the nonprofit organization involved utilizes the structure for which such advance is made, for not less than the 10-year period following initial occupancy of such housing—

(A) as housing for homeless persons in accordance with the provisions of this section; or

(B) as housing for lower income persons, if the Board determines that the structure is no longer required for use as housing for homeless persons.

(3) ASSISTANCE CONTRACTS.—The Board shall, to the extent approved in appropriation Acts, enter into a contract with each nonprofit organization receiving annual payments under paragraph (1)(B) to provide for the making of such payments for not more than a 2-year period.

(c) PROGRAM REQUIREMENTS.—

(1) APPLICATIONS.—Applications for assistance under this section shall be made in such form and in accordance with such procedures as the Board shall establish.

(2) SELECTION CRITERIA.—In selecting nonprofit organizations for assistance under this section, the Board shall consider—

(A) the ability of such nonprofit organization to develop and operate housing for homeless persons and to provide or coordinate supportive services for the residents of such housing;

(B) the extent to which such nonprofit organization will utilize innovative methods in providing housing and supportive services for homeless persons;

(C) the need for such housing and supportive services in the area to be served; and

(D) such other factors as the Board determines to be appropriate for purposes of carrying out the demonstration program established in this section in an effective and efficient manner.

(3) REQUIRED AGREEMENTS.—Each nonprofit organization receiving assistance under this section shall agree, with respect to each structure for which such assistance is provided—

(A) to conduct an assessment of the supportive services required by the residents of such structure;

(B) to employ a full-time residential supervisor with sufficient expertise to provide, or supervise the provision of, supportive services to the residents of such structure; and

(C) to comply with such other terms and conditions as the Board may establish for purposes of carrying out the demonstration program established in this section in an effective and efficient manner.

(4) OCCUPANT RENT.—Each homeless person residing in housing assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than the expiration of the 120-day period following the date of the enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) ADVANCE CONSULTATION.—Before issuing regulations under this section, the Secretary shall consult with persons and entities having expertise with respect to the problems and needs of homeless persons or experience in providing housing or supportive services for such persons.

(e) FUNDING.—

(1) LIMITATION ON BUDGET AUTHORITY.—The aggregate amount of non-interest bearing advances and annual payments for operating expenses made by the Board under this section may not exceed such sums as are approved in appropriation Acts for each of the fiscal years 1986 and 1987. Such amount shall remain available until expended.

(2) DISBURSEMENT.—Any amount approved in an appropriation Act for this section shall be disbursed not later than the expiration of the 120-day period following the date of enactment of such Act.

SEC. 404. EMERGENCY SHELTER GRANTS.

(a) GRANT ASSISTANCE.—The Board shall, to the extent of amounts approved in appropriation Acts, make grants to States and units of local government (and to private nonprofit organizations providing assistance to the homeless, in the case of grants made with reallocated amounts) in order to carry out activities described in subsection (c).

(b) ALLOCATION AND DISTRIBUTION OF ASSISTANCE.—

(1) IN GENERAL.—The Board shall allocate assistance under this section to metropolitan cities, urban counties, and States (for distribution to units of general local government in the States) in a manner that ensures that the percentage of the total amount available under this section for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for the prior fiscal year that is allocated to such State, metropolitan city, or urban county.

(2) MINIMUM ALLOCATION REQUIREMENT.—If, under the allocation provisions applicable under this section, any metropolitan city or urban county will receive a grant of less than $30,000 for any fiscal year, such amount shall instead be allocated to the State in which such city or county is located and shall be included in the amount available for distribution to units of general local government in the State.

(3) DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS.—Any unit of general local government receiving assistance under this section may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to the homeless.

(4) REALLOCATION FUNDS.—

(A) The Board shall, not less than twice during each fiscal year, reallocate any assistance provided under this section that is unused or returned to the Board under subsection (e)(3).

(B) The Board shall provide such reallocation funds—

(i) to units of general local government demonstrating extraordinary need or large numbers of homeless individuals;

(ii) to private nonprofit organizations providing assistance to the homeless; and

(iii) to meet such other needs consistent with the purposes of this section.

(c) ELIGIBLE ACTIVITIES.—Assistance provided under this section may be used for—

(1) the following activities relating to emergency shelter for the homeless:

(A) renovation of buildings to be used as emergency shelters;

(B) provision of essential services, including services concerned with employment, health, drug abuse, or education, if—

(i) such services have not been provided by the unit of general local government during any section of the immediately preceding 12-month period; and

(ii) not more than 15 percent of the amount of any assistance to a unit of general local government under this section is used for activities under this paragraph; and

(C) maintenance, insurance, operation (other than staff), utilities, and furnishings; and

(2) the activities described in paragraph (1) for any second stage housing project replicating a second stage housing project operating effectively under section 403 for a period of not less than 2 years.

(d) RESPONSIBILITIES OF GRANTEES.—

(1) SUBMISSION OF HOMELESS ASSISTANCE PLAN.—Following notification by the Board of eligiblity for assistance under this section, each State, metropolitan city, and urban county shall submit to the Board a plan describing the proposed use of such assistance. The Board shall provide the appropriate amount of assistance to such State, metropolitan city, or urban county before the expiration of the 60-day period following the date of the submission of such plan, unless the Board determines before the expiration of such period that such plan is not in compliance with this section.

(2) MATCHING AMOUNTS.—

(A) Each grantee under this section shall be required to supplement the assistance provided under this section with an equal amount of funds from sources other than this title. Each grantee shall certify to the Board its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(B) In calculating the amount of supplemental funds provided by a grantee under this section, a grantee may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the grantee, the value of the time contributed by volunteers to carry out the program of the grantee, and the value of services provided for the program.

(3) ADMINISTRATION OF ASSISTANCE.—Each grantee shall act as the fiscal agent of the Board with respect to assistance provided to such grantee.

(4) CERTIFICATIONS ON USE OF ASSISTANCE.—Each grantee shall certify to the Board that—

(A) it will maintain as a shelter for the homeless for not less than a 3-year period any building for which assistance is used under this section, or for not less than a 7-year period if such assistance is used for the substantial rehabilitation of such building;

(B) any renovation carried out with assistance under this section shall be sufficient to ensure that the building involved is safe and sanitary; and

(C) it will assist homeless individuals in obtaining—

(i) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(ii) other Federal, State, local, and private assistance available for such individuals.

(5) USE OF INTEREST ON ASSISTANCE.—Any interest received by any grantee under this section on assistance provided under this section shall be used in accordance with this section or returned to the Board for reallocation.

(e) ADMINISTRATIVE PROVISIONS.—

(1) REGULATIONS.—Not later than the expiration of the 30-day period following the date of the enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. Such requirements shall not be subject to section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act. The Secretary shall issue regulations based on the initial notice before the expiration of the 12-month period following the date of the enactment of this Act.

(2) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 30-day period following the date of the enactment of a law providing appropriations to carry out this section, the Board shall notify each State, metropolitan city, and urban county of its allocation of assistance under this section. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue regulations under paragraph (1).

(3) RECAPTURE OF UNUSED ASSISTANCE.—The Board shall deobligate or recapture any assistance provided under this section that is not used by the grantee within a reasonable period of time.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section such sums as may be provided in appropriation Acts for each of the fiscal years 1986 and 1987. Any amount appropriated under this section shall remain available until expended.

SEC. 405. REPORTS TO CONGRESS.

The Board shall submit to the Congress—

(1) not later than 3 months after the end of fiscal year 1986, an interim report summarizing the activities carried out under this title during such fiscal year and setting forth any preliminary findings or conclusions of the Board as a result of such activities; and

(2) not later than 6 months after the end of fiscal year 1987, a final report summarizing all activities carried out under this title and setting forth any findings, conclusions, or recommendations of the Board as a result of such activities.

SEC. 406. DEFINITIONS.

For purposes of this title:

(1) The term "Board" means the National Emergency Food and Shelter Board established in section 401(a).

(2) The term "elderly person" means an individual who is not less than 62 years of age.

(3) The term "handicapped person" means an individual having a physical, psychological, or other impairment that substantially impedes the ability of such individual to live independently without supportive services.

(4) The term "homeless person" means an individual who—

(A) is a lower income person, elderly person, or handicapped person;

(B) lacks permanent housing; and

(C) in the case of assistance under section 403, cannot live independently without supportive services.

(5) The term "housing for homeless persons" means a single- or multifamily structure suitable in design and size for the provision of housing and supportive services designed to encourage independence for homeless persons.

(6) The term "lower income person" means an individual whose income does not exceed 80 percent of the median income of the area involved.

(7) The term "nonprofit organization" means any governmental or private nonprofit entity that is approved by the Board as to financial responsibility.

(8) The term "operating expenses" means expenses incurred by a nonprofit organization for any program operating housing for homeless persons under section 403 with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing;

(C) the conducting of the assessment required in section 403(c)(3)(A); and

(D) the provision of supportive services to the residents of such housing.

(9) The term "Secretary" means the Secretary of Housing and Urban Development.

(10) The term "supportive services" means assistance in obtaining permanent housing, medical and psychological counseling and supervision, employment counseling, nutritional counseling, and such other services essential for maintaining independent living as the Board determines to be appropriate. Such term includes the provision of assistance to residents of housing for homeless persons in obtaining other Federal, State, and local assistance available for such persons, including mental health benefits, em-

ployment counseling, and medical assistance.

The CHAIRMAN pro tempore. Are there any amendments to title IV of the bill?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—NEHEMIAH HOUSING OPPORTUNITY GRANTS

SEC. 501. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and

(3) to increase the employment of neighborhood residents.

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) The term "Fund" means the Nehemiah Housing Opportunity Fund established in section 509(a).

(2) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(3) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(5) The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) The term "substantial rehabilitation" means—

(A) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this title in the market area in which it is located; or

(B) the rehabilitation of a vacant, uninhabitable structure.

(9) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

SEC. 503. ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out Nehemiah housing opportunity programs in accordance with the provisions of this title. Such assistance shall be made in the form of grants.

(b) APPLICATIONS.—Applications for assistance under this title shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

SEC. 504. USE OF ASSISTANCE.

(a) IN GENERAL.—Any nonprofit organization receiving assistance under this title shall use such assistance to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this title.

(b) SPECIFIC REQUIREMENTS.—Each loan made to a family under this section shall—

(1) be secured by a second mortgage held by the Secretary on the property involved;

(2) be in an amount not exceeding $15,000;

(3) bear no interest; and

(4) be repayable to the Secretary upon the sale or other transfer of such property.

SEC. 505. PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Assistance provided under this title may be used only in connection with a Nehemiah housing opportunity program of construction or substantial rehabilitation of homes.

(b) FAMILY NEED.—Each family purchasing a home under this title shall—

(1) have a family income on the date of such purchase that is not more than whichever of the following is higher:

(A) 115 percent of the median income for a family of 4 persons in the metropolitan statistical area involved; or

(B) the national median income for a family of 4 persons; and

(2) not have owned a home during the 3-year period preceding such purchase.

(c) DOWNPAYMENT.—

(1) Each family purchasing a home under this title shall make a downpayment of not less than 10 percent of the sale price of such home, or of such greater amount determined by the nonprofit organization involved to be appropriate.

(2) Any downpayment made under this subsection shall accrue interest from the date on which such downpayment is made through the date of settlement, at a rate not less than the passbook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(d) LEASING PROHIBITION.—No family purchasing a home under this title may lease such home.

SEC. 506. TERMS AND CONDITIONS OF ASSISTANCE.

(a) LOCAL CONSULTATION.—No proposed Nehemiah housing opportunity program may be approved by the Secretary under this title unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(1) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(2) it has the approval of each unit of general local government in which such program is to be located.

(b) PROGRAM SCHEDULE.—Each nonprofit organization applying for assistance under this title shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(c) MINIMUM PARTICIPATION.—No nonprofit organization receiving assistance under this title may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 percent of the homes to be constructed or substantially rehabilitated are contracted for sale to purchasers who intend to live in such homes and the required downpayments are made.

(d) FINANCIAL FEASIBILITY.—The Secretary may not provide any assistance under this title to any nonprofit organization unless such nonprofit organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(e) HOME QUALITY AND LOCATION.—A Nehemiah housing opportunity program may be approved under this title only if it provides that—

(1) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(A) the greater of (i) 50 homes; or (ii) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such program; or

(B) 250 homes;

(2) each home constructed or substantially rehabilitated under such program will comply with—

(A)(i) applicable local building code standards; or

(ii) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; and

(B) the energy performance requirements established under section 526 of the National Housing Act;

(3) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and area are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(4) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that if the unit of general local government in which the project is located certifies that such land cannot be made available for a program of the size required by paragraph (1), homes may be constructed in a single identifiable neighborhood if the program provides for construction or substantial rehabilitation of homes on not less than 20 percent of the lots in such neighborhood; and

(5) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this title upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

SEC. 507. PROGRAM SELECTION CRITERIA.

(a) IN GENERAL.—In selecting Nehemiah housing opportunity programs for assistance under this title from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(1) non-Federal public or private entities will contribute land necessary to make each program feasible;

(2) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost

of homes constructed or substantially rehabilitated under each program;

(3) each program will produce the greatest number of units for the least amount of assistance provided under this title, taking into consideration the cost differences among different market areas;

(4) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition (but not age) of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(5) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(6) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(b) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in paragraph (1) or (2) of subsection (a), the Secretary shall not consider such form of contribution in evaluating such program.

SEC. 508. DISTRIBUTION OF ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) RESERVATION OF AMOUNTS.—Following the selection of any Nehemiah housing opportunity program for assistance under this title, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(b) DISTRIBUTION OF ASSISTANCE.—Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this title, the Secretary shall provide to the sponsoring nonprofit organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(c) MAXIMUM ASSISTANCE.—The assistance provided to any nonprofit organization under this title may not exceed $15,000 per home.

SEC. 509. NEHEMIAH HOUSING OPPORTUNITY FUND.

(a) ESTABLISHMENT.—There hereby is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under section 503.

(b) ASSETS.—The Fund shall consist of—

(1) any amount appropriated under section 512;

(2) any amount received by the Secretary under section 504(b)(4); and

(3) any amount received by the Secretary under subsection (c).

(c) ADMINISTRATION.—Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provisions of this title shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 510. ANNUAL REPORT.

The Secretary shall annually prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this title. Such report shall include—

(1) an analysis of the characteristics of the families assisted under this title during the preceding year, including family size, number of children, family income, sources of family income, race, age, and sex;

(2) an analysis of the market value of homes purchased under this title during the preceding year;

(3) an analysis of the non-Federal public and private financial or other contributions made during the preceding year to reduce the cost of homes constructed or substantially rehabilitated under each program;

(4) an analysis of the sales prices of homes under this title during the preceding year;

(5) an analysis of the amounts of the grants made to programs under this title during the preceding year; and

(6) any recommendations of the Secretary for modifications in the program established by this title in order to ensure the effective implementation of such program.

SEC. 511. REGULATIONS.

The Secretary shall issue such regulations as may be necessary to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

SEC. 512. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this title such sums as may be provided in appropriation Acts for fiscal years 1986 and 1987. Any amount appropriated under this section shall be deposited in the Nehemiah Housing Opportunity Fund, and shall remain available until expended.

Mr. McKINNEY. Mr. Chairman, the gentleman from Florida [Mr. MCCOLLUM] is scheduled for an amendment on this section of the bill which has been called. He is not here, but I would ask unanimous consent that he be able to submit his amendment upon his arrival.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. SCHUMER. Mr. Chairman, reserving the right to object, I would ask the gentleman, which amendment is this?

Mr. McKINNEY. Mr. Chairman, if the gentleman will yield, it is an amendment to which I am totally opposed. It strikes the title. As one of the coauthors of the bill, I hope it is defeated. But I think this is the democratic process.

Mr. SCHUMER. I just wanted to pin it down.

Mr. McKINNEY. In fact, if the gentleman really wants to know where I stand on the McCollum amendment, he will hear it ad nauseam should we debate it.

Mr. SCHUMER. I appreciate the statement of the gentleman from Connecticut, and I waive my right to object for that specific amendment.

□ 1255

The CHAIRMAN pro tempore. The Chair will not entertain the request of the gentleman from Connecticut [Mr. MCKINNEY] at this time.

Mr. BARTLETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I move to strike the last word while, as I understand it, a number of colleagues are preparing the final touches on some amendments that will be very critical to this House. I think that both sides of the aisle are, in fact, working together to prepare an amendment that will end up with good public housing policy.

Mr. Chairman, I rise, though, to discuss a section of the bill that has already been discussed, and I think does not need amendment, but to seek clarification for the rest of the country that is awaiting our action on FHA. This bill does seek to extend FHA's permanent authority, as I understand it. Yet, that authority expired some time last week.

I know that every Member of this House has considerable concern for the on again-off again approach that we have, through a series of circumstances, in the past several months taken to FHA.

I suppose I would just use this opportunity to inquire of the bill's sponsors and others on behalf of the large number of individuals and mortgage borrowers in the country who are seeking FHA loans as to what the Congress' plans are on the extension of FHA. It seems to me to be likely that FHA will not be extended today or tomorrow or any time in the next several weeks, because the bill still has to go to the other body and would still likely result in some kind of a conference.

So I wonder if the chairman of the subcommittee or if the bill's sponsor could enlighten us as to the gentleman's plans on the extension of FHA through some other vehicle. I think mortgage borrowers are legitimately concerned about this.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, as the gentleman well knows, our authorization bill was designed to extend not only the expired authority of FHA mortgage insurance programs, but all of the assisted housing programs. And the legislation involving them actually technically expired last October 1. This is the reason we have a reauthorization bill, so that the best way to prevent the stop-and-gasp-and-start proceedings here and having these 30-day, 15-day, 3-month extensions that we have been proceeding on since last October 1 would be to pass an authorization bill. This is the reason we have been so insistent on having an authorization.

In the meantime, though, the fact is that that lending authority has expired, and the Senate is trying to bring us something in a sort of an indirect fashion by trying to amend the supple-

mental appropriation, which we do not know when it will get here.

As of today, with the joinder of both the minority ranking member of the full committee and the minority ranking member of the subcommittee, I have introduced an extending resolution which has been designated as House Joint Resolution 652. So we are very much aware of it. It has an extension to July 25.

Mr. BARTLETT. Mr. Chairman, I would further yield to the gentleman if the gentleman could tell us when the gentleman planned to bring up that extension. It does need to be brought up.

I would say that, from my perspective, I would hope perhaps we could have it extended further so that we could give some assurance to the marketplace and to the home buyers that FHA is permanently in place.

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield, as the gentleman will recall, just last month we had on an emergency basis an extension on FHA and an increase in Ginnie Mae. The administration was opposed to it until the crisis in the market became so acute. The President was in Tokyo. The administration changed its mind so suddenly that, as soon as we passed it, they took it in a military airplane and sent it all the way to Tokyo so he could sign it. He was against it when he left.

So this is what we have been fighting.

But I want to assure the gentleman that as soon as we complete action on our authorization bill, we are going to move for the adoption of the extending resolution.

Mr. BARTLETT. Today, if we finish today?

Mr. GONZALEZ. Yes.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 111, strike line 16 and all that follows through page 123, line 17 (and conform the table of contents accordingly).

Mr. McCOLLUM. Mr. Chairman, this amendment would strike from this bill what is known as the Nehemiah Program. It is a new provision that has not been there before, that would become law. It is one that is based on a very successful New York project that my good friend, the gentleman from New York [Mr. SCHUMER], modeled this provision after and has sponsored this provision in committee.

I think that the problem with any kind of a new program at this time should be apparent to any of the Members. If we are going to spend scarce resources on housing, and we only have limited resources with all of the constraints on our budget now, it should be obvious to all of us that we ought to spend that money in the areas where we already have existing programs and for the low-income Americans who have indeed the problems and real suffering for the shortage of housing in this country.

I think that the Nehemiah Program and all of its success in New York can be repeated in some of the other parts of the country. It can be repeated just as it was in New York without Federal involvement. It is a very successful program that the city and the State and the local and private agencies and independent nonprofit organizations put together, and it has worked rather well.

But let us talk about it in the context of why we do not need it, and we do not need it in this bill.

First of all, it would establish a fund to be funded by such sums as may be appropriated to provide grants to nonprofit organizations to use for $15,000 second mortgages for large-scale housing developments in distressed neighborhoods.

The purpose of the program, modeled after the one in New York, is to expand home ownership opportunities for families in revitalized depressed areas of cities.

The proposed program would heavily subsidize moderate home buyers who could afford to purchase privately financed housing. I think that is a key point in this. We are not subsidizing the low end of the scale here. We are subsidizing moderate-income Americans who could afford in the circumstances presented to go through the private mortgage system. The program would not be available to lower income families.

Participants in New York's Nehemiah Program had incomes ranging from $20,000 to $40,000, with an estimated median income of $23,000 to $24,000 a year. A family earning $22,500 could have qualified for a privately financed mortgage at a 10-percent interest rate.

The proposed legislation provides that a family's personal income may not exceed the higher of 115 percent of the area median income, or the national median income of $27,500. One hundred and fifteen percent of the area median income is $39,790 in Chicago, $37,375 in Detroit, $36,110 in Baltimore, $34,730 in Louisiana, and so on.

The proposed legislation also contains provisions that would make the program unavailable for low-income families. There is a requirement of a 10-percent down payment, which most low-income families cannot afford.

Construction is not allowed to begin until 25 percent of the homes have sales contracts, plus the required down payment. Families would have to tie up a significant amount of funds for a year or more before the homes would be ready for occupancy. What low-income family could afford to do that?

One selection factor relates to the production of the greatest number of units for the least amount of assistance. This would encourage sales to familes near the upper level of the maximum income that is permitted under the legislation.

□ 1305

Furthermore, it is unlikely that the proposed Nehemiah program on a Federal level could duplicate the factors in the New York project to revitalize neighborhoods and make homes affordable to moderate-income home buyers.

In New York, a politically strong nonprofit organization was able to put together a complex development package and obtain the cooperation and financial support of the city and State governments. A combination of many factors reduced a family's average monthly carrying costs under the New York project from $926 to $462. These factors included but were not limited to:

Free land: 95 percent of the land was donated by the city, was city-owned through in rem or condemnation. It significantly reduced acquisition, relocation and demolition costs and provided for faster startups.

The construction loan fund: East Brooklyn Churches, the developer, created a 5-year interest-free revolving construction loan. This reduced development costs by 10 percent.

Existing infrastructure: The land was already equipped with utilities, water, sewer lines and roads, and the city waived its city code to allow for a single hookup for each block of homes. This reduced development costs by 10 percent.

Second mortgage: The city provided a $10,000 capital grant in the form of an interest-free second mortgage.

Mortgage revenue bonds: The State of New York Mortgage Agency provided 30-year mortgage financing through mortgage revenue bonds.

Tax abatement: The city provided a 20-year tax abatement.

The New York project was based on the availability of several hundred contiguous acres of land which insulated the revitalized neighborhood, 1,250 row houses in the current phase, from the surrounding decay.

The proposed legislation scales back the minimum number of homes to 50 to 250, depending on the size of the jurisdiction. It also permits only 20 percent of the lots to be in a single neighborhood, opening the door for scattered development and infill.

The CHAIRMAN pro tempore. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 5 additional minutes.)

Mr. McCOLLUM. The further the proposed legislation moves away from the New York experience in terms of scale and concentrated development, the less likely it will create neighborhoods and rebuild depressed areas of other cities and the more likely it will become just another subsidized home ownership program.

I might add that I am not at all convinced that when you move away from the situation New York created, where you could insulate people from the decay around them, that you are going to have very many moderate-income people willing to go into the depressed area, which is the idea, in the first place, since low incomes are not going to be able to afford to go into these projects.

The New York project benefited from a high pent-up demand for home ownership in a tight housing market. The proposed program would probably not work in soft housing markets.

I think this last point is a very telling one on the entire process. This is unlikely to be of much use to anybody in a rural area. We are talking about a city area now, where anybody is going to try a Nehemiah project. New York did its thing. Taking the bill and the proposal that is before us for Federal support, HUD went out and surveyed 10 major cities in this country to find out if any of those cities had the land, had the resources, had the tax incentive possibilities available to make use of the Nehemiah program if we passed some support for it in this legislation. And the survey of the field economists for HUD in the 10 cities reported back that the market conditions and available land would probably not be adequate to implement the proposed Nehemiah program in more than one of those cities, even with minimum size requirements, which are less than one-fourth of the program size in New York.

The bottom line of all of this is that Nehemiah is a good project, it is an excellent project. We need to have more Nehemiah programs. But Nehemiah has some unique qualities that allowed it to operate without Federal subsidy, without Federal involvement in New York. If a city—and there are very few of them, I would submit, based on the HUD survey—in this country wants to duplicate what Nehemiah did for New York, it certainly can. The model is there, the nonprofit organizations surely can be found, the tax breaks with the city and the State can be given, the land can be donated, whatever it takes, Nehemiah can be done. We do not need to federalize another new housing program in this fashion. We can promote it, we can put general language in the bill saying Nehemiah is great, you ought to look at it, but we do not have any business putting any kind of Federal subsidy into a new moderate-income housing program, with the scarce resources we have today, for housing for low-income and for those moderate-income programs that already exist. We need to put our resources where they do the most good, in modernization, in rehabilitation, in those few new start programs that already exist. A great idea, but it has no business being in this bill at this time. I would urge my colleagues to support my amendment to strike this new program out of the bill and let us get on with providing housing in those tried and true programs we already have in the legislation.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out that the gentleman has made an excellent statement, an excellent exposition on the subject of Nehemiah. I think for our colleagues who are listening, there are a couple of numbers that bear repeating and maybe a further explanation.

The gentleman pointed out that the 115 percent of median income that is permitted for a $15,000 Federal subsidy under this proposal is the equivalent, for example, in a city like Chicago, of an income of $39,700, almost $40,000. People with incomes of $40,000 are going to qualify under this provision for a $15,000 Federal subsidy.

I think the point that has to be made at this point is that that translates into a person whose income would qualify him for private financing of a home worth $102,000 in that same Chicago market.

Mr. McCOLLUM. That is exactly right. And that person probably can afford, with 10 percent, or whatever, to get that private financing, without any problem.

Mrs. ROUKEMA. And yet we are suggesting that we federally subsidize such a purchase rather than private financing.

Mr. McCOLLUM. That is right. The low-income person cannot afford to do this program because he has to put 10 percent down, which is ridiculous.

I thank the gentlewoman and I appreciate her pointing out that fact. It is just not a workable program for other places, as good as it is for New York. It certainly does not merit Federal support.

Mr. SCHUMER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I thank the distinguished chairman of the subcommittee for being such an excellent leader of Nehemiah, as well as the distinguished ranking minority member of the subcommittee, the gentleman from Connecticut, and, of course, the gentleman from Texas, who has been supportive of this program.

Let me, Mr. Chairman, first give a little history about housing legislation, which the good gentleman from Florida I think leaves out. For years and years and years, we have heard arguments that the present housing programs do not work, they are too expensive. We have heard about over $100,000 a unit for subsidizing certain kinds of units for very poor people. And then we look at those units, and they do not last. And so many of our colleagues from both sides of the aisle have come to us and said, "Come up with new programs because the old programs don't work, the old programs are cost inefficient, they are too expensive, the old programs don't last, they are poorly managed, the old programs don't develop a political constituency to support them."

And guess what. We have thought about it in this bill, and we said, "You are right, you have a point." We are trying to change the way housing is done in America. We have a housing crisis out there. We have literally millions of people who do not have adequate shelter. There is no doubt about it. But in this day and age, Congress will not appropriate $100,000 per unit. We cannot afford it.

And that is the lesson that we have walked through. Now, we feel whipsawed because the minute we come up with a new program that meets the criticisms, that is cost efficient, that does indeed provide flexibility so different localities can use them, that encourages the private sector and individuals to get involved and care about their homes and their housing, we are then told, "No new programs."

That is not fair. That is not right. You cannot have it both ways unless you are for the Federal Government getting totally out of housing all together. And that has not been the consensus in either this body or the other body.

Nehemiah was a program that was designed to work, to work cost efficiently. Instead of $100,000 or $80,000 a unit, it only cost $15,000 a unit, to work flexibly. Along with the good gentleman from Texas, we have made this program flexible so that many, many cities can adapt it. As for the HUD study, HUD has been opposed to all new programs. To have HUD be judging whether Nehemiah should exist, this HUD, by calling up 10 economists in 10 cities, which was not a professional study, is hardly a way to judge the merits of a program.

Furthermore, we tried to be mindful of budget constraints.

So Nehemiah is not a $1 billion or $5 billion new program. We are asking a real pittance. One-hundred fifty million dollars, to see if this program can work in other communities.

What are the benefits of Nehemiah? First, it opens up tight markets for

very poor people. True enough, it is not the very poorest of the oor who will move into Nehemiah, but if the New York project is any indication, they will move out of many other units and open the way for poor people to come in cost efficiently and cheaply. The average person who benefited from a Nehemiah grant had an income of $24,000. The average person who moved into the public housing unit or section 8 unit or private unit that that person from Nehemiah vacated had an income of $6,000. So if you want to look at it that way, you can say that we are indeed helping the very poorest of the poor find adequate housing, and we are doing it in a different and novel way.

The other thing about Nehemiah is that it brings some life. I have seen Nehemiah work in New York. You had an area that looked like Dresden or Hiroshima after World War II, totally burnt out, totally abandoned, and because of the lure of homeownership for poorer people, working class people who could not find a home another way, these folks were willing to save their nickels and dimes and invest it in a downpayment and get their dream, a home.

The CHAIRMAN pro tempore. The time of the gentleman from New York [Mr. SCHUMER] has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 5 additional minutes.)

Mr. SCHUMER. We sat at the hearings that we had. At the hearings there was not a dry eye in the house, when substantial working people told that they could not find homes that they could afford, that they would be accepted into, because we, unfortunately, have a great deal of racial discrimination in terms of housing, and they found their dream home. Their children are living in a home, and they are bringing back the whole neighborhood. The schools are being revitalized, the shopping streets are being revitalized, the city is paying attention to them.

Can Nehemiah work in the rest of the country? Well, let me tell you something—and I would tell this to the gentleman from Florida—it is worth a shot. We have met the budget in this housing bill. The $150 million that is going into Nehemiah came out of somewhere else. So the only effect of the gentleman's amendment would be very simple. It would say: Go back to the old programs which do not have the political constituency, which are much more expensive, which have not really worked to anyone's satisfaction, because we are not allowing you to come in with anything new, no matter how modest, no matter how experimental. It is catching everyone between a whipsaw.

Now, let me say of Nehemiah is some crazy idea, it has garnered more support in this body and in the other body than any other new housing program to come along in a long time. The chairman of our subcommittee has been a strong advocate of Nehemiah. The gentleman from Connecticut [Mr. MCKINNEY] has been a strong advocate of Nehemiah. The gentleman from Texas [Mr. BARTLETT] has been a strong advocate of Nehemiah. In the other body, the Senate Banking Committee passed a Nehemiah bill with the support of the chairman, the Senator from Utah. This is no crazy, wayout idea. This is hope. That is what Nehemiah is. Nehemiah was the prophet who rebuilt Jerusalem.

Do we want to turn our backs totally on our inner cities? Or do we want some hope? Do we want to try to rebuild them? Do we want Nehemiahs to spring up in every city tomorrow throughout the country? No. We are not sure it will work in every city. It will certainly work in a great many of them. But it may not work in every city. But let us together try it. Let us together find if there are ways that we can relieve the plight of homeless people by increasing the number of houses in the market. Let us see if inner city people can pull themselves up by their bootstraps with a minimal amount of help.

This is not a conservative program or a liberal program. It is not an eastern program or a western program. It is a program to which people throughout the entire country can point to as a beacon as some hope in the desolate sea of housing.

We had an amendment last week that said that this body is no longer—and I was opposed to that amendment—going to continue to build public housing, new public housing. Are we going to say we should have no new housing for people who need the help? Are we going to say, "Forget it, let's just let the number of homeless increase"? Or are we going to try something that has worked, that has garnered broad support, that is a program that is real, concrete and has so many external benefits?

□ 1320

I would urge, I would strongly urge my colleagues to reject the McCollum amendment and support the Nehemiah Program. On the housing scene, it represents hope, and hope is what we need.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman.

Mr. McCOLLUM. I thank the gentleman for yielding to me.

Would the gentleman explain for the Members, many of our colleagues who do not have the background on housing how the financing in this would work from the Federal perspective and what the cities might have to contribute and so on?

Mr. SCHUMER. I would say to the gentleman there is no specific requirements as to what the cities could contribute, but it would be helpful if they would, in many cities, in many of the larger cities and even some of the smaller ones. There are tracts of land that have become useless and wasted and they could contribute that.

The Federal Government would only have to provide per unit $15,000 which would help reduce the costs of the home and then, at the option of HUD, depending on the locality, that could be a second mortgage. So that when the house was sold, when the propertyy values in the area increased, the Government would recoup the money.

The CHAIRMAN pro tempore. The time of the gentleman from New York [Mr. SCHUMER] has expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. SCHUMER was allowed to proceed for 3 additional minutes.)

Mr. SCHUMER. It would always be a second mortgage. So the money would be recouped if the program works.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman.

Mr. McCOLLUM. If I am not mistaken, am I correct that under this proposal that you have, there would be Federal involvement at least to that extent, but in New York City, under Nehemiah, there was no Federal involvement. Is that not true?

Mr. SCHUMER. That is indeed correct.

What we are trying to do in this, it worked in New York City because of the great generosity, not only of city and State governments but, for instance, the Brooklyn East Churches, the Brooklyn Archdiocese put in millions of dollars to help Nehemiah become reality. They wanted to see if it would work.

I would say to the gentleman from Florida that, No. 1, it seems to me an appropriate Federal role to provide that incentive for that home. We have done it through FHA, we have done it through VA with millions of people in similar ways.

No. 2, if, in smaller communities, they do not have that kind of money available, if there is not an active and concerned church group, but there are people who want to pull themselves up by their own bootstraps, localities, which, as we all know, this budget will eliminate revenue sharing which is going to put a crimp on all of our localities.

If the Federal Government is to have a role in housing, I could not think of a more appropriate role than this one.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield further?

Mr. SCHUMER. I yield to the gentleman.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, it would seem to me, and I would like to ask the gentleman about it, but if this program is as successful as I believe it is, and I think it is a great program. I am all for the Nehemiah concept. We ought to give it a chance to work in the other communities without the Federal role. We have not had time for this example to filter down for a lot of other nonprofits to come forward, to have the cities to plan to do it, and so on.

Am I not correct that while there is a restricted, open feeling on the part of the committee about how much money would be involved in this, once we authorize it, it is up to appropriations committees in the future to decide how much to fund? We have no idea in the end 5 years or 10 years down the road what we are opening up to and what else might be done by this volunteer community, as it is in New York City, if they are given a chance for the next couple of years to try this program without Federal support.

Mr. SCHUMER. I would remind the gentleman that this bill—when I said $150 million, that was the amount we asked for in the bill—but what is appropriate, what is authorized here is such sums as may be appropriated. The Appropriations Committee would determine how much money they thought was worthy of Nehemiah.

Let me ask the gentleman: We have approximately a $9 billion assisted housing budget. That has gone down from $31 billion 5 years ago. Is is not worth allowing the Federal Government to give incentives to cities throughout the country for a small amount of money?

I talked to the gentleman from Massachusetts, the chairman of the Appropriations Subcommittee; I have talked to the gentleman from New York, the ranking minority member on the Appropriations Subcommittee, and they do not envision a large amount of money; but they envision something else.

The CHAIRMAN pro tempore. The time of the gentleman from New York [Mr. SCHUMER] has again expired.

(On request of Mr. McCOLLUM and by unanimous consent, Mr. SCHUMER was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. If the gentleman will yield further, I would just like to make one, quick comment on that.

It seems to me that, yes, this is a small amount of money in the beginning, but it is like a lot of other things around here: This is like the camel getting his nose under the tent. Once we start the program.

I may very well be a strong supporter of this program 2 or 3 years down the road if we have some track record showing that other cities really will not follow New York's example. It seems to me that it is a perfect opportunity for other cities to come in and follow New York's example now. Getting nonprofits involved; getting tax breaks. Why do we want to mess it up with even any incentive program at the Federal level? Why do we not just put in the bill?

Look at Nehemiah; it is a good program; it works in New York. You all ought to go out and look at it; give a rah-rah this time and come back in a couple of years. It is a much better way to go. Why not do that?

Mr. SCHUMER. I respect the gentleman's integrity, but I would say his last remarks really are not in the full spirit of this.

Let me say this: The gentleman is first saying that if we start a new program we run the risk of it burgeoning into a big program.

The CHAIRMAN pro tempore. The time of the gentleman from New York [Mr. SCHUMER] has again expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 30 additional seconds.)

Mr. SCHUMER. If this program works, I hope it will replace some of the existing programs. But the gentleman from the Banking Committee knows, as we all know in this House, this is no climate where we are going to increase the overall amount of money appropriated. We may switch it around from one to another, but let us try it, because the old programs have not worked.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words

Mr. Chairman, I am very much opposed to this amendment, and I think that we are all missing the point of why we are here sometimes.

It seems to me that we are here to, as the Ford Motor Car Co. would tell you, "Build a better idea." It is wonderful that I find myself sitting in dreadful disagreement when people say, "Oh, let us get rid of section 8," but it is not a very good program. Everybody says, "Let us get rid of this, it is not working." Then we suddenly come up with a new idea and we are all afraid of it.

What is the real problem in housing? In some sections there is not any. In some, of course, there is too much because of the economic condition of the area, but people are not going to certainly walk to those houses in an economically depressed area.

I see my good friend from New York sitting over there, and I will tell you that East Brooklyn, NY, was everyone's point of despair; what could ever be done with it. It was Hiroshima, as it was stated earlier from my other friend from New York.

So a group of churches and everyone else got together and they got together to do one thing: To make it possible to own a home. Who bought these homes? People bought these homes who were in public housing. Why were they in public housing? They were too rich for public housing, but were they rich enough to own a home in New York City, even in East Brooklyn, NY? No.

Who are these people? Teachers, policemen, bus drivers, nurses, the very people who make a community run, that make a community function, that make a community a community. The very people who, unfortunately, if you read today's paper you would see, are being forced out of Washington, DC. Have been forced out of many towns in Connecticut. The very people that make a town run.

What do you want, a rent-a-cop in your town? You drive in from the poor section and you watch all us nice, rich people around here. No, thank you. You want homeownership for Americans. The people particularly who make enough money to look rich but not enough money to own.

I talked to people at Nehemiah who had taken 15 years for them to put $5,000 in a savings account or a certificate of deposit or something of that sort.

□ 1330

This was going to be their first chance. That $5,000 in the New York City real estate market would not get them three rooms on the top of a 12-story walkup.

All right. The Nehemiah situation as it exists perhaps could be done by charities, could perhaps be done as the last gasp, as it was in New York. What we are simply saying is, though, "Let's have some help." If we are going to cut revenue sharing, if we are going to cut community development block grant funds, our communities are not going to have any kind of money, in fact, to help people buy houses.

Now look what happens when you use this system. They buy a house. They own the house. They pay taxes. Ask Ed Koch what happens to the crime rate in that district. None of those hard-working people that own those houses with their front yards and their back yards are going to allow a drug seller in the neighborhood. None of them are going to allow kids to break windows.

I used to live in the city. I used to ride on the cowcatcher of a streetcar, if you can believe it. I would get home, having been the clever boy who was running down the sidewalk and jumping on the cowcatcher and disconnecting the trolley car from its electrical wire, and wonder why my mother

slapped me the minute that I walked in the door.

Well, she got a call from someone down the street saying, "Claire, your little boy is jumping on streetcar tracks." And she would get me good when I came home.

That was called a neighborhood. That is something else that Nehemiah makes. It makes a neighborhood.

The CHAIRMAN pro tempore. The time of the gentleman from Connecticut [Mr. MCKINNEY] has expired.

(By unanimous consent, Mr. MCKINNEY was allowed to proceed for 5 additional minutes.)

Mr. MCKINNEY. We had a ball with Boston—we destroyed it. We had a ball in Bridgeport, CT—we went in where the housing was and tore it all down and put in a mall so that you cannot find 10 people in there after rush hour. We had a ball in the cities of America destroying the neighborhoods of people who lived there and owned there.

What we are saying is that this program has worked in New York, with great difficulty, with great personal sacrifice, and with building codes that I wish New York would take a long, hard look at. In Bridgeport, CT, where you do not need a poured concrete basement, where you do not have to have cast-iron sewer pipe, where you do not have to have a masonry firewall—you can have a double-thickness firewall, where you can do a lot of things that you cannot do in the big city, we could put people into housing at reasonable cost.

We have a problem. The Federal Government has to do something to make it worthwhile for a city. But it is a one-timer. Section 8 goes on forever. The builders' relief bill. It is wonderful. It has inflation written in, and it has nice rents, and everybody makes money. We have to have it; it houses people. But how much nicer to help those who can get out of the housing they should not be in, which is subsidized totally, and into their own home, where their interest in the community goes up, their interest in stopping crime goes up, their interest in stopping drugs goes up, and believe it or not, eventually they will pay taxes. Is that not a nice thought?

You can bet your bottom dollar that New York City was not getting any taxes out of east Brooklyn, where Nehemiah is. I can show you large areas of almost any city in a district where cities are not collecting any income at all. In fact, those areas have become detriments and huge and gigantic costs to the cities.

All right, so you put a little Federal money in in the form of an interest-free second mortgage. I would like to see HUD decide that if somebody stays there for 15 years that the mortgage just be forgiven, but you have the safety that if they leave, if the area goes up, that you will get your money back, which is more than you can ever say for section 8, or anything else like that.

We need permanent neighborhoods. They are the lifebreath of this Nation, and we destroyed them. We told people, "You can't have mixed-use buildings, so you can't have apartments over stores." We told people all kinds of nonsense things so that we created a situation which is an abomination.

This is a very small step in a new direction, to give homeownership to the hard working, lower middle-class American, and they do not have a chance to do it now, because where there is a surplus of housing, it is always expensive housing, or it is substandard housing. If housing is being built in those areas that are short of housing, it is not being built for these people. There is no money in it. General Motors can make over $5,000 at the factory on a Cadillac. On the cheapest Chevy Nova, they are lucky if they make about $400. There is very little money in it. It is simply done to compete with the Japanese.

Let us give a chance to a program, starting out in a small way, taking no new money, leaving it to the Committee on Appropriations to try to show that homeownership is important to the Congress of the United States.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I want to compliment the gentleman first off and tell him that while he and I disagree on this amendment, I really respect his ranking position on our side of the aisle on the Subcommittee on Housing and Community Development. I know how sincere he is about this, and I think that our basic difference is not on what the quality of this program is, but it is basically over whether the Federal Government should step in at this point.

The gentleman stated his position very eloquently. I am still very much in favor of my amemdment, because I do not think that we have to go through the Federal route to get Nehemiahs. I thought New York was a great example.

I do respect the gentleman a lot, I know that his heart is in it, and I want to thank him for all that he has done for the committee, but I urge at the same time a vote for my amendment.

Mr. MCKINNEY. Well, Lord hope that we do not ever have as many destitute areas such as east Brooklyn, NY, which Congressmen and rabbis and priests and bishops and mayors and everyone have to get together on. That is what I am trying to say.

You know, I agree. There was a gentleman of the other party by the name of Mr. Lance who said, "If it ain't broke, don't fix it." This is broke; let us try to fix it.

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Nehemiah section of the legislation and to oppose the amendment to delete that section out of the bill.

I do so out of great respect for the author and the sponsor of the amendment. We are generally, in almost every case, on the same side of issues before this House.

I have examined and worked with this section of the bill over the past year since it was introduced, and I would share with my colleagues that it is not only a much-improved section and much-improved title, but it is a program that goes in the right direction, and that is to go in the direction of providing the opportunity for homeownership for low-income families which ultimately is a vast improvement over the status quo of current housing programs.

The fact of the matter is, and the reason that I oppose the amendment to strike the Nehemiah section, is that the status quo in Federal assisted housing today is not worth supporting for either liberals or moderates or conservatives. What we should be trying to do is to improve the status quo of those Federal housing programs and not to freeze ourselves into existing programs that were developed during the 1960's.

Let me address for just a second the comments on targeting of the Nehemiah to low-income families. I do think that this amendment could be better targeted, and I think an amendment will be offered later that will more directly target this section toward even lower income, in the 90-percent range, and I think that it could be and will be better targeted.

The fact is that the average income for a family of four in the program as it is used now in New York is $23,000. The Federal funds that would be spent on Nehemiah are not spent, per se—that is, they are not lost, they are funds that would be repaid back into the pool to be able to be re-lent on second mortgages to other low-income families.

As the gentleman from New York so eloquently said, the Nehemiah also opens up other units of assisted housing for even lower income families.

As to the question of whether Nehemiah in its present form can be used in other cities, as originally introduced, no, it could not. I do not think that that was the intention of the gentleman from New York, but he introduced legislation which has worked in his city as a model, to see if it could work elsewhere.

I worked with the gentleman and with officials from a number of cities,

large and small, throughout the country, and we came up with language that does not duplicate the exact parameters of Nehemiah in New York, but duplicates the results, and the results are what count.

The fact is that the program in New York as it is now and in the Nehemiah title of the bill contains the ingredients of the use of vacant lots, of the use of flexibility of local regulations, of the use of primarily local funding, plus city funding and charitable funding and private-sector groups, as well as loans that would be made by private financial institutions.

I recall when I was on the city council in my home city, it was about the same year, I recall, that the President, then Jimmy Carter, in 1978, walked through the south Bronx and he made his "bombed out Berlin" statement about the south Bronx.

□ 1340

Over the period of years then, over about 5 years, several billions of dollars of government money, of government housing were poured into that area, with little if any perceptible difference.

At about the same time in a city in Texas, I recall another section of that city that looked close to the South Bronx, a group of lenders and homeowners and city officials and Federal officials walked through and said, "Let's see if we can give the people of this area, that looks like the South Bronx, a chance to own their own homes and we will lend them money and we will provide some flexibility in the codes. We will repair the sidewalks ane we will provide for those same people."

Today within a matter of years with the expenditure of a very small amount of Federal funds and small amounts of city funds, primarily sweat, equity, and work of the residents themselves and the loans by financial institutions, that area was upgraded and the people who live there, low-income families, have discovered ways to live in decent, safe, and sanitary housing and homes that they own themselves.

Nehemiah is not unique. It is not the only homeownership program around the country. We have a program in Dallas called Common Ground. Neighborhood Housing Services has been in the business for some 10 or 15 years. Savings and loans themselves have blocked out areas.

The point is that this Congress ought to be at this reauthorization of the housing program, as I said last week, not simply rubber stamping and reauthorizing a status quo that no one likes, not the low-income families, not Congress, not liberals, not conservatives. We ought to be trying to improve it.

Now, this is not offered as an add-on program. I would suggest that the gentleman has offered his bill, and I wish that he had actually offered it in a way that it would directly remove other Federal programs, but he does not, and perhaps he cannot.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. BARTLETT was allowed to proceed for 3 additional minutes.)

Mr. BARTLETT. The gentleman offers it in a way in which the funding for Nehemiah would have to come out of other existing housing programs. If we had Nehemiah, this title as a Federal housing program today, no one would be trying to eliminate it. In fact, it would be considered to be in the upper third or the upper 10 percent of successful opportunity programs, housing programs for low-income families.

There is a reason to replace or eliminate housing programs that do not work. One of the ways that we can accomplish that is to put into place housing programs and home ownership programs that do work.

I recall a hearing where one of the witnesses was asked by one of the members of the committee, "Do you think that we ought to be providing more public housing?"

And she was angry and she said, "Mr. Chairman, we don't want more public housing. We want to own our homes."

I have heard that again and again and again from existing tenants and proposed tenants of public housing from low-income families all over this country.

This program is one which could well become one of the home ownership programs that begins to move Federal housing programs out of the status quo of the present and into a future in which we can have more bang for the buck and more people with a lower per-unit cost and help them in a much, much better way.

The old days of Government-built housing just did not work. The new days of home ownership opportunities and freedom of choice opportunities for low-income families will work a lot better.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I am happy to yield to my good friend, the gentleman from Florida.

Mr. McCOLLUM. Well, my good friend, the gentleman from Texas, and I usually see eye to eye on these programs and he knows that I am very much in favor of the home ownership concept and trying to get us away from a lot of the public housing programs of the past; but what concerns me is the gentleman supporting this program and yet the evidence I have seen indicates that the restrictions in here make it nigh on to impossible for low-income Americans to be able to participate, to be able to afford it. The incentives in our proposal in this bill skew it to the middle income and the upper end of that middle-income scale in many of our cities.

Does the gentleman believe that this program now as it is structured in this bill is really going to be available and can work for that lower-income group that HUD seems to say it is not?

Mr. BARTLETT. Well, I appreciate the gentleman's question. In fact, the reverse is true. This is skewered toward lower income working people, people who will be able to afford to repay their mortgage. The average median income as it was used in New York, and I think it can be lower than this, was $23,000.

The fact is that low-income families all have one thing in common and that is they do not want to be low income anymore. What we ought to be doing with housing programs is to give them a chance and an incentive and an opportunity to increase their employment and their home ownership opportunities.

Mr. McCOLLUM. Well, Mr. Chairman, if the gentleman will yield further, I certainly agree completely with the gentleman. We ought to be giving them that opportunity, but I disagree that this bill does that. It seems to me what this bill does is it takes Federal subsidies one step further and it is not necessary to do that. We do not need a new federally subsidized program for moderate-income Americans.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the subcommittee has gone into the New York area four times in a matter of 11 months with the exception of one hearing we had in central Manhattan at the Federal building, the rest we spent at such places as the Nehemiah project in Brooklyn and the southeast Bronx.

At this point I would like to correct my colleague, the gentleman from Texas. The Government did not pour millions of dollars into the southeast Bronx after Jimmy Carter nor after Mr. Reagan appearance there during the campaign, and Secretary Sam Pierce soon after he was appointed Secretary. They went and pointed to the same bombed out area; however, when we went there last year, we went to the Southeast Bronx where they did not have a Nehemiah project, because they had an entirely different situation confronting them. They had the church leadership, but they also had the availability of some section 8 new construction which they very, very definitely proved that Federal money could be used in an innovative manner.

What has happened in Nehemiah is that you had the happy acceptance of

a responsibility on the part of the State government of New York like no other State in the country. New York heads the States in their State level support of housing, and as well the city of New York, both Mayor Koch and Governor Cuomo must be recognized for their leadership in this respect. They realized that in the absence and the reduction of the Federal moneys, the State of New York would have to supplant somehow, and so would the city of New York; so the State of New York has one of the most efficient, if not the most efficient State housing finance and mortgage agency, State housing agency, and so does the city of New York.

Then with the help of the seed money from the churches, the Catholic Diocese of Brooklyn for instance contributed $6 million. The Episcopal Diocese contributed $2 million and Lutheran Church $1 million and because of the very happy use through the inspired leadership of a home builder of the native talent living in those neighborhoods, Mr. I.D. Robbins.

In the Southeast Bronx, Father Giganti, a great leader, was the one that put that housing development in. They have constructed 3,000 housing units to be owned by those residents.

You walk through that project, as we did, and then you walk just three blocks farther on the other side of the perimeter of that housing project and you will see the still remaining bombed out sections.

Of course, we need what this minimal authorization provides as seed money for those areas even within the same city of New York that does not have the community forces that Nehemiah areas in the Southeast Brooklyn does have.

So that this is a very creative piece of legislation. It is in the tradition of what the United States, the Congress, the executive branch, have given the Nation in the sense of a commitment of the American people that the dream of home ownership shall last and endure at a time when it has been ordered to cease and desist from being a dream.

I realize that my distinguished colleague from Florida has a strong ideological bend toward Federal participation, but you cannot have everything on a negative basis and then oppose a program merely because it involves some Federal level involvement, though it is creative, though it is tacitedly admitted that it is.

I must say that the gentleman reminds me of Dorothy Parker's little ditty:

Higgledy-piggledy my little white hen.
She lays eggs only for gentlemen.
I can't persuade her with pistol or lariat,
To come across for the proletariat.

I have seen no vote, no vote, no vote from the gentleman from Florida, as a member of the subcommittee which I happen to be chairing temporarily.

So I say, let us not yield to that argument and let us defeat the amendment.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. MCCOLLUM, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Certainly.

Mr. MCCOLLUM. Mr. Chairman, I cannot help but agree with the gentleman that this is a very excellent project and program. I think the gentleman hit the point of this debate right on the head when he said that he and I differ as to whether Federal involvement ought to be here. That is really the whole debate, because there are problems I think in implementing the program with the low-income people not getting it, and that is a side issue, it is an important one, whether it will work under the legislation here; but the gut reason that this gentleman really is opposed to this being in the bill is because, as opposed to the gentleman from Texas, my good chairman, I think that we ought to give the free, open, State, local example of New York, a chance to work without Federal involvement for a little while. It did a marvelous job in New York and it is a great example to the rest of America of what can be done without any Federal encouragement or assistance. Let us allow that example to be sold across this country. It is a perfect example to be followed, to be modified as the local communities need it, but we cannot dictate how they modify it. Mr. Chairman, we cannot tell them how.

Mr. OWENS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, on behalf of the constituents of the 12th Congressional District, who are in a district where all of the Nehemiah houses that have been constructed thus far are located, and on behalf of those in the 11th Congressional District who will be the beneficiaries of another 800 Nehemiah houses being planned, I would like to thank the members of the committee. I would particularly like to thank my colleague, the gentleman from New York [Mr. SCHUMER], and my colleague, the gentleman from Connecticut [Mr. MCKINNEY], for the very special interest that they have shown in this housing experiment which brings great benefits to those who are in greatest need of housing.

I would like also to point out that the 11th and 12th Congressional Districts are among the 10 poorest congressional districts in the country. Of the 435 congressional districts in the country, the 12th and the 11th Districts are among the 10 poorest and New York has four of the 10 poorest.

This project, this program, has not only provided housing for those who need it the most, it has also begun to revitalize an entire community. Brownsville was an area which was often referred to as looking worse than Berlin looked shortly after the allies took it over after much bombing had taken place in Berlin.

Hiroshima has also been an analogy that has been used in connection with the condition of housing in Brownsville. There are numerous sociology books, books on urban planning and housing, which have cited Brownsville as an example perhaps of the ultimate in urban decay.

The area where the first Nehemiah houses were constructed is an area that had for 25 years been designated as an urban renewal area, and yet the city had not been able to do anything about it.

What has happened here is a coming together of forces from the private nonprofit sector, from the private sector, and from the Government sector to produce a miracle, almost. It is a model that should be viewed as a model that can be used somewhere else in the country.

The situation is urgent with respect to housing. The homeless problem will not go away, not only for New York, but for the rest of the country. We cannot afford to allow an experiment like this, a model like this, to lie fallow and not try to duplicate it and replicate it somewhere else in the country. It is a model that can meet a need without costing the taxpayer anything of great substance.

In fact, what has happened in Brownsville has been that the tax coffers have been replenished. The tax coffers will be receiving a benefit from this vacant land that has been fallow for so long for the first time.

Not only that, the private developers have come in. As a result of the Nehemiah houses, of what the Nehemiah houses have done, the private developers have moved in to take over any other existing vacant land.

The commercial sector has moved in. They are looking for areas to build new stores.

The Nehemiah houses in Brownsville are located within a center of public housing, about 20,000 public housing units within a 10-block radius of the Nehemiah houses. These public housing units have been the primary places from which the people who occupy the Nehemiah houses have come. They are people in many cases who are Government workers, civil servants who work for the city of the State and they are hospital workers, some of the lowest paid workers in the city. Nevertheless, they do have a job.

They are able to meet the credit requirements and for the first time they can go forward to own a home which they can purchase with a down payment of $5,000; $5,000 for a $45,000 home, a simple row house, but as far as the people are concerned who want to buy these homes, they are palaces.

The waiting list for Nehemiah homes is so long that they have decided not to accept any other names. They refuse to allow people to put their names on a waiting list any longer because there are so many people lined up for the Nehemiah homes.

The entire community is being revitalized. The schools tell us that they have a new kind of leadership from parents in the schools.

The businessmen for the first time are ready to invest in the retail Main Street establishments.

□ 1355

For the first time there is talk of this community taking full advantage of the fact that it is in the middle of a transportation hub. There are all kinds of new things that are happening as a result of the successful partnership between the private sector and the Government sector in the Nehemiah plan.

The rest of the country would benefit in like manner. We should not allow this experiment to just be laid aside while nothing is done about it. We should try to replicate it in the rest of the country. The Nation has a housing emergency and we must act now.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

Mr. Chairman, I was sitting in my office minding my own business and trying to take care of some local problems. The magnificence of having a televison set in our offices is that we can monitor the things that are being said on the floor, so we can follow debate closely.

I think one of the biggest problems that we have when we talk about housing is that very few of us take the opportunity to go and visit districts where housing is needed, visit districts where housing, in fact, is a very important part in building that community.

To talk about billions of dollars coming into the Borough of the Bronx, which is where my district falls, and say that it was money wasted, those seem to me to be words that were measured carefully. I would say to my colleague from Texas on the other side of the aisle that what I would like to do, maybe too late because we have gutted most of the housing bill already, he should come up and visit and see for himself before words are said on this floor that money was wasted.

There are literally thousands of people living today in the Bronx because of the housing programs. We will no longer be the beneficiaries of these programs, thanks to the gutting amendments that have taken place on this floor over the last 5 years.

I say that to the gentleman because it seems to me that to have balance in this legislative process we have to be able to see both sides, not just one side. I would hope that those Members who have voted against housing would come and see first hand, at my personal invitation, the thousands of people who are today living in housing that is standard, living and raising families, just like any other person, whether they come from Texas or Florida or California. The dream is the same. The color of our skin may be different, our income levels may be different, but the dream is the same.

I say that to my colleagues because when I am accused, or my district or my borough is accused of wasting billions of dollars, I really think those words are unfair.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, if I offended the gentleman, I did not mean to and I sincerely apologize. I did not say nor intend to imply that the funds were wasted.

What I did say and do believe to be true is that we can do better with the housing funds that we have spent and we can do better with programs like Nehemiah in which we get a large measure of home ownership.

Mr. GARCIA. Mr. Chairman, if my colleague would permit me to reclaim my time, I think the words were that "billions of dollars have been poured."

Is that a fair assessment? I yield to my colleague for a response.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, without looking at the record, that is a fair assessment of what I intended to say, that the money was spent, and it seems to me that Federal funds could be spent better with a different approach. That does not mean that all funds that have been spent have been wasted. I do not believe they have been. Nor does it mean that all funds that have been spent have not helped someone. Many have.

What I would suggest is that by using local flexibility, by using large amounts of leveraged private money, of loans, and by using that equity that low-income families feel when they are given the chance to own something, we can do better. I would think that the gentleman would agree with that. I do not know. We are both in this business together and we represent in many ways many of the people who live in other parts of the country similar to the people who live in the gentleman's district.

I just would contend that we can do better than we have done over the past several years.

Mr. GARCIA. I would say to my colleague the magnificence of discussing these subjects with the gentleman on the floor is that he is always so soothing and he makes me feel better about what we are debating.

I would like to here, publicly invite the gentleman to come to my district, because he has been one of those persons who has been so concerned about housing in his years in Congress, and I would be delighted to invite him, to have him come up to meet with the people who are receiving these billions of dollars.

The CHAIRMAN. The time of the gentleman from New York [Mr. GARCIA] has expired.

(By unanimous consent, Mr. GARCIA was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. I would say to my colleague that it may be an education for him. I will tell the gentleman what I will do. If he will come and visit with me I will go and talk to his folks in Texas and it will let me have an opportunity to visit with them. We can do it here publicly, because I think America has to meet itself someplace in between.

Mr. KEMP. Mr. Chairman, will my colleague from the South Bronx yield?

Mr. GARCIA. I yield to my colleague, the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, I have visited the gentleman's district several times with the good Congressman from the South Bronx, and I just want to remind my friend from the South Bronx, with whom I agree in this colloquy, that the gentleman from Texas is a strong supporter of the very concept that the gentleman from the South Bronx has been talking about. I do not know if the gentleman has heard everything the gentleman from Texas has said today, but he is a very strong supporter of this whole idea of homesteading and getting more folks into their own property. He strongly supports the Nehemiah Housing Program.

So I just hope at the end of this colloquy we all recognize that here we have a gentleman from Texas and a gentleman from the South Bronx essentially on the same side of the same issue, and I hope he does not miss that very important point as he continues this fascinating colloquy.

Mr. GARCIA. Let me say to my colleague from New York that my own personal feeling about this is that it is

not so much what we say in words but what the deeds are. It is like looking at past performances and we do not listen to the words but look at the past performances and base our judgment not on what people say but what they do.

I think in the final analysis my colleague from New York, who is the cosponsor with me on monumental legislation, such as the Enterprise Zone, that we can both appreciate that it is deed not just words.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, first, I accept the gentleman's invitation to visit his district, and I issue the gentleman an invitation, which I believe he just accepted, to visit other areas in other parts of the country, and we will share what works.

Second, as the gentleman knows, I introduced and offered to this bill in committee Enterprise Zone legislation, and I am glad to see that the gentleman is going to offer it as an amendment.

Mr. GARCIA. That is not part of this debate. The debate has to do with Nehemiah.

Mr. BARTLETT. The debate was turned on deeds. Third, in terms of deeds, I will be offering, as I did in committee, later on today some amendments that will allow low-income families to live where they want to through portability of section 8 certificates, that will allow them to increase their income when they get a job, and a number of other freedom of choice, employment opportunities, and living conditions amendments. I do hope the gentleman will support those in terms of allowing people to make choices affecting their own lives.

The CHAIRMAN. The time of the gentleman from New York [Mr. GARCIA] has again expired.

(By unanimous consent, Mr. GARCIA was allowed to proceed for 2 additional minutes.)

□ 1405

I think the gentleman from New York [Mr. GARCIA] and I can, in fact, do a lot of good together. We do agree on some things; we disagree on some things. I have made my deeds match my words, as I know the gentleman has also.

Mr. GARCIA. I would just like to say that when we finish the debate on my colleague's amendment, the gentleman from New York [Mr. SCHUMER] or the gentleman from Florida's [Mr. MCCOLLUM] amendment, which I just want to make it very clear that I do not support, I will get into the next discussion which has to do, I guess, with the livability amendment that the gentleman is proposing.

Mr. DREIER of California. Mr. Chairman, I rise in support of the McCollum amendment to strike from H.R. 4746 provisions to create the new housing opportunity grant program, known as Nehemiah. This program is patterened after a similar successful local program in New York City. However, Mr. Chairman, that's where the similarities end.

Unlike the New York City program, Nehemiah is too costly, and would funnel already scarce Federal resources away from those who are truly in need of federally subsidized housing. The program is designed to promote homeownership among middle-income households, not low-income households. In fact, most families that would qualify under this program could qualify for private mortgages. If anything, the New York project proves conclusively that the Federal Government's nonparticipation is one of the keys to its success.

We're talking about spending $150 billion a year on a program that, according to HUD, would not be workable in the majority of the cities outside of New York. But more important than the funding, H.R. 4746 proposes Federal intervention into an area that can be much better managed by local communities. If my colleagues are really concerned about improving economically depressed areas in our Nation's cities, enterprise zone legislation would have been enacted years ago.

Federal handouts are not the answer to the serious problem of intercity decay, and I urge my colleagues to support the McCollum amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 123, noes 300, not voting 10, as follows:

[Roll No. 156]

AYES—123

Archer	Dornan (CA)	Latta
Badham	Dreier	Leach (IA)
Barton	Duncan	Lewis (CA)
Bateman	Edwards (OK)	Lewis (FL)
Bevill	Emerson	Lightfoot
Bilirakis	Evans (IA)	Livingston
Boulter	Fawell	Lloyd
Broomfield	Fiedler	Loeffler
Brown (CO)	Fields	Lott
Broyhill	Flippo	Lujan
Burton (IN)	Franklin	Marlenee
Byron	Frenzel	McCain
Callahan	Goodling	McCandless
Carney	Gunderson	McCollum
Carr	Hall (OH)	Meyers
Chappie	Hammerschmidt	Mica
Cheney	Hansen	Michel
Clinger	Henry	Miller (OH)
Coble	Hiler	Miller (WA)
Coleman (MO)	Holt	Monson
Combest	Hopkins	Montgomery
Crane	Hyde	Moorhead
Daniel	Ireland	Morrison (WA)
Dannemeyer	Jones (TN)	Murtha
Daub	Kasich	Myers
DeLay	Kolbe	Nichols
DeWine	Kramer	Nielson
Dickinson	Lagomarsino	Oxley
Packard	Shaw	Stenholm
Penny	Shumway	Strang
Petri	Shuster	Stump
Quillen	Siljander	Sundquist
Regula	Skeen	Swindall
Roberts	Slaughter	Taylor
Robinson	Smith (NE)	Thomas (CA)
Rogers	Smith, Denny (OR)	Vander Jagt
Roth	Smith, Robert (OR)	Whitehurst
Rudd	Snyder	Whittaker
Schaefer	Spence	Wylie
Schuette	Stangeland	Young (AK)
Schulze		Young (FL)
Sensenbrenner		

NOES—300

Ackerman	Erdreich	Lowry (WA)
Akaka	Evans (IL)	Luken
Alexander	Fascell	Lundine
Anderson	Fazio	Lungren
Andrews	Feighan	Mack
Annunzio	Fish	MacKay
Anthony	Florio	Madigan
Applegate	Foglietta	Manton
Armey	Foley	Markey
Aspin	Ford (MI)	Martin (IL)
Atkins	Ford (TN)	Martin (NY)
AuCoin	Fowler	Martinez
Barnard	Frank	Matsui
Barnes	Frost	Mavroules
Bartlett	Fuqua	Mazzoli
Bates	Gallo	McCloskey
Bedell	Garcia	McCurdy
Beilenson	Gaydos	McDade
Bennett	Gejdenson	McEwen
Bentley	Gekas	McGrath
Bereuter	Gephardt	McHugh
Berman	Gibbons	McKernan
Biaggi	Gilman	McKinney
Bliley	Gingrich	McMillan
Boehlert	Glickman	Mikulski
Boggs	Gonzalez	Miller (CA)
Boland	Gordon	Mineta
Boner (TN)	Gradison	Mitchell
Bonior (MI)	Gray (IL)	Moakley
Bonker	Gray (PA)	Molinari
Borski	Green	Mollohan
Bosco	Gregg	Moody
Boxer	Guarini	Morrison (CT)
Brooks	Hall, Ralph	Mrazek
Brown (CA)	Hamilton	Murphy
Bruce	Hatcher	Natcher
Bryant	Hawkins	Neal
Burton (CA)	Hayes	Nelson
Bustamante	Hefner	Nowak
Carper	Heftel	Oakar
Chapman	Hendon	Oberstar
Chappell	Hertel	Obey
Clay	Hillis	Olin
Coats	Horton	Ortiz
Cobey	Howard	Owens
Coelho	Hoyer	Panetta
Coleman (TX)	Hubbard	Parris
Collins	Huckaby	Pashayan
Conte	Hughes	Pease
Conyers	Hunter	Pepper
Cooper	Hutto	Perkins
Coughlin	Jacobs	Pickle
Courter	Jeffords	Porter
Coyne	Jenkins	Price
Craig	Johnson	Pursell
Crockett	Jones (NC)	Rahall
Darden	Jones (OK)	Rangel
Daschle	Kanjorski	Ray
de la Garza	Kaptur	Reid
Dellums	Kastenmeier	Richardson
Derrick	Kemp	Ridge
Dicks	Kennelly	Rinaldo
Dingell	Kildee	Ritter
DioGuardi	Kindness	Roe
Dixon	Kleczka	Roemer
Donnelly	Kolter	Rose
Dorgan (ND)	Kostmayer	Rostenkowski
Dowdy	LaFalce	Roukema
Downey	Lantos	Rowland (CT)
Durbin	Leath (TX)	Rowland (GA)
Dwyer	Lehman (CA)	Roybal
Dymally	Lehman (FL)	Russo
Dyson	Leland	Sabo
Early	Lent	Savage
Eckart (OH)	Levin (MI)	Saxton
Eckert (NY)	Levine (CA)	Scheuer
Edgar	Lipinski	Schneider
Edwards (CA)	Long	Schroeder
English	Lowery (CA)	Schumer

Seiberling	Studds	Waxman
Sharp	Sweeney	Weaver
Shelby	Swift	Weber
Sikorski	Synar	Weiss
Sisisky	Tallon	Wheat
Skelton	Tauke	Whitley
Slattery	Tauzin	Whitten
Smith (FL)	Thomas (GA)	Williams
Smith (IA)	Torres	Wilson
Smith (NJ)	Torricelli	Wirth
Smith, Robert (NH)	Towns	Wise
	Traficant	Wolf
Snowe	Traxler	Wolpe
Solarz	Udall	Wortley
Solomon	Valentine	Wright
Spratt	Vento	Wyden
St Germain	Visclosky	Yates
Staggers	Volkmer	Yatron
Stallings	Vucanovich	Young (MO)
Stark	Walgren	Zschau
Stokes	Walker	
Stratton	Watkins	

NOT VOTING—10

Boucher	Davis	O'Brien
Breaux	Grotberg	Rodino
Campbell	Hartnett	
Chandler	Moore	

□ 1425

The Clerk announced the following pair:

On this vote:

Mr. Hartnett for, with Mr. Breaux against,

Messrs. FEIGHAN, DURBIN, KANJORSKI, SMITH of New Hampshire, DONNELLY, LUNGREN, WEBER, and COBEY changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FAUNTROY

Mr. FAUNTROY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAUNTROY:

Page 73, after line 7, insert the following new section (and conform the table of contents accordingly):

SEC. 213. PUBLIC HOUSING RESIDENT MANAGEMENT.

The United States Housing Act of 1937 (as amended by section 212 of this Act) is further amended by adding at the end the following new section:

"PUBLIC HOUSING RESIDENT MANAGEMENT

"SEC. 21. (a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing projects, as 1 means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

"(1) waiving certain statutory and regulatory requirements;

"(2) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

"(3) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

"(b) PROGRAM REQUIREMENTS.—

"(1) RESIDENT COUNCIL.—As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

"(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

"(3) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

"(4) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant selection and screening, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, and such other matters as may be appropriate.

"(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

"(c) COMPREHENSIVE IMPROVEMENT ASSISTANCE.—Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 14 or 20 for purposes of renovating such projects in accordance with such section. The Secretary shall issue regulations that provide public housing projects managed by resident management corporations with additional consideration in the allocation of comprehensive improvement assistance under section 14 or 20. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection.

"(d) WAIVER OF FEDERAL REQUIREMENT.—

"(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

"(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, to the extent necessary to permit the employment of residents of the project, permit such residents to contribute a portion of their labor.

"(3) REPORT ON ADDITIONAL WAIVERS.—Not later than 6 months after the date of the enactment of the Housing Act of 1986, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies.

"(4) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16 or rental payments under section 3(a).

"(e) OPERATING SUBSIDY AND PROJECT INCOME.—

"(1) CALCULATION OF OPERATING SUBSIDY.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the operating subsidy received by a public housing agency under section 9 that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

"(2) CONTRACT REQUIREMENTS.—Any contract for management of a public housing project entered into by a public housing agency and a resident management corporation shall specify the amount of income expected to be derived from the project itself (from sources such as rents and charges) and the amount of income funds to be provided to the project from the other sources of income of the public housing agency (such as operating subsidy under section 9, interest income, administrative fees, and rents).

"(3) CALCULATION OF TOTAL INCOME.—

"(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of the enactment of the Housing Act of 1986 (or on any later date on which a resident management corporation is first established for the project).

"(B) If the total income of a public housing agency (including the operating subsidy provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in operating subsidy that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

"(4) RETENTION OF EXCESS REVENUES.—

"(A) Any income generated by a public housing agency (other than investment

income or rental income) that exceeds the income estimated for purposes of calculating operating subsidies according to the performance funding system established under section 9 shall be excluded in subsequent years in calculating operating subsidies.

"(B) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the operating subsidies provided to the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

"(C) Any revenues retained by a public housing agency or resident management corporation under subparagraph (A) or (B) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for lower income families.

"(f) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—

"(1) FINANCIAL ASSISTANCE.—To the extent budget authority is available for section 14 or 20, the Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.

"(2) LIMITATION ON ASSISTANCE.—The financial assistance provided under this subsection with respect to any public housing project may not exceed $100,000.

"(3) FUNDING.—Of the amounts available for financial assistance under section 14 or 20 for fiscal year 1987, the Secretary may use not more than $1,500,000 to carry out this subsection.".

Mr. FAUNTROY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

Mr. FAUNTROY. Mr. Chairman, one of the most commonly heard complaints about public housing residents is, "Why don't they take better care of the properties we provide them?" That is an understandable sentiment because most Americans espouse the virtues of tenants and homeowners alike taking care of the units in which they live.

Mr. Chairman, the residents of several public housing projects in our country have seriously embraced the virtue of pitching in to keep up the properties in which they live. They have said to their public housing authorities, "By golly, give us a chance and we will go to work managing and maintaining our own units, and we will do a better job than the bureaucrats."

And you know what, Mr. Chairman? They have done just that with remarkable results.

Let me give you this example of the unit right here in our Nation's Capital, Kenilworth-Parkside public housing project, which for nearly 25 years has been similar to many big city public housing projects, many of its residents had failed to pay their rent regularly, the property was run down, overflowing trash dumpsters housed rats, and vacant apartments became the play places of drug dealers and drug addicts.

But in 1979 Kimi Gray, an active tenant leader at the Kenilworth-Parkside public housing project, convinced the District of Columbia government to allow the tenants to take control.

In March 1982, after a 2-year training program, the residents formed a nonprofit corporation to assume management of their own units. The results, Mr. Chairman, have been nothing short of amazing after 4 years of operation.

Rent collections have increased by 179 percent; onsite administrative costs have gone down by 60 percent; routine maintenance costs have declined by 20 percent.

And with the savings that they have been able to put other public housing residents to work in a day care center services that have been made available free for other residents. They have been able to take 132 of their residents off of public assistance, making them taxpayers, each averaging $300 per year in taxes for the District government alone. Beyond that, they have been able to save, on a projected basis over the 10-year period, $4.5 million in public funds.

And Mr. Chairman, Kenilworth-Parkside is not unique. The B.W. Cooper tenant management corporation in New Orleans, LA, has reduced 3,000 outstanding service requests to zero, employing residents as repair persons. The Cochran tenant management corporation in St. Louis has cut vacancies by 500 percent and created 350 new jobs for tenants.

At the Bromley-Heath tenant management corporation in Boston they established a community security force with their savings, paying what we call in the vernacular the "baddest dudes" in the project to be security officers. As a result they were able to reduce crime by 77 percent.

So the amendment which Mr. KEMP joins me in offering now to provide three things that these pilot tenant management ventures have taught us are necessary to enable more public housing tenant groups to put their own residents to work taking care of their own units.

The first is that it provides for the training and preparation of tenants to manage their own units. You cannot expect tenants to take over without the kind of training that this amendment provides.

Second, it allows tenant management corporations to utilize the savings they realize for approved self-help projects in their units. For example, with the savings they can then put their own residents to work at a free a day care center, establish a tenant-run security force, all of which improve the quality of life. Third, it permits the residents who are employed by a resident management corporation to contribute a portion of their labor in performance of their jobs.

It is on this question that I am sure all of you have been visited with letters and represenatations that this amendment ought to be opposed.

The CHAIRMAN. The time of the gentleman from the District of Columbia has expired.

(By unanimous consent, Mr. FAUNTROY was allowed to proceed for 4 additional minutes.)

Mr. FAUNTROY. All of my colleagues have received correspondence to the effect that you ought to oppose the Fauntroy amendment for the reasons that it forces existing employees out of work. The fact is that that is not the intent; it never was the intent. Indeed, Government workers did leave Kenilworth-Parkside, but they went to work at other project areas where they were desperately needed. There is no public housing authority in this country that could not use additional workers. And these additional workers were made available.

Indeed in the District of Columbia we have such a shortage of staff to maintain units that we lost millions of dollars a few years ago because we could not service them with the limited staff available.

This measure in fact allows those present employees to be assigned to other projects run by the public housing authority. I am sure that those of you who will follow this debate and hear the amendment which my colleague from Connecticut, Mr. MORRISON, is about to make to our amendment, will understand that this is clear by the language that I am prepared to support, after some colloquy to make sure that it tracks with my intent.

The issue here is not whether you support or oppose Davis-Bacon. The issue is whether you are for or against people in public housing being able to manage and maintain their own units in a fashion that not only benefits and improves the quality of life for them but also saves money as this project has saved in Washington, some $4.5 million for the District government in its effort to meet the needs of those who are on public assistance.

I hope you will vote for my amendment. I hope the next time you hear somebody say "Why don't they take

better care of their units?" that you won't have to reply "because I won't let them. I voted against the Fauntroy amendment. I hope you will be able to say "I made it possible because I voted for the Fauntroy amendment."

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I yield to my colleague from New York, the gentleman is a cosponsor of the amendment.

Mr. KEMP. I thank the gentleman for yielding.

I not only appreciate the gentleman's leadership but also his courage in helping to try to change the status quo in public housing. This is not anti-public housing. It is simply the recognition that ultimately if public and private housing are to succeed, it is going to take the interests of people who are involved at the community level.

The gentleman and I had the opportunity along with other Members of Congress in a unique bipartisan coalition to go to Kenilworth-Parkside. Just last month the Delegate from the District of Columbia and I had the opportunity to visit Kenilworth-Parkside and be with Kimi Gray and Mayor Barry's representative from the public housing authority in the District of Columbia.

Let me say as a Member of Congress from upstate New York it was one of the most remarkable opportunities that this Member of Congress has ever had to watch people take not only an interest but a very active involvement in the repairs, the modernization, the expansion of jobs, job training and to take over those projects from daycare centers to the co-op store that Kimi Gray has successfully managed, and to watch that being done not only in the District of Columbia but in St. Louis; Newark, NJ; and other parts of this country. In all these areas, tenants of public housing projects are managing their own projects and improving the quality of life and ultimately, hopefully, as the gentleman pointed out, bringing down the cost of operating public housing.

I think it is one of the most positive signals going on in the country.

The CHAIRMAN. The time of the gentleman from the District of Columbia has again expired.

(On request of Mr. KEMP and by unanimous consent, Mr. FAUNTROY was allowed to proceed for 2 additional minutes.)

Mr. KEMP. Will the gentleman yield further?

Mr. FAUNTROY. I would be happy to yield further to the gentleman from New York [Mr. KEMP].

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, I was particularly impressed on our visit, to hear firsthand how welfare dependency had been reduced, crime had been reduced, the quality of life had been improved, jobs had been created.

As the gentleman pointed out, none of us are interested in replacing existing jobs. We want to give folks an opportunity to repair, to pick up, to clean up, to refurbish, to do what was done in the 19th century when we had a homesteading act. This is, in my view, fitting into this whole concept of urban homesteading. We can provide opportunity for folks to have and to manage their own properties, their own housing, to give them a stake in that dream that all of us share irrespective of our color, culture, creed, or political philosophy. The gentleman of the District of Columbia, in my view, is to be commended. It has been a pleasure to work with him on this.

□ 1440

I want to commend the gentleman for his leadership and, again, I am rising in strong support of this effort to turn around the thinking and the fear in the inner city that they cannot have the same quality of life, the same hope, the same opportunity, the same answer to their problems that is wanted by every single American, indeed every human being.

I look forward to supporting the Morrison amendment, which I think will make a constructive suggestion, a constructive approach to our amendment.

Mr. Chairman, I appreciate very much the friendship and leadership of the Delegate from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I want to extend my appreciation to the gentleman from New York for his kind support, because, at heart, this issue is not one of Democrats versus Republicans or conservative versus liberal, but it is a question of whether or not we want to invest in the least of these God's little ones in the public housing units and recognize their right and their desire to participate in improving the quality of their own lives.

Mr. WYLIE. Mr. Chairman, I rise in support of the amendment offered by my colleague, the Delegate from the District of Columbia [Mr. FAUNTROY], and by the gentleman from New York [Mr. KEMP], which I might add is similar to a provision in my substitute and similar to an amendment which I offered in the Committee on Banking, Finance and Urban Affairs and which was adopted.

Mr. Chairman, there is substantial room for improvement in the management of public housing, especially in some of our large cities. Maintenance is poor, vandalism is rampant, and vacancies are extensive. A variety of alternative approaches to traditional management have been explored, including management by private management companies under contract with the public housing agency. One approach that has been undertaken with great success in some cities is management by project residents themselves. Under resident management, a public housing agency contracts with a corporation comprised of project residents or one more mutually agreed upon management responsibilities.

Resident management is not a new concept. Tenant groups in such diverse locations as Boston, St. Louis, New Orleans, Louisville, Jersey City, and Washington, DC, have demonstrated over the past 10 years that resident management can work if the residents and the public housing agency work together.

Other resident management groups report similar successes in improving social services, eliminating extensive vacancies, cutting maintenance backlogs, and reducing crime. Some of the existing groups have gone beyond management into such business ventures as day-care centers, catering services, and development of additional low-income housing. Certainly, Kimi Gray's Kenilworth Park facility clearly has demonstrated these enterprising developments.

Resident management offers other tangible and intangible benefits as well. Increased resident participation and involvement can lead to an enhanced sense of community and community pride, which in turn can result in improved living conditions and lower operating costs. The hands-on training experience that residents gain can lead to new job opportunities and economic self-sufficiency.

This amendment is intended to assist these existing groups as well as residents of other public housing developments who are interested in managing their own units. It would provide assistance in establishing a resident management corporation, waiver of certain administrative requirements that hinder the operations of the corporation by unnecessarily increasing project costs or restricting income, and financial assistance to resident groups to develop management capability. In addition, excess revenues could be used to improve the project, to establish business enterprises, or to acquire additional dwelling units for lower income families.

This amendment is needed to support recent resident-management initiatives by HUD, private organizations such as the National Center for Neighborhood Enterprise, public housing agencies, and public housing residents to facilitate resident management where there is local interest. It does not require resident management in all public housing or interfere with the current role of public housing agencies in managing public housing. What it does do is provide much-needed support to the ongoing initia-

tives in this area and encourage additional resident management ventures in other projects in the cities in which it is currently underway and in other cities as well.

Let's give these groups a chance. I urge my colleagues' support.

The CHAIRMAN pro tempore (Mr. FOWLER). The time of the gentleman from Ohio [Mr. WYLIE] has expired.

(On request of Mr. COURTER, and by unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the amendment offered by my colleagues from New York and Washington, DC, is surely a radical breakthrough. It is radical the way the old homestead bill after the Civil War was radical. Back then we gave thousands of impoverished immigrants and Americans an opportunity they could hardly have imagined they would ever have, a chance to own their own piece of property on the frontier and to extend the boundaries of civilization westward. Like that breakthrough program, this amendment does much the same thing in America's inner cities.

The terms of this proposal are generous, allowing poor residents of public housing to buy a modest apartment or housing unit at a mere 25 percent of its value, no down payment and a guaranteed low-rate mortgage. The secret of this privatization idea is that it provides a major new incentive for the poor to take advantage of employment opportunities to make this lifetime chance at the American dream a real possibility.

I don't come from a district with a great deal of public housing, but New Jersey has any number of inner-city areas that desperately need an alternative to public tenement homes. Any Member of this body from an inner-city district knows perfectly well how much time and effort you and your staff are spending on problems of conflicting residency claims, nonpayment of rents, nonresponding bureaucrats, and on all the social problems associated with living in a residential area describable in one word: "despair."

What exactly is the problem? Some blame the public housing authorities, but the problem isn't really that. Like most public employees, the authorities staffs are conscientious but they are literally swamped by the flood of complaints and problems. Nor is it the residents who are the problem. They don't like living with broken windows, littered halls, elevators that don't work, and drugs everywhere you look any more than anyone else—and in truth the residents want to get out as soon as possible. For them, public housing projects are not a home; they are more than a little like a jail.

I have just returned from a trip to the Soviet Union. Public housing there, of course, by definition is the rule, not the exception. One thing you notice about Moscow high rises is that they are all in conditions of terrible disrepair—broken windows, collapsing steps, shoddy maintenance—all of Moscow looks like an American inner-city public housing project. And it's not just poor Russians who live there—some have fairly good incomes. Poverty per se has little to do with the problems of upkeep.

The real problem is that public property is no one's property—it is what used to be called a common—where no one has any incentive to improve the situation. With this amendment we want, for the first time, to offer residents something new, a reason for having pride in their own homes, a reason to take hope instead of despair.

Let's be clear about a few things some of my colleagues might be legitimately concerned about. This proposal puts no one out of their home. Anyone who can't or doesn't wish to take advantage of the offer to buy will remain there as long as they want, just as before. This proposal is not an effort to eliminate public housing for the needy. It does nothing to prevent Congress from meeting the need for more public housing in the future.

All we are trying to do is provide an alternative for those who can take advantage of it, for the working poor. It may well be that this private home of their own will be the greatest asset the working poor will ever have in their lives, it will be the one thing they can really be proud of. Just think about the effect of private home ownership and the pride it represents on the children of the poor, what it means to them in self-respect and in building character, future-orientation, and the desire to save and invest. I believe this is one opportunity for blacks and minorities in our inner cities that Congress must not turn down.

This shouldn't be a partisan question—indeed the sponsors of this amendment are a conservative Republican and a Democrat. But let me say this frankly to my colleagues: If we vote this measure down, and the urban poor perceive that one party wanted them to own their homes and the other stopped them, there will be a lot of explaining to do in the inner cities come November. I think this is an idea whose time has come—it has worked tremendously in Britain, one of the few Thatcher measures, let me say, that has worked for the poor—and it is time we let it work for the poor of America.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for his statement. The gentleman has summed it up very well with an excellent statement.

Mr. Chairman, I think we are indebted, too, to Kimi Gray and to the gentleman from Texas [Mr. GONZALEZ] for taking the leadership role that the gentleman did in the tour of the Kenilworth Park facility and in encouraging all members of our Subcommittee on Housing to incorporate this amendment in any bill on housing which came out of the House Banking Committee. So I would also, as I say, compliment Chairman GONZALEZ for his leadership role in this effort.

Mr. GALLO. Mr. Chairman, today I rise in support of the amendment to H.R. 4746, the housing authorization bill, offered by my colleagues WALTER FAUNTROY, and JACK KEMP to promote tenant management of public housing projects. Earlier this year I introduced a bill which was very similar to the Fauntroy-Kemp amendment and I believe the concept not only makes sense from an economic standpoint but from a humanitiarian standpoint as well.

For too long the prevailing attitude in this Congress has been that low-income people are not capable of taking care of themselves. Therefore massive bureaucracies have been erected to run their lives for them, resulting in inefficiency and waste of the taxpayer's money. I believe this legislation will contribute to reversing these negative trends.

The Fauntroy-Kemp amendment would promote the transfer of the day to day management of a public housing project away from the local housing authorities and would place it with tenant management organizations that have agreed, and are capable of, taking on the responsibility.

It has been proven that tenant management of public housing is an effective way to address the traditional ills that plague these projects, which are a result of buraucratic mismanagement and tenant apathy. In some projects rent collection increased by as much as 60 percent, the cost of ordinary maintenance dropped 25 percent and administrative costs decreased by as much as 60 percent. The savings in administrative costs are particularly significant in that these excess funds were then put back into the projects for improvements. In addition, it was proven that by allowing the tenants to control their own living arrangements, they adopted a sense of pride and responsibility for their surroundings. The results were dramatically improved living conditions, lower crime rates and less Government dependency by the tenants themselves.

In addition to the social benefits of tenant management programs in public housing, the economic realities of today make this a very worthwhile idea to pursue. I believe that in the face of the present budget restraints, we have an obligation to both the taxpayers and the recipients of public funds in this country to make sure that their resources are used in as an effective and efficient way as possible. This amendment would be an important step to make sure that these goals are met and I urge my colleagues to support it.

Mr. McCAIN. Mr. Chairman, public housing grants are often poorly managed investments.

Federal money is quickly rushed to the hot spots, the embarrassments.

Time and time again Federal money is sent to a housing project which attracted notoriety or negative attention because of violent crime, major drug busts or some other unfortunate incident. The current system rewards losers, those housing projects with major problems that no amount of tax dollars can solve.

This amendment is designed to spur internal development, to help people help themselves. We hope to encourage people to take control of their own homes, their own communities and their own lives.

We have all heard distressing statistics like this one from the National Center for Neighborhood Enterprise: despite the 25-fold increase in Government spending on welfare and poverty programs; one third of the black community is in grave danger of becoming a permanent underclass. This amendment is a bold attempt to free the innercity resident from Government dependence while simultaneously freeing the taxpayers from an expensive, unproductive burden.

Last year, I hosted a briefing along with the gentleman from New York [Mr. KEMP] on the concept of resident management for public housing. We were honored to have as our guest Kimi Gray of the Kenilworth-Parkside complex here in Washington. At that time my suspicions regarding the huge problems of public housing were confirmed. We need to allow people to manage their own lives, instead of forcing them to be dependent upon massive Federal giveaways.

The concepts of local control and self determination are often the subject of heated debate here on the floor of the House, yet they are more often ignored. The most effective way to help the poor and disadvantaged is through locally based efforts encouraging individual initiative, rooted in the free enterprise system.

I would like to repeat some of the points raised by the Council for a Black Economic Agenda: Those most affected by problems must be active participants in the solutions to those problems: strategies shoud be solution, as opposed to problem oriented; development should replace maintenance; strategies should represent positive sum, as opposed to zero sum solutions; strategies should be based on the strengths of self-help resources in the local community; and cost effective strategies should replace massive infusions of Federal funds.

This amendment embodies all of these concepts.

Finally, this amendment will lead to greater control over one's life, a break from continued dependence upon the Federal Government or any other institution. Successful resident management programs lead to eventual home ownership, the so-called American dream. This amendment will make the dream a reality for thousands of Americans. We cannot, in good conscience, oppose this very basic concept.

I urge my colleagues to support this measure. It sets up a far more equitable distribution of Federal funds. We will be investing taxpayers' dollars, not using them to cover up mistakes or disasters in public housing. We need to encourage success and innovation rather than dependence and despair.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT TO THE AMENDMENT OFFERED BY MR. FAUNTROY

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MORRISON of Connecticut to the amendment offered by Mr. FAUNTROY: Page 1, line 7, delete the words "encourage increased" and insert "establish a pilot program" in lieu thereof.

Page 1, strike lines 12 and 13 and insert the following in lieu thereof:

"(1) permitting tenants to volunteer labor subject to existing statutory and contractual obligations of the public housing agency;

Page 2, line 12, after the period, insert the following sentence: "The corporation shall be a non-profit corporation organized under the laws of the state in which the project is located, and the tenants of the project shall be the sole voting members of the corporation.".

Page 4, line 1 after the period, insert the following sentence: "The contract shall be treated as a "contracting out" of services and shall be subject to any provision of a collective bargaining agreement regarding "contracting out" to which the public housing agency is subject.".

Page 5, strike lines 8 through 10, and insert the following in lieu thereof: "may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.".

Page 5, line 22, strike the word "or" and insert a comma in lieu thereof.

Page 5, line 23, strike the period and insert the following in lieu thereof: ", tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.".

Page 8, line 20, insert the words "up to fifteen" after the word "to".

Mr. MORRISON of Connecticut (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MORRISON of Connecticut. Mr. Chairman, first, I would like to say that I want to commend the Delegate from the District of Columbia for pressing his initiative in the area of tenant management. I think this is an initiative that has broad support here in the House and broad support in this country. It is a direction in which we ought to move to the extent that we can do so responsibly. I think it has been the gentleman's intention to do so in an orderly and responsible way, with full respect to the rights of tenants and to the rights of workers who are employed in current public housing facilities.

The gentleman and I have had discussions over the last several days about ways of making more explicit in the gentleman's amendment these concerns with respect to tenant and worker protections.

I offer this amendment and, as I said earlier, I hope to have the gentleman's support with respect to this amendment, to clarify exactly what will and what will not be done with respect to this amendment.

□ 1450

First of all, it is the gentleman's expressed intention that this should start as a pilot project in terms of the funding. It is limited to $1.5 million. It is allocated to no more than 15 housing authorities, at $100,000 apiece. And my amendment merely makes this pilot project explicit that it is limited to up to 15 projects.

Beyond that, there are a number of waivers that are authorized in this legislation. My amendment narrows the scope of these waivers because there is a concern with the language in the original amendment that it is too broad and subject to misinterpretation. It narrows it in a number of ways. First of all, it makes clear that the volunteer labor is what is permitted from residents. This does not amend or remove existing legislation with respect to wages or other worker protections, but workers in residence in these facilities are able to volunteer additional time to lower the cost of operation of the project.

Second of all, with respect to any waivers, the tenants affected, notice and an opportunity to comment will be granted to the affected tenants when waivers are being sought, so if the tenants in a project have a problem, it can be brought to the Secretary's attention. That tenant and applicant protection that exists under current HUD regulations will be preserved, and the rights of workers to organize and the rights under existing collective-bargaining agreements will be preserved.

Finally, this amendment makes clear that with respect to entering into a contract between the public housing agency and the tenant management corporation, that existing applicable collective-bargaining agreements regarding contracting out of services will apply with respect to any of these contracts that may be negotiated.

I do not believe that any of this amendment changes the thrust which is intended by the gentleman from the District of Columbia. In fact, I think the project to which he refers, which has been operated so successfully here in the District of Columbia, can be operated well within these guidelines. But these guidelines will protect against any overreaching in the spreading of this idea to other areas.

So I think that this is a perfecting amendment. I think it is one that is consistent with the spirit of tenant management and with the spirit of the

gentleman's amendment, and I hope that it can be accepted by the body.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

I would like to make clear one point. As I visited Kenilworth and as I have read the history and the story of other communities where this has been tried and tried successfully, one of the things that always seems to come through very clearly is the amount of time and work and maintenance that people put into their own homes, fixing windows, fixing the plumbing, the same thing you and I do when we go home on weekends, and a good deal of the impact of that on the human spirit and the pride and the satisfaction, just as I do when I get a leaky faucet to quit leaking. Your amendment protects the right to put this what we call sweat equity back into our own homes.

Mr. MORRISON of Connecticut. I am not sure I would call it sweat equity, since the folks involved really do not have equity, but sweat it certainly is.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. MORRISON] has expired.

(By unanimous consent, Mr. MORRISON of Connecticut was allowed to proceed for 2 additional minutes.)

Mr. MORRISON of Connecticut. What is involved here is volunteer time is permitted, it does not undercut other statutory protections, but it does explicitly recognize the right to volunteer one's time in one's own apartment or in another's apartment.

Mr. ARMEY. I thank the gentleman. I appreciate this explanation.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. I thank the gentleman for yielding.

I want to engage in a colloquy with the gentleman on several issues, to make sure that gentleman's amendment is consistent with our intent.

Obviously, we agree that with $1.5 million appropriated for this purpose it is really a pilot, so I have no objection to calling it a pilot. Second, in your second item, you note that permitting tenants to volunteer labor subject to existing statutory and contractual obligations of the public housing agency. This does not preclude a tenant volunteering a portion as a part of his labor on his tenant job, does it?

Mr. MORRISON of Connecticut. The key is volunteer. The key is it has got to be voluntary, and the required work hours are so protected by the statutory protections.

Mr. FAUNTROY. So that if a person works 6 hours and volunteered 2, he could do that, under this.

Mr. MORRISON of Connecticut. Yes.

Mr. FAUNTROY. Second, the nonprofit corporation could in fact engage in for-profit activities, such as is done in Kenilworth and in other such demonstrations around the country, so long as the profits are then reinvested in services and programs within the project and do not go to individuals.

Mr. MORRISON of Connecticut. Yes; what we are talking about is a nonprofit corporation. It can accumulate income which would not be, legally speaking, profits, since it would not be distributed as dividends to shareholders, but rather retained by the corporation and reinvested in its activities, as most nonprofit and charitable organizations do, so that there is no prohibition on running activities. Of course, they would be subject to the Internal Revenue Code.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. MORRISON] has again expired.

(By unanimous consent, Mr. MORRISON of Connecticut was allowed to proceed for 2 additional minutes.)

Mr. MORRISON of Connecticut. With respect to the Internal Revenue Code, it has rules about which income is taxable and which income is not, and this does not purport to make any decisions about that, but as far as the corporate structure, they can earn income. Whether it is outside income or project income depends on the Internal Revenue Code.

Mr. FAUNTROY. I think I like the next part of your amendment because a misconception has been that tenant management throws existing public housing authority workers out of work. The fact is that no public housing agency in this county would suffer from two or three or more workers going to other projects. So I want to make sure that your language on contracting out allows for the existing public housing authority workers to be protected in their right to work, if not in that project, in another project run by the authority.

Mr. MORRISON of Connecticut. That is very much the intention—the gentleman is correct—to see that people are not displaced, and also to see to it that whatever agreements the public housing agency has made under a collective bargaining agreement regarding contracting out will be followed when it contracts with the tenants management corporation.

Mr. FAUNTROY. I want to be very clear, because when you say "not displaced," there were public housing authority people who were collecting rents, who were repairing units at the Kenilworth and in all these others who, when the tenants took over, were replaced, that is, they were replaced by tenant workers, and the authority then moved those people to other housing units under its direction and management. They honored their collective-bargaining agreements with them. That is the intent of this?

Mr. MORRISON of Conneticut. That is the intent. It is the retention of the jobs, not necessarily the location of the jobs.

Mr. FAUNTROY. I thank the gentleman.

Mr. McMILLAN. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Connecticut.

I was prepared to speak earlier strongly supporting the amendment of the gentleman from the District of Columbia and the gentleman from New York, because I strongly support the resident management concept. I think what we are really talking about here is the flexibility of the resident management corporation to do one of the things that Kimi Gray and Kenilworth have demonstrated so successfully, and that is to creatively and constructively involve the residents of the public housing project itself directly in the management and performing many of the skilled functions that it takes to make that function.

If we encumber this legislation with baggage, with rules, with contractual rights that preexist, then I think we run the risk of perhaps defeating what it is we are really trying to achieve, which is not only the protection and enhancement of existing public housing, but the effect that it has upon the residents and involving them in overcoming the problems that exist in that public housing unit and participating in the solution to those problems. That involves not just volunteer activities, it involves jobs. And it involves granting the authority to the public housing, to the resident management corporation, to redirect the activities under a contract with the public housing authority.

If we encumber this process with preexisting contractual arrangements, then I think we are going to create obstacles in the way of the kind of initiative it is going to take to get these resident management corporations off the ground.

Rather than try to tinker with the legislation that has been proposed, in terms of this or that bargaining agreement, or what have you, could we not consider the fact that the creation of a resident management corporation is in and of itself a contracting out, under any existing labor agreement? It would have to be dealt with, if we let this bill go through clean, unamended. Then the complexities of working that out, if there is an existing agreement and a given public housing authority could be worked out in detail if in fact they have a candidate resident management corporation and can then

enter into an agreement that lets the process open up so that the residents can participate in that process rather than encumbering it at the outset with a set of prenegotiated rules that I think are going to be self-defeating.

Mr Chairman, I rise in support of the proposed amendment to permit resident management programs whereby residents of public housing projects not only can have an increased say in the management of the facilities but may actually have the authority to run day-to-day operations. This amendment strikes at the heart of the challenge to enable people to regain self-reliance, avoid dependence and take control of their own lives.

This is an idea whose time has returned. It is not a radical proposal or even new. It is really a very long-standing fundamental principle. If provided the chance, people can solve their own problems. In these times of cost-consciousness and budget restraint, it does not require the creation of a massive new subsidy program. Both so-called liberals and conservatives can come together in their common purpose of providing adequate affordable housing and to do it in a way that potentially reduces the need by building self-reliance.

In recent decades, the American people have allocated billions of dollars in the construction of public housing. While we have been partly successful in alleviating the shortage of shelter for those in need, many residents of these projects, sadly, are trapped in conditions that destroy the incentive and capacity to shape their own living conditions. Our tax dollars have bought shelter, but they have not always provided low-income families with the environment to build pride and independence. Too often, our programs are based on the assumption that people can't help themselves. That assumption breeds dependency. This proposal is based on the assumption that people can help themselves. A key is participation with authority. Where leadership exists, residents can be afforded the authority to work to improve their living conditions and neighborhoods, we have to take that risk.

We have seen examples where this concept of resident management has succeeded such as the Kenilworth-Parkside project under the leadership of Kimi Gray. It has made a dramatic difference in the quality of life for the people and produced dramatic and positive results on project rent revenue, employment, crime rates and teenage pregnancies, to name a few. It has shown promise in diverse geographic settings from Massachusetts to Louisiana. While it is not a panacea, it can work elsewhere. I think it is vital today to provide the legislative mechanism to permit and encourage, but not require, resident management programs so that the housing program will not only provide housing, but enable people to develop themselves.

This amendment provides a limited program to encourage housing authorities to explore options that have succeeded elsewhere. Success can breed success and we owe it to our neighbors to try.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. McMILLAN. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. First, I think that the gentleman may misunderstand the amendment that I have offered. The amendment in no way prevents the various things that tenants will be able to participate in as a result of tenant management. But it does recognize certain rights of other interested parties, workers and tenants.

Now, the fact that we elect the Congress of the United States does not mean that we ignore the rights of individuals who are governed by our actions. The fact that residents are going to elect a board to rule their corporation that is going to run the project does not mean that individual tenants do not have rights that have to be respected with respect to their living in that project. And this is really what is being recognized here. It is not baggage. It is precision with respect to these rights.

Mr. McMILLAN. Suppose that an unemployed resident in the unit that has some plumbing skill, for example, and the public housing authority has a union contract with the plumbers' union that governs that operation, would the resident management corporation be free to hire that individual?

Mr. MORRISON of Connecticut. The resident management corporation would not be subject to a bargaining agreement with the public housing agency except as governed by rules relating to contracting out. There might be any number of agreements that are struck, depending on the local circumstance. Whether or not such a person could be hired will be determined by that set of local rules. This does not seek to resolve that local question. It merely says that whatever preexisting rules there are, because of existing collective bargaining agreements, will be respected, that this is a contracting out, which is really what the gentleman suggested in his earlier comments ought to be the case. That is what this amendment seeks to do, to make it clear that by passing this statute we are not overriding existing law and existing agreements.

Mr. McMILLAN. I do not think we could override existing law, even if we chose to. I think those agreements are probably a matter of constitutional contractural right. But I do think we are talking about the flexibility of a resident management corporation being able to employ the residents in that housing project, whether it is on a maintenance project or a new construction project or running the day-care center or operating a laundromat, or you name it.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. McMILLAN] has expired.

(By unanimous consent, Mr. McMILLAN was allowed to proceed for 2 additional minutes.)

Mr. McMILLAN. I think to the degree that we encumber that in a comprehensive jurisdictionwide negotiation, without having to enter in itself to a broad comprehensive agreement that may cover x hundred or thousand public workers in public housing across the whole district, I would rather see us be able to negotiate that out as a part of the contracting out provision, with high flexibility for the resident management corporation.

Mr. MORRISON of Connecticut. If the gentleman will yield, I think if you will look carefully at the amendment, you will see that what you are asking for is exactly what the amendment does. It says that this is a contracting out, and then it leaves the details to the negotiations between the tenant management council of the tenant management corporation and the public housing agency, and the public housing agency may need to negotiate with its union that has a collective bargaining agreement in order to provide certain things that are being asked for by the tenant management corporation.

□ 1505

We are not deciding how any of those things come out; we are just assigning them to their logical and proper role under our system which is, if they are subject to bargaining, they will be bargained. If they are not subject to bargaining, people can go ahead and do whatever they please.

This says this is a contracting out, which I think is what the gentleman is suggesting. It is really not very complicated; it is quite straight-forward. I think if the gentleman would look closely at it he would not have an objection to the amendment.

Mr. McMILLAN. I have been looking closely at it for the last 30 minutes, since I first saw it. You will forgive me if I am not quite sure on that point.

Mr. MORRISON of Connecticut. I understand.

Mr. McMILLAN. It should be, I would probably not have objection if I felt that that was absolutely certain; that we had that negotiating capability within a contracting out provision. Granted, it would have to be agreed to.

Mr. MORRISON of Connecticut. If the gentleman would yield further, I think that really is the nature of the process. That is what contracting out involves. It involves negotiation, and it depends on what the local collective bargaining agreement is.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. McMILLAN] has expired.

(By unanimous consent, Mr. McMILLAN was allowed to proceed for 1 additional minute.)

Mr. McMILLAN. But would it be the gentleman's understanding that the contracting out would include an agreement between a public housing authority and a resident management corporation?

Mr. MORRISON of Connecticut. That is the action which is the contracting out of certain services and gives rise to certain rights under collective bargaining agreements, and that is what this amendment says.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Ms. OAKAR. Mr. Chairman, I rise to congratulate both Mr. MORRISON and my friend from Washington, Mr. FAUNTROY, because I think what both of them are trying to do is to have a workable compromise on what, the spirit of which is a pretty forthright issue, and that is: Should we experimentally have some projects that are tenant managed, and Mr. FAUNTROY has had a very good experience in the city of Washington, DC.

In the city of Cleveland, my own hometown, we have had a good experience in that area. Frankly, in my hometown, it is one of the rays of hope as far as in the area of management, period. So there is something certainly very positive to be said about what happens when people take over the management and really are able to deal with the problems.

In other parts of the country, I have heard that they have not had the same good experiences but the larger issue beyond the fundamental issue that Mr. FAUNTROY was dealing with is indeed if there is any intention to usurp the existing contracts with some of the workers in the areas.

I think Mr. MORRISON's amendment is very thoughtful. I am pleased that the original author accepts the amendment. Let us not lose the spirit of what has happened here. We see a very wise compromise, and I think that we ought to go along with what the authors, I understand my friend from New York also accepts the compromise, are willing to do.

So if you vote down the Morrison amendment in effect you really are harming the original amendment that was offered by Mr. FAUNTROY from Washington along with his colleague from New York.

I hope that we can vote for the Morrison amendment and then pass the Fauntroy amendment and deal with the issue in that manner. I think it is a good signal that we can work on a compromise to get something done around here. I hope that we will not isolate each amendment.

Mr. ARMEY. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman.

Mr. ARMEY. I thank the gentlewoman for yielding.

Mr. Chairman, I know that the gentlewoman has had a chance to study this and discuss this with the writers of both amendments. I am left with only one concern. My concern is the clarity of your language, and I might direct the question to the gentlewoman, but I am hoping that you have both checked and you have thought this through. I would hate to have us leave any language sufficiently unclear that we could precipitate any unnecessary litigation in the future.

I am sure that if that is anticipated, we could work on that.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman.

Mr. MORRISON of Connecticut. I thank the gentlewoman for yielding.

Mr. Chairman, I would say that any piece of legislation is, of course, subject to being litigated. I think that, if anything, the amendment that I have offered seeks to avoid litigation by making clear what the intention of the sponsor of the original amendment was with respect to certain important tenant and worker rights.

Mr. FAUNTROY. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman.

Mr. FAUNTROY. I thank the gentlewoman for yielding.

Mr. Chairman, one of the purposes of my getting clarity on the record here was to assure that the intent of my amendment is carried out by this. I am satisfied that it is. I think the record is clear that our intention is to allow tenants to volunteer their labor and to protect the rights of existing employees who will be working not any longer at the project, but will be honored in terms of their collective bargaining agreements in other areas where the public housing authority is carrying out the contracts.

Ms. OAKAR. I would say that if you are for the Fauntroy-Kemp approach that allows for tenant management in a pilot project manifestation, then you will obviously not want to see that defeated. One way to ensure that that has a resounding vote is to support the Morrison amendment that indeed enhances and clarifies, as the distinguished author said, his original intent.

I hope that anyone who supports the concept of tenant management and at least allowing for a pilot project will support Morrison and then support the Fauntroy-Kemp approach, and then we can all say that we have succeeded in compromising and reaching an understanding.

Mr. ARMEY. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman.

Mr. ARMEY. I thank the two gentlemen for their assurance; I thank the gentlewoman for her assurance. I appreciate your statement. I think you are exactly right, I would like to, if you would allow me, to join you in that hope for the passage of both amendments and associate myself with your remarks.

Ms. OAKAR. I appreciate that.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a landmark occasion in housing. We are now bringing the tenants into a position of management control, and upkeep of their own property, and I think that is an exceedingly important development.

It took a long time to get here; we went through the usual misunderstandings, but all is well that ends well. I commend the floor manager, Mr. GONZALEZ, Mr. KEMP, Mr. MORRISON, and all those who see the wisdom of this important breakthrough, particularly the author, the gentleman from the District of Columbia [Mr. FAUNTROY].

The one subject that still needs careful scrutiny is the contracting out concept. Now, to me, the strongest way that we can build up good public housing, well-kept and well-managed is to limit the amount of sticky fingers that middlemen and their companies can get into the pie.

I personally, have a grassroots concept of this amendment, and would like to see maximized the ability of the tenant managers to control and conduct the business of regulating and maintaining the housing they live in to the greatest extent possible. Obviously legal services cannot come from the tenants themselves, and there will be technical work and accounting that clearly the tenants themselves could not provide.

But the management decisions, the actual work, and sometimes the training that goes to learn the work, it seems to me, is what this clarifying amendment is all about; it is a new and major emphasis on the tenants' participation, control, and management. I would like the authors of the amendments to speak to my understanding of the proposals before us.

Mr. Chairman, I yield first to the author, Delegate FAUNTROY.

□ 1515

Mr. FAUNTROY. Mr. Chairman, one of the reasons that I accepted the language offered by the gentleman from Connecticut [Mr. MORRISON] is that what the gentleman from Michigan references is what is precisely what is going on. Public housing authorities in Boston, in New Orleans, in Washington, DC, have contracted the responsibility for managing and maintaining the public housing units to tenant management corporations.

In discharging those responsibilities in each instance they have proved that they can do it more cost-efficiently. So I think that the gentleman's concern that there be no middle people here, that the tenants take over direct responsibilities is satisfied by my amendment. Of course, there may be the necessity from time to time to bring in expertise which is not available among the tenants, and that will be done in order to carry out the kind of cost-efficient operations that we are confident are going to result from the passage of this amendment, as amended.

Mr. CONYERS. Mr. Chairman, the thing that I am trying to minimize is a company coming in, contracting with the tenants to take over the whole shebang, and that puts us back into the soup, because then you could end up in all kinds of misemployment and misdirection, and, of course, you could have aggrieved tenants as well. So those assurances are very good. We are on the same wavelength.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding, and I thank the gentleman for his support on this amendment.

Mr. Chairman, one thing that is included in my amendment is clarity about the tenant management corporation being a nonprofit entity and having the tenants as the members, thereby exerting majority control over the conduct of the affairs of the corporation. I think that that adds to the concern that the gentleman has.

Mr. CONYERS. It certainly does, and I thank the gentleman.

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment of the gentleman from the District of Columbia [Mr. FAUNTROY], which provides for tenant management.

I have three points to make about this main amendment that he has brought to the floor today. The first is, what this amendment seeks to do at its heart is to improve the status quo of public housing, and to improve that status quo by allowing and encouraging and permitting the tenants, the residents themselves, to have a role in their own lives, to allow them to make choices, to allow them to have an opportunity to improve their own living conditions.

Tenant management works. Oh, I do not think that the gentleman offers tenant management as a panacea; it is not. It may not work in every case at every time in every circumstance. But it does work, and it can work, and it has worked in public housing authorities throughout this country. I have seen it work. The Delegate from Washington has seen it work. We have seen it work in the District of Columbia, in St. Louis, on the west coast, in the Sun Belt, and in the Northeast. We have seen it work in limited ways, and in very substantial ways, such as in Kenilworth, or in St. Louis.

In the long run tenant management is less costly to the Government itself, and provides better living conditions for the residents who live there. The fundamental decision is this: to achieve that understanding within Congress that tenants of public housing are not the problem. Tenants can be a part of the solution that the provision of livable public housing is the goal that tenants have, and if they are given an opportunity to be part of the solution, they will be a part of the solution.

I also want to say a word, Mr. Chairman, about the sponsor of this amendment, the Delegate from Washington, DC, Mr. FAUNTROY, because as many of us have watched this, as he has worked on this with the gentleman from New York [Mr. KEMP], with Mr. KEMP's vision, and with the vision and the courage of the gentleman from Washington, DC, as many of us have watched this develop, it seems to me that Mr. FAUNTROY in many ways has written a new chapter in "Profiles in Courage."

He has been pushed on, pulled at, pressured by every interest group imaginable. It would have been easy for the gentleman to have backed down on key issues, but I want to tell this House that he stood firm, he would not budge, he represented his constituents well, and he brought this vision created by the gentleman from New York [Mr. KEMP] early on, he worked with Members on both sides of the aisle, and he represented his constituents to bring this vision of improved living conditions for public housing tenants to become a reality. I think that we all owe him a debt.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words.

Mr. HAYES. Mr. Chairman, I did not know that I was going to be in the position where I would rise in support of this amendment, but I am glad to, and I must commend the gentleman from the District of Columbia [Mr. FAUNTROY], the gentleman from Connecticut [Mr. MORRISON] and the gentleman from New York [Mr. KEMP], for having gotten together and proposing to us two amendments that I think cleared up some of the problems that existed in my mind.

I may be in a position different from most of my colleagues who are Members of this House of Representatives, having been one who lived and reared a family at least for awhile in the public housing developments in Chicago, and having been one who represented people as a leader of a labor union where contracts and conditions under which they work are so awfully important.

I must say that there is one thing about these amendments that sort of leads to the tenor of discussion as I hear it that distrubs me a little bit. Tenant management, while it is a new approach, is by no means a cure-all for the problems as they exist today in the whole area of public housing.

I happen to represent a district that has some 70,000 residents who live in public housing. Unemployment among them ranks somewhere in the area of at least 40 percent, and it is greater than that among the youth who live there. Many of the people who are residents are single parents and exist as people on public assistance.

I do not want us as representatives of the Federal Government or Members of this House to draw any public conclusions, any conclusions at all, which even indicate that the responsibility of the Federal Government to help in the maintenance of these housing developments is any less than it has been in the past. As a matter of fact, we need more help from the Federal Government.

I have more vacant apartments in some of the housing developments in my area, I guess, than in any other section of the city where funds are needed in order to rehabilitate them and fix them so that people can live in them.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman's comments. As one of the cosponsors of the bill and as someone who has visited several of these projects, I just want to say on behalf of the minority that I totally agree with the gentleman's comments that the Federal Government must strengthen its obligation to maintain and keep up public housing. I want the gentleman to know that from my standpoint I strongly support the statement that he is making from the well of the Chamber, and I think all of us, left and right, agree with the state-

ment that he has made here so eloquently.

Mr. HAYES. Mr. Chairman, I want to thank the gentleman from New York for his position in this matter, because this helps to clear up some of the reservations that were in my mind.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I am glad to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I, too, want to congratulate the gentleman for the work that he has done, not just with his constituency, but across the Nation, for the poor, the working poor, and those who are left out in our society.

This is the first housing bill, I have been informed, that we have been able to get through in 5 years. Unfortunately there is probably no money for new low-cost housing, probably a reduction in maintenance funds, and so we are up against the wall. This pilot project becomes incredibly important under those circumstances, and I am sure that everyone appreciates the gentleman who has represented labor for so many years for coming on board in support of this amendment.

Mr. HAYES. I thank the gentleman from Michigan for his statement.

□ 1524

Mr. KEMP. Mr. Chairman, I move to strike the requisite number of words.

I am not going to take my full amount of time, Mr. Chairman, except to say that this is I think an important day. There is a very significant and dramatic coalition building up. I do not want to overdramatize it, but nevertheless, I do not want to allow it to be diminished in the eyes of those who may be listening, watching or reading, what it is that is happening. A number of Members on both sides of the aisle, folks who share perhaps a liberal or more liberal philosophy or conservative philosophy, are beginning to come together on a concept. Labor and capital, the public and private sector, inner city and suburb, Republican and Democrat, and liberal and conservative—all want to find a way to help advance the interest that we all have in creating in the lives of the poor and the less fortunate and perhaps the left out in many instances that shared dream so eloquently testified to by the gentleman from New York [Mr. GARCIA] early today and, of course, the Delegate from the District of Columbia, and by many Members of both sides of the aisle.

I do not want to lose sight of the Morrison amendment contribution and I compliment the gentleman from Connecticut for working out that compromise so important to what I hope and believe will be an overwhelming vote in favor of the Fauntroy-Kemp amendment.

I do not want to leave out the fact that one of the most important provisions in this whole process is that mentioned by Delegate FAUNTROY earlier that this will allow the resident management team to keep the savings that are made and have that reinvested in the type of project management so successful in Washington, DC, and Cleveland, as the gentlewoman from Ohio [Ms. OAKAR] mentioned, and St. Louis, Boston, and other parts of the country.

This is an important step. In my view, it is a precondition for another step that we ought to take. The gentleman from Texas earlier on was talking about urban homesteading, or in the case of the Nehemiah program, helping to convert to home ownership those people or folks who heretofore did not really have perhaps the opportunity without some help from the Federal Government.

I would like to suggest that we take this a step further when this is passed and take the Kemp-Fauntroy idea, and allow public housing residents the opportunity to become property owners by having the Federal Government allow those projects to be sold to the resident at some significant reduction in the market price, 75 percent in the case of the Fauntroy-Kemp bill and with one-third reduction in the cost of the mortgage interest rate, as an attempt to take some of that public housing stock and convert it into private housing.

I want to remind my colleagues on both sides of the aisle that I really appreciate what has happened here today and hope that someday soon we can find a way to take the concept and develop more opportunity for people to buy into the property base of this country.

There is no doubt in my mind that each and every one of us in this body have a big stake in helping to create the pride, the dignity, the hope and the opportunity that goes along, not just with managing your own piece of property, but ultimately the American dream. The more the Federal Government can do to enhance the opportunity for people to buy or to purchse or to own their land, their home, their dwelling unit, their apartment, I think the better off we all are going to be and the more pride of ownership will manifest itself in the type of thing that Kimi Gray and the Kenilworth Parkside project have been able to reflect here in the District of Columbia.

So I hope my colleagues will overwhelmingly support the Morrison amendment. I congratulate the gentleman from Connecticut and thank my colleague from the District of Columbia. Let us make this the opening step in a project that can turn the American dream into reality in the inner city.

Mr. OWENS. Mr. Chairman, I move to strike the requisite number of words.

Mr. OWENS. Mr. Chairman, I rise in support of the amendment.

I do not want to be redundant, Mr. Chairman, but I would like to congratulate the sponsors of the amendment and say that I represent a district where there are probably more than 25,000 units of public housing, nearly 100,000 families who live in public housing, all shapes and forms, usually very large public housing projects, much larger than Kenilworth-Parkside, and with many more complex problems.

Whereas I congratulate the effort being put forth today, I would also like to enter a word of caution, and that is that this is a pilot and I hope we are not back here in 5 years condemning resident management because the pilot project becomes a project where we dump responsibilities on residents and expect them to perform miracles. The pilot project and all subsequent projects must have the support they need, the kind of resources they need. They must be able to hire as many accountants per unit as the parent housing authority. They must have the continued cooperation and support of the municipal authorities and public officials. Just as they are able to keep their profits and do what they wish with them, I hope they are not forced to keep their losses and be stuck with their losses. If there is some kind of catastrophic event, I assume and I hope that the parent authority and the local government will be ready to stand by them and help with that catastrophic event, like the massive repair of roofs necessary or water mains breaking or some kind of unusual occurrence that would put them in the red for a long time and wipe out their ability to manage the project.

I hope we will also understand there is no magic in management because it happens to be done by residents. There will be log rolling. There will be cronyism. There will be nepotism. All those things have to be taken into consideration, too. There has to be some kind of mechanism where disputes are negotiated.

I do not think any project in New York City has ever gone as far as this pilot project has gone, but there have been varying degrees of independence given to residents and I have seen many of the kinds of problems that result from that varied degrees of independence to manage some part of the program or the community center. There are many problems and I hope that the euphoria of the moment does not blind us to the fact that these projects require ongoing support.

Kenilworth-Parkside had 2 years of training. I recommend that the resident manager projects have that kind

of training always involved in the future and that we not dump these problems on them. I think the biggest problem with public housing throughout the country is that there has been hostility on the part of local officials toward public housing. They have not given them the kind of support they needed. They have been sabotaged in many places. I do not think that is true in the case of New York City. That is why you do not have in New York City any vacancies. You have a housing authority that has been very committed and they have done many of these kinds of things that the resident management groups will be expected to do.

I think we should go forward and have more experiments with resident management and do that with a full commitment to give them the support that they need to make it work.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield to me?

Mr. OWENS. I am happy to yield to the chairman of the committee.

Mr. GONZALEZ. Mr. Chairman, I wish to thank the gentleman from New York, because this is probably the most appropriate observation made thus far in consideration of this issue.

I would also like to inform the gentleman that Kenilworth did receive a $10 million modernization grant before anything could be done by the tenants. Before anything could be done to try to sell property to tenants, you first have to make sure that they will be assured the resources to enable them to keep them up if they acquire title; so these are most appropriate remarks. I really compliment the gentleman from New York for his insightful grasp of the dimensions of this issue and wish to say that we on our side accept the Fauntroy amendment, as amended by the gentleman from Connecticut [Mr. MORRISON].

Mr. OWENS. Mr. Chairman, I thank the gentleman for his observations.

I would like to conclude by saying that I am all for this experiment. Let us go forward with it.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment being offered as a bipartisan effort to improve both the quality of many of our substandard public housing projects and the quality of life of the residents of these projects.

Last year, as chairman of the Republican Study Committee, I chaired a hearing on tenant management at the Kenilworth-Parkside project here in Washington. All of the Members who attended that hearing were most impressed with the results that have been achieved at Kenilworth by a few dedicated people with pride and gumption and belief in themselves.

America has become the greatest Nation on Earth because it is the land of opportunity. Our citizens pride themselves on the fact that in America, you have the freedom to make your own way. The rewards are great if you succeed and the humanity and morality of our people is there to help if you fail. But, for many years now, people living in public housing projects in many parts of the country have not had the freedom to try, the freedom to succeed, and the freedom to control their own lives and their own dwellings.

Rat-infested, crime-ridden, school dropout inhabited housing projects across the land have become rundown and poorly maintained. Vacancy rates are high and climbing. Maintenance is poor and declining. In many cases, the rent is not even collected in housing projects. That is exactly what had happened at Kenilworth-Parkside until Kimi Gray and the tenant managmement program got control. Their example can show the rest of us what public housing should be.

Rent collections have more than doubled, crime has been cut in half, and the dropout rate has been reduced substantially. The housing units are now repaired on time and by quality workmanship. In fact, that repair work and many other jobs in the project are now done by tenants who are proud of these jobs and proud of the fact that they are now off the welfare rolls. They are succeeding in the best tradition of America. I am proud of them and I am glad that we have found the way to help people to help themselves.

The problem that Kenilworth faces and that the other public housing tenants across the country face is that this is now only a demonstration project. There is no provision in law that allows tenant management. Another problem is that all those thousands of extra dollars being collected in rent by Kimi Gray and the Kenilworth management automatically go straight to the local housing authority. Think about that for a minute and you will realize that this is nothing less than a travesty. It is a travesty because it amounts to a reward or a subsidy to the housing authority that failed these people. What kind of an incentive to succeed is there when part of your success rewards the Government agency that failed in its duty to you?

I believe that the tenant management authorities should be allowed to keep at least a percentage of the increase in rent collections that they achieve. That is what this amendment does and that is one of the most important reasons that I believe that it is a good and necessary amendment to the housing bill that we are considering today.

I urge all of my colleagues to support the Fauntroy-Kemp amendment.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I do not believe it is at all necessary to give the speech that I was prepared to give, nor is it necessary for me to speak for an additional 5 minutes.

Mr. Chairman, already after the short time I have been here I have learned that there are times on the floor of the House when you can sense the mood of accord in the House.

I want to take just a moment to tell you about my personal experience with this issue. In 1978, I was not a Member of the U.S. House of Representatives. I was driving through Oklahoma City and as I drove through the city, I saw what we called the projects, the public housing units. As I observed these units, I recognized that too many were in states of disrepair. Too many were not occupied.

I thought to myself, there ought to be a better way to do a better job to see to it that people have housing units that are in a good state of repair, well-occupied, and doing the job they were intended to do to house the American people.

I knew that somehow we were failing to do the best we could do with the resources we had already put in place. Intellectually, I have dealt with this issue. I have sought the answer in my mind to this issue and I found the answer almost a year ago today, on June 6, 1985, when I visited Kenilworth along with 14 of my colleagues. I found the answer in the words of Kimi Gray.

□ 1540

Mr. Chairman, I want to take this moment to congratulate the Delegate from the District of Columbia [Mr. FAUNTROY] and the gentleman from New York [Mr. KEMP] for their work and their leadership. I know how much they have listened to Kimi Gray and to others around the Nation. I know how much they care. I know how much they have worked with others to work out the kinds of compromises that are necessary. I know how much they have invested both their hearts and their minds in this project, and it is because they listened to a better idea.

The wonderful thing about what we are doing today is that we are letting the people who live with the laws passed in this Chamber teach us how to do a better job for this Nation and for them.

I would just like to close, Mr. Chairman, by saying thank you, Kimi Gray, and all the residents of Kenilworth who showed us that doing it yourself, your own way, is the way to make

yourself happy and the Nation prosperous. Thank you, gentlemen, for listening.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate the gentleman for his statement, and also remind the gentleman that a young man by the name of Bob Woodson had something to do with this, from the Center for Neighborhood Enterprise. Bob is one of those who has championed this idea for a long time. A lot of other folks from community-based action groups have had something to do with this bringing together the various coalitions on both sides of this aisle, and Bob is among those who were looking for new ideas and new ways of doing things to revitalize our inner cities.

I know the gentleman would not want this moment to pass without giving Bob, as well as Kimi, their due.

Mr. ARMEY. I appreciate that.

Mr. Chairman, I want to just close my remarks by saying I think it is time we ought to vote and we ought to enjoy seeing what, for me, is going to be the most exciting vote I will see as we vote "yes" to those people who have shown that if we give them a chance they will do it better for themselves.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON] to the amendment offered by the gentleman from the District of Columbia [Mr. FAUNTROY].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from the District of Columbia [Mr. FAUNTROY], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. KEMP. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN (during the quorum call). A regular quorum will now commence.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 157]

Ackerman	Daub	Hillis
Akaka	de la Garza	Holt
Alexander	DeLay	Hopkins
Anderson	Dellums	Horton
Andrews	Derrick	Howard
Annunzio	DeWine	Hoyer
Anthony	Dickinson	Hubbard
Applegate	Dicks	Huckaby
Archer	DioGuardi	Hughes
Armey	Dixon	Hunter
Aspin	Donnelly	Hutto
Atkins	Dorgan (ND)	Hyde
AuCoin	Dornan (CA)	Ireland
Badham	Dowdy	Jacobs
Barnard	Downey	Jeffords
Barnes	Dreier	Jenkins
Bartlett	Duncan	Johnson
Barton	Durbin	Jones (NC)
Bateman	Dwyer	Jones (OK)
Bates	Dymally	Jones (TN)
Bedell	Dyson	Kanjorski
Beilenson	Early	Kaptur
Bennett	Eckart (OH)	Kasich
Bentley	Eckert (NY)	Kastenmeier
Bereuter	Edgar	Kemp
Berman	Edwards (CA)	Kennelly
Bevill	Edwards (OK)	Kildee
Biaggi	Emerson	Kindness
Bilirakis	English	Kleczka
Bliley	Erdreich	Kolbe
Boehlert	Evans (IA)	Kolter
Boggs	Evans (IL)	Kostmayer
Boland	Fascell	Kramer
Boner (TN)	Fawell	LaFalce
Bonior (MI)	Fazio	Lagomarsino
Bonker	Feighan	Lantos
Borski	Fiedler	Latta
Bosco	Fields	Leach (IA)
Boucher	Fish	Leath (TX)
Boulter	Flippo	Lehman (CA)
Boxer	Florio	Lehman (FL)
Brooks	Foglietta	Leland
Broomfield	Foley	Lent
Brown (CA)	Ford (MI)	Levin (MI)
Brown (CO)	Ford (TN)	Levine (CA)
Broyhill	Fowler	Lewis (CA)
Bruce	Frank	Lewis (FL)
Bryant	Franklin	Lightfoot
Burton (CA)	Frenzel	Lipinski
Burton (IN)	Frost	Livingston
Bustamante	Fuqua	Lloyd
Byron	Gallo	Loeffler
Callahan	Garcia	Long
Carney	Gaydos	Lott
Carper	Gejdenson	Lowery (CA)
Carr	Gekas	Lowry (WA)
Chapman	Gibbons	Lujan
Chappell	Gilman	Luken
Chappie	Gingrich	Lundine
Cheney	Glickman	Lungren
Clay	Gonzalez	Mack
Clinger	Goodling	MacKay
Coats	Gordon	Madigan
Cobey	Gradison	Manton
Coble	Gray (IL)	Markey
Coelho	Green	Marlenee
Coleman (MO)	Gregg	Martin (NY)
Coleman (TX)	Guarini	Martinez
Collins	Gunderson	Matsui
Combest	Hall (OH)	Mavroules
Conte	Hall, Ralph	Mazzoli
Conyers	Hamilton	McCain
Cooper	Hammerschmidt	McCandless
Coughlin	Hansen	McCloskey
Courter	Hatcher	McCollum
Coyne	Hawkins	McCurdy
Craig	Hayes	McDade
Crane	Hefner	McEwen
Crockett	Heftel	McGrath
Daniel	Hendon	McHugh
Dannemeyer	Henry	McKernan
Darden	Hertel	McKinney
Daschle	Hiler	McMillan
Meyers	Ritter	Stark
Mica	Roberts	Stenholm
Michel	Robinson	Stokes
Mikulski	Roe	Strang
Miller (CA)	Roemer	Stratton
Miller (OH)	Rogers	Studds
Miller (WA)	Rose	Stump
Mineta	Rostenkowski	Sundquist
Mitchell	Roth	Sweeney
Moakley	Roukema	Swift
Molinari	Rowland (CT)	Swindall
Mollohan	Rowland (GA)	Synar
Monson	Roybal	Tallon
Montgomery	Rudd	Tauke
Moody	Sabo	Tauzin
Moorhead	Savage	Taylor
Morrison (CT)	Saxton	Thomas (CA)
Morrison (WA)	Schaefer	Thomas (GA)
Mrazek	Scheuer	Torres
Murphy	Schneider	Torricelli
Murtha	Schroeder	Towns
Myers	Schuette	Traficant
Natcher	Schulze	Traxler
Neal	Schumer	Udall
Nelson	Seiberling	Valentine
Nichols	Sensenbrenner	Vander Jagt
Nielson	Sharp	Visclosky
Nowak	Shaw	Volkmer
Oakar	Shumway	Vucanovich
Oberstar	Shuster	Walgren
Obey	Sikorski	Walker
Olin	Siljander	Watkins
Ortiz	Sisisky	Weaver
Owens	Skeen	Weber
Oxley	Skelton	Weiss
Packard	Slattery	Wheat
Panetta	Slaughter	Whitehurst
Parris	Smith (FL)	Whitley
Pashayan	Smith (IA)	Whittaker
Pease	Smith (NE)	Whitten
Penny	Smith (NJ)	Williams
Pepper	Smith, Denny (OR)	Wilson
Perkins	Smith, Robert (NH)	Wirth
Petri	Smith, Robert (OR)	Wise
Pickle	Snowe	Wolf
Porter	Snyder	Wolpe
Price	Solarz	Wortley
Pursell	Solomon	Wright
Quillen	Spence	Wyden
Rahall	Spratt	Wylie
Rangel	St Germain	Yates
Ray	Staggers	Yatron
Regula	Stallings	Young (FL)
Reid	Stangeland	Young (MO)
Richardson		Zschau
Ridge		
Rinaldo		

□ 1600

The CHAIRMAN. Four hundred fifteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York [Mr. KEMP] for a recorded vote.

Does the gentleman from New York [Mr. KEMP] insist upon his request?

Mr. KEMP. I demand a recorded vote, Mr. Chairman.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 419, noes 1, not voting 13, as follows:

[Roll No. 158]

AYES—419

Ackerman	Applegate	Barnard
Akaka	Archer	Barnes
Alexander	Armey	Bartlett
Anderson	Aspin	Barton
Andrews	Atkins	Bateman
Annunzio	AuCoin	Bates
Anthony	Badham	Bedell

Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Billrakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Carney
Carper
Carr
Chapman
Chappell
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
de la Garza
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
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NOES—1

MacKay

NOT VOTING—13

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Chandler
Davis
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Fascell
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Moore
O'Brien
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Vento

□ 1610

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA: Page 114, line 23, strike out "whichever", and all that follows through line 24;

Page 115, line 1, strike "115 percent" and insert "90 percent";

Page 115, line 3, after "involved", add "except that in areas where such amount (90 percent of the area median income) is below 115 percent of the national median income, then 115 percent of the national median income will apply.".

Page 115, line 3, strike "or" and all that follows through "persons" on line 5.

Page 120, after line 17, insert the following new subsection:

(c) The Secretary shall require that a majority of the funds made available under this title for use within any metropolitan statistical area shall be available only for assistance to families whose incomes do not exceed 95 percent of the higher of are a median income or national median income.

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, we have just had a vote on whether or not to authorize the Nehemiah program. We have heard discussed several of the controversial issues within this proposal, and I now have at the desk an amendment which, I believe, will put the Nehemiah program under an economically viable targeting formula.

My amendment is very simple. What it would do is lower the income ceiling for eligibility for the Nehemiah Homeownership program from 115 percent of median income to 90 percent for all except those of median income. The effect of this change would be to target the Nehemiah program to those families that we should really be trying to help with our scarce housing resources: The lower to lower middle income families.

Now, at the start, I want to be very clear about this one thing. By authorizing Nehemiah for "such sums as may be necessary" and leaving the funding decisions to the Appropriations Committee, we are insuring that the money to fund Nehemiah will come out of other housing programs. In other words, don't think that you are getting something for nothing here. During committee markup of the original H.R. 1, the number that was discussed for Nehemiah was $150 million. You know, and I know, that when the Appropriations Committee starts working on housing legislation, that $150 million is going to have to come out of low-income housing programs, vouchers, section 8.

Mr. Chairman, it just does not make sense to create a new housing program that is going to subsidize homeownership for middle-income families—families that can afford to own their own homes without any Federal subsidy.

Let me run through a few statistics here that are quite revealing. As currently drafted, the Nehemiah eligibility ceiling of 115 percent of median income or national median income, whichever is higher, would permit families in Boston earning almost $40,000 per year to receive a $15,000 Federal subsidy. Can you imagine? Subsidizing a family whose income is $40,000 per year?

On top of this, the State of Massachusetts already offers below-market interest rate mortgages to first-time homebuyers.

There are similar State- or city-run programs in Connecticut, the District of Columbia, Baltimore, and Cleveland. The list goes on and on.

Another interesting dilemma. A HUD field economist from Baltimore estimated that the 115-percent median income ceiling covers 60 percent of Baltimore's population. How are we to

determine who is to receive this subsidy and who is not? This same field economist suggested that the program could be targeted to lower income households without reducing its marketability.

Now, let me say that I think the Nehemiah program in New York has worked wonderfully. It's a project whose time has come—it combines private expertise and planning with public development support. Now the House has just demonstrated through the last vote that there is support for the Nehemiah program—but since it appears that we are going to start this new program, let's target it for those individuals who need our help.

Let me cite some more examples of what type of families the current draft with 115 percent of median income ceiling would allow to participate in this program. In Chicago, a family earning $39,790 would qualify. In Detroit, a family earning $37,375 would qualify. In Baltimore, a family earning $36,110 would qualify for the Nehemiah program. In Los Angeles, the figure is $34,730, and in Boston, families would qualify who are earning $39,100. In fact, these families could qualify for the privately financed purchase of an $80,000 to $90,000 home. Now tell me, why should we be giving these people a $15,000 subsidy?

One of the arguments I am sure we will hear against this amendment is that the Nehemiah proposal will rebuild inner cities by encouraging middle-income families to return to live there. But, Mr. Chairman, we already have other programs for inner-city development—UDAG, CDBG, HoDAG, are but a few examples of programs that serve to correct urban blight.

In conclusion, let me just say that although I have misgivings about starting any new subsidy program during this period of mandatory budget austerity, I will admit that this program, or some form of it, may have some promise. We all realize what a long journey it is for families hoping to realize the American dream of owning their first homes, hoping to break their dependency on the social services rolls, to break their dependency on being a renter in a blighted area. The purposes of this program are indeed noble: To rebuild blighted inner cities, and to encourage such rehabilitation by instilling in a lower income family the pride of homeownership, and thereby encouraging family stability and job security. But the point of this program must be to target to those who most need the help and still have an economically feasible project.

I ask my colleague from New York, the author of the Nehemiah program, if he will agree to this targeting formula?

Mr. SCHUMER. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, the Nehemiah program was drafted, I believe, quite carefully. It tried to deal with problems in certain city areas where housing costs were very high but median income was considerably lower. Therefore, while it was true that if you read the letter of the law and would find amounts of a certain few individuals could have actually incomes at quite a high level, it seemed to me it was worth doing to bring a few of those people into the projects. But the gentlewoman from New Jersey has pointed out that that number could actually cause Nehemiah to lose support in many various places, and therefore reluctantly I will go along with her amendment. I do not think it damages the program. The program will go forward.

It will mean that certain people in certain cities who were slightly above the median income will not be available to Nehemiah, and they will have to find housing elsewhere. But Nehemiah, while they might have been the icing on the cake in a Nehemiah type project, it might have been the local drug store owner or the local school teacher who, I feel, would be quite important to live in that project, the viability of the project, since the project will start out in an experiment mode, let us go with this as the gentlewoman from New Jersey has suggested, and if it does not work, we can always come back later and change it.

□ 1625

So I thank the gentlewoman for her kind words and her support of the basic program and, most importantly, for her efforts to improve the program.

I know that the hour is running late, and I will not speak any longer on this issue.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to my colleague, the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I want to commend the gentleman from New York and the gentlewoman from New Jersey in offering this amendment. I think the gentlewoman's amendment does in fact strengthen the Nehemiah program by targeting the program much more closely to lower-income families, and I think both of the Members of the body are to be commended.

Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARPER: Page 123, after line 17, add the following new title (and conform the table of contents accordingly):

TITLE VI—PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS

SEC. 601. DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.

As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or social security account number or employer identification number to the Secretary.

SEC. 602. DEFINITIONS.

For purposes of this title, the terms "applicant" and "participant" shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

Mr. CARPER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CARPER. Mr. Chairman, the amendment which I offer has to do with a procedure by which we may further reduce waste, fraud, and abuse in the programs covered by this bill.

The Department of Housing and Urban Development subsidizes over 2 million families under the section 8 program. The estimates are that at least 15 percent of these families are either totally ineligible or are receiving more assistance than is allowable because they simply do not disclose all their income.

It obvious to me, then, that we need a better approach on the part of HUD to detect these individuals, such as computer matching programs used by the States to identify food stamp fraud. The provisions of this proposal will help public housing agencies and HUD to better use housing resources for truly needy families.

This amendment, Mr. Chairman, simply has the following effect: It would require applicants for housing and current tenants to provide their Social Security number as a condition for occupancy.

Unlike the Food Stamp Program, Social Security numbers cannot be re-

quired by HUD to check those who participate in housing programs. These are essential for public housing authorities to obtain information from State unemployment agencies on unreported income from wages. Authorizations are needed to allow for the verifications and auditing of the information they supply about their eligibility. Data on wages would not include any Federal income tax return information.

Mr. Chairman, I would also note that a companion piece of legislation which is under the jurisdiction of the House Ways and Means Committee, would require State unemployment agencies to cooperate with the PHA's and HUD in computer matching, on a reimbursable basis, which would be extremely important and very helpful. This provision, which is identical with the authority provided in the Food Stamp Program, would provide the major information source for identifying unreported income.

Mr. Chairman, I mentioned earlier that estimates are that at least 15 percent of subsidized families are either totally ineligible or are receiving more assistance than they are entitled to receive. According to a 1982 projection by the Office of the Inspector General, $200 million is being spent for tenants who are totally ineligible for assistance or who are receiving subsidies in excess of what they are entitled to receive.

Two current examples of this widespread abuse of underreporting income are:

Pleasant Homes, Seat Pleasant, MD: Twenty tenants were convicted of making false statements or conspiring to defraud HUD in the rental assistance program. Sixteen of the tenants, including six Federal employees, were sentenced for submitting false statements about their family composition or income to obtain $93,873 of assistance they were not entitled to receive.

Damen Courts Apartments, Chicago, IL: Eighteen tenants of the Damen Courts Apartments, a modern and well-maintained Chicago, IL, complex, pled guilty or were convicted on 48 counts of submitting false statements to HUD. The tenants, 12 of whom were public employees, including a former special assistant to the Chicago Regional Administrator for HUD, falsified information relating to their incomes and employment between 1981 and 1985 in order to obtain $172,000 of section 8 rental assistance moneys they were not entitled to receive. In some instances, the individuals had annual incomes of as much as $43,000 which, if declared would not have made them eligible for participation in the section 8 program.

In essence, Mr. Chairman, the purpose of this amendment is simply to provide HUD and the PHA's an opportunity to better identify fraud, waste, and abuse in eligibility, and in the reporting of income. It provides assistance to those who need it and stops others from abusing it. I urge adoption.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I think it is essential for programs to prevent fraud and waste be made part of every program and that they be put forward with the enthusiastic support of those of us who believe in the program. Providing decent public housing for low-income people is in no way antithetical to good antifraud and antiwaste provisions. In fact, they go to the same goal.

So I congratulate the gentleman for proposing an amendment, the merits of which are self-evident.

I hope I will set a good example by not talking anymore.

Mr. KOLBE. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, it is nice to find an amendment that those of us on both sides of the aisle and all sides of the political spectrum can agree on. I certainly commend the gentleman for offering this amendment. It is an important one that could, as the gentleman pointed out, save as much as $200 million a year, not off the backs of the people who are poor and off of those who we want targeted for these programs, but $200 million from people who are not supposed to be eligible for these programs, to make sure that the money is available to those who ought to be receiving these programs.

As the gentleman has pointed out, that is what these programs are designed for, for those who have a need for publicly assisted housing. And to the extent that somebody who is not eligible is using that housing, then we are denying somebody who has a real need for that housing in achieving it.

So I commend the gentleman from Delaware for offering this. I think this is an amendment that every Member of this body on both sides of the aisle can support, and I certainly do enthusiastically.

Mr. CHAIRMAN. The time of the gentleman from Delaware has expired.

(On request of Mr. WYLIE, and by unanimous consent, Mr. CARPER was allowed to proceed for 3 additional minutes.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the ranking minority member, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I rise in strong support of the gentleman from Delaware's [Mr. CARPER] amendment which provides for disclosure of Social Security numbers from participants in HUD programs as a condition of initial or continuing eligibility.

This issue was brought to our attention by our colleague from Florida, Mr. CHAPPELL, back in 1983. The Housing Subcommittee also conducted a hearing on this matter in November of 1983.

Although the amendment before us today is not the full loaf it is a step in the right direction and Mr. CARPER should be commended for the leadership he has shown on this issue in working with Chairman ROSTENKOWSKI. I am sure Chairman ROSTENKOWSKI will also work in a cooperative manner to resolve any outstanding issues so as to provide for full income verification through use of computer matching programs which are presently in place in several States.

Mr. Chairman, the inspector general of HUD estimates that with the complete implementation of this amendment it will save $200 million per year. I want to emphasize Mr. Chairman that this is not $200 million which will be returned to the Treasury. It is not cruel and heartless deficit reduction on the backs of the poor. Rather, it is a way to help those who most need our help. The $200 million is going to be taken away from some people who are not being truthful about the amount of their income and are therefore getting Federal assistance to which they are not entitled; and then that $200 million will go to the people who we think we are helping when we pass Federal assistance programs.

Every Member of this House should be in favor of this provision because it stops cheaters and it helps people who need our help.

Mr. Chairman, at a time when the Federal deficit is of paramount concern and when the resources to help the needy of this country are feeling a pinch, we have an obligation to take steps to ensure that those who need it most receive our assistance.

That is precisely what this proposal does and I urge its adoption.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding to me, and I rise in support of the amendment.

Mr. Chairman, this is really an excellent amendment. It is a breath of fresh air to find a proposal like this which is direct, fair, precise, and effective. This amendment actually will do something to prevent waste, fraud and abuse. Abuses which have resulted in millions of lost dollars.

This amendment authorizes HUD to require applicants and participants in HUD programs to provide their Social Security numbers as a condition of initial or continuing eligibility for participation.

Some of my colleagues may recall the recent Baltimore Federal grand jury indictment of 21 tenants of an assisted housing project in Seat Pleasant, MD. The tenants were indicated for falsifying income information in order to qualify for Federal rent subsides. It was reported that overpayments made by HUD to the tenants exceeded $200,000.

Unfortunately, this is not an isolated incident. Such overpayments have been documented in reports by the GAO and the HUD inspector general. A GAO review of six HUD programs estimated that overpayment of assistance in 1979 totaled $867 million, including $42 million in HUD's section 8 program. The HUD inspector general has estimated that at least 12 percent of the tenants in the section 8 program fail to report their full income, and currently, overpayment for all subsidy programs may be as high as $200 million annually.

I find these statistics mindboggling. We here stories all the time about defense contractors gouging us for millions. This may be smaller in scale, but it's not peanuts. HUD has asked to be given this authority to verify income levels, and I think it is time that we do so.

At the same time, I might add, this amendment protects the rights of the individual under the Privacy Act of 1974, and furthermore, gives the applicant ample opportunity to examine and refute any information which may lead to the termination of the individual's participation in the program involved.

I do not believe there should be any controversy over the need to halt this waste, fraud, and abuse in HUD programs. I urge the adoption of the Carper amendment.

Mr. ROWLAND of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Connecticut.

Mr. ROWLAND of Connecticut. Mr. Chairman, I thank the gentleman for yielding, and I also want to add my support.

Mr. Chairman, one of the speakers, the gentleman from Massachusetts [Mr. FRANK], knows full well that in Connecticut and Massachusetts we have used a concept of cross-checking Social Security numbers with various programs like food stamps and welfare recipients, and we have saved millions and millions of dollars on the State level.

I think it is important to point out that in this day of tough budgetary times, this program will accomplish a number of purposes. It will maintain the integrity of the program, it will give adequate protection for the tenants, and it will take care of the truly needy.

Mr. Chairman, I want to thank the gentleman and I look forward to working with the gentleman as we straighten out some of the other problems with the Committee on Ways and Means. I commend the gentleman for a creative new approach. I know that it is going to find a great reception from both sides of the aisle.

Mr. CARPER. Mr. Chairman, I thank the gentleman for his comments and also for his work and his willingness to work with us as we crafted this approach.

The CHAIRMAN. The time of the gentleman from Delaware [Mr. CARPER] has again expired.

(On request of Mr. ROSTENKOWSKI, and by unanimous consent, Mr. CARPER was allowed to proceed for 3 additional minutes.)

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the chairman of the committee, the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Delaware, and to thank him for his cooperation in working out a compromise on this issue to take account of the concerns of the Committee on Ways and Means.

The gentleman from Delaware and others in the Congress have worked diligently to improve both the availability and proper usage of publicly assisted housing. I share their concern. However, there is an equally important concern regarding protection of information given by the public to the U.S. Government for specific administrative purposes.

The gentleman's amendment allows the Department of Housing and Urban Development to require all persons participating in HUD programs to give their Social Security numbers on the application for assistance. In the past, we have allowed the Social Security number to be required by other Federal or State agencies only in specific and narrow instances, after careful consideration by the committee. Such a specific amendment is necessary to override the strong general presumption that no one may be compelled to give his or her Social Security number except for Social Security purposes required by law. I will not at this time oppose this specific part of the amendment, recognizing the public policy goals that will be served by allowing HUD to require applicants to give their Social Security numbers.

This should in no way be interpreted as a break with the Committee on Ways and Means longstanding and strong concern about breaching the privacy of workers and beneficiaries in the Social Security system. This action also should not be viewed as a precedent of waiving the committee's jurisdiction over Social Security number issues and requirements relating to the use of the Social Security number as an identifier.

I plan to schedule a public hearing at the first available opportunity for the Committee on Ways and Means to review whether efficient and effective mechanisms exist for HUD to receive appropriate and up-to-date income information, to allow better administration of public housing eligibility requirements. I wish to commend the gentleman for his efforts to make our Nation's housing programs work more effectively, so that assistance will be available for the truly needy within our society. I hope that we can work together toward that end.

□ 1635

Mr. CARPER. I thank the gentleman for his kind remarks.

Let me just say in conclusion that I look forward to the opportunity to begin step 2 of this two-step process. I thank the gentleman and the members of his staff for the cooperative approach we have taken on this issue.

Mr. Chairman, I think we have a demonstration here of how the system is supposed to work. We are working across party lines in a cooperative way to stretch the dollars that are available for needy people and working across committee lines. I thank each of you who have been involved in this process.

I would ask for support of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware [Mr. CARPER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KEMP

Mr. KEMP. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KEMP: Page 73, after line 7, insert the following new section (and conform the table of contents accordingly):

SEC. 213. PUBLIC HOUSING HOMEOWNERSHIP AND MANAGMENT OPPORTUNITIES.

(a) IN GENERAL.—The United States Housing Act of 1937 (as amended by section 212 of this Act) is further amended by adding at the end the following new section:

"PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

"SEC. 21. (a) HOMEOWNERSHIP OPPORTUNITIES.—The families residing in each public housing project shall be provided with the opportunity to purchase the dwelling units in the project as follows:

"(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

"(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary; and

"(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency.

"(2) HOMEOWNERSHIP ASSISTANCE.—

"(A) The Secretary shall provide comprehensive improvement assistance under section 14 or 20 to public housing projects in which homeownership activities under this section are conducted in order to ensure that the physical condition, management, and operation of the projects are sufficient to permit and encourage homeownership by the families residing in the projects.

"(B) The Secretary, and the public housing agency owning and operating each public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership.

"(3) CONDITIONS OF PURCHASE.—

"(A) A resident management corporation may purchase all or part of a public housing project following a determination by the Secretary that—

"(i) the resident management corporation has been established in accordance with paragraph (1); and

"(ii) the resident management corporation is prepared to undertake the ownership, management, and maintenance of the project with continued assistance from the Secretary.

"(B) A family may purchase its dwelling unit directly from the public housing agency, if the Secretary determines that the purchase will not interfere with the rights of other families residing in the public housing project or harm the efficient operation of the project.

"(4) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of all or part of a public housing project under this section, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(5) PURCHASE PRICE LIMITATION—The price for any purchase under paragraph (3) shall be 25 percent of the fair market value of the property involved, as determined by the Secretary.

"(6) PURCHASE ARRANGEMENTS.—

"(A) A purchase under this section may be made under any of the following arrangements, at the option of the family or resident management corporation making the purchase:

"(i) Lease-purchase.

"(ii) Shared appreciation, except that not less than 50 percent of the future appreciation in the value of the property involved shall be reserved to the family or resident management corporation making the purchase.

"(iii) Cooperative ownership.

"(iv) Condominium ownership.

"(v) Purchase with amounts borrowed on the security of the property involved.

"(vi) Any other arrangement determined by the Secretary to be appropriate.

"(B) For purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved shall make a loan on the security of the property involved to the family or resident management corporation at a rate of interest equal to 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

"(7) RECAPTURE AT TIME OF SALE.—If any purchaser of property under this section sells the property before the expiration of the 5-year period following the date of the purchase, the purchaser shall pay the following percentage of the sale price to the Secretary:

"(A) 75 percent, if the sale occurs during the 1st 1-year period following such date.

"(B) 60 percent, if the sale occurs during the 2d 1-year period following such date.

"(C) 45 percent, if the sale occurs during the 3d 1-year period following such date.

"(D) 30 percent, if the sale occurs during the 4th 1-year period following such date.

"(E) 15 percent, if the sale occurs during the 5th 1-year period following such date.

"(b) RESIDENT MANAGEMENT OPPORTUNITIES.—

"(1) IN GENERAL.—The families residing in each public housing project shall be provided with the opportunity to undertake the management, maintenance, educational, and cultural functions of the project.

"(2) MANAGEMENT ASSISTANCE.—The Secretary, and the public housing agency owning and operating the public housing project, shall provide such training, technical assistance, and educational assistance as may be necessary to prepare the resident management corporation established under subsection (a)(1) to undertake the management, maintenance, educational, and cultural functions of the project.

"(3) CONDITIONS OF RESIDENT MANAGEMENT.—A resident management corporation may undertake all or part of the management, maintenance, educational, and cultural functions of a public housing project following a determination by the Secretary that the resident management corporation is capable of undertaking such functions.

"(c) PROTECTION OF NONPURCHASING FAMILIES.—

"(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

"(2) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a public housing project purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary may offer to provide to the family a housing voucher determined by the Secretary to be appropriate to permit the family to continue to reside in the dwelling unit.

"(3) RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary may offer—

"(A) to assist the family in relocating to a dwelling unit in another public housing project; or

"(B) to provide to the family a housing voucher determined by the Secretary to be appropriate to permit the family to obtain comparable alternative housing.

"(d) FINANCING ASSISTANCE.—

"(1) ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as the Secretary determines is necessary to permit such agencies to carry out the provisions of this section.

"(2) OPERATING SUBSIDY.—The operating subsidy for a project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year. Such subsidy may not be reduced during the 3-year period beginning on the date on which the resident managed housing is transferred to resident ownership, except that if the total income of the public housing agency is reduced the income provided by the public housing agency to the resident owned project may be reduced in proportion to the total revenue reduction of the public housing agency.

"(e) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—

"(1) IN GENERAL.—No provision of this section may be construed to preclude the Secretary or any public housing agency from providing additional homeownership or resident management opportunities under section 5(h), section 6(c)(4)(D), or any other provision of this Act.

"(2) PURCHASE OF UNOCCUPIED UNITS.—Any qualified public housing resident or qualified applicant for public housing residence may purchase any unoccupied dwelling unit in a public housing project, subject to the conditions of this section.

"(f) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

"(g) ANNUAL REPORT.—The Secretary shall annually submit to the Congress a report setting forth—

"(1) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(2) recommendations of the Secretary for additional budget authority to carry out such development; and

"(3) recommendations of the Secretary to ensure decent homes and decent neighborhoods for lower income families.

"(h) LIMITATION.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in appropriation Acts.".

"(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

Mr. KEMP (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KEMP. Mr. Chairman, a few minutes ago, in the spirit of the House that was achieved on the recent amendment of the gentleman from Delaware, as well as that on the amendment of the gentleman from the District of Columbia and myself, and a broad range of Republicans, Democrats, Liberals, and Conservatives, we passed what I consider to be one of the most important principles in housing in the United States of America, the idea that we could begin the process of helping restore to the public

housing projects in America the idea of residents managing their own projects.

There is another step in that process. The opportunity for people to own their own apartment, their own property, their own home, which all of us on either side of the aisle talk a lot about as part of the American dream.

The Delegate from the District of Columbia [Mr. FAUNTROY] and I have offered a second amendment beyond tenant management, which is to allow all public housing tenants the option of buying their apartment or their home at 75 percent discount from prevailing market value, with a low-interest rate loan, from the public housing authority. If even one-quarter of the current public housing residents took advantage of home ownership opportunities offered by our amendment, property worth roughly $14 billion would be immediately transferred to low-income tenants in America. There would be an enormous benefit to the poor, a giant leap forward toward enhancing access to income property, and opportunities for wealth for low-income Americans.

A few days ago, Yelena Bonner, the wife of Andrei Sakharov, wrote in a New York Times article something that should remind all of us of what the gentleman from the south Bronx said a little earlier very eloquently on the floor of this House. Yelena Bonner said in the New York Times, "What the American people most want is a house, a home." She said what she most wants for herself and Andrei Sakharov, her husband, was a home. She said a home is the symbol of independence. It is not a material one, she said, but it is sort of a combined spiritual and physical independence. She went on to say it is an open, kind, caring attitude both toward the house and toward everything that it stands for, the soil in the flower box, the lovingly tended lawn, even if it is just 3 or 4 square yards. She went on to say this shows what America is about in general.

Home ownership is especially a dream for those who live in public housing who, up until now, have had virtually no chance of owning an apartment or their own home.

We talked a lot on the floor recently about Kimi Gray, the outstanding organizer of the tenants at Kenilworth Courts here in Washington, DC, who received so much praise for her transformation of Kenilworth-Parkside public housing project. She said her brightest vision of her life, for herself and her family is home ownership. This is a fight, she said, not about race or poverty, it is about owning land, owning your property. She went on to say, "The way I see it, despite all of the accolades, this is just another project until we figure out a way to buy this place."

I want to say, on behalf of tenant management of Kenilworth-Parkside, and those inner-city residents of St. Louis or Cleveland or Trenton, NJ, or Buffalo, NY, or any part of this country, what this Congress is attempting to say today, or at least lay the predicate foundation for in the future, is the ability of the inner-city residents in public housing to be able to purchase that piece of property, whether it is a single-family dwelling or an apartment.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has expired.

(By unanimous consent, Mr. KEMP was allowed to proceed for 5 additional minutes.)

Mr. KEMP. Mr. Chairman, Congressman FAUNTROY and I and many cosponsors of this bill believe that we can turn many poor and low-income residents into homeowners if only we have the determination and the imagination to make that goal a reality.

The premise and the detail of the amendment that we are offering is a beginning step, but it would proceed along three very important conditions. First, the public housing residents could form a resident management association, like that at Kenilworth-Parkside; second, they would be trained and educated to help take over the management and operation of that project. That is the amendment that was just recently passed by 419 to 1. Third, the resident council would help organize the residents to buy the housing at a discount from the market value after demonstrating that they would bear the cost and responsibility of ownership and project management. To give you some idea as to the desire to do this, in New York City recently I think the city of New York and its public housing authority put some houses on the market at low discount rates, and there were perhaps 10,000 people from the inner city of New York who lined up to purchase those homes that were offered by the city of New York.

What we are suggesting is that it is more important to sell that project at a large discount, with subsidized mortgage rates, to convert some, not all, of the public housing stock into private ownership. Under our amendment, only a resident management association would initiate and direct a conversion to private ownership. Thereby, it would avoid chaotic individual sales or home ownership efforts which have previously failed.

To prevent premature or hasty transfer of ownership, title would be transferred to the residents only after HUD certifies that the tenants can afford the cost and the responsibilities of home ownership.

And, finally, under our bill, the Department of Housing and Urban Development must bring the housing up to decent standards before it is sold.

Would it reduce the housing stock for the poor? No; renters will simply be turned into homeowners. Would this amendment skim the best units from public housing authorities? Not if Kenilworth-Parkside and other resident management projects are any precedent. These projects, once among the poorest, have become outstanding candidates for home ownership.

What is the overall cost to the amendment? Nothing; the amendment would not add a penny to public spending, and it would not violate the Budget Act.

Government receipts, in my view, would actually be increased as housing is sold, thus converting public into private ownership.

Are not most public housing projects high-rise ghettos that no one would want to buy? Well, some housing projects are problematic indeed, but that underscores the importance of encouraging home ownership and resident management which has been established already here today.

According to a recent HUD survey, in 1982, 43 percent of the public housing stock was in good to excellent condition, 29 percent was in fair condition, and less than 28 percent was in poor conditon. But that creates an incentive to begin "sweat equity," a euphemism for encouraging people to take greater interest in their apartment or their public housing project. And that again is what has been established here today by strong bipartisan vote.

Would it be difficult to convert? I do not think it would. According to HUD, only about 27 percent of the projects are high-rise buildings, 32 percent of all of public housing are garden apartments, 16 percent are low-rise walk-up apartments and 25 percent of our projects in America, which contain about 10 percent of the units, are single-family detached or townhouse units. Even high-rise units, if organized carefully, can be converted in part or in whole to cooperative or condominium home ownership.

Has it ever been tried before? They have done it in Great Britain. It has been very successful.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has again expired.

(By unanimous consent, Mr. KEMP was allowed to proceed for 2 additional minutes.)

Mr. KEMP. In Cuba, Castro converted all of the private housing on the Island of Cuba to socialized collective housing. It did not work. The housing stock became dilapidated. And whether it is in Cuba or the Soviet Union or in socialized countries, clearly socialist countries, Communist countries are trying to find a way to convert it back

to some form of private ownership. Whether it is in Great Britain or in Cuba—and I do not mean to suggest that Cuba is moving toward capitalism—they have begun to convert their public housing stock back to private ownership to get people to take care of it. That is the principle we are trying to establish. This does not speak down to anybody. It simply allows them the incentive to build up the chances in their own lifetime, if not for themselves, at least for their children, of converting that public housing project into home ownership.

I wish more Members were here to address the issue. I do not suggest this is a panacea. But on behalf of myself and other Members of the House, I offer this amendment as an attempt to regain the initiative on behalf of the innercity poor to help convert some of the public housing stocks to the pride and the dignity of home ownership.

□ 1650

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, ownership that is quite the secret, is it not? That is what it is all about. Ownership is what makes a house really your home, your part of the action, your space in affairs.

I tried, in 1977, to co-op Marina Village, a complex of 440 two-floor townhouses in Bridgeport, CT. Do you know what I found my worst enemy was? This is fascinating, nothing happened, nothing happened. We got the money out of HUD; that was a major occurrence; $4.2 million.

Nothing happened. Guess what? The commissioners did not want to lose turf, they did not want to lose 440 units which means x number of secretaries, x number of papers and so on and so forth.

The people wanted to own these apartments. People that own maintain. People that own take care. People that own cut grass. People that own have a real, real percentage in not allowing the crime to rise. The same thing we were talking about with Nehemiah.

Bureaucrats should not stand in their way. In fact, this whole movement should be encouraged. The very basic replacement of parts and kitchens and furnaces and everything else is cut dramatically by ownership.

Mr. Chairman, it always amazes me when someone says, "Oh, those rotten tenants in public housing, they do not care for their buildings." What tenant does care for his building?

I used to rent a house on the beach for the most extraordinary amount of money that I thought people could possibly pay in a month, and I come in and have to replace the stove and have to replace the washing machine and have to replace the carpets because everybody had torn the place to pieces; they did not own it.

So I am simply saying anything we can do to give people a piece of the action, that is all they are asking for, that is all you are doing, and anything we can do to keep the bureaucrats out of the process is a good bill. I like it.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman.

Mr. CONYERS. I thank the gentleman for yielding to me.

Mr. Chairman, I am sympathetic to the intention of this piece of legislation, and I am curious, though, as to how the inhabitants of public housing could come by the money. I think a 75-percent discounted rate is a very important one and very critical. But 25 percent of the sale price might be beyond the means of a person who qualifies for public assistance.

Mr. McKINNEY. I will tell my good friend how we had it and then I will let the author of the bill state what he has intentioned.

What we had was, very simply, that the, almost exactly the same amount of the rent, in most cases, about 3 to 5 percent more, would be paid by the tenants to own. There would not even have been a down payment on the marina project, and I hope that now we have a new mayor and new commissioners, new everything else. We certainly do not have the money any more, but I am hoping that we can start back on this project of letting these people have it.

The city social services department thought that their social service needs would be so much less in a well-controlled, home-owned park that they agreed to set up an office which would help people with problems that might be beyond them. They are not familiar with them; they are not dumb people, but they just have not ever had the opportunity to own.

There would be classes set up in the responsibility of ownership, et cetera, and maintenance and so on and so forth. I was very enthusiastic. It may have had some holes, but I did not think we would ever know unless we tried.

Mr. KEMP from New York probably has his own ideas on this.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman.

Mr. KEMP. I thank the gentleman for yielding to me.

Mr. Chairman, I asked the Library of Congress Congressional Research Service to give me an update on the study that they did 1 year ago on selling public housing to the tenants. I asked them for a capital cost, a financial investment, the annual and monthly charges and the required income to get some idea as to an answer for the gentleman from Michigan because I had the same question: How can people afford it?

They took a typical capital cost of an apartment, say, in the District of Columbia. Say Kimi Gray wanted to buy her own apartment. They took the fair market value of $50,000, the sale price of which would be 25 percent of market value, so that would cost her $12,500. She would get a mortgage at, 100 percent of the price.

Under current market condition, she could finance 100 percent of the mortgage at a 7-percent, 30-year mortgage rate.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. McKINNEY] has expired.

(On request of Mr. KEMP and by unanimous consent, Mr. McKINNEY was allowed to proceed for 2 additional minutes.)

Mr. KEMP. If the gentleman will continue to yield, here was the outcome of the cost. Her mortgage loan would be for $12,500. Debt service would be $80 a month. Maintenance and operations, anywhere from $100 to $125. Real estate taxes, $21. Vacancy or turnover, I guess this is their figures now, $70, for a total of about $225 per month.

So she or any individual in that Kenilworth-Parkside project, could afford these homeownership costs if she earned roughly $8,000 yearly.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman.

Mr. CONYERS. I thank the gentleman.

What I understand my colleague from New York to have said is that there is no down payment.

Mr. KEMP. If the gentleman will yield, that is correct; no down payment.

Mr. CONYERS. The mortgage is amortized over a 30-year period. That it probably does not exceed the cost of the income or the public assistance that a person might be receiving inside their present public housing circumstances.

Mr. KEMP. If the gentleman will yield, the Library of Congress suggested that an individual in that project would have to have $8,000 of income in a year in order to afford that cost, amortized over 30 years, yes.

Mr. KEMP. If the gentleman from Connecticut will continue to yield, I am not saying it is perfect; it seems to me that is something that would encourage people to begin the thought process toward homeownership. That is what we are interested in.

I again thank my colleague from Connecticut.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the notion of homeownership is a good one, and, in a somewhat different form, I would look forward to supporting this. But I think it has some problems as it now exists. I am perhaps somewhat able to talk about this because the subcommittee I chair of Government Operations has had several hearings.

There is a HUD demonstration program now going on, and I think we will have more information. I think the idea in general is a good one, but here are some of the issues that come up.

For instance, there is a 5-year recapture of the profits, but under this bill, and this is one of the things that came up from us, there are no restrictions on the disposition of the property. So what happens is suppose a resident of an elderly project, 68 years old, buys the apartment. Seven or eight years later, after the recapture period has expired, the person expires. That is then the property of the individual who was free to leave it in his or her will to his or her son who has $200,000 who can then sell it at market rate.

In other words, what we have is a good program for the current poor residents of housing, but it could have the effect in its current form of taking that housing out of stock available for poor people.

The House decided last week not to build new public housing, so I think we have to be very careful, and I understand those considerations although I do not agree with them. We have to be careful about advantaging the current individuals, and I want to do that, but not in a way that would permanently withdraw this from the housing stock.

□ 1700

So I would hope that we might even withdraw this and come back and deal with this question of disposition.

It is not going to be the case that only the best units will be sold, but in fact the best units will be among those to be sold. We have areas of our cities which are becoming gentrified. What happens is, they used to be for the poor people, and now young rich people would like to live in what used to be bad neighborhoods. So the Government comes in with a UDAG and they have urban renewal and CDBG, and the Government spends a lot of money to fix the place up. Then the poor people cannot afford to live there anymore, and when we say that we want to help the poor people, they say no, the free market system—which apparently now is Adam Smith plus UDAG's—you cannot interfere with it.

So I would hope that we could deal with this concept, but in ways that would protect the right of subsequent poor people to keep it in.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I listened to the gentleman, who with his usual degree of clarity expresses a very sincere concern. I was thinking that there may be some way of perhaps limiting that resale, but of course the ability to own a piece of property means the ability then at some point—hopefully it will be protected 5 years which is in and of itself a limitation—but at some point you have got to say that if you own that piece of property you get title to it. For example, most of the land reform programs that have not worked in the world are where we give the campesino the right to work the farm, but he or she does not get the title, and thus it reduces the incentive to work the land.

With all due respect, I am not trying now to argue, except to try to find an answer to this problem. It seems to me that we are committed to housing the poor. The stock is not going to be diminished if we turn renters into homeowners.

Mr. FRANK. Let me just take my time back and ask the gentleman how he voted on the amendment last week offered by the gentleman from Texas which said that we should not build any more.

God does not build housing. He may smile on those who do, but no housing has been built by spontaneous generation in the memory of man.

Mr. KEMP. I understand.

Mr. FRANK. It voted not to. Congress voted not to build any more housing. Now if Congress voted not to build any more housing and you sell off the housing that you now have to the existing stock of poor people, you are not going to have more housing.

Mr. KEMP. Will the gentleman yield?

Mr. FRANK. I just want to finish, and I will yield again to the gentleman, but he does not solve my problem. Yes, it would be good to help some existing poor people, I do not think that it restricts them to say yes, you can sell it, but with some resale restrictions. Again, let us take elderly people. There are elderly people who under this bill will be able to buy a piece of property, in some cases in some very desirable neighborhoods of the city, for 25 percent of its market value, pay a subsidized interest rate, and then 7 years later, even without dying, sell it off, or people will die and it goes, and there is nothing in here that says that it has to be anymore for the poor.

The House voted last week not to build any more housing for public housing. We have an amendment that is coming up which says that if you demolish housing, you do not even have to replace it. I hope that we will not go to that, but we are going to be asked to vote for an amendment offered by the gentleman from Texas called the livability amendment. It is, it seems to me, a strange name, the "livability amendment," for one which demolishes a house. They would seem to me to be among the least livable, but people have a first-amendment right to call whatever they want whatever they want.

First we voted not to build any more public housing. Now we are going to be asked to vote to demolish it and not replace it.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. Then we are going to be asked to sell it off with no way to keep that in the stream for low-income people. Of course, some of it will not be so good, but some of it will be the very best. I find as a general rule, when their own interest is involved, people are not stupid, and most people would rather buy a nice house than a rotten one. A lot of people will buy nice houses. They will buy it for 25 percent.

So I think it is a mistake to deal only with the existing stock of housing. As part of an overall program which says that we are going to build some more, OK, but to sell off systematically at subsidized prices the housing we have, when we then decide that we are not going to build any new stuff and we can demolish some other stuff, will mean fewer people.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I completely agree with the gentleman from Massachusetts [Mr. FRANK]. It means, without treading on the toes of another fresh idea coming into the housing picture, that we may have to reconsider the whole notion of not building any new public housing. I hope that that was not cast in concrete.

For example, there could be an amendment offered which I am considering which would do just that, and that would open the door for this, but the other defects that the gentleman from Massachusetts has pointed out, the legal defects, I think need some considerable work on. But nonetheless, I think that the gentleman from New York [Mr. KEMP] is on the right track.

Mr. FRANK. I thank the gentleman, and I will yield to the gentleman from New York in a minute, and I would point out that there is a home ownership demonstration program now being conducted. Some of us have been looking at it, we have had some differences of opinion, some agree-

ment; some housing authorities wanted to go in. I think that it would be best to let that proceed and then try to draft an amendment that would have some of the protections that we are talking about.

I think that you can give people many of the benefits of ownership—not say that they cannot sell, not say that they cannot profit from the extent to which they fix up the property. I am not even talking about that. I am saying that there has to be some method, I hope, of keeping a stock of low-income housing around.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I again appreciate the comments of my friend, the gentleman from Massachusetts [Mr. FRANK].

What bothers me about the whole problem is that there are, some estimate, 60,000 to 70,000 or 80,000 public units that are now vacant. They are just not even being utilized.

Mr. CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. I yield further to the gentleman from New York [Mr. KEMP].

Mr. KEMP. I was trying to find a way: First, to encourage people to fix up their apartment or their home; and second, to use up that vacant housing and to encourage private ownership.

It is the gentleman's time. I wounder if he would not acknowledge the fact that we have to find some way to utilize the 60,000 to 70,000 apartments and houses not now occupied.

Mr. FRANK. Two things on that. First of all, I am not trying, and I know of no one trying, to interfere with the home ownership demonstration program now going on. I would like to see it limited, and I would like to see that checked.

Second, we are trying to do modernization funds, and I voted, and I was an early supporter, as the gentleman from the District of Columbia [Mr. FAUNTROY] knows, of the amendment to do the tenant management. I was in the city of Boston when Bromley Heath, one of the first of these, was started in 1969. I think tenant management helps.

And that is the last point that I want to make. Home ownership is a good thing, but let me say a word in behalf of tenants. I am sorry that nasty people ruined that lovely beach house that my good friend from Connecticut has and never invited any of us to—I am sorry about that—but let us not overly denigrate tenants. I mean, I was a double tenant until they decided that I had to buy my condominium, which I did not want to own because it was a pain in the neck. I have been a tenant all my life. I do not ruin property. Not only that, most people in public housing are going to continue to be tenants. Let us not overargue and suggest that tenants cannot have pride in where they live. Most people are decent people.

I understand that the gentleman from New York [Mr. KEMP] has not done that. But there is a danger in some people suggesting that only home ownership will work. We have tenant management. Most tenants are going to continue to be tenants. I do not think that it is inconsistent to say that we can instill pride there.

I would be glad to work with the gentleman at a future date, and I really do think in this case where HUD is doing a demonstration project that by the end of this year we will have some data, and next year will be an appropriate time.

I think that there are some common goals here, and I appreciate what the gentleman is doing. I do not think that this amendment does it.

Mr. KEMP. Mr. Chairman, will the gentleman yield further?

Mr. FRANK. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I want to remind my friend from Massachusetts, who makes a very important point about tenants having dignity and pride—and I want to acknowledge that as well—

Mr. FRANK. The only thing that tenants do not have that owners have is a good tax deduction.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

(By unanimous consent. Mr. FRANK was allowed to proceed for 1 additional minute.)

Mr. FRANK. Mr. Chairman, I yield further to the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Chairman, I want to remind the Members that this may not be the best thing for every public housing project. We acknowledge that. One of the conditions among others was to allow for a tenant-management project to go forward where democratically speaking the people would decide that they want to fix up their apartment and convert into private ownership. If somebody does not want to participate, he does not have to. So I do not think that it is quite as radical as the gentleman from Massachusetts suggested.

I would urge that my colleagues give it greater consideration than just a little tiny pilot project in one part of the country or another.

Mr. Chairman, I thank my colleague.

Mr. FRANK. Mr. Chairman, I would just again point out that we have a problem here where people will buy this at 25 percent, and 6 and 7 years later when they die or they sell it off, that housing then goes to wealthy people, people with no income restrictions. I do not think that that is the way to protect the interests of low-income people or the housing stock, and that will inevitably happen. Where people have this, within 6 or 7 years, particularly in some of the elderly projects, we will begin to lose it.

□ 1710

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was pleased to join the gentleman from New York [Mr. KEMP] in introducing this measure and I am very pleased that he has taken the leadership to bring this to the attention of the Congress and the Nation.

I cosponsored it because my own experience in the Nation's Capital has demonstrated that tenant ownership of public housing can work. We in the Shoreham renewal area now some 20 years ago when we fashioned that renewal area included something called turnkey three public housing by which public housing funds were used to build structures and public housing tenants were allowed to move in, but with ownership of the units with the Federal Government paying the differences between what their public housing rents could afford them and what it actully cost for the units.

I believe that careful consideration of this bill with the kinds of concerns that have been raised here at a later time will enable us to fashion a home ownership program that on the one hand will provide ownership and pride for those now living in public housing, at the same time on the other hand that it continues our commitment to build more public housing stock, because none of those programs is going to be sufficient to meet the needs of the poor that I think we in many instances are abandoning because we are cutting back on public housing and new construction. New construction can be done in a fashion that home ownership is accorded the public housing residents, we have proved it in the District of Columbia, with turnkey three public housing. I hope that we will be able to examine this in a very significant manner around this bill as introduced.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I am happy to yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman's comments and his effort on behalf of the folks that he represents in the District of Columbia and also the comments of our friend, the gentleman from Massachusetts [Mr. FRANK].

In response to the earlier comments of the gentleman from Massachusetts [Mr. FRANK] about what would happen if a senior citizen in a project were to buy it and then in 5 years leave it or sell it to his or her family or children or grandchildren, whatever the case may be. I want to make sure that at least I am on record as suggesting that one of the reasons that all parents are working and saving and investing in education and homes and apartments and housing is so that you can give your children a better future. I know the gentleman is not diminishing that incentive, but I want to make clear that at least I am on record as suggesting that I do not mind that part of the bill that will allow a family the opportunity over time to buy that apartment and at some point, after 5 years or 7 years or whatever the time frame is, to be able to transfer or sell, because that is what home ownership is. It is a choice and a chance to leave your children a little piece of an estate that is an incentive. I think that is what the American dream is all about and I did not want, as I said, not to have it answered.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I talked about a case of someone already elderly in a public housing project. If you are elderly, your children can be wealthy and you are still eligible for public housing. The parent working to make things better for us or her children is a nice concept, I am all in favor of it. A 75-year-old who happens to have one son who is a doctor and a daughter who is a lawyer who buys the nice public housing unit for 25 percent and is able to pay it off and then 6 years later leaves that in her will to the doctor and the lawyer, that is a version of the American dream that I would love to hear the gentleman from the District of Columbia [Mr. FAUNTROY] sing, but it has not evoked from my heart strings quite the twang that it seems to provoke from my colleague, the gentleman from New York. That is all I am talking about.

We are not talking about people working their way up. We are saying that someone who is already elderly and who has wealthy children, "Here, make your kids richer."

I think it is possible to devise a program that would not allow that, but the gentleman has not done that. I would be glad to work with the gentleman in the future, but the example I give I guarantee is one that would help under the amendment as offered.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I appreciate these hypothets from Boston. Now, in Detroit, most of the poor people in public housing do not have rich sons or daughters and a doctor somewhere. I am sorry to report that.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair wants to remind guests in the gallery that they are here as guests of the House and the Chair will not allow displays of any kind from the gallery.

Mr. CONYERS. Mr. Chairman, that is all I wanted to add, because the illustrations that my dear friend had been using up to now were within a realm that we in the Middle Western States can appreciate, but to suggest that we are worried now about rich sons and daughters inheriting the property, I want to make sure that this property does not go back to speculators, to real estate brokers and the like.

The CHAIRMAN. The time of the gentleman from the District of Columbia has expired.

(At the request of Mr. FRANK, and by unanimous consent, Mr. FAUNTROY was allowed to proceed for 1 additional minute.)

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. I was not suggesting that in Detroit that was the situation. I guarantee to the gentleman from Michigan, I was talking about elderly housing.

There are people in this Chamber who have parents who live in elderly housing. In elderly housing and various parts of this country there are people who are themselves elderly who meet the eco limitation and have children who are by no means poor. That is a fact.

Now, that does not mean the whole idea is no good. What I am objecting to, and I do not think the gentleman denies that, there are people who live in New York City and other people who live in Boston and elsewhere, there are wealthy children who have parents in public housing. I do not think they should be able to get this gift.

Mr. FAUNTROY. Mr. Chairman, if I may reclaim my time momentarily, I simply want to say that I am pleased that the gentleman from New York is not going to move this to a vote now, but this kind of discussion I think is worthy of being had in hearings leading up to a vote on a measure which I think we can pass that will provide the home ownership opportunities for those in public housing and those moving into new public housing.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

I was rising to ask the author or one of the authors of this amendment, the gentleman from New York [Mr. KEMP], if he could consider something here.

It is obvious even from this brief discussion that there are very serious questions, given the language of the gentleman's amendment presently drafted.

Also, it is well established that the administration is conducting a study, as I understand it a rather extensive study, on a demonstration program on the sale of public housing.

In view of all this, I would like to ask the gentleman from New York if he would withhold his amendment so that those of us on the substantive committee could have a chance to hold hearings and go into this question and also have the benefits derived from the study that HUD probably will have terminated by the time to conduct our hearings.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Certainly.

Mr. KEMP. Mr. Chairman, I must admit that it is tempting and I do not want to diminish the sincerity with which the chairman raises the issue of working out some compromise.

I must say, I am in a little bit of a quandary because I think certainly the gentleman from Massachusetts did not mean to demean the attempt that we were making, but I never really got it established that I thought that for a rich doctor or lawyer to leave his or her mother or family in public housing, I think that was treating the problem with less than the dignity that it deserves.

I said earlier on that I was trying to establish a view of America in which the public housing residents had as much chance or had as much opportunity to provide home ownership and the pride of property as anybody else.

Is the chairman asking me to pull the amendment, is that it?

Mr. GONZALEZ. Well, if I may recall my time in order to answer and clarify my request, I am saying that at this time it is obvious that it is not the proper environment in which to enact this serious legislation.

I agree with the gentleman that it does not deserve levity. I for one certainly do not consider it anything but one of the most important issues confronting us.

The reason I am saying this is that we have been also very anxious to get the benefits of HUD demonstration program, because among other things the yet to be evaluated legal problems. For instance, in my State of Texas in order to convey title, you have to have a deed of trust and a warranty deed. We have been victimized in Texas in the past with contracts of sale which have victimized whom? Well, the poor-

est of the poor who wanted to buy that 25-foot lot and the little shack which today is substandard housing, but still a roof.

So all I am saying if the gentleman would consider my respectful and serious request to defer on his amendment for the time. No harm will come to his very noble endeavor to bring about a viable experiment and more than a demonstration program, a suitable and viable piece of legislation that will fulfill his desires and his hopes for this type of program. That is simply what I am asking.

Mr. KEMP. Well, I am not now saying anything with regard to the chairman's commitment, because I know it is sincere, or even that of the gentleman from Massachusetts, because he told me earlier that he was willing to work with me on this and I appreciate that, so let me make sure that I get that on the record.

My concern is that the bureaucracy, even though it is the bureaucracy of the current administration at HUD, will not want to move as swiftly toward the completion of that project that I think is important. It may be a good vote on the floor of the House, signaling our intent to encourage this type of right to buy by tenants and people who manage their own public housing projects, it might be a very demonstrable signal about what direction we want to go.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I want to respond to the gentleman from New York suggesting that I was not treating this with the proper dignity.

I think it is the amendment, frankly, that causes that problem. I do not say that the situations I cited were typical. I say that they exist and I object to an amendment, which though well intended, is not drafted tightly enough to deal with that.

I think the problem lies frankly in the amendment that will allow that to happen.

We do not have good, inhabitable public housing stock; it is a scarce resource and one that is likely to diminish than increase, so we are all going to work to try to deal with that. To allow it to be sold off with no safeguards and in this big country there will be situations like that, I think that is the problem. I did not create this.

I would favor a home ownership program that does not allow that; so I think the problem, I guess I object to being accused of creating a problem when I simply am calling attention to one.

I think a properly drafted amendment with more time and effort could deal with that, but this is not it.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am glad to yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I thank my colleague from Massachusetts for his comment.

Then would not a vote on the floor at least on the concept be an important signal about the direction that Congress wants to go?

Mr. FRANK. Mr. Chairman, will the gentleman yield to me?

Mr. GONZALEZ. Oh, certainly.

Mr. FRANK. Mr. Chairman, I would just say to my friend, if he wants to send signals, he should join the Signal Corps or get a job on the railroad.

No, we do not sit on the legislative floor here to send signals. We are drafting legislation.

If the gentleman wanted to do some nonbinding resolution which says this would be a good idea, I think that is all right; but to put it into law is something else. The House of Representatives is not a student council. When we do things, we do them theoretically to have a binding effect.

I think it is a mistake to write into a statute a badly drafted amendment that would allow these things to happen.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am glad to yield to the gentleman.

Mr. KEMP. Mr. Chairman, there goes the gentleman from Massachusetts again. He cannot resist a chance to turn the very friendly debate into a way of demeaning the attempt of the gentleman from New York and the Delegate from the District of Columbia and others who believe that tenants should not only have the right to manage their own property, but ultimately to buy it. There are 60,000 units that are vacant today that ought to be sold off.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, if the gentleman from New York will permit, I hope the gentleman will not let his judgment be clouded by perhaps a malinterpretation as to the thrust of the remarks of the gentleman from Massachusetts. None of us are exempt from the barbs of the gentleman from Massachusetts. We have learned to kind of set up an immune system to those, but I think in all seriousness, the reason I am suggesting this, and let me say this to the gentleman from New York if he will listen to me, this is a request I have never made in the 25 years I have been in this House. I have never asked a colleague to withdraw. I, in turn, have been asked on many occasions and in most of them I have.

□ 1725

In this case, the reason I am saying, this is the most effective way, I believe, that the gentleman from New York can show his good faith in bringing about the enactment of effective, viable legislation is to give that opportunity to legislate with a background of experience and knowledge which can be derived once the HUD study and experiment is concluded.

So with that, I leave it up to the judgment of the gentleman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I am interested in this legislation and so are most of the Members on the floor now, but I think that the chairman has made a rational appeal that we go back to the drafting board.

I, for one, will join in whatever decision the gentleman from New York chooses to make. I am hoping that it probably will not come to a vote today but that we can refine it, have hearings in the committee, and move forward from that point.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. SCHUMER and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would just concur with the comments of the gentleman from Michigan. There are other provisions in this title that I am not sure of.

What happens, for instance, after 3 years and the boiler explodes and you need a major repair and there are lots of poor people living in there?

I like the idea of home ownership. I think home ownership, all other things being equal, works better than anything else, but I think he has floated the concept, he has certainly pricked our imaginations and we ought to get down to trying to draft something together that will deal with the many contingencies that this new and interesting path would take us upon.

So I would urge at this point that we consider this a well taken debate in the best of spirit but not force people

to vote yes or no on this particular issue.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, let me say something very carefully to the chairman and to my friend, the gentleman from New York, and also to my friend, the gentleman from Michigan who has expressed an interest in asking me honestly and sincerely to withdraw at this point.

I am not interested in a victory legislatively. I would really like to see this project go forward.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has again expired.

(On request of Mr. KEMP and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. KEMP. If the gentleman will yield further, let me tell the gentleman why I am reluctant.

In 1979, ROBERT GARCIA from the South Bronx, JACK KEMP, and Congressman BILL GRAY introduced enterprise legislation. Twenty-seven States have enterprise zones. The U.S. Congress, at least the House, has not passed it. I have begged, pleaded, cajoled to get a vote on the floor of the House. But we cannot get enterprise zone bills.

This may be the only chance I ever get. It may never come back. I do not doubt the sincerity of the chairman of the committee, but how can one, as a minority Member of the Congress, ever get a chance to get a piece of legislation through if one does not at that propitious moment require a vote? I do not see why it is going to disrupt the United States of America to have a vote on the idea of allowing inner-city residents to buy their own piece of property, Mr. Chairman.

Will the chairman agree that he would hold hearings on this subject? Would he help me get a vote on enterprise zone legislation in 1986?

Mr. GONZALEZ. I thought I had indicated that I would on the question of the amendment the gentleman presented on enterprise zones. We have sequential referral on some of the versions that have been introduced, including the one by the gentleman and Mr. GARCIA; that is, part of the gentleman's bill would go to the Committee on Ways and Means for approval. Part would be in two other committees, perhaps including ours, perhaps not, because the gentleman is talking about suspending some Federal legislation.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has again expired.

(On request of Mr. WATKINS and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. I will remind the gentleman that he said in the well that he was not intending to ask for a vote on his amendment.

Mr. KEMP. I was not until it became an issue that I was somehow selling off all of the public housing stock.

Mr. GONZALEZ. Do not misinterpret me. I believe in the processes we are undergoing now.

Mr. KEMP. So do I.

Mr. GONZALEZ. In fact, in markup the subcommittee had the longest, prolonged sessions in markup. We had over 130 amendments offered during the course of the markup. That has never happened before. So all I am saying is that for the purposes of perfecting acceptable legislation on this issue that I think the purposes would be better served if we withheld at this time.

Mr. KEMP. I appreciate that. Mr. Chairman, may I say to you in all honesty and candor that I do not disagree necessarily with what the gentleman just said, but as a backbencher in the minority party, it seems to me it may be the only way I will ever, ever get a chance to get this bill to the floor of the House on enterprise zones and other legislation that we think is in the interest of fighting poverty in the inner cities of the United States of America.

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise because of a concern I have. I might be in support of the amendment offered by the gentleman from New York and I support the position of the chairman of the committee on having hearings and looking into it, because I might be in support, just like the gentleman from Texas is, of the particular amendment of the gentleman from New York except when talking about public housing, in rural America we also have public housing and I would like to know how that is going to be affected and how it is going to be implemented.

I think if there is a vote right now, I would have to oppose the amendment, but in rural America there is some section 203 and section 207 housing, and section 515 and a number of others. What all will be included under public housing? How will it affect rural America? Are we talking about across the board?

I think it would be very worthwhile to accept a delay and have the hearings because right now I do not know how it is going to affect the rural areas and how it is going to affect the people. I kind of like the idea.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. Yes; I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, I have talked with the Delegate from the District of Columbia, my friend with whom I worked on tenant management, and I have talked with my friend, the gentleman from Michigan [Mr. CONYERS] and the gentleman from California [Mr. DELLUMS], and yourself, Mr. Chairman.

Mr. Chairman, I ask unanimous consent, based upon the statements that the gentleman from Texas has made, for which I am grateful, to withdraw my amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ARMEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I will yield to the gentleman from Texas, but let me say one thing to the gentleman from New York.

I think we may have a worthy amendment there if we can get some answers, but I have also been very supportive of enterprise zones, trying to get that there.

Mr. KEMP. I know the gentleman has.

Mr. WATKINS. I understand where the gentleman is coming from there.

Mr. Chairman, I yield to the chairman, the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, I merely wanted to express my gratitude to the gentleman from New York because this is one of the myriad of questions that have arisen in our minds, the staff and mine, as we were listening to the discussion and the presentation of the gentleman's amendment. It is the only reason that would motivate me, because I do not fear the outcome of a vote.

Mr. KEMP. I know the gentleman does not.

Mr. GONZALEZ. This is the process. But I really was saying this in good faith.

Mr. KEMP. You have, Mr. Chairman, and in good faith I ask for unanimous consent.

Mr. WATKINS. I think the willingness of the gentleman from New York to withdraw his amendment has taken a very honorable position and those who are basically in support of the gentleman from New York I would like to suggest go along with him on it because I think that is the only way we can get to a workable product and one that could actually be passed.

I would probably have to oppose it right now on the floor and encourage everyone from rural areas of this

country to oppose it because we do not know exactly how it will affect the various farm home programs, how it will affect the various public housing programs of HUD in the rural areas. I think the gentleman from New York has made a very honorable move there and I support his effort to withdraw it and have hearings. I would surely encourage the others because I would probably have to oppose it right now because I do not know how it is going to affect the rural America. I think the gentleman from New York took a very honorable position there and I would encourage the rest of the people to back him.

□ 1735

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, let me say to my colleagues on my side of the aisle, the chairman of the committee has sincerely and honestly and very candidly suggested that he would move toward the types of hearings that I think would give us a chance to elevate the consciousness of the country and the Congress toward this issue of home ownership. There also is, I think, hopefully, a new-found interest in enterprise zones.

The gentleman from South Bronx [Mr. GARCIA], is going to introduce that amendment in this bill. Hopefully it will pass and in the spirit of comity and in the spirit of some progressive legislation for the future.

The CHAIRMAN. Does the gentleman renew his unanimous-consent request?

Mr. KEMP. Mr. Chairman, I am renewing my unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ARMEY. Mr. Chairman, I reserve the right to object.

Mr. KEMP. That is progress, let me say to my friend.

Mr. ARMEY. Mr. Chairman, having done so, let me first apologize to the gentleman from New York [Mr. KEMP], the gentleman from Texas [Mr. GONZALEZ], and the gentleman from Oklahoma [Mr. WATKINS], and the gentleman from Michigan [Mr. CONYERS] for having expressed my earlier objection in such a startling and loud manner. I was caught a little off guard.

The reason I am reserving my right to object is that I have not yet been heard on this debate. I have been sitting on this floor now for 2 hours and I have yet been recognized.

I understand the protocol of the House and the rules with respect to recognizing committee members, but I have worked a great deal on this issue. I have invested a good deal of my own heart and mind in this issue. I care about it a great deal. I see this as an opportunity for us to get this issue before the House and to vote on it, an opportunity that I fear we may not soon come by again.

I feel very concerned about letting this opportunity go by and I must say to the gentleman from New York [Mr. KEMP] that I am at this point very certain that I will express my objection unless I have an opportunity to be heard on this bill, which I think is so important.

The CHAIRMAN. Is there objection to the unanimous-consent request of the gentleman from New York?

Mr. ARMEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words and rise to support the amendment.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to my friend, the gentleman from California.

Mr. HUNTER. Mr. Chairman, I have to concur that this is not only the amendment of the gentleman from New York [Mr. KEMP], but also the amendment of the gentleman from Texas [Mr. ARMEY], in that the gentleman from Texas has been very actively supporting that bill. I sat in on a session this morning in which the gentleman encouraged everybody to support it and advocated its support.

Let me just say as one Member who has spent a little time at the Kenilworth project that I was extremely impressed with the tremendous progress which they have made. I understand the problem that the committee has with the so-called subsequent conveyance, the idea that somehow if we pass this thing without working on it further, the people will be able, when they once receive this property and take private ownership, to convey it to a third party. At some point, this property is going to be removed from the inventory of public housing.

I would say simply that that is something that is going to come about. Some people are going to be successful; some people are going to fail, but we cannot keep control of these people and of their property forever.

You cannot give a person the American dream; that is, the right to own a home, without also giving them the attendant rights of being able to convey that home, to encumber that home when trying to, for example, borrow money to educate their children or to do other things that are important.

Just in closing, I do not want to take up too much time, I know Kimi Gray was a very eloquent spokesman for the Kenilworth project and we asked her. She gave us some very impressive statistics because along with this self-determination that those people have, they have reduced the teenage pregnancy rate substantially. They have reduced their welfare dependency substantially and we said, "How did you do that? How did you manage to do this with your kids?" She said very simple, "We lifted their vision."

I think that this Kemp, and I would like to call it the Kemp-Armey amendment, will do just that, will allow the people of the project and many other projects to lift their vision to the greatest dream in America, and that is owning your own home.

Mr. ARMEY. Mr. Chairman, I want to go back to 1964. In 1964, President Lyndon Johnson said our housing goal should be to put a decent roof over every American's head. Do you understand and do you recall the anger and the debate we had, remember the rhetoric that we heard in 1964 about the slum landlords, absentee owners, the state of disrepair, the awful living conditions that our American citizens lived under? And do you remember the promise that was made as we began to build these units that they would have decent housing?

That was a promise this Government made. By 1984, 220,000 of those units were standing substandard, in disrepair. You did not have to go look at them; you could see by the highways the awful living conditions and the impact that had on the spirit, the human spirit that gave us people that were dope addicts, alcoholics, battered and abused children, low literacy rates. We were right back in the slums.

We have 65,000 of those units that we built standing vacant because the promise was a false promise. We cannot do this for the people. The people found this out. They understand.

Kimi Gray, in 1979, went to the city and said, "Let us do it for ourselves," and they did it. They cleaned up the streets and they got them so clean they will not even let the city pick up their garbage because they cannot do it good enough. They ran out the drug dealers. They lowered the teenage pregnancy by 50 percent and they did that, as the gentleman from California [Mr. HUNTER] said, by raising the vision.

The Government did not raise those youngsters' vision; the moms and the dads. Kimi Gray says, "One major result from tenant management was the return of fathers who had left their homes so their families could receive welfare payments. Those fathers came home," she says, "and we found in our midst plumbers, carpenters, painters and people with the skill to fix up for theirselves." Those 220,000 units can be repaired, replaced, put back into service. Those mothers and fathers can reunite and take care of

their children. This amendment is a cautious amendment. I endorse it.

The CHAIRMAN. The time of the gentleman from Texas [Mr. ARMEY] has expired.

(By unanimous consent, Mr. ARMEY was allowed to proceed for 3 additional minutes.)

Mr. ARMEY. Mr. Chairman, I want to make the point that this amendment is a cautious amendment. My problem with the amendment is it is built too much on reservation, too many safeguards, too many protections against what we fear might be the failure of these people to rise to that vision.

I think these people will rise to the vision. They have already done it. They need us to give them the chance to have the same thing we want for ourselves and our children.

I have a 70-year-old woman who says, "I am no longer on welfare. I love the independence." They sent their children to college in Kenilworth with the hope that they would come back. I hope that 70-year-old woman does have the right to buy her house and I hope when she is done, she sells it to her son, the doctor, and he comes back to Kenilworth and she lives with him and her grandchildren and they get what they are entitled to in America because we gave them that freedom.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I am glad the gentleman from Texas [Mr. ARMEY] yields at this point because I do not think he wishes to be accused of inaccurate statements.

We were the first to go to Kenilworth, before anybody else did. When I say we, I mean the subcommittee. But I had been there as an individual at the beginning. I have been to every single public housing project in the District of Columbia, not in an official capacity. I have been into about nine in an official capacity; that is, in the name of the subcommittee.

Now, when the gentleman from Texas talks about Kimi Gray and Kenilworth, he is not talking about homeownership. Kimi Gray will be the first to tell you that they are not prepared to be homeowners. She will be the first; she told us in open committee hearings.

□ 1745

Mr. ARMEY. If the chairman will allow me to reclaim my time, Kimi Gray told the Washington Post last week: "The job is not done, we will not rest until we figure out a way to buy this place."

Mr. GONZALEZ. That is right.

Mr. ARMEY. I want to make one point, and I want to be very clear on this. This is a well-thought-out amendment; it is extremely well prepared to cover all cases. If we do not do this now, then when? And if we do not do it, who will? These people deserve better than they have got; they do not deserve to have Uncle Sam be their slum landlord of the 1990's.

Mr. KEMP. Will the gentleman yield?

Mr. ARMEY. I yield to the gentleman.

Mr. KEMP. Mr. Chairman, thank you for your participation in this debate, and just to clarify, that woman that you mentioned, Kimi Gray, who has become kind of a folk hero on the floor of the House today—in her letter to Delegate FAUNTROY and to JACK KEMP recently she said:

We labor in all of these pursuits with the ultimate dream of acquiring our homes through the process—

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. KEMP and by unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. I yield to the gentleman from New York [Mr. KEMP].

Mr. KEMP [continuing]. Of acquiring our homes through the process of cooperative ownership that you have outlined in your legislation. I join Mr. Kemp and Mr. Fauntroy in urging the Congress to give us the chance to empower ourselves by acquiring the ultimate equity state of ownership in our community."

One hour ago we turned down an amendment to eliminate the Nehemiah housing opportunity grant program. I voted with most of us on the floor not to diminish the chances for Nehemiah to move forward, and it provides $15,000 of assistance from the Federal Government to incomes above $22,000—which is nominal, low, moderate-income homes, to purchase homes, to purchase property.

We are doing more for middle-income homeowners than we are for Kimi Gray and the low-income residents of the District of Columbia. I think we should do at least as much for the poor as we are doing in the Nehemiah project, and I frankly think this is what Kimi Gray meant when she said to be empowered by owning her own piece of property.

Mr. GONZALEZ. Will the gentleman yield?

Mr. ARMEY. I believe I am obliged to yield to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. The gentleman says this is a well-thought-out amendment. I am sitting here trying to make sure I represent the people in rural America.

What does this amendment do to the sections of the Farmers Home Administration—sections 2, 3, section 223, housing; section 515, housing—what does it do to those?

Mr. KEMP. Will the gentleman yield so I may respond to that?

Mr. ARMEY. I yield to the gentleman from New York [Mr. KEMP].

Mr. KEMP. This only affects properties under the Public Housing Authority. That is all.

Mr. WATKINS. What is the last statement?

Mr. KEMP. The 1937 act setting up the Public Housing Authority—this would only affect the properties under that legislation.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. WATKINS and by unanimous consent, Mr. ARMEY was allowed to proceed for 2 additional minutes.)

Mr. ARMEY. I believe that it would not affect the housing units you are concerned about. If the gentleman would like to include them in this magnificent idea, I would be happy to join in drafting additional legislation to cover those areas.

Mr. WATKINS. If the gentleman will yield, I want to make sure that we carefully look at the situation and not include those, and I think under the 1937 Housing Act, it may take under section 223—what about the section 8 housing?

It does not take in section 8 housing?

Mr. GONZALEZ. Will the gentleman yield?

Mr. ARMEY. I yield to the gentleman.

Mr. GONZALEZ. Mr. Chairman, I must do two things for the sake of accuracy in the record. First, that of course it would have absolutely nothing to do with the Farmers Home Administration-administered housing for the poor.

Second, the gentleman from New York [Mr. KEMP], and I want him to listen to me carefully, is actually confused as to the thrust of the Nehemiah financing. The $15,000 is a loan. It is not a grant. It is not a grant.

Mr. KEMP. I did not say it was, Mr. Chairman.

Mr. GONZALEZ. But you did. You said——

Mr. KEMP. I said $15,000—it is $15,000 of credit; whether it is a loan or a grant, it is still $15,000 of assistance.

Mr. GONZALEZ. Well, it makes a big difference if you are talking about selling to the poor that qualify for public housing tenancy.

Mr. KEMP. I voted with the chairman. All I am saying is, it is a program for low- and medium-income people. We ought to do as much for Kimi Gray as we are doing for people earning $22,000.

Mr. GONZALEZ. In any event, I wanted to clarify that, and I wanted to reply to the gentleman from Oklahoma's [Mr. WATKINS] question that of course it would not embrace any kind of rural housing, the other assisted housing programs that have been set

up by the Congress for the poor and the moderate income.

Mr. ARMEY. I thank the chairman. Again, I would like to encourage everybody with the few seconds I know I must have remaining, this is our chance in this House to fulfill the promise of 1964 and let the poor people of America put that roof over their head that they want.

Mr. McCOLLUM. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that we have in this debate lost sight a little bit in the details of the ultimate bottom line.

No. 1, this is one of the most creative pieces of legislative proposals that have come forward in a long time to the floor of this House. No. 2, this is an opportunity being provided; not any absolute giveaway or sale or anything else; it is an opportunity being provided under this amendment for the homeownership by low-income Americans, an innovative, truly creative concept that needs to be pursued.

I think that despite all the questions that have been raised here today about, well, would it do this; could somebody else who has got a little extra wealth on the side benefit or profit by a nuance here or there—the bottom line is that this proposal is as well-drafted, as well-crafted, as well-brought out here on the floor as almost anything could possibly be, or is brought out to the floor of the House.

Let us get a chance, if the gentleman from New York and others will allow, let us get a chance for us tonight to adopt it, put it into practice, let it get a running start, and we can come back as we always do down the road and corect things and make changes in them and so on. It is a very limited proposal; but is very creative, very innovative, and I opposed the Nehemiah earlier; all Members know I came down with the amendment to strike it, but I happen to think that this particular proposal of homeownership is a very, very important step forward as far as American public policy is conerned.

I very strongly urge my colleagues to not just let this go tonight; and for my colleague from New York [Mr. KEMP] to withdraw it, to consider it some other day, but let us go on and let us have a chance to vote and do it, produce it.

Mr. VENTO. Will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman.

Mr. VENTO. Mr. Chairman, I was absent from the floor and not able to participate fully in the debate, but I have some grave reservations about this particular approach.

I wonder—we comment about the amount of public housing that we have, about 3½ million units. The fact is, we are focusing on public housing in the cities to in fact sell, but, once that is done, then the coming generations of low-income individuals that might otherwise qualify, that housing would be in fact in the hands of someone else that was fortunate enough to purchase it.

We have had homeownership programs: the 235 programs, the FHA, and the VA programs. Is it necessary now, once that is gone, that stock of housing would not be available for low-income individuals? I apologize for not being on the floor earlier, because some of this may have been discussed, but the fact of the matter is that this housing is necessary and needed.

There was some comment about the fact that much of this housing—still under contract as a matter of fact; it is not paid off; in other words, it is still running under its contracts—is in fact substandard.

Much of that housing, the senior citizen housing and much of the public housing, about 50 percent of which has the elderly in, incidentally, is very successful in our communities. We need that housing stock for these low-income individuals, and we need it today and we are going to need it in the nineties.

Is the gentleman willing to support public housing construction for sale? That would be an innovative approach; it is not anything that we have subsidized as deeply before.

Mr. McCOLLUM. First of all, reclaiming my time, there will always be provisions for public housing in this country; there is a need for it. The fact of the matter is we are not going to see everybody rush forward and buy all the public housing under this program tomorrow morning.

I will yield to the gentleman from Texas [Mr. ARMEY] who is partly the author of this proposal, to explain further what happens to the public housing stock under this proposal.

□ 1755

Mr. ARMEY. I thank the gentleman for yielding.

I would like to respond to that point. We have had VA, we have had FHA and if memory serves me correctly, we have always understood this is the basis to get that starter home, the dream of owning your own home and then of owning your dream home. That begins with that starter home. You finance it, you put in your sweat equity, and fix it up, you live in it, you build that equity and, yes, you move on after you sell out. And you sell out to somebody else who wants that starter home. They are not recycled. They are cycling the folks out of there after they have grown out of there and giving other folks their own opportunity.

Mr. McCOLLUM. If I may reclaim my time before I yield again, I think the point is this: Yes, some of the housing stock may be sold off, but a lot of Members like this one would be a lot more willing to see some Government input, in funding in the housing program of this country in the future to build housing stock that we know is going to go toward private homeownership and the pride that goes into it and the improvements that are made. If we adopt a proposal like this and get going down the road where we can see some light at the end of the tunnel, as the proverbial statement goes, I think that is the bottom line. We are not going to sell off all the housing stock so that there will not be any more.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I think the question is, are we willing to construct public housing and then to basically provide it at a reduced cost to a very-low-income individual? I think you have some actuarial problems in terms of the soundness of a program, whether they will be able to maintain that down the road. I understand the initiative, the dream of homeownership. All of us do. But I am just suggesting to you do not take the housing that we have given up in terms of blood, sweat, and tears in terms of our communities that is successful for low-income people. You certainly would not want to provide housing, for instance, at Cabrini Greens or others that have the problems in terms of providing housing. Let me also point out, if the gentleman will continue to yield, we have some successful program that use a very, very shallow subsidy. For instance, tax-exempt bonds in my own community provide for homeownership, equity and a means of passing on that equity. The point here is, once you provide this first entry-level home, what happens in terms of the equity growth of it? In other words, it will grow out of and away from the availability and affordability of the very people you are talking about.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has again expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 3 additional minutes.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California, who has been seeking time.

Mr. HUNTER. I thank the gentleman for yielding.

The gentleman has made a very good point. That is, we really subsidize with Government moneys most homeowners in this country. As an owner of a VA home, I know that.

The other point is that this Congress at some point has to be willing to let go and to acknowledge and to go ahead and surrender to the fact, let go and acknowledge that these home owners at Kenilworth may very well sell their houses in the near future. That is part of the American dream, trading up, buying other homes is part of the American dream. This is not really Mr. KEMP's amendment, it is not really Mr. ARMEY's amendment, it is Kimi Gray's amendment. It belongs to her and a lot of other people like her.

I am absolutely dismayed at the adversity and the objections that this committee has raised to this thing.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Very briefly: Just all of the issues that have been raised by our friends, perhaps on both sides of the aisle but particularly on the Democratic side of the aisle, are equally applicable to the Nehemiah program. The Nehemiah program is a subsidy. I voted for it. But it is a homeownership program for low-income and moderate-income people. Every single thing that you have said against the Kemp-Fauntroy amendment has the same problem with Nehemiah, only this is allowing low-income people to get a stake in homeownership, not just upper-income people.

Mr. KOLBE. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Arizona.

Mr. KOLBE. I thank the gentleman for yielding.

Mr. Chairman, I appreciate, as I was listening to the gentleman from Minnesota's remarks where he was saying we need to maintain this stock of low-income housing because we need it for those who are low-income people, subsidized housing.

It seems to me what we are saying is we need to maintain these people in this housing. It seems to me we have it backwards.

If we can recycle these people out of poverty and recycle subsidized housing projects out of poverty, having people own their own homes, that ought to be the goal of what we are trying to achieve here.

Mr. McCOLLUM. Reclaiming my time, that is exactly the point. That is the purpose of what this whole amendment is about, and I thank the Chairman.

Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think that the gentleman, Mr. KOLBE from Arizona, misstated my position. My position with regard to who is in low-income housing is not that we intend to keep folks there. The understanding is, and I guess the hope is, the hope of all of us, is that folks get help when they need it and then that help is available when someone else moves up in the mainstream of our society in the world of work. That is what we are shooting for. We know we have the tragedy of second- and third-generation individuals on welfare. But the truth of the matter is you cannot feed the cows the seed corn in order to continue a productive type of entity in terms of producing the crops down the line. That is basically what you are doing here. That is what is different fundamentally about this, what is different about Nehemiah. Nehemiah is a good program. I am glad we have bipartisan support.

I think we ought to have that for homeownership, low-income ownership, try to give people a stake in our society. I think homeownership is enormously important. What I am dismayed about with regard to what is going on here is we are taking public housing, some of which is very successful, some of which has endemic problems and utilizing that, that type of housing stock which should remain available in a successful mode for low-income individuals now and in the future; not to be utilized and given away, in other words throwing away the seed corn at that particular point.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. KEMP].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 176, not voting 19, as follows:

[Roll No. 159]

AYES—238

Anderson	Bilirakis	Byron
Andrews	Bliley	Callahan
Applegate	Boehlert	Carper
Archer	Boner (TN)	Carr
Armey	Borski	Chapman
Badham	Bosco	Chappie
Bartlett	Boulter	Cheney
Barton	Brooks	Clinger
Bateman	Broomfield	Coats
Bentley	Brown (CO)	Cobey
Bereuter	Broyhill	Coble
Bevill	Burton (IN)	Coleman (MO)
Combest	Kindness	Roemer
Coughlin	Kolbe	Rogers
Courter	Kostmayer	Roth
Craig	Kramer	Roukema
Crane	LaFalce	Rowland (CT)
Daniel	Lagomarsino	Rudd
Dannemeyer	Latta	Russo
Daschle	Leach (IA)	Saxton
Daub	Leath (TX)	Schaefer
DeLay	Lewis (CA)	Schneider
DeWine	Lewis (FL)	Schuette
Dickinson	Lightfoot	Schulze
Dicks	Lipinski	Sensenbrenner
DioGuardi	Livingston	Sharp
Dorgan (ND)	Loeffler	Shaw
Dornan (CA)	Lott	Shelby
Dreier	Lowery (CA)	Shumway
Duncan	Lujan	Shuster
Durbin	Luken	Siljander
Dyson	Lungren	Sisisky
Eckert (NY)	Mack	Skeen
Edwards (OK)	Madigan	Slattery
Emerson	Marlenee	Slaughter
Erdreich	Martin (IL)	Smith (NE)
Evans (IA)	Martin (NY)	Smith (NJ)
Fawell	Mavroules	Smith, Denny (OR)
Fiedler	Mazzoli	Smith, Robert (NH)
Fields	McCain	Smith, Robert (OR)
Fish	McCandless	Snowe
Flippo	McCloskey	Snyder
Florio	McCollum	Solomon
Ford (TN)	McDade	Spence
Franklin	McEwen	Stallings
Frost	McKernan	Stangeland
Fuqua	McKinney	Stenholm
Gallo	McMillan	Strang
Gaydos	Michel	Stratton
Gekas	Miller (OH)	Stump
Gibbons	Miller (WA)	Sundquist
Gilman	Monson	Sweeney
Gingrich	Montgomery	Tauke
Glickman	Moorhead	Tauzin
Goodling	Morrison (WA)	Taylor
Gordon	Murphy	Thomas (CA)
Gregg	Myers	Valentine
Guarini	Natcher	Vander Jagt
Gunderson	Nelson	Volkmer
Hall, Ralph	Nichols	Vucanovich
Hamilton	Nielson	Walker
Hammerschmidt	Nowak	Weber
Hansen	Oxley	Whitehurst
Hefner	Packard	Whittaker
Hendon	Panetta	Whitten
Henry	Parris	Wilson
Hiler	Pashayan	Wirth
Hillis	Penny	Wolf
Holt	Petri	Wortley
Hopkins	Pickle	Wright
Horton	Porter	Wylie
Hubbard	Pursell	Yatron
Hughes	Quillen	Young (AK)
Hunter	Ray	Young (FL)
Hutto	Regula	Young (MO)
Hyde	Reid	Zschau
Ireland	Ridge	
Jeffords	Rinaldo	
Kasich	Ritter	
Kastenmeier	Roberts	
Kemp	Roe	

NOES—176

Ackerman	Burton (CA)	Edgar
Akaka	Bustamante	Edwards (CA)
Alexander	Chappell	English
Annunzio	Clay	Evans (IL)
Anthony	Coelho	Fascell
Aspin	Coleman (TX)	Fazio
Atkins	Collins	Feighan
AuCoin	Conte	Foglietta
Barnard	Conyers	Foley
Bates	Cooper	Ford (MI)
Bedell	Coyne	Frank
Beilenson	Crockett	Frenzel
Bennett	Darden	Garcia
Berman	de la Garza	Gejdenson
Biaggi	Dellums	Gonzalez
Boggs	Derrick	Gradison
Boland	Dingell	Gray (IL)
Bonior (MI)	Dixon	Gray (PA)
Bonker	Donnelly	Green
Boucher	Dowdy	Hall (OH)
Boxer	Dwyer	Hatcher
Brown (CA)	Dymally	Hawkins
Bruce	Early	Hayes
Bryant	Eckart (OH)	Hertel

Howard	Mikulski	Sikorski
Hoyer	Miller (CA)	Skelton
Huckaby	Mineta	Smith (FL)
Jacobs	Mitchell	Smith (IA)
Jenkins	Moakley	Solarz
Johnson	Molinari	St Germain
Jones (NC)	Mollohan	Staggers
Jones (OK)	Moody	Stark
Jones (TN)	Morrison (CT)	Stokes
Kanjorski	Mrazek	Studds
Kaptur	Murtha	Swift
Kennelly	Neal	Synar
Kildee	Oakar	Tallon
Kleczka	Oberstar	Thomas (GA)
Kolter	Obey	Torres
Lantos	Olin	Torricelli
Lehman (CA)	Ortiz	Towns
Lehman (FL)	Owens	Traficant
Leland	Pease	Traxler
Lent	Pepper	Udall
Levin (MI)	Perkins	Vento
Levine (CA)	Price	Visclosky
Long	Rahall	Walgren
Lowry (WA)	Rangel	Watkins
Lundine	Richardson	Waxman
MacKay	Robinson	Weaver
Manton	Rostenkowski	Weiss
Markey	Rowland (GA)	Wheat
Martinez	Roybal	Whitley
Matsui	Sabo	Williams
McCurdy	Savage	Wise
McGrath	Scheuer	Wolpe
McHugh	Schroeder	Wyden
Meyers	Schumer	Yates
Mica	Seiberling	

NOT VOTING—19

Barnes	Fowler	O'Brien
Breaux	Gephardt	Rodino
Campbell	Grotberg	Rose
Carney	Hartnett	Spratt
Chandler	Heftel	Swindall
Davis	Lloyd	
Downey	Moore	

□ 1820

Mr. COELHO and Mr. BIAGGI changed their votes from "aye" to "no."

Messrs. CARPER, REID, and ERDREICH changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GONZALEZ. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to amend and extend certain laws relating to housing, and for other purposes, had come to no resolution thereon.

NATIONAL POW/MIA RECOGNITION DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 220) to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to once again cosponsor this important legislation establishing a POW/MIA remembrance day, and I thank the distinguished chairman of the subcommittee, the gentleman from New York [Mr. SOLARZ] and the chairman of our House task force on POW's and the MIA's the gentleman from New York [Mr. SOLOMON] for helping to bring this measure to the floor.

Mr. Speaker, during the 1970's, Mr. Speaker, a number of us were pleased to cosponsor this measure year after year because at that time we had a serious problem with nationwide apathy. Many well-meaning Americans, hurt and frustrated over our conflict in Southeast Asia, sought to put that period in our history behind them. They sought to do this by declaring the books closed on the 2,400 Americans who remained unaccounted for after the guns were stilled and after the bombs had stopped falling. They believed that the best way to put the Vietnam conflict behind us was by denying any evidence that it had ever happened. This was patently unfair to all those Americans who did not return home and whose families have never given up hope.

Today, in the second half of the 1980's, we have a new enemy, far different than the enemy of apathy but just as insidious—that is the enemy of oversimplification. Too many Americans, although well meaning, have not recognized the complexities of the situation in Southeast Asia. Fanned by sensationalist Hollywood fantasies, many believe that all we need to return our 2,400 missing American heroes is to pay a few brave men with adequate firepower. They forget that Southeast Asia is a mountainous, jungled terrain larger than the State of Texas. They seem to forget that, although we will not give up our quest for these brave Americans, we have never been presented with irrefutable proof of their whereabouts.

By establishing POW/MIA Remembrance Day for September 19, 1986, we are not only reminding our Nation that 2,400 Americans are still missing in Southeast Asia, we are also calling attention to the efforts made by our Government, day and night, to set them free and to fully account for them.

Accordingly, I urge all of our colleagues to adopt House Joint Resolution 451, establishing POW/MIA Remembrance Day on September 19, 1986.

Mr. HANSEN. Mr. Speaker, under my reservation of objection, I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, let me just say that the gentleman from New York [Mr. SOLARZ], who is the chairman of the Subcommittee on Asian and Pacific Affairs, on which I serve, was unavoidably detained. He is the sponsor of this resolution, along with the gentleman from New York [Mr. GILMAN] and myself.

So speaking for both of us, let me just say that even though American military involvement in Indochina ended more than 13 years ago, the American people have never lost faith with the grieving families of those servicemen who remain yet unaccounted for.

We all look forwarded to the day when it will not be necessary to pass a resolution of this kind, but that day will not come until the leaders of the Socialist Republic of Vietnam decide to observe international law and the basic canons of human decency with respect to prisoners of war.

POW/MIA recognition day serves as a solemn reminder that the price of freedom is always high, but Americans have always paid it. Prisoners of war and those missing in action may be relatively small in number, but their sacrifice and suffering on our behalf are all out of proportion to their small numbers.

Mr. Speaker, none of us can truly comprehend the years of heartbreaking loneliness and uncertainty that some American families have experienced. This resolution is really the least we can do to stand with them in their suffering. I hope that the observance of POW/MIA. Recognition Day this September 19 will cause us to take renewed dedication in our efforts to secure a full accounting of those Americans who never came home from Southeast Asia.

Mr. Speaker, I would like to thank Chairman GARCIA for his cooperation in bringing this resolution to the floor. I would also like to thank the two other original cosponsors, Mr. SOLARZ and Mr. GILMAN, for their hard work on this issue. Finally, I am again gratified by the great number of cosponsors from both sides of the aisle and all points on the political spectrum who have joined in this important bipartisan effort.

Mr. HANSEN. Mr. Speaker, I appreciate the excellent remarks of the gentleman from New York [Mr. GILMAN]

and the gentleman from New York [Mr. SOLOMON].

Mr. SOLARZ. Mr. Speaker, I want to thank my distinguished colleague, Mr. GARCIA, for bringing this important legislation to the floor in an expiditious manner.

I also want to commend the gentleman who continues to demonstrate his own personal interest in efforts to account for Americans still missing in Southeast Asia, and has repeatedly lent his leadership to the issue.

For the past several years, National POW/MIA Recognition Day has been commemorated across the Nation with appropriate ceremonies and activities on the local, State, and National levels.

This year, veterans' groups and family organizations, including the National League of Families, have asked that Congress designate September 19 as "National POW/MIA Recognition Day."

This resolution, which is noncontroversial and has been supported on a bipartisan basis, underscores the United States' debt to American servicemen who fought for this country, yet who remain unaccounted for in Indochina.

This legislation supports the President's commitment to resolving this lingering issue as the highest national priority.

It honors not only those Americans who remain unaccounted for, but it recognizes the tremendous sacrifice of those who were imprisoned in Indochina as well.

By adopting this resolution, we also recognize and honor the families of missing Americans for their continued sacrifice and courage.

POW/MIA Recognition Day increases public awareness in the United States and throughout the world, that our Government is determined to receive the fullest possible accounting of our missing men and considers this issue a humanitarian issue of great concern.

By adopting this resolution, we also send a signal to the Governments of Laos and Vietnam that the Congress supports the priority placed on this issue and urges both Governments to continue and accelerate their cooperation with the United States so that we can all put this issue behind us.

Recently, we have witnessed considerable progress in our negotiations with the Governments of Vietnam and Laos.

Since July of last year, Hanoi has repatriated more remains to the United States than ever before: 26 last August, 8 in December, and 21 just this April.

The Laotians have returned the remains of 13 Americans excavated at a crash site near Pakse; and 14 from the Savannakhet.

United States officials jointly evacuated a crash site in Vietnam and another in Laos.

In January the highest ever ranking United States administration delegation met with Vietnamese officials in Hanoi and were told that Vietnam was committed to resolving this issue within a 2-year timeframe.

The Vietnamese told a congressional delegation, headed by my colleague from New York, Congressman JERRY SOLOMON, that there "may be Americans alive in Vietnam not under their control."

I am encouraged by this positive turn of events, and am certain that by adopting the legislation we are considering today, Congress will signal its support for these negotiations.

I would be remiss if I didn't mention and pay tribute to some of the members of the Foreign Affairs Committee who have worked extraordinarily hard and effectively on this issue.

I refer particularly to my good friend JERRY SOLOMON, who for the last year has chaired the task force on POW/MIA's and who continues to maintain an active and constructive role in this effort.

Just last February, the gentleman led a congressional delegation to Hanoi and Bangkok to review efforts to account for American MIA's.

Mr. SOLOMON has worked tirelessly on behalf of this issue and deserves the thanks not only of the families and of his colleagues in Congress, but of the American people for his efforts to focus attention on this problem and seek a solution for it.

Likewise, another gentleman from New York, and former task force chairman, Congressman BEN GILMAN continues to exercise his leadership on this issue.

I can think of no other Member who has dedicated more time and effort to resolving the mystery of our POW's than Mr. GILMAN.

Also, I must thank and commend Congressman BOB DORNAN and Congressman BOB LAGOMARSINO, both from California, who continue to contribute their wisdom and advise on this complicated and emotional issue.

Before yielding to the distinguished gentleman from New York [Mr. SOLOMON], I want to urge once again all Members to join me in support of this resolution.

By passing this resolution the Congress is paying tribute to all of the brave men who fought for our country in Vietnam and to their families who have suffered such enormous costs to preserve liberty and freedom in the world. None of us can afford to rest until the families of our POW-MIA's have received a full accounting of the fate of our POW-MIA's.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 220

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas many Americans are still listed as missing and unaccounted for and the uncertainty surrounding their fate has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 19, 1986, shall be designated as "National P.O.W./M.I.A. Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FREEDOM OF INFORMATION ACT AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 580) to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. KLECZKA] who is the chief sponsor of House Joint Resolution 580.

Mr. KLECZKA. I thank the gentleman for yielding.

Mr. Speaker, 1986 marks the 20th anniversary of the Freedom of Information Act. I have introduced House Joint Resolution 580 to commemorate this occasion, and to focus attention on the principles of open government. I urge the House to support this bill.

The Freedom of Information Act has been important for many reasons. First and foremost, it has enabled journalists, scholars, and private citizens to learn more about how Federal decisions are made, and to participate in the political process.

The law has helped broaden our understanding of national crisis such as Watergate and the Vietnam war. The law has helped expose wasteful Federal contracts, and dangerous health risks to consumers. The law has also served as a deterrent to Federal officials who might otherwise skirt their responsibilities.

It is fitting that Congress commemorate the FOIA's anniversary because the original law owes its existence to this body. No executive agency testified on its behalf, and President Johnson sought to kill the proposal. It took strong, bipartisan cooperation to get the FOIA enacted, and to strengthen it over President Ford's veto in 1974.

The Freedom of Information Act asserts a very basic principle in our de-

mocracy: That the people, not the bureaucrats, hold ultimate authority. Let's honor this principle by passing House Joint Resolution 580.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 580

Whereas a fundamental principle of the American system of government is that the people of the United States should participate in the governing process;

Whereas the people of the United States, in order to participate effectively in the governing process, require free access to information about the activities and decisions of Federal agencies;

Whereas section 552 of title 5, United States Code, commonly known as the Freedom of Information Act, helps provide the people of the United States with free access to such information;

Whereas the Freedom of Information Act became law in 1966, and 1986 is the 20th anniversary of the Act;

Whereas the commemoration of the Freedom of Information Act should include efforts to educate the people of the United States with respect to the substance and principles of the Act;

Whereas such efforts should be made by schools in the United States; and

Whereas the week beginning September 7 is the week in which many students begin the academic year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 7, 1986, is designated "National Freedom of Information Act Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon Federal, State, and local government officials and the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4510, EXPORT-IMPORT BANK ACT AMENDMENTS OF 1986

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-633) on the resolution (H. Res. 472) providing for the consideration of the bill (H.R. 4510) to amend the Export-Import Bank Act of 1945, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4175, MARITIME PROGRAMS' FISCAL YEAR 1987 AUTHORIZATION

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-634) on the resolution (H. Res. 473) to provide for the consideration of the bill (H.R. 4175) to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4613, FUTURES TRADING ACT OF 1986

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-635) on the resolution (H. Res. 474) providing for the consideration of the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that act, which was referred to the House Calendar and ordered to be printed.

□ 1835

SENIOR POWER DAY, 1986

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. PEPPER. Mr. Speaker, on May 13, 1986, the distinguished Senator from Michigan, the Honorable DON RIEGLE, was the keynote speaker at a Senior Power Day in Lansing, MI. Over 6,000 senior citizens were present to hear the stirring address of this able leader of the cause of the elderly.

He has charted a course for all of us to follow who are friends of the elderly of this country. Therefore, it is with particular pleasure, Mr. Speaker, that I am including the speech of Senator RIEGLE for the RECORD:

SENIOR POWER DAY, 1986, LANSING, MI, "OUR SENIOR CITIZENS—A NATIONAL TREASURE"

Senator RIEGLE. It is an honor for me to be with you today as your keynote speaker.

My wife, Lori, and our 15-month-old daughter, Ashley, join me in expressing our love and affection for all of you—and active support for your agenda.

Senior Power Day here in Lansing is one of the most important events in our State each year. I thank each of you for coming, and for your personal contribution of effort to the great collective strength and purpose reflected by this mighty gathering.

Alone and separate our strength is small, but together we are a citizen army with strength enough to move mountains.

You are here to fight for your rights, and for a decent standard of living for every senior citizen in America. You deserve a decent life and I am determined to see that you get it.

Through long lifetimes of work in our factories, our homes, our shops and farms, you have built the magnificent nation we have today.

Through those life journeys, you have given your best efforts to build your families and to build America. You have done a magnificent job.

You have struggled through two World Wars, the Great Depression, and other difficult times. You have known joy and heartache, you have given life and strength to those of us in successor generations, and, yes, you have buried many loved ones along the way.

An ocean of tears have been shed for those we have loved and lost. Yet you have known the greatest joys as well—the birth of your children, your grandchildren, and great grandchildren. You have brought our nation safely through.

As seniors you have seen it all—lived it all. You are our national treasure of wisdom, and experience, and accomplishments. You are our role model for what can be done.

On behalf of the 9½ million people of Michigan, and the 240 million American citizens, I am here to express our pride and gratitude for all you have done for us—to thank you and to give your our pledge in return.

That pledge is that it should be America's highest goal to see that our seniors live out their retirement years in dignity and with the financial security and living standard that you deserve.

To those who say cut Social Security, we say you are wrong.

Social Security, including the annual cost of living adjustments, is the greatest social accomplishment of our government and citizens in this century.

Our seniors and retirees have worked and earned their Social Security income, and we will fight anyone who tries to steal it from us.

Over the last 5 years, we have had many knock-down, drag-out fights in Washington to save Social Security.

In the Senate, I have led those fights each time, and with your help, we have stopped those who would weaken and destroy Social Security. By your countless letters, comments, and phone calls, you have given me great strength, and I am deeply grateful.

When they tried to eliminate the minimum benefits of $144 a month—the only income for tens of thousands of our seniors—we stopped them. When they tried to cut by 40 percent the early retirement benefit for those with poor health—or who have lost their jobs—we stopped them. When they tried to eliminate the annual COLA adjustment—which only makes up the buying power that inflation has already taken away—we stopped them. They tried deep cuts in Medicare protection; we stopped many of them. But they're at it again.

They are driving the Medicare hospital deductible higher and higher—to $492—a 23 percent increase in one year. And the Reagan Administration wants to jump it again to $572 next year—a 43 percent increase in just two years.

They continue to target the seniors—to cut our feeding programs, our transportation programs, our energy assistance, our

senior housing. These cuts are wrong. They must be stopped.

We must fight them every inch of the way.

A nation that can spend $1½ trillion in 5 years on national defense can afford to meet the basic human needs of our senior citizens and our elderly.

What good is protection against nuclear bombs, if we aren't protecting our seniors against hunger, against the winter cold, against bankruptcy from medical bills, or isolation and poverty and despair.

We need fewer bombs and more senior housing. We don't need poison gas—we need natural gas to stay warm in the winter. We don't need government surplus food rotting in warehouses—we need to feed our hungry seniors and all the other hungry in our land.

What we seek is economic justice. For seniors, yes, and for the young trying to get started—for people of all ages.

We seek a humane nation that puts its people first—that says we care about each other, that we are our brother's keeper.

I'm sick of the selfishness of some in national life who have it made—and don't seem to care about all the rest who are struggling to keep their heads above water.

I know thousands of seniors who have worked their hearts out over a long lifetime, and who have given their all to their country, and have answered every call of duty. Many of them have had no private pensions; many have had expensive and disabling illnesses; many gave their most productive years on foreign battlefields while others were safe at home building a nest egg. Some say life is not fair. We know that. But a decent society does something about unfairness. A decent society says every person is precious, and that every person should have a decent chance to live and give something of value to our society.

We meet here today to affirm those beliefs and values. We have gathered from across our state to join hands, and hearts, and purpose, and to say with a single voice: That senior citizens have an agenda for America that must be heard and made a leading part of our nation's future.

Thank God that those of you with the strength to come, are here today.

But what of the countless thousands of seniors across our state who lacked the strength or resources to come today, many on sick beds. They are counting on us—their future, even their very lives, depend on what we do. We must not fail them—and we will not fail them.

Let the word go out from this great hall today that we are a citizen army on the march. Let those in the White House, in the Congress, in our State Capitals, know that seniors want human justice for themselves and every other American.

We will use direct political action to support those who hear us and help us, and we will throw out of office those that turn a deaf ear, or try to hurt us.

We are not interested in kind words from those who then turn around and try to destroy Social Security or other vital senior programs. A lifetime of living has taught you to spot the phonies who talk a good game—and then vote against you. It is time those people were thrown out of office before they do any more damage.

Your voice and your vote have great power—and you must use them both.

Before concluding, I want to suggest another mission and purpose for you. I believe the different generations in our society must help each other.

I believe the young must help the seniors—and that the seniors must help the young.

These are difficult days for our young people, just as they are for many of you. Jobs are scarce, education is expensive, and young families find home ownership moving out of reach. Drugs, alcohol and violence are at epidemic levels. Our young people need our help too. And we must help them.

I ask each of you to do more to help the younger people that you can reach and influence. Talk to them—hear their problems, offer them your counsel, and your help and love. They need you just as you need them.

Social Security is an example—it helps retired workers and young workers alike. The disability protections of Social Security are there for the young worker who is injured or is stricken and can't work. And the survivors benefit protections of Social Security are there for the young spouse and children in the tragic event of an early death of the breadwinner. Social Security is a compact between the generations and if those who are younger now are graced by God to reach retirement age then the earned retirement benefits will be there to help them meet life's basic needs.

One thing we know, if God favors us with long life—we all become senior citizens. In the deepest sense, we are each other—we only stand at different moments in time. If we are selfish, whatever our age, we not only hurt others, we hurt ourselves.

Today, Japan is producing twice the number of engineers each year than the United States. We're falling behind. We have a massive trade deficit.

Our young people need education, and America must see that they get the education they need. So we must not let them cut the student loans, cut the work study grants, cut the money needed for an educational system second to none. We must also see that our elementary and secondary schools get the resources they need.

Our educated workers are the ones who go out each day and produce the national income that must pay the Social Security taxes. Today's students and workers are the key to our economic future. They deserve the best chance that we can give them—and that means the needed tools that must come from education and training.

So let us link hands across the generations. We need each other, and we must help each other.

It is our American creed that what we want for ourselves, we also want for our fellow citizens. No man or woman is an island unto themselves. We share a common fate. And so we must give in the same measure that we seek. We must help each other, and flourish together, or we shall surely perish alone.

John Kennedy, in 1961, said these words: "With a good conscience our only sure reward—and history the final judge of our deeds—let us go forth to lead the land we love.

"Asking his blessing—and his help—but knowing that here on Earth, God's work, must truly be our own."

God's work is our own. Senior Power Day—and what we must accomplish together—is part of God's work.

Let us summon the strength, and determination to leave here today and see that the work is done. Will you do it? I know you will.

Now I must return to Washington to carry on the fight.

I love you all and wish you Godspeed.

NATIONAL AGRICULTURAL EXPORT WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 310) to proclaim June 15, 1986, through June 21, 1986, as "National Agriculture Export Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. BEREUTER. Mr. Speaker, I rise today in support of Senate Joint Resolution 310, a resolution to commemorate the week of June 16, 1986 as National Agricultural Export Week.

The commemoration of this week marks two important events. First, National Agricultural Export Week commemorates the economic importance of agricultural exports to both the farmers of the United States and our economy in general. Second, during this week the National Commission on Agricultural Trade and Export Policy will make its final report to the President and Congress detailing what we must do to maintain and improve the competitive position of the United States in the area of agricultural exports.

The United States is the world's largest exporter of agricultural commodities and products; this trade is vital to the well-being of our Nation's economic system. America's trillion-dollar agricultural industry exports more than 40 percent of its annual production. Employment for one-fifth of our Nation's work force is also linked to our ability to maximize opportunities arising in the domestic and world market for basic agricultural commodities and value-added products.

The United States, however, has suffered serious and substantial setbacks in recent years, in large part the consequence of declining export sales. America's survival as a world leader in international trade is in question. However, there are practical solutions to even some of the most intractable problems facing U.S. agriculture in world trade.

National Agricultural Export Week will be America's most important agricultural trade event of this year. Known as AGEXPORT '86, this event will consist of a week-long program of high-level discussions, problem-solving and open dialog on the Nation's multibillion dollar annual world agricultural trade.

AGEXPORT '86 is a public affairs activity of the National Commission on Agricultural Trade and Export Policy. During the past 18 months, this 35-member independent Presidential commission has held hearings at points throughout the United States to study all aspects of this Nation's world agricultural hard-hitting program of recommendations to improve the Nation's agricultural trade. The release of the

commission's final report will be an important part of AGEXPORT '86.

During AGEXPORT 1986 farm leaders, private business executives, Government officials, and Members of Congress will join in Washington, DC, to begin the test of revitalizing and expanding America's agricultural trade with other nations. The goals and objectives for AGEXPORT 1986 are well defined:

First, provide for the submission and consideration of the National Commission on Agricultural Trade and Export Policy's final report;

Second, facilitate public dialog on the National Commission's recommendations;

Third, underscore and discuss the vital importance of agricultural trade to the Nation;

Fourth, educate the general public on matters of agricultural trade; and

Fifth, celebrate the activities of all engaged in agricultural trade.

In regard to the recommendations of the Commission, I would point out that many of these recommendations have already been put to good use. For instance, most of the agriculturally related provisions in the recently passed trade bill of this House are recommendations of the Agricultural Export Commission. Unlike some of the dangerous, anti-agriculture, protectionist provisions in the House-passed trade bill, the agriculture provisions which stem from the Agricultural Export Commission are pro trade, promarket development and positive for the farmers of the United States.

Mr. Speaker, I encourage all of my colleagues to pay close attention to the final report of the Agricultural Export Commission and to follow closely the events and discussion which will occur during AGEXPORT 1986 week. While relatively few Members in the House have constituents directly involved in farming, the constituencies of all Members of this House receive the positive benefits from this Nation's agricultural industry. From the bounty we enjoy each time we sit down to eat to the billions of dollars we export each year, we cannot forget that the production and processing of food is this Nation's No. 1 industry. National Agricultural Export Week is a fitting and timely celebration to the farmers and producers of this Nation. It is also an opportunity to begin planning to insure that the United States maintains its pre-eminent role in agriculture and agricultural trade far into the future.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 310

Whereas agriculture comprises the Nation's largest single industry;

Whereas the economic well-being of the Nation's agricultural industry is directly related to its ability to export and to compete in world markets;

Whereas earnings from agricultural exports have contributed $333,000,000,000 to our Nation's balance of payments in the past decade;

Whereas these earnings have stimulated nearly $1,000,000,000,000 in total national economic activity and provided millions of man years of total national employment; and

Whereas it is the policy of the United States to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 15, 1986, through June 21, 1986, is hereby proclaimed "National Agricultural Export Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe this week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PHILANTHROPY DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 207) to designate November 1, 1985, as "National Philanthropy Day," and ask for its immediately consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 207

Whereas there are more than eight hundred thousand nonprofit philanthropic organizations in the United States, employing more than ten million individuals, including approximately four million five hundred thousand volunteers;

Whereas contributions by people of the United States to support such organizations amounted to approximately $70,000,000,000 in 1984;

Whereas philanthropic organizations are largely responsible for enhancing the quality of life for Americans and other people throughout the world;

Whereas our Nation owes a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, and other institutions and organizations which aid and comfort the elderly, the disadvantaged, and the sick; and

Whereas the people of the United States should demonstrate their gratitude and support for philanthropic organizations and the efforts, skills, and resources of organizations and the efforts, skills, and resources of individuals who carry out their missions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1, 1985, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 3, strike "November 1, 1985," and insert "November 15, 1986,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: Amend the title so as to read: "Joint Resolution to designate November 15, 1986, as 'National Philanthropy Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL SAFETY IN THE WORKPLACE WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 131) to designate the week of June 16, 1985, through June 22, 1985, as "National Safety in the Workplace Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Illinois [Mr. HYDE] who is the chief sponsor of House Joint Resolution 131.

Mr. HYDE. I thank the gentleman for yielding to me.

Mr. Speaker, I want to express my deep thanks to the chairman, Mr.

GARCIA, and to Mr. HANSEN, for bringing this matter forward.

This resolution takes note of the fact that National Safety Council statistics indicate that workplace accidents accounted for over 11,000 employee deaths and nearly 2 million employee injuries during the year 1983, and the cost in pain and suffering to the individuals involved and to the cost in financial loss to American industry is such that it warrants the attention of the Nation and the American Society of Safety Engineers and other safety and health organizations are promoting occupational safety and health.

This resolution and the proclamation that will ensue therefrom will help heighten awareness of this problem and the importance of occupational safety.

I again thank the chairman and the ranking member for their courtesy and I hope this will be approved.

Mr. HANSEN. I thank the gentleman for his excellent remarks.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 131

Whereas the National Safety Council statistics indicate that workplace accidents accounted for eleven thousand three hundred employee deaths and one million nine hundred thousand employee injuries during 1983;

Whereas said accidents caused immeasurable pain and suffering to victims and their families;

Whereas the cost of occupational accidents amounted to over $33,400,000,000 in losses to American industry during 1983;

Whereas the American Society of Safety Engineers and other safety and health organizations continue to promote occupational safety in all industries;

Whereas occupational safety and health organizations will be calling attention to the seriousness and magnitude of this problem through appropriate activities; and

Whereas this endeavor is worthy of our support and cooperation so that we may reduce the toll of workplace injuries and deaths: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of June 16, 1985, through June 22, 1985, as "National Safety in the Workplace Week" commemorating the efforts of those organizations to promote safety and health for the American workers, and calling upon all Government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 4, strike "of" and all that follows through "1985," on line 5 and insert "beginning June 15, 1986,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: Amend the title so as to read: "Joint Resolution to designate the week beginning June 15, 1986, as 'National Safety in the Workplace Week'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL DOWN SYNDROME MONTH

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 321) to designate October 1986 as "National Down Syndrome Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 321

Whereas the past decade has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas, through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome; to develop special education classes within mainstreamed programs in schools; the provisions for vocational training in preparation for competitive employment in the work force and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas along with this improvement in educational opportunities for those with Down syndrome is the advancement in medical science which is adding to a more brightened outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 is designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1845

GENERAL LEAVE

Mr. DURBIN. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks, and to include therein extraneous material, on the bill, H.R. 1.

The SPEAKER pro tempore (Mr. MOLLOHAN). Is there objection to the request of the gentleman from Illinois?

There was no objection.

SPEAKING UP FOR RELIGIOUS FREEDOM IN NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, June 4, 1986, was a great day in the debate over whether or not the United States should support freedom fighters in Nicaragua. Hundreds of ministers and religious leaders from across the country gathered here in Washington to stand behind the President and those who are fighting for their freedom in Nicaragua. It was a

day in which the Winston Churchills came to counter the misdirected efforts of the Lord Chamberlains.

It was my honor to welcome these men and women to our Capital City and accept their petition to the U.S. Congress. I would like to commend Tim LaHaye and Curtis Maynard of the American Coalition for Traditional Values, Stan Wachtstetter of the Apostolic Coalition, Rabbi Yahuda Levin of the American Jewish Coalition, and Henry Ferro of Concerned Catholics for Religious Freedom in Nicaragua. It was an excellent show of unity between protestants, Catholics, and Jews who courageously stand up in defense of this country's Judeo-Christian heritage.

The following resolution was passed and signed by over 300 of the top religious leaders in our Nation:

RESOLUTION OF RELIGIOUS LEADERS, JUNE 3, 1986

After much prayer and supplication we have gathered here from across our nation in response to the concern of many of our fellow citizens to express our sympathy for the plight of the Nicaraguan people and resolve as follows:

Whereas the Congress of the United States has the direct responsibility to all citizens under our constitution to "provide for the common defense" and "to protect against invasion."

Whereas Senate Joint Resolution 87-723 signed into law by President Kennedy on October 3, 1962, states: "The United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba, from extending by force or threat of force, its aggressive or subversive activities to any part of this hemisphere."

Whereas the Marxist-Leninist regime in Nicaragua under the Sandinista leadership with direct support from Cuba, the Soviet Union, Libya, the P.L.O., and certain communist block nations, is guilty of genocide, harboring terrorists, destroying houses of worship, torturing of religious leaders and willful disregard of human rights, all of which are absolutely immoral.

Whereas no sacred writing of any recognized religion denies the right of people to defend their human rights or fight for their freedoms. In fact, it is generally accepted that these rights, considered by many as a divine gift from God, include a responsibility to diligently uphold freedom for individuals to exercise their religious heritage.

Whereas the Freedom Fighters of Nicaragua are resisting the forces of communism in our hemisphere consistent with the goals and objectives of the U.S. Congress and are fighting on our continent against the encroaching empire of an enemy whose expressed goal is to destroy our nation.

Whereas in March of 1986, a small group of religious activists stood on the Capitol steps claiming it is immoral for the U.S. Congress to give aid to the Freedom Fighters of Nicaragua: Therefore be it

Resolved, That the religious leaders assembled here today desire to clarify that those self-appointed individuals assembled in March did not speak for the nation's religious community as a whole; and be it further

Resolved, That we condemn and deplore the immoral acts of the Sandinistas and call upon the President and Congress to proceed quickly in compliance with Constitutional and Public Law to oppose by whatever means may be necessary, the totalitarian Marxist-Leninist presence in Nicaragua.

We hereby place our signatures and request that others of like mind throughout the Nation do the same.

Edmund Burke once said, "The only thing necessary for the triumph of evil is that good men do nothing." I commend these brave men and women for having the courage to take an uncompromising stand for freedom.

ACCEPTANCE SPEECH OF GOV. MARIO CUOMO OF NEW YORK UPON HIS RENOMINATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, last week Gov. Mario Cuomo of New York was nominated by acclamation for a second term at the New York State Democratic Convention.

Also nominated by that convention was our esteemed colleague, the gentleman from New York [Mr. LUNDINE] for Lieutenant Governor. On the morning following these nominations, Governor Cuomo made his acceptance speech before a packed convention audience—one of the most exciting, upbeat speeches I have ever heard, and one that received rave reviews not only in New York but around the Nation.

I believe my colleagues in the Congress—Republicans as well as Democrats—will want to read this great speech given by one of the most exciting political leaders in our Nation, and one that most political experts regard as a very prominent contender for the Presidency in 1988.

At this point follows Governor Cuomo's exciting address:

GOV. MARIO M. CUOMO, ACCEPTANCE SPEECH, DEMOCRATIC STATE CONVENTION, JUNE 3, 1986

Governor CUOMO. You know, you're going to make the whole speech anticlimactic.

I accept the designation with the deepest gratitude for your confidence. Thank you also for giving me a superb running mate; a man who's respected everywhere in the State, and certainly in Washington; a man who will work side by side with me as we lead New York from recovery to a whole new era of progress: Congressman Stan Lundine. (Applause.)

I congratulate our great Attorney General who has been a committed, relentless and effective people's lawyer for eight years, and with whom I am very proud to be running again this year: Bob Abrams. (Applause.)

And another good friend, intelligent, a highly-regarded public official with whom I've worked for years; the next Comptroller of the State of New York, Herman Badillo. (Applause.)

And you produced two choices for the United States Senate; both of them competent, committed and respected Democrats. I wish both John Dyson and Mark Green a productive campaign, a good one that keeps its focus on our common goal which is regaining Democratic control of the United States Senate. (Applause.)

I'm grateful to all of you, of course, for the vote yesterday but in a special way to the people who seconded my nomination: my good friends Denny Farrell and Louise Slaughter and Dominic Baranello, who spoke for me on the floor. (Applause.)

And I want to say a special word about the man who did me the very great honor of putting my name into nomination: Speaker Stanley Fink. (Applause.)

His announcement that he would not seek reelection signalled a great loss for the whole family of New York. Everyone who knows the Speaker knows his sparkling intelligence, his quick wit, his vast knowledge of government. Some of us, however, were privileged to learn more about Stanley. We know him to be totally committed to his profession, to his colleagues, to his principles; a man who came into government to make life better for the people whom he served. That was his mission. And he has never stopped pursuing that simple but profound mission for all the years he's been with us. And in the process, ladies and gentlemen, he has elevated the politics of this State. He has been a tower of strength, he has been a source of enormous instruction and encouragement and support to me through my entire term. He's a great leader, he's a classy guy and a good friend. We'll miss him. I wish you would join me now in telling him how much we're going to miss him. (Applause.)

Come on, get up! Get up! (Applause.)

Four years ago, in 1982, almost to the day I made the following entry in my diary and I'd like to read it to you. It says: "Papa came in 1926 without a penny. Half a century later the family that he and mamma started here are enjoying the milk and honey of the greatest and most abundantly blessed nation in the world. Just the idea," I wrote, "that I'm considered a possible choice for Governor is a dramatic illustration of what this country means. It's the definition of the word opportunity. I finished the day yesterday wondering if I will ever be able to repay the enormous kindness I have received." I wrote those words on June 6th, 1982.

And now, this afternoon, four years later your nomination reminds me again of the uncommon opportunity I've been given, the enormous kindness that I have received from you, and the great debt that I owe in return. And I and my whole family are trying to repay that debt. In 1982 we promised the People of the State of New York the hardest working administration in its history and that's just what we've done. (Applause.)

We promised we would lead the way to jobs and justice from Buffalo to Montauk Point, and that's just what we've done. (Applause.)

Now with the good Lord and the people of this State willing, in the next four years we will continue our progress until everyone remembers that New York is the Empire State, Number 1 in the United States of America. (Applause.)

Now I'm looking forward to this campaign, I really am. It's going to be for me five months of fun, five months of reminding New Yorkers of how much we've accomplished together. And in telling our story, one point I think will stand out as the most significant; and that is that in the last three and a half years we've proven that working together, all of us, Upstaters and Downstaters, suburbanites and city residents, the people of our beautiful rural areas, labor and management, men and women of all

colors, of all backgrounds and of all creeds, that all of us working together can achieve things and make progress that others didn't even believe possible.

We've proven over the last three and a half years that family works. Just think back a bit. Now everybody knows that by the early '70s we had become the most heavily taxed state in the United States and that our competitive position and economy were badly damaged. We know that. And let's remember who made us that way. For 16 years, from 1959 to 1974 the Republicans dominated the government in Albany and during that period they took us from 22nd in the United States, in terms of per capita taxation, to first in the United States. They've raised the state income tax to a nearly incredible 17½ percent rate. And in the process we lost hundreds of thousands of jobs. Now let's remember that, that they raised the taxes in this state. It was thanks to Hugh Carey's leadership that finally we were brought back from the brink of financial disaster and began to reduce those taxes. But by 1983, as you'll recall, we were still suffering from the after-effects of 16 years of crippling Republican increases.

We had higher unemployment rates than most other states. In 1983 we had a potential deficit of approximately $1.8 billion. Our short-term credit rating was falling. Our roads and bridges were crumbling, under the influence of years and years, decades even, of neglect. The crime rate in this state was soaring. That was 1983.

But here we are three and a half years later. Let's look at the record. We've balanced the budget for four years for the first time, without the gimmicks and pretenses that had impaired our credibility in the past. For the first time we balanced it by generally-accepted accounting principles. We reduced our spring borrowing by $800 million and won for the State of New York our highest long-term credit rating in ten years. We have the people of this State the largest tax cut in the history of the State of New York. Our tax cut will save the hard working taxpayers—(Applause.)

That tax cut is going to save taxpayers in this State more than $3 billion over three years. And the reform removes 500,000 New Yorkers—think of it, 500,000 New Yorkers who are living below the poverty line—removes them from the tax rolls. And we cut the tax rates to their lowest point in 27 years, back to the time before the Republicans got their hands on it. (Applause.)

Let's look at that record. We started to build and rebuild all over the State. You can see the signs of progress everywhere. I told people earlier when we first started the construction work on the highways, "Take my names off those signs. I don't want my names on those signs" when all those obstructions were appearing all over the State and people are cussing. But now that they're opening the access ways and the roads are being—my name is going up on those signs. (Applause and chanting "Mario.")

Now with that largest bond issue in our history we're making our roads and our highways and our bridges safer. And we enriched our job development authority and our UDC and all other economic development instruments we used. We built, as you know, convention centers in our cities, and centers for advanced technology in our universities. We gave new support to agriculture and to tourism and to minorities and women to own businesses. And all of these investments together have paid off.

1982 we promised jobs and we have delivered them. There were 894,000 more people at work in New York on January 1st of this year than on the day I was inaugurated. 894,000. (Applause.)

Now that's 894,000 people. Hundreds of thousands of families given the chance to earn their own bread, and more given dignity. Real dignity. Today our unemployment rate is under the national average. Listen to this: One out of every five new jobs created in the United States of America in the year 1985, one out of every five new jobs created in this whole nation in 1985 was created right here in the Empire State (Applause.)

We have an economy now that's dynamic and thriving, and it's better equipped for the challenges and opportunities that the year 2000 will bring. We have proved that New York means business.

But we proved much more than that. We proved that the New York idea works; that we can balance our books, that we can practice fiscal prudence without ignoring the reasonable needs of our hard working middle class and of our struggling poor. We have proven that today government can have a heart and a head, that common sense and compassion can go hand in hand. And our principal point, we've made it over and over: that we are at our very best as a people when we recognize one basic truth: That we are all, all, of us, connected one to another. That no man is an island; no woman, neighborhood, no village, no county, no nation. And because of that, because we depend on one another, because we need one another, because we touch one another, we should work together and hope together for the good of all of us. That's the New York idea (Applause.)

Mostly I think we've proven that New York, as well as any place in this grand country, understands what has made this nation great, and that's opportunity. The chance to earn your own way, the chance to make it, to work for your own benefit and for your families, with no limit to how far you can go, how much you can do. No matter what your color is, no matter what your sex is, no matter the place where your ancestors came from. And that's what we're doing here in New York together: providing opportunity, proving every day that work is better than welfare. And at the same time meeting our obligations to those who are helpless, to those who can't work through no fault of their own; those who have grown too old to work, the very young, the disabled—disabled for reasons we don't understand; the distraught. People without enough to eat or a roof over their heads. We have not foregotten them in the Senate of New York.

That's the New York idea, the idea of family, yes, the word I love. Sharing the benefits and burdens. And it isn't a slogan in this state, it's the way we govern. And it works.

Just look at the record again, another small part of it. We have the most extensive affordable housing program in our history, providing 140,000 units of housing for middle class and poor families. We've strengthened the laws protecting tenants' rights and led the nation in providing shelter for the homeless.

We've invested massively in our elementary and secondary education systems. 42 percent more in resources than in 1983. Nearly $100 million more this year to give our teachers salaries closer to what they truly deserve. (Applause.)

We've provided 72,000 computers so that young people won't be required to compete in a high tech world with a lead pencil education.

We've built thousands of new prison cells, taken 7500 more hardened criminals off the street. We've increased the State Police to its largest force ever. We've funded the State and local police and prosecutors, improved our criminal justice technology, strengthened our criminal laws and we've gotten results. Over three years violent crime in this state is down nearly 13 percent. (Applause.)

I've had a great, great privilege. I have had the privilege of reconstituting our highest court, the Court of Appeals. This is the first time in the history of the State that any governor had the opportunity. And we have remade it with six appointments including an already-eminent chief judge, the first black to be appointed for a full term in the history of the court. (Applause.)

And, shame on us it took so long, the first woman in the history of the courts. (Applause.)

And all of them, all six, selected on the basis of judicial excellence. Even without reference to political affiliation, and frankly I think that's the way the court should be constructed. (Applause.)

It goes on and on. We passed the first acid rain law in the history of the United States. (Applause.)

And we passed the first seat belt law in the history of the United—(Applause.)

Now wait a minute. This was not a popular law, I'm telling you, when we first passed it. You see, we had this thing—the Legislature really got the idea for the seat belt law. Let's face it. And it wasn't very popular so they didn't mind my taking the credit in the beginning.

I remember on the day I was supposed to sign it the State Troopers told me the calls were like 8,000 to 11 against it. This is the truth. And a woman called up, somehow got through on the phone to me. I'll never forget. This is the truth. Got through and wants to talk to the Governor. I said "Yes." She said, "Is this you, Kukumo, Keemo, Koomo?" I said, "Yes, this is Cuomo, Governor Cuomo." She said, "You're going to sign that thing, the seat belt law?" I said, "Well, why?" She said, "You sign it, I hope you get in your car and that seat belt gets you right in the neck." (Laughter.)

So it wasn't popular in the beginning. But we signed it because we thought it would do some good things. And listen to how it has helped us, please. Of all the statistics we have, this is perhaps to me, one of the most significant. Our first in the nation seat belt law, together with our 21-year-old purchase age, together with our tough anti-drunk driving laws and our vast educational efforts have saved—saved, and we've counted them—last year hundreds of lives, and avoided hundreds of serious injuries. Judged by miles traveled. Last year because of the seat belt law, because of the 21-year-old purchase age, because of our efforts at education and our tough new laws, last year was the safest year on the highways of New York State in our entire history. (Applause.)

I tell you, you can see that we're going to have fun for five months this summer because it goes on and on. I could go on with the list of achievements and believe me, in the five months ahead of us, I'm going to. We're going to go everywhere delivering the good news of this record. (Applause and chanting "Mario.")

Thank you. We're going to heard from St. Lawrence to Suffolk. We're going to be heard from Clinton to Queens. We're going

to be heard from Franklin County to Franklin Square. We're going to be heard from Chatauqua to Staten Island. We're going to be reminding—all right, so I left a few places out. (Laughter.)

We're going to be reminding New Yorkers of how we turned the poetry of our promises into the solid brick and mortar of our governance. And I can't wait, I'm telling you. (Applause.)

I'm looking forward to going to the hard-working couple in Westchester County and telling them how we fought against all the odds and all the opinion surveys on the question of disallowing the deductibility of state and local taxes, how we took on the White House on that issue. (Applause.)

How we took on the White House. We took on the White House because we wanted that couple in Westchester to be able to continue to afford the house that they had saved for years to buy without having to give up a college education for their kids. And we won that battle. And I want to be honest, we won that battle because of people like Stanley Fink, Fred Ohrenstein; because of people like Pat Moynihan in the Senate. Strong Democrats who fought with us. But also because we were joined by Republicans on that occasion: people like Warren Anderson, people like Al D'Amato, people like Clarence Rappleyea. What's right is right. It was Democratic leadership that got them there, but the whole state came together, even politically on that issue, and that explains our victory, and I'm grateful to all the people who participated. (Applause.)

I'm eager to go to Buffalo. I want to go back to Buffalo to tell the workers at American Brass that we're working to save other jobs just the way we saved them at American Brass. And Tioga, to tell the new employee owners of Twin Castings in the Village of Waverly that in the same way that we helped recapture an industry that was the backbone of that entire village we can help others as well, as indeed we preserved 4600 jobs at the GM plant in Tarrytown. I can't wait to remind the people of Steuben County—back to Steuben to tell them about my promise in 1982. I'll never forget it. I went to Steuben and I told them, "Look, make me governor. You'll have subway cars to work on here in Steuben County" and they're working on those subway cars today in Hornell. (Applause.)

Now it's going to be good, it's going to be good to sit with the grape growers and the dairy farmers and the others who coax the life out of the land, to discuss all we've done as a state to keep their taxes down, to expand their productivity and their markets and speed up the research that will make them still more competitive in the years ahead of us.

And while I'm in Western New York I will be pleased to remind our people of what I have said so often: that there are fairer and better ways to provide Downstate with the affordable energy it needs than by hurting the Upstate to do it, and that as long as I have anything to do with it, Upstate's hydropower will remain Upstate. (Applause.)

And in the north country, the great north country, how beautiful it is there. We'll talk about how we protected it and enhanced our magnificent Adirondack Park. And we'll discuss the tremendous opportunities that the Fort Drumm expansion has produced.

And it will be great to go back to the City of New York to talk to the construction workers and the elevator operators and the crowds of Wall Street, to talk to my neighbors in Queens—(Applause.)

Talk to the people who live next door to Matilda's family in Brooklyn, 4701 Avenue K. And remind them that the mayor of their city, my good friend Ed Koch has said that no governor in the history of this State has been fairer in meeting the legitimate needs of the nearly eight million New Yorkers who live in the five boroughs. I'm very proud of that. (Applause.)

And, boy, I wish you could all be with me when we go back to Long Island. I can't wait to go back to Long Island (Applause.)

Now wait a minute, back to Long Island to say it again, to tell the people of the Island that I was against it in the beginning when it was tough to be, I was against it in the middle when it wasn't much easier, and I'm against it now that Republicans are desperate to find room on the platform to stand next to us, agreeing that *Shoreham must not open.* (Applause and chanting "Mario.")

Now, of course, we have a great deal more to do. There's no question about that. The Republicans did an awful lot of damage from '59 to '74 with their high taxes. And no, we have to work on the taxes. They're not down low enough. We're very proud of our tax cut. It's the biggest in the history of the State. But it has come down further, the tax rate. We know that; we're committed to do that. (Applause.)

And there's more than that to do. We must bring down further the unemployment rate. There are too many people out of work.

And the drop-out rate. The drop-out rate in school is inexplicably, unacceptably high. (Applause.)

Then there are even more difficult problems. There are too many children having children or having abortions. We have to deal with both those problems.

We need to put the public back in the Public Service Commission through long overdue reforms. We need accommodation for a larger and larger population of senior citizens. We need to do more to curb the scourge of alcoholism and drug abuse that menaces our people and especially our youth. (Applause.)

And fewer and fewer people disagree with us on this: We need to divest from companies who encourage the ugly sin of apartheid in South Africa. (Applause.)

And we need to complete the rest of this year's legislative agenda and, of course, if you read this morning's papers—and you should—the Roman Catholic Bishops of the United States could not be more correct. New York cannot rest content when one out of every seven people in this nation is poor. When one of every five children, more than one of every two children who are black are being born to poverty. The bishops have pointed it out. Of course they're right. Of course we have to do more to let the poor people join the rest of us who have been blessed with opportunity. We're committed to doing that in this State. (Applause.)

Now we need to do all of these things. But three and a half years have given us the sure knowledge that working together we can do them all. We can do all of these things and more. These three and a half years have given us a new belief in our ability to achieve good things. We've seen what's happened when we work together. And I can see a new spirit, I can see it in the faces of the people that I meet—and I meet a lot of them. I can hear it in their voices. I can read it in their letters. There's a new respect out there for the Empire State, a new confidence in this New York idea. They know that we've come a long way in the last few years and that we're still moving. And I'll tell you, it's very exciting.

I see a wonderful, wonderful future for us as we get close enough to the year 2000 almost to reach out and touch it. For us and for our children and for their children, it can be a marvelous new century. I can see a future where our children and young people get a better start in life than anywhere else on this planet. Where there are preschools for all the children; where there are high schools of excellence for the specially talented; where there are special accommodations that give every disadvantaged child the opportunity to achieve all that he or she can.

I can see elements of our SUNY and CUNY systems achieving an excellence that ranks them even higher among the most eminent public universities in the nation. And the entire system of New York's higher education becoming the strongest in the country, well rounded, including the engineering and high-tech capacity that the future will demand. I see it happening. (Applause.)

It's very real, it's very plausible for those of us who have been privileged to be close. We see the evidence. We know how strong our potential is. We can all see our centers of advanced technology giving birth to hundreds of ideas in small businesses.

I can see the digital fiberoptic thruways. I hope you've heard about that—the digital thruways, the fiberoptic thruways connecting our super computers, connecting our communications networks all through New York and the Northeast, tying us together, closer than we've ever been.

I can see genetically-engineered vaccines. People are just beginning to understand them. We know about them in this state. Genetically-engineered vaccines and other discoveries from our own State research laboratories, bringing a time when fewer children will suffer from birth defects, disabilities and debilitating illnesses.

I don't believe that manufacturing has to shrink. I see manufacturing industries growing assisted by high tech, by new forms of collaboration between labor and management. That's what Stan Lundine taught us in Jamestown, how to put labor and management together in innovative ways. (Applause.)

I see us learning to find new ways to put employees into the business. That's what happened in Waverly; the employees took over the business. There are new ways for employees to participate with management in the operation and the profits from businesses. And I see us using billions of dollars of pension fund monies that we haven't used before, all to get our manufacturing going again. I can see all of this producing jobs, thousands of jobs for all of us who are able to work.

And I see an environment that's cleaner and safer and sounder because we had a bond issue. And we will have a bond issue and a super fund. (Applause.)

I see a future with all the government that the people need, but with only the government we need, at every level, with prudent restraints on spending, more efficient modes of measuring government productivity than we have now.

I see a whole new era of accountability accompanying our new era of opportunity. And I see New Yorkers—and I see it so clearly—I see New Yorkers being the best, the very best at all of this. And why not? Who's better able to be the best? We can have the most dynamic economy. We can

have the very best system of education. We can have the cleanest environment. And we can have the safest streets. Why not? We can provide the opportunity to rise up in this system to millions more. Yes, just as it was provided to us and to our parents and to their families before them, perhaps. We can offer more to people than ever before. Not handouts, but what they want more than all else: the chance, the decent chance to earn their own way with hope and dignity, as we did, and our parents before us, and perhaps theirs before them. (Applause.)

You see, we can do it. I know we can do it because we have proven that we have the ability to achieve enormous things in this state when we come together. We can do it all, if we build on the progress of the last few years. And if those of us who have already made it like you and I, the lucky ones, if we remember who we are, if we remember where we came from, if we remember that somewhere before us there was an ancestor dragged here in chains, or a refugee driven here by oppression, or a family fleeing from famine and despair, or an immigrant woman, a child in her arms, a bundle on her back and tears in her eyes because she didn't know the world she was entering. If those of us who have been educated and protected and maybe even fed by the whole community remember that for 50 years, from the day that great New Yorker Franklin Delano Roosevelt lifted himself from his wheelchair to lift this nation from its knees, this great state has always—(Applause.)

For all that time this great state has always found the wisdom and the strength to make the circle of opportunity wider and wider, allowing more and more outsiders to join those of us who have already made it. And this is a wonderful time to remember, a wonderful time. The 100th birthday of our Lady of Liberty, who has welcomed striving people to our shores for decades. Think of it. The Lady Liberty, magnificent symbol of freedom and hope of millions of improbable dreams; grand and towering in our harbor, lighting the way to opportunity for generations of our forebearers. The generation who were told it couldn't be done, and did it. The generations of quiet valor who turned those improbable dreams into the miracle called America. We are the children of those giants. We're the heirs to the legacy of courage and concern and achievement which they left us. And because we are their heirs, we will ignore the faint-hearted, we will ignore the nay-sayers who neither build nor dream, and instead we will remember who we are. We will remember where we came from. We will remember how much we've done, and then we will go from this place to lead the way to doing the rest. All of us, the whole family of New York together. Let's go do it! Excelsior! God bless you! (Applause.)

(Whereupon the acceptance speech of Governor Mario M. Cuomo was then concluded.)

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. Mr. Speaker, earlier today, on the recorded vote on the Fauntroy amendment to H.R. 1, I inadvertantly recorded a "no" vote when I had intended to vote "yes."

I support encouraging tenant management in public housing and I appreciate having this opportunity to state my actual position on this amendment.

NUCLEAR PROLIFERATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. WOLPE] is recognized for 60 minutes.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order today, on the subject of nuclear proliferation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. WOLPE. Mr. Speaker, I should indicate that a number of Members, including the gentleman from New York [Mr. MRAZEK], were unable to be physically present for this discussion, but have asked that their remarks be submitted for the CONGRESSIONAL RECORD, and I shall be doing that at the conclusion of my own remarks.

Mr. Speaker, with five countries already known to have nuclear weapons and many more possessing the capability to produce nuclear explosives, the insidious and continuing spread of nuclear technolgy and nuclear material demands the immediate attention of Congress, of our President, and of the American people. It is for this reason that my distinguished colleague from Illinois, Mr. PORTER, and I have joined in sponsoring this special order tonight to lay out some of our concerns on this subject and to call for a renewed commitment within this body and from President Reagan to addressing the problem of nuclear proliferation.

In this context, President Reagan's recent announcement that this administration will no longer be constrained by the limitations of the SALT II Treaty is significant. The fact is that while the arms race between our Nation and the Soviet Union has been the single issue dominating the nuclear agenda for the past 40 years, we have rarely acknowledged a much quieter race taking place behind the scenes: nuclear proliferation—the spread of nuclear material and nuclear technology to more and more countries.

Yet almost all experts agree that the most likely nuclear crisis scenario will involve a third party—a renegade nation or terrorist group—and that this scenario probably poses the most serious threat to our Nation's security. Some have characterized this kind of confrontation as "the Sarajevo of the nuclear age"—a regional conflict between India and Pakistan, an outbreak in the Middle East, or a crisis in southern Africa that triggers a global nuclear holocaust.

It is obvious that seeking to restrain the nuclear brinkmanship between the two superpowers must remain a top priority on our national security agenda, but the stakes are simply too high to continue to ignore the terribly serious problems posed by the spread of nucelar weapons to new nations or subnational groups.

All you have to do is glance through a newspaper on any single day and the message is clear: international terrorism is on the rise. From Europe to Africa, from South America to the Middle East, we are all affected by the horror of this random violence. But pause for a moment and consider the implications should any of these terrorist groups "go nuclear," A nuclear-armed Qadhafi? Abu Nidal with the bomb?

I am very troubled that we are not now taking the necessary steps to prevent this from becoming a reality. I know that some people would like to believe that nuclear terrorism is a far-fetched possibility. All I can say is that the facts, in my judgement, tell a much more frightening story.

The House Foreign Affairs Committee has heard testimony from expert witnesses indicating that from information obtainable through public literature, at least a dozen nations have the technical capability today to produce nuclear weapons. Only two conditions have to be met: first, a political decision to go ahead with the construction of such weapons and second, access to the roughly 20 pounds of plutonium or highly enriched uranium required to produce a nuclear explosive.

Against this backdrop, it is ironic that the way we safeguard the transportation and storage of our Nation's gold is far more thorough than our arrangements for plutonium, yet the latter is both more valuable and obviously much more dangerous.

It is fortunate that at the present, only five countries—the United States, the Soviet Union, Great Britain, France, and the People's Republic of China—have established nuclear arsenals. However, as time goes on and the technology spreads, the likelihood of additional players joining the nuclear club increases. India, Israel, South Africa, and Pakistan all have highly advanced nuclear programs sufficient to produce nuclear explosives and none of these nations has signed on the Nuclear Non-Proliferation Treaty renouncing development of nuclear weapons. Other countries are known to be working very hard to acquire nuclear-weapons-related technology. Libya's Colonel Qadhafi has made numerous attempts over the past 15 years to get a nuclear device—includ-

ing a direct overture to buy a bomb from China.

There is much that must be done here in Congress. One proposal I have offered is H.R. 903, the Nuclear Explosives Control Act. This legislation is designed to strengthen our Nation's nuclear export criteria, to offer positive incentives to other countries to encourage them to forego the use of dangerous plutonium and highly enriched uranium in their nuclear programs, and to discourage world commerce in U.S.-origin nuclear explosive materials. Clearly, this is not the whole solution, but I do believe it represents a solid first step in the right direction.

We must advance the issue of nuclear proliferation as a key defense concern and matter of fundamental importance to the security of our Nation. I have been very concerned that in recent years we have allowed short run economic and political considerations to regularly take precedence in our country's decisionmaking over the longer run threat posed by nuclear proliferation and the increased risk of nuclear terrorism. In many decisions it appears that the serious concerns raised by the Department of Defense or the Nuclear Regulatory Commission have been deliberately overlooked or downplayed. To allow this to continue is, in my view, a prescription for ultimate disaster.

We must strengthen the role of the Department of Defense in determining the advisability of nuclear exports and the arrangements for nuclear technology transfers to other countries.

The President should be encouraged to work more aggressively through international channels to shore up international constraints and prudent restrictions on the exchange of nuclear material and technology. The horrifying accident last month at the Chernolbyl nuclear plant in the Soviet Union well illustrates the profound interest we all share in assuring the most limited and secure use of nuclear material.

Increasing the penalties for and the vigorous prosecution of individuals illegally trafficking in nuclear goods must also be considered. The shadowy netherworld of nuclear exchanges—outright smuggling, selective use of export law loopholes, or sleight-of-hand transfers of dual-use items from peaceful to military nuclear purposes—is much more than an idle concern, as the example of Colonel Qadhafi proves.

There are no easy answers to the nuclear proliferation problem—but there is no time to waste in coming together as a nation to begin to explore solutions. I would particularly like to commend the Roosevelt Center for American Policy Studies for their innovative and constructive contribution to this effort. Recently, the Roosevelt Center began a national education campaign to help citizens gain a broader perspective on the spread of nuclear weapons around the world. The center's Wildfire Program gives students, community leaders, and local officials a chance to learn about this critical problem and to express their views to those of us in policymaking positions. It is an excellent example of the kind of nonpartisan problem solving that is so essential if we hope to find lasting solutions to what is surely one of the most serious of all national security threats facing our Nation. The Wildfire campaign—which is now underway in many of our congressional districts—gives us all an opportunity to take stock of the nuclear proliferation issue.

I would urge my colleagues to utilize the Wildfire Program in their districts, as I have in mine. At the heart of the Wildfire Program is a fascinating simulation exercise modeled after simulations used to brief National Security Council members and senior White House officials. Wildfire participants actually take on the roles of government advisers to the United States, the Soviet Union, China, India, and Pakistan as they attempt to forestall an apparent Pakistani plan to explode a nuclear device in the midst of an escalating crisis with India. There is no better way to give people a sense for the complexities and extreme pressures of a crisis situation than by this kind of educational role playing. I had an immensely positive experience with a diverse group of community leaders in Lansing, MI, last month and have planned another Wildfire event in my district for late June.

The time to act is now, before we are faced with the reality of a regional nuclear conflict or act of nuclear terrorism. I call upon the President and those of us here in Congress to take up this challenge. Let us say clearly and firmly that we are committed to taking whatever steps may be necessary to prevent such a crisis in the first instance.

□ 1755

Mr. Speaker, I yield now to my distinguished colleague, the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman from Michigan for calling this special order. I think it is particularly appropriate in light of the problems which face us as a Nation in dealing not only with our own budgetary problems, but also in wrestling with the major issues between the super powers involving potential nuclear exchange.

I thought it was particularly appropriate that the gentleman earlier in his remarks mentioned the significance of the SALT II agreement between the United States and the U.S.S.R. as part of this discussion. I think it is important that we keep in mind that the rest of the world looks to the United States and the U.S.S.R. to determine whether we really have a commitment to nuclear arms control.

How can we tell smaller nations around the world to halt their nuclear proliferation, not to become members of the nuclear club, when we are failing to control the growth of our own nuclear weaponry. Unfortunately, our Nation seems to be moving away from a commitment to arms control. We are asking for restraint from our allies and other countries in the world when we cannot demonstrate restraint on our own part. We are asking new and potential members of the nuclear club to trust both super powers, perhaps all five of the major members of the club, when neither of the super powers can show trust in one another.

I think it is a grave mistake for the administration to be moving away from SALT II, not only for the potential damage which it can cause between the United States and the U.S.S.R., but because of the lesson it sends around the world.

Some of the facts on SALT II are worthy of disclosure during this debate.

This treaty, which was never ratified by either country in full form, has by informal agreement curtailed Soviet production and required them to dismantle old systems as they put in new strategic systems. Since 1972, under our following of the SALT agreements, the Soviet Union has removed 1,007 land-based missiles and 233 sea-based missiles. They have also dismantled 13 submarines.

There is certainly more to be gained than lost by continued efforts under SALT II, not only because it releases the pressure on the United States and the U.S.S.R. to continue to build, but because it sends a message around the world that perhaps this confrontation and buildup of nuclear weaponry can come to an end, and it is not necessary for small and developing countries struggling with their own economies to dedicate precious resources to joining the nuclear club.

The gentleman from Michigan makes a telling point. There are Republicans and Democrats who will disagree about nuclear weaponry, but I can find no disagreement with the statement that we do not want nuclear weapons to fall into the hands of a Mu'ammar Qadhafi. At that point it is totally unpredictable. No rules apply. The world is unsafe for almost any reason.

I think it is important tonight that we also recognize the contribution made by the Roosevelt Center. In my home city of Springfield in central Illinois, we have engaged in the same exercise of Wildfire, the simulation so that students and community leaders

can put themselves in the shoes of world leaders and suggest what might occur if some nations should suggest a nuclear reprisal. It is an eye opener. People who think little or nothing about nuclear exchanges sit on the edges of their chairs and start to realize the dynamics of the situation, a situation which could easily lead to the destruction of the civilization that we have come to cherish in this world.

The conclusion that students and participants reached in the Wildfire exchange at our high schools in Springfield was that we have to do everything in our power to make certain that the nuclear club does not expand and that those members within it would contract their own nuclear arsenals.

I think that is really the only key to stability in the long run and to reductions in the fears which we all have that someday we will be faced with a nuclear confrontation.

We must make certain, though, that the United States not only preach the sermon, but live by the word as well. We cannot be gourmands preaching fitness or wasteful spenders urging thrift. If we are asking the rest of the world to turn down their nuclear arsenals and their efforts to increase them, we must show it on our own part.

It is especially important in these days with deficit constraints and budget constraints that we make certain that if there are cutbacks to be made, they are made because of joint agreements between the United States and the U.S.S.R. verifiable agreements which say that in fact we are reducing our arsenals. That is a message which can be delivered around the world and a message which could lead to the reduction in proliferation.

The gentleman from Michigan should be commended for this effort this evening. The Roosevelt Center is taking this message. As our words go across the Nation on C-SPAN, the Roosevelt Center is delivering that message in more specific settings around our country and they should be commended as well.

This is truly a bipartisan issue and I thank the gentleman for inviting me to participate in this special order.

Mr. WOLPE. Mr. Chairman, let me thank the gentleman from Illinois for his contribution to this special order. I do hope that other of our colleagues who have not yet had the opportunity to take advantage of this extraordinarily exciting grass roots program that the Roosevelt Center has developed, I hope they will be encouraged to do so by the discussion we have had this evening. I think it will go a long way toward expanding public awareness and understanding of this all-critical issue.

Mr. PORTER. Mr. Speaker, the Roosevelt Center for American Policy Studies enjoys widespread recognition as a major force for public education on crucial issues facing our Nation and our world, and deservedly so.

Last year, I had the opportunity to join high school students from the 10th District in playing a fascinating learning game about the Federal budget process developed by the center called "Debtbusters."

This year, the center's president, Roger Molander, former member of the National Security Council and his staff have focused on the dangers of nuclear proliferation with a new game called "Wildfire." This year, when Mr. Molander and national field coordinator John Parachini invited me to set up a session of Wildfire with students from area high schools, I was enthusiastic. Once again, it proved to be an invaluable experience.

On April 19, I joined a group of 50 students from New Trier and North Shore Country Day Schools in Winnetka to avert a nuclear "crisis." Working in terms representing the United States, the Soviet Union, China, India, and Pakistan, the players faced a difficult situation: Could they forestall an apparent Pakistani plan to explode a nuclear weapon in a border dispute with India?

They had their work cut out for them. As I looked on with faculty members Jack Mattox of New Trier and Bill Freisem of North Shore Country Day, the first of the three 10-minute "days" of the crisis began to unfold. The students spoke in hushed but urgent tones, considering their country's relationship with the others and debating diplomatic and military options. Before our eyes, what was a school library became a forum for preventing nuclear disaster.

Tensions increased as ambassadors from each country hurried from table to table carrying messages and requests for information. In one instance, the United States and U.S.S.R. joined with China to force a resolution of the crisis, reaching an agreement that demilitarized the Indian-Pakistani border and provided for negotiations to end hostilities. Watching these young diplomats, one could not help but wonder at times if they found wisdom that had escaped their elders.

It has been suggested that Wildfire may not provide an absolutely accurate simulation of an actual crisis, or that the solutions achieved by its players would not be possible in a real world conflict—but these criticisms miss the point of the exercise. Wildfire provides the general public with an opportunity to learn about the problems facing world leaders in controlling the spread of nuclear weapons and preventing their use.

Roger Molander and the Roosevelt Center this year embarked upon an ambitious program, to make people think about what can be done to slow or halt nuclear proliferation, arguably the biggest threat confronting the world today. Five nations are admitted members of the nuclear club, and at least four others either have nuclear weapons or possess the technology to assemble one.

Molander writes:

It makes you think, espceically on starry nights, whether a species that gets this smart can really make it—survive technological maturity. You look out there and wonder if it's been done before—in this or any other Milky Way. Or whether anyone else has had a chance to try.

The Roosevelt Center is to be commended for educatiing the public on these issues, and more importantly, for reminding us that there is much work to be done to ensure that the most horrible destructive power ever unleashed on Earth will never be used again.

Mr. MRAZEK. Mr. Speaker, I congratulate my colleague from Michigan, Mr. WOLPE, and the gentleman from Illinois, Mr. PORTER, for the valuable service they perform today with this special order on nuclear proliferation.

In the 40-plus years since the invention of the bomb, the political leaders of the world have managed to continue a torturous dance around the issue of nuclear proliferation. This irrefutable fact belies the oft-quoted assertion of Albert Einstein that "this basic power of the universe cannot be fitted into the outmoded concept of narrow nationalisms," and that "the unleashed power of the atom has changed everything except our way of thinking."

Instead of confronting the political realities of the danger of nuclear proliferation, we have rather avoided the issue through textbook examples of denial. Clever euphemisms have been created to mask the unprecedented dangers we face. As a result, the growing roster of nations possessing nuclear capabilities becomes the "nuclear club." The horrific creation of the bomb is transformed into "letting the genie out of the bottle."

We name the most terrible weapon in our arsenal the Peacekeeper at the same time that plans are drawn up to erect a science-fiction "peace shield" over the continent to protect against attack. Again and again, we deny the horrible truth of nuclear proliferation and an ever-expanding global arms race.

When we created the bomb, we envisioned a monopoly over its possession in blatant disregard of human history. The monopoly, as we know, lasted for a matter of months. Now, we wonder not if the bomb will come into the possession of terrorists and hostile madmen, but when. That nuclear blackmail will occur is a given, considering the progression of the dilemma of nuclear proliferation. In the face of this awesome and terrible force, strategic superiority becomes a meaningless term, as somewhere in the world the downtrodden plot their revenge on the mighty.

Einstein once told us with remarkable prescience that "there is no defense, there is no possibility of control . . ." of our apocalyptic invention except for one, tenuous hope: ". . . through the aroused understanding and insistence of the peoples of the world."

Perhaps, today, we are seeing the genesis of this global movement away from the brink. As is so often the case, a disaster of unprecedented scope is required to open humankind's eyes to impending calamity. Perhaps Chernobyl, with its cloud of death spreading beyond national borders into the world's consciousness, has provided a spark of realization. We shall see.

In the meantime, the moment has long since passed for the so-called leaders of this planet to assume their responsibility to humankind's past, as well as its future. Each day that we fail to confront the issue of nuclear proliferation is another day closer to the "unthinkable"—another convenient euphemism

which should be stricken from the nuclear glossary.

The Swedish statesman Alva Myrdal starkly described the task before us. "Every government defends its participation in the arms race as necessary to guard its national security," he wrote. "But this is an illusion. What makes the arms race a global folly is that all countries are now buying greater and greater insecurity at higher and higher costs. The nonstop character of the arms race also poses ever steeper obstacles to disarmament negotiations. While the disarmers talk, the armories that were to be dismantled are being built higher and higher. Disarmament negotiations have, so far, been a sorrowful Sisyphus game and a long series of missed opportunities."

For many in the governments of the two superpowers and the rest of the nuclear "mob"—a more appropriate euphemism for holders of this destructive capability—arms control is an anathema to be avoided at all costs. I would say to them that the costs are far greater than any our species has ever known, and that they assume the height of arrogance when they presume that they have the moral authority to exact these tolls on all of humanity, on all that came before and on all that is yet to come.

Mr. Speaker, another opportunity is upon us now. We can take some small comfort in the fact that the superpowers are at the very least sitting in negotiation, though few of us hold out high hopes for what they may accomplish before the discussions are again dashed upon the rocks of narrow nationalisms.

It is clear that compromise and conciliation is necessary in this endeavor as in no undertaking ever assumed by the world's leaders. Let us get on with it. To again quote the words of another, "As soon as men decide that all means are permitted to fight an evil, then their good becomes indistinguishable from the evil that they set out to destroy."

I again thank the gentlemen for their effort of conscience today.

Mr. WISE. Mr. Speaker, after 40 years, it seems amazing that only five nations have access to nuclear weapons. However, how long will this situation last? Several other countries, including South Africa and Israel, have nuclear weapons capability. In fact, they may already have a stockpile of nuclear weapons.

There are also countries that are doing whatever they can to obtain nuclear technology. One of these countries is Libya. Imagine would a man like Qadhafi do with a nuclear weapon? As nuclear technology spreads, terrorists throughout the world have a chance to get their hands on weapons grade materials. The bombing of an airplane is a small horror compared to the detonation of a nuclear device in an American city.

The possibility of new nations—or even a terrorist organization—acquiring nuclear weapons is a problem that Americans must begin to confront together—and solve together. Only be educating ourselves to the dangers of nuclear proliferation can we begin the process of confronting this dangerous situation.

One such education program has recently been conducted in my district and in many of my colleagues' districts throughout the country. It is a program called Wildfire and it was designed by the Roosevelt Center for American Policy Studies. The Wildfire campaign was created to help citizens gain a long-term perspective on the nuclear dilemma, and in particular on the spread of nuclear weapons throughout the world.

The Wildfire program, which was conducted at one of the universities in my district, combines speakers and town meetings with a simulation game. The simulation allowed students to assume the roles of leaders of different countries and then put them in a nuclear crisis situation. By putting students in a crisis—a nuclear weapons test by Pakistan—they were forced to confront the policy dilemma's of nuclear proliferation.

I commend the Roosevelt Center's efforts to bring the public into the debate on nuclear proliferation. Our democracy is based on citizen participation and this program offers every one of us an opportunity to become involved in an issue of critical importance to our Nation and the world. I only wish there were more projects of its kind.

Mr. TRAFICANT. Mr. Speaker, I would first like to commend my colleagues, Mr. WOLPE and Mr. PORTER, for organizing this special order on the topic of nuclear proliferation. This subject is one which must be confronted by all nations and steps must be taken to see that these destructive weapons do not fall into the hands of terrorists.

Like so many Americans, I am deeply concerned about the rapid buildup of nuclear weapons. During the next few years, the United States objective should be a radical reduction in the levels and the power of existing and planned nuclear arms. The United States must also pursue a process by which we stabilize the relationship between offensive and defensive nuclear weapons. whether they be on Earth or in space. We must address this issue now and instead use the increasing contribution of our nonnuclear defenses as our best deterrent to war. A world free of the threat of military aggression and free of nuclear weapons is an ultimate goal on which we, the Soviet Union, and all other nations can and must agree.

As Mr. WOLPE and Mr. PORTER have already eluded to, the Roosevelt Center For American Studies is in the process of carrying out a national campaign to help the people of this Nation gain a better understanding on the spread of nuclear weapons around the world. The Wildfire campaign is a concerted effort to help Americans from all walks of life acquire some basic knowledge about this issue and to share with those of us invoved in the decisionmaking process, their views on this critical problem. I welcome this initiative because I believe it provides the people of this Nation a forum by which they can become involved and participate in finding a solution to a serious problem which threatens the security of this Nation and the future survival of our world.

Incidently, the Wildfire campaign will be coming to my congressional district on August 11. I look forward to participating in this forum and sharing dialog with my constituents on this important subject.

One final point, nuclear proliferation is a terrifying process and one which threatens our very existence. In this time of increased international terrorism, the likelihood of nuclear weapons falling into the hands of these groups must be considered. The spread of nuclear weapons is a subject we as a nation must learn more about together, and must solve together.

I would like to again thank Mr. WOLPE and Mr. PORTER for taking this time to consider this issue and also for allowing me the opportunity to participate in this discussion.

Mr. FEIGHAN. Mr. Speaker, not long ago in Cleveland a tense meeting took place during which a committed group of individuals strove to avert nuclear disaster on the India-Pakistan border. While skirmishes over Kashmir's borders threatened to turn into all-out war, Pakistan pulled its trump card and announced its intention to detonate a nuclear bomb in the air if India refused to back down. Three days of frenzied negotiations brought a reprieve, but not a solution: The bomb was not detonated and India made some concessions on the border dispute. But the long-term tensions remained and everyone there knew that the conflict and the threat would continue to simmer.

If you're curious as to why this crisis failed to make the front page, it is because the events were only on paper, the days were 10 minutes long, and the negotiators were citizens in the community who had come to learn about nuclear proliferation as participants in the Roosevelt Center's game of "Wildfire." What they learned goes far beyond the problem of the spread of nuclear weapons. They learned why reasonable people can be brought to the brink of disaster and consider taking that final, irrevocable step of pushing the button. They learned that reasonable people who want to rid the world of the nuclear threat might themselves also desire the power that comes from possession of the bomb. Most important, they learned that the situation they faced in an hour of play-acting is not at all far fetched; that it could, in fact, be on the front page at any time.

Only five countries admit to having "the bomb": the United States, the Soviet Union, the Peoples Republic of China, France, and Britain. India, South Africa, and Israel are all known to have the technology to build nuclear weapons, but deny having any arsenal. Rapidly approaching parity with those countries are Pakistan, Argentina, and Brazil.

Proliferation of nuclear weapons was not a passing fad of the 1960's when the technology was still fairly new. It is a real response to the perception created by our own dramatic arsenals that nuclear weapons are today's tools of power diplomacy.

I find sobering enough the prospect of an arms race in this country and the Soviet Union. I grow more disturbed at the spread of this deadly technology to Third World Nations who might be less reluctant to rely on the strength of the nuclear threat. But I am staggered by the thought of nuclear technology and materials falling into the hands of those for whom the taking of innocent life is the preferred mode of action—terrorists for whom a cause is worth any price.

The threat of nuclear terrorism cannot and must not be easily discounted, but it also need not be inevitable. Nuclear technology, though already widely available, is still control-

lable. Only with a much stronger commitment to its control, however, can the nuclear nations hope to stem the tide.

It is our own efforts and attitude toward arms control and nuclear restraint that set the tone. If the United States is willing to consider legitimate arms control, to pursue vigorously the issue of nuclear containment, to insist on verification procedures for the use of exported U.S. nuclear technology—in short, to make a top priority of nonproliferation, it is possible that the right tone will be set.

If, however, we continue with a reckless disregard of the possibility of unstable regimes or radical factions gaining the power of the atom, we can be sure the threat will become reality.

The first step—informing the public—has been taken by the Roosevelt Center. I encourage all my colleagues to ask how the Wildfire game might be brought to their district. It is an absorbing and revealing exercise. With that kind of effort, maybe we can help ensure that nuclear confrontation never goes beyond the reaches of our imagination, and never makes the front page.

Mr. UDALL. Mr. Speaker, recent events in the Ukraine and the Mediterranean have dramatized the urgent need to control the spread of nuclear weapons. Although the accident at Chernobyl has already attained the status of the worst in the history of civil nuclear power, the number of victims is but a tiny percentage of those who would die in even a small nuclear exchange. And recent terrorist acts cannot help but raise questions about nuclear terrorism. How safe would the world be today if Muammar Qadhafi or the Ayatollah Khomeini had the bomb?

Where do we stand in 1986, 16 years after the Nonproliferation Treaty came into being? On the surface, the treaty appears to have been a success. Not one nation has been added to the list of confirmed nuclear weapons states: the United States, the U.S.S.R, the United Kingdom, France, and the PRC. But there is concern that four nations—and maybe more—have secretly joined the nuclear club, none of which are parties to the treaty. There is also a whole group of countries which appear to have taken steps at one time or another in the recent past to develop the capacity to produce nuclear weapons, and there is considerable ambiguity about the current status of those programs. Some of those countries are parties to the treaty and some are not. The rapid dissemination of enrichment and reprocessing technologies over the past 16 years has added to the uncertainties and dangers.

So while we shouldn't characterize the treaty as a failure, nor can we say that it has been a complete success. To borrow a term from the vocabulary of arms control, sudden breakouts into the nuclear weapons club by several nations are possible.

What can be done to strengthen the nonproliferation regime to help prevent such breakouts?

First, nuclear export controls should be tightened, both in terms of subjecting more nuclear-related equipment and technologies to controls and by strengthening individual national export control systems. I believe this can be done without unduly impeding U.S. nuclear exports. Actually, the U.S. record in this area is better than most, but even we need to tighten up our restrictions.

Second, we need to develop a system of sanctions to employ against countries engaged in developing nuclear weapons. Ideally an effective system of sanctions would make unnecessary such actions as the 1981 attack on Iraqi reactor.

Third, we need to look beyond the hardware and technology to the political motives underlying nuclear weapons programs. There are many reasons why a nation might undertake to develop its own nuclear weapons. In those cases where perceived or actual security threats drive the program, we need to see what we and our allies can do to defuse those situations.

Finally, we and the other nuclear weapons states need to work harder to reduce our own nuclear weapons stocks. In drafting the Nonproliferation Treaty, the states without nuclear weapons agreed to forgo them in exchange for a commitment by those with nuclear weapons to reduce their stockpiles. In the words of article 6 of the treaty, the weapons states agreed to take effective measures to bring an end to the nuclear arms race. The pursuit of mutual and verifiable strategic nuclear arms reductions is certainly the most important aspect of our bilateral relationship with the Soviet Union. Progress in that critical endeavor would serve to strengthen our moral and political standing as a leader in the nonproliferation arena.

The most immediate objective in the area of arms control is a mutual and verifiable comprehensive nuclear test ban treaty with the Soviet Union. With today's technology, verifiability is no longer a barrier to such an agreement. A test ban treaty would send a powerful message to would-be possessors of the bomb: the superpowers are serious about arms control.

It may not grab headlines, but the struggle against nuclear proliferation is one of the most important battles of our time. It is no exaggeration to say that the fate of millions may hang in the balance.

Mr. JONES of Oklahoma. Mr. Speaker, I would like to join my colleagues in calling attention to the game "Wildfire." A session of the game was conducted several months ago in my district, and the feedback from my constituents who participated in the program was very positive.

Representatives of groups such as the Vietnam Veterans of America, the John Birch Society, the National Organization of Women, the University of Tulsa faculty, students in the ROTC program at the university, and the League of Women Voters joined to participate in the game. To bring such diverse groups together at the same forum is in itself a great accomplishment.

Wildfire is very effective in bringing out the complexities of nuclear proliferation without partisan or ideological rhetoric. It educates and informs the participants in a reasoned, balanced manner. The exercise is designed in such a way that it can be played and enjoyed by people of all ages.

The issue of nuclear arms proliferation is one which we as members of Congress must face. The arms race is a deadly game which we and our allies play with the Soviets. We spend larger and larger amounts of money to increase our arsenal as we face record deficits at home. We escalate the production of nuclear arms at the expense of the development of safer, less costly conventional arms, thus increasing the likelihood that the next major war, if it comes, may escalate into a nuclear conflict.

The American public has been slowly awakening to the threat posed by unbridled nuclear proliferation. Exercises like Wildfire enhance the education process, and allow the American people to make reasoned decision whether we should continue arms escalation or whether pursuit of mutual, verifiable arms reduction should be a major part of our blueprint for the future, and make this decision free of the emotional rhetoric found on both sides of this issue.

Wildfire also brings out the fact that nuclear proliferation is truly a global problem with the number of nations possessing nuclear arms projected to triple within the next few years. The possibility of an unstable regime in one country or another wreaking havoc on international diplomacy simply by virtue of the fact that it possesses a nuclear warhead is very real. It is an issue we must face.

Mr. Speaker, I commend the Roosevelt Center for its development of Wildfire, and I wish the center continued success in its attempts to raise the American public's awareness of the issues facing us.

Mr. DELLUMS. Mr. Speaker, so long as nuclear weapons continue to exist, the threat of nuclear accidents, nuclear wars, and nuclear holocaust remain threats that we often ignore, but will always exist. The possibility of nuclear mismanagement and catastrophe is not limited to exchanges between the superpowers. So long as the arms race continues, nuclear fuels and weapons become increasingly difficult to retain detailed scrutiny over, and the components of nuclear warheads fall increasingly into the wrong hands, the introduction of nuclear weapons into the arsenals of more and more countries and the risk of nuclear terrorism becomes an increasing threat to our country and the world at large.

This is not a new problem. Often, however, the debate on nuclear proliferation enjoy only limited public popularity and are quickly forgotten when other more immediate issues come into public scrutiny. Often discussed is abandoned in the face of perceived powerlessness, and lack of the perceived immediacy of the problem. But these perceptions are misguided: the problem is in need of immediate redress; public education on this issue is essential; informed judgments on these issues can make a difference in public policy; and only informed and determined response to this increasingly frightening situation can avert the possibility of major disasters in the future.

The Wildfire Program was created to heighten public awareness of the nuclear proliferation problem and encourage individuals to teach others about the problem and work toward solutions. This is a nonpartisan, nondogmatic program. Wildfire does not attempt to direct specific action or specific programs for the solution of the nuclear proliferation problem. This is a complex issue, and may be interpreted and addressed in a number of

ways. Wildfire attempts only to alert people to the real urgency of this problem and to encourage them to draw their own conclusions as to what the need for action is, and what this action should be.

Because this issue has emerged over a long period of time and does not appear to become much worse from one day to the next, it is difficult to express the sense of urgency that this problem has. Because of this simple problem, it is especially difficult to rally public interest. The wildfire organization has been created to arouse the interest and concern of the public to this increasingly dangerous issue. I would like to take this opportunity to share with my colleagues two pieces on the nuclear proliferation problem.

One is by Tobias J. Halliday, a concerned resident of the Eighth Congressional District and a former intern in my office; and the other is by Dr. Robert L. Beckman, an expert on nuclear proliferation and a consultant for the Congressional Research Service on these issues—the essay by Dr. Beckman will also appear in the July 1986 issue of Arms Control Today. I would like to take this opportunity to applaud the efforts of wildfire on raising public consciousness on this issue, an to offer my support to their mission. I hope my colleagues will join me in supporting this nonpartisan and very worthwhile organization. The essays follow:

THE NEGLECTED DANGER OF NUCLEAR PROLIFERATION

(By Tobias J. Halliday)

JUNE 8, 1986.

Though the threat of nuclear disaster fundamentally influences our day-to-day existence, it is largely neglected, often as a result of the widespread belief that there is nothing the individual can do to prevent or prepare for such an occurrence. But as the meltdown at Chernobyl has helped to illustrate, the risks inherent in the utilization of nuclear technology will not go away or take care of themselves if the public chooses to ignore them. Refusal to take account of these risks and blind faith in policymakers and technocrats will more likely result in a continued lack of proper safeguards and emergency planning, as was the case at Chernobyl.

Chernobyl and the similar incident at Three Mile Island in 1979 reveal only one aspect of the danger of nuclear disaster. But the spectre of nuclear disaster has many faces. Nuclear war, triggered by computer malfunction or escalation of a regional conflict, is another threat which is considered unlikely by adherents of continued nuclear deterrence primarily because aggressive threats, thus far, have been dealt with at face value by rational minds. But a third and perhaps most-neglected danger of nuclear disaster concerns the proliferation of nuclear weapons.

Since the detonation of the first atomic weapons by the United States in 1945, the possession of a nuclear arsenal has been associated with major power and international respect and prestige. As more nations have joined the "nuclear club," the quest by a number of small nations to obtain this capability has been increasingly intense. As technology has become more readily accessible, the delimiting factor has become access (usually through an existing nuclear power) to sophisticated tools and materials and, most importantly, high-grade fissionable material.

Although the Non-Proliferation Treaty was successful in restraining the spread of atomic weapons for many years after its signing in 1968, failure by the superpowers to control the escalation of their own nuclear arms has seriously undermined this agreement. Further, it is a fundamentally voluntary agreement, and many nations which are nearly able to build nuclear weapons have refused to sign. This, combined with a major escalation of sales of reactor technology and materials to Third World countries, primarily by Western European nations but also by the United States, has led to a snowballing problem in controlling the transportation and secure possession of fissionable materials in sensitive regions. At the same time, the minimal supervision and regulation of International Atomic Energy Association standards in Third World reactors over a growing span of time, contributes to a rising level of uncertainty about amounts, locations, and grade levels of nuclear fuel.

The problem of maintaining control of fuel is no less severe in the U.S. This leads to a growing possibility that weapons-grade Uranium—the critical "missing link" for any bomb builder—will not only be made available to a less secure nation, but may be illegally seized and fall into the hands of terrorist organizations. As recent events have demonstrated, there is no shortage of such organizations, and many have already indicated that their dedication to their causes is valued more highly than the lives of their own members. Clearly such dedication has important implications so far as the use of nuclear weapons by terrorist organizations is concerned.

The spread of nuclear technology has already expanded the number of nations with nuclear weapons, and that number could quadruple in as little as six years. Six countries—the United States, the Soviet Union, Britain, France, China, and India—have all conducted successful tests of nuclear weapons. According to Newsweek (December 5, 1983, p. 56), Argentina, Canada, West Germany, Israel, Italy, Japan, Pakistan, South Africa, Sweden, and Switzerland are all believed capable of building a bomb. Australia, Austria, Belgium, Brazil, Denmark, Iraq, South Korea, the Netherlands, Norway, Spain, and Taiwan are all thought to be capable of building a bomb within six years. While few of these nations are likely to pose a significant security threat to the U.S. in the immediate future, the mere existence of nuclear weapons under the control of a variety of governments greatly increases the possibility of nuclear weapons materials falling into the wrong hands.

Unless current practices concerning nuclear fuel and hardware are changed dramatically, logic compels one to believe that it is only a matter of time before a small nation, or even a terrorist organization, detonates a nuclear device. It may take 20 years, or perhaps as few as two. It could happen in a regional conflict in the Far East, or at a demonstration in New York City. But unless dramatic steps are taken soon, it will happen.

Clearly, a radical change is needed in the way we conduct our business in nuclear affairs. Ideally, the best solution to this problem is complete disarmament and dismantling of nuclear reactors. In the absence of this unlikely event in the near future, much more rigid control must be imposed in the handling and transportation of fissionable materials and nuclear hardware in the U.S. With our allies we must set in place strong sanctions against nations which refuse to sign and abide by the Non-Proliferation Treaty. Stricter guidelines and much stronger enforcement of existing rules must be adopted concerning the handling of fissionable materials in all nations, with adequate provisions for policing the operations of new reactors in previously non-nuclear countries. These guidelines must be firmly but evenly applied in all countries.

The first step in this process, however, must be the recognition that nuclear proliferation is an immediate and serious problem. Secondly, we must recognize that the public must play an important role in meeting this crisis. Awareness of the problem must spread, and policymakers must become sensitive to the issue. Only by recognizing the urgency of this problem and by putting pressure on elected officials to confront these dangers can ultimate disaster be averted. Only two events can generate the public interest necessary to prevent future disaster: spontaneous action, or action prompted by an unforseen major disaster. Clearly, the first is preferable to the second.

In a famous quotation, Albert Einstein warned that the acquisition of nuclear technology must be accompanied by a radical change in thinking about issues of war and human suffering. He feared that without such a change in thinking this new power would ultimately spell our disaster. The course of events we have observed in recent years makes it apparent that the time has come for us to change our way of thinking about war, peace, and the prudent use of nuclear technology.

THE ESSENCE OF NUCLEAR EDUCATION: BETTER WELL-READ THAN DEAD

(By Dr. Robert L. Beckman)

Vienna, Austria in April happened to be beautiful. I was there with a group of U.S. citizens representing the United Nations Association on a study tour of the International Atomic Energy Agency [IAEA] headquarters. Our ostensible purpose was to learn more about international nuclear safeguards. While we were there, the nuclear accident at Chernobyl was discovered.

It is always interesting to be in a foreign land and get a non-U.S. perspective on a world crisis. In this particular event, the top staff of the IAEA happened to be as much in the dark as our group as to the specifics of the meltdown in the Soviet Union. Thus, everyone was straining to learn just how catastrophic the accident might be, and especially whether Vienna would be in the fallout zone.

The initial words from the international press were confusing. The word from the United States was alarming; European analysts were not much comfort either. Fortunately, once more accurate information was released, the magnitude of the accident and the size of the radioactive release could be determined; then began the agonizing reappraisal. Naturally, most people want to know just how bad the health dangers are; only later do they get into the questions about generating electricity by splitting atoms.

Let us just say for modeling purposes that one percent of the core of that reactor got out into the atmosphere; that would be close to two tons of variously deadly radioactive particles. The cloud of particles is even now working its way over the United States and around the globe. Many of the particles will remain deadly for thousands of years. Perhaps 100,000 lives will be direct-

ly imperiled over time, and hundreds of thousands of square miles will be contaminated to some degree.

To give you some perspective on the scale of the accident, however, and to put last month's misery into a useful context, it needs to be remembered that of the over 1,400 nuclear weapons tests conducted since 1945, over 400 were above ground, and they introduced into the atmosphere an estimated five tons of plutonium, clearly one of the more deadly elements ever discovered by man. At Chernobyl, many more radioactive particles than just plutonium were released.

What is important to remember is that we are up against something which is bigger than all of us. This nuclear "problem" has dimensions which must be explored. Whatever one's personal attitudes about nuclear or nuclear weapons, no one is immune from the consequences; a nuclear explosion or a nuclear accident anywhere is a nuclear event everywhere. Thus, for the moment, instead of weighing the relative merits of one political system as against another, instead of debating the future of nuclear power, and instead of searching for scapegoats and stupidity, let us begin to understand the broader context of Chernobyl and nuclear arsenals.

There is a premise, in both educational and democratic theory, that knowledge is liberating; correspondingly, ignorance enslaves. People, to remain free, must be educated. In one sense, then, history can be read as a series of struggles for and against knowledge, a storybook of revolutions that inevitably spring from knowing, thinking about what we know, and eventually acting upon that knowledge. The enlightenment; the reformation; anticolonialism; human, equal and civil rights. Revolutions all, and all fundamentally rooted in a battle of ideas.

Successful revolutions inevitably lead to a change in the culture. Culture by its very nature is a set of shared customs, attitudes and ideas which are transmitted from generation to generation by learning processes rather than by biological inheritance. Education preserves and deepens the culture, as do the other transmitters of culture: politics, religion, social organizations, the economic system. Thus, revolutions, particularly those within technologically advanced democratic cultures, must change a vast array of dominant ways of thinking and acting within a culture before they are successful.

In pluralistic or democratic cultures there is inevitably a creative ferment of alternative belief systems which vie for dominance. These movements, or counter-cultures, threaten the dominant "cultural universals" which bind societies together in harmony. For the most part, democracies absorb potentially revolutionary ideas and movements through the process of acculturation, a sort of evolutionary cooptation. Through acculturation, the system in effect grinds the edges off most challenges to the status quo. Over time, would-be revolutionaries learn to conform, to fit in. Through compromise, the system may even absorb pieces of the revolution. Thus, the traumas of the 1960s and 1970s are ameliorated somewhat in the 1980s: underground nuclear weapons testing is still a norm; our war in Vietnam is ended; minorities and women have greater access to power; environmental issues have entered the political vocabulary; and even some communist systems are flirting with capitalism.

Rather than achieving a fundamental restructuring of the system, however, revolutions in industrial democracies are lucky to effect change even at the margins. (Radical critics, of course, complain that such change is no change at all.) Institutions and mindsets have a resilience that is both pacifying and infuriating. We depend on and trust in consistency, yet that respect for routine, ritual and tradition can become smothering. The same homeostatic cultural bonds which make violent political revolution so unlikely in democracies can also stifle necessary and unnecessary changes alike. In a larger sense, habitual behavior at a global level makes peace possible, but it also makes revolution inevitable.

From time to time there occur technological revolutions which shape the intensity and timing of ideological revolutions. Several stand out in the twentieth century: aviation and space exploration; the computer; antibiotics and genetic engineering; the bomb. Both metaphorically and actually, aircraft and satellites have shrunk the globe so that few can ignore the meaning of Stevenson's phrase "spaceship earth"; computers continue to make the improbable merely mundane; antibiotics and genetics have made us as gods, able to rescue multitudes from death and transform the nature of life; and the bomb has, depending on one's point of view, either sustained all the other revolutions or rendered them immaterial.

THE BOMB AS A CULTURAL METAPHOR

The bomb. The idea, much like the weapons, has insinuated itself into the world's consciousness much as nuclear submarines into the sea, surfacing from time to time and then submerging again—modernized, refurbished, full of revolutionary potential. Periodically, pockets of opposition to some aspect of the nuclear world that we have created themselves surface, jousting Quixote-like with the demons. Like the bull to the cape, the causes are eventually impaled by the implacable opposition. Ban the bomb. Anti-nuclear power. Comprehensive test bans. Nuclear freezes. Non-proliferation. A dizzying array of nuclear mirrors behind which rest the nuclear culture, the ever-shifting but ever-present "need" for nuclear power. And so both nuclear weapons and nuclear power plants continue to multiply.

Increasingly, studies of the nuclear problems—the nuclear arms race and the worldwide spread of nuclear bomb material and the machines to make it—are being viewed as the same problem. It is well they should be, for the birth and growth of the nuclear arsenals preceded by only a few years the birth of the nuclear industry. Yet in the same way that the world is today wracked by fears about the continued proliferation of the superpower arsenals, there is mounting concern that decisions made decades ago about "peaceful nuclear commerce" may also need radical reconsideration.

For over three decades, nuclear power has been seen as the answer to two questions: How do we prevent future world wars? and How do we solve future energy problems? Nuclear "priesthoods" fostered dogmas and secrets, expounding the wisdom of the atom; indeed, the same men sired both atoms for war and atoms for peace. Two parallel nuclear "religions" were born, each with a need to convert the unwashed to the centrality of the atomic truths. Two were paramount: Nuclear arsenals in the right hands can free the world from the scourge of world war. And the peaceful civilian nuclear industry can free the human species from worries about energy.

The missionary zeal and success of the nuclear brotherhood has been awesome. However one may feel about nuclear deterrence and nuclear-generated electricity, they are inescapably part of the world culture. Despite the paradoxes, we may, because of the imbedded truths, be unable to live without them. Thus, any attempt to alter our evolved consciousness about who we are as a people—complete with our nuclear hopes and dreams—threatens our psychological as well as our institutional stability. Indeed, as any non-profilerator will attest, the idea of halting and reversing the spread of nuclear bombs and bomb material appears threatening because it is so destabilizing of the status quo.

Yet, in the battle to stop proliferation, as in most battles, propitious moments occur. For over forty years, galvanizing moments have occurred which spurred individuals from quite different disciplines to do battle with the nuclear curia over different aspects of proliferation: Hiroshima. The Super Fallout. The Cuban missile crisis. Three Mile Island. Pershing missiles. Nuclear winter. Chernobyl. All have sparked, to varying degrees, intense interest in nuclear disarmament. Likewise the "Reagan revolution."

It has been said that the Reagan administration is the greatest force for peace in the world today. Talk of fighting and winning nuclear wars; nuclear shots across the bow; massive defense budgets; Star Wars—all "deepen deterrence". A further irony is that, coupled with its views on nuclear exports, the administration has polarized debate in such a way that the underlying philosophical debate about nuclear power for war and peace stands out in stark relief. A cultural divide is again reached where people from many different disciplines are wondering if "reform" of the system is possible, or whether only a cultural revolution in the nuclear arena can redirect U.S. and world energies toward alternatives to the nuclear future.

WHO WILL STOP THE BOMB?

In the midst of the debate about the best way to ensure the world's security—both from nuclear war and from energy scarcity—a familiar but nonetheless little-noticed breed of reformers is busy working ridiculously long hours on creating a sort of "critical mass of consciousness" about the nuclear world. One such group is the Roosevelt Center for American Policy Studies. Dedicated to clarifying "the policy choices before the nation and to encourage and facilitate the participation of citizens in the decision-making process at all levels of government," the Roosevelt Center has launched a three-year public education campaign on "the most critical threat the world faces—the spread of nuclear weapons."

The proliferation campaign of the Center, titled "Wildfire," includes a "consciousness-raising phase" of community events nationwide: a specially-developed role-playing game, films, teacher- and community-leader training sessions, and political study courses. A central part of the educational work of the Wildfire campaign is contained in the Center's primer on nuclear proliferation, Who Will STOP the Bomb? by Roger Molander and Robbie Nichols [Facts on File Publications, 1985, ISBN 0-8160-1283-0, paperback].

What is significant about the Wildfire campaign and the primer is the attempt to coordinate the educational campaign with the public interest sector, proliferation specialists, lawmakers, business and media lead-

ers, and national civic, professional and educational organizations. As anyone who has spent time with the proliferation and arms control communities knows, however, the Roosevelt Center project is up against formidable obstacles.

The Center is presided over by Dr. Roger C. Molander, familiar to many as one of the founders of the Ground Zero Movement which had a short, intense life earlier this decade. The Center staff busies itself with other issue areas like the national debt and U.S./Soviet diplomatic lessons, but its educational campaign to stop the spread of nuclear weapons absorbs the bulk of its emotional and monetary energies. With a campaign that is timed to make a major impact on congressional and presidential elections, the Roosevelt Center is betting that average citizens can be persuaded "to demand that their nation commit its considerable energies to an attempt to stem the tide of nuclear proliferation while there is still time."

Molander and his colleague Robbie Nichols challenge the reader to confront and alter trends in peaceful nuclear commerce that point toward a world full of nuclear weapons. In both a political and an educational sense, the primer can be viewed as an act of faith: that when citizens know the truth they will set themselves free. Naturally, some will argue that even if Molander and Nichols achieve the hoped-for turn around from proliferation, there will never be an end to nuclear weapons and bomb material—not for thousands of years, at any rate. The authors, however, are willing to bet that a mass movement will see the proliferation problem as cultural and will, over time, demand "a fundamental change in the security environment for nation-states."

As but one piece in an extensive effort to put information about potential nuclear anarchy (and perhaps even nuclear terrorism) into people's hands, the primer succeeds where other, more technical histories and manuals do not. Whereas Molander and Nichols never set out to break new ground on the technical side of proliferation (their book is free of technical jargon and consciously written in simple English), it is significant for the last chapters, "Where Do We Go From Here?" and "How to Make A Difference." In these, the authors explore a broad range of public and private options for action, policy choices, and ideas to stimulate thinking about alternative worlds. Through those chapters, the primer and the Wildfire campaign can be seen as action-oriented devices to compel informed and committed citizens to push their governments to take proliferation seriously.

The Roosevelt Center's strategy is to create a constituency for a fundamental cultural shift, literally millions of voices worldwide demanding that governments put proliferation at the top of the political agenda. Such a revolution in the way we think about the atom, naturally, is not a hopeful prospect in the short term, which is one reason the Roosevelt Center is hunkering down for a multiyear effort.

In a curious way, the coincidence of the accident at Chernobyl and the "Wildfire" campaign present a life-altering opportunity to confront the nuclear culture we have become. Events in the nuclear arena are accelerating. Before the next radioactive cloud is unleashed here at home—indeed, before we have nuclear education forced on us in the most uncomfortable way—we can all afford to sit still and listen to others who have thought through the options before us. The reader will find that the primer and the Wildfire campaign, and the philosophical impulses behind them, could not be more helpful or timely.

Mr. STARK. Mr. Speaker, as the Soviet Union counts its dead from the tragic nuclear accident near Kiev, we should all think about the implications of the growing use of nuclear power, the spread of nuclear weapons and our frightening inability to control either.

The deaths so far from the Kiev accident will be just a small fraction of the total casualties. People will be dying prematurely from radiation poisoning for years to come. Others will suffer disabling side effects or pass abnormalities along to their children. Russia's agricultural heartland could be poisoned for generations. The water supply will be contaminated. The entire food chain might be ruined as animals eat poisoned grass, people eat poisoned animals, and so on.

As frightening as that is, it is just one isolated accident. There are nuclear powerplants all over the world. As disasterous as the accident is, it is less terrible than the destruction that could be caused by one nuclear bomb.

The United States and the Soviet Union have about 50,000 nuclear bombs between them. Seven other countries can already make nuclear bombs and it is estimated that a total of two dozen could have them within 15 years. Nuclear technology is becoming so widely understood that terrorist groups could soon develop suitcase-sized nuclear bombs. We cannot delay any longer. The time has come to clamp down other proliferation of nuclear energy and nuclear weapons before we face an unparalleled and unimaginable disaster.

I have introduced legislation that would deny benefits under a variety of trade preference programs to countries that have not signed the Nuclear Non-Proliferation Treaty (NPT] by January 1, 1987. While some will argue that tying trade policy to nuclear policy is mixing apples and oranges, I believe that the case is overwhelming for linking these two and that the costs of not facing up to nuclear proliferation are much too high to be ignored.

All sane people are deeply concerned with the arms race between the United States and the Soviet Union. Just a fraction of the 50,000 nuclear weapons we have could destroy the human race. What have received less attention are the "second and third arms races"—the attempts by nonnuclear nations and terrorist organizations to master the secrets of nuclear weapons. This disregard is unfathomable. By the time a nuclear weapon is exploded by a nonsuperpower or a terrorist organization, we will likely be unable to solve the intractable complexities of proliferation in time to prevent a disaster.

The nuclear weapons club currently has nine members. Five—the United States, U.S.S.R., France, Britain, and China—have existing stockpiles. The other four, India, Pakistan, Israel, and South Africa, have become associate members, capable of producing nuclear bombs, if they have not done so already. Frighteningly, neither France nor China, nor any of the associate members has signed the NPT, which means that there are no safeguards or restrictions on the types of nuclear material they acquire or transfer.

Other countries which have nuclear aspirations and could soon have the bomb include Brazil and Argentina, which have not signed the NPT. Iran, Iraq, and Libya have signed but their recent behavior casts real doubt on the quality of any promises they may make. All of these countries, as well as all the associate members, are in currently or potentially volatile war situations. Several have a history of unstable government. How safe can we feel, knowing that these countries can acquire nuclear material, free from oversight by the International Atomic Energy Agency or any other body?

If that image does not leave you shaken, consider what a terrorist group could do with a nuclear weapon. It would not have to be a very large or sophisticated bomb for it would not have to elude missile defenses or penetrate a hardened silo. Such a bomb planted near the Capitol when the President was delivering his State of the Union Address could kill every leader of our Federal Government, decapitating the country. Imagine the abrogations of international law and individual rights that terrified governments could commit to guard against such an occurrence. We have already seen planes flying in international airspace forced down and retaliatory airstrikes that have left numerous civilians dead. With a nuclear terrorist threat, the willingness to violate agreed-upon rules and processes would mushroom, and the international order that we cherish would be severely threatened.

What implications would a world of uncontrolled proliferation have for the United States? First, it would render unworkable in most cases the doctrine of "proportionate response." Even in the case of an isolated attack by a government, where we could assign guilt with strong certainty, the decision to retaliate with a nuclear response would be agonizingly difficult. What if we were wrong? And even if we were right, to what extent can we hold citizens responsible for the actions of their leaders? There is no such thing as a surgical nuclear strike. But if there is no proportionate response, where is the disincentive for someone like Qadhafi to resist attacking? And what would we do in the case of a terrorist attack, where determining and locating the perpetrators would be tremendously difficult? Would we fail to act to protect our citizens or would we descend to the terrorists' level of behavior in our retaliation? Either would be unacceptable. The scenario calls to mind the poet's lines:

"Things fall apart; the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere
The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity."

Given that nonproliferation is a life and death interest for the United States, it is most reasonable to use trade sanctions as leverage to force compliance with the NPT. Trade benefits are a privilege for the recipients, not a right; as with foreign aid, we should and do expect something in return for them. The carrot and stick of access to the world's best market may convince many nonsigners to join this treaty. If a country refuses to make the basic sacrifices necessary to preserve the

world community, it should not be eligible for the benefits from membership in that community.

Of course, this legislation will not guarantee that all countries will sign and comply with the NPT; there must also be incentives from the nuclear club members.

First, there must be true arms control negotiations. The tradeoff in the NPT is that nonmembers will forsake nuclear weapons if the members seek to get rid of theirs. The United States and the U.S.S.R. have failed miserably at this, and until we abide by the sections of the treaty that apply to us, we won't persuade others not to seek nuclear capabilities. There should be deep cuts in existing stockpiles and those cuts should be combined with a comprehensive test ban.

Second, there will have to be aid in developing other sources of energy. The Atoms for Peace Program and the NPT both encourage the sharing of nuclear energy. Because of reprocessing technology and the basic dangers of nuclear energy, we should not continue on that path—I'm sure the people of Three Mile Island and Kiev would agree. Some type of alternative energy program is vital, though, if developing countries are to continue to develop.

Third, we need more and better security agreements so that countries do not feel that they are isolated and unprotected from a ruthless adversary that may get the bomb. Each of these is a monumentally difficult problem but, for our children's sake, they must be solved.

The recent spate of accidents related to nuclear energy and weapons should force us to change our policies. The developing countries are relying increasingly on nuclear power to provide their energy. With a growing number of inexperienced countries relying heavily on nuclear power, how many meltdowns can we expect in the next 10 years? As more countries acquire these weapons without having the technical safety expertise that the United States and the U.S.S.R. have, how long will it be before we have a catastrophic nuclear explosion? That it would be accidental would not diminish its destructiveness. If the space shuttle explosion taught us anything, it is that the most sophisticated technology can be the least safe. Yet we are going to develop a Star Wars program that would lift nuclear weapons into space and will rely on computer software many times more complex than that for the shuttle to function correctly. How terrible an accident will we need to discontinue this folly?

The world already spends over $800 billion a year on armaments. The Reagan administration estimates that there are currently 42 military conflicts raging across the globe. We cannot afford the greater insecurity that a global nuclear race would spawn or the possibility that a regional conflict could go nuclear. We still are not comfortable with the ability of the United States and the U.S.S.R. to handle their awesome responsibility and both have prossessed nuclear weapons for almost 40 years. How secure can we feel if a growing number of countries suddenly develop a nuclear capability without having had any experience in handling it? We cannot afford to find out. That is why we should use every tool at our disposal, including trade concessions, to stop the nuclear madness.

Mr. MOODY. Mr. Speaker, nuclear proliferation is a subject that is often discussed, but seldom understood. While millions of Americans are genuinely troubled by the threat of nuclear war—a great deal of misinformation has been generated that often confuses the issue of nuclear weapon proliferation with nuclear power.

Wildfire, created by the Roosevelt Center for American Policy Studies, is an excellent educational program that enables individuals to participate directly in nuclear proliferation decisionmaking. Wildfire give students, civic leaders, and local government officials a chance to learn about the critical problem of nuclear proliferation—while also enabling them to express their views to those of us in policymaking positions.

I had the opportunity to observe Wildfire in action at a high school in my district. Students were enthusiastically involved in strategies to avoid a confrontation between Pakistan and India.

Wildfire provided a forum for these students to realize the danger of the situation and to seek long term solutions. I was impressed with Wildfire and its potential to educate the public to the dangers and complexities of nuclear proliferation.

I offer hearty congratulations to the Roosevelt Center for its creative educational tool that will continue to stimulate discussion regarding the threat of nuclear proliferation.

Mr. KOSTMAYER, Mr. Speaker, nuclear proliferation is one of the most compelling issues of our time, yet it is not often consciously considered and discussed by Members of the Congress or the public because of the ominous and incomprehensible consequences of its continued growth.

I commend the gentleman from Michigan, [Mr. WOLPE] and the gentleman from Illinois [Mr. PORTER], for bringing this matter to the attention of the Congress and the American people at this time.

Recent events in the Middle East and the Soviet Union remind us of the immediate danger to us all posed by the continued spread of nuclear weapons and the urgency with which we ought to act to begin to restrict their proliferation.

In early April, I had the opportunity to participate in a fascinating and instructive session concerning this matter organized by the Roosevelt Center for American Policy Studies which was designed to draw the people of Bucks and eastern Montgomery Counties, PA into the discussion about nuclear proliferation. About 70 of my constituents participated in this informed debate and most reached the same conclusion: That the United States is not doing enough to limit the spread of nuclear weapons.

I urge all of my colleagues to join with the Roosevelt Center in putting together a Wildfire session in their own districts in order to give themselves and their own constituents this extraordinary opportunity to learn more about this critical problem and explore ways to begin to address it.

Mr. BARNES. Mr. Speaker, the spread of nuclear weapons is a critically important topic and one which has not received the serious, widespread attention it deserves.

Nuclear proliferation could be best described as the "other" nuclear arms race. A serious, responsible arms control policy must include a commitment to nonproliferation of nuclear weapons. If left to proceed unchecked, we may soon face the day when the decisions about waging nuclear war will no longer be within the exclusive realm of the two superpowers. We must work to help retard the spread of nuclear technology and materials in order to prevent nuclear explosive devices from getting into the hands of terrorists and to prevent countries with loose controls and reckless intentions from obtaining and ulitmately using nuclear weapons.

We must guard against the day when our diligent efforts for genuine nuclear arms control may be thwarted by a few dangerous, irrational people with destructive intentions. It is an issue that is critical to our national security and to our survival.

The United States must face up to the increasing traffic in the world of plutonium which is not under U.S. control. And we must recognize that as time goes on there will be more and more of this bomb material moving around.

A proliferated world is a very frightening prospect. This is the time for the United States to take a leadership role to help safeguard against the spread of nuclear weapons.

A strong U.S. nuclear nonproliferation policy will protect our security interests and further our efforts for nuclear arms control. If there is anything we must learn from the dangers of the nuclear age and the rapid pace of scientific and technological advancements it is that it is up to us to make the right decisions about how this knowledge will be used and whether it will be used for peaceful or military purposes.

Our export policy should be one that discourages the use of highly explosive nuclear materials and sensitive technologies. Unfortunately, the Reagan administration's nonproliferation policies have effectively weakened our antiproliferation controls and have undermined the bipartisan spirit that has always characterized our approach to solving this serious problem.

If we do not take the necessary steps today, the problem will have moved beyond our capacity to manage it, the capability to make nuclear weapons will belong to many others, and the decision to use nuclear weapons will be beyond our control.

We need not accept the inevitability of a proliferated world and we owe it to ourselves and our children to accept the responsibility to try to prevent it.

Time is on our side. Let's use it wisely.

Mr. BERMAN. Mr. Speaker, there is no mission of greater importance today than keeping nuclear weapons and nuclear weapons technology out of the hands of those who do not now have them. I commend my colleagues for holding this special order to remind us that there is still much work to be done if we are to prevent nuclear weapons from becoming the common currency of international politics. I commend also the Roosevelt Center for American Policy Studies for its efforts to educate the public about the continuing spread of

nuclear weapons to other countries around the world.

While the United States has one of the world's most stringent nonproliferation regimes, there are many things we could yet do both by statute and by example. In addition to broadening the applicability of our nuclear export control laws, we must bring pressure to bear on our allies so that they do not step in to sell what we will not.

But before we can convince our allies and the many countries now on the brink of building nuclear weapons that our concerns about the dangers of nuclear weapons are genuine, we and the Soviet Union—another strong nonproliferation proponent—must demonstrate by example that nuclear weapons are unthinkable as tools of war and unacceptable as tools of diplomacy. This administration should know that the example it sets today may be its undoing tomorrow.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHANDLER (at the request of Mr. MICHEL), for today from 1 p.m. and for the balance of the day, on account of illness.

Mr. GROTBERG (at the request of Mr. MICHEL), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HENDON) to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 60 minutes, on June 12.

Mr. BURTON of Indiana, for 5 minutes, today.

(The following Members (at the request of Mr. DURBIN) to revise and extend their remarks and include extraneous material:)

Mr. PEASE, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MACKAY, for 5 minutes, today.

Mr. PEASE, for 5 minutes, on June 12.

Mr. FRANK, for 60 minutes, on June 12.

Mr. EVANS of Illinois, for 60 minutes, on June 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KOSTMAYER, prior to the vote on H.R. 2591, in the House, today.

Mr. BEREUTER, during consideration of Senate Joint Resolution 310, in the House, today.

Mr. PANETTA, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,337.

(The following Members (at the request of Mr. HENDON) and to include extraneous matter:)

Mr. SCHAEFER.
Mr. COURTER in three instances.
Mr. FIELDS.
Mr. COBLE.
Mr. CRANE in two instances.
Mr. SCHULZE.
Mrs. BENTLEY.
Mr. MCEWEN.
Mr. MCCAIN.
Mr. WOLF.
Mr. BEREUTER.
Mr. RITTER in two instances.
Mr. BROOMFIELD in two instances.
Mr. GALLO.
Mr. GREEN.
Mr. MOORHEAD in two instances.
Mr. SHUMWAY.
Mr. MCMILLAN.
Mr. SENSENBRENNER.
Mr. DORNAN of California.
Mr. YOUNG of Florida.
Mr. FAWELL in two instances.
Mr. CONTE.
Mr. DIOGUARDI in two instances.
Mr. BOEHLERT.

(The following Members (at the request of Mr. DURBIN) and to include extraneous matter:)

Mr. MOAKLEY.
Mr. RANGEL.
Mr. FASCELL in two instances.
Mr. TRAXLER.
Mr. ECKART of Ohio.
Mr. UDALL.
Mr. HERTEL of Michigan.
Mr. GUARINI.
Mr. GARCIA.
Mr. HAMILTON.
Mr. SOLARZ.
Mr. LOWRY of Washington.
Mr. VENTO.
Ms. OAKAR.
Mr. HEFTEL of Hawaii.
Mr. WEISS.
Mr. KILDEE.
Mr. WAXMAN.
Mr. DOWNEY of New York.
Mr. CLAY.
Mr. STARK.
Mr. TALLON.
Ms. LLOYD.
Mr. ROE.
Mr. COELHO.
Mr. ACKERMAN.
Mr. JONES of Oklahoma.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and joint resolution of the House of the following titles.

H.R. 3570. An act to amend title 28, United States Code, to reform and improve justices and judges survivors' annuities program, and for other purposes, and

H.J. Res. 382. Joint resolution to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

ADJOURNMENT

Mr. DURBIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Thursday, June 12, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3687. A letter from the Director, the Office of Management and Budget, transmitting a report on the status as of June 1, 1986, of 83 rescission proposals and 66 deferrals contained in the six special messages of fiscal year 1986, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 99-233); to the Committee on Appropriations and ordered to be printed June 11, 1986.

3688. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the Secretary of Defense or the Secretary of a military department to pay or defray increment expenses for developing foreign country participation in combined exercises; to the Committee on Armed Services.

3689. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to establish authority for U.S. Armed Forces to engage in humanitarian and civic assistant activities accomplished in conjunction with authorized military operations; to the Committee on Armed Services.

3690. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the Secretary of Defense or the Secretary of a military department to pay or defray the cost of participation by defense personnel of developing foreign countries in bilateral or regional cooperation programs; to the Committee on Armed Services.

3691. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend chapter 549 of title 10, United States Code, to remove limitations on the grades to which women officers of the reserve components of the naval services may be promoted and to provide that women officers and male officers shall be considered together for promotion; to the Committee on Armed Services.

3692. A letter from the Secretary of Education, transmitting a copy of the direct grant programs and intergovernmental review of Department of Education programs and activities, pursuant to 20 U.S.C. 1232(d)(i); to the Committee on Education and Labor.

3693. A letter from the Secretary of the Treasury, transmitting a copy of the Student Loan Marketing Association annual report which includes financial statements for the year ended December 31, 1985, pur-

suant to 20 U.S.C. 1087-2(k); to the Committee on Education and Labor.

3694. A letter from the Director, Institute of Museum Services, transmitting notification of the museums which have successfully competed in the fiscal year 1986 general operating support [GOS] grant cycle of the Institute; to the Committee on Education and Labor.

3695. A letter from the Assistant Secretary of the Treasury (Management), transmitting notification of an altered system of records maintained by the Bureau of the Public Debt, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3696. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3697. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3698. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3699. A letter from the Secretary of the Interior, transmitting the "Federal Coal Management Report, Fiscal Year 1985," pursuant to 30 U.S.C. 208-2; to the Committee on Interior and Insular Affairs.

3700. A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting the semiannual report on the civil misrepresentation activities of the service for the period October 1, 1985-March 31, 1986, pursuant to 39 U.S.C. 3013 (97 Stat. 1317); to the Committee on Post Office and Civil Service.

3701. A letter from the Chairman, Presidential Commission on the Space Shuttle Challenger Accident, transmitting a copy of the Commission report on the *Challenger* accident, pursuant to Executive Order 12546 of February 3, 1986; to the Committee on Science and Technology.

3702. A letter from the Comptroller General, General Accounting Office, transmitting the results of the agency's review of independent certified public accountants' audits of the calendar year 1984 financial statements of the 12 Federal Home Loan Banks, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

3703. A letter from the Secretary of State, transmitting a copy of the certification to authorize military assistance and sales for Guatemala, together with the justification for the certification, pursuant to Public Law 99-83, section 703(a)(1) (99 Stat. 240); Public Law 99-190 (99 Stat. 1302); jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 2798. A bill to amend title 38, United States Code, to prohibit discrimination in employment because of the status of certain individuals as a member of a reserve component of the Armed Forces or as a member of the National Guard (Rept. 99-626). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4384. A bill to amend title 38, United States Code, with respect to veterans' readjustment appointment (Rept. 99-627). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1934. A bill entitled the "Mineral Lands Leasing Act Amendments of 1985"; with amendments (Rept. 99-628). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4259. A bill to amend the Act of February 11, 1895 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park. (Rept. 99-629). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3554. A bill to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes; with amendments (Rept. 99-630). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3526. A bill to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona (Rept. 99-631). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 472. Resolution providing for the consideration of H.R. 4510, a bill to amend the Export-Import Bank Act of 1945, and for other purposes (Rept. 99-633). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 473. Resolution providing for the consideration of H.R. 4175, a bill to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission (Rept. 99-634). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 474. Resolution providing for the consideration of H.R. 4613, a bill to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that act (Rept. 99-635). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4348. A bill to amend the Boundary Waters Canoe Area Wilderness law to change the authorizations of appropriations for resource management review and grants, referred to the Committee on Agriculture for a period ending not later than June 12, 1986, for consideration of such portions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X (Rept. 99-632, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of North Carolina (by request):

H.R. 4973. A bill to amend the Intercoastal Shipping Act, 1933, and the Shipping Act, 1916, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FLORIO:

H.R. 4974. A bill to establish an alternative dispute resolution procedure; to the Committee on the Judiciary.

H.R. 4975. A bill to amend title 9, United States Code, to improve the appeals process with respect to arbitration; to the Committee on the Judiciary.

H.R. 4976. A bill to amend title 28, United States Code, to prevent secrecy in settlement of civil cases; to the Committee on the Judiciary.

H.R. 4977. A bill to amend title 28, United States Code, to make mandatory the imposition of certain costs in cases of frivolous claims and defenses; to the Committee on the Judiciary.

H.R. 4978. A bill to provide for the limitation of contingent legal fees, and the disclosure of defense counsel fees, in certain cases; to the Committee on the Judiciary.

H.R. 4979. A bill to amend title 28, United States Code, to require explanation of the basis for punitive damages in civil cases where such damages are awarded; to the Committee on the Judiciary.

By Mr. GLICKMAN (for himself, Mr. BIAGGI, Mr. FISH, Mr. SEIBERLING, Mr. FRANK, Mr. SMITH of Florida, Mr. BERMAN, Mr. WORTLEY, Mr. FRENZEL, Mr. LEVINE of California, Mr. RANGEL, Mr. DELLUMS, Mr. MCGRATH, Mr. SCHEUER, Mr. WALGREN, Ms. MIKULSKI, Mr. WAXMAN, Mr. LAGOMARSINO, Mr. GREEN, Mrs. BOXER, Mr. CONTE, Mr. LELAND, Mr. HAYES, Mr. GARCIA, Mr. MITCHELL, Mr. DIOGUARDI, Mr. WHITTAKER, Mr. WEISS, Mr. WIRTH, Mr. MATSUI, Mr. MRAZEK, and Mr. DORNAN of California):

H.R. 4980. A bill to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for injury to persons in the free exercise of religious beliefs; to the Committee on the Judiciary.

By Mr. BARNES:

H.R. 4981. A bill to amend title 5, United States Code, to provide civil service retirement credit for certain employees and former employees of nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BATES:

H.R. 4982. A bill regarding lease and development of certain real property, San Diego, CA; to the Committee on Armed Services.

By Mr. COBLE (for himself and Mr. FRANK):

H.R. 4983. A bill to amend chapter 65 of title 18, United States Code, to provide a criminal penalty for interference with satellite communications; to the Committee on the Judiciary.

By Mr. EVANS of Iowa (for himself and Mr. BEREUTER):

H.R. 4984. A bill to authorize the Secretary of Agriculture to guarantee pools of qualified agricultural mortgage loans and to provide for the issuance of securities representing interests in such pools; to the Committee on Agriculture.

By Mr. FRANK (for himself and Mr. MITCHELL):

H.R. 4985. A bill to authorize the distribution within the United States of the USIA film entitled "The March"; to the Committee on Foreign Affairs.

By Mr. HAWKINS (for himself, Mr. JEFFORDS, Mr. CLAY, Mr. BIAGGI, Mr. MURPHY, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS, Mr. HAYES, Mr. PERKINS, Mr. SOLARZ, Mr. DYMALLY, and Mr. ATKINS):

H.R. 4986. A bill to reform the Work Incentive Program in order to establish comprehensive programs of education, training, and employment assistance in the States to enable families receiving public assistance benefits to achieve long-term self-sufficiency; to the Committee on Education and Labor.

By Mr. LANTOS:

H.R. 4987. A bill to amend the Internal Revenue Code of 1954 to permit individuals to receive tax-free distributions from an individual retirement account or annuity to purchase their first home; to the Committee on Ways and Means.

By Mr. MONTGOMERY (by request):

H.R. 4988. A bill to amend title 38, United States Code, to provide that former prisoners of war are eligible for reimbursement for emergency medical expenses on the same basis as veterans with total permanent service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 4989. A bill to amend title 38, United States Code, to provide that for purposes of veterans' compensation, service-connected total deafness shall be rated as a 100 percent disability; to the Committee on Veterans' Affairs.

By Mr. PANETTA (for himself, Mr. DE LA GARZA, Mr. MILLER of California, Mr. JEFFORDS, Mr. FOLEY, Mr. HAWKINS, Mr. TRAXLER, Mr. RODINO, Mr. WALGREN, Mr. LELAND, Mr. MATSUI, Mr. RAHALL, Mr. HAYES, Mr. MARKEY, Mr. HALL of Ohio, Mr. MCHUGH, Mr. VISCLOSKY, Mr. MITCHELL, Mr. FRANK, Mr. NOWAK, Mr. FROST, Mr. KILDEE, Mr. HERTEL of Michigan, Mr. MORRISON of Connecticut, Mr. BARNES, Mr. FORD of Michigan, Mr. FORD of Tennessee, Mr. MARTINEZ, Mr. LEVIN of Michigan, Mr. STAGGERS, Mr. ECKART of Ohio, Mr. TRAFICANT, Mrs. BOGGS, Mr. SEIBERLING, Mr. VENTO, Mr. BROWN of California, Mrs. BURTON of California, Mr. DYMALLY, Mr. GEJDENSON, Mr. CROCKETT, Mr. FOGLIETTA, Mr. KOSTMAYER, Mr. STARK, Mr. SMITH of Florida, Mr. SAVAGE, Mr. ACKERMAN, Mr. GLICKMAN, Mr. GILMAN, Mr. ATKINS, Mr. WAXMAN, Mr. BERMAN, and Mr. BIAGGI):

H.R. 4990. A bill to amend the Food Stamp Act of 1977, the Child Nutrition Act of 1966, and the National School Lunch Act to improve the availability of benefits under such acts; to provide for a program for nutrition monitoring and research; and for other purposes; jointly, to the Committees on Agriculture, Education and Labor, and Science and Technology.

By Mr. MONTGOMERY (by request):

H.R. 4991. A bill to amend title 38, United States Code, to provide for funeral expenses to veterans of any war who were recipients of the Purple Heart award; to the Committee on Veterans' Affairs.

H.R. 4992. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 4993. A bill to amend title 38, United States Code, to authorize the Administrator of the Veterans' Administration to make direct low-interest loans to veterans eligible for specially adapted housing assistance; to the Committee on Veterans' Affairs.

H.R. 4994. A bill to amend title 38, United States Code, to provide for special consideration for purposes of veterans' benefits of certain cases of loss or loss of use of paired extremities by a veteran; to the Committee on Veterans' Affairs.

H.R. 4995. A bill to amend section 110 of title 38, United States Code, to liberalize the standard for preservation of disability evaluations for compensation purposes; to the Committee on Veterans' Affairs.

By Mr. NIELSON of Utah (for himself and Mr. RINALDO):

H.R. 4996. A bill to require the Securities and Exchange Commission to examine the activities of professional financial planners, to evaluate the effectiveness of existing governmental regulation of their activities, and to make recommendations to the Congress on the basis of the examination and evaluation; to the Committee on Energy and Commerce.

By Mr. ST GERMAIN (for himself and Mr. WYLIE) (by request):

H.R. 4997. A bill to strengthen and refine the provisions of the Federal Deposit Insurance Act, to provide for more flexible assessment procedures, to improve methods for insuring deposits and for paying insured depositors, to establish priorities among claimants to the estates of failed banks, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4998. A bill to enhance the enforcement powers of the Federal Home Loan Bank Board, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SLATTERY (for himself, Mr. GLICKMAN, Mr. WHITTAKER, Mr. ROBERTS, and Mrs. MEYERS of Kansas):

H.R. 4999. A bill to provide for improved disclosure of certain rail transportation contracts; to the Committee on Energy and Commerce.

By Mr. SILJANDER (for himself, Mr. STENHOLM, Mr. APPLEGATE, Mr. BADHAM, Mr. BARTON of Texas, Mrs. BENTLEY, Mr. BEREUTER, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BRYANT, Mr. BURTON of Indiana, Mr. COBEY, Mr. DANNEMEYER, Mr. DAUB, Mr. DE LUGO, Mr. DORNAN of California, Mr. DOWDY of Mississippi, Mr. EMERSON, Mr. FAWELL, Mr. FROST, Mr. GUNDERSON, Mr. HARTNETT, Mr. HUNTER, Mr. HYDE, Mr. KINDNESS, Mr. LAGOMARSINO, Mrs. LLOYD, Mr. MARTINEZ, Mr. MCDADE, Mr. MCMILLAN, Mr. MONSON, Mr. MOORHEAD, Mr. NIELSON of Utah, Mr. PURSELL, Mr. RIDGE, Mr. SMITH of New Hampshire, Mr. SWINDALL, Mr. TORRICELLI, Mr. VALENTINE, Mr. WALKER, Mr. WHITEHURST, Mr. WORTLEY, Mr. YOUNG of Missouri, Mr. LEWIS of Florida, Mr. EDWARDS of Oklahoma, Mr. NICHOLS, Mr. ROBERT F. SMITH, and Mr. HEFNER):

H.R. 5000. A bill to protect the rights of victims of child abuse; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 5001. A bill to extend for 3 years the existing suspension of duty on isometric mixtures of ethlybiphenyl; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 5002. A bill to require public disclosure by certain recipients of Federal funds of information required to be kept by such recipients as a condition of receiving such fund; to the Committee on Government Operations.

H.R. 5003. A bill to require that the United States Government prepare and make public annual consolidated financial statements utilizing the accrual method of accounting, and for other purposes; to the Committee on Government Operations.

H.R. 5004. A bill to amend title 5 and title 44, United States Code, to lengthen the time period between the publication of a Federal rule and the effective date of such rule, and the time period between the publication of notice of a hearing and the beginning of such hearing; to the Committee on the Judiciary.

H.R. 5005. A bill to amend title 5, United States Code, to establish a uniform procedure for congressional review of agency rules which may be contrary to law or inconsistent with congressional intent, to expand opportunities for public participation in agency rulemaking, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

By Mr. RITTER:

H.R. 5006. A bill to direct the Secretary of Transportation to carry out a highway demonstration project to extend Pennsylvania State Route 33 to provide a limited access highway to connect Interstate Routes I-78 and I-80; to the Committee on Public Works and Transportation.

By Mr. BARTON of Texas (for himself, Mr. LEATH of Texas, and Mr. ROEMER):

H.R. 5007. A bill to amend part B of title XIX of the Public Health Service Act to specify the method of determining State allotments; to the Committee on Energy and Commerce.

By Mr. BIAGGI:

H.R. 5008. A bill to amend part A of title XVIII of the Social Security Act to limit the rate of increase in the inpatient hospital deductible and to change the extended care coinsurance amount and to amend the Internal Revenue Code of 1954 to increase by 8 cents per pack the excise taxes on cigarettes and to earmark revenues from the tax increase to the Federal Hospital Insurance Trust Fund; to the Committee on Ways and Means.

By Mr. BROWN of Colorado (for himself, Mrs. SCHROEDER, Mr. KRAMER, Mr. WIRTH, Mr. SCHAEFER, and Mr. STRANG):

H.R. 5009. A bill to provide interim authority to clean up contaminated water supplies near the Rocky Mountain Arsenal in south Adams County, CO, and for other purposes; to the Committee on Armed Services.

By Mr. DORGAN of North Dakota:

H.R. 5010. A bill to amend the Internal Revenue Code of 1954 to provide special rules for discharge of qualified farm indebtedness of solvent farmers; to the Committee on Ways and Means.

By Mr. FAWELL (for himself, Mr. HENRY, and Mr. CHANDLER):

H.R. 5011. A bill to improve the quality of teaching in American secondary schools and enhance the competence of American secondary students and thereby strengthen the economic competitiveness of the United States, and for other purposes; to the Committee on Education and Labor.

By Mr. HAMMERSCHMIDT:

H.R. 5012. A bill to amend the Federal Aviation Act of 1958 to increase civil penalty limits for safety violations by persons engaged in commercial aircraft operations and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JONES of North Carolina (for himself, Mr. STUDDS, Mr. YOUNG of Alaska, Mr. LENT, Mrs. SCHNEIDER, Mr. HUTTO, Mr. DAVIS, Mr. CARPER, Mr. CARNEY, Mr. BOSCO, Mr. BATEMAN, Mr. TALLON, Mr. SAXTON, Mr. THOMAS of Georgia, Mr. MILLER of Washington, Mr. ORTIZ, and Mr. DE LA GARZA):

H.R. 5013. A bill to establish guidelines for damage awards in actions for personal injury incurred by seamen on fishing industry vessels and to require additional safety regulations for fishing industry vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. McGRATH (for himself, Mr. DYSON, Mr. HEFTEL of Hawaii, Mr. FUSTER, Mr. DORNAN of California, Mr. JONES of North Carolina, Mr. HOYER, Mr. DAUB, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. WORTLEY, Mr. BIAGGI, Mr. LOWRY of Washington, Mr. HORTON, Mr. BEDELL, Mr. BERMAN, Mr. LIPINSKI, Mrs. BOXER, Mr. FISH, and Mr. MONSON):

H.R. 5014. A bill to direct the Postmaster General to provide and sell stamps commemorating the crew of the space shuttle *Challenger;* to the Committee on Post Office and Civil Service.

By Mr. PARRIS:

H.R. 5015. A bill to temporarily suspend the use of tributyltin based paints on hulls of commercial and recreational vessels until such time as the U.S. Environmental Protection Agency has completed ongoing studies as to the safety of such paints and their impact on the aquatic environment; to the Committee on Merchant Marine and Fisheries.

By Mr. GONZALEZ (for himself, Mr. McKINNEY, and Mr. WYLIE):

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FASCELL (for himself, Mr. WRIGHT, Mr. FOLEY, Mr. ALEXANDER, Mr. ASPIN, Mr. AUCOIN, Mr. BARNES, Mr. BEDELL, Mr. BERMAN, Mr. BOEHLERT, Mrs. BYRON, Mr. COELHO, Mr. COUGHLIN, Mr. CROCKETT, Mr. DICKS, Mr. DOWNEY of New York, Mr. FISH, Mr. FRENZEL, Mr. GEPHARDT, Mr. GREEN, Mr. HAMILTON, Mr. JEFFORDS, Mrs. JOHNSON, Mr. KILDEE, Mr. KOSTMAYER, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEVINE OF CALIFORNIA, Mr. McKINNEY, Mr. MICA, Ms. OAKAR, Mr. PORTER, Mrs. SCHNEIDER, Mrs. SCHROEDER, Mr. SMITH of Florida, Mr. SOLARZ, Mr. STUDDS, and Mr. UDALL):

H. Con. Res. 350. Concurrent resolution providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise; to the Committee on Foreign Affairs.

By Mr. SMITH of New Hampshire (for himself, Mr. ROSE, Mr. CHANDLER, Mr. HORTON, Mr. DORNAN of California, Mr. HOWARD, Mr. MITCHELL, Mrs. BOXER, Mr. JEFFORDS, Mr. JACOBS, Mr. LANTOS, Mr. EDWARDS of California, Mr. KEMP, Mr. HAYES, Mr. CARPER, Mr. ORTIZ, Mr. TOWNS, Mr. KASTENMEIER, Mr. OWENS, Mr. FAZIO, Mr. OLIN, Mr. HEFNER, Mr. BONIOR of Michigan, Mr. TORRICELLI, Mr. REID, Mr. ANNUNZIO, Mr. CONYERS, Mr. FOGLIETTA, Mr. DELLUMS, Mr. LENT, Mr. MANTON, Mrs. SCHROEDER, Mr. CARNEY, Mr. MILLER of Washington, Mr. MILLER of California, Mr. PICKLE, Mr. HEFTEL of Hawaii, Mr. MARTINEZ, Mr. SAVAGE, Ms. FIEDLER, Mr. GINGRICH, Mr. RODINO, Mr. DE LA GARZA, Mr. KLECZKA, Mr. BURTON of Indiana, Mr. MRAZEK, Mr. ARMEY, Mr. SMITH of Florida, Mr. McHUGH, Mr. HERTEL of Michigan, Mr. ACKERMAN, Mr. RALPH M. HALL, Mrs. VUCANOVICH, Mr. LAGOMARSINO, Mr. DANNEMEYER, Mr. McCURDY, Mr. VENTO, Mrs. LLOYD, Mr. McMILLAN, Mr. JONES of North Carolina, Mr. CLINGER, Mr. IRELAND, Mr. DONNELLY, Mr. BARNES, Mr. REGULA, Mr. BARTON of Texas, Mr. KINDNESS, Mr. HUTTO, Mr. GEKAS, Mr. WEAVER, and Mr. WILSON):

H. Con. Res. 351. Concurrent resolution to express the sense of Congress that the monkeys known as the Silver Spring Monkeys should be transferred from the National Institutes of Health to the custody of the Primarily Primates, Inc., animal sanctuary in San Antonio, TX; to the Committee on Energy and Commerce.

By Mr. STALLINGS:

H. Con. Res. 352. Concurrent resolution limiting the amounts available to Members of Congress for official mail costs; to the Committee on House Administration.

By Mr. BARNES:

H. Res. 470. Resolution expressing the sense of the House of Representatives that the current law deduction for contributions to individual retirement accounts should not be reduced as a part of tax reform; to the Committee on Ways and Means.

By Mr. MacKAY (for himself and Mr. SMITH of Florida):

H. Res. 471. Resolution to express the sense of the House of Representatives regarding prompt payment of Medicare claims; jointly, to the Committees on Ways and Means and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 5016. A bill for the relief of Sueng Ho Jang and Sueng Il Jang; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 5017. A bill for the relief of Filomena Barretto; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey:

H.R. 5018. A bill for the relief of Miroslav Bencik; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mrs. VUCANOVICH.

H.R. 479: Mr. CHAPMAN, and Mr. LEVINE of California.

H.R. 585: Mr. TRAXLER and Mr. BREAUX.

H.R. 1402: Mr. MRAZEK, Mr. SAVAGE, Mr. JONES of North Carolina, Mr. MITCHELL, Mr. ROE, and Mr. CROCKETT.

H.R. 1666: Mr. SHUMWAY.

H.R. 1701: Mr. SHARP, Mr. LEHMAN of California, Mr. HAWKINS, Mrs. BOXER, Mr. TOWNS, Mr. SOLOMON, Mr. SAXTON, Mr. SCHULZE, Mr. MINETA, and Mr. LANTOS.

H.R. 1780: Mr. BOEHLERT and Mr. BEREUTER.

H.R. 1809: Mr. BONIOR of Michigan and Mr. CHANDLER.

H.R. 1946: Mr. NICHOLS, Mr. PARRIS, Mr. TOWNS, and Mr. LOEFFLER.

H.R. 1986: Mr. HAYES, Mrs. COLLINS, Mr. DELLUMS, Mr. MINETA, Mr. STOKES, Mr. MOODY, Mr. TOWNS, Mr. RANGEL, Mr. OWENS, Mr. MITCHELL, Mr. JACOBS, Mr. ACKERMAN, Mr. SAVAGE, Mr. CROCKETT, Mr. DIXON, Mr. LELAND, Mr. WHEAT, and Mr. MORRISON of Connecticut.

H.R. 2337: Mr. BOEHLERT.

H.R. 2504: Mr. DOWNEY of New York.

H.R. 2589: Ms. MIKULSKI.

H.R. 2840: Mr. FLORIO.

H.R. 3006: Mr. MATSUI, Mr. BATEMAN, Mr. YOUNG of Missouri, and Mr. SIKORSKI.

H.R. 3042: Mr. HUCKABY, Mr. BOUCHER, Mrs. BOGGS, Mr. TAUZIN, and Mr. MURPHY.

H.R. 3330: Mr. TORRICELLI.

H.R. 3355: Mr. SPRATT.

H.R. 3415: Mr. CHANDLER and Mr. CHENEY.

H.R. 3442: Mr. ROE, Mr. SIKORSKI, Mr. BEILENSON, Mr. FAZIO, Mr. BERMAN, Mr. GARCIA, Mr. SCHEUER, Mr. BOLAND, Mr. DASCHLE, Mr. LEVIN of Michigan, Mr. SWIFT, Mr. WYDEN, Mr. WALGREN, Mr. ACKERMAN, Mr. DIXON, Mr. WISE, and Mr. DYMALLY.

H.R. 3465: Mr. LIPINSKI.

H.R. 3470: Mr. BROWN of California, Mr. PEASE, Mr. DICKS, Mr. ERDREICH, and Mr. REID.

H.R. 3487: Mr. MOAKLEY, Mr. DONNELLY, and Mr. TRAXLER.

H.R. 3662: Mr. BROOKS and Mrs. BOXER.

H.R. 3776: Mr. RINALDO.

H.R. 3800: Mr. JONES of Tennessee, Mr. DASCHLE, Mrs. HOLT, Mr. DORNAN of California, and Mr. GORDON.

H.R. 3950: Mr. ATKINS.

H.R. 3995: Mr. HAMILTON, Mr. ARMEY, and Mr. MARTINEZ.

H.R. 4003: Mrs. ROUKEMA, Mr. SABO, Mr. CHAPPIE, Mr. FAUNTROY, Mr. HAWKINS, Mr. KANJORSKI, Mr. LELAND, and Mr. PANETTA.

H.R. 4067: Mr. HALL of Ohio, Mr. ST GERMAIN, Mr. MRAZEK, Mr. SMITH of New Hampshire, Mr. BEDELL, Mr. DOWDY of Mississippi, Mr. PASHAYAN, Mr. LENT, Mr. TALLON, Mr. PERKINS, Mr. STALLINGS, Mr. GILMAN, Mr. TORRES, Mr. KOSTMAYER, Mr. JONES of North Carolina, Mr. ROBERT F. SMITH, and Mr. YATRON.

H.R. 4085: Mr. JONES of North Carolina.

H.R. 4125: Mr. CHENEY.

H.R. 4145: Mr. HYDE and Mr. EDWARDS of Oklahoma.
H.R. 4148: Mr. ASPIN.
H.R. 4223: Mr. RINALDO.
H.R. 4286: Mr. MITCHELL.
H.R. 4300: Mr. KASTENMEIER, Mr. CARR, and Mr. LAFALCE.
H.R. 4311: Mr. WAXMAN, Mr. WALGREN, Mr. SOLARZ, Mr. DOWNEY of New York, Mr. LELAND, Mr. LEHMAN of California, Mr. GALLO, Mr. WHITEHURST, Mr. HORTON, Mr. ATKINS, and Mr. BEDELL.
H.R. 4325: Mr. TORRICELLI, Mr. RANGEL, Mr. WEAVER, Mr. SMITH of Florida, and Mr. MARTINEZ.
H.R. 4326: Mr. TORRICELLI, Mr. RANGEL, Mr. WEAVER, Mr. SMITH of Florida, and Mr. MARTINEZ.
H.R. 4327: Mr. TORRICELLI, Mr. RANGEL, Mr. WEAVER, Mr. SMITH of Florida, and Mr. MARTINEZ.
H.R. 4333: Mr. OXLEY and Mr. LEWIS of Florida.
H.R. 4338: Mr. ST GERMAIN, Mr. TALLON, Mr. YOUNG of Florida, Mr. SIKORSKI, Mr. DURBIN, Ms. OAKAR, Mrs. COLLINS, Mr. BARNARD, Mr. DAUB, Mrs. LONG, Mr. MOAKLEY, Mr. HUTTO, and Mr. COELHO.
H.R. 4344: Mr. BURTON of Indiana.
H.R. 4397: Mr. DERRICK, Mr. KASTENMEIER, Mr. LELAND, Mr. BROOKS, and Mr. PICKLE.
H.R. 4412: Mr. KILDEE.
H.R. 4463: Mr. WOLPE, Mrs. MARTIN of Illinois, and Mr. FISH.
H.R. 4467: Mr. BATES, Mr. BEDELL, Mr. CONTE, Mr. CROCKETT, Mr. FAZIO, Mr. FUSTER, Mr. GEJDENSON, Mr. HEFTEL of Hawaii, Mr. HORTON, Ms. KAPTUR, Mr. KASTENMEIER, Mr. KILDEE, Mr. LANTOS, Mr. LEVIN of Michigan, Mr. MARKEY, Mr. MATSUI, Ms. OAKAR, Mr. SEIBERLING, and Mr. TOWNS.
H.R. 4468: Mr. HANSEN, Mr. LEWIS of California, Mr. MCCAIN, Mr. BROWN of California, Mr. EDWARDS of California, Mr. MATSUI, Mr. MARTINEZ, Mr. CHAPPIE, and Mr. DIXON.
H.R. 4484: Mr. DE LUGO.
H.R. 4524: Mr. STUMP, Mr. BORSKI, Mr. HENDON, and Mr. SPRATT.
H.R. 4545: Mr. BRUCE, Mr. NEAL, Mr. VENTO, and Mr. FISH.
H.R. 4546: Mr. WALGREN.
H.R. 4627: Mr. MOODY, Mr. ASPIN, Mr. PENNY, Mr. PETRI, Mr. GUNDERSON, and Mr. TOWNS.
H.R. 4629: Mr. ANDERSON and Mr. GARCIA.
H.R. 4638: Mr. JEFFORDS, Mr. SMITH of New Jersey, Mr. LEHMAN of California, Mr. GEJDENSON, Mr. BEREUTER, Mr. DORGAN of North Dakota, Mr. STUDDS, Mr. ANTHONY, Mr. AKAKA, and Mrs. BOXER.
H.R. 4653: Mr. BARTON of Texas.
H.R. 4655: Mr. ECKART of Ohio.
H.R. 4671: Mr. SAVAGE, Mr. SLATTERY, Mr. JEFFORDS, Mr. SAXTON, Mr. BEREUTER, and Mr. MARTINEZ.
H.R. 4682: Mr. TORRICELLI, Mr. WEBER, and Mr. SIKORSKI.
H.R. 4696: Mr. LIPINSKI, Mr. MADIGAN, Mr. GOODLING, Mr. WEBER, and Mr. GUARINI.
H.R. 4698: Mr. TORRICELLI.
H.R. 4703: Mr. HAYES.
H.R. 4711: Mr. BATEMAN, Mr. DE LUGO, and Mr. VENTO.
H.R. 4714: Mr. WEBER, Mr. EMERSON, Mr. TAUKE, Mr. PENNY, Mr. HILER, and Mr. FRANKLIN.
H.R. 4739: Mr. HERTEL of Michigan, Mr. EVANS of Illinois, Mr. MARKEY, Mr. LAFALCE, Mr. WEAVER, Mr. GEJDENSON, and Mr. MOAKLEY.
H.R. 4762: Mr. PANETTA, Mrs. BURTON of California, Mr. OWENS, Mr. KOSTMAYER, Mr. WEAVER, Ms. MIKULSKI, Mr. SAVAGE, and Mr. HAYES.
H.R. 4765: Mr. BOEHLERT.
H.R. 4766: Mr. ROBERT F. SMITH, Mr. SOLOMON, Mr. SENSENBRENNER, and Mr. BOEHLERT.
H.R. 4812: Mr. GRAY of Illinois, Mr. BEDELL, and Mr. OBEY.
H.R. 4820: Mr. NICHOLS, Mr. DIOGUARDI, Mrs. LLOYD, Mr. HAMMERSCHMIDT, and Mr. DARDEN.
H.R. 4824: Mrs. BOXER.
H.R. 4825: Mr. RANGEL, Mr. LEVIN of Michigan, Mr. CLAY, Mr. FRANK, Mr. FISH, and Ms. SNOWE.
H.R. 4840: Mr. WORTLEY, Mr. DORNAN of California, Mr. FRANK, Mr. OWENS, Mr. FAUNTROY, Mr. DE LUGO, Mr. FUSTER, Mr. FAZIO, Mr. MINETA, Mr. BATES, Mr. RANGEL, Mr. SHAW, Mrs. BOXER, Mr. BOEHLERT, and Mr. STARK.
H.R. 4841: Mr. MCEWEN, and Ms. KAPTUR.
H.R. 4843: Mr. LANTOS, Mr. JACOBS, Mr. STENHOLM, Mr. VISCLOSKY, Mr. NOWAK, Mr. GEJDENSON, Mr. HENRY, Mr. MCCAIN, Mr. BEDELL, Mr. SHAW, Mr. RUDD, Mrs. BOXER, Mr. SCHEUER, Mr. MRAZEK, and Mr. VENTO.
H.R. 4854: Mr. EVANS of Iowa, and Mr. DE LA GARZA.
H.R. 4856: Mr. FUQUA, Mr. GRAY of Illinois, and Mr. APPLEGATE.
H.R. 4878: Mr. SOLARZ, and Mrs. BURTON of California.
H.R. 4882: Mr. RANGEL, Mr. BERMAN, and Mr. LAFALCE.
H.R. 4888: Mr. LEVIN of Michigan, Mr. OWENS, and Mr. SMITH of Florida.
H.R. 4892: Mrs. SCHROEDER.
H.R. 4909: Mrs. SMITH of Nebraska, and Mr. LEWIS of California.
H.R. 4945: Mr. HEFTEL of Hawaii, Mr. VENTO, Mr. BONIOR of Michigan, and Ms. SNOWE.
H.R. 4952: Mr. CHANDLER, Mr. ROBINSON, Mr. TOWNS, Mr. FOLEY, Mr. BRYANT, Mr. HAYES, Mr. HUGHES, Mr. RODINO, and Mr. GLICKMAN.
H.R. 4953: Mrs. SCHNEIDER, Mr. GINGRICH, and Mr. NIELSON of Utah.
H.J. Res. 133: Mr. LANTOS.
H.J. Res. 231: Mrs. BOXER.
H.J. Res. 316: Mr. EDWARDS of California, Mr. SAXTON, Mr. CALLAHAN, Mr. SCHEUER, Mr. GORDON, Mr. SWIFT, Mrs. VUCANOVICH, Mr. SCHUETTE, and Mr. SHELBY.
H.J. Res. 417: Mr. ATKINS, Mr. BEREUTER, Mr. BEILENSON, Mr. BATES, Mr. WEAVER, Mr. BERMAN, Mr. OBERSTAR, Mr. VENTO, Mr. ACKERMAN, Mr. BOLAND, Mr. GUNDERSON, Mr. VANDER JAGT, and Mr. WAXMAN.
H.J. Res. 435: Mr. NEAL.
H.J. Res. 451: Mr. LUJAN and Mr. BARTLETT.
H.J. Res. 504: Mr. Dickinson, Mr. FUSTER, Mr. GARCIA, Mr. LEVINE of California, Mr. MOAKLEY, Mr. RITTER, Mr. SPENCE, MR. STARK, and Mr. WIRTH.
H.J. Res. 531: Mr. BREAUX.
H.J. Res. 577: Mr. WOLF, Mr. MCCOLLUM, Mr. NIELSON of Utah, Mr. MILLER of Ohio, Mr. NEAL, Mr. LIPINSKI, Mr. ROSE, Mr. DWYER of New Jersey, Mr. BRYANT, Mr. KINDNESS, Mr. RUDD, Mr. RINALDO, Mr. SWINDALL, Mr. LANTOS, Mr. APPLEGATE, Mr. LEVIN of Michigan, Mr. WEAVER, Mr. MATSUI, Mr. FLORIO, Mr. VENTO, Mr. CONYERS, and Mr. DIOGUARDI.
H.J. Res. 581: Mr. ACKERMAN, Mrs. COLLINS, Mr. CONTE, Mr. COURTER, Mr. HOWARD, Mr. LANTOS, Mr. LUNGREN, Mr. MCGRATH, Mr. TORRICELLI, Mr. SUNIA, Mr. FUQUA, Mr. RICHARDSON, Mr. KOSTMAYER, and Mr. HEFTEL of Hawaii.
H.J. Res. 583: Mr. OWENS, Mr. VALENTINE, Mr. MCKERNAN, Mr. LUJAN, Mr. VOLKMER, Mr. LAFALCE, Mr. ROE, Mr. BONIOR of Michigan, Mr. YOUNG of Alaska, Mr. MONSON, Mr. FOLEY, Mr. RICHARDSON, Mr. DENNY SMITH, Mr. HOWARD, Mr. DWYER of New Jersey, Mr. MARTINEZ, Mr. FUQUA, Mr. BATEMAN, Mr. SKEEN, Mr. ROBERT F. SMITH, Mr. HANSEN, and Mr. CALLAHAN.
H.J. Res. 587: Mr. BURTON of Indiana, Mr. REID, Mr. BERMAN, Mr. SUNIA, Mr. HYDE, Ms. MIKULSKI, Mr. SAVAGE, Mr. BARTON of Texas, and Mr. DARDEN.
H.J. Res. 590: Mr. BROWN of California, Mr. ERDREICH, Mr. MARTIN of New York, Mr. LEHMAN of California, Mr. SABO, Mr. DYSON, Mr. LELAND, Mr. COLEMAN of Texas, Mr. BOUCHER, Mr. DYMALLY, Mr. VALENTINE, Mr. TOWNS, Mr. MATSUI, Mr. LUNGREN, Mr. DELLUMS, Mr. RIDGE, Mr. MOAKLEY, Mr. STRATTON, Mr. ALEXANDER, Mr. REID, Mr. STRANG, Mr. NICHOLS, Mr. WISE, Mr. BERMAN, Mr. GALLO, Mr. YOUNG of Missouri, Mrs. HOLT, Mr. FROST, Mr. SMITH of New Jersey, Mr. RALPH M. HALL, Mr. GEJDENSON, Mr. HANSEN, Mr. OLIN, Mr. KLECZKA, Mr. HUGHES, Mr. YOUNG of Alaska, Mr. MOORE, Mr. HUNTER, Mr. ANDREWS, Mr. DENNY SMITH, Mr. PEPPER, Mr. DIXON, Mr. JEFFORDS, Mr. TALLON, Mr. HAWKINS, Mr. NEAL, Mr. BROOKS, Mr. SCHUETTE, Mr. DASCHLE, Mr. RINALDO, Mr. RICHARDSON, Mr. VANDER JAGT, Mr. ASPIN, Mr. CONYERS, Mr. KINDNESS, Mr. MILLER of Ohio, Mr. PRICE, Mr. WYDEN, Mr. ORTIZ, Mr. SEIBERLING, Mr. CARR, Mr. WYLIE, Mr. KASICH, Mr. HALL of Ohio, Mr. SHUSTER, Mr. FORD of Tennessee, Mr. MCKINNEY, Mr. STALLINGS, Mr. MAZZOLI, Mr. TAUZIN, Mrs. BYRON, Mr. WATKINS, Mr. BOEHLERT, Mr. WRIGHT, Mr. WILSON, Mr. SKELTON, Mr. UDALL, and Mr. HOWARD.
H.J. Res. 623: Mr. WALGREN and Mrs. VUCANOVICH.
H.J. Res. 642: Mr. DERRICK, Mr. PERKINS, Mr. FUSTER, Mr. BARNARD, Mr. VANDER JAGT, Mr. FUQUA, Mr. DANIEL, Mr. BATEMAN, Mr. NATCHER, Mr. KANJORSKI, Mr. GEKAS, Mr. FRANK, Mr. GRAY of Illinois, Mr. MOAKLEY, Mr. WOLF, Mr. FRENZEL, Mr. OBERSTAR, Mr. MURTHA, and Mr. TAUZIN.
H. Con. Res. 198: Mr. MARKEY, Mr. WOLPE, Mr. DURBIN, Mr. BRUCE, Mr. BONIOR of Michigan, and Ms. KAPTUR.
H. Con. Res. 244: Mr. ACKERMAN, Mr. APPLEGATE, Mr. ATKINS, Mr. BEDELL, Mr. BEREUTER, Mr. BOLAND, Mrs. BURTON of California, Mr. CARPER, Mr. CONYERS, Mr. DAUB, Mr. DIXON, Mr. FEIGHAN, Mr. HUTTO, Mr. KILDEE, Mr. LUKEN, Mr. MANTON, Mr. MITCHELL, Mr. OWENS, Mr. PRICE, Mr. SABO, Mr. SPRATT, Mr. STARK, and Mr. WIRTH.
H. Con. Res. 273: Mr. BEILENSON, Mr. FAZIO, Mr. FRANK, Mr. KILDEE, Mr. MARKEY, Mr. PEPPER, Mr. REID, Mr. WOLPE, Mr. LEVIN of Michigan Ms, MIKULSKI, and Mr. WEAVER.
H. Con. Res. 325: Mr. FRENZEL.
H. Con. Res. 330: Mr. RINALDO, Mr. NIELSON of Utah, Mr. SCHEUER, Mr. DOWNEY of New York, and Mr. FISH.
H. Con. Res. 344: Mr. ST GERMAIN, Mr. LIPINSKI, Mr. MYERS of Indiana, Mr. DARDEN, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, Mr. MCDADE, Mr. MCGRATH, Mr. SAVAGE, and Mr. HALL of Ohio.
H. Res. 373: Mr. FOLEY, Mr. SCHEUER, Mr. GARCIA, Mr. BROWN of California, Mr. FAZIO, and Mr. ECKART of Ohio.
H. Res. 386: Mr. SCHUETTE.
H. Res. 404: Mr. MINETA.
H. Res. 451: Mr. HANSEN, Mr. ORTIZ, Mr. SCHEUER, Mr. FISH, and Mr. DAVIS.
H. Res. 462: Mr. HAYES, Mr. HEFTEL of Hawaii, Mr. FUQUA, Mr. PEPPER, Mr. UDALL, Mr. CROCKETT, Mr. DOWNEY of New York, Mr. KLECZKA, Mr. GARCIA, Mr. SCHEUER, Mr. HOYER, Mr. VENTO, Mr. SAVAGE, Mr. KOST-

MAYER, Mr. STOKES, Mr. MRAZEK, Mr. MITCHELL, Mr. WEISS, Mr. MATSUI, Mrs. BOXER, Mr. RANGEL, Mr. OWENS, Mr. DYMALLY, Mr. FAZIO, Mr. MCCLOSKEY, Mr. LOWRY of Washington, Mrs. COLLINS, and Mr. BIAGGI.

H. Res. 469: Mr. EDWARDS of California, Mr. FRANK, Mr. BEILENSON, Mr. ROYBAL, Mr. TORRES, and Mr. ANDERSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2591: Mr. MCCAIN, Mr. FRANKLIN, and Mr. BATEMAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

382. By the SPEAKER: Petition of the city council, Culver City, CA, relative to Federal funding of the section 8 housing assistance program administrative costs; to the Committee on Banking, Finance and Urban Affairs.

383. Also, petition of the Working Circle Hopi, Bad Mitterndorf, Austria, relative to the removal of the residents from their traditional homeland in the former joint use area of the Hopi reservation; to the Committee on Interior and Insular Affairs.

384. Also, petition of the mayor and council, Borough of Bay Head, County of Ocean, NJ, relative to legislation to license recreational salt water fishermen; to the Committee on Merchant Marine and Fisheries.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4510

By Mr. RAHALL:

—Page 9, after line 2, add the following new section:

SEC. 12. LIMITATION ON ASSISTANCE WHICH WILL ADVERSELY AFFECT THE UNITED STATES ECONOMY.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON ASSISTANCE WHICH WOULD ADVERSELY AFFECT THE DOMESTIC ECONOMY.—The Bank may make no loan, loan guarantee commitment, or other extension of credit to any foreign entity which is (or, if such loan, loan guarantee commitment, or other extension of credit were made, would be) involved in the production or manufacture of any commodity, mineral, material, or product which is produced or manufactured in substantial quantities in the United States if the production or manufacture of such commodity, mineral, material, or product by such foreign entity contributes to or, directly or indirectly, results in—

"(1) the importation of such commodity, mineral, material, or product into the United States; or

"(2) an increase in the unemployment rate with respect to any domestic industry or other sector of the domestic economy.".

SENATE—*Wednesday, June 11, 1986*

(Legislative day of Monday, June 9, 1986)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer today will be offered by Rev. Dr. Perry H. Biddle, Jr., minister of the First Presbyterian Church of Old Hickory, TN. Reverend Biddle is sponsored by Senator SASSER.

PRAYER

The Reverend Dr. Perry H. Biddle, Jr., minister, First Presbyterian Church, Old Hickory, TN, offered the following prayer:

Let us pray.

Almighty God, sovereign ruler of the nations, we humbly bow in Your presence to ask for Your guidance. We confess that too often we have relied on our own wisdom in making decisions. Grant us divine wisdom and moral courage to discern the right and to do the right.

Thank You for this great Nation and for those who have dreamed, worked, and even died that we might be free today. Thank You for those who came to these shores seeking freedom from tyranny and the opportunity to work for a better life for themselves and their children.

Lord of peace, we pray for peace in a world torn by hatred, terrorism, war, and death. We pray that we may work to eliminate those underlying causes of war—injustice, oppression, bitterness, and hate. Give us a vision of this global village which will renew our efforts for peace. Help us to understand that what we do in this legislative body and what we do in our daily lives have repercussions on our fellow human beings around the world.

Lord of history, grant us insight from the past that we may make wise decisions in the present that will impact the future for truth and righteousness. Help us to avoid repeating the mistakes of the past by looking for You for guidance and courage. Let us build for the future with hope and faith. May all our decisions be guided by the greatest commandment of all: The commandment of love. And to You be all honor and praise. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, Senator THURMOND.

Mr. President, let me yield to the distinguished Senator from Tennessee [Mr. SASSER].

The PRESIDENT pro tempore. The Senator from Tennessee.

Mr. SASSER. I thank the distinguished Presiding Officer. Let me thank also the distinguished majority leader.

DR. BIDDLE: A DISTINGUISHED MINISTER

Mr. SASSER. Mr. President, I commend my distinguished friend, Dr. Perry Biddle, for his opening prayer today. I think his words should offer all of my colleagues singular inspiration as we tackle the work ahead of us today.

Dr. Biddle is a very distinguished minister of the First Presbyterian Church of Old Hickory, TN. He is a member of the Adjunct Faculty of the Divinity School at Vanderbilt University.

Dr. Biddle received his bachelor of arts degree from Davidson College in 1954 and was ordained in 1958. He has received advanced degrees from Union Theological Seminary and the Vanderbilt University Divinity School.

Dr. Biddle is an author of substantial note, having published several devotional works. He was honored in 1971 by Vanderbilt University with the Florence Conwell prize for outstanding work in the field of preaching. Moreover, Dr. Biddle has been past president of the Nashville Association of Rabbis, Priests, and Ministers, and was past president of the Academy of Parish Clergy Trust.

I trust that all of my colleagues this morning will receive guidance from Dr. Biddle's invocation today. He is truly an outstanding and distinguished minister and this is a special day for all of us, but perhaps most special for his wife, Mary Sue Sherman Biddle, and their two children, Lindsey Louise Biddle, who is in the Chamber today, and Perry Harvey Biddle III.

Mr. President, I thank the distinguished majority leader for yielding to me today.

The PRESIDING OFFICER (Mr. LAXALT). The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. Then we have special orders for the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, MATHIAS, GORE, MOYNIHAN, HUMPHREY, QUAYLE, BENTSEN, HEINZ, and MITCHELL.

Then we shall have routine morning business until 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

Following that, we shall be back on the tax reform bill, H.R. 3838, and pending will be amendments numbered 2064 and 2065, both dealing with IRA's, individual retirement accounts. I guess that votes can be expected throughout the day and into the evening.

Again, I urge my colleagues on both sides to help us help the chairman, Mr. PACKWOOD, and the ranking member, Mr. LONG, move this bill along. We know there are amendments out there. We hope that there will be a number of our colleagues, if they have amendments, who would be prepared to offer those amendments so we can dispose of this bill at the earliest possible time, hopefully by Thursday evening or sometime early Friday afternoon. I know the managers are anxious to do so. I do not believe there are many areas of controversy in this bill. I am certainly not trying to shut off amendments. I am just saying let us offer the amendments. If the amendments are going to be offered, then I believe we have a responsibility to those who are waiting for tax reform to offer the amendments. So I urge my colleagues on both sides to cooperate where they can with the chairman and with the managers of the bill, Senator LONG and Senator PACKWOOD.

THE EFFECT OF TAX REFORM ON AGRICULTURE

Mr. DOLE. Mr. President, there have been a number of speeches on the floor of this Chamber in support of the Finance Committee's tax bill. Almost without exception, the bill has been hailed as a "people's bill." It is, we are told, "real reform for real people." That statement is true, and I have voiced that sentiment loud and clear. But I want to take this opportunity to underscore some provisions in the tax reform bill that have not gotten the recognition they deserve,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and to advise the vital section of the economy that will benefit from these reforms.

I am talking about the tax benefits for the American farmer. About a year ago, the media were traipsing all over the Midwest, reporting about the "doom and gloom" in the farm belt. Well, most of the reporters are long gone * * * but the people remain and the tough times continue. That is why I am proud of the Finance Committee for its overwhelming support for agriculture tax reform.

Mr. President, these measures are necessarily bipartisan. In my view, farmers are more concerned with reform than they are with what party and what Representative is claiming to be the "only friend" the farmer ever had.

So let us look at the bill. The bottom line is, the reforms we favor will direct much-needed and long overdue tax relief to real farmers, not speculators who are more interested in milking loopholes than milking cows.

□ 1010

First, the tax bill will limit the tax writeoff for so-called passive investors who have no real hands-on role in a farm's operation.

Second, we are proposing special farm debt restructuring. No longer would a farmer, just climbing out of debt, be subject to new taxes just because he is getting another chance to get on his feet. The bill will make the canceled portion of the debt off limits to taxation. In other words, it is not going to be treated as income. That is good news for the many farmers who have worked hard and long to stay solvent through extremely difficult times.

Third, we favor a limitation of "prepaid expenses," another loophole that nonfarm types use to get money in-the-pocket, up front, for equipment and supplies, even though they have little interest in serious, full-time farming. In other words, you buy everything up front and get a big tax loss, even though you had no real interest in agriculture. That is a step in the right direction. Our reform will gear real tax benefits to real farmers.

Another provision designed to meet the reality of the farm world will call for slower depreciations for single-purpose farm structures, such as chicken coops and hog pens. Under the Finance Committee bill, the depreciation for these vital structures would be stretched out over a 10-year period. There is ample evidence that the current 5-year depreciation schedule gives large-scale investors a big competitive edge.

A fifth reform addresses another threat to the family farm: The rising tide of corporate investment. That is why we propose a ceiling of $250,000 for tax-free industrial revenue bonds for agriculture. Recently, an Irish-owned corporation announced plans to use these bonds to build a 10,000-dairy-cow operation in Georgia. Still another conglomerate will use bonds to build a major "hog factory" in Michigan. Mr. President, I doubt if any of my family farmers would call their operations a "factory."

Our sixth benefit will save the so-called "Aggie Bond" Program from extinction. This is a successful program that helps would-be farmers get into their first farms. It extends to 1988 the authority to offer these small issue bonds.

Last, Mr. President, the committee has acted responsibly by giving our farmers—and other self-employed workers not covered by group insurance—a 50-percent deduction on their health insurance premiums. Current law prohibits such a break, which seems unfair to the thousands and thousands of family farmers who are shut out of group benefits simply because of the nature of their labor.

So, while IRA's and other headline issues dominate the debate on the Senate floor, our friends in the farm belt should be aware that we continue to work for them in moving this legislation. There are many stories in tax reform, and this one deserves to be told.

I am certain that many other Members, on both sides of the aisle, I might say, will be emphasizing the benefits for the American farmer in the Senate Finance Committee bill, the bill that is pending on this floor, the bill we hope to pass yet this week.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The distinguished minority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

FUTURE U.S. COMPLIANCE WITH SALT

Mr. BYRD. Mr. President, in his May 27 announcement regarding U.S. compliance with SALT II accords, the President did not say SALT was dead. He did say that future compliance by the United States would depend upon Soviet actions. He expressed the hope that the Soviet record of compliance would improve between now and November while the United States continues to comply with SALT. And he promised to consider, to take into account any constructive Soviet steps before the United States ceases to comply.

Now, this may seem to be only a slim foundation of hope that we may avoid the negative security impacts of United States and Soviet noncompliance, but it is a foundation of hope that does exist and it should be nurtured and not dismissed. I urge the President not to lock himself in concrete against future U.S. compliance with SALT, particularly in the context of the upcoming summit. I hope that he will use his press conference tonight, for example, to avoid suggesting an irreversible U.S. position on this matter.

There are some in the administration who appear to want to restrict the President's flexibility to adjust his policies, even if Soviet behavior or progress at Geneva or the summit meeting merits such adjustments. I hope the President will impose some discipline on these voices since they do not serve him well and they do not serve the country well if they deny him options to adjust his policies or to act in what may appear to be in the best interests of U.S. security.

U.S. security will not be enhanced if the administration prematurely restricts its bargaining flexibility at Geneva and at the summit, and if the negotiating process cannot fully pursue whatever opportunities may exist for meaningful arms control in the ensuring months.

I yield the floor.

RESERVATION OF THE MINORITY LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR HUMPHREY

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire [Mr. HUMPHREY] is recognized for a period not to exceed 5 minutes.

Mr. HUMPHREY. Mr. President, I thank the Chair.

ELIMINATION OF TAX ADVANTAGES FOR ABORTION PROVIDERS

Mr. HUMPHREY. I doubt there is a soul in our entire Nation, Mr. President, who is not this morning greatly relieved to learn that the infant born a few days ago, Baby Jesse, who was initially denied a heart transplant to correct a probably fatal condition of his own heart, will in fact be receiving a heart transplant perhaps at any hour. We are also greatly relieved for that turn of events and that piece of news, and at the same time there is a great sadness I am sure in every heart in this land that in saving Baby Jesse another infant had to die who had suf-

fered brain death and whose heart will be transplanted to Baby Jesse. I am sure every American prays and hopes that the operation on Baby Jesse is fully successful and he grows up to be a normal and healthy young man.

Mr. President, is it not ironic that on the one hand national attention is riveted on a case such as that of Baby Jesse and millions of Americans are pulling for that little fellow, as they should be and, on the other hand, across this Nation every year 1½ million unborn children are destroyed by abortion. I think it is ironic and I think it is terribly tragic.

Polls show, Mr. President, that most Americans, while they recognize abortion as being a lawful activity since the 1973 Supreme Court decision, nonetheless are personally opposed, personally find abortion repugnant, while they still recognize it as a lawful activity. While they recognize it as a lawful activity, they nonetheless do not want the Federal Government subsidizing that activity.

It does not stand to reason that just because something is lawful it therefore must be subsidized. There are many activities and organizations in this country which are lawful but we do not subsidize them either with direct cash outlays from the Treasury or tax expenditures, which is to say tax subsidies, and I am approaching now, of course, the amendment which Senator ARMSTRONG and I and others intend to offer to the tax bill which would eliminate the tax subsidy which certainly abortion providers today enjoy.

Certain abortion providers, about a third of them roughly, those which are not Government, that is, private and tax exempt abortion providers, today enjoy privileged status in our society, privileged in that they do not pay any taxes at all on their income. That is a privileged status accorded them by the Internal Revenue system—not by any law passed by Congress, not even by IRS regulation, but by an internal IRS memorandum in 1976.

□ 1020

We are subsidizing abortion through the Tax Code. We are encouraging abortion through the Tax Code.

Let us remember what abortion is. It is not an abstract word or an abstract concept. I spoke a moment ago of 1.5 million unborn human beings a year, and they are human beings. The offspring of human beings are human beings. They are not chickens, pigs, or cows. A million-and-half are being destroyed every year. How? By being torn apart within their mothers' wombs, extracted piece by bloody piece, or by other methods, such as subjecting the child within the womb to caustic solutions which burn away their skin, and they are expelled from their mothers' wombs.

That is the bloody, ghastly reality of abortion. I apologize if I have offended anyone's sensibilities. We have to sweep away these myths and these euphemisms about abortion and examine the reality. That is the reality and that reality is being subsidized today.

That is a wrong we seek to correct, and I am confident that we shall correct it, just as we ultimately corrected the wrong of subsidizing abortion through direct outlays from the Treasury. No longer do we do that, because a majority of Senators and Representatives say "no" and attached language to the relevant bill saying that there will be no taxpayers' subsidies of abortions through direct expenditures from the Treasury.

Now we must deal with the other side of that and cut off the tax exempt status accorded certain organizations and the tax deductibility of certain contributions to certain organizations that perform abortions.

Mr. President, the love of human beings for children is universal. It is a great blessing to our society and to the human race. That love should be once again restored to the prenatal children as well as to those on whom we shower attention, such as Baby Jesse, for whom we are all pulling and praying this morning.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. The distinguished Senator from Florida [Mrs. HAWKINS] is recognized.

A NEW ERA IN THE WAR ON DRUGS

Mrs. HAWKINS. Mr. President, our Nation is on the threshold of a new era in the war on drugs. This new phase involves our Armed Forces and their participation in the battle against international narcotics trafficking. A secret national security directive signed by President Reagan on April 8 commits the military to a role unsurpassed previously to help stem the flow of illicit drugs. Vice President BUSH, who has been untiring in his efforts to fight drugs, announced last weekend that our soldiers, sailors, airmen, and marines will be allowed to help U.S. agencies and foreign governments plan assaults on drug smuggling operations, equip police forces and transport them to attack sites.

The most dramatic impetus of the Presidential directive is that it defines drug trafficking as a threat to our national security. From that point, it permits the Defense Department to assign personnel and equipment such as radar-equipped planes and balloons or satellites to combat the narcotics traffic.

This marks a significant change in the level of assistance that the military can provide to our drug fighters and their counterparts in foreign countries. Drug interdiction does not become a primary mission of the armed forces. Whatever antidrug activities they are assigned will not compromise their major responsibility which is to protect our shores and skies from enemy attack.

Under the 1981 revision of the Posse Comitatus Act, spy satellite information can be provided to interested agencies, helicopters loaned to the DEA, and our drug agency and foreign personnel may be trained in using radar, night vision devices, and communications coding equipment. A Pentagon official says, "it is fair to assume" that these activities will be expanded under the new directive. Howard Gehring, Director of the National Narcotics Border Interdiction System, says the major thrust of the new directive is that narcotics traffic has been given a "higher priority for assessing defense needs."

That higher priority includes such things as military aid for civilian law enforcement agencies abroad, increased use of U.S. military aircraft to transport foreign drug enforcement agents, stepped up participation of counternarcotics efforts on a regional or hemispheric basis, and promoting foreign control and education programs. The directive stipulates two other important changes: Drugs will now be taken into consideration in any bilateral or multilateral agreements and drug-related work will become a priority in our intelligence operations instead of just being fitted in somewhere.

And there is another all-important provision: The directive acknowledges a "very real link between drugs and terrorism" and suggests that new strategies will be developed to break this link.

Mr. President, as chairman of the Senate Subcommittee on Children, Family, Drugs, and Alcoholism and the newly established Senate Caucus on International Narcotics Control, I applaud this development. I congratulate the President and the Vice President for their leadership and the Joint Chiefs of Staff for their farsightedness in making the recommendation that the antidrug role of the military could be expanded.

I also would like to commend the First Lady for her contribution in helping arouse the Nation's consciousness about the dangers of drugs.

The new Presidential directive is a giant step toward victory in the war on drugs. We must not let up in this fight.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

WHY WE SHOULD CANCEL PLANNED EXPANSION OF AIRCRAFT CARRIERS

Mr. PROXMIRE. Mr. President, recently I spoke on the floor of an alternative defense budget offered by a group of former Defense and military officials. This is the Committee on National Security [CNS]. They proposed a defense budget that would hold down defense spending for the next 5 years strictly to the level of inflation. Mr. President, this Senator has some reservations about that restriction on defense spending, but CNS makes an interesting case. The CNS would not change the current U.S. force structure with one exception. They would cancel the planned expansion to a 15-carrier battle group. They would do so on the grounds that this increase never had any convincing rationale.

How about it? Do we need two new aircraft carrier task forces at a cost of $30 billion, not counting huge annual operating costs? If so, why? Consider this country's latest military action against Libya. Two of our big aircraft carriers lurked offshore a short flight a few miles away from Tripoli and Benghazi. Did we use them? Yes; they delivered about half the attack. Why only half? Why not the whole kit and kaboodle? If a big aircraft carrier's bombers can't take out the likes of Tripoli and Benghazi, what good are they? We put Margaret Thatcher, this country's best ally on the spot. We flew F-111's from bases in the United Kingdom in a round trip covering well over 2,000 miles. The bombers had to be refueled. We lost one of the bombers. Why couldn't the A-6's on the aircraft carriers do the job, the whole job? After all, the job wasn't much as air attacks go. Only a few targets were hit against a feeble, sixth-rate military power. In a May 12 article in U.S. News & World Report, William Broyles, Jr., offers an interesting explanation. Here it is:

> . . . the role of an aircraft carrier in combat is not to attack but to protect itself. Virtually two-thirds of its 90 or so planes are dedicated to fighting off the ships, submarines and bombers that would attack so tempting a target. Only 34 planes are left to carry out offensive missions, and only ten of those—the modest, subsonic A-6s—are capable of "precision" night bombing. Still, both Air Force and Navy fliers say that the A-6s could have hit all five targets—if they had been asked.

The fact that we didn't rely fully on the aircraft carriers in the Libyan raid suggests that at least on this score the Committee on National Security is right. We have 13 aircraft carrier task forces right now, in being, with 2 under construction. There is no more expensive weapon system. Three billion dollars for the carrier. At least $7½ billion for the planes on the carrier and $4 to $5 billion for the support fleet that services, maintains, and protects the carrier. The United States is the only country on earth, except the Soviet Union, still building aircraft carriers. Do we need them because of the Soviet competition in carriers? No, indeed. The Soviets have two small carriers and one or possibly two under construction. The United States has overwhelming dominance in carriers. We will have that domination for the foreseeable future.

Of what value would the carriers be in the event of war with the Soviet Union? Answer: Practically none. How long would they last? Adm. Hyman Rickover, the most celebrated naval expert this country has had in the last century, testified before Congress on the day he retired that our aircraft carrier fleet would last about 2 days in the event of a war with the Soviet Union. Why? Because the aircraft carrier is overwhelmingly vulnerable to nuclear attack. It is very big—longer than two football fields placed end to end. It is slow, moves on the surface of the ocean at 40 or 45 miles per hour, full speed. As former Senator and Secretary of the Air Force Stuart Symington used to say: "Hitting an aircraft carrier is like hitting a bull in the butt with a bull fiddle. You can't miss it." Obviously, the Soviet Union easily can and undoubtedly does know precisely where each of our aircraft carriers is at all times. In a nuclear war, they could take U.S. aircraft carriers out at will.

So when do we need aircraft carriers? For situations exactly like the Libyan raid. They are useful in an attack on a small coastal country that has weak defenses. Libya should have been ideal. Apparently, it was not.

So why do we have aircraft carriers? Answer: because they are the glamour girls of the fleet. They are a lot like glamour girls. They are beautiful. They are exciting. They cost a bundle. Mr. President, in the last 40 years or so, this Senator has seen a number of movies about the Navy. I have yet to see a single Navy film that did not feature aircraft carriers. They look super on TV. They are a kind of glorified limousine for the admirals. But they are murder on the taxpayer. We don't need more than we now have. Senators should think long and hard about the fact that this fabulously expensive piece of naval bric-a-brac lolled around the waters off the Libyan shore during the United States raid and only threw half a punch.

Mr. President, I ask unanimous consent that the article to which I referred in the May 12 issue of U.S. News & World Report, by William Broyles, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE REAL STRATEGY IN THE LIBYA BOMBING

(William Broyles, Jr., on the politics of war)

It's easy to get caught up in the gee-whiz technology of the Libya raid—the look-down radar, the laser-guided bombs, the infrared target imaging, the standoff missiles. Great stuff, but that has always been the problem with high-tech weaponry—it distracts attention from thorny questions that aren't as much fun as videogame war.

For example: Why use F-111s from Britain when two aircraft carriers were standing by off the Libyan coast, Either the $20 billion or so we invest in an aircraft-carrier group is money wasted or we put Margaret Thatcher, our staunchest European ally, through the political wringer in order to allow the Air Force to show its stuff. Neither is an appealing conclusion.

If two aircraft carriers are not sufficient to hit a few targets in Tripoli and Benghazi, then what good would they be against a strong enemy?

The answer is, not much good. That's because the role of an aircraft carrier in combat is not to attack but to protect itself. Virtually two thirds of its 90 or so planes are dedicated to fighting off the ships, submarines and bombers that would attack so tempting a target. Only 34 planes are left to carry out offensive missions, and only 10 of those—the modest, subsonic A-6—are capable of "precision" night bombing.

Still, both Air Force and Navy fliers say that the A-6s could have hit all five targets—if they had been asked. If needed, more A-6s could have been flown in from Virginia or from the carrier *Enterprise* in the Indian Ocean. Or attacking fewer targets might have sent Qadhafi the message. In any case, the F-111s were not indispensable, even if the mission had to be at night.

And why not attack during the day, when each carrier could have put as many as 24 more planes on target, and the risk of error would have been less? The electronic countermeasures would still have neutralized the Libyan radar, and the carriers' 48 F-14s would have made quick work of any Libyan MiG that dared to take the skies. In 1982, the Israelis destroyed 18 Syrian missile batteries against much more potent defenses than in Libya—in daylight, without losing a single plane.

But the raid was structured so that the Air Force's F-111s had to be used. One reason seems to have been to force our European allies to fish or cut bait. There were also tactical reasons for the night attack: Fewer people on the street, so, presumably, fewer civilian casualties; less threat from the Libyan Migs, so less chance of captured American fliers; more chance for surprise; better odds on hitting Qadhafi.

But when the Pentagon is involved, other reasons come into play, as described by a

"senior military official" in the April 21 issue of *Aviation Week:* "understandable, after the all-Navy action in Libya last month, the Air Force wanted a piece of the action. The Defense Department budget is under consideration—and here was an opportunity to show how well the money is being spent."

The budget, in short, is the mission. "It all comes back to the budget," says one ex-Pentagon analyst. "For years, we've been saying that radar, infrared and smart bombs are the way to go. We've spent billions on night-mission avionics, so we had to try to use them, even if a daylight strike would have been better."

Unfortunately, the Pentagon has apparently read too many of its own press releases about the accuracy of night-bombing technology—and Margaret Thatcher believed them, too. When Secretary of Defense Caspar Weinberger was informed that some of the bombs had hit the French Embassy, he was surprised and indignant. "That would," he said, "be virtually impossible." Under combat conditions, however, the best-laid plans are almost certain to go awry—particularly at night.

"It's crazy to go at night," says a former Pentagon engineer with years of experience in laser weaponry. "The infrared image in the bombing scope changes constantly. If you locate the right building half the time, you'll be lucky. And laser-guided bombs make mistakes. They're easily deflected by dust. The laser reads the edge of the dust cloud as the target, and once you toss the first bomb, there's dust everywhere. Or the laser beam loses its lock on the target and flings the bomb into the next county."

Pentagon officials insist that their accuracy for bombing specific targets at night is "80 percent or better." but even then, 1 bomb in 5 is going to miss by three quarters of a mile or more. That's not a problem in combat, but it's disastrous against targets in civilian areas. Innocent people are killed, and the images of death and destruction are broadcast around the world—putting us on a moral level with the terrorists.

All bombing is terrorizing, but, in war, bombing has its place; in politics, perhaps not. The French had a point when they claimed they would have supported ambitious, decisive military action against Qadhafi—it may be better to overthrow a dictator than to wound him. And, in spite of the impressive coordination of a complex mission and the courage and skill of our pilots, the military bureaucracy seems still to be incapable of going into combat without the interservice horse-trading and budgetary politics that led to the aborted hostage rescue attempt in Iran and the farce in Grenada.

WHY THE CONGRESS SHOULD NOT PASS BRING-BACK-BRIBERY LEGISLATION

Mr. PROXMIRE. Mr. President, in 1977, the Congress enacted into law the Foreign Corrupt Practices Act. Both Houses passed the law unanimously. That law was a response to a series of corruption scandals that rocked this country's foreign relations. In Japan, the Prime Minister was convicted of accepting a bribe of $1.6 million to direct his country to buy Lockheed planes. The Prime Minister was sentenced to jail. He was fined $1.6 million. Because at the time this occurred, the Foreign Corrupt Practices Act was not on the books, Lockheed got only a mild wrist tap: A few hundred thousand dollars fine for a transaction that netted them tens of millions of dollars in profit. No Lockheed official suffered any penalty whatsoever. The bribe was good business for Lockheed. The Japanese embarrassment was not the only shock to this country's foreign relations from corporate bribery. In Italy and in the Netherlands, bribes paid by American corporations to officials of those two countries had a devastating effect on America's friends. In Italy, the Communist Party made big gains. In the Netherlands, the very existence of the monarchy was seriously endangered.

Corporate bribery had become widespread. An SEC investigation disclosed that more than 450 American corporations maintained slush funds and had made more than $300 million in payments to win foreign sales. Investigations in 1976 and 1977 revealed that American corporations had made questionable payments to Government officials and agents in the Netherlands, Iran, France, Germany, Saudi Arabia, Brazil, Malaysia, and Taiwan. As a result of these revelations, this Senator drafted the Foreign Corrupt Practices Act. What did this bill do? It required corporations to keep accurate books and records, as well as an accounting control system that made it illegal for top corporate officials to make payments from an off-the-books slush funds. By establishing a paper trail, the bill nailed down corporate responsibility effectively. In recent testimony before the Banking Committee, some witnesses have testified that the accounting and recordkeeping provisions of the law are even more important than the antibribery provisions, because they permit effective control by regulatory officials of all corrupt payments by corporations, domestic or foreign.

Mr. President, that foreign corrupt practices bill became law. It passed the Senate unanimously. It passed the House unanimously. What was the result? Needless to say, many corporation executives became uncomfortable under the bill and with good reason. They had to be more careful than before. If they paid a bribe as Lockheed did before the bill became law they would have to pay a big fine. They would have to serve time in jail. They would end their business career in disgrace. The penalties were tough. It was predictable that corporation executives would try to weaken the law, and that is exactly why a bill to do that has been introduced. It has been the subject of hearings before the Banking Committee. It is on its way to the floor. It may be a freestanding bill. It may come as an amendment to another bill. It will be called by this Senator a "bring-back-bribery" bill. What's wrong with the present law that we enacted in 1977? Did the bill work? Did it prevent bribes mainly to foreign officials? It sure did. The spate of bribery scandals that had so besmirched America's good name ended abruptly. There has not been a single major scandal since the bill became law. Critics of the new law—and those who have now advanced an amendment to the law contend that the law has reduced export sales. The best evidence shows they are wrong. The law went into effect in late 1977. Its prime effect would be in the first 1 or 2 years. Witnesses before the committee on June 10 testified that the initial period after enactment would be the time when any exporter restraint and concern provoked by the new Foreign Corrupt Practices Act would have its greatest effect on exports. So what happened to our exports in 1978, 1979, and 1980? Did they decline as a result of the new law? No way. They increased. They increased by a rousing 11 percent in each year in real terms. But were not there other factors that might have so sharply outweighed the Foreign Corrupt Practices Act that the act, perhaps, did have a pervese effect on exports? No, indeed. The most thorough and objective study made of the effect of the act on our exports was made by Dr. John Graham of the University of Southern California. Dr. Graham found that the act had no adverse effect on exports, and may have actually had a positive consequence. How could the act have helped this country's exports? It could increase our exports because the United States became the first country to enact a law that made it illegal for its own corporations to pay a bribe. Since 1977, a country could buy from the United States with the assurance that the Government itself was committed by law to prevent the corruption of bribery.

Mr. President, in later speeches, this Senator intends to spell out exactly how the proposed bill, S. 430, a measure that amends the Foreign Corrupt Practices Act will undermine the Foreign Corrupt Practices Act, and revive the corrupt practices that lead to the enactment of the bill in 1977. I will explain why the title "bring back bribery" bill is an accurate description of the new legislation.

MYTH OF THE DAY: MORE PESTICIDE USE MEANS FEWER PESTS

Mr. PROXMIRE. Mr. President, today's myth is that greater pesticide use means fewer pests.

U.S. farmers, who buy over 2 billion pounds of pesticides annually may have to drastically cut back on their use of these chemicals because of

growing resistance by pests to pesticide products. Ironically, resistance was caused in part by overuse of previously effective chemicals. Here's one case where more does not mean better.

According to a recent National Research Council report, Pesticide Resistance, rodents, weeds, insects and plant disease organisms all show increasing resistance even to applications of greater and greater amounts of pesticides. Many major crop pests and disease-bearing insects can no longer be fought by chemical means.

The report states that even such dangerous pests as malarial mosquitoes are not adequately controlled with available insecticides and that the resistance problem has greatly accelerated in the last few years.

For example, resistance in insects and mites rose from 7 species which were resistant to DDT in 1938 to 447 species resistant to members of all the principal classes of insecticides. Resistance also occurs in at least 55 species of weeds, 5 species of rodents and 100 species of plant disease organisms.

What can we do to win the fight against noxious plants and animals? According to the National Research Council the answer may lie with decreased use of conventional pesticides and increased reliance on biologically based products and integrated pest management. Integrated pest management uses scientifically timed, greatly reduced application of pesticides combined with biological controls, crop rotation and breeding of pest resistant crops.

A return to the old prepesticide methods of farming coupled with the latest advances in biotechnology may be the only answer to the resistance problem.

I yield the floor.

RECOGNITION OF SENATOR SYMMS

The PRESIDING OFFICER. The distinguished Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I ask unanimous consent that the special order that has been designated for the distinguished senior Senator from Maryland [Mr. MATHIAS] be designated to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO ENCOURAGE THE USE OF SURPLUS BEEF AND DAIRY COWS FOR RELIEF TO THE VICTIMS OF THE CHERNOBYL ACCIDENT

Mr. SYMMS. Mr. President, today I am preparing to introduce a concurrent sense-of-the-Congress resolution which would encourage the Secretary of Agriculture to use beef and live dairy cows currently available because of the whole-herd dairy buyout program, to meet the demands for such commodities caused by the Chernobyl nuclear disaster in the Soviet Union.

Mr. President, in my view this concept has great merit. It is the kind of commonsense solution that is all too lacking in current Government policy. If the recommendations incorporated in this resolution are adopted it will meet two immediate needs. The first one, of course, is humanitarian relief for the Russian people. After all, the Russian people are good people, even if their dictators do oppress their creativity, persecute their freethinkers, and stifle their entrepreneurs. We, in America, have tremendous freedoms that they are denied, and it is this freedom that compels us to show even greater compassion for the victims of the Chernobyl nuclear accident. The destruction of thousands of acres of farmland now threatens the nutrition and sustenance of millions in the Soviet Union and surrounding European states. As the beneficiaries of a free society, we are fortunate to be able to meet the humanitarian needs of these victims.

The next point that is equally important is the bolstering of United States meat markets. The distinguished Presiding Officer, Senator LAXALT, comes also from a livestock State, and I think he knows, as I do, what the whole herd dairy buyout program, which was established in last year's farm bill, has done to the American beef producer. It has had a devastating impact on domestic beef prices, psychologically and practically. Beef prices are down about 8 to 10 cents a pound from what they were prior to the announcement of the whole herd dairy buyout. Lacking sufficient congressional direction, the buyout program dumped millions of pounds of red meat from slaughtered dairy cows into the beef market. The resulting drop in prices has nearly bankrupt most American cattlemen. This Senator has never seen it more difficult for the beef producers in Idaho than the current situation today. They simply cannot produce beef for the price that they get in the marketplace, yet their costs have continued to rise. As they continue to face declining prices cattlemen are simply not able to generate enough cash-flow to pay the bills.

What is needed is an outlet for this tremendous surplus. And what better outlet than the areas of Europe and the Soviet Union that are suffering because of the Chernobyl disaster? The demand that exists there may very well be enough to completely eliminate the current surplus. An honest attempt to fill this demand is the least we owe the beef industry, one of the few sectors of agriculture that has survived with relatively little help from the Government.

This sense-of-the-House and Senate legislation, or concurrent resolution, is already rapidly progressing in the other body where it has drawn broad bipartisan support from both sides of the aisle.

I commend it to my colleagues in the Senate with a welcome invitation for their cosponsorship.

Mr. President, seeing no other Senators seeking recognition at this time, I will go ahead and give some of the highlights of the resolution. I invite my colleagues to join me in this effort to take surplus dairy cows and sell them in Eastern Europe and the Soviet Union, yielding a twofold benefit. It would give them a source of clean, fresh dairy products free from radiation, and it would take care of some of the surplus red meat here in the U.S. market, remove some of the glut. This resolution would express the sense of the Congress concerning the nuclear accident at Chernobyl in the Soviet Union.

Whereas the nuclear plant explosion at Chernobyl in the Soviet Union may have resulted in radiation contamination of food and livestock in many areas of the Soviet Union and Europe;

Whereas the United States in the past has provided assistance to countries which have experienced natural or manmade disasters;

Whereas the people of the Soviet Union, Poland, Rumania, Italy, and other European countries who have suffered the loss of livestock and crops as the result of the disaster at Chernobyl require a safe and adequate food supply in order to live and maintain human dignity;

Whereas the United States has at its disposal the means to provide food assistance to those people; and

Whereas the Secretary of Agriculture has the authority under the Agricultural Trade Development and Assistance Act of 1954 (popularly known as Public Law 480), under the Commodity Credit Corporation Credit Guarantee Program, and through the use of the export enhancement program of the Department of Agriculture to sell live dairy cows and dairy beef products to foreign countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress—

(1) that dairy cattle designated to be slaughtered under the so-called Whole Herd Dairy Buyout program of the Department of Agriculture, instead of being slaughtered, should be shipped to the people of the Soviet Union, Poland, Rumania, Italy, and other European countries as part of P.L. 480 assistance to help replace stocks of dairy cattle found to have been contaminated as the result of the disaster at Chernobyl;

(2) that any feed grains required to feed dairy cattle shipped to the countries referred to in clause (1) should be made available to such countries from the stocks of the Commodity Credit Corporation; and

(3) that any beef resulting from the slaughter of cattle under the so-called Whole Herd Dairy Buyout program should also be made available to such countries.

Mr. President, I will hold this resolution at my desk today with an invitation for Senators to either call my

office to cosponsor or join me today in introducing it. Hopefully it will come to expeditious enactment. I think it would be good for both sides of the world if this resolution were passed rather expeditiously. It would be helpful to the beef industry in the United States of America, and I think it would be a way to get some of that red meat out of the country, out of our market, and into the hands of the people who could use it at this time of their crisis.

S. 2543—THE FEDERAL MASS TRANSIT IMPROVEMENT ACT

Mr. D'AMATO. Mr. President, I rise to introduce the Federal Mass Transit Improvement Act of 1986. Senator HEINZ is an original cosponsor, and I thank him for his early support of this effort. My distinguished colleagues, Senators SPECTER, BRADLEY, LAUTENBERG, and MOYNIHAN, have added their names as cosponsors.

Less than 4 months from now, at the end of fiscal year 1986, the Federal Mass Transit Program administered by the Urban Mass Transportation Administration [UMTA] will expire. The bill that we are introducing today would extend the program for another 4 years—through the end of fiscal year 1990.

This legislation would reauthorize the funding levels for the mass transit account—section 3—at $1.75 billion per year for the life of the bill, an annual increase of $650 million. The formula grant program—section 9—would be reauthorized through 1990 at the following levels: $2.15 billion for fiscal year 1987; $2.201 billion for fiscal year 1988; $2.255 billion for fiscal year 1989; and $2.312 billion for fiscal year 1990. The basic structure of the Federal Transit Program would not be disturbed; however, congressional intent regarding UMTA's implementation of the program would be clarified, and various program elements would be improved.

One of the most important new items in the bill is the creation of the balanced investment fund within the section 3 program. This $200 million fund would be available to small urban—population 1 million or under—and rural grantees for discretionary capital projects. None of the funds provided under this program will be available to urbanized areas which receive funds for rail modernization or for construction of new rail systems or extensions.

The balanced investment fund will enable the Federal Government to distribute the moneys more equitably in the user fee funded section 3 program to smaller transit grantees. As under the existing program, section 3 funds may not be used for operating expenses. Recipients of grants under the balanced investment fund will be able to finance projects for the acquisition, construction, reconstruction, and improvement of buses and vans, and for bus- and van-related facilities. We believe that this innovative approach will help unify transit advocates by giving grantees of all sizes more of a stake in the total Federal program.

Some of the other provisions in the legislation were a part of predecessor legislation, S. 352—the Public Transit Improvement Act. These provisions include:

MULTI-YEAR CONTRACTS

UMTA could make agreements for advance construction under the section 3 program. This is similar to letters of intent and full funding contracts which historically have been used in conjunction with new start projects. Existing letters of intent and full funding contracts would not be affected by this section. The purpose of this new funding mechanism is to enable grantees to better plan their construction budgets and to maximize the value of the Federal dollars they receive.

ASSOCIATED CAPTIAL ITEMS

This section would reduce the measure of current fair market value of rolling stock and expand the definition of items to be considered as associated capital costs in order to provide adequate funding to protect the Federal investment in rolling stock.

LEASED PROPERTY

Grants for construction projects also would be made available to finance cost-effetive leasing projects. This section would permit transit grantees to capitalize the practice of leasing major capital cost items such as heavy equipment, computers, and telephone systems.

CRIME PREVENTION AND SECURITY

In order to underscore the importance of crime prevent and security programs undertaken by transit operators, this section would explicitly authorize UMTA to make grants for such programs. Funding is to be provided as necessary, but no funds may be used for operating expenses. In addition, funds may be applied for by mass transit operators which have internal security personnel, as well as by operators which have formal agreements with local law enforcement units to provide security within the mass transit system.

The Federal Mass Transit Improvement Act also incorporates a section on project management oversight of major capital projects. This section was based on S. 1931, which was the subject of an April 9, 1986, hearing by the full Committee on Banking. This section would require transit grantees to submit project management plans as a precondition to receiving Federal aid. Such plans must, at a minimum, include well-planned budgets, documentation of personnel qualifications, procedures for quality control and quality assurance, and an orderly system for recordkeeping. The language included in this bill incorporates revisions that arose from the committee hearing.

Other provisions of particular interest are the sections dealing with privatization. Language has been included to assure that receipt of Federal transit aid does not interfere with a transit grantee's basic ability to make local choices regarding the participation of private mass transportation companies in the provision of mass transit services. We agree that the goal of cost-effective involvement of private sector transit services is desirable where it leads to better or enhanced service for the riding public. However, Federal transit grants should not be conditioned on the extent or amount of service or functions to be carried out by various private providers. These are issues which localities are best able to decide and to implement in a workable fashion.

In order to provide an opportunity for private sector participation in the Feeral transit program, a special demonstration program is contained in the bill. This program sets aside up to $25 million to finance transit projects to develop, implement, and evaluate innovative techniques for private sector involvement in all aspects of public mass transit operation. Transit operators will be able to apply for these funds to carry out local initiatives that promise to enhance and improve transit services. This program will benefit transit grantees, private mass transit service providers, and, most importantly, the riding public without disrupting the continued provision of vital transit services.

There are many other items of interest in this legislation that will lead to a better Federal transit program. Many of them are fine tunings of existing law, such as provisions to assist smaller transit systems with respect to operating assistance, limitations regarding State use of section 9 funds, and equitable treatment of rural transit grantees concerning items that qualify for local matching funds.

This legislation builds upon the firm foundation established by the Surface Transportation Assistance Act of 1982, and will lead to a better transit program for all Americans. We urge our colleagues to support this bill and to press for its speedy consideration and passage.

Mr. President, I ask that the full text of this bill be printed in its entirety in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Mass Transit Improvement Act of 1986".

AGREEMENTS FOR ADVANCE CONSTRUCTION

SEC. 2. Section 3(a)(4) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(4)(A) Notwithstanding any other provision of law, the Secretary is authorized, in connection with the initial funding of a project under this section, to establish a basis for multi-year financing of such project through the issuance of a multi-year project obligation to the recipient. At least 30 days prior to the issuance or amendment of any such obligation under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such an obligation.

"(B) An obligation issued under this paragraph shall stipulate the Secretary's maximum future participation in the financing of a defined project, including an estimated annual rate of participation, and the total amount so stipulated shall, when issued for a new fixed guideway project, be sufficient to complete an operable segment. The total amount of future Federal expenditures contained within all such multi-year obligations shall not exceed 75 per centum of the aggregate contract authority amounts authorized in section 21(a)(2)(B), nor shall the amounts estimated for use in any fiscal year exceed 75 per centum of the amounts authorized for that fiscal year. Amounts necessary to finance continued commitments to projects defined in subparagraph (C) shall be subtracted from such percentage. The total amount covered by such multi-year obligations shall not exceed any limitation that may be specified in an appropriations Act. Nothing in this paragraph affects the validity of Letters of Intent or Full Funding Contracts issued prior to the date of enactment of the Federal Mass Transit Improvement Act of 1986.

"(C) Funding for projects covered by letters of intent or letters of commitment issued, and full funding contracts executed prior to the date of enactment of the Federal Public Transportation Act of 1982 may be funded under this section while not precluding the funding of a portion of such projects using section 9 capital funds unless such funding would impair the recipient's ability to fund routine capital projects under this section. The Secretary shall, as part of the approval of the use of such funds, determine that sufficient funds exist for the recipient to complete and place into revenue service an operable segment. Notwithstanding the provisions of section 4(a), the Federal share of any project under this section covered by a full funding contract, Letter of Intent, or Letter of Commitment in effect on the date of enactment of the Federal Public Transportation Act of 1982, or those projects within the federally agreed upon scope for the Washington, District of Columbia, metropolitan area transit system (as of such date) shall not be altered.

"(D) Ninety days prior to the commencement of each fiscal year, the Secretary shall publish in the Federal Register a table indicating the aggregate and annual estimated amounts contained in all outstanding multi-year obligations entered into as of that date. Based on this table, the Secretary shall prepare and publish, prior to the commencement of the fiscal year, an apportionment of funds necessary to sustain projects approved under subparagraph (A) for the coming year. Such funds shall be released to the recipients on the first day of the fiscal year and may be obligated by the recipients to meet project costs or to be applied to the payment of principal and interest on bonds, notes, or other obligations issued by the recipients to finance project costs. Federal obligations under this paragraph shall be charged to the budget year in which funds are released to recipients.".

BALANCED INVESTMENT FUND

SEC. 3. Section 3(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(7)(A) The Secretary is authorized to make grants to States and local public bodies, in the amount of $200,000,000 in each of fiscal years 1987, 1988, 1989, and 1990, for the purposes of financing the acquisition, construction, reconstruction, and improvement of buses and vans and bus and van-related facilities.

"(B) Not less than 50 per centum of such funds shall be made available to urbanized areas of 200,000 to 1,000,000 population; not less than 37.5 per centum to urbanized areas of 50,000 to 200,000 population; and not less than 12.5 per centum for non-urbanized areas as authorized for capital purposes only under section 18 of this Act.

"(C) None of the funds provided for in this paragraph shall be made available to urbanized areas receiving grants for rail modernization or construction of new rail systems or extensions.".

NEW START PROJECTS

SEC. 4. Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(i) No grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may be made under this section unless the Secretary has first ensured that the applicant has prepared an evaluation of the proposed project. The evaluation shall include at least the following information:

"(1) The results of complete alternatives analysis and preliminary engineering studies.

"(2) A cost-effectiveness evaluation.

"(3) The anticipated local economic development resulting from the construction and operation of the proposed project, including local provisions to capture the benefits of such development for the long-term benefit of mass transit services through the use of special assessment districts or other value capture mechanisms.

"(4) Documentation of the local financial commitment to participate in the construction, maintenance, and operation of the system or extension.

In identifying the data to be assembled for the evaluation required under this section, the Secretary shall also consider such other factors as the Secretary deems appropriate. The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue guidelines for the preparation of information necessary to assist in evaluating projects. Such guidelines shall be developed in full consultation with public mass transportation interests, and shall be submitted at least 60 days before implementation to the Committee on Public Works and Transportation of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs of the Senate. None of the provisions of this section shall apply to projects to enhance a fixed guideway system unless the contemplated project will result in an extension of the fixed guideway of more than one mile for revenue service purposes. Nothing in this subsection shall be interpreted to provide for a numerical ranking of proposed projects or for comparing one project with another in any report assembled with data prepared pursuant to this subsection.".

SUBSTITUTE PROJECTS

SEC. 5. Section 4(g) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" after "1985,"; and

(2) by inserting "and such sums as may be necessary for fiscal years 1987, 1988, 1989, and 1990," after "1986,".

4(h)(1) REPORTS

SEC. 6. Section 4(h)(1) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "On or before the twentieth day of each calendar quarter" and inserting in lieu thereof "Not later than 30 days after the close of each quarter of each fiscal year";

(2) by striking out "Congress" and inserting in lieu thereof "the Committee on Public Works and Transportation and the Committee on Appropriations in the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations in the Senate";

(3) by redesignating clauses (1) through (5) as clauses (A) through (E), respectively;

(4) by striking out "and" before "(E)";

(5) by striking out the period and inserting in lieu thereof "; and"; and

(6) by adding at the end thereof the following:

"(F) a status report on the execution of grant contracts and the establishment of Letter of Credit or other reimbursement authority for sums already obligated for each State, designated recipient and applicant.".

LIMITATION OF APPROPRIATIONS

SEC. 7. Section 4(i) of the Urban Mass Transportation Act of 1964 is amended by striking out "using sums available pursuant to section 4(c)(3)(A) of this section" and inserting in lieu thereof "using sums not to exceed $9,000,000 in each of fiscal years 1987, 1988, 1989, and 1990".

USE OF LAPSED SECTION 5 FUNDS

SEC. 8. Section 5(o) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new sentence: "Sums apportioned under this section after October 1, 1982, and remaining unobligated at the end of fiscal year 1986 shall be added to the amount available for apportionment under section 9 of this Act for fiscal year 1987, and made available as provided by section 9(p).".

FUNDING OF PARTIAL PROGRAM OF PROJECTS

SEC. 9. Section 9(e)(2) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new sentence: "A grant may be made under this section to carry out, in whole or in part, a program of projects.".

LEASED PROPERTY

SEC. 10. Section 9(j) of the Urban Mass Transportation Act of 1964 is amended by inserting after the first sentence the follow-

ing: "Grants for construction projects under this section shall also be available to finance the leasing of facilities and equipment for use in mass transportation service, subject to such regulations limiting such grants to leasing arrangements which are more cost effective than acquisition or construction as the Secretary shall prescribe not later than 90 days after the date of enactment of the Federal Mass Transit Improvement Act of 1986.".

DEFINITION OF ASSOCIATED CAPITAL ITEM

SEC. 11. The last sentence of section 9(j) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and materials" and inserting in lieu thereof ", tires, tubes, materials, and supplies"; and

(2) by striking out "1 per centum" and inserting in lieu thereof "one-half of 1 per centum".

REVENUE RETENTION

SEC. 12. Section 9(j) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "Net income received from the use, lease, or sale of airspace or adjacent property acquired as a result of a project funded under this section or section 3(a)(1) or such income derived from the disposal of fungible items such as gravel, rail ties, or rail and excluding rolling stock, which have been fully depreciated over their useful lives shall be totally retained by the recipient for projects eligible under this section or section 3(a)(1) of this Act. The Secretary may not award any grant or make any loan under this Act on the condition that such net income must be used to finance a part of any project for which funding is sought under this Act, or to reimburse the United States for grants or loans made pursuant to this Act. Nor shall the Secretary use such net income in any calculation of net project cost under section 4(a).".

OPERATING ASSISTANCE FOR SMALL URBANIZED AREAS

SEC. 13. The first sentence of section 9(k)(2) of the Urban Mass Transportation Act of 1964 is amended by striking out "95 per centum" and inserting in lieu thereof "100 per centum".

NEWLY URBANIZED AREAS

SEC. 14. The last sentence of section 9(k)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting "authorized" after "its".

FUND LIMITATION

SEC. 15. Section 9(m) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subparagraph:

"(3) No funds apportioned to urbanized areas with populations of less than 200,000 may be used to pay the expenses of any State's management or administration of grant programs for such urbanized areas, except in the case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction, and operation, directly by lease, contract, or otherwise, of public transportation services.".

TRANSFER OF FUNDS

SEC. 16. Section 9(n)(1) of the Urban Mass Transportation Act of 1964 is amended—

(1) by inserting "other" before "urbanized",

(2) by inserting "within the State" after "urbanized areas",

(3) by striking out "with populations of 300,000 or less under this section",

(4) by inserting "approval by" after "may make such transfers only after",

(5) by striking out "consultation with" after "may make such transfers only after approval by",

(6) by inserting "elected" after "local", and

(7) by inserting "or if funding is within 90 days of lapsing and no approvable grant applications are pending" after "(d)" in the second sentence.

USE OF LAPSED SECTION 19A AND SECTION 9 FUNDS

SEC. 17. Section 9(o) of the Urban Mass Transportation Act of 1964 is amended by striking out the period at the end of the second sentence and inserting "not later than 30 days after the end of the third fiscal year following the initial year of apportionment.".

APPORTIONMENT OF FORMULA FUNDS

SEC. 18. Section 9 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(p) Funds appropriated to carry out this section for any fiscal year shall be fully apportioned for the purposes of, and in accordance with, the provisions of this section not later than the tenth day following the date on which such funds are appropriated. The Secretary shall publish apportionments of such appropriated funds, including individual apportionments for each urbanized area above 50,000 population as well as the amount attributable to each State of a multi-State urbanized area, on the apportionment date established in the preceding sentence.".

RULEMAKING

SEC. 19. (a) Section 12 (a) of the Urban Mass Transportation Act of 1964 is amended—

(1) by inserting "(1)" after "SEC. 12. (a)"; and

(2) by adding at the end thereof the following:

"(2) The Secretary shall prepare an agenda listing all areas in which he intends to propose rules governing activities under this Act within the following 12 month period. The Secretary shall transmit such agenda to the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate within one hundred and twenty days after the effective date of this subsection and annually thereafter. Except for emergency rules, the Secretary shall give interested persons not less than 60 days to participate in the rulemaking through submission of written data, views, or arguments with or without the opportunity for oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary due to the routine nature or matter of insignificant impact of the rule, or that an emergency rule should be promulgated. The Secretary may extend the 60-day period if he determines that such period is insufficient to permit diligent persons to prepare comments or that other circumstances justify an extension of such period. An emergency rule shall terminate 120 days after the date on which it is promulgated.".

(b) Section 12(c) of such Act is amended—

(1) by striking out "and" at the end of paragraph 10;

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(12) the term 'rule' means the whole or part of the Secretary's statement of general or particular applicability designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Secretary in carrying out provisions of this Act; and

"(13) the term 'emergency rule' means a rule which is temporarily effective prior to the expiration of the otherwise specified periods of time for public notice and comment under this section and which was duly promulgated by the Secretary pursuant to a finding that a delay in the effective date thereof would (A) seriously injure an important public interest, (B) substantially frustrate legislative policy and intent, or (C) seriously damage a person or class or persons without serving any important public interest.".

OVERHAUL-RECONSTRUCTION

SEC. 20. (a) Section 12(c)(1) of the Urban Mass Transportation Act of 1964 is amended by inserting "(A)" after "such term also means" and by inserting before the semicolon at the end thereof the following: ", (B) any bus remanufacturing project which extends the economic life of a bus eight years or more, and (C) any project for the overhaul of rolling stock (whether or not such overhaul increases the useful life of the rolling stock)".

(b) Section 9(j) of such Act is amended—

(1) by inserting "(1)" before "Grants"; and

(2) by adding at the end the following new paragraph:

"(2) A project for the reconstruction (whether by employees of the grant recipient or by contract), of any equipment and materials each of which, after reconstruction, will have a fair market value no less than one half of 1 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used shall be considered a project for construction of an associated capital maintenance item under this section.".

(c) The first sentence of section 9(k)(1) of such Act is amended by striking out "shall not exceed" the first place it appears and inserting in lieu thereof "shall be".

(d) Section 3(a)(2)(A)(iii) of such Act is amended by inserting before the period the following: ", and will maintain such facilities and equipment".

CERTIFICATION

SEC. 21. Section 15 of the Urban Mass Transportation Act of 1964 is amended by adding the following new subsection:

"(d) The Secretary shall certify the sampling techniques used by applicants or persons seeking grants under section 5 or 9 of this Act within 120 days of enactment of this subsection. The Secretary shall certify the sampling techniques of newly urbanized areas within 120 days of submission to the Secretary of such sampling documentation.".

RURAL TRANSPORTATION EQUITY

SEC. 22. Section 18(e) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection, the term 'Federal funds or revenues' does not include funds received by a recipient of funds under this section pursuant to a service agreement with a State or local social service agency or a private social service organization.".

USE OF FUNDS

SEC. 23. Section 18(e) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "No restrictions may be placed on the use of the Federal share for the payment of operating expenses except as provided herein.".

APPLICABILITY OF PRIVATIZATION REQUIREMENTS

SEC. 24. (a) Section 3(e)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting after "to the maximum extent feasible," the following: "consistent with State and local laws and policies,".

(b) The first sentence of section 8(e) of such Act is amended to read as follows: "The plans and programs required by this section shall encourage, to the maximum extent feasible, consistent with State and local laws and policies, the participation of private enterprise, giving consideration to issues of quality, reliability, safety, capability of private entities, cost, and other factors as may be determined locally.".

(c) Section 8 of such Act is further amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end thereof the following:

"(2) Guidance or regulations issued under this section of the Act shall be provided for review to the Committee on Appropriations of both the House and the Senate, and to the House Committee on Public Works and Transportation and the Senate Committee on Banking, Housing, and Urban Affairs at least 120 days before implementation. Such guidance or regulations shall be made available to recipients of funds under this Act, in final form, no later than 6 months prior to the beginning of the fiscal year for which they are to be applied.".

(d) Section 9(f) of such Act is amended by inserting before the last sentence thereof the following: "Nothing in this section shall require the conduct of a separate process of notification and comment for private providers or other interested parties, beyond the requirements contained in this subsection or subsection (f).".

(e) Section 12(d) of such Act is amended—

(1) by inserting "or prescribe" after "to regulate";

(2) by inserting ", the choice of mass transportation service provider, or the level of service," after "mode of operation"; and

(3) by striking out "section 3" and inserting in lieu thereof "this Act, to condition the approval of a grant under this Act on the methods or means by which providers of mass transit services or functions are selected, or on the extent or amount of service or functions to be carried out by various private mass transportation service providers,".

(f) Section 12 of such Act is amended by adding at the end thereof the following new subsection:

"(h) None of the provisions of this Act shall be construed to limit the ability of recipients of Federal financial assistance under this Act to determine the extent and amount of mass transit service or functions to be carried out by private enterprise.".

PRIVATIZATION DEMONSTRATION

SEC. 25. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"PRIVATIZATION DEMONSTRATION

"SEC. 23. (a) The Secretary may use not to exceed $25,000,000 of funds made available by section 21(b) for each fiscal year to totally finance grants to States, persons, or designated recipients of funding under this Act, for the purposes of developing, implementing, and evaluating innovative techniques for private sector involvement in all aspects of public mass transit operations. Projects to be financed under this section shall, at minimum, analyze the public-private relationships in terms of cost comparison techniques, contract relationships, specification and performance standards, and the long-range impacts on transit service cost and service quality resulting from the involvement of the private sector. Not less than 90 per centum of funds made available pursuant to this subsection may be awarded by the Secretary to designated recipients of programs funded by this Act.

"(b) The Secretary shall make an annual report to the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, to document the results of projects financed by this subsection. The Secretary shall, within 120 days of enactment of the subsection, issue guidelines on the implementation of this subsection. Such guidance shall include a mechanism to establish a clearinghouse function for the collection and dissemination of information developed by projects funded by this subsection.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 26. (a) Section 21(a)(1) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" after "1985"; and

(2) by inserting ", $2,150,000,000 for fiscal year 1987, $2,201,000,000 for fiscal year 1988, $2,255,000,000 for fiscal year 1989, and $2,312,000,000 for fiscal year 1990" after "1986".

(b) Section 21(a)(2)(B) of such Act is amended by striking out the period and inserting in lieu thereof ", and $1,750,000,000 in each of fiscal years 1987, 1988, 1989, and 1990. Funding authorized under this subparagraph, excluding amounts made available in accordance with sections 3(a)(7), 4(i), 8, 16(b)(2), and 11(b) shall, in each fiscal year, be allocated as follows:

"(i) Not less than 10 per centum shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

"(ii) Not less than 40 per centum shall be available to finance grants and loans for rail modernization.

"(iii) Not less than 40 per centum shall be available to finance grants and loans for construction of new fixed guideway systems and extensions to fixed guideway systems.

"(iv) Not less than 10 per centum shall be available to finance grants and loans for any purpose under section 3 of this Act.".

(c) Section 21(a)(4) of such Act is amended by inserting "1987, 1988, 1989, and 1990" after "1986,".

(d) Section 21(a)(5) of such Act is amended—

(1) by striking out "and" after "1985,";

(2) by inserting ", and $63,750,000 shall be used in each of the fiscal years 1987, 1988, 1989, and 1990" after "1986"; and

(3) by adding at the end thereof the following new sentence: "Not less than 85 per centum of funds available under this paragraph shall be directly apportioned to, and made available to, all urban areas of more than 50,000 population.".

(e) Section 21(b) of such Act is amended—

(1) by striking out "and" after "1985,"; and

(2) by striking out the period after "1986" and inserting in lieu thereof ", $50,000,000 in each of fiscal years 1987, 1988, 1989, and 1990.".

(f) Section 21(a)(2) of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) Appropriations made available pursuant to subparagraph (B) of this paragraph shall be obligated in a manner so that the amount of the total budget authority which remains available to the Secretary at the beginning of the last quarter of any fiscal year does not exceed 30 per centum of the total amount available. Not more than 15 per centum of the total amount available pursuant to subparagraph (B) shall be obligated during any month in the last quarter of each fiscal year. The Secretary may waive the requirements of the preceding sentences if the Secretary determines that such action is necessary to avoid a serious disruption in carrying out programs or activities financed by subparagraph (B) of this paragraph.".

(g) Section 21 of such Act is amended by adding at the end thereof the following new subsection:

"(c) UNIVERSITY TRANSPORTATION CENTERS.—

"(1) AMOUNT OF FUNDS.—There shall be available to the Secretary to carry out section 11(b) of this Act for each of fiscal years 1987, 1988, 1989, and 1990 $1,000,000 out of the Mass Transit Account of the Highway Trust Fund.

"(2) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available by paragraph (1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(3) EXEMPTION FROM OBLIGATION CEILING.—Funds made available out of the Mass Transit Account of the Highway Trust Fund by this subsection shall not be subject to any obligation limitation.

"(4) PERIOD OF AVAILABILITY.—Funds made available by this subsection shall remain available until expended.".

PROJECT MANAGEMENT OVERSIGHT

SEC. 27. The Urban Mass Transportation Act of 1964 is amended by inserting at the end thereof the following new section:

"PROJECT MANAGEMENT OVERSIGHT

"SEC. 24. (a)(1) The Secretary may use as much as is necessary of the funds made available for each fiscal year by sections 21(a)(1), 21(a)(2)(B), and 4(g) of this Act, and section 14(b) of the National Capital Transportation Act of 1969 to contract with any person for the performance of project management oversight. Any contract entered into under this subsection shall provide for the payment by the Secretary of 100 percent of the cost of carrying out the contract.

"(2) Each recipient of assistance under this Act or section 14(b) of the National Capital Transportation Act of 1969 shall provide a contractor chosen by the Secretary in accordance with paragraph (1) such access to its construction sites and records as may be reasonably required.

"(b) As a condition of Federal financial assistance for a major capital project under this Act or the National Capital Transportation Act of 1969, the Secretary shall require the recipient to prepare and, after approval by the Secretary, implement a project management plan which meets the requirements of subsection (c).

"(c) At a minimum, a project management plan shall provide for—

"(1) adequate recipient staff organization complete with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a preliminary budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and such miscellaneous payments as the recipient may be prepared to justify;

"(3) a target construction schedule;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure which includes a documented, systematic approach to the handling of construction change orders;

"(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and responsibilities for construction and for system installation and integration of system components;

"(8) materials testing policies and procedures;

"(9) internal plan implementation and reporting requirements;

"(10) criteria and procedures to be used for testing the operational system or its major components;

"(11) periodic updates of the plan, especially with respect to such items as project budget and project schedule, financing, patronage estimates, and where applicable, the status of local efforts to enhance patronage in cases where patronage estimates are contingent, in part, upon the success of such efforts; and

"(12) the recipient's commitment to make monthly submissions of project budget and project schedule to the Secretary.

"(d) Not later than 120 days after the date of enactment of the Federal Mass Transit Improvement Act of 1986, the Secretary shall promulgate such rules as may be necessary to implement the provisions of this section, and shall submit such rules at least 120 days before implementation to the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate for review. Such rules shall, at a minimum, include the following:

"(1) A definition of the term 'major capital project' for the purpose of subsection (b). Such definition shall exclude projects for the acquisition of vehicles or other rolling stock, or for the performance of vehicle maintenance or rehabilitation.

"(2) A requirement that, in order to maximize the transportation benefits and cost savings associated with project management oversight, such oversight shall begin during the preliminary engineering stage of a project. The requirement of this paragraph shall not apply if the Secretary finds that it is more appropriate to initiate such oversight during another stage of the project.

"(e) The Secretary shall approve a plan submitted pursuant to subsection (b) within 60 days following its submittal. In the event that approval cannot be completed within 60 days, the Secretary shall inform the recipient of the reasons therefor and as to how much more time is needed for review to be completed. If a plan is disapproved, the Secretary shall inform the recipient of the reasons therefor.".

CRIME PREVENTION AND SECURITY

SEC. 28. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"CRIME PREVENTION AND SECURITY

"SEC. 25. From funds made available pursuant to section 21 of this Act, the Secretary is authorized to make grants to public mass transit systems for crime prevention and security. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant. Such grants may not be used for payment of operating expenses.".

UNIVERSITY TRANSPORTATION CENTERS

SEC. 29. (a) Section 11(b) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b) UNIVERSITY TRANSPORTATION CENTERS.—

"(1) GRANTS FOR ESTABLISHMENT AND OPERATION.—In addition to grants authorized by subsection (a) of this section, the Secretary shall make grants to one or more nonprofit institutions of higher learning to establish and operate one regional transportation center in each of the ten Federal regions which comprise the Standard Federal Regional Boundary System.

"(2) RESPONSIBILITIES.—The responsibilities of each transportation center established under this subsection shall include, but not be limited to, the conduct of infrastructure research concerning transportation and research and training concerning transportation of passengers and property and the interpretation, publication, and dissemination of the results of such research.

"(3) APPLICATION.—Any nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require by regulation.

"(4) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The regional transportation center shall be located in a State which is representative of the needs of the Federal region for improved transportation services and facilities.

"(B) The demonstrated research and extension resources available to the grant recipient for carrying out this subsection.

"(C) The capability of the grant recipient to provide leadership in making national and regional contributions to the solution of both long-range and immediate transportation problems.

"(D) The grant recipient shall have an established transportation program or programs encompassing several modes of transportation.

"(E) The grant recipient shall have a demonstrated commitment to supporting ongoing transportation research programs with regularly budgeted institutional funds of at least $200,000 per year.

"(F) The grant recipient shall have a demonstrated ability to disseminate results of transportation research and educational programs through a statewide or regionwide continuing education program.

"(G) The projects which the grant recipient proposes to carry out under the grant.

"(5) MAINTENANCE OF EFFORT.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional transportation center and related research activities at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

"(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the regional transportation center and related research activities carried out by the grant recipient.

"(7) NATIONAL ADVISORY COUNCIL.—

"(A) ESTABLISHMENT; FUNCTIONS.—The Secretary shall establish in the Department of Transportation a national advisory council to coordinate the research and training to be carried out by the grant recipients, to disseminate the results of such research, to act as a clearinghouse between such centers and the transportation industry, and to review and evaluate programs carried out by such centers.

"(B) MEMBERS.—The council shall be composed of the directors of the regional transportation centers and 19 other members appointed by the Secretary as follows:

"(i) Six officers of the Department of Transportation one of whom represents the Office of the Secretary, one of whom represents the Federal Highway Administration, one of whom represents the Urban Mass Transportation Administration, one of whom represents the National Highway Traffic Safety Administration, one of whom represents the Research and Special Programs Administration, and one of whom represents the Federal Railroad Administration.

"(ii) Five representatives of State and local governments.

"(iii) Eight representatives of the transportation industry and organizations of employees in such industry.

A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

"(C) TERM OF OFFICE; PAY; CHAIRMAN.—Each of the members appointed by the Secretary shall serve for a term of five years. Members of the council shall serve without pay. The chairman of the council shall be designated by the Secretary.

"(D) MEETINGS.—The council shall meet at least annually and at such other times as the chairman may designate.

"(E) AGENCY INFORMATION.—Subject to subchapter II of chapter 5 of title 5, United States Code, the council may secure directly from any department or agency of the United States information necessary to enable it to carry out this subsection. Upon request of the Chairman of the council, the head of such department or agency shall furnish such information to the council.

"(F) TERMINATION DATE INAPPLICABLE.—Section 14 of the Federal Advisory Committee Act shall not apply to the council.

"(8) ADMINISTRATION THROUGH OFFICE OF SECRETARY.—Administrative responsibility for carrying out this subsection shall be in the Office of the Secretary.

"(9) ALLOCATION OF FUNDS.—The Secretary shall allocate funds made available to carry out this subsection equitably among the Federal regions.

"(10) TECHNOLOGY TRANSFER SET-ASIDE.—Not less than 5 percent of the funds made available to carry out this subsection for any fiscal year shall be available to carry out technology transfer activities.".

(b)(1) Section 4(d) of such Act is amended by striking out "per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986," and inserting in

lieu thereof "for the fiscal year ending September 30, 1985,".

(2) Section 11(a) of such Act is amended by inserting "GRANT PROGRAM.—" before "The Secretary".

RECOGNITION OF SENATOR HEINZ

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Pennsylvania is recognized for a period not to exceed 5 minutes.

FEDERAL MASS TRANSIT IMPROVEMENT ACT OF 1986

Mr. HEINZ. Mr. President, I am pleased today to join Senator D'AMATO of New York and four of my Senate colleagues in introducing the Federal Mass Transit Improvement Act of 1986. This bill would reauthorize for 4 additional years Federal mass transit assistance programs that expire on September 30 of this year. It would provide the steady and predictable source of Federal funds that we believe we need to maintain the mass transit network that millions of people rely upon for an affordable means of transportation. The bill would fine-tune certain provisions of current law to ensure that the Federal transit program can most effectively meet this need.

Over the past several years, there has been much discussion about whether we should reduce or eliminate the Federal commitment to mass transit. Some have also asked, "Well, why should Congress appropriate money to support mass transit when this could be characterized as just a subsidy for a lucky few people who ride mass transit and use that service?"

Mr. President, it may surprise our colleagues to know that mass transit serves a large and growing number of people. In 1984, our Nation's buses, trains, and trolleys generated 8½ billion fares—a huge number. It is almost impossible to understand how big that number really is.

Let me put it this way: Over 90 percent of the entire population of the United States now has access to mass transit. This does not mean everybody uses it.

□ 1050

It does not mean that everybody uses it regularly or that even a significant portion of people use it occasionally. But it is important to note that mass transit is available to virtually everybody—9 out of 10 people in the United States. That is important because mass transit provides clear public benefits to the many people who do not use its services directly. By providing an alternative means of transportation for large numbers of people—8.5 billion fares a year—mass transit reduces traffic congestion for the motorist and air pollution caused by automobiles. It saves time for users and nonusers alike, cutting economic costs created by the hours people lose going to and from work or taking some other trip. Mass transit services also save the taxpayer money by reducing wear and tear on our already overburdened roads and bridges, and by lessening the need for expensive highway projects.

A recent event in my State demonstrated these needs in a dramatic way. We happen to have had a transit workers strike this past spring in Philadelphia, PA. The Greater Philadelphia Chamber of Commerce estimated a loss to the economy of the Philadelphia area in excess of $2 million a day just in lost retail sales and higher absenteeism. That is to say nothing of the frustration and endless hours of waiting in traffic jams that so many tens of thousands of Philadelphians experienced.

It is important also to note that mass transit does not just help bigger cities. It helps most cities in the United States, whether they are large or small. And in my own home State of Pennsylvania, mass transit plays an important role of carrying some 485 million riders per year, 58 million of whom are senior citizens; 485 million riders per year means that every second, just in the State of Pennsylvania, 16 people are boarding a bus, a trolley, or a train, and another 16 people are getting off. That is just in my home State of Pennsylvania.

So it is not surprising that mass transit supports about 70,000 jobs. That employs a lot of people, some of them in areas of my State that have not shared in our national economic recovery. I am thinking of cities like Altoona, Erie, Johnstown, or Allentown.

The legislation that we are introducing today provides for the continuation of mass transit operating assistance in those cities and hundreds of others like them across the United States. The retention of operating assistance as provided for in our legislation should enable these municipalities to retain existing levels of service and employment and to keep fares at a reasonable level.

Mr. President, the bill we are introducing today would freeze spending for the formula operating and capital assistance programs at the level of last year's continuing resolution. The only increase provided for is that in the discretionary capital program, which is funded through the 1-cent set-aside on the gas tax.

This legislation would authorize $1.75 billion per year in the discretionary capital program, which is the level of funding that the Congressional Budget Office has indicated the current trust fund would sustain throughout the 4-year life of the bill based on the 1-cent set-aside.

To put these funding levels in perspective, I would remind my colleagues that since 1981, we have reduced spending for mass transit programs by 24 percent. These cuts have necessitated an increase in local support for mass transit. But this year, many transit authorities in my State and others will suffer from the severe cuts in general revenue sharing contained in the Senate and House budget resolutions. In my home area of Allegheny County, PA, for example, GRS comprise three-fourths of the local share of mass transit assistance, totaling $12 million per year. Further cuts in mass transit in light of GRS cuts would devastate Pittsburgh's transit authority and many others who rely on this source of funds.

This legislation would hold the line on further cuts in the Federal Mass Transit Program. It would help our Nation's transit authorities avoid service reductions and fare increases that would price mass transit out of reach for the millions who depend upon it to get to work, to schools, and to hospitals.

I simply want to say that I hope my colleagues recognize that this is a very important bill. It needs to be enacted. Mass transit is vital, not just for the people who use it, but for everybody. Ninety percent of the people in the United States benefit from it in some way. I want to work with my colleagues on the Banking Committee, and with other Senators who have an interest in this subject, so that we pass this authorization bill before September 30 of this year so that we can guarantee 90 percent of Americans the benefits that flow from having operating mass transit systems.

Mr. President, the time is now to reaffirm the Federal commitment to mass transit. I urge my colleagues to support this legislation.

Mr. BRADLEY. Mr. President, it is my pleasure to cosponsor the Federal Mass Transit Improvement Act of 1986. Since the enactment of the Urban Mass Transportation Act of 1964, the Federal transit program has been reauthorized on a regular basis, the most recent being the landmark Surface Transportation Assistance Act of 1982. The authorization for the current UMTA program will expire on September 30 of this year; the legislation introduced today allows the UMTA program to continue through fiscal year 1990, and improves its implementation by the Urban Mass Transportation Administration. The bill does not alter the basic program format of formula funds for capital and operational assistance grants and discretionary funds for capital projects.

Given our serious budgetary concerns, authorization at a prudent level of funding is essential. In addition, maximizing the use of Federal transit funds is vital to the success of the program.

Mr. President, New Jersey is an example of the success of the Federal Government's mass transportation program. Every day more than half a million passengers use mass transit facilities. The busiest rail line is the Northeast Corridor from Trenton to New York, which carries 1.2 million passengers a month. The current economic health of my State is, in part, a result of and is certainly dependent on the quality of our mass transit system. Much of the economic development in New Jersey has been in new areas, some distance from the State's traditional population centers. That has frequently brought the traffic gridlock that many suburban areas face. But New Jersey has tried to also use sensibly planned mass transit to make development less disruptive. As the Nation's most densely populated State, New Jersey would likely be paralyzed without mass transit.

Continued Federal support of mass transit is important to our Nation as well as the State of New Jersey. Mass transit is good transportation policy. If we are to redevelop our older industries and strengthen our industrial base in general, we must have efficient transportation. To develop these efficiencies, we must abandon the economic assumptions of past decades, which emphasized the use of the private automobile. Instead, we must respond to the economic realities of today by supporting and maintaining mass transportation.

Mass transit is also good energy policy. Investing in mass transportation systems, which will efficiently allocate our energy resources, is a responsible response to the concerns over our national energy needs.

Finally, we must remember that if our national commitment to mass transit is reduced, it is the working poor who will suffer. For the working poor, mass transportation is not a convenience, it is a necessity of life. It is in the national interest that we ensure affordable mass transportation. If we force these systems to survive without aid, they will force those who can afford cars off the system. The only people who remain will be those who cannot afford the fares. In the end we will have bankrupt systems and an environmental and economic disaster.

Mr. President, I urge my colleagues to support this legislation.

Mr. SPECTER. Mr. President, today I am joining Senators D'AMATO and HEINZ in introducing the Federal Mass Transit Improvement Act of 1986, a bill that would reauthorize Federal mass transit capital and operating assistance through 1990. Although this legislation would retain the fundamental structure of Federal mass transit aid, it represents a greatly needed expansion of that effort, raising the authorized level over 50 percent.

I should point out that Federal support for mass transit, if insufficient, has provided great benefits to users of the systems. In the western part of my own State of Pennsylvania, the Secretary of Transportation has used her discretion to direct funding to such worthwhile projects as the modernization of Pittsburgh's light rail transit system. This approximately $542 million project—which has both opened distant suburbs to development and revitalized downtown—would have been impossible without these funds. On many occasions during the last 5 years I have inspected construction, as well as worked hard to obtain the necessary funds to keep the project on schedule. Pittsburgh's new subway system, in many ways, embodies the wisdom and power of the discretionary capital program.

Federal mass transit aid has not been limited to rail projects. Section 3 moneys were used to build Allegheny County's Martin Luther King, Jr. East Busway—a $113 million, 6.8 mile exclusive bus lane—which has reduced travel time to downtown from 50 to 15 minutes for residents of outlying townships. All transit properties across the Commonwealth participated in the economical bus pool purchase, which resulted in significant cost savings on each vehicle owing to the large-scale acquisition. Section 3 provided the source of funding for the pool purchase as well. Finally, to demonstrate the diverse scope of section 3 aid, I should mention the $3.1 million renovation of Johnstown's Inclined Plane—another capital improvement project which I enjoyed seeing to its completion. The 89,000 Inclined Plane passengers annually now benefit from resumed operations.

Section 3 allocations, responsible for every project I just described, are the direct result of the penny set-aside out of the nickel increase in the gas tax, enacted in 1982. I voted for this penny for transit. It represented the first dedicated Federal tax for transit purposes, and was long overdue. In that legislation, Congress authorized $1.1 billion for fiscal years 1985 and 1986 for the discretionary capital program. This amount was based largely on the expectation that revenues from the gas tax would only be sufficient to support an annual appropriation at this level. The Congressional Budget Office, however, has since revised dramatically its estimate of these revenues, and is confident that the mass transit account of the highway trust fund could support an authorization level of $1.75 billion well into the next decade.

Mr. President, we did not choose to lay a duty on the taxpayer in 1982 so that it could sit idly in the highway trust fund and collect interest. Rather, Congress increased the gas tax because our Nation was faced with a massive infrastructure crisis: Our roads, bridges and mass transit systems were crumbling at our feet. Nobody can deny that great strides have been made in the last 4 years, but the work must continue.

On Monday, June 9, I witnessed the urgent need for continuation of Federal assistance to mass transit systems when I held a hearing in Philadelphia to consider the safety of the Southeastern Pennsylvania Transportation Authority. Among its 1.2 million passengers daily, SEPTA counts 90,000 commuters on rail lines which it inherited from Conrail in 1983. In 1983 and 1984, 21 train accidents occurred on these lines, resulting in two deaths, 624 injuries, and more than $700,000 in damage. SEPTA attributes a significant part of its safety problem to a list of almost $1 billion worth of capital needs for which it requires substantial Federal support and funding. This year the discretionary capital budget for the entire Nation barely exceeded this amount.

In my view the more than 50-percent increase in discretionary capital funding for mass transit is needed not only to restore the system to its initial capacity and safety standards, but it is essential if we are to prevent the existing Federal investment in mass transit infrastructure from deteriorating to the point beyond repair. A safe and well-oiled system must be maintained if transit systems across this country are going to succeed in preserving, and perhaps expanding ridership. After all, it is the passenger in that light rail vehicle, bus, or even inclined plane at whom these efforts are ultimately directed.

Finally, I should mention that this legislation includes, for the first time, an earmarking of $200 million out of the proposed increase in section 3 for small urban and rural areas. More than one-half of the transit properties in my State of Pennsylvania are categorized as rural systems. Their thirst for capital improvements, albeit small in comparison to the older, established systems in cities like Philadelphia and Pittsburgh, is substantial in proportion to their budgets. The Beaver County Transit Authority, to illustrate, depended on the Federal Government to finance two-thirds of its $37,316 in capital improvements; Lackawanna County's transit authority, for example, relied on Federal dollars to pay for $95,840 of its $119,800 in capital bills. Other rural properties did not do as well in the competition for Federal capital moneys. The legislation we introduce today ensures that

passengers in smaller systems will be entitled to the attention that their city cousins seem to garner.

I am pleased to commend the other sponsors of this bill for drafting legislation that should help lead mass transportation into the next century. I urge my colleagues here in the Senate to give the Federal Mass Transit Improvement Act of 1986 its immediate attention.

FEDERAL MASS TRANSIT IMPROVEMENT ACT OF 1986

Mr. MOYNIHAN. Mr. President, I am pleased to join five of my colleagues as an original cosponsor of the Federal Mass Transit Improvement Act of 1986.

The importance of mass transportation to our Nation cannot be overstated. Almost 8 billion trips are made on public transit systems throughout America each year—28 million trips are made daily. On average, more than half of all transit trips are made to and from work. An additional 17 percent are for shopping purposes and 9 percent for transportation to and from school.

Without mass transit, life in so many American cities would grind to a halt. Take New York City, for example.

The Metropolitan Transportation Authority is responsible for most of the public transit New York and the eastern and northern suburbs, a 4,000 square-mile area with 11 million people. It covers 12 New York State counties and extends into Connecticut.

The MTA carries nearly 2 billion riders a year—6.3 million on an average weekday. The fact that 57 percent of the population in the MTA's operating area uses the system is testament to the importance it has assumed in daily life.

The Metropolitan New York area is but one of the many areas in our country that will benefit from this legislation. People in Seattle, Pittsburgh, Reno, Dallas, Milwaukee, Denver—and the list goes on—will profit from this bill.

It is important to note, Mr. President, that while every segment of our population utilizes mass transit, the largest share of total ridership is composed of those in the lower income groups—those with no alternative means of travel. According to the American Public Transit Association, in 1-out-of-4 transit systems across the country, more than half the total ridership has an income below the poverty level of $10,000 per year. In 8-out-of-10 systems, more than half the riders earn less than $20,000 per year. In this year when so many of our Nation's "social safety nets" are in danger of severe budgetary cuts or elimination—the general revenue sharing program is but one example—the need to reauthorize the mass transit program becomes that much more crucial.

Mr. President, I am pleased to be an original cosponsor of this bill, and I urge my colleagues to support it.

Mr. LAUTENBERG. Mr. President, in 1982, the Congress enacted the landmark Surface Transportation Assistance Act of 1982. The vital infrastructure programs for highways and mass transit contained in that act expire this year.

I am pleased to join in introducing the Federal Mass Transit Improvement Act of 1986 introduced today by my distinguished colleague from New York, Senator D'AMATO. This bill expands support for mass transit consistent with revenues available in the mass transit account of the highway trust fund. The bill makes many improvements in the manner in which mass transit support is delivered to local transit agencies, large and small. In addition, this legislation addresses the mass transit needs of small communities.

Mr. President, over the last several years, the administration has attempted to eliminate Federal support for mass transit operating assistance and drastically curtail Federal capital assistance. The administration budget request for fiscal year 1987 is $1.2 billion, a draconian cut of 66 percent in Federal mass transit support.

The Federal Mass Transit Improvement Act of 1986 maintains Federal support for mass transit. This bill is in keeping with Congress' longstanding commitment to meeting the capital and operating needs of mass transit. The bill authorizes a mass transit program of $4.373 billion.

Mr. President, the State of New Jersey faces a large increase in transit fares this year. New Jersey Transit, the State's transit agency, requested a 12.7 percent fare increase. The New Jersey State Legislature is currently considering alternatives to this huge increase in costs to transit users.

The elimination of Federal operating assistance, recommended by the administration, would dramatically increase the burden on transit users in New Jersey and across the country. The bill we are introducing today continues operating assistance and will not lead to additional fare increases.

Funds authorized by Congress to be raised by a 1-cent set-aside of Federal gas tax receipts, have been allowed to build up in the mass transit account to provide a paper budget saving. Like other trust fund moneys, these funds cannot be used for any other purpose but the purpose for which they were collected.

Mr. President, the Federal Mass Transit Improvement Act will insure the expenditure of $1.75 billion from the mass transit account. With the decrease in oil prices, increased driving and added gas tax revenues, the trust fund can easily sustain a program level of $1.75 billion.

Mr. President, the Federal Mass Transit Improvement Act will lead to more efficient use of Federal mass transit support. The bill contains three specific provisions which I sought in the interest of New Jersey.

First, the bill allows for Federal support for the leasing of facilities and equipment when leasing is more cost effective than acquisition or construction. Current law prevents leasing to be covered as a capital expense even if alternatives to leasing are more expensive.

Second, Mr. President, the bill authorizes the overhaul or reconstruction of rolling stock as a capital expense. Extending the economic life of transit equipment can be expensive, but less expensive than the purchase of new equipment. Allowing overhaul or reconstruction to be funded as a capital expense is a cost effective means of extending the useful life of transit equipment.

Third, the bill more accurately defines associated capital items to include such items as tires, tubes, and supplies. The replacement of such items are legitimate capital expenses and should be counted as such.

Mr. President, of the $1.75 billion made available from the mass transit account, $200 million would be made available solely for communities below 1 million in population, with $100 million going to communities below 200,000 in population. This provision addresses the quite legitimate desire of smaller transit properties to participate more fully in the gas-tax-supported capital assistance program.

The small community program outlined in this bill is an appropriate way to address the transit needs of small communities. On May 6, the Federal-Aid Highway Act of 1986 was introduced as S. 2405. Section 129 of S. 2405 drastically changes the distribution of mass transit funds from the mass transit account of the highway trust fund.

On June 3, 19 of my colleagues joined me in objecting to the provision contained in S. 2405. Section 129 of that bill will destroy the transit programs supported by the "penny for transit" authorized by the Congress in 1982 by creating an entitlement program in which each State is guaranteed mass transit regardless of their transit needs. The bill we introduce today retains the "penny" for transit and is far preferable to S. 2405 in that regard.

Mr. President, I ask that a letter to the Environment and Public Works Committee objecting to section 129 of S. 2405 and two letters in support of deleting that provision appear in the RECORD at the conclusion of my remarks.

Mr. President, the Senate will consider this legislation over the next few months. I urge my colleagues to give serious consideration to our legislation.

The letters follow:

U.S. SENATE,
Washington, DC, June 3, 1986.

Hon. ROBERT STAFFORD,
Chairman, Senate Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR BOB: On May 6, along with Senators Symms, Abdnor and Burdick, you introduced S. 2405, the Federal-Aid Highway Act of 1986. We recognize the need to reauthorize the federal highway program this year and support many of the improvements contained in S. 2405. However, we take strong exception to Section 129, which changes the method by which mass transit assistance is distributed. We urge that this provision be dropped from the bill before S. 2405 is considered by the Committee.

This proposal would guarantee that every state, regardless of its mass transit needs, receive 85% of what it pays into the Mass Transit Account of the Highway Trust Fund. It further specifies that the funds secured need not be used for mass transit, but can be used for highways. It would take money from mass transit dependent states to accomplish this goal, by diverting funds from the penny of the nine cent gasoline tax now dedicated to mass transit needs.

If the goal of this proposal is to secure equity in the distribution of mass transit funds, there are alternative and better means to secure that end. If the goal is to get more highway funds to highway dependent states, we should address that need. But, if the goal is to destroy the "penny for transit", this is an objective that we must strongly oppose.

Proponents of this provision argue that assuring that all states receive 85% of their contribution from the Mass Transit Account is a matter of equity; the same equity provided by the 85% minimum in the highway program. We contest that argument on two counts.

First, the 85% minimum in the highway program does not redistribute funds from one state to another or come at the expense of the basic allocation to states. It is accommodated by a special setaside over and above the regular allocation.

Section 129 takes money from heavily transit-dependent states and redistributes it to other states, regardless of their mass transit needs or relative benefits under the Highway Trust Fund.

Second, the money secured by states from the 85% minimum is highway money, from the highway program, to be used for highways. Section 129 takes mass transit money, dedicated tax revenue raised for the sole purpose of supporting mass transit, and allows it to be used for highways.

When the rhetoric is stripped away, Section 129 is quite simple. It is a raid on the Mass Transit Account of the Highway Trust Fund and the programs it supports.

We support the highway program and the use of the resources available in the Highway Trust Fund for the purposes for which the Congress intended. But, we also support a balanced national transportation policy which meets the needs of a vast and diverse nation.

The Surface Transportation Assistance Act of 1982 was a landmark piece of legislation. For the first time, the Congress moved toward balancing the nation's needs for highways and mass transit. This year, 1986, must be a year to improve upon the work done in 1982. It must not be a year to turn back the clock and destory essential federally assisted mass transit programs.

We urge you to drop this provision from S. 2405 before the Committee on Environment and Public Works meets to markup federal-aid highway legislation.

Sincerely,

FRANK R. LAUTENBERG,
SLADE GORTON,
JOHN HEINZ,
ALAN DIXON,
ALAN CRANSTON,
PAUL SIMON,
ALFONSE D'AMATO,
PAUL S. SARBANES,
CARL LEVIN,
JOHN F. KERRY,
EDWARD M. KENNEDY,
DANIEL P. MOYNIHAN,
ARLEN SPECTER,
CHRISTOPHER DODD,
BILL BRADLEY,
DONALD W. RIEGLE,
THOMAS F. EAGLETON,
JOHN C. DANFORTH,
SAM NUNN,
CHARLES McC. MATHIAS, Jr.

AMERICAN PUBLIC TRANSIT ASSOCIATION,
Washington, DC, May 29, 1986.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR FRANK: As the Committee on Environment and Public Works considers S. 2405 to reauthorize the federal highway aid program, the American Public Transit Association (APTA) wishes to express its strong opposition to Section 129, calling for a so-called minimum allocation" of the Mass Transit Account of the Highway Trust Fund.

As the national association whose member transit systems carry 95 percent of U.S. transit riders, we ask that Section 129 be deleted and that decisions affecting the future of the Mass Transit Account be left to the Senate Banking Committee where transit authorization legislation is under consideration.

The Urban Mass Transportation Act was carefully-crafted by Congress to assure that the bulk of grants are available to recipients on a formula basis. Today, nearly 60 percent of all federal transit aid is distributed equitably through UMTA's Section 9 and 18 formula grants programs.

The Discretionary Capital Program, funded by the transit penny of the Highway Trust Fund, was designed by Congress to meet extraordinary needs which are beyond the funding ability of the formula program. These needs include major modernization programs, big bus purchases, new starts and extensions. Any change to the fundamental structure of the mass transit program cannot be contemplated in isolation; its potential effect on related elements of the program must be taken into account.

The call for an 85 percent minimum turnback of transit revenues is in itself unfair. A numerical guarantee bears no relationship to need, the best measure of fairness. Mass transit capital needs in this nation are estimated to approach nearly $8 billion annually, far in excess of resources available from users and all levels of governments. Any attempt to deny transit more than a billion dollars in annual revenue paid in good faith by taxpayers is something we will oppose with all our might.

We support a balanced transportation investment in our nation's infrastructure. Section 129 of S. 2405 would destroy that by assuring an unnecessary windfall of funds for some areas at the expense of others.

May we count on your support to delete Section 129 from the bill?

Sincerely,

JACK R. GILSTRAP.

NATIONAL LEAGUE OF CITIES,
Washington, DC, May 22, 1986.

Hon. ROBERT T. STAFFORD, *Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: On behalf of the National League of Cities and the 15,000 cities we represent, I would like to express our opposition to Senator Steven Symms' "fair share" amendment to S. 2405, the Federal-Aid Highway Act of 1986. While we would support a broader distribution of the funds in the mass transit account of the highway trust fund, we reject any attempt to permit the use of transit funds for highway purposes.

As you know, the National League of Cities supported the five cent increase in the gas tax in 1982. The only return cities and towns received for supporting this increase was the penny earmarked for the mass transit account. None of the remaining four cents has been used for urban highway programs, the Federal Aid Urban (FAUS) or the secondary system.

Now, Senator Symms is proposing to take the only portion of the tax increase cities receive away. We believe the Symms proposal has the potential for eliminating any benefit to cities and towns for their contribution to the gas tax. We would hardly characterize such action as "fair."

Municipal residents contribute to the gas tax, and we continue to support it, but we believe equity demands we receive some return from this tax.

We appreciate any action you can take to insure that cities are treated equitably in this matter.

Sincerely,

ALAN BEALS,
Executive Director.

RECOGNITION OF SENATOR MOYNIHAN

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New York [Mr. MOYNIHAN], under the previous order, is recognized for not to exceed 5 minutes.

Mr. MOYNIHAN. I thank the distinguished Presiding Officer.

SOCIAL SECURITY TRUST FUNDS MANAGEMENT ACT OF 1986

Mr. MOYNIHAN. Mr. President, I rise to introduce legislation to prevent from happening again what never should have happened at all: selling off Social Security trust fund assets in order to keep the Federal Government running, for its ability to borrow additional funds to pay for the deficit had

temporarily expired. Our bill, the Social Security Trust Funds Management Act of 1986, would reform Social Security trust fund investment practices, to prohibit any future disinvestment of Social Security "old-age, survivors, and disability insurance" trust fund assets in a debt limit crisis situation such as occurred in the fall of 1984 and 1985.

Companion legislation is being introduced today in the House of Representatives by Representative JAMES JONES, chairman of the House Ways and Means Social Security Subcommittee.

Mr. President, hearings held last November 8 by the Subcommittee on Social Security and Public Assistance of the Senate Finance Committee clearly documented that the Department of the Treasury manipulated Social Security trust fund moneys, this autumn and last, in order to avoid the debt limit ceiling. In my opinion, this is a problem which, unless addressed by corrective legislation threatens public confidence in the security of the trust funds.

Most Members of the Senate are acquainted with what occurred. But as a matter of record, those events bear restating: the Secretary of the Treasury, as managing trustee of the Social Security trust funds, redeemed $6.9 billion of Social Security's "OASDI's" long-term securities in September, another $4.8 billion in October and $13.7 billion in November, drawing down such trust funds from $37 billion at the end of August to about $11 billion by November 12—a level not sufficient to pay 1 month's worth of benefits. The interest that the trust funds could have lost by such premature redemptions was estimated by the Social Security Office of the Actuary to be some $875 million. Further probing revealed that the Treasury took a similar step the previous year, during the September-October 1984 debt limit impasse. At that time, $5.1 billion of Social Security's long-term bonds were prematurely cashed in, resulting in a $382 million loss of interest to the trust funds.

Disinvestment of this magnitude was unprecedented. So, equally, was the concealment. Neither the congressional committees with jurisdiction over the program nor the public trustees of the system received any notification of these extraordinary steps. At the time, Treasury tried to defend itself by citing an October 22, 1985, letter from Secretary Baker to the conference on the debt limit bill. That letter warned that Treasury was prepared to take the "extraordinary" step of disinvesting trust fund assets if the debt limit impasse had not been resolved by October 31. But what of the large-scale—indeed "extraordinary"—disinvestment of over $11 billion in bonds that had already taken place in early September and again in early October? We were not told of these.

On September 10, 1985, John J. Niehenke, then Acting Assistant Secretary of the Treasury, testified before the Senate Finance Subcommittee on Taxation and Debt Management. In his testimony—given just after $6.9 billion in Social Security bonds had been redeemed—Mr. Niehenke stated:

> Our current cash and debt projections indicate that the present debt limit of $1,823.8 billion should be adequate to meet the Treasury's needs until September 30.

Such was adequate to meet the Treasury's needs only after raiding the Social Security trust funds for nearly $7 billion. Yet, Mr. Niehenke made no mention of that.

On November 7, after much difficulty, I was able to have the Finance Committee's Subcommittee on Social Security and Public Assistance hold a hearing on this matter. We were allowed only one witness: former Treasury Deputy Assistant Secretary John J. Niehenke.

I believe the exchange I had with Mr. Niehenke reflects an extraordinary—again, that term—lack of candor. The transcript of that hearing will reveal an episode wherein I attempted to secure from Mr. Niehenke one basic, but important piece of information: the long-term investments held by the trust funds as of November 7—the day of the hearing. Such information would have revealed the disinvestments of early November. Mr. Niehenke's statement provided a table which conveniently stopped as of October 30. I had to drag this basic information out of him. Nor was he forthright about admitting to the September-October 1984 disinvestment, let alone suggesting that the resultant loss of interest to the trust funds be refunded.

In the wake of these hearings, Congress did act to make the trust funds whole. On November 12, the Senate adopted an amendment I offered along with Senator RIEGLE to fully correct the situation. The long-term bonds cashed in during the fall of 1985 were consequently restored to the trust funds.

Additionally, the funds were reimbured for interest lost as a result of the 1984 disinvestment. On January 9, I received a letter from Treasury Assistant Secretary Bruce Thompson, Jr., verifying that such a restitution has taken place.

Both the General Accounting Office and the Congressional Research Service have looked into the Treasury's recent practices. The GAO found that the Secretary's actions were "in violation of the Social Security Act," but that "we cannot say that the Secretary acted unreasonably given the extraordinary situation in which he was operating." More interesting, the CRS report on Social Security disinvestment speakes to the fiduciary responsiblity of the Secretary of the Treasury, stating:

> [T]he conclusion seems inescapable that in enacting the Social Security Act Congress to a greater or lesser extent had certain features of private trust law in mind.

Comparing the Secretary's fiduciary responsibilities to those of private fiduciaries, CRS reasons that public officers who are responsible for holding, depositing, and investing public funds are properly held to an even higher standard than are private fiduciaries. The report cites the 1984 edition of American Jurisprudence:

> It has generally been held that a public officer, in the absence of statutory provisions to the contrary, is held to a much stricter liability than fiduciaries handling private funds; he is absolutely liable as an insurer for the safekeeping of funds in his custody until disbursed in regular course, and is therefore liable for losses which occur even without his fault, except possibly for losses by act of God or by public enemies. This standard of responsibility is, in some cases, based on public policy, in others, on the theory that a public officer having public moneys in charge is a debtor bound to account and pay over the exact sums received . . . 63A Am Jur. 2d, Public Officers and Employees S 393.

Mr. President, I am deeply disturbed by what has happened. Why weren't we informed in a timely manner of these disinvestments? Why were we left to our own devices to find out just what was being done with such large amounts of public moneys? Why weren't the other trustees, particularly the two public trustees, informed? Those of us who helped frame the 1983 Social Security amendments, which established the two public trustees, intended that they would act as public guardians of the funds. On September 21, 1984, when the two public trustees, Mrs. Mary Falvey Fuller and Ms. Suzanne Denbo Jaffe, testified before the Senate Finance Committee at their confirmation hearings, I strongly urged them to insist that they be given budget resources and an office of their own with sufficient staff. I reminded them that they would be trustees of the largest trust fund in the world and that they had a right to be treated as such. If recent events are any indication, these trustees will be completely ignored, unless we change the law.

Treasury is now trying to assure us that such practices will cease. I ask unanimous consent that a December 20 letter to me from Assistant Treasury Secretary Bruce Thompson be printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. In this letter, Mr. Thompson stated:

> As a matter of policy, the Secretary has directed that both Congress and the trust-

ees be kept informed on significant matters affecting the trust funds.

Such assurances—given recent events—are simply not enough. We cannot risk a recurrence of such events. The whole experience suggests to me that it is time, perhaps well past time, to change the law. Treasury should not be allowed to engage in such creative financing schemes that are tantamount to using Social Security moneys to float the rest of Government.

For this reason, today I am introducing the Social Security Trust Funds Management Act of 1986. This legislation would first prohibit disinvestment of trust fund assets unless it is necessitated by a shortfall of funds. Disinvestment purely for the purpose of avoiding the debt limit would be prohibited.

Second, our proposal eliminates undue discretion which the Secretary of the Treasury, as managing trustee, currently has in the investment of trust fund moneys. It makes the statute clear that the managing trustee must invest OASDI funds in interest bearing Government obligations.

The Social Security Trust Funds Management Act would require trust fund moneys to be used exclusively for Social Security purposes. The managing trustee would also be required to carry out Social Security investment duties, notwithstanding any other of his duties arising by reason of the debt limit.

Mr. President, the recent actions of the Treasury Department would not have withstood the scrutiny which private fiduciaries must anticipate. Our proposal would require the managing trustee to exercise the same degree of care in managing the trust funds as would be required a private fiduciary.

With respect to reporting requirements, our legislation would require the managing trustee to report monthly to the trustees on the operation and status of the trust funds. The Secretary ought to be required specifically to keep his fellow trustees informed so that they may all be held accountable for such actions. More frequent meetings of the trustees would also help. In the past, they have met only once a year to sign the annual trustees report. The board of trustees would be required to meet semi-annually to review trust fund operations and report to Congress on that review. And finally, to avoid the temptation to manipulate trust fund moneys, the proposal would eliminate normalized tax transfers after June 30, 1990. All other provisions of the bill would be effective as of August 15, 1986.

In closing, Mr. President, I would like to point out that extremely large surpluses will be building up in the trust funds in the near future. The 1983 Social Security amendments are working to restore the system to financial health. In fact, the funds are in better shape than we had anticipated—so much better that in January 1986, 2 years ahead of schedule, OASI was able to fully repay the moneys it had previously borrowed from the HI fund.

The most recent, February 5, estimates by the Social Security Office of the Actuary indicate that by the end of calendar year 1991, OASDI will have accumulated a surplus of over a quarter of a trillion dollars—$270.5 billion. Including surpluses of the hospital insurance program would yield a combined surplus of $368.1 billion by 1991. The annual and cumulative surpluses are indicated in a table which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED FUNDS AT END OF YEAR OF OASI, DI, AND HI TRUST FUNDS

[Based on President's fiscal year 1987 budget assumptions]

[Amounts in billions]

Year	OASI	DI	OASDI	HI	Total
1984	$27.1	$4.0	$31.1	$15.7	$46.8
1985	35.6	6.2	41.7	20.5	62.2
1986	35.1	7.2	42.3	41.1	81.4
1987	53.1	6.5	59.6	52.6	112.2
1988	88.6	7.4	95.9	64.7	160.7
1989	132.6	9.1	141.7	76.8	218.5
1990	185.6	14.7	200.3	88.2	288.6
1991	248.9	21.6	270.5	97.7	368.1

Source: Social Security Administration, Office of the Actuary.

Mr. MOYNIHAN. Longer term projections indicate that the OASDI trust funds will reach $0.5 trillion by 1995 and $1 trillion by 1999.

If current trust fund assets of about $40 billion have proved tempting targets for the Treasury Department, just think how tempting $1 trillion of such assets would be. The building of trust fund assets makes it even more important that we approve the legislation I propose in order to preclude any future manipulation of those funds.

DEPARTMENT OF THE TREASURY,
Washington, December 20, 1985.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: During testimony on November 7, 1985, before the Subcommittee on Social Security and Income Maintenance Programs of the Senate Finance Committee by John Niehenke, Deputy Assistant Secretary (Federal Finance), you inquired whether the Secretary of the Treasury, as Managing Trustee of the Social Security trust funds (the "Trust Funds"),[1] is required to consult with the Boards of Trustees, with the public trustees or with Congress before making specific decisions concerning either investment of funds not currently needed to pay benefits or redemption of securities to pay benefits as they become due. In response to this inquiry, the General Counsel's office has reviewed the relevant statutory provisions, as well as the legislative history of the 1983 amendments adding the two public trustees to the Boards of Trustees. Based on that review, the General Counsel's office has concluded that there is no such obligation as a matter of law. However, as a matter of policy, the Secretary has directed that both Congress and the trustees be kept informed on significant matters affecting the Trust Funds.

Prior to the 1983 amendments, the Boards of Trustees of the Trust Funds consisted only of the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor, all ex officio. As you know, in 1983, the Social Security Act was amended to expand the Board of each Trust Fund to include two members of the public as trustees. The legislative history of the 1983 amendments discloses that the addition of the public trustees to the Boards was based upon a recommendation of the National Commission on Social Security Reform. 129 Cong. Rec. S3022 (daily ed. March 16, 1983) (statement of Senator Dole). According to the Report of the Commission, the purposes of the addition of public trustees were to "inspire more confidence in the investment procedure . . . and [to] help to assure that the demographic and economic assumptions for the cost estimates of the future operations of the program would continue to be developed in an objective manner." Report of the National Commission on Social Security Reform, 2-23 (1983).

Under the applicable sections of the Social Security Act, the public trustees have no specific responsibilities different from the responsibilities of the Boards as a whole. Generally, the duties of the Boards are (1) to hold the Trust Funds; (2) to report to Congress on the operation and status of the Trust Funds during the past fiscal year and on their expected operation during the ensuing five years; (3) to report to Congress at any time if, in the opinion of the Board, a Trust Fund is unduly small; and (4) to review general policies followed in managing the Trust Funds and recommend changes in such policies, including necessary changes in the provisions of the law which govern the way in which the Trust Funds are to be managed. Sections 201(c), 1817(b) and 1841(b).

As you know, the Secretary of the Treasury is designated as the Managing Trustee of each Trust Fund. As Managing Trustee, the Secretary invests in certain obligations issued or guaranteed by the United States those portions of the Trust Funds that are, in his judgment, not needed for current withdrawals. However, consultation with the trustees or with Congress is not required before making an investment decision. Sections 201(d), 1817(c), and 1841(c). The Secretary naturally also is given the authority to dispose of investments, so that he can assure that funds are available when needed to cover payment of benefits or other costs required to be borne by the Trust Funds. Sections 201(e), 1817(d), and 1841(d). However, none of the applicable statutory provisions granting authority to dispose of investments place any requirement upon the Secretary to consult with the Boards of Trustees, the public trustees, or Congress prior to redeeming or otherwise disposing of obligations held by the Trust Funds. Although the procedure for investment and redemption of obligations has been standardized as much as possible, it is

[1] The Trust Funds include the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund.

important to note that the Secretary's power to redeem or otherwise dispose of obligations acquired by the Trust Funds provides the Secretary with the flexibility needed to meet just such a situation as recently arose in planning for the payment of benefits when scheduled.

I would like to point out that, although the Secretary has the responsibility for the day-to-day management of the Trust Funds, it has been his policy to provide the public trustees at any time with information they request concerning the operation of the Trust Funds. For example, in keeping with this policy, the public trustees were briefed on November 1, 1985, on the various investment decisions concerning the Trust Funds that the Secretary was forced to make this fall because the debt limit impasse prevented the Secretary from following the routine investment and redemption schedule.

Furthermore, although the relevant statutory provisions require only one annual meeting for each Board, under by-laws adopted by the Boards, two regular meetings are held each year as an added measure for keeping the trustees informed on matters concerning the operation of the Trust Funds. One such semi-annual meeting occurred on November 7. At that meeting, the transactions referred to above were again the subject of discussion. In addition, the Secretary advised the trustees that we would continue to make every effort to assure that they were kept informed of such nonroutine transactions. Since that meeting, additional information has been forwarded to the trustees. Finally, as you know, the temporary debt limit bill contains a provision authorizing the Secretary to restore the Trust Funds to the position that they would have been in had the debt limit impasse not prevented normal investment and redemption after September 30, and section 272 of the permanent debt limit bill provides for the Trust Funds to be made whole for all actual and potential interest losses arising out of the 1984 and 1985 debt limit impasses. The Secretary will keep the trustees informed of steps being taken to implement restoration of the Trust Funds.

I hope that this discussion resolves any questions you have concerning the Secretary's authority to make independent investment and redemption decisions in managing the Trust Funds. If you would like any further information regarding the established policies and procedures followed in managing the Trust Funds, please do not hesitate to let me know.

Sincerely,

BRUCE E. THOMPSON, Jr.,
Assistant Secretary
(Legislative Affairs).

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Trust Funds Management Act of 1986".

SEC. 2. ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF TRUST FUNDS.

Section 201(d) of the Social Security Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

SEC. 3. SALES AND REDEMPTIONS BY TRUST FUNDS.

Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized and directed by this title.

"(3) The Managing Trustee may not sell or redeem any assets of either Trust Fund—

"(A) if such Trust Fund holds uninvested monies other than as required for the normal operation of such Trust Fund, or

"(B) in advance of the date on which such assets are scheduled to be sold or redeemed under procedures developed in accordance with section 153 of the Social Security Amendments of 1983 and under other normal operating procedures.".

SEC. 4. EXCLUSIVE DEDICATION OF AMOUNTS IN TRUST FUNDS.

Section 201(a) of the Social Security Act is amended by adding at the end the following: "All amounts deposited in or appropriated to either Trust Fund shall be immediately available exclusively for the purposes for which amounts in the Trust Fund are specifically made available under this title.".

SEC. 5. FAITHFUL EXECUTION OF DUTIES BY MEMBERS OF BOARD OF TRUSTEES OF TRUST FUNDS.

Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

SEC. 6. PRIORITY OF INVESTMENT OF TRUST FUNDS.

Section 3101 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) If on any day the face amount requirement of subsection (b) of this section has not been exceeded and any fund or government account for which the Secretary has investment authority has funds that must, under the statute governing investment of such fund or account, be invested during such day, then investment of such fund or account balance shall occur before obligations described in subsection (b) of this section are issued for any other purpose.".

SEC. 7. ELIMINATION OF AUTHORITY FOR NORMALIZED TAX TRANSFERS TO TRUST FUNDS.

(a) IN GENERAL.—Section 201(a) of the Social Security Act is amended, in the first sentence following clause (4)—

(1) by striking "monthly on the first day of each calendar month" each place it appears:

(2) by striking "such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes," and inserting "immediately upon receipt by the general fund of the taxes";

(3) by striking ", to be paid to or deposited into the Treasury during such month"; and

(4) by striking "to the extent prior estimates were in excess of or were less than the taxes specified in such clauses (3) and (4) of this subsection" and inserting "to the extent necessary to account for incorrect amounts of prior tax receipts".

(b) CONFORMING AMENDMENT.—Section 201(a) of such Act is further amended by striking the second sentence following clause (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes received after June 30, 1990.

SEC. 8. REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, by redesignating paragraphs (3), (4), and (5), as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) (as redesignated) the following:

"(C) report to the Congress not later than the first day of November of each year on the operation and status of the Trust Funds during the six-month period ending the preceding September 30;";

By striking "The report provided for in paragraph (2)" and inserting "The reports provided for in subparagraphs (B) and (C)"; and

(4) by inserting "(1)" after "(c)" and by adding at the end the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to Congress and to the Board of Trustees not less than 15 days prior to the date on which, by reason of the public debt limit under section 3101(b) of title 31, United States Code, the Managing Trustee expects to be unable fully to comply with the provisions of subsection (a) or (d), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect August 15, 1986.

Mr. MOYNIHAN. I regret, Mr. President, to have to report that the current debt limit of the United States may very well have been reached by early August, but before the Senate and the House of Representatives recess at that time we will have to provide an increase in the debt ceiling once again.

Last year when that moment came, as it comes every year, the Secretary of the Treasury was put in a wholly untenable situation by the Congress. We would not extend the debt ceiling while we debated various matters. He had to maintain the credit of the U.S. Government, and under the circumstances he had no real choice but to disinvest—the word that we would say in normal usage is cash in—$25.4 billion worth of bonds in the Social Security trust fund. The ability to do that resides in the Secretary's capacity as managing trustee of the OASDI trust funds. They are funds in his control. He needed to do it, and the Secretary of the Treasury was placed in a situation of conflict which was unacceptable to a public person in the role of Secretary of the Treasury, and not the

least a man of the probity, concern, and propriety of Secretary Baker.

He was required to meet a judgment by the Comptroller General of the General Accounting Office that—

> . . . although some of the Secretary's actions appear in retrospect to have been in violation of requirements of the Social Security Act, we cannot say that the Secretary acted unreasonably given the extraordinary situation under which he was operating.

It is simply the situation in which the Secretary, as managing trustee, has conflicting responsibilities creating an intolerable situation for him.

Today, Mr. President, on behalf of myself, and my distinguished colleagues, Mr. KENNEDY, Mr. RIEGLE, Mr. BYRD, Mr. BENTSEN, Mr. MITCHELL, Mr. BRADLEY, Mr. CHILES, Mr. LAUTENBERG, Mr. GORE, Mr. SIMON, Mrs. KASSEBAUM, Mr. ROCKEFELLER, Mr. BUMPERS, Mr. KERRY, and Mr. PRYOR, I sent to the desk a bill entitled "The Social Security Trust Fund Management Act of 1986." Our legislation will essentially relieve the Secretary of this situation, and will secure the trust funds that deposited for the sole exclusive benefit and beneficiaries of the Social Security Act. I can report that the Treasury Department supports this measure. Its elements are simple. It strikes from the legislation the term "in his judgment" with respect to the use of the funds so that the Secretary can say "I do not have this option. Congress must act or we close our banking windows at midnight." It states that the bonds can be redeemed only for purposes of paying benefits and administrative costs of the system. It specifies that the managing trustee while not personally liable should faithfully execute the duties imposed on him by the Social Security Act. It requires him to make a monthly report on the operation of the trust funds to the other trustees.

One of the most troubling aspects of last year's event was that while this unprecedented $25.4 billion was being cashed in, no other trustee was told. The two public trustees created by our 1983 legislation in particular were not told. The Congress was not told. They will be now.

Finally, Mr. President, in 1983 legislation we provided for advanced payments from the Treasury at the beginning of the month of the expected return for the month from the payroll tax. That was meant to ease, and one of a number of ensured provisions was designed to ease the transition into a more stable funding arrangement. That transition has taken place very well. The Social Security trust funds are in good, solid, and growing shape. Witness the ability of the Secretary to disinvest the $25.4 billion when he was out of cash.

Mr. RIEGLE. Mr. President, in the middle of the debt crisis last fall, the Treasury Department engaged in some questionable activities with the Social Security trust funds. For several months Treasury failed to invest the amounts they credited to the trust funds. Moreover, surplus revenues from workers' contributions were not invested to meet future needs, but were used to pay for general Government operations while a "non-interest-bearing credit" was given to the trust fund. These activities resulted a loss of interest, that Congress required Treasury to repay, with a provision in the Gramm-Rudman legislation.

Mr. President, those actions were not the extent of Treasury's violation of the trust funds. The Treasury Department not only avoided paying interest, and borrowed from funds on hand to pay for general Government operations, they also raided the long-term investments of the trust funds. Instead of making the "normalized tax transfer" required by the Social Security Amendments of 1983, to advance fund Social Security for October, Treasury made another non-interest-bearing credit to the trust fund—a credit which cannot be used to make cash payments. This meant that in order to make the October payments to beneficiaries, $15 billion worth of trust fund securities were redeemed, while Social Security revenues continued to go into the general fund and finance the rest of Government operations.

The same kind of raid again took place in order to make the November payments to beneficiaries. This time, however, they dipped even deeper in the till, accelerating the redemption so that up to $14 billion worth of the higher interest long-term trust fund reserves—some of which would not have matured until the year 2000—were disinvested. Workers' OASDI contributions were clearly being used to fund the activities of general Government while the long-term investments of the Social Security trust fund were being liquidated to pay current Social Security beneficiaries.

Mr. President, Congress has not authorized the dubious practice of accelerated disinvestment—even under the "urgent" circumstances that the Treasury Department used, when pressed, to justify its actions. Moreover, in response to our questions about these unauthorized raids, we discovered the astounding fact that the same thing had occurred when the debt ceiling was reached in 1984—resulting in a $440 billion loss of interest. Congress had not been informed of any of these episodes, nor had the Board of Trustees, nor had any steps been taken to ensure repayment of the lost interest.

I believe, Mr. President, that the fact that it was possible for these unconsionable raids on the trust funds to occur tells us that there is a major loophole in the Social Security Act that needs correction. I believe that millions of Americans who contribute to the Social Security System and count on it to provide a decent standard of living in their retirement years would agree that the current practice is not a proper way of guaranteeing that these funds will be there when they need them.

Ultimately, I believe that the Congress should restructure the Social Security System by making the Social Security Administration an independent agency. This would, in part, eliminate the conflict of interest that allowed the Secretary of the Treasury to believe that he could authorize these raids. In the mean time, however, there is an urgent need for action on our part to ensure that this particular threat cannot occur again. For while Congress acted to restore the lost interest last fall, there is nothing which prevents Treasury from doing the same thing again. Indeed, testimony before the Senate both by representatives of the Treasury Department and by the President's nominee to manage SSA, raises the distinct possibility that if similar circumstances arose—which is a distinct possibility this August—they would again authorize disinvestment and use of Social Security contributions to fund general Government!

Our bill would guarantee that this could not happen with the following provisions.

First, it would eliminate the Secretary's "discretion" in deciding to invest contributions, by requiring that that OASDI funds be immediately invested in interest-bearing Government obligations.

Second, it specifically prohibits disinvestment of the Social Security trust funds except in months in which payroll receipts are expected to be less than required for payments to beneficiaries.

Third, it further requires the managing trustee—the Secretary—to report monthly to the OASDI Board of Trustees on the operation and status of the trust funds, so that they cannot be kept in the dark about important transfers.

Mr. President, I am sure that my colleagues are interested in assuring Americans that Social Security is being well-managed for their future, and I would urge them to join with us in addressing this problem.

Mr. BYRD. Mr. President, I am pleased to cosponsor the legislation introduced by the distinguished Senator from New York. The Senator from New York and other concerned Democrats, myself included, have been vigilant in our efforts to secure the solvency and safety of the Social Security trust funds. Most recently, during the Senate's 1986 budget reconciliation debates, we offered proposals to restore to the trusts all funds disinvested after

November 1, 1986, and to require 15 days prior notice of any such future disinvestments. These provisions are now law.

Such vigilance has been required because of repeated attempts by the current administration, during the past five years, to make the Social Security trust funds the ploy and victim of various balanced budget measures. Again and again, such attempts have been stopped by Members on this side of the aisle.

The legislation we introduce today provides additional stringent provisions for protecting the trust funds from future capricious, politically-motivated actions related to balancing the Federal budget and other transitory budgetary crises.

We must remember, Social Security is a public trust. Social Security trust funds are derived from the labor of the American people. In full faith, American workers and their employers willingly entrust these funds to their Federal Government for safekeeping for workers' future needs and for the current support of their parents and grandparents.

The depth of Americans' faith and trust in the Social Security system is indicated by a national survey conducted by Yankolovich, Skelley, and White Inc., in August 1985. When asked about the fairness of Social Security taxes, 71 percent of the survey respondents indicated that these taxes were either moderately fair or very fair. In contrast, only 39 percent of these respondents provided similar answers when asked about the fairness of Federal income taxes. Mr. President, I would suggest that public approval of such magnitude should not be snubbed.

I strongly support this legislation because it seeks to reaffirm congressional intent that the trust funds not be subject to manipulations and invasions for payment of current expenses of the Federal Government other than those of the Social Security system.

I strongly support this legislation because it seeks to reassure the American people that their past, current, and future Social Security contributions will be fully available as expected to meet their personal needs related to death, disability, and retirement.

I strongly urge my fellow Senators to lend their support to this proposal.

I thank you.

● Mr. MITCHELL. Mr. President, I rise today to join with my colleague from New York, Senator MOYNIHAN, in introducing legislation which will provide for more prudent and effective management of the Social Security trust funds.

Last October, when Congress failed to meet the deadline to raise the debt ceiling, Treasury Secretary James A. Baker redeemed some long-term investments of Social Security and other trust funds. Congress subsequently discovered that similar disinvestment of the trust funds had been used to pay Social Security benefits in September and October of both 1984 and 1985. On each occasion, Government borrowing was at or near the debt limit.

The reaction from Congress and the general public was overwhelmingly negative. As part of a temporary debt limit increase on November 14, 1985, and in subsequent legislation, Congress required the Treasury Department to restore to the trust funds any losses resulting from the premature redemption of the investments.

The legislation we are introducing today, the Social Security Trust Funds Management Act of 1986, will place tighter restrictions on the actions of the Secretary of the Treasury with regard to the investment of the Social Security trust funds in the future.

First, the managing trustee will be required to invest OASDI funds in interest bearing Government obligations.

Second, the bill will prohibit the disinvestment of trust fund assets except in a month when estimated payroll tax receipts are expected to be less than estimated benefit expenditures.

The legislation also specifies that trust fund receipts and assets shall be made immediately available for the exclusive purposes set out in the Social Security Act. This means that the Social Security trust funds cannot be used to pay any expense other than beneficiary payments and administrative expenses of the Social Security Program.

Under this bill, the managing trustee is required to report monthly to the Social Security Board of Trustees on the operation and status of the trust funds. The Board of Trustees is then required to meet twice a year to review trust fund operations and report to Congress on that review.

The Congress must continue to keep a vigilant watch on the Social Security trust funds. We have an obligation to the millions of Americans who are current Social Security beneficiaries as well as those now paying into the system who expect to be beneficiaries in the future. We cannot allow the Secretary of the Treasury to use the trust fund moneys for any other purpose except to support the Social Security Program.

As a member of the Senate Finance Committee, which has jurisdiction over the Social Security Program, I am committed to maintaining the security of the trust funds. I believe the bill we are introducing today is a constructive step toward that objective. I urge my colleagues in the Senate to join me in this effort.●

● Mr. KENNEDY. Mr. President, I am pleased to join my colleague, Senator MOYNIHAN, in introducing this bill to protect the integrity of the Social Security Trust Funds.

The money deposited in these trust funds are a sacred promise to our senior citizens that they can depend on the Social Security and Medicare benefits they have earned.

You would think that no one would tamper with that sacred promise. But last year, when the administration sought to avoid the debt ceiling limit legislated by Congress, they turned these trust funds into a slush fund to continue the routine functions of government. Had Congress not intervened, the trust funds would have lost almost a billion dollars in interest payments and our senior citizens might have found their pensions and medical benefits sacrificed in a deadlock between Congress and the executive branch.

Enactment of this legislation will assure that this deplorable episode will never be repeated. It would prohibit disinvestment in the trust funds for any purpose other than paying the benefits owed our senior citizens.

The senior citizens of America have kept faith with America through war and depression. It is time for the Government to keep faith with them. Our senior citizens who depend on Medicare and Social Security deserve to know that Medicare and Social Security are dependable.

I was active on this issue last year, and I am pleased to join Senator MOYNIHAN this year in ensuring that our senior citizens will never again be used as a scapegoat for the failure of the administration or the Congress to deal responsibly with the debt ceiling.●

□ 1100

RECOGNITION OF SENATOR QUAYLE

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana [Mr. QUAYLE] is recognized for not to exceed 5 minutes.

SALT: THOSE SOVIET VIOLATIONS MATTER

Mr. QUAYLE. Mr. President, one of the key arguments made for staying within the limitations of SALT II, a treaty which was never ratified, is the hope that perhaps it will restrain the Soviet Union from building even greater numbers and types of strategic weapons.

Mr. President, that sounds fine, but there is one fundamental problem what that. That problem is that the Soviet Union likes to cheat.

Many do not really want to confront the situation. They gloss over it arguing that these violations are not so clear cut.

However, Mr. President, they are clear cut and they are clearly to the advantage of the Soviet Union.

Take the SS-25. Under SALT both sides are limited to one new land-based ballistic missile type. For the United States, this was the MX. For the Soviets, it was the SS-24.

When the Soviets announced deployment of yet another missile, the mobile SS-25 capable of carrying up to 3 warheads, they denied it was a new type and instead claimed that it simply was a modification of an older missile, the SS-13.

The Soviets argued that even though SALT II clearly prohibits increasing the size of any missile more than 5 percent in length, diameter, or payload. When our representatives noted that the SS-25's dimensions were far more than 5 percent greater than those of the SS-13 and its payload was 100 percent greater, the Soviets simply told them our intelligence was bad.

Does the violation matter? You bet.

Consider: The Soviets already have an overwhelming force of silo-based, first-strike, hard-target killing missile warheads. These could be used in a first strike to knockout every fixed military target of value to the United States.

We might have some weapons surviving such as our missile boats and our bombers but they would be opposed by Soviet air and missile defenses.

Here's where the SS-25 only makes matters worse. With a reserve force of these mobile missiles, the Soviets could virtually assure our inability to target what we must to end an exchange on favorable terms. In short, the SS-25 gives the Soviets a clear and distinct strategic advantage over us. For the Soviets it was worth cheating to get.

Many have unfortunately skirted this issue either by buying the Soviets' denial or, by imaginatively arguing that the Soviets are only following the Scowcraft Commission's recommendations to move toward mobile missiles. Both views are dangerous delusions.

The Soviets already have deployed more than 70 of these mobile SS-25's and in so doing have established a clear precedent for further violation of SALT II's most important missile provisions.

In fact, the recent announcement of Soviet flight testing of a SS-18 follow-on missile suggests that they are anxious to build on such precedents. This missile would enable the Soviets to replace their SS-18's with missiles accurate enough to jeopardize even proposed superhardened silos for our MX.

Again, SALT II explicitly prohibits the Soviets from flight testing any missile larger than the SS-18. Again, the Soviets have denied that the missile in question was anything other than an upgrade. Again, SALT II is almost certainly violated and Soviet military advantage is served.

Finally, Mr. President, the Soviets have persistently violated SALT II's prohibition against encoding or encrypting data transmissions during missile tests. Our representatives have protested this masking repeatedly since without missile telemetry, it is virtually impossible for us to verify Soviet compliance with SALT II.

Rather than drop this cheating tactic, the Soviets have tried to change the subject by demanding that we first tell them precisely what electronic signals are being excessively encrypted. When the Soviets first made this demand we leveled with them and explained that we needed precise telemetry on the SS-25's reentry to throwweight ratio, which we knew to be in excess of SALT II's 50 percent limit. What was our reward for this candor? In the next test of the SS-25, the Soviets totally eliminated the reentry to throwweight channel.

Amazingly, the Soviets continue to ask us to be more forthcoming about what telemetry we need. Having been burned once, though, we will no longer fall for this ruse.

Unfortunately, many SALT proponents simply want the United States to stay within SALT II's limits. What they fail to understand is SALT is being used to keep our strategic forces relative static while the Soviets violate the agreement to improve their relative position.

In short, Mr. President, those Soviet violations matter plenty and it is because of them that the President was right in finally telling the Soviets that we are free of SALT II as long as the Soviets continue to cheat.

RECOGNITION OF SENATOR BENTSEN

The PRESIDING OFFICER [Mr. KASTEN]. Under the previous order, the Senator from Texas [Mr. BENTSEN] is recognized for not to exceed 5 minutes.

MEXICO'S POLITICAL CRISIS

Mr. BENTSEN. Mr. President, we are beginning to see hopeful signs that Mexico's immediate financial crisis will be resolved within the next few days.

I call it a financial crisis but it is more properly a political crisis, one that is occurring right in our own backyard.

It is a political crisis that is increasingly pricing more and more food items beyond the means of more and more of the people of Mexico.

It is a political crisis that is swelling the lists of the unemployed in a country that has historically suffered from massive unemployment. It is a political crisis that will continue to foment unrest and unhappiness until it is resolved.

Mr. President, this is a political crisis that is occurring, not across the oceans or on the other side of the world, but right next door.

Aside from the fact that it is to our long-term benefit for our neighbors to live in peace and prosperity, we suffer very serious and immediate consequences when a neighboring country like Mexico experiences a crisis of this magnitude.

Mexico's political crisis means thousands more people crossing our border illegally to seek employment in the United States and adding substantially to our immigration problems.

Mexico's political crisis means thousands fewer people crossing our border legally to shop in the United States and buy our goods and bolster the troubled economies of cities up and down the border.

Mr. President, the testimony before a Senate panel yesterday of Assistant Treasury Secretary David Mulford was a hopeful signal that Mexico and the international community are on the verge of an agreement that will ease a crisis that caused Mexico's peso to plummet in value by 30 percent against the dollar during a recent 6-day period.

The agreement is apparently close, but we're not there yet. It will take some give and take by both sides for us to get there.

Mexico is going to have to agree to some of the concessions demanded by the International Monetary Fund. That country has long been wary of foreign investment and they are going to have to change that attitude and agree not only to permit foreign investment in their industries but to facilitate such investment. They need an infusion of outside capital and it would be foolish of them to continue to bar it. Mexico is also going to have to agree to sell some of its Government owned companies to private enterprise.

The rest of the world, on the other hand, should recognize that a lot of Mexico's immediate problem is not of its own making.

My own State of Texas has a lot of sympathy for the effect that falling oil prices have had on Mexico's economy. We have felt some of those same adverse effects ourselves, as unemployment in our State shot up to 9.6 percent last month, the second highest unemployment rate in the Nation among the larger States.

So those of us from Texas can appreciate the severity of the problem when Mexico explains that declining prices will cost them some $6 billion in oil revenue this year. That is a heavy hit.

Mr. President, I have been concerned in recent weeks about the attitude of this country toward the deepening crisis in Mexico.

The impression officials of our Government have left are of indifference toward the plight of our neighbor to the South combined with criticism, some of it inaccurate—some of it on target, about Mexico's level of cooperation in the war against drug smuggling.

There have been increasing public signals this week, though, that the attitude of the U.S. Government toward Mexico is changing and that is to the good.

We have seen reports that Paul Volcker, Chairman of our Federal Reserve, was in Mexico City early this week for talks with Finance Minister Jesus Silva Herzog. We heard the testimony of Assistant Treasury Secretary Mulford yesterday, in which he spoke of the economic sacrifices made by the people of Mexico.

Those are hopeful signals of a change in attitude in Washington and a new spirit of cooperation.

□ 1110

I traveled to Mexico a few weeks ago for talks on trade and the economy with several Cabinet officials and President de la Madrid. I also met with business people in both countries in the search for ways to stimulate border trade.

Mr. President, all you have to do is drive down the Reforma Boulevard and see, at each stoplight as you stop, the little kids who get up on the hood of your car and clean your windshield. All you have to do is drive along and see the signs put up by people—"I am a plumber," "I am a driver," "I am looking for work."

These people want to work, they want to participate. All they need is an economic opportunity. I believe they are headed in the right direction. I believe all we need is the will for the IMF and our country to work together. I hope, judging by the events of the past few days, that this bill is at least being translated into action.

RECOGNITION OF SENATOR MITCHELL

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized for not to exceed 5 minutes.

SALT II

Mr. MITCHELL. Mr. President, 2 weeks ago, the White House announced that the United States would no longer feel bound by the provisions of the SALT II Arms Limitation Treaty. I deplore that announcement. With one stroke, President Reagan has dealt a blow to the cause of arms control, to hopes for a stable relationship with the Soviet Union, and to the Nation's deep-seated longing for peace.

The President's new policy is wrong. It discards an agreement that, along with the 1972 ABM Treaty, has undergirded the entire structure of arms control is recent years. It abandons an accord that has advanced our political and strategic interests in the past, and that promises to serve them equally well in the future. It adopts the bizarre argument that in order to defend a treaty the Soviets are accused of violating, we must ourselves destroy that treaty.

And for what? What circumstances have arisen that impel Mr. Reagan to take this drastic step? Why must we now discard this treaty?

In trying to justify his new policy, the President has referred to the fact that SALT II has never been ratified—and would have already expired had it been ratified. True, SALT II has not been ratified. But sizable majorities in both Houses of Congress are on record supporting continued adherence to the treaty. More to the point, both the United States, through President Reagan himself, and the Soviet Union have pledged to abide by its limits, notwithstanding its unratified status.

As for the argument that a ratified treaty would have expired by now—so what? The agreement still serves useful purposes. More than that, renunciation of the treaty carries with it significant strategic liabilities.

This is where many of us, Republicans as well as Democrats, disagree with the President. Mr. Reagan denies that the treaty has any utility. He claims that it offers us nothing of value. Well, on that he is wrong.

SALT II has helped to protect American security interests in the past and, if retained, promises to do so in the future. Since 1972, the Soviets have had to deactivate more than 1,230 land- and sea-based ballistic missiles and more than a dozen missile-carrying submarines in order to comply with the treaty limits. During that same period, we have had to destroy fewer than 100 comparable systems.

And what of the future? Continued adherence to SALT will require the Soviets in the next few years to dismantle a far greater number of strategic nuclear systems than the United States between now and the end of next year, for instance, the Soviet Union will have to retire 316 missiles and long-range bombers if SALT remains in place. In the same period, the United States will be required to dismantle 26. Look at the ratio: 316 for the Soviets, 26 for us. How can anyone claim that SALT II no longer serves a useful purpose for the United States?

There is more. The Soviets are far better positioned than we to exploit a breakout from SALT limits. Since it has more production lines currently in operation than the United States, Moscow can add new missiles much more quickly than we can. In addition, the Soviets can pile more warheards on their exisiting missiles, since Soviet missiles have a greater payload capacity than United States missiles. Is this really what we want—an accelerated arms race in which we compete under severe handicaps? I think not.

Mr. Reagan and other administration officials have also justified the decision to abandon SALT by stressing the need to respond to Soviet violations of this and other treaties. But several points need to be emphasized in any discussion of Soviet cheating on current arms agreements, including SALT II.

The first point is that Soviet cheating is real and worrisome. Proponents of arms control—of which I count myself one—have a particular obligations to address these violations and to propose meaningful American responses. We have done so and we shall continue to do so.

Having said this, it also needs to be added that many if not most of the administration's allegations of Soviet cheating rest on ambiguous data or disputed provisions of the treaties in question. This is not said in order to excuse Soviet noncompliance, but simply to point out the need for caution in these matters. Indeed, over the past year, the administration has revised several of its own earlier conclusions about possible Soviet violations, deciding that the information available to us does not support some earlier accusations of cheating.

I must also remind my colleagues that debate in this country has so focused on Soviet cheating that we have lost sight of a fact which is also of significance: In a majority of cases, the Soviets have adhered to the provisions of the treaties to which they are a party. This fact should be considered alongside evidence of Soviet noncompliance when we are judging the costs and benefits of arms control for United States security.

Finally—and this is important—while Soviet cheating has had immense political significance in the American political arena, its military significance has been nil. Soviet cheating has not altered the strategic balance between the two superpowers in the slightest degree. Again, I say this not to condone Soviet violations, but to put them in proper perspective.

This administration suggests that cheating by Moscow leaves us with only two options: Either we ignore Soviet treaty violations, thereby implicitly condoning them, or we scuttle the treat Moscow is accused of violating.

But this is not the case; these are not the only alternatives open to us. President Reagan's own State Depart-

ment has proposed a number of measures that respond to Soviet cheating without violating the treaty themselves. We cannot casually tolerate Soviet noncompliance with this or any other treaty. Moscow must be made to understand that we are prepared to meet its unacceptable behavior with appropriate responses. But we can do so without destroying the very treaty we claim to be defending.

We might, for instance, counter illegal Soviet activity at their Krasnoyarsk radar site by adding swarms of decoys, maneuverable warheads, and other penetration aids to our ballistic missiles. To offset the SS-25, we might accelerate work on our own small mobile missile, Midgetman. Or we can place new emphasis on measures to get around Moscow's encryption of its missile test flights. Each of these steps addresses potential threats posed by questionable or illegal Soviet actions while still keeping us in compliance with our treaty commitments.

The President proposes that we respond to Soviet noncompliance in a manner that seriously undermines our own political and security interests. Jettisoning SALT II could sabotage prospects for another Reagan-Gorbachev summit this year and will greatly complicate the search for stable Soviet-American relations. It is likely to stifle any remaining chance for meaningful progress in the Geneva arms control negotiations. It has already created substantial dissention within our alliances. In short, the President's decision is bad strategy, bad arms control, and bad foreign policy.

At a more fundamental level, Mr. Reagan's announcement 2 weeks ago raises basic questions about his commitment to arms control. After nearly 5½ years, the President has yet to sign any sort of arms control accord; by all accounts we are not closer today to concluding an agreement than we were on the day he entered the White House. This makes Mr. Reagan the only President in more than three decades who has failed to reach a mutually advantageous arms control agreement with the Soviet Union.

Why is this? Why has this administration alone seen fit to jeopardize our security in such fashion?

President Eisenhower got the Russians to agree to demilitarize the Antarctic continent.

President Kennedy got the Russians to agree to ban atmospheric testing.

President Johnson got the Russians to agree to nuclear nonproliferation.

President Nixon got the Russians to agree to limitations in both offensive and defensive weaponry.

President Ford got the Russians to agree to size restrictions on their underground tests.

President Carter got the Russians to agree to specific quantitative and qualitative limitations on their strategic forces.

President Reagan has gotten the Russians to agree to nothing.

Admittedly, SALT II has not brought us a golden age of peace and security. It has not eliminated the dangers posed by nuclear weapons and the arms race. But SALT II has restrained the Kremlin and given us a useful benchmark with which to judge Soviet behavior. It has brought us an added measure of security. It deserves to be retained. The Nation's well-being demands its retention, even as we search for new agreements.

This latest assault on the arms control process must be turned back. It is bad for the United States; it is bad for our allies; and it is bad for world peace. It is a profound mistake. Worse yet, it is a dangerous move that will surely sow strategic confusion and political discord, both at home and among our allies. SALT II must not be abandoned. I call on the President to reconsider his decision.

□ 1120

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business with statements therein limited to 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR GORE

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee [Mr. GORE] is recognized for not to exceed 5 minutes.

Mr. GORE. Thank you, Mr. President.

STRATEGIC DEFENSE INITIATIVE—IMPACT ON ALLIANCE RELATIONSHIPS

Mr. GORE. Mr. President, this is the 12th in a series of floor speeches on the strategic defense initiative. Until now, I have concentrated on SDI as a factor in the security policy of the United States, and in United States-Soviet strategic nuclear balance. Today, however, I will turn to the impact of SDI on our alliance relationships.

Our allies are both objects of contention in the United States-Soviet struggle and major players. Without them, the balance of power in the world would shift decisively away from our country, and events could be set in motion which would in due course settle our fate, without a shot being fired.

Consequently, any development which could destabilize our alliances is a potential threat to the security of the United States. SDI is such a development.

At the level of military doctrine, for example, SDI acts as a solvent weakening the bonds holding us all together. SDI tells our allies what they have always feared the most: That the United States will, if it can ever find a way, be happy to insulate itself from the risks of any military confrontation with the Soviet Union in Europe or Asia.

To use the language of diplomacy, SDI suggests that we wish to "decouple" ourselves from the effects of war fought beyond our borders; that our desire is to so arrange matters that the continental United States might emerge unscathed from a war which might utterly decimate Western Europe or Japan. Decoupling is the fear our allies have that both we and the Soviets would find it convenient to settle old scores outside our respective homelands, using other people's homelands as our battleground.

There is, of course, a way to counteract the effects of such a perception of SDI, and that is to promise our allies that ways can be found to bring them into the magic circle of a totally effective defensive system. Or at least, one may hold that up as an ultimate promise, providing, of course, the allies agree to support rather than oppose SDI. There is also a near-term payoff, and that is the possibility of constructing a more limited form of defense against Soviet shorter range missiles: The so-called antitactical ballistic missile or ATBM system.

All of Europe and Japan have lived for many years under the threat of Soviet intermediate range missiles. The last cycle of Soviet modernization in this area—the deployment of the SS-20—brought on a political convulsion in Europe, and greatly increased Japanese anxiety as well. Now, on the heels of that crisis, comes yet another wave of Soviet deployments: This time, of systems that compound the threat by virtue of optional utilization as vehicles for conventional and chemical munitions, in addition to nuclear weapons. I refer here to missiles such as the SS-21, SS-22, and SS-23.

Under the circumstances, the possibility of developing even a partially effective defense against such weapons has to be nearly irresistable to European governments; doubtful as they may be as to the feasibility, costs, and consequences of such a move. They cannot be expected to say no, al-

though it may take time to break down their inhibitions.

That will be unfortunate for them and for us. First, because there are other, more appropriate ways to deal with the Soviet ballistic missile threat against military targets, including hardening, dispersal, redundancy, concealment, and mobility. Second, because every allied investment in SDI, or in its little brother ATBM, is a diversion of resources from what should be our allies' first priority—upgrading their conventional forces. Third, because, in the end, Soviet countermeasures are certain to leave the allies no better off than before in terms of an ability to blunt or rebuff any Soviet attack involving nuclear weapons.

Even if we play this intellectual game out to its farthest conclusion, and imagine the existence of a defense system highly effective for Europe, Japan, and for ourselves, the outcome can only be that our allies will be in greater jeopardy than ever. On what basis? On the assumption that the full neutralization of nuclear weapons merely restores to conventional forces the dominance they once had on the battlefield; a dominance which the Warsaw Pact will hold, if the Western allies squander their resources on SDI.

The great hope for our allies, as for us, is the same. It is that carefully devised reductions of nuclear and conventional forces can finally be worked out, which will increase stability by eliminating the basis for concerns about a crushing first strike. Our allies support the burden of defense out of necessity, because failure to do so would cost them their political freedom or worse. But they also arm in order to negotiate. Take away the potential for arms control and only the preparation for war remains.

The allies have seen war too often and too close, for that to sustain them. Let them see the U.S. zeal for SDI as the cause of the downfall of their hopes for arms control and incalculable damage will be done to that sense of community of purpose which has kept us all together since the end of World War II. How many times have the Soviets devoted their full ingenuity to just this object? And what irony if, in the end, it is accomplished for them by the United States itself.

Mr. President, in my next statement, I shall begin an effort to sum up and focus what has been spread out in many installments during the last several weeks.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1140

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JED D. CHRISTENSEN CONFIRMED AS DIRECTOR OF OFFICE OF SURFACE MINING

Mr. SPECTER. Mr. President, I want to take this opportunity to congratulate Mr. Jed D. Christensen, who on May 20 was confirmed as the Director of the Office of Surface Mining. This is a position of great importance to coal States like Pennsylvania. Director Christensen is a great choice for this important job.

Mr. Christensen had been Acting Director for some time at the Office of Surface Mining. During this time, I had the chance to work with him personally to resolve a life-threatening, tragic case of mine subsidence in the Bryn Mawr section of Pittsburgh, PA. Late Thursday evening, March 13, 1986, shortly after the collapse of numerous houses in Bryn Mawr, my office contacted the office of Surface Mining and asked if Mr. Jed Christensen could accompany me on a trip to Pittsburgh early the next morning. He immediately agreed, and we went.

Our eventful trip led to prompt action by Mr. Christensen and his staff at the Office of Surface Mining in declaring the situation an emergency, thus making it eligible for Federal assistance. It is my understanding that progress in stabilizing Bryn Mawr is being made, and that later this year the honeycombs beneath the neighborhood will be secured.

This expeditious inspection trip and decisionmaking would not have been possible without Jed Christensen's extraordinary dedication and cooperation. I must commend him highly for that just as I congratulate him on his successful confirmation. I am sure that my colleagues look forward, as I do, to working with him in the coming months and years.

SENATOR LARRY PRESSLER'S COMMENCEMENT ADDRESS AT GEORGE MASON UNIVERSITY

Mr. WARNER. Mr. President, on May 24, George Mason University in Fairfax, VA, held its 1986 commencement exercises. George Mason University, which has gained national recognition for its new, innovative programs, had an equally impressive commencement speaker—our colleague, Senator LARRY PRESSLER.

Senator PRESSLER was chosen as the 1986 commencement speaker because he exemplifies the ideals of true public service. His advice to the graduating seniors was that the greatest challenge facing this Nation today is the restoration of the traditional work ethic and the concept of public service.

George Mason University, under the able leadership of President George Johnson, is responding to today's challenges. Senator PRESSLER and I both wish to commend President Johnson, the board of directors, faculty, and students at George Mason for their hard work and dedication. George Mason University is a great institution which is growing even stronger.

Mr. President, Senator PRESSLER's address offers sound advice not only for the graduating class of 1986, but all of us. Therefore, it is my privilege and honor to ask unanimous consent that Senator PRESSLER's address be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

GEORGE MASON UNIVERSITY COMMENCEMENT ADDRESS BY SENATOR LARRY PRESSLER

Thank you very much President Johnson, deans, faculty, guests, students, taxpayers, my fellow Americans.

I am particularly honored to be at George Mason University today. As the Wall Street Journal put it recently, "a giant has been growing just outside Washington." That giant is George Mason University and all of you are a part of it. I commend each of you for your hard work and dedication. What is happening at George Mason University very much fits the theme of my speech and it shall be brief, I promise you. In my home state of South Dakota I am noted for brief speeches and the electorate has given me the largest percentage of votes. I do not know if that is a message for political people or not.

The theme of my speech is that the greatest challenge you will face, and that our country faces, is a restoration of the work ethic and the concept of public service. By the "work ethic" and the concept of public service I do not mean drudgery. I don't mean that people cannot have fun, but rather everyone doing their job and making a contribution—making a difference.

That is what has happened here at George Mason University. The administrators, under the able leadership of President George Johnson, have been doing a great job; the students have been doing a good job, and so have the teachers, the community, and the state of Virginia. It has come together for you, resulting in a great deal of national recognition. It is a thrill to watch a university develop as we are watching your university develop on the national scene. I have frequently said that if we could do nationwide what they are doing at George Mason we could beat the Japanese easily.

The point of the matter is that there are problems that we have to face in our society regarding the work ethic and public service. We have managers and presidents of great companies who are being paid excessive salaries. In some instances, they are taking advantage of stockholders with golden parachute agreements. In the Senate, I joined in placing tax restrictions on some of those golden parachute agreements. That is taking advantage of the system and it is part of the reason we are not as productive as some other countries. Also, we have labor agreements, in some cases, that involve feather bedding. Not as much as we did a few years ago, but productivity was not one of our goals. In the area of government, we see waste and fraud that we need to correct. These things could be solved by a restora-

tion of the work ethic and a concept for public service at all levels.

We have seen some specific examples of our problems. One of them is the failure of our space shuttle. I am not one to criticize quickly because there are going to be accidents in every type of program. But, the reason the space shuttle did not work was because either we in Congress did not do our job in oversight or because management did not do their job. Perhaps a single worker lacked the motivation to check an O-ring just once more. We tend to be a little informal. We say, "if you do not do it right the first time you can probably get it right the second time," but there are a lot of instances in life where you do not get it right the first time. And there can be great repercussions. That is what happened to our space shuttle. The committee is now struggling with trying to redirect the program—to put some energy back in NASA. We have a great national problem in that area.

Another thing, obviously, is trade. We are struggling with international trade and protectionism is not going to be the answer. I am a free trader. In the 1960s the American consumer suddenly found that a car made abroad was frequently better than our own. The American consumer found that a piece of electronics built abroad was better than our own. Consumers have some rights too. Simply blocking the imports is not the answer. If we are so inefficient in management, government and labor that we can't build it, then consumers have the right to buy the better product.

So we have a trade crisis in our country. We also have some problems with moral fiber, traditional values, government reform and public service, but they will be solved if we return to those values that made our country great. George Mason, a man ahead of his time, contributed so much to society and you are contributing, too. However, there are other more specific things that we have to address.

One of the challenges facing us today is our current technology crisis which affects our national security, our economic competitiveness and our productivity. We are experiencing a time similar to the late 1950s when the Russian launching of Sputnik One dramatized the space technology gap. At that time, Congress enacted landmark legislation, the National Defense Education Act to encourage students to study in scientific and technological fields.

NDEA worked. Between 1958 and 1964, federal and private funding at universities increased. The number of engineers and scientists engaged in research and development at universities more than doubled and graduate student population more than tripled. The educational opportunities brought about by the passage of the National Defense Education Act helped train the minds which brought us advances in medical technology, computers, space exploration and much more.

Today, we have a similar crisis in that we find our graduate schools in engineering are suffering. We find that our universities have dilapidated and outdated equipment. We have seen the failure in our own space program. We have seen a decline in the levels of achievement in some of our state educational programs. Already our productive growth rate has fallen behind those of our major competitors such as Japan. I say that in a complimentary way about Japan. We have too much waste in American industry, labor and government, but you are responding to this challenge. George Mason's new School of Information Technology and Engineering is exactly the kind of initiative needed to get America back on the right track.

Additionally, universities and students need assistance and incentives from the federal government to help rebuild our research infrastructure. That is why I have introduced the "Strategic Defense Education Act" in the Senate. Whether you like the Strategic Defense Initiative or not, and I am skeptical about it, we will need well-trained people. Whatever our defense needs are, and whatever our productivity needs are, we will need trained people. Like it or not, the United States faces great challenges in these areas.

So in conclusion, my main message today is that if we stick to the traditional work ethic and concept of public service, we can meet the trade challenges from abroad. Protectionism is not the answer. Some people would like to keep the foreign products out, but we want to sell products, so there has to be trade. Protectionism only works for a year or two, as those of you who are economics majors well know, and probably know better than I. The great depression came about when the industrialized countries started putting up protectionistic barriers and they thought they could protect inefficiency, but it cannot be protected.

I urge you to consider the concept of public service and the work ethic. It is a love of your country, your family, your community and your God. Albert Schweitzer said, "The purpose of human life is to serve and show compassion and the will to help others." The Bible says, "Go thy way as thou hast believed, so it be done unto you." The Islamic Koran says, "Health and children are the adornment of this present life: but good works, which are lasting, are better in the sight of thy Lord as to recompense and better as to hope."

Go forth from this great university and participate in your work, participate in your church, your community and by all means your government. Keep in mind the words of Teddy Roosevelt who said, "It is through meaningful work that women and men make the greatest contribution to their community, their country and their God." Thank you very much.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the pending legislation.

The legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Pending:

(1) Roth Amendment No. 2062, to encourage taxpayers to provide for their retirement through tax incentives.

(2) Dole Amendment No. 2063 (to Amendment No. 2062), expressing the sense of the Senate that Senate conferees on the Tax Reform Act give highest priority to retaining maximum possible tax benefits for individual retirement accounts to encourage their use as a principal vehicle for ensuring retirement security.

(3) Roth Amendment No. 2064, to encourage taxpayers to provide for their retirement through tax incentives (to the House bill).

(4) Packwood Amendment No. 2065 (to Amendment No. 2064), expressing the sense of the Senate that Senate conferees on the Tax Reform Act give highest priority to retaining maximum possible tax benefits for individual retirement accounts to encourage their use as a principal vehicle for ensuring retirement security.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, last night a series of amendments were offered by Senator DOLE, Senator PACKWOOD, and myself. These amendments provide a sense-of-the-Senate resolution, the purpose of which, as far as I am concerned, is to save the IRA.

Mr. President, I ask unanimous consent that the name of LLOYD BENTSEN be added as a cosponsor of the four amendments that were offered last night for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I think it is important to understand that this is, in my judgment, a critically important proposal. I know of no program that I think of greater importance, both to the American people and this Nation, than the matter of saving.

IRA is a program that has been tremendously successful since it was offered to everyone back in 1981.

Mr. President, I have to be candid. I do not think that the proposal that was reported out of the Finance Committee insofar as the IRA is concerned is adequate. I made an effort to restore it according to its current content in committee, and when I saw that I did not have the votes there, I then indicated that it would be my principal purpose on the floor to save the IRA.

As I have pointed out back in 1981, when the first major tax reform legislation was adopted, the Finance Committee in a very, very wise move made the individual retirement program available to all Americans. Five years later something like 28 million American families have established an individual retirement account.

Insofar as this Senator is concerned, that is a tremendous success. I seriously doubt that any member of the committee predicted within this timeframe that many American families would make this kind of commitment.

Let me point out that in opening an IRA the typical American family was looking upon this not as a one-shot deal but as a program to provide long-term security for the family, a program that would enable the typical middle-class American family to prepare for their old age, their retirement.

There has been a lot of discussion as to whether we succeeded in this purpose. As far as I am concerned, the answer is "yes," without qualification.

Just let me point out that something like 80 percent of the 28 million American families who have created IRA's are of incomes of $50,000 or less. Sixty-five percent have incomes of $40,000 or less. So it really has become a middle-class savings program.

And I point out that not only have middle-class Americans participated in this program, but their contributions are indeed very significant.

We made a breakdown of my little State of Delaware to see what kind of participation there has been in this program. We find that overall something like 24 percent—and this information is based on 1984, so it unquestionably understates the current situation—but this breakdown shows that 24 percent, or 1 out of every 4 Delaware families, have an IRA.

Just let me point out that in the $10,000 to $20,000 bracket, the families who have $10,000 to $20,000 adjusted gross income, the participation is 12 percent—12 percent. One out of ten Delaware families of this relatively modest income have seen fit to participate in an individual retirement program.

Let me also point out that those who have participated have participated in a significant amount. In the case of those of $10,000 to $20,000, their contributions are roughly in the area of $1,600 to $1,700. Now the amount of participation, of course, increases as you go up the ladder of income.

But in the case of Delaware, those in the $20,000 to $25,000 range, we have 16 percent participation; $25,000 to $30,000, 21 percent participation; $30,000 to $40,000, 28 percent of that group are participating; and $40,000 to $50,000, 39 percent.

I must say I strongly agree with the Christian Science Monitor which, in an editorial on May 20, points out that this is a middle-class program. It headlines its editorial: "Helping More Americans Save; Why the Senate Should Restore IRA's."

The suggestion that they made that I particularly like is that they said one means of getting greater participation among the blue-collar people and others of relatively modest means, for the President, for the leaders in his administration, and for leaders in large and small business to stimulate such participation, is to encourage more payroll withholding IRA plans. And I strongly agree that that is the way we should go.

But, again, the point I want to make is that this is indeed now a program for middle America. It is a program in which millions have made a commitment, not only for today but for the years ahead, to help ensure security in the years of retirement.

There have been a lot of studies made. And, of course, as you can in almost any economic discussion, you can find economists on any side of the question. As it has been said before, if you have 10 different economists, you will have 10 different opinions. And that is essentially true.

But in one of the careful studies made on the individual retirement program, a study by Prof. Steven Venti of Dartmouth and Prof. David Wise of Harvard, they conclude that most contributions are made by middle-income employees. They go on to say, approximately 80 percent are made by persons with incomes between $10,000 and $50,000. Persons with incomes greater than $50,000 contribute only about 10 percent of the total contribution.

These middle-class Americans that are establishing and contributing to IRA's are pretty typical Americans. As a matter of fact, the typical contributor is an individual of 50 years of age or older and with less than $10,000 in liquid assets.

Now a 50-year-old man or woman with only $10,000 in savings is by no means a rich man. He or she is a person of relatively modest means. And to find that that is the kind of person that is making the typical contribution, I think is a great testament to the success of this program.

In these days, when there is such concern about Social Security and private pension plans, we should indeed be grateful that millions of Americans are finding it worthwhile to contribute to an individual retirement account.

Now let me point out, Mr. President, that not only are these savings being made substantially by middle America, but they also represent new savings. There are a lot of people who are saying that they did not like these kind of programs in the beginning and they are never going to like them. Many of those who are such critics are trying to claim that the savings are not new savings but merely the transfer of one kind of savings to IRA's.

In one careful study that has been made of this, the situation shows otherwise. For example, IRA's, it is said, created $14 billion of new savings in 1983 and $18 billion in 1984. According to Martin Feldstein—who, of course, was, until relatively recently, the Chairman of the President's Council on Economic Affairs—according to Mr. Feldstein, in a recent Wall Street Journal article, dated May 19, 1986, we could expect this new savings to grow. And I would like to quote this reknowned economist who, once again, is teaching at Harvard University. He says this:

> Although some IRA contributions have been merely transfers from previously accumulated assets, careful statistical studies indicate that a substantial part of IRA contributions are a net addition to total savings.
>
> Moreover, many of those who initially financed their IRA contributions by transferring existing assets have exhausted their available funds, and now must reduce consumption and increase net savings in order to continue making IRA contributions.

□ 1200

He goes on to say that it would be a great pity if Congress eliminates the IRA deduction now when it is about to become even more cost-effective as a stimulus to savings.

According to Professors Venti and Wise, who I referred to earlier, those who make contributions to IRA's are found to be much more likely to have an overall increase in savings funds than those who do not make an IRA contribution. And they further state that over half of the money flowing into individual retirement accounts comes from new savings. Let me emphasize "comes from new savings." Thirty percent comes from money that would otherwise have gone to taxes, and only 10 to 20 percent would have been saved anyway.

So the record is there, Mr. President. The record is there that IRA's are helping to improve the savings record on the part of the American people.

Mr. President, one of the things that has greatly concerned me is the claim that the Senate Finance Committee bill treats IRA's almost as favorably as current law. Mr. President, that is not true. It is not the fact. The fact is that the revisions that were made in the Senate Finance Committee bill means in effect that we are taxing IRA's 20 to 30 percent, or to put it another way, they are being treated less favorably by 20 to 30 percent. To try to assert that IRA's come out as well or roughly as well under the proposed legislation as they are under current law is, in short, comparing apples and oranges. The fact is that to give a fair analysis, one has to compare the out-of-pocket costs for an IRA under present law with the proposed law.

Let us assume that an individual has $1,000 to contribute to an IRA. Let us further assume that this taxpayer is in the tax bracket of 50 percent.

When he contributes $1,000 for an IRA, under current law he can buy a $2,000 IRA; $2,000 IRA. If let us say, he is 50 years old, and he keeps it in the IRA until he is 70 for purposes of illustration, we will assume interest is paid at 10 percent, after 20 years when he reaches the age of 70, withdraws the funds and pays the taxes, he will get $6,727 on that IRA. Let us assume this very same taxpayer under the same economic conditions makes $1,000 contribution to an IRA under the legislation before the Senate.

This case, when he contributes this $1,000, he is only able to buy $1,000 IRA instead of the $2,000 IRA. After 20 years, again when the man has gone from 50 to 70, and withdraws the IRA, pays the current rate of taxation which would be 27 percent, what he

will net is $4,895. In other words, under current law he would get $6,727, which is substantially higher than $4,895, almost a $2,000 difference, or the IRA under the proposed law would represent 72 percent of the value under current law.

So that is significantly different. It is significantly different as the return to the taxpayer in a 50-percent bracket or 27-percent bracket under the revision would receive under these two approaches.

Now let us look at the other side of the coin where you have an individual taxpayer at the 15-percent tax rate. Under existing law, if that taxpayer again contributed $1,000, he would be able to buy an IRA amounting to $1,175, again assuming that he is 50 years of age, he gets 10-percent interest and he keeps in the program until age 70 at which time he withdraws it and pays the taxes. His IRA would be worth $6,727. However, if that same individual contributed that same $1,000 under the proposed legislation, and again kept it for 20 years, he would only get $5,668. So the little fellow who is in the 15-percent bracket gets a much smaller return on his contribution to IRA under the new proposal compared with current law, the contrast again being under current law he would get $6,727, and under the so-called reform he would only get $5,668.

So that essentially we are saying there is a loss of return of between 20 to 30 percent, a significant amount.

□ 1210

For that reason I strongly disagree and dispute those who would try to claim that an individual is relatively well off in an IRA under the proposed legislation as he or she may be under current law.

What they are overlooking—as I said earlier, they are comparing apples and oranges—what they are overlooking is the fact that the lower marginal rates apply to everyone. They apply to everyone irrespective of whether one is saving or whether one is consuming. He or she gets the benefit of the lower marginal rate. That is as it should be.

Mr. President, the whole purpose of the IRA is to encourage the American people to save. A primary means of doing that has been by making the contribution made to the IRA up front tax deductible. That is what has been changed.

Under current law when you make a contribution to an IRA, you get a tax deduction so that it is a tremendous advantage; whereas, under the Finance Committee bill one's contribution up front does not get a tax deduction. That is a significant change. It, very frankly, detracts from the desirability of making a contribution.

I say it detracts from two standpoints. The most important one being, of course, the fact that one is going to get a smaller return of 20 to 30 percent. But the second thing is I think people like that fact that if you contribute $1,000 to an IRA, when you make that contribution up front you get a tax deduction.

So I strongly agree with the Christian Science Monitor when it says that to change that up-front tax deduction would indeed be a most serious mistake.

Mr. President, one area that I have been concerned about in the tax reform legislation is that I do not feel it is what I call prosavings.

As I said last night, I am a strong supporter of the tax reform legislation, and I think it is a great tribute to the chairman of the Finance Committee that he was able to report out of the Senate Finance Committee a bill that does so much to bring about the kind of reforms that we think are necessary for the future success of this Nation.

I particularly like the fact, as JACK KEMP and I stated many years ago, of the reduction in marginal rates of taxation.

As I said last night, when JACK KEMP and I introduced our 3-year, 30-percent, across-the-board reduction in marginal rates some 10 years ago, we could get few supporters. In fact, when we called a press conference the only ones who attended were a reporter from each of our home States.

I think it is remarkable that some 10 years later we are continuing to reduce the marginal rates of taxation on the American people. As I have said on this floor many times in the past, I think it is important that we continue on this path because it means people will work harder, save, and invest.

So I applaud my chairman and I applaud the majority leader, BOB DOLE, who led the revolt, who carried out the tax reform of 1981.

As I indicated, I think few people thought, back in 1981, that we would see within a few years tax reform legislation that is dropping 6 million people from the tax rolls, those on the low end. I think few people foresaw when JACK KEMP and I introduced our across-the-board tax cut that in our proposal which is before the Senate today 80 percent of the American people will be paying at the 15-percent rate.

Finally, I think few would have foreseen the possibility that a marginal tax rate of 70 percent would drop to 27 percent.

I see standing along my side the distinguished Senator MATTINGLY, our colleague from Georgia, who I am proud and pleased to say was one of the first individuals, first as a private citizen but later as a Member of this Senate, to be a staunch supporter for the Kemp-Roth tax cut and for a continuation of this program.

None of this would have been possible if we did not have the strong support and leadership of people like this distinguished Senator from Georgia.

Mr. President, the reason I feel so strongly about this legislation is that it is not only profamily, but it is pro-America.

I have said it is profamily because it helps the American family to prepare for the future. I would say to those who would casually cast these aside that when the individual family decides to set aside these contributions in IRA, this is a major financial decision of that family. If you are within the $10,000 to $20,000 bracket, or $30,000 to $40,000 income, to set aside $2,000 is a very major decision.

But the important thing to keep in mind is that in doing so the typical American family is deciding not only to make a contribution that year but for the future years as well.

I am not saying that everybody is going to do so, but essentially the key decision that is being made by the American family when they establish the IRA is that they are going to prepare for the future by making an annual contribution.

Not only is this proposal profamily, but it is pro-America.

As I said, I think one of the most important challenges facing our Nation is to become competitive in world markets. The United States in the sixties and seventies had seen its position as an industrial leader eroded.

□ 1220

Other countries, especially the countries in the Pacific Basin, have shown that, in many cases, they are able to produce a topnotch product that can be produced at a lesser price than it can be produced in this country. As a result, we have been losing jobs—jobs for the young, jobs for the underemployed, and jobs for the unemployed.

Mr. President, this is a very exciting time. The world economy is going through a vast technological revolution that offers us the opportunity to provide the American people a quality of life never known before. If we are going to achieve that success, if we are going to meet that challenge, that means the United States must lead the industrial world, that we must have the most modern industrial facilities in the world to compete with the Japanese, the countries around the rim of America, West Germany, or wherever. We no longer can be satisfied to have our industrial facilities second rate, not to incorporate the latest technology, the latest information that enables a facility to produce a better product at a better price. Because if we are not No. 1, if we are not the most modern, then we are losing jobs and opportunities for the American people.

How have our competitors been able in the 1960's and 1970's to overtake us? A key to this success has been savings, national savings. The reason, for example, that the Japanese have, without question, the most modern industrial facilities in the world is that the Japanese people have a high saving rate of disposable income, something like 20 to 24 percent. It has been those savings by the individual Japanese family that have enabled Japan to buy the best technology in the world, many times American, incorporate it in their plants first, and produce the best product at the best price.

The reason the Japanese save is not because of cultural differences which some would like to rationalize as the difference in saving rates between the Japanese and ourselves and others, but primarily because, in their tax legislation or Tax Code, they have built-in incentives to save. There was a time, 30 or 40 years ago, where they only saved 10 percent. Now, as I said, they are saving something like 18 to 24 percent. It is these savings that have given them the wherewithal to provide the most modern industrial facilities that have made them so competitive in world markets.

I point out that not only is this true of Japan, it is true in the case of West Germans, who save roughly 14 percent. The United Kingdom saves something like 11.5 percent. The people of Canada, our near neighbors, save almost 15 percent, which is substantially over the 6 to 8 percent that we save in the United States. Interestingly enough, they did not always make such large contributions or such large savings, but many years ago, they introduced a retirement program not unlike our IRA's, that built in an incentive to save. So, today, instead of saving less than we do, they are saving more.

We must do the same thing. As I indicated, our savings of disposable income have generally only been 6 to 8 percent. The reason for this is quite simple. Unlike our competitors, our tax system has favored consumption over saving. Unlike our competitors, we have traditionally given middle-class America neither the incentive nor the wherewithal to put money away for tomorrow, to work for a secure future, to provide for financial peace of mind. The introduction of the individual retirement account did wage battle against this bias. I believe the time has come when the bias must end completely.

I believe the current bill, with its rate reduction, is a major move in the right direction. People should have more money to save and less incentive to buy on credit. But I also believe that by eliminating the incentive to save in individual retirement accounts, we are once again demonstrating a bias. We are turning our backs on a policy that only 5 years ago, we made out to be so critical. Moreover, as I said, it is a policy that has worked and has worked well.

Mr. President, I wish to point out that this proposal, the IRA Program, has staunch supporters, both in the media and from our constituents, from the American family. We have literally gotten hundreds and hundreds of letters and telephone calls from the people of my State of Delaware. Let me read a few quotes from these letters. The interesting thing is these are not letters sparked by some special-interest group. They are not form letters. They come from the heart.

A father of four from Wilmington, DE, writes:

America needs to encourage personal savings, not discourage them. I have found that an IRA, along with the payroll deduction plan where I work, is a good way to save for the future. I am looking forward to that money when I retire, but if the law is changed, I might not be able to keep on saving.

Another man writes:

It doesn't seem fair that we get a savings plan like the IRA, count on it for the future, and a short time later, the Congress wants to do away with it.

He goes on to say:

Our Government has been urging the people to save and plan for their retirement rather than relying solely on Social Security. Why does the Government now want to discourage people from saving? Abolishing the IRA would be a disincentive to save. The IRA is not a tax loophole but a broad-based program which helps all wage earners.

Still another letter from a woman from Newark, DE. She writes:

I am a woman who returned to the job market after many years of raising a family. I do not have that much time left to accumulate a vested interest in a pension. In addition, my husband is frequently transferred. I might work for a few years in a job covered by a pension plan, as I presently do as an employee of the State of Delaware, and then have to move and start over again in another plan.

Although I am married, one cannot foresee the future. I want to be independent and provide for my own retirement, and I have been counting on IRA's to help do that. To do away with IRA's unintentionally discriminates against women, since we are the ones who find it most difficult to build up assets in a pension plan.

□ 1230

Mr. President, as I mentioned, there are many, many editorials in strong support of retaining the IRA in its present form. For example, in the Montgomery, AL, Alabama Journal, an editorial says:

Most of those who benefit from the IRA's are people of the middle class. The investments are an excellent vehicle for building independent pensions. This is most desirable because Social Security and company plans are rarely sufficient to replace the income of an employee active in the work force.

Again, in an independent paper in Texas, it is editorialized:

Know the IRA is the friend of the middle class. In addition the IRA is also the friend of the wage earner and should be preserved for some very important reasons. First, having an IRA means that a wage earner will be systematically setting aside money for retirement which in turn means that he or she will not be totally dependent on Social Security, thus lessening the terrible strain on the already overworked system.

Second, while funds deposited in IRA's now may mean reduced revenues, they also mean guranteed additional tax revenues in the future. It is important to remember that an IRA is not a tax avoidance plan, but rather, one of tax deferral.

A San Francisco paper writes:

The one weakness in the reform measure is its proposal to eliminate the tax advantage of the popular Individual Retirement Accounts. The IRA's have encouraged savings which makes more money available for investment in the economy. In that regard they serve the same purpose as reducing the top rates. If the IRA proposal is dropped from the plan it will improve an otherwise first rate plan.

Mr. President, I could continue to read from these various editorials from throughout the country, and I may do that at a later stage, but the one common theme is that the tax reform legislation is excellent, that it ought to proceed, but a good bill can be made better by saving the IRA.

Mr. President, I ask unanimous consent to have the distinguished Senator from Wisconsin [Mr. KASTEN] be added to the four amendments that would preserve the IRA.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. In closing, let me say, Mr. President, I think it is of critical importance for the reasons I have already outlined that we promote savings in the United States. The IRA has been a major step in that direction, a step that has been amazingly successful. I will be candid with you. I do not think it goes far enough. As I said last night, I think housewives, homemakers, as people who contribute so much to the welfare of our Nation, should be entitled to a full IRA. I believe, rather than beginning to withdraw some of the benefits of IRA, we should be moving the opposite direction, improving the incentives for savings, because the savings not only help the individual American families who are putting the funds aside, they help all Americans because it will mean jobs in the future for the young and the unemployed.

So, Mr. President, I am happy to be the principal sponsor of this resolution, a resolution cosponsored by several other Senators, including the chairman of the Finance Committee and the majority leader, Senator DOLE. As I said, I think it is important we have an overwhelming vote in favor of this resolution, I hope 100

percent, because it is going to be important that we have this strong commitment to IRA's so that when the final legislation is shaped in the tax conference we find we are moving forward on savings rather than back. I yield back the floor.

Mr. MATTINGLY addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MATTINGLY. Mr. President, I am proud and pleased to rise as a cosponsor of the Roth amendment. As Senator ROTH stated earlier, back when I was in the private sector I was one of the early sponsors of the Roth-Kemp tax cut legislation which cut tax rates by 30-percent across the board, and I am as proud now as I was then to be sponsoring and supporting this price of legislation. Back then, the Roth-Kemp proposal, which later was passed into law, worked, and this tax reform legislation we have before us today, is going to work also.

As I have continually stated during the long debate on tax reform, in my view, any bill that passes the Senate and the Congress must encourage and promote investment, jobs, economic growth, incentive, hope, opportunity, trade, and equally important, it must encourage savings. I believe the bill we are considering on the floor encompasses those goals. However, there is one provision in the bill which greatly concerns me and many of us, the provision which eliminates the deductibility of the Individual Retirement Act, the IRA, for persons with a retirement plan.

Mr. President, IRA's are a proven, powerful savings vehicle for Americans, especially middle class Americans. Over 28 million households have an IRA. As the program for middle income Americans who desire to make a modest contribution toward their retirement, there is absolutely no doubt that IRA's have encouraged not only savings but thrift. It is a magnet for savings. They are the best incentive Americans have to save. They are for everyone.

The huge growth in IRA's over the years since they were established is proof that Americans will save if given a reason to do so. To put it simply, IRA's are good public policy. The plan has worked. It has worked beautifully. Therefore, Mr. President, it is my view that any effort to scuttle the IRA Program in any way would be a major mistake, with what I believe to be very grim consequences. The IRA is too good an idea to waste.

I am pleased to cosponsor the Roth amendment. Let me make one thing perfectly clear. The one purpose of this amendment, the only purpose of this amendment, is to strengthen the IRA. It is my belief that the best opportunity we have to keep the IRA as an effective tool for Americans is to have a strong and firm commitment by the conferees that they will preserve and strengthen the IRA deduction when they meet with the House of Representatives. This amendment is designed with that result in mind, and this amendment will do just that. I feel very strongly about the retention of the IRA deduction, and I am confident that the conferees will keep the commitment embodied in this amendment.

□ 1240

Because I believe so strongly in the importance of the IRA, Mr. President, I will also carefully examine any other additional amendment offered on the Senate floor that would restore the IRA deduction. I hope an amendment will be offered that I can support and which will have the support of a majority of the Senate. If that is not the case, the amendment we are voting on now will send a clear signal that the Senate demands that the IRA be retained as in current law.

Mr. President, IRA's have proven to be an extraordinary success. They are doing just what they were designed to do, and doing it well. IRA encourages Americans to save.

The IRA's make it easy to save. As I said before, they are like a magnet to the American public to encourage them to save. Therefore, I believe it must be preserved, and that is the reason I support this resolution and this amendment.

Mr. DANFORTH. Mr. President, I compliment the Senator from Delaware for a characteristic initiative of his. I think two qualities that characterize Senator ROTH are, first, that he is a fighter and, second, that he is a team player. Through this initiative, he has demonstrated yet again his ability to fight, and fight hard and fight effectively, for what he believes in, and at the same time to work with the team and try to build something that is good for the country.

I have to say, Mr. President, that I have not been one who has shared the enthusiasm of most of my colleagues for the concept of the IRA. But Senator ROTH has. I sit next to him in the Senate Finance Committee; and in the Finance Committee and in the Senate as a whole, he has been the leader in the battle to preserve the IRA's. He feels very strongly about it, and he fought for his position in the Finance Committee, and it is so again on the floor. He is also a team player, and he recognizes the importance—almost the revolutionary importance—of what we are doing in this bill.

The idea of passing a tax bill which moves individual rates to 27 percent and 15 percent and corporate rates to 33 percent is truly a revolutionary concept. The Senator from Delaware supports that concept, and he wants it preserved.

The tax bill as a whole, what was reported by the Finance Committee, is more vulnerable to amendment than any other tax bill since I have been in the Senate. The principle of revenue neutrality makes it so. In past years, we could just decorate the tree with all kinds of ornaments. We cannot do that anymore, because we have recognized the principle that when you offer an amendment that costs revenue, you have to pay for it. Therein is the problem with respect to IRA's.

To spend $26 billion or $27 billion for full restoration, something less than that for partial restoration, of IRA's is not free anymore. There is not any free lunch. You have to pay for it.

Senator ROTH has recognized that. He has worked hard to try to find ways of paying for the IRA's, as have other Members of the Senate, and he has also seen that there is no noncontroversial way of doing that. Every approach, every idea he could produce, goes right at the heart of the coalition, now some 700 organizations, that has banded together in a common effort to pass this tax bill.

So he was trying to balance his vigorous support for the retention of IRA's and at the same time the practical necessity of getting this bill through the U.S. Senate. He has found the way to do it, because, regardless of what we do, IRA's are going to be on conference.

The basic mission here on the floor of the Senate for those who support IRA's is not so much to craft some precise amendment which will destroy the coalition supporting this bill, but, instead, to sign up those who are going to be conferees on the bill and to commit them to do their best to support the idea of IRA's in conference, and to provide a clear signal for Members of the Senate, not for some complex scheme to take from one group and give to another group, but a clear message for the concept of supporting IRA's in conference. That is what Senator ROTH has done.

As one Senator who is likely to become a conferee—I have been a conferee in past tax bills for a number of years—and as a person who has not really been very supportive of IRA's in the past, I look forward to working with Senator ROTH in conference. He will be sitting next to me in conference, as he does in committee. I know that his elbow will be in my ribs, and I look forward to working with him as we work together to do something for IRA's.

My own view is that, at least for those who do not yet have vested employer-paid pension plans, that is a special group that I think deserves our special consideration when we go to conference.

I want to support Senator ROTH in his efforts, and I compliment him for what I think is a very practical way out of a difficult problem.

Mr. CHILES. Mr. President, the Finance Committee will eliminate the deduction for the IRA contribution for all individuals who are covered by private pension funds. About 75 percent of Americans who now have IRA's would be unable to deduct their initial contribution. That is about 25 million Americans, including about 750,000 Floridians.

I believe that the Finance Committee's approach is wrong. All Americans should be allowed to save for their retirement by deducting IRA contributions.

I like the thrust of this bill. I have been concerned about it because we were told initially that you could not do anything about IRA's without changing the rate structure of this bill, that you would have to go up so much from the 27 percent. I think the people in Florida like the 27 percent top rate, but I am now convinced that we can preserve the IRA deduction for the 25 million Americans, including the 1 million Floridian taxpayers who use it, without fundamentally destroying the tax bill.

We do not need to raise individual tax rates to restore the IRA deduction. One way to do this would be to allow taxpayers a 15-percent tax credit for their IRA contributions. In this way, all taxpayers would receive the same up front tax break from the IRA contribution, but the benefits would not be tilted to the wealthy.

New evidence indicates that the IRA's add to our Nation's savings. Over half of the funds that go into IRA's represent an addition to national savings. This is critical for capital investment and international competitiveness.

People are going to decide whether or not they will make that initial up front saving on the basis of whether they get the deduction. If they do not get a deduction, they will not put their money in, and we will lose their money for the national savings this country needs. I think we can keep the IRA deduction.

Mr. BRADLEY. Mr. President, the choice of tax reform is that you get lower rates in exchange for giving up certain credit exclusions or deductions, loopholes; that you give up those loopholes which only some people use, so that the tax rates on everyone can be lowered dramatically.

The second aspect of tax reform is that everybody is going to pay their fair share. Today, special interests get away with paying no tax. But everybody pays their fair share, you eliminate loopholes that a few people use, and you cut tax rates of all taxpayers.

□ 1250

Mr. President, that brings us to the present debate about IRA's.

About 3 weeks ago I received a circular in the mail that said "Warning—someone in Washington wants to kill your IRA." And it went on to say that the Senate was about to eliminate IRA's.

Mr. President, there is nothing farther from the truth.

Mr. President, it is not surprising that this circular was paid for by one of the groups that sells IRA's. The truth, however, does not lie in this circular. Someone in Washington is not trying to kill your IRA. Instead, the Finance Committee passed a tax bill that cut tax rates for 100 million taxpayers, and part of the price of cutting tax rates for 100 million taxpayers was to modify the way the IRA is treated under the tax law.

First, let us summarize what the bill does with regard to IRA's.

If you are one of those Americans who only has Social Security, you do not have an employer-paid pension, then under the Finance Committee bill you can continue to deduct up to $2,000 for your IRA.

Now out of 15 million tax returns that took the IRA in 1984, about 5 million of those returns fit into this category. For those 5 million returns, there is no change in the way the IRA is treated. They may continue to deduct up to $2,000 for their retirement because they have no other retirement income other than Social Security.

Second fact: If you are one of those lucky Americans who have over the last 4 years earned enough money to put away $4,000 each year for you and your wife into an IRA and you are lucky enough to see that grow to $24,000 and it will continue to grow and earn interest tax free, this bill does not touch that $24,000. This bill allows you to continue to earn interest on that money that you put away in the last 4 years.

The third fact: If you want to continue to put away after tax dollars into an IRA account, you can continue to earn interest under this bill tax free. You can take money out of the savings account and put it into an IRA account and earn interest tax free.

Point 4: Under this bill if you work for an employer that offers 401(k) retirement plans that allow the employer to put away up to $7,000 tax free, you may continue to do that. If you are in the group of taxpayers, about 10 million, who will no longer have their deduction for the IRA, you may tell your employer, "Would you please put $2,000 away for me off the top in a 401(k) plan?" If you do that, you will be made whole under this bill.

In addition, fact 5: This bill took a major step toward bringing more Americans under employer-paid pensions by reducing the number of years for vesting from 10 to 5 years, which means many more Americans, in particular women, will be covered by their employers' pension plan.

(Mr. GRASSLEY assumed the chair.)

Mr. BRADLEY. So, Mr. President, this bill preserves the existing treatment of IRA's for about 5 million of the 15 million taxpayers who now take IRA's. For another 5 million of those 15 million taxpayers, they will easily shift over to taking the same benefit from a 401(k) plan. So what we are really talking about here are 5 million taxpayers out of 100 million.

As we discuss what we did in the Finance Committee, I happen to think that this change in the IRA deduction is worth making in exchange for giving four out of five taxpayers in this country a 15-percent tax rate.

But let us look at the 15 million tax returns of people who took an IRA. Who are they and who benefits, Mr. President?

Well, overwhelmingly, we have heard on the floor of the Senate that we must not change the way the IRA is treated because this is a middle-class savings program.

Mr. President, there is no doubt that it is the upper-income individuals who use the IRA's the most and who get the biggest tax benefit. Earlier in the debate, I have referred to a chart. That chart lists who the taxpayers are in this country and, as you see, about 32 percent of the taxpayers earn under $10,000 a year; about 21 percent of the taxpayers earn between $10,000 and $20,000; about 32 million taxpayers earn between $20,000 and $40,000; and above $40,000 in income are 15 percent of all taxpayers.

So, let me repeat: 85 percent of the taxpayers earn under $40,000 in income; 15 percent of the taxpayers earn more than $40,000 in income.

So now let us look at the IRA deductions. Whose returns get the IRA deduction?

Well, 40 percent of the IRA deductions are claimed by people making more than $40,000. In other words, of the claimants of those tax returns who took an IRA deduction, 40 percent of those are taken by 15 percent of all taxpayers, those taxpayers making more than $40,000.

What about the total amount of dollars contributed. That same 15 percent make half of all the dollar contributions to the IRA's. And that same 15 percent, earning more than $40,000 a year, realize 60 percent of all the tax savings.

Now, Mr. President, it is understandable why the upper-income IRA deductor gets the biggest tax benefit. It is because under the current law for every dollar of IRA deduction they save 50 cents in taxes, and that means,

of course, the further you go down the income scale, the less you save in taxes. And under any circumstance in the tax reform bill, the IRA deduction will be worth no more than 27 cents because the top rate will be 27 percent.

□ 1300

So what does this chart say, Mr. President? It says that the upper income, those making more than $40,000—15 percent, the top 15 percent of the American taxpayers—take 40 percent of the deductions, contribute 50 percent of all money contributed to IRA's, and realize 60 percent of all tax savings. Mr. President, this chart also reveals a number of other interesting things. What amount is contributed on average? What amount is deducted on average for different income levels?

Mr. President, at $30,000 income level, about midway between 20 and 40, the average IRA deduction is $140. That deduction saves the average $30,000 taxpayer $53 in tax. The $30,000 taxpayer takes on average $140 IRA deduction and saves $53 in tax.

Well, what about the $75,000 taxpayer? The $75,000 taxpayer takes a deduction which, on average, is worth $2,000 and saves roughly $318 in tax. This simply illustrates the earlier point. The bulk of the tax savings is at the upper end of the scale because they deduct more and therefore save more in tax.

Mr. President, if you then look at where all the taxpayers are, at what income level, you find households with $100,000 in income are 10 times more likely to have an IRA than are households earning $30,000 in income; 10 times more likely.

Mr. President, we have heard a lot about whether this is new savings. Well, the Brookings Institution did a very interesting study about IRA's. They showed that the purpose of an IRA initially was to encourage wage earners to save. If you compare the tax returns, however, of those taxpayers who have wage income only with tax returns that have $1,000 or more of interest and dividend income, you find that the taxpayer with sizable interest and dividend income is nine times more likely to have an IRA.

So what does this tell you, Mr. President? What it tells you is that a family making $20,000 a year—that family making $20,000 a year and not having much entertainment other than the playground and the public park and not having any spare money to take and not having many itemized deductions or in some cases no itemized deductions—that that family is much less likely to take an IRA than is a family with a sizable portfolio of stocks and bonds.

So, Mr. President, there is no question that the IRA provides the greatest benefit to the 15 percent of the taxpayers who earn more than $40,000 in income. In tax reform jargon, that is called vertical equity. The benefit goes to the upper income.

But there is also something called horizontal equity—that is, what about taxpayers earning the same income? Well, let us take taxpayers earning about $50,000. One-half of all taxpayers earning $50,000 do not take an IRA. Seventy-five percent of all taxpayers earning between $20,000 and $30,000 do not take an IRA. Ninety-five percent of all taxpayers earning between $10,000 and $20,000 do not take an IRA.

Well, what does this tell you? This tells you that not only is there vertical equity, the bulk of the benefits being at the upper income levels for IRA deduction, but, even among those groups where there is the same income, as you move down the scale, you find a larger and larger percentage not taking the IRA deduction. And if one of the principals of tax reform is that equal incomes should pay about equal tax, the IRA deduction says that those people making $30,000 a year taking an IRA deduction will pay less tax and equal incomes will not end up paying equal tax.

So, Mr. President, that is the first point I would like to make—that the IRA benefits primarily individuals making more than $40,000 and it frustrates the goal of tax reform, which is equal incomes paying equal tax.

Now, what is the Senate saying to the American people when we put an IRA deduction in the code? What we are saying is that we favor savings for retirement over savings to buy a new home. We favor savings for retirement over savings to send a child to a parochial school, or savings to send a child to college, or spending the money in support of an elderly parent.

Mr. President, with an IRA deduction, we are giving preference to this type of retirement savings, even though there is a plethora of other incentives for retirement savings.

Just giving a quick scan over the code, you find that it is possible for a family to have six or seven different pension plans. For example, you could have a 401(k) plan. Your employer can deduct up to $7,000 tax free off the top. If you have a spouse that works as a teacher or public employee, you could have a so-called 403 plan that will deduct sometimes as much as $12,000 off the top. If you have a little self-employment income, you could have a Keogh Plan. If you work for a company, you will have the company pension plan. If your spouse works for another company, you will have two company pension plans.

If you are like an increasing number of Americans who, in their work life, work for two companies, you could end up with two company pension plans. If your wife or husband worked also for two companies, you could end up in a family with four company pension plans. And that is all before we even get to the question of Social Security.

So that you could find a family with a 401(k) plan, a 403 plan, a Keogh, two or three or four company pensions, and Social Security.

□ 1310

Now, on top of all of that incentive for savings for retirement we have the IRA. Mr. President, the change in the IRA that is made in this bill—let me reemphasize this bill does not kill the IRA—the small change in the IRA, is in my view well worth making in order to get the tax rate down to 15 percent for 4 out of 5 taxpayers.

I would like to go on to the third point. There has been a great deal of talk about the IRA being a major saving incentive. Notwithstanding the data that I spoke of earlier where the Brookings Institution shows that people with wage income alone are much less likely to have an IRA than people with interest on dividends thereby applying a shift from savings accounts to IRA, but the claim is the savings rate will go up as long as we have an IRA.

The fact is that last year the savings rate in this country was 4.6 percent of disposable income. That is the lowest since 1949. Indeed, there is compelling evidence that with the IRA what happened was individuals took their money from savings accounts and put them into IRA's. Who would not? You pay tax on the interest in the savings account; you do not pay taxes on the interest in the IRA account.

We are all visited by constituents. About 2 weeks ago my New Jersey realtors visited Washington. I met with them—about 400 or 500. They are dedicated, hard-working New Jerseyites. They were obviously concerned enough to ask questions about this tax reform bill. One of the realtors raised her hand and said, "Senator, if you eliminate the IRA deduction"—by the way, we do not eliminate the IRA deduction. What she meant was if you change it so that about 5 million people out of 100 million taxpayers cannot deduct the IRA—"there will not be savings," she said. "If there will not be savings we will not have money for mortgages, and that will make my job more difficult."

Let us pause and think about that. The bulk of the savings is put into banks, into funds that earn interest, that taxes are paid on. And under the current law the top rate on interest income is 50 percent. The top rate will drop to 27 percent under this bill. For 4 out of 5 savers in this country, their tax on interest income will be 15 percent, not 33 percent or 28 percent, as it is under current law—but 15 percent.

So, Mr. President, the savings rate in this country will go up. It will go up, not because of an IRA deduction but because of lower tax rates—lower tax rates that tell people you will keep more of the money you earn if you work, and if you save.

Mr. President, a final point: Let us take two taxpayers, one under the current system, and one under the tax reform system. Let us take each of these taxpayers, and compare what their result is when they retire. Let us take a taxpayer who is now earning enough money to put $2,000 away. That $2,000 earns interest at 10 percent.

Let us say that taxpayer puts $2,000 away for 30 years. After 30 years, he will amass $361,887. In order to maximize his aftertax position, he will withdraw the money and pay the tax, and he will have left $246,000.

Let us take that same taxpayer, let us say the taxpayer is one of the 5 million out of 100 million Americans, and out of 15 million IRA deductors. Let us say it is one of the 5 million Americans who lost the up front IRA deduction. Let us say that taxpayer is in the 15 percent bracket. What will happen is the taxpayer will take the $2,000, pay the 15 percent, end up with $1,700. And for 30 years the taxpayer makes a $1,700 contribution to the IRA where it earns interest tax free.

At the end of that 30-year period that taxpayer will have $307,000. And the $307,000 will then take away from that the money that he contributed because he already paid tax on that money and then pay at the current rate—the lower rate of 27 percent under the bill. That means that taxpayer will end up after 30 years of putting away $1,700 a year with $238,000 in retirement aftertax income.

Mr. President, what that means is that the taxpayer under the new tax reform bill who will be paying the much lower rates of tax will end up with 97 percent of the after-tax value from an IRA investment than he will if he was under the current system.

Mr. President, let me just summarize. The IRA benefits flow overwhelmingly to the top 15 percent of the population, where the average tax benefit for someone making $75,000 a year is $318, and the average tax benefit for someone making $30,000 a year is $53.

The IRA also does nothing to reduce the disparity where equal incomes pay far from equal tax. To the contrary, it accentuates that disparity.

Next, the IRA favors upper income retirement over a family struggling to save enough to buy a home or send a child through college. Finally, the IRA does not increase overall savings.

Mr. President, the bill before us does not kill the IRA. It affects about 5 million of the IRA returns. What the bill does is trade off a slightly reduced IRA for under 10 percent of the taxpayers in order to give 100 million taxpayers lower rates. It means giving 100 million Americans the freedom to decide whether they want to put what little they save into a third or fourth or fifth or sixth or seventh pension, an IRA, or whether they want a savings account to buy a new house, or a special account to send children through college.

This bill means serving the general interests, not the narrower interests. It means getting rates as low as possible for as many Americans as possible, so that they can keep more of the money they earn to provide greater security for their family and for themselves.

Mr. President, I think what the Finance Committee bill has done is an important piece of work that sends a positive message to all of the American people, provides real tax relief over the long term to the backbone of this country, middle-income people, takes 6 million low-income people off the tax rolls, and stimulates what I believe will be unparalleled economic growth.

I yield the floor.

□ 1320

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, first, I want to take this opportunity to commend the able chairman of the Finance Committee, Senator PACKWOOD, for the outstanding leadership he has provided on this tax bill. I would also like to commend the able ranking member, Senator LONG, for the splendid cooperation he has given on this bill and the excellent manner in which he has handled the situation in connection with it.

I would also like to commend the able Senator from New Jersey [Mr. BRADLEY] for the imaginative ideas he came up with in connection with this bill, and the others who have worked to bring the tax bill to the Senate which the Senate could accept, the Congress would pass, and the President would sign.

This is indeed a marvelous piece of legislation. Many people doubted that such a bill could be reached that would meet the approval of the Senate, meet the approval of the House, and be signed by the President.

This bill we are now considering, in my judgment, will meet those specifications and requirements.

I want to commend Senator ROTH for his resolution in connection with the IRA's. Senator ROTH is the father of the individual retirement account, and the IRA has served many people and has enabled them to save money for old age, for retirement, or other purposes, and has been very beneficial to our country.

A solid vote in favor of this resolution will send a strong message to the conferees to do all they can to protect IRA's.

If an amendment were offered instead and defeated, the conferees' bargaining position would be weaker and, therefore, I think Senator ROTH, an outstanding leader in behalf of IRA's, is to be commended for not offering an amendment but offering a resolution, as I explained.

IRA's are important and I believe this approach is the best way to protect them while at the same time ensure that income tax rates remain low for the average American taxpayer.

Mr. President, I hope the Senate will see fit to pass this tax bill soon. I feel it will be in the best interests of this Nation and will reduce the rates to 15 and 27 percent. Eighty percent of the people will fall within the 15 percent, and this will be of great benefit for the people of this country and, in my judgment, will improve the economy and will tend to promote our private enterprise system in this country, which is so important to all the people of this Nation.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. D'AMATO. Mr. President, I have heard a number of my colleagues rise and support IRA's and their retention.

Mr. President, I wish I could be supportive of this resolution, but I have some reservations because I think what we are doing here is saying one thing, leading the American people and some of my colleagues to believe that this resolution puts the Senate on record as fighting to retain the individual retirement accounts when, in fact, it is a very real question as to whether or not it accomplishes that goal.

I have to raise the question of, how can you restore any significant portion of the IRA's when at the same time the second-degree amendment to the amendment offered by Senator ROTH says specifically that the retention of the tax benefit of individual retirement accounts should be accomplished in a manner which does not adversely affect the tax rates or the distribution by income class of tax reductions otherwise provided for in the Tax Reform Act of 1986.

Under what mysterious method are we going to find $14.8 billion or $26 billion? I use the $14.8 billion figure as the 15-percent tax credit which has been suggested by some as a compromise. Or the full restoration of IRA's which is in the area of $25 billion to

$26 billion? How do you effectuate that kind of change without bringing about a change in the distribution by income class of tax reduction or otherwise?

I see the chairman of our Finance Committee is here. I would ask him if this is possible. How could it be accomplished?

I will also ask if I might, does the chairman intend to support this resolution?

Mr. PACKWOOD. Absolutely. I regard a sense-of-the-Senate resolution as something of consequence. Last night people were saying, "It is a piece of paper. Do not pay any attention to it. We do it in this body all the time. We do it in foreign relations. We do it in treaties." I regard action taken on the floor as significant and I will try to preserve it.

Mr. D'AMATO. I wonder if the chairman would care to respond to what I see as a flaw if not an impossible situation in offering an amendment which talks about retaining IRA's but then ends with the caveat that that retention can be achieved only if it does not adversely affect the tax rates or distribution by income class of tax reductions otherwise provided.

Mr. PACKWOOD. No. 1, anything that is going to change the tax rates, anything that will increase the rate of 15 to 16 percent, will be opposed. Anything that increases the 27-percent rate I will oppose. Anything that increases the 33-percent rate I will oppose. I will not accept tax increases, period. We have been trying and trying and trying in this bill to get rid of deductions and the tradeoff is lower and lower rates. I understand on any kind of a free form vote, anybody who wants to could say, "Do not worry about how to pay for it, but put back in the capital gains, whoopee; let us put back in IRA's, whoopee, all the things we like. Do not worry about paying for it."

I will stand firmly against increases in the rates. It is the best thing we have done in years. If the sense-of-the-Senate resolution passes I will go to the committee and say, "Here are the strictures we have been given. We have three or four scenarios of how to meet those." My hunch is they will come up with it.

Mr. D'AMATO. I have to say I have no quarrel with the limitation on not increasing the maximum rates as it relates to individuals or corporations, or to change the 15-percent rate, to tamper with that, but I am concerned about the language that also says not only rates but "or distribution by income class of tax reductions otherwise provided for." Would that necessity make it impossible, then, to provide for these dollars because income classes in effect will be affected as a result of the addition of $14.8 billion or $26 billion?

Mr. PACKWOOD. On your question, if we were directed by the Senate to come up with an answer to the IRA's that met two tests, not increase the rates, and do not change the income distribution between the zero and $10,000 class as in the bill and the 20 to 30, could we do it? Yes, it could be done. We could draw it in such a way that it would disproportionately change the income distribution of any class, poor, or rich, from those in the bill.

Mr. BAUCUS. Will the Senator from New York yield on that point?

Mr. D'AMATO. For a question.

Mr. BAUCUS. For a question, yes.

I would like to ask the Senator from Oregon, the chairman of the committee [Mr. PACKWOOD] if the sense-of-the-Senate resolution is passed saying that any change in IRA accounts be accomplished in a way that does not adversely affect rates or income distribution, would also apply to any other potential change in the tax bill in conference?

My point is that if any change in rates and income distribution is sacrosanct, why do not those same limitations apply to any other potential change that may occur in conference?

This resolution says that in conference, sure, we'll try to obtain maximum IRA benefits, but in a way that does not affect rates or income distribution. It seems to me on any other matter that comes before a conference, the conferees are going to be faced with that same question and in all probability, the conferees are going to report back to the Senate a tax bill which does change rates and which does change distribution.

If these criteria are so important in this case, why are they not equally important for other provisions? And would the Senator support a sense-of-the-Senate resolution saying that when the conference report comes back, there will be no change in distribution and no change in rates?

Mr. PACKWOOD. Mr. President, as far as I am concerned, the best of all possible worlds would be to go to conference and adopt the Senate bill 100 percent, just the way it is. I think it is a superior bill to the House's. We have no alternative between our bill and their bill. I think ours is better. I think, by normal public comment, ours is better.

The Senator from Montana has been to conferences as often as I have. It is a give and take. I would like to be able to stand firm and say we are not going to make any changes in distribution because ours is better; we are not going to make any changes on rates, because ours is better. I will stand as firm as I can on rates and hope to come back with no change in the distribution.

I have gone to conference with a bill that the Senate has passed 100-to-0 instructing the Senators on the conference committee not to budge and we have come back having budged. So, much as I would like to hold exactly what we have and fight for what we have, there is a point beyond which I would not go; I would rather have no bill. But as far as the admonition in the sense-of-the-Senate resolution is concerned, I am going to regard the Senate bill as we go to conference as what I am going to be striving to get anyway, including the distributional effects in the bill as it is.

Mr. BAUCUS. It seems to me that this sense-of-the-Senate resolution which the Senator supports is at best internally inconsistent and at worst prejudices the case against helping IRA's. That is, on the one hand, it says, yes, maximum benefits; on the other hand, it prescribes a very tight limitation that does not apply to any other provision in the tax bill or any other potential changes in the bill that may come back from conference.

At best, it is internally inconsistent. At worst, it is discrimination in favor of other provisions that may be enacted because other provisions are not subject to that same limitation.

I frankly have a hard time understanding this resolution. First, it is words, just words.

Mr. D'AMATO. Mr. President, would the Chair clarify that I do have the floor and would like to protect that right?

Mr. BAUCUS. I apologize to the Senator from New York. I am trying to help the Senator from New York.

The PRESIDING OFFICER. The Chair clarifies that the Senator from New York does have the floor.

Mr. BAUCUS. I thank the Chair. I apologize to the Senator from New York.

Perhaps the chairman can give his response to my question to the Senator from New York.

Mr. PACKWOOD. First, Mr. President, I shall try to do all I can in the conference to keep the bill with the distribution and the rates as we would any other bill that we take to conference. I regard this sense-of-the-Senate resolution as absolutely congruent with any other position I would have about any other provision of the bill.

Mr. D'AMATO. Mr. President, I appreciate my colleague from Montana raising that question. I agree with him. This amendment is absolutely and totally inconsistent in the first part and the second-degree amendment to it makes it absolutely worthless.

Why do I say that? I think my colleagues would come down here and vote overwhelmingly for it if they think they are voting to instruct the conferees to keep, retain IRA's and to

include them. I have two questions: Why do we not do it now? We have offered the leadership, the chairman of the committee, the opportunity to work with them in structuring an IRA that they feel will be within the confines of that which is acceptable, not raising rates, not affecting adversely the income distribution, but to put into this amendment that language.

Let me read it:

The retention of tax benefits of IRA's should be accomplished in a manner which does not adversely affect the tax rate or distribution by income class.

I would like to know how that is possible. It is impossible. It is an inconsistency. If you are going to take $15 billion and redistribute it or $30 billion and redistribute it, the income class has to be affected. Consequently, it flies in the face of what we intend.

What we have done is put in a condition precedent to this amendment becoming effective that can never be met. It just simply cannot be met. It is hocus-pocus. It is saying I am for this if no one else's rates or the income will not be touched whatsoever in the rest of the bill. That is then actually saying we are doing nothing. That is how I read this. No one has explained it to me differently.

The amendment would not permit Congress to accept any plan that makes the rich—we hear about the rich, the super rich—pay even a nickel more. No, because that is affecting the income distribution. So, despite the good intentions of the conferees, the wording of the resolution would not permit saving IRA's with any increase in revenue offset.

We understand that that is a condition. You have to keep the bill revenue neutral. But if there is any increase in revenue, it is worse. The higher revenue is paid by someone, whether an individual or corporation, and that changes the income distribution. Thus, to those of us who say the resolution is irrelevant, I have not heard an answer to my satisfaction.

I know this resolution will pass no matter what we say, but I think the Members should understand that a vote will follow this substance of IRA's and the public should not be deluded because someone comes and says, "I voted to instruct the conferees to retain IRA's." The fact of the matter is that the Senate Finance Committee has the full confidence of the Members of the Senate and would be delighted to see them do something now that we do not put in the form of a legislative initiative. I think we could accomplish that in a matter of hours. We could end this debate. There are any number of methods by which to raise the revenues sufficient to retain IRA's.

It is not good enough to come to the American people and say, IRA's are wonderful, IRA's are good, we want to keep them, yet come out with a bill that effectively disenfranchises or makes it impossible for 20-plus million Americans to continue their IRA's. I simply think that the American people are going to see through that because it is a hollow attempt to say we are for something but yet, we do not really have the resolve or the ability to include it here, where we can control our destiny, as opposed to going into conference where the conferees can come back and say, "We could not get it this way, it would have meant a change in income distribution or higher tax rates and the amendment was passed with that caveat, that that not be undertaken."

I do not think the leadership should be afraid of an IRA amendment because it seems to me there are very few, if any, amendments that are going to pass. This amendment will not unravel the bill and it is false to say to the American people that if we accept this amendment, the entire bill will be in jeopardy. Mr. President, that is not the case. This Senator goes on record once again, and I do not know any of my colleagues who have been pushing for retention of IRA's who do not share a similar sentiment.

We want this bill passed. We think it is a good bill and this will make it a better bill. It does not make sense to say to middle-income America, to say to them, we think we have given you a good bill, we think you have retained your maximum rate of 27 percent and you should not look to it to be improved.

The fact is there are people in the $30,000 to $40,000 range who do not own homes who will be paying higher taxes with the loss of IRA's, with the loss of IRA's, with the loss of IRA's coupled with the loss of deduction of the State sales tax—that happens to be a fact. My State will be one of those who comes out a net loser if we do not retain the deduction on sales tax and the IRA. That happens to be a fact.

Who loses? Not the wealthy people, not the people I hear several of my colleagues talking about who are getting all the breaks, the people who earn over $100,000, over $200,000. No, the people who will be hurt are the people who do not make out nearly as well as those in the upper brackets.

So, Mr. President, while this bill is a great improvement, I think we can still make it better.

□ 1340

The Senator from New Jersey is not here. I know there are other of my colleagues who will take the floor, but I would be remiss if I did not—and I am going to continue to raise this—talk about this book, the President's Tax Proposals to the Congress for Fairness, Growth and Simplicity, May 1985, page 340:

REASONS FOR CHANGE

The tax benefits applicable to IRA's are intended to encourage individuals to save for retirement. Savings for this purpose also contribute to the formation of investment capital needed for economic growth. For many individuals, including individuals who are covered by employer-maintained retirement plans, IRA's may play an important part in an overall strategy to provide for retirement security. The use of IRA's for retirement saving should thus not only be encouraged, but made available on a broad and consistent basis.

This interesting document goes on to say that:

The existing limitations on IRA contributions are illogical and inequitable as applied to married couples. The relatively minor allowances for a spousal IRA fail to recognize the important economic contributions made by nonearning spouses. Moreover, they are inconsistent with other rules of current law under which married couples are treated as an economic and taxpaying unit. Thus, a husband and wife that each earn $10,000 can make aggregate IRA contributions of $4,000 under current law. A couple with the same joint income of $20,000, all of it earned by one spouse, may make aggregate IRA contributions of only $2,250. A third couple, also with $20,000 of joint income, but with one spouse earning only $200, is limited even further to a $2,200 aggregate IRA contribution. These disparate results are inconsistent with both retirement savings policy and general tax principles requiring similar treatment of similarly situated taxpayers.

Mr. President, this was a proposal made by our President I think speaking to the unfairness of the IRA's as they existed and the need to expand them even further, to give the nontraditional working spouse an exemption of up to $2,000. What we do here under the guise of tax fairness, for those who would say, "Well, the wealthy people are getting this," and that is not the case, is we now I think turn the clock back on America, we break a promise, one that has been listened to and heeded by 28 million families of America. We do a great disservice to the people in the Senate of the United States by saying to vote for this resolution is to say that we are for IRA's.

If we are for IRA's, we should vote against this resolution and insist on an amendment that would restore IRA's being put forth and voted on by this body and accepted by this body with the proper limitations, not passing a resolution that is meaningless, that does not have the strength behind it that it should have and which is really a charade on the American people and more particularly on the Senate of the United States.

I yield the floor.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, first let me thank my colleagues for their willingness to move ahead, to get down to some voting on this bill and get this bill passed.

Obviously, the IRA issue is very important and a lot of Members are concerned about it. I think it has been made clear with the resolution of the distinguished Senator from Delaware, which is cosponsored by the chairman of the committee, by myself, by Senator MATTINGLY, by Senator WARNER, and I assume others by now, we do not take the issue lightly. I would say at the outset that nobody on the Finance Committee that I know of opposes IRA's. In fact, the concept of the "universal IRA" originated in the Finance Committee in 1981 while I was chairman of the committee. It was not included in President Reagan's original tax cut proposal. The Finance Committee added the universal IRA, and we did it because we thought it was good savings policy and good retirement policy. I do not think anybody on that committee has changed his mind.

However, individual retirement accounts have generated a lot of discussion in the last few weeks since the Finance Committee took action on tax reform. I do not believe anybody is surprised at this because IRA's are among the most popular tax incentives we have added to the Internal Revenue Code in a long time.

I might add that an indication of this is that we greatly underestimated the revenue loss when we extended IRA's to individuals covered by pension plans in 1981. I understand that the actual revenue impact has been about four times as large as we had originally expected.

In fact, the unexpected revenue loss led a number of my colleagues to suggest in 1984 and 1985 that we should cut back on IRA's as a revenue raiser to reduce the budget deficit. We rejected those suggestions then because we believed it was inappropriate to raise revenues by reducing tax incentives which encouraged Americans to save for their retirement. However, when the Finance Committee got down to structuring our own tax reform bill last month, members of that committee had to look at all the options. They had to take a look at the rates. As I understand, the chairman and others who were involved almost on a daily basis were looking not just for revenue; they were looking at every tax incentive which could be reduced so that the rates could be lowered for everyone. I think that argument seems to be lost in this Chamber. We keep talking about "Oh, we ought to do this, we ought to do that, and we ought to do some other thing." I think certainly the chairman and the rest of us would be happy to do all of those things if they could be done without raising the rates and without reducing the options in conference. There are a lot of gaps where we have a lot of flexibility in the two bills.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. I am happy to yield.

Mr. LONG. I would like to ask the distinguished majority leader and also the former chairman of the Finance Committee, who has pushed the IRA's, helped expand them, is it not true we must keep in mind that it is not a very good idea to provide a further tax advantage to somebody who has his Social Security protection for a substantial amount, who has a private pension on top of that and would still have very favorable tax treatment for an IRA in addition to all that if we have to finance this thing in such a way that just the rank and file of America who cannot afford an IRA have to pay more taxes? That sort of makes it a little difficult, and while we want people to save, we ought to also consider that poor soul out there who cannot afford to save—the baby needs shoes and that type of thing. So that in fairness we have to balance the problems of those who are paying a large amount in taxes, at least money that they cannot very well afford in taxes, with those who are able to save, and we want to encourage savings.

But as the Senator so well mentioned, we have had four times as much response as we thought we were getting when we voted for the IRA's included in the Senator's amendment.

Mr. DOLE. The Senator is exactly right. And there is almost a daily change in how they are going to pay for these things. It is great if you can find some way to pay for it if it does not bother you, but in my previous experience with the committee I have always found that if somebody else had to pay more they are probably going to be opposed to what I want to do.

□ 1350

Now I guess it is sort of a focus on the minimum tax. I can hear the argument: We are going to go after the rich, not the poor. We are not going after indexing anymore. We will go after the rich in America, and we will identify the rich during that debate.

I can tell you that the minimum tax reported by the committee is tough, and it affects a lot of people and a lot of our States and a lot of businesses. It seems to me that the Roth proposal is the one we should adopt. It gives the conferees a clear indication of the Senate's preference and retains the flexibility they will need in conference. I hope everybody votes for it.

I thank another former chairman of the Finance Committee, the distinguished Senator from Louisiana, because this is an important part of the Tax Code. Some say we should decide the issue right now in the Senate. But I have been around here with other bills coming from other committees, and I do not think the Senator has indicated any lack of confidence in the Finance Committee or that we are not really serious about this. We are. It was not in the President's package in 1981. IRA's were a creation of the Finance Committee.

So I hope that those who want to retain IRA's will give us the opportunity to do it.

Mr. LONG. We should keep in mind that the principal purpose of this bill and the principal appeal of it is that this bill will do something for the souls out there who do not have any tax break, are not receiving any at all. They would get a lower tax rate and have a higher exemption.

When you look at the main purpose, the No. 1 group you want to benefit are those who presently do not enjoy a tax break of any sort.

Mr. DOLE. That is true.

Mr. RIEGLE. Mr. President, will the Senator yield for a question?

Mr. DOLE. I should like to finish my statement.

Mr. RIEGLE. It is on the point the Senator from Kansas raised.

Mr. DOLE. I yield.

Mr. RIEGLE. We asked the Joint Committee on Taxation to give us numbers as to how many people are affected on the individual retirement accounts, and the figure we got was 375,000.

Is it the Senator's sense that that is the right number? It seems to me that that is an awfully low number versus the 20 million people who stand to lose their front-end deduction on the IRA.

Mr. DOLE. I am advised that the passive loss limitation will keep many more individuals paying tax under the regular rules also. I have not taken a look at the joint committee's analysis. I will be happy to look at it.

Mr. RIEGLE. If that is right, it is a relatively small number nationally.

Mr. DOLE. If we take special benefits from a few and spread the benefits around to 4 or 5 million people, then it is good tax policy. However, I am not certain that the suggestion you have made really is going to meet that criterion.

Because of the large revenue loss associated with IRA's, the Finance Committee naturally listed them as an item for review. The first idea was to eliminate IRA's altogether because 80 percent of Americans would be taxed at a 15-percent rate and the benefit of the maximum $2,000 deduction would

be only $300. However, I personally thought that the psychological benefit of the deduction, despite its reduced economic value, was important enough to encourage individuals not covered by pension plans to continue to contribute to IRA's. Chairman PACKWOOD and the committee agreed and we reinstated IRA's for nonpension participants to conform the law to the way it existed prior to 1981.

As the committee continued its deliberations, Senator CHAFEE argued forcefully that individuals who participated in employer provided plans should also be encouraged to continue annual IRA contributions. He argued that the ability to accumulate interest in an IRA on a tax-deferred basis, while not as attractive as an immediate deduction, was still an important incentive and should be retained. The committee agreed to this suggestion as well.

Therefore, by the time the committee completed its deliberations, it had restored half the revenue associated with IRA's.

But that does not mean we cannot or should not do more. I think that is the point Senator PACKWOOD made on the floor and Senator ROTH made on the floor. It seems to me that is the point others are going to make on the floor, and then we are going to decide how it is done. Frankly, I would prefer to keep the present level of tax benefit from IRA's at least for all employees who are not vested in an employee-sponsored plan or who do not have the ability to participate in a 401(k) plan.

I want to make very clear that I believe that IRA's are a very valuable part of a national policy to ensure that Americans have adequate income in their retirement years. We obviously cannot expect Social Security benefits to do it alone. And the data showing participation in employer-provided pension plans also make very clear that this source of income will not be available to a significant percentage of Americans. As of May 1983, the employee benefit research institute estimated that 56 percent of nonagricultural civilian employees were covered by pension plans, and of these employees, only about half were vested. Obviously, if the Finance Committee's pension plan vesting changes are adopted, the vesting percentage will improve somewhat and, as the average age of the employee population increases, more employees will vest in their pensions.

However, with the rules under ERISA allowing integration with Social Security benefits and the increased mobility of the employee work force, many employees will receive much less than the theoretical maximum pension benefits under their employer provided plans.

Of course, we could just say that it is the responsibility of every American to have the discipline to save for his retirement years without special tax breaks. In fact, I believe that saving even without tax incentives is prudent and important. However, we cannot ignore the fact that people are not always as farsighted as we would like. IRA's have very effectively helped to focus peoples' attention on the value of saving for retirement.

Mr. President, some have argued that the second clause of the Roth-Dole-Packwood resolution limits the ability of the conferees to do anything to improve the finance committee IRA provisions. Obviously, that is untrue. All it says is that we should not raise rates to pay for IRA's and that we should be careful not to provide disproportionate tax benefits for the wealthy in making any IRA changes. There are a number of ways to improve IRA's without either providing disproportionate benefits to the wealthy or raising tax rates.

In my opinion, the resolution, for example, give the Senate conferees the flexibility to retain current law for IRA's. It also gives flexibility to restructure the IRA deduction to a credit or to make other changes in other parts of the bill to make certain that we provide adequate incentives to assure that individuals will be encouraged to continue IRA contributions.

However, I believe it is completely inappropriate at this time to risk Senate passage of this legislation by prejudging how we should restructure the IRA provisions now. The sponsors of this resolution have given their word that they will do whatever is necessary to make certain that IRA's will remain attractive enough to be a principal source of retirement savings in the future. I hope my colleagues will agree that, with this commitment, we can agree to this resolution and reject any subsequent amendments on the IRA issue.

Mr. President, it seems to me that we are on the right course. Maybe others can be more persuasive. I think this does give the conferees flexibility. I am not sure who the conferees are going to be. Everybody on the Finance Committee I know of supports IRA's. Everybody on the Finance Committee supports lower rates.

It seems to me that if you talk about this in a vacuum—"Oh, sure, let's add everything back; let's not leave anything out"—then when we go to conference, we end up with the House bill tax rates.

When we come back, Members will complain: "Why did you raise the rates? Why did the Senate conferees raise the rates to the House level," or some other level?

One thing around here is that you cannot have it both ways. It is nice to talk about having it both ways, and some will indicate they are having it both ways. But I hope a majority of this body will be realistic and give us the opportunity that the chairman has stated time and time again he needs and the flexibility he needs when he goes to conference.

Also, I do not know how many votes there are. I am not the chairman. I have not made a whip check.

I say to those who will probably persist—and nobody objects to that—if they have the votes, that is one thing. If they do not have the votes to restore the IRA's, then it weakens the hand of the conferees. If you do not prevail, you undercut the groundwork we are hoping to lay with the Roth-Dole-Packwood resolution.

Mr. President, I support the chairman in his effort to keep the rates where they are. I believe the American people should focus on the rates, focus on the lower rates in the Senate bill, focus on the most important feature of the Senate bill, the rates. Then I believe some of the other problems that have been identified can be solved. There certainly will be problems—nothing is perfect—but I believe we can handle the IRA problem. I believe we can do it if we have more flexibility, where we do not tie the conferees' hands and permit the chairman, Senator PACKWOOD, and the ranking minority member, Senator LONG, to have a bit more flexibility in conference.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, we are at the point where we are about to vote on the amendment of the Senator from Delaware [Mr. ROTH].

Obviously, there is a good bit of concern about the impact of the Senate committee tax reform bill on the individual retirement accounts, the IRA's, and I think that is appropriate. But I should like to focus attention on what I think is the bigger picture, and not just on the bigger picture but on the future, not just on the present.

The future I am talking about is the one that the average American worker and his or her family are going to face when they retire 10 or 20 or 30 or maybe even 35 years from now, in the case of a very young worker.

I am sure that there are millions of working Americans who have heard that the Senate tax bill is going to limit individual retirement accounts. They are worried about how they are going to be able to save for their retirement. I share those concerns about the limitations on individual retirement accounts that we have in this legislation.

□ 1400

I am delighted that the Senator from Delaware, Senator ROTH, has chosen to address this issue in his leg-

islation. I certainly hope that he succeeds. I intend to support him.

But I think there is one very unfortunate occurrence that in the furor over the IRA dispute has overshadowed the truly good news about the dramatic improvement in retirement income security that this tax bill makes.

The good news is that this bill contains a pension reform package which will make the average American worker a big winner in retirement whether or not IRA's are fully restored. That is not an argument against restoring them; it is just a fact.

I am one of those people who believes that pension reform is overdue and the time for that reform has come. We have already celebrated the 10th anniversary of ERISA, the Retirement Income Security Act, and yet even now young workers today are facing a very tough challenge. They are going to have to build retirement resources to stretch further than any generation that has ever lived before them. What I mean by that is if you are 30 years old today and you expect to retire at age 55, you will have to be prepared to pay, because of increased life expectancy, for 30 full years of retirement and maybe more. So that means that in a case of someone who would be retiring at 55, and obviously not everybody does, if you were age 30 you should be saving for retirement, putting aside somehow one out of every two dollars you earn today right on for the next 25 or 30 years.

Unfortunately, for most people today earning a pension benefit is still very much of a gamble. Half of the work force that is now working today is working for an employer or in an occupation where there is not even a pension plan, half of them. Many of those who are in pension plans, as many as half of all those who are working for an employer that does have a pension plan, are never going to earn, invest, and be entitled to their benefits because they may leave their job before they vest and as a matter of national policy we need to improve the odds for the average worker to reduce the gamble by bringing more people under pension plans and fitting pensions more effectively to the reality of today's mobile work force.

I mentioned the pension provisions in this legislation, and they represent a lot of hard work by the Finance Committee. They come from 2 years of work by experts from business, labor, and government that took place going back many, many months before Senator CHAFEE and I introduced the Retirement Income Policy Act, which was last fall.

The provisions in this bill and in the bill we originally introduced, which was the basis for most of the provisions in this bill, have been the subject of hearings in both the House and the Senate. They were carefully considered by the Finance Committee as well as by the committee I chair, the Special Committee on Aging, before and as they were added to this tax bill.

Mr. President, the result I think is a tax reform bill with the right mix of pension reforms to really boost retirement income in the future.

What are we talking about in real terms? Well, let us talk numbers of families. By the time today's families with breadwinners in their thirties and forties retire, and for the most part that means past the turn of the century, maybe the year 2010, 2015, 2020, but when the people who are raising the families right now retire, 2 million more families are going to receive pension benefits because of this bill. If this bill did not pass and we passed the House bill, those 2 million families, and that is more than just 2 million people, would not receive pension benefits because there are not any comparable provisions in the House bill.

Two million families is a lot of families. It is enough families in my home State of Pennsylvania to populate my hometown of Pittsburgh; the City of Brotherly Love, Philadelphia; plus Erie, Scranton, Harrisburg, the next three larger cities, and then we have some to spare.

So there are going to be 2 million families, people earning money right now and their loved ones, who are going to be substantially better off when they retire because of this bill.

In total, there are going to be some 22 million families who will see a big jump in the amount of pension income that they are going to receive because of this bill. And according to the actuaries, according to the estimates made by a number of experts, what we are talking about in terms of extra income for the people working today when they retire at age 60 or 65 is roughly $40 billion a year, more in retirement income. If you want to put that $40 billion a year into perspective, we have been talking here about individual retirement accounts and their importance. The revenue estimate on the cost to the Federal Government of fully restoring IRA's is $30 billion over 5 years. So if you want to take a 5-year figure and compare it to the $30 billion we have heard about from time to time on IRA's, the equivalent number for the improvement that this makes for the 22 million families in extra pension benefits is not $40 billion, it is five times $40 billion or $200 billion over 5 years. In other words, it is about six or seven times more that this bill will do even if we restore IRA's as I certainly hope we do.

What that means in terms of a specific family who would get a pension 25 years from now is in 1986 dollars, not inflated dollars, but today's dollars roughly an increase of $1,800 a year every year in retirement; $1,800 is roughly the $2,000 IRA deduction that we have been arguing about and what it means is that if this bill passes and these provisions prevail in conference over the House bill, which has nothing like it, the average family headed by a 65-year-old retiree will get over $30,000 in additional retirement income solely as a result of this bill.

It is logical to ask how did you do that? Is this some kind of magic? No, Mr. President. There are some very good reasons, solid reasons how and why we were able to accomplish that.

These retirement income gains are going to come about because the tax bill before us is going to make employer plans a much safer bet for the average worker. Our bill will bring more people under pensions and it will make it easier for them to earn benefits and make it more certain that they are going to actually receive the benefits that they earn.

So to explain that just briefly and a little further, let us look at how it would bring more people under plans, so they could begin earning benefits. Under current law, an employer can set up a pension plan for some employees and not allow other employees to participate.

In fact, an employer can have a plan that excludes nearly one-half of the work force of his employees and even more than that if the Internal Revenue Service, which regulates pension plans, can be assured that the plan is not solely for the highest-paid employees.

(Mr. SYMMS assumed the chair.]

Mr. HEINZ. These are the rules that have kept people like Madeline S. from earning benefits. Who is Madeline S.? Madeline was a witness at one of the hearings held by the Special Committee on Aging. She had been an employee of a bank in a large eastern city for some 23 years, and for all those years she was never allowed to participate in the bank's pension plan, because she was classified as an hourly employee.

□ 1410

Even though she earned the same amount of money each week in her paycheck as a group of salaried workers sitting right next to her in the same room just on the other side of the aisle, people who worked for a salary were covered under the pension plan and, because she was an hourly employee, she was not. So what does she get for 23 years of working with this employer, plus a lifetime of work to boot, when it comes to a pension benefit? And the answer, Mr. President, is nothing. She must anticipate her retirement in a few years with no pension income.

Well, the Senate tax reform bill would change that obviously unfair

practice and require employers to cover people like Madeline S., people who thought that working for an employer with a pension plan meant that he or she could get a pension, too. The bill would reduce the proportion of the employees who could be excluded from the pension plans to a maximum of 20 percent. In other words, it would make it much more difficult for an employer to get Government approval from the Internal Revenue Service if the pension plan provided did not cover all or almost all of the employees.

The second major change is to help more people who are in pension plans earn benefits, benefits that they can actually count on for their retirement. The problem right now is that most people today have to stay with the employer a minimum of 10 years before they have earned the right to receive a pension. Then, if they leave, say, at 9 years and 6 months, what happens is they receive nothing. They are not vested, they do not have any right to a pension benefit.

Take, for example, another of our witnesses at the Special Committee on Aging, in this case a lady named Lola Falls. She started working for a big trucking company back in 1972. Ten years later, or almost 10 years later, in 1982, she was laid off with 150 other employees—she was not alone—even though she was only just 6 months short of vesting in her pension. So, at age 59, she lost her entire pension as well as her medical and hospital insurance.

This kind of injustice—and it is an injustice—could not possibly happen if the Senate tax bill were law today. Under the Senate bill, the vesting or entitlement period is shortened from 10 years to 5 years. And in the first year alone, our 5-year vesting right in this legislation would entitle nearly 2 million additional workers to benefits—we have that much mobility in our labor force. And, thereafter, millions of mobile workers who have earned nothing before will have an opportuntiy to earn pension benefits they would not have otherwise had a chance at.

The third major pension provision in this tax bill is to limit the ability of an employer to deprive lower paid workers of their pension benefits because their Social Security benefits are considered by the employer to be adequate for that employee. What is the law today, what is permissible today is that employers can keep low-paid workers out of the pension plan or eliminate their pension benefits when they retire by what is called "integrating" the pension benefit with Social Security.

To make it clear, let us take an example of the case of another witness at the Special Committee on Aging, in this case Margery Boley. Margery Boley worked for 20 years for a major nationwide retail company. For years, year in and year out, she received notices from the company that she was fully vested. She had earned and she was entitled to receive a pension benefit. And then, upon retirement, she received a letter from the company that informed her that, because her Social Security benefits met all of the company's retirement income goals for her, she would receive no pension benefits at all.

Well, you could imagine how she must have felt and how anybody in that situation could feel.

The Senate tax bill would end that kind of abuse, as well. Because under the Senate bill, employers who combine Social Security and pension benefits would still have to give the employee at least half of the pension benefit earned that they would have had a right to without taking Social Security into consideration.

Finally, the Senate bill would try to encourage people to leave their pension money in a retirement plan so that it would be there for their old age. And I say that because many pension savings plans today let employees cash out their pension money if they leave the company before retirement. Recent studies have shown that something around only 5 percent of the pension money cashed out for employees before retirement is ever rolled or transferred into another retirement savings account like an IRA. As a result, a lot of retirement savings are being cashed out and spent for cars and vacations before retirement ever occurs.

The Senate bill before us, Mr. President, would clearly make saving cash payments more attractive than spending them. Tax benefits would continue only if the employee rolled the money over into an IRA or another retirement plan. On the other hand, retirees could continue to take their benefit and retirement income without any penalty whatsoever.

So, what we focused on, and what I focused on here today as we debate a very central retirement income issue, the individual retirement account, is that this bill focuses in a very major way and in a very successful way on getting people, significantly more people, a significantly larger amount of money from the retirement benefits of their employer-sponsored pension plans. And employer pensions, after all, will be the main source of retirement income for most of today's workers.

Already over half of the work force is covered by a pension at their place of work. We have $1 trillion already invested to pay those future benefits. While these plans benefit the owners and highly paid executives to some degree, let us emphasize that they also benefit the lower paid, rank and file workers, the blue and white collar employees who otherwise might have great difficulty saving for retirement.

So the pension reform provisions of this tax reform bill are a major, important step forward and a solution to the need of today's workers for more retirement income. I think we need to bear in mind that younger workers face a very difficult challenge in preparing for a lengthy retirement. This bill will help make more of these workers beneficiaries of employer-sponsored plans. And, in the long run, it is this emphasis on employer-provided benefits and the contributions therefore that those employers make that is going to underwrite the retirement security of the future generations of retired workers.

One thing I would just like to add for the Record, Mr. President, is that there is a very lengthy and impressive list of national organizations supporting the basic retirement income principle espoused in this bill.

Among those organizations—and this is not a comprehensive list—is the Women's Equity Action League; United Auto Workers; Pension Rights Center; American Federation of State, County, and Municipal Employees; Association of Private Pension and Welfare Plans; the ERISA Industry Committee; the National Coordinating Committee for Multiemployer Plans; NAACP Legal Defense and Educational Fund, Inc.; Congressional Caucus for Women's Issues; the American Association of Retired Persons; and the U.S. Chamber of Commerce.

And, to those organizations that have helped the members of the Finance Committee, Senator CHAFEE and myself, with our legislation and our amendments, I want to express particular appreciation for the major landmark that we have been able to build in the legislation before us.

One last observation. We all hope that either the Senate or the Senate-House Conference Committee will do something to restore the individual retirement account. As we all know, the Senate bill does not completely eliminate the individual retirement account. It retains it for workers who are not covered by any pension plan, any of the kind of pension plans I was talking about a moment ago. And even if you have a pension plan, you can keep the IRA you have and you can make contributions to that account and they may build up, what they earn each year can accumulate without being taxed, but the tax deduction itself is no longer available to you for $2,000 per contribution per year if you are in a pension plan.

□ 1220

Now while I would like to restore all individual retirement accounts, I want to emphasize the plight of a particular

group of people, more properly two groups of people, that are going to be very unfairly prejudiced by the stringent limitations on IRA's in this bill. The first group is a group I talked to about a minute ago; namely, the people who are working for an employer who has a pension plan. They are covered by a pension plan, but they are not yet entitled to any benefits under that pension plan because they have not worked there 10 years, or whatever the vesting period of that employer may be. That group is going to be prohibited under this legislation from being able to continue or begin making tax deductible contributions to an individual retirement account.

I think that is unfortunate. I think it is discriminatory. I think it is unfair. And I feel the same way about the second group of workers who are workers that are vested in a pension, but it is a very small pension. It may amount to, let us say, a contribution by the employer or the employer and employee of let us say $1,000 a year. What those people who are getting minimal contributions and, therefore, minimal benefits when they retire in a pension plan are doing is, they are being cut out of the ability to participate in an IRA to build up an adequate retirement income nest egg. I do not think that is right. At the very minimum, those people should be allowed to participate in IRA's, and if somebody says those are wealthy people, I will disagree with them. They are not. Wealthy people are not getting a $1,000 a year contribution to their pension plan from General Motors. That is a very minimal contribution.

So I hope that this body, Mr. President, understands just how vital the retirement pension issue is, how IRA's need to be expanded substantially beyond what is in the bill if we can afford it, fully restored, because we are playing very fast, and very loose with a lot of people who do not deserve that kind of treatment. We say we believe in savings in this country. We say we want to create incentives for people to provide for themselves. We say we want to be helping people to be more self-sufficient. Some people say we certainly do not want to put the entire burden on the Social Security system. It is burdened enough. Maybe that is right. If we are ever to take the burden off the Social Security System, it is going to take a multifaceted approach. We are not only going to keep Social Security solvent, and Medicare solvent, but we are going to have to do the most we can for employer-provided pensions, and I think we do that in this bill.

Then we are going to have to permit, encourage, and give incentives, particularly to the less fortunate and the less well off. And the average American, who has a lot of bills to pay every month and every year, we are going to have to give some help to, and some encouragement in saving additional retirement income via IRA's or similar devices for their retirement because if we do not, they are going to wake up when they retire to age 60, 62, 65, whatever it may be, to find they have 20 years, maybe 30 years of retirement and only about 15 years of income.

That is something that is a real challenge to our society, and it is one I hope, Mr. President, that we meet.

I yield the floor.

Mr. DIXON and Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. RIEGLE. Will the Senator from Pennsylvania yield?

Mr. HEINZ. I have yielded.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIXON. Mr. President, the discussion we are having here today concerning the question of saving the individual retirement accounts by the adoption of a sense-of-the-Senate resolution, in the opinion of this Senator, is a copout.

It is an attempt by the majority of us in the Senate to say when we go back home, look, we voted for the tax bill of the Finance Committee, and we also voted to save your IRA.

I have no doubt that there will be another sense-of-the-Senate resolution shortly by somebody, probably from the other side, saving our sales tax deduction if we itemize our tax deductions.

Of course, the reason we ought to save the sales tax deduction is under the Finance Committee bill you can deduct real estate taxes, you can deduct income taxes, and you can deduct personal property taxes but you cannot deduct a sales tax.

The reason for that I suspect might partly be because my friend, the distinguished chairman of the committee from Oregon, represents a State that has no sales tax. It might be interesting to note, however, that 46 of the States represented among the 50 States in this Senate do have a sales tax. And I would like to further observe that my State of Illinois does not have a personal property tax.

So you have presented me with a bill where you can deduct the income tax which is very low in my State, 2½ on people and 4 on corporations, real estate taxes which every State has, personal property tax which we do not have, and you have no rational support for that position saying you cannot deduct the sales tax.

All of these resolutions of course are copouts. They are an attempt by the Senate to say we have done the responsible and proper thing, we voted for the bill in the committee, we sent it to the conference, and let the conference solve our problems.

Mr. President, the chairman of the House Ways and Means Committee is a friend of mine. In the very early 1950's, he and I served as kids in our twenties in the Illinois House of Representatives. I have known him all my adulthood and I took the liberty yesterday of writing of the chairman of the House Ways and Means Committee to see how he views what we are doing here in the Senate. I would like to read the letter to the Senate dated June 10, to the Honorable DAN ROSTENKOWSKI, chairman, House Ways and Means Committee, U.S. House of Representatives, Washington, DC 20515.

DEAR DAN: As you know, the Senate is currently considering the Finance Committee's amendment to H.R. 3838, the Tax Reform Act. The Majority Leader and the Committee Chairman are actively discouraging major changes to the Committee Amendment on the Senate floor. In view of this "no amendment" policy, some Senators are considering offering "Sense of the Senate" Resolutions that certain provisions such as IRAs, capital gains, State sales tax deduction and the retroactive effect of the passive loss limitation be changed in Conference. It is my understanding that these "Sense of the Senate" Resolutions do not address themselves to the critical issues of how such major changes should be paid for or how the distributional effects of such changes, skewing tax benefits to upper income taxpayers, should be prevented.

In light of the central role that you will play in Conference, I would appreciate receiving any comments or observations on this matter as you might care to make.

Your friend,

ALAN J. DIXON.

Today I received this letter, dated June 11, from the Committee on Ways and Means, U.S. House of Representatives, to the Honorable ALAN DIXON, U.S. Senate.

□ 1430

Hon. ALAN DIXON,
U.S. Senate,
Washington, DC.

DEAR ALAN: Your letter concerning the "Sense of the Senate" resolutions now pending on H.R. 3838 requests my views on probable impacts of such resolutions on the conference to follow.

The Senate Finance Committee produced a bill of great scope and imagination. This bodes well for the ultimate success of tax reform.

I would note, however, that achieving such low rates, which I welcome, will take a great deal of discipline on the Senate floor.

If the Senate is determined to maintain its low rate structure, it should produce a bill which clearly sets forth how to make up revenue potentially lost under "Sense of the Senate" resolutions regarding such issues as the deductibility of IRAs, and state and local sales taxes. It is unrealistic, in my view, to expect the conference to patch up what the Senate itself seems unwilling to face.

Perhaps even more important, modifications of the type being considered by individual Senators will inevitably alter the distribution of tax relief, favoring upper income individuals at the expense of middle

and lower income taxpayers. Any resolution that directs the loss of revenue and the upward redistribution of benefits, ultimately threatens higher rates. As you know, the version produced in the House gives a larger tax cut to the middle class, while retaining present law treatment of IRAs and state and local taxation.

I trust this is helpful to you as you continue this important debate.

Sincerely,

DAN ROSTENKOWSKI,
Chairman.

I ask unanimous consent, Mr. President, that my correspondence of June 10 to the distinguished chairman of the House Ways and Means Committee and his correspondence in reply to me of June 11 be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 10, 1986.

Hon. DAN ROSTENKOWSKI,
Chairman, House Ways and Means Committee, U.S. House of Representatives, Washington, DC.

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COMMITTEE ON WAYS AND MEANS,
Washington, DC, June 11, 1986.

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Sincerely,

DAN ROSTENKOWSKI,
Chairman.

Mr. DIXON. May I simply say in conclusion, Mr. President, that so far as this Senator is concerned, I am prepared to offer an IRA amendment that is revenue neutral and finds the revenue in a certain prescribed way. My understanding is that my distinguished colleague from Connecticut, joining my distinguished colleague Senator D'AMATO of New York, has another amendment dissimilar from mine insofar as it finds the revenue to keep the IRA revenue, revenue neutral but still accomplishes that purpose.

I am advised that my distinguished colleague from Montana, Senator BAUCUS, also has such an amendment.

I will have an amendment later, Mr. President, that will permit the deductibility of the sales tax while accommodating revenue neutrality. I trust the other Members have such amendments.

In conclusion, I would simply say—and I do not want to unduly impose my views on the time of the Senate because many others want to be heard at this point in time—I think it is an irresponsible way to do business in this body, and I say this without reflection on the 20 members of the committee who have done good work, to come here and say, "Take this bill, pass all of the sense-of-the-Senate resolutions you want, and depend upon the conference to do its job."

I remember when I was a member of the Illinois Legislature, every time some issue came up we passed a resolution and sent it to all the Congressmen and the two U.S. Senators from Illinois telling them what to do in Washington.

I have no doubt they filed it in file 13 most of the time.

I would suggest that the procedure being suggested by the distinguished majority leader and by the manager of the bill, the distinguished chairman of the committee, to do all this work by sense-of-the-Senate resolutions to take out the sting and to avoid the pain and then to send this bill to the committee clean and ask the conference committee to do the job there is not the appropriate approach to dealing with this very important issue.

I am prepared to support the IRA's, I am prepared to support sales tax deduction, and I am prepared to vote for the appropriate amendments to accomplish that purpose here in the Senate, and to send to the conference a responsible bill in which the Senate expresses its will legislatively, not uselessly by sense-of-the-Senate resolutions.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I had expected a debate on this issue centering on how we might adopt an IRA amendment. At least, I had expected that from statements which preceded the real debate here. For those tuning in late, I think we perhaps need to refocus on the issue. What is really before us is the question of whether we will pass a sense-of-the-Senate amendment or whether we will actually amend the underlying bill.

Mr. President, that is the difference between expressing a good intention and actually making good on it by acting to see to it that the good intention is enacted into law.

I had expected that the debate would be about how we might pay for it because, first, there seems to be agreement on the benefits that we should attempt to secure to the American taxpayer by securing to the maximum extent possible, as several of these amendments have stated, the benefits of the individual retirement account.

Certainly, our friend from Delaware, the distinguished senior Senator, Senator ROTH, has been most eloquent, not just in the past 2 days, but over the years. He was a real pioneer in the field. I think with him we can stipulate that, yes, indeed, the IRA has been of benefit to the middle-income American taxpayer.

Then in the amendment that was offered by our distinguished majority leader, there was once again recognition of the fact that it should be the sense of the Senate that we instruct conferees to retain to the maximum extent possible the decided benefits of IRA's for taxpayers.

Well, I am so persuaded by that, Mr. President, that I think we ought to really do it. Not just suggest that it would be a good thing for the conferees to do it, but that the Senate do it so that the conferees know not just with a suggestion, not with a sense of the Senate, but with a mandate from a vote of the Senate.

Having come to the floor with the expectation that we would all be stipulating to that, I find that I am mistaken in that assumption. Indeed, I listened at some length while proponents of the tax bill—and I do not know very many who are not proponents on this floor; I think everyone who is a propo-

nent of the D'Amato amendment has made clear that he is going to vote for the underlying bill—and I found that there are people on this floor who are not persuaded of the benefit to the American taxpayer of the IRA. Some have even characterized it as a ripoff.

I listened while the distinguished Senator from New Jersey, who has long sought tax equity, presented all kinds of statistical data citing what he conceives to be the inequities of the existing law. But that is not what the D'Amato amendment proposes.

Yes, it is quite true that for someone in a 50-percent bracket under existing law, a $2,000 contribution is worth a $1,000 deduction to him at the present time. But under what Senator D'AMATO and the rest of us are proposing, we have something quite different. We have a modest way for middle-income taxpayers to gain a rather modest deduction and to actually put something aside for their retirement in a way that many of them can find no other way to do.

So let us try to set certain things in clear perspective.

First of all, the amendment that Senator D'AMATO intends to offer is not one that threatens the underlying tax reform bill. It is usually considered poor tactics on this floor to announce publicly that if you do not win on the amendment you are proposing, you are going to go ahead and vote for the underlying bill anyway.

□ 1440

That is conceded to be giving something away. But in this case, the honest truth is that virtually everyone who is supporting the D'Amato amendment is a fervent supporter of the underlying legislation. Indeed, we are all on record many times over as giving deserved praises to Chairman PACKWOOD, to Senator ROTH, to many, many others who have brought about what we think is a dramatic change, one that we had long abandoned hope on. I cannot think of anybody who is intending to vote against the underlying bill.

I shall make clear now that Senator D'AMATO has expressed my own point of view totally when he says that what we are trying to do is make a good, a very good, bill better in a way that does not in any sense threaten it.

On the other hand, if we are to do more than express a good intention, Mr. President, the current pending question, the sense-of-the-Senate resolution, has been perfected with the statement that if we are going to do so, if we are going to urge retention of these IRA benefits, it must be with the understanding that there will be no change in the rate structure proposed. That requirement does, in fact, threaten if not in law, at least in logic, the precise thing that we are attempting to do in the D'Amato amendment.

First, let us discuss very briefly the benefits that the American taxpayer receives, the middle-income taxpayer, Mr. President, from the IRA. In the first place, it is quite true that the underlying bill does not destroy IRA's for everyone. It allows those who have no other pension to continue to enjoy an individual retirement account. So the focus has been on two classes of people: those who have a pension as a condition of their employment and some rich people who have been thought to take great advantage of it. Let us examine both points.

In the first place, yes, it is true that many people have pensions who have also sought to enjoy the benefits of an IRA. But there is a very significant difference in their situations, and if we are going to compare them, we should bear these points of difference in mind. First, IRA's are exactly what they are called. They are individual retirement accounts. They are personal retirement savings. They do not depend upon the largess of the employer. Unlike pension plans, they are completely portable.

If I am a wage earner and I leave my present employment, if I have a pension, I leave that pension behind in most instances—in virtually all. It takes time for my rights to vest in that pension. That is not true with respect to the IRA. So it is one that vests, it is one that is portable with me—it goes where I go—it does not depend on my employment with a particular employer. And, what is more in many cases, pensions frankly do not provide an adequate retirement income or the promise of it for those who will be forced to rely upon it if they can no longer participate in an IRA.

Those are significant differences, Mr. President, and they argue for the continued availability of the individual retirement account even for those who have a pension to which their employer is making some contribution.

Second, it is fundamentally untrue that this has been a tool exploited by the rich and that it has not been what it has so often been advertised to be, a benefit to the broad middle-income American. The IRS statistics simply contradict that and I hope by now we have had some stipulation that they are accurate. What they say very clearly is that two-thirds of those participating in IRA's have an annual income of $40,000 or less.

I think that is an interesting statistic, because we know that a family of four under the Packwood tax reform proposal can earn up to $42,000 a year and be in the 15 percent maximum personal income tax rate. So the same people who are in the lower rate are two-thirds of all of the current participants in IRA's. Indeed, those whose income is under $50,000 comprise 70 percent of all the participants in IRA's. So, it is not the tool of the rich.

Yes; it is quite true that the rich as a percentage of their income group are probably larger participants, as a percentage of their total, than those of lower income. But the major use of this device has been made by middle-income taxpayers.

It is also untrue, as some have stated, that those at the lower end of the economic scale make a minimal use. This is simply not the case. The statistics from any number of studies show that those who are participants participate significantly.

Mr. President, the other thing that I think needs to concern us is not just who it is who is benefiting in terms of individuals achieving a retirement benefit. The other challenge that has been made on a policy ground to the wisdom of IRA's has been on the basis that they have not generated savings. That, too, is an incorrect premise. Any number of economic studies bear that out.

A number of economists at Stanford University who are particularly concerned with capital formation as it affects the availability of startup capital for smaller businesses, particularly new high-technology ventures, have indicated an abundant faith in the IRA as a source of perhaps half of the net new savings that have come into existence during the time that they have been available. The reason for their confidence in that premise is that when people invest in an IRA and they make that contribution, these are people who have made a decision that they want to do something for their retirement. They leave the money there for that reason as well as because of the penalties that are associated with withdrawal. So it is widely recognized by these economists and many others in the entrepreneurial community, the venture capital community, as being a very, very valuable source of a stable pool of long-term investment that has meant a significant addition to capital formation.

Capital formation is perhaps jargon that we should not use on the floor. What it means is that the small business man or woman who has the guts to take a risk in the marketplace, who feels he or she has a marketable idea, will be able to find money from an investor to take that risk in the marketplace, to go and start producing something in the garage the way a Hewlett-Packard began—because somebody has faith in them, enough faith to invest. That is what has made this country prosperous and strong and the leader in technology. It is what has given us the highest standard of living in the world. It is small businesses with the potential go grow large that are the great American dream come true. The IRA is a significant way to see to it that that dream is not a half reality.

Mr. President, let me say further that the basic concern that is prompting this debate is the thought that somehow, any amendments are going to cause this excellent proposal, the underlying tax reform proposal propounded by Chairman PACKWOOD and adopted by a unanimous vote of the Tax Committee, to become unraveled.

No. 1, those of us who support the D'Amato amendment intend, win or lose on that amendment, to support the underlying reform. We do not threaten; we are fervent supporters of it. We know that the dramatic reduction of the rates is good for all Americans and will cause the kind of growth in our economy that so many on this floor have predicted. What I think we need to understand is that the very thought that we could cause this to come unraveled has been associated with the rate structure of that dramatic proposal.

There are people walking around Capitol Hill wearing buttons that say 15/27/33, which refers, of course, to the lower rate for personal income taxation under this proposal of 15 percent, which would be the maximum for 80 percent of the American taxpaying public; 27 refers to the maximum personal income tax rate for the balance of those taxpayers; 33, of course, refers to the maximum corporate rate. 15/27/33. It is the magic formula.

□ 1450

It is the magic formula. The suggestion, the implication certainly on the floor has been that the D'Amato amendment will attack that magic formula, and indeed the perfecting amendment that has been attached to the Roth sense-of-the-Senate amendment is one that precludes any change in the rate structure of the tax reform bill of 1986.

Well, Mr. President, the happy news is just this. The D'Amato amendment does not threaten 15, 27, or 33. I thought we would have a debate on how we were going to pay for all of the billions that so many of us agree attach to participation in an IRA. So let us focus on that. The way that Senator D'Amato and the rest of us are proposing to do it is to increase very significantly, very modestly not the 15, not the 27, not the 33 but the alternative minimum tax rate for individuals and corporations, which has come about as a reform all by itself, when after many years most of us on this floor have agreed with the vast majority of the American tax-paying public who have said it is not fair that some, be they individuals or corporations, whatever their income, whatever they take in the way of gross income, can escape taxation altogether. That is not fair. It is a real disincentive for the rest of the American people to be honest taxpayers.

So what we have devised is what we call an alternative minimum tax, and what it means is just this, that an individual taxpayer or a corporation, however entitled they may be to take advantage of other deductions and credits, cannot get off scot-free; they will have to pay at least a minimum tax. That is only fair. It is that minimum tax that D'Amato amendment seeks to increase modestly in order to pay for the benefits that can be given under the IRA.

Now, that is what is at stake. That is what the argument is all about. So what we are saying, those of us who support the D'Amato amendment, Mr. President, is just this. The sense-of-the-Senate amendment that has been proposed is not good enough. It states a good intention and that is not enough. What we should do is enact that good intention, and we should do so in a way that does not change and therefore does not threaten 15-27-33 but simply makes a modest increase in a minimum tax which we have long needed in order to bring fundamental fairness to the American tax system.

Mr. President, let us not make the mistake of disillusioning the American people by simply enacting a good intention. Yes, there are times when a sense of the Senate is an appropriate way to express just that, a sense, but here we have the opportunity to do more, to do what is necessary. There is no reason why we should not.

So in the interest of making an excellent bill much better, in the interest of bringing about real tax equity and allowing those who have fundamentally no other real way to supplement their retirement income, let us bring to them the assurance that in conference we will remove the doubt, we will give them every assurance that they will be able to enjoy the right to participate in an individual retirement account without in any way prejudicing the essential rate structure that makes this the most dramatic tax reform that anyone has offered in half a century.

Mr. RIEGLE and Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. WALLOP). The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

Mr. President, I now wish to speak on the IRA issue and will address the amendment of the Senator from Delaware, the sense-of-the-Senate resolution that he has offered, and I will also attempt to describe in some detail the bipartisan IRA restoration amendment that a group of us have developed and which we think offers the best answer and solution to this problem of saving the IRA.

Now, I think our chances of winning and restoring the IRA are much stronger because the American people understand this issue, they care about it a great deal, and importantly, because of the advent of television in the Senate, I think the American people, those who are able to watch the proceedings, are finding out how the Senate really works. They are finding out how amendments can sometimes be real amendments and then other times they are just make-believe amendments. That sometimes we really face issues and try to get something done and other times we will talk a lot and we will appear to be doing something but in fact what is being attempt is really not real and will not have the effect that it pretends to have. This is almost a classic illustration of that, and it is important that it come early in this tax reform discussion because it is on the issue about which the people care most.

I have with me on the floor a large box of letters that I have received from people in the State of Michigan overwhelmingly saying save and restore the IRA as it presently is in the law. We received about 900 letters last week. We received over 3,000 letters on this subject. About 98 percent of those letters are handwritten, individually composed letters. A little bit later I am going to read some of the letters that describe exactly how people are expressing their thoughts on this as they weigh the prospects of losing their IRA in terms of the current tax treatment.

Now, this amendment that we will be offering when we have the chance to offer it, will actually restore the tax deduction for an IRA contribution to every taxpayer in the country, every single one, and that is important to understand, because the Senate Finance Committee takes away the front-end tax deduction on the IRA's for a very substantial number of American people, and it is important we pin down what the number is. The number is about 20 million people.

Now, there have been other figures used here today that are lower than that and they are just not honest figures, frankly. They are just not honest. Let me tell you where the 20 million comes from and if somebody wants to challenge that, let them come to the floor and do so. Since 1981, when the IRA's were introduced, some 28 million households have purchased IRA's. Of that 28 million, some people bought the IRA maybe in the 1st year, and then not in the 2nd or the 3rd year and then maybe in the 4th year. Some people did not understand it earlier, did not have the money to invest earlier. I have a chart that reflects this and I will get to that shortly.

As a result, not everybody who has an IRA was able to put the money in each year. Lots of people wanted to and in many cases just were not able to afford to in a given year. So in any event, since the program has started,

28 million Americans at one time or another have taken out IRA accounts. Of that 28 million, 20 million will be disqualified under the tax bill in terms of having available to them the front-end tax deduction on their Federal income tax form if they continue to invest in IRA's. And they understand that.

Now, some will come along and say, "Well, we are going to take away the front end tax deduction but they can still go ahead and have an IRA anyway if they want to but they just will not get the tax benefit initially." People know that and that is exactly what they want. Most of the IRA's that are taken out are taken out just before tax time. That is when the lines are longest in front of the saving and loans and other places. The profile of those investing in IRA's say that as tax time gets closer, that is when most people make their decision to go out and invest in an IRA and in turn get a deduction on their taxes payable for that year. That is the way people do it. So the front end tax deduction is very important.

□ 1500

The amendment we will offer say that anybody who take out a $2,000 IRA—I will talk in terms of the maximum amount a year—people under the new tax bill at the 15-percent tax rate, which is about 80 percent of the taxpayers—would get the full tax deduction for their IRA contribution; so that if they put in $2,000, they would get a tax deduction of $300 on the tax return. That is money they would not send in to Uncle Sam. That is money, in effect, that would be available to go into the IRA account, and wisely so, because we want to encourage people to make that investment.

More and more people are doing it. We desperately need to enlarge the savings rate and the savings pool in the United States for reasons that relate to our international competitive situation, and I will get to that point in short order.

In any event, we are talking about 20 million people who are going to be injured if we do not adopt our amendment. Our amendment would provide the full tax credit on the front end for people at the 15-percent rate. For those taxpayers who graduate into the 27-percent tax rate under the new tax bill—that is the second and last of the two rates, if the bill passes—they would get the same $300 tax reduction on a full $2,000 a year IRA contribution.

The feeling was that that was fair, that it gave them a front-end tax advantage as well. It reduces the cost of having the IRA provision. It costs about $14.7 billion over a 5-year period, an excellent investment, and we have an offset to pay for it.

The offset also needs to be understood, because we have a practice on this tax bill that if we are going to put something in that costs money, as the IRA deduction does, then you have to have a way to pay for it. We propose to pay for it by a slight increase in what is called the alternative minimum tax. In the tax bill before us, the alternative minimum tax on corporations and individuals is 20 percent. We are proposing to take it up to 22.6 percent, and that will pay the IRA cost.

We checked with the Joint Tax Committee as to who pays the alternative minimum tax. It turns out that about 375,000 individual taxpayers pay the alternative minimum tax.

So, on the one hand, in terms of individual taxpayers, you have a group of very high-income people who are paying the alternative minimum tax, who had other ways to avoid taxes, so they are just paying the alternative minimum tax. There are 375,000 of them on the one hand, versus 20 million on the other, and that is just 20 million who in the past have taken out IRA's. I think it is a much larger number, because in the future, more people will want to take out IRA's. Many people are just finding out about them. It takes a while for people to learn about it by talking to friends and others.

So the group that would be helped by our amendment would be at least 20 million, but I think it is far larger than that. In fact, it is the potential of the whole population of the country that has not yet made an IRA investment that will decide at some point they want to, and they will do so.

So we would raise the alternative minimum tax from 20 percent to 22.6 percent. Some people will say that is soaking the rich. That is nonsense. That is utter nonsense. That is not soaking the rich at all. In fact, this tax bill takes very good care of the rich.

In the tax bill before us—and these are facts that I do not think are widely known—of all the tax deduction benefits in this bill, of all the money provided in the way of tax benefits, 16 percent are given to people who earn more than $200,000 a year. That group, by the way, is one-half of 1 percent of the population. That high-income group above $200,000, one-half of 1 percent of the American population, is getting 16 percent of the tax benefits in this tax bill. I am troubled about that. I do not think that is a fair distribution.

The way we would pay for the IRA restoration is that we would say to that group—and that is the group that basically pays the alternative minimum tax—the reason they pay it is that they still have tax shelters and other tax-avoidance devices that knock down their tax. So it has been built up with an alternative minimum tax, so that they get taxed just like everybody else does, so that they do not get a free ride and dump their tax responsibilities on everybody else.

That is why we are writing this tax bill to put people on a fair footing. We are saying to that high-income group, who normally would be paying on their marginal income, under the new tax bill, 27 percent—they would go to the second and final step in the tax schedule and would be paying 27 percent. They escape paying 27 percent and instead would only be taxed at an alternative minimum tax of either 22.6 percent, which we are talking about in our amendment, or a mere 20 percent as in the Finance Committee bill.

So, to suggest that somehow we are being unfair to that group or that we are taking advantage of the well-to-do in this country is nonsense. It just does not hold up, and it is not fair to say that.

Frankly, if that is said in a way that is being used to disadvantage 20 million people across the country who have already taken out IRA's and many millions more who want to, then it seems to me that we are really tilting this tax bill the wrong way. We are not tilting it in the direction of unfairness.

There is nothing unfair about setting the alternative minimum tax at 22.6 percent. That is not an unfair rate. That is not a confiscatory rate. That is not somehow burdening that group. The fact that they will get slightly less than 16 percent of the tax benefits in the bill, representing one-half of 1 percent of the population, I do not think is being stingy to that group.

Quite frankly, we spend too much time worrying about that group around here. We do not spend enough time worrying about the working people of the country, the ones who are really struggling to get ahead, the people in the middle class. That is who is writing the letters on the IRA, the people in the middle class.

I am going to read several letters, because I think it is sometimes more important what the people are saying to be heard than how it sounds when it comes out of our mouths after we have digested it.

Here is a letter from Ronald Weaver, in Holly, MI. The letter is postmarked May 30.

DEAR SENATOR RIEGLE. I am writing you this letter in response to the upcoming debate over the proposed tax reform bill pending debate in the Senate chamber. I am glad to see it, and feel that it is long overdue; however, the proposed elimination of the IRA deductions affects us very deeply.

We are an older, middle-aged couple, with a son in college. After paying for his room and board, along with all of our expenses of electricity, gas, cars, house upkeep, food, and, of course, taxes, very little is left over to put toward our upcoming retirement. For us, the IRA is a means to save toward retire-

ment, as well as to help reduce some of the tax burden.

We hope that in the upcoming decision, you would vote in favor of the tax reform, but try to get an amendment for the middle-income families, like us, that benefit from the tax and saving benefits of an IRA.

Thank you very much for your time.

So says Ronald Weaver, of Holly, MI.

Let me read another letter, from J.H. Jostock from Saint Claire Shores:

DEAR SENATOR RIEGLE: This is to advise you I believe that the Senate bill regarding tax reform is a major step in simplifying and lowering taxes, however, to eliminate the tax deduction for IRA contributions, I feel, would be wrong for the millions of Americans that have invested in IRA programs.

Therefore, I would like you to take into consideration that IRA contributions would not be part of a tax reform proposal, as it now stands.

□ 1510

I have several others here. There is one particularly that I want to read. Let me just find it here.

This is from Mr. And Mrs. Lionel Roberts in Midland, MI:

I strongly oppose any change to the incentive to save for retirement through IRA accounts. The U.S. Government created IRA's to give an incentive to people like us to save for retirement, and IRA gives us more control over our future and ability to plan for our retirement needs. I doubt if Social Security alone will be able to meet our needs at retirement. Our Michigan school employees pensions are based on the amount earned on the last 5 years of the employment, not on the amount paid in the fund.

Having the pre-tax deduction for IRA's give Americans incentive to put money away for retirement, especially young people trying to save on tax due on income tax.

I urge you to do everything in your power to keep IRA rules intact for Americans like myself and young people so they won't have to be dependent on company pensions for their retirement.

They go on in this vein. Each one is different. Each one is individually composed. Some are typed. A number are handwritten.

Here is one written by hand from Ervin and Delores Muller who say this:

My husband and I approve of tax reform but please don't take away our IRA's. My husband has such a small pension coming to him—

Get this. We hear all the talk about the great big pensions. Not everybody gets the kind of pension that perhaps you are thinking of or perhaps is available at the very big, top-rate corporations or even for that matter to Congress.

But she says here:

My husband has such a small pension coming to him, $180 a month, plus Social Security, and I don't have any pension. We need our IRA. He is 63 and I am 61.

Thank you. Ervin and Delores Muller.

And they are from South Lyon, MI. It goes on in this vein.

I am getting, as I say, 900 letters a week like this. I think that the volume of mail if this debate goes on any length of time is going to get a lot heavier and it should, and it should, because this is the place where the people's feelings and concerns ought to be dealt with, right here on the Senate floor. That is why we are here. That is why we are elected, and that is why we vote. We ought to vote on real amendments and not phony amendments.

We have agreement here that anybody who wants to amend the tax bill has to bring in a proposal to pay for it. I must tell you I am very troubled about the fact that we have a proposal here now from the Senator from Delaware, a sense of the Senate resolution, and there is nothing in there to pay for it, zero, zero.

All the talk about revenue neutrality—having that as a standard to measure amendments by, there is none there. The Senator smiles as well he might because it is really a fraud to do it that way. I mean if we are going to have a revenue offset on requirements on real amendments that really do something in the Tax Code, why should we not at least have a revenue offset in the make-believe amendment, in the sense-of-the-Senate resolution? Clearly, we ought to. That just highlights the fact that it is not real, it is make-believe. There is no way to pay for it.

In fact, rather than have us face it directly and put it in the bill, we pass it off in the hopes that something will be done in the conference. That is not the way to do it.

If the Senator from Delaware really wanted to accomplish what he says he wants, and that is to have the IRA restored but to not specify how it is to be paid for, if he really wanted to accomplish that, there is another form in which he could put his amendment to do exactly that. He could come in with an amendment that would have the force of law that would say the Senate goes on record to restore the IRA, and the amendment would be drafted to recommit that proposal and that amendment to the Finance Committee with the instructions that they decide how to pay for it and then report back forthwith that means of paying for it in which case then we would have the issue in fact nailed down and made a matter of substantive law and in the bill.

So if he wants to do it without paying for it and he can tell someone else how to pay for it, that is the way to do it and make it real, at least then it is a bona fide amendment. It is an amendment that will change the law and the substance of this bill. He has elected not to do that.

The obvious question is, Why? I think the only answer anybody can give is it is not a serious attempt to fix the problem. It is a make-believe attempt.

I was even further distressed in that respect when I saw what the second-degree amendment was that was offered to the amendment of the Senator from Delaware on this sense-of-the-Senate resolution. The sense-of-the-Senate resolution has been amended in the second degree.

By the way, for those of you who are trying to follow this debate, this is another parliamentary trick that has been used here. Let me try to explain it. By offering a second-degree amendment to the sense-of-the-Senate resolution of the Senator from Delaware, it has been put here in a way that in a sense makes it impossible even for the Senate tax conference committee to actually restore the IRA's. So it is sort of putting a time bomb in the sense-of-the-Senate resolution so that it blows up anyway. I mean it is sort of a fail-safe way to make sure it will not happen.

That is what is going on here. That is the level I think of the degree to which we are being asked to in a sense not deal with the issue rather than to deal with it directly.

The way the second-degree amendment reads is this: It attaches a provision that says in the conference that the only way we can restore IRA's is "that the retention of the tax benefit of individual retirement accounts should be accomplished in a manner which does not adversely affect the tax rates or distribution by income class of tax reduction otherwise provided for in the Tax Reform Act of 1986."

That is legal language written by lawyers, rather obscure, but what it means is that there is no way to really pay for the restoration of the IRA's.

So the sense of the Senate resolution, on the one hand, is an instruction that says, go and figure out how to keep the IRA Program alive, and yet the second part of the amendment that has been put in here says, but, by the way, we are not going to give you any maneuvering room to figure out how to actually pay for it to make it happen. So you might as well just take that amendment and tear it right in half because it has built into it something that renders it ineffective so that it cannot work properly in the conference if someone wanted to do something with it. But that is the kind of thing that goes on. I mean is sort of a standard tactic that is used from time to time here in the Senate.

This is not a novel invention. It is a device that is used different times to make it look like we are doing something when in fact we are not serious about it and we are not really intending to do it and we are leaving ourselves all kinds of ways to say later, "Well, I am sorry, I could not get that

done because, look, the language itself limited me so that I could not go out and save your IRA's."

So I would hope that the Senate will not buy any of that. I would hope that the Senate will say that the sense-of-the-Senate resolution is a lot of nonsense and it does not get the job done.

We have an alternative amendment that has the force of law that does get the job done. It pays for the IRA restoration. It does it in a fair way. It asks that the alternative minimum tax go up slightly and it does not impose any unreasonable burden in my view on that 375,000 of high-income taxpayers when we are talking here on the other hand about a class of at least 20 million families that have taken out IRA's and many million more who would like to.

I want to move on to one other issue here with respect to the IRA and I am going to have to just move around one row, Mr. President, because I have some charts here in the back that I want to refer to. So, if I may, let me put this microphone down and move over and take one closer to the charts.

The IRA is important to us I think as a nation for really two reasons. The main reason is that it enables people to in an intelligent fashion and a proper way provide more for their own retirement. It is tough to put money aside for retirement years, especially if you are in the working class like the families from the letters that I read who are putting kids through school or have medical bills or other things. It is very tough to set much money aside.

The IRA has proven to be one way in which we have been able to do this as a nation. So it is essential that that continues.

What I want to show initially here—this chart illustrates the growth in the number of households in the United States that have IRA's. It is a very important chart because what it shows is what you might expect. Back in 1981 when we first started out you know only a certain number of households in the country learned about it, understood it well enough, got geared up to go ahead and take out an IRA, and so forth, and the people in the business of encouraging people to invest in IRA's began to advertise, and so forth. So the word got around. People understood that this was important to do. It was a good way to save for retirement.

□ 1520

And so then you see coming ahead here, April 1983, a big jump, a big expansion in the number of households that decided IRA's made sense and that they would save money now in order to put money in an IRA for retirement down the line.

These are the numbers for 1984.

These are the numbers of 1985. We are already out here now to close to 30 million families, 28 million families, that have been involved here.

But what does this chart tell us? This chart tells us if we keep the IRA as it is now, because it is working, the way it is now it has been working and working effectively, these numbers are going to grow. And if you look at this for the next year, this next line, it is going to come out even further because more and more families are going to do it. And that is exactly what we want to see. We want to see more and more people in a stronger financial position with respect to their own future retirement.

Now, the Senator from Pennsylvania a short time ago on the floor had some very good remarks. He indicated that many people with pensions in the United States find that their pensions disappear—companies go out of business, the pension system breaks down, or, if the pension system holds up, they get a very small payment, not enough of a payment to be able to live on. Many people do not even have access to that, but those that do, many of them, move before the vesting period. They change jobs or they have to move from one part of the country to another, and so forth.

So we need something that augments the private pension system. I wish everybody had a private pension, but many, many people do not. And those that do, many of them, are woefully inadequate, even with Social Security income, to provide a decent standard of living. People know that. I would hope we know it. But these numbers should tell us the American people are saying to us that IRA makes sense. It makes good sense for them individually and as families.

But, on a national level, it is just as important in the overall, because we have a desperate problem in the United States with too low a savings rate. This is one of the reasons we are being hurt so badly with international competition.

I want to show some charts in that area. One of the reasons tht we have an enormous trade deficit is that we are not saving enough money in the United States. We do not have enough investment capital to invest in new equipment, new machines, new products, new product innovation, new materials, and new job creation in this country. We are lagging in that area. We are way behind the rest of the world and we are beginning to see it in terms of our trade statistics.

We are going to have a trade debate here before long on the Senate floor, but this relates directly to the IRA.

This chart is the product of President Reagan's Presidential Commission on National Competitiveness. What this chart shows, it shows in two categories, the kind of product areas where the United States is improving its competitive performance in the world and then a much longer list of product areas where our performance relative to the rest of the world is worsening and we are losing out.

It turns out that the areas that are improving are things like hides and skins, fertilizers, natural gas, cotton, cereals and grains; in other words, basically raw materials, items with very little value added.

The areas where we are losing our shirts essentially cover the rest of the American economy—office machines, motor vehicles and parts, furniture, construction and engineering equipment, toys and baby carriages, paper and cardboard, textiles, power generating equipment, telecommunications equipment, aircraft equipment and spacecraft, wearing apparel, iron and steel, and automobiles. A massive erosion is taking place across virtually all the other product areas where there is high value added in our economy.

What this has led to is an enormous trade deficit, the biggest trade deficit that we have ever had, and beyond what people thought even was possible 4 or 5 years ago.

This chart illustrates the dimension of the trade deficit. Up until a few years ago, we were roughly breaking even in our trade account. We had roughly a balance in trade. Then, all of a sudden, the bottom started to fall out, and take a look at this hemorrhage. Our trade deficit last year was $150 billion. Nothing like this has ever happened before in the United States, and this trendline is continuing. It is going to be worse this year. Some people say the falling dollar is helping it. That is some of the same economic nonsense we are hearing on the IRA debate.

The falling dollar is not helping it. Our trade deficit with Japan this year is going to be higher this year than last year even despite the falling dollar.

If you take a market basket of currency from other countries in that part of the world, Korea, Taiwan, Hong Kong, and Singapore, we have less than one-half of 1 percent of currency value even though the dollar is falling. With Canada, the country with our second-largest trading deficit, their dollar is falling faster than ours.

So the falling dollar is not the answer to this problem. But saving more money in the United States and investing it intelligently and producing more and being able to work harder, that is what will solve it.

This trade deficit is now severe. If you look at this $150 billion trade deficit for last year and think of this as an income statement, here is what the balance sheet looks like behind that. Let me put that up here.

This is what our international balance sheet looks like as a Nation right now. This is really very alarming.

The United States was a creditor Nation every year from 1917 until this last year, because we were in a very strong financial position. That has all disappeared. We are now a debtor Nation.

This red zone here shows the rate of speed at which we have become and are becoming more and more a debtor Nation. We are No. 3 on the list of debtor nations now. Only Mexico and Brazil owe the rest of the world more than we do. In 6 months, the United States is going to be No. 1 on the debtor nation list—No. 1, owing more money to the rest of the world than any other nation.

The New York Federal Reserve Board is now estimating, their official estimate is that by 1990, just 4 years from now, we will be a debtor Nation to the tune of somewhere between $500 billion and $1 trillion.

And all this money is owed to foreigners. They do not have to lend it to us. I mean, it used to be our money. It is now their money. But they do not have to lend it to us in the future or, if they do, they may want to charge us sky-high interest rates. But this is part of the adverse financial condition that is developing, and it is very, very severe.

I am not going to get into the fiscal deficit, because that is a twin problem to the trade deficit. But it helps illustrate the fact that we have to have more savings in this country.

And the people who say, "Well, all this money saved in IRA's would have been saved anyway," well, that is just nonsense, as well. People know better than that. The American people know better than that. They are squeezing to save the IRA money.

If you take a look at the statistics, if you take a look at who is actually saving the IRA money, 72 percent of all of the IRA money saved comes from individuals with below $50,000—72 percent. And if you take it by income category, you will find that there are very substantial amounts of money that come from people that earned $10,000 to $20,000, to $30,000, $30,000 to $40,000.

Now, if you think they are not scrimping and saving to put this money aside for retirement maybe 20 or 30 or 40 years down the road, you are kidding yourself. Of course they are. That is exactly what they are doing.

It is hard to save the money. And, as a nation, we have not saved enough. The IRA helps us save more. And the more we save the quicker we can turn those trendlines around on our international trade performance, the faster we can improve our productivity here in the United States.

So we not only need that in terms of greater protection for individuals in terms of their retirement, the United States of America needs those savings. And, frankly, we have been asleep on that issue around here. We have not paid enough attention to the savings rate.

We did a very good thing in 1981 when we established the IRA's. It was one of the smartest things that we have done. Let us not undo it now, now that it is just starting to work. Let us keep it in the law. The people want it. They know it works. It is helping them save. It is changing the savings ethic in this country and it is producing a different kind of savings.

It is producing long-term savings, and that is qualitatively different. When that money gets put into an IRA, in almost every instance it stays there. So that is a permanent, growing investment pool that is available for the capital investment needs of the United States of America so we can restore our competitive strength and we can get out of this debtor nation situation.

So that is why we need the IRA's because they are good for people and they are good for the country. That is why we are getting all this mail.

Frankly, when I hear the members of the Finance Committee say, "Well, we can take care of everything else"—we have got all kinds of little special things in the Tax Code here that takes care of special problems and so forth; that is nothing new, we have seen that a lot before when we have taken care of maybe this larger group and that larger group—"but I am sorry, we can't do anything about the folks that have the IRA's, that 20 million people out there. You know, we just can't keep the IRA tax credit there for them."

Well, that is nonsense. Of course we can, and we should.

□ 1530

And I will tell you this. We are going to vote on this, and after we vote on it, I do not know how many times, but we will vote on it enough times so we have a record. It will be a record that has some meaning. Bear in mind, people are following this debate. They are having a chance to hear and watch it. They are going to find out where people voted. People who voted against IRA's, I think, are going to live to regret the fact that they do because they make sense and people want them. But they are not going to slide off on this issue any more. Nobody is going to be able to vote for a sense-of-the-Senate resolution and say, well, we took care of that by waiving a wand because that would not do. We have to have an actual amendment in law that saves the IRA. There is going to be a chance to vote on it. We will be able to find out who is on which side of the issue. Those that want it will be voting for it, those that do not want it will be voting against it, and we will have a clear-cut record now and for the future. That is what we need to have.

That is the good thing about the U.S. Senate—that in the end, if we get the real issues to the floor, we can have up or down votes. We can settle these issues, and in the end the people can settle after we settle. If they do not like the decisions we make, if they think we are tilting too much one way and not toward them, then they can start throwing people out of here. That is the way the system works. It works pretty well that way. But at least they will have a record based on the facts.

I want to say one other thing about it; that is, I have been a supporter for many years of having stock ownership plans. I say this because the Senator from Louisiana is on the floor. He is a great friend. He has been a champion, the leader of stock ownership plans for America over the years. I say most of the gains that we have made in that area he has been responsible for making.

Mr. LONG. Will the Senator yield at that point?

Mr. RIEGLE. Yes.

Mr. LONG. Let me thank the Senator for the kind reference he made to the Senator from Louisiana. I want to thank the Senator for the support he has given us in the area of stock ownership. I would like to say we are talking about employees owning stock in the company. It is employees' stock.

Mr. RIEGLE. That is correct. It is an employee stock ownership fund.

Mr. LONG. I hope the Senator still has the same warm view toward the workers that he has had in the past and that he still favors, as I do, the idea of encouraging companies to have plans to help the employees to own stock in the company because that too is a good way of saving.

Mr. RIEGLE. It is indeed. I am all for that. I think it really helps in every situation I have seen to get a better company, and you get better performance.

The reason I mention it is I want to draw an analogy that I think the Senator from Louisiana might appreciate. And that is in my opinion, an IRA is a little bit like a taxpayer investing in themselves with a stock ownership plan. The employee puts the money in, the company puts some money in, and the employee invests in the company. It has certain very important benefits. I think the IRA is similar in the sense that you provide a way and a little bit of an incentive for the individual to invest in themselves, and in so doing investing in the country. It is sort of an equity position that they take, if you will, because they start to provide a new foundation of long-term savings for their own retirement, so they can have a better life when they get to retirement age, and so they

have a decent income to live with the kind of costs we have today with health care costs and other things.

But at the same time, all those individual IRA people around the country putting that money in causes this great big investment pool to grow that we have just got to have. We have to have it if we are going to get Louisiana back on its feet, if we are going to get Michigan, and all the other States in the country back on their feet who are hit so hard by this international trade situation. We have to have that savings pool.

I mean to me this fits what I have heard the Senator say a lot of times. This is something that kills two birds with one stone. It is not often we can do that with a provision that has a multiple value. It is good for people. It has a very good, long-term social impact for individuals but also helps the country meet an extraordinary need that it has right now that it is not otherwise meeting. Especially when you see those IRA statistics growing, that each year more people come in. I mean each year more people find out about it, they stretch a little harder, and they do it. It has taken hold.

Now we are proposing to come along here and unwind this thing. And say that front-end tax reduction is going to disappear for about 20 million of those people who have already made the IRA decisions, and many more millions who are sitting out there who would like to and have not quite gotten to the point yet where they can do it.

I just make that point because I think in the broad scheme of fairness, this bill has been brought to the floor in the name of fairness, among other things. We talk about it in terms of stimulating economic growth and getting a lot of crazy tax incentives out of the code and so forth so we get down to the more fundamental kind of economic decisionmaking. That makes good sense. But at the same time we are trying to make it fairer. It seems to me for that broad group of taxpayers out there, the broad middle class, the working people that are trying to get ahead, we should have a little something in there for them that is tangible that they understand. We said to them 4 years ago, look, we think this is a good idea, why do you not try this IRA? They have done it. They have responded.

To come along now and yank the rug right out from under them, I do not think that is the thing for us to do. We can pay for this. We are talking about limiting the amendment to the tune of about $14.7 billion over a 5-year period of time. We have a way to pay for it. If there is a better way, I am open to a better way. But I think the way we have proposed is a guaranteed good way to do it. It meets the test of fairness. It raises the amount of money over the right time period and so forth.

Why not give the middle class a break? Why not give the person trying to climb the ladder a chance to maybe get up another rung up that ladder? You know, there are an awful lot of folks up at the top of the ladder that are living an awfully good life today in America, because if you have plenty of money, there are a lot of nice things you can do with it. A lot of people are. You see a lot of examples of it—people with big boats, private airplanes, all of the things that money can buy and so forth. We are giving that group in this tax bill 16 percent of all of the tax advantage. The bottom line is going to go directly to that group above $200,000 representing less than one-half of 1 percent of the population.

Why not keep something like the IRA that is there for everybody so that everybody out there, if they are earning $10,000, $12,000, $15,000, $18,000, $22,000, $30,000, $45,000, or $50,000 or $60,000, who is willing to put that money aside in a savings form to help the country and help themselves will have a little bit of an advantage to do that? We will give them a little help, a little incentive because this country wants to say in its tax laws that is the kind of national conduct and individual conduct that makes good sense. It is good for the country's future. That is what we ought to be saying in our tax laws. So we did not make a mistake in 1981 with the IRA's.

We made a good decision then. We ought to stick with it. The American people want us to stick with it. I have a box of letters. There are easily a thousand letters in this box. There were 900 last week. And I think if we were on the national television on network television, I would bet you within a matter of 4 or 5 days' time we would have 5, 6, 7 million letters here in Washington that would fill this whole Chamber. It would fill this whole Chamber up in behalf of saving the IRA's. Then I think we would do it. I think we would do it. I think we would get the message, and we would do what is right.

What we should be doing is saving the IRA, not with a lot of gimmicks, a lot of this, a lot of that, but we would step right up and do it. I wish the letters would arrive. Unfortunately we cannot get the message out quite directly to everybody in the country because we do not have the way to do it. So we have to do it in the best way we can. We have an amendment that is coming up that will get the job done—not a sense-of-the-Senate resolution. That does not provide any money to do it. It is not a sense-of-the-Senate resolution that has a self-destructive, second-degree amendment in it that ties the hands of the Conferees so they will come back to us and say sorry, we could not do it because the very sense-of-the-Senate resolution that you gave us prevented us from doing it. We are not that stupid. You know, this amendment is only one page. We ought to be able to read it, and to see that the second paragraph nullifies the first paragraph. You know, we ought to be able to see that. So that does not do the job.

If you want a sense-of-the-Senate resolution draft one in a recommittal form to send this proposition back to the Finance Committee, give them 24 hours to come back with a way to pay for the IRA's, they bring it back, we vote on it, and then the problem is solved. That is the way to do it if you do not want to specify the revenue source. If you want to shove that off on somebody else, shove it off on the Finance Committee. I do not think that is the best way because now it is our turn to make some judgments. It is here on the Senate floor. We are the ones that now should be voting up or down on these issues. We found a revenue source. It is a solid revenue source. It is fair. It pays for it. It is going to do this country a lot of good.

So I hope people who want to save the IRA's, citizens and Senators alike, will wait for that amendment to come along because we will be offering it in due course. It will get the job done. It not only will accomplish what we need to accomplish in saving IRA's, but you will have a clear record as to where you stood on the issue.

□ 1540

Nobody in the future can raise that issue without being able to say, "When the roll was called on saving the IRA's on putting it in the tax bill, I was there and I voted for it."

That is what we ought to have and that is what we will have a chance to have either later today or at the latest possibly tomorrow.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, the Senate Finance Committee bill is a giant step toward real reform of our Nation's tax laws. The bill will revolutionize our tax system making it simpler, fairer, and more efficient for most Americans. However, there are areas where the bill should be improved. The most important improvement needed, in my judgment, is in the area of individual retirements accounts.

The Finance Committee bill proposes to restrict the current deduction for IRA contributions to those taxpayers who are not covered by employer-provided pension plans. Taxpayers ineligible to make tax deductible contributions could continue to add to

IRA's, although the contributions would be taxable. The interest earned by IRA's held by taxpayers ineligible for tax deductible contributions would continue to be tax-deferred. This change would impact on almost three quarters of the 25-million people who have IRA's, and, in my judgment, eliminate the only "safety net" in the private retirement savings system. The IRA deduction allows all Americans to secure a small measure of confidence in their retirement security.

In 1981, as part of the Economic Recovery Tax Act, Congress allowed all working taxpayers to deduct as much as $2,000 annually for a contribution to an IRA, plus an additional $250 for a nonworking spouse. This was done for important reasons. First, Congress was seeking to help people save for their own retirements therefore relieving future strains on other Federal programs. Second, it was thought that IRA's would encourage more savings which would in turn contribute to the formation of investment capital needed for economic growth. Statistics clearly indicate that both of these goals are being met from the use of IRA's.

There is ample evidence to show that IRA's are used primarily by middle-class taxpayers wishing to provide for their retirement rather than by wealthy people looking for a tax shelter. According to Internal Revenue Service data, 60 percent of all taxpayers who contributed to their IRA's in tax year 1983 had adjusted gross incomes of under $40,000. In 1984 over 74 percent of those owning IRA's earned $50,000 or less in annual income. These statistics clearly show that IRA owners represent the core of hard working Americans who are struggling to meet daily expenses and still set aside something for retirement. In my opinion, IRA's are a vital retirement supplement for middle-income families, and Congress should not renege on the promise it made to these Americans in 1981.

Another important goal of expanding IRA's in 1981 was to generate new savings for the economy. Once again, there is ample evidence that IRA's are achieving this important goal. Proponents for repealing the deduction for contributions to IRA's have argued that there has been a decline in the savings rate between 1982 and 1985, the period for which IRA's have been in existence, indicating that IRA's have not been an incentive for new savings. However, a survey conducted by the Insurance Marketing and Research Association in 1983 found that the downward trend in the aggregate savings rate was not a proper guide to IRA's contribution to savings. That survey revealed that in 1982 IRA's accounted for $10.2 billion in new personal savings which is equivalent to approximately 8 percent of 1981 personal savings. This survey also revealed that any money invested in IRA's is more likely to remain saved than alternative types of savings because of the penalties for early withdrawal.

A second analysis done by the Investment Company Institute based on a 1984 survey of households, complements the earlier study. According to this survey, IRA's added $14 billion to new savings in 1983 and $18 billion in new savings in 1984. It is further estimated that IRA's could contribute as much as $50 billion to new savings by 1990.

The argument that IRA's savings are simply a replacement of other forms of savings underestimates the attractiveness of the incentives to save in a IRA and the need of many people to obtain a measure of financial security and retirement. I believe it is likely that most people will let their IRA earnings grow without affecting other saving decisions. David Wise, a professor at Harvard University, conducted studies which concluded that as much as 57.4 percent of all IRA contributions are now savings. In addition, people continue to need money to finance such things as college education, a home, and medical emergencies. Therefore, I believe it is reasonable to expect that the rate of savings for retirement will be on the increase because of IRA's and saving for other purposes will be unaffected by the IRA.

On the other hand if the deduction for IRA's is eliminated there will no doubt be a sharp fall off in the number of contributors to this important retirement plan. A recent study conducted by the Investment Company Institute shows that 43 percent of IRA owners would be likely to not make contributions without the deduction. The survey estimates that this fall off would exceed $17 billion.

It is important, in my judgment, that Americans be given the opportunity to establish their own private retirement plan whether they are covered by an employer-provided pension plan or not. IRA's are personal retirement savings, available to all working Americans, unlike pension plans which are available only at the employer's discretion. IRA's are totally portable whereas employer-provided pension benefits typically are not. Vesting in IRA's is immediate but is frequently delayed in an employer-sponsored plan. Also, the individual decides how much to contribute to an IRA and it is not a benefit which is any way bestowed upon the individual by the employer. Even if a person has a vested retirement plan, his benefits are relatively low as shown by a survey conducted by the Social Security Administration. This survey revealed that the median payment for a retired couple who received a pension was $490 a month while an unmarried man and woman received a median payment of only $291 a month.

The Finance Committee bill runs counter to the administration's tax reform proposal on IRA's, and it is much more severe than the tax bill passed by the House. In its Treasury II tax reform plan the administration proposed extending the $2,000 maximum IRA deduction to nonworking spouses. I have long supported this change because I believe the current allowance for a spousal IRA fails to recognize the important economic contributions made by nonearning spouses. Furthermore, I believe IRA's should be encouraged for retirement savings and therefore made available on a broad and consistent basis.

Mr. President, there is no doubt in my mind but that the IRA has permitted many moderate and middle-income workers to save for their retirement. It was not designed to replace employer sponsored plans but was intended to supplement Social Security and private pension programs. At the same time, IRA's generate new savings, therefore enlarging the pool of capital available for long-term investment. These goals have not changed since 1981 and Congress should not change the rules now. I urge my colleagues to oppose the Finance Committee's proposal to repeal the deductibility of contributions to IRA's.

Mr. President, I would like to mention a couple of other matters, which will be brief.

When we were debating the Social Security rescue bill about 4 years ago, there were many who were looking down the road at Social Security, and asking whether or not the Social Security System should be effective for young people who were in the age bracket of 20 to 35, and whether it would pay off.

I think most of us believe in the Social Security System. We believe that the American people will always demand that the Social Security System be viable and that it will not bankrupt, that it will be effective and that it will pay off.

But in the debate there was a great deal stated about potential reform and to allow flexibility, including to allow a portion of the Social Security contribution that employees make and that employers match to go into individual retirement accounts and allow them to make individual investments, to have a choice as to perhaps investments into stocks, investments perhaps into mutual funds, or whatever might be their choice.

There was a great deal of feeling that sometime down the road the Social Security System would have to be renovated. Included in that renovation would be an approach similar to IRA's.

I think we all realize that the concept of IRA's is great, and that we ought to try to encourage it, we ought to try to encourage savings. It is most important that we do everything we can to foster savings.

I am for IRA's and I may end up voting for the Roth resolution. I may vote for every one of the IRA amendments. I feel pretty strongly that we ought to preserve the IRA's. By voting for the Roth resolution I might be making a contribution toward seeing the revival of IRA's and ensuring that they are taken care of in the tax bill.

On the other hand, I have to look at this and say that this is the hot-potato approach. The hot-potato approach, as some of you have observed your wife in the kitchen or having done a little cooking on the barbecue grill, is if a potato is in foil or if it is not in foil but if you happen to put your hands on a hot potato, the first thing you do is, because it is so hot, you flip it to the other hand and then you flip it back to the first hand.

Well, I think what we are doing here is the hot potato. We do not want to say where we are going to take the money from. We do not want to step on somebody else's toes. We are for IRA's or for the principle. But we want to let somebody else do it. The conference committee is going to have a lot of activity going on behind closed doors and perhaps they will come up with the solution and save IRA's and maybe they will not.

The danger in the hot-potato approach is as you transfer it from one hand to the other you drop it. I am afraid that is entirely possible of what could occur relative to this matter.

Nevertheless, I frankly believe we have to support, generally, IRA's, and I am for any reasonable approach that will preserve the IRA's.

I may vote for that proposal but I do feel like we do have a responsibility. I would prefer that we measure up to our responsibility here in the Senate and find the revenues. There are places where revenues can be found. We ought to look it square into the face, square in the eye, and say that if IRA's justify a continued existence, let us measure up to the responsibility and bite the bullet and go ahead and do it.

I think we would be in a better position as we go to the House conference, and it is possible we could come up with an approach which could be accepted all the way around.

I say that voting for the Roth amendment does not necessarily mean that you should preclude yourself from considering the other proposals. I think you can support all of them or you can support one of them, hoping that one of them will pass. I hope that we can muster the strength to pass one of them.

Mr. President, I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, let me add one other item that I meant to include earlier. I think it is important for my colleagues to have this data on IRA's.

The latest year for which full IRA information is available from the Internal Revenue Service is for the year 1983. The reason that is so is that the IRS, as is well-known, has quite a few problems. They are backed up and they are not able to compile their statistics as rapidly as they would like.

Based on the last year for which complete data is available, it shows that 72 percent of all the IRA money contributed in the country came from people who earned $50,000 a year and less. The remainder came from those above that income level.

But what is interesting, and a lot of people are surprised to hear this, is when you start with your first dollar of income up to $10,000 a year, that income group actually put in 4.7 percent of all the IRA money contributed in 1983.

I think that is surprising. A lot of people would think, I believe, that someone with an income less than $10,000 might not put any money into the IRA's, but that is not the case.

Then to the next notch, people earning from $10,000 to $20,000 a year, and they contributed 14.6 percent of all the IRA money contributed in that year of 1983.

I find that a pretty impressive number, to imagine that almost 15 percent of all the IRA money came from people who earned between $10,000 and $20,000 a year. That shows, I think, that people were really working hard to save that money and set it aside, to be able to put it into an IRA for their future retirement.

In the income group from $20,000 to $30,000, 21.5 percent of the total amount of IRA money came from individuals in that group, the $20,000 to $30,000 group.

From $30,000 to $40,000, 21 percent of the money came from that group.

From $40,000 to $50,000, 15.6 percent of the money came from that group.

Of course, the remainder came from people with incomes above that.

We would say to people with very high income levels that they do not get a bigger tax credit for taking an IRA; they get the same size tax credit as the person in the lower income level, $10,000, $20,000, $30,000, or $40,000, the amount they would get under the new tax bill.

That is the amount that the higher income person would be limited to. But significantly, most of the money, the overwhelming majority of the money contributed to IRA accounts comes from the broad middle class of our country. That is who puts it in.

So, Mr. President, for the Senate to come along now and step on that group, when they are showing that they want to save and are saving in increasing numbers, need to save for their retirement, to step on that group and say, "Sorry, we can take care of everybody else's problems but we cannot take care of yours"——

Mr. D'AMATO. Mr. President, would the Senator yield for a question?

Mr. RIEGLE. Yes, Mr. President, I yield to the Senator.

Mr. D'AMATO. Can the Senator explain if we are going to vote overwhelmingly and if the chairman of the committee and the majority leader have indicated their strong support for a resolution which propounds the Senate's support for IRA's, why they would opt for a resolution which is nonbinding in the conference as opposed to passing a legislative initiative retaining IRA's here and now? Does that leave the Senator somewhat perplexed?

Mr. RIEGLE. I think the Senator from New York ought to be suspicious about that. It is the sort of hot-potato problem that I think the Senator from Alabama was referring to. That is, if they really want to fix this problem, we can fix it right here today. We can fix it before the Senate goes out tonight. We can pass an amendment that will restore the IRA and pay for it. We can do it here.

The Senator is exactly right. When you see this very elaborate buck-passing, to say "Well, we are not going to do it in the bill and we are going to have a very vaguely worded instruction to the conferees and so forth"—that is really sidestepping the issue and it does not hold water.

I have not been able to get an answer yet, I might say. The chairman of the committee is on the floor. Maybe he can answer it for me.

I do not understand why real amendments of substance that go to the bill have to have a revenue offset but sense-of-the-Senate resolutions do not have to have a revenue offset. I have not been able to get an answer to that.

Mr. D'AMATO. Unless it is possibly that they do not intend to comply?

Mr. RIEGLE. What we heard in the early going in the debate was that we have to have a rule that says that anybody who wants to do something in the bill to make a change has to pay for it, there has to be a revenue offset. If I could have the attention for a moment of my friend from Oregon——

Mr. DODD. Mr. President, would my colleague yield for a second before he gets off that point?

Mr. RIEGLE. Yes, I yield, Mr. President.

Mr. DODD. I am curious and wonder if my friend from Michigan could possibly clear something up. It seems to me that this sense-of-the-Senate reso-

lution has a sort of dual message in it. If I listened carefully to the colloquy last evening between the chairman of the Finance Committee and our colleague from New Jersey [Mr. BRADLEY] and if I listened carefully and accurately today to some of the conversation about what the Finance Committee did with the IRA's, the impression I am left with by those who have spoken on behalf of the committee bill as it presently reads is that the IRA's are in good shape in the Finance Committee bill. That is the impression I have from those who talked about this, that actually, no one has been adversely—only a small group of people may have been adversely affected but really of inconsequential means because of the inside buildup and the like. That is one impression I have.

The other impression I have from reading the sense-of-the-Senate resolution, which is cosponsored by the majority leader and the Senator from Delaware [Mr. ROTH] and Mr. PACKWOOD alike, is, "Don't worry, when we get to conference, we are going to fix the IRA."

So there seems to be implicit the suggestion by the resolution that there is something yet to be done about IRA's, that in fact, what the committee bill produced is not yet quite right. Yet the debate on the floor seems to indicate to this Senator that what the committee has produced is more than adequate to satisfy the IRA holders or those who might like to get into the program.

I am somewhat confused about what the position really is when we go to conference. Does the Finance Committee really believe that in conference, there is something to be done, or do they really believe in the Senate position? Will they defend the Senate position?

Assuming no amendments of IRA are approved by this body, will they defend the committee position in conference and hold to that, or do they agree something should be changed and fixed? So, how would they fix it; what can be done?

I see a confusing message, if you will, in the debate we had last evening and again today on this issue. Maybe the Senator from Michigan can clarify it.

Mr. RIEGLE. I thank the Senator for his comment, because he is exactly right. That is, you hear from the committee members defending the bill and on keeping the bill as it is now, which keeps the IRA for some people, that it is still fine, it is fair, they get the inside buildup and so forth, they do not really need the front-end tax credit. There is almost a suggestion, somehow, that if people really want to keep the IRA, you know, they are being selfish or, somehow, they are trying to grab something that they have no right to get. I must tell my colleague that it took us a long time to find out all the transition rules because there has been a lot of grabbing going on. It is not going on by the middle-class group that gets the IRA.

So I think the Senator is right. My ear tells me the same thing. That is that part of the opposition we are hearing is from people who say nothing more needs to be done with the IRA and if these people do not get it in the future because the tax deduction is gone, well, that is tough luck, but everybody is going to have to live with that and there is no great damage done.

Mr. DODD. Let me ask a further question, Mr. President. The Senator's colleague from Michigan, our colleague [Mr. LEVIN], on June 10 received a letter from the Joint Tax Committee. I believe his question was, "Could you identify for me which taxpayers get increases in their taxes and which taxpayers get decreases in their taxes as a result of the passage of H.R. 3838," the bill that is now before us? In fairness to the Joint Tax Committee, Mr. President, I ask unanimous consent that the entire text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, June 10, 1986.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your letter of May 14, 1986 asking for various statistics related to the individual income tax provisions of the Finance Committee bill.

Table 1 shows the figures produced by our computer analysis on the number of taxpayers with tax increases and decreases under the bill, relative to present law. We believe that these figures suffer from flaws, described more fully below, that are sufficiently serious that we are unwilling to stand behind them as a statistically valid projection of the number of taxpayers with tax increases and decreases under the bill.

Table 2 shows the number of returns projected to claim the deductions for consumer interest, two-earner couples, State and local sales taxes, and medical expenses under present law in 1988. Also shown are the average deductions projected to be claimed on each return in the income class that itemizes and claims that particular deduction. It should be emphasized that the figures for the interest deduction are the result of an arbitrary division of nonbusiness, non-mortgage, interest between consumer interest and investment interest and may be misleading if used to judge the impact of the bill on particular taxpayers.

Table 3 contains distributional data on the deductions for IRAs claimed under present law. Because of data limitations, these figures are for 1984 rather than projected to 1988 like the other distributional data we have prepared and use adjusted gross income rather than economic income to classify tax returns.

Table 4 shows the percentage distribution by income class of the estimated tax reduction under the bill.

Although the figures in Table 1 are a by-product of the computer analysis used to produce our distributional data, we believe they contain serious flaws. Estimates of the number of returns with tax increases or decreases are very sensitive to small changes in tax calculations for individual taxpayers, so that items which lead to only small inaccuracies in average tax cuts could have a substantial effect on estimates of "winners and losers." The statistical problems include:

(1) A number of income, deduction, and credit items are imputed to the individual returns on our sample of tax returns. These imputations, while accurate on average, do not take account of possible relationships with many other tax items affected by the proposals. Thus, the number of winners and losers could be affected for example, if those taxpayers who lose the two-earner deduction are more likely than average to use income averaging. Any such relationship is not reflected in the estimate of the two-earner deduction attached to particular returns in the sample, and, thus is not taken into account in producing the figures shown in Table 1.

(2) A number of pertinent items are omitted from our distributional data because we lack reliable sources. For example, omitted are such items as depreciation, and contributions to 401(k) plans and educational assistance plans. While the omission of these data has only a minor effect on the estimated average tax changes by income class, it could have a substantial effect on particular individuals and, thus, on estimates of the number of winners and losers.

(3) The relatively small size of our sample of tax returns for each income class may be a serious limitation on the accuracy of estimates of winners and losers.

In sum, our data base for estimating the income distribution effects of comprehensive tax proposals has certain limitations. While we believe that these have only a small effect on the accuracy of figures showing average effects by income class and other distribution data you have seen, they may seriously distort, in an unknown fashion, analyses of the number and type of taxpayers receiving tax cuts and tax increases.

Sincerely,

DAVID H. BROCKWAY.

TABLE 1.—TAXPAYERS WITH INCREASES AND DECREASES IN TAX LIABILITY UNDER H.R. 3838 [1]

[Tax year 1988]

Income class (thousands)	Number of taxpayers [2] (thousands)	Percent of total	Percent same	Number with tax increase (thousands)	Percent with increase	Percent of total	Average increase	Number with tax decrease (thousands)	Percent with cut	Percent of total	Average decrease
0 to 10	41,651	31.6	65.7	1,797	4.3	1.4	$186	12,533	30.3	9.5	$−162
10 to 20	27,877	21.1	12.4	4,788	17.1	3.6	202	19,660	70.5	14.9	−315
20 to 30	26,121	19.8	5.7	6,717	25.7	5.1	339	17,925	68.6	13.6	−383
30 to 40	15,727	11.9	2.2	5,247	33.3	4.0	525	10,146	64.5	7.7	−529
40 to 50	8,652	6.6	1.1	2,510	29.0	1.9	799	6,056	69.9	4.6	−820
50 to 75	7,686	5.8	.8	2,431	31.6	1.8	1,552	5,198	67.6	3.9	−1,218
75 to 100	1,793	1.4	.8	665	37.0	.5	3,189	1,116	62.2	.8	−2,724
100 to 200	1,758	1.3	1.6	646	36.7	.5	7,605	1,086	61.7	.8	−6,239
200 plus	655	.5	.8	291	44.4	.2	50,030	359	54.8	.3	−52,535
Total	131,919	100.0	.....	25,092	.....	19.0	1,343	74,079	.....	56.2	−816

[1] Joint Committee on Taxation, June 6, 1986.
[2] Filers and nonfilers. Includes tax returns with no change in liability. See text for substantial shortcomings of these data.
Note.—Preliminary, including Levin computations.

Mr. DODD. Mr. President, I think the most important paragraph of the letter to Senator LEVIN on this subject matter says:

Table 1 shows the figures produced by our computer analysis on the number of taxpayers with tax increases and decreases under the bill, relative to present law. We believe that these figures suffer from flaws, described more fully below, that are sufficiently serious that we are unwilling to stand behind them as a statistically valid projection of the number of taxpayers with tax increases and decreases under the bill.

So these are the numbers they go by, but they are not willing to stand by those numbers.

I would like to ask my colleague this question:

Would people with incomes between $20,000 and $30,000 a year—there are some 26 million taxpayers in that category, under these numbers from the Joint Taxation Committee. Of that number, 26 million, 25.7 percent, will actually get a tax increase under this bill if the numbers are right. We do not know if the numbers are right, but in the first analysis, if you fall into that category, you have a 1-in-4 chance of actually paying higher taxes.

If you make between $30,000 and $40,000, and there are 15 million taxpayers that fall into that category, 33 percent of those taxpayers will get a tax increase. So your chances are 1 in 3 of actually having a higher tax liability under this bill.

Again, I emphasize that these numbers may not be absolutely accurate, and I do not want to suggest that there are not some problems here, because that has been indicated in the letter.

Interestingly, if you are in the $20,000 to $30,000 range, the average increase in your taxes if you fall into that 1 in 4 is $339. That is what your tax increased will be if this bill is passed. We are talking about an amendment that would reduce, provide a person with a $300 increase, which would almost make him neutral in that category.

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Mr. RIEGLE. Exactly.

Mr. DODD. I might add that if you are one of the 1 in 3 in the $30,000 to $40,000 range, your average tax increase would be $525. So our credit would reduce your tax increase down to $225. You still end up with a tax increase, or at least a good chance of it, yet it would minimize that tax obligation. I did not know if any colleague was aware of those numbers.

Mr. RIEGLE. I thank the Senator. Let me add to his analysis another one that we received. I asked Price Waterhouse to do an analysis on different kinds of taxpayer profiles across the United States in each of the 50 States as to whether people would end up paying more tax or less tax. These are people who in the past have taken IRA's. So if the IRA deduction is taken away from them, in the all over does that mean they are going to go up, stay the same, or go down? It is very striking. Price Waterhouse put together four different family profiles. One profile was a joint return of a husband and wife earning $40,000 a year and no children, and then it runs through on the standard tax data how they would do. It turns out in every one of these—these are just people now of the group that would take IRA's. But their total tax bill would go up for that group under those profile assumptions in every single one of the 50 States. By the way, I asked them to time delay and do it in 1988 so the phase-in would have occurred, so that you did not get any of the effect of the first year implications where some of the provisions are only going to be there for half a year.

But, for example, in the State of New York, the taxes of the family in that profile would go up $196. It is that family, of course, as I say that would in the past have taken an IRA.

Let me see if I can find Connecticut. Here in Connecticut it would go up $137 for that family. And then I have it for all the other 50 States, but let me just skip ahead to the other profiles. I also asked them to take a look at what happens if you have a single earner in a household, $30,000 of income with two children. I was trying to get a mix of the situations. It turns out in that case as well every single one of those people in that class who would take an IRA would find that their Federal taxes would increase by varying amounts if we take a look at how all of this washes out. For example, in New York it would be a $137 increase in their Federal taxes each year, in Utah it would be a $114 increase, in Mississippi it would be a $129 increase, and so forth on down the line. I am trying to see where Michigan is here. I do not find it immediately. But we fall into that same approximate range in terms of the adverse impact for a taxpayer in that situation in the State of Michigan.

I will just mention the other two without giving details. The third one is a family earning $40,000 where there are two earners in the family and two children because that brings in the effect of the higher personal deduction.

Mr. D'AMATO. I wonder if the Senator will yield?

Mr. RIEGLE. I just say in all but five States, in 45 States those families would end up having a net tax increase as a result of having the IRA deduction taken away and in 5 States they would have what amounts to, it turns out, a $19 tax decrease, very minimal. And then the last one is for a single return, $20,000 income, one earner, no children, and the data is there as well for that group. So I am going to ask unanimous consent to make that summary a part of the RECORD so that my colleagues will have a chance to take a look at it.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS

The enclosed tables present results for example households for all states and the District of Columbia. These tables show that example households with typical amounts of income and expense (taken from 1983 Individual Statistics of Income and the 1984

Survey of Consumer Finances) will pay generally higher federal tax in 1988 under the Senate bill than under current law, if they have been taking the average IRA deduction for similar families that have IRAs. The example households are presented in Tables 1A–4A. These example families' sources and uses of income differ by state only in the amount of their sales tax deductions (taken from the 1985 instructions to Form 1040, Significant Features of Fiscal Federalism, 1985–86 Edition, and the Commerce Clearing House State Tax Guides, 1985).

The federal tax effect is a combination of the effects of the rate structure, exemptions, and other provisions that do not differ by state; the effects of different sales tax deductions (0 in states with no sales taxes); and the IRA effect (which will also be a constant at 15 percent of the amount of the IRA contribution because all of the example taxpayers are in the 15 percent bracket).

The state tax effect relates only to the IRA deduction. Information on IRA deductions by state was furnished by ICI staff. State and local marginal income tax rates are taken from Significant Features of Fiscal Federalism, 1985–86 Edition.

TABLE 1.—TOTAL FEDERAL AND STATE TAX CHANGES DUE TO SENATE FINANCE BILL FOR SAMPLE HOUSEHOLDS WITH AVERAGE IRA's, FOR ALL STATES, 1988

[Joint return, $40,000 income, Two earners, no children]

State, and city	Federal tax effect				State and local tax effect			
	Change in tax due to structure	Change in tax due to sales tax deduction	Change in tax due to IRA provision	Total Federal change	(Mgn) State tax rate (percent)	Local tax rate (percent)	IRA	Total tax increase
New York, NY City	($328)	146	$378	$196	9.00	4.30	$335	$531
W. Virginia, Charleston[1]	(328)	85	378	135	11.60	0.00	292	427
Minnesota, Minneapolis[1]	(328)	66	378	116	11.80	0.00	297	413
DC, Washington	(328)	75	378	125	11.00	0.00	277	402
Hawaii, Honolulu	(328)	99	378	149	10.00	0.00	252	401
Iowa, Sioux City[1]	(328)	74	378	124	10.00	0.00	252	376
Maine, Portland[1]	(328)	74	378	124	9.20	0.00	232	356
Utah, Salt Lake City	(328)	106	378	156	7.75	0.00	195	351
Kansas, Kansas City	(328)	60	378	110	9.00	0.00	227	337
Arizona, Phoenix [1]	(328)	82	378	132	8.00	0.00	201	333
Wisconsin, Milwaukee	(328)	85	378	135	7.50	0.00	189	324
Colorado, Denver	(328)	65	378	115	8.00	0.00	201	316
South Carolina, Charleston[1]	(328)	89	378	139	7.00	0.00	176	315
North Carolina, Charlotte	(328)	86	378	136	7.00	0.00	176	312
Idaho, Idaho Falls[1]	(328)	71	378	121	7.50	0.00	189	310
Michigan, Detroit	(328)	68	378	118	4.60	3.00	191	309
Maryland, Baltimore	(328)	68	378	118	5.00	2.50	189	307
New Mexico, Albuquerque	(328)	91	378	141	6.50	0.00	164	305
Mississippi, Jackson[1]	(328)	128	378	178	5.00	0.00	126	304
Oregon, Portland[1 5]	(328)	0	378	50	10.00	0.00	232	302
Montana, Billings[1 5]	(328)	0	378	50	10.00	0.00	52	302
North Dakota, Bismarck[1]	(328)	58	378	108	7.00	0.00	76	284
Missouri, St. Louis	(328)	80	378	130	6.00	0.00	151	281
Kentucky, Louisville[1]	(328)	72	378	122	6.00	0.00	151	273
Arkansas, Little Rock	(328)	79	378	129	7.00	0.00	140	269
Virginia, Norfolk	(328)	70	378	120	5.75	0.00	145	265
Delaware, Wilmington[1 5]	(328)	0	378	50	8.50	0.00	214	264
Ohio, Cleveland	(328)	75	378	125	5.42	0.00	136	261
Oklahoma, Tulsa	(328)	59	378	109	6.00	0.00	151	260
Alabama, Birmingham	(328)	74	378	124	5.00	0.00	126	250
Indiana, Indianapolis	(328)	86	378	136	3.00	0.25	82	218
Louisiana, New Orleans	(328)	67	378	117	4.00	0.00	101	218
Illinois, Chicago	(328)	103	378	153	2.50	0.00	63	216
Rhode Island, Providence [1]	(328)	72	378	122	2.24	0.00	56	178
Washington, Seattle	(328)	115	378	165	0.00	0.00	0	165
Tennessee, Nashville	(328)	109	378	159	0.00	0.00	0	159
Nebraska, Omaha	(328)	56	378	106	2.00	0.00	50	156
Vermont, Burlington	(328)	41	378	91	2.50	0.00	63	154
California, Los Angeles	(328)	97	378	147	[4]n/a	[4]n/a	0	147
South Dakota, Sioux Falls	(328)	89	378	139	0.00	0.00	0	139
Connecticut, Hartford[1]	(328)	87	378	137	0.00	0.00	0	137
Florida, Orlando[1]	(328)	85	378	135	0.00	0.00	0	135
Nevada, Las Vegas	(328)	81	378	131	0.00	0.00	0	135
Pennsylvania, Philadelphia[1]	(328)	66	378	116	[3]n/a	[3]n/a	0	116
New Jersey, Newark[1]	(328)	65	378	115	[3]n/a	[3]n/a	0	115
Texas, Houston	(328)	63	378	113	0.00	0.00	0	113
Georgia, Atlanta	(328)	63	378	113	[4]n/a	[4]n/a	0	113
Wyoming, Casper	(328)	62	378	112	0.00	0.00	0	112
Massachusetts, Boston[1]	(328)	48	378	98	[3]n/a	[3]n/a	0	98
New Hampshire, Manchester[1 5]	(328)	0	378	50	0.00	0.00	0	50
Alaska, Anchorage[5]	(328)	0	378	50	0.00	0.00	0	50
Average	(328)	71	378	121			127	248

[1] The results for these cities would apply for any city in the State.
[2] Due to rates, brackets, exemptions and provisions (other than IRA) that do not vary by State.
[3] These States do not allow the Federal IRA deduction.
[4] These States allow an IRA deduction if taxpayer is not a participant in a pension plan.
[5] These States have no State sales tax.

Note.—IRA=$2,517. Taxable Inc.=$30,000.

TABLE 2.—TOTAL FEDERAL AND STATE TAX CHANGES DUE TO SENATE FINANCE BILL FOR SAMPLE HOUSEHOLDS WITH AVERAGE IRA's, FOR ALL STATES; 1988

[Joint return, $30,000 income, one earner, two children]

State, and city	Federal tax effect				State and local tax effect			
	Change in tax due to structure [2]	Change in tax due to sales tax deduction	Change in tax due to IRA provision	Total Federal change	(Mgn) State tax rate (percent)	Local tax rate (percent)	IRA	Total tax increase
New York, NY City	($265)	104	$298	$137	9.00	4.00	$258	$395
Minnesota, Minneapolis [1]	(265)	48	298	81	11.00	0.00	219	300
DC, Washington	(265)	57	298	90	10.00	0.00	199	298
Hawaii, Honolulu [1]	(265)	71	298	104	8.50	0.00	169	273
Utah, Salt Lake City	(265)	81	298	114	7.75	0.00	154	268
Maine, Portland [1]	(265)	51	298	84	9.20	0.00	183	267
Arizona, Pheonix	(265)	59	298	92	8.00	0.00	159	251
Iowa, Sioux City [1]	(265)	51	298	84	8.00	0.00	159	243
Colorado, Denver	(265)	50	298	83	8.00	0.00	159	242

TABLE 2.—TOTAL FEDERAL AND STATE TAX CHANGES DUE TO SENATE FINANCE BILL FOR SAMPLE HOUSEHOLDS WITH AVERAGE IRA's, FOR ALL STATES; 1988—Continued

[Joint return, $30,000 income, one earner, two children]

State, and city	Federal tax effect				State and local tax effect			
	Change in tax due to structure [2]	Change in tax due to sales tax deduction	Change in tax due to IRA provision	Total Federal change	(Mgn) State tax rate (percent)	Local tax rate (percent)	IRA	Total tax increase
South Carolina, Charleston	(265)	69	298	102	7.00	0.00	139	241
North Carolina, Charlotte	(265)	66	298	99	7.00	0.00	139	238
W. Virginia, Charleston [1]	(265)	57	298	90	7.40	0.00	147	237
Idaho, Idaho Falls [1]	(265)	55	298	88	7.50	0.00	149	237
Oregon, Portland [1]	(265)	0	298	33	10.00	0.00	199	232
Michigan, Detroit	(265)	47	298	80	4.60	3.00	151	231
Maryland, Baltimore	(265)	48	298	81	5.00	2.50	149	230
Mississippi, Jackson [1]	(265)	96	298	129	5.00	0.00	99	228
Kansas, Kansas City	(265)	46	298	79	7.50	0.00	149	228
Wisconsin, Milwaukee	(265)	57	298	90	6.60	0.00	131	221
Arkansas, Little Rock	(265)	61	298	94	6.00	0.00	119	213
Missouri, St. Louis	(265)	60	298	93	6.00	0.00	119	212
Montana, Billings [5]	(265)	0	298	33	9.00	0.00	179	212
New Mexico, Albuquerque	(265)	68	298	101	5.50	0.00	109	210
Kentucky, Louisville [1]	(265)	51	298	84	6.00	0.00	119	203
Virginia, Norfolk	(265)	54	298	87	5.75	0.00	114	201
Oklahoma, Tulsa	(265)	45	298	78	6.00	0.00	119	197
North Dakota, Bismark [1]	(265)	41	298	74	6.00	0.00	119	193
Alabama, Birmingham	(265)	57	298	90	5.00	0.00	99	189
Delaware, Wilmington [1] [5]	(265)	0	298	33	7.60	0.00	151	184
Ohio, Cleveland	(265)	51	298	84	4.51	0.00	90	174
Indiana, Indianapolis	(265)	62	298	95	3.00	0.25	65	160
Louisiana, New Orleans	(265)	45	298	78	4.00	0.00	80	158
Illinois, Chicago	(265)	74	298	107	2.50	0.00	50	157
Tennessee, Nashville	(265)	82	298	115	0.00	0.00	0	115
Rhode Island, Providence [1]	(265)	48	298	81	1.71	0.00	34	115
Nebraska, Omaha	(265)	40	298	73	2.00	0.00	40	113
Washington, Seattle	(265)	79	298	112	0.00	0.00	0	112
Vermont, Burlington [1]	(265)	31	298	64	2.11	0.00	42	106
California, Los Angeles	(265)	68	298	101	[4] n/a	[4] n/a	0	101
South Dakota, Sioux Falls	(265)	66	298	99	0.00	0.00	0	99
Florida, Orlando [1]	(265)	60	298	93	0.00	0.00	0	93
Connecticut, Hartford [1]	(265)	59	298	92	0.00	0.00	0	92
Nevada, Las Vegas	(265)	56	298	89	0.00	0.00	0	89
Georgia, Altanta	(265)	49	298	82	[4] n/a	[4] n/a	0	82
Wyoming, Casper	(265)	47	298	80	0.00	0.00	0	80
Texas, Houston	(265)	45	298	78	0.00	0.00	0	78
New Jersey, Newark [1]	(265)	45	298	78	[3] n/a	[3] n/a	0	78
Pennsylvania, Philadelphia [1]	(265)	44	298	77	[3] n/a	[3] n/a	0	77
Massachusetts, Boston [1]	(265)	34	298	67	[3] n/a	[3] n/a	0	67
New Hampshire, Manchester [1] [5]	(265)	0	298	33	0.00	0.00	0	33
Alaska, Anchorage [5]	(265)	0	298	33	0.00	0.00	0	33
Average	(265)	52	298	85			93	178

[1] The results for these cities would apply for any city in the State.
[2] Due to rates, brackets, exemptions and provisions (other than IRA) that do not vary by State.
[3] These States do not allow the Federal IRA deduction.
[4] These States allow an IRA deduction if taxpayer is not a participant in a pension plan.
[5] These States have no State sales tax.

Note.—IRA = $1,988. Taxable Inc. = $20,000.

TABLE 3.—TOTAL FEDERAL AND STATE TAX CHANGES DUE TO SENATE FINANCE BILL FOR SAMPLE HOUSEHOLDS WITH AVERAGE IRA's, FOR ALL STATES, 1988

[Joint return, $40,000 income, two earners, two children]

State, and city	Federal tax effect				State and local tax effect			
	Change in tax due to structure [2]	Change in tax due to sales tax deduction	Change in tax due to IRA provision	Total Federal change	(Mgn 1) State tax rate (percent)	Local tax rate (percent)	IRA	Total tax increase
New York, NY City	($397)	$149	$378	$130	9.00	4.30	$335	$465
W. Virginia, Charleston [1]	(397)	88	378	69	11.60	0.00	292	361
Minnesota, Minneapolis [1]	(397)	73	378	54	11.80	0.00	297	351
DC, Washington	(397)	85	378	66	11.00	0.00	277	343
Hawaii, Honolulu [1]	(397)	103	378	84	10.00	0.00	252	336
Iowa, Sioux City [1]	(397)	78	378	59	10.00	0.00	252	311
Utah, Salt Lake City	(397)	119	378	100	7.75	0.00	195	295
Maine, Portland [1]	(397)	78	378	59	9.20	0.00	232	291
Kansas, Kansas City	(397)	68	378	49	9.00	0.00	227	276
Arizona, Phoenix	(397)	89	378	70	8.00	0.00	201	271
South Carolina, Charleston [1]	(397)	101	378	82	7.00	0.00	176	258
Wisconsin, Milwaukee [1]	(397)	86	378	67	7.50	0.00	189	256
Colorado, Denver	(397)	73	378	54	8.00	0.00	201	255
Idaho, Idaho Falls [1]	(397)	82	378	63	7.50	0.00	189	252
Mississippi, Jackson [1]	(397)	142	378	123	5.00	0.00	126	249
Maryland, Baltimore	(397)	75	378	56	5.00	2.50	189	245
New Mexico, Albuquerque	(397)	100	378	81	6.50	0.00	164	245
Michigan, Detroit	(397)	70	378	51	4.60	3.00	191	242
Oregon, Portland [1] [5]	(397)	0	378	(19)	10.00	0.00	252	233
Montana, Billings [1] [5]	(397)	0	378	(19)	10.00	0.00	252	233
North Carolina, Charlotte	(397)	73	378	54	7.00	0.00	176	230
Missouri, St. Louis	(397)	89	378	70	6.00	0.00	151	221
North Dakota, Bismark [1]	(397)	63	378	44	7.00	0.00	176	220
Arkansas, Little Rock	(397)	90	378	71	7.00	0.00	140	211
Kentucky, Louisville [1]	(397)	77	378	58	6.00	0.00	151	209
Virginia, Norfolk	(397)	79	378	60	5.75	0.00	145	205
Oklahoma, Tulsa	(397)	67	378	48	6.00	0.00	151	199
Ohio, Cleveland	(397)	78	378	59	5.42	0.00	136	195
Delaware, Wilmington [1] [5]	(397)	0	378	(19)	8.50	0.00	214	195
Alabama, Birmingham	(397)	85	378	66	5.00	0.00	126	192
Indiana, Indianapolis	(397)	93	378	74	3.00	0.25	82	156
Illinois, Chicago	(397)	111	378	92	2.50	0.00	63	155
Louisiana, New Orleans	(397)	69	378	50	4.00	0.00	101	151

TABLE 3.—TOTAL FEDERAL AND STATE TAX CHANGES DUE TO SENATE FINANCE BILL FOR SAMPLE HOUSEHOLDS WITH AVERAGE IRA's, FOR ALL STATES, 1988—Continued

[Joint return, $40,000 income, two earners, two children]

State, and city	Federal tax effect				State and local tax effect			
	Change in tax due to structure [2]	Change in tax due to sales tax deduction	Change in tax due to IRA provision	Total Federal change	(Mgn 1) State tax rate (percent)	Local tax rate (percent)	IRA	Total tax increase
Rhode Island, Providence [1]	(397)	74	378	55	2.24	0.00	56	111
Tennessee, Nashville	(397)	121	378	102	0.00	0.00	0	102
Washington, Seattle	(397)	119	378	100	0.00	0.00	0	100
Nebraska, Omaha	(397)	60	378	41	2.00	0.00	50	91
Vermont, Burlington [1]	(397)	47	378	28	2.50	0.00	63	91
California, Los Angeles	(397)	101	378	82	[4] n/a	[4] n/a	0	82
South Dakota, Sioux Falls	(397)	98	378	79	0.00	0.00	0	79
Florida, Orlando [1]	(397)	92	378	73	0.00	0.00	0	73
Connecticut, Hartford [1]	(397)	90	378	71	0.00	0.00	0	71
Nevada, Las Vegas	(397)	86	378	67	0.00	0.00	0	67
Georgia, Atlanta	(397)	72	378	53	[4] n/a	[4] n/a	0	53
New Jersey, Newark [1]	(397)	69	378	50	[3] n/a	[3] n/a	0	50
Wyoming, Casper	(397)	69	378	50	0.00	0.00	0	50
Texas, Houston	(397)	68	378	49	0.00	0.00	0	49
Pennsylvania, Philadelphia [1]	(397)	68	378	49	[3] n/a	[3] n/a	0	49
Massachusetts, Boston [1]	(397)	52	378	33	0.00	0.00	0	33
New Hampshire, Manchester [1] [5]	(397)	9	378	(19)	0.00	0.00	0	(19)
Alaska, Anchorage [5]	(397)	0	378	(19)	0.00	0.00	0	(19)
Average	(397)	77	378	58			127	185

[1] The results for these cities would apply for any city in the State.
[2] Due to rates, brackets, exemptions and provisions (other than IRA) that do not vary by State.
[3] These States do not allow the Federal IRA deduction.
[4] These States allow an IRA deduction if taxpayer is not a participant in a pension plan.
[5] These States have no State sales tax.

Note.—IRA = $2,517. Taxable inc = $30,000.

TABLE 4.—TOTAL FEDERAL AND STATE TAX CHANGES DUE TO SENATE FINANCE BILL FOR SAMPLE HOUSEHOLDS WITH AVERAGE IRA'S, FOR ALL STATES, 1988

[Single return, $20,000 income, one earner, no children]

State, and city	Federal tax effect				State and local tax effect			
	Change in tax due to structure [2]	Change in tax due to sales tax deduction	Change in tax due to IRA provision	Total Federal change	(Mgn) State tax rate (percent)	Local tax rate (percent)	IRA	Total tax increase
New York, NY City	($249)	0	$230	($19)	9.00	4.00	$199	$180
Minnesota, Minneapolis [1]	(249)	0	230	(19)	11.00	0.00	168	149
Oregon, Portland [1] [5]	(249)	0	230	(19)	10.00	0.00	153	134
Maine, Portland [1]	(249)	0	230	(19)	9.20	0.00	141	122
DC, Washington	(249)	0	230	(19)	9.00	0.00	138	119
Hawaii, Honolulu [1]	(249)	0	230	(19)	8.50	0.00	130	111
Montana, Billings [1] [5]	(249)	0	230	(19)	8.00	0.00	122	103
Iowa, Sioux City [1]	(249)	0	230	(19)	8.00	0.00	122	103
Colorado, Denver	(249)	0	230	(19)	8.00	0.00	122	103
Arizona, Phoenix	(249)	0	230	(19)	8.00	0.00	122	103
Utah, Salt Lake City	(249)	0	230	(19)	7.75	0.00	119	100
Michigan, Detroit	(249)	0	230	(19)	4.60	3.00	116	97
Delaware, Wilmington [1] [5]	(249)	0	230	(19)	7.60	0.00	116	97
Idaho, Idaho Falls [1]	(249)	0	230	(19)	7.50	0.00	115	96
Mississippi, Jackson [1]	(249)	0	230	(19)	5.00	2.50	115	96
Maryland, Baltimore	(249)	0	230	(19)	5.00	2.50	115	96
Kansas, Kansas City	(249)	0	230	(19)	7.50	0.00	115	96
South Carolina, Charleston [1]	(249)	0	230	(19)	7.00	0.00	107	88
North Carolina, Charlotte	(249)	0	230	(19)	7.00	0.00	107	88
W. Virginia, Charleston [1]	(249)	0	230	(19)	6.80	0.00	104	85
Wisconsin, Milwaukee [1]	(249)	0	230	(19)	6.60	0.00	101	82
Missouri, St. Louis	(249)	0	230	(19)	6.00	0.00	92	73
Oklahoma, Tulsa	(249)	0	230	(19)	6.00	0.00	92	73
Arkansas, Little Rock	(249)	0	230	(19)	6.00	0.00	92	73
Kentucky, Louisville [1]	(249)	0	230	(19)	6.00	0.00	92	73
North Dakota, Bismark [1]	(249)	0	230	(19)	6.00	0.00	92	73
Virginia, Norfolk	(249)	0	230	(19)	5.75	0.00	88	69
Alabama, Birmingham	(249)	0	230	(19)	5.00	0.00	77	58
New Mexico, Albuquerque	(249)	0	230	(19)	4.90	0.00	75	56
Ohio, Cleveland	(249)	0	230	(19)	4.51	0.00	69	50
Louisiana, New Orleans	(249)	0	230	(19)	4.00	0.00	61	42
Indiana, Indianapolis	(249)	0	230	(19)	3.00	0.25	50	31
Illinois, Chicago	(249)	0	230	(19)	2.50	0.00	38	19
Rhode Island, Providence [1]	(249)	0	230	(19)	2.24	0.00	34	15
Vermont, Burlington [1]	(249)	0	230	(19)	2.11	0.00	32	13
Nebraska, Omaha	(249)	0	230	(19)	2.00	0.00	31	12
Florida, Orlando [1]	(249)	0	230	(19)	0.00	0.00	0	(19)
California, Los Angeles	(249)	0	230	(19)	[4] n/a	[4] n/a	0	(19)
Massachusetts, Boston [1]	(249)	0	230	(19)	[3] n/a	[3] n/a	0	(19)
New Jersey, Newark [1]	(249)	0	230	(19)	[3] n/a	[3] n/a	0	(19)
Georgia, Atlanta	(249)	0	230	(19)	[4] n/a	[4] n/a	0	(19)
New Hampshire, Manchester [1] [5]	(249)	0	230	(19)	0.00	0.00	0	(19)
South Dakota, Sioux Falls	(249)	0	230	(19)	0.00	0.00	0	(19)
Washington, Seattle	(249)	0	230	(19)	0.00	0.00	0	(19)
Texas, Houston	(249)	0	230	(19)	0.00	0.00	0	(19)
Nevada, Las Vegas	(249)	0	230	(19)	0.00	0.00	0	(19)
Connecticut, Hartford [1]	(249)	0	230	(19)	0.00	0.00	0	(19)
Pennsylvania, Philadelphia [1]	(249)	0	230	(19)	[3] n/a	[3] n/a	0	(19)
Tennessee, Nashville	(249)	0	230	(19)	0.00	0.00	0	(19)
Wyoming, Casper	(249)	0	230	(19)	0.00	0.00	0	(19)
Alaska, Anchorage [5]	(249)	0	230	(19)	0.00	0.00	0	(19)
Average	(249)	0	230	(19)			72	53

[1] The results for these cities would apply for any city in the State.
[2] Due to rates, brackets, exemptions and provisions (other than IRA) that do not vary by State.
[3] These States do not allow the Federal IRA deduction.
[4] These States allow an IRA deduction if taxpayer is not a participant in a pension plan.
[5] These States have no State sales tax.

Note.—IRA = $1,530. Taxable Inc = $17,000.

TABLE 1A.—1988 TAX LIABILITIES

[Joint return, 2 earners, no children]

	Current law	Senate bill
Total income	$40,000	$40,000
Less: Exclusions:		
Exempt interest	27	27
Dividends	200	0
Capital gains	303	0
Less: Adjustments:		
IRA savings deduction	2,517	0
Two earner deduction	1,085	0
Equals: Adjusted gross income	35,868	39,973
Less: Itemized deductions:		
Charitable contributions	600	600
Mortgage interest	3,918	3,918
Consumer interest	883	353
State and local taxes [1]	2,997	2,740
Plus: ZBA	3,970	0
Less: Personal exemptions	2,340	4,000
Equals: Taxable income	29,100	28,362
Tax liability	4,139	4,254
Average tax rate (percent)	10.35	10.64

[1] Sales tax deduction is for Denver, CO.

TABLE 2A.—1988 TAX LIABILITIES

[Joint return, one earner, two children]

	Current law	Senate bill
Total income	$30,000	$30,000
Less: Exclusions:		
Exempt interest	20	20
Dividends	200	0
Capital gains	229	0
Less: Adjustments:		
IRA savings deduction	1,988	0
Two earner deduction	0	0
Equals: Adjusted gross income	27,563	29,980
Less: Itemized deductions:		
Charitable contributions	450	450
Mortgage interest	2,938	2,938
Consumer interest	662	265
State and local taxes [1]	2,282	2,002
Plus: ZBA	3,970	0
Less: Personal Exemptions	4,670	8,000
Equals: Taxable income	20,531	16,325
Tax liability	2,366	2,448
Average tax rate (percent)	7.89	8.18

[1] Sales tax deduction is for Denver, CO.

TABLE 3A.—1988 TAX LIABILITIES

[Joint return, two earners, two children]

	Current law	Senate bill
Total income	$40,000	$40,000
Less: Exclusions:		
Exempt interest	27	27
Dividends	200	0
Capital gains	303	0
Less: Adjustments:		
IRA savings deduction	2,517	0
Two earner deduction	1,085	0
Equals: Adjusted gross income	35,868	39,973
Less: Itemized deductions:		
Charitable contributions	600	600
Mortgage interest	3,917	3,917
Consumer interest	882	353
State and local taxes [1]	3,068	2,741
Plus: ZBA	3,970	0
Less: Personal Exemptions	4,670	8,000
Equals: Taxable income	26,701	24,362
Tax liability	3,600	3,654
Average tax rate (percent)	9.00	9.14

[1] Sales tax deduction is for Denver, CO.

TABLE 4A.—1988 TAX LIABILITIES

[Single return, one earner, no children, nonitemizer (applies for both New York and Colorado)]

	Current law	Senate bill
Total income	$20,000	$20,000
Less: Exclusions:		
Exempt interest	0	0
Dividends	100	0
Capital gains	34	0
Less: Adjustments:		
IRA savings deduction	1,530	0
Two earner deduction	0	0
Equals: Adjusted gross income	18,336	20,000
Less: Standard deduction	0	3,000
Less: Personal exemptions	1,160	2,000
Equals: Taxable income	17,176	15,000
Tax liability	2,269	2,250
Average tax rate (percent)	11.34	11.25

Mr. RIEGLE. I yield, of course, to my colleague from New York.

Mr. D'AMATO. I really am struck by the observations that the Senator has made in terms of how this tax bill plays out to middle America. Middle America, by any terms, is when we talk about families that are earning $20,000, $30,000, $40,000 a year. That is not wealthy America as some would paint it. It seems to me the basic question comes down to who should save the $300 a year if we had one working person in the family or if we had two with the maximum of $600. Should it be middle America, middle-income working people who get the benefit of that $300 or should it be those few corporations that pay a minimum tax and wealthy, wealthy, wealthy Americans? That is the question. That is what we are talking about.

Let me make the observation, if I might, it seems somewhat ironic that in the initial, early stages of TV in the Senate we show the American people that we are operating not in a sense of reality but behind a shroud of illusive amendments that attempt to portray a Senate that is fighting to retain IRA's when the adoption of this amendment is nothing more than defeating, taking away, an attempt to take away the opportunity to retain IRA's. Is that not a sorry spectacle to be conveying? It is an absolute myth. And so when the American people see this final vote recorded—we are probably going to lose, because our colleagues have said, "If you want to protect yourself, you vote to retain. This is an amendment that is going to keep IRA's." It is not. It is not going to have the force of law. it lets our people off the hook. They do not have to worry about taking on what might be an uncomfortable position and saying how we are going to pay for it. They can be a friend to all and do none of the business of the people. What a sorry spectacle for us to be engaged in when there are those of us who say, "My gosh, give us an up-or-down vote on an amendment, the basic amendment to support the IRA's. And if you think that our position in terms of creating the alternative minimum tax," on which I commend my colleague, the distinguished colleague from Connecticut and those of us who have helped to craft it, "If you think that you have a better solution then make it." What better way to pay for that than by saying the 375,000 wealthiest, the wealthiest of Americans, who have the largest of income will see their minimum tax go up by 2.6 percent. And those corporations again that are doing quite well would see their minimum tax go up 2.6 percent.

It seems to me that really is the question, and I could not help but comment when my colleague from Michigan made the observation of how many working families will be losing as a result of the failure to include individual retirement accounts. Why not do the business of the people instead of passing this resolution that can, as so often happens, be disregarded in conference. About 75 percent of the time sense-of-the-Senate resolutions are disregarded in conference.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I assure you that this is one resolution that will not be disregarded in the conference. If I know anything that has the support of the American people, it is IRA's. The problem is how do we put the resolution into effect? How do we protect what we already have in the way of those incentives to buy an IRA? I think Senator ROTH has given us the kind of flexibility we need, and I am pleased to sign on as a cosponsor of his resolution. You need that kind of flexibility when you get into the conference and start debating with the House as to how we are going to bring it about. I am convinced the House wants it. The Senate wants it. I do not know a Senator on this floor who is really against the IRA.

Last year we had a 4.6-percent savings rate in this country. We know what kind of disaster that it. Imagine what it would be without the IRA, without that incentive to save. Compare the cost of capital in this country with that in Japan, where the people save as much as 22 percent of their disposable income, and you'll know we have to keep everything we can on the books to try to encourage that kind of saving. I would like to see an amendment that would ensure that IRA, but to get locked into a position would deny us some of the flexibility we need in the conference. I know I do not want an amendment like this one being discussed—I know I do not want one that raises the alternative minimum tax rate.

□ 1610

The alternative minimum tax is enough of a problem as it is now drafted. I am a fellow who introduced a tough alternative minimum tax for corporations last year. In this bill we have broadened the base for the corporate minimum tax even more than I, and others, proposed. When we do that, we have effectively adopted an alternative tax system. We have set the rate a lot closer to what the overall corporate rate is going to be than exists at the present time.

The problem we have, for both individuals and for corporations, is that many taxpayers will have to prepare the tax return two ways to see whether they pay the regular tax or the minimum tax. You will see a great deal of additional work taken on by accountants because of that. I think this is one of the concerns we have with the minimum tax system currently in the bill. But the more you raise the rate, the more you increase that kind of problem, and that is a serious concern for me. I do not think we should be headed in that direction. If anything, we might lower the rate some; the individual minimum tax rate—a 20-percent rate—74 percent of the regular rate in the bill.

When you get to the corporations, the minimum tax rate is 60.6 percent of the regular tax for corporations in the bill. So we already have a bill where the alternative minimum really is not a backup tax. Instead, it is a substantial tax system of its own.

The purpose of a minimum tax is to try to stop the situation of enormous corporations, year after year, making hundreds of millions of dollars many paying no taxes at all. There is no way you can explain that to the fellow making $25,000, with a family of four, who finds himself paying $2,000 or $3,000 in taxes, and who reads about major corporations getting by for years on end without paying any taxes. He feels that something is wrong with the tax system, and he is absolutely right.

That is what the Finance Committee tried to address by broadening the minimum tax base, and we have done it in an extensive manner for corporations. We have raised the minimum tax that is being paid from $2.5 billion over 5 years to over $33 billion.

Some have pointed out that you have a 25-percent minimum tax rate on the House side and only a 20-percent tax on this side, and that all we are talking about in this amendment is raising the rate a couple of percent. But they ignore the fact that we have so broadened the base that we have increased the minimum tax on corporations from $2.5 billion to over $33 billion.

It concerns me that we would take the approach of raising the minimum tax rate to pay for IRA's. If we are going to try to restore IRA's, I would choose another option, so that we would have the kind of flexibility we need when going into conference with the House; it will be a tough conference.

I see a couple of my colleagues here who are sponsoring this amendment and who have been House Members. We need as much flexibility as possible between our chairman and their chairman.

The end result is going to be a restoration of the IRA. I think we can count on that, and that is what we will bring back.

I am a strong supporter of the IRA and helped initiate it and will keep working at it. We need it for all Americans.

We should do that because we should be encouraging Americans to put aside money for retirement. Many of them belong to a pension program, but time and time again that is not enough.

I was one of the persons who cosponsored ERISA and helped put it through the Finance Committee because I thought it was important that we should not have people reaching the age of retirement, staying 29 years with a company, and in the 29th year being fired, so that the company did not have to vest the pension benefits. I saw that happen in Houston, TX; I saw savings turned to dust. When I got to the U.S. Senate I said I will try to do something about it, and I made my contribution, along with Jacob Javits, who was a major sponsor of that legislation.

What we have done in this legislation now is cut the vesting period from 10 years to 5 years. That is a major step forward. We get a little closer to portability of pensions, and that is what we have been striving for.

We have a mobile society. We have two-earner families where one spouse is transferred by an employer, and the other spouse has to go along. So that spouse does not get vested in a pension plan.

This bill will help close that gap somewhat by bringing the vesting period to 5 years, but it still will not be enough. That is why we need the IRA to try to supplement the pension programs and to make up for some of the vesting that will never take place because of the mobility in our society.

IRA's have become exceedingly popular with Americans. There are 28 million people carrying IRA's. It is interesting that over 75 percent of those IRA's are held by people with under $50,000 of income. Over 40 percent of taxpayers with an income of $20,000 to $40,000 report IRA contributions, and this group has 40 percent of the total payments made to IRA's.

Even taxpayers with very modest incomes, lower than $10,000, have opened IRA's. We have 650,000 taxpayers in 1983 with incomes under $10,000 making an IRA contribution; not much—maybe $100, $50, $500—but putting it aside because they know every little bit helps. We should encourage them to do that.

Another thing we have to look at is the savings rate for our country. We have heard Senator ROTH mention a study by David Wise of Harvard and Steven Venti of Dartmouth which concluded that about half the money flowing into IRA's represents new savings. That is a significant step forward.

Furthermore, as economist Larry Summers of Harvard argues, IRA's are likely to become even more efficient as savings incentives in the future: If individuals could draw money from their savings accounts to deposit in IRA's when the IRA program began, they will have a more difficult time doing that in the future as savings accounts become depleted.

One of my concerns is that we are taking away that savings incentive, and that we should put it back, and I think Senator Roth has brought the proper approach for us to do it.

I do not want us to repeal universal IRA's just when they are becoming effective. If we are going to have the capital available for companies to modernize the productivity of our country, to provide machinery, to do something about the trade deficit affecting us, I think the effective way to do it is as stated in Senator ROTH's resolution, and I support it.

I am concerned about raising the alternative minimum tax. I think that can lead us to additional problems. I think it will result in a situation of more accounting. It is not a backup tax system but a dual tax system, and that is a concern

(Mr. EVANS assumed the chair.)

Mr. WALLOP. Mr. President, I thank the Senator from Texas for his observations regarding the minimum tax.

In the first place, the minimum tax is an expression of tax-writing incompetence. The Senator has heard me say this before.

It basically comes about from saying that all the other things we do in the Tax Code, we want you to take advantage of and be good Americans. Keep in mind that the very people we are seeking to induce into contributing to IRA's may fall under the minimum tax by virtue of their deduction against the IRA. That part of it will be taxed back. That is one thing I do not like about it.

However, more important—and I say this to the Senator from Michigan, be-

cause he badly misunderstands what is taking place here—with respect to the chart he has put up showing those economic portions of America which are growing and those which are decreasing, the ones below the line and decreasing are the very ones that will be hit the hardest by an increase in the minimum tax.

You are raising the cost of capital and just saying, "I hope you can compete better."

The minimum tax—make no mistake about it—falls precisely in the worst possible place for a country which is seeking to increase competitiveness, and that is on the cost of capital.

So it really does not make any sense on one side to say that it will not matter to them if they have to pay a little more so that we can pay for this so-called break.

I regret—and I say this to the Senator from New York as well—I genuinely regret all these people sitting here, trying to pit America's people against each other because they have a desire to earn more and some of them succeed. This is not a class battle. This is a battle about taxes.

Mr. D'AMATO. If it is a battle about taxes, I ask, do we really subscribe——

Mr. WALLOP. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

□ 1620

Mr. WALLOP. I appreciate that, Mr. President. If the Senator wishes me to yield for a question, I will be happy to yield. But Senate courtesy requires that I continue.

Mr. D'AMATO. I ask that the Senator yield for a question.

Mr. WALLOP. I am happy to yield for a question.

Mr. D'AMATO. Does not the Senator see some inconsistency in taking away from 77 percent of those families that earn between $10,000 and $50,000 this incentive for savings while we attempt to move forward to create exactly the kind of things that have been taking place since 1981, increase savings participation from that community, middle income America to save? That is what this Senator is attempting to deal with.

Mr. WALLOP. Mr. President, I respond to the Senator by simply saying that if the circumstances which he describes had taken place in a vacuum, yes, I would see total inconsistency. But there is no vacuum here. This is a complete tax bill which provides new simplicity, a tax reduction for 85 percent of Americans, a greater personal examption. All kinds of things are in there that were not in there before. This is not taking place in a vacuum.

Furthermore, I want to make the point, Mr. President, that the IRA is not gone. One of the letters read by the Senator from Michigan was by people who were not in a pension plan. Those people have the full deductibility of their IRA. That remains. So they are protected.

For those who are under a tax protected retirement pension plan, the only thing that is lost in there is their contribution to their IRA. The IRA itself remains totally intact. The inside buildup, the interest, whatever capital gains they can get, whatever dividends accrue in that all remains sheltered as is appropriate. They have one taxable contribution, a taxable contribution going to their future retirement security.

Mr. D'AMATO. Mr. President, will the Senator yield for a question?

Mr. WALLOP. Not at this point.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. WALLOP. Not at this moment. I will try to make a few points.

The Senator said give the middle class a break. The Finance Committee was not insensitive to the needs of the middle class. The whole purpose behind this and the whole struggle the committee went through to get those distribution tables into some kind of perspective was an exercise in trying to reach middle-class earning and working Americans and the committee succeeded.

There may be reasons and there may be a time when we can reach in in the conference to find the means to pay for this change in IRA's which many of us seek and all of us would welcome, but there is another point to be made: In seeking to achieve a tax deduction for a contribution to an IRA for someone who is already protected by a tax-protected pension plan, and paying for it through an increase in the minimum tax, you may reduce the employment in America. I do not think that is a great benefit. It is not an easy thing to pay for the various pieces of our current tax program that has grown up. It was paid for before by a very high rate of taxes which now no longer exists.

Give the middle class a break. They have gone, most of them, from a tax structure well above 15 percent to where 80 percent of Americans are going to be at the 15 percent rate.

We, as the Senator from Texas mentioned, provided for earlier vesting.

Give the middle class a break. The biggest break in the retirement area is the 5-year vesting in a pension plan that provides vast new security that Americans have not had, middle-class working Americans.

The personal exemptions and standard deductions are up.

Let us talk for a minute about the savings rate. The savings rate in America is the least well-measured rate of anything that we have, and we do not measure any of the economic structures very well. But in fact pension plans, in fact house ownership are part of the savings rate whether we measure them or not.

What does this bill do for those things? It increases the security of people under the pension plans and increases the validity of that as a part of the savings rate as a part of the concept. You do not have to be 10 years before it is part of the savings rate.

Second, we protected the homeownership of Americans and indeed induced it to the extent that we could in this bill, and it is induced by the very fact that their personal rate of taxation will be lower and their likelihood of being able to own a home higher.

If you read, and as long as people are tossing around projections of economists all over and not willingly justifying them, most economists are saying that the rate of interest will decline because of the passage of this tax bill if it is reasonably in the status in which it sits in front of the Senate today.

Now, if you really want to change America's savings rate, you are going to have to get more radical yet with the Tax Code. That is, you are going to have to get the personal taxes yet lower, get the capital taxes yet lower and begin to tax consumption.

We know precisely the reaction that this Senate has had in the past to that. But if you take a look at the countries with higher savings rates than America, they are those with value-added taxes. They are those who tax consumption.

Let me talk a little bit about this concept of net debtor nation that was brought up by the Senator from Michigan. America is a debtor nation now precisely because it is more prudent in what it loans abroad. If we were loaning at the same rate that we were in 1979 and 1980, we would still be one of those nations that was not on the debtor nation list. By putting our money into insecure loans overseas in Third World countries, we kept ourselves out of "the debtor nation list." I doubt that anybody would think that we are worse off for not expanding the low-quality loans that have been going abroad, but that is the key measurement that has changed us from nondebtor nation to a net debtor nation.

I just would say this: The proposal that the Senator from Delaware has made is reasoned and prudent. It gives the Senate the opportunity to say that it counts an expansion of IRA's that appear in the bill as its priority in conference if it can be paid for.

You can pay for it but you can do it at the cost of the savings that are projected in the declining interest rates. You can do it at the cost of capital of America's companies which you say you wish to remain or have more opportunity to be competitive. You can do it in a whole lot of ways, each of

which comes with its own price to pay. You can do it by pitting America's classes against each other but you do not do much besides that except raise envy between peoples. You do not do anything for employment. You do not do anything for competition. You do not do anything for America's industrial capability. You do not do anything for the standard of living.

I am not saying it is an impossible thing. I know that it is not. But I am telling you that it is not an easy thing and the proposal of the Senator from New York and the Senator from Michigan is precisely the wrong way to travel if we want to protect ourselves from any of those more drastic consequences, and I count an increase in the cost of capital a very drastic consequence, especially when those very ones which the Senator pointed out right below the lines are the first ones affected. The very companies that seek to modernize are those that are going to be hit by the minimum tax that is in the Finance Committee bill. It is not a well-crafted minimum tax even at this moment in time. As the Senator from Texas pointed out, it is punitive now. You add to that and you add to the very consequences which you seek most to avoid. Those companies who can make better profits by expanding their efficiency by investing in new plants and equipment will be the ones that you hit with your increase in the minimum tax.

□ 1630

That is a decrease in employment, tht is a decrease in productivity, and that is a decrease in our ability to compete abroad. And I do not think that it is a consequence the Senator from Michigan wishes to achieve.

Mr. RIEGLE. Will the Senator yield?

Mr. WALLOP. I yield for a question.

Mr. RIEGLE. Yes; I meant for a question. I thank the Senator for yielding.

We were told today by the Joint Tax Committee that 16 percent of all the tax reduction benefits in this bill that is before us right now will go to those that earn more than $200,000 a year who, as a group, comprise one-half of 1 percent of the population.

Now, the alternative minimum tax for individuals will, in almost every case—there are 375,000 people in that group that have been identified to us by the Joint Tax Committee that would have to pay this higher alternative minimum. We take it from 20 to 22.6 percent.

When that group is getting 16 percent of the tax reduction under the bill and yet there are only one-half of 1 percent of the taxpayers earning more than $200,000, is that fair?

Mr. WALLOP. The Senator has to realize that, in any drafting of a tax bill when you are going from one place to another place, the whole process is inherently unfair, getting from what is an unfair tax system now. The Senator would agree with that. That is the whole thing that makes us gather together here now. As President Carter has said it and President Reagan has said it, Presidents and Secretaries of the Treasury, all of them have said it, that it is an unfair, awkward, punitive, inefficient tax system now.

I say to the Senator that you cannot get from that point to a situation where we seek to arrive—and to which I think we have arrived, which is a much fairer structure—without a temporary aberration. And it does not matter where. If you want to look for things that are unfair——

Mr. RIEGLE. How about the one I just raised?

Mr. WALLOP. I am trying to answer the Senator, and I would appreciate it if he would see fit not to interrupt in the middle of it.

There are a variety of things in this bill which are aberrations which are also unfair. You are talking about a temporary blip on that curve.

But I do not believe, as a matter of fact, as we looked at—and I ask the chairman of the committee—as we looked at the distribution table, we did not have 16 percent benefits arriving in the one-half of 1 percent of the American public. I do not know what that figure is. I do not believe that that is an accurate reflection.

Mr. RIEGLE. Well, that is what the Joint Tax Committee said, I say to the Senator.

Mr. WALLOP. Well, I would say again to the Senator that you cannot get from this point to another point without having one temporary blip in that horizon. We struggled in the Finance Committee to do every single thing we could.

But, as I recall the distribution table we saw when we left the committee, those general levels of reduction were down two-point-something percent for those in the upper range and as high as 16 percent in the lower range to 100 percent in the very bottom range.

If you are talking about how it affects one person's actual tax, the wealthy man is already paying a greater percentage under those provisions than the one who is down below him. There are ways and means to measure these things. The first way to measure is, frankly, what percentage of reduction should occur for each income class? Under the Finance Committee bill the wealthy have the smallest percentage rate of reduction of all the groups. The bottom group of Americans have a 100-percent reduction. They fall off the tax rolls altogether; 6.5 million of them.

Now, you can measure each of these things, measure it in the dollar value, that is one way. That is the way, apparently, the Senator is measuring that one. Or you can measure it in the reduction of their tax obligation as a percentage. If you measure it that way, the fairness level of this table is as precise and as fair as it can be done in this process.

Mr. President, I yield the floor.

Mr. RIEGLE. Mr. President, I appreciate my colleague from Wyoming yielding to me before. We have difference of opinion on this, and that is understandable. But, on page S 7162 of the CONGRESSIONAL RECORD of June 10, there is a table which has been reproduced, I say to the Senator from Wyoming before he leaves, table No. 4, put out by the Joint Tax Committee called "Distribution of Tax Reduction Under Senate Finance Committee Bill, 1988," income class and so forth. That is the table to which I referred and showed the Senator from Wyoming which indicates 16.1 percent of the distribution of the tax reduction goes to those individuals earning more than $200,000 a year which, in turn, are one-half of 1 percent of the total tax payer population.

But I wonder, now that I see the chairman of the Finance Committee here, for whom I have great regard, as he knows, can the chairman explain to me why it is that on real amendments that are offered to try to effect changes in the bill you have to have a revenue offset—if you want to put something in, you have to pay for it—which seems to me to be a reasonable approach—but yet now we have a sense-of-the-Senate resolution that does not have to meet that test? Why are we using a different standard on a sense-of-the-Senate resolution when we have already set out this other standard that says if we want something, we pay for it?

Mr. PACKWOOD. As I read the resolution, we are going to pay for this. We are going to pay for it in conference. I do not think anybody thinks we are going to conference and say, "Let's put back in the IRA's, let's put back in the sales tax, let's put back in capital gains, let's put back above the line charitable deductions," and not pay for it.

And it is may presumption the sense-of-the-Senate resolution means we will pay for it.

Mr. RIEGLE. Would that mean if somebody wanted to offer a substantive amendment to the bill that said they wanted to add something, say the sales tax deduction or anything else, that they could go ahead and put it in the bill and then have a revenue offset charged to the committee to find a way to pay for it in the conference?

Mr. PACKWOOD. Well, as you are well aware, and I would like to be protected from many of my friends because I have heard them say on the floor, "I'm for the bill and all of the

underlying bills, but I am for IRA's and I am for capital gains."

If you mean can we be given the instruction in a sense-of-the-Senate resolution that say, "Go in and fund the IRA's and keep that revenue neutral," put in a sense-of-the-Senate resolution that says, "Put in the sales tax reduction and keep that revenue neutral, fund capital gains and keep that revenue neutral, keep above the line charitable reductions and keep that revenue neutral and, by the way, do not increase the rates," no, we cannot meet that kind of aggregate collection of instructions. We cannot do it.

Mr. RIEGLE. Suppose I were to draft an IRA amendment that, in fact, restored the provision here in the bill but, for our revenue offset, instead of paying for it, we gave you the charge of going and figuring out how to pay for it in the conference, to work it out later on down the line? In other words, we will put the provision in now. We want it in there—we are saying we want it in, at least many are, most are—but we will not pay for it now.

We have an amendment to pay for it. I prefer to do it that way.

But I am saying, would the Senator be willing then, if he is willing to take the approach of the Senator from Delaware, to take an amendment that would put the IRA back in but not pay for it today, just sort of hand you the bill and say, "You take this bill over to the conference and work it out there as to which way to pay for it?"

Mr. PACKWOOD. Let me say again—then I hope we can get to voting, because many Members have asked if we are going to vote—I know if the resolution of the Senator from Delaware passes, we are still going to have the amendment that you are going to offer, and it is my hope we would go into the night voting.

But you have been in as many conferences as I have been in the past. In fact, you have been in Congress longer than I have been in Congress. You go to conference and you do the best you can to meet the will of the body that you happen to represent.

If you are given totally impossible instructions, you cannot meet them. All I am saying is that we can meet the instructions of the resolution of the Senator from Delaware. But if you give us 10 more and say, "Do all the things we want, but do not increase the rates," we cannot meet that.

Mr. RIEGLE. Mr. President, I will just conclude here briefly.

It seems to me, if you really want the IRA's in here—and I recall the Senator from Oregon urging us before this debate started that if we wanted to put something in, you had to pay for it. You made a very compelling case that way, that there should be a balancing side to the amendment.

□ 1640

I guess I am at a loss right now if the Senator from Oregon is willing to say that there is some virtue in the IRA argument, and perhaps it ought to be restored. Why not work it out here now? If the Senator from Oregon does not like our approach of paying for it, there is a better way. If there is a mystery way that is going to be found in the conference, why not find it here now? Why not?

I would be interested in whatever other approach the Senator from Oregon would suggest because he must have something in mind if he is going to find a way to pay for it in conference. Let us not keep it a secret. What will it be? We will perfect our amendment perhaps to take that approach.

Mr. PACKWOOD. If the Senator from Michigan will offer it, I would like to get voting. That is now the third day that we have been here. We have been here since about 11 o'clock this morning. I am prepared to vote on the resolution of the Senator from Delaware. I am prepared to vote on the amendment of the Senator from Michigan. I would like to get to voting. These are different ways of paying for it.

Mr. RIEGLE. I am wondering again if the Senator from Oregon can give us a clue as to how he might pay for it, if he does not favor our amendment. It does not seem to me we can have it both ways. You cannot say in effect, look, I think I can do this, or I am going to try to do this, or maybe I will do this. I must have a way of doing it. But I really cannot tell you now. I hope the Senator can tell us.

Mr. PACKWOOD. The Senator from Michigan wants to isolate out one issue in a bill; but we are going to go to conference on not 1, or 10, but 100 or 200 issues out of which a package is going to emerge. For me to say, before I ever go to conference, that I will take this one issue out of that entire package and fund it in a certain fashion, do not worry about the other 199, I think would be irresponsible because we are going to end up with an amalgam out of that conference.

I have indicated to the floor of the Senate before the things I will stand very firm on. Those are the rates, and any major change in the philosophy of the bill.

Mr. RIEGLE. That is exactly my point. Believe it or not, we are trying to help because we want to settle this issue now. We have a lot of issues that the Senator is going to have to carry into the conference, and he, himself, has been reporting to the press as saying there are going to have to be changes in the bill.

We would like to settle the IRA issue here because I think the majority of the Senators feel it is important that we deal with it, and settle it. Frankly, I would like the Senator's help in doing so. I would like his help in settling it here in the U.S. Senate. Put that issue aside. He does not have to take that issue over there, and go through handstands and cartwheels to try to figure out some way to pay for it, because on this one, I think what the Senator is saying as an expression of a lot of Senators is much more important in the minds of most of us than almost any other provision.

There is controversy about other ones. But this is the one the Senator well knows there is a great concern. Why not help us find a way to be responsible enough about it to pay for it now?

If the Senator objects to the way we are structuring the change in the amendment with the $300 cap on it, which provides for a $14.7 billion cost over 5 years, you know, then say that to us and we should make some adjustment in that area. That seems reasonable.

If he does not like the way we are paying for it, I think there is some affirmative obligation to tell us how the Senator thinks he would pay for it in conference, unless the Senator is just kidding us. I do not suggest that the Senator is.

But I do not understand why we cannot settle it here now. The Senator has certainly more facts at his command than we do in terms of other options. If the Senator is genuine about wanting to find a way to solve this, we do not have to go somewhere else to do it. We can do it right here. I am open to adjusting our amendment.

If the Senator has a better way to pay for it, or thinks some other adjustment is required, why not try to work that out here? Why can we not work as a Senate? Why does it have to be a part of the Senate working with the House?

Mr. PACKWOOD. The Senator from Michigan asked several questions. We will go into conference with the House. They have a tax on municipal bonds held by individuals. We do not. They limit bank bad-debt reserves and require certain changes of accounting methods. We do not. We on the other hand have a corporate minimum tax that raises more than theirs. The conference is going to be a give and take.

What the Senator from Michigan wants right now is to take one of those items out of negotiations and say put that aside. At this stage I simply am not prepared to say that.

Mr. RIEGLE. So the Senator would not be willing to take an amendment, a slight modification to the Roth amendment and a very important one, and that is we would say we want to restore the IRA's. We put it in our bill, restore them on some basis in this bill,

and we leave how we pay for it as a question mark.

I do not prefer to do that. But that is the approach that the Senator is now advocating himself. Let us put it in the bill so that we lock it in, so that everybody knows when they are voting on it here that we are actually going to get the IRA. If the Senator wants to have the latitude to go over to this conference to figure out how to pay for it, I am willing to consider that if the Senator really feels he cannot do it now, and for other reasons he has to have that maneuverability, although that is somewhat at odds with the whole idea on which we started this debate; that is, if you want something here, pay for it here, which I think is the better approach.

Would the Senator be willing to do that, put it in the bill now, and lock it in terms of making sure that if the IRA tax deduction is going to be the code, and we will leave the revenue side ambiguous as the Roth amendment does, and the Senator figure out how to pay for it in conference?

Mr. PACKWOOD. I remind my good friend that he is highly repetitive. This is the fifth time I will answer it. This is the last time I am going to answer it.

I intend to be bound by the sense-of-the-Senate resolution, if it passes. I intend to be bound by the amendment of the Senator from Michigan if it passes because I regard it as an obligation when you go to a conference and chair the conference to try to defend the position of your chamber.

I know Chairman ROSTENKOWSKI will do the same. We are going to have hundreds of issues, all of which separate us. Our bills have some marked differences. There is going to be a give and take. That is the best answer I can give. It is the last time I am going to try to answer the question.

Mr. RIEGLE. I appreciate the Senator. He is a very good debater. When he does not want to give exactly the answer that I might want to hear he is quite skilled in coming up with a different answer.

We still have not solved the IRA problem here, however. That is why we will be voting here shortly on it. I would hope that we will have an amendment here shortly that will pass, and that will nail this down. I think when we will, I think it is going to uncomplicate his life and I think it is going to let people in the country feel much better about knowing that this problem has been solved.

The Roth amendment is defective on its face. The Senator from Oregon knows that. I am not going to take the time to go into it now unless the Senator wants to have a debate on it. But his perfecting amendment which says we can deal with the IRA problem as long as it does not affect the distribution of income classed by tax deduction. Basically, he destroys the Roth amendment with that second-degree amendment.

It is very cleverly written. We pay lawyers a lot of money around here to write this kind of thing to render this null and void. So the Senator cannot be bound by this, if in fact the answer violates the fine print of what has been put in here in the second-degree amendment.

So I think you have to put it on the floor and hopefully we will have the votes to do so.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I want to ask a general line of questions of the Senator. One question that comes to my mind is, What does this sense-of-the-Senate resolution really mean? Most of us will not be conferees. Certainly, 80 Members of the Senate will not be conferees. I suspect that probably around 90 Members of the Senate, will not be conferees. So those of us who will not be conferees have to ask ourselves: What does this resolution mean?

Basically, the words state that the conferees will give highest priority to retaining maximum possible tax benefits for IRA's, and also that retention of the benefit should be accomplished in a manner which does not adversely affect rates or distributions.

So for us who are not conferees, we need to know what this means.

The question I want to ask the chairman of the committee is whether it is his view that the present committee bill IRA provisions meet this test of "the highest possible benefit for IRA's to encourage use as a principal vehicle for ensuring retirement security?" And if the Senate Finance Committee bill does not meet these standards, it would help me to know how much farther the chairman will go to meet what he views the standards of this resolution to be that is, how does he interpret these rules?

For us to know whether to support this resolution or not depends in large part upon how far the chairman is willing to say he will give greater incentives to IRA's. I wonder if the chairman would address that.

Mr. PACKWOOD. Let me respond, if I can, in this way to the distinguished Senator from Montana. I want to personally say how much I appreciate his participation in every markup and every hearing. There has not been a more diligent Member. I know he asks his question in good faith. This bill is a radical bill. This bill is a dramatic change from anything else that we have seen in 50 years.

What we are saying is we are going to lower the deductions or get rid of the deductions and lower the rates. In order to lower those rates we went through and eliminated individual capital gains; we put some limit on IRA's, although we did not eliminate them. Anybody can still contribute. Everybody cannot necessarily deduct IRA contributions. We went through a whole host of things. My good friend from Montana I think also knows this. This is how he can easily meet the purpose of the resolution, if he wants.

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For about 85 percent of the people, almost all of whom have incomes under $40,000 their tax rates are lowered so much on the average—on the average, because no one is exactly average but all we can do is average out millions and millions of people—the rates are lowered so much that they will have more money left in their pockets if this tax bill passes the way it came out of the Finance Committee. They will have more money left in their pocket under the bill if they contribute to an IRA even if they cannot deduct that contribution than they have today deducting the IRA and paying taxes at the current level.

So these taxpayers are now going to have more money even if they put aside money for an IRA that they cannot deduct. They will have more money.

Does that mean that simply because there happens not to be a deduction, even though these taxpayers still have the inside buildup—the tax on the interest earned in the IRA is all deferred—does that mean that people will not use IRA's or put money aside in IRA's because they cannot get a deduction even though the bill as drafted would give them more money even if they did put it aside?

Is the deduction the absolutely critical, psychological factor that is needed? Would they rather pay a tax rate of 30, 31, or 32 percent and get a deduction for the IRA and have less money, or would they rather pay a tax rate of 27 percent or 15 percent, and put money aside for an IRA that is not deductible and still have more money?

What we are trying to do is to move away in this bill from driving business and people into business actions and social actions for tax reasons and trying to get them to do it for economic reasons.

Under this bill, there will be more economic reason to invest in an IRA if you mean by that how much money you would have left than you would under the present code.

Mr. BAUCUS. Mr. President, I did not want an explanation of the bill. That answer did not answer the question I asked. In listening to that answer, I have the feeling that the answer to my question is that the chairman thinks that the present bill sufficiently protects the incentive for IRA's.

By the way, I think this bill is by far the best tax bill this Congress has passed in 20 years. There is no doubt about it. I fully support the bill. I am just trying to find out some way to improve it, by finding some way to increase the IRA incentive without destroying the integrity of the bill. I want this bill to pass. Even if some amendment I came up with or others came up with did not pass, I would still support the bill. I am just trying to make it a little bit better.

I see the words in the Senator's resolution, and I am trying to understand what they mean. Does the chairman think that the present committee bill is too weak in providing incentives for IRA's, and if it is too weak, how much higher will the chairman and the other conferees go in restoring full IRA's?

I am wondering what the answer is so that Senators who will not be conferees will then know whether to support this resolution or not. I think most Senators would like to give more incentives for IRA's with a credit, a deduction or whatever. Most Senators want the answer to the question posed; namely, how strongly will the Senator work to restore additional incentives to IRA's?

The only way we can get an answer to that question is in dollar terms. How much further will the Senator go and other conferees go in working toward greater IRA incentives?

Mr. PACKWOOD. When you say more incentives for IRA's, do you mean putting back the full deduction as it is now? Is that a greater incentive for IRA's? Yes, it is a greater incentive, but it is $26 billion added on to the deficit. Is it a greater incentive for IRA's?

I do not think you can answer the question in the abstract by asking how much further can you go to put in an incentive for IRA's when you are trying to balance 100 other priorities in the bill, and when you are trying to lower the deficit and trying to lower the rates.

If I had my druthers and there was a magic money box, I would put back capital gains, IRA's, and charitable deductions above the line. I would put back everything if we did not have to pay for it. But we have to pay for it.

In conference, we are going to have to weigh choices; you know this is going to happen. The House is going to be adamant about wanting a third rate. We are going to stand firm against a third rate. I think we will. I will. If you go to a third rate, then you have to go to a differential on capital gains. Does that occupy a higher priority than IRA's or less?

Do you hold the charitable deductions at a higher level or lower?

Those are the kinds of decisions we will have to make when we have this whole panoply of issues before us.

Mr. BAUCUS. It sounds like the chairman is not going to work aggressively to try to obtain additional incentives for IRA's. That is what I hear when I listen to the music and not just the words. That is the sense I get.

I must say that I am surprised and disappointed to hear that. I think the conferees should be directed otherwise. As I hear the chairman, the resolution does not mean anything. As I hear the chairman, the resolution basically says, as the chairman interprets it, the present bill is fine.

Mr. PACKWOOD. The first tax bill I drafted after consultation with all the Members did not fly. It did not go. It was voted down.

We put it aside and came forth with a new bill, of which this is a very close variant.

In the first bill, I did not eliminate the deduction of just sales taxes. We had a slight nicking of all State taxes. And I did not eliminate the deduction for the IRA's. I brought that to the committee.

The committee said, "No, no, we do not want to do that. We do not want to eliminate any deduction for income tax, for real property taxes. We would rather eliminate the deduction for all the sales taxes."

That was not the original bill I produced.

Second, as we went all the way through this, it was the Finance Committee, not the chairman, which said, "Let us put just one limitation on IRA contributions. Let us say they cannot be deductible for a certain number of people."

The suggestion did not come from me and was not in the original bill.

I think what happened was as it went out, the first publicity you saw on television was that the Finance Committee abolishes IRA's. The publicity was wrong.

I still find it with television commentators, though not as much in print.

The committee worked its will on the bill and made changes to it.

Then I come out defending the bill, the committee having made the changes that were not mine anyway.

What happens is that I think lots and lots of Members have now been hearing from lots and lots of people who have IRA's. Now many of the Members, even on the committee, have some misgivings about what we did. They are coming to me and saying, "Please help save us and go back to the position that you had initially."

Philosophically, I like IRA's. Philosophically, I also like 15-percent rates and 27-percent rates and 33-percent rates for corporations. Philosophically, I like the investment tax credit. But I like the 33-percent corporate rate better than the 46-percent rate.

I find it rather anomalous that my good friend now wants me to say, "Will you help to try to go back to the original position that you had that the committee took away from you?"

Mr. BAUCUS. If the Senator will yield, the Senator from Montana is only asking the Senator to explore, as has the Senator from Michigan [Mr. RIEGLE], some way to help make this a better bill. We like this bill, we want this tax bill passed; but we are trying to work out some IRA adjustment that does not raise the rates and does not destroy the distribution levels, so that we can solve this. As the chairman well knows, we are now faced with a parliamentary situation with a sense-of-the-Senate resolution so that the amendment tree is filled up and Senators cannot offer any amendments until we first dispose of the sense-of-the-Senate resolution. But I think most of us want an IRA solution that does not destroy the integrity of the bill developed now, before conference. That would very much strengthen the conferees' hands.

Mr. PACKWOOD. Mr. President, my good friend from Montana has a good way to solve it. He has an amendment that I think he is going to offer later tonight and I would like to get to a vote on it.

Mr. BAUCUS. Mr. President, before we get to it, and I think we will get there quickly, I would like to point out that there are a lot of ways to skin a cat here. That is what the Senator from Michigan is trying to accomplish. He does not care which IRA amendment passes, he does not care which IRA amendment gets adopted, as long as we pass something here that helps give an additional incentive to those Americans who do want to have some individual retirement account for themselves; basically, for their own retirement, to supplement Social Security and to save in a way that makes sense for them.

In addition, we all know as Senators in this body that America has very low savings rates. There have been lots of arguments over the degree to which IRA's do or do not encourage savings. But I think deep down in our gut, we all know that IRA's probably help our savings rate. At the very least, if we did not have IRA's the personal saving rate would be lower. We do know that IRA's help and do make a difference.

I understand the situation we are faced with; namely, no amendments whatsoever, because the bill might unravel or something might happen. But the anomaly we face is that I think most Senators do want an IRA amendment. We also do not want the bill to unravel. So the question is: How do we fit the two together? How do we get a good IRA amendment passed in a way that the bill does not unravel?

Very candidly, I think the way to solve that is to work out an amendment here. I believe that if an IRA

amendment passes, all Senators here are still going to vote for this bill. In fact, they will have a greater reason to vote for the bill.

I also strongly suspect that other amendments that will come up later tonight, perhaps later this week and perhaps next week, are not going to get very far. Senators want this bill to pass. We want a strong tax reform bill. The last thing the U.S. Senate wants is for this bill to unravel. We only want to improve upon the bill.

As I said, there are lots of different ideas here. The Senator from New York [Mr. D'AMATO] and the Senator from Connecticut [Mr. DODD] have an amendment. It is a view, that I do not agree with because I think it would be improper to raise the corporate and individual minimums up to 22.5 percent. It narrows the spread too much between the corporate rates and the individual minimum rates and also, it very much hurts some natural resource industries which are very important to this country.

Without taking too much of the Senate's time very briefly, an idea I have is to provide the same 15 percent credit as the Dodd/D'Amato amendment but to lower the exemptions for itemizers by $310 per exemption—that is, we do not reduce the exemptions for children and other exemptions that might be available, but only for filers who itemize. The fact is that about 70 percent of those who buy IRA's are itemizers, so this is an approach where the people who get the benefit from IRA's basically pay for it. It does not affect rates, it does not affect distribution, it meets all the criteria we have heard on the floor. It is an amendment which I think improves the bill.

I would like very much to have the support of the chairman and other members of the committee for this amendment or one like it. It does not have to be this amendment, just some way to improve upon the bill. I frankly think all Senators would feel better about the bill if some kind of amendment like that passes.

Mr. President, I see the majority leader is a little bit restless over there and wants to do something, so I shall yield the floor.

Mr. KASTEN. Mr. President, providing the initial tax incentive for investing in IRA's is essential to encourage individuals to increase savings. Without that incentive I believe that personal savings would drop dramatically.

Let's just take a look at how IRA's have encouraged savings, and how IRA's serve taxpayers in planning for their future.

First, let's analyze the impact to savings. Actual experience since 1982, the first full year for which IRA's were available, shows that IRA's have increased savings. Between 46 and 57 percent of all IRA contributions represent new savings.

Sure, in the first year that IRA's are available it made sense to shift funds from existing savings to IRA's. Increasingly, however, contributions to IRA's come more and more from new savings each year.

For the Nation, the investments of these individual families has resulted in new savings estimated to be $14 billion in 1983, and $18 billion in 1984.

IRA's have significantly increased savings at a time when the general trend is to reduce savings. Families that have established IRA's historically have not saved at a rate anywhere near the average $2,500 contribution they now make to IRA's.

These are predominately middle-income Americans. An analysis of those who contributed to IRA's in 1985 indicates that 65 percent of IRA households had an income of $40,000 or less. Fully 77 percent came from families with incomes of $50,000 or less.

Now lets look at why the tax deduction is necessary to encourage personal savings.

All you have to do to realize how important that initial deduction is, is to look at when investments are made in IRA's. IRA's are available for any given tax year from January 1 until April 15 the year after. That is when the taxes for the previous year must be filed.

But when do most invest in IRA's. The rational way to maximize the inside buildup is to invest early. But is that when the real surge in IRA investments occur? No; the surge in IRA investments occurs around tax time.

Clearly, savers are reacting to the incentive to not only save, but also to save on their current taxes.

This is not tax avoidance, it is simply delaying taxes. Under the Finance Committee bill, the taxes that would have been due on those investments are likely to be taxed at a rate more like those when the initial investment was made than under current law.

Under current law, someone may avoid 50 percent of the cost of their IRA when the initial investment was made. They would then expect to pay taxes at a lower rate when withdrawals are made.

Under the new law, the tax advantage would be far smaller for starting an IRA. In addition, there is reduced likelihood that the money would be taxed at a lower rate when withdrawn.

Nevertheless, that initial investment will be encouraged by the simple fact that current costs can be delayed.

We have talked for almost a week here on the floor about why the Nation needs IRA's. Somehow in that discussion we have failed to pay attention to how important IRA's are not only to the Nation, but to individual people for their retirement.

The individual retirement account returns power to each man and woman in the Nation. It lets them control what financial resources will be available for their retirement. It lets them decide—not the Government or someone else's pension program—how to plan for the future.

By taking away that initial incentive to invest for retirement we are taking away control of the future.

Mr. DURENBERGER. Mr. President, I rise in support of the pending amendment No. 2065, directing the Senate conferees to restore the incentive to save by expanding the Finance Committee provisions for individual retirement accounts [IRA's].

BILL ROTH has already forcefully defended our 1981 decision to make IRA's universally available. I supported that decision in 1981 and I still believe that universally deductible IRA's are one of the best vehicles for encouraging Americans to plan for their retirement.

In recent years, our Nation has had a penchant to buy now and pay later. One of the reasons for this behavior has been the Income Tax Code which encourages people to go in debt and discourages Americans from saving.

The significantly reduced tax rates included in this legislation will lessen the penalty the income tax places on savings.

And thus I hope we will encourage more Americans to put more into savings and less into debt.

Yet, at the same time, I am very concerned about the future retirement security options that will be available to the current generation of young working Americans.

The Social Security system is in trouble, no matter what anyone tells you. Many young Americans believe that when the time comes to retire, there will be no Social Security. Look at the numbers and you will see why today's generation is so worried about Social Security.

In 1945 there were 50 active workers supporting each Social Security pensioner. Today there are 3.3 workers carrying each pensioner. By the year 2030, however, there will only be 2 workers to carry the load for retirees.

IRA's are one way to provide some future retirement security for today's generation of workers. I believe in the near future we will have to reexamine the entire structure of Social Security. It is an unfair, regressive tax and it will not be able to meet the needs of future generations.

But until we reach that time when we can meaningfully reexamine the concept of Social Security, we must continue to provide other incentives for retirement savings.

When the conferees consider the question of IRA's, I believe it is important to keep one thing in mind. We

should not penalize those workers who are not covered by retirement plans in order to provide IRA benefits to employees covered by retirement plans.

If we are to extend the scope of IRA's to all citizens, we should make certain that those not covered by retirement plans do not suffer. I am sure that we will be able to achieve that goal.

Mr. LEAHY. Mr. President, I rise today to urge my colleagues to restore the deduction for contributions to individual retirement accounts [IRA's] for all Americans.

I commend the Finance Committee for producing tax reform legislation that will truly make our tax laws more fair and simple. The bill they reported unanimously is a remarkable accomplishment. Some aspects of the tax reform bill concern me, however.

Mr. President, Mark Twain once said, "If you don't like the weather in New England, just wait 5 minutes." Twain could well have said the same of our Nation's tax laws. Tax rules may not change minute by minute as does the weather in my native New England, but Congress has, indeed, changed the tax laws every year for the last 6 years.

The result is confusion and uncertainty. This is especially true of the current effort to eliminate the deduction for contributions to IRA's by those who have other pension plans.

Just 5 years ago Congress allowed all Americans, regardless of their coverage under other pension plans, to set up individual retirement accounts and set aside money for their retirement. And IRA's have worked. Americans have invested $60 billion in IRA's—$60 billion that has added to our Nation's pool of investment capital and $60 billion that ensures that older Americans can count on a decent income and not just Social Security.

IRA's encourage Americans, who traditionally have one of the lowest savings rates in the world, to plan for their retirement. The deduction for contributions to IRA's has encouraged this kind of financial planning.

After 5 years, many Vermonters have locked-up in an IRA up to $10,000, because Congress provided them an incentive to save as much for their retirement. Now, the Finance Committee tax reform bill would take that savings incentive away for 34,000 Vermont families, leaving them with $10,000 in the bank, which cannot be withdrawn until retirement and no incentive to save more. Even with interest earnings, Mr. President, $10,000 does not a sound retirement make.

The fact is, the tax reform bill, as written, changes the rules in the middle of the game. Planning has become impossible. This is unfair tax policy and unwise tax policy.

I have received hundreds of letters from Vermonters who have opened IRA's, not to avoid paying taxes, but who want some economic security in their retirement—the kind of economic security which Social Security cannot guarantee. One gentleman from Waterbury wrote:

> I have talked with several people about their retirement plans and to a person, they express no great faith in the Social Security system. They feel that Social Security will not be available to them when they retire or that any income from that source will be inadequate to their needs. These same people are generally not comfortable with the retirement benefits they are expecting from their employers. IRA's have become an important means for people like me and my friends, who have little money to invest, to put something away for the retirement years.

Individual retirement accounts have helped middle-income Vermonters save for their retirement, where earlier that kind of savings was too costly. In fact, more than one-half of all Americans who have IRA's earn less than $40,000. IRA's are tax incentives for middle-income Vermonters.

While the Finance Committee's tax reform bill generally eliminates most tax credits, deductions and exclusions, the committee wisely decided to preserve those incentives for business which encourage real investment and which create jobs. The tax credit for research and development is a good example.

Why then, should Congress eliminate the most successful tax incentive for middle-income Vermonters? Eliminating the deduction for IRA contributions makes no sense and is inconsistent with one of the most important goals of tax reform: Encouraging real investment.

One women from Chester, VT, put it clearly in a letter to me:

> Please do not take away the benefit of IRA deductions. It is the one way we small timers can help ourselves as well as the financial base of the country."

Finally, it is unwise to deny a tax deduction for contributions to IRA's, simply because an individual is enrolled in a pension plan. Many Vermonters are enrolled in pension plans, but are not yet vested. In other words, these Vermonters have begun contributing to a retirement fund, but have yet to contribute enough to be eligible for any retirement benefits.

The Senate Finance Committee tax reform bill would unintentionally deny thousands of Vermonters the ability to contribute tax-free to an IRA, even though they are not eligible to receive any other retirement benefits. In today's competitive job market, many Vermonters change jobs fairly frequently, often times before they have become vested in any pension plan. This trend is not unique to Vermont.

All that will be left for these Vermonters and others like them across the country is Social Security, which was never intended as a national pension system.

Mr. President, IRA's promote savings, they are an effective incentive for retirement planning and they have added more than $60 billion to our Nation's investment capital pool.

All Americans ought to be encouraged to contribute to IRA's for all of these reasons, and also to ease the already heavy financial burden placed on our Social Security system.

IRA's are effective tax policy and sound retirement policy. There is no reason to change IRA rules in the middle of the game, especially as part of tax reform legislation which is intended to make our tax laws more fair.

I urge the Senate to fully preserve the deduction for IRA contributions.

Mr. GLENN. Mr. President, I intend to vote for this resolution expressing the sense of the Senate to preserve the universal IRA. I also intend to vote for the Dodd-D'Amato amendment when it comes to the floor. I want to give my reasons for these votes, and also caution my Senate colleagues about how we should be looking at floor amendments to this bill.

Let me first talk about IRA's.

I support IRA's because they provide a flexible supplement to other forms of retirement income. Unlike company pension plans, in which the employee may or may not vest before going on to another job, IRA's are there to stay; they are completely portable. In our highly mobile society, where people change jobs often, you need a pension plan that guarantees something will be there when you retire. Only the IRA gives our citizens the certainty that they can control how much they get at retirement.

Perhaps no other provision of this tax reform measure has prompted so much mail as the IRA provision. I have received literally thousands of letters and thousands of telephone calls in support of retaining the IRA deduction. These letters and phone calls are different from your average special interest campaign. Most of the letters are handwritten, and most of tne calls reflect deep-rooted concern about the constituent's ability to provide for his or her retirement years.

We are a mobile society. Let me remind my Senate colleagues of a few statistics that show how mobile we are and how necessary it is that we retain these truly portable IRA's for everyone.

Writing in the September 1982 issue of the American Economic Review, the prominent economist Robert E. Hall studied how long Americans stay with the same employer. According to Professor Hall, the average 20- to 24-year-old starting out on a new job had a 5.9-percent change of staying with the same employer for 5 years or more. Five-point-nine percent. If these per-

sons had an employer-provided pension plan, they would not get the IRA deduction under the Senate bill, and yet only 5.9 percent would stay long enough to have their pension vest under the new 5-year vesting requirement.

Let me give the comparable statistics for other age groups. These are statistics showing the percentage of people starting a new job who will stay at that job for 5 years or more:

Age group:	Percentage
16-17	1.7
18-19	1.2
20-24	5.9
25-29	10.8
30-34	13.6
35-39	16.0
40-44	18.1
45-49	20.0
50-54	24.4
55-59	20.0
60-64	9.8
65-69	7.1

Mr. President, this vesting provision is one reason, a major reason, why we must retain the IRA deductibility. However, let me summarize one other point we should bear in mind before voting on this resolution.

Ideally, retirement income should be based on a person's Social Security benefits, pension, and individual savings. Today, however, even workers who are covered by both Social Security and private pensions get only a small part of their preretirement income when they finally do retire. Something on the order of 50 percent.

Benefit levels for women are even lower—the median annual income for elderly women is only slightly over that for men, largely due to low career earnings. Mr. President, in a country such as ours, when we have an increasing number of women in the work force and households headed by women, we cannot let this fact escape us. The IRA deduction, coupled with the pension reform provisions contained in this bill, is an important factor for insuring adequate retirement income.

Let me now turn to the conduct of floor amendments to this tax bill generally. During briefings with my staff on this bill, I seriously considered not voting for the Roth resolution. This was not because I disagreed with the sentiments expressed in the resolution, but because I felt it sent the wrong signals about how the Senate was going to deal with this bill. I do not believe we should simply load the bill up with sense of the Senate resolutions, and then rely on the conference committee to iron out the glitches in the bill.

Mr. President, the people of the State of Ohio elected two Senators to represent them in Congress; they didn't elect a conference committee. There won't be any Ohio Senators in the conference committee. There won't be any Senators from a lot of other States as well. I caution my colleagues in this body not to rely on the conference to correct the bill. If the majority of this body believe that we should enact an IRA tax credit for all taxpayers, then we should write this into the bill now. In that way, we will have given our conferees the best and most accurate sense of the Senate possible.

In conclusion, Mr. President, the people of Ohio elected a Senator, not a conference committee, to represent their views on important issues like the deductibility of IRA's. The amendments I am voting for will allow hard-working Americans to provide for their own retirement years and may even help to increase the savings rate in this country. And we will finance the continuation of IRA's by demanding that profitable corporations and wealthy individuals pay their fair share of taxes.

I ask my colleagues to join me in supporting this most worthwhile program.

● Mr. WARNER. Mr. President, as an original cosponsor, I join with Senator ROTH in support of the sense-of-the-Senate resolution to preserve tax benefits for IRA's in the tax reform package now under consideration. I am an original cosponsor of this resolution because I believe the American people have indicated to Congress their overwhelming desire to retain their full IRA deduction.

Over the past several weeks, I have heard from Virginians throughout the Commonwealth who are deeply concerned over the possible loss of their tax benefits on IRA's, accounts which they established in good faith and rely on to supplement their retirement income. These individuals are not wealthy country clubbers, but middle-income Americans who are planning in a responsible way their retirement. They have voluntarily set-aside a portion of their annual income over the years to give themselves some individual control of the resources available to them in their later years.

Virginians, like other Americans, are proud, self-reliant people who want some degree of autonomy and control in planning for their retirement. They do not want to depend solely on the Federal Government, or on group pension plans, to insure their security in later years. That is why when the Congress expanded IRA legislation, Virginians were eager to participate in this program to supplement their retirement income. Thirty-three percent of Virginians have established IRA's, which is higher than the Nation as a whole and indicative of the importance Virginians attach to this program.

Several years ago, we sent a message to the American people not to rely solely on Social Security, the Federal Government, and group pension plans for their retirement. That message was the IRA legislation. Are we now going to change course and run the risk of making individuals less reliant on themselves and more reliant on the Federal Government? I think we would be making a terrible mistake if we do. Are we going to jeopardize the progress we have made in encouraging Americans to save more of their earnings? For the last 200 plus years, the American people have had an inherent distrust of big government and its intrusions on their lives. In an area as important as retirement security, do we really expect people to rely exclusively on Washington to protect them at a time in their lives when they are most vulnerable to the winds of economic changes?

It is my hope, and it is a hope I share with millions of Americans who have established IRA's, that the Senate and the House of Representatives in conference will find a way to retain more of the tax benefits for IRA's in the final tax reform package.●

The PRESIDING OFFICER. Is there further debate?

Mr. DOLE. Mr. President, have the yeas and nays been ordered on the second-degree amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2065

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree to the amendment numbered 2064. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 4—as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—96

Abdnor	Domenici	Humphrey
Andrews	Durenberger	Inouye
Armstrong	Eagleton	Johnston
Bentsen	East	Kassebaum
Biden	Evans	Kasten
Bingaman	Exon	Kennedy
Boren	Ford	Kerry
Boschwitz	Garn	Lautenberg
Bumpers	Glenn	Laxalt
Burdick	Goldwater	Leahy
Byrd	Gore	Levin
Chafee	Gorton	Long
Chiles	Gramm	Lugar
Cochran	Grassley	Mathias
Cohen	Harkin	Matsunaga
Cranston	Hatch	Mattingly
D'Amato	Hatfield	McClure
Danforth	Hawkins	McConnell
DeConcini	Hecht	Melcher
Denton	Heflin	Metzenbaum
Dixon	Heinz	Mitchell
Dodd	Helms	Moynihan
Dole	Hollings	Murkowski

Nickles	Rockefeller	Stennis
Nunn	Roth	Stevens
Packwood	Rudman	Symms
Pell	Sarbanes	Thurmond
Pressler	Sasser	Trible
Proxmire	Simon	Wallop
Pryor	Simpson	Warner
Quayle	Specter	Weicker
Riegle	Stafford	Zorinsky

NAYS—4

Baucus	Hart
Bradley	Wilson

So the amendment (No. 2065) was agreed to.

□ 1730

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I do not see the distinguished minority leader on the floor. What I want to do is ask unanimous consent that the Finance Committee have permission to meet so it might report out the nomination of Dorcas Hardy, to be Administrator of Social Security.

Let me clear that.

Let us chop down the tree while we are waiting.

AMENDMENT NO. 2064

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2064.

The amendment (No. 2064) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2063

The PRESIDING OFFICER. The question now occurs on the amendment No. 2063.

Mr. BENTSEN. Mr. President, reserving the right to object, clarify what is going on.

Mr. DOLE. Mr. President, what we are doing now is trying to finish up the tree.

We had a record vote on the Packwood amendment. We are doing this so that other Members can offer their amendments not to the tree but separately. We can do it by voice vote. It has no impact on what we have done.

It is the same thing we voted on.

Mr. DODD. Has the tree been cleared?

Mr. DOLE. There are two left.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2063) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2062

The question recurs on amendment No. 2062.

The amendment (No. 2062) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE MEETING

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, June 11, 1986, in order to consider the pending nomination of Dorcas Hardy. It has been cleared by the distinguished minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. If we could just meet in the Republican cloakroom, members of the Finance Committee, we could do this rather quickly.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DOLE. Mr. President, will the Senator yield for a minute?

Mr. DODD. I yield without losing my right to the floor.

Mr. DOLE. Yes.

Let me indicate to all Members we plan to be in session this evening to somewhere between 9 and 11 o'clock. It is my understanding the chairman would like to dispose of all IRA amendments this evening, and so that Members are on notice, we will be in this evening, we will be in tomorrow evening, and we will be in on Friday with votes on Friday.

AMENDMENT NO. 2066

(Purpose: To allow the deduction for contributions to individual retirement plans against the 15 percent rate, and to increase the minimum tax rate)

Mr. DODD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD] for himself and Mr. D'AMATO proposes an amendment numbered 2066.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2000, beginning with line 23, strike out all through page 2009, line 18, and insert in lieu thereof:

SEC. . LIMITATION ON DEDUCTIONS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Part I of subchapter A of chapter 1 (relating to tax imposed on individuals) is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY OF INDIVIDUAL RETIREMENT CONTRIBUTIONS.

"(a) GENERAL RULE.—The amount of the tax imposed by section 1 (determined without regard to this section) shall be increased by the amount determined under subsection (b).

"(b) AMOUNT OF INCREASE.—The amount determined under this subsection is equal to—

"(1) the excess of—

"(A) the tax liability of the taxpayer for the taxable year computed without regard to the deduction allowable under section 219, over

"(B) such tax liability computed with regard to such deduction, reduced by

"(2) 15 percent of the amount of the deduction allowable under section 219.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRIBUTIONS TO SECTION 501(c)(18) PLANS.—The amount of any deduction allowable under section 219 shall not take into account the portion of such deduction attributable to a qualified retirement contribution described in section 219(e)(2) (relating to contributions to section 501(c)(18) plans).

"(2) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b)."

(b) INCREASE IN RATE OF ALTERNATIVE MINIMUM TAX.—Section 55(b)(1)(A) (defining tentative minimum tax), as amended by section 1101(a), is amended by striking out "20 percent" and inserting in lieu thereof "22.6 percent".

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by adding after section 3 the following new section:

"SEC. 4. Increase in tax to reflect limitation on deductibility of individual retirement contributions."

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

The PRESIDING OFFICER. The Senator will suspend. The Senate will come to order.

The Senator from New York.

AMENDMENT NO. 2067

Purpose: To allow the deduction for contributions to individual retirement plans against the 15 percent rate, and to increase the minimum tax rate.

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] for himself and Mr. DODD, proposed amendment numbered 2067.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following new matter:

SEC. . LIMITATION ON DEDUCTIONS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Part I of subchapter A of chapter 1 (relating to tax imposed on individuals) is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY OF INDIVIDUAL RETIREMENT CONTRIBUTIONS.

"(a) GENERAL RULE.—The amount of the tax imposed by section 1 be (determined without regard to this section) shall be increased by the amount determined under subsection (b).

"(b) AMOUNT OF INCREASE.—The amount determined under this subsection is equal to—

"(1) the excess of—

"(A) the tax liability of the taxpayer for the taxable year computed without regard to the deduction allowable under section 219, over

"(B) such tax liability computed with regard to such deduction, reduced by

"(2) 15 percent of the amount of the deduction allowable under section 219.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRIBUTIONS TO SECTION 501(C)(18) PLANS.—The amount of any deduction allowable under section 219 shall not take into account the portion of such deduction attributable to a qualified retirement contribution described in section 219(d)(2) (relating to contributions to section 501(c)(18) plans).

"(2) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b)."

(b) INCREASE IN RATE OF ALTERNATIVE MINIMUM TAX.—Section 55(b)(1)(A) (defining tentative minimum tax), as amended by section 1101(a), is amended by striking out "20 percent" and inserting in lieu thereof "22.6 percent".

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY CONTRIBUTIONS."

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning on or after January 1, 1987.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I ask unanimous consent that in addition to the Senator from New York [Mr. D'AMATO] and myself the following Senators be added as cosponsors: Senator CRANSTON, Senator DECONCINI, Senator EXON, Senator INOUYE, Senator RIEGLE, and Senator CHILES.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I yield to my colleague from New York if he has any additional cosponsors.

Mr. D'AMATO. I ask unanimous consent that Senator HAWKINS, Senator MURKOWSKI, Senator WILSON, Senator PRESSLER, and Senator WEICKER also be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Could we have order in the Chamber, please?

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order. The staff will repair to the rear of the Chamber and cease conversations.

The Senator from Connecticut will proceed.

Mr. DODD. Thank you, Mr. President.

Mr. President, we have now spent almost 7 hours discussing the IRA amendment, if you will, at least the worthiness of the IRA, the importance of it. I hope Senators understand the last vote on the sense-of-the-Senate resolution. While I think all here recognize that such a resolution has no binding effect in law whatsoever, despite the statements of some Members of the body, there is absolutely no guarantee whatsoever that the individual retirement account, which has been a tremendous benefit to some 28 million Americans, is going to be restored in conference.

What we intend to do, the Senator from New York and I, and others who are cosponsors of this amendment, is to give this body the opportunity to vote on a substantive provision, a substantive provision which will not only restore the IRA's for millions of middle-income Americans but also provide the funding by which to do it.

The distinguished chairman of the Finance Committee called for and insisted some days ago that any amendment that would be offered on this tax bill had to provide an offsetting source of revenue before it could be accepted or adopted.

□ 1740

Of course, in the sense-of-the-Senate resolution, not being a binding resolution, there is no offset included in that resolution.

Mr. President, I would ask for order in the Senate.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. Senators please repair to the cloakroom if they want to carry on conversations.

The Senator will proceed.

Mr. DODD. Mr. President, I think we all saw and took note of the fact that in the sense-of-the-Senate resolution, of course, the amendment in the second degree restricts rather severely where funds could come from in conference to support restoration of the IRA's.

What we intend to do or try to do with this amendment, Mr. President, is to pare down the cost of the IRA from the present deductible status to the status of a tax credit.

Under our provision, no taxpayer would be allowed to take more than a $300 credit for their IRA. The net effect of this is to reduce the cost of the individual retirement account from $25.5 billion, which would be the price tag for restoring the IRA to its present status, to a cost of $14.7 billion, roughly $10 billion or $11 billion less than the present program.

The further attraction to this particular approach is that it is more equitable. Regardless of the size of your income, you will be allowed to take a $300 credit. If you make $1 million a year or you make $10,000 a year, you get the $300 credit. This is far more equitable than the present system which would allow those who are more affluent to actually take a greater tax advantage than those that are in the middle or lower class economically who are anxious to get into this IRA program.

I think it is important to point out once again—and I do not want to dwell on the statistics, but I think it is extremely worthwhile to note—that some 28 million taxpayers of 100 million taxpayers in this country presently hold IRA's, 62 percent of those IRA's are held by people with individual or family incomes of $40,000 or less, and that the bulk of revenues in the individual retirement accounts are submitted by people who fall into that middle-income category.

People all across this country who fall into that category who have IRA's very much want to be able to retain them. They appreciate and understand that Social Security is not likely to be an adequate source of funding for their retirement needs. They are very uneasy about the condition of their pensions and they would like to be able to personally have some control and some assistance with small amounts of disposable income available to them to invest in their own retirement security.

Historically, Mr. President, in this country—Mr. President, I am sorry, but there is not order in the Chamber.

The PRESIDING OFFICER. The Senate is once again not in order. The Chair asks that those who are conducting conversations in the rear of the room to repair to the cloakroom.

The Chair asks again that conversations in the rear of the room be taken into the cloakrooms.

The Senator will proceed.

Mr. DODD. I thank the Chair very much.

Mr. President, once again let me pick up, if I can. What we are talking about here are the bulk of the people who participate in this program—contrary to the editorials and comments of some that say this is a rich man's game, it is anything but that. As we have pointed out, the overwhelming majority of people who participate in this program are people who come from that middle-income category, hardly affluent people.

I would point out once again—I did earlier today, but let me emphasize it

again—that under an assessment made by the Joint Tax Committee identifying those taxpayers who get tax increases under this bill as drafted and those who can expect tax decreases under this act—and I emphasize again these are figures from the Joint Tax Committee, and while they are not totally confident of these numbers, these numbers are nonetheless from them—one out of every four taxpayers who makes between $20,000 and $30,000 a year will receive a $339 tax increase if this bill is adopted as is.

If you are a person or a family in this country that makes between $30,000 and $40,000 in income, according to the Joint Tax Committee, one out of every three of those taxpayers can expect an average tax increase of $525.

So for those people who fall in that $20,000 to $40,000 range, which make up, by most people's estimates, middle-income taxpayers in this country, in this tax bill, as it is presently drafted and presented to this body, at least on the numbers that we have available today, will be faced with a tax increase.

Now, of course, if you make $200,000 a year—and there are 655,000 people in the country who make that kind of money—55 percent of those taxpayers can look forward to a tax decrease of $52,535. That is not a bad deal.

So if you are in that income category, you have got a better than 2-to-1 chance that you are going to get one whopping tax break. But if you come in that $20,000 to $40,000 range, you run the risk, if you are in the $20,000 to $30,000 range, of one in four of actually getting a tax increase and, if you are in the $30,000 to $40,000 range, a one in three chance of watching your taxes go up. What we are trying to do with this amendment is to provide some relief for people who fall into that category.

There is no mystery any longer. We all know that people in this income category are taking advantage of IRA's. We also know people in this income category are those who are most anxious to get into this program. We also know that these people in this income category do not have huge savings accounts, do not own stocks and bonds, do not own real estate, do not own antiques and jewelry, and other such investments. They have very small amounts of disposable income each year.

We know from the Internal Revenue Service that 50 percent of all the people who take an IRA each year take one out between January and April of the year they are paying their taxes. If it were really such a great advantage, as many argue it is, to be able to defer the taxation on interest, then the bulk of the people would be taking out these IRA's in January of the year of their tax obligation. But the facts of life are they do not have that kind of money to put into an IRA because they do not know what their needs are going to be. They live on the edge, most of them. They are trying to provide for mortgages, take care of their children, make payments on automobiles or the family needs.

We have argued about the great benefits of IRA's to this country to improve savings, to encourage people to participate in their own retirement. I am not going to reiterate all of those arguments. We all know them.

What we should also appreciate is that this meager $300—I say "meager." When it comes to that fellow who is making $200,000 a year who will get that $52,000 tax break, he could live with or without the $300. It is not going to lower that individual into an IRA.

But if you are making between $20,000 and $40,000, that $300 looms large. That is a big break for you.

In fact, under this bill, as I pointed out earlier, if you are in the $20,000 to $30,000 range you have a one in four chance of paying $339 more in taxes. This $300 tax credit under the IRA would mean your tax increase would be only $39. That is a lot of money. That is a lot of money to the average family in this country.

□ 1750

And that is the reason they go into these programs. That is the reason we came up with the deduction and now we are trying with a credit. To say to people that you know it is a good idea, and we want to help them, we want to make it financially attractive for you to come into this program, that is the reason for the deduction. It is the reason that we have pared that down to a credit, to say to people we want to help you do something that is in your interest and in this society's interest. We have all agreed on that. How do you pay for this credit that we have pared down from $26 down to $14½ billion?

Mr. President, we shopped around. To be very candid about it, we looked at a variety of different options to come up with the dollars here because as the chairman of the committee said, "Don't you dare bring up an amendment here that you don't have an offset to." So we shopped. And we looked at all sorts of things. We looked at 401(k)'s, we looked at corporate rates, we looked at delaying indexing, we looked at exemptions and deductions, and we looked at every imaginable thing you could in this bill. What we finally settled on as a fair and equitable way to pay for a program that will benefit middle-income taxpayers and reduce the tax increase for many of us was to increase by 2½ percent the alternative minimum tax for individuals and corporations.

I know that causes a hardship on some. There is no one that could offer an offsetting revenue source that is not going to hurt somebody. We all know that. But I think we all try to follow the old notion of the Tax Code, and that is those with the most ought to pay a healthy percentage or a decent percentage of their income to contribute to the needs of this society. We have decided IRA's fit the category of the need for the society.

Those people who take the alternative minimum individual tax and the alternative minimum corporate tax comprise about 35,000 or 36,000 taxpayers in this country—one-half. There are 655,000 people in this country who have incomes in excess of $200,000 a year. We are talking about a group of people that is almost one-half of that number, 350,000 or 360,000 people who are the most affluent in our society. We have a minimum tax in this bill because everyone said one thing we need to do is to see to it that people say something in taxes. What really antagonized our constituents from Connecticut to California was the fact that there are individuals and corporations who are not paying taxes. That more than anything else was the spark that lit the fuel that brings us to this day of the tax reform bill. I suspect that issue more than anything else was the engine behind tax reform; to have a minimum tax in this bill.

So we are going to take a minimum tax, which is presently in the bill of 20 percent, and we are now going to make it 22.5 percent. The House bill is 25 percent. I realize there is some difference in the bases there. But that 20 to 22½ percent does the following: It will mean that over the next 5 years corporations in this country will end up paying $9 billion more in taxes over 5 years. And the richest individuals in this country will end up paying $6 billion more in taxes over the next 5 years. We are going to use that money to assist the 20 million taxpayers, most of whom fall into this middle-income category, who if we do not do anything tonight will be virtually cut off of the attraction, and the credit of drawing them into an individual retirement program.

That is the sum and substance of this amendment. It is a credit. It applies to everybody, rich or poor. It takes the money from the alternative minimum tax which is the one group of people in this country, the corporations and others, who can afford to participate. It does not hurt them that much. It is only an increase of 2.5 percent. My god, the House is almost 3 percent above that. Presumably they will settle on about 2.5 percent when they end up in conference anyway.

That is what we are trying to do. That is all we are trying to provide for,

to see to it that those individuals can participate in their own retirement. We have done this historically in other areas. We do it in housing. The interest deduction on mortgages, why do we do that? We could make a lot of money for our Treasury if we eliminated the interest deduction on mortgages. Not everyobdy owns a home in America. A lot of people are without homes, and do not get to take advantage of the interest deductions on mortgages. But we keep that interest mortgage on deductions available because that is an incentive to people to get into home ownership because we recognize the benefit of home ownership in this country, and what it has meant to thousands of people, employment, jobs in this Nation, not to mention decent shelter for people.

That tax incentive, when people are looking at whether or not they can afford to buy a home, is certainly one of the inducements for middle-income people to decide to go from a renter to a home owner. We have done the same thing in health care, Mr. President. Again, we have lured people into preventive health care, investing in seeing doctors, and we provide some tax breaks for them. We have not changed that in this bill because we recognize that while we could pick up revenues for the Treasury if we eliminate it, by having the inducement there, people invest in their own health care. So housing and health care are two areas where we urge people to participate individually in those two vitally important areas of our society.

Last, Mr. President, we have urged over the years, and we heard today for the last 6 hours, one speaker in this body after another stand up and talk about the great benefit that individual retirement accounts have meant to the society. Why do people think the people went into IRA's? Would it not make a lot more sense with the rates to buy a CD? Would it not make more sense to go out and buy something else that might have a quick return? What is the one reason? The one reason that 28 million Americans, the bulk of them, went into IRA's is because of the tax incentives, and because of the attraction in the Tax Code to invest in these. That is the reason. That is the only reason. The bulk, the overwhelming majority of them have attempted to do it.

This amendment is to retain that for people, not only those who are without pensions but with pensions because as the chairman knows better than most in this body there are an awful lot of people who have pensions today who are not affluent Americans, who can use this additional retirement, who would like the break in their taxes each year to urge them to come into it, and who see $300 as a lot of money.

That is what we are attempting to do.

Mr. President, we have seen the charts. They have been up on the floor, the percentage of taxpayers, the income groups, the benefit, the fact that this will not be as expensive, and that it gives us a chance in this body to do something meaningful in an area that we all agree something needs to be done in. This is what we are elected to do. We were not sent down here to vote on sense-of-the-Senate resolutions.

Mr. President, I hope we can adopt this amendment, and that we have a straight up-and-down on it and give us a chance on this particular approach.

Mr. President, my colleague from New York has been deeply involved in this issue, and has worked hard on it. We heard earlier Senator RIEGLE from Michigan speak eloquently about this, Senator WILSON from California spoke very well in this well, Senator HEINZ, and Senator BAUCUS—have all addressed the importance of doing something substantively here.

My hope would be that we would pick out that funding source tonight, and that Senators will have the courage to stand up and say, "Look, we know everybody got something that will hurt them."

I come from the most affluent State on a per capita basis in the United States. That alternative minimum tax is going to hit a lot of my taxpayers in Connecticut. I know it. A lot of people who are supporters of mine are going to get hit by it. This is not a minor issue in my State of Connecticut, the corporations, and individuals who will clearly on a percentage basis probably be hit harder than any other State in the country with what I am offering to do here tonight.

But I would be willing to tell you that I think most of my constituents that fall into that category are willing to see a 2.5-percent increase in an alternative minimum tax to help younger people, and help middle-income people invest in their own security because those same affluent individuals understand and appreciate how important it is to encourage savings in the United States. They are not selfish people. They understand that they have better resources to invest in this kind of program than others do in our society.

Mr. President, I urge the adoption of this amendment. I hope my colleagues will support it.

Mr. PACKWOOD. Mr. President, before the Senator yields the floor, can I ask him a question? I am not quite sure I understand something he said. As I understand it he is going to raise the individual minimum tax by 2.5 percent?

Mr. DODD. No, 2.6.

Mr. PACKWOOD. 2.6 on the corporate.

Mr. DODD. That is correct.

Mr. PACKWOOD. Then I lost track of what he said about the House being at 25. Can he repeat that? I want to follow up with some questions. I was not sure what the Senator said.

Mr. DODD. What I pointed out in the debate is the bill as I understand it is at 20 percent. The House bill, Ways and Means Committee bill, is 25 percent.

Mr. PACKWOOD. That is correct.

Mr. DODD. We are going to 22.6 by this amendment if it were adopted. I pointed out in the same breath, I say to the chairman, that there are different bases between the House bill and the Senate bill. I appreciate that; that the bases are somewhat different. But I would argue that the $9 billion this amendment would raise from the corporate sector and the $6 billion roughly that would be raised from individuals, if my addition is correct, gets us to that $15 billion needed to meet the chairman's insistence on a revenue offset here of 14.7. It is not that substantially greater over 5 years, I would add. While there is some difference, the difference is not that significant, and would not virtually eradicate, if you will, as some have suggested, the difference between the 33-percent rate or the 27-percent rate and this rate, or eliminate that difference.

□ 1800

Mr. PACKWOOD. I want to make sure that the Senator understood the difference between the House and Senate bill.

Mr. DODD. It is a different base.

Mr. PACKWOOD. It is not just a different base. It is not even in the same world.

Under the present law, the corporate minimum tax rate is about $2.5 billion. More corporations escape it than pay. The House went to a 25-percent corporate minimum tax rate and over 5 years they raise $8.5 billion from corporations, at the 25-percent rate.

The bill now before us, which came from the Finance Committee with a 20-percent rate, raises $35.5 billion. We have wiped out the preferences. They are going to pay if they make any profit.

The Senator from Connecticut is now suggesting adding another $9 billion on top of the $35.5 billion that is already there and going from a corporate minimum income tax from $2.5 billion to roughly $45 billion in one coup. Do I state it correctly?

Mr. DODD. You stated correctly what the amendment does. I would argue that that is the effect. Certainly, in going to conference with the House, there will be some readjustment of the bases between the two bodies. There will be a combination of the two or one or the other. I suspect a combination of the two. The Senate

bill is a much more tightly drawn base because there is a stronger desire to have a strong minimum tax. There is a far greater likelihood we will have something closer to the Senate than the House.

I would expect the chairman of the committee to be fighting hard for that committee bill.

If the Senate language is adopted then obviously, as pointed out, our amendment does not have the kind of impact it would if the House base were adopted. If the House base were adopted, which I do not believe would be the case, then obviously we would have a problem.

I am far more confident that the Senate numbers would prevail.

Mr. PACKWOOD. The Senator from Connecticut knows better than most concerning corporate tax. Many people do not care about this, thinking it is an unending pie. That is not true of the Senator from Connecticut.

Let us say you have a company with a total income of $200 gross income and has what we call preference items of $100, but those are common preference items for a business, such as capital gains and depreciation, and, if you are a bank, a bad debt deduction for reserves.

Gross income is $200 and you have these preference items of $100 and you subtract them. Then you have $100 that you pay tax on.

Under the 33-percent rate you would pay $33. However, under the minimum tax in the bill, all those preference items are included in the minimum tax base. So you have $200 income and you are going to pay a tax on $200.

Mr. DODD. That is the Senate bill.

Mr. PACKWOOD. The Senate bill. You will pay $40 tax on $200. That means when the Senator from Connecticut says it is not going to be 20 percent but 22.6, you will not pay $40 but roughly, as I add it up, about $45.

So on any company that is a heavy capital-intensive company—steel, shipyards, timber, paper—where they have a fair amount of capital investment, not labor investment, and depreciation, you are probably going to succeed in raising the taxes on all of those companies.

Mr. DODD. We do not know that.

Mr. PACKWOOD. I would say as a rule of thumb you are more likely to raise it on capital-intensive companies than labor-intensive companies.

Mr. DODD. I would just ask the chairman, if I may, if I am wrong in my numbers on the individual items, is it true that no $15,000 taxpayers would be affected?

Mr. PACKWOOD. I think you are correct there, but what I am talking about is the corporate side. I am saying where you are getting your money.

Mr. DODD. The chairman said late last evening that no matter where you go to get money, you will hurt someone. If you come up with a revenue offset that does not hurt anybody, I will withdraw my own amendment as quickly as I can

Mr. PACKWOOD. I wanted to move to other differences and connect it with the number of people on IRA's.

We have bandied figures about. Figures have been bandied about that 50 percent come from people under $50,000 in income.

I have figures for every 100 who are the beneficiaries of IRA's. I like IRA's, but we do not want to bamboozle ourselves into thinking who are proportionately helping. These are 1984 figures from the Department of the Treasury, and they got them from the IRS.

Divide everybody in this country into $40,000 income above and below. You have 86 million tax returns, and some of those are joint returns, some are single returns, some are head of households 86 million returns under $40,000.

Of those 86 milllion, 9 million filed for IRA's, 77 million did not file at all. So anything we do, based upon the fact that now the great bulk of the people below $40,000 do not take IRA's, the apparent likelihood is that they will take in great numbers in the future.

Now take the returns about $40,000. Some 13 million returns above $40,000. Again, 86 million returns below and 13 million above. Of this 13 million, 6 million filed for IRA's.

I am not going to get into an argument about what is middle income because every time you get into that argument everyone thinks he is middle income. You can be making $25,000 a year or $250,000 and you think of yourself as middle income.

All I am saying is that any IRA amendment is going to disproportionately favor those whose income is above $40,000, and they are a very slight number of the returns compared to those under $40,000.

Mr. DODD. We are not arguing because it is numbers, it is how you want to look at this. While the whole dollar amounts are obviously attracted so that numbers of people fall into the lower groups, with lower income people being in the $20,000 to $40,000 range, but when you lowered the rates in 1983, they made the argument that at the higher rates the upper income people could have a larger financial advantage even though numerically they may not be as large as the other number. When you lower that rate down to 27 percent, these IRA's become far less attractive.

That is No. 1.

No. 2, if you make the same argument on the interest deduction on mortgages, rich people live in a lot bigger homes and carry bigger mortgages. Financially, they have a larger advantage, I suppose, if you want to look at it that way, than that middle-income person who lives in the small house that has a smaller mortgage. If we only looked at it in those terms, then I suppose we might want to scrap the interest deduction on mortgages.

More money is being saved by the affluent. We then make the decision for everybody to be involved in this thing and we need to have it attractive for them to come in.

□ 1810

While I do not disagree and argue with the chairman's numbers, the lowered rates, and the societal benefit, even though there may be more dollars or have been more dollars involved from the affluent, would not negate the importance of having a credit in this. It may attract that person of the lower income level.

Mr. PACKWOOD. Mr. President, let me ask the question, based on what people have said to me, whether there may be a time agreement.

Mr. DODD. I am ready to sit down.

Mr. PACKWOOD. I know Senator WILSON is here, Senator RIEGLE is here, and Senator D'AMATO, who needs time to discuss his amendment.

Mr. DODD. I do not know if there has been a unanimous consent request or not.

Mr. PACKWOOD. There is none. I am trying to get an idea of whether we can agree to propose one. Would those involved want an hour and a quarter, an hour and a half, an hour?

Mr. D'AMATO. Suppose we suggest an hour, until 7:30, since we have had a little more on our side. We could control the time and see that all those who are here to speak on our side would have the opportunity.

Mr. PACKWOOD. I think that is a reasonable suggestion.

Mr. DODD. Could we also agree to a straight up-or-down vote on this amendment?

Mr. PACKWOOD. No, Mr. President, I do not think so.

Mr. D'AMATO. Mr. President, I spoke to the chairman. He indicated it was his intention to make a tabling motion at 7:30 if we agree to that time. I have no objection.

Mr. RIEGLE. Mr. President, would the chairman yield for a comment on his question?

Mr. PACKWOOD. Yes.

Mr. RIEGLE. I do not intend to speak. I made my statement earlier today. But I do think it is important and I know other colleagues feel strongly who have not spoken. Before we settle on the time agreement, I think the word ought to go out so those who have been waiting to speak would have at least a chance.

Mr. PACKWOOD. That is fine, Mr. President. All I am trying to do is get an idea so I could bounce it off the

majority and minority leaders, so long as they might propose it, and see if we can get an agreement on it.

I yield the floor, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I wonder if I could pose a question to the chairman of the Committee on Finance with regard to the sense of the Senate resolution that was passed. As I understand the resolution, it directs the Congress, on the Tax Reform Act, to give the highest priority to retaining maximum possible benefits for IRA's and that the retention of the tax benefit of individual retirement accounts should be accomplished in a manner which does not adversely affect the tax rate. I am wondering if the chairman could enlighten me on the specifics of how he could possibly achieve the directive of the sense-of-the-Senate resolution without indeed affecting the tax rates. Obviously, that differential of some $25 billion under 1 scenario or 14 under another is going to have to be raised from some source.

Mr. PACKWOOD. Technically, Mr. President, with regard to the amendment that has been offered by the Senator from Connecticut and the others, the $9 billion of it that comes from corporations technically does not in any way affect the individual tax rates. It does not raise anybody's, does not lower anybody's.

So I assume you could say if we took it all from business, I would not support that but it would not change the relative tax rates at all of individuals. It would not change the income distribution. And so long as you do not do it by raising 15/27/33, you would not have done it by raising the rates. I do not want to mislead anybody; I would not support that approach, but that is an answer as to how you do it.

Mr. MURKOWSKI. But if you read the language, it does not distinguish. It says affect the tax rates or distribution by income class of tax reduction. My question is what indication might we have that the conferees could possibly adhere to that language since indeed it would adversely affect the tax rates?

My question of the chairman is how could we possibly accommodate the sense-of-the-Senate resolution just passed in reality, because the Senate obviously has to generate that revenue from some source? Do we not have a conflict here?

Mr. PACKWOOD. No, I do not think so, Mr. President. I do not want to mislead anybody to think this is what I would prefer or do. The tax rates are the 15 and 27 percent on individuals and the 33 percent on corporations. The income distribution referred to in the resolution or all other resolutions are the ones among individuals. So if you found some way to raise the $14 or $15 billion you needed by eliminating business deductions without changing the rate, you would not have changed the rates of individuals or businesses, nor would you have affected the income distribution among individuals.

I hasten again to indicate to those who are listening that I do not advocate that.

Mr. MURKOWSKI. Those would not apply to the corporate minimum rates.

Mr. PACKWOOD. Normally, when people refer to the rates, they refer to the 15/ 27/ 33. I do not support raising corporate rates. I think what we have done in this bill, having gone from $2.5 billion by raising corporate rates and not letting General Electric and General Dynamics escape paying taxes, is raise $35 billion. We have a 15-fold increase in this bill on the corporate minimum tax, something of which we can be proud. We do not have to apologize to anybody for it.

But normally, when people say the rates, they mean 15, 27, and 33.

Mr. MURKOWSKI. If I may continue, Mr. President, the business pending before the Senate is the amendment by the Senator from New York, which would increase the minimum tax from 20 to 22.6 percent. It is my understanding that that would raise, along with the tax savings benefit which is $300, the necessary $25 billion to offset the cost of maintaining the IRA's. I am wondering if the chairman of the Finance Committee, as he attempts to follow the intention of the sense-of-the-Senate resolution in referring back to the conferees the spirit of the Senate with regard to maintaining the IRA's could tell us what he would have in mind specifically to fund the differential that obviously has to be found.

Mr. PACKWOOD. I have answered that question several times, but perhaps not satisfactorily, for the Senator from Michigan [Mr. RIEGLE] when he asked it four or five times earlier. It depends on what I have to go to conference with—not just on this, but where we end up on capital gains which we have taken out of the bill for individuals but have it in for corporations; where we end up on above-the-line charitable deductions, which some wanted to take out, others wanted to leave in. There is going to be an amendment to put it back in and plain have a credit.

I am going to be going to conference, I guess, with 100 to 200 differences with the House bill—some major, some very major. The difference between our depreciation and theirs is significant. The difference between our individual rates and theirs is significant. If I am required to go to conference with a whole lot of sense-of-the-Senate resolutions that say put in capital gains, put in charitable contributions but do not change the rates or the distribution, I cannot do it.

When this is done and we go to conference, we are going to negotiate. I regard as the highest priority keeping the rates where they are. It is the glue that has held this bill together and I am very, very adverse to changing them. But I cannot answer the question until I see the entire package I go to conference with.

Mr. MURKOWSKI. I gather from statements made by the chairman of the Finance Committee so far that the proposal by the Senator from New York as it is suggested is a change in the rates and he is basically in opposition to it. I am wondering if there is consideration for a compromise on some alternatives that have been discussed informally previously.

I am wondering if the chairman would care to reexamine the merits of delaying indexing in the sense of the figures that were first brought up which suggested that by delaying indexing for a period of about 16 to 18 months and taking the $300 tax savings benefit, you could achieve the $14.7 billion necessary. And since the indexing is somewhere below 4 percent, while it is true it would cut a swath on both the 15 and 27 percent brackets, it is a relatively short-term cure all.

I am wondering if the chairman of the Finance Committee has also considered the tremendous revenue potential once the IRA's were indeed established and the proportional growth would be anticipated by a broadening of the base and the revenue source in future years as they were drawn down for retirement purposes, at which time the tax would be paid.

□ 1820

Mr. MURKOWSKI. That is my major supporting base for the IRA's, but why is it so inconceivable that it would be not perhaps more equitable to look at indexing as opposed to the increase in the alternative minimum tax?

Mr. PACKWOOD. Equity is in the eye of the beholder. Let me take the Senator back to where he started on this. When I first presented the tax reform bill, I did not eliminate the IRA's at all. I did not eliminate the deduction for any IRA's. And instead of the total elimination of the sales tax deduction I had a slight touching of all State taxes. The committee went, "Boo, we don't like that." Instead, the committee by the time they had finished had fashioned the IRA version you see before you and the elimination of real property.

That is just on this issue and I say that only to indicate the variety of things we looked at.

Now, when we came to the IRA's there was a great debate in the committee about can we keep them all and how can we fund them. What ideas did we think of? Eliminating indexing or delaying it was one suggestion. Another was tariffs. Increase the tariffs. Pay for it with tariffs. A third one was a consideration of the alternative minimum tax in the committee. Did we consider all of them? Yes. I will tell the Senator a down side with indexing that I see. I have not added up the poverty figure yet, but we take about 6 million people off the tax rolls that are right at the poverty line and my hunch is if you delay indexing you are going to put back about 200,000 on the Federal income tax on the poverty line. That 200,000 is a guess. I have not figured it but I think it would be about that.

Second, if you delay indexing—I will come back again to the figures that I used. Eighty-six million returns from people under $40,000, of whom only 9 million file for IRA's, and if you delay indexing what you are saying to those 77 million is "Don't take IRA's at all; we are going to increase your taxes"—all 77 million of these returns—"to pay for the 9 million who have IRA's under $40,000 and for the 6 million who have IRA's above $40,000." So you are going to tax the poorest of the poor and put a couple hundred thousand under the poverty line back on the tax rolls to pay for IRA's.

We rejected the idea for that reason. We rejected tariffs for obvious reasons. We went through a whole variety of ways to try to do it and we finally came to this conclusion: For those people who will be in the 15-percent tax bracket, and that will be roughly 85 percent of the taxpayers because you have to be, for a family of four, at $42,300 before you go above the 15 percent bracket—85 percent—if those people want to have an IRA, let us assume that today they deduct it. Today they are in about the 33-percent tax bracket if you are at the $42,000 level. They deduct their IRA contributions. Say they put in $2,000. Then they pay their tax on what is remaining. They actually will have less money left under the present Tax Code than if you change no other circumstance than the rates that we have put in this bill and the fact that they could not deduct the IRA's. Under this bill they are making $42,000. They put aside $2,000 for an IRA, but they cannot deduct it. They then pay a 15-percent tax. They have more money left in their pockets even not deducting the IRA than they do under the current law.

So as we are attempting to lower the rates, lower the rates, lower the rates, we keep balancing the alternatives. Which would the public rather have, more money in their pocket that they could spend as they want, spend for an IRA, spend for a car, spend for a vacation, or would they rather have deductions for an IRA, deductions for interest on a car loan, deductions for a vacation, because you fly off to Paris and put it on your credit card and deduct your consumer interest. Which would they rather have? We came to the conclusion they would rather have the low rates and the money in their pocket than the high rates against which they could take deductions but which many of them did not take or did not take all of them. And it was a conscious philosophical choice not just with the IRA's but with every single issue—such as capital gains—that we dealt with.

Mr. MURKOWSKI. I do not dispute the intention of the Senator from Oregon with regard to the many considerations that were taken under this tax bill. As the Senator knows, I support the tax bill, but the question at hand here is the IRA's, and we have just seen the Senate pass by unanimous majority almost—I think it was 90 something to 4—that the Senate give highest priority to retaining maximum possible tax benefits for individual retirement accounts. Now, I understand in the discussion I have had with the Senator from Oregon that he proposes to have the flexibility during the conference to address this issue, and my concern is that the House is very likely to have this as a prerequisite and as a consequence the conferees are going to have to come up with the money to offset the $25 billion from some source. And as a consequence, since we have I think a pretty significant directive in the form of a resolution from the Senate that we basically adhere to the spirit of the Senate—and that is to retain the IRA's—the question is how. I would ask my colleague from New York, who has the pending resolution before the body, if indeed it was not the question here of addressing approximately the manner in which the spirit of the Senate can be fulfilled by addressing an equitable repayment?

Mr. PACKWOOD. Can I interrupt just a moment because I think we have arrived at unanimous consent on a time agreement. I would like to propound it and see if we obtain it.

Mr. President, I ask unanimous consent that the vote occur in relation to the D'Amato Amendment 2067 in the second degree to the Dodd amendment at 7:20 p.m., and that the time be equally divided between Senator PACKWOOD for the opponents and Senators D'AMATO and DODD for the proponents or their designees; and I further ask unanimous consent that all points of order be considered waived with respect to amendments 2067 and 2066 by this agreement.

Mr. BYRD. Mr. President, reserving the right to object, I will not object. This matter has been cleared on this side.

Mr. PACKWOOD. I thank the minority leader.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER (Mr. SIMPSON). Without objection, it is so ordered.

Mr. PACKWOOD. I thank the Chair.

Mr. MURKOWSKI. I posed, with all due respect, a question to the Senator from New York because it was my contention in responding to the Senator from Oregon that we have before us a clear expression of the attitude of the Senate toward IRA's. I can appreciate the position of the chairman of the Finance Committee that he wants to have flexibility in conference. But again I think the crux of the matter is how and under what set of circumstances we address how we are going to make up that revenue loss, that $14.7 billion.

Mr. PACKWOOD. Let me ask the Senator again——

Mr. D'AMATO. If I might be permitted to respond to the question from my colleague from Alaska, I think it is a good question because the question really framed in another way is whether we are going to take care of the needs of middle America, those who are within that area of $30,000 to $50,000, and those are family incomes, by allowing them this continued deduction, most of whom would lose the other way, and they would get a savings of $300 to $600 depending if they have two people working or whether the tax benefit will be one which is continued for the wealthiest of Americans, a handful because that is where one-third of the revenues are raised, and the most successful of America's corporations. That is what this comes down to. It is an income distribution. I suggest that it is one that is fairer and more appropriate.

Mr. MURKOWSKI. I would respond by adding the observation that it is not just a matter of a question of money in the pockets of the American people. I think it is encouraging savings by American people. I think the contention has been made that the IRA's come from a transfer of savings. It really represents a commitment to a long course of action because you cannot just walk off and spend without appropriate penalties.

□ 1830

Much of the expansion in America is done by debt, as opposed to what we have seen in Japan, where they basically take care of their expansion needs by savings. I think we need to encourage savings.

Mr. PACKWOOD. The Senator is saying this: Even though 85 percent of

the taxpayers at the 15-percent rate will have more money in their pockets, even if they cannot deduct IRA contributions, is the Senator saying that, given that more favorable circumstance, they will not save?

Mr. MURKOWSKI. No, I am not saying that. What I am suggesting is that the IRA's encourage savings, and I think my colleague from New York would acknowledge that.

I am not suggesting that we necessarily have to address the issue of IRA's as a threat to this tax bill that the Senator from Oregon and his colleagues so eloquently tailored.

Mr. PACKWOOD. Is the Senator saying that even though they will have more money in their pockets, people will not use IRA's if there is no deduction, even if the bill would be more favorable toward their using them because they will have more money?

Mr. DODD. Mr. President, will the Senator yield?

Mr. MURKOWSKI. I yield.

Mr. DODD. If there is no tax incentive, why would you go into an IRA? Why not buy a CD or other things that would have a far greater return?

Mr. PACKWOOD. A CD does not offer a far greater return. You cannot deduct for a CD. Dividends on a CD are taxable. You will have more money in IRA's at the end of 30 years.

Mr. DODD. With a CD, you can draw it out at any time. You have a penalty with IRA's for withdrawal. If you are trying to make an investment and you do not have any attraction in the Tax Code, you will look to something other than an IRA.

Mr. MURKOWSKI. I say to the Senator——

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. MURKOWSKI. Mr. President, I have the floor. I was recognized.

Mr. DODD. Two more minutes.

The PRESIDING OFFICER. Under a previous unanimous-consent agreement, the Senator from Oregon and the Senator from Connecticut control the time on the floor. The Senator must have time yielded to him

Mr. MURKOWSKI. I ask for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, in response to the chairman of the Finance Committee, we have an Investment Institute report that indicates that 42 percent or more IRA owners would stop making IRA contributions under the Senate Finance Committee proposal. I think that speaks of itself.

I would like to use my remaining time to address a question to the Senator from New York. The question I pose to the Senator from New York, who has the pending amendment, is in reference to his attempt to address the issue before the Senate of how we are going to pay for the IRA's. He has proposed a minimum tax increase from 20 percent to 22.6 percent.

The chairman of the Finance Committee has indicated his attitude, that he basically is not supporting this method. He prefers to address it in conference. But I think it is necessary to point out that we have just passed an expression of the Senate with regard to IRA's. The Senate wants to retain the IRA.

I ask the Senator from New York: As we try to find the funding for it, is it conceivable that we could look at the possibility of dropping the increased alternative minimum tax from 22.6 percent, say, to 21.6 percent, and applying as well the delay of indexing; but instead of for 16 months, maybe 8 months. We know that the economy, for at least 8 months—or we have every reason to believe—will constitute a relatively minor increase in the cost of living and probably will stay under 4 percent. Is there room to consider a compromise of the two specific proposals that have been addressed?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. I yield myself 15 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. That is a very real possibility. We have suggested to the chairman of the Finance Committee any number of combinations we would be willing to support, and do the business of the people in retaining the IRA's. So it is certainly something I could support.

Mr. MURKOWSKI. I thank my friend from New York.

The PRESIDING OFFICER. Who yields time?

Mrs. HAWKINS addressed the Chair.

Mr. D'AMATO. Mr. President, I yield 2 minutes to the Senator from Florida.

Mrs. HAWKINS. Mr. President, today I join my colleagues here in a show of determination to reinstate the tax deductibility for the individual retirement account. I am distressed with the Senate Finance Committee proposal to eliminate IRA's.

The rhetoric abounds with nonsense such as the tax bill will unravel if IRA's are put back in the bill; that the package is too fragile to withstand the reinstatement of the IRA; that this entire tax bill is held together with the IRA glue. I suggest that if that is true, we should package it and sell it and pay off the deficit, because that would be the handiest thing we could possibly do.

I believe this bill would be much fairer and much stronger if we kept the savings reward, if we said to Americans: "If you are thrifty and save money, we are going to let you have a tax break." The bill will only be made stronger and fairer by retaining this good and progressive retirement savings program.

Thousands of Floridians have been writing to me on a daily basis, and they understand. They show their support of retaining the IRA by offsetting it against the corporate minimum tax. One writes: "Please vote against the elimination of the tax deduction. I am a widow, age 41. I Just contributed the last 2 years. If I am to support myself for the rest of my life, I need to have something besides Social Security to depend on."

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from letters I have received showing that Floridians understand this, and they want the IRA deduction. It is a small sampling of the mail I have received.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From Jacksonville: "I am a widow, age 41. I just contributed the last two years. If I am to support myself for the rest of my life, I need to have something besides social security to depend on." (Mrs. Beverly W. Sells)

Madeira Beach: ". . . please do not destroy the one good feature of our present system, the IRA tax exempt status. This one thing has done more than anything to help my wife and myself to achieve some measure of success in planning for a retirement free from dependency upon the government and others. Keep the IRA's as they are." (Mr. and Mrs. Daniel Wertz)

Tampa: "With the state that Social Security is in, a self-generated plan is the only hope middle class Americans have for a comfortable retirement." (Cheryl Karte)

Bradenton: "For me, as a struggling, low income, divorced woman, it is the only tax deduction and savings I can manage every year." (Adele Kaplan)

"Our IRAs are the only deduction that we have. Please don't take that away from us." (Roy C. McDuffie)

Miami Beach: "Please do not destroy my future security. Leave my IRA alone."

Englewood: "Paula, help save the IRA!"

Mrs. HAWKINS. Mr. President, they are not rich people, not high-tax individuals. They are thrifty, hard-working Americans.

This is a very fair proposal, and it shows the American people, individual investors, that they can save for their retirement years, without having the rules changed in the middle of the game.

If we are going to talk about fairness, we should add an amendment to change some of the treatment for IRA's. We have been talking about that for 4 years. I think we should be very serious in saying to Americans, "If we say we are going to give you some added tax incentives, we will." That is exactly what middle America wants. But middle America does not know what a conference is; they do not know what a conferee is. I want to look at these magical conferees who

will wave a wand and do something we have been unable to do as a body.

We should be expanding the IRA's to nonworking spouses. I have an amendment which would do just that. My amendment would simply change the current corporate proposal in the House tax reform bill from 36 percent to 35 percent, 1 percentage point lower than the House bill, and still offset the IRA for all Americans, working and nonworking spouses. By doing this, Senators can show the American public that they are serious about fairness; in fact, they can show the individual saving American deserves a break, and at the same time they will further expand a much needed savings program in this country.

Finally Mr. President, many opposed to restoring the IRA's sound as if the economy is on the verge of collapse. This country has made quantum leaps since 1980 with the strong economic leadership of President Reagan. The economy is growing and should keep growing. Unemployment is down and the Nation is truly on an upswing. For this body to say that we cannot find the money to fund the IRA, is outrageous. We in the Senate need to keep the vitality of the economy growing. We need to keep increasing our level of savings and the prosperity that is sweeping this Nation, not kill it. This tax reform legislation should have some strong psychological impact; it should excite the American public, not confuse it; and by restoring the IRA, 40 million Americans can maintain their faith in good government.

I feel that the IRA has the support in the House of Representatives and that it will be addressed favorably in conference. But why should the Members of the House be the heroes of the IRA?

We should resolve the IRA issue in the Senate, so that a strong message can be sent to the American people that this reform package is real, it is fair, and that we in the Senate will not continue changing the law each year in the name of tax reform. Tax reform should not be tax upheaval. I urge my colleagues to support the reinstatement of the IRA tax deduction.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. D'AMATO. Mr. President, I yield 3 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, two messages have come through loud and clear in all the letters and phone calls I've received about the tax reform bill. First, support the Finance Committee bill. And second, protect my IRA.

It's important to point out that these letters are almost all individual, handwritten messages. This is not a mail campaign generated by those who sell IRA's, but a genuine outpouring of concern about the IRA changes included in the tax bill. The average working American may not understand the details of the investment tax credit or other technical parts of the Tax Code, but that working man or woman understands the benefits of an IRA and knows that the Senate bill restricts them unnessarily.

I am pleased to be an original cosponsor of the pending amendment. I have been working on this issue for several weeks with my colleague from Connecticut, Senator DODD, and others, as part of an IRA task force appointed by the minority leader. Our amendment has broad, bipartisan support and I believe it is the Senate's best shot and probably the only shot at restoring an important tax incentive for IRA's. Let me make it clear at the outset that I support the Finance Committee bill and intend to vote for it. So at least it can go to conference. I reserve the right to make a determination as to what I will do when and if that bill comes back from the conference without some degree of protection for the IRA program. That does not mean that this legislation cannot be improved upon. The amendment we offer today will make a good bill even better.

Congress did the right thing in 1981 when we made IRA's available to all workers. The Finance Committee bill would turn back the clock and restrict the benefits of over 20 million Americans who took us at our word and opened their IRA's.

The amendment that we are offering is not a full restoration of the IRA deduction, but it is one that keeps the faith. I believe it is a reasonable compromise and all I have talked with agree. Our plan would allow an income tax credit of 15 percent of an IRA contribution, up to a maximum credit of $300 per person. This change would be paid for by an increase of 2.6 percent in the minimum tax on corporations and individuals.

Mr. President, with the strains on the Social Security system, Congress should be looking for ways to encourage retirement savings, rather than discouraging it. All of us know the stories of older persons whose life savings are wiped out due to a catastrophic illness or the cost of nursing home care. Social Security and private pensions in many cases are not sufficient to meet the retirement needs of many Americans. IRA's provide working Americans with the chance to plan and accumulate additional resources to meet their retirement needs.

IRA's also represent the most flexible retirement plans for many working Americans. The funds are controlled by the worker and are all accumulated in a single account, thus avoiding problems of vesting and changes of employer.

Mr. President, this amendment would restore a tax incentive for all working Americans to plan for their retirement. Most importantly, it does so without changing the overall rates or the basic framework of the Finance Committee bill. I believe that this amendment makes a good bill even better, and I urge my colleagues to support the amendment.

Mr. President, the action that the Senate took an hour or so ago is a smokescreen. It does absolutely nothing to ensure IRA's.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. May I have another minute?

Mr. D'AMATO. Yes, the Senator is yielded an additional minute.

Mr. EXON. The smokescreen that this Senate acted upon a few moments ago does nothing, absolutely nothing, to ensure IRA's. I hope no one is led to believe that the 7 hours of debate that preceded that vote is indicative of any real or any meaningful commitment by the Senate to protecting IRA's. At best it was an expression of sympathy.

Let us pass this amendment and get on with the serious business of protecting a portion of the IRA's.

I reserve the remainder of the time and yield it back to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I think the Senator from Oregon is prepared to yield some time.

Mr. PACKWOOD. I yield 3 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I think this is a very, very healthy debate we are having on this issue. I think for those of us on the Finance Committee one thing needs to be put in very clear perspective of what it is that the Finance Committee did and how we come to the conclusion that the corporate alternative minimum tax would be set at 20 percent.

Our distinguished chairman very ably made the point, Mr. President, that we are going to hit corporations for an additional $35 billion over and above, or $32.5 billion, I believe would be more accurate, over and above what the current law is by the application of the corporate alternative minimum tax. This is a new tax. It is a different type of a tax. Once they filed their tax return, then they list all their preferences and then they have to go back through another procedure and will face whether or not they owe a corporate alternative minimum tax.

It is very popular for all of us to stand here on the floor and say do not worry about taxing the corporations because if you tax them, they will pass those taxes on to their consumers and ultimately the consumer, the American citizens who we all represent, will

pay those taxes in the form of higher costs of the products the corporations produced.

That is true if the company is engaged in competition within the domestic realm of business, commerce, and enterprise. But the corporations that are involved in heavy manufacturing, in mining, in natural resource production, those companies, if their taxes are raised, which is what the corporate alternative minimum tax does, face what it is we are trying to do to make a tax bill that is revenue neutral.

In order to reduce rates, we had to raise the money somewhere. If we raise the taxes by from 20 percent to 22½ percent, those companies which are large employers of millions of Americans in the United States that are also taxpayers and also want the benefits of this legislation, with a 15- and 27-percent individual tax rate, we raise the taxes on their employers, say, in a mining company, which we have many in my State—there are many mining companies involved as the employers in the State of the distinguished Presiding Officer, the State of Wyoming—that would be face with this propositon, if you raise their taxes, they sell their product in an international market whether it be lead, zinc, silver, or any of the other metals that are produced in this country in the already beleaguered mining industry and, Mr. President, I would say that the mining industry has been under tremendous pressure from international competiton and they are having a great deal of difficulty right now.

We have had massive layoffs in my State. We have people who are out of work right today as a result of this. If we raise just haphazardly here to save another section of the Tax Code——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SYMMS. Could I have 1 more minute?

I thank the distinguished chairman.

If we raise their taxes in order to preserve some other section of the bill, they have no place to go but to push those costs back to the means of production. This may result in lower wages for miners. It may mean more layoffs for miners. It may mean lower wages for manufacturing and heavy manufacturing companies that will be hit with this.

So we should discriminate between who is going to get these taxes. There are winners and losers in any tax bills when we try to reduce rates to pay for it.

I think it is a point that all Senators should give very, very careful consideration before we haphazardly raise the corporate alternative minimum tax on this floor.

I am not against the concept of having everyone pay some taxes. I am in favor of that. Some of us on the Finance Committee thought that a 10- or 15-percent rate would be more equitable and better for the economy as a whole than the 20 percent, but everything is a compromise. We arrived at 20 percent. I think it would be a tragic mistake if we raised this minimum alternative tax. The chairman stated it very well earlier. I hope all Senators will be very cognizant of what the chairman is saying. I am one Member. I hope I am a member of the conferees when the time comes but whether I am or not, I take the vote that I just cast that was 96 to 4 as a clear mandate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank my colleague from Oregon and I compliment my colleague from Idaho on his presentation.

Mr. President, I will not try to go over the area covered by the Senator from Idaho in his comments relative to how revenue was apportioned in the bill, nor the comments that he and earlier today our colleague, MALCOLM WALLOP, of Wyoming, made relative to the alternative selected by the Senator from New York to finance the IRA, in other words, raising the alternative minimum tax on all Americans who are required to pay that tax.

Mr. President, one other thing I think on which there is no disagreement is that the amendment now under consideration concerns an issue that is of concern to all 100 Members of the Senate, something we have been concerned about for a long time, and that is the rate of savings in America and the encouragement we ought to provide in the income tax policy for savings through in this case a fully deductible individual retirement account or IRA.

While I share the sponsors' desire to promote savings and retirement planning by providing tax credits or deductions for IRA contributions, I believe the approach taken in this amendment, however, unfairly discriminates against those individuals for whom the IRA is their only retirement nest egg.

For individuals not currently covered by an employer-provided retirement plan, plans which are subsidized very heavily by the income taxpayers in this country, including those who do not have retirement plans, the Finance Committee bill has retained fully deductible IRA's. That means that a husband and wife working on a farm, or a young middle-class married couple in the 27-percent bracket with no employer-provided retirement plan, can get the full benefit of contributing to an IRA.

The amendment offered by Senator D'AMATO would limit these citizens' IRA deduction and make no distinction between workers covered by other retirement plans and workers with no other retirement plan benefits.

Let me give you an example of what I mean. Under the Finance Committee bill, a working husband and wife with no company-provided retirement plan could make a $4,000 deductible contribution to an IRA. If that couple had taxable income of $34,000, they would save $1,080 in taxes as a result of their IRA contribution.

□ 1850

By contrast, Senator D'AMATO's amendment makes no distinction between citizens covered by a retirement plan and those not covered by a retirement plan. Under his approach, that same couple can only get a $600 tax saving for their $4,000 contribution, which is an increase to these people in the $34,000 bracket, an increase in the cost of funding their retirement of 45 percent.

So I ask you, Mr. President: Is it fair to ask middle-income working families with no employer-provided retirement plans to take a 45-percent loss in their IRA tax benefits in order to allow a $200,000-a-year executive covered by a retirement plan or a section 401(k) plan to get an additional tax benefit from contributing to an IRA? I think, in the name of fairness, the answer is no.

Mr. President, the IRA provisions in the Finance Committee bill are fundamentally fairer than the amendment offered by Senator D'AMATO. The Finance Committee bill does not ask workers who have no company-provided retirement plans to sacrifice the benefit of their IRA in order to subsidize others lucky enough to have other retirement plan options.

The Senate resolution I supported earlier in the day directs the Senate-House conferees to restore deductible IRA's. I believe that when this legislation is ultimately reconciled in conference, we will have fairly and equitably addressed the issue of IRA deductibility.

However, I cannot support an amendment that asks workers not covered by company-provided retirement plans to sacrifice their IRA tax benefit, so that others can get an IRA tax break on top of their other retirement benefits.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. Mr. President, I yield 3 minutes to the Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the Senator from New York for yielding.

Mr. President, I lend my support to this amendment on individual retire-

ment accounts. This is a sound approach to preserving the tax benefits associated with IRA's for middle-income earners. At the same time, this amendment addresses the concern that IRA's have simply become another tax break for the well-to-do.

It is important that we continue to support IRA's for several reasons, Mr. President. IRA's are helping many set aside money for their retirement years. Contributions to IRA's have helped alleviate fears of how to make ends meet in retirement years. IRA's are also proving an attractive savings tool. This is a boost not only for individual contributors, but for the overall well being of our economy.

This amendment manages to preserve these important benefits while curbing any abuse of IRA's by high income individuals. This is done by allowing an income tax credit equal to 15 percent of annual IRA contributions, up to a maximum credit of $300 per individual. This approach means that greater benefits for IRA contributions will go to middle-income earners.

Maintaining this incentive for IRA use makes sense when we look at the number of Americans who are making IRA contributions. The number of Americans contributing to individual retirement accounts stood at 28 million in 1985. This number represented 32 percent of all households. In Tennessee, 23 percent of our households have IRA's. That is over 395,000 Tennessee households which make use of this important retirement program.

This amendment would continue a trend already present in IRA use. That is, providing middle-income earners an important retirement program. According to figures compiled by the Internal Revenue Service, 62 percent of all taxpayers who contributed to IRA's in 1983 had adjusted gross incomes of under $40,000. An independent study conducted by a major market research firm reached much the same conclusion. This study found that 65 percent of all U.S. households with IRA's had incomes of under $40,000.

And these individuals are making rather significant IRA contributions. According to the Joint Tax Committee, the average contributions to an IRA for those earning between $10,000–$20,000 was $1,815. Those in the $20,000–$30,000 income class contributed an average $2,043 to their IRA's. My travels in Tennessee have echoed what these figures show. IRA's are important to the working middle-income earner in this country. This amendment is designed to keep IRA's targeted toward this important income group.

We cannot overestimate the sense of urgency that many middle-income earners attach to this supplemental retirement program. Let us be honest, Mr. President. Many Americans have great fears about how they will make ends meet in their senior years. This administration presently in office has contributed to those fears because it sought to convince the American people, the younger in our population, that when it comes their time to avail themselves of the Social Security retirement fund, it simply will not be there.

We have taken steps to safeguard the Social Security Program. Yet, Social Security alone will not provide sufficient retirement income for many middle-income earners. IRA's can go far to augment Social Security and other pension plans. The peace of mind provided by IRA's cannot be overstated.

Equally important, Mr. President, is the impact IRA's are having on saving in this country. IRA's are adding to the volume of new savings in America. IRA assets have grown from $26 billion in 1981 to an estimated $250 billion today. IRA assets are expected to top $500 billion by 1990. Now, there are those who contend that savings in IRA's merely represent shifting of funds from one form of saving to another. It should be pointed out that there is no data to substantiate such claims. Indeed, studies on this question have not reached this conclusion.

A study prepared by David Wise of the Kennedy School of Government and Steven Venti of Dartmouth is quite instructive on this point. After studying Federal Reserve survey results, they concluded that about one-half of the money flowing into IRA's represents new savings. About 30 percent of the IRA contributions comes from money that would have gone to taxes without the IRA deduction. Only about 20 percent comes from savings which would have taken place without IRA's. What these numbers suggest is simple enough. Persons who are saving though an IRA are likely to have other savings as well. Rather than drawing down other savings accounts, IRA contributions reflect an additional savings device for persons inclined to set money aside.

This savings benefit from IRA's is important, but the major benefit of IRA's continues to be the encouragment to save for one's retirement. We established IRA's to help Americans supplement their retirement savings. IRA's are achieving this goal for many middle-income earners. We ought not to backslide on this important objective. This amendment is designed to ensure that middle-income earners can continue to rely on IRA's. I urge my colleagues to support this effort.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President.

Mr. President, a part of the debate on this floor has had to do with whether or not, under the proposal that we all intend to vote for, the Tax Reform Act of 1986, those with more money in their pockets will not in any event be encouraged to save by that fact with or without the additional incentive of the IRA.

Let me say that there are any number of econometric studies by academicians across the country. To cite a few, Glenn Hubbard, of Northwestern University with a study, "Do IRA's and Keogh's Increase Savings?" and a study by David Wise and Steven Venti of the National Bureau of Economic Research, all of which have come to the same conclusion as Professor Boskin from Stanford that, yes, the IRA does encourage people to save.

But let me give you some other authorities. These are handwritten.

Senator WILSON. Time and time again we were told that Social Security was never intended to be the sole income of retirees. Along comes the IRA which provided a good incentive to put some money away for the golden years. I feel that removing the tax benefit from the IRA's is a mistake. Fewer and fewer people will put away and the amounts that they put away will be less and increase the demand of what remains of Social Security.

This is another one:

I am upset over the possible termination of my husband's and my IRA accounts. As a teacher, I have no Social Security. If I have to depend on the State Teacher's Retirement Fund, I would be in big trouble. People should be encouraged to provide for their own futures which, in the end, saves social services, like welfare, which, in turn, saves the Government money. Nothing encourages saving for the future like an IRA.

Here is another one:

Senator WILSON. I am opposed to the elimination of the deduction for IRA's. I am retired and not making contributions to an IRA and, therefore, have no personal ax to grind in this matter. But I believe that the younger generation should be encouraged to set up funds to supplement their Social Security. This, as I understand, was the original reason for Congress establishing the IRA's. It is equally valid today.

Well, I think those are interesting authorities, Mr. President.

Let me just say this: Those who just voted 96 to 4 for a sense-of-the-Senate resolution should not delude themselves that they have taken care of the need that these people are addressing in these poignant letters. The way to do that is to vote for this pending amendment. It does not simply express a good intention. It does something to make good on that good intention, to make it a reality. And that is what we got elected to do, not to give instructions to conferees.

The PRESIDING OFFICER. The Senator's time has expired.

71-059 O-87-6 (Pt. 10)

Mr. WILSON. Mr. President, I will conclude by urging my colleagues to vote not for a good intention but to implement that good intention. That is the chance they have.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The PRESIDING OFFICER. Who yields time? If no Senator yields time, the time will be divided equally.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMM). Who yields time?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I yield 4 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 4 minutes.

Mr. SIMPSON. Mr. President, I have had the opportunity now to listen to some of the debates in the Chamber, and now some of it while in the chair. And I have been fascinated by it. I am not a member of the Finance Committee, nor do I think I would seek membership there. I have great admiration for this chairman and for the 20 members of the committee that produced this fine product.

I just want to comment in my brief time—that again it seems we do this with such regularity that it really becomes quite tedious. We always go back to the little guy. And we talk about that all day, and all night in everything we do in this Chamber. How about the little guy? We do that and say that with agriculture. Then we just shovel the bucks out to some of the biggest wheat people, corn people, cotton people, and rice people in the United States. We talk about the little guy. If we do not take care of the little guy, bad things will happen. We talk about the little guy, and who will get Social Security. We talk about the little guy here, the little guy there as a marvelous diversion because when we do that we really take care of some of the biggest heavy hitters in the United States.

Now we have heard about the middle class, and those who simply cannot give up their deduction on individual retirement accounts. We get letters. We have pleas. We have paeans of praise. The mailroom is breaking down. And that is fascinating.

Let me tell you something. It does not take anybody out in the land to know that it is middle-class Americans who will benefit most from this legislation. They understand—I think almost more than many of us here—that this bill is a delicate package. You tinker with one part, and it is going to break down. I tell you, the middle-class American likes this package. Do you know why? Because of the rates. The rates are 15 percent and 27 percent. You can give up a lot of hoorah about deductions when you get a 15 or 27 percent rate. That is the way it is.

You talk about the romance of the IRA and the little guy, and the middle-class guy. But the issue is that middle-class America knows it is going to get a rate that is not going to change, that is going to be 15 or 27 percent. They will give up a lot of little things to get there. That is what is important—the people of America.

Then I hear the talk about the senior years, and the golden years and it goes right back to Social Security. We spent a lot of time on that one. Somebody is always bringing that up. The people now have an opportunity to see just how we use the Social Security system here. We use the Social Security issue here in the U.S. Senate as a giant bomb to roll under the seats of the Democrats, and then they roll it back under us Republicans. That is what we do with the Social Security system in here. Eventually we are going to pay the piper on that one. Sure, it is now awash in money and reserves.

The issue is that unless we begin to turn our attention to this issue, in 20 years 60 percent of the domestic budget of the United States will go to people over 62. I guess we will stand around here, blinking like a frog in a hailstorm, and wonder how we got into that one.

That is exactly what we do to ourselves under this guise of the little guy. The little guys are smarter than we are. That is why the system has prevailed for over 200 years. They know they are going to get a rate of 15 or 27 percent. They are willing to give up something which is deductible to get something which is a heavy winner in the long run. That is exactly what this Senate Finance Committee proposal produces and what this Senate should support.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PACKWOOD. I yield 4 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. HEINZ. Mr. President, I thank my friend from Oregon.

I rise in opposition to the amendment. I do so for two reasons. The first reason has been very well explained by the Senator from Minnesota, Senator DURENBERGER, who explained that for almost half of the people who are entitled to an IRA under the Senate Finance Committee bill, this particular amendment is a step backwards. It reduces the benefit of the IRA deduction by converting the deduction to a lower credit. This means that a portion of the people who are not covered by pension plans could lose the full benefit of the IRA deduction they are entitled to now. So notwithstanding the good intentions of my friend, the Senator from New York, this amendment is a step backward for many people in relation to the Senate Finance Committee bill.

There is a second reason that I do not like this amendment. That is the way it is paid for. In particular, I have reservations about the way the minimum tax is now structured. I think we ought to have a strong minimum tax. The Senate Finance Committee minimum tax raises roughly $40 billion over 5 years. It raises approximately $34 billion from corporations, compared to $6 billion under the House bill.

The way the minimum tax in the Senate Finance Committee is structured, it is going to fall very, very heavily on capital-intensive industries, the ones that are most impacted by foreign competition.

So the people know what we are talking about here, I have a report dated May 23, from Shearson Lehman Brothers on the winners and losers in the Senate Finance Committee tax bill. The number among the industries "with the most to lose are mining, metals, paper, machinery, and rubber," to name just a few. Obviously, the consumer industries, food, beverages, drugs, household durables are in good shape. They are the winners in this package. The losers are all the industries that are under tough foreign competition already. So to increase further the minimum tax burden on these capital-intensive industries is actually going to cost a lot of jobs.

Mr. President, the last thing we want in what is otherwise a progrowth tax bill is an amendment that is going to cause us job losses in capital-intensive industries.

For two reasons; one, this amendment by scaling back the benefit of the IRA for many people is a step backward; two, because this is going to hurt many of the industries that are already hurting because of the structure of the minimum tax in this legislation, I ask my colleagues to defeat the amendment.

I yield, if I have any time left, to the Senator from Idaho.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

The Senator from Idaho is recognized for 30 seconds.

Mr. SYMMS. Mr. President, I want to reemphasize what the Senator from Pennsylvania is saying. Even though we decided in the Finance Committee to put in this alternative minimum tax, it is in fact the antithesis of reform, it is discriminatory by its very nature, and to raise it another 2.5 percentage points, another $9 billion, makes it more discriminatory in what

we are trying to do in reforming our Tax Code.

I thank the Senator for yielding.

Mr. HEINZ. The Senator is correct. What we have to understand is a part of this minimum tax taxes capital investment that we want to encourage. That needs to be changed. We should not make it worse.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. D'AMATO. I yield 2 minutes to the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator from New York.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. BUMPERS. I rise in support of this amendment for a host of reasons.

I cannot give them all in 2 minutes, but I do want to say this is one place where the little guy, who has been talked about so much on this amendment, is put on an equal footing with the big guys because the total deduction is 15 percent, whether you buy a $2,000 IRA, or whether you buy a $500 IRA, whether you are in the high or low tax bracket, and whether you itemize, or do not itemize your deductions.

There are really compelling reasons why we ought to leave the IRA deduction in this bill. One, we should encourage people to save. This is one place where the Japanese outdo us. They save 25 percent of their total earnings, and in this country we save only about 6 percent.

□ 1910

Two, we should encourage people to prepare for their retirement The more they invest in IRA's, the more they prepare for their retirement and the less likely this Government is going to have to give them help. So the Government itself saves money there.

Third, to put it very bluntly, $250 billion has been invested in IRA's over the past 5 years. That has performed two purposes:

First, it has helped us finance the staggering deficits we have been confronted with. Investors from Japan, Saudi Arabia, and other countries have been buying Government securities to help us out. But this big pool of domestic savings which has been created as a result of IRA's has helped finance the deficit and also created a pool of money for the business communities to tap.

Mr. President, 62 percent of the people claiming the IRA deduction last year made between $10,000 and $40,000. Sixty-two percent of the people of this country who bought these IRA's last year make less than $40,000.

In 1981, we gave the little guys, the taxpayer who doesn't itemize his taxes, two things he has never had before: The right to deduct charitable contributions even though he did not itemize, and the right to buy IRA's even though he did not itemize.

This bill takes both of these tax provisions away from him. I urge the Senate not to do that.

Mr. D'AMATO. I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HARKIN. Mr. President, it is getting so around here in Washington that we cannot stand succeess anymore. When we first passed the extension of the IRA's in 1981 we wanted it to accomplish three things:

First, to build up a retirement supplement so the elderly would not be so dependent on the Social Security Act in the next century.

Second, to target the middle-income population of America.

And, third, long-term capital formation.

On each of these, the program has been a success.

Now what does the Senate want to do? To kill it. We cannot stand success in this program. It is a successful program and now we want to kill it.

I have heard the argument made that there has been a delicate balance that has been struck on this bill and that we cannot have amendments. I say nuts to that. There has been no bill from any committee that has ever come to this floor that could not be amended and made better for the American people by listening to our constituents.

The working class people of America want deductibility for IRA's to stay.

I would just submit that a vote for the D'Amato-Dodd amendment is a vote for the working class people of America and the middle-income people of America.

A vote against it is a vote for the wealthy and the large corporations who do not want to pay an additional 2.6 percent more on their alternative minimum tax.

That really is the essence of this issue.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. I yield 1 minute to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. D'AMATO. Mr. President, 35 seconds will be equally divided after that.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. SIMON. Mr. President, I am going to ask basic questions on any amendment offered.

The basic questions I will ask on every amendment:

Will it increase or decrease revenue?

Will it increase or decrease fairness?

Will it encourage or discourage savings?

Will it encourage or discourage job creation?

Will it strengthen or weaken the industrial base of this Nation?

These are fundamental questions. I think some of these questions do not apply to this amendment, but the answer is basically this is a good amendment and I will vote for it. It moves us in the right direction.

Mr. D'AMATO. I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENTSEN. Mr. President, I voted for the Roth amendment, but I do not think this amendment is the way to go.

We have already raised the alternative minimum tax 74 percent—it would be 74 percent on the regular tax. This amendment would raise it to 84 percent of the regular tax. You might as well forget the regular tax. There is no reason to enact what would amount to a new tax system in this country. There is no reason to have the double accounting that would take place.

On the corporate side, the minimum tax would be raised from 61 percent of the regular tax to 68.5 percent of the regular tax. What you are going to do is add a great deal to the accounting cost of the country.

Mr. President, I am the author of a bill calling for a tough alternative minimum tax because I thought we should not have these large corporations making hundreds of millions of dollars and not paying taxes. I did not think individuals should be able to do that either. The committee agreed with that.

But when you try to bring the minimum tax rate up to the level of the regular tax that you have, then I say forget the regular tax and just go to the alternative.

So I really think this is the wrong approach. We should not be taking it. What we have tried to stop with the minimum tax is an over-exercise of preferences. That is the reason for the alternative minimum tax.

The minimum tax in the bill would increase the amount of money being raised from corporations from $2.5 billion to almost $33 billion. That is what we have done. I hear the argument that those of use in opposition to this amendment really do not want to hit big corporations, let me point out again that we have increased corporate taxes from $2.5 billion under the present system to $33 billion under our alternative minimum tax.

I hear the argument that the House side has a 25-percent minimum tax, as

opposed to our having a 20-percent tax; but the fact is that we are raising far more than the House committee, far more, because of the broad-based tax in our bill.

Mr. D'AMATO. Mr. President, I yield 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas, the majority leader, is recognized for 2 minutes.

Mr. DOLE. Mr. President, I want to underscore what has just been said by Senator BENTSEN. Those are the points I want to make. I know there is a feeling around here of well, if we cannot find it anyplace else, raise the corporate tax.

That is essentially what we are doing.

I remind my colleagues there are a lot of shareholders that have concerns. They own stock in corporations and also purchase IRA's. But I think at least we are getting down to the point of how we are going to pay for it.

I commend those who support this amendment for at least suggesting what they believe to be a fair way. But I have to disagree.

I go back to the statement made by the chairman many, many times in the last 4 days we have debated this bill. That is fairness.

In my view, fairness is trying to keep the rates in perspective and trying to lock in on the rates we have in the Senate committee bill.

We passed by an overwhelming margin the Roth resolution about 2 hours ago. In my view, that will give us sufficient latitude in the conference, and I believe that most Members of the Senate will have confidence in the conferees as they had confidence in the committee.

We will do the best we can in that conference to satisfy everyone in this body, Republican or Democrat.

I certainly do not quarrel with those who offer the amendment, but I hope it is defeated.

We need to defeat this amendment so we do not start unraveling the bill. In my view the best way to make certain we are not going to do that is to send a signal right up front we are not going to accept the amendment, move on to another amendment on IRA's, finish the IRA's by tonight, and hopefully finish the bill by tomorrow night.

Mr. PRESSLER. Mr. President, today we put meaning behind the words many of us have spoken on this floor over the past week. I am proud to cosponsor this amendment which would restore a deduction for contributions to individual retirement accounts [IRA's] for all Americans. It is a good amendment. It is a fair amendment. It will not harm the overall integrity of this bill. It will, in fact, make the bill better and I hope it passes this Senate.

IRA's have proven extremely effective in developing private resources devoted to retirement needs. In the last 4 years, total assets saved in IRA's have grown to more than $250 billion. This represents over 15 percent of the total assets saved in pensions. In my home State of South Dakota, approximately 23 percent of all households own an IRA. Nationwide, over 28 million households—about one-third of all households, Mr. President—and 40 million individuals have opened an IRA.

Two major arguments have been made by those supporting the elimination of a deduction for contributions to IRA's for those covered by other pension plans. First, they say that IRA's are a tax shelter utilized mainly by the wealthy. Second, they argue that IRA's do not significantly add to our Nation's rate of saving. Both these arguments are false.

It would seem logical that high income families are more likely than low income families to make IRA contributions. I have heard arguments quoting Internal Revenue Service [IRS] statistics which show almost 80 percent of taxpayers with incomes in excess of $100,000 made an IRA contribution in tax year 1983. However, these statements ignore the rest of the IRS study which indicates that individuals in this income class made slightly more than 4 percent of total IRA contributions that year.

Nor do they mention that taxpayers with incomes below $40,000 provided 62 percent of all IRA contributions. Thus it is clearly inaccurate to argue that IRA's mainly benefit the rich. Even if this argument could be proven, this amendment is structured in such a way that it would treat all taxpayers absolutely equally. The wealthiest taxpayer would benefit no more than the poorest taxpayer.

But have IRA's spurred the rate of saving among Americans? Or do contributions to IRA's consist of money which would have been saved anyway? A study by David Wise and Steve Venti of Harvard and Dartmouth found that about half of the money funneled into IRA's represents new savings. Of the other half, roughly 30 percent is money which would have been paid as taxes without the deduction. This leaves only about 20 percent which would have been saved through some other method than an IRA account. Analysis by the Investment Company Institute estimates IRA's added $14 billion in new saving in 1983 and $18 billion in 1984.

A healthy level of saving is vitally important. Savings are used as capital for new and expanding businesses. This translates into more jobs and a healthier economy. For purposes of capital formation, long-term savings are preferable to short-term savings. The primary purpose of IRA's is to encourage long-term savings.

The need to promote saving is clear. Japan with a saving rate three times ours, has enjoyed at least three times the productivity growth in recent years. In a very real sense, the rate of national saving is a national security issue.

A final argument often heard is that fairness requires the elimination of IRA deductibility for those with other pension plans. However, it is unfair to compare IRA's to any other type of retirement fund. As the name indicates, IRA's are individual retirement savings plans. Unlike pension plans which are available only to some workers at their employers' discretion, IRA's are available to everyone. IRA's span any number of jobs. Employer-provided plans generally do not.

I urge my colleagues to carefully consider this amendment and their duty as elected representatives of the people of this Nation. We must not bow to pressure to pass this bill unamended and send it to conference for cleaning up. We have the responsibility to debate this bill and amend it in whatever fashion is necessary to ensure that we send a fair bill to conference committee. We must not fail in this duty. To do so would be to fail the American people. I urge passage of this amendment.

Mr. CHAFEE. Mr. President, it is with some regret that I must vote to table Senator D'AMATO's amendment. I was one of the original cosponsors of the IRA legislation and I have been very concerned about what the Finance Committee bill does to IRA's.

As some of you may recall, during the markup of the bill, the committee originally decided to eliminate IRA's for anyone participating in any employer-sponsored retirement plan. I offered an amendment in the committee to restore IRA's on a nondeductible basis for those participating in an employer-sponsored plan.

My amendment was accepted, so as the bill now stands, those who do not participate in a pension plan will still be able to make tax-deductible contributions to an IRA. Those who are in a pension plan will be able to make nondeductible contributions. The interest or other earnings on these and any other IRA's will be tax free.

It is my hope that as this bill progresses through the process and to a conference with the House of Representatives that we can find a way to restore the full deductibility of IRA's. I expect to be a conferee on the tax reform bill and I will work to see that IRA's are restored if at all possible. Indeed, today I voted in favor of a sense-of-the-Senate resolution that the conferees try to restore IRA's in the conference so long as the tax rates are not raised and the overall distribu-

tion of the bill is not adversely affected.

I would vote to restore IRA's here on the floor of the Senate if an acceptable way to make up the revenue is found. The unfortunate thing about the D'Amato amendment is the way the Senator has chosen to pay for restoring IRA's. He proposes to raise the minimum tax for both individuals and corporations by 2.6 percent.

This proposal could seriously jeopardize the entire tax reform package which now has the support of over 700 diverse groups. Many of my colleagues have emphasized today the fragile nature of this bill and the coalition which supports it. None of us wants to see this process start to unravel the bill, and I am concerned that if this amendment succeeds, it may open the door for a host of other amendments which could mean the beginning of the end of this bill.

I am also concerned about raising the minimum tax. I am a strong supporter of a tough minimum tax. Indeed, Senator MOYNIHAN and I introduced a very tough minimum tax bill earlier in this Congress which is substantially incorporated in this tax reform bill. It is precisely because I know how tough this minimum tax is that I worry about raising the rates. Our concern must be about jobs is America and for me, jobs in Rhode Island.

Raising the rates would have a substantial impact on the capital intensive manufacturing industries in Rhode Island which are currently struggling to compete internationally and which we depend on to produce needed jobs. Thus, I can not support this way of paying for restoration of the IRA's.

Nevertheless, I will continue to work for restoration of the IRA's for everyone in the conference with the House.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 15 seconds to the Senator from Connecticut.

First, Mr. President, this amendment is a good amendment for working middle-class families. Make no mistake about it. It helps them. It takes the money from an area where those who can afford to pay do.

I yield to Senator DODD.

□ 1920

Mr. DODD. Mr. President, just very briefly, this is the vote on the IRA. This is the substantive vote. All the other sense-of-the-Senate have no meaning. This is the vote. A yea vote on a tabling motion will destroy this, 20 million Americans versus a few corporations and particular individuals. I urge a rejection of a tabling motion.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. PACKWOOD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the hour of 7:20 having arrived, the question is on agreeing to the amendment of the Senator from New York, No. 2067.

Mr. PACKWOOD. Mr. President, I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48—as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—51

Armstrong	Gorton	Nickles
Baucus	Gramm	Packwood
Bentsen	Grassley	Proxmire
Biden	Hart	Pryor
Boren	Hatch	Quayle
Boschwitz	Heinz	Rockefeller
Bradley	Helms	Roth
Chafee	Johnston	Rudman
Cochran	Kassebaum	Simpson
Cohen	Kennedy	Stafford
Danforth	Long	Stennis
Dole	Lugar	Stevens
Durenberger	Mathias	Symms
Eagleton	McClure	Thurmond
East	McConnell	Trible
Evans	Mitchell	Wallop
Garn	Moynihan	Warner

NAYS—48

Abdnor	Glenn	Matsunaga
Andrews	Gore	Mattingly
Bingaman	Harkin	Melcher
Bumpers	Hatfield	Metzenbaum
Burdick	Hawkins	Murkowski
Byrd	Hecht	Nunn
Chiles	Heflin	Pell
Cranston	Hollings	Pressler
D'Amato	Humphrey	Riegle
DeConcini	Inouye	Sarbanes
Denton	Kasten	Sasser
Dixon	Kerry	Simon
Dodd	Lautenberg	Specter
Domenici	Laxalt	Weicker
Exon	Leahy	Wilson
Ford	Levin	Zorinsky

NOT VOTING—1

Goldwater

So the motion to lay on the table the amendment (No. 2067) of the Senator from New York was agreed to.

□ 1940

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

The Senate will be in order.

Mr. PACKWOOD. Mr. President, will the Senator from Montana yield?

Mr. BAUCUS. I yield.

Mr. PACKWOOD. Mr. President, the Senator from Montana will have another amendment on the financing of the IRA's. He and I have talked about a time limit. I have not discussed it with the majority leader. I would expect that there would be another vote within an hour if we can get the agreement.

Mr. BYRD. Mr. President, will the distinguished Senator from Montana yield so that I may ask the majority leader a question as to the program for the remainder of the day?

Mr. BAUCUS. I yield.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I thank the distinguished Senator from Montana for yielding.

Mr. President, I ask the distinguished majority leader if he is in a position now to give us a reading on how long the Senate will be in for the rest of the day, what rollcall votes might be anticipated at this point, what the program will be for tomorrow, how early we will come in tomorrow, how late he anticipates we will stay in, and what he can foresee for Friday at this point. I realize it is a little in advance. At least, we can have a better understanding of what we are confronted with for the remainder of the day.

Mr. DOLE. Mr. President, it is my understanding that the manager of the bill would like to complete the IRA amendments this evening. I am not certain that there will be other amendments after the IRA amendment.

Mr. LEAHY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Are there other IRA amendments, other than the Baucus amendment?

Mr. PACKWOOD. Not to the best of my knowledge.

Mr. DOLE. If there are no other IRA amendments, I assume we could complete action on the Baucus amendment by 9 o'clock; and then, depending on the will of the managers, I assume that will be enough for the day.

Mr. PACKWOOD. If I thought there was another amendment we could dispose of within an hour, we could go on. But I think we could finish the IRA subject.

Mr. DOLE. We will be fairly early on the bill tomorrow and probably be in quite late tomorrow evening.

I am advised by the chairman that we will be in on Friday and that we

will have votes on Friday until about 4 o'clock.

Mr. BYRD. While the distinguished Senator from Montana is still yielding for this purpose, I inquire whether there is any other Senator on this side of the aisle who intends to offer an IRA amendment.

I think that tells it for my side of the aisle.

Mr. DOLE. Are there any other IRA amendments on this side? I hope not.

Mr. BYRD. If I can get this on the hotline, I would like to do that.

The PRESIDING OFFICER. The Chair reminds the majority leader that the Dodd amendment on the IRA is still pending.

Mr. DOLE. Can we dispose of that by voice vote?

Mr. BYRD. With respect to the amendment by Mr. BAUCUS, I take it that insofar as Senators who are present on my side of the aisle are concerned, there is no intention to call up another amendment of that nature. I would have to check it.

Mr. DODD. I say to the minority leader that I would be willing to dispose of the Dodd amendment by voice vote, unless someone went home, and I would like to know who went home. Other than that, I would be glad to dispose of it.

Mr. DOLE. We might do that now.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. BAUCUS. Mr. President, I yield the floor for the purpose of disposing of the Dodd amendment, and once it is disposed of, I ask unanimous consent that I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question occurs on agreeing to the Dodd amendment.

The amendment (No. 2066) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, the vote on the Dodd amendment was a voice vote. I voted "aye". I supported the Dodd-D'Amato amendment to restore the tax benefits for IRA contributions for all Americans. IRS's are used by thousands of my constituents in West Virginia and I have heard from many of them expressing their support of them.

This amendment would have benefited middle-income families who are attempting to supplement their retirement income. All amendments to this bill must be revenue neutral. In order to restore these benefits, this amendment would have increased the minimum tax paid by corporations and wealthy individuals. When the IRA benefit was enacted in 1981, it was hailed as a tremendous incentive to middle-income Americans to save and to provide for an adequate retirement income. I feel we should continue that commitment. And I commend the Senator from Connecticut and the Senator from New York for their leadership on this issue.

Mr. PRYOR. Mr. President, will the distinguished Senator from Montana yield to me so that I may ask the majority leader a question?

Mr. BAUCUS. I yield.

Mr. PRYOR. Do I correctly understand that there has been a request for a time agreement on the Baucus amendment?

Mr. DOLE. That request has not been made, but it is hoped that we can have a time agreement for, say an hour on the Baucus amendment.

Mr. PACKWOOD. I talked with the Senator from Montana earlier. He and I agreed that an hour would be ample time, but we do not know whether it will be accepted.

Mr. PRYOR. Might we propsed that now? I make that suggestion because it appears to me that an hour would be sufficient. I think there is lot of a sentiment to that effect.

Mr. BAUCUS. Mr. President, I say to the Senator from Kansas and the Senator from Oregon that I am willing to agree to vote no later than 8:45, an hour from now, equally divided, and that all points of order be waived.

Mr. DOLE. Mr. President, I make that request.

Mr. BYRD. Mr. President, reserving the right to object—and I regret that I have to reserve the right to object— I think it will be best for the protection of all of our colleagues, though, that this request be run on the hotline. That is our normal procedure. The Senator would be willing to withhold momentarily.

□ 1950

The PRESIDING OFFICER. Does the Senator withhold the request?

Mr. BAUCUS. I withhold.

The PRESIDING OFFICER. The Senator from Montana has the floor.

AMENDMENT NO. 2068

(Purpose: To provide a refundable credit for contributions to individual retirement plans.)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2068.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2000, beginning with line 23, strike out all through page 2010, line 22, and insert in lieu thereof the following:

SEC. 1201. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual there shall be allowed as a credit an amount equal to 15 percent of the qualified retirement contributions of the individual for the taxable year.

"(b) MAXIMUM AMOUNT OF QUALIFIED RETIREMENT CONTRIBUTIONS.—

"(1) IN GENERAL.—The maximum amount of qualified retirement contributions which may be taken into account under subsection (a) with respect to any individual for any taxable year shall not exceed the lesser of—

"(A) $2,000, or

"(B) an amount equal to the compensation includible in the individual's gross income for such taxable year.

"(2) SECTION NOT TO APPLY TO EMPLOYER CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—This section shall not apply with respect to an employer contribution to a simplified employee pension.

"(3) SPECIAL RULE FOR INDIVIDUAL RETIREMENT PLANS.—If the individual has paid any qualified voluntary employee contributions for the taxable year, the amount of the qualified retirement contributions which are paid for the taxable year to an individual retirement plan and which are taken into account under subsection (a) for such taxable year shall not exceed—

"(A) the amount determined under paragraph (1) for such taxable year, reduced by

"(B) the amount of the qualified voluntary employee contributions for the taxable year.

"(4) CERTAIN DIVORCED INDIVIDUALS.—

"(A) IN GENERAL.—In the case of an individual to whom this paragraph applies, the limitation of paragraph (1) shall not be less than the lesser of—

"(A) $1,125, or

(ii) the sum of the amount referred to in paragraph (1)(B) and any qualifying alimony received by the individual during the taxable year.

"(B) QUALIFYING ALIMONY.—For purposes of this paragraph, the term 'qualifying alimony' means amount includible in the individual's gross income under section 71 (relating to alimony and separate maintenance payments) by reason of a payment under a decree of divorce or separate maintenance or a written instrument incident to such a decree.

"(C) INDIVIDUALS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to an individual if—

"(i) an individual retirement plan was established for the benefit of the individual at least 5 years before the beginning of the calendar year in which the decree of divorce or separate maintenance was issued, and

"(ii) for at least 3 of the former spouse's most recent 5 taxable years ending before the taxable year in which the decree was issued, such former spouse was allowed a deduction under subsection (c) (or the corresponding provisions of prior law) for contributions to such individual retirement plan.

"(5) PLANS UNDER SECTION 501(C)(18).—Notwithstanding paragraph (1), the amount

allowable as a deduction under subsection (a) with respect to any contributions on behalf of an employee to a plan described in section 501(c)(18) shall not exceed the lesser of—

"(A) $7,000, or

"(B) an amount equal to 25 percent of the compensation (as defined in section 415 (c)(3)) includible in the individual's gross income for such taxable year.

"(C) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In case of any individual with respect to whom a credit is otherwise allowable under subsection (a)—

"(A) who files a joint return under section 6013 for a taxable year, and

"(B) whose spouse—

"(i) has no compensation (determined without regard to section 911) for such taxable year, or

"(ii) elects to be treated for purposes of subsection (b)(1)(B) as having no compensation for the taxable year,

there shall be taken into account in computing the amount of the credit under subsection (a) for any taxable year any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of his spouse.

"(2) LIMITATION.—The amount taken into account under paragraph (1) shall not exceed the excess of—

"(A) the lesser of—

"(i) $2,250, or

"(ii) an amount equal to the compensation includible in the individual's gross income for the taxable year, over

"(B) the amount taken into account under subsection (a) for the taxable year. In no event shall the amount taken into account under paragraph (1) exceed $2,000.

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) BENEFICIARY MUST BE UNDER AGE 70½.—No credit shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

"(2) RECONTRIBUTED AMOUNTS.—No credit shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), or 408(d)(3).

"(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no credit shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(4) DENIAL OF CREDIT FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No credit shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

"(e) DEFINITION OF RETIREMENT SAVINGS CONTRIBUTIONS, ETC.—For purposes of this section—

"(1) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means—

"(A) any qualified voluntary employee contribution paid in cash by the individual for the taxable year,

"(B) any amount paid in cash for the taxable year by or on behalf of such individual for his benefit to an individual retirement plan, and

"(C) any amount contributed on behalf of any individual to a plan described in section 501(a)(18). "(2) QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified voluntary employee contribution' means any voluntary contribution—

"(i) which is made by an individual as an employee under a qualified employer plan or government plan, which plan allows an employee to make contributions which may be treated as qualified voluntary employee contributions under this section, and

"(ii) with respect to which the individual has not designated such contribution as a contribution which should not be taken into account under this section.

"(B) VOLUNTARY CONTRIBUTION.—For purposes of subparagraph (A), the term 'voluntary contribution' means any contribution which is not a mandatory contribution (within the meaning of section 411(c)(2)(C)).

"(C) DESIGNATION.—For purposes of determining whether or not an individual has made a designation described in subparagraph (A)(ii) with respect to any contribution during any calendar year under a qualified employer plan or government plan, such individual shall be treated as having made such designation if he notifies the plan administrator of such plan, not later than the earlier of—

"(i) April 15 of the succeeding calendar year, or

"(ii) the time prescribed by the plan administrator,

that the individual does not want such contribution taken into account under this section. Any designation or notification referred to in the preceding sentence shall be made in such manner as the Secretary shall by regulations prescribe and, after the last date on which such designation or notification may be made, shall be irrevocable for such taxable year.

"(3) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), and

"(C) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

"(4) GOVERNMENT PLAN.—The term 'government plan' means any plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

"(5) PAYMENTS FOR CERTAIN PLANS.—The term 'amounts paid to an individual retirement plan' includes amounts paid for an individual retirement annuity or a retirement bond.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income (as defined in section 401(c)(2)) reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62. The term 'compensation' does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation. The term 'compensation' shall include any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2).

"(2) MARRIED INDIVIDUALS.—The maximum amount taken into account under subsections (b) and (c) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

"(A) INDIVIDUAL RETIREMENT PLANS.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(B) QUALIFIED EMPLOYER OR GOVERNMENT PLANS.— For purposes of this section, if a qualified employer or government plan elects to have the provisions of this subparagraph apply, a taxpayer shall be deemed to have made a voluntary contribution to such plan on the last day of the preceding calendar year (if, without regard to this paragraph, such contribution may be made on such date) if the contribution is made on account of the taxable year which includes such last day and by April 15 of the calendar year or such earlier time as is provided by the plan administrator.

"(4) REPORTS.—The Secretary shall prescribe regulations which prescribed the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

"(5) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employer (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a credit for such payment is allowable under this section to the employee.

"(6) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount which may be taken into account in computing the credit allowable under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS CREDIT WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a credit by reason of this paragraph for any amount as a credit under this section for a prior taxable year for which the

period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

"(g) CROSS REFERENCE.—

"For failure to provide required reports, see section 6652(h)."

(b) REPEAL OF DEDUCTION.—Section 219 (relating to deduction for retirement savings) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 62 is amended by striking out paragraph (10).

(2) Section 72(o)(5) is amended—

(A) by striking out "deductible" in the heading and text each place it appears and inserting in lieu thereof "creditable",

(B) by striking out "and allowable as a deduction under section 219(a)" in subparagraph (A) and inserting in lieu thereof "taken into account in computing the credit under section 35(a)",

(C) by striking out "section 219(e)(3)" and inserting in lieu thereof "section 35(e)(3)", and

(D) by striking out "section 219(e)(4)" and inserting in lieu thereof "section 35(e)(4)".

(3) Section 75(o)(6) is amended by striking out "deductible" and inserting in lieu thereof "creditable".

(4) Section 72(p)(2) is amended by striking out "deductible" and inserting in lieu thereof "creditable".

(5) Section 72(p)(3) is amended by striking out "section 219(e)(3)" and "section 219(e)(4)" and inserting in lieu thereof "section 35(e)(3)" and "section 35(e)(4)", respectively.

(6) Section 86(f)(3) is amended by striking out "section 219(f)(1)" and inserting in lieu thereof "section 35(f)(1)".

(7) Section 408(d) is amended—

(A) by striking out "the amount allowable as a deduction under section 219" in paragraphs (4) and (5) and inserting in lieu thereof "the maximum amount which may be taken into account in computing the credit allowable under section 35(a)",

(B) by striking out "no deduction is allowed under section 219" in paragraph (4)(B) and inserting in lieu thereof "no credit is allowed under section 35(a)", and

(C) by striking out "no deduction has been allowed under section 219" in paragraph (5)(A)(ii) and inserting in lieu thereof "no credit is allowed under section 35(a)".

(8) Section 415(c)(2) is amended—

(A) by striking out "allowable as a deduction under section 219(a)" and inserting in lieu thereof "taken into account in computing the credit allowable under section 35(a)", and

(B) by striking out "deductible" and inserting in lieu thereof "creditable".

(9) Section 3401(a)(12)(C) is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 35", and

(B) by striking out "deduction" and inserting in lieu thereof "credit".

(10) Section 4973(b) is amended—

(A) by striking out "allowable as a deduction under section 219" and inserting in lieu thereof "taken into account in computing the amount of the credit under section 35(a)", and

(B) by striking out "section 219(f)(6)" and inserting in lieu thereof "section 35(f)(6)".

(11) Section 6047(c) is amended by striking out "section 219" and inserting in lieu thereof "section 35".

(12) Section 6652(h) is amended by striking out "section 219(f)(4)" and inserting in lieu thereof "section 35(f)(4)".

(13) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35 and inserting in lieu thereof the following new items:

"Sec. 35. Retirement savings.

"Sec. 36. Overpayments of tax."

(14) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 219.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1202. NONDEDUCTIBILITY OF INTEREST ON INDEBTEDNESS USED TO FUND IRA.

(a) IN GENERAL.—Section 265 (relating to denial of deduction for expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraph:

"(6) Individual retirement plans.—Interest on indebtedness incurred or continued to make contributions to any individual retirement account or individual retirement annuity described in section 408."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to indebtedness incurred, modified, extended, renegotiated, or renewed after December 31, 1986.

SEC. 1203. MODIFICATION OF PERSONAL EXEMPTION.

(a) IN GENERAL.—Section 151(f) (defining exemption amount), as amended by section 103(a), is amended to read as follows:

"(f) EXEMPTION AMOUNT.—For purposes of this subsection—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the term 'exemption amount' means—

"(A) in the case of any taxable year beginning in 1987—

"(i) $1,690 in the case of any exemption under subsection (b) for any taxpayer who elects to itemize deductions for such taxable year, and

"(ii) $1,900 in the case of any other exemption, and

"(B) in the case of any taxable year beginning after December 31, 1987—

"(i) $1,690 in the case of any exemption under subsection (b) for any taxpayer who elects to itemize deductions for such taxable year, and

"(ii) $2,000 in the case of any other exemption.

"(2) EXEMPTION AMOUNT DISALLOWED IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

"(3) INFLATION ADJUSTMENT FOR YEARS AFTER 1988.—In the case of any taxable year beginning in a calendar year after 1988, the dollar amounts contained in paragraph (1)(B) shall be increased by an amount equal to—

"(A) each such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1987' for 'calendar year 1986' in subparagraph (B) thereof.

"(4) PHASE-OUT OF EXEMPTION AMOUNT.—

"(A) IN GENERAL.—The dollar amounts contained in paragraph (1) shall be reduced by an amount equal to 5 percent of the excess of—

"(i) adjusted gross income, over

"(ii) the lowest amount of adjusted gross income for the taxable year which results in the maximum rate adjustment under section 1(g)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

Mr. MATSUNAGA. Mr. President, I make a point of order, the Senate is not in order.

The PRESIDING OFFICER. If the Senator will withhold, the Senate is not in order. Will the Senators please take their seats?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I am not going to take a lot of time arguing the merits of the IRA. We have been discussing that issue now for almost 8 hours. This discussion began last evening, in fact, when the Senator from Delaware [Mr. ROTH] offered his sense-of-the-Senate resolution.

For the last hour and a half, approximately, we have been debating the amendment offered by the Senator from Connecticut [Mr. DODD] and the Senator from New York [Mr. D'AMATO].

Despite the defeat of that amendment, I still think a majority of the Senate would like to find some way to restore an appropriate incentive for individual retirement accounts.

The question is how we pay for it fairly and without destroying the integrity of the bill or otherwise dilute the tax reform that we all want.

When this bill finally passes the Senate, it may pass by a vote of 100 to nothing. All of us are very much in favor——

Mr. STENNIS. Mr. President, would the Chair maintain order? We cannot hear.

Mr. BAUCUS. I thank the Senator from Mississippi.

Mr. President, we have heard the debate. We are now trying to find out if there is another way to skin this cat, to restore the IRA incentive.

We all know that IRA's supplement Social Security. We all know that Americans like a universal IRA, something that is simple, understandable.

We just discussed making a 15-percent IRA credit available for all Americans. I also propose a 15-percent tax credit for IRA deduction for all Americans. It is something that all Americans understand. It is something that all Americans want.

Why do they want a universal IRA? Americans want a universal IRA to supplement Social Security, to prepare for a rainy day, to prepare for retirement. Most Americans are not fully confident that our Social Security system is going to fully provide for their retirement years, and they are right. Social Security is not going to provide for their retirement in nearly the same way as it has in the last several years.

Yes, there are other pension programs, other retirement programs, but

people want a supplement that is their own, one that they can count on. Not one that the Government or some company sets up, but one that they themselves set up. That is the main reason IRA is so popular in America.

I also submit, Mr. President, that IRA's are popular because Americans innate sense is to take care of themselves, to prepare for a rainy day, to prepare for the unknown, to save in a way that makes sense. That is why Americans like IRA's.

To make an important but a more abstract argument, it is clear, too, that IRA's have increased savings rates in this country. Of course, there are arguments on both sides. But we do know that without any IRA, the personal savings rate in our country probably would have been lower.

I suggest very strongly we owe it to the Americans who want IRA's to stay here tonight to try to find a way to restore that incentive, in a way that does not destroy tax reform, in a way that does not destroy the integrity of this very, very good bill.

Now we just debated the amendment offered by the Senator from New York [Mr. D'AMATO] and the Senator from Connecticut [Mr. DODD] trying to find a way. Some of us had problems with that measure because that amendment tried to pay for the IRA by raising the individual minimum rate and the corporate minimum rate.

As much as I applauded the efforts of those Senators, I personally was constrained to vote against that amendment and for the tabling motion because I thought that we should not put additional burdens on natural resource industries and other basic industries, making it more difficult for them to compete with Japan, Pacific rim countries, and other foreign competitors. That is why I voted for that tabling motion.

I am still trying to find a way to skin this cat.

Mr. President, we have looked at other solutions. We considered delaying indexing. We considered changing the 401(k) provisions. Neither approach seemed to work.

The proposal I have may not be the best. Someone may come up with a better proposal, but it is very simple. Essentially, it is this 15 percent tax credit for the IRA, paid for by reducing the personal exemption for itemizers by $310, not the exemptions for dependents, just the exemptions for the filer.

What does that do? First of all, that is progressive. The distribution tables show that it is progressive compared with the current Finance Committee bill.

What do I mean by that? By that I mean that if you look at the income levels from zero to $10,000, from $10,000 to $20,000, all the way up to $200,000 income and above, the distribution is the same in every income category but two.

The first is for those taxpayers with incomes between $20,000 and $40,000. Under my amendment they get a greater tax break than the Finance Committee bill.

(Mr. TRIBLE assumed the chair.)

I ask unanimous consent that a distribution table be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PERCENTAGE CHANGE IN TAX LIABILITY, BY CLASS

[1988 income levels]

Income class (1986 dollars)	Committee bill [1]	Committee bill with Baucus proposal [2]
0 to 10,000	−63.0	−63.0
10,000 to 20,000	−20.1	−20.2
20,000 to 30,000	−8.1	−8.1
30,000 to 40,000	−5.0	−5.4
40,000 to 50,000	−6.6	−6.6
50,000 to 75,000	−3.9	−3.6
75,000 to 100,000	−3.3	−3.3
100,000 to 200,000	−3.8	−3.7
200,000 plus	−4.7	−4.8
Total	−6.4	−6.4

[1] Source: Finance Committee Report, page 34.
[2] Source: Joint Committee on Taxation.

Mr. BAUCUS. The only other changes are for those Americans whose incomes are between $50,000 and $75,000. Those taxpayers get a very slight reduction in their tax cut. It comes out to three-tenths of a percent. It is minuscule. It is negligible. This bill, very, very slightly shifts the burden a little bit from $20,000 to $40,000 income taxpayers to $50,000 to $75,000 taxpayers.

It does not destroy the basic distribution of the Finance Committee bill. It is a progressive bill. It makes sense.

One other point here I think is very important. About 70 percent of the Americans who take IRA's are Americans who itemize their deductions. About 70 percent—the exact figure is 68 percent—of those who invest in IRA's are Americans who itemize their deductions.

What I am trying to do here in this amendment is to say those Americans who utilize those IRA's are the ones who have their exemptions slightly reduced; that is, they pay for the IRA's . That means there is an incentive for those Americans to buy IRA's.

What we are trying to do here is give a little extra incentive to buy IRA's and save for the future and help boost our personal savings rate. That is what this is all about.

I think, frankly, it is an improvement in the Finance Committee bill, and I hope the Senators vote for it.

Also, I might say, Mr. President, that I am a little bit perplexed still as to why we have this argument that there should be no amendments. Not some amendments. Not approve those amendments that are good amendments but reject those that are bad amendments. It is just no amendments.

And the argument is made that the Finance Committee bill is very fragile, and that any amendments might unravel the bill.

Mr. President, this is the first time that a tax bill has been on the floor of the Senate where we had the revenue neutral requirement and I submit it is much more diffficult to get the usual kind of amendments on the floor of the Senate with the revenue neutral requirements, because whenever you have a revenue neutral requirement, someone's ox is getting gored.

□ 2000

So is it more difficult for amendments to pass, more difficult for the Finance Committee bill to unravel, than has ever before been the case in the history of the U.S. Senate.

So that argument does not fly, because we should take those amendments on their merit. If they are good amendments, we will vote for them. If they are bad amendments, we will vote against them.

I think this is a good amendment. Other Senators may think it is not a good amendment. But let us vote on them on their merits.

Mr. President, I, for the life of me, cannot understand why we have this view of absolutely no amendments. Frankly, I find it a little demeaning to the Senators who are not going to conference on this bill.

Mr. President, I must also add that the resolution that passed is a smokescreen. The sense-of-the-Senate resolution does not amount to much. I checked back on other Finance Committee resolutions that have come before this body.

In 1977, the former chairman of the committee, the very distinguished Senator LONG, asked the Chair about the strength of a sense-of-the-Senate resolution instructing conferees. The Chair said that "it is just a pious hope."

Well, I am all for pious hopes, Mr. President, but I am also for amendments that have the strength of law, because I think the amendments that have the strength of law are the amendments that are going to be carried much farther.

Mr. President, there will be more debate on this. I expect the Senator from Oregon to raise a point or two. So, therefore, I will yield the floor at this point.

But I just ask Senators, when they think about this amendment: Let us vote for IRA's. Let us vote for America. Americans want IRA's. And this is the last IRA amendment that gives us an opportunity to help Americans get back their IRA's. It is the last chance.

This amendment does not unravel the bill at all, but improves it. I think that the other amendments that are going to come before the Senate in the next few days, maybe next week, are not going to pass. I think the IRA question is the one question which Senators would like to resolve. I submit that this amendment helps resolve it.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I hate to disagree with my good friend from Montana, since the Senator from Montana has been such a good ally on the bill and has been so much help.

But I want the Senate to understand how his amendment works. And, if he would not mind, I would just as soon refer to 300 and 600. I understand it is 620 but, just for purposes of illustration, I would just use 300 and 600.

If you itemize and you are itemizing as a single return, you are going to take that $300 of your personal exemption, do I understand correctly? You take $310 off your personal exemption, if it is single, and $620 if you are filing a joint return?

Mr. BAUCUS. That is correct.

Mr. PACKWOOD. Now, here is what you are up against with that and the reason I have misgivings about it.

First, there are a number of key elements in this bill. One was the absolute adamancy we felt about the minimum tax on corporations so that we would not have any more General Electrics and General Dynamics not paying taxes.

Second, the top rate of 27 percent for individuals and 33 percent for corporations.

Third, the $2,000 exemption that we really have held out as a promise to everybody.

What the Senator from Montana is doing is saying, "All right, you all get the personal exemptions, except we are not going to cut them down $300 if you are itemizing for an individual, and $600 if you are married."

I want to compare now two families. Let us take, again, the $40,000 figure that I have used before, because it is a convenient figure—$40,000 and above and $40,000 and below.

For the $40,000 and above, there are 13 million returns filed in this country. These are 1984 figures. For $40,000 and above, 13 million returns. For $40,000 and below, 86 million returns. By far, the great bulk of the taxpayers in this country make $40,000 or less.

Second, of those returns of $40,000 and below, the 86 million returns, only 9 million take IRA's; 77 million do not take IRA's. So, for the great bulk of the taxpayers, whether we are talking about contribution or no contributions, or some IRA's are deductible and some are not, for the great bulk of them they do not take them at all.

So, let us take two families. Take the first one that is making $40,000 and they itemize. They own a home and they pay State income taxes and property taxes. But they do not have an IRA. Like most people at $40,000 or less, they do not have an IRA.

They are to get a $90 tax increase because they are going to lose a $600 exemption and they are in the 15-percent bracket. So their taxes are going to go up $90.

Now, compare that with the family making $75,000 or $100,000. They also itemize. They own a house and they pay State and local property taxes. But they have an IRA because, once you get above $75,000 and up, most of the taxpayers have IRA's.

They are going to get a tax savings of $288. Under this amendment, they will get a $450 tax credit for their IRA and they pay only $162 in additional taxes for the loss of the $600 deduction. So they have actually saved money. They are making $75,000 to $100,000 and their taxes go down. For the $40,000 taxpayer who itemizes and does not have the IRA—and that is the typical taxpayer—their taxes go up.

Assuming that you compare itemizers—first, 60 percent of the public does not itemize. But, of the 40 percent that itemize, you have some people that itemize a lot, and they are normally wealthier, and you have some people that itemize a little, and they are normally not so wealthy. What they do is look at their taxes and say, "How would I come out under the standard deduction and if I just did a short form?" And if they are not going to do anything by itemizing, they take the short form standard deduction. But they will follow their taxes.

Finally, one day they get to the place where there is just enough justification to itemize, that they will have $300 or $400 more in deductions if they itemize than if they take the standard deduction. So they itemize. They are going to lose all of that $300 or $400 if it is a joint return—gone—because in this amendment of the Senator from Montana, it is right off the top.

Now, let us take the very wealthy taxpayer, the $75,000 to $100,000, itemizing $10,000, $15,000, or $20,000. That taxpayer also loses $600 under this amendment of the Senator from Montana.

It is $600 off of his itemized deduction of $15,000 or $20,000.

It is a relatively small part. But, for the $25,000 or $30,000 itemizer itemizing $1,500, $2,000, $2,500, it is a big part of the itemized deductions that is eliminated.

Last, if there was ever a generous gift in an amendment to the very wealthy, the most wealthy in this country, this amendment is it. Because, under the bill as it came from the committee, we phase out the personal exemption between $127,000 for single taxpayers and over $185,000 for married taxpayers. At that level, they do not get their personal exemption under the bill anyway.

So now, what is going to happen? So that they can continue to have a deductible IRA—they are up at $185,000 or $200,000 and they have no exemptions, they are phased out under this bill—they are going to get their deduction paid for by lower income taxpayers who lose their exemption. And that does strike me as unfair, because now we have the poorer, or at least the comparatively poorer section of society paying for IRA's for the very wealthiest portion of society who have no exemption to lose.

It just does not strike me as fair that for those people making over $127,000, single, and $185,000, married, that they are going to lose nothing and the poor old devil that is making $30,000 or $40,000—does not even have an IRA, does not have a house, does not have $2,000 or $3,000 in exemptions—is going to lose $600 so the richest people in America can get their IRA deductible.

□ 2010

That, Mr. President, just does not strike me as rational and fair, and I hope for those reasons this amendment will be defeated.

Mr. LONG. Will the Senator yield for a question?

Mr. PACKWOOD. I am happy to.

Mr. LONG. Based on what the Senator is saying, it appears that this tends to benefit the richest at the expense of those who are down at the lower end of the ladder. Is it not also true that the number who would be benefited under the amendment are not nearly as many people as those who would be hurt by the amendment?

Mr. PACKWOOD. I think that is right. I would have to go back and see how many people itemized, and about 40 percent do. So let us say we have roughly 100 million returns of which about 40 million itemize. They itemize. They are taking personal exemptions. They are all going to lose $300 or $600 depending on whether they are single or married. So you have 40 million itemizers, all of whom lose some portion of their exemption. You have on the other hand at least 15 million returns that have IRA's. Of that—I emphasize again—15 million total returns that have IRA's and of those 6 million are above $40,000. So you are going to knock off exemptions of $300 or $600 for 40 million people, for the benefit of 15 million people and most of the 15 million make a lot more money that

the 40 million whose exemption you are knocking off.

Mr. LONG. I thank the Senator.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, two points here. First of all, many more taxpayers benefit by this amendment than do not—many more. This credit is available for all taxpayers. By the Senator's own statistics, only 40 percent itemize. So right off the top, 60 percent of the taxpayers benefit because they are not itemizing. That is right off the top—60 percent.

In addition, most of the remaining 40 percent benefit. What the Senator from Oregon has done is a very clever tactic. You find one or two little items on the margin, the exceptions to the rule, and talk only about exceptions; find the little slivers, and only talk about the slivers. The fact of the matter is that this amendment restores a universal IRA.

As I said, most Americans by far will come out better than not under this. There is one category of Americans who may not come out ahead. Those are itemizers who do not take the IRA credit. if you are an itemizer and do not take the credit, it is true your tax liability under the Finance Committee bill is going to be a little bit less than my amendment.

But if that same itemizer goes out and buys an IRA, he is made whole. That is what we are trying to do. We are trying to encourage savings in America. This is a savings amendment.

I fully agree with the committee bill in its efforts to simplify tax laws, and to make the tax laws much more understandable.

In all tax policies there are basically three elements: simplicity, equity, and growth. Those are always three elements of tax policy.

On the individual side, we drafted this bill to achieve simplicity; basically, only simplicity. We are paying virtually no attention to growth, and we are paying virtually no attention to equity. It is simplicity.

But there are other important goals of tax policy, and one is to increase our personal savings rates. This amendment increases personal savings rates, by providing an incentive to save that is fair and distributes the burden fairly. Therefore, it achieves the goal of equity.

It also slightly shifts the burden to those taxpayers who itemize their deductions, not to the taxpayers who do not itemize their deductions. About 70 percent of all IRA's are bought or invested in, taken by itemizers, by Americans who deduct or itemize their deductions.

So essentially, just to recap, this is a savings amendment. I understand the point made by the Senator from Oregon. But those are isolated instances. In contrast, this amendment by far favors most Americans.

I might repeat, Mr. President, that I asked the Joint Tax Committee for a distribution chart to tell us what the distribution effect of this amendment would be. Let me tell you what the Joint Tax Committee came up with.

Very generally, in all income classes, zero to 10,000 and up to $200,000, the tax reduction, as a result of my amendment compared with the committee bill, is almost exactly the same in every category. Zero to $10,000, it is 62 percent reduction in the Finance Committee bill, 63 percent reduction in my amendment.

Let us take the next category, $10,000 to $20,000 income taxpayers in America. Under the committee bill they get a net tax reduction of 20.1 percent. Under my amendment they get a net reduction of 20.2 percent, one-tenth of a greater reduction under my amendment.

Let us take the next category, $20,000 to $30,000 income American taxpayers. Under the committee bill a net reduction of 8.1 percent; under my amendment, 8.1 percent. The same.

Let us take the next category, $30,000 to $40,000: under the committee bill, net reduction is 5 percent; under my amendment, net reduction is 5.4 percent, a greater reduction for that income class.

For incomes of $40,000 to $50,000, it is the same, 6.6 percent under the committee bill and my amendment.

The next one, $50,000 to $75,000: under the committee bill a net reduction of 3.9 percent; under my amendment net reduction of 3.6 percent.

So it is true under my amendment the net tax reduction compared with the committee bill is a little less, 0.3 of a percent, and that is because when you get into the higher income brackets, taxpayers are much more likely to itemize. They are the ones who, therefore, would be bearing a little more of the burden under my amendment.

But essentially, Mr. President, as I explained all the way along here, this bill keeps the distributional effects slightly progressive, and I think that is what most Americans would like.

So I think it is a good amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I appreciate the explanation given by the distinguished Senator from Montana to his amendment. I particularly appreciate his candor in saying that yes, there are some losers in this amendment. Those are people who itemize their deductions but who do not take the IRA credit. I think it would be valuable for us to try to think through who might, those taxpayers who lose in this amendment—in other words, those taxpayers who see their taxes increase—be who would have some itemized deductions but not enough additional cash, financial assets to take advantage of the IRA credit that the Senator from Montana proposes.

I suggest these are by and large young couples who are just starting out. They buy their first home. They put all of their savings into that first home. They have a very tight budget. I mean they have a very tight budget, a budget that allows the husband to get a suit every year or two, and the wife to get a couple of dresses every 3 or 4 years, and maybe a refrigerator every 10 years and maybe a toaster every 33 years, et cetera. They are just starting out. They have bought their home. They put their whole savings in the home. And they have a mortgage interest payment. And they itemize because that allows them to pay a little less tax.

Under this amendment it is that young couple that will see their exemption cut $620. It is that young couple that will see their taxes increase under this amendment.

The Senator is very correct to say as he has given us all the tables that within categories—I mean the whole categories—I mean the whole categories come out about the same. That is perhaps true. I do not question the work of the Joint Tax Committee. But it is within categories of income that the difference comes.

□ 2020

It is within that class of $20,000 to $30,000 of income, or even $30,000 to $40,000 of income, where the people can see their taxes increase under this amendment, or the young couples who are just starting out, putting their family together, just buying their first home, who are on very tight budgets.

Frankly, Mr. President, I do not think the Senate wants to see the taxes on this group in America go up so we can preserve an IRA credit for people who have a lot of financial assets.

As I said earlier, you can have your 401(k) plan, which is a pension plan. You can have the 403(b) plan, if you are a college man and you are able to get a pension plan.

You can have your company pension plan.

You can have Social Security.

And on top of that, you would have, under this amendment, the chance for an IRA credit paid for by the increased taxes on that young family that is just starting out. I, frankly, think that is not the way to go.

I appreciate the Senator's intent to try to leave the IRA in a similar position as it is today. But I would argue that the way you pay for it would hurt young families just starting out.

Mr. BAUCUS. Will the Senator yield?

Mr. BRADLEY. Yes.

Mr. BAUCUS. The Senator points out that it is a couple with a $40,000 income that may or may not be hurt under this amendment. What happens under this amendment is because of that $310 exemption amount the couple have a tax increase that works out to $46.50. That taxpayer can make that up with only a $310 IRA. It does not have to be a $2,000 IRA. That is what we are trying to do. If that couple wants to itemize and have the tax liability increased by $46.50, we want to encourage that same couple for $310, which is a lot to some people but a lot less than $2,000. We want the same people to buy an IRA for $310 so that that couple gets back that same $46.50.

That pointedly portrays the whole purpose of this amendment—to encourage Americans to buy IRA's, to increase personal savings rates, and to help Americans find a way to save for a rainy day and prepare for retirement.

Mr. PACKWOOD. Could I interrupt for a moment concerning voting on the amendment to present a unanimous-consent request?

Mr. President, I ask unanimous consent that a vote occur in relation to the Baucus amendment at 9 p.m., and the time be equally divided between the Senator from Oregon [Mr. PACKWOOD] for the opponents, and the Senator from Montana [Mr. BAUCUS] for proponents, or their designees.

I further ask unanimous consent that all points of order be waived with respect to the Baucus amendment and that there be no amendments in order to the Baucus amendment or to the House bill prior to the disposition of the Baucus amendment.

Mr. LONG. Mr. President, I have no objection. I wish to state that this request has been cleared with the minority leader, Mr. BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. PACKWOOD. I yield 5 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would like to respond to the Senator from Montana.

I know it is the Senator's intention to encourage people to buy IRA's, but there are families in this country where they do not have 300 extra dollars and, therefore, would not be able to buy the IRA. They would see their taxes easing up. I guess there are big tax increases and small tax increases, but this would be a tax increase on that young couple putting together a family and who do not have the extra cash to put into the IRA. I yield the floor.

The PRESIDING OFFICER. Who yield time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, let me respond to the Senator's point.

Mr. President, I do not mean to belabor the point, but I think this little dialog explains one of the problems we have in tax legislation. Every American taxpayer is in a little bit different situation. Some taxpayers are married, some are unmarried. Some taxpayers have children, some do not have children. Some taxpayers' income is from wages and salaries. Other taxpayers' income is unearned, from interest and dividends. Some taxpayers have a major source of income which is gains on the sale of capital assets. Some American taxpayers live in Washington, DC. Other American taxpayers live in my State of Montana, which is a nonsales tax State. Other taxpayers live in the State of Washington, a high sales tax State.

Every American taxpayer is in a little different situation. It is impossible to craft a bill which places every American taxpayer in exactly the same position. I do not think we want to craft a tax bill which places every single taxpayer in exactly the same position. The Tax Code is long enough as it is right now. Someone once said that our Tax Code is longer than the Bible, the Talmud, and the Koran combined. The regulations are more than two or three times longer.

What we are trying to do is come up with a bill, as well as we can do it, which, broadly speaking, treats American taxpayers fairly. That is what we are trying to do here.

In this last dialog I had with the Senator from New Jersey we discussed a family with $40,000 income, a man and woman filing a joint return, and I pointed out that if that family bought an IRA for $310, it would be made whole again.

The Senator from New Jersey pointed out that some $40,000 families cannot afford to pay $310, and that is true.

But the fact is that the vast bulk of most American families can benefit and will benefit under this amendment.

It is impossible to craft an amendment here tonight that results in every American taxpayer getting exactly the same benefit.

It is impossible because American taxpayers have a lot different situations, different States, different cities, different income brackets, everything. It is just impossible.

That is what usually happens: When somebody is trying to oppose an amendment they take one exception or two exceptions and blow it out of proportion.

This is a savings amendment, Mr. President. This is an amendment to encourage IRA's. This is an amendment that I think the American taxpayers want. Americans like their IRA's because they are their own. They do not have to depend on a company providing a pension plan. They do not have to depend upon Uncle Sam providing Social Security. They do not have to depend upon someone else. They can depend upon themselves and invest their own IRA's. I think it is similar to the security that Americans have when they own their home. Your home is your castle. I think the IRA is pretty much your own castle, too, because you are preparing on your own for the future.

Let us be honest about it. We all know that we can find a good IRA amendment here that will improve this bill. There is no doubt about that. The only reason some IRA's have been opposed is because every single amendment has been opposed.

Every single amendment is opposed. Do not look at them on the merits; just try to find some little problem with each of them so we can oppose them all. That is what is going on here.

I understand that tactic. That is designed to make sure the bill does not unravel. If I were in the chairman's shoes, I think I would use that same tactic, too. The fact is there are amendments that do improve the bill, and do not unravel it. I think this is one of those amendments.

Mr. President, no Senator here wants to unravel this bill. The Senate is not going to pass amendments that have the effect of gutting the bill, of changing the integrity of the bill, of unraveling the bill, or undermining tax reform.

The country loves tax reform. The Senate is going to pass tax reform. By and large, both parties will try to claim credit for it because it is good for America.

So I say let us make it a better bill. The assumption behind the no-amendment argument is this is a perfect bill. I am saying let us make it a little more perfect by passing an IRA amendment.

Some Senators may want something in the IRA area that is more than other Senators want, but all Senators want to fashion some amendment that makes sense. That is my intent.

If somebody has a better idea, I am open to entertaining it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yield time? If neither side yields time, the time will be divided equally between the two sides.

Mr. PACKWOOD. Mr. President, I am going to ask for a quorum call, but ask that it be charged equally against each side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 2050

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, we are to vote at 9 o'clock. How much time does the Senator from Montana have, and how much do I have.

The PRESIDING OFFICER. The Senator from Montana has 7 minutes and 59 seconds remaining. The Senator from Oregon has 2 minutes and 11 seconds remaining.

Mr. PACKWOOD. I will speak now, Mr. President.

So that everyone understands what the amendment of my good friend of Montana does, it says that so far as the personal exemption is concerned, which we have set at $2,000 in this bill, it will be reduced by $300 if you itemize, if you are single; $600 if you file a joint return.

In essence, you are saying that we are going to nibble a little off not just exemptions, but every deduction that exists—home mortgage, State and local taxes, property taxes, charities—because what the taxpayer does, as a matter of fact, is take what will be a $2,000 exemption and take other deductions—let us say they have $5,000 in deductions. So you have $7,000. From that, you deduct the $300 and $600 that the Senator from Montana would have you deduct in this amendment.

In theory, you can say that you are deducting it from the exemption. As a matter of fact, you are, in essence, taking it from the aggregate whole, so it nibbles away at the exemption, at property taxes, at charitable contributions, at everything else.

If anyone wants to finance something this way, they are perfectly free to do so, but everyone should understand what will be the effect.

● Mr. PRYOR. Mr. President, today I want to take a few minutes and speak on the subject of Individual Retirement Accounts (IRA's). These accounts are very popular with many, many people, and I know much of the debate on the pending tax reform bill will deal with IRA's.

Before 1981, Mr. President, IRA's were available to taxpayers who were not covered by a qualified pension or profit-sharing plan maintained by their employer. The annual limit on IRA's was $1,500. The tax benefits associated with the IRA's, Mr. President, are the deduction for amounts contributed, and just as importantly, the tax-free growth of the account until the money is removed. The so-called inside buildup on the fund is really the long-term tax benefit of the account, and is what all the tables are based on when people are shown how much they will have in the account when they retire.

Since contributions are tax deductible, and the fund grows taxfree, when the money is pulled out of the IRA it is taxed as ordinary income. Further, for certain distributions—before death, disability or age 59½—there is an additional 10 percent penalty tax.

Even before 1981, Mr. President, IRA's were successful. In the Economic Recovery Tax Act of 1981, Congress decided to expand IRA eligibility to everybody. Further, the annual contribution limit was increased to $2,000 per year.

In the Senate Finance Committee, Mr. President, in the effort to reduce tax rates as low as possible, the committee decided to go back to the law prior to the 1981 changes, but add an additional benefit for those covered by qualified pension and profit-sharing plans. Thus, under the bill reported by the Finance Committee, people not covered by qualified plans will be unaffected. They can still contribute up to $2,000 per year on a tax deductible basis. Even for those covered by employer-sponsored plans, they can contribute up to $2,000 each year—on an after-tax basis—and get the benefit of the tax-free growth of the account. As I have stated earlier, as the fund grows, this is the most significant tax benefit.

Mr. President, I do believe we need to take a close look at the Finance Committee proposal. It does represent a change in the present law, but it does preserve the tax-free buildup of the account, and furthermore, the overall tax rates for all Americans are being reduced dramatically. I believe we should work to retain the overall IRA deduction, and whether it is done on the Senate floor, or in conference—as called for in the Sense-of-the-Senate Resolution—I believe the final version of the tax reform bill will continue IRA deductions for all Americans.●

● Mr. LEVIN. Mr. President, I support retaining the current law on IRA's. It is unfortunate that the amendments which we have considered today only go part of the way back to current law. Nevertheless, I supported the D'Amato-Dodd amendment because it did go part of the way and was financed by a modest increase in the tax rate of the alternative minimum tax, which applies only to the wealthiest taxpayers.

The Baucus amendment provides for the same treatment for IRA as did the D'Amato-Dodd amendment. However, it would be financed through a reduction in the personal exemption for those taxpayers that itemize. This means that under this amendment some middle-income taxpayers will have their taxes increased so that others can have their taxes cut. For example, if a middle-income taxpayer itemizes his or her deductions but does not contribute to an IRA, they will get a tax increase under this amendment due to the reduction in the personal exemption. Furthermore, the wealthiest taxpayers will not suffer any loss because, under the committee bill, their personal exemptions have already been phased out to zero. Therefore, this amendment takes from some of those who already have too little under this bill, at the same time that it does not put any additional burden on those who are best able to share some extra burden.●

● Mr. MITCHELL. Mr. President, I oppose the action the Finance Committee has taken to restrict the use of individual retirement accounts. I believe IRA's should be equitably restored for taxpayers in need of incentives to save for retirement.

I supported extension of the individual retirement account in 1981 and believe it should be preserved as part of tax reform. I am, nevertheless, concerned that the cost of the IRA is not equitably distributed among all income groups. High income taxpayers are much more likely to utilize an IRA even though the policy reasons for such savings incentives are less clear. As income rises, the propensity to save increases and the need for a supplementary retirement vehicle declines.

For that reason, I would prefer that the individual retirement account be limited to families who would be less likely to save and therefore more in need of tax incentives. The earnings base at which the Social Security tax applies—$42,000 in 1986—would be an appropriate level of targeting.

Another approach that can be taken to make the IRA more equitable would be to give all taxpayers, regardless of their tax bracket, the same level of incentive based on a credit valued at the 15-percent bracket. I am pleased the two principal amendments before the Senate tonight take this approach.

I support the amendment being offered by Senator BAUCUS because I believe the financing method employed in his amendment is preferable to the approach taken in the other amendment. I will, therefore, vote for the Baucus amendment.

I do so with some reluctance. I would have hoped for a more favorable means of paying for the amendment and for further changes that would target the IRA to middle and moderate income taxpayers in need of savings incentives. Nevertheless, the Baucus amendment comes closer to meeting my objections.

We are necessarily limited in the approaches we can take to restore costly items to the tax bill such as the IRA. Senator BAUCUS has chosen to reduce the value of the personal exemption to itemizers by $310. This would only affect the taxpayer and not the de-

pendents claimed on the tax return. Since 68 percent of all IRA deductions are claimed by taxpayers who itemize, most of the same taxpayers would be affected by the personal exemption limitation and the IRA restoration.

I strongly believe the Senate must take action to restore the IRA for purposes of the joint House-Senate Conference Committee. I am confident that the conference committee can also deal equitably with the changes in the personal exemption being proposed in this amendment.

Unfortunately, the method chosen to finance retention of IRA's in the amendment being offered by Senators DODD and D'AMATO is unacceptable.

The Finance Committee has approved fundamental changes in the individual and corporate minimum taxes that will greatly increase the taxes raised from these alternative tax systems. The corporate minimum tax will be raised from 15 percent to 20 percent and, more importantly, a number of new provisions have been added that will substantially raise the amount of revenue collected from the minimum tax. The individual minimum tax has not been increased in amount but it has also been changed in many respects to make it tougher.

I am troubled that the new tax system which will be created under this bill already relies to too great extent on the alternative tax systems in the minimum tax. This creates planning problems for corporations that will cause further intrusions of the tax system into corporate decisionmaking. Indeed, it is a prime example of the failures of this bill to more fundamentally reform the corporate tax system. In fact, fully one-third of all corporate revenues raised in this bill are attributed to the minimum tax.

Because both the corporate and individual minimum taxes have been made tougher and the rates are so close to the maximum tax rates in the regular tax system there is a very real possibility that we will have created a dual tax system where most high income individuals and corporations are in the minimum tax on an annual basis. Comparisons with the 25-percent minimum tax in the House bill are not appropriate because the House minimum tax is not nearly so tough on corporations.●

The PRESIDING OFFICER. Who yields time? Time remaining to both sides will be assessed against both sides if no one yields time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Do I have any time remaining?

The PRESIDING OFFICER. The Senator from Oregon has no time remaining. The Senator from Montana has 2 seconds remaining.

Mr. BAUCUS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Montana has between this time and 9 p.m.

Mr. BAUCUS. How much is that?

The PRESIDING OFFICER. Not much. [Laughter.]

Mr. BAUCUS. I will take it.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, to recapitulate for those who may not know what this amendment is, this is the last chance Senators may have to vote on an IRA amendment. The amendment establishes a 15-percent credit and reduces the exemption only for taxpayers who itemize their deductions.

The Joint Tax Committee table shows that the distributional effect is the same as the Finance Committee bill, with a slight additional benefit for taxpayers in the $30,000 to $40,000 income category; and an ever so slightly reduced benefit for taxpayers in the $50,000 to $75,000 category.

□ 2100

I am trying to encourage savings, Mr. President. I think Americans want a universal IRA, to build for retirement and have their own income retirement plan. I think it is an improvement in the bill.

I hope it passes.

The PRESIDING OFFICER. All time has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 2 minutes to make an announcement.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader is recognized.

Mr. DOLE. Mr. President, the Senator from Montana would deny itemizers the first $310 of their personal exemption in order to get a maximum $300 benefit from an IRA. I understand that the $310 reduction would apply to both a husband and wife. That means they would lose $620 of personal exemptions to reduce their taxes by $300. This may be a benefit, but it certainly is a small one, at least for one-earner families.

I would point out that we already phase out the personal exemption for wealthy taxpayers, so this $310 reduction will affect middle-income itemizers, people with homes and mortgage interest deductions, not the wealthy.

Finally, as I am sure others have already pointed out, one of the most important issues to the President is raising the personal exemption to $2,000. While I share the concern of the Senator from Montana that we retain adequate tax incentives for retirement savings, I cannot in good conscience risk a Presidential veto by paying for the IRA incentive this way.

I also understand that the distinguished Senator from Louisiana [Mr. LONG] has made some calculations on how many individuals will have to have their personal exemptions reduced just to allow this IRA credit. Would he be willing to share his calculations with me?

Mr. LONG. Mr. President, there would be 6 times as many losers as winners. The full scale winners would achieve a saving of $300 per taxpayer. The average itemizer would pay $46.50 more.

Accordingly, you have to find more than 6 average itemizers in order to pay for one full scale winner.

Mr. DOLE. I understand there is one more IRA amendment. We did not know of another IRA amendment earlier. This IRA amendment is by the distinguished Senator from Illinois [Mr. DIXON].

I understand the manager would like to complete the IRA amendments tonight. There is at least one additional IRA amendment and one additional vote this evening after the vote on the Baucus amendment.

Mr. FORD. Mr. President, will the distinguished majority leader yield for a question?

Mr. DOLE. I am happy to yield for a question.

Mr. FORD. The majority leader indicated the amendment is going to fail.

If this amendment passes, will there still be another IRA amendment?

Mr. DOLE. If this amendment passes, I assume the Senator from Illinois might want to reconsider his amendment.

If it passes, then we may think of something else.

Mr. FORD. I thank the distinguished majority leader.

Mr. DOLE. I had the Senator down as undecided.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. PACKWOOD. Mr. President, I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Montana [Mr. BAUCUS].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Florida [Mrs. HAWKINS] are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mrs. HAWKINS] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] is necessarily absent

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—76

Abdnor	Glenn	McConnell
Andrews	Gorton	Metzenbaum
Armstrong	Gramm	Moynihan
Biden	Grassley	Murkowski
Bingaman	Hart	Nickles
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hecht	Pressler
Bumpers	Heflin	Proxmire
Byrd	Heinz	Quayle
Chafee	Helms	Rockefeller
Cochran	Hollings	Roth
Cohen	Humphrey	Rudman
Cranston	Johnston	Simpson
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stevens
DeConcini	Kennedy	Symms
Denton	Kerry	Thurmond
Dodd	Lautenberg	Trible
Dole	Laxalt	Wallop
Domenici	Leahy	Warner
Durenberger	Levin	Weicker
Eagleton	Long	Wilson
East	Matsunaga	Zorinsky
Evans	Mattingly	
Garn	McClure	

NAYS—21

Baucus	Harkin	Pryor
Bentsen	Inouye	Riegle
Burdick	Lugar	Sarbanes
Dixon	Mathias	Sasser
Exon	Melcher	Simon
Ford	Mitchell	Specter
Gore	Nunn	Stennis

NOT VOTING—3

Chiles	Goldwater	Hawkins

So the motion to lay on the table was agreed to.

□ 2120

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I know the Senator from Illinois has an amendment to offer on IRA's. Again, I am willing to enter into a time agreement. I have not talked with him about it, nor have I talked to the minority leader.

I think it would be best if we start. But I think I understood he would be receptive to some kind of time agreement. Has that been worked out?

Mr. DIXON. Mr. President, let me say to my friend, the distinguished manager of the bill, that I probably can agree to a time agreement. I am sincere when I tell my colleagues that I think it would be in the interests of the Senate to go ahead with the discussion predicated upon what occurred on the last amendment.

I have every reason to believe that in a reasonably short period of time we will be voting.

Mr. PACKWOOD. Why do we not get started now?

AMENDMENT NO. 2069

(Purpose: To allow the deduction for contributions to individual retirement plans against the 15 percent rate, and to impose a 1 percent floor on all itemized deductions not otherwise subject to a floor)

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 2069.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2000, beginning with line 23, strike out all through page 2009, line 18, and insert in lieu thereof:

SEC. . LIMITATION ON DEDUCTIONS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Part I of subchapter A of chapter 1 (relating to tax imposed on individuals) is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY OF INDIVIDUAL RETIREMENT CONTRIBUTIONS.

"(a) GENERAL RULE.—The amount of the tax imposed by section 1 (determined without regard to this section) shall be increased by the amount determined under subsection (b).

"(b) AMOUNT OF INCREASE.—The amount determined under this subsection is equal to—

"(1) the excess of—

"(A) the tax liability of the taxpayer for the taxable year computed without regard to the deduction allowable under section 219, over

"(B) such tax liability computed with regard to such deduction, reduced by

"(2) 15 percent of the amount of the deduction allowable under section 219.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRIBUTIONS TO SECTION 501(c)(18) PLANS.—The amount of any deduction allowable under section 219 shall not take into account the portion of such deduction attributable to a qualified retirement contribution described in section 219(e)(2) (relating to contributions to section 501(c)(18) plans).

"(2) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b)."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by adding after section 3 the following new section:

"Sec. 4. Increase in tax to reflect limitation on deductibility of individual retirement contributions."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1416, between lines 4 and 5, insert the following:

SEC. 136. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible), as amended by sections 132 and 133, is amended by adding after section 280I the following new section:

"SEC. 280J. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

"(a) GENERAL RULE.—In the case of an individual, the applicable itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) APPLICABLE ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'applicable itemized deductions' means the itemized deductions (within the meaning of section 63(d)) other than any deduction—

"(1) under section 165(a) for losses described in subsection (c)(3) or (d) of section 65,

"(2) under section 213 (relating to medical deductions), or

"(3) to which section 280I applies."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280J. 1 percent floor on all itemized deductions not otherwise subject to floor."

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

TAX INCENTIVES FOR IRA'S MUST BE MAINTAINED

Mr. DIXON. Mr. President, the question before the Senate is a simple one: Should we act on tax reform legislation that substantially reduces the incentive for millions of Americans to open and maintain Individual Retirement Accounts, or should we act to restore that incentive? That is the issue, but in the larger sense, there is no issue, because there is only one conclusion—IRA's should be retained. Indeed, they must be maintained.

Frankly, I do not understand the logic of removing the most important and widely used savings incentive for middle- and moderate-income Americans. It just does not make sense and the American people know it.

I have already received over 5,000 letters from my Illinois constituents expressing their opposition to losing their IRA benefits, and they are not alone. In a recent Washington Post-ABC news poll, 63 percent opposed the elimination of the IRA deduction for those covered by employer-sponsored pension plans. A majority in all income groups, even those who don't currently have IRA's, supported keeping IRA's as a deduction for everyone.

Think of it. Even people who do not have an IRA want to keep the deduction. They know what the Finance

Committee does not seem to know—that the IRA is not a loophole. They know it is the single most important thing the Government has done for them in the eighties to help them augment their Social Security and provide for their own retirement. They understand that an IRA can make the difference between a retirement where they are just getting by, and a retirement where they can live the kind of comfortable life to which they are entitled.

They also know that the savings that IRA's generate provides vital benefits for the American economy. There has been a drumbeat of criticism regarding the inadequate savings rate in the United States, and how that disadvantages our Nation in an increasingly competitive world economy. Most of the Members of the Senate have, at one time or another, pointed to the high savings rate in Japan, and the low one here, and yet we have a bill on the floor that is designed to make that problem worse, not better.

The evidence demonstrates, Mr. President, that roughly half of all IRA contributions represent new savings, and that people who contribute to IRA's are more likely to have increased their overall savings than people who have not contributed. These new savings amounted to at least $14 billion in 1983, $18 billion in 1984, and if economic conditions are reasonably good, could rise to $50 billion by 1990.

What makes the IRA particularly valuable is that it produces these kinds of savings increases not by providing another tax break for the wealthy, but by creating an incentive that ordinary Americans are able to take advantage of. Over 62 percent of all IRA contributions in 1985 were made by taxpayers with incomes under $40,000. Approximately 65 percent of all IRA-owning households have incomes under $40,000.

The IRA incentives have accomplished their purpose. They have benefited middle- and moderate-income America. They have increased savings. This is a time to build on that success, not to undermine it.

The amendment I have placed before the Senate provides a way to restore at least a major portion of the IRA incentives the committee bill would eliminate. Unlike the Dodd amendment, it does not increase the minimum tax. Unlike the Baucus amendment, it does not reduce anyone's personal exemption. Instead, the amendment creates a 15 percent tax credit IRA, and finances that credit by putting a 1 percent adjusted gross income floor on itemized deductions.

Simply put, this means that a taxpayer who contributes $2,000 to his or her individual retirement account would get a tax credit—an amount subtracted directly from his or her taxes—of $300. This is equivalent to full deductibility of IRA's at the 15 percent rate.

This amendment does not remove any deductions provided by the committee bill for itemizing taxpayers. What it does is to put a 1-percent adjusted gross income floor on itemized deductions. A taxpayer with an adjusted gross income of $30,000 and $8,000 in itemized deductions would subtract $300 from that $8,000 leaving him with $7,700 in deductions.

According to the Joint Tax Committee, this amendment is revenue neutral over the next 5 years. Even more importantly, it provides a good distribution of tax cuts by income class. Relative to the committee bill it provides larger tax cuts for taxpayers with incomes of $50,000 or less.

So this amendment provides a greater aggregate tax cut for taxpayers with $50,000 or less than the committee bill.

I ask unanimous consent that a table comparing the distribution of tax cuts if this amendment is adopted versus the reported committee bill be included in the RECORD at the end of my remarks.

I urge my colleagues to join with those of us in the Senate that want to maintain tax incentives for saving. We can accomplish this without raising the 15-27-33 percent tax rates that are at the heart of the committee bill. Maintaining individual retirement tax accounts will be good for the ordinary American, good for our overall savings rate, and therefore good for the Nation. We should not let this opportunity to preserve this essential retirement savings incentive slip away. Doing our duty by our constituents and our country demands that we save IRA's.

This is a simple and straightforward amendment. It is fair; it is revenue neutral, and it works. I hope the Senate will see fit to adopt this approach, and keep IRA's available. The American public wants to keep tax incentives for contributions to IRA's. I hope my colleagues will heed their wishes and vote for this amendment.

Mr. President, let me say this in conclusion before my distinguished friend, the manager of the bill, speaks in opposition.

I have the report on the implications of this amendment so far as taxpayers are concerned.

A taxpayer in the income tax class under $10,000 a year actually saves money with this amendment and gets the IRA.

From $10,000 to $20,000 a year, the taxpayers save money and we get the IRA.

From $20,000 to $30,000 a year, taxpayers save money and we get the IRA.

From $30,000 to $40,000 a year, taxpayers save money and we get the IRA.

From $40,000 to $50,000, that is also true.

And over $50,000, a very slight revenue consequence is involved to give every American citizen the right to invest in the best savings availability under tax laws today, the Individual Retirement Account.

I sincerely hope, Mr. President, that the Senate will support this amendment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PERCENTAGE CHANGE IN TAX LIABILITY BY INCOME CLASS

Income class (1986 dollars)	Committee bill	With Dixon IRA amendment
0 to 10,000	−63.0	−63.2
10,000 to 20,000	−20.1	−20.4
20,000 to 30,000	−8.1	−8.4
30,000 to 40,000	−5.0	−5.8
40,000 to 50,000	−6.6	−6.9
50,000 to 75,000	−3.9	−3.6
75,000 to 100,000	−3.3	−3.1
100,000 to 200,000	−3.8	−3.1
200,000 plus	−4.7	−4.1
Total average tax cut	−6.4	−6.3

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, the distinguished Senator from Illinois was partially right when he said this was straightforward. It is. It is simple. And it is not fair. It is not fair for a very easily explained reason.

We had in 1984, the last year for which information is available, 99 million tax returns. For the sake of argument, let us call it 100 million, so we can round it off.

Of those, about 40 million itemized and about 60 million did not.

What my good friend from Illinois plans to do is for those 40 million who itemize. He says, "You are going to lose deductions equal to 1 percent of your adjusted gross income; this amount will be subtracted from the amount that you could otherwise deduct." I will explain how that works.

Let us say your adjusted gross income was $10,000. One percent of that is $100.

Now let us assume that you have $3,000 in itemized deductions that you would normally take.

Under the amendment of my good friend from Illinois, you would not get $3,000; you would get $2,900 because you have to deduct 1 percent of your adjusted gross income.

Why is it unfair?

Forty million people itemize, all of whom are going to lose an amount of their itemized deductions equal to 1 percent of their adjusted gross income, and their itemized deductions are—these are some, not all—home mort-

gages, State and local income taxes, property taxes, charitable donations, major medical expenses, casualty losses, and on and on. Those are the itemized deductions.

□ 2140

You add them all up and you are going to subtract 1 percent of their adjusted gross income from the total. But equally importantly, there are 40 million itemizers and only 15 million IRA's. So what you are saying to lots and lots of people who itemize is, "You don't have an IRA, but that is tough. We are going to take part of your deduction away and give it to those who have IRA's." That in itself is unfair.

But second, compare the income level of those who itemize with the income level of those who take IRA's. Again, I am averaging and I emphasize this all the time when I speak, because no one is exactly average. All we can do is take the millions of taxpayers that we have, add them all together, divide it and say "on the average."

On the average, the income level of those who take IRA's is higher than, on the average, the income level of those who itemize. So what you are going to do is, for comparatively lower income itemizers, eliminate a portion of their deduction equal to 1 percent of their adjusted gross income so that those at higher levels can have the IRA's paid for by those in the lower levels.

That is why, Mr. President, I say this amendment is unfair. When the discussion is ended, it is my intention to move to table the amendment.

Mr. LONG. Will the Senator yield on that point?

Mr. PACKWOOD. Yes, I yield, Mr. President.

Mr. LONG. Is it not true that, generally speaking, the amount that the winners win is a great deal more than the amount that the average loser loses? In other words, those on the putting-up end——

Mr. PACKWOOD. They do not have to put up as much but there are a lot more of the putter-uppers.

Mr. LONG. That is the point.

Is it not also true that, generally speaking, you have about five or six times as many losers here as you have winners?

Mr. PACKWOOD. That is correct, because I simply took the itemizers against the IRA's. There are also any number of people—those who don't have a pension plan—who actually have IRA's who will end up losing under this amendment because they will lose a 27-percent deduction and only get back a 15-percent credit.

Mr. LONG. So it works out that, generally speaking, you are going to have five or six times as many losers as you have winners.

Mr. PACKWOOD. That is correct.

Mr. LONG. Furthermore, is it not correct that the losers, generally speaking, because they have less income, need their money worse than the winners need theirs? Generally speaking, now.

Mr. PACKWOOD. Well, generally speaking, the answer is yes because the losers are, on the average, in a lower income bracket than the winner.

Mr. LONG. Because they have less income. That is why they are in the lower bracket.

Mr. PACKWOOD. Yes, that is right, Mr. President.

Mr. LONG. So you are going out to tell the people, "Folks, let me tell you what I did for you as your Senator. All of you who are doing very well indeed, I took good care of you. You folks that are not doing quite that well, which is the overwhelming majority, I am sorry I could not take care of you. But in order to take care of these people who are doing quite well, I had to put it to you folks so you pay more taxes. But I didn't hit you all that hard, because I had five of you on the putting-up end for every one of those fortunate people on the taking-down end."

Mr. PACKWOOD. Mr. President, I rest my argument.

Mr. DIXON. Mr. President, the chairman and ranking member, of course, obviously are well-informed about the subject matter of this legislation and clearly, what they say has great impact on the Members on the floor. But that the first point the chairman makes has no validity, because we are not talking here about tax increases; we are talking about relative tax savings. Relative tax savings.

It is not true, it is not true that this amendment involves a tax increase for any taxpayer in America. None of them will experience a tax increase by virtue of the amendment offered by this Senator from Illinois.

The fact is, contrary to what has been said in the discussion between the chairman and the ranking member, most will experience further tax reductions. I say further tax reductions because every American experiences some reductions under this bill.

Let us talk plain facts: If you are earning $10,000 a year or less, this fine committee bill gives you a 63-percent saving. But if you are making $10,000 a year or less, the amendment by Senator DIXON gives you the IRA and also saves you, instead of 63 percent, 63.2 percent. So you are saving more and getting an IRA.

If you are making between $10,000 and $20,000 a year under the committee bill, you will save 20.1 percent, but you will not get an IRA. Under Senator DIXON's amendment, you get an IRA and you save 20.4 percent. You save more and you get an IRA.

At $20,000 to $30,000 a year, the committee has done a fine job for you. You save 8.1 percent. But you do not get an IRA. Under my amendment, you get an IRA and you save 8.4 percent a year instead of 8.1 percent.

Now let us say you make $30,000 to $40,000 a year. The committee has done a pretty good job for you. If you are saving 5 percent, but you are not getting an IRA. Under Senator DIXON's amendment, you get the IRA and you save 5.8 percent a year.

If you are making $40,000 to $50,000 a year, the committee did a pretty good job for you. You save 6.6 percent but you do not get an IRA. Under Senator DIXON's amendment, you get the IRA and you save 6.9 percent instead of 6.6.

Now, it is not until you are making more than 50,000 bucks a year that you get hurt by the Dixon amendment. You still get the IRA but if you are making $50,000 to $75,000, instead of saving 3.9 percent as under the committee bill, you only save 3.6. I do not think anybody on the street in Illinois will stop me and bother me about that. And you get the IRA.

If you are making $75,000 to $100,000 a year, first, I want to congratulate you. You are doing pretty good. The committee saves you 3.3 percent. I only save you 3.1 I apologize. It is not much; it is a pittance. But you get the IRA.

If you are making $100,000 to $200,000, the committee saves you 3.8 percent. You do not get the IRA. I save you 3.1, you get the IRA.

At $200,000 and over, up into the millions, the committee saves you 4.7 percent. I only save you 4.1, but you get the IRA.

What is the message, Mr. President? Whoever you are in America, you save; you save; you pay less tax. But if you adopt this amendment and you make under $50,000 a year, you save more under the Dixon amendment and get the IRA. If you make more than $50,000 all the way into the millions, you get the IRA and you save just a little bit less.

Mr. President, earlier today we adopted the cop-out resolution that everybody voted for that said we wash our hands, we are clean, we are for the IRA, throw it over to the conference committee. It means nothing.

We rejected everything else because nobody wanted to pay the price. So I say how many here are willing to pay the price and say in a fair, in a decent, in a straightforward, in an aboveboard way, "Here is the way to get the IRA." It is fair. You are still saving a lot of money, and you are saving an institution for America that people believe in.

I think it is a decent amendment and it does not increase the tax of anybody in this country.

Mr. PACKWOOD. Mr. President, this is not legislation, it is alchemy.

We have a $15 billion loss in this amendment and nobody is going to pay any more. Let me take these figures.

Among taxpayers with incomes of $30,000 to $40,000; nobody is going to pay any more. That is baloney. You have 11 million taxpayer returns in the $30,000 to $40,000 class. Three million of them have IRA's. I am willing to wager that most people in that $30,000 to $40,000 class are itemizing and 8 million of them do not have IRA's. And their taxes are going to go up because they are losing part of their deduction.

Let us go to the $40,000 to $50,000 income levels. We have 6 million total returns in this group and only 2.3 million IRA's. If I added up right, that means 3.7 million taxpayers in this group do not have any IRA's. Somehow, they are going to lose part of their deduction and I think their taxes are going to go up.

In any event, there is a $15 billion transfer from somebody to somebody in this amendment I think somebody is going to pay.

Mr. GRASSLEY. Mr. President, I rise to speak in favor of the compromise offered by Senator ROTH and the leadership yesterday. We can all agree that universal IRA's are a good thing. In a perfect world, unrestrained by revenue loss considerations—it would be better to have universal IRA's than not to have them. But the Finance Committee did not have the luxury of making its decisions in such a perfect world. The fact is that tradeoffs had to be made to provide the benefit of lower rates for all American taxpayers, and preserve the income distribution of the rate cuts.

There is another fact that has been largely ignored, or misunderstood in this debate. The fact is that most of the benefit of contributing to an IRA has been maintained under the Senate Finance Committee bill by preserving the nontaxability of inside buildup of the IRA's, combined with lower rates.

The amendments which have been offered today to restore IRA's have all been meritorious in purpose. Unfortunately, they have sought to pay for the restoration of the IRA with an increase in minimum taxes, or reducing the personal exemption for married individuals by $340 who itemize their deductions.

The amendment offered by my friend from Illinois [Senator DIXON] would restore the IRA by limiting the deductibility of itemized deductions which do not exceed 1 percent of adjusted gross income. I believe this amendment would be the most responsible way to pay for the IRA.

□ 2150

Mr. LONG. Will the Senator yield to me, Mr. President?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the whole theory of the bill before us is that the rank and file of taxpayers would not have to pay so much if we did not have special breaks for a minority.

I am proud, Mr. President, to have voted for the IRA. I was chairman of the committee when we started it. I believe my dear friend, CARL CURTIS, a Republican, made the motion on the committee when we first started. I am proud to have been a part of starting the program at that time. I was also proud to vote, in 1981 when BOB DOLE was chairman, to expand the IRA to areas that we felt we could not afford at first.

But let us just look at the tax breaks for retirement savings that are in the law. When we started out, we said the individual retirement account would be the tax break that we would provide to people who did not have a private pension to supplement their Social Security. In 1981 we said that we would allow an individual to have the private pension as well as the IRA and as well as Social Security. Here is how it works out.

First you take Social Security. That is a tax break. The employer is required to match the employee contribution. And the employer part is deductible to the employer. That is a tax break going in. The employee puts up $1 and that is matched by the employer. That is tax deductible to the employer, which is a tax break going in.

Then, on the paying-out end, you only pay a tax on Social Security benefits after you get $25,000 of income a year for an individual or $32,000 a year for a couple. No pension plan can give you a break like that. That is break No. 2.

Then let us add the private pension to it. The 401(k) plans and the other qualified pension plans are 100 percent deductable. The employer puts it all up. That is just one break, but that is twice as good a break as you get on Social Security, where the employer only has the employer portion deducted. That is half of the total Social Security contribution. With the private pension, you get 100 percent of it deductible going in. That is break No. 3.

Then let us take break No. 4. The buildup has no tax until you take it out. That is break No. 4. Then, let us take break No. 5. Break No. 5 is that under the IRA the buildup is not taxed until you take it out. The sixth deduction is that the money that goes in the IRA is also deductible. That is break No. 6.

Mr. President, the IRA is so popular that it is costing four times what we estimated. I can understand why it is so popular with so many tax breaks in it.

We say now that everybody must pay a little bit of dues so that the rank and file do not have to pay quite as much taxes. Now, what the Senator would do here is to say, "Well, no, but not in this area." There would be no trimming back at all, no dues paid by anybody. In order to achieve his result he would have to have five times as many people on the putting-up end as he has on the taking-down end, and the people on the taking-down end take down five times as much as the people on the putting-up end put up. So on numbers it goes contrary to the purpose of the act.

Now, instead of having quite as many tax breaks concentrated on a smaller number, we will have somewhat lesser breaks for those groups, with the results that everybody gets a tax cut. This amendment, however, moves in just the opposite direction.

Now, Mr. President, for the people who will complain the most about the committee bill, let us say, they have still got five different tax breaks built into their retirement arrangements. They still have the benefit of the deductible buildup, and they will be taking down a great deal more on account of this than if they bought a certificate of deposit at that same building and loan or bank for the same interest rate. They still have a very good deal.

This may not be what emerges from conference. For all I know we may have to split the difference in the House bill in conference. But I submit, Mr. President, if you are thinking in terms of numbers, the rank and file of people are complaining out there that they pay too much because of the minority that pays too little. Based on that, it seems to me that the Senate would want to support the committee position and vote down the amendment that is pending.

Philosophically, this amendment is the same thing as the Baucus amendment that was just defeated, in that a great number would pay so a smaller number would have the six benefits to which I referred. I would think, Mr. President, that the public as a whole will strongly approve of this bill for the very reason that it benefits so many, by saying that those who have been getting the best of it do not get quite as good a deal. In effect, they pay the dues. We all pay some dues. Everybody has to give up some advantage. Everybody has to give up something so that the many can benefit.

Mr. DIXON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion to table the amendment of the Senator from Illinois. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER], the Senator from Florida [Mrs. HAWKINS], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mrs. HAWKINS] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] is necessarily absent.

The PRESIDING OFFICER (Mr. WILSON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 78, nays 18, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—78

Abdnor	Garn	Metzenbaum
Andrews	Glenn	Mitchell
Armstrong	Gorton	Moynihan
Bentsen	Gramm	Murkowski
Biden	Hart	Nickles
Bingaman	Hatch	Packwood
Boren	Hatfield	Pressler
Boschwitz	Hecht	Proxmire
Bradley	Heinz	Pryor
Bumpers	Helms	Quayle
Byrd	Hollings	Riegle
Chafee	Humphrey	Rockefeller
Cochran	Johnston	Roth
Cohen	Kassebaum	Rudman
Cranston	Kennedy	Sarbanes
D'Amato	Kerry	Simpson
Danforth	Lautenberg	Stafford
DeConcini	Laxalt	Stennis
Denton	Leahy	Stevens
Dodd	Levin	Symms
Dole	Long	Thurmond
Domenici	Mathias	Trible
Durenberger	Matsunaga	Wallop
Eagleton	Mattingly	Warner
East	McClure	Wilson
Evans	McConnell	Zorinsky

NAYS—18

Baucus	Grassley	Melcher
Burdick	Harkin	Nunn
Dixon	Heflin	Pell
Exon	Inouye	Sasser
Ford	Kasten	Simon
Gore	Lugar	Specter

NOT VOTING—4

Chiles	Hawkins
Goldwater	Weicker

So the motion to lay on the table Amendment No. 2069 was agreed to.

□ 2220

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I am a firm believer in the value of independent retirement accounts.

IRA's are the principal way 28 million Americans, including well over 2 million Californians, save independently for their retirement.

Over $250 billion are invested in IRA's today. That's a major investment in America, in our States, and in our local communities.

IRA's also provide vital reenforcement to a powerful instinct in people, especially in California—and, that is the deep desire of Americans to be independent: to be free of total dependence upon government; and to be free of total dependence upon their employer's pension plan.

The desire not to be dependent upon someone else is a key reason why Californians have written to me, asking that the Senate not repeal the deduction for contributions to IRA's.

I have voted for a sense-of-the-Senate resolution supporting IRA's in conference committee. I did so without enthusiasm because I doubt the effectiveness of the resolution.

I voted for the amendment of Senators DODD and D'AMATO to restore IRA deductions equal to 15 percent of the amount contributed to the IRA.

The IRA amendment I supported was fair, effective, and affordable. The necessary revenues to finance the IRA deduction would have come from an increase in the minimum tax paid by wealthy individuals and corporations. This would increase taxes on these taxpayers, and I recognize that those increases in some cases would have been very substantial. But, the Dodd-D'Amato amendment represented a bipartisan consensus on a responsible way to pay for a limited restoration of the IRA deduction.

In addition, wealthy individuals and corporations are direct beneficiaries of the savings millions of Americans invest in stocks, savings accounts, and other forms of assets invested in IRA's. In other words, the IRA savings reinvested in the economy finance the enterprises and activities of the business of America.

I voted to table the Baucus amendment, as I voted to table the amendment of Senator DIXON because these efforts raise taxes on families and individuals who cannot afford to save for retirement.

I am disappointed that the Senate tabled the one proposal for saving the IRA deduction which had bipartisan support, was fair, and would have been easily adopted by the conference committee.

I will keep on working for continuation of the IRA deduction and urge my colleagues to do the same. I trust we'll succeed in conference and thus in the final bill.

Mr. GRASSLEY addressed the Chair.

Mr. DOLE. If the Senator would withhold for 1 minute, before the Senator lays down his amendment, I wanted to ask the distinguished chairman of the committee, Senator PACKWOOD, what he has in mind for the rest of us on tomorrow, on Friday, and, if he can give an indication, on Monday next.

Mr. PACKWOOD. Mr. President, it is my understanding that we will be starting at about 11 o'clock tomorrow on the bill and that you have special orders at 9:30. I am prepared to go as late tomorrow night as we have gone tonight, or later, if there is a chance of finishing tomorrow night. If not, I would like to go Friday as long as we can. If we can finish on Friday, fine. But I hope, if we have not finished on Friday, that we would have votes on Monday starting relatively early and let people know tonight or tomorrow that we will be here on Monday and have votes.

Mr. DOLE. Would we still honor the 6 o'clock rule on Monday?

Mr. PACKWOOD. No votes after 6?

Mr. DOLE. Yes.

Mr. PACKWOOD. If that is a commitment that you have made, we would honor it, yes.

But, in that case, I would like to start relatively early Monday morning, not at 2 o'clock in the afternoon. I guess we would start at 9:30 or 10 on Monday morning.

Mr. DOLE. I know that will please a number of Members. [Laughter.]

I think it may be that we could complete action prior to then. But I think most of us would like to get on with the bill.

I am happy to yield to the distinguished minority leader.

Mr. BYRD. Mr. President, I thank the distinguished majority leader and the distinguished chairman of the Finance Committee for what has been said with reference to the program for tomorrow, Friday, and Monday.

I hope that, as we get closer to Friday, we can get a clearer reading about Monday, because most Senators have likely already made appointments and engagements based on past practices. I would like that to be considered before tying down fast and hard what has just been said about the convening time on Monday and the time that the Senate will get on the bill on Monday.

AMENDMENT NO. 2070

(Purpose: To deny foreign tax credits attributable to activities conducted in foreign countries which repeatedly provide support for acts of international terrorism.)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. LAUTENBERG, Mr. PROXMIRE, Mr. DENTON, Mr. DOLE, and Mr. HARKIN proposes an amendment numbered 2070.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of subtitle A of title IX of the Committee amendment, insert the following:

SEC. . DENIAL OF FOREIGN TAX CREDIT FOR TAXES PAID TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DENIAL OF FOREIGN TAX CREDIT, ETC. WITH RESPECT TO COUNTRIES WHICH SUPPORT INTERNATIONAL TERRORISM.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) during the taxable year to any country identified under paragraph (2) as repeatedly providing support for acts of international terrorism, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income for such taxable year from sources within any country so identified.

"(2) IDENTIFICATION OF COUNTRIES.—Paragraph (1) shall apply to countries which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979, as amended, has designated as countries that repeatedly support acts of international terrorism. Notwithstanding subparagraph (2)(A), paragraph (1) shall now apply whenever the Secretary of State determines and certifies to Congress that a specific country listed as a terrorist country under 6(j) of the Export Administration Act of 1979, as amended, no longer supports or carries out terrorism activities.

"(3) PART-YEAR RULE.—If an identification under paragraph (2) is in effect for less than an entire taxable year, paragraph (1) shall be applied by taking into account only that portion of the taxes and income which accrues (as determined under regulations) with respect to activities which occur in the portion of the taxable year for which such identification is in effect."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to taxes the liability for which accrues with respect to activities conducted after June 30, 1986, in taxable years ending after such date.

(2) EXCEPTION FOR SALE OR DIVESTITURE OF ASSETS.—The amendment made by subsection (a) shall not apply to any taxes the liability for which accrues with respect to activities—

(A) In connection with the sale or divestiture of assets held by a taxpayer in a foreign country to which the amendments made by this section apply, and

(B) which are authorized by the Secretary of the Treasury or his delegate.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 10:45 p.m., with Senators permitted to speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMARKS OF DR. JAMES FLETCHER ON ROGERS COMMISSION REPORT

Mr. DOLE. Mr. President, on Monday the President's Commission on the *Challenger* space shuttle disaster issued its final report. It was a comprehensive, sobering look at America's Space Program. The report leaves no doubts that we face a long and difficult road back to the heady days of success on the launch pad. But America will be back, make no mistake about it.

Accepting the tremendous challenge of rebuilding the Space Program is Dr. James C. Fletcher, the new Administrator of the National Aeronautics and Space Administration. He deserves our support and best wishes. Yesterday, Dr. Fletcher issued a statement that clearly meets the challenge of the "Rogers Report" and redefines the "lofty goals" of American space exploration. I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF DR. JAMES C. FLETCHER, NASA ADMINISTRATOR

After the Challenger accident, President Reagan told our shocked nation, "The future does not belong to the faint-hearted. It belongs to the brave . . . The Challenger crew is pulling us into the future and we must continue to follow them." In words of special meaning to NASA, he said, "We must pick ourselves up again and press on despite the pain."

We have been pressing on, despite the pain, seeking answers to difficult questions, beginning carefully to make changes where they are needed. We have been at work. Yet like all Americans, we have awaited the Rogers Commission Report, hoping to learn from it as well.

The report of a Presidentially-appointed, independent body carries with it special status and the compelling obligation to study its conclusions with great care.

We are prepared to do that with an open mind and without reservations.

For over a quarter of a century, certainly since John F. Kennedy pledged in 1961 that we would be on the moon by the end of that decade, the American people have had a special relationship with our space program. They have cheered with us and wept tears of both excitement and sadness. They have seen near perfection. They have seen absolute tragedy.

Certainly, many people were skeptical of that promise to go to the moon. But our space pioneers—who gave their hearts and souls . . . as they continue to do . . . to the program—made that promise come true.

Who will forget the moment when we landed men on the moon? People in this country and around the world wept with joy as we accomplished the seemingly impossible. America never stood taller. Heads of state and common folks cheered.

Who will forget the space walks and the experiments and the photographs of a universe we understand better for the genius and accomplishments of NASA and its associates.

Recently and unfortunately, those positive images were blurred by a horrible accident. Confidence which arose from an unprecedented string of successes was crushed with the Challenger tragedy. Early tears of joy were replaced with bitter tears as people wept with sadness and some anger when we suffered the loss of seven brave astronauts.

Today, the Rogers Commission has issued its report on the event which has already received widespread and deserved coverage in the media and deep and serious consideration within this agency. Its conclusions, no matter how tough, how pointed, how questioning they may be, are not unexpected and certainly not entirely undeserved.

We—and I mean all of us at NASA—will be studying the Commission's judgments and recommendations carefully and thoroughly during the days ahead. We will be offering to the President and to all Americans our specific responses in an orderly and timely way.

The report deserves that kind of thoughtful treatment. To give it less is to insult a distinguished group of citizens who are serious and concerned about what went wrong . . . who have spent several months dealing with difficult questions. It was a task which they undertook as public servants whose sole purpose, I believe, was to seek the truth and to help our national space program.

They are determined, as is NASA, to ensure that this program will become as good as it ever was and as good as it ever can be. Their report, I am also sure, was not and is not intended to sound the death knell of this agency, of the space explorations that distinctively mark the ingenuity of this century and the next.

We at NASA welcome the report. It was obviously time for a serious, thoughtful, constructive review of the agency. We have been the object of America's respect for a long time. We cannot take this respect for granted in today's environment. Like an old marriage, this relationship between the American people and their space program requires honesty and periodic review. That can only lead to a better understanding and a refreshing of that loyalty.

Every administration from President Eisenhower through President Reagan has been generous and supportive. The Congress has been interested and involved. We have responded, giving this country much to be proud of, which to stir the simple and intense pride of being an American, as we worked openly through good times and bad.

I have accepted the President's call to make this agency as vibrant and careful as it can be, to help it earn the respect it deserves and the excellence that has been its hallmark.

We will achieve those goals in a more restrictive atmosphere than we have been accustomed to. Like other departments and agencies of government, we work under the severe budget limitations and restrictions of our time. And that is proper. Unlike other agencies, our failures are immediately visi-

ble, our failures endanger lives and property, our latitude for error extremely narrow. But we cannot and will not sacrifice safety concerns to budget limitations.

We are going to behave like a family which has suffered a tragic event. We are going to deal responsibly with our loss, without needless recrimination, and we are going to move forward, facing and conquering the challenges that face us.

Where management is weak, we will strengthen it. Where engineering or design or process need improving, we will improve them. Where our internal communications are poor, we will see that they get better.

This is an agency whose excellence and commitment to new frontiers drew to it seven exceptional Americans. Our response must be to overcome our errors, not to quit, to stop, or to cave in. To stumble now in hestitation is to mock their commitment to reaching for distant horizons, and their willingness to take a chance in seeking knowledge and understanding.

Let me conclude by repeating my thanks to the Rogers Commission, for undertaking a tough job and working commendably through long weeks toward their conclusions. Their work, I give you my sacred pledge, will not have been in vain. And I think I speak for all NASA employees when I say that. We are in a very special way, an agency with a mission determined, now to regain our honor in its fullness. This is a day of tensions for us, but it is also a day of resolve, a time of beginning, and a time of rededication.

Thank you.

DECONTROL OF "OLD" NATURAL GAS

Mr. EXON. Mr. President, last Friday I offered an amendment to the supplemental appropriations measure. That amendment would have sent a loud and clear message to the Federal Energy Regulatory Commission regarding the decontrol of "old" natural gas. The amendment lost by one vote.

As you may recall, the Commission had given "preliminary" approval to a plan which, despite congressional direction to the contrary, will allow the price of "old" gas to rise significantly. This will dearly cost many consumers and reward the big oil companies.

During consideration of the amendment, several Members expressed concern that we were acting prematurely because the Commission had not yet given final approval to their decontrol plan.

Yesterday, not more than 72 hours after consideration of the amendment, the Commission gave final approval to their plan. While I am sure the Commission made some "token" changes, the substance of that plan remains the same.

The Commission has effectively decontrolled "old" natural gas. The Commission has circumvented Congress. The Commission has assumed authority which Congress has not given it.

Approval of the preliminary plan was bold defiance of the laws this body has put in place. Approval of the final plan, especially in light of the discussion which took place on this floor not more than 72 hours prior, reflects blatant indifference to the United States Senate.

Mr. President, I am sure that Congress will have the opportunity to address this issue again in the coming months. When that happens, I urge my colleagues to recall this incident and respond accordingly.

I ask unanimous consent that the Washington Post item of June 10, 1984, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FERC ADOPTS NEW NATURAL GAS REGULATION, ENDING PRICE CONTROLS

The Federal Energy Regulatory Commission yesterday formally adopted a regulation raising the ceiling prices of all price-controlled natural gas well above the current spot market-effectively ending price controls.

The commission's rule, approved in principle on May 29, sets the "just and reasonable" wellhead price for all pre-1978 gas at $2.57 per thousand cubic feet, the current legal maximum for gas first produced from 1974 through 1978.

The May 29 vote was 4 to 0 in a public meeting. Yesterday's approval of the final text of the regulation also was 4 to 0.

The price of gas produced before 1978—about 40 percent of the nation's supply—ranges down to 31 cents. According to Energy Department estimates, the average well-head price is about $2.34, counting both controlled and free-market gas.

Spot prices, though, have followed oil prices in a tailspin for months. Latest trade publication reports say some spot gas in Oklahoma has gone for 95 cents.

The FERC rule requires formal negotiations by well owners with their pipeline customers before the well owners can switch any affected gas to other customers.

If no agreement is reached, the pipeline's own customers who have noninterruptible "firm" contracts must be offered the gas before anyone else.

Jerome McGrath, president of the Interstate National Gas Association of America, a pipeline group, told a press luncheon yesterday that the commission and Energy Secretary John Herrington were counting on the rule to force down high prices and raise low prices.

"To a degree that will be the case," he said.

Asked how long the rule could be tied up in the courts, he replied, "Years."

The Energy Information Administration has predicted average gas prices will be 24 percent lower in 1990 under the rule than they would be otherwise.

The rule does not become effective until 30 days after publication in the Federal Register, expected soon. No formal negotiations between well owners and pipelines may take place before Nov. 1, and those talks must be completed one way or another within 60 days.

The Nov. 1 kickoff date is aimed at giving producers and pipelines plenty of time to make new deals any way they please before the commission's negotiating procedures must be followed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:46 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

Mr. ASPIN, Mr. PRICE, Mr. BENNETT, Mr. MONTGOMERY, Mr. DICKINSON, Mrs. HOLT, and Mr. HILLIS.

Appointed as additional conferees: For the consideration of titles I–III of the House bill, and sections 1–12 of the Senate amendment: Mrs. SCHROEDER, Mr. SKELTON, Mr. SISISKY, Mr. ROBINSON, Mr. BUSTAMANTE, Mr. HUNTER, Mr. BATEMAN, and Mr. SWEENEY.

For the consideration of title IV of the House bill, and sections 13–15 of the Senate amendment: Mr. STRATTON, Mr. NICHOLS, Mr. DANIEL, Mr. DELLUMS, Mr. MAVROULES, Mr. WHITEHURST, Mr. SPENCE, Mr. BADHAM, and Mr. STUMP.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1106. An act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the United States Claims Court.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 4345. An act to authorize the Administrator of Veterans' Affairs to establish a national cemetery in or near Cleveland, Ohio; and

H.R. 4847. An act to require that United States companies cease their participation

in the production, marketing, or distribution of Libyan oil.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4345. An act to authorize the Administrator of Veterans' Affairs to establish a national cemetery in or near Cleveland, Ohio; to the Committee on Veterans' Affairs.

H.R. 4847. An act to require that United States companies cease their participation in the production, marketing, or distribution of Libyan oil; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3321. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the June 1, 1986, cumulative report on rescissions and deferrals; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-3322. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, a secret list of contract award dates for July 1 to August 31, 1986; to the Committee on Armed Services.

EC-3323. A communication from the Comptroller General of the United States transmitting, pursuant to law, the financial audit on the Federal Home Loan Banks' Financial Statements for 1984; to the Committee on Banking, Housing, and Urban Affairs.

EC-3324. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, transmitting, pursuant to law, a report on 18 refunds of excess oil and gas lease royalty payments to certain corporations; to the Committee on Energy and Natural Resources.

EC-3325. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, transmitting, pursuant to law, a report on five refunds of excess oil and gas lease royalty payments to certain corporations; to the Committee on Energy and Natural Resources.

EC-3326. A communication from the President of the United States transmitting, pursuant to law, a confidential report relative to the Contadora process in Nicaragua; to the Committee on Foreign Relations.

EC-3327. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for direct grant programs and intergovernmental review of Department of Education programs and activities; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance, with an amendment and an amendment to the title:

S. 1822. A bill to amend the Copyright Act in section 601 of title 17, United States Code, to provide for the manufacturing and public distribution of certain copyrighted material (Rept. No. 99-322).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

Dorcas R. Hardy, of California, to be Commissioner of Social Security.

(The above nomination was reported from the Committee on Finance with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. RIEGLE, Mr. BYRD, Mr. BRADLEY, Mr. MITCHELL, Mrs. KASSEBAUM, Mr. SIMON, Mr. BENTSEN, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. BUMPERS, Mr. CHILES, Mr. KERRY, Mr. PRYOR, and Mr. GORE):

S. 2542. A bill to amend the Social Security Act to provide for proper treatment of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in future cases in which the public debt limit has been reached, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. HEINZ, Mr. SPECTER, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. MOYNIHAN):

S. 2543. A bill to amend and extend programs under the Urban Mass Transportation Act of 1964; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON:

S. 2544. A bill to amend the Wild and Scenic Rivers Act; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 2545. A bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. CHAFEE:

S. 2546. A bill concerning commercial fishing vessel liability; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself, Mr. GOLDWATER and Mr. BOREN):

S.J. Res. 359. A joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON:

S. Con. Res. 147. A concurrent resolution to express the sense of the Congress that the monkeys known as the Silver Spring Monkeys should be transferred from the National Institutes of Health to the custody of Primarily Primates, Inc., animal sanctuary in San Antonio, Texas; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN (for himself, Mr. BENTSEN, Mr. KENNEDY, Mr. BYRD, Mr. MITCHELL, Mr. BRADLEY, Mr. CHILES, Mr. LAUTENBERG, Mr. GORE, Mr. SIMON, Mr. RIEGLE, Mrs. KASSEBAUM, Mr. ROCKEFELLER, Mr. BUMPERS, Mr. KERRY, and Mr. PRYOR):

S. 2542. A bill to amend the Social Security Act to provide for proper treatment of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in future cases in which the public debt limit has been reached, and for other purposes; to the Committee on Finance.

(The remarks of Mr. MOYNIHAN and the text of the legislation appear earlier in today's RECORD.)

By Mr. D'AMATO (for himself, Mr. HEINZ, Mr. SPECTER, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. MOYNIHAN):

S. 2543. A bill to amend and extend programs under the Urban Mass Transportation Act of 1964; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. HEINZ and Mr. D'AMATO and the text of the legislation appear earlier in today's RECORD.)

By Mr. CRANSTON:

S. 2544. A bill to amend the Wild and Scenic Rivers Act; to the Committee on Energy and Natural Resources.

WILD AND SCENIC RIVERS ACT AMENDMENT

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to add the North Fork and the South Fork of the Kern River in California to the National Wild and Scenic Rivers System. The legislation is identical to sections 104 and 105 of H.R. 4350, amending the Wild and Scenic Rivers Act, which passed the House on April 8.

The North Fork of the Kern designated under this bill includes 78.5 miles from its headwaters in Sequoia National Park to the Tulare/Kern Country line. This river segment has been studied by the Forest Service for inclusion in the Wild and Scenic Rivers System and in its January 19, 1982, report the Forest Service identifies this entire stretch as possessing "outstandingly remarkable aesthetic and other resource values" and recommends designation.

The 72.5 miles of the south fork from its headwaters to the southern boundary of the Domelands Wilderness have long been recognized as qualifying for the Wild and Scenic Rivers System. Although there's been no formal wild and scenic study, the National Rivers Inventory of January 1982 identified the South Fork Kern River as a potential candidate for the Wild and Scenic Rivers System. Further, the draft forest plan for the Sequoia National Forest issued last November identifies the entire segment as eligible for designation.

The existing Southern California Edison diversion facility on the north fork would not be affected by the designation. Also, the boundaries for the south fork have been drawn to conform with the Domelands Wilderness boundary to allow consideration of FERC project No. 4805 and the competing application FERC project No. 6441.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"(59) NORTH FORK KERN RIVER, CALIFORNIA.—The segment of the main stem from the Tulare-Kern County line to its headwaters in Sequoia National Park, as generally depicted on a map entitled "Proposed North Fork Kern River", numbered fs-59 and dated March, 1986; to be administered by the Secretary of Agriculture; except that those portions of the river within the boundaries of the Sequoia National Park shall be administered by the Secretary of the Interior. With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revision to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests therein and for development."

"(60) SOUTH FORK KERN RIVER, CALIFORNIA.—The segment from its headwaters in the Inyo National Forest to the southern boundary of the Domelands Wilderness in Sequoia National Forest, as generally depicted on the Proposed Boundary Map. numbered fs-60, and dated March, 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.".

By Mr. CRANSTON:

S. 2545. A bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes; to the Select Committee on Indian Affairs.

STOPPING NAVAJO AND HOPI RELOCATION

Mr. CRANSTON. Mr. President, today I am introducing legislation which would halt for 18 months the Federal Government's efforts to relocate Hopi and Navajo Indians from their ancestral homes at Big Mountain, AZ. This issue involves grave national questions of religious freedom and Indian policy.

In 1974, supposedly in an effort to resolve a land dispute between these two tribes, we enacted a law, Public Law 93-531. Since then, as our understanding of the complexities of this issue has increased, we have made several revisions to the law.

Now, after 12 years, we can see clearly that the approach of Public Law 93-531 will not work, and that it has inflicted, and will continue to inflict, unbelievable hardship and suffering on those for whose benefit it was supposedly enacted.

My legislation will give the Congress the opportunity to rethink this situation in the only way that is practical and to correct it, as conscience and fairness require.

Public Law 93-531 changes the status of a Navajo and Hopi joint use area [JUA] in the Four Corners area of Arizona. Within the JUA is Big Mountain, for untold hundreds of years a sacred shrine to both tribes. Public Law 93-531 partitioned the JUA between the two reservations, and Big Mountain suddenly became not a natural religious area, but a mining site.

Those Native American people who find themselves on the wrong side of the barbed wire covered partition are subject to forcible relocation to off-reservation sites, frequently in newly prepared ghettoes in border towns such as Winslow, or Tuba City, AZ or Gallup, NM.

Those forced off their ancestral lands belong to one of this Nation's few surviving self-sufficient Native American communities.

From the remote and isolated locations in which they have enured, in balance with the natural environment, Hopi and Navajo people are faced with involuntary transplantation to urbanized environments for which they have no adequate preparation. Tragically, many of the relocatees are aged and without any understanding or appreciation of our money economy. To pay for water, for heat, or for food is beyond their realm of experience.

As I have worked to understand not only the geophysical situation at Big Mountain, but the people—traditional families and communities—affected by the relocation, I have reached an unpleasant and difficult conclusion. Under the previous acts of Congress in this case, a huge injustice is being perpetrated.

People are literally being dragged out of their homes. Some relocatees make clear they would sooner die than leave. And the cruel fact is that among those relocated, the rates of death, disease, alcoholism, acute depression, suicide, and poverty is extraordinarily high, even when compared only with the tragically high rates of our Native American population generally.

Those who, to relieve their suffering, abandon their substitute, Government-provided housing to return to their ancestral homeland ultimately face the trauma of forced removal again and again.

American history is replete with the bitter tragedies that have resulted from example after example of forced removal of our Native American population. Here, as so often before, we have determined to tear people from their roots, as though they were trees or inanimate objects, and move them to a hostile place of confinement, as though they were criminals.

In April of last year, the investigatory staff of the House Appropriations Subcommittee on Interior and Related Agencies completed an investigation of the Relocation Commission, which administers the Navajo-Hopi relocation.

The investigation determined that most Navajos need counseling to prepare them to adjust to life in a new location.

The Relocation Commission claims to furnish premove counseling, designed to assist the relocatee in deciding whether to relocate either on- or off-reservation, and postmove counseling, including followup contacts.

But, according to the investigators, the Commission has never implemented its counseling program as planned. The premove counseling does not adequately prepare the relocatee for the move, and very little, if any, postmove counseling is ever provided.

In short, the relocation has become a grave human tragedy which could cost taxpayers nearly half a billion dollars.

When the Relocation Act passed in 1974, its cost was estimated at $42 million. By 1984, $64 million had already been spent, and the Relocation Commission estimated that another $274 million would be needed by 1993, still 6 years away. By 1990, Congress may need to provide more, if the relocation plan is pursued.

I have heard frequently from representatives of those who will be relocated under Public Law 93-531, and I

have heard from many Americans of conscience who are shocked that our Government would once again try forcibly to relocate Native Americans, without adequate regard for their needs, circumstances, or attitudes.

Mr. President, my bill provides the time and the means to change course.

In addition to stopping the relocation in place for 18 months, it provides for the creation of an Advisory Commission, including the Secretary of the Interior, bipartisan representation from both Houses of the Congress, appointed by the President, and representatives of both the tribal government and the traditional leadership of both tribes.

The Commission will look carefully into this situation and report back to the Congress within 1 year with its recommendations for viable alternatives to the relocation required by Public Law 93-351.

It is urgent that this legislation be enacted promptly, before more tragedy occurs at Big Mountain.

I urge my colleagues to join with me in this effort to restore justice to Big Mountain.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, no Navajo Indian or Hopi Indian shall be required to relocate pursuant to the provisions of Public Law 93-531, or pursuant to any judgment or order of any Federal court, during the 18-month period beginning on the date of enactment of this Act.

(b)(1) Nothing in this Act shall alter, affect, or delay any payment which is required to be made under the provisions of Public Law 93-531.

(2) The Navajo and Hopi Indian Relocation Commission and the Secretary of the Interior shall take such actions as may be necessary to ensure that no Indian is subjected to any undue hardship by reason of the provisions of subsection (a).

SEC. 2. (a) By no later than the date that is 30 days after the date of enactment of this Act, the President shall establish an advisory commission to study the remaining problems involved in completing the relocations required under Public Law 93-531.

(b)(1) The membership of the advisory commission which required to be established under subsection (a) shall consist of—

(A) the Secretary of the Interior,

(B) 4 members of the Congress, one from each party in each house, appointed by the President, and

(C) 4 Hopi Indians, two of whom are traditional leaders of the Hopi Tribe, and two of whom are members of the Hopi Tribal Council, and

(D) 4 Navajo Indians, who of whom representatives of elders facing relocation and two of whom are members of the Navajo Tribal Council, designated by the Tribal Council.

(2) All appointments to the advisory commission which is required to be established under subsection (a) shall be made by no later than the date that is 30 days after the date of enactment of this Act.

(c) By no later than the date that is 1 year after the date of enactment of this Act, the Advisory commission established pursuant to subsection (a) shall submit to the President and the Congress a report on the study conducted by such Commission. Such report shall include—

(1) recommendations for solutions to the remaining problems involved in completing the requirements of Public Law 93-531, and

(2) viable alternatives to the relocations required under Public Law 93-531 that would resolve the disputes between the Hopi Tribe and the Navajo Tribe.

SEC. 3. Funds necessary to carry out the provisions of this Act shall be paid out of amounts appropriated to the Navajo and Hopi Indian Relocation Commission.

By Mr. CHAFEE:

S. 2546. A bill concerning commercial fishing vessel liability; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL FISHING VESSEL LIABILITY AND SAFETY

● Mr. CHAFEE. Mr. President, the dual problems of escalating insurance rates in the commercial fishing industry and safety aboard fishing vessels are of great concern to thousands of Americans who earn their living in the fishing industry. Today I am introducing legislation to address these problems.

Commercial fishing is one of the most dangerous occupations in the United States. According to U.S. Coast Guard figures, an average of 250 fishing boats sink each year. The death rate for fishermen is seven times the national average for all industry groups and twice that of mining, the next most hazardous occupation. It should come as no surprise that our commercial fishing industry has been caught up in the general liability crisis. The cost of protection and indemnity insurance for the fishing industry has soared in recent years, and often it is not available at any price. As insurance becomes more unaffordable fishing vessel owners are either going without insurance or are going out of business.

The Jones Act permits fishing vessel crewmen and seamen to sue vessel owners for negligence and unseaworthiness when an accident occurs aboard ship. The number and size of jury awards has escalated in recent years. Court settlements have been as high as several hundred thousand dollars or more for correctable occupational injuries. Damage awards for the same injury often vary by a factor of 10. Insurance companies are no longer able to predict adequately the risks or the dollar awards in the fishing industry. Some insurance companies have claimed that they pay out more than $1.50 to the fishing industry for every dollar they receive in revenues. As a result, insurance companies have either refused to continue to cover fishing vessels or dramatically increased their premiums.

The causes of the marine insurance crisis are complex and can not be solely attributed to exorbitant jury awards. Lax safety standards, inadequate care of injured or disabled seamen, poor vessel design, and fishery management regulations have all aggravated the problem. The bill I am introducing today is a first step toward a comprehensive solution to these problems. It seeks to contain or even roll back soaring insurance premiums by limiting the liability of vessel owners, assuring injured seamen of fair and adequate treatment, and requiring enhanced safety on fishing boats.

Under the bill, a seaman who suffered a temporary illness, disability, or injury could not sue his employer for damages under the Jones Act or under general maritime law, if the employer provided "cure and maintenance" during the period of the illness at a daily rate equal to the greater of 80 percent of wages or $11,000 a year. This is a higher rate of compensation than is generally offered today. A temporary illness, disability, or injury would be defined as one which, after cure, the seaman can return to his previous or equivalent employment; does not require further medical care; and has not lost a limb, appendage, sight, hearing, or incurred permanent disfigurement.

For nontemporary illnesses, injuries or disabilities, or in the case of death, the vessel owner would be liable, excluding hospital and medical expenses, for a maximum of $500,000 for each incident, except in the case of gross negligence or willful misconduct. Then there would be no limit on liability. Under any circumstances, a seaman would have only 2 years from the date of injury to bring suit against a vessel owner.

These changes will introduce greater predictability into award settlements and bring down insurance rates. At the same time, they protect the interests of the injured seaman by assuring them of fair compensation and treatment.

The bill also provides for enhanced safety. It requires the Secretary of Transportation to develop regulations for the installation, maintenance, and proper use of emergency position indicating beacons, life rafts, survival suits in northern waters, radio equipment, and visual distress signals. This safety equipment will save lives and could lead to lower insurance premiums. In addition, after consultation with an advisory committee created by this legislation, the Secretary could prescribe other equipment or regulations

to minimize injury during fishing operations.

The bill establishes a Fishing Vessel Safety Advisory Committee, composed primarily of representatives of the fishing industry, to advise the Secretary of Transportation. The Secretary would consult the committee before proposing new legislation or regulations regarding safety. This advisory committee is similar to the one envisioned in legislation which I introduced last year and which passed both Houses. It is my expectation that one of the first items of business for the committee would be the problem of vessel stability in the fishing industry.

Finally, as suggested by the National Oceanic and Atmospheric Administration, the bill requires that safety be taken into account before adoption of fishery management plans.

The provisions of this bill are the result of an excellent study by Prof. Dennis Nixon of the University of Rhode Island, which helped define the nature and extent of the liability problems faced by fishermen, of very productive hearings held by the House Merchant Marine and Fisheries Committee, and of months of discussions within the industry. In addition, many who have been injured in fishing accidents, or who have lost dear ones at sea, brought to our attention the need for improved safety.

All share a clear recognition that if the fishing industry is to continue to grow and prosper, we must find a way to help alleviate the marine insurance crisis and enhance safety. A companion measure is being introduced today in the House of Representatives by Representative GERRY STUDDS of Massachusetts.

The commercial fishing industry faces a number of challenges today, such as declining stocks and increased foreign competition. The additional problem of escalating insurance rates poses a serious threat to the industry's future. This legislation represents a positive step toward making fishing both a safer and more prosperous occupation.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Commercial Fishing Vessel Liability and Safety Act of 1986".

TITLE I—LIABILITY FOR PERSONAL INJURY ON FISHING, FISH TENDER, AND FISH PROCESSING VESSELS

SEC. 101. LIMITATION ON LIABILITY.

The Act of March 4, 1915 (38 Stat. 1164, chapter 153) is amended by adding at the end thereof the following new sections:

"SEC. 21. (a) In this section—

"(1) fishing, fish tender, and fish processing vessel has the same meaning given those terms in section 2101 ot title 46, United States Code; and

"(2) 'temporary illness, disability, or injury' means one which, often cure, the seaman—

"(A) can return to the seaman's previous (or equivalent) employment;

"(B) does not require further medical care; and

"(C) has not incurred a loss of sight, hearing, or an appendage, or suffered permanent disfigurement.

"(b) No civil action may be brought under section 20 of this Act or under General Maritime law against the employer of a seaman or a vessel owner for loss suffered as the result of a temporary illness, injury, or disability suffered by a seaman during the course of the seaman's employment to a fishing, fish tender, or fish processing vessel if the employer or vessel owner provides—

"(1) cure for the ill, injured, or disabled seaman; and

"(2) maintenance during the period of illness, disability, or injury at a daily rate in an amount equal to the greater of—

"(A) 80 percent of—

"(i) the wage of the seaman on the day the injury occurred (as if the seaman had completed the day's work); or

"(ii) if on a share basis, the share amount of the seaman for that voyage divided by the number of voyage days; or

"(B) $11,000 a year.

"(c) on January 1 of each year, the Secretary of Transportation shall review the dollar figure in subsection (b) of this section. The Secretary may by regulation prescribe necessary adjustments in the figure based on any prior calendar year or years. However, the Secretary may not adjust the dollar figure by more than the percentage change in the cost of living, as determined by the Consumer Price Index prepared by the Secretary of Labor, for the prior period.

"(d) For purposes of this section, a seaman must bring a civil action against the owner of the vessel or seaman's employer within 2 years from the date the cause of action accrued.

"Sec. 22. Except for hospital and medical expenses, the owner of a fishing, fish tender, or fish processing vessel and the employer of a seaman on those vessels, may limit liability under section 20 of this Act, the Death on the High Seas Act (46 App. U.S.C. 761 et seq.) and the General Maritime law for each seaman's illness, disability, injury, or death arising out of an incident to $500,000 for each incident unless it is proven that the loss arose out of the gross negligence or willful misconduct of the owner or employer.".

TITLE II—COMMERCIAL FISHING VESSEL SAFETY

SEC. 201. FISHING VESSEL SAFETY REQUIREMENTS

Chapter 45 of title 46, United States Code, is amended to read as follows:

"CHAPTER 45—COMMERCIAL FISHING VESSELS

"Sec.
"4501. Application.
"4502. Safety standards.
"4503. Equivalency.
"4504. Prohibited acts.
"4505. Termination of unsafe operations.
"4506. Exemptions.
"4507. Penalties and injunctions.
"4508. Commercial Fishing Industry Vessel Advisory Committee.

"§ 4501. Application

"(a) This chapter applies to a fishing, fish processing, and fish tender vessel.

"(b) This chapter does not apply to the carriage of bulk dangerous cargoes regulated under chapter 37 of this title.

"§ 4502. Safety standards

"(a) A fishing, fish processing, and fish tender vessel shall—

"(1) if using a burning liquid fuel, be provided with the number, type, and size of fire extinguishers, capable of promptly and effectively extinguishing burning liquid fuels, that may be prescribed by regulation (the fire extinguishers shall be kept in a condition for immediate and effective use and so placed as to be readily accessible);

"(2) carry at least one readily accessible life preserver or other lifesaving device, of the type prescribed by regulation, for each individual on board;

"(3) have the carburetors of each engine on board the vessel (except an outboard engine) using gasoline as a fuel, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by regulation;

"(4) if using a volatile liquid as fuel, be provided with the means prescribed by regulation for properly and efficiently ventilating enclosed spaces, including engine and fuel tank compartments, so as to remove any explosive or flammable gases; and

"(5) be provided with a number and type of visual distress signals prescribed by regulation.

"(b) In addition to the requirements of subsection (a), for a documented fishing, fish processing, and fish tender operating on the high seas, the Secretary shall prescribe regulations for the installation, maintenance, and proper use of—

"(1) at least one readily accessible emergency position indicating beacon, or similar electronic position indicating device, of the type prescribed by regulation;

"(2) lifeboats or liferafts, of the type prescribed by regulation, sufficient to accommodate all individuals on board;

"(3) at least one readily accessible exposure suit required under section 3102 of this title of the type prescribed by regulation, for each individual on board;

"(4) radio equipment of the type prescribed by regulation, sufficient to effectively communicate with land-based search and rescue facilities; and

"(5) other equipment or materials required to minimize the risk of injury to crew during vessel operations if the Secretary after consultation with the Advisory Committee established in section 4508 determines that a substantial safety problem exists which can be eliminated or mitigated by such equipment or materials.

"(c) In addition to the other requirements of this section, for an uninspected fish processing vessel entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in

the preparation of fish or fish products, the Secretary shall prescribe regulations for—

"(1) navigation equipment, including radars, fathometers compasses, radar reflectors, lights, sound-producing devices, nautical charts, and anchors;

"(2) life saving equipment, including life preservers, exposure suits, lifeboats or life rafts, emergency position indicating radio beacons, signaling devices, bilge pumps, bilge alarms, life- and grab-rails, and medicine chests.

"(3) fire protection and firefighting equipment, including fire alarms, portable and semiportable fire extinguishing equipment, and flame arrestors;

"(4) the use and installation of insulation material;

"(5) storage methods for flammable or combustible materials; and

"(6) fuel, ventilation, and electrical systems.

"(d) The Secretary shall prescribe such regulations as are necessary to carry out this chapter.

"§ 4503. Equivalency

"An uninspected fish processing vessel entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products is deemed to comply with the requirements of this chapter if it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party and shall not be required by the Secretary to alter or replace the equipment or structural requirements required under this chapter.

"§ 4504. Prohibited acts

"A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

"§ 4505. Termination of unsafe operations

"If an official charged with the enforcement of this chapter observes a vessel being operated in an unsafe condition (as defined in regulations prescribed under this chapter) and, in the judgment of that official, the operation creates a hazardous condition, the official may direct the operator of the vessel to take immediate and reasonable steps necessary for the safety of individuals on board the vessel, including directing the operator to return to a mooring and to remain there until the situation creating the hazard is corrected or ended.

"§ 4506. Exemptions

"The Secretary may exempt a vessel from the requirements of any provision of this chapter when, under regulations (including regulations on special operating conditions) prescribed by the Secretary, if the Secretary finds that—

"(1) good cause exists for granting an exemption; and

"(2) safety will not be adversely affected.

"§ 4507. Penalities and injunctions

"(a) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $1,000 for a first infraction or not more than $5,000 for a subsequent infraction. If the violation involves the operation of a vessel, the vessel also is liable in rem for penalty.

"(b) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than $5,000 imprisoned for not more than one year, or both.

"(c) The Attorney General of the United States may seek to enjoin any person that is alleged to be in violation of this chapter or a regulation prescribed under this chapter.

"§ 4508. Commercial Fishing Industry Vessel Advisory Committee

"(a) The Secretary shall establish a Commercial Fishing Industry Vessel Advisory Committee. The Committee—

"(1) may advise, consult with, and make recommendations to the Secretary on matters relating to fishing, fish processing, and fish tender vessels, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

"(2) may review proposed regulations under this chapter;

"(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

"(4) shall meet at the call of the Secretary, but not less than once during each calendar year.

"(b)(1) The Committee shall consist of 17 members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

"(A) ten members from the commercial fishing industry who—

"(i) reflect a regional and representational balance; and

"(ii) have experience in the operation of these vessels or as a crew member or processing line worker on a fish processing vessel;

"(B) two members from each of the following:

"(i) underwriters engaged in insuring fishing, fish processing, or fish tender vessels; and

"(ii) the general public, including, whenever possible, a member of a national organization composed of fishing, fish processing, or fish tender vessel and marine insurance interests; and

"(C) one member from each of the following:

"(i) naval architects or marine surveyors;

"(ii) manufacturers of fishing, fish processing, or fish tender vessel equipment; and

"(iii) education or training professionals related to fishing, fish processing, or fish tender vessel safety or personnel qualifications.

"(2) At least once a year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of the Committee. A member may be appointed to any number of terms.

"(3) The term of a member is three years except that—

"(A) initially one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

"(B) initial terms may be adjusted to coincide with the Government's fiscal year; and

"(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

"(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

"(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to fishing, fish processing, or fish tender vessels under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C. 10(c)).

"(c)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee before taking the following action affecting fishing, fish processing, or fish tender vessels—

"(A) proposing legislation;

"(B) proposing or publishing a regulation;

"(C) authorizing or conducting research or a study; or

"(D) taking any other major action of the United States Government.

"(2) The Secretary, and Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding fishing, fish processing, or fish tender vessels.

"(d)(1) Except for an officer, enlisted member, or employee of the United States, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–18 of the General Schedule under section 5332 of title 5, including traveltime; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) Payments under this section do not render a member of the Committee an officer, enlisted member, or employee of the United States for any purpose.

"(3) A member of the Committee who is an officer, enlisted member, or employee of the United States may not receive additional pay on account of the member's service on the Committee.

"(e)(1) The Committee shall terminate on September 30, 1991.

"(2) Two years prior to the termination provided in paragraph (1), the Committee shall submit to Congress its recommendation whether the Committee should be renewed and continued beyond the termination date.".

SEC. 202. AMENDMENT TO SECTION 2101(1) OF TITLE 46.

Section 2101(1) of title 46, United States Code, is amended—

(1) by striking out "recreational vessel" in each place that it appears and inserting in lieu thereof "recreational vessel or a fishing, fish tender, or fish processing vessel"; and

(2) by inserting "on a recreational vessel" after "radio equipment".

SEC. 203. ACCIDENT DATA STATISTICS.

(a) Chapter 61 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 6104. Vessel casualty statistics

"(a) The Secretary shall compile statistics concerning marine casualties from data compiled from insurers of fishing, fish processing, fish tender vessels.

"(b) A person underwriting primary insurance for fishing, fish processing, or fish tender vessels shall submit periodically to the Secretary data concerning marine casualties that is required by regulations prescribed by the Secretary. Information reported to the Secretary under this subsection related to a trade secret or other matter referred to in section 1905 of title 18, or authorized to be exempt from public disclosure by section 552(b) of title 5, is confidential under section 1905 of title 18. However, the Secretary may release the totals of the statistics that are compiled.

"(c) After consulting with the insurance industry, the Secretary shall prescribe regulations under this section to gather a statistical base for analyzing vessel risks.".

(b) The section analysis for chapter 61 of title 46, United States Code, is amended by adding at the end the following:

"6104. Vessel casualty statistics.".

TITLE III—FISHERY MANAGEMENT SAFETY

SEC. 301. AMENDMENT TO MAGNUSON FISHING CONSERVATION AND MANAGEMENT ACT.

Section 303(a)(2) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)(2)), is amended to read as follows:

"(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, the likely effect of the selected and any alternative conservation and management measures on safety of persons and vessels engaged in the fishery, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;".●

By Mr. NICKLES (for himself, Mr. GOLDWATER, and Mr. BOREN):

S.J. Res. 359. Joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day"; to the Committee on the Judiciary.

NATIONAL CHINA-BURMA-INDIA VETERANS ASSOCIATION DAY

● Mr. NICKLES. Mr. President, a group of distinguished veterans, those from World War II who served in the Far East In China, Burma, and India, recently celebrated their 40th anniversary.

The ties that this group shared during their assignment between December 7, 1941, and March 2, 1946, have not been severed. On the contrary, they seem to grow stronger through the years. There are somewhere between 8,000 to 9,000 veterans active in the China-Burma-India Veterans Association and another estimated 20,000 to 30,000 veterans are eligible for membership in this organization. Among the famous people who are China-Burma-Indian veterans is the distinguished senior Senator from Arizona, Senator GOLDWATER.

The recent anniversary this group celebrated brought together 92 local and State groups throughout the country to preserve the recollections, comradery, and experiences they shared and to better acquaint all Americans with the situation and problems of the Far East.

This group formed with the belief that those who served in the Far East didn't receive the recognition that those veterans that participated in Europe received. They banded together after the war to draw attention to their efforts, and to share experiences from the war.

Today, I am introducing along with Senators BARRY GOLDWATER and DAVID BOREN legislation to recognize these men and women of World War II. The resolution we are introducing would proclaim March 17, 1987, National China-Burma-India Veterans Association Day. We urge our colleagues to cosponsor this resolution indicating our respect and recognition of this group of World War II veterans.

I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 359

Whereas all veterans are to be recognized, honored, and thanked for making sacrifices in order to make the United States a free and peaceful Nation;

Whereas the China-Burma-India Veterans Association is composed of men and women who most admirably served in the China-Burma-India theatre of operations during World War II, and the members of such Association deserve the right to preserve the recollections, comradeships, and experiences of Americans who have served in the Orient;

Whereas all Americans should become better acquainted with the situations and problems of the Far East; and

Whereas members of the China-Burma-India Veterans Association deserve the right to pay tribute to and preserve the memory of fellow veterans who died in defense of the United States and to maintain a proper standard of dignity and honor among all veterans of World War II: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 17, 1987, is designated as "National China-Burma-India Veterans Association Day" and the President is authorized and requested to issue a proclamation calling upon Americans to observe such day with appropriate activities.●

● Mr. BOREN. Mr. President, I join my colleague from Oklahoma in supporting a day of recognition for the China-Burma-India veterans of World War II.

Burma fell to Japan in 1942 causing the loss of the famous Burma road used to transport military supplies to China from India in their efforts to stop the invasion of the Japanese. Many heroes worked to supply China after the land route was severed. We all remember the U.S. Air Transport Command who flew the 500-mile route known as the "Hump" over the Himalayans from India to Western China. In 1943, the allies sought to reestablish a supply route. American, British, and Chinese troops in Northern Burma hacked through jungles and scaled mountains to build a road to connect the railroad in India with the Chinese end of the old Burma Road. The Japanese, attempting to break up this new link, fought to capture airfields in Northeast India. Time and again Americans and their allies halted these drives. In February 1945, the first supplies were brought into China over the "Stilwell Road." These and many other battle campaigns are the stories of our China-Burma-India veterans.

It has been 40 years since the end of World War II and yet the spirit of brotherhood continues to flourish among these brave men and women. The closeness derived through battle with a common purpose creates a unique feeling of togetherness not duplicated in any other of life's ventures.

The China-Burma-India Veterans Association is composed of more than 8,000 of these veterans. They continue to build on this common bond established during World War II and provide many services as well as work to preserve the history of this era.

I am pleased to participate in the introduction of this resolution to proclaim March 17, 1987, as "National China-Burma-India Veterans Association Day." I urge my fellow colleagues to support the many CBI veterans in their States through an expeditious enactment of this bill.●

ADDITIONAL COSPONSORS

S. 1290

At the request of Mr. MATHIAS, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1290, a bill to prohibit discrimination in insurance on the basis of blindness or degree of blindness.

S. 1450

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1450, a bill to prohibit the Secretary of Health and Human Services from changing reimbursement levels or methodologies for home health services under the Medicare Program prior to October 1, 1986, or during a freeze period.

S. 1543

At the request of Mr. MATHIAS, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1543, a bill to protect patent owners from importation into the United States of goods made overseas by use of a U.S. patented process.

S. 1810

At the request of Mr. SYMMS, the name of the Senator from Iowa [Mr.

GRASSLEY] was added as a cosponsor of S. 1810, a bill to require U.S. representatives to international financial institutions to oppose assistance by such institutions for the production of agricultural commodities in competition with U.S. produced agricultural commodities, and for other purposes.

S. 2101

At the request of Mr. HEINZ, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2101, a bill to recognize the organization known as "Veterans of the Vietnam War, Inc."

S. 2171

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2171, a bill for the relief of Elliott Roosevelt.

S. 2206

At the request of Mr. NICKLES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2206, a bill to amend the Internal Revenue Code of 1954 to repeal the windfall profit tax on crude oil.

S. 2392

At the request of Mr. HUMPHREY, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 2392, a bill to waive the application of certain laws to small purchases made under a test program of simplified small purchase procedures.

S. 2402

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of S. 2402, a bill to amend the Public Health Service Act to assure access to health insurance, and for other purposes.

S. 2407

At the request of Mr. HATCH, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2407, a bill entitled "The Animal Drug Amendments and Patent Term Restoration Act of 1986."

S. 2444

At the request of Mrs. HAWKINS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2444, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, the dependent care State grant program, and for other purposes.

S. 2533

At the request of Mr. DIXON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2533, a bill to amend the Food Stamp Act of 1977 and the Temporary Emergency Food Assistance Act of 1983 to alleviate hunger among the homeless by improving certain nutrition programs, and for other purposes.

S. 2536

At the request of Mr. HATCH, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2536, a bill to provide for block grants to States to pay for the costs of immunosuppressive drugs for organ transplant patients.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the names of the Senator from Florida [Mrs. HAWKINS], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 134, a joint resolution to designate "National Safety in the Workplace Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 311, a joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTIONS 339

At the request of Mr. HATCH, the names of the Senator from Indiana [Mr. LUGAR], the Senator from North Carolina [Mr. HELMS], the Senator from South Dakota [Mr. ABDNOR], and the Senator from North Carolina [Mr. EAST] were added as cosponsors of Senate Joint Resolution 339, a joint resolution to designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week."

SENATE JOINT RESOLUTION 346

At the request of Mr. HEINZ, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Senate Joint Resolution 346, a joint resolution to designate June 21, 1986, as "National Save American Industry and Jobs Day".

SENATE RESOLUTIONS 392

At the request of Mr. DECONCINI, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Senate Resolution 392, a resolution expressing the sense of the Senate that the people of the Republic of Korea should be allowed to petition for a constitutional amendment to allow for the direct election of their president.

SENATE RESOLUTION 406

At the request of Mr. DODD, the name of the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. RIEGLE], the Senator from Michigan [Mr. LEVIN], the Senator from California [Mr. CRANSTON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Mr. DIXON], the Senator from Missouri [Mr. EAGLETON], the Senator from Tennessee [Mr. GORE], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Vermont [Mr. STAFFORD], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. LUGAR], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Maine [Mr. COHEN], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Virginia [Mr. TRIBLE], the Senator from North Dakota [Mr. BURDICK], the Senator from Nebraksa [Mr. ZORINSKY], the Senator from Alaska [Mr. STEVENS], and the Senator from Nebraska [Mr. EXON], were added as cosponsors of Senate Resolution 406, a resolution honoring the 125th anniversary of organized camping in the United States.

AMENDMENT NO. 2062

At the request of Mr. ROTH, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of amendment No. 2062 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

AMENDMENT NO. 2063

At the request of Mr. ROTH, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of amendment No. 2063 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

AMENDMENT NO. 2064

At the request of Mr. ROTH, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of amendment No. 2064 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

AMENDMENT NO. 2065

At the request of Mr. ROTH, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of amendment No. 2065 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

SENATE CONCURRENT RESOLUTION 147—RELATING TO TRANSFER OF CERTAIN RESEARCH MONKEYS

Mr. CRANSTON submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 147

Whereas the Silver Spring Monkeys are a group of 15 former research monkeys that were placed in the temporary custody of the National Institutes of Health after allegations were made that the researcher who had been using them in research funded by a grant from the National Institutes of Health had cruelly mistreated them in his experiments;

Whereas the National Institutes of Health, following their own investigation, found that researcher to be in serious violation of National Institutes of Health guidelines for the care of laboratory animals, and therefore terminated his research project and revoked their grant;

Whereas the National Institutes of Health acknowledged that they do not have any research or other scientific use for which the Silver Spring Monkeys are appropriate;

Whereas since the revocation of their research grant the National Institutes of Health has spent more than $120,000 in federal funds, above and beyond the original grant funds, to maintain and cage the Silver Spring Monkeys; and

Whereas private animal protection and humane organizations have offered to provide for the life-long care of the Silver Spring Monkeys at no cost to federal taxpayers at the Primarily Primates, Incorporated, animal sanctuary in San Antonio, Texas: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Director of the National Institutes of Health should take all steps necessary to accomplish the transfer of the Silver Spring Monkeys to the custody of the Primarily Primates, Incorporated, animal sanctuary in San Antonio, Texas, so that such monkeys may live the rest of their lives at peace and at no cost to Federal taxpayers.

Mr. CRANSTON. Mr. President, I today submit a concurrent resolution expressing the sense of Congress that certain primates being held at the National Institutes of Health be transferred to a nonprofit primate sanctuary in San Antonio, TX, where they will be provided with life care.

The primates—known as the Silver Spring monkeys—were seized in 1981 from the Institute for Behavioral Research in response to cruelty charges. They have been kept at NIH at an annual cost of $30,000. I am aware of NIH's expressed intent to provide humane housing for the monkeys during the time the animals' future is undecided by the courts. I am also aware that NIH is seeking to relinquish custody.

NIH has stated that it has no further research requirements for the monkeys, yet resolution of the custody issue continues to go unresolved in the face of growing public—and congressional—opinion in favor of transferring the Silver Spring monkeys to the Texas facility.

Mr. President, the concurrent resolution I submit today calls upon the Director of NIH to take all steps necessary to accomplish the transfer of the monkeys to the primarily primates animals sanctuary in San Antonio, TX. I urge expeditious passage by the Senate.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

DODD (AND OTHERS) AMENDMENT NO. 2066

Mr. DODD (for himself, Mr. D'AMATO Mr. CRANSTON, Mr. DECONCINI, Mr. EXON, Mr. INOUYE, Mr. RIEGLE, Mr. CHILES, Mrs. HAWKINS, Mr. MURKOWSKI, Mr. WILSON, Mr. PRESSLER, and Mr. WEICKER) proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 2000, beginning with line 23, strike out all through page 2009, line 18, and insert in lieu thereof:

SEC. . LIMITATION ON DEDUCTIONS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Part I of subchapter A of chapter 1 (relating to tax imposed on individuals) is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY OF INDIVIDUAL RETIREMENT CONTRIBUTIONS.

"(a) GENERAL RULE.—The amount of the tax imposed by section 1 (determined without regard to this section) shall be increased by the amount determined under subsection (b).

"(b) AMOUNT OF INCREASE.—The amount determined under this subsection is equal to—

"(1) the excess of—

"(A) the tax liability of the taxpayer for the taxable year computed without regard to the deduction allowable under section 219, over

"(P) such tax liability computed with regard to such deduction, reduced by

"(2) 15 percent of the amount of the deduction allowable under section 219.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRIBUTIONS TO SECTION 501(C)(18) PLANS.—The amount of any deduction allowable under section 219 shall not take into account the portion of such deduction attributable to a qualified retirement contribution described in section 219(e)(2) (relating to contributions to section 501(c)(18) plans).

"(2) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b)."

(b) INCREASE IN RATE OF ALTERNATIVE MINIMUM TAX.—Section 55(b)(1)(A) (defining tentative minimum tax), as amended by section 110(a), is amended by striking out "20 percent" and inserting in lieu thereof "22.6 percent".

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by adding after section 3 the following new section:

"Sec. 4 Increase in tax to reflect limitation on deductibility of individual retirement contributions."

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

D'AMATO (AND OTHERS) AMENDMENT NO. 2067

Mr. D'AMATO (for himself, Mr. DODD, Mrs. HAWKINS, Mr. MURKOWSKI, Mr. WILSON, Mr. PRESSLER, Mr. WEICKER, Mr. CRANSTON, Mr. DECONCINI, Mr. EXON, Mr. INOUYE, Mr. RIEGLE, and Mr. CHILES) proposed an amendment to amendment No. 2066 proposed by Mr. DODD and Mr. D'AMATO to the bill H.R. 3838; as follows:

In lieu of the matter proposed to be inserted, insert the following new matter:

SEC. . LIMITATION ON DEDUCTIONS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Part I of subchapter A of chapter 1 (relating to tax imposed on individuals) is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY OF INDIVIDUAL RETIREMENT CONTRIBUTIONS.

"(a) GENERAL RULE.—The amount of the tax imposed by section 1 (determined without regard to this section shall be increased by the amount determined under subsection (b).

"(b) AMOUNT OF INCREASE.—The amount determined under this subsection is equal to—

"(1) the excess of —

"(A) the tax liability of the taxpayer for the taxable year computed without regard to the deduction allowable under section 219, over

"(B) such tax liability computed with regard to such deduction, reduced by

"(2) 15 percent of the amount of the deduction allowable under section 219.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRIBUTIONS TO SECTION 501(C)(18) PLANS.—The amount of any deduction allowable under section 219 shall not take into account the portion of such deduction attributable to a qualified retirement contribution described in section 219(e)(2) (relating to contributions to section 410(c)(18) plans).

"(2) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b)."

(b) INCREASE IN RATE OF ALTERNATIVE MINIMUM TAX.—Section 55(b)(1)(A) (defining tentative minimum tax), as amended by section 1101(a), is amended by striking out "20 percent" and inserting in lieu thereof "22.6 percent".

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by adding after section 3 the following new section:

"Sec. 4. Increase in tax to reflect limitation on deductibility of individual retirement contributions."

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning on or after January 1, 1987.

BAUCUS AMENDMENT NO. 2068

Mr. BAUCUS proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 2000, beginning with line 23, strike out all through page 2010, line 22, and insert in lieu thereof the following:

SEC. 1201. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit an amount equal to 15 percent of the qualified retirement contributions of the individual for the taxable year.

"(b) MAXIMUM AMOUNT OF QUALIFIED RETIREMENT CONTRIBUTIONS.—

"(1) IN GENERAL.—The maximum amount of qualified retirement contributions which may be taken into account under subsection (a) with respect to any individual for any taxable year shall not exceed the lesser of—

"(A) $2,000, or

"(B) an amount equal to the compensation includible in the individual's gross income for such taxable year.

"(2) SECTION NOT TO APPLY TO EMPLOYER CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—This section shall not apply with respect to an employer contribution to a simplified employee pension.

"(3) SPECIAL RULE FOR INDIVIDUAL RETIREMENT PLANS.—If the individual has paid any qualified voluntary employee contributions for the taxable year, the amount of the qualified retirement contributions which are paid for the taxable year to an individual retirement plan and which are taken into account under subsection (a) for such taxable year shall not exceed—

"(A) the amount determined under paragraph (1) for such taxable year, reduced by

"(B) the amount of the qualified voluntary employee contributions for the taxable year.

"(4) CERTAIN DIVORCED INDIVIDUALS.—

"(A) IN GENERAL.—In the case of an individual to whom this paragraph applies, the limitation of paragraph (1) shall not be less than the lesser of—

"(A) $1,125, or

(ii) the sum of the amount referred to in paragraph (1)(B) and any qualifying alimony received by the individual during the taxable year.

"(B) QUALIFYING ALIMONY.—For purposes of this paragraph, the term 'qualifying alimony' means amounts includible in the individual's gross income under section 71 (relating to alimony and separate maintenance payments) by reason of a payment under a decree of divorce or separate maintenance or a written instrument incident to such a decree.

"(C) INDIVIDUALS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to an individual if—

"(i) an individual retirement plan was established for the benefit of the individual at least 5 years before the beginning of the calendar year in which the decree of divorce or separate maintenance was issued, and

"(ii) for at least 3 of the former spouse's most recent 5 taxable years ending before the taxable year in which the decree was issued, such former spouse was allowed a deduction under subsection (c) (or the corresponding provisions of prior law) for contributions to such individual retirement plan.

"(5) PLANS UNDER SECTION 501(C)(18).—Notwithstanding paragraph (1), the amount allowable as a deduction under subsection (a) with respect to any contributions on behalf of an employee to a plan described in section 501(c)(18) shall not exceed the lesser of—

"(A) $7,000, or

"(B) an amount equal to 25 percent of the compensation (as defined in section 415(c)(3)) includible in the individual's gross income for such taxable year.

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of any individual with respect to whom a credit is otherwise allowable under subsection (a)—

"(A) who files a joint return under section 6013 for a taxable year, and

"(B) whose spouse—

"(i) has no compensation (determined without regard to section 911) for such taxable year, or

"(ii) elects to be treated for purposes of subsection (b)(1)(B) as having no compensation for the taxable year,

there shall be taken into account in computing the amount of the credit under subsection (a) for any taxable year any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of his spouse.

"(2) LIMITATION.—The amount taken into account under paragraph (1) shall not exceed the excess of—

"(A) the lesser of—

(i) $2,250, or

"(ii) an amount equal to the compensation includible in the individual's gross income for the taxable year, over

"(B) the amount taken into account under subsection (a) for the taxable year.

In no event shall the amount taken into account under paragraph (1) exceed $2,000.

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) BENEFICIARY MUST BE UNDER AGE 70½.—No credit shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

"(2) RECONTRIBUTED AMOUNTS.—No credit shall be allowed under this section with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), or 408(d)(3).

"(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no credit shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(4) DENIAL OF CREDIT FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No credit shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(ii)).

"(e) DEFINITION OF RETIREMENT SAVINGS CONTRIBUTIONS ETC.—For purposes of this section—

"(1) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means—

"(A) any qualified voluntary employee contribution paid in cash by the individual for the taxable year,

"(B) any amount paid in cash for the taxable year by or on behalf of such individual for his benefit to an individual retirement plan, and

"(C) any amount contributed on behalf of any individual to a plan described in section 501(a)(18).

"(2) QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified voluntary employee contribution' means any voluntary contribution—

"(i) which is made by an individual as an employee under a qualified employer plan or government plan, which plan allows an employee to make contributions which may be treated as qualified voluntary employee contributions under this section, and

"(ii) with respect to which the individual has not designated such contribution as a contribution which should not be taken into account under this section.

"(B) VOLUNTARY CONTRIBUTION.—For purposes of subparagraph (A), the term 'voluntary contribution' means any contribution which is not a mandatory contribution (within the meaning of section 411(c)(2)(C)).

"(C) DESIGNATION.—For purposes of determining whether or not an individual has made a designation described in subparagraph (A)(ii) with respect to any contribution during any calendar year under a qualified employer plan or government plan, such individual shall be treated as having made such designation if he notifies the plan administrator of such plan, not later than the earlier of—

"(i) April 15 of the succeeding calendar year, or

"(ii) the time prescribed by the plan administrator,

that the individual does not want such contribution taken into account under this section. Any designation or notification referred to in the preceding sentence shall be made in such manner as the Secretary shall by regulations prescribe and, after the last date on which such designation or notification may be made, shall be irrevocable for such taxable year.

"(3) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), and

"(C) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

"(4) GOVERNMENT PLAN.—The term 'government plan' means any plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

"(5) PAYMENTS FOR CERTAIN PLANS.—The term 'amounts paid to an individual retirement plan' includes amounts paid for an individual retirement annuity or a retirement bond.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes

earned income (as defined in section 401(c)(2)) reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62. The term 'compensation' does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation. The term 'compensation' shall include any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2).

"(2) MARRIED INDIVIDUALS.—The maximum amount taken into account under subsections (b) and (c) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—

"(A) INDIVIDUAL RETIREMENT PLANS.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(B) QUALIFIED EMPLOYER OR GOVERNMENT PLANS.—For purposes of this section, if a qualified employer or government plan elects to have the provisions of this subparagraph apply, a taxpayer shall be deemed to have made a voluntary contribution to such plan on the last day of the preceding calendar year (if, without regard to this paragraph, such contribution may be made on such date) if the contribution is made on account of the taxable year which includes such last day and by April 15 of the calendar year or such earlier time as is provided by the plan administrator.

"(4) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a qualified employer or government plan receiving qualified voluntary employee contributions.

"(5) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employer (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a credit for such payment is allowable under this section to the employee.

"(6) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount which may be taken into account in computing the credit allowable under this section for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (c) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contributions.

"(C) SPECIAL RULE WHERE EXCESS CREDIT WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a credit by reason of this paragraph for any amount allowed as a credit under this section for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

"(g) CROSS REFERENCE.—

"For failure to provide required reports, see section 6652(h)."

(b) REPEAL OF DEDUCTION.—Section 219 (relating to deduction for retirement savings) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 62 is amended by striking out paragraph (10).

(2) Section 72(o)(5) is amended—

(A) by striking out "deductible" in the heading and text each place it appears and inserting in lieu thereof "creditable",

(B) by striking out "and allowable as a deduction under section 219(a)" in subparagraph (A) and inserting in lieu thereof "taken into account in computing the credit under section 35(a)",

(C) by striking out "section 219(e)(3)" and inserting in lieu thereof "section 35(e)(3)", and

(D) by striking out "section 219(e)(4)" and inserting in lieu thereof "section 35(e)(4)".

(3) Section 75(o)(6) is amended by striking out "deductible" and inserting in lieu thereof "creditable".

(4) Section 72(p)(2) is amended by striking out "deductible" and inserting in lieu thereof "creditable".

(5) Section 72(p)(3) is amended by striking out "section 219(e)(3)" and "section 219(e)(4)" and inserting in lieu thereof "section 35(e)(3)" and "section 35(e)(4)", respectively.

(6) 86(f)(3) is amended by striking out "section 219(f)(1)" and inserting in lieu thereof "section 35(f)(1)".

(7) Section 408(d) is amended—

(A) by striking out "the amount allowable as a deduction under section 219" in paragraphs (4) and (5) and inserting in lieu thereof "the maximum amount which may be taken into account in computing the credit allowable under section 35(a)",

(B) by striking out "no deduction is allowed under section 219" in paragraph (4)(B) and inserting in lieu thereof "no credit is allowed under section 35(a)", and

(C) by striking out "no deduction has been allowed under section 219" in paragraph (5)(A)(ii) and inserting in lieu thereof "no credit is allowed under section 35(a)".

(8) Section 415(c)(2) is amended—

(A) by striking out "allowable as a deduction under section 219(a)" and inserting in lieu thereof "taken into account in computing the credit allowable under section 35(a)", and

(B) by striking out "deductible" and inserting in lieu thereof "creditable".

(9) Section 3401(a)(12)(C) is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 35", and

(B) by striking out "deduction" and inserting in lieu thereof "credit".

(10) Section 4973(b) is amended—

(A) by striking out "allowable as a deduction under section 219" and inserting in lieu thereof "taken into account in computing the amount of the credit under section 35(a)", and

(B) by striking out "section 219(f)(6)" and inserting in lieu thereof "section 35(f)(6)".

(11) Section 6047(c) is amended by striking out "section 219" and inserting in lieu thereof "section 35".

(12) Section 6652(h) is amended by striking out "section 219(f)(4)" and inserting in lieu thereof "section 35(f)(4)".

(13) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35 and inserting in lieu thereof the following new items:

"Sec. 35. Retirement savings.

"Sec. 36. Overpayments of tax."

(14) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 219.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1202. NONDEDUCTIBILITY OF INTEREST ON INDEBTEDNESS USED TO FUND IRA.

(a) IN GENERAL.—Section 265 (relating to denial of deduction for expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraph:

"(6) INDIVIDUAL RETIREMENT PLANS.—Interest on indebtedness incurred or continued to make contributions to any individual retirement account or individual retirement annuity described in section 408."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to indebtedness incurred, modified, extended, renegotiated, or renewed after December 31, 1986.

SEC. 1203. MODIFICATION OF PERSONAL EXEMPTION.

(a) IN GENERAL.—Section 151(f) (defining exemption amount), as amended by section 103(a), is amended to read as follows:

"(f) EXEMPTION AMOUNT.—For purposes of this subsection—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the term 'exemption amount' means—

"(A) in the case of any taxable year beginning in 1987—

"(i) $1,690 in the case of any exemption under subsection (b) for any taxpayer who elects to itemize deductions for such taxable year, and

"(ii) $1,900 in the case of any other exemption, and

"(B) in the case of any taxable year beginning after December 31, 1987—

"(i) $1,690 in the case of any exemption under subsection (b) for any taxpayer who elects to itemize deductions for such taxable year, and

"(ii) $2,000 in the case of any other exemption.

"(2) EXEMPTION AMOUNT DISALLOWED IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

"(3) INFLATION ADJUSTMENT FOR YEARS AFTER 1988.—In the case of any taxable year beginning in a calendar year after 1988, the dollar amounts contained in paragraph (1)(B) shall be increased by an amount equal to—

"(A) each such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1987' for 'calendar year 1986' in subparagraph (B) thereof.

"(4) PHASE-OUT OF EXEMPTION AMOUNT.—

"(A) IN GENERAL.—The dollar amounts contained in paragraph (1) shall be reduced by an amount equal to 5 percent of the excess of—

"(i) adjusted gross income, over

"(ii) the lowest amount of adjusted gross income for the taxable year which results in the maximum rate adjustment under section 1(g)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

DIXON AMENDMENT NO. 2069

Mr. DIXON proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 2000, beginning with line 23, strike out all through page 2009, line 18, and insert in lieu thereof:

SEC. . LIMITATION ON DEDUCTIONS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) GENERAL RULE.—Part I of subchapter A of chapter 1 (relating to tax imposed on individuals) is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY OF INDIVIDUAL RETIREMENT CONTRIBUTIONS.

(a) GENERAL RULE.—The amount of the tax imposed by section 1 (determined without regard to this section) shall be increased by the amount determined under subsection (b).

(b) AMOUNT OF INCREASE.—The amount determined under this subsection is equal to—

"(1) the excess of—

"(A) the tax liability of the taxpayer for the taxable year computed without regard to the deduction allowable under section 219, over

"(B) such tax liability computed with regard to such deduction, reduced by

"(2) 15 percent of the amount of the deduction allowable under section 219.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRIBUTIONS TO SECTION 501(C)(18) PLANS.—The amount of any deduction allowable under section 219 shall not take into account the portion of such deduction attributable to a qualified retirement contribution described in section 219(e)(2) (relating to contributions to section 501(c)(18) plans).

"(2) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b)."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 is amended by adding after section 3 the following new section:

"Sec. 4. Increase in tax to reflect limitation on deductibility of individual retirement contributions."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1416, between lines 4 and 5, insert the following:

SEC. 136. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible), as amended by sections 132 and 133, is amended by adding after section 280I the following new section:

"SEC. 280J. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

"(a) GENERAL RULE.—In the case of an individual, the applicable itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) APPLICABLE ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'applicable itemized deductions' means the itemized deductions (within the meaning of section 63(d)) other than any deduction—

"(1) under section 165(a) for losses described in subsection (c)(3) or (d) of section 65,

"(2) under section 213 (relating to medical deductions), or

"(3) to which section 280I applies."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280J. 1 percent floor on all itemized deductions not otherwise subject to floor."

GRASSLEY (AND OTHERS) AMENDMENT NO. 2070

Mr. GRASSLEY (for himself, Mr. LAUTENBERG, Mr. PROXMIRE, Mr. DENTON, Mr. DOLE, and Mr. HARKIN) proposed an amendment to the bill H.R. 3838, supra; as follows:

At the end of subtitle A of title IX of the Committee amendment, insert the following:

SEC. . DENIAL OF FOREIGN TAX CREDIT FOR TAXES PAID TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DENIAL OF FOREIGN TAX CREDIT, ETC. WITH RESPECT TO COUNTRIES WHICH SUPPORT INTERNATIONAL TERRORISM.—

"(1) IN GENERAL.—NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) during the taxable year to any country identified under paragraph (2) as repeatedly providing support for acts or international terrorism, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income for such taxable year from sources within any country so identified.

"(2) IDENTIFICATION OF COUNTRIES.—Paragraph (1) shall apply to countries which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979, as amended, has designated as countries that repeatedly support acts of international terrorism. Notwithstanding subparagraph (2)(A), paragraph (1) shall not apply whenever the Secretary of State determines and certifies to Congress that a specific country listed as a terrorist country under 6(j) of the Export Administration Act of 1979, as amended, no longer supports or carries out terrorist activities.

"(3) PART-YEAR RULE.—If an identification under paragraph (2) is in effect for less than an entire taxable year, paragraph (1) shall be applied by taking into account only that portion of the taxes and income which accrues (as determined under regulations) with respect to activities which occur in the portion of the taxable year for which such identification is in effect."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to taxes the liability for which accrues with respect to activities conducted after June 30, 1986, in taxable years ending after such date.

(2) EXCEPTION FOR SALE OR DIVESTITURE OF ASSETS.—The amendment made by subsection (a) shall not apply to any taxes the liability for which accrues with respect to activities—

(A) in connection with the sale or divestiture of assets held by a taxpayer in a foreign country to which the amendments made by this section apply, and

(B) which are authorized by the Secretary of the Treasury or his delegate.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that testimony will be received on an additional measure at the hearing previously scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Friday, June 20, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC 20510.

The additional measure is S. 2532, to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System. As previously announced, testimony also will be received on the following measures: S. 2266, to establish a ski area permit system on national forest lands established from the public domain, and for other purposes; S. 2287, to amend the Wild and Scenic Rivers Act to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the Wild and Scenic Rivers System; S. 2320, to amend an Act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes; S. 2351, to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes; S. 2466, to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System; S. 1019 and H.R. 2182, to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore; and S. 2483, to amend the Fire Island National Seashore Act of 1964.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource

Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Tony Bevinetto or Patty Kennedy of the subcommittee staff at (202) 224-0613.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry, has scheduled a full Committee hearing to consider the nominations of Kalo A. Hineman, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission; Kathleen W. Lawrence, of Virginia, to be Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture; Kenneth A. Gilles, of Virginia, to be Assistant Secretary for Marketing and Inspection Services, U.S. Department of Agriculture; and Robert W. Beuley, of Virginia, to be Inspector General, U.S. Department of Agriculture.

The hearing will begin at 10 a.m., Wednesday, June 18, 1986, in 332 Russell Senate Office Building.

For further information please contact Warren Oxford or Terry Wear at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 11, 1986, in closed executive session, in order to continue markup of S. 2199, the DOD fiscal year 1987, authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MILITARY CONSTRUCTION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Military Construction of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 11, in executive session, to hold a markup of S. 2132, the fiscal year 1987 military construction authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 11, in executive session, to hold a markup of manpower and personnel portions of S. 2199, the fiscal year 1987 DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 11, in closed session, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 11, 1986, in order to receive testimony on the attached nominations:

U.S. CIRCUIT JUDGE

Judge William W. Wilkins, Jr., of South Carolina, to be U.S. circuit judge for the fourth circuit.

U.S. DISTRICT JUDGE

John E. Conway, of New Mexico, to be United States District Judge for the District of New Mexico.

Karen LeCraft Henderson, of South Carolina, to be United States District Judge for the District of South Carolina.

D. Lowell Jensen, of Virginia, to be United States District Judge for the Northern District of California.

William D. Stiehl, of Illinois, to be United States District Judge for the Southern District of Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 11, to hold an oversight hearing on DOD subcontractor kickbacks; and industry personnel practices.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet at 4 p.m. today to consider the nomination of Dorcas R. Hardy to be Commissioner of Social Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SUCCESS OF MATCH-UP

● Mr. BRADLEY. Mr. President, everyone in this body attends more dinners, lunches, and breakfasts that we'd probably care to recall. And at virtually every one of them mounds of food goes unconsumed. From time to time each of us has probably reflected on the waste that is involved in such events.

One individual, Lenore Horowitz, found many areas in which items such as food, clothing, medicine, toys, were expendible surplus to some businesses and decided to match them with institutions that provide services to needy families and individuals. It's a very simple notion—one that may have occurred to many people. The difference is that Ms. Horowitz actually did something about it. She organized Match-Up. Today, more than 80 companies are participating and providing more than $150,000 in goods to the Washington area.

I commend the efforts of Match-Up and the initiative of Ms. Horowitz and would like to share with my colleagues an article in the Washington Post which describes her efforts.

The article follows:

[From the Washington Post, June 7, 1986]

STREAMLINING A CHILDREN'S CRUSADE

(By Elizabeth Kastor)

Between bites of miniature quiches and sips of scotch, guests at Washington parties go about their real business: crafting alliances and compromises, prefecting unspoken agreements and quiet deals. And Lenore Horowitz knows Washington.

"You have to cajole—with some tact and a big smile," says Horowitz, who works the parties for Match-Up, the charity she created to help needy children in the Washington area. The name was an obvious choice: Horowitz matches corporations that are interested (or can be persuaded to become interested) in donating prescription drugs, vitamins, food, toys, clothing, books and anything else to local clinics, orphanages and shelters.

"Washington is about people matching things up," says Horowitz, who runs the charity with partner Elizabeth Wallace out of their kitchens with no staff and no pay. "I'm sort of my own lobbyist. Elizabeth and I are lobbyists for children and we go on the same circuit as the other lobbyists.

"At one party, I was sitting next to a trade representative, telling him about Match-Up, and I said, 'My objective for tonight is three contracts. I have two so far.' He said. 'So you have one to go? and I said, 'No. You're it.' "

Match-Up serves as the conduit between donors and recipients, processing requests, soliciting donations and providing the assurance that the donated goods will go directly to the children who need them, with no time- and money-consuming bureaucracy getting in the way. Such a charity may sound obvious, but no one involved has heard of anything else like it.

Joe Jenckes, Washington vice president for Abbott Laboratories, was one of Match-Up's earliest supporters. "If you knew how many charity dinners I've been to—you pay your money and you hope. Lenore, I think, got the product to some people. It was no big deal—it wasn't thousands and thousands of dollars. It's very low-key."

But it adds up. More than 80 companies are now involved, including Johnson & Johnson, McDonald's and Coca-Cola, and

Horowitz estimates that last year Match-Up passed on about $150,000 worth of goods.

Match-Up drugs go to children who might otherwise not be treated for illnesses ranging from chronic ear infections to strep throat to asthma to pneumonia. Often, the children's parents make just a little too much money to qualify for Medicaid, but too little to pay for the medicine the kids need. Clinics provide free medical care, but rarely can help with the price of the drugs the doctors prescribe.

"It was sad, before we got help from Match-Up, to be able to provide the medical care, and then send a patient out the door with a piece of paper in their hand and know they couldn't afford the medicine—to know it would be a choice between food or medicine," says Karla Roskos, executive director of Prince George's County Greater Baden Medical Services clinic.

Maryland Medicaid does not pay for over-the-counter drugs, says Roskos, so babies with fevers often went without the Tylenol drops they needed, children without the vitamins, anemic mothers without the iron. Match-Up provides these and also tides over patients waiting the month or more it takes Medicaid applications to be processed.

"It may sound somewhat corny, somewhat sentimental," says Horowitz, "but I could provide everything for my children and wanted to make sure other children got the same. There are many people who don't fit the strict and growing stricter guidelines of Medicaid, but whose children need the prescriptions anyway.

"There are more people now, more children, who are going without health care than there were when we came to Washington nine years ago," she says.

Horowitz made her first match up at Christmas time when she noticed a pile of discounted toys at her Safeway. She persuaded the store manager to sell them all to her for about $25 on the condition she take them to the Rockville Christmas Toy Drive.

When Horowitz arrived at the Toy Drive with her pack of toys, "they we astonished," she says. "I said, 'I think you should send a letter to the manager so he can pass it up to the higher levels so he can get whatever credit he can, and maybe tell him which families they've helped.' "

Two lessons learned: Matching up worked, and a little graceful gratitude helped, too.

Soon, Horowitz was talking to clinics and shelters and working every party she and her husband Larry, chief of staff to Sen. Edward Kennedy, attended. With two children and then three and then four, she made phone calls "working around naps" and typed requests and thank-you notes late at night, at the same time juggling a part-time job teaching remedial English at American University.

Wallace—who specializes in what Horowitz says "we're trying to call 'unserved food' now," got involved a year and a half ago after attending a reception at the Corcoran Gallery with her husband, NBC White House correspondent Chris Wallace.

"You walk in and it's such a lavish spread," she says. "We were there near the end and there were mountains of food left. There was a table of fresh fruit and even if every waiter took some home, there would be lots left to waste."

With the orgy of presidential inaugural parties coming up, Wallace called around and arranged for corporate hosts to donate their leftovers to Martha's Table, a soup kitchen where Wallace had worked. The food is served to the 100 or so children who eat there every day, and by now a number of catering companies are quite used to passing along the "unserved food" to the kitchen.

The McDonald's connection came about through Horowitz in predictable fashion.

"We went to the McDonald's congressional family reception,"says Horowitz. "Elizabeth wanted to get the leftovers, but she couldn't get to the right person. I went in, I saw all that food—there was so much I couldn't even eat myself. I thought, 'We've got to get this.' I left Larry—poor Larry—I stuck him with the kids and I said, 'I'm going to go look at the name tags.' "

The name tags yields just the right McDonald's executive: He predicted the reception wouldn't have any leftovers, but out of that meeting came McDonald's offer to donate one full meal a month at Martha's Table. The usual peanut butter sandwiches at the soup kitchen are replaced with hamburgers, but because french fries don't travel well, the burgers come fryless, which gave Horowitz an idea.

"P.S. Do you know anyone in potato chips?" she concluded in a recent letter explaining Match-Up.

And, it seems, someone did.

"I think," she says now, "I'm closing in on the potato chips."●

BALTIC FREEDOM DAY

● Mr. ZORINSKY. Mr. President, Saturday, June 14, marks the 46th anniversary of the brutal Soviet occupation of Latvia, Lithuania, and Estonia. Once again this year, Congress has declared this day "Baltic Freedom Day" to symbolize American solidarity with the enslaved Baltic people.

As an original cosponsor of the joint resolution designating Baltic Freedom Day, I want to remind my colleagues of the importance of this observance.

Since 1940, the Soviet Union has carried out a systematic plan to drive the citizens of Latvia, Lithuania, and Estonia from their homelands and impose on them an oppressive political system. It refuses to recognize their sovereignty and refuses to yield to their demands for independence from foreign domination. It has destroyed their democracy, their civil liberties, and their religious freedom.

As we approach Baltic Freedom Day 1986, I ask my colleagues to join me in reaffirming our support for the citizens of the Baltic Republics. We in the United States must send a clear message to the people of Latvia, Lithuania, and Estonia that we have not forgotten them. We must help these brave patriots keep alive the spirit and traditions of their homelands. We must continue to champion the cause of their freedom.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of the major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the Office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, June 10, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-35 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer to Israel for defense articles and services estimated to cost $38 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 86-35]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value:

	Millions
Major Defense Equipment [1]	$27
Other	11
Total	38

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Twenty AN/ALQ-131 Electronic Countermeasure Pods, spare parts provisioning, test equipment, ground support equipment, support and training.

(iv) Military Department: Air Force (YEF).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: June 10, 1986.

POLICY JUSTIFICATION

ISRAEL—AN/ALQ-131 ELECTRONIC COUNTERMEASURE PODS

The Government of Israel has requested the purchase of 20 AN/ALQ-131 Electronic Countermeasure (ECM) Pods, spare parts provisioning, test equipment, ground sup-

port equipment, support and training. The estimated cost is $38 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political and military stability in the region. This proposed sale is consistent with the United States policy of ensuring that Israel has the means to defend itself within secure borders.

Israel needs the AN/ALQ-131 ECM pods to improve the ECM capability of its fighter aircraft. Israel will have no difficulty absorbing these AN/ALQ-131 pods into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Westinghouse Electric Corporation of Pittsburgh, Pennsylvania.

Implementation of this sale will require the assignment of one contractor representative to Israel for 13 months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

NAUM AND INNA MEIMAN: A LETTER TO THE BERN CONFERENCE ON HUMAN CONTACTS

● Mr. SIMON. Mr. President, I recently received a letter written by Naum Meiman, a friend of mine in the Soviet Union, who has been denied permission to emigrate with his wife, Inna, to Israel.

This letter is a plea to the delegates at the Bern Conference on Human Contacts to seriously consider the Meimans' plight. The Soviets have denied Inna and Naum their basic human rights for far too long.

I ask that the letter be printed in the RECORD.

I strongly urge the Soviet authorities to allow the Meimans to emigrate to Israel.

The letter follows:

NAB. GORKOGO 4/22, APT. 57,
113127 Moscow, U.S.S.R.,
April 9, 1986.

CSCE CONFERENCE IN BERNE: I appeal to you in view of actions of the Soviet authorities that constitute a crime against humanity. They have doomed my wife to a torturous slow death.

I

I am a professor of mathematics, 75 years old, fighting since 1975 for permission to go to Israel to reunite with my only daughter.

My wife, Inna Kitrosskaya, 53, a teacher of English, first applied to go to Israel together with her son's family in 1979. This was before she and I married in 1981.

In 1983 my wife was stricken by sarcoma on the back of the neck, tumor lies close to her spine, so that treatment called for extremely sophisticated equipment and skill in using it. Neither the equipment nor the skill in using it is available in the Soviet Union. The only treatment provided was repeated surgery. In less than two year, my wife had four hazardous operations, the last in July 1985. When the tumor appeared again in the fall of 1985, the doctors found it inadvisable to risk another operation. Since then, Inna has been left to her fate, tumor continues to grow, bringing ever more pain.

Right after the disastrous first operation, in October, 1983, it was clear that there is no adequate treatment in the Soviet Union. She was magnanimously invited to receive treatment at oncological centers in Sweden, the United States, Israel, and France. She received personal invitations from former Ministers of Health of Sweden and France, Kari Ahrland and Simone Veil. Mrs. Veil came to Moscow specially to see my wife.

All that was required of the Soviet authorities was not to hamper others in curing my wife, to grant her at least a temporary exit visa. The Soviets refused.

I have addressed Communist Party General Secretaries Andropov, Chernenko, and Gorbachev. My letters to them are not considered, but since passed on to the Visa Office (OVIR).

Last summer, in reply to one of my letters to Mikhail Gorbachev, were phoned by OVIR and told to reapply for visas to the local visa office, to begin the round all over again, as if there had never been the past ten years of waiting.

The application process in itself is an extremely difficult, humiliating procedure. Many cannot take the hurdle. We were fortunate, be able to submit all the documents required last July. The city Visa Office called me in on August 23 to announce that we were once again refused permission to leave. The day before, the same office called Inna's son, brother, and mother, and told them to reapply, since their case was being reconsidered. Usually, this leads to permission to leave. My wife and I thereupon felt inspired to apply on September 4 to the National OVIR Chief, Col. Kuznetsov, to let Inna leave with the other members of her family, without me.

On September 13, Kuznetsov told my wife that she was refused permission to leave with her son because her departure would be a security for the Soviet Union after her having lived with me too long.

II.

I am refused permission to leave the Soviet Union on the pretext of so-called classified work done. More than 30 years ago, at the dawn of the Atomic Age, I did do certain classified calculations for the late Academician Landau at the Institute of Physical Problems (IPP) of * * * then were merely conventional; they have long been neither secret nor any interest or significance to anyone anywhere.

In 1955 I transferred to work in another institute, and according to an official document have had nothing to do with classified work since then. Upon applying to go to Israel in 1975, I had to retire on pension.

President Alexandrov of the USSR Academy of Sciences, former Dire of the IPP when I worked there, certified in 1976 that I possess no classified information. How can anyone talk seriously about scientific and in my case, merely calculatory, secrets more than 30 years old? That is absolute nonsense.

Yet, that absurd fabrication was enough not only to deny me my inameable right to emigrate, to reunite with my only daughter. It denies my wife her only chance of survival.

In January 1980, I was led in to a local Prosecutor's Chief of Investigation and told officially that because of my former classified work, it had been decided never to let me emigrate. I asked who had decided, and was told that no one had the right to tell me. It had been decided by a competent body.

Can you imagine the like in any law-abiding state? My life sentence is so secret that they cannot tell me who passed it, or when. It's an echo of medieval secret trials, of the nightmares of Kafka and Orwell. But this is not history, nor is it fiction. It's like today for the refusenik. More than that, judging by the cruel, senseless treatment of my wife, my secret life sentence covers her too.

III

Refusal to let my wife receive treatment abroad is especially repulsive in view of a letter to Mr. Gorbachev from the prominent Prof. Douglas P. Zives of Indiana about two recent American breakthroughs in cancer therapy that offer some hope that my wife can be cured. Prof. Zives also sent an appeal to Gorbachev by cable.

Meanwhile, U.S. Senator Grassley informed former Soviet Ambassador to the United States Dobrynin that my wife has been accepted for the Sloan-Kettering Experimental Program in New York.

Some time, ago, Inna received an invitation from Mrs. Max Kampelmar to visit her as a guest for three months. The invitation is endorsed by U.S. Senators Gore, Pell, Stevens, Wallop, Moynihan, Rudman, Warner, Hart, and Nunn and Ambassador Zimmerman, as well as by Ambassador Kampleman himself.

Col. Kuznetsov refused to even read the invitation. He said my wife would be refused permission to visit abroad. He knew, he said, that the real reason for any trip would be to get medical treatment. Kuznetsov was repeating numerous previous such statements of his. But this came shortly after Gorbachev said in Pravda on March 15 in reply to Professor Marois that human life was the highest value. Doesn't Kuznetsov take Mr. Gorbachev seriously?

Two months ago, my wife's condition deteriorated sharply. She now has to stay in bed practically all the time, suffering a difficult course of chemotherapy. She is in need of constant doctors' and nurses attention. A new misfortune has complicated my wife's conditions last week, our telephone was cut off. This aggravated the barbarity, since I am not well myself, and my wife and I live alone. Back in 1977, I was expelled from the Academy Polyclinic, to which I had a right. This was totally unlawful after more than 35 years work in various Academy institutes.

IV

Since your are dealing with Contacts, let me inform you that I have received invitations to work as visiting professor from several universities in the United States, Stockholm University, and Oxford. I did not receive several other invitations sent to me by mail. I am prevented from accepting any of these invitations. I have been informed that hundreds of ordinary letters have never been delivered to me.

NAHUM MEIMAN, *Professor.*●

SENATOR BILL BRADLEY: TRAILBLAZER OF TAX REFORM

● Mr. PRYOR. Mr. President, last Wednesday's Wall Street Journal featured an article on the senior Senator from New Jersey [Mr. BRADLEY], outlining his persistent tax reform efforts. The Journal piece describes Senator BRADLEY as the driving force behind the tax measure before us

today. Senator PACKWOOD, chairman of the Senate Finance Committee, has stated that the main thrust of the committee bill was "really BILL BRADLEY'S."

The original Bradley-Gephardt Fair Tax plan launched the tax revision movement in 1982, and since that time, Senator BRADLEY has emerged as a skillful negotiator on the tax reform issue, taking the time to lobby Members of both Houses of Congress. His relentless efforts have resulted in the most sweeping tax proposal since 1954, as well as persistent talk of a possible 1988 bid for the Presidency.

Mr. President, the Wall Street Journal feature presents an interesting portrait of our colleague, and, for those who may not have seen it, I ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, June 4, 1986]

PROGRESS OF THE TAX BILL ENHANCES REPUTATION OF SENATOR BILL BRADLEY

(By Jeffrey H. Birnbaum)

WASHINGTON.— During a private drafting session that would determine the fate of tax overhaul, Senate Finance Committee Chairman Bob Packwood surprised his colleagues by handing out Democratic Sen. Bill Bradley's original Fair Tax Plan and urging that it help guide their actions. "This," he explained, "is how Bill did it."

In the House last year, Sen. Bradley had an equally influential role, quietly promoting the legislation to scores of wavering members. At one point, in the House gym, he played his first serious game of basketball since ending his Hall-of-Fame professional career. His opponents were Ways and Means Committee Democrats. Taking care to avoid humiliating his less-athletic colleagues, he wound up popping a leg muscle during the competition. Still, he says, it was worth the price: He scored some points for tax overhaul.

Perhaps more than any other individual—even President Reagan—the 42-year-old Sen. Bradley is the driving force behind the sweeping tax changes the Senate begins to debate today and is likely to approve later this month. It was his vision of a broad-based low-rate system that launched the tax-overhaul movement in 1982, and it is his relentless commitment to that once-derided notion that has brought it to the threshold of becoming law.

"I don't feel any reservations about giving him a lot of credit; I kind of enjoy pointing out how well he's done," says House Ways and Means Chairman Dan Rostenkowski. The main thrust of the measure unanimously approved by the Senate Finance Committee last month, Sen. Packwood says, "is really Bill Bradley's."

A MAJOR FIGURE

Such accolades make Sen. Bradley a major figure in the Senate, where he is serving only his second term, and in the Democratic Party, in which he stands out as one of the very few politicians to both develop and propel forward any type of new idea. "He is one of the real leaders in the Democratic Party and the Senate," says Democratic Sen. Sam Nunn of Georgia. "In a very short time, he has acquired the reputation as thorough, thoughtful and innovative." His accomplishments are opening new vistas. He appears on most lists compiled by political professionals of potential 1988 presidential candidates. Another possibility is a run for majority leader, should the Democrats regain control of the Senate in this year's election.

The senator shrugs off such suggestions. "I like what I'm doing; I love my committee assignments," he says. His interest, he claims, isn't to chart personal advances, but "to play a role in setting a substantive agenda."

The New Jersey lawmaker is a force on more subjects than taxes. He and Republican Rep. Jack Kemp of New York, another figure in the tax-revision effort, have held a symposium on international monetary policy. Sen. Bradley also discourses frequently on using U.S. economic strengths to lure Soviet arms concessions and on taking a more sympathetic tack on the Latin American debt crisis.

INVITING CONTROVERSY

Some of his views invite controversy. For example, he is among a minority of Democrats who this year supported President Reagan's plea for military aid to insurgents fighting the leftist government in Nicaragua. He argues that Contra pressure keeps the Sandinista regime from exporting its revolution to neighboring nations; "We have to give some time for fledgling democracies in Latin America to develop," he says.

But for now, he is obsessed with promoting his brainchild, tax revision. "I'm fiercely committed to the idea becoming law," he says. "That is my ambition."

It is rare for one lawmaker to play such a key role on a bill in both the House and the Senate. It was at the behest of Chairman ROSTENKOWSKI that he devoted so much time last year to lobbying with House Members to support tax overhaul. In a break with the snobbish traditions of his chamber, he made appointments to meet House Members in their offices.

Most of his efforts were aimed at Democrats, including one hour-long meeting with the Democratic Study Group, whose liberal members had threatened to oppose the measure because they believed deficit reduction was more pressing than tax overhaul. "Bradley impressed everyone with his knowledge of and commitment to tax reform," recalls study-group leader Matthew McHugh of New York. "We don't often meet with a senator." Members of the group ultimately pledged their votes for the bill, even though it didn't raise more revenue.

At Rep. ROSTENKOWSKI's invitation, Sen. BRADLEY also gave a pep talk to a crucial, closed-door meeting of Ways and Means Democrats on the eve of the panel's drafting sessions last fall. The senator's message was highly partisan. Tax overhaul, he argued, is a natural Democratic issue, promoting equity by eliminating tax breaks and promoting economic growth with lower rates. If the Democratic-controlled House passed a bill, he reasoned, it would be labeled a Democratic initiative no matter what the Republican-controlled Senate did. And, he added pointedly, "Republicans in the Senate don't want to have to deal with the issue."

His message hit home. "He was most persuasive," says Democratic Rep. THOMAS DOWNEY of New York. The pitch, adds Democratic Rep. MARTY RUSSO of Illinois, "definitely had influence on us."

Three months later, after the House passed the bill by voice vote, Rep. ROSTENKOWSKI was presented with an enlargement of the cover of the historic document. The only non-Ways and Means signature on the poster, besides House Speaker THOMAS P. O'NEILL's is Sen. BRADLEY's. When asked in private, Rep. ROSTENKOWSKI has said his top three candidates for president in 1988 are "Bill Bradley, Bill Bradley, and Bill Bradley."

In contrast to his role in the House debate, Sen. Bradley seemed odd man out when the Senate took up the measure. Sen. Packwood and a clear majority of the panel were more interested in retaining tax breaks than in cutting them back to lower tax rates. When Sen. Bradley moved to repeal tax breaks for oil-and-gas drillers, timber firms and miners, for example, he was crushed by a coalition secretly formed by Chairman Packwood himself. "It's getting lonelier and lonelier," he mused at the time.

But Sen. Packwood's methods led to crisis for the bill, as members proved unwilling to give up any breaks to get rates down. On the verge of disaster, Sen. Packwood abruptly changed course and decided, to the surprise of almost everyone, to take the route prescribed four years ago by Sen. Bradley. The chairman gambled that the lure of sharply lower tax rates would tempt even the most adamant senators to relinquish cherished subsidies.

"I came full circle," Sen. Packwood acknowledges. "Bradley was right."

More surprising, even to Sen. Bradley, was how enthusiastically the panel embraced the concept of the bill he had introduced with Democratic Rep. Richard Gephardt of Missouri. Just weeks before the 20-member committee unanimously approved a package closely modeled on his own proposal, he had predicted: "If you look at the committee there are not 20 votes for tax reform; you have to work to get your 11."

As the bill comes to the Senate floor, Sen. Bradley now is a key member of the so-called core group of lawmakers trying to get the measure through the Senate without major amendment. To this end, he plans to sacrifice his own interest in seeing a special break for the oil-and-gas industry excised from the bill. But he will be in the front ranks of those welding the populist tax rhetoric he helped invent—railing against changes that favor "greedy," narrow groups at the expense of higher tax rates for the middle class, "the backbone of America."

His role in the debate has earned him a gusher of praise from both parties. Republican Sen. Charles Grassley of Iowa says that when he makes his own decisions on tax policy, there's always "another factor to consider: How does Bradley look at this?" Adds Democratic Sen. David Pryor of Arkansas: "It does show that knowledge is power."

"He's impressive and he's knowledgeable and he can put his finger on the buttons in a dark room," Rep. Rostenkowski says of his ally. "He has embellished the great respect that members already had for him."

SOME RESERVATIONS

Still, Sen. Bradley has detractors. Some of his colleagues consider him aloof, and his iconoclastic views and voting patterns sometimes put him at odds with farm- and oil-state blocs within his own party. While acknowledging that he is respected, some fellow senators doubt he would stand much chance of being elected Democratic leader over more popular colleagues like Daniel Inouye of Hawaii and J. Bennett Johnston of Louisiana.

Sen. Bradley, a former top Finance Committee aide says, sometimes views his own initiatives as "intellectually superior works of art, but then doesn't do the work to convince others to support them, and they go down in flames."

And for a reformer, critics add, some of his ideas are retrograde. In 1984, Sen. Bradley championed an effort by Mercedes-Benz, which exports its cars to New Jersey, to maintain generous write-offs for buyers of luxury autos. The compromise that eventually emerged included an onerous record-keeping requirement for business use of auto travel that caused one of the biggest public uproars of 1985, and was quickly changed. In addition, in this year's bill, he is one of the foremost backers of special tax-free bonds for certain waste-disposal facilities.

When it comes to national politics, though, Sen. Bradley's resume is one any presidential candidate would envy. A Rhodes scholar, he has been in the public eye for more than two decades, first at Princeton University as one of the greatest players in college basketball and later as the highly paid mainspring of the pro New York Knicks. He was raised in the Midwest (St. Louis), now represents the Northeast and has name recognition almost everywhere.

Much like John Glenn of Ohio, the senator and former astronaut, Mr. Bradley is the stuff of American heroes. He is the kind of public personality that parents want to introduce their children to as a role model, and that even ideological adversaries might vote for.

Two years ago, Democratic Party elder Robert Strauss worried about a dinner he was host of for 100 Dallas businessmen where Sen. Bradley was to speak. To his surprise, the senator was a big hit, even among those whose interests he had voted against. "There are two or three names that consistently are brought up as excellent Democratic presidential candidates," Mr. Strauss says. "Bill Bradley is almost always near the top of the list."

PRACTICE, PRACTICE

And though Sen. Bradley isn't the most scintillating speaker, his backers contend his appeal is still great. "He's able to deal very effectively with complicated and arcane material, and, at the same time, he's a very attractive campaigner," says Kirk O'Donnell, a former top aide to Speaker O'Neill. "No way does he lack charisma from my point of view."

His approach to legislating is as dogged and deliberate as was his preparation for becoming a world-class athlete. As a youth, he would devote hour upon hour to perfecting his basketball shooting. As a lawmaker, he digs deeply into subjects that interest him, reading widely, conferring broadly, trying to treat the causes of policy problems rather than their effects.

At the same time, he plays down his own part in the tax-overhaul drama, acknowledging that more-senior lawmakers have more power over its outcome than he does. "There's plenty of credit to go around," he says. "In my previous profession, I always got as big a kick out of giving an assist as making a basket."

JAMES W. ROUSE ON TAX INCENTIVES FOR LOW-INCOME HOUSING

● Mr. MATHIAS. Mr. President, the proposal to overhaul the Tax Code which the Senate is now debating contains numerous creative provisions. One of them is the tax credit to entice investment dollars into funding for low-income housing. In a Washington Post article which appeared over the weekend, developer and champion of low-income housing, James W. Rouse, characterizes these provisions of the bill while highlighting areas where changes are necessary to maximize housing investment dollars. Mr. Rouse, the founder and prime mover behind the Enterprise Foundation, organized to bring creative ideas to the field of low income housing, speaks with both knowledge and experience. For this reason, I ask that this article be included in the RECORD following my remarks. Mr. Rouse's thoughts are enlightening, and I urge my colleagues to take a moment to review them while the debate on this issue proceeds.

The article follows:

SHELTER FOR THE RICH, SHELTER FOR THE POOR

(By James W. Rouse)

One special section of the Senate Finance Committee's tax reform bill is of enormous importance. It provides tax credits for housing very poor people. If passed by Congress, with some important modifications, it will be the only significant government assistance for meeting the desperate housing needs of families with very low incomes.

These credits, although small and limited, are well targeted, and poor people will be the beneficiaries—not developers, not syndicators, not wealthy individuals.

But "important modifications" are still essential. The finance committee's bill, as now written, would deny the use of tax credits to any housing that received funds from other federal programs. This means that if, for example, a city elected to use part of its federal community block grant funds to help make the housing affordable for very poor people, the tax credits would not be available. But the cost of much housing, even with tax credits, is beyond the affordable limits of many poor people most in need.

For the tax credits to have real meaning, cities must have the option to use all available resources to meet the most critical housing needs. Furthermore, eliminating existing accelerated depreciation for low-income housing in favor of tax credits, on housing that uses any form of federal subsidy, places more than 600,000 units of existing low-income housing in jeopardy of conversion to higher income use or of further deterioration.

The bill, as currently written, imposes restrictions to limit sharply or even prevent the use of the credit by individuals, particularly wealthy people. Yet these are the very people who must invest in housing for poor people to make the program work.

These limitations are correctable, and it is hoped that Sen. Robert Packwood and the senators who joined him in the preparation of this remakrable tax reform bill will see the conflict between useful tax shelters for poor people and restrictions that would make those provisions largely unusable.

The reform of tax shelter abuses, as proposed in the bill, is largely wise and fair. It eliminates "tax shelters" that have benefited certain sectors and individuals at the expense of fairness to all citizens. These industries will adjust to new, more even-handed realities, although the transition may be temporarily painful.

Certain "tax shelters" that have been retained have for many years benefited homeowners by allowing deduction of home mortgage interest and also interest on "second homes." These "tax shelters" cost the government more than $30 billion in 1985 and have primarily benefited middle- and upper-income people.

The proposed tax shelters for poor people, as modified, would be very small—both absolutely and in relation to the tax shelters provided to individuals of much larger incomes.

In 1949, Congress issued a Declaration of National Housing Policy—a challenge to the nation to realize "as soon as feasible the goal of a decent home and a suitable living environment for every American family." The government encouraged the goal of decent housing for poor people primarily through direct subsidy programs and, also, through some small-scale tax incentive programs.

The recent call for involvement of the private sector in housing for the poor has followed massive cuts and eliminations in every category of direct federal housing assistance over the past five years. There are virtually no remaining federal production programs to provide decent low-income housing. And yet, the need increases, as seen in every federal statistic—more families in poverty, less housing for them to occupy and at increasingly high rents. This is readily apparent in the painful situations witnessed daily in every major American city.

The private sector and local and state governments must respond if they are to be concerned with the needs of their own communities. Few resources exists for the federal part of this public-private partnership. The proposed tax incentives, properly modified, can mark an important federal participation.●

NO VISA FOR ARAFAT

● Mr. LAUTENBERG. Mr. President, on May 20, 1986, 46 of my colleagues and I wrote to Secretary Shultz to express our strong opposition to granting the PLO's leader, Yasser Arafat, a visa to attend a scheduled meeting of the United Nations Security Council on Palestine.

I have just received a reply to that letter, which indicates that Secretary Shultz would look upon a visa application from Yasser Arafat with extreme disfavor. I ask that the text of the letter signed by 46 of my colleagues, and the Secretary's response be printed in the RECORD.

The letters follow:

THE SECRETARY OF STATE,
WASHINGTON, MAY 29, 1986.

Hon. FRANK R. LAUTENBERG,
U.S. Senate.

DEAR SENATOR LAUTENBERG: I am responding to your letter of May 20, cosigned by 44 of your colleagues, concerning the possible application for a visa by Yasir Arafat to attend a United Nations Security Council debate that may be held beginning on June 23.

Like you, I have no desire to see Arafat in the United States. Should he apply for a

visa, his application will receive my most severe scrutiny, including a thorough review of all the legal and other factors and circumstances pertinent to his application.

As you know, an individual must submit an application before I could act on it. So far, we have received no application from Arafat, nor do we have any firm indication that he actually intends to seek a visa to attend the UN debate. You should know that we oppose holding the debate itself, since we believe firmly that the Security Council is not a forum conducive to achieving a solution to the Arab-Israeli dispute. Arafat's participation would deepen even further our view that such a debate would be futile at best.

I thank you again for informing me of your views. We share a common desire that Arafat should not come to the United States.

Sincerely,

GEORGE P. SHULTZ.

U.S. SENATE,
Washington, DC, May 20, 1986.

Hon. GEORGE SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: The Chairman of the Palestine Liberation Organization, Yasser Arafat, apparently may seek a United States visa for the purpose of attending and addressing the Security Council of the United Nations in early June. We urge you to exercise your authority and right to deny the request for such visa.

Section 6 of the P.L. 80-357 reserves for the Secretary of the Department of State the complete authority to "control the entrance of aliens" to the (U.N.) Headquarters District in such a manner as to "safeguard its own security." Both the Departments of State and Justice have affirmed the right of the United States to deny visas to persons seeking to enter the Headquarters District of the United Nations under Section 212(a), paragraphs 27 and 29 of the Immigration and Nationality Act.

To quote Attorney General Meese, on April 8, 1986, "terrorism cannot be countenanced by any country in the civilized world." The al-Fatah wing of Arafat's P.L.O. has been responsible for the murder of 32 Americans, including diplomats and officials of our government. They have also been responsible for the wounding of at least 38 Americans, and the kidnapping of at least 6 Americans. The PLO General Command has claimed responsibility for approximately 150 terrorist attacks since February 11, 1985.

Moreover, the Security and Terrorism Subcommittee of the Senate Judiciary Committee has undertaken an investigation to determine the specific role of Yasser Arafat in the 1973 murders of our Ambassador to the Sudan, Cleo Noel and Deputy Chief of Mission, George C. Moore.

Ample evidence exists that Arafat considers the United States his mortal enemy. On November 13, 1985, he stated, "We are on the threshold of a fierce battle—not an Israeli-Palestinian battle but a Palestinian-U.S. battle." (*Al-Ahali*, 11-13-85). This January, Arafat reaffirmed his hostile intentions, stating: The "strategy should take into consideration that . . . the enemy is the same, be he Israeli or the United States." (*Kuna*, 1-3-86).

Admitting Arafat would run counter to our own policy of denying visas to the PLO. Charles Redman of the State Department, said on January 15, 1986, that, "it has been United States policy, sanctioned by the Congress as recently as 1979, to deny visas to members of the PLO. Similarly, we will as a matter of principle, exclude individuals who personally advocate terrorism or who we believe have participated in or supported terrorist activities".

The United States confers no diplomatic immunity on the P.L.O. or its "Observer Mission" to the United Nations. As a matter of policy, we should not allow a sworn enemy of the United States, one who openly admits advocating violence, onto our shores.

As a matter of law and policy, we urge you to deny Yasser Arafat any opportunity to enter the United States to speak at the United Nations. We look forward to learning of your decision on this issue at the earliest possible time.

Sincerely,

Frank R. Lautenberg, Patrick J. Leahy, Orrin Hatch, Jeremiah Denton, Charles E. Grassley, Paula Hawkins, Howard Metzenbaum, Steven D. Symms, Alfonse M. D'Amato, Dan Quayle, John P. East, Jeff Bingaman, John F. Kerry, Christopher Dodd, Alan J. Dixon, James Abdnor, Dennis DeConcini, Malcolm Wallop, John Glenn, Quentin N. Burdick, James A. McClure, Mack Mattingly, Slade Gorton, Arlen Specter, Larry Pressler, William S. Cohen, John Heinz, William Proxmire, Chic Hecht, Don Nickles, Rudy Boschwitz, Mitch McConnell, Bob Kasten, Paul Laxalt, Donald W. Riegle, Edward M. Kennedy, Lawton Chiles, Gordon Humphrey, Carl Levin, Jim Sasser, Dale Bumpers, Jesse Helms, Strom Thurmond, Pete Wilson, Paul Sarbanes, John C. Danforth, Daniel Patrick Moynihan.●

TRIBUTE TO POLICE CHIEF JOHN P. AMBROGIO

● Mr. DODD. Mr. President, I rise today to honor Police Chief John P. Ambrogio of Hamden, CT, who has been selected by the Police Commissioners Association of Connecticut to be the 1986 recipient of its distinguished service award. This coveted prize is given annually to a person who has demonstrated initiative and leadership in the law enforcement field. Police Chief Ambrogio, who joins an outstanding group of recipients, is highly deserving of this award.

Chief Ambrogio was appointed chief of police for the town of Hamden on September 5, 1974. He was originally appointed to the Hamden Police Department in August 1956, and has held there in the past the positions of detective sergeant, training officer, and deputy chief. While his past and present activities are too numerous to describe with any justice, Chief Ambrogio is currently president-elect of the Connecticut Police Chiefs Association, is a member of the board of directors, and serves on the legislative committee and the firearms committee of that body. He was also appointed by Governor O'Neill on July 29, 1985, to be a member of the Municipal Police Training Council, and was recently elected to the Advisory Council of the National Criminal Justice Association.

During his career as a police officer, Chief Ambrogio has been awarded a total of 18 commendations, which include the apprehension of: a homicide suspect, an armed subject threatening to kill, a burglary suspect in conjunction with the FBI resulting in the recovery of a significant amount of stolen merchandise, and the persons responsible for a bombing of the junior high school in Hamden.

In addition to his many professional accomplishments, Chief Ambrogio instituted a townwide Halloween party in October of 1977 which has now become an annual event. This single event has been highly successful in achieving its double goal of reducing the incidents of crime and vandalism during the Halloween period and improving community relations.

Chief Ambrogio strongly believes that a good police department will better serve the people of Hamden. He is committed to training and educating the members of the police department to achieve his main goal: making the town of Hamden a better place to live. The town of Hamden, as well as the entire State of Connecticut, is extremely fortunate to have Chief John P. Ambrogio at the helm.●

ANATOLY MARCHENKO

● Mr. D'AMATO. Mr. President, I rise today to draw attention to the continuing plight of Anatoly Marchenko, a founding member of the Moscow Helsinki Group. The group, organized by 11 Soviet human rights advocates, was established on May 12, 1976. The primary purpose of the Moscow Group was to promote human rights in the U.S.S.R. and monitor Soviet violations of the Helsinki Final Act.

Soviet authorities have arrested, detained, imprisoned, and exiled members of the group, including Marchenko. These harsh reprisals underscore Soviet contempt for the concept of human rights and for those who speak out in support of human rights. In addition, they highlight Soviet disregard for their human rights commitments, especially those included in the Helsinki Final Act, which they have voluntarily accepted.

Mr. President, as chairman of the Commission on Security and Cooperation in Europe, I commend the efforts of Anatoly Marchenko and his colleagues who have paid dearly for their work on behalf of those denied even the most basic human rights.

Mr. President, I ask that a brief biography of Marchenko be included in the RECORD.

The material follows:

ANATOLY TICHEMOVICH MARCHENKO

Marchenko, the son of a Siberian railroad worker, became active in the Soviet human

rights movement during the early 1960s. He was first sentenced in 1958 for allegedly participating in a fight among workers. In October 1960, he was sentenced to six years in camp for "treason" for escaping from camp and trying to flee across the Soviet border into Iran.

After his release, Marchenko wrote "My Testimony," the first documentation of political camps and prisons in the post-Stalinist period. The work quickly became an international best seller and was circulated in samizdat inside the Soviet Union. In reprisal, Marchenko was sentenced in August 1968 to one year in labor camp for "violation of passport regulations." While still in camp, he was charged with "anti-Soviet slander" in connection with letters he wrote defending the 1968 Prague Spring. On March 31, 1975, Marchenko was sentenced to four years of internal exile for allegedly violating the rules of "administrative surveillance."

A member of the Moscow Helsinki Group from its inception, Marchenko followed its activities from his place of exile in Irkutsk oblast. He was released from exile in September 1978. During the late 1970s, Marchenko became active in the independent labor movement in the USSR.

On September 2, 1981, Marchenko went on trial in Vladimir on charges of "anti-Soviet agitation and propaganda" under Article 70 RSFSR Criminal Code. The charges were made in connection with his book, "From Tarusa to Chuna," an account of his 53-day hunger strike conducted in 1975. The court found Marchenko guilty and sentenced him to ten years in strict-regimen camps and five years of internal exile, the maximum sentence under Article 70.

Numerous reports have reached the West describing the harsh treatment he has received in camp, including severe beatings and other forms of physical abuse. As a result of his many years in Soviet labor camps, Marchenko suffers from bleeding ulcers, severe arthritis, and profound deafness. His wife, Larisa Bogoraz, was refused permission to visit her husband in October 1985. Marchenko remains a prisoner in Perm camp #35.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. Gerald E. Connolly, a member of the Committee on Foreign Relations staff, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs and the United States-Asia Institute, from June 29–July 16, 1986.

The committee has determined that participation by Mr. Connolly in the program is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Michael Marek, a member of the Joint Economic Committee staff, to participate in a program in the People's Republic of China from June 29–July 16, 1985, sponsored by the Chinese People's Institute of Foreign Affairs and the United States-Asia Institute.

The committee has determined that participation by Mr. Marek in the program is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. William G. Myers III, a member of the staff of Senator SIMPSON, to participate in a program in the Federal Republic of Germany from June 21–28, 1986, sponsored by the Konrad Adenauer Stiftung.

The committee has determined that participation by Mr. Myers in the program is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Grayson Fowler, a member of the staff of Senator ZORINSKY, to participate in a program in the Federal Republic of Germany from June 21–28, 1986, sponsored by the Konrad Adenauer Stiftung.

The committee has determined that participation by Mr. Fowler in the program is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Lynda Barrow, a member of the Committee on Foreign Relations staff, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenauer Stiftung, from June 21–28, 1986.

The committee has determined that participation by Ms. Barrow in the program is in the interest of the Senate and the United States.●

FISCAL YEAR 1986 SUPPLEMENTAL APPROPRIATIONS

● Mr. HATFIELD. Mr. President, last week the Senate considered and passed H.R. 4515, the Fiscal Year 1986 Supplemental Appropriations Act. After over 20 hours of consideration and debate on amendments, the net effect of Senate action was a reduction in budget authority of $15,000,000 and in outlays of $12,000,000 compared to the committee recommendation on a "CBO current level" basis.

Last week, I reported to you that the effect of Senate action was $1,000,000. That calculation did not include the amendment agreed to just prior to final passage.

The measure as passed the Senate provides $3,877,872,000 in net new budget authority. Compared to the CBO current level calculation, however, the measure reduces budget authority by $1,913,000 and reduces outlays by $413,000,000.

ORDERS FOR THURSDAY, JUNE 12, 1986

RECESS UNTIL 9:30 A.M.

Mr. DOLE. Mr. President, as I understand it, there will be no wrap-up, no other business, except the following:

I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, June 12, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I further ask unanimous consent that, following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, WALLOP, GORE, HEINZ, DIXON, MURKOWSKI, KERRY, HUMPHREY, SASSER, SPECTER, and HART.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Then, if time permits, and only if time permits, there will be a period following the special orders for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for 5 minutes each.

PROGRAM

Mr. DOLE. Mr. President, at the conclusion of routine morning business, the Senate will resume consideration of H.R. 3838, the tax reform bill. As the distinguished chairman has indicated, we can expect votes throughout the day.

I will indicate to the minority leader that I was advised by the Senators from Ohio that they had a compelling commitment in the morning in Ohio, but they would be back, I think, by noon.

□ 2230

There may be other Senators similarly situated.

I would guess if there should be a rollcall vote called for prior to that time we would move it to roughly 12:30 or 1 o'clock.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I compliment the majority leader, and thank him for the consideration he is giving to the Ohio Senators in making that request.

Mr. DOLE. We will, as I have indicated, make certain that if there are any rollcall votes, we will wait at least

until noon. There will be rollcall votes throughout the day, it would be my guess.

Again, I hope that Senators who have amendments will be prepared to offer those amendments.

I know the managers, Senator LONG and Senator PACKWOOD, appreciate cooperation, and so far we have had it. Everyone has been very helpful. We are moving along. I think the IRA amendments were major amendments. There may be other major amendments.

But I am certain they can be properly accepted or rejected. I know the managers will appreciate action tomorrow on a number of those amendments.

At that time I think the minority leader suggested maybe by tomorrow evening we will be able to take a better look at Monday.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until the hour of 9:30 a.m., on Thursday, June 12, 1986.

The motion was agreed to; and, at 10:30 p.m., the Senate recessed until tomorrow, Thursday, June 12, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 11, 1986:

DEPARTMENT OF AGRICULTURE

Kathleen W. Lawrence, of Virginia, to be Under Secretary of Agriculture for Small Community and Rural Development, vice Frank W. Naylor, Jr.

Kathleen W. Lawrence, of Virginia, to be a member of the Board of Directors of the Commodity Credit Corporation, vice Frank W. Naylor, Jr.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Donald M. Babers, [redacted], age 54, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10 United States Code, section 601:

To be lieutenant general

Maj. Gen. Vincent M. Russo, [redacted], U.S. Army.

EXTENSIONS OF REMARKS

PERCEPTIONS OF APARTHEID IN SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. RANGEL. Mr. Speaker, I rise to submit an article by Prof. Henry Richardson, entitled Perceptions of Apartheid in South Africa.

Pretoria recently announced that it will dismantle the hated influx control system, popularly known as the pass laws. We should not be deceived about the why this was done. Apartheid propagandists will say that Pretoria is revealing a new liberalism, that the principle of upholding human rights was the ultimate motivation. This is untrue.

The South African Government was faced with a fait accompli in which the so-called white areas were already surrounded by large black populations. Black workers lived near the restricted areas, and commuted to them daily. Pretoria has not loosened the pass system out of generosity; they have done so because the only other choice would have been the impossible task of removing millions of blacks away from the white areas.

Mr. Speaker, I urge my colleagues to read Professor Richardson's article. It may answer many questions we might have on this issue.

PERCEPTIONS OF APARTHEID IN SOUTH AFRICA

(By Henry J. Richardson III)

The basic facts of South African apartheid have become well known. In a beautiful, varied and rich land on Africa's southern Cape, some 4.5 million whites—a combination of Afrikaner descendents of Dutch settlers from three centuries ago, and descendents of more recent settlers from England, plus other smaller groups—have established "apartheid". It was codified into law in 1948 to control 23 million black Africans of several tribal lineages, the 3 million "colored" population, and one million Asians. Its effectiveness rests on South Africa's being a police state, vis-à-vis its black (and increasingly its white) citizens, enforced by a repressive police, military and intelligence apparatus. Its aim is to segregate blacks from whites in all areas to prevent having to provide equal benefits, and to prevent the coalescing of black political and economic power, while retaining African labor which is crucial for South Africa's mines, farms and factories.

Black South Africans have none of the rights Americans take for granted, including that of basic citizenship. They are funneled through a pervasive administrative system of influx control into the cities, businesses and mines to work during the day, and then out at night to segregated townships or hostels. A prime method of state control is the capriciously enforced pass laws, requiring all blacks to carry their pass books giving them permission to be where they are; 700,000 blacks are arrested annually for pass book offenses.

One aim of apartheid is to export as many blacks as possible out of South Africa, though allowing them to return to work in their own country. This is the notorious "homelands" system—the creation of a series of bogus states from non-contiguous parcels of land. These "states" are ruled by designated black leaders and governments with overwhelming white South African economic underpinning and direction. None of these "homelands", four of which have been assembled from noncontiguous parcels of land, has been recognized by any outside country, yet Pretoria persists with its plan to forcibly export 73 percent of the country's people by arbitrary tribal designations, to the most barren 13 percent of the nation's land. Over the last two decades, South Africa has forcibly removed some four million Africans out of "white" areas throughout the country, with denial of even elementary rights. And the annual cost of apartheid has been estimated at $4 billion.

About 350 American corporations are doing business in South Africa, with a total investment of $2.3 billion. They employ about 70,000 African workers, less than 1 percent of an African workforce of over 8 million. They participate throughout the economic but are concentrated in the essential infrastructure: U.S. firms control 70 percent of the computer market (including computers necessary to coordinate the apartheid system), 24 percent of the automotive market, 44 percent of the petroleum producers market, about 33 percent of all South African gold mining shares. They have a visible share of the electronics market.

Within the last five years, a representative black trade union movement has emerged around the Council of Unions of South Africa (CUSA) and the Federation of South African Trade Unions (FOSATU) beyond the tightly controlled groups first allowed by Pretoria to prevent black workers from forming more politicized unions. This has happened in spite of severe repression from the regime. The unions may be pushing towards the capacity to call a national general strike, if necessary, a capacity long feared by Pretoria.

To protect apartheid, Pretoria's foreign policy aims to control the weaker African states on South Africa's periphery, to undermine the African National Congress, to hang on to the neighboring mineral-rich territory of Namibia which they have illegally occupied by military force since 1966, and to maintain government and business support from Western nations. One of their principal strategies—internally and externally—is to concede the public trappings of political authority to a black state or group (such as the "homelands"), while fostering severe economic dependence by that state or group on Pretoria. That dependence is then readily used to keep that state in line, for example, to prevent Botswana and Mozambique from harboring soldiers, personnel and bases of the African National Congress, the primary liberation group fighting apartheid.

South Africa's regional actions over the last decade have featured attempted destabilization of governments, assassination, military and paramilitary invasion. It is sponsoring two anti-government guerrilla movements in Mozambique and Angola, each resembling the U.S.-sponsored "contras" against Nicaragua. South Africa currently occupies territory in southern Angola, and periodically invades that country. With U.S. assistance, South Africa forced Mozambique in 1984 to sign a non-aggression pact, which it now admits violating. The Reagan Administration has done little to oppose South African aggression against neighboring states. As a counterpoint to this aggression, the claim is made to the outside world that South Africa should be regarded as the economic powerhouse of the region, and the Pretoria regime should remain dominant as the best developmental hope for southern Africa. This propaganda has found its target in more than one sector of American opinion.

South Africa is now under a declared state of emergency, amid growing fears in even the white community that the police and army are out of control. Over 6,000 detentions and over 1,000 deaths of black South Africans have occurred under the emergency, and 25,000 detentions during the past year. For the first time, many whites do not believe Pretoria has a plan to control the situation. Both organized and unorganized black resistance to the regime is appearing in new national patterns. The new resistance calls upon not only present rage, but on an historical tradition of over a century of opposition to white rule, by violent and non-violent means. The African National Congress, founded in 1912, pursued non-violent strategies until the 1960 Sharpeville massacre, where police killed 60 Africans at a peaceful demonstration. Afterwards a talented young lawyer, Nelson Mandela, and his law partner Oliver Tambo, saw that official violence against blacks was so ingrained that it had to be countered on its own terms. In 1963, by then an underground hero, Mandela was arrested and sentenced to life imprisonment after a momentous trial. He remains there today, the political hero of black South Africa, with Pretoria afraid either to release him or keep him. His recent health problems raise the specter of South Africa's losing a talented, unifying leader. Under Oliver Tambo, the ANC has stepped up its guerrilla attacks within South Africa, with the silent support from millions of black people, and the more open support of the large and slightly multiracial United Democratic Front (UDF), the key above-ground resistance organization in South Africa.

South Africa apartheid as an issue is finally coming of age in American public discourse, after having been too long hidden. Jesse Jackson's run for the Presidency in 1984 provided for the first time national political exposure for a candidate who was an articulate, committed foe of apartheid, and he made the issue both national and inescapable. Subsequently, the free South Africa Movement has become a national movement encompassing churches, universities, and local governments. Temple University as of September 12, 1985, ahead of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

many universities, divested its portfolio of $2.5 million in stocks of all corporations doing business in South Africa.

A wave of similar actions has put the Reagan Administration and U.S. business on the defensive regarding any continuing accommodation with Pretoria. Americans have demanded corporations to divest their holdings in South Africa, a demand which has already borne fruit in city council resolutions and state laws mandating divestment. Popular Congressional action has forced a Presidential Executive Order imposing economic sanctions. Many corporations argue that it is better for black South Africa and for the United States if they remain in South Africa under the voluntary Sullivan Principles (mandating equitable working conditions for their African employees and an anti-apartheid corporate posture). But many are now leaving South Africa.

As we look towards the future in South Africa, and events in the United States in response, several issues are important to any credible analysis: law in South Africa, the international community and the United States; force and violence; "business-as-usual"; land and its control; and the relationship of South Africa to U.S. racial attitudes.

LAW

In southern Africa, major power and wealth decisions have long been shaped by considerations of law. Much of this stems from Pretoria's use of legal rules and institutions to run apartheid as a system, and to present itself to the world as a quintessential "law and order" nation. Its policies, however, have distorted this concept so that in the South Africa situation, it is a synonym for racist oppression. Comparisons with a similar use of legal rules in Nazi Germany are neither infrequent nor unwarranted, since a legal system is no better than its underlying values.

Pretoria has constantly played on the law and order ideal, using legal structures to refine apartheid, while claiming to be evolving into a reformist government. Thus in late 1984, the Botha regime promulgated with sham elections a new constitution featuring a tricameral parliament representing whites, Indians and "coloreds," and totally excluding black South Africans who comprise 73 percent of the population. This is the latest phase of a long pursued strategy to align Indians and "coloreds" with whites against the black majority.

Under international law, the massive illegality of apartheid has shaped not only much of modern southern African politics, but especially has served as a fulcrum for the worldwide anti-apartheid movement. Six decisions of the International Court of Justice, several treaties including the UN Charter, scores of UN General Assembly resolutions and several UN Security Council resolutions have conclusively established the illegality of apartheid and its strategies, such as the occupation of Namibia and the homelands policy. The confirmation of this illegality has been so massive that South Africa stands in the unique position of being an illegitimate, albeit recognized, government. No action by Pretoria can be assessed without passing through this conclusion of law. For example, guerrilla soldiers of the ANC cannot be designated "terrorists," notwithstanding such claims by both Pretoria and Washington.

Thus those who harbor secret sympathies for apartheid, or at least are willing to go slowly towards its abolition, have presented to them the ideal of law and order, while those moving within and without South Africa to abolish the hated system and replace South Africa's government have impeccable authority under international law. The United States is a society deeply imbued throughout its history with the notion of the rule of law. Since the early part of this century, it has taken the lead in working to establish the rule of law in international affairs. The historical imperative is such that no U.S. administration, even should it want to do so for narrow policy reasons, could disown in the name of the United States the authority of the rule of law.

It is perhaps not surprising that the same Administration, which is unsuccessfully trying to, in effect, disown the rule of law by denouncing the International Court of Justice for ruling against it in Nicaragua v. the United States, also shows consistent sympathies for Pretoria's law and order claims, although verbally opposing apartheid. Intense political pressure was required for it to reluctantly produce the Executive Order on sanctions of September 9, 1985. Yet there is a visible number of political conservatives in America who, while resonating with a law and order ideal, are unwilling for this to connote support for apartheid. They have said so publicly, and their support was crucial in the recent passage of Congressional legislation on economic sanctions against South Africa. It remains to be seen whether, subsequent to the Executive Order on sanctions, their support will continue for any additional, tougher legislation.

Thus international law and American law have now made it impossible to equate action by the South African government with action against that government. The law clearly supports the right of black South Africa to be free of all racial discrimination, and to live in a society where they can exercise one-man one-vote or its equitable equivalent. The legitimacy of the Pretoria government has been called into question, in part because the distance between it and the people it purports to rule has become abusively wide. Legitimacy is a major question of the near future, both internationally and within South Africa. As long as it clings to power, Pretoria will continue to manipulate "law and order," and its claim to be a "government." But law and order is a valid ideal only so far as the society which it purports to order is perceived to be just. Such perceptions are virtually exhausted internationally, have disappeared in black South Africa, and although they continue among sectors of white South Africa, current circumstances there raise fundamental, eroding questions.

FORCE AND VIOLENCE

South Africa is now providing a test of beliefs about the use of force to uphold one set of values and not another. The traditional presumption of latitude in the use of force given to a national government has been called into question in South Africa. It is finally being perceived internationally how violent the South African regime has been, and is towards its own unarmed and, for the most part, peaceful black citizens. This perception lags by several years behind that of both the General Assembly and the Security Council of the United Nations, which by resolutions explicitly gave the sanction of international law uniquely to liberation movements using force to combat this established government. The unrestrained actions of Pretoria's police and army in the current state of emergency only erode any remaining legitimacy.

But the phenomenon of black-on-black violence in South Africa has also come to light. Black youths and those older, concluding that all who are employed by the Pretoria regime, such as black police and township officials, indeed help it to function, consider these actions treason to a cause far more sacred than peace and order, and have publicly and brutally killed those accused as collaborators. Moreover, government-sponsored death squads (including those with black members) are widely thought to be operating against outspoken African organizers, such as in the death in mid-1985 of Victoria Mxenge, a noted lawyer. Old tribal antagonisms, such as between Zulu and Xhosa, are rumbling, perhaps heretofore held somewhat in check by the common inhumanity of an effective apartheid system. Such antagonisms are fueled by personal animosities among some African group leaders, such as that between Chief Gatsha Buthelezi, leader of the Zulus, and the leaders of the ANC and the UDF. Those black leaders devoted to non-violent change, such as Nobel Laureate Desmond Tutu and Rev. Allan Boesak of the UDF, are being steadily hemmed in by the refusal of Pretoria to negotiate with any but those blacks already ensnared by the system and therefore lacking any significant constituency. Pretoria's insistence on detaining and torturing all effective local and national black leaders who can be located only worsens the problem.

Neither historically nor existentially can black-on-black violence be separated from the violence of the Pretoria regime which surrounds it, no more than could the violence among the French against collaborators during the French Resistance of World War II against German occupation be separated from the conquering Nazi violence. Any explanation of events must escape the racist conclusion that South African black-on-black violence is to be viewed as special evidence of primitive unfitness, as compared to other human beings in similar struggles against an occupying military force for their dignity, freedom, and lives.

Most sectors of black South Africa consider themselves in some phase of a war against Pretoria and its officials. The evidence is overwhelming that they have good reason to think as they do. Whatever social contract existed between governors and governed has here been fundamentally breached by the white minority regime. Normal expectations of a citizen's duty to uphold peace and order and to give the benefit of the doubt on such questions to the government, are not applicable here owing to the continuity, sophisticated deadly intensity, and blatantly racial basis of the oppression by Pretoria against black South Africa. Imposing such expectations from the United States simply shows the bias of the imposer.

Part of the immediate reason for black-on-black violence lies in the intuitive fear by many blacks now on the front lines on this battle that what they win politically and by liberation activities could well be taken away in the phases towards a new society by Pretoria/business/western government co-option of susceptible black leaders. Divide-and-conquer strategies have been long-practiced standard tactics of Pretoria, and such fears are well-founded.

Thus one such possibility is that Chief Gatsha Buthelezi is being held in reserve, by tacit collusion between Pretoria and

Washington and perhaps other western capitals, to be pushed forward at the opportune moment as the black leader for South Africa. He would be acceptable to white and Western interests, under this scheme, while commanding enough support to split black loyalties relative to more mass-based representative "radical" black leaders, and while serving as a plausible focus for the international acceptability of a new South African government. Buthelezi is the unquestioned leader of the Zulus, the largest single tribal heritage in South Africa, and chief minister of KwaZulu, a South African bantustan headed for homeland status but for Buthelezi's staunch opposition. He has managed for some years to be simultaneously an internationally visible opponent of apartheid and a government official. He has formed Inkatha, a Zulu-based, somewhat multiracial political organization whose effectiveness is generally limited to the province of Natal, and he recently has called upon the proud warrior tradition of the 6 million Zulus; the latter has been a factor in conflicts and deaths of UDF supporters. The UDF is a larger, more national federation of organizations with close ties to the ANC, but there are also even more radical groups in the black political spectrum.

Moreover, a recent respected newspaper poll among urban black South Africans indicated that Buthelezi placed well behind Nelson Mandela and Bishop Tutu, with only six percent support, in their choice for a national leader. It is thus doubtful that Buthelezi can emerge as a national black leader. But there is also the curious circumstance of Pretoria's apparently permitting him to exist and travel, free from the repression, house arrest, detention, torture and death that it has visited on so many other black leaders. Buthelezi must be still counted, however, as one possible element, however remote, to produce a multiracial future government for South Africa.

Black-on-black violence does indicate potential difficulties in black South Africa of groups forming workable alliances for an effective national government, should the Pretoria regime fall or step down. Notwithstanding Pretoria's consistently brutal efforts to destroy effective black leadership, and divide black groups from their allies, there is sufficient talented leadership (albeit some of it is imprisoned or in exile) to govern effectively. Tribal divisions exist, but much of any friction here has been generated by Pretoria under apartheid doctrine. Much depends on the severity of Pretoria's violence to protect white domination—and one can only be pessimistic—and also on the fortitude by which the emerging genuine black leadership holds to the goal of a unitary state and national majority rule.

Finally, the generation gap in black South Africa is pertinent. Many, but by no means all, of the black shock troops in this war are school children or slightly older, a reality dating back to the 1976 protests following the murder by Pretoria of Steve Biko. They have led, or split with, or taught many more hesitant parents. But now, since Pretoria under its state of emergency has directly assaulted and detained eight and nine-year-old school children in the schools, the parents are increasingly mobilized. The role of the relatively young as political teachers of liberation is increasingly accepted. The generation gap is a factor in black South Africa's political development, but it does not make a national black majority government impossible.

NATIONAL ENDOWMENT FOR DEMOCRACY

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. McCAIN. Mr. Speaker, today the International Operations Subcommittee of the Foreign Affairs Committee held another in a series of oversight hearings on the national endowment for democracy. The endowment has been the topic of great debate for the last few years, and many Members have expressed concern. I would like to submit for the RECORD an article from the Sunday, June 1, New York Times, and I would appreciate my colleagues' interest:

MISSIONARIES FOR DEMOCRACY: U.S. AID FOR GLOBAL PLURALISM

(By David K. Shipler)

WASHINGTON, May 31.—For several years after Soviet troops entered Afghanistan in 1979, a former editor and Information Minister in Kabul tried to get money to restore the village school system destroyed in rebel-held areas of his country.

The Afghan, Sabahuddin Kushkaki, applied unsuccessfully to the United States Agency for International Development and to major American private foundations. Every one turned him down, thinking the war would be short.

Then, as the fighting continued, he and some friends happened upon an organization with the right combination of Government money, bureaucratic flexibility and anti-Communist commitment—the National Endowment for Democracy.

Using Federal money, it provided $180,845 to train teachers, conduct literacy courses for rebel fighters, reopen some schools and publish new textbooks with unflattering accounts of the Soviet role in Afghan history. "They have been giving us help without any strings attached," Mr. Kushkaki said on a recent visit to Washington.

PUBLIC MONEY, PRIVATE INTERESTS

This is part of an unusual worldwide campaign, billed as a promotion of democracy and free enterprise, which mixes public funds and private interests. Conceived in a new spirit of ideological confidence in the United States, the effort is described by some of those involved as an expression of the "Reagan Doctrine," which envisions an aggressive American policy in fostering a move toward democracy in the third world. After three years, the program has now taken a clear shape.

The National Endowment for Democracy, a private group created for the purpose, has channeled a total of $53.7 million in Government money to foreign political parties, labor unions, newspapers, magazines, book publishers and other institutions in countries where democracy is deemed fragile or nonexistent.

The Federal money is being used for such undertakings as helping the Solidarity labor union print underground publications in Poland, buying materials for an opposition newspaper in Nicaragua, bolstering the opposition in South Korea, aiding a party in Northern Ireland that is a member of the Socialist International and getting out the vote in Grenada and Latin American countries.

Money is also going to monitor and publicize human-rights abuses by Vietnam, for union-organizing in the Philippines and for public-opinion surveys to help political parties opposing the right-wing dictatorship in Chile.

"We're engaged in almost missionary work," said Keith Schuette, head of the National Republican Institute for International Affairs, which conveys some of the money to foreign political parties that share the Republicans' views. "We've seen what the Socialists do for each other. We've seen what the Communists do for each other. And now we've come along, and we have a broadly democratic movement, a force for democracy."

In some respects, the program resembles the aid given by the Central Intelligence Agency in the 1950's, 60's and 70's to bolster pro-American political groups. But that aid was clandestine and, subsequent Congressional investigations found, often used planted newspaper articles and other forms of intentionally misleading information.

The current financing is largely public—despite some recipients' wish to keep some activities secret—and appears to be given with the objective of shoring up political pluralism, broader than the C.I.A's goals of fostering pro-Americanism. Although some grants go to unions and parties that are close to the Administration's policy line, others support groups that disagree with Washington on the danger of the Soviet threat, for instance, or on aid to the Nicaraguan rebels.

Supporters praise it for lending a novel flexibility to Government-aided efforts aboard, for doing what official agencies have never been comfortable doing in public.

Opponents in Congress have branded it as more anti-Communist than prodemocratic and have faulted it for meddling in other countries' internal affairs.

The National Endowment was created in 1983 as an amalgam of various sectors of American society, including business, labor, academic institutions and the two major political parties.

Its board of directors reflects that diversity, including such prominent figures as former Vice President, Mondale; former Secretary of State Henry A. Kissinger; Lane Kirkland, president of the A.F.L.-C.I.O.; Representative Dante B. Fascell, the Florida Democrat who heads the House Foreign Affairs Committee; Olin C. Robison, president of Middlebury College; Frank J. Fahrenkopf Jr., chairman of the Republican Naitonal Committee, and Charles T. Manatt, former chairman of the Democratic National Committee.

CONCEPT COLLECTS PRAISE AND CRITICISM

The concept of a private group as a conduit for Government funds for such a program has drawn both praise and criticism from liberals and conservatives alike.

The endowment's chairman is John Richardson, who was president in the 1960's of Radio Free Europe, which was funded by the C.I.A. He was Assistant Secretary of State for Educational and Cultural Affairs in the 1970's, and has worked with nonprofit agencies such as Freedom House and the International Rescue Committee.

The money, disbursed to the National Endowment by the United States Information Agency, then flows through complex channels. Some is given directly by the group to those who use it . But most of it goes from the endowment to four "core grantees." They are the A.F.L.-C.I.O.'s Free Trade Union Institute; the Center for Internation-

al Private Enterprise of the Chamber of Commerce, and the National Republican and National Democratic Institutes for International Affairs, which are affiliated with the Republican and Democratic national committees. These either run programs themselves or pass the money on to others.

The concept of the endowment took shape as the country moved from the dark self-doubts after the Vietnam War into a new era of confidence in its own virtues and a conviction that democracy should be supported publicly and proudly, without the secrecy that tainted the C.I.A's activities.

"We should not have to do this kind of work covertly," said Carl Gershman, president of the endowment and an aide to Jeane J. Kirkpatrick when she was the chief United States delegate to the United Nations. "It would be terrible for democratic groups around the world to be seen as subsidized by the C.I.A. We saw that in the 60's, and that's why it has been discontinued. We have not had the capability of doing this, and that's why the endowment was created."

Mr. Gershman insists that there is no contact between the C.I.A. and the endowment and that before grants are made, a list of the potential recipients is sent by the endowment through the State Department to the C.I.A. to be sure none is receiving covert funds. No such case has been reported. Mr. Gershman said.

J. Brian Atwood, president of the National Democratic Institute for International Affairs, which receives some of the money, denies that the endowment's work bears any resemblance at all to earlier C.I.A. activities, which he said "did terrible damage to our own values" and "reflected a misunderstanding of what our values as a democratic society were all about."

He said that "many institutions didn't know they were receiving C.I.A. money," and that those who get money from the endowment are supposed to know where the money comes from and must agree to have the fact publicized.

Some grants seem at least superficially similar, however. La Prensa, the opposition paper in Nicaragua, is receiving $100,000 worth of newsprint, ink and other supplies this year to help it survive. In the early 1970's, the C.I.A. gave at least $1.6 million to El Mercurio, the major Santiago daily, which also faced economic pressure, from the Government of President Salvador Allende Gossens. Books and magazines were published with C.I.A. money, and campaigns to get out the vote were conducted, as they are now with endowment money.

The prospect of publicity causes discomfort to some who receive money. Because Congress has made the endowment subject to the Freedom of Information Act, Eugenia Kemble, head of the A.F.L.-C.I.O.'s Free Trade Union Institute, has expressed uneasiness about providing the detailed financial statements that are being required by the General Accounting Office. In a draft report, the G.A.O. criticized the endowment for inadequate monitoring of expenditures and recommended tighter procedures. Miss Kemble complained that any report going to the endowment can become public.

Since the end of the World War II, the A.F.L.-C.I.O. has funneled money from various Government agencies to build up non-Communist unions abroad. Despite its denials, the labor movement has been suspected of conveying C.I.A. money. Miss Kemble expressed worry that publicity could endanger individuals facing dictatorial governments and involved in "sensitive" work.

"There are some grantees we are phasing out because they cannot stand this," she said. "There's a failure to empathize with the people out there in terms of the political difficulties in which they have to operate."

For example, detailed expense reports, including names and specifics of the clandestine Solidarity printing operation inside Poland, would probably give the Polish police enough information to close down the operation. Miss Kemble said one European organization had infiltrators in communist unions to report on their plans and activities; making details public would damage the effort, she said.

But Mr. Schuette, of the Republican Institute, has a different view. "We cannot be secret," he said. "There is nothing secret. Our rule is, it's going to be public. Therefore, I am not going to do anything that is going to damage people if it becomes public."

CONGRESSIONAL CRITICISM IS NOT UNCOMMON

Although $53.7 million seems a small amount when compared with the $38.3 billion allocated in foreign aid over the last three years, some members of Congress object to the grants in view of cutbacks in domestic programs. At a recent Congressional hearing. Representative Barney Frank, Democrat of Massachusetts, said, "To say that we're not going to fund public transportation or research on cancer because we've got to give money to a French union for political purposes just doesn't seem reasonable."

Representative Hank Brown, Republican of Colorado, raised questions about possible conflict of interest, noting that the endowment's board includes current or former officers of some of the major grant recipients, including the A.F.L.-C.I.O., the Democratic and Republican institutes, and the Chamber of Commerce. Although they do not vote on their own programs, he said, "The board has seen its job as one of dividing the public money among their own organizations."

Mr. Gershman and others involved counter that the input of such experienced people is essential for a wise program.

But that wisdom has also been challenged. At a Congressional hearing recently, Representative Frank chided the Democratic Institute for supporting the Social Democratic and Labor Party of Northern Ireland, which grew out of the nonviolent Catholic civil rights movement. Mr. Atwood called it "the only major party that is seeking to work through the democratic process," and said it needed help in building a structure. A total of $85,000 has been allocated for a training institute and a seminar on financing, communications and organization, Mr. Atwood said.

TAXING AMERICANS TO TELL IRISH OF POLITICS

Representative Frank raised an eyebrow. "Maye I've been in Massachusetts too long," he said, "but the notion that we have to tax the Americans to teach the Irish about politics seems to me a very strange one. If people want to help one party or another in Northern Ireland, that's fine. But I don't think the American taxpayers ought to be taxed to do that."

That is precisely what is happening, however, not only in Northern Ireland, but also in Asia, Latin America and elsewhere. Those involved argue that democracy cannot be bolstered without strengthening democratic institutions.

The Republicans and Democrats approach the task in different ways. The Democrats usually hold conferences and seminars for a variety of parties in a given country or region, while the Republicans choose a particular party that seems to share conservative American positions on foreign policy and economic issues. The two institutes worked together to monitor the recent elections in the Philippines, documenting fraud and intimidation.

The effort thus provides common ground for diverse American viewpoints. "A conservative may see it as a better way to compete with the Communists," Mr. Atwood said. "I see it as a better way to bring about human rights in the world and a better way to bring about change and development in the world."

This sometimes puts the program at odds with the Administration's policies and preferences. The Social Democratic and Labor Party of Northern Ireland, for example, is a member of the Socialist International and a supporter of the Sandinista Government of Nicaragua, which the Reagan Administration would like to see overthrown.

STATE DEPARTMENT OPPOSED SEOUL PROGRAM

Similarily, when the Democrat proposed a conference in Washington of the South Korean opposition, the State Department worried about adverse reaction from the Seoul Government. The endowment gave the grant anyway, the conference was held and the State Department ultimately revised its assessment.

On May 9-11, the Democrats used their money to sponsor a conference in Caracas of democratic parties from Venezuela, Chile, Argentina, Uruguay and Spain "to share ideas and experiences of party leaders' who have been through the same problem—military dictatorship," Mr. Atwood said.

This kind of activity has two longterm benefits, he says: First, to build a sense of international solidarity among those who believe in democracy; and second, to reduce the fear of some leaders in Washington that friendly military dictatorship may give way to democratically elected governments prone to Communist influence.

In Mr. Atwood's view, this can reasure "the people who are status quotient who say that we can't get on the side of change because we don't know what will happen."

"The fear of the unknown factor is less if you know the people who are pushing for change," he said.

The Republican Institute focuses more narrowly on moderate and conservative parties. "We wouldn't get involved with a Socialist Part," Mr. Schuette said. Those the Republicans have helped have often lost elections—in Portugal, Costa Rica and Bolivia, and most recently in Colombia, where the Conservative Party's Presidential candidate, Alvaro Gomez Hurtado, lost in a landslide May 26 to Virgilio Barco Vargas of the Liberal Party. The grant was intended to increase the participation of disaffected voters and party members.

"We do not fund political candidates in campaigns overseas," Mr. Schuette said. "Our programs are not designed or intended to have any affect on elections."

This was seconded by Mr. Fahrenkopf, the Republican national chairman and vice chairman of the endowment. "We feel we are accomplishing our purpose if in a country there are free elections," he declared. "It's really superfluous whether the particular parties we're helping are victorious or not."

The lines between promoting democracy and promoting a particular party's chances in an election are hard to draw, however. The A.F.L.-C.I.O.'s Free Trade Union Institute has channeled money to unions and other organizations associated with particular parties in Latin America, Africa, Asia and Western Europe.

FUROR OVER AID TO FRENCH RIGHTISTS

In an unpublicized move that was disclosed late last year, a $575,000, two-year grant was authorized to an extreme right-wing French group the National Inter-University Union, know as U.N.I. its acronym in French. In 1982, a parliamentary inquiry found that U.N.I. had been created largely by a paramilitary extremist nationalists organization called Service d'Action Civique, or S.A.C., which was founded in 1947 to provide order at meetings and protection for Gen. Charles DeGaulle.

S.A.C. was infiltrated by criminal elements in the 1960's and 70's, the inquiry found, and was declared an illegal organization after a political scandal arose around the killing of six people in the southern French town of Aurio in 1981, "U.N.I. was at its beginnings, a satellite movement of S.A.C. the inquiry concluded, "and it is today closely associated with it."

U.N.I. opposed the governing Socialists before and during the last election campaign, pasting posters over subway maps declaring, "Socialism is a lie and a fraud." It has distributed pamphlets accusing a Catholic aid agency of being a Marxist-Leninist front, and has campaigned against what it sees as Marxist influence in universities.

Last November, after French journalists reported the American funding of U.N.I., the endowment suspended its grant, Mr. Gershman said, leaving $73,000 of the $575,000 undelivered. The board is to decide next week whether to resume payments on the current grant, but Mr. Gershman said that no further grant would be made.

It is a new process, Mr. Fahrenkopf observed, one that is bound to run into trouble in the beginning, if it is as bold as its should be. "We're going to make mistakes," he said, "If we don't make mistakes, we shouldn't exist."

GENERAL COMPULSORY JURISDICTION OF THE WORLD COURT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. GREEN. Mr. Speaker, I would like to share with my colleagues the following comments by Anthony D'Amato entitled, "The United States Should Accept, By A New Declaration, The General Compulsory Jurisdiction of the World Court."

These comments appeared in the American Journal of International Law, April 1986, volume 80, No. 2.

THE UNITED STATES SHOULD ACCEPT, BY A NEW DECLARATION, THE GENERAL COMPULSORY JURISDICTION OF THE WORLD COURT

April 7, 1986 marks the end of a notable 40-year experiment in international adjudication. On that date, the United States Declaration of acceptance of the general compulsory jurisdiction of the International Court of Justice terminates, according to the 6-month notice of termination delivered by the Secretary of State to the United Nations on October 7, 1985.

Together with that notice, the State Department issued a press release emphasizing that the United States was not pulling out of the World Court, and that it would continue to participate in the adjudication of treaties containing compromissory clauses and in cases referred by both parties to the Court.[1] Nevertheless, these consensual matters are quite different from compulsory jurisdiction. Domestic law would collapse if defendants could only be sued when they agreed to be sued, and the proper measurement of that collapse would be not just the drastically diminished number of cases but also the necessary restructuring of a vast system of legal transactions and relations predicated on the availability of courts as a last resort. There would be talk of a return to the law of the jungle.

The jungle metaphor has been mooted as a result of the U.S. termination. The United States seems to have relinquished its leadership role in promoting world peace through world law. In 1946, the United States consciously tried to set a good example by joining the Court's compulsory jurisdiction, but according to the State Department's aforementioned press release, "Unforunately, few other states have followed our example. Fewer than one-third of the world's states have accepted the Court's compulsory jurisdiction. . . ."[2] Yet the substance of that "example" could well be questioned. Professor Thomas Franck has pointed out that the Connally reservation to the United States Declaration, a self-judging provision regarding jurisdiction, led many would-be joiners of the Court's compulsory jurisdiction to conclude that the example set by the United States was a hollow one and that this country did not take the World Court seriously.[3]

An even more misleading item in the State Department's press release was the statement, "We have never been able to use our acceptance of compulsory jurisdiction to bring other states before the Court, but have ourselves been sued three times."[4] In fact, on several occasions since 1946 the United States considered bringing actions against other states in the World Court but eventually decided not to do so out of fear that those states would invoke the Connally reservation reciprocally. In no sense, however, was the United States disabled from suing.

Three major reasons, among others, argue in favor of reaccepting the general compulsory jurisdiction of the Court. First, in a precarious nuclearized world, not only does adjudication help prevent small disputes from escalating into major ones, but also its very possibility on the basis of compulsory jurisdiction helps modify conduct that otherwise could lead to a dispute. Given the enormity of the stakes and the paucity of international legal institutions, strengthening the World Court could be an extremely valuable investment. Second, the United States stands to benefit in years to come from actively espousing the claims of its nationals against foreign states in the World Court. Many such claims arise in settings ungoverned by treaty or compromissory agreement. The more the United States reaches out to the rest of the world—whether by investments abroad, tourism or the activities of multilateral corporations—the more useful will it be to have a forum where the United States can support private claims of its nationals subjected to unjust treatment abroad. Third, on a purely cost-benefit basis, the United States, as a law-abiding nation under a progressive Constitution, should have little to fear in being brought to account before a world tribunal. And in those few cases where the United States might lose, its willingness to lose gracefully would give it the moral right to expect and demand that other nations comply with adverse judgments against them and maintain their participation in the Court's complulsory jurisdiction.

Accordingly, I would like to suggest some ideas for a new United States Declaration. However, at the outset I acknowledge the force of an argument contained in a letter to me by Judge Abraham Sofaer, the Legal Adviser to the Department of State.[5] He refers to the Department's perception that the Court, in the jurisdiction phase of *Nicaragua v. United States*,[6] in effect transgressed verbal limitations on its own competence and jurisdiction. "Unfortunately," he writes, "clever drafting" cannot insure against the risk that the Court might refuse to give jurisdictional reservations their intended effect. In response, although I do not agree with all of the Court's reasoning in that case, and although I concede that the Court gave its own jurisdiction a liberal interpretation, I see no evidence that the Court ignored the clear meaning of words. But even if there were such a risk in the future, the ambit of risk would be limited by a proposed 6-month termination provision. Finally, with respect to the jurisdictional question of greatest sensitivity—cases involving armed hostilities—I shall suggest a middle ground that may serve to reduce the strain otherwise placed on decisive linguistic delimitations of the Court's competence.

SUGGESTED DELETIONS

A new declaration would be materially improved if it omitted both the Connally and the Vendenberg reservations contained in the 1946 Declaration. The Connally reservation[7] inhibits the United States from bringing actions by giving the defendant almost unlimited power to avoid the suit. Even if the United States refrained from invoking the reservation in unreasonable contexts, as it did in the *Nicaragua* case, there is no assurance that defendant states would be so scrupulous reciprocally, as witness Bulgaria in the *Aerial Incident* case.[8]

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[1] Dep't of State daily news briefing, DPC No. 178, Oct. 7, 1985, at 2, reprinted in part in 80 AJIL 164, 165 (1986) (issued concurrently with the text of the note of Secretary of State Shultz delivered to the Secretary-General of the United Nations on Oct. 7, 1985).

[2] *Id.* at 1, 80 AJIL at 164.

[3] Franck & Lehrman, "Messianism and Chauvinism in America's Commitment to Peace through Law" (to be published by the Senate Comm. on Foreign Relations).

[4] Dep't of State, *supra* note 1, at 2, 80 Ajil at 164.

[5] Letter of Abraham D. Sofaer, Legal adviser, Department of State, to Professor Anthony D'Amato (Dec. 3, 1985).

[6] Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), Jurisdiction and Admissibility, 1984 ICJ Rep. 392 (Judgment of Nov. 26).

[7] Excepted are "disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America as determined by the United States of America." U.S. Declaration of Aug. 14, 1946, 61 Stat. 1218 (1947), *reprinted in Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 1982*, at 23-24, UN Doc. ST/LEG/SER.E/2 (1983) [hereinafter cited as *Multilateral Treaties*].

[8] Case concerning the Aerial Incident of 27 July 1955 (U.S. v. Bulgaria), 1960 ICJ Rep. 146 (Order of

The Vandenberg reservation,[9] requiring that all parties to a multilateral treaty that would be affected by a decision on the treaty be parties to the case, is unnecessarily in view of the Court's intervention rules under Article 63 of its Statute, and excessively onerous considering the fact that most cases these days invariably include interpretation of provisions of that huge multilateral convention, the United Nations Charter. The Vandenberg reservation literally mandates that in all such cases where the United States is sued, the plaintiff must implead all the member states of the United Nations.

Whatever the United States might reserve in a new declaration, a bright new dawn for American support of the international rule of law would be signaled if the Connally and Vandenberg reservations were scuttled.

SUGGESTED ADDITIONS

An important addition to the 1946 Declaration would remove the disincentive from accepting the Court's compulsory jurisdiction that it gratuitously confers on other states. Under the old language, a state might reason that if it ever had cause to sue the United States, it could file its acceptance of compulsory jurisdiction a day or two before filing the lawsuit itself. Until then, it could remain immune to suit by the United States simply by withholding any open-ended acceptance of general compulsory jurisdiction. This disincentive could be avoided by adopting a provision, like the United Kingdom reservation[10] that would allow suits against the United States only if the plaintiff state had adhered to the Court's compulsory jurisdiction for at least 12 months prior to the commencement of the suit.

Clearly, the most important substantive reservation in any new U.S. declaration would regard ongoing armed hostilities, the question that has so troubled the State Department in the *Nicaragua* case. Having withdrawn from the Court's compulsory jurisdiction as a result of that case, the United States surely would not rejoin on terms that would allow lawsuits similar to Nicaragua's. One may well ask why nations are so concerned about excepting cases regarding armed hostilities from adjudication. Are not such cases ideal occasions for settling conflicts in court instead of on the battlefield? Moreover, when matters have reached the point of military action, how much is there to fear from a court of law? Yet nations sometimes fall prey to a strange psychology, an extreme example of which is the proviso in the United Kingdom Declaration of February 28, 1940, excepting cases originating in events of the Second World War. One wonders, with bombs dropping on London, what made lawyers and government officials in their underground shelters so frightened by the prospect of a ruling on the legality of a war-related case by a court of law sitting at The Hague.

Whatever the motivational basis, the United States clearly has the right to carve out an exception for cases regarding armed hostilities. Yet if that or any other exception were unjustifiable or random, it would have a deleterious effect upon the ideal of international adjudication and thus be at odds with much of the impetus for making a new declaration in the first place. Fortunately, a principled argument can be made for an armed hostilities exception.

Suppose state X alleges that state Y has illegally commenced military hostilities against X, and obtains a judgment in the World Court that, among other things, orders the cessation of hostilities. If Y does not comply with the judgment, the Security Council may be faced with making a decision under Article 94(2) of the Charter whether to decide upon measures to be taken to give effect to the judgment. But under Article 39 of the Charter, the Security Council might decide that enforcement measures against state Y might endanger international peace and security, as compared to a policy of watchful waiting. The Security Council would thus be caught between enforcing international peace and security—its primary mission under the Charter—and enforcing a judgment of the judicial organ of the United Nations. This dilemma, arising out of the structure of the Charter itself, would normally be resolved politically by the Security Council one way or the other.

The possibility of the dilemma, however, indicates that an exception to the Court's compulsory jurisdiction that avoided the dilemma would be a principled exception. Yet simply excepting all cases of ongoing armed hostilities would be unnecessarily overbroad. The dilemma arises not because the Court has jurisdiction over the same cases that the Security Council deals with—indeed, the Charter expressly contemplates such overlaps—but because, in the case I have imagined, the Court has issued an enforceable judgment. If the Court simply declared the rights and duties of the parties, and refrained from rendering an enforceable judgment or issuing judicial orders, there would be no clash between the Court and the Security Council.

This reasoning suggests that the Court issue only declaratory judgments in ongoing hostilities cases so that there would be no further need for enforcement. The proviso might read as follows:

Provided further, that with respect to disputes relating to, or pleadings of any contesting Party that allege or refer to, ongoing armed hostilities or the threat or use of military force, the Court may only declare the rights and duties of the Parties under international law, and may not issue any order or enforceable judgment.

Such a proviso, falling between jurisdiction and no jurisdiction, avoids the all-or-nothing consequence of construing an armed hostilities exception, and thus may ease any pressure on the Court to strain the ordinary meaning of words. If a case involves ongoing armed hostilities, the Court will not be disabled from dealing with it, but rather will have the significant role of articulating the applicable rules of international law. Such a proceeding, as well, will give the parties a chance to air their case in the restrained atmosphere of a courtroom and to vindicate, to the extent they are able, their international legal position.

Would such a proviso be compatible with the UN Charter and the Court's Statute? Surely, if a party to the Court's compulsory jurisdiction can refuse to accept that jurisdiction altogether, it should be able to accept any lesser jurisdiction. Article 94(1) of the Charter requires parties to comply with decisions of the Court but does not say that the Court may not render a declaratory judgment that falls short of a "decision" requiring compliance. Under the Statute, Article 36(2) refers to "legal disputes" and 38(1) says that the Court's function is to "decide . . . disputes," but this language does not preclude disputes over rights and duties that could be decided by a judicial declaration on the content of those rights and duties. A similar interpretation can be made regarding Article 59: "The decision of the Court has no binding force except between the parties and in respect of that particular case." If the phrase "binding force" means that a declaratory judgment will be binding with respect to the rules and principles articulated by the Court, then it is compatible with my suggested proviso. Regardless of all these arguments, and out of an abundance of caution, the United States might provide that if the proviso on declaratory judgments is declared invalid by the Court, it is to be automatically amended to exclude cases involving ongoing armed hostilities entirely from the Court's jurisdiction.

Finally, a new declaration should have a 6-month termination clause, which, by confining judicial damage to 6 months, should ensure that Western civilization as we know it will not have enough time to come to an end. An improvement on the 1946 Declaration would provide for a shorter period on the basis of reciprocity and might read as follows:

Provided further, that this declaration may be terminated with effect at the moment of expiration of six months after notice has been given to the Secretary-General of the United Nations, except that in relation to any state with a shorter period between notice and modification or termination, that shorter period shall apply as well to the United States.

May 30). *See* Gross, *Bulgaria Invokes the Connally Amendment,* 56 AJIL 357 (1962).

[9] Excepted are "disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States of America specially agrees to jurisdiction." *Multilateral Treaties, supra* note 7, at 24.

[10] Excepted are "disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute, or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court." Declaration of the United Kingdom of Great Britain and Northern Ireland, Jan. 1, 1969, *id.* at 23.

RESPONDING TO SOVIET VIOLATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. BROOMFIELD. Mr. Speaker, many of my colleagues are currently engaged in discussing the President's recent decision on "Interim Restraint." Because of this, I think it would be useful to include in the RECORD the background materials provided by the White House to explain this decision. [Due to length, the materials will appear in the RECORD on consecutive days.]

There is little question in my mind that this decision will evoke controversy over the President's arms control policy. Therefore, I feel it especially important that we be able to discuss this matter in as rational and informed a way as possible.

U.S. INTERIM RESTRAINT POLICY: RESPONDING TO SOVIET ARMS CONTROL VIOLATIONS

SUMMARY

The U.S. has completed a comprehensive review of its interim restraint policy and of the required response to the continuing pattern of Soviet noncompliance with arms control agreements. Based on this review, and following consultations with the Congress and key allies, we have been forced to the conclusion that the Soviet Union has not, as yet, taken those actions that would indicate a readiness to join us in an interim framework of truly *mutual* restraint.

Given the lack of Soviet reciprocity, the President has decided that in the future the United States must base decisions regarding its strategic force structure on the nature and magnitude of the threat posed by Soviet strategic forces, and not on standards contained in the SALT II Agreement of 1979 or the SALT Interim Offensive Agreement of 1972. SALT II was a flawed agreement which was never ratified, which would have expired if it had been ratified, and which continues to be seriously violated by the Soviet Union. The SALT I Interim Offensive Agreement of 1972 was unequal, has expired, and is also being violated by the Soviet Union.

After reviewing the programmatic options available to the U.S., the President has decided to retire and dismantle two older POSEIDON submarines this summer. The U.S. thus will thus remain technically in observance of the terms of the SALT II Agreement until we equip our 131st B-52 heavy bomber for cruise missile carriage near the end of this year. The President has determined that given the decision that he has been forced to make by lack of Soviet reciprocity, the U.S. will later this year continue deployment of B-52 heavy bombers with cruise missiles beyond the 131st aircraft, without dismantling additional U.S. systems as compensation under the terms of the SALT II Agreement.

The President has also called for: renewed bipartisan support for the Administration's full strategic modernization program including all 100 PEACEKEEPER ICBMs; full funding of our research under the Strategic Defense Initiative (SDI); an assessment of options on future ICBM programs, including PEACEKEEPER basing and the Small ICBM; and acceleration of the Advanced Cruise Missile (ACM) program.

The President has determined that in carrying out this policy, the United States will continue to exercise utmost restraint. We will seek to meet our strategic needs by means that minimize incentives for continuing Soviet offensive force growth. As we modernize, we will continue to retire older forces as our national security requirements permit. We do not anticipate any appreciable numerical growth in the number of U.S. strategic offensive forces. Furthermore, the President has emphasized that, assuming no significant change in the threat we face, as we implement the needed strategic modernization program, the U.S. will not deploy more strategic nuclear delivery vehicles or more strategic ballistic missile warheads than does the Soviet Union.

The President indicated that since the U.S. will remain in technical observance with the terms of the expired SALT II Agreement for some months, the Soviet Union will have even more time to change the conditions that now exist. The President hopes that the Soviet Union will use this time constructively; if they do, the United States will certainly take this into account. (Concerning the SALT I Agreement, even without any U.S. retirement of older systems, the U.S. could remain in technical observance of its terms for several years until the 10th TRIDENT submarine begins sea trials in mid-1989.)

Finally, the President has reiterated that his highest priority in the nuclear arms control area is to obtain Soviet agreement to a new and more durable arms control framework—one built upon deep, equitable and verifiable reductions in the offensive nuclear forces of the United States and the Soviet Union. He therefore calls upon the Soviet Union to carry out in the ongoing Geneva negotiations the agreement which he and General Secretary Gorbachev reached at the November summit, calling for 50 percent reductions, appropriately applied, in U.S. and Soviet strategic nuclear forces, and an interim agreement on intermediate nuclear forces. If Moscow instructs its negotiators to apply themselves seriously and flexibly toward these goals, as the U.S. negotiators are prepared to do, we can move together now to build a safer and more stable world.

INTRODUCTION

Over the past two and a half years, the President has sent three reports to the Congress detailing the serious realities of Soviet noncompliance with arms control agreements, including major agreements on strategic arms. The United States has unsuccessfully pressed the Soviet Union in the U.S.-Soviet Standing Consultative Commission (SCC) and through other diplomatic channels to resolve our concerns.

In spite of this pattern of Soviet noncompliance, the President decided last June to go the extra mile in dismantling a U.S. POSEIDON submarine, USS SAM RAYBURN, to give the Soviet Union adequate time to take the opportunity to join the United States in an interim framework of truly mutual restraint on strategic offensive arms. He stated that such a framework required that the Soviets correct their noncompliance, reverse their unwarranted military buildup, and make progress at the Geneva negotiations. In addition, he indicated that the United States, which has scrupulously complied with its arms control obligations and commitments, would be required to develop appropriate and proportionate responses to assure U.S. and Allied security in the face of uncorrected Soviet noncompliance. He directed that all programmatic responses be kept open, and he requested specific programmatic recommendations of the Secretary of Defense and the Joint Chiefs of Staff.

In recent months, the President has reviewed these issues in great detail with his senior advisers and has consulted extensively with Members of Congress and Allied leaders. He announced his decision in the Statement issued today. This Fact Sheet reports on the President's decision.

BACKGROUND

1982 Decision. In 1982, on the eve of the Strategic Arms Reduction Talks (START), the President decided that the United States would not undercut the expired SALT I Agreement or the unratified SALT II Agreement as long as the Soviet Union exercised equal restraint. Despite his serious reservations about the inequities of the SALT I Agreement and the serious flaws of the SALT II Agreement, he took this action in order to foster an atmosphere of mutual restraint on force deployments conducive to serious negotiation as we entered START. He made clear that our policy required reciprocity and that it must not adversely affect our national security interests in the face of the continuing Soviet military buildup. The Soviet Union also made a policy commitment not to undercut these agreements.

1985 Decision. In a decision reported to the Congress on June 10, 1985, the President reviewed the status of U.S. interim restraint policy concerning strategic agreements in light of the continuing pattern of the Soviet Union's noncompliance with its arms control obligations and commitments. He found that the United States had fully kept its part of the bargain and had scrupulously complied with the terms of its obligations and commitments.

By contrast, he noted with regret that the Soviet Union had repeatedly violated several of its major arms control obligations and commitments. His three reports to the Congress on Soviet noncompliance in January 1984, February 1985, and December 1985 enumerate and document in detail the serious facts and U.S. concerns about Soviet violations. The overall judgment reached by the President in his June 1985 decision was that while the Soviets had observed some provisions of existing arms control agreements, they had violated important elements of those agreements and associated legal obligations and political commitments.

The President noted that these are very crucial issues, for to be serious about effective arms control is to be serious about compliance. The pattern of Soviet violations increasingly affects our national security. But, perhaps even more significant than the near-term military consequences of the violations themselves, they raise fundamental concerns about the integrity of the arms control process, concerns that, if uncorrected, undercut the integrity and viability of arms control as an instrument to assist in ensuring a secure and stable future world.

The President also noted that the United States had repeatedly raised our serious concerns with the Soviet Union in diplomatic channels, including the U.S.-Soviet Standing Consultative Commission. His assessment was that, despite long and repeated U.S. efforts to resolve these issues, the Soviet Union had neither provided satisfactory explanations nor undertaken corrective action. Instead, Soviet violations had expanded as the Soviets continued to modernize their strategic forces. U.S. interim restraint policy has always been conditioned on Soviet reciprocity. In his June assessment, the President was consequently forced to conclude that the Soviet Union was not exercising the equal restraint upon which U.S. interim restraint policy had been conditioned, that we could not accept a double standard of unilateral U.S. compliance coupled with Soviet noncompliance, and that such Soviet behavior was fundamentally inimical to the future of arms control and to the security of our country and that of our Allies.

At the same time, given the goal of reducing the size of Soviet and U.S. nuclear arsenals, the President made the judgment that it remained in the interest of the United States to go the extra mile in seeking to persuade the Soviet Union to join us in establishing an interim framework of truly mutual restraint on strategic offensive arms, as we pursued with renewed vigor, through the negotiations in Geneva, our goal of deep, equitable, and verifiable reductions in existing U.S. and Soviet nuclear arsenals.

The President made clear, however, that the U.S. could not establish such a framework alone. Movement toward an acceptable framework required the Soviet Union to take the positive, concrete steps to correct its noncompliance, resolve our other compliance concerns, and reverse or substantially reduce its unparalleled and unwarranted military buildup. Although the Soviet Union had not demonstrated a willingness to move in this direction, the President announced that in the interest of ensuring that every opportunity to establish the secure, stable future we seek is fully explored, he was prepared to go the extra mile.

The President thus decided last June that to provide the Soviets a further opportunity to join us in establishing an interim framework of truly mutual restraint which could support ongoing negotiations, the United States would continue to refrain from undercutting existing strategic arms agreements to the extent that the Soviet Union exercised comparable restraint and provided that the Soviet Union actively pursued arms reductions agreements in the Nuclear and Space Talks in Geneva. Further, he stated that the United States would constantly review the implications of the interim policy on the long term security interests of the United States and its Allies. He indicated that in doing so, the U.S. would consider Soviet actions to resolve our concerns with the pattern of Soviet noncompliance, continued growth in the strategic force structure of the Soviet Union, and Soviet seriousness in the ongoing negotiations.

As an integral part of the implementation of this policy, the President announced that the U.S. would take those steps made necessary by Soviet noncompliance to assure U.S. national security and that of our Allies. He noted that appropriate and proportionate responses to Soviet noncompliance are called for to make it perfectly clear to Moscow that violations of arms control arrangements entail real costs. He stated clearly that the United States would therefore develop appropriate and proportionate responses and would take those actions necessary in response to, and as a hedge against, the military consequences of uncorrected Soviet violations of existing arms control agreements.

The President decided last June that to provide still more time for the Soviet Union to demonstrate by its action a commitment to join us in an interim framework of truly mutual restraint, the U.S. would deactivate and dismantle, according to agreed procedures, an existing older POSEIDON submarine as the seventh U.S. Ohio-class TRIDENT submarine put to sea in August 1985. However, the President also directed that the U.S. keep open all future programmatic options for handling such strategic deployment milestones as they occurred in the future. He made it clear that, as these later milestones were reached, he would assess the overall situation and make a final determination of the U.S. course of action on a case-by-case basis in light of Soviet actions in meeting the criteria which he cited.

U.S. COMPLIANCE

In accordance with U.S. interim restraint policy and our efforts to build an interim framework of truly mutual restraint, the United States has not taken any actions which would undercut existing agreements. We have continued scrupulously to live within all arms control agreements, including the SALT I and II agreements. For example, we have fully dismantled one POSEIDON and eight POLARIS missile-carrying submarines, and 27 TITAN II ICBM launchers, as new TRIDENT missile-carrying submarines have been deployed. Unfortunately, while the U.S. has been attempting to hold to the structure of SALT through our policy of interim restraint, the Soviet Union, through its continued noncompliance, has undermined the very foundation of that structure.

SOVIET NONCOMPLIANCE

In the most recent of his three reports to the Congress on Soviet noncompliance with arms control agreements, issued on December 23, 1985, the President confirmed that the Administration's continuing studies supported the conclusion that the pattern of Soviet noncompliance continues, largely uncorrected. As documented in the President's reports, particularly the detailed classified versions, the Soviet Union has violated its legal obligations under, or political commitments to the SALT II Agreement of 1979, the SALT I Interim Offensive Agreement of 1972, the Anti-Ballistic Missile (ABM) Treaty of 1972, the Limited Test Ban Treaty of 1963, the Biological and Toxin Weapons Convention of 1972, the Geneva Protocol on Chemical Weapons of 1925, and the Helsinki Final Act of 1975. In addition, the U.S.S.R. has likely violated the Threshold Test Ban Treaty of 1974.

In his December 1985 report to the Congress, the President noted that through its noncompliance with arms control agreements, the Soviet Union has made military gains in the areas of strategic offensive arms as well as chemical, biological and toxin weapons. The President added that in the area of strategic defense, the possible extent of the Soviet Union's military gains by virtue of its noncompliance with the ABM Treaty is also of increasing importance and serious concern to the United States.

The President noted in his December report that in a fundamental sense all deliberate Soviet violations are equally important. He made clear that as violations of legal obligations or political commitments, they cause grave concern regarding Soviet commitment to arms control and darken the atmosphere in which current negotiations are being conducted in Geneva and elsewhere.

In another sense, the President noted, Soviet violations are not of equal importance. Some Soviet violations are of significant military importance—like the illegal second type of new ICBM, telemetry encrypton, and the Krasnoyarsk radar. While other violations are of little apparent military significance in their own right, such violations can acquire importance if, left unaddressed, they are permitted to become precedents for future, more threatening violations. Moreover, some Soviet actions that individually have little military significance could conceivably become significant when taken in their aggregate. Finally, even if a specific violation does not contain an inherent military threat, it still undermines the viability and integrity of the arms control process.

FAIR WORK OPPORTUNITIES PROGRAM

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. HAWKINS. Mr. Speaker, today I am introducing legislation to strengthen the link between welfare and work. My proposal revises the Work Incentive Program authorized under part C of title IV of the Social Security Act.

The new initiative, fair work opportunities for family self-sufficiency, strengthens education, training, and work opportunities to enable welfare recipients to obtain unsubsidized employment with income sufficient to stay off welfare. It builds on the lessons learned from innovative State programs over the past several years, and recommits the Federal Government to support the initiatives of the States. The legislation incorporates many of the features of the Employment and Training Choices Program which operates in the State of Massachusetts.

Mr. Speaker, once again there is a current sweeping across the political landscape calling for welfare reform. I, for one, believe that welfare reform is long overdue: Benefits are shamefully low, family stability is unconscionably compromised, and the dignity of human beings trampled under the present system.

Most significantly, opportunities to escape this condition of humiliation and poverty are sadly lacking. I applaud the efforts of many, both in and out of the Congress who are sincerely looking for ways to improve opportunities for welfare recipients. I do not, however, share the premise which seems to form the basis for so much of the reform discussion these days. From the President on down, the perception of welfare recipients seems to be that they are unwilling to work unless they are forced to do so: That they are a shiftless, lazy lot who must be led by the nose on the threat of denial of basic benefits to their families, and that their labor is not worth a decent wage.

In fact, the evidence is to the contrary. Welfare recipients want to work and will do so if given the opportunity. A recent evaluation of workfare programs conducted by the Manpower Demonstration Research Corp. [MDRC] found that:

The(se) results are consistent with the findings of prior studies that show that the poor want to work and are eager to take advantage of opportunities to do so . . . These workfare programs did not create the work ethic, they found it.

The majority of welfare recipients go off welfare within 2 years, and may need only job search assistance to secure employment. Their temporary dependency is a result of family circumstances such as death or divorce of spouse, loss of employment or other personal or financial misfortune over which they may have limited control. It is no coincidence that the numbers of individuals on public assistance rose sharply during the last recession. It should be noted that less than 35 percent of the unemployed currently receive unemployment compensation. For those unfortu-

nate others who may have exhausted their unemployment benefits or for some other reason did not qualify for UI, welfare is the only recourse for supporting their families. Most tragically, only 24 of the States provide benefits for families with both spouses present. Family breakups too often are the inevitable result of our misguided policies.

While the average duration on welfare is less than 2 years, for a significant number of recipients, welfare is a long-term condition from which there is little hope or opportunity of escape. Seventeen percent of AFDC mothers draw benefits for at least 8 years. This group comprises one-half of the caseload at any one time, and accounts for over one-half of the program costs. For these individuals, inadequate education, lack of training and lack of work experience constitute major barriers to obtaining productive employment. Nearly one-fourth of AFDC mothers have never been employed, and most of those who have been previously employed worked in occupations offering little skill training. Almost two-thirds of WIN clients scored below the eighth grade in math and almost half scored below that level in reading competency. Unlike those welfare recipients for whom dependency is a short-term condition, these individuals need intensive assistance and support to achieve lasting self-sufficiency.

It is shortsighted and ineffective to attempt to address rising welfare rolls with punitive measures and stringent workfare requirements that do nothing to address the fundamental deficiencies reflected in these clients' profiles. There is nothing cost-effective about reducing funds for education and training. Just the opposite is true in time.

Many of our business leaders now recognize the need for comprehensive efforts to reduce welfare dependency. In a recent issue of Work America, the publication of the National Alliance of Business, President William Kolberg stated:

> The idea that workfare would drive large numbers of people off welfare proved to be only wishful thinking, a hope for an easy answer that isn't there. By and large, people are on welfare because they can't get a job, not because they don't want one.

Nor can we expect to achieve lasting reductions in welfare without a major commitment of time and resources. Reformers should be cautioned against unrealistic expectations of immediate savings to the Treasury. As MDRC reported:

> In the short-run, these programs will often cost rather than save money. This reflects the fact that almost all the costs are incurred upfront when a person is active in the program, but most of the benefits accrue over time, as participation leads to employment and earning gains which, in turn lead to increases in the taxes the new workers pay, as well as reductions in their benefits from welfare and related transfer programs.

At the same time that "reformers" have been decrying the rise in welfare cases and calling for tough new work requirements, the Federal Government's only program to aid welfare recipients to achieve self-sufficiency, the Work Incentive Program, has been systematically reduced. In fact, the administration has reportedly called for its elimination, notwithstanding the fact that the demonstrations which have experimented with stronger welfare-work links have been funded by WIN.

The WIN program has been reduced from $365 million in fiscal year 1980 to $210.5 million in fiscal year 1986. In constant dollars—adjusting for inflation—this reduction is a cut of 58 percent. Despite its limited funding, WIN has had measurable success. For every dollar invested in WIN, the program produces $2 in savings. The most recent date fiscal year 1984—attributes $587 million in welfare grant reductions to WIN, more than double the amount of Federal funds invested in grants to the States for that period.

Notwithstanding the measurable success of WIN under constricted funding, there are shortcomings in the WIN program which I believe need to be addressed.

First, because of the inadequate funds, significant numbers of AFDC recipients who register with WIN receive no service whatsoever, languishing for long periods in an "unassigned pool."

Second, the administrative structure is a confusing division between the Department of Labor and the Department of Health and Human Services at the Federal level and inadequate coordination between the employment agency and the welfare agency at the State level.

Third, the WIN Program providing employment and training assistance for welfare recipients is not coordinated with the Job Training Partnership Act or other education or training programs operating with the State and for which welfare clients may be eligible.

Fourth, there is no accountability for performance at the State level: Funding is based on the number of registrants, and there are no incentives for moving registrants into training or other services which may have high initial costs, but which are most likely to make lasting improvements.

Mr. Speaker, the proposal which I am introducing today is intended to address these deficiencies in the WIN Program and provide a redirection of work and training programs for welfare recipients to assure that participants will be able to achieve long-term self-sufficiency and not just be recycled in and out of welfare.

My proposal incorporates the following general principles:

First, only comprehensive programs involving education, training, employment services, and supportive services, such as child care, are likely to have a lasting impact on employability.

Second, while recipients have an obligation to take steps to reduce their dependency, in turn the Government must make available meaningful options from which recipients shall choose, not just remain in an unassigned pool.

Third, in allocating scarce resources, priority should be given to those who are most disadvantaged—those with no recent employment experience or with prior welfare dependency—and who are least likely to move off welfare dependency on their own.

Fourth, performance measures based on outcomes coupled with incentive funds will encourage States to invest in programs designed to reduce long-term dependency while providing a measure of accountability for Federal funds.

Fifth, lack of child care is a major obstacle to employment for welfare recipients; thus all services should provide for child care necessary to enable welfare clients to participate in employment, training, or education programs.

Sixth, employment and training services under WIN must be coordinated at the State and local level with services available under other sources, including JTPA, to eliminate duplication and increase the options available to welfare clients.

Finally, programs which require recipients to work off their benefits—workfare—offer little skills development and are unlikely to lead to securing and retaining better jobs. If, after completion of job search and appropriate education or training, recipients are unable to secure unsubsidized employment, subsidized employment at wages commensurate with the job's duties should be an available option.

Mr. Speaker, the proposal I am introducing today is just one component of true welfare reform.

It is my hope that, as this legislation progresses, other proposals will be offered which address other aspects of the welfare system which are in need of reform, and that this proposal can be effectively combined with those changes to provide truly comprehensive welfare reform. It is my intention that the fair work opportunities proposal will be the subject of hearings this summer in the Committee on Education and Labor and that these hearings will produce recommendations for more effectively addressing funding needs as well as coordination with the administration of benefits.

The following is a summary of the major provisions of the fair work opportunities for family self-sufficiency proposal embodied in the Work Incentive Amendments of 1986 which I am introducing today:

SUMMARY OF THE FAIR WORK OPPORTUNITIES BILL

First, revises the Work Incentive Program authorized under title IV-C of the Social Security Act to strengthen work-related programs for welfare recipients at the State level and to incorporate the findings of the WIN demonstrations carried out since 1981.

Second, establishes single agency administration over State programs with the Department of Labor overseeing State-operated work and training programs at the Federal level while permitting the Governor to designate either the State employment service or the welfare agency as the administering agency at the State level.

Third, requires States to establish comprehensive services for welfare recipients required to register under title IV-A of the Social Security Act.

Fourth, comprehensive services include education, training, job search, and supportive services. Priority for service goes to those who are the most difficult to place in unsubsidized employment determined on the basis of prior work experience, duration of welfare dependency and educational attainment.

Fifth, eligible participants who are required to register for services in accordance with the provisions of title IV-A of the Social Security Act shall choose which service meets their needs based on an intake evaluation and the

availability of such service. Individuals enrolled in comprehensive services shall be provided necessary child care and transportation services.

Sixth, transitional subsidized employment may be provided for up to 1 year if individuals are unable to secure unsubsidized employment after completion of job search and other employment, training, or education services for at least 6 months. Mandatory workfare for which wages are not paid is not authorized under this act.

Seventh, provides for the establishment of performance standards as a basis for assessing the outcome of activities funded under the act. Performance standards are to take into account differing benefit levels, economic conditions in the States and factors related to targeting to those most difficult to serve. Establishes an incentive fund from 5 percent of the funds appropriated for States which meet or exceed performance standards.

Eighth, provides for coordination with the Job Training Partnership Act at State and local levels.

Ninth, authorizes $500 million for fiscal year 1987 and such sums as may be necessary thereafter. Increases the State match from 10 to 25 percent for amounts above the 1986 appropriation.

Tenth, child care and other supportive services are enhanced both in terms of services to be provided to participants and as priority activities under transitional employment.

THE 55-MPH LIMIT MIGHT NOT BE THE LIFE SAVER IT IS CRACKED UP TO BE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. CRANE. Mr. Speaker, I would like to bring my colleagues' attention to an article which appeared in the Wall Street Journal on April 28, 1986, that demonstrates how highway fatality rates may actually be more closely related to economics than to speed limits.

Historical evidence suggests that highway fatality rates have declined the most during economic recessions. The article cites that, for example, in 1946, as speeds went up after wartime gasoline conservation ended, the fatality rate dropped 12.7 percent, and then fell 10 percent more in 1947. During both years, we were in the middle of a recession. In 1983, the Department of Transportation [DOT] released a study confirming that, indeed, 98 percent of the variation in annual highway fatalities could be accounted for by an equation incorporating economic factors such as unemployment.

The DOT explanation unquestionably clears up the misconceptions associated with the federally mandated 55-mph speed limit. Implemented to conserve fuel during the energy crisis in 1974, the 55-mph speed limit was thought to have caused a 15.3-percent drop in the national highway fatality rate, which translates into 3.6 fatalities per 100 million miles. However, as average speeds increased in the years to come and with motorists behavior showing immeasurable non-compliance, there were no commensurate increases in fatalities. In fact, the fatality rate dropped more than 25 percent during the same period. In view of these statistics, the correlation between lower speed limits and fewer highway fatalities is significantly diminished, if not destroyed. Safety improvements such as increased and more efficient medical service, safer highways, and improved vehicle characteristics are what really contributed most to the reduced level of highway deaths.

Raising the speed limit to 65-mph on interstate highways would not only have minimal effect on safety standards, but it would have a substantial impact on the efficiency of travelers. Presently, 75 percent of the Interstate Highway System in the United States is classified as rural, while carrying only 19 percent of travel on interstate routes. With 55-mph limit, drivers are required to spend 1 billion additional hours on the road each year, with enforcement costing $118 million. Studies indicate that if the speed limit were to be raised by 10 miles per hour on the rural highways alone, it would save motorists 445 million hours of travel time annually, while only increasing fatalities by 500. In other words, for each extra life lost, 100 years travel time would be saved. Although 500 lives are at stake, those lives could easily be saved by alternative safety methods such as mass crackdowns on drunken driving.

As far as an energy factor, the 55-mph limit saves less than 1 percent of the fuel we use in the United States each year. You can improve fuel efficiency by 1 percent just by increasing the pressure in your tires. A 65-mph limit would approximately increase fuel consumption by 10 million barrels per year, only reducing the energy savings of the 55-mph limit by 17 percent. With present day fossil fuel reserves expected to last well into the future, the issue of the 55-mph speed limit being a conservation necessity is moot. If conservation of energy really is a concern, alternative solutions such as reducing automobile weight would prove to be more pragmatic.

It has been more than a decade since the Federal Government issued the edict that has caused enormous inconvenience and frustration among American motorists, now it is time to eradicate the error. The energy crisis has long since been over, and therefore I consider it time to return the lawful privilege to determine speed limits back to the States where it belongs. The 55-mph limit has become symbolic of Federal intrusion into State affairs and it should no longer be tolerated. Respect for the law has eroded, as evidenced by increases in average speeds and weakening of penalties by several State legislatures. There are presently 39 States with average highway speeds in excess of 55 mph, and appearances indicate that ultimately some States will be ruled in noncompliance and threatened with loss of highway funds. This could increase the pressure to remove the Federal oversight role setting maximum speed limits.

I commend the following article to my colleagues' attention:

[From the Wall Street Journal, Apr. 28, 1986]

DOES 55-MPH SPEED LIMIT SAVE LIVES? MORE DRIVERS ARE DOUBTFUL

(By Damon Darlin)

The 55 miles-per-hour speed limit, which has already lost its appeal as a fuel saver, might not be the life saver it is cracked up to be either.

That, at least, is the argument of a small but increasingly ardent group of statisticians, academics and performance-car buffs. They want to raise the speed limit, and are attracting a growing audience by contending that the correlation between lower speed limits and fewer highway fatalities is weak.

If the government really wants to cut highway deaths, they argue half-facetiously, it should foment a recession, for that's when deaths have declined most in the past. Their serious suggestions include enforcing seat-belt and drunk-driving laws, and assuring that vehicles move in traffic at a uniform speed—be it high or low. "Americans have been brainwashed into believing 55 saves lives," complains James Baxter, a Wisconsin lobbyist who is trying to form a nationwide group of anti-55ers.

Brainwashed or not, most Americans do believe that. Fully 70% of Americans want to keep 55, a Wall Street Journal/NBC News nationwide opinion poll found, and even 34% of those who admit they speed agree. Transportation Secretary Elizabeth Dole wants to keep it too; "I am in favor of retaining anything that saves lives," she says.

MONEY IS RIDING ON IT

Nonetheless, if ever there was a time for the anti-55 forces, it is now. Gasoline prices are lower, adjusted for inflation, than they were before the 1973 oil crisis that provoked 55. What's more, within a few months the federal government may withhold millions in federal highway funds from states that it says don't enforce the speed limit. If the threat becomes reality, the resulting outcry may carry more weight than any statistical evidence. "Normally, pointy/headed things are ignored," says Charles A. Lave, an economist at the University of California-Irvine who favors lifting the speed limit. "But this time a lot of money is riding on it."

The highway fatality rate has been trending downward since the horseless carriage began appearing on roads. In 1922 about 18 people died in accidents for every 100 million miles traveled. By the end of World War II that rate had dropped nearly in half. And although highway speeds were increasing, fatality rates continued to fall an average of 3.1% a year since then. That's because of safer highways—such as the Interstate system—safer cars, more experienced drivers and better emergency care.

But a peculiar thing happened in 1974. The fatality rate dropped 15.3% to 3.6 fatalities per 100 million miles, the sharpest drop ever. The most obvious explanation was the lower speed limit adopted nationwide in March of that year. Federal Department of Transportation (DOT) statisticians estimated that more than 9,000 lives were saved that year, and they pinned the media on 55.

Then another peculiar thing happened. Drivers started ignoring the "double nickel" and average highway speeds crept up again—but the fatality rate dropped more than 25% in the next decade. The fatality rate dropped a whopping 12.7% in 1982

alone, even though the speed limit didn't change from the year before.

Explaining this phenomena is fueling the debate between the pro-55 and anti-55 forces. Although it may sound silly at first, the sharp drop in the fatality rate may actually be more closely related to economics than to speed limits. The oil embargo of 1973-74 kept recreational drivers off the roads. Statistically, they tend to have more accidents if only because they tend to be tired and traveling unfamiliar roads.

There is substantial historic evidence. For instance, in 1946, as speeds went up after wartime gasoline conservation ended, the fatality rate dropped 12.7%, and then fell 10% more in 1947. A recession also kicked in at the same time. The great economic boom of the early 1960s also saw the highway fatality rate rise, but it dropped during the recession in 1982. In fact, a 1983 DOT study demonstrated that 98% of the variation in annual highway fatalities could be accounted for by an equation incorporating such economic factors as unemployment.

Mr. Lave of the University of California uses a different analysis to explain why states with speeding drivers can have lower fatality rates. He argues that it isn't speed that causes accidents, but cars going either much faster or slower than other traffic. "Patrolmen ought to pay as much attention to slow drivers as they do to fast ones," he says. Mr. Lave recommends that states return to an old policy of setting speed limits for a certain highway near the speed most people traverse it, what highway engineers call the 85th-percentile rule.

In 1984, the national 85th-percentile speed was 67.7 mph, which makes Mr. Lave's speed variance study unpopular with those who favor keeping the 55-mph limit. "He doesn't hesitate to talk about things he doesn't know anything about," says Patricia F. Waller, associated director for driver studies at the University of North Carolina's Highway Safety Research Center. She says it makes more sense to have fast drivers slow down than have slow drivers, who tend to be elderly, speed up, because when accidents do occur more damage is done at high speeds.

SLOWER DRIVERS

"It's hard to look at the data and say speed isn't a factor in highway fatalities," says Damian J. Kulash, the assistant director for special projects at the National Research Council. He says the economic speed-variance study makes sense, but adds that 55 has helped narrow the range of highway speeds. The nonprofit research group published a study of the speed limit that concluded that despite the dissenting arguments, 55 saves between 2,000 and 4,000 lives each year. And though it found that in 39 states the average speed is above 55, drivers go slower than they did before 1974. The average speed on rural interstate in 1985 was 59.6 mph, down from 65 mph in 1973.

And importantly, speeds are much lower on the primary and secondary roads that aren't designed for high-speed travel. "There has been a substantial behavior change," says Mr. Kulash.

The study also recommended that 55 could be lifted on rural interstates where driving long distances at slow speeds can be onerous. The idea, which should appeal to a government interested in turning more decisions over to the states, has drawn little reaction. Nervous about appearing to come out against safety, the DOT hasn't asked Congress to change the law making states enforce 55 at the risk of losing up to 10% of their federal highway funds.

DOT officials say it isn't their fault. "It's not that we are sticking to our guns," says Philip Haseltine, Transportation's deputy assistant secretary for policy and international affairs. "It's that there is no consensus for change." Counters Rep. Daniel Glickman of Kansas, who is leading efforts to raise the speed limits on rural interstates, "Secretary Dole has abdicated her responsibility on this issue."

The threat of losing federal money may hasten some politicians to act. Mrs. Dole is expected to decide in the next few weeks whether to withhold federal funds from Vermont and Arizona because studies show those two states have the highest portion of drivers who exceed the limit. If she does, says Mr. Haseltine, Eastern states may show less reluctance to join the cause because many, such as Maine, are just as vulnerable to the charge that 55 isn't enforced.

But few states have gone as far as Nebraska. Earlier this month, the state legislature voted to raise its interstate speed limit to 70 mph. The governor vetoed the bill because it would have cost the state $130 million in federal funds.

DR. BLANCHE BOBBITT: MARCH OF DIMES HONOREE

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. MOORHEAD. Mr. Speaker, on June 21, 1986, Dr. Blanche G. Bobbitt will be honored on her 85th birthday by the March of Dimes. This is not her first honor just as it is not her first year. This remarkable woman has a list of tributes, awards, and accompishments that far exceed her birthdays. She is one of the most respected and admired individuals in my district, in the southern California community, in the State and Nation. She is esteemed as a health care professional and educator. Dr. Bobbitt is applauded for her gracious devotion to many civic causes. She is loved for here constant and easy charity.

Dr. Bobbitt is the first woman to earn a doctorate degree in sciences from the University of Southern California. She has been a valued and effective employee of the Los Angeles city school system. She has shared her skills with the State of California and the California State University system. She is the author of 180 publications and the recipient of the Diplome D'Houneur avec Coupe d'Argent and a Fellowship in the Royal Society for the Promotion of Health.

She has been active in the Glendale Symphony Orchestra Association but her first love has been the March of Dimes where she has taken to her heart the drive to eliminate birth defects and genetic diseases. In this effort, Dr. Bobbitt helped in the editing of publications from the Genetics Division of the Los Angeles County/University of Southern California Medical Center. She has rasied more than $80,000 for reaseach for the March of Dimes through the Bobbitt Fund. At the LAC/USC Medical Center there is the Bobbitt Genetics Biochemistry Laboratory named for her.

There have been days dedicated to her, citations have come to her from Los Angeles, the City of Glendale, the State of California and dozens of nations around the world. Special events have been named for her, plaques and scrolls have been bestowed on her and her portrait hangs in the Glendale Public Library. Now the March of Dimes will honor one of its most faithful and productive volunteers.

Mr. Speaker, I am pleased to recognize before my colleagues in the House of Representatives a special celebration of a very special woman, Dr. Blanche G. Bobbitt.

TRIBUTE TO FLINT SOUTHWESTERN HIGH SCHOOL RETIREES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation a retirement ceremony that will be held Wednesday, June 18, in Flint, MI. Several members of the Flint Southwestern High School staff and faculty will be honored for their many years of dedication and extraordinary service to education in this community.

In her capacity as a retired nurse, Mrs. Marion Anderson has devoted over 30 great years to this community. Her rich and varied career as a school nurse reached one of its many peaks when the Michigan school nurse certification bill passed in 1972. Had it not been for Mrs. Anderson's direct involvement with this legislation, the school nurse certification bill would not be law today. Also being honored on this auspicious occasion are Mr. Robert Chambers, Mr. Alexander Crane, Mr. Robert Kochaney, Mr. Arthur Lokkins, Mr. Lowell Ricky, and Mrs. Virginia Sheppard. Each honoree has succeeded in helping shape the lives of many children of this community. As a former teacher, I can appreciate the awesome responsibility and acute sensitivity to each student's needs that must be maintained on a daily basis. The enormous efforts of these devoted men and women are indeed appreciated by the people of the Seventh Congressional District.

Mr. Speaker, these distinguished men and women we will honor on Wednesday have demonstrated by their actions the personification of true community service. As a result of their presence and unwavering commitment to excellence in education, this group of noteworthy individuals has succeeded in making this community a better place in which to live.

THE TESTAMENT OF LU HSIU-LIEN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. SOLARZ. Mr. Speaker, this week Members of Congress who care deeply about the cause of democracy in Taiwan have been honored to meet Ms. Lu Hsiu-lien, a prominent leader of the island's democratic movement. Ms. Lu was recently released from prison after over 5 years of incarceration, her penalty for

having spoken out in favor of peaceful political change. This past weekend, at the 25th anniversary of Amnesty International, Ms. Lu spoke of her suffering and of her constant faith in freedom. It is a moving testament, one that I ask to be printed in the RECORD for the benefit of our colleagues.

TO SHARE THE HOPE WITH YOU

(By Lu Hsiu-lien)

There is a saying that one man's meat is another's poison. It happened in such a way with the U.S. normalization with Mainland China. On Dec. 16, 1978 when former President Carter made a two-week advance announcement of the de-recognition with the Rep. of China in Taiwan, the Nationalist Government immediately ordered an injunction against any political activities for the on-going campaign and the election was thereupon cancelled by reason of "crisis of the Nation".

It was the first time that the opposition candidates had gotten such a good opportunity to beat the Nationalist Party members. I was one of the opposition candidates who was favored to win a seat in the National Assembly. Despite the fact that I had just returned from Harvard Law School 2½ months before the campaign started, I was overwhelmingly supported by the voters in my district.

After the election was aborted, a series of confrontations between the Taiwanese opposition and the Nationalist occurred in the course of developing democracy, the climax of which was the famous Kaohsiung Incident. It took place on Dec. 10, 1979 when the opposition group, named "Formosa Magazine", held a public rally to commemorate the International Human Rights Day in the city of Kaohsiung. All of a sudden, the peaceful assembly was surrounded by riot troops and attacked by riot trucks with tear gas. Two days later the authorities arrested virtually all active opposition members and the staff of the magazine. After two months of stressful, humilating and even brutal interrogation in-communicado, a ten-day court-martial trial was held. Harsh sentences were finally given to eight of the key leaders on charges of "trying to overthrow the government" by "inciting" the crowd to "violence". One of them was sentenced to life, one to 14 years imprisonment and the other six to twelve years.

I was the first one among them to be arrested, not merely because I was the Deputy Director of the Magazine, but rather because I was the major speaker of the evening to comment on the national policies of the Chinese Nationalist ruling in Taiwan. Do you know how much that speech cost me? Twelve years imprisonment and ten years deprivation of civil rights with an injunction of property made the speech one of the most costly in the world!

For the first two hundred and ninety days, I was imprisoned in the Military Detention House, where living conditions were poor and the food was unsanitary. Later, I was removed with the other female co-defendant, Chen-Chu, to a Rehabilitation Center where they had built a brand new house equipped with modern security including heavily-guarded iron gates and a T.V. monitor through which our daily conversations and activities were to be taped. The living conditions were somewhat improved, yet we were totally isolated from the outside world. Correspondence was restricted to a few family members, as was the weekly visit of 30 minutes. In my case, that visit included only my sister, my brother and their spouses and children, since I am single and my father was dead. As for my poor mother, she fainted and broke her both legs over the shock of my arrest. She lay in bed weeping and murmuring my name for one and half years until her final moment of life.

I had made every effort in vain to gain permission to see my mother before she died. As a last resort, I started a 4 day hunger strike. In order to stop the hunger strike, the authorities gave me a false medical report that showed that my mother's health was improving. Actually, she passed away within one month. Although the law in Taiwan provides prisoners 24 hour's leave for a parent's funeral, the authorities allowed me only two hours at midnight to go home. I firmly refused the offer as a protest against their inhumanity. It has given me a life-time regret that I never was able to see her after her 70 year birthday celebration which was just two days before the Kaohsiung incident. Life played a cruel joke, didn't it?

However, life seems to be a merciful joke to me today. Today is my birthday and here in front of you, members of the honorable and humanistic organization of Amnesty International, I am mourning the misery of the one who gave birth to me. Amnesty International calls itself a conspiracy of hope. Indeed, I am here today to share with you the hope that one person's sacrifice shall be rewarded by anothers' benefits; that the darkness of the jail shall be enlightened by the gleam sparkling from human dignity; and that the dictator's viciousness shall be overcome by massive, popular support for human rights.

Amnesty International has earned prestige for its unselfish dedication to the enhancement of human rights, as well as for the effective services provided to its adopted prisoners of conscience. For instance, efforts made by Amnesty International along with other intervention from the international community created the following results after the Kaohsiung Incident:

(1) To reveal the reality of the incident as well as the plot of political persecution of the Chinese Nationalist Government against the Taiwanese Democratic Movement by sending a delegation to Taiwan to investigate the whole story;

(2) To force the authorities in Taiwan to smooth down their harshness in suppressing the opposition by strongly demanding international attention to the progress of the case;

(3) To offer spiritual encouragement as well as substantial aid to the prisoners adopted, especially to their heart-broken families, by sending warm regards and giving effective advice;

(4) To foster the improvement of treatment in the prisons by widely publicizing their mistreatment and by lobbying against governmental violation of human rights;

(5) To help shorten the confinement of prisoners by effectively implementing the tactics of negotiation at the diplomatic bargaining table.

In front of you stands with dignity and vigor, a Feminist who has suffered from 1933 days of confinement along with 12 years suffering from thyroid carcinoma. Her dignity relies on the belief that the limits of human will shall only be defined by the individual, not by outside repression. Her vigor springs from the commitment that where there is injustice, there must be struggle. Fortunately, although she has lost her liberty, her youth and her health, she has not lost her will, nor her dignity.

Thanks to the enthusiasm of Amnesty International especially to the wisdom and endless efforts of the members of group 101 in Alberquerque, N.M., the recurrence of my illness was taken care of and my sentence was eventually commuted by more than half.

Special thanks for your impartial concern toward human rights, regardless of race, nation, fame or sex. Human rights is in itself worthy of respect. Women deserve as much concern as men. People of all colors deserve the same dignity. Citizens of small countries deserve even more concern than those of powerful countries. Small potatoes deserve more than public figures. It is only when the protection of human rights can be assured on a non-discriminatory basis that the value of human rights can be truly realized.

THE STATE OF THE PHILIPPINES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, over the next 10 days I would like to share with our colleagues a series of articles on the Philippines written by George Chaplin, the editor in chief of the Honolulu Advertiser. Mr. Chaplin recently spent 8 days in the Philippines, studying the current state of the nation and its people.

These articles are particularly relevant at this time since the Congress will soon consider supplemental economic and military assistance to the Government of the Philippines. I hope that this series of articles will provide our colleagues with additional insight to the current problems confronting the Filipino people.

The first article in the Chaplin series is an interview with President Corazon Aquino on the problems the Philippines is facing as it seeks to rebuild in the aftermath of the Marcos regime. The article follows:

CORY AQUINO: NO-NONSENSE TALK ABOUT STRUGGLE HER COUNTRY FACES

(By George Chaplin)

MANILA.—Cory Aquino, at 53 an acknowledged amateur in the Philippines presidency, is calmly trying, a day at a time, to cope with the mountainous problems inherited from 20 years of Marcos misrule.

A nagging question here is whether she has the skill, the strength and the staying power—whether she can maintain the remarkable mass support which, backed by church and military in February's populist revolt, propelled her into leadership.

The groundwork is being laid for the writing of a new constitution—the one she scrapped was crafted for a Marcos dictatorship—and for electing a new parliament and local officials. The timetable calls for everything to be accomplished before or by next February, the first anniversary of victory.

Those who believe in her, and the values she symbolizes, say she's a survivor, that she'll make it. Her detractors, spurred on by Marcos from his Hawaii beachfront home, are trying to sow doubts.

Meanwhile, here's what she's up against:

An economy plundered into bankruptcy by Marcos & Co.

A $26 billion foreign debt created in part by world economic conditions, but mostly by the grand thievery of the Marcos family and favored friends.

A lack of foreign and domestic investor confidence.

Pervasive deprivation, with 70 percent of the 55 million Filipinos near or below the poverty line and with 50 percent or more under-employed. (Figures of outright unemployment mean less here than in most places because of the Filipino trait of sharing.)

A dangerous insurrection, by the New People's Army (NPA), some 15,000 to 20,000 strong, a hard core of dedicated Communist ideologues, supported by several million Filipinos reacting to years of physical and economic abuse by Marcos' military and his industrial and political overlords. The NPA is believed to be in 60 percent of the provinces, with some influence in the remainder, and is estimated to control one-fifth of the countryside, where 70 percent of the people live. This plus continuing resistance in Mindanao by Muslim separatists.

Disruptive infighting within Aquino's own coalition, representing several political parties and cause-focused organizations, with a left-to-right spectrum, and with at least three cabinet officers said to be harboring their own presidential ambitions. There are Vice President/Foreign Minister Salvador Laurel, Local Government Minister Aquilino Pimentel, and Defense Minister Juan Ponce Enrile.

And, finally, an ongoing campaign by Marcos to undermine the Aquino government and, he hopes, pave a path for his return.

How is she reacting to all this?

In a 40-minute interview, we found an aura of gentleness about her, but there's no mistaking the resolve beneath the warmth, the graciousness, the poise, the soft voice. She exudes charisma, a deep sense of purpose, a strong will.

There is a freshness about Cory Aquino that one would not usually associate with a presumably harried chief executive of a country dubbed "the sick man of Asia," the only ASEAN nation to show a negative growth rate over a span of years.

Slenderer than we'd expected, wearing a dress touched by her distinctive yellow, she sat on a sofa, above which hung the shield of the Philippines presidency. The thought crossed our minds that in her, the spirit of her husband, "Ninoy," cut down by an assassin's bullet, still lives.

She took questions in stride, answering with a facility that reflected instinctive talent and speedy on-the-job training.

Q: You were thrust suddenly into office. There was no time for planning. Now news stories are raising the question: Is President Aquino really in charge of running the government?

A: I feel comfortable enough. You'd better ask the cabinet officers who's in charge.

Q: You have remarkable popularity. How does one institutionalize that popularity?

A: What I intend to do is keep close touch with the people. I'll be visiting provinces. I'm here because people like to see and hear me. We can't yet carry out economic reforms because we lack the funds.

There is a lack of drinking water. I can tend to that right away because it doesn't take big funds. (The late president Ramon) Magsaysay built "liberty wells," something I can do easily.

I've been able to awaken the spirit of the private sector. I'd like to sustain the newfound spirit of the citizenry: It's important for the people to know that all are concerned with problems and want to do something.

Q: Do you plan to form a political party?

A: I prefer not to comment on forming a party. Before martial law in 1972, we had only two major parties. It was a simple situation. I have not only parties (DDP/Laban, under whose banner she ran, headed by Pimentel: UNIDO, led by Laurel; the Liberal Party) but also cause-oriented groups.

Q: Do you like your job?

A: It's not a question of liking. When I accepted the draft I made up my mind that first, I would do my best to win and then, on taking on the job, would be committed to doing a job and making a success.

I'm a very private person. Enrile has been talking about security. I lost my freedom in trying to restore freedom in the country.

I'm not a traditional politician. If my husband was president, you'd be facing a man who enjoyed being president. I, of course, am gratified for this opportunity.

The first time I experienced presidential power was when I visited Camp Aguinaldo. During the incarceration of my husband (who Marcos had put in solitary for almost eight years) it was a nervous time. And there was fear because I was asking when privileges would be extended to my husband.

(The official she asked was Enrile, then Marcos' minister of defense and now, hers, because of his role in the anti-Marcos revolt in February. Enrile later told us that when Ninoy Aquino was in prison, Cory Aquino had talked to him two or three times and there'd been some letters and that she got what she requested for her husband. Neither mentioned that when she visited her husband she was strip-searched).

Aquino continued.

Times have changed. Here I come with my military escort and (Chief of Staff Fidel) Ramos and other generals are waiting for me. I felt, so this is what it's like to be president.

Q: What about President Reagan's phone call to you (before he left for Hawaii, Indonesia and the Tokyo summit). How much advance notice did you have? What time was it here?

A: I had about 15 minutes notice from the U.S. Embassy. It was 11 o'clock at night. I was in bed and very sleepy, but I was still watching a TV interview with my labor minister (Augusto Sanchez).

Q: What did you talk about?

A: He expressed admiration for the way we conducted a peaceful and bloodless revolution. He offered his good wishes, and said he was recommending to Congress an increase in U.S. aid.

He invited me to visit the United States and I told him that was dependent on my schedule, perhaps around November. I look forward to the visit. Speaker O'Neill had also invited me to address Congress.

Q: What about President Reagan calling Mr. Marcos?

A: Anyone is free to call anyone.

(The fact that President Reagan's call to her was the first in the two months since she took office and that he spoke to her for three minutes while he and Mrs. Reagan in Hawaii had an estimated 45-minute conversation with the Marcoses, doesn't sit well here—although there is appreciation that Reagan rebuffed Marcos' claims of still being president.

Q: What about talk of cutting the new military budget?

A: We are working closely with the minister of defense, who is also aware that the solution to the insurgency here is a combination of economic and social, as well as military, factors.

Q: Neither the extreme left nor the extreme right has fully accepted your revolution. Is democracy the answer in the Third World? Can your revolution be a model?

A: So many Filipinos risked their lives for the restoration of freedom. As to whether we can be a model for the Third World. I would like to think of Filipinos as special as being a unique people. We are a peaceful people. Religion played a part here. So many who took part in the revolution kneeled and prayed. Whether other countries can adopt (what happened here). I guess they could. . . . While there's a difference between nationalities, there are all kinds of ways of having a dialogue.

Q: Population is a big problem here. This is a Catholic country: you're religious yourself. How do you deal with population?

A: When my husband was governor (of Tarlac Province), he was involved in an AID project for population control. This is a Catholic country. I'm a deeply religious person. I have not yet sat down with this problem of the population explosion. I'm putting emphasis on agriculture and urging people in urban areas to go to less populated areas, and encouraging small and medium enterprises to help provide jobs.

Q: What about the U.S. bases here (Clark and Subic and some smaller installations)?

A: There are so many events possible between now and 1991 (when the current lease expires and the question of renegotiation will be on the table). I'm sure no one here thought we'd have a successful revolution. On the bases, I'd like to keep my options open.

There are proposals by some here that if and when there are negotiations for renewal of the lease, the results should be submitted to the people for approval or rejection. Aquino declined to say whether she thought such a plebiscite, if conducted now would be favorable).

Q: What about the revenues (the 40,000 Filipino workers get) from the bases?

A: There are many things that are important I'll answer when the time comes.

Q: The U.S. is worried about the increasing Soviet presence in the Pacific. You're only 600 miles from Cam Ranh Bay.

A: Regarding negotiating on the U.S. bases, we will of course be considering not only what's good for the Filipino people but also for the world.

Q: What about your reading? How much do you do?

A: I don't have much time. I read the local newspapers and I depend on my Cabinet officer to bring me up to date on international events and developments that are related to their fields.

She harked back to the Reagan call and said that fortunately, her oldest daughter wasn't home at the time—presumably because the phone would have been tied up. She added that her older children are not too happy about the family being in the limelight because they've lost their privacy too—but that the younger kids love it. One would like to be a movie star and doesn't mind being interviewed.

Q: Do you have any words for Hawaii?

A: I wish not only the people in Hawaii but all Americans the best and I want to thank the American people for assisting us."

A NEW POLICY OF THE SANDINISTAS: ABORTION

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. SENSENBRENNER. Mr. Speaker, it appears from a letter, I recently received from Concerned Catholics for Religious Freedom in Nicaragua, the Sandinistas are now promoting the policy of abortion.

I am enclosing for the information of the membership, the letter from the Concerned Catholics organization and an article from Ms. magazine detailing this growing trend in Nicaragua.

FOR RELIGIOUS FREEDOM IN NICARAGUA,
Washington, DC, May 30, 1986.

Hon. JAMES SENSENBRENNER,
House Office Building, Washington, DC.

DEAR CONGRESSMAN SENSENBRENNER: According to the enclosed article from the June 1986 issue of Ms. magazine, the Sandinistas are pursuing a pro-abortion policy. I know you would want to be aware of this latest assault on human rights by the Sandinistas.

The article quotes Milu Vargas, a government official, who says "every day, abortion is a little bit more legal." The article also states that the Chief of Police, Commandante Doris Tijerino, is no longer enforcing anti-abortion laws in Managua.

Vargas also provides a clue to the real goals of the Sandinista regime. She said, "We did not make a revolution for rice and beans. Reagan could give us rice and beans. We made a revolution for new ideas and new values."

Since coming to power in 1979, the Sadinistas have attacked basic human rights such as freedom of speech, press and assembly. It now seems that the regime is attacking the most basic human right of all—the right of life.

The Sandinista pro-abortion policy is not only a tragic consequence for the unborn, but it is certain to heighten tension with the Church and opposition groups. Internal reconciliation will become all the more difficult and the result will be a wider civil war.

I urge you to support the democratic side in the Nicaraguan struggle and to speak out against the Sandinista violations of human rights, including those directed against the unborn.

Sincerely,

HENYR J. FERRO,
Lay Coordinator.

[From Ms. magazine, June 1986]

ABORTION IN NICARAGUA: AN EMERGING ISSUE

(By Suzanne Sangree and Nan D. Hunter)

The demand for safe and legal abortion is growing in Nicaragua. Milú Vargas, director of the legal office of the Nicaraguan congress, gave an informal go-ahead to send a vacuum aspirator to the state-run Bertha Calderon Women's Hospital in Managua. This equipment, used throughout the United States to perform abortions, will enable the hospital to treat women suffering from illegal abortions and to expand the range of legal services. Such an event is extraordinary: abortion is still a crime in Nicaragua (as it is in every Latin American country except Cuba), punishable by up to four years in prison.

Vargas writes that "every day, abortion is a little bit more legal." Last September, 1,500 delegates at the Second National Conference of Women called for a nationwide program of sex education, access to contraceptives, and a dialogue during 1986 on abortion. In the following three months, more than 20 articles on abortion appeared in major national newspapers, including two full-page "roundtable discussions" by people with differing views, organized by the official Sandinista newspaper, Barricada. As did American women in the first speak-outs in the United States, Nicaraguan women recounted their harrowing experiences with illegal abortion.

MAJOR CAUSE OF DEATH

On the scientific front, four Bertha Calderon Women's Hospital employees won first prize at the Seventh National Conference on Science and Health last October for their study, "Illegally Induced Abortion: Its Costs and Consequences." Their report publicized for the first time the shocking statistics that illegal abortion is the single greatest cause of death for women of childbearing age at Bertha Calderon—deaths of otherwise healthy women.

Most illegal abortions are performed by neighborhood abortionists who have little, if any, medical training. The most common method used is to introduce a probe into the uterus, such as a piece of wire or the spine from an umbrella. The procedure is performed without anesthesia, during the twelfth or so week of pregnancy. Despite severe pain, blood loss, and infection, more than 68 percent of 109 women interviewed waited more than three days after the abortion to get treatment because of shame and fear of prosecution. More than 55 percent of these women had never used contraceptives and 33 percent used contraceptives sporadically.

The study highlights a sobering reality: "All our efforts to safeguard women's health are nullified by the consequences of illegal abortion." The report calls on the government of Nicaragua to conduct a massive campaign consisting of sex education and distribution of contraceptives and to revise the country's abortion statutes.

In the meantime, women are doing their best to minimize the effect of the current law. Chief of Police Comandante Doris Tijerino announced that no one would be prosecuted for pursuing an abortion; her remarks followed an alleged incident in which two male police officers burst into the recovery room of Bertha Calderon Hospital to arrest a woman treated for a botched abortion. The officers failed: the 20 other women in the recovery room insisted that if one was arrested, all must be, because they were all there for the same reason.

CHURCH AND STATE

The backlash in repsonse to these efforts has already begun. Conservative party members of the Nicaraguan congress are seeking to include a "life begins at conception" clause in the national constitution, which is currently being circulated at town meetings. And although the Catholic Church hierarchy, led by the recently ordained Cardinal Miguel Obando y Bravo, has been silent on this issue so far, the cardinal presents the most powerful internal opposition to the government. Legalization of abortion risks a confrontation with conservative church forces in a nation that is 80 percent Catholic. Some speculate that the government's desire to avoid such a clash has been one of its prime reasons for not legalizing abortion.

DEBATE RAGES ON

Meanwhile, the debate on abortion has triggered a discussion of the overall status of women. Poet Rosario Murrillo, an official of the ASTC Cultural Workers Union and wife of President Daniel Ortega, in an interview in the Sandinista newspaper cautioned women to wait until the revolution is on sounder footing before pushing for women's rights.

In repsonse, the director of the Women's Legal Services office, attorney Maria Lourdes Bolaños, published an editorial in the same paper comparing the abortion law to another antiquated law currently on the books that makes it a crime to distribute Marxist literature. She followed this up with an article—"Women's Equality: A Lie!"—delineating women's unequal status in all areas of Nicaraguan life and calling on the government for change now.

How successfully women can effect change in this fledgling government will be determined by the balance of forces in Nicaragua. Attorney Vargas said at a meeting of visiting American women lawyers last summer: "We did not make a revolution for rice and beans. Reagan could give us rice and beans. We made a revolution for new ideas and new values." If Nicaragua can survive U.S.-backed moves to overthrow its government, perhaps women in Nicaragua can create a second revolution.

THE ENGLISH LANGUAGE AMENDMENT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. GARCIA. Mr. Speaker, as an original cosponsor of the English Proficiency Act, I am very concerned over the movement to make English the official language of the United States. Recently, a debate on the issue appeared in the Stockton Record between our colleague, NORMAN SHUMWAY and Arnoldo Torres, former director of the League of United Latin American Citizens. In the interest of informed debate on the issue, I submit the article for the RECORD.

SHOULD ENGLISH BE MADE OFFICIAL?

(Rep. Norman Shumway, R-Stockton, has introduced legislation to make English the nation's official language. His legislation, vigorously opposed by Hispanic organizations, would amend the Constitution to include the designation of English as the official language of the United States, prohibit mandatory bilingual education in public schools and eliminate requirements for multilingual ballots, driver's license applications and similar documents. Shumway's legislation has been criticized by Arnoldo Torres of Sacramento, former director of the League of United Latin American Citizens, in joint appearances with Shumway on the Phil Donahue television show in February and at Torres' alma mater, the University of the Pacific last month. The debate continues here.)

SHOULD ENGLISH BE THE OFFICIAL LANGUAGE?

NO

(By Arnoldo Torres)

Contrary to what Rep. Norman Shumway and his sponsors would have you believe, there is no organized effort toward the

quasi-official recognization of languages other than English.

In fact, Latinos and other immigrants to the U.S. have long recognized that the English language has and will always be the official language of this country. It is regarded as indispensable for assimilation and integration into mainstream society. Command of the English language, both verbal and written, is imperative for every person, not just immigrants, with thoughts of attaining economic success.

Unfortunately, Shumway and his proponents willfully and knowingly ignore these facts and choose to carry out a campaign of exaggeration and misinformation in the name of cultural and national unity. They believe because of the high influx of Latino immigrants that there is a movement afoot in our community to make Spanish the second official language of this country. His constitutional amendment, referred to as the English Language Amendment (ELA), would make English the official language and, he contends, stop this "movement" in its tracks. This seems simple enough and no reason for alarm. This is precisely what he wants the public to believe. However, when you look beneath the veneer of his rhetoric and examine the history of previous efforts, the motivation and consequences, you can't help but conclude that the ELA will create more problems than benefits.

English-only language movements yesterday and today have not attained their stated goals of national and cultural unity. They have the effect of creating antagonism and division where they have been initiated. The efforts to mandate the speaking of English in the United States emerged during the second and third decades of the 20th century in response to the increased number of "new immigrants" coming from culturally distinct regions of eastern and southern Europe, Latin America, and the Orient. These efforts, fueled by theories of racial superiority and fear of culturally different immigrants groups increased significantly after World War I. The "new immigrants were perceived as lacking in the assimilative qualities which the "old immigrant" groups had possessed.

These attacks upon the "new immigrants" arrested their assimilation and discouraged them from learning American ways. Immigrant groups organized themselves to challenge assumptions of superiority and to defend their own cultural and linguistic heritages from further attack. Proponents of English-only initiated efforts to Americanize all individuals who clung to their cultural heritage and who spoke a language other than English. This forceful assimilationist drive resulted in polarization and divisions in many local communities on a basis of language, culture and immigrant status. This movement continued and in some cases even accelerated during the Cold War and the McCarthy years of the 1950s.

Today's contemporary English-only movement reflects its historical counterpart. Yesterday's movement did not reach its goal of cultural and national unity.

Instead of attaining this harmony, local campaigns in Fillmore and Monterey Park, Calif., have created antagonism and divisiveness where it could have been easily avoided. In Fillmore, the antagonism has grown to the point where Latino residents have called for an economic boycott of businesses whose owners helped in the passage of the local English-only language ordinance. In Monterey Park, supporters of a local ordinance making English the official language are running a slate of candidates for city council. The sitting city council did not approve an ordinance on its own.

The ramifications of these two English-only campaigns are prime examples of the counterproductive consequences of the English Language Amendment and this movement have had and will have if continued. They do not bring people of different backgrounds together, they do not foster understanding and unity, but rather result in having the opposite effect. People who need to assimilate and integrate into mainstream society are not doing so any faster under these circumstances. They are not learning English nor "American" ways. Instead, disharmony and division are ruling the day.

How can anyone reasonably argue that the ELA and local English ordinances assist in the acquisition of English literacy skills? How can Shumway argue that the ELA is constructive? It is simply a repetition of the ugly past being carried out and presented as being in the "best interests of America."

When Shumway and I appeared on the Phil Donahue Show to debate the ELA, the crowd was at each other's throat in the name of being American and speaking English. No one was really concerned with finding ways to have limited or non-English speaking persons speak English. They simply wanted everyone to speak English regardless of the circumstances.

The ELA provides no direction, no positive policy. It feeds upon the fear, anger, and frustration that most of us have when dealing with people unlike ourselves who don't understand us. I honestly believed that after this display, Shumway would want to pursue a more constructive approach to having people with limited English-speaking ability learn and use English.

I was wrong for it appears that the real intention of Shumway is to repeal bilingual voting materials and bilingual education. I am convinced of this after having debated Shumway twice and analyzing his amendment's potential effect.

His ELA would repeal the use of bilingual voting materials which he argues retard the use of English. He does not present any facts to support his and on its face it seems somewhat superfluous. Bilingual ballots are not for everyday use and do not provide information in Spanish for daily life necessities. Congress has dealt with amendments to repeal this section of the Voting Rights Act which calls for the use of bilingual ballots, and in its wisdom has defeated these efforts. Congress believes that these materials are vital to the participation in the democratic electoral process of this country of persons with limited English speaking ability.

With regards to bilingual education, Shumway continues to feed misinformation to the public. He argues that bilingual education has been proven ineffective and that we should not use federal funds for such purposes. It appears that he has chosen to ignore what A.C. Willing, a researcher who critiqued the studies he uses. Willig concluded that "the overwhelming message derived from these data suggests that most research conclusions regarding the effectiveness of bilingual education reflect weaknesses of the research itself rather than effects of the actual program." Most of the research community has indicated that bilingual education is superior to submersion, which Shumway favors, and that the quality of research to evaluate bilingual education must be improved.

Shumway also argues that bilingual education retards the use of English. However, most research in this area indicates that a strong foundation in native language actually serves as a support for learning English easier and faster. What one learns in the native language is readily transferred to English. Bilingual education is an attempt to transition a limited English-proficient (LEP) child to use English. It is not designed to maintain native language nor does anyone responsible advocate this. Furthermore, it is virtually impossible for native language instruction to take place because most "bilingual" teachers were found (in a recent national study by Wong Fillmore) to have limited proficiency in native languages of LEP children.

In Stockton, there are 120 teachers in Kindergarten through 6th grade who are not certified bilingual education teachers but are in the classroom on waivers due to need. If bilingual education is not working it's due to a shortage of qualified teachers and classroom sizes of 32 which are way above national average. Again, contrary to Shumway's contentions, students in bilingual education programs are not segregated for it is impractical and state law requires one-third mainstream students in these classrooms in primary grades. Perhaps what Shumway should do is to visit more bilingual classes in Stockton and develop an informed and factual opinion. If he did, he might spend his time working to correct the real problem facing bilingual education.

Lastly, Shumway argues that he resents local governments being told how to provide equal access to LEP children and that local governments should decide on their own what to do. Again, he appears to want history to repeat itself, for local governments only started providing bilingual education after the courts and the federal government passed legislation. Local governments had simply ignored the problems of LEP children and the ELA would allow the situation of sink or swim to exist once again. How can he claim that his ELA will assist persons to learn English? The ELA and the local English-only ordinances have been destructive and counter-productive. They in fact are responsible for retarding assimilation.

I would suggest that those who want people to learn English, volunteer some of their time to teaching English classes in adult education and/or support efforts which will improve bilingual education by training qualified bilingual education teachers, reducing class sizes and funding parent literacy programs which have parents of LEP children learn English.

State Sen. Art Torres, D-Los Angeles, introduced legislation entitled the English Language Opportunities Act to expand opportunities to the state linguistic minorities so they may acquire the essential English and basic literacy skills, and an orientation to civil responsibility. This type of legislation should be expanded and supported throughout this country where people who want to learn English don't have the means.

These are constructive and positive efforts for LEP persons to learn and use English. They do not bring about the division and antagonistic consequences of the ELA and local English-only drives. English-only efforts are ironically, counterproductive to their own goals of cultural and national unity.

SHOULD ENGLISH BE MADE OFFICIAL?
SHOULD ENGLISH BE THE OFFICIAL LANGUAGE?
YES

(By Norman Shumway)

The English Language Amendment (ELA) would provide a measure of legal protection to our common language, currently recognized only through custom, by designating English as our official language.

Even more importantly, such a designation would end the conflicting signals we are presently sending to language minorities through contradictory government policies. For example, on one hand we require those seeking to become naturalized citizens to have a working knowledge of English, but on the other, we allow citizens to exercise their right to vote in languages other than English. Our educational policies for language minorities are also contradictory. While most would agree that fluency in English is necessary if students are to become assimilated into the mainstream of our society, the government virtually forces schools desiring federal funds to use only one method of teaching—bilingual education—despite the fact that there is little evidence that the methods is effective. Indeed, bilingual education may in some cases encourage dependence upon the native tongue, discouraging the student from becoming fluent in English. I object to the federal government determining teaching policy. Individual school districts are far better able to meet local needs, and the ELA will provide them with that overdue flexibility.

Contrary to the claims of opponents to the ELA, the measure will not end bilingual education; it will simply end the government mandate that one teaching method be used to the exclusion of others.

Opponents of the ELA often seem to misunderstand its intent. In addition to claiming that the measure will end bilingual education, they also state that the ELA will curtail the study of foreign languages and the use of tongues other than English for personal reasons. That is simply not true. Today's interdependent world demands competency in languages other than English, and I strongly encourage all Americans to learn them. Every American is free to use whatever language he or she chooses for traditional, cultural, religious or ethnic preservation purposes.

America has been greatly enriched by the cultural diversity of our society; that diverse tradition must be preserved.

However, our common language has been a major factor in forging strength and unity from diversity. We need look only as far away as Canada to see what language divisiveness can do to undermine unity. Belgium and Sri Lanka, among other nations, provide additional examples of the potential rights which multilingual societies can anticipate, sometimes to the point of violence.

The purpose of the English Language Amendment is to encourage our nation's newcomers to gain proficiency in English, enabling them to participate fully in the many freedoms and opportunities which America has to offer.

The ELA will declare English our official language, yes, but it will not inhibit the use of any other language. It will simply put an end to the current short-sighted government policies which restrict choice, segregate language minorities in separate classes, and force them to remain forever on the fringes of American society.

In summary, the ELA's objective is to encourage success and enhance opportunity—what could be more American than that?

A TRIBUTE TO THE ITALIAN CHARITIES OF AMERICA

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. BIAGGI. Mr. Speaker, it is with great pride and pleasure that I pay tribute to the Italian Charities of America, an organization located in New York City that is celebrating its 50th anniversary. These five decades have marked a commitment to service, with specal emphasis on serving Italo-Americans and those residents in need across the city. As a member of the honorary board of this organization, a fellow Italian American, and a resident of the city of New York, it is with personal pride that I offer my congratulations and commendations on this anniversary milestone.

The dream began in 1936, when a group of distinguished Italian American citizens led by State Supreme Court Judge Anthony Savarese, decided to form an organization that would attend to the social welfare needs of the large, struggling Italian-American community and make a recognizable contribution to the city as a whole. They began with a mere idea and a fierce determination to develop that idea and make it work. They have certainly succeeded.

The founders envisioned a community center centrally located in the borough of Queens from which it could serve the needs of the Italian-American community. They chartered the group and dedicated themselves to "serve youth, the underprivileged, the indigent, the juvenile and adolescent delinquent, the distresed, the aged, the sick and the disabled of Italian origin and extraction."

When the ICA opened their community center in 1951, it marked the culmination of nearly 16 years of planning and fundraising by the group and the Italian-American community of the city. This was no small feat.

In their effort to build a community center and make a permanent home for the ICA, they met and overcame such obstacles as the outbreak of World War II, with its accompanying restrictions on building materials and the uncertainty of the labor market. But the drive, determination, and hard work of the founding fathers is perhaps best illustrated in their fundraising efforts. They managed to launch a drive that took them from the initial estimate of $25,000 to the final construction expense of $150,000. Many Italians throughout the city donated what they could. Even the cost of one brick in order to help realize the dream, the vision of their community.

The Italian Charities of America's social welfare agenda took shape quickly in the form of programs offering legal help, care for the needy, youth activities, and educational assistance. Since that time, these programs have been supplemented by special efforts such as Italian earthquake relief. In 1980, when an earthquake devastated Italy, the Italian Charities of America raised nearly $100,000 in contributions for relief aid and shipped tons of clothing to the disaster victims.

Perhaps its largest program has been the operation of a comprehensive senior citizens center, which has shared ICA headquarters since 1973. The senior center provides a variety of much-needed programs and services to older residents of the area. These include nutrition services, where a hot breakfast and lunch is served daily; game rooms, offering a multitude of social activities for the elderly; dance instructions, and Italian language classes. The achievements of the center are due to the hard work and dedication of the officers and supporters of Italian charities, the staff of the center, and the involvement and commitment of the seniors at the center. As an original member of the House Select Committee on Aging, I fully recognize the importance of such centers to the millions of elderly people in New York City, and across the Nation. It is an important service provided by the Italian charities, and deserves our special attention and recognition.

Over the past five decades, this fine organization has worked to preserve and advance the rich heritage of the Italian-American community and the needs of its members and others throughout New York City. As the Italian Charities of America celebrates its golden anniversary, I wish to express my appreciation for the many worthy services you have provided to the people of our city. I also wish to pay a personal tribute to this organizaton which has fully recognized the importance of preserving the traditions of our rich Italian heritage, and to promote matters of common interest and needs for all people.

ENGLISH—THE LANGUAGE OF THE SUCCESSFUL MAINSTREAM

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. BEREUTER. Mr. Speaker, today this Member wishes to commend Congressman NORMAN SHUMWAY of California for his continuing efforts to speak out on a controversial issue. Our colleague is the sponsor of House Joint Resolution 96, a constitutional amendment which would establish English as the official language of the United States. I am proud to be a cosponsor of this important legislation, and encourage other colleagues to consider supporting it as well.

One of the proudest traditions that the United States can point to in its short history is the one that allows a man or woman to come here, seek work, put down new roots, and achieve a success that is the envy of the rest of the world. It is so very true that we are a great nation of immigrants, and the pluralism of an immigrant society creates a richness and texture to the American landscape that is unparalleled elsewhere.

Our heritage is filled with names from far-off places. But in any culture, one of the ties that binds and strengthens that culture is the tie of common tongue. The most successful individuals in any society speak in the dominant language. This, of course, is not to underestimate the value and importance of learning another language. Children who grow up in a bilingual family or learn another language in school are very fortunate, and certainly better citizens of the world. That American commerce and daily

life, however, are conducted in English is an inescapable fact. If we would protect our diversity by nuturing successful individuals, we would insist upon immersion in the language for any new arrivals.

This Member believes that there are many who are reluctant to move ahead with an effort to declare English the official language of the United States. Many fear that they will alienate potential voters. But I would caution those who oppose such a declaration that they are consigning children and individuals who are not fluent in English to a second-class economic life in the United States. A school's bilingual goal is to move a child into English-speaking classes within 3 to 7 years. In the life of a child, however, 3 to 7 years of a second-class status is formative. It amounts to disenfranchisement. We do them no favors if we maintain the bilingual approach in the form it has become today.

This Member, then urges this body to support legislation to make English our official language. In doing so, we will surely protect and enhance our traditional stance as the "land of opportunity."

I commend to my colleagues attention the following two fine editorials on this subject:

[From the Norfolk Daily News, June 2, 1986]

ASSIMILATION THE GOAL

Gov. Richard Lamm of Colorado made a strong appeal to Congress last week to deal with two problems distined to become more serious the longer remedial action is postponed. The immediate problem is illegal immigration, topic of a book Gov. Lamm has co-authored, "The Immigration Time Bomb: The Fragmenting of America." The other problem he cited in his testimony before a congressional committee is derived in great part from illegal immigration. It relates to that "fragmenting," an inability of immigrants to assimilate in American society.

"America can and should accept people from many lands, but we have a great stake to make sure that they eventually become Americans," Gov. Lamm said.

Emphasis on providing special rights to ethnic groups, as governmental policies have tended to do, rather than making sure that all rights rest with individuals, works against such an eventual result. So does bilingualism, not only tolerating those who do not learn English but accommodating them as if refusing to learn were somehow commendable.

On that point, Gov. Lamm points to the importance of ensuring that immigrants learn to speak the language of the majority in America. "The history of countries with two or more languages, or two or more cultures, is a history of disaster," he says, and points to Quebec, Belgium, Lebanon and Sri Lanka, among others.

The most urgent problem is posed by illegal aliens entering the United States from Mexico, and to a lesser extent, from other Latin American countries.

The goal must be to enforce immigration laws which now exist or to change them in ways which will make then fully enforceable. As a basic first step in policy changes, it ought to be made clear that all who aspire to be citizens and thus to enjoy the full rights and protection of the American government, are obligated to learn the common language, English. Anything less is an injustice to residents of this nation, for there will always be subtle discrimination and limited opportunities for those without English language skills.

"Either we move toward a united country, which gains strength through diversity, or we move to a bitter division which will result in perpetual tension and strife," Gov. Lamm observes. It is an accurate summation of the situation faced by the products of a nation which has prided itself on being a "melting pot."

Governmental polices need to be aimed directly at assimilation, including a common language, in keeping faith with that historic concept. The melting pot remains an admirable symbol.

[From the Omaha World-Herald, June 3, 1986]

GOVERNOR LAMM HAS IT RIGHT ON ONE NATION, ONE LANGUAGE

Two reasons exist for every American to learn English. One is the good of the individual. The other is the good of the country. Colorado Gov. Richard Lamm, speaking to a congressional committee the other day, touched on both.

In a predominantly English-speaking society, a person is handicapped if he can't express himself in English. "Some of the discrimination against Hispanics is really a linguistic impediment, a cultural impediment," Lamm said.

A similar concern was expressed by D.L. Cuddy, a Department of Education official, in an article printed on the World-Herald's Weekend Focus page Sunday. He said people who lack a command of English not only limit their chances of being hired in certain job areas and regions of the United States but also limit how high they might rise in the work place.

Cuddy quoted a Chicago management consultant who said an inability to handle the "technical, English-language requirements of supervision and other responsible positions" keeps some people from being promoted.

Addressing the national importance of a common language, Lamm noted that the "country did not demand, nor should it demand, uniformity" of its immigrants. Wisely so, considering the principles of individual dignity on which the country was founded. But the country "should demand certain elemental levels of unity," Lamm said. One is that today's immigrants, like the immigrants of earlier years, make an effort to learn the country's language and to understand its customs and traditions.

"There has to be a social glue that holds people together," Lamm said, listing Quebec, Belgium, Lebanon and Sri Lanka as places with a "history of disaster" caused by linguistic divisions.

Lamm's statements take on added significance because of his liberal positions on some other issues. Too often, liberals have approached the language issue with a live-and-let-live attitude, advocating bilingualism in schools and government offices. Some of the principal advocates of having every American learn English, on the other hand, have been conservatives including former Sen. S.I. Hayakawa of California and Secretary of Education William Bennett.

This isn't, however, an issue on which liberals and conservatives should feel compelled to be on opposite sides. Both ought to be able to agree that it is inexcusable to send a youngster into an English-speaking world without the tools to compete; both ought to be able to see the damage that could result if linguistic enclaves were permitted to destroy the American tradition of one people, one language.

TRIBUTE TO VARNARD GAY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation an award ceremony that will be held Sunday, June 15, in Flint, MI, honoring Mr. Varnard Gay. Mr. Gay is being honored as the recipient of the Community Service Award by the Bruin Club of Genesee County in recognition of over 50 years of outstanding service to his community.

In a career spanning over a half century, Mr. Gay has distinguished himself as a highly successful educator and has coached a total of three Flint-area schools to State championships. His first State title came in Mt. Morris, MI, in 1937 when he served as the coach of the St. Mary High School track team. In 1944, he coached the Kearsley High School cross-country team to its first State title. At Central High School, he was the head coach of both the cross-country team and the track team, and each team won the State championship as a result of his inspiring leadership. Although he retired in 1971, Mr. Gay is still a familiar sight at many of the major track and field events that take place each spring in the Flint area. He continues to play a vital role in many of Central High School's programs, and he continues to volunteer his talents wherever they are needed.

Mr. Speaker, the many years of hard work that Varnard Gay contributed to the community as a teacher and as a coach is an fine example of the highest degree of good citizenship. At the age of 81, he continues to distinguish himself as a human being who touches the lives of many individuals, and he inspires those of us who know him to ask more of ourselves. I am pleased to pay tribute to Varnard Gay, and would ask my colleagues to join me in congratulating him on his accomplished career.

THE ADMINISTRATION'S TEACHER TRAINING AND IMPROVEMENT ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. FAWELL. Mr. Speaker, a 1983 school reform report, "A Nation at Risk," focused on several problems plaguing public school education nationwide. One problem was the quality of the Nation's teaching force.

In response to these findings, Congress enacted several programs to improve teacher instruction. The principal legislation is title II of the Education for Economic Security Act. This program is designed to improve elementary and secondary public and private school instruction in science, math, foreign languages, and computer learning. For program-year 1986—July 1, 1986 to September 30, 1987—title II will be funded at $43.1 million.

Today, I am introducing, at President Reagan's request, the Teacher Training and Improvement Act [TTIA]. This bill broadens the scope of title II to include more academic subjects and eliminates many of the current program's administrative redtape.

The primary objective of this legislation is to eliminate the duplication of other Federal teacher training programs. The National Science Foundation [NSF] currently spends $82 million for math, science, and engineering training and instruction. One NSF program focuses on attracting and keeping teachers in math and science careers. Another NSF program improves math and science instructional materials and research.

Because the NSF programs are limited to meet the needs of math and science enhancement, the Department of Education's teacher training initiatives should be opened up to include all academic subjects. TTIA would allow States to give priority for improving the teaching of English, math, the physical and natural sciences, the social sciences, the humanities, foreign languages, and other critical academic subjects.

TTIA would improve teacher training by: First, providing inservice education for elementary and secondary public and private school teachers and administrators; second, recognizing outstanding teachers and administrators; third, attracting qualified persons from other professions into teaching; fourth, encouraging outstanding teachers and administrators to remain in the education profession; and fifth, improving preservice education of teachers and administrators.

The initiative also repeals two small categorical education programs: the Territorial Teacher Training Program and the Leadership in Educational Administration [Lead]. The first provides teacher training in the U.S. territories; the latter provides training for school administrators. Since these initiatives could be continued as part of TTIA, there is no need for separate programs.

The administration's bill authorizes $75 million in fiscal year 1987—$22.8 million more than appropriated in 1986 for the programs it replaces—and "such sums" through fiscal 1991. Of the amount appropriated, 79 percent is allocated to the States, 20 percent is reserved for the Secretary's discretionary fund, and 1 percent is earmarked for territorial and Bureau of Indian Affairs schools.

Of the State allocation, at least 90 percent must be distributed to eligible recipients—local educational agencies, higher education institutions, private schools, and other public and private institutions and organizations. Up to 5 percent of the State allocation could be used for administration, and any remaining funds would be used for teacher training and improvement activities carried out at the State level.

TTIA is a step in the right direction toward ensuring that all academic subjects are eligible for training and improvement funds. More importantly, TTIA eliminates the duplication that now exists between the Department of Education's and the NSF's math/science programs.

The text of the Teacher Training and Improvement Act follows:

H.R. 5011

A bill to improve the quality of teaching in American secondary schools and enhance the competence of American secondary students and thereby strengthen the economic competitiveness of the United States, and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for Economic Security Amendments of 1986".

SEC. 2. Title II of the Education for Economic Security Act (20 U.S.C. 3901 et seq.) is amended to read as follows:

"TITLE II—TEACHER TRAINING AND IMPROVEMENT PROGRAM

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Teacher Training and Improvement Act'.

"STATEMENT OF PURPOSE

"SEC. 202. The purposes of this title are to improve the effectiveness of public and private nonprofit elementary and secondary education in the United States and thereby strengthen our economic security by—

"(1) providing opportunities for inservice education of teachers in order to enhance their mastery of the subjects they teach as well as their teaching skills, including those skills needed to maintain an orderly classroom environment conducive to learning,

"(2) providing opportunities for inservice education of school administrators in order to enhance their capacity for leadership, including those skills needed to maintain an orderly school environment conducive to learning,

"(3) recognizing teachers and school administrators for their excellent performance,

"(4) encouraging outstanding teachers and school administrators to remain in their profession,

"(5) attracting qualified persons in other professions to careers as teachers or school administrators, and

"(6) improving the preservice education of teachers and school administrators.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 203. For the purpose of carrying out this title, there are authorized to be appropriated $75 million for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"DEFINITIONS

"SEC. 204. For the purpose of this title—

"(1) The term 'eligible recipient' means a local educational agency, institution of higher education, cultural institution, professional association, or other public or private agency, organization, or institution capable of carrying out a local project under this title.

"(2) The term 'nonprofit' has the same meaning given that term under section 1201(c) of the Higher Education Act of 1965.

"(3) the term 'preservice education' means the education or preparation of a person who has not received a bachelor's degree to become a teacher or school administrator.

"(4) The term 'secondary school' means a school which provides secondary education as determined under State law.

"RESERVATION AND ALLOTMENT OF FUNDS

"SEC. 205. (a) From the funds appropriated under section 203 for any fiscal year, the Secretary may reserve up to 20 percentum for national programs under section 210.

"(b)(1) From the remainder of the amount appropriated to carry out this title for each fiscal year after the application of subsection (a), the Secretary shall reserve—

"(A) one-half of one per centum for projects and activities authorized by this title in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands; and

"(B) one-half of one per centum for projects and activities authorized by section 206 to benefit children in elementary and secondary schools serving Indian children which are supported by the Department of the Interior.

"(2) The Secretary shall allot the funds reserved under subsection (b)(1)(A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for assistance under this title as determined by the Secretary.

"(c)(1) From the remainder of the amount appropriated to carry out this title for each fiscal year after the application of subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to that remaining amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to the Secretary.

"(2)(A) The Secretary may reallot all or a portion of a State's allotment for any fiscal year if the State does not submit a State application under section 207, or otherwise indicates to the Secretary that it does not need or cannot use the full amount of its allotment for that fiscal year. The Secretary may fix one or more dates during a fiscal year upon which to make reallotments.

"(B) The Secretary may reallot funds on a competitive basis to one or more States that demonstrate a current need for additional funds under this title. Any funds reallotted to another State shall be deemed to be part of its allotment for the fiscal year in which the funds are reallotted.

"(d) For the purpose of this section, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"PROGRAMS FOR INDIAN CHILDREN

"SEC. 206. (a) The Secretary shall allot the funds reserved under section 205(b)(1)(B) to the Department of the Interior to support activities described in subsection (b) to benefit children in elementary and secondary schools serving Indian children which are supported by the Department of the Interior.

"(b) Funds allotted under paragraph (a) shall be used to—

"(1) support inservice education for teachers and administrators in such schools, including participation in inservice training programs supported under section 208;

"(2) provide scholarships for teachers and administrators in such schools for additional training in their respective fields;

"(3) establish cooperative exchange programs between such schools and public and private employers which are designed to enhance the effectiveness of teachers and administrators in those schools; or

"(4) other activities that are consistent with the purposes of this title.

(c) The Secretary of Interior shall consult with the Secretary regarding the administration of activities under this section and shall provide whatever information is reasonably required to carry out the Secretary's responsibilities under this title.

"STATE APPLICATION

"SEC. 207. (a)(1) Any State desiring to receive a grant from funds allotted under section 205(c) for any fiscal year shall submit to the Secretary a State application which meets the requirements of this section.

"(b) Each State application shall—

"(1) cover a period of three fiscal years;

"(2) be submitted at the time and in the manner specified by the Secretary; and

"(3) contain whatever information the Secretary may reasonably require including—

"(A) assurances that—

"(i) the State educational agency will be responsible for the administration, including supervision, of all State and local projects supported by the State's grant and shall maintain whatever fiscal control and fund accounting procedures are necessary to ensure the proper disbursement of, and accounting for, Federal funds paid to the State under this title;

"(ii) the State educational agency will provide for continuing administrative direction and control by a public agency over funds under this title used to benefit teachers or school administrators in private nonprofit elementary and secondary schools;

"(iii) the State educational agency will distribute at least 90 per centum of its allotment to eligible recipients to carry out local projects under section 208(a);

"(iv) no more than 5 per centum of the State's allotment will be used for State administration; and

"(v) no portion of the funds under this title will be used to improve the preservice education of teachers or school administrators unless the State, with less then its full allotment, has met its needs for—

"(I) inservice education for teachers and school administrators to enhance their mastery of the subjects they teach, their teaching skills, and their administrative skills;

"(II) retraining teachers who wish to teach different subjects; and

"(III) programs to attract persons in other professions to become teachers or school administrators; and

"(B) descriptions of—

"(i) the priorities and goals the State has selected for the use of funds under this title during the period of the State application and the relationship of those priorities and goals to the State's needs for improved education of teachers and school administrators in public and private nonprofit elementary and secondary schools in the State;

"(ii) how, in establishing its priorities and goals under the State plan, the State has taken into account the needs of those public and private nonprofit elementary and secondary schools which desire to have their teachers and school administrators participate in projects under this title;

"(iii) the procedures the State will use to ensure the participation of a variety of eligible recipients under this title, including procedures to ensure that eligible recipients are informed of the availability of funds under this title;

"(iv) the procedures and criteria the State will use to select local projects to be supported under this title from among the applications received;

"(v) how local educational agencies, private schools, institutions of higher education, the State agency for higher education, cultural institutions, professional associations, private industry, and other interested public and private agencies, organizations, or institutions have been involved in the development of the State's priorities and goals under the State application;

"(vi) any projects the State will carry out with the portion of its allotment not distributed to eligible recipients; and

"(vii) the procedures the State will adopt to ensure compliance with section 209.

"(c) Each State application after the first must contain information on the State and local projects carried out under the preceding State application, including data on the number and characteristics of persons who participated, and an assessment of the degree to which those projects accomplished the goals described in that State application.

"STATE AND LOCAL PROJECTS

"SEC. 208. (a) An eligible recipient shall submit an application to the State educational agency to carry out a local project under this section.

"(b) The State educational agency shall use that portion of its allotment that is not distributed to eligible recipients or used for State administration for State projects under this section.

"(c) Funds under this section shall be used to—

"(1) support inservice education for teachers in order to enhance their mastery of the subject they teach as well as their teaching skills, including those skills needed to maintain an orderly classroom environment conducive to learning;

"(2) support inservice education for school administrators in order to enhance their capacity for leadership, including those skills needed to maintain an orderly school environment conducive to learning;

"(3) retrain teachers who wish to teach different subjects;

"(4) support programs, including scholarships and internships, for qualified persons in other professions who wish to become teachers or school administrators but lack coursework in education;

"(5) improve the preservice education of teachers and school administrators, particularly by assisting prospective teachers to master the subjects they will teach;

"(6) improve teacher education programs in order to attract the most academically capable secondary and postsecondary students to careers as teachers or school administrators;

"(7) recognize practicing teachers and school administrators for their excellent performance by awarding fellowships for further study or supporting opportunities for such persons to write or conduct research in their respective fields;

"(8) develop programs for the exchange of professional personnel between education and other fields; or

"(9) support other activities that are consistent with the purposes of this title.

"(d)(1) A State or eligible recipient may not use funds under this section to support activities under subsection (b)(5) or (b)(6) unless the State educational agency determines that the State's need for activities under subsections (b)(1) through (b)(4) has been met with less than the State's full allotment.

"(2) In making awards to eligible recipients, the State educational agency shall give priority to improving teaching in English, mathematics, the natural and physical sciences, the social sciences, the humanities (including foreign languages), and other academic subjects.

"(3) Local projects under this section shall, to the extent feasible, be developed cooperatively with, and involve the combined efforts of, local educational agencies, private schools, institutions of higher education, cultural institutions, professional associations, private industry, and other interested public and private agencies, organizations, or institutions.

"PARTICIPATION OF PRIVATE SCHOOL TEACHERS AND ADMINISTRATORS

"SEC. 209. (a) To the extent consistent with the number of children who are enrolled in participating private nonprofit elementary and secondary schools in the area to be served by a local project, an eligible recipient shall ensure equitable participation in the purposes and benefits of local projects under this title for teachers and school administrators in such schools.

"(b) To the extent consistent with the number of children who are enrolled in participating private nonprofit elementary and secondary schools in the State, the State educational agency shall ensure equitable participation in the purposes and benefits of State projects under this title for teachers and school administrators in such schools.

"(c) To satisfy the requirements of subsection (a) or subsection (b), an eligible recipient or a State educational agency shall—

"(1) consult with appropriate private nonprofit school representatives during the design and development of the project to determine which schools desire to participate in the project and what the needs of the teachers and school administrators in those participating schools are, and

"(2) then provide, as appropriate, benefits authorized by this title for teachers and school administrators in such schools.

"(d) No funds under this title may be used—

"(1) for any religious worship, proselytization, or activity of a school or department of divinity,

"(2) to provide or improve any program of religious instruction, or

"(3) to provide benefits to teachers or school administrators in a private school which is denied a tax-exempt status section 510(c)(3) of the Internal Revenue Code of 1954.

"NATIONAL PROGRAMS

"SEC. 210. (a) From the amount reserved under section 205(a), the Secretary may carry out research, development, evaluation, demonstration, dissemination, and data collection activities which are of national significance and are consistent with the purposes of this title. The Secretary may carry out such activities directly or through grants, cooperative agreements, or contracts.

"(b) Activities which the Secretary may carry out under this section include—

"(1) developing centers and summer institutes for teachers and school administrators to enhance their knowledge and skills;

"(2) awarding scholarships or fellowships to pay the expenses of teachers and school administrators attending an institution of higher education for additional education in their instructional areas or related fields;

"(3) developing exchange programs in which outstanding teachers or school administrators from one school district or state are temporarily assigned to another

school district or State to act as consultants or mentors;

"(4) developing model programs for the exchange of personnel between education and private industry;

"(5) making awards to institutions of highr education, professional associations, and private industry for the development and testing of teacher education programs;

"(6) recognizing practicing teachers and school administrators for their excellent performance by supporting opportunities for such persons for further study or to write or conduct research in their respective fields;

"(7) awarding Presidential teacher internships to persons in other professions and recent college graduates with excellent academic records who wish to become teachers, but lack coursework in education;

"(8) making awards to teachers for individual research projects that would enhance their mastery of the subjects they teach;

"(9) collecting and disseminating information about exemplary inservice teacher education programs, teacher shortages and surpluses, and the qualifications of teachers in elementary and secondary education;

"(10) supporting research on teaching and on improving preservice and inservice education for teachers and school administrators;

"(11) developing model programs for preservice and inservice training designed to provide teachers with the skills needed to maintain an orderly classroom environment conducive to learning; and

"(12) supporting other activities that are consistent with the purposes of this Act.

"USE OF FUNDS

"SEC. 211. (a) Federal funds made available to a State or local educational agency under this title shall be used to supplement and, to the extent practicable, increase the amount of non-Federal funds that would, in the absence of such Federal funds, be made available for the purposes of this title, and in no case to supplant such non-Federal funds.

"(b) No Federal funds under this title may be used to benefit teachers or school administrators in private, for-profit schools.".

REPEALS

SEC. 3. The following are repealed—

(1) section 1525 of the Education Amendments of 1978, and

(2) title IX of the Human Services Reauthorization Act.

EFFECTIVE DATE

SEC. 4. The provisions of this Act shall take effect October 1, 1986.

CONGRESSIONAL SALUTE TO HON. MERLE FREDERICK ALLSHOUSE, PRESIDENT OF BLOOMFIELD COLLEGE, BLOOMFIELD, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. ROE. Mr. Speaker, on Tuesday, June 17 the people of my congressional district and the State of New Jersey will join with the board of trustees, administrators, faculty and students of Bloomfield College and the Association of Independent Colleges and Universities in New Jersey to honor the president of Bloomfield College, a most distinguished member of our community and good friend—the Hon. Merle Frederick Allshouse—whose standards of excellence and personal extraordinary commitment to quality education have truly enriched our community, State and Nation. I know that you and our colleagues here in the Congresss will want to join with me in extending our deepest appreciation to Dr. Allshouse for all of his good works and share great pride with his good wife Myrna and their children, Frederick Scott and Kimberly Dawn in the success of his achievements in seeking life's fulfillment and purpose.

Mr. Speaker, when you reflect upon the fact that the cultural, historical, and economic achievements—even the basic health, well being, and longevity of a State and Nation—depend in large measure upon how well we educate each generation charged with the trust of carrying out its responsibilities and traditions, we can indeed be proud of Dr. Allshouse's outstanding contribution to the quality of life and way of life for all of our people.

Dr. Merle F. Allshouse has served as president of Bloomfield College since 1971, after 1 year as adacemic dean and professor of philosophy. During his term at Bloomfield, the college has seen substantial enrollment growth, development of new academic and learning support programs which have gained national recognition, financial reorganization of the college, a doubling of the endowment and the building of cash reserves in excess of $1 million. A new college center was constructed and major refurbishing of all the academic facilities and campus landscaping has been completed.

Under his direction the college has expanded its facilities to provide a substantive learning experience for our young people through a most comprehensive program of education which has enabled the college to be designated for the second consecutive year by the Brunswick Foundation as one of the 15 outstanding smalll colleges in America. The Brunswick Foundation is a highly prestigious organization with national recognition for its outstanding contributions to higher educational pursuits for our young men and women. It is especially renowned for its general giving in areas of company operations, with emphasis on higher education, including scholarship programs for children of corporation employees, civic and community funds, hospitals, minorities and youth, and business and economics.

Mr. Speaker, the quality of leadership and sincerity of purpose that Dr. Allshouse has imparted to our people are mirrored in his many accomplishments and the warmth of his friendship that have won him the confidence and support of all of us who have the good fortune to know him. This is particularly manifested in the strong support and depth of friendship that he enjoys among his colleagues in the Association of Independent Colleges and Universities in New Jersey who organized this testimonial to the many contributions he has made in the field of education. The Association of Independent Colleges and Universities in New Jersey is comprised of the following member colleges and universities: Bloomfield College; Caldwell College; Centenary College; College of Saint Elizabeth; Drew University; Fairleigh Dickinson University; Felician College; Georgian Court College; Monmouth College; Princeton University; Rider College; Saint Peter's College; Seton Hall University; Stevens Institute of Technology; Upsala College; and Westminster Choir College.

This association stresses the importance of Dr. Allshouse's achievements not only to Bloomfield College but to the entire State of New Jersey. They point with pride to the aspiring young people of New Jersey and our Nation who have been the most immediate beneficiaries of Dr. Allshouse's splendid work and applaud the benefits that are accruing as a result of the college's outstanding courses of study that have been provided under Dr. Allshouse's administration.

Dr. Merle F. Allshouse has indeed earned the highest respect and esteem of all of us. Born in Pittsburgh, PA, in 1935, Dr. Allshouse graduated from the Edgewood schools. He received his BA in 1957 from DePauw University, where he was a rector scholar, majoring in philosophy and history. He received his MA—1959—and Ph.D.—1965—from Yale University, where he received the Rockefeller theological fellowship—1957–59, the Rockefeller doctoral fellowship—1959–61, and the Bois-Kilburn fellowship. He was elected a Kent fellow in 1961.

Dr. Allshouse has a distinguished background in higher education. He served as a teaching fellow at Yale University from 1961 to 1963 before joining the faculty at Dickinson College, Carlisle, PA, in 1963. At Dickinson he taught 19th century philosophy, aesthetics, and the philosophy of religion. As associate professor of philosophy and associate dean of the college, he took an active part in curricular program development and interinstitutional planning. In 1969 he was listed as one of the "Outstanding Young Men of America."

Dr. Allshouse serves as chairman of the board of the Association of Independent Colleges and Universities in New Jersey. He serves as chairman of the Commission on Intercultural Education of the Council for the Advancement of Small Colleges and on the advisory council of presidents of the Association of Governing Boards of Colleges and Universities. He is a member of the Nexus Committee of the Presbyterian College Union, represents the United Presbyterian Church, USA on the Secretariat of the National Association of Independent Colleges and Universities, and is an elder of the Central Presbyterian Church in Upper Montclair, NJ.

He serves on the boards of the Montclair Kimberley Academy, the Independent College Fund of New Jersey, the Bloomfield Chamber of Commerce, and the Northeast region of the Boy Scouts of America. He has served as the president of the Presbyterian College Union. He serves as a member of the New Jersey State Student Assistance Board, representing the independent sector of higher education. Dr. Allshouse has authored numerous articles and reviews in the areas of philosophy, religion and higher education. He is a member of the American Philosophical Association, the Metaphysical Society of America, and the American Academy of Religion. He is a fellow of the Society for Values in Higher Education. During 1979–80 he served as an HEW fellow

in Washington, DC, with the Office of Education. Dr. Allshouse has been elected to the International Advisory Council of InterFuture. He will be leaving his high office of public trust as president of Bloomfield College to accept the presidency of the Myron Stratton Home Foundation in Colorado Springs.

Mr. Speaker, Dr. Allshouse has served our people and our country with honor and distinction. New Jersey's loss will be Colorado's gain. He is an outstanding administrator, educator, and good friend whose richness of wisdom and expertise in his daily pursuits have touched the lives of many, many people. As we gather together on June 17 in tribute to Dr. Allshouse's leadership endeavors and personal commitment dedicated to the education of our young people, we do indeed salute an esteemed educator, outstanding community leader, and great American—the Honorable Merle F. Allshouse of Upper Montclair, NJ.

LEGAL SERVICES CORPORATION

HON. PHILLIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. CRANE. Mr. Speaker, insuring legal assistance to indigent citizens with legal problems is an important function of our American judicial system. However, providing one individual group—the Legal Services Corporation [LSC]—with an fiscal year 1986 budget of over $300 million to perform this task is unnecessary. There are more efficient and cost effective ways to assist the poor requiring legal counsel.

The American taxpayer is beginning to recognize many of the failures of Government programs and turning to the private sector for solutions. We are in the first year of the Gramm-Rudman cuts, and must take this opportunity to scrutinize closely the budget of LSC.

LSC was established by a 1974 act of Congress to be an independent body that would provide assistance, advice and counseling on legal matters to those who would otherwise be unable to afford it. Although its intentions were noble, LSC has shown that the organization has far strayed from its stated original purpose. Instead of helping the poor in routine civil legal matters, legal service attorneys are more interested in promoting social and political change according to their own agenda. Although restrictions have been placed on LSC on lobbying demonstrations, and prohibiting corporation funds to be used in any campaign, throughout the years, these and other prohibitions have been repeatedly ignored. For these reasons I am strongly against funding for LSC services. Bringing about social reform in the guise of legal services is ludicrous.

While I do support legal assistance to the poor who need it, the LSC Program is fatally flawed. There is no recourse but to abolish it outright. I recommend the following article by LeaAnne Bernstein which appeared in the Chicago Tribune on May 9, 1986, entitled "Going Private With Legal Aid." It is an excellent article that I recommend as must reading to everyone, especially those who are under the false impression that funding for the LSC is necessary and that it is the only organization providing legal services to the poor:

GOING PRIVATE WITH LEGAL AID

(By LeaAnne Bernstein)

As early as 1971, it was recognized that legal services for the poor should not be a government function. That year a presidential advisory council, the Ash Commission, urged President Richard Nixon to remove such legal services from the auspices of the Office of Economic Opportunity and to organize it as a quasi-government corporation "as a first step toward reprivatization of what has traditionally been a function of the private sector."

As a result of this advice, the Legal Services Corp. [LSC] was formed. But 15 years after the Ash Commission report, the LSC budget has swollen from $61.8 million in 1971 to $305.5 million this year, and the goal of privatization is nowhere in sight.

Paradoxically, increased government funding and involvement have come when private-sector financing alternatives have been flourishing. For one thing, direct outside funding for LSC recipients reached $106 million in 1985, up from $47 million in 1982. Some of this money is from other federal government programs, some from states and localities. However, much of it is also from private contributions such as the United Way and other local fund-raising agencies. In addition, *pro bono publico* [for the good of the community] services by attorneys is documented at a monetary equivalent of at least half the federal budget for the Legal Services Corp.

Interest on Lawyer Trust Accounts programs [IOLTA funds] have been a significant source of money for legal services to the poor in recent years. These funds are generated from interest earned on trust funds handled by private attorneys for their clients. The amounts involved are too small or are not held long enough to draw interest in excess of service charges if held in separate accounts. Last year IOLTA funds came to nearly $27 million.

At a time when the failure of bureaucratic structures is being documented in many government programs, the Legal Services Corp. must be scrutinized closely. Federal funding of legal services is meant, not to support lawyers, but to resolve the legal problems of poor people. Many times, the solution need not even involve attorneys.

One such solution, Alternative Dispute Resolution, has boomed in the last 15 years. As of 1985 there were 475 full-time dispute-resolution mediators, 293 part-time ones and 5,985 program volunteers in more than 380 centers in 33 states. The average cost of a LSC case in 1984 was $182.50 while that of an average Alternative Dispute Resolution case was $36. And the latter gives a client a substantial role in resolving his own dispute, unlike the attorney-centered adversarial LSC system.

In addition, the legal system has become far more accessible to ordinary people. In 1964, when federal legal services were institutionalized within the Office of Economic Opportunity, there were about 300,000 lawyers nationwide; today there are more than 660,000, with starting salaries for recent attorney graduates as low as $13,000 in some states. Since then, too, we have seen the advent of attorney advertising, self-help books and streamlined small claims procedures.

Technological advances [word processors and centralized data banks, for example] and the loosening of restrictions on advertising have resulted in increased service at lower prices from firms providing legal services to middle- and lower-income people. High-volume legal clinics offer cut-rate prices and can have the effect of forcing competitors to do likewise.

Though market pressures have forced prices down in the legal profession generally, the bureaucratic structure of the Legal Services Corp. has allowed average case costs to rise dramatically. Since 1982, almost all increases in federal appropriations for legal services have been in higher salaries and benefits for staff attorneys while the number of case closures has remained static. Benefits alone have risen 44 percent. The lawyers, many unionized, lobby Congress to prevent a change in the structure of LSC and to forbid the use of more cost-effective modes of delivery. The client is thus made a pawn in the justification of jobs for the lawyers.

The practice of law in the United States is a state-sanctioned privilege. With this privilege comes a professional responsibility to provide legal services to those who cannot afford legal fees. Many attorneys take this responsibility seriously. Before federal funding for legal services, voluntary legal aid societies provided community-based structures to ensure access to the system. Even now, the greatest non-LSC contribution to legal aid for the poor comes from *pro bono* work of individual lawyers and firms.

Fifteen years ago, the Ash Commission told President Nixon that "while government support is still necessary [for Legal Services], the need is not as strong today. The program has generated considerable interest and support in the private sector." This is more the case now than ever. Yet, despite the boom in non-LSC legal services for the poor, Legal Services lawyers have year after year demanded and often received greater government funding. The growth of alternative services and financial resources has been ignored; instead, there has been a growing entrenchment of LSC-funded attorneys.

In this, the first year of the Gramm-Rudman cuts, we have one more reason to review the budget of the Legal Services Corp. with an eye toward releasing its lawyers into the private sector, reintegrating indigent clients into the civil justice system and allowing the Legal Services Corp. to get on the track of progress.

GREECE MAKES PROGRESS IN THE FIGHT AGAINST TERRORISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. BROOMFIELD. Mr. Speaker, we all know that the international community must work together in order to effectively combat the threat of terrorism. I want to commend the Greek Government for its recent decision to expel from that country a number of Libyans who may have been involved in terrorist-related activities.

I am encouraged by President Papandreau's recent comment that his country would "confront terrorism decisively and effectively."

In response to increased terrorist activities directed against airports and airlines, Greece has dramatically improved the security at Athens Airport. The security at that facility meets and exceeds the minimum recommended security standards of the International Civil Aviation Organization [CAO] and is now one of the most secure airports in Europe.

Terrorism has become a serious international problem, and it can only be resolved through concerted international cooperation. Economic, political, and diplomatic pressures must be applied on terrorist-supporting nations. International law must also be used to bring terrorist pirates to trial and, if necessary, military pressure must also be applied in order to deal with the terrorist threat. Although there are no easy solutions to eliminating the scourge of terrorism, international cooperation is a step in the right direction.

With these concerns in mind, I commend the following Washington Post article on terrorism to my colleagues in the Congress.

[From the Washington Post, May 22, 1986]

SEVERAL LIBYANS EXPELLED BY GREECE, OFFICIAL SAYS—MOVE CALLED "SIGNAL" OF STRICTER POLICY

(By Steven J. Dryden)

ATHENS.—Greece has quietly expelled several Libyans who were suspected of recruiting other Arabs for terrorist activities, according to a senior government official here.

The expulsions were apparently carried out in line with a stricter Greek policy against Arab terrorism, western diplomats said.

The Greek official said the Libyans who were expelled were not diplomats, but he provided few other details. Greece has been the only European Community nation not to implement last month's community decision to reduce the size of Libyan diplomatic missions.

The official, who was interviewed last week on the condition that he remain unidentified, said Greece still had no plans to carry out the community's sanctions because it had not seen proof of Libyan involvement in actual terrorist acts.

The official said the expulsions took place in the past month and involved "under 10" Libyans.

"We had been following them for a long time," the official said, adding: "We wanted to give a signal" to the Libyans.

Western diplomats in Athens said the Greek government had recently stepped up surveillance of Libyans and other Arabs and increased security around American and other western installations.

"On the ground, they have shown themselves aware of the Libyan problem and willing to do something," one diplomat said.

The diplomat linked the actions at least in part to the realization by government that "they are not going to get tourism and business" unless Greece is perceived as secure. The Greek government responded to U.S. criticism last year by improving security at Athens airport.

The diplomats said they had not received confirmation of the expulsions, but one diplomat said he had recently seen four men, who police told him were Libyan, escorted to a plane at Athens airport. The diplomat also said that a school run by Libyans in his neighborhood was recently closed, apparently because some of the personnel had left.

The diplomats said that while there was evidence of a tougher Greek attitude toward Arab terrorism, Prime Minister Andreas Papandreou still believed Greece had a special role to play as a "bridge" between the Arab world and Europe, and as such would not join a western campaign against Libya.

The Papandreou government, which has maintained close ties with Libya, attempted to arrange a dialogue between the European Community and Tripoli last month when the community imposed diplomatic sanctions against Libya.

Greece agreed with the community's decision on Libya when it was made but later said it would impose the measures only after seeing convincing proof of Libyan involvement in terrorism. Other community member nations have expelled Libyan diplomats and nationals in the past month on the basis of U.S. or local intelligence.

The senior Greek official said there were four Libyan diplomats with full accreditation at the Libyan embassy in Athens. Thirty-six other Libyans were attached to the embassy but without diplomatic immunity, he said. Two other Libyans attached to the embassy recently left the country.

Papandreou, outlining his views on terrorism, said in a speech last week that "there are Arab countries and organizations who sometimes use our territory to settle their disputes."

Greece would "confront terrorism decisively and effectively," Papandreou said, but does not "wish to make the confrontation of terrorism a problem of conflict among peoples and countries."

"No one is blameless," he said adding that Greece has "traditional ties with the entire Arab world and cannot overlook basic national interests."

Diplomats said these ties would be underlined by the visit of President Hafez Assad of Syria to Greece at the end of this month. The visit is the first by Assad to a noncommunist European country since 1978.

THE FEDERAL GOVERNMENT MUST BECOME MORE RESPONSIVE TO THE NEEDS OF THE PEOPLE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. YOUNG of Florida. Mr. Speaker, today I am reintroducing four measures designed to increase Government efficiency and ensure that the Federal Government responds to the needs of its citizens.

I hear from hundreds of my constituents every day who are concerned about the size of our Government, rules and regulations promulgated by Federal agencies that have a direct impact on their lives, and our Federal deficit. Because I share their concerns and remain committed to making this Government more workable, I call upon my colleagues in Congress to join in supporting new legislation.

My first bill would extend the time period between publishing a final rule and the effective date of such rule, as well as extending the time period between the publication of notice of a hearing and the beginning of the hearing. Currently, agencies are only required to give 2 weeks notice before their hearings, and allow only 30 days for comments on proposed regulations. Most individuals affected by these regulations are small businessmen, farmers, manufacturers, and others who often find it difficult, if not impossible to meet these current deadlines. By extending the time citizens can express their thoughts and concerns, we will ensure that more people have an opportunity to participate in the Government process.

The second measure will guarantee the public's right to know how its money is being spent, by requiring recipients of Federal grants to disclose information the recipient is required to keep under the terms of the grant. Since taxpayers' dollars help provide these grants, I believe the taxpayers are entitled to a full accounting of how those funds are spent.

Some of my constituents also are concerned about agency rules or regulations that are contrary to law or inconsistent with congressional intent. Over the years, Congress has passed legislation which delegates broad regulatory powers to Federal agencies responsible for administering the laws. This legislation mandates a 60-day review period by Congress before agency rules or regulations can go into effect. If it is determined that the rule or regulation is contrary to law, inconsistent with congressional intent, or goes beyond the statute it is intended to implement, Congress must approve a joint resolution of disapproval to ensure that the rule does not become effective. Passage of this measure would ensure that our Government is lead by representative assembly instead of by executive decision.

Finally, I am introducing legislation requiring the Federal Government to publish annual consolidated financial statements using the accrual method of accounting. Accrual accounting is a method of recording costs and setting aside funds in current budgets to pay for liabilities as they are incurred. As of October 1, 1984, the Department of Defense has been utilizing the accrual method of accounting in an effort to clarify the full cost of military personnel and retirement. By showing the liablity taxpayers are incurring for the future retirement costs of military personnel now on Active or Reserve duty, we can become aware of the true cost of military personnel in relationship to the cost of other defense resources. As a member of the House Appropriations Subcommittee on Defense, and strong supporter of this accounting change, I believe that similar positive results can be provided by applying the accrual method of accounting to the entire Federal budget.

The ideals our Government was founded on must be strengthened if we are to succeed as a true democracy. These bills go a long way toward ensuring that we remain a government of the people, and I would urge my colleagues to support these efforts.

CAPTAIN MIDNIGHT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. COBLE. Mr. Speaker, on April 27, at 12:30 a.m. eastern time, a video pirate, calling himself Captain Midnight, interrupted the satel-

lite transmission of the cable television service Home Box Office. The interruption lasted only 5 minutes, but it was an incident that could have long-term effects. It was a signal that all satellite transmissions—including those by Government, defense, and private satellite—are vulnerable to sabotage.

Current law is insufficient to deal with these video terrorists who seek to intercept or disrupt satellite transmissions. That is why today I am introducing the Satellite Communications Protection Act of 1986. This bill is a simple solution to a complex problem. Right now, the penalties for anyone convicted of interfering or obstructing a non-Government satellite transmission are not sufficient to act as a deterrent. My bill would amend chapter 65 of title 18 of United States Code, to increase the maximum prison term for anyone convicted of interfering with satellite communications from 1 year to 10 years. The maximum possible fine will remain at $250,000.

I am pleased to report that Congressman BARNEY FRANK of Massachusetts has agreed to cosponsor this bill in the House. The legislation will be sent to the Judiciary Committee. Similar legislation will be introduced in the Senate.

With prison terms up to 10 years, and fines up to a quarter million dollars, we feel that we will have the proper deterrent to thwart those who seek to interrupt satellite activity. The Captain Midnight episode involving HBO is just the tip of the iceberg in possible video terrorism. The FCC has received information that deliberate interference of satellite transmission is being encouraged. There are more than two dozen commerical U.S. satellites now in orbit, along with several weather, military, and space agency satellites.

Most experts agree that the vast majority of these satellites are vulnerable to rather easy access by people using relatively inexpensive equipment. The Federal Government, which uses satellites for all types of communications, is exposed to possible tampering. Attorney General Edwin Meese has requested that the Justice Department investigate any cases of satellite interference.

In addition to the national security and commercial implications of this problem, every consumer who uses and enjoys satellite transmissions as home entertainment should be entitled to receive signals without unlawful interference. Congress should act to protect consumers' interests. The Captain Midnights of this world are no friend to the owners of satellite dishes.

While we are introducing this bill today, we would encourage the satellite industry to continue its efforts to make its product less vulnerable to disruption. Until satellites can be developed that are tamperproof, an increase in the penalties for those who do the tampering is the next best step. I am hopeful that this bill will move swiftly through Congress so that we can stop the spread of video terrorism before it becomes more of a threat to our vast system of news, weather, entertainment, broadcast networks, commercial, and military satellites.

HONORING DR. DEAN SEEMAN

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. SCHAEFER. Mr. Speaker, I rise today to honor Dr. Dean Seeman. He is a talented and effective doctor, whom I am proud to call my friend. Because he is also an extraordinary friend of the aging and elderly, I would like to share some of Dr. Seeman's accomplishments with my colleagues in the House of Representatives.

The nearly 30 million senior citizens in our country deserve quality health care at an affordable price. The focus of several congressional hearings and reports this session has been the effect of rising health care costs on the elderly, and how to reduce this expense. We hear more and more of patients being released from hospitals prematurely, or not receiving adequate examinations or treatment. It is difficult to blame any particular program or policy for this trend. I do, however, applaud the work of Dr. Seeman in researching the causes of oldage illness, and developing a program to avoid the potentially disasterous consequences of the rationing of health services.

From extensive reserach over 10 years, using medical and computer technology, Dr. Seeman has concluded that many physical and emotional disorders can be traced to quasi-pathological causes. He has demonstrated that good health represents a balance of physical, mental, social and spiritual well-being, not merely the absence of symptoms or lack of obvious medical findings. He also has concluded that progress in medical technology, although important, has not eliminated the need for a one-on-one doctor-patient relationship. By focusing on these basic fundamentals, he has been able to markedly reduce the number of patients that end up in nursing homes.

By monitoring such factors as lifestyle, stress, diet, exercise and physiological conditions, Dr. Seeman has developed a health care diagnosis and treatment system which focuses on individual freedom and overall health. He stresses that the ravages of living or disease can be minimized or eliminated before they become serious or adversely affect the quality of life.

As founder of the Gerontology Research Foundation, Dr. Seeman has recognized the need for early detection and treatment. He is offering, in one clinic, free medical screenings and examinations to patients 55 years and older. The purpose is to provide a way in which senior citizens will pursue regular, routine health care without suffering the tremendous cost and usual inconvenience of having these tests.

During the past 25 years, Dr. Seeman has developed procedures that maintain a high level of personal independence, improve the quality of life, and preserve the health of older Americans. This has not only benefited many senior citizens, but has saved the Federal Government a significant amount of money. I applaud Dr. Seeman's foresight and dedication, and I urge the Congress to investigate his ideas and innovations. I also ask my colleagues to join me in honoring this outstanding American, Dr. Dean Seeman.

CENTENNIAL BIRTHDAY OF PASADENA, CA

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. MOORHEAD. Mr. Speaker, I would like to call to the attention of the colleagues in the House of Representatives the centennial birthday celebration of the city of Pasadena, CA.

Pasadena, home of the Rose Bowl, the Tournament of Roses and California Institute of Technology, makes up an important part of the 22d Congressional District and is the home of one of my district offices.

Many people know that the settlement of Pasadena began in 1874, when a group of 27 settlers determined to establish a rural paradise where people could live contentedly in "homes neat, tasteful and luxurious."

As a peaceful and prosperous agricultural community, known for its citrus groves and vineyards, Pasadena grew rapidly, luring tourists, health seekers and speculators to take advantage of low railroad fares to come to southern California.

With growth came the need for incorporation, which Pasadena did on June 14, 1886. The city's first elected trustees were inexperienced volunteers, yet they had to deal with problems which confront all new communities namely fire protection, sanitation and street grading. The young city's major expense was for water used to keep down the streets summer dust.

This is no longer the case as Pasadena is a major city known the world over for the Rose Parade, the Rose Bowl and Caltech. It has a population of 125,000. These people represent a great cultural and economic diversity, which enriches the community.

During the last 10 years, large corporations have relocated their headquarters in Pasadena, the Conference Center was built, and the Plaza Pasadena Retail Shopping Mall was completed. Nearly 3 million square feet of new construction has been approved.

An awareness of the city's architectural treasures has come with the new growth. Existing buildings in "Old Pasadena," where the city's business district began, have been rehabilitated and returned to productive use, including the historic Pasadena Playhouse. Guided by rich historical traditions, Pasadenans are now taking a close look at where they have been and where they are going.

The Pasadena Centennial committee has planned events from Jan. 1 to July 4 to commemorate the city's 10 decades. The committee of 23 is supported by 300 volunteers. June 14–22 has been named "Super Week." The activities will include a time capsule, a commissioned work by a local composer, and naturally enough a centennial parade.

Mr. Speaker, the residents efforts, on behalf of the city, exemplify their dedication to Pasadena, and they should be commended. I am delighted to play a small part in "A Celebra-

tion" for the Pasadena Centennial. The same qualities of independence, vigor and decency that were exhibited by residents when Pasadena was young are extant in Pasadena's resident today. The character of the city and its residents will continue their dynamic success for another 100 years.

TERRIE ANN McLAUGHLIN

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. FAWELL. Mr. Speaker, today, I would like to call the attention of my colleagues to the achievement of Terrie Ann McLaughlin. Terrie recently became the first woman in the 32-year history of the Air Force Academy to be named top cadet.

Terrie earned a 3.9 academic average on a 4.0 scale and a 3.64 military performance average. These marks ranked her at the top of a graduating class of 957 cadets. Terrie plans to continue her education at Stanford University, where she will study for a master's degree in electrical engineering.

Even though Terrie was nominated by my predecessor, former U.S. Representative John N. Erlenborn, her outstanding accomplishment has special meaning for me. Terrie is a resident of my hometown, Naperville, IL, where she was Naperville Central High School's 1982 valedictorian.

Terrie's outstanding accomplishment also speaks well for John Erlenborn's selection process for Academy nominees. He selected his nominees on the basis of merit—ACT scores. Political affiliation or connections never played any part in the nominations. John secured some 200 appointments during his tenure in Congress.

My congratulations to Terrie for her unprecedented achievement, and best wishes for the future.

THE DOMESTIC OFFSHORE COMMERCE REGULATORY REFORM ACT OF 1986

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. JONES of North Carolina. Mr. Speaker, the domestic offshore or noncontiguous trades involve domestic ocean transportation to Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and other U.S. insular possessions. These trades are regulated by the Intercoastal Shipping Act of 1933, as amended.

This law permits the Federal Maritime Commission, upon complaint or on its own motion, to conduct a hearing on the lawfulness of new rate, fares, or charges filed with it by ocean common carriers in these trades. The Commission can determine if these proposed rates, fares, or charges are unjust or unreasonable; if so, the Commission can set and enforce just and reasonable maximum or minimum rates.

This regulation has been eroded by changes in technology and by court rulings in recent years. More and more, common carriers have been offering intermodal rates; that is, they will quote a shipper a single rate for transportation between an inland point and a port and inland point elsewhere. This single rate covers both land and water transportation. This contrasts with the old practice of a motor or rail carrier quoting one rate for the land portion of a journey and an ocean carrier quoting a port rate for the ocean segment.

In recent years, Federal courts ruled that single-fare intermodal rates in the domestic offshore trades are subject only to regulatory jurisdiction of the Interstate Commerce Commission. This leaves only all-water rates in these trades subject to the regulatory jurisdiction of the Federal Maritime Commission.

The ICC, pursuant to the Staggers Rail Act and the Motor Carrier Act, has substantially relaxed regulatory requirements on the trucking and rail industries generally. This lessened regulatory structure also applies to the ICC's regulation of intermodal rates in the domestic offshore trades.

Water carriers engaged in the domestic offshore trades can now choose their forum for regulation. By choosing to offer intermodal tariffs they can take advantage of the lessened regulatory framework of the ICC.

This trend means that shippers and consumers in our domestic offshore economies are effectively deprived not only of a choice between all-water or intermodal service but of any meaningful economic regulation of intermodal rates.

Is this a healthy situation? Wouldn't it make more sense to place regulation of both all-water and through intermodal rates in the domestic offshore trades in the sole jurisdiction of the FMC, the agency most familiar with balancing the interests of carriers and consumers in those trades?

To enable Congress to examine these questions, I have today introduced H.R. 4973, the Domestic Offshore Commerce Regulatory Reform Act of 1986. The bill would give the Federal Maritime Commission sole regulatory authority for the domestic offshore trades. It would also make substantive amendments to the Intercoastal Shipping Act of 1933, as amended, to provide increased regulatory flexibility and to make the act more internally coherent.

I am introducing this bill at the request of several ocean carriers in the domestic offshore trades including Crowley Maritime Corp., Sea-Land Corp., Puerto Rican Maritime Shipping Association, and Totem Ocean Trailer Express, Inc. My sponsorship is to cause the Federal Government industry, and consumers to start considering the issue; it does not imply my endorsement of all substantive provisions of the bill; in fact, my review of the Intercoastal Shipping Act of 1933, as amended, makes me wonder whether this archaically written law should not be repealed in its entirety and replaced with a coherent, simplified statute.

THE GROWTH OF HMO'S AND THE NEED TO PROTECT SENIOR CITIZENS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. STARK. Mr. Speaker, on June 7, 1986, the Washington Post carried an editorial on the Government's duty to monitor HMO's and to ensure that they are indeed providing quality care to their members, including many people who are Medicare beneficiaries.

As a recent case in Florida has demonstrated, the Federal Government has not always been on top of these programs.

Part of the problem may be due to the fact that the law does not give HHS enough tools to discipline wayward HMO operators. As chairman of the Ways and Means Health Subcommittee, I am developing ideas for improvements in the HMO law to ensure that, as the Post editorial says, "quality care is provided for this taxpayer investment." I hope that those with ideas and suggestions will contact my Washington office.

The editorial follows:

HMO'S: PROTECTING SENIOR CITIZENS

The government would like to see more Medicare patients enrolled in health maintenance organizations. In exchange for a fixed, per capita payment, HMOs provide a range of services that include physician's care and hospitalization. The patient must agree to use the plan's doctors and hospital facilities, but in exchange almost all costs are covered. The system is particularly efficient for the federal government, which is saved the cost of processing individual claims for service when predetermined Medicare payments for thousands of patients can be made to a single HMO each month.

The largest Medicare HMO—and the third largest HMO of any kind—has been organized in Florida by International Medical Centers. Using celebrity television commercials and newspaper ads, IMC has enrolled 147,000 Medicare patients in South Florida and the Tampa area in the last five years. But allegations about its operations have prompted a congressional hearing, an FBI fraud investigation, actions by the state to correct financial problems, an investigation by the Department of Health and Human Services and, just last week, a letter of noncompliance from HHS giving the firm 30 days to produce a plan for improvement.

Senior citizens complained of inadequate care, long delays for appointments, unsatisfactory emergency treatment and other serious deficiencies. Doctors and hospitals complain of late reimbursement. As a result, they are reluctant to care for IMC patients, who are not, the doctors point out, indigent, but supposedly covered by an HMO paid by the government. The company, whose president was paid $1.3 million last year, employs a number of former high officials of HHS, some of whom worked on IMC matters in the government. Medicare payments to this single HMO come to $30 million a month.

Medicare officials report that they have agreements with 130 HMOs across the country and that IMC is unique in its problems. This may stem in part from the fact that a temporary waiver was granted to IMC and one other organization in California allow-

ing them to contract with the government even though more than half their enrollees are Medicare patients. Federal officials usually require a higher percentage of younger participants in order to provide some stability to the enterprise. No additional waivers have been granted in this program, and if this experience is any indicator, none should be.

Similarly, the government has an obligation to hundreds of thousands of senior citizens enrolled in HMOs to monitor these organizations carefully, to weed out the bad ones and to see that quality care is provided for this taxpayer investment.

PATRICK HENRY AND THE CONSTITUTION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. RITTER. Mr. Speaker, as we conduct the business of the day, I think we should pause to consider an American who was one of the country's original patriots—Patrick Henry. Last month was the anniversary of Patrick Henry's birth. Robert Knoblach of Allentown, PA, sent me this article from the New American magazine's May 19 issue.

PATRICK HENRY AND THE CONSTITUTION

Patrick Henry of Virginia (1736-1799), famous for his "Give Me Liberty Or Give Me Death" speech, is almost unknown as one of the fathers of the Bill of Rights.

Henry was born 250 years ago this month, on May 29, 1736, in Hanover County, Virginia. He is remembered more for his fiery oratory on behalf of individual liberty than for his political statesmanship. Historian Bernard Mayo, in *Myths and Men* (see American Hero, page 57), points out that Patrick Henry exercised a profound influence on the course of the American Revolution right up to the time of his death in 1799.

It is forgotten that he helped George Mason frame Virginia's Constitution, which in style and substance influenced Thomas Jefferson's Declaration of Independence. He served six one-year terms as governor of his state during the years between the drafting of the Declaration and the signing of the U.S. Constitution.

"The historian-detective," writes Professor Mayo, "is greatly impressed by the man's tremendous power, his persuasive talents, his unequaled popularity. Again and again he finds Jefferson, Madison, Washington and others asking just how Henry stood on such and such as issue—and just how he stood often if not always meant its success or failure."

The creation and ratification of the U.S. Constitution is an illustration of this point. Patrick Henry was elected a delegate to the Constitutional Convention of 1787 but refused to serve. His refusal sent shockwaves through the States and greatly worried George Washington and James Madison. His refusal to attend was based on the belief that the Philadelphia Convention would create a new national government at the expense of personal liberties and State sovereignty. He was also fearful that the Northern States would sell out the South to Imperial Spain. The Madrid government had closed the Mississippi River to navigation and trade, and the Congress in New York, lacking a navy, chose appeasement rather than opposition.

When the proposed Constitution was sent to the States for ratification after September 1787, the opposition of Patrick Henry in Virginia and Samuel Adams in Massachusetts proved crucial to securing a Bill of Rights. Massachusetts, by a narrow vote of 187 to 168, ratified the Constitution after it was agreed that a Bill of Rights would be added. During the 1788 Virginia ratification debate, both Henry and Mason mounted a similar campaign and the Constitution was ratified by fourteen votes, 89 to 75.

Historian Robert Douthat Meade, in his two-volume work *Patrick Henry: Practical Revolutionary*, concludes that without the statesmanship of Patrick Henry there would have been no Constitution. It was Henry's persistent campaign in the Virginia Convention and his allies' efforts later in the national Congress that secured adoption of the first ten amendments to the United States Constitution.

"Henry had spoken in the [Virginia] Convention," historian Meade wrote, "of the need for 'a firm and a solid' union, for reaching 'solid reality—the hearts and hands of the men who are to be governed.' Through passage of the Bill of Rights the American people were influenced to provide the consent needed to buttress a durable central government. From such documents as the Magna Carta, the English Bill of Rights, colonial charters, and state bills of rights, the majority of American voters had developed an ingrained belief in the importance of written guarantees of personal liberties. Without the promise of amendments to be adopted by Congress, it is doubtful that the Constitution would have been ratified. Certainly, the new government, if adopted, would have been seriously weakened and might not have survived some future stresses and strains.

Patrick Henry's powerful speeches in the Virginia Convention in June 1788 are not only eloquent but they are prophetic. For example, he described the dangerous consequences of the taxing power given to Congress in the Constitution. (See Opinion Past, page 59). Historian Norine Dickson Campbell, in *Patrick Henry: Patriot & Statesman*, pointed out that Henry correctly forecast the fate of the agricultural South at the hands of the industrial North. His fear in 1788 for the future of personal liberty and States' sovereignty has been prophetically borne out by subsequent actions of the federal legislative, executive, and judicial branches.

"The framers of the unamended Constitution," historian Campbell wrote, "would not be around to reap the whirlwind that Henry plainly saw: the inadequacy of checks and balances; the federal government's power of direct taxation; the unlimited power of judicial intervention, as well as that very real risk of having a President of the United States entrench himself in office. The evils of judicial usurpation disquieted him most of all, and his fears were not premature. The abuses in this department began with the injudicious and hostile Judiciary Act of 1789, written by United States Senator Oliver Ellsworth. This bill was made the basis of the federal court system and established its powers, which permit the Supreme Court to overturn state court decisions and acts of the legislatures, as well as to change federal laws. However, nowhere in the Constitution itself is the Supreme Court specifically empowered to make judicial interpretation, or to reverse the decision of the state courts."

AIR FORCE CHIEF M. SGT. SAM PARISH

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. FUQUA. Mr. Speaker, today it is my privilege and pleasure to recognize and commend one of the finest persons ever to wear the proud uniform of the U.S. Air Force, Chief M. Sgt. Sam E. Parish.

A farewell banquet is being held Thursday, June 19, 1986, at the Noncommissioned Officers Club at Andrews Air Force Base to recognize this distinguished Airman.

CMSAF Parish's home of record is in my district, Tallahassee, FL, where he bagan his Air Force career in December 1954. Since then he has served his Nation and the Air Force with distinction in a career of over 32 years.

Rising through the enlisted ranks, he is only the eighth person in the history of the Air Force to serve in the highest noncommissioned offer leadership position of chief master sergeant of the Air Force.

In that position, he is the adviser to the Secretary and the Chief of Staff of the Air Force on matters concerning effective utilization, welfare and progress of the enlisted members of the Air Force.

Chief Parish was born October 2, 1937, in Marianna, FL, and attended Malone (FL) High School, prior to joining the U.S. Air Force in December 1954. The chief graduated with the first class from the Senior Noncommissioned Officer Academy at Gunter Air Force Station, AL, in 1973.

Following basic military training at Lackland Air Force Base, TX, he was assigned to Chanute Air Force Base IL, for training as a ground weather equipment operator. After completing the course, as honor graduate, in August 1955, Chief Parish was assigned to the 18th Weather Squadron, Wiesbaden Air Base, Germany, as noncommissioned officer in charge of weather communications.

In January 1960 he returned to Chanute Air Force Base for the weather observer technician course and again was designated honor graduate. From August 1960 to May 1966, the chief was assigned to the Air Force Systems Command, Electronics Systems Division, Hanscom Air Force Base, MS, as noncommissioned officer in charge of operational procedures for the 433L Systems Program Office. While assigned at Hanscom Air Force Base, he attended the Air Force Systems Command Noncommissioned Officer Academy and was honor graduate of his class.

He returned to Germany as chief observer for the 7th Weather Squadron at Heidelberg, from June 1966 until June 1969. He then transferred to Headquarters Air Weather Service, Scott Air Force Base, IL, as the command's chief observer and later as chief, Observing Services and Procedures Division, Office of the Deputy Chief of Staff, Operations.

The chief attended the Senior Noncommissioned Officer Academy in January 1973 and in July 1973 was chosen senior airman advis-

er for Air Weather Service. In October 1975 Chief Parish was assigned as the weather assignments adviser for Military Airlift Command's deputy chief of staff, personnel.

In August 1976 he began his third tour of duty in Germany as sergeant major for the 36th Combat Support Group Consolidated Base Personnel Office at Bitburg Air Base. From November 1977 to August 1980, Chief Parish served as U.S. Air Forces in Europe senior enlisted adviser at Ramstein Air Base, Germany. He then became 40th Air Division senior enlisted adviser at Wurtsmith Air Force Base, MI. In November 1981 the chief was selected as the Strategic Air Command senior enlisted adviser at Offutt Air Force Base, NE. He assumed his present duties in August 1983.

His military decorations and awards include the Legion of Merit, Meritorious Service Medal with three oak leaf clusters and Air Force Commendation Medal.

Chief Parish is married to the former Ingeborg Eva-Marie Zimmerman of Wiesbaden, Germany. They have three sons: Sam Ellis II, residing in New Jersey; Steven Errol, a senior at Florida State University; and Scott Eric, a high school senior and honor student.

In tribute to this distinguished serviceman, Gen. Charles A. Gabriel, Chief of Staff of the U.S. Air Force, said in tribute:

Sam Parish has served superbly as the Chief Master Sergeant of the Air Force. As our highest ranking noncommissioned officer and my advisor on all matters concerning our 500,000 enlisted men and women, he has played a key role in shaping Air Force policy. He has had the complete confidence of the senior Air Force leadership—both military and civilian—as well as the full trust of all Air Force people. Sam and Inge Parish are a great team and the United States Air Force is much better off because of their many contributions.

Chief Master Sergeant Richard C. Schneider said:

We the enlisted people of the United States Air Force have had in our ranks an individual who has personified the role and image of a professional Noncommissioned Officer; a person who used his position to articulate the needs and concerns of people in relationship to the mission of the institution. His energy and enthusiasm have motivated the enlisted force to become warriors in the profession of arms and has inspired their growth as individuals and model citizens. This leader, the Chief Master Sergeant of the Air Force, Sam E. Parish, retires soon and leaves a rich and distinguished legacy for those of us who continue to serve our Air Force and the United States of America. Thank you Chief Parish for your countless sacrifices and truly superb leadership.

And finally, my close personal friend who was once one of my constituents, Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) Tidal W. McCoy, had this tribute:

During my tenure as Assistant Secretary, I have had ample opportunity to observe the fierce dedication and rock-solid integrity of a great Air Force leader—Chief Master Sergeant Sam Parish. From recruiting and retention programs to quality of life improvements, he has been the driving force behind countless initiatives aimed at strengthening the enlisted force and making life better for these professional men and women who support our mission so superbly. Chief Parish will be missed, but he is leaving behind a "legacy of excellence" that will benefit the Air Force for many years to come. Few have ever done more for those in "blue".

In paying tribute to Chief Master Sergeant Parish, I feel I join with you, the Members of Congress, in paying tribute to all of the men and women who wear the honored blue of the U.S. Air Force. Well done good and faithful servant. All of us are richer for that which you have done.

ABANDONMENT OF SALT WOULD DEMOLISH 15 YEARS OF ARMS CONTROL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. FASCELL. Mr. Speaker, in view of President Reagan's apparent decision to end U.S. adherence to the SALT agreements when the 131st bomber equipped with air-launched cruise missiles reaches deployment in late fall, I would like to inform our colleagues of an upcoming Foreign Affairs Committee hearing on "Continued Adherence to SALT." The hearing is scheduled for Thursday, June 12, 1986, at 10 a.m., in room 2172 Rayburn. We will hear testimony from administration witnesses as well as Gerard Smith, former ACDA Director and SALT I negotiator and Paul Warnke, former ACDA Director and SALT II negotiator.

In preparation for this hearing and in an effort to examine the implications of abandoning our adherence to the SALT agreements, I would like to direct the attention of our colleagues to an op-ed piece written by Robert McNamara that appeared in the New York Times of June 8, 1986.

Former Secretary of Defense in the Kennedy and Johnson administrations, McNamara explains that without the SALT limits—the only existing agreed constraints on strategic weapons—"we will face the dangers of a totally unrestricted nuclear arms race." McNamara agrees that the issue of Soviet noncompliance with SALT II is an important one, but that none of the alleged violations are of major military significance. What is the sense, then, in abandoning the entire treaty, when its major provisions are being adhered to by the Soviet Union and the alleged violations are not significant in the minds of most arms control experts? Secretary McNamara provides a very apt analogy:

Responding to Soviet violations by scrapping SALT is tantamount to reacting to an increase in the crime rate by abolishing the criminal code.

If President Reagan implements his decision to abandon SALT, there not only will be no restraints on the forces of either superpower, but the prospects for a United States-Soviet arms control agreement with further reductions would be unnecessarily diminished.

The op-ed piece follows:

FIFTEEN YEARS OF ARMS CONTROL DEMOLISHED

(By Robert S. McMamara)

WASHINGTON.—President Reagan's decision to abandon the second strategic arms limitation accord will, unless reversed, severely harm United States security interests. At present, the SALT limits are the only existing agreed constraints on strategic weapons. Without them, we will face the dangers of a totally unrestricted nuclear arms race.

The SALT II agreement prohibits the Russians from increasing their total number of strategic missiles and bombers. The accord also includes a limit on land-based missiles equipped with multiple warheads—the weapons most feared by the Pentagon. Since the Russians are within two missiles of reaching that limit, keeping the agreement would force them to remove older missiles and dismantle their silos as the new mobile SS-24 missile enters the field. Moscow has already removed from operation or dismantled more than 1,300 missile launchers, 45 bombers and 21 submarines to stay within the SALT limits.

If President Reagan's decision is implemented, those limits will be swept aside. The entire structure of stragetic arms control, carefully laid over a period of 15 years by four Presidents—Lyndon B. Johnson, Richard Nixon, Gerald R. Ford and Jimmy Carter—will be destroyed.

Why did those Presidents negotiate on strategic arms? Not because they trusted the Russians. Not to do the Kremlin a favor. They pursued SALT for only one reason—because they believed it to be in the security interests of the United States. They were joined in that belief by their Secretaries of Defense and the Joint Chiefs of Staff. Arms control is the only means we have for containing the Soviet nuclear arsenal. Without SALT, our fears of a Soviet first-strike potential will rise, heightening the danger of nuclear war in times of crisis.

The President's repudiation of "the SALT structure" becomes more ominous when one recalls that SALT includes not only the 1972 and 1979 agreements on offensive forces but also the 1972 Anti-Ballistic Missile Treaty. Secretary of Defense Caspar W. Weinberger has never supported the ABM treaty. He now says that remaining in compliance with it, if it blocks progress on the development of the "Star Wars" anti-missile systems, "is something obviously we would be very much opposed to."

SALT was an American initiative. In November 1966, President Johnson and I first proposed to the Russians that we begin working toward limits on strategic forces. We spent a long day at Glassboro, N.J., in 1967 trying to persuade Premier Aleksei N. Kosygin that development of anti-missile weapons would fuel the arms race and increase the danger of war. Five years later, in 1972, President Nixon was successful in obtaining Soviet agreement to both the ABM accord and the interim agreement on offensive forces. Now the United States is telling Moscow that it has changed its mind. The stage is set for an all-out competition in both offensive and defensive strategic weapons.

Some in Washington perceive President Reagan's decision as yet another negotiating ploy designed to increase American leverage at Geneva. Others see it as an effort to placate hardliners in the Pentagon without completely withdrawing from the SALT agreements.

But the Soviet Union, not unexpectedly, appears to be taking the President at his word. Soviet military leaders will plan for the worst, just as Pentagon military planners would advise President Reagan to do if we were faced with Soviet renunciation of SALT. The President's decision will strengthen the hand of Soviet hardliners who believe that the United States is seeking strategic superiority. Those hardliners will insist that the Soviet Union cannot wait for the President to come around—and that Moscow must begin planning today for a huge expansion of weaponry in order to compete in the world without arms control.

The Congressional Research Service estimates that without SALT each side could more than double its strategic nuclear weapons by 1992. Some Administration spokesmen now cast doubt on such scenarios; they argue that each side can show restraint without the SALT limits. But given the current high level of mistrust between the superpowers, it is far more likely that each country, guided by worst-case assumptions about enemy intentions and capabilities, will substantially expand its forces.

The demise of SALT will also, very likely, undermine the Geneva arms talks. If we are to negotiate deep reductions in arsenals—a laudable goal affirmed by the President and Mikhail S. Gorbachev at last year's summit meeting—we need an agreed upon base line from which to reduce. The SALT limits provide such a baseline; an unrestricted arms race would not.

To justify its decision, the Administration charges that Moscow has violated the SALT accords. The issue of treaty violations is a complicated one. Both we and the Russians have accused the other of much actions. At least some of the Administration's claims appear to be justified. But none of the alleged violations are of major military significance. The correct response should be the one taken by the four previous Presidents—making full use of established diplomatic channels to resolve disputes with Moscow. Responding to Soviet violations by scrapping SALT is tantamount to reacting to an increase in the crime rate by abolishing the criminal code.

Between them, the United States and the Soviet Union already have some 50,000 nuclear warheads, including 22,000 strategic weapons. If President Reagan implements his decision to abandon SALT, the superpowers will intensify an arms race that is far worse than anyone would have dared to predict at the dawn of the atomic age. Why should we risk such a course when we can keep the lid on the competition, while seeking the substantial reductions both sides have proposed?

HAND IN HAND: LINKING GENERATIONS IN THE BLACK COMMUNITY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. DOWNEY of New York. Mr. Speaker, I would like to call the attention of my colleagues to the 16th Annual Conference of the National Caucus and Center on Black Aged, which is being held this weekend in Washington. The theme of the conference is "Hand in Hand: Linking Generations in the Black Community."

As a member of the House Committee on the Budget and the Select Committee on Aging, I have been aware of the important work of NCBA for some years. This organization, which was established in 1970, has worked hard to defend the interests of elderly black people throughout the Nation. During the past 6 years, we have all seen what happens when programs that benefit the poor and the elderly are sharply reduced.

NCBA has not only acted as an effective advocate of the black elderly, but it has also been deeply involved in providing services and establishing programs at the local level. Through subsidiary organizations it has administered Federal and State grants for housing, transportation, employment training and technical assistance services. It has also successfully solicited grants from foundations, labor unions, and businesses.

I have fought to protect these programs and I am glad to know that there are organizations such as NCBA which are actively working to provide supplementary programs which help to patch up the holes in the ever shrinking safety net.

During this weekend's conference, participants will explore the ways in which the black community can channel its own resources to address the problems and challenges faced by elderly black people in the coming years.

In addition, Mr. Speaker, NCBA will hold a public hearing to examine the impact of hospital discharge regulations on the poor and elderly. As a member of the Ways and Means Committee, which has legislative responsibility for the Medicare Program, I have been acutely aware of the difficulties that the new prospective payment and DRG system in Medicare poses for health care providers and patients alike. I commend NCBA for exploring this issue and I look forward to learning the results of the hearing.

Finally, Mr. Speaker, the conference will honor 15 outstanding senior citizens at its Living Legacy Awards Banquet. NCBA polled more than 2,000 organizations and social service agencies which serve senior citizens to choose the 15 recipients. Among those receiving the Living Legacy Award are our colleague, the Honorable GEORGE CROCKETT of Detroit, and Dr. Kenneth B. Clark, from my own State of New York.

The National Caucus and Center on Black Aged is to be congratulated for their 16 years of work and for putting together such a stimulating conference.

THE NINTH PILLAR OF SOUND MONEY

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. DANNEMEYER. Mr. Speaker, the ninth pillar of sound money and credit is centered on debt. Some debt is not only acceptable, it can be helpful if not essential in facilitating capital acquisition. Unfortunately, we seem to have lost the capability of divining where good debt ends and bad debt begins. We are now in a stage of debt overload which threatens to capsize the economic ship of state. This, the ninth in a series on sound money, analyzes the problem.

THE NINTH PILLAR OF SOUND MONEY AND CREDIT: THE PRINCIPLE OF PRODUCTIVITY OF DEBT

(By Antal E. Fekete)

A VENETIAN TALE

Once upon a time a poor gondolier of Venice who, having done a favor to the gnomes of the Piazza, was given a magic pepper-mill that would grind out anything at a word. The gondolier, a modest man, used it only to keep flour and sugar in supply. But his brother, a wealthy salt-merchant, upon learning of the mill, cajoled its secret word from the gondolier, stole the mill by night, and set out to sea for the markets in the Levant.

Eager to try his prize and fill his sacks he uttered the words, and the mill began to grind out salt. The vessel's holds were soon filled and salt began to cover the deck. The merchant now tried to stop the mill, but alas, he had forgotten to learn the other secret word. The ship began to settle, and finally sank, carrying with it the avaricious merchant along with the mill, where it still rests, at the bottom of the sea, grinding out salt.

And that, the tale concludes, is the reason why the sea is salty.

DEBT MILL ON THE POTOMAC

Most observers worry about the inordinate growth of the money supply. But the growth of the money supply is merely a symptom, concealing a far more serious condition: the uncontrollable growth of dollar-denominated debt. The magic mill of the Venetian gondolier has been commandeered by the masters of the Federal Reserve System. They uttered the word, and enjoyed the sight of the uninhibited outpourings of cheap credit. But the obverse of credit is debt, and the mill on the Potomac River started flooding the country with bad debt that can never be repaid. The new masters of the mill would like to stop it, but alas, they have forgotten to learn the other word. The nation's economy, overburdened with bad debt, has started sinking.

IN PRAISE OF DEBT

Debt is not bad per ser. Debt embodies the symbiosis between the three progressive classes of people in the economy: the savers, the producers, and the inventors. Debt is the instrument facilitating the exchange of the wealth of the savers for income. Debt is the instrument facilitating the acquisition of state-of-the-art technology by the producers, in order that they may get the highest output per input of labor and capital for the benefits of everybody. Debt is the instrument facilitating the exchange of the future wealth of inventors for present income in support of research and development. Debt alone can make possible the extension of division of labor to generations that are far removed in time. Debt alone makes the emancipation of savings possible: saving is no longer anti-social as it was when the saving of a gold coin perforce meant a contraction of demand, prices, and output. Through debt as catalyst, saving is more beneficial than spending: the present wealth and income of savers find their way to the producers and inventors, and to the socially most beneficial applications.

THE DANGER OF A DEBT MELTDOWN

Debt, however, is not without its dangers. It is not unlike nuclear energy. It can be

enormously beneficial if properly harnessed and constrained—but it can also be equally destructive if the harness and constraint are removed. Bad debt is like fissionable matter. It can keep accumulating unobtrusively and without any apparent bad effects up to a point. But once this critical point is reached, a meltdown occurs. Proper safeguards in debt creation are therefore imperative.

The distinction between good and bad debt is not subjective or arbitrary. The quality of debt can be gauged by its productivity. This is the ratio of the net gain in GNP (gross national product) to the gain in debt. (The net gain in GNP is the excess of additional GNP over additional debt.) If this ratio is positive, then the new debt can be serviced out of current income, and the greater the ratio, the higher is the quality of debt. If the productivity of debt is allowed to decline significantly or, worse still, to become negative, then the debt can no longer be serviced out of income, and new debts have to be incurred to meet the maturing debt. The negative ratio is a clear signal that bad debt is now breeding more bad debt. A feed-back is in effect, short-circuiting the economic process. The debt-tower is growing out of control, and in due course it will self-destruct.

DEBT ACCUMULATION VERSUS CAPTIAL ACCUMULATION

The Principle of Productivity of Debt asserts that the ratio of net gain in GNP to the gain in debt must never be allowed to become negative. If this principle is observed, then debt is properly harnessed and constrained, and is socially beneficial. It makes a positive contribution to economic growth and public welfare.

We have long since passed the point when debt had a positive productivity in this country. Before 1960 it took less than one dollar of new debt to produce $1 gain in GNP. But in the 1960's, on average, it took $2, in the 1970's it took $3, and in the 1980's so far it took $3.50 of new debt to produce the same $1 gain in GNP. The growth of bad debt is accelerating.

It should be clear that this trend cannot continue indefinitely. The new debt has no economic justification. It does not produce the income to amortize it, let alone a spendable income. Sooner or later the fantastic debt tower will topple, and bury the economy that prefers debt accumulation to capital accumulation.

WE OWE IT TO OURSELVES

There are those economists who maintain that the public debt is just the other side of public investment and therefore its growth, far from alarming, is actually beneficial. We need not lose any sleep over the problem of repaying it. The public debt need never be repaid. "We owe it to ourselves", they say, pointing out that if a family goes bankrupt, it is never on account of internal family debts, but on account of debt owing to outsiders.

There has never been a more vicious misrepresentation of economic fact. The public debt is being serviced at the expense of the taxpayers, and if it will never be retired, then taxation can only grow worse. Moreover, the creditworthiness of the government can suddenly evaporate, if creditors lose all faith in the ability of the government to consolidate and eventually to retire the public debt.

Debt in this country is presently increasing at the annual rate of 14%. Most of this inordinate increase can be accounted for by the high rate of interest, far in excess of the productivity of labor and capital. Interest payable on the debt must be created out of nothing, to keep the game of musical chairs moving. But the merry-go-round must stop sooner or later. The solution to the problem of debt is to bring down the rate of interest at once to the level of the productivity of labor and capital in this country. That part of the debt that can be serviced at the lower interest rate will be consolidated; the rest must be written off. Then creditors in the future will think twice before they lend to the government and businesses which bank on new credits to meet interest payments on old debts.

CONFIDENCE IN TECHNOLOGY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 11, 1986 into the CONGRESSIONAL RECORD:

CONFIDENCE IN TECHNOLOGY

A series of tragic mishaps has shaken America's faith in its technology. The explosion of the space shuttle, the failure of the Titan and Delta rockets, several airplane crashes, and even the meltdown at the Chernobyl nuclear plant have raised serious questions about our ability to manage today's extremely complex systems. The importance of technology in America's past is clear. We have been the "republic of technology", as advances in farming, manufacturing, and information technology have fueled our progress. Technology is firmly entrenched in the American dream, creating new wealth and opportunities. Yet the recent spectacular failures have raised questions about the technology our modern society so often takes for granted.

Americans traditionally have exhibited an enormous confidence in science and technology. By an overwhelming margin they have believed they have done more good than harm and contributed to much of the prosperity of recent decades. A 1985 poll found that the public's confidence in the scientific community is significantly higher than its confidence in educators, corporate heads, the media, and the military. Only the medical community receives higher marks, and even that gap has narrowed. Yet Americans' confidence in the use of science has been weakened, and the recent mishaps have led many to wonder whether our faith in technology is misplaced.

Frustrated though we may be by the recent failures, most of us would agree that we should not retreat from science and abandon technology. We need to remind ourselves of the contributions science and technology have made to our society. People today live safer, healthier, and longer than in decades and centuries past. Tragic as the recent setbacks have been, they must be kept in perspective. Technology failures today are no bigger than they have been over the years. More than 1500 people perished on the "unsinkable" Titanic, and thousands died in the 1800s from early surgical techniques. If technology seems to go wrong more often today, it is because there is more of it around and its failures are more widely reported. Airplane accidents have been happening with disturbing frequency, yet there are far fewer crashes per mile than in previous decades. We must not exaggerate the portent of spectacular failures in a world that accepts tens of thousands of deaths every year from automobile accidents or from smoking. Past failures of technology have led to periods of reflection and re-examination, but have generally led to greater commitment and improvements in the technology.

As we reassess our national policies regarding the adoption of sophisticated technology, several lessons can be learned from the recent failures. First, we must be more skeptical of the claims, from whatever source, that mistakes cannot happen. Today's technologies are not risk-free. We must greet with some skepticism flat assertions, for example, that releasing into the environment man-made organisms created through biotechnology is safe, or that the deep underground storage of radioactive nuclear waste is safe. We must keep in mind the testimony by experts only a decade ago that an accident severe enough to damage a nuclear reactor's core was likely to occur only once in 20,000 years.

Second, we must recognize that many of the recent mishaps were not failures of the technology but of the bureaucracy to manage the technology. The Challenger inquiry revealed that there were serious worries by scientists about the booster's seals, yet NASA undervalued dissent and was complacent. Modern technology is no better than the bureaucracy supporting it. We must improve channels of dissent and strengthen our federal oversight mechanisms. We must also make sure that we do not lose the best of our federal scientists and watchdogs through funding cutbacks or insufficient rewards for high performance.

Third, we must accept that when we adopt very complex technologies things will go wrong. The space shuttle worked well for several trips even though each successful flight required thousands of complicated systems to work perfectly. We cannot always expect that perfection. Accidents will happen. We need to think hard about the direction we are taking with various technologies. Does, for example, the current design of our fighter planes seek high technology at the expense of reliability? How much could we rely on the Strategic Defense Initiative, which cannot be fully tested and involves technology much more complex than anything in existence today?

Fourth, we must insist on a free and open presentation of the risks and trade-offs involved in the march of technology. U.S. nuclear power plants are generally less susceptible to the kind of problems experienced at Chernobyl in large part because of the open discussion of plant accidents and the airing of demands for precautions like containment domes. Public and media access to information on the risks and difficulties involved is essential, and so is the protection of whistle-blowers within the oversight agencies. Technology presents trade-offs as well as risks. Machines can almost always be made safer, but at some point the extra safety makes the machine useless. A car that goes only 5 miles per hour could be perfectly safe but perfectly useless.

Finally, we non-scientists must try to understand better the revolutions in science and technology and their impact. Recent polls have shown a widespread scientific illiteracy in the United States, and a lack of understanding of public policy issues involving science and technology. The complex technology systems of the modern world are far beyond the layman's ordinary under-

standing, often leading to unrealistic expectations. Members of Congress are being called on to legislate on scientific and technological matters to a degree unimagined only a few years ago. Congress must continue to improve its capacity for dealing with the explosion of new technology now occurring. We also need to do a better job of explaining to our constituents public policy issues involving sophisticated technologies.

Technology will continue as a central force in American life, but if we temper our pride in it with a little humility it will serve us better.

SISTERS OF ST. JOSEPH OF CHESTNUT HILL, PA

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. GUARINI. Mr. Speaker, on Saturday evening, June 14, 1986, the alumnae and friends of Holy Family Academy in Bayonne are honoring the commitment of the Sisters of St. Joseph to the community during the occasion of Holy Family Academy's 60th anniversary.

For more than 100 years, the Sisters of St. Joseph of Chestnut Hill have enriched the lives of those with whom they have come in contact in the Bayonne and Jersey City communities. Their intellectual and spiritual example has touched the lives of the young and the old, the rich and the poor. Since their original teaching assignment at St. Mary's grammar school at Our Lady Star of the Sea Parish in Bayonne, in 1886, their work has taken them into elementary and secondary schools, hospitals, homes for the aged, shelters for the poor and religious education programs.

It was in 1925 that Mother Marcelline, then principal at St. Mary's Grammar School, foresaw a great need to build a Catholic high school in Bayonne. Despite seemingly insurmountable obstacles, Mother Marcelline, together with Sisters Pierre Julian, Marie Virginia, Madeleine de Lourdes and Mary Thomas, opened the doors of Holy Family Academy for the first time in September 1925, in the former Clark family residence at 115 West 8th Street.

From that moment on, the history of Holy Family Academy and the history of the Sisters of St. Joseph, in Bayonne, would be forever intertwined. A summation of this event is recorded in the annals of the Sisters of St. Joseph as follows:

When Holy Family Academy in Bayonne, New Jersey, was founded in 1925, the original purposes was to relieve crowded conditions in St. Mary's Parochial School . . . a four-year academic course was offered with some commercial subjects as electives; thus Holy Family Academy became the first Catholic secondary school in Bayonne.

Today, Holy Family Academy stands as the only private, Catholic, college-preparatory school exclusively for young women in Bayonne. In 1949, the academy was forced, reluctantly, to restrict its enrollment to young women because of its burgeoning enrollment and lack of classroom space. Holy Family, however, is proud of the traditions and accomplishments of its graduates, both male and female.

It has educated men and women who have entered a variety of careers and professions. Graduates include corporate executives, medical doctors, lawyers, judges, mayors, Senators, State officials, bank presidents and vice presidents, scientists, chemists, editors, publishers, administrators and more. Most important of all, Holy Family Academy and the Sisters of St. Joseph are proud of the fact that its graduates are men and women of fine character, irrespective of their role in life. They are also proud to be able to maintain the true perspective of Catholic education: to send forth graduates who are good mathematicians and good persons, good scientists and good Christians, good humanists and good Catholics.

Although in today's terminology the Sisters of St. Joseph's work can be classified as a form of social services, when their order was founded in France in 1650 the sisters considered their work as simply the practice of Christian charity. Indeed, Christian charity is at the very heart and soul of the Sisters of St. Joseph. Their aim has been, from the beginning, "to turn their hand to any good work that was needed."

And needed they have been. In 1836, Bishop Joseph Rosati, the first bishop of St. Louis, requested Mother St. John Fontbonne, superior of the Sisters of St. Joseph in Le Puy, France, to send sisters to work in the schools of Missouri. Eight sisters were chosen for this missionary enterprise. One of these sisters, then a postulant, was destined to become Mother St. John Fournier, the first superior-general of the Sisters of St. Joseph of Chestnut Hill, PA.

The United States was just at the beginning of a period of extraordinary national growth and expansion when Mother St. John Fournier was called to establish the motherhouse of the Sisters of St. Joseph of Chestnut Hill in 1847. She and her small group of young sisters dedicated themselves to the work at hand and set about caring for orphans, teaching the children of emigrants, teaching the deaf and caring for the sick in hospitals.

When the Civil War broke out in 1861, it was the Sisters of St. Joseph who were called into the battlefields to nurse the sick and wounded. It was during this same time period that the Sisters of St. Joseph of Chestnut Hill were simultaneously laying the groundwork for every major type of social service that they would become identified with in the future.

Education became the focal point of the sisters' work, as the needs of the times called for parochial education to counteract the bigotry and chaos of the mid-19th century.

In 1871, Mother St. John Fournier formally committed the community to a teaching career which would culminate eventually in the opening of Chestnut Hill College in September 1924. Today, the Sisters of St. Joseph of Chestnut Hill, PA, own and operate one college, three high school-level academies, two elementary academies and two preschool centers. In addition, the Sisters of St. Joseph of Chestnut Hill provide service in the Eastern United States to six colleges and universities, 43 high schools, 148 elementary schools, four special education schools, two deaf education schools, 27 social service agencies, 27 health care agencies, and 212 parish ministries which convents in 6 States and the District of Columbia.

Most remarkable of all is that, besides the tangible and physical growth of the Sisters of St. Joseph, they have managed to preserve, to this day, the great spirit of the pioneer sisters of the early 1800's.

This same pioneer spirit that earlier led the Sisters of St. Joseph of Chestnut Hill to serve the needs of the people of Philadelphia continues today to inspire them to serve a diverse population in a variety of geographic locations.

Hand in hand, with all the good people of God, the Sisters of St. Joseph strives to remain true to Christ's gospel and honor His invitation to serve in a capacity that will create unity for all of humankind.

For the Sisters of St. Joseph, the familiar quote, "Hope sees the invisible, feels the intangible, and achieves the impossible" seems very apt. It is that very same philosophy which embodies the very spirit and meaning of their commitment.

I am deeply indebted to Loreeta Gallagher Harris, director of development of Holy Family Academy, for providing the assistance which has resulted in this tribute.

I am sure that all Members of the House of Representatives here present will join in this salute to this fine institution which has been an outstanding example of excellence in education for the past 60 years.

A JOB WELL DONE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Ms. OAKAR. Mr. Speaker, on January 3, 1985, I introduced a joint resolution that would establish a memorial in honor of the thousands of women who have served in or with the armed services of our Nation. Subsequently, on November 6, 1985, House Joint Resolution 36 passed unanimously in the House of Representatives. During that time, I had the distinguished honor to meet Col. Sandra Perry, Director of Plans, Policy and Programming for the Assistant Chief of Staff, Systems, Communications and Computers, Headquarters, U.S. Air Force in Washington, DC.

Today, Mr, Speaker, I would like to pay special tribute to Colonel Perry, who is now retiring after serving more than 25 years in the Air Force. I would like to share with you, my colleagues, some interesting highlights in Col. Sandra Perry's outstanding career.

Colonel Perry was born August 28, 1937, in Autherdale, WV. After graduating from high school in 1955, she majored in mathematics at the University of Buffalo, Buffalo, NY, earning a bachelor of arts degree. She attended the University of Southern California and graduated with a master of science degree in systems management in 1970. She is a 1978 graduate of the Industrial College of the Air Forces [ICAF], Ft. McNair, Washington, DC.

She entered the Air Force in November 1959, a member of the first class of Officer

Training School, Lackland Air Force Base, TX, and was commissioned as a second lieutenant on February, 9, 1960. Her initial assignment was as a programmer analyst at Headquarters, Air Force Logistics Command, Wright Patterson Air Force Base, OH.

In October, 1962, Colonel Perry transferred to her first Washington, DC assignment as a programmer analyst, developing and maintaining simulation models for the Air Battle Analysis Center, Deputy Chief of Staff, Plans and Operations, Headquarters, U.S. Air Force. In 1967, she moved to her first joint tour with the Commander in Chief, Pacific command [CINCPAC] at the Kunia Installation, Oahu, HI, serving as the programmer analyst for CINCPAC's role in the single integrated operations plan. In 1970, she was transferred to the Washington DC area as a senior analyst on the Assistant Chief of Staff, Studies and Analysis Staff, Headquarters, U.S. Air Force. Transferring to the Space and Missile Systems Organization, Los Angeles, Air Force Station, CA. In 1974, she was the Program Director of the Attack Assessment Program and several other related space efforts.

After her ICAF tour in 1978, she became the Director of Data Systems Division, Headquarters, Air Training Command, Randolph Air Force Base, TX. Selected for colonel, she moved to become the Director of Personnel Data Systems Development, Manpower and Personnel Center, Randolph Air Force Base, TX, in 1980.

Her second joint tour began in 1981 as the Director of the Automated Services Division at the White House Communications Agency, Washington, DC. In 1983, she became the last automation data processing single manager of the Air Force Systems Command, Andrews Air Force Base, MD. In March, 1984, she moved to her present position. She was promoted to colonel October 1, 1980, with a date of rank of August 27, 1980.

The colonel's military decorations include the Defense Meritorious Service Medal, the Air Force Meritorious Service Medal with 2 oak leaf clusters, the Joint Commendation Medal and the Air Force Commendation Medal.

Congratulations, Col. Sandra Perry upon your retirement and thank you for a job well done.

IN MEMORY, JANUARY 28, 1986

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. SCHULZE. Mr. Speaker, on January 29, 1986, the day following the devastating *Challenger* space shuttle explosion that killed all seven crew members, the students of East High School in West Chester, PA, wrote condolences to the mourning families and friends of the crew members through the genre of poetry. The following five poems are a selection from the 45 poems submitted to me by English teacher, Dr. Rosemary Powers, for publication in the CONGRESSIONAL RECORD, I am deeply moved by the student's heartfelt feelings of sorrow for and pride in the space shuttle's crew and I am honored to present these works to the public for all to share.

America is feeling so much sorrow and anguish.
The pride and bravery of those seven crew members is infinite.
People like them have helped America grow.
People like them have made America what it is today.
People like Gregory Jarvis, Christa McAuliffe, Ronald McNair, Ellison Onizuka, Judith Resnik, Francis Scobee, Michael Smith.
Are so concerned with the benefit of others
That they are willing to risk their lives.
If there was one thing all of us could
Say or do to to ease the pain, we would do so
Without any second thoughts.
Hopefully, knowing how much
We all care, will help.
Our deepest sympathy goes out
To you, their loved ones.

MICHELLE ZUCCARELLO.

January 28, 1986 was to be a great day for America.
Another launching of the shuttle
Was about to take place.
Seven Americans were ready to venture out
Into the unknown—space.
People cheered as the crew
Boarded the shuttle that would take
Them beyond the clouds.
The lift-off was beautiful,
Such a magnificent and awesome sight—
Until the tragedy struck.
The sky filled with smoke and debris,
As tears rolled down thousands of faces.
America will always remember that day
And what those people did for us.
We will continue to pursue their dreams.

STACY DIMEDIO.

Cry not, for they live on
Exploring the heavens above;
Not working for the hawk,
But living for the dove.

DOUGLAS M. WALKER.

THE JOURNEY

Aerodynamic bird of grace,
Waiting to launch across time and space.
Aqua sky, the phoenix rises in the air;
Seven who lived, knowing no worry or care.
Up to the place where ancient gods roam,
Through the barrier, making clouds of foam,
Knowing not the danger, in it their lives
Journey bound: heaven, going above the skies.
The phoenix rises its fiery wings;
Helpless we watch as the cobra stings.
Burning across the sky with debris and flashes,
The phoenix will reborn, rising up from the ashes.

DAMON OLIVER.

It is not enough for us to dream about the future,
We must reach out for it
And turn dreams into reality.
We call it progress.
The environment of progress includes both
Triumph and tragedy.
Those on the leading edge experience both.
Whether one lives in triumph or dies in tragedy
The effect on other lives is enormous:
We all feel both the high and the lows,
And we become better because of it.
Triumphs and tragedies occur for a purpose:
The triumphs give us new highs to reach for;
The tragedies strengthen our resolve to
Reach for them.
We must strive on toward the future
And show that our friends did not die in tragedy
Without reason,
But that they lived in triumph for a purpose * * *
They live to lead.

BRAD GORHAM.

CANTOR AND MRS. AVSHALOM KATZ HONORED

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. WAXMAN. Mr. Speaker, I am proud to being to your attention and the attention of our colleagues the community involvement and professional excellence demonstrated by two very special residents of the city of Los Angeles, Cantor and Mrs. Avshalom Katz.

Cantor Avshalom Katz, a native of Argentina, has brought music to the Los Angeles Orthodox Jewish Community in more ways than one. Fully aware that the future of Orthodox Judaism depends upon instilling in children a love for their faith, Cantor Katz has organized the youth of Congregation Sha'arei Tefila and made them an integral part of synagogue life. He also teaches and leads children by serving the Hillel Hebrew Academy and Yavneh Hebrew Academy in the capacity of music and cultural director. All this work comes like frosting on a cake to those like Rabbi Jack Simcha Cohen and Congregation President Allan Goldstein who know well the beautiful voice of Cantor Katz, a voice that comforts and inspires many who come regularly to pray in the synagogue. Thanks to his recently produced album, "K'Shoshanah: Avshalom Katz," in his own style, thousands more throughout the world now have the opportunity to listen to the Cantor's lovely renditions of both new and classical pieces.

Sharon Katz, the Cantor's wife of 7 years, has earned the respect and admiration of the community in her own right. From her early involvement in the National Council of Young Israel to her 2 years of participation in kibbutzim in Israel to her current position as administration assistant at the Yavneh Hebrew Academy, Mrs. Katz has shown a consistent dedication to community activity. Before moving to Los Angeles, she served as administration assistant at the United Jewish Appeal-Federation and the Jewish National Fund in New York.

With all their commitment to community life, Cantor and Mrs. Katz have not neglected to rear a family besides. Their four children—Shlomo, Eitan, Tali, and Michal—already show their eagerness to follow their parents in the traditions of a Jewish life which is both pious and joyful.

On June 24, 1986, Congregation Sha'arei Tefila will hold its 52d annual banquet at the Beverly Hilton Hotel. Cantor Avshalom and Sharon Katz have been chosen as the guests of honor at that occasion. I ask my fellow

Members of the House of Representatives to join me in a hearty salute to this outstanding young couple.

THE HUNGER RELIEF ACT OF 1986

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. PANETTA. Mr. Speaker, I rise to announce the introduction of the Hunger Relief Act of 1986. This bill is cosponsored by 52 of my colleagues in the House.

I am submitting the bill, explanatory material, and a list of the 41 national religious and philanthropic organizations which have endorsed the bill to be included in the CONGRESSIONAL RECORD at the conclusion of these remarks.

The Hunger Relief Act of 1986 is a 12-point proposal to address the serious problem of hunger that remains in our society. This proposal does not establish new Federal programs. Instead, this proposal strengthens the network of services already in place.

The Hunger Relief Act of 1986 will make a meaningful contribution toward the elimination of hunger within the severe budgetary constraints which we now face. For that reason the cost for next year is kept at $1 billion.

The bill strengthens the network of services already available through the major nutrition assistance programs—food stamps, school breakfast and lunches, child care food programs, and elderly nutrition. In addition, the bill strengthens the nutrition education programs and also creates a national nutrition monitoring system.

The original bill was introduced on May 21, 1986, by the senior Senator from Massachusetts and myself. This bill is a revision of the original bill to include the nutrition monitoring provisions approved by the Committee on Agriculture on June 5, 1986, and some minor technical changes.

A joint hearing on this bill is scheduled for June 25, 1986. Participating in this hearing will be the House subcommittees with jurisdiction over the bill: The Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture, the Subcommittees on Elementary and Secondary Education and Human Resources of the Committee on Education and Labor and the Subcommittee on Science, Research, and Technology of the Committee on Science and Technology. Also participating in the hearing will be the Select Committee on Hunger whose field hearings on the hunger issue over the last several years have made us aware of the reality of the problem of hunger across America.

It is our intention that this hearing not be the classic Washington set-piece in which national organizations testify in favor of the bill, and administration witnesses defend the President's budget. For nutrition programs, this would guarantee a contentious hearing because the President's request would reduce nutrition programs below the CBO baseline by as much as the Hunger Relief Act of 1986 would increase them. Instead, we are seeking witnesses from across our Nation—both participants in nutrition programs as well as local program directors who will give first-hand testimony why the program improvements included in the Hunger Relief Act of 1986 are needed.

We are not proposing new programs but we do try to make existing programs more meaningful and effective. We must do this because despite our efforts over the past two decades, there is still hunger in America. The question is no longer whether there is hunger in America but why is there hunger, and what can be done about it.

Why is there still hunger in America? Why does hunger exist in a land of overwhelming agricultural bounty, with the storage of surpluses costing over $1 million a day? Why does hunger exist when our Department of Agriculture must store 600 million pounds of surplus cheese? Why does hunger exist in a nation which has forged a network of food assistance programs designed to assure every man, woman, and child a nutritious diet? Why does hunger exist in a country renowned for its charity and compassion and good will in helping the needy both here and abroad? Why hunger in America?

It is here. Its existence has been substantiated by countless studies—from the hearings of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, which I have the honor to chair, Senate hearings, the Select Committee on Hunger, the GAO, the Governors' Conference, the Mayors' Conference, even the President's own Task Force on Hunger. The evidence is there. The consequences are frightening.

Increases in nutrition-related health problems in children; the existence of severe undernutrition usually found in Third World countries.

Doubling and tripling of those resorting to soup kitchens and food pantries—one food pantry in Detroit, Focus: HOPE, has some 16,000 senior citizens waiting to get benefits.

Increasing anemia among young children, and the list goes on and on and on.

Why is there hunger in America? The causes are complex. Part of the cause of hunger is the legacy of the recession—families left behind with no jobs. Part of the cause is lack of access—nearly 14 million or 41 percent of those eligible for food stamps on the basis of income alone do not receive this needed nutrition assistance. Part of it is lack of funds—more than 7 million women and infants eligible for WIC do not receive this crucial nutrition assistance. More than 3 million poor children do not get breakfast. Part of the cause is related to the trap of poverty itself—in 1984, the most recent year for which poverty statistics are available, the poverty rate was higher than any year since 1966, excluding the poverty surge during the 1982-83 recession. Currently in America, one of every four children lives below the poverty line.

Why should we be concerned about hunger in America? After all, that's another side of America that most do not see, do not touch, do not know. But we are a compassionate people—and we should care for our fellow human beings—that is inherent in our moral fiber. Thank God for the charities, the churches, the Salvation Army, the private sector that cares about this problem and tries to provide help. But surely hunger is not just a private sector problem. Hunger eats away at the very fabric of our society. And we pay a huge human and financial cost for hunger. Hunger is not cheap. The low-weight infant or the child born with a birth defect becomes both tomorrow's human and financial cost to society. The elderly couple forced into a nursing home becomes a cost. The child too hungry to learn in school becomes a cost. We pay a high price for hunger in America. And the price is our future.

It's for all of these reasons that it must be attacked—on a broad scale by the private and public sector. The Hunger Relief Acts of the past few years tried to address this problem. The reforms in the farm bill tried to help meet the need. But more is needed.

The Hunger Relief Act of 1986 will make a meaningful addition to our arsenal aimed at eliminating hunger in America.

Hands Across America demonstrated that we are indeed a compassionate society that is unwilling to tolerate hunger. One event can focus on the promise of America to end hunger. But it takes a solid program and commitment enacted at the national level to deliver on that promise. Let us combine the spirit of Hands Across America and action on this bill into ending this national shame once and for all.

Enclosed is a summary description of the Hunger Relief Act of 1986, H.R. 4990. This is a comprehensive antihunger initiative which includes needed improvements to food stamps, child nutrition programs, WIC, nutrition education, elderly feeding, commodity distribution, and nutrition research and monitoring.

The Hunger Relief Act of 1986 is a 12-point program which has a fiscal year 1987 outlay of less than $1 billion.

FISCAL YEAR 1987 OUTLAYS

FOOD STAMPS

1. Move toward a policy to base Food Stamp benefits on the average cost of the Department of Agriculture's Low Cost Food Plan Rather than the Thrifty Food Plan, $400 million.

This represents a commitment to move toward a guarantee of actual rather than theoretical nutritional adequacy under the Food Stamp program. Although a skilled shopper can purchase a nutritionally adequate diet under the Thrifty Food Plan which is currently used to determine benefits, the reality is that most low-income persons do not have the nutritional knowledge to purchase a nutritionally adequate diet within the budgetary constraints of the Thrifty Food Plan. Because of budgetary constraints, the initial step would be a Fiscal Year 1987 benefit increase of 2.5 percent above the CBO baseline. Over the following three years, there would be additional increments above the baseline of 2.5 percent. At the end of four years, the Congress would reassess the appropriate level of nutritional adequacy under the Food Stamp program.

2. Raise the cap on the shelter deduction from $147 to $175. The cap is already scheduled to increase to $152 in October 1986, $75 million.

This proposal is designed to address the "heat or eat" dilemma faced by many poor families.

3. Liberalize the medical deduction for the elderly (as passed by the House last year) to set the threshold at 5% of gross income or $35, whichever is less, $11 million.

The proposal responds to increasing copayments and deductions in both private medical insurance and medicare. The 5 percent threshold is the same as the level in the Federal income tax for medical deductions.

4. Asset Limits, $42 million.

Raise asset limits to $2,250 for non-elderly households and $3,500 for elderly households. Raise the limit for automobile to $5,500 as recommended by President's Task Force on Food Assistance. The cost estimate is based on half year implementation in fiscal year 1987. The Department of Agriculture would also be directed to submit a report to the Congress on the administrative feasibility and budgetary implications of making the asset test for both automobiles and other assets based on net asset value.

5. Outreach, $1 million.

The matching funding would be restored to give States the option to inform elderly, unemployed, or disabled persons about the availability of Food Stamp benefits. This restoration would complement an excellent outreach campaign which is being conducted by the Advertising Council.

6. Child Support Payments, $75 million.

Exempt the first $50 a month paid in child support from counting against food stamps. This would make food stamps consistent with AFDC and would increase the incentive for a parent with children to get child support from the absent parent. The proposal can be defended as a measure to help children. Under current law, states have to pay the cost of the $50 disregard if they elect to allow the $50 a month exemption for food stamps.

CHILD NUTRITION

7. School Meals Programs, $116 million.

Defray the increased costs of maintaining and improving the nutritional quality of school breakfasts by increasing the reimbursement rate by 5 cents for all breakfasts and by an additional 5 cents for "severe need" schools (defined by current law as schools that serve 40% or more of their meals to students whose family income is below 185% of poverty).

Increase Federal reimbursement for reduced-price lunches and breakfasts and thereby lower the maximum price that children pay for a reduced-price lunch from 40 cents to 25 cents and 30 cents to 15 cents for a reduced-price breakfast. This provision will assist the children of low income working poor families (families whose income is between $13,645 and $19,703). This category of participation suffered a 16.6% drop in school lunch and a 34.4% drop in school breakfast as a result of the cut in reimbursement required by the Omnibus Reconciliation Act of 1981.

8. Child Care Food Programs, $32 million.

Increase the reimbursement rate by 5 cents for breakfasts served in both day care centers and family and group day care homes. Allow reimbursement for either one additional snack a day or meal a day in the Child Care Feeding Program.

9. WIC, $127 million.

Increase funding for WIC over the fiscal year 1987 baseline by $0.15 billion in budget authority in fiscal year 1987, $0.20 billion in fiscal year 1988, and $0.30 billion in fiscal year 1989. This would allow participation to increase by an estimated 280,000 in fiscal year 1987, increasing to 380,000 by fiscal year 1989. The current caseload is just under 3.3 million, and the fiscal year 1987 baseline level is $1.6 billion.

10. Elderly Nutrition and Commodity Assistance, $99 million.

Increase the authorization levels for congregate meals, home-delivered meals, and nutrition education for the elderly. The specific authorizations levels would be as follows:

Congregate Meals—From $395 million to $410 million.

Home-Delivered Meals—From $75.6 million to $95.6 million. Currently, 225 million meals a year are served in the Congregate and Home-Delivered Meal Programs. This increase would provide an additional 10.2 million meals.

Commodities for Elderly Feeding Programs—From $144 to $149 million.

Temporary Emergency Food Assistance Program (TEFAP)—From $50 to $70 million in Fiscal Year 1987 and an increase of $5 million in Fiscal Year 1986.

Allow the utilized caseload for which funds have been appropriated in the Commodity Supplemental Food Program (CFSP) to be used either to serve additional elderly persons at existing projects or to fund additional projects which would serve elderly persons.

11. Nutrition Education $24 million.

Increase the authorization levels for the major nutrition education programs as follows:

Expanded Food and Nutrition Program (EFNEP)—From $60 to $75 million.

Community Food and Nutrition Program—An authorization level of $5 million would be specified.

Authorize $10 million in Fiscal Year 1987 for Nutrition Education Training in schools.

12. The National Nutrition Monitoring and Related Research Act of 1986 (H.R. 2436) as reported by the Committee on Science and Technology. This authorization is not scored by the Congressional Budget Office as having a direct cost.

ORGANIZATIONS SUPPORTING THE HUNGER RELIEF ACT OF 1986

Bread for the World; Interfaith Action for Economic Justice; Church Women United; United Church of Christ Office for Church in Society; Mennonite Central Committee U.S./Peach Section Washington Office; Church of the Brethren Washington Office; American Baptist Churches U.S.A.; Washington Office Presbyterian Church (U.S.A.); Friends Committee on National Legislation; Lutheran Church for Governmental Affairs.

Union of American Hebrew Congregations; Episcopal Church National Hunger Committee; Presiding Bishop's Fund for World Relief/The Episcopal Church; Unitarian Universalist Association of Congregations in North America; Catholic Charities, U.S.A.; Food Research and Action Center; National Anti-Hunger Coalition; RESULTS; National Council of Senior Citizens; American Association of Retired Persons.

Community Nutrition Institute; Coalition on Human Needs; Public Voice for Food and Health Policy; National PTA; American Federation of State, County, and Municipal Employees; The Rural Coalition; National Rural Housing Coalition; World Hunger Year; American Public Health Association; The Villers Advocacy Associates.

American Public Welfare Association; National Education Association; National Black Child Development Institute; American Women's Political Caucus; National Farmers Union; National Council of Churches of Christ Washington Office; Children's Defense Fund; Mental Health Law Project; American School Food Service Association, Child Nutrition Programs; World Hunger Education Service; D.C. Hunger Action.

H.R. 4990

A bill to amend the Food Stamp Act of 1977, the Child Nutrition Act of 1966, and the National School Lunch Act to improve the availability of benefits under such Acts; to provide for a program for nutrition monitoring and research; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Hunger Relief Act of 1986".

TITLE I—GENERAL FOOD AND NUTRITION PROGRAMS

SEC. 101. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

(a) ADJUSTMENT OF COST OF THRIFTY FOOD PLAN.—The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking out "and (8) on October 1, 1985, and each October 1 thereafter", and inserting "(8) on October 1, 1985,";

(2) by inserting after "size" the last place it appears the following:

"; and (9) on October 1, 1986, and each October 1 thereafter, increase the cost of such diet by the sum of the percentage (if any) specified in the last sentence of this subsection and any increase in the cost of the thrifty food plan for the twelve months ending the preceding June 30, and round the result to the nearest lower dollar increment for each household size"; and

(3) by adding at the end thereof the following: "For purposes of clause (9), the percentage shall be 2.5 percent for the increase determined on October 1, 1986; 5 percent for the increase determined on October 1, 1987; 7.5 percent for the increase determined on October 1, 1988; and 10 percent for the increase determined on October 1, 1989.".

(b) EXCLUSION OF CERTAIN CHILD SUPPORT PAYMENTS FROM INCOME.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (d) by amending clause (13) to read as follows: "(13) any child support payments received with respect to one or more dependent children, but not in excess of $50 per month"; and

(2) by striking out subsection (m).

(c) EXCESS SHELGER EXPENSE.—The proviso to the fourth sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)) is amended—

(1) by striking out "$147" and inserting "$175"; and

(2) by striking out "$246, $210, $179, and $109 a month, respectively, adjusted October 1, 1986" and inserting "$305, $250, $213, and $130 a month, respectively, adjusted October 1, 1987".

(d) DEDUCTION FOR EXCESS MEDICAL EXPENSES OF THE ELDERLY AND DISABLED.—Clause (A) of the last sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking out "$35 a month" and inserting "the lesser of $35 a month or 5 per centum of monthly house-

hold income after any exclusions and before any deductions provided for in this section".

(e) LIMITATION ON RESOURCES.—Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended—

(1) in the first sentence by striking out "$2,000" and all that follows through "$3,000" and inserting "$2,250 or, in the case of a household that consists of or includes a member who is 60 years of age or older, $3,500"; and

(2) in the second sentence by striking out "$4,500" and inserting "$5,500".

(f)(1) PUBLIC INFORMATION.—Section 11(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)) is amended by inserting after "funds provided under this Act" the following: "except for activities, implemented at the discretion of the State agency, that provide program information (including program eligibility and benefit guidelines) to unemployed, disabled, or elderly persons who apply, or may be eligible, for participation in the program".

(2) ADMINISTRATIVE COSTS.—The first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking out "and (4) fair hearings" and inserting "(4) fair hearings, and (5) activities providing program information to unemployed, disabled, or elderly persons".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) is amended in subsection (a)(1) in the second sentence by striking out "$13,936,000,000" and all that follows through "1990", and inserting "$14,700,000,000 for the fiscal year ending September 30, 1987; $15,500,000,000 for the fiscal year ending September 30, 1988; $16,300,000,000 for the fiscal year ending September 30, 1989; and $16,900,000,000 for the fiscal year ending September 30, 1990".

(h) REPORTS REGARDING EVALUATION OF FINANCIAL RESOURCES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate—

(1) a report containing an evaluation of the budgetary and administrative consequences under the food stamp program that would result from calculating the value of the financial resources (including licensed vehicles) of households solely on the basis of the amount of equity such households have in such resources; and

(2) a report containing an evaluation of the rules applied under the food stamp program to calculate the business earnings and financial resources of farmers, to determine how such rules might be changed to assess more accurately the needs of farmers for assistance under such program.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR EXPANDED PROGRAM OF FOOD, NUTRITION, AND CONSUMER EDUCATION.

Section 1588(a) of the Food Security Act of 1985 (7 U.S.C. 3175e(a)) is amended—

(1) by striking out "$6,000,000" and inserting "$15,000,000"; and

(2) by striking out "$8,000,000" and inserting "$17,000,000".

SEC. 103. FUNDS AUTHORIZED FOR COMMODITY DISTRIBUTION UNDER THE TEMPORARY EMERGENCY FOOD ASSISTANCE ACT OF 1983.

Section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended—

(1) by striking out "$50,000,000 for each of the fiscal years" and inserting "$55,000,000 for the fiscal year"; and

(2) by inserting "$70,000,000 for the fiscal year" after "1986, and".

TITLE II—SPECIAL FOOD AND NUTRITION PROGRAMS FOR CHILDREN, WOMEN, AND THE ELDERLY

SEC. 201. SCHOOL BREAKFAST PROGRAM.

(a) ADDITIONAL FUNDING TO IMPROVE SCHOOL BREAKFAST PROGRAM MEAL PATTERN.—Section 4(b) of the Child Nutrition Act of 1966 is amended by inserting at the end the following paragraph:

"(3)(A) Except as provided in subparagraph (B), the Secretary shall increase by 5 cents the annual adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act to assist States in improving the nutritional quality of such breakfasts, to the extent feasible.

"(B) The Secretary shall increase by 10 cents the annual adjusted payment for each breakfast served to a child qualifying for a free or reduced-price breakfast at schools that are in severe need.".

(b) REDUCED PRICE BREAKFAST.—Section 4(b) of the Child Nutrition Act of 1966 is amended—

(1) in paragraphs (1)(B) and (1)(C) by striking "30" and inserting "15"; and

(2) in paragraph (2)(C) by striking "thirty" and inserting "fifteen".

(d) REVIEW OF NUTRITION REQUIREMENTS.—The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the school breakfast program to improve the nutritional quality of such meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local school food service authorities. Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement such revisions.

SEC. 202. SCHOOL LUNCH PROGRAM.

(a) INCREASE IN FEDERAL REIMBURSEMENT FOR REDUCED PRICE MEALS.—Section 11(a)(2) of the National School Lunch Act is amended by striking "40" and inserting "25".

(b) CONFORMING AMENDMENT.—Section 9(b)(3) of the National School Lunch Act is amended in the third sentence by striking "40" and inserting "25".

SEC. 203. ADDITION OF ONE SNACK OR ONE MEAL TO THE CHILD CARE FOOD PROGRAM.

Section 17(f)(2)(B) of the National School Lunch Act is amended by striking out "two meals and one supplement" and inserting "two meals and two supplements or three meals and one supplement".

SEC. 204. THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) LIMITED STATE ENTITLEMENT.—Section 17(g) of the Child Nutrition Act of 1966 is amended—

(1) by inserting "(1)" after "(g)";

(2) in paragraph (1) (as so designated) by striking out the first sentence and inserting "For fiscal years 1987, 1988, and 1989, there are authorized to be appropriated, and the Secretary shall pay to each State agency, such sums as may be necessary to provide supplemental foods, nutrition services, administration, and such other programs, services, and activities as are authorized for eligible women, infants, and children under this section, but in no event shall the amount appropriated be greater than $1,750,000,000 for fiscal year 1987, $1,850,000,000 for fiscal year 1988, and $1,950,000,000 for fiscal year 1989."; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) Each State agency shall be entitled to payment under this section for each fiscal year in an amount equal to such State agency's allocation (as determined under subsections (h)(2) and (i)) of the authorization levels specified in paragraph (1).".

(b) CONFORMING AMENDMENT.—Section 17(a) of the Child Nutrition Act of 1966 is amended in the second sentence by striking ", up to the authorization levels set forth in subsection (g) of this section,".

SEC. 205. INCREASE IN AUTHORIZATION FOR NUTRITION EDUCATION AND TRAINING.

Section 19(j)(2) of the Child Nutrition Act of 1966 is amended—

(1) in the first sentence by striking "ending on or before September 30, 1984,"; and

(2) in the second sentence by striking "$5,000,000" and inserting "$15,000,000".

SEC. 206. AMENDMENTS TO OLDER AMERICANS ACT OF 1965.

(a) CONGREGATE NUTRITION SERVICES.—Section 303(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)(1)) is amended by striking out "$395,000,000" and inserting "$410,000,000".

(b) HOME DELIVERED NUTRITION SERVICES.—Section 303(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)(2)) is amended by striking out "$75,600,000" and inserting "$95,600,000".

(c) AVAILABILITY OF SURPLUS COMMODITIES.—Section 311(c)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(1)(A)) is amended by striking out "$144,000,000" the last place it appears and inserting "$149,000,000".

SEC. 207. PARTICIPATION OF ELDERLY PERSONS IN COMMODITY SUPPLEMENTAL FOOD PROGRAM.

Section 5(f) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by inserting "for mothers, infants, and children and for low-income elderly persons" after "sites for the program".

SEC. 208. COMMUNITY FOOD AND NUTRITION.

Section 681A(b) of the Community Services Block Grant Act (42 U.S.C. 9910a(b)) if amended by inserting "and $5,000,000 for fiscal year 1987" after "1986".

TITLE III—NUTRITION MONITORING AND RELATED RESEARCH

Subtitle A—General Provisions

SEC. 301. SHORT TITLE.

This title may be cited as the "National Nutrition Monitoring and Related Research Act of 1986".

SEC. 302. PURPOSE.

It is the purpose of this title—

(1) to make more effective use of Federal and State expenditures for nutrition monitoring and to enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) to establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program and thereby establish a scientific basis for the maintenance and improvement of the nutritional status of the United States population and the nutritional quality of the United States food supply;

(3) to establish and implement a comprehensive National Nutrition Monitoring and Related Research Plan to assess on a continuing basis the dietary and nutritional status and trends of the United States population, the state-of-the-art, future monitor-

ing and related research priorities, and the relevant policy implications;

(4) to establish and improve national nutritional and health status data and related data bases and networks, and to stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) to establish a central Federal focus for the coordination, management, and direction of Federal nutritional monitoring activities;

(6) to establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the objectives described in paragraphs (1), (2), (3), (4), and (5); and

(7) to provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such objectives.

SEC. 303. DEFINITIONS.

As used in this title—

(1) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors which bear upon the contribution that nutrition makes to the health of the United States population, including (A) dietary, nutritional, and health status measurements, (B) food consumption measurements, (C) food composition measurements and nutrition data banks, (D) dietary knowledge and attitude measurements, and (E) food supply and demand determinations;

(2) the terms "National Nutrition Monitoring and Related Research Program" and "coordinated program" mean the coordinated program established by section 310(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 310(c);

(4) the terms "National Nutrition Monitoring and Related Research Plan" and "comprehensive plan" mean the comprehensive plan established by section 312;

(5) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to the Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, pursuant to section 1428 of Public Law 95-113;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established by section 320;

(7) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services acting jointly; and

(8) the term "local government" means a local general unit of government or local educational unit.

Subtitle B—Nutrition Monitoring and Related Research

SEC. 310. ESTABLISHMENT OF THE COORDINATED PROGRAM.

(a) There is hereby established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purpose of this title.

(b) The Secretaries shall be responsible for the implementation of the coordinated program.

(c) To assist in implementing the coordinated program, there is hereby established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as deemed appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months.

(d) To establish a central focus and coordinator for the Nutrition Monitoring and Related Research Program, the Secretaries may appoint a full-time Administrator of Nutrition Monitoring and Related Research. The Administrator—

(1) shall be an individual who is eminent in the field of nutrition monitoring and related areas, and shall be selected on the basis of his or her established record of expertise and distinguished service; and

(2) shall administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, shall serve as the focal point for the coordinated program, and shall serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

SEC. 311. FUNCTIONS OF THE SECRETARIES.

(a) The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program and identify the activities required to meet such goals, and identify the responsible agencies;

(2) update and integrate the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System into the coordinated program;

(3) assure the timely implementation of the coordinated program and the comprehensive plan established by section 312;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, in accordance with the provisions of this title, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 312(a)(3)) which will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this title, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in sections 312(a)(5) and 312(b)(9));

(6) include in the coordinated program an annual interagency budget for each fiscal year of program;

(7) foster productive interaction between Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses and to publish every two years, or more frequently if appropriate, a report on the dietary, nutritional and health-related status of the population of the United States and the nutritional quality of the national food supply; and

(9)(A) foster cost recovery management techniques, and (B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and utilize the proceeds of such charges and fees for purposes of the program (except that no such charge or fee imposed upon an educational or other nonprofit organization shall exceed the actual costs incurred by the program in providing the publication or publications involved).

(b) the Secretaries shall submit to the President for transmittal to the Congress by January 15 of each year an annual report which shall—

(1) evaluate the progress of the program under this title;

(2) summarize the results of such program components as are developed under section 312;

(3) analyze the dietary, nutritional and related health status of the United States population, the nutritional quality of the national food supply, the relevant policy implications of the findings, and future nutrition monitoring and related research priorities;

(4) include in full the annual report of the Council as specified in section 321; and

(5) include an executive summary of the report most recently published by the scientific body specified in subsection (a)(8).

SEC. 312. DEVELOPMENT OF THE COMPREHENSIVE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PLAN.

(a) The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed—

(1) to assess, collate, analyze, and report on a continuous basis the dietary and nutritional status and trends of the United States population (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, Blacks, Hispanics, and other minorities as appropriate), the state-of-the-art, future monitoring and related research priorities, and relevant policy implications of the findings;

(2) to assess, analyze, and report on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when resources were not sufficient to provide an adequate diet;

(3) to sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) to develop and update a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) to assist State and local agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) to focus the activities of the Federal agencies.

(b) The comprehensive plan shall, as a minimum, include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide by 1990 for the continuous collection, processing, and analysis of nutritional and dietary status data through a stratified probability sample of the United States population designed to permit statistically reliable estimates of high-risk groups and geopolitical and geographic areas and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in the survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of NHANES and NFCS data sets collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of obtaining dietary and nutritional status data and developing related data bases and networks to promote the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and non-government activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, outcomes, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan which facilitates cooperation and interaction by State nad local governments, the private sector, scientific communities, and health care professionals, and which facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved, and shall contain an affirmative statement and description of the function to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program.

(d) The comprehensive plan—

(1) shall be submitted in draft form to the President for submission to the Congress, and for public review, within twelve months after the date of the enactment of this title;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1) by means of publication in the Federal Register;

(3) shall be submitted in final form, incorporating such needed revisions as may arise from comments received during the review period, to the President for submission to the Congress within sixty days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(e) Nothing in this section shall be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation title (or any other provision of law relating to the use of appropriated funds) which specifies (1) the department or agency to which funds are appropriated, or (2) the obligations of such department or agency with respect to the use of such funds.

SEC. 313. IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 312(d)(3) and—

(1) shall be carried out in accord with, and meet the program objectives specified in, section 312(a) and paragraphs (1) through (11) of section 312(b);

(2) shall be managed in accord with paragraphs (12) through (14) of section 312(b);

(3) shall be carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 312(c); and

(4) shall be funded by appropriations which shall be made to such agencies pursuant to section 315 for each fiscal year of the program.

The Congress through its appropriate authorizing committees shall exercise continuing oversight over the coordinated program, taking into account the Secretaries' annual reports and such other information and data as may be developed.

(b) Nothing in this subtitle shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SEC. 314. SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF COORDINATED PROGRAM AND COMPREHENSIVE PLAN.

The Secretaries shall provide for and coordinate the conduct, by the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Bureau of Standards, and other suitable Federal agencies, of such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purpose and objectives of this title.

SEC. 315. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorizations and appropriations for the fiscal year in which the comprehensive plan is submitted in final form under section 312(d)(3) and for the nine succeeding fiscal years, for purposes of carrying out the coordinated program and implementing the comprehensive plan, shall be requested by the Secretaries and by each of the agencies which are allocated responsibilities under the coordinated program pursuant to section 312(c), in a separate line item of the budget of the agency involved and consistent with the interagency budget for the coordinated program; and to the maximum extent feasible such appropriations shall be provided on a three-year basis, subject to annual authorization Acts hereafter enacted.

(b) Nothing in this subtitle is intended either (1) to authorize the appropriation or require the expenditure of any funds in excess of the amount of funds which would be authorized or expended for the same purposes in the absence of the coordinated program, or (2) to limit the authority of any of the participating agencies to request and receive funds for those purposes (for use in the coordinated program) under other laws.

Subtitle C—National Nutrition Monitoring Advisory Council

SEC. 320. ESTABLISHMENT OF THE COUNCIL.

(a)(1) The President shall establish, within 90 days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purpose of this title, shall provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and shall serve in an advisory capacity to the Secretaries.

(2) The Council shall consist of eleven voting members, of whom—

(A) seven members shall be appointed by the President; and

(B) four members shall be appointed by the Congress—one by the Speaker of the House of Representatives, one by the minority leader of the House of Representatives, one by the President pro tempore of the Senate, and one by the minority leader of the Senate.

(3) The Council shall also include the joint chairpersons of the Board as ex officio nonvoting members.

(b) The persons appointed to the Council—

(1) shall be eminent in the fields of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, nutrition monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture, and economics; and

(2) shall be selected solely on the basis of established records of distinguished service.

(c) The persons appointed to the Council by the President shall include—

(1) one member who is a director of a nutrition research unit which is primarily supported by Federal funds, and who has a specialized interest in nutrition monitoring;

(2) one member who is an employee of a State government and who has a specialized interest in nutrition monitoring;

(3) one member who is an employee of a local government and who has a specialized interest in nutrition monitoring; and

(4) one member who is an appointed representative of the Food and Nutrition Board, National Academy of Sciences.

(d) The Council membership shall at all times have representatives from various geographic areas, the private sector, academia, scientific and professional societies, minority organizations, and public interest organizations.

(e) The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed five years. In case a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(f) The term of office of each of the voting members of the Council shall be five years; except that of the seven members first appointed by the President, one shall be appointed for a term of two years, three for terms of three years, and three for terms of four years, as designated by the President at the time of appointment. Any member elected to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be elected for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(g) The Council members shall be appointed or designated (without regard to the requirements of the Federal Advisory Committee Act) not later than ninety days after the date of the enactment of this Act.

(h) The Council shall meet on a regular basis at the call of the Chairperson, or upon the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(i) Appointed members of the Council shall not be employed by the Federal Government, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(j) The Administrator of Nutrition Monitoring and Related Research (if appointed under section 310(d)) shall serve as the Executive Secretary of the Council.

SEC. 321. FUNCTIONS OF THE COUNCIL.

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries an annual report which shall contain the components specified in paragraphs (2) and (3), and which shall be included in full in the Secretaries' annual report to the President for transmittal to the Congress as specified in section 311(b).

Subtitle D—Dietary Guidance

SEC. 330. ESTABLISHMENT OF DIETARY GUIDELINES.

(a) The Secretaries shall issue and publish basic dietary guidelines for the general population based on scientific knowledge and the dietary patterns and nutritional status of the population.

(b)(1) Any Federal agency planning to issue dietary guidance shall submit the text of the proposed guidance to the Secretaries for review prior to release. The Secretaries shall determine within 30 days from the date such proposed guidance is submitted whether the proposed guidance is basic dietary guidance for the general population.

(2) If the Secretaries determine that any proposed dietary guidance is basic dietary guidance for the general population the Secretaries shall within a period of 180 days from the date such determination is made review such proposed guidance; and the guidance shall not be issued until the Secretaries have theretofore approved the proposed materials and notified the head of the agency of such approval. If the Secretaries fail to express any objection within that 180-day period, the submitting agency may release the dietary guidance.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

This Act shall take effect on October 1, 1986.

TRIBUTE TO LOWELL TOOLEY

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. DioGUARDI. Mr. Speaker, I wish to rise today to pay tribute to Mr. Lowell Tooley, an outstanding public servant whose dedicated service will be acknowledged on June 18, 1986, at a recognition dinner being held in his honor by the village of Scarsdale.

Mr. Tooley has dedicated the past 37 years of his life toward public service. Currently, Mr. Tooley is in his 26th year as the village manager of Scarsdale. Previously, he served 5 years as the assistant manager of Scarsdale and 7 years as municipal manager in Wisconsin. His entire career in municipal government has been dedicated to the advancement of professionalism in local government.

During his tenure as Scarsdale Village manager, he has seen the responsibilities of his position evolve significantly. Mr. Tooley's integrity and efficiency have made him a fundamental and distinguished leader in initiating the development of municipal manager into an integral position in local government. With the increasing complexities that challenge local municipalities of over 10,000 people, the manager system has developed to be the most common form of local government.

Mr. Tooley has substantially contributed in achieving professional excellence of government administration wherever he has served. He has accomplished this largely through his success in recruiting and mentoring high quality employees. He credits his staff for the positive achievements that have occurred in Scarsdale during his tenure. Mr. Tooley and his qualified staff and employees have been instrumental in maintaining a low tax rate while providing a high level of services. In addition, he has overseen escalating real estate growth and increased public facility development.

Mr. Tooley has found the opportunity to improve the performance of local government and develop young, efficient administrators to be a most rewarding part of his job. His administrative intern program serves as an exemplary opportunity for several young, talented individuals. Many graduates of this program have gone on to become successful administrators or managers in the Westchester vicinity.

His significant contributions to enhancing the quality of local government were recognized by the Lower Hudson Valley Chapter of the American Society for Public Administration in 1979. They selected him as "Man of the Year" for his efforts to "promote professionalism in the field of public affairs."

His efforts at strengthening the performance of local government are further advanced by his active involvement in numerous committees and organizations. The diverse objectives that these groups have pursued in the field of public administration reflect Mr. Tooley's broad-based efforts to improve the level of efficiency and effectiveness in government.

Mr. Tooley's outstanding performance has served to establish a precedence of excellence, an ideal role model, and an invaluable mentor for this vanguard position. Lowell Tooley represents all that government should be, and I salute him.

A CONGRESSIONAL SALUTE TO EDWARD LEE DAHLENBURG

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Edward Lee Dahlenburg, who will be honored for his many contributions to our community at a dinner to be held in his honor on June 21 aboard the *Queen Mary*. At that time, Lee Dahlenburg will be named the Southern California Ports Council "Man of the Year."

Lee Dahlenburg settled in San Pedro following a tour of duty with the U.S. Navy. While working for various tire and trucking companies in San Pedro, Lee married and became the proud father of twin daughters, Vicky and Kathy, and a son, Ed.

It was while working for the Lamb Transportation Co. that Lee began to shape the path of his career. There, Lee became involved with the union, representing the workers as a shop steward and later as a trustee for the Teamsters Local 88. His efforts on behalf of the members of Local 88 were recognized by then Secretary-Treasurer Richard Flynn, and Lee was subsequently hired as a business representative in 1963. In the following years, Lee Dahlenburg unselfishly served in the capacities of secretary-treasurer, vice president, and president of Local 88. Upon his retirement in February of this year, Lee merged Local 88 into its mother organization, Local 495.

Lee Dahlenburg has also contributed a great deal of his time and talents to various local, State, and national organizations. This past April marked Lee's 27th year as a member of the Elks Lodge No. 888. A life member of both the National Rifle Association and the California Rifle and Pistol Association, Lee also belongs to American Legion Post 51

in Lebanon, OR, and the Signal Hills Police Officers Association. Additionally, Lee has served as a commissioner of the Long Beach Airport and is a director of the Long Beach Boys' Clubs. He continues to serve the unions in his capacity as a trustee for the Joint Council 42 Welfare Trust and as a trustee for the Teamsters Training and Upgrading Trust, and he has served as secretary-treasurer of the Maritime Trades Department.

Mr. Speaker, it is with great pride that my wife, Lee, joins me in congratulating Lee Dahlenburg on this special occasion. Lee is truly deserving of this special recognition by the Southern California Ports Council, and we wish Lee, his wife, Betty, and their children, Vicky, Kathy, Ed, Michael, Larry, Brian, and Tish, continued success and all the best in the years ahead.

HELP FOR THE HANDICAPPED

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. COURTER. Mr. Speaker, the Daily Record, which serves northwest New Jersey, is beginning a special column devoted exclusively to the disabled, their needs, and the people who are concerned about them. The column is to be written by Winston Cone, an expert in issues of concern to the disabled. Mr. Cone worked with the Morris County Board of Freeholders to develop a volunteer task force on accessibility for the disabled. Last year he helped start and was elected president of a private, nonprofit organization called Morris County ACCESS, Inc. The group seeks to give persons with disabilities equal access to buildings and services.

Mainstream will try to answer particular questions about different types of disabilities and provide interviews with noted persons in the field. Not only will this column prove to be a resource for the disabled, but it will also provide an opportunity for nonhandicapped individuals to ask any questions they might have about different conditions. Hopefully, this will lead to a greater understanding and, eventually, a greater sensitivity to the barriers which confront the disabled every day. I highly recommend this column as a model for similar efforts on behalf of the disabled.

DISABLED PERSONS ENCOUNTER ACCESS, ATTITUDE PROBLEMS

(By Winston G. Cone)

You have just been told that your child is hearing impaired, maybe deaf, and as you ask yourself "Why me? What did we do to deserve this?", your husband turns to you with the question, "Now what to do we do?"

Or, you have just been turned away from a movie theater because there was no way to get your wheelchair into the building. As you apologize to your friends you wonder how long it will take before these friends, like so many others, stop inviting you out.

Or, you have just found out that although your wife survived being hit by a drunk driver she will probably never walk again, and as you try to figure what to do next, you realize the children are at home waiting. Or, you have just tried to convince your husband that you still love him even though his heart attack has left him wih only partial use of his left side and he feels that he is not a "man" anymore.

Or, the bad news may be about diabetes, multiple sclerosis, mental retardation, a birth defect, blindness, cerebral palsy, muscular dystrophy, spina bifida, a learning disability, spinal cord injury, Alzheimer's disease, or any one of an almost unlimited list of ways a person can be born with or become suddenly affected by a physical or mental impairment.

The person affected may be you, a member of your family, a friend, a coworker, an employee, or someone who lives in the next apartment or down the street, since handicaps can and do affect anybody.

It may take a lifetime, or it may take only moments, to become a person with a disability or a handicap. In the United States it has been estimated that 1,000 people become severly injured every hour, and of these, 350,000 remain permanently impaired. It has also been estimated that there are nearly 30 million persons, or 12 percent of the population, in the United States who have some form of disabling condition. This means that there are approximately 50,000 residents of Morris County who have a disability. These statistics also mean that nearly one out of every two adults is directly related to a person with a disability.

But if there are so many people with disabilities, why is it that you don't know more about them or have more contact with them? Because our society has often pushed them aside with architectural barriers and cultural attitudes that isolate them from the mainstream of society. This is why those persons with disabilities are often called "the hidden minority," even though handicaps affect all ages, races, religions, countries and both sexes.

This column is going to try to remove some of the mystery, some of the fear, some of the lack of knowledge which surrounds handicaps, disabilities and the people who have them. It will talk about the many kinds of disabilities, how each affects people differently and how able-bodied people (those persons who are not disabled) and disabled people can comfortably relate to those with a handicap or a handicap different than their own.

An attempt will be made to explore problems and issues facing today's society which are proving difficult to solve. One major issue is total accessibility and freedom of movement within our society. This is not a new problem; it first arose in the 1870s when a blind man sued his town for negligence when he suffered injuries after falling off a bridge with a missing railing. The town argued that he was negligent since he had not been accompanied by a sighted person. Even though this occurred over one hundred years ago, our society is still trying to decide if it is society's fault or the disabled individual's fault when accessibility and freedom of movement is denied. Should society change to accommodate the disabled person? Or should the disabled person change to fit into society? What is your opinion?

This column invites you to write, to comment, to send in questions on this subject or other topics you want to see discussed. Do you want to know more about the disability of someone with whom you work? Do you have a question about your own disability? What does being deaf really mean? Being blind? What does Alzheimer's disease mean and how old do you have to be to get it?

What about transportation needs? Where do you live after you are injured and you have to use a wheelchair but your apartment only has stairs?

These are the types of questions which this column will try to answer. If it can not, it will refer you to an agency that can. Interviews will be featured with persons and agencies that service the needs of those who have disabilities.

This column welcomes your comments, reactions and any information you have which you feel would be useful for others.

Address your letters to Winston G. Cone, c/o Daily Record, Features Department, 55 Park Place, Morristown, N.J. 07960.

Note: A state public hearing about services for persons with disabilities will be held June 10 2-5 p.m. and 6-8:30 p.m. at the Morris View Nursing Home, Building No. 3, West Hanover Avenue, Morris Plains.

PORTUGUESE NATIONAL DAY—DIA DE PORTUGAL, CAMOES E COMUNIDADES PORTUGUESAS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. COELHO. Mr. Speaker, yesterday, June 10th, the people of Portugal and of the Portuguese communities overseas celebrated their national day.

Portugal is perhaps unique among the countries of the world for taking as its national day the anniversary of a poet, Luis de Camoes, author of "The Lusiads," Portugal's national epic poem. This work relates the history of the nation from its founding—850 years ago—through the epoch of the discoveries when Portuguese navigators discovered two-thirds of the world known today. The Portuguese were fishing off the east coast of the United States in the 15th century. The first European to reach California was Portuguese.

In contrast to the United States, a country whose universality derives from the fact that it has welcomed immigrants from all races, nationalities and religions, and whose culture has been influenced by the diverse origins of its people, Portugal is a country whose people, language, and culture have spread to all parts of the world. The Portuguese left behind, scattered througout the world, the symbols of their presence which can still be seen in fortifications, churches, monuments, geographic names, vocabulary, art, religion, and customs in all five continents. Portuguese ranks fifth among the world's languages and is the offical language of seven countries in Europe, South America, and Africa, in addition to being spoken in several regions of Asia and the Pacific.

Portugal's universality is also revealed in the presence of Portuguese communities in various countries of the world. Here, in the United States, the major concentrations and found in New England, New Jersey, and California. Newer communities have been founded in Pennsylania and Florida. Traces of early Portuguese contact are particularly visible in Hawaii.

Immigrants from Portugal and Portuguese Americans are proud to be living and working in the United States, but they are also proud of the traditions brought from their homeland.

Several States and cities having large Portuguese communities designate June 10 as "Portuguese American Day" and plan major events to celebrate the Portuguese heritage.

As a Portuguese American, I am naturally extremely proud of my heritage, and proud of the contributions of so many of our fellow citizens of Portuguese ancestry to this great Nation.

A CALL TO CONSCIENCE FOR EDUCATION

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. MOAKLEY. Mr. Speaker, I am pleased to inform you that I support the vital role of higher education in American society and our society's future. Certainly there is no greater investment in our future than the higher education of our youth. It makes no sense to pour billions of dollars into the defense budget while the youth of our Nation are denied a quality education. If our country is to remain strong and productive in the future, we must have a well educated population.

Recently, I received a document, "Call to Conscience" from a number of college and university presidents in my district. I am pleased to share with my colleagues this document which was endorsed by 62 distinguished college and university presidents throughout the Nation. I urge you to give this important issue your full attention:

A CALL TO CONSCIENCE

Proposed reductions in federal support seriously threaten American higher education. Its future for decades to come will be affected by the decisions Congress makes in this budget and appropriations cycle. But the issue is greater than the future of higher education; the issue is the future of the nation.

America's best hope for economic prosperity is education. Growing competition in the international market place can only be met through more—not less—educational opportunity. Research and technological developments are needed to produce the jobs of the future, and quality education is needed to develop the talents of all our young people to meet the challenges of the future.

And yet, education is being held accountable for deficits which it did not create. From 1980 to 1986 the federal deficit doubled in constant dollars while education expenditures declined by 16 percent. Reductions in student aid including the elimination of social security education benefits, and the decline of veterans' educational benefits.

We are troubled by the notion that the national defense can be strengthened while education is weakened. We remind the nation that education is an essential component of the national defense: there would be no military force without educated manpower, no technical military superiority without engineers and scientists trained on the nation's campuses.

Proposed federal cutbacks would affect an estimated 3 million out of 5 million students presently receiving aid, forcing them to drop out or change their college plans. Such cuts strike particularly hard at minority enrollments, which already have been losing ground: while more blacks and hispanics are completing high school, fewer are attending college.

Such losses are unacceptable to a nation committed for the last thirty years to making higher education available to every young perons who has the ability and desire to pursue it. Such losses are unconscionable for a nation committed to racial equality and equal opportunity. Educational excellence is not possible without equal access: the federal role in guaranteeing that access is paramount, representing 75 percent of total national expenditures for student aid.

As college and university presidents and leaders of higher education, we represent millions of American students whose futures hang in the balance of federal budget and appropriations decisions. It is time we spoke out for them—clearly and forcefully.

It is time, too, that we remind the nation that education is fundamental to the quality of life in our democratic society, as well as to our economic security and our national defense. It is time to bring education back to the forefront of our national priorities.

We call for a reordering of federal responsibilities to recognize education as our best hope for the future.

This is nothing less than a call to conscience.

AGRICULTURAL SHIPPERS PROTECTION ACT

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. SLATTERY. Mr. Speaker with the cosponsorship of my distinguished colleagues from Kansas, Mr. GLICKMAN, Mr. WHITTAKER, Mr. ROBERTS, and Mrs. MEYERS, I am today introducing the Agricultural Shippers Protection Act. This legislation also has been introduced in the other body by Senator KASSEBAUM.

In 1980, Congress enacted landmark legislation that effectively deregulated the railroad industry. In most instances, railroads were freed from rate regulation. The level of scrutiny exercised by the Interstate Commerce Commission was reduced in virtually every phase of rail regulation.

When the Staggers Rail Act was considered by Congress, however, special consideration was given at that time to a regulatory problem that still persists today.

Section 208 of Staggers authorized railroads and shippers to enter into contracts for product and commodity shipments. This was a critical step in permitting railroads and shippers the flexibility to meet the transportation demands of today's business. Contracting, in terms of the number of contracts filed with the ICC, has to be considered a success. Tens of thousands of contracts have been entered into by shippers and railroads.

Congress did not, however, sanction all contracts in all situations. In response to the specific concerns of small agricultural shippers, including forest products and paper shippers, special protections were provided in the statute to ensure fair competition in contract rates. Railroads could not engage in unfair discrimination among shippers, nor could railroads and shippers engage in destructive competitive practices.

To carry out these special protections for small grain shippers, Congress mandated the disclosure of "essential terms" of rail contracts. This disclosure was intended to allow agricultural shippers the opportunity to discover contracts which could potentially affect them and to challenge those contracts before the ICC. By granting this unique measure of protection, Congress sought to provide a particular remedy for discrimination or unfair competition.

Despite this congressional mandate, however, because of the ICC's twisted definition of "essential terms" and its narrow interpretation of this small shipper protection, no shippers have had a realistic chance to make their case at the ICC. After 6 years, it is time to realize that small shippers are still at the mercy of larger competitors and yet have been denied by the ICC the chance to prove their case.

This bill would mandate the disclosure of certain terms which I believe Congress, in 1980, considered to be essential. The identity of the shipper party to the contract, the specific origins, transit points and other shipper facilities, the duration of the contract, and the actual volume requirements, if any would be disclosed in the nonconfidential contract summary published by the ICC. The ICC would have 60 days to issue regulations providing for the nonconfidential publication of this information. In addition the ICC would be directed to interpret liberally the disclosure provisions to provide for necessary discovery by shippers.

The bill would treat substantive amendments to any contract, which may remain effectively undiscoverable today, as separate contracts, subject to the same disclosure rules as the initial contract. This would ensure that a contract, once approved by the ICC, could not be changed substantially without some notice to competing shippers.

In order to give potentially affected shippers the opportunity to challenge a contract rate before it becomes effective, the bill would prohibit transportation at the contract rate until after ICC approval of the contract. This would eliminate cases where a shipment occurs before the contract rate can be challenged and before ICC approval of the contract.

Finally, the bill would require the ICC to conduct a study assessing the impact on grain shippers of variations between contract rates and published tariff rates. In September of last year, the Department of Agriculture and Kansas State University published a study entitled "Impacts of Rail Deregulation on Marketing of Kansas Wheat." I believe that the study was helpful in determining the need for implementing the intent of the Staggers Act disclosure provisions. A broader study by the ICC would improve our understanding of the problems faced by grain shippers.

Enactment of this legislation simply will provide the information necessary for free and fair competition. It will signal that Congress was serious in 1980 when it passed specific protections for small agricultural shippers. With this bill, we will finally grant the small shippers the day in court that Congress promised them 6 years ago. I urge my colleagues from the other 49 States to join with the

Kansas delegation in cosponsoring this important proposal.

RICK AND DEBBIE RICCIARDELLI

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. DioGUARDI. Mr. Speaker, enough cannot be said about Rick and Debbie Ricciardelli. For that reason, I rise today to honor this dynamic couple, who to me symbolize the American dream.

Although the "American dream" has become cliche, there is no better way to describe Rick and Debbie. After serving as a staff sergeant in the U.S. Marine Corps during World War II, Rick began his career in the life insurance business. In 1947, he moved from Pittsburgh to Miami. Sixteen years later, Rick, with the help of his secretary, Debbie, established the Specialty Insurance Underwriters, Inc. In the beginning, Debbie handled all the paperwork while Rick logged hundreds of thousands of miles driving around Florida trying to convince insurance agents to sell his policies. As the son of a ditch digger and plumber's helper who could not afford to send him to college, Rick has both literally and figuratively, driven himself to become a successful businessman.

Today, the Ricciardelli companies include Specialty Insurance Underwriters, Inc., Underwriters Financial of Florida, Inc., and Insurance Underwriters Unlimited, Inc. Each of these companies has flourished under Rick's guidance. Rick always enjoys new challenges. Accordingly, this summer, Rick and his partners Charles Dahdah and Ed Sirkin plan to break ground on a $6 million shopping center.

For 35 years, Rick has been dedicating as many as 14 hours per day to business. For many people, the other 10 hours of the day would have to be spent sleeping. Rick scoffs at the thought. Among other organizations, Rick gives generously of himself to the Boys Towns of Italy and the Greek Orthodox Church of North Miami in an effort to better the community.

Rick's business and community activities have not gone unnoticed. His companies, Underwriters Financial of Florida and Specialty Insurance Underwriters, were ranked 480th and 485th respectively, on the INC. magazine list of the fastest-growing private companies. In the past, Rick has received the Outstanding Citizens Award from the Italian-American Civic League of Dade County and was nominated by B'nai B'rith as the "Outstanding Man" in Dade County. In addition, he has earned the AMVETS' National Award of Merit and the AMVETS' State Certificate of Merit.

Not only are Rick and Debbie successful in business and prominent in community activities, but they are also excellent parents. They have provided each of their five children with undying love and affection. Mr. Speaker, Rick and Debbie are model citizens, but more importantly, they are model people and I am very fortunate to claim them as my friends. Please join me in applauding Rick and Debbie Ricciardelli.

A CONGRESSIONAL SALUTE TO THE COMMUNITY REHABILITATION INDUSTRIES OF LONG BEACH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the Community Rehabilitation Industries (CRI) of Long Beach, CA, which will be celebrating its 30th anniversary on June 24, 1986, at the International City Club.

Established in April 1956, CRI has faithfully served our community for three decades as a private, nonprofit, industrial training center for the physically and mentally handicapped, the emotionally disturbed, and the socially and economically deprived. From its small beginning as a neighborhood center, CRI has blossomed into an organization which serves the needs of the residents of the entire Los Angeles basin and the northwest Orange County area. Operating under the philosophy that "Employment is nature's best physician and is essential to human happiness and well-being," CRI has successfully trained and placed several thousand disabled persons over the years, many of whom would not be self-supporting without the services and skills offered at CRI. Today, CRI operates as a self-supporting agency acquiring revenues from subcontract work, fees for services, and public charitable donations.

In the 5 years since I last recognized this organization for its fine work and contributions to our community, CRI has expanded a great deal of its programs involving developmentally disabled persons. In fact, CRI operates a full-fledged employment program through the Federal Government and continues with its intense efforts in regard to job placement and enrolling unskilled disabled persons. Additionally, CRI has developed successful programs to retrain injured workers in order to return them to the work force. Providing our environment with a needed lift and disabled workers with employment, CRI is in the process of establishing a recycling center of cans, bottles, and paper products. Finally, CRI has established a half-marathon held in Long Beach each November. Last year, 124 wheelchair participants wheeled their way through the event.

Mr. Speaker, it is with great pride that my wife, Lee, joins me in saluting Community Rehabilitation Industries of Long Beach for its efforts to make handicapped individuals a valuable asset to our community through programs which enable them to pursue productive and fulfilling careers. We wish CRI's executive director, Ernest Faulkner, and the entire staff at CRI, continued success and all the best in the years ahead.

THE END OF AN ERA

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. CLAY. Mr. Speaker, I rise to pay tribute to a professional and community leader who will be honored on Sunday, June 15, 1986, in my hometown, St. Louis, MO, Mrs. Odessa Taylor Bush.

I would like to share with you the following article that appeared in the St. Louis American newspaper this past April:

END OF AN ERA AT PHARMACY

When Odessa Taylor Bush walks away from the Compton-Chouteau Pharmacy for the last time at the end of this week, her departure will mark the end of the oldest black pharmacy business in St. Louis. Established in 1922 by her father, Dr. Eugene T. Taylor, the original store was housed in the same building with his medical office at the intersection of the downtown streets for which it was named. In the early days, a succession of pharmacist-managers operated the business successfully with little more than minimal supervision by the busy physician. It was only when a $4,000 deficit was discovered in the ledger some forty years ago that Dr. Taylor asked his elder daughter to abandon her social work career to become a business woman.

A graduate of the Simmons College School of Social Work, Mrs. Bush had been employed soon after graduation in 1938 as a caseworker for the St. Louis Welfare association and briefly for the St. Louis Red Cross before she agreed to make the business a completely family-oriented operation. Making the change however, was not too difficult with the help of her husband, James C. Bush, a promising young lawyer, and her social work skills served her well in attracting the kind of clientele that kept the neighborhood establishment viable through the years.

In 1962, the Mill Creek renovation project (called "the Negro Removal" by residents of the area) resulted in the relocation of the business which maintained its original name in spite of its new corner at Union and Highland. Once again, Dr. Taylor, at the age of 79 still actively practicing medicine, occupied offices adjacent to the pharmacy, and as in the old area, neighborhood support was strong, and friendly ties were established. "People would come in for medicine and often to discuss family problems as well, and as we wind down the closing-out process, customers are coming in daily just to say goodbye," said Mrs. Bush, the end of an institution.

The social worker-turned proprietor has no regrets about the leave-taking, however. Her father, who died at age 92 in 1975, outlived her husband who suffered a fatal heart attack in 1968. Even before her father's death, the burglaries that have become more frequent in recent years had begun, and in the past five years, she has been robbed at gunpoint four times. "Our profits certainly wouldn't support hiring a guard, and I never owned a gun. I'm afraid of them. When a gun was pointed at me, even with shaking hands, I willingly obeyed the burglar's orders. Now I am looking forward to a more peaceful existence." M.A.S.

It is indeed a privilege and an honor for me to rise and pay tribute to Mrs. Bush on her

many accomplishments and I ask that my colleagues join me in commending her for the many contributions that she has made to generations of St. Louisians. We wish her well in her future retirement.

HONORING THE GREGORIAN FESTIVAL IN BELLEROSE, NY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. ACKERMAN. Mr. Speaker, I rise today to call the attention of the House of Representatives to the Seventh Annual Gregorian Festival, sponsored by the parish of St. Gregory the Great of Bellerose, Queens County, NY.

Mr. Speaker, the Gregorian Festival has been an outstanding success ever since it was first established 7 years ago. At its start, over 28,000 people from Queens County and the entire New York City area took part in the 10-day event. Now, the festival has been extended to 11 days of religious, cultural, and ethnic activities, this year beginning on June 12 and running through June 22.

The festival includes special nights that honor the Bellerose area's various ethnic groups, including Irish-, Italian-, and German-Americans. Each of these tributes to New York's cultural diversity features activities designed to expose the folklore and history of one group of Americans to the entire community. As we continue to celebrate the 100th anniversary of the Statue of Liberty this year, it is events such as the Gregorian Festival that remind us of the unique immigrant heritage of the American people.

Mr. Speaker, as it celebrates its jubilee, St. Gregory the Great deserves our recognition for its sponsorship of this monumental undertaking. Over 500 volunteers are needed to plan, staff, and clean up the festival. Funds raised are put to work educating the children of the parish school. I would particularly like to take this opportunity to congratulate the Reverend Monsignor Eugene A. Feldhaus, Ph.D, pastor and the festival moderator; and Carmine Persico and Vincent Montemarano, the cochairman of the festival. Their year-long commitment to a successful event is the kind of community involvement that makes a difference in our local neighborhoods.

Mr. Speaker, I call now on all my colleagues in the U.S. House of Representatives to join me in honoring the parish of St. Gregory the Great, and in wishing them a healthy and successful Gregorian Festival.

NATIONAL BRICK WEEK RECOGNIZES THE VITAL ROLE OF BRICK IN THE U.S. CONSTRUCTION INDUSTRY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. WOLF. Mr. Speaker, this week, June 8–14, 1986, is being observed in the United States as "National Brick Week." On behalf of the Brick Institute of America, the national authority on brick construction, which is located in Reston, VA, in the 10th Congressional District, which I represent, I would like to call to the attention of my colleagues the vital role that brick has played in building America, from our Nation's birth to the present.

The Brick Institute of America, on behalf of the U.S. brick manufacturing industry, established "National Brick Week" to focus public attention on the qualities of brick as a versatile construction material, as well as its significance in history.

Brick has been a part of American architecture and construction from the start of the Nation's history. Brick manufacturing was the first industry to take shape in the Colonies and most plantations of the 17th century had brickmaking facilities on the property. Brick masons were on the first three ships that arrived in Virginia in 1607 and sturdy structures built of red brick in the first colonies are still standing and being used today.

Bricks that Pilgrims loaded into the dank hold of the Mayflower for ballast were used for the foundation of buildings that stand today in Plymouth, MA. And in 1611, 9 years before the first Pilgrims arrived, Virginia settlers had already built the first brick plant in North America.

St. Luke's Church, the first church of English foundation to be erected in America, was constructed of brick in 1632 in Smithfield, VA. Later, Thomas Jefferson influenced the use of brick in America when designing Monticello with such embellishments as a brick serpentine wall. In 1815, the first section of the U.S. Capitol was built with brick that was manufactured to order right on the Capitol Grounds.

Brick's solid reputation in residential construction has also perpetuated throughout the years. According to a recent national survey, "Decisions for the 90's," conducted by the National Association of Home Builders, homebuyers continue to prefer homes made of brick. Other industry surveys indicate that brick is preferred for its permanence and durability, low maintenance, attractiveness, resistance to fire, and energy conservation properties.

Today, some 200 companies manufacture brick in plants located in 44 States and produce about 10 billion bricks of various colors, shapes, textures, and sizes. There are approximately 300,000 brick masons in the country, and altogether, more than 1 million Americans depend upon the manufacture, sale, or installation of brick for their employment.

Mr. Speaker, I urge my colleagues to join with me in recognizing during "National Brick Week" the brick manufacturing industry and its important economic role, providing both jobs and tax revenue in communities across our Nation.

NATIONAL HOMELESSNESS AWARENESS WEEK

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. LEVIN of Michigan. Mr. Speaker, I rise today in support of the Senate Joint Resolution 347, as amended by Representative GARCIA, designating the week of June 22, 1986, as "National Homelessness Awareness Week."

On May 25, millions of people joined hands across this country to bring attention and raise funds to fight homelessness and hunger in America. Homelessness is a national problem. Advocates estimate that there are between 1 and 2 million people who don't have a place to live. The Coalition for the Homeless estimates there are 60,000 homeless in New York, 50,000 homeless in Los Angeles, 5,000 homeless in Oklahoma City, and 27,000 homeless in Detroit. The U.S. Conference of Mayors Report on the Homeless reported that Detroit has just 800 beds in various shelters to service its homeless population. Detroit is not alone, many cities and towns all across this country do not have enough beds for there homeless citizens.

It is not just the numbers of people which makes the problem critical, it is the fact that in Detroit, like other cities, shelters are filled to capacity and are finding it harder and harder to operate in the face of domestic budget cuts. To date, the administration has only paid "lipservice" to the needs of the homeless. The time for talk is over and the time for the administration, Congress, and the private sector to act, is now.

Contrary to the administration's belief, the homeless are not homeless because they want to be, and the hungry are not hungry because they are ignorant. These people find themselves in these situations for a variety of reasons, some as a result of Federal policies and economic conditions. Since 1981, the number of people living in poverty increased by 4 million. The closing of factories and the loss of jobs in the rust belt have lead to a new type of homeless. Homeless people are no longer just deinstitutionalized mental patients; they are families, divorced women with children, and the elderly.

In some parts of this country, children make up the largest and fastest growing proportion of the homeless. Granted, we still do not know what the effects of homelessness will be on the children, but whatever are the effects, they will be less severe if we take steps now to address this issue.

The homeless will not go away. Even in this time of fiscal restraint, we cannot ignore this very real social problem. The first step in solving homelessness is public awareness. This resolution takes this first important step.

TRADE REFORM BILL

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. LOWRY of Washington. Mr. Speaker, our Nation faces a deadly serious economic challenge in world markets. Workers, businesses, and local communities throughout America pay the price when we fail to respond aggressively and with common sense. Unfortunately, this body recently passed a trade reform bill which was long on aggressiveness—even if sometimes misdirected—and short on common sense.

I voted against final passage of this bill. It was my judgment that, despite the good intentions of its authors, this legislation would do more harm than good. Although it has some constructive provisions, H.R. 4800 will only heighten trade tensions and increase the likelihood of potentially destructive retaliation and counterretaliation. It betrays a lack of confidence in our Nation's ability to compete; pits workers in uncompetitive industries against consumers and workers in industries that are vulnerable to retaliation; and, ultimately, threatens the very future of our economy.

My comments today, however, are intended to commend those Members who worked hard to make this measure more responsible. In particular, I would like to draw attention to my colleague from the State of Washington, DON BONKER, who contributed key provisions intended, not to artificially shield Americans from competition, but to open up new markets and enhance our ability to compete.

DON BONKER deserves credit for those provisions designed to promote exports, ease unreasonable export controls, and restore our ability to compete. These provisions, coupled with important trade adjustment initiatives and greater attention to labor rights violations by some of our trading partners, should be in the centerpiece of an alternative and constructive trade policy.

The bill taken as a whole was unacceptable and defeatist. I will, however, continue to support commonsense contributions to trade policy as we work with the administration to enhance our ability to compete, abide by our international obligations, and ease the adjustment to import competition.

A CONGRESSIONAL SALUTE TO THE LONG BEACH AREA CHAMBER OF COMMERCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the Long Beach Area Chamber of Commerce on the occasion of its 95th inaugural celebration on June 20, 1986. The chamber, with its mission statement—"to make Long Beach a better place to work, live, shop, play and do business," has been a positive force in improving the quality of life for people in Long Beach and throughout southern California.

The Long Beach Area Chamber of Commerce, with its membership of about 2,700 individuals and firms, has been central to the growth of Long Beach's business community. One of the most active chambers in the Nation, the Long Beach Area Chamber of Commerce is the fifth largest chamber of commerce in the State of California.

The chamber's scope of activities is virtually unlimited, depending on community needs and the necessary resources to carry them out. By targeting international trade-related business and high-technology companies, the chamber is aggressively pursuing firms that will make a commitment to both the economic development and the quality of life in Long Beach. With more than 20 task forces and committees working toward improving these two important aspects of a great city-economic development and quality of life, the success of the chamber has been quite impressive.

One need only go to downtown Long Beach and view the development, which will soon include both a Federal building and a world trade center, to see the tremendous positive impact that the Long Beach Area Chamber of Commerce has had in contributing to the improvement of Long Beach from both a business and community viewpoint. It has been my sincere pleasure to work with the leadership of the Long Beach Area Chamber of Commerce throughout my many years of public service toward a shared goal of making Long Beach a better place to work, live, shop, play and do business.

My wife, Lee, joins me in saluting the Long Beach Area Chamber of Commerce for their many years of fine work and in pledging to continue to work with the Long Beach Area Chamber of Commerce in order to benefit the people of Long Beach and the surrounding communities throughout southern California.

DAVID J. AMES—SCOUT MASTER

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. WEISS. Mr. Speaker, I am pleased to join my constituents of the Fort Tryon Community in honoring David J. Ames who has contributed significantly to the enrichment of the scouting movement in Manhattan.

David's wholehearted commitment to his family, community, and especially its children, has been steady and of long duration. His contributions have spanned three decades, including many positions of service and leadership to groups such as the Hendrik Hudson District, Manhattan Councils, Boy Scouts of America, the Ten Mile River Scout Camps, Woodbadge Training, the Order of the Arrow, and the six national jamborees and one international jamboree. He has been a devoted scoutmaster of Troop 780, Manhattan since 1977. Today's accolade is just one among many of the awards this Eagle Scout has earned. Such awards include the Silver Beaver, a District Award of Merit, the Vigil Honor in the Order of the Arrow, the Scouter's Key, and the Scouter's Training Award. Troop and Pack 780 have proclaimed June 13, "David Ames Day" to acknowledge the love and respect the community has for David.

I wish to congratulate David J. Ames and am happy to have this opportunity to report his good works to my colleagues. I commend David for his accomplishments and continued efforts in making his community a better place for us all.

RETIREMENT OF HELEN RENZI

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. CONTE. Mr. Speaker, I rise today to mark the retirement of Helen Renzi, long time educator in the Williamstown public schools. A quarter of a century ago, the First Congressional District of Massachusetts was fortunate enough to acquire Helen from our brothers in Pennsylvania when she first took a position as a reading teacher in the Williamstown Elementary School. From that point, she made her presence known not only by affecting the lives of 6,500 students during her tenure as instructor, principal, and superintendent, but also through an almost compulsive devotion to her community. In the early sixties, she was publicity chairman for the League of Women Voters in the area, vice president of the Women's Faculty Club at Williams College, and chairman of the Grant-Mitchell PTA Program. Later, she founded a children's museum in the area, and more recently, has served on the board of directors for the First Agricultural Bank, and on the Mount Greylock Regional Study Group and Search Committee.

I am particularly proud of Helen, as a constituent and an educator, because she is much more than just an interpreter of text, or a conductor of facts. She exemplifies education as it was first intended. That is, not by merely passing on information as it has been passed to her, but by experiencing things for herself. She has been able to teach most effectively by learning for herself, by seeing for herself, then allowing her students to see through her eyes.

Helen has always possessed a certain amount of intensity. Shortly after her graduation from Westchester State in 1945, she became a laboratory technician for Sharpe & Dohme Pharmaceuticals in Pennsylvania. Even after she settled into a promising career, she never became content with the comfort of status quo. Between graduate work at the University of Maine, Penn State, Williams College, and North Adams State, she has accumulated a total of 42 academic credits. At Williams in 1965, she teamed with George Cross to discover a new math theorem, and in 1971, received the "Francis V. Grant Award" along with Marsha Elder for their team teaching approach.

However, it is not just from the world of academia that Helen has come to draw her expertise, her knowledge, and her experience. She is happily married with four grown children, has toured Europe, and has enjoyed the occasions she has had to relax on Cape Cod and the waters off its coast. Over the years, adventures like her trip in a hot air balloon

have served not only to enrich her own life, but through her teaching methods, to enrich the lives of her students.

I salute Helen Renzi for a succesful career as an educator, a citizen, and as a truly remarkable human being. However, as much as I am glad to have been given this opportunity to speak on her behalf, the pleasure is diluted in the knowledge that Mrs. Renzi will leave a void in the public school system of Williamstown and the surrounding hilltowns that will not be easily filled.

TRIBUTE TO LT. COL. PHILLIP D. NEWSOM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. McEWEN. Mr. Speaker, in all the debate regarding America's defense requirements, little mention is made of one of the most important factors in America's defense, regardless, the morale of our fighting people. There is little more important to the people of our Nation than those human factors which determine whether our Armed Forces can meet the challenges presented them.

Over the last 22 years and 8 months, the U.S. Air Force has enjoyed the faithful and dedicated service of one of my constituents, Lt. Col. Phillip D. Newsom. Colonel Newsom received his commission in February 1964. Since that time, his responsibilities have been at major air commands, joint service assignment and the Pentagon. He spent time as a personnel staff and planning officer at Headquarters, Air Force, student at Air Force Institute of Technology, Wright-Patterson AFB, OH, chief of programs at Headquarters, Air Force Manpower and Personnel Center at Randolph AFB, TX, chief, labor branch, Air Force element at Yokota AB, Japan, and in August 1984 as director of personnel plans at Wright-Patterson AFB, OH.

Make no mistake, Mr. Speaker, Colonel Newsom has had most demanding assignments. His devotion to service has won him numerous awards including the Defense Meritorious Service Medal, Meritorious Service Medal with one Oak Leaf Cluster, and the Air Force Commendation Medal. I join Colonel Newsom's many friends and colleagues in saluting him for his dedicated support to our Nation's defense. His contributions exemplify the mission of the U.S. Air Force and will be missed. Thank you, Colonel Newsom, for serving your country so well.

ALL AMERICAN VFW DISTRICT COMMANDER AWARD

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mrs. BENTLEY. Mr. Speaker, it was recently brought to my attention that the National Veterans of Foreign Wars of the United States will honor the 14th Veterans of Foreign Wars District of Maryland. The 14th VFW District is located in the Second Congressional District of Maryland.

During the second week of August of this year, the 87th National Convention of Veterans of Foreign Wars of the United States will hold its annual meeting in Minneapolis, MN. At the national convention, VFW District Commander David Clark of the 14th VFW District, Maryland, will receive the "All-American District Commander Award." Because of his leadership of three VFW posts in his district he has been chosen to receive this prestigious award.

The Parkville Memorial VFW Post, 9083, Commander Nick Bassetti; Charles Evering Memorial VFW Post, 6506, Commander Elbert Ribdleberger; and Dundalk Memorial VFW Post, 6694, Commander Albert Walsh are the three VFW posts of the honored 14th VFW District. The members of this district have demonstrated acts of charity, community service and countless hours of volunteer service. As a result of the member's spirit, disabled and elderly veterans have received financial assistance and help in time of need. Countless hours of volunteer service in VA hospitals and donation of funds to make necessary medical operations possible were made by the members of the distinguished 14th VFW District.

It is a privilege to have within my congressional district VFW members such as these. For this reason, Mr. Speaker, I now commend the lives of all who are members of the 14th VFW district. Their contributions to our Nation in time of war have undoubtedly inspired them to works of mercy. As I stand in our Nation's Capital, I am ever mindful of the contributions made by the men and women of the Veterans of Foreign Wars.

I wish the VFW membership a successful 87th national convention and anticipate even greater meritorious acts of community service.

MANAGEMENT WEEK

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mrs. LLOYD. Mr. Speaker, following the national observance of Management Week in America, which is set aside for the first week in June, my hometown of Chattanooga has named and outstanding member of our community as its first manager of the year.

Management Week in America recognizes management as a profession and the crucial contribution and decisive dedication that millions of managers offer in support of the American enterprise system.

It is extremely fitting, therefore, that H. Carey Hanlin, president and chief executive officer of Provident Life Insurance Co., be selected as Chattanooga's first Manager of the Year.

My friend for many years, Carey Hanlin is not only a leader in provident management, he is also the epitome of a community leader. He has long been active in community affairs and graciously offers his experience and advice to all who seek it. His efforts on behalf of his community are endless and tireless.

From an early age, Carey Hanlin has set himself apart as a leader. During his youth, as a Boy Scout, he participated in a program which allowed him to serve as president of Provident for a day. Although only 10 or 12 years old at the time, he was destined for leadership even then.

Carey Hanlin did not forget that experience—in fact, he must have liked being president of the corporation very much, because he came back to claim it as his own. He was served as president of Provident Life since 1977 and CEO since 1979.

However, one presidency was not enough for him. He has also served as president of the local Rotary Club, the Allied Arts of greater Chattanooga, the Cherokee Council of Boy Scouts, and is also a member of the board of Directors for Third National Bank in Tennessee.

Currently, Carey Hanlin is busy at work as chairman of Rivercity Corp., the firm developing Chattanooga's riverfront into a riverport.

Provident Life Insurance Co. has 2,700 employees in Chattanooga alone. The company also has some 10,000 agents across the country.

Many of you, my colleagues, are familiar with Provident as the company is licensed to do business in all 50 United States and every Canadian Province. The business has assets of $6 billion. It is one of the top 10 insurance concerns writing health insurance and one of the top 50 writing life insurance.

I applaud the Chattanooga business and industry leaders for their choice of Carey Hanlin as Chattanooga's Manager of the Year. His selection will set an example of sound leadership, commitment to community and dedication of service for all following managers to come.

A TRIBUTE TO A MOST DISTINGUISHED EDUCATOR: MR. JOHN D. PARR

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. TRAXLER. Mr. Speaker, I rise to pay tribute to a most distinguished individual, John D. Parr, who has been a dedicated teacher, principal and public servant for the past 34 years. I am honored to recognize Mr. Parr as he prepares to retire from his position as vocational director of the Averill Career Opportunities Center in Saginaw, MI.

I would like to take this opportunity to share with my colleagues some information about John Parr and his service to the community of Saginaw. Mr. Parr was born and raised in Michigan, and received both a bachelor's and a master's degree from Michigan State University. He spent 5 years as a high school teacher, and went on to become a junior high school principal. In 1972 Mr. Parr became the principal and director of vocational education of the school district of Saginaw, and has been dedicated to this important position since then.

In addition to his teaching and administrating roles, Mr. Parr has had a variety of indus-

trial experience, working as a machinist, draftsman, and tool and die designer. He also served in the U.S. Army Air Force for 37 months.

Aside from his busy work schedule, John Parr has found time to participate as both a member and leader of numerous civic groups, including the PTA, Michigan Association of Area School Administrators, the Saginaw Board of Education, and the Michigan Industrial Education Society, of which he was president, to name just a few. In all of these activities, Mr. Parr has outdone himself in trying to better his community by providing valuable and important services.

John Parr is greatly respected by his colleagues and students alike, and I am certain he has left a special mark on each of those he has taught and guided and befriended throughout his career. His commitment to the vocational and educational systems, as well as to his community, will long be appreciated and remembered. I ask my colleagues to join with me today in honoring a very special individual, and to wish him continued success and happiness in his retirement.

UNDERSTANDING THE HANDICAPPED: LEARNING BY DOING

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. COURTER. Mr. Speaker, last month the Piscataway Civil Rights Advisory Commission sponsored a week-long project aimed at raising the consciousness of the public. I believe my colleagues should be aware of this unique approach to educating the nondisabled, known in Piscataway, NJ, as "Human Potential Week."

This project was based on the concept that nonhandicapped individuals will not understand what its like to be handicapped, unless they actually experience physical limitations. Consequently, during a special day known as Can-Do Day participants played volleyball in wheelchairs and signed their names with pencils in their mouths.

By participating in these activities, and placing themselves literally in another person's shoes or, in some cases, another persons wheelchair, handicap-free individuals came to realize not only what limitations there are for the disabled, but, more importantly, how much they are able to overcome. The week served to improve understanding and appreciation for the way in which so many handicapped individuals have fulfilled their potential despite physical or mental impediments.

In addition to the recreational activities, classes in sign language and a performance by the Woodbridge Developmental Center Performing Arts Group fostered new feelings and improved relationships with the disabled.

I commend the Piscataway Civil Rights Advisory Commission, the Middlesex County Office of the Handicapped and all other individuals and organizations who took part in this important enterprise. Education is our most important tool in understanding one another, and, through its awareness activities, "Human Potential Week" has helped significantly to erode interpersonal and physical barriers to the handicapped.

FLAG DAY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Ms. KAPTUR. Mr. Speaker, on June 14, Americans will join together for our annual celebration of Flag Day. It is the one day of the year when each American stops, if only for a moment, to reflect on the meaning of the American flag—freedom, security, and our way of life. We also take time to remember all of those Americans who have died in battle under the banner of the American flag.

One of the most inspiring sights in all of our land is the American flag proudly flying over the U.S. Capitol. Each time that I walk from my office to the floor of Congress and see that flag, I am reminded of how fortunate we are to live in the world's greatest democracy.

This year, I will have the pleasure of joining Elks Lodge 53 in my district for their 100th Flag Day ceremonies. For 100 years, Elks Lodge 53 has been providing valuable community services. The members of Lodge 53 have helped generations of Toledoans in need. Elks Lodge 53 epitomizes the best that fraternal organizations can be. I will be proud to celebrate this wonderful holiday with some of the finest Americans in our Nation's industrial and agricultural heartland.

A CALL TO CONSCIENCE

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. BOEHLERT. Mr. Speaker, I would like to call to the attention of every Member of the House of Representatives a statement sent to me by Lansing G. Baker, president of Utica College in Utica, NY. "A Call to Conscience," produced by college and university leaders at a meeting here in Washington, addresses the problems of reducing Federal support to higher education.

As the statement notes, education is the lifeblood of economic prosperity and, indeed, our Nation as a whole. I urge my colleagues to read and consider the following.

A CALL TO CONSCIENCE

Proposed reductions in federal support seriously threaten American higher education. Its future for decades to come will be affected by the decisions Congress makes in this budget and approriations cycle. But the issue is greater than the future of higher education; the issue is the future of the nation.

America's best hope for economic prosperity is education. Growing competition in the international market place can only be met through more—not less—educational opportunity. Research and technological developments are needed to produce the jobs of the future, and quality education is needed to develop the talents of all our young people to meet the challenges of the future.

And yet, education is being held accountable for deficits which it did not create. From 1980 to 1986 the federal deficit doubled in constant dollars while education expenditures declined by 16 percent. Reductions in student aid include the elimination of social security education benefits, and the decline of veterans' educational benefits.

We are troubled by the notion that the national defense can be strengthened while education is weakened. We remind the nation that education is an essential component of the national defense: there would be no military force without educated manpower, no technical military superiority without engineers and scientists trained on the nation's campuses.

Proposed federal cutbacks would affect an estimated 3 million out of 5 million students presently receiving aid, forcing them to drop out or change their college plans. Such cuts strike particularly hard at minority enrollments, which already have been losing ground: while more blacks and hispanics are completing high school, fewer are attending college.

Such losses are unacceptable to a nation committed for the last thirty years to making higher education available to every young person who has the ability and desire to pursue it. Such losses are unconscionable for a nation committed to racial equality and equal opportunity. Educational excellence is not possible without equal access: the federal role in guaranteeing that access is paramount, representing 75 percent of total national expenditures for student aid.

As college and university presidents and leaders of higher education, we represent millions of American students whose futures hang in the balance of federal budget and appropriations decisions. It is time we spoke out for them—clearly and forcefully.

It is time, too, that we remind the nation that education is fundamental to the quality of life in our democratic society, as well as to our economic security and our national defense. It is time to bring education back to the forefront of our national priorities.

We call for a reordering of federal responsibilities to recognize education as our best hope for the future.

This is nothing less than a call to conscience.

Robert Atwell, American Council on Education

Martin Abegg, Bradley University (IL)

Duane Acker, Kansas State University

Mirron Alexandroff, Columbia College (IL)

Philip Austin, Colorado State University

Dallas Beal, Connecticut State University

Mike Blouin, Kirkwood CC (IA)

Derek Bok, Harvard University (MA)

Stanford Cazier, Utah State University

Lattie Coor, University of Vermont

Robert Corrigan, University of Massachusetts, Boston

Rev. Charles Currie, Georgetown University (DC)

John DiBiaggio, Michigan State University

Dr. Theodore Drahmann, Christian Brothers College (TN)

Joseph Duffey, University of Massachusetts, Amherst

Lloyd Elliott, George Washington University (DC)

Br. Patrick Ellis, La Salle University (PA)

Sandra Featherman, Community College of Philadelphia

John Frazer, Council of Independent Kentucky Colleges & Universities
Ivan Frick, Elmhurst College (IL)
Philip Gannon, Lansing Community College (MI)
Gordon Haaland, University of New Hampshire
Evelyn Handler, Brandeis University (MA)
Robert Hardesty, Southwest Texas State University
George Harmon, Millsaps College (MS)
William Harris, Paine College (GA)
Rev. Timothy Healy, Georgetown University (DC)
Frederick Humphries, Florida A & M University
Herman James, Glassboro State College (NJ)
Philip Jordan, Kenyon College (OH)
Donald Langenberg, University of Illinois, Chicago
Laurel Loftsgard, North Dakota State University
James Lyons, Bowie State College (MD)
Mary-Linda Merriam, Wilson College (PA)
Rev. Donald Monan, Boston College (MA)
Joseph Murphy, City University of New York (System Office)
Patti Peterson, Wells College (NY)
James Ream, Pennsylvania Association of Colleges & Universities
Sr. Janice Ryan, Trinity College (VT)
Kenneth Ryder, Northwestern University (MA)
Steven Sample, State University of New York at Buffalo
Gilbert Sanchez, New Mexico Highlands University
Natale Sicuro, Southern Oregon State College
Frederick Starr, Oberlin College
Donald Stewart, Spelman College (GA)
Rev. William Sullivan, Seattle University (WA)
Donald Swain, University of Louisville (KY)
Michael Timpane, Teachers College of Columbia University (NY)
John Toll, University of Maryland
Rev. Robert Weiss, Rockhurst Collge (MO)
Donald W. Zacharias, Mississippi St. U.

DEFENSE VS. TAXES

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. COURTER. Mr. Speaker, a false argument has been injected into the budget debate this year: the argument goes, if the President wants a strong defense, he will have to raise taxes. If he wants economic growth, on the other hand, he'll have to accept a small defense budget. This argument, I am sorry to say, is not confined to one side of the aisle.

I would never want to say that America can be defended on the cheap and without sacrifice. But the trouble with today's version of the "guns or butter" approach is that we won't be able to afford the best defense unless we keep the economy expanding. Holding tax rates as low as possible and reforming the Income Tax Code will have many substantive benefits, but one of the greatest is that it will generate the broad economic base to fund the defense modernization program which President Reagan was reelected to complete.

Following is an editorial from New Jersey Success magazine which I commend to my colleagues.

The article follows:

[From the New Jersey Success, April 1986]

DEFENSE VS. TAXES

President Reagan has told the country and, indeed, the world, that cuts in his proposed defense spending will seriously jeopardize the security of the United States.

It's likely to jeopardize the economy of the country, too. It's impossible to remove billions of dollars from the economy without it showing on the bottom line somewhere.

More and more we hear of Republicans who are abandoning the President in favor of increasing taxes. Will we never learn? Every increase in taxes, if it hasn't produced a recession, has certainly helped one along. Remove billions of dollars from the national economy in defense spending reductions and raise taxes at the same time and business will suffer. It's difficult to imagine either the President or Congress doing such a thing with an election coming in 1986.

Most likely they'll cut defense but less than the amount threatened. They'll pass some kind of tax increase, but they'll call it something else.

THE PENNSYLVANIA ROUTE 33 CONNECTION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. RITTER. Mr. Speaker, today I introduced H.R. 5006, to carry out a highway demonstration project to extend Pennsylvania State Route 33 which will provide a limited access highway to connect Interstate Routes I-78 and I-80. As far as I am aware, no demonstration project has ever been funded to show the economic, environmental, and transportation benefits that would flow from a connecting link between two major interstate highways.

Linking these two interstate highways—I-78 and I-80—would foster economic development and job creation because it would give high-speed, limited access motor vehicle transportation to an area that is ideal for new activity, if only it had greater access. The "Connection Coalition" of Pennsylvania and New Jersey officials have convinced me this project would confirm that we can get such projects done through a partnership among Federal, State, and local governments.

Earlier this year, the Department of Transportation sent to Congress a multiyear surface transportation reauthorization proposal which would extend highway user fees, the highway trust fund, and the highway construction program for 4 years. I know my colleagues are anxious to enact a reauthorization bill by October 1, 1986.

Mr. Speaker, the link-up of I-78 and I-80 would foster significant economic development and job creation by providing high-speed, limited access motor vehicle transportation to an area with unemployment rates substantially above national and regional levels; it would appreciably decrease the use of local roads by through traffic, particularly by heavy-duty trucks and vans and thereby promote highway safety; it would reduce intraregional and interregional travel time, promote energy conservation, reduce transportation costs, improve air quality; and most importantly it would increase the efficiency and optimize the value of two major east-west interstate routes passing through our Lehigh Valley region.

Mr. Speaker, the Joint Planning Commission of Lehigh-Northhampton Counties recommended construction of the Route 33 connection as early as 1964. The Lehigh Valley Transportation Study's first transportation plan also recognized the need for the connection and identified the road as a "high priority" four-lane expressway in 1972. In 1984, PennDOT hired the firm of McCormick, Taylor & Associates to update the studies and present a final report, due this fall. Preliminary data confirms the prospects for a high cost/benefit ratio and should be available to the Public Works Committee when the Committee evaluates the various criteria concerning the many demonstration projects now under consideration.

As evidence of the continuing interest of the local governments, I include at this point recent correspondence and resolutions from Warren County, NJ, and Lehigh County, PA, as well as a copy of my bill.

The material follows:

COUNTY PLANNING OFFICE,
FOR WARREN COUNTY,
Belvidere, NJ, May 2, 1986.

Congressman DON L. RITTER,
Cannon Building,
Washington, DC

DEAR CONGRESSMAN RITTER: The enclosed resolution was passed by the Warren County Planning Board at its April 28, 1986 meeting requesting the Pennsylvania Department of Transportation transfer the Route 33 project south of U.S. Route 22 to Interstate Route 78 from its Long Range Plan to its Short Range Plan and expedite the project.

Your cooperation in this matter will be greatly appreciated.

Very truly yours,
BERNARD T. ROONEY,
Senior Planner/Transportation.

Enclosed.

RESOLUTION

On motion by Mrs. Schmidt, seconded by Mr. Kisselbach, the following resolution was adopted by the Warren County Planning Board at a meeting held on April 28, 1986.

A Resolution Requesting the Pennsylvania Department of Transportation Transfer the Route 33 Project South of U.S. Route 22 to Interstate Route 78 From its Long Range Plan to its Short Range Plan and Expedite the Project

Whereas, US Route 22 in Lehigh and Northampton Counties, in Pennsylvania and in Warren County, New Jersey is a major east/west traffic corridor running through the highly industrialized Lehigh Valley, serving both Interstate and local traffic; and

Whereas, a substantial proportion of the traffic volume consists of Interstate and local trucking; and

Whereas, the section of US Route 22 serves as one of two missing links to Inter-

state Highway 78 in Pennsylvania and New Jersey linking Interstate Highway 81 and Harrisburg to the New Jersey Turnpike, Newark and the New York/New Jersey Metropolitan area; and

Whereas, the second missing link in Union County will be completed in 1986; and

Whereas, the I-78/US 22 corridor is a major growth corridor in both New Jersey and Pennsylvania; and

Whereas, as a major growth corridor, traffic volumes will increase drastically, having a negative impact on US Route 22 through Warren County and the Lehigh Valley, especially Memorial Parkway in Phillipsburg and Cemetery Curve in Easton; and

Whereas, as part of the Pennsylvania highways systems, Penn DOT has designed a north/south highway link, PA Route 33, linking I-78 and the Lehigh Valley with I-80 and the Poconos, and I-81 and Scranton via I-380; and

Whereas, PA Route 33 has been completed between I-80 and Route 22; and

Whereas, the final design and completion of Route 33, south of Route 22, was based on the final approval and design of I-78 through the Lehigh Valley; and

Whereas, as a result of the final approval and design of I-78, in which the Route 33 interchange was eliminated, Penn DOT dropped the Route 33 project south of Route 22; and

Whereas, upon request of Lehigh Valley officials, Penn DOT has reinstated the Route 22 project under its long range plan; and

Whereas, Route 33 is now a major highway corridor for north/south traffic to and from the Lehigh Valley and central/western New Jersey and to and from the Poconos, I-80, and I-81 and Scranton via I-81E for traffic originating in and designated for the Legigh Valley and central/western New Jersey; and

Whereas, the final link of I-78 through the Lehigh Valley and Warren County is now under construction; and

Whereas the project is scheduled for completion by 1990; and

Whereas, one of the major purposes of the I-78 project is to remove the bulk of the interstate traffic from the Route 22 corridor and elevate some of the congestion along the corridor especially in Easton and Phillipsburg, along Cemetery Curve and Memorial Parkway; and

Whereas, without the extension and interchange of Route 33 with I-78, all traffic designated to and originating from central/western New Jersey via Route 33, will have to continue to use the Route 22 corridor, congesting the corridor and continuing to endanger the lives of those using the corridor;

Now, therefore, *be it resolved,* the Warren County Planning Board request the Pennsylvania Department of Transportation transfer the Route 33 project south of US Route 22 to I-78 from its Long Range Plan and place it on its Short Range Plan and give it top priority status in order to expedite the project so it can be completed in conjunction with or as close as possible with the completion of the I-78 project through the Lehigh Valley;

Be it further resolved, the Warren County Planning Board urges the New Jersey Department of Transportation, the United States Department of Transportation, the Federal Highway Administration and the Urban Mass Transit Administration, request the Pennsylvania Department of Transportation expedite this project and Federal Authorities cooperate in expediting the project design approvals and providing financial assistance;

Be it further resolved That copies of this resolution be sent to Governor Thomas T. Kean, New Jersey, Governor Richard Thornburg, Pennsylvania, NJDOT Commissioner, Roger A. Bodman, PENN DOT Secretary, Thomas Larson, US DOT Secretary Elizabeth Dole, Federal Highway Administration, Warren County Board of Chosen Freeholders, County Commissioners of Lehigh and Northampton Counties, Joint Planning Commission, Lehigh-Northampton Counties, Lehigh Valley Transportation Study, Metropolitan Planning Organization, Mayors of Easton and Phillipsburg, Easton Planning Commission, Phillipsburg Planning Board, U.S. and State Legislators representing Lehigh, Northampton and Warren Counties, and the Chamber of Commerce of Easton and Phillipsburg.

I hereby certify the above to be a true copy of a resolution adopted by the Warren County Planning Board on the date above mentioned.

_____,
Planning Director.

COUNTY OF LEHIGH,
OFFICE OF THE COMMISSIONERS,
Allentown, PA, June 2, 1986.

Hon. DON L. RITTER,
Cannon House Office Building,
Washington, DC.

DEAR MR. RITTER: Enclosed please find a copy of Resolution 1986, No. 11 recently passed by unanimous vote of the Lehigh County Board of Commissioners. This legislative action was taken to demonstrate the support of the Board for the expeditious connection of Pennsylvania Route 33 between U.S. Rte 22 and Interstate 78.

Long identified as a "high priority" project in regional land use studies, the linkage of Route 33 with Interstate 78 has now assumed critical timeliness with the imminent completion of the final link of the new I-78 corridor. It is of particular importance presently because of its potential for maximizing the benefit of the new I-78 corridor by reducing traffic and heavy truck travel on U.S. Route 22. While this project is included in the Pennsylvania Department of Transportation long-range planning document, it is not scheduled early enough to arrest the ever-worsening conditions on U.S. Route 22.

The intent of our message to you to make you aware of the urgency of this project and to ask your assistance in whatever way your office allows in moving it forward for the betterment of Pennsylvanians as well as the millions of citizens from other states who use our highway network and particularly, U.S. Route 22, annually.

Thank you for your attention to this matter.

Sincerely yours,

MARY T. HANEY,
Clerk to the Board.

Enclosure.

COUNTY OF LEHIGH, PENNSYLVANIA RESOLUTION 1986—No. 11, SPONSORED BY COMMISSIONER MOHR, REQUESTED MAY 15, 1986

A RESOLUTION SUPPORTING THE CONNECTION OF PA. RTE 33 BETWEEN U.S. RTE 22 AND I-78

Whereas, Rte. 33 is now a major highway corridor for north/south traffic to and from the Lehigh Valley, central/western New Jersey, and the Poconos I-80 and I-81; and

Whereas, the final link of I-78 through the Lehigh Valley and Warren County is now under construction; and

Whereas, the project is scheduled for completion by 1990; and

Whereas, regional land use development policies recognize the need for the Rte. 33 extension between U.S. Rte. 22 and I-78; and

Whereas, without the extension and interchange of Rte. 33 with I-78, traffic to and from New Jersey via Rte. 33 will be forced to use the presently congested Rte. 22, continuing to endanger the lives of those using the corridor; and

Whereas, the extension would maximize the benefit of the new I-78 corridor by reducing traffic and heavy truck travel on U.S. Rte. 22.

Now, therefore, it is hereby resolved by the Lehigh County Board of Commissioners That:

1. The Lehigh Conty Board of Commissioners does hereby request the Pennsylvania Department of Transportation to transfer the Rte. 33 extension project from its long-range plan to its short range plan, and give it top priority status so that it can be synchronized with the completion of the I-78 project through the Lehigh Valley.

2. The Board urges the Pennsylvania Department of Transportation, the Federal Highway Administration and the Urban Mass Transit Administration to cooperate in expediting the project-designed approvals and providing financial assistance for the project.

3. The Clerk to the Board will forward copies of this resolution to: Governor Thomas T. Kean of New Jersey; Governor Richard Thornburgh of Pennsylvania; New Jersey Department of Transportation Commissioner Roger A. Bodman; Pennsylvania Department of Transportation Secretary Thomas D. Larson; U.S. Department of Transportation Secretary Elizabeth Dole; the Federal Highway Administration; the Warren County Board of Chosen Freeholders; the Northampton County Council; the Joint Planning Commission of Lehigh and Northampton Counties; the Lehigh Valley Transportation Study Group and all federal and state legislators from Lehigh County.

4, Any resolution or part of a resolution conflicting with the provisions of this resolution is hereby repealed insofar as the same affects this resolution.

5. The County Executive shall distribute copies of this resolution to the proper officers and other personnel of Lehigh County whose further action is required to achieve the purpose of this resolution.

Adopted by the Board of Commissioners of Lehigh County on the 28th day of May, 1986, by the following vote:

AYE

Jane S. Baker (absent), John W. Brosious, Donald H. Davies, Judith R. Diehl, Leon W. Eisenhard, John F. McHugh, Kenneth H. Mohr, Jr., Sterling H. Raber, Donald E. Wieand, Jr.

Attest:

MARY P. HANEY,
Clerk to the Board of Commissioners.

CERTIFICATION

I, Mary Haney, Clerk to the Board of Commissioners do hereby certify that the attached is a true and correct copy of the resolution duly presented and adopted at a regular meeting of the County Commissioners of Lehigh County held on May 28th, 1986.

MARY HANEY,
Clerk to the Board of Commissioners.

H.R. 5006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PENNSYLVANIA DEMONSTRATION PROJECT.

(a) PROJECT DESCRIPTION.—The Secretary of Transportation shall carry out a highway project in the vicinity of Bethlehem, Pennsylvania, of approximately 3 miles to extend Pennsylvania Route 33 on the Federal-aid primary system from its terminus at United States Route 22 to Interstate Route I-78 for the purpose of providing a four-lane limited access highway connecting Interstate Routes I-78 and I-80 and demonstrating methods by which connection of 2 interstate routes will—

(1) foster significant economic development and job creation by providing high speed, limited access motor vehicle transportation to an area in transition with unemployment rates substantially above national and regional levels;

(2) appreciably decrease the use of local roads by through traffic particularly by heavy trucks and thereby promote highway safety;

(3) reduce intraregional and interregional traveltime, promote energy conservation, reduce transportation costs, and improve air quality; and

(4) increase the efficiency and optimize the value of such interstate routes.

(b) REPORT.—Not later than January 31, 1992, the Secretary of Transportation shall submit to Congress a report on the results of the project authorized by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out subsection (a) $500,000 for fiscal year 1987, $1,000,000 for fiscal year 1988, $2,000,000 for fiscal year 1989, $20,500,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991.

(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be 100 percent and such funds shall remain available until expended and shall not be subject to any obligation limitation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 12, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 13

9:30 a.m.
Armed Services
To hold hearings on the nominations of Admiral Carlisle A.H. Trost, USN, to be Chief of Naval Operations, General Larry D. Welch, USAF, to be Chief of Staff of the U.S. Air Force, and other pending military nominations.
SR-222

JUNE 16

10:00 a.m.
Labor and Human Resources
To hold hearings on the nomination of George R. Salem, of Virginia, to be Solicitor, Department of Labor.
SD-430

1:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings on the second waste repository site selection under the Department of Energy's Office of Civilian Radioactive Waste Management.
SD-366

1:30 p.m.
Judiciary
Criminal Law Subcommittee
Business meeting, to mark up S. 1203, to grant railroad police and private college or university police departments access to Federal criminal identification records, and S. 2312, to expand the coverage of the Armed Career Criminal Act of 1984 by broadening the class of predicated crimes that make an armed person a career criminal.
SD-226

JUNE 17

9:00 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on S. 1235 and S. 2291, bills to promote more effective and efficient nuclear licensing and regulation.
SD-406

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on the final report of the Presidential Commission on the Space Shuttle Challenger Accident.
SR-253

Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2055, to establish the Columbia Gorge National Scenic Area.
SD-366

Finance
International Trade Subcommittee
To resume hearings on S. 1860, proposed Trade Enhancement Act, and a related measure S. 1867, to require the President to submit legislation withdrawing trade benefits provided under the Generalized System of Preferences (GSP) from certain developing countries, including Taiwan, Hong Kong, and Korea.
SD-215

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on S. 525, to provide the Secretary of Health and Human Services the authority to conduct epidemiological studies of the health effects of radiation in places of employment.
SD-342

Judiciary
Constitution Subcommittee
Business meeting, to consider S. 1580, S. 1794, and S. 1795, bills to revise Federally mandated attorneys fees applicable to civil, criminal, and administrative proceedings involving the United States and civil proceedings involving State and local governments, S. 1581, to revise provisions concerning the appointment of counsel in Federal criminal proceedings, S. 1853, to establish a program to facilitate the use of certified interpreters in judicial proceedings instituted by the United States, S. 436, relating to civil actions for the deprivation of rights, and S. 1421, to allow the Susquehanna River Basin Commission to determine the rate of interest on bonds issued by the Commission.
SD-226

Select on Indian Affairs
To resume hearings on S. 902 and H.R. 1920, bills to establish Federal standards for gaming activities on Indian lands.
SD-106

11: a.m.
Judiciary
To hold hearings to review the establishment of civil penalties for false claims and statements made to the United States or to recipients of property, services, or money from the United States or to parties to contracts with the United States.
SD-226

JUNE 18

9:00 a.m.
Commerce, Science, and Transportation
*Aviation Subcommittee
To hold hearings on general aviation product liability.
SR-253

Environment and Public Works
Nuclear Regulation Subcommittee
To continue hearings on S. 1235 and S. 2291, bills to promote more effective and efficient nuclear licensing and regulation, and to begin hearings on section 2 of S. 2471, to establish an Office of Inspector General in the Nuclear Regulatory Commission.
SD-406

9:30 a.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on pending nominations.
SR-332
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To hold joint hearings with the House Committee on Post Office and Civil Service on a Postal Rate Commission report on the use and abuse of the preferred mail rate.
SD-342
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

1:00 p.m.
Judiciary
Security and Terrorism Subcommittee
To resume hearings in closed session on legal mechanisms to combat terrorism.
S-407, Capitol

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 19

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings to review the impact of the explosion of the Soviet nuclear powerplant at Chernobyl on the domestic nuclear industry.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Defense.
SD-192
Finance
Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and prosecution of certain tax cases.
SD-215
Small Business
To hold oversight hearings on the implementation of the Prompt Payment Act (P.L. 97-177).
SR-428A

11:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
Business meeting, to mark up S. 2083, to promulgate regulations for asbestos hazard abatement in the Nation's schools, and S. 2300, to set standards for identification and abatement of hazardous asbestos in Federal and other buildings.
SD-406

4:00 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

JUNE 20

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2266, to establish a ski area permit system on national forest lands established from the public domain, S. 2287, to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the Wild and Scenic Rivers System, S. 2320, to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, S. 2351, to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, S. 2466, to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System, S. 1019 and H.R. 2182, bills to include certain additional lands within the Apostle Islands National Lakeshore in Wisconsin, and S. 2483, to reaffirm that regulation of private property within the Fire Island National Seashore in New York remain a joint activity between the Federal Government and the local government.
SD-366

10:00 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To continue oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and prosecution of certain tax cases.
SD-215

JUNE 23

10:00 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To resume oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and prosecution of certain tax cases.
SD-215

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review budget requests for the Department of Energy's Office of Energy Research and the Office of Environment, Health and Safety.
SD-366

JUNE 24

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1903, and a related measure to improve the safe operations of commercial motor vehicles.
SR-253

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.
SD-366
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 489 and H.R. 3174, bills to allow members of the Armed Forces to bring claims for damages against the United States for personal injury or death arising out of medical, psychological, or dental care furnished by a Department of Defense hospital.
SD-226

JUNE 25

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253
Rules and Administration
Business meeting, to mark up S. 1787, to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns, and related proposals, an original bill authorizing funds for fiscal year 1987 for the Federal Election Commission, House Concurrent Resolution 288, to authorize the printing of additional copies of a certain committee print, House Concurrent Resolution 301, to authorize the printing of additional copies of a certain Presidential Message, to resume mark up of S. 2255, to prohibit the expenditure of Federal funding for congressional newsletters, and other pending legislative and administrative business.
SR-301
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Labor and Human Resources
To hold hearings on the administration of the Mine Safety and Health Review Commission.
SD-430
Select on Indian Affairs
To hold hearings on H.R. 1344, to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas.
SR-385

JUNE 26

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.
SR-253
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on certain provisions of S. 2403, to improve access to health insurance coverage for Americans.
SD-342

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

4:00 p.m.
Select on Intelligence
Closed business meeting, to consider pending calendar business; to be followed by a closed hearing on intelligence matters.
SH-219

JULY 15

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 1310, Clean Campaign Act of 1985.
SR-253

JULY 16

10:00 a.m.
Labor and Human Resources
To hold oversight hearings on barriers to children's health care.
SD-430

JULY 17

9:20 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2417, to provide for the establishment of an independent commission to study and make recommendations regarding the management of aviation safety.
SD-562

9:30 a.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2412, to withdraw and reserve certain public lands.
SD-366

JULY 18

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2407, the Animal Drug Amendments and Patent Term Restoration Act of 1986.
SD-430

JULY 22

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on barriers to agricultural trade.
SR-332

Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

JULY 23

9:30 a.m.
Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.
SR-301

JULY 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

10:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review the response for home health care services.
SD-430

JULY 30

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

AUGUST 13

10:00 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

JUNE 12

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Hazardous Materials Transportation Act.
SR-253

JUNE 17

10:00 a.m.
Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.
SD-430

HOUSE OF REPRESENTATIVES—*June 12, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We place before You, O God, our innermost thoughts and feelings and all our hopes. We admit that we do not always face our fears or even are we honest with ourselves. Remind us that we can place our petitions and prayers before You, gracious God, and that we can admit our weaknesses. May Your spirit comfort, bless, forgive, and strengthen us and those we love this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BARTLETT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 118, answered "present" 2, not voting 45, as follows:

[Roll No. 160]

YEAS—268

Ackerman	Bonker	Coyne
Akaka	Borski	Crockett
Alexander	Bosco	Daniel
Anderson	Boucher	Darden
Andrews	Boxer	Daschle
Annunzio	Brooks	de la Garza
Anthony	Broomfield	Dellums
Applegate	Brown (CA)	Derrick
Archer	Bruce	Dingell
Atkins	Bryant	Donnelly
Barnard	Burton (CA)	Dorgan (ND)
Barnes	Bustamante	Dowdy
Bartlett	Byron	Downey
Bateman	Callahan	Duncan
Bates	Carper	Durbin
Bedell	Chapman	Dwyer
Bennett	Chappell	Dymally
Berman	Coelho	Early
Bevill	Coleman (TX)	Eckart (OH)
Biaggi	Collins	Eckert (NY)
Boggs	Combest	Edgar
Boland	Conyers	Edwards (CA)
Boner (TN)	Cooper	English
Erdreich	Levine (CA)	Rose
Evans (IL)	Livingston	Rostenkowski
Fascell	Long	Rowland (GA)
Fazio	Lott	Roybal
Feighan	Lujan	Rudd
Fish	Luken	Russo
Flippo	Lundine	Sabo
Florio	MacKay	Savage
Foley	Manton	Scheuer
Ford (MI)	Markey	Schneider
Frank	Martin (NY)	Schulze
Franklin	Martinez	Schumer
Frost	Matsui	Seiberling
Fuqua	Mazzoli	Sharp
Garcia	McCain	Shumway
Gaydos	McCloskey	Sisisky
Gejdenson	McCollum	Skelton
Gibbons	McCurdy	Slattery
Gilman	McEwen	Smith (FL)
Glickman	McHugh	Smith (IA)
Gonzalez	McKinney	Smith (NE)
Goodling	McMillan	Smith (NJ)
Gordon	Mica	Snyder
Gradison	Mikulski	Solarz
Gray (PA)	Miller (CA)	Spence
Green	Miller (WA)	St Germain
Hall (OH)	Mineta	Staggers
Hall, Ralph	Moakley	Stallings
Hamilton	Mollohan	Stark
Hammerschmidt	Montgomery	Stenholm
Hansen	Moody	Stokes
Hatcher	Morrison (CT)	Stratton
Hayes	Morrison (WA)	Studds
Hefner	Mrazek	Sweeney
Heftel	Murphy	Swift
Hertel	Murtha	Synar
Hillis	Myers	Tallon
Holt	Natcher	Tauzin
Hopkins	Neal	Taylor
Horton	Nelson	Thomas (GA)
Howard	Nowak	Torricelli
Hubbard	Oakar	Traficant
Huckaby	Oberstar	Udall
Hughes	Obey	Valentine
Hutto	Olin	Vento
Jeffords	Ortiz	Visclosky
Jenkins	Owens	Volkmer
Johnson	Packard	Walgren
Jones (OK)	Panetta	Watkins
Jones (TN)	Pease	Waxman
Kanjorski	Pepper	Weaver
Kaptur	Perkins	Weiss
Kasich	Pickle	Wheat
Kastenmeier	Porter	Whitley
Kemp	Price	Whitten
Kennelly	Pursell	Williams
Kildee	Quillen	Wirth
Kleczka	Rahall	Wise
Kolter	Rangel	Wolpe
Kostmayer	Ray	Wortley
LaFalce	Regula	Wyden
Lantos	Reid	Wylie
Leath (TX)	Richardson	Yates
Lehman (CA)	Rinaldo	Yatron
Lehman (FL)	Ritter	Young (MO)
Leland	Robinson	
Levin (MI)	Roe	

NAYS—118

Armey	Coats	Dyson
Badham	Cobey	Edwards (OK)
Barton	Coble	Emerson
Bentley	Coleman (MO)	Evans (IA)
Bereuter	Conte	Fawell
Bilirakis	Coughlin	Fiedler
Bliley	Courter	Fields
Boehlert	Craig	Frenzel
Boulter	Crane	Gallo
Brown (CO)	Dannemeyer	Gekas
Burton (IN)	Daub	Gingrich
Carney	DeLay	Gregg
Chappie	DeWine	Gunderson
Cheney	Dickinson	Hawkins
Clay	DioGuardi	Hendon
Clinger	Dreier	Henry
Hiler	Meyers	Slaughter
Hunter	Miller (OH)	Smith, Denny (OR)
Hyde	Molinari	Smith, Robert (NH)
Ireland	Monson	Smith, Robert (OR)
Jacobs	Moorhead	Snowe
Kindness	Nielson	Solomon
Kolbe	Oxley	Stangeland
Kramer	Parris	Strang
Lagomarsino	Pashayan	Stump
Latta	Penny	Swindall
Leach (IA)	Ridge	Tauke
Lent	Roberts	Vander Jagt
Lewis (CA)	Roemer	Vucanovich
Lewis (FL)	Rogers	Walker
Lightfoot	Roth	Weber
Lloyd	Roukema	Whittaker
Loeffler	Rowland (CT)	Wolf
Lowry (WA)	Saxton	Young (AK)
Lungren	Schaefer	Young (FL)
Mack	Schuette	Zschau
Madigan	Sensenbrenner	
Martin (IL)	Shuster	
McCandless	Sikorski	
McGrath	Siljander	
McKernan	Skeen	

ANSWERED "PRESENT"—2

Carr	Lipinski

NOT VOTING—45

Aspin	Gephardt	O'Brien
AuCoin	Gray (IL)	Petri
Beilenson	Grotberg	Rodino
Bonior (MI)	Guarini	Schroeder
Breaux	Hartnett	Shaw
Broyhill	Hoyer	Shelby
Campbell	Jones (NC)	Spratt
Chandler	Lowery (CA)	Sundquist
Davis	Marlenee	Thomas (CA)
Dicks	Mavroules	Torres
Dixon	McDade	Towns
Dornan (CA)	Michel	Traxler
Foglietta	Mitchell	Whitehurst
Ford (TN)	Moore	Wilson
Fowler	Nichols	Wright

□ 1010

Mr. KOSTMAYER changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested.

S. 1965. An act to reauthorize and revise the Higher Education Act of 1965, and for other purposes;

S.J. Res. 196. Joint resolution designating September 22, 1986, as "American Business Women's Day";

S.J. Res. 304. Joint resolution to designate the week of November 16, 1986, through November 22, 1986, as "National Arts Week";

S.J. Res. 346. Joint resolution to designate June 21, 1986, as "National Save American Industry and Jobs Day";

S.J. Res. 350. Joint resolution to designate 1987 as the "National Year of the Americas"; and

S. Con. Res. 134. Concurrent resolution expressing the sense of the Congress that the Secretary of the Army should place an appropriate memorial marker in Arlington National Cemetery honoring members of the crew of the space shuttle *Challenger* who died during the launch of the spacecraft on January 28, 1986.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT TODAY DURING 5-MINUTE RULE

Mr. BEDELL. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4515, URGENT SUPPLEMENTAL APPROPRIATIONS, 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LIGHTFOOT moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill, H.R. 4515, be instructed to agree to the amendment of the Senate numbered 18.

The SPEAKER. The gentleman from Iowa [Mr. LIGHTFOOT] is recognized for 1 hour.

Mr. LIGHTFOOT. Mr. Speaker, we have reached the point in time where the Commodity Credit Corporation loan funds have basically run out. Checks are not being issued. It is planting time in the Midwest. Many people look forward to that money as a way to get to the field.

In the other body's language, they have inserted in there $5.3 billion for capital restoration to enable the Corporation to use the authority authorized by the chapter of the Corporation to put that money back in.

My motion basically would require that the conferees agree to the amendments in the Senate version, and therefore that would restore the funding back into the Commodity Credit Corporation. The checks that should have been going out and have not been in the last several days will start to flow once again and we can get agriculture back on track.

I think it is very critical. It is relatively simple, but it is an extremely important issue to us.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, No. 1, I want to commend the gentleman for his motive.

Once again, Mr. Speaker, we need to be aware that the Commodity Credit Corporation is out of funds. It is a problem that some of us have brought to the attention of this Congress time after time, because when we refuse to fund the Commodity Credit Corporation on an annual basis we are stuck going through this process, so none of our farm programs can work, whether it be our loan programs and our wheat and feed grains, purchases of dairy products or through the Dairy Price Support Program or whatever it might be, we have now been going through 1 week without any money in the Commodity Credit Corporation.

The problem is that we are unwilling to fund the regular appropriation we all know we are going to need on an annual basis. As a result of that, who gets beat up? Agriculture gets beat up. We get beat up, No. 1, because the farmers are not able to have the programs we pass and the programs we implement through farm bills to work, because there is no appropriation.

Second, agriculture is beat up as a whole because of the images we keep coming down here to the floor of the House with, asking for additional money above and beyond what we need, when that is not the case at all.

We are trying to find a way to simply get the money we know we need for the regular activities during fiscal year 1986. This is not additional spending above and beyond what is in the budget resolution, the farm bill, or anything of the sort. Rather, what it is, is another effort to simply get the money that the CCC ought to have.

The Senate has at least some of that in there. I have been trying to find from the USDA this morning whether or not that is the exact amount that will take us through the rest of the fiscal year. I cannot tell you that today, but at least they have got something in their bill. So I think if you are at all concerned about agriculture, if you are at all concerned about the problems in middle America in this country today, if you are at all concerned about the integrity of the bills that we pass, the laws that we enact, the programs that we put forth working, we have got to have the Senate language on this particular issue.

I hope that we not only adopt the motion of the gentleman from Iowa, but then as a result of that, I hope very strongly that the members of the Appropriations Committee from the House will go to the Senate, will go to conference, and will recognize the urgency of some kind of resolution of the entire conference committee on this issue, so that we might be able to come back here quickly and get the kind of funding that we need so that our farm programs can work.

□ 1025

Again, I commend the gentleman for this action and strongly encourage my colleagues on both sides of the aisle. This is not a partisan issue. This is an issue of whether or not we are going to let the farm programs that must work have the money that they need under the normal annual appropriation.

So I commend the gentleman and encourage my colleagues to support this effort.

Mr. COLEMAN of Missouri. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Speaker, I want to join my colleague in commending the gentleman from Iowa.

To make sure that everybody understands what the gentleman is doing, are not these funds that the gentleman is trying to make sure in the CCC funds the funds that farmers take out when they take a loan against their crops, for example?

Mr. LIGHTFOOT. Absolutely.

Mr. COLEMAN of Missouri. So if there is nothing there, we basically have tossed out the entire farm bill to a certain extent. It is very important to insure that these funds are in there to meet the responsibilities that we passed in a farm bill last year.

So there is no additional authority. It is simply a vehicle to allow the law to work as it is presently written.

Mr. LIGHTFOOT. Certainly.

Mr. COLEMAN of Missouri. I commend the gentleman for his action. Every farmer in this Nation should thank the gentleman for that.

Mr. LIGHTFOOT. I thank the gentleman.

Mr. Speaker, I think that, as my two colleagues have pointed out, this is important to agriculture itself, but it also reflects very strongly upon the business community, particularly in the Midwest and other agricultural States. What happens on Main Street has a direct relationship to what happens on the farm. This particular bit of funding is necessary to meet those commitments that were made so that the farm bill can, in effect, do what it is supposed to do and provide the necessary funds.

Would the gentleman from Mississippi care to make any comments or desire any time?

Mr. WHITTEN. Mr. Speaker, I would like to rise in opposition to the motion. Would the gentleman yield 5 minutes to me?

Mr. LIGHTFOOT. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi [Mr. WHITTEN] for purposes of debate only.

Mr. WHITTEN. I thank the gentleman for yielding this time to me.

Mr. Speaker, one of the problems we have in the Congress now is that we are tying so many strings on appropriation procedures that we never seem to get through.

I am strongly opposed to the instruction procedure. The bill we sent to the Senate had 224 amendments added by that body. If we start the procedure of instructing conferees on each of these, we never will get through. I do not believe that there is a person within the sound of my voice who has devoted more time trying to look after agriculture than I have.

I expect to go along with the amount of money in the Senate amendment. But I do think we should carefully look into the $4 million in the Senate amendment. The Senate put this provision in there. I would not say that we oppose it, but we need to see that we are going to get some results from it.

So I urge my colleagues to vote down the motion to instruct the conferees. I assure Members, as chairman of this committee, that when the Senate added the $5.3 billion, I asked the Secretary of Agriculture to supply our committee with the details of why the money was needed so the record would show that. I have that information and I am going to insert it in the RECORD.

The information follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, June 9, 1986.

HON. JAMIE L. WHITTEN,
Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your letter of earlier today in which you ask for a detailed estimate of how $5.3 billion would be used to finance the programs of the Commodity Credit Corporation (CCC) for the remainder of this fiscal year. This figure does, in fact, represent the Department's best current estimate of the required funding. It was originally provided to the appropriations committees by Under Secretary Amstutz in his letter of April 28, 1986 and was further confirmed in his letters of May 30 and June 4, 1986.

As you know it is extremely difficult to make precise estimates of CCC funding needs. This is the primary reason why the Administration has requested that the CCC be given permanent indefinite authority to recover the funds it needs to run its programs from the Treasury. However, if the Congress chooses to appropriate a specific sum for the CCC, $5.3 billion is the best figure we can provide at this time.

Attached is a table which lists the outlay estimates for major CCC programs for the remainder of this year. Major items include:

1986 Crop Advance Deficiency Payments.—$406 million is needed to complete payment on the estimated remaining advance deficiency payments.

1986 Crop Commodity Loans.—About $1.5 billion will be needed for 1986 commodity loans, primarily for wheat, barley, rice and tobacco.

Interest Payment to the Treasury.—About $1.9 billion is needed to repay the Treasury the interest owed on funds previously borrowed by the CCC. Because it was short of funds the CCC could not pay the Treasury the interest which was owed last January. Because Treasury continues to charge interest on the unpaid balance, interest charges to the CCC will increase by $50 million between January and September and if not paid in September will continue to increase until this debt is paid.

Dairy Program.—About $1 billion is needed to meet the government's obligations to various aspects of the dairy price support program. This includes $480 million to make initial payments connected with the dairy termination program and $266 million for the red meat purchase program.

Conservation Reserve Program.—About $154 million will be needed to finance the government's share of cover costs under the conservation reserve program.

Federal Crop Insurance Program Indemnities.—A balance of $112 million is needed for transfer to the Federal Crop Insurance Corporation to insure timely payments of indemnities owed to claimants under the program. $138 million was transferred earlier in this fiscal year for this purpose.

P.L. 480.—$762 million is needed to meet anticipated cash requirements of the P.L. 480 program.

You will note that the $5.3 billion estimate includes funding for a reasonable operating margin of $951 million. An operating margin is necessary because predicting CCC net outlays is so difficult and particularly because it is impossible to know whethr or not anticipated receipts will, in fact, materialize. The $5.3 billion net outlay estimate includes $1.5 billion in anticipated loan repayments. To the extent that loan repayments are less than this figure the operating margin will be needed to cover CCC outlays.

We hope this information meets your needs. We appreciate the efforts of the appropriations committees to deal with this problem.

Sincerely,

RICHARD E. LYNG,
Secretary.

Commodity Credit Corporation—estimated funding and outlays, June-September 30, 1986

[In millions of dollars]

Available funding:	
Borrowing authority available as of June 1, 1986	$594
Anticipated loan repayments	1,500
Other anticipated receipts (including assessment)	175
Additional funding requested	5,300
Total funding	7,569
Estimated outlays:	
1986 crop deficiency payments	−406
1986 crop commodity loans	−1,550
Interest repayment to Treasury	−1,918
Dairy program:	
Dairy termination program	−480
Red meat purchases	−266
Dairy product purchases	−261
Total, dairy program	−1,007
Conservation reserve program	−154
Federal Crop Insurance requirements	−112
P.L. 480 cash requirements	−762
Producer storage payments	−130
Export guarantee claims	−140
Storage, handling, transportation, and packaging/processing	−351
Operating expenses	−88
Total estimated outlays	6,618
Operating margin	951

I assure my colleagues the committee is going along with the $5.3 billion in funds to the Commodity Credit Corporation so it can carry out its operations. So the instruction is unnecessary so far as money for the CCC is concerned. But we would start a procedure by instructing the conferees that would further delay what we could do in Congress.

There are 224 amendments to the bill. We are meeting at 2 o'clock this afternoon, trying to reach agreement so we will not delay the recipients of these funds any further. So I do ask Members to vote down this instruction. Leave us free to work these matters out with the Senate, and there is such a thing as trading with the Senate if Members have been in conference with them. When they add 224 amendments to one bill, my colleagues can see the problems we have.

So I urge Members to vote against the instruction, but assure my colleagues that our subcommittee is unanimous so far as I know in restoring the $5.3 billion appropriation. I hope my colleagues will vote down the instruction of the conferees.

Mr. TRAXLER. Mr. Speaker, will the distinguished gentleman yield on that point?

Mr. WHITTEN. I yield to my colleague, the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Speaker, the distinguished chairman of the Subcommittee on Agricultural Appropriations, and the chairman of the full committee, as I understand what he has told us is that he fully appreciates and understands the need for additional funding for CCC, and my judgment is that the gentleman would expect to meet that need in the conference to assure that the American farmer is going to get his payments.

So what the gentleman is telling us is that this procedure that is being offered here could be disruptive to intelligent negotiations. I think one of the points that needs to be made here, and perhaps the gentleman would elabo-

rate on this, is that this money must come within the ceiling. It has got to come from somewhere. We know there is going to be money here for this purpose.

Mr. Speaker, I represent a substantial number of farmers. They are going to be taken care of. The point of the matter is that the conference committee needs the highest degree of flexibility, and perhaps the gentleman would comment on that point.

Mr. WHITTEN. Certainly. May I say to the gentleman that our problem now is that we have been delayed and I do not accept that responsibility on the part of the Committee on Appropriations. We have moved as fast as circumstances would let us in view of the Budget Act and various other things.

But I assure Members again that this is a start in the wrong direction. Unfortunately, the farmers have been delayed in getting money they deserve under existing law. We need to expedite the matter, and not complicate it further.

I would hope that my colleague from Iowa would withdraw his motion at this time and I assure him that we plan to go along with the amount of money involved in restoration to the Commodity Credit Corporation.

Mr. LIGHTFOOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Idaho.

Mr. CRAIG. I thank the gentleman for yielding.

Mr. Speaker, I would urge support of the motion. We have played brinksmanship with this money and with the American farmer too long. This is something that is not unusual and it has happened before. We have seen our deadlines; we have read in the local press there is not going to be any money to carry through with the promises that we put forth in our agriculture policy in the bills and the legislation that become law that we say we are going to be an active participant in with the American farmer.

There is no rougher time in the farm community than that which is going on right now and we have got to move and move expeditiously to solve these problems, and to tell the American farmer we are going to be there, be with them and be consistent.

I thank my colleague for his leadership in this area. Let us get off the dime and get this thing moving. We are now behind the gun. We have stretched these farmers out long enough. Let us honor our promises and commitments and solve the problems.

Mr. LIGHTFOOT. I appreciate the gentleman's comments, and I would like to add that what we are talking about here is the money that goes to the farmers. In that portion of the language in the Senate bill there is reference to a gasohol project. We are not concerned with that. We are concerned with getting the money out to the farmer. The bank accounts dried up. It is time that they were paid.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

If possible, I would like to ask the chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN] a question.

I want to make sure that the gentleman's comments on the trading that goes on in conference with respect to all these amendments the Senate has does not mean that this particular amendment, the $5.3 billion, is going to be part of that trade. The reason I say that is because this is basically an entitlement-type program, even though it is subject to appropriation, based upon loans and targets and the cost of the farm programs to the Government based upon market prices and everything else, and I do not want to see this part of any trading relationship. They have to have this money, as the gentleman well knows.

Mr. WHITTEN. May I say to the gentleman that if I say something here, I mean it, and I said we were for the restoration of the desperately failing Commodity Credit Corporation in the amount requested, $5.3 billion.

I say it is a bad practice, as much trouble as we have with appropriations now, to start the practice of instructing conferees when we have 224 amendments. I meant it when I said we will go along with the money.

Mr. GLICKMAN. If the gentleman will continue to yield, this shows two basic problems. One problem is that the cost of this farm bill is going to be astronomical, much greater than anyone ever thought, and we are going to be back for the next 2 years time after time because we passed a farm bill that is very, very directly related to Treasury payments and deficiency-type payments.

□ 1035

I think this is only the first of many times we are going to be going through this type of thing.

The second thing which is hard for me to understand, and my colleagues, is why we have to go through this process. Why, when we pass the farm bill, why can we not appropriate it vis-a-vis the CCC in kind of an open-ended fashion? To have to keep appropriating money that is already basically authorized under an entitlement program does not make any sense.

People say, "I thought that the target price was X, the loan rate was X, and I am entitled to X." Now we have to go back through an appropriations process every time. It does not lead to very much stability at all in agriculture and that process really needs to be changed.

Mr. LIGHTFOOT. Mr. Speaker, I heartily agree with my colleague, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I just want to make a couple of points in this regard.

I think it is not the intent of the gentleman from Iowa, and certainly not the intent of most of the people on this side, to bind the conferees on the issue of gasohol. USDA will confirm, and they have since confirmed from my earlier remarks, that the request in the other body's bill of $5.3 billion is exactly what USDA projects they need to fund the farm program for the rest of this fiscal year.

The gentleman from Kansas [Mr. GLICKMAN] was so on target. We go through this time after time after time and we have got to quit doing that. But I have got to say to my colleagues on both sides of the aisle, when the distinguished chairman of the Committee on Appropriations brings up the supplemental for agriculture, it is good public policy. When we are out of money for 1 week and the other body has it in their bill and all we are asking is that we have a strong vote in support of making sure that that money be in there, then all of a sudden we are not supposed to deal with it here on the floor of the House.

Frankly, I think this ought not be a partisan issue. Certainly the farm bill is not a partisan issue. It is a commodity issue, regional issue, those kinds of things. For gosh sake, let us not let the funding of the CCC dip into some kind of a partisan debate here on the floor of the House.

Let us go for it.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Speaker, I very much appreciate the gentleman from Iowa raising this issue.

The distinguished chairman of the committee, whose assurances we have all heard in the well, has indeed one reputation, if he has no other in the House, and that is that he is a man of his word. I do not know of another Member of the body who has done more for agriculture.

I think we all appreciate the assurance of the gentleman from Mississippi [Mr. WHITTEN] and his willingness to fight at this point in this confer-

ence for the remainder of what has been calculated that will be needed to finish the drawdown that will occur on the Commodity Credit Corporation from a variety of programs.

But the gentleman from Iowa makes a point. He is saying, and I think every Member of the House ought to applaud the gentleman's point, that we ought not to nickel-and-dime the farmer. Indeed, it is going to be an expensive program, but we are starting to see a turnaround in agriculture and this is one of those programs that, underneath the 4-year farm bill, we are depending upon to get that job done for production of agriculture.

I commend the gentleman for his point, but I appreciate the gentleman's assurance, I do hope that when we are through talking about this issue today, that the matter might resolve itself amicably so that we can go to conference and get this job done for the American farmer.

Mr. COLEMAN of Missouri. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Speaker, as I understand it, there is no real opposition to the substance of what the gentleman is trying to do. It is the procedure that the chairman has indicated that he has problems with.

But if the chairman's argument is to oppose this motion so he is free to go into conference and to deal on various issues, he has already stood up here and told the other body and all of us that he is going to go in and fight for this. What the gentleman from Iowa is doing is simply writing an insurance policy for the $5.3 billion to insure that it is in there, notwithstanding tradeoffs or movements that are done in conference.

I think what the gentleman is doing is very consistent with what the chairman has said he would like to do. He simply has written an insurance policy for America's farmers to ensure that, in fact, that is what is going to happen.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would like to point out that the instruction covers more than the $5.3 million. It also covers another amendment, a legislative amendment.

But with regard to this solving what CCC needs, the gentleman from Wisconsin [Mr. GUNDERSON] admitted he could not find out this morning how much more they need for the year. We do not know what they are going to need for the balance of the year. That is the reason you keep getting additional amounts.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I just confirmed, I have just been on the phone with USDA, and the $5.3 million is, as of this morning, what their projected need is for the rest of this fiscal year.

Mr. SMITH of Iowa. Mr. Speaker, as of this morning. As of a month ago, it was a different figure, and as of next month, it is going to be another figure. You do not know if this $5.3 million is going to be enough for the balance of the year.

It would be a mistake for us to stand here today and say that we can know how much they are going to need for the balance of the year and appropriate it. We do not know, and you do not, either.

Mr. GUNDERSON. If the gentleman will yield further on that point, I think it is very clear that from the beginning of this year, we had projected needs for the Commodity Credit Corporation. We have not fully funded fiscal year 1986 at this point, and it is a darn shame that we have to, in this body, put a slam on agriculture because we do not fully fund the CCC in the beginning of the fiscal year.

This is not a supplemental; this is a regular appropriation that we have not yet completed our action on, and the gentleman knows that is true.

Mr. SMITH of Iowa. Mr. Speaker, we have had four or five projections from the Department of Agriculture as to how much they need and the gentleman knows that is so.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Wisconsin for debate only.

Mr. OBEY. Mr. Speaker, I would like to make two points.

No. 1, I appreciate the concern expressed here today and I share that concern, but I would simply like to make two points.

While I certainly want to see the farmer get every dollar to which he is entitled under the Commodity Credit Corporation programs, I do not want to have to, as this instruction motion would require, to require that the committee also accept the Nebraska project, which is also part of this amendment, because I do not happen to believe in a commitment to that project. I do not think that is a good expenditure of funds.

I would also point out that I do not understand why we have to repay Treasury $2 billion at this time. That money can be repaid anytime. I do not see why we ought to take a special whack out of the Commodity Credit Corporation when that means that it comes out of ceilings and has to squeeze down other programs, many of which are important to rural America.

I do not mind meeting the full obligation; I am for meeting the full obligation so that farmers get everything they need, but I do not see why we need to provide Treasury with $2 billion in convenience money when that will squeeze our ceilings for other agricultural programs down the line.

Mr. LIGHTFOOT. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. OBEY] for his comments. Again, I am only concerned with the money to go to the farmers. Unfortunately, amendment 18, it is all worded together; it is bunched together in the version from the other body, and that other project that the gentleman is talking about happens to be in that package.

I guess the question we come back to, and I reflect back on the words of our colleague, the gentleman from Kansas, we did promise the farmers of this Nation a certain price for their commodities, a certain loan rate, a certain value. They are going to the offices to get their checks. The checks are not there because the Government says it is broke. It needs to be fixed. It should have been done last week.

It is just unconscionable in my opinion that we pass a piece of legislation making the various guarantees that we do, and then we renege on it. It puts the farmers in a very tough situation. It puts their lenders in a tough situation. it puts the Main Streets of rural America in a very tough situation.

Mr. CONTE. Mr. Speaker, will the gentleman yield to me?

Mr. LIGHTFOOT. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, just to make a couple of points, the gentleman was asked a question that the administration really does not know how much they need, but I remember hearing different Secretaries come up and ask for permanent indefinite authority for the fiscal year 1986. Really, that is the way we should have gone on this thing, rather than continually come up here with supplementals.

I am positive that if we did not go along with the $5.3 billion, and I am not sure whether that is sufficient or maybe it is a little too much, but if we do not go along with it, they are going to be up here again with another supplemental and these supplementals really are devious things.

If you go back and check the record, I spoke on this issue 3, 4, 5 months ago and said, "Look, give them as much money as they want and they need for the CCC because otherwise, they will come up here with another supplemental and every time they come up here with another supplemental, it becomes a Christmas tree." Here the other body now has tacked on 224 amendments to this bill.

I do not look forward to going to conference on this because if there is

not a lot of give and take on both sides, I am assured by OMB, I met with them yesterday, we will get a veto. I think maybe that is the best route to go, to get the darn veto quick and come back out here with a clean bill and with all the money you need for the CCC to carry out the agricultural program.

□ 1045

Mr. LIGHTFOOT. I thank my colleague from Massachusetts [Mr. CONTE] and again, a number of good points have been brought up this morning.

Mr. WALKER. Will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I think that we fail to recognize the fact that the problem that we have developed with CCC over the last several months as we have gone through this exercise of coming back for more and more money stems from the fact that this is a program that was deliberately underfunded in the original appropriation, and it was done so that other kinds of agricultural programs under the 302 allocation could be funded, and then we come back later on for supplementals for the programs that actually are the working programs within Agriculture.

That deliberate underfunding is in fact the basis of our problem and I think that we have got to recognize, we have to be more responsible from the outset of these programs.

Let me make one point of clarification just to establish legislative history. Do I understand that the gentleman is saying that in his instructions it is his legislative intent that the money for the CCC Program operation is what he wants to assure stays in place and that he is not particularly concerned that the money for this gasohol project or whatever it is stay in; that that is not the intent of his amendment?

Mr. LIGHTFOOT. That is correct.

Mr. WALKER. I thank the gentleman.

Mr. GLICKMAN. Will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I want to take issue with what my colleague from Pennsylvania [Mr. WALKER] just said.

The main reason there is an increase in funding in the CCC is the fact that we adopted a farm bill which is based upon very low market prices and high support prices and big deficiency payments to farmers; and they are growing by leaps and bounds and in many cases they are unanticipated and unexpected, but it is due primarily to the farm program that has been pushed by this administration, which is based on low prices to farmers, and the difference is made up in deficiency payments.

We are stuck with that farm bill now, and as long as we are stuck with the farm bill, we have got to make the CCC payments; but I do not think the major reason for the extra money is due to deliberate underfunding; I think it has to do with deliberate farm policy by the administration.

Mr. WALKER. If the gentleman would yield to me.

Mr. LIGHTFOOT. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, the farm program we are now operating under was passed by this House and in fact, many of the recommendations of the administration were not included in the bill that passed this House. We are largely responsible for the farm program that we now have in place, and I do not think we ought to pass it off on the administration.

Second, if we go back and take a look at the Appropriations for the CCC Program for this year, you will find that we appropriated less for the program than we had spent the year previous. Having had the farm program before us, we knew that that was an utterly ridiculous appropriation to make in the beginning.

That is the reason why I say it was deliberately underfunded, and that is precisely the problem that we now find ourselves faced with.

Mr. LIGHTFOOT. Mr. Speaker, I yield to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, whatever the shortcomings of the farm program might be, it was definitely a bipartisan bill. There were fewer than 100 people in this House who voted againt it. That subject should not be under discussion this morning, and how we fund it in the future, how we fund the CCC we cannot decide this morning.

The key issue is that we are out of money and we have those farmers out across America waiting to plant their crops—they are in trouble with the bank. In my State, we are clear out of money. I know of one county where they got to the S's and there is no more money; so if your name begins with S you don't get any money until we act.

We have all heard this word of the chairman of our committee, I do not think agriculture has a better friend, that he is going to fight for the $5.3 billion, I think we ought to move ahead as expeditiously as we can and get this conference settled and get that money out.

Mr. TRAXLER. Will the distinguished gentleman from Iowa yield?

Mr. LIGHTFOOT. I yield to the gentleman from Michigan for purposes of debate only.

Mr. TRAXLER. Mr. Speaker, I appreciate the gentleman from Iowa raising the issue. I disagree with his procedure here in the efforts to instruct.

First, if the motion to instruct is successful, the conferees cannot pick and choose. Theoretically they are bound by the motion to accept the Senate amendment as the Senate amendment was adopted. That means we have to repay; theoretically, the conferees will have to agree to repay the Treasury moneys that we do not have to repay at this time. They will come out of other agricultural programs. We do not want that.

Second, let me say this: The House Subcommittee on Agriculture Appropriations has some very distinguished members; not necessarily because I happen to be a member, but rather because of the commitments on the part of the Republicans and the Democrats alike on that subcommittee.

The distinguished gentlewoman who just spoke is a member of the subcommittee. I would not say that she would intentionally or deliberately underfund the CCC Program, as has been expressed here by a previous speaker. That simply is not correct. Neither she, nor the chairman, nor any others on this subcommittee would do that.

Let me make it clear that the subcommittee has put forward every nickel that the Department of Agriculture has asked for for this program. Let me also say that the subcommittee, I think, following what we believe to be the wishes of the House, will not give them a total blank check as was suggested ought to be done, and what they asked for. That is not intelligent budgeting.

We do want to be able to bring forward here reasonable proposals. Those are the reasons, those are the facts, which we have the issue before us today.

The fact is that the Department has consistently underestimated the financial needs of CCC. That is why we are here today discussing this issue. We believe that this amount of money will be adequate to carry us through the balance of the fiscal year. That is our hope, that is our belief. We are now pressing them hard to make firm and solid guess estimates as to what their needs are going to be.

If they do that, we are not going to have us coming back in supplementals. We have to rely on the Agency's best judgment as to what their needs are. If they are candid and forthright and can interpret correctly, you are not going to see us again. If they do not, you are going to see us again. We cannot control them. We can only deal with what they give us.

I thank the gentleman for raising the issue. I must respectfully disagree with his procedures.

Mr. LIGHTFOOT. I think, Mr. Speaker, the thing that we need to focus on among all the other arguments that were brought up, it is utterly ridiculous that we are here today asking for this. It has been mentioned by the gentlemen from Pennsylvania, Massachusetts, and Kansas, on both sides of the aisle, that the funding mechanism we tend to pursue in this body is really a ridiculous way to go about doing things.

Unfortunately that is the game plan; that is the way we have been doing it for years; we have a very distinct problem: The CCC is out of funds at this point in time; people are not getting their checks which we promised them that they would through the farm bill, whether we like it or dislike it that is the language that is in there. We owe it to those people; that is the way we all voted for it, in a bipartisan fashion. The CCC is out of funding. This is the most immediate vehicle available to restore that funding. That language is there. All we need to do is get a positive vote on this motion.

Mr. CONTE. Will the gentleman yield, just for one observation?

Mr. LIGHTFOOT. I yield to the gentleman from Massachusetts, for one observation.

Mr. CONTE. Mr. Speaker, the gentleman from Michigan [Mr. TRAXLER] said that if the motion to instruct is adopted that we are going to have to go over there and adopt it. Let me inform him that it is merely an advisory recommendation by the House.

I have been over there when we have been instructed, and we have done otherwise.

Mr. LIGHTFOOT. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion to instruct offered by the gentleman from Iowa [Mr. LIGHTFOOT].

The question was taken; and the Speaker pro tempore announced that the Chair was in doubt.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 169, nays 247, not voting 17, as follows:

[Roll No. 161]

YEAS—169

Applegate	Bentley	Boulter
Armey	Bereuter	Broyhill
Badham	Bilirakis	Burton (IN)
Bartlett	Bliley	Callahan
Barton	Boehlert	Campbell
Carr	Ireland	Ridge
Chappie	Jeffords	Ritter
Cheney	Johnson	Roberts
Clinger	Jones (OK)	Roemer
Coats	Kasich	Roth
Cobey	Kemp	Roukema
Coble	Kindness	Rowland (CT)
Coleman (MO)	Kolbe	Saxton
Combest	Kramer	Schaefer
Conte	Lagomarsino	Schneider
Courter	Latta	Schuette
Craig	Leach (IA)	Schulze
Dannemeyer	Lewis (CA)	Sensenbrenner
Daschle	Lewis (FL)	Shaw
Daub	Lightfoot	Shumway
DeLay	Livingston	Shuster
DeWine	Loeffler	Siljander
Dickinson	Long	Skeen
DioGuardi	Lott	Skelton
Dornan (CA)	Lujan	Slattery
Dreier	Lungren	Slaughter
Duncan	Mack	Smith (NE)
Eckert (NY)	Madigan	Smith, Denny (OR)
Edwards (OK)	Marlenee	Smith, Robert (OR)
Emerson	Martin (IL)	Snowe
English	Martin (NY)	Solomon
Evans (IA)	McCain	Spence
Fiedler	McCandless	Stallings
Fields	McCollum	Stangeland
Fish	McDade	Strang
Franklin	McEwen	Sundquist
Frenzel	McKernan	Sweeney
Gallo	McKinney	Swindall
Gilman	McMillan	Tauke
Gingrich	Meyers	Tauzin
Glickman	Michel	Taylor
Goodling	Miller (OH)	Thomas (CA)
Gradison	Miller (WA)	Vander Jagt
Gray (IL)	Molinari	Volkmer
Gunderson	Monson	Walker
Hall, Ralph	Moorhead	Weber
Hansen	Morrison (WA)	Whitehurst
Hendon	Nielson	Whittaker
Henry	Oxley	Wirth
Hiler	Packard	Wolf
Hillis	Parris	Wolpe
Hopkins	Pashayan	Wortley
Horton	Petri	Wylie
Hubbard	Porter	Young (AK)
Huckaby	Pursell	Zschau
Hunter	Quillen	
Hyde	Regula	

NAYS—247

Ackerman	Chapman	Frank
Akaka	Chappell	Frost
Alexander	Clay	Fuqua
Anderson	Coelho	Garcia
Andrews	Collins	Gaydos
Annunzio	Conyers	Gejdenson
Anthony	Cooper	Gekas
Archer	Coughlin	Gibbons
Aspin	Coyne	Gonzalez
Atkins	Crane	Gordon
AuCoin	Crockett	Gray (PA)
Barnard	Daniel	Green
Barnes	Darden	Gregg
Bateman	de la Garza	Guarini
Bates	Dellums	Hall (OH)
Bedell	Derrick	Hamilton
Beilenson	Dicks	Hammerschmidt
Bennett	Dingell	Hatcher
Berman	Dixon	Hawkins
Bevill	Donnelly	Hayes
Biaggi	Dorgan (ND)	Hefner
Boggs	Dowdy	Heftel
Boland	Downey	Hertel
Boner (TN)	Durbin	Holt
Bonior (MI)	Dwyer	Howard
Bonker	Dymally	Hoyer
Borski	Dyson	Hughes
Bosco	Early	Hutto
Boucher	Eckart (OH)	Jacobs
Boxer	Edgar	Jenkins
Brooks	Edwards (CA)	Jones (NC)
Broomfield	Erdreich	Jones (TN)
Brown (CA)	Evans (IL)	Kanjorski
Brown (CO)	Fascell	Kaptur
Bruce	Fawell	Kastenmeier
Bryant	Fazio	Kennelly
Burton (CA)	Feighan	Kildee
Bustamante	Flippo	Kleczka
Byron	Florio	Kolter
Carney	Foley	Kostmayer
Carper	Ford (MI)	LaFalce
Lantos	Oakar	Snyder
Leath (TX)	Oberstar	Solarz
Lehman (CA)	Obey	St Germain
Lehman (FL)	Olin	Staggers
Leland	Ortiz	Stark
Lent	Owens	Stenholm
Levin (MI)	Panetta	Stokes
Levine (CA)	Pease	Stratton
Lipinski	Penny	Studds
Lloyd	Pepper	Stump
Lowry (WA)	Perkins	Swift
Luken	Pickle	Synar
Lundine	Price	Tallon
MacKay	Rahall	Thomas (GA)
Manton	Rangel	Torres
Markey	Ray	Torricelli
Martinez	Reid	Towns
Matsui	Richardson	Traficant
Mavroules	Rinaldo	Traxler
Mazzoli	Robinson	Udall
McCloskey	Roe	Valentine
McCurdy	Rogers	Vento
McGrath	Rose	Visclosky
McHugh	Rostenkowski	Vucanovich
Mica	Rowland (GA)	Walgren
Mikulski	Roybal	Watkins
Miller (CA)	Rudd	Waxman
Mineta	Russo	Weaver
Moakley	Sabo	Weiss
Mollohan	Savage	Wheat
Montgomery	Scheuer	Whitley
Moody	Schroeder	Whitten
Morrison (CT)	Schumer	Williams
Mrazek	Seiberling	Wise
Murphy	Sharp	Wright
Murtha	Shelby	Wyden
Myers	Sikorski	Yates
Natcher	Sisisky	Yatron
Neal	Smith (FL)	Young (FL)
Nelson	Smith (IA)	Young (MO)
Nichols	Smith (NJ)	
Nowak	Smith, Robert (NH)	

NOT VOTING—17

Breaux	Fowler	Moore
Chandler	Gephardt	O'Brien
Coleman (TX)	Grotberg	Rodino
Davis	Hartnett	Spratt
Foglietta	Lowery (CA)	Wilson
Ford (TN)	Mitchell	

□ 1110

The Clerk announced the following pairs:

On this vote:

Mr. Hartnett for, with Mr. Foglietta against.

Mr. Moore for, with Mr. Ford of Tennessee against.

Messrs. VOLKMER, STALLINGS, and EVANS of Iowa and Mrs. MEYERS of Kansas changed their votes from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, YATES, OBEY, ROYBAL, BEVILL, CHAPPELL, LEHMAN of Florida, FAZIO, CONTE, MCDADE, MYERS of Indiana, COUGHLIN, REGULA, and KEMP.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that there will be 10 1-minute speeches today, 5 on each side.

H.R. 4868, THE ANTI-APARTHEID ACT

(Mr. GRAY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY of Pennsylvania. Mr. Speaker and colleagues, the racist Government of South Africa is at it again. New emergency restrictions providing broad powers to arrest without trial, without hearing, and to detain without limitations have now been put into place. These are more extensive than last year's restrictions, which were condemned by all democracies in the Western World.

Why is this being done? They say it is being done because they think violence is being planned next week when the South African majority remembers their children being shot down in Soweto in 1976.

But the real reason is because the Parliament, yes, the colored legislative Parliament, said no. And so much for the constitutional reforms of the Botha apartheid government.

Things are worse in South Africa. Oppression is greater. Over 130 persons per month are dying, compared to 70 last year when this body bipartisanly and overwhelmingly passed the Anti-Apartheid Act of 1985. It is time for us to take action again to cut off the economic fuel for the political engine of apartheid. Let us pass H.R. 4868, the Anti-Apartheid Act, next week.

ARROW AIR BILL

(Mr. HOPKINS asked and was given permission to address the House for 1 minute.)

Mr. HOPKINS. Mr. Speaker, in the early morning hours of December 12 of last year, 248 American soldiers boarded a jetliner in Egypt on their way to Fort Campbell, KY, following completion of a peacekeeping mission in the Middle East.

Tragically, they never made the homecoming celebration awaiting them in America. All 248 perished when the Arrow Air jetliner crashed after a stop in Gander, Newfoundland.

The Subcommittee on Investigations of the Committee on Armed Services, of which I am a member, conducted a thorough investigation of this incident and the entire system by which we transport our servicemen and women.

Mr. Speaker, I am convinced the cavalier attitude of some of our Government agencies quite possibly contributed to this incident.

When we, the traveling public, decide to go somewhere, we have the option of choosing the airliner on which we would like to ride. Unfortunately, our servicemen and women do not have that luxury. They must board the airliner on which they are ordered to ride.

Therefore, Mr. Speaker, I think it is incumbent upon those of us in Government to be sure that those airliners are as safe as possible.

I am introducing today legislation that I think will correct to some extent some of the fallacies that we have had in the past.

First, it requires safety inspections for each aircraft prior to the issuance of a Defense Department contract.

Second, it requires a comprehensive audit of each contract carrier every 2 years.

Third, it requires performance evaluations every 2 months.

Fourth, it calls for unannounced random ramp inspections of aircraft.

Finally, it mandates frequent in-the-air safety evaluations.

Mr. Speaker, I urge my colleagues to join me in cosponsoring this legislation.

TRIBUTE TO 1985-86 PAGES

(Mr. FAZIO asked and was given permission to address the House for 1 minute and, to revise and extend his remarks and include extraneous matter.)

Mr. FAZIO. Mr. Speaker, as chairman of the House Page Board, I want to take this opportunity on behalf of the board and its Education Task Force to thank the 1985-86 pages for all their hard work in serving the Congress.

I would also like to extend our congratulations to the pages on their completion of the academic year in the House Page School and upon their graduation tomorrow evening.

I am entering into the RECORD the name of each House page as a gesture of appreciation for their efforts. They have continued a long and honored tradition with distinction.

The names follow:

PAGES

Sam Allison, Trent Anderson, Michele Baker, Ronald Bell, Matthew Bierman, Janeen Birckhead, Kimberly Brown, Janet Casey, Amy Ceccarelli, Raymond Chapman, Lydia Chavez, Brian Clayton, Michael Colbert, Lori Crowder, Amber Darey, Gwen Davies.

Albert de Blanc, Thomas Dougherty, J. Darren Duke, Ken Eckstein, Charles Fincher, Matthew Freedman, Claudia Hantman, Jon Hecker, Derrick Henderson, Laura Hlebak, Stephanie Ho, Hannah Hoch, Heidi Holman, James Huang, Margaret Jacobi, Beth Johnson.

James Klava, Melissa Latimer, Keith Malo, Melinda Malugani, Richard Maradik, Martin Martinez, John Maynor, Sharon Mickens, Kelly Millard, Stephen Moore, Suzanne Packard, Tanya Perrier, Scott Rodgville, Lisa Rose, Michael Rothberg, Douglas Ruge.

Elizabeth Sanders, Susan Schaffer, Chance Spiker, Steven Stickle, Scott Stone, Jill Tavlin, Bernard Taylor, Terri Teleen, Jyotika Vazirani, Michelle Wagner, Anne Walker, Mitchell Wander, Vayesha Williams, Albert Wtorkowski, Paul Youngdale.

LITTLE LEAGUE BASEBALL'S FUTURE THREATENED BY HIGH INSURANCE PREMIUMS

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, for parents this time of year brings smiles and laughter as they watch their children participate in Little League Baseball. It is a piece of America: The big game, dirty uniforms, and league picnics. Yet this great institution is being threatened by expensive insurance premiums. The president of Little League Baseball Inc. in Williamsport, PA, says that next year's insurance rates to play ball will be 300 percent higher.

It is the bottom of the ninth, bases loaded, with two outs and Congress must go to bat for little leaguers across the country. Let's not let them down. Don't allow this unaffordable, unavailable insurance problem to sit on the bench.

H.R. 4460 corrects procedures in the judicial process that have fouled up insurance liability rates. In honor of this week, National Little League Baseball Week, I urge my colleagues to support this legislation and help save a piece of Americana. Give Little League Baseball a fair crack at affordable insurance.

□ 1120

STEP RIGHT UP

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Step right up, Mr. Speaker, step right up. See the latest Social Security snake oil scam. This time it is a Washington-based outfit calling itself the "Federal Records Service," which has written parents of newborns that for a $10 fee they will process the paperwork for their baby to get a Social Security card.

Sounds great, doesn't it? Not only is a Social Security card free, Mr. Speaker, any eligible applicant can fill out a simple form at their local Social Security office.

Parents are being conned. They are told that it is important that their child be issued a Social Security card immediately. False. The letter says new Federal legislation may require all dependents be listed by Social Security number on their tax return. Again false. No such proposal has been drafted into legislation.

These scam artists at this "Record Service" tell newborns' parents that county records indicate their baby has not been registered with the Social Security Administration. Again false. There are no records sent to counties of that. It is a new twist on the old

scam of soaking senior citizens for $10 to receive their Social Security records.

Mr. Speaker, I urge the proper committees to investigate this latest snake oil. Whether a person is newborn or newly retired, there is no reason to send $10 to hucksters who want to charge for a free service.

THE ACID DEPOSITION CONTROL ACT OF 1986

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, I would like to commend members of the Subcommittee on Health and the Environment for reporting out H.R. 4567, the Acid Deposition Control Act of 1986.

For too long now, the citizens of my home State of Vermont have been told that more studies of acid rain are needed before action is justified. Well, the maple syrup producers who see their livelihood slowly dying before their eyes know that the time to act is now. Vermont fishermen know that we need to act now. Any anyone who has hiked in the Green Mountains certainly knows that action is needed now, not after an endless number of redundant studies.

Must we wait until our forests are devastated, like the Black Forest in Germany? Must we wait until all our lakes are dead, like hundreds of lakes in Sweden and Norway? We need a cure, not an autopsy.

H.R. 4567 represents the first credible effort to unify behind one bill the supporters of different approaches to the problem. Members from 32 States, Republican, Democrat, liberal, conservative, North, East, West, South, all have joined me in cosponsoring this flexible, least cost approach to reducing acid rain.

Mr. Speaker, I urge all my colleagues to join this bipartisan effort. Let us pass responsible acid rain legislation this session.

CONGRESS MUST ACT TO GUARANTEE AVAILABILITY OF SATELLITE PROGRAMS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. TALLON. Mr. Speaker, I would like to focus my colleagues' attention on a matter that deserves immediate action by the Congress. This matter is the scrambling of satellite television signals.

The home satellite industry has had a profound impact on rural America. For the first time, those of us who make our homes in less populated areas have access to the diversity of television programming that has always been available in the cities.

But now, inaction by this body has created a situation where dish owners are losing access to satellite signals, are being forced to buy expensive descrambling equipment and pay excessive monthly service fees. The dish owners in my district are not opposed to paying a fair price for satellite programs; they object to the unfair treatment they are getting from the satellite broadcasters.

This impasse, upon which Congress has so far refused to act, has put a halt to one of the newest and fastest growing industries in this Nation. Earth station dealers everywhere have seen business decline as the future availability of programming becomes increasingly questionable.

This once burgeoning industry is now experiencing rapid contraction. I recently received a letter from my friends and constitutents Mr. and Mrs. Samuel N. Gasque, Jr., from Hamer, SC. Mr. Gasque is an inventive and innovative man who has made important technological contributions to the home earth station industry. Sam and his wife Marilyn own Sky High Satellite Systems, Inc., which designs, produces and distributes earth station equipment.

The Gasques had four distribution centers, three in South Carolina and one in Oklahoma. They planned to open a fifth center, but the rapid decline in the industry forced them to abandon any such plans. In fact, business has been so bad that they have closed all of their operating sites except for the one in Hamer. Where once, 20 people were employed, only 2 remain.

The destruction of the satellite earth station industry and the associated jobs and opportunity that has been lost is a direct result of congressional inaction. We cannot wait for the satellite broadcasters to work out a deal with representatives of dish owners. Congress must guarantee the continued availability of satellite programming at reasonable prices, and work out a fair system of compensation for broadcasters.

If we, by lack of positive action, allow the current impasse to persist, we will all wind up losers. Our constituents will not have access to the fine programming they want. Advertisers will not reach the millions of dish owners who used to receive their message. Broadcasters will lose new sources of revenue that require no additional investment to gain. And perhaps most of all, the entire economy will lose the benefits brought by a growing industry, whose greatest potential is in the rural regions of the Nation.

Mr. Speaker, time is running out for action in this Congress. We simply must not wait any longer. I urge my colleagues to support legislation that will strike a fair deal for broadcasters and dish owners and ensure the continued availability of satellite programming so that we may all enjoy the benefits of this technology.

The following is the text of Mr. Gasque's letter:

SKY HIGH SATELLITE SYSTEMS, INC.,
April 29, 1986.

Hon. ROBIN TALLON,
432 Cannon Building, Washington, DC.

DEAR ROBIN: I haven't talked with you in some time, but I feel the time is here for some bad news.

I am a pioneer in the home satellite industry. Several years ago I invented the direct burial cable that links the home satellite antenna to the electronics in the home. This key link was my contribution to the industry. I was honored this year by being nominated to the national board of directors of the home satellite industry association, known as S.P.A.C.E. (Society for Private and Commercial Earth Stations). I am the only distributor member from the Carolinas and Georgia.

Presently, I have eleven (11) patents applied for in this industry (some of the information I have enclosed). Also, I designed the logos, etc. for these products.

In the last few years, we have built up a company with a sales volume in the multimillion dollar area.

Recently, we installed a satellite system on the University of South Carolina football stadium for Coach Morrison.

All of this sounds like a very successful company on the move. Not so! Due to several companies breach of contracts and thousands of dollars of bad checks, as well as a slow down or stop in the industry, we are liquidating our company.

Skyhigh Satellite, an industry leader is on the verge of bankruptcy. Scrambling by the cable programmers has caused this. What is worse is the way they have been allowed to lie to the public and get away with the confusion it creates.

Our business is over and on the advice of our attorney(s), we are trying to liquidate the company voluntarily, and address the bills. Chances are, we'll lose our home.

One year ago, we were on the verge of opening up a manufacturing plant in Hamer and employing 75 people from the Dillon area.

Today, I am looking for a job.

Respectfully,

SAMUEL N. GASQUE, Jr.

FLAG DAY, JUNE 14, 1986

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, this Saturday Americans across the country will be celebrating Flag Day.

Appleton, WI is my home and this city hosts the largest Flag Day parade in America. I will be participating in this parade along with hundreds of thousands of other citizens from Wisconsin, joining in the list of activities commemorating the symbol of this great country. This 2-hour parade will

illustrate the enthusiasm with which we revere our flag.

Earlier this year Congress passed a resolution making 1986 the year of the flag. With the centennial anniversary and the unveiling of the renovated statue of liberty, it is all the more appropriate to celebrate with vigor Flag Day as it begins a 21-day salute to our Flag, from June 14 to July 4. The familiar banner with its 13 stripes and a star for each of the 50 States is the focus of this attention.

As this resolution states:

The colors of the flag signify qualities of the human spirit for which all Americans should strive: Red for hardiness and courage, white for purity and innocence, and blue for vigilance and justice.

So join me and the citizens of northeast Wisconsin on June 14 as we honor the red, white, and blue of the American flag. The story of the flag is really the brief history of the United States of America. Let the celebration be a celebration of the American people.

DEPARTMENT OF DEFENSE SHOULD INSPECT PLANES THAT CARRY PERSONNEL

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, I am talking to my colleagues about the Gander incident and legislation to try to prevent this sort of thing from happening in the future.

I have introduced legislation which requires the Department of Defense to be responsible, as they should be. The Department of Defense wants the FAA to take this responsibility. The Department of Defense ought to take this responsibility. That is the first part of my legislation.

The second part of my legislation is to require that 48 hours before a plane goes up, within that 48 hours, it must be inspected.

Now, as far as I know, all of the legislation that has so far been introduced in this field does not make that requirement. That is a requirement that should be there. The Department of Defense should have the responsibility to see to it that its personnel are safely carried. That ought to be the responsibility of that Department. Furthermore, it ought to be the responsibility of that Department to inspect these planes at least 48 hours before they take off. If the committee does not approve such an approach I intend to offer an amendment to the defense bill to require this.

Mr. Speaker, this is illustrative of the fact that the Department of Defense is not really anxious to take on a lot of new responsibility. I tried to get a heavy Department of Defense responsibility in the field of drug importation, tried to effect a change in the commitatus law. And finally it was provided last year that the Coast Guard would do this—that is provide additional Coast Guard arresting officers but financed by the Department of Defense. I have just learned today that they have not sent any of these Coast Guard people to perform that duty as required by the law passed last year. If this be true, and I believe it to be, that is indeed disgraceful.

WHITE HOUSE SECURITY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, today I am introducing a bill to enhance the security of the White House and the U.S. Treasury Building. It will expand the jurisdiction of the U.S. Secret Service to include protection of the U.S. Treasury Building and the surrounding grounds adjacent to the White House.

Unfortunately, this has become necessary because of a sharp stepup in terrorist attacks worldwide with Americans being the focal point of this terrorism.

Both the President and Congress have been forced to develop a more combative policy in dealing with these acts by terrorists. Possible terrorist attacks in Washington remain a viable threat to U.S. security.

This bill is designed to afford the White House complex additional security while allowing the Secret Service to manage its resources in a more cost efficient and effective manner. The White House Secret Service has requested the introduction of this legislation.

Mr. Speaker, I urge my colleagues to join me by cosponsoring this bill and thus take preventive measures in response to the possible threat of terrorism.

SOUTH AFRICA STATE OF EMERGENCY

(Mr. CROCKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROCKETT. Mr. Speaker, the teletype just outside this Chamber is recording the fact that South Africa's President has just declared a nationwide state of emergency, that people are being arrested wholesale, particularly the leaders of protest organizations. So far, Bishop Tutu has not been arrested, but it is anticipated that he will be arrested.

The Commonwealth's Eminent Persons Committee that recently visited South Africa has issued its report in which it predicts there will be a bloodbath in that country on the occasion of the anniversary of the Soweto uprising, which will come about next week.

I have heretofore introduced House Resolution 373 calling on the President of the United States to speak out against these atrocities and to demand the release of Nelson Mandela. I am satisfied, Mr. Speaker, and I think the world generally is satisfied, that only the President of the United States can head off what is likely to happen to South Africa next week. I invite my colleagues to join me as cosponsors of House Resolution 373, and let us tell the President of the United States in no uncertain terms that now is the time for him to speak.

YESTERDAY'S SUPREME COURT RULING IS OUTRAGEOUS

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, yesterday a slim 5-4 majority of the Supreme Court wrote another shameful chapter in its 13-year obsession to ligitimatize the right to choose the death of any child prior to birth.

The Court has further compounded its series of flawed abortion decisions by nullifying a Pennsylvania statute that simply provided that doctors inform women of the "detrimental physical and psychological effects" of abortion, describe the various stages of fetal development, discuss alternatives, and use methods of abortion that are less likely to kill the baby in late term abortions—about 500 children actually survive late term abortions every year according to the Center for Disease Control in Atlanta. The Court has once again turned its back on a whole class of human persons—our sons and daughters in the womb.

Yesterday's ruling, Mr. Speaker, is outrageous.

Against the backdrop of spectacular medical advances including ultrasound, microsurgery, and intrauterine blood transfusions that treat the unborn as patients the Court continues to cling to a view that more aptly belongs in the Dark Ages.

In his concurring opinion with the majority, Justice Stevens writes "there is a fundamental and well-recognized difference between a fetus and a human being."

Oh really. What?

Clearly such frivilous reasoning masquerading as serious thought undermines and diminishes the Court's very credibility. Former Chief Justice Roger Taney of Dred Scott fame would have been most pleased with yesterday's outcome. Perhaps that is why Chief Justice Warren Berger is having profound second thoughts and concludes his dissent: "I agree we

should reexamine Roe." (73 Abortion Rulings)

HOUSING ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 450 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1.

□ 1130

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to amend and extend certain laws relating to housing, and for other purposes, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 11, 1986, the Clerk had completed reading of the text of H.R. 4746, which is considered as an original bill for the purpose of amendment.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 123, after line 17, add the following new title (and conform the table of contents accordingly):

TITLE VI—ENTERPRISE ZONE DEVELOPMENT

SEC. 601. DESIGNATION OF ENTERPRISE ZONES.

(a) DESIGNATION OF ZONES.—

(1) DEFINITION.—For purposes of this section, the term "enterprise zone" means any area that—

(A) is nominated by 1 or more local governments and the State or States in which it is located for designation as an enterprise zone (in this section referred to as a "nominated area"); and

(B) the Secretary of Housing and Urban Development designates as an enterprise zone, after consultation with—

(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury, the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration; and

(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

(2) NUMBER OF DESIGNATIONS.—

(A) IN GENERAL.—The Secretary of Housing and Urban Development may designate not more than 100 nominated areas as enterprise zones.

(B) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), not less than 25 percent shall be areas that—

(i) are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available);

(ii) are outside of a metropolitan statistical area (as designated by the Director of the Office of Management and Budget); or

(iii) that are determined by the Secretary, after consultation with the Secretary of Commerce, to be rural areas.

(3) AREAS DESIGNATED BASED SOLELY ON DEGREE OF POVERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall designate the nominated areas with the highest average ranking with respect to the criteria set forth in clauses (iii), (iv), (v), and (vi) of subsection (c)(3)(A). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area that exceeds such criterion by the greatest amount given the highest ranking.

(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION, ETC.—An area shall not be designated under subparagraph (A) if the Secretary determines that the course of action with respect to such area is inadequate.

(C) SEPARATE APPLICATION TO RURAL AND OTHER AREAS.—Subparagraph (A) shall be applied separately with respect to areas described in paragraph (2)(B) and to other areas.

(4) LIMITATION ON DESIGNATIONS.—

(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone, the Secretary shall prescribe by regulation not later than 4 months following the date of the enactment of this Act, after consultation with the officials described in paragraph (1)(B)—

(i) the procedures for nominating an area under paragraph (1)(A);

(ii) the parameters relating to the size and population characteristics of an enterprise zone; and

(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

(B) TIME LIMITATIONS.—The Secretary shall designate nominated areas as enterprise zones only during the 24-month period beginning on the later of—

(i) the 1st day of the 1st month following the month in which the effective date of the regulations described in subparagraph (A) occurs; or

(ii) July 1, 1987.

(C) PROCEDURAL RULES.—The Secretary shall not make any designation under paragraph (1) unless—

(i) the local governments and the State in which the nominated area is located have the authority—

(I) to nominate such area for designation as an enterprize zone;

(II) to make the State and local commitments under subsection (d); and

(III) to provide assurances satisfactory to the Secretary that such commitments will be fulfilled;

(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary shall by regulation prescribe;

(iii) the Secretary determines that any information furnished is reasonably accurate; and

(iv) the State and local governments certify that no portion of the areas nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

(5) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the cae of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

(A) December 31 of the 24th calendar year following the calendar year in which such date occurs;

(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(4)(C)(ii); or

(C) the date the Secretary revokes such designation under paragraph (2).

(2) REVOCATION OF DESIGNATION.—The Secretary, after consultation with the officials described in subsection (a)(1)(B) and a hearing on the record involving officials of the State or local government involved, may revoke the designation of an area if the Secretary determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

(c) AREA AND ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

(B) the boundary of the area is continuous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000 in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(3) ELIGIBILITY REQUIREMENTS.—

(A) IN GENERAL.—For purposes of paragraph (1), a nominated area (other than a rural area described in subsection (a)(2)(B) meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that—

(i) the area is one of pervasive poverty, unemployment, and general distress;

(ii) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this Act;

(iii) the unemployment rate, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for that period;

(iv) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the areas was not less than 20 percent for the period to which such data relate;

(v) not less than 70 percent of the households living in the area have incomes below

80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974); and

(vi) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

(B) RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(2)(B) meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets not less than 5 of the criteria set forth in clauses (i) through (vi) of subparagraph (A).

(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designated to reduce the various burdens borne by employers or employees in such area. A course of action shall not be treated as meeting the requirements of this paragraph unless the course of action include provisions described in not less than 4 of the subparagraphs of paragraph (2).

(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any program administered by the Secretary of Housing and Urban Development or of any program administered by the Secretary of Agriculture under title V of the Housing Act of 1949, and may include, but is not limited to—

(A) a reduction of tax rates or fees applying within the enterprise zone;

(B) an increase in the level of public services, or in the efficiency of the delivery of public services, within the enterprise zone;

(C) actions to reduce, remove, simplify, or streamline paperwork requirements within the enterprise zone;

(D) involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area;

(E) the giving of special preference to contractors owned and operated by members of any minority; and

(F) the gift (or sale at below fair market value) of surplus land in the enterprise zone to neighborhood organizations agreeing to operate a business on the land.

(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the Secretary shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist—

(i) any establishment relocating from 1 area to another area; or

(ii) any subcontractor whose purpose is to divest, or whose economic success is dependent upon divesting, any other contractor or subcontractor of any contract customarily performed by such other contractor or subcontractor.

(B) EXCEPTION.—The limitations established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the Secretary—

(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations; and

(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT.—If more than 1 government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

(2) LOCAL GOVERNMENT.—The term "local government" means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State;

(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary; and

(C) the District of Columbia.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) STATE.—The term "State" includes Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

SEC. 602. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the 4th calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each 4th calendar year thereafter, the Secretary shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 603. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 601 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) ENTERPRISE ZONES TREATED AS LABOR SURPLUS AREAS.—Any area that is designated as an enterprise zone under section 601 shall be treated for all purposes under Federal law as a labor surplus area.

SEC. 604. WAIVER OR MODIFICATION OF HOUSING AND COMMUNITY DEVELOPMENT RULES IN ENTERPRISE ZONES.

(a) IN GENERAL.—Upon the written request of the governments that designated and approved an area that has been designated as an enterprise zone under section 601, the Secretary of Housing and Urban Development (or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture) may, in order to further the job creation, community development, or economic revitalization objectives of the zone, waive or modify all or part of any rule that the Secretary has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within the zone.

(b) LIMITATION.—No provision of this section may be construed to authorize the Secretary to waive or modify any rule adopted to carry out a statute or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

(c) SUBMISSION OF REQUESTS.—A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to the Secretary of Agriculture, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

(d) CONSIDERATION OF REQUESTS.—In considering a request, the Secretary shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area that would be affected by the change. The Secretary shall approve the request whenever the Secretary finds, in the discretion of the Secretary, that the public interest that the proposed change would serve in furthering such job creation, community development or economic revitalization outweighs the public interest that continuation of the rule unchanged would serve in furthering such underlying purposes. The Secretary shall not approve any request to waive or modify a rule if that waiver or modification would-

(1) directly violate a statutory requirement; or

(2) be likely to present a significant risk to the public health, including environmental health or safety.

(e) NOTICE OF DISAPPROVAL.—If a request is disapproved, the Secretary shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

(f) PERIOD FOR DETERMINATION.—The Secretary shall discharge the responsibilities of the Secretary under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

(g) APPLICABLE PROCEDURES.—A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. To facilitate reaching a decision on any requested waiver or modification, the Secretary may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in

considering the request. The Secretary shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

(h) EFFECT OF SUBSEQUENT AMENDMENT OF RULES.—In the event that the Secretary proposes to amend a rule for which a waiver or modification under this section is in effect, the Secretary shall not change the waiver or modification to impose additional requirements unless the Secretary determines, consistent with standards contained in subsection (d), that such action is necessary.

(i) EXPIRATION OF WAIVERS AND MODIFICATIONS.—No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

(j) DEFINITIONS.—For purposes of this section:

(1) RULE.—The term "rule" means—

(A) any rule as defined in section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of such title 5.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture.

SEC. 605. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection:

"(d) The Secretary shall—

"(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 601 of the Housing Act of 1986;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into 1 summary report submitted at such intervals as may be designated by the Secretary.".

Mr. GARCIA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GARCIA. Mr. Chairman, this amendment authorizes the Secretary of HUD to designate 100 areas nationwide as enterprise zones. Not less than 25 of these zones are to be in rural areas. The purpose, Mr. Chairman, of this amendment and of enterprise zones in general is to stimulate the economic development and a revitalization of depressed urban and rural areas by providing incentives for investments and stimulating job creation in those areas.

The latest figures on enterprise zones, or existing zones, as we know them today, is that they have created 81,500 jobs. They have retained 51,800 jobs, and they have promoted over $6 billion in new investment.

What we hope to do with this amendment, Mr. Chairman, is propose that a State or local government entity nominate an area within its jurisdiction to designation as an enterprise zone. The area would have to meet eligibility requirements in terms of unemployment at least 1½ times the national rate and poverty of at least 20 percent, and other general distressed conditions. The State or local government would commit themselves to a required course of action encompassing four of the six listed provisions.

For example, the State or local government may offer reductions in tax rates within the zone. Also reduce the paperwork burden, increase the level and efficiency of services within a zone, et cetera.

The State has discretion in designing a zone that meets its particular needs and its resources.

We have—and I want to make this very clear, Mr. Chairman—included an antipirating provision to ensure that the designation of one area as a zone will not cause a loss of jobs in another area which is not designated. No labor protection, minimum wage, or health protection laws may be waivered under this amendment. We want to put people back to work, Mr. Chairman. This is the main thrust and the motivation behind this amendment.

□ 1135

Enterprise zones are already working well in many States, and a recent survey, conducted by the American Association of Enterprise Zones show that enterprise zones has resulted in a reduction of barriers to investment in business properties and incentives to locate in areas with high unemployment or an underemployed labor force. Also an increase in opportunities to develop properties in older neighborhoods and enterprise zones have enhanced the attractiveness of abandoned sites. In general, they have also improved the prospect for property values within a zone.

Mr. Chairman, I would like to state that we have been in this process now, myself and my colleague from New York, Mr. KEMP, since 1980. I think it is important that we understand that 1980 was the year in which there was another administration in the White House. This is not a bill that was designed in the last 4 or 5 years, but it was designed before the present occupant of the White House, the gentleman who is now occupying the Presidency was elected.

I say that to you because there is a long history of a bipartisan structure behind this legislation. I want to make it very clear to those people who have historically opposed the bill because they were concerned about certain provisions in this legislation.

No. 1, myself and my colleague from New York from day one, in negotiating with this administration, made it clear that under no set of circumstances will minimum wage be tampered with, with regulatory agencies that deal with the health and safety of employees be dealt with.

The CHAIRMAN. The time of the gentleman from New York [Mr. GARCIA] has expired.

(By unanimous consent, Mr. GARCIA was allowed to proceed for 5 additional minutes.)

Mr. GARCIA. I say that so that we will understand that we have consistently tried to assuage the feelings of labor. I stand here, Mr. Chairman, as a person who has always voted at least 95 to 100 percent prolabor in my entire 20 years in political life, and under no set of circumstances was I prepared to tamper with any provisions which were going to affect what I have long believed throughout my political life.

I want to also go into a certain few other aspects of this legislation if I may.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman.

Mr. KEMP. I thank the gentleman for yielding to me.

Mr. Chairman, I want to thank the gentleman for his comments and leadership in working on this committee in a very unique way to advance the idea and the concept of enterprise zones.

To my colleagues on both sides of the aisle, Mr. GARCIA and I have been working for about 7 years together to try to push forward the concept of taking certain areas of the distressed inner city and those rural areas which have high levels of unemployment and a shrinking tax base and target them for compensatory Federal efforts. Under this effort, HUD would designate 100 areas around the country, including the rural areas, which meet the conditions for an enterprise zone.

The point that the gentleman makes is that our efforts started in the Carter administration. The gentleman from the South Bronx and myself from Buffalo and Congressman GRAY of Philadephia were early proponents of the idea, and I believe there are over 250 or 260 cosponsors on both sides of the aisle. It fits very carefully and closely into that bipartisan bridge that was built across the center aisle by the gentleman from the South Bronx and myself.

I am very proud to have worked with him. I know the effort he has put into this. He is tenacious in his effort to

change the economic environment of the inner city—not only in housing, but in terms of jobs and economic opportunity.

I just want to tell the gentleman publicly as we work on this amendment that I know is going to pass overwhelmingly, that I want to thank him publicly and politically for the leadership that he has shown on this legislation. I think not only will this pass overwhelmingly, but it will send a very strong signal to the Ways and Means Committee that the next step is to get the Ways and Means Committee to pass the Garcia-Kemp tax enterprise zone bill, which would take this a step further and implement the type of enterprise zones that can encourage small business entrepreneurship in those depressed areas of our country that deserve compensatory recognition in their struggle to restore hope, jobs, and opportunity—and what the gentleman talked about yesterday—the American dream, in the lives of inner city and rural areas of this country. This is our key goal: to extend opportunity and hope into the depressed areas of our country so that every American has a chance to realize the American dream of a better life for himself or herself and their families.

I am really appreciative that he has taken this initiative to the floor on this bill. I want to thank the gentleman for doing this and strongly support it and compliment him and Congressman RIDGE of Pennyslvania.

Mr. GARCIA. I thank the gentleman from New York.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I join the gentleman from New York and add to his words of commendation to the gentleman for his persistence in working on this endeavor, and for his assistance to us to incorporate rural America into any progress that comes to all Americans and that we bring it down into the countryside.

I had a concern in one of the areas of the bill where we were interpreting, incorrectly I now admit, that you had criteria that the population must be decreasing, and we find ourselves with many areas of rural America where the poverty is increasing but, unfortunately, also the population. We found ourselves with population growth not declining, but yet the same degree of concern as to poverty and the need for jobs.

I understand, and in a closer reading of the legislation, that it is either one or the other. So if you fit into the income bracket, then the population is not effective or does not affect what I was concerned with.

Is my understanding correct?

Mr. GARCIA. Yes.

The CHAIRMAN. The time of the gentleman from New York [Mr. GARCIA] has again expired.

(By unanimous consent, Mr. GARCIA was allowed to proceed for 5 additional minutes.)

Mr. GARCIA. I would just like to assure my colleague from Texas that that is absolutely correct. Under the provisions of this legislation, it is an either/or situation. You are concerned on page 8 of the bill where we talked about the population of the area has decreased by 20 percent or more between 1970 and 1980 as determined by the most recent Census available.

The fact is that the gentleman is right; that that provision in your particular case will be stricken. So that will not be part of the district in that area of Texas that you represent.

I just wanted to assure my colleague of that.

Mr. DE LA GARZA. If the gentleman will yield further, I thank the gentleman and I wish him well and will support his endeavor with the rest of the legislation.

Mr. GARCIA. Mr. Chairman, I would just like to continue and say, very clear, and I would hope that nobody would get the impression that once we pass this amendment that enterprise zones will then have all of the trappings that were in the original bill.

What we are doing here essentially is opening the door. This is the very first step. Obviously, the key behind it is to someday have the tax benefits under the Tax Code that will truly make the enterprise zones what we hope them to be in terms of giving the incentive, the financial incentive for companies to move into those specific areas where the unemployment rate is so high.

I would just like to state for the record that as of this moment there are already 1,400 zones. Fourteen hundred zones within the United States. There are 29 States that have enterprise zones. So that we are talking about a majority of States within the Union which have already gone on their own with State incentives moving forward with enterprise zones. I say that because there is no question in my mind that the trend is obvious and the concept has been accepted, and now I would just hope that we will get the final shot, and that is to pass it and to get the Committee on Ways and Means someday and the Committee on Finance in the other body to work on a package in which we can make this what we had hoped it to be originally.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman.

Mr. KEMP. I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman has made an extremely important point that not only have 29 States and more than 1,400 cities already started their own enterprise zone legislation, but it is working. I was in the South Bronx and while the South Bronx does not yet have an enterprise zone officially, there is an industrial development park into which people have moved to take advantage of existing regulatory and tax incentives.

□ 1145

And there are men and women working. Many of those were on welfare, on food stamps, on AFDC. Now they are actually working, paying taxes, getting income, taking care of their families, and watching those families grow and prosper.

It seems to me the concept is applicable not only in the inner city but in those rural areas of America that have had problems in the past. Governor Kean of New Jersey put an enterprise zone in every major city of New Jersey. We were in Newark, NJ, recently and visited a small bakery in which 160 men and women, 70 percent of whom are minority, are working and getting wages and paying taxes.

I want to remind my colleagues that the incentive that the gentleman from the South Bronx and I cosponsored, along with 260 or so of our colleagues——

Mr. GARCIA. Two hundred eighty-three.

Mr. KEMP. Thank you. They were on both sides of the aisle, and from all over the country. It creates incentives not just for the small businessman and woman, the entrepreneur, but it also creates incentives for the low-income worker to take the job.

There is a terrible dilemma in the inner city of our country of among welfare recipients. When you take a job in America, in many instances the county and the State take away the welfare benefits, and the Federal, county, and State governments, then tax your income. In many areas of our country an inner-city resident or a low-income working man or woman on welfare, must make almost twice as much in the first job that he or she gets in welfare benefits in order to make up for the combination of both the taxes and the loss of welfare benefits.

This bill will help reverse the cycle, and it is an extremely important concept, to take it beyond HUD, as the gentleman pointed out, and get the Finance Committee in the Senate and the Ways and Means Committee in the House moving. I think that this vote today is going to be historic.

The CHAIRMAN. The time of the gentleman from New York [Mr. GARCIA] has expired.

(By unanimous consent, Mr. GARCIA was allowed to proceed for 5 additional minutes.)

Mr. GARCIA. Mr. Chairman, I yield further to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Every Member of Congress is going to get a chance to vote on this issue, because like yesterday, I think that this is an extremely important issue for the Members of Congress to send a signal that we want the House to move rapidly on enterprise zone legislation.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, first and foremost I want to salute the gentleman from New York [Mr. GARCIA] and also the gentleman from New York, Mr. JACK KEMP, for their being persistent and continuing the last 7 years their efforts to pass enterprise zone legislation.

I also want to thank them for being open. I know in 1981 I introduced a rural enterprise zone bill because the earlier versions that were being discussed did not have a rural provision or setaside for rural America.

They have been very open, and also the White House, has been cooperative in order to establish rural enterprise zones, and agreed to set aside one-third of the zones for rural America.

This legislation is needed for rural areas. My friend from Texas alluded to the fact that many rural areas have gained in population, but they have also gained in poverty. For instance, even though the rural areas have approximately 30 percent of the population, over 70 percent of the dilapidated housing in the United States is in rural areas. The income level is usually a lot less than urban areas, and many of the rural areas have chronic, long-term poverty conditions for 40 to 50 years. When cotten and coal went out, and other means of making a living, many of our areas lost over 50 percent of their people; in one of my counties it has been 60 percent out-migration durng the last 40 years.

I am pleased that the gentlemen are willing to work out the population situation, but I am even more pleased that they are willing to work with me on the two small amendments that I have that deal only with the rural areas, in order to put the wording back to that of H.R. 1955, which we worked on last year.

As the gentleman indicated we had 283 cosponsors last year. I personally walked the halls of the Capitol and got over 100 of those signatures to cosponsor last year's rural enterprise zone, because the gentlemen were gracious in their willingness to include the rural areas. I thank them and I salute them for their efforts. I look forward to working to make this become law.

Mr. MCKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Congress is finally catching up with the rest of the United States, and it is really quite amazing. We have had enterprise zones in Connecticut for 6 years now. They have been extremely successful, but everybody agrees that they would be much, much more successful with the overlay of a Federal enterprise zone.

I hope that the overwhelming vote that I am sure this amendment will pass by, will bring about a realization on the part of the Committee on Ways and Means and the Senate that the tax portion of the original Garcia-Kemp, Kemp-Garcia enterprise zone bill is the most important part of the entire package.

We have done a lot in Connecticut with our enterprise zones. They have revitalized some pretty desperate old factory districts of our towns and cities that were going to collapse, but we need more help. There is only so much that a State can do under its structure, whereas the main mitigating economic thought comes from in fact the Federal Government.

Mr. MCCAIN. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from Arizona.

Mr. MCCAIN. I thank the gentleman from Connecticut for yielding.

Mr. Chairman, I would just like to point out, in keeping with the remarks of the gentleman from Oklahoma [Mr. WATKINS] about rural aspects of the enterprise zones, which have been much neglected, that we certainly are grateful for the impact that it has had in the inner cities across America, this very exciting and dynamic concept.

I would also like to point out another area where this concept in this bill will be applicable, and that is on our Indian reservations. I think if there is an example that the rising tide does not lift all boats, it is the Indian reservations across this Nation, where we find 60 to 70 percent unemployment, infant mortality rates, extremely high incidence of disease, and other problems severely plaguing our reservations.

Why is that? I think that it is pretty clear that there has been a profound lack of economic development on our Indian reservations, and I believe that this legislation could provide the catalyst to encourage businesses to come onto our reservations, to locate there, to provide the hope for an opportunity for a bright future which young Indians across America, I tell my colleagues, do not have today.

We may have to do a little bit more in order to encourage this kind of business investment, because there is some distrust out there on the part of the business community as to what may happen to them if they come on a reservation and locate. But I think that it is very important that we send a signal that we are encouraging by this legislation today not only the inner cities, which is the major problem of both gentlemen from New York, but also to our Indian reservations across this Nation, that we are now trying to provide a vehicle for business development to encourage those kinds of enterprises which will go a long way toward softening the tragic conditions that exist across the majority of Indian reservations in America today.

I appreciate what the gentleman from Pennsylvania and the gentleman from New York have done in this legislation, because I think that it will go a long way in that direction.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I want to thank my colleague, the gentleman from Connecticut [Mr. KCKINNEY], for reminding us what Connecticut has done, and other States as well, and also comment very briefly on the suggestion of the gentleman from Arizona [Mr. MCCAIN] who has been a champion of the idea of both enterprise zones nationally as well as on Indian reservations.

In the original Garcia-Kemp bill, Indian reservations were designated as enterprise zones by definition, with the recognition that this was a unique area that qualified for that type of incentives. I would say to my friend, the gentleman from Arizona, who has long championed his own bill—and I am a cosponsor of the McCain enterprise zone legislation as well—that I thank him for his comments and suggest that not only do we want to attract business into those areas, we want to encourage men and women in the inner city, in rural areas, on Indian reservations, to think in terms of starting their own business.

We are suggesting—and I know the gentleman from Arizona concurs—that small business is most dynamic when people begin to think about taking risks and starting their own business, and I think that everybody recognizes about 90 percent of all the new jobs that have started in America in the last 3 years have started among small businesses with less than 50 or 75 employees. So the more new businesses, the more dynamism in the inner city and on reservations, the better chance we have of turning this unemployment rate around.

□ 1155

Mr. ANTHONY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like also to speak in favor of the Garcia amendment and enterprise zones. The State of Arkansas has also implemented legislation, I have personal experience knowing that those who are working in my particular congressional district, my hometown is only 19 miles from the State of Louisiana. The State of Louisiana has also implemented enterprise zones.

I also have personal experience of plants stabilizing and keeping employment in that region, so I can tell you from a two-State region that it is working.

I would also like to ask my colleague, the gentleman from New York, if he would be most gracious and be willing to concede to the gentleman from Oklahoma [Mr. WATKINS] when he does rise and offer his two amendments, I was an original cosponsor of H.R. 1955, I helped him secure those cosponsorships. I happen to represent a rural area.

I think having a third, rather than 25 percent of the enterprise zones, creates a better balance for the legislation. I would be a very enthusiastic supporter of the gentleman's amendment if it is amended by the gentleman from Oklahoma [Mr. WATKINS].

Also, we would like to relax the criteria so that we only meet three out of six or five out of six of the things, I think goes back to the legislation that was passed and endorsed by the administration last year.

I would just like to encourage my colleague, the gentleman from New York, to be very kind and gracious and understanding of the gentleman from Oklahoma [Mr. WATKINS], when he does offer his amendment.

I think with that acceptance, the gentleman will get some very great support from my part of the country.

Mr. GARCIA. Mr. Chairman, will my colleague yield?

Mr. ANTHONY. Yes, I am happy to yield.

Mr. GARCIA. Mr. Chairman, my colleague from Oklahoma and I have been working on this legislation I guess now for the length of time that we have both been Members of this body. He has been one of the most enthusiastic supporters and he and I have had a colloquy, a dialog on this, and I can assure the gentleman from Arkansas that we are going to accept the amendments offered by the gentleman from Oklahoma.

Mr. ANTHONY. Well, with that assurance, I can assure the gentleman that I will give the gentleman very strong and enthusiastic support and encourage my colleagues to accept the Garcia amendment, as amended if the gentleman from Oklahoma [Mr. WATKINS] does prevail.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Kemp-Garcia proposal. I was an original cosponsor of it. I am delighted to hear the assurances that have just been given to the gentleman from Arkansas by the gentleman from New York [Mr. GARCIA] that we are going to expand the opportunity for rural enterprise zones.

My district, I might say, is very rural. We do have enterprise zones in Missouri. They are doing wonderful things for our rural areas.

Perhaps some of our colleagues may have seen a recent story, a major story in the Congressional Quarterly magazine about the remarkable experience of Cuba, MO, which was whithering on the vine, and through the implementation of Missouri enterprise zones has come back to life and has become once again a thriving town. This is in an area where a couple years ago everyone thought that the opportunities were just drying up and they were not going to be there anymore, but we have had a very good progressive government in Missouri that has seen fit to institute its own enterprise zone legislation, now being fully implemented, and it is doing a wonderful and remarkable job.

I am struck by the fact that I think if we had Federal enterprise zones in concert with State enterprise zones, there is so much more that could be done to bring hope once again to the rural areas of this country and the urban areas, I might say.

But I am delighted to see that here is one situation where the urban forces and the rural forces are working together to create a better opportunity for all.

I want to commend the gentleman from New York [Mr. GARCIA] and the gentleman from New York [Mr. KEMP] for their outstanding leadership in this field.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to the amendment offered by my very dear friend and colleague, the gentleman from New York [Mr. GARCIA], which would provide the designation of some 100 enterprise zones throughout the country by the Secretary of HUD.

This amendment is similar to the one that was offered by the gentleman from New York in our committee markup and which was adopted over my objections.

There is probably little opposition to the gentleman's amendment, but I am compelled to state my opposition, for very basic reasons.

The idea that enterprise zones are a way of assisting our inner city urban communities is for me nothing short of an escape from reality. The effects by the administration in its efforts several years ago to bring my joinder to this were simply unfortunate. The then Assistant Secretary of HUD for urban development, community development, who may his soul rest in peace, he has since passed away, had me over in his office, tried to persuade me to join in this bill that was introduced at that time by the joint sponsorship of the gentleman from New York, Mr. GARCIA and Mr. KEMP. When I asked several direct questions, which I still raise, and he would not answer them, or could not, I told him that I could not go along.

So then he let me know that a pending application, that is, for termination of the approval and the processing of a UDAG application that had been made by my community would kind of be held up. In other words, he was telling me clearly that he would hold hostage my community petition and request, pending my willingness to go along.

Yesterday the gentleman from New York wanted to do the same thing. While we were debating another subject matter, he dwelt on this one and then pointed to me and said that I was one of those who had resisted joining him in this great, marvelous, miraculous piece of legislation, and that perhaps he would go along with something we were requesting if I would go along.

Well, I detest hostage taking. I do not think it is a way to proceed legislatively. I do not think it is a way to proceed anywhere else, but that is beside the point.

The point is that everybody is talking about the enterprise zones having succeeded, such as they are, even state sponsored and originated; but what nobody is saying here is that the success, if it has been indeed, has been predicated by those ventures on federal monies, either UDAG rural development funds, or CDBG, as in the case that was just specifically mentioned awhile ago.

Now, the administration has made it clear that the tradeoff for enterprise zones is vitiating, getting rid of UDAG, the Urban Development Block Grant Program and the Community Development Block Grant Program. This is the tradeoff.

Now, there is nothing in this legislation that indicates that any such thing would be prohibited.

I say that we ought to go on ahead with the business at hand, which is the reaffirmation, the extension of the basic assisted housing programs, which expired, that is, the statutory authorization, as of October 1 last year.

I am very, very regretful, that so much has been said here and statistics given that are actually not proven.

The viability of the legislation before us, even though it is packaged so attractively, it has got such a beautiful sell that I am sure that it is going to wham right through; but I would be

dishonest if I were to join that chorus merely because I thought it was the popular thing to do, the thing that is going to succeed for the moment and is going to deceive thousands of Americans into thinking that their blighted areas are going to suddenly blossom, that the desert is going to produce, because the fact is that there is no evidence to show that.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

Mr. GARCIA. Mr. Chairman, I ask unanimous consent that the gentleman have 5 additional minutes, and I will ask if he will yield to me.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. KEMP. Reserving the right to object, Mr. Chairman, and I am, not going to object, could my friend, the gentleman from New York, yield to me?

Mr. GARCIA. I am asking five minutes for my colleague, the gentleman from Texas.

Mr. KEMP. The gentleman from Texas mentioned my name. I wonder if the gentleman from New York would give me a chance to answer.

The CHAIRMAN. Does the gentleman reserve the right to object?

Mr. KEMP. I reserve the right to object in order to ask my good friend, the gentleman from New York [Mr. GARCIA], if I could have a chance to respond immediately to the remarks of my good friend, the chairman, the gentleman from Texas.

Mr. GARCIA. Mr. Chairman, I withdraw my request.

Mr. KEMP. Mr. Chairman, I move to strike the requisite number of words. I wonder if the gentleman from Texas would repeat his statement regarding hostage-taking.

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield, in no way did I mean any adverse reflection on the integrity of the gentleman.

Mr. KEMP. Well, just so the folks on television know that we are still going to be friends subsequent——

The CHAIRMAN. The Chair wants to remind Members that references to the television audience or the proceeding of the House are not in order under the House rules. The gentleman will try to restrain his remarks here.

Mr. KEMP. Mr. Chairman, I profoundly apologize for mentioning television or the gallery. If anybody is interested in this colloquy, I just want them to know that I have great respect for the chairman, the gentleman from Texas. I hope he does not hold urban and rural and Indian reservation enterprise zones hostage.

I would ask the chairman, the gentleman from Texas, to help America achieve the type of land of opportunity that we all talk so much about and we have a chance of advancing.

Let me make one other point. I want to let everybody know that the only thing I said yesterday was that I did not hold the gentleman accountable for not bringing enterprise zones to the floor. But, I thought that when I had one brief moment, being a member of the minority party, to get a bill to the floor of the House against the majority party's obstruction of enterprise zones, that I ought to go ahead and do it. It was not meant for the chairman, the gentleman from Texas. It was meant as one of those in the minority who sometimes only has a legislative opportunity once in a lifetime to do something for the people he represents, and that is why I did it.

I profoundly apologize if I offended the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield, because I think we ought to clarify a couple things here.

Mr. KEMP. Yes.

Mr. GONZALEZ. Mr. Chairman, I in turn wish to say that it certainly is not my desire to in any way diminish or in any way depreciate the gentleman, for whom I have high regard.

Mr. KEMP. I thank the gentleman.

Mr. GONZALEZ. And in a way I have a big obligation to be most grateful for the remarks the gentleman has made on the floor, which were entirely spontaneous, praising me for my thoughts and expression with respect to the Federal Reserve and the like; so that if the gentleman feels very offended, I will ask general leave and unanimous consent to withdraw that comparison and just say that I resist and vigorously always have since a child any attempt to be pressured into something and that the reason that I have not gone along is that some of the basic issues I have raised in this legislation thus far presented, and the gentleman from New York will testify to that, have precluded my joining them, and also the track record from what I have seen.

□ 1210

Second, I ask unanimous consent that my previous reference to the gentleman from New York be deleted.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. GONZALEZ] may revise his remarks.

There was no objection.

Mr. GONZALEZ. The main thing I want to conclude with, and I thank the gentleman for continuing to yield, is that it is a fact that the administration and the budget, for instance, Indian housing, the gentleman is well aware that this administration would have us zero it all out. That is just Indian housing. It has nothing to do with the other.

Mr. KEMP. Mr. Chairman, could we continue this colloquy with me just responding?

Mr. GONZALEZ. Certainly. I think I have said all I have to say.

Mr. KEMP. First of all, I thank the gentleman for his comments, and I thank him for revising the record.

Mr. GONZALEZ. It was.

Mr. KEMP. It was more than ad hominem.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has expired.

(On request of Mr. GARCIA and by unanimous consent, Mr. KEMP was allowed to proceed for 5 additional minutes.)

Mr. KEMP. Mr. Chairman, we cannot make every decision on an amendment to a bill predicated upon some administration's effort in some other area, with all due respect.

Mr. GONZALEZ. I have not.

Mr. KEMP. I think CDBG should be targeted to fiscally distressed areas. I think revenue sharing should be targeted to fiscally distressed areas. I think UDAG should be used for the most severe problems in the communities of our country. But I can only speak for KEMP and GARCIA can only speak for GARCIA and the gentleman, of course, can only speak for GONZALEZ.

I am just asking the gentleman, pleading, begging, on behalf of those of us who for years have tried to advance this new idea, irrespective of what happens to the UDAG Grant Program or the administration. Frankly, I do not even know if the administration is in favor of the Ridge-Garcia or Garcia-Ridge amendment to this housing legislation. Frankly, I do not care. I think we ought to do it. If it were up to me, I would put enterprise zones in the whole country. I would have an enterprise zone from New York to California. I want this whole country to be an enterprise zone some day, and I think that is really what we ought to be thinking about.

I know the gentleman is not going to hold up this good idea because there is a complaint that the gentleman may have with some faceless, nameless, deceased bureaucrat. There are too many people in this country, may I say, Mr. Chairman, who think it can work. There are too many places where it is working.

Mr. GONZALEZ. I agree with that.

Mr. KEMP. There are too many people working today—working, not on food stamps but with wages—who would dispute what the gentleman says. There are too many Governors, Governor Kean of New Jersey, the Governor of Connecticut, Governor O'Neill, but a Democrat, also Louisiana, Missouri, Illinois, California.

It is not perfect, but it is a step in the right direction.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to my colleague, the gentleman from the South Bronx.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I would just like to say very clearly to my colleague, the gentleman from Texas, the chairman of this committee, that there is no one person that I have more respect for and there is no one person who has worked harder as chairman for the poor and chairman for housing in the five terms that I have served in this body.

I must say very clearly that I do not blame him for opposing this legislation if some person said it was either this or that. Anybody who knows the chairman well, that is the last thing that you want to do with the chairman of housing.

So having said that, and going even further than that if I may, I just want to state that there were problems with this bill originally. My colleague and I had to fight the administration, we had to insist on certain points, and we did, and we prevailed, and we have gotten to this point.

But I would just like to say to the chairman of this committee that if anybody ever threatened me or held me or said that to me, I would have withdrawn from the legislation myself.

Mr. KEMP. I appreciate the gentleman's comments.

For the record, Mr. Chairman, I want to make it very clear one more time how much respect I have for you. I have said it publicly and on the floor of the House.

No. 2, I want to say that my comments yesterday were aimed in a sense of frustration at the inability to get something done. It was not aimed personally.

I want you to know, sir, that I respect you. I appreciate you. I know you are going to oppose this amendment and I understand it. I was simply stating in an honest fashion my frustration in not being able in 6 years to get the Garcia-Kemp bill to the floor of the U.S. House of Representatives.

Mr. GONZALEZ. I understand.

Mr. KEMP. Do people know it passed the Senate twice? It passed the Senate twice, and it will not even be dealt with in the Committee on Ways and Means. There was the sense of frustration, Mr. Chairman.

Mr. GONZALEZ. If the gentleman will yield, the gentleman just mentioned something.

This legislation, to be complete, must be referred sequentially also to the tax-writing committee.

Mr. KEMP. Right.

Mr. GONZALEZ. That is where the gentleman met his frustration.

But also let me just conclude by saying that my feeling is so strong that in the 1983 authorization bill, where we must admit and use the word "hostage," the IMF bill, which the administration wanted, was held hostage for the housing authorization.

Mr. KEMP. Right.

Mr. GONZALEZ. I was given the credit for being the author of the housing authorization. I voted "no." I ended up voting "no" because I did not think it was right that we legislate on that basis. Either one stands on its own or the other stands on its own.

The CHAIRMAN. The time of the gentleman from New York [Mr. KEMP] has again expired.

(By unanimous consent, Mr. KEMP was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. If the gentleman will yield further, that is the only reason. But let me assure the gentleman that that does not motivate my position at this time. I am working with Mr. GARCIA and will continue to work.

Mr. KEMP. Good.

Mr. GONZALEZ. Eventually, we will find a consensus.

Mr. KEMP. Did the gentleman vote against the IMF $8 billion bailout?

Mr. GONZALEZ. I voted against it.

Mr. KEMP. Yes. This gentleman did, too. I voted against it for the very same reason that the gentleman from Texas did. I thought it was going to impose such conditions of austerity on Third World countries and less developed countries that they would never climb out from underneath that debt.

Mr. WATKINS. Give them enterprise zones.

Mr. KEMP. Get enterprise zones passed.

Mr. Chairman, could I just take a minute of my own time, now, to get back to the subject, which is how this thing actualy got started?

The gentleman from the South Bronx was on the floor one afternoon in a special order praising Gov. Luis Munoz Marin of Puerto Rico, a great Governor of Puerto Rico who passed away, I think, in 1979. I remembered, as a Republican, what a great job he has done with Operation Bootstrap.

Operation Bootstrap was what converted Puerto Rico from a per capita income of $200 in the 1950's to well over $4,000 in the 1960's or 1970's.

I stood up and said to the gentleman from the South Bronx that I, too, wanted to praise Gov. Munos Marin and suggested it would be wonderful if we could build a bridge between Democrats and Republicans and come up with a bill that would do for the inner cities, do for the depressed areas of America, what Operation Bootstrap had done for Puerto Rico. He walked across the aisle, we shook hands, and from that came the enterprise zone legislation.

So the sense of frustration is that the bill was introduced in 1979 and today is the first chance we have had in 7 years to see the possibility of this bill, at least the concept, getting included in the housing bill.

So please excuse the sense of drive and tenacity that exists in the minds and hearts of those who are supporters of enterprise zones because we have watched 29 States, as the gentleman points out, pass State enterprise zones. Pennsylvania is an enterprise zone State, among others. That is why the gentleman from Pennsylvania [Mr. RIDGE] is such a strong supporter, I know, and today is the first chance we have had to actually put an amendment onto the housing bill.

So I just want to say to my colleagues that I think it is a historic day. This is a historic coalition that has been built up on both sides of the aisle. There are folks from rural America and urban America. I represent the suburbs. I do not even know if there will be an enterprise zone in my congressional district, but I think the people in the suburbs of New York have a big stake in the inner city. I think the people of the inner city have a big stake in the health of the whole economy. And I think the people of this country have a big stake in the type of opportunity to replace despair with hope.

What we are going to do is abolish eventually the capital gains tax on any man, any woman, who invests in an area where there are high levels of unemployment. We are going to reduce the tax rate on the working man or woman who takes the job.

□ 1220

We are going to encourage with a compensatory tax incentive system the opportunity for small businessmen and women to apply their techniques and their entrepreneurial skills to bringing down the tragically high unemployment rates among minorities, teenagers and other people who are out of work and need hope and opportunity.

I am encouraged by so many people, so many mayors, so many Governors, so many Members of Congress, and this vote is going to be historic because it will be the first chance the U.S. House of Representatives has had the opportunity to send a very strong signal to the Committee on Ways and Means, to the House leadership of the Democratic Party, and to the country that we want to reverse the status quo in the high unemployment areas of America.

I appreciate the time that we have spent on it and I rise in strong support of the Garcia-Ridge amendment and thank my colleagues for their overwhelming support for enterprise zones.

Mr. RIDGE. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the amendment.

Mr. Chairman, I am pleased to have the opportunity to offer this enterprise zone amendment with the gentleman from New York. As our colleague, JACK KEMP, reminded this Chamber yesterday during the urban homesteading debate, both gentlemen from New York cosponsored legislation promoting this concept back in 1979. I commend the gentlemen for their leadership, their commitment in promoting this initiative, and, most of all, for their tenacity.

During the past few years, most of the national economic news has been good news. When national economic figures are revealed, the economy seems strong and growing. Unfortunately, while these national indicators are promising and hopeful, this is not the situation in all of our communities and congressional districts. Many of us still represent communities and families facing considerable and pervasive economic hardship.

It is clear that the good national economic news does not reflect universal growth, job creation, and improved economic activity throughout this country. The growth and recovery has been uneven. One of the most creative ideas to deal with these pockets of hardship has been the designation of certain areas as enterprise zones.

A troublesome trend is revealed when you examine programs Congress has traditionally supported for economic development to assist local governments. It doesn't take long to see that the support for such programs is being withdrawn and that the erosion of both support and targeted aid began long before the Gramm-Rudman-Mack proposal we passed last year. You might not notice it from year to year, but when you compare budget figures we are considering for fiscal year 1987 to the levels that existed when I first came to Congress in 1983, the trend is very clear.

The Appalachian Regional Commission, funded at $168 million in 1983 is now being phased out over 5 years, with a House 1987 budget figure of $105 million. The Economic Development Administration, funded in 1983 at $268 million is now funded at $180 million. The UDAG Program, funded in 1983 at $365 million, now stands at $284 million. Community development block grants, $3.3 billion in 1983, are now at $2.9 billion in the House budget—and those are House budget figures for 1987, which could very well drop some more during conference with the Senate. Revenue sharing, funded at $4.6 billion in 1983, is scheduled to be completely eliminated in 1987.

We have seen a significant policy change in the last 4 years—a slow, but very obvious, retreat from direct economic development grants and aid.

The Federal Government has consistently reduced aid, taken away development funding, pushed the tax and the burden of providing economic development financing onto State and local governments. Many of these local governments are already strained by long-term unemployment and shrinking tax bases. Although this legislation would simply authorize the designation of 100 enterprise zones according to fairly rigid standards designed to identify most severely impacted areas, it is an idea whose time has come. If we are to reduce direct aid, we still have a responsibility to provide other forms of assistance, additional incentives to respond to the needs of these kinds of communities.

Often State and local governments have looked to the Federal Government for funding, guidance, and initiatives. However, innovation coming from the States concerning enterprise zone activity sends a very clear message from local and State government to Washington—30 States have now enacted some form of enterprise zone legislation.

Obviously, we will have to await the outcome of the tax reform efforts in Congress this year to determine whether or not the kinds of initiatives considered several years ago would be appropriate and available to these designated areas. Clearly, we will need to explore specific options once we have identified eligible communities.

Nonetheless, the program can work. Certainly the States which have adopted enterprise zones see its potential as well. The point is, we will never know for sure unless we take the first step to establish the zones themselves.

The long-term effects of high unemployment over the last decade has fundamentally changed the character of many towns in this country—towns that by tradition were productive and industrious. My colleague's amendment is the first step in a new direction in response to the needs of people who live in these troubled communities. Enterprise zones are a sensible, sensitive initiative and I urge my colleagues to support this amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RIDGE] has expired.

(By unanimous consent, Mr. RIDGE was allowed to proceed for 2 additional minutes.)

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. RIDGE. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I want to support the amendment that is before us and commend the gentleman from Pennsylvania and the gentleman from New York for bringing this amendment to the House floor to restore to the bill what was added in committee on a very narrow margin.

I know the gentleman from Pennsylvania was helpful in this.

This is a new day in housing in this country and employment opportunities and by taking the approach of enterprise zones, even though we cannot put the entire proposal into effect on this bill, we can make a start and we can start to give low-income families a chance in this country and a chance to work and a chance to build their communities and a chance to live in decent living conditions.

I commend the gentleman from Pennsylvania [Mr. RIDGE] and the gentleman from New York [Mr. GARCIA] for their leadership on this, as well as the vision and the leadership of the gentleman from New York [Mr. KEMP], who, with the gentleman from New York [Mr. GARCIA] was the originator of enterprise zone legislation.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Garcia amendment to H.R. 1, an amendment to provide the designation of 100 enterprise zones around the Nation.

I remember back in 1979 and 1980 first hearing about this novel idea being proposed by my colleague from New York. From his point of view, something needed to be done, and quickly, to save his district from urban blight. From my point of view, I was intrigued with its uniqueness. It reminded me of Roosevelt's adage to try somthing. If it didn't work, try something else. That's what was needed for the Nation's deteriorating cities.

Since then, though, something else happened that made me even more intrigued with the idea. States began adopting their own enterprise zone laws. Many work successfully. But others don't work quite as well because the States are only able to offer prospective businesses state tax incentives to locate in depressed areas.

What we have an opportunity to do here today, then, is to create a unique State and Federal experiment, with the correct mix of State and Federal tax incentives, to stimulate business development that can benefit both urban and rural communities. It is an opportunity worth trying.

Colorado recently passed its own version of an enterprise zone law. Signed into law April 14, 1986, the State law is patterned after 26 other State laws and proposed Federal law. It offers eligible areas within the State sales tax exemptions, triple investment tax credits, and a new job tax credit for each new employee hired.

Intended for the rural parts of Colorado, where unemployment reaches 30 percent, the State law still allows for urban enterprise zones, much like the current amendment we debate today. Under the proposed amendment, for example, my district, Denver, CO, would be eligible for Federal enterprise zone benefits. The city's economic development agency reports that Denver would meet the definition of a UDAG distressed area and the requirement of at least a 20-percent unemployment rate between 1970 and 1980. Five Points and City Park West, two notoriously depressed neighborhoods in Denver, would benefit from Federal tax benefits.

I have always been, and still am, concerned that the State and Federal tax benefits offered

by enterprise zones do not tear the neighborhood social fabric in its efforts to bring businesses in. But I'm confident that my colleague from New York shares my concern and would not let that social fabric be threatened.

It is this concern for the neighborhood and the uniqueness of a Federal and State business development experiment that I urge my colleagues to vote for the Garcia amendment.

Mr. SILJANDER. Mr. Chairman, it is rare today to find a major American city without an area totally deteriorated, lacking in industry, services and population. Middle and upper income residents have moved out, and small businesses, the key to new growth and new jobs, have gone to the suburbs or entirely new regions of the country.

Although the population of the country as a whole has been growing, a mass migration of population and jobs has occurred from the northern cities. This situation has produced chronic unemployment, sluggish economic growth, a declining tax base and rising tax rates, and an extremely high cost of living for us all. We have seen program after program from the Federal Government attempt to assist the people in the inner city, and yet we have seen marginal results at best. Many of the programs that have been implemented amongst the poor have actually served to perpetuate poverty, not eradicate it.

The situation in the inner and rural cities, where all these poverty programs have been concentrated, is worse today than it was two decades ago. Here is a case where we in Congress must confront some realities and facts. The Federal Government has been tried and found wanting. It enacted its myriad of programs, and concentrated them specifically on the black poor, in mostly the central cities of America; and the result today is that 6 out of 10 black children are brought up without a father in the home. This is a desperate tragedy, and it is directly attributable, and can be demonstrated to be attributable, to those very programs the Federal Government thought could solve the problem of poverty.

Capitalism is the system which is closest to the family and most resembles the family. Free enterprise is the system that makes it possible to give productively, to give in a way that really does help other people by creating jobs and markets and opportunities for others. This is the essence of capitalist success. It derives from the crucial institutions of family and faith, and is founded on the proposition that you give and you'll be given unto.

The reason that I have spent so much time describing the virtues of the free enterprise system is that it is the one system this Government has failed to try in the inner city in the last 20 years. I find it ironic that a nation which has become the strongest and most innovative in the world has not turned to its own success story to solve one of the most serious problems of our time.

The amendment offered by Congressmen GARCIA, RIDGE, and KEMP is an attempt to bring the American economic success formula to the inner city. It is an idea that must be tried. Too many lives can be postively affected by it.

The amendment offered today would be an experimental, free-market initiative for dealing with economic distress in inner cities and rural towns. Its objectives are twofold:

To create jobs in the Nation's depressed urban areas and rural towns, particularly jobs for disadvantaged workers.

To redevelop and revitalize the geographic zone areas themselves.

The underlying concept of enterprise zones is to create a free-market environment in depressed areas through relief from taxes, regulations and other Government burdens, privatization of some city services and involvement of private, neighborhood organizations. Because the program is based on the concept of removing Government burdens rather than providing Government subsidies, it should involve no appropriations, at least at the Federal level.

The removal of these burdens will create and expand economic opportunity within the zones, allowing private sector firms and entrepreneurs to create jobs and expand economic activity within these areas. This would be similar to the free trade zones established in other parts of the world, such as Hong Kong, which have been quite successful in stimulating the development of poor areas.

The program is intended primarily to stimulate new economic activity within the zones that would not otherwise have occurred at all, anywhere, rather than to encourage existing outside activity to relocate into the zones. In addition, the intent behind the program is not to stimulate a particular kind of business, but rather to let the market decide what activities should take place in the zones. While the Federal tax incentives are skewed toward labor-intensive businesses and jobs for disadvantaged workers, the program generally is meant to include a relatively balanced set of incentives for a broad range of economic activities and businesses.

The Enterprise Zone Progam is not simply a Federal Government effort. To be successful, the program must have substantial contributions from State and local governments. In fact, State and local contributions would probably make the critical difference in whether a zone succeeds or fails.

The initial importance of the State and local contributions is that they would determine what designated zones would be federally approved. The Federal posture toward these contributions would be highly flexible. No particular element or tax relief or regulatory relief, or any other possible contribution would be required.

Failure to include one element in a State and local package of contributions could be offset by greater strength in the other elements. It should be remembered, however, that each State and local contribution package would be competitively evaluated against the other State and local packages.

In the area of tax relief, State and local governments could provide reductions in State and local income taxes, property taxes, sales taxes, and other taxes which vary among the jurisdictions.

State and local deregulation could be provided in such areas as zoning, occupational licensure laws, usury laws, price controls, permit requirements, central planning regulations and building codes.

In the area of service improvement, "contracting out" or "privatization" could be one means of improving local services.

State and local government may also provide funding for projects which contribute to economic development in a zone, such as job training or infrastructure efforts. These governments may use their community development block grants, urban development action grants or revenue sharing funds for these efforts.

To encourage local community involvement, State and local governments could provide for the creation of neighborhood enterprise associations by zone residents. These associations could undertake the provision of some city services in their areas, help local residents to participate in the economic success of the zones, particularly through mechanisms providing for equity participation by zone residents, and support volunteer, self-help efforts for the zone areas. Participation in the program by other private sector organization which could perform these functions could also be encouraged by the State and local governments.

The results of enterprise zone legislation in the States is most encouraging. Although the first State zones were created only in fall of 1982, a survey by the Washington-based Sabre Foundation has discovered strong enthusiasm for enterprise zones within the designated areas, with more than 20,000 jobs in place or in progress in the nine States actually operating enterprise zones. According to the report—

business startups and expansions within zones has already generated 4,601 jobs. In the opinion of officials administering local zone programs, another 4,085 jobs have been saved when businesses planning to move out of a depressed area had a change of heart after the enterprise zone was declared. (The "saved" companies were typically among the largest employers in their areas, and several have subsequently expanded.) Officials also reported plans for an additional 8,477 hires by zone-based entrepreneurs, and estimated that 3,108 further jobs will be created by firms whose applications for zone applications are now pending.

The report shows that cities have increased employment 20 percent in 1 year in the designated zone area. This remarkable growth in jobs has occurred in less than 1 year, in a few small areas, without any assistance from the Federal Government as envisioned in the bill. Clearly there is strong evidence that this legislation will help those areas who need help the most.

The enterprise zone initiative is a bold, bipartisan attempt to use State and Federal incentives to spur economic development in the Nation's most distressed communities. If Congress is looking for a program that guarantees results at a firm price tag, the enterprise zone is not that program. It is an experiment and should be seen as such. But the State data available suggest that it would pay off handsomely in a new jobs for the hard core unemployed. And the faulty assumptions of the Treasury's cost analysis point to a much lower revenue loss than some congressmen have feared. Good reasons to move quickly and enact this long overdue legislation.

I fully believe that this endeavor will do more to restore our inner city than all the Federal programs directed toward the inner city over the last 20 years together. I also believe that the new growth these zones create will result in a net budget reduction for the Federal Treasury. I urge my colleagues to act now. Act to prevent the destruction of more inner city families, act to bring employment to minority youths, act to make our inner cities a better place to live.

AMENDMENTS OFFERED BY MR. WATKINS TO THE AMENDMENT OFFERED BY MR. GARCIA

Mr. WATKINS. Mr. Chairman, I offer two amendments to the amendment, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. WATKINS to the amendment offered by Mr. GARCIA: On page 2 of the Garcia amendment, at the end of line 9, strike "25" and insert in lieu thereof "33 or one-third".

In section 601(c)(3) of the matter proposed to be inserted by the amendment, insert after "nominated area" the first place it appears the following: "(other than a rural area described in subsection (a)(2)(B))".

At the end of section 601(c) of the matter proposed to be inserted by the amendment, insert the following new paragraph:

(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(2)(B) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

(B) not less than 1 of the criteria set forth in the other subparagraphs of paragraph (3).

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATKINS. Mr. Chairman, with respect to the other speakers who are going to need time, I will be very brief because I have talked to the gentleman from New York about accepting my amendment.

Basically these two amendments restore the language to exactly what H.R. 1955 had in it last year when we had 283 cosponsors. With respect to the remarks made by the gentleman from Arkansas [Mr. ANTHONY], the chairman is willing to accept these two amendments and I want to express my thanks to him.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Chairman, I am prepared to accept both amendments offered by my colleague, the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Chairman, I want to say on behalf of all the people in rural America, I appreciate your consideration and help.

□ 1230

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage the gentleman from New York [Mr. GARCIA] in a colloquy. He is representing a district that has lost 55,000 jobs and seriously impacted upon by economic times where we seem not to have any recovery.

Being a little cramped for time because I have an amendment to the gentleman's amendment, I would like to ask a few questions and perhaps the gentleman could respond to my concerns.

First, it says that there will be no Federal tax breaks, and that these particular areas can reduce and in fact abate taxes and offer incentives to bring businesses in; plus that they can increase services and handle certain areas in that regard.

Where does the money come from for these communities who are having a hard time right now?

Mr. GARCIA. If my colleague from Ohio will yield, the fact is what we are doing here principally is setting the criteria to establish the zones. What we had hoped to accomplish when we first introduced this legislation, and we still hope to accomplish it at some time in the future, is to have the tax incentives that are necessary to bring industry in to those specific areas.

At this particular point, because we have no jurisdiction over the Tax Code, we are just setting the criteria. We are not in any way proposing any tax legislation; because obviously we cannot.

Mr. TRAFICANT. In this regard, Mr. Chairman, I think we are coming across certain legislation that areas like mine are very concerned with.

However, our major concern, if the gentleman from New York [Mr. GARCIA] will bear with me, our major concern is that this is nothing more than a veiled attempt to eliminate programs that have been largely responsible for whatever recovery we have had, and this is in line with the amendment that I will offer at the conclusion of our colloquy.

If in fact this legislation, once enacted, is nothing more than the administration saying, "Well, let's whack out UDAG's and Community Development Block Grant money," in areas like mine that have made some of, what meager recovery there has been, that would be negated by this effort.

We are concerned that, while on its face we like some of it, the administration may move on this money and whack it out, then we are faced with a tough time.

Mr. GARCIA. I can assure my colleague from Ohio that that is not the intent of the sponsor of this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Oklahoma [Mr. WATKINS] to the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendments to the amendment were agreed to.

Mr. KANJORSKI. Mr. Chairman, I move to strike the last word. I rise to engage in a colloquy with the gentleman from New York [Mr. GARCIA].

Mr. Chairman, I would normally raise certain questions about the definitions and qualifications set out in the Garcia amendment, because I think that in my examination of it, it perhaps is too restrictive and sometimes does not address the problem of chronic, persistent unemployment in some areas of the country.

However, I have been a sponsor of enterprise zone legislation since my tenure in Congress began. I have examined with Mr. GARCIA, his amendment to the bill, and I recognize that this is an attempt to move along the enterprise procedure so that we can eventually get something on the books to augment a theory that we all think should be applied across America to help the unemployed.

I would, however, like to call to the attention of my colleagues some fundamental errors in some of these programs; and they affect areas such as mine and some of the more chronically depressed areas of the United States.

I would appreciate, if the gentleman from Pennsylvania [Mr. RIDGE], the gentlemen from New York [Mr. GARCIA and Mr. KEMP] and whoever else is involved in eventually putting this final legislation through conference, that they keep in mind that we always talk about taking care of the depressed area, the chronic unemployed area, and then we fall back on the same set of flawed statistics to target these programs.

For instance, we could take one area of Pennsylvania and find that it is one of the most prosperous areas of Pennsylvania, and under this amendment this wealthly area would qualify for an enterprise zone.

The reason for that is because 1.5 times the unemployment rate is one of the criteria for an enterprise zone. We as Members of Congress very often do not stop to think at how we arrive at

the unemployment rate. In this country you are unemployed if you are out of work for the first 6 months after being laid off from a job. If after 6 month and 1 day you do not have a job, you become a nonperson for purposes of unemployment.

I happen to represent an area, Mr. Chairman, where a good portion of the unemployed people would like to be classified as unemployed. They are now classified as nonemployable because statistically, when you are out of work for more than 6 months, you are no longer counted as unemployed.

I would like to see this formula changed, and it cannot be changed here on the floor in a few short moments, and I certainly do not want to stop the passage of this legislation by opposing it.

I think it is incumbent upon this House to look at unemployment as being something more than just those people that are qualified for unemployment compensation. What we are talking about is chronic unemployment, persistent unemployment. There are people that have worked in hard-hit industries such as steel and coal and auto, and have been out of work for not 6 months, not 1 year, but, in some cases, several years. They still want to find work, but cannot.

I would recommend that our colleagues look into these kinds of formulas. I would suggest, for instance, that we not use a Census Bureau track and find an area that is 20 percent in poverty and use this alone as a criterion for designating an enterprise zone. This is because a lot of areas that have a lot of people unemployed do not necessarily have 20 percent of their population in or below the poverty level.

I would suggest that the formula used by the gentleman from Oklahoma [Mr. WATKINS] in the rural bill would be a reasonable formula to be taken in the urban bill. Rather than having four criteria which have to be met, Mr. WATKINS' bill has four individual criteria that could qualify an area as an enterprise zone.

As I said, Mr. Chairman, I do not want to oppose Mr. GARCIA's enterprise zone amendment; I want to support it.

Am I correct in believing, Mr. GARCIA, that the modifications that we discussed to change the formula to help qualify areas of northeastern Pennsylvania and other chronically, persistently unemployed areas of the country, will be undertaken between now and the conference on this bill?

Mr. GARCIA. I would just like to assure my colleague from Pennsylvania that there has been no stronger support of this legislation, and there has been no person who has been as persistent as he has in terms of getting the criteria changed to satisfy the needs of his specific area.

I assured the gentleman yesterday, in a dialog with him, that between now and the time that the conferees get together that our staffs will meet and we will do everything possible to make certain that the objections that the gentleman has will be met before the final passage of the legislation.

Mr. KANJORSKI. Mr. Chairman, reclaiming my time, I would like to support the contention of the chairman of the subcommittee that the administration take note: It is the intention of the Congress that enterprise zone legislation not affect other programs designed to encourage employment, which the chairman referred to in his speech. And let it be clearly set out that this is just an augmentation to help chronically unemployed areas, and this should in no way justify the administration lessening their support for economic assistance programs.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT OFFERED BY MR. GARCIA, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT to the amendment offered by Mr. GARCIA, as amended: at the end of the amendment, add the following new section:

SEC. 606. COORDINATION WITH CDBG AND UDAG PROGRAMS.

It is the policy of the Congress that amounts provided under the community development block grant and urban development action grant programs under title I of the Housing and Community Development Act of 1974 shall not be reduced in any fiscal year in which the provisions of this title are in effect.

Mr. TRAFICANT. Mr. Chairman, I offer this amendment knowing full well that Congress cannot levy an appropriation hand in future years, and I am not attempting to do that.

What I am attempting to do, however, is address a specific issue that deals with the integrity of this legislation; that No. 1 we are not placing in sacrifice two solid, existing programs that have much to do with what recovery we have had so far; specifically, community development block grant money and urban development action grant money.

My amendment specifically states that it is the policy and the intent of Congress that we are not sacrificing these existing programs that have been a benefit to areas decimated by lack of economic recovery such as mine, but it augments, it supports, and it leaves a system of integrity that these programs are to augment, to help those specifically impacted upon.

That is the specific area of concern that I have, Mr. Chairman. I would like to know if in fact we can move forward and answer the questions that many people have, looking at some perhaps veiled attempt underneath the surface here, that may some day come with the ax and whack away a couple of programs, even though they may not be totally accepted by all.

I commend the gentlemen from New York [Mr. KEMP and Mr. GARCIA] for their enterprise zone legislation, but I do not want to sacrifice programs that have given us some meager hope so far.

□ 1240

With that, I ask the chairman if he could respond.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the chairman of the subcommittee.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, I want to advise the gentleman that this amendment, if it is accepted, will really determine my decision to support the legislation. This has been the big, big issue that I have raised since the beginning. That is one of the main reasons. And if this is acceptable or if it is adopted, I certainly feel that I am in a position to accept this legislation.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I would like to take this opportunity to say I think that the gentleman has struck upon an amendment that really takes care of many of the fears some of our colleagues have. I really want to congratulate the gentleman because we have worked on this for a long period of time, and it was his insistence in the last couple of hours which has brought about this change.

I think it makes a great deal of sense. I am not only willing to accept his amendment, I think it is an amendment that adds a great deal to the legislation and will take care of the fears of some of our colleagues. So not only do I thank the gentleman for his amendment but I congratulate him for the amendment. I think it is a good amendment. I am willing to accept the amendment.

Mr. TRAFICANT. I appreciate that.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. Yes; I yield to the gentleman, my neighbor.

Mr. RIDGE. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for the amendment which he has offered. He and I are familiar with some of the very troubled spots in each of our respective communities.

The gentleman and I have shared the same concerns as long as we have been here about the erosion of support for community development block

grants, for the UDAG Program, and we have fought that fight on an annual basis, when ultimately Congress decides whether or not either of those or any other program is to continue to receive funding. We will continue that work together to preserve those programs as best we can and as much as we can. But I do want to commend the gentleman for his effort. This particular amendment, which I think, as Chairman GARCIA and Chairman GONZALEZ have indicated, arrests many of the fears and concerns that many of the Members of this Chamber have that suddenly enterprise zones are simply going to be the only way that the Federal Government reaches out to try to help these troubled communities.

So I want to commend the gentleman, and I accept his amendment.

Mr. TRAFICANT. Mr. Chairman, I appreciate that.

In closing out, I appreciate the fact that the gentleman from New York, from the other side of the aisle, has considered all these dynamics as well and has not opposed them. I commend him for his legislation and also Mr. GARCIA. So I would hope the Congress would accept this amendment, which would answer those questions which concern many of us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment offered by the gentleman from New York [Mr. GARCIA], as amended.

The amendment to the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA] as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GARCIA. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 162]

Ackerman	Anthony	AuCoin
Akaka	Applegate	Badham
Alexander	Archer	Barnard
Anderson	Armey	Bartlett
Andrews	Aspin	Barton
Annunzio	Atkins	Bateman
Bates	Fiedler	Mack
Bedell	Fields	MacKay
Beilenson	Fish	Madigan
Bennett	Florio	Manton
Bentley	Foley	Marlenee
Bereuter	Ford (MI)	Martin (IL)
Berman	Frank	Martin (NY)
Bevill	Franklin	Martinez
Biaggi	Fuqua	Matsui
Bilirakis	Gallo	Mavroules
Bliley	Garcia	Mazzoli
Boehlert	Gaydos	McCain
Boggs	Gejdenson	McCandless
Boland	Gekas	McCloskey
Bonior (MI)	Gibbons	McCollum
Bonker	Gilman	McCurdy
Borski	Gingrich	McDade
Bosco	Glickman	McEwen
Boucher	Gonzalez	McGrath
Boulter	Goodling	McHugh
Boxer	Gordon	McKernan
Brooks	Gradison	McKinney
Broomfield	Gray (IL)	McMillan
Brown (CA)	Gray (PA)	Meyers
Brown (CO)	Gregg	Mica
Broyhill	Guarini	Michel
Bruce	Gunderson	Mikulski
Bryant	Hall (OH)	Miller (CA)
Burton (CA)	Hall, Ralph	Miller (OH)
Burton (IN)	Hamilton	Miller (WA)
Bustamante	Hammerschmidt	Mitchell
Byron	Hansen	Moakley
Campbell	Hatcher	Molinari
Carney	Hawkins	Monson
Carper	Hayes	Montgomery
Carr	Hefner	Moorhead
Chapman	Heftel	Morrison (CT)
Chappell	Hendon	Morrison (WA)
Chappie	Henry	Mrazek
Cheney	Hertel	Murphy
Clay	Hiler	Murtha
Clinger	Hillis	Myers
Coats	Holt	Natcher
Cobey	Hopkins	Neal
Coble	Horton	Nelson
Coleman (MO)	Howard	Nichols
Coleman (TX)	Hoyer	Nielson
Collins	Hubbard	Nowak
Combest	Huckaby	Oakar
Conte	Hughes	Oberstar
Conyers	Hunter	Obey
Cooper	Hutto	Olin
Coughlin	Hyde	Ortiz
Courter	Ireland	Owens
Coyne	Jacobs	Oxley
Craig	Jeffords	Packard
Crane	Jenkins	Panetta
Crockett	Johnson	Pashayan
Daniel	Jones (NC)	Pease
Dannemeyer	Jones (OK)	Penny
Darden	Jones (TN)	Pepper
Daschle	Kanjorski	Perkins
Daub	Kaptur	Petri
de la Garza	Kasich	Pickle
DeLay	Kastenmeier	Porter
Derrick	Kemp	Price
DeWine	Kennelly	Pursell
Dickinson	Kildee	Quillen
Dicks	Kindness	Rahall
Dingell	Kleczka	Rangel
DioGuardi	Kolbe	Ray
Dixon	Kolter	Regula
Donnelly	Kostmayer	Reid
Dorgan (ND)	Kramer	Richardson
Dornan (CA)	LaFalce	Ridge
Dowdy	Lagomarsino	Rinaldo
Downey	Lantos	Ritter
Dreier	Leach (IA)	Roberts
Duncan	Leath (TX)	Robinson
Durbin	Lehman (CA)	Roe
Dwyer	Lehman (FL)	Roemer
Dymally	Lent	Rogers
Dyson	Levin (MI)	Rose
Early	Levine (CA)	Rostenkowski
Eckart (OH)	Lewis (CA)	Roth
Eckert (NY)	Lewis (FL)	Roukema
Edgar	Lightfoot	Rowland (CT)
Edwards (CA)	Lipinski	Rowland (GA)
Edwards (OK)	Livingston	Roybal
Emerson	Lloyd	Rudd
English	Loeffler	Russo
Evans (IL)	Long	Sabo
Fascell	Lott	Savage
Fawell	Lowry (WA)	Saxton
Fazio	Lujan	Schaefer
Feighan	Lungren	Scheuer
Schneider	Spence	Visclosky
Schroeder	St Germain	Volkmer
Schuette	Staggers	Vucanovich
Schulze	Stallings	Walker
Schumer	Stangeland	Watkins
Seiberling	Stenholm	Waxman
Sensenbrenner	Stokes	Weaver
Shaw	Strang	Weber
Shumway	Stratton	Weiss
Sikorski	Studds	Wheat
Siljander	Stump	Whitehurst
Sisisky	Sweeney	Whitley
Skeen	Swift	Whittaker
Skelton	Swindall	Williams
Slattery	Synar	Wilson
Slaughter	Tallon	Wirth
Smith (FL)	Tauke	Wise
Smith (IA)	Tauzin	Wolf
Smith (NE)	Taylor	Wolpe
Smith (NJ)	Thomas (CA)	Wortley
Smith, Denny (OR)	Thomas (GA)	Wright
	Torres	Wyden
Smith, Robert (NH)	Torricelli	Wylie
	Towns	Yates
Smith, Robert (OR)	Traficant	Yatron
	Traxler	Young (AK)
Snowe	Valentine	Young (FL)
Snyder	Vander Jagt	Young (MO)
Solomon	Vento	

□ 1255

The CHAIRMAN. Three hundred eighty-nine Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York [Mr. GARCIA] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 366, noes 32, not voting 35, as follows:

[Roll No. 163]

AYES—366

Ackerman	Bruce	Derrick
Akaka	Bryant	DeWine
Alexander	Burton (CA)	Dickinson
Anderson	Burton (IN)	Dicks
Andrews	Bustamante	DioGuardi
Annunzio	Byron	Dixon
Applegate	Callahan	Donnelly
Archer	Campbell	Dorgan (ND)
Armey	Carney	Dornan (CA)
Aspin	Carper	Dowdy
Atkins	Carr	Downey
AuCoin	Chapman	Dreier
Badham	Chappell	Duncan
Barnard	Chappie	Durbin
Barnes	Cheney	Dwyer
Bartlett	Clay	Dymally
Barton	Clinger	Dyson
Bateman	Coats	Early
Bates	Cobey	Eckart (OH)
Bedell	Coble	Eckert (NY)
Bentley	Coleman (MO)	Edgar
Bereuter	Coleman (TX)	Edwards (CA)
Berman	Collins	Emerson
Bevill	Combest	English
Biaggi	Conte	Erdreich
Bilirakis	Cooper	Fascell
Bliley	Coughlin	Fawell
Boehlert	Courter	Fazio
Boggs	Coyne	Feighan
Boland	Craig	Fiedler
Bonker	Crane	Fields
Borski	Daniel	Fish
Boucher	Dannemeyer	Flippo
Boulter	Darden	Florio
Brooks	Daschle	Foley
Broomfield	Daub	Frank
Brown (CA)	de la Garza	Franklin
Brown (CO)	DeLay	Frost
Broyhill	Dellums	Fuqua

Gallo	Manton	Seiberling
Garcia	Marlenee	Sensenbrenner
Gaydos	Martin (IL)	Shaw
Gejdenson	Martin (NY)	Shelby
Gekas	Mavroules	Shumway
Gilman	Mazzoli	Shuster
Gingrich	McCain	Sikorski
Glickman	McCandless	Siljander
Gonzalez	McCloskey	Sisisky
Goodling	McCollum	Skeen
Gordon	McCurdy	Skelton
Gradison	McDade	Slattery
Gray (IL)	McEwen	Slaughter
Gray (PA)	McGrath	Smith (FL)
Green	McKernan	Smith (IA)
Gregg	McKinney	Smith (NE)
Guarini	McMillan	Smith (NJ)
Gunderson	Meyers	Smith, Denny (OR)
Hall (OH)	Mica	Smith, Robert (NH)
Hall, Ralph	Michel	Smith, Robert (OR)
Hamilton	Mikulski	Snowe
Hammerschmidt	Miller (OH)	Snyder
Hansen	Miller (WA)	Solomon
Hatcher	Moakley	Spence
Hawkins	Molinari	St Germain
Hefner	Monson	Staggers
Heftel	Montgomery	Stallings
Hendon	Moorhead	Stangeland
Henry	Morrison (WA)	Stenholm
Hiler	Mrazek	Stokes
Hillis	Murphy	Strang
Holt	Murtha	Stratton
Hopkins	Myers	Studds
Horton	Natcher	Stump
Howard	Neal	Sundquist
Hoyer	Nelson	Sweeney
Hubbard	Nichols	Swift
Huckaby	Nielson	Swindall
Hughes	Nowak	Synar
Hunter	Oakar	Tallon
Hutto	Obey	Tauke
Hyde	Ortiz	Tauzin
Ireland	Owens	Taylor
Jacobs	Oxley	Thomas (CA)
Jeffords	Packard	Thomas (GA)
Johnson	Pashayan	Torres
Jones (NC)	Penny	Torricelli
Jones (OK)	Pepper	Towns
Jones (TN)	Perkins	Traficant
Kanjorski	Petri	Traxler
Kaptur	Porter	Udall
Kasich	Price	Valentine
Kastenmeier	Pursell	Vander Jagt
Kemp	Quillen	Vento
Kennelly	Rahall	Visclosky
Kindness	Rangel	Volkmer
Kleczka	Ray	Vucanovich
Kolbe	Regula	Walker
Kolter	Reid	Watkins
Kostmayer	Richardson	Waxman
Kramer	Ridge	Weaver
Lagomarsino	Rinaldo	Weber
Lantos	Ritter	Weiss
Leach (IA)	Roberts	Wheat
Lehman (CA)	Robinson	Whitehurst
Lehman (FL)	Roe	Whitley
Lent	Roemer	Whittaker
Levin (MI)	Rogers	Williams
Levine (CA)	Rose	Wilson
Lewis (CA)	Roth	Wirth
Lewis (FL)	Roukema	Wise
Lightfoot	Rowland (CT)	Wolf
Lipinski	Rowland (GA)	Wolpe
Livingston	Roybal	Wortley
Lloyd	Rudd	Wright
Loeffler	Sabo	Wyden
Long	Saxton	Wylie
Lott	Schaefer	Yatron
Lujan	Scheuer	Young (AK)
Lundine	Schneider	Young (FL)
Lungren	Schroeder	Young (MO)
Mack	Schuette	
MacKay	Schulze	
Madigan	Schumer	

NOES—32

Bellenson	Hertel	Morrison (CT)
Bennett	Jenkins	Oberstar
Bonior (MI)	Kildee	Olin
Boxer	LaFalce	Panetta
Conyers	Leath (TX)	Pease
Crockett	Lowry (WA)	Pickle
Dingell	Martinez	Rostenkowski
Evans (IL)	Matsui	Russo
Ford (MI)	McHugh	Savage
Gibbons	Miller (CA)	Yates
Hayes	Mitchell	

NOT VOTING—35

Anthony	Frenzel	Moore
Boner (TN)	Gephardt	O'Brien
Bosco	Grotberg	Parris
Breaux	Hartnett	Rodino
Chandler	Latta	Sharp
Coelho	Leland	Solarz
Davis	Lowery (CA)	Spratt
Edwards (OK)	Luken	Stark
Evans (IA)	Markey	Walgren
Foglietta	Mineta	Whitten
Ford (TN)	Mollohan	Zschau
Fowler	Moody	

□ 1305

Mr. JENKINS changed his vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT: At the end of the amendment, add the following new title (and conform the table of contents accordingly):

TITLE VI—ASSISTED HOUSING LIVABILITY IMPROVEMENTS

SEC. 601. RENT PHASE-IN.

Section 3 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(d)(1) In any case in which the obtaining of employment by a resident of a dwelling unit assisted under this Act will result in an increase in the rent payable by the family of such resident under subsection (a), the public housing agency involved (or the Secretary, if no public housing agency is involved) may provide for a gradual increase in such rent to the full amount during a period of not more than 6 months.

"(2) For purposes of this subsection, the term 'employment' shall have such meaning as is determined to be appropriate by the public housing agency involved (or the Secretary, if no public housing agency is involved).".

SEC. 602. PORTABILITY OF SECTION 8 CERTIFICATES AND VOUCHERS.

Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Any family assisted under subsection (b) or (o) may continue to receive such assistance when such family moves to another eligible dwelling unit—

"(A) is such dwelling unit within the same metropolitan statistical area as the dwelling unit from which the family moves; and

"(B) notwithstanding that such dwelling unit is not within the area of jurisdiction of the public housing agency having jurisdiction in the area of the dwelling unit from which the family moves.

"(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to such family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency having authority with respect to the dwelling unit from which the family moves shall have such responsibility.

"(3) In providing assistance under subsection (b) or (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection.

"(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.".

SEC. 603. INCENTIVES FOR PUBLIC HOUSING AGENCY PERFORMANCE EFFICIENCY.

Section 9(a)(3) of the United States Housing Act of 1937 (as added by section 206 of this Act) is amended by adding at the end the following new subparagraph:

"(C) Under the performance funding system established under this paragraph (and notwithstanding any provision of subparagraph (B) to the contrary)—

"(i) funds received by any public housing agency from sources other than tenant rents or other tenant payments, investment income, or income earned from commercial leases or receipts, including any amounts recovered through litigation, shall not be counted as income in computing the allowable subsidy nor shall prior receipt of any such funds affect the allowable expense level; and

"(ii) any revenues resulting from rental income or other income (including investment income) in excess of estimated revenues from such items may not be recaptured, used, or computed to reduce assistance provided under this section, unless such estimate—

"(I) was unreasonable according to regulations in effect when the estimate was made; or

"(II) was fraudulent and deceptive.".

SEC. 604. PROVISION OF ADEQUATE REPLACEMENT UNITS IN CASES OF DEMOLITION AND DISPOSITION.

Section 18(b) of the United States Housing Act of 1937 (as amended by section 210 of this Act) is further amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and "; and

(C) by adding at the end the following new paragraph:

"(4) as an alternative to the requirements of paragraph (3), the public housing agency has developed a plan for the provision of an additional decent, safe, sanitary, and affordable dwelling unit for each public housing dwelling unit to be demolished or disposed under such application, which plan—

"(A) provides for the provision of such additional dwelling units through the acquisition of additional public housing dwelling units, the development of additional public housing dwelling units, the use of assistance under section 8 (including vouchers), or any combination of such methods;

"(B) is approved by the unit of general local government in which the project is located;

"(C) includes a reasonable plan for funding, except that such funding shall not be required to be provided in advance;

"(D) includes a method of ensuring that the same number of individuals will be provided housing; and

"(E) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act.".

SEC. 605. PROHIBITION OF DENIAL OF SECTION 8 CERTIFICATES AND VOUCHERS TO RESIDENTS OF PUBLIC HOUSING.

Section 8 of the United States Housing Act of 1937 (as amended by section 602 of this Act) is further amended by adding at the end the following new subsection:

"(r) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not consider whether a family resides in a public housing project, except in the case of a family being displaced as a result of major repairs, demolition, or disposition.".

SEC. 606. DEREGULATION OF PUBLIC HOUSING AGENCIES.

Section 2 of the United States Housing Act of 1937 is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) To encourage efficient and effective administration of public housing by public housing agencies, to increase the amount of responsibility of these agencies for administering their public housing, and to minimize Federal involvement in the administration of public housing, the Secretary shall, whenever feasible, permit public housing agencies to carry out activities involved in the administration of public housing projects without prior review or approval by the Secretary.

"(2) The provision of paragraph (1) shall not apply if—

"(A) the Secretary determines that there is a reasonable basis to conclude that prior review and approval of 1 or more specific activities is necessary to ensure efficient and effective conduct of the activity throughout the program;

"(B) the Secretary determines that there is a reasonable basis to conclude that prior review and approval is necessary with respect to a particular public housing agency due to such factors as its inexperience or poor performance in carrying out the same or related activities; or

"(C) prior review or approval by the Secretary is required by law.".

SEC. 607. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

Mr. BARTLETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTLETT. Mr. Chairman, I rise to offer an amendment to this legislation by the form of adding a new title. This new title speaks to the improvements of the living conditions of those families who are the recipients of housing assistance themselves, in particular residents of public housing and recipients of section 8 certificates. This new title contains several key reforms which, when taken as a package, will give tenants increased livability in their housing, increased employment opportunity and return a large measure of decisionmaking back to local governments.

The title is offered in a bipartisan sense. These are issues which are neither Republican nor Democrat, they are not funding amendments. They are amendments that will help the tenants themselves. These amendments are supported by the tenants. Many have been developed with tenants, the tenants of public housing who are oftentimes the forgotten society of this country. Tenants of public housing are low income, they are poor, but they share two things in common. First, they do not want to be poor. They want to have an opportunity to have a job, to earn a living, support their families, improve their housing conditions; and, second, in many cases those tenants have been held down by the very Federal housing policies that were designed to help them.

This amendment is supported by a large number of public housing authorities around the country and by tenant associations. I will insert into the RECORD a letter signed by residents of Kenilworth Parkside, in Washington, DC, Lakeview Terrace, of Cleveland, OH, Cochran Gardens, of St. Louis, MO, and Carr Square, of St. Louis, MO, as well as by the National Association of Housing & Rehabilitation Officials, those managers of public housing themselves.

The amendment taken in its entirety is a series of commonsense reforms. They fall into three categories: First, freedom of choice to allow tenants to make their choices as to where they want to live, or at least to remove those Federal barriers to those choices. It includes portability of section 8 certificates within an SMSA, so that if a recipient of a section 8 certificate receives a certificate and wants to move to the next town, they can do that. It also prohibits restrictions which would deny public housing authorities the ability to restrict section 8 certificates to current residents of public housing.

The second part of these reforms provide employment opportunities and includes an amendment that would phase in rent increases when a tenant of public housing obtains a job, has some increases in expenses automatically, and would phase in rent increases as a result of increased income.

Third, the reforms would include a heavy dose of deregulation of public housing authority to allow local decisions to be made locally. Will that result in perfect decisions? No. It will result in better decisions than can be made by micromanagement from either the floor of the U.S. Congress or from HUD.

It provides for a one-for-one replacement, for example, for units that have been demolished or disposed of by public housing authority, but it says that when that is done, the local public housing authority will decide how the replacement is to be made, using a range of options that are available to them. It provides for a full relocation in all cases of tenants that would be relocated. It provides incentives for public housing authority incentives to be more efficient, to increase their revenue and to decrease their expenses, and it provides for a proclaimer system for public housing authorities.

So public housing authorities would be required to follow the law, but so long as they follow the law and tell HUD that they are doing that, then they would not be required to have prior approval of every management action.

Mr. Chairman, these are not funding reforms. There is no extra Federal money included in this title of reform. It is just simply a series of reforms to change Federal law so that tenants can live better lives, will have an opportunity to improve their lives, and to allow local governments to manage local housing authorities to fit local conditions.

At this point I insert into the RECORD a letter I received this morning from the Council for a Black Economic Agenda, signed by four residents of public housing from throughout the country, the last paragraph of which reads as follows:

We applaud this bold civil rights initiative and all of the strong bipartisan efforts in the 99th Congress on behalf of residents of public housing.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

(By unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

□ 1320

Mr. KOLBE. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Arizona.

Mr. KOLBE. I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman mentioned a couple of provisions of this amendment. One permits the phase-in of the rents so that an individual who is in public housing now and is receiving, has an increase in income or some income that he did not have earlier, as it is now, they are discouraged from early reporting of that income.

This would give them a 6-month phase-in as I understand it. It would encourage them to be more honest; is that not correct?

Mr. BARTLETT. The gentleman is correct. It both encourages honesty and it also encourages employment by saying to a tenant that we are going to encourage you to get a job and then we are not going to give you an over-

night rent increase but phase it in over 6 months.

Mr. KOLBE. If the gentleman will yield further, I understand that amendment was adopted in the Housing Subcommittee by a voice vote so that was included.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

(On request of Mr. KOLBE and by unanimous consent, Mr. BARTLETT was allowed to proceed for 2 additional minutes.)

Mr. BARTLETT. The gentleman is correct; it was adopted in the subcommittee.

Mr. KOLBE. If the gentleman will continue to yield, similarly the provision regarding the portability of section 8 certificates and vouchers, it is an emanently sensible provision, it seems to me, to allow the flexibility of an individual to choose where they want to live and to be able to do that without knowing they are going to suddenly be without any kind of housing.

Was that not also adopted in the subcommittee as I recall?

Mr. BARTLETT. The gentleman is correct. That was adopted in the subcommittee.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding to me.

Mr. Chairman, I would ask the gentleman to answer the question if he could, in terms of phased-in rent increases when employment is gained. What is the current regulation in law? Why is this an improvement over the current condition?

Mr. BARTLETT. The current regulation and law says that as soon as a public housing authority determines that there is an increase in income, then that triggers an automatic increase in rent. Now, some public housing authorities are simply not asking about income except on an annual basis, others are requiring a monthly reporting of income.

In either event, whenever the public housing authority determines the income, then it triggers an immediate increase in rent. That is providing for a severe disincentive for a tenant to get a job.

Mr. ROEMER. If the gentleman will yield further, how would the gentleman's amendment change that?

Mr. BARTLETT. I thank the gentleman for his question. This amendment would say to that tenant that if you go and get a job, we are not going to punish you, but we are going to phase in six equal, monthly increases your new increase in rent. So that if your rent was $50 and it will go up to $150 you will not get socked with that all in 1 month.

Mr. ROEMER. If the gentleman will yield further, the effect of the gentleman's amendment, at the end of the 6-month phase-in period, would equal the same rent that the tenant would not pay under current regulations?

Mr. BARTLETT. The gentleman is correct. The advantage to the Federal Treasury is that then you would have more tenants who are more likely to get jobs and, in the long run, pay more rent.

Mr. ROEMER. It makes a lot of sense; I thank the gentleman.

Mr. BARTLETT. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

(On request of Mr. GEKAS and by unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman for yielding to me.

The Chairman, I would ask the gentleman if he would confirm something that I drew from the explanation that the gentleman from Texas gave.

One is that, of course, this amendment would require no additional Federal funding. That is a blessing. We ought to pass it unanimously just on that point. Beyond that, did I understand fully that this would go a long way toward restoring some decision-making power to the housing authorities themselves without requiring them further to get prior approval from HUD or some superior agency prior to making housekeeping types of decisions.

If that is so, would the gentleman explain or give us a couple of examples of that because I think that is a very salutory thing which I, frankly, thought did exist in many facets of the Housing Act.

Mr. BARTLETT. I thank the gentleman for his question.

The gentleman is correct. What happens, this system is called a proclaimer system.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has again expired.

(On the request of Mr. GEKAS and by unanimous consent, Mr. BARTLETT was allowed to proceed for 3 additional minutes.)

Mr. BARTLETT. The gentleman is correct. This system was originally proposed by the National Association of Housing and Redevelopment officials. It is called a proclaimer system. It was proposed on April 11, 1984. It just simply is a vehicle for transferring responsibility and authority for day-to-day operation of housing programs to the local level.

What happens now is that public housing authorities are caught betwixt and between. Often, just to make sure that they are not caught off guard, they just simply ask for prior clearance from HUD for virtually everything they do that is different from what they did the month before.

It is quite an inefficient system. A public housing authority can read the law and regulations just as easily as the regional office of HUD.

Mr. GEKAS. If the gentleman will yield further, is the gentleman's proposition that a new title be created to vest this authority in the housing authorities? Does this mean that it will be the first time that this has been accomplished, or is this a recodification, so to speak, of an ongoing movement to allow more authority at the authorities level?

Mr. BARTLETT. The gentleman, I would note that there is no ongoing movement. There is ongoing support; people in public housing will tell you that they need more authority to manage the units, but as of today's date, there is no movement to deregulate those management decisions or it has not been translated to the local level.

I think that in the last 2 or 3 years administratively there have been some improvements, but by and large the decisions are still made ultimately by HUD. This would be a total change from that. So you still have to abide by the law and the regulations, but you can manage your own units locally. So it is a change in what currently is happening, and it is change that is long overdue.

As to whether it is the first time it has happened, I could not tell the gentlemen. It is the first time in recent times.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding to me.

Back to the question of HUD and its involvement, HUD is charged with the responsibilities of pursuing the auditing of and the efficiencies of the expenditures of taxpayers' money. Are you taking HUD out of the system? HUD also protects, as the gentleman knows, such things as equal opportunity and the kinds of things that you and I, I hope, deeply believe in, and I believe that we do.

Are you trying to eliminate HUD altogether or would there be some foundation of national standards and oversight in this program.

Mr. BARTLETT. There would still be the national standards; there would still be oversight. It would eliminate preclearance. The public housing authority would simply certify compliance with laws and regulations. HUD

could then look at it after the fact, but it would eliminate those time-consuming preclearances of every single decision. There would still be an oversight role. It would, in fact, strengthen HUD's oversight, because then they could oversee by exception.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has again expired.

(On request of Mr. GEKAS and by unanimous consent, Mr. BARTLETT was allowed to proceed for 2 additional minutes.)

Mr. BARTLETT. The survey was taken of NAHRO of public housing managers, and 69 percent said that obtaining necessary HUD approvals in advance was a major difficulty in them doing their job.

So it does not remove oversight. I think it strengthens oversight. I will note to the gentleman that the amendment is drafted carefully so that in the event that HUD believes that a public housing authority is not following the law or regulations, HUD can reclaim its preclearance system until they begin following the letter and the spirit of the law and the regulations.

Mr. GEKAS. If the gentleman will yield further, I want to recommend the adoption of the amendment on the basis that this is another blow struck in favor of tenant's rights, and at the same time, to do away with some overbearing possibilities that HUD itself as a supervising agency could impose upon the local authorities.

I thank the gentleman for yielding.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first, I want to thank my colleague from Texas, Mr. BARTLETT, Three of the five main provisions in his amendment were in H.R. 1; the main authorization vehicle. But when we reached the compromise to make it a bipartisan effort with Mr. MCKINNEY, that was part that had to be, of necessity, left out because the idea was to reduce the voluminous size of H.R. 1.

□ 1330

So we certainly do not have any opposition to that.

On the other hand, I wrote a letter to the gentleman from Texas [Mr. BARTLETT] on May 15, and he responded very generously and deleted from his proposed original version those areas in which we left that we could find an accommodation and an agreement and a sort of consensus if they were not in, and they are not.

I understand that there will be amendments offered that will remove one of the last objections we had on the basis that it would really add to the viability of his amendment and the thrust of his intention. So at this point there is no question that the gentleman has offered an amendment that does and will perfect the legislation.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank my chairman for yielding.

Mr. Chairman, is the gentleman telling us that he endorses the amendment as proposed by the gentleman from Texas [Mr. BARTLETT], or are there still reservations about the amendment?

Mr. GONZALEZ. There are reservations, but as I understand it, an amendment will be offered that will remove those reservations and which, if the gentleman who is the author of the amendment accepts, will thoroughly perfect the bill.

But let me say this in addition. I listened to the gentleman's colloquy awhile ago. In our original version of H.R. 1, which incorporated three-fifths of this amendment, we did say that only those housing projects that were defined as "well managed" would be given this autonomy. I do not know, maybe the gentleman would be willing to add that. I do not see why he would not. But I do not think that it is that essential. I think that in the administrative processes they will do it anyway.

I was sensitive to the gentleman's inquiry, and I agree with him. I think this in no way, though, will remove the necessary oversight of HUD.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, generally I think that the chairman has pointed out that most of this amendment is an amendment that was in H.R. 1 and that we support the livability portion. The portion, of course, that is of concern is that portion that addresses itself to demolition. There has been quite a bit of discussion about that, and there is a great deal of opposition both from labor and from housing authorities across this country; that is to say the basic idea that when a unit of public housing is eliminated in fact, another is in fact constructed to take its place, that in fact you have to have a shelter, a roof over someone's head, in order to provide shelter.

We have worked out an agreement; in other words, rather than restoring the basic 1-to-1 replacement, we are looking at some other creative alternatives that have been partly in the amendment and mostly outside of it.

The concern was that in this amendment that vouchers not be used, because vouchers of course do not guarantee the assurance of any shelter. But we did devise other means to address that through the work of the gentleman from Connecticut, [Mr. MORRISON], the gentleman from New York [Mr. SCHUMER], myself, and the gentleman from Texas [Mr. BARTLETT]; we have come to an agreement on that which I think Mr. MORRISON will offer in his amendment shortly.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am delighted to yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding, and for his kind words.

Mr. Chairman, I think this entire debate on the House floor and over the last 18 months in the Subcommittee on Housing and Community Development and in the Banking Committee has turned on trying to find ways to improve the status quo. These amendments do not cost any money; they do improve the lives of tenants. And I appreciate the chairman's kind words about it.

I would say that what I believe we will do on the replacement is that we will continue to require one-for-one replacement. The replacement could include as a local plan certificates, section 8 certificates, but not vouchers.

I would say to the gentleman that I am a supporter of vouchers, and that is half a loaf for me, but I think that it does make an improvement in the law, and based on that, when that is offered, I do plan to accept it when we see the final language.

Mr. GONZALEZ. Well, I thank the gentleman again for his spirit of comity and consensus here.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I do not intend to use my 5 minutes, but I did want to say that I think that the gentleman from Texas [Mr. BARTLETT] has been very forthcoming on this amendment. He has worked very hard on it for a long period of time. I am convinced now that it is a good amendment.

Mr. Chairman, the name of this amendment, livability and employment, aptly describes the series of statutory changes aimed at improving the living environment and the delivery system of housing to low-income persons. This amendment provides flexibility to local housing authorities, rewards good management, and offers tenants greater freedom of choice and encouragement to gain employment.

Among the amendment's most significant provisions is portability of vouchers. Portability meaning that a public housing tenant who is compelled for job or family reasons to move within a metropolitan area does not have to relinquish his or her assistance to make the necessary move.

The provision which would allow public housing tenants to apply for

section 8 vouchers is an excellent way to provide mobility for tenants. Providing a choice of housing assistance allows tenants options to improve their lives by being able to live closer to attainable jobs.

Similar improvement to public housing programs include, a gradual phase-in of rent increases occasioned by improved employment opportunities gained by tenants. An additional provision makes HUD less intrusive into the daily operations of public housing activity.

In sum, this amendment fosters flexibility, creativity and freedom for residents to live better lives in public housing.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first of all, I commend all of the newfound supporters of tenants' rights and tenants in public housing. We welcome them to the coalition, I am glad that they got here when they did. I am still recovering from my alliance with the gentleman from New York [Mr. KEMP], whose amendment yesterday evening struck a great blow for the independence of tenants.

Now our colleague from Texas, Mr. BARTLETT, steps forward and offers what at first appears to be a very great amendment which provides for such things as "Rent Phase-in." I support this completely, and I commend the gentleman.

After that, we go to a section which provides for "Portability of Section 8 Certificates and Vouchers."

Then from there we go to "Incentives for Public Housing Agency Performance Efficiency."

Next we go to the "Provision of Adequate Replacement Units in Cases of Demolition and Disposition." Now that is my kind of an amendment, because what we finally have to do is concern ourselves with the adequate replacement of public housing units. It just so happens that this provision is the most important, because we need several million new public housing units, and we need to revitalize existing housing units at the rate of about 100,000 a year.

The waiting list for public housing has swelled to 500,000 or more, and many cities' housing commissions have discontinued taking applications. In other words, "You won't be living, buster, long enough to ever get into public housing, so save us and yourself some time."

We then move on to another section, 605: "Prohibition of Denial of Section 8 Certificates and Vouchers to Residents of Public Housing."

And then we come to the kicker, "Deregulation of Public Housing Agencies." Well, that provision, sir, 606, puts me in a quandary, because I have had a lot of trouble with HUD. I have often thought of deregulating them, but when you suggest it, I have to look at the idea very carefully.

What we really have before us now is a situation where on one hand we have voted not to build any more low-cost housing, but rather concentrate on more revitalization or restoration of existing housing. Then we are asked to vote to tear down all the unsatisfactory housing, the result of all this being a decrease in the supply of public housing stock. And so here we are, all advocates of tenants' rights, having just put ourselves in a catch-22 situation.

So I as one person who supports public housing, while not on the committee, am very concerned about the direction in which we are traveling. It seems to me that we are in a bit of a dilemma. We need to be building more low-cost public housing. Can we agree on that?

We need to be revitalizing and restoring more existing low-cost public housing. Can we agree on that?

□ 1340

So I will yield to my friend, the gentleman from Texas, for some direction on this amendment.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. BARTLETT, and by unanimous consent, Mr. CONYERS was allowed to proceed for an additional 5 minutes.)

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to my friend.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding and I thank the gentleman for his thoughtful approach to this.

I would suggest to the gentleman that perhaps we are in a jam with public housing and have been for a long, long time. We have some 36 percent of the current units that are substandard. We have tenants and residents that tell us they want to live under better conditions and we have residents that tell us one at a time that sometimes the Federal laws themselves get in their way of getting a job or buying or house or living better.

I think we are in a jam. I think that the residents have told us, and that is where these amendments came from, from tenants and residents, how to get unstuck out of that jam. It is not easy. There is no easy answer. There is no panacea; but the residents will tell us that they want to get jobs, that they want to be able to manage their own units and own their own units and that they want to essentially be provided an opportunity to live under better conditions.

Let me go through some of this section by section and tell the gentleman what they mean.

Portability of section 8 certificates and vouchers means simply this. It means that when a person has a section 8 certificate and lives in one city that is a jurisdiction, it does not matter to that resident what jurisdiction he lives in. That resident wants a job and if he were to get a job across town up the freeway in some other "jurisdiction," he or she needs to be able to move close to the job.

Right now the Federal Government sets up all kinds of barriers to just simply moving to another place where the tenant wants to live.

This removes the barriers. It says that tenant can go and live in that other town, using the same section 8 certificate that he or she had before, because it comes from the government.

Mr. CONYERS. Well, that is interesting in theory. It sounds great. I support it, but if we are short several million housing units, where is the tenant going to move, even with the portable certificate?

Mr. BARTLETT. Well, I would say to the gentleman that the tenant would say that he or she wants to move and wants to get a job and the Federal Government is keeping him from it. The tenant in this case is a tenant who has already found a place to live and wants to live there and wants to accept that job. His present place of residence may be an hour and a half away commuting time, so they cannot take that job that far away. All the tenant is asking for is a chance to move to a place he has already found.

Does this solve every problem in the world? No, sir; but it removes the barrier.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Yes, I yield to the gentleman for Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman from Michigan has some very thoughtful questions.

Frankly, the livability amendments, as have been described by the gentleman from Texas, I think are a major improvement in the situation, but I think the gentleman from Michigan raises a more fundamental question in his comments.

No. 1, we have made a decision on this floor this week not to construct any new public housing units, to use those resources for the rehabilitation of existing units. We think at least that rehabilitation is important, but we also feel there should have been some 5,000 units of new public housing provided, because they represent the best buy in terms of meeting the needs of low income folks, and I voted with the gentleman to maintain those 5,000 new units because we need them. We need balance. We need adequate resources to deal with modernization and rehabilitation of existing units,

because they represent one of the best investments for taxpayers.

So the gentleman from Michigan is right in that particular sense in my view, but the House did not agree with our view this week. I guess we lost on that, so we are not going to construct any new ones.

Last night in an amendment we decided to sell off much, or at least some of the public housing, at least to make that a possibility. The problem is, I share a lot of optimism with regard to the economy, but I think in the 1990's we still may have some low-income people in our society who deserve the same opportunity that low-income people have today, as limited an opportunity as it is, to live in some low-income housing and some low-income public housing, as a matter of fact.

Now, today, of course, the other point I wanted to mention is that the gentleman from Michigan is correct in terms of the demolition amendment. All of us are looking for flexibility. We see public housing around that is frankly unsatisfactory, that probably is going to be the subject of demolition.

The basic problem is that we have required generally the construction of other units. Here we are looking for some flexibility in that.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. VENTO, and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman continue to yield?

Mr. CONYERS. Well, Mr. Chairman, it looks like we are demolishing public housing, selling it off and deregulating HUD, but we are not doing anymore.

Mr. VENTO. Mr. Chairman, will the gentleman yield further?

Mr. CONYERS. Yes, I yield.

Mr. VENTO. We hope to try to temper the language on demolition here, and I think it is a major compromise. The gentleman from Texas has agreed that if in fact—and I think it would be well to get on with the Morrison amendment which in fact will address this particular concern, but I think the gentleman from Michigan would be pleased to know that this amendment will provide that the Secretary make a finding that such housing is available, that certificates can be used, that there are actual shelter facilities for individuals to go into that are currently in public housing, if in fact there is going to be demolition of that unit.

I thank the gentleman for yielding.

Mr. CONYERS. Now, in section 602 we are talking about portability of section 8 certificates, but then we get housing vouchers.

Mr. VENTO. Mr. Chairman, will the gentleman yield further?

Mr. CONYERS. I yield.

Mr. VENTO. If indeed someone has a voucher or a section 8 certificate, then you would have to provide portability.

I think the concern here is if you are getting public housing assistance and if you can find employment in another area, that in other words you should not stay living in the city of Detroit if you can get a job in Flint or someplace else. You should be able to take that assistance that you have from the Government to that new jurisdiction, which would eliminate some of the problem.

I think that is a goal and an objective that is a good one, that we would provide that person the opportunity to work their way back into the mainstream of our society and the world of work.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Yes, I yield to the author of the amendment.

Mr. BARTLETT. Mr. Chairman, I am a little puzzled by the gentleman's questions. I would think that the gentleman would think that resident certificate holders and voucher holders should be allowed to live where they want to and not where the Government tells them.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 3 additional minutes.)

Mr. CONYERS. Well, I do, that is why we are talking about this. I like people to live where they want to. I do not know of anyone in this House who does not, but I am not sure if that is what the issue is about. If we had an amendment that said everybody in public housing should be able to live where they want to, you might have little trouble passing it on the floor, but in the context of this provision, you probably would have difficulty.

What do you mean by eliminating preclearance, if the gentleman would define the term preclearance.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I do.

Mr. BARTLETT. It eliminates the micromanagement, if you will, in which public housing authorities today are required to preclear their management decisions, if those decisions are different from what they did the week before. In the real world, public housing authorities can read the law and read the regulations and manage their public housing authorities. Most of the decisions are ultimately approved, but it is after a great deal of unnecessary time delay and expense.

I could give the gentleman some examples, if he would like.

Mr. CONYERS. Excuse me. Is that within section 606, the deregulation of public housing agencies, that the elimination of preclearance would occur?

Mr. BARTLETT. That is correct.

Mr. CONYERS. OK. Well, look, this is sounding better and better.

Mr. BARTLETT. If the gentleman would like, I could go on with some of the other explanations.

Mr. CONYERS. Well, I am sure the gentleman could; but would the gentleman be willing to reconsider whether we should add some public housing units to the dearth of numbers that exist now? Would that not help the people who live in or are in need of public housing?

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Yes, I will yield.

Mr. BARTLETT. The House decided last week to agree with what the residents of public housing were telling us, and that is we can add more units faster with better living conditions to help current residents in a lot better way and faster by repairing the units that we now have. That amendment, followed on by this one, would provide I think some revolutionary changes in the way we conduct public housing policies, where we conduct public housing policies for the benefit of the tenants to give them some chances and some opportunities.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 1 additional minute.)

Mr. CONYERS. I will read two sentences and invite the gentleman's response:

The National Association of Housing and Redevelopment officials report that approximately 350,000 low income housing units are lost each year due to demolition, condo conversion and rent increases. One of the many problems with the tax bill is that we are in the process of diminishing the incentive for private investors to put money into the development of additional low cost housing. It is estimated that there are now several million people eligible for low cost public housing who can't get on board.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield, and I will answer the question?

Mr. CONYERS. Yes, I will yield.

Mr. BARTLETT. Of the 350,000, which was the estimate over the last 5 years, approximately 1,240 per year were lost due to demolition.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. BARTLETT, and by unanimous consent, Mr. CONYERS was allowed to proceed for 1 additional minute.)

Mr. BARTLETT. Mr. Chairman, will the gentleman yield.

Mr. CONYERS. Yes, I yield.

Mr. BARTLETT. Approximately 1,240 of that number were lost due to the demolition and disposition of public housing units.

I am proposing that even that number, any number has to be replaced so that we can assist the same number of families. That is No. 1.

No. 2, I concur with the gentleman that we need to try to keep up with the need for low income housing. I would suggest that we not only cannot keep up, we cannot have any impact on the problem at all if we concentrate our Federal money on new construction of Government housing.

The entirety of the billion dollars almost of last year's budget would construct 5,000 units on a 5-year average that it takes to construct them. After 5 years, by spending almost a billion dollars, we get 5,000 new units to go up against the gentleman's characterization of 350,000 units needed.

I suggest there are better ways to do it and that is what I propose to do.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT TO THE AMENDMENT OFFERED BY MR. BARTLETT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MORRISON of Connecticut to the amendment offered by Mr. BARTLETT: Page 5, strike line 1 and all that follows through page 5, line 2, and insert the following in lieu thereof: "(excluding vouchers under section 8(o)), the acquisition or development of dwelling units assisted under a State or local government program that provides for project-based assistance comparable in terms of eligibility, contribution to rent, and length of assistance contract (not less than fifteen years) to that available under section 8(b)(1), or any combination of such methods. Before approving any plan which calls for the use of assistance under section 8, the Secretary shall find that the supply of private rental housing actually available to those who would receive such assistance under the plan is sufficient for the total number of certificates and vouchers available in the community after implementation of the plan and that such supply is likely to remain available for the full 15-year term of the assistance. The Secretary shall base the required finding on objective information which shall include rates of participation by landlords in the section 8 program, size, conditions and rent levels of available rental housing as compared to section 8 standards, the supply of vacant existing housing with rents at or below the fair market rent or payment standard or the likelihood of adjusting the fair market rent or payment standard, and the extent or discrimination against the types of individuals or families to be served by the assistance."

Page 5, strike lines 4 through 6, and insert the following in lieu thereof:

"(C) includes a reasonable plan for funding which plan shall include the Secretary's agreement to commit the federal funds necessary to carry out the plan."

Mr. MORRISON of Connecticut (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MORRISON of Connecticut. First, Mr. Chairman, let me say that I offer this amendment not only on my own behalf, but on behalf of the gentleman from Minnesota [Mr. VENTO] and on behalf of the gentleman from New York [Mr. SCHUMER].

We have been collectively working together on one of the problems raised by the Bartlett amendment as it has been offered and the gentleman from Texas [Mr. BARTLETT] has been very cooperative in coming to what I think is a good agreement for all parties concerned with respect to the problem of replacing the housing resources that are lost through the demolition or disposition of public housing.

The concern that we have on this side of the aisle I think is a concern that the gentleman from Texas shares and that is that the resources actually be there so that we do not lose low income housing stock.

□ 1355

I think in the colloquy just concluded between the gentleman from Michigan and the gentleman from Texas, that point was emphasized. We have limited resources in terms of low-income housing at the present time. We certainly cannot lose further units from the inventory. However, it is definitely the case that there are circumstances in which public housing units are no longer appropriate to be maintained and need either to be sold and changed in their use or demolished.

The concern of those of us who have offered this amendment with the amendment offered by the gentleman from Texas [Mr. BARTLETT] as originally drafted is that there was not the certainty that vouchers or section 8 certificates that might be used as replacement resources would actually lead to housing units for the individuals who were being displaced or for units for other people who might have lived in the public housing that was being torn down or sold.

What we have done in this amendment is to give greater clarity and certainty to the fact that section 8 certificates would be available to be used as replacement resources and vouchers would not, and when section 8 certificates are used, they must be 15 years in length and the Secretary must make a determination that out there for that 15 years in fact there will be the housing units that the people with those certificates can rent. It will not be a theory of availability but a determination based on the facts.

We have included language to make it possible for the Secretary to alter the conditions of those section 8 certificates with respect to rent levels and to make other determinations to facilitate that process.

But the bottom line is if section 8 resources are to be used as part of the replacement, that they have to be real resources. They have to go with real housing units. They cannot be just theoretical. Of course, we retain what is already in H.R. 1, which is that there is the possibility of using 1-for-1 replacement of public housing with public housing, or public housing with a combination of resources, project-based subsidies using State and local resources as well as Federal resources, and section 8 if the Secretary finds that it can actually be accommodated with real units.

So I think what we have done is strengthen what has already in H.R. 1 been a reasonable policy, and that is, we cannot lose housing units from our inventory and our replacement resources have to be real and not theoretical.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I would be glad to yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for his work on this, as well as the cooperation of the gentleman from New York [Mr. SCHUMER] and the acceptance of the amendment by the gentleman from Texas [Mr. BARTLETT].

I think the concern here is that it has been presented as though public housing in some instances that undergoes demolition or is lost to the inventory is always public housing that is deteriorating or below stock. That may not be the case at all. It could be gentrification, it could be development that is taking place. In other words, there is a lot of public housing, a heck of a lot of it, that is very successful in our urban and rural communities.

It is important that as those units, for whatever reason, are lost to the inventory, that there really be a pea under the shell in terms of what is going on. The problem that I had here, and the reason that I proposed an amendment to the amendment offered by the gentleman from Texas [Mr. BARTLETT] is because I was concerned, under the circumstances, that indeed we would lose that and would not have available shelter to meet the needs. We all get hung up on making choices, but the fact of the matter is that there have to be actual housing units out there to fill the needs that are now being filled through those public housing stocks.

I think this amendment will make that certain, and I commend the gentleman for his work and the gentleman from Texas for his willingness to accept the amendment.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. MORRISON] has expired.

(By unanimous consent, Mr. MORRISON of Connecticut was allowed to proceed for 5 additional minutes.)

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman from Minnesota for his contribution to this process. He, in fact, was the original crafter of an amendment and I am offering this amendment only because the final compromise came out of my office, but his office and the office of the gentleman from New York were key in getting to this resolution.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, I am prepared to accept the amendment as a friendly amendment, the amendment that the gentlemen are offering.

The gentleman from Connecticut and the gentleman from Minnesota and the gentleman from New York have been very tough negotiators on this. It does seem to me, though, that through the course of the negotiations that we have all reached a better level of understanding of how the real world works, because the only item in dispute when we break away all the headlines and the accusations was how we can provide for replacement of 1-for-1.

Everyone agrees that under some circumstances there has to be demolition and a sale, different circumstances, but everyone agrees that happens and in some circumstances it ought to happen. Everyone agrees that there ought to be a 1-for-1 replacement. I think we have come very close to this to have two requirements: First of all, to have that 1-for-1 replacement plan prepared by the public housing authority itself and approved by local government; and second, to have that local government or public housing authority have a range of options, including in those options as one piece of the puzzle section 8 certificates.

In exchange for that, I have agreed to take out vouchers. I do hope that the gentleman on the other side of the aisle will be able one day to look at vouchers which are nonpoliticalized and look at vouchers as a way house people, but leaving that argument aside, because we have agreed to take it out, the use of existing section 8 certificates in some circumstances means that we replace those units and we require that the replacement be on the number of families who are actually assisted and not on the number of units that are owned by the Government.

I think that is the fundamental understanding that we came to on this. The gentlemen do have a good amendment on one other point, and that is, and I think they are correct, in that they are offering an amendment to ensure that the certificates be used, that the game of issuing more certificates that are just hunting licenses that are never used, should not be used. It should not be used in the existing certificate program and it surely should not be used in demolition and disposition and replacement.

So I commend the gentleman for coming up with language that ensures the use of those certificates before it can be included in the plan.

Mr. MORRISON of Connecticut. I thank the gentleman and I thank him for accepting the amendment.

I think there is agreement that the goal is housing families. I think whatever the disagreements, and there are disagreements about the appropriate mix of housing among public housing and other resources, the important point is that on this narrow point of replacing public housing resources, we all agree that we cannot lose from our total inventory what we have, and whether it is owned by the Government or owned by someone else, the point is that the low-income individuals need at least the inventory we currently have and we need a mechanism to do that.

Mr. BARTLETT. If the gentleman will yield further, perhaps we should stop while we are ahead.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I want to express the fact that I am going to go along with this amendment, as amended. There are good bona fides and good intentions on both sides.

I have an amendment coming up that is going to try to break us out of this titanic mentality and then I hope that we will look at how we might go about doing a little bit more for the tenants by reducing that 30 percent requirement to 25 percent, and maybe actually, hold your seats fellows, build a few more public housing units.

Mr. MORRISON of Connecticut. I thank the gentleman.

Mr. Chairman, I would just like to say that beyond this amendment which I have offered, I want to state my support for the overall liveability amendment offered by the gentleman from Texas. I think they are thoughtfully prepared. I think that he has listened to suggestions from others, and I think he has put together a package that is very useful.

I think what we have is a step forward for the quality of life in the existing projects and existing programs that we have, and I think we should all be pleased whenever we can come to that kind of an agreement.

Mr. McMILLAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

I simply wanted to express my support for the amendment offered by the gentleman from Texas [Mr. BARTLETT], as amended, or will be amended by the gentleman from Connecticut.

I think the gentleman from Texas has shown a lot of initiative. He is persistent. He has worked hard in trying to get at some very constructive changes that I think will be beneficial to tenants in public housing and to the process.

But I want to also express my thanks to the Members on the other side who have been cooperative in working through some of these difficult decisions. I think we may be past a new milestone.

Mr. Chairman, I rise in support of these proposals which can make a very real difference in the quality of life for public housing residents. They provide the legislative means to encourage individual-PHA initiative, and to remove disincentives to employment.

Mr. BARTLETT should be commended for his foresight and efforts in developing this important reform package.

1. RENT PHASE-IN

This is a rational approach to ease the transition for families seeking to remove their dependence upon the Government. We should not place barriers in the path of those seeking self-improvement. Our goals should be independence not dependence.

2. PORTABILITY OF SECTION 8 CERTIFICATES AND VOUCHERS

I strongly support efforts such as this which will increase individual choice and flexibility—it's family oriented not institutional oriented. In my view, this would encourage greater self-reliance and enable many families to better meet their individual housing needs or satisfy their location preferences.

3. INCENTIVES FOR PHA PERFORMANCE EFFICIENCY

By permitting the retention of investment income and excess income we can reward good management practices and encourage more efficient operation of our public housing programs.

4. REPLACEMENT OF UNITS IN THE CASES OF DEMOLITION OR DISPOSITION

I recognize that this may be the most controversial proposal in this title, however, I support the flexibility it will offer. By allowing each individual PHA to develop its own plan taking into account its particular cir-

cumstances, we can move faster to meet local needs as they see it.

I believe that our focus should be on assuring that the tenants affected will be properly housed: rather than funding a one-for-one replacement in all cases.

5. PROHIBIT PHA'S FROM DENYING (SECTION 8) CERTIFICATES AND VOUCHERS TO PUBLIC HOUSING RESIDENTS

A worthwhile measure designed to increase the options available to tenants of public housing. Our objective is to meet client family needs with flexibility—not lock them into public housing.

6. DEREGULATION OF PHA'S

Granting public housing agencies the ability to implement Federal statutory requirements without seeking the prior approval by HUD of each individual action is a long overdue reform.

I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON] to the amendment offered by the gentleman from Texas [Mr. BARTLETT].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT], as amended.

The amendment to the amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will report the amendment.

For what purpose does the gentleman from Michigan [Mr. CONYERS] rise?

Mr. CONYERS. Mr. Chairman, I have an amendment that I have been trying to offer since yesterday.

The CHAIRMAN. The Chair will state to the gentleman that he was not on his feet at the time that the Chair recognized the gentleman from Ohio.

Mr. CONYERS. Will the gentleman yield to me?

Mr. WYLIE. I will be glad to yield?

The CHAIRMAN. Would the gentleman from Ohio withdraw his amendment for the moment to allow the gentleman from Michigan to offer his amendment?

Mr. WYLIE. I was not aware that there was another amendment. I thought I came after the Bartlett amendment, but if the gentleman has one and wants to offer it, I will withdraw my amendment.

The CHAIRMAN. Without objection, the gentleman for Ohio [Mr. WYLIE] withdraws his amendment.

There was no objection.

□ 1405

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 123, after line 17, insert the following new title (and conform the table of contents accordingly):

TITLE VI—CONSTRUCTION AND REVITALIZATION OF PUBLIC HOUSING

SEC. 601. SHORT TITLE.

This title may be cited as the "Jesse Gray Housing Act".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that—

(1) the number of rental dwelling units available for lower income families is insufficient, and the physical condition of a substantial portion of such dwelling units is inadequate;

(2) new construction of rental dwelling units is occurring primarily in higher income areas;

(3) Federal housing assistance programs, such as rent subsidies, vouchers, and other rental and mortgage assistance, too frequently assist middle and higher income families and do not meet the demand for housing by lower income families;

(4) such Federal housing assistance programs are not cost effective, due to a lack of suitable rental dwelling units available for lower income families; and

(5) a significant number of families are paying more than 25 percent of their monthly income for rent.

(b) PURPOSE.—It is purpose of this title—

(1) to ensure that all families in the United States have access to rental dwelling units at rents that are not more than 25 percent of their monthly income, and that such rental dwelling units are decent, safe, and sanitary;

(2) to encourage the establishment of a public housing system that consists of (A) projects located throughout metropolitan and rural areas; (B) low density projects, to the extent practicable; and (C) dwelling units that are visually indistinguishable from comparable privately owned dwelling units; and

(3) to remedy the discriminatory practices of construction unions by providing for the establishment of special procedures for employing individuals to construct and revitalize public housing.

SEC. 603. CONSTRUCTION OF PUBLIC HOUSING.

Section 5 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall carry out a program for the construction of 500,000 new dwelling units in public housing during each of the fiscal years 1987 through 1996. For purposes of such program the Secretary shall, to the extent approved in appropriation Acts, make grants to public housing agencies.

"(2) There are authorized to be appropriated to carry out the provisions of paragraph (1) such sums as may be necessary for each of the fiscal years 1987 through 1996. Any amount appropriated under this paragraph shall remain available until expended.".

SEC. 604 REVITALIZATION OF PUBLIC HOUSING.

Section 14(b) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) To the extent approved in appropriation Acts and subject to subparagraph (B), the Secretary shall make available and contract to make available financial assistance under this subsection, in addition to the financial assistance made available under paragraph (1). In making assistance available under this paragraph, the Secretary shall give particular preference to public housing agencies requesting such assistance for public housing units that the Secretary determines would likely have been subject to demolition or disposition under section 18, as such section was in effect before the date of the enactment of the Jesse Gray Housing Act.

"(B) For purposes of this paragraph, the aggregate amount of budget authority that may be obligated for contracts for annual contributions is increased on October 1 of each of the years 1986 through 1995 by the amount necessary to provide for the revitalization of 100,000 dwelling units in public housing during each of the fiscal years 1987 through 1996, respectively.".

SEC. 605. EMPLOYMENT IN PUBLIC HOUSING CONSTRUCTION AND REVITALIZATION.

The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"EMPLOYMENT IN PUBLIC HOUSING CONSTRUCTION AND REVITALIZATION

"SEC. 20. (a) IN GENERAL.—In connection with any construction and revitalization of public housing under this title each public housing agency shall carry out a program of job training and employment of individuals residing in the area with respect to which such public housing agency has authority. Each such program shall give preference to such individuals who reside in public housing.

"(b) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.".

SEC. 606. TENANT RENT CONTRIBUTIONS.

(a) RENTAL AND COOPERATIVE HOUSING FOR LOWER INCOME FAMILIES.—Section 236(f) of the National Housing Act is amended—

(1) by striking out "30" each place it appears and inserting in lieu thereof "25"; and

(2) in paragraph (1)(ii), by striking out "25" and inserting in lieu thereof "20".

(b) LOWER INCOME HOUSING UNDER THE UNITED STATES HOUSING ACT OF 1937.—

(1) Section 3(a)(1) of the United States Housing Act of 1937 is amended by striking out "30" and inserting in lieu thereof "25".

(2) Section 8(o)(2) of the United States Housing Act of 1937 is amended by striking out "30" and inserting in lieu thereof "25".

(c) RURAL HOUSING FOR LOWER INCOME FAMILIES.—

(1) Section 521(a)(2)(A) of the Housing Act of 1949 is amended by striking out "30" and inserting in lieu thereof "25".

(2) Section 521(a)(3) of the Housing Act of 1949 is amended by striking out "30" each place it appears and inserting in lieu thereof "25".

(3) Section 530 of the Housing Act of 1949 is amended by striking out "30" and inserting in lieu thereof "25".

(d) RENT SUPPLEMENTS.—Section 101(d) of the Housing and Urban Development Act of 1965 is amended by striking out "30" and inserting in lieu thereof "25".

(e) TRANSITIONAL PROVISIONS.—Section 206(d)(6) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "30" and inserting in lieu thereof "25".

(f) EXCLUSION OF CERTAIN INCOME.—For purposes of determining the monthly contribution to be made by a family under the provisions amended by this section, the adjusted income of a family shall exclude any income attributable to any cost-of-living adjustment made after the effective date of this section in—

(1) any welfare assistance received by such family from a public agency; or

(2) any benefits received by such family under the Social Security Act.

(g) EFFECTIVE DATE.—The provisions of and amendments made by this section shall take effect on October 1, 1986.

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BARTLETT. Mr. Chairman, reserving the right to object, and of course, I will not object to it, but has the gentleman provided a copy of the amendment to this side?

Mr. CONYERS. Yes, sir; Mr. Chairman, if the gentleman will yield, there is one coming as soon as my staff man can get in the door. We had them last evening, and I thought they were passed out at that time.

Mr. BARTLETT. Mr. Chairman, further reserving the right to object, the amendment that I had received from the gentleman's office, as I read it, was about two paragraphs entitled "Employment in Public Housing Construction and Revitalization," beginning section 20 and concluding, and it was only about eight lines.

Is this a different amendment?

Mr. CONYERS. No; this is a new section, sir.

Mr. BARTLETT. This is a new section to the bill?

Mr. Chairman, further reserving the right to object, has the gentleman circulated this? I have just been handed what may be it, a six-page new section. Has he circulated it to the House, to the majority side, to the minority side or printed it in the RECORD? Does anyone have a copy of it?

Mr. CONYERS. I did not realize that was a requirement to bring an amendment forward under this bill.

Mr. BARTLETT. Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

The Clerk will read the amendment.

The Clerk continued the reading of the amendment.

Mr. CONYERS (during the reading). Mr. Chairman, I move to strike the last word, strike the requisite number of words.

The CHAIRMAN. The Chair will state to the gentleman that we are in the process of reading the amendment. That motion is not in order at this point.

The Clerk will read the amendment.

The Clerk continued the reading of the amendment.

Mr. WYLIE (during the reading). Mr. Chairman, may I suggest to the gentleman in the well that he renew his unanimous-consent request?

Mr. CHAIRMAN. Does the gentleman renew his unanimous-consent request?

Mr. CONYERS. Mr. Chairman, I do not know; maybe we need to hear the bill.

The CHAIRMAN. The Clerk will read the amendment.

Mr. WYLIE. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CONYERS. Mr. Chairman, I thank my colleague, the gentleman from Ohio, ranking minority member of the committee, for trying to work through this.

I must say that for all of us to be on the side of tenants; and for the gentleman from Texas now, when I just got through supporting his amendment, to find that he wants to hear this whole six-page amendment read strikes me as a little bit of division in the ranks among all of us pro-tenant people, but that is quite all right.

Mr. Chairman, this amendment, a modest proposal, speaks to the titanic mentality that seems to be pervading the House on housing matters. The titanic mentality is that, yes, Mr. Congressman, we have several million people who cannot get into public housing; yes, we do need about 100,000 existing units of housing revitalized every year in addition to the several thousand that are; yes, we need millions, millions of new public housing units, but we cannot do it.

Let us do this instead. Let's help the tenant by replacing units on a 1-for-1 basis, so no matter how bad the situation is, we are not going to let it get any worse. That is our unofficial policy.

Maybe so. That is a point of view. I am for privatizing housing. I am for demolishing the unfit and unsuitable houses. But I am not for not building any more.

I am reminded that the gentleman from Texas [Mr. BARTLETT] is the same person that determined that we do not need to build any new public housing, that all we need to do is modernize the existing supply.

Maybe we have a few problems here. This amendment is named after another Gray, Jesse Gray, in New York, who has been in a coma for several years, a New York housing tenant activist. He lived in them. He is not, to my knowledge, related to Kimi Gray, whose name, incidentally, has not been mentioned today in debate, but I will bet you everybody in the Kenilworth Housing Project is 100 percent behind this amendment.

I will also wager that everybody in every other housing project around the country is for this amendment because it starts off by doing something very, very modest. It returns to 25 percent the amount of income public housing residents must pay toward their rent. That is, it reduces it from the 30 percent that exists.

Now, friends of tenants, activists of tenant organizations, liberators of tenant rights, housing authorities, come to our aid. Let us modestly knock off 5 percent of their rent.

I think that we might be able to do that.

Now, there are some other provisions that may be more difficult to take, but we have to face it. Let us start constructing new public housing. Yes, that is right. Let us start, Members of the Federal legislature, to construct new public housing.

There, I said it. I did not get struck by thunder. I did not faint. It sounded pretty good.

Let us build new public housing. We are millions of units short. That is what this bill does.

While we are about the business of modernizing, as the term is for keeping these units from falling down, let us modernize more, not on a 1-for-1 basis, but on the basis of what is required. I am a gradualist; let us do it over a 10-year period, a few thousand a year, and move toward this reasonable disposition that adds on to the great blows that have been struck for tenants in this housing bill.

This amendment is modest and straightforward. It is named after Jesse Gray, who has been working on behalf of public housing tenants for most of his adult life, and I am hoping that it will gain the favorable attention of the chairman of the committee himself, who has been a long-time advocate of tenant rights, who has received many of the people who are supporters of this legislation in his hearing room as witnesses, who has communicated with their organizations across the United States, and who understands that to help tenants, we have to do even more than what is in the presently existing legislation.

□ 1415

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want my very warm-hearted and very distinguished, very capable colleague from Detroit, MI, with whom I have worked ever since he has gotten to the Congress; have walked some of the dire areas of need in Detroit and its environments; have witnessed how some of the well-intended programs of the Congress

have been utilized to thwart the needs, the aspirations for safe, decent, affordable housing on the part of the poorest elements in our society.

When the gentleman evokes the name Jesse Gray, he strikes a real chord in my heart, because Jesse Gray, bless him, was one of those that came from the people; fought, in desperation accepted some alien dogma known as socialism or communism, but who then realizing that that desperation had led him to that pitfall, dedicated and consecrated his entire existence to the betterment of the people within the areas—not from outside, but by working with these great, great Americans with whom over the course of years I have known and owe everything that I can say I represent or any particular power that I may have exercised in an elective capacity.

I come from them, I hope I never forget them, and they are the ones that keep on electing me, even though perhaps all of the known powerful forces that could assemble in any given community have confronted me.

Nothing would give me greater pleasure than to say that I could accept this. Let us look at the five basic things this amendment would do:

First, it authorizes such sums as may be necessary for 500,000 new public housing units for each 1987 through 1996.

Second, it gives preference for comprehensive improvement programs to projects that otherwise would be demolished or sold.

Third, require job training and employment program preferences for tenants residing in public housing.

Fourth, reduce rent-to-income ratio in HUD and FmHA housing from 30 to 25 percent. Yesterday, this House, by a substantial vote, went a long way because it did provide for the elderly in HUD programs, a reduction in rent from 30 to 25 percent. It unfortunately did not include the rural housing.

Fifth, exclude from income used to calculate rent payment any cost-of-living increase for welfare or Social Security.

The record will show that each one of these I have presented, incorporated in every single authorization draft that was presented to the Subcommittee on Housing and Community Development since 1981 and before. Even when we had a favorable tide in the executive branch, it was hard, very hard and difficult, to convince the powers that be in and out of the Congress that there are people in our country that, sooner or later, are going to lose that patience. They are very patient, but beware of patient people when they lose their patience.

If I could have had the great privilege of having even one-tenth of the membership in our representative body walking the areas in Philadelphia where we have had for the first time a bombing out of fellow Americans as if we were in war, in a neighborhood in which I was going to take the subcommittee to hold a hearing, but which I had gone into, and in the perimeters thereby in Philadelphia.

If I could have had that company with me as we went into these very devastated areas in the Bronx, here in Washington, not far from this Capitol, less than one-quarter of a mile away—I wish I could ask all of these gentleman that expressed interest in housing the poor to join me in going to see the conditions in the public housing units there.

Then the author of this amendment would realize that I am with him heart and soul. However, we have been unable to make headway in any effort we have made, even before 5 years ago.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 3 additional minutes.)

Mr. GONZALEZ. Last year, I found myself alone, my dear colleague, when I wanted to stand fast on some of the things that we had been able to save among these listed in the initial version of H.R. 1.

Even my own colleagues on the majority side said, "What do you want, Henry? Do you want to posture or do you want to really get a housing bill?" So we have to accept the reality of the flow of things. Politics, the legislative process, is one of the most realistic processes ever.

I must say that I cannot accept the amendment, as much as my heart and my soul and my mind would say, "Go for it," because I also have to keep my part of the understanding in what we finally worked out after some 18 months as a bipartisan effort to enact basic housing legislation, to keep even that little which we have still alive because the President has asked us 2 years in a row to "kill them all."

That, reluctantly, is the reason I cannot at this time accept the gentleman's amendment.

Mr. CONYERS. Will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. CONYERS. First of all, I want to thank the chairman of this committee for his statement. It is sincere, and I happen to know personally that we have worked together across the years.

This is what my colleague from California [Mr. DELLUMS] calls a conflict between his establishmentarian role and his true feelings as an individual Member. I do not know if that is rationalizing or what, but it seems to me that you are in that position now. We have all been in that position. I am not a full committee chair, but I have found myself in that position already.

So I fully understand the gentleman's predicament. There have been so many agreements, reconciliations, amendments accepted that for the gentleman now to follow any feelings of his heart or his experience I think would be contradictory to rational conduct.

I did not introduce the amendment for that purpose. Nor did I introduce the amendment for the purpose of embarrassing the House or trying to do away with what I think may be the beginnings of a bipartisan effort about housing.

There is no question about it. This bill has made progress. I am supporting this bill, notwithstanding some of the shabby treatment I have received on the floor on the course of debate.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. CONYERS and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. CONYERS. If the chairman would yield further.

Mr. GONZALES. Certainly. I will be glad to.

Mr. CONYERS. So, Mr. Chairman, all I am saying is that there are other views about housing; there are those of us who, when my Detroit housing director, Tom Lewis, tells me that there are 1,000 persons on the waiting list in Detroit for public housing, and that a third of it is falling down, I cannot come back and tell him, "Relax, Mr. Lewis, we're going to replace housing one for one in Detroit."

He will say, "Mr. Congressman, maybe you don't understand what I'm telling you. Replacing one for one doesn't do anything for us here."

Mr. GONZALEZ. I would like the gentleman to know that in my home district town of San Antonio, there is a waiting list of over 14,000, and I am currently fighting in my backyard. This is a fight, as the gentleman knows. If you are fighting for poor people, it takes a long time to win a little modicum of help.

□ 1425

I sit on the Banking Committee. I have seen bills involving billions and billions of dollars to the most powerful vested financial interests of this country swoop by in 15 minutes. How does the gentleman think I feel when in my own backyard I have to quarrel with my own housing authority that is willing to forget about one to one? And I have to fight there. I have to fight on the flanks. I have to fight on the front.

What I am telling the gentleman is that under the circumstances we are waging a battle with half, or a broken sword with the assurance that under our great system, if we endure, if we can endure and if we are allowed to endure, just as surely as you and I are here, we will prevail in what the gentleman is doing today.

And I want to thank the gentleman from the bottom of my heart for even presenting the issue because, had we had this all along in the last 5½ years, and not given up at the outset and had not tucked our tail and run, because we were going to get whipped but fought back. We live to come back and fight and win another day.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. GONZALES was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. I can assure the gentleman, from a moral standpoint, from a Representative sworn to uphold the greatest interests of the greatest number in his district, he is doing the right thing. He is helping us very much and eventually we will win the victory and the triumph that rightfully will come.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The gentleman from Michigan said that he introduced his amendment and he did not hear claps of thunder or anything. But may I say that this gentleman felt a bolt of lightning. Maybe it was pie coming from the sky, I do not know.

But as I looked through this amendment and I think I realize that the gentleman is not really serious about it, but I understand the point he is trying to make and the fact that it has provided a good forum for speeches on the subject of public housing. I say I doubt if the gentleman is serious because the first paragraph on the second page says that "the Secretary shall," that is not discretionary, that is mandatory, "carry out a program for the construction of 500,000 new dwelling units in public housing during each fiscal year 1987 through 1996."

That is for 10 years, 500,000 units each year for 10 years.

We costed that out. That would cost about $30.5 billion this year, according to HUD. Over on the next page the gentleman would have us revitalize 100,000 units for each year during the next 10 years. That would cost approximately $470 million. Then there is a job training section in the amendment. We probably ought to sequentially refer it to the House Committee on Education and Labor since we are talking in the area of employment, employment opportunity, job training of individuals, of any individual who lives in any public housing unit. I would assume that would include the 500,000 new dwelling units or the 5 million over the next 10 years.

I understand where the gentleman is coming from, but I must ask the House not to support this amendment because, first of all, the money just is not there.

Thirty and one-half billion dollars is more money than was provided for all of the public housing, assisted housing programs during the Carter administration.

So that from that standpoint alone, as I said, I do not think the gentleman is serious, but I understand the point he is trying to make; and I think he made it very well.

Mr. Chairman, I yield back the balance of my time.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I could not let this opportunity pass by, after listening to the chairman be as eloquent as I have heard him, state something that I do not think anyone in this House can disapprove of, something that we both believe: housing for Americans is one of the most important things that this Government can do.

I will not hide my light under a bushel for a desire of public housing to anybody. I am going to oppose this amendment, obviously.

To my good friend, I think he knows why I am going to oppose it. I am having a hard time saving a housing bill.

I have been at this process for 3 years. The chairman of the committee, Mr. VENTO, I look all throughout the room, Mr. SCHUMER, Mr. OWENS, all of them have been very forthcoming. We have eaten more crow and more crow and more crow and more crow. We have given up. We have taken and chucked the original H.R. 1, and come back with a shortened version which I guess must be right because I do not like it, the chairman isn't thrilled with it, and the conservatives do not like it. It is like the old glass which is half full of water; is it half empty or is it half full? I do not know. But I am having trouble here. Let us be pragmatic, I say to my good friend. I am having trouble holding on to anything in this bill.

You know, I understand the problem of the gentleman. HUD sashays into my town and manages to tell the press before they get to my office—I am only ranking member of the Housing Subcommittee—that they are going to condemn a place called Father Panik Village. That does not mean much to anybody out there who is not from Bridgeport, CT, but that is 1,150 family units and perhaps 5,000 people.

I do not have an empty doghouse to put people in. I need modernization. My housing is 50 years old. I need new construction, I need all kinds of things. I cannot even get nor hold on to my new construction in the housing bill from 1986. I cannot get anyone to listen to manufactured housing arguments I make, that maybe they would be cheaper, maybe they would be better, they would be there sooner. I did get Nehemiah in the bill. Everybody liked that. Maybe there are enough people of good will and enough mayors with land and enough churches with some money so we can get 100,000 units or so from that program. Yet I wonder really if we are not showing a bipartisan attitude that is at least realistic, to the American people. I can remember when we used to leave this room with a bill and we would say, "Oh, boy, we have authorized 250,000 units," and we would build 150,000 units. And we lifted the American people up, and we dropped them like a hot potato. This Congress, for some reason or other, cannot put together the fact that housing, decent housing is the sole source of a community, of America, of a cutback in crime, and of everything on which we built this Nation.

So I am going to vote against the amendment of the gentleman. I hate to think that if I were President of the United States how much money I would spend on housing, but you sure would get an awful lot more spent than is spent now. I am not criticizing those that say there is a 9-percent vacancy or that we ought to have vouchers. But there is not a vacancy in San Antonio, there is not a vacancy in Bridgeport. I am sure there is not one in Detroit. I am told there are 10,000 in Detroit. I have just been told that. Well, I am sure they are in pretty awful shape.

So let us get together and let us go ahead and defeat this amendment and pass what seems to be the most realistic housing bill we can come up with.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I would be delighted to yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his statement. It was heartfelt. I was moved by it because I see that there are many areas of agreement.

But when my colleagues from Michigan tell you there are 10,000 vacant units or whatever in Detroit, I want to guarantee you that that is not accurate. We are short, we are desperately short of housing. I would invite them to come to the city of Detroit to find out for themselves.

Mr. OWENS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to commend the gentleman from Michigan for introducing an important breath of fresh air here. I think he has already stated that the important thing for him is that there be a forum where we could discuss housing in terms of the need. There is a tremendous need for

food, clothing, shelter, and housing is one of the three necessities of life; and there is a great need in this country for housing. There is a need which has already been pointed out city to city. New York City has more than 750,000 occupied public housing units. The waiting list is still more than 200,000. More than 200,000 people are on the waiting list, and some have been on the waiting list for as long as 7 years.

There are large numbers of people throughout this Nation who are going to need housing or need it already but are going to need housing and cannot afford to pay for the housing that is available.

The New York Times pointed out in last Sunday's issue that numerous jobs are being created but in many cases that people are being laid off from jobs that pay $8 to $15 per hour and taking jobs for $4 or $5. Their income is going to decline dramatically. Their need for housing at a lower rate is going to be tremendous. In part of the country right now where they do not recognize the need, they are going to need it soon.

So the gentleman from Michigan has pointed out that reality is not necessarily the reality that is defined by Ronald Reagan and the White House. So somebody in this Capitol, somebody in this Congress should talk about reality in other terms. We have a reality fo Ebenezer Scrooge's mentality. Ebenezer Scrooge's mentality is that there is never a need, there is only a threat to taking away something that he has.

This Nation can afford to build the kind of housing that this bill talks about, this amendment talks about it, we can afford It. Somebody said that is $30 billion over a 10-year period. I think the American people ought to know that that sounds like a lot of money, $30 billion over a 10-year period, that is $3 billion a year. The American people ought to know that one aircraft carrier, one nuclear aircraft carrier costs $3.5 billion per year.

We are talking about building a new shuttle. I am all for the Space Program, all for the shuttle. The original shuttle was projected at $5 billion. It was supposed to cost $5 billion. But the original shuttle and cost overruns went out to $10 billion, $10 billion for a shuttle. So if you think in terms of modern costs, what we are talking about here, building housing over a 10-year period costing $30 billion, that is not very much.

This Nation can afford to provide for that kind of necessity. We are not a tiny nation with no resources. We are the richest Nation that ever existed on the face of the Earth. We can make the Roman Empire—we do make the Roman Empire look like a village. Now we have the resources. We spend our resources in many ways, in many wasteful ways. So the bill brings us back to the real reality, I think, the reality of being a great Nation willing to use its resources to provide for the necessities of people. It points out the fact that not only can you provide more housing, but you can also provide jobs. You can also provide a tremendous number of jobs in the process of building additional housing.

So I do not see why we should run from a forum at this time which reawakens us to the reality that really exists. The need is there. The fact that the mentality that has been created has been a mentality of Ebenezer Scrooge should not stop us from being able to speak about the reality, to define the reality for the American people the way it should be defined.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman.

Mr. VENTO. I thank the gentleman for yielding.

I thank the gentleman for his statement.

I think all of us agree with the concerns about public housing, adequate public housing. The fact is that we have gone from a point of providing or authorizing 350,000 units of assisted housing including public housing, a small portion of which has been public housing, and other forms of assisted housing in the late 1970's, putting it in the pipeline in the beginning, to providing far less than 100,000 units per year now, including vouchers and all sorts of other units. So we are far below that level. The fact of the matter is where there was a trickle of assisted housing coming out of the end of the pipeline because once you authorize these, you do not necessarily appropriate for them nor do you construct them instantly, but rather there is just a trickle coming out, coming out drop by drop now. So we are not keeping up with the loss of assisted housing.

Another fact that is important to me and I think to the gentleman is the fact that many of these contracts, these 35- and 40-year contracts are now expiring.

□ 1440

The CHAIRMAN. The time of the gentleman from New York [Mr. OWENS] has expired.

(On the request of Mr. VENTO, and by unanimous consent, Mr. OWENS was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, those contracts are running out and we have all sorts of concerns about losing public housing and assisted housing on the basis of those contracts working their way out.

I think the question is, the real problem here is, one of how do we best meet the housing needs. The fact of the matter is that housing is not an entitlement in this country. Yet, I think all of us would agree that shelter is just as basic a need as food or clothing or medical care.

The truth of the matter is that we are not as a national government or as State or local governments ready to alone commit the amount of resources necessary to meet that particular need. Yet, what is the fundamental need of a society and an individual?

Mr. OWENS. Mr. Chairman, I thank the gentleman from Minnesota [Mr. VENTO] for his observations. What the gentleman is saying is that we are headed toward a crisis in housing. With the fact that there is so little coming out of the pipeline, we will have a crisis in housing which will be visible to all soon. I think the crisis is already there throughout the Nation in certain pockets. We are going to have a national crisis.

The reality is that we should start planning for it now and build more generously than we are.

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to share a colloquy with my colleague, the gentleman from Detroit, MI [Mr. CONYERS].

In my congressional district, I have toured and spent a great deal of time on public housing, because I share with the gentleman from Detroit, MI, we care in terms of improving the quality and standards of our living conditions, regardless of where we live in this country.

But I was looking at the HUD documents last week. I am not on the committee and I do not pretend to be an expert on housing. In terms of the HUD records, the records show here that we had approximately 10,000 vacancies in Detroit.

I was concerned about that, because I think there are people who need decent housing. We shifted some funds here with an amendment to move into modernization. I think from a commonsense approach that it seems to me if we wanted to encourage and help families with lesser incomes to have affordable housing, it would be a commonsense approach here in the House to use existing scarce resources—I say "scarce resources," and we all know what the deficit is—to utilize that to improve our housing so that your director—I have not met the gentleman and I would be happy to meet with him—that we could improve the housing, and maybe some of that housing needs to be totally replaced with new housing.

So I agree that there is probably a mix here that we are trying to share

with the Subcommittee on Housing and Community Development, that some could be modernized maybe some could be replaced, but certainly the number of 10,000 vacancies, which even destroys to some extent the fundamental fiscal integrity of the program within that complex, begins to concern all of us that we are trying to do the best thing for low-income people to get 10,000 units modernized quickly, not only 10 years, 5 years, or 3 years, whatever it takes to modernize them, and really make it an effective, good housing program.

Mr. Chairman, I would just share my concerns with the gentleman from Michigan [Mr. CONYERS] on that.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank my friend, the gentleman from Michigan, for yielding.

Mr. Chairman, the gentleman and I are in neighboring counties, and we almost share similar borderlines.

I am glad the gentleman implied he would be willing to remeet with Tom Lewis, the director of Detroit's public housing, because I can assure the gentleman that there are not only not 10,000 houses available, and I do not know which HUD documents the gentleman referred to, there are no housing units available. The list is interminably long. We have a crisis on housing in Detroit.

Mr. PURSELL. Mr. Chairman, does the gentleman feel that the record from HUD is incorrect in terms of 10,000 or even 9,000 vacant housing units?

The gentleman does not think that is accurate?

Mr. CONYERS. Is the gentleman talking about all housing or public housing?

Mr. PURSELL. Public housing in Detroit.

The HUD records indicate there are approximately 10,000 vacant public housing units in Detroit.

Mr. CONYERS. Let us take that up off the floor. We know how these statistics get bandied about.

Mr. Chairman, may I also suggest that since everyone here has met Kimi Gray but me, and I feel very bad about that having participated in the housing debate, there is a lady named Lena Bivens in Detroit whose name has to be brought up in our discussion from Michigan, because she is the Kimi Gray of Michigan. Wait until you meet her, Mr. PURSELL. She will help us get these HUD figures and any other misconceptions out of our heads, and I think we can begin to work together.

We made progress in this bill.

Mr. PURSELL. We have.

Mr. CONYERS. I am not knocking it. I understand when the gentleman from Connecticut [Mr. MCKINNEY] says that we have a problem in just trying to get a bill like this through the House. We have not had a housing bill in 5 years. So, congratulations, if I am not premature.

But sooner or later, we are going to have to stop this deck-chair rearranging on the *Titanic*. People are in a crisis. Somebody said there is going to be a crisis. If there are 3 million who cannot get in public housing, if that does not constitute an ongoing crisis, I do not know what does.

Mr. PURSELL. Mr. Chairman, if I may reclaim my time, I just think, in summary, and I do not want to dwell on the 10,000 vacancies, but I think historically this housing bill is making some substantial policy changes for new creative ideas in housing, whether it be privatization or the urban enterprise zone idea.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. PURSELL] has expired.

(By unanimous consent, Mr. PURSELL was allowed to proceed for 1 additional minute.)

Mr. PURSELL. Mr. Chairman, I think that in substance, historically, even though we have not had housing bills in the past because of the liberals on one side and the conservatives on the other, I think we formed a creative bipartisan agreement here that we may have some major changes to help urban cities revitalize themselves so they can be constructive components to a major State so that we could have good economic development and quality of living and high standards throughout every State in the Nation. I think this bill does address that issue.

Mr. Chairman, I am supporting the bill, and I am very pleased to have an opportunity to participate in the debate.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to join the ranks of the dreamers, as some might term it, and support the Conyers amendment. I admire the gentleman and commend the gentleman for his bold approach in raising what I consider to be a critical issue which this Government is going to have to face up to, if not now, later.

Mr. Chairman, it is hard for some to understand now the need to really examine and do something forthright about the critical need for public housing in our country. We have been so attuned and so adjusted to spending money, not on human needs, but on implements of human destruction in many ways.

We will be debating again in the not too distant future whether or not we send the money that the President asked for to Nicaragua, without understanding really what it is going to be used for. Some of the people who are most vociferous in opposing additional housing will be very supportive of the money that would be sent down into that country.

I can only tell you that Chicago has a need for public housing similar to that that has been expressed by the gentleman from Detroit and the gentleman from New York, the Representatives from those areas. We have many, many vacant lots, many condemned buildings and many, many boarded-up buildings that could be made accessible or replaced so that people could live in them.

□ 1450

It is estimated that we have roughly 25,000 people, for example, in the city of Chicago who have no place to sleep or no home to sleep in.

I think we have to begin to change our thinking as to how we spend our tax dollars. I do not think it is unreasonable to think in terms of maybe an expenditure of $300 billion over a 10-year period for housing for people to live in. This is the kind of thing we can address ourselves to. I am not so stupid or naive as to assume that this kind of an amendment is going to pass here as a part of the housing bill. But the mere fact that we have some dialog and discussion may prick the conscience of some of us as to how important this issue is and that we begin to think and do something about it.

So I want to close by commending the gentleman from Michigan for having introduced the issue.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for his comments and for his support. The gentleman is a cosponsor of the bill. Of course the gentleman comes from a city that knows what lack of housing is all about and what suffering is all about, and the gentleman advocates change in a very courageous and excellent way always.

Now, some of the Members here have discussed about whether or not we were serious about this bill. Well, I am just as serious as the President is about the SDI, the space defense initiative. I am just as serious about this bill as some people are about the outmoded B–1 bomber. I am just as serious about this bill as the President wants to get more money to the Contras.

Now, what is unrealistic about paying for what the bill costs to get housing in America? We have had the ranking minority member of this subcommittee say that housing is a basic need. I guess that was not any news to anybody. Well, then, why do we not put our commitment where our mouths are? Why do we not pay for

what it costs? I am sorry that it costs so much. I wish it cost less. But that is the way it is, Mr. Chairman.

And, by the way, there is nothing written among the cosponsors of this bill that we could not settle for less. I do not want it to be portrayed that we are intractable, that we have to solve the housing crisis that has built up since World War II.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HAYES] has expired.

(On request of Mr. CONYERS and by unanimous consent, Mr. HAYES was allowed to proceed for 1 additional minute.)

Mr. CONYERS. If the gentleman will continue to yield, all I am asking is that we try to strike some reasonable allocation of new housing, that we make some new initiatives. We do not have to pass this amendment in full. We have renegotiated everything else in the housing bill. We have rewritten it 3 times, tossed it out, it was twice as big originally. I have got only six pages that we could probably cut to three pages. So this is not just a matter of rhetoric. This is a matter of providing people who are not living right in America today with some adequate housing. I am very proud of the gentleman for staying with us on the course.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Massachusetts.

Mr. FRANK. I just want to add my support for this amendment. Particularly, as the gentleman from Michigan has said, it is open to discussion.

We have got a real problem in this country of homelessness. We have got a problem. I just had a hearing this morning on gentrification, of livable, affordable housing shrinking in many areas of the city where poor people have been living, and now it has become more desirable.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HAYES] has again expired.

(On request of Mr. FRANK and by unanimous consent, Mr. HAYES was allowed to proceed for 30 additional seconds.)

Mr. FRANK. A lot can be done to improve existing housing, to rehabilitate, to rennovate, and for all of that. But you cannot house an increasing population, particularly in the light of economic trends, some of them Government assisted, that are raising the price of housing in the central cities without building more housing.

Public housing well done is an important resource. There are an awful lot of people who live in it today. It is home for them, and it will continue to be home for them because it is the best housing available.

I think the gentleman from Michigan is on the right track, and I would hope that we could adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The amendment was rejected.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA: Page 123, after line 17, add the following new title (and conform the table of contents accordingly):

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. URBAN DEVELOPMENT RELOCATION PROHIBITION.

Section 119(h) of the Housing and Community Development Act of 1974 is amended by striking "assistance may be provided under this section for projects" and inserting the following: "grants may be approved under this section for projects that the Secretary determines, before such approval, are".

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I have offered this amendment because it has recently come to our attention, after the House's consideration of the UDAG section, that there was a flaw that should be corrected, and it would seem that adding this new title would be able to take care of that flaw as we see it.

My colleague, the gentleman from New Jersey [Mr. GUARINI] and I are presenting this amendment, and it applies to the provisions concerning revoking UDAG grants.

There have been situations between the State of New Jersey and the State of New York where there have been problems in the past, and we have fought those problems out. I must say that New York seems to be on the winning end of that. But I do not think that this amendment is devised to perpetuate that argument. It is meant, rather, to clarify and to present an orderly procedure whereby some of these questions can be resolved by the Secretary of HUD. That is my intention in presenting this amendment.

What I am trying to get at here is what seems to be the suggestion that the Secretary has such latitude here that there could be an arbitrary retroactive use of his power to revoke grants that had been properly and appropriately approved under all the rules and regulations of both the law and the regulations of the Department of HUD.

It is my concern that in the future there not be any doubt about the role of the Secretary and that his position in revoking such grants be clearly delineated and defined as a matter of law in the housing bill under this section.

With that, I yield to my colleague, the gentleman from New Jersey.

Mr. GUARINI. I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman is correct. What this amendment does is to clarify the Secretary of HUD's ability to determine UDAG assistance.

We recently had a situation where after 2 years of the grant, it was subsequently, without adequate notice and retroactively, rescinded. This was a long while after the project was approved. And what this language of the bill does is to amend section 119(h) of the Housing and Community Development Act of 1974 to state that no UDAG grants may be approved under this section for projects that the Secretary determines before such approval are not intended to facilitate relocation.

What we are saying is that when he approves of the grant, he has to determine that there will be a significant and adverse economic impact on neighboring cities at that time. We would then not have the situation that we have today in Jersey City, where 2 years later a grant was rescinded, much to the detriment of the development on the waterfront, to the developers and to the tenants of the building.

Mrs. ROUKEMA. Mr. Chairman, I think it is accurate to say that this would not change the selection criteria in any way, but it does say that there is something wrong when the Secretary 2 years later can withdraw a grant. I think anybody in this House can understand what adverse situation such as would be created in their constituency or in their State if they had to deal with that kind of uncertainty. It is not right. You cannot plan that way. Certainly if UDAG is to continue as a viable program, investors will certainly not come in and invest under those terms and conditions if they think that 2 years down the line some Secretary, whether this one or the next administration, will revoke that.

Mr. GUARINI. If the gentleman will yield, it further causes embarrassment and friction between neighboring municipalities because it was the basis of a lawsuit, and the lawsuit will be continuing, and it was necessary. Whereas if it is finalized as of the making of the grant, that would be the end of the problem. Whereas now we have an ongoing unnecessary litigious action between two neighboring municipalities that does not create any good feeling. So I think that this amendment does not made sense. It is proper and it is very timely. It takes no discretion away from the Secretary of HUD in making the grant.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words, and the purpose is to ask some questions. I certainly always wish to accommodate very wonderful Members of the House. Both the gentleman from New Jersey and the gentlewoman from New Jersey, who is a member of the committee, present us with an amendment at the last minute in the form of a new title which we do not have a copy of. I do not have a copy of it. I do not want to raise intervening procedural objections, because what we are trying to do is expedite this and hopefully finish action on the bill. But I would like to ask both my colleagues: Is this not striking the present section, which has been called the antiraiding proviso in UDAG, whereby if the Secretary determines that a project to the recipient city that has been approved under UDAG procedures turns out to be in effect the result of a raid of an ongoing business enterprise somewhere else, that he shall then retrieve that award?

It is not the net impact of your amendment? Would this not strike that authority that the Secretary has presently?

Mr. GUARINI. If the gentleman will yield, it does not strike any authority that he has. All it says is it steps up the timing for the finality of his making the decision. It just says that when he makes the decision to give the grant, at that time he should state whether or not the proposal has an adverse impact.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. SCHUMER. I do not read the amendment that way at all. The way this is set up, the way section 119(h) is set up, it is an antipiracy section. It says, very simply, that if the Secretary determines that the grant that has been awarded but not yet received, not yet given, is determined that it would just transfer jobs from one place to another—and, mind you, UDAG is a proposal that is supposed to create jobs, not transfer jobs—that the grant is no longer valid.

What this amendment would do would be because the Secretary made a decision 2 weeks ago that this project that we are talking about in this amendment that would affect this amendment was pure piracy, that it did not create any new jobs but, rather, would simply relocate jobs, this would overrule the Secretary's action.

My good friend and colleague, the gentleman from New Jersey, said the project is going to go forward anyway whether they have the grant or not. It was in a press release that I saw from the gentleman from New Jersey, and it was stated by the builders of the project that one of the criteria of UDAG is that you need the grant to make the project go forward.

What this amendment does is, very simply, overrules a fair and impartial determination by the Secretary that this is piracy and says, "Keep your $9 million, Mr. Big Developer. Even though you are not creating any new jobs, you are transferring from one place to the other."

So I do not think it is a very good amendment. I think it sets an awful precedent. Here we have a Secretary of Housing, who I disagree with on most issues, trying to make a fair and impartial decision, and 2 weeks after he does, the Congress would come up and say, "You cannot do that," without any basis, no basis at all.

There is no argument here that the Secretary's determination was wrong, no discussion that what the Secretary did was wrong. Rather, that the HUD procedure, which is first allocating the grant, then checking some of the criteria and seeing what happens, should be overruled. It does not make too much sense to me, and I would oppose the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Minnesota.

Mr. VENTO. I drafted the antipirating provisions. In other words, these provisions in this bill are in fact much more tight with regards to the types of concerns that I have with regard to antipirating. I understand that this deals with a speculative UDAG in New Jersey as the example. But the fact of the matter is, what this amendment seems to be saying, at least perspectively, not retroactively, because it would not affect the events that have gone on, is that if HUD actually makes an award of a grant, that that is the end of the regulation.

□ 1505

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. I continue to yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for continuing to yield.

In other words, what this amendment is saying is that once the decision is made to give the grant that you lose all control over how you enforce it.

How would you enforce it?

I understand the problem that is occurring here, but what you are doing is taking away the Secretary—what other provisions would the Secretary have to enforce it? I mean, clearly, one of the enforcement mechanisms is, and it has been used, incidentally, not just with regard to this, is that you stop the flow of funds. That you stop giving, in other words, the use of this money in an improper way.

In other words, what you are saying is once it is done, once he makes the award, the announcement is made, the press releases are out, this money is not spent. In other words, even if it is being spent improperly, you are saying, "That is the end of it." We are not just talking about antipiracy here; you are talking about a whole host of conditions that have to be put in place. UDAG relies upon a leveraging of private funds. What if they avoid that particular requirement? You are saying once it is made it is too late.

That is what is being said here and I do not think you want to throw away the flexibility and the needs that the Secretary has to enforce the law and for people to live up to the contract under the UDAG Program. That is what this amendment, in essence, is saying.

I know what the intention is of the sponsor.

I am surprised to see the amendment, I might say, under these circumstances considering the nature of the issue. I would be happy to work with others that have concern here with regard to what you are doing, but I think in this instance I just see this as causing undue problems.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. McKINNEY. I thank the gentleman for yielding to me.

Mr. Chairman, nothing would distress me more, No. 1, being from Connecticut, and No. 2, coming from the Republican side of the aisle and being the ranking member to oppose an amendment put in by the fair lady. I had some UDAG problems myself. We have to leave the Secretary his power. We are absolutely denuding him of power. We simply cannot pass this amendment.

What if we have, say, a UDAG developer who is going into consortium with a savings and loan in a State that goes, if you will pardon the expression, "belly up," and suddenly he does not have any money? The Secretary has got to be able to say this is no longer a valid program. The law says if the Secretary finds out it is a speculative program, it is no longer a valid program.

I would like the chairman, and I think he would certainly be forthcoming on it, to have hearings and to go ahead and review the application process for UDAG's which seems to be the most tortuous process in the entire world to start with and which seems to leave a lot of errors after the completion of it. But to turn around and say to the Secretary he cannot cut off the money is wrong.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentlewoman.

Mrs. ROUKEMA. I thank the gentleman for yielding to me.

Mr. Chairman, I would particularly like to speak to the chairman and the ranking member on the committee because we have discussed this to some degree in committee, not this particular amendment, but the problem.

I think it has been agreed and certainly with the good help of the gentleman from Minnesota, there has been progress made on the subject of the antipirating. There is no question about that. But I think you have got to agree that there are still horrendous problems in equity in the application of UDAG principles between the States and it has created terrible friction. The gentleman from Connecticut has referred to it; it has created terrible friction.

The intention of my amendment is this: That there not be an arbitrary revocation. I think you will all agree that there is tremendous potential abuse, a 2-year time period. Just think of the problems that are created for the local district, when after a 2-year period a grant were withdrawn in your State. You would be very concerned about the $9 million. When there is such an uncertainty and seeming arbitrary revocation of a grant without notice.

I do not think either the chairman, Mr. GONZALEZ, or the ranking minority member, Mr. MCKINNEY, would disagree that there are problems. Now what are we going to do to improve that situation if this amendment does not do it? I think the amendment goes a long way toward alleviating the problem.

Mr. GONZALEZ. Let me say that the amendment goes a long way; perhaps a little too far. I am in agreement with the gentlewoman that we do have to look at this.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. I do agree. I think though, that the gentlewoman will agree also with me, and she has said so, that we have discussed this in committee but we have not had any presentation from the gentlewoman of any kind of an amendment of this nature.

The gentlewoman will agree with me that this has been sort of a last-minute presentation.

Mrs. ROUKEMA. Yes.

Mr. GONZALEZ. Will the gentlewoman listen to my plea and respectful request that she withhold on this amendment at this time with a definite promise that the subcommittee will look at this as soon as it is feasible and give you an opportunity to perfect legislation that will address specifically the problem that has resulted in some, as a result of some of the Secretary's decisions.

I understand; I believe that at this point that we will do the very opposite and that the gentlewoman has been a strong supporter of UDAG and I think she would not do anything knowingly to destroy the viability of UDAG. I really am pleading and requesting if she could consider holding up on offering this amendment for the time being, with the promise, which in all seriousness I can make to you—the one thing I do have as a chairman is to set the agenda—I can promise you that that will be.

Mrs. ROUKEMA. If the gentleman will yield, Mr. Chairman, I appreciate your good faith and I know your word is good.

Might I ask: What other legislative vehicle would there be for bringing such a bill to the floor if we do not attach it to the Housing bill that we are presently considering?

Mr. GONZALEZ. As the gentlewoman knows, the Senate is working its way through an authorization. It is our hope that we can get some bill out possibly today.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(On request of Mrs. ROUKEMA and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. There is a good chance that we could communicate with our Senate colleagues and particularly the Members from the gentlewoman's area that are concerned equally. I have spoken with a couple of them.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. TORRICELLI. I thank the gentleman for yielding to me.

Mr. Chairman, I believe that the specter of unforeseen problems has been raised here, perhaps on an unwarranted basis. The question has been raised that after an award has been given for UDAG grants if there are questions of fraud or of viability.

I would remind my colleagues that in such cases legal means are available to the Secretary. If fraud has been committed, if inaccurate statements have been made in an application, the Secretary has full legal powers for recovery to protect the investment of the taxpayers.

I would raise, instead, a different question. A different problem. Not stemming from any individual application at this time, but something which is going to happen in the future. That is where private investors have made substantial investments, commitments of funds. After those investments have been made, private expenditures have taken place, the Government withdraws.

Now, in the past this might have been a theoretical problem; it is now a reality. It has now happened, and the reality is the balance this year and in the future, private developers are going to come to this program knowing that they are at risk. So we tend to change none of the criteria. We do not take away the Secretary's discretion, we do not affect the substance of the pirating provisions.

All that we do is ask the Secretary to make a judgment based on those same pirating provisions and they stay with them, absent any fraud.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. SCHUMER. I thank the gentleman for yielding to me.

Mr. Chairman, I understand where the gentlewoman is coming from and my good friend from New Jersey. The problem here is not a piracy problem. The problem here is this amendment, as drafted, let me pose a hypothetical, mindful of what the gentleman from New Jersey [Mr. TORRICELLI] has said.

□ 1515

A UDAG grant is a $20 million grant. The Secretary has given out $2 million of that grant, and finds out that $1 million of that $2 million has been put in somebody's pocket, not used for the purposes of the contract that has already been signed.

Under this provision the Secretary would have to continue paying the remainder of the $20 million, because what it says, quite simply, is once the contract is signed, the grant is provided, that the money must flow.

I would ask my colleagues, from whatever State, from whatever situation, why have a contract at all? If the contract is violated, why must the money continue to be paid?

What happened here in this particular situation that I know grieved, and legitimately grieved, my colleagues, is that the Secretary made a determination that certain provisions of the contract were not being met; they were the antipiracy provisions. And perhaps an amendment should be drafted to address that specific situation, because we all know that the antipiracy provisions were an ongoing discussion simultaneously with this particular development.

This language would not just limit itself to that particular project, would not limit itself to piracy, but would be for any contractual violation at all. So what I would urge my good colleagues to do is to sit down and take the good chairman up upon his offer—I will not be obstreperous on this issue because I

care about the future and I understand the particular situation there—and see if something could be drafted to make it work.

What this will do will be simply to cripple the Secretary from the worst and most egregious violations.

Just one final point in reference to my colleague, the gentleman from New Jersey [Mr. TORRICELLI]. He said that this is the first time that this has happened. Not at all. There have been dozens and dozens of UDAG contractors that have violated their contracts, and the Secretary has then stopped the flow of money, entered new negotiations, or done something else to change it.

So this is not a de novo situation, although the specific circumstances which the gentlewoman is talking about, a contract being negotiated at the time of new provisions being enacted, might be somewhat unusual.

Mr. GUARINI. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New Jersey.

Mr. GUARINI. Mr. Chairman, my good friend, the gentleman from New York [Mr. SCHUMER] keeps talking about antipiracy. It seems that these are emotional words.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

(On request of Mr. GREEN, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I yield further to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, there is no antipirating. It is a matter of adverse significant economic impact. Those are the words. The other words you choose to use are all emotional words that make us feel like we are almost in two different countries. We are all part of one region. We are all part of one partnership, and we want to develop as a region. We are neighbors to each other, New York and New Jersey, and it is unfortunate that New York should start suit against New Jersey and that New York should use its best offices, 2 years after a grant was given, to have it withdrawn and rescinded by the Secretary of HUD, who comes from New York City, with a chief counsel, John Knapp, who comes from New York City.

I think that there are things that remain to be seen that are sort of unwritten or between the lines that you could read.

What I would like to say is this: that if there are misrepresentations made when an application is granted and approved of, at that time if there is any misappropriation of moneys, or if there is any fraud, that the moneys not only would be stopped, but there would be a suit, and it would be criminal, so that there are certain legal remedies that are available, and that developer would be blackmailed and the city of course itself would not come out best for it.

I just want to say one further thing. In this particular instance that only came to light a few days ago, which is the reason why we are on the floor here today; when that $9 million was withdrawn, not only was section 119(h) misinterpreted by the Secretary, Sam Pierce, of HUD, but he had a statement of policy where there was no time or notice for comment. Then the adverse and significant impact economically was meant to be any job for any reason that would want to come to New Jersey within 50 miles from a neighboring city, which meant 50 miles from Philadelphia and 50 miles from New York City; that meant in effect that there would be no effective UDAG's that could be given to New Jersey.

That was not the intent of what 119(h) was all about. However, Secretary Sam Pierce had so understood and interpreted without any notice for a comment, made a statement of policy that that is what he meant when he interpreted 119(h).

I think that it is biased, and I think that it is arbitrary and it is capricious on the part of the Secretary.

Mr. GONZALEZ. Mr. Chairman, reclaiming my time, I ask the gentleman to listen to me. The gentlewoman's amendment provides that:

> Section 119(h) of the Housing and Community Development Act of 1974 is amended by striking "assistance may be provided under this section for projects" and inserting the following: "grants may be approved under this section for projects that the Secretary determines, before such approval, are."

Section 119(h) reads:

> No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

If there would be a chance for us to perfect language that would limit the Secretary's lack of promptness which can, as the gentlewoman has pointed out, result in grave injustice, if we could do that and work it out, I think that all of us would be trying to help the gentlewoman. As it is, the present reading would knock out section 119(h), and we could not possibly accept that.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, we have worked together very well and very hard on numerous projects, and I am glad to have had this dialog because we have been able, I think, to distinguish between what may seem to be a parochial issue between two States and one particular project and what is more general in terms of good policy for the country. Our mutual interests I think would be served here, having now had this agreement that these are flaws in the process—under the present process, there are flaws—therefore, I would like to take the subcommittee chairman up on his commitment to hold hearings and work out the language.

Mr. GONZALEZ. I promise the gentlewoman.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GONZALEZ] has again expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I yield further to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. We can put this agreement not only in the body of the discussion of this debate but in language connected with the bill that would state our intention here, understanding that we will have hearings or that we will work up legislative language that is satisfactory to both of us, and we will try to put that into the conference or into the Senate bill, if that is the only vehicle that we have.

Mr. GONZALEZ. Yes.

Mrs. ROUKEMA. Under those circumstances and with that kind of commitment and understanding that there is a real problem that we are trying to address; that is, one that affects every State in the Union, not just a few——

Mr. GONZALEZ. That is true.

Mrs. ROUKEMA. And that there is a flawed process here that unfortunately in this case worked to the detriment of the State of New Jersey, but it is a flawed process for all of us interested in equity.

I want to take that out of the battle between the States. This is not a battle between the States; this is a subject of proper policy for UDAG programs if they are to continue.

Mr. GONZALEZ. I understand.

Mrs. ROUKEMA. So I would like to withdraw the amendment now with the understanding that the chairman and I would work up this language.

Mr. GONZALEZ. The gentlewoman knows that she has that commitment, and had I been given a little advance time, I think that we could have worked out some language that would have resolved this, but I thank the gentlewoman very much, very sincerely, because it will enable us to try to finish and complete the work on this bill.

Mrs. ROUKEMA. I regret the lateness of the presentation of this amendment.

Mr. GONZALEZ. I understand.

Mrs. ROUKEMA. There was no intention to blindside the committee.

Mr. GONZALEZ. No.

Mrs. ROUKEMA. This had been discussed extensively 18 months ago or a year ago when we had worked in committee.

Mr. GONZALEZ. Yes, that is true. I understand.

Mrs. ROUKEMA. I am pleased with this agreement today.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey [Mrs. ROUKEMA]?

There was no objection.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just wanted to add to the gentlewoman and the gentleman that I appreciate their generous offer to withdraw the amendment, because we have a housing bill to do, and this is not as far as I am concerned a fight between States, because quite simply if the States start fighting among themselves, the program goes under, period. So let us hope that we can work out some kind of language that would meet the needs that have been brought up here, and not make this an interstate fight.

I appreciate those remarks, and I hope that we will work together.

Mr. HUGHES Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New Jersey.

□ 1525

Mr. HUGHES. I will tell the gentleman what really concerns me. It is the policy directive.

I want to ask the gentleman, who is an expert in the area of housing, does it make sense to the gentleman to use an arbitrary 50-mile rule, such as the Secretary has done in this situation?

Mr. SCHUMER. In the situation which he used it arbitrarily, I thought it made very little sense.

Mr. HUGHES. That was never the intent of this statute?

Mr. SCHUMER. That was not the intent of this statute; that is correct.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield.

Mr. VENTO. Mr. Chairman, I think what this all points out is that is not a general definition, in other words, not specific enough in terms of location, obviously. That is one of the reasons that we have rewritten some of the provisions, not as it deals with speculative UDAG's, but with others that need to be tightened up.

I think my grievance also is with the Secretary in terms of what happened in my State, and that is a consequence. Obviously, I could not go back retroactively, either.

I had a problem that was related to this as well and I am very concerned that in the process of solving this that we do not end up throwing the baby out with the bath water in terms of prioritization.

Mr. SCHUMER. I would certainly agree with the gentleman that the problem is a real one. I do not want to back off the problem. UDAG's that simply switch jobs from one place to another, whether they be 10 miles apart or 700 miles apart hurt the program. We ought to deal with that in a rational and fair way, so I concur with the gentleman's comments that we do not want to eliminate the provision altogether, we just want to make it work so that the UDAG program can work.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. WYLIE: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
TITLE I—PROGRAM EXTENSIONS AND AMENDMENTS
Subtitle A—General Extension of Programs
Sec. 101. Extension of Federal Housing Administration mortgage insurance programs.
Sec. 102. Extension of rural housing authorities.
Sec. 103. Extension of flood insurance program.
Sec. 104. Miscellaneous extensions.
Subtitle B—Mortgage Insurance and Secondary Mortgage Market Programs
Sec. 121. Limitation on amount to be insured under National Housing Act.
Sec. 122. Limitation on Federal Housing Administration insurance premiums.
Sec. 123. Increase in authority to insure adjustable rate single family mortgages.
Sec. 124. Government National Mortgage Association mortgage-backed securities program.
Sec. 125. Limitations on certain secondary mortgage market fees.
Subtitle C—Community and Neighborhood Development and Conservation Programs
Sec. 141. City and county classifications.
Sec. 142. Community development block grant program authorization.
Sec. 143. Community development block grant public service activities.
Sec. 144. Discretionary fund.
Sec. 145. Termination of loan guarantee program.
Sec. 146. Urban development action grant program authorization.
Sec. 147. Urban development action grant selection criteria.
Sec. 148. Urban homesteading.
Sec. 149. Neighborhood Reinvestment Corporation.
Sec. 150. Termination of rehabilitation loan program.
Subtitle D—Miscellaneous Program Amendments
Sec. 161. Research authorization.
Sec. 162. Counseling.
Sec. 163. Studies under national flood insurance program.
Sec. 164. Termination of crime insurance program.
Sec. 165. Home mortgage disclosure.
Sec. 166. Report on manufactured home inspection fees.
Sec. 167. Collection of certain data.
Sec. 168. Preventing fraud and abuse in Department of Housing and Urban Development programs.
TITLE II—HOUSING ASSISTANCE
Subtitle A—Programs Under United States Housing Act of 1937
Sec. 201. Lower income housing authorization.
Sec. 202. Tenant rental contributions.
Sec. 203. Grants for public housing development.
Sec. 204. Section 8 assistance.
Sec. 205. Voucher demonstration program.
Sec. 206. Payments for operation of lower income housing projects.
Sec. 207. Grants for comprehensive improvement assistance.
Sec. 208. Rental rehabilitation grants.
Sec. 209. Termination of housing development grant program.
Sec. 210. Public housing comprehensive grants.
Sec. 211. Public housing resident management.
Subtitle B—Other Housing Assistance Programs
Sec. 221. Housing for the elderly and handicapped.
Sec. 222. Housing for the handicapped.
Sec. 223. Congregate services.
TITLE III—RURAL HOUSING
Sec. 301. Program authorizations.
Sec. 302. Income levels for family eligibility.
Sec. 303. Rural housing escrow accounts.
Sec. 304. Rural area classification.
TITLE IV—SHELTER ASSISTANCE FOR THE HOMELESS AND DISPLACED
Subtitle A—Emergency Food and Shelter Program
Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Emergency food and shelter program national board.
Sec. 404. National board transition.
Sec. 405. Distribution of emergency food and shelter program funds.
Sec. 406. Agency responsibilities.
Sec. 407. Local boards.
Sec. 408. Local homeless assistance plan.
Sec. 409. Service providers.
Sec. 410. Use of funds.
Sec. 411. Limitation on certain costs.
Sec. 412. Program guidelines.
Sec. 413. Authorization of appropriations.
Subtitle B—Emergency Shelter Grants Program
Sec. 421. Definitions.
Sec. 422. Grant assistance.
Sec. 423. Allocation and distribution of assistance.
Sec. 424. Eligible activities.

Sec. 425. Responsibilities of grantees.
Sec. 426. Administrative provisions.
Sec. 427. Authorization of appropriations.

TITLE I—PROGRAM EXTENSIONS AND AMENDMENTS

Subtitle A—General Extension of Programs

SEC. 101. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking "June 6, 1986" in the first sentence and inserting "September 30, 1987".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking "June 6, 1986" in the fifth sentence and inserting "September 30, 1987".

(d) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(e) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(f) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking "June 6, 1986" in the second sentence and inserting "September 30, 1987".

(g) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(h) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(i) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

SEC. 102. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(b) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

SEC. 103. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(c) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

SEC. 104. MISCELLANEOUS EXTENSIONS.

(a) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(b) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking "June 6, 1986" and inserting "September 30, 1988".

Subtitle B—Mortgage Insurance and Secondary Mortgage Market Programs

SEC. 121. LIMITATION ON AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT.

Section 531 of the National Housing Act is amended to read as follows:

"LIMITATION ON COMMITMENTS TO INSURE LOANS AND MORTGAGES

"SEC. 531. (a) The authority of the Secretary to enter into commitments to insure loans and mortgages under this Act shall be effective for any fiscal year only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year.

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and the limitation in subsection (a), the Secretary shall enter into commitments during each fiscal year to insure mortgages under this Act with an aggregate principal amount equal to the amount provided in appropriation Acts for such fiscal year.".

SEC. 122. LIMITATION ON FEDERAL HOUSING ADMINISTRATION INSURANCE PREMIUMS.

(a) IN GENERAL.—Section 203(c) of the National Housing Act is amended by striking the subsection designation and the first sentence and inserting the following:

"(c)(1)(A) The Secretary may fix premium charges for the insurance of mortgages or loans under the separate sections of this title, subject to the provisions of this paragraph.

"(B) The premium charge shall not be more than an amount equal to 3.8 percent of the principal obligation of the mortgage or loan, nor more than an amount equal to 0.25 percent per annum of the principal obligation of the mortgage or loan outstanding at any time without taking into account delinquent payments or prepayments, in the case of any mortgage or loan—

"(i) insured under this title and secured by a 1- to 4-family dwelling; or

"(ii) otherwise insured under any of the following provisions: subsection (b), subsection (h), subsection (i), subsection (n), subsection (k), section 220, section 220(h), section 221(d)(2), section 222, section 223(e), section 234, section 235, section 237, section 238(c), or section 240.

"(C) In the case of any mortgage or loan insured under this title that is not subject to subparagraph (B) or (D), the premium charge shall not be more than an amount equivalent to 1 percent per annum of the principal obligation of the mortgage or loan outstanding at any time, without taking into account delinquent payments or prepayments.

"(D) In the case of insurance under section 245, 247, 251, 252, or 253, or any other financing mechanism providing alternative methods for repayment of a mortgage or loan that is determined by the Secretary to involve additional risk—

"(i) the premium charges may be different from the premium charges for mortgages insured under other provisions of this section;

"(ii) the premium charges shall be fixed by the Secretary at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis and to compensate for actual administrative expenses, but for no other purpose; and

"(iii) the Secretary shall submit to the Congress not less than 90 days before any increase in any such premium charge a certification that the increase is solely for the purpose specified in clause (ii).

"(E) Any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage or loan outstanding under the section or sections involved at the time the reduced premium charge is fixed.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(c) of the National Housing Act is amended—

(A) by inserting "(2)" before the second sentence and redesignating such sentence as a paragraph (2);

(B) by inserting "(3)" before the third sentence and redesignating such sentence as a paragraph (3);

(C) by inserting "(4)" before the fourth sentence and redesignating such sentence as a paragraph (4); and

(D) in the last proviso, by redesignating clauses (1) and (2) as clauses (A) and (B), respectively.

(2) The first sentence of section 220(h)(5) of the National Housing Act is amended to read as follows: "The Secretary may fix premium charges for the insurance of home improvement loans under this subsection, subject to section 203(c)(1)(B).".

SEC. 123. INCREASE IN AUTHORITY TO INSURE ADJUSTABLE RATE SINGLE FAMILY MORTGAGES.

(a) IN GENERAL.—Section 251(c) of the National Housing Act is amended to read as follows:

"(c) The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this title during the preceding fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 245(c) of the National Housing Act is amended in the last sentence by striking ", section 251,".

(2) Section 252(g) of the National Housing Act is amended—

(A) by striking the first comma and inserting "and"; and

(B) by striking ", and section 251".

SEC. 124. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE-BACKED SECURITIES PROGRAM.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking "each of the fiscal years 1984 and 1985" and inserting "fiscal year 1987"; and

(2) by striking "each" the last place it appears.

SEC. 125. LIMITATIONS ON CERTAIN SECONDARY MORTGAGE MARKET FEES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 304 of the Federal National

Mortgage Association Charter Act is amended by adding at the end the following new subsection:

"(f) Except for fees paid pursuant to section 309(g), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c).".

(b) GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.—Section 306(g) of Federal National Mortgage Association Charter Act is amended by adding at the end the following new paragraph:

"(3)(A) No fee or charge in excess of 6 basis points may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to any guaranty of the timely payment of principal or interest on securities or notes based on or backed by mortgages that are secured by 1- to 4-family dwellings and (i) insured by the Federal Housing Administration under title II of the National Housing Act; or (ii) insured or guaranteed under the Serviceman's Readjustment Act of 1944, chapter 37 of title 38, United States Code, or title V of the Housing Act of 1949.

"(B) The fees charged for the guaranty of securities or on notes based on or backed by mortgages not referred to in subparagraph (A), as authorized by other provisions of law, shall be set by the Association at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis, and for no other purpose.

"(C) Fees or charges for the issuance of commitments or miscellaneous administrative fees of the Association shall remain at the level set for such fees or charges as of September 1, 1985, except that such fees or charges may be increased if reasonably related to the cost of administering the program, and for no other purpose.

"(D) Not less than 90 days before increasing any fee or charge under subparagraph (B) or (C), the Secretary shall submit to the Congress a certification that such increase is solely for the purpose specified in such subparagraph.".

(c) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(i) Except for fees paid pursuant to section 303(c) or 306(c), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, or other security by the Corporation. No provision of this subsection shall affect the purchase of any obligation by any Federal home loan bank pursuant to section 303(a).".

Subtitle C—Community and Neighborhood Development and Conservation Programs

SEC. 141. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) in the second sentence, by striking "June 6, 1986" and inserting "September 30, 1986"; and

(2) by adding at the end the following new sentence: "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph, and that no longer qualifies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1986, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 106(b); and (B) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(b) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting before the period at the end of the first sentence the following: ", or (D) has a current population in excess of 177,000, with more than 50 percent of the housing units of the area unsewered and with the unsewered housing units contributing to the degradation of an aquifer that has been declared a sole source aquifer by the Environmental Protection Agency";

(2) in the second sentence, by striking "June 6, 1986" and inserting "September 30, 1986"; and

(3) by adding at the end the following new sentence: "Any county classified as an urban county pursuant to the first or second sentence of this paragraph, and that no longer qualifies as an urban county under such first or second sentence in a fiscal year beginning after fiscal year 1986, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 106(b); and (B) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(c) CONSIDERATION OF CERTAIN COUNTIES AS CITIES UNDER URBAN DEVELOPMENT ACTION GRANT PROGRAM.—Section 119(n)(1) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new sentence: "Such term also includes the counties of Kauai, Maui, and Hawaii in the State of Hawaii.".

SEC. 142. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AUTHORIZATION.

Section 103 of the Housing and Community Development Act of 1974 is amended by striking the second sentence and inserting the following: "There is authorized to be appropriated for purposes of assistance under sections 106 and 107 not to exceed $2,400,000,000 for fiscal year 1987.".

SEC. 143. COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC SERVICE ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "paragraph unless"; and

(2) by inserting before the semicolon at the end the following: "; or (B) the Secretary authorizes such unit of general local government to use more than 15 percent (but not more than the highest percentage permitted to be used under subparagraph (A) by another unit of general local government located in the same metropolitan area) of the assistance received under this title for such activities following (i) a determination by such unit of general local government that the activities carried out using the amounts authorized under this subparagraph are appropriate to support proposed community development activities; and (ii) submission to the Secretary of a request for such authorization by such unit of general local government".

SEC. 144. DISCRETIONARY FUND.

Section 107(a) of the Housing and Community Development Act of 1974 is amended by inserting after the first sentence the following new sentence: "Of the total amount approved in appropriation Acts under section 103 for fiscal year 1987, $47,000,000 may be set aside in a special discretionary fund for grants under subsection (b).".

SEC. 145. TERMINATION OF LOAN GUARANTEE PROGRAM.

(a) REPEAL.—The Housing and Community Development Act of 1974 is amended by striking section 108.

(b) TRANSITION PROVISIONS.—

(1) On or after the effective date of this section, no guarantee may be made under section 108 of the Housing and Community Development Act of 1974, as it existed immediately before such date, except pursuant to a commitment to guarantee made before such date.

(2) Any guarantee made under section 108 of the Housing and Community Development Act of 1974, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 108.

(3) The second sentences of section 101(c) and section 104(b)(3) of the Housing and Community Development Act of 1974 are amended by inserting after "section 108" each place it appears the following: "(as such section existed immediately before the effective date of section 145 of the Housing Act of 1986)".

(c) EFFECTIVE DATE.—The provisions of, and amendments made by, this section shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

SEC. 146. URBAN DEVELOPMENT ACTION GRANT PROGRAM AUTHORIZATION.

Section 119(a) of the Housing and Community Development Act of 1974 is amended in the last sentence by inserting after "1986," the following: "and $284,000,000 for fiscal year 1987,".

SEC. 147. URBAN DEVELOPMENT ACTION GRANT SELECTION CRITERIA.

Section 119(d) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new paragraph:

"(3) After making grants with respect to areas described in subsection (b)(2) during any funding round under this section, the Secretary shall distribute the remaining grant funds under this section so that to the extent practicable during such funding round—

"(A) 50 percent of the funds is first made available utilizing all of the criteria established under paragraph (1); and

"(B) 50 percent of the funds is then made available solely on the basis of the criteria established under paragraph (1)(C).".

SEC. 148. URBAN HOMESTEADING.

The first sentence of section 810(k) of the Housing and Community Development Act of 1974 is amended by striking "$12,000,000" and all that follows through "1985" and inserting "$12,000,000 for fiscal year 1987".

SEC. 149. NEIGHBORHOOD REINVESTMENT CORPORATION.

Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended to read as follows:

"(a) There are authorized to be appropriated to the corporation to carry out this title $15,000,000 for fiscal year 1987.".

SEC. 150. TERMINATION OF REHABILITATION LOAN PROGRAM.

(a) REPEAL.—Subject to subsection (b), the Housing Act of 1964 is amended by striking section 312.

(b) TRANSFER OF ASSETS AND LIABILITIES.—The first and second sentences of section 312(d) of such Act shall remain in effect until September 30, 1987, or until the assets and liabilities of the revolving fund under such section are transferred to the Revolving Fund (liquidating programs) established under title II of the Independent Offices Appropriation Act, 1955, whichever is earlier. All monies transferred to such Revolving Fund pursuant to this section shall be made available for necessary expenses of servicing and liquidating loans made under such section 312, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private entity for the servicing or liquidation of such loans.

(c) TRANSITION PROVISIONS.—

(1) On or after the effective date of this section, no loan may be approved under section 312 of the Housing Act of 1964, as it existed immediately before such date.

(2) Any loan approved under section 312 of the Housing Act of 1964, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 312.

(d) EFFECTIVE DATE.—The provisions of, and amendments made by, this section shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

Subtitle D—Miscellaneous Program Amendments

SEC. 161. RESEARCH AUTHORIZATION.

Section 501 of the Housing and Urban Development Act of 1970 is amended by striking the second and third sentences and inserting the following: "There are authorized to be appropriated for activities under this title $16,100,000 for fiscal year 1987.".

SEC. 162. COUNSELING.

Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended in the first sentence by striking the semicolon and all that follows through "purposes" and inserting the following: "; except that for fiscal year 1987 there are authorized to be appropriated $3,000,000 for such purposes".

SEC. 163. STUDIES UNDER NATIONAL FLOOD INSURANCE PROGRAM.

Section 1376(c) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(c) There are authorized to be appropriated for studies under this title $36,400,000 for fiscal year 1987.".

SEC. 164. TERMINATION OF CRIME INSURANCE PROGRAM.

Section 1201(b) of the National Housing Act is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) The Director shall notify each participating State under part C of—

"(A) the termination date of the authority of the Director to issue new crime insurance policies under such part; and

"(B) the eligibility of such State for payment in accordance with title II of the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Pub. L. 99-160; 99 Stat. 918).".

SEC. 165. HOME MORTGAGE DISCLOSURE.

Section 309 of the Home Mortgage Disclosure Act of 1975 is amended by striking "$10,000,000" and inserting "$25,000,000".

SEC. 166. REPORT ON MANUFACTURED HOME INSPECTION FEES.

Not later than the expiration of the 6-month period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a detailed report describing the fees collected by the Secretary during fiscal years 1981 through 1985 in connection with the inspection of manufactured homes under section 614 of the National Manufactured Housing Construction and Safety Standards Act of 1974. The report shall—

(1) include the amount of such fees collected, the allocation of expenses, the costs of the program, and any available reserves; and

(2) specifically describe all expenses authorized under section 620 of such Act and incurred in connection with the conducting of inspections and all other expenses incurred but not authorized under such section 620, including expenditures of funds for any purpose specified in section 608(a) of such Act.

SEC. 167. COLLECTION OF CERTAIN DATA.

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data may be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

SEC. 168. PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) VERIFICATION OF INFORMATION.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of the income of an applicant or participant, and to ensure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant (including members of the household of an applicant or participant) sign a consent form approved by the Secretary authorizing the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits, to verify and use any information pertinent to the eligibility or level of benefit of the applicant or participant.

(c) PROCEDURAL PROTECTIONS.—

(1) All applicants for and participants in programs subject to this section shall be notified at the time of application, and periodically thereafter, that information authorized to be made available under this section will be requested and used.

(2) Any individually identifiable information received by the Secretary under this section shall be subject to the requirements of section 552a of title 5, United States Code, and the Secretary may release any such information to a public housing agency or owner only if the agency or owner agrees that the information is subject to such requirements.

(3) To protect applicants for and participants in programs subject to subsection (b), no Federal, State, or local agency or owner receiving information under this section may terminate, deny, suspend, or reduce any benefits of an individual, until the agency or owner has taken appropriate steps to independently verify information relating to—

(A) the amount of the assets or income involved;

(B) whether the individual actually has (or had) access to the assets or income for his or her own use; and

(C) the period or periods when the individual actually had the assets or income.

(4) Before any termination, denial, suspension, or reduction of benefits is taken on the basis of information received under this section, an applicant or participant shall have the right to obtain, examine, and correct available documents and information that the Secretary, public housing agency, or owner responsible for determining the eligibility or level of benefits has received under this section.

(d) DEFINITIONS.—For purposes of this section:

(1) The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

(2) The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

TITLE II—HOUSING ASSISTANCE

Subtitle A—Programs Under United States Housing Act of 1937

SEC. 201. LOWER INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, for voucher assistance under section 8(o), and for comprehensive improvement assistance

grants under section 14(k), is increased by $2,651,100,000 for fiscal year 1987.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 is amended to read as follows:

"(7) Any amount available for Indian housing under subsection (a) that is recaptured may be used only for such housing.".

SEC. 202. TENANT RENTAL CONTRIBUTIONS.

(a) PUBLIC HOUSING ECONOMIC RENT.—Section 3(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) in the last sentence, by striking "A" and inserting the following: "Except as provided in paragraph (2), a";

(3) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(4) by adding at the end the following new paragraph:

"(2) Any public housing agency may provide that each family residing in a public housing project owned and operated by such agency shall pay as monthly rent, for not more than a 5-year period, an amount determined by such agency to be appropriate that does not exceed a maximum amount that—

"(A) is established by such agency and approved by the Secretary;

"(B) is not more than the amount payable as rent by such family under paragraph (1); and

"(C) is not less than (i) the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency; or (ii) the fair market rentals established in the housing area for dwelling units under section 8(b)(1).".

(b) PUBLIC HOUSING RENT PHASE-IN.—Section 3 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(d) In any case in which the obtaining of employment by a resident of a dwelling unit assisted under this Act will result in an increase in the rent payable by the family of such resident under subsection (a), the public housing agency involved (or the Secretary, if no public housing agency is involved) may provide for a gradual increase in such rent to the full amount during a period of not more than 6 months.".

SEC. 203. GRANTS FOR PUBLIC HOUSING DEVELOPMENT.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 5(a) of the United States Housing Act of 1937 is amended to read as follows:

"(a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years.

"(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period.

"(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for lower income housing use and obtained in the local market.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5 of the United States Housing Act of 1937 is amended—

(A) by striking "ANNUAL" in the section heading; and

(B) by striking "annual" in subsection (e)(2).

(2) Section 6 of the United States Housing Act of 1937 is amended by striking "annual" the first place it appears in the first sentence of subsection (g), and each place it appears in subsection (d) and the first sentence of each of subsections (a) and (c).

(3) Section 7 of the United States Housing Act of 1937 is amended by striking "annual" in the proviso in the first sentence.

(4) Section 9(a)(2) of the United States Housing Act of 1937 is amended—

(A) by striking "being assisted by an annual contributions contract authorized by section 5(c)" and inserting the following: "one developed pursuant to a contributions contract authorized by section 5"; and

(B) by striking "any such annual" and inserting "any such".

(5) Section 12 of the United States Housing Act of 1937 is amended by striking "annual".

(6) Section 14 of the United States Housing Act of 1937 is amended—

(A) by striking "receive assistance under section 5(c)" in subsection (c)(2) and inserting "assisted under section 5"; and

(B) by striking "annual" in each of paragraphs (2) and (4)(C) of subsection (d).

(7) Section 15 of the United States Housing Act of 1937 is amended by striking "with loans or debt service annual contributions" in clause (2).

(8) Section 16(b) of the United States Housing Act of 1937 is amended by striking "annual".

(9) Section 18(c) of the United States Housing Act of 1937 is amended by striking "annual contributions authorized under section 5(c)" and inserting "contributions authorized under section 5".

SEC. 204. SECTION 8 ASSISTANCE.

(a) CONTRACTS FOR EXISTING DWELLING UNITS.—The first sentence of section 8(b)(1) of the United States Housing Act of 1937 is amended by inserting ", which shall be for 15 years," after "annual contributions contracts".

(b) PUBLIC HOUSING AGENCY FEES.—

(1) Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(2) The method of calculation, the preliminary fee, and the percentage established for administrative fees paid to a public housing agency administering a contract under this subsection shall be the method of calculation, the preliminary fee, and the percentage established by the Secretary before January 1, 1985, and in effect on such date.".

(2) The amendment made by this subsection shall be applicable to administrative fees payable with respect to the administrative activities of a public housing agency after December 31, 1984.

(c) FAIR MARKET RENTALS.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting before the last sentence the following new sentence: "Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.".

(d) PORTABILITY OF CERTIFICATES AND VOUCHERS.—Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(q)(1) Any family assisted under subsection (b) or (o) may continue to receive such assistance when such family moves to another eligible dwelling unit—

"(A) if such dwelling unit is within the same metropolitan statistical area as the dwelling unit from which the family moves; and

"(B) notwithstanding that such dwelling unit is not within the area of jurisdiction of the public housing agency having jurisdiction in the area of the dwelling unit from which the family moves.

"(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to such family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency having authority with respect to the dwelling unit from which the family moves shall have such responsibility.

"(3) In providing assistance under subsection (b) or (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection.

"(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.".

SEC. 205. VOUCHER DEMONSTRATION PROGRAM.

(a) OPERATION OF PROGRAM.—Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking "In" and all that follows through ", the" and inserting "The";

(2) by striking paragraph (4);

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(4) in paragraph (5), as so redesignated by this subsection, by striking "an initial" and inserting "a".

(b) ADMINISTRATIVE EXPENSES.—Section 8(o) of the United States Housing Act of 1937, as amended by subsection (a) of this

section, is amended by adding at the end the following new paragraph:

"(8) The assistance under this subsection that is retained by public housing agencies for administrative expenses shall be equal to the assistance under section 8(b) that is retained by such agencies for such expenses.".

SEC. 206. PAYMENTS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS.

(a) PERFORMANCE FUNDING SYSTEM.—Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by striking the last sentence of paragraph (1); and

(2) by adding at the end the following new paragraph:

"(3)(A) For purposes of making payments under this section, the Secretary shall utilize a performance funding system that establishes standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and the characteristics of the families served, in accordance with a formula representing the operations of a prototype well-managed project. Such performance funding system shall be established in consultation with public housing agencies and their associations, be contained in a regulation promulgated by the Secretary prior to the start of any fiscal year to which it applies, and remain in effect for the duration of such fiscal year without change.

"(B) Under the performance funding system established under this paragraph—

"(i) in the first year that the reductions occur, any public housing agency shall share equally with the Secretary any cost reductions due to the differences between projected and actual utility rates attributable to actions taken by the agency which lead to such reductions;

"(ii) the estimate of the rental income for the next fiscal year of a public housing agency shall be based on the actual rent for the 4th, 5th, or 6th month prior to the beginning of the new fiscal year of the public housing agency; and

"(iii) any revenues resulting from rental income or other income (excluding investment income) in excess of estimated revenues from such items may not be recaptured, used, or computed to reduce assistance provided under this section, unless such estimate—

"(I) was unreasonable according to regulations in effect when the estimate was made; or

"(II) was fraudulent and deceptive.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "There are authorized to be appropriated, for the purpose of providing annual contributions under this section, $1,210,600,000 for fiscal year 1987.".

(c) TIME OF PAYMENT.—Section 9 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(e) In the case of any public housing agency that submits its budget for any fiscal year of such agency to the Secretary in a timely manner and in accordance with the regulations issued by the Secretary under this section, assistance to be provided to such agency under this section for such fiscal year shall commence not later than the 1st month of such fiscal year and shall be paid in accordance with a payment schedule agreed upon by the Secretary and such agency.".

SEC. 207. GRANTS FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(k) The Secretary may make contributions (in the form of grants) to public housing agencies under this section. The contract under which such contributions shall be made shall specify the amount of contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 20-year period.".

(b) CONFORMING AMENDMENTS.—

(1) Section 14(e) of the United States Housing Act of 1937 is amended by striking "annual".

(2) Section 14 of the United States Housing Act of 1937 is amended by inserting "or (k)" after "subsection (b)" each place it appears in subsections (c), (d), (e), (g), (h), and (i).

SEC. 208. RENTAL REHABILITATION GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 17(a) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(4) ADDITIONAL AUTHORIZATION.—There are authorized to be appropriated for rental rehabilitation grants under this section $75,000,000 for fiscal year 1987.".

SEC. 209. TERMINATION OF HOUSING DEVELOPMENT GRANT PROGRAM.

(a) REPEAL.—Section 17 of such Act is amended—

(1) by striking subsections (d) and (j); and

(2) by redesignating subsections (e), (f), (g), (h), (i), (k), (l), (m), (n), and (o) as subsections (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m), respectively.

(b) CONFORMING AMENDMENTS TO UNITED STATES HOUSING ACT OF 1937.—

(1) CAPTIONS.—

(A) The section heading of section 17 of the United States Housing Act of 1937 is amended to read as follows:

"RENTAL REHABILITATION GRANTS".

(B) The subsection caption of section 17(c) of such Act is amended to read as follows: "RENTAL REHABILITATION GRANTS.—".

(2) PROGRAM AUTHORITY.—Section 17(a) of such Act is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) REHABILITATION GRANTS.—The Secretary is authorized to make rental rehabilitation grants to help support the rehabilitation of privately owned real property to be used for primarily residential rental purposes in accordance with the provisions of this section."; and

(B) by striking paragraph (3).

(3) CROSS REFERENCES.—

(A) Subsections (b)(1), (b)(2)(A), (b)(2)(B), and (c)(1)(A) of section 17 of such Act are amended by striking "subsection (e)" each place it appears and inserting "subsection (d)".

(B) Paragraphs (1) and (2) of section 17(j) of such Act, as redesignated by this section, is amended by striking "subsection (e)(1)" each place it appears and inserting "subsection (d)(1)".

(4) STATE PROGRAM.—Section 17(d) of such Act, as redesignated by this section, is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(5) HISTORIC PRESERVATION.—Section 17(h)(1) of such Act, as redesignated by this section, is amended by striking "or development" each place it appears.

(6) DEFINITIONS.—Section 17(i) of such Act, as redesignated by this section, is amended—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) through (7) as paragraphs (1) through (5), respectively;

(C) by striking paragraph (3), as redesignated by this paragraph, and inserting the following:

"(3) The term 'grantee' means—

"(A) any city or urban county receiving resources under subsection (b);

"(B) any State administering a rental rehabilitation program, as provided in subsection (d)(1); and

"(C) any unit of general local government that receives assistance from the Secretary, as provided in subsection (d)(2);"; and

(D) by striking paragraph (5), as redesignated by this paragraph, and inserting the following:

"(5) the term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.".

(c) CONFORMING AMENDMENTS TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974—

(1) ADMINISTRATIVE EXPENSES.—Section 106(d)(3)(A) of the Housing and Community Development Act of 1974 is amended by striking "section 17(e)(1)" and inserting "section 17(d)(1)".

(2) COMPLIANCE WITH CIVIL RIGHTS ACTS.—Section 107(d)(1) of such Act is amended by inserting "for rehabilitation grants" before "under section 17".

(3) LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE.—Section 817 of such Act is amended by inserting after "1937" the second place it appears the following: "(for rehabilitation grants)".

(d) CONFORMING AMENDMENTS TO NATIONAL HOUSING ACT—

(1) REFINANCING INSURANCE.—Section 223(f)(5) of the National Housing Act is amended—

(A) by striking "or developed"; and

(B) in subparagraph (A), by striking "or development".

(2) CO-INSURANCE.—Section 244(h) of such Act is amended by striking "or developed".

(e) TRANSITION PROVISIONS.—

(1) GRANTS PURSUANT TO PRIOR RESERVATIONS.—On or after the effective date of this section, no housing development grant may be made under section 17 of the United States Housing Act of 1937, except pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before such date.

(2) CONTINUED APPLICABILITY TO PRIOR GRANTS.—

(A) Any housing development grant made under section 17 of the United States Housing Act of 1937, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 17 (subject to subparagraph (B)).

(B) For purposes of any housing development grant described in subparagraph (A), the term "lower income families" in section 17(d)(4)(E) of the United States Housing Act of 1937, as in effect before the effective date of this section, shall be considered to refer to families who are lower income families on the date of their initial occupancy.

(3) RESCISSION OF UNRESERVED AMOUNTS.—Any amounts that, in the absence of this section, would have been available for reservation for housing development grants

under section 17 of the United States Housing Act of 1937 on or after the effective date of this section are authorized to be rescinded.

(f) EFFECTIVE DATE.—The provisions of, and amendments made by, this section shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

SEC. 210. PUBLIC HOUSING COMPREHENSIVE GRANTS.

(a) FINDINGS.—The Congress hereby finds that—

(1) the condition of public housing projects financed under the United States Housing Act of 1937 is in some cases substandard, forcing many dwelling units to remain vacant, forcing many lower income families to live in substandard or dangerous living conditions, and preventing many others from obtaining decent, safe, and sanitary rental housing at an affordable rent as provided for under such Act;

(2) the Federal Government has a responsibility to help ensure the maintenance of public housing dwelling units in decent, safe, and sanitary condition, and to provide public housing agencies with funds sufficient to carry out such maintenance;

(3) the current comprehensive assistance improvement program has not provided public housing agencies the flexibility and responsibility essential for establishing priorities for capital improvement expenditures, assessing the relative needs of all public housing projects, and evaluating the relative advantages of repair, major maintenance, and capital replacement;

(4) the current comprehensive assistance improvement program has made it difficult for public housing agencies to plan capital improvements on a multiyear basis; and

(5) the current comprehensive assistance improvement program has resulted in unnecessary paperwork and delay, thereby increasing costs for capital improvements.

(b) PURPOSE.—It is the purpose of the amendments made by this section—

(1) to provide assistance on a reliable basis to public housing agencies to enable them to operate, upgrade, modernize, and rehabilitate public housing projects financed under the United States Housing Act of 1937 to ensure their continued availability as decent, safe, and sanitary rental housing at rents affordable to lower income families;

(2) to increase the reliability of Federal assistance for capital improvements in public housing projects;

(3) to significantly deregulate the program of Federal assistance for capital improvements in public housing projects;

(4) to provide increased opportunities and incentives for more efficient management of public housing projects; and

(5) to afford public housing agencies greater control in planning for the maintenance and improvement of public housing projects.

(c) COMPREHENSIVE GRANT PROGRAM.—The United States Housing Act of 1937 is amended by adding at the end the following new section:

"COMPREHENSIVE GRANT PROGRAM

"SEC. 20. (a) PURPOSE.—It is the purpose of this section to provide assistance to improve the physical condition of existing public housing projects and to upgrade their management and operation in order to contribute to their long-term physical and social viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families.

"(b) AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—The Secretary may make available, and (to the extent of amounts provided in appropriation Acts) contract to make available, financial assistance to public housing agencies in accordance with the provisions of this section with respect to public housing (as defined in section 3(b)(1)) owned or operated by such agencies.

"(c) COMPREHENSIVE PLAN.—No financial assistance may be made available to a public housing agency under this section unless the Secretary approves a 5-year comprehensive plan submitted by the public housing agency on a date determined by the Secretary, except that the Secretary may provide such assistance if it is necessary to correct conditions that constitute an immediate threat to the health or safety of tenants. The comprehensive plan shall contain—

"(1) a comprehensive assessment of—

"(A) the current physical condition of each public housing project owned or operated by the public housing agency;

"(B) the physical improvements necessary for each such project to permit the project to be rehabilitated to a level at least equal to the minimum property standards established by the Secretary and in effect at the time of the preparation of the comprehensive plan; and

"(C) the replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the 5-year period covered by the comprehensive plan;

"(2) a comprehensive assessment of the improvements needed to upgrade the management and operation of the public housing agency and of each such project so that decent, safe, and sanitary living conditions will be provided such projects, which assessment shall include at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the public housing agency that are related to such projects;

"(B) the adequacy and qualifications of personnel employed by the public housing agency (in the management and operation of such projects) for each category of employment; and

"(C) the adequacy and efficacy of—

"(i) tenant programs and services in such projects;

"(ii) the security of each such project and its tenants;

"(iii) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and

"(iv) other policies and procedures of the public housing agency relating to such projects, as specified by the Secretary;

"(3) an analysis, made on a project-by-project basis in accordance with standards and criteria prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under paragraphs (1) and (2) will reasonably ensure the long-term physical and social viability of each such project at a reasonable cost;

"(4) an action plan for making the improvements and replacements identified under paragraphs (1) and (2) that are determined under the analysis described in paragraph (3) to reasonably ensure long-term viability of each such project at a reasonable cost, which action plan shall include at least a schedule, in order of priority, of the actions that are to be completed over a period of not more than 5 years from the date of approval of the comprehensive plan by the Secretary and that are necessary—

"(A) to make the improvements and replacements identified under paragraph (1) for each project expected to receive capital improvements or replacements; and

"(B) to upgrade the management and operation of the public housing agency and its public housing projects as described in paragraph (2);

"(5) a statement, to be signed by the chief local government official (or Indian tribal official, if appropriate), certifying that—

"(A) the comprehensive plan was developed by the public housing agency in consultation with appropriate local government officials (or Indian tribal officials, if appropriate) and with tenants of the housing projects eligible for assistance under this section, which shall include not less than 2 public hearings (i) at least 1 of which shall be held prior to the initial adoption of any plan by the public housing agency for use of such assistance, and afford tenants and interested parties an opportunity to summarize their priorities and concerns, to ensure their due consideration in the planning process of the public housing agency; and (ii) at least 1 of which shall be held prior to final submission of the plan to the Department of Housing and Urban Development for its approval, to provide tenants and other interested parties an opportunity to comment on the plan of action proposed by the public housing agency in its submission; and

"(B) the comprehensive plan is consistent with the assessment of the community of its lower income housing needs and that the unit of general local government (or Indian tribe, if appropriate) will cooperate in the provision of tenant programs and services (as defined in section 3(c)(2));

"(6) a statement, to be signed by the chief public housing official, certifying that the public housing agency will carry out the comprehensive plan in conformity with title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968 (commonly known as the Civil Rights Act of 1968), and section 504 of the Rehabilitation Act of 1973;

"(7) a preliminary estimate of the total cost of the items identified in paragraphs (1) and (2), including a preliminary estimate of the costs that will be incurred during each year covered by the comprehensive plan; and

"(8) such other information as the Secretary may require.

"(d) REVIEW OF COMPREHENSIVE PLANS.—

"(1) STANDARD FOR APPROVAL.—The Secretary shall approve a comprehensive plan unless—

"(A) the comprehensive plan is incomplete;

"(B) on the basis of available significant facts and data pertaining to the physical and operational condition of the public housing projects of the public housing agency or the management and operations of the public housing agency, the Secretary determines that the identification by the public housing agency of needs is plainly inconsistent with such facts and data;

"(C) on the basis of the comprehensive plan, the Secretary determines that the action plan described in subsection (c)(4) is plainly inappropriate to meeting the needs identified in the comprehensive plan, or that the public housing agency has failed to demonstrate that completion of improvements and replacements identified under paragraphs (1) and (2) of subsection (c) will reasonably ensure long-term viability of 1 or

more public housing projects to which they relate at a reasonable cost; or

"(D) there is evidence available to the Secretary that tends to challenge in a substantial manner any certification contained in the comprehensive plan.

"(2) SCHEDULE FOR APPROVAL.—The comprehensive plan shall be considered to be approved, unless the Secretary notifies the public housing agency in writing within 75 calendar days of submission that the Secretary has disapproved the comprehensive plan as submitted, indicating the reasons for disapproval and modifications required to make the comprehensive plan approvable.

"(e) ANNUAL STATEMENT.—

"(1) SUBMISSION.—Each public housing agency receiving assistance under this section shall submit to the Secretary, at a date determined by the Secretary, an annual statement of the activities and expenditures projected to be funded, in whole or in part, by such assistance during the immediately following fiscal year of the public housing agency. The annual statement shall include a certification by the public housing agency that the proposed activities and expenditures are consistent with the approved comprehensive plan of the public housing agency. The annual statement also shall include a certification that the public housing agency has provided the tenants of the public housing and other interested parties the opportunity to review the annual statement and comment on it, and that such comments have been taken into account in formulating the annual statement as submitted to the Secretary.

"(2) PROPOSED AMENDMENTS TO COMPREHENSIVE PLAN.—A public housing agency may propose an amendment to its comprehensive plan under subsection (c) in any annual statement. Any such proposed amendment shall be reviewed in accordance with subsection (d), and shall include a certification that (A) the proposed amendment has been made publicly available for comment prior to its submission; (B) tenants and other interested parties have been given sufficient time to review and comment on it; and (C) such comments have been taken into consideration in the preparation and submission of the amendment.

"(3) APPROVAL.—The Secretary shall approve the annual statement unless the Secretary determines that it is inconsistent with the comprehensive plan. The annual statement shall be considered to be approved, unless the Secretary notifies the public housing agency in writing before the expiration of the 75-day period following submission of the annual statement that the Secretary has disapproved the annual statement as submitted, indicating the reasons for disapproval and the modifications required to make the annual statement approvable. The annual statement shall be approved before the public housing agency receives any assistance under this section for the fiscal year to which the annual statement relates.

"(f) ANNUAL PERFORMANCE REPORTS; REVIEWS AND AUDITS.—

"(1) PERFORMANCE AND EVALUATION REPORTS.—Each public housing agency receiving assistance under this section shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the public housing agency shall include an assessment by the public housing agency of the relationship of such use of funds made available under this section, as well as the use of other funds, to the needs identified in the comprehensive plan of the public housing agency and to the purposes of this section. The public housing agency shall certify that the report has been made available for review and comment by tenants and other interested parties prior to its submission to the Secretary.

"(2) REVIEWS BY SECRETARY.—The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each public housing agency receiving assistance under this section—

"(A) has carried out its activities under this section in a timely manner and in accordance with its comprehensive plan;

"(B) has a continuing capacity to carry out its comprehensive plan in a timely manner;

"(C) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, which shall include at least that the public housing agency shall—

"(i) maintain all occupied dwelling units in public housing projects eligible for assistance under this section at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6);

"(ii) maintain at least a 97 percent occupancy rate for all dwelling units in such projects; and

"(iii) maintain an operating reserve, as authorized under section 9(a), equal to at least 20 percent of the routine expenses in the operating budget of each year; and

"(D) has made reasonable progress in carrying out modernization projects approved under the provisions of section 14.

"(3) AUDITS OF FINANCIAL TRANSACTIONS.—Recipients of assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(4) CORRECTIVE ACTION.—The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with paragraph (1) or (2) or if an audit under paragraph (3) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.

"(g) ELIGIBLE COSTS.—A public housing agency may use financial assistance received under subsection (b) only—

"(1) to undertake activities described in its approved comprehensive plan under subsection (c) or its annual statement under subsection (e);

"(2) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for such correction is indicated in its comprehensive plan or annual statement;

"(3) to prepare a comprehensive plan under subsection (c), including reasonable costs that may be necessary to assist tenants in participating in the planning process in a meaningful way, an annual statement under subsection (e), an annual performance and evaluation report under subsection (f)(1), and an audit under subsection (f)(3); and

"(4) to operate public housing projects consistent with the requirements that apply to amounts provided under section 9, except that not more than 20 percent of the funds secured under this section may be used for such purposes.

"(h) ALLOCATION OF ASSISTANCE.—The system for allocating assistance under section 14 in effect on May 21, 1985, shall remain in effect until the Congress, by law, establishes criteria for a formula or other allocation method to be used by the Secretary under this section in determining—

"(1) for each public housing agency, the amounts that are necessary to address current needs for capital improvements;

"(2) for each public housing agency, the amounts that are necessary to address the future needs for capital improvements through a replacement reserve; and

"(3) the relative needs of public housing agencies of different sizes for the amounts described in paragraphs (1) and (2).

"(i) ANNUAL REPORT.—The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act a description of the allocation, distribution, and use of assistance under this section on a regional basis.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) CURRENT NEEDS.—

"(A) There are authorized to be appropriated under this section to provide assistance for the current needs for capital improvements of public housing agencies such sums as may be necessary for fiscal years 1987, 1988, and 1989.

"(B) Of the amounts appropriated under subparagraph (A), 3 percent shall be reserved by the Secretary to provide assistance to correct conditions in public housing agencies that constitute an immediate threat to the health or safety of tenants.

"(2) REPLACEMENT RESERVE.—There are authorized to be appropriated under this section to provide assistance for the future needs for capital improvements in replacement reserves for public housing agencies such sums as may be necessary for fiscal years 1987, 1988, and 1989.

"(3) AVAILABILITY.—Any amount appropriated under this subsection shall remain available until expended.

"(k) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the provisions of this section.".

(d) USE OF OPERATING ASSISTANCE.—Section 9(a)(1) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following new sentence: "A public housing agency may also use any available amounts provided under this section in accordance with the purpose and requirements of section 20.".

(e) ASSISTANCE FOR PREPARATION OF COMPREHENSIVE PLANS.—Of the amounts approved in appropriation Acts for fiscal year 1986 for financial assistance under section 14 of the United States Housing Act of 1937, the Secretary shall provide such sums as may be reasonable and necessary to public housing agencies that request funds to prepare comprehensive plans under section 20(c) of the United States Housing Act of 1937, as added by this section.

(f) APPLICABILITY.—

(1) IN GENERAL.—The amendments made by subsections (c) and (d) shall be applicable in fiscal year 1987 and succeeding fiscal years, but in no event before the date of the enactment of the law referred to in section 20(h) of the United States Housing Act of 1937, as added by this section. Except as provided in paragraph (2), the provisions of section 14 of the United States Housing Act of 1937 shall continue to apply to amounts appropriated for any prior fiscal year to carry out such section 14.

(2) TRANSITION PROVISION.—Any amount obligated by the Secretary of Housing and Urban Development to a public housing agency under section 14 of the United States Housing Act of 1937 from amounts appropriated for any fiscal year beginning on or before the date of the enactment of the law referred to in section 20(h) of the United States Housing Act of 1937, as added by this section, shall be used for the purposes for which such amount was provided, or for purposes consistent with a comprehensive plan submitted by the public housing agency and approved by the Secretary under such section 20 as added by this section, as the public housing agency considers appropriate.

SEC. 211. PUBLIC HOUSING RESIDENT MANAGEMENT.

The United States Housing Act of 1937, as amended by section 210 of this Act, is amended by adding at the end the following new section:

"PUBLIC HOUSING RESIDENT MANAGEMENT

"SEC. 21. (a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing projects, and to improve existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

"(1) waiving certain statutory and regulatory requirements;

"(2) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

"(3) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

"(b) PROGRAM REQUIREMENTS.—

"(1) RESIDENT COUNCIL.—As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. If there is no elected resident council, a majority of the adult residents of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

"(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training in the daily operations of the project.

"(3) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

"(4) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, may enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract may include specific terms governing management personnel, access to project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, and such other matters as may be appropriate.

"(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency.

"(c) WAIVER OF FEDERAL REQUIREMENTS.—

"(1) IN GENERAL.—Upon the request of any resident management corporation, the Secretary may waive Federal requirements that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project. Requirements that may be waived under this subsection shall include the applicability of section 12 to a public housing project, the applicability of minimum property standards prescribed by the Secretary (but only if local property standards are followed), and the applicability of any other operating or managerial requirement.

"(2) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16 or rental payments under section 3(a).

"(d) FINANCIAL ASSISTANCE BY PUBLIC HOUSING AGENCY.—

"(1) IN GENERAL.—Any contract for project management entered into by a public housing agency and a resident management corporation shall specify the amount of income expected to be derived from the project itself, from sources such as rents and charges, and the amount of income to be provided to the project from the other sources of income of the public housing agency (such as operating subsidy, interest income, and rents). The amount of income to be provided by the public housing agency to the project may not be reduced during the 3-year period beginning on the date of the enactment of the Housing Act of 1986 or on such later date on which a new resident management corporation is established, except that, if the total income of the public housing agency is reduced, the income provided by the public housing agency to the resident-managed project may be reduced in proportion to the total income reduction of the public housing agency.

"(2) RETENTION OF EXCESS REVENUES.—Any revenues exceeding the operating costs and project costs of a public housing project managed by a resident management corporation shall be retained by the resident management corporation for purposes of improving the maintenance and operation of the project, establishing business enterprises, or acquiring additional dwelling units for lower income families.

"(e) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—

"(1) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.

"(2) LIMITATION ON ASSISTANCE.—The financial assistance provided under this subsection with respect to any public housing project may not exceed $100,000.

"(3) FUNDING.—Of the amounts available for financial assistance under section 14 for fiscal year 1987, the Secretary may use not more than $1,500,000 to carry out this subsection.".

Subtitle B—Other Housing Assistance Programs

SEC. 221. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) BUDGET AUTHORITY.—The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking "and" the first place it appears; and

(2) by inserting after "1984," the following: "and to such sums as may be approved in appropriation Acts for fiscal year 1987,".

(b) LIMITATION ON LOANS.—Section 202(a)(4)(C) of the Housing Act of 1959 is amended by adding at the end the following new sentence: "Not more than $575,200,000 may be approved in appropriation Acts for such loans for fiscal year 1987.".

SEC. 222. HOUSING FOR THE HANDICAPPED.

(a) FINDINGS AND PURPOSE.—

(1) The Congress hereby finds that—

(A) housing for nonelderly handicapped families is assisted under section 202 of the Housing Act of 1959 and section 8 of the United States Housing Act of 1937;

(B) the housing programs under such sections are designed and implemented primarily to assist rental housing for elderly and nonelderly families and are often inappropriate for dealing with the specialized needs of the physically impaired, the developmentally disabled, and the chronically mentally ill;

(C) the development of housing for nonelderly handicapped families under such programs is often more expensive than necessary, thereby reducing the number of such families that can be assisted with available funds;

(D) the program under section 202 of the Housing Act of 1959 can continue to provide direct loans to finance group residences and independent apartments for nonelderly handicapped families, but can be made more efficient and less costly by the adoption of standards and procedures applicable only to housing for such families;

(E) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families is time consuming and unnecessarily costly and, in some areas of the Nation, prevents the development of such housing;

(F) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly

handicapped families should be replaced by a more appropriate subsidy mechanism;

(G) both elderly and handicapped housing projects assisted under section 202 of the Housing Act of 1959 will benefit from an increased emphasis on supportive services and a greater use of State and local funds; and

(H) an improved program for nonelderly handicapped families will assist in providing shelter and supportive services for mentally ill persons who might otherwise be homeless.

(2) The purpose of this section is to improve the direct loan program under section 202 of the Housing Act of 1959 to ensure that such program meets the special housing and related needs of nonelderly handicapped families.

(b) HOUSING FOR HANDICAPPED FAMILIES.—

(1) Section 202(h) of the Housing Act of 1959 is amended to read as follows:

"(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1985, not less than 15 percent shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section.

"(2) The Secretary shall take such actions as may be necessary to ensure that—

"(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

"(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance payments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section.

"(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing Act of 1986, may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretrary to the Congress following completion of such demonstration.

"(4)(A) The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial allowances for utilities and other housing services for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

"(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

"(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

"(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.".

(2) Section 202(d) of the Housing Act of 1959 is amended by adding at the end the following new paragraphs:

"(9) The term 'housing for handicapped families' means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

"(10) The term 'nonelderly handicapped families' means elderly or handicapped families (as defined in subsection (d)(4)), the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.".

(3) Section 202(c)(3) of the Housing Act of 1959 is amended by inserting after "section" the following: "and designed for dwelling use by 12 or more elderly or handicapped families".

(c) SUPPORTIVE SERVICES FOR ELDERLY AND HANDICAPPED FAMILIES.—Section 202(f) of the Housing Act of 1959 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing—

"(A) the category or categories of families such housing and facilities are intended to serve;

"(B) the range of necessary services to be provided to the families occupying such housing;

"(C) the manner in which such services will be provided to such families; and

"(D) the extent of State and local funds available to assist in the provision of such services.".

(d) TERMINATION OF SECTION 8 ASSISTANCE.—On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for nonelderly handicapped families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

(e) IMPLEMENTATION.—Not later than the expiration of the 120-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, to the extent amounts are approved in an appropriation Act for use under section 202(h)(4)(A) of the Housing Act of 1959 for fiscal year 1986, publish in the Federal Register a notice of fund availability to implement the provisions of, and amendments made by, this section. The Secretary shall issue such rules as may be necessary to carry out such provisions and amendments for fiscal year 1987 and thereafter.

(f) EFFECTIVE DATE AND APPLICABILITY.—

(1) Except as otherwise provided in this section, the provisions of, and amendments made by, this section shall not apply with respect to projects with loans or loan reservations made under section 202 of the Housing Act of 1959 before the implementation date under subsection (e).

(2) Notwithstanding paragraph (1), the Secretary may apply the provisions of, and amendments made by, this section to any project in order to facilitate the development of such project in a timely manner.

SEC. 223. CONGREGATE SERVICES.

Section 411(a) of the Congregate Housing Services Act of 1978 is amended to read as follows:

"(a) To carry out the provisions of this title, there are authorized to be appropriated $3,000,000 for fiscal year 1987.".

TITLE III—RURAL HOUSING

SEC. 301. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a) of the Housing Act of 1949 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal year 1987 in an aggregate amount not to exceed $810,000,000.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal year 1987 for financial assistance under section 516, $9,500,000. Any amount appropriated under this subsection shall remain available until expended.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c) The Secretary, to the extent approved in appropriation Acts for fiscal year 1987, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $125,000,000. Such authority as is approved in appropriation Acts shall be used by the Secretary to renew rental assistance payment contracts that expire during such fiscal year and to make additional rental assistance payment contracts for existing or newly constructed dwelling units.".

(d) SELF-HELP HOUSING LAND DEVELOPMENT FUND.—Section 523(g) of the Housing Act of 1949 is amended by striking "1985" and inserting "1987".

SEC. 302. INCOME LEVELS FOR FAMILY ELIGIBILITY.

(a) IN GENERAL.—Section 501(b)(4) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the maximum income levels established for purposes of this title for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this title for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 made on or after the date of the enactment of this Act.

SEC. 303. RURAL HOUSING ESCROW ACCOUNTS.

(a) ESCROW PROCEDURES.—Section 501(e) of the Housing Act of 1949 is amended by striking the first sentence and inserting the following: "The Secretary shall, not later than 60 days after the date of the enactment of the Housing Act of 1986, establish procedures under which borrowers under this title shall make periodic payments for the purpose of taxes, insurance, and such other necessary expenses as the Secretary determines to be appropriate.".

(b) PREPAYMENT OF TAXES AND OTHER EXPENSES.—Section 502(a)(1) of the Housing Act of 1949 is amended by striking the last sentence and inserting the following: "The borrower shall prepay to the Secretary as escrow agent, on terms and conditions prescribed by the Secretary, such taxes, insurance, and other expenses as are required in accordance with section 501(e).".

SEC. 304. RURAL AREA CLASSIFICATION.

Section 520 of the Housing Act of 1949 is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

TITLE IV—SHELTER ASSISTANCE FOR THE HOMELESS AND DISPLACED

Subtitle A—Emergency Food and Shelter Program

SEC. 401. SHORT TITLE.

This title may be cited as the "Homeless Housing Assistance Act of 1986".

SEC. 402. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Board" or "national board" means the Emergency Food and Shelter Program National Board.

(2) The term "emergency shelter" means an entire facility, or the part of a facility, that is used or designed to be used to provide temporary housing.

(3) The term "homeless" means individuals who are poor and who have no access to either traditional or permanent housing.

(4) The term "local government" means a unit of general purpose local government.

(5) The term "locality" means the geographical area within the jurisdiction of a local government.

(6) The term "private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1954 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

(7) The term "Secretary" means the Secretary of Housing and Urban Development.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States.

SEC. 403. EMERGENCY FOOD AND SHELTER PROGRAM NATIONAL BOARD.

(a) TEMPORARY BOARDS.—The Director of the Federal Emergency Management Agency shall, as soon as practicable after the date of the enactment of this Act, constitute a national board for the purpose of carrying out an emergency food and shelter program.

(b) MEMBERSHIP.—The national board shall consist of 7 members. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the United States of America, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board.

(c) CHAIR.—The representative of the Federal Emergency Management Agency shall chair the national board.

SEC. 404. NATIONAL BOARD TRANSITION.

(a) TRANSFER.—The national board constituted by the Director of the Federal Emergency Management Agency, pursuant to section 403, shall continue to be authorized until September 30, 1986, and on such date, the personnel, property, records, and undistributed program funds of such national board shall be transferred to the national board constituted under subsection (b).

(b) APPOINTMENT OF BOARD.—Not later than September 30, 1986, the Secretary of Housing and Urban Development shall constitute a national board for the purpose of carrying out this title. Each of the organizations referred to in section 403 shall submit to the Director or the Secretary the names of 1 or more nominees recommended by that organization for appointment to the Board. The Secretary shall appoint the members of the Board from the nominees, with 1 representative on the Board from each of the organizations referred to in section 403. The Secretary shall designate a representative to replace the Federal Emergency Management Agency representative. Such national board shall assume authority on September 30, 1986.

(c) CHAIR.—The representative designated by the Secretary of Housing and Urban Development shall chair the national board constituted pursuant to subsection (b).

SEC. 405. DISTRIBUTION OF EMERGENCY FOOD AND SHELTER PROGRAM FUNDS.

The national board shall determine how program funds are to be distributed to individual localities. The national board shall identify localities having the highest need for emergency food and shelter assistance, based on unemployment and poverty rates and such other need-related data as the national boards deem appropriate, determine the amount and distribution of funds to these localities, and ensure that funds are properly accounted for.

SEC. 406. AGENCY RESPONSIBILITIES.

(a) GRANTS BY DIRECTOR.—The Director of the Federal Emergency Management Agency shall award a grant for such amount as the Congress appropriates for this program to the national board for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and through units of local government.

(b) RESPONSIBILITIES OF DIRECTOR.—

(1) The Director of the Federal Emergency Management Agency, or the representative of the Director, shall—

(A) provide guidance, coordination, and staff assistance to the national board in carrying out the program; and

(B) cooperate and coordinate with the Secretary of Housing and Urban Development in conducting of an audit of program funds awarded to the national board.

(2) The responsibilities of the Director of the Federal Emergency Management Agency with respect to this program shall end with the completion of the audit for program funds distributed during fiscal year 1986.

(c) GRANTS BY SECRETARY.—Not later than 30 days following the date of the enactment of a law providing appropriations to carry out this subtitle, the Secretary of Housing and Urban Development shall award a grant for such amount as the Congress appropriates for this program to the national board for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and through units of local government.

(d) RESPONSIBILITIES OF SECRETARY.—The Secretary of Housing and Urban Development shall—

(1) provide guidance, coordination, and staff assistance to the national board in carrying out the program; and

(2) conduct of an audit of program funds awarded to and transferred to the national board.

(e) COORDINATION.—

(1) In carrying out the responsibilities under subsection (d), the Secretary shall coordinate activities with the Federal Interagency Task Force on Food and Shelter, chaired by the Secretary of Health and Human Services, to identify vacant and surplus Federal facilities that could be renovated or converted for use as emergency shelter facilities for the homeless.

(2) Not later than 3 months after the end of fiscal year 1986, the Secretary shall submit to the Congress a report on obstacles, if any, including agency rules or procedures, to the availability of vacant and surplus Federal facilities for renovation or conversion to use as emergency shelter facilities for the homeless, with recommendations for legislative or administrative changes to overcome such obstacles.

SEC. 407. LOCAL BOARDS.

(a) ESTABLISHMENT.—Each locality designated by the national board shall constitute a local board for the purpose of determining how program funds allotted to the locality will be distributed. The local board shall consist, to the extent practicable, of repre-

sentatives of the same organizations as the national boards, except that the mayor or other appropriate heads of government will replace the Federal Emergency Management Agency or Department of Housing and Urban Development member. The chair of the local board shall be elected by a majority of the members of the local board. Local boards are encouraged to expand participation of other private nonprofit organizations on the local board.

(b) RESPONSIBILITIES.—Local boards shall—

(1) determine which private nonprofit organizations or public organizations of the local government in the individual locality shall receive grants to act as service providers;

(2) monitor recipient service providers for program compliance;

(3) reallocate funds among service providers;

(4) ensure proper reporting; and

(5) coordinate with other Federal, State, and local government assistance programs available in the locality.

(c) ACCOUNTABILITY.—Prior to September 30, 1986, local boards constituted pursuant to subsection (a) shall be accountable to the national board constituted pursuant to section 403. On and after September 30, 1986, local boards constituted pursuant to subsection (a) shall be accountable to the national board constituted pursuant to section 404(b).

SEC. 408. LOCAL HOMELESS ASSISTANCE PLAN.

(a) SUBMISSION.—At the end of each fiscal year, each local board shall submit to the national board a plan describing programs, goals, and objectives for providing assistance to the homeless in that locality. The plan shall be developed in cooperation with the local government head represented on the local board.

(b) CONTENTS.—The local plan shall contain a description of—

(1) existing shelter, mass feeding, and food bank activities in that locality, including activities not receiving assistance under this title;

(2) the use and availability of all public and private resources in the locality to assist the homeless;

(3) means for coordination of all public and private services and resources in that locality to assist the homeless;

(4) means for coordination among all shelter providers in the locality to use all available shelter space for the homeless; and

(5) steps to ensure the preservation of low-income housing in the locality.

(c) RETENTION OF PLAN.—The local plan shall be placed on file in the office of the local government head represented on the local board and shall be made available to the public. The local plan shall be forwarded to the representatives of the local government in the Congress. The national board shall maintain files of local plans and make them available upon request to other localities.

(d) GROUNDS FOR WITHHOLDING.—The preparation and submission of the local plan shall be regarded as the legal duty of the local board, but failure to do so shall not be grounds for the withholding of funds appropriated under this title from that locality. Any citizen residing in the locality in which such local board is constituted shall have standing in the Federal district court of jurisdiction to seek an order compelling the preparation and submission of the local plan as required by this section. The substance and contents of the local plan shall be within the sole discretion of the local board and shall not be subject to administrative or judicial review.

SEC. 409. SERVICE PROVIDERS.

Designation by the local board of a service provider to receive program funds should be based upon the ability of a private nonprofit organization or unit of local government to deliver emergency food and shelter to needy individuals and such other factors as are deemed appropriate to program objectives by the local board.

SEC. 410. USE OF FUNDS.

(a) AUTHORIZED USES.—The national board may authorize the following use of funds to address the emergency food and shelter needs of needy individuals:

(1) Expenditures necessary to purchase emergency food and shelter for needy individuals, to supplement and extend currently available resources and not to substitute or reimburse ongoing programs and services.

(2) Expenditures necessary to conduct minimum rehabilitation of existing mass shelter or mass feeding facilities, but only to the extent necessary to make facilities safe, sanitary, and bring them into compliance with local building codes.

(b) UNAUTHORIZED USES.—The national board may not authorize funds under this subtitle to be used for major rehabilitation or conversion projects.

(c) NOTICE AND COMMENT.—Local boards are encouraged to provide, to the neighborhood in which a new emergency shelter facility is to be located, adequate notice and an opportunity to comment. Local boards are also encouraged to achieve the widest possible distribution of emergency shelters throughout the locality to avoid a disproportionate burden or any 1 section or neighborhood of the locality.

SEC. 411. LIMITATION ON CERTAIN COSTS.

Not more than 3 percent of the total appropriation for the emergency food and shelter program each fiscal year may be expended for the costs of administration.

SEC. 412. PROGRAM GUIDELINES.

(a) GUIDELINES.—The national board shall establish written guidelines for carrying out this program, including—

(1) methods for identifying localities with the highest need for emergency food and shelter assistance;

(2) methods for determining amount and distribution to these localities;

(3) eligible program costs, with the aim of providing emergency essential services based on currently existing needs; and

(4) responsibilities and reporting requirements of the national boards, local boards, and service providers.

(b) PUBLICATION.—Guidelines established under subsection (a) shall be published annually, and whenever modified, in the Federal Register. The national boards shall not be subject to the procedural rulemaking requirements of subchapter II of chapter 5 of title 5, United States Code.

(c) TRANSITION.—Guidelines established by the national board constituted pursuant to section 403 shall continue in effect until modified or revoked by such board or by the national board constituted pursuant to section 404(b).

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated $20,000,000 for fiscal year 1987.

(b) AVAILABILITY.—Any appropriated funds not obligated in a fiscal year shall remain available for obligation during the following fiscal year.

Subtitle B—Emergency Shelter Grants Program

SEC. 421. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Board" or "national board" means the Emergency Food and Shelter Program National Board.

(2) The term "homeless" means individuals who are poor and who have no access to either traditional or permanent housing.

(3) The term "local government" means a unit of general purpose local government.

(4) The term "private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1954 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

(5) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States.

SEC. 422. GRANT ASSISTANCE.

The Board shall, to the extent of amounts approved in appropriation Acts under section 427, make grants to States, units of local government, and to private nonprofit organizations providing assistance to the homeless in order to carry out activities described in section 424.

SEC. 423. ALLOCATION AND DISTRIBUTION OF ASSISTANCE.

(a) IN GENERAL.—The Board shall allocate assistance under this subtitle to metropolitan cities, urban counties, and States (for distribution to units of general local government in the States) in a manner that ensures that the percentage of the amount available under this subtitle for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

(b) MINIMUM ALLOCATION REQUIREMENT.—If, under the allocation provisions applicable under this subtitle, any metropolitan city or urban county would receive a grant of less than $30,000 for any fiscal year, such amount shall instead be reallocated to the State.

(c) DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS.—Any unit of general local government receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to the homeless.

(d) REALLOCATION OF FUNDS.—

(1) The Board shall, not less than twice during each fiscal year, reallocate any assistance provided under this subtitle that is unused or returned or that becomes available under subsection (b).

(2) The Board shall provide such reallocation funds—

(A) to units of general local government demonstrating extraordinary need or large numbers of homeless individuals;

(B) to private nonprofit organizations providing assistance to the homeless; and

(C) to meet such other needs consistent with the purposes of this subtitle.

SEC. 424. ELIGIBLE ACTIVITIES.

Assistance provided under this subtitle may be used for the following activities relating to emergency shelter for the homeless—

(1) renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

(2) provision of essential services, including services concerned with employment, health, drug abuse, or education, if—

(A) such services have not been provided by the unit of general local government during any subtitle of the immediately preceding 12-month period; and

(B) not more than 15 percent of the amount of any assistance to a unit of general local government under this subtitle is used for activities under this paragraph; and

(3) maintenance, operation (other than staff), insurance, utilities, and furnishings.

SEC. 425. RESPONSIBILITIES OF GRANTEES.

(a) SUBMISSION OF HOMELESS ASSISTANCE PLAN.—Following notification by the Board of eligibility for assistance under this subtitle, each State, metropolitan city, and urban county shall submit to the Board a plan describing the proposed use of such assistance. The Board shall provide the appropriate amount of assistance to such State, metropolitan city, or urban county before the expiration of the 60-day period following the date of the submission of such plan, unless the Board determines before the expiration of such period that such plan is not in compliance with this subtitle.

(b) MATCHING AMOUNTS.—

(1) Each grantee under this subtitle shall be required to supplement the assistance provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each grantee shall certify to the Board its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) In calculating the amount of supplemental funds provided by a grantee under this subtitle, a grantee may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the grantee, and the value of the time and services contributed by volunteers to carry out the program of the grantee at a rate determined by the national board.

(c) ADMINISTRATION OF ASSISTANCE.—Each grantee shall act as the fiscal agent of the Board with respect to assistance provided to such grantee.

(d) CERTIFICATIONS ON USE OF ASSISTANCE.—Each grantee shall certify to the Board that—

(1) it will maintain as a shelter for the homeless for not less than a 3-year period any building for which assistance is used under this subtitle, or for not less than a 10-year period if such assistance is used for the major rehabilitation or conversion of such building;

(2) any renovation carried out with assistance under this subtitle shall be sufficient to ensure that the building involved is safe and sanitary; and

(3) it will assist homeless individuals in obtaining—

(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(B) other Federal, State, local and private assistance available for such individuals.

(e) USE OF INTEREST ON ASSISTANCE.—Any interest received by any grantee under this subtitle on assistance provided under this subtitle shall be used in accordance with this subtitle or returned to the Board for reallocation.

SEC. 426. ADMINISTRATIVE PROVISIONS.

(a) REGULATIONS.—Not later than the expiration of the 60-day period following the date of the enactment of this Act, the Board shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall not be subject to section 553 of title 5, United States Code. The Board shall issue requirements based on the initial notice before the expiration of the 12-month period following the date of the enactment of this Act.

(b) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 60-day period following the date of the enactment of a law providing appropriations to carry out this subtitle, the Board shall notify each State, metropolitan city, and urban county that is to receive a direct grant, of its allocation of assistance under this subtitle. Such assistance shall be allocated and may be used notwithstanding any failure of the Board to issue requirements under subsection (a).

(c) RECAPTURE OF UNUSED ASSISTANCE.—The Board shall recapture any assistance provided under this subtitle that is not used by the grantee within a reasonable period of time.

SEC. 427. AUTHORIZATION OF APPROPRIATIONS.

From amounts appropriated to the Department of Housing and Urban Development for fiscal year 1987, there is authorized to be set aside, to the extent approved in an appropriation Act, $50,000,000 to carry out this subtitle. The Secretary of Housing and Urban Development shall award a grant for such amount as the Congress approves in an appropriation Act for such programs to the national board within 30 days following the date of the enactment of a law providing appropriations to carry out this subtitle.

Mr. WYLIE. Mr. Chairman, what my amendment does is to bring together many of the provisions of the bill which we have been working on. May I say, under the rules since I have been allowed to offer this under the rule as an amendment in the nature of a substitute, I am not permitted to offer an amendment to my own substitute if there may be objection; so the gentleman from Texas [Mr. BARTLETT] and I who have been working on this substitute together for some time have agreed that he will offer an amendment which will package all the amendments that have been adopted by the House here a little later on to express the will of the House.

Even after that, I would point out that the difference between the Wylie-Bartlett substitute and the Gonzalez-McKinney substitute, as amended, would be a savings of approximately $4 billion.

I have a chart up here which shows the comparison between the two bills. In the area of fiscal responsibility, for example, we make considerable changes as far as the public housing programs are concerned and authorize specific authorizations of $11.2 billion.

The Gonzalez-McKinney substitute authorizes $15.2 billion, but that figure does not include costly new programs amounting to about $135 million.

The real point I want to make here is that the Congressional Budget Office indicates that the minimum figure is $15.2 billion under GONZALEZ, but that does not take into account the newly authorized programs. That open-ended appropriation language is found in some 10 places in the bill, so if we take the CBO low estimate of $15.2 billion, then my substitute would save money, as I have mentioned, in the area of public housing new construction, section 8 new certificates, HODAG, public housing operating subsidies, UDAG, rural housing, and direct rent assistance.

My substitute would shift money to public housing modernization and would shift money to the so-called voucher program which we have already adopted here.

It would also shift some money to the Community Development Block Grant Program in the neighborhood of $265 million more.

The bottom line again, as I say, of my substitute is that it would save approximately $4 billion and still makes available 101,500 new units through modernization and rehabilitation programs, as well as some new construction.

One major part I would like to emphasize in my substitute provides a specific level of spending which cannot be exceeded. I want to repeat that for emphasis. We do provide a specific level of spending which cannot be exceeded. That is not so in the Gonzalez substitute which we are now considering, because as I say, it has open-ended or such sums approval language in some 10 different places in the bill and the Congressional Budget Office says that they are not therefore able to come up with an accurate guesstimate as to how much it might ultimately cost.

We reject the premise that new construction in public housing is necessary now. We do this because we have found from HUD that there are 70,000 vacant units and 35,000 new units which would be available in the pipeline from previous year's appropriation. New units cost approximately $65,000 each to build. HUD tells us that it would cost an average of $2,400 per unit to fix up the 70,000 vacant units that would now be available, so that they would meet living standards.

We provide for vouchers, as I mentioned, which are less expensive than section 8 certificates. They in my judgment attack the problem for low income people in a much more affordable way.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 5 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield to me for a little

question? I do not want him to consider it impertinent.

Mr. WYLIE. I would never consider the chairman impertinent.

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield, the gentleman's chart has Gonzalez H.R. 4746 and he leaves out Mr. MCKINNEY. Now, I protest that.

Mr. WYLIE. I included Mr. MCKINNEY in my remarks, if the gentleman will please. I also left out Mr. BARTLETT on the chart. I guess that was a printing error.

Mr. GONZALEZ. Well, but then the gentleman has a chart that says Gonzalez H.R. 4746 and it is all in red ink.

Mr. WYLIE. Yes.

Mr. GONZALEZ. And the gentleman's side is in black ink.

Mr. WYLIE. Yes.

Mr. GONZALEZ. Now, the gentleman knows that that is sort of a—that is almost dirty pool.

Mr. WYLIE. Well, it is for emphasis more than anything else.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, there are some of us who think that the colors are rather appropriately done, given the size of the Federal deficit.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman.

Mr. WYLIE. Well, let us say there is $4 billion more and I appreciate where the gentleman is coming from, but there is $4 billion more in spending in the Gonzalez-McKinney substitute than there is in the Wylie-Bartlett substitute, so from that standpoint there is more red ink.

The point of the matter is that we are still going to have to appropriate money and the budget deficit is at an all-time high, so in any event I guess we are going to have to use borrowed money for either one of the programs.

Another point that I would make is that both the bills, the Gonzalez-McKinney bill and the Wylie-Bartlett bill, prohibit the use of user fees, so we agree on that.

It incorporates language which the gentleman from Texas [Mr. BARTLETT] has had adopted. It is already in this bill, but he will have other language which goes to the question of the modernization program.

So this amendment also will incorporate a little later on the Fauntroy-Kemp tenant management amendment. It is already in my substitute, may I say, and we also have the Carper income verification amendment.

We considered those, but we also will include here momentarily via an amendment which will be offered, as I say, by the gentleman from Texas [Mr. BARTLETT], who has worked very closely with me on this, to incorporate some of these good amendments which have been adopted on the floor of the House.

I would call attention also to the fact that we would take out these special interest provisions which we debate very thoroughly on the House floor and I will not take the time of the House again to go through those, but they will provide direct subsidies to Boston, MA, for land which HUD gave to Boston in the first place and the Park Central, TX, $45 million for about 500 units; Pittsburgh, PA, will be forgiven on some interest payments.

We will also have in our substitute the UDAG formula as advanced by the gentleman from Nebraska [Mr. BEREUTER], which would provide for 50 percent of UDAG's to go on the basis of merit.

The administration has said that if the Gonzalez-McKinney substitute comes to the President's desk, they will recommend a veto. In the case of the Wylie-Bartlett substitute, the administration has not indicated that they are going to play the fife or beat the drum in the parade for it, but they would be more constrained to recommend approval by the President.

The administration, may I say, came up with a bill for housing which would authorize approximately $6 billion. Now, I thought that was not a realistic figure, so we went about to work among some of our members on the committee to come up with what I thought was a more realistic figure which would not take away from present existing housing programs to the extent that the $6 billion figure might have.

We think that the Gonzalez-McKinney amendment is too high at $15.2 billion, but as I mentioned earlier, the open-ended such funds approval language gave me a real heartburn, so we have come up with this bill which will provide for $11.2 billion certain, a cap for fiscal year 1987. It is not open-ended.

I think this is a much better way to legislate. I think an "aye" vote on the Wylie-Bartlett substitute would be a responsible vote.

Mr. MCKINNEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is very difficult being second ranking to one of my best friends on the Banking Committee and being ranking of the Housing Committee to have to oppose the honest and very definite hard work that my ranking member on Financial Institutions has done. I only state it that way so that you will remember that I am still ranking member of Housing.

This bill is every bit of the Gonzalez-McKinney bill, whether it be in red, black, or purple. I appreciate my name not being there because of a printing error.

Now let us get down to it, though. This really is the basic issue that we have been discussing for 5 years, let alone 5 very long days on the floor of this House of Representatives. The figures that are mentioned are convoluted at the very best, because of different assumptions made on different reasons for getting there.

I would suggest that if you would look at page 3 of the Gonzalez-McKinney bill, you would see budget compliance, section 2, at the very bottom which states, and I would so quote:

SEC. 2. BUDGET COMPLIANCE.

(a) IN GENERAL.—This Act and the amendments made by this Act may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1986 or 1987 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

"And such sums as" is very clear by that language and means that this bill is in fact within the budget, or whatever the budget says it will be, that the appropriations will be within the budget because the Appropriations Committee is committed to that also.

Now, what really are we talking about? In essence, you know, it is terribly easy to simplify the argument and simply say we are talking vouchers versus action. There are those in this House who believe in the voucher program and who think that the voucher program can do a lot, and I am totally convinced that in certain areas of this country they are absolutely right; however, in vast areas of this country, and we have discussed it for 5 days, whether it be San Antonio in the Southwest, whether it be Detroit, Chicago, New York, Fairfield County, CT; Boston, MA; they do not.

There is also a vast area of this country where moderate rehabilitation limitations, which we have voted for of $2,400 or so, will not do any kind of a job on 50-year-old very, very exhausted housing.

□ 1540

In fact, I am interested to note that in over 11 years we have put somewhere close to $17 million into one housing project in my district and we probably should have built new units and simply replaced the old units which were 50 years old.

The Wylie amendment has no HODAG amendment it in, which was Mr. SCHUMER'S and Mr. DODD'S effort to get moderate rental housing, a step in the right direction, although an expensive one.

So what we are really coming down to is: What do we want to do with the Federal role in housing? I certainly do not think that the Wylie amendment, in all due respect, is a Federal commitment to housing that is enough, is

meaningful enough, or is forceful enough to state that this Government recognizes the need for the priority of housing within the United States of America.

I think the Gonzalez-McKinney bill is far too weak, but it faces the realities of the budgetary process of the United States of America in 1986.

I have nothing but admiration for the work that my friend, the gentleman from Ohio, and my friend, the gentleman from Texas, have done in trying to keep the figures excitingly low. However, we have philosophically argued and argued and argued over their basic contentions on vouchers, and so on and so forth, to keep their bill at what is an estimated figure, as is ours.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. MCKINNEY] has expired.

(By unanimous consent, Mr. MCKINNEY was allowed to proceed for 2 additional minutes.)

Mr. MCKINNEY. The final amount that this Congress of the United States spends housing Americans will come from the Committee on Appropriations, but we know under the wording on page 3 that we cannot spend one more dime than the budget calls for. We are not talking about the House budget. We are not talking about the Senate budget. We are talking about the budget that we will vote up or down out of a conference which is hopefully going on with a little more progress this week than it seemed to last week.

So I think that the gentleman from Texas [Mr. GONZALEZ], who I admire enormously for his forthcoming mood in difficult times, and the amendment of the gentleman from Connecticut, shows a continued commitment of Federal programs for housing as well as a fiscal responsibility. We have tried, in the most arduous process I think that I have ever lived through, to try and bring together the fiscal reality of 1986 and the desire to show that the American Government is committed to the process of housing; a tough job.

As I said, I guess if the left is unhappy with you and the right is unhappy with you, maybe you are in the middle of the road, and I think that is where most Americans are.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. MCKINNEY] has given expired.

(By unanimous consent, Mr. MCKINNEY was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I would be more than happy to yield to a long-suffering and hard-listening and cooperative chairman, the gentleman from Texas.

Mr. GONZALEZ. I thank my very dear colleague, the gentleman from Texas, for yielding.

Mr. Chairman, I just rise to make the remarks that ought to be in the RECORD with respect to the totally committed behavior of the gentleman from Connecticut as Member of this Representative body. I have worked with the gentleman all along. We have belonged to the same committee all along.

I have gained, through the years, gained total respect and admiration. He has kept his poise. He has not played the easy expediency route. I think the RECORD ought to show that.

If we have reached the point where we can have the consensus of what truly is a bipartisan effort, it is really mostly because the gentleman from Connecticut [Mr. MCKINNEY] has made it possible. With all due respect, and with no false modesty on my part, I know I have worked hard, but I could have gotten nowhere nor could any on our side, had it not been for Mr. MCKINNEY making it possible.

Also, I do not want to detract from the gentleman from Ohio [Mr. WYLIE]. He has been most reasonable. It just so happens that in offering his substitute, I thought he should have been, to begin with, the third leg of this three-legged stool which is known as McKinney-Gonzalez and should have been Wylie. But since it has not happened that way, we will have to say that for the moment I want to thank my distinguished colleague, the gentleman from Connecticut, for his tremendous contribution.

Mr. MCKINNEY. Mr. Chairman, if I may reclaim the balance of my time, I would happily simply say, and I would not put words in the gentleman's mouth and I know that he will not say it so I am going to say it.

I think the gentleman from Ohio was led a little bit down the garden path by the administration. I think he was not treated well by them. I do not think he was treated well by OMB. and I have now found out that HUD likes neither one of the bills, so we will just have to do it ourselves, will we not? Is that not just a tragedy? It breaks my heart.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. MCKINNEY] has again expired.

(On request of Mr. WYLIE and by unanimous consent, Mr. MCKINNEY was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. MCKINNEY. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for all the accolades which have come from the well and from the chairman of the Subcommittee on Housing. I appreciate them and I would return those.

We have worked very closely together. I do not want anybody to be misled that I was led down the primrose, though, by the administration.

Mr. MCKINNEY. Just the garden path, not the primrose path.

Mr. WYLIE. But I do feel that in the substitute the open-ended appropriations ought to be corrected. I feel sincerely about that.

I do feel that my substitute would provide almost as many housing units at a greater savings, and I do think that we need to look to try to save money in all the programs, not just defense, not just education, but also on housing.

So from that standpoint, I like my own amendment which I have put together. Additionally, the administration has said, though, that they will veto the Gonzalez-McKinney bill if it comes to the President's desk, and I am quite anxious to get a housing bill signed into law this year. I think mine has a better chance of getting signed into law.

Mr. MCKINNEY. Maybe this House can say it should be law, anyway.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

First of all, I want to congratulate Chairman GONZALEZ and the minority leader of the Subcommittee on Housing on their partisan spirit to develop a housing bill, period. They should really be congratulated.

I want to make clear to the Members who may be watching or are in tune with what we are doing here that none of the amendments adopted on the floor will change the ultimate passage of the bill. So those amendments passed on the floor will be part of the Gonzalez-McKinney bill. We cannot change that.

I do oppose this gutting amendment, will all due respect to my good friend, and he is a good friend, from Columbus, OH, but I want to tell the Members what this would do if they vote for the Wylie amendment.

First of all, it would eliminate the Gray amendment that tries to lower the rents for senior citizens by 10 percent. It eliminates section 312 in rehabilitation programs that so many of us want. It eliminates the Community Development Block Grant Program, one of the best programs, the loan guarantee program that helps restore some of the decayed housing and gives people an opportunity.

It eliminates the crime insurance program. It eliminates the section 235 single-family home ownership program. It eliminates the new rental housing development program, section 8, existing and moderate rehabilitation programs, and it creates a gigantic loophole in the home mortgage disclo-

sure act by exempting from coverage lending institutions whose assets are less than $25 million, and the amendment makes it easier for lending institutions whose assets range between $10 and $25 million to return, not all of them, but some of them, and we know this happens, to some of the problems and practices of red-lining, and makes it more difficult for community groups to be able to monitor those programs. We want to monitor those practices so we never have red-lining again.

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It also strikes one of the most innovative homeownership programs, the Nehemiah program, and it eliminates the restriction that prevents urban development action grant funds from being used to pirate away business from one distressed community to another. It eliminates that provision.

It also eliminates the carefully structured revision to the UDAG formula which reestablished an equitable fund allocation. What you have to understand is, we already voted and rejected soundly the fact that we were satisfied with the consensus reached on the UDAG formula, which is a change from what it had already been, and the House already rejected that provision three to one, but it eliminates that.

It also harms rural areas, not only urban areas, but rural areas by not extending through fiscal year 1987 the eligibility for FEMA housing assistance, of communities with a population between 10,000 and 20,000 people.

In addition, it eliminates the program, and I really have to thank my chairman for accepting the program and my colleagues on the Committee on Banking, Finance and Urban Affairs for accepting a program that deals with something our country refuses to deal with. That is, what do we do about the deinstitutionalized mentally handicapped people who are walking around the streets of our neighborhoods, our centers and our urban areas in particular, but some rural areas, with no homes?

We provide in this bill something that I introduced, a provision that would allow for at least a pilot project to deal with this program in second-stage housing for the homeless with special emphasis on the deinstitutionalized mentally ill.

I know that they do not have the political clout to make us have a conscience about what we do about this situation.

In our State of Ohio, as my colleague from Ohio knows, we have had thousands and thousands of people deinstitutionalized who are roaming the streets without the proper services, including the most fundament one, housing. We cannot even have a small pilot project to see what happens when a nonprofit organization becomes eligible to obtain the technical assistance and financial assistance on a demonstration basis to develop this kind of housing.

The CHAIRMAN. The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

(By unanimous consent, Ms. OAKAR was allowed to proceed for 30 additional seconds.)

Ms. OAKAR. Mr. Chairman, I want to tell you with all due respect, we have had the amendments, some of which we did not like and so on, but it is going to be part of the bill and I hope that you will just stick with the chairman and the minority leader, who worked so hard on this, along with the amendments that have been accepted and just say no.

We have cut housing by 60 percent. The budget for housing has been cut in the last 5 years by 60 percent. This would cut it even further and, as the gentleman from Connecticut [Mr. MCKINNEY] pointed out very eloquently, we are within the budget. We are within the budget. We do not have an overrun in that area and it is a carefully crafted bill with additional amendments.

I hope you will reject soundly the Wylie amendment.

AMENDMENT OFFERED BY MRS. ROUKEMA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WYLIE

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA to the amendment in the nature of a substitute offered by Mr. WYLIE: Page 97, after line 22, add the following new title (and conform the table of contents accordingly):

TITLE V—NEHEMIAH HOUSING OPPORTUNITY GRANTS

SEC. 501. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and

(3) to increase the employment of neighborhood residents.

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) The term "Fund" means the Nehemiah Housing Opportunity Fund established in section 509(a).

(2) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(3) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(5) The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) The term "substantial rehabilitation" means—

(A) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this title in the market area in which it is located; or

(B) the rehabilitation of a vacant, uninhabitable structure.

(9) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

SEC. 503. ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out Nehemiah housing opportunity programs in accordance with the provisions of this title. Such assistance shall be made in the form of grants.

(b) APPLICATIONS.—Applications for assistance under this title shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

SEC. 504. USE OF ASSISTANCE.

(a) IN GENERAL.—Any nonprofit organization receiving assistance under this title shall use such assistance to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this title.

(b) SPECIFIC REQUIREMENTS.—Each loan made to a family under this section shall—

(1) be secured by a second mortgage held by the Secretary on the property involved;

(2) be in an amount not exceeding $15,000;

(3) bear no interest; and

(4) be repayable to the Secretary upon the sale or other transfer of such property.

SEC. 505. PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Assistance provided under this title may be used only in connection with a Nehemiah housing opportunity program of construction or substantial rehabilitation of homes.

(b) FAMILY NEED.—Each family purchasing a home under this title shall—

(1) have a family income on the date of such purchase that is not more than 90 percent of the median income for a family of 4 persons in the metropolitan statistical area involved except that in areas where such amount (90 percent of the area median income) is below 115 percent of the national median income, then 115 percent of the national median income will apply; and

(2) not have owned a home during the 3-year period preceding such purchase.

(c) DOWNPAYMENT.—

(1) Each family purchasing a home under this title shall make a downpayment of not less than 10 percent of the sale price of such home, or of such greater amount determined by the nonprofit organization involved to be appropriate.

(2) Any downpayment made under this subsection shall accrue interest from the

date on which such downpayment is made through the date of settlement, at a rate not less than the passbook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(d) LEASING PROHIBITION.—No family purchasing a home under this title may lease such home.

SEC. 506. TERMS AND CONDITIONS OF ASSISTANCE.

(a) LOCAL CONSULTATION.—No proposed Nehemiah housing opportunity program may be approved by the Secretary under this title unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(1) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(2) it has the approval of each unit of general local government in which such program is to be located.

(b) PROGRAM SCHEDULE.—Each nonprofit organization applying for assistance under this title shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(c) MINIMUM PARTICIPATION.—No nonprofit organization receiving assistance under this title may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 percent of the homes to be constructed or substantially rehabilitated are contracted for sale to purchasers who intend to live in such homes and the required downpayments are made.

(d) FINANCIAL FEASIBILITY.—The Secretary may not provide any assistance under this title to any nonprofit organization unless such nonprofit organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(e) HOME QUALITY AND LOCATION.—A Nehemiah housing opportunity program may be approved under this title only if it provides that—

(1) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(A) the greater of (i) 50 homes; or (ii) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such program; or

(B) 250 homes;

(2) each home constructed or substantially rehabilitated under such program will comply with—

(A)(i) applicable local building code standards; or

(ii) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; and

(B) the energy performance requirements established under section 526 of the National Housing Act;

(3) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and area are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(4) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that if the unit of general local government in which the project is located certifies that such land cannot be made available for a program of the size required by paragraph (1), homes may be constructed in a single identifiable neighborhood if the program provides for construction or substantial rehabilitation of homes on not less than 20 percent of the lots in such neighborhood; and

(5) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this title upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

SEC. 507. PROGRAM SELECTION CRITERIA.

(a) IN GENERAL.—In selecting Nehemiah housing opportunity programs for assistance under this title from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(1) non-Federal public or private entities will contribute land necessary to make each program feasible;

(2) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of homes constructed or substantially rehabilitated under each program;

(3) each program will produce the greatest number of units for the least amount of assistance provided under this title, taking into consideration the cost differences among different market areas;

(4) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition (but not age) of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(5) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(6) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(b) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in paragraph (1) or (2) of subsection (a), the Secretary shall not consider such form of contribution in evaluating such program.

(c) LOWER INCOME BENEFIT REQUIREMENT.—The Secretary shall require that a majority of the funds made available under this title for use within any metropolitan statistical area shall be available only for assistance to families whose incomes do not exceed 95 percent of the higher of are a median income or national median income.

SEC. 508. DISTRIBUTION OF ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) RESERVATION OF AMOUNTS.—Following the selection of any Nehemiah housing opportunity program for assistance under this title, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(b) DISTRIBUTION OF ASSISTANCE.—Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this title, the Secretary shall provide to the sponsoring nonprofit organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(c) MAXIMUM ASSISTANCE.—The assistance provided to any nonprofit organization under this title may not exceed $15,000 per home.

SEC. 509. NEHEMIAH HOUSING OPPORTUNITY FUND.

(a) ESTABLISHMENT.—There hereby is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under section 503.

(b) ASSETS.—The Fund shall consist of—

(1) any amount appropriated under section 512;

(2) any amount received by the Secretary under section 504(b)(4); and

(3) any amount received by the Secretary under subsection (c).

(c) ADMINISTRATION.—Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provisions of this title shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 510. ANNUAL REPORT.

The Secretary shall annually prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this title. Such report shall include—

(1) an analysis of the characteristics of the families assisted under this title during the preceding year, including family size, number of children, family income, sources of family income, race, age, and sex;

(2) an analysis of the market value of homes purchased under this title during the preceding year;

(3) an analysis of the non-Federal public and private financial or other contributions made during the preceding year to reduce the cost of homes constructed or substantially rehabilitated under each program;

(4) an analysis of the sales prices of homes under this title during the preceding year;

(5) an analysis of the amounts of the grants made to programs under this title during the preceding year; and

(6) any recommendations of the Secretary for modifications in the program established by this title in order to ensure the effective implementation of such program.

SEC. 511. REGULATIONS.

The Secretary shall issue such regulations as may be necessary to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

SEC. 512. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this title $75 million for fiscal year 1987. Any amount ap-

propriated under this section shall be deposited in the Nehemiah Housing Opportunity Fund, and shall remain available until expended.

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I am in support of the substitute from the gentleman from Ohio [Mr. WYLIE]. I think it is a good substitute. We are all confounded by the dilemma in which we find ourselves where we want to be able to do the best we can for the housing in this country, but are under budgetary constraints.

I do think that his substitute would be immeasurably helped by the addition of the Nehemiah Housing Opportunity Grant Program, as amended yesterday with the targeting formula which I presented, and which this House accepted by voice vote with the support of the gentleman from New York.

I think it would be an important addition to the Wylie substitute. I think the demonstrated votes yesterday indicate that there is support for this innovative program.

I believe in some respects it will be essentially a pilot program, but there is nothing wrong with a pilot program. I expect it to be successful and I expect it to be viable. I think it would be a good addition to the substitute.

Mr. GONZALEZ. Mr. Chairman, will the gentlewoman yield to me?

Mrs. ROUKEMA. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I just wanted to ask a question. Is this the same amendment as was placed in the bill yesterday?

Mrs. ROUKEMA. Mr. Chairman, this is identical to the bill yesterday, yes. In fact, it contains the identical language of the bill with the amendment that I proposed that changed the formula for targeting to lower incomes.

Mr. GONZALEZ. Mr. Chairman, that was accepted also and we on our side certainly accept this.

We have no objection to it.

Mr. WYLIE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the author of the substitute, the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentlewoman for her contribution and I wanted to speak and say to the gentlewoman from Ohio a little earlier that we had made an arrangement to offer this amendment on the Nehemiah project. I think that where the House has worked its will so overwhelming on an amendment, it ought to be a part of my substitute and I also talked to the gentleman from New York [Mr. SCHUMER] and the gentleman from Texas [Mr. BARTLETT] about this and agreed to do it.

One other point I would make while I have some time, if you do not mind, is that the gentlewoman from Ohio said that the community development block grant would be eliminated or reduced. I am not sure exactly what she said, but under my substitute, the community development block program actually gets $265 million more for fiscal year 1987.

I happen to like the Community Development Block Grant Program. I think it has been an excellent program. It gives the communities an opportunity to use Federal money in whatever way they think is best for their community.

Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. FRANK. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentlewoman for yielding.

I am going to support this amendment. I hope that the substitute is somewhat improved, but I will still have some differences with it. I would just like to ask my friend from Ohio, if I could, the gentleman said that he was in favor of reinserting Nehemiah because the House has worked its will on the Nehemiah program, if I understood the gentleman correctly.

But as I understand the gentleman, in his substitute, the Crime Insurance Program is knocked out and the Gray amendment is also knocked out. Now, since the House voted for both of those, what was the House working when it passed those?

Mr. WYLIE. Mr. Chairman, the will was not quite as overwhelming on those. I offered the amendment on the Crime Insurance Program and it was a relatively close vote, compared to some of the other votes. I feel rather strongly about the crime insurance.

Mrs. ROUKEMA. Mr. Chairman, I am going to reclaim my time.

I think it is important to recognize that we are speaking about Nehemiah. I think it is an innovative program that holds promise. I would hope that it will prove to be economically viable.

Mr. BARTLETT. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentlewoman for yielding and I support her amendment. I very much appreciate her offering this amendment. It is an amendment that needs to be done. The House expressed its will to support Nehemiah and so I think it ought to be in the substitute. I appreciate her offering it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] to the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. WYLIE].

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BARTLETT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WYLIE, AS AMENDED

Mr. BARTLETT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT to the amendment in the nature of a substitute offered by Mr. WYLIE, as amended: Page 14, after line 9, insert the following new sections (and conform the table of contents accordingly):

SEC. 126. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) APPLICABILITY OF MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.—Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

(b) MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 247 of the National Housing Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

(c) MORTGAGE INSURANCE ON INDIAN RESERVATIONS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 248 of the National Housing Act is amended—

(1) in paragraphs (3) and (5) of subsection (f), by striking "insurance fund" each place it appears and inserting "General Insurance Fund";

(2) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(3) by inserting after subsection (e) the following new subsection:

(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section

shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

SEC. 127. PROHIBITION OF USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

(a) IN GENERAL.—Section 203 of the National Housing Act is amended by inserting the following new subsection before subsection (h):

"(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary.

"(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

"(A) a publiic entity, as provided in section 214 or 247;

"(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j);

"(C) an Indian tribe, as provided in section 248; or

(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222.

"(3) For purposes of this subsection, the term 'substitute mortgagor' means a person who, upon the release by a mortgage of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(b)(2) of the National Housing Act is amended—

(A) in the first sentence, by striking the following: "(whether" and all that follows through "purposes)"; and

(B) in the second sentence, by striking the following: "to be occupied as a principal residence of the owner".

(2) Section 203(b) of the National Housing Act is amended by striking paragraph (8).

(3) Section 203(h) of the National Housing Act is amended by striking "is the owner and occupant and".

(4) Section 203(i) of the National Housing Act is amended—

(A) by striking the first proviso; and

(B) by striking "*further*" the first place it appears.

(5) The first sentence of section 203(o)(2) of the National Housing Act is amended by striking "occupant".

(6) The first sentence of section 203(p)(2) of the National Housing Act is amended by striking "owner-occupant" and inserting "owner".

(7) The fourth sentence of section 214 of the National Housing Act is amended by striking the following: "shall be the owner and occupant of the property or".

(8) Section 216 of the National Housing Act is amended—

(A) by striking "that the mortgagor be the occupant" and inserting "with respect to the occupancy of the mortgagor"; and

(B) by striking "occupy the property" each place it appears and inserting "meet such requirement".

(9) Section 220(d)(3)(A) of the National Housing Act is amended—

(A) by inserting "and" at the end of clause (i);

(B) by striking clauses (ii) and (iii);

(C) in clause (iv), by striking the following: "(except as provided in clause (iii))"; and

(D) by redesignating clause (iv) as clause (ii).

(10) Section 221(d)(2) of the National Housing Act is amended—

(A) by striking the colon at the end of subparagraph (A)(iv) and all that follows through "*Provided further*, That" the first place it appears, and inserting ", except that";

(B) by striking "*Provided*, That (i)" and all that follows through "(1) in" and inserting the following: "*Provided*, That (i)(1) in";

(C) by striking the penultimate proviso; and

(D) in the last proviso, by striking the following: ", if the mortgagor is the owner and occupant of the property such" and inserting "the".

(11) Section 221(d)(6)(ii) of the National Housing Act is amended by striking the following: "is an owner-occupant of the property and".

(12) The first sentence of section 221(h)(6) of the National Housing Act is amended by striking "and occupied".

(13) Section 221(h)(8) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(14) Subsections (b)(4) and (f) of section 222 of the National Housing Act are amended by inserting "as a principal residence" after "occupies the property" each place it appears.

(15) Section 223(a) of the National Housing Act is amended by inserting after "this Act," the first place it appears the following: "other than the limitation in section 203(g),".

(16) The first sentence of section 223(e) of the National Housing Act is amended by inserting after "title XI," the following: "other than the limitation in section 203(g),".

(17) Section 234(c) of the National Housing Act is amended by striking the fourth sentence.

(18) Section 235(i)(3)(A) of the National Housing Act is amended by striking the following: "one of the units of which is to be occupied by the owner and".

(19) Section 235(j)(6) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(c) REPEAL OF VACATION AND SEASONAL HOME INSURANCE PROGRAM.—Section 203 of the National Housing Act is amended by striking subsection (m).

(d) APPLICABILITY.—The amendments made by this section shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a), if the original mortgagor was subject to such amendment.

(e) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c), as such provisions existed immediately before such date.

SEC. 128. APPLICABILITY OF CERTAIN LOAN INSURANCE REGULATIONS.

(a) IN GENERAL.—Until December 31, 1986, any applicant for a loan insured under title I of the National Housing Act may (at the option of the applicant) have such application considered under—

(1) the regulations of the Department of Housing and Urban Development in effect on January 14, 1986; or

(2) the regulations published by the Department of Housing and Urban Development on October 25, 1985 (50 Fed. Reg. 43516 et seq.; relating to insurance of title I property improvement and manufactured home loans).

(b) REVIEW OF REGULATIONS.—Before December 31, 1986, the Secretary of Housing and Urban Development shall reopen the regulations referred to in subsection (a)(2) for public comment and take into consideration any comments received.

SEC. 129. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

Title II of the National Housing Act is amended by adding at the end the following new section:

"DEMONSTRATION PROGRAM OF INSURANCE OF HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS

"SEC. 254. (a) PURPOSE.—The purpose of this section is to authorize the Secretary to carry out a demonstration program of mortgage insurance designed—

"(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets;

"(2) to encourage and increase the involvement of mortgagees and participants in the secondary mortgage market in the making and servicing of home equity conversion mortgages for elderly homeowners; and

"(3) to require the evaluation of data to determine—

"(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

"(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

"(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.

"(b) DEFINITIONS.—For purposes of this section:

"(1) The terms 'elderly homeowner' and 'homeowner' means any homeowner who is, or whose spouse is, at least 65 years of age or such higher age as the Secretary may prescribe.

"(2) The terms 'first mortgage', 'mortgage', 'mortgagee', 'mortgagor', and 'State'

have the meanings given such terms in section 201.

"(3) The term 'home equity conversion mortgage' means a loan secured by a first lien on a property upon which there is located a dwelling designed principally for a 1-family residence that—

"(A) provides for monthly payments to the homeowner based upon accumulated equity;

"(B) may provide for a fixed or variable term or for future sharing, between the lender and the homeowner, of the equity or appreciation in the value of the dwelling;

"(C) provides that the loan shall become due on a specified date after disbursement of the full principal amount, or when a specified event (such as the sale of the dwelling or the death of the homeowner) occurs;

"(D) provides that the monthly payments required in the mortgage instrument shall be made directly by the lender to the homeowner;

"(E) provides that prepayment in whole or in part may be made without penalty at any time during the term of the loan; and

"(F) provides that the interest rate shall be fixed, as agreed upon by the mortgagor and the mortgagee at the origination of the mortgage.

"(c) INSURANCE AUTHORITY.—The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

"(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

"(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages;

"(3) have a potential for acceptance in the private mortgage market; and

"(4) have a potential for purchase by a secondary market institution.

"(d) ELIGIBILITY REQUIREMENTS.—To be eligible for insurance under this section, a mortgage shall—

"(1) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(2) have been executed by a mortgagor who—

"(A) qualifies as an elderly homeowner;

"(B) has received adequate counseling by a third party (other than the lender) as provided in subsection (g); and

"(C) meets any additional requirements prescribed by the Secretary;

"(3) be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor;

"(4) involve a principal obligation (including such initial service charges, appraisal, inspections, and other fees as the Secretary shall approve, and all interest to be deferred and added to the principal) that does not, on the date the mortgage is accepted for insurance, exceed whichever of the following is less:

"(A) 125 percent of the maximum dollar amount established by the Secretary under section 203(b)(2) for a 1-family residence; or

"(B) 90 percent of the appraised value of the property;

"(5) provide for a fixed interest rate, as agreed upon by the mortgagor and the mortgagee;

"(6) contain provisions for full satisfaction of the obligation satisfactory to the Secretary;

"(7) provide that, in the event of any foreclosure on the mortgage, the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

"(A) the foreclosure sale; or

"(B) the insurance benefits paid pursuant to subsection (e); and

"(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe.

"(e) APPLICABILITY OF SECTION 204.—

"(1) Each mortgagee of a mortgage insured under this section shall be eligible to receive the benefits of insurance as provided in section 204(a) with respect to such mortgage, except that in the case of a mortgage providing for shared appreciation—

"(A) the insurance benefits shall not include the share of the mortgagee of the net appreciated value; and

"(B) the term 'original principal obligation of the mortgage' as used in section 204 shall not include the share of the mortgagee of the net appreciated value.

"(2) The provisions of subsections (b) through (k) of section 204 shall be applicable to mortgages insured under this section, except that—

"(A) all references in such subsections to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and

"(B) all references in such subsections to section 203 shall be construed to refer to this section.

"(f) DISCLOSURES BY MORTGAGEE.—The Secretary shall require each mortgagee of a morgage insured under this section to make available to the homeowner—

"(1) at the time of the loan application, a written list of the names and addresses of third-party counselors who are approved by the Secretary as responsible and able to provide the conseling required in subsection (g); and

"(2) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid made to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year.

"(g) COUNSELING SERVICES FOR MORTGAGORS.—The Secretary shall require the third-party counseling required in subsection (d)(2)(B)—

"(1) to be provided by counselors (other than the lender) who are approved by the Secretary as responsible and able to provide counseling to elderly homeowners; and

"(2) to include—

"(A) informing the elderly homeowner of options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

"(B) informing the elderly homeowner of other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

"(C) informing the elderly homeowner of all financial implications of entering into a home equity conversion mortgage, including any tax consequences, any effect on the eligibility of the homeowner for assistance under Federal and State programs, and any effect on the amount of such assistance;

"(D) informing the elderly homeowner of all the effects that entering into a home equity conversion mortgage will have on the estate and heirs of the homeower;

"(E) providing any other information that the Secretary may require; and

"(F) providing the elderly homeowner with a written summary, acknowledged in writing by the mortgagor, of all of the information required in subparagraphs (A) through (E).

"(h) LIMITATION OF INSURANCE AUTHORITY.—No mortgage may be insured under this section after September 30, 1988, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed 1,000.

"(i) ADMINISTRATIVE AUTHORITY.—The Secretary may—

"(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section; and

"(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate.

"(j) PREEMPTION OF STATE LAW.—Mortgages insured and authorized under this section, and applicable regulations that contain or set forth provisions pertaining to sharing appreciation, increases in the outstanding balance after execution of the mortgage (including adding deferred interest to principal), disbursement of mortgage proceeds over an extended term, or setting of a due date in relation to the earliest of a specified event, shall not be subject to any constitution, statute, court decree, common law, rule, or public policy of a State that—

"(1) limits or prohibits sharing appreciation, increases in the outstanding balance after execution of the mortgage, or disbursement of mortgage proceeds over an extended time; or

"(2) requires that the term of the mortgage be fixed.

"(k) PROTECTION OF HOMEOWNER IN EVENT OF DEFAULT BY LENDER.—

"(1) Notwithstanding any other provision of law, and in order to further the purposes of the demonstration program authorized in this section, the Secretary shall take any action necessary—

"(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment; and

"(B) to obtain repayment of disbursements provided under subparagraph (A) from any source.

"(2) Actions under paragraph (1) may include—

"(A) disbursing funds to the mortgagor from the General Insurance Fund;

"(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

"(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

"(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties;

"(E) imposing premium charges; and

"(F) preempting any State or local law that may prohibit or limit any of the actions described in subparagraphs (A) through (E).

"(l) SAFEGUARD TO PREVENT DISPLACEMENT OF HOMEOWNER AT END OF MORTGAGE TERM.—The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that, if the homeowner chooses to remain in the dwelling beyond the term of the mortgage, title to the dwelling shall be conveyed to the Secretary. At the option of the former homeowner, the Secretary shall allow the dwelling to be exclusively occupied by the former homeowner until the former homeowner voluntarly chooses to move. The Secretary may require the former homeowner to pay rent to the Secretary in an amount computed in accordance with section 3(a) of the United States Housing Act of 1937. For purposes of this subsection, the term 'homeowner' includes the spouse of a homeowner.

"(m) REPORT TO CONGRESS.—The Secretary shall evaluate the program authorized in this section and, not later than April 1, 1989, submit to the Congress a report setting forth the results of such evaluation. Such report shall—

"(1) describe the types of mortgages appropriate for inclusion in such program;

"(2) describe any restrictions in State or local law that require preemption under subsection (j) or (k) in order to continue such program;

"(3) describe any changes in the insurance programs under this title, or in other Federal regulatory provisions, determined to be appropriate;

"(4) describe any risk created by such program to mortgagors or the insurance programs under this title, and whether the risk is adequately covered by the premiums under the insurance programs;

"(5) evaluate whether such program has improved the financial situation or otherwise met the special needs of participating elderly homeowners;

"(6) evaluate whether such program has included appropriate safeguards for mortgagors to offset the special risks of such mortgages;

"(7) evaluate whether home equity conversion mortgages have a potential for acceptance in the private market; and

"(8) evaluate whether such program has increased secondary mortgage market activity with respect to home equity conversion mortgages.".

SEC. 130. ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE.

Title V of the National Housing Act is amended by adding at the end the following new section:

"ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE

"SEC. 533. In order to ensure the adequate processing of applications for insurance of loans and mortgages under this Act, the Secretary shall maintain not less than 1 office in each State to carry out the provisions of this Act.".

SEC. 131. CLOSING OF ANY OFFICE PROHIBITED BEFORE COMPLETION OF CERTAIN STUDIES.

Title V of the National Housing Act (as amended by section 130 of this Act) is further amended by adding at the end the following new section:

"CLOSING OF ANY OFFICE PROHIBITED BEFORE COMPLETION OF CERTAIN STUDIES

"SEC. 534. The Secretary may not implement any proposal or determination to close any office maintained by the Secretary in any State (on or after October 1, 1985) to carry out the provisions of this Act until at least 30 days after the completion of any investigation, study, or review by any other Federal agency or department or any committee of either House of the Congress of the Secretary's proposal or determination to close the office.".

SEC. 132. ACTIONS TO REDUCE LOSSES UNDER SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.

Section 203 of the National Housing Act is amended by adding at the end the following new subsections:

"(q) The Secretary shall take appropriate actions to reduce losses under the mortgage insurance program carried out under this section. Such actions shall include—

"(1) independent verification by the Secretary after loan approval of the ability of borrowers to pay, to be carried out by the least expensive method of verification—

"(A) with respect to not less than 10 percent of the mortgage applications submitted by each lender in both the direct endorsement and prior approval programs; and

"(B) with respect to not less than 20 percent of the mortgage applications involving properties located in units of general local government (as defined in section 102 of the Housing and Community Development Act of 1974) where the default rate on mortgages insured under this section exceeds 120 percent of the national default rate on such mortgages during the most recent 12-month period for which data are available;

"(2) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with subsection (s);

"(3) independent verification by the Secretary of all credit reports indicating no prior credit history;

"(4) independent verification by the Secretary of all appraisals involving investor-owned property that is acquired by the investor less than 12 months prior to the date of the mortgage application; and

"(5) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section during the 24-month period following (A) the date on which the mortgage is endorsed for insurance; or

(B) the date of a previous assumption of the mortgage.".

"(r) In conducting field reviews of appraisals, the Secretary may not use the services of fee appraisers who are employed by the Secretary to appraise single-family dwellings that are subject to mortgages insured under this title.

"(s)(1) To reduce losses in connection with mortgage insurance programs under this section, the Secretary shall review, not less than annually, the rate of early serious defaults and claims involving mortgagees approved under this section. On the basis of the review, the Secretary shall notify each mortgagee that, as determined by the Secretary, has an above normal rate of early serious defaults and claims during the preceding year. In the notification, the Secretary shall require each mortgagee to submit a report, by a date determined by the Secretary, that contains (A) an explanation for the above-normal rate of early serious defaults and claims; (B) a plan for corrective action, both with respect to mortgages in default and the general mortgage-processing system of the mortgagee; and (C) the date by which the corrective action will be begun and completed. If the Secretary does not agree with the plan or schedule for implementation, a mutually agreeable plan and scheduled shall be determined.

"(2) Failure of a mortgagee to submit a report acceptable to the Secretary by the date determined by the Secretary or to commence or complete the plan for corrective action by the date agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this Act.".

SEC. 133. PENALTIES FOR EQUITY SKIMMING.

(a) PURCHASE OF DWELLING SUBJECT TO LOAN IN DEFAULT.—Section 912 of the Housing and Urban Development Act of 1970 is amended—

(1) in paragraph (1), by inserting "(including condominiums and cooperatives)" after "dwellings";

(2) in paragraph (2), by inserting after "due" the following: ", regardless of whether the purchaser is obligated on the loan"; and

(3) in the matter following paragraph (3)—

(A) by striking "$5,000" and inserting "$250,000"; and

(B) by striking "three" and inserting "5".

(b) USE OF FUNDS DERIVED FROM PROPERTY SUBJECT TO LOAN IN DEFAULT.—Title II of the National Housing Act (as amended by section 129 of this Act) is further amended by adding at the end the following new section:

"EQUITY SKIMMING PENALTY

"SEC. 255. Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 203, 207, 213, 220, 221(d)(3), 221(d)(4), 223(f), 231, 232, 234, 236, 238(c), 241, 242, 244, 608, or 810, or title XI, or is made pursuant to section 202 of the Housing Act of 1959, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other income derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.".

(c) CONFORMING AMENDMENTS.—Section 239 of the National Housing Act is amended—

(1) by striking "INSURED" in the section heading;

(2) by striking "(a)" after ". 239,"; and

(3) by striking subsection (b).

SEC. 134. AUTHORITY FOR SECRETARY TO IMPOSE CIVIL MONEY PENALTIES ON MORTGAGES.

(a) IN GENERAL.—Title II of the National Housing Act (as amended by sections 129 and 133 of this Act) is further amended by adding at the end the following new section:

"AUTHORITY FOR SECRETARY TO IMPOSE CIVIL MONEY PENALTIES ON MORTGAGEES

"SEC. 256. (a) IN GENERAL.—

"(1) Whenever a mortgagee approved under section 203 violates any of the requirements of this Act, as set forth in subsection (b), the Secretary may impose a civil money penalty on the mortgagee in accordance with the provisions of this section. This penalty shall be in addition to any available civil remedy or any other available civil or criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sections.

"(2) The amount of the penalty may not exceed $1,000 for each violation, as determined by the Secretary, except that the maximum penalty for all violations by a particular mortgagee during any 1-year period shall not exceed $1,000,000. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

"(b) VIOLATIONS FOR WHICH PENALTY MAY BE IMPOSED.—The Secretary may impose a civil money penalty under subsection (a) for any of the following violations by a mortgagee:

"(1) Unless expressly permitted by statute or regulation, transfer of a mortgage insured under section 203 to a mortgagee not approved by the Secretary.

"(2) Failure of a nonsupervised mortgagee, as defined by the Secretary—

"(A) to segregate all escrow funds received from a mortgagor for ground rents, taxes, assessments, and insurance premiums; or

"(B) to deposit such funds in a special account with a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

"(3) Use of escrow funds for any purpose other than the purpose for which such funds are received.

"(4) Submission to the Secretary of information that the mortgagee knew, or should have known, was false, in connection with any mortgage insured under section 203.

"(5) Hiring or retaining in employment an officer, director, principal, or employee with knowledge that, at the time of hire or while in employment (as appropriate), the person was under suspension or debarment by the Secretary.

"(6) Submission of a false certificate to the Secretary.

"(7) Failure to comply with an agreement, certification, or condition of approval set forth—

"(A) on the application of a mortgagee for approval by the Secretary; or

"(B) on the notification by a mortgagee to the Secretary concerning establishment of a branch office.

"(8) Violation of any contract with the Secretary under section 203, any statute or implementing regulation that applies to the programs administered by the Secretary under section 203, or any other written instruction or communication that is issued under this Act and mailed, sent, or delivered to a mortgagee under section 203.

"(c) AGENCY PROCEDURES.—

"(1) The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

"(A) shall provide for the imposition of a penalty only after the mortgagee has geen given an opportunity for a hearing on the record by a hearing officer authorized by the Secretary to conduct hearings; and

"(B) may provide for—

"(i) use of an administrative entity to make the determination to impose a penalty, subject to a hearing if requested; and

"(ii) review of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) In determining the amount of a penalty under subsection (a), the Secretary shall take into account the gravity of the offense, degree of culpability, any history of prior offenses, ability to pay, size of the business entity, effect upon ability to continue in business, and such other factors as the Secretary may determine in regulations to be appropriate.

"(3) The determination of the Secretary or order of the Secretary imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—After exhausting all administrative remedies established by the Secretary under subsection (c)(1), a mortgage against whom the Secretary has imposed a civil money penalty under subsection (a) may obtain judicial review of the determination or order of the Secretary in the appropriate United States district court, as provided in chapter 7 of title 5, United States Code.

"(e) ACTION BY SECRETARY TO COLLECT PENALTY.—If any mortgagee fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may, acting through the General Counsel of the Department of Housing and Urban Development, bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagee and such other relief as may be available. The monetary judgment may, in the discretion of the court, include the attorneys fees and other expenses incurred by the Secretary in connection with the action. In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty that may be, or has been, imposed under this section.

"(g) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

"(h) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—All civil money penalties collected under this section shall be deposited in the appropriate insurance fund or funds established in this Act, and shall be available for use to the extent approved in appropriation Acts.".

"(b) APPLICABILITY.—The amendment made by subsection (a) of this section shall apply only with respect to—

(1) violations that occur on or after the effective date of the regulations issued to carry out such amendment; or

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of the violation that occurs on or after such effective date.

SEC. 135. REFINANCING MORTGAGE INSURANCE FOR HOSPITALS, NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) STATE CERTIFICATION REQUIREMENT.—Section 223(f)(4)(D) of the National Housing Act is amended to read as follows:

"(D) such existing hospital has received such certification from the State in which the hospital is located as is comparable to the certification required for hospitals under section 242.".

(b) REFINANCING INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.—Section 223(f) of the National Housing Act (as amended by subsection (a) of this section) is further amended—

(1) in paragraph (1), by inserting after "existing hospital" the following: ", existing nursing home, existing intermediate care facility, or existing board and care home"; and

(2) in paragraph (4)—

(A) by inserting after "existing hospital" each place it appears the following: ", existing nursing home, existing intermediate care facility, or existing board and care home";

(B) by inserting after "the hospital" the following: ", nursing home, intermediate care facility, or board and care home"; and

(C) by inserting after "section 242" the following: "or for nursing homes, intermediate care facilities, or board and care homes insured under section 232, as the case may be".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 136. MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) INSURANCE FOR PUBLIC NURSING HOMES.—Section 232(b)(1) of the National Housing Act is amended by inserting "public facility," before "proprietary".

(b) REQUIREMENT OF STATE APPROVAL.—Section 232(d)(4)(A) of the National Housing Act is amended by adding at the end the following new sentence: "If the State agency is not empowered to provide a certification that there is a need for the home or facility or combined home and facility, the Secretary shall accept in lieu of such certification a feasibility study that (i) is prepared for the home or facility or combined home and facility in accordance with the principles established for feasibility studies by the American Institute of Certified Public Accountants; (ii) assesses on a marketwide basis the impact of the home or facility or combined home and facility on (and its relationship to) other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home or facility or combined home and facility; (iii) demonstrates the need for and financial feasibility of the home or facility or combined home and facility; and (iv) includes a sensitivity analysis.".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 137. REQUIREMENT OF STATE APPROVAL FOR MORTGAGE INSURANCE FOR HOSPITALS.

(a) IN GENERAL.—Section 242(d)(4) of the National Housing Act is amended by adding at the end the following new sentence: "If the State agency is not empowered to provide a certification that there is a need for the hospital, the Secretary shall accept in lieu of such certification a feasibility study that (A) is prepared for the hospital in accordance with the principles established for feasibility studies by the American Institute

of Certified Public Accountants; (B) assesses on a marketwide basis the impact of the hospital on (and its relationship to) other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the hospital; (C) demonstrates the need for the financial feasibility of the hospital; and (D) includes a sensitivity analysis.".

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 138. ELIGIBILITY FOR SINGLE FAMILY MORTGAGE INSURANCE.

Section 203 of the National Housing Act (as amended by section 132 of this Act) is further amended by adding at the end the following new subsection:

"(t)(1) Notwithstanding any other provision of this section or any any other section of this title, the Secretary may insure and commit to insure, under subsection (b) as modified by this subsection, any mortgage secured by property located on land that—

"(A) is within the Allegany Reservation of the Seneca Nation of New York Indians; and

"(B) is subject to a lease entered into for a term of 99 years pursuant to the Act of February 19, 1875 (Chapter 90; 18 Stat. 330) and the Act of September 30, 1890 (Chapter 1132; 26 Stat. 558).

"(2) A mortgage shall be eligible for insurance under subsection (b) as modified by this subsection without regard to limitations in this title relating to marketability of title or any other statutory restriction that the Secretary determines is contrary to the purpose of this subsection.

"(3) The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities that the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities if the Secretary determines such action to be necessary because of the special nature of the mortgage involved.

"(4) Notwithstanding section 202, the insurance of a mortgage under subsection (b) as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created in section 238.".

Page 17, line 2, strike all through "1987" and insert the following: "not to exceed $2,900,000,000 for fiscal year 1987".

Page 19, after line 12, insert the following new subsection:

(a) CONSIDERATION OF UTILIZATION OF CERTAIN SMALL BUSINESS CONCERNS.—Section 119(d)(1)(C) of the Housing and Community Development Act of 1974 is amended by inserting after the last semicolon the following: "whether the project will utilize 1 or more small business concerns owned and controlled by socially and economically disadvantaged individuals (as such term is defined in section 8(d) of the Small Business Act (15 U.S.C. 637(d));".

Page 19, line 13, insert before "Section" the following: "(b) PORTION OF SELECTIONS BASED SOLELY ON PROJECT QUALITY.—".

Page 20, after line 3, insert the following new subsection:

(c) CONSIDERATION OF URBAN COUNTIES.—Section 119(d) of the Housing and Community Developme t Act of 1974 (as amended by subsection (b) of this section) is further amended by adding at the end the following new paragraph:

"(4) In determining the score to be awarded each of the criteria under subparagraphs (A) through (C) of paragraph (1) for applications for grants for urban counties, the Secretary shall compare such applications only with other applications for grants for urban counties.".

Page 20, before line 4, insert the following new section (and redesignate the subsequent sections, and conform the table of contents, accordingly):

SEC. 148. PROHIBITION ON USE ON URBAN DEVELOPMENT ACTION GRANTS TO INCREASE MARKET SHARE OF NONDOMESTIC CORPORATIONS.

(a) IN GENERAL.—SECTION 119(H) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 IS AMENDED—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2)(A) No assistance may be provided or utilized under this section for any project that the Secretary determines will be used to expand the market share of a nondomestic business entity in a manner that decreases the market share or operations of a domestic business entity.

"(B) For purposes of this paragraph:

"(i) The term 'domestic business entity' means any business entity not described in clause (ii).

"(ii) The term 'nondomestic business entity' means any business entity—

"(I) more than 50 percent of the ownership of which is held by persons who are not citizens or permanent residents of the United States;

"(II) that is controlled by persons who are not citizens or permanent residents of the United States; or

"(III) that is a subsidiary of, or is controlled by, another business entity described in subclause (I) or (II).".

(b) APPLICABILITY.—The amendments made by this section shall be applicable to urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date of the enactment of this Act.

Page 23, strike line 9 and all that follows through page 24, line 2, and insert the following (and conform the table of contents accordingly):

SEC. 166. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

Not later than the expiration of the 6-month period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a detailed report describing the fees collected by the Secretary during the 4-year period preceding the date of the enactment of this act in connection with inspection of manufactured homes under section 614 of the National Manufactured Housing Construction and Safety Standards Act of 1974. Such report shall include—

(1) the amount of such fees collected, the allocation of expenses, the costs of the program, and any available reserves;

(2) a detailed accounting of fees collected in accordance with section 620 of such Act;

(3) a detailed accounting of expenses authorized under section 620 of such Act and incurred in fiscal years 1983 through 1986, including descriptions of the use of inspection fees for—

(A) activities authorized under section 614 of such Act, including a breakdown of funds allocated for contractors of the Secretary to conduct monitoring, State administrative agencies, and other contracts issued in accordance with subsection (c) of such section;

(B) research, testing, development, and training activities under section 608(a) of such Act; and

(C) direct administration of such Act, including staff and travel;

(4) a detailed explanation of the expenditures described in paragraph (3) that are planned for fiscal years 1987 through 1989; and

(5) a detailed breakdown of expenditures of amounts appropriated under section 627 of such Act.

Page 27, after line 12, insert the following new section (and conform the table of contents accordingly):

SEC. 169. FAIR HOUSING INITIATIVES PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor); and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

(b) PROGRAM ADMINISTRATION.—

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section.

(c) REGULATIONS.—

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) The Secretary shall issue regulations governing the use of funds under this section for testing conducted by private organizations. Such regulations shall contain measures determined by the Secretary to be necessary to ensure that all such testing is objective, reliable, and controlled. Such reg-

ulations shall guarantee the credibility and probative value of testing evidence and preclude, to the extent possible without infringing on rights and remedies provided by Federal fair housing laws, the misuse of the funds provided under this section. No such testing shall be funded under this section unless preceded by an allegation of a discriminatory housing practice made by a person not employed or affiliated with the organization conducting the test. No provision of this section or regulation issued under this section (A) shall have any application to testing other than testing conducted with funds provided under this section; or (B) may be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws.

(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, such sums as may be provided in appropriation Acts for fiscal year 1987. Any amounts appropriated under this section shall remain available until expended.

Page 28, strike line 1 and insert the following: "grants under section 14(k), is increased by $5,264,000,000".

Page 28, after line 8, insert the following new section (and redesignate the subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 202. DEREGULATION OF PUBLIC HOUSING AGENCIES.

Section 2 of the United States Housing Act of 1937 is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) To encourage efficient and effective administration of public housing by public housing agencies, to increase the amount of responsibility of these agencies for administering their public housing, and to minimize Federal involvement in the administration of public housing, the Secretary shall, whenever feasible, permit public housing agencies to carry out activities involved in the administration of public housing projects without prior review or approval by the Secretary.

"(2) The provisions of paragraph (1) shall not apply if—

"(A) the Secretary determines that there is a reasonable basis to conclude that prior review and approval of 1 or more specific activities is necessary to ensure efficient and effective conduct of the activity throughout the program;

"(B) the Secretary determines that there is a reasonable basis to conclude that prior review and approval is necessary with respect to a particular public housing agency due to such factors as its inexperience or poor performance in carrying out the same or related activities; or

"(C) prior review or approval by the Secretary is required by law.".

Page 29, strike lines 11 through 20 and insert the following:

(b) PUBLIC HOUSING RENT PHASE-IN.—Section 3 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(d)(1) In any case in which the obtaining of employment by a resident of a dwelling unit assisted under this Act will result in an increase in the rent payable by the family of such resident under subsection (a), the public housing agency involved (or the Secretary, if no public housing agency is involved) may provide for a gradual increase in such rent to the full amount during a period of not more than 6 months.

(2) For purposes of this subsection, the term 'employment' shall have such meanings as is determined to be appropriate by the public housing agency involved (or the Secretary, if no public housing agency is involved).".

Page 32, after line 23, insert the following new section (and redesignate the subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 205. LIMITATION ON PUBLIC HOUSING DEVELOPMENT AND ASSURANCE OF PUBLIC HOUSING QUALITY STANDARDS.

Section 5 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

(j)(1) After the date of the enactment of the Housing Act of 1986, the Secretary may not make a funding reservation for a public housing agency for assistance in financing the development of public housing (other than for Indian families) unless—

"(A) the Secretary determines that additional amounts are required to complete the development of dwelling units for which amounts are obligated on or before such date;

"(B) for any fiscal year after fiscal year 1986, the public housing agency certifies to the Secretary that 90 percent of the public housing dwelling units of such agency are maintained at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6); or

"(C) the Secretary determines that such development is required to replace dwelling units that are disposed of or demolished by the public housing agency.

"(2) Any budget authority that is provided in appropriation Acts before the date of the enactment of the Housing Act of 1986, and is prohibited from obligation by reason of the provisions of paragraph (1), is authorized to be made available by appropriation Acts for fiscal year 1986 or 1987 for comprehensive improvement assistance under section 14 or 20 (in addition to other budget authority provided for such purposes under subsection (c)) and to remain available until utilized.".

Page 35, after line 11, insert the following new subsection:

(e) PROHIBITION OF DENIAL OF SECTION 8 CERTIFICATES AND VOUCHERS TO RESIDENTS OF PUBLIC HOUSING.—Section 8 of the United States Housing Act of 1937 (as amended by subsection (d) of this section) is further amended by adding at the end the following new subsection:

"(r) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not consider whether a family resides in a public housing project, except in the case of a family being displaced as a result of major repairs, demolition, or disposition.".

Page 35, after line 22, insert the following new subsections (and redesignate the subsequent subsection accordingly):

(b) USE OF VOUCHERS IN CONNECTION WITH RENTAL REHABILITATION.—The first sentence of section 8(o)(3) of the United States Housing Act of 1937 is amended—

(1) by striking "or" before "(C)"; and

(2) by inserting before the period at the end the following: ", or (D) a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 percent of the monthly adjusted income of the family".

(c) USE OF VOUCHERS IN CONNECTION WITH COOPERATIVE AND MUTUAL HOUSING.—Section 8(o)(7) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended by striking the following: "not to exceed 5 per centum of the amount of".

Page 37, after line 10, insert the following new clause (and redesignate the subsequent clauses accordingly):

"(ii) funds received by any public housing agency from sources other than tenant rents or other tenant payments, investment income, or income earned from commercial leases or receipts, including any amounts recovered through litigation, shall not be counted as income in computing the allowable subsidy nor shall prior receipt of any such funds affect the allowable expense level; and

Page 37, line 17, strike "excluding" and insert "including".

Page 43, line 25, insert "(i)" after the comma.

Page 44, line 6, insert before the period the following:

; and (ii) the period of time specified in section 17(d)(4)(G), as in effect before the effective date of this section, shall be considered to be 36 months

Page 44, after line 16, insert the following new section (and redesignate the subsequent sections and any references to such sections, and conform the table of contents, accordingly):

SEC. 212. PROVISION OF ADEQUATE REPLACEMENT UNITS IN CASES OF DEMOLITION AND DISPOSITION.

Section 18(b) of the United States Housing Act of 1937 is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end of the following new paragraph:

"(3) the public housing agency has developed a plan for the provision of an additional decent, safe, sanitary, and affordable dwelling unit for each public housing dwelling unit to be demolished or disposed under such application, which plan—

"(A) provides for the provision of such additional dwelling units through the acquisition of additional public housing dwelling units, the development of additional public housing dwelling units, the use of assistance under section 8 (including vouchers), or any combination of such methods;

"(B) is approved by the unit of general local government in which the project is located;

"(C) includes a reasonable plan for funding, except that such funding shall not be required to be provided in advance;

"(D) includes a method of ensuring that the same number of individuals will be provided housing; and

"(E) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent be paid by the tenant following relocation will not exceed the amount permitted under this Act.".

Page 77, after line 6, insert the following new section (and conform the table of contents accordingly):

SEC. 224. PROCEDURES AND POLICIES FOR MANDATORY MEAL PROGRAMS IN ASSISTED HOUSING FOR THE ELDERLY.

(a) EXEMPTIONS FROM MEAL PROGRAMS.—

(1) REQUIRED EXEMPTIONS.—The owner of any assisted housing for the elderly that requires tenants to participate in a meal program shall grant a tenant an exemption from such participation if—

(A) the program cannot satisfactorily accommodate the special dietary or health needs of the tenant, as certified by the physician of the tenant;

(B) the program cannot satisfactorily accommodate the special diet or food practices of the tenant;

(C) participation in the program substantially interferes with the employment of the tenant; or

(D) participation in the program constitutes an unbearable financial hardship on the tenant, taking into consideration the cost of the tenant of meals not covered by the program and other necessary living costs remaining after payment of charges for the program.

(2) ADDITIONAL EXEMPTIONS.—The owner of any assisted housing for the elderly that requires tenants to participate in a meal program may grant a tenant an exemption from such participation for any additional reason determined by the owner to be appropriate.

(b) FINANCIAL ASSISTANCE.—The owner of any assisted housing for the elderly that requires tenants to participate in a meal program may, in lieu of granting an exemption under subsection (a)(1)(D), provide the tenant with financial assistance toward the cost of participation in the program.

(c) ACCEPTANCE OF FOOD STAMPS AS PAYMENT.—The owner of any assisted housing for the elderly that reguires tenants to participate in a meal program shall accept food stamps toward payment for the meals included in such program.

(d) NOTICE AND RIGHT TO CONTEST.—

(1) The owner of any assisted housing for the elderly that requires tenants to participate in a meal program shall inform tenants of (A) the exemptions established in subsection (a)(1) and any additional exemptions determined by the owner to be appropriate under subsection (a)(2); and (B) the right to appeal a denial of an exemption under paragraph (2).

(2) A tenant shall have the right to appeal any denial of a request for an exemption to the Secretary of Housing and Urban Development or the designee of the Secretary, and the Secretary or designee may hear and decide any such appeal.

(3) Before taking any legal action to recover payment or evict a tenant for failure to participate in a required meal program, the owner of any assisted housing for the elderly shall comply with this subsection.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "assisted housing" means housing that is assisted under section 202 of the Housing Act of 1959, section 236 of the National Housing Act, or section 8 of the United States Housing Act of 1937.

(2) The term "elderly" means any individual who is not less than 62 years of age or any family the head of which (or whose spouse) is not less than 62 years of age.

(f) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out this section.

Page 79, after line 24, insert the following new sections (and conform the table of contents accordingly):

SEC. 305. DEFINITION OF VERY LOW-INCOME FAMILIES.

Section 501(b)(4) of the Housing Act of 1949 (as amended by section 302 of this Act) is further amended by adding at the end the following new sentence: "For purposes of assistance under section 502, the term 'very low-income families or persons' means families and persons whose incomes do not exceed the applicable level established pursuant to the preceding sentences, or 50 percent of the statewide nonmetropolitan median income (as determined and adjusted by the Secretary of Housing and Urban Development in consultation with the Secretary of Agriculture), whichever amount is higher.".

SEC. 306. PROCEDURES FOR REDUCTION OF INTEREST CREDITS.

Section 521(a)(1)(B) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "In the case of assistance provided under this subparagraph with respect to a loan under section 502, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.".

SEC. 307. REQUIREMENT OF LOCAL CONSULTATION FOR DOMESTIC FARM LABOR HOUSING.

(a) INSURED LOAN PROGRAM.—Section 514 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(i) The Secretary may not insure a loan under this section (regardless of the number of units proposed to be included in the housing and related facilities involved) unless the application for the loan includes a certification that the applicant has consulted with the unit of general local government in which the housing and related facilities are to be located.".

(b) GRANT PROGRAM.—Section 516 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(j) The Secretary may not provide financial assistance under this section (regardless of the number of units proposed to be included in the housing and related facilities involved) unless the application for the financial assistance includes a certification that the applicant has consulted with the unit of general local government in which the housing and related facilities are to be located.".

(c) APPLICABILITY.—The amendments made by this section shall apply only to applications submitted after the date of the enactment of this Act.

SEC. 308. STUDY OF MORTGAGE CREDIT IN RURAL AREAS.

The Secretary of Housing and Urban Development shall conduct a study of the availability and use of funds for the purchase and improvement of residential real property in rural areas, particularly in communities that have populations of not more than 2,500 individuals. Not later than April 1, 1987, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

Page 97, after line 22, add the following new title (and conform the table of contents accordingly):

TITLE V—ENTERPRISE ZONE DEVELOPMENT

SEC. 501. DESIGNATION OF ENTERPRISE ZONES.

(a) DESIGNATION OF ZONES.—

(1) DEFINITION.—For purposes of this section, the term "enterprise zone" means any area that—

(A) is nominated by 1 or more local governments and the State or States in which it is located for designation as an enterprise zone (in this section referred to as a "nominated area"); and

(B) the Secretary of Housing and Urban Development designates as an enterprise zone, after consultation with—

(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury, the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration; and

(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

(2) NUMBER OF DESIGNATIONS.—

(A) IN GENERAL.—The Secretary of Housing and Urban Development may designate not more than 100 nominated areas as enterprise zones.

(B) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), not less than 25 percent shall be areas that—

(i) are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available);

(ii) are outside of a metropolitan statistical area (as designated by the Director of the Office of Managment and Budget); or

(iii) that are determined by the Secretary, after consultation with the Secretary of Commerce, to be rural areas.

(3) AREAS DESIGNATED BASED SOLELY ON DEGREE OF POVERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall designate the nominated areas with the highest

average ranking with respect to the criteria set forth in subparagraphs (C), (D), and (E) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area that exceeds such criterion by the greatest amount given the highest ranking.

(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION, ETC.—An area shall not be designated under subparagraph (A) if the Secretary determines that the course of action with respect to such area is inadequate.

(C) SEPARATE APPLICATION TO RURAL AND OTHER AREAS.—Subparagraph (A) shall be applied separately with respect to areas described in paragraph (2)(B) and to other areas.

(4) LIMITATION ON DESIGNATIONS.—

(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone, the Secretary shall prescribe by regulation not later than 4 months following the date of the enactment of this Act, after consultation with the officials described in paragraph (1)(B)—

(i) the procedures for nominating an area under paragraph (1)(A);

(ii) the parameters relating to the size and population characteristics of an enterprise zone; and

(iii) the manner in which nominated areas will be evaluated based on the critieria specified in subsection (d).

(B) TIME LIMITATIONS.—The Secretary shall designate nominated areas as enterprise zones only during the 24-month period beginning on the later of—

(i) the 1st day of the 1st month following the month in which the effective date of the regulations described in subparagraph (A) occurs; or

(ii) July 1, 1987.

(C) PROCEDURAL RULES.—The Secretary shall not make any designation under paragraph (1) unless—

(i) the local governments and the State in which the nominated area is located have the authority—

(I) to nominate such area for designation as an enterprize zone;

(II) to make the State and local commitments under subsection (d); and

(III) to provide assurances satisfactory to the Secretary that such commitments will be fulfilled;

(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary shall by regulation prescribe;

(iii) the Secretary determines that any information furnished is reasonably accurate; and

(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

(5) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

(A) December 31 of the 24th calendar year following the calendar year in which such date occurs;

(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(4)(C)(ii); or

(C) the date the Secretary revokes such designation under paragraph (2).

(2) REVOCATION OF DESIGNATION.—The Secretary, after consultation with the officials described in subsection (a)(1)(B) and a hearing on the record involving officials of the State or local government involved, may revoke the designation of an area if the Secretary determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

(c) AREA AND ELIGIBILITY REQUIREMENTS.—

(1) In General.—The Secretary may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of the local government;

(B) the boundary of the area is continuous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000 in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that—

(A) the area is one of pervasive poverty, unemployment, and general distress;

(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this Act;

(C) the unemployment rate, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for that period;

(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 20 percent for the period to which such data relate; and

(E) the area meets at least 1 of the following criteria:

(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designated to reduce the various burdens borne by employers or employees in such area. A course of action shall not be treated as meeting the requirements of this paragraph unless the course of action include provisions described in not less than 4 of the subparagraphs of paragraph (2).

(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any program administered by the Secretary of Housing and Urban Development or of any program administered by the Secretary of Agriculture under title V of the Housing Act of 1949, and may include, but is not limited to—

(A) a reduction of tax rates or fees applying within the enterprise zone;

(B) an increase in the level of public services, or in the efficiency of the delivery of public services, within the enterprise zone;

(C) actions to reduce, remove, simplify, or streamline paperwork requirements within the enterprise zone;

(D) involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area;

(E) the giving of special preference to contractors owned and operated by members of any minority; and

(F) the gift (or sale at below fair market value) of surplus land in the enterprise zone to neighborhood organizations agreeing to operate a business on the land.

(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the Secretary shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist—

(i) any establishment relocating from 1 area to another area; or

(ii) any subcontractor whose purpose is to divest, or whose economic success is dependent upon divesting, any other contractor or subcontractor of any contract customarily performed by such other contractor or subcontractor.

(B) EXCEPTION.—The limitations established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the Secretary—

(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other

area where the existing business entity conducts business operations; and

(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT.—If more than 1 government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

(2) LOCAL GOVERNMENT.—The term "local government" means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State;

(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary; and

(C) the District of Columbia.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) STATE.—The term "State" includes Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

SEC. 502. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the 4th calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each 4th calendar year thereafter, the Secretary shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 503. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 401 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) ENTERPRISE ZONES TREATED AS LABOR SURPLUS AREAS.—Any area that is designated as an enterprise zone under section 501 shall be treated for all purposes under Federal law as a labor surplus area.

SEC. 504. WAIVER OR MODIFICATION OF HOUSING AND COMMUNITY DEVELOPMENT RULES IN ENTERPRISE ZONES.

(a) IN GENERAL.—Upon the written request of the governments that designated and approved an area that has been designated as an enterprise zone under section 501, the Secretary of Housing and Urban Development (or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture) may, in order to further the job creation, community development, or economic revitalization objectives of the zone, waive or modify all or part of any rule that the Secretary has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertaking within the zone.

(b) LIMITATION.—No provision of this section may be construed to authorize the Secretary to waive or modify any rule adopted to carry out a statute or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

(c) SUBMISSION OF REQUESTS.—A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to the Secretary of Agriculture, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

(d) CONSIDERATION OF REQUESTS.—In considering a request, the Secretary shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area that would be affected by the change. The Secretary shall approve the request whenever the Secretary finds, in the discretion of the Secretary, that the public interest that the proposed change would serve in furthering such job creation, community development or economic revitalization outweighs the public interest that continuation of the rule unchanged would serve in furthering such underlying purposes. The Secretary shall not approve any request to waive or modify a rule if that waiver or modification would—

(1) directly violate a statutory requirement; or

(2) be likely to present a significant risk to the public health, including environmental health or safety.

(e) NOTICE OF DISAPPROVAL.—If a request is disapproved, the Secretary shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

(f) PERIOD FOR DETERMINATION.—The Secretary shall discharge the responsibilities of the Secretary under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

(g) APPLICABLE PROCEDURES.—A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. To facilitate reaching a decision on any requested waiver or modification, the Secretary may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The Secretary shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

(h) EFFECT OF SUBSEQUENT AMENDMENT OF RULES.—In the event that the Secretary proposes to amend a rule for which a waiver or modification under this section is in effect, the Secretary shall not change the waiver or modification to impose additional requirements unless the Secretary determines, consistent with standards contained in subsection (d), that such action is necessary.

(i) EXPIRATION OF WAIVERS AND MODIFICATIONS.—No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

(j) DEFINITIONS.—For purposes of this section:

(1) RULE.—The term "rule" means—

(A) any rule as defined in section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of such title 5.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture.

SEC. 505. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection:

"(d) The Secretary shall—

"(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 501 of the Housing Act of 1986;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into 1 summary report submitted at such intervals as may be designated by the Secretary.".

TITLE VI—PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

SEC. 601. ESTABLISHMENT OF PROGRAM.

The United States Housing Act of 1937 (as previously amended by this Act) is further amended by adding at the end the following new section:

"PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

"SEC. 22. (a) HOMEOWNERSHIP OPPORTUNITIES.—The families residing in each public housing project shall be provided with the opportunity to purchase the dwelling units in the project as follows:

"(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

"(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary; and

"(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency.

"(2) HOMEOWNERSHIP ASSISTANCE.—

"(A) The Secretary shall provide comprehensive improvement assistance under section 14 or 20 to public housing projects in which homeownership activities under this section are conducted in order to ensure that the physical condition, management, and operation of the projects are sufficient to permit and encourage homeownership by the families residing in the projects.

"(B) The Secretary, and the public housing agency owning and operating each public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership.

"(3) CONDITIONS OF PURCHASE.—

"(A) A resident management corporation may purchase all or part of a public housing project following a determination by the Secretary that—

"(i) the resident management corporation has been established in accordance with paragraph (1); and

"(ii) the resident management corporation is prepared to undertake the ownership, management, and maintenance of the project with continued assistance from the Secretary.

"(B) A family may purchase its dwelling unit directly from the public housing agency, if the Secretary determines that the purchase will not interfere with the rights of other families residing in the public housing project or harm the efficient operation of the project.

"(4) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of all or part of a public housing project under this section, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(5) PURCHASE PRICE LIMITATION.—The price for any purchase under paragraph (3) shall be 25 percent of the fair market value of the property involved, as determined by the Secretary.

"(6) PURCHASE ARRANGEMENTS.—

"(A) A purchase under this section may be made under any of the following arrangements, at the option of the family or resident management corporation making the purchase:

"(i) LEASE-PURCHASE.

"(ii) Shared appreciation, except that not less than 50 percent of the future appreciation in the value of the property involved shall be reserved to the family or resident management corporation making the purchase.

"(iii) Cooperative ownership.

"(iv) Condominium ownership.

"(v) Purchase with amounts borrowed on the security of the property involved.

"(vi) Any other arrangement determined by the Secretary to be appropriate.

"(B) For purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved shall make a loan on the security of the property involved to the family or resident management corporation at a rate of interest equal to 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

"(7) RECAPTURE AT TIME OF SALE.—If any purchaser of property under this section sells the property before the expiration of the 5-year period following the date of the purchase, the purchaser shall pay the following percentage of the sale price to the Secretary:

"(A) 75 percent, if the sale occurs during the 1st 1-year period following such date.

"(B) 60 percent, if the sale occurs during the 2d 1-year period following such date.

"(C) 45 percent, if the sale occurs during the 3d 1-year period following such date.

"(D) 30 percent, if the sale occurs during the 4th 1-year period following such date.

"(E) 15 percent, if the sale occurs during the 5th 1-year period following such date.

"(b) RESIDENT MANAGEMENT OPPORTUNITIES.—

"(1) IN GENERAL.—The families residing in each public housing project shall be provided with the opportunity to undertake the management, maintenance, educational, and cultural functions of the project.

"(2) MANAGEMENT ASSISTANCE.—The Secretary, and the public housing agency owning and operating the public housing project, shall provide such training, technical assistance, and educational assistance as may be necessary to prepare the resident management corporation established under subsection (a)(1) to undertake the management, maintenance, educational, and cultural functions of the project.

"(3) CONDITIONS OF RESIDENT MANAGEMENT.—A resident management corporation may undertake all or part of the management, maintenance, educational, and cultural functions of a public housing project following a determination by the Secretary that the resident management corporation is capable of undertaking such functions.

"(c) PROTECTION OF NONPURCHASING FAMILIES.—

"(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

"(2) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a public housing project purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary may offer to provide to the family a housing voucher determined by the Secretary to be appropriate to permit the family to continue to reside in the dwelling unit.

"(3) RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary may offer—

"(A) to assist the family in relocating to a dwelling unit in another public housing project; or

"(B) to provide to the family a housing voucher determined by the Secretary to be appropriate to permit the family to obtain comparable alternative housing.

"(d) FINANCIAL ASSISTANCE.—

"(1) ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as the Secretary determines is necessary to permit such agencies to carry out the provisions of this section.

"(2) OPERATING SUBSIDY.—The operating subsidy for a project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year. Such subsidy may not be reduced during the 3-year period beginning on the date on which the resident managed housing is transferred to resident ownership, except that if the total income of the public housing agency is reduced the income provided by the public housing agency to the resident owned project may be reduced in proportion to the total revenue reduction of the public housing agency.

"(e) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—

"(1) IN GENERAL.—No provision of this section may be construed to preclude the Secretary or any public housing agency from providing additional homeownership or resident management opportunities under section 5(h), section 6(c)(4)(D), or any other provision of this act.

"(2) PURCHASE OF UNOCCUPIED UNITS.—Any qualified public housing resident or qualified applicant for public housing residence may purchase any unoccupied dwelling unit in a public housing project, subject to the conditions of this section.

"(f) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

"(g) ANNUAL REPORT.—The Secretary shall annually submit to the Congress a report setting forth—

"(1) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(2) recommendations of the Secretary for additional budget authority to carry out such development; and

"(3) recommendations of the Secretary to ensure decent homes and decent neighborhoods for lower income families.

"(h) LIMITATION.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in appropriation Acts.".

SEC. 602. EFFECTIVE DATE.

The amendment made by this title shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

TITLE VII—MULTIFAMILY HOUSING MANAGEMENT AND PRESERVATION

SEC. 701. MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by striking "(a)" and all that follows through the semicolon at the end of paragraph (1) and inserting the following:

"(a) The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage and dispose of multifamily housing projects that are owned by the Secretary, or whose mortgages are delinquent or subject to a workout agreement and whose mortgages are held by, assigned to, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

"(1) preserving so that they are available to and affordable by low- and moderate-income persons—

"(A) all units in multifamily housing projects that are formerly subsidized projects;

"(B) in multifamily housing projects owned by the Secretary, at least the units that are occupied by low- and moderate-income persons or vacant; and

"(C) in all other multifamily housing projects, at least the units that are, on the date of assignment, occupied by low- and moderate-income persons;".

(b) MANAGEMENT SERVICES.—Section 203(b)(2) of the Housing and Community Development Amendments of 1978 is amended by striking ", owned by the Secretary" and inserting "to which subsection (a) applies".

(c) MAINTAINING OF PROJECTS.—Section 203(c) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(c) The Secretary shall—

"(1) to the greatest extent possible, maintain all occupied multifamily housing projects to which subsection (a) applies in a decent, safe, and sanitary condition;

"(2) to the greatest extent possible, maintain full occupancy in all such projects; and

"(3) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.".

(d) FINANCIAL ASSISTANCE.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall take 1 or both of the following actions:

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available for such section 8, with owners of multifamily housing projects that are acquired at foreclosure or after sale by the Secretary. Such contracts shall be attached to the project involved for a period of not less than 15 years. Such contracts shall be sufficient to assist all units that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, and all units that are vacant at such time (which units shall be made available for such families as soon as possible). In order to make available to families any units in formerly subsidized projects that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall apply to the Secretary for additional assistance to the project involved under the same terms as the original assistance. The Secretary shall provide such contracts at contract rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register.

"(2) In accordance with the authority provided under the National Housing Act, provide purchase-money mortgages, reduce the selling price, or provide other financial assistance to the owners of multifamily housing projects that are acquired at foreclosure or after sale by the Secretary on terms that will ensure that, for a period of not less than 15 years (A) the project will remain available to and affordable by low- and moderate-income persons; and (B) such persons shall pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.".

(e) DISPLACEMENT PROTECTION.—Section 203(e)(1) of the Housing and Community Development Amendments of 1978, as so redesignated in this section, is amended by inserting "or controlled" after "owned".

(f) LIMITATIONS ON CERTAIN LOAN AND MORTGAGE SALES.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (g) and (h), as so redesignated in this section, as subsections (h) and (i); and

(2) by inserting before such subsection (h) the following new subsection:

"(g) The Secretary may not approve the sale of any loan or mortgage held by the Secretary on any formerly subsidized project unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.".

(g) FORMERLY SUBSIDIZED PROJECTS.—Section 203(h) of the Housing and Community Development Amendments of 1978, as so redesignated in this section, is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of this section, the term 'formerly subsidized project' means a multifamily housing project receiving any of the following assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

"(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

"(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964; or

"(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (other than subsection (b)(1) of such section).".

SEC. 702. ACQUISITION OF INSURED MULTIFAMILY HOUSING PROJECTS.

Section 207(k) of the National Housing Act is amended by inserting after the second sentence the following new sentence: "In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978.".

SEC. 703. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.

(a) APPLICABILITY.—Section 202(a) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "or section 202 of the Housing Act of 1959".

(b) NOTICE AND COMMENT.—Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking "or" the third place it appears;

(2) by inserting after "alterations," the following: "transfer of physical assets, or application for capital improvements loan,"; and

(3) by striking "and the Secretary deems it appropriate" and inserting the following: "or where the Secretary proposes to sell a mortgage secured by a multifamily housing project".

(c) NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS.—Section 202(b)(2) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end the following: ", and such owners may not refuse to lease any vacant dwelling unit in the project that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under section 8 of the United States Housing Act of 1937, to a holder of a certificate of eligibility under such section solely because of the status of such prospective tenant as a holder of such certificate".

TITLE VIII—NEHEMIAH HOUSING OPPORTUNITY GRANTS

SEC. 801. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and

(3) to increase the employment of neighborhood residents.

SEC. 802. DEFINITIONS.

For purposes of this title:

(1) The term "Fund" means the Nehemiah housing Opportunity Fund established in section 809(a).

(2) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium projet or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(3) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(5) The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) The term "substantial rehabilitation" means—

(A) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this title in the market area in which it is located; or

(B) the rehabilitation of a vacant, uninhabitable structure.

(9) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

SEC. 803. ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to

carry out Nehemiah housing opportunity programs in accordance with the provisions of this title. Such assistance shall be made in the form of grants.

(b) APPLICATIONS.—Applications for assistance under this tite shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

SEC. 804. USE OF ASSISTANCE.

(a) IN GENERAL.—Any nonprofit organization receiving assistance under this title shall use such assistance to provide loans to families purchasing homes constructed substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this title.

(b) SPECIFIC REQUIREMENTS.—Each loan made to a family under this section shall—

(1) be secured by a second mortgage held by the Secretary on the property involved;

(2) be in an amount not exceeding $15,000;

(3) bear no interest; and

(4) be repayable to the Secretary upon the sale or other transfer of such property.

SEC. 805. PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Assistance provided under this title may be used only in connection with a Nehemiah housing opportunity program of construction of substantial rehabilitation of homes.

(b) FAMILY NEED.—Each family purchasing a home under this title shall—

(1) have a family income on the date of such purchase that is not more than 90 percent of the median income for a family of 4 persons in the metropolitan statistical area involved except that in areas where such amount (90 percent of the area median income) is below 115 percent of the national median income, then 115 percent of the national median income will apply; and

(2) not have owned a home during the 3-year period preceding such purchase.

(c) DOWNPAYMENT.—

(1) Each family purchasing a home under this title shall make a downpayment of not less than 10 percent of the sale price of such home, or of such greater amount determined by the nonprofit organization involved to be appropriate.

(2) Any downpayment made under this subsection shall accrue interest from the date on which such downpayment is made through the date of settlement, at a rate not less than the passoook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(d) LEASING PROHIBITION.—No family purchasing a home under this title may lease such home.

SEC. 806. TERMS AND CONDITIONS OF ASSISTANCE.

(a) LOCAL CONSULTATION.—No proposed Nehemiah housing opportunity program may be approved by the Secretary under this title unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(1) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(2) it has the approval of each unit of general local government in which such program is to be located.

(b) PROGRAM SCHEDULE.—Each nonprofit organization applying for assistance under this title shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(c) MINIMUM PARTICIPATION.—No nonprofit organization receiving assistance under this title may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 perc. .t of the homes to be constructed or substantially rehabilitated are contracted for sale to purchasers who intend to live in such homes and the required downpayments are made.

(d) FINANCIAL FEASIBILITY.—The Secretary may not provide any assistance under this title to any nonprofit organization unless such nonprofit organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(e) HOME QUALITY AND LOCATION.—A Nehemiah housing opportunity program may be approved under this title only if it provides that—

(1) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(A) the greater of (i) 50 homes; or (ii) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such program; or

(2) each home constructed or substantially rehabilitated under such program will comply with—

(A)(i) applicable local building code standards; or

(ii) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; and

(B) the energy performance requirements established under section 526 of the National Housing Act;

(3) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and areas are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(4) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that if the unit of general local government in which the project is located certifies that such land cannot be made available for a program of the size required by paragraph (1), homes may be constructed in a single identifiable neighborhood if the program provides for construction or substantial rehabilitation of homes on not less than 20 percent of the lots in such neighborhood; and

(5) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this title upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

SEC. 807. PROGRAM SELECTION CRITERIA.

(a) IN GENERAL.—In selecting Nehemiah housing opportunity programs for assistance under this title from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(1) non-Federal public or private entities will contribute land necessary to make each program feasible;

(2) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of homes constructed or substantially rehabilitated under each program;

(3) each program will produce the greatest number of units for the least amount of assistance provided under this title, taking into consideration the cost differences among different market areas;

(4) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition (but not age) of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(5) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(6) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(b) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in paragraph (1) or (2) of subsection (a), the Secretary shall not consider such form of contribution in evaluating such program.

(c) LOWER INCOME BENEFIT REQUIREMENT.—The Secretary shall require that a majority of the funds make available under this title for use within any metropolitan statistical area shall be available only for assistance to families whose incomes do not exceed 95 percent of the higher of are a median income or national median income.

SEC. 808. DISTRIBUTION OF ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) RESERVATION OF AMOUNTS.—Following the selection of any Nehemiah housing opportunity program for assistance under this title, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(b) DISTRIBUTION OF ASSISTANCE.—Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this title, the Secretary shall provide to the sponsoring nonprofit organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(c) MAXIMUM ASSISTANCE.—The assistance provided to any nonprofit organization under this title may not exceed $15,000 per home.

SEC. 809. NEHEMIAH HOUSING OPPORTUNITY FUND.

(a) ESTABLISHMENT.—There hereby is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under section 803.

(b) ASSETS.—The Fund shall consist of—

(1) any amount appropriated under section 812;

(2) any amount received by the Secretary under section 504(b)(4); and

(3) any amount received by the Secretary under subsection (c).

(c) ADMINISTRATION.—Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provisions of this title shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 810. ANNUAL REPORT.

The Secretary shall annually prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this title. Such report shall include—

(1) an analysis of the characteristics of the families assisted under this title during the preceding year, including family size, number of children, family income, sources of family income, race, age, and sex;

(2) an analysis of the market value of homes purchased under this title during the preceding year;

(3) an analysis of the non-Federal public and private financial or other contributions made during the preceding year to reduce the cost of homes constructed or substantially rehabilitated under each program;

(4) an analysis of the sales prices of homes under this title during the preceding year;

(5) an analysis of the amounts of the grants made to programs under this title during the preceding year; and

(6) any recommendations of the Secretary for modifications in the program established by this title in order to ensure the effective implementation of such program.

SEC. 811. REGULATIONS.

The Secretary shall issue such regulations as may be necessary to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

SEC. 812. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this title $75,000,000 for fiscal year 1987. Any amount appropriated under this section shall be deposited in the Nehemiah Housing Opportunity Fund, and shall remain available until expended.

Mr. BARTLETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1600

Mr. BARTLETT. Mr. Chairman, during consideration of the Gonzalez substitute several amendments were adopted. These could be reoffered individually to the Wylie substitute. In order to conserve the time of the House, however, I am offering an amendment which incorporates most of the previously adopted amendments.

Amendments that are incorporated in my amendment are:

Akaka: Use of FHA general insurance fund for Hawaii and Indian tribes.

Wylie: Exclude investors—but no second homes—from FHA Single Family Programs to prevent fraud and abuse.

Annunzio: Delay in implementing HUD's title L regulations.

Wortley: FHA Insurance Demonstration Program for home equity conversion mortgages for the elderly.

Carper: Require HUD to maintain an FHA office in every State.

Kleczka: FHA single family fraud and abuse provisions.

Garcia: Mortgage insurance for hospitals, nursing homes, board and care home, and intermediate care facilities.

Mitchell: Provide incentives for small disadvantaged minority firms to be eligible for UDAG.

Tauke: To prohibit grants for projects that increase market share of nondomestic corporations.

Kanjorski: To provide parity for urban counties in selection process.

Durbin: Temporarily prohibits the closing of an FHA office.

Bartlett: Reorients the use of previously authorized and newly authorized public housing development funds.

Roth: Freestanding Housing Voucher Program.

Manton: Vouchers—Allow vouchers to be used in low-income cooperatives.

Burton of California: Provides statutory exemption for mandatory meals in housing for the elderly as amended by Morrison.

Green: HODAG commitment extension of time.

Gonzalez: Fair market rent clarification for Oregon State Finance Agency.

Smith of Nebraska: Rural very low income clarification using nonmetro statewide median for 50 percent or below for section 502 loans

Chappell: Permit recasting of FmHA loans to reflect lower interest rate.

Conte: Local government consultation for farm labor housing.

Bereuter: Provide a study for mortgage financing in rural areas.

Bartlett: Livability amendments.

Kemp: Right to buy public housing units.

Garcia: Enterprise zones

Schumer: Nehemiah as amended by Roukema.

In addition my amendment incorporates three provisions that were already included in the Gonzalez substitute. They are section 122 on the eligibility for single-family mortgage insurance within the Allegheny Indian Reservation, section 162 establishing a Fair Housing Initiative Program, which is in turn amended by the St Germain amendment to provide testing standards; and section 221 dealing with the management and preservation of HUD-owned Multifamily Housing Projects.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I think that the Green amendment, as so mentioned, would be an implausibility to put into the Wylie bill because there is no HODAG in the Wylie bill, and the Green amendment extends HODAG. So I would leave that one out, and I would not object to any unanimous-consent request to take it out.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Ohio.

Mr. WYLIE. The Green amendment is a technical amendment, and I would think that by reference, it is already included, actually.

Mr. BARTLETT. I would accept the gentleman's suggestion.

MODIFICATION OF AMENDMENT OFFERED BY MR. BARTLETT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WYLIE, AS AMENDED

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to remove the Green amendment from my block of amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Bartlett amendment is modified by striking out all of title VIII of the Bartlett amendment to the amendment in the nature of a substitute offered by Mr. WYLIE.

Mr. BARTLETT. Finally, Mr. Chairman, the amendment adds funds for assisted housing and community development block grants. These funds, this is the Wylie substitute, represent the difference between the Wylie substitute and the funds that he had assumed would be available as a result of the deferral action.

With the revised funding levels, the substitute would include an aggregate for fiscal year 1987 of $11.2 billion. On a comparison basis, this represents a 25-percent reduction from the CBO baseline pricing which is where the Gonzales-McKinney bill stands with no specific dollar authorization.

It is a good substitute; it is a substitute that very clearly draws the issue of funding levels after we have debated all of the other issues in the legislation. I commend the adoption of the block of amendments as well as the Wylie substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT] as modified, to the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. WYLIE], as amended.

The amendment, as modified, to the amendment in the nature of a substitute, as amended, was agreed to.

Mr. McCANDLESS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Wylie substitute amendment.

Mr. Chairman, housing vouchers and the other mix of programs in our substitute will work and will help the poor solve their housing problems quickly, effectively, and inexpensively. By contrast, we have enacted a series of new construction programs for the poor in the last 25 years. Each time we have been disappointed when the program did not work as intended, and each time we've eliminated it and tried another new construction program. In 1961 we enacted the section 221 BMIR Program; in 1968 it was terminated by a Democratic Congress and a Democratic administration because it was too expensive and did not reach the poor people for whom it was intended. In 1968 we enacted section 235 and 236 to replace the section 221 Program. In 1973 a Republican President suspended those programs, and his decision was ratified by a Democratic Congress, because the programs were too expensive for too many homebuyers and apartment building owners were defaulting on their mortgages. It was also unfair; it gave poor people much better housing than the middle-income taxpayers who are paying for it could afford. In 1974 we enacted section 8; in 1983, the New Construction Program was terminated by a Republican administration and a Congress split between the two parties, again because the program was proving to be extraordinarily expensive. Mr. Chairman, unfortunately we do not seem to be able to devise a satisfactory low-income housing construction program. It is time to try something else.

Mr. WATKINS. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, I rise reluctantly, because at first I was going to approach the substitute with a very open mind, until I started looking at some in-depth figures on what has happened to housing in rural America over the last several years, and also the difference between the housing facts and figures of starts that we might have under H.R. 1 or the substitute.

According to what I see, it would be a drastic difference. Probably at least another 50 to 60 percent below what H.R. 1 would allow.

Now let me tell the Members why this is important, Mr. Chairman. Over the last 6 or 7 years, under this administration, we have had a reduction of approximately 60 percent plus in housing in rural America, Under the section 502 program, the single family housing, we have gone from 69,000 units down to 29,000 units; that is a 40,000 reduction.

Under section 504, which is a repair program, it has gone from nearly 13,000 units down to a little over 7,000 units.

Under section 515, we have gone from 29,500 units down to 18,000 units.

So there is an over 60-percent reduction in rural America.

I think it is ironic, Mr. Chairman. Former President Jimmy Carter just sent a letter to some of us, describing a situation he is working in today on Habitat for Humanity. That is a non-profit organization out of Americus, GA, where he and his wife and also a number of other people, Mr. Chairman, are trying to build houses for people. Not only in rural areas, but also in New York.

President Jimmy Carter, in his letter to us telling about the Habitat for Humanity Program of building houses, which he has participated in as a carpenter himself, talked about Amy Spencer from Tennessee; a little lady in a rural area that did not have running water, did not have inside kitchen facilities, did not have inside bathroom facilities; a lady that was living with by far what we would call not even the essentials.

Many people in rural America today do not have those essentials. In fact, as I said in earlier debate, in rural America we have approximately one-third of the population; yet we have 70 percent of the dilapidated housing.

In my area, one of my counties has 10 percent of its homes without running water. Yet, we see 60 percent of it being cut under this administration over the last 6 years, and under this particular substitute, if these figures are correct here, we would see at least another 60 percent—from 52,340 units under H.R. 1 down to 20,000 units under the substitute.

I cannot in good faith go back to the people in rural America or tell my colleagues that represent any communities of less than 20,000, that they are not going to have a whole lot less potential for homes.

In many of these areas, Mr. Chairman, they do not have mortgage finance companies, so we cannot participate under FHA-HUD programs. We do not have savings and loans in many of our counties, so we do not have conventional financing.

Our lone hope happens to be in the rural housing programs under Farmers Home Administration, and over the last 5 or 6 years we have had tremendous cuts. Looking at the figures under the substitute, it looks like there would be another 40- or 50-percent cut.

Mr. McKINNEY. Will the gentleman yield?

Mr. WATKINS. I yield to the gentleman.

Mr. McKINNEY. Mr. Chairman, I want to congratulate the gentleman on his statement. Now, I come from an urban area and I represent the biggest city in the State of Connecticut, and I know what urban poverty is because it is very visible; it is right there in front of us; but is it not true that there are many rural counties that have a higher percentage of their population below the median income?

Mr. WATKINS. Definitely. The gentleman is correct.

Mr. McKINNEY. We just cannot see it in the country; all those beautiful green trees do not mean the people have running water, do not mean the people have inside kitchens, do not mean that people live well, and do not mean that they have even bathrooms.

Mr. WATKINS. They are out of sight and out of mind because they are back off the highways and the byways, and out behind in areas that people cannot see. That does not mean there is not any more poverty; there is a great deal more, and there is a lot more hurt there.

Our one hope in many of these sparsely populated poverty areas happens to be the housing under Farmers Home Administration, and we have already taken more than our share over the last 6 years under this administration.

Mr. McKINNEY. I totally support the gentleman. I totally support him, and I will tell you this: I feel agony for the people of the South Bronx, but anyone from an urban area in this country should visit some of the sections I have been through in West Virginia and see what people have to put up with. We need all the rural housing help we can get in this country.

Mr. WATKINS. Let me say to the gentleman also, when I first came to Congress, I found that HUD did not even keep statistics.

(By unanimous consent, Mr. WATKINS was allowed to proceed for 1 additional minute.)

□ 1610

When I came to Congress, I found HUD did not even keep statistics on communities of less than 2,500 population. They did not even know what our conditions were out there. Finally they added a little division which says small cities in rural areas. But populations of 2,500 or less, that takes in 85 percent of my communities. They were not even recognized by HUD.

How can we get equity and programs if any agency does not even want to recognize us? So if we cut out the Farmers Home Administration housing programs, we would be completely left off; our people could not receive adequate shelter. Today we are asking for, we hope, some kind of equity in the program, and I think H.R. 1 provides that a whole lot more than the Wylie substitute does.

So I thank Chairman GONZALEZ. I would like to ask the chairman to do

better for rural America than he is even doing in H.R. 1.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the chairman.

Mr. GONZALEZ. I thank the gentleman for yielding.

Mr. Chairman, the gentleman knows we are committed to that and have been. We have gone into every single rural area of any consequence from the Eastern Shore to California, Oklahoma, Texas, Minnesota, Wisconsin. We will continue to keep that commitment.

Mr. WATKINS. I thank the chairman. I might bring the gentleman, the chairman of the subcommittee, to the southeastern part of Oklahoma one of these days.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thought maybe I should rise here to correct what could be some misgivings as far as the gentleman from Oklahoma is concerned. Or perhaps I do not want there to be mistakes as far as my own commitment to rural housing.

In the administration's original proposal, there was no new money for rural housing. Now I have almost a billion dollars in my bill, in my substitute for rural housing. The gentleman has correctly stated that that would provide for 20,000 new units for rural housing.

Also, I resisted transferring rural housing to HUD, which was also recommended in the original proposal. I do feel that we need a rural housing program. So I am committed to that, also.

The other point that I would make is that I am also committed to the Farmers Home Administration and the programs of the Farmers Home Administration. There was some talk about phasing that out in some early suggestions by the Office of Management and Budget. There was some talk about reducing the amount to $40,000 or less per year income for persons who could qualify. I thought that was a mistake. I thought it was a mistake to increase users fees.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. Yes; I will yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Chairman, I would like to make one point, and I appreciate the gentleman from Ohio and respect him very much because he made a point, and I would like to commend him and salute him because he has been much more fair about rural housing than what the administration is. The gentleman is correct. The administration sent a proposal or program up with zero financing for rural housing. I want to commend and thank the gentleman for his willingness to always try to move forward with trying to get recognition for rural housing programs and also the Farmers Home program and getting some attention in the right spots. The gentleman has always been very cooperative and helpful there. I know that the gentleman, like many of the rest of them, is reluctant about seeing all these cuts come. But I have had reservations about the substitute because it does reduce housing more than H.R. 1.

But let me say it is a whole lot better than what the administration sent up. I share that with the gentleman.

Mr. WYLIE. I thank the gentleman. I am glad he did not want the impression left that I was not for rural housing, a viable rural housing program.

The other point I would make really is that if you want a true authorization bill, one in which the House Banking Committee and the Housing Subcommittee work their will, you will vote for my substitute, because as I go through here in the area of community block grant, the Gonzalez-McKinney bill says "and such funds as may be provided." That leaves it up to the Appropriations Committee to determine what the funding levels for these programs would be.

In the urban development action grant, it says "and such funds as may be provided."

We go on over here, and in the area of neighborhood development demonstration programs, it says "and such funds as may be provided."

Now we do not know for sure what the funds would be provided for by the Appropriations Committee, but we are not setting limits as I think we should.

In the fair housing program, the initial program authorization, it says "such funds as may be provided." In the housing assistance program, lower-income housing authorization "shall be increased by such funds as may be provided." We go on over here to another section of the bill, and this is the section which has to do with the voucher program in the bill. It says for operating subsidies, rather, "and such funds as may be provided."

The bill says "and such funds as may be provided under other housing assistance programs in title LXXX of the bill."

We go on over and we have to look now to the section which provides for initial allocation of assistance, and it says "such funds as may be provided."

Well, I think I have made the point. Then it all ends up in the authorization of appropriation, it says "is hereby authorized to carry out the provisions of this title under regulation such sums as may be provided."

Now, Mr. Chairman, as I say, I think that the House Banking Committee and the Housing Subcommittee ought to face its responsibility. If we want a true authorization bill and not shift the burden of responsibility or the determination of how much money should be provided for these programs, we ought to adopt the Wylie substitute.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to comment that I certainly have never been in the Congress of the United States where it has not been "such sums as are provided." I think we are a great deal more honest in this bill than the Housing Committee has been in many years that I have been on it. In the days of many of our past chairmen, when we authorized 240,000, 450,000, and we built 30; we are simply stating the facts of the matter, that there is going to be a budget which has not been voted on yet, there is going to be an appropriation which has not been voted on yet, and that will determine the "such sums" as are provided. That is what we will have to live by and our bill does live by.

I would suggest that is a great deal more honest, in many ways, than stating that we are going to have 70,000 vouchers.

We have had the voucher program experimentally in the United States of America, and HUD cannot figure out how to use 12,000 of them. I mean it is a ridiculous program. It may be just dandy in places, but it is not certainly dandy across the country or they would have been used; out of the 30,000 we have given them to play with, to demonstrate with, to experiment with, they have used 12,000.

So I think to state in units that we are going to supply all this housing because we are giving vouchers is really another form of just simply saying "well, won't it be nice if everybody can get a voucher and then everybody can get a house," which they cannot.

Mr. Chairman, I yield back the balance of my time.

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Wylie substitute. I do so for a number of reasons. First of all, let it be clear to every Member of this House that both the Bartlett and Kemp amendments are in the existing bill. The Wylie substitute made an effort at the last minute to add them on, but they were Johnny-come-lately's because the House bill had them in since yesterday. So if aging is any process, we have had them in longer, and they have cooked and fermented. Bartlett and Wylie are in this House bill. So this is not a referendum on that issue at all. It is, however, a referendum on a few other issues which I think are rather important and Members of this House should know about.

My good colleague from Oklahoma mentioned rural housing, which has been decimated in the last several years. H.R. 1, the Gonzalez-McKinney bill, tries to not be too unfair to one part of the country in reference to another. There is urban money and there is rural money.

The Wylie substitute slashes rural housing, 20,000 units as opposed to 52,340 units. That is quite a difference.

So our bill, the Gonzalez-McKinney bill, more than doubles the number of rural America.

Second, what about the senior citizens? How many of us have senior citizens, section 8, public housing who are now paying 30 percent of their income for rent? When you are just getting a Social Security check, 30 percent is a heck of a lot to pay. Our good colleague from southern Illinois, Mr. GRAY, had the foresight to put in an amendment that said bring that down to 25 percent. This House concurred. It was the will of this House to put in that amendment, 277 to 137.

The Wylie substitute, in a coldhearted and uncaring manner, eliminates the Gray amendment despite the fact that it is the will of this House, and every senior citizen in America, I would bet, who cares about this issue is plugging for Gonzalez-McKinney.

What about section 8? Thousands of localities across this country have benefited from section 8. Moderate, rehabilitation section 8; it says if a building is on its way to deterioration, do not build something new, we will give you money to rehabilitate it. The Wylie substitute, it is not there. This bill, it is right in there.

What about UDAG? We have a UDAG formula which has been worked out in a bipartisan way to restore an equitable balance in funding. I am from the Northeast, but I think the South and the West have not gotten enough in UDAG programs; and that is one of the reasons it has political liabilities.

We try to restore that balance in our substitute. But the Wylie amendment, a "yes" vote on the Wylie amendment, is a vote against the South and the West on UDAG.

Let me say one final thing: budget matters. The good gentleman from Ohio whose integrity I respect enormously has said "such sums as may be appropriated." This House has voted on a budget. The Housing Committee every year has met that budget. Such so that we have gone down from $31 billion to $9 billion in assisted housing. In this bill, as it appropriately should be, the first section, section 2—that is the first section because the first section is the table of contents—that says that every single program in this bill must meet the House-passed budget. That is not profligate.

Housing took it again on the chin in this budget.

So this is a thoroughly responsible document. It is a document that has many good things. Nehemiah is in the Gonzalez-McKinney bill. I am grateful it was added into the other, but it does not undo all the other things that were done in the substitute.

So I would summarize to my colleagues: the Gonzalez-McKinney bill restores the Gray amendment for senior citizens, keeps rural housing at not a very good level but a level more than double as good as the Wylie substitute; keeps moderate 8 rehabilitation, distributes UDAG more equitably across the country.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 30 additional seconds.)

Mr. SCHUMER. I say to my colleagues it is a fair bill, it is a decent bill. The House has moved its will on so many of the issues. It deserves to be supported. Do not support the Wylie substitute; support the bipartisan Gonzalez-McKinney bill.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has again expired.

(On request of Mr. WYLIE and by unanimous consent, Mr. SCHUMER was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Ohio.

Mr. WYLIE. I want to correct a couple of things. One, the gentleman indicated that my UDAG formula would do harm to the South and West. I would respectfully suggest that that is not accurate. Most of the money under the UDAG formula at the present time, 65 percent based on distress, older cities, and so forth, 35 percent based on merit, has gone to the Northeast quadrant of the United States. What my amendment was supposed to do is to base 50 percent of all the UDAG Program on merit. I think the South and West will benefit.

The second thing is that the 30 percent of income which would go to pay for elderly housing was a negotiated figure, as the gentleman from Texas [Mr. GONZALEZ] said. It has been estimated that the Gray amendment will cost somewhere in the neighborhood of $456 million. Now where does that come from? That is another point that I think should be made here. It is all well and good to suggest that these people are not being treated fairly.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has again expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 30 additional seconds.)

□ 1625

Mr. WYLIE. Mr. Chairman, I think we ought to determine under the budget process where the money is coming from, rather than come in with an amendment which would cost in the neighborhood of $456 million. That ought to at least be the subject of debate in a conference arrangement.

Mr. LEVIN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would like to have a colloquy with the chairman of the subcommittee since the gentleman from New York brought up section 8 housing.

There is a set-aside of section 8 housing for rural America. But, one, HUD is not setting it aside. The Farmers Home Administration is not insisting on utilizing it.

I would like to ask the chairman's help and the committee's help in getting HUD to make sure there are set-asides, we alert the Farmers Home Administration, and that we insist the Farmers Home Administration use those section 8 set-asides.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I was sure the gentleman was aware that we had been trying to lasso and saddle the Farmers Home Administration on this rural set-aside on section 8. This is what we are on.

I pledge again to the gentleman that, with himself, we are going to stay on until we get a favorable decision.

Mr. LEVIN of Michigan. Mr. Chairman, briefly, the major differences relate to this: About $2.5 billion for urban and $1 billion for rural between the two proposals.

Mr. Chairman, it was interesting to hear the gentleman from California talk about the previous programs, how they were too expensive, how we had shifted to other programs, and then the gentleman wound up by saying it is time to try something else.

But what is the something else? The something else is essentially nothing. It is no new creative program. It is vouchers.

As the gentleman from Connecticut has already said, that program is not working and the administration proposed to abolish it right after they started it.

So it is one thing to talk about past programs and they have not worked

very well. Some of them have and some of them have not. But this is essentially a nihilistic approach, just take the big ax and cut it all off and cut it out of the budget.

The same is true as to rural housing. And what is the defense? the defense is, well, we are not as bad as the administration's proposal, a half a loaf, really a few crumbs for rural housing needs.

I was reading an article a few weeks about what is happening in England, about two Englands, the very wealthy and everybody else. We are in real danger here of ignoring the housing needs of low- and middle-income America.

The Gonzalez-McKinney substitute is modest. The Wylie substitute is an abdication. I urge that we reject it.

(By unanimous consent, Mr. WYLIE was allowed to proceed out of order for 1 minute.)

TRIBUTE TO THE STAFF OF THE SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Mr. WYLIE. Mr. Chairman, before we move to final passage on H.R. 1 and the substitute that is before us, I want to take a moment to recognize the hard work of all of the members of the staff of the Subcommittee on Housing and Community Development.

This has been a very long and arduous process and, without our able staff, we would not be able to meet our responsibilities.

In particular, I want to recognize Jerry McMurray, Diane Dorius, Bonnie Caldwell, Frank Destefano, Bob Ruddy, Joe Ventrone, and David Kiernan. Our thanks also go to Ira Forstater of the Legislative Counsel's Office for his valuable legal assistance.

In conclusion, I want to extend my gratitude and thanks to Marilyn Donahue and Kay Smith of our staff for the long hours and the hard work that they have given in support of us.

Mr. Chairman, I think that the entire House owes these staffers a debt of gratitude.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to add to the gentleman's remarks and simply say that I have seen more of the staff recently than I have seen of my own children or my wife. I do not find them quite as satisfying or as pleasant, but I find them exceptional people, all of them. I thank them all.

Mr. DAUB. Mr. Chairman, I appreciate this opportunity to lend my support to the Wylie substitute—H.R. 4757—to the omnibus housing authorization bill. This measure is true authorizing legislation in that it sets specific funding levels for housing programs and generally reflects essential budgetary restraint. On the other hand, the Gonzalez substitute, H.R. 4746, does not authorize specific funding levels and would thus exacerbate the problem of overspending through the appropriations process.

In this regard, it is interesting to note that an amendment was accepted in the Banking Committee by the majority that would reduce the aggregate funding in the Gonzalez substitute to fiscal 1985 appropriations levels. However, when it came to actually accomplishing this goal, the majority defeated amendments to reduce specific line item numbers to 1985 levels.

The Gonzalez substitute is thus not authorizing legislation in the true sense of the word; it is more than three-quarters of a billion dollars over the fiscal 1985 appropriated level. This funding is unacceptable in view of the budget deficit and the consensus in the Congress to maintain the authorization at 1985 levels.

Thus, I am constrained to support the Wylie substitute because it sets specific funding levels. I do have a concern, however, that this substitute does not take into account the fact that many of the administration's proposed deferrals will probably not be accepted by Congress; because of this, the Wylie bill sets funding for community development block grants [CDBG's] at a level below the 1985 appropriated level.

I do not support the deferral of 1986 CDBG funds and have signed onto House Joint Resolution 541, a bill that overrides the administration's proposal in this area. I have heard from several of my constituents in Nebraska's Second Congressional District on the benefits of the CDBG Program, and I thus support an authorization on par with fiscal 1985 levels.

Further, I also have a concern that the Wylie substitute does not reauthorize the section 312 rehabilitation loan program or the section 235 home ownership program. My congressional district has been a leader in the utilization of these programs, and I support their continued viability.

Finally, Mr. Speaker, I want to take this opportunity to explain my vote to eliminate urban development action grants [UDAG's]. While I recognize that this program has funded beneficial projects in my district, I nonetheless view the elimination of UDAG's as a positive step toward allowing the Department of Housing and Urban Development [HUD] to more effectively utilize its limited resources.

During the 8-year history of UDAG's, one congressional district alone has received more UDAG money—$112 million—than what 145 congressional districts combined have received—$87 million; the combined total to the top eight UDAG winners exceeds by $150 million the combined awards to 226 congressional districts; and the top six UDAG States have received about the same amount as the rest of the Nation combined.

The current formula for UDAG's is based on 70 percent impaction and distress in the project area, and 30 percent based on the merit and quality of the project. This formula has the effect of largely skewing the distribution of UDAG's in favor of projects—whether they are meritorious or not—in favor of the Northeast and Midwest—east of the Mississippi River—areas of the United States.

Clearly, then, it would be in the best interests of the Nation as a whole to eliminate or reform a program that favors certain regions over others. I regret that an amendment was defeated during debate on this bill—offered by my colleague from Nebraska, Mr. BEREUTER—that would have reformed the UDAG formula in order to distribute more funding west of the Mississippi under the program. However, since this body is not amenable to changing the formula and thus for more equity, I feel the program should be eliminated in order to allow HUD to more effectively utilize its resources.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of the committee language of the Housing Act of 1986. I believe this legislation addresses many critical housing and community development issues that we face nationwide.

I am an ardent proponent of a number of programs extended by this legislation including Community Development Block Grants [CDBG] and Urban Development Action Grants [UDAG], which play a critical role in helping local governments in urban and rural areas to address their community development needs. The revised formula for UDAG selection will assure a fairer allocation of funds throughout the country, particularly in the South and Southwest. I have witnessed the success of these programs in my own district and can attest that the concept of public/private partnership has served us well.

The amendment Mr. WYLIE is offering, in the nature of a substitute, limits funding for both CDBG and UDAG at levels which are far from adequate for many deserving communities that are applying for these grants and should be soundly defeated. It would also eliminate programs which are vital to the sustained growth of the housing industry such as the Housing Rehabilitation Loan Program, Neighborhood Development Demonstration Project, Solar Energy and Energy Conservation Bank, Fair Housing Initiative and the Federal Crime Insurance Program. I believe the elimination of these programs, and the restrictions on UDAG and CDBG funding, are clearly unconscionable and I urge my colleagues to join with me in strongly opposing the Wylie amendment.

Mr. RODINO. Mr. Chairman, I rise to urge our passage of H.R. 1, the Housing Act of 1986. Our colleagues on the Banking, Finance and Urban Affairs Committee, and particularly the distinguished chairman of its Subcommittee on Housing and Community Development, Mr. GONZALEZ, have worked with diligence and dedication to bring to the floor this important and long overdue measure.

H.R. 1 will enable fulfillment of the Federal Government's 50-year commitment to the goal of making home ownership possible for average families and providing decent, low-cost housing for poor Americans. Unfortunately, since the beginning of this administration, President Reagan's budget proposals have been designed to subvert and destroy this goal. This year his budget recommendations would deny the opportunity for home ownership to hundreds of thousands of American families and all but eliminate housing assistance for the poor.

Each year Congress has, wisely, provided more funding than the administration requested. But despite this, it is appalling to realize

that HUD housing assistance funds have been reduced by 64 percent since 1981, and housing programs in the Farmers Home Administration have been reduced by 43 percent. Moreover, the administration has succeeded in requiring low-income tenants to pay a larger share of their income in rent, and virtually all new construction and substantial rehabilitation programs by HUD have been eliminated.

Mr. Chairman, H.R. 1 offers us the opportunity to start to turn back the administration's attack on Federal housing assistance and to reaffirm our commitment to providing essential aid for the housing needs of all Americans.

The committee's bill would extend a number of programs that have provided vital assistance to my district and the State of New Jersey. I am glad to note the continued authorizations for the Community Development Block Grants and Urban Development Action Grants Programs; the rental rehabilitation and rental development [HODAG] grant programs; the section 8 housing assistance program; the public housing operating funds program; the Urban Homesteading Program; the section 202 program for the elderly and handicapped; and the Crime Insurance Program. The committee is to be commended for including an authorization for a new public housing modernization program.

In addition, the bill deals with the growing problem of shelter for the homeless by establishing a National Emergency Food and Shelter Board in HUD to oversee operations of the existing emergency food distribution and shelter program and to administer two new shelter programs. One would demonstrate the development of support services for the homeless and the other would provide Federal aid to supplement the efforts of State, local, and charitable shelter programs.

During our debate on H.R. 1, several amendments were adopted which have improved the measure.

The amendment offered by our distinguished colleague from Illinois, Mr. GRAY, will provide some desperately needed help for our senior citizens by reducing tenant rental contributions from the elderly in public housing from 30 to 25 percent of adjusted income. This 5 percent difference will make it possible for many senior citizens to afford living in public housing instead of moving or remaining in substandard accommodations.

The distinguished chairman of our House Select Committee on Aging, Mr. ROYBAL, offered a most essential amendment to negate the harsh effects of new HUD regulations that impose, retroactively, strict documentary requirements proving eligibility on all present tenants of public housing. The unwise regulations, scheduled to be implemented on July 31, will create a horrendous and costly paperwork burden for public housing authorities working with already limited operating funds. They will be a nightmare for people already living in housing under previous HUD regulations. For example, it would require elderly residents who may have been born at home and have no birth certificates to somehow prove citizenship, and force eviction of an entire family if one member is an alien with an unadjusted residency status. Clearly, the HUD regulations are unfair, unwise, and unduly costly, and this amendment will prevent hardship and unnecessary expenditure of funds.

I also strongly support the innovative amendment offered by the distinguished Delegate from the District of Columbia, Mr. FAUNTROY, as amended. This would authorize a pilot program to encourage the management of public housing projects by residents and to provide for tenant participation in modernization activities in resident-managed projects. It has been demonstrated that involvement of tenants in maintenance, improvement and management of public housing has very positive effects on the buildings, environment and quality of life in such developments.

Mr. Chairman, this bill addresses our Nation's housing needs wisely and fairly, with both compassion and common sense, and I urge its passage.

Mr. BONKER. Mr. Chairman, I rise in support of H.R. 4746, the amendment offered by my distinguished colleagues Mr. GONZALEZ and Mr. MCKINNEY to H.R. 1. As chairman of the Subcommittee on Housing and Consumer Interests of the Select Committee on Aging, I commend the efforts of the chairman and the Ranking Minority Member in continuing to provide for the housing needs of this Nation's low-income elderly.

In recent years, housing has become an integral component in the network of community-based long-term care. As the number of this Nation's older citizens continues to increase, housing programs—and the public policy underlying these programs—have taken on additional significance. Increasing numbers of frail elderly are struggling against insurmountable odds to continue to live independently.

The substitute before us today would reauthorize all the HUD assisted housing programs and once again reaffirm our commitment to a strong Federal presence in the housing market. The section 202 program, section, 8, public housing, rural housing programs of the FmHA, and the Congregate Housing Services Program have been remarkably successful, and have served a vital role in sheltering the elderly. I am gratified to see that the amendment, at the very least, maintains our present commitment to these important programs, especially those which benefit older persons.

I commend the sponsors of this amendment for reauthorizing the section 202 program. Over the years this program has become the most visible Federal financing vehicle for building rental housing for older persons. The program has been targeted to the unique needs of the elderly and handicapped by incorporating design features that enhance their well being and independence. Since its inception in 1974, section 202 has produced over 95,000 units of housing for the elderly over 1,458 projects nationwide.

Additionally, I want to acknowledge the support in this amendment for the continuation of the Congregate Housing Services Program. Through the provision of basic supportive services, this program can often mean the difference between independence and institutionalization for many frail elderly persons. Preliminary studies by our subcommittee indicate that the program has been successful in preventing premature institutionalization and containing both Medicare and Medicaid costs that would otherwise be associated with maintaining an individual in long-term care facilities.

Finally, I wish to commend the sponsors of this measure for agreeing to include an amendment to establish a demonstration program on home equity conversion which was offered by a distinguished member of our subcommittee, Mr. WORTLEY. Statistics alone point out the opportunity posed by home equity conversion. Today, nearly 13 million of this Nation's homes are owned by older Americans. For the majority of these homeowners, the equity they have accumulated represents their single largest asset. This demonstration project can help prove the feasibility of developing ways for older individuals to unlock this equity while remaining in their homes, and provides the necessary consumer safeguards to protect their interests.

Mr. Chairman, as a nation, we have always been committed to certain goals which would enhance the quality of life for our older citizens. Certainly, safe and affordable housing must be included among these goals. As the chairman of the Subcommittee on Housing and Consumer Interests of the House Aging Committee, I would argue that a strong and continued Federal commitment to assisted housing for our low-income and elderly is an absolute necessity, and I urge my colleagues to support this amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 4757, the substitute for the Housing Act of 1986 (H.R. 4746), offered by the distinguished ranking minority member of the full committee, Mr. WYLIE.

I think that the Gonzalez-McKinney bill has some fine proposals, but I am troubled about its lack of specific authorization levels. Even though we have a Congressional Budget Office [CBO] estimate, the bill's cost could increase if the many such sums authorization levels receive appropriations which exceed current program levels. In contrast to the Gonzalez-McKinney bill, Mr. WYLIE's bill does provide specific authorization levels for HUD and FmHA housing programs—$11.2 billion which would provide 101,500 units of housing.

For almost 50 years the Federal Government has been committed to ensuring the availability of adequate and affordable housing. And since 1959, we have added a further objective—to assist the elderly in their pursuit of safe, appropriate, and affordable housing. The continued need for housing for the elderly has been established in numerous hearings before the Housing Subcommittee of the Select Committee on Aging, on which I serve. Mr. WYLIE'S bill will provide 11,500 new units of section 202 housing for the elderly. It also provides $3 million for the Congregate Housing Services Program.

Both the elderly and families would benefit from Mr. WYLIE'S proposal for public housing which curtails the new construction of public housing units and increases modernization funds by 17 percent. Channeling public housing funds for modernization instead of new construction has a number of benefits. According to the staff at HUD, the average cost of comprehensive modernization is $6,570 for one unit of public housing. The average capital cost of one unit of new construction is $57,000. It is pretty clear from these figures

that using public housing funds for modernization will provide substantially more units. In addition, rehabilitated units come on line 12 to 20 months sooner than new construction. And, modernizing existing public housing also improves the neighborhoods and morale of the tenants and their neighbors in the local communities.

Although I would have preferred to see less reliance on vouchers in the bill, I am pleased that there are enough vouchers to assist 70,000 additional families. I want to compliment Mr. WYLIE for the changes in the Urban Development Action Grant [UDAG] criteria which will give communities in the South and West a greater opportunity to compete for this important funding. I know that Mr. GONZALEZ has also changed the formula in his bill, with a similar objective in mind. I'm pleased that this bill prohibits user fees for GNMA, FNMA, and FHLMC.

I urge my colleagues to support the Wylie substitute. It's time that we pass an independent housing authorization bill.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. WYLIE], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WYLIE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 164]

Ackerman	Boehlert	Coats
Akaka	Boggs	Cobey
Alexander	Boland	Coble
Anderson	Bonior (MI)	Coelho
Andrews	Bonker	Coleman (MO)
Annunzio	Borski	Coleman (TX)
Anthony	Boucher	Collins
Applegate	Boulter	Combest
Archer	Brooks	Conte
Armey	Broomfield	Conyers
Aspin	Brown (CA)	Cooper
Atkins	Brown (CO)	Coughlin
AuCoin	Broyhill	Courter
Barnard	Bruce	Coyne
Barnes	Bryant	Craig
Bartlett	Burton (CA)	Crane
Barton	Burton (IN)	Crockett
Bateman	Bustamante	Daniel
Bates	Byron	Dannemeyer
Bedell	Callahan	Darden
Beilenson	Campbell	Daschle
Bennett	Carper	Daub
Bentley	Carr	de la Garza
Bereuter	Chapman	DeLay
Berman	Chappell	Dellums
Bevill	Chappie	Derrick
Biaggi	Cheney	DeWine
Bilirakis	Clay	Dickinson
Bliley	Clinger	Dicks
Dingell	Kolbe	Regula
DioGuardi	Kolter	Reid
Dixon	Kostmayer	Richardson
Donnelly	Kramer	Ridge
Dorgan (ND)	LaFalce	Rinaldo
Dornan (CA)	Lagomarsino	Ritter
Downey	Lantos	Roberts
Dreier	Latta	Robinson
Duncan	Leach (IA)	Rodino
Durbin	Leath (TX)	Roe
Dwyer	Lehman (FL)	Roemer
Dymally	Leland	Rogers
Dyson	Lent	Rose
Eckart (OH)	Levin (MI)	Rostenkowski
Eckert (NY)	Levine (CA)	Roth
Edgar	Lewis (FL)	Roukema
Edwards (CA)	Lightfoot	Rowland (CT)
Edwards (OK)	Lipinski	Rowland (GA)
Emerson	Livingston	Roybal
English	Lloyd	Rudd
Erdreich	Loeffler	Russo
Evans (IA)	Long	Sabo
Evans (IL)	Lott	Savage
Fascell	Lowry (WA)	Saxton
Fawell	Lujan	Schaefer
Fazio	Lungren	Scheuer
Feighan	Mack	Schneider
Fiedler	MacKay	Schroeder
Fields	Madigan	Schuette
Fish	Manton	Schulze
Florio	Markey	Schumer
Foley	Martin (IL)	Seiberling
Ford (MI)	Martin (NY)	Sensenbrenner
Frank	Martinez	Sharp
Franklin	Matsui	Shaw
Frenzel	Mavroules	Shelby
Fuqua	Mazzoli	Shumway
Gallo	McCain	Sikorski
Garcia	McCandless	Siljander
Gaydos	McCloskey	Sisisky
Gejdenson	McCollum	Skeen
Gekas	McCurdy	Skelton
Gibbons	McDade	Slattery
Gilman	McEwen	Slaughter
Gingrich	McGrath	Smith (FL)
Glickman	McHugh	Smith (IA)
Gonzalez	McKernan	Smith (NE)
Goodling	McKinney	Smith (NJ)
Gordon	McMillan	Smith, Denny (OR)
Gradison	Meyers	Smith, Robert (NH)
Gray (IL)	Mica	Smith, Robert (OR)
Gray (PA)	Michel	Snowe
Green	Mikulski	Snyder
Gregg	Miller (OH)	Solarz
Guarini	Miller (WA)	Solomon
Gunderson	Mineta	Spence
Hall (OH)	Mitchell	St Germain
Hall, Ralph	Molinari	Staggers
Hamilton	Monson	Stallings
Hammerschmidt	Montgomery	Stangeland
Hansen	Moorhead	Stenholm
Hatcher	Morrison (CT)	Stokes
Hawkins	Morrison (WA)	Strang
Hayes	Mrazek	Stratton
Hefner	Murphy	Studds
Heftel	Murtha	Stump
Hendon	Myers	Sundquist
Henry	Natcher	Sweeney
Hertel	Neal	Swift
Hiler	Nelson	Swindall
Holt	Nichols	Synar
Hopkins	Nielson	Tallon
Horton	Oakar	Tauke
Howard	Oberstar	Tauzin
Hoyer	Obey	Taylor
Huckaby	Olin	Thomas (CA)
Hughes	Ortiz	Thomas (GA)
Hunter	Owens	Torres
Hutto	Oxley	Torricelli
Hyde	Packard	Towns
Ireland	Panetta	Traficant
Jacobs	Parris	Traxler
Jeffords	Pashayan	Udall
Jenkins	Pease	Valentine
Johnson	Penny	Vander Jagt
Jones (NC)	Pepper	Vento
Jones (TN)	Perkins	Visclosky
Kanjorski	Petri	Volkmer
Kaptur	Pickle	Vucanovich
Kasich	Porter	Walker
Kastenmeier	Price	Watkins
Kemp	Pursell	Waxman
Kennelly	Quillen	Weaver
Kildee	Rahall	Weber
Kindness	Rangel	Weiss
Kleczka	Ray	Wheat
		Whitehurst
		Whitley
		Whittaker
		Whitten
		Williams
		Wilson
		Wise
		Wolf
		Wolpe
		Wortley
		Wright
		Wyden
		Wylie
		Yates
		Yatron
		Young (FL)
		Zschau

□ 1650

The CHAIRMAN. Three hundred ninety-two Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio [Mr. WYLIE] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 262, not voting 40, as follows:

[Roll No. 165]

AYES—131

Archer	Gunderson	Pashayan
Armey	Hammerschmidt	Penny
Barnard	Hansen	Petri
Bartlett	Henry	Porter
Barton	Hiler	Pursell
Bentley	Holt	Quillen
Bereuter	Hopkins	Roberts
Bevill	Hunter	Roukema
Bliley	Hutto	Rudd
Boulter	Hyde	Schaefer
Broomfield	Ireland	Sensenbrenner
Brown (CO)	Jenkins	Shaw
Broyhill	Kasich	Shumway
Burton (IN)	Kemp	Shuster
Callahan	Kindness	Siljander
Campbell	Kolbe	Skeen
Carr	Kramer	Slaughter
Chappie	Lagomarsino	Smith (NE)
Cheney	Latta	Smith, Denny (OR)
Coats	Leach (IA)	Smith, Robert (NH)
Cobey	Lightfoot	Smith, Robert (OR)
Coble	Livingston	Snyder
Combest	Loeffler	Solomon
Craig	Lott	Spence
Crane	Lujan	Strang
Daniel	Lungren	Stump
Dannemeyer	Mack	Sundquist
Darden	Martin (IL)	Sweeney
Daub	McCain	Swindall
DeLay	McCandless	Tauke
DeWine	McCollum	Taylor
Dickinson	McEwen	Thomas (CA)
Dornan (CA)	Meyers	Vander Jagt
Dreier	Michel	Vucanovich
Eckert (NY)	Miller (OH)	Walker
Edwards (OK)	Miller (WA)	Weber
Evans (IA)	Monson	Whittaker
Fawell	Montgomery	Wolf
Fiedler	Moorhead	Wylie
Fields	Myers	Young (FL)
Frenzel	Nichols	Zschau
Gingrich	Nielson	
Goodling	Oxley	
Gradison	Packard	
Gregg	Parris	

NOES—262

Ackerman	Berman	Carper
Akaka	Biaggi	Chapman
Alexander	Bilirakis	Chappell
Anderson	Boehlert	Clay
Andrews	Boggs	Clinger
Annunzio	Boland	Coelho
Anthony	Bonior (MI)	Coleman (MO)
Applegate	Bonker	Coleman (TX)
Aspin	Borski	Collins
Atkins	Boucher	Conte
AuCoin	Brooks	Conyers
Barnes	Brown (CA)	Cooper
Bateman	Bruce	Coughlin
Bates	Bryant	Courter
Bedell	Burton (CA)	Coyne
Beilenson	Bustamante	Crockett
Bennett	Byron	Daschle

de la Garza	Kildee	Roemer
Dellums	Kleczka	Rogers
Derrick	Kolter	Rose
Dicks	Kostmayer	Rostenkowski
Dingell	LaFalce	Roth
DioGuardi	Lantos	Rowland (CT)
Dixon	Leath (TX)	Rowland (GA)
Donnelly	Lehman (FL)	Roybal
Dorgan (ND)	Leland	Russo
Downey	Lent	Sabo
Duncan	Levin (MI)	Savage
Durbin	Levine (CA)	Saxton
Dwyer	Lewis (FL)	Scheuer
Dymally	Lipinski	Schneider
Dyson	Lloyd	Schroeder
Eckart (OH)	Long	Schuette
Edgar	Lowry (WA)	Schulze
Edwards (CA)	MacKay	Schumer
Emerson	Madigan	Seiberling
English	Manton	Sharp
Erdreich	Markey	Shelby
Evans (IL)	Martin (NY)	Sikorski
Fascell	Martinez	Sisisky
Fazio	Matsui	Slattery
Feighan	Mavroules	Smith (FL)
Fish	Mazzoli	Smith (IA)
Florio	McCloskey	Smith (NJ)
Foley	McCurdy	Snowe
Ford (MI)	McDade	Solarz
Frank	McGrath	St Germain
Franklin	McHugh	Staggers
Frost	McKernan	Stallings
Fuqua	McKinney	Stangeland
Gallo	McMillan	Stenholm
Garcia	Mica	Stokes
Gaydos	Mikulski	Stratton
Gejdenson	Mineta	Studds
Gekas	Mitchell	Swift
Gibbons	Molinari	Synar
Gilman	Morrison (CT)	Tallon
Glickman	Morrison (WA)	Tauzin
Gonzalez	Mrazek	Thomas (GA)
Gordon	Murphy	Torres
Gray (IL)	Murtha	Torricelli
Gray (PA)	Natcher	Towns
Green	Neal	Traficant
Guarini	Nelson	Traxler
Hall (OH)	Oakar	Udall
Hall, Ralph	Oberstar	Valentine
Hamilton	Obey	Vento
Hatcher	Olin	Visclosky
Hawkins	Ortiz	Volkmer
Hayes	Owens	Watkins
Hefner	Panetta	Waxman
Heftel	Pease	Weaver
Hendon	Pepper	Weiss
Hertel	Perkins	Wheat
Horton	Pickle	Whitehurst
Howard	Price	Whitley
Hoyer	Rahall	Whitten
Huckaby	Rangel	Williams
Hughes	Ray	Wilson
Jacobs	Regula	Wise
Jeffords	Reid	Wolpe
Johnson	Richardson	Wortley
Jones (NC)	Ridge	Wright
Jones (TN)	Rinaldo	Wyden
Kanjorski	Ritter	Yates
Kaptur	Robinson	Yatron
Kastenmeier	Rodino	
Kennelly	Roe	

NOT VOTING—40

Badham	Gephardt	Mollohan
Boner (TN)	Grotberg	Moody
Bosco	Hartnett	Moore
Boxer	Hillis	Nowak
Breaux	Hubbard	O'Brien
Carney	Jones (OK)	Skelton
Chandler	Lehman (CA)	Spratt
Davis	Lewis (CA)	Stark
Dowdy	Lowery (CA)	Walgren
Early	Luken	Wirth
Flippo	Lundine	Young (AK)
Foglietta	Marlenee	Young (MO)
Ford (TN)	Miller (CA)	
Fowler	Moakley	

The Clerk announced the following pairs:

On this vote:

Mr. Lewis of California for with Mr. Foglietta against.

Mr. Hartnett for with Mr. Moakley against.

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

□ 1700

Mr. BARTLETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise at this late point in the debate not to take a full 5 minutes, but merely to take 3 minutes at the end of several days of arduous debate on the House floor and 18 months of debate in the Banking Committee to put a bit of what we have done in perspective, because what has happened in the last several days on the House floor has been a change.

It seems to me that for the first time in perhaps decades the House has agreed to change the status quo of assisted housing in this country, and that Congress has agreed to face in some way the realities of the 1980's.

The legislation is not unanimous, it is not perfect, but we have some bipartisan decisions, and some hard decisions. We have listened to people in public housing. It is not perfect, but perhaps it shows a new direction.

Mr. Chairman, this House has changed some of the housing policies of the country in the last 3 days, not all of them, but we have changed some things that I think in the context of the total bill we ought to stop and reflect on before we vote.

We have agreed to make repair and modernization of public housing a priority, and we have agreed that we will repair the existing units before we build more. We have agreed to a new program called Nehemiah that provides for home ownership opportunities as a priority for low-income families. We have agreed to tenant management and tenant ownership in public housing, and enterprise zones, and comprehensive grants to deregulate the repair and modernization and to get HUD out of the business of selecting the details, but to move the local governments into the business of managing local housing.

We have provided for improvements in tenant livability and reforms. We have still not resolved the funding issue.

There will be a motion to recommit with instructions to reduce the funding which I plan to vote for, but, Mr. Chairman, it is too early to tell as to whether this will be permanently a new direction in housing. But I think we have faced some realities. It may be the dawn of a new day in Federal housing policies.

The bill is not perfect, but I plan to vote for this new housing bill that we have before us, and I recommend that my colleagues do the same.

The CHAIRMAN. If there is no further debate, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. AUCOIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to amend and extend certain laws relating to housing, and for other purposes, pursuant to House Resolution 450, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WYLIE. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WYLIE moves to recommit the bill H.R. 1 to the Committee on Banking, Finance and Urban Affairs with instructions to report back the same forthwith with the following amendments (specifying page and line numbers to the text of H.R. 4746):

Page 3, after line 8, insert the following new subsection (and redesignate the subsequent subsection accordingly):

(b) FISCAL YEAR 1987.—This Act and the amendments made by this Act may not be construed to provide for new budget authority for fiscal year 1987 in excess of the aggregate amount of budget authority provided for the programs authorized by this Act and the amendments made by this Act in appropriation Acts for fiscal year 1986, as reduced—

(1) by any special order issued by the President for fiscal year 1986 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. 99-177; 2 U.S.C. 902); and

(2) to take into consideration the revisions in financing methods made by the amendments in sections 203 and 207.

Page 3, line 2, strike "IN GENERAL" and insert "FISCAL YEAR 1986".

Page 3, line 5, strike "or 1987".

Mr. WYLIE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. WYLIE] is recognized for 5 minutes in support of his motion to recommit.

Mr. WYLIE. Mr. Speaker, my motion to recommit H.R. 1 with instructions is quite simple and very easily explained. Where H.R., 1 in its present form represents an open-ended authorization, my motion to recommit imposes a fiscal year 1987 freeze of aggregate authorization levels at last year's appropriations.

According to CBO my freeze motion would provide a minimum savings in fiscal year 1987 of $315 million. There is no fiscal certainty as to how much my freeze motion will save because in the bill which we now have before us there are such sums as may be provided, appropriated, at 10 different places within the bill.

During the debate three different sets of figures were used to determine what the level of spending is in this bill: $15.2 billion in new spending, $16.53 billion in new spending, or is it $18.9 billion? Who knows?

Congress ought to establish a degree of certainty and eliminate this uncertainty by approving my motion to recommit.

Mr. Speaker, what has happened to our plan as far as the reduction of the deficit is concerned? Are we to wind up the deliberations on this very important piece of legislation and produce a bill which does not meet the budget reconciliation instructions? And yet, that is what this bill does.

No one will deny that this is an important piece of legislation. It has tremendous long-term economic implicatins, in no small part because of the existing housing debt and the unfunded debt obligations that we have. The housing debt represents this country's second-largest contingent unfunded liability, second only to the Pentagon.

□ 1710

During the annual debate over the assisted housing budget, there is always a misunderstanding over the extent of the assistance granted each year.

May I set the record straight. Many people lose sight of the fact that by the end of fiscal year 1986, just a few months from now, the Government will be committed to assist over 4 million families at a cost of $229 billion. That is why I urge all of you to support my motion to recommit.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I am glad to yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, the gentleman's motion to instruct would freeze this housing bill for the next year at the 1986 level, is that correct?

Mr. WYLIE. That is correct.

Mr. LOTT. And it would save approximately how much money, does the gentleman have any idea at the moment?

Mr. WYLIE. It would save $315 million for sure, it could save up to $306 billion, depending on which figures you use from CBO.

Mr. LOTT. I would like to point out that the last such effort we had to freeze spending at last year's level on the Health Services amendment bill passed the House by 400 to 9, so we have an opportunity here to save some funds and freeze at last year's level.

I commend the gentleman for offering this motion to instruct and I urge its passage.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his contribution.

I would point out that on 14 separate occasions in the past year this House has voted overwhelmingly to support freeze amendments at the fiscal year 1986 level.

I think all Americans would like to participate in the process of reducing the budget if they think it is fair. I think a freeze level across the board is fair. We need to keep that in mind as we approach the budget deficit.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

The gentleman's motion to recommit has the instructions that it comes back at a straight freeze level; it makes no other changes?

Mr. WYLIE. That is correct.

Mr. BARTLETT. Everything that is in the housing bill stays in the housing bill; it is just simply to instruct and require a freeze in spending.

Mr. WYLIE. That is correct.

Mr. BARTLETT. I support the gentleman's motion.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his support and urge adoption of my motion to recommit.

The SPEAKER pro tempore. Does the gentleman from Connecticut [Mr. MCKINNEY] desire to be heard in opposition to the motion to recommit?

Mr. MCKINNEY. I do.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. MCKINNEY. Mr. Speaker, let me just make a couple points clear to the House before we leave.

The expression if placed in this bill, "and such sums as may be provided in the Appropriation Act for fiscal year 1987." It is an expression we use often. It is in this bill 11 times and it couples with section 2 of the bill, which states to everyone listening:

SEC. 2. BUDGET COMPLIANCE.

(a) IN GENERAL.—This Act and the amendments made by this Act may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1986 or 1987 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

I would also add to this particular subject that a freeze is a snare and it is a delusion. It is just interesting that I happen to have the minority staff report saying why a freeze is a snare and a delusion, because of the money that is in the pipeline, because of the time it takes.

I think I will just leave it on the statement that I would oppose this motion to recommit.

There is a sentence, though, which I cannot resist:

Freezes on dollars and ongoing appropriations lead to illogical resuts.

I oppose the motion to recommit.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. MCKINNEY. If the gentleman has the courage, I yield to the gentleman.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman. I realize my colleagues wish to leave, so I will just make a one-sentence statement.

The budget resolution which we must abide by in this bill is below the freeze level.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the final passage of the bill, following the vote on the motion to recommit.

The vote was taken by electronic device, and there were—ayes 160, noes 224, not voting 49, as follows:

[Roll No. 166]

AYES—160

Archer	Bevill	Byron
Armey	Bilirakis	Callahan
Bartlett	Bliley	Campbell
Barton	Boulter	Carney
Bateman	Broomfield	Carr
Bedell	Brown (CO)	Chappie
Bennett	Broyhill	Cheney
Bereuter	Burton (IN)	Coats

Cobey
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Daniel
Dannemeyer
Darden
Daschle
Daub
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Eckert (NY)
Edwards (OK)
Emerson
Evans (IA)
Fawell
Fiedler
Fields
Franklin
Frenzel
Gibbons
Gingrich
Goodling
Gradison
Gregg
Gunderson
Hamilton
Hammerschmidt
Hansen
Hendon
Henry
Hiler
Holt
Hopkins
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Kasich
Kindness
Kolbe
Kramer
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (FL)
Lightfoot
Livingston
Loeffler
Lott
Lujan
Lungren
Mack
Madigan
Martin (IL)
McCain
McCandless
McCollum
McEwen
McGrath
McKernan
McMillan
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morrison (WA)
Myers
Nelson
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Quillen
Ray
Regula
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Rudd
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Skeen
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solomon
Spence
Stallings
Strang
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Vander Jagt
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Wolf
Wortley
Wylie
Young (FL)
Zschau

NOES—224

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Barnes
Bates
Beilenson
Bentley
Berman
Biaggi
Boehlert
Boggs
Bonior (MI)
Bonker
Borski
Boucher
Brooks
Brown (CA)
Bruce
Bryant
Burton (CA)
Bustamante
Carper
Chapman
Chappell
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
de la Garza
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart (OH)
Edgar
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Florio
Foley
Ford (MI)
Frank
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hall, Ralph
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Horton
Howard
Hoyer
Huckaby
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kemp
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lipinski
Lloyd
Lowry (WA)
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McKinney
Mica
Mikulski
Mineta
Mitchell
Molinari
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal
Nichols
Oakar
Oberstar
Obey
Ortiz
Owens
Panetta
Pease
Pepper
Perkins
Pickle
Price
Rahall
Rangel
Reid
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Roemer
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schuette
Schumer
Seiberling
Sharp
Shelby
Sikorski
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Williams
Wilson
Wise
Wolpe
Wright
Wyden
Yates
Yatron

NOT VOTING—49

Badham
Boland
Boner (TN)
Bosco
Boxer
Breaux
Chandler
Davis
Donnelly
Dowdy
Early
Fish
Flippo
Foglietta
Ford (TN)
Fowler
Gephardt
Grotberg
Hartnett
Hillis
Hubbard
Jones (OK)
Kennelly
Lehman (CA)
Lewis (CA)
Long
Lowery (CA)
Luken
Lundine
Marlenee
Martin (NY)
Miller (CA)
Moakley
Mollohan
Monson
Moody
Moore
Nowak
O'Brien
Roybal
Schroeder
Smith (NE)
Spratt
Stark
Thomas (CA)
Walgren
Wirth
Young (AK)
Young (MO)

□ 1725

The Clerk announced the following pairs:

On this vote:

Mr. Lewis of California for, with Mr. Martin of New York against.

Mr. Monson for, with Mr. Foglietta against.

Mr. Thomas of California for, with Mr. Moakley against.

Mr. Hartnett for, with Mr. Young of Missouri against.

Mr. Lowery of California for, with Mr. Ford of Tennessee against.

Mr. O'Brien for, with Mr. Boner of Tennessee against.

Mrs. Smith of Nebraska for, with Mr. Breaux against.

Mr. McCURDY changed his vote from "aye" to "no."

Mr. OXLEY changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 340, noes 36, not voting 57, as follows:

[Roll No. 167]

AYES—340

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Atkins
AuCoin
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Bonior (MI)
Bonker
Borski
Boucher
Brooks
Broomfield
Brown (CA)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chapman
Chappell
Chappie
Clay
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Daschle
Daub
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Emerson
English
Erdreich
Evans (IA)
Fascell
Fazio
Feighan
Fish
Florio
Foley
Ford (MI)
Frank
Franklin
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall, Ralph
Hamilton
Hammerschmidt
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowry (WA)
Lujan
Mack
MacKay
Madigan
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Mikulski
Miller (OH)
Miller (WA)
Mineta
Mitchell
Molinari
Montgomery
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Savage
Saxton
Schaefer

Scheuer	St Germain	Vento
Schneider	Staggers	Visclosky
Schuette	Stallings	Volkmer
Schulze	Stangeland	Walker
Schumer	Stenholm	Watkins
Seiberling	Stokes	Waxman
Sharp	Strang	Weaver
Shaw	Stratton	Weber
Shelby	Studds	Weiss
Sikorski	Sundquist	Wheat
Siljander	Sweeney	Whitehurst
Sisisky	Swift	Whitley
Skeen	Swindall	Whitten
Skelton	Synar	Williams
Slattery	Tallon	Wilson
Slaughter	Tauke	Wise
Smith (FL)	Tauzin	Wolf
Smith (IA)	Taylor	Wolpe
Smith (NJ)	Thomas (GA)	Wortley
Smith, Robert (OR)	Torres	Wright
	Torricelli	Wyden
Snowe	Towns	Yates
Snyder	Traficant	Yatron
Solarz	Udall	Young (FL)
Solomon	Valentine	Zschau
Spence	Vander Jagt	

NOES—36

Archer	Gregg	Roberts
Boulter	Hall (OH)	Rudd
Brown (CO)	Hansen	Sensenbrenner
Cheney	Hyde	Shumway
Craig	Ireland	Shuster
Crane	Lungren	Smith, Denny (OR)
Dannemeyer	Martin (IL)	
DeLay	McCandless	Smith, Robert (NH)
Dreier	McCollum	
Edwards (OK)	Michel	Vucanovich
Fawell	Moorhead	Whittaker
Fields	Nielson	Wylie
Frenzel	Oxley	

NOT VOTING—57

Aspin	Gephardt	Mollohan
Badham	Grotberg	Monson
Boggs	Hartnett	Moody
Boland	Hatcher	Moore
Boner (TN)	Hillis	Nowak
Bosco	Hubbard	O'Brien
Boxer	Jones (OK)	Roybal
Breaux	Kennelly	Sabo
Chandler	Lehman (CA)	Schroeder
Clinger	Lehman (FL)	Smith (NE)
Davis	Lewis (CA)	Spratt
Dowdy	Long	Stark
Early	Lowery (CA)	Stump
Evans (IL)	Luken	Thomas (CA)
Fiedler	Lundine	Traxler
Flippo	Marlenee	Walgren
Foglietta	Martin (NY)	Wirth
Ford (TN)	Miller (CA)	Young (AK)
Fowler	Moakley	Young (MO)

□ 1735

Mr. BOULTER changed his vote from "aye" to "no."

Mr. COATS and Mr. KRAMER changed their votes from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. BOGGS. Mr. Speaker, on rollcall No. 167, final passage of the housing bill, I was detained in another part of the building. Had I been present, I would have voted "aye."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1, HOUSING ACT OF 1986

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill (H.R. 1), the Clerk be authorized to correct section numbers, cross references, punctuation, indentation, and the table of contents, and to make such other technical and conforming changes as may be necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TUESDAY, JUNE 17, 1986, AND WEDNESDAY, JUNE 18, 1986, DURING THE 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have permission to sit during the 5-minute rule on Tuesday, June 17, 1986, and Wednesday, June 18, 1986, to consider the immigration bill.

I have cleared this with the gentleman from New York [Mr. FISH], the ranking minority member, and the gentleman from California [Mr. LUNGREN], the ranking minority member of our subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. LOEFFLER. Mr. Speaker, I object.

Mr. MAZZOLI. Mr. Speaker, will the gentleman from Texas perhaps engage in a colloquy with me?

Mr. LOEFFLER. Mr. Speaker, reserving the right to object, I will be happy to engage in a colloquy with the gentleman.

Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, on the gentleman's reservation, may I just say that I have had the opportunity to talk with the gentleman from California, the gentleman from New York [Mr. FISH], the gentleman from New Jersey [Mr. RODINO], of course, our committee chairman, with the idea that possibly between Tuesday and Wednesday of next week, we might be able to complete a markup on that bill.

I recognize the gentleman and I may have different views on the merits of it, but I think the gentleman from California [Mr. LUNGREN] will be there to protect the interests of the gentleman as well as they could be protected.

Mr. LOEFFLER. Mr. Speaker, I thank the gentleman for his kind comments, but I have such severe reservations for the entire legislation that I would like due time to take its course.

Mr. Speaker, I still object.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. LOEFFLER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I would just point out to the gentleman that this is something we have been working on for some time. Because of circumstances beyond our control, we were unable to meet this week during times that we would not have had to request the permission to sit during the 5-minute rule.

I understand the gentleman's concern, but I will just ask the gentleman to allow us to do so since we would like to work the will of the committee so that we might be able to at least not have this thing die because it has not been completed by the committee. I just hope the gentleman would not object.

Mr. LOEFFLER. Mr. Speaker, the gentleman from California knows that I have the greatest respect for him and his legislative abilities, but I still object.

PERSONAL EXPLANATION

Mr. SWINDALL. Mr. Speaker, yesterday afternoon, I was unavoidably detained on rollcall vote No. 159.

Had I been present, I would have voted "yes" on the amendment offered by the gentleman from New York [Mr. KEMP].

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 13, 1986, TO FILE REPORT ON H.R. 4868, ANTI-APARTHEID ACT OF 1986

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight Friday, June 13, 1986, to file a report on the bill, H.R. 4868, the Antiapartheid Act of 1986.

This has been cleared by the ranking member of the full committee and the subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. LUNGREN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LUNGREN. Mr. Speaker, at this point in the legislative day, is an objection sustainable to a unanimous consent request by an individual Member or does it not require 10 Members in support of a unanimous consent?

The SPEAKER pro tempore. The Chair would observe that until the announcement of the program for the succeeding week, the practice has been that one objection may disallow a request for committee to sit during the five-minute rule.

The request, of course, may be renewed. At certain times 10 objections would be required under the Speaker's guidelines.

Mr. LUNGREN. I thank the Chair for his information.

□ 1745

PROVIDING FOR TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BARTLETT. Mr. Speaker, reserving the right to object, and I will not object, although I say to the Speaker and the chairman of the subcommittee and the sponsor, that I am sorely tempted. I will not object because we have now allowed FHA to lapse for 6 days.

I will say to the gentleman as I have said to him privately that I do hope that we stop the policy of short-term extensions; that what we should be doing is extending FHA until the end of the fiscal year. As the gentleman knows I have been prepared to offer an amendment to do so, but because Members have left town, I have agreed to withdraw that amendment and to agree this one last time for a short-term extension until July 26; and I know the chairman of the subcommittee does not agree with the short-term extension policies, and so he is caught in a difficulty.

Under my reservation I would say that we have now extended, with this one, short-term FHA six times. We have allowed FHA to lapse six times, lapsing a total of 37 days in 9 months; 37 times that home buyers have been told that they cannot close their FHA loans.

I do not think it is fair and I think that this ought to be the last short-term extension that we agree to.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ST GERMAIN. Mr. Speaker, reserving the right to object, I would like to say that I have discussed this matter with my counterpart in the other body and he, too, agrees to this particular date.

We felt that because of the 4th of July recess it would have been unwise to authorize it for a shorter period of time.

Why these short-term extensions? Let us be very, very clear. The short-term extensions are so as to allow us to hopefully get together with the other body, now that we have adopted this legislation in the House; they are going to adopt legislation in the Senate within the very near future.

We are working toward a conference in the almost immediate future. So for that reason, I shall not object and I am happy that this is the date that is being chosen, because otherwise we might not have any extender accepted all the way through. This requires not only action by the House but the other body as well.

Mr. WYLIE. Will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman, under my reservation.

Mr. WYLIE. I thank the chairman for yielding, and I appreciate the fact that the gentleman from Texas [Mr. BARTLETT] is not objecting; I know he feels strongly about extending this; at least up to September 30.

I want to compliment the gentleman from Texas and you, Mr. Chairman, though, for going ahead with this temporary extension again. We are in a critical situation on many FHA commitments. I have had several calls from lenders and buyers from my district today saying, do something.

We do need to pass this temporary extension to July 25, and I thank the two gentlemen; the chairman of the full committee and the chairman of the housing committee for allowing us to do it.

Mr. ST GERMAIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. RAHALL). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 652

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking "June 6, 1986" in the first sentence and inserting "June 27, 1986".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking "June 6, 1986" in the fifth sentence and inserting "June 27, 1986".

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(3) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(e) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking "June 6, 1986" in the second sentence and inserting "June 27, 1986".

(h) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES—Section 809(f) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(i) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(j) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

SEC. 2. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended by striking "June 6, 1986" and inserting "June 27, 1986".

SEC. 3. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking "June 6, 1986" in the last sentence and inserting "June 27, 1986".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "June 27, 1986".

SEC. 4. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) FLOOD INSURANCE.—

(1) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1986 is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(2) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(3) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Housing Act is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(b) CRIME INSURANCE.—Section 1201(b)(1) of the National Housing Act of 1986 is amended by striking "June 6, 1986" in the matter preceding subparagraph (A) and inserting "June 27, 1986".

SEC. 5. MISCELLANEOUS EXTENSIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT CLASSIFICATIONS.—

(1) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking "June 6, 1986" in the second sentence and inserting "June 27, 1986".

(2) URBAN COUNTRY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking "June 6, 1986" in the second sentence and inserting "June 27, 1986".

(b) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "June 6, 1986" and inserting "June 27, 1986".

(c) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking "June 6, 1986" and inserting "June 27, 1986".

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] is recognized for 1 hour.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may require, which will not be more than 2 minutes.

I just want the record to show that nobody has been more anxious to make the extension as permanent as possible under the law. The programs expired October the 1st, the beginning of this fiscal year, last year, and we have been extending them; that is, FHA mortgage insurance plus three others, on a very short term basis.

In the meanwhile, we have the authorization bill approved by the House today which does contain that vehicle that will prevent the short-term gaps that create such turmoil in the mortgage market.

I just want the record to show that nobody has been more anxious to make this permanent and avoid this turmoil in the mortgage market than I have and the majority has.

So I want to thank the gentleman, both the ranking minority member of the full committee as well as the ranking minority member of the subcommittee, and my colleague from Texas who does realize that it would be essential to have stability, as much as we can get in these mortgage markets.

Mr. BARTLETT. Mr. Speaker, if the gentleman will yield.

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I understand the personal dilemma that the gentleman is in with the Members on his side of the aisle; but all we have to do to extend FHA for the balance of the year is to offer a bill that extends FHA for the balance of the year.

This is the sixth short term extension that we have considered; and we are going to pass it and we should because it is all we have before us; but I would just plead that one time we ought to be fair to the home buyers who are being treated badly, I think, like ping-pong balls; we turn it on again and off again. It is not fair. We ought to extend it until September 30, 1986.

I do appreciate the gentleman offering it and trying to accommodate the Members on his side of the aisle who have urged these short-term extensions.

I will support it, this time, but it is not right.

Mr. GONZALEZ. I appreciate the gentleman's remarks.

Mr. Speaker, I yield back the balance of my time.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I would inquire of the distinguished majority whip the program for next week.

Mr. FOLEY. Will the distinguished Republican leader yield to me?

Mr. MICHEL. I yield to the gentleman.

Mr. FOLEY. Mr. Speaker, this includes the business for this week, and the House, when it adjourns today, will ajourn to Monday next with the permission of the House, which I will seek later.

On Monday, the House will consider the Consent Calendar and 11 bills under suspension of the rules. They are: H.R. 2798, the veterans employment rights; H.R. 4385, the veterans readjustment appointment authority extensions and improvements bill; H.R. 4348, the Boundary Waters Canoe Area Wilderness amendments; H.R. 4259, the Gettysburg National Military Park addition; H.R. 3554, the Klamath Indian Tribe Restoration Act; House Concurrent Resolution 325, commending the government and people of Berlin for commemorating the 50th anniversary of the Berlin Olympic games; House Concurrent Resolution 326, the sense of Congress that the Berlin Wall is an indictment of the communist system; House Concurrent Resolution 347, the sense of Congress regarding human rights in North Korea and the reduction of tensions in the Korean Peninsula; House Concurrent Resolution 345, the sense of Congress regarding democracy in the Republic of Korea; H.R. 4463, the effective schools and "Even-Start" bill for elementary and secondary education; and H.R. 4841, the vocational education amendments.

Recorded votes on suspensions ordered on Monday will be postponed until Tuesday, June 17.

On Tuesday, June 17, the House will meet at noon and consider the Private Calendar. There are no suspensions on the Suspension Calendar for that day currently scheduled. We will have recorded votes, as I mentioned, on suspensions debated on Monday, June 16.

We will also consider H.R. 4868, a bill to prohibit new loans and investments in South Africa, and other types of business activity, subject to a rule being granted.

On Wednesday and the balance of the week, the House will meet at 10 a.m., and consider H.R. 4116, the Domestic Volunteer Services Act, VISTA, to complete consideration; H.R. 4175, the maritime authorizations for fiscal year 1987, open rule, 1 hour of debate; an unnumbered House concurrent resolution on the subject of continued adherence to the SALT II Treaty, subject to a rule being granted, and H.R. 4510, the Export-Import Bank amendments, open rule, 1 hour of debate.

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I should note that it is anticipated that a Friday session may be held the next week and that votes may occur on such a Friday session, and Members on both sides of the aisle should be advised that it would be imprudent to assume no session on Friday.

We will have a further announcement later, but for the moment the presumption should be that there will be a Friday session next week.

Mr. MICHEL. Might I inquire of the distinguished gentleman on the so-called Contra aid issue with Nicaragua, as I understand that is a program to be considered on the military construction appropriation bill next week, maybe Monday the subcommittee meeting and normally by Thursday the full committee and then that last week in which we are here before we break for the July 4 recess it would be on the floor. That has been my under-

standing in conversation earlier with the Speaker and then I think yesterday with the majority leader. Is that in concrete now?

Mr. FOLEY. We are planning with, I think, every firm intention to program the military construction appropriation bill on Thursday, the 26th of June, and this is a vehicle on which it has been announced that we would consider the Contra aid amendments. That is our intention. We have every reason to believe that the bill will be available for consideration by the House on Thursday, June 26. We are determined that by one means or another this issue will be resolved prior to the recess of the House. But without planning it for that time.

Mr. MICHEL. If the gentleman would look ahead then to the 26th, if we were to debate that bill on that day, would that suggest that there would still be a session on the 27th for whatever cleanup business is necessary?

Mr. FOLEY. I think it would be prudent at this point to assume that we might well require a session on the 27th, and for Members' planning purposes I think they should assume that.

Mr. MICHEL. I notice with the South African resolution or measure coming up Tuesday subject to a rule being granted, will there be a Rules Committee meeting Monday?

Mr. FOLEY. Yes. The Committee on Rules will be meeting on Monday. I think a notice is going to be issued very promptly concerning that meeting. Then we will bring up the rule and the bill on Tuesday.

Mr. MICHEL. I thank the gentleman.

ADJOURNMENT TO MONDAY, JUNE 16, 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

UNDERSTANDING THE TRADE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, I rise to speak briefly about the trade issue and about the trade legislation that Congress passed a couple of weeks ago.

First, Mr. Speaker, I would like to insert in the RECORD at this point an editorial from a local newspaper in my area, the Median County Gazette. This is a daily newspaper which printed an editorial following the passage of the trade bill in the House. The title of the editorial is "Bill Goes Long Way Toward Fairer Trade." It seems to me that this editorial is an unusually perspicacious analysis of the trade situation that this country faces and an unusually penetrating and honest analysis of what the bill actually does.

I am a former newspaperman, and I must say that I am very disappointed, in the last couple of weeks, at the shallow way in which American electronic and newspaper media have reported the trade debate and the trade legislation that we passed. It is clear to me that most of the reporters and surely almost all of the editorial writers who have commented on the trade bill in the last 2 weeks have not bothered to read the legislation, because the legislation as they describe it certainly is not the legislation that we passed.

This editorial in the Median County Gazette is a notable exception to that poor newspaper practice.

[From the Medina (OH) County Gazette]

BILL GOES LONG WAY TOWARD FAIRER TRADE

The obligatory shots of partisan rhetoric have been exchanged over the trade bill that was approved by the U.S. House last week. Now, Democrats and Republicans need to look toward a way of achieving a compromise version of the bill that will address the problems facing American businesses in today's burgeoning international business climate.

In keeping with his free trade position, President Reagan has attacked the bill as protectionist and has threatened to veto it if it comes to his desk.

First, however, it must go to the Republican-controlled Senate. There, senators can consider some of Reagan's concerns about the bill and, we hope, come out with a bill that Reagan and the Democrat-controlled House will accept.

Reagan must realize that he should probably go along with whatever House-Senate compromise measure that eventually is achieved. The bill is not the protectionist measure he thinks it is. It will not cause our free enterprise country to restrict free enterprise on a worldwide level. In fact, Reagan should be glad its sponsors avoided succumbing to the strong protectionist mood among legislators today.

What the bill does is promote fair trade, now just free trade—a distinction the bill's sponsors, including Don Pease, D-Oberlin, are correct in pointing out. Measures are needed to promote fair competition on an international level, just as they are needed to promote fair competition between domestic companies. The House bill seeks to impose only those restrictions needed to ensure that the United States enjoys a fair trade climate with other countries—something that doesn't exist now.

One way the bill would make trade fairer is by requiring the president to act on unfair trade practices, including unfair labor practices in such areas as child labor, collective bargaining and job safety and health. Pease wrote the labor portion of the bill, saying it would help prevent such situations as children in Thailand being sold into factory work by their parents and working 15-hour days. Pease's provision would have the dual effect of helping discourage such labor abuses, and enabling the American company that pays each employee $10 an hour to better compete with the foreign company that pays each employee in dimes instead of dollars.

Of course, American companies will still pay higher wages than many of their competitors because of the higher standards of living to which American workers are accustomed. As Pease acknowledged, even with trade legislation domestic companies still must strive to compete more efficiently against foreign firms. They are already doing more to adopt the quality control measures Japanese companies popularized, and they should also do more to eliminate the top-heavy management that is typical of many American companies.

But streamlining alone will not work. American firms shouldn't have to worry whether they are allowed to compete in other countries, or whether other countries subsidize industries so the industries can dump under-priced products in the United States to gain a market share. Such trade practices need addressing, and the house bill goes a long way toward addressing them. It is a comprehensive package to deal with the United States' trade problems.

Rather than writing the bill off as protectionist, Reagan should try to work with its sponsors, focus on the problems he has with it and aim for the compromise trade package U.S. businesses so badly need.

Second, Mr. Speaker, I am inserting in the RECORD another article, this one from today's Washington Post, which makes it clear that the administration is standing alone in its opposition to the trade bill.

Business firms have been urged to, indeed pleaded with by the administration over the last couple of weeks to oppose the trade legislation passed by the House. As reported in the Washington Post this morning, business groups have declined to do so. The groups that have declined to do so include the U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, and the Emergency Committee for American Trade.

These organizations realize, as did the House in passing the trade bill 2 weeks ago, that this administration has failed to use the tools available to it and that this administration only uses trade laws available to it under the threat of additional legislation from Congress. This is a very interesting and encouraging article.

[From the Washington Post, June 12, 1986]

BUSINESS WON'T FIGHT TRADE BILL

(By Stuart Auerbach)

Major business organizations have rebuffed Reagan administration efforts to enlist their support to block trade legislation and instead have urged the White House to work with the Senate to craft a bill that the president could sign.

The Reagan administration has taken the position that it wants no trade legislation for fear that any measure Congress passes will be too protectionist.

But even business groups that traditionally have opposed protectionist measures are pressing for a trade bill. These include the National Association of Manufacturers, the U.S. Chamber of Commerce, the Business Roundtable and the Emergency Committee for American Trade (ECAT).

Business leaders, under the pressure of four years of record trade deficits, are taking an increasingly more aggressive stance against what they see as pervasive unfair trade practices around the world that allow other countries to block U.S. products and flood this country with their goods.

There is, moreover, a growing view in business circles that the Reagan administration has ineffectively dealt with the trade deficit and only acts when threatened by congressional action.

R.E. Heckert, chairman of E.I. du Pont de Nemours & Co., said the flurry of administration trade actions before the House passed its trade bill last month "reflects the continuing dynamics of trade policy in our government: Congress acts, the administration reacts."

"Trade legislation is one important way to help rectify the trade crisis," said Edson W. Spencer, chairman of the Business Roundtable's international trade task force and chairman of Honeywell Inc., a major exporter.

"However, the White House is stonewalling the legislative initiatives of Congress. Its refusal to work with Congress guarantees passage of bad trade legislation and makes a presidential veto a self-fulfilling prophecy," he added in an address to the Roundtable's annual meeting here this week.

In addition, Senate Majority Leader Robert J. Dole (R-Kan.) urged the administration to deal with the Senate on trade. He is concerned that the Republicans could lose control of the Senate this fall if they fail to come up with trade legislation in the wake of last year's record $148.5 billion deficit.

"If the legislation we develop in the Senate is to be effective and nonpartisan in nature, it is important for the administration to join us now in a concrete, detailed dialogue," Dole wrote U.S. Trade Representative Clayton Yeutter.

There are indications that the White House is getting the message. Chamber of Commerce Chairman Edward Donley said he expects new signs of administration action on trade legislation to emerge soon, partly as a result of pressure from the business community.

As an indication that the administration may be developing a new strategy on trade legislation, Yeutter and Commerce Secretary Malcolm Baldrige met yesterday with Alfred H. Kingon, a key White House aide on trade issues. Baldrige and Yeutter have favored dealing with Congress on trade legislation, but they have been cautioned against it by a group led by White House chief of staff Donald T. Regan and Treasury Secretary James A. Baker III.

In a speech in New York last night to the National Foreign Trade Council, Baker said business holds "a special responsibility to work for free trade. Your opinions are respected. Your influence on the course of events can be considerable. The cry for protectionism today is clear and forceful. The voice of free trade must also be heard."

While none of the business organizations has endorsed the House-passed bill, which President Reagan called "kamikaze legislation" in a speech to the NAM, all have praised certain elements.

After hearing the president, for instance, the NAM board gave its support to parts of the bill. "For all its faults, the House bill makes this important contribution to U.S. policy: It recognizes that the United States has an enormous trade problem of special concern to manufacturers," NAM President A.B. Trowbridge said.

He said constructive legislation can come out of Congress this year "if the administration works actively with the Senate now, and later with the House and Senate, on the development of legislation that gives the country a new perspective on trade policy, one that better serves America's trading interests than the policies of the past."

The Chamber of Commerce, while opposing the House trade bill as a whole, supported parts of it, including a section that would force the president to retaliate against unfair trade practices that violate trade agreements. The administration says that provision will limit its flexibility to negotiate trade agreements.

Other sections of the House bill that have won endorsements from business groups include provisions that would pass U.S. access to foreign telecommunications markets; strengthen protection against piracy of U.S. copyrights and patents; ease the Foreign Corrupt Practices Act; increase export promotion activities, including making greater use of Export-Import Bank "mixed credits"; and loosen export controls on high-technology products.

Almost across the board, the business groups joined the administration in opposing other major elements of the House bill, especially a section that would force Japan, Taiwan and West Germany to lower their trade surpluses or face retaliation.

Let me quote in the minute left to me a paragraph or two from this article. It says:

Business leaders, under the pressure of 4 years of record trade deficits, are taking an increasingly more aggressive stance against what they see as pervasive unfair trade practices around the world that allow other countries to block United States products and flood this country with their goods.

There is, moreover, a growing view in business circles that the Reagan administration has ineffectively dealt with the trade deficit and only acts when threatened by Congressional action.

That is what H.R. 4800 was all about, Mr. Speaker; it provided the impetus for the administration to get off its duff, frankly, and do something about the flood of unfair imports as well as the unfair barriers to U.S. exports in overseas markets.

Mr. Speaker, I yield back the balance of my time.

GAO TESTIMONY CONFIRMS ABUSES IN CONTRA AID PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, the GAO testified yesterday that several million dollars in U.S. humanitarian aid to the Contras has been diverted to private individuals, offshore banks, U.S. corporations, and even the armed forces of a country that has since been identified as Honduras. This information was discovered during a followup to an investigation initiated by a resolution of inquiry I introduced in April. In short, according to the GAO, payment to these accounts has been made based on invoices that cannot be verified from suppliers that cannot be verified.

Perhaps most shocking is the revelation that nearly $1.5 million in U.S. Contra aid money was turned over to the Honduran Armed Forces for reasons unknown.

By the end of this month we will once again take up the issue of aid to the Contras. Before debating that issue, it is important that every Member of Congress, and every American citizen, know exactly what our money is being used for. We are not talking about partisan politics here, but fiscal accountability. This testimony makes it clear that the administration has not only failed to comply with the original aid law, but that the Contra aid program has been handled in a careless and financially irresponsible manner. The testimony of Frank C. Conahan follows:

STATEMENT OF FRANK C. CONAHAN, U.S. GENERAL ACCOUNTING OFFICE, BEFORE THE COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS, HOUSE OF REPRESENTATIVES, ON HUMANITARIAN ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

Mr. Chairman, Members of the Subcommittee, I am pleased to be here to discuss GAO's continuing review of the $27 million in humanitarian assistance authorized for the Nicaraguan democratic resistance.

Our previous testimonies before this subcommittee focused on our concerns about the controls exercised over this program by the State Department's Nicaraguan Humanitarian Assistance Office (NHAO). Overall, we have concluded that the State Department does not have sufficient procedures and controls to ensure that program funds are being used for purposes intended by law.

NHAO does not have the ability to observe delivery and use of procured items to ensure that the items are not being diverted, bartered, or otherwise exchanged. Moreover, for items bought in the region, NHAO does not have the ability to validate invoice and receipt documents. We are generally satisfied with controls over payments to U.S. suppliers. However, NHAO does not have procedures to assure that all funds made available based on invoices and receipts from suppliers in the region are actually used to pay these suppliers.

Today I would like to concentrate on our most recent efforts to track expenditures for purchases made in the region—i.e. the results of our examination of bank records subpoenaed several weeks ago at the request of this subcommittee. But first I will briefly

describe how State has been paying for the non-U.S. purchases.

NHAO obtains invoices and receipts as documentation of purchases made in the region. These documents are obtained by NHAO through the United Nicaraguan Opposition (UNO) in Miami. Before it authorizes payment, NHAO reviews them to ensure that the items are allowable under the program. However, because NHAO does not have a presence in the region, it is not able to verify the validity of the documents—that is that they are legitimate records of transactions, and that items indicated are being delivered to the resistance forces.

After NHAO approves the invoices and receipts, it issues a payment voucher, and the U.S. Treasury then transfers the funds. Because of the sensitivities of governments in the region to this program, State adopted a policy of not making payments directly to suppliers in the region. Instead the Treasury sends the funds to designated U.S. bank accounts mostly in Miami.

There are two types of accounts: (1) accounts owned by suppliers and (2) accounts owned by brokers authorized by suppliers in the region to act as their agents to receive payments. The brokers are, in turn, expected to pay these suppliers for the goods and services shown on the invoices and receipts provided NHAO. According to NHAO, some suppliers selected brokers to receive their payments because the suppliers did not maintain their own U.S. bank accounts.

As of May 10, 1986, Treasury paid a total of $14.1 million to these accounts, including $7.8 million paid into six accounts owned by suppliers, and $5.7 million into six accounts owned by brokers acting as agents for about 50 suppliers. In addition, two accounts owned by United Nicaraguan Opposition (UNO) organizations received payments of $583,000 for administrative, medical and other expenses; some of which were incurred in the region.

NHAO does not have specific information on the disbursement of funds deposited in these accounts. It's position is that the Treasury payments were made into the accounts for goods and services as shown in the invoices and receipts it obtained, and that it has no authority to trace the funds further.

On May 8, 1986, at this subcommittee's request, the House Committee on Foreign Affairs approved issuance of subpoenas on 14 U.S. bank accounts which had received funds under the humanitarian assistance program—the six accounts owned by suppliers, the six accounts owned by brokers, and the two accounts owned by UNO organizations.

At the subcommittee's request, we are examining the account records. As of June 9, 1986, we had reviewed the records of 8 accounts covering $12.2 million of the $14.1 million, which Treasury had deposited as of May 10 in those accounts. Our examinations have raised a number of questions.

For example, under a broker arrangement, one would expect to find disbursements from the account to the region in amounts roughly equal to Treasury deposits—either payments to specific suppliers or block payments to the region for further distribution there. However, we did not find this pattern with regard to most of the funds in the four accounts we analyzed. As of May 10, 1986, the Treasury paid about $4.4 million into these four broker accounts. However, we can trace only $785,674 as being paid into Central America by these brokers and only $185,434 of this amount being paid to identified suppliers. Instead, most funds in these broker accounts were disbursed in the United States or offshore banks. A significant portion of one broker account was not paid out and remained in the account.

At this point, I would like to describe in some detail the activity in several of the accounts we examined and to raise some concerns that we have based on our review.

BROKER A

Treasury paid one broker account about $654,000 based on invoices and receipts received from three suppliers in the region. Prior to these payments, the account had a $4,400 balance; no other funds have been deposited in this account since Treasury started making payments. Thus, virtually all the funds in this account are traceable to U.S. Treasury payments.

The bulk of these funds have not been sent to the specific suppliers, or into the region. As of the subpena date, over $422,000 remained in the account, drawing interest. Partial payments were made to two of the three suppliers; the third supplier received no payments. In total, only $185,000 of the $654,000 deposited by Treasury was transferred to suppliers in the region. This account raises key questions: Why are humanitarian funds remaining in brokers' accounts? Why are partial or no payments being made to identified suppliers in the region?

BROKER B

Another broker account has received about $3.3 million from the Treasury since October 1985. At the time of the first Treasury deposit, the account had a balance of $68,700 and from October through May 1986 received desposits from other sources, totaling $659,581. Thus Treasury deposits comprise over 80 percent of the account's funds.

The Treasury payments to this account were based on invoices and receipts from 22 different companies or individuals. We could match none of the disbursements from this account to these companies or individuals. The records indicate that only about $150,000 was paid from this account to accounts in Central America. The other disbursements from the account, totaling $3.8 million, consist of payments to companies and individuals in the United States ($3.4 million) and to offshore accounts in the Cayman Islands and the Bahamas ($380,000).

Essentially, funds in this account are flowing from bank account to bank account, in the United States and offshore, and to individuals and companies which do not appear to be suppliers in the region. Since broker accounts were supposedly set up to assist in getting payments to these suppliers, this account raises questions about why so few payments are being sent into the region.

BROKER C

On November 4, 1985, a third broker account received a Treasury payment of $243,750 based on invoices and receipts from a commercial supplier for uniforms. At the time of this deposit the account had a prior balance of about $49,000. On November 6, 1985, the broker issued checks to the armed forces of a country in the region in the amount of $113,750 and $130,000 totaling $243,750—the exact amount of the payment by Treasury. The account records show only two payments to the supplier represented by the broker totaling about $52,000. These payments were in July, 1985—before the assistance program began. We question the basis for these payments to the armed forces.

SUPPLIER A

Turning now to a supplier account—that is, a company in the region which maintains an account in the United States and, thus, receives payments directly from the U.S. Treasury. This supplier has received payments from Treasury of about $6.6 million from November 1985 through May 10, 1986. These payments were based on company invoices and receipts furnished to NHAO. The only other deposit to the account during this period was for $32,000. Thus, virtually all payments made from this account were funds provided the company by the Treasury.

Treasury made its first payment to the company of $896,122 on November 16, 1985, and on November 18, 1985 a payment of $742,939 was made from this account to the armed forces of the country of the supplier. Again on January 8, 1986, a Treasury deposit of $411,974 was followed by a payment on January 10, 1986 of $450,000 to the Commander-in-Chief of that country's armed forces. Without Treasury's payments, there would not have been sufficient funds in the account at the times of these transactions to cover the amounts of the payments.

The invoices and receipts on which the Treasury payments to the account were based show they were for food and other consumables. A question is thus raised as to the basis for these payments to the armed forces.

In summary, the examination of the bank records has for the most part only raised more questions. Moreover, there is enough evidence to be concerned that humanitarian assistance may not be reaching the intended beneficiaries. Without adequate controls—and by that I mean mechanisms to validate invoices and receipts, trace payments to suppliers, and verify deliveries and use—that concern will remain.

BREAKOUT BY BROKER SHOWING AMOUNTS PAID IN THE REGION AS OF MAY 10, 1985

	Total Treasury deposits	Total payments in the region
Brokers:[1]		
A	$654,416	[2]185,434
B	3,331,478	150,190
C	243,750	243,750
D	206,150	206,300
Total	4,435,794	785,674

[1] Includes only those broker accounts analyzed by GAO.
[2] The $185,434 is also identifiable as being paid directly to suppliers who submitted invoices.

EQUITY IN INTERSTATE COMPETITION ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today I am introducing legislation—the Equity in Interstate Competition Act of 1986—which would close a major loophole which allows millions of dollars legally owed the States under their current tax laws to go uncollected. Presently, under most State laws, a tax is imposed and collected on the sale of tangible personal property. The seller incorporates the tax in the

purchase price of the item being sold and sends the tax to the State.

When, however, the sale if made through the mail with a company without an actual physical presence in that State, the tax, while legally owed, often cannot be effectively collected by the State. This puts the retailers operating in the State at an unfair disadvantage vis-a-vis the out-of-State mail order sales firm. Local sellers must tack on the State sales tax to the price of their goods; mail order sales firms can sell their goods at lower prices because the sales tax is not included. This anamoly, therefore, creates a double burden—local sellers and retailers are placed at a competitive disadvantage and the States are denied needed revenues. For example, in my home State, Texas, it has been estimated that up to $104 million a year escapes collection.

The bill I am introducing today would close the loophole by allowing the States to require the mail order firms to collect the tax at the time of the sale. The Federal Government's ability to grant such authority to the States is provided through the commerce clause of the Constitution.

Further, the bill is crafted to ensure that this power does not violate due process requirements. The sales tax may only be required to be collected if the sale destination is in the State imposing the tax and the seller engages in regular or systematic soliciting of sales in that State. In addition, collection may be imposed on the seller only if he has gross sales of $12.5 million nationwide or over one-half of 1 million in that State. The bill would not require the collection of local sales taxes unless they are uniform throughout that State. Accounting for collection purposes is limited to quarterly reporting, and the bill specifies that the seller will not have to account, in any manner, for receipts on the basis of geographic location within the State.

I urge my colleagues to support this important measure. It is incumbent upon the Congress, under its power to regulate interstate commerce, to grant the authority to the States to collect their own tax owed on these interstate mail transactions.

NONAPPROPRIATED FUND INSTRUMENTALITIES CIVIL SERVICE RETIREMENT CREDIT ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. BARNES] is recognized for 5 minutes.

Mr. BARNES. Mr. Speaker, on June 11 I introduced a bill, H.R. 4981, which will extend civil service retirement credit to a small group of people who have served their country.

This dedicated group joined the special services branch of our Nation's Armed Forces in order to help "enhance the morale, welfare, and recreation of active and retired military and Coast Guard personnel and their dependents."

To be hired as members of the special services branch, these workers filed Federal employment forms with the Civil Service Commission. Therefore, they believed that they were joining the civil service, and would be entitled to the same benefits as other Federal employees.

However, in 1952 the Defense Department requested that Congress exempt from the civil service short-term employees involved in commercial work and paid by nonappropriated funds. This request was designed to free short-term employees from the complexities of joining the civil service.

However, the exemption finally enacted made no distinction between short- and long-term employees, and included all positions "conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Armed Forces."

As a result, many special services employees who dedicated their lives to enhancing the quality of life for military personnel have now found that those years of service are not creditable for civil service retirement.

H.R. 4981 is a companion bill to S. 1800 sponsored by my colleague from Maryland, Senator MATHIAS, and would allow these employees to try to qualify for credit.

In summary, this bill would establish guidelines for special services employees to prove their eligibility for civil service retirement credit. Once their eligibility is established, applicants would be required to make a redeposit with interest for their uncredited time. In addition, the employing agency would be required to make a matching deposit. By requiring redeposits by both employee and employer, I hope to alleviate any concern about maintaining the integrity of the civil service retirement fund. In addition, the bill gives the agencies sufficient control over the application process to ensure that only legitimate applications will be processed.

It is high time that we allow this for such a dedicated group of employees who have worked hard for many years to improve the quality of life for our military forces at home and abroad. I urge my colleagues to join me in this effort.

The text of H.R. 4981 follows:

H.R. 4981

A bill to amend title 5, United States Code, to provide Civil Service retirement credit for certain employees and former employees of nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nonappropriated Fund Instrumentalities Employees' Civil Service Retirement Credit Act of 1986".

SEC. 2. (a) Section 2105(c)(1) of title 5, United States Code, is amended by inserting ", subchapter III of chapter 83 to the extent provided in section 8332(b)(15)," after "chapter 53".

(b) Section 8332(b) of such title is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of the first paragraph (13) and inserting in lieu thereof a semicolon;

(3) by redesignating the second paragraph (13) as paragraph (14) and striking out the period at the end of that paragraph and inserting in lieu thereof "; and";

(4) by adding after paragraph (14), as so redesignated, the following new paragraph:

"(15) service performed after June 18, 1952, as an employee described in section 2105(c) of this title if such service involved conducting an arts and crafts, drama, music, library, service club, youth activities, sports, or recreation program (including any outdoor recreation program) for personnel of the armed forces; but credit shall be allowed for such service only to the extent that such service is not taken into account in computing benefits under a retirement system for employees of the nonappropriated fund instrumentality.";

(5) by striking out "(13)" in the third sentence and inserting in lieu thereof "(14)"; and

(6) by adding at the end thereof the following: "The Office of Personnel Management shall accept, for the purposes of this subchapter, the certification of the Secretary of a military department named in section 10 of this title or his designee concerning service of the type described in paragraph (15) of this subsection which was performed for a nonappropriated fund instrumentality under the jurisdiction of such Secretary. This certification may be based on evidence which is furnished by the person claiming credit for such service for the purposes of this subchapter and is considered sufficient by such Secretary or designee.".

(c) Section 8334 of such title is amended by adding at the end thereof the following new subsection:

"(k) Each nonappropriated fund instrumentality of the United States referred to or described in section 2105(c) of this title that employed an individual who receives credit under this subchapter for service described in section 8332(b)(15) of this title shall pay to the Fund an amount equal to the amount that would have been deducted from the pay of the individual if such service had been covered under this subchapter when such service was performed, plus interest computed in the same manner as is prescribed in subsection (e) of this section. The nonappropriated fund instrumentality shall furnish the Office such information as the Office determines is necessary to administer this subsection and section 8332(b)(15) of this title, and shall make the payment required by the first sentence of this subsection upon receiving from the Office a notification of the amount due. Such payment may not be considered a deposit by the individual under subsection (c) of this section for any purpose, including for the purpose of section 8339(i) of this title as in effect before, on, or after September 8, 1982.".

SEC. 3. (a) The amendments made by section 2 of this Act shall apply to—

(1) any individual who retires under subchapter III of chapter 83 of title 5, United States Code, on or after the date of enactment of this Act or who is entitled to a deferred annuity under such subchapter commencing on or after such date; and

(2) any individual who, on the date of enactment of this Act, is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, and who, in accordance with regulations prescribed by the Office, applies to the Office within two years after such date for a redetermination of the amount of his or her annuity on the basis of such amendments.

(b) A redetermination of the amount of an annuity under subsection (a)(2) upon receipt of an application as provided in such subsection shall take effect with respect to payments of such annuity made on or after the first day of the second month commenc-

ing after such application is received by the Office.

FACING FACTS ABOUT COMMUNISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. RUDD] is recognized for 60 minutes.

Mr. RUDD. Mr. Speaker, not long ago I asked these questions of my Arizona constituents:

Are the people of Zimbabwe better off today than 10 years ago, when a Communist regime gained control over their nation?

Are the starving masses in Ethiopia better off today than they were 10 years ago?

Do the people of Cuba have more civil rights than before the coming of Fidel Castro?

I could have gone on, retelling the grim tragedy of what Soviet Communist tyranny has done to the lives of desperate people who once believed communism held the answers to their problems.

To many millions of these people communism has brought in one rapacious dictator to take the place of a former despot. Their freedoms and their economic welfare have been sharply curtailed and their ceiling of opportunity virtually brought to ground level.

They are the fortunate ones.

In Afghanistan, where a majority of the people still have refused to surrender to the invading Soviet armies during 6 years of bitter resistance torture and death have been the lot of vast numbers. Nearly half the Afghan population have fled their homes during those dark years, including most of the educated and skilled people of the nation. Some 2½ million have gone to Pakistan, and another 800,000 have gone to Iran.

We hear little about killing and the atrocities committed on the civilian population, so effective is the Soviet censorship apparatus. But word has leaked out and the bits and pieces of information tell a story of cruelty and degradation unmatched in modern annals.

The Marxist/Leninist dream of Communist world domination is becoming reality even more rapidly than anyone could have dreamed. At the end of World War II, optimists were predicting that the world's people could look forward to a future of peace and security, guarded by a strong United Nations and no longer threatened by tyranny.

Instead, world communism has been spreading its influence ever farther with each passing year, the United Nations has become an impotent hoax and seemingly the United States has become a paper tiger. The Soviets have used overwhelming military force to achieve their goals in Hungary, Czechoslovakia, Poland, Afghanistan, and other nations. More often, they have worked from within, creating unrest with propaganda and disinformation, providing military and economic aid, moving their own puppets into power, and finally achieving the complete hegemony they sought to gain.

By one means or another, Communists now control the destinies of at least 20 nations on four continents.

Most of them are Soviet puppets in every sense—answering to Moscow in all things, voting with the Communist bloc in the United Nations, supplying Soviet material needs, and lining up with the enemies of the Western democracies.

The People's Republic of China and other Asian Communist nations may not always agree with their comrades in the Soviet Union, but we may be sure they would march shoulder to shoulder with the Soviets in any showdown with the West.

America's tougher stand against the spread of communism has slowed the cancerous growth since Ronald Reagan succeeded Jimmy Carter in the White House. But the architects of Communist subversion are still hard at work behind the scenes, attacking governments friendly to the United States, stirring up dissatisfaction, fanning the flames of racial strife and waiting to exploit any opportunity for a Communist revolution.

Wherever there is a momentary vacuum of power, we can be certain that the disciples of Marx and Lenin will do their best to bring that nation under Communist control.

Not long ago a prominent American labor leader lashed out at those who were sounding the alarm about the rising of the Red tide around the globe. He declared:

> Every time we face a major problem, these superpatriots blame it on communism and shout that "the Russians are coming." But I look around, and they ain't coming!

That kind of willful blindness might be laughable if it weren't so tragic.

About the time he made his declaration, Cuban troops using Soviet military weapons had invaded Angola and helped to bring that new African nation under Communist domination. All of Indochina had been brutalized and subdued by Communist military forces. The Sandinistas, professing to be fighting for democratic rule, seized control in Nicaragua and immediately revealed they had been Communists all along, and owed their allegiance to Moscow.

"They ain't coming?" With such evidence confronting us all around the world, how can anyone be so blind?

Freedom is a fragile blessing—one that most countries of this world have never enjoyed. The present leaders of Mozambique, Angola, Cuba, Nicaragua, South Yemen, Vietnam, Laos, and dozens of other nations came to power behind the barrel of a gun posing as liberators and fighters for freedom.

Thirsting for freedom, the people fought and bled and died to overthrow an oppressor. But what did they receive in exchange? A more tyrannical dictatorship, and the crushing of what few human rights they had once enjoyed.

What a cruel paradox, and what a disillusionment.

Freedom and rule by the people, developed to its most advanced state in our own America, is a relative newcomer to the world. Aside from some brief experiments in ancient Greece and a sporadic eruption of democratic zeal in some later centuries, government by the people was unknown to human history until the American colonies declared themselves independent of British rule in 1776 and set up a Republic.

You would assume that popular rule would be the norm in the governments of mankind since all humans long to live their lives free from tyranny. But history teaches us otherwise.

Human weakness and lack of resolve have almost invariably led to the people's submission to a strong ruler who promised to eliminate chaos and establish order. Thus kings and emperors and czars have ruled the nations of the world almost from the dawn of human experience.

Communism and its counterparts—copiers of communism such as fascism, nazism, and socialism—are the natural descendants of such totalitarian governments. They declare that man exists solely to serve the state * * * that the social order is all important * * * that the individual has no rights in his own governance.

This is new? This is the wave of the future?

The Caesars preached the same doctrine in Rome 22 centuries ago, and the rulers of every empire and despotism in all those centuries since that time have been demanding the same kind of servitude from the individual.

The curse we call communism has the same philosophical basis as every tyranny of the past, except that it is more efficiently brutal. If there was anything new about the theory when Marx and Engels published it in 1848, it was that the workers of a nation would overthrow the established government and set up their own "dictatorship of the proletariat."

It is more than a little ironical that Marx and Engels chose to use the word "dictatorship" in their "manifesto." Any kind of dictatorship is tyranny, of course, as the people of Russia learned to their horror during the ghastly purges of Lenin and Stalin, and as the Chinese people later discovered when Mao Tse-Tung seized control.

Communism cannot be established without force and bloodshed, and it cannot be maintained in power without continuing coercive measures and enforced servitude. Take away the guns and tanks and the family and neighborhood spy network reporting to the secret police, and communism melts like ice in the midday sun.

Human nature will not easily tolerate submission of the individual to an all-powerful government. Only by force can people be kept subservient to their Communist masters.

Because Communist conquests and takeovers have been accomplished in relatively small increments, over a period of four decades, it is easy to lose sight of how relentlessly the Red tide has been rising.

Let us review the record and remember that the Communists have been carrying out their timetable of world conquest with frightening success.

By 1946, when Churchill noted that the Iron Curtain had descended between Eastern Europe and the Western democracies, the Soviets were frantically hurrying to perfect their own atomic bomb in order to gain enough security to proceed with their expansion plans. In China, Communist forces which had been gnawing away at the Chiang Kai-Shek government even during the wartime struggle with Japan, redoubled their efforts and were on the brink of victory by late 1948.

In 1949, Mao and his Communists routed the nationalist forces and proclaimed the establishment of the "People's Republic of China. In one spasm of violence, what was, to number, 1 billion people were lost to the free world and added to the fast-growing Communist total. Chiang and his loyal followers took refuge on the island of Taiwan.

Some highlights of the Communist conquests of the 1950's:

1950: Russian-trained North Korean Red army forces crossed the 38th parallel and invaded South Korea, precipitating the long and bloody Korean war. United Nations response saved South Korean independence at the last possible moment and eventually restored the status quo at parallel 38. No peace treaty has yet been promulgated.

1956: Dissident Hungarian citizens, demanding free elections, staged massive demonstrations in Budapest against Russian rule. The Soviet answer was a massive invasion of 5,000 tanks and a quarter million troops which put down the Hungarian revolt and massacred tens of thousands of the protesters.

1959: Fidel Castro, assuring the world that he was no Communist, but an agrarain reformer, by then a familiar refrain of Mao Tze Tung, lead his rebels to victory over the unpopular government of Cuba's Rulgencio Batista. Soon thereafter, Castro proclaimed his Communist allegiance and slaughtered or silenced all opposition as he clamped complete dictatorial control over all of Cuba. You do remember "the paredon" referring to the multitude of innocents stood against a wall and murdered. Bitterly, Americans recalled the words of reporter Herbert Matthews in the New York Times only a few months earlier: "Castro has strong ideas of liberty, democracy, social justice, the need to restore the constitution, to hold elections." How false!

Since the Communist takeover in Cuba, all Latin America has been targeted for continuing Communist infiltration. For more than a quarter century, Communist guerrillas have been mounting attacks on one nation after another, with varying degrees of success. Cuban organizers and military advisors, using Russian equipment, keep unrest boiling among our southern neighbors.

Fidel Castro has declared, in countless challenges to members of the Organization of American States, that Cuban Communists consider it their sworn duty to foment and encourage revolution against all non-Communist governments. He has sent young Cuban soldiers to Africa, and promises to send them to the far reaches of the world, to hasten the final triumph of Marx and Lenin over those who try to keep freedom's flickering flame aglow.

In 1962, when the Soviets tried to establish missile-launching sites on Cuban soil, 90 miles from the United States, President John Kennedy found sufficient backbone to demand their removal. Kennedy triumphantly told the world that he had won a great diplomatic triumph when Nikita Khrushchev agreed to remove the missiles. But that "trimuph" has since been demonstrated to be a defeat of major proportions, for Khrushchev's price for the withdrawal was a guarantee from the United States not to invade Cuba and wipe the blight of Fidel Castro from the Western Hemisphere.

Only a year before, in the Bay of Pigs fiasco, Kennedy had muffed a similar opportunity to eliminate Castro as a threat to Western security. But he let the fleeting chance go by, refused to give air support to the invading Cuban freedom fighters, and thus strengthened Castro's hand immeasurably.

The world can never forget that Soviet communism won its most important geopolitical victory in history when Kennedy failed on those two occasions to rid the Americas of Fidel Castro.

That failure—that timidity—has cost this Nation untold billions during the past two decades, has breached forever the safety of this hemisphere under the Monroe Doctrine, and has unleased a Pandora's Box of troubles that will plague the United States and its allies for decades to come.

Apologists for the Soviets rant unceasingly about the "justifiable Russian fear of encirclement" by their enemies. Soviet Russian dictators from Stalin to Gorbachev have pointed trembling fingers at the threat of NATO missiles and the American military presence in the Middle East.

The truth, of course, is that the Russians have long been using the "fear of encirclement" excuse to justify their continuing expansion plans. It now appears certain that the Soviets will feel safe from attack only when there are no more borders to violate, and no more territory left to invade.

The wider an empire is, the more it can be "threatened." Once Afghanistan has been subdued and digested, the Soviets will then feel threatened by Pakistan, and on and on, ad infinitum. And of course the same reasoning may be applied to the perceived "threats" to Soviet footholds in Africa, in East Asia, and in Latin America.

The Western democracies have a disheartening way of bestowing an immediate legitimacy on any Soviet land grab or power takeover. All of Eastern Europe now belongs to the Russians, we are told, and thus anyone who challenges an invasion, such as that of Czechoslovakia in 1968, or an outrageous exercise of power, such as that of Poland in 1981, is guilty of displeasing the Russians and bringing on World War III.

The Soviets consider no temporary setback final but keep boring in and applying pressure until another Communist expansion project has been brought to successful conclusion. Certainly the free world should be just as persistent, and just as unwilling to acknowledge Soviet hegemony in any part of the world.

We survey the bloody record of Communist gains—in Eastern Europe, China, North Korea, Southeast Asia, Africa, Latin America—and we wonder why the rest of the world is not screaming in righteous indignation and vowing that the red tide shall rise no more.

Today the infinitely lengthened borders of Soviet expansion are marked with hundreds of thousands of miles of barbed wire, guard towers, mines, helicopters and tanks. These exist, not so much to fend off enemy invasion as to keep the unwilling victims of communism penned inside.

The Communist movement must be relentlessly on the march, always winning victories, or appearing to win them. It can continue to survive in no other way. This maneuver keeps people at home pacified.

America and its allies have learned little since the days when Adolf Hitler was invading his neighbors in the

1930's. "Perhaps if we let him have this one small country," we reasoned then, "he will be satisfied and not force us into war."

Soviet communism has been expanding its territorial influence with the same sort of ghastly persistence since the day Hitler committed suicide in his Berlin bunker. An invasion here, a revolution there, a bloodless coup somewhere across the world—each carefully planned thrust has added new territory and new muscle to the body of world communism.

Tragically, the free world has been unwilling, in most cases, to do anything but protest mildly, and hope things will get better. But history teaches us that this is highly unlikely.

Consider this sequence of reactions to Soviet expansion:

1950: North Korea invades South Korea; United Nations condemns the action and some U.N. members send troops.

1956: Russians launch tanks and troops into Hungary; U.N. condemns the action, but takes no action.

1968: Russians overrun Czechoslovakia, crushing a demonstration of defiance; no official condemnation is issued.

1975–85: Soviets invade Afghanistan, brutalize Poland, and extend hegemony across three continents; not only is there no U.N. condemnation, but often the United Nations wildly approves the Soviet aggression.

The Soviets watch with great interest in American and Western reactions to their territorial grabs. Almost without exception, they have been able to move at will without fear of reprisal from the West.

Consider the damning indictment of free-world timidity which is evident in this 1982 declaration, made to a French cabinet minister by a Soviet official:

> We took Angola and you did not protest. We saw that you did nothing to win (in that confrontation), and we remembered your inaction.
>
> Then Andrew Young, the U.S. Ambassador to the United Nations, said it was "a positive step" for Cuba to send 40,000 soldiers to Angola—a step which should lead to "greater stability."
>
> Then we took over Mozambique. Forget it. You don't even know where it is. Then we took Ethiopia, a key move. And again you made no reply. Then we took Aden and set up a Soviet base there—right in the heart of your oil supply center! Still no response. Do you wonder that we believe we can move almost at will, and without opposition?

What an incredible record of Western timidity! Can the final victory of communism be far down the road when the free world refuses to stand up and fight?

□ 1820

THE ISSUE OF ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. SWINDALL] is recognized for 60 minutes.

Mr. SWINDALL. Mr. Speaker, yesterday yet another tragic chapter was written in the saga of the sanctity, or I might more accurately say the lack of sanctity, of human life in these United States of America. Specifically, yesterday, in a 5-to-4 decision, the Supreme Court struck down a 1982 Pennsylvania statute that held that before the procedure of abortion may be applied, it is necessary that first the patient give her written informed and voluntary consent. Prior to the signature of that consent, it was necessary that she be instructed, first, of the potential detrimental, physical, and psychological effects stemming from the procedure; second, that the medical assistance benefits would be available for prenatal care, as well as neonatal care; and, third, that the father might potentially be liable for the child's care.

The real tragedy of that decision is the fact that it just adds to the trend that we have been seeing over the last several years that we really do not want to face up to the real evidence with respect to what exactly abortion is.

Irrespective of how one ultimately feels about the ultimate moral issue respecting abortion, one must believe that we all benefit when we look at the reality of abortion. The sad part with respect to the Supreme Court decision is that we are basically making a public policy statement that individual women ought not to even be warned with respect to what the overwhelming evidence is now indicating, and that is that there are in fact two victims to every abortion. First, there is the unborn child, and, second, there is the mother herself.

We now have evidence that indicates that we do see psychological impact, sometimes years down the road.

Why would we not want a mother, before making such a significant decision, to be aware of the consequences? Why are we so dispassionate when it comes to dealing with that growing population of American women?

I suspect it is because we really do not want to deal with the ultimate issue, and that is whether or not the unborn is in fact human life, because certainly, as the Roe versus Wade decision recognized in 1973, if the unborn is in fact human life, then there are tremendous consequences that follow. But somehow we naively believe that if we just do not focus on that issue, it may go away.

Since 1973, 18 million unborn children, innocent unborn children, have lost their lives. Those individuals in Pennsylvania felt that at least they ought to inform these women with respect to the alternatives to abortion. I have had many people say that women get abortions today because of a number of factors, not the least of which is the fact that they do not feel that they can afford to even go through the birth procedure, much less the support of the child subsequently. This really defies that logic because what this says is proponents of abortion do not even want women to know that there are alternatives, that it is possible to have a child and not to assume the financial consequences, or that they might be able to have this child and at least hold the father responsible financially for the decision.

□ 1835

My question keeps coming back to the real heart of the issue and that is: Why do we not at least want to make this decision intelligently? I think it is interesting that today many, many States require that before any individual submits himself or herself to a surgeon's scalpel that it is necessary for the physician to sit down, in advance as this statute would require, 24 hours in advance, and walk the patient carefully through the consequences of that decision. The reason we do that is so frequently it is not until after the operation that the real consequences are ultimately know.

There is one positive aspect of the Court's decision yesterday. One might say the silver lining in the cloud. That is one of the Justices, the Chief Justice, in fact, the same individual who, in 1973, sided with the majority in the Roe versus Wade decision, recognizing the right to abortion, changed his mind. He stated, in a dissenting opinion, that he felt it was time for America to reexamine the Roe versus Wade decision.

Mr. Speaker, I close tonight with a rhetorical question not directly simply at this Chamber and my colleagues on both sides of the aisle, but directed to all Americans. That is, "How long can we go on totally oblivious to one of the most fundamental of all rights guaranteed by our Constitution?" That is the right to life and the right to have this Government protect that right.

Since the Roe versus Wade decision in 1973 we have walked further and further and further in the wrong direction. I pray that this Nation will recognize that not only do we have tottering on our decision the fate of millions of other children but we also have tottering the fate of our constitutional republic. A republic that is bound by a constitution, a constitution that itself describes itself as being the supreme law of the land.

The decision of the Supreme Court yesterday indicates that we are not only going to apparently allow the Su-

preme Court to rewrite the law, but that this body is going to continue to refuse to even debate the issue.

Mr. Speaker, I serve on the Judiciary Committee, and the Judiciary Committee has never even debated this serious issue. Consequently, this body has never had a debate on this issue on the merits or demerits.

I would certainly hope that as the upcoming elections draw closer that Americans will at least focus on whether or not this body ought to be more deliberative than the Supreme Court has been.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHANDLER (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROWLAND of Connecticut) to revise and extend their remarks and include extraneous material:)

Mr. MARTIN of New York, for 60 minutes, on June 25.

Mr. SWINDALL, for 60 minutes, today.

(The following Members (at the request of Mr. BRUCE to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BARNES, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAUB on the Wylie substitute amendment to H.R. 1, in the Committee of the Whole, today.

Mr. SILJANDER, prior to the Garcia amendment, in the Committee of the Whole, today.

(The following Members (at the request of Mr. ROWLAND of Connecticut) and to include extraneous matter:)

Mr. HORTON.
Mr. LEACH of Iowa.
Mr. COURTER in two instances.
Mr. LEWIS of California.
Mrs. VUCANOVICH.
Mr. BROOMFIELD.
Mr. CARNEY.
Mr. GILMAN in two instances.
Mr. DANNEMEYER.
Mr. VANDER JAGT.
Mr. JEFFORDS.
Mr. BARTLETT.
Mr. CONTE.
Mr. HYDE.
Mr. MYERS of Indiana.
Mr. EMERSON.

(The following Members (at the request of Mr. BRUCE) and to include extraneous matter:)

Mr. FRANK.
Mr. BENNETT.
Mr. STARK.
Mr. LEVINE of California.
Mr. LIPINSKI.
Mr. FEIGHAN.
Mr. HOYER.
Mr. MATSUI.
Mr. HAMILTON.
Mr. SCHUMER.
Mr. TALLON in two instances.
Mr. STOKES.
Mr. HEFTEL of Hawaii.
Mr. MILLER of California in two instances.
Mr. ORTIZ.
Mr. SOLARZ in three instances.
Mr. KANJORSKI in two instances.
Mr. MAZZOLI.
Mr. PANETTA.
Mr. DONNELLY.
Mr. TORRICELLI.
Mr. LELAND.
Mr. BONKER in two instances.

SENATE JOINT RESOLUTIONS AND CONCURRENT RESOLUTION REFERRED

Joint resolutions and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 196. Joint resolution designating September 22, 1986, as "American Business Women's Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 304. Joint resolution to designate the week of November 16, 1986, through November 22, 1986, as "National Arts Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 346. Joint resclution to designate June 21, 1986, as "National Save American Industry and Jobs Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 350. Joint resolution to designate 1987 as the "National Year of the Americas"; to the Committee on Post Office and Civil Service.

S. Con. Res. 134. Concurrent resolution expressing the sense of the Congress that the Secretary of the Army should place an appropriate memorial marker in Arlington National Cemetery honoring members of the crew of the space shuttle *Challenger* who died during the launch of the spacecraft on January 28, 1986; to the Committee on Veterans' Affairs.

ENROLLED JOINT RESOLUTION

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 479. Joint resolution to designate October 8, 1986, as "National Fire Fighters Day."

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day";

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week"; and

S.J. Res. 347. Joint resolution to designate the week beginning June 22, 1986, as "National Homelessness Awareness Week."

ADJOURNMENT

Mr. SWINDALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 39 minutes p.m.) under its previous order, the House adjourned until Monday, June 16, 1986, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3704. A letter from the Secretary of Education, transmitting a copy of the final regulations for Education Department General Administrative Regulations, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3705. A letter from the Director, Defense Security Assistance Agency, transmitting notification that the Department of Defense has provided the defense articles, services and training to Chad under the authority of Presidential Determination 86-6 which was previously transmitted (Executive Communication No. 3056), pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

3706. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1985 through March 31, 1986, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

3707. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notification of a new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3708. A letter from the Secretary of the Interior, transmitting a report on activities under the Freedom of Information Act during calendar year 1985, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3709. A letter from the Assistant Administrator, Administration and Resources Management, U.S. Environmental Protection Agency, transmitting notification of the termination of a system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3710. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty

payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3711. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3712. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3713. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3714. A letter from the Secretary of the Interior, transmitting the annual mineral institutes report for 1985, pursuant to Public Law 98-409, section 4(c); to the Committee on Interior and Insular Affairs.

3715. A letter from the Assistant Attorney General of the United States, transmitting a report of activities under the Civil Rights of Institutionalized Persons Act during fiscal year 1985, pursuant to 42 U.S.C. 1997f (Pub. L. 96-247, sec. 8); to the Committee on the Judiciary.

3716. A letter from the Director, Administrative Office of the United States Courts, transmitting notification of the proposals concerning civil jury trials in all Federal courts; jointly, to the Committees on the Judiciary and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SWIFT: Committee on House Administration. H.R. 4758. A bill to authorize appropriations for the Federal Election Commission for fiscal year 1987 (Rept. 99-637). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3653. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve procedures for liability and indemnification for nuclear incidents; with an amendment; referred, for a period ending not later than August 11, 1986, to the Committee on Energy and Commerce for such portions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(h), rule X, and to the Committee on Science and Technology for consideration of such portions of the bill and amendment, except for section 2 thereof, as fall within that committee's jurisdiction pursuant to clause 1(r), rule X (Rept. 99-636, Pt. 1) Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MITCHELL (for himself, Mr. McDADE, Mr. SMITH of Iowa, Mr. GONZALEZ, Mr. LAFALCE, Mr. BEDELL, Mr. NOWAK, Mr. LUKEN, Mr. SKELTON, Mr. STENHOLM, Mr. MAVROULES, Mr. HATCHER, Mr. WYDEN, Mr. ECKART of Ohio, Mr. SAVAGE, Mr. ROEMER, Mr. SISISKY, Mr. TORRES, Mr. COOPER, Mr. HAYES, Mrs. LONG, Mr. CHAPMAN, Mr. ROBINSON, Mr. CONTE, Mr. BROOMFIELD, Mr. IRELAND, Mr. HILER, Mr. WEBER, Mr. DREIER of California, Mr. KOLBE, Mr. COBEY, Mr. COBLE, Mr. DIOGUARDI, Mr. GALLO, Mr. MCMILLAN, Mr. MCKINNEY, and Mr. COMBEST):

H.R. 5019. A bill to amend the Small Business Investment Act of 1958 to create the Corporation for Small Business Investment, to transfer certain functions of the Small Business Administration to the Corporation, and for other purposes; to the Committee on Small Business.

By Mrs. BENTLEY (for herself, Mr. SNYDER, Mr. SHAW, Mr. PETRI, Mr. HYDE, Mr. STANGELAND, Mr. GRAY of Illinois, and Mr. CONTE):

H.R. 5020. A bill to expand the U.S. Secret Service Uniformed Division protective jurisdiction; to the Committee on Public Works and Transportation.

By Mr. BROOKS:

H.R. 5021. A bill to authorize the several States and the District of Columbia to collect certain taxes with respect to sales of tangible personal property by nonresident persons who solicit such sales; to the Committee on the Judiciary.

By Mr. BRYANT:

H.R. 5022. A bill to prevent U.S. foreign assistance funds from being used for the corrupt personal financial gain of any person or otherwise diverted from their intended use; to the Committee on Foreign Affairs.

H.R. 5023. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 with respect to military and other Federal retirement and disability programs; to the Committee on Government Operations.

By Mr. CARNEY (for himself and Mr. DOWNEY of New York):

H.R. 5024. A bill to amend the Act approved September 11, 1964, providing for the establishment of the Fire Island National Seashore in the State of New York, to authorize the development of needed public facilities on the mainland, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FRANK (for himself and Mr. HYDE):

H.R. 5025. A bill to provide for the issuance of immigration visas to Cubans; to the Committee on the Judiciary.

By Mr. GLICKMAN (for himself, Mr. GEJDENSON, Mr. HEFTEL of Hawaii, Mr. GRAY of Illinois, Mr. WHITTAKER, Mr. WORTLEY, and Mr. BARTON of Texas):

H.R. 5026. A bill to amend title 10, United States Code, to authorize the President to assign or detail members of the Armed Forces to guard U.S. citizens and air carriers against terrorism at airports outside the United States; to the Committee on Armed Services.

By Mr. HOPKINS (for himself and Mr. NICHOLS):

H.R. 5027. A bill to amend the title 10, United States Code, to establish certain requirements with respect to air carriers contracting with the Department of Defense for charter air transportation of members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. LEWIS of California (for himself, Mr. MILLER of California, Mr. CHENEY, Mr. LAGOMARSINO, Mr. MCCANDLESS, and Mr. HUNTER):

H.R. 5028. A bill entitled: the "Lower Colorado Water Supply Act"; to the Committee on Interior and Insular Affairs.

By Mr. SKEEN (for himself, Mr. BARTON of Texas, Mr. BATEMEN, Mr. BLILEY, Mr. COATS, Mr. DIOGUARDI, Mr. FRANKLIN, Mr. HENRY, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. JONES of Oklahoma, Mr. SAXTON, Mr. SILJANDER, Mr. SMITH of New Jersey, and Mr. WORTLEY):

H.R. 5029. A bill to amend part E of title IV of the Social Security Act to require States to furnish, and the Secretary of Health and Human Services to publish, statistical data relating to the incidence of adoptions; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5030. A bill to protect and preserve the Federal interest and historic and natural features of the National Capital; to the Committee on Ways and Means.

By Mrs. VUCANOVICH:

H.R. 5031. A bill to suspend the site selection process under the Nuclear Waste Policy Act of 1982, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Energy and Commerce.

By Mr. CAMPBELL:

H.J. Res. 653. Joint resolution to designate the week of September 15, 1986 through September 21, 1986, as "National Historically Black Colleges Week"; to the Committee on Post Office and Civil Service.

By Mr. McGRATH (for himself, Mr. DYSON, Mr. HEFTEL of Hawaii, Mr. FUSTER, Mr. DORNAN of California, Mr. JONES of North Carolina, Mr. HOYER, Mr. DAUB, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. WORTLEY, Mr. BIAGGI, Mr. LOWRY of Washington, Mr. HORTON, Mr. BEDELL, Mr. BERMAN, Mr. LIPINSKI, Mrs. BOXER, Mr. FISH, and Mr. MONSON):

H.J. Res. 654. Joint resolution to direct the Postmaster General to provide and sell stamps commemorating the crew of the space shuttle *Challenger;* to the Committee on Post Office and Civil Service.

By Mr. MAZZOLI:

H.J. Res. 655. Joint resolution to designate the month of October 1986 as "National Spina Bifida Month"; to the Committee on Post Office and Civil Service.

By Mr. BARNES:

H. Con. Res. 353. Concurrent resolution opposing the participation of the Chilean vessel *Esmeralda* in the July 4 Liberty weekend celebration; to the Committee on Foreign Affairs.

By Mr. DASCHLE (for himself, Mr. DORGAN of North Dakota, Mr. PENNY, Mr. DURBIN, Mr. PANETTA, Mr. WEBER, Mr. STALLINGS, Mr. OBERSTAR, Mr. BRUCE, Mr. JONES of North Carolina, and Mr. WHITLEY):

H. Con. Res. 354. Concurrent resolution expressing the sense of the Congress that the Secretary of Agriculture should exercise his authority under the Consolidated Farm and Rural Development Act to transfer sufficient funds from amounts authorized for guaranteed loans to amounts authorized for insured loans to meet the existing demand for insured farm operating loans; to the Committee on Agriculture.

By Mr. SMITH of New Jersey (for himself, Mr. ROYBAL, and Mr. RINALDO):

H. Con. Res. 355. Concurrent resolution to express the sense of Congress that the threshold for an itemized deduction for medical and dental expenses for Federal income tax purposes should not be greater than 5 percent of adjusted gross income; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. BOULTER, Mr. DORNAN of California, Mr. BLILEY, Mrs. BENTLEY, Mr. BURTON of Indiana, Mr. KEMP, Mr. SOLOMON, Mr. SHUMWAY, Mr. WORTLEY, Mr. HARTNETT, Mr. HYDE, Mr. LIVINGSTON, Mr. PORTER, Mr. STANGELAND, Mr. SWEENEY, Mr. SMITH of New Hampshire, Mr. GINGRICH, Mr. DENNY SMITH, Mr. BADHAM, Mr. ROBERT F. SMITH, Mr. LAGOMARSINO, Mr. COBEY, Mr. RUDD, Mr. SILJANDER, Mr. HUNTER, Mr. STUMP, Mr. COURTER, Mr. BARTON of Texas, Mr. KASICH, Mr. RITTER, Mr. ECKERT of New York, Mr. ARMEY, and Mr. MOORHEAD):

H. Res. 475. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania; to the Committee on Ways and Means.

By Mr. TALLON:

H. Res. 476. Resolution to express the sense of the House of Representatives with respect to the continued income tax deductibility of contributions to Individual Retirement Accounts; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

404. By the SPEAKER: Memorial of the general assembly of the State of Maryland, relative to Federal funding for the Washington Metro Rail System; to the Committee on the District of Columbia.

405. Also, memorial of the legislature of the State of Louisiana, relative to the President's antiterrorist policies; to the Committee on Foreign Affairs.

406. Also, memorial of the senate of the State of Illinois, relative to "Save American Industry/Jobs Day"; to the Committee on Post Office and Civil Service.

407. Also, memorial of the general assembly of the State of Maryland, relative to requiring congressional votes to be public and recorded; to the Committee on Rules.

408. Also, memorial of the legislature of the State of California, relative to title II of the Social Security Act; to the Committee on Ways and Means.

409. Also, memorial of the general assembly of the State of Colorado, relative to low interest tax-free industrial development bonds; to the Committee on Ways and Means.

410. Also, memorial of the general assembly of the State of Maryland, relative to the Department of Health and Human Services' long-term care survey process and nursing home regulations; jointly, to the Committees on Ways and Means and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. DAUB introduced a bill (H.R. 5032) for the relief of Joseph W. Newman; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 62: Mr. TALLON.

H.R. 442: Mr. FLORIO, Mr. WORTLEY, and Mr. FUSTER.

H.R. 585: Mr. MILLER of California, Mr. BEILENSON, Mr. LEHMAN of California, Mr. GRAY of Pennsylvania, and Mr. ANDERSON.

H.R. 867: Mr. EMERSON, Mr. SAXTON, and Mr. LUJAN.

H.R. 997: Mr. LOWRY of Washington and Mr. BERMAN.

H.R. 1309: Mr. BATES, Mr. LEHMAN of California, Mr. FISH, Mr. DIXON, Mr. LUNDINE, Mr. SWIFT, Mr. FOGLIETTA, Mr. UDALL, and Mr. LUKEN.

H.R. 1336: Mr. KOLTER.

H.R. 1402: Mrs. HOLT, Mr. BIAGGI, and Mr. SMITH of Florida.

H.R. 1875: Mr. LANTOS and Mr. FOLEY.

H.R. 2282: Mr. SYNAR and Mr. LEVIN of Michigan.

H.R. 2337: Mr. GINGRICH.

H.R. 2436: Mr. PANETTA.

H.R. 2504: Mr. SCHEUER and Mr. ROTH.

H.R. 2902: Mr. HAYES.

H.R. 3006: Mr. GOODLING.

H.R. 3263: Mr. CLAY.

H.R. 3429: Mr. HUGHES.

H.R. 3508: Mr. VISCLOSKY, Mr. BOUCHER, Mr. CARPER, Mrs. BURTON of California, Mr. BOSCO, Mr. DYMALLY, Mr. ROYBAL, Mr. EDWARDS of California, Mr. LEVINE of California, Mr. MANTON, Mr. KINDNESS, Mr. ENGLISH, Ms. OAKAR, and Mr. NIELSON of Utah.

H.R. 3654: Mrs. COLLINS.

H.R. 3661: Mr. SCHEUER, Mr. WORTLEY, Mr. BERMAN, Mr. ECKART of Ohio, Mr. JEFFORDS, Mr. DORNAN of California, Mr. PACKARD, and Mr. ARMEY.

H.R. 3747: Mr. RAHALL.

H.R. 3793: Mr. FOLEY.

H.R. 3808: Mr. MCGRATH, Mr. FUQUA, Mr. RICHARDSON, Mr. MITCHELL, and Mr. SMITH of Florida.

H.R. 3814: Mr. FAUNTROY.

H.R. 3906: Mr. ATKINS.

H.R. 4003: Mrs. COLLINS, Mr. DELLUMS, and Mr. MAVROULES.

H.R. 4029: Mr. KILDEE and Mr. JACOBS.

H.R. 4126: Mr. DENNY SMITH.

H.R. 4179: Mr. BADHAM, Mr. BROWN of California, Mrs. BURTON of California, Mr. CHAPPIE, Mr. ORTIZ, Mr. RICHARDSON, and Mr. SEIBERLING.

H.R. 4197: Mr. HUGHES and Mr. DE LUGO.

H.R. 4270: Mr. EVANS of Illinois.

H.R. 4299: Mr. MCCURDY.

H.R. 4344: Mr. SCHUETTE and Mr. BORSKI.

H.R. 4391: Mr. VOLKMER.

H.R. 4403: Mr. LEVINE of California, Mr. BOUCHER, Mr. DE LUGO, and Mr. REID.

H.R. 4442: Mr. BIAGGI, Mr. DANIEL, Mr. DAVIS, and Mr. MCGRATH.

H.R. 4463: Mr. WEAVER.

H.R. 4610: Mr. GARCIA.

H.R. 4669: Mr. BROWN of Colorado.

H.R. 4671: Mr. MARKEY, Mr. MITCHELL, Mr. HANSEN, Mr. SMITH of Florida, Mr. DOWDY of Mississippi, and Mr. FOWLER.

H.R. 4674: Mr. GREGG.

H.R. 4682: Mr. NIELSON of Utah, Mr. MURPHY, Mr. HUGHES, and Mr. BORSKI.

H.R. 4696: Mr. CROCKETT and Mr. APPLEGATE.

H.R. 4717: Mr. GINGRICH.

H.R. 4734: Mr. SMITH of Florida.

H.R. 4761: Mr. WHITTAKER, Mrs. SCHNEIDER, Mr. JEFFORDS, and Mr. TORRICELLI.

H.R. 4765: Mr. YOUNG of Alaska.

H.R. 4766: Mr. HENDON, Mr. BURTON of Indiana, Mr. WHITTAKER, Mr. BADHAM, Mr. YOUNG of Alaska, and Mr. GREGG.

H.R. 4795: Mr. PACKARD, Mr. EVANS of Illinois, and Mr. PARRIS.

H.R. 4824: Mr. OBEY.

H.R. 4825: Mr. GILMAN.

H.R. 4828: Mr. WILSON, Mr. HUCKABY, and Mr. BOULTER.

H.R. 4849: Mr. PEPPER, Mrs. HOLT, Mr. VENTO, Mr. ECKART of Ohio, Mr. FIELDS, Mr. FAZIO, Mr. ROBERTS, Mr. DEWINE, Mr. BARTON of Texas, Mr. GRAY of Illinois, Mr. BILIRAKIS, Mr. DURBIN, Mr. DAVIS, Mr. RITTER, Mr. PORTER, Mr. WOLF, Mr. KEMP, Mr. GILMAN, Mr. SOLOMON, Mr. DIOGUARDI, Mr. KRAMER, Mr. ROTH, Mr. CARNEY, Mr. PACKARD, Mr. BEVILL, and Mr. WILSON.

H.R. 4876: Mr. WOLF, Mr. SKELTON, and Mr. PENNY.

H.R. 4879: Mr. WORTLEY, Mr. PETRI, Mr. HUGHES, and Mr. MITCHELL.

H.R. 4882: Mr. DELLUMS, Mr. CLAY, Mr. MURPHY, Mr. STOKES, Mr. NEAL, and Mr. CROCKETT.

H.R. 4910: Mr. WHITTAKER, Mr. JONES of North Carolina, Mr. LAGOMARSINO, and Mr. BADHAM.

H.R. 4913: Mr. HORTON, and Mr. LEWIS of California.

H.R. 4919: Mr. ACKERMAN, Mr. ASPIN, Mr. BIAGGI, Mr. BOSCO, Mr. BRUCE, Mr. BROWN of California, Mr. CARR, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONYERS, Mr. DELLUMS, Mr. DYMALLY, Mr. EARLY, Mr. EVANS of Illinois, Mr. FLORIO, Mr. GRAY of Illinois, Mr. GLICKMAN, Mr. HAYES, Mr. HOWARD, Mr. JEFFORDS, Mr. KASTENMEIER, Mr. KOLTER, Mr. LANTOS, Mr. LUNDINE, Mr. MANTON, Mr. MILLER of California, Mr. MOAKLEY, Mr. MURPHY, Mr. OBERSTAR, Mr. OLIN, Mr. ORTIZ, Mr. OWENS, Mr. PENNY, Mr. PERKINS, Mr. RODINO, Mr. SAVAGE, Mr. SCHEUER, Mrs. SCHNEIDER, Mr. SIKORSKI, Mr. ST GERMAIN, Mr. WILSON, Mr. WISE, Mr. WRIGHT, Mr. YATRON, and Mr. YOUNG of Missouri.

H.R. 4929: Mr. FAUNTROY, Mr. MAVROULES, Mr. DONNELLY, and Mr. FAZIO.

H.R. 4945: Mr. HYDE.

H.J. Res. 381: Mr. MCMILLAN.

H.J. Res. 385: Mr. ENGLISH, Mr. FROST, Mr. MONTGOMERY, Mr. THOMAS of California, Mr. COBEY, Mr. REID, Mr. SOLARZ, Mr. DOWDY of Mississippi, Mr. FORD of Michigan, Mr. ACKERMAN, Mr. STRANG, Mr. YATES, Mr. SNYDER, Mr. HAYES, Mr. DORNAN of California, Mrs. KENNELLY, and Mr. FOLEY.

H.J. Res. 429: Mr. WEBER, Mr. VENTO, Mr. PURSELL, Mr. ENGLISH, and Mr. HENRY.

H.J. Res. 531: Mr. MCKERNAN.

H.J. Res. 577: Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. PERKINS, Mr. ROBERTS, Mr. NICHOLS, Mr. TAYLOR, Mr. WYLIE, and Mr. JEFFORDS.

H.J. Res. 584: Mr. WIRTH, Mr. REGULA, Mr. WAXMAN, Ms. KAPTUR, Mr. TORRICELLI, and Mr. HOPKINS.

H.J. Res. 590: Mr. ROSE, Mr. PANETTA, Mr. MACKAY, Mr. JENKINS, Mrs. MEYERS of Kansas, Mr. WIRTH, Mr. DICKS, Mr. ROWLAND of Georgia, Mr. GEPHARDT, Mrs. BOGGS,

Mr. HUCKABY, Mr. MONTGOMERY, Mr. SCHULZE, Ms. SNOWE, Mr. WALKER, Mr. WEAVER, Mr. WEISS, Mr. YATES, and Mr. ST GERMAIN.

H.J. Res. 623: Mr. TRAXLER, Mr. FLORIO, and Mr. SAXTON.

H.J. Res. 630: Mr. TORRICELLI and Mr. LAGOMARSINO.

H.J. Res. 642: Mr. NIELSON of Utah, Mr. CARR, Mr. WAXMAN, Mr. YOUNG of Alaska, Mr. HEFNER, Mr. CLINGER, Mr. GREEN, Mr. APPLEGATE, Mr. SCHUMER, Mr. MCHUGH, Mr. BREAUX, Mr. MATSUI, Mr. SUNIA, Mr. WHEAT, Mr. SAVAGE, Mr. CHAPPELL, Mrs. BURTON of California, Mr. LIPINSKI, Mr. DANNEMEYER, Mr. CARNEY, Mr. BILIRAKIS, and Mr. CALLAHAN.

H.J. Res. 643: Mr. MONSON, Mr. GORDON, Mr. MCKERNAN, Mr. ROBINSON, and Mr. HENRY.

H. Con. Res. 27: Ms. KAPTUR.

H. Con. Res. 36: Mr. LAFALCE, Mr. DURBIN, and Mr. CONTE.

H. Con. Res. 89: Mr. LUKEN.

H. Con. Res. 129: Mr. MICHEL.

H. Con. Res. 331: Mrs. VUCANOVICH and Ms. KAPTUR.

H. Con. Res. 336: Mr. DURBIN, Mr. DORGAN of North Dakota, Mr. KILDEE, Mr. PANETTA, Mr. SEIBERLING, Mr. RICHARDSON, Mr. MOODY, Mr. JEFFORDS, Mr. GREEN, Mr. KASTENMEIER, Mr. SCHEUER, Mr. MATSUI, Mr. SNYDER, and Mr. MOLLOHAN.

H. Res. 466: Mr. HOPKINS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

385. By the SPEAKER: Petition of the City Council of New York, NY, relative to food irradiation; to the Committee on Energy and Commerce.

386. Also, petition of the City Council of Lakewood, OH, relative to "Save American Industry/Jobs Day"; to the Committee on Post Office and Civil Service.

387. Also, petition of Mr. Ronald W. Pangrac, San Jose, CA, relative to a national parade for Independence Day; to the Committee on Post Office and Civil Service.

SENATE—*Thursday, June 12, 1986*

(Legislative day of Monday, June 9, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Sovereign Lord, we thank You for the profound reality that security and freedom meet in Your providence. On our own we discover they are at opposite polls—we seek security at the price of freedom—sacrifice security for the sake of freedom. With profound gratitude we thank You that Your sovereignty guarantees complete security and perfect freedom. When we live independent of You, Gracious God, we become dependent upon forces beyond our control. When we live in dependence upon You, we find true independence and the assurance of fulfillment of our personal destiny. Thank You, Lord, for the greatest of freedoms—choice. Help us to realize that we enjoy that freedom as we choose Your will for our lives and diminish that freedom when we choose our own way. Grant us wisdom and the will to choose Your way. In His name Who lived to do Your will. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator BOB DOLE, is recognized.

Mr. DOLE. I thank the distinguished President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, let me indicate that under the standing order the leaders have 10 minutes each. I reserve the time of the distinguished minority leader, who will be here a bit later.

Then there are special orders in favor of Senators HAWKINS, PROXMIRE, WALLOP, GORE, HEINZ, DIXON, MURKOWSKI, KERRY, HUMPHREY, SASSER, SPECTER, and HART.

Routine morning business, if there is any time remaining, will follow the execution of the special orders until 11 o'clock, at which time we will go back on the tax reform bill, H.R. 3838. Pending is the Grassley amendment No. 2070.

Mr. President, I think I can indicate for the managers on both sides of the aisle that they are very pleased with the prospect of finishing the tax reform bill this week. We hope that is a good prospect. There is no reason it cannot be completed this week.

By this week, I mean probably by 4 o'clock tomorrow afternoon. That might entail a late session this evening.

I would think, with the chairman indicating there would be votes on Monday, it would be in the interest of all of our colleagues to complete action this week and not have to worry about any votes on Monday. If we complete action on the tax bill, I would be in a position to indicate there would be no votes on Monday on any matter.

If that is an incentive, and hopefully it might be, that would be very helpful to the chairman, Senator PACKWOOD, and to the Democratic manager, Senator LONG.

INTEREST RATES

Mr. DOLE. Mr. President, interest rates have come way, way down over the past year. Following the discount rate cut in April, the prime rate fell to 8.5 percent. That is the lowest the prime has been in 8 years.

All around, this is outstanding good news for the economy. But it could be better still—interest rates should be even lower. Let me explain why.

A few years ago, everyone was complaining about very high real interest rates: The stated rate of interest, discounted for future inflation. Those high real rates were attributed to our large budget deficits and our rapid recovery from recession. Now, interest rates have come down—but what has happened to inflation?

The answer is, inflation is on its knees. Consumer prices actually fell in the first quarter at a 1.9-percent rate. While no one expects that trend to continue, it is pretty clear that inflation in 1986 will be lower than we have seen in a long while: under 3 percent, maybe even 2 percent or less. If you compare that low inflation with a prime rate of 8.5 percent you figure real interest rates must be around 6 percent. That is not low at all. To this Senator, it seems clearly too high.

POINT OF CONTROVERSY

Mr. President, I know my colleagues are aware that the Federal Reserve's action or inaction on the discount rate is a point of some contention in the financial community. The discount rate—a key indicator and symbol of Federal Reserve policy—is also an issue in our continuing discussions with the other developed nations on the issue of coordinated exchange-rate policies. When the Fed cut our discount rate in April, Chairman Volcker considered it important that Japan and Germany undertake similar actions at about the same time. That was done, and I think most people would agree it was a favorable development for the world economy.

The point I want to make is that there is room for the Federal Reserve to move further in this direction. The American economy and the world economy will, on balance, benefit from further reductions in interest rates.

WHY THE NEED IS THERE

Mr. President, the economy is doing well. Growth in the first quarter was 3.7 percent. But there are some mixed signals out there. As everyone knows all too well, the farm economy and the energy sector are not enjoying the fruits of economic recovery, as the rest of the Nation is. No one was pleased to see unemployment creep back up to 7.3-percent last month, even if the change had a lot to do with the impact of low oil prices on employment in the energy industry. The 7.3-percent rate is still too high.

With inflation low, growth rates less than we want, and plenty of unused productive capacity, a strong case can be made for another cut in the discount rate. Just consider all of the problems such a move could help solve.

Any move toward lower interest rates can help boost our economy and reduce the deficit as growth picks up. And the interest-sensitive farming and manufacturing sectors can use all the help they can get. Lower interest rates also reinforce the new realism in the valuation of the dollar: Surely the most important weapon in our battle to reduce the trade deficit. What is more, another drop in world interest rates can help relieve the excessive debt burdens of many of our friends and allies in the Third World, and spur the economic growth in Europe and Japan that many believe is the key to a better balanced system of world trade and finance.

AN ANTI-INFLATION POLICY

Mr. President, let me make absolutely clear that I oppose, and will always oppose, any attempt to reinflate the economy to create the illusion of

growth. That disastrous policy brought the economy to the brink of collapse in the Carter years, and it must be rejected absolutely. What I advocate is that the Federal Reserve strike the right balance between accommodating growth and restraining inflation.

We in this Chamber have a corresponding obligation to adopt policies that minimize the risk of renewed inflation. That means promoting productivity and economic efficiency with comprehensive tax reform: A reform that, in the case of our Senate bill, also holds promise for reducing interest rates by combining historic tax rate reductions with limits on deductions for interest payment. Further, and most importantly, it means following through on our commitment to meet the Gramm-Rudman-Hollings deficit targets. That cut in the Government's revenue appetite for debt will do a lot to keep recovery on a steady path, provided it is achieved through real—I underscore real—spending restraint.

If we can do all that, with a little help from our good friends at the local central bank, the economy should be in good shape for a long time to come.

□ 0940

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MCCONNELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

THE SALT II ACCORDS

Mr. BYRD. Mr. President, as I carefully read and listened to the President's remarks on the SALT II accords last night, he indicated that movement or progress in the arms talks in Geneva would be the key standard in his decision this fall as to whether to arm the 131st B-52 with cruise missiles. That action would break through the restraints of the accords. Despite the rhetoric of some of his advisers, he also indicated that decision to throw out the SALT II restraints had not been made and would depend on progress in arms reduction talks.

Third, he indicated that the differences in the force structure between the United States and Soviet arsenals and the complexity of those two arsenals are major complicating problems in reaching a fair meeting of the minds.

The Soviets have the main strength of their nuclear arsenal in the land-based intercontinental missiles. That is not the case with us. We have the triad—the land-based missiles, air-launched missiles, and submarine-launched missiles. So it is, indeed, difficult to come to a fair meeting of the minds when such complexities are involved. Obviously, renewed efforts to reach such a meeting of the minds, however, is in order and even with the vigorous good-faith actions on both sides, this process takes time and hard work.

Last, the President indicated an open mind toward arms control progress this year as the key standard by which continuation of the no-undercut policy would be judged. So he obviously has not been boxed in concrete by some advisers, who apparently try to put words in his mouth.

Mr. President, I think the President has heard the message that Congress and our allies have been sending to him. There is a message in all this for Mr. Gorbachev as well. For Mr. Gorbachev's part, he ought to agree now to a definite summit schedule in order to galvanize the arms control process. For our part, we need to promptly assess and respond to the latest Soviet proposal so that it can be said that we are doing all we can to move the process forward. I have no doubt that our negotiators are doing just that.

So the rhetoric, Mr. President, on ending constraints should end and the President's advisers need to take a cue from the President.

I yield the floor, Mr. President.

ORDER OF PROCEDURE

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President——

Mr. PROXMIRE. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Senator from Wisconsin has a special order first, it appears.

Mr. WALLOP. Mr. President, I have no desire——

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. WALLOP. Mr. President, I regret the Senator from Wisconsin left the floor. I had no intention of moving in front of him in the order of things.

The PRESIDING OFFICER. It quite possibly could have been a mistake of the Chair. The Senator from Wisconsin was listed prior to the Senator from Wyoming for a special order.

Mr. WALLOP. I have no intention of moving in front of him. I merely sought the floor because I did not know the order.

The PRESIDING OFFICER. The Senator from Wisconsin has left the floor.

RESERVATION OF MINORITY LEADER'S TIME

Mr. BYRD. Mr. President, I have a little time remaining. I was only going to ask either of the two Senators if he wished to comment on what I have said. I thought one of the Senators might want to do that. That not being the case, I ask unanimous consent that I may reserve the remainder of my time for the rest of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR WALLOP

The PRESIDING OFFICER. The Senator from Wyoming is recognized under the previous order.

Mr. WALLOP. I thank the Chair.

SALT II

Mr. WALLOP. Mr. President, I rise today to applaud President Reagan for his decision last week to end unilateral U.S. adherence with the fatally flawed, unratified, and violated SALT treaties.

As I interpreted his remarks last night, I did not see any indication that he intended to back off of that intention. He has announced his intention to exceed the SALT II limitations on cruise missile bombers sometime in November. This decision, a long time in coming, finally lays to rest two agreements that do not support U.S. national security because they have done, and can do, nothing to constrain the Soviet military buildup.

Today, I would like to address the contention that dropping SALT II will permit the Soviets to increase tremendously the strategic threat to the United States, while retaining SALT will prevent this.

Critics of the President's decision have stated that an unconstrained situation will favor the Soviet Union because they have a greater breakout capability, more hot production lines, and an unconstrained budget environment. All this smacks of making a virtue out of a necessity. What these Senators are actually saying, though they would not admit it, is that the SALT II Treaty doesn't do anything to improve the unstable strategic balance, in fact, it enshrines it, but since we are unwilling to do anything about it ourselves, they say we may as well lock ourselves into strategic inferiority.

If they mean that the treaty is no good, that it is injurious, but it is the best we can get and the Soviets might

punish us by deploying more missiles and warheads than they already have if we drop the treaty, then I understand their argument. I understand it, but I do not agree with it. The same argument was used for not responding to acts of terrorism with force: If we expose terrorists for what they are, they said they might retaliate against us, and we Americans have not got the will to sustain our own policy. There is a desperately false premise behind this argument: It is that we cannot compete with the Soviet Union or anything else in the world which challenges us. Well, of course, we can compete, and, Mr. President, we must. Their argument assumes that we must cut the best deal with the Soviets we can, even if the terms are unequal and even if the Soviets do not live up to the limitations and their own words.

How ironic that those in Congress who support SALT II for these reasons also are the ones who most often vote consistently against establishing the capability for this country to compete strategically with the Soviets. When we are talking about more United States missiles, or keeping production lines open, or not cutting up submarines that still have a useful life, then we are told we would be provocative, destabilizing, or promoting an arms race with the Soviet Union. At least, then, we have narrowed the terms of the debate: No one is speaking of the virtues of SALT II any more, only of the relative importance of its defects.

But this whole argument is made irrelevant by the facts. Conservatively, the Soviets will add over 4,000 ballistic missile warheads to their arsenal over the next 6 to 7 years within the SALT II limits. No wonder, as one SALT II supporter recently pointed out, that the Soviets have not violated many of the numerical limits. They obviously do not have to. To demonstrate that SALT II is not arms control but arms build-up, the United States, Mr. President, could deploy 820 MX missiles, each with 10 warheads. That is over 8,000 hard-target warheads. Now we have been debating in this country for over a decade whether to deploy 50 or 100 MX, and in that period of time the Soviets have deployed over 800 MX class missiles. Do any of the Senators who support SALT II suggest that we deploy 820 MX missiles? Of course not. Most of them vote against any MX deployments.

The Soviets, on the other hand, will continue to increase the size of their force by replacing their SS-17 and SS-19 missiles, with 4 and 6 warheads respectively, with their new SS-24, with 10 warheads, a great increase in security for Americans. I have heard Senators argue in this Chamber that our MX deployment is destabilizing because it represents a potential first strike threat to the Soviet Union. But why do these same Senators not display the same concern, nay greater concern, for the Soviet build-up, a build-up which is out of all proportion to the threat posed by the United States and a build-up which was undertaken during the first 15 years of the SALT process?

Another approach of those criticizing the recent decision is the scare tactic. Some have postulated preposterous threats that are neither economically or strategically rational. We hear about threats of 20,000 to 30,000 Soviet strategic nuclear warheads—20-30 warheads piled atop the huge Soviet SS-18 ICBM—huge increases in the construction of new Soviet ICBM launchers. These scare tactics conjure up the image of a Soviet Union just waiting for the moment when they are released from the treaty to engage in an arms race. Why don't we stop, look, and listen. The Soviet Union is already engaging in a one-sided race.

They have added over 7,000 strategic warheads to their missile since the signing of the SALT I agreement and have been able to reduce the number of SALT accountable launchers at the same time. From the perspective of SALT, then, there has been a reduction in the total number of accountable weapons. This is surely viewed as a positive development by SALT supporters. Yet the threat to this country from Soviet strategic ballistic missile warheads has grown 400 percent since we began the SALT exercise in 1969.

Mr. President, I submit, if this is strategic arms limitation, then this country can hardly stand another decade of such limitation. Can anyone truthfully argue that the threat from Soviet strategic forces has not increased astronomically over the past 15 years while the number of SALT launchers has decreased? This is part of the legacy of a decade and a half of SALT. The SALT process counts the wrong things.

Mr. President, these scare tactic figures cannot be substantiated by prudent intelligence estimates nor by any conceivable Soviet strategic rationale. The fact is, that the SALT II levels are a mirror of the planned Soviet strategic force posture in 1977.

Just looking at the history of the negotiations lends credence to this. The United States wanted a limit on strategic nuclear delivery vehicles around 1,800, the Soviets wanted 2,400; we "compromised" at 2,400. The United States wanted to limit total MIRV'd ICBM's—the most threatening strategic system—at 550; the Soviets wanted 850; we "compromised," for the first time a Soviet reduction, at 820. The United States wanted to limit heavy ICBM launchers, the highest priority objective, to 150, the Soviets wanted 308; we "compromised" at 308. At Vladivostok, the United States wanted the Soviet Backfire bomber to count as a strategic bomber and to exclude cruise missiles altogether from the limitations. We split the difference: the Soviet Backfire is not constrained by SALT but U.S. cruise missiles are.

Mr. President, the reason the Soviets have not exceeded many of the key quantitative limitations in the treaty is that they do not have to: the limitations were designed to allow the Soviets to exploit the advantages of their large throw-weight force in order to add thousands of additional warheads to their arsenal.

Yet the Soviets have even broken out of the numerical limitations by possessing at various times over 2,504 total strategic nuclear delivery vehicles. Now many will say that this is not militarily significant—I don't agree with this argument, but many have made it. I assume that they would also say that, if the United States were to deploy a new Trident submarine and not dismantle two Poseidons, thus putting the United States 22 MIRV'd launchers over the limit, then that would also be OK.

That it would not be significant. But of course that is not what we hear. We hear that it would be destabilizing; that it would unravel the SALT framework; that it would ruin arms control. But why, I ask these colleagues, has Soviet cheating not already ruined arms control and why is it incumbent upon the United States to always "go the extra mile" when the Soviets won't even give an inch?

Mr. President, another bugaboo of the SALT II supporters is that the Soviets will "fractionate" their huge SS-18 missile. Well, I have some good news and some bad news on this point. The good news is that there is little prospect that the Soviets will add warheads to their SS-18 force beyond what they already have.

There is no strategic rationale to do so, and in fact Soviet fractionation of the scale suggested would cost them greatly. They would have to design, develop and test new reentry systems; they would have to test new hardware and it would place great demands on their nuclear materials production. At the end of all this, they would actually decrease the military utility of their strategic force. There is no target base in the United States that would justify such an expansion.

The bad news is that it has been widely reported that the existing Soviet SS-18 force already carries more than the 10 warheads as limited by SALT. Some suggest the true number is around 12-14. So here we suspect a 20-40 percent increase in the size of the SS-18 force, a violation under the terms of the SALT II treaty, that we cannot verify with any certainty. That is between 600 and 1,200 additional warheads. The truth is we have no way of knowing exactly

how many warheads are deployed on the SS-18, or any large MIRV'd Soviet missile.

Mr. President, all the critics' arguments add up to one thing: since the United States is not willing to compete seriously with the Soviet Union we therefore had better cut the best deal we can. I cannot accept the premise behind this argument just as I cannot accept a treaty that locks in U.S. strategic inferiority.

I urge all my colleagues to support the President's decision to end unilateral U.S. compliance with the "fatally flawed," expired, and violated SALT treaties.

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. DIXON] is recognized.

TRI-CITY REGIONAL PORT DISTRICT TO DEVELOP SURPLUS FEDERAL PROPERTY

Mr. DIXON. Mr. President, I would like to call the Senate's attention to the pending sale of surplus Federal property at the St. Louis Area Support Center in Granite City, IL.

As we all are aware, President Reagan has encouraged all Government agencies to dispose of surplus property. In keeping with the President's plan, Senator PAUL SIMON, Congressman MEL PRICE and I made a joint effort to assure that this excess property would be put into active economic use.

Last fall, after nearly a year of deliberation with the Army and GSA, 104 acres and one warehouse were formally released for sale to the tri-city regional port district for economic development.

On June 5, 1986, I was notified in a letter from Earl E. Jones, Commissioner of GSA's Federal Property Resources Service, that an agreement has been reached for the sale of the property. The proposal is now before the House Committee on Governmental Operations, and the Senate Committee on Governmental Affairs. The project is only one step away from being put into action.

The Port District, along with Fox Industries, Inc., will use the property for warehousing of materials, and as an expansion site of foreign trade zone No. 31.

This southern Illinois community is economically depressed, with the unemployment rate exceeding both the State and national levels. The public warehousing operation will create 25 jobs initially, and the immediate activity of the building will help develop and market the adjoining 104 acres, generating additional employment.

I am confident that the development of this land will enhance the economy and provide incentives for further expansion.

The port district has already received a $161,500 low interest loan through the "build Illinois" program, the State of Illinois' commitment to helping local areas strengthen their economy.

Mr. President, I am encouraged by the sale and the development of this property. This project is, indeed, an excellent example of public cooperation—at the local, State and Federal levels—working successfully with the private sector.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

SOVIETS MORE WILLING FOR ARMS CONTROL NOW THAN SINCE THE START OF THE NUCLEAR AGE

Mr. PROXMIRE. Mr. President, add one more reason why right now—today—is the ideal time for nuclear arms control negotiations between the United States and the Soviet Union. Marshal Shulman is the director of the Harriman Institute for the Advanced Study of the Soviet Union at Columbia University. If any American citizen is widely acknowledged as our top expert on the Soviet Union, it is Shulman. As the New York Times reported recently, Marshal Shulam has devoted 40 years to the quest for a more rational relationship between the two superpowers. What does Shulman say about the prospects of an arms control agreement with the Soviet Union today? Here is what the New York Times reported from Marshal Shulman June 1:

> The Soviet Union has reached the point where it has very strong incentives to try and stabilize the military competition with the United States. In all the forty years I have studied the Soviet Union, I have not seen a time when they were more seriously interested in getting into negotiations with us.

Shulman then said:

> But it comes at a time when the United States is out of phase with that. We have been preaching to them for a long time on the virtues of arms control. But now we are in a period of nationalism in our national life so nothing is coming of it.

Think of it, Mr. President. As I said recently on the Senate floor, the time could hardly seem better for arms control. It has the overwhelming support of the American people according to every statewide referendum and every professional poll. Can we negotiate from strength? We can, indeed. The United States and our NATO alliance has an impressive and growing economic, technological, and military superiority over the Soviet Union and the Warsaw Pact. So, yes, we can negotiate from strength. And now this country's leading expert on the Soviet Union tells us that the Soviet Union is more favorably inclined toward arms control than they have been since the dawn of the nuclear age. So are we progressing toward an historical arms control agreement? No way. The arms control talks at Geneva have made no progress whatsoever. And what is worse, the administration has killed or virtually killed every single significant arms treaty so painstakingly developed over the past 25 years between the 2 countries.

Mr. President, this Senator does not fault the Reagan administraton so much for not reaching an agreement with the Soviet Union, I fault it for not trying

Think of it. President Reagan is the first President since the dawn of the nuclear age who has proposed no significant arms control agreement with the Soviet Union. Every previous President favored negotiations to end nuclear testing. Every previous President since Lyndon Johnson and including Nixon, Ford, and Carter supported the Antiballistic Missile Treaty which the Reagan Star Wars Program—the administration's top military priority would destroy. Every one of these previous Presidents enthusiastically supported the negotiations that finally achieved SALT II which President Reagan has always opposed and now proposes to nullify.

The President of the United States is the name of the game in arms control. He and he alone appoints the negotiators. He and he alone gives the negotiators their instructions. He and he alone rejects or accepts whatever agreement they achieve. Oh, sure, the Senate has the power to ratify a negotiated treaty. But a President can and often does put negotiated agreements into effect without Senate ratification. The Congress cannot even bring its prime power—the power of the purse—into play on arms control. For example, some have proposed that the Congress withhold funds from nuclear testing to force the President to negotiate a test ban with the Soviet Union. But Congress would even have great trouble using its appropriations power to overrule a President who is unpopular. Could we overrule President Reagan on the country's arms control policies? President Reagan is the most popular President in many years. Any congressional attempt to overrule President Reagan would put the U.S. Government publicly at war with itself over the most critical national security issue confronting the country in this dangerous nuclear age. And Congress would almost certainly lose.

So unless somehow the President changes his life-long consistent opposition to arms control, the free world may miss what Marshal Shulman sees as our best chance in 40 years to negotiate an historic nuclear arms control treaty with the Soviet Union.

Our NATO allies obviously and overwhelmingly favor such negotiations. But without a President willing to lead the negotiations, the cause of arms control appears hopeless until at least January 20, 1989. For the next 2½ years we can only hope and pray that the superpower nuclear arms race does not sweep so far out of control that arms control negotiations will be impossible when a new President takes office.

ONE OF THE WAYS S. 430 BRINGS BACK BRIBERY

Mr. PROXMIRE. Mr. President, this is the second in my series of speeches against S. 430—the "Bring Back Bribery Bill," or BBB. It is my contention that this bill will gut the Foreign Corrupt Practices Act that was enacted in 1977. That law has effectively stopped the bribery of foreign officials by American corporations. Prior to enactment of that 1977 law, there had been a spectacular and dramatic outbreak of scandals. The bribes payed by American corporations were found by the SEC to be widespread. They included bribes paid in Japan, Italy, and The Netherlands that had staggered their governments and shaken our country's foreign relations. The SEC found that 450 American corporations had paid over $300 million in bribes.

What has happened since the enactment of the Foreign Corrupt Practices Act? In the more than 8 years since that law was enacted, there has not been a single foreign bribery scandal involving American corporations. How would S. 430 gut the law? Today I will deal with a single provision of the bill. This bring-back bribery bill provides that the 1977 law will be amended so that it will henceforth be legal for a corporation to make a payment to a corporation official from a slush fund for—and I cite the express language of the bill, S. 430: "any payment, gift, offer or promise of anything of value which constitutes a courtesy, a token of regard or esteem, or in return for hospitality." What is wrong with that provision? Plenty. It does not provide any limit—not $1,000, or $10,000. It does not even use generalized language as a limitation such as any nominal payment.

Under that S. 430 provision, the New York Times opined in an editorial, the bill opens a loophole through which you could fly Lockheed. Would a $100,000 payment to a top official of a foreign country constitute a courtesy? Could it be regarded as a token of esteem? The word "token" might be considered to imply a limit. But doesn't the word "esteem" for the high official and the country he represents suggest that the payment could be very substantial, indeed?

And how about the term "in return for hospitality"? A corporation may send a delegation of 15 or 20 persons to a country. It might stay for a month or so in luxurious surroundings. The cost of hospitality to the host country could very possibly be tens of thousands of dollars. What does that mean? That means that under S. 420, corporation X could bring a delegation for a stay of several weeks in country X with the expenses of that stay picked up by the treasury of country X. Then, "in return for the hospitality" of country X, the corporation makes a personal gift to a top official of country X equal to the cost—say, $50,000—of the hospitality. Of course, the $50,000 could easily be $100,000 or $200,000. Presto, the return of hospitality becomes a bribe. All of this would be legal under BBB, the bring-back-bribery bill, S. 430.

Mr. President, the present law enacted in 1977 is working well. It has stopped bribery by American corporations of foreign officials. It has not—on the basis of an objective and scholarly study—had an adverse effect on our exports. There is no evidence that any corporation official has been unjustly or unfairly prosecuted. No question about it.

So what is wrong with present law? Something very important is wrong with it. It has cost some very powerful people—that is, top corporation executives—some uncomfortable and uneasy moments. Yes, those executives do have to be very careful now to avoid any slush fund payments to bribe foreign officials. That is a serious price, a genuine burden on a corporate official. But consider the alternative. Would our country and the countries where we sell our products be better off if American products were bought on the basis of bribery instead of quality, price, and service?

Everyone agrees that the answer is clearly and emphatically: No. The authors of S. 430 believe that somehow we can both continue to stop corporate bribery and at the same time ease the language of the Foreign Corrupt Practices Act so that top American corporate officials will not have to worry so much about their corporation paying bribes to get foreign sales. S. 430, the bring-back-bribery bill, would ease that worry all right. In doing so, it would surely gut the law. As the New York Times has written, it would open a loophole through which every corporation could fly Lockheed.

Mr. President, in a subsequent speech on the floor I will spell out how S. 430 guts the Foreign Corrupt Practices law in still another respect.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that the economy is in the midst of a beautiful recovery. The one series of economic statistics that really matters to most Americans demonstrates the hollowness of this assertion.

We talk a lot about the economy on this floor, mentioning gross national product, unemployment, inflation, and savings and investment. All are important indicators of the health of our economy. But for the average worker, they are abstractions when compared to one variable—the size of the paycheck.

What has happened to the average worker's paycheck during this recovery? Here the story is not of recovery but of decline and stagnation.

In 1978, the average worker earned $189 a week after adjusting for inflation. By 1982, that average paycheck had dropped to $168 a week—a drop of 11 percent. This decline took place during the deepest recession since the Great Depression and in part can be explained by it.

But look at what has happened to pay since the recovery, which some have described in glowing terms. That recovery has been anemic when it finally filtered down to workers' paychecks. By 1985, after 3 years of recovery, the average worker was earning $172 a week, an increase of a paltry 2 percent over 1982. In 1985, the average worker was earning 9 percent below what he had earned in 1978.

Mr. President, inflation and interest rates are down and we have a chance, but only a chance, to put the economy on a sound footing. Economic history demonstrates that sustained economic growth means bigger paychecks for American workers.

This recovery has not met that historical test. In fact, the average paycheck actually declined by about 1 percent in 1985, after increasing in both 1983 and 1984. These facts demonstrate that those who extoll this recovery are talking about a myth as far as the average American worker is concerned.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1010

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALT COMPLIANCE

Mr. DOLE. Mr. President, there is a great deal of rhetoric floating around

these days about the SALT II Treaty and the President's recent decision and statements on it. In fact, the President has made the right basic decision on SALT—the decision that offers us the best, in fact probably the only, hope for real arms reduction in the months and years ahead.

What the President has done—and, frankly, I would have done this some time ago, had I been in his position—is make clear that henceforth we are going to base our strategic arms decisions solely on the basis of three criteria:

First, what armaments do we need to insure the security of our country and to meet our commitments around the globe.

Second, what strategy gives us the best chance to make progress in Geneva on arms reductions.

And, third, what are the Russians really doing in their own arms development programs—including whether they are complying with existing arms control agreements—and what they are really doing in our arms control talks—are they serious or not.

What the President has set aside is our promise to remain in technical compliance no matter what the Soviets do. What he has said is we are not automatically and forever wedded to a treaty that the Soviets have massively and repeatedly violated; that has allowed them to buildup—not reduce in any area; and that sets limits on the wrong things, anyway, at least in terms of where technology has taken us since the treaty was first negotiated.

Unthinking, unilateral compliance with that treaty not only does not serve our national security needs. It has not constrained the Russians and it has not served the cause of arms reductions.

The President's overall stance is the best one, really the only one, we can take. We want arms reductions; we are prepared to negotiate seriously with the Soviets to achieve it; we are not going to do anything provocative or threatening to Soviet interests—unlike them, we are not going to threaten to break-out in any area; but, in the meantime, we are not going to voluntarily tie our hands while they run around free to do whatever they want, violate whatever they want, and get off scot-free.

Let me make one final point. Some are claiming that the SALT Treaty, whatever its flaws, has somehow restrained the Soviets—let me remind my colleagues that the treaty has never been ratified and had it been ratified, it would have expired last year, but there is feeling in this Chamber, that somehow the Soviets are in compliance and we are threatening to be out of compliance—that without that restraint the Soviets are suddenly going to start building many new nuclear weapons systems and vehicles and that we are going to fall into a new arms race.

I am convinced of one thing, if nothing else. The Soviets do not make their decisions on national security matters on the basis of whether or not they have signed any agreements. They will not desist from doing something in their interest just because, a decade ago, a Soviet leader put his signature on some agreement, again, which has never been ratified.

Let us not foreget: The Soviet Union is the country that signed the U.N. charter and has spent the 40 years since conducting aggression and fomenting revolution around the world. It is the country that solemnly pledged free access in and out of Berlin and then built the Berlin Wall. It is the country that said it would not put offensive missiles in Cuba and then tried to do so secretly.

It is the nation that signed treaties of friendship with Hungary and then invaded that country; with Czechoslovakia and then invaded that country; with Afghanistan and then invaded that country. It is the nation that signed the Helsinki accords and has proceeded since to crush human rights at home and deny hundreds of thousands their right to emigrate. It is the nation—the very same nation—that signed an ABM Treaty and grossly violated it; that signed the SALT II Treaty—the one that some seem to revere so much—and this is the treaty they continue to violate in every way nearly every day.

Mr. President, the Soviets make their national security policies based on their national interest, nothing else. It is the one lesson, perhaps, that we ought to take from them.

It seems to me that they are concerned about their national interests and have a right to be. We should be as concerned about our national interests and we should also take a look at the Soviet record.

Mr. President, do I have any leader time remaining?

The PRESIDING OFFICER. The majority leader has 2 minutes of time remaining.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have a special order for a period of 5 minutes. In the absence of any of my colleagues in the Senate Chamber, perhaps I might extend that just a bit as the need may arise.

REPORT ON FARM HEARING IN CLARKS SUMMIT, PA

Mr. SPECTER. Mr. President, first I would like to report upon an open house town meeting forum which I held on May 27, 1986, at a farm owned by Mr. Keith Eckel, the President of the Pennsylvania Farmers Association, in Clarks Summit, Lackawanna County, PA.

This was one of a continuing series of meetings which I have held around Pennsylvania on farms. As part of the efforts that I have made to keep in touch with the people of my State during the course of the past 6 years, I have been in each of Pennsylvania's 67 counties on some 40 occasions and held approximately 260 open-house town meetings. These sessions are very important in acquainting this Senator with what is going on in Pennsylvania.

Pennsylvania's farming community is a major portion, the No. 1 industry of the State. Few people recognize the fact that there are more people living in rural Pennsylvania than live in the rural parts of any other State in the United States, there being some 2½ million people living in rural Pennsylvania.

Customarily, my State is considered to be a State of big cities, steel mills, coal mines, textile and apparel factories. But in addition, we have a very, very major industry in agriculture.

As the Presiding Officer knows from work which we do together on the Agriculture Subcommittee of Appropriations, the farm country of Pennsylvania is very, very important indeed.

Mr. President, during the course of the meeting which I held with the farmers in Lackawanna County on May 27, some 60 were in attendance and there very significant issues raised at that time. Joined by Pennsylvania State Representative Carmel Siriani, I heard testimony from several prominent members of the agriculture community at the hearing, including Mr. Earl Forwood, president of Eastern Milk Producers Cooperative Association, Mr. Harry Hopkins, president of the Wyoming/Lackawanna County Farmers Association, Ms. Audrey Naylor, who represented Penn State Agriculture Services, and Mr. Rich Pallman, a board member of the Pennsylvania Farmers Association.

Four main issues dominated our discussions: the health of the dairy industry, fiscal restraints on effective agriculture marketing and extension programs and sound trade policy. Mr. Forwood brought me up to date on issues facing the dairy industry, which is the largest component of Pennsylvania's agriculture industry. He expressed his hope, as I did, that as the complicated provisions of the 1985 farm bill are implemented, they will benefit dairy farmers, agribusinesses and consumers alike.

Mr. Hopkins' testimony centered on marketing, product promotion and the farm credit situation. He pointed out that the maintenance of adequate funding for the Foreign Agriculture Service, the Agriculture Research Service and other branches of the Department of Agriculture is essential to enhancing the success of our agriculture industry. In suggesting that farm credit programs be individualized, Mr. Hopkins has hit upon something which I will seek to address in the Senate Appropriations subcommittee on Agriculture in the future.

Ms. Naylor provided an ample case for the maintenance of a strong Cooperative State Extension Service. This valuable program, which includes 4-H clubs, home economics programs and, most importantly assistance for farmers themselves must be continued. I was pleased to assure Ms. Naylor of my strong support for extension programs.

Mr. Pallman, pointing to our country's enormous trade deficit, stressed the need to enact legislation which would provide effective recourse to remedies against unfair foreign trade practices. We discussed my Unfair Foreign Competition Act, S. 1655, in which farmers and others would be provided the opportunity to stem the flow of illegal imports by seeking injunctive relief from a Federal district court. Mr. Pallman noted that legislation like this would not carry with it any undesirable retaliation against American agriculture exports.

I have made a firm commitment to monitor the progress of the farm bill in the coming months and years. I have found that the most effective method of keeping abreast of developments is by meeting with active participants in my State's agriculture industry, Pennsylvania's largest, on a frequent basis. I strongly recommend this kind of interaction to my colleagues.

I ask unanimous consent that the full text of testimony presented by those who were present be printed in the CONGRESSIONAL RECORD so that our colleagues and others may have the benefit of information presented at that time.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY PRESENTED JOINTLY BY MR. KEITH ECKEL, MR. HARRY HOPKINS, MR. RICHARD PALLMAN

The Pennsylvania Farmers' Association (PFA) is a general farm organization which represents producers of virtually all commodities produced on a commercial basis in Pennsylvania. PFA membership totals 23,300 member family farms which makes the organization the largest general farm group in the state. PFA is organized in 61 Pennsylvania counties and is affiliated nationally with the American Farm Bureau Federation. This document provides an overview of issues discussed by Senator Arlen Specter and Keith Eckel, PFA President, when the Senator visited Mr. Eckel's farm in Clarks Summit, Pennsylvania on May 27, 1986.

TRADE LEGISLATION

The 1985 U.S. trade deficit of $148 billion has increased Congressional awareness of the decline in U.S. competitiveness in world markets and has generated a great deal of momentum toward some form of trade legislation to correct the perceived problems. Several hundred bills have been introduced that deal in some fashion with trade.

Trade problems frequently appear to have very quick and simple solutions, but such "solutions" may have hidden and detrimental consequences in other trade areas. It is imperative that U.S. agriculture carefully evaluate the impact of new trade laws on our specific trade interests. PFA supports changes to U.S. trade statutes that would allow more effective recourse to remedies against unfair foreign trade practices. PFA does not support protectionist legislation such as quotas or import surcharges in cases where trade practices are fair because they would result in counteractions against our farm exports.

Our positions on legislative proposals affecting Section 201 Import Relief are as follows:

1. One proposal would either remove the President's override authority altogether or place the final decision in the Office of the U.S. Trade Representative (USTR) rather than the White House. PFA cannot support such changes. Eliminating the President's ability to decide whether import restrictions on fair trade is in the overall national interest could hurt agricultural trade much more than help it.

2. Fast-track emergency procedures for perishable agricultural products have been proposed. PFA strongly supports fast-track provisions consistent with the General Agreement on Tariffs and Trade (GATT).

3. Some proposals would allow trade relief if imports are determined to be simply "the cause" of injury to a domestic industry rather than a "substantial cause" of injury. PFA cannot support this change because it would open the gate to a flood of requests for import protection, mainly from industrial sectors, which would result in retaliation against U.S. agriculture.

Our positions on legislative proposals affecting Section 301 Relief from Foreign Unfair Trade Practices are as follows:

1. The most significant proposal for improving Section 301 would establish mandatory deadlines for investigations and retaliatory actions. PFA supports this concept as the most effective means of making the 301 process work to the advantage of U.S. producers.

2. A new proposal would impose an import surcharge on trade from countries with bilateral trade surpluses. This would be strongly opposed by our organization.

Our position on legislative proposals affecting Countervailing Duties involves the problem of "producer standing" in trade relief cases where producers of raw farm products are ineligible to participate in some trade complaints on processed agricultural products. PFA supports changes that would provide producer standing in countervailing duty cases.

Our positions on other trade issues are as follows:

1. PFA will support legislation in a trade bill requiring the labeling of imported products according to country of origin. For example, consumers buying processed mushrooms cannot tell whether the product has been grown in the U.S. or some other country which might have less rigid production standards.

2. PFA supports legislation that would close the present loophole resulting from the Caribbean Basin Economic Recovery Act that allows the duty-free importation of non-Caribbean ethanol products by essentially transshipping them through Caribbean countries with minimal processing.

AG MARKETING PROPOSALS

Marketing and product promotion are key to a healthy and productive agricultural economy and to a higher standard of living for farm and rural families. Farmers in Pennsylvania have recognized the importance of promotion and in 1985 contributed $2,097,000 to state level producer funded dairy, red meat, peach, and potato programs. At the national level, promotion programs are in place for beef, pork and eggs, and milk. Farmers are also working to improve their market share of the food dollar by organizing cooperatives to process, package, develop and distribute the products they produce. For example, a group of Pennsylvania beef and pork producers recently joined together to open a plant that will make a new reconstituted pork chop, designed for the Congress and USDA can be a great help, or a great hindrance, to farmers as they work toward more efficient and effective marketing of agricultural products. We believe that Congress can best help farmers develop new products and markets by promoting legislation and prioritizing spending.

1. By retaining adequate funding for the Foreign Agricultural Services cooperator program. This program provides partial funding for export promotion efforts by commodity groups.

2. By changing the Bonus Incentive Commodity Export Program (BICEP) to allow all countries to be eligible for bonus commodities where the U.S. faces unfair or subsidized competition from foreign supplies. The export title of the 1985 Farm Bill contained $2 billion for a 3 year export bonus program and $325 million per year for targeted export subsidy programs.

3. By maintaining funding for basic agricultural research in product and market development and for the Extension Service. The Extension Service is the primary structure through which new scientific discoveries are passed along to the producer.

4. By opposing farm programs that would limit or set quotas on agricultural production. When American farmers decrease production our foreign competitors are waiting to fill the void and take over our markets. In 1985 when U.S. farmers idled 80 million acres as part of the PIK program, foreign producers responded by planting an additional 50 million acres.

5. By strengthening and enforcing federal grain standards to reflect the quality of grain sold in world trade so that we can expand grain exports. Foreign buyers have expressed concern that U.S. grain quality is frequently less than the minimum standards at the time grain is received at foreign ports of delivery.

6. By supporting legislation which enables farmers to organize commodity promotion programs and marketing orders designed to promote orderly and expanded marketing of farm products. For example, the 1985 Farm Bill provided for the creation of a national pork and a national beef marketing and promotion order.

7. We urge the enactment of a comprehensive federal marketing and bargaining act. This legislation should be available to producers in all states if they desire to organize marketing associations and operate within the provisions of the act.

AG CREDIT SITUATION

For 1986, the agricultural finance policy debate has been focused on the immediate problems of the one-third of commercial agricultural operators that hold two-thirds of the debt held by all farm operators. About half of this group, 100,000 to 125,000 farm operators, are at the point where substantial debt restructuring will be needed over the next two years to avoid liquidation, either voluntary or forced.

A substantial reduction in debt load or a reduction in the debt that has to be serviced out of current income is absolutely essential. Only this will bring long-lasting financial relief to stressed farm operators. But, for some portion of the farm operators, no reasonable amount of debt relief will be sufficient to deal with their debts.

The American Farm Bureau Federation and PFA have proposed a Two-Tier Debt Restructuring Program to deal with long-term financial problems. We are pleased that banking regulators have issued new regulations to make two-tier debt restructuring, as well as other forms of debt restructuring, possible for private banks. We were also pleased to hear the recent Farm Credit System announcement that they too will implement a least cost debt restructuring program for their borrowers.

In dealing with current and future farm credit legislation, we offer the following suggestions:

1. Credit programs for farmers should not forgive debt, but rather provide ways for deserving farmers to repay money owed. Financial institutions do not have enough capital to forgive substantial amounts of debt.

2. No farm credit program should be designed to help all troubled farmers, but rather should be administered on a case-by-case basis. Some farming operators are in a position where the only available option is foreclosure. In 1984, 57 percent of Pennsylvania farms were debt-free. Moratorium on foreclosures creates unfair competition for these solvent farmers.

3. Farmers Home Administration should be returned to its original purpose of helping farmers who cannot qualify for other financing. The program should not be used to encourage over production by assuming a disproportionate share of total farm debt.

TESTIMONY PRESENTED BY MS. AUDREY NAYLOR

On behalf of the Lackawanna County Cooperative Extension Service and Penn State University, I welcome you, Senator Specter, and this opportunity to discuss the issues and problems important to us.

For many months we have been worried about the severe cuts for Cooperative Extension proposed in the Federal budget. These were cuts that would nearly eliminate Extension programs as we know them today.

We believe that an important part of the service that Cooperative Extension provides, goes to our youth through the 4-H Clubs and their volunteer leaders to adults through our Family Living programs, to our economic progress through our Community Development programs.

We believe that all of these programs are important and should remain as part of Cooperative Extension education as well as our programs in commercial agriculture.

Here in Pennsylvania, about 52 percent of our Extension budget comes from federal funds matched by state and county support. However, I don't believe that cuts in federal funds will be made up through increases in state and county appropriations so it's important that we keep our present level of federal funding.

Originally, Extension had requested a 5 percent increase in appropriations but with the national effort in cutting budget deficits we're still hoping for the same level of funding that we had last year. Realizing that even this amount may be reduced when the Gramm-Rudman-Hollings formula is applied across the board to all federal agencies.

Budgets under consideration now in both the House and the Senate include appropriations for Cooperative Extension at the same level as last year and we hope that you will support that level funding for us.

I believe that we can count on your support on this because I know you have already shown your interest in the College of Agriculture at Penn State by sponsoring a bill to have the Department of Agriculture make a study of the physical facilities of the College to determine what will be needed in the future.

While we recognize and appreciate your concern for the facilities at Penn State we will still need a strong Extension Service to deliver the research results from University Park to the farmers, the homemakers, the 4-H Clubs, the public officials, in fact all of the citizens of Pennsylvania as we do now.

I would like to thank Keith Eckel and his family, and the Pennsylvania Farmers Association for this opportunity to speak to you, Senator Specter, and we thank you for coming to Lackawanna County and showing your concern for our problems.

REMARKS FOR PRESENTATION AT MEETING WITH SENATOR ARLEN SPECTER BY EARL R. FORWOOD, PRESIDENT, EASTERN MILK PRODUCERS COOPERATIVE ASSOCIATION, INC.

I am honored to represent Eastern Milk Producers at this session today. Eastern is the largest dairy farmer cooperative in the Northeast and with over 2,200 members residing in Pennsylvania it is one of the largest in the Commonwealth. We welcome this opportunity to share some thoughts with you, Senator Specter, on our concerns about the future of our industry. As you know, dairy farming is by far the leading sector of Agriculture in this State. Its economic vitality has a direct and important impact on the Pennsylvania economy as a whole.

The first thing I want to do, Senator, is to sincerely thank you for your continuous support of legislation in the best interest of Pennsylvania dairy farmers as well as of all dairymen in the Nation.

The long struggle to find an economically workable and politically acceptable farm bill ended with the enactment of the Food Security Act of 1985. We are confident that it will help correct the chronic over-supply problem that has burdened the dairy industry in recent years, in the least painful way to milk producers. It certainly is far superior to the severe price reductions which would be necessary to drive out excess resources relying solely on price. Your staff was most receptive to our representatives when they sought your support.

Your effort to defeat the so-called Hawkins Amendment is particularly appreciated. That action, alone, will save Pennsylvania dairy farmers some 45 to 50 million dollars in 1986. The higher Class I differentials for Federal orders (and indirectly for state orders) in Pennsylvania will probably put an additional 10 to 12 million dollars in dairy farmers' pockets this year that they would not have had without the adjustments mandated by the 1985 Act.

Your support for the amended treatment of the Gramm/Rudman/Hollings budget reduction for the price support program was also greatly appreciated. When the Administration attempted to meet the budget cut by reducing supports, and thus milk prices, by 55 cents a hundredweight, you responded to our pleas to support the 12 cent assessment provided in the Food Security Improvement Act of 1986. That will save Pennsylvania dairy farmers over 40 million dollars this year alone.

Milk producers know all too well that dairying is going to be rough going for the next few years. For some, it will be a painful adjustment. For others, it will be financially disastrous as they are driven out of dairy farming into another line of work or into early retirement. All of us must understand, however, that the situation would have been much bleaker had it not been for your continual support. Your vision and sensitivity to our needs is most appreciated.

Although a major hurdle has past with the enactment of the 1985 and 1986 Acts, others remain to be crossed.

The continuation of an effective Federal milk marketing order program is vital to Pennsylvania dairy farmers. Over 80 percent of the milk produced in the Commonwealth is priced under the provisions of Federal orders. The remainder is priced by the Pennsylvania Milk Marketing Board using formulas tied directly to prices established by the Federal orders. As you know, the Federal/State milk order system has been subjected to a great deal of criticism in recent years, mostly by self-serving interest seeking cheap milk and dairy products.

Congressman Bob Kastenmeier and Dave Obey, of Wisconsin, have introduced a bill in the House calling for a single, nationwide milk marketing order. A similar bill has been introduced in the Senate by Bob Kasten and Bill Proxmire. Although these bills are not expected to be acted on this year, they could set the stage for further attacks on the marketing order program in the next Congress. The sole purpose of a single order would be to drastically reduce the prices payable to dairy farmers in Pennsylvania and other Northeastern states. We will keep you apprised of any developments in this direction and will be seeking your help in defeating such legislation should it reach the Senate floor.

Another self-serving measure is the attempt by Land O'Lakes and several midwest state governments and dairy organizations to overturn the recently enacted increases in our Class I prices. They currently are considering court action to overturn that provision of the 1985 Farm Bill. If that course does not prove feasible, they intend to propose amendments to accomplish such reductions in the South and East as soon as possible. Again, their purpose is to reduce Class I prices in these regions to force our dairy farmers out of business to the benefit of Midwest producers. Earlier legislative initiatives have not succeeded, but will likely be pressed as the session winds down. Again, we will keep you informed if this threat arises.

I am sure you know that Senators Bob Kasten and Bill Proxmire both have intro-

duced bills that would discourage development of a huge dairy farm complex in Georgia by the Irish Company, Maastock International. One bill would deny the tax exemption for interest on industrial development bonds used to finance the acquisition of farm property by foreign persons. The second bill would provide that certain persons or groups who are not U.S. citizens would be ineligible to receive financial assistance under price support and related agricultural programs. We urge your support of these initiatives when they reach the Senate floor.

Eastern members, like most other dairy farmers, are outraged that foreign interests can take advantage of our tax law, local development bonds and agricultural programs to finance the development of substantial milk production capacity at a time when our domestic farmers are being run out of business to correct the nation's over-supply in the dairy industry.

The Senate Appropriations Committee has approved 9 billion dollars to indemnify dairy farmers affected by the recent heptachlor contamination of herds in Arkansas, Missouri and Oklahoma. Although a similar tragedy has not occurred in Pennsylvania, it has become abundantly clear that even the best safeguards againt such contamination, which we believe to be in place, sometimes fail through no fault of the farmers or the industry at large. For this reason, we urge your support of this important matter when it reaches the Senate floor.

We are pleased that the House and Ways and Means Committee has approved an amendment to its omnibus trade bill reclassifying casein imports in the U.S. tariff code to the category of miscellaneous dairy products. It moves all human and animal feed uses of casein out of the industrial category and into the food category. The trade issue now is before the Senator HEINZ' Finance Committee and probably will be taken up later this summer. Perhaps you could prevail upon John to support a similar provision in the Senate bill. It is important to dairy farmers that such action be taken. Hopefully, we will soon see favorable action on our efforts to provide for a 50 percent quota limit on imported casein as well.

In conclusion, Senator SPECTER, I would like to again express the appreciation of Pennsylvania dairy farmers, as well as dairy farmers nationwide, for your unflagging support of beneficial dairy legislation. I am sure that by working together in the cooperative spirit we can continue to improve the future of dairy farmers the United States.

INTRODUCTION OF FARM LEGISLATION

Mr. SPECTER. Mr. President, I am introducing three pieces of legislation which will deal with problems in the farm sector. This legislative package is not designed to be responsive to all of the issues which were raised at the May 27 meeting, but there are three bills which I have been considering which I think will significantly improve the life of the farm community in America.

The first bill deals with the preservation of American farmland. It proposes Federal assistance, in conjunction with State financing, to save farmland.

The second bill relates to the sale of farmland development rights to certain classified eligible organizations which would then be in a position to claim exemptions from capital gains treatment.

This is a matter which is going to require a study. I am not suggesting it be appended to the current tax legislation which is pending before this body, but I seek to have the appropriate referral and consideration of the piece of legislation.

The third bill extends financial protection to dairy farmers and poultry and egg producers similar to those already provided to the livestock and fresh fruit and vegetable industries.

The preservation of America's farmland from the developers bulldozers is absolutely critical to ensure that prime farmland is available to meet America's future food needs. Each year approximately 3 million acres of agricultural land are taken out of production forever as suburbia inexhorably encroaches deeper and deeper into surrounding farmland. In many places in Pennsylvania where green fields once stretched endlessly, today I see vast tracts of housing and hamburger stands.

This legislation is particularly relevant to my State of Pennsylvania which is subject to the dual pressures of rural development and the need to ensure an indigenous supply of food and fiber for a growing population. The nature of the State's population growth exemplifies the national trend of rural growth, with nonmetropolitan areas growing nearly 8 percent during the last decade. As a consequence, the rate at which productive Pennsylvania farmlands have been converted to nonagricultural uses has by far led the northeastern States, with nearly 113 million acres converted between 1967 and 1977. This trend has continued on into the 1980's and is most acute in those agriculturally significant counties close to metropolitan areas.

While I am certainly not advocating a no growth policy, I am suggesting that the continued conversion of farmland to nonagricultural uses will exact a high price in the future. Fortunately, farmland destruction has not gone unnoticed or unchallenged. State and local governments in some places are trying to stem farmland conversion by purchasing future development rights from the owners. This bill would provide additional incentives to State, local, and nonprofit organizations to extend their farmland preservation efforts by making available $50 million in Federal funds on a matching formula of 25 percent Federal and 75 percent non-Federal funding. These grants will be used to acquire development easements in farmland to prevent the conversion of such farmland to nonagricultural uses. The growth of programs aimed at protecting farmland has increased substantially in Pennsylvania and all over the country. It is time for the Federal Government to assist by making funds available to purchase these future development rights.

Another bill I am introducing today will enable farmers who sell these farmland development rights to an eligible organization to claim an exemption from capital gains tax provided that this income was used to purchase additional farmland or to make capital improvements to the existing farm.

This farmland preservation program will make a Federal commitment to preserve something which is rapidly becoming endangered; prime agricultural farmland. A modest investment now will assure an adequate, reasonably priced supply of food for future generations of Americans.

Mr. President, another bill also extends financial protection to dairy farmers, poultry and egg growers and sellers similar to that already provided to the livestock and fresh fruit and vegetable industries. Currently, if buyers of dairy, poultry, and egg products go bankrupt or default on payments to producers, farmers are left with huge losses. Pennsylvania dairy farmers alone lost over $7.5 million since 1982 due to buyer bankruptcies and insolvencies. This bill will ensure that sale proceeds are deposited into a statutory trust by buyers and promptly paid to farmers. This placement of farmers in a priority payment position will sharply reduce the tremendous risk factor shouldered by our farmers and give the poultry and dairy farmers an even break in the event of buyer bankruptcy.

Poultry production is a very important industry to my people in the Commonwealth of Pennsylvania. We are the fifth largest poultry producing State, producing 22 million chickens each year for a total value of $37 million.

Mr. President, I ask unanimous consent that the texts of these bills be printed in the RECORD at this point.

There being no objection, the text of the bills were ordered to be printed in the RECORD, as follows:

S. 2548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL ASSISTANCE.

Section 1543 of the Farmland Protection Policy Act (7 U.S.C. 4204) is amended by striking out "is encouraged to" and inserting in lieu thereof "shall".

SEC. 2. FARMLAND EASEMENTS.

The Farmland Protection Policy Act is amended by inserting after section 1545 (7 U.S.C. 4206) the following new section:

"FARMLAND EASEMENTS

"SEC. 1545A. (a) The Secretary shall make grants to eligible States, units of local government, and nonprofit organizations to assist such States, units, and organizations

to acquire and retain development easements in farmland to prevent the conversion of such farmland to nonagricultural uses.

"(b) To be eligible to receive a grant under this section, the Secretary must certify that a State or unit of local government has established a program or policy to limit the conversion of farmland to nonagricultural uses.

"(c) Grants under this section shall be based on a matching formula of 25 percent Federal and 75 non-Federal funding.

"(d) There are authorized to be appropriated to carry out this section $50,000,000 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.".

S. 2549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROLLOVER OF GAIN PERMITTED.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. ROLLOVER OF GAIN FOR SALE OF FARMLAND DEVELOPMENT RIGHTS.

"(a) NONRECOGNITION OF GAIN.—If a taxpayer sells farmland development rights to a State or a political subdivision thereof under a qualified farmland preservation program, and within the period beginning 18 months before the date of such sale and ending 18 months after such date, qualified farming property is purchased by the taxpayer, then gain from the development rights sale shall be recognized only to the extent that the amount realized by the taxpayer on such sale exceeds the taxpayer's cost of purchasing such qualified farming property.

"(b) DEFINITIONS.—For purposes of this section—

"(1) FARMLAND DEVELOPMENT RIGHTS.—The term 'farmland development rights' means the right of the owner of real property to use that property for purposes other than farming purposes.

"(2) QUALIFIED FARMLAND PRESERVATION PROGRAM.—The term 'qualified farmland preservation program' means a program which—

"(A) is established under the law of a State or a political subdivision thereof for the purpose of assuring that property currently devoted to farming purposes will continue to be devoted to such purposes, and

"(B) provides for the purchase of farmland development rights by the State or a political subdivision thereof in order to carry out that purpose.

"(3) FARMING PURPOSES.—The term 'farming purposes' has the meaning given to such term by section 2032A(e)(5).

"(4) QUALIFIED FARMING PROPERTY.—The term 'qualified farming property' means—

"(A) any real property,

"(B) any improvement on real property, or

"(C) any item chargeable to capital account,

which is used by the taxpayer for farming purposes.

"(c) RECAPTURE.—

"(1) IN GENERAL.—If a taxpayer who has claimed the benefit of subsection (a) in connection with the sale of farmland development rights—

"(A) devotes the property with respect to which the farmland development rights were sold to a use other than farming,

"(B) sells or exchanges such property for a use other than farming, or

"(C) uses the qualified farming property purchased during the period described in subsection (a) for purposes other than farming purposes within the 5-year period beginning on the date of sale of such farmland development rights,

then there shall be included in the taxable income of the taxpayer for the taxable year an amount equal to the amount not recognized under subsection (a).

"(2) SALE OR EXCHANGE FOR USE OTHER THAN FARMING.—For purposes of paragraph (1)(B), a taxpayer shall be treated as having sold or exchanged property for a use other than farming if the taxpayer knew that the property was going to be devoted by the person acquiring such property, directly or through another party or transaction, to purposes other than farming purposes.".

"(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new items:

"Sec. 1043. Rollover of gain from sale of farmland development rights.".

SEC. 2. ONE-TIME EXCLUSION OF GAIN FROM SALE OF FARMLAND DEVELOPMENT RIGHTS BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

"(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 134 as 135 and by inserting after section 133 the following new section:

"SEC. 134. ONE-TIME EXCLUSION OF GAIN FROM SALE OF FARMLAND DEVELOPMENT RIGHTS BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale of farmland development rights (as defined in section 1043(b)(1)) to a State or a political subdivision thereof under a qualified farmland preservation program (as defined in section 1043(b)(2)) if—

"(1) the taxpayer has attained the age of 55 before the date of such sale, and

"(2) during the 5-year period ending on the date of the sale, the property with respect to which the farmland development rights were sold has been owned and used by the taxpayer for farming purposes (as defined in section 2032A(e)(5)) for periods aggregating 3 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of the gain excluded from gross income under subsection (a) shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(2) APPLICATION TO ONLY 1 SALE.—Subsection (a) shall not apply to any sale by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale is in effect.

"(c) ELECTION.—An election under subsection (a) may be made or revoked at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by this chapter for the taxable year in which the sale occurred, and shall be made or revoked in such manner as the Secretary shall by regulations prescribe. In the case of a taxpayer who is married, an election under subsection (a) or a revocation thereof may be made only if the spouse joins in such election or revocation.

"(d) SPECIAL RULES.—

"(1) PROPERTY HELD JOINTLY; PROPERTY OF DECEASED SPOUSE.—For purposes of this section, the rules set forth in paragraphs (1), (2), (4), (6), and (8) of section 121(d) shall apply to sales to which this section applies.

"(2) PROPERTY USED IN PART FOR FARMING.—In the case of property only a portion of which, during the 5-year period ending on the date of the sale, has been owned and used by the taxpayer for farming purposes for periods aggregating 3 years or more, this section shall apply with respect to so much of the gain from the sale of such property as is determined, under regulations prescribed by the Secretary to be attributable to the portion of the property so owned and used by the taxpayer.".

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 134. One-time exclusion of gain from sale of farmland development rights by individual who has attained age 55.

"Sec. 135. Cross references to other Acts.".

SEC. 3. CHARITABLE CONTRIBUTION DEDUCTION ALLOWED FOR GAIN FOREGONE BY REASON OF SALE OF FARMLAND DEVELOPMENT RIGHTS.

Section 170 of the Internal Revenue Code of 1954 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) SALE OF FARMLAND DEVELOPMENT RIGHTS.—In the case of a taxpayer who sells farmland development rights (as defined in section 1043(b)(1)) to a State or a political subdivision thereof under a qualified farmland preservation program (as defined in section 1043(b)(2)), the taxpayer shall be treated, for purposes of this section, as having made a charitable contribution to the State or a political subdivision thereof in an amount equal to the amount by which—

"(1) the fair market value of the property with respect to which the farmland development rights were sold (determined, as of the day before the date on which such rights were sold, on the basis of the highest and best permissible use of such property) minus the value of such property as farmland (determined as of such date), exceeds

"(2) the gain from the sale of the farmland development rights (determined without regard to section 1041).".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to sales occurring after December 31, 1986.

S. 2550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended by striking out "and" at the end of paragraph (5), by redesignating paragraph (6) as paragraph (11), and by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'poultry' means chickens, turkeys, ducks, geese, and other domestic fowl;

"(7) the term 'poultry product' means any product or by-product of the business of slaughtering poultry and processing poultry after slaughter;

"(8) the term 'poultry grower' means any person engaged in the business of raising and caring for live poultry for slaughter by another, whether the poultry is owned by

such person or by another, but not an employee of the owner of such poultry;

"(9) the term 'poultry growing arrangement' means any growout contract, buy and sell agreement, marketing agreement, or other arrangement under which a poultry grower raises and cares for live poultry for delivery, in accord with another's instructions, for slaughter;

"(10) the term 'live poultry dealer' means any person, other than a packer or a poultry grower, engaged in the business of obtaining live poultry by purchase or poultry growing arrangement and selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce; and".

SEC. 2. Section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191), is amended—

(1) by inserting in subsection (a) "or obtaining, by purchase or poultry growing arrangement, live poultry for slaughter, if poultry is obtained by such person in commerce, or poultry products from poultry obtained by such person are sold or shipped in commerce," after "slaughter,";

(2) by inserting in subsection (b) "or poultry products" after "meat food products"; and

(3) by inserting in subsection (c) "or poultry products" after "manufactured form".

SEC. 3. Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended in subsection (c) thereof by striking out "any such packers" and inserting in lieu thereof "any such persons".

SEC. 4. Sections 202, 203, 204, 205, 401, and 403 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 192, 193, 194, 195, 221, and 223), are amended by inserting "or live poultry dealer" after "packer" wherever it appears therein.

SEC. 5. The Packers and Stockyards Act, 1921, is amended by inserting after section 206 the following new section:

SEC. 207. (a) It is hereby found that a burden on and obstruction to commerce in poultry is caused by financing arrangements under which packers, live poultry dealers, or both, encumber, give lenders security interest in, or place liens on, poultry obtained by such persons by purchase in cash sales or by poultry growing arrangements, or on inventories of or receivables or proceeds from such poultry or poultry products therefrom, when payment is not made for the poultry and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in poultry and protect the public interest.

"(b) All poultry obtained by a live poultry dealer or packer, by purchase in cash sales or by poultry growing arrangement, and all inventories of, or receivables or proceeds from such poultry or poultry products derived therefrom, shall be held by such live poultry dealer or packer in trust for the benefit of all unpaid cash sellers or poultry growers of such poultry, until full payment has been received by such unpaid sellers or growers, unless such live poultry dealer does not have average annual value of live poultry obtained by purchase or by poultry growing arrangement, in excess of $100,000.

"(c) Payment shall not be considered to have been made if the seller or poultry grower receives a payment instrument which is dishonored.

"(d) The unpaid seller or poultry grower shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 410, or within fifteen business days after the seller or poultry grower has received notice that the payment instrument promptly presented for payment has been dishonored, the seller or poultry grower has not preserved his trust under this section. The trust shall be preserved by giving written notice to the packer or live poultry dealer and by filing such notice with the Secretary.

"(e) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.".

SEC. 6. Section 308 of the Packers and Stockyards Act, 1921 (7 U.S.C. 209), is amended by inserting "or poultry, or in connection with any poultry growing arrangement," after "livestock".

SEC. 7. Section 408 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228a), is amended by inserting "or poultry or poultry products, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement," after "unmanufactured form,".

SEC. 8. The Packers and Stockyards Act, 1921, is amended by redesignating sections 410 and 411 as sections 411 and 412, respectively, and by inserting after section 409 the following new section:

"SEC. 410. (a) Each live poultry dealer or packer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer or packer obtaining live poultry by poultry growing arrangement shall, before the close of the seventh business day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer or packer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

"(b) Notwithstanding the provisions of subsection (a) of this section, and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of poultry other than under a poultry growing arrangement may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of, and on the accounts or other documents issued by, any live poultry dealer or packer which is a party to any such transaction, relating to the transaction.

"(c) Any delay or attempt to delay, by a live poultry dealer or packer which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for poultry obtained by poultry growing arrangement or purchased, shall be considered an unfair practice in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term unfair practice as used in this Act.".

SEC. 9. The first section of the Department of Agriculture Appropriation Act, 1944 (7 U.S.C. 204), is amended by inserting ", poultry, or eggs" after "livestock" both places it appears within the last sentence of the paragraph beginning "Packers and Stockyards Act:" under the centerheading entitled "Marketing Service".

SEC. 10. Title V of the Packers and Stockyards Act, 1921 (7 U.S.C. 218, 218a, 218b, 218c, and 218d), is amended to read as follows:

"TITLE V—EGGS

SEC. 501. When used in this Act—

"(1) The term 'eggs' means eggs produced by poultry, whether for human consumption or other purposes;

"(2) The term 'egg producer or supplier' means any person engaged in the business of caring for live poultry (whether or not owned by such person) for production of eggs for delivery to another by sale or egg production arrangement, or engaged in the business of non-retail sale of eggs, but not an employee of such person;

"(3) The term 'egg production arrangement' means any arrangement, whether or not reflected in a written memorandum of agreement, in which an egg producer or supplier cares for live poultry for production of eggs for delivery to another otherwise than by sale; and

"(4) The term 'egg purchaser' means any person engaged in the business of obtaining eggs, from any others not employees of such person regardless of who owns the poultry producing such eggs, by purchase or egg production arrangement, for sale of eggs or products derived from eggs, for manufacture of products derived from eggs, or for hatching, if eggs are obtained by such person in commerce, or if eggs obtained by such person or products derived from such eggs are sold or shipped in commerce.

"SEC. 502. Sections 202, 203, 204, 205, 401, and 403 of this Act (7 U.S.C. 192, 193, 194, 195, 221, and 223) shall be applicable, with respect to eggs and products derived from eggs, to egg purchasers, officers, directors, employees and agents thereof, and transactions of, between, or among, such persons.

SEC. 503. (a) It is hereby found that a burden on and obstruction to commerce in eggs is caused by financing arrangements under which eggs purchasers encumber, give lenders security interest in, or place liens on, eggs obtained by such persons by purchase in cash sales or by egg production arrangement, or on inventories of or receivables or proceeds from such eggs or products therefrom, when payment is not made for the eggs and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in eggs and protect the public interest.

"(b) All eggs obtained by an egg purchaser, by purchase in a cash sale or by egg production arrangement, and all inventories of, or receivables or proceeds from such eggs or products derived therefrom, shall be held by such egg purchaser in trust for the benefit of all unpaid egg producers or suppliers of such eggs until full payment has been received by such unpaid producers or suppliers, unless such egg purchaser does not have average annual value of eggs obtained in excess of $100,000.

"(c) Payment shall not be considered to have been made if the egg producer or supplier receives a payment instrument which is dishonored.

"(d) The unpaid egg producer or supplier shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 507, or within fifteen business days after the producer or supplier has received notice that the payment instrument promptly presented for payment has been dishonored, the producer or supplier has not preserved his trust under this section. The trust shall be preserved by giving writ-

ten notice to the egg purchaser and by filing such notice with the Secretary.

"(e) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

"SEC. 504. Section 308 of this Act (7 U.S.C. 209) shall be applicable to egg purchasers with respect to transactions in eggs with egg producers or suppliers.

"SEC. 505. Section 406 of this Act (7 U.S.C. 227) shall be applicable with respect to eggs.

"SEC. 506. Section 408 of this Act (7 U.S.C. 228a) shall be applicable to egg purchasers and any transaction in which any egg purchaser obtains eggs from any egg producer or supplier.

"SEC. 507. (a) Each egg purchaser obtaining eggs from any egg producer or supplier shall, before the close of the seventh business day following transfer of possession of the eggs, deliver, to the egg producer or supplier from whom such egg purchaser obtains the eggs, the full amount due to such egg producer or supplier on account of such eggs.

"(b) Notwithstanding the provisions of subsection (a) of this section, and subject to such terms and conditions as the Secretary may prescribe, the parties to a purchase and sale of eggs other than under an egg production arrangement may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of, and on the accounts or other documents issued by, any egg purchaser which is a party to any such transaction, relating to the transaction.

"(c) Any delay or attempt to delay, by an egg purchaser which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for eggs obtained by purchase or egg production arrangement, shall be considered an 'unfair practice' in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term 'unfair practice' as used in this Act.".

SEPTA

Mr. SPECTER. Mr. President, I wish to report briefly upon a field hearing which I held on this past Monday, June 9, in Philadelphia concerning the operation of the Southeastern Pennsylvania Transportation Authority [SEPTA] system. SEPTA's Philadelphia transportation system serves 2,200 square miles with a population of 3.7 million people. Each day, bus, trolley, and subway lines carry approximately 1.2 million people. In addition to the transit system specifically, there are also community rail lines which carry some 90,000 people.

In 1984, Mr. President, there were six major train accidents on SEPTA which required urgent consideration in terms of safety remedial measures, and a number of reports and studies have followed. I am glad to say today that very significant improvements have been made by the SEPTA system, but there is still a great deal more which needs to be done.

□ 1030

There is an estimated need for approximately $984 million in capital improvements. The budget covers only a portion of those. These are considerations which I think the Congress will have to address. One suggestion which was made at this hearing as it relates to the commuter lines is that if, as, and when Conrail is sold—and as far as this Senator is concerned for reasons expressed at length on this floor, I hope it is not to Norfolk Southern because it would be disastrous for competition in this country—hopefully at a profit by stock offering, it may be that some of the funds needed at that time can be utilized for the improvement of the SEPTA system.

Mr. President, at this time I ask unanimous consent that the witness list, and the full text of the statements of those who appeared there be included in the CONGRESSIONAL RECORD because this hearing will provide insight for Members of Congress and others as to the problems of SEPTA and the approaches for correction. Moveover, it is illustrative of national problems in mass transit, applicable to areas other than southeastern Pennsylvania.

There being no objection, the witness list and statements were ordered to be printed in the RECORD, as follows:

TESTIMONY OF JOHN H. RILEY, FEDERAL RAILROAD ADMINISTRATOR BEFORE THE HONORABLE ARLEN SPECTER

The Federal Railroad Administration has jurisdiction over "all areas of railroad safety" (Federal Railroad Safety Act of 1970). We sponsor safety related research and promulgate safety regulations. We enforce those regulations two ways.

On site inspection of all carriers. These inspections are performed by our 325 field inspectors and, I should note that our headquarters for the eastern region is right here in Philadelphia.

We also perform thorough system assessments on an average of three carriers each year. The system assessment is a company-wide review of railroad operating practices, training programs, equipment and internal accountability procedures, among other things. Carriers are selected for assessment based on their accident records, as well as our field inspectors impressions on the adequacy of their safety programs.

Over time, this system has proven its effectiveness. Last year, was, by any measure, the safest in the history of the railroad industry. More significant, I think, is the fact that last year was not an aberration, but the continuation of a trend.

Since 1979, railroad accident rates have dropped 53.1 percent, employee fatalities are down 54.4 percent, on the job injuries have fallen 50.1 percent, and grade crossing accidents rates are down 26.6 percent.

Traditionally, our jurisdiction applied only to intercity freight and passenger service. But in 1983, Congress extended it to encompass commuter railroads linking Metropolitan and suburban areas. Commuter lines are now subject to the same inspection and assessment procedures used on other railroads.

Last year, SEPTA became the first commuter railroad to receive a complete system assessment. The reasons for SEPTA's selection are simple. When we reviewed 1983 and 1984 statistics on passenger casualties per million passenger miles, we found SEPTA to have the highest casualty ratio of any commuter railroad in the nation. During 1983, 1984 and the first three months of 1985, SEPTA experienced 24 train accidents on its commuter lines resulting in two fatalities, 657 injuries, and more than $1.7 million in reportable property damage. Between 1983 and 1984, most safety indices showed significant deterioration in SEPTA's performance: Passenger injuries increased 678 percent; train accidents per million passenger miles increased 87 percent; and employee workplace injuries increased 67 percent.

SEPA's passenger casualty rate per million passenger miles exceeded the aggregate rate of the Long Island Railroad, Metro-North, and New Jersey Transit by a factor of 36 in 1983, and factor of 174 in 1984. These are the types of indices we have traditionally used in determining where our assessment efforts should be focused, and the importance of an assessment on SEPTA was clear. (Incidentally, the Burlington Northern which had experienced 3 major freight accidents, and Amtrak, which had an acceptable overall safety record but experienced a string of very unusual incidents, were the other two carriers selected).

During the month of April 1985, a team of 30 FRA inspectors conducted a thorough, system-wide assessment of SEPTA's operating practices, signal and train control, locomotives and equipment, track, bridges, employment and recordkeeping. FRA informed SEPTA of its findings as it went along, particularly where the findings required immediate corrective action. In September and October 1985, FRA published an assessment report which detailed it findings. That report contained 140 specific recommendations.

Obviously, a report of that scope raises issues in many areas. The problems of greatest consequence, however, were focused in the areas of signal maintenance, training, and workplace safety programs. Principal causes of concern were as follows:

Signalling.—Signalling is one of the most critical aspects of railroad operation. Few areas have as direct an impact on passenger safety. Unfortunately, we found SEPTA signal maintenance to be generally poor, and in service testing inadequate. Over the course of its assessment, FRA tested 273 signals, 227 switches, and examined 700 test records. The overall defect ratio was approximately 50 percent. The importance of the problem was driven home when, on June 27, 1985, a collision occurred between two passenger trains at Schuylkill Interlocking. The post accident investigation determined that the collision was caused by a false proceed signal. The false proceed signal resulted from an improperly designed circuit which had been placed in service at the interlocking just six days earlier. The signal continued to flash false proceeds when it was tested during the post accident investigations. Had the installation been properly tested during its cutover on June 22, there is a high probability that the malfunction and design would have been detected.

In the aftermath of the June 27th accident, FRA required an immediate test of all similar signals on the SEPTA system. That assessment determined that four other sig-

nals suffered from defects similar to that which caused June 27th.

SEPTA's personal safety programs for employee's ranged from seriously deficient to non-existent. There were no local safety committees, and SEPTA did not provide injury investigation, cause determination and remedial action guidelines for supervisors. Nor did supervisor job descriptions make specific reference to responsibility for safety awareness. Moreover, SEPTA injury reporting procedures bypassed immediate and upper level rail supervisors, and the safety department did not routinely investigate employee injuries. Recordkeeping was poor, and employees received no formal acknowledgment when reporting unsafe conditions that might affect passenger or employee safety.

Sixteen percent of all SEPTA MU locomotives were found to be in violation of Federal safety standards; there wasn't a single car in the fleet that complied with Federal inspection, testing and marketing requirements. Of greater concern was the fact that carrier records revealed continued use of defective equipment, even after the defects has been discovered and brought to SEPTA's attention. The carrier often postponed or disregarded repairs. The movement of defective equipment in non-compliance with Federal regulations was discovered, incidentally, when the carrier failed to notify an engineer of a condition which could present an imminent safety hazard at normal operating speeds.

SEPTA's training programs were at best inconsistent. The railroad owns and operates two excellent training centers, and provides quality instruction to new hires. But SEPTA lacks a formal program to retrain experienced employees and supervisors, and provides no formal training whatsoever to train dispatchers and tower personnel. The training programs for operating officers did not include instruction in critical areas such as employee and passenger safety, accident investigation, handling of hazardous material emergency response, train dispatching techniques, and Federal operational testing requirements.

Our inspectors noted a nearly complete disregard for compliance with Federal regulations by employees and supervisors alike, including those who had graduated from SEPTA's formal training centers. The most serious areas of non-compliance included blue signal protection, hours or service, power brake regulations, track and signal inspection requirements.

SEPTA lacked an adequate emergency response program to provide basic guidance for responding to line of road accidents requiring passenger evacuation.

SEPTA utilized only one radio channel for all of its operations, a fact which resulted in an extremely over-burdened communication system. We were also surprised to learn that SEPTA was operating approximately 30 cars that were not equipped with radios of any kind.

On April 12th, a near miss occurred on SEPTA's Norristown line. On April 16th, FRA employees sent to investigate the circumstances were actually aboard a SEPTA train on the same line when a second near miss occurred. The incident revealed a pattern of causation that ranged from dispatcher error to inherent weaknesses in SEPTA's operating practice on the line. The matter was brought directly to SEPTA's attention, and the problems were corrected.

Not all the data revealed by the inspection was negative. We in fact, discovered several important areas in which SEPTA performed admirably. For example:

Track conditions were generally good, with the exception of the Norristown and Doylestown lines. Track maintenance was professional and in compliance with industry standards.

The assessment of bridge conditions performed by SEPTA's consultants was found to be accurate, and SEPTA's bridge department was knowledgeable, skilled and well managed.

All departments involved in SEPTA's railroad commuter operations were found to have excellent ratios of supervisory to craft employees.

SEPTA was found to have an adequate inventory of repair parts, and to have arranged support facilities capable of supplying parts to meet any foreseeable need.

Finally, SEPTA was found to be in compliance with all applicable noise regulations, and to have designed and executed a sound asbestos policy.

The cooperation we received from SEPTA personnel in the early weeks of the assessment was, frankly, very poor. However, as Lou Gould and other members of senior management became more actively involved in the effort, the situation improved dramatically. I believe that a sound working relationship has now been established between our safety inspectors and SEPTA management. Nowhere was that better illustrated than in the cooperative effort between SEPTA and FRA that resulted in the inspection and some cases retrofit of 260 hollow axle vehicles during the month of March.

I appreciate—and I think we all need to appreciate—that SEPTA management faces some unique and difficult problems. Not the least of those problems is that fact that SEPTA was formed from an uneasy marriage of two predecessor railroads. It is also true that current management inherited many of the systems problems, and the scope of those problems has only recently become apparent. But while I have sympathy with their situation, it cannot be an excuse for inaction on matters that have a direct and immediate bearing on public safety.

SEPTA is fortunate, in a sense, that the major problems unearthed in the assessment center on training and organizations; the "heavy capital", heavy expense items, particularly track, were found to be in generally acceptable condition. And I can tell this hearing that the worst of SEPTA's problems are behind it. Our follow-up detected improvement in virtually every aspect of the system's operations.

Signal maintenance is clearly improving. The inspections performed last summer identified and resolved the most immediate problems, and recent followup inspections suggest that SEPTA has cut its defect ratio more than a half.

Emergency response training was a major issue in last year's assessment. SEPTA has responded aggressively, and I now understand that all supervisory personnel and more than half of all train and engine personnel have received formal classroom training in emergency evacuation procedures.

To address short-term personnel shortages, SEPTA developed an aggressive and successful program to recruit experienced railroad employees from other railroads, and has established a 14-day training program for them.

In February 1986, SEPTA experienced its third axle/bearing failure on a hollow axle vehicle. FRA's subsequent review on SEPTA's maintenance records revealed a potentially serious situation that demanded immediate attention. After a consultation, SEPTA and FRA jointly implemented measures designed to detect incipient axle and bearing damage prior to equipment failure, and imposed a program of speed restrictions, ultrasonic inspection of tubular axles, and visual inspections each 30 miles for axles not yet ultrasonically inspected. This program ensured the safety of SEPTA riders while the problem axles were identified and replaced.

SEPTA has made significant progress and we expect that progress to continue. I commend Lou Gould and Bill Coleman for the work they've done to produce this improvement. We cannot afford to lose sight, however, of the fact there are serious challenges ahead. For example:

In our assessment report, FRA expressed considerable concern about SEPTA operating practices. SEPTA has made progress in the areas of staffing and control of dispatchers' functions, radio communications, blue signal compliance, electric traction procedures, and PCB training. However, we are not yet satisfied with SEPTA's responses in Hours of Service compliance, recordkeeping, uniformity of rear end marking devices, safety programs, operational inspections and observations, inspections of rear end markers at crew change points, yard limits, flag protection, hazardous materials, and simplification and compatibility of operating rules.

SEPTA's program of operational tests and inspections still does not comply with Federal safety requirements. For example, it does not state the frequency with which each test and inspection is to be conducted. This is a critical program, and its shortcomings must be addressed.

SEPTA is still not performing the signal tests prescribed by FRA regulations in a timely manner. For example, approximately 60 percent of the signal system relays are past due for testing. End cables and conductors are still in service that were found to have insulation resistance values below the regulatory minimum. These are serious conditions that require immediate response.

SEPTA has sought to respond constructively to FRA's recommendations. We realize that some require long-term improvement programs, and have attempted to work closely with SEPTA to assure that the most serious safety hazards are addressed first. We will continue to work with SEPTA management to seek constructive resolution of outstanding problems.

SEPTA has come a long way, and everyone involved in the last years efforts can take satisfaction in what has been achieved. It is a much safer railroad today than what it was a year ago, and I believe it will be an even better railroad one year from now.

STATEMENT OF WILLIAM T. COLEMAN, JR.

Thank you, Senator Specter. It is a pleasure for me to appear at this hearing to discuss a subject of such public importance as the safe operation of SEPTA's commuter rail system, the Regional Rail Division.

In January 1985, Louis F. Gould, Jr., the Chairman of SEPTA, announced that he had requested Robert J. Thompson, Chairman of the Railroad Committee of SEPTA's Board, to undertake a study of the Regional Rail Division. At the time the system was then called the Regional High Speed Lines. The Railroad Committee asked me to serve

as a special counsel to the Committee and, in cooperation with its Chairman, to lead a multidisciplinary team in a broad-ranging study of the Regional Rail. The team was to review the organization, operations, safety, physical condition, employment relations, and funding sources of the commuter rail system. While our study was a broad-ranging one, safety was an important consideration in our review. The purpose of our study was not to duplicate the NTSB's investigation of specific accidents, nor was it to perform an intensive audit of Regional Rail practices to determine the exact degree of compliance with federal and state regulations dealing with rail safety. Rather, our study addressed the broad issue of the overall safety of the system especially as it relates to other concerns of the Study: management, employees, funding and the condition of the infrastructure.

To assess overall safety, a number of analyses were performed. SEPTA reports on major accidents were reviewed and management's response to in-house recommendations for improving system safety were evaluated. SEPTA's accident reports to the FRA on major incidents also were reviewed. Additionally, FRA accident statistics for commuter rail operations were compiled to identify problem areas. SEPTA safety and accident procedures also were evaluated as well as SEPTA's program for compliance with federal and state regulations setting forth minimum safety standards and procedures. Finally, our extensive analysis of the system's physical condition provided information relevant to the safety question.

As you know, we concluded that the Regional Rail was not presently unsafe and that the Regional Rail could be operated safely in the future if management and employees emphasized the importance of safety and followed proper operating procedures. Further, because of the age of much of the Regional Rail infrastructure and equipment, and because many of the rail employees were new, we believed that management and employees needed to use extra care to ensure system safety. We made a number of recommendations to ensure the safety of the Regional Rail system. However, before addressing these recommendations in detail, I would like to address the issue of funding safety-related capital improvements for the Regional Rail.

On January 1, 1983, SEPTA assumed from Conrail the operation of the commuter rail system. With the transition from Conrail, SEPTA inherited a physical plant and vehicle fleet in less than satisfactory condition and an operating budget that under Conrail operation had been growing at a compound annual rate of 12.75%. Unlike Amtrak, SEPTA has been required to deal with safety and service reliability problems attributed to years of deferred maintenance without substantial support from the federal government. As I will outline below, many of our safety related recommendations required significant improvements in the infrastructure of the commuter rail system. However, without substantial federal support, SEPTA will not be able to implement these needed improvements.

It is a difficult time to suggest that the federal government ought to provide substantial assistance to public transportation systems. However, while I admit that national defense must be a first priority of the country, and that we must frame the federal budget to provide a safety net for the truly needy, I believe that this nation must make a strong commitment to maintain important physical systems such as the public transportation systems which provide benefits to millions of Americans across the country and thousands of Philadelphians.

Most recently members of Congress and interested parties across the nation have been debating the question of whether the federal government should sell the federally supported freight operations known as Conrail. If the members of the Senate and of the House of Representatives in their wisdom deem the sale of Conrail to be appropriate, I believe the Congress should commit to reinvesting the proceeds from the sale, in the nation's commuter rail systems such as SEPTA's Regional Rail. This only seems fair in view of the fact that these systems have been left with infrastructures in very poor condition as a result of the years of deferred maintenance by Conrail. Moreover, I believe that state and local governments must also vigorously support their public transportation systems. At present, SEPTA is operating without a dedicated source of state funding. It is time for the Commonwealth of Pennsylvania and the localities which the Regional Rail services to join hands and work to provide such a dedicated source of funding so that important capital improvements can be made and the continued safety and reliability of the system can be assured.

With that said, today I would like to outline briefly some of our study's more important safety-related findings and recommendations. Additionally, I would like to compare the findings of our report with the findings of the Federal Railroad Administration and the General Accounting Office regarding the safety of the Regional Rail. As you know, these two organizations studied Regional Rail system safety and completed reports after our investigation was finished.

COMPARATIVE STATISTICS

All three studies note that the Regional Rail injury rates for passengers and nontrespassers are higher than those experienced by other northeastern rail carriers. The same is true of employee injuries, as the FRA report demonstrates. It cannot be inferred from these statistics, however, that the Regional Rail is "less safe" than other railroads. All of these systems are unique and numerous factors can influence the rate of passenger injuries, including the effectiveness of the carrier's reporting system, the configuration and denisty of the system and whether tracks and facilities are shared with another carrier.

These comparative statistics did help to identify areas in which the Regional Rail needed to improve its safety performance. We found that better training, retraining and supervision was needed to reduce the accidents caused by human error and the large number of boarding and alighting injuries that occur on the system. We also found that a suprisingly large number of injuries occurred in Regional Rail facilities, especially stations and stops, and did not involve the movement of trains. We recommended specific capital expenditures to improve the safety of these facilities and thus to reduce those injuries.

PHYSICAL CONDITION

SEPTA inherited an aging rail system from Conrail and much of its track, stations, rolling stock, repair facilities and signals are in need of repair. Capital improvements like these are an important aspect of safety assurance because poor infrastructure and vehicles can themselves cause accidents or make human error more likely. In order to upgrade the Regional Rail infrastructure to "good" condition, or report recommended a total expenditure of $984.8 million between 1985 and 1990. According to the GAO report, SEPTA's budgets presently provide $410 million for commuter rail improvements through 1990.

I believe that our report, as well as the FRA's, supports the proposition that poor infrastructure can affect the safe operation of the Regional Rail. But capital improvements, of the kind contemplated in our report, can only be undertaken if adequate funding is available. Much of this funding must come from the federal and state levels.

In the absence of adequate funding, management must of course, make choices. In our report, for example, we recommended that the condition of Regional Rail stations be improved in order to help reduce the relatively large number of passenger/nontrespasser injuries experienced by SEPTA. Although management considers station improvements desirable, it believes them to be secondary to track, bridge, signal and passenger car needs. This is certainly a reasonable position given the impact these other improvements are likely to have on system safety. However, it does suggest that better results could be achieved with additional funding.

INSPECTION AND MAINTENANCE

Inspection and maintenance of equipment is an important part of system safety. While the Regional Rail had in place an inspection program for major system elements, it did not have a preventive maintenance program for major system elements. This lack of a preventive maintenance program was, in large part, caused by a shortage of funds and trained personnel. We recommended that the Regional Rail adopt an expanded program of inspection and preventive maintenance. Such a program required improvements to certain facilities and the addition of trained maintenance personnel, a difficult task in today's budget-cutting environment.

TRAINING AND MONITORING COMPLIANCE WITH OPERATING RULES

Good training is essential to ensure system safety. We reviewed operating personnel training programs for their sufficiency. We concluded that the programs to train new engineers and conductors were well designed and adequate to produce qualified personnel to operate train service on the Regional Rail. Additionally, we found that the training course for tower operators was adequate. We recommeded that the Regional Rail continue a vigorous training and retraining program. Further, we advised that strict enforcement of the Operating Rules should be made a higher priority. To monitor employee compliance with Operating Rules, we counseled that the Regional Rail should continue to pursue its program of administering tests on Operating Rules on a random basis throughout the year.

ACCIDENT PROCEDURES

We further determined that the Regional Rail procedures for accidents and emergencies needed to be revised and updated. For example, to improve the effectiveness and quality of accident investigation, we concluded that SEPTA should modify its Accident Investigation System Policy to establish a standard accident investigation team comprised of members of the Safety Division and the Regional Rail Operations Department; we concluded that this team

should conduct all investigations of accidents on the Regional Rail. We also recommended that SEPTA further develop relationships with emergency response agencies within the region to coordinate agency response planning and institute formalized training programs to improve emergency preparedness. We also recommended that emergency response procedures should be set forth clearly and made readily available to SEPTA personnel and to other individuals and agencies who might be required to respond to emergencies.

SAFETY MANAGEMENT

As we outlined in our section of the report which deals with management, the Regional Rail system did not have clearly defined safety goals which served to coordinate the activities of the various departments in the Regional Rail which have risk or safety functions. We concluded that it was important that SEPTA adopt a clear statement that safety is an overriding goal of the Regional Rail system. Further, we urged that this goal be communicated not only to the managers but to all employees who have responsibilities for the Regional Rail.

With respect to the management structure, we found that there was no one individual in the SEPTA organization whose job it was to monitor specifically overall safety performance and Regional Rail compliance with the FRA regulations. Accordingly, we concluded that to improve system safety, SEPTA should make the Safety Division responsible for monitoring compliance with all FRA regulations.

We also found that central to any safety program was a safety management information system; injuries could not be avoided and losses controlled unless SEPTA developed a data base that could be used to identify trends in on-the-job injuries or injuries to passengers in stations. Accordingly, we concluded that SEPTA should develop a comprehensive data base for employee and passenger accidents/injuries on the Regional Rail so that managers could understand the nature and extent of safety problems on the Regional Rail and take appropriate action.

Our findings and recommendations related to inspection and maintenance, training and monitoring compliance with operating rules, accident procedures, and safety management, are similar in thrust to those reached by the FRA. However, based on a day-to-day performance audit, the FRA has reached the conclusion that employees and supervisors of the Regional Rail did not demonstrate the commitment to compliance with FRA safety regulations as they should. Because we did not attempt to perform a day-to-day audit of Regional Rail compliance with FRA safety regulations, I cannot speak to this issue. However, I can state that after interviewing over 60 managers in the system that the management team is a young, energetic and talented group. Additionally, I was convinced that that group was very much concerned with system safety and was committed to ensuring the reliability and safety of the system.

Both the GAO and FRA reports note that SEPTA has improved its safety performance since it assumed control of the Regional Rail in 1983. The GAO report also states that SEPTA has taken a number of positive steps in response to our study as well as the FRA's. I therefore believe that our conclusion that the system can be operated safely still holds true today.

ORAL TESTIMONY OF LEWIS F. GOULD, JR., BEFORE SENATOR SPECTER HEARING

Good morning, I am Lewis F. Gould, Chairman of the Southeastern Pennsylvania Transportation Authority (SEPTA). I appreciate your concern for regional rail safety in this region. It is a concern that we share.

For the record, I am submitting substantial written testimony which expands on my opening remarks.

On January 1, 1983, SEPTA assumed direct operating control of the regional rail system from Conrail. This transfer was accomplished under Federal legislative mandate through the Northeast Rail Services Act of 1981 (NERSA).

The takeover, as you may recall, resulted in major changes to the railroad, including all new labor contracts, consolidation of seniority districts, loss of a substantial number of experienced employees and addition of an entirely new type of operations to the SEPTA system. In addition, the physical plant which SEPTA inherited was in dreadful condition.

Since takeover, SEPTA has made substantial progress in many areas, safety being only one of them, and has accommodated drastic changes to the nature of the service itself. In 1984, the Center City Commuter Connection (the Tunnel), opened, As a result, the entire route structure and operating characteristics of the railroad changed. Less than a year later, the Airport High Speed Line opened. During the same time period, SEPTA has been able to restore service where cuts had been made due to employee shortages and increase reliability. As a result, ridership has grown from approximately 56,000 passengers a day, following the takeover, to almost 100,000 passengers a day.

Much of the public attention to the railroad, however, has been caused by two unfortunate accidents and a bridge closing. SEPTA also took these events very seriously and, in fact, commissioned former Secretary of Transportation William T. Coleman, Jr. to do a comprehensive study of the regional rail system. In addition, the Federal Railroad Administration (FRA) conducted a special assessment of the regional rail operation.

As a result of SEPTA's management initiatives and the recommendations of these two studies, a number of things have occurred. SEPTA has instituted comprehensive training programs for operating personnel and supervisors. The Rule Compliance Testing program has been strengthened. A drug and alcohol program has been instituted. All these programs emphasize safety. In addition, bridge and signal inspection programs have been made more thorough and comprehensive.

However, the era when SEPTA can make regional rail improvements, both safety-related and otherwise, on a rubber band and paper clip budget is rapidly drawing to a close. Many of the recommendations made in both the Coleman and FRA reports require substantial capital investments.

For example, SEPTA has 435 bridges which average seventy-years of age. Twice, already, since takeover, bridges have been closed for safety reasons, causing service disruptions until repairs could be completed. Overhead wire, track and signals throughout the system need replacing. There are 180 stations and parking lots, many of which need basic repairs, lighting, paving and other improvements. Vehicles need major overhaul or replacement.

The Coleman report estimated the capital needs of the railroad at approximately $1B between 1985 and 1990. None of the multitude of reports and studies on the regional rail system has ever indicated major safety problems. However, in the long term, the largest potential safety problem for the system as a whole, and all its individual components, is the lack of adequate capital funds. SEPTA will not run an unsafe railroad. Where safety problems occur we will shut down an element of the system if necessary. Our biggest fear, however, then becomes that since we will not run an unsafe railroad, we may not be able to run a railroad at all.

Thank you. I will be happy to answer any questions.

TESTIMONY OF LEWIS F. GOULD, JR.

Good morning Senator Specter. I am Lewis F. Gould, Jr., and I am the Chairman of the Southeastern Pennsylvania Transportation Authority (SEPTA).

I come here today at your request to talk about safety on the regional rail system. I would like to address the strides and improvements made on the system since SEPTA assumed responsibility for operations on January 1, 1983; more specifically I would like to discuss the recommendations of the various investigations which have taken place since 1983, and the status of those recommendations. I would like to emphasize here that all of these investigations reaffirmed SEPTA's ability to provide safe regional rail service.

Of equal importance in this forum is the need to reiterate the importance of continued Federal funding if SEPTA is to continue to operate safe, reliable regional rail service in the Philadelphia region.

Before I get into any specifics I should give you a brief description of the service area involved. SEPTA operates 13 regional rail branch lines including the Airport line, over 530 track miles and carries almost 100,000 daily riders. The fleet consists of 338 cars, (including the only pre-World War II railroad cars still in service in the United States), most of which are in dire need of overhaul.

Transition is never easy. On January 1, 1983, SEPTA assumed from Conrail the operation of the regional rail system serving Philadelphia and the four surrounding counties of Bucks, Chester, Delaware and Montgomery and a small portion of New Jersey. SEPTA inherited a physical plant and vehicle fleet in a deteriorated condition.

After experiencing a 108-day strike SEPTA then had to endure a loss of engineers and conductors through the "flow back" process to Conrail freight operations and early retirement options exercised by rail employees.

SEPTA started to increase service levels on the regional rail lines in October 1983 and at this time SEPTA started to gear up for the opening of the Center City Commuter Connection (tunnel) uniting two separate rail networks—the remnants of the former Reading Company and the Penn Central. On November 12, 1984, Philadelphians celebrated the long awaited opening of that tunnel only to be dismayed by the cessation of service due to a severely deteriorated bridge at 9th Street and Columbia Avenue on November 19, 1984. Emergency plans were immediately implemented and service was restored on December 15, 1984. This record-breaking fete was marred by two accidents, one at the Narberth Station and

one at the Jenkintown Station, both attributed to human error on the part of experienced railroad employees.

Commencing almost immediately after these two unfortunate accidents the SEPTA Board commissioned former Secretary of Transportation William T. Coleman, Jr., to perform a comprehensive study of SEPTA's regional rail operations. Overall, the system was found to be safe and could be operated safely as long as the employees followed the Book of Rules setting forth operating procedures. The most important recommendation of the Coleman investigation is a fiscal one—to restore the regional rail infrastructure to an overall condition of "good," a total expenditure of almost one billion dollars ($984.8M) should be spent between 1985 and 1990. Senator, I am sure you are keenly aware that SEPTA has no source, at the present time, for an expenditure of this magnitude. However, I will defer the funding dilemma until later in my testimony.

Overall, the Coleman Report made ninety (90) recommendations. They have been categorized in the following areas. 1. Safety, 2. Reliability, 3. Labor and Management, 4. Public Information and Perceptions, 5. Service Improvements, and 6. Finance, Funding and Policy. To date, 37 of these recommendations have been completed; 30 will be completed by the end of the year, and seven are long-range and will require additional time to implement. Twelve of the remaining recommendations address implementation of ongoing programs and four (4) others will require a scheduled completion that cannot be determined at this time. One of those long term recommendations is to acquire proceeds from the sale of Conrail which, to date, has been fruitless since no determination has been made on this sale.

Before moving on I would like to quote a few passages from the Coleman Report if I may. "In all, however, SEPTA management has acted with skill and speed to bring about a difficult transition under less than optimal conditions . . . Upper level managers in SEPTA with responsibilities for the regional rail service are a highly capable group of executives. For the most part, senior level managers who "inherited" the regional rail operation understand that the operation presents a unique set of problems. These managers commendably are adjusting their agendas to address the problem areas. The public, including elected officials, should appreciate the dedication, knowledge and commitment they give to performing a very difficult task."

Prior to 1983, there had not been any significant capital investments in the infrastructure for decades. With the improvements made by SEPTA in the past 3½ years the physical plant may be better today than at anytime when service was operated by Conrail but a substantial portion of the railroad infrastructure remains in a substandard condition.

In summary, since the tunnel opened (November 1984) manpower has stabilized, higher service levels have been instituted, ridership has increased by 30% despite two fare increases, on-time performance is better and employee morale has improved.

FEDERAL RAILROAD ADMINISTRATION [FRA]

SEPTA's accident history in 1983, 1984 and the first three months of 1985 prompted FRA to conduct a special assessment of the regional rail operation in April 1985. This special assessment was conducted by over 30 inspectors and focused on SEPTA's operating practices, signal and train control, plant and equipment, and employee training. After the FRA field inspections were completed, another train accident occurred on June 27, 1985, caused by a false proceed signal. FRA then conducted another assessment of SEPTA's new signal installations.

A report of both assessments was issued in October 1985. FRA found that SEPTA's operating procedures were improving; but that some areas required attention, such as employee and supervisory training, records of safety compliance, emergency response plans, and physical condition of facilities.

The report recommendations paralleled the Coleman study in such areas as emergency response planning, employee training, and upgrading of facilities.

The Authority appreciates this effort by the FRA to aid SEPTA in improving the safety of its railroad operations. However, while the Authority does note that some of the concerns and recommendations offered in the assessment are well-taken, SEPTA has substantive concerns and disagreement with many aspects of the report.

SEPTA will make every effort to comply with those recommendations which are valid and fall within the scope of responsibilities of the FRA. Many of those recommendations were identified by SEPTA itself well in advance of the FRA Assessment and as the assessment team well knew, many had already been totally or partially addressed.

Implementation of these recommendations will be contingent upon the levels of operating and capital funding we receive in the future. In that context we hope that the FRA will actively seek additional funding to help SEPTA and the other transit agencies who are operating railroads as a result of Federal law (NERSA) which mandated local operation of regional rail service. With that mandate came responsibility for a physical plant which the FRA assessment as well as other recent evaluations have declared to be in a deteriorated state. That deterioration has occurred over decades, not two years.

Subsequent to the public release of the assessment FRA Administrator John Riley was quoted as stating that he has encouraged and would encourage members of his family to ride SEPTA's regional rail service. SEPTA appreciates that vote of confidence.

MAJOR IMPROVEMENTS IN THE PHYSICAL PLANT SINCE 1983

New Construction:

Center City Commuter Connection (tunnel)—opened on November 12, 1984. $345M

Airport Line—opened on April 28, 1986. This line is approaching 2,000 daily riders. $89M

Major Bridge Rehabilitation:

Crumm Creek Bridge—$1.4M.

Columbia Avenue Bridge—$2.4M.

Major New Track Construction—$35.7M.

CWR on Media Line;

CWR on Chestnut Hill East Line;

CWR Between Lansdale and North Broad;

CWR on Doylestown Line;

CWR on West Trenton Line;

Tie and Surfacing and grade crossing improvements at 22 locations.

Major Power Improvements:

New Solid State converter at Wayne Junction—$12.1M.

Major Signal Improvements:

New Signals installed between Brown Street and 16th Street Junction on the Ninth St. branch (portions still under construction)—$13.6M.

Major Interlocking Improvements:

Broad Tower—$10.2M.

Car Related Improvements—$41.3M.

Silverliner controllers modified to prevent overriding the deadman safety feature.

Implementation of Hollow Axle Replacement Program—to be completed by December 1987.

Rear Marker Light Program.

Assigning radios to Reading Blues.

Cab Signals installed on Reading Blues.

Reading blues VOH/Stabilization Program.

Overhaul for Silverliners II's and III's.

Silverliner IV Preventive Maintenance Program.

Window glazing of Silverliners.

Speed indicators and noise modification valves.

REGIONAL RAIL DIVISION INSTRUCTION PROGRAMS

I am proud to say that SEPTA is leading the way in the industry for the development and implementation of a highly successful Personnel Training Program. SEPTA currently employs 189 engineers and 198 conductors with a median age of 29 years, and for the first time in over two years SEPTA is not hiring new trainees.

The training program is a rigorous one but the job responsibility is great. The training programs are listed in SEPTA's training course catalogue. I would like to highlight the major components of these training programs, both for new hires and experienced employees.

Training of new hires without previous Railroad Experience:

(1) Passenger Attendant School:

Includes SEPTA Operating Rules, Equipment training, Airbrake training, Revenue Instruction, and On-Job Training.

(2) Conductor School:

SEPTA Physical Characteristics, Amtrak and Conrail Operating Rules, Amtrak Physical Characteristics, Training on Non-Revenue Equipment, On-Job Training.

(3) Engineer School:

Includes SEPTA Operating Rules, Equipment training, Airbrake Training, SEPTA Physical Characteristics, Equipment handling, Amtrak Operating Rules, Amtrak Physical Characteristics, Conrail Operating Rules and On-Job Training.

(4) Towerperson School:

Includes SEPTA Operating Rules Class, Field Instruction, Line Familiarization and On-Job Training.

(5) Signal Maintainer School:

Basic features of the training subject matter includes automatic block signaling, interlocking switching and signaling, grade crossing equipment, remote control of signals and switches, Federal Railroad Administration (FRA) requirements and SEPTA Safety Practices.

Training Experienced Employees:

(1) Conductors and Engineers:

Annual Safety and SEPTA Operating Rules Review;

Air Brake, Electrical Trouble Shooting and Emergency;

Evacuation Procedures Annual Review;

Annual Amtrak Operating Rules Review;

Annual Conrail Operating Rules Review;

Annual (Biennial for Conductors) Medical Physical.

(2) Train Dispatcher School:

Includes Operating Rules, Field Trips, Physical Characteristics, Tower Familiarization, and On-Job Training.

(3) Airport Line School:

Includes special training in accommodating visitors to the city who are not familiar with Philadelphia and/or the SEPTA system.

Training for Supervision:

DRUG AND ALCOHOL

Purpose: To enable both supervisors and hourly employees to recognize and identify employees that are working while being under the influence.

Goal: Ensuring that the public be provided with safe, reliable service by having all employees understand the dangers of performing service while under the influence and that SEPTA will not permit any violations.

Supervisory Personnel: Attend an 8 hour class annually.

Hourly Employees: Material is included in their annual operating rules review.

CAPITAL NEEDS OF THE REGIONAL RAIL DIVISION [RRD] INFRASTRUCTURE

As mentioned earlier in my testimony, the Coleman Report has identified capital needs on the regional rail infrastructure approaching one billion dollars.

Basically, the infrastructure consists of the major fixed plant facilities found in a system. In SEPTA's case, it consists of:

1. 180 stations and parking lots;
2. 200 miles of overhead wire and track;
3. 12 electrical substations for propulsion power;
4. a systemwide signal train control system;
5. a systemwide radio communications system;
6. 2 passenger car rapair shops;
7. 2 passenger car storage yards;
8. 435 bridges and structures (average age of 75 years); and
9. associated offices and administrative headquarters.

The condition and reliability of the infrastructure is determined to a large degree by the maintenance it receives. However, in SEPTA's case, maintenance is not enough. It cannot make up for the decades of neglect, deferred maintenance and lack of capital improvements that the regional rail system has suffered. The result is a system infrastructure that is prone to equipment failures that result in train delays. These delays can degrade system performance to the point where our passengers desert the rail system for other modes of transportation.

Major capital improvements must be made to the various elements of the infrastructure to both halt the progressive deterioration, and to return the system to the point where maintenance can be effective in providing a reliable system. Just like organ transplants to the human body which have become so commonplace today, the railroad system infrastructure needs an infusion of new equipment and materials to replace antiquated and worn out facilities.

Following are some of the critical areas of the railroad infrastructure that we must address if we are to improve the reliability and insure the safety of the railroad operation.

BRIDGES

In the forefront is the need to revitalize or replace the 435 bridges and structures for which we are responsible. The average age of these structures is 75 years, which means that most were built before World War I (in fact 25% were built before the turn of the century).

A thorough inspection of each bridge has revealed areas of potential problems resulting in speed or load restrictions. Just this past month serious cracks were found in the 103 year old, wrought iron bridge that carries the Chestnut Hill West line over Cresheim Valley. The 434' long, 95' high bridge has been taken out of service and emergency repairs undertaken by SEPTA. These repairs are only a temporary expedient to restore restricted service. The replacement of this bridge, which may well exceed $5 million, is not funded.

Of course, most importantly, we want to avoid any repetition of the serious problem that occurred in late 1984 when the Columbia Avenue Bridge had to be condemned and reconstructed.

To avoid such major inconveniences to our passengers, a formalized plan for proper repairs with minimum disruption to service must be formulated and funded. Such a plan has been prepared, but the cost is high. In all, our bridge repair program is expected to cost $180 million.

ELECTRICAL

Bridges are not our only concern.

Miles of overhead and underground electrical cables and overhead wire need replacing.

The electrification system, catenary, transmission lines and substations is basically unchanged from that installed in the 1930's and in most cases is the original equipment.

To really cure the problem and end those delays caused by power problems, the entire electrical system must be rehabilitated and enhanced by the present technology available to us. This renewal has started with the installation of electronic power conversion equipment to replace rotary equipment.

Not only will this improve our system performance, but it will also improve efficiencies in our energy consumption. Our electric bills for railroad operations alone are over $13 million and increasing steadily.

TRACK

We also must replace major portions of track, installing new rail, new turnouts and crossovers, replacing old, rotting wooden ties, improving drainage and clearing away trees and shrubs encroaching on the track right-of-way. This will provide a smoother, quieter ride with less maintenance. To date, approximately 50 miles or a quarter of the track system has been upgraded.

SIGNALS

Of equal importance is the rehabilitation of the antiquated signal system. Approximately 20 percent of the system has been replaced to date, but we must forge ahead to upgrade and replace the remaining 80 percent as this system is vital to safe train operation.

STATIONS

Most important to us are the needs of our passengers. Plans have been made to improve our stations, from repainting some stations to completely remodeling others. Improvements include: repairing platforms, improving station and parking lot lighting, repaving and repairing parking lots, and repairing stairways.

SEPTA also plans to install a Public Address System for announcing train service and expand the use of automatic ticket dispensing machines.

In addition to the capital needs of the infrastructure, SEPTA is in dire need of funding to replace thirty, 54 year old Reading Blue Cars.

All of these plans and improvements can and must be accomplished to bring the System back to a level of service it once provided. However, in order to do this we need financial support and commitment.

The Administration's Budget Proposal for fiscal year 1987 proposes to reduce Federal funding for mass transit by 67 percent—we could never recover from such a devastating blow and SEPTA would be forced to discontinue much of its service.

Since the Federal Government provides 75–80 percent of SEPTA's capital funding, with State and local funds serving as match, I am asking you, Senator, as a member of the Senate Appropriations Committee and a native Philadelphian, to continue your crusade for sufficient Federal funding to address the capital needs of the regional rail system.

In conclusion, I appreciate this opportunity and would be happy to answer any particular questions you may have. Thank you.

TESTIMONY OF ROLAND E. MCKENZIE

My name is Roland E. McKenzie. I am the General Chairman for the Brotherhood of Railroad Signalmen. I am appearing here today as a spokesman for my craft. Accompanying me is Mr. James K. York, Executive Assistant General Chairman.

The Brotherhood of Railroad Signalmen is concerned with the Signal Safety and Communications in the Railroad industry, thus providing safety for the traveling public, whether through signal systems or grade crossings. Since 1901 the Signalmen have adapted to all changes—be it weather or equipment.

When Consolidated Rail Corporation transferred its Commuter Rail Operations to SEPTA on January 1, 1983, conditions were not the best. With the inception of SEPTA came some of the most adverse and appalling conditions the Brotherhood of railroad Signalmen have ever seen. The deterioration was caused by unqualified management, poor training, and poor morale.

1. SEPTA management has failed to address safety and poor conditions of the system. Employees of the Signal Department have not received instruction or training to meet requirements of the Railroad Administration. Training was established by SEPTA for newly hired employees, but SEPTA has failed to supply advanced training for former employees from the takeover. Information received from the field has indicated Signal Department Employees have never received instructions on the RS&I Rules, Safety Classes, and/or Book of Rule Classes. Our information also indicates no instructions have been given governing the construction and maintenance of signals and interlockings, or making tests of signal apparatus.

Furthermore, SEPTA has failed to establish a safety committee as suggested in the 1985 Safety Assessment, but yet expects the utmost in safety performance from their employees. Tests, maintenance, and performance on signal apparatus cannot solely rely on common sense, but must also be an acquired skill.

2. Morale: Morale is a very serious problem on SEPTA. As you know, morale affects each and every employee in job performance and productivity. In higher levels of management SEPTA's perception is self-serving because management is asking their "Boardroom Buddies" questions on low morale. Top management should go right out on the property and ask each employee, gang or section member to answer their questions concerning low morale. Thereby getting the information first hand but not necessarily what they want to hear. Morale was addressed in the Coleman Report, but has since deteriorated to seriously low levels.

3. Signal safety and crossing safety are very serious subjects and dear to my organization. Not only does signal safety and crossing safety affect your life but also mine and thousands of riders who use public transportation. Presently there are 8 crossings on SEPTA that have been installed by a contractor called S.A.B. to this day have not been point checked by signal forces of SEPTA. SEPTA in the 1985 Safety Assessment was thoroughly admonished by the FRA but only in words. Many of the conditions which were of concern by the FRA still exist today. This is now 1986—one year later!! Why do these conditions still exist? Why hasn't the admonition been taken seriously as intended and put into action? Are these reports for casual reading? Of course Not!

I strongly suggest another Safety Assessment be made of SEPTA and this time the actions of the FRA should be firmer in the assessments of appropriate fines.

4. As raised in the FRA Safety Assessment, SEPTA has an inadequate number of testmen to perform safety tests and inservice work on the Carrier's rail lines.

5. Let it be known SEPTA has refused our assistance and knowledge. As we have and will continue to be available to SEPTA to assist in becoming a safer and better rail passenger carrier. Safety to our members and riding public is of the utmost importance. No stone must be left unturned in assuring safety.

SEPTA has failed to deal with the Coleman, FRA and GAO Reports in a serious and responsible manner. Again, we urge another Safety Assessment with SEPTA. And urge all of you to treat these matters as serious as they certainly are. From where then, gentlemen, will it start?

STATEMENT OF JOSEPH LINDSAY

Thank you, Senator Specter, for affording the BRAC organization the opportunity to address this very important issue. "Safety must be the first priority of a commuter rail system".

In analyzing SEPTA's operation we note they have the: 1. presence of safety operating rules; 2. training of individuals in operating rules; 3. enforcement of safety operating rules; 4. more than adequate supervision to enforce these rules.

Since May, 1985 when the honorable William T. Coleman, Jr., "special counsel for SEPTA railroad committee" made his report on his findings of the regional high speed lines, SEPTA has made some significant improvements in their overall operation, but they still have a long way to go in some areas.

For example, in Mr. Coleman's report in 1985 he points out the problem of "Broad Tower". He states it's poorly designed for present requirements, and overcrowed during peak hours. It's dirty, dark and dingy and could use repainting tomorrow. "One would be hard pressed to find worse conditions than Broad Tower on the Entire SEPTA System".

Well gentlemen, let it be know that situation has not improved but, has gotten worse from a safety point of view. There are wires hanging from the ceiling, wires laying around, still dark, dingy and dirty and now we welcome roaches, ants and rodents to the domain.

Other tower locations are not as bad but there still exists poor equipment, no locker facilities, improper heating and air conditioning and, at one location unusual type fumes which no one can seem to identify.

SEPTA moves employees from one assignment to another, from one location to another, which in itself is an unsafe act. An individual who is moved from one shift to another not given proper rest, can become confused or even exhausted from the constant realignment he is subjected to. This is not conducive for safe operating procedure.

Because of the poor physical surroundings this causes low morale which in turn does not afford the employee an opportunity to work in an environment where he does his job in a safe and efficient manner.

We are cognizant of the fact that for SEPTA to correct these deficiencies they do need a funding base to help them in correcting these problems. The Federal Government as well as State, county and city should take the action necessary to expedite the proper channels to secure funds necessary to address these unsafe situations. Continuously raising fares is not the answer. Only by hearings such as this open to the public will we be able to address what problems and solutions are needed. Thank you, Senator Specter, for this opportunity.

STATEMENT OF THOMAS C. BRENNAN

Let me begin by stating that I do not intend to use this forum as a means of criticizing SEPTA management for their role in the poor safety record on the commuter rail lines. The tragic and disgraceful events of the past forty-one months have been well documented. The Federal Railroad Administration has done a thorough job in assessing safety and I believe that most of the concerns and recommendations cited in their report are well-founded.

The most obvious concern is with the relative frequency of accidents on SEPTA. If you were to include the numerous incidents which occurred that were not made public, but nonetheless were extremely serious because the ingredients for disaster were present, then the frequency rate would skyrocket. I will not elaborate on the details of these "near-misses." It is sufficient to say that we are very fortunate to have avoided a major catastrophe. Hopefully, the proper controls on actual train operations are now in place.

The Regional Rail Division management has undertaken steps to implement many of the recommendations of the Coleman and FRA reports. In doing so, they have improved somewhat the overall safe performance of their operating employees. Most of the managers I have dealt with in the Regional Rail Division are sincere in their efforts to correct those past practices which adversely affected operations. However, in spite of their attempts these managers appear to be constrained by what is commonly referred to as "SEPTA policy."

"SEPTA policy" is a vague, elusive concept which is conveniently applied whenever and wherever the managerial heirarchy wishes to impose its will. It is extremely important to mention this issue here since we (BLE members employed by SEPTA) sincerely believe that the prevalent philosophy among upper management for dealing with labor is one of dictatorial control of the work force. As evidence of this we need only to examine the relationship between SEPTA management and its Transit Division employees. There have been nine strikes since 1961 with the most recent occurring this year.

The traditional "take it or leave it" attitude of SEPTA negotiators has carried over into their dealings with the rail labor unions. This posture is a big impediment to alleviating the tremendous morale problem among engineers. Until we establish a positive mental and emotional work environment we will continue to experience severe safety problems.

Contrary to public statements by SEPTA officials the morale issue is a very real problem among Regional Rail Division employees that has persisted since SEPTA assumed operations in 1983. In fact, a recent survey of engineers showed that 96% of those polled felt there has been little or no effort made to correct serious morale problems caused by employee harassment, unrealistic work assignments, poor general working conditions, a discipline system based on intimidation, and a general disregard for the dignity and best interest of rail employees.

Poor morale is the single most important problem we face due to its direct relationship to substandard job performance. The strong correlations between substandard job performances and safety violations is obvious. In order to consistently perform safely and efficiently an engineer must be alert. He must have the ability to recall the most insignificant operating rule at a moment's notice. He must be qualified on the physical characteristics of hundreds of miles of railroad. He must not be burdened with archaic labor policies that destroy his morale.

In conclusion I would strongly recommend that SEPTA's Regional Rail Division become a separate and distinct entity not controlled by inappropriate transit authority policies.

STATEMENT OF EDWARD DUBROSKI

REPORT ON SEPTA'S SAFETY

From the very first day that SEPTA began operating their railroad, it was quite evident to the Unions that the people who are in charge of labor and operations have a very limited experience in operating a large railroad.

There has been some changes in regard to having an experienced railroader, but, even this person lacks the authority to make viable changes.

Actually, comparing SEPTA to New Jersey Transit, you will find that there is a big difference. New Jersey Transit's operation of a railroad is much more desirable.

In regard to experienced engineers: SEPTA could have agreed to a flow back agreement with Conrail which was endorsed by the Union, and, in my opinion, a very viable plan; but, instead, they became involved in a training school where they hire people off the streets with no experience in railroading and they pay these people a substandard wage.

Half the people in the school are not able to pass the examination and the other half who are able to complete the program have no experience with train orders or on how to make any movements.

Regarding the hours of work; the engineers are working many hours per day, six days a week. Furthermore, on their day off they have to attend classes because SEPTA will not conduct the classes during their layover. It is really causing a bad morale problem. The B.L.E., requested that the air classes be reduced, because many aspects which are discussed have nothing to do with the subject, however, their request was denied. It is quite evident that SEPTA's policies are creating unnecessary hardships for the employees.

Regarding discipline: In reference to being disciplined, it seems that the employee is not receiving a fair deal or another way of

saying it is, the employee is not getting his day in court. This also is causing a bad morale problem with the employees.

Regarding alcoholism: It has been confirmed that alcoholism is a disease, it's a sickness which possibly affects fifty percent of the population. It affects every branch of our society, even the military and our government employees.

SEPTA has a very practical way of dealing with an employee who drinks, which is ridiculous, they fire their employees. Furthermore, they will not allow this employee to return to work, even though he has completed a program that deals with the problem of drinking.

Conrail has accepted the fact that alcoholism is a disease and they will allow an employee to return to work after he completes the alcohol program.

Train orders: SEPTA's policy is a light system at the train station to alert engineers, however, they don't receive a clear signal. The problem is, there might be a power failure or an operator who forgets to give a train order light signal, and of course, then the train will pass by the tower without receiving a train order.

It's imperative that the operator give a restricted signal; he furthermore, should stand along the right side of the track and have with him flagging equipment.

Too many people in the cab: SEPTA allows personnel in the cabs if they have with them, head end passes. It is too confusing to the engineers when too many personnel are riding in the cab.

Sanders: Regarding MU equipment. There is no federal law stating that you must provide sand, however, experience has shown that the only way to start or stop an engine on a wet rail or a rail that has oil on it, is to put sand on the rail.

Regarding this matter, you can ask the riders who ride the trains regarding the station stops, because of a tight train schedule.

We have read many reports, regarding SEPTA's policy of not complying with federal laws, in fact the B.L.E. gave a report to Mr. Coleman, as to why SEPTA's operation of railroad will not work. Later, the F.R.A., came out with a report regarding SEPTA's negative policies and the fact that they don't comply with federal laws.

It is important that if SEPTA wants to operate a safe and efficient railroad they must comply with federal laws and they must treat their employees with respect and dignity.

All of the aforesaid aspects must be corrected. One must be cognizant (aware) of the fact that all of these aspects place a lot of stress on engineers. All you have to do is to peruse the B.L.E.'s stress report regarding Amtrak engineers and the problems that are caused by stress.

There are many more aspects that I would like to talk about; however, I cannot cover too much because I only have four minutes in which to deliver my speech, making it almost impossible to delve into the many problems that are currently present in SEPTA.

Mr. SPECTER. I thank the Chair. I yield the floor.

RECOGNITION OF SENATOR HEINZ

The PRESIDING OFFICER (Mr. ABDNOR). Under the previous order, the distinguished Senator from Pennsylvania (Mr. HEINZ) is recognized for not to exceed 5 minutes.

S. 2547—THE 1986 ESRD PATIENT RIGHTS ACT

Mr. HEINZ. Mr. President, 4 hours every day, 3 days every week, 52 weeks a year, some 78,000 Americans go to a kidney dialysis clinic—there are some 1,200 of them—for literally life saving kidney dialysis. At a Senate Special Committee on Aging hearing this March, myself and the other members of the committee learned that the majority, tens of thousands of Medicare kidney dialysis patients may be exposed to dangerous and unnecessary risks in the multiple reuse of filters, blood tubing, and other devices.

I have brought here today an example of what is blood tubing, and what is in a sense an artificial kidney, a capillary flow dialyzer that is used when one of these 78,000 Americans several times a week, every week for the rest of their lives is dialyzed.

What we found is that these risks are dangerous, they are unnecessary, and today together with Senators GLENN, BINGAMAN, KENNEDY, NICKLES, and WILSON I am introducing the ESRD Patient Rights Act of 1986 legislation to address the problem.

What is kidney dialysis? Well, it is a critical life-sustaining treatment required to remove the toxins, the salt, and the water that accumulates in the blood of the person whose kidneys have ceased to function because of what is called end stage renal disease. Treatment requires extensive time. It requires it every week, as I have mentioned, and the only alternative to dialysis is kidney transplantation.

While there appears to be no consensus among the experts as to the ultimate safety of the reuse of dialysis equipment, there is very great concensus that safety of reuse cannot be assured without standards.

And every single piece of equipment that is used in dialysis—by the way, the Federal Government under the Medicare Program reimburses if it is a new piece of equipment every time—in the small print which no one can read, but except with glasses. It says "This dialyzer is recommended for one-time use only."

There are no standards on the number of times, if more than once, that this dialyzer or those tubes can be used. We do not know the answer to how many times these tubes can be used before they crack or before there is blood clotting, or before there are harmful deposits that occur in them. We also need to determine what is the most safe and effective sterilizing agent. Most clinics use a formaldehyde, which is a known carcinogen.

Mr. President, this legislation is the first step in responding to the substantial and troublesome problems brought to light through the investigation and hearing conducted by the Senate Special Committee on Aging regarding reuse of kidney dialysis devices. This legislation will provide dialysis patients with information on the potential risks and benefits of reuse, give patients the right to choose or reject dialysis treatment with recycled dialysis equipment, and ensure that patients cannot be turned away from treatment if they decide not to accept treatment with recycled equipment.

Dialysis is a critical life-sustaining treatment required to remove toxins, salt, and water that accumulate in the blood of a person whose kidneys have ceased to function because of end-stage renal disease [ESRD]. Treatment requires the patient to be connected three times a week for 4 hours to a dialysis machine which filters out these life-threatening toxins. The only alternative to dialysis is kidney transplantation. Medicare funds 80 percent of dialysis costs.

Life-saving dialysis has been practiced for more than 20 years and today is provided by Medicare at a cost of over $1.5 billion to more than 78,000 patients in over 1,200 dialysis clinics across the Nation. More than half (48,000) of the patients are 55 and older; over 26 percent (27,000) are 65 and older; and 34 percent of new patients annually are 65 and older.

A growing practice in dialysis clinics in recent years has been the reuse of certain dialysis devices that are labled by manufacturers for "single use only." Reused most often are the plastic cylindrical dialyzer blood filter and the plastic blood lines through which the patient's blood flows to and from the dialyzer. Other equipment subjected to reuse includes the transducer filter and dialyzer caps.

All dialysis clinics are reimbursed by Medicare at the same rate, regardless of whether or not they reuse disposables. Hospital based clinics received $131 per dialysis treatment, and free-standing facilities are reimbursed $127 per treatment. A new disposable dialyzer costs about $10 and is the most expensive disposable device used in dialysis. Blood lines cost about $3. Reprocessing of these two disposables saves about half to one-third the cost of buying new ones each time they are reused. Figures generated by the Office of Technology Assessment indicated that reuse of the dialyzers alone may result in excess profits of $80 million or more each year.

Some dialysis clinicians believe that reuse of the dialyzer combats "first use syndrome", an allergic reaction to a new dialyzer. The FDA determined that only about 3.3 such reactions per 1,000 patients occurred over a 2 year period. The FDA also found, however, that in most of these cases, the dialysis facility failed to follow the manu-

facturer's instructions for properly preparing the dialyzer for patient use in order to avoid any negative reaction to the new dialyzer. Clinicians also have found that certain types of membranes used in dialyzers may cause allergic reactions, a problem often solved by switching patients to a dialyzer with a different type of membrane.

More than 60 percent of the dialysis clinics are reprocessing and reusing disposable devices as many as 20 or 30 times by flushing out and disinfecting them with a solution most often consisting of formaldehyde and water. Formaldehyde is known to cause cancer, liver damage and destruction of red blood cells. Research has shown that formaldehyde can cause the formation of antibodies in the blood that may encourage rejection of a kidney transplant. In addition, formaldehyde reportedly causes allergic reactions, and central nervous system and reproductive disorders.

Patients who are treated with reused disposable dialysis devices also face the risk of their devices—and therefore their blood—being contaminated with virulent strains of bacteria if reused equipment is not properly sterilized.

The Senate Aging Committee uncovered these facts through a 4 month, indepth investigation into the issues of reuse of disposable kidney dialysis devices. During this investigation, interviews were conducted with scientists, clinicians, and patients involved in hemodialysis study, practice, and treatment. Interviews were also conducted with key personnel at the Food and Drug Administration, the Health Care Financing Administration, and the National Institutes of Health. Published research papers were reviewed, as well as thousands of internal records from these three Federal agencies.

On March 6, the committee held a hearing on reuse of disposable dialysis devices to examine our findings and receive testimony from renal physicians and dialysis patients, as well as from HCFA and the FDA.

Four major problems associated with reusing disposable dialysis devices were brought to light through the investigation and hearing: First, proper clinical trials have yet to be conducted to conclusively determine the health effects of reusing disposable devices, second, the FDA and HCFA have failed to develop standards to ensure safe reuse procedures, third, dialysis patients who receive dialysis treatment with reused equipment are usually not informed of the potential risks associated with reuse, and fourth, dialysis patients who know the potential risks and request not to be treated with recycled equipment are often denied any choice in the matter and are, in effect, forced to submit to treatment with reused equipment.

This committee plans to address each of these problems. The solutions to the first two problems will take time. Clinical evaluations and safe guidelines must be developed carefully and with a close eye to the long-range effects on patient safety and health. The last two problems, however, can and should be addressed immediately.

It is unconscionable, Mr. President, that a health care program that these patients depend on for their lives is turned into a macabre game with hidden risks and quiet coersion. Seldom are patients made aware of the potential risks of reuse. Seldom are patients given the freedom to decide whether or not to receive treatment with reused disposable dialysis devices. And often dialysis patients are intimidated and coerced into being treated with reused disposable dialysis devices.

For these reasons, the legislation I am introducing today will require, as a condition of participation in the Medicare ESRD Program, that facilities that reuse dialysis equipment inform patients in writing of the potential risks and benefits of reuse, that patient be given the freedom to choose whether or not they want reuse, and that Medicare dialysis clinics cannot refuse to treat a patient with new equipment if the patient decides against reuse.

This bill will not result in additional costs to either the Federal Government or dialysis providers. Currently, the Medicare Program reimburses dialysis providers at the same rate, regardless of whether or not they reuse disposable dialysis devices. Neither will this legislation add a new and burdensome paperwork requirement to the ESRD Program. Currently, facilities are required to receive the patient's written consent before administering treatment in the ESRD program. These written consent forms are kept on file and reviewed by the appropriate State survey agencies in determining whether facilities meet the conditions of Medicare participation.

This legislation also does not seek to bring a halt to reuse of disposable dialysis devices. Dialysis with reused dialysis equipment may indeed be safe and effective under certain circumstances, but the guidelines and procedures to ensure safe and effective dialysis need to be developed and enforced.

Partly as a result of the committee's work in this area, the National Center for Health Services Research is currently conducting an assessment of the safety and efficacy of reuse.

Our bill will do three things. It will require, first, that patients be fully informed of all risks and hazards of reuse. Second, that they be given the right to choose reuse or not to reuse. Third, it will forbid clinics from denying treatment to those patients who elect not to reuse.

Again, I stress that Medicare pays on the basis as if nonreuse were a current practice. So the Medicare end stage renal disease program, although it has been a very successful program particularly in providing life-sustaining treatment to a very vulnerable group of Americans, is itself I think at some risk.

This legislation is a necessary step forward in restoring safety and confidence for those whose lives depend every day, at least every other day of their lives, upon dialysis.

This bill will clearly spell out the rights of dialysis patients regarding reuse and will ensure that those rights are protected under the law. It addresses the most important issue at hand—patient protection and safety—which must be ensured immediately, while the other important steps are being taken. I am very pleased that this bill is supported by the National Association of Patients on Hemodialysis and Transplantation. National Medical Care, the largest single dialysis provider in the country, also supports the elements of this legislation. I look forward to working with both dialysis patients and providers as we push for a speedy assessment of the safety, efficacy, and patient outcomes associated with reuse, the development of safe reuse procedures, and appropriate Medicare reimbursement for dialysis treatment.

The Medicare end stage renal disease program has been tremendously successful for more than a decade in providing life sustaining treatment to a very vulnerable group of Americans. This legislation can help return the ESRD program to a program known for its safety and efficacy, and trusted by patients whose lives depend on it. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be reprinted at this point.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF REPROCESSED DIALYSIS DEVICES AND SUPPLIES.

(a) IN GENERAL.—Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding at the end thereof the following new subsection:

"(h)(1) No provider or facility may provide or utilize reprocessed dialysis devices or supplies for the dialysis of an individual entitled to benefits under this title unless the provider or facility has obtained the informed, written consent of the individual in accordance with paragraph (2).

"(2)(A) A provider or facility that proposes to provide or utilize any reprocessed dialysis devices or supplies for the dialysis of an individual entitled to benefits under

this title shall furnish the individual or a legal guardian with a written document—

"(i) informing the individual or guardian of—

"(I) the specific reprocessed dialysis devices and supplies the provider or facility proposes to provide or utilize,

"(II) the specific substances and materials to be utilized in reprocessing each such device or supply, and

"(III) the potential and known risks and benefits of utilizing each such device or supply (including, but not limited to, any increased risk of infection and any harmful long-term effects that the substances and materials utilized in reprocessing the device or supply may have);

"(ii) providing assurances to the individual or guardian that the provider or facility—

"(I) will not penalize the individual in any way for refusal to consent to the provision or utilization of reprocessed dialysis devices or supplies for the dialysis of the individual, and

"(II) will not refuse to provide or utilize dialysis devices and supplies that have not been reprocessed for the dialysis of the individual; and

"(iii) informing the individual or guardian of the grievance mechanisms available to him or her under this title.

"(B) The consent of an individual or legal guardian shall be evidenced by his or her signature on a copy of the document furnished to the individual pursuant to subparagraph (A). Such signature shall be in addition to any signature indicating that consent is given for the individual to enter dialysis.

"(C) An individual or legal guardian may terminate consent given in accordance with subparagraph (A) by notifying a provider or facility in writing that the consent is terminated. A termination of consent shall be effective on the date on which the provider or facility receives written notice of the termination.

"(3)(A) A provider or facility shall allow the Secretary (or a State agency designated by the Secretary) full access to all records of the provider or facility relating to the provision or utilization of reprocessed dialysis devices or supplies for the dialysis of individuals entitled to benefits under this title, including any written consent forms obtained pursuant to paragraph (2).

"(B) If the Secretary determines that a provider or facility has failed to comply with any of the requirements of this subsection, the Secretary may terminate or withhold certification of the provider or facility for purposes of payment for services, devices, or supplies furnished to individuals entitled to benefits under this title.

"(4) For purposes of this subsection, the term 'reprocessed dialysis device or supply' shall include, but is not limited to, any hemodialyzer, blood line, transducer filter, and dialyzer cap that has been used in dialysis and processed for reuse in dialysis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 180 days after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, I thank my colleagues.

RECOGNITION OF SENATOR HART

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado [Mr. HART] is recognized for a period not to exceed 5 minutes.

Mr. HART. Mr. President, I thank the Chair.

THE FARM CRISIS AND LATIN AMERICAN DEBT

Mr. HART. Mr. President, there was a time in this country when the political leadership of both political parties would discuss domestic economics and domestic affairs in one forum, and then go to another and discuss international and foreign policy.

For example, the Latin American debt crisis is, like tornado season, once again upon us. The newspapers are filled with accounts of the problems which face Mexico. Once again, a relief package will likely be proposed that tides the banks through the storm, but leaves Mexico even deeper in debt.

Mr. President, we cannot continue to treat the Latin American debt crisis in this haphazard way. The debt crisis is much more than a financial crisis. It is a foreign policy crisis. It is a political crisis. It is a human crisis. And today, we must all understand it is a farm crisis, as far as the people of this country are concerned.

American farmers know they are not getting a fair price for what they are producing. They also understand that lost exports mean lost livelihoods. American farmers know that lost exports make their own debt crisis even worse. Well, here is the point: the Latin American debt crisis means lost exports for America's farmers.

The debt crisis forces country after country, from Argentina to Mexico, to cut purchases of American wheat, corn, and soybeans. It forces them to increase their own agricultural exports. They must increase their exports and cut their imports to make interest payments on their debts. Even this is not enough in many cases and—as we are seeing in Mexico—the only solution is to slide further into debt.

In the wake of the debt crisis, America's farm exports to Latin America have fallen by one-third. This is more than $2.5 billion in lost sales. As a recent Joint Economic Committee study states, "by 1985, the Latin American debt crisis was nearly five times as damaging to U.S. farmers as reduced sales to the Soviet Union." In 1979, I said the grain embargo was a bad idea. I say a debt-imposed grain embargo is no less a threat to rural America today.

□ 1040

The debt crisis cuts American farm exports not just to Latin America but all over the globe. As Latin American countries are forced to export more, they contribute to world oversupply. This reduces U.S. exports, and the prices received by America's farmers. Total U.S. farm exports have dropped by a quarter since 1980. This, and the collapse in commodity prices, have led to a 30-percent drop in export revenues since 1981. The Latin American debt crisis is not to blame for all of this, but it has made a bad situation much worse.

We need to solve the debt crisis directly. We also must extend the principles and rules of the international trading system to agricultural trade. Opening markets in Europe and Japan, and solving the debt crisis, will go a long way toward helping our farmers.

The laissez-faire attitude of this administration has been both unfair and insufficient. The "Baker Plan" for solving the debt crisis represents some recognition that we need to do something on the international debt crisis. But that plan is short on ideas, imagination, money, and leadership.

Mr. President, debt, unlike tornados and taxes, is not inevitable. We can solve the Latin American debt crisis, just as we can solve our farm economy's desperate plight.

Long-term solutions will be required, and all parties must contribute. The borrowing countries must stop capital flight and engage in responsible economic policies. The banks must accept that some of these loans simply cannot be repaid: others need to be restructured rather than rolled over. Some losses are inevitable. The international lending agencies must show more flexibility and coordinate an international solution.

America's security, prosperity, and values demand we find solutions to both the farm crisis and the debt crisis. We must wait no longer. In farm country as in Latin America, hope itself is on the line.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1050

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR SASSER

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized for not to exceed 5 minutes.

Mr. SASSER. I thank the Chair.

DESTRUCTION OF SURPLUS CHEMICAL WEAPONS

Mr. SASSER. Mr. President, the Senate should be made aware of pro-

posals now under consideration by the Army for destruction of surplus chemical weapons. Indeed, Mr. President, I think it is important that the country be made aware of these proposals.

Many of these chemical weapons that are slated for destruction were manufactured during World War II and are more than 40 years old. Those of the most recent vintage were manufactured as late as 1968. Many of these chemical weapons are leaking, some are deteriorating, and by law, the stockpile must be destroyed by September 30, 1994.

These chemical munitions contain some of the most noxious and poisonous substances in existence known to humankind. They are comprised of persistent and nonpersistent nerve gases and nonpersistent mustard gas. All nerve gases destroy the enzymes in the body which drive the nervous system. In amounts about the size of a pinhead, these nerve gases can kill a human being in anywhere from 2 to 30 minutes. Death from these substances is particularly grotesque.

These munitions are stored across the United States in eight locations—at Aberdeen, MD; Richmond, KY; Anniston, AL; Newport, IN; Pine Bluff, AR; Pueblo, CO; Tooele, UT; and Umatilla, OR. the Army has proposed three alternatives for disposing of these chemical weapons.

The first alternative would create a national disposal center—one disposal center—in Tooele, UT. Chemical weapons from all across the country would be shipped by rail to Tooele. The Army estimates it would take 3 to 4 years of continuous movement by rail to transport the material from all across the country, as indicated on the map behind me, to Tooele, UT.

The second alternative would require two regional disposal centers—one in Tooele and the other in Anniston, AL. Again, this would involve the shipment of these toxic chemical munitions by rail, requiring 3 to 4 years of constant transport.

The last alternative calls for the construction of a disposal facility at each of the eight storage locations. Then we would have onsite destruction of poisonous gas, which would require no rail transportation across the United States.

Now, these nerve gas agents that would be transported by rail are colorless, odorless, and tasteless, and largely undetectable by human senses. Indeed, specialized equipment is needed to detect them. Mustard gas is familiar to anyone acquainted with the history of World War I. It is a crude chemical that kills by blistering any part of the body it contacts, including the lungs, and is a known cancer-causing agent.

In World War I, mustard gas caused casualties in the hundreds of thousands and men died long after that war as a result of the damage done to their lungs and respiratory systems.

After consideration of the facts, I have decided to strongly oppose any plans by the Army to transport these deadly substances across the heartland of the United States.

I have written to the Secretary of the Army, John Marsh, and to the Secretary of Defense, Caspar Weinberger, detailing my opposition to moving these inherently dangerous substances by rail across this country.

My reasons are based on both common sense and expert studies.

The National Academy of Sciences, in a 1984 study, recommended destruction of the stockpile by incineration. This process has been carefully tested and has been proven effective on the chemical agents needed for destruction.

The Academy of Sciences cited the obvious advantages of incineration—one, that transportation of these highly toxic substances across the country would not be needed; and second, the process could be fully controlled.

The Army itself, in its report to the Congress on the disposal of chemical munitions, clearly stated that transportation to either a regional or national location for destruction of the chemical agents poses threats to public health and safety.

I might add that with increasing concerns about terrorism and terrorist activities, I share with the National Academy great concerns about the transportation of these munitions across this country in slow moving trains, traveling at a speed of 15 miles an hour, over well-publicized routes.

□ 1100

These trains would be an open invitation to an attack by a terrorist, and should there be an accident or should there be a terrorist problem the results could be absolutely catastrophic. It could be an American Bhopal. It could result in the death of hundreds of our citizens, the contamination of crops, the destruction of livestock and the contamination of water supplies. The toxicity of these chemical weapons means that even the slightest accident during transportation by rail could result in very deadly consequences. So I think in considering the alternatives, the safety of our citizens should be the primary criteria. The cost for each of these three plans is approximately the same. The differences are not substantial enough to endanger populations by the movement of these deadly toxins.

So the choice for the Army, I submit, is clear. It can choose the safe, technologically proven method of incineration on site or it can make a leap into the unknown and dangerous world of off site transportation where the risk of accident or terrorism along rail lines is greatly increased. I think that plans involving transportation are both imprudent and foolhardy.

So I urge my colleagues to join me in voicing their concern with proposals to transport these hazardous chemicals overland by rail.

Mr. President, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Pending:

Grassley Amendment No. 2070, to deny foreign tax credits attributable to activities conducted in foreign countries which repeatedly provide support for acts of international terrorism.

Mr. DOLE. Mr. President, we are now back on the Tax Reform Act, H.R. 3838, and I assume the managers will be here or are on their way. The pending amendment is the Grassley amendment. I know the managers, Senators PACKWOOD and LONG, would like to complete action on the bill today or tomorrow. As I also indicated, if we could do that, there would not be votes on Monday. But if not, the chairman of the committee, Senator PACKWOOD, has indicated there would be votes on Monday on the tax bill. So perhaps when we get a little further along today, maybe 4 or 5 o'clock or 8 or 9 o'clock this evening, we will be in a position to advise Members what they can expect for the remainder of the week and on Monday. But I urge my colleagues on both sides of the aisle who have amendments to be prepared to bring them up. Let us vote, and we can complete action on this historic bill, sooner than nearly anyone anticipated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1120

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SYMMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1130

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. I do not seek any further recognition. I just called off the quorum. I think the Senator from Iowa is ready to go on his amendment.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 2070

Mr. GRASSLEY. Mr. President, first of all I ask unanimous consent to add the Senator from Georgia [Mr. MATTINGLY], as a consponsor of the amendment I filed last night and now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, this amendment which I filed last night is an amendment to the tax reform bill, and it is offered on behalf of myself and my distinguished colleagues, besides Senator MATTINGLY just mentioned, Senators LAUTENBERG, PROXMIRE, DENTON, HARKIN, and DOLE.

This amendment would deny tax advantages to companies for their operations in countries where those countries actively support terrorists.

The objective of this amendment is to require our tax policy to conform with our foreign policy of combating terrorism.

We have introduced similar legislation in the past. Presently, the Secretary of State has designated the following countries as terrorist countries: Libya, Syria, Iran, Cuba, and South Yemen. The designations of these five countries has been done by the Secretary of State under the Export Administration Act.

Mr. President, under current United States tax laws, United States corporations, of course, are permitted to credit, on a dollar-for-dollar basis, foreign taxes, such as taxes paid in Libya, as an example. They are allowed this credit against U.S. taxes, and that would be against U.S. taxes that would otherwise be due on overseas earnings. The intent of these credits is, of course, to prevent double taxation of those who work or invest abroad. The other cosponsors of this amendment and I do not question the overall positive effect of this tax policy, but, of course, we do seriously question whether or not these tax benefits should be available to those whose activities provide bread and butter for state-sponsored terrorism.

Mr. President, a glaring example of the unintended effect of these tax credits can be seen in the country of Libya where these incentives benefit terrorists and they benefit terrorists more than they benefit the American citizens or companies that are there. A number of American companies have been specifically exempted from President Reagan's economic sanctions that were imposed against Libya in January.

Our State Department asserts that the companies were exempted in order to prevent Libya from gaining a $1 billion windfall from company assets that would be left behind under that order. However, it is important to recognize that many of these assets have already been effectively nationalized by Libya. Libya is reported to already officially own 51 percent of a number of American operations and taxes all but 5 percent of the leftover profit.

Last year these taxes amounted to $2 billion for Qadhafi and his state-sponsored terrorism. Consequently, the greatest motivation for American firms to remain in Libya is to gain huge tax credits for taxes paid to the Libyan Government.

This amendment is drafted, and very carefully drafted, so that it will not force so-called fire sales upon those corporations that it is intended to impact against. The Treasury can continue to issue licenses, even in Libya for that matter, for the purpose of winding down the operations and getting out of the country.

Mr. President, if the economic sanctions that were imposed against Libya in January are to be effective, there can be no exemptions to that order. It is no secret that Libya's economy and its ability to subsidize terrorism are totally dependent upon revenues that are largely generated by these American firms.

In order for us to destroy Libya's terrorist support capabilities and to encourage a rational Libyan foreign policy, Libya's oil production must be strictly curtailed. This cannot be done as long as there are American corporations pumping Libyan crude and providing economic support for the Libyan Government.

Mr. President, how can we expect our allies to participate in economic sanctions when we allow American companies and individuals to prop up Qadhafi's regime? We cannot permit some Americans to profit from revenues used to kill and terrify other Americans. And that is exactly what present tax law allows.

So, that is why I urge my colleagues to join me and those Senators I have already mentioned—Senators LAUTENBERG, PROXMIRE, DENTON, HARKIN, DOLE, and MATTINGLY—in this very bipartisan effort to kick the economic crutches out from under terrorism and the cowardly nations that support terrorists. A vote for this amendment is a strong and clear vote against worldwide terrorism, and that is a step that we ought to take right now.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Today I join with Senator GRASSLEY and Senator DENTON in offering this amendment to deny foreign tax credits to companies operating in countries that actively support terrorism. This amendment is similar to S. 2429, legislation that Senator GRASSLEY and I introduced as the Anti-Terrorism Tax Act on May 8, 1986, and it will save tax dollars, not spend them.

Our Tax Code permits U.S. corporations that do business in foreign countries to credit the taxes they pay to foreign governments against their U.S. tax bill. The purpose of this foreign tax credit is to prevent corporations that operate abroad, and those that invest in them, from being subject to double taxation. That principle is not at issue here. The issue here is whether American taxpayers should subsidize, even indirectly, governments that support and sponsor terrorism. I say they should not.

To prevent that subsidy, and to encourage companies to leave countries that sponsor terror, this amendment would deny the foreign tax credit to corporations that operate in countries that have exhibited a pattern of support for terror.

Governments that support terror are specifically defined by reference to the terrorist list that is kept by the Secretary of State pursuant to the requirements of the Export Administration Act. Right now, there are five countries on that list—Libya, Syria, Iran, South Yemen, and Cuba. We prohibit tax credits if countries participate in an international boycott; why should we do less with countries that support terrorism?

This legislation will deny the benefit of American tax dollars to countries who practice terror, dollars that often provide the financial support for a regime dedicated to terror. Libya is a case in point. Last year, Qadhafi garnered $2 billion in tax revenue from the taxes of American companies operating in Libya. Two billion dollars used for the killing of innocent Americans and others around the globe. Two bil-

lion to train and equip those who blow up discotheques and airplanes.

If we are to destroy Libya's ability to forment terror around the world, we must undercut the oil revenues that keep her afloat by making it less profitable for American companies to pump oil in Libya. How can we expect the cooperation of our allies in our program to isolate Libya economically and diplomatically if we ourselves provide tax benefits to companies operating there.

When we introduced S. 2429, the Anti-Terrorism Tax Act, it required that the foreign tax credit be denied to companies operating in terrorist countries immediately upon enactment of the bill. For companies operating in Libya, who have been under orders to leave the country for some time, this is not unfair.

However, Mr. President, to give companies now in Syria, South Yemen, Iran, and Cuba time to leave without selling their assets at bargain basement prices, we have provided some leeway in our amendment. It permits companies to receive the foreign tax credit during the time it takes to sell or divest themselves of assets in terrorist countries, provided the Secretary of the Treasury grants such an exception. It will also provide time for companies operating in countries put on the terrorist list in the future to adjust to losing the foreign tax credit.

Mr. President, the Senate Finance Committee has already voted to deny tax benefits to Americans who continue to work in Libya in defiance of President Reagan's orders. We should do the same for corporations who operate in terrorist countries.

I urge my colleagues to adopt this amendment to send a message that the U.S. Government will no longer credit taxes paid to terrorists against taxes owed to the U.S. Treasury.

□ 1150

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I wonder if I might be able to ask just one or two questions of my friend and colleague.

I want to commend him for offering this amendment.

As to what the effects of the amendment would be, what countries are covered, would it preclude these countries from being able to take tax credits?

Mr. GRASSLEY. The question is the countries?

Mr. D'AMATO. Yes.

Mr. GRASSLEY. Five countries—Libya, Syria, Iran, Cuba, and South Yemen are the countries that are on the terrorist list as named by the Secretary of State under the Export Administration Act.

Mr. D'AMATO. Are there deferral provisions? If these countries have deferral provisions, would that continue so that, in effect, those countries doing business with Libya and Iran would still be able to avoid the payment of taxes?

Mr. GRASSLEY. Yes, they will. We felt that our amendment would be prospective and in those instances where deferrals were already a pattern we were not affecting those.

Mr. D'AMATO. Does it affect the payment of taxes as it relates to these countries in any way? Are any of the American corporations that the Senator knows of doing business, let us say, with Libya, precluded from continuing their present tax policy as a result of this?

Mr. GRASSLEY. The language of the amendment is prospective for June 30 of this year. So the answer to the question is what has gone on, what tax laws those companies can already take advantage of, they are able to take advantage of. We felt that the best policy was to affect for the future, to see that after the June 30 date came that then there was no more of the wrong of the past that could be continued forward.

Mr. D'AMATO. If I might suggest——

Mr. GRASSLEY. Let me say also that I personally believe in some instances that more should have been done, but I also believe that my amendment is the cleanest way to do it and that we would be doing it in a way to establish good policy for the future without trying to bring up too much of the past, even though, as I suggested, maybe there are some worthwhile things that ought to be looked at and maybe ought to be considered.

Mr. D'AMATO. I have a concern, and I wonder if the Senator could address this, that as a result of there being no vehicle by which they are no longer allowed to continue the tax credits but they can defer payments, which is what in essence will happen, they simply will not take money out of those countries but, rather, will be encouraged to continue to invest and reinvest in those same countries where we are looking to see that Americans do not subsidize those nations that are waging terrorist aggressions. While there may be some good intentions in this, what we will be continuing or encouraging is additional investment because these companies will not be able to take their moneys out, they will not take them out, and the deferral policies that they have, in essence, will encourage them to continue to invest and reinvest.

Does the Senator share a concern with me on that?

Mr. GRASSLEY. I share a concern. It is a fact under my amendment that money that is not brought back into this country obviously will not be taxed. I expressed a personal feeling as to why the legislation was otherwise drawn. But also I think the Senator ought to consider what I consider the June 30 deadline which has been put on these companies by the Treasury Department to be an otherwise good faith effort that they are trying to meet the spirit of that.

What I am doing in this amendment and what I think the Senator from New York is leading to, is that we want to have congressional action specifically directed toward tax policy in order to bring this policy into conformity with our national interests.

I guess maybe I feel you cannot cry over spilled milk, but we can look to the future and establish this good policy so that the mistakes of the past, and you have to admit that even the Congress, by leaving this amendment the way it is, will leave room for the administration to do this, so that there is not, through the tax credit, a subsidy of the American taxpayer of terrorism around the world of any future country so designated.

Mr. D'AMATO. Mr. President, it is for this reason, the very same reason that there is a gaping hole—and I applaud my colleague for having attempted to address this—that it will continue the subsidization, in effect, by U.S. dollars of those nations who are sponsoring nothing less than war against this Nation. Mr. President, I think it has been readily conceded that those nations that engage in terrorist activities against the United States and its people are really fighting an undeclared war against this Nation. Certainly, it does not make good sense under any standards to, therefore, be subsidizing these nations. I feel compelled to offer an amendment, Mr. President.

AMENDMENT NO. 2071 TO AMENDMENT NO. 2070

(Purpose: To deny foreign tax credits, and income tax deferred on income, attributable to activities conducted in foreign countries with which the United States does not conduct diplomatic relations or which repeatedly provide support for acts of international terrorism)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 2071 to amendment numbered 2070.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language to be inserted, insert the following:

SEC. . DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

(a) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (1) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DENIAL OF FOREIGN TAX CREDIT, ETC. WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) during the taxable year to any country to which this subsection applies, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income for such taxable year from sources within any country so identified.

"(2) COUNTRIES TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any foreign country—

"(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

"(ii) with respect to which the United States has severed diplomatic relations,

"(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

"(iv) which the Secretary of State notifies the Congress under paragraph (3) is a foreign country which repeatedly provides support for acts of international terrorism.

"(B) PERIOD FOR WHICH SUBSECTION APPLIES.—This subsection shall apply to any foreign country described in subparagraph (A) during the period—

"(i) beginning on the later of—

"(I) January 1, 1987, or

"(II) 6 months after such country becomes a country described in subparagraph (A), and

"(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

"(3) NOTIFICATION OF NATIONS SUPPORTING TERRORISM.—The Secretary of State shall at least once each year notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any foreign country which the Secretary of State has determined repeatedly provided support for acts of international terrorism.

"(4) PART-YEAR RULE.—If this subsection applies to any foreign country for any period less than an entire taxable year, paragraph (1) shall be applied by taking into account only that proportion of the taxes and income described in paragraph (1) for the taxable year as the portion of the taxable year which includes such period bears to the entire taxable year."

(b) DENIAL OF DEFERRAL OF INCOME.—

(1) GENERAL RULE.—Section 952(a) (defining subpart F income) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and," and by inserting immediately after paragraph (4) the following new paragraph:

"(5) the income of such corporation derived from any foreign country during any period during which section 904(i) applies to such foreign country."

(2) INCOME DERIVED FROM FOREIGN COUNTRY.—Section 952 (defining subpart F income) is amended by added at the end thereof the following new subsection:

"(e) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subsection (a)(5), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 904(i) applies if such income was, without regard to such entities, derived from such country."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

Mr. D'AMATO. Let me attempt to share certain thoughts.

The substitute amendment solves a technical problem with the initial amendment. It imposes current U.S. tax on income that U.S.-controlled foreign corporations earn in these countries.

□ 1200

That is as it should be, Mr. President. It says if you are earning money in this country, you are going to pay taxes. Without this technical solution, U.S. companies that operate in these countries could continue to avoid U.S. taxes simply by putting their operations into foreign corporations. Repealing the foreign tax credit makes no difference to those taxpayers unless we also remove the privilege of deferral.

That is what I was attempting to establish with my good friend, the Senator from Iowa. As long as they have the privilege of deferral, they will not pay taxes, they will continue to defer those taxes.

Mr. President, we are not achieving the purpose that I think we want to. In my amendment, we are sending that signal to the American people, that we are no longer going to subsidize foreign nations who are waging an undeclared war against us. That is what I am concerned about.

Mr. GRASSLEY. Would the Senator yield?

Mr. D'AMATO. If I might, I shall yield in a moment. My second-degree amendment also covers 11 countries: the first 5 covered by the initial amendment as well as Albania, Angola, Cambodia, Mongolia, North Korea, and Vietnam. Countries that we do not recognize are Albania, Angola, and North Korea. Countries we have severed relations with are Cambodia, Cuba, Libya, Iran, South Yemen, and Vietnam. Thus, my amendment covers three categories of nations that we do not recognize, nations that we have cut off relations with and nations which sponsor agents of international terrorism.

By the way, Mr. President, these are those listed by the Department of State. We have not singled out nations. They are covered by the Department of State.

If my friend from Iowa has any questions in relation to that, I shall be glad to attempt to answer.

Mr. GRASSLEY. Will the Senator yield?

Mr. D'AMATO. Certainly.

Mr. GRASSLEY. Will the Senator tell us where the Department of State lists those three separate categories and the countries that are in each?

Mr. D'AMATO. The Office of Protocol, I am informed, maintains these categories of countries.

Mr. GRASSLEY. Also, not to detract from anything that I think the Senator and I have agreed that my amendment specifically does, but for clarification: remember that the purpose of my amendment is that the American taxpayers will not, through tax credits, subsidize terrorism with money that would go directly to those governments by those companies. My amendment does that, so there is no subsidy.

The Senator raises the question about money that would be not coming into this country. He should understand that unless the money comes into this country, then there is no American taxpayer subsidization of terrorism. Would the Senator agree with that?

Mr. D'AMATO. To the extent that there is no deduction as a result of the tax credits. However, what the amendment, the first-degree amendment, would encourage is businesses to stop or to continue to reinvest so that they do not have to pay taxes on these moneys. So, absent the deferral, unless we knock out the deferral provision, what we are going to have is companies continuing to do business and thus to assist economically those nations, those very nations who are waging the war of terrorism against this Nation.

It really is halfhearted, a toothless tiger. What we are saying is, continue doing business there; yes, you are not going to be able to take out your profits and therefore, you will not get a foreign tax credit, but you will be encourage. What we are doing is indirectly encouraging nations to increase business activity because of their not being able to take their money out of that nation.

Mr. GRASSLEY. On one other point, if the Senator will continue to yield for a question.

Mr. D'AMATO. Certainly.

Mr. GRASSLEY. That is the rationale behind the Senator's position and hence this amendment, I believe, that because we do not recognize a certain country and that country is not involved with promoting terrorism, what

is the rationale for not allowing the foreign tax credit?

Mr. D'AMATO. What we are really saying by not recognizing is that these are illegitimate governments who do not represent their people. This has been established by the Department of State. We have no representation with them, and I do not believe we should be supporting them, certainly not economically. That is exactly what we are doing. We have a tax policy which is encouraging their support.

We have not taken any country; we have taken these classifications. I think it makes sense.

I think more importantly, what my amendment does is encourage U.S. business to stop economically supporting countries mentioned in this amendment. It will do it by making them pay taxes now, they or their subsidiaries in those countries and will deny them any tax credits or shelter from these taxes. I think that is important. If we continue that deferral that is contained in the underlying amendment, that is not the case.

What we are saying is, we are not going to encourage new companies to come in. New companies, for the most part, are not going to go into Libya in any event; new corporations are not going to go into Iran in any event; new compaies are not going into Angola in any event. So I find it to be that an amendment in terms of "foreign" sounds good, but substantively, if anything, it will encourage the redeployment of additional assets in that country. Because now the oil companies doing business in Libya, if they take their money out, no longer get their foreign tax credit, will continue to plow back moneys in Libya. That is what I am concerned about.

(Mr. EAST assumed the Chair.)

Mr. GRASSLEY. Will the Senator form New York yield?

Mr. D'AMATO. Surely, Mr. President.

Mr. GRASSLEY. Just one last question or response to a question. As I compare the two amendments, there is no substantive disagreement between the Senator's position and my position: We both feel the American taxpayers should not subsidize companies, the government of which in turn give support to terrorism.

Mr. D'AMATO. That is correct.

I yield the floor, Mr. President.

● Mrs. HAWKINS. Mr. President, as a cosponsor of the amendment offered by Senator D'AMATO to eliminate foreign tax credits and foreign income deferrals for activities of American corporations in foreign countries that we do not recognize, I rise to urse my colleagues to vote in favor of the D'Amato amendment.

Mr. President, I believe that it is time that we eliminate unjustified tax breaks that really serve as subsidies to governments that the United States does not recognize or are demonstrably hostile to the United States. The countries that are subject to the provisions of this amendment are countries that we hold in lower regard than the Soviet Union, the countries of Eastern Europe, or even Nicaragua. These countries include Albania, Angola, Cambodia, Cuba, Iran, Libya, Mongolia, North Korea, Southern Yemen, Syria, and Vietnam. They are literally the dregs of the international community. They are so opposed to everything the United States stands for in the international community and so lacking in claims to legitimacy that the United States does not even extend to them the most basic level of diplomatic recognition. I fail to understand why the United States has a tax policy that recognizes taxes levied against U.S. corporations by countries we do not recognize diplomatically for the purposes of tax credits and deferrals. This is a contradiction between our tax policy and diplomatic policy that defies justification.

Presently, if any American corporate enterprise pays taxes to a foreign country, the corporation receives an equal offset in its domestic tax liability. Unfortunately, this policy applies to friendly and unfriendly countries alike. I believe it is wrong to apply this policy of foreign tax credits on such an indiscriminate basis. The amendment before us would ensure that corporations would not be allowed to take advantage of the foreign tax credit for activities conducted in countries which we do not recognize, have severed relations with, or which are officially considered sponsors of terrorism, currently the countries I listed earlier. Countries could be added or withdrawn from the list of proscribed countries according to their behavior. American corporations would be given 6 months to adjust their business should the United States sever its relations with a foreign country or add a country to the list of those involved in terrorism.

In order to make the foreign tax credit limitation truly effective, it is also necessary to eliminate a complementary tax preference. Currently, corporate income earned in foreign countries is not subject to U.S. tax until that foreign income is transferred to the United States. Including this provision in the amendment will insure that companies continue to shelter their foreign income by never transferring the income to the United States.

Mr. President, I believe that this amendment serves to eliminate the glaring inconsistency that currently exists between our tax policy and our foreign policy. It will make it clear that we are intent on furthering our foreign policy interests. I urge my colleagues to support this amendment.●

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I rise in opposition to the amendment, the Grassley amendment and the D'Amato amendment. I applaud what I perceive to be the purpose of the Senator from Iowa and the Senator from New York.

I do not think there is a single person in the Senate who would oppose their purpose, to discourage by any means possible the support of terrorists anywhere in the world. I think most Members of the Senate would applaud their efforts to find additional instruments with which to oppose terrorists. But I oppose their amendments on several grounds.

One is the grounds which have been so often stated by the distinguished chairman of the Committee on Finance: That the purpose of this bill is to simplify the Tax Code; to strip the Tax Code of all of those interesting, intriguing, fascinating different kinds of provisions that relate to specific problems that either the United States has or individuals within the United States have, or corporations doing business within the United States have.

In other words, the effort of this bill, the underlying purpose of this bill is to strip the Tax Code of these special provisions to deal with different kinds of problems that are not necessarily related to the revenues of the United States of America.

This amendment, as interesting as it may be, has very little relation to the revenues of the Treasury. This is an amendment which has a purpose which might broadly be called a foreign policy objective. It is trying to discourage Americans from investing overseas in certain areas. In the Grassley amendment, there is a rather more limited area in which investment would be discouraged. In the D'Amato amendment, as I understand it, there would be a broader area of discouragement.

What is going to be the effect of that? Well, Mr. President, let us assume that it works exactly as the authors of these various amendments propose to have it work. Clearly, American companies will have to crank into their calculations the fact that they will not get tax credits if they do business in those areas.

□ 1210

But what about other places? Let us assume it is in the interest of the United States of America, it is a policy of the United States of America to promote economic development in Lower Slobovia, and Lower Slobovia is not on anybody's prohibited list; Lower Slobovia is not suspected of sponsoring terrorism; Lower Slobovia is a law-abiding, struggling country

that the United States wants to see progress. But the American businessman who may consider that he is going to establish a subsidiary, a plant, a new operation in Lower Slobovia may say, "Well, yes; I know the Department of State encourages us to go out there, I know the President wants us to develop that area, but if I do, they may be on a list someday. And that is just the extra hazard that I am not willing to undertake, that is just the extra chance that I am not going to undertake and, therefore, let's forget about any kind of economic development in Lower Slobovia."

Now, what is the effect of that on the taxpayers of the United States? It has been argued that this in some way or another will relieve taxpayers of some economic burden.

Well, I think that makes it both more difficult and more expensive for the United States to carry out its policies with relation to Lower Slobovia. You end up having to do by direct government action what you cannot do through the encouragement of private sector action. You have to adopt government programs when private sector investment might have done as well or better with resultant burdens of the taxpayer.

For many, many years we have discussed the benefits that arise from trade versus aid, and I say that both of these amendments would discourage trade and increase dependence on aid, which is the more expensive, more burdensome, more difficult way to encourage economic development in those areas where the national policy of the United States has determined that we should be encouraging economic development.

I do think that this is a foreign policy question. I think that it is the kind of question which would have been referred, at least for consultation, to the Committee on Foreign Relations, had it arisen in a timely way in some earlier proceeding. If it had come as a free-standing bill, I think there could have been joint referral to both Foreign Relations and Finance. That has not been possible because it comes as an amendment on this bill. But I do think that we are dealing here with a very complex, very difficult subject. It is easy to make speeches about bashing terrorists, but it is not going to be so easy to administer this kind of law if you are the Secretary of State or the President of the United States trying to execute a foreign policy in the years ahead. That is what concerns me.

So, Mr. President, I hope the Senate will reject this amendment first, on the grounds that it really has no place in a simplified Tax Code. It is just putting back the barnacles that the Committee on Finance has been trying to scrape away. Second, it is a foreign policy question of great complexity that should not be adopted without the most careful kind of consideration and the advice of the Secretary of State and the advice of the Secretary of the Treasury, which to my knowledge is not yet available. So I think that it would be premature under any circumstances to adopt the amendment, even if it were otherwise acceptable, and I urge Senators to vote to reject it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the proceedings under the call of the quorum be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, the tax reform legislation reported by the Senate Finance Committee is the result of a legislative process that began more than a year ago when the Treasury Department submitted its original plan for comprehensive changes in the Federal income tax laws. That plan quickly became known as Treasury I, because only a few months after its release the Treasury Department submitted a very different, but equally comprehensive plan, known oddly as Treasury II. In December 1985, the House of Representatives passed its version of comprehensive tax reform, and the bill before us today is the Senate substitute for that House-passed tax reform bill. So in the span of about 18 months we have seen four comprehensive tax reform plans. The proponents of each plan have claimed the same goals: To make the Federal income tax system more fair and more simple; to encourage economic growth; and to maintain the current level of Federal income tax revenues, neither more nor less.

The members of the Senate Finance Committee, led by its chairman, Mr. PACKWOOD, and its ranking minority member, Mr. LONG, have worked hard to achieve these goals. The Senate's job now is to evaluate the work of the Finance Committee, to improve upon it if we can, and then to send the legislation to a conference committee with the House of Representatives. Naturally, we cannot be sure that this bill, or even the bill that eventually emerges from the conference committee, will achieve these goals of fairness, simplification, economic stimulation, and revenue neutrality. Economics is an uncertain science in our present state of knowledge and the prediction of economic behavior a clouded crystal ball. But the Senate's obligation is to make a judgment, and at this point in the process we can at least discern the outlines of both the positive and the negative features of this tax reform proposal.

Surely there is much to applaud in the bill reported by the Finance Committee. Through a combination of methods—including increases in the standard deduction and the personal exemption—it removes lower income households from the Federal tax rolls. The provision of an earned income tax credit also helps relieve the tax burden on lower income working Americans. The Finance Committee bill also aims to restore confidence in the income tax system by including a strong minimum tax provision which applies to both individuals and corporations and which should insure that wealthy individuals and profitable corporations will no longer be able to legally avoid paying Federal income tax. The bill before the Senate closes many of the tax loopholes and restricts some of the tax shelters that have for too long diverted spending and investment decisions away from profitability and productivity. Finally, the reductions in marginal rates mean tax cuts for most individuals, giving most Americans more money to spend, save or invest. In all these ways, we have reason to believe that the Finance Committee bill may be able to achieve its objective of a fairer, simpler, more efficient income tax system.

At the same time, however, I have reservations about other aspects of the bill before us. The Finance Committee has done a good job, but it could be made better. In three areas in particular I hope that we will consider improvements as this bill is debated.

My primary concern is with the effect of this tax bill on savings and investment. There have been few constants in the turbulent history of Federal income tax legislation, but the maintenance of a differential rate for long-term capital gains is one of them, and I am not convinced that we can safely abandon it, as the Finance Committee bill proposes.

We must bear in mind the reasons for treating income from long-term capital gains differently from other income. The capital gains exclusion is not a tax shelter. Tax shelter investors actively seek out investments that will lose money, at least on paper, in order to obtain inordinate tax benefits. Tax shelters sometimes perversely reward failure. But favorable capital gains treatment is available only to those who provide capital for ventures that meet with success in the marketplace. Deductions for long-term capital losses are stringently limited, and cannot exceed $3000 for an individual under current law. But the individual who invests in a venture that proves profitable is rewarded by the capital gains exclusion.

The treatment of capital gains under the tax laws since 1921 reflects a phi-

losophy that encourages risk-taking and entrepreneurship. The successful risk-taker, who invests in profitable, productive activity, reaps a greater reward than the individual who invests in a safer asset, such as a bond. If, as the Finance Committee proposes, income is to be taxed at the same rate regardless of its source, investors may well shun the innovative and invest only in the safe. Businesses that need capital—particularly new, start-up ventures—may be the first victims of such a policy, but the ripple effect on American productivity, innovation, and competitiveness could be particularly harmful. That's why we must carefully consider the effect of tax reform on capital formation. Surely it may be appropriate to restrict the availability of the long-term capital gains exclusion, but I question whether it should be jettisoned altogether.

A related question concerns the rate of savings in the American economy which falls far short of that of our major international competitors. The Finance Committee bill seems to assume that merely reducing the top tax rate from 50 to 27 percent will stimulate increased savings and investment. I am skeptical, since I recall that similar expectations were raised in 1981 when the top rate was cut from 70 to 50 percent; but the anticipated increases in the rate of savings never materialized. We should remember that the savings rate will increase substantially only when middle-income taxpayers start to save more; and they receive less of a tax cut than the top rate taxpayers do under this proposal. Perhaps this bill should be improved to place more emphasis on stimulating savings among the middle class, rather than relying so heavily upon tax rate reductions for upper income taxpayers to stimulate savings.

These questions about savings and investment had to be faced every time we considered changing the Tax Code. But they are particularly important today. We are all painfully aware of the problems that American industry encounters competing in the world marketplace. There are many reasons for our troubling trade deficit, but the shortcomings of our tax system surely play a part. The impact of Tax Code changes on capital formation is an essential consideration in any program to restore America's competitive position. Short-term tax relief for individuals will certainly be eroded if tax reform does not respond to the long-term needs of our economy; and the need to compete with other industrial powers must be at the top of that list.

Many of our trading partners tax their industries in ways that do not affect manufacturing costs or prices of exports. In contrast, the U.S. tax system burdens business throughout the manufacturing process and results in higher prices for our exports which are thus less competitive in the world market. In a hearing in the Subcommittee on International Economics several years ago, the automobile industry estimated that about half of the problem of foreign competition in the United States originated with differences in tax systems. This tax differential was rated as much more devastating to American business, both in competing with imports here at home and in competing in the export market abroad, than even higher U.S. labor costs or any other cost of production.

The bill does not correct this condition. Sponsors of the bill call it a consumer oriented bill, but they should concede that in these respects it is an antibusiness bill.

My second major concern about this tax proposal is its impact on the progressivity of the Federal income tax system. The committee proposal makes substantial improvements in progressivity by removing lower income Americans from the tax rolls. However, I am concerned that the Finance Committee bill may have minimized the distinction between middle and higher income Americans. The reduction of the tax brackets to only two, rather than the three brackets proposed by the President, or the four brackets proposed by the House of Representatives, may have gained on the side of simplicity but at the expense of fairness. As the Senator from Maine [Mr. MITCHELL] pointed out in his article in the Washington Post on Monday, fully 16 percent of the total tax relief provided in this bill will go to the top one-half of 1 percent of taxpayers.

Progressivity has been a characteristic of the Federal income tax since its inception. In 1906 President Theodore Roosevelt in advocating the introduction of a Federal income tax made a compelling argument for a progressive tax system.

> There is every reason why, when next our system of taxation is revised, the National Government should impose . . . a graduated income tax. The man of great wealth owes a peculiar obligation to the state, because he derives special advantages from the mere existence of government. Not only should he recognize this obligation in the way he leads his daily life and in the way he earns and spends his money, but it should also be recognized in the way in which he pays for the protection the state gives him.

As we debate this measure, we should explore whether its rate reductions and simplifications extract too high a price in terms of the principle of progressivity enunciated by President Roosevelt.

My third concern is that the bill does not addresss an important tax issue with profound implications for our economic relations with our trading partners. That issue is embodied in the President's bill on the worldwide unitary tax system, which is now pending in the two tax writing committees of Congress. The worldwide unitary system is a method used by a few States to assess the State tax liability of multinational corporations. Both United States and foreign based. Contrary to the arm's length tax policy accepted by our Federal Government and all of our major trading partners, the worldwide unitary system embraces all of the revenues generated around the globe by all affiliates and subsidiaries of the corporation. This overreaching has been a thorn in the side of our trading partners, especially Great Britain, and a significant disincentive to investment in the States that use it. This is not a new issue—I have been involved with it since I came to the other body in the early 1960's—but it is ripe for action now, for two reasons.

First, the United Kingdom is now on the verge of implementing severe retaliatory measures that would seriously affect American companies doing business there. Such retaliation is virtually certain if we fail to enact a unitary tax prohibition this year. Second, the proposals pending in the Finance and Ways and Means Committees now have the full and active support of the President and the Secretary of the Treasury. Next to tax reform, this bill is their top priority in the tax field.

The unitary tax bill is revenue neutral—it does not affect Federal tax revenues at all—but it amends the Internal Revenue Code, and therefore would fit comfortably within the overall tax reform proposals before us. I hope we can give serious consideration to incorporating the unitary tax bill—S. 1974, introduced by Senators WILSON, HAWKINS, and myself—in the tax reform bill that we are now debating.

One final caution on the issue of revenue neutrality. This tax plan, like its predecessors, aims to be revenue neutral. But the Senate is obligated to examine carefully the revenue estimates on which this claim is based. This is not to suggest a lack of confidence in the economists who developed these statistics. The staff of the Finance Committee and the Joint Committee on Taxation have worked diligently to assure the fairness and reliability of their estimates. However this proposal is comprehensive. It does not merely revise the Federal tax system, it seeks to transform it. The changes wrought in individual and corporate behavior may be so profound that the revenue effects may be literally unpredictable. I offer this caution not because I have a better method for estimating the revenue impacts, but only to suggest that if we are to err we must err on the side of gaining rather than of losing revenue. We are already faced with annual Federal deficits well above the $150 billion mark, which

have caused economic problems that are well known to every Senator. We must be particularly carefull that the effort to rationalize our tax system does not upset the progress we have made toward controlling our deficits.

□ 1220

Mr. PACKWOOD. Mr. President, it is obvious that at some stage we are going to vote—not necessarily on this bill—on the matter that is presented on this issue. We will have several other tax bills, including the debt ceiling, before the Senate before the session is over.

Therefore, it is my hope that we could withdraw this amendment, realizing that there will be a full opportunity for debate and a vote on a number of tax bills coming along.

Mr. D'AMATO. Mr. President, we have really substantial business to accomplish here. We are concerned about the American taxpayer subsidizing the so-called pariah nations—Libya, and so forth. That is going on.

I am deeply appreciative of the chairman's agreement to give us another opportunity, before Labor Day, to address this question in a substantive form, with an up-and-down vote. Therefore, I withdraw the amendment that has been submitted.

Mr. GRASSLEY. Those who argue that the foreign policy issue of terrorism has no business being discussed with tax reform have missed the point that, in the area of foreign tax credits as applied to terrorist countries, our tax sysem is in direct conflict with our foreign policy interest of defeating terrorism. Consequently, on the terrorist issue, foreign policy and tax policy are closely interrelated.

If we are really serious about getting tough with terrorists, we have to strike at terrorism in every conceivable legitimate way, and this surely includes denying terrorists indirect tax subsidies.

We are not taking away the right of companies to operate in these countries, where it is legal to do so. If a company wants to operate legally in one of those countries, it can.

We are sayng, however, that the American taxpayer will no longer be forced to support these company operations whose foreign taxes are used to spread terrorism around the world. It is only reasonable to require our tax policy to conform with our foreign policy of antiterrorism.

Mr. President, I am going to follow the same procedure that the Senator from New York suggested. I find no trouble with that, because we are looking at long-term tax policy here and having that tax policy parallel our foreign policy. That foreign policy today is that we are going to combat terrorism wherever we find it around the world, and our tax policy does not conform with that today.

However, I do not want to unravel this entire tax bill, either. Since we have been assured of a vote, and since the long term is more important than the short term in this matter, I, too, ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PACKWOOD. Mr. President, I again thank the Senator from Iowa and the Senator from New York. They have presented issues that are valid and fair and are entitled to a vote. I appreciate their accommodating us on this bill.

I hope we can finish the bill as soon as possible. It is the greatest change for the American public in tax policy in 50 years. I can see our getting into extended debate on this. Both Senators have been very accommodating, and I thank them.

Mr. KENNEDY. Mr. President, has the amendment been withdrawn?

The PRESIDING OFFICER. The amendments have been withdrawn.

Mr. KENNEDY. Mr. President, I wish to take a moment to join in expressing appreciation for this action by the Senator from New York and the Senator from Iowa.

I, along with others, had introduced legislation very similar to the current legislation, to apply similar provisions to South America. We now have assurances of the members of the Finance Committee that we will have an opportunity to debate that issue, as well as the amendment proposed by Senator D'AMATO and Senator GRASSLEY, prior to the Labor Day recess. So it would not be my intention to offer that amendment, since these assurances have been given to us by the Finance Committee.

I hope that, given the action that has been taken by the House of Representatives this past week, the Senate might have an opportunity to address that legislation before the July 4 recess, if we are able to finish this legislation.

So I want to express that viewpoint at this time during the debate and discussion.

Mr. BRADLEY. Mr. President, I express my appreciation to the distinguished Senator from Iowa and the distinguished Senator from New York for withdrawing their amendments. I think that aids the movement of this historic piece of tax legislation, which will accrue to the benefit of all Americans.

I say to the distinguished Senator from Massachusetts that I look forward to a tax bill on which all these amendments will be offered, because I will be supportive of the position of the Senator from Massachusetts.

Mr. PACKWOOD. Mr. President, we are now prepared—the managers of the bill and the others who are on the floor—to go forward with other amendments.

I have talked with the majority leader, and it is his intention to be in rather late tonight. We hope to dispose of other amendments this afternoon, if the proponents are ready to go forward with the amendments.

The PRESIDING OFFICER. The question is on the committee substitute.

Mr. BRADLEY. Mr. President, however much I would like to be able to deal with the question of the committee substitute, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1230

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, what is the pending order of business at this time?

The PRESIDING OFFICER. The committee substitute is the pending order of business.

AMENDMENT NO. 2072

(Purpose: To restore the State and local sales tax deduction, and to impose a 1 percent floor on all itemized deductions not otherwise subject to a floor)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 2072.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1415, beginning with line 10, strike out all matter through page 1416, line 4, and insert in lieu thereof the following new section:

SEC. 135. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible), as amended by sections 132 and 133, is amended by adding after section 280I the following new section:

"SEC. 280J. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

"(a) GENERAL RULE.—In the case of an individual, the applicable itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) APPLICABLE ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'appli-

cable itemized deductions' means the itemized deductions (within the meaning of section 63(d)) other than any deduction—

"(1) under section 165(a) for losses described in subsection (c)(3) or (d) of section 65,

"(2) under section 213 (relating to medical deductions) or

"(3) to which section 280I applies."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280J. 1 percent floor on all itemized deductions not otherwise subject to floor."

Mr. DIXON. Mr. President, under the committee amendment, State and local income and property taxes would continue to be deductible, while State and local sales taxes would lose their deductibility.

The committee report argues that ending the deductibility of sales taxes is appropriate in the context of broadening the tax base and lowering tax rates. It points out that some State and local excise taxes on specific products are currently not deductible; it argues that only a small percentage of taxpayers take advantage of the sales tax deduction; and it maintains that the current deduction is administratively complex and burdensome and therefore should be eliminated.

While I understand the committee position, I fundamentally disagree with the conclusion that sales taxes should no longer be deductible and with the arguments that support that recommendation.

First, it should be pointed out that the current deduction for all major State and local taxes—that is, income, property, and sales taxes—is the most widely used deduction by taxpayers who itemize. It is even more widely used than the homeownership deduction.

Looking specifically at the sales tax, it is important to note that sales tax revenue accounts for over 40 percent of the tax income of 13 States, including New Mexico, Louisiana, Nevada, Tennessee, Washington, Mississippi, West Virginia, Hawaii, Alabama, Florida, Texas, Arizona, and Oklahoma. An additional 14 States count on sales tax revenues for over 30 percent of their tax base, including my own State of Illinois.

At least 45 States count on sales tax receipts for over 10 percent of their local resources, illustrating that the sales tax is a vital revenue source for almost all of the States of the Union. It is a resource, however, that they are in real danger of losing, and that they will lose, if the Senate Finance Committee position prevails.

It is important to remember that States are not the only institutions that utilize sales taxes. Cities, and special purpose local governments, also either receive major amounts of sales tax funds, or impose their own sales taxes. For example, there is a special sales tax in the Chicago metropolitan area to support mass transit. The sales tax is roughly 31 percent of the tax revenues of the State of Illinois but it is the single largest local tax resource for the transit agency. If this source of revenue were lost to it, the results could be catastrophic. This is one example; it can be duplicated many, many times over in communities around this Nation.

Mr. President, the loss of tax deductibility will clearly make it more difficult for States to consider the sales tax as an alternative for raising needed revenue. It will also create substantial pressure to reduce existing sales taxes, putting further financial pressure on already hard-pressed State and local governments.

The impacts of this change, in my opinion, will be felt in numerous State programs. Importantly, State support for education may be among the hardest areas hit. In my own State of Illinois, for example, the sales tax provides over 30 percent of State support for our educational process. Eliminating deductibility of the sales tax, therefore, will make it more difficult for the State to meet its commitment to education. I do not know about others, but this Senator certainly does not want to take an action that will create major new financial problems for our Nation's educators.

I have used Illinois as an example, but this problem exists across the country, which is why so many educational groups favor retention of full deductibility of State and local taxes.

The Finance Committee recommendation creates major problems for State and local governments because it is a major item for most taxpayers. In 25 States the average sales tax deduction is over $400 per year. In an additional 17 States, the sales tax deduction is over $300 per year. The average sales tax deduction was $476 per itemizing household in 1985. Sales taxes, therefore, are a significant part of taxpayers overall State and local tax deductions, and the loss of this deduction, in my opinion, would certainly be felt by most itemizing taxpayers.

It is essential, therefore, to retain sales tax deductibility if the sales tax is to remain a viable part of the State and local government tax base. The amendment I am offering provides a method of accomplishing that goal, without changing anyone's tax rates or putting a disproportionate share of the burden of the change on middle-income America.

The amendment restores full deductibility of the sales tax, restoring the basic tax neutrality of current law. This amendment ensures that the Federal tax will not bias State or local government revenue-raising decisions. It will also remove the terrible disadvantage that face local units of government that rely on the sales tax for most or all of their income.

It accomplishes this objective without disadvantaging States or localities with high tax levels. Unlike another proposal that has received considerable attention, it does not put a percentage cap on the deductibility of all State and local taxes to achieve revenue neutrality, and therefore does not create Federal burdens for States trying to fill the gaps caused by the enormous cuts in Federal programs that aid State and local government.

We have already greatly added to the States' difficulties by eliminating revenue sharing and dramatically reducing other Federal programs. We should not also in this bill make it more difficult to meet their revenue needs or create disadvantages for States that make use of the sales tax to raise revenue.

Importantly, Mr. President, this amendment is revenue neutral. In fact, the Joint Tax Committee believes adoption of this amendment would essentially change revenue totals over the 5-year period under the committee bill by negligible amounts. The amendment does this by putting a 1-percent of adjusted gross income floor on itemized deductions. This means, for example, that a taxpayer who has an adjusted gross income of $30,000 and itemized deductions of $8,000 would subtract $300, leaving a net deduction of $7,700.

Use of this mechanism does not make major changes in the distribution of tax cuts by income class when compared with the committee bill. Indeed—listen to this, Mr. President—if this amendment is adopted, all income classes below $75,000 would receive greater—I said "greater"—aggregate tax cuts than under the Finance Committee's proposal. Only those with incomes above $75,000 would do slightly less well. I ask unanimous consent that a table comparing the distribution of tax cuts by income class be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

See exhibit 1.

Mr. DIXON. Let me just say in conclusion that, as I stated yesterday, we cannot leave resolution of every issue to the forthcoming Senate-House conference. I believe this is a reasonable solution to a difficult problem. I do not think we can afford to pass a tax reform bill that leaves out the sales tax deduction. I urge my colleagues, therefore, to join me in voting for this amendment.

EXHIBIT 1

PERCENTAGE CHANGE IN TAX LIABILITY BY INCOME CLASS

Income class	Committee bill (percent)	With Dixon sales tax amount (percent)
0 to 10000	−63.0	−63.0
10000 to 20000	−20.1	−20.2
20000 to 30000	−8.1	−8.4
30000 to 40000	−5.0	−5.3
40000 to 50000	−6.6	−6.9
50000 to 75000	−3.9	−4.0
75000 to 100000	−3.3	−3.3
100000 to 200000	−3.8	−3.5
200000 plus	−4.7	−4.2
Total average tax cut	−6.4	−6.4

Mr. PACKWOOD. Mr. President, again, let me call to the attention of the Senate what we tried to do in this bill. We have tried to dramatically lower the rates—15 percent for individuals, minimum; 27 percent, maximum; and 33 percent for corporations instead of 46—and we tried to do it by eliminating the loopholes. Loopholes are those things you regard as egregious; deductions are those things you may not think are egregious. We understood the tradeoff. If we wanted to get the rates at 15 and 27 percent—and the 15 percent is for 85 percent of the taxpayers in this country—you will have to be above $42,300 gross income for a family of four before you go above the 15-percent bracket—we knew we would have to make tradeoffs, because the only way you could get it down was to eliminate major revenue-losing deductions—the investment tax credit, the above-line deduction for charitable contributions, capital gains, and some form of State and local taxes.

Let me address myself to that specifically. We did present to the committee—I presented to the committee initially, a bill that rather than just eliminating the sales tax deduction and not eliminating any others, slightly trimmed each of the principal tax deductions—State and local income taxes, State and local property taxes, State and local sales taxes.

The committee weighed the merits of perhaps allowing you to deduct 85 to 90 percent of each of those other taxes as opposed to totally eliminating the sales tax deduction and totally keeping the deductions for the other two. The committee rejected my original proposal and opted to go with, instead, the elimination of the sales tax. And I think I understand why, and there are a number of reasons.

First, it is a path down which we have already trod for years in the Congress and it raises a rather large amount of money. We already prohibit the deduction, on your Federal tax form, of a whole variety of selective State sales taxes. We call them excise taxes, things like the cigarette tax, liquor tax, gasoline tax, and driver and vehicle registration. Those are not deductible on your Federal tax.

Now, in 1984—and I want everyone to understand what a relatively large figure those excise taxes in the aggregate are—in 1984, State and local governments collected in sales taxes about $81 billion. In all of the other excise taxes that they collected that are not deductible, they collected $56 billion. So it is not an insignificant amount of money.

We thought to ourselves, as we had already done it in a variety of other areas, if would be something less onerous, less objectionable than starting down a new road, especially as it related to real property taxes, which are the backbone of every sanitary district, school district, city, county, or water district, and what have you.

Second, we discovered that, although $81 billion in sales taxes were collected by State and local governments in 1984, only $19 million of it was itemized and deducted; whereas, $65 billion in income taxes were collected by State and local governments in 1984 and $57 billion of it was itemized and deducted. So you had a quantum difference. And we were fully aware that the reaction—telling taxpayers they could not deduct some portion of their income tax—would be infinitely greater than saying you could not deduct all of your sales tax. So that was a conscious, political, deliberate judgment. We were looking to find ways to get revenue so we could lower the taxes, so we hit upon the deduction of the sales tax and eliminated it.

The Senator from Illinois would now put back in that deduction and would pay for it by eliminating 1 percent, based upon your adjusted gross income, of all of your other itemized deductions except those which already have a floor. Again, I want to use an example. Let us say you make $10,000. That is your adjusted gross income. One percent of that is $100. Let us say you add up all of the deductions you have—you have a home mortgage deduction, property taxes, charitiable deductions, and what-not. You add those all up and you have $3,000 in deductions.

Instead of being able to deduct $3,000, under the amendment of the Senator from Illinois you could deduct only $2,900. You would subtract 1 percent of your adjusted gross income from your itemized deductions.

□ 1250

So what we would be saying to every home owner who itemizes, to everybody who pays any kind of property taxes, mortgage interest deductions on your home, charitable contributions and what not, we are going to nick you a little bit so that everyone can have their sales tax deduction. That is an honest difference of opinion as to which way you want to go. The committee weighed it and went one way. The Senator from Illinois weighs it, he is going to go the other. In fairness he should understand who sales tax deductions benefit.

First, they benefit upper income taxpayers because lower income taxpayers do not itemize. That is again, as always, talking about averages. Usually lower income taxpayers do not itemize. But it is interesting to look among the itemizers because you see a significant difference. You start to itemize your taxes probably again, talking about a family of four, as you get into the $20,000 to $30,000 bracket. You do not have many people itemizing below $20,000, and especially if they are a family of four. When you get $20,000 to $30,000, you start to itemize; $30,000 to $40,000 you have more; when you get above $40,000, almost everybody itemizes.

But those in the lower income brackets of those who do itemize usually use a standard table if they are in a sales tax State that tells them how much they can take for a sales tax deduction. They do not bother to go through and add up their grocery and pharmacy receipts, or receipts for when they bought clothes for the kids. They do not for whatever reason. You are entitled to keep track of all of it, and do that instead of using the chart. But most of those who itemize who are, I would say, in the $20,000 to $40,000 class simply use this chart that the Internal Revenue Service puts out that tells them how much they can take on average.

The problem with that chart is that it probably understates what you can take. Most people take the table amount. Wealthy taxpayers who itemize however do not use that chart. You see just the opposite.

It may be for two reasons. One, maybe they are simply more adept at keeping their receipts. So they know when they bought groceries, and they know what the sales tax was. They know when they bought some kind of prescription for the kids' strep throat, what it was, and they keep track of all of it. But they also know when they bought a fur coat. If it cost them $10,000, and there is a 5-percent sales tax, and they paid $500 on that fur coat; they know when they bought a Mercedes-Benz for $50,000 with a 5-percent sales tax, that they paid $2,500; they know when they bought a $2,000 watch and paid 5 percent that they paid $100; and they list all of those items and claim them as deductions.

If you are going to put back the deduction for the sales taxes, understand that you are going to be putting back in the deduction that is not only taken mostly by upper-income people because they are the ones who itemize,

but is taken disproportionately more by the very wealthiest upper-income itemizers because they are the ones that spend a great portion of their money on very expensive items that have sales taxes added to them, and they deduct them.

In order to pay for those very wealthy taxpayers to be able to take that deduction, you are going to nick all of the $20,000, $25,000, $30,000, $35,000, and $40,000 taxpayers who just barely moved into the itemization, and are deducting maybe $2,000 or $3,000 total in real property taxes, mortgage interest deductions. You are going to nick them. This is one that really touches the middle-income class to pay for the wealthy.

I think it is unfair. I think it is unwise.

On balance, I understand the policy of which way you want to go to raise the money to lower the rates. On policy, I think we went a better route than my good friend from Illinois wants to go. But from the standpoint of fairness and equity, I think there is no question of who you are favoring if you put back in this deduction.

Mr. DIXON. Will my distinguished friend, the manager of the bill, yield for a question?

Mr. PACKWOOD. I will try to.

Mr. DIXON. One of the things that troubles me greatly about what the Finance Committee did in connection with these tax deductions is that you permit the deduction of income tax, real estate tax, and personal property tax, but not sales tax. For instance, in my own State, over 16 years ago we eliminated the personal property tax because generally it was not very collectible. Many people did not pay it. It was not a fair and equitable tax.

So what you have done in effect in the Finance Committee product is to say that in Illinois, you can deduct the real estate tax, you can deduct the income tax since we have no personal property tax, you cannot deduct that, and the sales tax which is a very important source of general revenue you cannot deduct.

Did the committee consider those questions of fairness?

Mr. PACKWOOD. Yes. We absolutely did.

Mr. DIXON. Why did it single out one tax above all others?

Mr. PACKWOOD. As I indicated in my statement, the bill that I first put forth did exactly what the Senator said in the sense of touching each of the taxes a little bit, including personal property tax, real property tax, income tax, and sales tax. The committee rejected that idea.

In the process of rejecting it, did we talk about fairness? Yes. In the process of rejecting it, did we talk about who took deductions for sales tax and who did not? Yes. Did we talk about whether wealthier taxpayers took more when they itemize than those not so wealthy? Yes; we talked about all of them. We weighed all of them.

The judgment of the Finance Committee may have been wrong. I don't know. What I would suggest, if this amendment is disposed of unfavorably, is that the Senator from Illinois offer an amendment touching each of those taxes a little bit so that it touches them all equally, and let the Senate work its will on that kind of an amendment.

Mr. DIXON. How many States do not have a personal property tax, if the chairman knows?

Mr. PACKWOOD. How many States do not have the personal property tax? I cannot remember how many do not have it. One of the things on the personal property tax, it is a relatively slight tax. Again I will put it in comparison.

With the elimination of the sales tax we raised about $18 billion of revenue. Had we eliminated the deduction of the personal property tax, it would have raised about $1 billion, but about half of that, about $500 million, was taxes on mobile homes. Technically those do not count as real estate but people live in them. They count them as homes. So we thought it would be unfair if you were going to say you could keep a mortgage interest deduction to eliminate a personal property tax half of which fell on mobile homes. So I do not know how many States have personal property taxes. It is a much less amount of money.

Mr. DIXON. As I understand what the chairman is saying, part of the consideration of the committee is the amount of revenue that was saved from the standpoint of the overall features of the bill.

Mr. PACKWOOD. Without question, that was in every decision we made.

Mr. DIXON. I wonder where the spirit of fairness is. I do not mean to be offensive to the chairman for whom I have the greatest personal regard, but the information given to me is that we are among the few States in our country represented in the U.S. Senate that does not have a sales tax.

Mr. PACKWOOD. That is correct. That has been alluded to in any number of occasions. I say once more that when I initially put in the bill, I did not single out the sales tax. And the committee weighed touching each of the taxes. The first bill I put in would have had a 25-percent top rate. I directed the Joint Committee on Taxation to produce us a bill that would produce a 25-percent top rate and the only way the joint committee could do it was to have a slight limitation on the deduction of income taxes, real property taxes, and sales taxes. They also had personal property taxes with the limitation. I presented it to the committee. And the committee turned it down. They said we will not vote to touch income taxes, real property taxes, and they really put personal property taxes in the same category because half of that was taxes on mobile homes.

But did the committee talk about fairness? We did. Did we talk about equity? We did. Did we talk about how much money we could raise in the elimination of the sales tax versus roughly an 85-percent elimination of the other three taxes? We did. It would raise about the same amount of money if you were to touch 85 percent of all the other taxes. Again, I say to my good friend we may have made a mistake in judgment. That is a decision that the Senate should make if someone would offer an amendment saying, "Let's touch all of the taxes equally."

Mr. DIXON. I thank my good friend, the distinguished manager of the bill, for his answer.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

□ 1300

(Mrs. KASSEBAUM assumed the chair.)

Mr. BRADLEY Madam President, the distinguished Senator from Illinois has offered an amendment dealing with the State sales tax. Let me say that my State has a sales tax. Yet, I support eliminating the deductibility of sales taxes. It was not an easy vote. But I think that it framed for us the choice of tax reform.

□ 1300

If you are going to get tax rates down and broaden the tax base, the way you broaden the tax base is by eliminating loopholes.

As I pointed out on the first day of this debate, the value of all tax loopholes in 1967 was $37 billion. The value of all those loopholes today is over $400 billion.

So the committee began a process of attempting to figure out which loopholes they were going to close.

The deductibility of State sales taxes was one of those that we decided to close.

There have been a number of arguments in favor of retaining the deduction of State sales taxes. While I certainly agree that a State ought to have the right to choose the kind of tax system that it wants, I believe that there are better ways of providing relief from the sales tax burden than by providing deductibility of that sales tax on the Federal income tax form.

Let me explain.

First of all, everyone agrees that sales taxes are regressive. By regressive, I mean it hits the middle- and low-income person harder than it hits the upper-income person.

The fact that sales taxes are regressive is really one of the main reasons that we instituted an income tax back in 1913. Before 1913 the Federal Government raised revenues through taxes on things like coffee, tea, iron, cotton, woolen goods, and general manufactured products. The result was a terribly unfair system in which the wealthiest paid little tax in relation to their income, and the lower average working citizen in this country paid significantly more of their income in taxes.

One of the earliest and, I would argue, most eloquent proponents of Federal income tax was a Senator named John Sherman, from Ohio. On this floor in 1871 he made the point quite poignantly. I would like to read what he said.

In answer to a question he posed a question, which was:

"Can a rich man with overflowing revenue"—in other words, a lot of money—"consume more sugar, coffee, or tea, or chew more tobacco, or drink more whiskey than a poor man? We tax tobacco at the same rate per pound whether it is tobacco for the wealthiest or the poorest."

The fact of the matter is that Senator Sherman's message is as true today as back in 1871.

He went on to point out that the tax on an article consumed is unjust upon the poor because the poor have to consume a greater portion of its income in its purchase than the rich.

What the Senator again was saying 100 years ago is as true today as it was then.

Unfortunately, allowing a Federal income tax deduction for State sales taxes does not alleviate the unfairness. On the contrary, it compounds it.

Why do I say this? The answer is because the poor generally do not claim a sales tax deduction. Now, Mr. President, I would like to refer to a chart that I have referred to throughout this debate, reminding all of us who the taxpayers actually are and how they benefit from a specific provision in the Tax Code.

As you will recall, the taxpayers break down into these subgroups. Fully 85 percent of all taxpayers earn under $40,000. Twelve percent are between $40,000 and $75,000, and one-half of 1 percent of the taxpayers earn over $200,000.

That is who the taxpayers are. We frequently believe that the taxpayers are overwhelmingly people between $40,000 and $75,000. Not true. Thirty-two percent of all taxpayers earn under $10,000. About two-thirds of them are kids under 25 and the bulk of the rest are elderly women.

About 21 percent of the taxpayers earn between $10,000 and $20,000. Thirty-two percent of the taxpayers earn between $20,000 and $40,000.

Once again, 85 percent of all taxpayers earn under $40,000.

Now, let us look at the sales tax.

First of all, just look at the number of Americans who take a sales tax deduction. There are 100 million taxpayers, and of the 100 million taxpayers, only 36 million, or 36 percent, claim the sales tax deduction. That means that 64 million households, 64 million taxpayers, who pay State sales taxes every time they go to the store, did not claim the deduction. So they got no tax benefit. Zero.

Who are these 64 million families who paid sales taxes but got no Federal deduction? The answer to that is quite clear: Primarily low- and moderate-income individuals.

Now, let us look at who did claim the sales tax deduction and what the value of that deduction was.

Of the people making less than $10,000 in income, only 5.8 percent claimed the sales tax deduction. Only 5.8 percent of the people making under $10,000 claimed the sales tax deduction.

The average value of that deduction was $1. That is what this particular loophole means to people under $10,000 of income. It means they save $1, on average, on their taxes.

Mr. President, let us look at the next income scale, individuals who earn between $10,000 and $30,000.

In that level, only 23 percent of the taxpayers actually claimed the sales tax deduction, and the average tax benefit for that class of taxpayers was $4.

We move up to the 32 million Americans who earn $20,000 to $40,000, and their average benefit from this deduction was $25.

On the other hand, let us move up now to the man on the hill, the man who is not deep in the hole or struggling to get out or hanging on the edge, or even moving on level ground or with a little break going up. Let us look at the man on the hill.

What was the value of this deduction for him?

First of all, 91 percent of this category take the sales tax deduction, 91 percent. The average benefit, the average tax savings, was $312.

So, Mr. President, there is no question that this particular deduction benefits disproportionately upper income Americans.

I would argue that by allowing, therefore, the deductibility of sales taxes, it is a very poor way of providing relief to those Americans for whom the sales tax is, indeed, a hardship. They have to pay it but they do not get the deduction.

I think really there is a better way to go, and that better way is embodied in the present tax reform bill the Senate is considering.

What do I mean?

□ 1310

If you look at State tax systems, you find that many tax systems have State income taxes and State property taxes and State sales taxes. You find that 29 States have both a sales tax and an income tax. That income tax is tied to the Federal Code, which means the State income tax code is essentially the Federal Income Tax Code. Whatever change is made in the Federal income tax system automatically flows through to the State system.

So what happens to these 29 States that have both sales taxes and income taxes that are tied to the Federal system? Under tax reform, what happens to them? What happens to them is that the base of their income tax system is dramatically broadened because any loophole we eliminate at the Federal level is automatically eliminated at the State level. That means that they have a broader base on which to raise taxes.

Mr. President, what is the effect of a broader base on which to raise taxes? That means that the State government will have more revenue. Instead of having a tax base like this, it will have a much broader tax base. If they keep the income tax rate at its present level, that means they will have more revenue—a windfall, so to speak.

What might they do with that windfall? I hope that what they would do is see the value of providing relief to those individuals, the bulk of taxpayers, earning under $40,000—85 percent. I hope they would take the additional revenue that they obtain from the tax reforms legislation's effect on their tax system and cut the sales tax. If they were able to cut the sales tax, they would have the same amount of revenue, but it would be a more progressive system.

Mr. President, let me say that this is not merely theory. There are many astute State governments that are looking at what is happening in Washington very carefully and have already begun not only to realize what benefit this reform is for their States, but also to make the necessary changes at the State level.

For example, the New York Commission on Taxation and Finance has recently stated that if the Finance Committee bill were enacted, New York would be able to lower tax rates or add additional deductions and cut the sales tax as a result of this tax reform windfall.

Mr. President, that is precisely what effect tax reform should have on State finances. It should encourage State finances to be more progressive. It should allow State governments to cut regressive sales taxes while raising the same amount of revenue for the important functions of State government.

Let me also point out that the State's right—a State has a right to have whatever tax system it wants. If States choose to have sales taxes alone, that is clearly their choice. But in terms of who uses the sale tax deduction, I think it is also interesting, and the chairman pointed it out, that of the total amount of sales taxes raised by States, roughly 25 percent is deductible. Of the total amount of income taxes that are raised by States, fully 90 percent is deductible. The way to help people least able to pay the sales tax is through tax reform, through bigger exemptions, through bigger standard deductions, through bigger earned income credits. That, Mr. President, is what this bill does.

If you think about the rest of this debate, I am sure that there will be those who will say that we should have an even more progressive tax system. I think we should have a more progressive tax system, but I do not ignore what this tax reform bill has done to insure progressivity. What it has done is expand the income of the rich for tax purposes. For example, we have brought into income capital gains. Mr. President, 60 percent of the income of people who make more than $1 million in this country comes from capital gains. They now have to include that income.

What else have we done, Mr. President? We have phased out passive losses. Many upper-income individuals avoid paying tax by investing in tax shelters and receiving passive losses. So the bill before us is progressive. One of the ways that it retains progressivity is by eliminating the deductibility of the State sales tax. So for those who would argue that we should have an even more progressive tax reform than the one we passed out of the Finance Committee, I would certainly expect those Senators to vote to eliminate the deductibility of State sales taxes.

If, on the other hand, the Senator is saying, "I want to keep the deductibility of State sales taxes but I want a more progressive system at the Federal level," he is essentially saying, "From the standpoint of my constituents in my State, I would like to have the Federal tax system more progressive, but I don't care if the State tax system is regressive." To be consistent, a Senator must argue for progressivity at both levels and, in this case, support the elimination of deductibility of the State sales tax.

What this reform package means, Mr. President, is so important to the future of this country. It is beyond economics. It goes to how people feel about their Government. A couple of years ago, the pollster, Dan Yankelovich, had a question in one of his polls. The question was: "Do you believe you can get ahead in America if you abide by the rules?" Overwhelmingly, over 80 percent of the respondents, said "No; we don't believe we can get ahead in America if we abide by the rules."

A big set of rules that I think they were referring to were the tax rules, in which equal incomes did not pay equal tax; in which there were great disparities; in which some people were able to avoid paying tax completely until the present tax system emerged, in which many people earning under $10,000 a year paid more taxes than did millionaires and in which middle-income people were called upon year after year to pay the freight for government.

This tax reform bill changes that. It drops the tax rates dramatically. Four out of 5 people pay no more than 15 percent in tax. It broadens the tax base so that equal incomes will pay equal tax.

Mr. President, this is a reform package not only well worth supporting but well worth praising. One of the elements of this system is the elimination of the deductibility for State sales tax because that will call upon State governments to follow the lead of the Federal Government and enact tax reform at their State level.

I yield the floor.

□ 1320

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment of my colleague from Illinois. I think our hearts are both in the right place. I think they are basically in the same place. But he has a problem in arguing to eliminate the deductibility of State sales taxes that he has to raise an equivalent of money someplace else to do it. In my view, Madam President, he has selected the wrong area to do it and in just a minute I am going to explain that because it is a little ironic; since about in 1982 sometime I proposed a solution to one of our intergovernmental fiscal quandaries that did almost precisely what my colleague from the State of Illinois has done, and that is propose to fund in this case general revenue sharing out of a limitation on the deductibility of State and local taxes at 1 percent of adjusted gross income. I will explain why I view the funding part of his amendment differently in just a minute.

Our colleague from Illinois in his questions of the chairman of the committee accurately raised the issues of fairness and some of the issues of financial tradeoffs, and as a member of the committee and as one who is opposed to the position of the committee to eliminate the deductibility of the sales tax, let me say that the issue of fairness certainly was discussed. And in connection with the proposal by the chairman that we reduce the top rate on income tax to 25 percent, he is accurate in saying that the majority of the committee said they did not want to pay the price of a 25-percent rate which would have included touching the deductibility of income taxes or property taxes.

In effect, what happened is that a majority of the 20 members of the committee were persuaded that if we had to find $6.6 billion somewhere and that we had gone through the rest of the base trying to find opportunities for broadening, that of all the State and local tax deductions the one most susceptible to being included in the proposal would be the sales tax deduction. I think in the chairman's explanation of the committee bill as it relates to the sales tax deduction he covered some of those reasons. He talked about the numbers of people who take the deduction, and so forth. I would just have this to say about that particular argument. I do not think it is any more an argument in favor of the committee position than is the argument just made by my dear colleague from the State of New Jersey that the sales tax is a loophole and therefore ought to be closed, that any State and local tax is a loophole which ought to be closed. To characterize the payment of State sales or local sales taxes or property taxes, real estate, personal property, or income taxes as a loophole in the Tax Code is a little ridiculous. This is one of those things you cannot avoid. You can avoid borrowing money and taking an interest deduction if you live within your means. You can avoid a variety of other deductions if you do not make some appropriate investment which qualifies you for that deduction. But you cannot avoid in America the payment of taxes. And you cannot avoid in most States in this country the payment of some combinaton of taxes.

At the local level the traditional tax has been on ownership, or on wealth, let us say, as reflected in ownership. Back in the beginning of this country we not only taxed ownership of property, we sent with it the qualifying right to be the only people in our society who voted, who had the right to elect those who were going to levy the taxes we were going to pay for all of the protections for property. So in the traditional sense in this country it has been the property tax or some tax on wealth which has sustained government at various levels.

As this Nation in the post World War II period began to move to a more consumptive economy, when we decided we were going to start up the engines after the Second World War, we were going to keep the engines of the Second World War economy going full blast to restore the economies of the entire world, we decided that we

needed to expand the base under the tax system at all levels of government, and we took the basic notion of wealth into a 93-percent tax on income generated in the course of producing wealth. Eventually we took it into the area of sales taxes which happened to have been, as the Senator from New Jersey indicated, a tax ususally reserved for making war. When we had to go to war, if we had to defend ourselves in the first 125 years of our history, we had a temporary excise tax of some kind to generate the resources to do that. But in the post Second World War period, with the booming economy and the booming demands on government and then the enlarged role that the National Government was playing, with all of that came an expansion of the system of taxation at all levels.

We said we will educate people at the local level and we will put in their streets and their roads, and so forth, with a tax on property. And we will then tax at the State and the National level income and eventually sales and use the resources from people's consumption and the resources from people's income to supplement that property tax at the local level.

So there grew up in this country over the last 40-some years a very carefully put together, although it looks accidental, system of intergovernmental relations, a relationship between the National Government and its national responsibilities, the State government and local government, and all of that was held together by a system of taxation which basically taxes the ownership of property, the production of income, and the consumption of goods and services in this country which are subject to a tax on sales.

Now, I think that system which feeds the hungry and cares for the poor and shelters the homeless, builds streets and protects the environment and does all of that sort of thing is very, very different, Madam President, from a system which can be characterized as excesses in the investment tax credit, excesses in depreciation schedules, excesses in a variety of ways that brought us to broaden the base in the tax system by promising a reduction in the rates of taxation because these taxes, sales taxes at the local level, sales taxes at the State level, which are used to generate the opportunity for education, which are used to maintain basic local and State services in most States in this country are not to be characterized, as my colleague does, as loopholes. They are the necessities of public life in America today.

Now, he talks about the regressivity of the sales tax and in part if you measure regressivity as he does all individual deductions are regressive because a limited number of people under the current system take the itemized deductions so a limited number of people will benefit from the specific deduction. But his argument in that regard is no different when we are talking about the mortgage interest deduction or the charitable deduction or talking about the sales tax deduction. It becomes regressive only when its share of the total tax burden is disproportionate. If you are in a State that relies very, very heavily on the sales tax and does not have the capacity to tax income because perhaps it is not there to be taxed, and has already relied very heavily on the property tax so its choices are limited as between income and sales tax, then the sales tax becomes more regressive than might the income tax in the same situation. And in fact, Madam President, it is for that reason that I oppose the committee majority decision to eliminate the deduction of sales tax because the elimination of the deduction is what discriminates, not the deduction itself. I believe, if I am correct in my memory, that the State of Louisiana meets about 68 percent of its educational needs through a sales tax. I think in the State of New Mexico about 72 percent of the public needs of the people are met through a sales tax.

□ 1330

So, obviously, people in those States who are paying a sales tax are taking on a heavy burden.

Mr. LONG. Mr. President, will the Senator yield on that point?

Mr. DURENBERGER. I am glad to yield.

Mr. LONG. I am glad the Senator brought up that subject. Many years ago, when my father provided the leadership in Louisiana, he realized that low-income people, especially in the midst of a great depression, were in no position to pay a property tax. Many were being foreclosed on and losing their homes. He led the movement to provide a homestead exemption to provide that a person would pay no property tax on his home. The exemption was financed with an income tax, to shift away from property taxation.

In the same tradition, other States have found it popular to provide relief from property taxation by shifting to other taxes—income tax, sales tax, and others.

In the original tax reform proposal, it was suggested that you should deny the deductibility of property tax, deny the deductibility of the State income tax, and deny the deductibility of the sales tax.

I do not find much appeal to any of that. When I look at the State of Louisiana, insofar as we use those three sources for revenue, two-thirds of it's 68 percent, comes from the sales tax.

If the Senate prevails in this measure, Louisiana will have no choice but to shift away from the sales tax. The people I am hearing from are mainly the assessors and local officials. They point out that even though it is in our State constitution that we have the generous property tax exemptions for individually owned houses, where people are living in their own property, we will be compelled, if this becomes the law, to amend our constitution and to bear down with taxation on homes, which our people do not want to do.

Of course, by the time we get through with all this, the Federal Government will not raise much money by saying that our people cannot deduct the sales tax.

I ask the Senator: Why should it not be left up to a State to decide how to tax its own citizens—the same citizens who elect you, elect your Governor, and elect the State legislature? Why should the Federal Government try to dictate to the States that, as between taxing themselves by way of a sales tax or taxing themselves by way of a property tax, the decision must be made in favor of taxing their homes instead of taxing what they buy? Why should not the Federal Government stay out of that?

One might say that is not the purpose, but that is how it works.

It is as if somebody points a gun at you, pulls the trigger and says, "I didn't mean to kill you. I just wanted to show you this is a dangerous weapon." The overall effect is that something very bad happened that you did not have in mind. One would say, "Why must it be that way?"

I totally agree with the Senator that this will compel Louisiana, which has more unemployment than any other State in the Union, to shift taxes from what we wanted to do. The low-income family had a little home, and we did not want to tax it. This would compel us to reconsider that decision and to tax a lot of middle-income homes, rather than tax those people by way of a sales tax on what they buy.

I submit that under our form of government, that decision should be left to the States and not dictated by the Federal Government.

Mr. DURENBERGER. I thank the Senator for his statement.

I am tempted to respond by asking, why does the Federal Government have to dictate?

The Senator from Louisiana came here in 1948, when the Federal Government was not doing a lot of dictating, and my colleague has been around during the whole period when we learned how to dictate. I was not here then.

I came here, I think, because a lot of people in my State came to the conclusion that the answer to the question was that anybody is smart who goes away to where it is smarter to go,

somewhere else. If they kept me in St. Paul, I was not that smart. If they sent me to Washington to work, I was smarter, they felt.

I do not think that is the reality today. There was a period of time—as the Senator from Louisiana could regale us a lot better than I could—in which coming to Washington, in effect, was a charter to be smarter than anybody else; and we used this Federal income tax and we used inflation to make sure they did not have any money left to pay property taxes in Louisiana, that they did not have any money left to pay taxes in Louisiana; because the combination of the Federal income tax and inflation took so much of it to Washington, where all the smarter guys were, that you had to dream up ways to send it back. That is where, using the system of cooperative popularism, they got the idea to send a check to the 50 States and American Samoa, and we have solved the problem. It strikes me that we are now moving out of that era, showing everybody how smart we are, and we have a $2 trillion national debt. We are moving out of that period of time and saying that the folks back home are pretty smart.

If that is the reality and they are smart, and they can do a better job than we, where are they going to get the money? They cannot get it out of the Federal Government, because we are cutting back on block grants and getting all the carrots we had planted when we had inflation and a 70-percent income tax rate.

Where are they going to raise the money? Each State will raise it differently, as the Senator from Louisiana points out.

Maybe in Louisiana you have to use the sales tax because you cannot raise your income tax.

Maybe in my State, and I think this is the reality, we use the income tax, most people say, too heavily. But our sales tax in proportion to everything else is low.

If you are in Nevada, where most of the people come from someplace else, of course you are going to have a sales tax.

So each State is going to be somewhat different. The way they raise their resources to meet the needs of their people will differ with each State.

I take it that this is what the Senator is saying: We come along in Washington and say, "No, the sales tax is bad. We're not going to provide deductibility for the sales tax. But the property tax is good. We'll give you a deduction for the property tax."

What is going to happen? All the States will say, "We had better raise our property taxes, because those smart guys in Washington think that's the place to do it." Then we raise the price of homes even higher, and lots of folks cannot afford homes.

Mr. LONG. As the Senator knows, before the bill was reported and before this decision was made, the Senator from Louisiana suggested that he would be willing to cooperate in denying some of the deductibility of State and local taxes, provided it was done in a way that is neutral among all the States. You could say, "Well, of your State's deductions, income tax, property tax, and sales tax deductions, nobody could deduct the first $300 or the first 3 percent of adjusted gross income." That was not agreed to.

Instead, we were confronted with the fact that the sales tax was selected.

The Senator from Louisiana said:

> Let's treat all the States the same. You have the same problem in every State. If we need the money that badly; let's treat them all the same.

□ 1340

That was not agreed to.

Some States do not have a sales tax.

That makes me say what I said so many times before, that the average person's definition of tax reform is "Don't tax you and don't tax me; tax that fellow behind the tree."

The President gave me a T-shirt that had that written on it at the White House, the Senator may recall.

That is an illustration. People in States that do not have a sales tax, think it is fine to not let them deduct a sales tax. It will not cost his taxpayers one penny. But those of us from States who by force of necessity are compelled to rely upon a sales tax, that is a very, very harsh thing to do to us.

Mr. DURENBERGER. Madam President, I wonder if my colleague from Louisiana, who has been here so much longer and is so much wiser—that is a presumption, and I happen to believe it—would agree with me that perhaps the best solution to this problem is the House solution that the House of Representatives went through in the Ways and Means Committee. They went through the same kind of agonizing problems we went through, but obviously they said that the relationship between the Federal and the State Government is not the same as the relationship between the national tax system and the steel industry or ITC or depreciation, so forth. So they said no, do not touch, do not touch the deductibility. Do not try to get in there and select between various taxes.

I wonder if my colleague would not agree that the best solution for this problem is not the solution of the Senator from Illinois or the percentage solution of the Senator from Louisana, but a solution that says the States have a tough enough time raising taxes as it is, they will have a more difficult time taking on these burdens that we are asking them as people to take on. Why do we not just leave the system the way it has been from the beginning since we had a Federal income tax? We have deductibility and the deductibility is simply a way to say in the 27-percent bracket it says if you spend a dollar on education in Louisiana, of locally raised money, the Federal Government will match that with 27 cents. And we will not tell you how to spend it but we will match it with 27 cents.

It seems to me one of the reasons we do that is that we can get out of the business of saying I have 27 cents, but I want you to spend it this way and then we tell them one way to spend it in 50 States, and that is not a very efficient way to go about it.

But, in effect, the system that has been there from the beginning is a matching system. The decisions are not made here. The decisions are made in the parish in Louisiana about how to handle law enforcement or education. Our match in this new system is not a big match. It is going down like everything else. It used to be 70 cents on the dollar. Now we only match it 27 cents on the dollar.

Mr. LONG. Madam President, if the Senator will yield further, this to me is somewhat similar to the problem that involves taxing the interest on State and municipal bonds. If you deny that deductibility under the Federal laws, and if the Supreme Court will uphold it, then all the States will be compelled to pay more interest on their new issues of bonds, and in due course on the old bonds when they are refinanced, it will cost about 2 points more in interest. There are a lot of bonds out there. My guess is about $700 billion worth of them. If you put 2 points on that State and local debt across the Nation that would work out to about a $12-billion tax which clearly falls on the State government, and the only way they can bear it is to tax their own citizens to get the money to pay the tax with.

If we were to do that, all we would have done would have been to tax our own citizens by making the State government do it to them, while we, ourselves, try to pretend that we are trying to be fiscally responsible up here and pay our way by putting the burden on someone else.

As far as the taxpayer is concerned, he is wise enough to know when he thinks it through that you are not doing him any favor by the Federal Government taxing the State government just like you are not doing him any good by the State government taxing the Federal Government. That poor fellow down there at the grass roots is paying for both governments. It does not solve his problem for a

moment by trying to take the burden off one to put on the other.

Mr. MOYNIHAN. I wonder if the Senator from Louisiana will allow me to interrupt.

Mr. DURENBERGER. I think I have the floor. I will just be very brief, and then I will yield to my colleague from New York who has been the champion of the theory, not the theory but the reality of what we have been discussing. I would like to end with a compliment to our colleague from the State of Illinois. We have been down here on the floor since he came to this body with him debating on behalf of the capacity of States and local government and not just the local government of Illinois, not just the State of Illinois, but on behalf of those people who have the responsibility of meeting the needs of people at the local government level and the State government level for a long time.

So, I cannot support the Senator, particularly in his solution. The 1-percent floor puts too many nails in the coffin of deductibility. It goes after the income tax. It goes after the sales tax, and so forth. It is not as bad as what is in our bill already and we hope to have another solution here which is a sense-of-the-Senate resolution that will guide the hands of the conferees toward the House solution.

So while I must oppose the Senator, I do it with the greatest deal of respect for the fact that we do not disagree on the issue of deductibility.

I yield the floor.

Mr. MOYNIHAN. Madam President, I simply wanted to join the Senator from Minnesota in thanking our friend from Illinois for raising this question. It is a question very much in our minds and it is a question on our minds. I think we all agree here and I think our chairman will agree that the Senator from Louisiana just spoke of the problem of the Federal Government taxing a State, and that is exactly what would be involved in this question of deductibility.

And it is that issue of principle that speaks to us in terms of we do not want to compromise it with respect to property taxes, we do not want to compromise it with respect to income taxes, and we do not want to compromise it with respect to sales taxes either. We want to get to sales taxes in the sequence that will work itself out here. But we do not want to get the sales tax at the cost of having compromised those two first principal sources of State revenue which have come out in this tax bill absolutely exempt from any Federal taxation.

That is the principle that the Senator from Louisiana has argued in the various forms in which it comes before this body for years very well and so far we have not abrogated it.

I would have to say that I would have the same position as the Senator from Minnesota, but I absolutely agree with the concerns and share the concerns of the Senator from Illinois.

Mr. LONG. Madam President, I do not have much confidence in the outcome of this matter on the Senate floor, but I am very hopeful that the colleague of the Senator from Illinois who comes from the State of Illinois, the distinguished chairman of the Ways and Means Committee, will reflect the same view that the House bill reflects on this issue. I hope to be a conferee but if this amendment should not succeed at this time, the House position will be that of the Senator from Illinois and I would hope that he will do his best to encourage his colleagues to stand fast.

I, of course, will be bound to the Senate bill, but I would do all I can to encourage my conferees on the Senate side to give very thoughtful consideration to the argument that the Senator made as well as those which I hope will be made by the chairman of the House conferees, the chairman from Illinois, Mr. ROSTENKOWSKI.

Mr, DIXON. Madam President, may I say in response to my distinguished and warm friend from Lousiana that I stand here with complete confidence that he will be a conferee. I know his devotion to this cause. By virtue of the private expressions from him and others on the floor today and my confidence in the view of my distinguished friend, the chairman of the Ways and Means Committee on the House side, I think I will rest my case and permit a voice vote to be taken on this amendment in the ultimate belief that many here are allies who will join with my colleague, the distinguished chairman of the Ways and Means Committee, to ensure that ultimately sales tax deductibility will be protected in the ultimate bill that emerges from the conference.

Mr. LONG. Even if I am not a conferee, I am satisfied that Mr. ROSTENKOWSKI will be, and I hope he will be effective when we go to conference.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2072) was rejected.

Mr. PACKWOOD. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1350

Mr. MOYNIHAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1430

Mr. DOLE. Mr. President, I ask further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SYMMS). Without objection, it is so ordered.

The majority leader is recognized.

Mr. DOLE. Mr. President, it is now about 2:35 p.m., and we have been in a quorum call for about 30 minutes. I know the distinguished chairman of the committee, Senator PACKWOOD, and the distinguished ranking member of the committee, Senator LONG, would like to do business. There will be a lot of frustration tomorrow from Members who would like to leave at a reasonable hour, and maybe some frustration tonight by people who would like to leave at a reasonable hour, 10 or 11, midnight, some reasonable hour. It would be much easier to accommodate these folks if they would come to the floor and offer their amendments.

We are prepared to do business. The chairman is ready to go to third reading. If there are any amendments, obviously Members should have an opportunity but we are not making much progress.

The PRESIDING OFFICER. Did the Chair understand the majority leader to say that he was calling for third reading now?

Mr. DOLE. Just a thought I had. But no, I will not do that right now. I think the thought occurred to the chairman even as early as yesterday, or before. So I would urge my colleagues on both sides, we are prepared to do business and we know that these are important amendments. This is a very important bill. It is historic tax reform and I think it would demonstrate to the American people not only our interest in that bill but our willingness to try to get it behind us as quickly as possible. It would mean a lot to the American people if we were working instead of being in a quorum call. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1450

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I ask unanimous consent that we proceed as if in morning business for 7 minutes for the delivery of a statement regarding the Rogers Commission report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

Mr. DENTON. Thank you, Mr. President.

THE ROGERS COMMISSION REPORT

Mr. DENTON. Mr. President, the Rogers Commission has completed its work and its findings are now being digested. My hope is that the work of the Commission will result in a safer, stronger, even more efficient Space Program for our country.

I commend the Commission for its efforts to take a serious look at the most complex and dangerous engineering endeavor in which man has ever been involved. I believe it is to the great credit of the Commission that it went about its work in a spirit of problem solving and not one of witch-hunting and searching for scapegoat agencies and individuals upon whom to place blame.

Unfortunately, some of my colleagues in Congress as well as many in the media have not adhered to that spirit and are now basking in the great modern-day, no risk sport of "Monday morning quarterbacking" and know-it-all second guessing. Many of these folks are Johnny-come-lately types who were never or seldom heard from through the long years of our nearly flawless Space Program, which aside from being dangerous is ambitious and inspiring to our Nation and to the world.

If we are going to spoil the spirit by which we made these glorious achievements and indulge in searching for those to blame in a malicious manner, rather than a positive vein, I should admit that I have an inherent suspicion of people who point fingers and try hard to place blame in that kind of spirit.

I must alert my colleagues that I do not intend to sit quietly by while attempts are made to recast the reputation of our highly successful Space Program as one of failure, operated by people who do not care and whose general trait is arrogance or negligence. That is simply not the case.

I believe it is especially unfair to the thousands of dedicated individuals who work in our Space Program—many in my own State of which I am very proud—as well as to all Americans, to communicate the image to the world that there is something drastically wrong with the structure of the program.

To the contrary, all those who are working on our Space Program should feel proud to be pioneers contributing to an amazingly successful effort which for years has been on the leading edge of the high tech revolution of this Nation. I personally know of the years of successes and contributions to the program by the men and women of the Marshall Space Flight Center.

I would say to them, and to all who have made our Space Program a great accomplishment, that going into space is and will continue to be a very dangerous undertaking. Despite all that we do, there will remain great risk and perhaps inevitably some errors.

□ 1500

Hindsight is always 20-20, always perfect, but we do not have the advantage of perfection in foresight.

Where there are problems, certainly they should and will be corrected—just as we have done in the past—as we did following the earlier tragedy in the Apollo Program. We cannot, however, escape the risks that are a part of exploration and research and development. We cannot anticipate or expect that we will be able always to identify all problems in advance, and to be able to solve them in advance.

As a former military aviator, with experience in research and development and test piloting, I can tell the rest of my colleagues, many of whom have had similar experiences, that progress in such an ambitious and dangerous undertaking can never be achieved totally accident-free. And, when there are accidents, yes, we must find where the error was, but we should do so without malice and without arrogance.

I am confident that the men and women of NASA will carry on, doing their best, and that they will be successful in their efforts. Similarly, the Congress must stand behind NASA and support the effort to get the shuttle program back on line and operational, with all reasonable attention to safety. I am pleased that the President, in his news conference last night, indicated that we would be building the fourth orbiter.

We need the shuttle for our national interest. Let us proceed to get it up there and get it up there in the kind of spirit of generosity and spirit of ambition which has fired this Nation to its present pinnacle in the world. We need space for our future.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

TAX REFORM ACT OF 1986

The Senate resumed consideration of the bill.

IMPACT OF TAX REFORM BILL ON FARMERS

Mr. HEFLIN. Mr. President, the Senate is embarking on a historic effort to completely overhaul the Tax Code with the goal of giving the American people a simpler and fairer tax system. I am very hopeful that I will be able to support this effort, and I believe I will. However, I am greatly concerned over how this bill will impact on rural America, particularly our Nation's farmers. There is no doubt but that any tax reform bill that ultimately passes Congress and signed into law by the President will have a significant impact on farmers for many years to come. We must ensure that such a bill is not a detriment to agriculture. As currently written, however, I believe the Senate Finance Committee bill would be harmful to agriculture.

A primary goal of tax reform is to bring fairness to our tax system by abolishing loopholes and shelters used by wealthy individuals at the expense of lower and middle-income taxpayers. The Finance Committee bill boldly attempts to achieve this goal by significantly lowering the tax rate for all taxpayers and making up the loss of revenue by abolishing loopholes that serve no socially useful purpose and that distort economic decisions. Unfortunately, farmers depend on many of the incentives in the Tax Code in order to keep their farms running and their heads above water. The troubles of rural America during the past several years are well known and are so devastating that the result is that thousands of farmers have lost their farms. It is up to the Federal Government to take whatever action necessary to revive and revitalize rural America so that it too can share in the current economic growth.

Mr. President, I am concerned with the current economic climate that exist on the American farm today. All of the economic indicators and statistics make it clear that the food and fiber producers of this Nation are in a state of economic depression. Farm income continues to decline. Last year, net income was only $27 billion. This was $8 billion lower than 1984. If the 1985 figures are adjusted for inflation and expressed in real dollars, net income was barely one-half of 1979's level. In fact, Mr. President, real net farm income last year was lower than the real net farm income in 1929. Real net farm income was higher in 1939 than it was last year.

Mr. President, I think the Senate should closely examine the impact the Finance Committee bill will have on future farm income. Will this bill stimulate increased revenues for our financially distressed farmers? I do not think so, Mr. President.

I want to examine provision by provision the potential impact of the Finance Committee tax bill on our Na-

tion's farmers. First, under the Finance Committee bill farmers would no longer get capital gains treatment from the sale of section 1231 property which includes livestock held for dairy, draft, breeding or sporting purposes and timber. Under the committee bill, for a noncorporate family farm with a taxable income of $35,000, the tax rate on the sale of additional capital assets would be 27 percent on 100 percent of gain. Under current law, the tax rate on that gain would be 11.2 or 28 percent on 40 percent of the gain.

Total farm assets declined more than 10 percent last year. Estimated asset value is now $865 billion, down 22 percent from the $1.1 trillion peak reached in 1981. The owner's equity in these assets has fallen to the lowest level since 1977. Will the elimination of the capital gains treatment from the sale of section 1231 property enhance the value of farm assets? I do not think so Mr. President. Many economists believe that eliminating these provisions will, in fact, further depress land and other asset values.

A second area in the Senate plan which detrimentally impacts on farmers is the repeal of income averaging. This provision is used very often by farmers to even out their volatile changes in income. A farm family of five with an income alternating between $0 and $40,000 per year would pay five times the tax as a family of five earning $20,000 each year. I believe income averaging should be retained for taxpayers with volatile incomes. Without it farmers with substantial income in the year of sale will not be able to offset that year's gain by prior years of low income or loss.

The Senate bill would allow farmers to continue to utilize the cash method of accounting which is currently used by almost all farmers. However, farmers who use the cash method of accounting would not be allowed to deduct the amounts paid for feed, seed, fertilizer or other supplies prior to the year consumed if more than 50 percent of farm expenses are prepaid. Restricting the prepayment of these supplies to 50 percent of farm expenses would severely limit the ability to defer taxes through prepayment of expenses.

The Senate bill would also repeal the investment tax credit currently allowed for qualifying capital investments. Most farm machinery and equipment, many farm structures, and certain livestock qualify for the full 10 percent credit. For example, under current law if a farmer buys a tractor for $40,000 his after tax cost would actually be $36,000. If the investment tax credit is repealed his after tax cost would be $40,000 or $4,000 more than under current law. The bill also allows only 70 percent of unused investment tax credits to be carried forward. In 1983, farm sole proprietors held over $3 billion in accumulated tax credit and it is likely that current accumulated tax credits equal or exceed this level. Thus, the 30 percent reduction in value for investment tax credit carryovers would cost farmers in excess of $1 billion in unused tax credits. Based on 1982 IRS statistics, a large share of these unused tax credits are held by farmers with substantial debt and with little or no off farm income.

Mr. President, hundreds and hundreds of farm equipment dealers and agricultural businesses have folded over the past 5 years. This of course, has devastated main street in many rural communities and small towns. Thousands of jobs have been lost. Economic growth in the farm belt is dependent on the purchases made by the farmer. Will the repeal of investment tax credits give the needed incentive to increase capital purchases of new and used farm equipment? I do not think so, Mr. President.

I have read some arguments that if the investment tax credit is repealed, the hobby farmer and nonfarmer investor will be forced out of agriculture. This provision of the Finance Committee bill will rid agriculture of overinvestment, I am told. This provision of the bill will encourage only farmers to remain in agriculture, I am told. Mr. President, the IRS has stated that the largest share of unused accumulated tax credits are held by farmers with substantial debt and with little or no off farm income. The IRS agrees that investment tax credit benefits the true family farmers. Will the repeal of investment tax credit benefit farmers by getting rid of overinvestment in agriculture? I do not think so, Mr. President. If we repeal investment tax credits we will be throwing out the baby with the bath water.

I was pleased that the Finance Committee came up with depreciation program for farmers which is more generous than current law. Machinery and equipment would be covered by depreciation schedules ranging from 3 to 5 years. For some assets a 10-year schedule would apply. Also, the 200 percent declining balance method for depreciating equipment will be allowed which will offer greater tax incentives in the earlier years of the schedule.

Farmers would also be hurt, as would millions of lower- and middle-income taxpayers, by the repeal of the deduction for sales tax and contributions to individual retirement accounts.

Mr. President, taken alone many of these provisions would not be detrimental to farmers. But added together these changes could prove devastating. The very least we can do is to insure that farmers have sufficient time to adapt to the repeal of income averaging. I urge my colleagues to join me in making this necessary change in the Finance Committee bill so that it is fairer to our Nation's farmers.

I intend at a time—and I will send to the desk when I conclude my remarks—to offer an amendment not for consideration right now, but which would allow income averaging to extend for 5 years only for farmers. I say, only for farmers.

The Joint Committee on Taxation says that this will cost over 5 years $330 million. That is a little more than $60 million a year. And it is one of those things that will not cost Treasury.

I am in the process of trying to find a palatable offset for the income in order to do this. And I may withhold this amendment until that.

I said I would sent it to the desk. But I had originally planned I would amend it, and put an offset in at the time I brought it up for consideration. But I think I will withhold the amendment, but just bring to the attention that this is not one that will cost a lot of money, $330 million over a 5-year period by extending income averaging for the farmer.

We have had in the Southeast a devastating drought that has taken place during the spring months. Many of the farmers have been delayed in planting. With the normal freeze time that we have for particularly some of the Northern sections, we can expect that we could have a disaster.

We have had either through hurricanes, through droughts, or other methods averaging about 1 out of 4½ years for various disasters that have taken place in which farm income has been greatly reduced because of weather conditions.

In addition to this, we have had such things as the embargo; we have had things such as overproduction, and where the prices fell tremendously that have affected it. It seems to me that this present crisis that the farmer is in today that we need to at least allow for a period of time, maybe permanently, but at least for 5 years to give the farmer an opportunity through income averaging to try to come out of the present crises that he is in.

With this in mind, I will offer an amendment later, perhaps maybe with some other people. But I do feel that consideration should be given to this. I think it is a very meritorious amendment. It is one that is needed. We have been faced over the last several years with many situations. We had a farm credit bill, I believe, back in February or March of 1984 which we attempted at that time, and a veto occurred. We were not able to come to the rescue of the farmer. There were those in the Farm Belt who felt that it was no more than a continuation of the same program that had been carried on and with not really any great benefits to

the farmers to try to get them out of the present problems that they are confronted with.

□ 1520

So I think as we look at this tax bill, without having them digging their graves deeper, we ought to give some type of relief to preserve for them the one thing that has allowed them to come out of a period of devastation. That is income averaging.

Mr. President, I hope that as we go forward, consideration will be given to this. I hope to be able to talk to members of the Finance Committee further about it. I also hope that this amendment will be adopted.

We are trying to come up with a palatable offset. We will be discussing it further.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, at the beginning of this debate, we heard a great deal about the danger of killer amendments. These potential enemies of tax reform were reported to be lurking in the cloakrooms and hiding in dark corners. It seemed certain that these amendments could not stand the light of day.

But last night we learned the truth. Killer amendments are those that force us to make tough choices. To support the integrity of this historic bill, we must oppose amendments that might have broad appeal in isolation, but are inconsistent with the key goals of tax reform—fairness, simplicity, and efficiency.

In rejecting yesterday's efforts to restore the popular IRA deduction, a broad bipartisan coalition took a major step toward Senate passage of comprehensive tax reform.

The simple truth is that low tax rates for all taxpayers are more appealing—and more deserving—than the restoration of particular tax deductions for particular taxpayers. The decision of the Senate to reject the IRA amendment is a powerful testament to the excellence of the Finance Committee's work and to the broad support of this body for genuine tax reform.

Now, the first difficult choice is behind us, but others lie ahead. New amendments will be offered on behalf of popular, even compelling, individual causes.

I expect that we will be asked to restore the charitable contribution deduction for those who do not itemize their deductions. It will be difficult to say no—but we should. It is an expensive amendment; in order to pay for it, we will have to undo a portion of the committee's best achievement—low rates and simplicity for all taxpayers.

Another tough choice will come on an amendment aimed at increasing the amount of tax relief for middle-income taxpayers. As I have said before, this is a goal I support, but not at the cost of reinstituting the unfair and ineffective capital gains exclusion.

Reinstating that exclusion would destroy the most sweeping move toward tax simplification ever taken—ending the double standard of taxation by which earned income is taxed at a higher rate than capital gains income. Over the years, untold inefficiencies, vast legal fees, and thousands of pages of complexity in the tax laws and regulations have been generated by the endless search for capital gains and the lower tax rate it brings.

The miracle of this Finance Committee bill is that the investment community is willing to accept a higher tax rate for capital gains in return for a lower tax rate on earned income. The committee solution is a brilliant compromise that taxes both types of income at the same low rate. It is the cornerstone of the tax simplification we have sought for so long, and it should not be reversed.

As we complete our work on this bill, I hope that the Senate will continue to summon the courage and determination that has characterized the debate and the votes so far. If we succeed, we will realize this historic opportunity for tax reform and all taxpayers will be the winners.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. PACKWOOD. Will the Senator yield?

Mr. DANFORTH. Yes.

Mr. PACKWOOD. Mr. President, I appreciate the fine comments of the distinguished Senator from Massachusetts referring to the coalition which is supporting this bill, both within and without the Senate. We have allegedly some of the most powerful interests in the country supporting this bill. We have the Children's Defense Fund, the League of Women Voters—they have all come together so far in opposition to all amendments.

As my good friend from Massachusetts indicated, yesterday, while we made some tough choices on IRA's, we have other tough choices coming on other matters.

I might say that one of the groups outside lobbying on this said that this particular bill does more to alleviate poverty than anything else we have done in this Congress in 20 years. That is only because we have come together to get the rates down and to get 6 million people off the tax rolls.

For every temptation that comes along, whether it is to take $300 out of the exemption instead of $2,000, or raise the rate a little bit, from 27 to 28 percent, so far we have stood together. I am delighted to hear what the Senator from Massachusetts has said.

Mr. KENNEDY. I thank the distinguished chairman of the Finance Committee. I know there have been appealing amendments, and we will face similar types of amendments which I think most of us would say move us toward achieving some objectives in social policy we may support. But I think the genius of this particular legislative product has been basically the lower tax rates for all taxpayers, rather than the continuance of the variants for the smaller groups of taxpayers.

Again, Mr. President, I commend the Finance Committee and look forward to working with them to see that this legislation is going to pass unencumbered.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I wonder if I could engage the chairman of the Finance Committee in a colloquy about an aspect of this bill that I believe needs clarification. What I have in mind relates to the restrictions on business meals in addition to the business meal deduction.

Mr. PACKWOOD. The 80-percent limitation.

Mr. DANFORTH. That is correct.

The 80-percent limitation on business meals is written into the bill and there is a further limitation on the business meal deduction. That is that there is a clear business purpose for the meal, that the expenditure is not extravagant under the circumstances, and that the taxpayer or his employee is present at the meal.

That is what we intended to do in the Finance Committee.

There is a separate type of situation which I would like to call to the attention of the chairman. That is not the usual business meal but instead it is the case where an employer makes a gift of a meal to his employee. For example, as a Christmas present or as a bonus, the employer might say, "All right, our gift to you is you can go out to a restaurant." That is a gift.

Under those circumstances, the employer says it is a gift. That is, the employee would take it as income and would be taxed on it.

The question I would put to the chairman is this: Under that circumstance, it would seem clear that the restrictions that we had in mind for business meals would not be applicable. That is, you would not want to make a gift, for example, to your employee, or think you were doing something nice for your employee, and he is all set to go out for his anniversary dinner with his wife and he has to discuss business transactions in order for the employer to qualify.

Mr. PACKWOOD. My good friend is absolutely correct. When we were passing the 80 percent, we were thinking of business entertainment. We

were thinking of you and me and different businesses going to lunch and deducting the 80 percent. We had no intention of having the employer not being able to have his 20-year employee go out for a delightful dinner.

AMENDMENT NO. 2073

(Purpose: To delete the exception for working interests in oil and gas property from the definition of passive activity)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 2073.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2223, beginning with line 10, strike out all matter through page 2224, line 2.

On page 2224, strike out "(4)" and insert in lieu thereof "(3)".

Mr. WEICKER. Mr. President, I want first to compliment the distinguished chairman of the Committee on Finance for truly bringing about the most spectacular legislative miracle that I have ever witnessed during the course of my years in the U.S. Senate. It is no secret—we all read it in the press—that the chairman and his staff and others who are supporting him were flat on the canvas when it came to tax reform just a short while back. It is easy to get discouraged and throw up your hands and walk away. But I have known BOB PACKWOOD for a long time. I did not expect that was going to happen and indeed, it did not. I realize many have worked with him, many of his colleagues, both Democrat and Republican, to achieve what we have had on the floor today; but if there were blame to hand out on failure, believe me BOB PACKWOOD would have gotten it in spades. Instead, we have something that he, and indeed it seems now the whole country, can take pride in.

I compliment him on his work—disagreeing in certain instances on the bill, but it is certainly something he can be very proud of and hopefully, shortly the Senate and the United States and the whole constitutional system can be proud of. It was well done in a parliamentary sense, in a technical sense, and it is truly the type of reform that I think the Nation has been looking for.

We have one problem, though, that still exists in the legislation as written. Everybody has been asked to go into the bath here, into the tank. That is fair enough as long as it is everybody. But we have a particular industry that continues to work its wiles on the legislative process. That is the oil and gas industry.

I suppose I can speak with special feeling on this subject because I was willing to take the heat for that industry several years ago when we had the issues of decontrol and deregulation. I was the only Senator or Congressman from New England, Republican or Democratic, who vigorously backed decontrol and does vigorously back deregulation. My section of the country has no oil or gas. We are consumers. I pointed out at the time that we did not deserve any special exception, that nothing should be carved out for us in the sense of guaranteeing us lower prices, that what we needed was to allow the free market to prevail—the free market. I felt that if we had a free market, the price would go down.

Believe me, I caught it, and it was my election year when I stood for this. That was back in 1982, and even before that. This was one of the big issues.

Indeed, I was called by my Democratic opponent in the last election the third Senator from Texas because I went ahead and supported the free market system rather than a system of controls, and do support the deregulation of the gas industry.

The economic theory proved to be right—at least the economic theory of this Senator; at least the reason we broke the back of OPEC is we allowed that free market to take hold.

But what is sauce for the goose now is sauce for the gander. Now the times are somewhat reversed and my State and the rest of New England are enjoying the benefits of those policies. Indeed, the whole country is; indeed the whole world is as the cartel of OPEC has been broken and broken in large measure because we broke the controls on prices imposed on us in the United States.

But free market means free market. What we are trying to do in this bill is establish economic demand, free markets. But again, we have a little exception now carved out for the oil and gas industry. I was not for an exception being carved out for New England when oil prices were high, and I am not for an exception for the oil and gas industry now that prices are low.

Mr. President, this is probably one of the more unusual amendments to come on the floor of the U.S. Senate in that I do not want to spend the money. I am not using this as an offset to something else. Let it go to reducing the deficit. I do not have some special program that I want to institute at the expense of the oil and gas industry. I want it to reduce the deficit. Again, I ask for nothing more than is being applied to everybody else.

I might add that shortly, my good friend [Mr. BOSCHWITZ] is going to stand up here, I gather, and talk about the issue of retroactivity. If you are in real estate, not only do you have a bleak future ahead of you insofar as some of the provisions of the bill are concerned, but to compound matters, it is retroactive. That is wrong, and I do not want any retroactivity insofar as the oil and gas industry is concerned.

I could have made this effective in fiscal year 1986, but I did not do that specifically so we would not get retroactivity involved in the issue I present to the Senate. What we are talking about is prospective—that oil and gas should be treated like everybody else; it is not going to be a shelter.

There are those who say that there are economic hard times in our oil-producing areas, and I recognize that. But it is not going to do any good in the long term to maintain the type of special interest exception that we have here. Again, I go back to the time when oil prices were high in New England and I was saying, decontrol, let the price go off and we will have lower prices in the long run. At that time, many businesses, because of high energy costs, were going under in the Naugatuck Valley of Connecticut—indeed, all over New England. But again, the point was made at that time and the point came true, that over the long haul, that free market and letting the market decide would drive the price of oil down.

If we want to legislate according to the moment, then this bill really is nothing more than has been passed through this place 100 times. But this is a bill for the future. It wipes the slate clean. But if it wipes the slate clean, so be it for everyone: In the Southwest and in New England, in the West, in the Midwest, in the South.

I recognize the fact that there are some very exceptional circumstances incorporated in this bill. I am sure other Senators are going to get to that. I cannot address that. Maybe there are some valid circumstances which require special exception. But to exempt an entire industry—that is not fair. That is not playing by the very rules which precipitated the cry for this legislation and which governed the drafting of this legislation. Tax shelters all over the lot have been closed up. Not oil and gas. Not oil and gas.

I am sure there is a lot of politics here, and that is as it should be. But remember, we are not selling this bill, or it has not been sold up to this point, to the American people as an exercise in politics. It has been sold as an exercise in fairness, as an exercise in simplicity. So we now have the first complication introduced and the first act of unfairness.

New England took its lumps when times were good in the oil-producing areas of the United States. New Eng-

land accepted the medicine of a free market, of letting the market regulate price, and we are better off for it today. You let this kind of broad exception into the bill and believe me, we have then started down the road which will only take a few years and we will end up with exactly what we are trying to get away from. This amendment, if passed, should save the American taxpayer about $1.5 billion over the next 5 fiscal years; but most importantly, it will make reality of the fact that this is truly an exercise for all Americans, both in terms of sacrifice and in terms of opportunity.

Mr. President, I ask for the yeas and nays on my amendment.

□ 1540

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the oil and gas industry today is the most depressed industry in the United States. We have had a great deal of conversation about what has been done to hold down the cost of living.

The big item, Mr. President, throughout the entire Presidency of President Reagan has been that the price of oil and gas has gone steadily down. It has gone down to the point that this industry is being liquidated. It is in the process of going out of business. The price was as high as $40 at one time, which surely was too high. And now, because of the changing situation, the price has gone steadily down to $20, then on down below $20, down to about $15 and then on down to $10. Some people thought, at $15, there was no way it could go any further down and made the mistake of buying reserves of oil and gas that were being sold in a distressed market and found it went on down to $10 and were almost wiped out before the good fortune occurred that it turned around and came back up to around $15.

One of the best ways to measure activity in that industry is how many rigs there are working in the country. A couple years ago there were 4,500 rigs working in the United States to produce more oil and make this Nation energy independent. I am told the latest count has that count at less than 700 rigs and that it is going to work its way on down to about 500 rigs. By the time the decline is through there will be about one rig operating for every nine we have.

Now, that is a great prejudice to our energy independence. We need the oil that this industry can produce, the energy it can make available. This dractic decline makes us more and more vulnerable to a repeat of what was done to us by Mr. Khomeini when he put us in lines waiting for gasoline back in 1979, or the type thing that occurred to us when the Arabs triggered their boycott of the United States and the OPEC cartel action in 1973, which caused President Nixon, under great pressure to try to meet the situation, to declare Project Independence to try to stimulate this industry to move toward independence. We do not have energy independence. We are nowhere near it. We are moving in the other direction, being more and more dependent on foreign sources.

Mr. President, I am sorry the Senator does not understand this bill quite as well as I do because he surely would not have made the statement that this industry is not paying dues in this tax bill. A lot of people have been investing money in joint partnerships, limited partnerships we call them, which invest in oil and gas operations. At the time when the business was good and a lot of People were interested in investing in these partnerships to get the benefit of limited liability, they could invest a certain amount of money in oil and gas. If the venture was unsuccessful, they could move away from it was no further liability than what they invested. Limited partnerships in this industry just as in the real estate industry or any other industry are subject to the minimum tax, that is, to the passive loss provisions in the law and so those measures are not longer available.

When one invests in an oil well today, if he is going to have the benefit of existing law, he has to have a working interest. If that well blows out on him, for example—and that is not at all unusual in Louisiana and Texas, especially if you go down a ways—if the well blows out, it might wind up costing you anywhere from 10 to 30 times, even more than 30 times as much, if you project the cost of that well, to bring it back under control. But one has to take that risk.

As the Secretary of the Treasury mentioned when he was on, I believe it was Meet the Press or some other nationwide talk show about a week ago, if a dentist wants to go into business nowadays or a doctor, he has to take his full share of the liability. He can wind up having his entire medical practice or dental practice wiped out by the loss that he would have to incur in order to have the deductions that are available under intangible drilling costs, for example.

Now, those are two items that very much adversely affect industry but there are other factors here as well. For example, the capital gains exclusion has made this an attractive investment in the past, when people could make money at it. That is gone. That is also wiped out by the bill. So capital gains is gone. These limited partnerships are gone. And the price is so low that everybody is cutting back; all the big oil companies are dismissing their employees by the thousands, and the smaller oil companies are going out of business completely, just shutting down, striking their rigs to collect the rust. Now, we will need all the oil producers we can get when we have to have them.

There is one other thing, by the way, which is hurting this industry and will hurt them in this bill. When you reduce the tax rate from 50 percent down to 27 percent, one who might be tempted to take the risk of drilling a well, because if he suffered a loss he could deduct 50 percent against a dry hole, is no longer there. He can only deduct 27 percent. So the comfort, the solace of being able to say, "Well, at least when I hit a dry hole it only cost me 50 cents on a dollar," with this bill it is going to cost him 73 cents out of that dollar when that well comes into a dry hole or if he has an intangible drilling expense, which one will have. If it is a development well or successful well and he goes to write off that intangible drilling expense, it is only a 27-percent writeoff.

So far as there was a tax advantage one could hope to have, it is again a 27-percent rate rather than a 50-percent rate. But as the Secretary of the Treasury himself pointed out so well on television a while back, this industry is hit very substantially by this bill beyond what was the case before.

If you were only limiting it to limited partnerships, the fact that they have to be part of an active working interest and in addition to that that they lose their capital gains treatment, which they had at an earlier date, that plus the other things—in years gone by we enacted what we called a 65 percent rule. We have totally repealed the depletion allowance as far as a major oil company is concerned. As far as the independents are concerned, there is now a 65-percent rule that the committee imposed some years ago, that you cannot deduct more than 65 percent of your taxable income in that percentage depletion.

So, Mr. President, one would say well, now, with everybody in the business going broke—they are all going out of business. You do not need to go past Louisiana and Texas. Louisiana is the most depressed State in the Union. We have more unemployment than any State down there. Why? Because that State depended in large measure upon the energy it could produce. They say, "Well, that is not enough; we want to do more to kick that industry and to hurt them." Because in the name of tax reform, even though they are all going broke, who is making any money that they are not paying taxes? Nobody.

But, "Oh, we still think we ought to do more to hurt somebody, because there are people out there who have

71-059 O-87-13 (Pt. 10)

the idea that oil and gas people, investors particularly, perhaps even some of the workers, are not very nice people."

□ 1550

As one Senator told me one time, this industry is not just plagued by prejudice. It is plagued by hatred on the part of some people who still want to punish those in the industry for sins that may have been committed 50 or 100 years ago, rather than something someone is doing today.

I urge that everyone recognize the facts of life. This is an industry that is paying its dues in this bill, as everyone else is. It should not be singled out for any further tax burden, because it is not justified. You do not have examples to prove it. It does not make sense, and the Nation is going to need the energy.

I hope, for the good of the country, this amendment is not agreed to.

Mr. WEICKER. Mr. President, may I ask a question of the Senator from Louisiana?

Mr. BENTSEN. I yield for that purpose.

Mr. WEICKER. My friend from Louisiana says hatred toward the industry exists. If you want to see hatred, be a New England Senator 6 years ago, standing up for decontrol, and that is what this Senator did.

So this is not motivated by hatred for the industry. I stood up for the industry when we should have had a free market, and New England did not like it because we had decontrol, which was supposed to keep prices down. It did not. So I understand hatred.

Make no mistake: What is involved here is the principle of free government and nongovernment interference, which includes exemptions, and I think it is as much benefit to your section of the country as mine.

I stood up for it when the burden fell on my head, and I am standing up for it when it falls on yours.

Mr. LONG. I did not say the Senator from Connecticut hated the industry. I did not say he was guilty of hatred. But people put the Senator under calumny and scorn because he did what he thought was fair and what the majority thought was fair.

Here we are now: We know that the windfall profit tax is not collecting a nickle. It was passed at a time when there was a lot of money being made, and against those circumstances, one could justify it.

Here, this industry is being liquidated. We have people down our way who were making $12 an hour and working 60 hours a week on those rigs which worked around the clock. They would work 12 hours on and 12 hours off and would get a week off and a week on. It made better sense to do that. Rather than transporting them, you take them back for a week and bring them home. They averaged 60 hours a week at $12 an hour, compared to what is available now, if they can get a job. They may get a job for 30 hours at $6 an hour, and that is those who can find a job.

The rigs are stacked. About seven out of eight are stacked, drawing rust. If somebody wanted to shoot those poor souls, they had better wait until they come up from beneath the water, because they are about to drown.

We really do not need any more burden, but this bill adds more burden by way of capital gains, which is important to that industry. Capital gains is gone for individuals. It does it to the limited partnerships and others.

I cannot complain about the fact that the tax rate goes down. But we already found that if we got the rate from 70 percent to 50 percent, a lot of people were no longer interested in investing or taking a chance on that industry. If the rate goes from 50 percent to 27 percent, far fewer people will be interested in investing.

I suggest that you look around the eastern money market, in Connecticut and in Manhattan, and see if you can find anybody investing anything in drilling for oil. Somebody might buy something sold at a bankruptcy. You can sell some of those rigs for scrap steel and get a little salvage value out of it. But with the way that industry is suffering today, to add a tax burden to what the bill already does, I submit, is not justified.

Mr. BENTSEN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Can I get in this fight on my own time? [Laughter.]

Mr. President, I heard my distinguished friend from Connecticut say he wanted to get back to the free market system. Does anyone really believe this is a free market system on oil today?

Does anyone really believe that the Saudis have driven down the price of oil because they want to keep it down? Absolutely not. They have driven down the price of oil because they want to whip the rest of the members of the OPEC nations into line; and once they get them into line, watch what they do to us and what happens to the price of oil then.

We should learn something from what has happened in the past. If you go back to where we were last year, 29 percent of the oil we used in this country was foreign oil. We had worked our way toward some kind of independence.

Go back to what it was at the time of the OPEC embargo. We were using 47 percent foreign oil in this country. We were at their mercy. We were vulnerable from an economic standpoint, and we were vulnerable from a national security standpoint. An incredible transfer of wealth took place, from all the western nations down to Saudi Arabia, down to the OPEC countries, down to the Middle East. That is what was taking place.

What do we have today? We have a situation where my friend from Louisiana said we were up to 4,500 rigs at one time. Last year, we were at 2,000 rigs. The last report I saw was 731 rigs now.

Now we are seeing increasing dependence on foreign oil again. Foreign oil has now moved back up to 33 percent. Some of the estimates are that we will lose almost 900,000 barrels of production this year.

We are seeing stripper wells being stopped. In 1981, we had 30 new exploratory wells hitting new reserves every week. Last year, we were down to 10 new exploratory wells per week finding new reserves. This year, we are down to three. Does not that tell us something about what is happening? That means the reserves have to drop in this country.

What else has happened? We have the price of gasoline down, and we are all enjoying that, and we are driving more. We have the GSA saying to the Federal buildings, "You don't have to be concerned about the thermostat settings anymore, don't have to worry about that kind of conservation."

So you are seeing energy consumption increasing in this country, at the same time you are seeing reserves go down, seeing a situation where the Federal Government is selling the oil out of the Elk Hill Reserves, one of the greatest reserves we have in this country, owned by the Government, by the major pipelines, where it would be available to us in times of crisis in this country. At the same time, we are saying that we must not put anything more in the strategic reserves in this country. I do not think any of those policies make sense.

In my own State, since December, we have lost 40,500 jobs in the oil and gas industry. For every one we lose in the oil and gas industry, we lost five in other industries. We have lost a quarter-of-a-million jobs. It has gone to 9.6 percent unemployment in Texas. We have 788,000 people out of work in Texas. That is the highest unemployment level in the history of our State. That is what has happened to us, and we are headed for more trouble. We are taking some deep hits.

At the same time, we see in New England some of the greatest prosperity they have had in a long time, and I congratulate them, and I am happy for it. I am seeing some of the lowest unemployment in any State of the Union, and I am pleased. I wish every part of this Nation could prosper and we would all be the better for it. But we have to look to our national securi-

ty; we have to look to our vulnerability in that regard. We are not facing up to that.

I cannot help remember that in World War II when I was a bomber pilot, one of the targets was to knock out the oil supply of the enemy. This country of ours paid a terrible price with respect to human lives.

We made an enormous dollar investment to try to accomplish that objective to bring them to their knees, to see that they did not have the oil, they did not have the gasoline, to run their tanks and to fight their war.

We are headed toward that kind of a vulnerability.

You say, well, let us bring on the alternative supplies of energy. Where do you think they are going to be? Look at the Great Plains gasification project, and that has been a disaster.

Look at Chernobyl and see what that has done to nuclear energy production and trying to use that as a source of energy.

In the tax bill we set out to demolish tax shelters and rightly so. We said those are the tradeoffs that we have to bring about to try to get down to tax rates of 27 and 15 percent. The way we determined activities were tax shelters was to see if they were passive investments where the investor did not really have the risk—where the general partner had it and the limited partner did not have it.

So we said for the oil drilling funds, OK, we will accept that, even though we desperately need more capital in the oil industry to encourage drilling and production in this country and finding new reserves. We will accept that and we will put those limitations on those kinds of tax shelters. But we will say to those who have a working interest, those who are going to invest their money and say, "We will take the full risk; we have a blowout and a well that was going to cost you $1 million, cost us $5 million, we are in there for the full amount," that fellow is put at risk; that is not a passive investment, and so we will give them that kind of consideration and they will have those kinds of charge-offs if they lose.

Why do you have several investors in one well who have a working interest? Because it is a high risk business and you have to spread that risk. So when you go into exploratory drilling you try to get a piece of several wells, to try to average out that risk as you go, but you take the full liability for it when you have a loss. And that is the great difference.

Let's strike at tax shelters. You bet we did in the committee, and we did this for the oil and gas industry.

But I will say to you now, that with an amendment like this you are going to say to an industry that is in deep trouble, "We are going to give you another deep hit." I listened to some of my friends from other parts of the country who have not had the experience in this particular industry and they say to us: "The steel industry is in trouble. We want to go back 15 years and make a special exception for companies that are in the steel industry, and say that you can take your investment tax credits and get a refund for them."

I have not heard anyone on the floor criticizing that, objecting to that, and the point they made was that we need a steel industry in this country with some strength, for reasons of national security, to try to protect our country if we have an international crisis. I believe that. I understand that. I support the steel industry.

But I think having a stable oil industry is just as important from a national security standpoint.

I think from an economic standpoint those States, Louisiana, Oklahoma, Texas, Kansas, and many others, are not sharing in this prosperity today. We understand that. But what we ask of you is not to give us another hit at a time like this.

I think we have dealt fairly in this tax bill. We have looked at the passive interests and we have struck them down as tax shelters, and a working interest does not qualify as that at all. It is truly a working interest, a man is at risk and if he has his losses, he ought to be entitled to take them.

I urge the defeat of the amendment.

Mr. DOLE. Mr. President, I am glad we have had some action in here. I am not sure I like this action but at least it beats a quorum call, not by much, but it beats a quorum call.

I am very pleased to see the Senator from Connecticut wants to clean up this bill. I have a lot of ideas on completed contracts, on R&D credits, on rehab credits, and a whole list of things that do not do much in my part of the country but are fairly important in other parts of the country.

Now, we have a little oil in Kansas, not much. The average well produces about two barrels a day, two-and-a-half, three barrels a day, not very much by standards some are accustomed to when they talk about oil production. And we are not a very big State. We do not have a lot of industry.

But the oil and gas industry is the second largest in Kansas next to agriculture, and, as the Senator from Texas has said, both are in trouble, and in a small State like ours when you have the two largest industries in trouble, you are in trouble.

In 1980 we had about 38,000 Kansans employed in all areas of the industry, that is production, refining, transportation, and marketing. In 1982, it went down to 16,000. Now it is down to 12,000. That is not very many people.

In large States with big defense contracts, they hire that many in one company.

But that is 12,000, 13,000 jobs.

We have several hundred thousand royalty owners and investors participating in production income. The rig count has gone down from about 230 in 1982 to about 30. And I do not think those 30 are working full time. So there is another indication of a drop.

We are plugging a lot of the smaller wells because of the price of oil. We plugged 497 the first 3 months of this year. Again, that is only two barrels a day, maybe. But you add that up in every State that has stripper production—that is about all we have in our State—and that is a lot of production on a daily basis.

I will bet both Senators from Oklahoma can duplicate this and they can duplicate it in Texas where they have a lot of stripper production, not quite so many in Louisiana, but we are talking about wells that produce 10 barrels or less.

I know the media loves to talk about oil and I know what brings Members to the floor. When the media responds about oil, that lights fires everywhere because the media is going to write a good story if you take after oil, if you want to attack oil. Any time you mention "oil" in this town the media is right there. I think they must believe that every well produces thousands of barrels a day, not two barrels a day or three barrels a day or less. Many of the wells in my State produce less than a half-a-barrel a day, and a lot of water, and a lot of expense.

So I just suggest that I do not think that independent oil producers have done any better under this bill. We are talking only about independents in this bill. We are not talking about major producers. So I would not want to leave the impression that somehow oil sneaked into the back room and came out with a big, big plum in this tax bill.

I would guess this is an exception. But there are other exceptions.

If we really want to make the Tax Code neutral, and we made a judgment not to make it totally neutral, there would be a lot of things that would not be in this tax bill and maybe they are all going to be addressed, maybe all addressed by the Senator from Connecticut. Maybe he will move then to strike out the completed contract provisions which means a lot to defense contractors. Maybe he will move to strike out the R&D credit which means a lot to a lot of big businesses. I think it is too rich myself, but I did not raise it in the committee because it is very important to many States in this country.

Maybe he will move to strike out the rehab credit, which is the biggest ripoff in the whole tax bill. You drive

down Pennsylvania Avenue and you see these old facades up here. You see that someone left a screen door and they built a new building around it, and the Government picks up 25 percent of the tab. That program has made more millionaires than any other program I know of, and I do not see anybody writing about it. We ought to eliminate it. We ought to strike it out. We ought to reduce it. That would save at least $1.5 billion a year.

So I am glad we are getting into these important areas.

I hope that if we are going to start down that track we are going to go right down the way. We also exclude from income the cost of employees' group health insurance and life insurance up $50,000. These are big incentives to a lot of insurance companies that are scattered around—maybe even some in Connecticut.

But I just suggest that there are a lot of things in this bill. I have been there. I can give you a list. But I believe the chairman of the Finance Committee and the members who were there on a daily basis, in their wisdom, decided that, well, a totally neutral tax bill was not going to happen, but we did the very best we could.

I do not fault anybody for trying to strike out a provision that does not affect his State. It is not very difficult.

□ 1610

(Mr. EVANS assumed the chair.)

Mr. WEICKER. Will the Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield.

Mr. WEICKER. Did the distinguished chairman of the Finance Committee vote for a provision similar to this amendment in committee?

Mr. DOLE. I do not know if we had a record vote. I do not think he did.

Mr. WEICKER. Well, there was a record vote.

Mr. DOLE. He has just reminded me he did not vote for it.

Mr. WEICKER. And he voted, in other words, for a provision similar to this, to knock it out. So I agree, we should listen to the chairman.

Now the committee will come to the floor, everybody in lockstep, but understand that this exemption only passed by a couple of votes in the committee.

Mr. DOLE. That is all you need. [Laughter.]

We did not want them all. There are a lot of these that only passed by one or two votes in the committee.

But I just suggest that we are going to pass a tax reform bill that is historic. I would guess, as long as anybody produces oil in this country, they are going to be a target. You do not have to produce very much. We have been arguing that every time we have had a tax bill.

I think people still believe that we are out there catering to major oil companies, and they rush in to see if anybody that made a contribution owns an oil well. It is bad, just because you have people in your State or that business, that you should not accept anything if they want to help you get reelected. It is all right to do anything else, but do not take any oil money.

Maybe there was a time years ago when there was a certain guilt by association between politics and oil. But I am just here to suggest that we believe this is a pretty good provision. We have taken out those who are going to try to limit their liability. You just cannot drop $100 in a limited partnership anymore and say that is all it is going to cost.

I doubt if many in this room—I see some in this room—have ever seen an operating agreement that you sign when you buy a working interest. You accept the full liability for anything that happens. If you lose a drill bit or if you have to drill deeper, whatever happens, you have to cough up the money. There is no limited liability. That is out. It was taken out in the Senate Finance Committee bill.

So when you invest your money in an oil venture, you are accepting all the risks and all the liability.

I hope, at the appropriate time, we can table this amendment and get on with the work of the tax bill. But if we are going to start down this road, then there are a lot of amendments coming.

Again, I do not quarrel with the Senator's right to offer amendments. But I think those of us who live in States that are affected—just as he would rise up if we did something that affected his State—ought to speak out. I think there are some of us even outside the oil-producing States—we do not really produce that much—who should speak out. I am sort of a fringe oil State Senator. We do not have enough production for me to qualify as an oil State Senator. But we are glad to have what little oil we have in Kansas to help keep the rest of you warm.

Mr. LONG. Will the Senator yield at that point?

Mr. DOLE. I am happy to yield.

Mr. LONG. Mr. President, just to bring the figures up to date that were mentioned by me and by the Senator from Texas, here is the latest count: where there were 4,500 rigs operating a couple of years ago, that is now down to 686. From 4,500 down to 686. Eighty-four percent of those rigs are no longer drilling; only 16 percent of the rigs are available to drill now. And that is not going to change.

Now, where there was $1.2 million in limited partnerships available, that will be knocked out under this bill. And the capital gains provision that meant a lot to the industry, that is gone, too. And they have got such a low price that nobody who invests in the industry seems to be interested in investing any more.

Mr. DOLE. For anybody who is interested, here is a little story that appeared in the Kansas City Times. I mailed it to all Senators. it is dated May 14 and titled "Oil Industry Is Drying Up in Kansas." It is a fact. It is drying up in Oklahoma. It is drying up in Texas. It is drying up in Louisiana.

I think we have to ask the broader question the Senator from Texas posed: Are we going to be totally dependent on foreign oil supply? And I agree with his view on the Saudis.

It seems to me this ought to be some evidence. It is only a headline, but it tells the story in my particular State. If it is drying up in our State, it is drying up everywhere else, because you cannot make a profit. And, most people, when they cannot make a profit, either shut down their wells or go out of business or do something, retrench in some way, just to keep from going into bankruptcy.

Mr. BENTSEN. Will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. BENTSEN. I was just looking at a study of the CRS where they say that by 1988, whereas we were last year 29 percent dependent on foreign oil, that by 1988, in just 2 years, we will be 50 percent dependent on foreign oil. And that is an even higher dependence than we had at the time of the embargo when we saw the long lines at the gas pumps.

Mr. DOLE. I would just conclude by saying that if we had a glut of oil, then I think we would be in pretty tough shape here trying to defend anything, any incentive to anybody who participated in the industry. We do not have a glut of oil. The Senator from Texas just underscored that.

Mr. WALLOP. Will the Senator from Kansas yield on that point?

Mr. DOLE. I would be happy to yield the floor.

Mr. WALLOP. I just wanted to make a point, because I think——

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Has the majority leader yielded?

Mr. DOLE. I yielded to the distinguished Senator.

The PRESIDING OFFICER. Has the Senator yielded the floor?

Mr. DOLE. I changed my mind.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DOLE. I yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I want to make a point with my colleagues from Kansas and Texas that I think is really important to this argument. This is not an exception. The excep-

tions were taken out. This is a clarification of a rule by which the Internal Revenue Service currently makes its decision as to what constitutes an active working interest.

One, it is the unlimited risk. Two, the working interest owner has to give the approval and an execution of authorization for expenditures without which no funds are expended, including his own. Three, the completion decisions with respect to drilling operations are partly the working interest owner's, to the extent of his percentage ownership in the well.

The decisions regarding the abandonment of uneconomic or marginal wells are his. This is active participation, not passive. The passive limited partnership interests are out.

The review and concurrence with respect to oil drilling and deepening operations or rework or plug-back operations, that is part of the obligation of the working interest. The right to take production in kind instead of sell it off, the decisions with respect to subsequent operations for additional development of the lease, all of these things are active rights and duties of a working interest owner.

You see, this is the IRS's judgment now as to what constitutes a working interest owner.

Now, the last point I want to make, which I think was lost by the Senator from Connecticut, is that you are so much involved in this thing that you are required, as a working interest owner, to be subject to self-employment tax.

Now, we took out the shelter. This is no grace to the oil industry. This is a recognition of a participatory obligation contract, by way of a joint operating agreement. A working interest holder is totally unlimited risk and is part and parcel of the daily decisions of making that well go.

Now, I will speak in a little while about the various kinds of things we could have done to provide a tax relief, but this is a clarification. This is not an exception. This is not a special exception. This reflects the way the IRS views working interests today, as sources of active income.

We were frightened, in the course of revamping this Tax Code, that that concept would be lost. So I think it is important to make the point that this is not a gift to the oil industry. This is the way they do business. And the people who do business this way are at risk. They are active participants. They are totally involved. They must pay self-employment taxes.

□ 1620

That is not true of any of the other active passive distinctions we had arguments on the Finance Committee about. This is not an exception. Does the Senator agree with that?

Mr. DOLE. The Senator is correct. I think he made a point that at least I overlooked. This is not an exception. I think there are exceptions. This is not an exception. This is a clarification. We had a difference of opinion in the committee. Some are willing to go so far as to say clarification. Others are willing to go a little further—I think Senator BOREN, and he can explain in detail. The Senator is absolutely correct. This is not an exception. This is not something new that we are putting into the Tax Code. We do not want anybody, least of all the media, to feel it is some new exception written in for the oil industry.

I promised to yield briefly to the Senator from Texas, and then I will yield the floor.

Mr. GRAMM. I would like to identify myself with the remarks of the senior Senator from Texas. This provision of the Tax Code is not a special break for the oil industry. It is justified because first, capital is at risk, and people are involved in management; and second, because this amendment would decimate an industry that is both already hurting and is critical to national security.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, many of the arguments have already been made. But I would like to get up and speak as a Senator who like, I believe, the Senator from Connecticut, has not a single oil well in his State. I might say a number of our farmers tried pretty hard at one point up in Grant County, and I believe they even interested a few people, raised a little money, and got some money from some of the city folks. But they never found a drop.

But I stand to oppose the amendment of my friend from Connecticut, to say that I think the oil industry in the United States is, as the Senator from Texas just said, of vital national interest. When I looked into this some years ago, I found interestingly that there were 525,000 producing wells in the United States. A number that just flabbergasted me—525,000. Perhaps today there are somewhat fewer. But if you put that into oil production the average well in the United States produces 16 or 17 barrels. Out in Kansas, they produce on the average of two barrels a day, as the Senator from Kansas says. There are just tens and scores of thousands of wells in western Pennsylvania, and western New York. The average production of them is one-third or one-half a barrel a day.

If you compare that to the situation that exists for instance in the Middle East, where the average well I believe produces 10,000 barrels a day, you can very readily see the difference in the so-called lifting cost, the difference in producing a barrel of oil in this country and scooping it up almost in some part of the Middle East where the average well produces 10,000 barrels a day. Obviously the costs on a 10,000-barrel-a-day well are far, far lower than they are on an average well in the United States that produces 16 barrels.

Add to that the interesting point that the Senator from Louisiana points out—that with a lower tax rate you have in effect increased the risk. I think that he supports the idea of a lower tax rate as much as I do. But when you combine the lower tax rate to the very low price, the fact that exploration in the United States has already been quite intensive, that the average well in the United States produces so little oil compared to an average well in the rest of the world, that the cost per barrel in this country are particularly high, I am not offended as a result if there is this provision for the oil industry inasmuch as the working interest is required. And the basic definition of a working interest includes general liability, not a restricted liability.

I will vote against the amendment of the Senator from Connecticut.

I must tell you that I have never had a penny's interest in an oil well. I think I owned at one time or another some stock in one or two oil companies but nothing very big.

I think that the oil industry in the United States is really of vital national interest. I do not think it should be treated in the manner that is unfair to other industries. I believe that needs to be protected.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I just have a couple of other short points to make.

Yesterday, the Senator from Connecticut said:

> Tell me the people from Connecticut who go down to invest in those things and go down there and make those decisions.

Mr. President, this unlimited risk investment lost its attraction in the first year of the Reagan administration when the maximum tax went from 70 percent to 50 percent. In those days we were betting a 30-cent dollar against the possibility of great income and the unlimited side of the risk was not such a big bet. You could have supposed that you were going into a drilling deal that somebody said was going to cost you $50,000, and end out with something that was going to cost you $100,000, because they lost circulation, had a variety of problems, maybe a fire, any number of things, and no oil. And $100,000 cost you $30,000, after tax, still not as much as the original bet. So that attraction went away when you dropped from 70 to 50

percent. Even at 50 percent, there was a certain attraction of betting a 50-cent dollar against an unlimited risk, if you were a very well-off person and you were looking down the road toward the possibility of some riches with oil at a price of $30 or $35 a barrel.

Now, oil at the price of $12 to $13 a barrel, and a maximum tax rate at the conclusion of this bill of 27 percent, you are now betting a 73-cent dollar against a thing that will not return for the kinds of risks that once were thought to be a part of an investment like that.

This is not the so-called magnet shelter. It is indeed no shelter at all. Under the rules of the IRS, this is a consistent view of this thing, and I will just state it again, the IRS has always, historically, held that working interest owners income was active income. They subjected it then and will subject it now to the self-employment tax.

Let me just suggest to the Senator from Connecticut what the nature of that risk is. In 1985, 73 percent of all wells drilled were wildcat wells, 20 percent were developed wells, that is they were in a field where people knew that oil existed, and 29 percent of all wells were dry holes.

That is not a shelter. Let me tell you that the accountant who runs down and tells everybody that this is a great way, my friend, to shelter your money, and you will be wealthy, will not be an accountant very much longer. There are very much more useful things contained in this bill, even contained for the insurance industry in this bill that do not present the risks and offer greater returns.

Mr. WEICKER. Will the distinguished Senator yield for a question?

Mr. WALLOP. I am happy to yield.

Mr. WEICKER. The distinguished Senator is on the Finance Committee. Am I correct?

Mr. WALLOP. That is correct.

Mr. WEICKER. I am not. I did not write this bill. But here it is.

Mr. WALLOP. As the Senator can tell we have been up a night or two. Go ahead.

Mr. WEICKER. In big black print here, title 14, "Tax Shelter Limitations; Real estate interest limitations." Then you go on here, and we know what this exception is for working interests in oil and gas property. First, it comes under the shelter tax. Second, in the small print it says, "Exception for oil and gas." Everybody is going around here saying this is not a shelter, it is not an exception. This is not my language. This is the language of the bill. It is in the shelter section. It says, "Exception for oil and gas."

Let me say one thing to my good friend from Wyoming. I think he is entirely proper standing up here representing the interests of his State. No problem. At issue here is not the importance of the oil and gas industry, or the importance of taking risk, or any of these matters. That is not at issue here. I would not dispute that. We will get on to that later.

What is at issue very simply is oil and gas goes into the bath, into the tank with everybody else. All I am arguing against, if we are going to have a section on tax shelters there should not be that little title exceptions for working interests in oil and gas. That is all I am arguing, not the broad principle as to what my good friend from Wyoming is stating. I have no argument against that. Very frankly, I think not only in his industry but other industries, industrywide there ought to be notable exceptions.

Yes, the oil industry is in dire straits. So are textiles, and I go right down the checklists. Steel, you know, right down the checklist.

Mr. WALLOP. Is this a question?

Mr. WEICKER. Farmers.

Mr. WALLOP. Is this a question for which I yielded?

Mr. WEICKER. The Senator is correct. I have gone beyond the bounds of a question. But I did ask the question as to whether or not the Senator who signed onto this bill agrees that this is first, an exception, and is within the section of title tax shelters.

Mr. WALLOP. I say to my friend from Connecticut, along with every other member of the Finance Committee, when we signed off on this bill it had 25 days of drafting and printing in front of it. I did not select the title for the section. And I certainly did not select the characterization of it within that title.

□ 1630

I am just telling you that historically, the IRS has concluded that working interest income is active income. That is nothing new. Working interest income is active income to the extent that they required people who had it to pay self-employment tax. That is history. That is not what is in the tax bill, which the Senator can see and the rest of us can see is 10 pounds too heavy. Where they put things in there is the choice of the staff, not the members of the committee. I think the members of the committee would be happy to admit that.

I yield the floor.

Mr. BOREN address the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, in the Finance Committee this question was asked and perhaps I can shed some light on the questions asked by the Senator from Connecticut. Like the Senator from Wyoming, I did not do the drafting in terms of what was put in in bold type and what position it was put in the bill.

But I offered this amendment not only as a Senator from Oklahoma, not only as a representative of a region that has oil and gas production, but believe it or not, Mr. President, there are some of us who believe that just because we come from a State like Oklahoma which happens to produce oil and gas, that we still have the capability to act in the national interest of all the people in this country.

When I offered this amendment, I felt, Mr. President, very sincerely, that I was not simply standing up for a region of the country that is suffering, that I was simply not standing up for fairness to an industry that was in trouble, but that I was trying to contribute something in the debate about tax policy that was in the interest of all the people of this country whether they happened to live in New York, Connecticut, California, Alaska, or Florida.

There are times when we need to stand together as Americans and set aside regionalism. It is difficult for me to understand, and I have expressed this feeling on the floor before, and I heard the Senator from Louisiana discuss it, why when it comes to oil and gas we somehow lose our rationality not only in this body but in other forums of this country.

There are people having a hard time in my State today. I happen to live in a town where in the latest utility count we are apt to lose 10 percent of our population in a 12-month period.

I come from a State that has experienced 20 bank failures over just the last few months.

I come from a State that, without having had its revenues adjusted by the State legislature without new taxes on the people, would have experienced a 40-percent decline on all the revenues collected by the State government in a 3-year period of time.

We have not had that happen in this country, Mr. President, since the time of the Great Depression.

As I expressed the other day on the Senate floor when we were discussing trade adjustment assistance for those who have been unemployed in the oil and gas industry because prices are being manipulated not by market forces but by political decisions made in other parts of the world over which we have no control—as I expressed then, I find it hard to understand it, those we have aided in other parts of the country. I voted for that assistance, I voted for the trade adjustment assistance to help those who were unemployed in other regions of this country. I do not understand the difference in terms that a worker in the textile industry or the steel industry or the shoe industry or some other industry has, when he is unemployed, is somehow more virtuous in his inability to meet his house payments or pay for the education of his children, that somehow that is more worthy of our

consideration than the inability of that blue-collar worker on the drilling rig to pay for his children's education or meet the mortgage on a home that he is trying to buy or keep for his family.

But let us set aside the regionalism. The Senator from Connecticut is a good friend of mine. He knows I have a great deal of respect for him. I have seen him on many occasions on this floor rise above a regional point of view and look at something from a national point of view. I appreciate that. We have had many discussions in the past. He is an outstanding spokesman for small business in this country, all across the country. He has been a vital force in making sure that our smaller economic enterprises are treated fairly.

I want to talk now not about regional interests, not about the specific national security interest that is involved here in terms of energy production levels in this country, but let us talk about the national interest for a moment.

First of all, as has been pointed out, the rig count in this Nation has fallen from the level of 4,000 all the way down to below 700 for the first time in the history of the records that have been kept on rotary rig counts in the United States.

Mr. President, I have graphs which frankly show what has happened. Here is a graph showing the rig count over just the past 5 years in this country. It has now gone completely off the chart, the first time it has ever fallen below 700.

When this chart was put together only 2 weeks ago, we felt that 700 was the lowest level it could possibly go. It has never gone below that figure since they have been kept.

Now we have dropped all the way off the chart, down to the level of 686.

We have to go back to the period of World War II when we were unable to get the steel and the other materials necessary to build drilling rigs to even approach these figures. Not since March 1942 have we come close to equaling these kinds of figures.

Let us talk about the consumers in this country, the consumers who live in Connecticut, consumers who live in New York, consumers who live in New Jersey or in California. How in the world is it in their interest for us to see the production in this country absolutely decimated?

This subject has been on national television, and they have stated that they expect the oil prices to recover in the next year or 2 or 3.

In fact, if they succeed in squeezing out 2 or 3 million barrels of production in this country and making us totally dependent on other sources for the petroleum products, they will be able to virtually set whatever price for energy they want.

Surely we must have learned something from our experience of the last decade. Surely we must have learned what happened to this Nation when we were 47 percent dependent for all of our oil needs in this country on foreign sources. Oil prices did not drop that low at that time. They were not at $10 and $12. Oil prices had their escalation during the period of time in which we were dependent on overseas sources.

If we want to make sure that the consumers of this country are protected against the rapid unfair increases in prices, the best way to do that is to assure that we have enough productive capacity here in the United States to assure that we are not totally dependent upon others for the sources of production.

Let us not forget that in a period of 2 months because of political decisions that were made by the OPEC nations the price of oil was cut in half, in 2 months. What could be done on the downside by political decision can also be done in terms of price increases in the future by political decision. Those same nations can get together and set their own production quotas, manipulate the prices on the upside as much as they have been able to manipulate them on the downside. We must not allow, for the national interest, for the American consumers, to be dependent, to become dependent, on the OPEC nations and then make themselves the possible hostages of that kind of manipulation in the future. When will we ever learn from our own experiences? When will we ever in this Nation look beyond this week and this month to look back only 1 or 2 years to see what can happen to us even only 1 or 2 years in the future?

But there is another important point, and I think it is something which has been missed thus far in this debate.

We are talking not only about domestic energy production. This issue really goes to the heart of the structure of the oil and gas industry in this country.

□ 1640

I hope that my friend from Connecticut will hear me particularly on this point because, as I said, he has been a spokesmen for small business in the forum of the U.S. Senate for many, many years. Remember that the independent producers who get out and drill the wildcat wells and open up the new fields do not have internal large sources of capital with which to operate is to obtain capital from other sources. I ask my good friend from Connecticut, if the top marginal tax rate is 27 percent and if a person, to invest in an oil and gas enterprise at only that low marginal tax rate, is subject to all of the risks—first of all, the risk of having a dry hole, over a 70-percent risk on a wildcat well. Then, if he invests in a working interest as opposed to a limited partnership, he is subject not only to losing the amount of money that he has put into this enterprise, he is subject to being liable for massive amounts of potential damages in terms of environmental damage. He can lose far more.

Let us say he puts in $25,000. He may be liable for hundreds of thousands of dollars of environmental damage in addition to the amount that is invested and then those with whom he is associated are going to come to him and say, "Well, we may have to drill 5,000 feet deeper; that is what the geologists tell us. You come up with $25,000 more or you have lost the first amount of expertise. We need environmental engineers as well as geologists and other kinds of experts," and then put in additional funds on that.

Then at the end of all that, with only a 27-percent tax rate out here with which he can go into something with far less risk, with an assured return, and only be taxed at 27 percent—he is going to take all of those risks, subject himself to all of that liability, and then, when it is all said and done, if they hit a dry hole, he is going to be told "You cannot deduct your real losses, you have lost $25,000 but you cannot deduct it against your ordinary income even though you have lost your money." Who in the world is ever going to invest with an independent producer to explore for oil and gas ever again in this country?

I can tell you what the independent producers say to me, Mr. President. They say it is the end of the independent oil and gas sector in this country if we were to knock out this provision and ask people to invest their money with all of these risks, with all that liability, and then not allow them to deduct their real, honest to goodness, out-of-pocket losses if they hit a dry hole.

That is what this debate is really about. It amazes me, Mr. President, that there are those who have come—and it was true before as we debated this issue—and time and time again have said, we do not want to give more power to the large international oil companies, we do not want the energy industry of this country dominated by a few giants; we do not want to have these large companies—be their name Exxon or Mobil or any other—to dominate the entire energy production sector in this country.

Well, Mr. President, if you are concerned about the structure of the oil and gas industry in this country, if you want to see some competition remain in oil and gas production in this country, if you want to see some small independent producers survive so that the American consumer will

not be serviced solely by a few giant international oil companies, then you had better vote to table this amendment. Because never again will we have people investing with independent producers.

That is what this amendment is all about: Do you want independent producers to be able to survive in this country? Do you want people to continue to invest with individual independent oil and gas producers in this country? Or do you want to have only a few giant producers left?

The large international oil companies do not go out and sell working interests in their oil wells. They do not go out and ask you to invest $25,000 or $50,000. They generate all that capital internally in their large companies. They have marketing and they have refining and they are selling their gasoline. They have integrated operations from which they can make profits even when it is not profitable to drill and not profitable to produce. They have other ways of making money. The independent producer has no other way. If he is going to drill that oil well, he has to go out to 10 or 15 or 20 people who will invest their money and participate in drilling that well.

Then, if we, in the name of fairness, put something in the tax bill and say, "Yes, invest your money in that independent oil exploration project but if you lose it and drill a dry hole, you cannot even deduct your loss"—is that fairness? Mr. President, if we were talking about other industries where those kinds of risks were involved, if this had some title other than oil, I do not think it would get two votes on the floor of the U.S. Senate.

Let me urge my colleagues: Think about what is in the national interest. Think about the structure of an industry. Think about keeping competition within the oil and gas industry. Think about the fact that limited partnerships, those that have limited liabilities if they are investing in oil and gas, are treated just the same. There is no exception in this bill, I say to my friend from Connecticut, for limited partnerships in the oil and gas industry. We are not talking about limited partnerships. We are talking about investments in working interests where those involved jointly and severally are liable and they must take substantial risks and make substantial decisions.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield for a question.

Mr. DECONCINI. Mr. President, I say to the Senator from Oklahoma that he makes a very convincing argument that sometimes you ought to be able to invest money and if it is a legitimate investment and you lose money, you ought to be able to deduct it from your income. That is what this does, as I understand it. Well and good if that is what we have to do for the oil industry. But how does the Senator—and I am sure he is anxious to get this question asked and he did not put me up to ask it—justify providing it to only this industry and not provide it for the textile industry or the automobile industry or the real estate industry, it seems unfair.

If we are going to have a tax bill that is going to provide nonactive losses, why should it not be provided for every industry?

If we are not going to provide it for every industry and we are going to provide it to the oil and gas industry, it seems to me the Senator from Connecticut has raised a very good amendment here and we ought to treat this thing in fairness. Just as my friend from Oklahoma said, let us be fair. This is not fair.

Mr. BOREN. Mr. President, I would be happy to respond to the question, than I shall yield the floor.

I am glad my good friend from Arizona asked the question. He goes to the heart of a misunderstanding that exists among many Members of the Senate about the difference between the oil and gas industry in this provision and other industries. I share his concern that even as this bill is now written, there are several industries, many industries, that potentially are impacted in a way in which people who make investments, real out-of-pocket investments—we are not talking about paper investments—and who experience real economic loss will not be able to fully deduct that real economic loss. I think that is a problem. It is a problem which we tried to deal with in committee. It is a problem, I am sure, with which we shall try to deal in the conference committee to make it fair. That is an overall generic problem that we have.

But let me make it clear, when it comes to limited partnerships, where you are really putting at risk only the amount of money you invest in the profit, if you invest only $25,000, you stand to lose that $25,000. Limited partnerships—and we have those in the oil and gas industry as well as in the real estate industry and others—the oil and gas industry are treated exactly like limited partnerships in every other industry. That is not the issue. Limited parnerships, be they oil and gas or other limited partnerships, are treated exactly the same in this bill as now written as they would be if they were in any other area.

A working interest investment is not the same thing as a limited partnership investment in an oil and gas well. You can invest as a limited partner or you can invest as a working interest.

Mr. DECONCINI. If the Senator will yield, I understand the difference, but when it comes to real estate, just to pick an industry, if you are an active investor in the real estate business, the limit of the carryover loss that you can take, as I understand it, is $25,000 outside of the actual business that you are in. Why should the oil and gas industry have anything more than $25,000?

Why does not the $25,000 limit, phased out over between $100,000 and $148,000 or whatever it is—why should that not apply in this instance?

Mr. BOREN. I just go back to the difference. Maybe I have explained it before but maybe I can explain it differently. The obligations, the risks that are being taken are substantially different. When you hit a dry hole, there is an asset that is left. There is nothing you have left to sell. It is gone. Your money is gone. You do not have a building, you do not have anything else. You take very substantial environmental risks.

As you go through the process, it is not like a real estate proposition where you have a budget in advance as to how much you are going to build, what your costs are. You have a situation where you start drilling a well, they you do not know how deep you have to go. They come back and say, "You have $25,000 invested; if you want to continue, you are going to have to put up more money." There are additional risks as you go along at each particular point in the project.

□ 1650

Let me again say to my friend from Arizona, I do not think that he would believe it would be in the interest of the United States to be dependent on foreign sources for energy, but I do not believe he would think it in the national interest that we should be dependent only on four or five giant national oil companies to service the energy needs of our people. I think he would want to see an independent sector survive. All I can say to him is this: In the judgment of everyone in the industry with whom I have talked—I am talking about the independent producers—they say that once you lower the tax rate to 27 percent, with an industry that has this level of risk and this level of liability, particularly as far as the working interest is concerned, you will simply shut off all of the outside development possibility in the independent sector. The independent sector does not have enough capital on its own to drill the wells.

Mr. LONG. Will the Senator yield?

Mr. BOREN. You will leave us totally in a situation where only the large international oil companies will be able to operate because they generate their own capital. They do not go out and seek developments from individual citizens. They generate their own capital from their own operations.

I think it would be a tragic mistake for this country to decide—and this debate really is a debate about the structure of the industry—that we want the industry to be totally dominated only by a few giants and leave no room for the independent sector to operate.

Mr. LONG. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield for a question.

Mr. LONG. Mr. President, the Senator from Arizona asked a pertinent question to which I would like to help react.

The Senator asked, why do you not treat the oil and gas industry the way you treat the real estate industry? Let us just talk about this situation. It is difficult to justify what this bill does to the real estate industry because it says that with regard to nonreal estate partnerships, if a person is actively engaged in the operation of that endeavor, it is active income. But not in real estate. In real estate he is subject to a $25,000 rule and that $25,000 rule is subject to a "mom and pop" limitation. These limits apply even if he is actively engaged in operating real estate. Rental real estate will still be treated as a passive activity, even though he is the one running it. But he can have the benefit of up to $25,000 of real estate loss against other income he is making, provided that he is not making over $150,000.

Let us take the case of a couple who have a building and they are living in it, operating it and taking care of it. If they are not making more than $100,000, they can claim up to $25,000 of losses in that rental business against some other income they may have. But if they have more than $150,000 of income, as the Senator so well knows, they cannot claim even the $25,000 amount. It all has to be regarded as passive, and they can only deduct those losses against income in later years from that particular apartment building that they are living in and managing.

Now, that rule does not apply to anybody else. It only applies to rentals. In other words, they cannot deduct but $25,000 of their losses, and even that is subject to a "mom-and-pop" rule. If they have more than $150,000 of income they cannot deduct any of it, not a nickle. It has to be put over with the passive income. And then if they do not have enough passive income against which they deduct their passive losses, they cannot deduct it, period.

That amounts to singling out the real estate industry for special unfavorable treatment that does not apply to anybody else. And it is difficult to justify.

How would you justify it? Well, you justify it because that is the area where the tax shelters are more effective than any other area. If somebody comes to you with a tax shelter, if you have a reasonable chance to make profit in the long run but you get a lot of loss in the early years, the odds are he is going to be showing you a real estate tax shelter.

That is where the tax treatment seems to be the best and that is where we have the most complaints about somebody making a lot of money and paying no taxes whatever. So that industry is singled out and given tax treatment that is less favorable than any other industry under this bill.

So here are those people getting rich. They are making lots of money. The tax treatment is so favorable as it stands now that on a tax basis they are even justified in building an apartment building when they cannot rent any apartments. The tax advantages are enough right now where they can justify building emplty office units and empty apartment units. Hopefully, in the future, they can rent them. But rightly or wrongly, this bill picks out this industry and hits it harder than any industry in this bill. And they get special treatment, I say to the Senator, special adverse treatment that others do not get.

The Senator asked, "Why do you not so treat the oil and gas industry?" Because we are all broke anyhow. Eighty-four percent of our rigs are down. More than 80 percent of our workers are out of jobs.

God knows, we need the product if we are to be energy independent, but that industry is suffering very badly and you do not have to go beyond the State I represent to see it. We have more unemployment than any State in the Union. A while back we were in great shape. Well, the price went from $40 down to $10 and we are in desperate condition right now. The industry is adversely affected and there are at least two or three provisions in this bill that adversely affect even that industry, the most depressed in the United States.

But why must you pick out the industry that is doing the best where the tax shelters are of the greatest concern and say, "Now, having picked that one out for special treatment"—which is going to mean that a lot of these real estate ventures will not be continued—"then take the one that is doing the worst in the entire United States and let us be sure we treat him the same way we treat the one that is doing the best." I submit that does not make any sense. We say that you ought to treat that one like those in between.

Mr. BOREN. Mr. President, I thank the Senator from Lousiana for his answer, and I think it is an excellent one. At the same time I think the Senator from Arizona has raised a point that should be heard. He and I have discussed this before. I think he knows that I have some sympathy to seeing fairer treatment for the real estate industry. But I think, as the Senator from Louisiana has said, this is not the time to take an industry that is already flat on its back and make sure that we absolutely destroy it——

Mr. LONG. Will the Senator yield?

Mr. BOREN. And make it incapable of acting in the future. When you get down to it, again we get back to the problem of financing.

Mr. LONG. Will the Senator yield at this point?

It may well be, I say to the Senator, it may well be that this bill is too harsh on the real estate industry. It may well be that a lot of these real estate people are being the target of something that is not fair for them because you really have somebody else in mind. But you are doing it in spades when you do it to the oil and gas industry at this point.

Mr. BOREN. I agree with the Senator from Louisiana. Because one thing is unfair, that is not reason for doing something that is two or three times as unfair to an industry that is already, as I say, on the road to destruction. We have to again consider the availability of financing. As I mentioned, I have come from a State that has lost 20 of its banks over the past few months. I can tell you that it is almost impossible to get bank loans in this day and time for the purpose of drilling exploratory oil and gas wells by independent producers. There is much more of an inclination to make loans on real estate. There are buildings. There is collateral. But you simply cannot raise the capital, you simply cannot raise the capital if you want to keep an independent sector alive in this country. And that is what we are debating, shall we have an independent sector or not, or shall we allow it to be destroyed so that the American consumer will be the absolute hostage of two groups, foreign producers and huge international oil companies, a few giants that will survive this operation. I just simply submit to you it is not in the national interest to leave the American consumer at the mercy of only those two groups.

□ 1700

Mr. PACKWOOD. Mr. President, there have been a lot of terms thrown around here, many of which are confusing: "at risk," "working interest," "limited partnership," "active and passive interests," "limited liability."

I want to explain what we have in this bill and why it happened. The Senator from Connecticut [Mr. WEICKER] was correct. I voted against the exception for oil and gas in committee. However, I am also committed to stand against amendments that will undo the greater good in this bill. I

want to explain what we have done and why.

This bill was passed about 12:30 in the morning. At about 10 or 10:30 at night, it was touch and go whether there would be any bill at all.

Present law allows about $50 billion in tax shelters that have been closed by the bill. A tax shelter is a device that people can invest in, and because of up-front depreciation losses, paper losses, interest losses, other losses, they are able to shelter their regular income from tax.

Suppose a person of wealth puts $100,000 in a venture. For reasons that do not need an explanation at this time, the venture generates losses that you can use to offset against your other income. That would reduce your tax liability substantially.

That is what causes the stories like "The Treasury Department announced today that 1,500 people with incomes in excess of $200,000 a year paid no taxes last year." Each Senator here goes home to visit, and each of us hears the question that comes up about tax reform: "Why aren't they paying? I'm making $22,000 a year and pay $3,000 in taxes, and they don't pay anything."

That is the effect of tax shelters. The $50 billion that we raise from closing tax shelters was made up of roughly $20 billion in capital gains and $30 billion from denying shelter losses—in real estate, oil and gas, cattle feeding, whatever else. Of the $30 billion, about $4 to $5 billion was raised from oil and gas. That is the background of what the shelter industry is: 50 billion dollars' worth, where you have millionaires paying no taxes.

What have we changed? People shelter their income by entering into limited partnership or other investments in which you have no liability for anything beyond the amount of money you put up—$10,000, $15,000, $100,000. It does not matter if the building collapsed, or all the employees are burned because of negligence, or the oil well blows up. You are only liable for what you put in. That concept is known as limited liability.

However, under the present law, even though your liability is limited, a taxpayer can still deduct all these artifical losses against his regular income. In many cases, a taxpayer can deduct losses far beyond liability the taxpayer has in the venture. That is what we are trying to change in this bill.

Currently, deduction of losses applies to all shelters—oil and gas, real estate, cattle feeding. They are all treated basically the same.

Now we come down to the bill. The bill says that if you invest in a limited partnership or any other investment in which you are a passive investor, you cannot use your passive losses to shelter your active income. That is the key difference between the present law and the bill. The present law: Limited partnership, deduct your losses against unrelated income. The bill: Limited partnership, you cannot deduct your losses against unrelated income.

There are other investments with unlimited liability. This is where you may have put up only $10,000 but you may be liable for a lot more than that. Maybe you have $10 million of insurance on your building or oil well. However, if you run over the $10 million, you are responsible. That is known as unlimited liability.

Here is where we made an interesting distinction. I did not vote for the distinction. I thought the distinction was wrong. However, the committee decided that taxpayers owning investments with oil and gas—typically called a working interest, but involving the concept of unlimited liability—could still deduct the losses of that oil and gas venture against his unrelated income. However, losses from any other tax shelter with unlimited liability could not. It does not matter if you own a building that falls down because of negligence. Even if you are responsible for this money, you still cannot deduct those losses against other income.

So the Senator from Connecticut is right in that oil and gas has been given a special exception that does not apply to any other tax shelters.

The Senator from Oklahoma would argue that the reason is that the oil and gas industry is extraordinarily depressed. I have a depressed timber industry. There is a depressed copper industry. There is a depressed textile industry. But here is what happened about 10:30 at night, when this bill was either going to pass or not pass.

We passed out the most extraordinary bill, from the standpoint of the average American, that we have seen in half a century. It is easy to look back in retrospect and say that when the final vote came, it was 20 to 0. But at 10:30, 2 hours before the bill passed, I was not sure that we had the votes to pass the bill. Several Senators indicated that unless they got this working interest exception for oil and gas, they would not vote for the bill.

The oil and gas working interest exception is worth about $300 million a year. Bear in mind that the bill raises $4 to $5 billion over 5 years from oil and gas shelters, even with this exception. The exception is worth about $300 million, because even in oil and gas, we have cut shelters down significantly.

The question became this: Would we risk the whole bill, a bill closing $50 billion in shelters, shifting about $105 billion of taxes from individuals onto corporations, putting 85 percent of all Americans in this country at a 15-percent tax bracket or lower, closing the loopholes for corporations—closing the loopholes that allow General Dynamics and General Electric to pay no taxes even though they have billions and billions of dollars of profits? Were we going to risk all that in order to keep working interests out of the bill?

I was willing to run the risk that we could eliminate this special exception for oil and gas and still get the bill. My gut intuitive judgment told me that when push came to shove, the Members would not refuse to vote for a bill that by this time the press was already recognizing as an extraordinary boon for America. But that was a judgment call.

There were members of my so-called core group, the working group of Senators that had been working with me day and night on this bill, who felt differently. They feared that the handiwork that we had put into the crafting of this bill would all come down over this $300-million-a-year issue of working interests in oil and gas. So by an 11-to-9 vote, we made the exception for oil and gas. I was one of the nine. Senator BRADLEY was one of the nine.

With that exception taken care of, Senators who were worried about this bill fell into place, and it passed, 20 to 0.

□ 1710

Those of us on the committee then said, "All right, we have made our decision." Senator BRADLEY and I and the others lost on this issue.

We are now going to stand behind this bill, and we are going to stand against any significant amendments that will undo the bill on the floor. We agreed with each other that in the spirit comaraderie we would do the best we can to pass this bill as is.

So when the vote comes to table this amendment, I am going to vote to table it.

I do not think the exception is justified. I think that oil and gas would be able to attract capital without this exception. But having come this far and now being only a few days away from passing a bill that will be the most radical, the most significant forward change in 50 years in the tax law of this country for the average American, I am going to stand with the committee against eliminating this provision, even though in the committee itself I voted on the other side.

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. PRYOR. Mr. President, I appreciate the Senator yielding to me.

Mr. President, I would like to comment for a moment or two about the debate behind closed doors on this provision relating to working interests in oil and gas properties.

I think the chairman, in very technical terms, has really done a spendid job in telling us how we got from point

A to point B in placing this particular amendment into the tax reform bill.

But, I think it is very difficult and maybe impossible for the distinguished Senator from Oregon, who shepherded this bill all the way through to a 20-to-0 victory to describe the intensity by which this particular amendment was debated and ultimately approved on an 11-to-9 vote.

It is what I call, and I say to my friends from New Jersey, Oklahoma, and Connecticut, a scorching debate. I imagine that debate probably lasted 3 or 4 hours. When this issue was resolved, it was resolved in the best way that our democratic process can resolve any question. It was voted upon. It was adopted, and it is a part of this bill.

Today, I rise in opposition to the amendment offered by the Senator from Connecticut to strike it out.

Now, Mr. President and my colleagues, just one quick moment for a little story that relates to this industry. I had the privilege 2 weeks ago of being invited to the State of Oklahoma, the home State of our good friend Mr. BOREN. There were 700 people in this beautiful dining room to benefit the Diabetes Association. It was a toast and roast of Senator BOREN.

Mr. President, in seriousness I never will forget the comment of the president of one of the banks in Oklahoma. This gentleman rose up that night and he said, "Anyone in this ballroom who will open a $1,000 checking account in my bank Monday morning I will either give them a set of dishes or an oil rig." And he said, "The problem is I think we are going to run out of dishes, and I do not think we are going to have any takers on the oil rig."

I say that, Mr. President, simply to demonstrate the position at this time of the oil States. We produce some oil in Arkansas, not anywhere near to the degree of my friend from Oklahoma and my friends from Louisiana and Texas, and others. But, this is one of those times when, yes, there is controversy, and, yes, there is charge of special treatment, but from time to time we have to recognize that we have to look at some mechanism and some way of providing special treatment to special problems, and today this particular industry is in an extremely and critical situation.

Mr. President, I oppose the pending amendment, offered by the Senator from Connecticut [Mr. WEICKER], and I urge my colleagues to reject it.

Mr. President, this amendment is an attempt to eliminate working capital flowing to a very critical industry to our Nation, and to the State of Arkansas. Our domestic oil and gas industry is vitally important to our Nation's economy and national security, and at this time, it is having great economic difficulties.

Because of the present economic difficulties, and because of the importance of this industry to our national security, the committee bill contains rules dealing with so-called working interests in oil and gas properties as they relate to the passive loss rules. Additionally, this rule was adopted by the committee since working interests in oil and gas properties are different than partnership interests in other types of business activities.

It is simple, Mr. President, a working interest in an oil or gas well is not a passive investment. It is an extremely active investment. The holder of the working interest bears the entire cost of development and operation of the property. That person must make all decisions relating to the development of the property, is on the hook for tort liability in the event the well blows, and has responsibility for additional costs in the development of the well. In short, this is anything but a passive investment.

Under the committee bill, losses and credits from passive activities will generally be disallowed against other income of the taxpayer, subject to a 4-year phasein. While I have concerns in the area of the passive loss rules, particularly the phasein rules I believe they should be over a longer period of time—I believe the committee's rule for working interests in oil and gas properties makes sense from a tax standpoint, and from an economic standpoint.

For all of these reasons, Mr. President, I urge the Senate to reject this amendment. It could not come at a worse time for our independent oil and gas producers. These are the people who explore for oil. Without them in business we will be forced to rely more than ever on imported oil, and endanger our national security. I do not believe this is a wise step, and I hope this amendment is overwhelmingly rejected.

Mr. President, I have nothing further.

I am glad to yield to my good friend from New Jersey, Senator BRADLEY.

The PRESIDING OFFICER. The Chair does recognize the Senator from New Jersey.

Mr. BRADLEY. Mr. President, when we go back to our States we have always gone on our local TRV interview shows and we are on for a half hour and they ask questions about what is happening in Washington and we give them the answers. Then it is broadcast for the home folks, and sometimes you tape that show on a Wednesday or Thursday or Friday and then it is broadcast on Sunday at about 10 a.m. prime time.

I was on one of those shows not so long ago and recorded on Thursday night and it was broadcast on Sunday afternoon. My daughter, who was 7 years old at the time, was in the room and was glad to see her father come on television. She had a little friend there, and they started to walk out of the room. I said, "Where are you going?" She said, "We are leaving the room. You are on TV. You will probably only talk about loopholes."

I guess I have fairly single-mindedly talked about loopholes in the last couple of years. I have talked a lot about oil and gas loopholes.

So let me say to the distinguished Senator from Connecticut that I agree with him on the merits of this working interest amemdment. I offered the amendment in the Finance Committee. In fact, I offered a second amendment on working interests in the Finance Committee. In fact, I have three or four working interest amendments in my pocket and in my folder.

But I said that I was not going to offer those amendments as long as we had the discipline as a body to resist amendments and pass this bill as it came out of the Finance Committee.

Now, I do not want to see this bill falter. I think it is a good bill. The facts are clear. It will take 6 million low-income people off the rolls. It is finally something for the backbone of this country, the middle class. We put a stiff minimum tax in. We eliminate a lot of tax shelters.

Mr. President, this is a good bill. For this good bill to become law, we are going to need the leadership of Senator LONG, Senator BENTSEN, Senator DOLE, Senator BOREN, and others.

So let me say to the distinguished Senator from Connecticut, that as we move along and we go to conference, my hope is that when we emerge from conference we will emerge with a position more similar to that of the Senator from Connecticut and the Senator from New Jersey. But we have to get to conference.

So let me say to my friend from Connecticut that to get a bill, I will oppose this amendment as I have opposed all amendments. I might say to the distinguished Senator from Connecticut and to the Senate, by opposing this amendment that will give my daughter in years to come an opportunity to say "There is Dad still talking about loopholes on television."

Thank you.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

First of all, let me say to my friend from Oregon and my friend from Louisiana, the senior Senator from Louisiana, I have nothing but admiration, compliments to you for the marvelous work you have done on this bill.

I wish I could have been here in the last 5 or 6 days to share the debate and to listen and to learn. I have been, as you know, off doing another job. I

have been in conference trying to get a budget. This afternoon we are in one of those situations where we are not going to get anything done in conference. So this is a good time to come here and express myself for a few minutes about the bill in general and then about this amendment.

I really did not think we would ever be here on the Senate floor debating a tax reform bill. I remember being on this floor during three or four of the tax bills when the Senate debated a minimum corporate tax. The Senator from Oregon remembers that he got up on at least three occasions and agreed that we ought to do that. Remember, that, my good friends? But he said, "Let us wait. Let us put it into tax reform."

A lot of people said it would never happen. But it is here.

□ 1720

I remember one afternoon in one of those debates we talked about taking poor people off of the tax rolls instead of making them file tax returns and paying a portion of their earnings. We said, "Will that day ever come when we would be voting on a tax bill to do that?" That day has come.

I remember we spoke here about tax shelters and we said, "Let's do something about it." And then everyone jelled on the notion that we have got to simplify this Tax Code and lower the rates, and here we are with that kind of a bill.

Well, I will have more to say in the next few days, just to dampen a little bit our enthusiasm and put in a little realism about the impact of this tax bill on the deficit. I will do that later. I will convince this Senate, at least if they will listen, that sooner or later we have got to find some way to add some revenue to this tax base or we are going to live with $150 to $180 billion deficits forever. I think I will be able to convince you that we cannot fund the defense and domestic programs we want because we are paying so much interest on the debt that we have already incurred. But that is enough of that for now.

Let me reminisce with you a minute about this particular provision that was put in this bill. No doubt about it, I am for it. I am for helping the independent oil and gas producers of this country. Yes, I am from an oil and gas producing State. Yes, I have 15 million barrels of oil produced in New Mexico from stripper wells—15 million barrels a year.

And there is a real risk that they are all going to shut down. Do you know what happens when they shut down? They never open up again. That is just the economics of it. And, if that was not enough, we have rules now that when they close down, you fill them with cement because they are dangerous. So you are never going to go down there and get that oil again. In my little State, 15 million barrels might go that way.

How about the United States? The United States produces 500,000 barrels a day from stripper well production. Five hundred thousand barrels a day, dropping off every day by literally thousands.

Now, I submit that we have pretty short memories. Remember with me what happened when we had an oil embargo. We were not even cut off by the amount of these stripper wells that are going to go down the drain in the United States. It was far less than 500,000 barrels a day that the boycott cut off from America.

And what happened? We had lines waiting to get gasoline. I even remember there were some people thinking we were going to have riots at the filling station. And we did, in fact, have a couple of people killed, as I recall, when somebody got mad after waiting an hour-and-a-half at a filling station and went up and shot someone. That's the kind of violence that can happen when we lose a few thousand barrels per day.

Now, what did we do? We said, "Boy, we better do something and do it quick. Let's produce oil for our country." Do you remember that? "Let's turn coal and tar sands into oil."

Do you know how much we voted on this floor to invest in an experimental effort to produce oil from other resources in America? Had that worked, we would have spent $22 billion to turn coal into oil, to turn tar sands into oil, to turn other resources that we find in this country into something we can use in our cars and in our industries. It did not work because oil prices came tumbling down and it did not prove economical.

We will find the day within this decade that we will be back here debating alternatives to oil. Just as sure as I am standing here, within one decade, the U.S. Senate will be back on the floor debating: What are we going to do about the shortage of oil?

Now, far be it from me to go back through the issues of how many hundreds of thousands of barrels we have in America versus the Saudis.

But let me say to you, the worst I have heard about this provision, the worst I have heard about it, is that maybe we do not need it.

Well, I submit to you that in the event we do need it and in the event it works just a little bit, we shall support it. Assume it stops the precipitous demise of the independent oil producer or just slows it up a little bit. What if it only slowed it up so that we do not lose 100,000 barrels a day?—that is all you would need and you will pay for this amendment many times over. Because, before you are finished, you are going to pay for every barrel of oil you lose in the United States that you might have gotten by this kind of incentive.

Who do you think we are going to pay and who do you think is going to get stuck for the cost if we allow the demise of independent oil producers. You are going to pay the Saudis, you are going to pay Mexico, you are going to pay Nigeria, and you are going to be lucky if, at the same time, they do not raise the price of oil. When they do, the American consumer will be paying 10, 20, 30, 40-cents a barrel more for their gasoline.

I have heard the arguments. The one that somebody made was, "Maybe they do not need it." The rest of the arguments, as I see it, have no bearing on the isue. Some have said the reason to oppose this provision is that everybody should be treated the same. You need real estate investments as much as you need oil production. I believe that has led some to say, "Maybe you do not need it."

Let me tell you, if you every had a tax provision that you ought not take a risk on losing, it is this one. If it will just encourage some production—100,000 barrels a day, one-fifth of the current stripper production that is at risk—it is worthwhile.

Yes, it will be good for independent oil and gas producers, but it will also be good for the American consumer, it will be good for the United States of America and, in a very real way, it will keep us from paying more money to the Saudis, Mexico, the Nigerians and others who are going to have the United States in a bind again, if not next year, if not 5 years from now, within the next decade, just as sure as we are standing here.

So I think, for those who wonder if it is worth the risk—if we need it, will it be worthwhile?—I believe the facts are unequivocal. You ought to gamble on the side here of encouraging a little more production rather than finding reasons to say, "Treat everybody the same," even when you know this is an industry that makes us energy independent versus dependent.

Let me tell you one more fact. As of a few months ago, because of conservation, because of production, because of a lot of other things, we were 29 to 30 percent dependent on foreign oil. That is a lot. But we were making tremendous headway from the 45 percent when the oil embargo hit us.

I do not think there is any doubt. I have seen not one single study that says the United States will escape 50 percent dependence in this decade. One says by 1990 we will be 50 percent dependent. And two others I have seen say we are going to be 55 percent dependent.

I say this provision is worth it. The gamble is on the side of our consumers and our country. If this has even the slightest chance of increasing produc-

tion or, conversely, stopping the precipitous decline in production, we should support the provision. It means dollars in the bank to our consumers and dollars in the bank to our country.

I believe we will defeat the amendment of the Senator from Connecticut.

I hope those who are in this Chamber who will be conferees on this bill understand that there are a lot of us who feel very strong about this provision and think it is indeed a good investment. If you want to look around for provisions in this bill that are not anywhere near as good investments of the taxpayers' dollars you can find them, such as exceptional accounting practices that are allowed for some of the insurance companies. There are provisions where no argument can be made on the basis of our national interest, on the basis that those might produce something of general good to the American people. It seems to me before you strike this provision you ought to find some others to strike if you are looking for revenue.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in opposition to the amendment. As it appears to have become the practice in the Senate to declare an interest in a matter before speaking, may I say that New York State is an oil producing State. The first discovery of oil was in Titusville, in Pennsylvania, by Colonel Drake. That oil field stretches across the New York State border into what we call our southern tier, and we discovered oil there in 1858. We continue to pump it, and I acknowlege we are oil producers. But it is not in that sense that I wish to address the Senate.

Mr. President, we have said earlier in this debate, and perhaps it is useful to repeat, that this tax bill contains one of the most extraordinary provisions we have written into the Tax Code; that is, the distinction between positive income and passive losses. We have seen over the last 30 years, and especially over the last 6 years, an extraordinary growth in an absolutely negative industry, an industry designed to produce losses. They are called paper losses but they are good for a deduction from real income for purposes of avoiding taxation.

We have written this provision right into the Tax Code, after having for some 4 years considered using some aspect of it in the minimum tax.

I believe later in the day the distinguished Senator from Minnesota is going to speak about this measure with some measure of opposition or at least with some concern about how quickly it will come into effect. While the measure has not been unopposed, it has been striking to me how many Members in this body have been willing to accept this quite radical change. The reason they have accepted this proposal, I would venture, is because it will put an end to tax shelters. It will put an end to that year-end ritual in the law offices and accounting firms across the Nation, when persons with large incomes—from salaries, from professional fees, from dividends, from interest earning—are told by their accountant how much money they must lose, and how to do it. They enter into limited partnerships, which never make any commitment whatever about earning a profit, but positively guarantee losses.

Ask anyone who has been involved. That is the parties' bargain. Whether it's an office building, a feedlot, a railroad car, a barge, a TV cable franchise. Never any commitment to earn a profit, but a guarantee of loss. That ends up as a guaranteed loss to the Federal Treasury. It is rapidly discrediting the American income tax system. We have changed that.

Mr. President, in this morning's New York Post, the distinguished financial writer Shelby White has an article on this subject, and I have asked it be placed on the Senators' desks. The article has a simple headline: "Tax Bill Will Slowly Demolish Shelters." "Slowly" refers to the fact that we phase in this provision over a 4-year period—as indeed we should do with as radical a change in the Tax Code as this. But as I have mentioned earlier in this debate, without the phase-in, this provision would pick up $50 billion in 5 years. And that is a measure of the extent to which positive income is being sheltered from tax because of passive losses—losses that are artificial, invented, devised for no purpose, say, than that of avoiding tax.

Shelby White, who is an experienced financial observer and a successful businesswoman in her own right, begins with the simple statement:

> The Senate Finance Committee tax reform bill would virtually abolish the tax shelter, and has tax planners and real estate syndicates flocking to Washington to lobby against the bill.

Well, they are not going to succeed. We are going to pass this bill with this provision at its heart. But as we considered this in the Finance Committee, the issue arose whether the prohibition on passive losses being deducted from positive income would extend to certain operations in the oil and gas industry, where the individual involved has an active working interest in the operation—where the individual is fully liable for any uninsurable losses or additional cash needed, as contrasted with the typical limited partnership arrangement where the individual has no risk of loss beyond his initial investment, and no say whatever in management. That is the limited partnership. It is simply a device for avoiding taxes. It has become so.

An active interest in oil and gas exploration and development involves an individual putting funds in, being eligible for gains, obviously—that is the purpose, and that is the object—but being liable to put up additional money for losses which is not infrequently the experience of an activity that is well known for its speculative quality. You get, what, nine dry holes for every productive one. You make the best judgment you can, but the statistics tend to be that the odds are against your succeeding in any given venture.

Now, Shelby White, having started out by saying the Senate Finance Committee tax reform bill would virtually abolish the tax shelter, goes on to note one exception. It is simply that the one exception "would be oil and gas programs where the investors had a working interest and actually assumed some of the risk of the business instead of being passive investments."

I see that my friend, the distinguished ranking member of the committee, is on the floor. I hope he might hear this passage from the White article, having quoted a Washington expert on this subject. She goes on to say, "The new bill would benefit the guy with the oil on his boots but not the dentist in his office."

I have no difficulties with the dentists, say, personally as one of those who long ago as a youth spent too much on penny candy. But that is a mistake that is not to be reversed at this point.

But the simple fact is that high-salaried professionals have typically been the ones who have avoided income tax, and persons with large portfolio investment income.

This bill, says the Washington expert quoted by Shelby White, would benefit "the guy with oil on his boots."

□ 1740

I do not have to make a speech about the oil and gas industry. I simply want to say that I have nothing against benefiting people with oil on their boots. The more oil the better, if it is American oil. We made a decision in the Finance Committee to put an end to tax shelters, and we have done so to a degree without precedent in the Internal Revenue Code. Nothing like it has ever before happened.

That same committee, wide awake, fully conscious, said a working interest in an oil and gas well is not a tax shelter. To the contrary, it involves unlimited liability and a say in the management of the operation. This provision does not encourage or discourage that activity. It is simply done to permit what individuals judge to be in their interest or not as they will.

This is a bill that takes a major step to abolish tax shelters, and I hope that it will be allowed to pass in the form that the committee has drafted it.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I have been listening to the debate for some time now, the arguments of the Senators from Texas, Louisiana, Oklahoma, and others, and what I think this is all about is fairness.

I can understand the depressed independent oil operators in this country and maybe we have to subsidize them. Our friend from Oklahoma said we had provided a work training program for other industries that are in trouble. We passed an amendment on the supplemental appropriations last week that gave trade adjustment assistance for oil workers.

This Senator voted for it.

My friend from New York has said this is not a tax shelter. I disagree with him. This is a tax shelter. If we want to have tax shelters, we ought to say so and say we have to do it because this industry is in trouble.

We have heard some discussion here about the real estate industry. They are not generally in trouble and they have had some very lucrative benefits that Congress gave them. They did not break the law by taking advantage of certain depreciation, writeoffs and investment credits. Congress gave them those benefits and they responded.

Now the day of reckoning has come and rightfully so. The day has come that we need to have a fair system, a simple system. That is what President Reagan talks about. That is what most Senators here talk about. This Senator has promoted what I consider a real fair and simple system. That is doing away with all deductions, everything. Those beautiful charitable deductions, interest on homes, everything, and expense capital investments instead of writing them off over a period of time.

Obviously, that bill is not before us here so I will not debate the merits of the flat, simple tax.

What we are talking about is everyone thinks we ought to be fair.

I do not think this fair. What disturbs me more than anything else, if it is not fair, is when the distinguished chairman of the subcommittee and others will take the floor and say "We opposed this in the committee. Philosophically, we are against it. Yet I am committed. I took that blood oath. I cut my wrist and melded together with my colleagues on the Senate Finance Committee that we are not going to support any amendment that is going to alter this bill one iota."

That is not what the process is all about.

I think this is a good bill and I compliment the Senator from Oregon, the ranking member from Louisiana, and the members of the committee who have put in so much time and so much work.

I am glad we have this bill and not one similair to H.R. 3838 as it passed the House before us. This bill has some real merit to it, but it has some weaknesses.

One of the weaknesses is raised by the amendment of the Senator from Connecticut, a working interest in an oil drilling operation, if a loss results, should be deducted from ordinary income, and such an interest in, say, the real estate business, is limited to $25,000 limit. That is unfair.

Then there is the distinction.

All other industries or investments, active, material losses are deductible against income. But the oil industry has something special. Here we are talking about a working interest. There is a distinction. A working interest means taking on the liability, but it does not mean that you go out there and put your hands on the business and actually work there.

If you are a active partner in the real estate business, or you are a general partner in some other investment and you sustain a real loss, in the real estate business you can only take a $25,000 deduction on your other income. Here in the oil and gas situation you can take it all.

Mr. NICKLES. Will the Senator yield?

Mr. DECONCINI. Not now, but I will in a moment.

I understand the necessity to create what is supposed to be an incentive to invest because are drilling this hole and it may be dry. That is what we are talking about in getting the rate down to 27 percent, or if you are a corporation to 33. That is supposed to be the incentive to take that risk. For the life of me, I cannot see the need to grant this special consideration here.

I want to go on record with my good friends who come from oil States. I supported deregulation. As the Senator from Connecticut has indicated deregulation did not benefit my State; at least not that I know of. But is was the right thing to do. We were in a period of talking about using market regulators instead of Government regulations. We had this class of Government controls over the oil and gas industry for a long time. Our good friends who are here today asking for a special privilege, were then not asking for anything but an open market, and it was very beneficial to the industry. Rightfully so, this body voted and this Senator joined in that vote.

I am not here to pick on the oil industry. I understand they are having hard times. What I am here to say is do we not need to be fair? Because they are having a tough time today, what about tomorrow if things get good for them, as they will, as they always have.

There is no provision that this goes away when the price of oil goes to $20 a barrel or there is a doubling of the amount of rigs in drilling. No, they will get this indefinitely, or as long as this law stays in effect.

I say if we are going to do tax simplification and modernization of our tax system, we should not say to the American public that we are not creating a tax shelter for the oil industry. But we are. And we are going to have a chance in a few short minutes to decide whether or not we want to eliminate that and treat the oil industry as we treat every other industry in this bill and not provide tax shelters. Or if we decide that we want to go ahead and allow some tax shelter, then I suggest that we have an amendment that applies equally to all industries, as well as to oil and gas.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. DECONCINI. I am glad to yield to my friend.

Mr. BENTSEN. Every other general partner who has full liability and is involved in management is permitted to deduct these losses against his income. To have a different rule for real estate is unfair, and that is a mistake in this legislation. So I agree with that.

But the answer is not to try to knock out other people who have a working interest. The answer is to try to correct the real estate situation, and hopefully it can be done in conference, so that the person who actually manages the property can deduct his losses. That is what we have done in the oil field. We are not talking about doctors and lawyers who put in their money without further liability. They are out. But in the case of working interests, there is full liability which when obligated can be taken as deduction.

Mr. DECONCINI. As I read this bill, it is that all investments, all active material losses, are deductible against other income, active material losses, which means the active partners. In the oil and gas business, they talk about working interest, which is a little different than an active material loss versus a working material loss.

Mr. BENTSEN. But the point is in this situation you have a high-risk venture when you are exploring for oil. So when you have an independent who does the drilling, he does not take one well all by himself. He tries to spread it. What you do is you have several investors get into one well and, in turn, into others, so they have some diversification. Otherwise, you will not get them to do it.

Mr. DECONCINI. Mr. President, I only say to my good friend from Texas——

Mr. BENTSEN. If you have a blowout——

Mr. DECONCINI (continuing). If you are going to invest in a new plant in some other industry—not real estate in this instance—and you have an active material loss, it is treated differently than an oil and gas working material loss. I do not think that is fair.

I am not here to protect the excessive shelters or whatever has been used, or some say abused, but it seems to me that the case is not made here for oil and gas. We ought to treat investors fairly.

What we have done in this bill is lower the rates and that is fair and that is good, that is the incentive that is supposed to drive an economic system or fair tax system, at least in the thinking of the Senator from Arizona.

I shall be glad to yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. NICKLES. I am happy to yield to the majority leader.

Mr. DOLE. Mr. President, I think there are just three speakers left. The Senator from Arkansas would like 10 minutes, the Senator from Connecticut [Mr. WEICKER] would like 10 minutes, the Senator from Oklahoma would like 10 minutes. I wonder if the managers would be willing to agree that we vote in relation to this amendment at, say 6:25 p.m. Ten minutes to the Senator from Arkansas, a minute to the Senator from New York, 10 minutes to the Senator from Oklahoma, 8 minutes to the Senator from Connecticut. Does the Senator from Louisiana want time?

Mr. LONG. It is all right with me, Mr. President. Nowadays, the minority leader wants to know about these things to pass judgment on them, so I defer to him.

Mr. DOLE. Mr. President, let me modify that request: The distinguished Senator from Arkansas [Mr. BUMPERS] would have 10 minutes; the Senator from New York [Mr. MOYNIHAN] would have 1 minute; the Senator from Rhode Island [Mr. CHAFEE] would have 1 minute; the Senator from Connecticut, the offeror of the amendment, 10 minutes; the Senator from Oklahoma, 10 minutes; the distinguished minority leader, 5 minutes. And the vote would occur at 6:30, a vote in relation to the amendment. As I understand it, there will be a tabling motion offered.

The PRESIDING OFFICER. Is there any objection? There being no objection, it is so ordered.

Mr. LONG. That is the motion to table the Senator is speaking of?

Mr. DOLE. Yes, Mr. President.

Mr. MOYNIHAN. Mr. President, this is simply in response to a statement by the Senator from Arizona.

May I say that there were those of us on the Finance Committee who opposed this particular provision at the time it was offered in the Finance Committee. I was one. But I have resolved, and I think all of us have in the committee, that it was a sensible distinction with respect to an important activity and it does not violate the fundamental distinction between positive income and passive losses, which is at the heart of our provisions to put an end to tax shelters as they are understood and widely and outrageously practiced in the country today.

I thank the Chair.

I thank my friend from Oklahoma for yielding to me.

The PRESIDING OFFICER. The Senator from Oklahoma had the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. BYRD. Mr. President, I oppose this amendment. The striking of the exemption of working interests in oil and gas properties from the passive loss repeal is not in the best interest of the Nation. It is imperative that we continue to explore for oil and gas in this country. Since January of 1986, oil imports have increased and they are continuing to increase. Our dependence on OPEC has increased correspondingly. Saudi Arabia has gone from the eighth largest supplier of U.S. petroleum needs in 1985 to the fourth largest so far this year. In terms of just crude oil imports, Saudi Arabia is now the second largest supplier. At the same time, drilling in the United States has dropped to its lowest level since 1971.

The Appalachian basin provides between one-fourth to one-third of the U.S. oil and gas production. This production is primarily from stripper wells developed and operated by independent producers. It is an industry that employed 6,400 people in West Virginia in 1985. Today, employment has dropped to 4,000 and is continuing to decline because of decreased exploration.

Drilling for oil and gas is a risky and expensive business. The exemption under the Senate Finance Committee bill allows a taxpayer that owns a working interest in an oil and gas property to offset other income with losses and credits derived from such activity. Now this is not a giveaway. A working interest is an interest that is burdened with the cost of development and operation of the property; in other words being liable for all the risks.

Capital investment is the backbone of the independent oil and gas industry, capital that is used for the exploration and development of new gas and oil reserves. This amendment will cause an even further decline in drilling activity by independent producers by eliminating their major source of capital investment. These independent producers have accounted for 90 percent of the exploratory drilling that takes place in the United States and for finding 80 percent of the new reserves that are found. Without continued investment in the independent oil and gas industry, we will become even more dependent on foreign oil imports.

Mr. President, without the working interest, and let me emphasize "working interest," exemption, we are placing ourselves on a perilous course that we traveled in the 1970's, a road we cannot afford to travel again. It would be a travesty for our Nation to place ourselves at the mercy of foreign nations for our oil and natural gas supplies. I must urge my colleagues to oppose this amendment.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I think we may be taking too much time on this, because I think the Senate has decided what it is going to do. It is going to decide to table this amendment. Nevertheless, I think it is a golden opportunity to enlighten our colleagues and those across the country about what this amendment is about. I must say without breastbeating, nobody has better credentials in this body than I have on this issue, on which I must respectfully disagree with my esteemed colleague from Connecticut [Mr. WEICKER].

I did not think it was fair back in the 1970's to allow the oil industry to benefit from a price of oil that was being set by an international cartel, of which the United States was not even a member. Because of some of the positions I took then, I did not endear myself to the oil industry. Now, they are being victimized—not by the cartel necessarily, but mostly by Saudi Arabia.

Yesterday, the price of oil, I think, was $13.69 a barrel.

□ 1800

The Senator from Oregon said that this bill would cost $300 million a year. I submit that it is not going to cost nearly that much because it assumes that people are going to be anxious to buy working interests in gas and oil wells. I do not consider myself the most prudent investor, but I have more sense than to invest in a working interest in an oil well in my State at $13.69 a barrel when it cost them $12 a barrel to get it out of the ground.

So I do not think that the bill really affects the Treasury one way or the

other. We had eight oil and gas rigs; eight total rigs operating in my State last month. Nationwide there were 723 operating in the Nation last week. And that compares with 4,500 rigs that were working in this country in 1945. So I do not have to tell you any more about the vulnerability of this country if this trend continues.

Now, Mr. President, to get down to the merits of the amendments, I agree with the Senator from Texas [Mr. BENTSEN] when he says it is true that real estate is taking a hit under this bill, and frankly I think it is unfair. I do not know that anything can be done about it, but I think they are taking a hit.

But a working interest, for the edification of those who may not have been paying that much attention, a working interest in an oil or gas well is an investment in a specified interest. You may have a one thirty-second working interest. And usually working interests are in fractions and not in percentages. But when you buy a working interest in an oil or a gas well, you submit to the proposition that you are going to take a proportionate share of the tort liability if anything goes wrong. If the well blows out, if you get sued, if saltwater overcomes the well, you are going to have to pay for your share of taking the saltwater out in order to recover the oil. You have to submit to a proportionate share of any unforeseen costs that may develop. And then if they hit a dry hole, your working interest is worth exactly zero. If you put $100,000 into, we will say, a one-sixteenth working interest in an oil well and they hit a dry hole, you have lost $100,000. If you put $100,000 in a working interest in an oil well and it winds up costing twice what you thought it was going to cost, you are going to have to come up with another $100,000. And if the well has to be reworked at some point, if it is a good well, you have to pay your share of that. You are literally a participating partner in that well.

Now, how do you treat that as passive income? That is not like putting money in the bank and just getting an interest check every month or investing in a stock and getting a dividend every year. You are making a risky investment, and you are taking the chance on having to put in more money. And certainly any time you invest in an oil or gas venture, you are taking a very good chance that you are going to lose the whole thing if it is not productive.

So, Mr. President, it occurs to me that this is not a tax shelter in the true sense of the word.

Finally, I must say what everybody else has said, and that is you are not going to find investors to invest in oil and gas well drilling operations at today's prices under any circumstances, whether you approve the amendment of the Senator from Connecticut or not, because the investment is not worth it. The risks are not worth it because even if you hit, at the price of oil and gas in this country today it is simply not worth it.

The oil industry reminds me of a story I heard the other day. A fellow ran an ad in the paper, "Lost dog, nondescript, blind in one eye, left ear half gone, bobtail, bad case of mange, answers to the name 'Lucky.' "

Now, most people in this country still think the oil industry is somehow lucky. I was in south Arkansas last week where our oil industry is, and you see bumper strips down there saying, "Lord, give us just one more oil boom; I promise I won't waste the next one." I am telling you they are desperate and they are hurting. There are more rigs stacked up there than you can count. And if you pass this amendment, all you are going to do is render this Nation more vulnerable to foreign imports, stack more rigs, and you are going to commit really an inequitable act. I think it would be patently unfair to the industry to pass this amendment. I regret that I must take issue with my distinguished friend from Connecticut but I urge the Senate to vote to table this amendment.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, when this amendment was presented in the committee, I voted against it. As I recall, it was adopted by 11 to 9, and so the logical conclusion might be that having voted against it in committee I would vote against it on the floor of the Senate. But not so. The bill that we brought out of the Finance Committee was a carefully crafted bill. Various interests were represented. We took votes up and down on a whole series of matters. There was one where I was on the losing side. But nonetheless, because I am so anxious to see this bill adopted and do not wish to see it fall apart because of the passage of this amendment—and I am confident that if this amendment passed it would severely hamper the passage of the bill as a whole—and furthermore, I listened to the arguments that were presented both in the committee and on the floor of this Senate. I am convinced that there is a great deal to be said on behalf of those who are supporting the exception for the working interest in oil and gas property—I will vote against the amendment submitted by the Senator from Connecticut. If it is a motion to table, I will vote to table because, one, I am anxious to see this bill passed; I think it is an excellent bill, and, two, I think there is a good deal of merit on behalf of the exception that is included in this amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank my good friend from Rhode Island for his statement in support of our efforts to table, and at the appropriate time I will move to table the amendment of my friend from Connecticut.

I would be happy to yield whatever time is necessary to my friend and colleague from Oklahoma [Mr. BOREN].

Mr. BOREN. Mr. President, I thank my colleague from Oklahoma and I appreciate the remarks which he made earlier on the floor in regard to this particular amendment. I have listened to the discussion by all of those who have been on the floor since debate began on this amendment. I heard the discussion of the distinguished chairman who talked about how this amendment was adopted in the Finance Committee. I have heard those who say that they are going to vote for the tabling motion in order to hold the coalition together, which is supporting this important piece of tax reform. I consider myself a part of that coalition. But as I have heard some speak, they seem to be speaking with reluctance in support of the provision for the right of those who invest in the working interest in an oil well to deduct their actual out-of-pocket losses in cases in which a dry hole is hit.

□ 1810

I want to say again, Mr. President, and I hope my colleagues will hear me, that I think that those who intend to vote with us for the tabling motion should do so not only with a clear conscience but also with a feeling that they are doing what is right for the country.

I want to repeat again: Just because I come from an oil- and gas-producing State, where jobs depend upon that industry, and a State that is now experiencing real economic depression, that does not mean I do not try to act as a Senator in the national interest.

I want to say again, and I hope my colleagues will hear me, that when you have an industry that is hit as hard as this is—and I heard the Senator from Oregon, the chairman of the committee, say he is not sure we need this exemption for working interests in order to bring adequate capital into the oil and gas industry—all I can say is that when you had a rig count of 4,000 just 3 years ago, actively drilling and exploring for oil and gas so that we will not be dependent on other countries for oil and gas, just that short time ago, and now you have a rig count of 686, look at what has already happened to this industry. It is already being destroyed.

I think there is adequate reason to believe that if you put additional tax burden on that industry, which already is having grave difficulty at-

tracting capital investment, it is by no means certain that the industry, particularly that sector of it, can survive at all.

We should not play Russian roulette with the national security of this country. Again, let us think about the national interest. It is very clear that if we do not provide an opportunity for people to make outside investment in the independent sector of the oil and gas industry, the only people that will be able to drill oil and gas wells in this country will be the large, integrated companies that can generate their own capital, from their own earnings, in marketing, refining, and other operations.

So, Mr. President, I cannot believe that it is the national interest—I am not talking regionally; I am talking about the national interest—it is not in the interest of any Americans to destroy the independent sector of the oil and gas industry and leave this industry solely dependent on the large giants, the international oil companies, that will be left. It is the independent sector that has drilled wildcat wells, that has made the explorations to develop the new fields.

Let us not leave the American people solely in the hands of the large companies. Let us not leave the American consumer wholly at the mercy of those who are producing in other countries. Let us not dismantle this industry.

We are not talking about turning on a water tap when the water is needed again. It is not so simple. Once the rigs are stacked, once the jobs are gone, you have lost forever that level of expertise that is necessary to continue an independent industry.

You cannot say to the graduates in petroleum engineering: "Wait for 5 or 10 years. We may someday call you back into service." We cannot say to the supply industry, which has invested in inventories of pipe and other material: "Wait 5 years. We may call you back into existence." It will be too late.

When the consumers of this country come back and say, "Why are we now dependent on overseas sources so that others can set the price of oil and run it through the ceiling? Why is it we destroyed competition in the oil and gas industry and left the giants and destroyed the small independent producers in the United States?" this Senator wants to be able to say that I tried to prevent it, not for the interests of the oil and gas industry but for the interests of this Nation.

We are capable of seeing the national interest wherever we happen to live. We are all Americans, and we should think that way. This is not in the interests of any American, so far as this Senator can sincerely see the case.

● Mr. BINGAMAN. Mr. President, while I support the Finance Committee's tax reform package and I intend to vote for it, I am concerned that certain proposed changes may work an unfairness upon certain investors.

A number of my constituents have expressed concern about the retroactivity of certain provisions in the bill. I am concerned in particular with the disallowance of loss deductions from previously established and existing limited partnership investments. These investments were made in the belief that the provisions of the tax law then in effect would continue. Moreover, many individuals were encouraged to make those investments by exisiting law and particularly by changes made in the 1981 tax act governing certain types of investments.

For example, Mr. President, a major tax incentive has been provided to encourage people to invest in low-income housing. We have a severe lack in the country in adequate and affordable low-income housing, and it is good public policy to recognize the need and encourage investment in this area.

I wish a tax incentive was not necessary, but it is necessary, and we have recognized it and people have relied on it. We need to ask ourselves not only what the action now contemplated does to investors, but what it does to the laudable goals we have previously decided to encourage.

I am also concerned that it has been a longstanding tenant of past tax reform efforts that the changes called for not be retroactively applied. There is enough of a chilling effect on investors when any changes are made in the Tax Code. People are naturally reluctant to make important financial commitments because of uncertainty over how they might be affected by new rules resulting from any comprehensive revisions of the Tax Code. I understand the distinguished chairman of the Finance Committee and the distinguished chairman of the House Ways and Means Committee issued a joint statement on March 15 saying that investments made now by limited partnerships would continue to be taxed for the life of the investment under current law, even if Congress changes the tax treatment of such investments made in the future.

Yet, despite this statement, changes are called for which change the rules on investments previously made. This action, in my opinion, raises questions of fairness and equity. It undermines confidence in the Tax Code and hurts business' ability to make long-term decisions.

I would hope that every possible effort will be made to resolve this problem in the conference.●

Mr. BINGAMAN. Mr. President, I rise in opposition to the Weicker amendment which strikes the working interest provision of the tax bill relating to oil and gas production.

There has been much discussion today regarding the importance of this working interest provision. I want to explain why this provision is so important and why my colleagues should vote against the amendment.

My opposition to the amendment is based on the following facts:

I. INDEPENDENT PRODUCERS NEED OUTSIDE CAPITAL TO HELP FINANCE DRILLING ACTIVITY

First. Independent oil and gas producers drill 87 percent of all wells drilled in the United States. Most independents cannot and do not fund their exploration and development expenditures exclusively out of their own cash flow. Because of the high risk involved, most producers share this risk with other co-owners. It just makes good business sense to spread this risk.

Second. Ernst & Whitney recently conducted a survey which shows, among other things, the source of funds for exploration and development between internally generated funds, outside investor funds, and borrowings. Banks have always refused loans for the drilling of exploratory wells unless adequate security was pledged. At present, funds from banks are unavailable, as banks are hesitant to loan money, on oil and natural gas reserves, to producers.

II. LIMITED PARTNERS ARE TOTALLY DIFFERENT FROM WORKING INTEREST OWNERS IN THE OIL AND GAS INDUSTRY, FOR EXAMPLE

First. A limited partner in a limited partnership, by definition is:

First, limited in his financial—money—exposure.

Second, limited in his liability obligations.

Third, limited in the decision making process.

Second. A working interest owner, operator or nonoperator, by definition, is exactly opposite that of a limited partner in that he has:

First, unlimited financial—money—exposure.

Second, unlimited liability.

Third, unlimited participation in decisionmaking process as to his share of ownership.

Third. Working interest owners have real economic losses, not paper losses. Working interest owners are always "at risk," whereas limited partners are not.

III. ALL WORKING INTEREST OWNERS ACTIVELY PARTICIPATE IN THE DECISIONMAKING PROCESS OF DRILLING A WELL

First. All working interest owners actively participate, from start to finish, in the economic decisionmaking process involved in the drilling and completion of a well, and are consequently, not passive investors. For example, each working interest owner must decide the following during the course of operations:

First, whether to purchase a working interest and pay a proportionate

share of the cost of leases. Once acquired, each working interest owner "owns" a portion of an asset—a mineral lease.

Second, whether to pay his share of the annual or monthly delay rentals, or whether to drop the lease prior to drilling a well.

Third, once the lease is acquired, whether to farm-out, sell, or retain the lease.

Fourth, whether to participate in additional exploration activity, seismic, work to aid in the selection of a drillsite location for the proposed well.

Fifth, whether to be covered by blow-out insurance.

Sixth, perhaps the most important financial decision is to be made by the working interest owner is whether to participate, or not participate, in the drilling of a well. This decision is made when the working interest owner signs an authority for expenditure [AFE]. The operator of the well is usually guided in the amount of money to be spent on a well by the amount of the AFE. The operator only has duties. He does not have any rights or powers, and is hired, and can be fired, by the working interest owners. Oftentimes, the operator does not have an interest in the well.

Seventh, whether to supply their own equipment in kind on the well.

Eighth, to participate in the interpretation and evaluation of the electric log. Any additional logging or testing must be approved by all working interest owners.

Ninth, must decide whether to participate, or not participate, in setting pipe, completing the well, and constructing a tank battery if necessary. If agreeable, a completion AFE must be signed for each completion attempt. After the initial completion attempt, if the necessity for additional work, such as testing additional zones, is encountered, each working interest owner is asked to approve and sign an additional completion AFE.

Tenth, once the well is productive, each working interest owner must select a purchaser for his share of oil or natural gas. Each working interest owner has the contractural right to take his product in kind or sell to the purchaser of his choice.

Eleventh, must decide to pay his share of pumping unit and/or compression facilities, as indicated.

Twelfth, must decide whether to recomplete—workover—another zone upon depletion of the initial zone.

Thirteenth, must decide feasibility, cost, and extent of participation in secondary and/or tertiary recovery techniques and unitization.

Fourteenth, must approve and pay his share of the cost to plug a well, when appropriate.

Second. Working interest owners, not the operator, make the critical decision. An operator functions under the direction of all the working interest owners. The operator often makes suggestion and Recommendations, however, the working interest owners make the decisions.

Third, if, during the course of drilling a well, one working interest owner goes nonconsent, that is, decides not to participate, each remaining coowner must decide if they want to pick up and pay for such party's additional working interest percent. Also, if any working interest owner defaults in the payment of his bills, the remaining working interest owners are asked to pay their proportionate part. Hence, all working interest owners are at risk and have joint and several unlimited liabilities.

Fourth, working interest owners are also totally liable for correcting any environmental damages. For example, although it rarely occurs, it is possible there could be a massive spill at a well and crude oil could severely damage the surface and nearby water sources. All working interest owners are liable for the cost of completely cleaning up any damage as a result of a spill. In some instances, the cost has gone up several hundred percent as a result of environmental concerns.

It is clear from these facts that the working interest provison is a legitimate deduction and should be maintained. The amendment before us today will only serve to render the Nation more vulnerable to energy supply disruption. The working interest provision is critical to our Nation's ability to continue oil and gas production. I ask my colleagues to defeat this amendment.

● Mr. GRASSLEY. Mr. President, I rise to speak against the amendment offered by my friend from Connecticut. The issue he raises is not whether some special break has been retained for the oil industry. The issue is whether a working interest can be properly characterized as an exception. I do not believe that is a fair characterization, notwithstanding the title to the section in the bill.

A working interest is an interest in an oil well in which the participant is at risk. The investor is fully at risk, as a general partner would be. Because he is at risk, he is personally liable for tort liability, as well as any further contribution to the partnership for operating capital—without limitations. He is required to make active management decisions. He must make the choice with his partners whether or not to make those additional capital contributions. This is a different sort of investor than the limited partner in an oil deal, a real estate deal, or any other venture in which the investors' liability interest is limited as under current law.●

● Mr. LEVIN. Mr. President, I will vote in support of the Weicker amendment to remove from this legislation the special treatment for oil and gas investments.

Let there be no doubt that there is special treatment. Let me quote from the committee report:

> Working interests in oil and gas properties generally are treated as active whether or not the taxpayer materially participates, and interests in rental activities are treated as passive whether or not the taxpayer materially participates.

I can understand why many argue that oil and gas investments are important to our economy and to meeting important national needs. There is equity to their argument that these investments deserve special attention if we are to promote the general good.

The problem, however, with this provision in the committee bill, and the reason why it should be deleted, is that it represents equity—but only equity in isolation. There are other investments which are also in the national interest but for which this special treatment is not available in this bill. The argument was made during the debate that if there was a problem with the tax treatment of other areas of investment, then those problems could be resolved in the conference. Could be? Why not resolve them here an now on the Senate floor? I feel confident that if we strike the special treatment for oil and gas now, then this body will turn its attention to restoring it in an environment in which the legitimate needs of a variety of investments could be addressed.●

Mr. SIMPSON. Mr. President, I wish to vigorously oppose the amendment by the Senator from Connecticut which would change certain provisions in the Senate Finance Committee bill concerning the oil and gas industry. This amendment would alter the new class of passive losses in cases where an investor in an oil or gas drilling enterprise carries some liability beyond the original investment. The Finance Committee rightly allowed the deductibility of these losses since capital is indeed at risk and should be permitted to be deducted in the event of a loss.

The Weicker amendment would be devastating to independent energy production which is highly dependent on limited partnerships to provide the needed funding for a very capital intensive industry. This is a high-risk industry where there are no guarantees of making a buck, and investors should be allowed to offset that risk with a deduction of their losses. The Finance Committee bill already includes a number of "tightening provisions" to protect against abuses in oil and gas investments. Taking away these remaining provisions would leave domestic energy production at a standstill—and it is close to that now.

In this debate it is vital to understand that this is not a regional issue—this is a national issue that affects

every single American. The issue is one of vulnerability and energy dependence on foreign producers. The national security needs of maintaining a strong energy industry cannot be underestimated. We cannot allow the country to become dependent solely on the whims and wishes of foreign producers. We have done that in the past and we are still paying for our greed and mistakes.

It should be emphasized that the provisions included in the Finance Committee bill regarding the oil and gas industry are not special exceptions—rather, the Senate Finance Committee bill clarifies the unique nature and unique risk of drilling for oil and gas. There is a distinct difference between the type of investment that is made in the hopes of reaping real production and earnings—as in the oil and gas industry—versus other passive types of investments that are made solely to produce losses for the specific purpose of offsetting other taxable income.

To obfuscate and confuse these true differences and to support this amendment would ravage our domestic energy production at a time when the industry is already at one of its lowest points in its history. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment the senior Senator from Oklahoma. I think he has done outstanding service in trying to help enlighten the American people as to what we are talking about.

When we discuss the working interest, I have heard the comment that this is a tax shelter. It is not a tax shelter to allow a business or an individual to deduct an out-of-pocket business expense if it is a loss.

I heard the Senator from Arizona say that we do not have the same thing in real estate. In real estate—and I have heard this complaint made by several people in that industry—if they cannot deduct their real out-of-pocket business expenses, their losses, then we have to make some changes to do so.

I think a lot of us will be addressing that in the near future. Maybe that can be addressed on the floor; maybe it should be addressed in conference. But a business person should be able to deduct real out-of-pocket losses.

I wish that in the oil industry we did not have those real out-of-pocket losses, but we do. In this industry, in the last few months, we have seen prices cut over 50 percent. I think everyone is aware of that.

Someone said the free market is at work. It is not the free market at work. It happens to be the Saudis who manipulated production. They wanted to increase their percentage of world exports and doubled their production, and prices have fallen by over half. Prices were around $30 for the last couple of years, and today in Oklahoma they are at $13.85—less than half of what they were.

Natural gas prices a couple of years ago were as high as $8, and today it is around $1. We have seen oil and gas prices plummet substantially. So we have real losses, and if we have real losses, we should allow those to be deducted.

I have heard the word "fairness" several times, that it is not fair. A lot of things are not fair in the Tax Code. One is that the oil industry is the only industry that has a windfall profits tax—the only one. There is no other industry today that has a windfall profits tax still on the books. The Government said it is going to take a substantial amount of money. In 1983, the windfall profits tax raised $12.2 billion. All the corporate income tax together was $37 billion. No other industry alone—no other industry, period—paid more taxes in 1983 and 1984 than the oil and gas industry. They are not paying the windfall profits tax today because prices have plummeted so low. So we do not have fairness.

Let us talk about the effect of this amendment. We have heard several Senators say that the rig count is now 686. That does not mean much unless you compare it to what it was. Six months ago, it was twice as high. We have the lowest number of active drilling rigs—that means actively searching to find oil—today than we have had since World War II. I will tell you what that means. It means that we will become dependent on foreign sources. We import now about one-third, but we are going to be importing substantially more. It took 3,000 or 4,000 rigs to keep our annual production level. Now we have a little less than 700 rigs, and it is falling daily. That means we will be sending more dollars overseas.

In my State of Oklahoma, we have 101 rigs running today. A few years ago, we had 880. We had more rigs running in our State of Oklahoma 5 years ago than we have in the entire country today.

The American people should wake up, because there is going to be a penalty paid, and that will be our dependency on foreign sources.

So I hope we will use some common sense and that we will think and that we will allow real out-of-pocket business losses to be deducted.

I thank Senator LONG for his fine work on this, as well as Senator BOREN and others.

At the appropriate time, I will move to table the amendment of the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes.

□ 1820

Mr. WEICKER. Mr. President, first I commend the candor displayed by the distinguished chairman of the Finance Committee, Senator PACKWOOD, and that of the ranking Democratic member of the Finance Committee, Senator BRADLEY, for indeed they state it very clearly one of the two reasons why someone should vote against this amendment. There are only two reasons.

One, clearly enunciated by the distinguished chairman of the Finance Committee, if this tax bill were to pass, then indeed this oil and gas exception had to be part of it in the commimttee and probably also on the floor. So if indeed that reason is so, fair enough, fair enough.

The second reason those Senators representing oil and gas States quite properly and very articulately presented their arguments on behalf of industries within their State, or argument, and supported it with sound and good fact.

Now, why should you vote for the amendment? First of all, just so my good friend from Oklahoma has no misapprehensions, and we have been good friends, I feel I have my credibility in this area not on the basis of the fact I chair the Small Business Committee, but 6 years while we went through the decontrol fight, for 6 years while the oil and gas States profited mightily, I kept on siding with them on decontrolling prices, feeling in the long run it would be in the best interest of my constituency, and indeed I was right and it has been in their best interest. But those were a very disagreeable 6 years.

The fact is, and I have heard the Saudis criticized for the problem that exists today, excuse the pun, you rode the tiger, you rode him up and the tiger is no longer up, he is coming down. You got onto him and you cannot get off of him.

Nobody wishes anybody unemployment in any of our States. But the fact also is that there are broad national policies to be achieved which again in the long, as I tried to teach the people in the State of Connecticut during the decontrol battle, in the long run will benefit all of us. And one of those great principles is fairness in our Tax Code.

You cite those of you who represent oil and gas States the element of risk and properly so.

I indicated earlier I chair the Small Business Committee, and in this bill you devastated the venture capital available for small business by eliminating the capital gains differential. By eliminating that differential there will be no venture capital out there for small businesses to start.

Everybody agrees with that. You have dried up the pool of available

capital for small business to start up in the United States by virtue of provisions of this Code and eliminating the differential.

I disagree with that. Many small businesses who have nothing to do with oil or gas or real estate disagree with that. But in the interest of fairness, in the interest of fairness, everybody agrees OK, as long as my neighbor is taking it on the chin I will take it on the chin.

So let us not mislead each other on the element of risk. Whatever additional rewards were specialized rewards in the past, we said the lower rates are there in order to supply more money, make more capital available. But this as indeed it is quoted in the statute itself presented to the body is over and beyond that. It is over and beyond that.

It is, as the chairman said, an exception. This is in the section called tax shelters and it discusses those passive activities and then exception for working interest in oil and gas property. It is an exception pure and simple, properly so for those who come from oil and gas States, properly so for those who want to see an overall tax bill, but not properly so in terms of what is a tax bill in a bill that calls for a radical restructuring on the basis of fairness and on the basis of simplification.

I have heard the national security argument used on oil. I understood that argument as I called for decontrol. I understand it today as I want to see the 55-mile per hour speed limit kept in place, as I think we ought to continue our conservation efforts, as we ought to go ahead and concentrate on more fuel efficient engines and smaller cars. I understand all of that.

But what is involved with this exception has nothing to do with national security. It has to do with the oil that is in the ground. And as was properly stated by the distinguished Senator from Arizona when the price goes up the exception does not go away. Indeed, the oil is there today if anybody wants to pump it. Do they want to pump it? Oh, no, they will plug the wells and go ahead and cap until the price goes up.

The provision in this code, the one that I oppose, called for a retroactive penalizing of these various interests, of these investments, of these various shelters. What could be more unfair than that? Someone who has already invested their money and the rules are going to be changed in the middle of the game so that they lose that incentive.

What could be more unfair than eliminating the incentive to give many small businesses all over this Nation the opportunity to start and to grow and to thrive? And let us not be misled by these little independents. You are talking about corporations that are in the billions. Small, sure compared to those in the top of the Fortune 500 but huge in relationship to businesses in every other field of endeavor.

If indeed we are not going to be vulnerable to OPEC, I will tell you what we ought to do, and this will be backed by the oil and gas industry. Go ahead and let us put a tax on gasoline. Let us go ahead and do that. There is a conservative measure and there is a tax that goes to the benefit of the whole country. Use it to reduce the deficit, just as this amendment, as you note, comes to you, not to spend the money on something else, but strictly to go ahead and eliminate the exception and reduce the deficit.

The distinguished chairman of the Budget Committee stood here and said we need additional revenues. Here you have them right here, to reduce the deficit, not asking you to take it from the oil States and give it to any other endeavor or section of the country, but take it to reduce the deficit and put our imprimatur as a body on the concept of fairness.

But there are no exceptions, whether it is for oil, real estate, Christmas trees. Go ahead. As industries, everybody is going to be treated the same.

That is the issue.

It is not national security. Maybe the issue is whether or not we can pass this tax bill. That is a matter of political clout, and I suspect I am going to get rolled on this amendment.

By the time you are through with those who want to see a tax bill pass and those who come from the oil-and gas-producing States, all of a sudden the issue of fairness, which is most dear to the little man, gets lost just as it is lost in this bill to small business.

Yet, I have not heard small business complaining. They said, "We will take our lumps," but I suspect when they see what is going to go on here this afternoon they will wonder why is not the mom and pop store just as important as the driller and indeed how many Americans are out there involved in this kind of an investment? This is nothing that benefits the individual American but it again underlines the point of clout, monetary clout.

Time and again I have heard the phrase used, "Well, it is a bad idea whose time has come," or "We have to have it if we are going to pass the bill."

How refreshing it would be to see something clear this place that did it on its own merits.

I hope that the motion to table will be defeated, that we will establish fairness for everyone in this Nation, that we agree when it comes to taxes there are no exceptions in terms of the matter that sets before us anyway so that at least for a year or so, for a year or so, what we pass has credibility, what we say has the truth behind us, rather than to come out of the starting gate yelling "fairness" and holding up the sign of fairness in the right hand while we deal out the exceptions with the left hand.

The PRESIDING OFFICER. All time has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished Senator from Hawaii may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1830

Mr. MATSUNAGA. I thank the distinguished majority leader.

Mr. President, I rise primarily to dispel a thought that debate on the pending amendment has fallen into two opposing camps; that is, oil-producing States versus non-oil-producing States.

As a Senator from a non-oil-producing State and as a member of the Finance Committee who cast the deciding vote in favor of the Boren amendment, I will vote against the Weicker amendment to strike for two reasons:

One, I voted for the Boren amendment because I feel that, under our federated system of States, whenever any State is in real trouble, the other States need to go to the assistance of that State. Oklahoma, and some of the other oil-producing States, are in real trouble today. We should go to the assistance of Oklahoma and the other oil-producing States which are today struggling to maintain their economic life.

Second, giving the needed assistance to the oil-producing States at this stage in their struggle to avoid economic disaster is in our national interest. Until such time as we are able to produce alternative energy to sustain the needs of this Nation of ours, we must keep producing that fuel, that energy, which is now the basis of our economy, and that is oil. For these reasons, I urge my colleagues to vote against the Weicker amendment.

The PRESIDING OFFICER. All time has expired.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD some material that indicates that the cost of this particular clarification is $1.4 billion over 5 years. The other matters mentioned would total up to $245.6 billion over 5 years.

So if we want equity, it will be in the RECORD for those to see it in the morning.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

According to the Joint Tax Committee's estimates of Federal tax expenditures.

Working Interest Rule

	Amount [1]
Tax credit for historic structures	8.9
Inside buildup on life insurance and annuities	33.2

	Amount [1]
Completed contract accounting	27.2
Tax credit for nonhistoric structures	2.5
Exclusion for employer-provided health insurance	161.9
Exclusion for group term life insurance	11.9
Total	245.6

[1] $1.4 billion over 5 years.

Mr. DOLE. Mr. President, if we really wanted to reform the Tax Code to make it neutral we could reduce the individual maximum rate to 23 percent, not 27 percent; and we could reduce the maximum corporate rate to 29 percent, not 33 percent and we could do it while still saving the mortgage interest deduction.

But we would have to do a lot more than repeal the working interest rule.

Mr. NICKLES. Mr. President, I move to table the amendment of the Senator from Connecticut and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma [Mr. NICKLES] to table the amendment of the Senator from Connecticut [Mr. WEICKER].

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS] and the Senator from South Dakota [Mr. PRESSLER], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 20, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—77

Abdnor	Exon	McConnell
Andrews	Ford	Melcher
Armstrong	Glenn	Moynihan
Baucus	Goldwater	Murkowski
Bentsen	Gore	Nickles
Biden	Gorton	Nunn
Bingaman	Gramm	Packwood
Boren	Grassley	Pryor
Boschwitz	Hart	Quayle
Bradley	Hatch	Riegle
Bumpers	Hecht	Rockefeller
Burdick	Heflin	Roth
Byrd	Heinz	Sasser
Chafee	Helms	Simon
Chiles	Humphrey	Simpson
Cochran	Inouye	Specter
Cranston	Johnston	Stennis
Danforth	Kassebaum	Stevens
Denton	Kennedy	Symms
Dixon	Kerry	Thurmond
Dole	Laxalt	Trible
Domenici	Long	Wallop
Durenberger	Lugar	Warner
Eagleton	Matsunaga	Wilson
East	Mattingly	Zorinsky
Evans	McClure	

NAYS—20

Cohen	Dodd	Hollings
D'Amato	Harkin	Kasten
DeConcini	Hatfield	Lautenberg
Leahy	Mitchell	Sarbanes
Levin	Pell	Stafford
Mathias	Proxmire	Weicker
Metzenbaum	Rudman	

NOT VOTING—3

Garn	Hawkins	Pressler

So the motion to lay on the table amendment No. 2073 was agreed to.

□ 1850

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, if we could have the attention of our colleagues——

The PRESIDING OFFICER. Will the Senate please be in order?

Mr. DOLE. Mr. President, I wanted to indicate to my colleagues I have discussed with the distinguished chairman of the committee, Senator PACKWOOD, the schedule for the remainder of the day. He would like to continue this evening. We are making progress. I believe there are amendments which are ready to be proposed. Hopefully, we can speed up some of these amendments. The last amendment took 4 hours. The vote was 78 to 18, or something like that. Perhaps we can speed up the amendments.

As I understand, the chairman is prepared to go to 10 o'clock or 12 o'clock tonight.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. FORD. Mr. President, would the distinguished Senator from Washington give me 1 minute?

Mr. EVANS. Yes.

The PRESIDING OFFICER. The Senator from Kentucky.

KENTUCKY BABY NEEDS A HEART

Mr. FORD. Mr. President, the national media has focused in recent days on the plight of Baby Jesse, a California infant that needed a heart. A heart was found through that publicity, hopefully saving that precious young life. However, I feel a need to bring an infant in Kentucky to the Nation's attention. This baby, suffering from a fatal heart disease, was born the same day as Baby Jesse, and has been on the nationwide organ-recipient list since May 31.

The infant at Kosair Children's Hospital in Louisville is known simply as Baby Calvin. Doctors there say he suffers from the same disease that afflicted Baby Jesse, and that about 95 percent of infants born with the disease die before they are 2 months old. According to physicians, Baby Calvin "could die at any time" and has a few weeks at the most unless a donor heart is found.

Mr. President, in light of Baby Calvin's condition, I felt it my duty to mention this dire situation in hopes that a heart can be found.

Mr. President, I ask unanimous consent that an Associated Press story related to Baby Calvin being No. 1 on the list of heart recipients be printed in the RECORD.

I think it is important that if the publicity is going to help an infant, I ought to do my best here this evening.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BABY CALVIN

(By Janet Cappiello)

LOUISVILLE, KY.—The family of a baby with a fatal heart disease whose name was ahead of Baby Jesse's on a nationwide organ-recipient list is agonizing that their decision to stay anonymous may have been wrong, officials say.

"They may feel the reason they are not being chosen is because they didn't have someone call directly about them, or they haven't been on the news, they haven't been in the newspaper and maybe they need to do that to get a transplant," Nan Hamlyn, who coordinates the University of Louisville's organ-procurement agency, said Wednesday.

The infant at Kosair Children's Hospital, known simply as Baby Calvin, suffers from the same disease that afflicted Baby Jesse, said Dr. Constantine Mavroudis, the surgeon who will perform any transplant.

Both were born with hypoplastic left heart syndrome, a congenital defect that does not allow the left side of the heart—the main pumping chamber—to develop properly.

About 95 percent of infants born with the disease die before they are two months old, Mavroudis told a news conference Wednesday night.

He said Baby Calvin "could die at any time" and has a few weeks at the most unless a donor heart is found.

The 3-week-old infant has been on the nationwide organ-donor network since May 30, before Baby Jesse's name was added. Both babies were born May 25.

Jesse received the transplanted heart of a brain-dead Michigan infant Tuesday night in a flurry of nationwide publicity. The heart was donated after the parents heard TV news accounts of Jesse's parents' pleas for a heart transplant for their infant.

Loma Linda University Medical Center in California initially refused to schedule a transplant because it didn't believe Jesse's unwed parents could care for him properly after the operation.

"They (Calvin's parents) are frustrated. They wondered, too, if they would go public and divulge their names and say they are waiting would that help? Their main interest right now is their baby," Hamlyn said.

The heart donation for Baby Jesse apparently was handled directly between hospitals rather than through the organ-procurement network, she said. Mavroudis said the heart that went to Baby Jesse would have been "a good candidate" for Baby Calvin.

The Grand Rapids, Mich., doctor who arranged to donate the heart of Frank Clemenshaw IV to Jesse said Wednesday that the parents specifically asked that it go to him. He also said he didn't know that Calvin had been on a nationwide transplant list first.

Mavroudis said Baby Calvin's parents are electing to remain anonymous and work within the organ procurement system.

"We assume that the network will work," Mavroudis said. "I don't know what happened or whether there were any other appropriate reasons why that heart went to (Baby Jesse) and not here."

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2074

(Purpose: To allow a taxpayer to elect to deduct either State and local income taxes or State and local sales taxes)

Mr. EVANS. Mr. President, I will shortly send an amendment to the desk. Before I do, I would like to take this moment to express my sentiments, which I am sure are shared by virtually everyone in this Chamber, over the remarkable work of the chairman and the committee in bringing to the floor a tax bill of this magnitude, a tax bill that is so evenly spread for the most part in terms of its effect on the citizens of this country. It does simplify it, it does lower rates remarkably. It does allow people to make decisions based on economics rather than tax purposes. For all of that, I share the gratitude of many millions of Americans who, when this tax bill is passed, will reap its benefits.

That does not mean that I felt at the beginning, when the bill came from committee, that it was perfect. Mr. President, I doubt that anyone in this Chamber feels that the bill is perfect.

I have shared the responsibility, along with many others, of attempting to keep this bill from being amended, amended in a way which would seriously jeopardize some of the balances which have been introduced into the bill. I share very much the desire of those who would keep the bill largely intact as a strong message to the conference committee and to the House of Representatives and to give the best possible chance of being signed into law.

With that, Mr. President, I do feel that we have devised an amendment that corrects an inequity which, perhaps of necessity, crept into the bill, but which we believe we can correct and correct without doing damage to any part of the bill or the elements that the coalition so rightly wish to protect.

With that, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and Mr. GRAMM, Mr. GORTON, Mr. LAXALT, Mr. ABDNOR, and Mr. PRESSLER, proposes an amendment numbered 2074.

Mr. EVANS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1415, beginning with line 6, strike out all through page 1416, line 4, and insert:

SEC. 135. ELECTION TO DEDUCT STATE AND LOCAL INCOME TAX OR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Paragraph (4) of section 164(a) (relating to deduction for taxes) is amended to read as follows:

"(4) At the election of the taxpayer, either—

"(A) State and local income taxes, or

"(B) State and local general sales taxes."

(b) SPECIAL RULE FOR TAXES IN CONNECTION WITH ACQUISITION OR DISPOSITION OF PROPERTY.—Section 164(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN NONDEDUCTIBLE TAXES.—In the case of any tax which is paid or accrued by the taxpayer in connection with the acquisition or disposition of any property and with respect to which no deduction is allowed under this chapter, such tax shall—

"(A) in the case of the acquisition of property, be included in the basis of such property, and

"(B) in the case of the disposition of property, allowable, as a deduction in computing the amount realized on such disposition."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 164(a) is amended by striking out "State and local, and foreign," and inserting in lieu thereof "Foreign".

(2) Section 164(b)(2)(D)(ii) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(4)(B)".

On page 2267, strike out lines 8 through 13, and insert:

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which—

"(i) is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer, and

"(ii) was incurred—

"(I) in acquiring, constructing, or rehabilitating or improving such qualified residence or another qualified residence of the taxpayer,

"(II) to pay for expenses for medical care (as defined in subparagraph (A) or (B) of section 213(d)(1)),

"(III) to pay for expenses of the taxpayer or a child of the taxpayer for tuition and books at an institution of higher education (within the meaning of section 3304(f)), or

"(IV) to refinance any indebtedness described in subclause (I), (II), or (III) to the extent the principal amount of the indebtedness does not exceed the sum of the principal amount of the indebtedness being refinanced and the cost of such refinancing.

Mr. EVANS. Mr. President, very simply, in our drive to simplify the tax system, we have reduced in many, many ways the opportunity for citizens to deduct from their adjusted gross income various elements that would reduce the taxable interest on which they would ultimately pay taxes. We have eliminated many of those deductions because in trade for it, we were able to reduce the marginal rates of taxation and reduce them radically. However, in the process, we did not allow citizens of this country across the board to deduct the local taxes they pay in all respects. We gave to citizens of every State, and all 50 States do have property taxes at the local level, the chance to deduct those property taxes. We gave the citizens of those States which have local and State income taxes the opportunity to deduct these income taxes. We did not give to the citizens of any State the opportunity to deduct the sales taxes they pay.

This may sound like a small thing, but it is not small at all in a State like Washington which has no income tax, which depends very heavily on a sales tax for the basic support of State government and which, incidentally, is one of the two or three highest States in the Nation in the State support of its common school education system. That basic support in Washington comes largely from the sales tax. I think it is grossly unfair to ask that the citizens of this State bear the burden of local government—education, all of the services of their cities and counties—and not be able to deduct from their taxes the same kinds of revenue that are provided for the same benefits in other States. The fact that citizens in other States can deduct their income taxes is just fine. We ought to have that same privilege in Washington.

This amendment would merely give taxpayers of all States a choice: Either to deduct their sales taxes or to deduct their State taxes, but not both. In States like Washington and seven others which have no income tax, obviously, sales taxes would be deducted. In half-a-dozen other States where the income taxes are very small or limited, most citizens would clearly deduct sales taxes. In a few States that have no sales tax at all but all income taxes, obviously the citizens would deduct those. In many States, citizens would probably split, some opting for the income tax, some for the sales tax.

This would correct at very small cost a gross inequity in the tax bill and I think make it a better bill and not do damage, in my view, in any respect to the goals the managers of this bill seek and that the members of the Finance Committee so rightly have tried to protect.

Obviously, it does not come without cost, $3.3 billion over 5 years. That is small but still noticeable and we have chosen to finance it through what the staff and experts on the tax committee tell us is a responsible and worthwhile addition to the Tax Code. I shall not detail that but allow my colleague from Texas to do so.

I believe this opportunity to give people a chance to take their home mortgages, to refinance them and

then use the proceeds to buy nonreal-estate oriented goods—in other words, to take an additional mortgage out on your home, buy a boat, buy a car—and deduct the interest payments on that additional mortgage is a privilege we will not allow in the new tax bill to a person who goes in and gets a consumer loan and buys that same boat or that same house. I think what is fair for one ought to be fair for the other. I believe this amendment will accomplish that. It will raise precisely the amount of money necessary to balance this in the true spirit of Gramm-Rudman and our balancing act that we must maintain.

Mr. President, I believe this is a responsible amendment that should have the support of virtually every Member of this body.

Mr. GRAMM. Mr. President, I am delighted to join with my colleague from Washington [Mr. EVANS] in cosponsoring this amendment. This amendment tries to deal with what I perceive to be the largest inequity in this bill. That inequity does not come from any design. It simply resulted in the legislative process where two types of State and local taxes were allowed to be deducted but the third type of State and local taxes was not.

I submit that there are few in this body who believe that the Federal Government should be picking and choosing among State and local tax sources in terms of deductibility. I submit that most of our colleagues, on the basis of fairness, would say that they ought all to be deductible or none should be deductible. We have ended up with an unfair provision that says that property taxes and income taxes at the State and local level are fully deductible but sales taxes are not. That greatly discriminates against States that have large sales taxes but not large income taxes. I do not believe that this is what Congress intended when it aimed at being fair

The amendment we have submitted seeks to deal with that program by allowing individuals in any State to decide whether they want to deduct income taxes or sales taxes. It does not completely correct the problem but it eliminates the largest amount of inequities that occur especially in States that use high sales taxes but have virtually no income taxes.

The cost of this modification is about $3.3 billion, whereas simply repealing the provision of the bill that precludes sales taxes would cost about $17 billion over a 5-year period. We think that this is a moderate amendment, a reasonable amendment, and we are hopeful that it will be adopted.

How do we pay for this amendment? As we all know, a point of order lies against an amendment that would raise the deficit, so we seek to pay for it by closing what I believe is an unintended loophole. There is no basic principle in tax law that is more supported by the American people than the principle that you ought to be able to deduct interest on your home from your taxes. We have taken a position that home ownership is something that we want to promote, that that is an objective of our tax policy that is strongly supported, and it is reflected in this bill by the fact that you can deduct your mortgage interest payment on a first and second house, a primary and a secondary residence.

There is, however, an unintended loophole in the bill. This loophole allows an individual to go out and get a second mortgage and buy a boat or a fur coat or go on a vacation, loans that if obtained specifically for those purposes, would not have the interest deductible. What we do in this bill is close that loophole by allowing interest on the mortgage on one house, the primary house, and interest on mortgages on the second house to be totally deductible so long as those mortgages are for the purposes of buying, constructing, rehabilitating or improving a qualified residence, or to purchase another qualified residence.

□ 1910

So that so long as the mortgage is for the purpose of buying one or two houses, so long as it is for the purpose of constructing, rehabilitating, and improving a qualified residence, then it is fully deductible. We also have a provision which allows an individual to borrow against his home for medical purposes or for funding education for himself or his childen. But we specifically disallow the interest deduction on mortgages that are aimed for other purposes.

I believe, Mr. President, that this improves the bill quite aside from eliminating the unfairness of not allowing sales taxes to be deductible at the same time that we are allowing income taxes and property taxes to be deductible. We close a loophole that will be subject to great abuse as people fund auto purchases, vacations, and even their credit cards by tying it into their mortgage loan. That is not the intention of this bill in terms of allowing mortgage interest payments to be deductible, and I believe by closing that loophole we greatly improve the bill.

So the objective here is to eliminate an inequity in the bill that does not allow taxpayers in States with high sales taxes to deduct those sales taxes whereas taxpayers in States with income taxes and property taxes can enjoy those deductions.

This bill partially eliminates that inequity by allowing a taxpayer to choose between sales taxes and income taxes and for those States that have high sales taxes and virtually no income taxes it supplies some relief.

Second, we fund it by closing an unintended loophole in the mortgage interest deduction that will allow people to borrow against their home and to deduct interest on loans that are in effect for automoblies, for vacations, for other uses that would not be under this bill tax deductible in terms of the interest payment.

I urge my colleagues to support this amendment.

Mr. BOREN and Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, at the outset of the debate on this historic tax reform proposal, the distinguished senior Senator from New Jersey, who is present on the floor at this time and who can perhaps properly claim to be the Senate father of the tax reform idea, made an eloquent statement on behalf of the whole bill before us. He has emphasized most strongly not only the positive economic impacts of the bill but its essential fairness. It is, of course, the question of fairness and the question of the perception of the American people of the lack of fairness inherent in our present tax system that has brought us to this debate.

The distinguished senior Senator from New Jersey pointed out that one of the principal goals of this bill was to ensure that every American citizen paid his, her, or its fair share of our tax burden.

(Mr. GRAMM assumed the Chair.)

Mr. GORTON. One element in this bill, however, is very clearly not fair. It is that element which this amendment seeks to correct. It is not fair to tell the citizens of one State that they may deduct on an individual return all of their State tax payments, 100 percent of them, and to the citizens of another State that they may take no deduction whatsoever for the principal tax which they pay, a tax which is for identical purposes as those of the taxes paid by citizens of the first State—for schools, for colleges and universities, for institutions, for parks, and the like. It is simply unfair to tell the people of my State and of the State of the distinguished Presiding Officer and others that they are going to be treated differently and in a discriminatory fashion.

If this bill should pass unchanged, taxpayers in precisely the same situation with precisely the same incomes and standards of living in one State will pay substantially greater taxes than in another because in the first State they are not permitted to deduct their principal State tax and in the second they are.

That is not fair. It is not an appropriate element in a fair tax bill.

The specific deduction for State sales taxes is, Mr. President, the most popular of all present deductions in the income Tax Code. It is utilized by

more taxpayers than the number who utilize charitable contributions, property taxes, or even interest on home mortgage loans.

As a consequence, we are attempting to cure at least the worst of the inequities which are present in this disparate treatment of State taxes in the present bill. We do not, I regret to say, cure all of them. We do, however, offer to the citizens of every State at least the opportunity to deduct the principal tax which they pay for the general support of State government. It will benefit citizens in more States than the handful represented by those members whose States have severe or heavy sales taxes and no income taxes at all. Even in States in which the burden of the income tax is greater than that of the sales tax by margins of 2 or 3 to 1, there will be a number of individual taxpayers who, for one reason or another, pay more in sales taxes than in income taxes and will therefore be benefited by this proposal. My rough guess is that some citizens in at least 35 States will be benefited by the proposal in addition to its greater equity, and no individual citizen is going to be disadvantaged with respect to this State tax deduction.

I want to make one other important comment in connection with this debate, Mr. President. In addition to its most fundamental fairness—both the Senator from Texas and my own colleague from Washington have emphasized what they think is the most important part of this, fairness—citizens should not be discriminated against on the basis of where they live and on what kind of tax systems their States have adopted. Nevertheless, there are some who have been in the coalition who would like to restore the complete deductibility of all State taxes who are restless with this provision, this partial restoration.

My very, very good friend, the Senator from New Mexico, who is present, is among that group. So is the very distinguished and eloquent senior Senator from New York. I simply want to say that the adoption of this amendment by the body which removes most of the unfairness inherent in the current bill will not reduce my commitment to them to see to it that all taxes, all State taxes from the perspective of their deductibility are treated equally by the time we, the conference committee and both Houses finish their debate on this bill. My commitment to that coalition is not finished.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. GORTON. I will yield for a question from the Senator from New Mexico.

Mr. DOMENICI. I would ask my good friend from the State of Washington if he has any idea who made the following statement and when:

Elimination of any one tax deduction would have an uneven effect on taxpayers among the States. In addition, since States and local governments would likely increase reliance on the remaining deductible taxes, disallowing deductions for particular taxes is likely to lead to sizable distortions in State and local revenue mixes. For example, allowing only the sales tax deduction might force a State like Washington that relies heavily on general sales taxes but does not have an individual income tax to adopt one.

Might I tell the Senator that that was stated by President Ronald Reagan in May of 1985 when he sent the tax reform package to the U.S. Congress for our consideration. I think the Senator is making that exact point tonight. I chose it because in addition to making the point for all of us, the President chooses Washington to refer to since it is a State that in the spirit of federalism does not have any income tax. That is its prereogative, as I understand it. The President was totally cognizant of the potential unfairness of eliminating the sales tax. He used a very mild word, would treat States "unevenly" and would cause distortions. We think it has a much worse effect than "unevenness."

□ 1920

We think it is unfair. We do not think it is fair at all for States with no income tax, States like mine with 3 percent reliance upon sales tax, to find ourselves in the position on the floor with a good bill, good for all America, strangely enough not as good for the residents of some States as for the residents of others. That is basically unfair, as we see it.

I gather that the Senator agrees with the Senator from New Mexico.

Mr. GORTON. I am delighted that the Senator from New Mexico did not require me to answer his question but gave me the source of the quotation, which is obviously correct, and which comes from the most prestigious source, the President of the United States.

Suffice it to say that the position taken by the Senator from New Mexico is entirely and completely correct.

Mr. DOMENICI. Mr. President, obviously the Senator from New Mexico rises in support of this amendment, although I must say to the Senate that it does not do total fairness to my State. The right to choose means you can choose the deductible tax as between income and sales in your respective State. The right to choose permits you to deduct the larger of those two items from the standpoint of your Federal return.

Nonetheless, it is better than nothing, and it is better than what we have in the bill before us. It does not cost a lot of money. I am not fully familiar with how the money is made up in this amendment. I understand it to some extent. I do not pass judgment on whether that is the best way to pay, in a tax sense, for this right to choose, which is what we have encapsulated in the measure that the distinguished presiding officer introduced along with other Senators. I join as a cosponsor.

I see no reason why we should end up with a tax reform package, when we are finished here and finished in the House, and bring it back to the U.S. Congress for their final OK, and off to the President—I see no reason why we cannot treat all the States and their particular taxes—property, sales, and income—exactly the same. Treat them all at 100 percent. I think fairness is to give all those kinds of local taxes 100 percent OK.

Frankly, we are going to hear, by those who are opposed to this—not on the real estate tax part, not on how we pay for it, but on the basic amendment—we will hear all kinds of arguments; that a lot of people do not take the sales tax deduction. We will hear arguments that it is a deduction for the rich. We will hear that it is not used very much in the country.

I will guarantee you that for people in my State, that is unconvincing. It means they are going to be paying more taxes to the U.S. Government for the same income as compared with one of their friends 300 miles away in the State of Colorado or the State of New Hampshire or perhaps up the road in Oregon. I am not sure that each of those benefits within the original bill, but surely they are going to have friends and neighbors somewhere who will have the same income and same deduction yet be treated differently by the U.S. Senate.

I was prepared to talk about how many people use it, if it is said that it is something we ought not worry about. I have all those numbers.

If you think the charitable deduction as an itemized deduction is an important one, less claim it than claim the sales tax! If you take the particularly sacred one, deductibility of interest on your home mortgage, is an important one, less people, in terms of tax returns, claim it than claim sales tax. If the argument is going to be made that people do not keep good enough records and therefore cannot take it, at least we should give them the opportunity, under this new law, to see what is important for them.

In addition, those who do not keep records use the little table that the Treasury Department gives to each taxpayer. We use it, and I am sure a lot of people use it. It probably is too stingy that is why they chose it. If you do not save your receipts and documents, they give you a table they are sure is right, but obviously you are entitled to more. Maybe the answer to that is to seek a better table from the Treasury Department for taxpayers so

that they will be able to deduct a more realistic percentage of the gross income in terms of sales tax.

So I am going to vote for this, but ultimately I intend to bring to the Senate a resolution that says to the U.S. Senate: "When you go to conference, we expect real fairness when you finish this bill."

I say here tonight that half a loaf, or a little more than half a loaf, depending upon how you look at it, is obviously better than none. But I do not see that as a victory. I see that only as a signal that we are ready, even in the most rigid of amending circumstances, to move one step toward it. It is better than nothing, sending a clear signal that we do not like the unfairness of saying to New Mexicans, "You can't deduct a local tax," but saying to someone else, a State that has only income and property tax, "Yes, you can; it is more important to you."

I hope nobody stands up tonight and says to the U.S. Senate: "We think we want to tell the States what to do. We do not like a sales tax." Would that not be something? Here is a body claiming Federalism. It got its very birth by saying that we get two Senators from each State, and that the States should be represented here. What did that mean? That meant that at least we wanted to recognize the basic principles of Federalism.

The bill before us does not do that. The amendment corrects it halfway—not as far as it ought to be, but sends a nice signal that we are not satisfied with this.

It will help the State of Texas, the State which the distinguished occupant of the chair represents, because they do not have any income tax. It will help the State of Washington because they do not. So, when they make this choice, they are obviously choosing the only local tax they have. We all get property taxes. That is good. I am on their side. We have won a victory for those States, but a lot are left out even by this amendment.

With reference to why we put local tax deductibility as a concept in the bill at all, we did not put it in there just because we like to let people take deductions. There has to be some reason for it, some philosophy for it. Obviously, the philosophy is that we do not want to make it harder for our States to provide police protection, to provide education which they pay for with local taxes. About 91 or 92 percent of all the education dollar comes from property, sales, and income taxes at the local level. We do not want to make it harder when the taxpayer says: "We don't want any more taxes. We want them lowered, because we can't deduct them anymore"; or, the next time you need an increase in some State, we do not want the taxpayers saying, "We don't want to vote for school money because we can't deduct it anymore."

The opposite of that is that we want to make it as neutral as possible, consistent with what we have been living with for the last three or four decades, for local initiatives, local objectives, and needs to be solved with local taxes.

□ 1930

Is that not right? I believe the answer is, "Yes."

If the answer is "Yes," why do we do that for part of the States of the Union, part of the activities out there? As a matter of fact, for some States we say "Right on; you get the whole thing because you chose not to have sale tax." But for those that have a sales tax we are saying: "That is the wrong philosophy. You do not count. We leave you out."

I just do not think that is fair.

Ultimately, because we are all interested in the tremendous reform in this bill. It is a gigantic step toward simplicity and fairness which are the cornerstones of our tax system. Without it we are not going to get people complying and paying. This is sometimes referred to as broadening the base. While this Senator congratulates those who put the bill together, and while he intends to vote for it on final passage, I think it has a major flaw. I really believe that in spite of all of those things that are said about this bill, this basic bill before us, there is a major flaw. It takes on an air of unfairness and for anyone to stand up and say, "But, you know we treated alcohol tax out there in the States differently, or we treated gasoline tax differently." That is not really the issue.

The three basic tools for paying for the urgent local services, including education, are property, sales, and income taxes.

So I hope that everyone will join in this. If they cannot vote for this amendment, vote for the resolution, but in the end when this thing gets wrapped up and we are saying we have completed our work, sending a bill off to the President, let us get rid of the one bad, bad stigma attached to it, that a number of States in the Union and their citizens are treated unfairly in what is otherwise an eminently fair bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. EVANS. Mr. President, will the Senator from Oklahoma yield for just 1 minute to make a technical correction?

Mr. BOREN. I am happy to yield.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I ask to modify my amendment on line 1 in the instructions where it refers to page 1415 beginning with line 6, it should be line 10 rather than line 6.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I have listened with great interest to the comments just made by our colleague from New Mexico and the comments made earlier by the Senators from Washington.

I understand what they are saying, and I am a strong supporter of the Federal system.

I hope that we will find a way in the conference committee to deal with this particular problem.

Before my colleagues rush to vote for this amendment, I hope they will very carefully examine how the provision is being paid for. It is in the manner in which it is being paid for that causes me grave concern.

Part of the revenues raised to pay for this provision would limit the right of homeowners to deduct their home mortgage interest payments. If a homeowner decided to refinance his home for one reason or another, he would then be limited in deducting additional interest payments on the amount that he had refinanced, the additional financing, the additional borrowing against his home, unless he was using that additional amount of money which he financed on his home solely for medical expenses or for the college education of his children.

One of the most important assets that any American has is the equity which he has or she has in the family home. Millions and millions of Americans, in essence, have their life savings in the equity represented in the value of their home.

I do not think it would be right for us to sit here and try to anticipate every single emergency that might arise in the life of a family. If an American has invested in that home, used the equity in that home as his principal means of savings, then I think whatever the emergency, he should be able to use that savings pool. He may have to refinance his home. Perhaps it is not just to educate his children or pay for some medical expense. Perhaps his parents, who are senior citizens, need additional financial help. So he has to go back in and refinance the family home in order to borrow additional money to meet those family responsibilities.

In this day and time, it is hard for younger people to afford a home. Perhaps the son or daughter in that family gets married. They are getting ready to try to buy a home. The parents decide to refinance their home in order to take some of those savings that they have in equity value in that home and help their children come up

with a downpayment on a home of their own.

Perhaps that homeowner operates a small business in some area of the country which is undergoing economic stress. They are about to lose that small business. They are about to be forced to close its doors. So they decide to refinance the family home to come up with a little bit more money out of that equity value of the home so they can keep that small business alive and perhaps employ their one or two employees.

There is no way in the world administratively that you can make something like that work.

While I am very sympathetic to the points that have been made, and as a former Governor I am sympathetic to the argument, and I hope the conference committee will be able to do something about it, that we allow the revenue base of the individual States to remain intact, that we treat citizens of one State the same as we treat citizens of another State, I am very sympathetic to all that. I must say with all honesty I am very concerned about the way this amendment is being funded and I am very worried that we are going to create undue problems for millions and millions of Americans who have allowed the equity value of their homes to increase and who regard that as the savings pool on which they could draw in case of an emergency.

There are all sorts of reasons why an individual citizen might decide to refinance his home. Yet under this bill even though the equity value of that home represents the principal savings for millions of Americans, if this amendment were adopted, we would say if you refinance your home, you can no longer deduct the interest that you are paying on the additional amount beyond the original purchase price that you are refinancing except solely in the cases of borrowing that money to educate your children or to pay additional medical expenses.

I do not think that is wise. I think that is an undue restriction on the ability of the American people to dip into their savings represented by the equity value of their home. I also think we are creating——

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. BOREN. I will yield in 1 minute. I also believe we are creating a nightmare from an administrative point of view. We know that the Government only has the ability to audit a certain portion of the returns, perhaps 1 percent.

How in the world are we ever going to enforce a mechanism which limits the reasons for which people can refinance their homes in this country? How is it ever going to be workable? If you audit that particular return, how are you going to prove that the expenditure was for the education of the child or medical expenses if there is indeed another list of 10 other major items of expenses in that family, that the additional borrowing was for that purpose rather than for another purpose?

If they have borrowed money by refinancing their home but they are also paying on an automobile, they are also paying, let us say, out on the small business they are trying to buy, they are sending $1,000 a year back home to their elderly parents to help them, how in the world are you going to tell that that additional borrowing was for the purpose of education, if they are also educating their children as opposed to buying an automobile or making a payment on their small business or helping their parents?

I do not think we should sit here in Washington and tell the American people how they should use their own savings. That is going to discourage people from owning homes and having equity value in homes in the future, and I do not think that is something we want to discourage.

I am happy to yield to my colleague.

Mr. SYMMS. Mr. President, I want to first compliment my colleague on the committee for a very excellent, and I think a good description of the situation. He makes the point that money is fungible and it is going to be an absolutely impossible task for any auditors to figure out what people do with this money. I think that is the question.

The first question I wanted to ask was that one. The Senator made the point very well and I compliment him.

In addition, this amendment is unfair to homeowners in all 50 States, which is really the point the Senator is making. It is unfair to homeowners in all 50 States to pay for it the way this amendment does.

I happen to be from a State that has a sales tax, we have an income tax, and a property tax. So we have an evenly distributed taxing system. I am sympathetic, as the Senator knows, on the States' rights question.

However, if we are going to amend this bill to raise revenue, would the Senator not think that the revenue should be used to reduce rates for all Americans, instead of trying to just specify a few people in a few States?

□ 1940

(Mr. EVANS assumed the chair.)

Mr. BOREN. I would agree with my colleague. I appreciate his question.

I think he is also very right to emphasize the point that in paying for this amendment, we are really being unfair to the homeowners in all 50 States. We are talking about all Americans who own homes who are going to be potentially impacted by it.

Mr. SYMMS. If we take away that deduction from homeowners, that privilege of having that savings pool, we ought to distribute it to all taxpayers.

Mr. BOREN. Well, I think the Senator is absolutely correct. And I know that the Senator from Idaho, from his record here in the Senate, has been opposed to undue intrusion by Government into the personal affairs of American citizens in the first place.

For us to sit here and say we cannot anticipate, as a congressional body, every kind of financial emergency that any American citizen might have and then say that that citizen can only use the savings represented by the value of his home in certain very limited circumstances, I think is absolutely the wrong thing for us to do.

There are all sorts of socially beneficial reasons why a citizen might need to borrow against the value of his home, might need to refinance that home in order to take care of a particular urgent problem that that citizen might have. I do not think we should limit the right of a citizen to do that. I think it would be very unwise.

I am very sympathetic to the problem that has been raised here, but I do not think this is the way to solve it at all. I hope that my colleagues will take the time to read the fine print and to understand the problems that are being created by this amendment. In order to solve one problem, we are creating additional problems that I think are far more severe and we are creating another layer of bureaucracy. We are creating another unauditable feature in the Tax Code, an additional complexity, at the very time in which we are trying to move toward fairness and simplicity in a system that will work.

I urge my colleagues to carefully read this amendment. On the surface, there might be many reasons why we would be sympathetic for it, but I think, when we read the fine print, we will see it will not be in the national interest to adopt it.

Mr. GRAMM. Mr. President, let me first straighten a few things out. If you own a home, you can borrow money against that home for any purpose. There is nothing in this amendment that in any way limits the ability of a person to borrow money against their home.

But let me go back and clarify what the ability to deduct your mortgage interest payment is about. This bill sets out very strict limits on what interest payments are and are not deductible. And one of the areas where it is very specific is that consumer interest payments are not deductible.

Now, what this amendment says is this: If you borrow money against your home to buy a second home, to improve your home, to rehabilitate your home, to add on a bathroom or a porch, to in any way improve your

home, then the purpose of the loan is home ownership, home improvement, and that is what we are giving a tax deduction for.

But let me remind my colleagues that no sooner had this bill been crafted to eliminate the ability to deduct consumer interest—an important principle of this bill—than we started seeing ads in newspapers and hearing them on the radio about how you can borrow money against your home for all kinds of purposes that are not tax deductible and those loans will be tax deductible.

Now, I ask my colleagues: If our purpose in allowing interest payments on homes to be tax deductible is to encourage home ownership, and clearly it is, then, that is a principle we all agree on. When we were considering tax reform, no one seriously proposed eliminating the mortgage interest deduction.

When this bill specifically precludes consumer interest from being deductible, when this bill specifically precludes you from going out on your American Express and buying a fur coat and deducting your 18½-percent carrying charge, why should we allow a loophole to exist where people get a second mortgage against their home to pay off their American Express card? If the objective of the mortgage interest deduction is to encourage home ownership, why should we subsidize fur coat purchases? Why should we subsidize loans for vacations simply because the home is used as collateral? What sense does that make? Is that not a perversion of what the whole ability to deduct mortgage interest is about? I believe that it is.

In fact, Mr. President, we have already seen advertising in newspapers pointing out that, under this bill, you will be able to use your home as collateral and make consumer interest deductible—something that is specifically prohibited in this bill.

So let me clarify to my colleagues what this amendment does and what it does not do.

No. 1, this amendment in no way lowers the value that you have in the Tax Code of your ability to deduct your mortgage interest payment. If your objective is to acquire, to construct, to rehabilitate, or to improve a home or to do the same things with a second home, the mortgage interest rate deduction is in every way preserved by this amendment.

No. 2, this amendment, in an effort to be fair and reasonable, adds two exceptions that have nothing to do with mortgage interest but to try to cover those emergency situations: medical care expenditures and the taxpayer's expenditure for himself or his children for education.

If somebody goes out and gets a second loan to go on a vacation and they cannot go to the bank and borrow the money to go on a vacation to deduct the interest, then why should we allow this loophole to exist where interest payments for a vacation will be deductible because a home is used as the base against which to borrow?

Now I go back to the point of the distinguished Senator from Oklahoma. Obviously, people ought to be able to mortgage their homes anytime they want to. People have a home as an asset. We do not disagree with that.

But the question is: Should that home, as an asset, when a loan is made against it, should that loan have its interest deductible? What we are attempting to do in this amendment is to close a loophole that was clearly unintended, that loophole is clearly going to create tremendous abuses as people try to get around the provisions of this bill that was agreed to by a vote of 20 to 0 coming out of committee. This provision forbids the deduction of interest payments on consumer credit. Unless this loophole is closed, people will be able to use a phony home mortgage to get the interest rate deductible.

So not only are we trying to provide equity here, in terms of not treating people in Texas, in Washington, and a dozen other States as second-class citizens because they choose sales tax over income taxes, but we are also closing a loophole in the bill that simply cries out for abuse and that is so evident that we are already seeing advertising as to how people can beat the intent of this bill by using their home as collateral and, in essence, deduct interest rate on consumer credit.

Finally, the question has been raised about enforcement. We have met today with the Treasury Department. They have assured us that they can enforce this provision. In fact, we already have precedent in law. For example, under section 461(g), if you go out and acquire a home, you can deduct the points on your mortgage from your income this year in calculating your taxes if the purpose of the loan is to acquire or to improve a home, exactly the principle set out in this amendment. But, on the other hand, if the mortgage is for some other purpose, then you have to amortize the points over the life of the loan, the principle being basically the same, the enforcement procedure being basically the same, requiring the person who claims the credit to demonstrate what the credit is being used for, to, in fact, prove that the interest payment is coming about as a result of an effort to buy a home, to improve the home, or for these two other minor purposes.

□ 1950

So I submit to our colleagues in the Senate that the objective here is not to limit your ability to use your home as an asset against which to borrow. That is not the point. You can use your home as an asset to borrow against. But if the borrowing is for a nondeductible purpose you cannot, simply by getting a second mortgage, make that interest deductible. That circumvents the whole intent of this bill.

Mr. BRADLEY. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. BRADLEY. Just so we can clarify specifically what would be deductible, and what would not under his amendment, if the Senator had a mortgage of $50,000, refinanced that mortgage, took $60,000 and wanted to use $10,000 to give to his children to make a down payment on their first home, could he deduct the interest on the $60,000?

Mr. GRAMM. Under the provision of the loan being for another qualified resident of the taxpayer.

Mr. BRADLEY. But as I understand the reading of it, it has to be of the taxpayer. This is the children of the taxpayer.

Mr. GRAMM. If the Senator will yield back, I will respond. You could not under those circumstances, though the person who is buying the home could get a mortgage, and that mortgage interest would be fully deductible.

Mr. BRADLEY. For the purpose of refinancing, the parents of that young fellow could not deduct the interest on the additional mortgage?

Mr. GRAMM. That is correct. But if the Senator will yield further, if a couple went to a bank and borrowed the money to give to their children, that interest would not be deductible either.

Mr. BRADLEY. I understand that. That is not what the Senator's amendment says.

Mr. GRAMM. But it is in the Senator's own bill.

Mr. BRADLEY. The Senator's amendment says, as I understand it in this case, that if parents wanted to refinance their home in order to stake their children to a first home, that interest would not be deductible. I wanted to clarify for the RECORD that is the case with the amendment that the Senator offered.

Mr. GRAMM. Reclaiming my time, let me say, Mr. President, that is exactly the present provisions of the bill that is before us. If a couple went out and borrowed money to give to their children to buy a home, that interest payment would not be deductible. So what we are doing here is simply applying the same principle that exists in the bill with these two modifications concerning medical care and concerning higher education. We are applying to the mortgage loan exactly

the principles that exist in the bill which is currently before us.

Mr. President, I yield the floor.

Mr. DURENBERGER and Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise with some reluctance to oppose the amendment of my distinguished colleagues from Washington and Texas. I have no reluctance to oppose that portion of the amendment that finances their choice of deduction options. My reluctance is in opposing their efforts to remedy a disparity that is created by the Finance Committee bill that we discussed earlier today. We began, the majority of the Finance Committee, a war on State and local taxes with the effort to eliminate the deductibility of sales taxes.

I think a lot of people are under the impression that sales taxes and sales tax revenues are not really very important to States. Well, that is only true if you live in four States that do not levy State sales taxes, one of which happens to be the State of Oregon. On average, sales tax revenues are the largest single source of revenues for the States in this country.

They provide more than $60 billion a year in revenue. There are 13 States that receive more than 40 percent of their deductible tax revenues from sales taxes. Lousiana receives 69 percent; Hawaii, 52 percent; Tennessee, 61 percent; Mississippi, 57 percent; and Oklahoma, 42 percent.

These statistics while they might be compelling to some are only touching the heart of the matter, and the real issue, Mr. President, is our ability to defend the right of States and local governments to collect the revenues they need from the sources they have in order to provide basic services to their citizens.

Mr. President, my concern for the attack on both the sales tax deductibility, and now in this amendment the attack on income tax deductibility, is that the next assault on deductibility is going to be even worse. That leaves only one other form of taxation to take care of, and that is the property tax.

Mr. President, we are doing it at a time when we are asking State and local governments in this country to take on more and more responsibility, and with it the obligation to raise their own revenues from their own sources to resolve these problems.

Mr. President, I would suggest that the deduction for State and local taxes is not just another special interest loophole, and it is not just another part of the base-broadening process that we are going through. It is the creation of the Federal income tax, and the deduction for State and local taxes has been accepted as a necessary feature of our Federal system. It preserves a portion of the tax base for State and local governments to fund the services which we count on them to provide: Education, public health, police, fire protection, clean air and water to name just a few.

Repeal of the sales tax deduction would be the first step in undermining the fiscal foundations of State and local government, and would constitute gross and unwarranted intrusion in the fiscal decisions of State and local citizens and their elected officials. Repeal of the sales tax would arbitrarily create winners and losers, and increase the fiscal disparities that exist among the States.

Mr. President, I wonder if we could not have a little less conversation in the Chamber.

Mr. MOYNIHAN. Mr. President, the Senator is speaking and is not easily heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, the average per capita income of the States hardest hit is 12 percent below the national average. In contrast 13 States that would be least affected by the proposal of the committee have an average per capita income 3 percent above the national average.

For many States, limiting the sales tax deductible will result in a decline in State and local services. States finance nearly half the cost of elementary, secondary, and public higher education at this present time. The proposal to repeal the sales tax would sharply increase pressures to cut public expenditures, particularly in seven States of this country, including Idaho, Iowa, and North Carolina, where more than 50 percent of the sales tax revenues support education.

Mr. President, the proposal is unfair to State and local policymakers who have developed their tax structures in response to their particular needs, their characteristics, and the resources of their citizens. Repealing the sales tax deduction would cut short State and local effort to broaden and to diversify their tax bases at a time when those tax bases are being drawn on to respond more heavily to the needs of their citizens.

Mr. President, having indicated my concern for what the committee has done, and having indicated as I have to my colleagues in the past that I think there is a solution to this problem, which is reverse the action taken by the committee, I have to rise in opposition to the solution suggested to us by our colleagues from Texas and from the State of Washington because in effect they are only compounding the same problem.

In effect, by giving States that do not have income taxes nor sales taxes the option to take the tax that they have as a deduction, they may be alleviating themselves of the burden imposed on them by the Senate Finance Committee version of tax reform, but they are creating substantial inequities or adding to substantial inequities that exist among the States, and across the States of this country.

□ 2000

Mr. President, if this amendment becomes law, every State that has a diversified tax base, that has a combination—the Senator from Idaho indicated his State had—has a combination of sales taxes, income taxes, and property taxes will become a loser.

Now, I will list the losers among the States if this amendment passes: Maine, Rhode Island, Vermont, New Jersey, Pennsylvania, Illinois, Ohio, Iowa, Kansas, Nebraska, Alabama, Arkansas, Georgia, Kentucky, North Dakota, Oklahoma, Colorado, Idaho, Utah, California, Massachusetts, Maryland, New York, Michigan, Wisconsin, Minnesota, North Carolina, Virginia, and Hawaii.

I know why the authors of this amendment have offered this amendment: Because the Finance Committee has discriminated against those States that have elected because of the nature of their tax base to use sales taxes rather than some other form of taxation. But I would beg my colleagues to consider the damage that they are adding to the fiscal system, the intergovernmental fiscal system, in this country. I do so particularly with regard to my colleague from the State of Washington, who, as a former Governor and a former chairman of the National Governors Association and now as a U.S. Senator, has certainly earned himself a national reputation as a forceful advocate for improving our system of intergovernmental relations.

I do not know that he would be on the floor of the Senate tonight proposing this amendment if, in fact, the Senate Finance Committee had not invaded the province of intergovernmental fiscal relations with their deductions. Perhaps he would. I will leave him at the appropriate time to respond for himself.

But let me, Mr. President, conclude this portion of my remarks with an observation also about the federalism implication of the choices made by the proponents of this amendment.

This amendment would not prevent the Federal Government from interfering in State and local revenue raising decisions. On the contrary, it would expand this interference, not only into sales taxes but also into income taxes. It would constitute an unprecedented and, I would imagine, an irreversible assault on a principle that has been a part of our Federal Income Tax Code since its creation.

that the Federal Government should not tax income paid as a tax to another level of government.

Not even the Senate Finance Committee went that far to undo a principle that has been part of the Federal Income Tax Code since its beginning.

Mr. President, I would suggest that is not fairness in the Federal system.

(Mr. GRASSLEY assumed the chair.)

Mr. DURENBERGER. The message here, if this amendment is adopted, is that it is Federal policy, it is national policy, that the income tax is to be discouraged. Statewide taxes, like income taxes, are to be discouraged. It is Federal policy, under this amendment, that statewide taxes, like sales taxes, are to be discouraged, and it is Federal policy and national policy under this amendment that we tax property.

We are encouraged under this amendment to go after home ownership. There are two sides of this amendment that do that. One says send the responsibility for raising taxes to the local government level with the property tax and the home ownership. Go after it, because that is the deductible one and the other two are not deductible. The one signal that attacks home ownership in this amendment is go to the local government with the responsibility, go to the homes of the people of this country for the taxes.

The other is in the method of financing this apparently attractive item. That is a notion that has already been discussed on the floor today, that people who own homes and have equity in their homes somehow or other can use that equity only to expand their home, or perhaps, according to their amendment, for medical expenses or educational expenses.

But, Mr. President, I would suggest to you, as I am sure others have and others will, that the proponents of this amendment have created a trap for all of us. They have created a trap for people who own only a home. If that is all you have, as the Senator from New Jersey has suggested, if all you have is a home, if that is all you own, and you have an equity in that home and you do not want to spend it on the home itself, you would like to spend it on one of your children, the only thing you can spend on your children out of that home is education and get a deduction for it.

But if you want to put them into business or if you want to buy them a new home or give them a leg up or something like that, you cannot use your home do do it. You cannot get at that equity unless you get yourself sick or you go to college.

Mr. GRAMM. Will the Senator yield?

Mr. DURENBERGER. I will be glad to yield to the floor in a moment.

So the trap that is created is that if you also own stock, you can sell stock and use that stock to help your kid buy a home, the down payment on a house. Yes, the kid can go and finance it himself but he needs a down payment. There are no free homes any more. There are no more nothing down; you have to have cash payment. If you are setting out there with an average $65,000 home, and your kids want to borrow against that home, you cannot do it. But somebody who has a $500,000 home down the street, he cannot borrow against that either to put his kids into business or help them buy a home, but he has stock. He can sell his stock. Or maybe he owns a boat. He can sell the boat.

The trap that is created here is for the difference between ordinary Americans and all the other Americans.

The ordinary Americans are trapped into using this equity they have developed over the last 20 or 30 years in their home only to expand the home, for no other purpose.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. DURENBERGER. No other purpose except the medical and educational deduction.

Mr. GRAMM. If the Senator will yield——

Mr. DURENBERGER. If I am not accurately portraying the Senator's position on the amendment, I will be glad to yield for a question.

Mr. GRAMM. A person can borrow against their home just as they can borrow against their stock or against their boat. There is no limitation on the use of your home in any way for any legal purpose. The question is, should the interest on that borrowing be tax deductible. If you borrow against your stock to give to your children to build or buy a home, that interest is not deductible. Nor would the interest be deductible when you borrow against your home. So there is no limit on the ability to use your home. The home is not being relegated as an asset below any other asset. In fact, it is relegated above it because to buy a home, to improve a home, or for two other purposes that interest is deductible, whereas interest against stocks or a business for purposes that are not tax deductible are totally nontax deductible.

Mr. BRADLEY. Will the Senator yield?

Mr. DURENBERGER. I yield to the Senator from New Jersey.

Mr. BRADLEY. I would like to address the remarks of the Senator from Texas. I will do that when the Senator completes his remarks.

Mr. EVANS. Will the Senator yield for a question?

Mr. DURENBERGER. I yield for a question.

Mr. EVANS. The Senator listed a long list of States purportedly being losers under this amendment. This amendment creates no losers compared with the tax bill as it came out of the Finance Committee and as it sits on our desk. I do not think the Senator intended to give the impression that somehow we were taking from anybody because currently taxpayers can deduct all of their property taxes, they can deduct all of their State and local income taxes, and citizens in that long list of States the Senator read will have not one of those privileges reduced. Is that correct?

Mr. DURENBERGER. By comparison with current law, this amendment——

Mr. EVANS. I am talking about the bill that came out of the committee. We all are losers compared with current law. I am talking about the bill as it came out of committee. We should not give the impression that somehow this amendment creates any losers. It creates no losers. It takes from hostage some people in States that simply do not have an income tax. Otherwise, we would remain hostage to whatever happened or may not happen in the conference committee. I hope we do restore full deductibility. That would be my goal as well as, I am sure, the goal of the Senator from Minnesota and others on this floor. But we are not sure what some conference committee can, will, or choose to do.

□ 2010

We simply have to attempt to give some relief to those States which are today being held hostage. I am sure the Senator from Minnesota would agree that compared with the bill as it came out of committee, this amendment creates no losers in any State, but it does add some relief to most citizens in a dozen States and probably some citizens in every State that has a sales tax.

Mr. DURENBERGER. If I understand correctly the comparison, Mr. President, one of the things I lack is costing out the cost of the loss of the mortgage interest deduction and what States those may fall in. It is accurate, as the Senator from Washington has stated, to say that all States—with the exception, I think, of the four that I read off—would lose under the committee version of the bill. It is also accurate to say that by comparison with current law, all of the States I read off, which I believe are 35 States in this country, are losers compared to current law.

Mr. EVANS. I would count all 50 States losers compared to current law.

Mr. DURENBERGER. I am just suggesting to my colleague that we have not improved at all by his amendment the status of 35 States in this country; in fact, we have improved the status of certain States, I think probably 15 in number, of those who would be disadvantaged in particular by the elimination of the sales tax.

Mr. BRADLEY. Will the Senator yield on that?

Mr. EVANS. If the Senator would yield——

Mr. DURENBERGER. I have answered the question. I do not intend to yield further on that.

I yield to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, on the point of those States hurt by this amendment, the effect of this amendment as it is drafted makes the sales tax deduction optional and the income tax deduction optional. In other words, you can take one or the other, as I understand the authors of this amendment, who crafted it. The effect of that in this tax bill is to make the State income tax deductibility a conference item.

Under the bill as it is now, State income taxes are fully deductible. Under the House bill, State income taxes are fully deductible. Under this amendment, we are providing an option so that we are opening the door.

There are 42 States in this country that have State income taxes. There are seven States in the country that have only State sales taxes. So what we are doing by this amendment is putting in jeopardy the deductibility of State income taxes of 42 States so that the seven States that have only sales taxes will be able to have the option to deduct them.

One final point: 90 percent of all the State income taxes are deducted. Only 25 percent of the State sales taxes are deducted. I do not think the Senate wants to make State income tax deductibility a conference item.

Mr. DURENBERGER. I thank the Senator.

Mr. MOYNIHAN. Mr. President, would the Senator yield for a comment in that regard?

Mr. DURENBERGER. I yield to the Senator from New York.

Mr. MOYNIHAN. I would like to reinforce what the Senator from New Jersey has said. He described this amendment as an attack on the deductibility of State income taxes. He said that this deduction has been a natural outgrowth of the principle of federalism and a provision of the Internal Revenue Code from its beginning. He was entirely correct in that respect and perhaps he would allow me to say that that beginning goes farther back than 1913 when, in the aftermath of the 16th amendment, we adopted as a permanent feature of our revenue system a graduated income tax.

Mr. President, the first income tax levied in the United States was in 1862—by this body and the House—a 1-year tax to provide for the expenses of the Federal Government during the Civil War, or the War Between the States, as you choose. That measure was brought to the floor of the House by Justin Smith Morrill, a Whig, now Republican, of Vermont, author of the Morrill Land Grant College Act. He rose on the House floor and the first thing he said was that no Federal income tax would be levied on any income paid as tax to a State government or subdivision thereof.

He said that such an arrangement would violate the first principle of federalism, that one branch of the Government should not invade the fiscal resources of another.

That was so clearly understood in the beginning, in 1862 and in 1913.

I ask the Senator from Minnesota, would it not be the case, were we to adopt this amendment, that we would not only be jeopardizing in conference the deductibility of the State income tax, but for the first time in the history of federalism, the Senate would go on record as approving an invasion of the fiscal resources of the States. Would we not be making a fundamental shift in that principle of federalism that has been with us from the outset of Federal taxation?

Mr. DURENBERGER. I say to my colleague from New York that he is obviously correct that the adoption of the amendment, if it were enacted into law, totally changes the Federal relationship as it has existed with regard to the taxation of income by the various levels of government in our constitutional system. Whether it is the first time that suggestion has come up and potentially been passed on the floor of the Senate, of that I am not sure.

Mr. MOYNIHAN. I believe I can speak that it may have been suggested but it has never been adopted.

Mr. DURENBERGER. Mr. President, I shall conclude very quickly my comments, because I know there are others who desire to speak. Let me conclude by saying that for most Americans, the family home is the most important investment they make in their lifetime. Two out of three Americans own their own homes and many of the remaining one-third are saving today to make a downpayment on a home of their own. This amendment would deny the American homeowner the chance to take the equity in his home. This amendment puts out of reach of the homeowner the increased equity that builds up on his home.

Much of the increase in housing prices in the last 20 years has resulted from inflation. Inflation has raised the cost of everything else in our society. This amendment would deny the American homeowner the opportunity to borrow against the increase in the value of his home and deduct the interest on that borrowing except to renovate his home, pay medical expenses, or send his children to college. That means, Mr. President, if a family member loses his job, he cannot take out a home equity loan and deduct the interest to get over the hurdle of unemployment.

But a family with a higher income can take out a home equity loan to finance their kid's education at some fancy private school. Middle-class parents and grandparents cannot borrow against their home equity and deduct the interest to help their children buy a home in today's inflated housing market, but a family in Beverly Hills can deduct the interest for adding a wing to their $2 million home.

I suggest to my colleagues if they are looking for a solution to the problem of deductibility of State taxes, they will find it in the conference committee and find it here on the floor of the Senate in a resolution that has been circulated to every Member of the body by the Chair and the ranking member of the Budget Committee and a variety of my colleagues. It is authored by our friend from New Mexico [Mr. DOMENICI], our colleague from Florida, [Mr. CHILES], our colleague from New York [Mr. MOYNIHAN], myself and a variety of others of our colleagues. We are prepared to bring that resolution to the floor at an appropriate time. I think it is a solution to the problems we have been debating. I strongly recommend we reject the solution put forth by our colleagues from Texas and Washington.

Mr. President, I relinquish the floor.

□ 2020

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to associate myself with the remarks of my colleague from Minnesota and also my distinguished colleague from New York, the senior Senator. This amendment has been suggested by some of its proponents as a loophole closer. This is not a loophole closer. This is a home ownership crusher. This is an invader of the principles of federalism. This is the manner by which a relative handful of States, few in number, their citizens are afforded an advantage at the expense of all home ownership throughout the country, even though those States——

Mr. ABDNOR. Will the Senator yield on that?

Mr. D'AMATO. Yes, I will yield for a question.

Mr. ABDNOR. I will come directly to South Dakota. I have been hearing about this fairness subject all evening here and I could not believe the remarks I think I just heard the Senator make. Does the Senator think it is fair for a State that conducts government, State and local government, entirely on sales tax, and does not use an income tax—to be penalized for that choice? We are concerned about one thing, about a home loan, a second

mortgage, that a man or lady may lose the interest deduction on. Is it fair when seven States that finance government on the State level with a sales tax cannot take a deduction for that?

Mr. D'AMATO. Let me say to my colleague, he raises a very valid point. I will join with my colleague in working for the restoration of State and local sales tax as a deduction.

I concur with the Senator in that I believe it is unfair to place that burden upon those seven or eight States, including the citizens of my State, New York, which loses also as a result of the inability to deduct local sales tax. But I think that this is a poor method of addressing an inequity that exists in the bill before us. I believe that this is not the proper way and I will support my colleagues who have indicated that they are going to push forward for a resolution seeking the restoration of sales tax because I believe to begin to say taxes may or may not be deducted is an infringement upon those important principles of federalism, but I believe an attempt to correct a problem that affects these eight States—and there are some others and to a greater magnitude—this is not the manner nor the solution that we should seek. I can tell you as a Senator whose home community of Long Island is made up of 90-plus percent of one-family home ownership, with that concept, we do great violence to all of my constituents, to all of those homeowners when we begin to say now the only reason you can get a new mortgage or refinance is for the stated purposes in this bill.

If you want to get revenue, if you want to get tax simplification let me suggest to you this is the worst way to go about it. Do you really believe that people are not going to say that yes, it was for educational and other purposes and then they will have to submit to the IRS proof that they took this refinancing for the stated and allowed purposes in order to claim their interest deductions? Is that what we are seeking to do? I thought we want tax simplicity. The fact is that home ownership in this country provides people, and has historically, with the manner by which to get their great accumulation of savings and now here is big brother saying, "If you refinance the interest, the deduction somehow now has become a loophole, it is bad, it is a terrible thing to get the interest on it." Well, it never was before and simply because someone takes to the floor of this Chamber and says it is a loophole and they seek to close it, does not make it a loophole now. I think it is something that we should fight to retain because that goes to the core of middle income, middle America.

So, Mr. President, I hope that we would defeat this amendment and, yes, work to restore the deductibility of sales taxes. I yield the floor.

Mr. ABDNOR, Mr. FORD, and Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair heard the request of the Senator from Kentucky first.

Mr. FORD. I thank the Chair. I will take a few minutes and then let my colleagues go. This may be a good amendment. It may be good as it relates to sales tax or income tax but I have heard two things tonight: Fairness. Fairness. Well, what is fairness? I heard those words a couple years ago and that did not fare too will.

Then I hear the President, and I admire his strong stand for family. What is the basis of a strong family? It is their home. The people who are trying to bring this amendment to the Senate floor tonight may have a real fairness question, but you have gone at it wrong. You can argue about what it does not allow under the bill or you get another $10,000 and you can do whatever you want. That is fine. But you are knocking down the root of the family by saying they cannot use their No. 1 asset to help their family, to give them a better education, or you can go wherever you want to go. Yes, you can give them an education or you can enlarge the house. That is about as far as you can go. That is about as far as you can go. So you have made the No. 1 mistake.

This administration talks about family. I was at the White House the other day when Mrs. Reagan gave the awards to the six families throughout the United States. They came from a home. The home was their largest asset. My State collects 27.2, I believe it is, of its annual budget from sales tax, about 25 percent from income tax. So we charge off less of our tax under the present bill than we would if we had all of the sales tax.

So what I am saying to you, I am taking income tax because 90 percent of that is deducted. About 25 percent of the sales tax is deducted. You make both ways. Now, if you want to change the procedures and you want to make it fair, let us do something other than to try to damage the home and to say to a parent that he cannot help his family by enlarging the loan, refinancing, doing those things that a parent would like to do for his children and it is probably the only major asset he has.

And so, Mr. President, I thank you for giving me these few moments and look forward to the resolution that is coming so we can turn over our ability to make decisions to the conference committee.

Mr. CHAFEE, Mr. ABDNOR, and Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABDNOR. Mr. President, I thank you. Again, all evening I have been hearing the word fairness. I just heard the Senator, my colleague, from Kentucky tell us what we are doing to the most precious thing a family can have, the home. I hear my colleague from New York telling me that we should make it fair by including deductibility of both sales and income tax. And that's a great idea, but as I understand it we are trying to find a revenue neutral bill here and to do that very thing would take $17 billion. That's a lot of money. We can't even find a way to figure out $3½, $4 billion, let along talk at this late hour about a $17 billion revenue raiser somewhere in this tax bill.

If I could say to my colleague from Kentucky, a home is a wonderful thing and I cannot think of a quicker way to deprive the people from South Dakota of a home than to pass this kind of legislation. Do you know how many dollars this amounts to that they cannot deduct, that they might have been able to use on a payment for a house if they were treated fairly with everyone else?

□ 2030

Mr. FORD. Mr. President, will the Senator yield, since he used my name?

Mr. ABDNOR. I yield.

Mr. FORD. Twice you said "the Senator from Kentucky." I hope that is me.

Twenty-seven point two percent of the total general budget in Kentucky is sales tax, and we cannot charge that off.

Mr. ABDNOR. But you are taking income tax.

Mr. FORD. That is right. And you are doing the same thing to your present homeowners that you are asking us to do in Kentucky to take care of seven States.

Mr. ABDNOR. I will tell you what you are telling the people. You are telling the people of South Dakota, "You haven't got any business deciding how you try to raise revenues to run government. There is only one way to do it—through income tax." My people do not want the income tax.

Wait a minute; I have the floor.

Mr. FORD. Will the Senator yield for a question?

Mr. ABDNOR. The people of South Dakota have already considered this many times in the State legislature.

Mr. FORD. Will the Senator yield for a question?

Mr. ABDNOR. Let me tell you something else. We are not a very rich State. We do not have many people, and we have to raise revenues.

We happen to be an agricultural State. Kentucky, I'm sure, produces more agricultural products, but not on a per capita basis. There is no State that relies as much on agriculture as South Dakota. You try to figure out

who pays income taxes some years when we have drought and get hailed and prices are low, and then try to run government on an income tax. It's not practical.

Mr. FORD. Mr. President, will the Senator yield?

Mr. ABDNOR. I yield.

Mr. FORD. The thing I said a moment ago is that fairness in this bill has excluded the deduction of sales tax. I agree, but you have gone after it the wrong way. You have gone after the home. You have gone after my castle, the only thing I have.

Ninety percent of the people in the State of Kentucky have incomes under $30,000. I understand the problem, but you just have gone to the wrong place to get the money to offset the $17 billion that seven States will cost us.

Mr. CHAFEE addressed the Chair.

Mr. ABDNOR. I still have the floor.

The PRESIDING OFFICER. The Senator from South Dakota may proceed.

Mr. ABDNOR. I will not be too much longer.

Again, I go back: The difficulty we have is that from the very outset—and I do not mean to pick on the Finance Committee, but they reported this bill out of committee unanimously. That doesn't give us a lot of room to maneuver. Obviously, the members of the committee felt that any State which is foolish enough to use a sales tax, of all things, as a means to raise money to run government, does not deserve to have a tax deduction. You're telling that State to go back, call a special session, write off the sales tax and add an income tax. What a crime.

Let's keep the playing field level for all. We have to live in South Dakota, too, and we happen to have chosen to take sales tax as a means to raise our revenue, to run State and local governments. It has worked, and it is consistent. It is steady. It is not up and down, as it would be if we tried an income tax.

People are not complaining. They want it that way. We are telling the people in South Dakota and six other States which have no other way at the moment of raising revenues for their State and local governments to change their laws. We do not have a lot of coal or other minerals to tax, or anything else for that matter. We have no other source, but we are supposed to be knocked off the field, knocked off the picture, because we are foolish enough to use only sales tax.

The fact that South Dakota taxpayers lose a $500 a year tax deduction because they are using sales tax and not income tax does not count here. The only States we are concerned about are those smart enough to put in an income tax—and the more they raise it and the more they spend, the better they are.

Look at the fallacy of this. Look at what an income tax has got us today. Look at what we are trying to do with income taxes. We are trying to bring the rate down because it gets out of hand. At least with a sales tax, you have a little control of it.

I hope that in the spirit of fairness, before this bill becomes law, someone thinks of other States that do not depend solely on income tax, other States that are really having a difficult time financing government the way it is.

I hate to think that I have to depend on a conference committee to come up with the answer, without our at least attempting to insert a provision that makes everyone participate fairly in the bill we pass in the Senate.

Mr. CHAFEE. Mr. President, I oppose the amendment.

The Senators from the States that do not have an income tax but have a high sales tax clearly have a problem, as has ably been put forth by the Senator from Washington and the Senator from South Dakota. At the same time, in the proposed solution of their problem, they raise additional problems for the rest of us. In other words, it is the system for paying for their solution that I find objectionable.

Why am I opposed to their approach? For two reasons. First, because it puts the Federal Government back into the position, through the Tax Code, of choosing what is good—that is, deductible—and what is bad—that is, nondeductible. That is the first reason.

The second reason, for specific factors that apply to the State I represent, is that what they are doing is once again, through Congress, via the Tax Code, making the selection of what is a good deduction and what is a bad deduction, and the interest being nondeductible.

One of the reasons why we have this tax reform proposal before us tonight and one of the reasons why it has received such high acclaim not only in the Finance Committee but also, I believe, on the floor of the Senate and throughout the Nation, one of the reasons why it has come so far, is that the people no longer wish the Congress of the United States, through the Tax Code, to be choosing what is good and what is bad. One of the major thrusts for tax reform is to get it out of that business.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. CHAFEE. I would like to finish, and I will yield for any questions, but I would like to make my presentation.

What we did in the reform that has emerged from the Finance Committee is to get rid of the tax shelters and lower the rates and let the American people spend their money in the fashion they think best, without the Federal Government, through the Code, making the choice that this is an allowable deduction but that is not an allowable deduction; this is a credit we allow, but we do not allow a credit for that.

Thus, we ended, for example, the 100-percent deductibility for meals. We ended tax credits for home energy solar fixtures. We ended the limited partnerships in real estate. We ended the R&D tax shelters.

What we are saying to the people of America is: You make your choices. We are not going to make those choices for you by giving special breaks through the Code. What the provision proposed by the Senator from Texas and the two Senators from Washington and the Senator from South Dakota is that on certain deductions that are based upon home mortgage loans, you can obtain the deduction for the interest.

For example, they outlined the following three: improvements on your home, education for your children or yourself, and medical expenses. These are all right, they say. But if you borrow on your home to raise money for other purposes, and some of them have already been delineated on the floor here—to put your child into business, to make a loan to your child so he can buy a home—they say the interest on that mortgage is not deductible. I do not think anybody will argue that that is what they are proposing. They have outlined that.

□ 2040

Those are the things we are trying to get behind us. We do not want the Federal Government to be saying once again this is good and, therefore, it is deductible, and that is bad and, therefore, it is no longer deductible. So that is my first objection.

I feel that if an individual taxpayer has a home in which he has built equity and he wishes to take a mortgage out on that home and spend it for whatevery purposes he chooses—it might be a trip around the world that he and his wife sought for many years—he ought to be able to get the deduction for the interest payment on that mortgage as much as for the three purposes that they have set forth that they would permit the interest to be deductible on. I just do not want the Federal Government to be making these choices for us.

The second reason is a more pertinent one dealing with the State that I represent. The State that I represent builds more sailboat hulls than any other State in the Nation. We have become, clearly as defined here, a major builder of sailing vessels, boats of all sizes and indeed power boats as well, but principally we have concentrated on sailing vessels and sailboats. That is why for the American contenders for the Americas Cup that is

going to be competed for in Australia, the great majority of Americas Cup contestants, and there are several of them, have been built in Rhode Island.

It seems to me totally unfair for a person who wishes at the culmination of his career—he is retired, he and his wife wish to make a major investment in a sailboat—that they are not permitted to have the deductibility on the interest on that should they choose to increase the mortgage on their home or obtain a mortgage on their home for that purpose. Why should we restrict them in that fashion? Why should we say you can do something but you cannot do something else and particularly as its regards sailboats?

So, Mr. President, this particular provision that they have raised would be extremely damaging to the State I represent for those who borrow, those who buy sailboats, and some of them are expensive. It has been told to me very clearly by the sailboard builders that they just do not reach down in their pockets and pull out $200,000 or $300,000. They obtain the money by borrowing.

Right now I presume they go to a bank and put up collateral or stocks or bonds, or whatever it might be, to borrow. That is not permitted under the Finance Committee bill.

But should they choose to mortgage their home, they should be entitled to do so and have the deductibility for the interest that they pay.

Others say, "Oh, no, we only want this for education of children." You can well have the situation where the parents' children have grown up, their educations are completed, and there is not a demand for that particular reason.

But under the proposal here that money would be locked up. Oh, yes, I could use it, and they make that very clear. You can use that money but you cannot get a deduction for it.

I do not think that is fair. I do not think they should be telling us what you can get a deduction for and what you cannot get a deduction for.

So for those reasons, Mr. President, first, that the thrust of the tax reform bill has been to get the Federal Government out of determining what we can do and what we cannot do, deregulation, if you would, and because it particularly affects the State that I represent, I will vote against the proposal.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. CHAFEE. Yes, I am delighted to yield.

Mr. GRAMM. Is it not true that the Finance Committee, not this amendment, denied the deductibility of interest on loans for sailboats?

Mr. CHAFEE. They denied the deductibility for consumer interest of all types, except you have the possibility of mortgaging your home and having the deductibility for the interest in that if you so choose.

Let me point out they denied the deductibility, for example, of going down to borrow for the education of your children. That is true. They denied the deductibility for going down to borrow for medical expenses, except to the extent that medical expenses are a deduction unto themselves. They denied the deductibility of going to the bank and putting up your stocks as collateral and borrowing for a home. That is true, all of those.

But still you had the right to resort to the equity in your home for a mortgage and deductibility of that interest for whatever purpose you chose.

Mr. GRAMM. If the Senator will yield further, it is not this amendment that says that some deductions are good and some are bad. In fact, the Senator is a member of the Finance Committee that voted 20 to 0 to do exactly that.

All this amendment seeks to do is to simply apply the logic across the board, and I know that this is not an easy thing to do, but I hear my colleagues talk about restoring the sales tax. That is $17 billion. Where are you going to get the $17 billion from? We have tried to come up with a reasonable way to get $3.3 billion not by choosing good versus bad deductions—the Finance Committee has already done that—simply by trying to apply the logic of the bill to the ability to use a mortgage or to use a home as an asset against which to borrow.

So we did not choose a good deduction versus a bad deduction. We did not choose to let boat interest not be deductible. That is what the Finance Committee did.

All we are trying to do is to close a loophole where every loan that is going to be is a home loan, an absurd result, and to use the money to try to bring fairness in terms of a sales tax. That is the only point I wanted to make.

I thank the distinguished Senator for yielding.

Mr. CHAFEE. No one is arguing with the difficulty that the Senators face and they have a problem, and I recognize that.

But the solution to their problem is an appropriate one, in my judgment. The Finance Committee did not restrict what you could do with the mortgage that you obtained upon your home. You can use that for whatever you wish. You can call that a loophole. I do not think so.

It was very clear to all of us that for what you might call big ticket items—I hardly believe someone is going to put a mortgage on their home for a refrigerator or going to put a mortgage on your home to pay your credit card with. You are not going to put a mortgage on your home probably to buy an automobile.

But in major items that you so choose you can go and put a mortgage on your home and the interest on that mortgage will be deductible. That is the bill that came out of the Finance Committee. That is the bill that the proposers of this amendment wish to amend, wish to change in a rather radical fashion, I believe.

Mr. GORTON. Mr. President, my remarks are directed to either of those of the junior Senator from New York or my distinguished friend from Kentucky who argued eloquently for the preservation of interest deductions for a number of purposes.

I must say, however, that the four members of the Finance Committee who have spoken on this issue have made a breathtaking argument. It is the immediate and direct parallel to the position taken by the mythical young man who murders both of his parents and then asks for mercy on the grounds that he is an orphan.

It is the Finance Committee, not the sponsors of this amendment, who have made a judgment never previously made in the Income Tax Code of the United States, that most interest payments should not be deductible. It is the Finance Committee, not the sponsors of this amendment, I say to my friend from Kentucky, who is not a member of the Finance Committee, who have decided that you cannot borrow money at the bank and deduct the interest in order to make a downpayment on your children's home, in order to pay your own medical expenses, in order to buy a sailboat, in order to do any other thing which presently results in a deductible interest expense.

And having made that judgment, the Senators from New Jersey, Minnesota, and Oklahoma and the senior Senator from New York, having made the judgment that it is not good public policy to allow an interest deduction for any purpose other than the purchase of a home, they now are outraged when Members who seek equality for their State taxpayers adopt their own principle in order to pay for this solution. That is a breathtakingly unpersuasive as well as a breathtakingly unfair argument.

We did not make the choice that interest payments should no longer be deductible except for a single purpose. If may very well be a good value judgment. If, in fact, it is a good value judgment, it should not be subject to a loophole that is as wide as a two-lane highway. It should not be subject to a loophole which has already resulted, as my friend from Texas has said, in advertisements in the newspapers; "Come put a second mortgage on your home so that you can buy an automobile."

71-059 O-87-14 (Pt. 10)

My friend from the State of Rhode Island has said that the Finance Committee decided that the Government of the United States should get out of the business of making this kind of decision as to what is deductible and what is not deductible on individual income tax returns.

□ 2050

Yet it is they who have said that sales taxes will no longer be deductible while certain others are.

The senior Senator from New York went all the way back to the year 1962 and accused us of changing a policy which had existed forever with respect to the deductibility on Federal income tax forms of State taxes. It is not we who have breached that fundamental tax policy. It is the Finance Committee which has breached it.

We are talking about two policies in this bill which are unprecedented in the United States. First, the distinguishing between valid purposes for which interest payments will be deductible and less valid purposes for which they will not be deductible. Second, that there is some magic that certain general purpose State taxes can be deductible and other general State taxes cannot be deductible.

But to come before us and to argue that we are somehow undercutting homeownership because we simply seek to apply the philosophy which they have already applied in an unprecedented fashion in order to cure a totally unjustifiable policy decison on their part with respect to State taxes is simply not to deal either fairly or honestly with their colleagues in the Senate.

Mr. CRANSTON. Mr. President, I share with my colleagues the goal of maintaining full deductions for payment of all State and local taxes, including sale taxes. The amendment offered by my good friend from Washington [Mr. EVANS] will not help taxpayers in California and it will not help taxpayers in many other States as well, as this debate has made very evident. My State of California relies on sales, property, and income taxes to pay for State and local government.

Offering California taxpayers a choice between deducting either their sales taxes or their income taxes, as the amendment proposes, will not be much help.

I believe the tax reform bill, as a matter of principle, should treat the taxes of all States equally by permitting full deductibility of State and local income, property and sales taxes.

It is unfair for the Federal Government to tax the revenue sources of the States by denying a deduction for payment of State taxes. That is a tax on top of a tax.

It is ironic that the bill permits the deduction of taxes paid to terrorist Libya, but will deny a deduction for taxes paid by Californians to California.

Why is Libya's, or South Africa's, taxing power given better recognition in the tax reform bill than the tax laws and policies of American States?

I will support change in the tax reform bill to restore full deductibility of all State and local taxes. Done in a fair and appropriate way.

I hope we will have that opportunity.

Mr. BUMPERS. Mr. President, I also am troubled by the inequity which is created when homeowners can use their home equity to gain a tax deduction for consumer borrowing, but renters cannot. But for the Government to try to discern the purpose of a home equity loan is going to lead to a nightmare. The IRS meddles too much in the affairs of our citizens already and I do not want it to decide whether a home equity loan is for paying for a child's tuition and books rather than for the child's room and board. The conference committee needs to review this issue. Perhaps upon analysis it will find that few renters itemize their deductions in the first place so they are not losing any deduction for consumer borrowing. If however, there are many renters who do itemize their deductions, then they are put at a disadvantage in the credit markets as compared to homeowners. In any event we will be encouraging homeowners to take second and third mortgages on their homes, which I question as public policy. I predict we'll soon see checking accounts and credit card accounts based on home mortgages. The purpose of this bill is to discourage tax-motivated behavior but with the elimination of the consumer interest deduction we may well see one of the most bizzare tax-motivated borrowing system ever imagined.

Mr. PRESSLER. Mr. President, I am pleased to join as a cosponsor of this amendment which would restore a deduction for State and local sales taxes. The primary goal of tax reform is to make the Tax Code fairer. This amendment would help to achieve this most important goal.

Since the President first embraced eliminating the deduction for all types of State and local taxes over a year ago, it has become popular to portray the issue as a battle between wealthy and less affluent taxpayers. It has also been agrued that States with higher State and local tax rates are being subsidized by States with lower tax rates. I, myself, found these arguments appealing at first glance. However, upon closer scrutiny I discovered that these views do not tell the whole story.

It may seem odd that I would be very concerned about this issue. After all, the Treasury Department estimates that tax savings from the present deduction range from a high of $233 per capita in New York to a low of $20 per capita in my home State of South Dakota. However, reasoning such as this has created the assumption that this is a battle between high tax and low tax States. As I will show, there is much more to the picture.

Two taxpayers living in different States who now pay an equal amount in overall State and local taxes would pay different amounts of Federal taxes if this bill were to become law. The Coalition Against Double Taxation recently released a study which shows that taxpayers would lose an average of 31 percent of their tax savings. However, because South Dakota has no personal property or State income tax, my constituency stands to lose 46 percent of its tax, my constituency stands to lose 46 percent of its tax savings on average. Thus, South Dakotans, who benefit least from the current deduction for State and local taxes, would be sixth hardest hit in the Nation under this plan.

We must also consider the impact of the proposal beyond what it would mean to the individual taxpayer. If the expense of State and local sales taxes is not deductible, public pressure will likely mount to hold down taxes and spending at these levels of government. This would come at a time when the Federal budget deficit and legislation such as Gramm-Rudman-Hollings have cut Federal aid for programs of special benefit to people of modest means—especially public education.

Approximately 29 percent of South Dakota sales tax revenue is used to fund public education. The percentage of higher education appropriations funded from State sales tax is 53.5 percent. Eliminating the deduction for sales tax expenses would hinder the revenue raising abilities of State and local governments. It is clear that this would negatively impact these governments' education budgets.

This would be especially tragic at a time when there is renewed interest in the need to strengthen our school systems. We are just beginning to see the extremely positive results of our increased commitment to education. We cannot afford to stop now. In South Dakota, it is estimated that between 1985 and 1990, the number of school-age children will increase 17.4 percent. This compares to an average national increase of only 5 percent. In addition, 19.4 percent of school aged children in my State are living in poverty. Nationally, the figure is 15.3 percent.

Finally, will eliminating only the deduction for sales taxes while retaining all others help to increase Federal revenues? There is evidence which leads me to believe the answer to this question is no. Former Chairman of the Council of Economic Advisors, Martin Feldstein, recently completed a study which suggests that the selective loss

of these deductions might result in reduced Federal revenue because tax burdens could be shifted to deductible business taxes.

I think it is very reasonable to expect that States would shift their tax systems to those business and nonbusiness taxes which reamin deductible. The result would be local disruptions, but no net gain and a possible net loss at the Federal level. In addition, if States move to shift more of the burden to the property tax, this would create a special problem for taxpayers such as our senior citizens on fixed incomes who already struggle to pay taxes and keep their homes.

In conclusion, eliminating the deduction for State and local sales taxes fails to meet the original objectives of our efforts to reform this Nation's tax laws. It would not make the code fairer. If there is a shift to rely more heavily on business taxes, these businesses will have less money for capital formation. It threatens even to violate the mandate of revenue neutrality as there is evidence to suggest that ultimately it could result in a loss of Federal revenue. I encourage my colleagues to support this amendment.

(Mr. GORTON assumed the chair.)

Mr. DURENBERGER. Mr. President, unless there are other Senators on the floor, I intend to make a motion to table at the appropriate time, but I do not want to cut off debate in any fashion.

Mr. EVANS. I ask the Senator not to do so.

Mr. DURENBERGER. I yield to the Senator from Illinois.

Mr. DIXON. Mr. President, I rise very briefly to reluctantly oppose this amendment. Mr. President, earlier today, I offered an amendment that would have permitted full deductibility of the sales tax. I agree with the statements made by my distinguished friend from California. I would support full deductibility of the sales tax. I think it is an onerous result that has emerged from the committee, where the committee has suggested that real estate, income tax, and personal property taxes are fully deductible but the sales tax is not.

Regrettably, I do not think this amendment will help the problem much for States like Illinois. We depend almost equally on the income tax and the sales tax as revenue producers in our State. I think, first of all, it would be a very agonizing experience for many in our State to try to make the selection that is required by this amendment between the income tax and the sales tax from a deductibility standpoint.

But I think, more importantly than that, it probably would reduce the chances of obtaining full deductibility of the sales tax in the conference. I think there is a very good chance that later this evening we will adopt a resolution overwhelmingly here in the U.S. Senate that will urge the conference to support full deductibility of the sales tax. I support that for my State and I believe that that will be the better result at this time. I do not see this particular result as one that would benefit the people of my State.

Mr. EVANS. Mr. President, we have been treated to some fascinating, although not entirely accurate, statements made during the course of the evening.

It is obvious that the so-called sanctity of the home is likely to carry the day, in terms of the source of revenue we have chosen, to attempt at least to remove ourselves from the hostage position in which those States who depend wholly or almost wholly on the sales tax find themselves.

I would predict here that unless the conference committee, or someone between now and the time this tax bill passes, makes some change in this question of what you can take from a refinanced home in terms of deductibility that we will have created a loophole so broad and so wide that we will find within the year that we will be back here trying to find a way to put not just a finger but a whole body in the dike.

But I think it is pretty apparent from listening to the arguments, and particularly those of the distinguished members of the Finance Committee, that this is not likely to sell any more than it sold inside the Finance Committee as a source of revenue.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. EVANS. I am pleased to yield.

Mr. JOHNSTON. Do I understand that you can refinance a home and put a mortgage on without limit under the Finance Committee bill that has no relationship to the value of the home and have that fully deductible; is that correct?

Mr. EVANS. The Senator is correct. You can use that money for any purpose you choose.

Mr. JOHNSTON. I mean, to take the absurd argument, you could have a $10,000 home and a $10 million mortgage on that and be able to deduct that, is that right?

Mr. EVANS. Well, I am not sure any bank will give you that kind of mortgage.

Mr. JOHNSTON. Well, if you had an income statement to support it, they would.

(Mr. BOSCHWITZ assumed the chair.)

Mr. EVANS. I presume, if that is the case, I do not see anything in this act that would prevent that.

I say to the Senator that this is a huge loophole. But, nonetheless, it has all the validity of the poor homeowner struggling to pass a little money on to the children. It is an easy kind of an argument to make. And it probably is a source of revenue as a result that we are not likely to pass.

That does not solve the problem. That does not remove us from a position of being hostage.

When I heard my friend from Minnesota read that long list of States who would be somehow harmed by this amendment, it is really hard to believe that he could do such a thing, knowing very well that we did not touch the deductibility of income taxes, we allowed the deductibility of property taxes, but he would not give us the opportunity for the deductibility of sales taxes.

We struck no blow at the taxpayers or citizens of any other State. They still had the choice and 100 percent of them could choose the income tax if they chose and it would be exactly where this bill is now.

□ 2100

Some might find it better to choose the sales tax, and to that degree their citizens are better off, not worse off.

I suggest to the Senator from Minnesota that in contrast to his list we could start with Arizona and end up with Wyoming. The citizens of every State would be somewhat better off with perhaps the single exception of the distinguished State of New Hampshire, which has neither a sales nor an income tax.

But nonetheless, Mr. President, it is apparent that this Senate at this time and with this source of revenue is unwilling to remove our States as hostage. Some suggest that a better idea is to send a sense-of-the-Senate resolution to the conference committee. Well, I do not know. I used to receive messages to the Governor from the legislature. They used to send memorials to Congress, and I wonder if anyone here ever saw a memorial to Congress sent by a State legislature. I suggest that a resolution of this sort is very much like John Nance Garner's description of the Office of the Vice Presidency, "It ain't worth a pitcher of warm spit." And if we deceive ourselves by thinking we are somehow going to help the citizens of the States who depend primarily on sales taxes by sending a resolution to the conference committee, we are simply kidding ourselves.

But, Mr. President, this has been an interesting debate. It is obvious that the source of revenue is not likely to help us carry the day. In a moment I am going to withdraw the amendment, and withdraw it but temporarily and seek another perhaps more suitable source of revenue because we have not solved the problem. We will not solve the problem with a resolution to the conference committee. We cannot afford to turn over from this body to a closed corporation the decision which is so critical to our States.

I can say, Mr. President, to my colleagues in the Senate that we will indeed be back, maybe more than once, until we finally capture the attention of this body with perhaps a more suitable source of revenue, but never deviate from the course we seek which is to relieve our own citizens of the extra burden the Finance Committee has caused us to bear by this totally unfair discrimination in the deduction of various local taxes.

With that, Mr. President, I withdraw the amendment.

Mr. GRAMM and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GRAMM and Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the distinguished senior Senator from Florida and I, joined by a number of cosponsors, perhaps as many as 30, have a resolution with reference to the sales tax that we desire to offer. We, I think most people know, intend to offer the resolution. We need a little bit of time to contact one of the prime sponsors who is unaware of the fact that we were going to do this at this time. They thought the amendment that was just withdrawn would proceed through its normal course which would have in all events taken another 15 or 20 minutes, maybe 30 with a rollcall vote.

So I want to inform the Chair and Senators that we intend to proceed shortly. We must talk with a few Senators, or at least we will advise the Senate where we stand on the resolution.

I yield the floor at this time.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I intend to support the resolution stating the sense of the Senate that the Senate conferees seek to get full deductibility of the sales tax. But given the debate that has just passed, I feel constrained to make a few comments about the debate, and about the issue.

I think our distinguished colleague from Washington, Senator GORTON, has already said more eloquently than I could how absurd the whole argument was about this amendment, which has just been withdrawn, picking and choosing between good deductions and bad deductions. In fact, we made not a single distinction that was not made in the bill which is before us. The statements that we had for the first time proposed to disallow a key element of State and local taxes is absurd. The Finance Committee did that. But those points have already been made with great eloquence, and I just simply will let them stand.

But I want to make a point. The other day we all decided that IRA's would be wonderful things to have, except we were not willing to belly up to the bar and say how we were going to pay for them. As a result, we passed a sense-of-the-Senate resolution that said give us full deductibility of IRA's, and then you figure out where you are going to get $25 billion.

Mr. President, we are getting ready to do another resolution. I strongly support it. In fact, I have endorsed this bill despite the fact that it is unfair to my State because I think it is good for America. And I think the people in my State support it even though it is unfair to them. I am hopeful that we are going to correct it. I am going to support this sense-of-the-Senate that directs our conferees and states our position. But that is going to add another $17 billion that we have to come up with. That gives us a total of IRA's and sales tax deductibility of $42 billion in new revenues.

Distinguished Senators, that revenue is not coming from Heaven. We are going to have to take $42 billion worth of benefits away from somebody or raise some rates. The thing that bothers me is that the Senators who worked on this amendment went to great lengths to modify an element of the existing bill before us that made no sense, that did not follow the principle of the bill, and that could be improved and also pick up revenues. Yet, even the suggestion that we apply the same rules of the bill to loans that are made against one given asset, the American home, the mere suggestion of that brought hues and cries from every quarter.

It is all right for the Senate Finance Committee to say you cannot borrow money for a boat and deduct the interest, or you cannot borrow money for a fur coat and deduct the interest. But you can borrow money against your home and buy a boat or buy a fur coat and deduct the interest. I submit to my colleagues that makes absolutely no sense. Either interest on a fur coat and a boat ought to be deductible or it ought not.

So our position was a reasonable position. But the point I want to leave you with is this:

If we cannot make that kind of decision, if we cannot simply apply the ability to deduct mortgage interest to buying, owning, and improving a home, which after all is what it is for, not to buy boats or fur coats—if we cannot make that little decision, if we cannot be willing to stand up and say no, we are not going to let people go out and use their homes as an asset and buy an automobile when they cannot deduct the interest on the automobile but they use the home as a shelter to avoid taxation. Then how will we make the tougher decisions?

As the distinguished Senator from Louisiana said in a very astute observation that never struck me in my dullness, if somebody has a big balance sheet, they can borrow many times the value of their home by using their home and their balance sheet as an asset, and deduct all the interest. Either that is an absurdity or this bill is an absurdity. You cannot have it both ways. If that kind of interest should not be deductible, then using the ruse of mortgaging a home, many, many times is an absurdity.

Mr. JOHNSTON. Will the Senator yield?

Mr. GRAMM. I will be happy to yield but let me make one additional point lest I forget it.

We heard the distinguished Senator from Rhode Island say that clearly people could not go out and buy an automobile and deduct the interest against their home. That is exactly what they can do. I submit to my colleagues that if we do not close this loophole, you will see a proliferation of ads that we are already seeing where people will buy automobiles, fur coats, sailboats, and they will circumvent the interest of this bill that was adopted 20-to-0 in committee simply by using their homes as a shelter for taxation.

□ 2110

I think that is an absurd result.

The point I would like to leave you with is this: If we cannot make that difficult little decision, the $3.3 billion, how are we going to come up with $42 billion? How are we going to have IRA's fully exempt? How are we going to reinstate the full sales tax?

Do you realize that is more than 10 times the amount of money we were talking about here, and we were talking about the absolute most rotten element of this tax bill, a wonderful tax bill but still with little rotten elements?

If we cannot make that decision, how is the conference committee going to deal with these problems?

I yield.

Mr. JOHNSTON. Back at the turn of the century when I used to practice law, I remember there was a device by which a builder would put a construction mortgage on a home for a big amount as he started his construction. Let us say the house is going to cost $100,000 to build. He would put a mortgage on that for $100,000 to start it off before he charged any material or had done any labor. Thereafter, he would just execute hand notes, as we would call them, as the labor would accrue, as construction materials were ordered. All of those, by this agreement, would be all secured by the mortgage.

My question is this: What would prevent the American Express Co. or the

MasterCard Co. or any of these credit card companies from telling someone, "Look, you go out and put a mortgage on your home secured by a big note and we will make an agreement with you that every one of our charges on this American Express" or other travel card "is going to be secured by that mortgage and you will be able to deduct it from your income tax return as being mortgage interest."?

What is going to prevent that?

Mr. GRAMM. In responding to the distinguished Senator from Louisiana, not only is there absolutely nothing to prevent that from happening but even as we speak smart entrepreneurs are preparing to work under this tax bill using exactly those provisions. That is why closing this loophole is important. Forgetting the fact of sales tax deductibility is good tax policy, this loophole ought to be closed no matter what, because we are opening up a huge area for abuse.

This abuse is not going to take place as a result of action by mom and pop both working earning $35,000 or $40,000 a year. This is going to take place by people who have a lot of money. We are going to have a profiteering group of entrepreneurs who are going to set up all these shells which are going to abuse what was intended to be a real reform for taxes.

Mr. DOMENICI. You do not really believe that when they finish this bill in conference that they will leave the mortgage home deductibility as it is before us and yet restrain consumer product interest payments, do you?

Mr. GRAMM. Let me say to my distinguished colleague from New Mexico, I can only judge by what we have before us.

Mr. DOMENICI. What I am saying to you is that that cannot happen. This is going to get worked out somewhere, some way or another. If you are not going to let somebody deduct the interest on a Mercedes-Benz that they want to buy on a note, on a chattel mortgage, you are not going to let them, as the bill says, but you will let them put a second mortgage on their home and pay off the Mercedes-Benz dealer and pay off the finance dealer and deduct it as interest on the home?

They are not going to allow that. I do not think your amendment is losing because of that.

Mr. GRAMM. If I might respond to my colleagues, there have been four members of the Finance Committee on this floor who have argued exactly that point. Depending on where the cutoff is in conference, the conference committee may or may not do it.

Mr. DOMENICI. Let me make sure you did this in the amendment that was drafted: Did you take care of the people who have a lot of children in college?

Mr. GRAMM. We have the Domenici provision.

Mr. DOMENICI. You put that in there?

Mr. GRAMM. Yes.

Mr. DOMENICI. And it is not for 1 or 2 but goes on for 7 or 8?

Mr. GRAMM. It would be cut off at seven, but theoretically if one had more than seven in college that could be provided for.

Mr. DOMENICI. I thank the Senator.

Mr. GRAMM. Let me make one final point. We will defend this resolution which I supported for $42 billion of additional taxes on somebody. I am simply making the point that somewhere something has to give. We all want these rates. We all want to preserve apparently the remaining loopholes. But we are talking about $42 billion that has to come from somewhere.

I hope we have people who can work magic on the conference because it is going to be very tough to do.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. Has the Senator from Texas yielded the floor?

Mr. GRAMM. I yield.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I will be very brief. I think this debate at least for me has been quite useful. This amendment simply cannot be the law of the land. It simply is unfair, unworkable, and an invitation to massive evasion. It would be the laughing stock or the crying stock of the country if it ever got to be the law. It would be totally unworkable.

I think most everybody agrees to that in one way or another. One group will let us have a resolution and let it be solved by the conference committee. Others are struggling with sensible ways to have it be done.

Mr. President, my suggestion would be that the Finance Committee, those who have wrestled with this bill, seek overnight to formulate some amendment that is sensible. I think those of us who support this bill, and that is certainly the vast majority, want to have tax policy in this area that is fair and workable. This is neither.

It is simply not an answer to say we are going to pass some vague resolution to let the conference committee solve it. It should not be that difficult a question to solve, at least to be fair and enforceable and workable.

If that needs to be changed in the conference committee, let it be changed in the conference committee. But at least when it leaves this body it should not be so ridiculous on its face.

Let us face it, this is ridiculous. It is absurd on its face.

How did we ever get this part of the bill that is a rotten hole in this pretty apple? It is a wonderful bill, most of it. It got the rates down. I praise everybody who had anything to do with it. Except that you have this rotten hole that ought to be changed.

I wish that the distinguished chairman for whom we all have great respect would somehow say, "Why don't we recess overnight and work it out in a fair and workable way," at least so that when it leaves here it is fair and workable.

Mr. EVANS. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. EVANS. What we are trying to correct in this amendment is two rotten holes, not just one. There is the fairness in the way deductibility was handled and as the Senator from Louisiana pointed out so eloquently the ridiculous extent to which this loophole could be carried. We tried to correct both. At least it appeared that temporarily we should retire from the field, but only temporarily. I would certainly agree with the Senator that perhaps overnight would bring some calm, sweet reason.

I do not have any greater confidence, in fact some considerably smaller degree of confidence, in a resolution asking that the conference committee handle this problem, after listening to the comments of the distinguished members of the Finance Committee who spoke out against this amendment.

□ 2120

I fear more than ever for the citizens of my State that we will somehow not be allowed to deduct virtually any of our local taxes and then turn it over to a conference committee which very well may not be able to accommodate us.

With that, let me ask the Senator if he does not believe that perhaps it will be difficult in a conference committee to carry forward the fine intent of the resolution which I understand is about to be offered, when the Senator from Texas points out that we are talking now about $42 billion. When you put that in context with the wording of the previous resolution, the IRA resolution, which said that the Senate conferees give highest priority—highest priority—to retaining maximum possible tax benefits for individual retirement accounts. That sounds very much to me like a sales tax deduction is second in line and less likely to be taken care of than the IRA's.

With $42 billion, does the Senator believe it is likely that we will be able to accommodate everyone and still keep the essence that is so important to the supporters of the bill in the Finance Committee, the magic 15-27-33 marginal rates? You cannot make something out of nothing, I suggest.

Mr. JOHNSTON. Mr. President, I agree with the distinguished Senator. I believe it would be very hard for the conference committee.

Let me say if I were a conferee on this bill, I would hate to go to conference with this particular piece of trash—maybe that is too strong a word—with this rotten provision, because if I were on the House side of the conference, I would say, "They cannot accept that because it makes no sense; therefore, I, as a House conferee, know they have to take just about anything that we offer."

I will say this for conference committees. Conference committees are more unpredictable. They can be less responsible. They can be more outrageous than maybe ordinary committees or floor action because that is the last stop on the trolley and they know that you cannot come back from conference and take another look. All you can do is vote the whole package up or the whole package down.

This ought to leave the Senate in at least a sensible form and it would be possible to put together a sensible amendment. I do not know whether the Senator from Washington will have the right formula or whether the Senator from Arizona will do it. But we ought to have the fine hand of the distinguished chairman, the Senator from Oregon [Mr. PACKWOOD] and his staff, maybe working overnight, and move on to some other subject. They can report back a bill everybody can accept. Nobody asks for any special advantage out of this. All we ask is a sensible solution to what is an unacceptable provision, I think.

AMENDMENT NO. 2076

(Purpose: To express the sense of the Senate that the deductibility of State and local sales, real and personal property, and income taxes be preserved in full)

Mr. CHILES. Mr. President, the tax reform bill that we are now debating on the Senate floor takes us a long way toward true reform of the Income Tax Code. I commend the chairman and the ranking member of the Senate Finance Committee for their outstanding efforts to reform the Nation's tax laws. The citizens of our great Nation deserve a fair and equitable tax system. The bill before us takes a giant step toward accomplishing that goal.

Unfortunately, the repeal of the deduction for State and local sales taxes is not a step forward. I believe it is a step in the wrong direction. Denying the deduction for sales taxes is not true tax reform in any stretch of the imagination. Instead it is unwarranted Federal meddling in the tax policies of our States.

Today, with 30 of my colleagues, I am introducing a sense-of-the-Senate resolution to preserve the full deduction for State and local sales, property, and income taxes. I am joined by Senator DOMENICI, Senator MOYNIHAN, Senator DURENBERGER, Senator SASSER, Senator GORTON, Senator BINGAMAN, Senator WEICKER, Senator INOUYE, Senator HECHT, Senator LAXALT, Senator ARMSTRONG, Senator EVANS, Senator GRASSLEY, Senator MATSUNAGA, Senator PRYOR, Senator CRANSTON, Senator FORD, Senator ABDNOR, Senator D'AMATO, Senator DIXON, Senator DODD, Senator GLENN, Senator GORE, Senator GRAMM, Senator JOHNSTON, Senator LEAHY, Senator PRESSLER, Senator HAWKINS, and Senator WILSON.

It is not my intent here to defend the merits of the State and local sales tax. I do not believe this is the appropriate forum for such a debate. The fact is that by repealing the deduction for State and local sales taxes, the Senate Finance Committee has decided for the States that one type of tax is better than another. It is not up to the U.S. Senate to make that decision. It is not up to the Federal Government to determine what methods of taxation the States should use or how they should raise revenues. That right belongs to the individual States and their citizens.

The residents of Florida have selected the sales tax as the principal source of revenue for our State. In fact, more than 50 percent of our revenues are collected from the sales tax. We use those funds to improve our schools, strengthen law enforcement efforts, and to meet our growing public infrastructure needs. Those funds not only meet the needs of our residents, but they also provide the services and facilities demanded by our many visitors.

Florida seeks no special advantage in this tax bill. We only ask for the fair treatment of both our State and its citizens. We have instituted a sales tax. Other States have an income tax. Both these taxes are deductible now from Federal taxation, and have been deductible since the inception of the Federal income tax. The deduction for State and local taxes is the foundation of our system of federalism. It safeguards State revenue sources from the effects of double taxation, and, it provides State and local governments the ability to establish their own tax systems without Federal intervention.

Eliminating the deduction of the State sales taxes would be unreasonable. It would also result in severe economic costs to the State as it attempts to maintain its revenue base in the face of Federal tax policy that unfairly dictates State tax policy.

Mr. President, my State is proud of the fact that we have not had to levy a State income tax. It is written into our constitution that there will not be a State income tax. I will tell my colleagues, it is verboten for any politician to talk about levying a State income tax. We feel that we have been frugal in the way we operate our State. We have been able to do that by the use of the sales tax, and our sales tax, I would say, is not higher than the average or even as high as the average in most States. But now, in effect, by the bill we have before us, Florida is to be penalized because we do not have an income tax.

In conclusion, Mr. President, I reemphasize my support for tax reform. The bill before us is a vast improvement over the current Tax Code. But like anything else, it can be improved. And I believe it can be made better without altering its fundamental fabric. Restoring the sales tax deduction would make a good bill even better. And I hope my colleagues will support this resolution.

Mr. President, I send to the desk the amendment I have just addressed myself to on behalf of myself and Senators DOMENICI, MOYNIHAN, DURENBERGER, and the others I have listed. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] for himself and Mr. DOMENICI, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. SASSER, Mr. GORTON, Mr. BINGAMAN, Mr. WEICKER, Mr. INOUYE, Mr. HECHT, Mr. LAXALT, Mr. ARMSTRONG, Mr. EVANS, Mr. GRASSSLEY, Mr. MATSUNAGA, Mr. PRYOR, Mr. CRANSTON, Mr. FORD, Mr. ABDNOR, Mr. D'AMATO, Mr. DIXON, Mr. DODD, Mr. GLENN, Mr. GORE, Mr. GRAMM, Mr. JOHNSTON, Mr. LEAHY, Mr. PRESSLER, Mr. HAWKINS, and Mr. WILSON proposes an amendment numbered 2076.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . DEDUCTIBILITY OF STATE AND LOCAL SALES, REAL AND PERSONAL PROPERTY, AND INCOME TAXES.

(a) FINDINGS.—The Senate finds that—

(1) a deduction for State and local taxes has been allowed by Federal income tax law since 1861,

(2) the deduction for State and local taxes is a cornerstone of Federalism, protecting State revenue sources from the effects of double taxation and allowing State and local governments that flexibility to develop tax structures without Federal interference,

(3) elimination of the deduction for State and local taxes would constitute an unjustified Federal intrusion into the fiscal affairs of States and prejudice the right of State and local governments to select appropriate revenue measures,

(4) elimination or restriction of the deductibility of some State and local taxes would encourage States to shift tax levies to taxes which continue to be deductible, increasing the tax burden of certain segments of the population and undermining the ability of State and local governments to raise revenue.

(5) the deduction for State and local sales taxes is the single most popular deduction in the Internal Revenue Code of 1954,

(6) the revenue measures selected by a State should not significantly alter the value of the Federal deduction for State and local taxes paid by its citizens,

(7) sales taxes are used by some State and local governments as general purpose taxes, while other jurisdictions use income and property taxes as general purpose taxes,

(8) funding for public education, the largest category of expenditure for State and local governments, would be affected by any restriction on the deduction for State and local taxes, and

(9) the sales tax is the largest source of revenue for all States combined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any tax reform legislation should preserve the full deduction for State and local sales, real and personal property, and income taxes.

□ 2130

Mr. CHILES. Mr. President, this is as I have described a sense-of-the-Senate resolution asking the Senate to express itself very strongly that we should not be trying to make this choice between the States, but sales taxes just as income taxes, just as property taxes, should be fully deductible.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I join my good friend, the senior Senator from Florida [Mr. CHILES] in cosponsoring this resolution. Obviously, the Senate believes that it is basically unfair to permit the deduction of property taxes and income taxes in the respective States as a local deductibility and to exclude sales taxes. There is no doubt in my mind that the House of Representatives bill dealt fairly with all States once they arrived at the conclusion that there was a philosophical and practical reason to permit the local deductibility. They permitted them all to be deducted in toto, 100 percent. They did not discriminate between them and they dealt evenly and fairly. I do not believe there is a chance that the U.S. Senate is going to get a conference bill back here that in any way treats these taxes differently. I do not believe they are going to get a bill back that says a part of each one. I believe it is going to be 100 percent of all of them.

Now, we have a situation in the Senate where this bill has been put together with substantial support, and if someone can come up with an amendment tomorrow that does not instantly draw opposition because of the choice of revenues to pay for it, the Senator from New Mexico will be back on the floor supporting it. But it is obvious to me that there are great disparities between the House bill and the Senate in addition to the sales tax issue. Sales tax is a $17 billion issue over 5 years. There is a $26 billion difference on the IRA's, and I do not believe anyone really thinks you are going to come back with some portion of the IRA's. I do not have the magic here tonight, I do not think anyone does, to figure out what you are going to change between those two bills for conference. But I believe both are going to be restored, both provisions. We are going to get a bill back from that conference which treats our States fairly with reference to local tax deductibility, that treats us as a United States with sovereign rights to decide how you are going to tax your people for locally without penalizing them if they choose to go the sales tax route in whole or in part. My State has a mix. It turns out that I do not benefit as much as some others from the right-to-choose amendment that I was willing to support. I thought maybe it sent a partial message. This resolution sends a total message. It does not say part of it. It says all of it. It says treat them all the same and all 100 percent. I hope the Senate votes in resounding support for this and there will be no alternative but to find some way to accommodate to simple, absolute fairness. We are not asking for any privileges. We are not asking for any special gift. We are just asking to be treated fairly.

Mr. LONG. Will the Senator yield at that point?

Mr. DOMENICI. I am pleased to yield.

Mr. LONG. It seems to me that the easiest way to arrive at that conclusion would be to simply say that you cannot deduct the first thousand dollars. That would make more people file the simplified form and, thus, it would be a move toward simplicity. Also, you would not have to argue about which State and local taxes that you want to make deductible and which taxes that you want to make nondeductible. Instead of having 28 percent of the people filing the simple form you would have 88 percent of the people filing the simple form.

Mr. DOMENICI. Let me say to my good friend if he is asking me whether I would support that, since I favor local tax deductibility 100 percent, I favor 100 percent for all of them, not just for income taxes and property taxes. The Senator's State and mine choose in their local wisdom through their legislatures, city councils, parishes, whatever we have, to pay for a lot of our services with sales taxes and we ought to have the same privilege. If that is what you end up with, same privileges for all of them, you are not going to get any kind of argument out of the Senator from New Mexico. That is all we are talking about tonight. If we are going to have 100 percent for property, 100 percent for income, we want 100 percent for sales.

Mr. CHILES. Will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. CHILES. I do not think this is a new subject that the Senator is discussing with the Senator from Louisiana. I learned about this policy of the States being sovereign governmental bodies and should have the right to make these decisions at the knee of the Senator from Louisiana. I have heard him speak not once, not twice, not dozens of times, but multiple times more than that that a State should be able to have tax-exempt bonds and the Federal Government should not be able to go in and say we are going to tax these bonds. He cites the Constitution. He cites case law. So you are not giving a new subject to the Senator from Louisiana. I am sure he is not singing a new song on this either because I know his record is so long and is so thorough and so complete in that that I am confident before it is over he will be preaching that sermon again if we need any votes because he has been the authority on that proposition over all these years that I can remember.

Mr. DOMENICI. I thank the Senator. I do not have any doubt either that he is going to be singing our song not only tonight when he votes for this resolution but when they go to conference.

Mr. CHILES. That is why I trust putting this to the conferees.

Mr. DOMENICI. In fact, I have no doubt that we did not even have to remind him tonight, did we, I say to my friend from Florida. He knew it all the time. It is just that we felt that we had to get it out of our craw tonight, that we want fairness and nothing more. We think this is a wonderful bill, magnificent, if it will just treat us all the same.

Incidentally, we have a Treasury agent who does not even know New Mexico is in the Union. Maybe that is why they want to treat us differently. Did you know that there is a Treasury agent who wrote a letter to a former Governor of my State running for the Congress and said, "Mr. Cargo, we hereby assess you 30 percent of your Treasury bonds because you live in a foreign country." And he even said the State of New Mexico is your residence. I thought maybe he read Mexico. But it said, "You are a resident of: address, Albuquerque, NM." Right in his letter. He signed it and he said, "You have to pay 30 percent." This former Governor called him up and said, "Do you know New Mexico is in the Union?" He said, "Well, I think so." He said, "Did you ever hear of the chairman of the Budget Committee, Senator PETE DOMENICI?" this fellow is up the street in one of these offices. He said, "Yes, I heard of him." He said, "Where do you think he is from?" He said, "Somewhere way out West."

Maybe Mexico, I don't know. But, we want the Senator to know that we are in the Union and we want to be treated with no favoritism, fair and square. I yield the floor.

Mr. SIMPSON. Mr. President, I rise to oppose the amendment offered by my good friend Senator DOMENICI

which states the sense-of-the-Senate that all State and local taxes—sales, property, and income taxes—should remain deductible.

I come from a State which relies extensively on sales taxes and which does not have a State income tax and cannot institute one under a restriction in our constitution. Along with a few other States, we are rather fortunate to be able to avoid that. So it would seem that I might wish to vote to restore the sales tax deduction. But I have looked at this bill as a complete and fragile package—and I feel that the elimination of the sales tax deduction is more than offset by increasing the personal exemption and raising the standard deduction. These are both changes which will benefit the "little guy" or the average American.

Over a 2-year period the personal exemption is rasied from $1,080 to $2,000. For single filers the standard deduction is raised to $3,000, and for joint filers the standard deduction is raised to $5,000. It is really a misconception that the sales tax deduction helps low- and middle-income taxpayers who are most heavily burdened with sales taxes. These taxpayers rarely claim itemized deductions—it is the high income, big spending taxpayers who benefit most from this deduction. In 1984, less than 25 percent of sales tax revenues collected by all of the States were claimed as itemized deductions. The bulk of the sales tax deduction claimed were from people in the upper income brackets—and certainly not by the average American.

We must understand when considering this resolution that restoration would most heavily benefit the heavy rollers and big spenders and not middle-class America.

I am pleased that we were able to defeat amendments last night that would have begun to chip away at this very balanced proposal. I believe that we must keep up our momentum and defeat such amendments or resolutions that threaten to unravel the basic structure of this package.

Mr. BYRD. Mr. President, the language of the amendment before us expresses the sense of the Senate that any tax reform legislation should preserve the full deduction for State and local sales, real and personal property, and income taxes. I support the amendment.

The bill as reported by the Senate Finance Committee retains the full deduction for State and local income and property taxes. However, the bill eliminates the deduction for State and local sales taxes. I support the deductibility of State and local income, property, and sales taxes.

In 1985, 42.9 percent of the State of West Virginia's revenues came from the State sales tax. This tax, with minor exceptions, is dedicated in its entirety to education.

Elimination of the sales tax deduction discriminates against middle-income taxpayers. The sales tax deduction is one of the most popular deductions in the Federal Tax Code. In West Virginia, this deduction accounts for 20 percent of the State and local tax deductions.

In addition, the restoration of the full deductibility of the State sales tax would reinstate the traditional neutrality of the Federal Government in a State's decisions in establishing a revenue system that is responsive to local needs and conditions.

At a time when we are asking States to share a larger portion of the payment of many Federal programs we cannot inhibit their ability to raise revenues by injecting a bias toward certain State and local taxes in the Federal Tax Code. It is an improper intrusion into State policy. I strongly urge the adoption of the amendment.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I was here while the Senator from Louisiana was playing his record for lunch. I was here while he was playing it for dinner, and, like most of my colleagues, I do not tire of listening to him talk about the fiscal relationship between the 50 States and their Government.

Mr. President, today, I join my distinguished colleagues from Florida, New Mexico, Washington, and New York in cosponsoring an amendment expressing the sense of the Senate resolution to preserve the full deduction for State and local taxes.

The tax reform proposal before the Senate goes far in reducing the tax burden on low- and moderate-income individuals. By closing many loopholes, it takes a big step forward in reestablishing fairness in our tax system. But the provision to repeal the deductibility of State and local sales taxes is not tax reform. And it is not good public policy.

Mr. President, when I consider this issue, my perspective inevitably reflects my position as chairman of the Senate Intergovernmental Relations Subcommittee. I am in a unique position to observe all facets of the complex web of relationships among Federal, State, and local governments that we call federalism. And from where I sit, it's clear to me that the proposal to repeal the sales tax deduction is but another assault that we, at the national level, are launching on State and local governments.

In Federal grant programs, State and local programs have taken drastic cuts. Between 1980 and 1985 grants to State and local governments declined by 23 percent in real terms, while defense grew by 40 percent and interest on the debt by 87 percent. Real spending in health services is down 14 percent. Mass transit is down 19 percent. Economic Development—39 percent. Social services—25 percent. Training and employment—69 percent.

In the area of regulation, the Federal Government continues to pile mandates on State and local governments. We used to provide grant money to sweeten the pot—now we pass on unfunded mandates without regard for the abilities of the governments to pay for the mandates. For example, we recently voted to add more regulations to the Clean Water Act. Yet, if the President has his way, we'll phase out the $2.4 billion wastewater construction grant program by 1990.

Now we are beginning the war on taxes.

We are proposing to repeal the deduction for State and local sales taxes.

Some of you may think that sales tax revenues are not really important to States. Well, that's only true in four States that don't levy sales taxes—Oregon, Delaware, Montana, and New Hampshire. On average, sales tax revenues are the largest single source of revenues for States—providing more than $60 billion a year. And there are 13 States that receive more than 40 percent of their deductible tax revenues from sales taxes, including Louisiana—69 percent, Hawaii—52 percent, Tennessee—61 percent, Mississippi—57 percent, and Oklahoma—42 percent.

While these statistics are compelling, they only begin to touch the heart of the matter. The real issue is this: We must defend the ability of State and local governments to collect the revenues they need—from the resources they have—to provide basic public services to their citizens. Mr. President, if we compromise now, the next assault on deductibility will be even worse. At a time when State and local governments are under seige, we cannot afford to hit at the last, untouched source of State and local financing. We must maintain, unblemished, the full deductibility of State and local taxes.

The deduction for State and local taxes is not just another special interest loophole. Since the creation of the Federal income tax, the deduction has been accepted as a necessary feature of federalism. It preserves a portion of the tax base for State and local governments to fund the services which we count on them to provide—education, public health, police and fire protection, clean air and water, to name just a few.

Repeal of sales tax deduction would be the first step in undermining the fiscal foundations of State and local governments. And it would constitute gross and unwarranted intrusion in the fiscal decisions of State and local citizens and elected officials.

Repeal of the sales tax would arbitrarily create winners and losers and increase the fiscal disparities that exist among States. The average per capita income of the 13 States that would be hardest hit by this proposal is 12-percent below the national average. In contrast, the 13 States that would be least affected by this proposal have an average per capita income 3-percent above the national average.

For many States, limiting the deduction will result in a decline in State and local services. States finance nearly half the costs of elementary, secondary, and public higher education. The proposal to repeal the sales tax would sharply increase pressures to cut public education expenditures, particularly in seven States—including Idaho, Iowa, and North Carolina—where more than 50 percent of the sales tax revenues support education.

The proposal is unfair to State and local policymakers who have developed their tax structures in response to the particular needs, characteristics, and resources of their citizens. Repealing the sales tax deduction would cut short State and local efforts to broaden and diversify their tax bases—a necessity in this time of reduced Federal and property tax limitations. It will distort policymakers' decisions in favor of those taxes that remain deductible—property, income and corporate. And because of this shift, over the long run, the Federal revenue gain would be reduced or even eliminated.

Repealing the deduction for sales taxes is not an acceptable or fair compromise. Nor is a floor on State and local tax deductions or a ceiling or an across the board limitation or any combination of these.

In fact, no compromise is acceptable. Selective repeal or an across the board limit as some have proposed would just be the foot in the door for those eager to shift the cost of tax reform and lower rates to State and local governments. The fact is that once we consider one modification, one compromise, the next one will be easier to make. We have only to look at the medical deduction to understand the problem. We began the medical deduction with a 2-percent floor. That floor was soon raised to 5 percent. The chairman's proposal would raise that floor to 10 percent. The same thing will happen with deductibility.

In short, we must have no less than full deductibility of State and local taxes. This principle of federalism has served our country well for over 100 years. We should not abandon it for a quick-fix solution to the problems of tax reform. I urge my colleagues to join me in supporting the amendment expressing the sense of the Senate to preserve the full deductibility of all State and local taxes.

Mr. MOYNIHAN. Mr. President, I rise today to cosponsor a resolution to affirm the importance of preserving the Federal tax deduction for all State and local taxes.

A little over 1 month ago—in the early morning hours of May 7—the Finance Committee unanimously approved the bill before us today. I believe it is the best piece of tax legislation ever produced by this Congress. I was one of that "core group" of Finance Committee members—Chairman PACKWOOD, Senators DANFORTH, CHAFEE, BRADLEY, MITCHELL were the others—who met mornings and weekends to work out the details of this bill, when it appeared that true tax reform could not be achieved.

Those who have followed tax reform through its embryonic stages—by my count, there have been no less than eight comprehensive proposals to reform the Tax Code within the last few years—will remember that several proposals have surfaced that would repeal or limit the deductibility of State and local taxes. These have covered the spectrum of possibilities from complete elimination of the deduction to complete retention and a variety in between. All of them violate a key principle of our system of federalism: that the Federal Government shall not infringe upon the revenue sources of the States.

Along the way, a general consensus has evolved, both here and in the House, that the deduction for State and local income and property taxes be preserved. Only one issue remains: what to do about State and local sales taxes? The House made its decision, and I think the right one, last December, when it voted to preserve the deductibility of all State and local taxes, including sales taxes. Under the constraints of producing a revenue-neutral bill, the Finance Committee found it necessary to do otherwise. We have been assured by the distinguished chairman of the Finance Committee and recently by the majority leader, that they will endeavor to restore the deduction for sales taxes in conference. We, who have taken up this cause, offer this sense-of-the-Senate resolution to assist in bringing about that result.

Since 1861, when the first income tax was enacted to finance the Union effort, taxpayers have been able to deduct all State and local taxes in the calculation of their taxable Federal income. It was understood, as a matter of common logic, that to do otherwise would constitute double taxation of income. This logic, I believe, is no less compelling today. For eliminating this deduction not only threatens the independent revenue-raising power of the States and dangerously undermines the federalist distribution of power but, to my mind, constitutes the most extreme form of Federal intrusion into States' fiscal affairs.

How could this fundamental principle of federalism have been put risk? One of the reasons—perhaps the only real reason—that the proposal to repeal the sales tax deduction got anywhere was the need for revenue to pay for lowering the rates, as this bill so dramatically does. Yet the provision is not likely to raise anywhere near the $17 billion estimated. Many State and local governments will, over time, shift their taxes to those that remain deductible—and the Federal Treasury will come up short.

Mr. President, the Federal deduction for all State and local taxes is a cornerstone of our federalism. I urge my colleagues to support this effort to preserve this fundamental principle. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate the question is on agreeing to the amendment. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 76, nays 21, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—76

Abdnor	Ford	Mattingly
Andrews	Glenn	McClure
Armstrong	Goldwater	McConnell
Bentsen	Gore	Metzenbaum
Biden	Gorton	Mitchell
Bingaman	Gramm	Moynihan
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bumpers	Hatch	Proxmire
Burdick	Hatfield	Pryor
Byrd	Hecht	Quayle
Chiles	Heflin	Riegle
Cochran	Heinz	Rockefeller
Cohen	Hollings	Sarbanes
Cranston	Inouye	Sasser
D'Amato	Johnston	Simon
DeConcini	Kassebaum	Specter
Denton	Kasten	Stafford
Dixon	Kerry	Stennis
Dodd	Lautenberg	Symms
Dole	Laxalt	Thurmond
Domenici	Leahy	Weicker
Durenberger	Levin	Wilson
East	Long	Zorinsky
Evans	Lugar	
Exon	Matsunaga	

NAYS—21

Baucus	Humphrey	Roth
Bradley	Kennedy	Rudman
Chafee	Mathias	Simpson
Danforth	Melcher	Stevens
Eagleton	Murkowski	Trible
Hart	Packwood	Wallop
Helms	Pell	Warner

NOT VOTING—3

Garn Hawkins Pressler

So the amendment (No. 2076) was agreed to.

□ 2200

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

● Mr. BINGAMAN. Mr. President, I would like to offer my strong support for the tax reform package that is now under consideration by the Senate. This bill proposes radical, but needed, changes in our Tax Code. It is a watershed. It truly calls for a fairer and simpler tax system. And, the changes it makes constitute a real improvement in existing law. As such, I support its adoption by the Senate and its enactment into law.

I. COMMITTEE ACTION

The entire Senate Finance Committee deserves our congratulations for producing this unanimously reported reform package. In particular, I commend the distinguished chairman, Mr. PACKWOOD, for his leadership and perseverance, and the distinguished ranking minority member, Mr. LONG, whose experience and expertise developed over many years helped shape this delicate compromise and hold it together once it was reached.

There is another member of the committee, Mr. President, who I feel deserves special praise, because in my opinion, more than anyone else he is the architect of the package before us today. The senior Senator from New Jersey, Mr. BRADLEY, has provided the substance around which this bill was developed. The Bradley-Gephardt Fair Tax Act, which I have been proud to cosponsor, has served as a lightning rod to stimulate debate on tax reform and was, in my opinion, the blueprint for the bill we are considering today.

II. OVERVIEW

The bill before us represents a major restructuring of the Federal income tax system. The bill significantly reduces tax rates and broadens the tax base by eliminating a variety of tax benefits and preferences.

A. SIMPLICITY

The bill calls for a simplified tax structure, with just three rates. It eliminates the current 14 rates—15 for single taxpayers—ranging from 11 to 50 percent, creating instead only two individual tax rates at 15 and 27 percent. It reduces the top corporate tax rate by one-third to 33 percent. And it severely limits the use of tax shelters.

B. FAIRNESS

The bill is fairer to nearly all Americans. Eighty percent of all taxpayers will have a top tax rate no higher than 15 percent, the lowest individual tax rate in over half a century. Approximately 6 million of the working poor will be moved off the Federal income tax rolls entirely. And, fairness is restored to the tax system with tough antisheltering and minimum tax rules.

C. REVENUES

The bill is expected to be revenue neutral. Over the next 5 years, the tax burden of individuals would be reduced by some $100 billion, while corporate taxes would increase by a similar amount. There is a revenue fluctuation problem, but, the chairman has said he will remedy this through technical changes.

III. IMPROVEMENTS

While I support the bill before us in its general provisions and I intend to vote for its passage, I do feel improvements can be made to the bill, without upsetting the delicate balance which has been created. As a result, I intend to listen carefully to the debate on this floor and to consider supporting necessary amendments.

A. SALES TAX

One particular provision in this bill that greatly concerns me is the elimination of the deductibility for sales taxes, despite the fact that the bill retains the Federal tax deductibility for State and local income and property taxes.

Mr. President, singling out the State sales tax is inconsistent and unfair, in effect an intrusion into States' rights to govern their fiscal affairs: It is discriminatory to allow the deductibility of the State income taxes and not allow the deductibility of sales taxes. The deductibility of the sales tax benefits all Americans by raising revenues to fund education, strengthen law enforcement, provide health care, and expand the public infrastructure.

In my home State of New Mexico, the elimination of the deductibility of the sales tax will have a drastic impact, because New Mexico relies heavily on sales tax revenue. In fact, New Mexico has the greatest reliance on sales taxes in the country—72.8 percent of all revenues from deductible taxes. As a result, the repeal of the sales deduction would cost taxpayers 36 percent of their total savings from the full State and local deduction, more than twice the national average. Sales taxes account for 42.1 percent of all State tax revenues in New Mexico.

Because of the impact and the inherent unfairness of the elimination of the sales tax deduction, I will support responsible efforts to restore it.

B. IRA

Another troubling feature of the committee-reported version is the restriction and virtual elimination of the individual retirement account as we know it today.

IRA's have proven to be the most effective and efficient savings vehicle ever for millions of Americans. In 1984 IRA's generated $18 billion in new savings—$7 billion in excess of the revenue loss of $11 billion.

IRA's enjoy widespread popular support. It is estimated that 40 million Americans have IRA's with a total value exceeding $250 billion. And, based on IRS data, 65 percent of all IRA's are held by individuals earning less than $40,000.

The use of the IRA as a tool to provide retirement income has met with great success. Furthermore, we need to do more in this country to encourage greater savings. I think we should think long and hard about the impact of eliminating this popular system of savings.

C. DEFICIT IMPACT

A further concern, which has also been raised by several of my colleagues, is how this bill impacts the deficit. While it is intended to be revenue neutral over a 5-year period I am concerned that we do not know what impact this bill will have on the deficit in the years thereafter. A few months ago we spent a great deal of time passing a Senate budget resolution which calls for $10 billion in deficit-reduction revenues. I think we need to know just where these revenues come from.

I hope that these questions can be answered and improvements made where necessary.

IV. COMPETITIVENESS

As in any important matter, there are winners and losers in this legislation, but I believe there are many more winners than losers. Most individual taxpayers would be winners and most businesses would be winners. As a result I think the bill will promote a stronger economy. It should result in a more efficient distribution of resources, because investment decisions would be made based on economic matters rather than tax considerations. These provisions I hope, will serve to make us more competitive as a Nation.

A. R&D

A number of features would be continued that encourage important research and development activities.

The R&D tax credit would be extended for 4 years at the present 25-percent rate, with important modification to the credit definition of research and with increased incentives for university basic research.

B. ENERGY TAX CREDITS

Business energy tax credits would be extended for solar, geothermal, and ocean thermal energy through 1988, and for wind energy and biomass through 1987, at reduced rates.

Alcohol fuels and mixtures would be eligible for the gasoline excise tax exemption at the present low rate for alcohol fuels mixtures.

These and other important changes in the bill will help to enhance our Nation's competitiveness.

V. CONCLUSION

Each year the Congress considers many reform measures and it is a true rarity for something Congress passes to deserve the label given to it. In this instance, I think we have a bona fide tax reform measure and I think, with the changes I have outlined, it deserves much support and praise.●

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I am advised by the distinguished chairman, Senator PACKWOOD, that there will be no more votes this evening.

Mr. BYRD. Mr. President, the Senate is not in order. We need to hear what the majority leader is saying about the program. May we have order?

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thank the Presiding Officer.

I am advised by the distinguished chairman, Senator PACKWOOD, that there will be no more votes this evening. He would like to be on the bill at 9:30 and no later than 10 a.m. tomorrow morning. There will be amendments that will then be ready for presentation. I think there will be an amendment by Senator KASTEN.

Let me yield to the distinguished chairman.

Mr. PACKWOOD. Mr. President, the reason we say 9:30 or 10 is that I have an 8:30 dental appointment, so I will not be talking as long tomorrow as I have been on some other times.

We will start with a Kasten-Inouye amendment on charitable contributions which will be laid down tonight. Then we will be able to go to some of the transition questions Senator METZENBAUM has. The first one that he is going to bring up is on UNOCAL.

I have indicated to Senators before that I would expect that they would be on the floor to defend their particular transition rules if they were put in at their request. Senator METZENBAUM indicates that by 9:30 or 9:45 in the morning he will be able to tell me what the second one is he is interested in, the third one, and fourth one. We will simply announce that so that you will have a rough idea of when they will go. He does not intend to talk long and I expect we would have three or four votes on them after the Kasten amendment.

Mr. BYRD. Mr. President, will the distinguished majority leader, and the equally distinguished chairman of the Finance Committee, indicate what they would expect for the Senate for Monday by way of convening time and rollcall votes?

Mr. DOLE. Let me again yield to the distinguished chairman, Senator PACKWOOD.

Mr. PACKWOOD. I want to do everything I can to accommodate plans that have been made. I initially indicated I would be ready to go at 9 or 10 o'clock on Monday. That did not meet with overwhelming enthusiasm. But I would be prepared to start at noon and take up whatever amendments we may have and go on through the afternoon and, hopefully, if it is all right with the leader, all day Tuesday and into Tuesday night in the hopes of finishing.

Mr. BYRD. Could we understand that if rollcall votes are ordered in the early afternoon, which they probably will not be, but could we have some understanding there would be no rollcall votes before maybe 3 or 4 o'clock in the afternoon? Could we have an understanding of that kind?

Mr. DOLE. Three o'clock? There might be rollcall votes ordered, but it would be agreed if there were rollcall votes ordered, more than one, we would stack them until 4 o'clock.

Mr. BYRD. Let us make it 4 o'clock. How about 4 o'clock?

Mr. LAUTENBERG. If we are going to stack votes, could we then start at 4 instead of 3?

(Mr. SPECTER assumed the chair.)

Mr. DOLE. We just decided to compromise at 3:30.

Mr. LAUTENBERG. I thank the leaders for their consideration.

Mr. DOLE. Mr. President, does the distinguished Senator from Wisconsin wish to lay down his amendment at this time?

Mr. KASTEN. I am not prepared to lay down my amendment at this time. I will be in about 3 minutes.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Alaska.

GEORGE LEHLEITNER CELEBRATES HIS 80TH BIRTHDAY

Mr. STEVENS. Mr. President, I see my good friend from Louisiana here today. We had a conversation earlier today and we would like to talk a little bit about a distinguished resident of Louisiana.

Mr. President, Saturday, June 14, is not only Flag Day, it is the 80th birthday of a man who represents what the true spirit of America is about.

Because of this man's selfless efforts in aiding Alaskans to achieve statehood, Alaska's flag now flies from the staffs of the 49th State, right beside Old Glory.

George Lehleitner is the man I want to honor. A Louisianian who lives in Covington in the Bayou State, he is an adopted son of my State, remembered in our history books.

A student of American history, described in biographies as "an enlightened New Orleans businessman," George was sympathetic with the statehood aspirations of Alaskans. He took an interest in the statehood movement when he was a Navy volunteer stationed at Pearl Harbor.

Quiet, serious, friendly and unassuming, George Lehleitner traveled to Alaska many times in the early and mid-1950's. He met with our leaders in the statehood battle to explain how a little-known bit of history could be repeated, which could make Congress sit up and take notice of Alaska and Alaskans and their cause to become part of the Union.

George brought his proposal to the late Ernest Gruening, former Governor of the Territory of Alaska who was in the forefront of the statehood movement. George's idea was a simple idea, called "the Tennessee Plan." It was based on the Volunteer State's procedure for achieving statehood almost 160 years before Alaska called its first constitutional convention.

"Elect your Members of Congress before you become a State," George told that hopeful band of Alaska statehood activists. "Elect them and send them down to Washington, DC, to knock on the doors of the Senate and House, just as Tennessee elected two Senators in 1796 to present the cause of Tennessee's statehood to Congress."

Those two men, George explained, traveled to the Nation's Capital and returned home with statehood for their fellow Tennesseans.

Such a plan would work for Alaska, George reasoned with our statehood proponents. If we sent duly-elected Alaskans we were certainly affirming our commitment to becoming the 49th State.

In 1955 the Alaska State Constitutional Convention was in session. After hearing George Lehleitner's proposal, the members adopted it. Alaska's voters nominated what became known as "the Tennessee Plan delegation."

Alaska's people elected as Senators the late William Egan, who went on to serve as our Governor, and former territorial Governor Gruening; and Alaska State legislator Ralph Rivers as Representative.

George Lehleitner's plan worked, with the help of Alaskans and many other Americans who understood and offered encouragement. He resurrected the Tennessee Plan, quietly but persistently convinced Alaskans to try it, and took no bows when the 49th star was added to our flag.

George returned to Alaska from his Louisiana home in 1984 to help us celebrate the 25th anniversary of statehood.

Today, as a grateful Alaskan, I want to offer birthday wishes to George Lehleitner and to salute him for his part in the successful conclusion to our struggle for statehood.

The 49th star on our Nation's flag will shine a little bit brighter this Flag Day, when George Lehleitner celebrates his 80th birthday.

Mr. President, as I said, George Lehleitner came to Alaska in the middle fifties with a new idea, and that was that Alaska should follow the State of Tennessee and adopt the so-called Tennessee plan, create a constitution, and send Senators and a Representative to Washington to petition the Congress to admit Alaska into the Union. Many things happened prior to that time to try to get statehood for Alaska, but I think this was the most unique suggestion, and it worked. It was a very interesting approach.

But we have heard that your good friend, I say to Senator LONG, and our adopted son of Alaska, has not been feeling well lately. My good friends from Alaska have asked me to ask you to convey to him our best wishes and to thank him, as he now reaches his 80th year, for the work he did to help our State in being admitted into the Union.

Incidentally, as you know very well, as a senior Senator from Louisiana, he was very much involved in the work that led to the admission of Hawaii into the Union. I was the Assistant Secretary of the Interior at that time and worked with him and many others.

I believe, to my knowledge, you and the distinguished Senator from West Virginia are the only two here on the floor now who voted for the admission of Hawaii and Alaska into the Union. I think the Senator from Arizona did likewise prior to the time he left the Senate, but I do not think he was here at the time we got admitted.

But I had a series of calls, in all seriousness, asking me to ask you, as a good friend of Alaska, someone who helped us become a member of the Union, to convey to George Lehleitner the best wishes of the people of Alaska and again our thanks to him and to you for working with him on the Alaska-Tennessee plan.

Mr. LONG. Mr. President, I thank my distinguished friend, the Senator from Alaska, for the kind words he said about George Lehleitner.

George Lehleitner is one of God's real true citizens of the world. George Lehleitner believes in democracy, he believes in freedom, and he believes that the more people who enjoy freedom and share it and who participate in democracy, the stronger we will all be.

So, it is consistent with his views that those who are Americans and subject to the laws of this Nation ought to be citizens and they ought to be members of the States and they ought to be participants in this form of democracy.

The Senator mentioned George was a strong advocate of Hawaiian statehood and Alaskan statehood. I believe he started out fighting for Hawaiian statehood first and he became convinced that Hawaii was not able to become a State first.

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He then came to me and told me that he wanted to do some research on the so-called Tennessee plan whereby Tennessee had sent their Senators and Congressmen to Washington even before the Federal Government made Tennessee a State. Those elected Senators and Representatives were seated subsequent to the fact of statehood even though they were elected prior to that time.

Having been provided with the research, he then went to Alaska and undertook to convince the people of Alaska, especially the legislature of that territory, that they should go ahead and elect their Senators and their Members of Congress.

I would like to ask the Senator. Did they elect the Governor of Alaska even though they were not a State at that point?

Mr. STEVENS. No; we had an appointed Governor at that time.

Mr. LONG. They had an appointed Governor. But he urged them to elect their Senators and Members of Congress.

They came here, bless their hearts, and they did a good job representing the State even though they were not privileged to come inside this Chamber at that time. But when the State became a member of the Union they were elected to office to serve thereafter.

Frankly, it is because of George Lehleitner that I came to know two outstanding Americans. A State senator from Hawaii persuaded me to make a trip to Hawaii. I went out there with him. We saw our good friend SPARKY MATSUNAGA out there. I became acquainted with a young man named DANNY INOUYE out there at the time.

DANNY was working at that time for the Director of Civil Defense, Mr. John Burns. The Republicans had the White House, and were in Washington before you had a Republican Governor. The mayor of Honolulu was a Democrat, and he had Mr. John Burns as his Director of Civil Defense. John Burns had his able assistant, a young man, DANNY INOUYE, who I came to know at the time.

We formed a friendship that will last as long as any of us survive.

They persuaded me that I should become very involved in fighting Hawaiian statehood, and also in due course I became a supporter and worker in the effort for Alaskan statehood because George became convinced that to make these two States, or these two territories, States, as they deserved to be, Alaska would have to go in first.

So we did that.

I recall so well that John Burns was a delegate at the time we passed the Alaskan bill, and he had to show supreme statesmanship of asking people to vote against the amendment that would add Hawaii to the Alaskan bill on the theory that those who were seeking that amendment in the main did not want it to become a member of the Union. But he thought putting the two in the one bill would defeat the statehood movement as it had before.

In this case, thanks to Lyndon Johnson, he persuaded John Burns that he should show supreme statesmanship urging us not to add Hawaii to the bill. Alaska indeed obtained statehood. Hawaii then came along behind, and they both gained statehood, and the Nation prospered.

We had some great Senators, and I am sure some great Members of the House. I did not know them as well, but they have some great House Members as well.

But I am particularly proud of the Senators of those two States for the Senators they send to us, and it would have been much more difficult had it not been for the great citizen of Louisiana, Mr. George Lehleitner.

Incidentally, as the Senator so well knows George Lehleitner is a great believer in employee stock ownership. Before anyone in the Congress heard about it, long before I heard about it, he came back from the Navy and established his business. And he felt that the employees ought to own stock in it, and in due course employees own enough stock that they now own it.

He retired, and it is their company. He persuaded me that they have about four times more productivity than their competitors because it is their own company. They own it. They worked to make a great success of it.

Mr. STEVENS. Mr. President, George Lehleitner is a man of great foresight. One of my fondest photographs of that period was taken in the press gallery with Leo O'Brien, Chairman of the House Interior, and Insular Affairs Committee who had worked so hard on statehood. And George Lehleitner and I were looking at a rollcall vote that had just taken place. Most Members of the Senate probably do not realize that Alaska's statehood bill passed the House, and then had to pass the Senate without amendment because we had aborted the Rules Committee in the House. You will recall that. And had the bill gone back to the House of Representations, or gone into conference, it would never have passed.

Those were great days. We are grateful to Senator LONG. But we are particularly grateful for that wonderful man that is a friend of Senator LONG and is a friend of mine who still lives in Covington, LA, and we observe his

birthday. We wanted him to know that.

Mr. LONG. It warms my heart to hear the statement of the Senator from Alaska because it proves something the Senator from Louisiana knew all the time. I do not mind being proved right. I knew it all the time. It confirms what I knew, and that is that Alaskans do not forget their friends, and Hawaiians do not forget their friends.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. STEVENS. I am delighted to yield.

Mr. MATSUNAGA. I thank the Senator.

I wish to join with the distinguished Senator from Alaska in extending congratulations to George Lehleitner, a great friend of mine, and a great friend of Hawaii because it was he who suggested to our distinguished senior Senator from Louisiana that he should take a trip to Hawaii, and support Hawaiian statehood.

Up to that point, the Senator from Louisiana was opposed to Hawaiian statehood but once he got to Hawaii, he was convinced that Hawaii was ready for statehood. Senator LONG returned from Hawaii, took the Senate floor and made his speech in favor of Hawaiian statehood. His action broke the Southern bloc of opposition. Incidentally, the senior Senator from Louisiana was photographed in Hawaii with leis up to his nose. Upon seeing that photograph the then President pro tempore, Senator Richard Russell, of Georgia, remarked "We have lost Russell."

So I wish to join with the Senator in asking that our congratulatory messages be relayed to George Lehleitner.

I thank the Chair.

Mr. STEVENS. Mr. President, Senator MURKOWSKI and I represent people who are extremely grateful for the work that Senator LONG did, and I will say to my good friend from Hawaii that the way in which the Senator entertained the Senator from Louisiana out there in Hawaii meant that he came back and convinced not only that Hawaii should become a State but that he should also help us in order that we could become a State. So the Senator did a good job. We appreciate all of it.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the pending legislation.

The legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

AMENDMENT NO. 2077

(Purpose: To provide for charitable deductions for nonitemizers and to lower the threshold for phasing out the personal exemption)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself and Mr. INOUYE, proposes an amendment numbered 2077.

Mr. KASTEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . CHARITABLE DEDUCTIONS FOR NONITEMIZERS.

(a) IN GENERAL.—Subsection (ii) of section 170 (relating to rule for nonitemization of deductions) is amended to read as follows:

"(i) RULE FOR NONITEMIZATION OF DEDUCTION.—

"(1) IN GENERAL.—In the case of an individual who does not itemize his deductions for the taxable year, the applicable percentage of so much of the amount allowable under subsection (a) for the taxable year as exceeds $200 ($100 in the case of married individuals filing separate returns) shall be taken into account as a direct charitable deduction under section 63.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

"For taxable years beginning in:	The percentage is:
1987 or 1988	50
1989 or 1990	75
1991 or thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1378, line 17, strike out "and".

On page 1378, line 18, strike out the period and insert in lieu thereof a comma and "and".

On page 1378, between lines 19 and 20, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1381, line 13, strike out "and".

On page 1381, line 15, strike out the period and insert in lieu thereof a comma and "and".

On page 1381, between lines 15 and 16, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1384, line 24, strike out the end quotation marks.

On page 1384, after line 24, insert the following new subsection:

"(i) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i)."

On page 1387, line 13, strike out "5 percent" and insert in lieu thereof "12 percent".

Mr. KASTEN. Mr. President, I say to the majority leader that tomorrow we will have an opportunity to discuss this amendment. It will be the pending business.

THE MIDDLE CLASS IN KOREA

Mr. DECONCINI. Mr. President, in June 1963, embroiled in the midst of a horrible war in Vietnam, several Buddhist monks immolated themselves. This was a silent but highly visible protest against a deaf and unyielding regime. That protest erupted into widespread media coverage and elevated public awareness of the Vietnamese situation.

Today, 23 years later, we are viewing similar events in South Korea. Two weeks ago, a 22-year-old student of Seoul National University climbed onto a third-floor ledge of the administration building. After shouting anti-Government and anti-U.S. slogans, he doused himself in gasoline, ignited himself and dove to his death, a human fireball. This latest suicide brought the total to five, including four college students who have immolated themselves in protest against the Chun regime.

As in 1963, these immolations are frightening examples of the dire measures that people will take when they have no recourse within their government. These radical students represent a minority of the 1 million Korean college students. Originally, they attached themselves to the opposition movement led by Kim Dae Jung. They have become impatient and have denounced the middle-class opposition, claiming that it is too conservative. However, the radical nature of the student movement adds an explosive element to an already volatile situation and, therefore, cannot be discounted. The national security of South Korea depends upon listening to the middle class. The middle class wants to peacefully petition their government for constitutional change. They do not shout anti-American slogans.

Recently, I introduced Senate Resolution 392 calling for the President of the United States to support diplomatic exchange and dialog between all opposition parties and the United States Ambassador to South Korea. This resolution urges the President to send a special envoy to South Korea to expedite a peaceful solution. It also expresses the Senate's support for the opening of high-level diplomatic talks between the U.S. Departments of State and Defense, the Chun government, and all leaders of the opposition. I feel that these actions could derail a potentially violent collision.

Democracy, Mr. President, affords us the luxury of diplomacy. It is only when groups feel that they have no effective avenue to pursue grievances

within their government that they turn to the extreme measures that we have recently witnessed. Our own history demonstrates the importance of freedom and representation. Freedom to petition one's government, freedom of speech, and freedom of assembly. This is what the middle class desires.

I would also like to cite a recently released report by Amnesty International regarding increases in the number of people arrested in South Korea for criticizing the Government. This includes workers and farmers as well as students. The State Department says that reports of torture or cruel treatment of prisoners in South Korea have increased "significantly" from 1984 to 1985. This does not appear to be a country moving quickly toward democracy in 1989.

In the Declaration on Independence, Thomas Jefferson expressed the right of the people to change a repressive regime. I am hopeful that the moderate middle class in South Korea will be afforded the opportunity to influence this Government. The radical student groups are desperately reaching out. We cannot afford their despairing attitude to delegate the future. We must encourage dialog. History, Mr. President, will most surely repeat itself if ignored. But if we learn from it, perhaps we can avoid the mistakes of the past and find a peaceful solution.

STINGER VICTORY

Mr. DECONCINI. Mr. President, the Reagan administration decided to remove the Stinger missile from the Saudi Arabian arms sale package. Several Members of Congress had singled out Stingers as a reason for opposing this sale. Many of my colleagues have argued that some of these shoulder-fired missiles might fall into the hands of terrorists, who could use them against U.S. aircraft, civilian commercial jetliners, or military aircraft in the Middle East.

The administration hoped to eliminate the political sting from the Saudi package that both the Senate and House originally rejected by overwhelming margins. President Reagan's idea is that Congress is rightfully fearful that terrorists might acquire these convenient and lethal weapons, and withdrawing them makes the package much more acceptable. The President, in a letter to majority leader ROBERT DOLE, discusses "the particular sensitivity of Stingers being transferred to any country."

Mr. President, supplying Stinger missiles without strict and protective safeguards is not in the national interest of the United States. This perspective has been clearly expressed by Congress in 1984 when the Reagan administration withdrew its proposal to sell thousands of Stingers to Jordan and Saudi Arabia. This view was repeated again when the administration recently withdrew the Stinger from the latest Saudi Arabia arms sale package.

Congress has recognized over the past years that Stingers could function as an ideal terrorist weapon. In the case of Saudi Arabia, elaborate safeguards and security measures have been devised as part of the letter of offer and acceptance in order to protect this weapon from falling into PLO hands. The Saudis allow the PLO to work with their military, and some who are sympathetic to the PLO might allow the Stinger to be stolen or sold.

This is my fear, Mr. President. I have introduced legislation which will prudently safeguard the Stinger missile when it is transferred to resistance efforts around the world. This reflects congressional and the administration's concern regarding the Stinger. This is a terrorism and security issue, not a reflection on the Saudis, Contras, or UNITA.

Secretary Shultz, in response to a question on countering terrorism with measures other than enhanced security and better intelligence, recently said:

> I don't think purely defensive postures are adequate. We must think through as a society other aspects of this problem * * *

This involves preventive and prudent arms control measures now. We need to stop terrorist activities before they start. We must protect Americans both at home and abroad. Arms exported in a reckless manner today could seriously cripple American citizens and interests tomorrow. My legislation is not for or against resistance movements. This is legislation for America and American interests.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond the hour of 10:25 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

OPPOSING THE PARTICIPATION IN THE JULY 4TH LIBERTY WEEKEND CELEBRATION OF THE CHILEAN TORTURE SHIP "ESMERALDA"

Mr. KENNEDY. Mr. President, I would like to call to the attention of my colleagues a resolution disapproving the participation of the Chilean torture ship *Esmeralda* in our Nation's "July Fourth Liberty Weekend" celebration, upon which I hope the Senate will act quickly and favorably.

Although it has not always been so, the *Esmeralda* today is a ship of shame. It was the site of one of the cruelest chapters in the history of Chile—the brutal torture of over 100 men and women by Chilean authorities in the aftermath of the bloody coup by General Pinochet in September 1973. Because of this heritage of horror, the *Esmeralda* is a continuing symbol of the repression which persists in Chile to this day.

The Statue of Liberty would weep at the sight of the *Esmeralda* entering the gateway of freedom at New York Harbor. This ship is the antithesis of American freedom and should not be permitted to participate in the celebration of America's liberty and democracy.

Nothing in this resolution is intended to detract from the noble heritage of the *Esmeralda* before the tragic events of September 1973. For generations prior to that date, Chile was renowned as one of the most stable and democratic nations in South America.

The name *Esmeralda* itself has a distinguished heritage in Chilean naval history. The original *Esmeralda* was a Spanish frigate captured by Chilean patriots and commissioned in the Chilean Navy in the War for Independence at the beginning of the 19th century. The present ship was built in 1952 as a training vessel to carry on the proud tradition of seamanship in the Chilean Navy.

But on September 11, 1973, a military junta led by Gen. Angusto Pinochet staged a bloody military coup, crushed Chilean democracy, and installed the repressive regime that has ruled in Chile ever since.

On the same day that Gen. Pinochet seized power, the junta rounded up 40 men and 72 women and held them naked in the dungeons of the *Esmeralda*. The prisoners were subjected to brutal torture and interrogation. For a period of nearly 2 weeks, they were beaten, tortured, subjected to electric shock, mock execution, sleep deprivation, and sexual abuse. Throughout this ordeal, the Chilean authorities ruthlessly interrogated the prisoners about their political activities prior to the coup.

Today, the *Esmeralda* is not used for torture. But to the Chilean people, it is a clear and present symbol of the pervasive terror they have endured in the 13-year dictatorship of Gen. Pinochet.

One survivor of the *Esmeralda* nightmare described his feelings about the ship in a sworn statement:

> Up to September 10th, it had been for me, and for ten million Chileans, the "White Lady," the "National Pride." It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today, it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women.

Esmeralda means "emerald," a gem of extraordinary beauty. And the *Esmeralda* is one of the most beautiful

tall ships in the world. Until the cruel coup in 1973, the vessel was a source of patriotic pride for the Chilean nation. But because of the coup that transformed the *Esmeralda* into a torture ship, the vessel no longer represents the people of Chile, or the democracy and freedom for which Chile is striving. Rather, it symbolizes the reign of terror in the days when General Pinochet's repressive regime was born.

Instead of evoking the pride of the Chilean people, the ship summons up memories of dead friends and missing relatives, midnight arrests and mysterious disappearances, detention in unknown locations and represession of a democratic nation.

Current reports by Amnesty International and other human rights groups document General Pinochet's continuing and flagrant attempts to crush any democratic opposition in Chile.

In March, the United Nations Commission on Human Rights condemned Chile's record on human rights and expressed its strong concern over the persistence of serious human rights violations, including disappearances, torture, abuses by security forces, and the denial of fundamental rights.

As long as repression continues in Chile and liberty is denied, the *Esmeralda* should not be welcomed in any celebration honoring America's own Statue of Liberty. On the day democracy returns to Chile, I will invite the *Esmeralda* to return in honor to the United States. But until Chile is free, the sails of that torture ship should not be permitted to darken our waters, let alone cast their abhorrent shadow upon our own precious symbol of liberty.

I hope the Senate will act promptly and favorably on this resolution. The *Esmeralda* is already on its way to New York. My hope is that the ship will turn back, and will choose not to participate in the July Fourth celebration. But in any event, I believe this resolution is necessary at this time. I ask unanimous consent to insert in the RECORD some sworn testimony of survivors of torture on the *Esmeralda* and other materials, and I urge the adoption of the resolution.

I also ask unanimous consent that the text of the resolution and other material in connection with this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, Operation Sail has invited the Chilean naval vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York harbor;

Whereas, the *Esmeralda* is the notorious vessel used for the torture of 112 political prisoners at the time General Augusto Pinochet seized power in a military coup in Chile in 1973;

Whereas, serious violations of basic human rights and civil rights continue in Chile under the Pinochet regime, of which the *Esmeralda* is an unfortunate reminder.

Resolved by the Senate (the House of Representatives concurring),

SEC. 1. The Congress deeply regrets the invitation extended to the Chilean vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York City, and urges Operation Sail to withdraw that invitation.

SEC. 2. A copy of this resolution shall be transmitted forthwith to the Chairman of Operation Sail.

EXTRACTS FROM TESTIMONIES CONCERNING TORTURE THAT TOOK PLACE ON THE CHILEAN NAVAL TRAINING SHIP "ESMERALDA" IN THE PERIOD FOLLOWING THE COUP D'ETAT IN 1973

1. Sworn Statement about tortures suffered on board the "Esmeralda" Training Ship of the Chilean Navy:

"In Israel, Tel Aviv, on April 22, 1976, I, Luis Vega Contreras, Chilean, lawyer, identity card No. 225,571, issued in Valparaiso, state in this sworn statement:

First: During the Popular Unity Government of President Dr. Salvador Allende, I served as an attorney for the Ministry of the Interior. As a Government Attorney, I provided legal counsel to the Governors of the Provinces of Valparaiso and Aconcagua. . . . .

Fourth: At 8:20 p.m. on September 11, 1973, Police Commanders Castro and Stange arrived at my home in the National Defense Building, Pudeto Street 351, accompanied by some officers and a large number of troops and detectives, all armed with machine guns and in numerous vehicles. I was told to accompany them and to take my personal effects which I did. They searched my home.

I was placed in a pick-up truck where I found Mr. . . . ., retired government official.

We then went to get other people among whom I remember Congressman. . . . . and Councilman. . . . . We entered the harbour pier at 9:20 p.m. and Commanders Stange and Castro turned us over to the Commander of the "ESMERALDA". He and other officials were at attention on the main deck of the "ESMERALDA", the training ship of the Navy. There they made us stop in front of the pier where we saw people on the ground or kneeling with their hands behind their heads. A midshipman of Nordic appearance, who I had known to be a member of the fascist-terrorist organization "Patria Y Libertad" (Fatherland and Liberty), without saying a word, hit me in the neck with the stock of his rifle. He then hit me again in the right kidney with his gun. From then on, under kicks, blows and amidst the vilest curses we were taken to the Midshipmen's quarters where we saw a sign of sarcastic humour saying "Entrance forbidden, for members only." I was pushed and thrown on the floor where everything was dark and the light bulbs were covered or painted red. The masks that covered some of the sailors' faces had fluorescent paint. I had hardly gotten up when some marines wearing black hoods tripped us and knocked us to the ground. They placed the muzzle of their rifle on the back of my head and a foot on my back. They did this in the midst of infernal screaming, blows and insults. They ripped off my clothes and took away my valuables. I had a thick gold chain with some trinkets attached, and in order to take it they held me by the hair and pulled it off. I still have the scars of their brutality on my neck. They violently stole it from me. Then, naked, they placed me under a high pressure jet of sea water. This lasted for five or more minutes. Kicking me they removed me from this shower and threw me on the ground. My wrists were tied behind my back and my fingers were individually tied. Thus bound they put me again under the heavy, powerful jet of sea water. The pressure produced an unbearable pain in the head, ears, eyes and lungs. Using lances made from sticks with steel points, they would stab at us to keep us under the water jet.

Later on they threw us on the floor and every fifteen minutes, between kicks and blows from their rifle butts in the so-called Midshipmen's quarters, they would place us under the water jet. As I was beaten, they told me that in my home they had found 10 gold bars, food and that they knew I was in charge of a plot to murder Naval Officers and a leader of the GAP (special security force to protect President Allende). During the 72 hours we were not allowed to sleep due to the water jet, the beatings and a head count taken every 15 minutes. The first night there were seven men in the so-called Midshipmen's quarters and one * * * a flier about a feminist meeting that had taken place one week before. I remember she cried for her husband and children.

We were all naked. At one point we were, according to one count, 40 men and 72 women. The quarters were divided with a canvas, but the women were naked in their hammocks.

The treatment these sailors gave the women was outrageous. They would squeeze their breasts, buttocks and thighs. We could hear the screams of the women and girls protesting these outrages. I saw . . . . ., daughter of . . . . ., a student, ..., of the University, ..., and a friend, ..., who remained calm and dignified amidst such horror. Every one was stripped and placed under the jet of sea water. There was a marine we called the "Bird of Torture", who would constantly bang on the metal doors to prevent us from sleeping. It was impossible to do so anyway because we constantly heard the yelling that came from the torture chambers where electric shocks were applied, the "telephone," [1] and other savage tortures took place. They would yell out the names of those who were to be interrogated by the "inspectors".

I remember a young man whose last name was . . . . . They would take him out three or four times a night and bring him back half unconscious, and his blood would drip over my back and face. I could not dry the blood because during the days I was on board the training ship "ESMERALDA", I was either on my back or facing the floor with my hands always behind my neck. This produced such cramps that it makes it almost impossible to move or walk when one gets up.

On September 13, at about 9 p.m., I was taken to the Officers' quarters on deck where there were 9 members of the combined armed Intelligence and police plus an official of the Bureau of Investigations, though I got the impression that he also belonged to the Navy.

On my way to these quarters the individuals that were guarding me told me I would be immediately shot because I was a Com-

[1] Form of torture where both ears are hit simultaneously, producing great pain.

munist, a traitor to my country and the Armed Forces. They made me stand up against a wall, they kept quiet for a while. One of them made me close my eyes and then cried "fire". Nothing happened.

I had gone into the quarters barefoot, with a cloth over my eyes and completely tied up. They made me remove the cloth and the ropes with which they had tied me up. They gave me a blanket so that I could cover myself, coffee and cigarettes. They interrogated me for four hours about several matters related fundamentally to my work as Interior Security, the files and some problems about pending lawsuits. They had no masks on, and they knew that my functions were exclusively legal and that I belonged to no political party.

But when I was leaving this interrogation, those that were taking me out told me, "We know you have lied and that you are a traitor and we have orders to cast you to the bottom of the sea." They had again covered my eyes. They added "We are going to give you a choice, do you want us to tie your feet with chains or do you prefer to have an anchor attached to your feet?" I answered, "An anchor.'" One of them asked why. I answered, "Because you have very few and they are very expensive." They took me and placed me under the sea water jet; they held me there for a long time; they almost drowned me. Then they showed me . . ., an engineer, who was naked and had a skinned back with wounds that had been produced by banging against the steel pillars in the officers' quarter-deck. The banging was caused by the effects of the electric shocks. He had salt on his wounds, sea salt. I was forced to stand over him and to grind the salt with my feet so that it would seep into the wounds. . . .did not complain and apparently was semi-conscious. I had to do this under the pressure of blows and machine guns.

On September 14, I do not remember the time, I was taken to one of the offices on deck. I could hear the voices of . . . and . . . They put a plastic helmet on my head and asked me, "Do you know who wears this?" "Yes", I answered, "construction workers and miners." "No," he told me. "The Compañero wears it." I asked, "Who is el Compañero?" He answered, "How come you don't know who the Compañero is? Allende, the one who was shot when he took the Moneda (Chilean Presidential Palace). It was taken by our officers and soldiers." This was the first information I had about the death of President Allende. And according to the informant, Salvador Allende had been killed by them.

In Dawson Island I learned what the real circumstances of the tragic death of Salvador Allende, President of Chile, were. Dr. Salvador Allende had "committed suicide" with over thirty-five (35) shots in his body. That time they told me, "Allende had resisted and the soldiers and officers that had taken the Moneda room by room, had been forced to kill him when he refused to surrender."

That same day, the 14th, approximately at sundown, the torturers of our prison told us, "We are going to behave, you'll do some gymnasium." They started with me and . . . As we could hardly get up, we were leaning against some cabinets in order to start doing some exercises, when we heard shots coming from different parts of the city. One of the torturers went on deck and returned saying, "They are going to attack the pier in order to rescue these s.o.b.s", and they started kicking us, hitting us with the butts of their guns, pistols and rubber whips. Sergio Vuskovic was kicked in this way, so that when the International Red Cross arrived at Dawson Island he still had black and blue marks.

The torturers of the midshipmen's quarters told us, "If the Communists get to the Green Door, we'll shoot all of you." I think there was no such shooting. The shots were continuous and they came from machine guns or sub-machine guns, and were aimed toward the hills. They were constant and never changed positions. If there really had been a confrontation, the shooting would have had to be irregular and not constant as it was. And it suddenly stopped completely.

The fear, the screams, the crying of the ladies who were detained next to us cannot be expressed in this declaration. Some of the torturers would say we had to be shot immediately. One could tell they were in a state of hysteria, terror, and cowardliness, bordering on mental distress. Some would say our corpses should be dragged through the streets so that the imaginary terrorists would give up.

Approximately an hour later that night new detainees started arriving. They were accused of having been caught throwing empty machine guns on the ground. According to the accused, after the usual procedure of blows and seawater jet, they had been merely walking in the streets on their way home. They knew nothing of what was going on and they were accused of "having participated in assaults on the regiments." The curious fact is that in the middle of these accusations and charges everyone said, "We only heard shots, but we have not seen anyone shoot anyone and no-one has shot back. The tortures were generalised. Marines would come in. I say marines because they would always identify themselves as such. They would tell us that the "treatment being applied to us was 'Treatment of Prisoners' which they had learned at Las Rocallosas . . . We are brutal, we have been trained at Rocallusas to do this.

On Saturday, the 15th, most of the men, with the exception of a few who were left behind, were taken in Indian file surrounded by guards to the merchant marine ship "MAIPO". On the way we passed hundreds of bound and tortured men lying on the ground, and we could see the decks and holds of the "MAIPO" filled with men kneeling and their hands behind their heads. The guards made us spread our legs and lean against the wall, all the while using one finger to keep our balance. We were rudely and vulgarly insulted by the military personnel and told that we would be immediately shot because they could not waste their time with us. They made us go down to a filthy hold without clothes. There were no bathroom facilities and no water. At about 2 p.m. orders were given to take six of us out, leaving. . . . They were later taken to Pisagua.

We returned on board the "ESMERALDA" with a numerous and heavily-armed guard. We had to walk over hundreds of men and women lying on their stomachs on the pier. Some were kneeling and with their hands behind their heads, some were in groups of five lying down. On top of them and lying across them would be another group of five. In some cases the altitude of this human heap would be as high as five persons, causing the persons on the bottom extreme suffering.

On the main deck of the "ESMERALDA", except at the entrances, passages and bridges, there were lines of men one on top of the other; they were asking for water, crying, complaining of being tired, hungry, in pain. The same midshipman who belonged to "Patria y Libetad" and who hit me when I first went on board, made me lie on top of some construction workers who were accused of having participated in the shooting that had taken place the night before. We were there for a short while because our destiny was different than that of the other detainees. The one who was in charge of us, took us back to our cell, the midshipman's quarters. As we got back, the "Bird of Torture" who was at the bottom of the stairs told us, "Ungrateful men, you left without saying goodbye." And the blows started again. I answered, "You have no idea how delighted we are to get back. We are already acquainted with your hand and everything here. Everything was unknown to us there."

The first day I was excessively hit because among my documents, the personal ones, I had photos of my two sons in military uniforms and with machine guns in their hands. They insisted that my sons were "guerrilleros" (engaged in guerilla warfare) and that I had to tell them where they were so that they could locate the guerillas. But my sons were in Israel and were soldiers there; the pictures were the ones that all young people send their parents. . . .

The next day I was taken to the quarter deck. I realized that there was only one person there. As soon as I arrived, he hit me on the kidneys and gave me a couple of karate blows with his feet on my thighs, stomach, and arms. He stepped on my insteps and he gave me the "telephone". I was tied up to the steel pillar and he gave me electric shocks on my tooth fillings. This produces unbearable pain. He asked me concrete questions about my connections with Officers of the Navy, Police Force and Army, and what connections they had with the Popular Unity Government and with the political parties that formed the Government. He also asked me about the information I had been given about the Armed Forces. He would hit me and ask, "Will you be able to recognize my hands?" I would answer, "Officer, Sir, my eyes are covered, I cannot hear with all this cloth around me and with the blows, besides, one hand hits as well as any other; all hands hit alike." As far as all the officers about whom he questioned me were concerned, from Admirals to Lieutenants and other officers in different branches, my connections with them had been entirely and exclusively of a professional nature and their behavior was strictly professional. With many of them it never went beyond a greeting when I went to Jose Toribio Merino's office. I visited his office on account of matters dealing with the governorships, the Corporation of Development, and the Industry and Medical Machinery Company of Valparaiso.

I could not accept any charges, they were infantile.

I remember that during all that time and in the officer's quarters, they constantly hit Councillor . . . . on his heart. The situation was of indescribable chaos. They made different charges, then they would get confused as to the charges made. They accused the women of belonging to guerilla groups, of being nurses in war hospitals; everywhere there were lamentations, everything was violent, fear and terror. I have seen my friends arrive covered with urine and feces. I have seen and heard ladies who had their period, forced to take their clothes off and put under water in spite of their protests. I have seen, because I could see from my

hammock, when my back was turned, how an Italian citizen called . . . ., was savagely beaten. I have seen and heard my friend . . . . ., a sick man, cry out in pain. He was detained and taken from his bed where he lay sick, thus risking his life. I have seen how a friend of mine, completely removed from any political activity and seriously ill, was beaten. I have seen how people in the midshipmen's quarters were driven insane. (This happened to a young man with a Yugoslavian last name.) I saw Venezuelan, Bolivian, Peruvian, Uruguayan and Argentinian students from the University of Chile and of Santa Maria University, being tortured their hair grotesquely cut with commando knives. I was beaten by the torturers so they could show these young students how brave we Chileans were and how we no longer complained.

On September 18th we were not questioned, but we were hit as we were every other day. That day one of the torturers put on a baseball glove so that "it makes a noise, but it won't hurt." This was the maximum concession to us.

On September 19th I was again taken to the quarterdeck, but this time the man who had applied the electric shocks to me and who was interested in the officers of the Navy and other Defense Branches, was not alone. Other voices could be heard. As soon as I arrived he asked me, "Can you smell shit? A comrade of yours has just defecated with the electric shock." I answered, "I can hardly breathe with the bandages, I can't smell anything." The man told me, "Boy, you are lucky, you son of a bitch, I can't stand the stink anymore." And he started telling me, "You have lied to me all along, dear Luis, you have screwed all those who have interrogated you. You have laughed at me, you think you are tough, but now you are going to face me." I was naked, with my eyes covered and with my hands tied behind my back. He loosened my hands and handcuffed me to the pillar. He told me, "I know you used to practice karate, now we are going to find out what your physical condition is." He hit me in the stomach, liver and shoulders. He told me he had a "hammer" blow (upside down) that no one could resist. And he applied it on each shoulder. He completely paralyzed my two arms. But I did not complain. This was the same man who had tortured me by himself. I could recognize his voice, his blows, the alcohol on his breath, it was an unbearable smell of hard liquor. I will never forget these feelings. He asked me if I hurt. I don't know why I told him that he had not hurt me, not as much as when one hurts oneself when practicing karate on the dome . . . . .

This "inspector" stated that I was lying and that I only intended to defend "Allende the traitor," that I was also a traitor and that I could not fool him. He decided to apply the electric shock again. Now he had helpers. He wanted me to confess and sign a confession. At that particular moment another officer came in and told him that it was unnecessary to apply the electric shock to me because there were different orders connected with me. And this new officer reiterated a proposition that had been made to me before: to cooperate by informing against my comrades and that I would then be able to continue as a civil servant and process those who were acting against the nation's security. This because I was only a civil servant and not a political leader. I expressed again that I was a man of law and a civil servant, but that I always acted according to my conscience and that my conscience told me to continue living as I always had.

Then the "inspector" told me, "Talk." I asked him "What do you want me to talk about?" He said, "Give the reasons why so and so was appointed for such and such a job, tell us about the problems Admiral so and so had with the UP (Popular Unity). And about officers in the other branches of the Armed Forces in National Defense and Security." According to him, this Admiral was also detained. I spoke for about 35 or 50 minutes. Then, at a specific moment, the "inspector" told me, "You know what, my dear Luis, you have tangled me up and confused me more than spaghetti is tangled in a spaghetti meal, you better get back to your hammock." They took me again to the midshipmen's quarters. We could not rest there, during the 24 hours tortured men and women would come in and go out.

A Customs civil servant was tortured on board the "ESMERALDA". This caused such effects that he committed suicide after a beating of tortures. He jumped overboard and drowned.

It was dawn on September 20th, 1973. I lay on my back with my hands under my head, when at about three I was told that I had to get dressed, shaved, and take my few belongings. Everything was returned to me, except the identity card, driver's license, Ministry of the Interior identification, and my gold chain. . . . . and . . . . . and . . . . . and . . . . . and . . . . . and myself were removed in one of the Naval Academy mini-buses, at approximately 4:45 with an incredibly large guard. In the bus a sergeant who was camouflaged told us, "we have orders against you in case you talk or move." That was the last time I saw the "ESMERALDA". Up to September 10th it has been for me and for 10,000,000 Chileans the "White Lady", the "National Pride". It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women . . . . .

From there we were taken to Quintero; the Air Force group 10 was on a plane to Dawson Island. My testimony refers to the ten days that I was a prisoner in the midshipmen's quarters and where I was tortured on the quarterdeck and in other chambers of the "ESMERALDA".

LUIS VEGA.

[From the New York Times, June 2, 1986, by Cynthia Brown]

IT'S LIKE INVITING PINOCHET TO JULY 4

The Chilean ship Esmeralda is one of the world's most beautiful sailing vessels, a four-masted barkentine 353 feet long. She has been invited to participate, in New York Harbor on July 4, in the largest gathering of tall ships in history, and at first glance would seem a natural choice for this honor. It was, however, a terrible—though perhaps unwitting—mistake to invite the Esmeralda to a celebration of liberty and democracy.

The Esmeralda was used by the Chilean Navy as a floating torture center. When she participated in the tall ships celebration in New York in 1976, representing the Chilean Government at our Bicentennial, protestors met her on the docks and journalists took note of her horrifying past. Her participation again on July 4 would profoundly contradict the spirit and symbolism of "Liberty Weekend."

Normally a training vessel, the Esmeralda was converted into a prison on Sept. 11, 1973—the day that the Chilean military overthrew that country's last elected Government. According to survivors, by the end of the day, the hold of the Esmeralda contained at least 40 men and 70 women. Prisoners of both sexes were held naked in the same quarters, forced to listen to the screams of those being tortured elsewhere in the ship.

Amnesty International, the Organization of American States' Inter-American Commission on Human Rights and others have published survivors' descriptions of what went on aboard the ship—the beatings, the use of electric shock, the mock executions and the sexual abuse or women prisoners. As one former prisoner told Amnesty: "The fear, the screams, the crying of the ladies who were detained next to us cannot be expressed. The situation was of indescribable chaos. Everywhere there were lamentations."

That man, a lawyer, was subjected to repeated near-drownings, karate blows and electric shock on board the Esmeralda before being transferred to a concentration camp. Another survivor, the former mayor of Valparaiso, Chile's second largest city, has testified to being blindfolded, beaten, given shocks, deprived of sleep. The Esmeralda was once a symbol of Chilean national pride, of what one former prisoner called "the chivalry of Chilean officers and sailors." Now, even though the Esmeralda was used as a torture chamber for only a relatively short period, she is indelibly identified, in the Chilean mind, with terror and death.

Nor is the kind of torture that took place on the Esmeralda a thing of the past: she would come to New York representing a regime that continues to torture, murder, humiliate and terrify its citizens because they oppose dictatorship. (In one three-week period last month, the Chile military occupied several poor urban neighborhoods, rounding up more than 7,000 people and detaining them for interrogation.)

The Government of Gen. Augusto Pinochet Ugarte would like to use the Esmeralda's participation in "Liberty Weekend" to deny the horror that took place on board and to change Chile's pariah status in the world community. Specifically, the Esmeralda's appearance in New York would do much to soften and undercut our own Government's recent criticisms of the Chilean regime—most notably, the resolution that the United States introduced at the United Nations in March condemning Chile's continuing violations of human rights and calling for democracy. The Esmeralda's participation in "Liberty Weekend" could only forestall the renewal of freedom and dignity in Chile—freedom and dignity that Chileans have not enjoyed for almost 13 years.

The official significance of the ship's participation could not be avoided. The Esmeralda belongs to the Chilean Government, and our State Department helped pass the invitation through official channels. By inviting this notorious ship, and by using the good offices of the State Department to do so, the organizers of "Liberty Weekend" have confused the signals sent by recent United States policy and threatened the integrity of their own celebration. For the sake of the victims—and of our moral consistency—the invitation must be withdrawn.

[From "Tall Ships, The World of Sail Training" by Maldwin Drummond (G.P. Putnam's Sons 1976]

ESMERALDA

The four masted barquentine *Esmeralda* of 3,445 tons displacement, is the training ship for officers and crews of the Chilean Navy.

The name *Esmeralda* was connected for the first time with the Chilean Navy in 1818 during the War of Independence when Commander O'Brien, captain of the 800 ton frigate *Lautaro*, armed with 44 guns, boarded the Spanish frigate *Esmeralda* which was blockading the port of Valparaiso. O'Brien died in the exploit, setting an heroic precedent for future generations of Chilean seamen.

The expedition to liberate Peru invaded El Callao a short time later and finally captured the *Esmeralda*, and she was commissioned into the Chilean Navy. In 1855, with the wars of independence over in South America, the Government of Chile ordered the construction of the second national ship which would bear the name *Esmeralda*. In 1889 a light cruiser was commissioned into the Chilean squadron, being the third national ship to bear the name *Esmeralda*. In 1898, the construction of the fourth *Esmeralda* was ordered. It was one of the most powerful cruisers of its time. In 1946, an anti-submarine frigate was named *Esmeralda* but transferred its name to the sailing vessel, when the latter was commissioned into the Chilean Navy in 1954.

This large barquentine is almost identical to the Spanish four masted, top sail barquentine *Juan Sebastian de Elcano*. They were both designed by the British Yacht designers and builders, Camper & Nicholson of Southampton. Both the Spanish and Chilean Naval Training Ships were built by the yard of Echevarrieta y Larriñaga of Cadiz, the *Juan Sebastian de Elcano* being launched in March, 1927. The *Esmeralda* was laid down in 1942 as the *Juan de Austria* for the Spanish Navy. However, when partially completed, she caught fire, with serious consequences. In 1951, under contract for the Chilean Government, she was rebuilt, launched in 1952 and commissioned in 1954.

The Chileans have always been keen on sail training, regarding it as an ideal medium for instructing their officers and men. The *Esmeralda's* predecessors included *General Baquedano*, a steam auxiliary barque of 2,441 tons displacement and *Lautaro*, the ex Flying P Line steel, four masted barque *Priwall* build for F. Laeisz by Blohm & Voss in 1918. The German barque worked the west coast nitrate trade for her owners until 1926, when she was converted to classic sail training, having further accommodation added to enable her to train while trading. She was in Chile at the outbreak of the Second World War and Germany made a present of her to the Government of Chile, as a token of their long friendship. The Chilean Government handed her to the Navy which named her *Lautaro*.

The barquentine *Esmeralda* was built to carry on the tradition. Her total complement of over 300, includes 100 midshipmen and 90 seamen second class. She covers more miles than most training ships. When she visited Sydney in 1961, she was the largest sailing vessel to come to that port for 50 years.

Esmeralda took part in 'Operation Sail' in 1964, sailing into the port of New York in company with the rest of the fleet after the Tall Ships Race had ended at Bermuda.

The Chilean vessel carries no fore and aft rig on the foremast and is, therefore, a barquentine. He fore and aft sails are secured to the mast by hoops. The bridge is on top of the deck house forward of the mainmast.

Esmeralda can manage 12 knots under power from her 1,500 hp Burmeister and Wain diesel engine. The exhaust from this is carried neatly up the lower jigger mast in the manner of the *Juan Sebastian de Elcano*. She carries four, 5.7 centimetre guns and her white hull is decorated by a large figurehead of Chile's national bird, the Condor.

Owners: Chilean Navy.
Place of building: Cadiz.
Rig: 4-masted barquentine.
Draught (feet): 28.5
Beam (feet) 43.0
Designer: Camper & Nicholson.
Year of building: 1952.
Construction: Steel.
Tonnage: 3,222 Disp.
Builders: Echevarrieta y Larrinaga.
Build for: Chilean Navy.
L.O.A. (feet): 308.8
Present Nationality: Chilean.

U.S. SENATE,
Washington, DC, June 11, 1986.

EMIL MOSBACHER,
Chairman, Operation Sail, World Trade Center 2, New York, NY.

DEAR MR. MOSBACHER: We are writing to express our extreme dismay at the inclusion by your organization of the Chilean ship Esmeralda in our nation's July 4th "Liberty Weekend" celebration and to urge you to withdraw the invitation. This ship was the location of brutal torture by the Chilean government in 1973 and it has no place whatsoever in a celebration of liberty, justice and democracy.

The Esmeralda was used for torture by the Chilean military regime when it seized power on September 11, 1973. According to survivors, 40 men and 72 women were held naked in the same quarters of the vessel and underwent beatings, near drownings, electric shock, mock executions and sexual abuses. Those detained were often interrogated about their activities by members of General Pinochet's military regime.

While the Esmeralda is no longer used for such activities, it has become a symbol of the terror and torture which have continued throughout the 13 years of the Pinochet regime. Says, one survivor from the Esmeralda, "Up to September 10th, it had been for me and for 10,000,000 Chileans the 'White Lady,' the 'National Pride.' It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today, it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women . . ."

Human rights abuses in Chile continue unabated. Just last month, the Chilean military arrested 7,000 people and detained them for questioning. The March 14, 1986 Resolution adopted by the United Nations Commission on Human Rights expressed concern at the persistence of serious violations of human rights in Chile such as disppearances, torture, abuses by security forces and the suppression of fundamental rights and freedoms.

To permit this vessel to sail in the waters before the United Nations would fly in the face of the body's resolution condemning Chile's human rights abuses. To permit this vessel to partake in this nation's celebration of democracy, justice, peace and liberty would made a mockery of an event in which all Americans should take pride.

We urge you to withdraw the invitation your organization extended to the Esmeralda and to ensure that no representative of the Pinochet regime takes part in our nation's celebration of liberty and democracy.

Sincerely,
Edward M. Kennedy, Tom Harlain, Alan Cranston, Albert Gore, Jr., Bill Bradley, Paul Simon, Howard M. Metzenbaum, Robert Dole, James Exon, Dennis DeConcini, Paul S. Sarbanes, Carl Levin, John F. Kerry, Dave Durenberger.

Mr. LUGAR. Mr. President, I rise as a cosponsor and in strong support of the resolution before us and urge my colleagues to support it. All of us who have been inspired and moved by the return to democracy of the vast majority of Latin American republics are deeply concerned with the persistence of military rule in Chile, a nation which once pointed the way for practically all of the other nations of the hemisphere in the rule of law, political pluralism, and respect for human rights. Give the long history of relations between the United States and Chile, and the extremely close links which still exist between intellectual, religious, and political leaders of Chile and their counterparts in the American community, and given our desire to have a constructive relationship with them in the framework of free institutions in the future, we cannot but express our consternation at the continued refusal of the Chilean Government to engage in serious dialog with the parties which make up the National Accord.

While Chile must find its way back to democracy on its own terms and in its own way, this does not not mean that the United States can be indifferent to what happens there in the meantime. Nor should the Chilean people doubt what are the preferences and desires of the United States: in this context, the symbolism of the relationship acquires an extraordinary importance. To allow the *Esmeralda*, a Chilean ship used to torture political prisoners in the events surrounding the 1973 coup to participate in, the celebrations attending our own Fourth of July this year, complete with the rededication of the Statue of Liberty, would send precisely the opposite message to the Chilean people than the one which we would have them receive.

I hope the Senate will approve this important resolution.

Mr. HARKIN. Mr. President, I join with my colleague from Massachusetts, Senator KENNEDY, in cosponsoring this resolution urging that the Chilean ship, *Esmeralda*, be denied participation in our Nation's July 4 Liberty Weekend celebration.

The *Esmeralda* has been invited by a private organization, Private Sail, to participate, in New York Harbor on

July 4, in the largest gathering of tall ships in history. It would be a terrible mistake to allow the *Esmeralda* to take part in a celebration of liberty and democracy. Despite its beauty—the *Esmeralda* is one of the world's most beautiful sailing vessel, a four-masted barkentine 353 feet long—the *Esmeralda* has become a symbol of the terror and torture which have continued throughout the 13 years of the brutal dictatorship of General Augusto Pinochet.

Following the military coup of September 11, 1973, the Chilean military regime converted the *Esmeralda* into a floating torture chamber. According to survivors, 40 men and 72 women were held naked in the same quarters of the vessel and underwent beatings, near drownings, electric shock, mock executions, and sexual abuses. Prisoners of both sexes were held naked in the same quarters, forced to listen to the screams of those being tortured elsewhere in the ship.

The *Esmeralda* had once been a symbol of Chilean national pride. Now, because of her misuse by the Pinochet regime, according to one survivor, she is seen as a torture chamber, a flagellation chamber, a floating jail of horror.

In the Chilean mind, she is identified with terror and death—hardly appropriate symbols for the celebration of liberty and democracy that will take place on July 4.

Although torture is no longer practiced on the *Esmeralda*, the Pinochet regime continues to torture, murder, humiliate, and terrify its citizens. Just last month, the Chilean military arrested 7,000 people and detained them for questioning. On March 14 of this year, the United Nations Commission on Human Rights adopted a resolution condemning the Chilean Government for its violations of human rights such as torture, disappearances and the suppression of fundamental rights and freedoms.

To its credit, the Reagan administration played a leading role in drafting and securing the adoption of the United Nations resolution. Equally promising have been the efforts of our Ambassador to Chile, senior diplomat Harry Barnes. However, at a time when abuses by the military regime still occur and when General Pinochet refuses to accept a peaceful transition to democracy, the United States should state its opposition to the *Esmeralda* sailing into New York Harbor.

The Reagan administration and the U.S. Congress must send an unequivocal signal to the Pinochet regime that the old order in Chile must end, that the sordid legacy of terror and torture, which the *Esmeralda* has come to symbolize, will no longer be tolerated.

For decades, the Statue of Liberty has welcomed to our shores millions who have fled from oppression and hardship in their native land. We must not tarnish this shining symbol of American democracy by having her welcome the *Esmeralda*, a symbol of repression and horror for the Chilean people.

ICE CREAM: AS AMERICAN AS (OR ON) APPLE PIE

Mr. HELMS. Mr. President, a very special agriculture product, enjoyed by nearly everyone, is being recognized during the month of July. It's cool and refreshing to the palate, comes in a multitude of flavors, and is as American as apple pie. As a matter of fact, it tastes great on top of apple pie.

Ice cream has become America's favorite dessert and snack food. The average American eats more of it than anybody else in the world—over 44 pints last year.

What does this mean to our dairy farmers? It means that nearly 1 of every 10 gallons of fluid milk produced in the United States goes into the manufacture of ice cream and ice cream-related products.

What role does ice cream play in our agriculture-based food processing industry? The ice cream industry alone employs 18,000 people with an annual payroll exceeding $300 million a year. The retail value of ice cream and related products topped $8 billion in 1985.

Mr. President, we salute the product that puts a smile on everyone's face, conservative and liberal, Republican and Democrat, young and old, all across this Nation. We celebrate July as National Ice Cream Month, and the second Sunday in July is National Ice Cream Day. Most of all we salute the people in the ice cream manufacturing industry who make it all happen.

MESSAGES FROM THE HOUSE

At 12:43 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4515) making supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN of Florida, Mr. FAZIO, Mr. CONTE, Mr. MCDADE, Mr. MYERS of Indiana, Mr. COUGHLIN, Mr. REGULA, and Mr. KEMP as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 207. Joint resolution to designate November 1, 1985, as "National Philanthropy Day."

The message further announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day";

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week"; and

S.J. Res. 321. Joint resolution to designate October 1986, as "National Doen Syndrome Month."

The message also announced that the House has passed the following concurrent resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 131. Joint resolution to designate the week beginning June 15, 1986, as "National Safety in the Workplace Week"; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day";

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week";

S.J. Res. 347. Joint resolution to designate the week beginning June 22, 1986, as "National Homelessness Awareness Week"; and

H.J. Res. 479. Joint resolution to designate October 8, 1986, as "National Fire Fighters Day."

The enrolled joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, June 12, 1986, she had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 220. Joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day";

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week"; and

S.J. Res. 347. Joint resolution to designate the week beginning June 22, 1986, as "National Homelessness Awareness Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 406. A resolution honoring the 125th anniversary of organized camping in the United States;

S.J. Res. 290. A joint resolution to designate July 4, 1986, as "National Immigrants Day";

S.J. Res. 311. A joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week"; and

S.J. Res. 357. A joint resolution to designate the week of September 15, 1986, through September 21, 1986, as "National Historically Black Colleges Week."

● Mr. D'AMATO. Mr. President, I rise today to recognize our Nation's historically black colleges. These have been, and will continue to be, among our Nation's finest institutions of higher learning. I am pleased, therefore, to be an original cosponsor this year, as I have in years past, of a joint resolution respecting America's historically black colleges.

This year's resolution, introduced on June 5 by the distinguished chairman of the Judiciary Committee, Senator THURMOND, has already garnered the support of 54 of my Senate colleagues. With such a strong display of bipartisan support, I am confident that this resolution will soon be discharged from the Judiciary Committee to face speedy passage. It is important that we act soon because it will take time to properly prepare for this year's celebration, which will take place during the week beginning September 15, 1986, as "National Historically Black Colleges Week."

I would like to mention that several Senators, including myself, who are supporting this resolution today, and who have supported this resolution in the past, do not have historically black colleges in their home States. This fact was brought out by the distinguished Senator from South Carolina when he introduced this measure. Nevertheless, our cosponsorship and strong support reflects our understanding and appreciation of the significant contributions these institutions have made to the history and heritage of this great country.

There are 101 historically black colleges located throughout the United States. These institutions of higher learning have a rich heritage and have educated and been associated with some of the most celebrated individuals in our history. Tuskegee Institute, for example, which was created in 1881 by an act of the Alabama State Legislature, was opened by Booker T. Washington. Booker T. Washington served there as principal and instructor for 33 years. And from 1896 to 1943, for a total of 47 years, George Washington Carver was associated with this great institution and was one of its foremost instructors.

Many students have benefited enormously from these historically black colleges, which continue to provide necessary educational curricula through which these students can reach their fullest potential. This is extemely important in today's rapidly changing society. These colleges have graduated 60 percent of our Nation's black pharmacists, 40 percent of our Nation's black attorneys, 50 percent of our Nation's black engineers, 75 percent of the black military officers, and 80 percent of the black members of the judiciary.

Mr. President, I could continue with great pleasure to add and expand to what has already been said about the major contributions made by historically black colleges. I believe, however, that we could express our appreciation better by passing the joint resolution establishing a "National Historically Black Colleges Week." I urge those of my colleagues who have not given their names as cosponsors of this measure to do so at their earliest opportunity.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

William W. Wilkins, Jr., of South Carolina, to be U.S. circuit judge for the fourth circuit;

Stephen F. Williams, of Colorado, to be U.S. circuit judge for the District of Columbia;

Douglas P. Woodlock, of Massachusetts, to be U.S. district judge for the district of Massachusetts;

William D. Stiehl, of Illinois, to be U.S. district judge for the southern district of Illinois;

John E. Conway, of New Mexico, to be U.S. district judge for the district of New Mexico;

Edwin M. Kosik, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania;

Karen LeCraft Henderson, of South Carolina, to be U.S. district judge for the district of South Carolina;

James G. Richmond, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years;

James P. Jonker, of Iowa, to be U.S. marshal for the northern district of Iowa for the term of 4 years;

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma;

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada for the term of 4 years.

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

Patricia Diaz Dennis, of Virginia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1980.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LUGAR, from the Committee on Foreign Relations:

J. Edward Fox, of the District of Columbia, to be an Assistant Secretary of State;

G. Norman Anderson, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: G. Norman Anderson.

Post: Ambassador to Sudan.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names: Ian, Robert, and Amy (No spouses), none.

4. Parents names: Gustav E. Anderson (deceased); Signe L. Anderson, none.

5. Grandparents names: Alfred and Hilma Anderson (deceased); Frederick and Elma Sjoeberg (deceased).

6. Brothers and spouses names: William A. and Diane Anderson, none.

7. Sisters and spouses; names: none.

John Dale Blacken, of Washington, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John D. Blacken.

Post: American Embassy, Guinea-Bissau.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names: Lygia X. Blacken, none; Jeffrey W. Blacken, none; Lilian Blacken, none; Michelle L. Blacken, none.

4. Parents names: John L. Blacken, deceased, 1966, none; Marcia L. Blacken, deceased, 1967, none.

5. Grandparents names: John O. Blacken, deceased, 1941; Samuel Fellers, deceased, 1955; Mary Fellers, deceased, 1964.

6. Brothers and spouses names: Raymond L. Blacken, none; Arlene Blacken, none.

7. Sisters and spouses names: Violet Kemp, none; Douglas Kemp, none.

Paul Matthews Cleveland, of Florida, a career member of the Senior Foreign Service, Class of Minister-Counseler, now Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul Matthews Cleveland.

Post: American Embassy Wellington.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none
7. Sisters and spouses names, none.

Patricia Gates Lynch, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Patricia Gates Lynch.
Post: Ambassador to Madagascar.
Contributions, amount, date, donee.
1. Self, Patricia G. Lynch, none.
2. Spouse, William D. Lynch, None.
3. Children and Spouses Names: Pamela T. Gates, None; Lawrence A. and wife, Jamye J. Gates, None.
4. Parents Names: Both parents deceased prior to 1980. William C. Lawrence and Mary Frances Lawrence.
5. Grandparents Names: Both grandparents deceased prior to 1980. William Lawrence and Esadora T. Lawrence: James McNamee and Elizabeth McNamee.
6. Brothers and Spouses Names: William K. Lawrence (Deceased 1983); Evelyn Lawrence, widow, None.
7. Sisters and Spouses Names: Valentine VanKeuren (deceased prior to 1980); Dorothy VanKeuren (sister), None.

Vernon Dubois Penner, Jr., of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Vernon D. Penner, Jr.
Post: Cape Verde.
Contributions, amount, date, donee.
1. Self, none.
2. Spouse, none.
3. Children and Spouses Names: Alexandra and Robert Penner, none.
4. Parents Names: Vernon and Edna Penner, none.
5. Grandparents Names: deceased.
6. Brothers and Spouses Names: none.
7. Sisters and Spouses Names: Paula Colburn, none.

Cynthia Shepard Perry, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Cynthia Shepard Perry.
Post: Ambassador to Sierra Leone.
Contributions, amount, date, donee.
1. Self, $50, 1982, Gov. Clements Campaign, TX; $50, 1983, National Republican Committee; $150, 1984, National Republican Committee; $100, 1985, National Republican Committee.
2. Spouse, $100, 1984, Mondale for President Campaign.
3. Children and Spouses Names: Donna Shepard Ross (unmarried), none; James Otto Shepard, Jr., none; Kathy Shepard, none; Milo Kent Shepard (unmarried), none; Paula Lucille Perry (unmarried), none; Mark Shepard Perry (unmarried), none; James Olden Perry, Jr. (unmarried), none.
4. Parents Names: George and Flossie Norton (deceased 1973), none.
5. Grandparents Names: Walker and Lily Norton (deceased 1947, 1932); Lee and Hattie Phillips (deceased 1930, 1945), none.
6. Brothers and Spouses: George W. Norton, Sr., none; Alberta Norton, none; Orville R. Norton, Sr., none; Ethel Mae Norton none; Walter Norton (deceased 1962), none; James W. Norton (deceased 1984), none.
7. Sisters and Spouses: Madonna Norton Austin, none; Harold Austin, none; Iona Norton Wilcox, none; Theodore Wilcox, none; Hazel Norton Montford, none; Daniel Montford, none; Lillian Norton (deceased 1969), none.
8. Grandchildren and Spouses: Pamela Ross Hill, none; Raymond Hill none; Louis Kent Ross Jr. (unmarried), none.

Chester A. Crocker, an Assistant Secretary of State, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1991;

Edward Noonan Ney, of New York, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1988;

Arch L. Madsen, of Utah, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1987;

James Albert Michener, of Pennsylvania, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1987;

Lilla Burt Cummings Tower, of Texas, to be a Member of the Board for International Broadcasting for a term expiring May 20, 1989;

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ (for himself, Mr. GLENN, Mr. WILSON, Mr. BINGAMAN, and Mrs. HAWKINS):

S. 2547. A bill to amend title XVIII of the Social Security Act to require renal dialysis facilities and other providers of dialysis-related services, devices, and supplies to obtain informed, written consent from medicare patients with respect to the use of reprocessed dialysis devices and supplies; to the Committee on Finance.

By Mr. SPECTER:

S. 2548. A bill to amend the Farmland Protection Act to improve farmland protection by requiring the Secretary of Agriculture to provide technical assistance and farmland easements, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2549. A bill to amend the Internal Revenue Code of 1954 to permit the rollover of gain from the sale of farmland development rights, and for other purposes; to the Committee on Finance.

S. 2550. A bill to amend the Packers and Stockyards Act, 1921, to remedy burdens on commerce in poultry, poultry products and eggs, and protect poultry sellers and growers and egg producers and suppliers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DENTON:

S. 2551. A bill to create a National Center on Youth Suicide under the Office of Justice Programs in the Department of Justice; to the Committee on Governmental Affairs.

By Mr. DECONCINI:

S. 2552. A bill to allow States to increase the maximum speed limit on interstate highways in rural areas to 65 miles per hour; to the Committee on Commerce, Science, and Transportation.

By Mr. GARN:

S.J. Res. 360. A joint resolution to designate July 20, 1986, as "Space Exploration Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself, Mr. GLENN, Mr. WILSON, Mr. BINGAMAN, and Mrs. HAWKINS):

S. 2547. A bill to amend title XVIII of the Social Security Act to require renal dialysis facilities and other providers of dialysis-related services, devices, and supplies to obtain informed, written consent from Medicare patients with respect to the use of reprocessed dialysis devices and supplies; to the Committee on Finance.

(The remarks of Mr. HEINZ and the text of the legislation appear earlier in today's RECORD.)

By Mr. SPECTER:

S. 2548. A bill to amend the Farmland Protection Policy Act to improve farmland protection by requiring the Secretary of Agriculture to provide technical assistance and farmland easements and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2549. A bill to amend the Internal Revenue Code of 1954 to permit the rollover of gain from the sale of farmland development rights, and for other purposes; to the Committee on Finance.

S. 2550. A bill to amend the Packers and Stockyards Act, 1921, to remedy burdens on commerce in poultry, poultry products and eggs, and protect poultry sellers and growers and egg producers and suppliers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. SPECTER and the text of the legislation appear earlier in today's RECORD.)

By Mr. DENTON:

S. 2551. A bill to create a National Center on Youth Suicide under the Office of Justice Programs in the Department of Justice; to the Committee on Governmental Affairs.

YOUTH SUICIDE PREVENTION ACT

● Mr. DENTON. Mr. President, I rise to introduce the Youth Suicide Prevention Act of 1986. The bill would provide the necessary resources to continue the high level of commitment of the Federal Government to address the phenomenon of youth suicide and to focus the concentration of those efforts into a National Center on Youth Suicide. It is particularly appropriate that this bill is introduced during the month that President Reagan has designated as "Youth Suicide Prevention Month."

Mr. President, American children, adolescents, and young adults are killing themselves in ever-increasing numbers. According to the American Psychiatric Association, the incidence of suicide among young people aged 15 to 24 has risen by 300 percent during the last 30 years. Specifically, the rate climbed from 4.1 per 100,000 in the 1950's to 12.5 per 100,000 in 1980. In my home State of Alabama, the rate of suicide has increased 122 percent during the same period.

This year, more than 5,000 young Americans can be expected to take their own lives. As the National Institute of Mental Health recently reported, an American teenager will commit suicide every 90 minutes.

Suicide now trails only accidents and homicides as the leading cause of death for people between the ages of 15 and 24. Even younger children experience problems that lead them to attempt suicide. According to a report prepared by the National Center for Health Statistics, during a 13-year period ending in 1978, there were almost 2,000 documented cases of suicide among children under the age of 14. Recent studies indicate that more than 2 million high school students attempted suicide last year.

In Alabama, according to information provided by the Alabama Department of Public Health, Bureau of Vital Statistics, 264 children took their own lives during a 10-year period ending in 1984. Preliminary figures from the bureau show that 33 young Alabamians committed suicide in 1985.

Unfortunately, researchers state that the statistics represent only the "tip of the iceberg." Some experts estimate that the actual number of the suicides among young people is at least four times greater than is reported.

Youth suicide is a phenomenon that is so perplexing, contradictory, frightening, and troubling that our society avoids addressing it. As individuals and as a nation, we refuse to believe that young people emerging from childhood can feel the degree of sadness, hopelessness, and despair that leads to suicide.

Many teenagers experience strong feelings of stress, confusion, and self-doubt associated with growing up, and the pressures to succeed combined with economic uncertainties can intensify these feelings. For some teenagers, divorce and the breakup of the family, the formation of a new family with stepparent and stepsiblings, the death of a loved one, or moving to a new community and school can be very unsettling and intensify their self-doubts. In some cases, suicide appears to be the only "solution."

It is clear that youth suicide is a problem of epidemic proportions, but it is equally clear that there is no single answer or program to solve the problem. It is not exclusively a Federal problem, or a State problem, or a public problem. It is a problem for all of us, and a problem that calls for the involvement of all segments of our society.

As a caring nation concerned about the future of our young people, we must help. The children that we have already lost to suicide include some of the best and brightest of their generation.

Youth suicide is a problem of nationwide scope. It can only be solved through the combined efforts of individuals, families, communities, organizations, and Federal, State, and local governments to educate our society about what can be done.

As part of the combined effort, the Federal Government has taken the lead in raising public awareness by conducting research, compiling national statistics, and developing demonstration treatment models. The Federal effort has seen President Reagan sign into law Senate Joint Resolution 53, which I introduced, designating June 1985 as "Youth Suicide Prevention Month," and Senate Joint Resolution 266, which I also introduced, designating June 1986 as "Youth Suicide Prevention Month."

The effort has also seen the Reagan administration spearhead the National Conference on Youth Suicide, held in June 1985, with the stated objectives of increasing national awareness of the problem of youth suicides and encouraging expanded, community-based strategies for addressing the problem. The conference called upon experts in the mental health profession to explain the problem and inform the Nation of the latest research and treatment advances.

Youngsters and parents whose lives have been directly affected by the tragedy of suicide were also called upon to provide insight into what might be done in the family and in the community to prevent the further senseless waste of young lives. By all accounts, the conference was a tremendous success. In fact, many participants returned to their communities and, with the knowledge obtained from the conference, established suicide prevention programs.

To assist other communities, the Youth Suicide National Center, in conjunction with the Office of Human Services, Administration for Children, Youth, and Families, of the Department of Health and Human Services, has compiled for dissemination the findings and recommendations of the conference. I note that the findings and recommendations will be published within 1 year of the conference, thereby recognizing the urgency associated with the problem. In sum, the administration has been involved in an effort to address the tragedy of youth suicide in an expedited, cost-efficient and effective manner.

The effort by the administration has also seen sponsorship of a conference on psychobiology of suicidal behavior, the creation of a Department of Health and Human Services Secretarial Task Force on Youth Suicide, as well as a number of discretionary projects funded by the Office of Human Development Services.

The administration has taken into consideration the fact that the first line of prevention, identification, and intervention, must come from parents and local institutions with which youngsters come into everyday contact: Schools, churches, volunteer and youth service groups, recreational clubs, PTA, and so forth. The efforts of the Reagan administration are currently strengthening that first line of defense against youth suicide.

Mr. President, the bill I am introducting today will provide the necessary resources to continue the high level of commitment of the administration and to focus the concentration of those efforts into a National Center on Youth Suicide. As drafted, the bill would establish the center under the Office of Justice Programs in the Department of Justice. I do note, however, that hearings may lead to the conclusion that the center should be established under the Department of Health and Human Services. The Center would operate as a clearinghouse and would have the following functions:

First, facilitating an effective coordination among all federally funded programs relating to youth suicide prevention;

Second, conducting a national public awareness campaign;

Third, creating a national resource center and clearinghouse; designed to "one, provide technical assistance to local and State governments, public and private nonprofit agencies, and individuals in preventing youth suicide; and "two, disseminate nationally, information about innovative and model youth suicide prevention programs, services, research and legislation;

Fourth, developing and implementing regional and national workshops and conferences; and

Fifth, establishing a liaison with youth- and family-oriented organizations, professional associations, and other private sector participation to enhance youth suicide prevention efforts.

Mr. President, with the continuance of the high degree of Federal commitment concentrated in a National Center on Youth Suicide, together with the support of individuals, families, communities, churches, organizations, and State and local governments, children and teenagers who are suicidal can be restored to a more healthful path of development. If these efforts can save one child's life and prevent the agony suffered by the family of a child suicide, then we will have accomplished a great deal.

Mr. President, I urge my colleagues to support the Youth Suicide Prevention Act.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

Thank you, Mr. President.

There being no objection, the bill was ordered to printed in the RECORD, as follows:

S. 2551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Suicide Prevention Act of 1986".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the youth of our country represent the hope for our future;

(2) the rate of youth suicide has increased more than threefold in the last three decades;

(3) over five thousand young Americans took their lives last year, many more attempted suicide, and countless families were affected;

(4) youth suicide is a phenomenon which must be addressed by a concerned society;

(5) youth suicide is a national problem which must be solved through the combined efforts of individuals, families, communities, churches, organizations, and government to educate society; and

(6) as part of the combined effort, the Federal Government is in the process of conducting research, compiling national statistics, and conducting national conferences on the subject of youth suicide.

(b) POLICY.—It is therefore the declared policy of the Congress to provide the necessary resources to continue the Federal Government's high level of commitment to preventing youth suicide and to concentrate those efforts into a National Center on Youth Suicide.

SEC. 3. ESTABLISHMENT OF CENTER.

(a) ESTABLISHMENT.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3712) is amended by adding at the end thereof the following:

"NATIONAL CENTER ON YOUTH SUICIDE

"SEC. 103. (a) The Assistant Attorney General shall provide for the operation of a clearinghouse, to be known as the 'National Center on Youth Suicide,' the functions of which shall include—

"(1) facilitating an effective coordination among all Federally funded programs relating to youth suicide prevention;

"(2) conducting a national public awareness campaign;

"(3) creating a national resource center and clearinghouse designed to—

"(A) provide technical assistance to local and State governments, public and private nonprofit agencies, and individuals in preventing youth suicide; and

"(B) disseminate nationally, information about innovative and model youth suicide prevention programs, research, services, and legislation;

"(4) developing and implementing regional and national workshops and conferences; and

"(5) establishing a liaison with youth and family oriented organizations, professional associations, and other private sector participation to enhance youth suicide prevention efforts.

(b) DUTIES OF ASSISTANT ATTORNEY GENERAL.—Section 102(a) of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a)) is amended—

(1) in clause (5) by striking out "and" after the semicolon;

(2) by redesignating clause (6) as clause (7); and

(3) by inserting after clause (5) the following:

"(6) provide for the operation of the National Center on Youth Suicide as provided in section 103; and".

SEC. 4. AUTHORIZATION AND CONFORMING AMENDMENT.

(a) AUTHORIZATION.—Subsection (a) of section 1001 of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3793 (a)) is amended by adding at the end thereof the following:

"(7) There is authorized to be appropriated such sums as may be necessary for each fiscal year 1987 and 1988 to operate the National Center on Youth Suicide as provided in section 103.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end of part A the following new item:

"Sec. 103. National Center on Youth Suicide.".

By Mr. DECONCINI:

S. 2552. A bill to allow States to increase the maximum speed limit on interstate highways in rural areas to 65 miles per hour; to the Committee on Commerce, Science, and Transportation.

MODIFICATION OF 55-MILE-PER-HOUR SPEED LIMIT

Mr. DECONCINI. Mr. President, I am introducing legislation today which will change the existing maximum allowable speed on our rural interstate highways. It will allow each State to establish a 65-mph speed limit on rural interstates where no safety hazard is apparent to the traveling public.

In 1974 Congress implemented the 55-mph speed limit as a temporary measure to respond to the concerns about dwindling energy supplies. Mr. President, the 55-mph speed limit has served its purpose well over the past 12 years. It has saved thousands of lives and conserved thousands of barrels of oil. But times and attitudes have changed. Automobile manufacturers are now producing energy efficient cars, and traffic-related fatalities have been reduced because of quality constructed highways, increased use of radial tires, and greater use of safety seatbelts.

There is a growing feeling that the 55-mph speed limit is an unnecessary constraint on motorists and costs money and travel time in some areas. At the same time it is believed that highway safety cannot be assured if the speed limit is raised above 55 mph in congested urban areas. For rural interstates many people feel they can safely, and most do, exceed the speed limit. This bill will satisfy the safety concerns of those who wish to maintain the 55-mph speed limit around cities while allowing those driving long stretches between cities on the interstate to drive at 65 mph.

In a recent report issued by the National Research Council, it was concluded that rural interstate highways represent 6 percent of all mileage posted at 55 mph in the country and these interstates carry about 19 percent of all traffic on highways posted at 55 mph. Although the average speeds are the highest on this system, the fatality rate, per mile traveled, is among the lowest. Rural interstates have been built to the highest design standards of any class of highways. The direction of traffic is separated by wide medians or median barriers that reduce head-on crashes.

Compliance with the current 55-mph law is becoming an increasing burden and is costing State and local law enforcement agencies large sums to enforce. Additionally, this year the Department of Transportation is proposing to cut Federal highway funding in Arizona, Maryland, and Vermont because of growing noncompliance of the "double-nickel" law. Many States, such as Arizona, have enacted laws permitting drivers to travel at speeds of 65 mph with a penalty of only $15 and no points for speeds over 55. In effect, States are condoning the 65-mph speed limit.

I am convinced it is time the Department of Transportation exercised some flexibility on this issue. Passage of this legislation will provide that flexibility. It will ease the restriction and grant States who may wish to alter their speeds on the rural interstates the authority to do so without penalty.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD.

S. 2552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 154 of title 23, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Transportation shall not approve any project under section 106 in a State which has—

"(A) a maximum speed limit higher than 65 miles per hour on any portion of a highway on the Interstate System that is located in a rural area within such State,

"(B) a maximum speed limit higher than 55 miles per hour on any public highway within such State (other than any portion of a highway described in subparagraph (A)),

"(C) a speed limit on any portion of a public highway within such State which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles.

"(2) Subparagraph (C) of paragraph (1) shall not apply to—

"(A) any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon, or

"(B) any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.".

(b) Section 154 of title 23, United States Codes is amended—

(1) by striking out "exceeding fifty-five miles per hour" in subsections (f) and (h) and inserting in lieu thereof "exceeding 55 miles per hour (65 miles per hour in the case of portions of highways described in subsection (a)(1)(A))", and

(2) by striking out "posted at fifty-five miles per hour" in subsection (e) and inserting in lieu thereof "posted at 55 miles per hour, and the percentage of motor vehicles exceeding 65 miles per hour on portions of highways described in subsection (a)(1)(A) with speed limits posted at 65 miles per hour,".

By Mr. GARN:

S.J. Res. 360. Joint resolution to designate July 20, 1986, as "Space Exploration Day"; to the Committee on the Judiciary.

SPACE EXPLORATION DAY

● Mr. GARN. Mr. President, today, we have the opportunity once again to observe what has become a symbol of the American spirit of progress. I am introducing a joint resolution calling for the designation of July 20 as "Space Exploration Day."

At this time of recent national tragedy and introspection, it seems especially fitting to reexamine our priorities and honor the people and programs that have given us so much. The space program has been an unparalleled triumph of consistent determination, technological genius, and personal bravery. July 20, 1986, is the 17th anniversary of the first landing on the Moon, the 11th anniversary of the international Apollo-Soyuz mission, and the 10th anniversary of the first Viking landing on Mars.

The declaration of "Space Exploration Day" has a rich heritage. Indeed, there have been several Presidential proclamations concerning "Space Exploration Day" observances, since President Ford initiated this activity in 1976. Congress has passed this resolution for the past 2 years. For the past 5 years, this growing tradition has achieved nationwide endorsement from all 50 State Governors and the Governor of Puerto Rico.

This resolution commemorates the achievements of the past as well as offers hope for the future. We all are given the opportunity now to formally recognize this program that has significantly enhanced the American and world standard of living. However, the adventures and challenges are not yet over. We are just beginning to explore the feasibility of manufacturing in space, to examine the ecological impacts of natural and manmade events on Earth, and to investigate how events in the universe around us influence the world we live in. These explorations in space offer hope for a better and more peaceful world.

I urge my colleagues to join me in this worthwhile endeavor.●

ADDITIONAL COSPONSORS

S. 1654

At the request of Mr. STEVENS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1654, a bill to amend title 18, United States Code, to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informants providing information leading to arrests in espionage cases.

S. 1917

At the request of Mr. BRADLEY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1937

At the request of Mr. STEVENS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Washington [Mr. EVANS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Vermont [Mr. STAFFORD], and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of S. 1937, an original bill to restrict smoking to designated areas in all U.S. Government buildings.

S. 2101

At the request of Mr. HEINZ, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 2101, a bill to recognize the organization known as "Veterans of the Vietnam War, Inc.".

S. 2333

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Georgia [Mr. NUNN], the Senator from Alabama [Mr. HEFLIN], the Senator from Michigan [Mr. LEVIN], the Senator from Arizona [Mr. DECONCINI], the Senator from Delaware [Mr. BIDEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Oregon [Mr. HATFIELD], the Senator from Missouri [Mr. DANFORTH], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

At the request of Mr. DURENBERGER, the names of the Senator from Connecticut [Mr. WEICKER], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2333, supra.

S. 2401

At the request of Mrs. KASSEBAUM, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2401, a bill to prohibit the manufacture or distribution in, or the importation into, the United States of certain firearms.

S. 2403

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of S. 2403, a bill to amend the Internal Revenue Code of 1954 to assure access to health insurance, and for other purposes.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2455, a bill entitled the National Organ and Tissue Donor Act.

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Utah [Mr. GARN], the Senator from North Carolina [Mr. HELMS], and the Senator from North Carolina [Mr. EAST] were added as cosponsors of Senate Joint Resolution 134, a joint resolution to designate "National Safety in the Workplace Week".

SENATE JOINT RESOLUTION 314

At the request of Mr. QUAYLE, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week".

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. HART, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 131, a concurrent resolution expressing the sense of the Congress that the Soviet

Union should immediately provide for the release and safe passage of Naum Meiman and Inna Kitrosskaya-Meiman.

SENATE CONCURRENT RESOLUTION 137

At the request of Mr. HOLLINGS, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Louisiana [Mr. LONG], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Concurrent Resolution 137, a concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a national STORM Program.

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. STEVENS, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of Senate Concurrent Resolution 145, a concurrent resolution to encourage State and local governments and local educational agencies to require quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of Senate Resolution 424, a resolution commending Colonel Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 2070

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of Amendment No. 2070 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

D'AMATO (AND OTHERS) AMENDMENT NO. 2071

Mr. D'AMATO (for himself, Mrs. HAWKINS, Mr. CHILES, and Mr. DECONCINI) proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. . DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

(a) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DENIAL OF FOREIGN TAX CREDIT, ETC. WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) during the taxable year to any country to which this subsection applies, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income for such taxable year from sources within any country so identified.

"(2) COUNTRIES TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any foreign country—

"(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

"(ii) with respect to which the United States has severed diplomatic relations,

"(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

"(iv) which the Secretary of State notifies the Congress under paragraph (3) is a foreign country which repeatedly provides support for acts of international terrorisms.

"(B) PERIOD FOR WHICH SUBSECTION APPLIES.—This subsection shall apply to any foreign country described in subparagraph (A) during the period—

"(i) beginning on the later of—

"(I) January 1, 1987, or

"(II) 6 months after such country becomes a country described in subparagraph (A), and

"(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

"(3) NOTIFICATION OF NATIONS SUPPORTING TERRORISM.—The Secretary of State shall at least once each year notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any foreign country which the Secretary of State has determined repeatedly provided support for acts of international terrorism.

"(4) PART-YEAR RULE.—If this subsection applies to any foreign country for any period less than an entire taxable year, paragraph (1) shall be applied by taking into account only that proportion of the taxes and income described in paragraph (1) for the taxable year as the portion of the taxable year which includes such period bears to the entire taxable year."

(b) DENIAL OF DEFERRAL OF INCOME.—

(1) GENERAL RULE.—Section 952(a) (defining subpart F income) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting lieu thereof ", and", and by inserting immediately after paragraph (4) the following new paragraph:

"(5) the income of such corporation derived from any foreign country during any period during which section 904(i) applies to such foreign country."

(2) INCOME DERIVED FROM FOREIGN COUNTRY.—Section 952 (defining subpart F income) is amended by adding at the end thereof the following new subsection:

"(e) INCOME DERIVED FROM FOREIGN COUNTRY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subsection (a)(5), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 904(i) applies if such income was, without regard to such entities, derived from such country."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

DIXON AMENDMENT NO. 2072

Mr. DIXON proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1415, beginning with line 10, strike out all matter through page 1416, line 4, and insert in lieu thereof the following new section:

SEC. 135. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

(a) IN GENERAL.—Part IX of subchapter B of Chapter 1 (relating to items not deductible), as amended by sections 132 and 133, is amended by adding after section 280I the following new section:

"SEC. 280J. 1 PERCENT FLOOR ON ALL ITEMIZED DEDUCTIONS NOT OTHERWISE SUBJECT TO FLOOR.

"(a) GENERAL RULE.—In the case of an individual, the applicable itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) APPLICABLE ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'applicable itemized deductions' means the itemized deductions (within the meaning of section 63(d)) other than any deduction—

"(1) under section 105(a) for losses described in subsection (c)(3) or (d) of section 65,

"(2) under section 213 (relating to medical deductions), or

"(3) to which section 280I applies."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280J. 1 percent floor on all itemized deductions not otherwise subject to floor."

WEICKER AMENDMENT NO. 2073

Mr. WEICKER proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 2223, beginning with line 10, strike out all matter through page 2224, line 2.

On page 2224, strike out "(4)" and insert in lieu thereof "(3)".

EVANS (AND OTHERS) AMENDMENT NO. 2074

Mr. EVANS (for himself, Mr. GRAMM, Mr. GORTON, Mr. LAXALT, Mr. ABDNOR, and Mr. PRESSLER) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1415, beginning with line 10, strike out all through page 1416, line 4, and insert:

SEC. 135. ELECTION TO DEDUCT STATE AND LOCAL INCOME TAX OR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Paragraph (4) of section 164(a) (relating to deduction for taxes) is amended to read as follows:

"(4) At the election of the taxpayer, either—

"(A) State and local income taxes, or

"(B) State and local general sales taxes."

(b) SPECIAL RULE FOR TAXES IN CONNECTION WITH ACQUISITION OR DISPOSITION OF PROPERTY.—Section 164(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN NONDEDUCTIBLE TAXES.—In the case of any tax which is paid or accrued by the taxpayer in connection with the acquisition or disposition of any property and with respect to which no deduction is allowed under this chapter, such tax shall—

"(A) in the case of the acquisition of property, be included in the basis of such property, and

"(B) in the case of the disposition of property, allowable as a deduction in computing the amount realized on such disposition."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 164(a) is amended by striking out "State and local, and foreign," and inserting in lieu thereof "Foreign".

(2) Section 164(b)(2)(D)(ii) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(4)(B)".

On page 2267, strike out lines 8 through 13, and insert:

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which—

"(i) is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer, and

"(ii) was incurred—

"(I) in acquiring, constructing, or rehabilitating or improving such qualified residence or another qualified residence of the taxpayer,

"(II) to pay for expenses for medical care (as defined in subparagraph (A) or (B) of section 213(d)(1)),

"(III) to pay for expenses of the taxpayer or a child of the taxpayer for tuition and books at an institution of higher education (within the meaning of section 3304(f)), or

"(IV) to refinance any indebtedness described in subclause (I), (II), or (III) to the extent the principal amount of the indebtedness does not exceed the sum of the principal amount of the indebtedness being refinanced and the costs of such refinancing.

MELCHER (AND OTHERS) AMENDMENT NO. 2075

(Ordered to lie on the table.)

Mr. MELCHER (for himself, Mr. ZORINSKY, Mr. BAUCUS, Mr. HARKIN, Mr. HEFLIN, Mr. LEAHY, Mr. ANDREWS, Mr. EXON, Mr. PRESSLER, and Mr. BURDICK) submitted an amendment intended to be proposed by them to the bill H.R. 3838, supra; as follows:

On page 1416, between lines 8 and 9, add a new subsection as follows and renumber the remaining subsections:

"(b) EXCEPTION FOR TAXPAYERS ACTIVELY ENGAGED IN FARMING.—For tax years after December 31, 1986, taxpayers, other than corporations, actively engaged in farming shall not be subject to Section 141(a) above, and shall be permitted to income average as under current law.

(1) ACTIVELY ENGAGED.—A taxpayer shall be treated as being actively engaged only if the taxpayer is involved in the operations of the activity on a regular, continuous, and substantial basis.

(2) FARMING.—The term farming means—

(A) cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, and management of animals) on a farm.

(B) handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated, and

(C)(i) the planting, cultivating, caring for, or cutting of trees, or

(ii) the preparation (other than milling) of trees for market."

On page 1581, after line 24, insert the following new section:

SEC. 326. DENIAL OF USE OF CASH ACCOUNTING FOR ALL CORPORATIONS ENGAGED IN FARMING WITH GROSS RECEIPTS IN EXCESS OF $100,000,000

(A) IN GENERAL.—Subsection (c) of section 447 (relating to method of accounting for corporations engaged in farming) is amended to read as follows:

"(c) EXCEPTION FOR SMALL BUSINESS AND FAMILY CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) a corporation the gross receipts of which meet the requirements of subsection (e), or

"(2) a corporation the gross receipts of which meet the requirements of subsection (e), except that such subsection shall be applied by substituting 'December 31, 1986'; for 'December 31, 1975', and which is—

"(A) an S corporation, or

"(B) a corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family."

(b) CERTAIN CLOSELY HELD CORPORATIONS.—Section 447(h) (relating to exception for certain closely held corporations) is amended by adding at the end thereof the following new paragraph:

"(4) CORPORATIONS HAVING GROSS RECEIPTS OF $100,000,000 OR LESS.—This subsection shall apply only with respect to any corporation the gross receipts of which meet the requirements of subsection (e), except that subsection (e) shall be applied by substituting 'December 31, 1986' for 'December 31, 1975'."

(c) MODIFICATION OF COORDINATION WITH SECTION 481.—Section 447(f) (relating to coordination with Section 481) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (3), in taxable years beginning after December 31, 1987, '4 taxable years' shall be substituted for '10 taxable years'."

(d) EFFECTIVE DATE..—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

● Mr. MELCHER. Mr. President, together with Senators ZORINSKY, BAUCUS, HARKIN, HEFLIN, LEAHY, ANDREWS, EXON, PRESSLER, and BURDICK, I am offering an amendment to retain income averaging for noncorporate farmers and ranchers. The revenue that is lost by this portion of our amendment will be paid for by denying cash accounting to corporations involved in farming with gross receipts in excess of $100 million.

The problem that is corrected by this amendment is to continue to allow farmers and ranchers who have been losing money hand over fist to income average so they can apply future net income—which we fervently hope and pray will be theirs—can be applied to paying off their debts rather than being required to pay more Federal taxes that this bill would require. That is a grievous flaw in this bill and it must be corrected.

The argument for eliminating income averaging by the Finance Committee is that moving from the current personal income rate structure to the two-bracket system in the current tax reform bill removes much of the need for income averaging. Further, they argue that income averaging should be eliminated for the sake of simplicity.

First, the need for income averaging is not eliminated by the shift to two personal income tax brackets. In cases where farmers and ranchers have large swings in income they can still be unfairly penalized. For example, a farmer or rancher who had little or no taxable income in 1985 or 1986, $25,000 in 1987, and then made $75,000 in 1988 would pay $5,500 more in income taxes under the Finance Committee bill than would someone with an income of $25,000 for each of the 4 years. With the debt and cash flow problems on our farms and ranches today, that could quite simply mean the difference between surviving with a line of credit and being forced to go out of business because there had not been sufficient improvement in reducing debt and credit from financial institutions was withdrawn.

Such swings in income are not uncommon. A certified public accountant in Great Falls, MT, analyzed the tax returns of 44 of his noncorporate agricultural clients for the last 3 years and came up with the following information:

	Total net income
1982	$290,027
1983 (loss)	110,073
1984	117,824

This is a 150-percent swing in income between 1982 and 1983 and a 100-percent swing in the opposite direction between 1983 and 1984. Unfortunately, in agriculture today this is more the norm than it is unique and income averaging is needed to see that we don't further increase the tax bill for farmers who have drastic income swings from year to year that are beyond their control.

Another thing that is causing income variations for farmers and

ranchers today is that they are being forced to sell livestock, grain or other assets at low prices and earlier than they had planned in order to increase their cash flow to meet requirements set up by banks and other lenders of agricultural operating loans. This creates "income doubling" in certain years and further exaggerates income variations.

On the second point, there can be no argument that eliminating income averaging simplifies the Tax Code. But, simplification, in and of itself, should not be our goal if in the process it makes the tax system more unfair for individual taxpayers. In this case, retaining income averaging for farmers and ranchers makes the tax systems more fair for them and I am sure that they will be happy to deal with any added complexity in figuring their taxes if it means they can lower their tax bills.

The amendment causes revenue loss in the bill, but is more than made up by denying cash accounting to large farming corporations with gross receipts in excess of $100 million. There are a few such corporations involved in farming and I believe they will otherwise benefit in the bill from lower rates.

Mr. President, this is a fair and balanced amendment to treat the problems caused by income swings, and is a necessary change in this bill needed to make sure that we don't pile yet another load on the backs of rural America. I urge the chairman of the Senate Finance Committee to review this amendment and I hope that he can accept it.●

● Mr. ZORINSKY. Mr. President, I rise in support of our amendment to restore income averaging for our Nation's farmers.

This amendment is straightforward and clear. It does not use any new-fangled tax law to handle the problem. We know income averaging works, we have seen it in action for years. And when it ain't broken, do not fix it.

Repealing the Tax Code's income averaging provision will have a devastating effect on farmers. By its very nature, agriculture involves swings in income, from a peak one year to a valley the next. More than any other sector of our economy, the weather and the marketplace create booms and busts, and the prudent farmer holds his crop off the market until conditions are more favorable. Without income averaging, farmers showing a substantial income 1 year will not be able to offset that gain with previous years of low income or loss.

Without income averaging, a farmer can expect to pay considerably more in taxes than nonfarm taxpayers with similar, but more consistent, incomes. For example, a family of four with an income alternating between zero and $60,000 per year would pay $12,300 more taxes over a 6-year period than a family of four earning $30,000 each year. That is 76 percent more in taxes, even though the incomes would be identical over time. This problem persists under the Finance Committee bill.

The repeal of income averaging would also seriously disrupt the administration's whole-herd dairy buyout program. To reduce surpluses, this program encourages dairy farmers to dispose of their herds during one of three periods stretching through August 1987. Participants will see a large increase in their incomes when they sell their herds. Without income averaging, many of those in the third disposal period will be unfairly penalized because their gains will not be recognized until after income averaging disappears. In addition, those in the second disposal period will be encouraged to sell their herds early to qualify for income averaging. Those sales will severely and unnecessarily disrupt the cattle market later this year.

We pay for the amendment by closing a loophole used by huge corporations with annual sales over $100 million. Under present law, some of these corporations are able to use the cash accounting method. This accounting technique is intended for small family farmers, not multimillion-dollar corporations. With cash accounting, the corporation essentially receives a tax-free loan at the taxpayers' expense.

Mr. President, I ask unanimous consent that an article from the May 5, 1986, issue of Forbes magazine appear in the RECORD at this point. The article clearly describes the extent of this problem.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FUN AND GAMES WITH CHICKEN FEED

(By Ruth Simon)

Most reasonable observers would not call Hudson Foods a family farm. Based in Rogers, Ark., Hudson is now the country's 17th-largest poultry producer. In the fiscal year that ended last Sept. 28, Hudson earned $8.5 million on sales of $185 million. It went public in February, raising $21.3 million.

Your basic family farm? The Internal Revenue Service, not always a reasonable observer, thinks so. As a result, Hudson was able to defer $7.6 million, its entire federal tax bill, last year under long-standing IRS rules. This deferral can be rolled over more or less indefinitely.

Hudson is not a fluke. Others agri-industrial complexes, including $1.1 billion (sales) Tyson Foods and privately held Perdue Farms (estimated sales, $740 million), also routinely receive tax breaks originally intended for family farms. How? By qualifying under some rather arcane rules that allow "family farms" to use cash accounting instead of the accrual accounting the IRS requires most companies to use when computing taxable income. The rules date from 1919, when the Treasury concluded farmers weren't sophisticated enough to use accrual accounting and said they could use cash accounting instead. Big farmers didn't abuse the provisions, because taxes were low. Besides, there weren't many big farms.

The choice of cash or accrual is especially important for livestock farmers because such production costs as feed are incurred well before the livestock is sold.

Consider a chicken farmer. Accrual accounting would require him to report a portion of his feed inventories at the end of each year, while not permitting him to expense the feed until the bird was actually sold. The theory is that the feed is an integral part of the cost of producing the bird. Accrual accounting says income and expenses should be matched, so feed costs should not be deducted until revenue is received.

Cash accounting, in contrast, allows the farmer to report cash expenses and receipts when they actually occur. That means the farmer can immediately deduct the feed as an expense, but he doesn't have to report the chickens as income until they are sold. Expensing in the current period while deferring income to a later period amounts to a tax-free loan to the farmer from the Treasury. The bigger and more profitable the farm, the larger that tax-free loan tends to be.

In 1976 the Treasury argued that agribusinessmen were equipped for the rigors of accrual accounting. Treasury tried to limit cash accounting to farmers grossing less than $1 million annually. That sent the big livestock producers squawking to their congressmen, who chickened out. Even a farm grossing $1 billion or more could be a "family farm." Congress said, if at least 50% of its stock was controlled by a single family. It also carved out exceptions for individuals, partnerships and Subchapter S corporations and for farm corporations controlled by two or three families.

Hudson Foods Chairman James Hudson played those loopholes with the skill of Stephane Grapelli on jazz violin. Hudson, a former Ralston Purina executive, and two other investors bought the business from Ralston Purina in 1972. Hudson bought out his co-investors in 1984, and took the farm public in February.

But note the key: Hudson Foods has 12 million shares outstanding. James Hudson owns outright 7 million of those shares, 58%, and has the right under a revocable proxy to vote an additional 3 million shares owned by his family and company executives. With Hudson effectively controlling 10 million shares—83% of the common—Hudson Farms can do several more public offerings and still qualify as a "family farm."

Hudson cheerfully agrees "it's been a long, long time" since he drove a tractor. But, he says, "Farming, as defined in the tax code, is the production of farm products. It doesn't matter whether you ride a tractor or a horse." In other words, says Hudson, all farmers are created equal and should be treated equally by the IRS.

Springdale, Ark.-based Tyson Foods, the nation's second-largest poultry producer (after ConAgra), is also proving adept at playing by the family farm rules. This $1.1 billion agricompany contracts out chicken production to thousands of small farmers, and it derives more than 60% of its revenues from such "further processed products" as Chicken McNuggets and frozen dinners.

To remain a family farm—but also raise public equity—Tyson recently reincorporated in Delaware, where it can issue two class-

es of stock. The Tyson family will trade its 55% Class A holding for restricted Class B shares that carry ten votes each. Outside shareholders can keep the Class A shares or swap them for Class B, which pays a lower dividend. If only the Tysons make the switch, they will control 92% of the voting rights—far above the magic 50% minimum. Any new stock issued by Tyson will be of the Class A variety.

Important? It is to Tyson. Tyson earned $35 million in the fiscal year that ended Sept. 28. Cash accounting allowed it to defer about $26 million in taxes. That amounted to 78% of Tyson's 1985 federal tax bill.

"We consider ourselves as an umbrella over about 6,000 farms and farm families," says Chairman Don Tyson, defending his use of the family farming rules. "If we didn't have this kind of situation, we couldn't protect those 6,000 farmers."

But do family farmers need such protection? The fact is, cash accounting often works against farmers by making cattle, hogs and certain orchards attractive tax shelters and by encouraging overproduction. "I've seen too many instances where egg producers or others on a cash basis will expand their operation to avoid paying income tax," says Agriculture Secretary Richard Lyng, who was briefly on Hudson Foods' board. "That kind of tax policy has caused family farmers a lot of trouble."

Chuck Hassebrook of the Center for Rural Affairs in Walthill, Neb. agrees. "Cash accounting," he warns, "really distorts supply and demand." And Tyson may soon freeze the amount it defers because tax factors are warping its business decisions.

This seems like just the kind of loophole genuine tax return reform should plug. Indeed, the Administration's reform proposals would have limited cash accounting to companies with less than $5 million in gross receipts. But the big farmers and their lobbyists squawked as in 1976, and congressmen again clucked. Reforming farmers' cash accounting was one of the first proposals to be dropped last year by congressional tax writers.

Mr. ZORINSKY. Mr. President, as the article states, cash accounting by large corporations is "just the kind of loophole genuine tax reform should plug." It encourages corporate farmers to overproduce even though the farm economy already labors under excess supply. Our amendment puts an end to this unfair practice.

I urge my colleagues to retain income averaging for farmers. It would be too expensive to restore income averaging for everyone. The least we can do, however, is restore this provision for a group whose income fluctuates wildly and whose overall economic condition is so depressed. Mounting surpluses, declining exports, rising costs and falling land values have already turned America's heartland into a wasteland. We should not make matters worse through changes in our tax laws. With our amendment, we will correct this problem and make the Finance Committee bill fairer for farmers.●

● Mr. LEAHY. Mr. President, I am pleased to join Senators MELCHER, ZORINSKY, and others in sponsoring this amendment to retain income averaging for some farmers. The amendment is revenue neutral because the tax revenue lost from allowing farmers to continue to use income averaging will be regained by closing a loophole used by some corporations with annual sales of more than $100 million.

H.R. 3838, as reported from the Senate Finance Committee, repeals income averaging. This proposed repeal would have a devastating financial effect on many agricultural producers and disrupt the whole-herd dairy buy-out program that was part of the Food Security Act of 1985.

Many of my colleagues will describe the potential unsettling effect of this proposed repeal on the marketing of agricultural products. Because of the vagaries of the market, farmers rarely have stable income from year to year. Farmers who are good managers hold their crops until market conditions are favorable. Accordingly, farmer will show substantial income variability from year to year. The nature of farming is over coming adversity—from weather, natural disasters, foreign competition, and the everchanging market conditions. The Government ought not to add to the farmer's uncertainty by failing to recognize the special adversity facing agricultural producers.

Dairy farmers in my home State of Vermont, as well as other States, have a specific problem with the repeal of income averaging. Currently, the dairy industry is undertaking a self-help program to reduce the surplus production of milk. The program is known as the "whole-herd buy-out" program. The program provides for participating dairy producers to dispose of their herds during one of three disposal periods: April 1 through August 31, 1986; September 1, 1986, through February 28, 1987; and March 1, 1987, through August 31, 1987. The program is designed to reduce surplus and the capacity to overproduce milk and dairy products.

Dairy farmers enrolled in this program will experience a large increase in their income when they sell their herd, especially since they have not made a profit recently. While most participants will receive their termination payment during 1986, dairy producers selling their herds in the third disposal period will receive their payments in 1987. Without income averaging, many of these "third-period" producers will be unfairly penalized because their gains would be recognized after income averaging is eliminated as a tax option.

This amendment has another aspect. Without the amendment, milk producers in the second disposal period would almost certainly dispose of their herds during the last quarter of 1986, rather than take that income in 1987. Failure to adopt the amendment would result in disruption of orderly marketing of cattle in the second period.

The revenue offset for the amendment is achieved by prohibiting the use of cash accounting by corporations engaged in farming that have gross receipts in excess of $100 million. Cash accounting is an accounting technique intended for small, family farms. Large corporations that use the technique receive, in reality, a tax-free loan from taxpayers.

Mr. President, I urge my colleagues to support the amendment and I hope the Senate will adopt it.●

CHILES (AND OTHERS) AMENDMENT NO. 2076

Mr. CHILES (for himself, Mr. DOMENICI, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. SASSER, Mr. GORTON, Mr. BINGAMAN, Mr. WEICKER, Mr. INOUYE, Mr. HECHT, Mr. LAXALT, Mr. ARMSTRONG, Mr. EVANS, Mr. GRASSLEY, Mr. MATSUNAGA, Mr. PRYOR, Mr. CRANSTON, Mr. FORD, and Mr. GRAMM) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . DEDUCTIBILITY OF STATE AND LOCAL SALES, REAL AND PERSONAL PROPERTY, AND INCOME TAXES.

(a) FINDINGS.—The Senate finds that—

(1) a deduction for State and local taxes has been allowed by Federal income tax law since 1861,

(2) the deduction for State and local taxes is a cornerstone of Federalism, protecting State revenue sources from the effects of double taxation and allowing State and local governments the flexibility to develop tax structures without Federal interference,

(3) elimination of the deduction for State and local taxes would constitute an unjustified Federal intrusion into the fiscal affairs of States and prejudice the right of State and local governments to select appropriate revenue measures,

(4) elimination or restriction of the deductibility of some State and local taxes would encourage States to shift tax levies to taxes which continue to be deductible, increasing the tax burden of certain segments of the population and undermining the ability of State and local governments to raise revenue,

(5) the deduction for State and local sales taxes is the single most popular deduction in the Internal Revenue Code of 1954,

(6) the revenue measures selected by a State should not significantly alter the value of the Federal deduction for State and local taxes paid by its citizens,

(7) sales taxes are used by some State and local governments as general purpose taxes, while other jurisdictions use income and property taxes as general purpose taxes,

(8) funding for public education, the largest category of expenditure for State and local governments, would be affected by any restriction on the deduction for State and local taxes, and

(9) the sales tax is the largest source of revenue for all States combined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any tax reform legislation should preserve the full deduction for

State and local sales, real and personal property, and income taxes.

KASTEN (AND INOUYE) AMENDMENT NO. 2077

Mr. KASTEN (for himself and Mr. INOUYE) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1416, between lines 4 and 5, insert the following new section:

SEC. . CHARITABLE DEDUCTIONS FOR NONITEMIZERS.

(a) IN GENERAL.—Subsection (i) of section 170 (relating to rule for nonitemization of deductions) is amended to read as follows:

"(i) RULE FOR NONITEMIZATION OF DEDUCTIONS.—

"(1) IN GENERAL.—In the case of an individual who does not itemize his deductions for the taxable year, the applicable percentage of so much of the amount allowable under subsection (a) for the taxable year as exceeds $200 ($100 in the case of married individuals filing separate returns) shall be taken into account as a direct charitable deduction under section 63.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

"For taxable years beginning in:	The percentage is:
1987 or 1988	50
1989 or 1990	75
1991 or thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1378, line 17, strike out "and".

On page 1378, line 18, strike out the period and insert in lieu thereof a comma and "and".

On page 1378, between lines 19 and 20, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1381, line 13, strike out "and".

On page 1381, line 15, strike out the period and insert in lieu thereof a comma and "and".

On page 1381, between lines 15 and 16, insert the following new paragraph:

"(3) the direct charitable deduction.

On page 1384, line 24, strike out the end quotation marks.

On page 1384, after line 24, insert the following new subsection:

"(i) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i)."

On page 1387, line 13, strike out "5 percent" and insert in lieu thereof "12 percent".

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture, Nutrition, and Forestry, has scheduled its second in a series of hearings entitled: "Preparing for the GATT: A Review of Agricultural Trade Issues."

The subcommittee, chaired by Senator BOSCHWITZ, will receive testimony focusing on market development from FAS Cooperators, beginning at 9:30 a.m., and testimony concerning the activities of the Agricultural Export Commission, beginning at 11 a.m.

The hearing will take place on Tuesday, June 17, 1986, in room 332 Russell Senate Office Building.

For further information, please contact the committee staff at 224-2035.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Tuesday, July 22, 1986, at 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Testimony will be received on the following measures: S. 230, for the relief of the city of Dickinson, ND; S. 252, to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, SD; S. 1704, to authorize an increase in the appropriation ceiling for the North Loup Division, Pick-Sloan Missouri Basin Program, NE.

Those wishing to testify or submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Water and Power, U.S. Senate, Washington, DC. For further information, please contact Mr. Russell Brown of the subcommittee staff at (202) 224-2366.

SUBCOMMITTEE ON NATURAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Natural Resources Development and Production Subcommittee of the Senate Energy and Natural Resources Committee.

The hearing will take place on Thursday, July 24, 1986, beginning at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC. Testimony is invited regarding S. 1026, to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

For further information regarding this hearing, you may wish to contact Ms. Ellen Rowan on the subcommittee staff at (202) 224-5205. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Natural Resources Development and Production Subcommittee, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to consider the following nominations: A. David Rossin, of California, to be an Assistant Secretary of Energy (Nuclear Energy); Marshall A. Staunton, of California, to be Administrator of the Economic Regulatory Administration; Theodore J. Garrish, of Virginia, to be Federal inspector for the Alaska Natural Gas Transportation System; and Richard H. Francis, of Virginia, to be president of the Solar Energy and Energy Conservation Bank.

The hearing will take place Tuesday, July 15, 10 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should contact the Committee on Energy and Natural Resources, room SD-358 Dirksen Senate Office Building, Washington, DC. For further information, please contact David Doane or Gerry Hardy at (202) 224-5304.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 12, to conduct a business meeting to mark up S. 2378, supplemental assistance to the Philippines; further consideration of aid to Northern Ireland; and to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 12, in order to conduct a hearing on Bank Secrecy Act Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 12, in closed session, to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PREPAREDNESS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Preparedness of the

Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 12, to hold a markup of preparedness portions of S. 2199, the fiscal year 1987 DOD Authorization bill, in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Strategic Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate, in executive session, on Thursday, June 12, to hold a markup of strategic and theater nuclear forces portions of S. 2199, the fiscal year 1987, DOD Authorization bill, S. 2218, the fiscal year 1987 DOE National Security Programs Authorization bill, and the fiscal year 1987 authorization request of the Federal Emergency Management Agency for civil defense programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, June 12, in executive session until 12 noon, for the purposes of considering product liability legislation as well as other legislative and executive items on the committee's agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate of Thursday June 12, to hold a hearing on S. 2204, to amend the Land and Water Conservation Fund Act of 1965, as amended, to permit the use of park entrance, admission and recreation use fees for the operation of the National Park System, and for other purposes; S. 2130, to preserve, protect, and revitalize the National Park System.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FELIKS SEREBROV

● Mr. D'AMATO. Mr. President, I rise today to draw attention to the continuing plight of Feliks Serebrov, a founding member of the Moscow Helsinki Group. The group, organized by 11 Soviet human rights advocates, was established on May 12, 1976. The primary purpose of the Moscow Group was to promote human rights in the U.S.S.R. and monitor Soviet violations of the Helsinki Final Act.

Soviet authorities have arrested, detained, imprisoned, and exiled members of the group, including Serebrov. These harsh reprisals underscore Soviet contempt for the concept of human rights and for those who speak out in support of human rights. In addition, they highlight Soviet disregard for their human rights commitments, especially those included in the Helsinki Final Act, which they have voluntarily accepted.

Mr. President, as chairman of the Commission on Security and Cooperation in Europe, I commend the efforts of Feliks Serebrov and his colleagues who have paid dearly for their work on behalf of those denied even the most basic human rights.

Mr. President, I ask that a brief biography of Serebrov be included in the RECORD.

The biography follows:

FELIKS ARKADEVICH SEREBROV

At age 17, Serebrov was arrested for "petty embezzlement"—taking a kilogram of salt from a passing train. Although the penalty for this crime under Stalin was death, he received 10 years imprisonment. Serebrov was amnestied in 1954 but arrested and sentenced again in 1957 for "exceeding the limits of self-defense" (assault). He served one year and seven months of a two-year sentence in a Siberian labor camp. After his amnesty, he worked as a laborer and factory worker.

Serebrov's signature has appeared on numerous samizdat documents—statements and letters in defense of political prisoners—since the early 1970s. In 1976, he became especially active in protests against conditions in psychiatric hospitals and became a founding member of the Working Commission to Investigate the Use of Psychiatry for Political Purposes the following year.

Subsequently, he was harassed by the authorities for his activities with the Commission, and his previous sentence provided an excuse for his arrest on August 22, 1977 on the charge of using "falsified" documents (Article 196 RSFSR Criminal Code). "The "falsified" document was actually his workbook or employment record which contained inadvertently unclear or imprecise information about the 1957-58 period which he served in camp. Before and after Serebrov's arrest, the KGB confiscated Working Commission materials and other letters and appeals from his apartment, none of which bore any relation to the criminal case against him.

On October 12, 1977, Serebrov was sentenced to one year in strict-regimen camp. He completed his term in August 1978, returned to Moscow and resumed his activities with the Working Commission.

Serebrov was arrested in Moscow on January 9, 1981, and sent to Lefortovo Prison. He was charged with "anti-Soviet agitation and propaganda" under Article 70 RSFSR Criminal Code. On July 21, 1981, Serebrov was sentenced to four year strict-regimen camp plus three years exile; he is in Perm Camp 35.●

ROBERT F. JACKSON

● Mr. LUGAR. Mr. President, I ask that my colleagues in the Senate join me in saluting a man who has contributed more than 40 years of dedicated service to the State of Indiana through the planning and development of our water resources. This man is Mr. Robert F. Jackson, who is retiring at the end of July as assistant director of the Department of Natural Resources' Division of Water.

In his unusually long service to the State, Robert Jackson has strengthened many programs for the continued development, protection, and preservation of water resources. He has devoted conscientious attention through his many diverse roles which have proved beneficial to the people of Indiana and the betterment of this vital resource.

His contributions to the State of Indiana have been many. Mr. Jackson began his career in 1946 as an engineering staff member of the Indiana Flood Control and Water Resources Commission, where his first duty was to compile detailed topographical information on potential flood control reservoirs. Within the next 19 years, his industriousness and outstanding leadership abilities enabled him to work as head of all field surveying activities, leader of the commission's flood control planning section, and finally, as head of its planning division in 1962.

When the Indiana Department of Natural Resources was formed in 1965, Robert Jackson, as assistant chief of the Division of Water's Planning Branch, used his extensive knowledge and experience to help build the framework of the division into the successful and integral part of the IDNR as we know it today. In 1967, he was promoted to director of the Division of Water, a position which he served for 16 years.

Throughout the years, Mr. Jackson has been involved in projects such as the Small Watershed Program which ranked third in the Nation; all eight of the U.S. Army Corps of Engineers' flood control and multipurpose reservoirs; many U.S. Geological Survey programs; regulation of construction in floodways; flood plain management, and much, much more.

Robert Jackson has faithfully fulfilled his roles in an attempt to help create a greater, more productive Indiana through his work in water resources. For this reason, I ask my colleagues to commend Mr. Jackson for his many years of dedicated service to the Indiana Department of Natural Resources, and wish him the best retirement possible.●

RABBI RANDALL FALK—A DISTINGUISHED TENNESSEAN

● Mr. SASSER. Mr. President, I rise today to note the retirement this month of Dr. Randall Falk from his post as Rabbi of The Temple, Congregation Ohabai Sholom, in Nashville, TN.

Twenty-six years ago, Rabbi Falk came to Nashville. He quickly became one of the community's leaders, combining calm and common sense with moral vision during the turbulent years of the Sixties. This steady leadership was rewarded with the human relations award from both the National Conference of Christians and Jews and the Metropolitan Nashville Human Relations Commission.

On the national scene, Rabbi Falk has served as an officer of the Central Conference of American Rabbis, as Chairman of its Committee on Justice and Peace, and as Vice Chairman of its Commission on Social Action. In Nashville, he has served as president of the Nashville Association of Rabbis, Priests, and Ministers; president of the Nashville Council of Community Services; member of the board of directors of Leadership Nashville. For many years, he has worked tirelessly in the fields of health and better housing.

For a striking but temporary change of pace, Rabbi Falk will serve a reformed congregation in Wellington, New Zealand, and then return to Nashville for what I hope will be a happy and eventful retirement.

The steadfastness and integrity of Rabbi Falk have meant much to those in the Nashville community and beyond. We are grateful. We wish Rabbi Falk and his wife Edna, together with his three children, Randall Marc, Jonathan David, and Heidi Lu, many happy years ahead.●

WILLIAM J. ANDREWS

● Mr. LUGAR. Mr. President, I ask that my colleagues join me in honoring Mr. William J. Andrews, who for 28 years has contributed immeasurably to the knowledge and quality of water and mineral resources conservation in the State of Indiana. Mr. Andrews will retire from his post as deputy director of the Department of Natural Resources at the end of this month.

William Andrews has served as the sole deputy director of this bureau since the Indiana Department of Natural Resources was created in 1965. While the IDNR has become known as an indispensable institution devoted to the wise management of natural resources, Mr. Andrews has been equally recognized for his significant role in the guidance and development of this branch of government. His many years of dedicated service has provided many satisfying and beneficial programs for the improvement of water and mineral resources and the resolution of resource-related problems which have arisen within the State.

Listing Mr. Andrews' extensive accomplishments is a difficult task, for his successes are many. While his background includes services for the Tennessee Valley Authority and Illinois Division of Waterways, his career in Indiana began in 1958 as senior staff engineer for the Indiana Flood Control and Water Resources Commission. He faithfully served 7 years in this position until his promotion to deputy director.

In his current role, Mr. Andrews has had administrative responsibility for the divisions of water, oil and gas, geological survey, and soil and water conservation. He easily carried the heavy responsibility as technical secretary to the Indiana delegation on the Great Lakes Commission.

As a member and technical secretary of Governor Bowen's Water Resources Study Commission, a position served unerringly for 3 years, William Andrews spent long hours writing and editing two volumes of the commission's results concerning availability and uses of water and recommendations for future water policies in the State of Indiana. These documents have become recognized as milestones in the area of water resources.

In his undying concern for mineral resources, Mr. Andrews accepted the position as technical secretary to the Governor's Soil Resources Study Commission. With the commission, he has investigated alarming soil erosion conditions and made knowledgeable recommendations concerning necessary steps to reduce erosion throughout Indiana by the year 2000.

In the last few years he has assisted Hoosiers in efforts to develop a plan for the future of the Kankakee River basin in northwestern Indiana. The detailed work and suggestions offered by Mr. Andrews have resulted in a progressive water resource management project involving eight counties and an 84-mile river basin.

Despite Mr. Andrews' retirement, he has helped ensure that the Bureau of Water and Mineral Resources will continue smooth operation for many years to come. His hard work and noted professonalism has made an indelible mark on Indiana. I think my colleagues will agree that Mr. Andrews deserves our highest esteem and gratitude.●

CALL TO CONSCIENCE ON SOVIET JEWRY

● Mr. LAXALT. Mr. President, as I did last year, I am pleased to join the Congressional Call to Conscience vigil for Soviet Jews. As we speak today on behalf of the hundreds of thousands of innocent Jews suffering in the Soviet Union, we must remember that they are denied not only this basic freedom to speak on behalf of themselves, but also the many other freedoms we have come to accept and take for granted by virtue of our American birthright.

The Soviet Union tells us that it is slowly loosening its emigration policies. The facts of the matter prove otherwise: The Soviet Union is in direct violation of the Helsinki accords, emigration for Soviet citizens is at a record low, and human rights as we know them do not now exist in the Soviet Union. Further, within the last 6 years, emigration has dropped from nearly 50,000 to 1,140 with the majority of Jews resigned to the limbo of applicant status. We must not allow ourselves to be appeased by token measures such as the release of Anatoly Shcharansky. We must see Mr. Shcharansky's release for what it is—a conciliatory gesture and not the precedent for future emigration that the Kremlin leadership would like us to believe.

My colleagues who have participated in the Call to Conscience Program have provided us with individual cases of families attempting to emigrate from Russia. While this provides insight into numerous atrocities performed against the refuseniks living in Russia, the grim truth is that for every family we recognize, there are thousands of families residing there who are equally suffering. I would like to cite just a few instances of this inhumane treatment.

Vladimir Lifshitz of Leningrad was sentenced to 3 years on false charges of anti-Soviet slander. The charges were clearly meant to intimidate Soviet Jews who engage in international correspondence. Vladimir had his international letters intercepted, confiscated, and used as evidence against him at his trial where, not surprisingly, he was found guilty.

Eduard Gudava of Tblisi, a member of the Phantom Orchestra, was sentenced to 4 years in a labor camp on charges of malicious hooliganism. He had put up a sign on his balcony demanding that the KGB stop harassing his family.

Anatoly Koryagin, a Soviet psychiatrist imprisoned for his active role in the unofficial working commission on psychiatric abuse, was sentenced in 1981 to 7 years in camp and 5 years in exile. At last report, he was severely debilitated due to his treatment in the camp and a prolonged hunger strike.

Lev and Alla Sud of Moscow were denied permission to emigrate. Officials informed them, as well as many others in Moscow, that reunification of families is based only on families in which husband and wife are separated.

Dr. Genis, of Moscow, first applied for emigration and an exit visa over 9 years ago. In order to punish him for

such a request, Soviet authorities have fired him from his job as a mathematician. He was able to find odd jobs as a loader, street sweeper, fireman, zoo watchman, freight car conductor, and, most recently, a janitor in the Moscow subway system. The family is destitute and is barely surviving the trials of refusenik life.

These are only five examples of the rampant discrimination and harassment by the Soviet Government that Soviet Jews are forced to endure. This is why I reiterate the necessity to continue our vigil for those prisoners of conscience who are refused the very same liberties that Americans enjoy every day. There are currently 350,000 Jews who are attempting to emigrate from Russia; many of them have been trying to leave for over 10 years. Not only have they been unable to realize their dream of freedom, but they have paid a tremendous price for merely requesting exit visas.

I urge my fellow Senators and Congressmen to continue this bipartisan effort to denounce publicly the Soviet oppression and intransigence which is intended to terrorize and demoralize Soviet Jews. It is my hope that by continued dedication to this cause, we can in some way improve these people's chance for freedom and reunification with their families. But even if our efforts here today do not result in an immediate change of Soviet emigration policy, it is still important for us to keep the truth about the Soviet regime before the public eye throughout the free world.●

GROWING SUPPORT FOR LIABILITY REFORM

● Mr. KASTEN. Mr. President, a recent article in the Journal of Commerce shows that the tort system is no longer performing its function properly. The article states that many sectors of society, including home builders, real estate appraisers, architects, and others, are adversely affected by current liability laws. The primary purpose of the tort system is to fairly compensate victims of wrongful conduct. But now the system is injuring consumers, the group it purports to protect, by triggering higher product and service prices due to skyrocketing liability insurance premiums. Tort reform is urgently needed to address these frightening problems. I ask that the text of this article be printed in the RECORD. I hope that my colleagues will take note of the pressing need for immediate tort reform.

The article follows:

[From the Journal of Commerce, May 16, 1986]

LIABILITY LAW REFORM PARADE GROWS

(By Leah R. Young)

WASHINGTON.—Home builders, real estate appraisers, architects and public housing authorities have added their voices to the chorus demanding that Congress reform liability law to create a more stable insurance environment.

The Subcommittee on Housing and Urban Affairs of the Senate Banking Committee joined the long list of congressional committees investigating the insurance crisis with hearings Thursday.

Subcommittee Chairman Chic Hecht, R-Nev., indicated that he wants to advise the Senate Judiciary Committee and the Senate Commerce Committee on the interests of the Banking Committee's constituency.

Several witnesses echoed the statements of Richard B. Gaskins, executive vice president of The American Institute of Real Estate Appraisers. He argued that real estate appraisers are being tarred with the brush of other professionals.

"We believe that the crisis in procuring appropriate errors and omissions insurance that is being experienced by the appraisal profession is not the result of an unfavorable loss experience relating to appraisers, but rather, is the result of an unfavorable loss experience relating to other professionals, such as doctors, lawyers and accountants."

Another problem David Allen Daileda of the American Institute of Architects pointed to is the search for a deep pocket when workers are injured and cannot sue their employers over safety under workers compensation laws.

"You may not know that injured construction workers who receive workers compensation often seek to double dip by suing architects," Mr. Daileda said.

"Generally these suits are unsuccessful because architects usually are not responsible for construction site safety. Nevertheless, design professionals have to undergo the expense, not to mention the wear and tear, of defending themselves."

The National Association of Home Builders told the subcommittee that they are also affected by the insurance crisis. Leonard Miller testified for the builders that small companies building 10 or fewer homes annually have had premiums for liability coverage of $300,000 raised from $400-$600 annually to $1,500.

Large builders can only obtain coverage of $5 million instead of $10 million and these halved coverage amounts have been accompanied by double or triple premiums, he said.

The United States Conference of Mayors is asking Congress to develop a multi-faceted program that would include: federal monitoring of the insurance industry, allowing local governments to pool risks across state lines; and tort reform to change liability law to cap legal fees and non-economic damages.

Stephen Chapple, general counsel of the mayors' group, told the subcommittee that reform of joint and several liability, which allows a victim to seek recovery from one or a few defendants, even if their contributions were minor, is also imperative.

This reform is needed to "spare local governments from many a suit and many settlements designed to reach into their deep pocket," he said.

NATIONAL PHILIPPINES DAY

● Mr. SIMON. Mr. President, on June 12 we celebrated National Philippines Day. This year is a very special day, in that we celebrate the great contributions the Philippine people have made to our Nation, as well as their successfull struggle for democracy and freedom. Their struggle was not easy, but was the result of thousands of individual acts of human courage. Their courage came from the dream of democratic government; a dream that proved more powerful than tanks, bullets, and violence. Therefore, this day is a symbol of the power of ideals; the ideals of democracy and freedom.

The United States and the Philippines share a very long and deep-seated relationship and our alliance has been of great benefit to both nations. It is an alliance which spans many decades. The United States and Philippines fought together in World War II and shared many other experiences.

The Philippine people have made great contributions to American culture. The United States needs to continue its relationship with the Philippines. Today, the Philippines needs the support of the United States more than ever. President Aquino needs our help in her goals of economic and social development. Senator LUGAR has proposed to increase aid to the Philippines by $250 million and I strongly support this request for increased aid. Therefore, this is a day not only to celebrate the contributions of the Philippine people, but to renew our commitment to nurture the spirit of a democratic revolution. Let us support President Aquino in her program of economic and political reform.●

SENATE JUDICIARY COMMITTEE APPROVES EDWIN M. KOSIK TO BE U.S. DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

● Mr. HEINZ. Mr. President, I would like to congratulate one of Pennsylvania's finest jurists, judge Edwin M. Kosik of Scranton, whose nomination was reported out of the Senate Judiciary Committee today, clearing the way for a favorable vote by the full Senate as the next U.S. district judge for the Middle District of Pennsylvania.

I am delighted and pleased to lend my unqualified support to his confirmation by the full Senate. His career has been marked by a series of outstanding achievements and by a personal commitment to the principles of justice and freedom that have made our Nation great. While still in his teens, Judge Kosik was awarded two battlefield commission during the World War II. He eventually became one of the youngest company commanders in the European Threatre of Operations.

He has served as a member of the Court of Common Pleas of Lackawanna County for 17 years, most recently as president judge, and he has handed down many significant deci-

sions on a variety of civil and criminal cases.

A former president of his County Bar Association, Judge Kosik has certainly earned the admiration and respect of his peers. I know I could go on and recite his numerous accomplishments, but I will not do so in the interests of time. I will offer just one more thought regarding his qualifications.

First and foremost, Judge Kosik is distinguished by his exceptional level of legal scholarship and rare facility for applying abstract legal opinions to real life situations. I have no reservation about Judge Kosik's knowledge of the law. It is outstanding. His legal opinions are a matter of record. His experience as an assistant U.S. attorney, as an attorney in private practice and as a judge constitute the very best sort of preparation for the responsibilities for which he has been nominated.

I might sum up by saying that Judge Kosik has served the cause of justice with dignity and distinction in his professional life, and has served his family and community as a private citizen with equal commitment and compassion.

Therefore I am proud to strongly endorse his nomination. I urge my colleagues to vote their approval of Judge Kosik when his nomination is taken up as Senate business.●

INCREASING JOBS IN OUR SOCIETY

● Mr. SIMON. Mr. President, I recently reread a letter sent to me, dated January 24, of this year, by Juel D. Drake, the general president of the International Association of Bridge, Structural, and Ornamental Iron Workers.

It is probably as good a summation of where we are and what we must do as anything I have read by a labor leader, business leader, or government leader.

He starts from a base that I agree with completely. He says, "We need a strategy to provide a good, economically productive job to every man and woman who needs and wants one." And from there, he outlines what we ought to be doing.

I am submitting his letter for the RECORD urging my colleagues of both Houses and their staffs to read what he has to say. I know that sometimes things get entered in the RECORD that are not significant. I believe his letter is indeed significant, and I urge your careful attention to it.

I ask that Juel Drake's letter be inserted at this point.

The letter follows:

DEAR SENATOR SIMON: I've taken the liberty of replying to your letter of December 23, 1985. I welcome the challenge you have offered to present our views as to how we might increase the number and quality of jobs in our society. Like you, I think that there is no more important question facing us today.

I'm sure there are many who are more qualified than I to address the technicalities of some of the economic questions involved, but as the representative of more than 154,000 American workers, I have almost daily contact with many of the problems facing our economy as they affect real people and communities. That's a perspective that must have a central role in any economic debate.

THE NEED FOR AN ECONOMIC CONSENSUS

The biggest problem facing us in the economic sphere is our failure to approach the economy from a perspective that takes into account both the present reality and the long-term challenges before us. Our failure to plan ahead, to see the larger picture, to develop a shared vision of the future—one that is solidly based in the present state of the economy—has led to economic and political confusion.

Far too often, we work at cross-purposes. Our right hand does not know what the left is doing and vice versa. We go off on tangents, responding to immediate economic circumstances but with little thought to the long-term consequences. We initiate projects only to drop them a short while later. We flip from one political and economic approach to another in a vain search for some quick and easy solution. We make plans for the future without taking into account the process whereby that future we so eagerly anticipate will actually have to be created.

There was a time when we didn't need to think ahead, a time when we rode the economic crest. Everything was easy then. The economy just seemed to take care of itself.

That time has gone. Today, we face a world of increasing competition, a world in which we must make the maximum use of scarce resources, a world in which our national interest and the interests of our people are not automatically served through the "normal" workings of the economy, a world in which everyone else is thinking ahead and planning for the future.

Today, we too must think ahead—hard as that may be. We must develop a coherent plan for the future and begin to implement it.

We're not talking about centralized planning or some system of state control. That's neither feasible nor desirable. But we do need some way to structure the national debate on economic issues, some mechanism to arrive at a national strategy for dealing with our economic problems, some way to focus public and governmental attention on the kind of economy we want and what we will have to do to get it.

I don't have the precise blueprint as to what that might be—a broad-based national economic council, perhaps—but I do know a few things that must be integral to any such effort;

It must involve all the economic factors—labor, business and the government.

It must operate on multiple levels—national, regional and local.

It must have some power. At the very least it must have access to the decision-making process and sufficient resources to do the kind of job that needs to be done.

It must not be an academic body. Economics is a technical field, but long experience has shown that the important decisions are more political than technical in nature. We do not need more research studies; we need a plan of action and when you talk about action, you're talking about politics.

It must be democratic. We don't need a forum for backroom debates and secret deals. We need public discussion leading to a public consensus on the kind of economy we want and the way in which we intend to get it.

Too much of the present public discussion on economics is based on mythologies. President Reagan, for example, appeals to the image of a past that simply did not exist and offers rhetorically appealing solutions with no chance of working. He can get away with that because people have not been educated about the realities of our economy and the choices facing us.

Economic issues have not been put on the table in a way to make the public understand them—by either side in the political debate. There is no easy way to do that, but the first step must be to increase the level of public involvement in the making of economic decisions.

JOBS

The most important measure of economic performance is jobs. An economy that does not produce enough jobs for its people—no matter what else it does—is not a good and healthy economy.

And we're not talking about just any kind of job, we're talking about good, productive jobs—jobs with a future.

That's been the problem of so many job creating programs of recent years. They did not create good and lasting jobs; they created make-work or temporary jobs.

Such programs may have helped relieve the immediate problems facing out-of-work people, but they did little to address the long-term problem of unemployment. Nor did they necessarily produce lasting benefits for the nation as a whole.

We need a strategy to provide a good, economically productive job to every man and woman who needs and wants one. It must also be a strategy that improves the competitiveness and efficiency of the American economy. We can no longer afford to throw our money away; we must invest it and invest it wisely and in a way that provides maximum benefit to our people—both in the short and the long term.

There is little question that this is going to require some changes in the way we make economic decisions and in the relationship between the public and private sectors. In particular, it's going to require new initiatives and a new ability to plan ahead on the part of the federal government, To believe we can achieve the kind of economy we need in any other way is wishful thinking.

KEEPING WHAT WE'VE GOT

First, we must keep the jobs we already have to the maximum extent possible. We've been losing jobs far too quickly—especially from basic industry and other central economic sectors.

There are those who say that this inevitable, that we must accept the fact that we can no longer be competitive in the industrial sphere and that we must accept our new role as a "service" economy. I'm convinced the case is overstated.

There is no question that many of our industries have real competitive problems, but that does not mean they can't compete.

Again, the problem is that we have never had any comprehensive strategy for maintaining and reinforcing our industrial base and, lacking that, we've sat idly by while some of the essential foundations of that base have been washed away.

Our present problems are not the result of mysterious "market" forces as much as they

are of deliberate investment, marketing and political decisions—or sometimes non-decisions. There is nothing inevitable about our present situation and there is nothing inevitable about our economic future—if we put our minds, our energies and our resources to the task.

It would be a mistake not to do so. We have no future as a "service" economy. That's the path to second class status. That's no legacy to pass on to the generations to come.

A PUBLIC BALANCE SHEET

Part of the problem is how we evaluate economic decisions. By and large, we use a private balance sheet when what we need is a public balance sheet.

A private balance sheet, on the other hand, considers the costs and benefits of decisions in total. It reflects the public commitment to the particular business entity making the decision and to business in general—our investment in roads and bridges, ports and railroads, water and sewer lines—as well as the public impact of the decision.

As such, the public balance includes at least some of the costs of unemployment, lost tax revenues, community deterioration, increased crime, increased demand on social services, higher divorce rates, family breakup, relocation costs and the trauma relocation brings, and all the other public consequences that can derive from private economic decisions.

The idea of the public balance sheet is an extremely useful one in evaluating economic options. Many plant closing decisions, for example, are economically marginal decisions. There have been a number of examples in which a generally profitable operation was not making quite enough profit to justify upgrading and modernizing plant and facilities. The use of a public balance sheet that took into account all the economic impacts associated with a decision to close or not modernize such a plant might produce a radically different conclusion—even perhaps justifying public action to keep the plant open and competitive.

The concept of the public balance sheet certainly has some relevance in evaluating the impact of tax and other investment incentives.

An examination of the public balance sheet, for example, should justify tax provisions that encourage the modernization of existing facilities and the investment of resources in economically dislocated communities far and above other forms of investment.

Our goal should be to factor as many of the costs associated with an economic decision into the making of that decision as possible. Public policy should encourage that process.

Passage of economic dislocation legislation such as that introduced in the last Congress would be an important first step in this direction. But there should be no illusion that it is any more than a step.

In particular, we need legislation with more teeth in it—legislation that really does begin to factor the public costs and the public benefits of economic decisions into the making of those decisions. This may take a while to implement, but it is a goal that needs to be put on the agenda now for evaluation and discussion as to what is the best way to make it a reality.

AN INVESTMENT STRATEGY

An investment is the linchpin of economic development. It is hard to overemphasize this point.

Right now, the public sector channels investment and economic decision-making in many ways. The problem is that there is nothing conscious or deliberate about the process. More often than not, our various ways of influencing investment contradict each other—thus, incentives to encourage investment in depressed areas may be undermined by tax policies that discourage modernization of existing facilities and encourage the relocation of businesses.

We need to become more conscious about how we influence investment decisions.

There are those who will say that this entails "planning," and to some degree it does. But we already have planning in the sense that the public sector directly and indirectly influences private sector investment. The problem is that no one is doing the planning.

There is no way that the government is going to get out of the economy. It can't. No one really wants it to when it comes down to the bottom line. Certainly, almost no one in the business community—at least when it comes to things the government does that are of benefit to them and their business.

The challenge facing us is to impose some logic on the process. This requires establishing goals and developing a shared vision on the kind of economy we want. Only then will we have a framework within which we can effectively evaluate the ways in which we direct and influence our economy.

Establishment of the national economic council mentioned above would be a move in this direction.

I would go even further: We need a public mechanism to direct at least a certain degree of public investment into key economic areas. I'm talking here about some kind of national investment bank that can channel public resources into the development, expansion and modernization of economic sectors with significant potential or importance to the nation.

Obviously, this would include investment in some of the new high technology industries, but it should also include public investment in the modernization or diversification of older industries to make them competitive once again.

Most of the other industrialized nations in the world pursue such a strategy. Japan and many of the European nations, for example, have used just this tactic very effectively.

In addressing the question of economic investment, there is a major question of what should be our purpose. As a beginning, I would suggest three broad goals:

1. To invest in enterprises and economic sectors with the potential of building a stable, long-term economic foundation for the United States. The focus must clearly be on the future.

2. To invest in areas that are going to produce the maximum number of good jobs and that make maximum use of our existing labor and resource pools.

3. To invest in ways that balance our need to remain competitive in the international economy against a clear national need to maintain a minimum level of economic self-sufficiency.

Thus, it may make sense to channel some investment into areas in which we may be only marginally competitive on the international level but which help maintain a strong and secure domestic economy. Basic industries like steel and auto clearly fall into such a category.

REBUILDING OUR PUBLIC INFRASTRUCTURE

Another item at the top of any economic program must be the rebuilding of our national infrastructure. This is the foundation upon which everything else rests.

I'm sure I don't have to tell you what disgraceful shape our roads, bridges, highways, ports, railroads and public water supply systems are in. Reports and studies about the problems facing us in these areas abound. And yet we continue to do almost nothing about the problem.

The rapidly accelerating deterioration of our public facilities threatens the health and well-being of millions of Americans at the same time that it undermines our ability to successfully compete in the world marketplace.

It doesn't have to be this way. Investment in public works and in the maintenance and rehabilitation of our national infrastructure can have a big payoff. It would improve our long-term competitiveness in the world economy—indeed, it is essential to that competitiveness—at the same time that it produces thousands of productive jobs for our people.

We saw the value of this kind of program in the aftermath of the Great Depression, when thousand of workers who would otherwise have been idle were put to work building roads, bridges, public buildings, schools, hospitals and other facilities. These facilities continue to provide the backbone of our national infrastructure. The payoff in that case was both immediate and lasting.

It's a sad commentary on the state of things that almost nothing done in the jobs and public works area in the half-century since has come close to making such a lasting contribution to our national economy.

The rebuilding of our infrastructure will not be cheap. But it will cost us far more to not do it; both in direct dollar terms—because it will have to be done someday—and in terms of the lost opportunities for American business in a world where others are not making that same mistake.

Whatever it takes, we must do it. The decisions we make now will live with us for decades to come. If we fail in our task, if we continue to ignore the foundation of our economic structure, we doom ourselves, our children and generations to come to an uphill battle to regain what we once had in terms of national economic health and competitiveness.

MAINTAINING AN INDUSTRIAL BASE

As I have noted, there is little future in the notion that the U.S. should become a "service" economy.

The provision of various kinds of services—particularly in the financial, educational and technological arenas—has always been an important component of the American economy. But it has never been the central pillar upon which our economy rests. Were it to become so, we will be in serious trouble.

There is little to indicate that a service economy is capable of supporting the American workforce and maintaining the American standard of living.

To be sure, some parts of our society would do well—they always have—but what of the vast majority? What of the millions of workers who now make their living in production industries? Where will the money and resources come from to maintain their standard of living? Or are they going to be doomed to the kind of low-wage, dead-end jobs that characterize much of today's service industries.

Look at the fastest growing job categories. Most are not good jobs. Are they the foundation of a solid economy?

We must not abandon the idea that American workers and American technology can produce goods and products that can effectively compete? We can—if we commit ourselves to the task and pursue it as it must be pursued.

Our agenda must be two-fold: First to protect what economic and industrial base we have left. Second, to build on it, to expand it, to modernize it and make it more efficient, productive and competitive.

These two things go hand in hand. They cannot be separated. If we try to protect our industries from their present inefficiency—often due to their own mistakes or to deliberate multinational investment decisions that have channeled vital resources away from the U.S.—without insisting on improvements in efficiency and productivity, we will only be delaying the inevitable.

Likewise, if we continue to exhort our industries to become competitive—as has been public policy for some time—without taking steps to protect them and to motivate and assist them in achieving that objective, we will simply be whistling in the wind.

This approach has many implications. In the trade area, for example, it dictates an active policy to protect American industries from undue competition.

This however, should not be simpleminded "protectionism." Rather, we need a policy that provides help and assistance to threatened industries—but only if there is action to turn the situation around, only if those industries themselves are committed to making themselves competitive once again.

There must be a return on our investment in protection, in other words, and that return must be reflected in private sector commitment and the investment of additional resources into those threatened economic sectors. If that commitment is not there, then other steps may have to be taken to ensure that industries vital to the long-term health and stability of our nation remain there.

The bottom line assumption in all of this is that we are not captives to blind fate. We have not lost our ability to turn events to our advantage. It's a question of whether we have the will to maintain the standard of living and the economic position we've built over the years and the commitment to take the kind of action that's going to be necessary to do that. For sure, it will not happen by itself.

I thank you, once again, for the opportunity to assist you as you explore these and other topics. Please feel free to call upon me or my staff if we can provide any additional assistance or information.

Sincerely,

JUEL D. DRAKE,
General President.

NAUM AND INNA MEIMAN: A PUBLIC APPEAL

● Mr. SIMON. Mr. President, I just received word today that Naum and Inna Meiman have joined with two other refuseniks in the Soviet Union who are also stricken with cancer to publicly plead for medical treatment.

Inna has a form of spinal cancer that is not treatable in the Soviet Union. Inna has, however, been invited by numerous cancer institutes in the West to obtain treatment. Why are the Soviets allowing Inna Meiman to die? It would be such an easy decision to simply allow her to go abroad to receive treatments that she so desperately needs.

I implore the Soviets to allow Inna and Naum Meiman permission to emigrate to Israel.●

TAX REFORM ACT OF 1986

Mr. DOLE. Mr. President, we have made some progress today and we will make progress tomorrow. I do not expect any votes after 4 p.m. tomorrow.

As we have indicated, if there are any record vote requests on Monday, they will occur beginning at 3:30 p.m. on Monday. I still believe there is not much reason we cannot finish this bill at a daylight hour on Monday. There are not that many amendments pending.

Mr. President, I would hope that our colleagues will certainly be ready if not tomorrow to offer amendments, to offer them on Monday.

Mr. President, I have indicated previously that we do have this unwritten rule that there are no votes after 6 p.m. on Monday. It would be my intention to honor that commitment unless we are within 30 minutes or so of final passage. I would not want anybody to miss that opportunity early Monday evening. But if it looks like it is going on into the evening, we will not have any votes after 6 p.m. on Monday.

ORDERS FOR FRIDAY

Mr. DOLE. Mr. President, the following has been cleared with the distinguished minority leader.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Friday, June 13, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators MURKOWSKI, PROXMIRE, HUMPHREY, MATHIAS, SIMON, CHAFEE, MELCHER, MCCONNELL, MATSUNAGA, and WALLOP.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF H.R. 3838

Mr. DOLE. Mr. President, at the conclusion of routine morning business, we will be back on H.R. 3838, the tax reform bill. We have an amendment pending, the Kasten-Inouye amendment, pertaining to charitable contributions.

□ 2225

I understand from visiting with Senator KASTEN that he will be prepared for a vote on that amendment within an hour. So I advise my colleagues to be present no later than, I would say, 10:45 just to be safe.

There will be votes throughout the day—I guess, if I were guessing, maybe as many as four or five votes between 11 and 4 p.m.

Senator METZENBAUM has a number of transition rules—at least, he will be attempting to strike a number of transition rules. He said there would not be lengthy debate on any of them so I assume there could be a number of votes.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess until the hour of 9 a.m. on Friday, June 13, 1986.

Thereupon, there being no objection, the Senate recessed at 10:24 p.m. until tomorrow, Friday, June 13, 1986, at 9 a.m.

EXTENSIONS OF REMARKS

THE STATE OF THE PHILIPPINES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, this is the second of a 10-article series on the Philippines written by George Chaplin, the editor-in-chief of the Honolulu Advertiser. This installment addresses the issue of the pro-Marcos support groups remaining in the Philippines and their activities against the current Aquino administration.

The article follows:

[From the Honolulu Advertiser, May 19, 1986]

MARCOS & CO.: AN UNSETTLING LEGACY

(By George Chaplin)

MANILA.-It is not yet three months since Marcos & Co. hastily fled the Philippines, but the deposed president's comeback campaign is already in full swing.

For weeks now a 24-hour protest base, replete with banners, has been maintained across Roxas Boulevard from the American Embassy.

During the day it's pretty quiet, with a skeleton crew and the usual noodle, ice cream and soft drink vendors. At nightfall a crowd gathers, haranguing passerby and banging on cars which stop for a red light. Recently, a Canadian mistaken for an American was beaten up.

At first, 40 policemen couldn't keep the street clear. When their shift ended and no replacements showed, they simply went home. The demonstrators tied and barricaded the embassy gates and wrote obscenities on the embassy's outside walls.

The police, if anything, over-reacted, sending six fire trucks and 200 to 300 policemen in riot gear.

The Marcos demonstrations have since branched out to a number of locations, including nearby Rizal Park, where on signal some thousands gather and, on occasion, provoke the police into firm response by rock throwing and general hooliganism. Newspeople from radio stations and newspapers which the protesters dislike have been roughed up.

Marcos has addressed some of the rallies by telephone from Hawaii, as well as speaking to the general public in radio talk shows and interviews. He urges against violence and civil war, but in language and in a context that lead many to believe he is actually encouraging them.

Marcos is quoted as saying in Tagalog: "I am your legitimate president. I'll get even. I do not mean I will exact vengeance, but I will get even with their cruelty, their abuses and their thievery. . . . I am healthy. . . . I am ready to fight." And Imelda Marcos, referring to herself as "your First Lady," sobs to the crowds that she and her husband "will do everything" to return.

Cardinal Jaime Sin told us that some lay people at rallies are wearing nuns' habits and priests' cassocks so they can get into news photos and convey the impression that church people are backing Marcos.

This appears to be verified by an account in Veritas, the Catholic newspaper, about a reporter who approached a group wearing religious garb and asked if they were Catholics.

"Of course we are Catholics," one of the women snapped. "We belong to the pro-Marcos segment of the Catholic Church."

When he pressed for more information, another answered. "We are from the Sacrifice Valley Catholic Movement."

Since the reporter had never heard of this movement, he asked more questions. Then, says Veritas, he saw a group of young men, armed with wooden staves, approaching. He beat a strategic retreat.

Veritas, in a column by Editor Felix Bautista, contrasts these rallies with the earlier ones of the Aquino supporters.

"In quantity and quality, in the mood and attitude of the participants, there is a world of difference between the pro-Marcos demonstrations and those put on by the pro-Aquino rallyists before, during and immediately after the February revolution."

He says that even though hundreds of thousands of Aquino supporters turned out, the mood was peaceful, even festive.

"On the street between Camp Aguinaldo and Camp Crame, the people sang and danced. And they shared, not just stories about their hopes and dreams for the country, but the food and drink that they had.

"They were full of love, and that love was most dramatically expressed when they opened their arms and their hearts to the soldiers.

"Again in stark contrast, the Marcos loyalists are full of hate. A girl working in one of the offices fronting the American Embassy got the scare of her life because she was accosted by two demonstrators and threatened with all sorts of dire punishment. Her crime: She was wearing a yellow accessory on her blouse. The offending accessory was rudely and forcibly torn out before they let her go.

"Countless men have been hurt because they refused to make the "V" sign when asked to do so. Cars have been scratched, and some windshields broken, because their owners beat out the 'Cory, Cory, Cory' slogan with their horns.

"Frankly, we do not know what they hope to accomplish by this ill-advised display of unmitigated hatred and hostility. Obviously, if they want their case to succeed, they should try to win over—rather than antagonize—the population. As things stand, they are making more and more enemies with each passing day."

An American official told us that a "lot of Filipinos are embarrassed."

Reports persist that while some of the pro-Marcos protesters are "true believers" and some are concerned about their loss of status (these including some faded actors and actresses), many are being paid for their services.

One knowledgeable observer told us there are "some poor people—squatters and unemployed workers—who desperately need the 50 to 200 pesos ($2.50 to $10) and then there are thugs who are always available for hire."

One report has it that Rocky Ablan, until recently vice governor of Ilocos Norte, where Marcos' son "Bongbong" was governor, is the conduit for money to pay the demonstrators.

Ablan had been in the news in the past for his efforts to get the Soviet airline Aeroflot to land at a projected international airport in his province. He has been involved in a Philippines-Soviet shipping company.

While Marcos pours on the fuel from his haven in Honolulu, others from his old political machine here continue busy—especially former labor minister Blas Ople and Arturo Tolentino, Marcos' running mate who steadfastly contends that he is the country's legitimate vice president.

Ople formed a splinter group—the PNP—from Marcos' KBL, party but still attends KBL caucuses and is said to have been designated the KBL leader in Central Luzon, replacing Eduardo Cojuangco, a key Marcos associate who fled to Hawaii with him.

At first Ople was venting his spleen at Marcos, but subsided when Marcos, claiming he has certain adverse documents, cautioned him against being "too arrogant."

A month ago 96 rebel members of the Aquino-disbanded parliament were led by Ople into a rump session in defiance of the new government.

Former senator Tolentino was praised by Ople as "the new leading symbol and chieftain of the opposition" and responded by calling for civil disobedience against Cory Aquino's "dictatorial regime."

Aquino had earlier dissolved parliament because it was generally felt its membership had been rigged by Marcos forces and would stymie the government's efforts to get the country moving.

A new parliament is to be elected, along with provincial and local officials, and a new constitution will be written—all in the months ahead.

The Marcos maneuvering can be expected to continue, even though attendance at the rallies has been far less than the projected figures. At one rally, for example, the boast was that a million people would show, but only a few thousand did. Still the loyalists claim that Marcos will be back here soon, possibly as early as next month.

Some suggest that the government is overly diverted by Marcos' activities, but they obviously can't be ignored. Recently, the unusually mild-mannered President Aquino fired the Manila police chief for being too lax with violent protesters.

Whether there's real concern here that Marcos could destabilize the Aquino government is hard to discover. Officials tend to dismiss the rallies as just irritants, but they may be overly minimizing the damage.

An organization called "The Friends of Marcos in America" is reported busily raising funds and producing newsletters. The Marcoses' 32nd wedding anniversary observance in Honolulu was converted into a political rally with 5,000 attending and a videotape made for use here.

Secretary of State Shultz has expressed Washington's displeasure at Marcos' incessant political phone calls to the Philippines, but points out that the U.S. is a free coun-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

try. Washington wishes he'd leave the States, but Manila says it wants him within reach of the American courts. There still may be room for compromise on the matter of his travel to a third country.

A few days ago Marcos talked by phone with a group of journalists in Manila. He offered to return home to help prevent "a Communist takeover," "military coup" or "a civil war"—but without renouncing his "legitimate election" as president February 7.

Aquino said no thanks: "For the time being, I'd much rather Mr. Marcos stayed away. I think I can handle the insurgency problem and it will be better if he is not here because that will only make matters worse as far as the Filipinos are concerned."

She said "definite progress is being made" in establishing contacts with the Communist Party and it New People's Army, but that she can't pronounce a cease-fire in the 17-year-old fighting until the Communist leaders agree to negotiate.

At this time, she acknowledged the government lacks the "financial capacity to offer a rehabilitation program" to those who may want to come down from the hills and resume a normal life. She said private programs tied to specific areas would be helpful.

The Reagan administration is asking Congress for an additional $150 million in economic and military aid and Secretary Shultz, saying "they need more, there's no doubt about it," has pledged to lead an international drive for $2 billion to help Aquino overcome the "real mess" in the Philippines. But delivery of funds will take time.

Shultz's stance is a shift from his position at the ASEAN meeting in Bali, where he was sharp with Vice President and Foreign Minister Salvador Laurel. There Laurel, saying Marcos "left the country dead broke," had pleaded for "much more" than the $150 million. Shultz later talking with reporters, said Laurel "gave the impression that his needs were infinite and we don't have an infinite capacity to provide money."

It's speculated that Shultz's subsequent visit here with Aquino softened his view. And he also undoubtedly noted the alarm expressed by some congressional leaders who say that the U.S. should provide more aid and express a friendlier spirit toward the government here.

The chairman of the Senate Foreign Relations Committee, Sen. Richard Lugar, said the administration should "do better in exemplifying our confidence" in the Aquino government. And he was critical of President Reagan for waiting almost two months to congratulate Aquino—a very sensitive subject in Manila.

Even as it awaits aid, the Aquino government is working to retrieve the wealth which Marcos & Co. are believed to have siphoned off—with estimates running up to $5 billion and more.

Attorney General Sedfrey Ordonez has filed criminal charges with the Commission on Good Government against Marcos and 25 relatives and friends. The commission, headed by Minister Jovito Salonga, is charged with recovering the plunder.

Assets are said to be in at least the U.S., Canada, England, Australia, Switzerland, Italy and Austria.

Named with Marcos are his wife Imelda; their children, Imee, Irene, and Ferdnind, Jr., sons-in-law, Tomas Manotoc and Gregoria Araneta, several close friends, sugar czar and communications magnate Roberto Benedicto, coconut king Eduardo Cojuangco; banana grower Antonio Fliorendo, beer brewer Lucio Tan, auto dealer Ricardo Siverio, management consultant Herminio Disini, and contractor Rodolfo Cuenco.

Also former armed forces chief Gen. Fabian Ver, his friend Edna Camcam, ex-Energy Minister Geronimo Velasco, ex-Highways Minister Baltazar Aquino, ex-Philippine Airlines Chairman Roman Cruz and former Ambassador to Rome Bienvenido Tantoco and his wife, Gliceria.

The complaint contends that during Marcos 20-year rule, he and his family and close associates "willfully, unlawfully and feloniously, singly or conspiring with each other, plundered the nation," Marcos says he is innocent.

The government has also "sequestered" more than 30 firms, mostly in ag operations, owned by Benedicto and Cojuangco, but is allowing them to operate.

Also sequestered are:

Shares in San Miguel Corporation owned by Cojuangco, a cousin of President Aquino but a strong Marcos man and stock held in Benguet Corporation, a large mining company, by Benjamin Romualdez, Imelda Marcos' brother.

Assets of two newspapers, Benedicto's Daily Express and Romualdez's New Herald but there's no interference with publication or editorial policy.

Marcos gave Cojuangco, Benedicto and Romualdez considerable statute in international business circles by naming them ambassadors. In return they fronted for him in all kinds of businesses.

Papers found by U.S. Customs when Marcos landed in Hawaii mention $79 million deposited by Benedicto in 1977 in three Swiss banks. The good government commission says that these accounts were subsequently given to members of Marcos' family when his health became problematical.

THE TENTH PILLAR

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. DANNEMEYER. Mr. Speaker, with this, the 10th and final chapter, the series on sound money and credit concludes with the principle of productivity of labor and capital. These "Ten Pillars" are indispensable for durable prosperity as well as peaceful and voluntary cooperation between capital and labor. The first five dealt with money and government; the last five with credit and the banking system. We need to heed all of them in order to achieve a sound monetary policy based upon honest money.

THE 10TH PILLAR OF SOUND MONEY AND CREDIT: THE PRINCIPLE OF PRODUCTIVITY OF LABOR AND CAPITAL

(By Antal E. Fekete)

A VENETIAN TALE

Once upon a time a man by the name Shylock was the Public Treasurer in the prosperous city of Venice. The finances of the city state deteriorated grieviously under his stewardship. Foreign entanglements and the mindless substitution of public largesse for private charity were to blame for the sorry state of the public purse. Shylock issued Treasury bonds supposedly paying interest at the usurious rate of 15 percent, not bothering to ask how payments of principal and interest, when they fall due, would be met.

Before he became Treasurer, Shylock was a heartless usurer on the Rialto where other merchants, in particular one by the name Antonio, openly reproached him for his covetousness. Thus there was great enmity between the two men and, although Shylock would bear the scorn with seeming sufferance, he secretly meditated revenge. His chance came when the combination of high tax and interest rates forced Antonio's business into receivership, and himself into the debtor's cell.

When the day of his trial arrived, Antonio's counsellor, an unknown young lady doctor by the name Portia appeared before the Duke and his senators, while the Treasury was represented by Shylock in person. With the Duke's permission, Portia started the proceedings by addressing herself to Shylock. Admitting at once that he had the right, by the laws of Venice, the deprive Antonio of his property and personal freedom, she spoke sweetly of the noble virtue of mercy, and how tax-forgiving was a double blessing, as it blessed the state that gained a future taxpayer, and the taxpayer that gained a chance to reorganize his business. But neither her reason nor her passionate pleas softened the heart of Shylock, who reiterated his demand for selling Antonio into servitude.

Portia gravely responded that the law, once established, must not be bent. Hearing this, Shylock exclaimed: "O learned and upright judge, I honor thee! A Daniel is come to judgment! Prepare, Antonio: we must not trifle time."

"Wait a little", said Portia, "Before you sell Antonio into servitude, you must understand that the price shall cover not only his past but also his future tax liabilities. Otherwise you shall personally assume the burden." Hearing this, Antonio's friends in the audience cried out: "O wise and upright judge! Mark the word, Shylock, a Daniel is come to judgment!"

Shylock, who would not for a moment think of assuming the future tax liabilities of Antonio under the tax laws of Venice which he himself fashioned for the discomfort of his rival, conceded defeat, saying: "Let me go in peace."

"Not so fast", said Portia, "The laws of Venice protect her taxpayers against conspiracy and vindictive use of high public office. In driving up tax and interest rates to heights unheard of in the history of this city, you have attempted to exact a pound of flesh from every honest merchant of Venice. I plead with the Duke to deprive you of your high office as an exemplary punishment, for the edification of future generations."

The Duke, after considering the evidence, gave Shylock a dishonorable discharge from his duties of the Public Treasurer. The tax and interest rates in Venice soon returned to a low and stable level. Labor and capital were no longer crucified on the cross of the public debt. Venice continued to prosper. And even today, jurisprudence talks about the Shylock doctrine, when it refers to the natural law forbidding the exaction of payment for debt from a debtor in excess of the productivity of labor and capital. (Adapted from: Tales from Shakespeare, by Charles and Mary Lamb, London, 1807.)

THE MARGINAL WORKER

The pupils in a classroom can be ranked according to academic achievement, as measured by their marks. If the passing

mark is 50%; then the marginal student is the one with the lowest mark above 50%; any student with a lower mark is submarginal. If the teacher now changes the passing mark from 50% to, say, 65%, then this change would render a number of additional students submarginal, even though there was no deterioration of industry or aptitude on the part of these students.

The situation in the national economy is entirely analogous. Labor and capital can be ranked according to productivity. The worker with the lowest productivity rating above the rate of interest is called the marginal worker (and his tools, the marginal capital). Workers whose productivity ranks below that of the marginal worker, are submarginal. They are earmarked to be laid off as soon as their tools, the submarginal capital, will complete their amortization cycle. Indeed, no prospective employer would hire a submarginal worker if he could invest his funds and earn interest at a rate in excess of the rate of productivity of submarginal labor.

If the rate of interest goes up, there is an immediate effect of rendering additional labor and capital submarginal, regardless whether the productivity of individual laborers has declined or not. Thus we see that the maximum rate of interest determines the marginal productivity of labor and capital. It arbitrarily decides who can keep his job and who shall lose it, which capital equipment can stay in production, and which shall be doomed to the scrapyard. The Principle of Productivity of Labor and Capital asserts that the maximum rate of interest must be low enough to allow all those, who are eager to earn wages, to find employment; and also low enough to allow new capital goods to begin their amortization cycle.

DEPRECIATION PREMIUM

The carefully concealed truth is that interest rates are high today because they incorporate a large depreciation premium, designed to compensate the lenders of funds for loss of purchasing power due to the depreciation of the dollar. In fact, all regimes of irredeemable currency in history have notoriously pushed interest rates into outer space, as these currencies succumbed to their inevitable fate of accelerating depreciation. And as the rate of interest rose, so did unemployment widen, so did the destruction of capital spread.

CLASS WAR

One of the most powerful arguments in favor of a gold standard is that it alone can make the marginal productivity of labor and capital low enough, so that all those eager to earn wages can find gainful employment, and so that capital will be accummulated and adequately maintained. No sooner is the gold standard removed than the Shylock syndrome will appear, rendering a large part of the labor force and a large part of the capital park of the country submarginal, and hence, unemployed. As the workers and the owners of capital goods are pitted against the lenders, social harmony and cooperation gives way to class war and social unrest. The only solution is the resumption of a gold standard.

There are two ways to resume: targeting prices, and targeting interest. Targeting prices aims at a price level prevailing before suspension, and it involves increasing the metallic content of the monetary unit, while leaving interest rates alone. By contrast, targeting interest aims at a level of interest rates prevailing before suspension, and it involves decreasing the metallic content of the monetary unit, while leaving prices alone.

SOLON'S SEISACHTHEA

Historically, most resumptions were of the first type, causing economic contraction characterized by declining prices accompanied by declining interest rates. As a result, many observers concluded that the gold standard was deflation-prone.

The fact, however, is that there need not be any painful deflation, if the second type of resumption is carried out. Prices should be left alone, while interest rates are reduced overnight. This is what one of the greatest social reformers of all times, Solon (640-559 B.C.), Athenian law-giver, merchant and poet accomplished with his Seisachthea (in literal translation, disencumbrance). According to the historian Plutarch, he lowered the metallic content of the monetary unit, the drachma, to 73 percent of the original, and simultaneously reduced the rate of interest on the outstanding debt by law. There was great relief across the land, and Solon recorded his own deed in verse as follows:

"The mortgage stones that covered her, by me
Removed: the land, that was a slave, is free . . .
Such power I gave the people as might do,
Abridged not what they had, nor lavished new;
Those that were great in wealth and high in place
My counsel likewise kept from all disgrace.
Before them both I held the shield of might,
And let not either tough the other's right."
(The Dryden translation)

BOB LARKIN—AN OUTSTANDING LOCAL OFFICIAL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. FRANK. Mr. Speaker, one of the most important parts of our jobs as Members of Congress is establishing good working relationships with local elected officials. The people we serve have a right to expect constructive and cooperative relations among State, Federal, and local officials. Too often, elected officials give into the temptation to blame each other for various problems instead of working constructively to solve them. I consider myself to be very lucky in having in my own district a group of elected officials who are throughtful, responsible, and cooperative. One of the most outstanding of these individuals is Bob Larkin, chair of the board of selectmen in the town of Medfield.

I met Bob when my district was changed to include Medfield in 1982, and my working relationship with him has since become a close, personal friendship as well as a solid, professional one. Bob Larkin is a successful businessman who has decided to donate a considerable part of his time and energy to the affairs of his town. Medfield and its citizens are lucky that Bob Larkin is as devoted as he is to the public good; I know I am lucky to have someone as reasonable, thoughtful, and enthusiastic as Bob Larkin.

He has been an important source of advice and information for me on the ways in which Federal policies effect local government. A recent article in the Medfield Suburban Press gives some sense to this talented and generous man, and the great contribution he makes to the affairs of his town. I think it's important that examples of effective local government be widely circulated, and so I ask that this article be reprinted here.

[From the Medfield Suburban Press, May 8, 1986]

BOB LARKIN—AN OUTSTANDING LOCAL OFFICIAL

(By Donna DiCianni)

It's 7 p.m. and everyone at Robert Larkin's real estate office has left for the day—everyone except Larkin.

Seated with a guest, the 60-year-old Medfield selectman seems edgy. A slim, white haired man, Larkin jumps from his chair several time and dashes across the room to find some documents concerning the town. Back at his desk, Larkin rapidly leafs through the pages of a book.

After a few minutes, he looks up at his guest.

The topic of conversation is supposed to be Larkin, but he keeps changing the subject. Larkin seems genuinely puzzled as to why the local newspaper would want a story exclusively about him; he names several other residents he thinks would make better subjects.

"I'm just another person," the lifelong Medfield resident insists.

Just another person? Maybe. But he's one of the most recognizable persons in town.

Most know Larkin through his realty firm or his work as a town official. But those whose don't nevertheless take a second look when they catch a glimpse of Larkin walking around town. The beige Stetson which Larkin wears whenever he leaves the house gives him a conspicuous sight.

"It's my trademark," Larkin says of the hat first given to him 15 years ago by one of his children. He's worn one every day since.

Larkin has been a realtor for more than 35 years. Roughly 10 years ago he did something which his parents and others said a businessman should never do: he became an elected public official.

They said politics would ruin his business. But it didn't.

Ignoring their admonishments, Larkin was elected to the Planning Board and was a member for several years. Five years ago he was elected to the three-member Board of Selectmen.

What's striking about Larkin is his perpetual gaiety and charm. They're traits that have helped endear him to many, while others admit they're a bit suspicious of someone who is always so upbeat.

Larkin knows some people are suspicious of his constant cheerfulness, but says it doesn't bother him.

"We all have frailties. I just always try to accentuate the positive."

Those who know him are quick to defend Larkin, saying that his kindness to people reflects his genuine respect of and concern of everyone.

Fellow selectman Ann Thompson, who has known Larkin for several years, says, "When I think of Bob, the first thing that comes to mind is generous—generous with money certainly—but he's also generous in his thoughtfulness of others. He always finds something good in others. And he for-

gives very easily. This will sound kind of corny, but I never knew that anyone could be so good."

Her fondest memory of Larkin is of something that happened to him last spring.

Thompson, Larkin and other officials were marching in the town's Memorial Day Parade. Larkin, Thompson and their respective spouses marched behind several large Clydesdales. Larkin, wearing a shiny pair of black dress shoes, suddenly stepped into an "unusally sizeable" pile of horse manure.

"We just laughed and laughed. We laughed from Memorial School and we were still laughing as we marched down Dale Street."

The horse later lost its shoe, which Thompson's husband retrieved, had mounted on a plaque and then gave to Larkin as a remembrance.

Larkin is aware of another criticism: that he's too indecisive. Some say that he typically tells people on both sides of an issue that he agrees with them, which to them seems as though he's just trying to appease everyone.

Larkin disagrees. He sees himself as a broadminded, diplomatic man who prides himself on being sagacious when it comes to dealing with local issues.

"I'm a diplomat, a peacemaker. When I'm in a negotiating session in my business, I can get two parties to agree."

"I've heard the criticism. I can feel it. But it doesn't bother me. I can always see both sides of an issue. When I do make a decision, it's firm."

When asked why he became a public official, Larkin says, "I'm in it because I like it. I like to help people out, and that's a thrill. That's not insincerity."

"My greatest thrill is when an old person comes into my office to complain about a hole in the street or something else. I can call the Highway Department and ask them to look at it. Later, people will call you back to say, "Thanks for doing that'."

Larkin's wife of 37 years says Larkin is rarely in a "down mood.

"He's always been up on life. I believe he takes after his mother. I never knew her, but I heard she was a very vibrant woman. When she died, every store in Medfield closed for her funeral.

"People who know him well know how dedicated he is, how sensitive he is to people. He respects everyone. He feels everyone should have as much say on an issue as the elected official.

"He has a great love and respect for humanity. He's just a very good person."

Larkin's parents were Walpole natives who, when Larkin was 8 years old, moved to Medfield after a fire destroyed their restaurant. The year was 1934 and Prohibition had just ended. Larkin's parents opened Medfield's first liquor store.

Several years later, Larkin left Medfield to serve in the military as a storekeeper during World War II, After the war, he returned to help his mother with the liquor store because his father had died. His mother died in 1947, leaving Larkin, then 21 years old, to raise his younger brother and sister and run the family business.

"Medfield has been a wonderful town to me. It's been a warm kind of town. When times were tough, the people always came. I've been very happy here."

He ran the liquor store until 1955 when his brother took over. Allen Larkin still runs the store.

While running the store, Larkin became interested in real estate and eventually started doing some business on the side.

"I always felt real estate had value. I always enjoyed reading the real estate section of the newspaper."

Every night, Larkin read the real estate ads. Finally, his wife suggested he go into the real estate business full time.

During his early years in the business, Larkin built several buildings in town, including the post office, a fish store, a Cumberland Farms store and a gas station.

The sale he most fondly remembers occurred 40 years ago. A wealthy Millis landowner stopped by Larkin's office one gloomy, rainy Saturday afternoon to have papers notarized. The man's name was Wellington Wells Jr., a well-to-do gentleman who owned a 60-acre estate.

Wells mentioned to Larkin that he wanted to sell the huge estate. Larkin quickly found a buyer, and the two men signed the purchase and sales agreement for $100,000.

Soon thereafter, another buyer appeared and offered $135,000 for the estate. But Wells declined to sell at the higher price. Larkin was impressed that Wells refused to break the agreement even for the sizable sum of money.

"We've made a deal, and that's that," Larkin recalls Wells saying.

Another of Larkin's favorite stories also occurred during the 1904s and involved Mr. Tofias, a local milliner.

His factory, the Medfield Hat Shop, employed 350 to 400 people. At one point the workers went on strike, and before they left the factory, Tofias paid every worker with silver dollars.

"For weeks we saw all these silver dollars circulating through the town. What he wanted to do is show the business people in Medfield how important his industry was to the town. That was a great gimmick."

Over the years, Larkin has watched the town change.

"The town of Medfield has grown quite a bit. There's more high tech people moving in. The changes have been for the better. There's new people, a nice mixture of people."

He thinks the town must grow but the country atmosphere should be preserved.

"I'm a firm believer in growth in a conservative manner. You can't stop growth. That's very important."

As a former Finance Committee and Planning Board member, Larkin says the town is working to maintain its small town characteristics.

"My predecessors on the Planning Board and other town officials have enacted excellent zoning laws for our community, such as nicely laid out subdivisions."

Although elected officials should carry out the people's mandate, they can also be leaders, he says.

"You're in a position where you can be a catalyst. Sometimes we also have to be visionary in helping the town."

He cites the John Bradley case as one of the most controversial issues during his five years as selectman. The issue involved Bradley, judged criminally insane in the murder of his parents. Many residents opposed the state's decision to transfer him from Bridgewater State Hospital to Medfield State Hospital.

"I was not so adamantly opposed because the hospital is a state institution. But I was concerned about the man's background."

Larkin, a former altar boy at St. Edward's Church, says he was saddened by the decision to tear down the church. The church sold the Victorian structure to the town, which after years of controversy decided last fall to tear it down.

"I'm very sentimental about St. Edward's. But I have to be a realist and saw that it was time for the church to move on. In the final analysis, it was the best thing. The selectmen finally won out, which I'm very proud of."

The people he most admires are "gutsy guys."

Though he admires decisive, outspoken people, Larkin himself is sometimes criticized for lacking those traits. Nevertheless, his family and close associates disagree with his critics.

Among those who defend Larkin is Ceri Eagling, Larkin's neighbor of several years.

"I've heard the criticism, but I disagree," says Eagling. "He's genuinely interested in the town. He's sincere. He's very, very kind. I think he cares very much about the town."

Years ago, people warned Larkin that he'd ruin his business if he became active in politics. But that hasn't happened. In fact business is booming. The firm employes several brokers, most of whom sell at least $2 million in real estate each year, Larkin says.

One of eight realty firms in the town, Larkin's firm has been doing extremely well, particularly in the past five years.

He attributes his success partly to Medfield's location—sandwiched between two major highways—and the appeal of Medfield's small town character.

He gives his wife much credit for his success.

"My wife plays a very important role," Larkin says of his wife, who is the firm's business manager.

Shirley Larkin is a former nurse who stopped working outside the home to raise their five children. She's worked for the realty firm for the past 12 years.

"I have to be honest about this. I have to pay tribute to my wife. People behind the scenes are very important. My wife is like that. She's always been an advisor. She's a constantly pleasing person, always happy."

When asked how he maintains his constant gaiety, Larkin says, "I'm thrilled to get up every day and go into town. There's always something going on. I have a difficult time containing my enthusiasm when it comes to Medfield."

Larkin has several interests besides town government. He's a member of the local Veterans of Foreign Wars and American Legion. In his spare time he enjoys golf and reading, particularly biographies.

Jumping from the seat, Larkin dashes across the room once again, this time gesturing to a book shelf containing a wide range of biographies of well-known business and political leaders.

Larkin finds both worlds to be stimulating.

"But they're very different worlds. In politics, you're a servant. In business you're your own captain."

Would Larkin rather be a servant or a captain? He pauses for a minute before answering. Then he offers a characteristic response.

"In business I like being a captain. In government I like being a servant."

UNITED STATES ARMS SALES POLICY TOWARD TAIWAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues recent correspondence I had with the Department of State regarding United States arms sales policy toward Taiwan and United States commitments to the People's Republic of China in the August 1982 Joint Communique.

The correspondence shows that there has been a gradual reduction of roughly $20 million a year in arms sales to Taiwan, allowing for an inflation adjustment factor and taking fiscal year 1979 as the base year, for calculation of these sales. However, the dollar totals still show an increase from $597.9 million in fiscal year 1979 to some $754.9 million last fiscal year.

The correspondence follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 7, 1986.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State,
Washington, DC.

DEAR MR. SECRETARY: I write concerning U.S. arms sales policy toward Taiwan.

In the August, 1982, U.S.-PRC Joint Communique, the United States stated that "its arms sales to Taiwan will not exceed, either in qualitative or quantitative terms, the level of those supplied" since the establishment of diplomatic relations in 1979. In testimony before Congress at that time, the United States said this meant in part a commitment to "reduce gradually" its arms sales to Taiwan.

This Committee is informed that the level of U.S. arms sales to Taiwan in the period 1979–82 was as follows:

[In millions of dollars]

	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981	Fiscal year 1982
FMS	$542.6	$486.8	$263.5	$504.4
Commercial	44.5	57.8	66.7	75.0
Total	587.1	544.6	330.2	579.4

This Committee is further informed that the level of U.S. arms sales to Taiwan since the 1982 communique has been or is expected to be:

[In millions of dollars]

	Fiscal year 1983	Fiscal year 1984	Fiscal year 1988	Fiscal year 1986 estimate	Fiscal year 1987 projected
FMS	$698.6	$707.4	$700.5	$640	$620
Commercial	85.0	70.0	54.4	100	100
Total	783.6	777.4	754.9	740	720

How are these figures consistent with the spirit and the letter of the 1982 U.S.-PRC joint communique?

How do these facts regarding arms sales figures to Taiwan since FY 1983 evidence compliance with the 1982 commitment to "reduce gradually" such sales?

What was your selection of a "base year" or years between 1979 and 1982 which enabled the U.S. to sell $783.6 million in arms to Taiwan in FY 1983, a vast increase over either FY 1979 or FY 1982, and still be in compliance with the August 1982 agreement's provision to "reduce gradually" arms sales to Taiwan?

Do you view the 1982 U.S. agreement to "reduce gradually" arms sales to Taiwan as credible when U.S. arms sales projected for FY 1987, five years after the agreement, are still far in excess of any year previous to 1982?

A senior Taiwan official said last November that Taiwan also hoped to build a plane superior to the F5E fighter in its present force. The United States is now licensing companies to provide technology and some components for this projected Taiwan fighter. The People's Republic of China has protested this development.

How do you answer the protest by the PRC?

How is this U.S. action consistent with the 1982 Communique and agreement not to increase in "qualitative or quantitative terms" U.S. arms sales to Taiwan?

Do the limits agreed to in 1982 apply to the transfer of military technology as well as to arms sales?

Does the dollar value of U.S. technology licenses for an advanced fighter count in your calculation of the total value of U.S. arms sales to Taiwan?

I appreciate your prompt consideration of this letter and its questions.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

cc: Hon. Dante B. Fascell, Chairman, Committee on Foreign Affairs; Hon. Stephen J. Solarz, Chairman, Subcommittee on Asian and Pacific Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC, May 21, 1986.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: I am writing in response to your letter of May 7, 1986 to Secretary Shultz regarding the U.S. policy on arms sales to Taiwan.

We consider the sale of defensive arms to Taiwan to be a routine matter consistent with U.S. policy since normalization of relations with the PRC, and with the Taiwan Relations Act and the August 17, 1982 Joint Communique on Taiwan Arms Sales. The purpose of the 1982 communique was to permit the continued growth of U.S.-PRC relations while conforming to the provisions of the Taiwan Relations Act concerning the security of Taiwan, which requires the sale to Taiwan of arms necessary for its self defense.

In the 1982 communique, the U.S. side stated that its arms sales to Taiwan would "not exceed, either in qualitative or in quantitive terms, the level of those supplied in recent years" and that we intended "to reduce gradually (our) sales to Taiwan" over time.

The U.S. did not agree to prior consultation with the PRC on arms sales to Taiwan. Moreover, we have consistently refused to set a date for ending arms sales to Taiwan or a fixed annual amount by which we would reduce arms sales. Rather, we have given assurances that a decline in our arms sales to Taiwan would be apparent over a period of time. U.S. arms sales to Taiwan in fiscal year 1979, which was selected as the base year, totaled $597,990 million. This figure, adjusted for inflation, is equivalent to approximately $830 million in 1983 dollars. (The inflation adjustment factor is described in Annex C of the Fiscal Year 1984 Congressional Presentation Document.) Since fiscal year 1983, arms sales to Taiwan have declined by approximately $20 million per year.

The defensive fighter now under development in Taiwan is an indigenous undertaking of the Taiwan authorities. The development program, which began in 1978, was accelerated following the U.S. decision in January 1982 not to sell an advanced fighter aircraft to Taiwan. Applications from U.S. vendors to provide parts to Taiwan for the aircraft are reviewed on a case-by-case basis by the concerned U.S. Government agencies. The level of commercial military sales reported in the annual Congressional Presentation Document is based on actual shipments and does not include the dollar value of any technical assistance contracts between U.S. vendors and foreign governments.

The U.S. has been providing military technology to Taiwan since the 1960's. Current practice is a continuation of that policy. The transfer of military technology is not cited in the 1982 communique, however, the Administration is mindful of its undertakings in the communique as it addresses both weapons sales and technology transfer to Taiwan. The administration considers our arms sales to Taiwan to be consistent with our commitments under the communique.

I hope that this information will be of assistance. If you would be interested in further information on the U.S. policy on Taiwan arms sales, we would be happy to arrange a briefing for you by officers from our East Asia and Pacific Bureau.

Sincerely,

JAMES W. DYER,
Acting Assistant Secretary,
Legislative and Intergovernmental Affairs.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 28, 1986.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State,
Washington, DC.

DEAR MR. SECRETARY: Thank you for your letter of May 21st in reply to my letter of May 7th, 1986, regarding United States policy on arms sales to Taiwan. This letter is a followup to clarify certain points.

In your letter, you referred to the 1982 U.S.-PRC Communique in which the United States agreed that its arms sales to Taiwan would "not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years" and that the United States intended "to reduce gradually arms sales to Taiwan."

I would like to know if it is still United States policy to adhere to these provisions of the Communique regarding both the qualitative and quantitative nature of equipment to be sold and the gradual reduction in arms sales to Taiwan and whether you interpret this commitment to mean that FMS and commercial transaction will follow the recent pattern of an annual reduction, averaging at least the $20 million annually it has to date.

I appreciate your prompt consideration of this follow-up letter.

With best regards,
Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC, June 11, 1986.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives.

DEAR MR. CHAIRMAN: I am writing in response to your letter of May 28 to Secretary Shultz further concerning United States policy on arms sales to Taiwan.

As I noted in my letter to you of May 21, the Administration is committed to observing U.S. undertakings contained in the three communiques with the People's Republic of China. The Administration will accordingly continue to adhere to those provisions of the August 17, 1982, Communique which concern the quality and quantity of arms sold to Taiwan.

Our willingness to continue to make reductions in our arms sales to Taiwan is premised on the continuation of the PRC's peaceful policy toward resolution of the Taiwan issue. It is projected that the value of U.S. arms sold to Taiwan in fiscal year 1986 will be approximately $740 million. The 1982 communique states that the quantity of arms sold to Taiwan will be reduced gradually, but as we noted at the time of the communique, we are not committed to any fixed annual amount by which we will reduce future sales. As I stated in the May 21 letter, the decline in our arms sales will be apparent over time.

I trust that this information will be of assistance.

Sincerely,
JAMES W. DYER,
Acting Assistant Secretary, Legislative and Intergovernmental Affairs.

REMEMBERING OUR FIRST LADY OF FREEDOM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. COURTER. Mr. Speaker, as we near what promises to be a magnificant celebration at the Statue of Liberty in July, I think that it is also appropriate to remember the very first Statue of Liberty.

In 1805 President Jefferson directed the U.S. Superintendent of Public Buildings and Architect of the Capitol to request Philip Mazzei, a friend of Jefferson's and Virginia's agent in Europe, to contract two Italian sculptors for work on the Capitol. Thus, it was Thomas Jefferson who commissioned the first Statue of Liberty, 180 years ago.

In 1806 Giovanni Andrei and Guiseppe Franzoni arrived in Washington, DC to begin their work. Their work produced an eagle in the act of rising, with wings spread for flight. Also created were four figures, larger than life, personifying agriculture, art, science, and commerce. Behind the Speaker's chair, on a pedestal, was the figure of Liberty, 8 feet 6 inches in height. By her stood the American eagle, supporting her left hand, in which was the cap of liberty, her right presented a scroll, the constitution of the United States. Seven years later the British came and burned the Capitol. In burning, all of this work was destroyed.

This history was brought to my attention by Sister Margherita Marchione of Morristown, NJ. She dedicated 10 years to researching and writing about Philop Mazzei's contributions to the creation of the United States. She was recently named honorary president of the Philop Mazzei International Association. In 1984, Sister Margherita was honored at the National Italian American Foundation Congressional Awards Dinner for the achievement in the field of literature and historic research.

I urge all of my colleagues to read the following excellent piece by Sister Margherita:

LETTER BY SISTER MARGHERITA MARCHIONE

MORRISTOWN, N.J.—The "zealousness" of Philip Mazzei during the American, French, and Polish Revolutions of the late 18th century, did not diminish as he neared his 75th birthday. He had shared his political ideas and acumen with his neighbor Thomas Jefferson as they worked together in the movement of this country's independence. In 1779 Mazzei became Virginia's Agent in Europe. He remained Jefferson's friend for 40 years and continued to be called a "Zealous Whig."

In 1805, Jefferson directed the United States Superintendent of Public Buildings and Architect of the Capitol Benjamin Henry Latrobe, to request Mazzei's assistance in contracting with two Italian sculptors for work in the Capitol. He further asked him to visit Antonio Canova (the best-known neo-classical sculptor in Italy) and ascertain if he would undertake to make a Statue of Liberty. Thus, it was Thomas Jefferson, the third president of the United States, who commissioned the first Statue of Liberty, 180 years ago.

On March 6, 1805, Latrobe wrote to Mazzei: "Although I have not the honor to be personally known to you, I shall not take up your time by apologies for giving you this trouble. The time is already approaching when our vines and our olives will spread your name and our gratitude over a great portion of our country. Let us also owe to your kindness the introduction of the first excellence in the fascinating branch of the Arts."

Mazzei responded on July 20, 1805: "I think myself honored by the commission you are pleased to give me, and am much obliged to the President and you for having procured me the opportunity of employing myself in the service of my dear adopted Country, where I have never lost the hope of ending my old days."

Mazzei wanted nothing but the best for his beloved America, his country "by choice and not by chance," as he wrote to his friend in Virginia, Thomas Adams, on the eve of his coming to join him in 1773. So, it is not surprising that on July 22, 1805, only two days after he accepted the task, Mazzei traveled to Rome to see whether the great Canova would be able to make a Statue of Liberty. Canova could not take on any more work, but Mazzei was able to find the desired two sculptors in Carrara.

On February 24, 1806, Giovanni Andrei and Giuseppe Franzoni arrived in Washington, D.C., with their 18-year old wives and children. The former, a well-known architectural sculptor whose work is still admired in Santa Maria Novella Church in Florence, Italy, taught his brother-in-law Franzoni who soon developed his talents as a figure sculptor. Two years later, Jefferson wrote to Mazzei that the two sculptors were "greatly esteemed."

On August 27, 1806, Latrobe wrote to President Jefferson: "I will venture to say that there is not in ancient or modern sculpture an Eagle's head which is in dignity and spirit and drawing superior to Franzoni's." And on September 1, 1807, he reported: "This day I have removed the scaffolding from the two columns behind the Speakers' Chair and Capitals of which are finished in an exquisite manner, and also from the figure of Liberty, which tho' only a model, is an excellent work and does Franzoni infinite credit. He is now engaged in the opposite Frieze and will be able I think before the meeting of Congress to cast out the four figures of which you saw the models at his house, so that they will have their effect. . . ."

In his letter of November 30, 1807, to "The Intelligencer," Washington, D.C., Latrobe responded to the newspaper's request for a description of the new Hall of the House of Representatives. In it one finds details of Franzoni's "Liberty and the Eagle": "The frieze opposite to the entrance is occupied by a colossal eagle in the act of rising, with wings spread for flight. The wings extend from tip to tip, 12 ft. 6 in. The head rises to the corona of the cornice. This immense bird is carved in three very large stones; the block of the body reaches through the entablature. It is the work of Mr. Franzoni, and though at present roughly finished, is a most excellent piece of sculpture. The head especially is equal to any thing of the kind I have ever seen, and has besides the merit of being a scrupulously correct copy of the head of the bald eagle peculiar to our country. The opposite frieze is ornamented by four figures rather larger than life, being personifications of agriculture, art, science, and commerce, from the hand of the same artist. The three former of these figures are finished, and are exquisitely beautiful. They are carved in alto relievo in the solid stone of the frieze.

"Between the two columns opposite to the entrance, behind the Speaker's Chair, sits on a pedestal a colossal figure of Liberty. The present figure is only a plaster model hastily executed in three weeks by Mr. Franzoni, but has great merit. It is proposed to place a marble figure of the same size in its room, and the marble of Middlebury, in Vermont, appears as excellent for this purpose as the best Italian marble. The figure, sitting is 8 ft. 6 in. in height. By her stands the American eagle, supporting her left hand, in which is the cap of liberty, her right presents a scroll, the constitution of the United States. Her foot treads upon a reversed crown as a footstool and upon other emblems of monarchy and bondage."

Seven years later, during the War of 1812, the British entered Washington, D.C., and burned the Capitol. On August 24, 1814, pieces of furniture, books from the Library of Congress, paintings, portraits and sculptures were piled in the House and Senate Chambers and then put "to the torch."

In burning, this material produced such an intense heat which destroyedl all Franzoni's relief work, including his immense eagle with its outstretched wings, his four statues occupying 25 feet on the frieze, and his Statue of Liberty holding in her right hand the Constitution of the United States.

The tragic loss of the Lady of Liberty took its toll. Giuseppe Franzoni died on April 6, 1815, leaving a widow and six children. Soon after, Giovanni Andrei was sent to Italy by the Government to procure the carving of

the Corinthian capitals now in the Statuary Hall section of the Capitol. He returned in 1816 with Franzoni's younger brother Carlo and Francesco Iardella, a cousin who married Giuseppe's widow, Camilla. She had been a former sweetheart of Carrara and blessed the marriage by the addition of a daughter and six sons.

Iardella's tobacco capitals are in the small rotunda just north of the main rotunda of the Capitol. In the Hall below is Carlo Franzoni's Car of History Clock, with the Goddess of History standing in the chariot of time recording the legislators on the tablets.

Carlo Franzoni's plaster relief of Justice is located in the old Supreme Court Chamber. His deceased brother Giuseppe's masterpiece of Lady Liberty must have inspired him. Besides other elements, the relief contains the figure of a woman seated on a pedestal, an eagle, and the Constitution of the United States—the same elements used in the original Liberty and the Eagle sculpture destroyed by the British.

As the 100th anniversary celebration approaches, one cannot fail to remember that the Statue of Liberty represents Freedom. In 1776 Philip Mazzei, admiring the Bill of Rights in his "Instructions of the Freeholders of Albemarle County to their Delegates in Convention," wrote: "With rapture of joy we see so near the happy period, when the most spirited men now labouring under the oppression of Tyranny in other Countries, will fly to this free land to partake with us, and our posterity, all those blessings that must be the ensuing consequence of a Government founded upon such principles, as to be admired by all just and good men, and true Philosophers of all nations and Religions."

Before leaving his adopted country Mazzei, whom Jefferson called a "Zealous Whig," organized The Constitutional Society of 1784 in Virginia. Among its original 34 members were outstanding leaders and founding fathers—James Madison, Patrick Henry, James Monroe, John Blair, John Marshall. Its purpose was to preserve and hand down to posterity "those pure and sacred principles of Liberty." Members pledged to "keep a watchful eye over the great fundamental rights of the people."

These God-fearing founding fathers did exactly what the first Statue of Liberty seemed to say as she looked down upon the assembled representatives: "Preserve inviolate the high trust committed to you; be true to the principles of our glorious constitution; embrace those who seek refuge on our shores; be the firm upholders of the last hope of an oppressed world."

This 100th anniversary of Lady Liberty—the Mother of Exiles and the national symbol of freedom for the oppressed—reminds all Americans to continue to preserve Liberty as our heritage and legacy and help advance Freedom and its blessings among all the nations of the world.

McDONALD AWARD TO EDWARD BOGUS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. LIPINSKI. Mr. Speaker, it is my privilege and honor to recognize Mr. Edward Bogus as the February recipient of the Ray McDonald Community Achievement Award sponsored by the staff of the Midway Sentinel. His involvement and dedication in the Brighton Park area extends into the commerce, local government, and service sides of his community.

Mr. Bogus's intentions in life were to serve in our communities, city, and State to the fullest of his abilities. He is proud of our great country and believes his obligation is to serve in any way he can. Mr. Bogus is truly a real and patriotic citizen of the United States and Southwest Chicago.

During his 50 years of dedication to his community, he has served as secretary, treasurer, and president of the Brighton Park Chamber of Commerce, and currently serves as treasurer of the Brighton Park Business Organization. The American Cancer Society has received 20 years of Mr. Bogus's service where he is residential chairman.

His involvement over the years continues as he has been a member of the Ninth District Police Steering Committee, the Balzekas Museum, the Archer Road Kiwanis Club, and is currently president of the Archer Brighton Community Conservation Congress.

His community service has been recognized by a DePaul University alumni award for community service and the "Man of the Year Award" by the Archer Brighton Community Conservation Council.

I salute Mr. Bogus for his past, present, and future efforts to serve and improve our community—an honor well deserved and well learned.

PEACE GARDEN PROPOSAL WINNING BIPARTISAN SUPPORT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. MILLER of California. Mr. Speaker, the Subcommittee on National Parks and Recreation, chaired by our colleague BRUCE VENTO of Minnesota, held a hearing this morning on my legislation to establish a national peace garden in Washington, DC.

A bipartisan coalition of House Members has joined me in supporting this legislation. In addition, I am delighted that Manus J. Fish, the regional director of the National Capital Region of the National Park Service, as well, testifed in support of this proposal at this morning's hearing.

I am most hopeful that, as a result, H.R. 4467 will move swiftly through the Congress so that work can begin on preliminary planning for the site and design of the peace garden.

I would like to list those members newly joining as cosponsors of the peace garden project, and also reprint my testimony at this morning's subcommittee hearing.

Additional cosponsors of H.R. 4467:

Mr. Bates, Mr. Bedell, Mr. Conte, Mr. Crockett, Mr. Fazio, Mr. Fuster, Mr. Gejdenson, Mr. Heftel of Hawaii, Mr. Horton, Ms. Kaptur, Mr. Kastenmeier, Mr. Kildee, Mr. Lantos, Mr. Levin of Michigan, Mr. Markey, Mr. Matsui, Ms. Oakar, Mr. Seiberling, and Mr. Towns.

STATEMENT OF CONGRESSMAN GEORGE MILLER

Mr. Chairman and members of the subcommittee, I want to thank you for providing me the opportunity to testify this morning on H.R. 4467, my legislation to authorize a peace garden in the Nation's Capital.

In particular, Mr. Chairman, I want to thank you for scheduling a hearing on this bill so quickly.

I know that the members of this subcommittee share the enthusiasm of the many Members of the House who have joined us to cosponsoring this legislation. Our bill would commemorate the ideal of peace through the creation of a nonsectarian, nonideological garden here in Washington.

I also want to pay tribute to the real initiators of the peace garden idea—Elizabeth Ratcliff and the members of the peace garden project.

Ms. Ratcliff will describe the origin of the peace garden idea, as well as her successful efforts to generate enthusiasm for the project in Congress, at the Department of the Interior, and among the community of professional landscape architects.

Our goal is the creation of a secluded, quiet retreat within the Nation's Capital where visitors can contemplate and reflect on the ideal of peace.

We do not envision a garden that is "anti-war" or "anti-military," or "anti-" anything.

Instead, we are promoting a positive, affirming initiative—a place which symbolizes not a partisan political statement but an ethical and moral ideal.

I can think of no better symbol of peace, no more appropriate a setting to contemplate peace, than a garden. No statutes or memorials; no tablets filed with quotations. Instead, a tranquil setting in which the visitor can contemplate the meaning and importance of peace to himself and herself.

That is the vision of the peace garden.

There is no effort in this legislation to specify a particular location or design for the peace garden. Those details will be developed through a design competition and with the full coordination and approval of the Department of the Interior and other responsible Federal and local advisory and permitting organizations.

This legislation merely provides the congressional approval for this no-cost, volunteer effort to go forward.

There have already been statements of encouragement for the peace garden from several quarters.

Last month, the National Capital Planning Commission voted unanimously to recommend that the Secretary of the Interior support this effort. And the Director of the Park Service, William Penn Mott, has expressed his encouragement for continued work on the project.

I have been impressed by the efforts which the project has made to work with the National Landscape Architects and other organizations to develop the design competition and fundraising for the creation of the garden.

We should also note the interest of the project directors in creating a fund which can help support ongoing maintenance of the garden once it is created.

Mr. Chairman, let me briefly address the relationship of this legislation to H.R. 4378, which has been approved by the House and is now awaiting action by the Senate.

I support that legislation as do the sponsors of my own bill. We agree that an orderly procedure is essential to assure the thoughtful consideration of any future com-

memorative additions to the core area and other national park lands in the Capital area.

I note that H.R. 4378 would require that any group proposing to establish a commemorative work within the Capital area would be required to consult with the Park Service and the National Capital Planning Commisison, which, as I have noted, has already been the case with the peace garden.

H.R. 4378 also requires that the sponsoring organization provide the full cost of construction and reserve 10 percent of costs for future maintenance and preservation. As I have noted, this is already intended by the peace garden project.

We believe, therefore, that the goals sought and the procedures utilized by the peace garden project are entirely consistent with the conditions mandated in H.R. 4378.

Mr. Chairman, the goal of this legislation—the creation of a garden to commemorate the goal of world peace—is very sound.

And the capability of the peace garden project to develop and execute that goal is sound as well.

The members of the project have demonstrated a willingness and an ability to work with the appropriate governmental offices to assure that this project proceeds in an orderly and thoughtful manner.

I would hope that this subcommittee and the Congress will add our own encouragement to their efforts by approving H.R. 4467 which will help further their work on behalf of this very worthwhile project.

LEGISLATION TO PROTECT THE WASHINGTON SKYLINE FROM PORTAMERICA

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. STARK. Mr. Speaker, today I am introducing legislation similar to S. 2357, introduced on June 10 by Senators CRANSTON and MOYNIHAN, to protect the Washington, DC, skyline from the proposed 52-story World Trade Center in the PortAmerica development.

This 750-foot building, with approximately 2 million square feet of interior space, has sparked outcries from a variety of sources. While I recognize the desire of Prince Georges County, MD, to develop and reinvigorate their county, I believe those goals can be served with a building or set of buildings which would provide the same amount of commercial space without permanently destroying the esthetic beauty of our Nation's Capital.

Mr. Speaker, the National Park Service and the National Capital Planning Commission have strenuously objected to the huge signature building. The structure would be the tallest building between New York and Atlanta and would unquestionably overshadow the visual dominance of the monuments and memorials in our Capital City.

Certainly the symbolic and historic value of these tributes to our Nation's heroes should be preserved. Certainly the memories of Jefferson, Lincoln, and Washington, as well as the U.S. Capitol, symbol of the world's greatest democracy, are worth protecting from the architectural hubris of the PortAmerican principals.

When the citizens of this country and of countries all over the world visit here, they are constantly reminded by the city's design of the purpose of this city. Washington, DC, is not a city primarily devoted to commerce. Unlike many other countries, our commercial and governmental centers are separate. Washington is primarily devoted to government, to the workings of democracy, and to preserving and highlighting the memory of those who have helped build and run this fine system of government. The PortAmerica signature building, by overwhelming the traditional visual serenity of this city and the primacy of the monuments, would symbolize something much different.

Mr. Speaker, we can learn a lesson from what happened to another of the world's great cities: Paris, the city of lights. Paris also has strict zoning laws to help highlight the Eiffel Tower, the Arc de Triomphe, the Place de Concorde and other significant structures. In addition, the laws help to preserve the peaceful charm of the city and to retain its singular character.

Unfortunately, in one section, la defense, those laws have been waived. The result is an ugly tangle of tall buildings, visible from most of the city, that is like a large wart on an otherwise beautiful face. Not content with that blemish, developers there are pressing hard to waive the zoning laws in other parts of the city as well. If they are successful, what was once a uniquely beautiful capital will completely and permanently lose its personality and charm. We should not allow that to happen in Washington, DC, as well.

Mr. Speaker, as important as the esthetic considerations are, there is also an important safety issue raised by this building. The Airline Pilots Association has testified that the building would significantly reduce pilots' maneuverability in strong winds or inclement weather and would "certainly endanger not only the crews and passengers of the aircraft but, very certainly, the people that will inhabit the proposed structure."

The flight path to National Airport is already complex enough due to noise and other restrictions. We should not make those pilots' jobs any more difficult by placing a huge obstruction very near their approach path which they might have to maneuver around very late in their landing pattern. There has already been a recent tragic takeoff accident at National; we don't need to complement it with a tragic landing.

The Federal Aviation Administration has pending a report on whether the tower would affect air traffic at National Airport. If it rules that there is a safety problem posed by PortAmerica, I believe that should be sufficient cause to stop the building. In any case, I would hope that the FAA would publish its findings expeditiously so that there may be time to discuss the implications of its report before ground is broken on this project this fall.

Mr. Speaker, what we have here is a problem that need not have occurred. The original, vitriolic response by opponents of the PortAmerica tower has possibly poisoned the debate and forced the two sides into polarized positions. The development needs of Prince George's County do not depend on a 52-story blemish on the Washington, DC skyline. If there is a need for 2 million square feet of commercial space at that location, there is sufficient land for two smaller buildings, or a longer, lower building.

It seems from this vantage point that we are being held hostage to the ego of one of this country's truly fine architects. I submit that the memory of this Nation's Founding Fathers and the traditional, historical purpose of this city as the heart of our democracy are worthy of preservation. I would hope that a settlement satisfactory to all sides could be negotiated in a reasonable, rational manner. Failing that, I would urge my colleagues to support me and my colleagues in the Senate from California and New York to block the building of this huge tower and to protect the skyline that symbolizes to millions of people the home of their U.S. Government.

NATO'S CHEMICAL DILEMMA

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. BENNETT. Mr. Speaker, I would like to insert in the RECORD an article which appeared in the Christian Science Monitor on May 29. The article describes a recent decision which exemplifies the Reagan administration's unfortunate predilection toward political victory in the near term over wise policy in the long term.

To gain West German approval for new American chemical weapons production the President agreed to remove all U.S. chemical weapons from the European continent. To put it bluntly, this decision will make Soviet use of chemical weapons against our forces more likely in the event of war.

It is nonsensical to gain approval of new chemical weapons production by agreeing to eliminate all chemical weapons deployment in the one region they are most needed. I supported the President's request last year for new binary chemical munitions because I believe the best way to prevent chemical warfare is to guarantee that no opponent could gain through the use of chemical weapons.

The President's agreement to remove our chemical deterrent from Western Europe does just the opposite, however. It encourages the Soviets to use chemical weapons in the event of war. Not only would our forces be unable to retaliate promptly with our own chemical weapons, but we would have to use a huge percentage of our scarce strategic airlift capacity to ship our new chemical weapons to Europe. It doesn't take a seasoned strategic analyst to realize that every plane loaded with chemical weapons is a plane not loaded with conventional ammunition and equipment desperately needed in the critical first days and weeks of a war in Europe.

Thus, the Soviets would have a dual incentive to use chemical weapons against us: Not only would their use of chemical weapons kill and degrade our conventional forces, but shipping our own chemical weapons to Europe would seriously damage our ability to

sustain our conventional forces for more than a few days.

I hope my colleagues will take note of this article. Frankly, building new chemical weapons for the defense of Europe becomes much less logical under this new agreement than it once was.

[From the Christian Science Monitor, May 25, 1986]

NATO's CHEMICAL DILEMMA

(By Elisa D. Harris)

(Elisa D. Harris is a fellow at Harvard University's Center for Science and International Affairs.)

It now appears that the recent Tokyo summit provided President Reagan with an opportunity to gain allied support not only for the US position on international terrorism, nuclear accidents, and trade, but also on chemical weapons. The President apparently persuaded West German Chancellor Helmut Kohl to support American production of new chemical weapons at two recent NATO meetings in return for the eventual removal of existing US chemical stock from German soil. This agreement may serve each leader's short-term domestic interests, but it will be a disaster for NATO's long-term security interests.

In December 1985, the US Congress stipulated that the Pentagon could not begin to produce binary chemical munitions until, among other things, NATO's North Atlantic Council had concurred with US plans for the production of these new chemical weapons, and NATO's supreme allied commander had developed contingency plans for the deployment of these munitions to the European theater. Congress insisted upon these conditions because it believed that America's allies had an obligation to share both the political and the military burdens of new chemical weapons production.

On May 22, NATO's Defense Planning Committee endorsed the American chemical production plans, despite strong opposition from several NATO member states (including Norway, Holland, and Denmark). Chancellor Kohl's support for the binary program was the decisive factor in this approval of the US chemical weapons plan. This controversial decision by NATO's defense ministers thus brings the US one step closer to the production of new chemical weapons.

Memories of the use of poison gas at Ypres and on other battlefields during World War I have faded slowly in Europe. Discussions of US plans to produce binary chemical munitions and their possible deployment on European soil have consequently been highly controversial in many allied countries. Nowhere is this more true than in Germany, the only NATO country where US chemical weapons are now stored, and where, because of simple geography, the vast majority of casualties from the use of such weapons would occur. Chancellor Kohl's success in obtaining a promise from President Reagan to withdraw all of these chemical munition will therefore be greeted with great enthusiasm in the Federal Republic.

Yet, if the US does carry out its side of the Tokyo bargain and removes its existing chemical stocks from West Germany by 1992, NATO will be left in the extraordinary position of having no US chemical weapons on European soil—a dramatic weakening of its chemical deterrent posture. In the past, both Reagan and Kohl have opposed the various proposals for a chemical weapons-free zone in Central Europe. But now they have agreed to carry out a unilateral withdrawal of US chemical weapons from Western Europe without obtaining the corresponding withdrawal of Soviet chemical weapons from Eastern Europe that such a zone would require. In the final analysis, both leaders have agreed to nothing less than unilateral chemical disarmament.

Of course, Chancellor Kohl also promised at the Tokyo summit to consider accepting binary deployments in a crisis situation. But the West Germans have the final word on whether chemical weapons will be deployed in their country. In a crisis, they could very well refuse to accept these weapons, on grounds that such a step would be highly provocative. But even if the West Germans, or any other NATO member, were willing to take the binaries in a crisis situation, the US would be hard pressed physically to move the chemical munitions across the Atlantic, given the sorry state of its sea- and airlift capabilities.

When looked at closely, it is clear that the Reagan-Kohl agreement on chemical weapons can only produce trouble for the US, West Germany, and all of NATO. It is not too late for both leaders to extricate themselves from the bad bargain they made in Tokyo. Mr. Reagan should retract his ill-considered promise to remove existing US chemical weapons from West Germany, even at the price of losing Chancellor Kohl's continued support for the US chemical warfare program. To do otherwise is to engage in unilateral chemical disarmament and thus severely damage a key aspect of NATO's deterrent posture.

WILLIAM A. TARR RETIRES JUNE 30, 1986

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. LEWIS of California. Mr. Speaker, it is with great pride that I ask my colleagues to join me along with family and friends today in honoring William A. Tarr. On June 30 of this year this exceptional individual will retire from his position of superintendent of the Victor Valley Union High School District, after 14 years of outstanding service.

Reviewing the achievements of Mr. Tarr's life is like reading a history of a man who has devoted his entire career of 36 years to the responsible education of children.

After serving his country for 2 years in the U.S. Navy, Mr. Tarr received his bachelor of arts degree from the College of Emporia, in Emporia, Kansas, in 1950. For the next seven years, he taught fifth and sixth grade in Randall, KS, and also earned his master of science degree from Kansas State Teacher's College for his study of school administration.

In 1957, he began teaching high school in La Puente, CA, and later became director of attendance and then assistant principal of Los Altos High School.

He continued to take on more responsibility with the role of director of personnel and later assistant superintendent/personnel for La Puente Union High School District. From 1970–72, Rowland Unified School District, in Rowland Heights, CA, benefited from his leadership when he served as assistant superintendent/personnel. And in 1972, he began his outstanding work as superintendent for Victor Valley Union High School District, in Victorville, CA.

While Mr. Tarr was pursuing his career in education, he generously gave his time and energy to various organizations both professional and personal, which benefited greatly from his participation. He has been active in the Presbyterian Church, Kiwanis Club and served on the executive committee of Boy Scouts of America. He also contributed his time and expertise to the California Personnel Association, California Teachers Association, and National Education Association.

Currently he serves on a variety of organizations, most notably the San Bernardino County Administrators Association, Victor Valley Republican Mens Club and Association of California School Administrators. He is an active member of the Victorville Chamber of Commerce and the Victor Valley Community Services Council, and he served as president to both those organizations.

Mr. Speaker, I take great pride in commending to my colleagues William Arthur Tarr. Bill's many years of genuine commitment and concern for the quality education of children, the immeasurable devotion of his own time to community development and involvement, and his inherent quality of being a good friend, all indicate that he has made a great contribution to his profession, community and fellow Americans.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. MATSUI. Mr. Speaker, I rise to join my colleagues in the Congressional Call to Conscience Vigil for Soviet Jews and express my deep concern for the plight of prisoners of conscience and other persons who are seeking emigration and freedom from the Soviet Union.

As Americans who are privileged to live in the light of great freedom, we must speak out against the darkness which exists for Soviet Jews. The persecution they face at home and the denial of their basic human rights should not be regarded solely as an internal Soviet matter, but as a legitimate concern of all people who cherish freedom.

Over the past several years, we have all become increasingly aware of the grim statistics which have marked a steady decline in Jewish emigration from the Soviet Union. The expanded emigration of the late 1970's has slowed to a virtual halt. From a peak of 51,320 in 1979, the number of Jewish emigrants plunged to a mere 896 in 1984. Last year, only 1,139 people were allowed to leave—just over 3 a day in all of 1985. We can only speculate on the motivations leading the Soviet Government to shut the gates to emigration. Yet whatever their motivations, the fact remains that thousands of would-be emigrants have been denied their freedom to leave the country.

The facts belie the claim of the Soviet authorities that the reduction of emigres is due to a diminishing number of those seeking to leave. Sources estimate that as many as 30,000 Jewish refuseniks remain in the Soviet Union, with perhaps an additional 400,000 Soviet Jews who have indicated their desire to leave by initiating the complicated process of applying for a visa. Those people who are forced to remain in the Soviet Union are feeling the effects of their Government's efforts to isolate and harass them. There are almost immediate and unfavorable consequences for the people who seek to emigrate, including economic reprisal, discrimination in access to education, physical violence, and ostracism. Furthermore, the situation for Jews in the U.S.S.R. has only continued to worsen as the effects of discrimination have mounted.

Mr. Speaker, it is essential that we demonstrate our continued concern for human rights in the Soviet Union and focus the world's attention on the plight of Soviet Jews. We in the U.S. Congress cannot remain silent while human rights abuses are clearly being perpetrated in that country. The Soviet Government must be made aware of the importance that the American people and their Government place on individual rights and freedom. Since our strength is derived from our commitment and dedication to principles of liberty, it is only natural that Soviet Jews look to us for direction.

In view of this year's scheduled meeting between President Reagan and General Secretary Gorbachev, this is an important time for us to renew our approach and analysis of the problems confronting Soviet Jews. By working together, our unified voice will help to secure the future of the Soviet Jewish community. The Soviet Union has often shown that it is susceptible to outside world opinion. It is such opinion and the pressure of governments insisting that the U.S.S.R. honor its international commitments upon which rests the fate of Jewish emigration. We must never relent in our efforts to gain freedom of expression and religion for Soviet Jews.

THOMAS KLEIN'S ELOQUENT APPEAL FOR FUTURE GENERATIONS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. COURTER. Mr. Speaker, the State VFW organizations perform a valuable service by sponsoring the yearly "Voice of Democracy" competitions, which encourage outstanding young people to express themselves on important aspects of the unique American experiment.

The winner of the 1986 New Jersey "Voice of Democracy" contest is Thomas Klein, a 17-year-old from Blairstown, NJ. In addition to winning the contest, Thomas also enjoyed the distinction of having his essay, "Flourish or Perish," reprinted in U.S. News and World Report.

Thomas' writing demonstrates sophistication and vision beyond his years. I invite my colleagues to read the essay which is reprinted below.

The essay follows:

[From U.S. News & World Report, May 5, 1986]

FLOURISH OR PERISH

(By Thomas F. Klein)

I'm a high-school junior faced with a stark reality. My generation has been given a responsibility far greater than that placed on any generation before us. I'm trying to deal with that—but are those in older generations?

With our first teetering steps into the world, we see the beautiful gifts you will leave us—your advances in the many fields of science and medicine, your great works, your knowledge of space exploration, your technological wonders. But we also see the horrible ills you will leave behind—ruined environments, a world population growing out of control, a huge budget deficit, a planet pocked with war and prejudice. And these problems only intensify as they are continually passed from one generation to the next.

You have given us your wealthy stores of knowledge, but with it we must inherit your hideous nuclear arsenals. The seeds you have planted will allow us either to flourish as no generation before us—or to perish as none before us. There is no precedent.

I try to think only of the good you will leave us, but the truth is that the evils are quickly outweighing those goods. If you don't seriously address those problems now, then perhaps when my generation inherits them it will be too late to find solutions. If those problems are so great as to imperil the future of my generation, then all your gifts will have been in vain.

I am not asking that today's political leaders sit down and bring an end to all the world's troubles. It would be a selfish and unrealistic plea to ask to inherit a perfect Earth. This is not to say that something close to a perfect Earth cannot be achieved, but rather that it cannot be achieved by one generation.

What I do ask of those who run our nation is simply to think of coming generations when you make your decisions. Short-term legislative actions don't cure problems—only alleviate them just long enough so that they will no longer bother the politicians involved.

I ask that you think not only selfishly of the benefits for your generation. Think of me, us, those who will inherit your government, your nation, your world. Respect us as if we were voters of today. Only then will your actions take on a long-term perspective that will meet not only your needs but the needs of future generations. Only in that way will you give us a chance to be a future generation.

McDONALD AWARD TO JOHN WARNER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to recognize Mr. John Warner as recipient of the Ray McDonald Community Achievement Award for March sponsored by the staff of the Midway Sentinel. His outstanding involvement in the construction and real estate industries, plus academic achievements, and community dedication, make Mr. Warner deserving of this notable award.

Mr. Warner has been an important asset to the U.S. Government through the construction and real estate industries, Mr. Warner served in advisory positions to four U.S. Presidents, and has directed the Federal Housing Administration and the Department of Housing and Urban Development. He has also participated in numerous labor organizations within the construction industry.

Beyond career involvement, Mr. Warner has served as a trustee to Lewis University where he received an honorary doctorate of humanities degree. He continued his dedication to education by sponsoring youth activities and scholarships.

His community involvement shows his extensive dedication and participation in the Chicago area; including founder and first president of the Midway Kiwanis Club, chairman of the board of Garfield Ridge Trust Savings Bank, and director of Time Savings & Loan.

Let us congraulate Mr. John Warner for his active involvement to enrich and improve the southwest side of Chicago.

MILLER HONORS RICHMOND RESIDENTS FOR EFFORTS ON BEHALF OF BOYS' CLUB

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. MILLER of California. Mr. Speaker, tomorrow night, five outstanding residents of Richmond, CA, are going to be honored for their selfless, longtime contributions to the Richmond Boys' Club.

Mrs. Clara Bush, Mr. Coy Bradley, Mr. Bobby Garcia, Mr. Nate Robinson, and Mr. John Wilson have each devoted more than 20 years of their time and effort to promote athletics and other community activities on behalf of the Boys' Club. At an awards dinner tomorrow night, each will be presented with the Outstanding Youth Service Award which is only given to those whose efforts far exceed the normal level of assistance to the community.

I have had the honor, over many years, of working with the Boys' Club and I know very well the enormous contributions which its volunteers have made to Richmond and our county. The football, baseball, boxing, and other types of athletic competition and community service which the club sponsors are helping to build our future residents and improve our community.

The backbone of the Boys' Club, like most service groups, is provided by the volunteers, the men and women who devote countless hours to making these organizations work. Tomorrow's recognition dinner provides us an opportunity to say thank you to five citizens who have devoted two decades to helping our community grow and improve.

I know that you, Mr. Speaker, and all members of this house join me in offering our congratulations to Clara Bush, Coy Bradley, Bobby Garcia, Nate Robinson, and John

Wilson on being recongized and honored for their many contributions to the Richmond community and the Boys' Club.

NUCLEAR WASTE POLICY ACT

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mrs. VUCANOVICH. Mr. Speaker, today I am introducing a bill to return portions of the Nuclear Waste Policy Act back to Congress for reconsideration. This bill will give Congress an opportunity to reconsider legislation that will undoubtedly have as great an effect on future generations of Americans as any other produced this century. It is as if we had a chance to review the decisions and warnings on the space shuttle *Challenger* before January 28, or the design flaws at the Chernobyl reactor before last month's nuclear catastrophe.

The time has come to re-evaluate the criteria for siting a high-level nuclear waste repository, based upon the fact that the Secretary of Energy has announced that there is going to be only one in the foreseeable future. Our responsibility is now to ensure that the repository is in the one safest place for public health and safety.

Although safety has always been a priority of Congress, I do not believe that the methodology used by DOE has emphasized safety over such other factors as cost or political expediency.

We have an ideal oppportunity now at hand to reconsider the process and design a better solution, If we are going to site only one repository, and that repository must protect American citizens from exposure to concentrated doses of high-level nuclear radiation for more than 50,000 years, then we must take the time to do it right. We should now be looking for the one safest method for disposal and the one safest place to construct a repository using the greatest technological knowledge now available to us. Decisions that were predicated upon two repositories or the reliance on existing data or sites provide only partial information.

I believe that Congress should have a greater role in reviewing the standards and overseeing the process of siting a repository. For this reason, I have introduced legislation to refer sections 112 and 113 of the Nuclear Waste Policy Act back to Congress for reconsideration.

It is vital, not just for our future, but for the future of hundreds of generations of Americans that we do not act in haste or tread the line of least political resistance in this matter. Let us take whatever time is necessary to give this monumental decision our technological and scientific best in siting the one safest place for this Nation's high-level waste.

For Congress to turn its back on this opportunity would be more than just irresponsible, it would make a statement to this country that we put callous political convenience over public safety, not just for ourselves, but for our children, grandchildren, and future generations of Americans.

FIRE ISLAND NATIONAL SEASHORE

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. CARNEY. Mr. Speaker, as you may be aware, in December 1980, Congress passed legislation I introduced designating a portion of the Fire Island National Seashore for inclusion in the National Wilderness System. One major provision of that law established a cap of $500,000 for development and related projects. I now understand that that development ceiling has been reached and the improvements necessary for present and future use of National Park Service areas on the island itself have been completed.

This, however, is not so for the seashore's mainland facilities, including the visitor terminal and maintenance complex in Patchogue, and the comfort station and curatorial maintenance building at the William Floyd estate in Mastic Beach. These vital facilities have been neglected for far too long. With the cooperation of the Park Service, I am introducing legislation with my colleague Congressman TOM DOWNEY to correct these oversights by increasing the seashore's development ceiling by $5 million.

The purpose of the bill is to authorize the funds necessary to complete the seashore facilities by allowing the Secretary of the Interior to retain the annual proceeds from the lease of unneeded mainland properties. As you may know, Mr. Speaker, this type of funding provision has been used very successfully in California at the Golden Gate area in San Francisco. This approach will allow the Park Service to finance a portion of their facility improvements without necessitating direct Federal expenditures.

It is not my intention with this legislation to allow accelerated or widespread growth within this fragile seashore environment. The bill simply will help complete the mainland facilities for the public enjoyment of this beautiful retreat.

LOWER ENERGY COSTS CONTRIBUTE TO A BRIGHTER FUTURE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. HORTON. Mr. Speaker, lower energy costs are contributing much to a brighter future for our economy. As the senior Republican from New York, which is among the States that suffered when oil prices rose dramatically in the 1970's this is welcome news. However, there are parts of Texas, Oklahoma, Louisiana, and other States that are not sharing in the economic optimism. They depend on the energy business. Thousands and thousands of people are losing their jobs. The strength of our Nation depends on the cooperation of the States; when one region is hurt, we all suffer, and I want to say that this New Yorker pledges his best effort to helping those parts of our country now suffering because of tumbling oil prices.

The Federal Energy Regulatory Commission is compounding a problem within the energy business. It is not taking the expeditious actions that I and many consider necessary to stem the gross take-or-pay contract liabilities of major gas transmission companies. It is seriously affecting the financial stability of these companies and their ability to sell gas.

The problem is this: FERC has relieved distributors of their liability to purchase gas from their supplier, but has done little or nothing to encourage, or to provide strong incentives for, the producers to amend their contracts with the transmission companies. Industry inefficiencies abound. It is costing jobs and it is deterring competition.

As the ranking minority member of the Government Operations Committee, I intend to continue my pursuit of this issue, and to work for a reasonable solution. I hope to have the cooperation of my colleagues—from all parts of the country.

IN TRIBUTE TO C. CARNEY SMITH

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. VANDER JAGT. Mr. Speaker, it is with a great deal of sadness today that I pay my final tribute to C. Carney Smith, former executive vice president of the National Association of Life Underwriters (NALU), who passed away on May 23 in Kalamazoo, MI. A memorial service will be held for him on Saturday, June 14.

For over 40 years, Carney was one of the life insurance industry's most distinguished leaders. He served the National Association of Life Underwriters from 1963 through 1978. During his retirement, he was a member of the board of the Liberty National Corporation in Birmingham, AL, and consultant to several other life insurance companies. He was also the voice of the NALU on LANSCAN, the audio cassette version of Life Association News.

Carney began his insurance career as an agent in 1946. In 1949, he became Mutual Benefit's general agent in Washington, DC. In 1970, he received the John Newton Russell Memorial Award, which is the highest individual honor accorded by the life insurance industry for distinguished service and achievement.

A graduate of Western Michigan University, Carney received his M.A. degree from the University of Michigan. He was a former district governor of the Lions Club, past president of the General Agents and Managers Conference, and former vice chairman and member of several NALU committees. He was also past president of the Mutual Benefit General Agents Association and the D.C. chapters of the American Society of Chartered Life Underwriters; Estate Planning Council; and General Agents and Managers Association.

Listed in "Who's Who in America," Carney was a regional director during World War II in the American National Red Cross. He was first vice president of the University Club in Washington, DC, a member of the New York City University Club, the Congressional Country Club of Potomac, MD, and the Circumnavigators Club of New York City.

While his family, friends and colleagues will sorely miss him, we can take some comfort that we knew him during his so many years of dedication and service. I remember well what was perhaps our last meeting when I addressed the District of Columbia Life Underwriters earlier this year. We shared our love of Michigan and I am honored to bring some of his many accomplishments to my colleagues' attention. Even in our sadness at his loss, we rejoice that such a man was among us.

A CONGRESSIONAL SALUTE TO PAUL ROBERT NEVANS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Paul Robert Nevans, the outgoing president of the San Pedro Peninsula Chamber of Commerce, who will be honored at the chamber's 81st Annual Installation Banquet on June 27, 1986. Mr. Nevans, a relatively young man of 34, has an exceptional education and business background and has done a superb job as the chamber's president.

A product of the San Pedro public school system, Paul Nevans attended Harbor Community College and received a bachelor's degree from California State University-Long Beach in 1974. That same year, Mr. Nevans accepted a position as a staff accountant at Ernst & Whinney, one of the big eight accounting firms. He was rapidly promoted to senior accountant. In 1977, Mr. Nevans accepted a position as the corporate controller of Knapp Communications. He served at Knapp until 1979 when he left to start his own accounting firm. In 1979, Mr. Nevans also received a master's degree in business administration from the University of Southern California. Mr. Nevans' firm, Nevans & Gaydos, started with two employees and has expanded to the extent that today it is the largest accounting firm in San Pedro.

In addition to this tremendous and rapid success in the business world, Paul Nevans has been active in many volunteer civic and community activities. He has served as a member of the Citizen Advisory Council of the Los Angeles Planning Commission, the Port Area Transportation Specific Plan Citizen Advisory Committee, and as treasurer of the San Pedro Fishermen's Fiesta. He has also served as the treasurer, vice president and member of the board of directors of the San Pedro Peninsula Chamber of Commerce, before assuming its presidency. During his tenure as president, Paul Nevans has been extremely active and innovative in promoting San Pedro's business community and in working to improve the quality of life in San Pedro and throughout the surrounding communities of southern California.

It is with great pride that my wife, Lee, joins me in saluting Paul Robert Nevans, and in wishing Paul and his daughter, Marrisa, continued success and all the best in the years ahead.

IN MEMORY OF SANTA MONICA SENIORS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. LEVINE of California. Mr. Speaker, I rise today in memory of 19 elderly Santa Monica residents who were killed in a tragic accident May 30, 1986, when their tour bus skidded off a mountain highway tumbled down a 15-foot embankment and plunged into the icy and rapid Walker River.

The seniors were returning home from a 4-day gambling excursion in Reno, and annual trip for the Santa Monica Christian Towers, a retirement facility in my district which was built in 1964 by the U.S. Department of Housing and Urban Development and the first Christian Church of Santa Monica. The facility houses 195 residents who must be at least 62-years old. At least 26 of the 41 passengers aboard the bus were residents of the facility and the rest were friends of the residents. In addition to the 19 killed in the accident, 22 people were seriously injured.

The group had left Santa Monica bound for the MGM Grand Hotel in Reno. They had visited the Lake Tahoe area and Carson City, NV, and had left Reno for home on the day of the accident. Many victims' bodies were washed downstream, with three found 15 miles from the scene of the accident. Divers searched for 7 hours after the accident before accounting for all passengers. The 22 injured were taken to 6 hospitals in neighboring communities such as Reno, Carson City, Bridgeport, Mammoth, and Bishop. The death toll made it the worst U.S. crash in nearly 6 years.

Word of this accident has circulated nationwide and we all feel a tremendous loss. I ask that my colleagues in the House of Representatives join me in offering a silent prayer to the 19 seniors who lost their lives. I also want to extend my deepest sympathy to their families and friends who will have to come to terms with the loss of their loved one and to all the residents of the Christian Towers who I know will greatly miss their friends. The cherished memories we have of these people will live forever in our hearts.

UNITED STATES POLICY TOWARD NICARAGUA

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. JEFFORDS. Mr. Speaker, as the debate on United States policy toward Nicaragua drags on, emotions continue to rise, as does the level of rhetoric on all sides. And I well understand the frustrations felt by both administration and opponents of Contra aid over the inconclusiveness of the debate.

However, I would like all sides to remember that while we may differ on the proper goals for U.S. policy and the best means for achieving those goals; we all are trying to do what we feel is best for the United States. One of the strengths of our democracy is that the entire spectrum of honest opinion is allowed to participate in such a debate. And, while we are all troubled by convictions that go against the grain of our own beliefs, we must remember that patience and tolerance by all will further the resolution of this current impasse.

I am submitting for the RECORD a letter that Mr. HAMILTON, the distinguished chairman of our Intelligence Committee and a leading member of the Committee on Foreign Affairs, wrote to Mr. Morton Halperin, the director of the American Civil Liberties Union. In the letter, Representative HAMILTON addresses the issue of charges made against the Washington Office on Latin America [WOLA]. Because WOLA has taken a position stridently opposing assistance for the Nicaraguan Contras, there are those who have insinuated that WOLA somehow is controlled by the Sandinista Government and is doing their bidding here in Washington.

Mr. HAMILTON makes it clear that he sees no indication of any ties between WOLA and the Nicaraguan Government—a view that I share. I have worked with WOLA over the past few years on numerous issues and can attest to the responsible nature of its work. While I disagree with some of WOLA's policies and conclusions, I have never had the slightest reason to question the loyalty of any of its members. In my mind, WOLA consistently has added a valuable perspective to the debate over policy toward our southern neighbors. I refer my colleagues to Mr. HAMILTON'S letter.

U.S. DEPARTMENT OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Washington, DC, March 22, 1986.

Mr. MORTON HALPERIN,
Director, Legislative Office, American Civil Liberties Union, 122 Maryland Avenue, NE Washington, DC.

DEAR MR. HALPERIN: I have reviewed the so-called "disinformation document" referred to in press reports regarding efforts by the government of Nicaragua to influence public opinion and Congress on the President's request for additional assistance to the contras in Nicaragua.

I am aware that some allegations have been made that one or more American church groups are working for or are collaborating with Nicaragua by opposing the President's request.

In reading the relevant classified material, I have found no evidence to support such charges.

With best wishes, I am

Sincerely yours

LEE H. HAMILTON,
Chairman.

THE FATE OF DEMOCRACY IN MALTA

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. FEIGHAN. Mr. Speaker, in January, I expressed my concern in the House regarding the direction of political changes in the Republic of Malta. Malta's strategic importance and its long history of support for Western values and democratic government have always been appreciated and respected by Americans. Yet, in recent years, Malta has moved closer to the Soviet Union, to the North Koreans, and to the Libyan Government of Colonel Qadhafi.

I was especially concerned with Malta's Treaty of Friendship and Cooperation with Libya. Clearly, those treaties bear directly on America's desire for peace and progress in the Mediterranean region. As a member of the Foreign Affairs Committee, I expressed concern about the implications of Malta's relations with Libya, and I continue to wish that those ties do not jeopardize Malta's tradition of democracy and commitment to human rights. As many Members are aware, Malta's commitment to human rights has declined in recent years, a decline detailed in reports from Freedom House, the Helsinki Federation, the International Commission on Jurists, and the United States State Department.

Since raising my concerns earlier this year, I have had an opportunity to continue discussions with Maltese officials and with representatives of Maltese-American groups. I am happy to report to the House that some progress appears to have been made in Malta in recent months, progress that can help sustain the call for free and fair elections before May 1987.

Prime Minister Bonnici has stated that the parliamentary elections will take place and that the constitutional guarantee of proportional representation will be respected. The Parliamentary Select Committee charged with resolving electoral disputes also reports substantial progress on electoral safeguards—safeguards that will ultimately determine the legitimacy of the Maltese Government.

I know that all Members of the House will be happy to learn of the progress being made in Malta. Still, I know we all share a desire for an even greater effort to guarantee free elections and sustain a real commitment to human rights. Respect for a free and unfettered press is required, including the broadcast medium. As talks continue during the coming months, Mr. Speaker, I will keep you and other Members of the House informed of further developments.

CBEA SUPPORTS BARTLETT AMENDMENT ON HOUSING

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. BARTLETT. Mr. Speaker, I wanted to take this opportunity to share the following letter with my colleagues. This letter from the Council for a Black Economic Agenda is in strong support of my livability and employment amendment to the housing bill. This amendment was adopted during the debate on the housing bill and I want to thank CBEA for their critical assistance.

COUNCIL FOR A BLACK
ECONOMIC AGENDA,
Washington, DC, June 11, 1986.

Re: Public Housing tenant support for "livability and employment title."

Hon. STEVE BARTLETT,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BARTLETT: On behalf of the Public Housing Resident/Tenant Coalition, we would like to extend strong support for your "Livability and Employment" Amendment to the Housing Act of 1986.

Your provisions for "Portability of Section 8 Certificates and Vouchers" and "Rent Phase In" would empower low-income residents of public housing with unprecedented economic, housing, and employment opportunities. Furthermore, permitting public housing tenants access to Sec. 8 Certificates and Vouchers, heretofore denied by federal law, would rectify historical patterns of segregation and denial of opportunity for the poor.

We applaud this bold civil rights initiative and all of the strong bi-partisan efforts in the 99th Congress on behalf of residents of public housing.

Sincerely,

Public Housing Resident/Tenant Coalition; Kimi Gray, Kenilworth-Parkside, Washington, DC, Co-Chair; Lena Jackson, Lakeview Terrace, Cleveland, Ohio, Co-Chair; Bertha Gilkey, Cochran Gardens, St. Louis, Missouri, Co-Chair; Loretta Hall, Carr Square, St. Louis, Co-Chair.

TO ATTEND SERVICE ACADEMIES

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. SCHUMER. Mr. Speaker, I would like to bring to my colleages' attention the achievements of four outstanding students in my district. It is with great pride that I inform you that James Cabalquinto, Yale Peebles, Michael Tumino, and Donna Pensabene have all been invited to attend our Nation's service academies. It is refreshing to see achievement such as this. These four young people personify the level of excellence to which we should all aspire.

Mr. Cabalquinto, who graduated from Brooklyn Technical High School, will attend the U.S. Air Force Academy at Colorado Springs.

Mr. Peebles, who graduated from the High School of Music and Art will be attending the U.S. Military Academy at West Point.

Mr. Tumino who graduated from John Dewey High School will also be attending the U.S. Military Academy at West Point.

Ms. Pensabene, who graduated from South Shore High School, will be attending the U.S. Naval Academy at Annapolis.

These young people all share the distinction of graduating from high school with admirable grades and high scholastic aptitude test scores.

These schools are three of the finer institutions of higher learning in this country. Only superior students with leadership potential are accepted to these highly competitive schools. I congratulate these four young people on their achievement and wish them well as they prepare to expand on their already fine qualities. It is my hope that their achievements and ambition will inspire their peers to strive for similar personal and academic distinction.

BOLIVIA'S ATTEMPTS TO STEM THE DRUG TRADE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. BONKER. Mr. Speaker, although Bolivia has taken some steps to combat coca cultivation in an effort to comply with United States law that conditions further United States economic aid on the country controlling the drug trade, it remains very far from effectively eradicating coca cultivation. This situation is causing strains in United States-Bolivian relations. As the following report from the Council on Hemispheric Affairs [COHA] explains, La Paz faces considerable difficulties in attacking the drug trade. These include its own limited resources, and hostility from the peasantry, for whom coca growing is a lucrative option. The piece I am submitting for the RECORD was written by COHA Research Associate Lawrence Boudon, and first appeared in the April 30 edition of the organization's biweekly publication, the Washington Report on the Hemisphere. I commend it to my colleagues:

STANDOFF IN UNITED STATES-BOLIVIA COCAINE WAR

The Bolivian Interior Ministry announced March 25 that police had seized 107 kilograms of cocaine and arrested 58 people within three days in the coca-growing region of Chapare, in a clear effort to convince Washington that the government of President Victor Paz Estenssoro is finally making a serious effort to combat drug cultivation and processing. Bolivia is trying to recover economic development funds put on hold by a U.S. Senate amendment until the country eradicates 4000 hectares of coca plants. Since last December, when about 400 of the elite Mobile Rural Patrol Unit (UMOPAR or "Leopards") police first began operations in Cochabamba province, the totals in the drug war include 544 kgs. of cocaine seized, 102 persons arrested and 64 hectares eradicated.

HAWKINS AMENDMENT

The drug war has seriously strained Bolivian-U.S. relations in recent years, particularly since Sen. Paula Hawkins (R-Fla.) passed an amendment in May 1985, conditioning further U.S. economic and military aid to Bolivia (totalling $27 million for FY 87) to progress in combatting the drug trade. Specifically, the amendment asked for the passage of a law limiting coca cultivation and the eradication of 10 percent of the area devoted to coca, estimated at 30-38,000 hectares. At that time, the outgoing Siles Zuaro

government committed itself to eradicate 4000 hectares. But according to current Interior Minister Fernando Barthelemy, the Siles Zuaro government did not act on that commitment and left the Paz Estenssoro government without "the means and the funds to comply."

La Paz did enact a coca control law last November, triggering the disbursement of half of the legislated $16 million in U.S. Economic Support Funds. However, the 4000 hectare target which would release the remainder is, according to a Bolivian diplomat, not reachable without creating a "social conflict with the campesinos who are the main supporters of the current government." Bolivian Senator Hector Ormachea, chairman of the Senate Economic Committee, explained that the eradication process, which involves substituting other crops for coca, is complicated because "it's impossible to persuade a peasant to earn less." The Bolivian Embassy in Washington reported that the present government is to proceed "little by little," eradicating about 400 hectares/year.

U.S. officials retort that Peru eradicated 4000 hectares last year, and Colombia 2000, even though both faced insurgencies and encountered violence from drug traffickers.

PEASANT HOSTILITY

Obtaining the cooperation of the peasants in the Chapare region, where 75 percent of the nation's coca is grown, has been the government's toughest task. In late January, several thousand irate peasants confronted a unit of Leopards, blocking the roads leading to the coca plantations. But, after talks were held with the Interior Minister and National Police Commander Gen. Julio Vargas Soto in February, the Coca Producers Federation agreed to support the efforts to reduce the acreage devoted to the crop. In return, the government pledged to install water and electric facilities and build new roads.

In a move which could involve the military in the effort to eradicate coca cultivation, Bolivian Armed Forces Commander-in-Chief Gen. Raul Lopez Leyton formally announced on Mar. 31 that U.S. and Bolivian troops would conduct maneuvers in the Chapare beginning Apr. 26. While the operation will be small, involving fewer than 300 U.S. soldiers and 2000 Bolivians, the fact that the maneuvers will take place in the coca-growing region has stirred up controversy there. After the Bolivian Congress, which last year torpedoed the same plan, approved the joint operations called "Fuerzas Unidas 1986" on Apr. 11, union leader Eudoro Barrientos warned that the peasants and colonists of the Chapare would "implede the introduction of North American troops." In addition, the COB and the Peasants Confederation oppose the maneuvers which they believe violate national sovereignty.

A U.S. Bureau of International Narcotics Matters source indicated to COHA that although funds to combat drug trafficking were repeatedly authorized for Bolivia in recent years, they were often reprogrammed to other countries because the Bolivian government "was not capable of spending them." For that reason, disbursement fell from $2.67 million in 1984 to $1.54 million in 1985. But, because of what the Bureau's 1986 Report to Congress termed "the start-up of both the eradication project and a strong start for the interdiction effort in 1985," the FY 86 request was for $3.65 million with over $4.5 million for FY 87.

Nevertheless, the Hawkins amendment, called "simplistic" by a Bolivian government official, has alarmed the nation. Sen. Daniel Cabezas, chairman of the Bolivian Drug Traffic and Addiction Commission commented in March that the effects of the drug problem "are great on the country," and that the situation is "very delicate." Chamber of Deputies President Gaston Encina worried that the United States decision to suspend aid "could destabilize Bolivia's fragile democracy." Indeed, with the recent collapse of the International Tin Council, Bolivia's need for foreign assistance is all the more urgent, as the country will lose an estimated $122 million due to the drop in tin prices.

Both Bolivia's economy and government are presently standing on shaky ground. To offset lost tin revenues, La Paz has been relying on oil exports and has imposed austerity measures. But, with falling real wages, Jaime Paz Zamora, leader of the opposition Movement of the Revolutionary Left (MIR), warned that "no further sacrifice can be asked from the Bolivian people." Observers fear an imminent showdown between the Bolivian Workers Confederation (COB) and the government should the situation worsen. In response to the government's continued refusal to meet with striking teachers, the COB called for a 24-hour strike Apr. 8 which was met with tear gas and arrests. COB leaders warned that similar repression in the future would trigger a "social upheaval."

STRIKES

The government had fired 75,000 of the striking educators on Apr. 1 after an ultimatum to return to work expired. The strike, now over two months old, was over what teachers considered starvation wages. Noel Orozco, executive secretary of the Bolivian Teachers Confederation, called the firings unconstitutional and challenged Paz Estenssoro to find another 75,000 "ascetics to work for a starvation salary." He also said the strike would continue.

The political coalition called the "Pact for Democracy," between the ruling National Revolutionary Movement (MNR) and Gen. Hugo Banzer's Nationalist Democratic Action (ADN), has also shown signs of strain. When several ADN members voiced their opposition to a proposed tax reform which would increase corporate taxes, rumors of a break with the MNR circulated. Banzer then returned from Europe on Mar. 31 and quelled the unrest, calling the Pact "useful, because it gives the impression of political stability." However, ADN spokesman Guillermo Fortun warned that should the government's policy diverge from the ADN's, he would "order the withdrawal" of ADN members from the coalition.

JOHN MILIAUSKAS HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. KANJORSKI. Mr. Speaker, on Friday, June 13, John Miliauskas will be honored for his 30 years of service as band director for the Lake-Lehman School District in northeastern Pennsylvania. It is my pleasure to join with Mr. Miliauska's many admirers in commemorating his 30 years of tireless devotion to developing the musical abilities of the young people of our area.

A native of northeastern Pennsylvania, John Miliauskas is a former member of the band at Lake-Lehman High School. After graduation from Lake-Lehman, he attended Mansfield State College and graduated as a life member of the Phi Mu Alpha National Honor Fraternity. He served in the U.S. Army and was a member of the U.S. Army Band.

For his work with the Lake-Lehman High School Band, John has won wide acclaim. The band has traveled throughout the United States and Canada and has brought home over 600 trophies. Cited by the Pennsylvania State Governor, the President, the Pennsylvania State Senate, the Lake-Lehman Band has won three international championships and numerous national championships. In 1984, the Lake-Lehman Band won the State championship in Calvacade competition and the Atlantic coast championship in tournament of bands, an unprecedented fete in field show competition.

The organizations which have honored Mr. Miliauskas for his leadership in developing the musical abilities of young musicians include the Kiwanis, Rotary and Lions Clubs, the American Legion, and the American Federation of Musicians. He is a member of the National Band Association, Pennsylvania Music Educators Association, PMEA, and PSEA, and the American Federation of Musicians Local No. 140. He has served as clinician, judicator, and guest conductor.

Mr. Speaker, Mr. Miliauskas' devotion to developing the talents of our young people for the past 30 years has been a significant contribution to our community. His work with the young members of the Lake-Lehman Band deserves our support and congratulations, and I am proud to bring him to your attention here on the floor of the House of Representatives.

TRIBUTE TO RABBI JEROME FISHMAN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. SOLARZ. Mr. Speaker, I would like to pay tribute today to a very special person in my congressional district—Rabbi Jerome Fishman, who will be retiring soon from his position as Brooklyn Borough director for JASA [Jewish Association for Services for the Aged], an affiliate of the Federation of Jewish Philanthropies of New York.

In recent years we have become increasingly aware of the "Graying of America," the steady growth in the number of elderly in the American population, especially the number of the "old old." We know that while many elderly people continue to be effective, self-directing, productive citizens, some need the help of others in order to continue living in the community. Rabbi Jerome Fishman long ago recognized the needs of the elderly and has brought considerable energy and knowledge to the task of developing programs to serve senior citizens.

Working in social services for the elderly has been a second career for Rabbi Fishman. A graduate of the Rabbi Isaac Elchanon Theological Seminary of Yeshiva College, now Yeshiva University, he received his Rabbinic ordination from that school in 1945. Rabbi Fishman served as a Rabbi in Pottsville, PA, and as a vocational counselor for religious functionaries migrating to New York City. Rabbi Fishman later became the Rabbi of the Adath Israel Center in the Borough of Queens in New York City. He remained in that position for 21 years, building the synagogue and providing spiritual counseling to several generations of congregants.

From 1958 to 1960, Rabbi Fishman served as a chaplain for the New York City Department of Corrections. He performed the same function for the New York City Department of Hospitals and, as a volunteer, for Roosevelt Hospital from 1960–70.

Even while fully engaged as a pastoral rabbi, Rabbi Fishman pursued his interest in psychological counseling and social services. In 1967 he was awarded a certificate in pastoral counseling from the Postgraduate Center for Mental Health, and in 1970 he received a master's degree in psychological counseling from Yeshiva Universtiy.

Rabbi Fishman left the pulpit in 1971 and began his career in services for the aged. He started working with JASA in September 1971 as a caseworker in the Williamsburg section of Brooklyn, N.Y. He was promoted to the position of Borough director for Brooklyn in 1973.

To social work and service to the elderly Rabbi Fishman brought great energy, intelligence and profound knowledge of Jewish traditions. Under his supervision and direction, JASA's programs for the elderly in Brooklyn have grown to the point where they include seven social service centers through which JASA caseworkers and case aides offer counseling, case management, information and referral, and advocacy to elderly people in the community. Group service programs include the following senior centers: JASA/Brighton Beach Residents Center; JASA/Friendset Apartments; JASA/Manhattan Beach Residents Association; JASA/Scheuer House of Coney Island; JASA/Senior Alliance; JASA/Luna Park Senior Center; JASA/Starrett City Senior Center; JASA/Bayview Senior Center; JASA/Williamsburg Senior Center.

All of these centers provide a full range of classes and activities, as well as a hot, kosher lunch.

Rabbi Fishman also supervised the Brighton Beach Commissary which prepares the meals for JASA/Luna Park as well as 600 meals delivered daily to homebound elderly citizens through JASA's South Brooklyn Meals on Wheels program.

In addition to many other community activities, Rabbi Fishman was a member of the Senior Advisory Committee of the Brooklyn Borough president, serving one term as chairperson. He also served on the Medicaid Advisory Council of the New York City Human Resources Administration.

In recognition of his outstanding contribution to the Jewish aspect of social work, Rabbi Fishman received the 1982 Samuel W. and Rose Hurowitz Award of the commission on synagogue relations of the Federation of Jewish Philanthropies.

Rabbi Fishman has been in great demand as a speaker and teacher and has thoroughly enjoyed such opportunities to draw upon and integrate his knowledge of Jewish traditions and his experience in serving the elderly.

Rabbi Fishman has been an important part of the network of services to the aged in the Borough of Brooklyn. He will be missed not only by his colleagues at JASA and their counterparts in other agencies, but also by public officials, concerned community residents and, most of all, by the elderly citizens for whose benefit he has worked for these many years.

I wish Rabbi Jerome Fishman well in his retirement.

HOUSE CONCURRENT MEMORIAL 2001

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. RUDD. Mr. Speaker, the Arizona State Legislature recently approved House Concurrent Memorial 2001, urging the President and the Congress of the United States to amend the Federal highway laws to allow individual States to set the maximum speed limits on highways in certain rural areas.

As a cosponsor of similar Federal legislation, H.R. 1163, I wholeheartedly approve of this action. I submit for the review of my colleagues the Arizona State Legislature memorial.

STATE HOUSE,
Phoenix, AZ, May 30, 1986.

Hon. ELDON RUDD,
U.S. Representative,
Washington, DC.

DEAR ELDON: The Arizona State Thirty-seventh Legislature, Second Regular Session, 1986, passed House Concurrent Memorial 2001, urging the President and the Congress of the United States to amend the Federal Highways Laws to allow the individual states to set the maximum speed limit on highways in certain rural areas.

The members of the Legislature have asked me to transmit the enclosed copy of this Memorial to you for your consideration.

Sincerely,

ROSE MOFFORD,
Secretary of State.

Enclosure.

STATE OF ARIZONA, DEPARTMENT OF STATE
UNITED STATES OF AMERICA, STATE OF ARIZONA
SS.

I, Rose Mofford, Secretary of State, do hereby certify that the attached document is a true, correct and complete copy of House Concurrent Memorial 2001, Thirty-Seventh Legislature, Second Regular Session, 1986; That I am the official of the State of Arizona in custody and control of the original of said document and the legal keeper thereof.

In witness whereof I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done at Phoenix, the capital, this 30th day of May A.D. 1986.

ROSE MOFFORD,
Secretary of State.

HOUSE CONCURRENT MEMORIAL 2001

A concurrent memorial urging the President and the Congress of the United States to amend the Federal highway laws to allow the individual States to set the maximum speed limit on highways in certain rural areas

To the President and the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, most American feel that the most efficient government is one that operates in close contact with the people; and

Whereas, this state believes that it is most qualified to determine and set the most appropriate speeds to be driven on the highways; and

Whereas, the original objective of the national maximum speed limit of fifty-five miles per hour to conserve fuel is offset by the loss of other efficiencies such as the loss of productivity due to the length of travel time by business and industry; and

Whereas, engineering and design features of new motor vehicles have had a greater impact in conserving fuel than has the fifty-five mile per hour maximum speed limit; and

Whereas, traffic fatalities continue to decline even though recent studies indicate that an increasing majority of drivers is exceeding the fifty-five mile per hour maximum speed limit; and

Whereas, traffic fatalities in low population areas actually increase because of the monotony of driving on long open stretches of highway.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the President and Congress give their most earnest consideration to the prompt enactment of legislation which would retain the maximum speed limit of fifty-five miles per hour only in designated suburban and metropolitan areas and would grant the states the authority to increase the maximum speed limit, after traffic and engineering studies, in those rural areas where local population conditions, traffic volume and safety factors indicate that a speed limit greater than fifty-five miles per hour would be appropriate.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation.

HARPOONING CONGRESS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. BONKER. Mr. Speaker, as the International Whaling Commission begins its 38th annual meeting in Sweden this week, it is timely to recall that the fate of thousands of the world's whales hangs in the balance. Many nations have looked to the United States as a leader in whale conservation efforts and as one country with tough laws that help enforce the toothless IWC's decisions. Although the IWC's moratorium on all commercial whaling took effect this year, the Reagan administration cut a deal with the Jap-

anese in the fall of 1984 to let Japan continue killing whales until at least 1988—in total contravention of the IWC's commercial whaling moratorium as well as of our own laws. In February 1985 I introduced House Concurrent Resolution 54 condemning the administration's deal to exempt Japan's commercial whale slaughter from our statutory fishery sanctions requirements. Subsequently, a group of conservation organizations took the administration to court to force the administration to uphold our laws against Japan's outlaw whaling. The Supreme Court decision in this case is imminent. This New York Times editorial from April 26, 1986, describes the way in which the administration has sided with Japan on whale killing, circumvented our laws and the clear intent of Congress in seeking to protect endangered whales. I commend this piece to my colleagues.

[From the New York Times, April 26, 1986]

HARPOONING CONGRESS

The Reagan Administration doesn't want to anger Japan by reducing the amount of fish it may take from American waters. Yet as long as the Japanese continue whaling, the law requires Washington to do just that. Challenged by environmental groups, the Administration has fought the issue and will shortly bring its case before the Supreme Court. Its arguments are far from persuasive.

The 1979 Packwood-Magnuson Amendment requires that fishing allotments in U.S. waters be reduced by 50 percent for countries whose actions "diminish the effectiveness" of the International Convention for the Regulation of Whaling and the decisions of the International Whaling Commission. In 1982 the commission voted for a worldwide moratorium on whale hunting beginning in 1985. Japan vowed to continue whaling anyway, and the Commerce Department—which has imposed the sanctions against the Soviet Union—cut a deal exempting Japan. Japan agreed to cease whaling in 1988, by which time it hoped for support in reversing the moratorium. The Reagan Administration insists there is leeway in the law to permit no sanctions at all and also argues that too strict an interpretation ties its hands in a delicate matter of foreign policy.

Yet the discretion to pass laws regulating fishing in U.S. waters is the proper business of Congress, and its will on whaling is clear. That the law, like many others, affects foreign nations is irrelevant. The Government must still enforce it. The arguments being advanced to nullify Packwood-Magnuson are those of an Administration that wants to bend the rules because it knows there is no consensus to change them.

TRIBUTE TO SAMUEL HOCK

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. SOLARZ. Mr. Speaker, I would like to pay tribute today to an extraordinary person who has contributed greatly to the well-being of the elderly citizens in all of New York City and Nassau County. This person is Samuel Hock, who will soon retire from his position as director of group services for JASA—Jewish Association for Services for the Aged.

JASA is an affiliate of the Federaton of Jewish Philanthropies of New York, a voluntary social agency providing a wide range of services to the elderly, including social services, specialized housing, senior centers, recreation programs, home-delivered meals, home attendant services, and advocacy on behalf of elderly citizens.

When Mr. Hock first joined the JASA staff in May 1972, the entire group service program consisted of one group worker going to four individual locations to lead what were, in effect, once-a-week senior centers. When he retires in the summer of 1986, he will leave behind him a total of 24 senior centers, most of them operating 5 days per week, and the others 1 or 2 days.

Currently, the centers provide members with a hot, nutritious, kosher lunch on each day of operation, as well as a full range of classes, recreational activities, excursions, and other group programs. A total of 8,000 older adults participate in these centers. An additional 850 homebound elderly people receive six home-delivered meals per week through JASA's meals-on-wheels programs. JASA's recreation for the elderly program provides teachers, activity leaders, excursions, and other activities to 6,500 members of 40 affiliated groups operating in synagogues and housing developments throughout New York City.

It has also been under Mr. Hock's leadership that outstanding educational and cultural programs have been developed, such as Sundays at JASA, a high-level educational program for older adults; the Irwin S. Rosenberg memorial concerts, through which young, aspiring artists perform for a largely older adult audience; the S.H. and Helen R. Scheuer memorial concerts; the Sylvia Silbert Memorial Fund, which subsidizes theatre tickets; and the JASA Theatre Ensemble, a troupe of older adult amateur actors performing under professional direction.

The development of all these programs has been a truly remarkable accomplishment, and we thank Samuel Hock for developing and nurturing them.

Mr. Hock came to JASA as a seasoned professional group worker and administrator. A combat veteran of World War II, he received his B.A. degree from the City College of New York and his masters of science degree in social work from the New York School of Social Work, Columbia University. He served as program director of the Jewish Community Center in Trenton, N.J.; as executive director of the West Bornx Jewish Community Center; and as associate executive director of the Mosholu-Montefiore Community Center, Bronx, NY, before joining the JASA staff.

For his outstanding contribution to cooperative activity between social work and synagogues, Samuel Hock was honored with the 1978 Samuel W. and Rose Hurowitz award of the commission on synagogue relations of the Federation of Jewish Philanthropies of New York.

As the median age of Americans increases, so does the need for creative programming for older Americans. Mr. Hock and JASA have been among the leaders in developing innovative ways to engage and meet the needs of senior citizens. He will be missed by the older adults with whom he has worked, as well as by his colleagues and by all in the general community who are concerned about the well-being of the elderly.

Samuel Hock has been quoted as saying, "I hope that I left some imprint on the thousands of people that have come through the agencies I've worked with." I can assure him that he has.

FORBES: BRIGHT FUTURE FOR THE ECONOMY

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. COURTER. Mr. Speaker, Mr. M.S. Forbes, Jr. recently spoke at the Raritan Valley Chamber of Commerce dinner awards on our economy's future, and offered some fascinating insights we don't often hear in our day-to-day debates. I wanted to share Mr. Forbes' remarks with my colleagues; his track record in forecasting is unparalled and his advocacy for lower tax rates, sound money and open markets places him at the forefront of the movement for full employment without inflation.

His speech follows, as reported in the new Brunswick Home News and the Woodbridge News Tribune.

FORBES: U.S. ECONOMY TO GROW DURING 1990S, BUT SOME WON'T BENEFIT

(By John T. Ward)

FRANKLIN.—In a speech characteristic of his economist-bashing magazine columns, Malcolm S. Forbes Jr. forecast a robust performance by the U.S. economy for the next ten years.

The noted economic forecaster predicted a continued drop in interest rates in the next few years, the passage of the Reagan-backed tax bill and a Dow Jones industrial average climb to the "5,000 to 6,000 range" by the mid-1990s.

He cautioned that his optimism about the nation's economy was dependent on several key factors, including the failure of protectionist trade legislation in Congress and control of "contracting prices." He also said prosperity "won't be spread across the board" among all industries.

"The trouble and turmoil we've seen in the past five years will continue," he said, "because even though interest rates have come down, if you factor out inflation, real rates are still abnormally high by historic standards."

Forbes is president and chief operating officer of Forbes Inc., and deputy editor-in-chief of Forbes magazine, which was founded by his grandfather. The Bedminster resident also serves as president of the Somerset County Park Commission.

His remarks were made at the 58th annual Raritan Valley Chamber of Commerce awards dinner. Three hundred area business representatives attended the event, held at McAteer's Restaurant on Easton Avenue.

Forbes laid blame for the failure of real rates to come down to date to economists—particularly Federal Reserve Board Chairman Paul Volcker—and their belief that "prosperity causes inflation. Any time the economy grows above 3.5 to 4 percent, they get antsy and put a clamp on it." He charged the Fed and central banks in Ger-

many and Japan with making monetary decisions blind to the consequences of those moves.

Despite those caveats, Forbes predicted a stabilization of the dollar against foreign currencies, the passage of a tax bill "that will have a powerful tonic on the economy," and a stock market soaring above 5,000 on the Dow Jones table.

VOLCKER UNDER ATTACK FOR REINS ON GROWTH

(By Deborah Priante)

SOMERSET.—The deputy editor-in-chief of Forbes Magazine says he is optimistic about the country's economic growth over the next 18 months despite Federal Reserve System Chairman Paul A. Volcker.

Malcolm S. Forbes Jr., president and chief operating officer of Forbes Inc., peppered a recent talk on the state of the nation's economic recovery with shots at Volcker, who Forbes said operates on the false premise that prosperity causes inflation.

Forbes addressed members of the Raritan Valley Regional Chamber of Commerce Wednesday night at the group's annual installation and awards dinner at McAteers Restaurant, Easton Avenue.

"Volcker doesn't think it's possible to have non-inflationary prosperity," Forbes said. "He thinks it's bad if we're healthy.

Forbes criticized the Federal Reserve for clamping down on the nation's money supply every time the economy shows signs of growth.

He compared Volcker's policies to that of a doctor who helps his patient get better, but then causes the patient to have a relapse, because he is "getting too healthy."

"In medicine, the doctor would be charged with malpractice," Forbes said. "In economics, a man gets elected to the Federal Reserve."

Forbes said the Federal Reserve and central banks in other countries "don't have a reliable compass or yardstick" to gauge when to tighten the money supply.

"They don't know what they're doing until it's too late," Forbes said.

Forbes charged that interest rates are still "abnormally high" if one factors out inflation.

He said interest rates, now at 6.5 and 7 percent, should be at 3.5 and 4 percent.

As four-time winner of the Crystal Owl, presented annually by the U.S. Steel Corp. to the reporter making the most accurate economic forecasts for the coming year, Forbes offered several predictions about future growth.

He prefaced his remarks, however, by cautioning: "You make more money selling advice than following it."

He said he sees short-term interest rates falling by 2 or 2½ points and long-term interest rates falling by 1 or 1½ points over the next 18 months.

Forbes predicted the stock market would remain bullish and surge upward once again.

Forbes said the proposed tax bill currently under consideration by Congress "will actually do more good than harm." The tax bill is designed to lower taxes on profits, income and capital gains, he said.

"If people are not punished for trying to get ahead, the economy is going to prosper," Forbes noted.

"Look at the tax bill as if you were looking at a magnificent passenger ship coming into harbor," he advised.

"Don't look to the side of the ship, at the flotsam . . . Don't get hooked on the political garbage, but rather look at the big picture."

Forbes said he isn't worried about the nation's budget deficit woes.

"Debt, has gone up, but so has the nation's wealth," he said.

He predicted the budget deficit would contract once the growth of government spending is slowed.

"Raising taxes is not a cure," he warned.

"Interest is the most uncontrollable expenses in the nation's budget," he said. "As interest rates come down, so will the budget deficit."

WALTER LIPPMANN ON DISARMAMENT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. HYDE. Mr. Speaker—

In the interval between the two great wars the United States sought to promote peace by denouncing war, even by "outlawing" it, and by disarming itself, Great Britain, and France. The movement to limit armaments was, no doubt, inspired in considerable measure by sheer war-weariness and by the desire to save money. But the disinterested and idealistic theory of disarmament was that if everyone had less capacity to wage war, there would be a smaller likelihood of war. Big warships meant big wars. Smaller warships meant smaller wars. No warships might eventually mean no wars. The theory is applicable, if at all, only to Tibet, which has no foreign relations, cannot be invaded, is not worth conquering, and has no outlying commitments such as the Monroe Doctrine, the Philippines, and Alaska. * * * The disarmament movement was, as the event has shown, tragically successful in disarming the nations that believed in disarmament. The net effect was to dissolve the alliance among the victors of the First World War, and to reduce them to almost disastrous impotence on the eve of the Second World War.

Those words of wisdom are taken from a book entitled "U.S. Foreign Policy—Shield of the Republic" that was written some 43 years ago by the late political commentator, Walter Lippmann. What Mr. Lippmann had to say then is still very relevant today and I urge my colleagues to read his unabridged analysis of that period in history which I am inserting at this point in the RECORD:

U.S. FOREIGN POLICY: SHIELD OF THE REPUBLIC

(By Walter Lippmann)

2. "DISARMAMENT"

In the interval between the two great wars the United States sought to promote peace by denouncing war, even by "outlawing" it, and by disarming itself, Great Britain, and France. The movement to limit armament was, no doubt, inspired in considerable measure by sheer war-weariness and by the desire to save money. But the disinterested and idealistic theory of disarmament was that if everyone had less capacity to wage war, there would be a smaller likelihood of war. Big warships meant big wars. Smaller warships meant smaller wars. No warships might eventually mean no wars. The theory is applicable, if at all, only to Tibet, which has no foreign relations, cannot be invaded, is not worth conquering, and has no outlying commitments such as the Monroe Doctrine, the Philippines, and Alaska.

Yet on the theory that disarmament could promote peace, laborious negotiations and elaborate diplomacy and splendid international conferences were promoted in Washington, Geneva, and London. The governments participating were the victorious allies of the first German World War. It soon transpired that though the promise of these conferences was that smaller armaments would banish war, the working premise of all the governments was that each of the former allies was now the rival, and therefore the potential enemy, of all the others. The disarmament movement was, as the event has shown, tragically successful in disarming the nations that believed in disarmament. The net effect was to dissolve the alliance among the victors of the first World War, and to reduce them to almost disastrous impotence on the eve of the second World War.

The movement for peace by disarmament was initiated by President Harding, who summoned our ex-allies to the Washington Conference. In the light of its consequences, the American program at that conference is interesting. We insisted upon the rupture of the Anglo-Japanese alliance, thus isolating Japan and offering her the option of finding new allies among the vanquished states. Japan made her new alliance with Germany. We than committed ourselves and the other powers to the moral support of the territorial integrity of China, aligning ourselves against the known ambitions of Japan. We then "imposed," as we imagined, a ratio of naval forces, especially of the long-range offensive ships, which guaranteed Japan against any prompt and effective naval intervention by America or Britain in the Far Eastern area of Japanese ambition. We then gave Japan hostages to reinsure herself. We did this by agreeing not to develop our advanced naval bases at Guam and Manila. Then, inspired by peaceable desire not to annoy the Japanese, we assented by our subsequent silence and inaction to the militarization of the mandated islands which protected Japan's flank in her march to the conquest of the Philippines and of the Indies. Finally, having disarmed ourselves strategically vis-a-vis Japan, we worked with the British on the project of reducing the tactical value of their navy and of ours,[4] and upon arresting for twenty years the progress of the art of naval construction in Britain and in America.

The overall effect has been to impair radically the Anglo-American control of the sea communications of the world. That was not the intention, of course. It was supposed that if the ratio of the fleets was maintained, the balance of power would be the same, though the fleets were smaller. This was a fallacy in calculation. For, as the absolute size of the British and American fleets was reduced, the area in which they could operate contracted. The British did not have enough ships to maintain an effective fleet at Singapore. They were not sure of having enough ships to control the Mediterranean. We did not have enough ships to maintain our communications in the Atlantic. In the first year of the present war we did not even have enough ships to defend our coastal traffic and the waters of the Caribbean. The reduced British fleet had to

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[4] Cf. the prolonged controversy about cruiser types.

be concentrated at the British Isles. The reduced American fleet had to be concentrated between California and Hawaii. Thus Japan obtained superiority in all the waters that mattered to her, and Britain's sea power was so depleted in the Mediterranean that even Italy dared to challenge her.

The story of the disarmament movement is the sorry tale of nations which lost sight of their own vital interests, and very nearly emasculated themselves fatally as a result. For more than a hundred years the marriage, in Jefferson's metaphor, of British and American sea power had supported the Monroe Doctrine. The American people did not know it, and, lacking the elementary principles of a foreign policy, they did not wish to hear about it. Though Britain and America had been allies in 1917-1918, yet in the twenty years which elapsed before they became allies again they acted as if they were potential enemies. This assumption controlled the disarmament movement—that extraordinary movement by which the partners of one great war disarmed one another in the short period which remained before they were to be partners again in an even greater war.

VOICES OF REASON ON EXCHANGE RATE BEHAVIOR

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. NEAL. Mr. Speaker, recently, many of the Nation's most distinguished scholars, business leaders, and economic journalists have been offering helpful commentary on the international monetary system. A central theme emerges from their writings that may be helpful to all of us. It is threefold: The free market exchange system reflects and does not cause fundamental economic factors at work in various nations;

The international system of flexible exchange rates has made a positive contribution to external payments adjustments during a period of massive external world shocks;

Coordinating domestic macroeconomic policies is the soundest approach to reaching a more stable dollar. Interventionist tinkering will not work.

I think my colleague will find the following quotes, from economists and others who often differ on other subjects, very interesting. As my colleagues can see there is widespread agreement that the flexible, free market exchange rate system serves us well.

VOICES OF REASON ON EXCHANGE RATE BEHAVIOR

ON THE INTERNATIONAL MONETARY SYSTEM

"The system of floating exchange rates is working, although not perfectly, and its performance can only be worsened by countries trying to manipulate it."—Milton Friedman, Nobel Prize winner, Hoover Institution, December 26, 1985.

"The monetary system is reflecting the underlying economic factors in the world and nothing more should be expected of it."—Herbert Stein, former Chairman of the President's Council of Economic Advisers, American Enterprise Institute, July 1985.

"So long as fundamental domestic policies are not coordinated, it's especially important that exchange rates be left free to adjust so as to reflect divergent policies. . . . the Tokyo Summit ought to avoid endorsing any fundamental movement away from the current system of floating exchange rates."—Charles Schultze, former Chairman of the President's Council of Economic Advisers, Brookings Institution, May 2, 1986.

"The dollar's price is not a cause but, rather, a symptom of the problem . . . Floating exchange rates, while far from perfect, are the best system to sort out the complexities that make up relative value of currency."—Leo Melamed, Chairman of the Executive Committee, Chicago Mercantile Exchange, April 24, 1986.

"We don't need international monetary reform. We need policy reform."—Robert Solomon, Brookings Institution, March 1986.

"The unstable exchange rates reflect not an unstable system but unstable underlying policies."—Lindley Clark, Wall Street Journal, April 8, 1986.

"Recent events demonstrate that reform can be accomplished within the general structure of the present international monetary system. . . . In the end, it must be recognized that no international monetary system can compensate for bad economic policy." Beryl Sprinkel, Chairman, Council of Economic Advisers, March 21, 1986.

ON THE CREATION OF A NEW FIXED EXCHANGE RATE SYSTEM

"The major trading nations should stick with market-determined exchange rates."—Business Week editorial, April 28, 1986.

"Blaming rates, and 'fixing' them, is like blaming the messenger for bad news and shooting him."—Thomas Johnson, President, Chemical Bank, February 20, 1986.

The widespread sense of frustration with the current system of floating exchange rates is understandable and we certainly should be sensitive to opportunities to strengthen the system, but to think that a return to fixed exchange rates or to something like a gold or commodity standard is going to provide magical and painless solutions to our problems is sheer folly."—E. Gerald Corrigan, President, New York Federal Reserve Bank, November 22, 1985.

"Genuine exchange rate stability must be earned: it cannot be artificially imposed by official intervention except for brief periods of time."—Thomas Willett, Claremont College, 1978.

"Fixing or manipulating the rates without introducing a significant change in the conduct of policies may not improve matters at all. It may amount to breaking the thermometer of a patient suffering from a high fever instead of providing him with proper medication."—Jacob Frenkel, University of Chicago, National Bureau of Economic Research, December 1985.

ON THE CAUSES OF EXCHANGE RATE INSTABILITY

"Ultimately, exchange rates are determined by domestic economic and monetary policies, and no exchange rate regime will long relieve governments of the effects of these domestic policies on the international value of their currency."—Secretary of State George Shultz, May 17, 1983.

"But there's no reform of the exchange rate machinery that can produce [more stable exchange rates] as long as the United States, Japan, and Europe follow conflicting economic strategies. If they choose to bring their plans into harmony, the present exchange rate markets will produce stability without further reforms."—Washington Post editorial, April 14, 1986.

"Our trade problems are caused by a high dollar that is in turn caused by an unbalanced fiscal policy characterized by high deficits. The sooner we recognize this, the sooner we will start addressing the underlying causes of our trade problems instead of pretending to do so by addressing their symptoms."—Congressman Bill Gradison, R-Ohio, January 1986.

"For the problems of the strong dollar, the U.S. Capital imports, and the trade deficit, the most important 'fundamental economic condition' is the huge U.S. budget deficit."—Gottfried Haberler, American Enterprise Institute, April 1986.

"The dollar became overvalued in 1984-85 because the domestic monetary and fiscal policies of the largest economies were badly at odds with each other. That much is now admitted by every government flirting with exchange rate management and by almost every academic advocate of fixed exchange rates. Once governments can make these policies converge, exchange rates will be as stable as they need to be whether they are floating, fixed, or semi-fixed. If governments cannot do that, exchange rates will be a source of trade-suffocating risk whatever the rules."—The Economist editorial, February 22, 1986.

ON THE PROBLEMS POSED BY A FIXED RATE SYSTEM

"A new arrangement aiming to hold exchange rate fluctuations within target zones would have to constrain monetary policy, either explicitly or implicitly, to be effective."—William Branson, Princeton University, February 17, 1986.

"Advocates of target zones should ask what would have happened to their system over the past few weeks if it had included the yen and the dollar. The crash in oil prices would have signalled an increase in Japan's current account surplus that was bigger than the decrease in America's current account deficit . . . So the collapse of OPEC was bound to send the yen up against the dollar, bumping into the ceiling of any zone narrow enough to be a target."—The Economist, editorial, February 22, 1986.

ON THE BENEFITS OF FLOATING EXCHANGE RATES

"Given the events of the past decade, it is easy to be impressed by the resiliency of the present system. . . . Indeed in such an environment managed floating might well have been the only system that could have functioned continuously."—International Monetary Fund, Occasional Paper Number 30, July 1984.

"Exchange rate flexibility has made a positive contribution to external payments adjustment and to the maintenance of an open trade and payments system in a period of massive external shocks. It can help countries, especially the larger ones, to insulate their domestic price levels from inflation abroad, and can facilitate the pursuit of sound monetary policies geared more directly to domestic conditions. Furthermore, it is questionable whether any less flexible system would have survived the strains of the past decade, while attempting to preserve it would probably have led to increased reliance on restrictions on trade and capital flows."—Group of Ten, June 21, 1985 (Tokyo).

REMEMBER SOWETO

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mrs. COLLINS. Mr. Speaker, Monday, June 16, marks the 10th anniversary of a bloody day in the quest for human freedom. In 1976, the children of Soweto bled in the streets—victims of the horrors of apartheid. They had marched in protest to the imposition of Afrikaans, the language of their oppressors, in their schools. They began their protest peacefully; the South African police responded with tear gas and bullets.

Aroused by the brutality, blacks throughout South Africa took to the streets. In Kagiso, in Tembisa, in Alexandra, and in other black townships they marched. At the universities at Turloop and Zululand they marched. In every case the police guns spit their death, and unarmed demonstrators laid in the streets. In those few days, hundreds died.

The Soweto massacre exposed the ugly, rotten core of apartheid. The world could now see the bullets and whips that propped up white supremacy. They could also see that the blacks of South Africa were tired of waiting for change; they now demanded it.

Soweto marked the beginning of the end for state sponsored racism in South Africa; an end which has not yet come, but which grows nearer every day. Whether this change will be violent or peaceful is up to Pretoria. So far they still choose their guns and whips.

Blacks want peaceful change, but their marches are met with repression and mass arrests. Detained demonstrators are brutally tortured. Already, Pretoria is moving to crush the protests that will surely come this Monday. New laws are being considered which will give their security forces vast new powers to crush dissent. Under the new laws, blacks can be arrested, detained incommunicado, interrogated without warrant, and imprisoned for up to 6 months without charge. Property can be searched and seized without cause and curfews imposed by petty officials. Police will be granted virtually unlimited power to use lethal force. Such is Pretoria's response to peaceful change.

But the days of apartheid are numbered. South African blacks cry out for change, they insist on justice. No longer will they sit still for oppression. Whites, too, have joined the fight—those that now see the evil. Business leaders are calling for an end to apartheid. Young Afrikaner men are refusing military service. White university students are marching in opposition to Pretoria, some being beaten by the same whips and clubs formally reserved for blacks. Change is coming, but what form will it take?

A recent report to the Commonwealth nations says that without quick action, South Africa could be confronted with "the worst bloodbath since the Second World War." Surely, the time for peaceful change is rapidly slipping away.

The United States must take an active role in pushing for peace. Pretoria must know that it has lost the support of America. They must be shown that this nation stands for freedom and justice, not whips, chains, and torture. I urge my colleagues to join with me in recognizing the sacrifices of Soweto and the quest for freedom in South Africa. I also call on Congress to impose sanctions on South Africa in order to show the Afrikaner regime that America can no longer tolerate its injustice. President Reagan's policy of quiet diplomacy has only made Pretoria more intransigent. Now is the time for action.

Finally, I call on the Afrikaner government to face reality and allow peaceful change while there is still time. Your weapons are failing you. No longer can you rule by force alone. Wise decisions now could result in a just, multiracial South Africa. Ultimately, only the Afrikaners can prevent the chaos of civil war. Pretoria, the choice is yours.

NATHAN'S FAMOUS' 70TH ANNIVERSARY—FROM HUMBLE START, NOW TOP DOG

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. BIAGGI. Mr. Speaker, there is no doubt that 1986 is a year for celebration. On July 4, fireworks will light up the sky when Americans celebrate the 100th birthday of our great national symbol of freedom, the Statue of Liberty.

On June 18, however, New Yorkers will be celebrating the birthdate of another historic symbol of pride and opportunity, Nathan's Famous. Nathan's Famous, quintessentially the flavor of New York, celebrates its 70th anniversary since its birth in a small and cluttered hot dog stand on Surf Avenue in Coney Island.

To New Yorkers, the term "hot dog" is synonymous with Nathan's. For its hot dogs and decor, for operating and serving the public continuously for 70 years, for making this the longest running business of any of the fast food chains in the world, Nathan's Famous has earned its title.

Over the past 70 years, three generations of the Handwerker family have carried on the traditions set down by its founders, Nathan and Ida Handwerker, to provide Nathan's patrons with both quality food at moderate prices, devoted customer service, and not least of all, the fun for all who come to its portals.

Nathan's glorious history began on a scorching day in 1916 when Nathan and Ida Handwerker opened their small and cluttered hot dog stand on Surf Avenue and sold their all beef frankfurters, flavored with Ida's secret blend of spices, for 5 cents a piece.

Nathan and Ida had come to this country through the gates of Ellis Island like so many before them. They had come to America as poor immigrant youngsters from Poland and worked side by side as hot dog roll slicers in Coney Island.

The couple became friends with Eddie Cantor and Jimmie Durante, who were then singing waiters at Coney Island. The two future stars urged Nathan and Ida to open up their own little stand and sell those "red hots" for 5 cents which was half the price of their former employer. So, the young couple left their jobs, invested their life savings of $300 and opened the stand.

Now 70 years after the humble start, Nathan's Famous is a legend in its own time. Nathan's is famous for the millions of people who have flocked to its doors for more than three generations. These people represent the typical cross-section of America. The man on the street and his family, school children, teenagers, heads of state, political dignitaries and powerful leaders, and famed celebrities from the worlds of entertainment, sports, business, and professional life all meet on common ground at Nathan's Famous. During our country's Bicentennial year, a case of Nathan's hot dogs were delivered to Queen Elizabeth II and Prince Phillip on the Royal Yacht Britannia, which was berthed in New York Harbor during Operation Sail. That very same day, Nathan's hot dogs were enjoyed by children at a Bicentennial party in Lower East Side orphanage home. And the next day, those "red hots" were handed out to visiting politicians at a lawn party at Gracie Mansion.

Nathan's Famous is more than just a hot dog. Nathan's are made of lean, high protein finest grade 100 percent U.S. Government beef, free from fillers and starches, and they still contain Ida Handwerker's original secret blend of spices that have set Nathan's aside from any other hot dog in the world.

Nathan and Ida's son, Murray, now chairman of the board and president of Nathan's Famous, Inc., has been the guiding executive of the chain for the past 36 years. As son of the founders, Murray was practically raised at the chain's flagship store in Coney Island. A huge old fashioned bread box was his playpen. Murray's parents instilled in him a unique work ethic. His ever constant credo is "total involvement." Nathan's Famous unique historical background has helped earn its famous reputation by showing that industry must be concerned with what is happening in its communities, from food tastes, employment patterns, changing moods, delivery to the consuming public and what it demands from its purveyors. Murray Handwerker's great expertise and public awareness in following those rules has led him to call Nathan's Famous a culinary symbol of American democracy.

On June 18 Nathan's will present the first in its gala 70th anniversary series of events, a gigantic entertainment show and street party and carnival in the heart of Times Square, on the famed "Island" between West 43d and 45th Streets. At some point in the day, Nathan's huge Times Square emporium will serve the chain's 730 millionth hot dog. At that moment, bells will ring, sirens will sound, and some lucky person biting into this milestone hot dog without doubt will experience one of the most exciting and rewarding moments in his or her life.

As Nathan's Famous celebrates its 70th birthday, I wish to salute the Handwerker Family for bringing this institution to us in New York, as well as to the surrounding States. I remember as a child saving pennies to buy a "red hot" and there are many times now as an adult when I long for the taste of a Na-

than's grilled hot dog served on the boardwalk of Coney Island.

Nathan's Famous has a great reason to be proud as we join in the celebration of its 70th anniversary next week. This year, when we celebrate the greatness of our Nation, when we join together deep in national spirit, and when we call to mind those people whose lives remind us that the spirit of liberty still lights the world, we can call to mind the modest beginnings of Nathan's Famous. America is the land of freedom; it is the land of opportunity. The dreams of immigrants for the last 100 years have been the same—to find liberty, to find opportunity and prosperity. Many have taken risks; many have failed. Nathan's Famous, Nathan and Ida Handwerker, their son Murray, and his sons, Kenneth and William are among those who have succeeded, and it is my pleasure and my privilege to wish them hearty congratulations and continued success. They have made Nathan's Famous the American dream.

BOB McGLOTTEN: FIGHTING TO HOLD THE LINE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. LELAND. Mr. Speaker, last Monday, the Washington Post printed an article about an individual who is held in great esteem by many of my colleagues, Bob McGlotten, director of the legislative department of the AFL-CIO. Mr. McGlotten is an outstanding individual whose commitment and dedication to the working people of this country is an inspiration to us all. I salute his tireless efforts and am pleased to submit this article for the RECORD.

The article follows:

[From the Washington Post, June 2, 1986]

BOB MCGLOTTEN: AS LABOR'S TOP LOBBYIST, FIGHTING TO HOLD THE LINE

(By Spencer Rich)

About 12 years ago, the late Clarence Mitchell, then one of the rare black lobbyists working the Capitol Hill corridors of power, came to testify at a civil rights hearing chaired by an old-style southern senator.

Mitchell, representing the NAACP, was scheduled to appear early, but the senator found one reason after another to slip white witnesses in ahead of Mitchell: This witness had to make a plane; another had to go back to the office. After two or three hours, Mitchell, angry but determined to keep calm, was allowed to appear—last.

For decades, that was a way of life for black lobbyists on Capitol Hill. They were few, they usually focused on civil rights issues, and they often faced insensitivity, humiliation and barriers.

Today this is changing, and Robert M. (Bob) McGlotten is evidence of the change. At 48, he has just become the first black named to one of the most influential lobbying jobs in the nation, representing millions of people—most of them white.

McGlotten is the new director of the legislative department of the AFL-CIO, which despite membersip losses in recent years remains the most powerful social welfare lobbying force in the country. The American Federation of Labor and Congress of Industrial Organizations has 13.6 million members, numerous political action committees run by itself or its 99 international unions, and large numbers of volunteer political workers.

Civil rights, an area in which McGlotten has a lot of experience, is an important part of his legislative assignment on Capitol Hill. But he is also a labor man down to his bones, working on an array of issues that he believes affect all workers, white and black:

International trade problems and the threat they represent to American jobs. The effect of tax revision on low- and middle-income workers. Budget allocations for public services. Improvement of the minimum wage. Strengthening the bargaining rights of unions and the prevention of what the AFL-CIO sees as legislative union-busting. Protection of Social Security, unemployment insurance and Medicare benefits. Improvement of pensions, workplace health and safety, job training.

McGlotten was raised in an Italian neighborhood of South Philadelphia that had only a sprinkling of blacks. His father was a teacher in Delaware and then a chef in Philadelphia. McGlotten attended the public schools and then St. Joseph's College, studying industrial relations, and the University of Pennsylvania, studying law. He has a law degree but has never practiced.

His first job was as an industrial relations trainee in the Philadelphia subway and bus system. Later he worked for the Philadelphia transportation workers Local 234; for the AFL-CIO Council of Philadelphia as an organizer for the Sulfite, Pulp and Paper Workers and the American Federation of Teachers; and for the Rev. Leon Sullivan, a black leader and organizer of job programs for minorities.

In the late 1960s McGlotten spent three years in the national AFL-CIO civil rights department here, working to get minority participants into building trades jobs, then spent two years at the AFL-CIO's Human Resources Development Institute working on job training and affirmative action programs. Next came a spell as special assistant to Labor Secretary Peter J. Brennan. He joined the AFL-CIO legislative department in 1974.

As director of the legislation department, McGlotten has seven AFL-CIO lobbyists working directly under him, plus the assistance of various AFL-CIO departments specializing in subjects such as Social Security. He also can seek the help of lobbyists from constituent unions and other labor groups. Every Monday when Congress is in session, McGlotten meets with about 60 lobbyists from 25 to 30 affiliated unions to exchange information and discuss strategy.

For 12 years, he has been a presence on Capitol Hill, huddling with Senate Majority Leader Robert J. Dole (R-Kan.), Democratic leaders Sen. Robert C. Byrd (D-W.Va.) and Rep. James C. Wright, Jr. (D-Tex.), and a host of others of both parties on the major bills.

McGlotten lobbied heavily for a trade protection bill that was passed by the House over presidential opposition in May. "The biggest issue for labor now is trade—the question of fairness," he said in a recent interview. "We want to protect our markets from unfair trade practices, whether it's dumping by others or not allowing us to export goods to other countries." Labor believes, he said, that the administration is not doing enough to combat practices by other countries that are wiping out millions of American manufacturing jobs.

Tax revision is another major issue for the AFL-CIO, and while the organization does not endorse all provisions of either the House bill or the Senate committee bill, it supports both versions generally, in part because they would "lower the burden of taxes on low-income and middle-income people, close loopholes and shelters that have no economic significance in the real world." And the AFL-CIO strongly opposed taxing workers on the value of premiums for health insurance and pension contributions paid by their employers. "We won on that," McGlotten said.

As Congress begins to focus on the 1987 budget, the AFL-CIO is striving for more money for grants to communities for basic services, and to hold the line on funding of basic federal programs. "After all, they don't have to gut the occupational safety and health laws to kill them—just cut funds and there's nobody to administer them," McGlotten said.

The AFL-CIO is one of the most powerful groups in the Save Our Security (SOS) coalition of more than 100 organizations opposed to cuts in Social Security and Medicare, and in the Health Security Action Council. "There are shifting coalitions on other matters—it depends on the issue," McGlotten said.

He said his activities and the political action committees that make contributions to candidates are only "a small part" of labor's political clout. "The important part is that our members are willing to participate in politics at the grass-roots level. Our members talk to the members at home. We're able to really mobilize in almost every congressional district in the country."

The AFL-CIO is also a major participant in the Leadership Conference on Civil Rights, a coalition of 185 labor, black, senior-citizen, women's, church, disability and social action groups that spearhead civil rights action.

But McGlotten noted the change in recent years that has seen black lobbyists move into areas other than civil rights. "The number of blacks in lobbying jobs has increased since I first started in 1974," he said. "Blacks are a part of society and most politicians understand that. Institutions are picking their best lobbyists to represent them, and if they're black, they're black."

McGlotten quickly listed lobbyists and legislative analysts who are black and are working not for civil rights groups but for labor and business organizations on general legislation: Gene Casraiss, United Auto Workers; Calvin Johnson, AFL-CIO; Kimberly Parker and Mike Reid, American Postal Workers Union; Peggy Bracy Brown, American Federation of State, County and Municipal Employees; Earl C. Robinson, International Association of Machinists; Dave Claxton, United Food and Commercial Workers; Stacey Mobley, du Pont; Wendell Holloway, Ford (now on leave to run for Congress); Freddie Lucas, General Motors.

"In my years of lobbying, I've never known a member to shut the door because I was black," said McGlotten. "This is 1986, and we're talking about issues that affect all workers, black and white. Society has changed."

McGlotten does not asset that the world of 1986 is completely without dislike or prejudice, because "the general attitudes out in the public apply in the Congress, and you instinctively know if someone has an attitude" against blacks. "But as far as closing the door, I haven't found it.

"In fact, there's more hostility in some quarters because you're from labor than because you're black."

NUCLEAR PROLIFERATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1986

Mr. LAGOMARSINO. Mr. Speaker, on any given day, one can pick up the newspaper or turn on the TV and hear about the issues of arms control and nuclear weapons. While much attention has been focused on the allied and Soviet nuclear weapons stockpiles, little attention is devoted to the equally, if not more serious, problem of nuclear weapon proliferation. Fortunately, access to nuclear weapons is still limited to a few nations. It is our duty to insure that the situation remains this way and that we keep the "nuclear club" very exclusive.

The consequences of not controlling nuclear proliferation could be deadly. It is a known fact that Colonel Qadhafi, the world's premier terrorist, continues in his quest to obtain nuclear weapons. Consider the implications if he or some terrorist organization he supplies like Abu Nidal or the radical groups in Europe obtained the bomb. Already the world has been subjugated to brutal, deadly terrorists that have access only to small conventional weapons. It is very frightening to even think about what terrorists could do with nuclear weapons. All of us would live under the threat of nuclear blackmail. The destructiveness of a nuclear device is so great that the risk of using counterterrorist forces, as is our option today, is to high to bear.

I am confident that a current nuclear power would not supply the technology and materials necessary for constructing a nuclear device to a nation like Libya which presents a threat to the world. The danger of nuclear proliferation lies in third party transfers. The more nations that join the nuclear club, the more sources terrorists or unstable governments have from which to obtain a bomb. While we may enforce strict conditions on the export of nuclear technology and materials, and "new" members of the nuclear club may not. By limiting the nuclear club to its current membership, we will help insure that third-party-type transfers cannot exist.

Thwarting nuclear proliferation also helps keep regional conflicts limited. Both Iraq and Iran have been trying for years to obtain nuclear weapons. Both nations have shown their willingness to use any means available including chemical warfare and Kamikazi-type human waves to advance their position in their war. Unfortunately, I fear that if either nation obtained a bomb it would use it indiscriminately. As you know, there are many other regional conflicts that could be exacerbated by the introduction of nuclear weapons. The use of nuclear weapons in a regional conflict would also draw the other nuclear powers, including the United States, into a conflict they will have been trying to avoid.

Thus, it is important that we educate the public regarding this serious issue and strive to halt further nuclear proliferation. It is our duty to make the world a safer place for us, our children, and future generations.

BALTIC FREEDOM DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. HOYER. Mr. Speaker, I rise to bring to the attention of my colleagues that tomorrow, June 14, 1986, has been designated Baltic Freedom Day. As the Cochairman of the Commission on Security and Cooperation in Europe, I share the commitment of the Baltic people to human rights and support their determination to regain the independence of their homelands. I want to commend my colleagues and friends, Representatives BRIAN DONNELLY of Massachusetts, BILL CARNEY of New York, and DON RITTER of Pennsylvania, who is also a valued member of the Commission, for introducing House Joint Resolution 500, which I understand was signed by the President yesterday. I know that they have worked for many years not only for the freedom of the Baltic nations but have also been deeply committed to human rights issues throughout their careers.

The Baltic States of Lithuania, Latvia, and Estonia were once thriving sovereign nations, established in the spirit of Woodrow Wilson's commitment to the principle of self-determination. These states, bordering on the Soviet Union, were viable members of the world community and were recognized by the United States as free and independent republics. Their people enjoyed a strong sense of national culture and valued their rights as free citizens. The infamous Molotov-Ribbentrop Pact of 1939, however, consigned the Baltic States to the Soviet empire, eventually resulting in the forced incorporation of each Baltic State into the Soviet Union. Beginning in 1941, the Soviets instituted a program of mass persecution in these nations, deporting, arresting, and executing thousands of Lithuanians, Latvians, and Estonians. Over a million Russians were sent to the Baltic States in an attempt to break the national spirit and pride of these peoples.

Soviet determination to complete the Russification of Lithuania, Latvia, and Estonia remains in full force today. A massive influx of Russian immigrants has decreased the percentage of native Balts in each of the three states, with the Russian population running from 10 percent in Lithuania to 30 percent in Latvia and Estonia. The Russian language is rapidly becoming the basic language in use in the republics, a situation which could conceivably result in the extinction of the Baltic peoples' native tongues. Furthermore, numerous examples of flagrant violations of the Helsinki Final Act continue to occur every year in the Baltic States. I would like to highlight just three well-known examples.

The case of Balys Gajauskas, a member of the Lithuanian Helsinki Monitoring Group and a Helsinki Commission nominee for the Nobel Peace Prize in 1979, is one of the most tragic in a long series of human rights violations that have been taking place in Lithuania in recent years. Immediately after World War II, Mr. Gajauskas was sentenced to 25 years in prison for his service with Lithuanian partisans in their struggle against the Soviet state. He is currently serving a 10-year sentence in a labor camp to be followed by 5 years of internal exile for the crime of anti-Soviet agitation and propaganda. It is unconscionable that one man whose only "crime" is to seek civil and religious rights for inhabitants of his homeland should be kept in jail for 33 years out of his 59, and then, when his health has been seriously impaired by incarceration, should not be allowed to at least leave his occupied homeland and join his relatives abroad.

In direct violation of the Helsinki Final Act's provisions on freedom of conscience and religion, Janis Rozkalns is being persecuted in Latvia for both his religious and his political beliefs. A Baptist who staunchly supports human rights, Rozkalns has been sentenced to 5 years in a strict regime labor camp and 3 years in exile for activities against the regime including his involvement with the Latvian Independence Movement. Rozkalns' treatment while in prison has been particularly inhumane: his sick wife was refused her annual visit in 1985 and Rozkalns has been kept from his 3-year-old twin children.

Another poignant case is that of Kaisa Randpere, the youngest refusenik in the Soviet Union. Only 3 years old, Kaisa was left behind in her native Estonia when her parents sought asylum in Sweden in 1984. Her mother and father have made repeated applications for an exit visa but, despite widespread support in the West, their appeals have been consistently denied by the Soviet authorities. Refusing to allow Kaisa to rejoin her parents reveals the blatant disregard of the Soviets for the Helsinki Final Act's family reunification provisions.

These cases are just three examples of the injustices suffered by the Baltic peoples since the initial Soviet invasion in 1940. Yet despite jail sentences, despite deportations, despite attempts to crush their native languages and cultures, the people of Lithuania, Latvia, and Estonia remain committed to the same ideals of liberty and democracy that are the foundations of our own American system. The Government of the United States does not and will not recognize the forced incorporation of the Baltic States into the Soviet Union. Baltic Freedom Day provides this Congress and the American people with the opportunity to demonstrate our commitment to the full restoration of independence for the people of the Baltic States.

TRIBUTE TO PENNSYLVANIA STATE ASSOCIATION OF BOROUGHS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. MURPHY. Mr. Speaker, I am pleased to honor the Pennsylvania State Association of Boroughs for its 75 years of service to its members. The celebration will be held from June 22 through June 25, 1986.

Founded in 1911 with the primary goal of strengthening the quality of local government, the Pennsylvania State Association of Boroughs has become the third largest municipal organization in the Nation. It is a nonprofit, nonpartisan group. From its Harrisburg, PA, headquarters it offers membership with open arms to any borough or incorporated town, including those who have adopted home charters.

The extreme effectiveness of the Pennsylvania State Association of Boroughs comes from the sense of unity and cooperation which its staff members share. Skilled in the nuances of legislative policy, the Pennsylvania State Association of Boroughs often represents boroughs before such institutions as the Pennsylvania General Assembly, State and Federal agencies, and those of us here assembled in the U.S. Congress.

One of the association's primary purposes is to provide a continuous education progam, which it maintains through annual and biannual conferences. The association interprets proposed bills, acts, and resolutions, and then passes their findings on to its members through compiled literature. The publications provide an integral asset to the enactment of effective and efficient local government.

With such a venerable record of service behind them, the Pennsylvania State Association of Boroughs is well prepared to guide its members into an ever more optimistic future.

I am proud to have been able to call to your attention the ongoing excellence of the Pennsylvania State Association of Boroughs, brought to the fore by this 75th anniversary celebration.

CONGRESSIONAL GOLD MEDAL FOR JAN SCRUGGS, ROBERT DOUBEK, AND JACK WHEELER

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. FIELDS. Mr. Speaker, on June 11, the House voted on H.R. 2591, to award the Congressional Gold Medal to Jan Scruggs, John P. Wheeler III, and Robert Doubek for their role in the construction of the Vietnam Veterans Memorial. Two-thirds of those Members present did not vote in favor of the legislation, leading to the defeat of this measure under suspension of the rules. The initial support for the award of Congressional Gold Medals to these three individuals had obviously waned.

Although I did sign on as a cosponsor of H.R. 2591 last February, I voted against this measure when it was considered by the full House. Thoughtful reflection of the purpose of the Congressional Gold Medal and that which it symbolizes to the recipients and to each American citizen led me, and a number of my colleagues, to seriously reconsider our original support for this legislation.

The construction of the Vietnam Veterans Memorial, threatened by debate and bitter controversy, was indeed a significant accomplishment. And while Mssrs. Scruggs, Doubek, and Wheeler greatly contributed to the initiation and completion of this project, to award medals to these three individuals would be to exclude and neglect the dedicated roles of the 58,000 killed in Vietnam and for whom the memorial was designed to honor. Further, H.R. 2591 would slight the invaluable role of those actively participating in and supporting the memorial's construction as well as those who acted to enhance its original design.

Awarding three individuals Congressional Gold Medals for a job well done is not fair to the myriad of Americans involved in the Vietnam Veterans Memorial project, nor is it in keeping with the historic standards which have been set for the Congressional Gold Medal. The medal, which has traditionally been associated with "lifetime public and patriotic service," "selfless dedication," and "valor or extraordinary behavior" clearly rests with those honored by the Vietnam Veterans Memorial rather than its designers. For this reason, I voted against H.R. 2591 when considered by the House of Representatives.

TRIBUTE TO MORRIS STUTMAN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. SOLARZ. Mr. Speaker, I would like to pay tribute today to an outstanding housing professional who has made some extraordinary contributions in the development and management of housing for the elderly of my district and the city of New York.

In 1972, just 14 years ago, Morris Stutman joined the staff of the Jewish Association for Services for the Aged as director of housing development and management. He had long demonstrated his ability as a leader in housing. Shortly after 4 years of military service, a sergeant in the tank corps of the U.S. Army, after the arduous campaign in the South Pacific, the Philippines, and Okinawa during World War II, Morris Stutman came back home to serve with the New York City Housing Authority, first as housing assistant and then as project manager.

Subsequently, from 1953 to 1972, he served with the Housing Management Bureau in the New York State Division of Housing and Community Renewal. He was responsible for management supervision of 9,306 low-rent, limited-dividend and limited-profit projects with 145,588 apartments throughout the State of New York.

In his 14 years with JASA, he has overseen the development and management of seven facilities for older people with a total of 2,115 apartments and more than 2,500 residents over 62 years of age. The residences include:

Scheuer House of Coney Island;

Brookdale Village;

Scheuer House of Manhattan Beach;

Scheuer House of Brighton Beach;

Evelyn and Louis A. Green residence, Far Rockaways; and

Evelyn and Louis A. Green residence at Cooper Square.

In addition, JASA manages Friendset Apartments in Coney Island.

The housing facilities represent a new development in the care of the elderly: Housing with supportive services. Each facility provides a housing manager and community services. There are senior citizens centers in most of these facilities; tenants associations meet regularly with management to discuss problems of management and individual tenants. The more recently built facilities also provide apartments for younger handicapped persons. The average age of tenants is 80 and about 20 percent are over 85.

It is a tribute to Morris Stutman's great professional skill that he was able to guide development of these facilities, at a cost of $80 million, to completion. This required management and coordination of complex government mortgage loan procedures, supervision of architectural planning and construction, furnishing and equipping, rental and recruitment of a housing management and maintenance staff. He is highly respected by officials of the city, State, and Federal housing bureaus.

It is not easy to be a good landlord, even of a nonprofit agency like JASA. There were normal management problems: mechanical breakdowns, roof and wall leaks, difficult tenants' problems. Through all the years, Morris Stutman was able to remain calm, warm and sensitive to the needs of the elderly residents of JASA's facilities.

Morris Stutman made a major contribution to JASA's growing network of services in New York City, Nassau and Suffolk Counties. His work will benefit thousands of elderly people. The elderly residents of JASA's housing facilities will enjoy their later years in lovely apartments, with services which can help them remain in their own homes and avert institutionalization.

Morris Stutman's contribution at JASA will be felt for many, many years to come. I salute Morris Stutman for a job well done and wish him continued health and happiness in his retirement.

PROFESSOR SAYE CELEBRATES 100TH BIRTHDAY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. KANJORSKI. Mr. Speaker, today Prof. Isaac G. Saye of Nanticoke, PA celebrates his 100th birthday. I am pleased to join with his friends and family in wishing him a happy, healthy birthday.

Isaac G. Saye was born in Nantyglo, South Wales on June 12, 1886 to Henry and Catherine Saye. At the age of 9 years, he began his lifelong devotion to the study of music. He graduated from the London College of Music and the Royal College of Organists in 1913, the year he married Mary Hannah Jones. Isaac and Mary were blessed with three sons: William, Idris, and Mostyn.

In 1922, the Saye family immigrated to America. He received his Bachelor's and master degrees from the Sherwood School of Music in Chicago, IL, where he became a member of the faculty.

Professor Saye has been actively involved in the community affairs and cultural life of his adopted home in Nanticoke, PA. He organized

and directed the 100 voice Nanticoke Community Choir, and served as music director for numerous grand operas, oratorios, and religious cantatas. He taught piano, organ, and voice at the Nanticoke Methodist Church, for which he served as music director for 21 years. Until his retirement at the age of 93, Professor Saye served 31 years as director of music for the Nebo Baptist Church of Nanticoke. For his outstanding work in church music, Professor Saye received an Honorary Doctor of Music Degree from Ohio Christian College. He is a 55-year member of the Masonic Lodge of Nanticoke and the Knights of Pythias.

Mr. Speaker, Prof. Isaac G. Saye's century of experience has enriched his community in numerous ways. I am proud to bring to your attention this remarkable man.

A SALUTE TO THE HUACHUCANS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. STOKES. Mr. Speaker, my fellow Representatives, I ask you to join me in paying tribute today to a very special group of veterans who loyally and admirably served our country in World War II.

February 21, 1986, marked the 45th anniversary of the largest number of volunteers and draftees inducted into the Army from Cleveland, OH, located in my district, under Selective Service. The immediate destination was Fort Huachuca, AZ, where, shortly after their arrival, a club was organized. The group labeled themselves "The Huachucans." The Huachucans has remained in existence since 1941.

Mr. Speaker, after the Japanese attack on Pearl Harbor on December 7, 1941, many Huachucans were rapidly promoted, many cadres were formed, and many commissions earned. Huachucans were soon to be found throughout Europe and the Pacific. Some will remain there for eternity.

Many resolutions, commendations, and letters of tribute have been received by the Huachucans through the years, and I am very pleased to add to that list of honors received by this brave group of citizens who willingly risked and gave their lives for our country. I salute the Huachucans for their service to America and commend the heroism of those who fought to preserve the principles upon which this great Nation was founded.

CONTINUE IRA

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. TALLON. Mr. Speaker, in 1981 Congress enacted one of America's most successful financial plans—the universal individual retirement account. The IRA plan has produced retirement security for numerous middle-income families and boosted the Nation's savings rate.

Yet, the Senate last night voted by a slim margin to drastically restrict the IRA Program.

Today, I am introducing a resolution expressing the sense of the House of Representatives that the income tax deductibility of contributions to individual retirement accounts should be continued.

Over 28 million households have accumulated over $250 billion in IRA's. And the number of individuals starting IRA's continues to grow rapidly each year. With the future viability of the Social Security system increasingly uncertain, the IRA serves as an important source of retirement income and future security. The IRA is vital to everyone—every individual who can make a modest, regular contribution toward retirement. And these are savings that contribute to an American economy in real need of increased investment and capital.

Who could argue with a plan that increases economic growth and savings on a national basis and provides millions of American families with retirement security they might otherwise never gain? Yet the Senate Finance Committee's tax reform proposal would eliminate the deductibility for individual retirement accounts, for those with any other pension plan.

Like millions of Americans, I believe this is a proposal that will result in great costs to individual families and our national economy for only modest returns. The fate of IRA's is in many ways the fate of individual retirement security and the national rate of savings.

It appears that the Senate will soon pass a tax reform bill. I urge my colleagues to cosponsor the resolution and send a clear message to members of the Ways and Means Committee. The IRA is an important, vital savings and retirement instrument and should be promoted through continued deductibility.

SEE NO HUNGER, HEAR NO HUNGER, SPEAK NO HUNGER

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. PANETTA. Mr. Speaker, the tragedy of the President's statement on hunger is not simply that his own administration was responsible for wiping out the key Federal Nutrition Education Program which informed the hungry of the availability of food benefits.

Nor is it his mistake in asserting that we now spend more for nutrition programs than we did in 1981. In fact, counting for inflation, we spend half a billion less than we did in 1981, and there are 4 million more people living in poverty today than there were in 1981.

The real tragedy is that this President simply is not interested in the problem of hunger. When it comes to hunger in America, this President sees no evil, hears no evil, speaks no evil.

No, we do not have people starving in the streets as there are in Calcutta or in Ethiopia. But what we do have is 16,000 elderly Americans on a waiting list for a private feeding program in Detroit.

What we do have is thousands of hungry Americans in Houston, San Francisco, Birmingham, and Boston who are not served by current programs.

We do have 7 million pregnant and nursing women, infants, and young children who are denied access to the WIC Program because it is inadequately funded.

We do have 14 million people who lack access to food stamp benefits because of stringent administrative and program barriers.

We do have soup kitchens which, despite Herculean efforts, simply cannot handle the ever-increasing burden of hungry families—yes, hungry families—who simply do not receive adequate assistance.

How can the President say he has trouble finding hungry or undernourished people? They can be found throughout this country, including right here in Washington, DC, a few blocks from the White House.

Hunger in this country is not to be excused; it is not to be ignored; it is not to be justified. It must be conquered.

Mr. President, holding hands on television to combat hunger made for great public relations. But all the good PR in the world will not solve the problem of hunger, nor will it mask your own apparent insensitivity to the problem.

If you really want to solve the problem, please put the weight of your administration behind the Hunger Relief Act of 1986, which I have introduced along with Senator KENNEDY, and which attempts to provide a real solution to the problem of hunger. Real programs and a real commitment are what we need, not public relations or ignorance.

BERT GAECHTER, BERGEN COUNTY LABOR'S MAN OF THE YEAR

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. TORRICELLI. Mr. Speaker, I rise today to honor Bert Gaechter. On June 14, Bert will be honored by the Bergen County Central Trades and Labor Council AFL-CIO as Labor's Man of the Year.

Bert Gaechter has held many distinguished positions and accumulated a string of accomplishments during his long period of service for labor. He began his career after serving in the U.S. Navy, joining Ironworkers Local 483 of Hackensack, NJ in 1946 as an apprentice ironworker. He gained journeyman's status in 1949.

Bert has devoted countless hours in service to his union. While working as a full-time ironworker, Bert served his local union in various elected positions. He has had the honor of serving as sergeant at arms, delegate to the Bergen County Building Trades Council, trustee to the pension members assistance fund and as a member of the examining committee. In addition, Bert has been selected twice to serve on the council's executive board.

As president of the Bergen County Building and Construction Trades Council AFL-CIO and business agent of the Iron Workers Local 483 AFL-CIO, Bert's untiring efforts and inno-

vative programs have helped to strengthen his union for his fellow workers.

The many achievements of Bert Gaechter would fill several volumes. He is truly a man deserving of the honor of man of the year. His spirit and dedication deserves to be recorded in history as part of the CONGRESSIONAL RECORD.

It is with great honor and pleasure that I join with so many of Bert's friends in honoring him with this distinguished award.

OCTOBER AS SPINA BIFIDA MONTH

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. MAZZOLI. Mr. Speaker, spina bifida, a condition which results from the failure of the spine to close properly during prenatal development, is a most common birth defect, occurring in 1 of every 1,000 births.

Many of the March of Dimes and Easter Seal Poster Children have spina bifida. Unfortunately, this condition remains little known and little understood.

Last year, I introduced House Joint Resolution 179, designating October 1985, as National Spina Bifida Month. The resolution was cosponsored by 235 Members of the House and it subsequently was unanimously passed by the House and Senate and signed into law by the President.

I am introducing a resolution again this year to designate October 1986, as National Spina Bifida Month, and I urge my colleagues to join me in support of this resolution.

Proper care facilities and specialized professionals to provide the most effective treatment for children with spina bifida are limited nationwide.

It is, therefore, fitting that there be a Federal proclamation designating October 1986, as National Spina Bifida Month. Such a proclamation will increase public awareness of the problem and stimulate the interest and concern needed to increase research and hopefully lead to the discovery of a cure.

LION'S JOURNEY FOR SIGHT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. GILMAN. Mr. Speaker, permit me to call to the attention of my colleagues the good works performed by the Lions and Lioness Clubs in the city of Middletown and in the town of Wallkill, NY.

The year-round activities of the Middletown Lions and the town of Wallkill Lions are about to reach a climax, as they again sponsor "The Lions Journey for Sight." People of all ages will run, walk, or bicycle a 20 kilometer course in support of our sightless. The funds raised by the Lions in this manner are used for research in our war on diabetes, the Nation's greatest cause of blindness, as well as other sight-related problems.

The Middletown and town of Wallkill Lions are affiliated with the Lions Clubs International, a worldwide organization of over 1.35 million members, and some 35,000 affiliated clubs which perform many worthwhile nationwide projects—including citizenship and educational programs, environmental activities, speech actions and work with the deaf, international understanding programs, international youth camp programs, and activities designed to bring all of us closer together.

However, it is due to their unstinting and unselfish work on behalf of the sight impaired that the Lions have earned their greatest reputation and acclaim.

Mr. Speaker, I urge all of our colleagues to join in wishing the Lions success in their forthcoming "Lion's Journey for Sight."

THE 35TH ANNUAL FLAG DAY PARADE AND OBSERVANCE IN QUINCY, MA

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. DONNELLY. Mr. Speaker, 1986 has been designated by law as the "Year of the Flag," an occasion to refresh our Nation's interest and appreciation of the flag and what it represents.

The legislation designating this special year of commemoration calls on the people of the United States to observe it with appropriate ceremonies and activities. Communities across our great Nation would do well to follow the example of Quincy, MA, which this Saturday holds its Thirty-fifth Annual Flag Day Parade and Observance.

The key to the success of this particular event is the involvement of the youth of the community. The Koch Club of Quincy, which has sponsored the observance throughout its 35-year history, invites youth organizations from around the city to participate. Hundreds of young marchers parade in the uniforms of their groups: The Patriots' Trail Girl Scout Council, the South Shore Council Camp Fire Girls, Boy Scouts, Cub Scouts, Quincy Youth Soccer League, Quincy Track Club, St. Ann's Basketball Leagues, and the Koch Club's Boys Baseball and Girls Softball Leagues of the North Quincy, Broadmeadows, Montclair, and West Quincy districts.

Each young marcher carries an American Flag. Those flags remain theirs to keep. Through the years, 25,000 American flags have been distributed to the boys and girls of Quincy as a permanent reminder of their participation in the Flag Day event.

This stirring and colorful pageant is now instilling in a second generation of Quincy youth a deep pride and appreciation for the American flag and for our Nation.

THE SELECTION OF THE AGAWAM HIGH SCHOOL BAND TO PARTICIPATE IN TWO INDEPENDENCE DAY PARADES

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. CONTE. Mr. Speaker, I wish to take this opportunity to recognize the achievements of the Agawam High School band and color guard, which was selected to represent the State of Massachusetts in the Independence Day parades in Philadelphia, PA, and Washington, DC.

The award winning Marching Mohawks will represent their home State in the July Fourth Philadelphia Parade on July 3, 1986 and then will travel further south to participate in the sixth annual July Fourth National Independence Day Parade in Washington, DC. I would like to commend the band and color guard for their devoted pursuit of excellence.

Upon their return from competition in Virginia Beach, VA, the band and color guard began raising the $25,000 necessary to cover the full expenses of the trip to Philadelphia and Washington, DC. It is because of this type of personal dedication and effort to make this trip a reality that I am honoring these energetic and industrious students from Agawam.

I am particularly proud that my First Congressional District will be represented this year in such well-known Independence Day parades by the Agawam High School band and colorguard. There is no doubt that the Independence Day parades will benefit from the contributions of these fine young individuals.

I salute the Agawam High School band and Color guard for a job well done.

A SALUTE TO SEEGER HIGH SCHOOL WEST LEBANON, IN

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. MYERS of Indiana. Mr. Speaker, today I quote one of our Nation's great citizens, Thomas Edison who once said:

Show me a thoroughly contented man and I'll show you a failure.

It would be easy to become contented and complacent in a Nation such as ours. Often times we forget that it took a great effort of many courageous people to carve out this land we love. As Edison warned, complacency can be dangerous.

With a national debt of $2,031,667,000,000—$2 trillion, $31 billion plus—and growing by the hour, we can no longer afford to continue down a blind path without looking toward the future. Today I am happy to report that there are 14 students in west central Indiana who are committed to America and its future.

Those students, Roger Norris, Jae Ann Whitlow, Melanie Mann, Cristi Crum, Mark Killman, Debbie Claypool, Beth Waterstraat, Dick

Powell, Todd Briles, Scott Keller, Mike Stroud, Monty Eldridge, Kim Wilson, and Theresa Riley are fine examples of a new patriotic spirit that is working to keep America prosperous!

As a project in Wilma Shackleton's College prep eonomic class at Seeger Memorial Junior-Senior High School, in Warren County the students formed their own corporation. Selling shares of common stock to capitalize, they produced and marketed a product—ice cream.

The R-Team Ice Cream Co. elected a board of directors to guide the enterprise and began experiencing our free enterprise system firsthand. Ice cream cones sold for 50 cents, and after expenses were paid a net profit of $67.96 was raised. It is what the students decided to do with their profits that makes this small success story even more interesting.

After studying a chapter about taxes and debt, they decided that the profits should be used to help pay off the national debt. The students felt that America will be better off when our debt is eliminated. I am very proud to announce that the debt has just been lowered $67.96 due to the efforts of these fine students.

I take this opportunity to salute the students and teachers at Seeger High School for a job well done. Accepting their lead, I will offer my personal pledge to continue the fight to reduce the national debt.

HI-FAIRNESSEE GIRLS CLUB CELEBRATES 55TH ANNIVERSARY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. ORTIZ. Mr. Speaker, this year marks the 55th anniversary celebration of the Hi-Fairnessee Girls Club of Corpus Christi, TX. The Hi-Fairnessee Girls Club was organized in 1931 for two purposes—to honor high school senior girls and to organize activities during the year, thereby providing the youth of Corpus Christi with recreation. The club has been diligently carrying out its mission since its inception.

I commend the Hi-Fairnessee Girls Club on the efforts it has made to assist young women in working together and supporting one another in becoming better individuals. Throughout these 55 years of service many young women have greatly benefited from their experiences of friendship. Those same women have helped Corpus Christi maintain a high standard of living, and an attitude of caring. The name Hi-Fairness, chosen in 1931, signifies friendship—a trait as true of the girls today as it was of the founders of the club.

The club consists of girls from Roy Miller, W.B. Ray, and Incarnate Word Academy Schools. Throughout its distinguished history the girls of the club from these schools have successfully followed their motto to "Reach Your Goal." By reaching these goals the Hi-Fairnessee Girls Club has established itself as a distinguished organization benefiting not only its members but their community as well. Corpus Christi is a better community because of Hi-Fairnessee.

I congratulate the Hi-Fairnessee Girls Club on their 55th anniversary celebration and wish them continued success in the future.

PERSONAL EXPLANATION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1986

Mr. LELAND. Mr. Speaker, I was unavoidably detained off the Hill on official business during the rollcall vote on Congressman GARCIA's amendment to H.R. 1—rollcall vote 163—and the preceding quorum call. I was paired with my colleague from California, Mr. DELLUMS. Had I been present I would have voted "yea."

SENATE—*Friday, June 13, 1986*

(Legislative day of Monday, June 9, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable FRANK H. MURKOWSKI, a Senator from the State of Alaska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Eternal Father in Heaven, we thank You for the legislative wisdom that created Father's Day. Grant to all Members of Congress grace to keep faith with this celebration which they generated. Help all fathers to comprehend the consummate tragedy of a fatherless home—whether the father is absent or whether, though present, his priorities are elsewhere.

Father God, You began the human race with a father and mother. Their union was to image You to their family and posterity. What monumental tragedy when a father fails in his role! Forgiving Father, how many youth have fallen into waywardness? How many into drugs, alcohol, and sex and crime, how many in prisons—how many who live in the streets today—are victims of a father's failure to be a male model a lad could safely emulate? We pray for those whose lives are the tragic consequences of a father's failure and we pray that this Father's Day will be a time of restoration and renewal to all families. In Your name, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 13, 1986.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable FRANK H. MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. MURKOWSKI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority whip, the Senator from Wyoming, is recognized.

THE WORDS OF THE CHAPLAIN

Mr. SIMPSON. Mr. President, to begin, I always appreciate the words of the Senate Chaplain. He presents to us again today a lovely message about Father's Day. I will share a portion of that day with my own loving father this Sunday as he celebrates his 88th year of life this year. I am the beneficiary of his extraordinary teachings and love and affection—and discipline. I remember that, too. He was good at all of those. That is why I am a better person for it. He is a dear man.

SCHEDULE

Mr. SIMPSON. Well, we have business today: the two leaders with their standing order of 10 minutes each, special orders in favor of the following Senators for not to exceed 5 minutes each: MURKOWSKI, PROXMIRE, HUMPHREY, MATHIAS, SYMMS, CHAFEE, MELCHER, MCCONNELL, MATSUNAGA, and WALLOP; routine morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for not more than 2 minutes each, and following routine morning business the Senate will resume consideration of H.R. 3838, the tax reform bill. Pending is the Kasten-Inouye amendment on charitable contributions. A rollcall vote could occur as early as 10:45 a.m. on the Kasten-Inouye amendment. Votes can be anticipated throughout the day but not anticipated much beyond the hour of 4 p.m. because of various commitments on both sides of the aisle.

Then on Monday, it has been expressed and I reiterate, there will be no votes before 3:30 p.m. and no votes after 6 p.m. It is the intention of the majority leader to press on and, indeed, on Tuesday I would judge that all might anticipate a late session that day so that we can complete our work on the tax reform measure. As all of us as legislators observe progress, and we think progress is being made. I think Senator PACKWOOD and Senator LONG, as comanagers of the bill, are doing a superb and very patient job, and those in the amending process or thinking of the amending process are aware of their skills. It is kind of like wandering into a twin buzz saw blade when one comes into the fray with Senator PACKWOOD and Senator LONG.

So we have much to do on an important piece of legislation, and knowing our responsibilities we will meet that. I would reserve the remainder of the leader's time. I yield to my friend from West Virginia, the Democratic leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore (Mr. THURMOND). The able Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair, and I thank the distinguished acting Republican leader, Mr. SIMPSON.

FATHER'S DAY

Mr. BYRD. The Chaplain spoke of Father's Day. Scriptures tell us to "honor thy father and thy mother." Jesus, when he taught us to pray, taught us to say, "Our Father, which art in Heaven, hallowed be Thy name." The distinguished acting leader spoke of his own father, who was formerly a Member of this body. I remember Milward Simpson very well. He was a very congenial, amiable, likeable man, a good Senator. I have every reason to believe that he, indeed, has been a good father to his children. I am confident that he is exceedingly proud of his son, ALAN SIMPSON, who is a good Senator from the State of Wyoming and also a good leader and, likewise, a personable, affable man whom we like and respect very much.

SALT II REAGAN-SPEAKES DISCONNECT

Mr. BYRD. Mr. President, yesterday, White House Press Secretary Speakes made some clarifying remarks regarding what the President purportedly meant to say regarding SALT II restraints at the President's press conference the night before last. I did not think the President needed any clarification. What he said seemed to be very clear to me, and so the effect of the so-called clarification was confusion and confusing.

The President has said that "We will observe the constraints to the same extent that the Soviet Union does." And the clear upshot of all the President's statements, not only in his press conference the night before last but also in his May 27 statement, was that they were devoid of rhetoric such as

we have been hearing that "SALT II is dead," "SALT II is dead," it is "obsolete."

□ 0910

Mr. Speakes said yesterday, however, that the President's "decision of May 27 means that the SALT treaty limits no longer exist. SALT is dead. I mean, that's period."

I have expressed the hope repeatedly that the President's advisers will exercise the discipline and the responsibility not to try to lock him into concrete by appearing to put words in his mouth. I choose to take the President's words. I choose to take the President's words as he spoke them. He did not say SALT is "dead." If he meant to say that SALT is dead, he would have said SALT is dead.

So, for whom does Speakes speak? Does not the President speak for the President? Is Speakes speaking for Speakes? It was the President who was speaking, and it is clear that Speakes is not the President. I believe that the President speaks for the President.

So that should be enough for this administration's policy on SALT II restraints.

I renew my call of yesterday to Mr. Gorbachev to agree now to a summit meeting. That would set a serious process in motion to galvanize the arms control process. For our part, we need to promptly assess and respond to the latest Soviet proposal in Geneva, so that we can do all we can to move the process along.

The President's advisers do the President a disservice and the Nation a disservice if their goal is to derail the summit process and the arms control process and to reduce the flexibility of the President in these matters. Their rhetoric on killing the current restraints should end.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BYRD. I am happy to yield to the distinguished majority whip.

Mr. CRANSTON. In view of the double speak out of the White House and the uncertainty as to what the position is on this crucial matter of arms control, does not our leader feel that it would be appropriate for Members of this body, on both sides of the aisle, to seek to exert some leadership in this matter by considering measures that would give some advice to the White House on the need to find a way to sustain the SALT ceilings?

If those ceilings are no longer observed, the evidence seems to be quite clear that it will be to the advantage of the Soviet Union, not the United States, if a new arms race is suddenly launched. They would be the one to capitalize on that opportunity, if they so choose, and they would have many more weapons than we that could be swiftly deployed.

Mr. BYRD. I think Members on both sides of the aisle in this party feel that the President's advisers should not attempt to impinge upon the President's flexibility to adjust his policies if, in the interests of our U.S. security, it appears that such adjustment should be forthcoming. I do not believe they should attempt to lock the President into concrete.

I think the President's statements are very clear. Insofar as I am concerned, I will continue to listen to the President. He has not said that SALT is dead.

I hope that all Members, on both sides of the aisle, will join together in expressing the view—I think it is held by the American people—that the administration should continue to strive to restrain itself from exceeding SALT II limits, at least for now; that the President not close the door to the possible constructive Soviet movement in this area; that nothing be said or done at this time that would appear to cast a cloud on the negotiations that are going forward at Geneva; that everything should be done to encourage the Soviets to stay within the constraints of the SALT II limits; that every effort be made and intensified to move the Soviets to the summit and to impress upon them that it is in their interests and in the interests of peace in the world, as well as in our own interests; that the babble of voices at the White House discontinue; that they, the Soviets, stop waffling with respect to a summit; that we have a summit; and that we all work together to develop a workable, mutual, verifiable arms control agreement.

I think that the President is little served and the interests of obtaining an arms sale agreement that is mutual, verifiable, effective, and workable are little served by the cacophony of voices that continue to confuse not only ourselves but also our allies and, indeed, play into the hands of the Soviets and their PR efforts.

Mr. CRANSTON. The Senator from West Virginia and I know that leading Senators on both sides of the aisle are engaged in discussions regarding seeking an appropriate way to send a message to the White House and to the Nation of our concern about adhering to the SALT limits as long as the Soviets do. So let us pursue that matter.

Mr. BYRD. I agree with the Senator.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. BYRD. Mr. President, I wish to speak on another subject, and it will require a little more than 2 minutes, so I will refrain until later in the day.

I thank the Chair.

SENATE LEADERSHIP RELATIONSHIP

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia, the Democratic leader, for his remarks about my father, whom he did know and did serve with, and for his extraordinary courtesy to me as I have tried to "learn the ropes" in this particular job.

When I came to the U.S. Senate, my father said, "If you require training in the rules of the Senate, go to Senator ROBERT BYRD." I have on more than one or two occasions done that. I will probably do that a great deal more. He is the leading Senator, in both parties, with regard to his knowledge of the rules of procedure, and he has been most kind and extraordinarily gracious in sharing that.

Then, of course, the Democratic whip and I have shifted positions a couple of times with regard to the position of chairman of the Veterans' Affairs Committee. I have enjoyed his counsel and the remarkable relationship I have come to enjoy with him as we carried out those duties, and now in our duties as whip for our respective parties.

□ 0920

He is an extraordinary person and it is my pleasure to find him such a pleasant person to work with.

I just had to make a comment as we "speak of Speakes," and we "misspeak," perhaps, as we speak of Speakes; with another play on words, from the pillars of salt, if I may, and the extraordinary thing is that when I came here we talked a lot about SALT.

If SALT is dead, it died right here in the U.S. Senate because it was never ratified by this body years ago. I would not want that to escape the attention of the American people.

If SALT is dead, and how dead is dead, and who misspoke who, it died right here; it could not get ratified by senior Senators of both parties of this Senate who refused to ratify it.

So in the midst of a need for a shred of clarity here and there as we dabble in our business, I think it is good to mention that. It might not be ratified today if it were presented and one of the things that might just happen in this debate when we get to SALT is someone will plop the SALT treaty right in the middle of this body and say "Here, ratify it." My hunch is it might not get ratified.

All of us deeply believe in arms control. This is not a partisan issue. Not a serious thoughtful American of either party is opposed to arms control. It is not a partisan issue. It was not a partisan issue under President Carter.

So to come back to this sitting President and killing off SALT, it never was ratified by the U.S. Senate.

I hope that we are able to divert that. I would hate to have a vote here where we would put it before the body and not deal with it again.

But if there is a chorus of conflicting voices it did not come in the last days. It came years ago, when I first came here 7½ years ago, when I saw leading Senators on both sides of the aisle unable to get the votes to ratify it.

And just as an aside and for no other purpose, we have quite a good track record. If you want to put an amendment or a resolution before us that includes the Soviet Union and its compliance I will be glad to support that, but not to have the United States comply with the unratified SALT treaty when the Soviet Union does not comply.

And then please remember that the SALT treaty—if ratified—would have expired in the year 1985 anyway. We seem to forget that too.

So, it is good exercise but not very productive.

We have a country to run, and there is a country on the other side, our chief adversary, that has violated almost every single human rights aspect of the Helsinki Final Act. They have violated virtually every arms agreement we have ever been in with them and that includes stockpiling and use in Afghanistan and Southeast Asia of chemical and toxic weapons in violation of the 1972 Biological Weapons Convention and the 1925 Geneva protocol, heavy encryption of SS-X-25 missile test telemetry in violation of SALT II, deployment of a large phased-array radar in central Siberia in violation of the 1972 Anti-Ballistic Missile Treaty, testing or deploying new missiles, the SS-X-25 and the SS-16, respectively, in violation of SALT II; and other violations.

So I just thought it might be appropriate to kind of "review the bidding" as we used to say when I was a bridge player back at the University of Wyoming Student Union in my student days.

I thank the Chair.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. Two minutes.

Mr. BYRD. Mr. President, I agree with the distinguished acting Republican leader that the Soviets have not complied with the SALT II accords in every respect.

I also agree that any sense-of-the-Senate resolution should also point to the Soviets as well and urge them to comply and if I have anything to do with the introduction of such a joint resolution, it will do that.

So I would hope we would not pass judgment for or against such a sense-of-the-Senate resolution until we all see the verbiage of it, and I would certainly want it to be bipartisan.

As to the ratification of treaties, Mr. President, if we want to really get into semantics and perhaps that is what we are dealing with, the Senate technically, does not ratify treaties. The Senate approves the resolution of ratification. The ratification itself actually takes place with the exchange of the instruments of ratification so the Senate does not ratify. The Senate only approves the resolution of ratification.

I have had some difficulties with the so-called SALT II treaty because the Senate never approved a resolution of ratification of that treaty. But at the same time there are constraints within those accords which if lived up to by both parties will certainly advance the cost of peace and lessen the likelihood of a catastrophic nuclear exchange.

As long as the Soviets live within the central systems and do not use their production lines which are geared up and ready to go, it seems to me that we are acting in the best interests of peace if we attempt to live within those limits as well.

But the President has indicated, I think, that the door is open, that if the Soviets will take constructive steps, they will be taken into account and the summit will going forward. I think that Mr. Gorbachev should be urged to move in that direction, should be urged to agree to a summit on a definite date, and we should all work together with the President and stop the attempt to interpret what he is saying in a way that confuses all. I can understand how he himself might even become confused.

Mr. President, I thank the Chair and I thank the Senators for their patience.

Mr. SIMPSON. Mr. President, I yield back the remainder of the leader's time to the leader.

I thank the Senator from West Virginia. I think we share a common view of a common critical need.

RECOGNITION OF SENATOR MURKOWSKI

The PRESIDENT pro tempore. The distinguished Senator from Alaska is recognized.

TRADE WITH JAPAN

Mr. MURKOWSKI. Mr. President, today I address my distinguished colleagues about a continuing and alarming development in our trade with Japan.

In my first statement earlier this week, Mr. President, on Tuesday, I spoke of our overall trade deficit with Japan, basically, the total amount that we own Japan for goods and services which we buy over and above our sales to them.

Basically, Mr. President, they are selling us more than we are selling them, and this amount has increased to $45.2 billion in 1985.

Most of this deficit is due to manufactured goods which we buy in the United States, automobiles, television sets, stereos, and so forth. But the alarming and rapidly growing portion of our overall trade deficit is due to an imbalance in another area and that is services, services such as banking, insurance, construction, transportation, and other professional services.

Thus, the United States used to lead the world in providing these kinds of services but over the past 3 years our $1.3 billion service trade surplus with Japan has turned into a deficit of $1.8 billion.

Since 1984, our service trade deficit with Japan has increased by an alarming percentage of 166 percent.

So, basically, Mr. President, Japan now sells us more service than we sell them.

Also, on Tuesday I outlined how the Japanese Government has presented various proposals to deal with the deficit in our trade. In the past 5 years, there have been six different so-called action plans to increase the amount of America's export to Japan. But the problems have grown worse and not better.

□ 0930

The purpose of my statement, Mr. President, is not to be unduly critical of Japan's trade policies, but to point out simply the inequity and the unfairness of Japan's not having its markets open to our manufactured products.

Our overall trade deficit with Japan, or the total amount we owe Japan for goods and services we buy over and above our sales to them, has increased to $45.2 billion in 1985. Most of this trade deficit is due to manufactured goods such as automobiles, televisions, or stereos—but an alarming and growing portion of our overall trade deficit is due to an imbalance in services such as banking, insurance, construction, transportation, and other professional services. We used to lead the world in providing these kinds of services. But over the past 3 years, our $1.3 billion service trade surplus with Japan has become a deficit of $1.8 billion. Since 1984, our services trade deficit with Japan has increased 166 percent.

On Tuesday, I also outlined how the Japanese Government has presented various proposals to deal with the deficit in our trade. In the past 5 years there have been six different so-called "action plans" to increase the amount of American exports to Japan. But the problems have grown worse, not better.

Today, I want to share with my colleagues some concrete information on our services trade situation with Japan. This information was revealed

in a hearing I conducted last Thursday in my Foreign Relations Subcommittee on East Asia and Pacific Affairs. The first two witnesses—H.P. Goldfield, Assistant Secretary of Trade Development in Commerce, and Raymond Hodge of the construction and engineering firm of Tippetts, Abbett, McCarthy, and Stratton—gave shocking testimony on our inability to get access to the Japanese market in construction services.

In July 1985, the Japanese Government announced an "action program for improved market access" that promised to open up public projects for bidding by foreign firms. Simultaneously, Japan has initiated design and construction studies for a new international airport on a man-made island near Osaka. Called the Kansai International Airport project, this construction is estimated to provide $8 billion in business for construction and engineering companies.

The firm coordinating the project, Kansai International Airport Co., is two-thirds owned by the Japanese Ministry of Transport. Also, the Japanese National Government is providing direct funding, low cost loans, and has loaned government employees to the project. For all intents and purposes, this is a government-sponsored project, and American firms expected to be able to participate in it.

However, we have learned that the Japanese are balking at foreign participation, and will not hold an international open bid and tender. Japanese construction firms have vigorously opposed foreign entry to the market.

The Japan Civil Contractors Association and other industry groups have publicly opposed foreign participation. They have stated that their domestic industry is in a depressed condition, and that foreign firms are unfamiliar with Japanese business practices and policies. In response to United States protest about closed bidding procedures, Japanese Ministry officials insist they do not control the project and that it is not subject to "action plans."

But the real reason was stated by a prominent official of the Nakasone administration. He said: "If we give way in this instance, the Americans will want free and open international bidding and tendering on the planned construction of a bridge and tunnel across Tokyo Bay, a $12-billion project. Earlier this week the Wall Street Journal reported that the Kansai Airport Corp. had ruled out foreign participation, saying it did not want to delay construction by allowing foreign bidding on the contract.

Over the past 20 years, despite substantial efforts to crack the Japanese construction market, only one construction project has involved participation of an American firm (Pacific Architects and Engineers). And this project took place because the World Bank insisted on open bidding before it approved financing.

In contrast to this lack of access to the Japanese market, the United States market is open to Japanese construction and engineering firms. Last year, the United States was the largest source of overseas construction for Japanese companies. Witnesses at the hearing said 18 Japanese firms did $1.7 billion worth of construction business in the United States, and United States business was one-eighth of Japan's total international business in this sector.

Let me draw attention to activities of some aggressive Japanese firms, starting with Kumagai Gumi Co., Ltd. with the help of its wholly-owned United States subsidiary, Kuman USA, this firm recently picked up contracts worth $1.2 billion for office and condo development in Manhattan. It also gained a $100-million joint-venture project with the city of Belmont, CA for a mixed-use office and recreational complex. Company president Tachiro Kumagai, I would gently point out to my distinguished colleagues, is also the chairman of the Japanese Civil Construction Industry Association. It was he who told a news conference he was opposed to foreign participation in the Kansai Airport project because it would "cause confusion."

Other examples were mentioned at the hearing. Kajima Corp., number 68 in the list of top 400 contractors in the United States, received a contract for a $30-million hydro plant in Kentucky and a contract for the U.S. Embassy building in Cairo. They did $314.5 million in U.S. business last year.

Ohbayashi Gumi Corp. has a joint venture contract for the Arizona Department of Transportation for a $50-million tunnel. Japanese firms recently have won contracts for construction of a Mazda plant in Michigan and a Toyota plant in Kentucky.

These facts speak for themselves. The United States market in construction is open for Japanese firms. Japanese, however, see their market as their exclusive domain. As our witnesses said repeatedly, "that ain't fair."

The hearing also considered the Japanese banking, brokerage, and insurance services, where there are similar patterns. Our markets are open to Japanese banks, insurance firms, and securities firms. For example, Nomura and Diawa Securities, two of Japan's largest securities firms, have become primary dealers in United States Government securities. American firms, on the other hand, pay exorbitant fees to get into the Tokyo stock market and are limited by regulations from participation in the primary Japanese securities market.

The Japanese banking industry has undergone some deregulation in recent years, but United States bank operations still face more limitations than Japanese banks face in the United States. As a result, United States banks have only 3 percent of the banking assets in Japan. Japanese banks have experienced phenomenal growth in recent years and now enjoy 7 percent of commercial and industrial loans in the United States.

American insurance firms face long waiting periods for application approval and other problems of "transparency" in the Japanese market. Regulatory authorities are reluctant to license new insurance lines. As a result, the 42 foreign insurance companies doing business in Japan have only 3 percent of this lucrative market (the world's second largest). But there are no deterrents at all to entry of foreign insurers to the U.S. market.

What witnesses had to say at the United States-Japan services trade hearing pointed to deep-seated problems of market access. I have commended Prime Minister Nakasone on countless occasions for his attempts to address problems of unfairness in United States-Japan trade.

The hearing, however, showed that the Prime Minister is not getting the cooperation and assistance of his own bureaucracy. And he faces strong opposition from the Japanese private sector.

We have not been successful in dealing with this problem because we have failed thus far to take direct action. I have asked Secretary Shultz to communicate my concerns directly to the Japanese Government, and ask that American firms be permitted to bid on the Kansai Airport construction project. I have requested his response by June 26.

I ask unanimous consent that my letter to Secretary Shultz be entered in the RECORD.

Thank you, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 10, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State, Washington, DC.

DEAR SECRETARY SHULTZ: This last Thursday, I chaired a hearing of the Senate Subcommittee on East Asia and Pacific Affairs, concerning U.S.-Japan Services trade.

I was deeply alarmed at testimony concerning construction of the new Kansai airport in Japan. This major project, which will involve approximately $8 billion in new contracts, has not been opened for competitive bidding by American companies. The firm coordinating the project is under majority ownership of the Japanese Ministry of Transport, and the national government is providing direct funding, low cost loans, and key employees for the project. Yet in response to U.S. concerns regarding closed bidding procedures, Ministry officials insist they do not control the project and it is not

subject to the 1985 action plan (which pledged to open up public works projects to foreign firms).

In recent years, the U.S. has become the largest source of overseas construction for Japanese companies. Meanwhile, our firms—which are globally competitive in major project construction—are unable to gain access to the Japanese market on construction projects. I ask that you make representation of this glaring inequity to the Japanese government.

In addition, I request that the State Department communicate with Japan to determine whether U.S. firms will specifically be given the opportunity to bid on the Kansai airport project. Because the likely Japanese response will be general assurances, I further ask that Japan explain why the Kansai project has been excluded from the 1985 Action Plan, and if this exclusion means U.S. firms will not have a practical chance to compete.

Because time is of the essence, I respectfully ask that the Department request a response from Japan by June 26.

With best wishes and warmest personal regards.

Sincerely,

FRANK H. MURKOWSKI,
U.S. Senator.

Mr. President, I intend next week to indicate in a special order corrective action that must be taken in order to encourage that Japan open its markets in the same manner in which the United States has opened its markets to Japan.

I thank the Chair.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. The distinguished Senator from Wisconsin [Mr. PROXMIRE] is recognized for a period not to exceed 5 minutes.

THE FIVE WAY NUCLEAR ARMS RACE

Mr. PROXMIRE. Mr. President, for many years most Americans have viewed the nuclear arms problem as 90 percent concerned with the superpower nuclear competition of the United States and the Soviet Union and about 10 percent with nuclear proliferation. Now there is a new element. Somehow we have ignored the fact that there are now and have been for more than 20 years not just two full fledged nuclear powers in the world. There are five. They are the United States, the U.S.S.R., the United Kingdom, France, and the People's Republic of China. All of us know this. But few of us pay any attention to the nuclear weapons power of the United Kingdom, France, and China.

Why should we? After all, do not the nuclear arsenals of the United States and the Soviet Union each dwarf the nuclear armed power of the other three members of the nuclear club? Are we not talking about midgets and giants here? Does not the United States and the Soviet Union each bestride their own half of the world with 10,000 strategic nuclear warheads each? Does not the arsenal of each of the other three nuclear powers amount to a few hundred strategic nuclear weapons? Is not this just kid stuff? Are we and the Soviets not the only big boys who count?

The answer is that the situation is changing and it is changing very swiftly. The kids are rapidly becoming big boys and very tough big boys at that. The egos of the superpowers and the egos of the superpower leadership have been served by this assumption that we and the Soviets have been, are now, and will continue to be the only significant nuclear game in town. But we are not. First, the few hundred strategic nuclear weapons possessed by the British and the few hundred deployed by the French could each separately destroy the Soviet Union as an organized society, and even if there were no retaliation, such an attack could possibly trigger a nuclear winter that would ravage the Earth.

Second, both the United Kingdom and France are separately planning a striking buildup of their nuclear forces. Within 5 years each of these two countries will have deployed more than 1,000 strategic nuclear warheads. They will be deployed in a highly survivable mode in submarines and bombers. Within 15 years—before the end of the century—the United Kingdom and France each will have more than 2,000 strategic nuclear warheads. Oh, sure these arsenals will each be far less than the nuclear arsenals of the U.S.S.R. and United States but the United Kingdom and France will be building over the next few years independent nuclear striking forces that could greatly increase the threat to the U.S.S.R., make NATO far less coherent and less reliable. That is not all. The increased nuclearization of United Kingdom and French military power is a response to a simple fact of military economy. Lethal pound for lethal pound nuclear power constitutes an irresistible bargain. France and the United Kingdom can save billions in conventional tanks, and planes and warships by building their own awesome nuclear deterrent at a far lower cost. They can also reduce their dependence on NATO in the process.

And is all this likely to be lost on China? China has become the fastest growing economic entity in the world. It is already a full fledged nuclear power. It is rapidly developing the economic strength to become a super nuclear power.

All this may appear to be very bad news for the Soviet Union which may be on the verge of facing from hostile major nuclear powers in the near future. But is it such good news for the United States? Or for mankind throughout the world? Will not the world be less safe with a finger on the big nuclear button in five countries instead of in two? Is not the prospect of a nuclear war that could finish us all magnified when any one of five national leaders can start the end of the world instead of two? And why should this remarkably cheap and immensely effective military power stop at five? With the onmoving technological improvement in nuclear weapons and the swift reduction in cost and especially the example of England and France, a dozen or more nations can afford and may soon choose major nuclear arsenals as the way to ensure their sovereign independence at bargain prices. So the fingers on the nuclear trigger multiplies.

HOW BRING BACK BRIBERY BILL ENCOURAGES THE KNOWING WINK AND BRIBERY

Mr. PROXMIRE. Mr. President, this is the third in my series of speeches against S. 430, the bring back bribery bill. Today I will discuss still another specific provision of that proposed bill that would gut the Foreign Corrupt Practices Act. Since 1977 when the Foreign Corrupt Practices Act became law what has happened to the bribery scandals that rocked our country in the early 1970's? They stopped. They stopped cold. The Foreign Corrupt Practices Act did its work.

What had become an epidemic of bribery by American corporations abroad ended. By epidemic I mean exactly that as shown by the results of the investigation by the SEC that revealed that some 450 American corporations had made more than $300 million in questionable payments to foreign officials.

Today I will discuss still another change in the bring back bribery bill. S. 430 would delete from the present law the provision that makes a corporate official responsible for a payment by an agent of his corporation if he had "reason to know" such payment constituted a bribe. S. 430 would drop the "reason to know" language and substitute therefore the following: "it shall be unlawful . . . corruptly to direct or authorize, expressly or by a course of conduct . . . a payment, gift, offer . . . to a foreign official for any of the purposes set forth."

Mr. President if ever there were gutting language, this is it. Why is it gutting language? Consider: Under the present Foreign Corrupt Practices Act a chief executive officer of a corporation is made responsible for any illegal payments by his foreign agent. So the CEO must set up safeguards to assure himself that payments will be legal and specifically will not include moneys that may become bribes. If the corporate money is paid in the form of a bribe, and if the CEO knew or had reason to know it was a bribe

71-059 O-87-16 (Pt. 10)

the CEO is responsible. He can be prosecuted. He can be fined. He can be jailed. He can be ruined. Is that bad? No, this is precisely why the act has worked. This is why corporate bribery that so disgraced our country and our friends and allies abroad has ceased since the Foreign Corrupt Practices Act became law in 1977.

What happens if the Congress enacts S. 430 with "reason to know" deleted and in its place Congress simply inserts the requirement that American corporation executives can only be prosecuted if they "direct or authorize expressly or by a course of conduct a payment to a foreign official." The answer was given by Harold Williams who formerly chaired the SEC in testimony before the Senate Banking Committee in 1981. Williams testified about a similar bill at that time. He said:

I am concerned with the pending bill's deletion of reason to know standard from the Act. If enacted with this deletion, it would be possible for management to adopt the "shut eyed" approach whereby liability would be avoided by remaining oblivious to the actual facts and circumstances underlying the subject transactions. Further it would encourage a form of managerial irresponsibility that should not be the underlying effect of federal legislation and would give rise to an environment of do what you need to do, just don't tell me.

Williams was not alone. Here is how Ted Sorenson, former assistant to President Kennedy, put it:

Surely that invites a wide-open return to the knowing wink and the pregnant nod by not including those who knowingly aid or abet such payments.

Now, Mr. President, let us not kid ourselves. Does anyone really believe that if we enact S. 430 we will not increase the temptation for corporation officials to go back to the old bribery ways? The temptations are immense. When Lockheed bribed the Prime Minister of Japan with a $1.6 million payment, Lockheed won a $420 million contract and made a profit of tens of millions of dollars on the deal. This was before the Foreign Corrupt Practices Act was on the books. It is true that Lockheed did run afoul of another law that cost them an $847,000 fine. But none of Lockheed's executives suffered any penalty whatsoever. That bribe turned out to be a highly profitable deal for Lockheed. Subtract the cost of the bribe and the fine and Lockheed still made a bundle net. If we pass the bring back bribery bill, S. 430, and in the process delete "reason to know" and substitute the requirement that prosecutors have to prove that an official personally directed the bribe, or expressly authorized the bribe, or engaged in a course of conduct that showed his corruption, corporation executives that want to make foreign sales can and will relax. The pregnant nod, the knowing wink, the old shut-eye, the instructions to "do what you need to do, just don't tell me" will be back in vogue. The Foreign Corrupt Practices Act will be gutted, ruined, a dead letter. Do you see why we call S. 430, the bring back bribery bill?

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that Congress no longer has to worry about automatic budget cuts this fall. This myth will soon come to haunt us.

Why this optimism when Congress was so afraid of the defict only 6 months ago that it passed Gramm-Rudman in an act of desperation? First, both the Office of Management and Budget [OMB] and the Congressional Budget Office [CBO] made the task look easy by assuming healthy economic growth. Second, both Houses of Congress passed budgets meeting the Gramm-Rudman targets without the usual fuss. Finally, many people are hoping the Supreme Court will strike down the "automatic cuts" part of the law.

This Senator believes that this optimisim will soon fade and here is why. The economy is performing sluggishly, at best. Even if we manage to avoid another recession—no certainty—we are unlikely to experience economic growth as vigorous as assumed in our budgets. This means that the deficit will increase. The key question now is when the CBO will revise their forecast to reflect this reality.

Next, look at the budgets passed by each House of Congress. Each contains some gimmicks. Compromise has been hard to find. The longer this impasse lasts, the more likely conferees will be to resort to even more gimmicks as a way of resolving the differences. The recently passed supplemental appropriations bill is a textbook example of how to use gimmicks to avoid problems with Gramm-Rudman. The difficulty with this approach is that it may work for 1 year but at the cost of putting us deeper in the hole thereafter.

Remember last fall when the big argument was over whether Gramm-Rudman would "bite" in 1986. Congress settled this dispute by agreeing that it would and set a deficit ceiling of $172 billion. Some ceiling! The 1986 deficit will be closer to $220 billion, about what was projected before Gramm-Rudman passed. The 1987 budget is well along this path.

Finally, the Supreme Court may well strike down part of the Gramm-Rudman law. But that would merely throw the issue right back in our laps. We would then be faced with the prospect of passing a sequester order with an election less than 2 months away. That prospect is not one which encourages optimism about our ability to reduce the deficit.

Mr. President, Congress is now making the age-old mistake of counting our chickens before they hatch. Unfortunately, that is no myth.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR McCONNELL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kentucky [Mr. McCONNELL] is recognized for a period not to exceed 5 minutes.

S. 2553—CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENT TO OFFER TRAINING IN ADVANCED MARKETING TECHNIQUES

Mr. McCONNELL. Mr. President, I rise today to introduce legislation which will require farmers who receive Farmers Home Administration operating or farm ownership loans or loan guarantees to complete training in advanced marketing techniques.

By manner of introduction, I would like to bring to the attention of my colleagues two articles which recently appeared in the June 9 edition of the Lexington Herald Leader.

The first is printed under the heading "Value of Kentucky Farmland at Lowest Level Since 1979." The article describes the bleak landscape of American agriculture: Average farmland values dropping 12 percent in the last 10 months and 37 States showing declining farmland values over the past year. These are very visible symptoms of the crisis our Nation's farmers now face. But I do not need to remind my colleagues of this—we see it every day on the television; we read it in the newspaper; we hear of the tragedies from our constituents. I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VALUE OF KENTUCKY FARMLAND AT LOWEST LEVEL SINCE 1979

(By Roger Nesbitt)

The nation's farm recession is continuing to take a toll on farmers' greatest asset: the value of their land.

The average value of an acre of American farmland dropped by 12 percent—to $596—during a 10-month period that ended in February. That represents a 28 percent decline

from the record high of $823 that was recorded in April 1982, according to a recent report from the U.S. Department of Agriculture.

Kentucky's farmland is valued at its lowest level since 1979. A 4 percent decline reported in the department's latest survey puts the Kentucky average at $870 an acre—a 17 percent drop from the record $1,058 in 1982.

Kentucky fares well in comparison with the five-year declines reported in the Midwest gain belt: Iowa, 70 percent; Nebraska, 64; Indiana, 57; Illinois, 55; Ohio, 53.

But Kentucky's average is misleading because it is propped up by the high values of horse-farm land in Central Kentucky. Throughout the Western Kentucky grain belt, farmland is selling for about half of what it did five years ago. And other areas of the state are not far behind, according to agriculture economists.

"You have a unique situation in Kentucky," said William Heneberry, a USDA economist who compiled the report based on a national survey of farmers, real estate brokers and lending institution. "Kentucky's values held up better than most states because the areas of Central Kentucky are holding up relatively well.

"But we have found that the western part of your state is just about on par with what's going on throughout the Midwest. If you throw out the horse farms, Kentucky probably would be more in line with states like Missouri and North Carolina, which had 8 and 9 percent drops."

Nationally, 37 states registered declines in the latest survey, and 21 had more than a 10 percent drop. Increases were recorded in 11 states, including Virginia (5 percent), Tennessee (1 percent) and all of the New England states.

The latest value figures range from a high of $3,913 per acre in New Jersey to a low of $134 in New Mexico.

Land values began to skyrocket in the mid-1970s with the beginning of a seven-year period popularly known as "the golden years" for agriculture. High market prices and decreased production costs brought farmers big profits, and as a result, their land was worth more.

Many farmers were seduced by the high profits and favorable lending programs during that period. They expanded operations by buying land at the inflated prices. Kentucky was part of that trend as the average value of an acre of the state's farmland soared from $427 in 1975 to a peak of $1,058 in 1982.

But since then, land values have plunged under the weight of depressed commodity markets and high interest rates. Today, a good number of farmers are saddled with land worth considerably less than what they gave for it.

Some agriculture economists are predicting that the situation will improve this year as farmers benefit from lower interest rates, reduced production costs and new government farm programs geared toward stabilizing market prices.

Donald W. Shurley, an economist for the University of Kentucky College of Agriculture's extension service, said he didn't expect any improvement in Kentucky this year. But he added that "there are a lot of reasons to think it will stabilize in the next few years."

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Mr. McCONNELL. We have reason to believe, Mr. President, that these problems are symptoms of a long-term, fundamental change in American agriculture. A recent report by the Office of Technology Assessment, "Technology, Public Policy, and the Changing Structure of American Agriculture," indicates that by the year 2000 there will be 1 million fewer farmers than there are today. There might be those who dispute this figure, but nevertheless, I believe that it is indicative of a basic reorientation of the industry. Furthermore, agricultural economists from a broad philosophical spectrum of land grant universities all agree that 10–15 percent of those persons currently engaged in farming will not be doing so in 5 years. The implication is clear: we will be dealing with the agricultural transition for years to come.

The second Herald Leader headline provides an interesting contrast to the first. The article entitled "Vegetable Co-ops Feed Farmer's Hopes" describes one small group of farmers' effort to deal with economic hardship. A few farmers in Kentucky have taken innovative actions, involving a degree of risk, to identify and exploit non-traditional markets for agricultural produce. These kinds of projects tend to demonstrate the potential for success even during the depths of a financial crisis. I ask unanimous consent that this article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VEGETABLE CO-OPS FEED FARMERS' HOPES

(By Roger Nesbitt)

A small number of Kentucky farmers have set out to produce about 10 million examples of how to offset sagging income from tobacco and other traditional crops.

That's the number of fresh vegetables that could be sold this summer through four farmer cooperatives trying to set a new course for Kentucky agriculture.

About 800 members of the cooperatives in Lexington, Beattyville, Monticello and Hopkinsville have planted hundreds of acres of bell peppers, cucumbers, cabbage, squash and tomatoes. And when the harvest of some of these crops begins later this month, farmers and co-op leaders hope to have proof—high yields, high-quality crops and profitable sales receipts show that fresh vegetable production should be a growing enterprise in Kentucky.

"We have these co-ops providing that missing link between the growers and customers—now we need to establish a good reputation for Kentucky products," said Larry Swetnam, manager of Kentucky Agricultural Marketing, the Lexington-based co-op.

"We need a good supply of quality produce this year. That would give us a good foundation for future growth."

Kentucky vegetable sales amount to about $19 million a year, compared with $500 million for burley tobacco, the leading cash crop.

While no one is suggesting that vegetables can supplant burley, Swetnam and others said fresh produce had the potential to be a $200 million business in the state.

"It's not the salvation of agriculture here," Swetnam, said. "As great as the potential is, we know it's not for everyone.

"But I know that if we can provide them with the market and the mechanisms to sell, many of our farmers can do the job. They can establish a market and profit from it."

The co-ops in Lexington and Beattyville are beginning their second year with high hopes of improvement from 1985, when they lost a combined $60,000 because most of their crops were ravaged by disease and weather.

Both co-ops are making vast improvements to their processing and packing plants. And their members have increased the amount of planted acreage this year.

Pennyrile Agricultural Marketing in Pembroke (near Hopkinsville), the state's new co-ops has 65 farmers raising 150 acres of peppers, squash and cucumbers. While it seeks funding for a packing plant, the Western Kentucky co-op will ship its crops to Lexington for processing.

Cumberland Farm Products, Kentucky's only established co-op, is building a $1.1 million plant in Russell Springs to go with its large facility in Monticello. Membership has increased by 10 percent this year, to 551 farmers in five counties who are growing about 850 acres of peppers, cabbage and tomatoes, according to manager Larry Snell.

Co-op leaders said many members were young, progressive farmers seeking to lessen their dependence on burley tobacco, cattle and grain crops—the traditional staples of Kentucky farms.

Andy Graves of Fayette County is one such farmer.

Graves, 28, said he was trying bell peppers because he had been "struggling" to keep his 1,500-acre farm by raising burley and beef. In four years his burley production quota has been cut from 50 acres to 30 acres as part of changes in the troubled federal tobacco price support program.

Meanwhile, the value of his 500 head of cattle has declined during the nation's prolonged farm recession, he said.

Graves joined the Lexington co-op last year and says he made "a little money" on the sale of three acres of peppers.

This year he has planted 20 acres—about 200,000 plants—and he's hoping to expand to 70 acres of his land that can be readily irrigated.

He doesn't intend to stop growing burley, he said, and doesn't expect to get rich off vegetables. But he thinks that 10 years from now, vegetables will be as important to his farm as anything else.

"I'm anxious to do whatever I can to cover all corners for the years ahead," he said.

"Farming is at a lull right now, and there's going to be rapid changes in the next 10 years. We're receiving less for these traditional commodities. But modern America is eating more vegetables. It makes sense to move to something that the market wants."

A member of the Lexington co-op's board of directors, Graves is bullish on the concept of uniting producers in order to meet the demands of large markets.

"There aren't many farmers who have the resources to establish a retail or wholesale market for a large-scale enterprise. The co-op does that for them," he said.

Marlene McComas of Owen County, another member of the co-op's board, said the lack of a viable market kept her out of the business for several years.

"I had been trying to get in with processors for years, but they all had long waiting

lists. And I didn't have time to stand around and sell out of the back of a truck," she said.

Dwight and Marlene McComas joined the co-op last year and made a small profit on 1½ acres of peppers and a half-acre of cucumbers. They doubled their plantings this year, Mrs. McComas said.

"We're going to stick with this for four or five years to see how well it works, and then hopefully we'll expand in a big way," she said.

Swetnam, an agricultural engineer on loan to the Lexington co-op from the University of Kentucky, is organizing a federation to coordinate the efforts of the Lexington, Beattyville and Hopkinsville groups.

The three co-ops have an arrangement to market their vegetables through a Georgia company that sells the produce when hot weather delays production in the South.

The Lexington and Beattyville co-ops had that arrangement last year, but sales were stymied by the low yields brought about by a winterlike spring and a bacterial disease.

The Lexington co-op harvested only 30 percent of its projected crop of bell peppers and lost about $20,000. As a result, only half of last year's 93 members have signed up for this year, Swetnam said.

However, a surge of newcomers pushed membership to 108 farmers in 30 counties. They have planted 300 acres of bell peppers, 35 acres of cucumbers and smaller portions of cabbage, squash, eggplant, zucchini and other types of peppers.

That's three times the acreage of last year, and with a good growing season, the co-op could sell up to 160,000 boxes of produce worth as much as $1.5 million, according to Swetnam.

The co-op has state and local bank funding for a $100,000 project for cold storage and other improvements to its 25,000-square-foot plant at the Parker Tobacco Company Warehouse on South Broadway in Lexington.

The plant includes a processing line where the produce is graded, washed, waxed and boxed; two coolers; and a loading dock.

Kentucky Mountain Farms in Beattyville also was undeterred by a disastrous first year: The co-op is making $120,000 worth of improvements to its plant north of Beattyville.

"We're going to have a state-of-the-art plant that can handle up to 600 acres of produce a season," said co-op manager Jim Worstell.

Last year the co-op finished $40,000 in the red because of the loss of 82 percent of the peppers and 75 percent of the cucumbers it had expected to sell.

The co-op has retained its 211 members, all of whom are tobacco farmers. But only 97 are growing vegetables this year. Those farmers, who come from 11 counties, have planted 175 acres of peppers, 75 acres of cucumbers and five acres of green beans, Worstell said.

With some encouraging results this year, Worstell expects production to double in the years ahead.

"A lot of our farmers who didn't do well last year have decided to sit out this year to see how it goes. I think we can get a lot of them back," he said.

Unlike the other co-ops, Cumberland Farm Products does not market its crops through a broker.

"We initiate our own marketing program," Snell said. "We go out and meet buyers; we're selling to several major grocery chains and to divisional warehouses."

Comberland Farm Products has prospered because it has reached markets to the north, which have a shortage of fresh produce at the time when Kentucky's crops are harvested.

The best think going for Kentucky growers, Worstell said, is the different harvest periods for the competitors to the north and south.

"There is definitely a market window here. We can go north in the summer to meet the lack of supplies in places like Chicago and Detroit. We can go south with our peppers and cucumbers in September and October, when there's always a high price down there."

The biggest advantage of a co-op, Swetnam said, is that it enables growers to compete in the national market.

"We've reached markets in Dallas, St. Louis, Pittsburgh, Chicago, Philadelphia and Atlanta because we have the crops at times when they have had difficulties getting them," Swetnam said.

Graves, who has bought an irrigation system that will allow him to expand his pepper production said he was working to reach the point where peppers are nearly as profitable as burley.

"I've figured that I can get $1,000 an acre. That's not going to make me rich, but it would sure help keep me on this farm," he said.

Mr. McCONNELL. Mr. President, I think that the initiatives of these innovative farmers serves to illustrate an important need, a need which the legislation I am proposing today will address. In today's agriculture, the challenge for the American farmer is not just to produce effectively and efficiently, but to remain profitable under very difficult economic circumstances. To survive, the farmer must weigh more considerations than merely those dealing with production. Accordingly, more attention must be focused on the business aspect of production agriculture. Management and marketing decisions have become critically important to any farm operation and these decisions will ultimately determine the success or failure of the operation.

Moreover, as these decisions have become more crucial, they have become more complex. Marketing, for example, need no longer be a matter of taking grain to an elevator after harvest, or taking cattle to the stockyard. The modern farmer will consider such alternatives as hedging through the futures market, utilizing options to lock in a price for his commodity, electronic marketing, cooperative marketing, or direct sales to consumers. Farmers have at their disposal the most up-to-date price and market information and sophisticated computer software that has been developed to assist farmers making marketing decisions.

However, not all farmers utilize these many opportunities which could give them an edge on the market and improve the viability of their operation. Given the multitudes of decisions a farmer must make and information that must be assimilated, it is no wonder that the typical American farmer is unaware of, or does not entirely understand, recent developments in marketing technologies. This is the problem my bill seeks to address. Through the resources of the USDA, primarily the Cooperative Extension Service, training in utilization of the latest marketing tools and technologies available would be made a requirement for receiving a loan or loan guarantee from the Farmers Home Administration.

What I am proposing here is nothing new or revolutionary. Provisions of the 1985 Food Security Act and major steering committees of the Extension Service have recognized marketing as an important component of profitability. This legislation will serve to reinforce the fine efforts of the Extension Service and to focus them into a comprehensive educational initiative. I would point out that, since my proposal mirrors the Extension Service's desire to commit more resources to promoting improved profitability, the training I propose can be provided at minimal cost to the taxpayer.

Why require FmHA borrowers to receive this training? Examining FmHA's loan activities over the past decade indicates a marked trend: Rapidly growing dollar commitments and growing loan delinquencies. Mr. President, I ask unanimous consent that a table which more fully describes this situation be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

WHAT ARE FmHA'S FOLIO CHARACTERISTICS FOR MAJOR FARMER PROGRAMS?

[Dollar amounts in millions]

	Number of borrowers	Number of loans	Outstanding principal
As of June 30, 1985:			
Farm ownership	125,113	162,507	$7,360.1
Operating loans	123,639	207,347	5,969.9
Emergency disaster	122,481	288,889	9,917.6
Economic disaster	54,199	79,841	4,171.4
Soil and water	16,415	18,635	299.4
Total	441,847	757,219	27,718.4

Source: FmHA briefing, "An Overview of Farmer Program Debt, Delinquencies, and Loan Losses," p. 29.

[Dollar amounts in millions]

1985 loan activity	Number of loans	Amount
Operating loans	30,821	$1,932.5
Ownership loans	5,270	533.0

Source: FmHA briefing, "Debt Restructuring Activities During the 1984–85 Farm Credit Crisis," p. 75.

FmHA MAJOR FARMERS PROGRAM DELINQUENCIES AS OF JUNE 30, 1986

	Delinquent	Delinquent over 3 years	Percent of over 3 years
Farm ownership	$390.8	$224.7	57.5
Operating loans	980.0	546.8	55.8
Emergency disaster	3,915.6	3,217.4	82.2
Economic emergency	1,061.3	784.9	74.0
Soil and water	37.5	26.0	69.3
Total	6,385.2	4,799.8	75.2

Source: FmHA briefing, "An Overview of Farmer Program Debt, Delinquencies, and Loan Losses," p. 62.

TOTAL FmHA DEBT, DECEMBER 31, 1975–84

Year	FmHA debt (billions)	Year	FmHA debt (billions)
1975	$5.1	1980	$19.5
1976	5.5	1981	23.2
1977	7.1	1982	23.8
1978	9.9	1983	24.1
1979	16.1	1984	25.7

Source: FmHA briefing, "An Overview of Farmer Program Debt, Delinquencies, and Loan Losses," p. 15.

Mr. McCONNELL. This trend translates into a growing expense to the taxpayer. I do not believe that it is unreasonable to expect FmHA borrowers to take actions to display that their money is being well invested. In addition, the OTA report quoted above emphasizes the potential for FmHA to fulfill a role, through cooperation with various Federal agencies, in providing training and transfer of technologies in association with its loan making activities. Many of its clients, the report notes, lack the physical resources to compete with larger scale operations, but they do have an abundance of labor. This labor can be enhanced and developed through the kind of training I have been discussing.

It is not my objective, Mr. President, to underestimate the abilities or resourcefulness of FmHA borrowers. Many former borrowers have taken advantage of management and production methods and marketing tools to substantially improve their operations and "graduate" from FmHA borrowing programs. I would assume that the Department of Agriculture officials involved in implementing this program would establish some method by which a farmer could certify his familiarity with the subject matter involved and thereby waive the training requirement.

Regardless, I strongly believe that those farmers who are among the hardest hit by the current agricultural crisis would derive great benefit from training in marketing techniques. This important training will provide FmHA borrowers with an opportunity to take action to improve the financial stability of their operations by using the market rather than letting it use them. It has been widely reported that two-thirds of all farm commodities are sold at the lowest one-third of the market. This bill begins to address this problem.

And I do not envision this program restricted solely to FmHA borrowers. It could be open to anyone interested on a voluntary basis—bankers, agribusinessmen, or other farmers—so that they too can become more aware of the latest marketing technologies.

Mr. President, I realize that this sort of training is no panacea for the many ills which plague agriculture, but it will provide an opportunity for the most financially vulnerable producers to improve their chances at surviving in a competitive industry. If we are to provide any lasting assistance to the farming community we must look to the future, and help them to effectively deal with the massive transition ahead.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADVANCED MARKETING TRAINING.

(a) IN GENERAL.—The Consolidated Farm and Rural Development Act is amended by adding after section 352 (7 U.S.C. 2000) the following new section:

"SEC. 353. (a) In the case of applicants for, and borrowers of, real estate and operating loans insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, the Secretary shall offer training in advanced marketing techniques for commodities, livestock, and aquaculture produced by such applicants and borrowers, including (where approriate as determined by the Secretary) training in the use of futures and options markets.

"(b) To be eligible to obtain a real estate or operating loan, or guarantee for such loan, under subtitle A or B, respectively, an individual must complete training in advanced marketing techniques referred to in subsection (a).".

(b) EFFECTIVE DATES.—

(1) OFFERED TRAINING.—Section 353(a) of the Consolidated Farm and Rural Development Act (as added by subsection (a)) shall apply to real estate and operating loans and loan guarantees outstanding on the date of enactment of this Act and loans and loan guarantees made on or after such date.

(2) ELIGIBILITY FOR LOANS OR LOAN GUARANTEES.—Section 353(b) of the Consolidated Farm and Rural Development Act (as added by subsection (a)) shall apply to real estate and operating loans and loan guarantees made on or after the date of enactment of this Act.

RECOGNITION OF SENATOR MELCHER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana [Mr. MELCHER] is recognized for not to exceed 5 minutes.

AGRICULTURAL EXPORTS

Mr. MELCHER. Mr. President, we have all heard that old saying that we cannot see the forest for the trees. When it comes to expanding and moving the huge amounts of surplus agricultural commodities that we now have here in storage in the United States in our granaries and our warehouses, I think the reverse is true. This administration cannot find the trees for the forest. We have huge quantities of wheat, over 1 billion bushels, that are surplus to our needs. We have 2 billion pounds of milk, cheese, and butter sitting at Federal warehouses where we pay storage costs, and there is much more to come.

Here at home we have a failure in finding how to use our outreach programs through the Department of Agriculture and through other Federal agencies, and we find that sometimes senior citizens cannot get the surplus food commodities that they would like to have for their meals programs, or the Salvation Army fails to have enough of what they need to distribute to the hungry. Even our charitable organizations, primarily church food banks, cannot find the food to give to the hungry right here.

Abroad, we have a peculiar situation where we run the store this way: We want to sell, we want to dispose of these surplus commodities abroad, and our State Department dawdles and diddles and tries to set up a policy that they believe is correct in individual countries.

The Agriculture Department hunts for macrosales, those huge sales of millions of tons to this or that country where they could add up to be significant so that we could recapture part of the lost agricultural exports from the United States. We are looking at exporting about 25 million tons of our surplus commodities abroad when only a few years ago it was up as high as 48 million tons. So they are looking for the macrosales. Meanwhile, the President seems to be befuddled, hapless and ineffective.

Well, these macrosales that they talk about, these huge sales, they are the forest. They are the forest that they are looking for, and the trees are right in front of them. The trees are the smaller sales, the smaller disposals.

Let us look at the record.

We appropriated $225 million to be used in Africa for food relief to a whole series of countries. The State Department tells us they will not use it. Meanwhile, the State Department tells us they are on a program of privatization. We looked at eight or nine countries in Africa and around the world where their privatization policy last year delayed, blocked, or cut sales to individual countries of our wheat, of our milk, of our other commodities.

Third, when we passed the farm bill last year we mandated that a special adviser to the President would be appointed for the very purpose of sorting out between AID and Agriculture, between OMB and the Treasury Department and Commerce. When is a sale, when is a disposal program, going to be allowed abroad to cut the redtape? So far that special adviser, though mandated last year, again specified in actions taken by Congress this year, has not been appointed.

Fourth, the administration's budget cuts, of all things, cuts the cooperative programs abroad for U.S. wheat or the U.S. Food Grains Association that have people stationed abroad to assist in foreign sales of agriculture commodities, and also cuts the Foreign Aid Agricultural Service, those people working for the Department of Agriculture in conjunction with the State Department assigned to embassies in significant countries around the world to help in agricultural sales.

□ 0950

What kind of a store are we running when we are in our most miserable times trying to recoup lost markets, trying to utilize properly our food abundance here, in the United States, with friendly countries abroad, and we are cutting the very means of making that possible?

Fifth, but not the least, Mr. President, last week, in a smaller deal, for the Philippines, we wanted maybe $50 million worth of additional food commodities for our friends in the Philippines. That seemed too large, the State Department told us, so we cut it back. We came with a $10 million program in what is known as section 108, which is a very basic cooperative program to help other countries so they can lift themselves up by their bootstraps.

And it is not money. The money is provided by providing $10 million in milk and wheat to be utilized in the Philippines for their basic redevelopment programs. But that was blocked by the loyal followers of the Department of State in this Chamber. The junior Senator from Wisconsin [Mr. KASTEN] said that the $10 million in milk and wheat for the Philippines at this point in the section 108 program was too much.

This, my friends, all adds up to gross mismanagement and it serves no one. This type of action, these combinations neither help the hungry here, in the United States—they are hurt and the hungry abroad are hurt and our farmers are hurt. And last, the Treasury is hurt because we hang onto the surplus and we pay more through the farm programs to the producers because of these lower programs.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR CHAFEE

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

THE COMMUNITY AND FAMILY LIVING AMENDMENTS OF 1985

Mr. CHAFEE. Mr. President, I am here today to discuss S. 873—legislation I have introduced which would reform the Medicaid program as it relates to those with developmental disabilities and to bring to the Senate's attention a recent initiative in my home State of Rhode Island which will help those with disabilities find meaningful employment.

Medicaid is the Federal program which provides States with the bulk of funding for long-term care services for the disabled. Currently these funds flow primarily toward large facilities. The reason for this has more to do with what Medicaid will pay for than what system of care and services is best for each individual. This funding bias—in other words, the fact that Medicaid pays for institutional services but will not pay for many other services—has meant that disabled individuals are offered few options for remaining in their own communities—with their families and friends. As they become young adults, our system of funding the services they need wrenches them away from their own communities and into residential programs they do not want because there are no other options available.

It is because of this funding bias and lack of alternative services that I introduced S. 873.

This bill stands for the proposition that there should be a range of services available for those with mental and physical impairments. My bill will allow Medicaid expenditures to support people in a wide variety of settings: Natural family homes; foster homes; adoptive homes; independent living arrangements; new community residences of up to about 12 people; and existing clusters of up to three homes. In addition S. 873 would allow 15 percent of a State's total Medicaid budget to be used to support institutional placements.

But ensuring that those with disabilities have the support to remain in the community is not enough. Access to the work force is a critical part of any proposal designed to assist the developmentally disabled pursue a full and active life.

We are in an era of changing technology and experience. Our understanding of the capabilities of those with disabilities is changing quickly.

I am proud to say that the State of Rhode Island has become a national model in its promotion of community-based care. Rhode Islanders recognize that people with disabilities have the right and the need to live and work in the community, regardless of the severity of their disability.

The ocean State has steadily been moving toward the eventual closing of our institutions in the State. A move, I might add, that today is eagerly anticipated by all of the parents whose disabled children still reside in Rhode Island institutions. They are satisfied that the State has a committment to providing a high quality of care and services. Dumping is a word that does not apply in my State.

Rhode Islanders, recognize that no program of community based care can be complete without the availability of meaningful work opportunities. On June 9, Rhode Island took a giant step forward in ensuring that such opportunities are available.

Monday, June 9, at the Providence Civic Center in Rhode Island, 75 companies and close to 2,000 handicapped individuals took part in the projects with industry job fair for the handicapable. It was the first of its kind in New England. Once again, our fellow New England States are calling Rhode Island to find out how to follow its lead.

Mr. L. Jim Williams, the executive director of projects with industry in the State, says it is too soon to know the exact results of the job fair. However, judging from the calls he has received from the companies represented at the job fair he estimates that about 200 people will be offered employment.

The job openings for which the companies set up interviews on Monday ranged from cooks at McDonalds to mechanical engineers at a large machine tool manufacturer.

I salute projects in industry for their efforts in bringing together employers and prospective employees. I salute those companies willing to open a window of opportunity to those with disabilities. Finally, I salute those individuals who have had the courage and resolve to find a job despite their disability.

We may be the smallest State in the country, but we are the biggest State when it comes to giving people from all walks of life the opportunity to participate in the Rhode Island dream—independence, dignity, and meaningful work.

I urge all employers looking for hardworking, talented people to call the Projects with Industry Program in their own State. They may just have the person for whom you have been searching!

Mr. President, I ask unanimous consent that an article appearing in the Providence Journal about the job fair be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EMPLOYERS, APPLICANTS UNITED AT JOB FAIR FOR THE HANDICAPPED

(By Steve Winter)

PROVIDENCE.—Some came in wheelchairs, some came on crutches. Some talked in sign language and some in slow, deliberate drawls. Some had master's degrees, but many had never finished grade school. Some were supported by canes or walkers—accompanied by friends, relatives or Seeing Eye dogs.

Their common bond was their story: No experience. No job.

Yesterday, a job fair—exclusively for the handicapped—drew about 1,500 handicapped people from Rhode Island and Southeastern Massachusetts to the Civic Center. About 75 area companies sent representatives with information and employment applications.

The basic idea was to help the handicapped find jobs. But the bigger goal was to change the way the handicapped feel about getting jobs.

"They need to understand that there is a group that cares and can get employers in here," said Sam House, a member of the Business Labor Advisory Committee of Projects With Industry (PWI), which sponsored the job fair.

One woman, sobbing, left the Civic Center yesterday morning to collect herself outside.

"I haven't been working and I'm trying to find a job and I'm having problems," said the woman, Claire Pompel, 30, of Providence. "I have no experience, so I have nothing to go on.

"I got discouraged in there."

According to PWI there are at least 16,000 unemployed handicapped people in Rhode Island.

One of the problems, said PWI executive director L. Jim Williams, is that other job and training programs for the handicapped have lacked a link to industry. (PWI is a federally backed unit of the Industry Education Labor Council of Rhode Island.)

"Sure, the handicapped have gained parking spaces and there's been a lot of publicity about their special needs, but that doesn't put money in their pockets," said Williams.

Mary Hoyle, 35 and visually impaired, said she has faced repeated rejection from employers.

"I don't know how many applications I've filed," said Hoyle, who is divorced. She said she hasn't worked "except for a few months" since her high school graduation 17 years ago.

"Either you never hear from the company or they give you some kind of a story," she said.

Barriers have never been broken, said Joseph Tremmel, 30, of Warwick who has served on state advisory committees exploring services to the handicapped.

"There's still an uneasiness—sympathy instead of empathy," said Tremmel, who suffers from cerebral palsy.

"I'd be surprised if 2 percent of the people here get jobs," said Tremmel, who gets by on SSI and donations—perhaps $15 or $20 per day—from playing the harmonica on Westminster Mall.

"You've got to keep on trying," said Henry Carter, 30, of Providence, another cerebral palsy victim.

Carter graduated from CCRI in 1983 and has been trying to find a job in banking since. Yesterday, he was looking forward to making connections with First National Bank. "I just want to get my foot in the door," he said.

The fair, said Williams, was the first of its kind in the United States.

Some 4,000 handicapped people were invited.

"If only one person gets a job, this will be a success," said Williams.

Perhaps success could be measured by the experience of Claire Pompel, who had left the job fair in tears.

She went back inside.

"Can I change my mind?" she asked a reporter. Afte talking to several other companies, she said, she felt better about her chances of finding a job. "It seemed better (talking to companies) at this end."

"Or maybe I'm better."

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CHAFEE. I ask unanimous consent to have 1 more minute.

Mr. WALLOP. Mr. President, I regret it, but I must object because there are only 4 minutes left in morning business.

Mr. CHAFEE. Fine, Mr. President. I thank the Senator from Wyoming for letting me go ahead.

RECOGNITION OF SENATOR WALLOP

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. I thank the Chair.

SALT DISMANTLEMENT

Mr. WALLOP. Mr. President, it has been widely asserted by some Members of Congress and by professional arms control advocates that SALT is in our interest because it has required the Soviets to dismantle more nuclear systems than the United States. Most of the numbers being thrown around are based on false assumptions, and have been contrived to make the Soviets appear the losers in the dismantlement game. Nothing could be further from the truth.

The Soviets have actually dismantled under the terms of SALT I and SALT II 72 SS-11 ICBM's, 209 SS-7/8 ICBM's and 14 *Yankee* class submarines with 224 missiles. In addition, a handful of *Hotel* class submarines, each carrying 3 missiles, and a few old Bison bombers, have been dismantled. These are the only systems that have actually been dismantled, in effect, the launcher has been destroyed. We have no idea, by the way, what happened to the missiles taken from these launchers, as the requirements of SALT do not discuss those. In the case of the 72 SS-11's, they have been replaced by the new, more capable SS-25 mobile ICBM.

Mr. President, no modern Soviet nuclear system—that is, a system first deployed less than about 20 years ago—has ever been dismantled under the terms of any SALT agreement, and the Soviets have never dismantled any system that was MIRV'd.

If some Senators are still disposed to believe that what the Soviets have dismantled is meaningful in any sense, consider the following: When the Soviets signed SALT II they had 2,504 delivery vehicles. Today they have at least 2,520 and have had as many as 2,540. How could the Soviets have dismantled over 1,000 nuclear systems without reducing their total number of SALT accountable launchers? The answer is that their dismantlement has been meaningful for our security.

The United States has actually dismantled more warheads on launchers than the Soviets. In fact, the three Poseidon submarines which we have dismantled contain almost as many warheads as all the Soviet warheads dismantled under both SALT agreements since 1972. In addition, we have dismantled eight Polaris submarines, several dozen Titan II ICBM's and dozens of B-52's.

In every case, the American systems dismantled were more capable than their Soviet counterparts. The Polaris A-3 missiles had greater range and accuracy than the Soviet SS-N6. The U.S. Poseidon C-3 missiles were far more capable than the SS-N-6. They carried between 10 to 14 warheads, versus 1 for the SS-N-6, and still had greater range and accuracy. The U.S. Titan II missile system had twice the throw-weight and better accuracy than the Soviet SS-7's or SS-8's.

Much of what their apologists have labeled dismantlement is actually replacement, and thus part of the ongoing Soviet modernization program, a program that has increased the Soviet warhead total by over 40 percent since the signing of SALT I in 1972. I would ask the Senators who cling to SALT: Do you call this protecting Americans? The 500 or so SS-11 dismantlements that some people count are not dismantlements at all, since the Soviet simply modified the silos and placed SS-17 and SS-19 missiles in them, each carrying 4 to 6 times as many warheads with greater accuracy. Does this provide safety for Americans? The 300-odd SS-9's that some claim had been dismantled were replaced by SS-18's, the Giant Soviet missile that carries at least 10 warheads, where the SS-9 only carried 1. Who will say that Americans are safer for this?

□ 1000

It is the replacement of the SS-9 with the SS-18 that is largely responsible for the vulnerability of our minuteman ICBM force today. It is directly misleading to include these numbers in the list of Soviet dismantlements, in as much as the Soviets replaced these systems with newer, more capable weapons that present a far greater threat to America.

Those who espouse the view that these dismantlements have really improved United States security assume that it is SALT that made the Soviets

retire aging systems. And by implication, that without SALT they would keep them on-line, capable for launch against us in minutes. Mr. President, this is absurd.

Would our Navy keep ships manned with crews and ready for sea just because they can float? Especially if they had produced newer, more powerful ships with which to fulfill their mission? Of course not. In truth, Mr. President, there is no reason to believe that the Soviets would have kept these old systems on-line without SALT constraints. This is a red herring. To have done so would be enormously expensive, and the marginal gain for the Soviets little. Instead, the Soviets have simply stockpiled these older missiles as a strategic reserve against us, a reserve to which we have no equivalent.

Mr. President, the SALT agreements have not constrained the Soviet buildup. The few weapons they have had to dismantle were literally junk compared with the modern systems that replaced them. These facts accurately dispel the myth that SALT has required the Soviets to dismantle more than the United States, and that for this reason, we ought to remain in unilateral compliance with its terms.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. D'AMATO). There will now be a period for routine morning business.

THE TAX REFORM BILL

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I see the distinguished Senator from Wisconsin is here. I am advised that the managers on each side are on their way so we will start on H.R. 3838 momentarily, and hopefully between now and 4 o'clock we can dispose of a number of amendments so that on Monday we can all be sort of in wrap-up stage and maybe we could agree to a vote on final passage at 2 o'clock on Tuesday. But in any event, that is our hope. We will see how it goes today and Monday.

FATHER'S DAY/PRO FAMILY TAX BILL

Mr. DOLE. Mr. President, this Sunday is Father's Day. And I cannot think of a better present for the fathers of America than passage of the tax reform bill.

The average American family will without question benefit from the passage of tax reform. It is more than just a matter of dollars and cents. With a new, streamlined Tax Code the economic decisions affecting a family's lifestyle, both immediate and long term, will be made in a straightforward, simpler, and fairer way.

For years we have tolerated a Tax Code in this country that contributed nothing toward the family. But the tax reform bill we have been debating all week—and which we will pass next week—makes several giant steps in the direction of basic fairness and social cohesion.

The Senate is about to do what the House failed to do: By increasing the personal exemption to $2,000, except for the wealthiest among us, and by refusing to draw an unfair distinction between taxpayers who itemize and others who do not.

With just two tax rates—15 percent and 27 percent—some 80 percent of all the American people will find themselves taxed at the lower figure. And even the 27 percent top rate is lower than at any time since 1931.

Families that need help will receive it. Some 6½ million of the working poor will be taken off the tax rolls entirely. For a family of four, income up to $13,000 will be subject to no tax. At the same time, the earned income credit—another important boost to the working poor—will rise from the present 11 percent to 14 percent, while the income levels at which the credit is phased out will also go up. Most important of all, the credit will be indexed to inflation. As a result, the working poor will enjoy the benefits of tax indexing, the most pro family tax reform in decades.

With these new, pro-family reforms, the Senate's tax package retained some very important existing tax benefits for families, including the $600 deduction for elderly and blind dependents, and the child care credit, which give a tax break to working people who have youngsters to care for at home.

In addition, for all taxpayers who file joint returns, the standard deduction or zero bracket will go up to $5,000 from the present level of $3,670. And this change, like the rate brackets and the new personal exemption, will continue to be guaranteed against future inflation.

Mr. President, Father's Day is a day for families, for reaffirming the important of love, commitment, and sharing. We have a responsibility, I believe, as public servants to create public policy that does whatever possible to maintain, if not encourage, the viability of the American family. The tax bill we will vote on in the next few days does just that.

DEFORESTATION

Mr. INOUYE. Mr. President, I rise today to bring to my colleagues' attention the efforts of three scientists to address the urgent problem of deforestation. These men—James L. Brewbaker from the University of Hawaii, Michael Benge from the U.S. Agency for International Development, and E. Mark Hutton from Australia—have developed a fast-growing, nitrogen-fixing tree, leucaena, which they are using to restore the forests and hillsides of more than 20 countries around the world. They are being honored today with the first International Inventors Award for forestry, which they will receive from the King of Sweden.

The contributions of these three men are detailed in the attached letter from Noel Vietmeyer to the International Inventor's Award selection committee. I am especially pleased to note the role played by Professor Brewbaker, who is professor of agronomy at the University of Hawaii, in the development of leucaena. Mr. President, I ask unanimous consent that the full text of Mr. Vietmeyer's letter dated August 2, 1985, be included in the RECORD so that my colleagues may appreciate the full extent of the contributions made by these great men.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL RESEARCH COUNCIL,
OFFICE OF INTERNATIONAL AFFAIRS,
Washington, DC, August 2, 1985.

To the International Inventor's Award:

Tropical forests are being cut faster than they can replenish themselves. In what may well prove to be the biggest environmental mismanagement of all time one-third of South America's vast tropical forests, one-half of Africa's, and two-thirds of Southeast Asia's have been destroyed. Deforestation leaves the ground unprotected. Without trees and their root systems, heavy rains on the hillslopes cause rushing water that erodes the land and produces devastating floods that despoil highways, dams, bridges, towns, villages, and farm lands. One storm can wash away a century's accumulation of topsoil.

But in the Philippines and at many other spots in the tropics, a spark of hope is appearing. It is a new generation of trees—very fast-growing leguminous trees.

Most people think of legumes as something served with the main course at dinner, but actually the legume is the third largest plant family, (after orchids and grasses). More than 18,000 leguminous species are known, including peas, beans, soybeans, peanuts, clover and alfalfa, as well as several thousand species of trees. In the tropics the one that is sparking the most attention is leucaena (Leucaena leucocephala).

Leucaena is so productive that it's cultivation may well lessen the forest destruction by providing the firewood, lumber, and paper that expanding populations in the tropics need. It produces what is essentially a permanent forest because the stump of a felled leucaena tree sprouts with such vigor that the plant literally defies the woodcutter. And leucaena is a tree that can feed cattle, goats, water buffalo, and some other ruminant animals.

It is becoming recognized as one of the fastest growing and most useful trees in the tropics. For example, the Philippines is investing more than $100 million in a rural electrification program based on buring leucaena wood; Taiwan has planted 10,000 hectares of leucaena for paper and rayon production; Indonesia has a major provincial development program using leucaena as a

village forage and for green manure and fuel; in India a foundation has distributed 40 tons of leucaena seed throughout the Subcontinent; Haiti is spending $8 million to reforest eroding hillslopes, using mainly leucaena; and other countries—among them the Dominican Republic, Kenya, Malawi, Mexico, Sri Lanka, and Thailand—have started leucaena programs.

Leucaena has demonstrated that it can grow over a wide range of environments. Its deep tap root makes it drought tolerant so it often provides the only greenery in the dry season. In addition, it fixes a lot of nitrogen—in trials in Queensland leucaena stands have been recorded fixing more than 500 kg of nitrogen per hectare per year.

In recent decades leucaena has given hope that deforestation can be conquered. And it has opened up the new avenue of possibilities for other nitrogen-fixing trees, such as those of the genera Calliandra, Acacia, Mimosa, Prosopis, Albizia, and Sesbania.

The development of leucaena is due to three pioneers: Michael Benge, James Brewbaker, and Mark Hutton. These are the crusaders who have given the world this new weapon in the war against deforestation.

MICHAEL BENGE

Michael Benge is an administrator with the Agency for International Development. He began trials with leucaena in 1965 when he was working to help the hill-tribes of Vietnam. He was introduced to the promise of leucaena by a visiting Australian who suggested that the Cunningham variety (developed by Mark Hutton, see later) could be a possible forage for the dry season. Benge thought it might be "just the thing" for slash-and-burn cultivators, and soon he was planting it as living fences, and in study plots in an abandoned rice field.

These experiments were interrupted by his capture by Viet Cong forces and his imprisonment under appalling conditions for more than five years.

After his release, Benge returned to Vietnam to again help Montagnard tribes improve their agriculture and lives through using leucaena. Later, he went to the Philippines, obtained funds from the Agency for International Development, gathered literature on leucaena and began publicizing the promise of this self-fertilizing tree. "The Green Revolution missed hill-land farmers," he says, "because they can't afford fertilizer." He points out that leucaena's outstanding nitrogen fixation and deep roots promised to add nitrogen and minerals to the top soil layers thus bringing the Green Revolution's benefits to many more farmers in a 'gentle' natural way.

In 1973, Benge learned of James Brewbaker's "giant" leucaena varieties in Hawaii (see next section), paid for Brewbaker to visit the Philippines and organized a seminar for Filipino scientists, administrators, politicians, entrepreneurs, farmers and the press. The convergence on the Philippines of these two leucaena pioneers led to the "Giant ipil-ipil" craze that has swept the Philippines in the years since.

Subsequently, more than 50,000 copies of a report Benge wrote on leucaena were published. More than 100,000 hectares of the tree was planted. Peasants began selling leucaena leaves on a very large scale to companies making poultry rations and this also led to substantial exports to Japan.

In more recent times Benge has initiated projects with the crop in India, Indonesia, Haiti, Nigeria, and other nations by mailing out thousands of reports and packages of seeds, writing reviews and papers (translated into Thai, Indonesian, French and Spanish).

JAMES BREWBAKER

James Brewbaker is a professor of agronomy at the University of Hawaii. His specialty is breeding corn and other vegetable crops for tropical regions. He has little background in forestry, but since the 1960s he has been the leading scientist behind the development of treelike leucaena varieties.

It happened by accident. In 1963 he was scouring Central America for corn germplasm when, in the hinterland of Guatemala and El Salvador, he noticed strains of leucaena that grew into tall trees. Luecaena is a wild shrubby weed in Hawaii and he'd never heard of a treelike variety. When planted in Hawaii the new variety grew at an astounding rate. Some specimens were 6 m tall before they were one year old; 15 m high in eight years. Remarkably, for such a fast-growing species, their wood was as dense as oak.

This was a major find, and Brewbaker selected several varieties (K8, K67, K128, and others) and distributed their seed throughout the tropics. Today these "giant Hawaiian" leucaenas are astounding people from Haiti to the Philippines to Malawi.

In the years since his discovery Professor Brewbaker has conducted basic research on leucaena taxonomy, and silviculture. He has gathered germplasm throughout Central America not only of leucaena, but of its botanical relatives.

More recently he has organized the Nitrogen-Fixing Tree Association to promulgate information on the promise of leucaena and similar fast-growing trees. Also, he publishes Leucaena Research Reports, a journal devoted to the species, as well as bulletins on the propagation and management of leucaena. He has trained many students and advised many countries where the tree has promise. All in all, Brewbaker has laid the scientific groundwork for this new tree resource.

MARK HUTTON

Mark Hutton is former director of the Cunningham Laboratory, in Brisbane, Australia. This is a division of the Commonwealth Scientific and Industrial Organization specializing in tropical agricultural research. There, Hutton has invested his long career in developing pasture species for the tropics. He has spent more than 40 years creating varieties of legumes for difficult soils in northern Australia. His "retirement" is being spent in Colombia and Brazil battling the acidic and toxic soils that ("janos" and "cerrado") that together stretch from Venezuela to southern Brazil. These soils kill most plants because of their high amounts of soluble alumina.

Part of Hutton's prodigious energy has long been invested in the advancement of leucaena—a courageous act in a profession used to dealing only with herbaceous pasture legumes and grasses, not a woody shrub. Over the decades, his fascination with leucaena was scorned by most of his colleagues. They questioned his judgment; almost none thought a tree could ever make a useful livestock feed. But Hutton was impressed with the plant's vigor, its high protein level (27-34 percent, which exceeds that of other tropical pasture legumes), and high digestibility, as well as with the cattle's eagerness to eat it.

Today, thanks to Hutton's leadership, we know that leucaena is potentially one of the most valuable fodder sources for the tropics. Grown on well-drained, fertile soils, and regularly mowed or clipped, it produces large quantities of foliage. For ruminant animals such as cattle, water buffalo, and goats, this is palatable, digestible, and nutritious. Consequently, leucaena is a promising candidate for increasing meat and milk production throughout much of the tropics.

Although it is inherently a tree, the animals browse the stems and leaves, giving no chance for thick woody stems to develop. Keeping animals out until the plants are 1 or 2m high produces a 3-dimensional block of forage in which the livestock find feed from ground level to eye level. This makes for a very productive pasture; and has led to some of the highest meat and milk production ever recorded in the tropics. The plants resprout with vigor, and in Australia some fields are still in production after 17 years of periodic grazing.

However, the plant had a major drawback. Cattle in Australia, Papua New Guinea, and perhaps some other areas suffer nutritional disabilities after feeding on high levels of leucaena for a long time. Hutton and a few disciples traced the cause to mimosine, an unusual amino acid present in the leaves. Over the last few years Hutton's colleague and protege, Raymond Jones, has shown that outside of Australia and Papua New Guinea ruminants have stomach microorganisms that render mimosine harmless; in those regions ruminants can eat leucaena without ill effect. Jones is now introducing the bacteria into Australia so that ruminant animals there too will soon be able to eat leucaena extensively without harm.

SUMMARY

Leucaena is a harbinger of what is becoming a whole new world of forestry in which trees that fix their own nitrogen are grown like field crops. In the humid tropics and in semiarid lands, this coalescing of agriculture and forestry has special significance. Tree roots penetrate to deep layers of fertility and moisture unavailable to conventional crops and a tree canopy shelters and shades fragile topsoil from devastating tropical downpours or baking desert heat. Whether grown for wood, for forage or to fertilize other crops these "gentle" trees benefit the land and the people.

Leucaena is breathing new life into tropical forestry, a science long in decline and lacking in recognition and invention. In a sense, tropical forestry has become too important to leave to the small number of poorly supported tropical foresters. Now we have a motivated administrator, Michael Benge; a corn breeder, James Brewbaker; and a pasture specialist Mark Hutton, carving out new avenues of forestry innovation. We are entering a new era in which the widespread planting of leguminous trees will help solve the overwhelming problems of denudation, land degradation, unemployment, animal feed, and energy supply in rural regions of the Third World. Leucaena and similar leguminous trees should prove to be the saviors of the last remnants of the world's native tropical forests. There has probably been no more inventive discovery in recent decades.

Sincerely yours,

NOEL VIETMEYER,
Professional Associate.

MS. NANCY M. NEUMAN, NEW PRESIDENT OF LEAGUE OF WOMEN VOTERS

Mr. SPECTER. Mr. President, it is with great pride that I congratulate and extend best wishes to Ms. Nancy M. Neuman of Lewisburg, PA, who on Wednesday June 18, 1986, will become the first Pennsylvanian to be elected president of the League of Women Voters of the United States. As president of the 66-year-old organization, Ms. Neuman will direct the organization's 250,000 members and supporters and promote the League's advocacy agenda. Currently, the League of Women Voters is focusing on vital issues like arms control; securing an equitable, responsible Federal fiscal policy; protecting the environment; and protecting the civil rights of women and minorities.

Ms. Neuman, who has been active in the League of Women Voters for 20 years, is uniquely qualified to provide national leadership to an organization which addresses such diverse issues. Ms. Neuman has served on the Federal Judicial Nominating Commission of Pennsylvania, a bipartisan commission which my distinguished colleague, Senator HEINZ, and I appoint to screen candidates to fill Federal district court vacancies. She was appointed to the Commission in 1977, and served as its chairperson from 1978 to 1981 and from 1982 to 1983.

In 1980, Ms. Neuman was one of the first nonattorneys to be appointed to the board of directors of the Disciplinary Board of the Supreme Court of Pennsylvania. This board adjudicates cases of misconduct brought against attorneys and reviews petitions for reinstatement to the Bar of Pennsylvania.

Previously, Ms. Neuman had served on the State Appellate Court Nominating Commission, and on the Governor's Task Force on Voter Registration which drafted the registration by mail legislation enacted in Pennsylvania in July 1976.

Ms. Neuman began her career with the League of Women Voters in 1966. She served as president of the Lewisburg Chapter of the Pennsylvania League of Women Voters from 1967 to 1970. In 1970, she became a member of the Pennsylvania League of Women Voters Board, and from 1975 to 1977, Ms. Neuman served as president of the Pennsylvania League of Women Voters.

Ms. Neuman has served on the League's national board for 8 years, holding the first and second vice president positions, and has also served on its executive committee. A longtime activist for equal rights for women, Ms. Neuman chaired the League's Equal Rights Amendment Campaign from 1977-79.

Ms. Neuman has received numerous honors and awards including an honorary doctor of law degree from Pomona College in California for "tireless contributions to the improvement of society." In 1983, the Young Lawyers' Division of the Pennsylvania Bar Association presented Ms. Neuman with the Liberty Bell Award for defending the American system of freedom under the law. In addition, she has served on the boards of the Federal Home Loan Bank of Pittsburgh and the Pennsylvania Housing Finance Agency. Currently, she sits on the boards of the Rural Coalition, the Citizens Forum on Self-Government/National Municipal League and the American Arbitration Association.

Ms. Neuman's husband, Mark, is a professor of history at Bucknell University. They have three children, Jennifer and Jeffrey Neumann and Deborah Mitzler.

Obviously, Ms. Neuman is an individual whose breadth of knowledge and experience qualify her for a wide range of leadership roles on the national level. Her choice of the League of Women Voters of the United States as the primary recipient of her leadership talents is a tribute to the important work being done by that organization.

Congratulations, Nancy, and I look forward to continued work with the League during the coming years.

FEDERAL TAX CHANGE AND THE PRIVATE FOREST SECTOR

Mr. GORTON. Mr. President, the Senate is now in the midst of its deliberations of reforms to the Tax Code. Because of the important role the Tax Code has on the timber industry, which is vital to the economic well-being of my State, I would like to submit for the RECORD the executive summary of a concensus report titled "Federal Income Tax Change and the Private Forest Sector." This report was the result of a conference sponsored earlier this year by the National Friends of Grey Towers, a center of excellence in conservation thought and policy.

The report analyzes changes to the Tax Code that were proposed in the House bill and Treasury II and represents the consensus opinion of recognized experts in the field of timber taxation. The members of the task force included: Dr. Hugh Canham, SUNY College of Environmental Science and Forestry; Mr. William Condrell, Steptoe and Johnson; Mr. Merle Conkin, Container Corporation of America; Dr. John Gray, National Friends of Grey Towers; Dr. Harry Haney, Virginia Polytecnic Institute; Mr. Charles Raper, Travelers Insurance; Dr. William Siegel, U.S. Forest Service; Dr. William Sizemore, Sizemore & Sizemore; Mr. Richard Smith, John Hancock Mutual Life Insurance Co.; Dr. Robert McMahon, Oregon State University; Mr. Samuel Radcliffe, George Banzhaf & Co.; Mr. Thomas Volpe, Champion International; Mr. Neil Wissing, Weyerhaeuser Company; Mr. Robert Wright, Arthur Andersen & Co.; and Dr. James Voho, Duke University.

The issues discussed in the report are of continuing significance until Congress agrees on a final tax reform package. I would like my colleagues to have the opportunity to review for themselves the conclusions reached by this prominent panel of timber tax experts.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

FEDERAL INCOME TAX CHANGE AND THE PRIVATE FOREST SECTOR

EXECUTIVE SUMMARY

The United States since 1944 has had a moderately favorable and relatively stable federal income tax policy which has provided for greater equity between forest and timber production and other enterprises, and among the various categories of forest owners. Current proposals for change emanating from the Executive branch (Treasury II) and from the House of Representatives (H.R. 3838) discriminate against forest and timber production enterprises, especially corporate owners. These proposals destroy the equity which now exists within the forest ownership sector. They severely impact the production of timber both in the short term and in the long term. The impacts on the forest and timber producing sector will have economic and social consequences affecting unfavorably many aspects of the American way of life.

The United States has a substantial forest land base suitable and available for producing timber and many other forest outputs. Public policy since Colonial times has recognized the unique national asset and renewable trust that this resource represents. Our commercial forests cover more than one fifth of the total land area, are predominantly in private ownership, and produce 20 percent of the world harvest of wood for construction, furniture, paper, board products, and a host of other uses. They also produce vast amounts of generally unpriced social and environmental benefits. Our forest resources and the array of activities based on them are deeply interwoven into the economic, social, and environmental fabric of the nation. Although productivity has increased over the past half century, expanded investment is needed to offset forecast continued declines in softwood forest resources and in large, high quality timber of both hardwoods and softwoods. Any major shift in forest and timber investment and management will produce consequences for the American society and economy beyond the immediate private forest sector.

All significant timber producing nations of the free world recognize the unique, long term, capital intensive nature of timber production, the risks from insects and diseases and fire, and the uncertainty of predicting markets 20, 30 or even 80 years into the future. These nations offer special tax provisions, and financial assistance, and have developed other public policies to encourage private forest owners to manage their lands in the public interest.

Enactment of either Treasury II or H.R. 3838 decreases the after-tax profitability of

timber investment and management. This promises to drop the return on invested capital below the minimum required in today's economy to attract investors. This will come about through the repeal of capital gains provisions for revenues from timber harvest and sale, elimination of deduction of maintenance, taxes and interest expenses in the year in which they are incurred, and complete elimination of PL 96-451 which makes special provision for a limited amount of reforestation-expenditures annually.

Short term impacts on the timber sector include an expected increase in liquidation of timber standing on both industry lands and nonindustrial forest lands. Forest management practices will be curtailed including thinning to improve timber growth rate, removal of diseased or otherwise unsuitable cull trees, pest and fire control, and access road development. Tree planting on many lands will cease. There will be less protection of the site and other nontimber forest values as timber is harvested in more of a "cut out and get out" manner. Forest land values will drop.

In the more distant future even more severe impacts may occur. Timber supply will decline. That is, there will be fewer acres under intensive timber management, the overall growth of the timber will be slower, quality and size of the trees will be less, and it will require much longer time to produce high quality timber for lumber, wood furniture, veneer, and related products. There will be a shift from softwoods to more hardwoods necessitating changes in manufacturing technology in the pulp and paper industry and in the use of wood in house construction. Forest ownership will shift to people with only a custodial interest in forest management. Overall there will be less domestic wood and paper products for the American consumer and higher prices.

There will be broader economic and social effects of the changes brought on the timber sector by enactment of either of the two tax proposals. In the long term, U.S. timber and forest products exports, which are predominantly softwood, will be reduced. In recent years over 6 billion dollars worth of wood products were exported annually but this will drop if timber investments and management are reduced and prices rise. United States producers will be placed at a cost disadvantage with foreign producers where tax policies are similar to the existing U.S. tax code for forestry.

Rural economies will be particularly hard hit by changes brought on by enactment of the tax proposals. Forests and forest products activities are predominately rural economic activities. Long term declines in forest productivity, timber based employment and income will intensify the rural crisis caused by the current agricultural recession. Rural banks and other lending institutions, such as the Farm Credit System, will experience a drop in collateral values. Local governments and school districts will find property tax bases eroded and will be forced to shift to other revenue sources, if possible, to maintain public services.

Fewer amenity services will be available on private lands which currently make important contributions to overall recreational opportunities in the nation. This curtailment of services will be necessary since the added costs of public access to private forest lands will no longer be deductible against current incomes. In turn, this, coupled with decreased timber production on private lands, will place increased pressures on public agencies to manage their lands more intensively for both timber and recreation.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Pending:

Kasten-Inouye Amendment No. 2077, to provide for charitable deductions for nonitemizers and to lower the threshold for phasing out the personal exemption.

AMENDMENT NO. 2077

The PRESIDING OFFICER. The question is on amendment 2077.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The question is on amendment 2077.

Mr. KASTEN. And that is the amendment that Senator INOUYE and I have introduced regarding the deductibility of charitable contributions?

The PRESIDING OFFICER. That is correct.

Mr. KASTEN. Mr. President, today I am submitting an amendment to make permanent the deduction for charitable contributions by nonitemizers.

At a time when we are calling on charitable organizations to play an increasing role in our communities, it is critical that we do not take away their most essential fundraising tools.

As reported out of the Senate Finance Committee, H.R. 3838 ended all deductions for charitable contributions by people who do not itemize their tax forms. In other words, they cut them out. People who choose not to itemize can no longer receive charitable deductions. Now, we have estimates that roughly 75 percent of taxpayers will no longer itemize. We are moving toward a fair and simple tax. It is therefore logical that fewer people will take the time, the trouble, and the effort to itemize. We are estimating now that roughly 75 percent of the taxpayers of this country will no longer itemize their deductions. Therefore, the deduction for charitable contributions becomes even more important that we retain it for both itemizers and nonitemizers.

Termination of the nonitemizers charitable deduction would mean that three out of four people in this country, three out of four Americans, would lose their charitable deduction. That deduction would be available only to a relatively few people. Only to about a quarter of the people in the United States of America who are the more affluent, the richer, the taxpayers who decide to itemize.

□ 1010

In 1984, 61 million low- and moderate-income Americans, who did not itemize, contributed $24 billion—or 30 percent of all money donated by individuals. These Americans have played a significant role in providing selfless support for our nonprofit institutions.

According to projections by a Harvard economist and the National Bureau of Economic Research, charitable contributions will decline by $12 billion annually under the Finance Committee's bill.

I want to repeat that: This estimate is projecting that charitable contributions are going to do down, are going to decline, as a result of the legislation we are passing here today. They say they are going to decline by $12 billion. Half of this decline—$6 billion—can be directly tied to the elimination of the charitable deduction for nonitemizers; that is what we are trying to fix.

Mr. President, as we move to reduce Federal deficits, there is growing public support for volunteerism. There is growing public support for people throughout America to band together on their own. There is growing public support for State and local initiatives at the voluntary level, and that public support is also growing for people who choose to make charitable contributions.

This is an amendment that the vast majority of the American people support. It is one that the Nation cannot afford to lose.

Two public opinion polls have measured very strong support for charitable deductions. A January 1985 New York Times/CBS News poll found that 81 percent of those surveyed support a deduction for charitable giving. Only the mortgage interest deduction rated higher. More people were concerned about charitable contributions than about IRA's, and we have had, over the past couple of days, extensive debate on IRA's.

In April 1985, the Los Angeles Times conducted a poll which found that by an overwhelming majority—82 percent—of Americans support the charitable deduction. Even among those who do not claim charitable deductions, 70 percent favored keeping this tax incentive.

I invite my colleagues to join with me in supporting the Nation's churches, synagogues, United Ways, colleges, and civic institutions. Without this amendment they will lose billions of critically needed dollars every year.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to join my distinguished colleague from Wisconsin, Senator KASTEN, in offering this amendment to make permanent the charitable contributions deduction for nonitemizers.

This amendment will increase fairness, promote a worthwhile social policy, and maintain revenue neutrality in the tax reform effort.

I feel it is important, at a time in which Federal support for charitable and other nonprofit organizations and causes is diminishing, that we not hinder their efforts to raise funds privately. Since 1982, Federal spending in areas where nonprofit groups are active has dropped $70 billion. In order to make up this shortfall, charitable organizations need the charitable contributions deduction kept intact—both for itemizers and nonitemizers.

There can be no doubt that private initiative to enhance the public good is a foundation of our society and should be encouraged by Government policies. Since 1917, the Tax Code has been used to further this aim through the charitable contributions deduction. As the number of taxpayers who itemize their deductions declined in the late 1970's, this deduction was extended to nonitemizers to maintain the broad base for this valuable instrument of public policy. Now, however, at a time when even fewer taxpayers will itemize, the tax reform bill we are considering would eliminate this deduction for all but those relatively few affluent taxpayers who will continue to itemize. I do not feel this is consistent with the goals of our society, and thus I feel we must continue this deduction which benefits not a special interest, but the public interest.

With regard to the effectiveness of the charitable contributions, the numbers speak for themselves. As my colleague from Wisconsin has explained, 30 percent of all individual charitable donations are made by nonitemizers. In 1984, there were $24 billion in contributions from nonitemizers. If our amendment is not adopted, the Finance Committee bill will cause an annual reduction of $12 billion in charitable giving, according to the National Bureau of Economic Research and Harvard economists. This represents a 15.7 percent average reduction in giving. These are not merely losses to the groups that receive the donations, but losses to the millions of people who are the recipients of the wide range of human services dependent on the charitable deduction.

I would like to provide, Mr. President, a breakdown by subsector of the reductions in giving that would result from the Finance Committee bill:

In religion, there will be a reduction of 13.7 percent; in education, 19 percent; in social welfare, 17.6 percent; in health organizations, 17.6 percent; for cultural organizations, 19 percent—a total of 15.7 percent average.

Half of these reductions directly arise from the elimination of the deduction for nonitemizers, the other half from lower marginal tax rates. I think we all must accept the reduced giving resulting from lower rates, but we should not and will not accept the funding hardships which would directly arise from wiping out the charitable deduction for nonitemizers.

□ 1020

These figures demonstrate the importance of the deduction in generating substantially increased giving. While people give to charities based on generosity and willingness to sacrifice for causes they believe in, the deduction prompts people to give more than they otherwise would. In 1985, a survey of 10,000 households was conducted by the American Cancer Society. People who learned about the deduction for nonitemizers gave an average of 10 percent more than those who did not. This represents $6 billion a year in private donations to charitable organizations.

Some would contend that with the lower tax rates, the incentive for giving provided by the deduction for nonitemizers will be greatly weakened. The facts do not support this, however. Currently the majority of nonitemizers who use the deduction pay an average tax of 18 percent. With the Finance Committee bill, these people will be taxed at a 15-percent rate. We do not believe, Mr. President, that this modest reduction in tax rate will significantly change the incentive effect of the deduction. Furthermore, statistics indicate that since the charitable deduction for nonitemizers was instituted in 1981, charitable giving by individuals earning less than $50,000 a year has increased by 18 percent—this at a time in which giving by those earning more than $50,000 has decreased by 34 percent. Clearly, Mr. President, the continued generosity and sacrifice of middle and lower income Americans is vital to the cause and must be encouraged.

A further aspect of our amendment that justifies its adoption is its enhancement of fairness. By retaining the charitable contributions deduction only for taxpayers who itemize, the Finance Committee bill deprives three out of four taxpayers from utilizing the deduction. This would make the charitable deduction available only to an affluent minority, this at a time when broad support for charitable groups is necessary to keep them vital.

Some have suggested that the standard deduction, when first enacted, took into account charitable contributions, resulting in a taxpayer double-dip when they choose to take the standard deduction in lieu of itemizing their deductions and take an above-the-line deduction for charitable contributions. The legislative history does not bear this out, however, and is in fact quite ambiguous on this matter. Nonetheless, the $200 floor below which donations cannot be deducted, which we have included in our amendment, should put to rest concerns over the double-dip issue.

The final important aspect of this amendment is its revenue neutrality. By providing a revenue offset, we are staying within Gramm-Rudman restrictions and keeping the tax bill's revenue impact balanced. The offset we have chosen—the acceleration of the personal exemption phaseout—is one that will affect only those well-to-do Americans who are already greatly benefited by the tax bill, while leaving untouched lower and middle income taxpayers. Under our amendment, the phaseout of the personal exemption which begins as $145,000 of income for joint returns, would be complete at $165,000 of income rather than $185,000 as currently in the bill.

This raises a question of priorities. We must decide if it is more important to provide a few extra dollars to a taxpayer who is already doing well and will be doing better under tax reform; or is it of greater national importance to support nonprofit groups who do such vital work as cancer research, drug prevention, aid to the elderly, environmental protection, sheltering of the homeless, promotion of the arts, and educating our children—just to name a few of the vital functions provided by the groups benefiting from the charitable deduction. We feel, Mr. President, that people in the affected income bracket can more easily afford a slight increase in their effective tax rate as a result of this amendment than the millions of Americans who depend on the variety of public services provided by philanthropic organizations can afford to be deprived of these services.

In summary, Mr. President, for over 200 years the private nonprofit sector of American society has been a creative force helping to shape our values and culture, providing service to the needy, and offering opportunities for individual action and commitment. Over the years, billions of dollars and an equally large amount of time and effort have been voluntarily contributed to causes of all kinds. With the current drought of Federal funds, however, the future of services provided by these organizations is now in doubt. Organizations such as the United Way, the American Cancer Society, the Red Cross, the Boy Scouts, the Girl Scouts, the Child and Family Services, the Environmental Policy Institute, the Goodwill Industries of America, the YMCA, the YWCA, the National Urban League, the National Organization of Women, as well as vir-

tually all our churches, synagogues, temples, hospitals, schools, and museums all depend on the charitable deduction and all would suffer from its elimination. Indeed, Mr. President, we as a society would suffer from its elimination, and I urge my colleagues to take action today to avoid such a tragedy.

Mr. KASTEN. Mr. President, this amendment does not challenge the fundamental principle of the Finance Committee bill, and I simply want to point this out to my colleagues before we begin a more detailed debate. This amendment does not challenge the basic principles, which I support, of the Finance Committee bill.

It does not seek to protect one special interest at the expense of another, and frankly that is what we have been doing for much of the last 4 or 5 days here. Instead, the criteria used in this amendment protects the basic integrity of this bill.

This amendment provides that contributions over $200 in any year are deductible for people who choose not to itemize their returns. In the committee bill, every dollar an itemizer contributes is deductible, but the dollars that the nonitemizer contributes are not.

In addition, this amendment provides for the phasing in of this deduction for nonitemizers. In 1987 and 1988, contributions are 50 percent deductible. In 1989 and 1990 contributions are 75 percent deductible. Then in 1991 contributions are 100 percent deductible.

To finance this amendment we have provided a revenue neutral offset which does not upset the basic criteria of the Finance Committee bill.

This offset changes the committee formula for accelerating the phaseout of the personal exemption. The committee phases out the exemption at the rate of 5 percent for every $1,000 over a specialized threshold. What we do is simply speed up that phaseout. Our amendment instead of 5 percent phases out the exemption at the rate of 12 percent.

Mr. President, I ask unanimous consent to have printed in the RECORD a table which specifies this phaseout.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Mr. President, copies of that table are available in all Senators' offices and also here on the floor.

But let me, if I can, just explain what we are talking about here. Under the new bill, there will be a $2,000 personal exemption for all taxpayers, but at the very higher incomes that $2,000 personal exemption is phased out. The committee felt that the $2,000 personal exemption was not necessary for people at the very high-income levels and it was also felt that the $2,000 personal exemption would help, if we took it out, to skew this bill in favor of the top end of high-income people. Under the Packwood bill, under the bill before us, this personal exemption would be phased out beginning at $145,000 and going to $185,000.

Under our amendment the phaseout still begins at $145,000 but we phase it out faster. Instead of the personal exemptions being available in part to people all the way up to $185,000, under our amendment the phaseout would end at $161,987 or roughly $162,000. So instead of the phaseout ending of the personal exemptions being from $145,000 to $185,000, under our amendment the phaseout would be from $145,000 to $161,000. That is the difference. We both phase out the personal exemption at the high-income levels. We simply phase it out faster.

The point I am trying to make is that this bill does not upset the basic integrity of the Finance Committee bill. It does not lower the rates. It does not change it. It does not increase the rates. It does not change the basic bill.

By supporting this amendment, Senators are going to be backing working men and women of our country and the institutions that they support with their voluntary contributions. This amendment is not a "bill buster" in any way. It protects the integrity of this tax bill. It is important, I believe, for us to make this significant improvement. Voting for this amendment is probably the most important thing a Senator can do this year to help out the charities in our States.

It does not threaten tax reform. In fact this amendment will improve tax reform. I believe it is time to act and I hope that the Senate will adopt this amendment.

EXHIBIT 1

DESCRIPTION OF KASTEN AND INOUYE CHARITABLE AMENDMENT

1. Provides that charitable contributions in excess of $200 in any year are deductible. Phased in over 5 years. 50% first 2 years; 75% second 2 years, and 100% fifth year.

3. Offset: accelerates the phase out of the personal exemption.

Under the Committee Bill, the $2,000 personal exemption is phased out for upper incomes.

In the Committee Bill it is phased out at the rate of 5% for every $1,000 above a specified threshold. We would phase it out at the rate of 12%.

COMPARISON OF KASTEN/INOUYE AMENDMENT AND PACKWOOD BILL

Type of return	Packwood	Kasten/Inouye
Individual	$87,240 to $127,240	$87,240 to $103,907.
Head of household	$111,400 to $151,400	$111,400 to $128,067.
Joint return	$145,000 to $185,000	$145,000 to $161,987.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1030

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, before I comment on this amendment, I want to announce the transition rule that the Senator from Ohio [Mr. METZENBAUM] is planning to bring it up today. So that those Senators who are interested will know—and we are calling their staffs now—we will start with Unocol, which we announced last night. He then will bring up Cimarron Coal Co., FIRPTA, disclaimer of trust, Physicians Mutual Insurance in Nebraska, Philips, and Denver Rio Grande Railroad. They will not necessarily come in that order after Unocal, although I think by the time we get onto Unocal we will know the order of the others.

But I am expecting the Senators for whom those transition rules were put in the bill will be here to defend those transitions.

Mr. President, this particular charitable deduction, the above-the-line charitable deduction, was put in in the 1981 bill in an amendment sponsored by Senator MOYNIHAN and myself. We are the two principal sponsors that allowed people to take deductions for charity even though they did not itemize. We introduced the bill when we were still at a 70-percent top rate.

We were convinced because the minimum rate for most Americans was then higher than it is now; that it was only fair that we encourage people to give to charity even if they did not itemize. This is called an above-the-line deduction, and to put it in simple terms, what it really means is even if you do not itemize and take deductions, you can still take some deductions. We simply moved them in essence from below the line, where you fill out and itemize, to above the line. Charity deductions or IRA's are above-the-line deductions. You can take them even if you do not itemize. Moving expenses are above the line, employee benefits are above the line, Alimony payments are above the line.

All of these were put in at one time or another when the rates were significantly higher. But as we sat in the Finance Committee, we tried to decide what were the things we would be willing to cut out in order to get the rates down to 15 percent for about 85 percent of the taxpayers in this country.

Each member anted up something that he felt very dear about in order to achieve the common good that we have in this bill. Senator MOYNIHAN and I gritted our teeth and said we would give up on the above-the-line

charitable deduction. I gave up on individual capital gains, upon the understanding that the rate could not go above 27 percent. Otherwise, felt capital gains would have to be put back in the bill.

Other Members give up other things. The sales tax deduction was very, very difficult for any number of Members to give up. Senator LONG from Louisiana fought very hard on that issue because Louisiana is a high sales tax State. When all was said and done, everybody gave up something to get the bill we had.

So the question now becomes are we going to start to undo it a bit? And if so why and with what justification? Most people below $20,000 do not itemize. Most people above $30,000 do itemize.

However, for a family of four, you have to be above $42,300 in gross income before you get above the 15-percent rate of taxation; 80 percent of all of Americans fall within the 15-percent bracket.

So the issue becomes this: will people in the 15-percent bracket not donate to the YMCA, to the B'nai B'rith summer camp, to the parish church, because they cannot get a 15-percent deduction? The best research that we can have—and it is very speculative—is that at the low rates that we have set in the bill people are going to give because they believe in something, and they are going to give whether or not they can itemize a deduction.

I have said many times on this floor in the debate on this bill every one of us would like to vote I think to put back in every deduction and not raise the rates. That would be Nirvana, Shangri-la, the best of all possible worlds. But it cannot be done. Under this bill those people who now give to charity but do not itemize will continue to give. They will continue to give because they will have more money to give under this bill. More importantly, they will continue to give because they have the spirit and desire to give.

□ 1040

They will have more money left in their pocket with the low rates under this bill, even if they give to charity, than they have under the current law, making the donation and taking it as an above-the-line deduction and paying the higher rates that now exist.

So time after time after time as we went through the debate in the Finance Committee of what deduction can we cut out—they say the employer business deductions which are now above-the-line deductions have been removed, have a floor under them and moved them to an itemization—as we went through the debate, time after time we were thinking to ourselves if the rates are low enough and people will actually have more money in their pocket, continuing the same behavior that they have done in the past, whether it is applying to IRA's, giving to charity or whatever, will it adversely affect the IRA's and the charities?

The conclusion we came to was no.

I understand the frustration.

There was an interesting poll that appeared about 10 days ago in the paper asking people "Would you rather have" and it listed a variety of popular deductions. "Would you rather have these deductions and higher rates or would you rather lose the deductions and have lower rates, even if it meant you had more money afterward, after you made the contributions?"

The poll was an almost even split, with about half of the people saying they would rather have the deductions because they were used to them.

Mr. President, there is one thing you can say about this bill. At the moment the public is not used to it. This is a radical departure from anything else that we have ever done in the history of the Tax Code.

Senator LONG has said many times that in all the years he has been here in the Senate the idea of cutting rates was anathema. You did not do that. It was a terrible thing to do.

We went through this code and put in exceptions and deductions.

Mr. LONG. If the Senator will yield, I personally was one who thought we ought to reduce rates, but my colleagues did not agree. I recall I submitted an idea to the Finance Committee that helped people keep some money by reducing rates. I was told by a Democratic Senator "You cannot get the votes for that."

The argument was made that a working man needed money more than the man in the upper brackets, and that you could be better off politically by increasing the exemptions than you would by reducing the rate. I thought we should have reduced the rates, and the Senator knows I voted that way on every opportunity.

For a long time we could convince someone to vote for something like the qualified stock option, but we could not convince them to cut the rate. Finally, we got people to thinking in terms of: why not cut the rate?

The Senator has been on the committee on the occasions when we voted several times to bring the rates down. I am pleased to have voted for those rate reductions. But there were times that people thought you could not do that, because you would be considered as helping the rich.

Mr. PACKWOOD. That is the irony. If you wanted to cut the rates, you were accused of helping the rich. We had rates of 94 percent at one time. During World War II the rates were 94 percent. Do you think that anybody who was rich paid 94 percent? Of course they did not pay 95 percent. That is because rather than voting to cut the rate, which we thought was too high, we voted to give all kinds of exemptions and deductions so that nobody paid the top rate. Nobody who is really rich today pays the top rate of 50 percent.

Mr. LONG. At that time we had the excess profits tax. Perhaps you do not recall it, but I am older than the Senator is. The excess profits tax is what started this big need for the qualified pension plan. Back at that time the executives did not have in mind the workers. They started piling up money in retirement funds for their executives. After a while, labor got on to that and they demanded the right to be included in this deal.

Rather than pay 90 percent of their income out in taxes, they would put it away for the workers.

If I might repeat what I told the Senator before, they say that back in those days people met down at the Mayflower Hotel in the cocktail lounge, had a few rounds of drinks, and one said, "I have to go. Let me have the check. I am in a 94-percent tax bracket. It will not cost but 6 cents on the dollar."

The other fellow said, "No, let me have it. I have an expense account. It will not cost me anything."

The other man said, "No, let me have it. I have a cost-plus contract. I can make a 10-percent profit."

That was the feeling back at that time. It started putting lawyers to work finding some way to take a deduction. Of course, the pension plan turned out to be the most acceptable way. I think there may be $1 trillion piled up in pension plans which started back then. Sometimes good things happen for the wrong reasons.

Mr. PACKWOOD. Let me conclude by emphasizing what I have said about the average taxpayer. I understand that you can give examples that are not average. No one is exactly average. All we can do is take these aggregates of millions of taxpayers that make $0 to $10,000; $10,000 to $20,000; $20,000 to $30,000, and ask in the aggregate, how do they behave? In the aggregate, on the average how much do they give?

Under this bill, because we have closed almost $50 billion in individual tax shelters, because we have transferred $100 billion of taxes off of individuals and onto business—that is roughly $150 billion that we can use to lower individual taxes—on the average everybody gets a tax cut. The very poor get the biggest percentage tax cuts, the $0 to $10,000; $10,000 to $20,000, the next biggest ones; $20,000 to $30,000 the next. But everybody gets some tax cut on the average.

On the average, when you add up the tax cuts that you get, as opposed

to the deductions that you had but lose, on the average you end up with more money in your pocket after this bill is passed, even if you keep doing exactly the same thing that you had in terms of buying IRA's or making charitable contributions.

The question really is, What does the public want? Not what does this Senate want but what does the public want? Do we want to leave money in people's pockets and let them decide, "Do I want to give this to the church or the YMCA or invest in stock?" Or do we want to have high rates?

If we have high tax rates, then we have people direct their activities based upon the inducements in the Tax Code. The latter is what we have been doing for the last 50 years. This bill is a radical change. Therefore, I hope this amendment will be defeated. Not because the intent is malevolent. I do not know of anybody who thinks charities are bad. It is because we think charities will be better off under the bill that is before the Senate than with the amendment.

Mr. KASTEN. Mr. President, I want to respond very briefly to the statements of the chairman of the committee. I do not believe that the question before us is as he phrased it, whether or not people are going to donate or not. I think people will continue to make charitable contributions.

The question before us is, by taking away the deduction for nonitemizers, are people likely to donate more or less?

I would say people are likely to donate less by taking away the deduction.

Then the question before the Senate is: Do we want to do that?

I think we do not.

What we want is incentive for charitable contributions. We want incentives to people who will make the contribution to the YMCA, that will make that contribution to the B'nai B'rith summer camp, that charitable contribution that would make the contribution for the parish church.

The point is that the people of this country will not shut down charitable contributions. They will not. But there is no question at all that the bill, as we have it today, will make it less likely, not more likely, that people will make charitable contributions. That is the key.

We do not want to make it less likely. We want to make it more likely because charitable contributions ought to be supported, particularly in this atmosphere of less Federal Government responsibility and more State, local, and voluntary responsibility.

Mr. INOUYE. Will the Senator yield?

Mr. KASTEN. I am pleased to yield to the Senator from Hawaii.

□ 1050

Mr. INOUYE. Is it not true that last year, when the American Cancer Society conducted a survey covering 10,000 households, it clearly demonstrated that with the deduction, contributions were increased by 10 percent; without it, it was reduced by 10 percent.

Mr. KASTEN. The Senator is correct. I would say to the chairman of the Finance Committee, we do not have much evidence in this area and we admitted that in the previous statement. But the limited amount of evidence we have says that by removing the deduction there is less of an incentive and it is less likely the people will make that contribution.

The Senator from Hawaii is correct. I understand it, what they did was a test. The test said, "Send in your contribution" for a certain amount of the mailings or solictation mailings and in the other one they said, "Send in your tax deductible contribution." And, having the voluntary or charitable group be able to say, "Send in your tax deductible contribution," increased their contributions on that particular survey of 10,000 households in three States. By being able to just say, "Send in your tax deductible contribution," they increased their yield by roughly 10 percent.

Now that is significant. And this is not rich or poor. Overall, by being able to send in your tax deductible contribution, they increased their yield by 10 percent. The Senator is correct.

Mr. INOUYE. Is it not also true that, just recently, the most prestigious organization, the National Bureau of Economic Research, considered the current plan before us and said that charitable giving will decline by $12 billion if this measure is passed; 6 of the 12 as a result of the reduction of the rates, but $6 billion of that because of the elimination of the charitable deduction; is that not correct?

Mr. KASTEN. That is correct. The National Bureau of Economic Reseach did come out with those findings. All of the indications are that for sure it is less. And how we can define it, this is just such an attempt to quantify it.

We translated the figure used earlier for the 10,000 households in the American Cancer Society survey and used this same base. What we are saying is a 10-percent increase, if we could have everyone at the higher level, would result in a $6.2 billion increase in contributions over what it would have been by not being able to say, "Send in your charitable contributions."

So right there, we are starting to make up at least part of that difference that the other survey yields. The Senator is correct.

Mr. INOUYE. I thank the Senator.

Mr. KASTEN. I want to point out, also, the recent issue of Time magazine, dated June 16. It rated all of these different tradeoffs that we are attempting to make.

I want to point out to the Senate that this is not a tradeoff. This is not taxes for IRA's This is not business meal deductions for reduction in rates. As the chairman characterized it, we had to reduce the rates; therefore, everyone had to give up a little. I think we should have given up on a number of these areas—business meals, entertainment, credit card loans, et cetera.

The key here is we are not giving up anything except at the very high income levels above $145,000. And it is not a trade for some special interest, it is a trade for charitable contributions for all of this country. America wins if we have more charitable contributions.

So it is not picking from one special interest to another. It is taking from a very high income group, people above $145,000, actually above $161,000, and giving to all of America, because we are going to restore their incentive to make charitable contributions.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, a real test of whether one is sincere about what he is trying to do is whether he is willing to pay a price for it. The chairman of the committee mentioned that everyone on the committee paid some dues in order to bring this bill—which reduces the rates and broadens the base by cutting back or eliminating some of the deductions—to the Senate.

In this particular area, the Senator from Oregon [Mr. PACKWOOD] was the leader. He led the charge to put this deduction in the tax law. He undoubtedly sees fully the merit of it today, as he did then. And it does have a great deal of merit.

I was pleased to support him and vote with him when he fought successfully to put this deduction in the code. It expires under the terms by which it was agreed to. It had a sunset date, so that it would expire in 1986. Congress could extend it if the Congress wished to do so.

The chairman of the committee is now resisting the effort to extend it because he is dedicated today to the belief that, if we did not have so many deductions, people could pay at a lesser rate, and they would have more power of discretion as to whether they really want to contribute or whethr they do not want to contribute.

Only time will tell whether this incentive is of sufficient advantage that it makes a great deal of difference in voluntary giving. Like all Senators, I donate to charity and to religion and education, and I am not planning to cut back one penny in what I do now. I suspect I will do just as well, maybe better, if I have more money left after I pay taxes than I did before. That

will be an individual choice that we will have to find out about. We will just have to see how that works.

So I know the chairman is sincere, in that there are several places in this bill where he has voted for positions that are not popular at all with some of his constituents, just as others have, in order that everyone could have lower rates.

I think that the statesmanship and leadership of our chairman deserves the support of the committee and the support of the Senate. It is not easy to get these lower rates. Somebody has to pay a price for some of this.

The Senator from New Jersey [Mr. BRADLEY] has been laboring in this vineyard for many years. I have seen him face many groups who were very unhappy with him about his efforts, in that their particular deduction—and ones that had merit, may I say—would be eliminated or reduced in favor of lower rates for everybody. And he, like others, have paid their dues to make this bill move to where it is.

I believe at this point that they deserve the support of the Senate, just as they deserved the support of the committee when they brought this measure to us. They knowingly voted to cut back on some things that were very dear to their hearts, allowing everybody in the country to have more money left in their pockets because of the lower rates, and to have more discretion as to whether they want to put it in charity or whether they wanted to put it in education or whether they wanted to put the money into their own personal expenses.

The public generally approves of this. Even though you will find some very wonderful, dedicated people who feel that this incentive is very much needed to get on with the work that they are doing, you will find a lot of other good people who feel that, if they had more freedom to do what they think is right and the money to do it with, it would all work out to the better for all of us.

I believe we ought to support the chairman and the committee in this decision, difficult though it may be for some of us.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, first let me say that there is no Member of this body that I respect more than the distinguished Senator from Hawaii, who is one of the cosponsors of this amendment.

□ 1100

I know that he has worked long and hard for many of those who could benefit from this amendment. But let me say that the Dear Colleague letter which Senator KASTEN, the prime sponsor of the amendment, and Senator INOUYE sent around describing what the amendment would do that they have offered on the floor raised some questions for me. The numbers in the letter were surprising to me actually, and so I asked the Treasury if they could give me their view of the Senators' letter and the issue generally, and I received a letter from the Treasury which I would like to read and comment on in the course of reading that letter. It is addressed to me and it says:

DEAR BILL: You have asked for the Treasury Department's comments on a "Dear Colleague" letter circulated by Senators Inouye and Kasten discussing the charitable contribution deduction for nonitemizing taxpayers. As you know, this deduction would be permitted to expire for taxable years after 1986 under H.R. 3838 as adopted by the Senate Finance Committee.

The letter from Senators Inouye and Kasten asserts that 61 million low and moderate income Americans who did not itemize contributed $22 billion to charities in 1984. We do not know the statistical basis for those figures, and in any event we doubt their relevance. Focusing instead on actual tax return data for 1984, 23 million nonitemizers took charitable contribution deductions totalling about $1 billion. Since the nonitemizer deduction in 1984 was limited to 25 percent of contributions (up to a maximum of $75), the 1984 return data indicate that total contributions from nonitemizers taking the deduction may have been as little as $4 to $5 billion.

In other words, the claim was that 22 billion was contributed. The Treasury says that after they have looked at all the tax returns the most that they can come up with is $4 to $5 billion. The letter goes on:

I would also note that many more low-income contributions be removed from the tax rolls under Tax Reform, so any above-the-line charitable deduction would not affect their charitable giving—

Because they would not be filing any returns, paying tax.

Moreover, nonitemizers tend to be in low-income brackets where researchers have measured relatively low rates of responsiveness to tax incentives for charitable giving. Thus, many nonitemizers will take the deduction with no major change in their giving. As you know, as a whole this group of taxpayers already enjoys a very significant advantage from the rate reductions, increased personal exemption and standard deductions in the Senate Finance Bill.

Then the next paragraph bears on the claim embodied in the exchange between the Senator from Louisiana and the Senator from Wisconsin on how much reduced giving would flow from the elimination of this deduction. The letter goes on:

The letter from Senators Inouye and Kasten also reports that termination of the charitable deduction for nonitemizers would reduce contributions by an estimated $6 billion per year. This figure represents one extreme of an academic literature that is very mixed. Other studies report much lower figures. In any case, there are simulated forecasts rather than actual results, because data are not yet available for the one year (1986) in which all nonitemizers receive unlimited deductions.

In other words, what Treasury is saying is the claim of $6 billion just cannot be substantiated in fact because it is only this year in which the deductions as proposed by the two Senators will in fact be in full force and the data is not available.

It goes on:

In addition, auditing small donations must be recognized as difficult. Obviously, many low income returns will not be audited by the IRS, and thus the taxpayer compliance could be adversely affected.

Finally, based on the application of an analysis by Charles T. Clotfelder to the Treasury Department's taxpayer data base, we believe that the revenue cost of this provision would be double the amount of increased charitable giving—

The revenue cost would be double the amount of additional charitable giving.

Thus, for every dollar of increased charitable giving that might result from allowance of the deduction, the Federal government would lose two dollars in income tax revenue.

So, Mr. President, the letter from Treasury raises serious doubts about the claims that have been made by the proponents of this amendment. And on the last point I would like to expand, that the provision would lose $2 in revenue for every additional dollar in contribution that was generated.

One might say, "Well, how is that possible?" Well, as we know, there are many low-income Americans who make contributions at church every Sunday, put a few dollars in the plate. They have done that for 20, 30, 40, 50 years. They will continue to do that whether there is a tax incentive or not, and they do that because they are committed to their church, because they have strong religious convictions about supporting the work of their particular belief.

Now, what about another group? Well, once you have told people that you can have a deduction even though you do not itemize, there will inevitably be some individuals who will claim a deduction even though they do not give. And then there is the third group, the third group that, because they will be able to deduct their contributions, does make the contribution. But if you combine the three groups, you see that you lose $2 in tax revenues for every $1 of additional giving.

Now, Mr. President, if the sponsors of this amendment were serious about low-income Americans, as they have stated that they are, why the floor of $200? Why should not someone who goes to church every Sunday and puts a couple of dollars in the plate be as good as someone who does not itemize but puts $400 or $500 in contributions?

Mr. President, when you consider that one-half of nonitemizers give less than $100 a year, this amendment leaves them out. This amendment leaves out of the picture all of those low-income individuals who cannot meet the $20 threshold but who are committed to give. This amendment, in other words, is not a charitable contribution for hard-working, low-income, moderate-income people in this country. This amendment specifically excludes them from the benefit of this deduction.

So, Mr. President, let me say that you lose $2 for every $1 of additional contribution. Second, you exclude most low-income Americans in this amendment by putting the floor at $200. And third, Mr. President, we get to how they pay for this amendment. Now, on the surface it sounds relatively harmless. What we are going to do, they say, is phase out the exemption at a lower rate and that is the way we get the $900 million, never mind that Treasury says it is going to be $900 million, but that is what they say.

□ 1110

Mr. President, what is the effect of this on the issue of what we are trying to accomplish in this bill—the rates? What is the effect on the rates if you phase out the deduction at a lower figure? As you know, because we phase out the exemption now, the effective marginal rate is about 32 percent on income levels from $75,000 to about $194,000. But what would be the effect of phasing out the exemption at a lower rate?

Under the Kasten amendment, a family of four would have a marginal rate of $40,000 on taxable income of about $100,000—a marginal rate of 40 percent. A family of eight would have a top marginal rate of 53 percent on taxable income of about $100,000. So the argument that this is a harmless way to pay runs counter to the whole magic of this bill.

You reinstitute for a family of four, with about $150,000, a marginal rate of 40 percent; a family of eight, a marginal rate of 53 percent.

Mr. President, let us also consider how this interacts with capital gains. Any capital gains that these families would have would be taxed at 40 percent and 53 percent.

I understand the sentiments of the Senator from Hawaii and the Senator from Wisconsin, and I really do not know if it was the purpose of the Senator from Wisconsin to raise the capital gains rate to 53 percent. I do not know if it was the purpose to raise the tax rate to 40 percent.

I hope that before we adopt this amendment, we will think carefully about what this amendment does to the rate structure, that we will carefully look at why low-income Americans were excluded from benefiting from this deduction, and that we will recognize that it loses $2 in tax revenue for every $1 of additional contribution.

Mr. KASTEN. Mr. President, I would like to engage in a discussion or a colloquy, back and forth, about trying to work out this whole area of Treasury estimates in these different studies. I know that the Senator has been involved in this question for a number of years.

Is the Senator from New Jersey aware that the Treasury estimates of Treasury I were that there would be a loss in charitable giving under Treasury I. The Treasury estimated that the loss was going to be almost $10 billion a year, and that the data on which they developed that was the Independent Sector data? Treasury I indicated—this is going back a couple of years ago—$10 billion.

Mr. BRADLEY. The Senator from Hawaii gave the answer to that question in his colloquy. The reduction in charitable contributions is largely a result of reduction in the rate.

I am sure that the Senator from Wisconsin does not want to argue that we should have a very high rate of tax in order to encourage some charitable contributions.

As the Senator from Hawaii said, $6 billion in reduced contributions comes because of the tax rate, and Treasury I made the same point.

When you reduce the tax rate, the value of the deduction is less—but not for the low-income person. It is a rate of 15 percent or 11 percent under current law. But where it is reduced, it is for the upper-income person. This amendment does not address itself to upper-income contributions.

Mr. KASTEN. The Senator is aware that the Treasury did estimate this huge loss. The Senator may be correct with his upper or lower income, but the point is that half of the $12 billion—$6 billion—is directly through this loss in deductions.

Mr. BRADLEY. I do not agree with the Senator that $6 billion is a result of the loss of the nonitemized charitable contribution. There is no data to illustrate that, because we could not possibly have data, because the nonitemized charitable contribution was not fully in effect until 1986.

Mr. KASTEN. I am going to come to that point, because the study referred to earlier by the Senator from New Jersey was the 1983 study that he was trying to use to make his point.

Let me say, to answer this question on the effect of deductibility, that research from a group called Independent Sector, which provided the data for the Treasury when they did the research on Treasury I, on the $10 billion loss, stated as follows:

The term "above-the-line" refers to the charitable deduction for nonitemizers. As you can see, the total gain to charitable giving if the nonitemizer deduction was included in the Packwood proposal would be $5.86 billion.

The other point I want to make is that the study that the Senator referred to, the so-called Gabriel Rudney study, was a study that we were using 2 years ago when we were working on Bradley, Gephardt, Kemp, Kasten, Treasury I. We went to those studies. That study was dated the 26th of November 1983. They were using 1982 figures, or figures from even earlier. That was before the nonitemizer charitable deduction was in place.

So we never, in that particular study, were able to recognize the fact that the Packwood-Moynihan effort was in place, which they were looking at before we had given all taxpayers the opportunity to make a charitable contribution. So to go back and say, "Look to studies before we took a step forward," I do not think make sense.

The question here is not whether or not taking the deduction away is going to increase or decrease charitable contributions. It seems now that everyone agrees that eliminating the deduction is going to provide a disincentive. The only question we are arguing about is whether or not that disincentive is important.

We will agree that without the charitable contribution being able to be itemized by all contributors, charitable contributions are going to go down. The question is by how much, and what is the trade-off? I believe it is significant. It might be 6.2; it might be 10; it might even be more. We do not know. But the point is that it is less.

Then the question we have before us is this: If we want to have incentives for charitable contributions in this country, what do we want to trade? Higher rates? No. Tax reform? No. Let us trade a very simple part to phase out of the $2,000 exemption. I think that trade is a good one. We ought to maintain charitable contributions.

I yield the floor.

Mr. BRADLEY. So the Senator believes that the capital gains rate should be about 40 percent, because, in effect, the capital gains rate on taxable incomes of more than $100,000 would be 40 percent for a family of four. I thought the Senator wanted to get tax rates down, not up.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I received a lot of advice not to come to the floor today and speak on this issue, and I got it from all my United Ways and all the nonprofit organizations I have supported in the past, for my efforts in support of the above-the-line charitable deduction, for volunteer mileage, for all the things that a lot of us on the Finance Committee have done together to improve the way in which the nonprofit

delivery system in this country has met the needs of both the disadvantaged and those who serve the disadvantaged.

□ 1120

I thought about it for long time. I thought, well I have been at this now for 7½ years in the Senate and I was at it a long time before that. Maybe I should come to the floor and try to answer the question of whatever happened to BOB PACKWOOD and PAT MOYNIHAN.

When I came here in 1979 and joined the Finance Committee, I was looking for some leadership in the area of facilitating the unique delivery system for public services we have in this country called the nonprofit and the independent sector.

I was not on the Finance Committee more than a couple of seconds, when I found the leadership on both sides of the aisle, and I found it in a lot of other places, and I do not want to be too selective here, but in particular, with PAT MOYNIHAN and BOB PACKWOOD.

If I can, Mr. President, I would like to take a few minutes, and from my perspective, try to answer the question not on their behalf, but maybe on my own behalf, just why it is that the Senator from Oregon and the Senator from New York are urging the Senate to support this tax reform bill and why they were here in 1981 urging on the Senate and on Congress a piece of temporary experimental legislation that would allow all taxpayers, itemizers and nonitemizers alike, a tax deduction for charitable contributions. Yet today they seem to be taking a different position.

Why did we try this experiment in 1981?

Mr. President, I would venture to say, and I have gone back and done a little of my own reading of what I had to say on the subject in those days, I think we did it at a time when many voluntary and charitable organizations had incurred a steady and dangerous decline in funds available to them. Why were these nonprofit organizations in such desperate shape in 1980 and 1981? Because they suffered from the ravages of inflation along with the rest of this Nation. People who wanted to contribute to their church or favorite charity or the United Way, could no longer justify those contributions not when the price of essentials for their families, the essentials of daily living, shelter, food, clothing, education, and health care had risen so rapidly and so far in such a short period of time in the 1970's.

Inflation had eroded the purchasing power of the contributions which foundations and charities had received. Their dollar bought less just as yours and mine bought less. At the same time, that inflation dampened giving and undermined purchasing power, it increased the numbers and the needs of the poor, the unemployed, the elderly, and others who foundations and volunteer organizations set out to help. These organizations, in effect, in 1980 and 1981 were asked to do more and more with less and less.

Mr. President, I went back and I am going to take the liberty of reading to you and my colleagues a part of a speech that I delivered at the end of the 1981 session on October 23, 1981, to be precise, to an organization which the Senator from Wisconsin has appropriately designated as one of the most significant contributors to the nonprofit sector in America, and that is the independent sector. In part, I said this:

If I were asked to put a title on the first part of my speech, I think I would call it "Where's the Whammy?" I make reference, of course, to a press release of this organization dated August 27, 1981, that characterized President Reagan's Economic Recovery Program as a "triple whammy" for the Independent Sector. Let me read a portion of that press release:

"Charitable giving is likely to be $18 billion less over the next four years as a result of the Tax Act recently signed into law by President Reagan.* * *

"The Impacts of the Tax Legislation are all the more significant coming as they do on top of the pressure that will be put on non-profit organizations as a consequence of the other half of the Economic Recovery Program.* * *

"As a result of budget reductions, nonprofit organizations will lose $27 billion over the 1981-1984 period. Taken together the budget and tax portions of the Economic Recovery Program are projected to cost non-profit organizations at least $45.6 billion.* * *

"Brian O'Connell"—who is the esteemed and sometimes almost revered executive of the organization—"characterized the impact on voluntary organizations as a 'triple whammy.' He explained, 'federal program support has already been cut, contributions are now projected to go down and all this at a time when everyone is looking to these same organizations to expand their services.'"

That was the expectation of the independent sector at the time that inflation was killing them and it looked as through the Reagan economic recovery that we all participated in was doing the same thing. I will continue with my comments of October 23, 1981.

Reading that, I thought to call Brian and ask where the memorial service was being held. But I take it you haven't gathered here to bury the Independent Sector. You came to rededicate its role in our future.

There will be a lot of gnashing and gnawing over these statistics—arguments about assumptions and projections and tax effects. That debate will largely miss the point.

Let us suppose that the President and the Congress had not passed the Economic Recovery Program and that inflation rates had continued at 10, 12, 15 percent per year. Let us suppose that the President and the Congress had not formed a partnership to create new investment, new jobs, and economic growth. What would the next four years promise to our non-profit organizations and to those who depend on them for services?

The third sector—the non-profit side of our society—spends about $100 billion a year. Keeping up with inflation at present rates for four years would require $50 billion in additional revenues each year by 1984. That is not a cumulative $45.6 billion over 4 years. That is $50 billion in new revenue each year just to keep up.

And while programs might keep pace with an infusion of $50 billion, the need in society stagnated by inflation, high interest rates and high unemployment—the need for the services your organizations provide—would jump out-of-sight, beyond even the capacity of a Federal treasury seven times your current $100 billion.

Without the Economic Recovery Program, it would have been time for a memorial service. We would bury all three sectors at once.

One whammy, the budget cuts. A second whammy, the tax cuts. A third whammy, the expectation that the non-profit sector will fill the gap created by federal retrenchment.

We in Congress did not create the gap. What we have done in the last 5 years, Mr. President, is stop the galloping growth in public programs that threatened to bankrupt not only the Nation but the independent sector itself.

By doing so we have narrowed the gap between what is needed this year and what will be needed next year.

Mr. President, I find it essential to remind our colleagues both within this body and outside this body that in the 5 years that have passed since I delivered that speech the American economy has weathered the storm of inflation. It has settled into a period of steady growth and a period of little or no inflation, and during the past 5 years the vast majority of the American public has shared its wealth with the less fortunate who have not enjoyed the benefits of the 1980's prosperity.

Charitable contributions have reached record levels in recent years. Donations by individuals topped $66 billion in 1985, which is up from $40.7 billion, 5 years earlier. But it is important in that regard to note that the level of giving, as a percent of income, has stayed relatively constant in the 1980's and is far below levels attained throughout the 1960's and early 1970's.

Standing on its own merits, I believe the decision to make the nonitemizer charitable deduction permanent would be adopted unanimously by the Senate. And I would be willing to lead the fight against those who would kill this deduction. Just as I led the fight to increase the volunteer mileage allowance and to reform foundation rules, I would not shirk my responsibilities regarding the nonitemizer deduction.

But this issue is not being judged in isolation. The decision to vote for or against this amendment must be reviewed in the context of the revolutionary tax reform bill crafted by the Finance Committee. And in that context, I must vote against this amendment.

There are many reasons I believe that this tax reform bill will encourage even greater charitable giving by the American people. This bill will put more money in the pockets of all Americans, where it belongs.

□ 1130

And most importantly, it will diminish the financial stresses of the poorest members of our society, those most in need of social services. This bill nearly doubles the personal exemption from $1,080 to $2,000, and it increases vastly the standard deduction, not just from $3,500 to $5,000, but it substantially increases the value of not itemizing for the two-thirds of Americans who do not itemize. Itemizers have had their deductions devalued by the elimination of the consumer interest deduction, miscellaneous deductions, and the higher threshold for medical deductions.

This bill removes nearly 6 million people from the tax rolls and by radically cutting tax rates provides the greatest incentive for Americans to work harder. In fashioning this bill, we have maintained two of the most powerful incentives to continue donations to charity. Under this bill, itemizers will continue to receive a full tax deduction for their contributions and the importance of retaining full deductibility for itemizers is reflected by the fact that more than 70 percent of charitable contributions comes from the one-third of the families in this country who itemize their deductions.

Second, we have ended a threat to hospitals, universities, and other nonprofit institutions that gifts of appreciated property would be included in the minimum tax base. Organizations which take on the job of educating or providing health care to many poor Americans without cost or with little reimbursement have been substantially advantaged by this provision in the current Tax Code.

President Reagan's tax reform plan, as we all know, raised the threat of taxing gifts of appreciated properties. The House bill carried it out. And the Finance Committee has ended that threat, and hopefully will continue to see that it is not a threat in conference.

Mr. President, in the space of less than 5 years we have totally reshaped the contours of the Tax Code. We have brought the top rate of tax down from 70 to 27 percent, and we have ended special tax subsidies for various sectors of the economy. The ability of nonprofit hospitals, and other charitable organizations in this country to finance their operations is significantly improved by the terms of this bill.

Health care organizations will be able to issue more tax-exempt bonds to finance new medical equipment, and small hospitals will reduce their equipment costs by issuing tax-exempt bonds together with other small hospitals. We provided the flexibility for health care providers to remodel existing facilities to provide more efficient and less expensive services to the public. They can get less expensive tax-exempt financing for ambulatory care facilities and for outpatient surgery centers that are so vital in remote areas of this country.

In addition, Mr. President, this bill will allow all nonprofit organizations in this country to offer their employees incentives presently available only to the for-profit employer, such as the attractive fringe benefit known as the section 401(k) plans cash or deferred plan.

So, Mr. President, our philosophy of the Tax Code has undergone a radical shift in 5 years. ERTA represented the high point in the philosophy, that the purpose of the code is to encourage certain types of behavior. Underlying the philosophy of ERTA, the Tax Act of 1981, was the belief that Congress through the Tax Code should shape society's economic and personal choices.

The tax bill we are considering today is far different in philosophy from ERTA. It places greater trust in the wisdom of the people of this country as to how they will invest, how they will spend, and how they will contribute their money. I believe the American people to be the most compassionate and charitable people on the fact of this Earth. Our colleagues who propose this amendment ask us what about the incentives? Where are the incentives?

Mr. President, we in Washington should not be so cynical as to believe that the people of America will give only to charity, or the only reason they will give to charity is because they get a tax break.

We give to charity because it is our nature as a people to help the less fortunate. The roots of this Nation derived from immigrant poverty, and our high level of charitable giving will always recognize how far all of us have come since our ancestors came to this country to start a new life. There is no question, however, as the proponents of the amendment have argued that you can increase contributions by 10 percent, not by the deduction but by advertising the deduction. Those are two very different things.

I think if we advertise the quality of our services to those who desperately need them at a time when they need them, we can accomplish the same thing.

Mr. President, I am convinced that when ordinary citizens in this country have the ability to give to charity, they will give to charity. And they will do that because of their compassion, not because of the tax benefit. As the philosopher Martin Buber once said:

> God has willed that there be two hands in the matter of charity: one that gives and one that receives. Thank God that yours is the hand that gives. The giver has the upper, the receiver the lower hand. Consider how much you ought to thank Him for granting you the upper hand.

Mr. President, I trust that the American people reflecting that good judgment and that good fortune will continue their long tradition of helping the less fortunate. This legislation reflects our trust in the good judgment of the American people.

I believe this is not the last we will hear of the non-itemizer deduction. We may come back to this in the near future. In fact, I think we will.

I believe Mr. President, that true tax reform is born, not just refined this year. In the future we will either go to a flat tax on individuals with no deductions, an idea that not even BILL BRADLEY has proposed. And the public will have to decide what role the Federal Government will play in relation to many no-profit activities, including housing for the poor and health care for all citizens.

It is my view that we are laying the foundation to reconsider the concept of above-the-line deductions. I hope we can reconsider this issue when we, one day soon, allow all taxpayers a nonitemizer deduction to pay their health insurance costs.

Finally, Mr. President, I would like to address the inequity of the amendment under consideration.

This amendment does not treat all nonitemizing taxpayers fairly. When we adopted the nonitemizer deduction in 1981, we made the deduction available to all nonitemizers. However, this amendment discriminates against those who would like to give more to charity, but just can't afford to. It only allows the deduction for contributions above $200.

What about the small Minnesota farmer who can only afford to give $50 of his hard earned money to help others less fortunate. He gets no deduction! Where is the fairness and equity of a proposal that denies the small contributor, the one who just can't afford to give more than $200 to charity, any tax benefit, but gives those wealthy enough to give more than $200 a tax break? For these reasons, I must oppose this amendment.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I would like to make a few observations.

Mr. President, I am certain that Americans are generous people, and

whether we have deductions or no deductions, itemized or otherwise, Americans will continue to contribute to charitable causes. They will continue to contribute to charitable causes. They will continue to go to the churches and fill the plate with their dollar bills. But the question is not whether Americans will continue to give or not give. We all agree that they will continue to give. But with this deduction, all studies indicate that they will give more.

Yesterday, together with the majority of my colleagues, I voted to uphold a provision in this tax bill that benefits gas and oil producers because, like the majority, I felt that this was in the national interest; that the national security was involved.

The dollar amount of that proposal was in excess of $1.5 billion. The dollar amount in this amendment is less than $1 billion. Mr. President, I would like to suggest that this, too, is in our national interest. It affects millions of Americans who look upon philanthropic organizations for sustenance, support for education, health research, and religious education.

Mr. President, I hope that our colleagues will for once give some aid to those because after all with Gramm-Rudman we have been doing our best to cut down whatever few dollars we have been providing for the people of the United States.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, we have heard a lot during this debate about what we think the charitable organizations will think or what we think the charitable givers will think. I would like to simply point out what they say and what they think.

Supporting the Kasten-Inouye amendment are hundreds upon hundreds of people who have been out soliciting charitable contributions, who have watched the changes from 1981 to 1983, who have taken into consideration the fact that as overall rates will drop there will be fewer people who choose to itemize, and the incentives for charitable contributions.

I would simply like to say to my colleagues they are unanimous—"they," the people who are actually in the business to try to work the private and independent sector are unanimous in support of our amendment:

Let me read them into the RECORD:

Agudath Israel of America.
Alliance of Independent Colleges of Art.
ALS Association.
Alton Ochsner Medical Foundation.
American Arts Alliance.
American Association of Fund Raising Counsel, Inc.
American Association of Museums.
American Association of Public Television Stations.
American Association of State Colleges and Universities.
American Association on Mental Deficiency.
American Baptist Churches USA.
American Cancer Society.
American Cancer Society—Arkansas Division.
American Cancer Society—Connecticut Division.
American Cancer Society—Indiana Division.
American Cancer Society—Wyoming.
American Council for Judaism.
American Council for the Arts.
American Council of the Blind.
American Diabetes Association.
American Foundation for the Blind.
American Leadership Forum.
American Leprosy Missions.
American Lung Association.
American Red Cross.
Americans for Indian Opportunity.
Appalachian Mountain Club.
Arthritis Foundation.
ASPIRA of America.
Associated Catholic Charities of New Orleans.
Association of American Universities.
Atlanta Jewish Welfare Federation, Inc.
Boricua College.
Boy Scouts of America.
Boys Clubs of America.
Camp Fire, Inc.
Cancer Care, Inc. and the National Cancer Foundation, Inc.
Catholic Charities and Community Services—Colorado.
Catholic Charities of Diocese of Fargo, North Dakota.
Catholic Charities USA.
Catholic Social Services for Montana, Inc.
Center for Non-Profit Corporations, Inc.
Child and Family Services.
Child Welfare League.
Christian Church Foundation.
Christian Ministries Management Association.
Colonial Williamsburg Federation.
Community Chest Council of Cincinnati.
Community Planning Council of Greenville County, South Carolina.
Consumers Union.
Council for Advancement and Support of Education.
Council of Independent Colleges.
Council of Jewish Federations.
Deborah Heart and Lung Association (NJ).
Deborah Hospital Foundation.
Geraldine R. Dodge Foundation.
William H. Donner Foundation.
Environmental Fund.
Environmental Policy Institute.
Epilepsy Foundation of America.
The Experiment in International Living.
Family Life Center Inc. (MD).
Farms International, Inc.
Father Flanagan's Boys Home—Boystown, Nebraska.
Federation of Catholic Community Services—Diocese of Cleveland.
Foundation for Children with Learning Disabilities.
The Fund Raising School.
General Conference of Seventh-Day Adventists.
Morris Goldseker Foundation of Maryland.
Goodwill Industries of America.
Grantsector Management Inc.
Greater Hartford Jewish Federation.
Greater Knoxville Area Epilepsy Foundation.
Heublein Foundation.
Huntington's Disease Foundation of America.
Independent College Funds of America.
Indianapolis Jewish Welfare Federation, Inc.
Interaction.
International Christian Youth Exchange.
Jefferson City Area United Way.
Jewish Federation of Greater Los Angeles.
Jewish Federation of Memphis.
Jewish War Veterans of the USA.
JWB.
Junior League of Schenectady, Inc.
Keep America Beautiful Inc.
The Kennedy Institute for Handicapped Children.
Kimball Medical Center Foundation, Inc.
League of Conservation Voters.
March of Dimes Birth Defects Foundation.
John and Mary R. Markle Foundation.
Maryland Food Committee.
Massachusetts Association for Mental Health.
James G. K. McClure Education & Development Fund.
Meals on Wheels of Central Maryland.
Mental Health Association in DuPage (IL).
Metro Association for Philanthropy.
Metropolitan YMCA of Oklahoma City.
Mid-Iowa Community Action.
Minneapolis Charities Review Council.
Morgan Memorial Goodwill Industries.
Museum Council of New Jersey.
National Assembly of State Arts Agencies.
National Association for Hospital Development.
National Association of Independent Colleges and Universities.
National Board of YMCA.
National Board of YWCA.
National Corporate Fund for Dance, Inc.
National Council for Families and Television.
National Council of Jewish Women.
National Easter Seal Society.
National Federation of State Humanities Councils.
National 4-H Council.
National Image, Inc.
National Jewish Center for Immunology and Respiratory Medicine.
National Mental Health Association.
National Multiple Sclerosis Society.
National Network of Runaway & Youth Services, Inc.
National Parks and Conservation Association.
National Society for Children and Adults with Autism.
National Society of Fund Raising Executives.
National Trust for Historic Preservation.
National Urban League.
National Wildlife Federation.
New Haven Foundation.
Nonprofit Coordinating Committee of New York.
Nonprofit Mailers Federation.
NOW Legal Defense and Education Fund.
Ohio Citizen's Council.
Ohio Hospital Association.
Peat, Marwick, Mitchell & Co.
Permanent Charities Committee of Entertainment Industry.
Pittsburgh Family and Children Services.
Planned Parenthood of Maryland.
Preservation Action.
Public Education Fund.
Resolve, Inc.
Sid Richardson Foundation.
St. Vincent Medical Foundation.
Southern Methodist University.

W. Clement and Jessie V. Stone Foundation.
Support Center Network.
Texas Hospital Association.
Texas Methodist Foundation.
Theatre Communications Group.
United Cerebral Palsy Association, Inc.
United Community Services.
United Foundation.
United Methodist Charities of West Virginia.
United Methodist Foundation.
United Way of America.
United Way of California.
United Way of Dayton.
United Way of Greater St. Louis.
United Way of Greater Topeka.
United Way of Metropolitan Atlanta.
United Way of Metropolitan Chicago.
United Way of Southeastern Pennsylvania.
United Way of Toledo.
Wain Foundation.
World Vision Relief Organization.
Zero Population Growth.
Zionist Organization of America—Baltimore District.

□ 1140

I have gone through and mentioned these people know more about charitable deductions and charitable contributions than we do. These people are there trying to help in the private sector. There is no question that by removing this deduction we are going to remove an incentive. The question is, By how much?

I feel we cannot afford to remove the incentive. I feel that we ought to take the advice and guidance of the people who are today trying to raise money for the private and independent sector, for church groups, for volunteer groups, for people all across our land, who are acting, in concert with the overall thrust of this administration, the overall thrust of this Senate and House of Representatives, which is saying we want to rely more, not less, on private agencies. We want to rely more, not less, on volunteer effort. We want to rely more, not less, on nonprofit kinds of help. We are not going to rely on the Federal Government for everything. We are not going to rely on the Federal Government, Federal agencies, and Federal laws. We are going to reduce the intrusion of Federal Government and we are going to rely more on the private sector.

These people are in the business of, if you will, creating the foundation and backbone of that private sector. They have reviewed the situation. They have looked at the amendment. They believe that this amendment should pass. I also believe it should. I hope we will have a favorable vote.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, this is like asking the National Venture Capital Association whether or not they want to keep capital gains. Of course they do. I am referring to the list that the Senator read. But those are people who have been raising funds in the field. They cannot imagine living under any other circumstances.

This bill is a change of circumstances so radical that anything that went before simply cannot be compared in the same breath. It is one thing to ask somebody to give money to charity when the tax rate is 90 percent. "Sure, the Federal Government will pay 90 percent of it, why not give?"

Interestingly, charitable giving in this country has gone up in the last 5 years in the upper income group more dramatically than the cost of living or the gross national product even though their tax rates have come down. As their tax rates have come down and they have slightly more money in their pockets, they become more generous with charity.

Now the question is: Will those who are nonitemizers feel as good about their country as those who itemize?

I say again that with the low rates people will have more money in their pocket to give to charity.

I hate to think that what my good friend from Wisconsin and my good friend from Hawaii are saying is that people are so mean spirited, especially those in the low-income brackets who do not itemize, that they will give less to charity even though they are going to have more money.

I hope they give because they believe, because they love, because they care. This is a caring country.

These charities will thrive and prosper under this bill more than they have thrived and prospered under the current code with higher rates. I would hope very much, therefore, that the Senate would table this amendment. I will move to table it if there are no other comments or debate.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Let me say that I appreciate the effort made by the Senator from Hawaii and the Senator from Wisconsin. I am sorry that the amendment chose to exclude low- and moderate-income contributors by having a $200 floor. The vast majority of low- and moderate-income contributors will be excluded from using this deduction.

I am also surprised that the way they decided to pay for it is by raising the tax rate on a family of four, 40 percent. That means an increase in the capital gains rate of 40 percent, or for a larger family, a family of eight, 53 percent.

Mr. President, I understand their motivation. I just think this is not the appropriate way.

FAIRNESS FOR CHARITABLE CONTRIBUTORS

Mr. BUMPERS. Mr. President, one of the outstanding attributes of our society is the way in which our citizens contribute to and become involved in charitable causes. Many societies rely primarily on Government to take care of the needy, but in America we see it as everyone's responsibilities to become involved, either with charitable giving or volunteer efforts. The rewards, both to the giver and the recipient, fully justify the current tax incentives which the Government provides for charitable giving.

It is ironic that this tax reform bill—which has so many good provisions for the needy in our society—would fail to extend one of the most effective tax incentive for charitable giving, the deduction for charitable contributions by taxpayers who do not itemize their deductions. Indeed, since 1981 we have made only two deductions available to taxpayers who do not itemize—the deduction for charitable contributions and the deduction for contributions to an IRA—and this tax reform bill would eliminate both of them. This is not fair and I oppose the bill on both points.

I am happy to have cosponsored S. 361 which would make the deduction for nonitemizers permanent, instead of permitting it to expire at the end of this year. The decision of the Finance Committee not to extend this deduction is inconsistent with its decision to give people living at or below the poverty level the tax cut they so desperately need.

In Arkansas, this is a particulary important issue as there are only six States which have fewer nonitemizing taxpayers than does Arkansas. Only 30.9 percent of the taxpayers in Arkansas itemize their deductions. So, this issue affects 69.1 percent of the taxpayers in Arkansas. Their contributions are just as important as those made by taxpayers who itemize their deductions and we need to extend the current deduction for their charitable contributions.

Nationwide 42 percent of the Nation's 61,000,000 nonitemizing taxpayers current claim the deduction for charitable giving and they contribute $22 billion to charitable organizations, 36 percent of the total amount contributed by all taxpayers. These contributions help finance our religious institutions, education, social and health services, and cultural projects. It is projected that charitable giving to these organizations might fall 15.7 percent should the current nonitemizer deduction be permitted to lapse.

The pending proposal to extend the nonitemizer deduction for contributions above $200 may prove an even greater incentive for giving than the current law, which applies to all giving. We should provide the incentive for individuals who make the greatest contribution and we should encourage people to give more than minimal amounts. The deduction for

contributions over $200 may well provide this special incentive and it will do much to meet the Treasury Department's concern that it cannot audit deductions for very small contributions.

This country is built on a partnership between the public and private sectors. We should not rely on Government to meet our every need. The creativity and energy which private charitable organizations provide is healthy and we should not reduce the current incentives for it. This is particularly true at a time when there are so many painful cutbacks in the services which Government does provide.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, I move to lay the amendment of the Senator from Wisconsin on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from Wisconsin. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mrs. HAWKINS] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from New Jersey [Mr. LAUTENBERG] are necessarily absent.

The PRESIDING OFFICER (Mr. HECHT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—51

Baucus	Grassley	Nickles
Bentsen	Hart	Packwood
Boren	Hatch	Proxmire
Boschwitz	Hatfield	Pryor
Bradley	Helms	Quayle
Chafee	Johnston	Rockefeller
Cohen	Kassebaum	Roth
Danforth	Kennedy	Rudman
Dodd	Kerry	Simpson
Dole	Long	Stafford
Domenici	Lugar	Stennis
Durenberger	Matsunaga	Stevens
Eagleton	Mattingly	Symms
Evans	McClure	Thurmond
Goldwater	McConnell	Trible
Gorton	Moynihan	Wallop
Gramm	Murkowski	Warner

NAYS—44

Abdnor	Exon	Mathias
Andrews	Ford	Melcher
Armstrong	Glenn	Metzenbaum
Bingaman	Gore	Mitchell
Bumpers	Harkin	Nunn
Burdick	Hecht	Pell
Byrd	Heflin	Riegle
Chiles	Heinz	Sarbanes
Cochran	Hollings	Sasser
Cranston	Humphrey	Simon
D'Amato	Inouye	Specter
DeConcini	Kasten	Weicker
Denton	Laxalt	Wilson
Dixon	Leahy	Zorinsky
East	Levin	

NOT VOTING—5

Biden	Hawkins	Pressler
Garn	Lautenberg	

So the motion to lay on the table amendment No. 2077 was agreed to.

□ 1210

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BABY CALVIN

Mr. FORD. Mr. President, last night I called the attention of the Senate to the plight of Baby Calvin, an infant in a Kentucky hospital that could die at anytime without a new heart.

I am pleased to report today that a new heart was found for Baby Calvin and that he successfully underwent surgery this morning at Louisville's Kosair Children's Hospital.

Mr. President, publicity has a great deal to do with this child being alive at this hour. Newspaper, television, and radio coverage of a similar case in California had a great deal to do with Baby Jesse being alive today. Jesse and Calvin were born with the same kind of fatal heart defect.

Though it's a testament to the power and responsibility of the press that the country learned about these two children in peril in time for transplant hearts to be found, it strikes me, Mr. President, as a hit or miss way for such life and death questions to be determined.

A year and a half ago, Congress approved an alternative way to deal with this question. It is called the National Organ Transplantation Act of 1984. It instructs the Health and Human Services Department to set up a national organ matching and referral network and Federal grants to organ procurement agencies to increase the supplies of donated organs available at the critical moments they are needed. Three million dollars was appropriated for this purpose.

I understand, Mr. President, that the Health and Human Services Department has been dragging its feet. It will not get the organ transplant network into operation for several additional months. And it is just now advertising the availability of Federal funds to assist organ procurement agencies. Mr. President, I hope the press that has done such a good job at the critical moments for Baby Calvin and Baby Jesse will now turn its attention to this situation.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. FORD. I yield.

Mr. LEVIN. Mr. President, I want to thank the Senator from Kentucky for focusing the attention of this body and this country on the needs of a baby.

We are in the middle of a critical debate on a tax bill. What is also critical is the life and death of our children and our citizens. The Senator is very, very wise and courageous and right in telling the Senate and the country: "Let us pause for a moment and look at our policy with respect to organ transplant."

We have now, we hope, saved the life of Baby Calvin, to whom the Senator from Kentucky called our attention yesterday; and, with the grace of God, we will save many young lives and older lives which are hanging in the balance. We must move quickly in the direction the Senator from Kentucky has pointed us.

We are all grateful to the Senator from Kentucky for what he is doing.

Mr. FORD. Mr. President, I thank the distinguished Senator from Michigan, and I compliment him for the work he is doing with the military in this particular endeavor.

What we do here for tax reform, whatever we do for the future, is significant. But to have a life available, to take advantage of what we do here, is more important, in my opinion.

I thank the distinguished Senator from Michigan.

OPPOSING THE CHILEAN TORTURE SHIP "ESMERALDA'S" PARTICIPATION IN THE JULY 4 LIBERTY WEEKEND CELEBRATION

Mr. KENNEDY. Mr. President, I send to the desk a joint resolution on behalf of myself and Senators DOLE, LUGAR, INOUYE, MOYNIHAN, PELL, HARKIN, and METZENBAUM.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S.J. Res. 361) opposing the participation of the Chilean vessel *Esmeralda* in the July 4 Liberty weekend celebration.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, Although it has not always been so, the

Esmeralda today is a ship of shame. It was the site of one of the cruelest chapters in the history of Chile—the brutal torture of over 100 men and women by Chilean authorities in the aftermath of the bloody coup by General Pinochet in September 1973. Because of this heritage of horror, the *Esmeralda* is a continuing symbol of the repression which persists in Chile to this day.

The Statue of Liberty would weep at the sight of the *Esmeralda* entering the gateway of freedom at New York Harbor. This ship is the antithesis of American freedom and should not be permitted to participate in the celebration of America's liberty and democracy.

Nothing in this resolution is intended to detract from the noble heritage of the *Esmeralda* before the tragic events of September 1973. For generations prior to that date, Chile was renowned as one of the most stable and democratic nations in South America.

The name *Esmeralda* itself has a distinguished heritage in Chilean naval history. The original *Esmeralda* was a Spanish frigate captured by Chilean patriots and commissioned in the Chilean Navy in the war for independence at the beginning of the 19th century. The present ship was built in 1952 as a training vessel to carry on the proud tradition of seamanship in the Chilean Navy.

But on September 11, 1973, a military junta led by Gen. Augusto Pinochet staged a bloody military coup, crushed Chilean democracy, and installed the repressive regime that has ruled in Chile ever since.

On the same day that General Pinochet seized power, the junta rounded up 40 men and 72 women and held them naked in the dungeons of the *Esmeralda*. The prisoners were subjected to brutal torture and interrogation. For a period of nearly 2 weeks, they were beaten, tortured, subjected to electric shock, mock execution, sleep deprivation, and sexual abuse. Throughout this ordeal, the Chilean authorities ruthlessly interrogated the prisoners about their political activities prior to the coup.

Today, the *Esmeralda* is not used for torture. But to the Chilean people, it is a clear and present symbol of the pervasive terror they have endured in the 13-year dictatorship of General Pinochet.

One survivor of the *Esmeralda* nightmare described his feelings about the ship in a sworn statement:

> Up to September 10th, it had been for me, and for ten million Chileans, the "White Lady," the "National Pride." It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today, it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women.

Esmeralda means "emerald," a gem of extraordinary beauty. And the *Esmeralda* is one of the most beautiful tall ships in the world. Until the cruel coup in 1973, the vessel was a source of patriotic pride for the Chilean nation. But because of the coup that transformed the *Esmeralda* into a torture ship, the vessel no longer represents the people of Chile, or the democracy and freedom for which Chile is striving. Rather, it symbolizes the reign of terror in the days when General Pinochet's repressive regime was born.

Instead of evoking the pride of the Chilean people, the ship summons up memories of dead friends and missing relatives, midnight arrests and mysterious disappearances, detention in unknown locations and repression of a democratic nation.

Current reports by Amnesty International and other human rights groups document General Pinochet's continuing and flagrant attempts to crush any democratic opposition in Chile.

In March, the United Nations Commission on Human Rights condemned Chile's record on human rights and expressed its strong concern over the persistence of serious human rights violations, including disappearances, torture, abuses by security forces, and the denial of fundamental rights.

As long as repression continues in Chile and liberty is denied, the *Esmeralda* should not be welcomed in any celebration honoring America's own Statue of Liberty. On the day democracy returns to Chile, I will invite the *Esmeralda* to return in honor to the United States. But until Chile is free, the sails of that torture ship should not be permitted to darken our waters, let alone cast their abhorrent shadow upon our own precious symbol of liberty.

I hope the Senate will act promptly and favorably on this resolution. The *Esmeralda* is already on its way to New York. My hope is that the ship will turn back, and will choose not to participate in the July 4th celebration. But in any event, I believe this resolution is necessary at this time. I urge the adoption of the resolution and ask that the text of the resolution by reprinted at this point in the RECORD.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

> Whereas, Operation Sail has invited the Chilean naval vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York Harbor;
>
> Whereas, the *Esmeralda* is the notorious vessel used for the torture of 112 political prisoners at the time General Augusto Pinochet seized power in a military coup in Chile in 1973;
>
> Whereas, serious violations of basic human rights and civil rights continue in Chile under the Pinochet regime, of which the *Esmeralda* is an unfortunate reminder.
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*
>
> SECTION 1. The Congress deeply regrets the invitation extended to the Chilean vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York City, and urges Operation Sail to withdraw that invitation.
>
> SEC. 2. A copy of this resolution shall be transmitted forthwith to the Chairman of Operation Sail.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX REFORM ACT OF 1986

The Senate continued the consideration of H.R. 3838.

Mr. METZENBAUM. Mr. President, I will soon offer a series of amendments to strike various provisions in this bill.

The amendments on the list have one common thread. Each one is custom-tailored to provide a single taxpayer or a very small group with special tax benefits not available to anyone else in this country. The amendments that I will offer are designed to zero in on these special privilege amendments.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Will the staff please take their seats at the rear of the Chamber, and will Senators please be seated?

Mr. METZENBAUM. I thank the Chair.

Mr. President, most of these special provisions are called transition rules. In its purest form, a transition rule is provided when a taxpayer undertakes an activity relying upon existing law and the law changes in the middle of the game. But there are transition rules, and then there are other transition rules.

□ 1220

This bill has transition rules that go far beyond the pure form, and it has new loopholes that masquerade as transition rules.

It is one thing to provide a transition rule which assists a taxpayer who has acted in reliance on current law. It is quite another to provide a taxpayer with a special provision denied to others similarly situated or to provide a new tax break that is not even available under current law.

Such provisions are not transition rules. They are simple greed rules. They are examples of persons who not only would not take their lumps like everyone else but they sought and they received special treatment. That is wrong.

This bill eliminates the right of an individual to deduct wholly the interest incurred in purchasing a new car on credit. But car buyers are not getting a transition rule to deduct all interest payments on the new cars they purchase for their families.

Under this bill, taxpayers must incur medical expenses in excess of 10 percent of their adjusted gross income in order to take a medical deduction. The current threshold is only 5 percent. A few years ago it was just 3 percent. As a consequence, the right of individuals to deduct their medical expenses is very greatly curtailed. It had gone from 3 percent, everything over 3 percent, to everything over 5 percent, and this bill provides only everything over 10 percent.

But this bill does not provide transition rules to the elderly who have soaring medical bills. There was no one to lobby for the car buyers or the elderly before the Finance Committee. They are not here petitioning for special treatment. They are going to pay the increased taxes.

But some insurance companies get special consideration; some big oil companies are taken care of; some investment and brokerage houses are protected; so are some shipbuilders, some cosmetic companies and some steel companies.

A tax bill affects the pocketbooks of every citizen and corporation in this country. Inevitably, there are going to be winners and there are going to be losers.

What we must seek to do is to treat everyone equally, to even out the rough spots. There may be times where that would require narrowly crafted provisions to take care of unique problems.

But if the bill is littered with special protections for those rich and powerful enough to have access to the decisionmakers—no matter the relative merits of their case—then the cause of equity and fairness is the loser and the average taxpayer is the loser.

I want to make it clear I am for the tax bill. I expect to vote for the tax bill. But the issues to which I address myself goes beyond the question of the total tax bill. The issue has to do with whether or not some individual provisions are reasonable, whether some particular carving out was done for a special corporation, a special group of individuals, and whether they should be treated differently than all of the other people in the country.

I do not doubt that some of those transition rules are reasonable.

The issue goes beyond whether some individual provisions are reasonable. Many no doubt are. But I believe that the American people are entitled to an explanation of why the Senate believes a few taxpayers should receive more favorable treatment than other, similarly situated, but less politically astute or influential.

And I believe the Senate needs to consider whether in taking care of the privileged, we have sacrificed equity in the process.

I have heard people say there's nothing new about this; that tax laws have always been written this way.

I do not believe that is true. But whether it is or not is immaterial. It is just not the right way to do business. The entire tax reform effort is premised on having a more fair and equitable Tax Code, on getting people to believe that they're getting the same fair shake as the rich and powerful.

If you give that up, you don't have tax reform, you have business as usual and all the lower tax rates in the world won't make people believe that the system works for them.

And distrust of the system leads to disdain and disaffection; it contributes to a growing sense among Americans that democracy doesn't work for them, it works for the other guy.

I do not believe the provisions listed below belong in this bill. However, I look forward to hearing the sponsors discuss in detail each of those provisions. Absent new information, I do not believe these provisions belong in the tax bill.

We have looked at every one of the transition rules contained on the committee's list, 174 of them, as well as numerous other provisions that are hand-made for specific taxpayers.

I want to say publicly that Senator PACKWOOD and his staff have been extraordinarily helpful and candid in providing us with all the information we sought. But I am frank to say that even with their assistance there is only so much information we could process.

We have tried to apply a reasonable test in determining whether to offer an amendment to strike a particular provision.

In other words, do other, similarly situated taxpayers receive the same treatment?

Is the amendment a true transition rule, or does it actually go beyond current law or the provisions of the bill to confer new tax loopholes on the beneficiary?

Is the beneficiary a municipality or a nonprofit concern or is it a profitable, private corporation?

Based on what we have been able to learn about these provisions, I believe that the section I will seek to strike has no place in this bill. If there are additional facts to support the provision that we are not familiar with and that make the provision justifiable, I will withdraw the amendment. But absent such new information, I will urge that the provision be stricken.

Mr. President, I ask unanimous consent that I may put in a quorum call without my losing my right to the floor, the quorum call not to last more than 5 minutes.

The PRESIDING OFFICER. A quorum call cannot be limited even by unanimous consent.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], proposes an amendment numbered 2079.

On page 1808, strike out line 15, and insert in lieu thereof "subparagraph (C) and (D):"

On page 1808, beginning with line 16, strike out all through page 1810, line 13, and redesignate accordingly.

Insert at the appropriate place:

The Secretary of Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised under this amendment as determined by the Joint Committee on Taxation.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this amendment deals with the Unocal, or popularly known as Union Oil Co. of California. It is called Unocal now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, this amendment deals with Unocal, formerly called Union Oil Co. of California, an oil company located in California. This is not a transition rule amendment. I want my colleagues in this body to understand that that which is called a transition amendment in this respect is not a transition

amendment. There is nothing about this tax bill that removes any tax benefit Unocal is enjoying today.

This provision is a brand new, fresh off the shelf, loophole. It is not that the old law, or the law that is presently being considered imposes a tax on Unocal. This amendment says regardless of the old law, or the new law being proposed, and the mere fact that we are not affected is not important. We are asking for special tax treatment.

Unocal in 1985 was the target of a takeover attempt. And they incurred $4.4 billion in debt to adopt antitakeover measures. The tanks which extended the debt required that it be held in a Unocal subsidiary which does not engage in foreign operations. Under current law, companies operating overseas are entitled to a foreign tax credit. There are limits under the law on how to compute that credit. But the fact is Unocal does not qualify for any foreign tax credits with respect to the interest paid on this debt under current law or under the new general rules of this bill.

I want to emphasize that to my colleagues. This is an amendment that carves out a new loophole for Unocal that they would not have if the law remained as it is today, and they would not have it if the bill were passed in its present form.

Unocal is here saying we want a special new loophole because we are special. This amendment says we do not care what the old law is. We do not care what the new law is. We just want to have the right to take credit for that foreign tax credit regardless of whether or not we were or were not entitled to it.

In short, this $50 million tax break which was not available under the current law, let alone the provisions of the present bill, is a gift; nothing more, nothing less.

I will not belabor the point. I look forward to hearing sponsors of the Unocal provision discuss it. Absent compelling information I believe this provision should be stricken from the bill.

The amendment also provides that the funds raised, the $50 million, would not be given away to Unocal in order to make it revenue neutral, and the amendment provides that the revenues raised will be used to enable family farmers to use income averaging, a current tax benefit which this bill repealed.

I think, if I am not mistaken, that this was a part of the package that the distinguished Senator from Iowa, the senior Senator, Senator GRASSLEY, proposed as a part of his amendment. In connection with the Conrail amendment the other day. In other words, the funds raised would be used for income averaging for farmers.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, as I listened to my distinguished colleague from Ohio I was waiting for him to engage in a more extended discussion of the circumstances that have promoted the Union Oil Co. of California, Unocal, to seek a rule that will allow them to enjoy not a special break that sets them apart from other taxpayers who are similarly situated, but what is admittedly special treatment that they and others who are similarly situated are seeking in other to achieve survival.

He did mention in passing that Unocal along with a number of other oil companies has been one of the targets in a recent rash of hostile takeover bids. He did tell you that in order to resist that bid, Unocal incurred a $4.4 billion indebtedness, not for the purpose, Mr. President, of acquiring any new assets, and not for improving their cash-flow but simply for the purpose of resisting a hostile takeover.

I am not here this afternoon to debate the merits or demerits of hostile takeovers. Some are good and some are bad. But it is simply a fact that many of them have been directed at resource companies: At oil companies, at mining companies, those that have assets that are deemed to be of significant value, and it is true that in some cases those seeking to take them over have done so with the apparent purpose of then selling off the assets rather than continuing in the business of resource development.

I am not here this afternoon either to discuss the importance of maintaining corporations engaged in the all-important business of resource development. I think that is probably apparent to everyone who drives a car and pulls up at a gas pump, and it is probably apparent to those who are sitting in what would otherwise be sweltering heat but find themselves enjoying the coolness of air-conditioning. They probably understand the importance of resource development. And I suspect they would also understand the importance of employment.

Mr. President, I take the floor this afternoon to respond to my friend and colleague from Ohio because of my concern about the employment of some 21,000 people who are employed by what is indeed a major resource company, a major employer, one important to the local economy of the city of Los Angeles, one important to the economy of the State of California, and as you will hear from other speakers, one important to the economy of their States.

□ 1240

Jobs are something that we in the Senate take seriously, and quite properly so. Ours are not the only jobs we take seriously.

And what we are concerned with in this instance is the ability of not one corporation but at least one other that I can think of, Unocal, a company based in Oklahoma, to survive long term the effects of the hostile takeover that they successfully resisted in the short term.

Let me tell you that not only did Unocal as did Phillips borrow heavily, incurring enormous indebtedness to buy back their own stock in order to resist the takeover of their company, and perhaps its dissolution as those resources would be then solved, putting people out of work, but when they did so they did something dramatically to change what had been a highly desirable debt-to-equity ratio.

Unocal, in surviving that takeover, though successful in doing so, went from being a low-debt corporation, having before the takeover bid $1.1 billion in debt and $5.7 billion in equity, a ratio of about 1-to-6 debt to equity, which is a comfortable ratio. Only 16 percent of their net worth was debt.

They went immediately after the takeover to a situation where they became a very high-debt corporation, $5.5 billion of debt in contrast to $1.6 billion in equity. They went from having 16 percent of their net worth as indebtedness to having 77 percent.

Mr. President, what they did, in short, in order to resist that hostile takeover was to totally turn upside down their debt-to-equity ratio. That fact, along with the falling price of oil, has meant very hard times for this corporation or Phillips or for others.

What it has meant is that they are now looking at very difficult times. They had expected that at the time that they sought to finance this hostile takeover resistance, at a time when prices were higher and that the industry was good, they could pay off that indebtedness in 5 years. Now they are in hopes that it will be 10.

They did something else, Mr. President. When they sought to resist the takeover bid and went to the marketplace in order to incur the indebtedness to finance the repurchase of their own stock, which was widely held in the marketplace, they first borrowed at a rate of some 13 percent. Some 5 months later, as they were under a duty to their shareholders and to their employees and even their customers to do, they sought to dramatically reduce the tremendous interest payments due at 13 percent on 4.4 billion dollars' worth of indebtedness. They sought to refinance at a more favorable rate of interest.

When they did so, they were required by the lender in that instance to take the indebtedness not as debt of the holding company, but as debt of the operating companies, and that, Mr. President, is a significant distinc-

tion and it is what makes this a complex question.

I am probably going to tell people more than they will want to know about this. I do not like what I know about this.

The fact of the matter is under existing law a holding company can take all of the interest that it owes on such indebtedness and use it to offset its income. Its income, Mr. President, is U.S. taxable, but if, instead, as was required in this case, in order to allow the lender to collateralize that loan with those assets, the oil reserves, the gas reserves, the assets of that corporation, if, in this instance, you are talking about the interest that is required to be paid on the debt, then, under the rules that then existed, I quite agree, what you are talking about is a rule under the IRS that requires that the interest be allocated to all the operating companies, including those that are doing business in foreign countries and which, if they earn sufficient income to warrant it, are taxed by those foreign nations and gain a foreign tax credit from the U.S. Government so that they will not be doubly taxed, so that they will not be taxed once by the country in which they are operating on income in that country and then taxed a second time when the income, after the foreign taxes have been paid, is repatriated to the United States to the parent corporation or the parent taxpayer.

What happens, Mr. President, is that it is significant from a tax point of view whether or not that interest is allocated. If not allocated, then whatever your operations in a foreign nation, you will sustain a higher foreign tax credit than you would if the income coming back to you from your foreign operation is reduced and offset by the interest paid.

In other words, what happened is that, as in the case of Phillips Petroleum Co., when they borrowed to reduce their indebtedness, all the interest on that debt they could offset against the company's income. The change under this rule is that in the future the holding company will have to do what the operating companies have done. They will have to allocate the interest. They will gain a smaller foreign tax credit. In short, they will have a larger tax bill.

What that means is that those companies like Phillips and like Unocal, who have experienced these hostile takeover attempts and who have successfully fought them off only by incurring major indebtedness, they will be under a different rule than that which existed at the time that the takeover occurred in the sense that they will be getting less of a foreign tax credit.

So they are seeking not to change the bill which proposes that there be interest allocation. What they are doing is simply seeking a transition, a phasing in of the new rule.

The reason that they are seeking it, Mr. President, is because without that they face hardship.

My colleague said that this was a $150 billion proposition. He does not know that. In fact, I do not know where that figure comes from.

What is true is that the difference between the tax that is likely to be paid by Unocal under the rule without relief and under the rule that they are seeking would, over a 10-year period, amount to about $16 million. But it is a significant thing when they are having to make these crushing interest payments. No one precisely can tell what the impact will be. They do not know that because they do not know what the price of oil is going to be.

□ 1250

What they do know is, until oil comes to be $18 a barrel on the price of crude, this is going to be an academic discussion, because there will not be enough of an income for them to be concerned about foreign tax credits. And this is one point on which, without intending to, I think my friend from Ohio may have misled those who heard his presentation.

If, in fact, there were no hope of Unocal enjoying some foreign tax credit in the future, then we would not have been having this discussion. But there is the prospect that oil prices will rise—and it is doubtful they will stay at the depressed prices that are current—that at some point when oil does again achieve an $18 or greater price per barrel, that we will then see a situation in which this becomes not academic, but very real to those who are trying to stay in business.

Now, what are we talking about?

Mr. METZENBAUM. Will the Senator from California yield?

Mr. WILSON. I will yield; at the conclusion of my presentation, I will be happy to yield then to the Senator from Ohio.

What we are talking about, very simply, is the situation of not one company, not one taxpayer, there are certainly at least two and there are, I suspect, more, and we are talking about companies that have been paying high taxes. Quite specifically, in the case of Unocal, in 1985, consolidated—that is, not just the holding company, but the operating companies—on a consolidated basis system worldwide, the 1985 tax paid by Unocal came to some $910 million, hardly a paltry sum. It was 2.8, almost three times, the company's net earnings.

This is not a company that has been paying no tax. It is a company that has been paying substantial taxes, employing substantial numbers of people, some 21,000 worldwide, three-quarters of them in my State. I concede I have an interest. It would appear that there is a considerable amount of fairness in supporting not a change in the law, but simply a transition, a phasing in of the difference in the rules that are going to make for hardships as this company seeks to pay off its crushing debt.

Now, I would think that for all of his concern about fairness to the taxpayer—and I commend him for that, it is something we all share—I would think that there would be a similar concern on the part of the Senator from Ohio with respect to the welfare of those whose employment may very well depend upon such transition rules. I would assume he would be concerned about steelworkers in Ohio; those in Youngstown and in Steubenville and Sandusky and the other great steel mill towns in Ohio and in Pennsylvania and in West Virginia and in other States across the Nation.

Now, because the steel industry, we have been told time and again by the Senators from steel States, is upon hard times, times hard enough to warrant special quotas on imported steel in order to allow them to survive, that we would be interested in some kind of fairness, not just to the taxpayer but some sort of a transition rule that might help steelworkers keep their jobs. Even if he is not concerned about the shareholders of those steel companies, thinking that they are at risk and therefore have to suffer whatever management they are willing to trust, I would think that he would be concerned about steelworkers, not just in Ohio, but in California, in Pennsylvania, and in West Virginia.

I do not know the details of it, but I am told that there is a transition rule that will assist American Steel to make a go of it in challenging times, and that the device employed to assist them in doing so is one that will allow them to make about 50 percent on the dollar use of unused investment tax credits.

Now this excellent piece of legislation, the Packwood proposal, in order to achieve dramatically reduced rates—which incidentally are not affected by these transition rules in any way. We are not doing anything to the 15 percent or the 27 percent or the 33 percent maximum corporate rate. So those wearing the buttons on their lapels that say 15/27/33, this in no way imperils that magic formula. Nor do any of the transition rules. They were indeed a part of the proposal. What the Senator from Ohio is seeking to do is to knock them out.

But I would assume that he, in his concern—and I know he is concerned for the employment and the welfare of steelworkers in his State and elsewhere—would be interested in a rule that allows American steel to reach back in some cases 15 years in order to

find profits against which that unused investment tax credit can be taken.

Now why was the committee willing to do that? Why are they willing in these other instances, when they are seeking tax reform of a kind we have not seen in this country for 50 years, why were they willing to grant a transition? Well, for the very simple reason, Mr. President, that they are concerned that certain industries—perhaps through some fault of their own, but in some cases through no fault of their own—and certain taxpayers are facing sufficiently difficult times so that it does not make much sense to impose upon them a burden so difficult that they may not be able to sustain it and may in fact be threatened with diminishing their opportunity to give people their employment, their ability to employ and to pay taxes in the future.

In other words, it would be penny-wise and pound-foolish, not to say somewhat callous and insensitive, if we were to engage, in the name of fairness, in a tactic that puts people out of business who, with a little transition, phasing in the new rules, will be able to stay in business, regain a competitive position, and continue to give employment, continue, in this case, to make steel, and in the case of Unocal and in the case of Phillips, to develop, to find, and to produce needed energy resources. that would seem to make more sense. And apparently it did to the committee or they would not have engaged in inserting these transition rules in this tax reform proposal. And they did that. What they have offered us in the name of reform contains transition rules which clearly they thought did no violence to the reform.

But what the Senator from Ohio is proposing, if extended all across the board, would do violence to those transition rules. I do not know whether steel is on his list. If not, I would ask, why not? If it is good for steel to give them some assistance to survive, then perhaps it is good to give another major employer the kind of temporary assistance that will assist that employer to survive.

I will only say that no one can tell you, because they do not know what the price of oil is going to be, when this will cease to be academic. The expectation, on the basis of one table I have seen, is that within about 2 or 3 years, this will begin to have some meaning, because the price of oil will by that time have risen to the point where foreign earnings on the part of operating companies will again make very real the amount of credit that the consolidated company takes on the foreign tax credit that can be applied against the foreign income of their operating companies.

□ 1300

But let me come back to the basic point because what we are talking about at least should be equity. Yes, I will concede that technically this is not a transition rule. It is true that what we are talking about is fairness, rather than the technical accuracy of the transition rule. The only difference between the situation of this company and that of the Phillips Petroleum Co. is that Phillips did not seek to refinance, perhaps for very, very good reason. Perhaps they did not have to. But having sustained $4.4 billion in debt, having gone to the marketplace to find that and to find it in a hurry in order to resist this hostile takeover bid, in an effort arguably to safeguard the jobs of these 21,000 employees, this company was thereafter as a matter of good business judgment, of good fiscal management, required to look for some way to reduce the crushing burden of these enormous 13-percent interest payments on that $4.4 billion debt. They did that. They refinanced. They got a better interest rate, but in order to get it they were compelled to go a different treatment, to essentially the treatment that this bill will make the law. All they are saying is we are willing to do that. We are not fighting the implementation of the new rule. What we are doing is saying give us time to sustain this burden so that over a period of time as we pay off the debt we will not experience what we have in the past year.

Now, what they have experienced in the past year, Mr. President, is perhaps best indicated by the reaction of the marketplace to some of their own securities. And what has happened is that in less than a year's time Moody's, the rating service that rates debt securities, has taken Unocal from the highest rating down to, frankly, a rather mediocre one. It is a sad story for those who are shareholders, even sadder for those who are debtholders. It is also sad for those who are employees. This is a story from the Wall Street Journal dated slightly over a month ago. And it is entitled "Unocal Unit's Debt Is Downgraded Again by Moody's Investors," downgraded again by Moody's investors. I am not going to read it all to you. It just says that as a result of the debt service that they are compelled to make, having sustained that $4.4 billion indebtedness that turned upside down their debt-to-equity structure.

Since last May, Union Oil's debt, as rated by Moody's, has fallen nine notches from a high investment-grade rating of double-A-1 to the current medium-low investment-grade rating.

And it is now a Baa-3, nine notches down in less than a year's time.

Mr. President, I think that says a great deal. It says that this company is not in good times. Between the falling price of oil that has caused concern about the independents, whom this body voted to assist yesterday by a huge margin, much better than three-to-one, that same situation is affecting not simply small independent oil producers, in this instance because of the purely gratuitous situation of this hostile takeover attempt, a large oil company is beleaguered. Yes, that is the proper phrase, it is beleaguered, even though it is capable of paying the huge taxes that it paid last year. I would remind you they were three times its net earnings.

So, Mr. President, what we are looking at right here is not a benefit that is limited to a single taxpayer and it is not technically a transition rule but what it is aimed at achieving is a transition to a time when the full implementation of the rule will not impose the hardship that it does now. What we are looking at is a time when once again profitable operation will permit it to pay even larger taxes. But we are talking about a taxpayer that is similarly situated with another company, the Phillips Co., similarly situated in the broadest terms with perhaps the steel industry, perhaps many others. It is not a break denied other taxpayers who are similarly situated. Like Phillips, Unocal borrowed in order to resist hostile takeover, not to acquire assets. So we are really not talking about a loophole. We are talking about an explicit transition to allow them to survive, to continue giving employment.

Mr. President, I would suggest that what we really ought to be concerned with is not the technicality but the impact. We do need to be concerned with fairness, fairness to the taxpayer and fairness to the employees. That is what we have been concerned with. Yesterday afternoon by better than 3 to 1 we voted to give some needed assistance of a kind that we give not to other industries, not to the real estate industry, not to any number of other passive investors. Their passive income under this change will, over a period of time, be phased out. They will not continue to enjoy what they enjoy under existing law. But we are going to allow small oil producers to continue to enjoy what the existing law gives them, and that is the opportunity to use passive income and the losses that they sustain as passive investors, limited partners, to offset other income.

We are not even asking for anything of that kind here. What we are asking for is in fact fairness. We are talking about something that is not going to last forever. None of these transition rules by definition do. We are talking about temporary relief to avoid hardship. And the hardship, I think, is pretty clear if you look at what has happened in those debentures, at the change in the rating, at the change in

the earnings. As this Wall Street Journal story indicated in discussing it:

In connection with the latest downgrading, Moody's said that "the company's debt remains uncomfortably high," despite Unocal's refinancing of its debt at lower interest rates and reductions in capital outlays.

Moody's yesterday projected a "significant" decline in cash flow and earnings coverage of fixed costs for the remainder of the year, adding that it expected Unocal's refining and marketing profits to weaken.

Mr. President, that is the situation in which we find ourselves. I think that Moody's which is relied upon by small investors and large as an honest and objective assessment of the prospects of those listed companies, has said very clearly this company is hurting and that is why this rule, be it literally a transition or not, is fair to them, not unfair to other taxpayers, and for that reason, I urge that the Senator from Ohio not succeed in the admendment that would strike this fair rule from taking effect.

Mr. METZENBAUM. Will the Senator from California yield for a question?

Mr. WILSON. Yes; at this point I am delighted to yield to my friend from Ohio.

Mr. METZENBAUM. The consideration being asked for, is that provision in the current law?

Mr. WILSON. Apparently the Senator was out of the room. I hate to repeat myself, but I will, in response to his question, do so. We concede that this is not in the literal sense of the word a transition.

□ 1310

What I think is far more important, far more to the point, considering the purpose for which the committee has adopted these transition rules, is to gain the same treatment essentially as that given a similarly situated taxpayer. Phillips Petroleum Co., which, after undergoing a devastating attempt at takeover, resisted it only by virtue of having sustained a crushing indebtedness. They were not required, as was Unocal, by a subsequent creditor at the time of refinancing, to allocate the interest to the operating companies. The lenders to Phillips Petroleum allowed the loan to be made to the holding company. They did not require that it be made to the operating companies. The lender to Unocal did. Why? Because they wanted the security of the collateral, the resources—the gas reserves, the equipent, all those things.

In order to do what they needed to do to keep faith with their shareholders and their employees and their customers, Unocal sought that reduced interest rate. They sought to refinance this crushing $4.4 billion debt. In doing so and in sustaining the loan burden on the operating companies, as you know, they fell under the allocation of the interest rule.

So the answer to the question is that they are technically not seeking what is a transition, but what, in fact, they are seeking is to be treated similarly to a similarly situated taxpayer.

Mr. METZENBAUM. My friend from California agrees that it is not in present law, and I think we can agree that it is not in the present bill except for this amendment.

The Senator from California indicated some question with respect to the figure of the Senator from Ohio—that it would cost $50 million—and said that figure was not accurate in view of the lower prices.

Does the Senator from California have a different figure, inasmuch as the Senator from Ohio gained his information with respect to the $5 million cost from the Finance Committee staff, which we are advised got it from the Joint Committee on Taxation staff?

Mr. WILSON. I say to my friend from Ohio that, with the greatest respect for the Joint Tax Committee staff and for the Finance Committee staff—who, I can see, are quite capable—they have been placed in the position of having to make an educated guess. But I think he would be the first to concede that they are compelled to engage in what is necessarily sheer speculation.

They do not know what the price of oil is going to be; and without knowing that, they cannot tell you by more than an estimate, a very rough estimate, a purely speculative estimate, as to what the financial impact will be. There is no one who can. That is no insult to that staff. There is no one who can tell you, any more than anyone could have told you a year ago what the price of oil would be today.

Mr. METZENBAUM. Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I want to make clear that I was not a sponsor of the rule the Senator from Ohio wants to remove from the bill which is now before us. But I rise in support of the special rule provided by the Finance Committee for the Unocal Corp. of my State of California.

This provision is one among several which benefit major oil companies, including Phillips Petroleum and Texaco.

The Joint Committee on Taxation has estimated the revenue cost at less than $50 million. The company argues otherwise, suggesting that the actual revenue cost is much less, along the lines of $16 million based on continued low oil prices for several more years.

The issue involved is how the company must allocate the interest expense it acquired when Unocal added $4.5 billion in indebtedness last year in order to fend off a hostile takeover attempt.

Frankly, I am appalled at the enormity of the $4.5 billion indebtedness a previously sound, healthy company with a very low debt-to-equity ratio assumed itself in order to escape a takeover attempt.

This $4.5 billion in debt-load produced nothing—no new assets, no new cash flow. Nothing.

The Treasury of the United States should be appalled, too. Because what has happened is that a once-profitable company, which has pumped a healthy stream of revenues into the Treasury, some $1.7 billion in windfall profit taxes in addition to corporate income taxes, and into the general economy of California, and the Nation, is now in financial difficulty.

The price of oil, as we all know, has dropped drastically. And that fact has altered everything and required the special relief provided in the transition rule under question.

How did the company fall into the situation from which relief is requested?

At the time of the takeover the best terms on which money could be borrowed was a weighted average of 13 percent. This debt was placed at the holding company level and under the law was not subject to interest allocation rules which require a proper allocation of interest costs against foreign source income.

As interest rates fell, the company sought to obtain refinancing of the indebtedness at a more favorable interest rate. In order to refinance, the banks required debt to be placed at the operating company level. As we all know, many banks are having their own financial problems and are now, more than ever, required to take even more precautions than usual in self-protection. This action brought the interest on the debt under the interest allocation rules.

My friend, Senator METZENBAUM, is correct in observing that this transition rule essentially seeks relief from current law.

It does.

Yet, but for the fact that Unocal was required by the banks to move its debt, Unocal would have obtained the same transition relief provided to Phillips and Texaco who retained their debt at the holding company level.

It is the same debt in both cases for Unocal. It's just that the debt has shifted placement from holding company level to operating level and therefore comes under the allocation rules under current law.

If the theory of the change to be enacted by H.R. 3838 is correct, and I believe it is, then debt is debt, interest cost is interest cost, equity is equity, fairness is fairness, and where the debt lies should not make a technical difference which subjects one taxpayer to taxes and another to a different set of rules.

That is why this rule fits as a transition rule, even though it provides relief from what is current law.

And it places Unocal on the same footing as its competitors; Phillips and Texaco.

With the drastic fall in oil prices, servicing this debt has become an enormous problem.

This transition rule goes a small way toward helping Unocal survive and pay its debts until the price of oil rises.

The rule gives the company time to phase in interest against foreign income. Under allocation rules, 13 percent of interest would be taken against Unocal's foreign income.

At the present time, with the price of oil around $14 a barrel, this costs the Treasury nothing because there is not much income to deduct the interest against.

Unocal will earn foreign profits when the price of oil rises to $18 a barrel.

If one assumes that the price of oil will gradually rise and will pass the $20 mark by 1989, the cost to the Government over a 10-year period could be as small as $16 million. Of course, if the price of oil shoots up the cost will rise to the Treasury. That is why the joint committee figure is placed at $50 million. I repeat that the actual figure is more likely to turn out to be far less.

It is important to keep in mind that this amendment applies only to Unocal's takeover debt. It does not apply to any other indebtedness cost of the company.

□ 1320

Finally, this amendment is an example of why the drive to move our tax laws into a world where common sense prevails is so powerful that many people and corporations are willing to pay higher taxes in order to get there.

Substance and sense ought to prevail over form. The interest allocation rules under H.R. 3838 are a move toward substance over form. The bill's provision correctly assigns interest costs to all income and does not allow a corporation to escape proper allocation of interest cost by shifting debtload to the holding company level. Transition relief is provided for companies whose debt is held at the holding company level. This transition relief provides equitable relief for Unocal similar to that provided Phillips and Texaco.

The Finance Committee accepted this judgement and I concur and urge my colleagues to join with me in support of this provision of the bill.

The Senator from Ohio shifts the small revenue gain by his amendment to pay for income averaging for farmers. I support income averaging for farmers. There will be an amendment to provide income averaging for farmers but that is not the issue here because $50 million or the lesser $16 million estimated by Unocal will not provide any significant income averaging relief for millions of American farmers.

Let me finally say this about the situation we face in regard to this amendment. I address my remarks to Senators on the floor. I address my remarks to Senators watching on television. I address my remarks to staffers watching this discussion who will be advising their Senators about the situation in regard to this amendment.

It is highly technical as are most of the tax amendments, but it seems to me that it is very, very fair to support what was done namely in the committee. We have seen a strenouous and thus far successful effort to hold against any significant changes in major provisions of the bill.

Major provisions to many relate to so-called transition and other benefits that were approved in the committee by a vote of 20 to nothing that meet the needs of one set of constituents for another. If we now start picking that apart and taking out what was approved unanimously in the committee, taking it out on the floor by a vote here, that could begin an unraveling process and there would be efforts to go after other provisions that are in the bill that do suit the needs of certain Senators and meet equitable needs of their constituents.

If we begin to take the bill apart in this way, I suspect that also would doom any effort for some further provisions that might be in a final amendment to be offered, perhaps by the chairman of the committee, to take care of certain needs of other Senators who are not on the Finance Committee and their constituents who are in States not represented on the Finance Committee, that opportunities for greater equity to take care of certain legitimate needs would be less likely to occur.

I think all Senators should keep that in mind as they consider how to vote on this first of these amendments along this particular line of attack on the bill.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

I would like to reflect on the comments of my colleague from Ohio who has provided us with a rather interesting list of some 19 companies I gather his staff has selected out of some 174 that are listed as the total transitional number that the Finance Committee staff has suggested be included in the tax bill.

I think the Senator from Ohio has done the Senate an appropriate service in evaluating in great detail, and out of 174 selected specifically 19 for detailed examination, which is what we are initiating now with the examination of Unocal.

I wonder if I could get a clarification from my friend from Ohio. Is it his intent that the Senate reflect on the entire 19 transitional rules, or is there a possibility we will act individually on each one, or has that been determined?

Mr. METZENBAUM. I am not sure I understand the question.

Mr. MURKOWSKI. I have before me a list provided by, I assume, the staff of the Senator from Ohio, a list of 19 exceptions to his examination of the transition rules. My question specifically as we proceed—we started with Unocal—is the intention of the Senator from Ohio that we address these in their entirely and whatever action the Senate might take, or individually?

Mr. METZENBAUM. They would not be handled as a package. Does the Senator mean the whole 19 in one package?

Mr. MURKOWSKI. That is correct.

Mr. METZENBAUM. I have no intention to do that.

Mr. MURKOWSKI. He would single them out for specific action?

Mr. METZENBAUM. That is correct.

As the Senator from Alaska knows, I previously stated that if the amendment in the bill can be justified, then I will take down the amendment, and I also indicated that there may be other egregious cases with respect to which I expect to address myself when those come to my attention. We are still studying them.

Mr. MURKOWSKI. I thank the Senator from Ohio for the clarification.

In view of the fact that the Finance Committee spent a great deal of time in deliberating on the appropriateness of these transitional rules and 174 companies or firms that were affected, I find it interesting to note on the 19 that where selected for explicit examination that nearly half of these are energy companies.

As we reflect on the dependence which we have in the United States on energy, particularly imported energy, and specifically oil where we recognize that nearly 33 percent of our utilization of crude oil is dependent upon importation from both Canada and Mexico and we recognize as my colleagues know—he is a member with me on the Energy Committee—the commitment of the administration toward achieving a greater degree of energy independence, yet that committee and each member of this Senate has a responsibility of working toward less dependency on foreign imported oil.

We are struck with the reality that we are still utilizing more crude oil domestrically in the United States than we are finding and replacing each day.

Obviously that creates a growing concern. We have seen the realities as-

sociated with the impact of the Mideast as a focal point of control dictating whether the price of oil in the world and the price of oil in the United States will go up or down.

Fortunately, the U.S. dependency on the Mideast is somewhat limited, but I am sure in the wisdom of the Finance Committee my colleague from Ohio would agree that it is important that we maintain and have a healthy domestic industry. Unocal is one of those companies that represents a domestic company with little foreign holdings, a company that is pretty much committed to the service on the west coast of the United States, a company, true, that has several hundred employees in my State of Alaska.

I will not debate the merits of the narrow definition of transition rules with regard to Unocal. But I think that both the Senators from California spoke eloquently and at length and with great detail on the financial implications of what this company has had to bear to maintain its survivorship under a market where hostile acquisitions had run rampant previously. They incurred heavy debt and, as a consequence, they are attempting to maintain their financial integrity and meet their obligations. I think it fair to say that they have taken internal steps through the competency of their management to work out this rather difficult picture.

But the reality of what is before them and the wisdom of the Finance Committee in considering those companies that requested consideration under transitional relief bring us down to a point of basic interpretation.

I would ask the Senator from Ohio, since we are talking about costs to the taxpayer, if indeed he would not agree that it is impossible to project the price of oil and the figures that the Joint Committee on Taxation utilize and provide to the Finance Committee were based on a different set of assumptions than those that are used within the industry.

The industry uses a set of assumptions over a 10-year period that would indicate the cost to the taxpayer to be about $16 million. I believe my colleague from Ohio is using a figure provided him of some $50 million-plus.

I ask my colleague from Ohio if it is not reasonable to assume that indeed it is impossible to predict in reality what the oil prices are going to do, and the projections within the industry over the 10-year period run from $15 to $33. Yet, the Joint Committee on Taxation has indicated that they are using an average of 27.

I would again call to the attention of my colleague from Ohio the substantial discrepancy, and as he considers the merits of the request by Unocal, if indeed we are not talking more realistically about the cost to the taxpayer over 10 years of $16 million, and not the $50 million which he has indicated.

I agree with the reality that we both go to different sources for figures and we make our points accordingly.

Mr. METZENBAUM. If I may respond, without the Senator losing his right to the floor, I have no way of estimating the figure. I have gone to the usual sources. I have gone to the objective sources, which are the Finance Committee and the Joint Tax Committee. I think that is as objective a source as you can find. They have said it is $50 million.

I respect the Senator from Alaska, and anybody else who wants to come up with a different figure. I am not certain it proves the case one way or the other. There is no question that it is special treatment whether $15 million or $50 million but at this point I am prepared to rely upon the objective figures that have been given to us of $50 million.

Mr. MURKOWSKI. I submit for the Record the figures represented by the industry's submission on this, and again I would request of my colleagues as they reflect on the merits of the wisdom of a Finance Committee in addressing the reality that what we need to maintain in this country is strong domestic industry.

I ask unanimous consent that the figures be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. GOVERNMENT REVENUE LOSS FROM UNOCAL CORP., DUE TO ANTI-TAKEOVER INTEREST ALLOCATION RULE

Assumptions: $4.4 billion anti-takeover debt; 10% annual interest rate; 13% of interest allocated to foreign operations.

Anti-takeover interest allocated to foreign operations: $4,400 MM × 13 = $57 MM.

Maximum tax savings with no interest allocation: $57 MM × .35 = $20 MM.

year	WTI oil price [1]	Total tax reduction [2]	Excluded interest [3]	Net tax reduction [4]
1987	15	0	90	$0
1988	17	0	80	0
1989	19	1	70	1
1990	21	1	60	1
1991	23	2	50	1
1992	25	2	40	1
1993	27	20	30	6
1994	29	20	20	4
1995	31	20	10	2
1996	33	20	0	0
Ten years total (MM)				16

[1] West Texas Intermediate Crude Oil Posted Price.
[2] Total reduction in Unocal taxes if no anti-takeover interest were allocated to foreign operations.
[3] Percent of takeover interest not subject to foreign allocation.
[4] Net tax reduction for Unocal after 10 percent per year phase-in rule.

Mr. MURKOWSKI. Mr. President, this particular company, unlike many other companies, does not have the depth of holdings outside the United States that would give it the financial strength to overcome the adversity of fighting the takeover and the tremendous $4.4 billion debt that they were required to have to undertake and work out of.

So in conclusion, Mr. President, I feel that there is justification for this inclusion under the transitional rules because it is in the national interest of the United States to have a viable domestic petroleum industry and Unocal plays a major rule in that contribution.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I have just a word or two more because of some things that have been suggested by the debate here on the floor.

For one thing, I know that the Senator from Ohio has had a deep concern about hostile takeovers, so deep in fact that I know he moved in this First Session of the 99th Congress to be one of seven cosponsors to a bill offered by Senator BOREN that was aimed at making more difficult the kind of hostile takeover, the very kind that faced both Phillips and Unocal, and the legislation which the Senator from Ohio cosponsored sought by some very specific steps to defeat those hostile takeover attempts.

They would have taxed green mail profits under this legislation; that is to say, they would have made taxable any profit offered to a shareholder in order to make successful the takeover. They would have also treated the interest on money borrowed by the entity engaging in the takeover nondeductible. We are not talking about the situation where someone borrows to resist.

What the Senator from Ohio and his colleagues were seeking to attack by this legislation was the effort to borrow money, or to finance these hostile takeover bids. Again, I am not at this point going to comment on the wisdom or lack of wisdom of hostile takeovers because I do not think you can generalize. But it is ironic, I think, and I am compelled to point out the fact that the Senator from Ohio was in this instance so concerned about hostile takeovers that he sought to virtually preclude them, and is now not exhibiting the same kind of sympathy for those that have been the targets and the victims of those takeovers.

Indeed, had we waited just a moment, if there had been a difference in the timing of the action of the Federal Reserve Board in tightening up the margin requirements on so-called junk bonds might have eliminated this threat, we would not be here talking about it.

For all of those reasons, Mr. President, I now move to table the amendment of the Senator from Ohio. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California to lay on the table the amendment of the Senator from Ohio. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Missouri [Mr. EAGLETON], and the Senator from New Jersey [Mr. LAUTENBERG] are necessarily absent.

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 33, nays 60, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—33

Armstrong	Hatfield	Quayle
Boren	Hecht	Roth
Boschwitz	Heflin	Simpson
Cranston	Helms	Stafford
Danforth	Laxalt	Stennis
Domenici	Long	Stevens
East	Lugar	Symms
Goldwater	McClure	Trible
Gramm	McConnell	Wallop
Hart	Murkowski	Warner
Hatch	Nickles	Wilson

NAYS—60

Abdnor	Exon	Mattingly
Andrews	Ford	Melcher
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bradley	Grassley	Nunn
Bumpers	Harkin	Packwood
Burdick	Heinz	Pell
Byrd	Hollings	Proxmire
Chafee	Humphrey	Pryor
Chiles	Inouye	Riegle
Cochran	Johnston	Rockefeller
Cohen	Kassebaum	Rudman
D'Amato	Kasten	Sarbanes
DeConcini	Kennedy	Sasser
Denton	Kerry	Simon
Dixon	Leahy	Specter
Dodd	Levin	Thurmond
Dole	Mathias	Weicker
Durenberger	Matsunaga	Zorinsky

NOT VOTING—7

Biden	Garn	Pressler
Eagleton	Hawkins	
Evans	Lautenberg	

So the motion to lay on the table amendment No. 2079 was rejected.

□ 1400

The PRESIDING OFFICER. The question recurs on the Metzenbaum amendment.

The amendment (No. 2079) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I do not see anyone seeking the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1420

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, yesterday my colleague, Senator HUMPHREY, and others, visited with the President about an amendment which Mr. HUMPHREY and Mr. PROXMIRE and some of the rest of us had intended to offer as an amendment to this bill.

In brief, the purpose of our amendment would have been to disallow the highly preferred tax status of those nonprofit corporations which provide funds, facilities, or financing for abortions. It was not our thought that this would represent in any sense an up or down vote on how you feel about abortions but really an up or down vote on tax policy of whether or not this particular surgical procedure which is disapproved by many, including the Senator from Colorado, should enjoy the same kind of tax preference as is now accorded to churches and synagogs, to organizations whose fundraising purposes are to supply materials and aid for handicapped children, reading for the blind, and so on.

It would be in order to do so, although in a sense, it would be a nonsequitur since this is a tax issue. Some have argued that it is not timely, that somehow offering an amendment like this would be disruptive.

It appears to me, Mr. President, that anytime you address a controversial question, and this is a controversial question, there is a certain element of disruption.

Polls show overwhelmingly that the public disapproves of abortion, even among people who believe it should be lawful. It is not an activity which is endorsed or approved of by the vast majority of people in this country which underscores why abortion should not have the same tax-preferred status that is now enjoyed by, say, feeding the hungry, caring for the indigent, providing services to the blind, scientific research, churches, and so on.

It seems to me, and I believe it will be the growing consensus within this body, that Congress never intended nor is it sound public policy to provide that kind of privileged tax status for abortion.

When you think of it, it is really an anomaly that this could have come about in any case because at the time the charity statutes were written and charitable corporations accorded this preferred status in the Tax Code, abortion was not even a lawful activity in most areas of the country, let alone an activity which would be granted a preferred status under the Tax Code.

So, Mr. President, the theory of the amendment which was to have been offered by Mr. HUMPHREY, Mr. PROXMIRE, and quite a number of Senators on both sides of the aisle was simply to say that corporations, nonprofit entities which engage in this activity should not be given a highly privileged tax status.

Some said this is not the right place to offer an amendment like that to which I can only respond where in the world would be the right place? If you are amending the Tax Code why would one not offer an amendment on a tax bill? Should we put it in instead on the debt limit or the supplemental appropriation, or on the armed services bill or some other similar piece of legislation?

Mr. President, that is the rationale for the amendment which was intended to be offered. As Senators may know, on yesterday Mr. HUMPHREY and others met with the President and reached what I think is a very wise and statesmanlike agreement.

The President pointed out first that he was sympathetic to our amendment. He said he favored it, that he really felt that the Tax Code should not be preferential toward organizations that perform and conduct abortions, but he said, "Long before I knew of this proposed amendment, I made a pledge to resist all amendments to this particular tax reform bill," and so the President found himself, and I am forced to admit that many Senators also found themselves, in a position of being forced to choose between their long-held convictions about the sanctity of life and about the legislative measures designed to enhance the sanctity of life and, at the same time, the honoring of a pledge that they made to facilitate the passage of this bill.

So the President's proposition, which I understand was agreed to by the chief sponsor of this amendment, is not offer the amendment on this bill, with the understanding that Mr. Reagan would actively support, not just give his passive blessing to, but indeed actively support this amendment when it is offered later this year.

Lest Senators think this is a suggestion that it be offered as a free-standing measure or that it will be shuttled over into legislative oblivion, that it is going to be forwarded down some intellectual cul-de-sac, as I understand the proposition which has been agreed to it is this, that Mr. HUMPHREY and representatives of the White House will seek to find a legislative vehicle which is in the category of "must pass." I do not know what that is going to be. I do not know whether it will be an authorizing bill or appropriations bill or one of the other tax measures coming down the pike. Anyway the understanding is this, that it will be offered to a bill that is going someplace, not just a bill that is going to be gathering dust in some committee or one House or another.

I think that is a very good solution to the problem.

My main reason for rising is simply to congratulate Senator HUMPHREY and the others who have made this solution possible and in effect taken off the spot not only the President but Senators who conscientiously would like very much to support this amendment but who had previously entered into a promise not to have support for amendments on this bill.

So I think it is a good solution, and I think it enhances the prospect for the passage of this legislation.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. I was not here when Senator HUMPHREY discussed this. I was wondering if this would cover Planned Parenthood.

Mr. ARMSTRONG. I would say to the Senator from Arizona it would cover some affiliates of Planned Parenthood is my understanding, those which actually perform abortions or which provide financing or facilities for abortions. Other affiliates of Planned Parenthood would not be covered.

I think it is also important, and I appreciate the Senator for raising this question, to understand that the Humphrey-Proxmire amendment does not disallow the tax charitable status of organizations which advocate abortion.

We think it is important to protect the first amendment rights of anybody to advocate even a very unpopular cause. It is only if that crosses the threshold of providing facilities or financing or in some other way actively participates in abortion.

Mr. GOLDWATER. I was interested in that because Planned Parenthood has done a tremendous amount of good down in the part of the country I live in where we have many, many people who never have the facilities to prevent unwanted children or even children, and Planned Parenthood, for example, helped to reduce the average family from across the border from around eight or nine to two or three, all of which is a benefit to them, benefit to us, and if they suddenly were denied the tax-free status, and I might say originally they were totally against abortion and I believe they have advocated it only when that seems to be the only course.

I thank the Senator for his answer because it is very close to me and I just want to know where we are.

Mr. ARMSTRONG. I appreciate the Senator's expression of interest.

Let me join him in expressing approval of and support for family planning efforts that really permit families to plan responsibly and intelligently for the size of family which they would like to have.

As I am opposed to abortion, I really do think that family planning is a highly desirable activity and I think our amendment would not touch that. In those cases where some organization might provide both family planning services and abortion services, I presume they would simply spinoff one or the other into a separate entity for tax purposes.

Mr. EXON. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I am pleased to yield?

Mr. EXON. Mr. President, I listened with great interest to the remarks by the Senator from Colorado. He knows he and I have discussed the amendment that was to be offered, and I think the resolution of it has been well thought out and I think that is the best way to do it. So, I join in the remarks of the distinguished Senator from Colorado in that regard.

I also listened to the interesting question by the Senator from Arizona which was one of those that I had raised earlier, and basically I understood the amendment, if it had been offered and in the form that it will be offered, would not penalize family planning in any way, shape, or form except those agencies that might now be actively engaged in the performing of abortion.

Does the Senator from Nebraska have the right understanding on that?

Mr. ARMSTRONG. The Senator is entirely correct.

May I observe that I especially appreciate the contribution of the Senator from Nebraska because he is one of a handful of Members of this body for whom the sanctity of life has been an important priority for a long time and who has consistently supported thoughtful measures to preserve life and as usual, he has been careful to distinguish between the elements of the proposal and clearly, as the Senator points out, this amendment seeks only to disallow the tax-preferred status when abortion is performed and does not impinge either on family planning measures, nor even upon the first amendment advocacy of abortion even though he and I might not wish to advocate that.

Mr. EXON. I have a further follow-up question, both a question and in the form of a suggestion, that I think would strengthen the amendment when and if it is put before this body with the active participation of the President.

□ 1430

That has to do with rape and incest. Had the amendment been offered, this Senator would have offered or attempted to have offered an amendment to have this not apply in the case of promptly reported rape or incest. I do not believe that was in the original intent because I think the amendment that was going to be offered basically was wrapped up around what we generally refer to as the Hyde language.

I ask the Senator from Colorado, would he, like myself, who has some concerns in this area, possibly consider when the amendment is offered at a later date with the support of the President, that reference be made to promptly reported rape and incest as an exception?

Mr. ARMSTRONG. Mr. President, of course, I would be willing to consider any proposal put forward by the Senator from Nebraska. My own present feeling is that it would be a mistake to depart from the Hyde language, for this reason: For a number of years Congress and others who are interested in this problem have wrestled with the issue of exactly what language best expresses the emerging consensus with respect to abortion in this country. I am not sure the so-called Hyde language is perfect. Maybe it could be improved. Indeed, there is the proposal called the unity proposal, which moves in one direction There is the notion suggested by the Senator from Nebraska which moves in a slightly different direction. My own feeling is the course of wisdom is probably to use the language which has already been adopted by Congress over and over again which appears in our statutes in a number of places.

But having said that, I express really only my opinion at this point, not a firm unshakable conviction because at this stage of the game I think certainly the issue is open for further thought and discussion, and the contribution of the Senator from Nebraska would be most useful.

Mr. EXON. I thank my friend. I simply say, if we are going to try to develop a proposition that has a chance of passing in this body rather than having a series of moves that lose time after time after time then I think, we should not be bound with the Hyde language. It does not have to be the

Exon language, or the Armstrong language. I am not trying to be the author of anything.

I am simply saying those of us who feel strongly about this had better be reaching out somewhat to some legitimate concerns that many legitimate citizens have who are in support of the basic concept that was going to be offered by the amendment that is now not going to appear on this bill as I understand it. I simply say I think we can maintain our purity, if you will, without being so concise and without going back to something we have done before just because it has been done. I suspect we are going to have a great deal of difficulty even with the help of the President of the United States of passing that kind of a measure unless we do something to address the rape and incest proposition that the Senator from Nebraska has advanced and will continue to advance.

I thank my friend from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Senator from Nebraska. I am prepared now to leave the issue for the further thought and consideration of Senators. I hope every Senator will reflect upon this matter. It is not going to be before us during the course of the debate on this bill but some time in the next 2, 3 weeks, or month or so this matter will again come before the Senate as an amendment to an important piece of legislation we believe with the active support of the President and others. But I hope as Senators have further thoughts about it they would contact the principal sponsors, Senator HUMPHREY, and Senator PROXMIRE, and be in touch with the Senator from Nebraska, and, of course, I would be happy to hear from Senators who have ideas as well. I thank the Chair.

Unless others seek recognition I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1440

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, it appears, unfortunately, we are not going to be able to have any more rollcall votes today so there will be no more rollcall votes today. That is my statement.

I am advised between 3 and 4 o'clock the distinguished Senator from Minnesota, Senator BOSCHWITZ, and a number of his colleagues will be making statements on so-called passive loss rules, so we will still be on the bill from 3 to 4 o'clock.

I am also advised by the distinguished Senator from Ohio and concurred in, I think, by the chairman of the Senate Finance Committee, that on Monday maybe we can kick off some of these transition rules starting with rollcall votes at 3:30 on Monday. I do not know if we will stack very many but at least we will stack one or two so that at 3:30 we will have some rollcall votes.

Mr. METZENBAUM. The Senator from Ohio will be prepared to proceed as the leader suggests.

Mr. DOLE. I appreciate the cooperation of my colleagues, and I appreciate Senator BOSCHWITZ bringing some of his group over at 3 o'clock. I understand he has 23 who wish to speak. I do not think they are all coming at 3 o'clock but they will be here at different times between 3 and 4 o'clock.

If they do not complete their discussion today, it will probably go over until Monday.

We will be on the bill at 12 noon on Monday. We will come in at 11 o'clock and be on the bill Monday at noon. Perhaps if the Boschwitz group has not finished their discussion they can do that for awhile. Senator METZENBAUM will be prepared Monday. He is on a winning streak and he wants to pursue that.

MORTGAGE REVENUE BONDS

● Mr. ABDNOR. Mr. President, I rise today, not to offer an amendment—which I know comes as a disappointment to the distinguished managers of this historic bill—but to express my concern and disappointment that mortgage revenue bonds, unlike any other tax-exempt bonds, are still targeted by this legislation to sunset on December 31, 1987. Undoubtedly, if this date should prevail, State housing finance agencies will have to enter the same battle a year from now as the housing groups return to Capitol Hill seeking an extension or deletion of the sunset.

Since the sunset date was initially established, we in Congress have imposed targeting restrictions to assure that the proceeds of mortgage revenue bond reach those individuals who should receive the benefits. It is unnecessary that we retain a sunset provision to trigger a reexamination of the effectiveness of the program. Actually, it only invites a self-imposed crisis that we can well do without. Hence, I urge those who are appointed conferees on this historic legislation to delete the scheduled sunset of mortgage revenue bonds.

I also wish to express my deep concern that in light of our requirements to better target mortgage revenue bond proceeds to lower income groups, there is not provided in this legislation more tax incentives to developers to better allow them in reality to provide lower cost housing to those persons who can least afford today's cost.

I challenge the members of the conference committee to address these issues during their deliberations.●

SOUTH AFRICA

Mr. LEVIN. Mr. President, while there is a pause in our debate on the tax bill, I want to take a moment to talk about the events in South Africa. And when you talk about South Africa today, you talk about death—no, not really death; you talk about murder, you talk about state-supported mass executions, you talk about detention, you talk about women and children being beaten.

All that is happening now. And it is going to keep happening over the weekend. And, unbelievably, it is going to keep escalating when, on Monday, million of black South Africans will risk death in order to pay tribute to the 10th anniversary of one of their symbols of resistance: the Soweto uprising.

Mr. President, the South African Government is getting ready for that tribute. They have enacted sweeping "security" laws. They may call them security laws, but in reality they are not legal and they sure are not the way to promote security.

Look at what the Government has done. It could not even get its rubberstamp parliament to give it the powers it wanted so it acted unilaterally and claimed an even more sweeping grant of authority than it originally requested. It wants to use that authority to arrest people without warrants—and they have arrested over 2,000 so far including over 200 church leaders. It wants to use that authority to conduct searchers without warrants—and they have already entered the South African Council of Churches building in Johannesburg, cut its telephone and telex lines and prevented anyone from leaving the building. It wants to use that authority to declare any part of the country it wishes off limits to the press—and a blackout is already in place in critical areas.

That is a law? That protects security?

The only people it protects are the security forces which are, under the terms of the act, exempt from any legal action directed against them as a result of the brutality in which they engage and the damage that they do.

Mr. President, some people are surprised by all this. But I am not. Nor should our Government be surprised.

71-059 O-87-17 (Pt. 10)

We have seen this sort of behavior before. In the past few weeks, if anyone needed more evidence of the nature of the regime in Pretoria, they could find it in Crossroads. In that embattled collection of shanties, Pretoria has tried to create a picture of internal black confrontation and black political instability. They have done that in the hope that they could persuade some people to think that the present regime was better than the crisis that would be created if it fell. But Mr. President, the black conflict in Crossroads is a direct function of Government action. Just this morning our State Department confirmed what we have known for weeks—that the evidence "reveals police complicity with the vigilantes in Crossroads." Which means that the police, the Government, are fomenting the unrest there.

But they are doing more than creating a crisis. They are then standing back and letting it grow. The police have given the vigilantes weapons—and then they have surrounded Crossroads with barbed-wire barriers and stood behind them and watched the killing take place. They are making no effort to protect people, no effort to calm the conditions which they have created.

And I fear we can look forward to more of the same on Monday.

Unless we act now.

Mr. President, we have passed resolutions, we have made statements, we have supported protests—but we have not changed our policy of quiet diplomacy and we have not done what we can and should do: impose sanctions.

Let me conclude these remarks by quoting from the report of the Commonwealth Governments Eminent Person Group which just concluded their efforts to assist all parties in developing a solution to the problems which are destroying the country. They found that ANC leaders displayed "reasonableness * * * an absense of rancor and [a] a readiness to find negotiated solutions."

But they found that the Government "is not yet ready to negotiate fundamental change." And one of the reasons, the report indicated, for that unreadiness is the absence of sanctions. The report said that the "absence [of sanctions] and Pretoria's belief that they need not be feared defer change." The net result is that as long as Pretoria believes that it is protected from sanctions, the violence will continue to escalate and "the cost in lives may have to be counted in the millions."

Mr. President, we have followed one course of action for 6 years now. It has not worked. It will not work if we follow it for another 6 years—assuming that the present Government could, somehow, survive for another 6 years.

We need a new policy in South Africa. And we can have one if the administration simply listens to the Congress, listens to the people of this country, listens to the people of the world. If we fail to listen, we will watch—we will watch more beatings, more bloodshed, more murders, more dead.

And Mr. President, as we watch we should know that we are being watched. Last week, Rev. Allan Bosk was in Washington and he spoke with a number of us. And during our conversation he said this:

I have come to the conclusion, and so have many of my people, that if in South Africa the situation were different, if it were white children who got tortured and killed the way our children get treated in South Africa, the United States would have long ago gone into that situation and would have changed it, even if it had to be done with violence. It would never have tolerated this.

In an interview with USA Today, he said:

For more than two years now, the South African government has been waging war. Our townships are besieged, the women and children of our communities terrorized, our people dying. Constantly, down the streets, we wade knee-deep in blood. Our churches have been desecrated, our church services have been disruptd by police with tear gas and dogs and guns. Our communities have been threatened and victimized. Many of our people systemically assassinated. The murderers have never been found.

Mr. President, this may be our last chance to avert a disaster in South Africa and our last chance to avoid an international humiliation for American policy in South Africa. The way to do that is to apply sanctions now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. NICKLES). Without objection, it is so ordered.

Mr. DOMENICI. I ask unanimous consent that I may proceed as if in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW MEXICO IS A STATE DAY

Mr. DOMENICI. Mr. President, I shortly shall send to the desk for its immediate consideration, and I ask unanimous consent that it be in order to do so, a resolution that will recognize today, June 13, 1986 as "New Mexico Is a State Day." This resolution is necessary to draw attention to a reality that is frequently overlooked, either through ignorance or hearing impairment.

I ask my colleagues in the Senate to recognize that New Mexico is a State.

I ask that my colleagues recognize that I was not sent to Washington, along with my distinguished junior Senator, Senator JEFF BINGAMAN, from a foreign country but from a State of the Union. We were both elected by U.S. citizens who reside in the sovereign State of New Mexico. For those who are not familiar with the geographic location of my State, the Land of Enchantment, it is directly south of Colorado, east of Arizona, west of Texas, and north of the Mexican border. I repeat, north of the Mexican border. I repeat, north of the Mexican border. It was established as the 47th State in the Union in 1912.

□ 1510

Recently, a congressional candidate, David Cargo, a former Governor my State, was informed by the Treasury Department that 30 percent of his Treasury bills would be withheld because he lived in a foreign country.

I would ask unanimous consent that this correspondence with the Department of Treasury on this matter be inserted in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, April 28, 1986.

DAVID F. CARGO,
Albuquerque, NM.

DEAR MR. CARGO: This letter refers to 1000 of 14¼ percent Treasury/Notes, Series C-91 registered in your name.

Under Section 1441 of the United States Internal Revenue Code of 1954, as amended, thirty percent tax on interest payable to a person not a citizen of the United States must be deducted and withheld at the source. Since your address is in New Mexico we would be compelled to withhold thirty percent tax from interest payments. However, it appears that you may be a citizen of the United States residing in New Mexico. If this is the case, you should send us a statement to that effect, in duplicate, signed by you so that the full amount of interest may be sent to you.

However, if you are not a citizen of the United States, but a citizen of New Mexico, please execute both of the enclosed Forms W-8 and return them to this office in the enclosed self-addressed envelope.

Your statement of Form W-8 must be received in this office by return mail, or the thirty percent tax will be deducted and withheld, and continue to be deducted and withheld until received. You will have to contact the Internal Revenue Service for refund of any interest overwithheld.

Sincerely,

W. A. WEATHERALL,
Securities Transactions Analyst,
Registered Payments Section.

ALBUQUERQUE, NM,
May 7, 1986.

Mr. W.A. WEATHERALL,
Department of the Treasury,
Registered Payments Section,
Washington, DC.

DEAR MR. WEATHERALL: I wanted to acknowledge receipt of your letter of April 28, 1986 and I enclose a copy of that letter for your reference. I can appreciate the fact that you want to withhold 30% of the tax on the interest payable on my Treasury Notes, however, I think this is just a bit unfair. New Mexico is not only in the United States, but I served as Governor of the State of New Mexico and at the present time, am a candidate for Congress from the State of New Mexico. I have never been a citizen of the Republic of Mexico and do not consider myself as such. New Mexico in fact, is within the United States and has been since 1912. As a matter of fact, it is located equidistant between Texas and Arizona. Colorado borders it on the north. I would appreciate it if you would not withhold from my Treasury Notes because I am not a citizen of a foreign country. As a matter of fact, the Internal Revenue Service can contact me by way of a local call if they so desire. However, I have no intention of contacting them for a refund of anything that has been withheld both illegally and improperly. I can only suggest that indeed there is life west of the Potomac and that it is right here on the Rio Grande. All within the boundaries of the United States. I am not offended, I am only chagrined by your letter.

Sincerely yours,

DAVID F. CARGO,
Attorney at Law.

Mr. DOMENICI. Mr. President, this is not the first time that New Mexico has suffered an identity crisis at the hands of the Federal Government. The State Department has been known to refer my staff to its foreign affairs desk. Grocery and drugstores in the District have refused to honor New Mexico drivers' licenses, stating that it is their store's policy to take checks only from American citizens. When individuals are planning vacations in my beautiful State, there are frequent inquiries concerning visas, immunization, and the relative drinkability of our water. There are 1.3 million people who reside in the beautiful and sovereign State of New Mexico, fifth largest State of the Union, by area. There are no horses that are tied to hitching posts on Main Street. In fact, we have removed most of the hitching posts from most of our cities. We use U.S. currency, not pesos. We have several national laboratories which are at the cutting edge of research. Yes, indeed, we have newspapers in English, we have television and radio, international hot air balloon fiesta, the longest tramway in the hemisphere, Carlsbad Caverns, a missile range there at White Sands, ancient Indian ruins, a world renowned opera, ski resorts, mountains, valleys, and the Rio Grande. New Mexico has another distinction. We have the distinction of being the site of the first atomic bomb detonation in 1945.

As Linda Ellerbe on NBC's Today Show commented:

If New Mexico were in a foreign country, it is likely there would have been an international protest by now and everyone would know us.

Mr. President, we in New Mexico are declaring Friday, June 13, today, 1986, as "New Mexico is a State Day." And that is something we want all Americans to hear about.

I am joined by my distinguished junior colleague, Senator BINGAMAN, in sending to the desk a resolution. We ask for its immediate consideration. We think that the U.S. Senate should help us today. We think we should adopt this resolution. It would set aside this particular day as "New Mexico is a State Day."

Before I do that, I want to state that in addition to declaring this as "New Mexico is a State Day," I added a couple of further resolves, I say to my friend, Senator BINGAMAN, in addition to those that I shared with him. I thought it might be appropriate to resolve further that the Secretary of the Treasury ought to get a copy of this resolution. If he sees fit, perhaps he could circulate it to his analyst who sent the assessment to our former Governor at an address in Albuquerque because he was a foreigner, living in a foreign country. Since the State Department frequently tells my staff that they are sending them over to the foreign affairs desk, I am adding that we send a copy of the resolution to the Secretary of State.

In this resolution, which I am joined in by my good friend, Senator BINGAMAN, who is also from New Mexico, elected by American citizens, we have summarized all the things we are, all the things our State stands for, and some of the things we have contributed to our national wellbeing. We now send this resolution to the desk and ask for its immediate consideration. I wonder if my friend, Senator BINGAMAN, would like to be heard.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 427) to acknowledge June 13, 1986, as "New Mexico is a State Day."

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would like to first commend my senior colleague, Senator DOMENICI, for bringing this matter to the attention of the Senate. We certainly need to be reminded of this at times, and I think he has found a good occasion to do that.

There are two aspects of it on which I would comment. First of all, if the Treasury Department would check with the U.S. Treasurer, Katherine Ortega, who is a New Mexico citizen from Alamogordo, I think they would certainly have this matter cleared up without us having to pass a resolution.

I would also comment that I think it is unfortunate that my senior colleague chose Friday, the 13th, to bring this to the attention of the Senate. Unfortunately, that was the date that was available and hopefully that will not affect the outcome of the resolution. But I support it strongly and I urge my colleagues to vote for this resolution.

Since Senator METZENBAUM was successful earlier this afternoon with his amendment, perhaps this can succeed as well.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. RUDMAN. I wonder if my friend from New Mexico would yield for a question.

Mr. DOMENICI. I would be pleased to yield to my good friend.

Mr. RUDMAN. I find it very hard to believe that the Department of the Treasury would have made such a grievous error, and I wonder whether or not the Senator from New Mexico might not be missing something.

As the chairman of the Budget Committee, is it possible that because of Gramm-Rudman we have eliminated New Mexico?

Mr. DOMENICI. Well, I plan to leave here in about 45 minutes to go up to the Senator's State. I thought I was going up there to pay him honor and homage. I guarantee I would not be going up there if Gramm-Rudman eliminated us as a State of the United States.

Mr. RUDMAN. Will my friend yield for just one last question? I wonder if my friends from New Mexico might have considered that there might be some advantages to allowing this situation to ripen. After all, if you were expelled from the Union, I expect the Senator from New Mexico would immediately ask for a large block of foreign aid money.

Mr. DOMENICI. Let me say to my good friend, the fate of foreign aid in the national budget is not better than any of the other expenditures. I do not think we would be any better off. But perhaps we will ask New Mexicans if they want to consider that alternative.

Mr. RUDMAN. There is always the other alternative of a foreign military sales agreement with this administration. I expect that the people of New Mexico might like Stinger missiles, Sidewinder missiles and even Harpoon missiles to defend the vast ocean spaces of the State of New Mexico.

Mr. DOMENICI. In fact, we do need it because the Rio Grande does run there. I would tell Senators, however, it does not have any water in it half of the year.

The PRESIDING OFFICER. Is there further debate on the resolution?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I want to thank my friend from New Mexico deeply for bringing this resolution before the Senate and for focusing our attention on the subject. The senior Senator from New Mexico was with me in central Washington on the day on which a newspaper there had a front page story on the subject to which he refers, the confusion in the Department of the Treasury about the status of New Mexico. It was at that point that my attention was focused on this proposition.

Now, Mr. President, I can assure neither you nor this body on the basis of first-hand experience whether or not New Mexico is, in fact, a part of the Union, but I have become a close friend, I might even say a disciple, of the senior Senator from New Mexico over the past 5 years, and I do want to tell you unreservedly, Mr. President, that if the senior Senator from New Mexico states that his place of residence is, in fact, a part of the United States, I am totally and completely ready to accept that statement.

Mr. BOSCHWITZ addressed the Chair.

Mr. DOMENICI. I thank my good friend from Washington. I am reminded, however, even in his State, when I was there, that story appeared. I remember on that evening on television they were commenting that I had been there. As the young commentator finished the new cast, he repeated my name, and them he said, "The Senator will leave Washington for Mexico shortly." [Laughter.]

□ 1520

So maybe we ought to find out that person's name, and we could send a copy of the resolution to his television station, also.

Mr. GORTON. That position has great merit.

Mr. BOSCHWITZ. Mr. President, I rise in opposition to this resolution. [Laughter.]

I am not all rhapsodic about the idea of allowing New Mexico to stay in the Union. Had I been here a little earlier, perhaps I would have opposed its inclusion in the first place.

Mr. DOMENICI. You mean the resolution or statehood?

Mr. BOSCHWITZ. Both. [Laughter.]

I might say that I, too, am identified as a close friend—indeed, as the Senator from Washington said, close to a disciple—of the senior Senator from New Mexico. But that makes no difference.

I say to my friend from New Mexico that if we are successful in defeating this resolution and he moves on to other endeavors, I rise on the Budget Committee—I rise from fourth ranking to third. [Laughter.]

That certainly is a consideration that the Senate will want to consider as it looks at this motion.

Furthermore, there has been a degree of confusion. "DOMENICI from New Mexico"—that itself is almost a contradiction in terms. So that the Department of the Treasury and others are right to be confused.

Mr. DOMENICI. If they are confused about that——

Mr. BOSCHWITZ. I do not yield the floor, Mr. President. [Laughter.]

I might say that there is another consideration. My State of Minnesota borders up against Canada. We have often talked about seceding and joining our northern neighbor, and perhaps if New Mexico would lead the way, we would be emboldened to make this move.

Furthermore, constitutionally, as the Senator knows, I am the only Senator who is forbidden to be President of this country, because I was born abroad. In the event we seceded and created our own Nation of Minnesota, that restriction would be removed.

So when you came with this resolution and you said that New Mexico, suddenly, should get this special consideration, I hastened to the floor in order to raise these objections.

I will not let this lie and will vote vigorously against this resolution.

I yield the floor.

Mr. DOMENICI. Mr. President, we are going to wait until he leaves, before we take the vote. [Laughter.]

I want to make one other comment: There is an objection to this, I understand, and I say to the distinguished acting majority leader that I hope he will help me out. I understand that Senator HATFIELD has objected to our considering this. I hope that you, in your capacity as leader, feel confident enough to let us go ahead with this, or you could see to it that that reservation is removed.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. LONG. Mr. President, if we are going to permit New Mexico to remain in the Union, it seems to me we ought to take a little time and see if we can have a more imaginative name. Arizona got a name of its own. I do not know what the derivation of it was. Colorado is a beautiful name and is something imaginative. I do not know where Texas came from.

Talking about a minimum of imagination, when one from Mexico separates it from Mexico and says, "We'll call this New Mexico," that does not seem imaginative to me.

Mr. DOMENICI. You think of a new one for us, and we will think of a new one for you.

Mr. LONG. Maybe you can think of a new one for New Orleans.

In any event, it seems to me that between now and the time we pass this resolution, or before it is printed, the Senator might at least put his mind to see if he can think of a more imaginative name.

Mr. DOMENICI. I hope we will pass this resolution in about 30 seconds, and I do not have a very good imagination. So I hope you will not hold me to it.

Mr. SIMPSON. Mr. President, when the majority leader asked if I would drop by the Chamber and check on things, I never dreamed I would have to come by just as we were dabbling in this activity. It is very fascinating, I might add—more than I could have ever dreamed of in the way of a resolution.

It is Friday the 13th. A little levity is called for as we grapple with the tax reform issue. Good humor is something I have learned to enjoy from my friend the Senator from New Mexico, a spirited man. When he came on Earth, they called him "Bocci," which has a name in Italy—a red-headed bocci ball. He is one of the most extraordinary of our colleagues.

I see the Senator from Minnesota lurking nearby. He does know his numbers. He referred to the fact that he would be No. 3 if Senator DOMENICI were removed from the scene. He keeps track of those things. He refers to me as No. 57 and refers to himself continually as No. 56, which is more offensive. [Laughter.]

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. SIMPSON. I yield.

Mr. BOSCHWITZ. If we could get rid of him, I would be 55 and you would be 56. [Laughter.]

Mr. SIMPSON. I am ready for that. [Laughter.] There are really two of us in this body who will never be President of the United States, and they are the Senator from Minnesota, who was born in Germany, and me. I have three electoral votes. [Laughter.]

So New Mexico is a State, so far as I am concerned. A great one. If Senator PACKWOOD is ready to go forward with his labors, if someone has an amendment by now, we can go forward.

So I say to New Mexico, a land where the canary bird sings bass, you are a State; I pronounce you so; and, in the words of the Wizard of Oz, it shall be so. [Laughter.]

Mr. DOMENICI. I thank the Senator. I will do the same for Wyoming some day.

Mr. LONG. Mr. President, word has reached the minority leader, Mr. BYRD, that this resolution is being considered, and he has sent word to me that I may state for the RECORD that he, too, on behalf of the Democratic side of the aisle, is willing to agree

that New Mexico should be permitted to remain a part of this Union. I want the RECORD to show that. There is no objection on this side of the aisle.

Mr. DOMENICI. I ask whether Senator BINGAMAN wants to thank his distinguished minority leader, Senator BYRD, who is not here but sends his best wishes to us.

Mr. BINGAMAN. I thank him. And I recommend to my senior colleague that he not ask for a rollcall vote.

Mr. DOMENICI. I want to finish this. I do not know what is going to happen.

I do know one thing for certain: Senator BOSCHWITZ will not move up in seniority on the Budget Committee under any circumstance, I assure him, whether we are in the Union or out. We have arranged for that. [Laughter.]

I thought he was going to come here and be nice. It is often very difficult for him to do that, but I thought on this one occassion he would be other than his usual self.

We hope that you would succeed in seceding, because then people like SLADE GORTON would move up in seniority on the Budget Committee, and that would be helpful.

Mr. President, I ask unanimous consent that it be in order to consider the resolution I have sent to the desk on behalf of myself and my distinguished junior colleague, Senator BINGAMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the resolution?

Without objection, the resolution is agreed to, and the preamble is agreed to.

□ 1530

Mr. BOSCHWITZ. I would like to have at least a voice vote on that, Mr. President, if we could have a voice vote on that.

Mr. DOMENICI. Although the Senator has no right to that after the vote was announced, he can get a rollcall vote. One of these days he will learn the rules. And I have no objection.

The PRESIDING OFFICER. If the Senator will address the Chair, all Senators in favor of the resolution say, "Aye." All opposed, "No."

Mr. BOSCHWITZ. No.

The PRESIDING OFFICER. The "ayes" appear to have it. The "ayes" have it.

The resolution (S. Res. 427) is as follows:

S. RES. 427

Whereas New Mexico was admitted to the Union on January 6, 1912;

Whereas New Mexico is the site of the most diverse and extensive remains of ancient American cultures;

Whereas New Mexico is the home of the oldest European settlements in the Union;

Whereas three unique and independent cultures thrive together within the borders of New Mexico, exemplifying the essence of our Union;

Whereas New Mexico has the largest proportion of native Americans of any State in the Union;

Whereas New Mexico is the home of many natural wonders, closely identified with our Union's heritage, such as the Carlsbad Caverns, White Sands of Alamogordo, and the lava flows of El Malpais;

Whereas New Mexico is the home of numerous manmade wonders closely identified with the Union, such as the ancient ruins of Chaco Canyon, Bandelier National Park, Gila cliff dwellings, the Pueblos of the Rio Grande Valley, and the Santa Fe Trail.

Whereas New Mexico is the home of such uniquely American events as the Hot Air Balloon Fiesta and the landing of the space shuttle *Columbia*.

Whereas New Mexico has contributed such diverse American personalities to our Union's heritage as Kit Carson, Billy the Kid, Smokey the Bear, the first men to cross the Atlantic Ocean in a balloon—Ben Abruzzo, Maxie Anderson, and Larry Newman, the world renowned artist Georgia O'Keefe, former astronaut Harrison "Jack" Schmitt, and hotel magnate Conrad Hilton.

Whereas New Mexico has made extraordinary contributions to the defense of the Union in the past, including the diligent work of our citizens to the Manhattan Project, the unrivaled talents of the Navajo code-talkers in World War II, and the brave lives lost at the Bataan Death March in World War II;

Whereas New Mexico stands in the forefront of our Nation's defense today through the efforts of its citizens at Los Alamos National Laboratories, White Sands Missile Range, Sandia National Laboratory, Holloman Air Force Base, Cannon Air Force Base, and Kirtland Air Force Base: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, That June 13, 1986 is recognized and acknowledged as "New Mexico is a State Day," and;

Resolved further, That the Secretary of the Treasury and the Secretary of State each be sent a copy of this resolution.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The question now recurs on H.R. 3838.

The Senate resumed consideration of the bill.

Mr. BOSCHWITZ. Mr. President, we have to take care of the more serious business of the Nation. We now turn to the question of passive losses, and a number of Senators are going to speak about passive losses, and indeed I have charts and graphs.

The question of passive losses, Mr. President, concerns people who entered into commercial transactions under the old law. It is still the current tax law, but it will be old I trust when we are done with this tax reform.

I say again to all those present, and to my friend from Oregon, that this is really the first tax reform bill I have ever voted on. It is a true tax reform bill.

That does not mean that all of us consider it perfect, and a number of amendments have been offered here on the floor. I have voted against all those amendments. I am not going to offer an amendment because I want this tax bill to move forward. However, I appeal to my friend from Louisiana and my friend from Oregon that when they arrive in Conference, that question of passive losses, that the question of losses that have been incurred in transactions that have been entered into under the existing law by taxpayers who feel that they relied upon existing law, that be taken into account.

Mr. PACKWOOD. Mr. President, may I ask one question?

Mr. BOSCHWITZ. The Senator from Oregon certainly may.

Mr. PACKWOOD. Is the Senator sure he wants us to move forward with this before we finish the budget resolution?

Mr. BOSCHWITZ. I do indeed—with respect to the tax bill?

Mr. PACKWOOD. Yes.

Mr. BOSCHWITZ. Oh, the Senator from Oregon is pointing out that as I have talked to him over the months that I prefer to move to the budget before I move to the tax bill.

As he knows, that was a reflection not only of the necessity of moving toward the budget which is stumbling along, unfortunately, though it is rather close to resolution, but also from the standpoint I did not think that the tax reform bills that had been offered previously were really very much by way of reform. They were by way of more of the type of reform that the Senator from Oregon and I were accustomed to, just additional law, additional loopholes, if you will, additional preferences.

The Senator from Oregon, the distinguished chairman of the Finance Committee, his colleague, the very distinguished Senator from the State of Louisiana, have swept away a lot of cobwebs in the whole business of transactions and unfortunately in so doing they have said to taxpayers who have entered into financial transactions that you cannot now have the tax consequences of those transactions that you counted upon. Even though the law supported you when you entered into this transaction, we are now going to change the law and change it in effect retroactively.

A number of Senators have agreed to join me in this debate.

I see my friend from Nevada is on the floor now to do so and I know that his timeframe is very limited. If I may, I yield the floor.

Mr. HECHT. Mr. President, my colleagues from the Finance Committee have worked diligently to bring us the tax reform bill before us today. And it is a truly remarkable bill; it is a bill that lowers individual and corporate rates while at the same time insures that affluent individuals and successful corporations pay their fair share in taxes. And it is a bill that I can support. However, this bill has some weaknesses that I feel, once corrected, will make it an even more remarkable piece of legislation.

This bill will apply new tax rules to investors in limited partnerships. While I agree that it is necessary to change our tax policy toward partnerships to control abusive use of tax shelters, the committee bill would go much further than that. The committee bill proposes to penalize millions of legitimate investors who have undertaken investments and committed future funds based upon existing tax laws concerning the treatment of investment income.

I feel this provision to retroactively impose restrictions on these investors is extremely unfair. Both the distinguished chairman and Congressman ROSTENKOWSKI have stated in effect that rules pertaining to investments made by partnerships should not be made retroactive, yet that is exactly what is being done.

Over the past several years millions of investors have, through the formation of limited partnerships, bought land, built buildings and shopping centers, and created rental housing for low and middle-income Americans. The majority of these projects were undertaken as long-term investments. Many of these partnerships are profitable under current law, and will be rendered unprofitable by the changes in the Finance Committee plan. The committee bill would take away the economic benefits that were a critical part of the investment decision that led investors to proceed with these investments. The proposed changes unfairly alter the rules in the middle of the game for investors in limited partnerships.

Mr. President, every effort must be made to change this provision; and I hope the distinguished chairmen will work toward a solution that is fair and equitable for those who have invested in our great Nation.

I thank the distinguished Senator from Minnesota for this time on this very important subject.

Mr. MELCHER. Mr. President, I want to get into this discussion in terms of active losses contrasting to what is in the Senate committee bill and what we hope to accomplish by it in regard to those farmers and ranchers who have losses in one year and through income averaging as is in the current law can average out over a period of time.

The last amendment that was accepted, it was the only amendment that was accepted. It was the last one considered and the only one that was accepted to amend this bill. It was on the transition rule, knocking out a transition rule and taking the $50 million and directing the IRS to come up with regulations that would assist agriculture producers in income averaging.

First of all, the $50 million is not enough but it is a step in the right direction.

What is income averaging for these farmers and ranchers? It is merely taking the losses of one year and offsetting them against the next year or the year after that to figure out what their average income is, that it is allowed for under current law and for a very special reason or series of reasons. It is absolutely essential that when this bill leaves this Senate floor it continue to allow income averaging for agricultural producers.

These are active people. These are active gains or active losses. There is nothing very passive about farming or ranching. But the circumstances that surround these efforts by our agricultural producers may be affected by frost or floods. There may be ice or snow that takes their crop or there may be drought and no crop at all or hail or grasshoppers may wipe out the crop.

It would be sufficient for that reason if it were just nature alone, but there are swings in crop production, there are swings for the good and swings for the bad. In addition to that, there are the economic times that agricultural producers unfortunately find themselves in today and the past few years of serious losses, whether or not they had a crop, even with good crops, even with good production, serious losses, huge losses because the prices are low for their commodities.

This is real life. This is real tragedy out there in rural America. To take away income averaging now would be just driving another nail in the coffin of rural America. We cannot allow that.

□ 1540

Now let me tell you that income averaging for the small producer might be a few thousand dollars loss in one year and a few thousand dollars gain in the next year. For a larger producer, it may be a $75,000 or $100,000 loss in one year and hopefully make up for it in the next year or succeeding years with $50,000 or $75,000 gains. But for these regions, income averaging is necessary for them.

Now, this is an amendment that several of us have presented and have filed at the desk. I might say that the amendment will make up for what it costs in terms of reduction in revenues in this bill by a device that we have decided not to use. It would have affected agricultural endeavors in cost accounting, requiring them to use accrual accounting, knocking out cost accounting, if they had gross sales of over $100 million.

Now there are very few of those, but for several reasons we have decided that we will substitute other sources of revenue for that provision. We will change it; we will modify the amendment. The $50 million that was saved in the last amendment could apply to this amendment.

On the basis of offering an income averaging amendment to this bill, there are several organizations that have endorsed that type of an amendment: The Center for Rural Affairs, Communicating for Agriculture, National Association of Wheat Growers, National Cattlemen's Association, National Corn Growers Association, National Cotton Council, National Farmers Organization, National Farmers Union, National Grain Sorghum Producers Association, and the National Pork Producers Council.

Mr. President, I ask unanimous consent that, at the conclusion of my remarks, this letter to all of us be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MELCHER. Mr. President, this is the least we can do on this bill. There will be other amendments that we will offer to this bill to make it feasible and practical for agricultural producers; to make it fair and equitable for miners, for those who go into the ground and mine out the minerals of this Earth, and for those who are forest producers. They also have problems with the bill.

To pass this bill without correcting it would be the saddest of all days here in this U.S. Senate. We have to make these changes because they are necessary, they are necessary for the well-being of the basic industries. They are necessary for the good of the economy of the United States.

It has been difficult up until now to get all the information that has been necessary to draft these amendments. Now that we are getting that information from the Joint Committee on Taxation, so we know where the revenue loss would be and know where we can make up that revenue loss so we can offer an amendment. We are just getting that information now. We will have to circulate these amendments. We will have to make them known to the membership of this Senate so that we can get some votes for them and make some corrections in the bill. We hope to be able to begin to do that on Tuesday.

Some would say, "Well, why are we not ready today or Monday?" Let me tell you, very frankly, it has been im-

possible to be ready today. And since it is over the weekend, it will be impossible to contact other Senators to let them know what our amendments have and we will have to delay until Tuesday.

We would like to be ready as of now but that is impossible. We would like to be ready by Monday, but that is impossible. We have to have the opportunity for every Senator to know what is in these amendments.

There is no stampede to get this bill off the Senate floor, to make a big rush, to make it seem we cannot consider the people's business here on a very vital subject on how they are going to pay their taxes and how much tax increase they may have. That would not serve our purpose and would not serve the benefit of the good people in this country. All the people in the United States, big or small, from East to West, and North to South, are entitled to know what is in this bill and how it will affect them if it is passed.

So we must offer these amendments in good faith, must offer them on behalf of these people and make sure that we attempt to make the proper correction. Hopefully, we will win on our amendments to make the bill reasonable, practical, workable, fair, equitable, all these good things. But above all, to allow the basic industries—farming and mining, forest products, people on the land—to be able to continue to be in business and not be taxed out of business.

I thank all of my colleagues for this time I have taken to present these few remarks. I look forward to engaging in the coming debate next week.

EXHIBIT 1

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, June 13, 1986.

DEAR SENATOR: The below-signed commodity and farm organizations encourage adoption of an amendment to the pending tax reform bill in the Senate which would continue in income averaging election for farmers.

We believe that income averaging, or similar adjustment, for farmers with fluctuating income is essential to the principle of fairness which the tax reform bill strives to achieve. Without the ability to elect income averaging during periods of cyclical income, farmers would be penalized under the tax code. Taxpayers with consistent income pay less taxes than those who earn the same income over a three or four-year period, but with greater variation from year to year. This will still be true under a two-bracket system.

We urge the Senate to act to ensure that farmers and ranchers are not unfairly penalized by the repeal of income averaging.

Sincerely,

Center for Rural Affairs, Communicating For Agriculture, National Association of Wheat Growers, National Cattlemen's Association, National Corn Growers Association, National Cotton Council, National Farmers Organization, National Farmers Union, National Grain Sorghum Producers Association, National Pork Producers Council.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

RETROACTIVE PROVISIONS OF H.R. 3838 SHOULD BE REMOVED

Mr. ZORINSKY. Mr. President, I rise today to voice my opposition to the retroactive effective dates contained in the tax reform bill.

As reported by the Finance Committee, this bill repeals the investment tax credit effective January 1, 1986. It also strictly limits the deduction investors can take for losses they incur from certain investments even if the investments were made when the law permitted full deduction of the losses.

These provisions are unjust and cast a long shadow over the Finance Committee's bill. It simply is not fair for us to change the rules in the middle of the game.

I submit to you, Mr. President, it is like taking the NBA basketball games and adding a fifth quarter if you are behind in the fourth quarter when the game began under the assumption that there would be four quarters in the game. There are a lot of businessmen that have made business evaluations—borrowed money from a bank, committed themselves and possibly even members of their family as cosigners on a note that a business entrepreneurship would make economic sense based on current tax law—only to wake up one morning and find that the faith of our Government had eroded to the extent that no longer had the credibility that he could count on the word of our Government to make that loan, and now he is committed to pay back the loan without the rules of the game that he began with economically.

□ 1650

We passed laws in this very Chamber; people went out and made financial decisions based on those laws; and now we are leaving those hard-working people holding the bag.

The ultimate consequences of changing these laws retroactively can only be guessed. Mr. President, one thing this bill does not need is another element of uncertainty. Bankruptcies and foreclosures may result for many real estate companies. Where once we had taxpaying citizens, we will now have empty offices. But the experts cannot say with certainty what will happen, so we are left to guess in the dark. That is no way to make tax law.

And what about the Federal Government's credibility? These provisions set a terrible precedent that every year we might go back and change the tax laws and wreak havoc for untold business decisions.

I am not adverse to changing laws. But I think the least we can do is grandfather people in who have made these economic decisions under current law, and let them through attrition phase out of that decision rather than retroactively wake up and find out that they are financially broke.

We will inhibit risk taking and investment because no one can count on the Government to act in good faith. Is this the message we really want to send?

I have heard outrage over the retroactivity of these changes from all corners of Nebraska. Investors made purchases with the understanding that they would receive the investment tax credit. Limited partners invested money with the understanding that all losses could be deducted from their income. They counted on Congress to uphold the laws that Congress passed, and this bill lets them down.

Can you imagine this kind of behavior by any other entity in the business world? I shudder to think how fast the lawsuits would fly if a bank or an insurance company or a contractor or a manufacturer suddenly and unilaterally altered the terms of an agreement it made.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ZORINSKY. Certainly.

Mr. LONG. Mr. President, there is much merit in what the Senator is saying. But on the other hand, I urge the Senator to consider the fact that business has been on notice that the repeal of the investment tax credit has been recommended by the President since November 1984.

I would be the first to agree with the Senator. Not everybody had a lobbyist up here in Washington or sombody watching the Wall Street Journal or the tax notes of the various publications and all of that. But business generally was on notice since the end of 1984 that this was being recommended by the President, and I think they have to realize that this thing might happen to them. If they had signed that contract before the beginning of this year, they would have been protected under the language in the bill. Even then, some of those who did not come in in time are carried forward with these transition rules that we have here in the committee.

So I am sure the Senator knows that while I am sure there will be many cases of hardship, many cases have been considered and we hope that most of them have been taken care of.

Mr. ZORINSKY. I agree with my distinguished colleague from Louisiana and certainly I know the trials and tribulations that the Senator from Louisiana went through with many. I agree with you. People have been put on notice many months prior to now. But I submit to the Senator, if I took

seriously every action that this body had put people on notice of, the entire economy of this country could come to a stop because this body never does anything about what we put people on notice of half the time.

I was a businessman for 35 years before I became an elected official. If I ran my business the way this body is run, I would have gone broke years ago because this body not only makes hypocritical commitments, and pronouncements, and even in the international marketplace, we told people that for a couple of years we are going to sign SALT II. Then our President went and signed SALT II. Today, do we have SALT II? No. We do not have SALT II. We are not even worried about SALT I anymore.

So I agree with the Senator. We put people on notice but a businessman cannot operate on notice. He has bank commitments, he has inventory, he has stock, he has accounts receivable, and he has an accountant that tells him how to invest his money. He cannot stop everything waiting for the great, mighty U.S. Congress to decide how reliable or unreliable they may be in the pronouncement of an early warning saying this is what we are going to do.

Mr. LONG. Mr. President, I hope the Senator will advise his constituents that nobody can predict with any confidence what Congress is going to do. All you can do is take your chances. But you can probably take your chances better if you try to follow day to day what is being recommended up here.

Mr. ZORINSKY. Again, I think what it boils down to is I am not an attorney, but I speak from my business experience. As a businessman all I had was my word. I could not buy my word. The only way I could do it was substantiate it through time and time again honoring commitments I made.

I say this Government made a commitment in current law that once exercised by the general public in an economic marketplace with a decision should have its government honor the credibility of that commitment that it made in the marketplace with that individual. I am not saying we should not change law. But I am saying our word is our bond.

We on Earth are all created equally. Where we can differ is if we want to lie to one another, if we want to be false to each other, but those that honor their commitment, that their word is their bond, in my day you did not need 10 lawyers and three accountants looking over your shoulder if you sold a $30,000 piece of goods.

Today, you have to have 10 copies, you have to have 10 copies, you have to go certify it, you have to register it with the clerk at the court, and then generally sue to get what happened in the deal that you made.

All I am saying is that we erode our credibility often enough. We should honor commitments whether they be personal or in Government.

The Finance Committee bill goes a long way toward getting tax consideration out of financial decisions. I will be the first to support you. I think it is good. Let us once again start making business judgments on profitability of putting a package together rather than relying on the Federal taxpayer to subsidize the success or failure of that package.

Those that operate it again by the law we have in place when they made the decision, I think should be grandfathered in.

We in Congress would probably try to outlaw such behavior by anyone else. Yet here we are about to commit that very crime against the entire economy.

The Finance Committee bill goes a long way toward getting tax considerations out of financial decisions. But these changes should be prospective, not retroactive. In fact, the chairmen of the Senate Finance and House Ways and Means Committees have said as much over the course of this tax reform debate. They should heed their own advice.

I had intended to offer an amendment during this debate that would have eliminated all retroactive changes in the Finance Committee bill. With the knowledge that this would be futile, I will not offer such an amendment.

Instead, I join my colleagues in imploring those who will be the conferees on the tax bill to right this wrong in conference. It is our last chance. We are abusing the trust placed in us by retroactively changing these laws. Without this trust, our entire economy breaks down. I urge the conferees to restore some credibility to Congress and remove the retroactive provisions of H.R. 3838.

Mr. MOYNIHAN. Mr. President, may I ask the Senator a question? May I say as a member of the committee I am concerned. The proposal to eliminate the tax shelter device of deducting passive losses from positive income is a measure that I have advocated for some time. The ability to use a passive loss as a deduction against positive income is at the heart of every tax shelter. Now we will put into the Tax Code, as fundamental principal, a prohibition on this artifice. But would the Senator be aware, I think he might be, that a number of agricultural organizations—the Cattlemen's Association for example—have said that these tax shelters, which are only entered into for the purpose of generating passive losses, have actually distorted many sections of agriculture in ways that have not helped real farmers, or real cattlemen, at all.

□ 1600

Mr. ZORINSKY. I totally agree with the comments of the Senator from New York, that it has had adverse effect on the economy in numerous instances in agriculture. I would be the first one in support of this tax reform package in prospectively correcting that deficiency. All I am saying is that for those who have gotten away thus far, it would be less than honorable in my mind to go back and say, "You now are living by a new set of laws."

Mr. MOYNIHAN. I think the Senator is making a perfectly respectable point, that we have to be sensible and fair about this.

I would just like to make note of the fact that we on the Finance Committee were aware not only of the tax-induced distortions in real estate, barges, and freight cars and the like but also in agriculture.

Mr. ZORINSKY. Absolutely, and I applaud the committee for the cessation of that type of subversion in avoidance of paying taxes.

Mr. President, I would like to conclude by urging the conferees to restore some credibility to Congress and remove the retroactive provisions of H.R. 3838.

With that, Mr. President, I thank my colleagues for their kind attention, and I yield the floor.

Mr. ANDREWS addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from North Dakota.

Mr. ANDREWS. Mr. President, in reading the committee report on the tax bill's passive loss section that the Senator from Nebraska and the Senator from New York had their recent colloquy on, I see a great deal of ambiguity in the definition of material participation that could raise havoc on the family farms of America.

Let me share with you, Mr. President, where my concern lies.

These characters in the Internal Revenue Service would not know a steer from a heifer. They have no idea of how an American farm works. They are the ones who wanted us to start a log book on the use of the family farm pickup.

Mr. President, that pickup on the average farm is used by our kids, by our uncles, by our cousins, by our hired men. You get into it and you run out into the field with some fuel for a swather. Someone else gets into it and runs to the elevator for a moisture test. Someone else gets into it and goes into town for repairs. There is no way you can keep a log.

We made the point. We made it here in this body. Even though we passed legislation correcting it they interpreted it and they reinterpreted it and they misinterpreted it and we had to correct it yet again within the last month.

Mr. President, in this passive loss section they have done it again.

What do you do on a family farm if they say you have to be a material participator to set your income off against your farm loss?

Many farmers are finding the only way they can make ends meet is for the farm wife to teach in the country school. If they interpret this section too narrowly, the wife's teaching earnings cannot be applied against the farm losses.

That is not the intention of the Finance Committee. At least I hope it is not the intention of the Finance Committee.

Mr. President, some time ago we had another problem in this whole question of material participation or actual participation. It had to do with the estate tax, when you pass a farm on from one generation to another.

It could not qualify for the estate tax deduction in the minds of the IRS if it had been handled by a cash rent instead of a crop share rent.

Mr. President, fully half of the rental agreements between families in my part of agricultural America are done now on cash rent.

I wrote the IRS pointing out how unfair this was to American farm families less than a month ago, Mr. President. I got one of those typical four-page letters back from the Office of Chief Counsel of the Internal Revenue Service saying:

> No, if cash rent had been employed there was no material participation and, therefore, it was an arm's length transaction and that family farm would be treated as a family farm.

I think we have to recognize, Mr. President, that it is important to keep these tax loss seeking passive nonfarmers from competing with the legitimate family farmer.

I do not have any doubt about the fact that those 400 head of four-legged losers that I have on my feedlot on my farm are doing a lot less well than they would have done if we had not had tax loss cattle feeders in there offsetting other income and getting into something they know nothing about and glutting the market at the wrong time, hedging it away on the mercantile exchange.

I am all for that. I have supported ways of getting that kind of investment out of agriculture time after time after time.

Mr. President, you do not throw the baby away with the bath water, and when you get the IRS agents trying to interpret the difference between cash rent and crop share rent on family farms, when you get a rule, a passive investment rule, a passive loss section, that would say if the farm wife got a job in town or the father got a job and they could not offset that income to make the total family income go on a troubled farm today, that is going too far.

That is not what the committee, I am sure, had in mind.

I would hope, Mr. President, that we will have the opportunity to get some feeling for what the IRS is going to put in the written regulations so that we are sure that this does not happen yet again. It would be my hope that this colloquy which has been entered into by a number of us from rural America, Mr. President, will point out to the IRS that we have a specific problem in rural America.

The regulations, as I pointed out earlier, that the IRS published in the matter of logs on the farm family pickup were totally contrary to the intent of Congress and, for this reason, tax counselors continue to advise their clients to keep contemporaneous auto record logs.

Farmers are not necessarily good bookkeepers. Farmers should not have to pay $2,500 to $3,000 to some MBA to keep their farm books because the Tax Code on agriculture is so complicated that a farmer cannot understand them.

Similarly, IRS inspectors should not get into the business of farming when they do not know the difference between cash rental and crop share rental.

The thing I am pointing out, Mr. President, is that it would be my hope that in this passive loss section we do not do away with the ability of a farm family to pull together, as they have for so many decades in troubled times, pull together by getting some jobs in town and offsetting the farm losses for a period of time when the income is down, through their talents to keep that farm going until the farm economy bails itself out.

I would hope that my colleagues would join me in making sure that the IRS applies that kind of a definition differentiating between the investing in agriculture for profit from wealthy people from outside the field and the difference in investing within a farm family, with a city job which is necessary to hold that family farm together.

That is really the essence of our concern and that is what we have to make sure we have nailed down so that those farm families can continue to have a chance to hold on.

Mr. GORE. Mr. President, I join my colleagues in this colloquy to express my opposition to the proposed phase-in of passive loss provisions contained in the Finance Committee's bill.

I commend the authors of the bill for the objectives they are trying to reach. I understand the problems of passive loss deductions they are trying to address, and I think the committee's bill addresses legitimate concerns. But I think in some important respects the bill goes too far. Many people are not aware that, in effect, these passive loss provisions are retroactive. That is really the essence of the problem we are discussing here today.

Passive loss investors enter into projects with a series of assumptions about the performance of their property as an investment. Especially in the case of residential and rehabilitation projects, little positive cash flow was anticipated, in many instances, under the law as it is written.

As a result of the proposed changes, only large real estate investors will be able to take advantage of passive loss provisions. This is unfair to the small investors and to those undertaking residential and rehabilitation projects.

As a consequence, those who have already invested in projects will find that they are no longer viable and will either take a loss or in some extremes, experience foreclosure. Some financial institutions will also find themselves in trouble. In short order, those contemplating a project will likely abandon their plans, unless some relief is given to these passive loss provisions.

□ 1610

Mr. President, it is important to realize that the proposed changes in question here apply not just prospectively but to existing owners and investors. There is a retroactive application that affects the expected yield fairly dramatically. So I hope, along with my other colleagues who have been addressing this subject, that Congress will take a very close look at this provision. There are several ways to deal with this problem. At the very least, we must extend the transition period for existing projects in order to be fair.

Above all else, tax reform professes to seek this goal of fairness. In this instance, in the pursuit of legitimate goals and in the process of addressing problems that very much need to be addressed, we have lost sight of the principle of fairness. In this case, fairness dictates a different solution. Investors have entered into their projects legally and in good faith. By remedying the passive loss phase-in problem, we can do the same.

I yield the floor, Mr. President. I thank the Chair.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, no one denies the fact that the present tax bill before us addresses many of the inequities that people were concerned about—closing so-called loopholes, broadening the tax base, reducing rates. But you have yet to hear anyone point out to me how it is fair, how it is justifiable, and how we have not broken faith with the American people in passing a law that has an

impact on conduct that not only was permitted but, in some cases, encouraged; how millions of Americans have entered binding contracts under a tax law that we now change not only prospectively—for the future—but with retroactive provisions and impact.

I think the desirable end of reforming the tax system should not be achieved through means that violate the basic American belief in fairness and equity and which invites scorn for our laws and for Congress in the future.

If we today adopt a bill which really says, "Look, notwithstanding what the law was yesterday, there may be a change and you will feel the consequences not for your future acts but for that which you undertook when the law was as it was," I believe that we set a dangerous principle, one that we are going to regret, one that will be felt in the sale of so-called tax-free bonds when people begin to wonder—well, they may need money to close the deficit; or who is to know when Congress will once again do what it did in the past? Who is to know that those bonds will always yield income that is tax-free? After all, if they disallowed certain losses once before that affected millions of people and it cost those people $60 billion—and that is what I understand this change in terms of retroactive effect will yield—they may gain $60 billion from the Treasury, but who is losing that?

Those are American citizens who were induced to invest under the Tax Code as it existed, and then find that the rules and the rate structures have been changed.

I hope, and I know it is not an easy task, that the committee in its deliberations in the conference would look to ease what otherwise will be a tremendous burden on the people who, in good faith, made investments based upon what the code was. I think we should be very careful if we continue on this path without attempting to alleviate the harmful effect that this will have—as to what faith and confidence people will have in the future in terms of our Tax Code; in terms of the municipal bonds and the Treasury bonds we put out; in terms of the tax-free aspects; in terms of many aspects when we attempt to maybe revitalize a segment of the economy and attempt to induce people to invest dollars only to see the code changed to their detriment.

Mr. President, I think this takes on a moral issue of doing what is right. Simply to say, well, those are people who have substantial incomes, those are doctors who have invested in these real estate deals, those are attorneys who are earning large sums of money; after all, so what; they are getting the benefits of a reduced rate—I think that is a rather cavalier attitude. I hope that we can find a way to ease what would otherwise be, I think, a tremendous burden on many millions of people. I do not think that is what we want to do with this tax reform package, hurt those who followed the law. I believe that this is a misapplication of tax reform.

Mr. President, I yield the floor.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASING CONFIDENCE IN THE TAX SYSTEM

Mr. MATSUNAGA. Mr. President, one important accomplishment of the tax reform bill will be to increase public confidence in the income tax system.

This will serve to increase public confidence in Government, because the income tax return may be the most frequent source of contact between citizens and Government.

It is important that the public support the income tax, because it is a basically fair way to allocate the burden of paying for Government services.

□ 1620

The theory behind the income tax is that it is fair to raise taxes based on ability to pay. The theory also provides that net income is a fair measure of ability to pay.

Although the income tax is not the only fair kind of tax, the fairness of the income tax is sufficiently high that we probably should continue to rely on it as our primary source of Government financing.

Because we need to rely so heavily on the income tax, we need to be sure that it works smoothly as a largely self-enforcing system. That of course requires voluntary compliance, and voluntary compliance of course requires public confidence.

The bill takes account of two very basic characteristics of American taxpayers. The first is that they are generally willing to report their income correctly and pay the taxes they owe. The second is that they do not want to feel like suckers for doing it.

Under the current system, many taxpayers do feel like suckers for not getting into exotic tax shelters that they do not even understand. This bill now before us says to them, "Those days are now going to be over as soon as the Congress passes this bill. From now on, everyone pays tax on his salary, interest and dividends, and that tax cannot be avoided through tax shelters."

The bill also says that any corporation that reports a profit to the public must pay Federal income taxes. This will end the situation where working men and women mail in their tax return, showing thousands of dollars of taxes paid, and then read stories in the newspapers about a corporation paying no tax on millions of dollars, if not billions of dollars of profits. Those taxpayers very justifiably feel that something is very wrong with our state of affairs.

The bill also rewards the kind of person that the current system unjustly penalizes. The person who is frugal, who does not borrow to finance current consumption, and who invests his funds to maximize income and safety gets a fair shake in this bill. And we need more of those people, to increase savings that can be devoted to modernizing American industry.

It is wrong for our current tax system to show favoritism toward persons who borrow to live beyond their means and invest for tax advantages. This bill corrects that situation by limiting the use of tax shelter losses and by phasing out the tax subsidy for consumer debt.

Now, the person who saves will not be made to feel like he is missing out on tax benefits. Instead, he will be encouraged to save by the low marginal tax rates in the bill. In addition, the bill dramatically lowers the marginal rate of tax on increases in income that can result from prudent savings, such as compounding interest on savings accounts and certificates.

To conclude my remarks Mr. President, this bill is built with the honest, hard-working, frugal American taxpayer in mind. It tells him that he is doing the right thing and encourages him to do more of it. That is the real backbone of this legislation, just as that hard-working taxpayer is the backbone of this great American system of ours.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, first let me thank my good friend from Minnesota [Mr. BOSCHWITZ] for bringing the problem of retroactivity to the Senate in the very significant way that he has this afternoon.

This tax reform bill is said to be guided by the principle of fairness. But one of the basic guideposts of fairness is keeping your word, of not sandbagging people, of not changing the rules in the middle of the game. Unfortunately, this bill, which its proponents assert is dedicated to the principle of fairness, falls short of meeting this guidepost.

It falls short in a number of ways. Just a few examples. First, in the areas of consumer credit and investments, this bill changes the rules in the middle of the game. Let me make clear from the outset that I have great sympathy with the goal of eliminating tax shelter abuses which exist in certain investments. Many tax shelters do

result in some people not paying their fair share and a shift of the tax burden to average working people, and meet no useful social purpose.

That should be corrected—but it should be corrected in a way consistent with our values. This country values fairness—it values due process. In that spirit, if someone went into an investment in reliance on the current law, then that person should not be tapped on the shoulder by this Senate and told "sorry fella, the rules have changed."

It is said by some of the proponents of this tax bill that this bill will increase the trust that the American people have in their Government. How does the Congress do that by passing legislation like this that includes a section which is a fundamental breech of trust? When a parent took out a loan to pay for his kid's education, he took it out on the assumption that the interest would be deductible. Perhaps he was on so tight of a budget that he was only able to take out the loan and have ends meet because the interest on that loan was tax deductible. How in the spirit of fairness can we now turn to that person and tell him that while his reliance was justified, and reasonable, it was also meaningless? It is not consistent with the spirit of fairness to make some of our people think that they have been played for fools.

Now, it is true that there is a phase-in period during which time a decreasing percentage of the current tax advantages are allowed. That lessens to some degree the retroactive effect. But why, when we have a bill which is supposed to be governed by fairness, do we allow any retroactivity which is built into this bill? Why is it built into the very structure of the bill and essential to having the numbers add up? For a bill advertised as a pedestal of fairness, here is a very rotten leg, indeed.

The second area in which the retroactivity in this bill falls short of the guidepost of fairness deals with the transition rules. Probably like all of my colleagues, I have received a number of requests over the past few days from businesses for help in obtaining a transition rule for themselves. It is clear that many of these requests are meritorious. These are businesses that have taken specific, concrete actions in reliance on current law which will now find that the rules will be changed and will apply to them. I have great sympathy for their situation. It concerns me. But what really even concerns me more than plight of the people who have the wisdom and the expertise to seek these transition rules are the thousands of businesses in my State and across the Nation which are not in the position to seek transition rules but which will be affected by the retroactive provisons in this bill. For a bill which is promoted as an assault on the special interests, the selective relief given by these transition rules will breed dissension, distrust, and disillusionment.

It is for this reason that I am considering offering an amendment expressing the sense of the Senate that the Treasury submit legislation to the Congress, if a tax reform bill is finally enacted into law, which in truly generic terms provides for transitional relief for all businesses which are similarly situated in fundamental ways to the businesses which are provided transition relief in this tax bill. I would hope that those who are now proclaiming the fairness in this bill will press for the passage of such legislation.

Let me close by discribing the following situation which could occur after the passage of this bill. There is a middle income couple sitting around their kitchen table filling out their taxes. They both work hard and sort of resent having to pay as much in taxes as they do. But they hear that this new tax law has provided tax relief for middle income America. They figure out their taxes. Just out of curiosity they take the old tax forms and figure their taxes out under the old law. Much to their surprise, they find they got a tax increase of a few hundred dollars. They are disgusted. They turn on the TV in order to forget their troubles for a while. The news is on. They see a interview with a business executive who is asked how he feels about the fact that his taxes this year are a few million dollars less than would otherwise be the case because he was covered by a transition rule. They shut the TV off in anger. They call their Senator's office for an explanation. What is our answer?

Mr. HEFLIN. Mr. President, the Finance Committee bill contains a provision which would not allow legitimate, economic real estate losses to be claimed against other income such as wages, salaries, commissions or portfolio income. While this so-called "passive loss" rule applies to all limited partnership investments, the only activity managed trade or business subject to this rule would be owners of rental real estate. The bill does allow certain active real estate owners to deduct up to $25,000 in real estate losses against other income. However, this limited exception to the rule is reduced when the active real estate owner's income reaches $100,000 and is totally eliminated simply because the owner's income is $150,000. Included in the losses that would not be allowed under the bill are real, out-of-pocket cash losses. Further, the provision applies to existing as well as future real estate thus further punishing nontax-related real estate investments.

Mr. President, I realize that the intent of the Finance Committee in drafting the passive loss rules is to prevent abusive tax sheltering. Much of this sheltering has gone on through real estate and real estate investors have enjoyed some lucrative years. But, Mr. president, this provision to allow active investors $25,000 of losses only if their incomes are below $100,000 is swinging the pendulum too far in the other direction.

Not only does this provision discriminate against real estate relative to any other activity, but it discriminates between real estate investors themselves based on their income. We live in a society that is supposed to allow people to share in the rewards of success. However, this provision punishes active real estate owners who have been successful and have incomes over $100,000 by saying, "Yes, we will consider you an active real estate owner, but because you have a certain income, you will be denied a deduction that someone who makes less money can take."

I'm not saying we should go about looking for ways to provide preferential treatment for wealthy indivduals. But I don't believe we should punish people and discriminate against them because they have had a certain amount of financial success. If an individual meets a certain criteria for an exception in the Tax Code, then he should be allowed to take it regardless of his income. This provision rewards the underachiever and punishes those who are successful and that is wrong. Our country would never have gotten to where it is today if we punished people for getting ahead.

A further inequity in this passive loss rule, Mr. President, is its disallowance of losses that result from actual out-of-pocket cash expenditures. I believe that if an individual is actively involved in a real estate activity and he has to invest certain amounts of cash to keep that investment going, then he should be able to deduct those cash losses. This isn't sheltering. It's merely taking a dollar's worth of loss deduction for a dollar's worth of cash actually lost. A 1:1 ratio.

Real estate investments often need special cash infusions to help during start-up distressed economic times. Denying deductions for these cash losses will disrupt necessary real estate financing, cause additional property defaults and place new burdens of already troubled financial institutions.

Mr. President, before I conclude I would like to leave you with an example of a typical real estate investment which illustrates the points I am trying to make with regard to the inequities of this provision.

In this example, two individuals decide to purchase together and operate a six unit apartment building in a marginal city neighborhood. The building has been neglected by the previous owner and will require repair and renovation. The individuals decid-

ed on such a risky investment based on the realistic assumption that a planned nearby mass transit system will improve the desirability of the neighborhood and eventually help make their investment a profitable one.

Prior to the arrival of the transit system and the expected evolution of the neighborhood, the individuals expend significant amounts of cash in repair and renovation expenses, mortgage interest payments and taxes that exceed the modest rental income the market allows them to charge.

The losses that result from this investment are true losses to the individuals. There is no justification for these losses being disallowed. Yet the passive loss rule would do just that.

Again, the $25,000 exemption would be available to the individuals if their incomes did not exceed $100,000, but the income of the individuals has nothing to do with whether these losses should be deductible. True losses should be deductible for any active participant in real estate regardless of income because they simply are legitimate losses.

PASSIVE LOSSES

● Mr. MATTINGLY. Mr. President, I rise today to express some concerns I have about this bill. To begin, let me reiterate my past comments that I am very supportive of this bill. I believe it is truly tax reform. But there are some areas of which I am deeply concerned.

The real estate provisions in the bill present some very difficult problems—particularly their impact on existing investments. The loss disallowance provision applies not only to future owners and investors in rental real estate, but it applies to owners and investors who made decisions years ago. While there are phase-in rules for the application of the new investment interest limitation and passive business loss rules, the phase-in would occur quickly and would substantially diminish the anticipated tax benefits of many existing investments. This provision will penalize those investors who have undertaken investments and commited future funds based upon existing tax laws.

Mr. President, the fairness and equity of this proposal concerns me. Is it fair to change the rules of the game for these individuals? Is it good policy to penalize these investors through changes they could not reasonably anticipate? I question whether it is. It is my view that something must be done to address the retroactive nature of these provisions. Whether it be lengthening the transition period, increasing the benefits available in the early transition years, or whatever, there should be a workable solution.

Another great concern I have is the distinction in the bill between active real estate ownership and other business. Why should those individuals who actively particpate in real estate ownership be denied deductions of real estate losses against other income while active participants in other business pursuits are allowed these types of deductions? This concerns me, Mr. President. I believe some consideration should be given to those individuals who are actively involved in the management of their rental real estate.

Mr. President, I do not believe it is correct to penalize those investors who entered into prior transactions in good faith. I believe this is an issue of fairness and equity. It is my hope and desire that the conferees will seriously consider these problems and address them in conference.●

● Mr. BOREN. Mr. President, I commend Senator BOSCHWITZ for initiating this discussion about the problem in the existing bill relating to passive losses. The way the bill now is written, investors, particularly those in real estate projects, could have real out-of-pocket economic losses which they could not fully deduct for tax purposes. I am hopeful that in the conference committee, modifications can be made which will reduce the unfair burden imposed by these provisions. I will certainly work to that end.●

ON THE IMPACT OF RETROACTIVE PROVISIONS ON HOUSING AND RENTS

● Mr. KERRY. Mr. President, first, I would like to commend the Finance Committee, and particularly the chairman, for their hard work, patience and persistence in bringing this issue to the floor for debate. As a supporter of tax reform, I am pleased that we have reached this critical stage.

There are many good features in this tax bill, notably lower rates and fewer tax breaks, which should promote the efficiency of our economy. Lower tax rates will, other things being equal, reduce the role of tax factors in resource allocation and strengthen the role of price signals in the competitive marketplace. Equally important is the relief that this bill will offer to individual taxpayers through lower rates and a somewhat lighter overall tax burden. As we all know well by now, tax reform requires a series of tradeoffs and hard choices if the goal of lowered rates is to be achieved.

One sector of our economy—investment in real estate—in particular has borne the brunt of these changes, and I while I support the bill, I wish to express my hope that the conferees should seek to soften the most acute effects of the bill when they meet with the House.

I refer, of course, to those aspects of the bill that apply to investments made prior to enactment of the bill—investments that, at the time they were made, were consistent with both the letter of the law and legislative intent.

Changing the rules of the game in midplay—which from the investor's perspective is exactly what this bill does—not only will be unfair but also will be economically counterproductive, jeopardizing projects currently underway and unknown numbers of others which may never be built because of the chilling effect that retroactive changes will have on investment decisions.

In this regard, I am most concerned with the devastating effect these changes will have on the cost and availability of affordable rental housing in this country, and with the potential that these provisions will mean increased homelessness and massive rent increases for our most vulnerable citizens.

The use of tax policy to encourage the development of low-income housing is not a newly discovered loophole. Congress' intent to encourage outside investment in low-income housing by providing tax incentives was incorporated into the Code in the late 1960's and substantially predates the relatively recent rush to tax-motivated investments into other areas of real estate.

For most of the 1970's Federal policy recognized the need for a mix of tax incentive with direct outlays, such as section 8 and other HUD Housing Production programs. Since 1981, at the same time that outlay programs were virtually shutdown by the Federal budget cuts, tax incentives for low-income housing investments were made even more attractive. The signal to States like Massachusetts, where the availability of affordable rental housing is the No. 1 bottleneck to continued growth and prosperity, was loud and clear. Led by State government and innovative new housing programs, Massachusetts alone since 1984 has seen exisiting tax benefits used to leverage hundreds of millions of dollars of private capital, leading to the development of some 6,000 new units of rental housing.

The lynchpin of these investments has been the ability of private investors to receive tax benefits in exchange for their investments. Tax benefits are required because these developments require subsidies just to break even—without tax incentives, they simply don't offer enough return to attract private investment.

Any failure to recognize that government policy has been to limit the economic benefits in low-income housing investments to tax preferences provided in the Internal Revenue Code will result in an ironic unfairness to those who, doing what Congress intended, invested in low-income housing.

And while the investors already committed to such projects will have no option but to absorb the loss, others on the verge of investing but who have

not yet done so will have every reason to put their money elsewhere. If investors indeed back off from investments in low-income housing, the losers will be tenants and renters, not to mention public agencies, communities, and construction workers who had projects poised on the verge of groundbreaking.

The 38 State-assisted low- and moderate-income housing projects in my own State of Massachusetts represent just a fraction of the important economic activity that the retroactive provisions of this bill halt. But the impact of the bill on these projects alone is enough to cause serious concern in Massachusetts. I share these concerns, and ask that an article from yesterday's Boston Globe appear in the RECORD following my remarks.

The article follows:

BUILDERS SAY TAX LAW MAY STALL LOW-RENT APARTMENTS

(By Sarah Snyder)

Developer Robert Kuehn plans to build 50 low-and moderate-income apartments in Pittsfield. But if the current Senate tax revision bill becomes law, he said, he's going to make them condominiums instead.

Kuehn is typical of Massachusetts developers who say they will be unable to raise private capital for low-income housing if the bill proposed by Sen. Robert Packwood (R-Ore.) passes.

The bill would no longer allow investors not actively involved in the development of a building, so-called limited partners, to use property for tax deductions. Without those tax benefits, as many as 3,000 subsidized rental units planned for Massachusetts could be jeopardized, according to Patrick E. Clancy, executive director of Greater Boston Community Development Inc., the largest nonprofit developer of low-income housing in the country.

Housing experts say people who invest in subsidized, low-income housing projects do so almost exclusively for the tax shelter, which is primarily the depreciation of the building. Tax benefits from depreciation apply to other real estate as well, but they are greater for subsidized housing because depreciation time is faster. Congress wrote current tax law this way to lure investments in subsidized housing.

If the Packwood bill is passed, "There will be no subsidized housing built, period" in Massachusetts, said Eugene F. Kelly, chairman of the Developers Council of the Builders Association of Greater Boston, an industry group specializing in subsidized housing.

In the case of Kuehn's planned Pittsfield building, the change in law would work like this:

Kuehn, a partner in Housing Economics in Cambridge, is looking for perhaps 10 investors to put up $50,000 each over five years. Under current law, he said, investors would get an estimated $20,000 to $25,000 in depreciation on the building each year. For an investor in the 50 percent tax bracket, that is $10,000 in taxes saved a year. The Senate bill would reduce that tax benefit to zero if the investor had no real estate earnings.

CONDOMINIUMS PROBABLE

"No one in their right mind is going to invest" under those conditions, Keuhn said. So, rather than 13 low-income and 37 moderate-rate apartments, he probably would build condominiums.

Mathew Tharl, executive director of Fenway Community Development Corp. in Boston, said the bill would have the same effect on his group's Fensgate Co-operative on Hemenway Street. Tharl is looking for investors to put up $1.4 million to help finance the 46 apartments, 32 of them for low- and moderate-income families.

"The bill basically undercuts at least $550,000 worth of tax shelter" for investors. Tharl said. "We would have to turn much more of it into market-rate housing, maybe jettison the co-op structure, and make them condos."

Marvin Siflinger, executive director of the Massachusetts Housing Finance Agency, said the threat of dozens of subsidized rental buildings being converted to condominiums is a "worst case scenario" and unlikely.

"We have been working very hard with senators Kerry and Kennedy to work this out" by amending the Senate bill, Siflinger said. "I think we are going to achieve success."

MITCHELL AMENDMENT

Clancy said low-income housing advocates are backing an amendment by Sen. George Mitchell (D-Maine) that would allow investors to keep their tax write-offs on low-income housing for six years.

Robert Whittlesey, executive director of the Boston Housing Partnership, which has developed 700 low- and moderate-income units in Boston in the past two years, said, "The Packwood bill as now written is almost a wipeout for us."

He said the only way the partnership was able to build those units was through existing tax benefits for investors.

The Senate bill would offer direct tax credits to future investors in low-income housing as a substitute for the current tax write-offs. In effect, investors would get cash back from the government for every low-income housing unit in which they invested.

ON REAL ESTATE PROVISIONS OF TAX BILL

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

Mrs. HAWKINS. Mr. President, in most respects, the Tax Reform Act of 1986 is a worthy bill. Congress has rarely been so single-minded in its desire to write a fair and rational tax bill. It is a historic piece of legislation, and I commend my colleagues on the Senate Finance Committee who have labored so diligently over these past months to construct it.

Congress now has the opportunity to create a system that minimizes tax loopholes and other unfair advantages for the wealthy, and maximizes fairness for all taxpayers. However, the bill is insensitive and unfair to existing real estate investors and tenants of residential housing units.

The real estate industry expects that close to 350,000 rental units will not be built in the first year after the bill becomes law, since the present incentives for real estate development will be eliminated. Moreover, since far less capital will be available for residential housing projects, rental costs in existing units are expected to increase by an average of 20 percent.

Mr. President, Florida and the Sun Belt States are undergoing a historic demographic shift. Many have left their homes in the Northeast and Midwest to seek opportunities in Florida. We in Florida do all we can to provide adequate housing and employment. In fact, since the mid-1960's, Florida has more than doubled its total housing stock in response to this migration. As this trend continues, new homes and apartments will be required. How will these homes be built if there is little or no incentive on the part of private investors to build them? H.R. 3838, as reported by the Finance Committee, will severely constrict the building of future housing projects. As an additional consequence, as the supply of homes and apartments diminishes, the continuing demand will increase rents significantly. Finally, the declining supply of capital will result in deferred repair and rehabilitation of existing property, a decline that will adversely affect all tenants and their communities.

Mr. President, there are several elements relating to the treatment of real estate and I urge my Senate colleagues to consider as they enter the conference with the House. I fear the real estate sector will be shouldering an unreasonably large burden of what is otherwise a fair and equitable piece of legislation.

One of my concerns is the effect the proposed transition rules as they relate to investors who are currently under legal obligations to contribute capital to newly constructed real estate developments. Since the Senate Finance rules apply retroactively, Congress will be creating a situation which will require these investors to decide either to continue their contributions at a loss, or to default on their obligations. They will certainly default if it makes economic sense to do so. Congress should not pass a bill which unintentionally encourages defaults on projects which are currently serving such a critical housing function in Florida and around the Nation.

Under current law, real estate investors may offset losses on real estate investments against gains made in other investments or businesses. Most investors typically make capital contributions to a real estate venture over a period of 3 to 7 years. These so-called "staged phase-ins" cover the costs associated with new developments, such as debt service and operating losses, frequently encountered during the early stages of a residential or commercial development.

The proposed transition rules make no distinction between investors who have completed their capital contribution requirements, and those who have just begun or are in the midst of their

obligations. Since the transition rules make no distinction, these investors will be affected differently.

I suggest that a grandfather provision is a fair legislative solution to this problem. At the least, the transition rules should permit these investors to deduct their real economic losses up to the level of their capital obligations in any year. Congress should permit this regardless of the fact that these levels exceed the allowable percentages otherwise included in the tax bill.

The grandfather provision would create a favorable economic environment in which investors will be able to complete their capital contribution obligations. Congress must allow for such a reasonable deduction of losses and investment interest. Otherwise, we will be held responsible for a potentially disastrous situation in our Nation's real estate and banking industries.

I am also deeply concerned with the impact of the bill on future investments in residential property. Decent and adequate housing for all Americans is a worthy goal which Congress must seek to achieve. Unfortunately, under H.R. 3838, future investors looking at their options will have no economic incentive to invest in residential development. Our Nation, and especially high growth States like Florida, continues to rely on residential real estate developers to meet our housing requirements. As our population in Florida increases each year, I am concerned that this tax bill will destroy the necessary environment in which the required capital will be made available by investors in the coming years.

Limited partnerships in real estate have provided incalculable resources in the building of real estate developments. They have provided the tens of billions of dollars which have built our homes, our shopping centers, and our office buildings.

Current law allows for full deduction of all losses associated with the partnership against any income from any other source. This tax incentive has fueled the residential building industry, and has helped meet the great demand for residential developments.

It cannot be denied that this provision in the current Tax Code is abused. I strongly endorse the concept of restricting overly generous deductions for these investments.

However, the Finance Committee bill goes a bit too far. In essence, it denies any deductions whatsoever of these so-called "passive losses."

Mr. President, if investors do not provide future capital, who will pay the bill? It seems clear to this Senator the answer is the tenants. The tax bill will create huge rent increases for tenants living in residential housing developments.

Indeed, Mr. President, while it is difficult to forecast such matters accurately, industry experts predict that rents in residential property will increase by at least 20-30 percent over regular rent increases. I fear renters in my state will be faced with even higher rent increases, as demand for rental houses rises in the face of decreased supply.

Mr. President, it would be absurd if Congress were to pass a tax bill which ostensibly reduces the tax liability of middle-income Americans on one hand, and on the other hand will gobble up any potential savings with huge rent increases. In addition, rent increases will adversely affect the lives of all Americans living on fixed or limited incomes. In Florida, I refer to our retired citizens, and those living at or below the poverty line.

H.R. 3838 also unfairly modifies the rate of depreciation on existing residential and commercial property. Rental apartments will be directly affected by the changes proposed in the tax bill. The bill establishes an arbitrary figure of 27.5 years as the period of time over which residential property may be depreciated on a straight line basis.

However, residential rental property, particularly multifamily housing, needs repair and replacement for almost every element every 10 to 12 years. These properties will be particularly affected by the Finance Committee proposals, since the unavailability of favorable depreciation allowances will result in deterioration of these properties. Residential rental units are vacated and occupied more frequently than nonresidential units, and consequently experience quicker deterioration. In addition, rental units are less well-maintained by tenants than are owner-occupied units or commercial property. They need repair often. Since rental property owners will find it more difficult to maintain and repair rental units under the Finance Committee proposals, our nation will face a major problem in the future with respect to deterioration of residential housing.

The conferees should revise the formula of depreciation for multifamily property. The formula must reflect the real economic decline of these properties brought on by age and other factors. This will encourage the rehabilitation of existing properties and keep rents down.

Mr. President, the Tax Reform Act of 1986 is historic and necessary. This country will benefit from its enactment. It is generally fair, and will lead this Nation to new heights of prosperity. However, Congress must be mindful of aspects of the bill which are unfair and impose a burden on those who can least afford it. Congress should not hinder those people who contribute their capital into the building of this great land. I urge my colleagues who are designated conferees to consider my remarks here today as they merge the best parts of both the Senate and House bills.

□ 1630

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DANFORTH. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 5 p.m., during which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 404: A resolution to designate the college of William and Mary as the official U.S. representative to the Tercentenary celebration of the Glorious Revolution.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 99-26. Protocol, signed at Beijing on May 10, 1986, concerning the in-

terpretation of paragraph 7 of the protocol to the agreement between the Government of the United States of America and the Government of the People's Republic of China for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income, signed at Beijing on April 30, 1984 (Exec. Rept. No. 99-15).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL:

S. 2553. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to offer training in advanced marketing techniques and to require individuals to complete such training to be eligible for real estate and operating loans under such act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (For himself, Mr. HEINZ, Mr. CHAFEE, and Mr. PROXMIRE):

S. 2554. A bill to improve the quality of information available with respect to the prospective payments system under medicare program, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DOLE, Mr. LUGAR, Mr. INOUYE, Mr. MOYNIHAN, Mr. PELL, Mr. HARKIN, and Mr. METZENBAUM):

S.J. Res. 361. A joint resolution opposing the participation of the Chilean vessel *Esmeralda* in the July 4 Liberty Weekend celebration; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. Res. 427. A resolution to recognize and acknowledge June 13, 1986 as "New Mexico is a State Day"; considered and agreed to.

By Mr. SYMMS (for himself, Mr. ZORINSKY, Mr. DENTON, Mr. DANFORTH, Mr. GRAMM, Mr. ABDNOR, Mr. SIMPSON, Mr. McCLURE, Mr. LAXALT, and Mr. HECHT.):

S. Con. Res. 148. A concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL:

S. 2553. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to offer training in advanced marketing techniques and to require individuals to complete such training to be eligible for real estate and operating loans under such act; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. McCONNELL and the text of the legislation appear earlier in today's RECORD.)

By Mr. DURENBERGER (for himself, Mr. HEINZ, Mr. CHAFEE, and Mr. PROXMIRE):

S. 2554. A bill to improve the quality of information available with respect to the prospective payment system under the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE INFORMATION ACT

● Mr. DURENBERGER. Mr. President, I rise today to introduce the Medicare Information Act of 1986. I am joined in this effort by Senators HEINZ, CHAFEE, and PROXMIRE as cosponsors. This bill mandates critically needed improvements in the Department of Health and Human Services' ability to monitor Medicare's prospective payment system. It will foster research which will enable Medicare to assess the quality of medical services provided to its beneficiaries. It requires the Department to undertake a second national medical expenditure survey, a necessity for future health policy-making.

THE NEED FOR PAYMENT REFORM

Mr. President, 20 years ago, Congress established Medicare in order to assure access to health care for this country's elderly and disabled.

But, in 1966, our definitions of access and quality were very different. At that time, the delivery of health care was often characterized by long stays in the hospital, and patients who were cared for, but not cured.

In the last 20 years, however, advances like intensive care units, and amazing new diagnostic tools, pacemakers, bypass surgery, cancer therapies, and same day cataract operations, have changed the definition of quality medical care for all Americans.

For the elderly and disabled in particular, the hospital is no longer simply a place to convalesce. Now, thanks to advances in medical science, the hospital can be a place to renew, and even improve, life.

With all these advances in modern medicine, however, have come new challenges. New, more expensive procedures and devices—when combined with Medicare's financing arrangements—resulted in greater access to effective care for beneficiaries, but also tremendous increases in cost for both beneficiaries and the American taxpayer.

Medicare's reimbursement system very naturally led doctors, hospitals, and their patients to think that more medicine was automatically better medicine.

Eventually, concern arose among many Americans that the more is better practice standard was not only too costly, but might also mean too much medicine, particularly in the case of hospital stays which can involve the risk of nosocomial infections and other complications.

These concerns led to a traditional regulatory response on the part of Government with certificate of need legislation and the genesis of the Professional Standards Review Organization [PSRO] Program, and, later, the peer review organizations [PRO's] which I helped to develop.

Action on the regulatory side, though, was only part of the answer. Payment reform had to be the major driving force to bring incentives for the providers in line with the actual needs of the beneficiaries. The advent of per case pricing for hospitals in 1983—payment by diagnosis related groups [DRG's]—replaced the traditional cost-based payment system and brought with it a "new day" in hospital care for Medicare and the 31 million Americans it serves.

Now, instead of more is better, the new Medicare payment system sends doctors and hospitals a signal that patient care should be managed carefully and that patients should receive only that care which they need.

These significant reforms are working largely as intended. Hospitals and other providers have responded well. The new system has given the Medicare hospital trust fund billions of dollars in savings and has given efficient hospitals the ability to make profit margins necessary to maintain financial viability.

PAYMENT REFORM BROUGHT NEW CONCERNS

While the signals of the new Medicare payment system have been clear to hospitals and doctors, they have been somewhat less clear to elderly and disabled Medicare beneficiaries. Many patients have been uncertain about whether they are receiving quality when they are directed away from traditional hospital settings for treatment or discharged after what seems like very short hospital stays. And, many older Americans are concerned that the new payment system leaves the potential for individual providers to short-sheet patients on quality.

In order to address these concerns about the impact of Medicare's prospective payment system on the quality of care provided to Medicare patients, the Senate Finance Committee held a hearing on June 3, 1986. The hearing focused on three critical questions:

First, whether the reported 3,000 to 4,000 early discharges, documented in the Medicare Program since the implementation of DRG's, are exceptions to the rule of generally good medical practice, or are the tip of a quicker and sicker iceberg?

Second, how much of the beneficiaries' concern over potential premature hospital discharges can be attributed to the fact that DRG's changed

overnight the way medicine is practiced in hospitals, but we all forgot to tell the beneficiaries?

Third, how much of the concern over premature hospital discharge is really a reflection of patients' inability to find the nonhospital settings or posthospital care they need?

Let me address these questions in reverse order.

Witnesses at the hearing agreed that some of the concern regarding the effect of DRG's on quality reflects the increasing need of Medicare patients for posthospital care.

In the old days of cost-based reimbursement, Medicare patients could expect to stay in the traditional hospital setting until they were completely recovered. This meant that many hospital stays included what one might call social days, or days during which the patient didn't require acute care, but couldn't arrange for, or afford, the less intense posthospital care actually needed. So, the patient stayed in the hospital through his total convalescence and the hospital sent the total bill—including the cost of the social days—to Medicare's hospital trust fund. Medicare paid for the cost of convalescent care when it paid for all the hospital days the doctor allowed.

However, under Medicare's new payment system, Medicare coverage for hospital stays ends when hospitalization is no longer medically necessary. So, a greater percentage of the Medicare patients being discharged from hospitals will still be in need of some level of subacute care. Yet Medicare's structure has not been changed to reflect the growing importance of posthospital care.

Witnesses at the hearing also agreed that some of the concern over the issue of premature discharge reflects, not medically inappropriate discharges, but a lack of understanding on the part of Medicare beneficiaries as to how Medicare's coverage of hospitalization has changed.

Medicare beneficiaries need information about PPS, and they need time, as do other Americans, to become accustomed to changes in the delivery of health care today.

Thousands of older Americans, for example, are having cataract and other types of surgery in same-day surgery centers. And thousands more receive cancer fighting chemotherapy treatments in outpatient departments and, increasingly, in their own homes. All Americans are having to get used to these kinds of changes in the practice of medicine. Mothers no longer spend five days in the hospital resting up after the birth of a baby. And dozens of tests and other procedures which used to require hospitalization are now done, routinely, in doctors' offices all over America.

But the most amazing area of agreement among our witnesses on the issue of whether or not we can assess the effect of PPS on quality of care.

I was particularly struck by the comprehensive work by the General Accounting Office and the Office of Technology Assessment. These two agencies did not conclude that there was a quality problem. But, they did not conclude that there was not a quality problem either.

Instead, they concluded that there is—amazingly enough—no data which to tell whether there is a quality problem under the new Medicare payment system.

I believe that the appropriate response to that conclusion is obvious—"Let's get the data!"

In a letter to Secretary Bowen, Senator HEINZ and I have already expressed concerns about specific problems with the administration and organization of Medicare data which inhibits its usefulness in evaluation of the effects of major policy changes on Medicare beneficiaries.

I am also disappointed to learn that HCFA has made no systematic effort to create a useable PRO research data base. Therefore, PRO's do not perform their reviews in a way which allows the data to be analyzed to identify regional variations in treatment patterns or to conduct national evaluations using objective measures of quality of care.

THE MEDICARE INFORMATION ACT OF 1986

Mr. President, to meet these information needs I am introducing today the Medicare Information Act of 1986. S. 2554 has three titles.

TITLE I

S. 2554 implements several options presented by the Office of Technology Assessment in its report on "Medicare's Prospective Payment System: Strategies for Evaluating Cost, Quality, and Medical Technology." This title will see to it that we have the information necessary to analyze the impact of PPS on access to and quality of care for beneficiaries as well as on the financial viability of hospitals. Specifically, title I:

First, requires that HCFA complete the Medicare automated data retrieval system [MADRS], its data base which links part A and part B files.

Without this kind of unified data base, it is impossible to follow beneficiaries beyond the hospital door and find out what's happening to them after discharge.

Yet this is where the real effect of PPS will be felt—not in medically premature discharges, but in the shift of more care to the posthospital setting. Medicare patients being discharged from the hospital will require a more intensive level of SNF or home health care, on the average, than they did before.

But, without a unified data base, HCFA can't confirm this prediction, nor can it know whether the posthospital needs of patients are being met.

Second, requires the HHS Secretary to report to Congress, within a year of enactment of the bill, recommendations for revising the hospital cost reports, now mandated by the Medicare statute, so that they provide information that is appropriate to the analysis of PPS in a timely fashion.

Under cost-based reimbursement, hospitals submitted cost reports whose content was dictated by the need for data which substantiated the hospitals' claims for payment from Medicare.

Under PPS, the need for cost data is changing, but it still exists. Medicare cost reports are critical for the job of evaluating the financial effects of PPS on different kinds of hospitals, patients, and payers. Without cost data, we won't be able to measure the distribution of profits and losses by DRG or by type of hospital, nor will we know the real cost problems faced by teaching versus nonteaching hospitals, by rural versus urban hospitals, by hospitals in different geographic regions with different input costs, and so on.

Currently, although the Social Security Amendments of 1983 prohibit the Secretary from eliminating the cost reports before 1988, their content can be changed at the discretion of HCFA, with OMB's approval, and HCFA routinely develops new cost reports.

Last year HCFA circulated for comments a revised cost report which it recommended for use only by PPS hospitals. The proposed reporting form eliminated so much essential information that it would have been impossible for PPS hospitals to calculate their inpatient costs. Without that data, it would be impossible for the Administration to monitor, evaluate, update, or rebase the PPS rates in order to set prices that are reasonably related to efficient costs of production. The proposed cost report was never implemented because it met with vehement objections from the field.

But the reporting format is in need of an overhaul by experts within and outside of the Federal Government to see that it provides information appropriate to the new payment mechanism. Therefore, the bill requires the Secretary to make recommendations on this overhaul after consulting with representatives of OTA, ProPAC, and other private sector experts and prohibits HCFA from making any major changes in the cost reports until 6 months after the Secretary's recommendations are received by Congress.

Third, designates the Office of the Assistant Secretary for Planning and Evaluation to coordinate and oversee the organization of PPS evaluations, which are currently fragmented within the department.

There are presently a great number of organizations conducting a variety

of studies on quality: HCFA itself, HCFA grantees and contractors, including PRO's and Rand, NCHSR, and more. One office should be designated to coordinate and oversee research and studies into quality so that appropriate studies are undertaken, costly efforts are not duplicated or wasted, available data are used efficiently, and the knowledge of those most qualified and objective is tapped.

ASPE is appropriate for this role in that it has traditionally maintained a coordinating role with respect to evaluation research, and because, as a separate office which is not involved in the administration of the Medicare Program, its involvement brings balance and added credibility to the functions of coordination and oversight.

Fourth, finally, title I of S. 2554 requires that all hospitals, by July 1, 1987, use HCFA's common procedure coding system, or HCPCS, to code the procedures that are performed in their outpatient departments on the bills they submit to Medicare's fiscal intermediaries.

Currently, hospital outpatient departments use the same ICD-9 procedural coding that is used on the inpatient side. But for purposes of comparing costs of services or procedures in different settings, it is important to be able to compare the outpatient department with an ambulatory service center or a doctor's office, not to compare it with hospital admissions.

By requiring this kind of comparability in coding across the appropriate settings, we can be confident that further reform of the Medicare payment structure will be based on adequate information with which to judge its impact before implementing it. For that reason, this provision was also included in S. 2368, the Medicare Physician Payment Reform Act of 1986, which I introduced along with Senators DOLE and BENTSEN.

TITLE II

S. 2554 requires that studies be conducted into medical practice variations, their implications for health outcomes, and that DHHS fund research to develop improved methods for measuring quality of care. Specifically, title II:

First, requires DHHS to organize a comprehensive data base including part A and part B claims data that would be suitable for small area analysis and outcomes research and to make it available for outcome research to qualified investigators and policy analysts.

Second, requires DHHS to support studies designed to assess the appropriateness of admissions and discharges.

Third, requires DHHS to assess the extent of professional uncertainty regarding the efficacy of selected medical treatments and surgical procedures.

Fourth, requires DHHS to develop improved methods for measuring patient outcomes.

Fifth, finally, title II requires DHHS to conduct evaluation of patient medical outcomes and quality of life outcomes for selected treatments and procedures.

Mr. President, this research is critically important. We want the Federal Government to be a prudent buyer of medical services for the beneficiaries of federally funded programs. Medicare in particular has come a long way since 1983 in moderating cost increases, and now we must combine our continuing efforts at cost control with a new initiative of monitoring quality in order to get beyond arguments over what is a good price or how long is the right length of stay to the more important question: Are the beneficiaries of Medicare and other Federal programs receiving value for the money paid for those services?

Mr. President, it has long been recognized that the use of medical treatments and surgical procedures varies substantially from area to area. This variation can occur for many reasons: Differences in the age or gender composition of the population, differences in patient preferences, differences in the incidence of diseases, and differences in standard of medical practice across communities.

Over the past 15 years, health services research on variations in medical practice, pioneered by Dr. Jack Wenneberg of Dartmouth University, has uncovered some very disturbing findings. First, after controlling and adjusting for differences in age and gender composition, disease rates, and the other factors identified above that one would expect to account for varied practice patterns in differing communities, researchers still observe enormous variations in the use of certain treatments and procedures.

In Maine, for example, the rate of hospitalization for pediatric pneumonia vary as much as twentyfold, not from one end of the State to the other, but in communities just a few miles apart. Further, in some parts of Maine, 70 percent of the elderly women have undergrone a hysterectomy, while in neighboring communities the rate is 25 percent.

In Iowa, the rates of prostatectomies in 85-year-old males varies from 15 percent in some communities to 50 percent in others.

These and many other findings from the research on medical practice variations have lent new insight into the way medicine is practiced. And they raise a fundamental question: Do these vastly different practice styles affect the quality of care which patients receive?

But this line of research hasn't yet been carried on to the next logical step—determining the health outcomes and quality of life associated with different patterns of medical and surgical treatment. Are patients who live in communities with a very high rate of prostatectomies or hysterectomies living longer, enjoying fuller lives with less pain, less disability, fewer complications, and fewer hospitalizations than patients living in communities with much lower rates of these procedures?

Right now, we don't know the answer to that question because the right studies haven't been done. S. 2554 will see that they are done.

Cobra requires that PRO's do 100 percent preadmission review of 10 procedures which have high volumes, costs, and nonconfirmation rates in their areas. By doing this, they will be able to address and reduce variation rates by "feeding back" to local physicians the criteria the PRO considers as indicating that a procedure is medically necessary. But in these decisions, each PRO will be reflecting its own training and its own local practice standard.

Armed with the knowledge that would be provided by these outcome studies under title II, PRO's could utilize uniform criteria based on state-of-the-art information rather than information based on each local PRO's particular training and historical practice pattern.

TITLE III

S. 2554 requires the DHHS Secretary to conduct a nationwide medical expenditure survey at least once a decade, beginning in fiscal year 1987.

The health care marketplace has undergone tremendous change in the last decade. As policymakers search for ways to improve efficiency and to encourage procompetitive reforms which reflect the fact that quantity is not synonymous with quality, we need accurate information about the costs that health care consumers are facing—costs for insurance, for supplemental insurance, for long-term care insurance, for care when they can't find insurance, and so on.

The last national medical expenditure survey was conducted in 1977—in other words, in an environment that was pre-DRG's, HMO's, PPO's, ASC's, and so on. Today, its usefulness is seriously limited and out of date, yet it continues to be the basis for most of the cost and savings estimates developed by the Congressional Budget Office and the Office of Management and Budget.

Plans for the survey have been endorsed by OMB and are contained in the President's budget justification. But the President's budget does not include sufficient funding to begin field work in fiscal year 1987.

Unless we see to it that adequate funding is available and that the survey is begun on time, we run the

risk of having to make major decisions on issues such as catastrophic coverage, long-term-care financing, and Medicare vouchers—without having reliable data with which to analyze specific proposals and to determine their likely effect on Medicare beneficiaries.

Therefore, it is essential that we begin the process of gathering this information. No new funds are provided for this survey—instead, it is mandated that the department fund the survey from its existing 1 percent setaside for evaluation projects.

By assuring that this survey is done in a timely manner, we can be certain that future policy proposals, such as Medicare and Medicaid vouchers, catastrophic health insurance, the development of more accurate Medicare payments to HMO's, and the design of reasonable deductibles and coinsurance will be based on current information, and not on 1977 pre-DRG-HMO-PPO-ASC and so forth statistics that are "trended forward."

Mr. President, I especially want to thank the senior Senator from Wisconsin [Mr. PROXMIRE], for his assistance and cooperation in developing this proposal. Senator PROXMIRE has been instruemntal in bringing to the Senate the need for beneficiary information regarding the operation of the DRG prospective payment system as well as the need for developing the type of sound health care data base envisioned by the bill we are introducing today. He has made a number of important contributions, which should not go unrecognized: He was the first Senator to introduce a proposal for a Medicare patient bill of rights, long before the Department developed their recent beneficiary fact sheet; he developed the first legislation to fund research into health care outcomes which serves as the base for our expanded proposal today; and, he has alerted all of us to the need for assuring that the national medical expenditure survey proceed on schedule. He has made substantive contributions to his effort and I deeply appreciate his efforts.

Mr. President, I believe that this bill implements several steps that must be taken immediately if we are to assure Medicare beneficiaries that the Federal Government is ready, willing, and able to monitor what is happening to the quality of medical care. I urge Members to join me in seeing it enacted this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Information Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
TITLE I—INFORMATION FOR EVALUATION OF AND MAINTENANCE OF QUALITY UNDER THE PROSPECTIVE PAYMENT SYSTEM
Sec. 101. Medicare Automated Data Retrieval System.
Sec. 102. Reporting of hospital costs.
Sec. 103. Coordination and oversight of PPS evaluation.
Sec. 104. Use of HCFA common procedure coding system.
TITLE II—RESEARCH ON OUTCOMES OF SPECIFIC MEDICAL TREATMENTS AND SURGICAL PROCEDURES
Sec. 201. Establishment of patient outcome assessment project.
TITLE III—NATIONAL MEDICAL EXPENDITURE SURVEY
Sec. 301. National medical expenditure survey.

TITLE I—INFORMATION FOR EVALUATION OF AND MAINTENANCE OF QUALITY UNDER THE PROSPECTIVE PAYMENT SYSTEM

SEC. 101. MEDICARE AUTOMATED DATA RETRIEVAL SYSTEM.

The Medicare Automated Data Retrieval System under development by the Secretary of Health and Human Services to provide integrated information on the claims of beneficiaries under parts A and B of title XVIII of the Social Security Act shall include information for all fiscal years beginning after September 30, 1979.

SEC. 102. REPORTING OF HOSPITAL COSTS.

(a) COST REPORTING REQUIRED THROUGH FISCAL YEAR 1993.—Section 1886(f)(1) of the Social Security Act (42 U.S.C. 1395ww(f)(1)) is amended by striking out "1988" and inserting in lieu thereof "1993".

(b) LIMITATION ON CHANGES.—During the period beginning with the date of the enactment of this Act and ending with the date on which the Secretary of Health and Human Services (in this section referred to as the "Secretary") submits the report required by subsection (c), the Secretary may modify the system for the reporting of hospital costs that is maintained pursuant to section 1886(f)(1) of the Social Security Act and is in effect on the date of the enactment of this Act only to the extent necessary to reflect changes in the method of payment for capital-related and other costs of subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) under title XVIII of such Act.

(c) REPORT.—

(1) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report recommending ways in which the system for reporting hospital costs that is maintained pursuant to section 1886(f)(1) of the Social Security Act may be modified in order to provide information that is appropriate for the evaluation of the prospective payment system on a timely basis.

(2) The report required by paragraph (1) shall be prepared in consultation with the Prospective Payment Assessment Commission, the Office of Technology Assessment, and representatives of appropriate academic specialties and health-care organizations.

SEC. 103. COORDINATION AND OVERSIGHT OF PPS EVALUATION.

(a) IN GENERAL.—The Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services (in this section referred to as the "Assistant Secretary" and the "Department", respectively) shall be responsible for coordinating and overseeing the activities of the Department relating to the evaluation of the prospective payment system (in this section referred to as "PPS") established under section 1886 of the Social Security Act, including evaluations of the impact of PPS on the access of medicare beneficiaries to health care and on the quality of health care provided to such beneficiaries.

(b) DUTIES.—The duties of the Assistant Secretary under this section shall include—

(1) assessing the feasibility and costs of alternative studies of PPS in relation to their importance;

(2) developing an annual PPS evaluation agenda;

(3) recommending an annual PPS evaluation budget;

(4) identifying the most appropriate organizational sponsors for specific studies;

(5) recommending the most appropriate funding mechanisms;

(6) recommending funding levels for individual studies;

(7) overseeing and coordinating access to needed data;

(8) overseeing and coordinating changes in data systems to enhance the ability to evaluate PPS;

(9) reviewing the content of specific studies for their scientific validity; and

(10) maintaining a clearinghouse for both public and private sector studies.

(c) REPORT.—The Assistant Secretary shall report to the Congress not less than once each year with respect to the activities coordinated under this section.

SEC. 104. USE OF HCFA COMMON PROCEDURE CODING SYSTEM.

(9) HOSPITALS.—Not later than July 1, 1987, each carrier with which the Secretary has entered into a contract under section 1842 of the Social Security Act, and each fiscal intermediary which processes claims under part B of title XVIII of such Act, shall require hospital providers of outpatient services to adopt and utilize the HCFA Common Procedure Coding System for purposes of such part.

TITLE II—RESEARCH ON OUTCOMES OF SPECIFIC MEDICAL TREATMENTS AND SURGICAL PROCEDURES

SEC. 201. ESTABLISHMENT OF PATIENT OUTCOME ASSESSMENT PROJECT.

(a) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 139511) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary, through the Assistant Secretary for Planning and Evaluation, shall establish a patient outcome assessment project (in this subsection referred to as the 'project') to promote research with respect to patient outcomes of selected medical treatments and surgical procedures for the purpose of assessing their appropriateness, necessity, and effectiveness. The project shall include—

"(A) reorganization of data relating to claims under parts A and B of this title in a manner that facilitates research with respect to patient outcomes,

"(B) assessments of the appropriateness of admissions and discharges,

"(C) assessments of the extent of professional uncertainty regarding efficacy,

"(D) development of improved methods for measuring quality-of-life patient outcomes,

"(E) model evaluations of patient outcomes, and

"(F) evaluation of the efforts on physicians' practice patterns of the dissemination to physicians and peer review organizations with contracts under part B of title XI of the findings of the research conducted under subparagraphs (B), (C), (D), and (E).

"(2) In selecting treatments and procedures to be studied, the Secretary shall give priority to those medical and surgical treatments and procedures—

"(A) for which data indicate a highly (or potentially highly) variable pattern of utilization among beneficiaries under this title in different geographic areas, and

"(B) which are significant (or potentially significant) for purposes of this title in terms of utilization by beneficiaries, length of hospitalization associated with the treatment procedure, costs to the program, and risk involved to the beneficiary.

"(3) For purposes of carrying out the project, there shall be available—

"(A) from the Federal Hospital Insurance Trust Fund $4,000,000 for each of fiscal years 1987, 1988, and 1989, and

"(B) from the Federal Supplementary Medical Insurance Trust Fund $3,500,000 for fiscal year 1989.

"(4) Not less than 90 percent of the amount appropriated for any fiscal year to carry out the project shall be used to fund grants to, and cooperative agreements with, non-Federal entities to conduct the activities described in paragraph (1). The remainder may be used by the Secretary to provide for such activities by Federal entities and for administrative costs.

"(5) The project shall be administered by the National Center for Health Services Research and Health Care Technology established under section 305 of the Public Health Service Act (in this subsection referred to as the 'Center'). The Center shall establish application procedures for grants and cooperative agreements, and shall establish peer review panels to review all such applications and all research findings. The Center shall consult with the council on health care technology (established under a grant under section 309 of the Public Health Service Act) in establishing the scope and priorities for the project and shall report periodically to such council on the status of the activities conducted under the project.

"(6) The Secretary shall make available data derived from the programs under this title and other programs administered by the Secretary for use in the project.

"(7) The Center shall report to the Congress not later than 18 months after the date of the enactment of this Act, and annually thereafter, with respect to the findings under the project. In cooperation with appropriate medical specialty groups, the Center shall disseminate such findings as widely as possible, including disseminating such findings to each peer review organization which has a contract under part B of title XI.".

(b) PERMITTING SERVICES TO BE PROVIDED UNDER RESEARCH PROGRAM.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the semicolon at the end of subparagraph (D) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(E) in the case of research conducted pursuant to section 1875(c), which is not reasonable and necessary to carry out the purposes of the section;".

TITLE III—NATIONAL MEDICAL EXPENDITURE SURVEY.

SEC. 301. NATIONAL MEDICAL EXPENDITURE SURVEY.

Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"NATIONAL MEDICAL EXPENDITURE SURVEY

"SEC. 1138. (a) Commencing in fiscal year 1987, and commencing every tenth fiscal year thereafter, the Secretary, through the National Center for Health Services Research and Health Care Technology Assessment, shall conduct a survey to evaluate the impact, during the ten-fiscal-year period immediately preceding the fiscal year in which the survey is commenced, of expenditures for health care under programs carried out by the Health Care Financing Administration and other entities of the Department of Health and Human Services on the costs, financing, and utilization of health care services in the United States. The survey shall include information on such impact for all groups within the United States population, including individuals receiving long-term care services.

"(b)(1) To carry out this section, there shall be made available—

"(A) for fiscal year 1987, $16,000,000,

"(B) for fiscal year 1988, $12,000,000, and

"(C) for fiscal year 1989, $6,000,000,

from amounts available for such fiscal year under section 2113 of the Public Health Service Act.

"(2) The provisions of paragraph (1) shall not be construed as reducing or affecting any amount required, under any other provision of the Public Health Service Act, to be made available for any fiscal year from amounts available for such fiscal year under section 2113 of such Act.".●

● Mr. HEINZ. Mr. President, I am pleased to join Senator DURENBERGER today in introducing the Medicare Information Act of 1986. This bill is designed to improve the scope of information available to policy makers on the medical and economic factors affecting Medicare.

On April 17, I, along with Senator DURENBERGER and a number of other Senators, introduced S. 2331, the Medicare Quality Protection Act. This bill responds to the many problems with quality of care that are developing under PPS by refining the DRG's, improving patients' rights and information about PPS, improving quality assurance in hospital and post-hospital settings, and ensuring greater access to post-hospital care. The Medicare Information Act complements S. 2331 by addressing three major gaps in our knowledge about health care delivery to Medicare's 31 million beneficiaries:

First, the effects of the prospective payment system [DRUG's] on quality and access to care; second, the variations in medical practice and their implications for health outcomes, such as mortality, morbidity and quality of life; and third, expenditures on health care by beneficiaries and their effects on such outcomes as access to care, utilization of services and health care status. The Medicare Information Act requires that the Department of Health and Human Services [DHHS] make specific improvements in the collection, analysis and timely dissemination of data on these issues and that certain studies be conducted to plug the major holes in our knowledge of what is happening under the Medicare Program. These bills together should provide a firmer foundation upon which we can base reforms of the Medicare Program.

WHY IS THE MEDICARE INFORMATION ACT NECESSARY?

On June 3, 1986, the Senate Finance Committee held a hearing on quality of care under Medicare's prospective payment system. The committee heard from a most distinguished set of health care researchers as well as from experts from the General Accounting Office, the Prospective Payment Assessment Commission and the Office of Technology Assessment. The witnesses were unanimous in concluding that we have almost no systematic information on the effects of prospective payment on quality of care or on beneficiaries' access to care. Even information on the effects of PPS on Medicare financing and expenditures—inherently easier to measure than quality and access—is woefully inadequate.

For a program affecting 31 million beneficiaries and costing more than $75 billion in 1986, we in the Congress and the administration are operating under a veil of ignorance about the most important effects on those whom Medicare serves: the quality of the care it delivers; the availability of that care; and the appropriateness of where that care is delivered.

This finding followed on the heels of the Senate Aging Committee's 16-month investigation into quality of care under Medicare's PPS. From this investigation, we learned that DRG's are driving patients out of hospitals quicker and sicker than under the prior system of reimbursement. In addition, we learned that post hospital services feel the strain of patients needing greater levels of care. Nonetheless, when it comes to quantifying access, cost and quality, we learned that we are lacking the necessary numbers and analysis. This lack of information was systematically documented by both the Office of Technology Assessment and the General Accounting Office in reports prepared at my request as chairman of the Senate Special Committee on Aging.

The most troubling aspect of the OTA and GAO findings is that throughout the Senate Aging Committee's investigation, HCFA was telling Medicare beneficiaries and the Congress that everything was fine, that Medicare's new payment system was having no adverse effects on quality and access to care. As both GAO and

OTA have established however, HCFA does not have the information to conclude anything about the effects of PPS. For the most basic of questions that we are asking about the quality of care available to Medicare's 31 million beneficiaries, we have no definitive answers: we do not know, for example, whether the several thousand cases of premature discharge identified by Inspector General Kusserow represent "the tip of the iceberg, or an ice cube floating on the surface of the Ocean;" we do not know whether Medicare patients who have multiple ailments and are thus likely to be "DRG losers" for hospitals are being admitted or turned away from hospital doors; we do not know whether the quality of services within the hospital has improved or deteriorated under PPS. In short, we are operating without the information necessary to assess what is happening.

Faced with mounting evidence of deteriorating quality of care under Medicare, we cannot be sure whether these problems are attributable to PPS or other changes in the Medicare Program and our health care system as a whole. Without that information, we have no way of determining what would happen under a variety of possible Medicare changes, such as placing outpatient services under DRG's, or going to prospective payment for skilled nursing and home health care. As policymakers, we are seriously hampered in our ability to make changes that will produce predictable outcomes. We are operating in the dark, at peril of pulling the wrong strings.

The June 3 Finance Committee hearing also underscored the need for intensified Federal research efforts on the effects of medical practice variations on health care outcomes, including morbidity, mortality, and the quality of life. Medicine is a very subjective profession, which cannot be reduced to cookbook certainty. Research has documented that medical services provided for a given health status vary very widely from place to place. For example, the probability that a woman will undergo a hysterectomy before she reaches age 75 varies from less than 15 percent to well over 60 percent depending solely on what part of the country she lives in. Similarly, the chances that a man will have a prostatectomy by age 75 vary from a low of about 15 percent to well over 50 percent in different hospital market areas. What we do not know is how such practice variations affect health care outcomes. Nor do we have a very good handle on how to measure such outcomes as quality of life.

These limitations in our ability to determine what is good medical care are also addressed by the Medicare Information Act. Under this bill, the Secretary of HHS will be required to establish a comprehensive program to provide for an assessment of the appropriateness—based on both medical and social criteria—of hospital admissions and discharges for selected medical conditions experienced by Medicare patients. The Secretary will be required to give priority to those medical and surgical treatments and procedures for which existing data indicate a highly variable pattern of utilization by beneficiaries and which are significant to the Medicare Program in terms of utilization, length of hospitalization, costs to the program and related factors.

Finally, the Medicare Information Act requires that HHS conduct a nationwide medical expenditure survey at least once a decade, beginning in fiscal year 1987. The last such survey was completed in 1977, and the data have had to be trended forward to provide necessary information for basic policy decisions about Medicare and other Federal health care programs. Our legislation will provide for a much more solid statistical data base for the study of Federal health policy and the development of new reforms.

This is a technical yet very necessary initiative, Mr. President. I urge my colleagues to join us in cosponsoring this legislation.●

● Mr. PROXMIRE. Mr. President, the legislation which we are introducing today—the Medicare Information Act—is an important step forward in assuring that Congress has the necessary information on which to base health policy decisions for the decade ahead.

The Medicare Information Act will help in three important ways.

First, this legislation will set in place information systems that will enable us to evaluate not only the cost, but the quality of care, implications of the DRG prospective payment system.

Second, this bill will authorize research into the health care outcomes of medical procedures commonly used by Medicare beneficiaries, thereby providing new and important information regarding the bottom line of medical care: how well it works. This title of the bill builds upon legislation I introduced several months ago—S. 2114—and will require the Department of Health and Human Services to establish an ongoing look at those factors affecting quality of patient care.

And, finally, title III of the bill recognizes the need for updating our national data base on the cost of health care and the impact of Federal health policy. That data base has not been updated since 1977 despite the tremedous changes that have taken place in the delivery and financing of health care in both the public and private sectors of our economy. This title fully incorporates my bill—S. 2167—which assures that the new nationwide survey, known as the National Medical Expenditure Survey, will proceed in fiscal year 1987 as originally scheduled.

REFOCUSING MEDICARE'S PRIORITIES

Mr. President, in the last decade the health care delivery system in this country has turned upside down.

There has been a dramatic change in the private sector. Beginning with the trend toward self-insurance by major employers in the late seventies, the key development has been the emergence of price competition in a field where discussions of cost were once considered undignified. A whole new array of organizational structures have come into being, such as preferred provider organizations [PPO's], older structures have taken off, such as the whopping 20-percent-plus growth in HMO enrollment for the last few years, and the site of delivery of health care has strikingly shifted from the hospital to ambulatory surgical centers, to walk-in medical centers in shopping malls and even to the home.

Medicare has mirrored these developments and trends. In the eighties Medicare has pursued two major policies.

The first has been the move away from cost-based reimbursement for inpatient hospital care and the establishment of a prospective payment system, setting a price list in advance, for payment of patient care, based upon the diagnosis of the patient.

The second, which is still in its first year of implementation, is the certification of health maintenance organizations [HMO's] for enrollment of Medicare beneficiaries.

Both of these initiatives, while conceptually different, share certain common features. They both:

Set the amount of payment in advance of the provision of service, thereby, sharing the financial risk of high-cost treatments with the health care provider.

Cluster services for the payment of treatment, lessening the cost inflation of the old system where every aspirin could be billed separately.

Encourage managerial and clinical efficiency in the use of expensive, and often scarce, medical resources.

This has been a welcome change in incentives and the hospital industry, in particular, has responded to the challenges of the prospective payment system with uncharacteristic vigor.

But the dimensions of the response to the DRG payment system have been a mixed blessing. Our intention was to wring the fat out of the system and provide incentives for efficiency. That seems to be working well.

Yet there are continuing and disturbing reports of Medicare beneficiaries being discharged prematurely. Other beneficiaries find that, even when discharged appropriately, Medi-

care's posthospital benefit structure—home health care and skilled nursing facility care—has not been redesigned to meet the new continuity of care needs they face.

And against the background of these complaints is the certain knowledge that incentives for efficiency can all too quickly become incentives for underservice and that the drive for cost containment can all too rapidly erode both quality of care and access for the sickest of Medicare beneficiaries and those with chronic, and expensive, continuing care needs.

This is particularly alarming for the Medicare population, whose members are often fragile and extremely vulnerable in their later years. They cannot simply be left to fend for themselves as some would have them do. The Federal Government has an obligation to them not only to pay for the Medicare benefit package but to actively assist them in securing access to care and assuring the quality of that care.

And the need to refocus Medicare's priorities—to quality of care and access—as well as cost containment is the motivating force behind this bill.

WHAT NEEDS TO BE DONE?

Mr. President, part of the over-reaction to the DRG system by the health care system has been based upon a misunderstanding, by beneficiaries and hospital personnel alike, of the nature of the system. That is why I introduced legislation, on Medicare's 20th anniversary last year, to establish a Medicare patient bill of rights, which has subsequently been adopted by Medicare and distributed to our Nation's hospitals. This type of consumer information is crucial and the Department needs to be more active in educating beneficiaries regarding the DRG system. But consumer information is not the entire answer and the Medicare Information Act proposes three important steps.

First, the Congress needs to follow the recommendations of the Office of Technology Assessment and the General Accounting Office, embodied in title I of our bill, to establish the data systems that will enable us to evaluate any perceived changes in quality of care. For example, to what extent are changes in quality of care reflective of inadequate inpatient care or the failure of the posthospital care system—once the patient is out the door—to meet their continuing needs?

We also need to continue to require hospital cost reports for the near future not only to determine whether hospitals are profiting under the DRG system but also to provide us with an ability to document those classes of hospitals—for example, teaching institutions, small hospitals or rural hospitals, disproportionate share hospitals—which might be unduly disadvantaged under the current DRG payment configuration and pinpoint future modifications in DRG payments.

While we do not want to protect hospitals from the possibility of losses, it is clear that the payment structure must be reasonable if we are to keep the incentives of the system in balance.

Second, as I pointed out in my statement of February 27, 1986, introducing S. 2114, Dr. Jack Wennberg of Dartmouth University has documented tremendous variations, across the country, and between individual communities just a few miles apart, in the rates at which certain medical procedures are performed.

While part of that variation may reflect differences in age, sex, severity of illness, patient or physician preferences, the differences are so significant that they are highly disturbing. They represent very different commitments of expensive, and often scarce, medical resources, yet we have little information on whether there is any real difference for the patient, which is the bottom line. Are health outcomes better in areas with higher rates of hysterectomies or prostatectomies? Do patients live longer, have fewer complications, fewer days of disability, a higher quality of life? The answer is that we simply do not know. And we need to find out both to assure quality of care for Medicare beneficiaries and to assure the integrity of the Medicare trust fund.

Title II of our bill builds upon my legislation, S. 2114, and directs the Department to establish a patient outcome assessment project at the level of the Assistant Secretary for Planning and Evaluation as well as directing the National Center for Health Services Research to fund individual projects in this area.

Third, the Medicare Information Act incorporates, in its entirety, my bill—S. 2167—which I introduced on March 10 of this year. Contained in title III of the bill we are introducing today, these provisions require the Department to conduct, at least once a decade, beginning in fiscal year 1987, a nationwide survey of health care costs and expenditures.

This data provides the basis for all cost estimates of the Congressional Budget Office and the Office of Management and Budget. Currently, they are relying upon data from the last survey, conducted in 1977, which they attempt to trend forward to reflect health care costs today.

But in attempting to model the costs of a catastrophic care program, which are very dependent upon the number of individuals currently ensured against catastrophic costs or the degree of their coverage, it is difficult to use decade-old data trended forward.

There are a host of issues for which this survey will be invaluable and I urge those interested in the survey's potential importance to health policy decisionmaking to review my introductory statement accompanying S. 2167 on March 10. As part of that statement I included the research plan for the National Medical Expenditure Survey which pinpoints its policy applications.

CONCLUSION

Mr. President, taken together, these three initiatives will enable us to address the important questions of quality of care and access raised by the DRG prospective payment system, better assess the effectiveness of alternative medical procedures that are used by Medicare beneficiaries and improve our ability to predict the costs, the savings and the cost-shifting implications of Federal cost containment policies of the nineties.●

ADDITIONAL COSPONSORS

S. 519

At the request of Mr. EVANS, the name of the Senator from Missouri [Mr. EAGLETON] was added as a cosponsor of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1917

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 2050

At the request of Mr. METZENBAUM, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2050, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

S. 2103

At the request of Mr. MCCLURE, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2103, a bill to clarify the application of the Clayton Act with respect to rates, charges, or premiums filed with State insurance departments or agencies.

S. 2282

At the request of Mrs. HAWKINS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2282, a bill to establish a national advanced technician training program utilizing the Nation's eligible colleges to expand and improve the supply of technicians required by industry and national security in strategic, advanced, and emerging technology in order to increase the productivi-

ty of the Nation's industries, to contribute to the self-sufficiency of the United States in emerging technology, and to improve the competitiveness of the United States in international trade, and for other purposes.

S. 2533

At the request of Mr. DIXON, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2533, a bill to amend the Food Stamp Act of 1977 and the Temporary Emergency Food Assistance Act of 1983 to alleviate hunger among the homeless by improving certain nutrition programs and for other purposes.

SENATE JOINT RESOLUTION 314

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 314, a joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

SENATE JOINT RESOLUTION 355

At the request of Mr. LONG, the names of the Senator from Kansas [Mr. DOLE], the Senator from Rhode Island [Mr. PELL], the Senator from Idaho [Mr. MCCLURE], the Senator from Michigan [Mr. RIEGLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from South Dakota [Mr. ABDNOR], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. STENNIS], the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. STEVENS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 355, a joint resolution to designate August 1986 as "Cajun Music Month."

SENATE JOINT RESOLUTION 356

At the request of Mr. MATHIAS, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Virginia [Mr. WARNER], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 356, a joint resolution to recognize and support the efforts of the U.S. Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy.

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. MATTINGLY, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Services to develop a plan outlining the steps which might be taken to correct the social security benefit disparity known as the notch problem .

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 2077

At the request of Mr. KASTEN, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Amendment No. 2077 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

SENATE CONCURRENT RESOLUTION 148—SENSE OF THE CONGRESS CONCERNING THE NUCLEAR DISASTER AT CHERNOBYL

Mr. SYMMS (for himself, Mr. ZORINSKY, Mr. DENTON, Mr. DANFORTH, Mr. GRAMM, Mr. ABDNOR, Mr. SIMPSON, Mr. MCCLURE, Mr. LAXALT, and Mr. HECHT) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 148

Whereas the nuclear plant explosion at Chernobyl in the Soviet Union may have resulted in radiation contamination of food and livestock in many areas of the Soviet Union and Europe;

Whereas the United States in the past has provided assistance to countries that have experienced natural or manmade disasters;

Whereas the people of the affected countries who have suffered the loss of livestock and crops as the result of the disaster at Chernobyl require a safe and adequate food supply in order to live and maintain human dignity;

Whereas the United States has at its disposal the means to provide food assistance to those people; and

Whereas the Secretary of Agriculture is vested with a number of authorities to promote and assist the commercial sale of live dairy cows and dairy beef products to foreign countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) dairy cattle designated to be slaughtered under the so-called Whole Herd Dairy Buyout program of the Department of Agriculture, instead of being slaughtered, should be supplied to the people of the affected countries to replace stocks of dairy cattle contaminated as the result of the disaster at Chernobyl through commercial sales and under such programs as are available to the Secretary of Agriculture;

(2) any Commodity Credit Corporation feed grain stocks required to feed dairy cattle supplied to the affected countries should be made available to such countries through commercial sales and under such programs as are available to the Secretary of Agriculture; and

(3) any beef generated from the slaughter of cattle under the so-called Whole Herd Dairy Buyout program should be made available to such countries through commercial sales and under such programs as are available to the Secretary of Agriculture.

● Mr. SYMMS. Mr. President, I send to the desk a concurrent resolution encouraging the Secretary of Agriculture to use beef and live dairy cows made available from the Dairy Buyout Program to meet the demand for such commodities caused by the Chernobyl nuclear disaster in the Soviet Union.

America's beef industry is in dire straits. Floods of cheap imported meat, expensive farm credit, poor land management policies (on government grazing lands) and already low prices have over the last few years left cattlemen grasping for survival. the Whole-Herd Dairy Buyout Program recently enacted by this Congress is the final blow, threatening to cripple America's domestic beef industry for years to come. Millions of pounds of red meat have been dumped on the market by the slaughter of dairy cows under this program.

The least Congress and this Nation owes cattlemen is to find a market for this surplus. This resolution recognizes the demand for beef and dairy products that was created by the Chernobyl disaster, and that the Secretary of Agriculture has authority to direct some of America's surplus in these commodities toward meeting that demand.

I'd like to thank the Senate leadership, on the majority and minority sides, and the good leadership of the Senate Agriculture Committee for their assistance in developing the legislation.●

● Mr. HELMS. Mr. President, this concurrent resolution aims at solving two problems in one stroke. On one hand, it seeks to provide assistance to persons whose food supply has been affected by the Chernobyl nulcear accident. On the other, it aims to reduce the burden placed upon cattle markets by the Dairy Termination Program.

I am all in favor of the approach embodied in this resolution. However, I do have some concerns.

Under current USDA export sales promotion programs, there is no use of direct subsidies for the Soviet Union. This is wise policy, for I do not believe the American people would stand for the use of their tax dollars to subsidize the Kremlin and its operations.

In addition, I can understand why we might want to provide food to those affected within the Soviet Union by the Chernobyl accident. However, there is no guarantee that if we were to provide food to the Soviet Government, it would be used to assist those affected by the accident. Rather, it is probably just as likely that the food

will be used to feed the Soviet occupation troops in Afghanistan.

In light of these concerns, I would hope that this concurrent resolution would not be construed as supporting the use of export subsidies for the Soviet Union.

What are the intentions of the Senator from Idaho, Senator SYMMS, in this regard?

Mr. SYMMS. Mr. President, for the RECORD, I would like to make clear that this concurrent resolution does not address the issue of export subsidies for the Soviet Union, nor seek to change the current policy of making such subsidies available to the Soviets.

Mr. HELMS. I thank the Senator for his clarification of the intent behind this concurrent resolution.●

SENATE RESOLUTION 427—RECOGNIZING JUNE 13, 1986, AS NEW MEXICO IS A STATE DAY

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 427

Whereas New Mexico was admitted to the Union on January 6, 1912;

Whereas New Mexico is the site of the most diverse and extensive remains of ancient American cultures;

Whereas New Mexico is the home of the oldest European settlements in the Union;

Whereas three unique and independent cultures thrive together within the borders of New Mexico, exemplifying the essence of our Union;

Whereas New Mexico has the largest proportion of Native Americans of any state in the Union;

Whereas New Mexico is the home of many natural wonders, closely identified with our Union's heritage, such as the Carlsbad Caverns, White Sands of Alamogordo and the lava flows of El Malpais;

Whereas New Mexico is the home of numerous man-made wonders closely identified with the Union, such as the ancient ruins of Chaco Canyon, Bandelier National Park, Gila cliff dwellings, the Pueblos of the Rio Grande Valley, and the Santa Fe Trail;

Whereas New Mexico is the home of such uniquely American events as the Hot Air Balloon Fiesta and the landing of the Space Shuttle Columbia;

Whereas New Mexico has contributed such diverse American personalities to our Union's heritage as Kit Carson, Billy the Kid, Smokey the Bear, the first men to cross the Atlantic Ocean in a balloon—Ben Abruzzo, Maxie Anderson, and Larry Newman, the world renowned artist Georgia O'Keefe, former astronaut Harrison "Jack" Schmitt, and hotel magnate Conrad Hilton;

Whereas New Mexico has made extraordinary contributions to the defense of the Union in the past, including the diligent work of our citizens to the Manhattan Project, the unrivaled talents of the Navajo code-talkers in World War II, and the brave lives lost at the Bataan Death March in World War II;

Whereas New Mexico stands in the forefront of our nation's defense today through the efforts of its citizens at Los Alamos National Laboratories, White Sands Missile Range, Sandia National Laboratories, Holloman Air Force Base, Cannon Air Force Base, and Kirtland Air Force Base: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, that June 13, 1986 is recognized and acknowledged as "New Mexico is a State Day," and;

Resolved further, that the Secretary of the Treasury and the Secretary of State each be sent a copy of this resolution.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

HAWKINS (AND DECONCINI AMENDMENT NO. 2078)

(Ordered to lie on the table.)

Mrs. HAWKINS (for herself and Mr. DECONCINI) submitted an amendment intended to be proposed by them to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 1744, between lines 5 and 6, insert the following new section:

SEC. . SENSE OF THE SENATE RELATING TO RESIDENTIAL SOLAR ENERGY TAX INCENTIVES.

(a) FINDINGS.—The Senate finds that—

(1) the development of a domestic solar energy industry is an important factor in the nation's future energy security,

(2) the United States must maintain its preeminent position in the commercial development and sales of solar thermal and electric technologies,

(3) more than 25,000 people nationwide have lost their jobs and over 80 percent of the solar manufacturers have closed down due to the precipitous expiration of the solar energy residential and commercial tax credits,

(4) over 80 percent of solar sales have been in the residential sector which has immediate impact on the personal energy security of the American public,

(5) all of the conventional forms of energy receive and have retained tax incentives in the tax deliberations in the House and Senate,

(6) the United States solar industry is one of the first industries to embrace tax reform and to ask for an orderly phaseout of tax incentives, and

(7) the United States must not permit the continued collapse of the solar industry due to tax inequities.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate conferees, if appropriate, support an orderly three-year phaseout of the residential solar energy tax incentives.

METZENBAUM AMENDMENT NO. 2079

Mr. METZENBAUM proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1808, strike out line 15, and insert in lieu thereof "subparagraph (C) or (D):"

On page 1808, beginning with line 16, strike out all through page 1810, line 13, and redesignate accordingly.

Insert at the appropriate place:

The Secretary of Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised under this amendment as determined by the Joint Committee on Taxation.

WILSON (AND OTHERS) AMENDMENT NO. 2080

(Ordered to lie on the table.)

Mr. WILSON (for himself, Mrs. HAWKINS and Mr. MATHIAS) submitted an amendment intended to be proposed by Mr. WILSON to the bill H.R. 3838, supra; as follows:

At the appropriate place in the amendment, add the following new title and amend the Table of Contents appropriately:

"TITLE —UNITARY TAX REPEALER

"SEC. 01. This title may be cited as the 'Unitary Tax Repealer Act of 1986'.

"SEC. 02. Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7518. STATE TAXATION OF FOREIGN INCOME.

"(a) STATE USE OF WORLDWIDE UNITARY METHOD PROHIBITED.—No State shall impose income tax on any taxpayer on a worldwide unitary basis, unless:

"(1) the taxpayer materially fails to comply with the requirements of section 6039A or with the legal or procedural requirements of the income tax laws of such State; or

"(2) neither the taxpayer nor the government of the relevant foreign country provides to such State, within a reasonable period after proper request, material information relating to the determination of the income of the taxpayer on transactions between the taxpayer (or any related corporation described in section (c)(2)) and any corporation not described in section (c)(2) which is a member of the same controlled group of corporations as the taxpayer.

Notwithstanding the foregoing, this subsection shall not preclude any State from permitting a taxpayer to be taxed on a worldwide unitary basis pursuant to an unconditional election by such taxpayer.

"(b) STATE TAXATION OF FOREIGN-SOURCE DIVIDENDS.—No State shall require the inclusion in the income base upon which State income tax of a corporation is calculated of more than an equitable portion of any dividend received from another corporation, other than a corporation described in section (c)(2) (A) through (E). For purposes of this subsection (b), a State shall not be considered to include in the income base more than an equitable portion of dividends described in the preceding sentence if it—

"(1) excludes from the income base at least 85 percent of such dividends;

"(2) excludes from the income base the portion of the dividend that effectively bears no Federal income tax after application of the foreign tax credit; or

"(3) adopts a method of taxation that, considering all the facts and circumstances, results in an equitable apportionment of the dividend to the State substantially similar to (1) or (2), pursuant to regulations to be promulgated by the Secretary.

This subsection shall not apply to any tax imposed on a dividend by the State of commercial or legal domicile of the recipient. This subsection shall not be construed to permit State taxation of any dividend not

subject to State taxation prior to enactment of this section.

"(c) DEFINITIONS.—

"(1) INCOME TAX.—For purposes of this section, the term 'income tax' shall include any State franchise or other tax which is imposed upon or measured by the income of the taxpayer.

"(2) WORLDWIDE UNITARY BASIS.—For purposes of this section, the term 'worldwide unitary basis' means that in computing its State income tax liability a corporation includes in the income base on which the tax is calculated any share of the income of any corporation other than a corporation that is a member of the same controlled group of corporations and is:

"(A) a domestic corporation (including a corporation that has made an effective election under section 936);

"(B) a corporation described in section 922;

"(C) a corporation organized in the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands;

"(D) any foreign corporation if (i) such corporation is subject to State income tax in at least one State by virtue of its business activities in that State, and (ii)(A) such corporation has, assignable to 1 or more locations in the United States, at least $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of at least $10,000,000 to or from unrelated parties during its most recent Federal taxable year, or property (other than stock or securities of a corporation) with an aggregate original cost of at least $10,000,000, or (B) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments made for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to 1 or more locations in the United States is at least 20 percent; or

"(E) any foreign corporation described in subsection (c)(3).

"(3) CERTAIN FOREIGN CORPORATIONS.—A foreign corporation is described in this subparagraph if such corporation—

"(A) is a member of a controlled group of corporations that includes at least one reporting corporation (within the meaning of section 6039A but determined without reference to this paragraph);

"(B) either carries on no substantial economic activity or makes at least

"(i) 50 percent of its sales,

"(ii) 50 percent of its payments for expenses other than payments for intangible property, or

"(iii) 80 percent of all of its payments for expenses,

to one or more corporations that are described in subparagraph (A) through (D) of paragraph (2) and that are within the controlled group of corporations referred to in subparagraph (A) of this paragraph; and

"(C) under standards established in regulations to be prescribed by the Secretary, is not subject to substantial foreign tax on its net income.

"(4) CERTAIN DOMESTIC CORPORATIONS TREATED AS FOREIGN CORPORATIONS.—For purposes of paragraphs (2) and (3), a domestic corporation shall be treated as a foreign corporation if (i) such corporation has, assignable to 1 or more locations in the United States, less than $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of less than $10,000,000 to or from unrelated parties during its most recent Federal taxable year, and property (other than stock or securities of a corporation) with an aggregate original cost of less than $10,000,000, and (ii) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to one or more locations in the United States is less than 20 percent.

"(5) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' has the same meaning as in section 6039A(c)(4).

"(6) CERTAIN BANK BRANCHES.—For purposes of this section, a domestic branch of a foreign corporation shall be treated as a separate corporation that is incorporated in the United States if such branch is engaged in the commercial banking business. For purposes of the preceding sentence, a branch is engaged in the commercial banking business if (i) the predominant part of its business consists of receiving deposits or making loans and discounts, and (ii) it is subject to supervision and examination by State or Federal authorities having supervision over banking institutions. The Secretary may issue regulations providing that for purposes of this section domestic branches of foreign corporations in other specified industries shall be treated as separate corporations incorporated in the United States.".

"SEC. 03. Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns) is amended by adding immediately after section 6039 the following section:

"SEC. 6039A. INFORMATION WITH RESPECT TO CERTAIN MULTISTATE AND MULTINATIONAL CORPORATIONS.

"(a) GENERAL RULE.—A reporting corporation shall file, within 180 days of the due date (including extensions thereof) of its Federal income tax return for the taxable year, a return disclosing information relating to its State income tax returns for State taxable years ending with or within the taxable year of such corporation for Federal income tax purposes. Such return shall include the reporting corporation's income tax liability to each State in which it is liable to pay income tax, its income subject to tax in each State, the method of calculation by which the reporting corporation computed and allocated its income subject to tax by each State, each corporation in which the reporting corporation, or any corporation owning 50 percent or more of the outstanding voting stock of the reporting corporation, owns, directly or indirectly, at any time during the reporting corporation's taxable year, more than 20 percent of the combined voting power of all classes of stock entitled to vote and which, during the reporting corporation's taxable year, has engaged in transactions with the reporting corporation and its includible corporations aggregating $1,000,000 or more, and such other related information as the Secretary may by regulation prescribe.

"(b) REPORTING BY RELATED CORPORATIONS.—

"(1) REPORTING BY COMMON PARENT OF AFFILIATED GROUP.—If a reporting corporation is a common parent of an affiliated group of corporations, in filing the return required by subsection (a) it shall include the information described in subsection (a) with respect to each includible corporation in such affiliated group. Such information shall be filed for the State taxable year of each includible corporation ending with or within the common parent corporation's taxable year for Federal income tax purposes.

"(2) REPORTING ON BEHALF OF OTHER RELATED CORPORATIONS.—If a reporting corporation is a member of a controlled group of corporations that includes a foreign corporation that is described in section 7518(c)(3) but is not required to file a Federal income tax return, then such foreign corporation shall, for purposes of paragraph (1), be considered to be a member of an affiliated group, of which such reporting corporation is the common parent. The preceding sentence shall not apply if the foreign corporation and such reporting corporation are included in a return filed on behalf of an affiliated group pursuant to paragraph (1).

"(c) DEFINITIONS.—

"(1) REPORTING CORPORATION.

"(A) IN GENERAL.—For purposes of this section, the term 'reporting corporation' means a corporation that is required to file a Federal income tax return for the taxable year, and that—

"(i) makes aggregate payments of at least $10,000,000 as compensation for services rendered outside the United States during the taxable year;

"(ii) owns assets situated outside the United States with an aggregate original cost of at least $10,000,000;

"(iii) has gross sales occurring outside the United States of at least $10,000,000 during the taxable year; or

"(iv) is subject to tax in at least 2 States, and owns total assets with an aggregate original cost of at least $250,000,000, at least $10,000,000 of which are located in the United States.

The Secretary shall have authority at any time to increase any dollar threshold set forth in this paragraph. The allocation of compensation payments, property, or sales to or among foreign countries shall be determined under regulations prescribed by the Secretary.

"(B) APPLICATION OF DEFINITION TO RELATED CORPORATIONS.—For purposes of applying subparagraph (A) to related corporations—

"(i) compensation paid by, property owned by, or sales made by members of an affiliated group of corporations shall be treated as if paid, owned, or made directly by the common parent corporation; and

"(ii) compensation paid by, property owned by, or sales made by members of a controlled group of corporations that are not members of the same affiliated group of corporations shall be consolidated and attributed to each member of such controlled group that is required to file a Federal income tax return.

"(2) AFFILIATED GROUP.—For purposes of this section, the term 'affiliated group' means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is required to file a Federal income tax return for the taxable year if (A) stock possessing more than 50 percent of the combined voting power of all classes of stock entitled to vote of each of the includible corporations (except the common parent corporation) is owned directly or indirectly by one or more of the other includible corporations within the affiliated group; and (B) the common parent corporation owns directly stock possessing more than 50 percent of the voting power of all classes of stock enti-

tled to vote of at least one of the other includible corporations.

"(3) INCLUDIBLE CORPORATION.—For purposes of this section, with respect to any taxable year, the term 'includible corporation' means—

"(A) any domestic corporation, other than a corporation exempt from tax under section 501,

"(B) any corporation incorporated in the Commonwealth of Puerto Rico, Guam, American Samoa or the United States Virgin Islands,

"(C) any corporation defined in section 922,

"(D) any foreign corporation that is required to file a Federal income tax return with respect to such taxable year, or

"(E) any other foreign corporation that is described in section 7518(c)(3).

"(4) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' has the meaning given to such term by section 267(f)(1), except that the determination shall be made without regard to section 1563(b)(2)(C).

"(5) CERTAIN BRANCHES TREATED AS SEPARATE CORPORATIONS.—For purposes of this section, a branch described in section 7518(c)(6) shall be treated as a separate corporation that is incorporated in the United States.

"(d) STATUS OF RETURN.—If the information return filed pursuant to subsection (a), or any information reflected on such return, is disclosed or made available to a State tax agency (as defined in section 6103(d)(4)(C)), or to any common agency (as defined in section 6103(d)(4)(A)) in which a State participates, the return may thereupon be treated, if and to the extent provided by the laws of such State, as if originally filed with such State for purposes of the imposition of civil or criminal penalties under the laws of such State for negligence, fraud, or a material understatement of income or of tax liability. Except as provided by the laws of the applicable State, treatment of the information return as a State return shall not extend or otherwise affect any State statute of limitations.

"(e) DOLLAR PENALTY FOR FAILURE TO COMPLY.—

"(1) IN GENERAL.—If with respect to any taxable year a reporting corporation fails to comply substantially with the requirement of subsection (a) on or before the due date specified in subsection (a), such corporation shall pay a penalty of $1,000.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the date on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the penalty imposed by paragraph (1) or by any applicable State law) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in penalty under this paragraph shall not exceed $24,000.

"(3) IMPOSITION OF PENALTIES UNDER STATE LAW.—Nothing in this subsection shall preclude any State from imposing any fines or penalties for negligence, fraud, or understatement of income or of tax liability in accordance with the laws of that State.".

"SEC. 04. Section 6103 of the Internal Revenue Code of 1954 (relating to confidentiality and disclosure of returns and return information) is amended—

(1) by revising subsection (d) to read as follows:

"(d) DISCLOSURE TO STATE OFFICIALS, ETC.—

"(1) IN GENERAL.—Upon compliance with the procedures and requirements of paragraph 2, returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 45, 51, and 52 and subchapter D of chapter 36, returns described in section 6039A, and return information obtained by the Internal Revenue Service from any foreign government, or agency or department thereof, under the exchange of information provisions of any income tax treaty, estate and gift tax treaty or agreement described in section 274(h)(6)(C), to which the United States is a party, shall be open to inspection by, or disclosure to, any State tax agency for the purposes of, and only to the extent necessary in, the administration of the tax laws of a State, including any procedures with respect to locating any person who may be entitled to a refund. Notwithstanding the preceding sentence, return information obtained under treaties or section 274(h)(6)(C) agreements shall be open to examination or disclosure only to the extent such examination or disclosure is permitted by, and shall be subject to any limitation imposed by, the relevant treaty or agreement. Returns and return information described in this paragraph (1) relating to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation shall also be open to inspection by or disclosure to any common agency.

"(2) PROCEDURES AND RESTRICTIONS.—

"(A) PERSONS TO WHOM INFORMATION MAY BE DISCLOSED.—Except as the Secretary shall prescribe by regulation, inspection shall be permitted, or disclosure made, under paragraph (1) only upon written request by the head of the State tax agency or common agency, and only to the representatives of such agency designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency. Such representatives shall not include any individual who is the chief executive officer of a State or who is neither an employee or legal representative of such agency nor a person described in subsection (n). Returns and return information shall not be disclosed under paragraph (1) to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(B) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATING TO SECTION 6039A REPORTING CORPORATIONS BY STATE TAX AGENCIES, AND COMMON AGENCIES.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (1) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation, may disclose such returns and return information to a State tax agency of any other State, provided the State tax agency of such other State has entered into an applicabie nondisclosure agreement with the Secretary that satisfies the requirement of paragraph (2)(C).

"(C) NONDISCLOSURE AGREEMENT.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (1) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation shall be required to execute a nondisclosure agreement with the Secretary prohibiting the disclosure of such returns or return information or of any data, information or conclusion extracted from or based upon such returns or return information except for the purposes of and under the conditions provided in this section. The required nondisclosure agreement shall contain such terms and conditions as the Secretary shall prescribe.

"(3) DISCLOSURE TO STATE AUDIT AGENCIES.—Returns or return information described in paragraph (1) obtained by any State tax agency may be open to inspection by, or disclosure to, officers and employees of a State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State tax agency. Notwithstanding the preceding sentence, return information obtained under a treaty or section 274(h)(6)(C) agreement shall not be open to inspection by or disclosure to any State audit agency.

"(4) DEFINITIONS.—

"(A) COMMON AGENCY.—For purposes of this section, the term 'common agency' means a joint or common agency, body, or commission which has been designated under the laws of four or more States to represent such States collectively in the administration of the corporate income tax laws of those States and which has executed a nondisclosure agreement of the type described in paragraph (d)(2)(C).

"(B) STATE TAX AGENCY.—For purposes of this section, the term 'State tax agency' means any agency, body, commission or other body charged under the laws of a State with responsibility for the administration of State tax laws.

"(C) STATE AUDIT AGENCY.—For purposes of this section, the term 'State audit agency' means any State agency, body, commission, or entity which is charged under the laws of the State with the responsibility of auditing State revenues and programs.".

"(2) by striking "subsection (e)(1)(D)(iii)" in subsection (a)(3) and inserting in lieu thereof "paragraph (1) of subsection (d), subsection (e)(1)(D)(iii)".

"(3) by striking "subsections (c)" in the second sentence of subsection (p)(3)(A) and inserting in lieu thereof "subsections (c), (d)(2)(A)".

"SEC. 05. The second sentence of section 274(h)(6)(C)(i) of the Internal Revenue Code of 1954 (relating to exchange of information agreements) is amended to provide as follows: "Except as provided in clause (ii), an exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary and appropriate to carry out and enforce the tax laws of the United States (whether criminal or civil proceedings), the tax laws of the beneficiary country and if the parties to the agreement agree, the tax laws of the several States of the United States, including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country (such as provisions respecting bank secrecy and bearer shares)."

"SEC. 06. EFFECTIVE DATE.—The amendments made by this Act, shall be effective

for taxable years beginning after December 31, 1986.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources has made a time change to the hearing on Monday, June 16, 1986, in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

The hearing will begin at 12 noon rather than at 1 p.m. as announced earlier. Testimony will be received on the second waste respository site selection under the Department of Energy's Office of Civilian Radioactive Waste Management.

Those wishing to testify or submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information regarding this hearing, please contact Ms. Marilyn Meigs or Mr. K.P. Lau at 202-224-4431.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Tuesday, June 24, 1986, at 2:30 p.m., in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

Testimony will be received on the following measures: S. 2522, to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs; and H.R. 4378, to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613

ADDITIONAL STATEMENTS

DAMAGE DONE BY DRUG ABUSE CAN CRIPPLE SMALLER COMPANY

● Mrs. HAWKINS. Mr. President, small businesses have been the driving force behind much of this countries economic success. Small businesses employ the majority of Americans and they account for a great deal of the creativity and energy that has made American business the envy of the world. But when we talk about drug abuse in the workplace, we usually focus on its affects in a large company. The affects there are serious enough, but they are even more pronounced when abuse hits a small business.

Last month Steven P. Galante wrote an article in the Wall Street Journal entitled, "Damage Done by Drug Abuse Can Cripple Smaller Company" that examined this issue. I believe that Mr. Galante's article is insightful, and I commend it to my colleagues.

Mr. President, I ask unanimous consent that Mr. Galante's article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, May 19, 1986]

DAMAGE DONE BY DRUG ABUSE CAN CRIPPLE SMALLER COMPANY

(By Steven P. Galante)

When he launched Consolidated Media Services Co. in 1982, K. Lance Botthof had big hopes. But the pressures of the Concord, Calif., film distribution company led him increasingly to cocaine, marijuana and alcohol. "I was using cocaine every weekend," he says. "It grew to every day. And then it got to be every 15 or 20 minutes."

By 1984, Mr. Botthof was spending more than $1,000 a week on cocaine. The 35-year-old businessman estimates he spent $180,000 on drugs and alcohol over a two-year period. He grew increasingly paranoid, one of the classic symptoms of cocaine addiction. As a result, he rarely visited the office during the daytime, and when he did he often snorted cocaine with a mail room clerk. "He wasn't answering phone calls, and I had to cover up for him," says Patricia Johnson, Mr. Botthof's office manager. "And of course, he wasn't going out to get new accounts." Consequently, Consolidated Media's revenue stagnated at a paltry $120,000. "It didn't have anybody making decisions that would help it grow," says Mr. Botthof, who has abstained from drugs and alcohol since participating in a treatment program early last year. Now he is attempting to rekindle Consolidated Media's growth.

Drug abuse in the workplace has become a problem for many industries, but in a small business it can be especially harmful. "I think the focus has been too much on drug abuse in General Motors and other big corporations," says Barbara Cooper-Gordon, the administrator of a chemical dependency treatment program called Stuyvesant Square at Beth Israel Medical Center in New York. "The impact on small companies can be so much more devastating."

Losing a key executive through drug addiction can cripple a thinly staffed small business, Ms. Cooper-Gordon notes. Embezzlement and expense-account padding by employees who need drug money can be far more harmful to a small company than to a corporation, she points out. Moreover, smaller companies until recently haven't been able to afford the employee assistance programs that large companies use to identify chemically dependent workers and get them into treatment. "In a small business, it can boil down to a familylike environment," Ms. Cooper-Gordon says. "One person acts out, and it can affect the entire organization."

Today's cocaine addict shares many characteristics of the alcohol abuser. "The specific agent, whether it's alcohol or cocaine, isn't the issue," says Jerry Spicer, director of professional services at the Hazelden Foundation, a treatment center in Center City, Minn. "The issue is the dependency." A New York footwear importer, for example, swore off drinking in 1981 because he realized he was an alcoholic. But the importer, who asked not to be named, didn't consider his drug use a problem. Then, he says, "very progressively the cocaine took over, the Valium took over—until it was just like the alcohol." The importer underwent treatment, though not before neglect cut his $6.5 million business in half.

Cocaine is particularly appealing to the independent, risk-taking personality—the kind that starts a small business. "The cocaine rush makes people feel quite competent, powerful and invulnerable, as if there is no task that cannot be taken on," says Arthur L. Greenberg, co-director of substance abuse treatment at Regent Hospital in New York. "This is how the drug performs its initial seduction. And what it does, ironically, is eventually erode every function, from the sexual, to the work drive, to the interpersonal."

In a small company, cocaine's influence can be all-pervasive. Mr. Greenberg tells of the owner of a small paper-products company who distributed cocaine to employees. "The owner was excited about building his business and wanted the employees to work as hard as he did," Mr. Greenberg says. "How do you get employees to stay on the job with you? You can offer them overtime. Or you can offer them free cocaine.

"Basically, the work schedule depended on when the boss was there, and he kept very weird hours." Mr. Greenberg says. "He would call people up at strange hours and say, 'We have an order that we have to get out. Come in; there's three grams waiting.'" At one point, Mr. Greenberg says, "the employees threatened to stop producing on a very important order unless he got them more cocaine. And he did." The owner finally entered treatment when his wife demanded a separation, his health deteriorated, he started contemplating suicide, and his employees began staying home ill.

Help is slowly arriving for small business with chemically dependent workers. Though employee assistance programs are usually too expensive for small employers to operate themselves or to contract for individually, program operators are starting to organize consortiums that allow small companies to share costs. The programs usually charge $10 to $20 per employee each year to educate the work force about dependency, to assess workers with addiction problems and to refer them to health providers for treatment. The treatment itself is often covered by an employer's health insurance.

"As the (employee assistance) field grows," says Debra L. Reynolds, vice president of COPE Inc., an employee assistance

program consortium in Washington, D.C., "people are beginning to realize there's a market in small businesses, because each person in a small business wears many hats. And if one employee goes haywire, the whole company can get out of sync."●

POSTAGE RATES

● Mr. SIMON. Mr. President, I recently read a reprint of a column by JoAnn McNaughton-Kade, of the Effingham Daily News, regarding postage rates.

I could not agree with that more.

As Members of this body know, I have opposed increasing the senselessly increasing rates for newspapers, magazines, and books, because they are a vital source of information for the people of our Nation.

I always remember visiting with the publisher of the Paducah Sun, who told me that the rural subscriptions were going down because of increased postage rates and the resultant increased subscription rates. That means that those people on the rural routes were increasingly dependent on 30-second television clips for their basic news.

Can anyone really believe that is good for the country?

I urge my colleagues to read the column by JoAnn McNaughton-Kade, and I urge the Postmaster General and officials at the Postal Service to read it also.

I ask that the column be printed in the RECORD.

The column follows:

"The U.S. Postal Service has placed a noose around the neck of the small-town newspaper. Now, with hardly a pause for last words from the victim, the postal governors are tightening the knot and preparing to release the gallows' trap door.

"In this space last Tuesday, I outlined how the U.S. Postal Service is endangering the continued existence of small-town newspapers through huge rate hikes for second-class mailing—a principal means by which most papers circulate their publications.

"Over the last 15 years, second-class postage has risen more than 1,000 percent—despite an inflation rate for that same period of 'only' 288 percent. Then, on Jan. 1, the rates went up again—by 40 to 60 percent for some categories of the complex second-class rate structure, to as much as 116 percent for another.

"The day after that column appeared—we presume it was coincidence—we received a letter from our local post office informing us of yet another rate hike that would take effect on March 9.

"I use the word 'may' because these hikes have been delayed before. If past practice prevails, though, we'll receive word of the rate hikes' approval on about March 7, just before it becomes law.

"The latest rate hike would affect all 'in-county' mailings—meaning, for instance, all issues of the Effingham Daily News sent to mailboxes in Effingham County. In the space of one month, we sent out more than 50,000 papers in-county.

"If the March 9 rate hike takes effect, the cost of mailing a single copy of our newspaper to a home in Effingham County will have gone up from 1.5 cents (in December) to 3 cents—or 3.2 cents; the Postal Service has actually offered two proposals for the March 9 increase—for an increase of 100 percent in just 2½ months.

"Last year, before the most recent increases, this newspaper spent $70,000 to mail issues of the daily paper to its subscribers. In addition, we spent another $71,000 in third-class postage to deliver the Weekly Advertiser. These are huge expenditures, but they may seem like peanuts when we add up the bill for 1986.

"If you think I exaggerate when I say that the postal system is putting a noose around our necks, talk to the publishers of your local weeklies.

"We spoke to the managers and publishers of more than a dozen local dailies and weeklies last week. All of them expressed great concern about the futures of their papers in the light of the 'postal squeeze.'

"Almost all of them have already raised the cost of mail subscriptions, or will shortly be doing so.

"Most of them are furious not just over the postage increases, but also because the delivery service they receive is less dependable now than every before.

"P.J. Ryan speaks well for the rest of his colleagues. Ryan is publisher of the Beecher City Journal, as well as the Stewardson Clipper.

"The Beecher City Journal has been in Ryan's family for 71 years. Its circulation of roughly 1,200 is delivered almost solely by second-class mail. He notes that 'we'll be forced to raises our rates' for subscriptions . . .

". . . he called the postage increases 'the biggest threat' to its existence his paper has ever faced. That's a strong statement when one considers that, in 71 years, his family has contended with the likes of the Ku Klux Klan, the Great Depression and the technological change from 'hot type' to 'cold type.'

"In Ryan's view, the issue posed by the postage increases is not simply that people will have to pay more for their newspapers. Rather, as the small papers fold, there will be 'fewer and fewer sources of information. . . . It gets scary,' he said.

"The postage increases, in other words, threaten not just the livelihood of newspapers. The Postal Service is also threatening the people's right to know what goes on in their communities. The government, in the form of the semi-independent Postal Service, is not just launching a further, if unwitting, assault of small business. It's threatening an integral component of democracy."

NATIONAL NUCLEAR MEDICINE WEEK

● Mr. D'AMATO. Mr. President, I rise this afternoon to lend my support to legislation introduced by my good friend and colleague from Indiana, Senator QUAYLE, to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week." I am pleased to cosponsor this joint resolution to elevate public awareness of the contributions of nuclear medicine to the diagnosis and treatment of diseases through safe and cost-effective procedures.

Generally, there are two types of procedures involved in nuclear medicine: Those involving radioactive tracers in the analysis of blood and urine samples, and those in which measurements are made of radioactive tracers as they pass through the body. This latter procedure has provided a whole new approach to medical diagnosis.

Small amounts of radioactive chemicals, called "tracers," are typically injected into a blood vessel. The amount of radioactivity at different points in the body is then examined by radiation detectors. Only in the past few years have these detectors, by being placed in a ring around the patient's body been able to develop three-dimensional imaging. This imaging depicts where biochemical processes are occurring normally, where they are deficient, and where they are taking place at an accelerated rate.

By making early detection of disease possible, regional abnormalities can be found before the overall function of an organ has become impaired. Early detection is a must when considering that such methods are used to examine the brain, liver, lungs, heart, bones, gall bladder, thyroid gland, blood vessels, lymphatic systems, among many others. In addition, these methods are essentially pain free, noninvasive, and generally involve much smaller doses of radiation to the patient than do comparable x-ray procedures.

Although most procedures of nuclear medicine are used for diagnostic purposes, radioactive substances are also used for therapeutic benefits. Radioactive iodine, for example, is used for therapeutic treatment of hyperthyroidism. Radioactive iodine, or iodine>131, is used to treat roughly 20,000 patients with hyperthyroidism every year. This medical breakthrough has reduced the number of patients treated surgically for hyperthyroidism from 3,000 per year to about 50 per year.

Mr. President, these just are a few of the current uses of radioactive tracers in nuclear medicine. Today's research, however, is tomorrow's medical practice. Ongoing research in the field of nuclear medicine promises an exciting future in the diagnosis and treatment of diseases far beyond our limited understanding of today.

I urge my colleagues to lend their support to this joint resolution on behalf of the contributions of nuclear medicine to the health of the American people.●

PROTECTION OF THE SOCIAL SECURITY TRUST FUND ASSETS

● Mr. PRYOR. Mr. President, on June 11 I joined with Senator MOYNIHAN and other colleagues in sponsoring S. 2542, legislation which will ensure appropriate and prudent financial treatment of the Social Security trust funds. This legislation is an important followup to legislation approved in

late 1985 and early 1986 to correct trust fund disinvestment actions which occurred in 1984 and 1985.

Last November Members of Congress and the public were alarmed to learn that in the fall of 1984 and again in September, October, and November of 1985 the Department of the Treasury had taken unprecedented actions to disinvest large amounts of the short and long-term securities held by the Social Security, civil service and military retirement, railroad retirement and Medicare funds. This action was necessary because the Treasury had such limited cash reserves on hand that it could not make the cash transfers necessary to follow the normal benefit payment procedures, and the Secretary had to cash our investments in order to issue benefit checks.

This action caused a great deal of concern. Press accounts which stated that the trust fund securities were being cashed out to pay for other programs did not help matters. And the fact that members of the Social Security Board of Trustees were unaware of the action caused additional concern and suspicion. From the time of the passage of the 1983 Social Security financing amendments until last fall, we had been consistently assured of the soundness of the Social Security retirement trust funds. The disinvestment action caused fear throughout the Nation, and greatly altered the public's perception of the stability of the Social Security Program.

In the months following the publicity about the disinvestment action, the Congress acted speedly to restore any loss to the Social Security and other trust funds which resulted from the disinvestment action. In addition, we required that the Secretary of the Treasury give advance notice of any intention to disinvest trust fund assets. By early January 1986 the Treasury had successfully restored to the trust funds all moneys which had been lost as the result of disinvestment action. The legislation I have joined in sponsoring will take additional steps to ensure the security of the trust funds.

Specifically, the legislation:

Eliminates the Secretary of the Treasury's discretion in deciding to invest contributions by requiring that the OASDI funds be immediately invested in interest-bearing Government securities;

Prohibits disinvestment of the Social Security trust funds except in months in which payroll receipts are expected to be less than required for payments to beneficiaries;

Requires the managing trustee—the Secretary of the Treasury—to report monthly to the Board of Trustees on the operation and status of the trust funds;

Requires the managing trustee to exercise the same degree of care in managing the trust funds as would a private fiduciary; and

Requires trust fund moneys to be used exclusively for Social Security purposes.

As a member of the Finance Committee Subcommittee on Social Security, I am deeply committed to ensuring the financial stability of the trust funds, and it is my hope that the Congress will move forward and enact this important legislation.●

SALT: EUROPEAN VIEWS VARY

● Mr. QUAYLE. Mr. President, one of the key arguments made for continuing to adhere to SALT in some fashion is that it is essential to keep our European allies happy.

The presumption in all of this, of course, is that European opinion is unified in opposition to the United States dropping its adherence to SALT. In fact, European views vary.

In two recent editorials published in the British publications, the Econonmist and Financial Times arguments were offered on how the President's decision should help arms control.

This same point was made in today's Wall Street Journal editorial: Over time Europe is likely to accord Reagan's decision more respect.

Mr. President, I believe Europeans are already reflecting upon the wisdom of our moving beyond SALT to truly substantive arms control. I ask that the full text of the Economist, Financial Times, and Wall Street Journal editorials be placed into the RECORD.

The editorials follow:

[From the Wall Street Journal, June 13, 1986]

SALT II AS P.R.

Critics of President Reagan's decision to abandon SALT II are saying something like this: Sure the Senate refused to ratify SALT II in 1979, sure the treaty would have expired last year had it been ratified, and sure it didn't do much to limit proliferation of nuclear weapons; but why should the U.S. be the side to destroy the world's arms-control illusions?

In case there was any confusion about the status of SALT II growing out of the president's press conference Wednesday night, White House spokesman Larry Speakes cleared it up yesterday. SALT II is dead. Future U.S. arms-control moves will be predicated on what the Soviets do.

The abandonment has not gone down well in some quarters. House Majority Whip Thomas S. Foley (D., Wash.) argued at a Center for Strategic and International Studies (CSIS) seminar Wednesday that Mr. Reagan's move was a serious political mistake. The Europeans especially, he asserted, need constant reassurance that the U.S. believes in arms control. Reporters at the president's news conference Wednesday night echoed Rep. Foley's complaint.

In other words, arms-control talks and agreements are mainly public relations. We are clearly making progress in this debate when that truth is recognized.

So for a moment let's lay aside military questions, such as the fact that U.S. adherence to a defunct, ineffective agreement did not prevent the Soviets from doubling the size of their nuclear arsenal. Just how effective has SALT been on its own terms, how effective as public relations?

It has been a Russian goal for centuries to control the Eurasian continent. The Muscovities haven't done badly. Zbigniew Brzezinski noted at the CSIS seminar that over the past 250 years Russia has expanded its empire at the average rate of one Vermont *a year*! Since World War II, the Russians having initially failed to capture France and Italy with uprisings by local communist parties, have been trying to sell Western Europe a prescription for security: You will be safe from our missiles and tanks if you invite the Americans to leave. This is the P.R. threat SALT is intended to offset.

Some American strategists who take the NATO alliance seriously, and Rep. Foley seems to be in this camp, believe that this makes it essential for the U.S. to constantly demonstrate to the Europeans that it is doing everything it can to keep the peace. In short, the Europeans, presumably more gullible than Americans, must be given a steady diet of fairy tales if they are to remain within the Western alliance.

Aside from its condescension toward the Europeans, this argument has two problems. The self-imposed pressure allows the Soviets to exploit the arms-control process to force the U.S. to accept limits that the Soviets have no intention of observing. And it places too much importance on those manifestations of European "opinion" that are essentially left-wing and at least to some extent Soviet influenced and Soviet financed. All Europeans are not alike; in France, for example, Mr. Reagan's alleged "recklessness" in raiding Libya won him a popularity reading exceeding 60%.

Over time, we think, Mr. Reagan will be accorded more respect, both in Europe and the U.S., for having confronted the dangerous illusion that the U.S. and the Soviets are practicing arms control. The European majority has few illusions about the Soviet Union and its minions, and its spirit will grow if it is no longer fed a constant diet of fairy-tale P.R.

The most significant hope to be found in Mr. Reagan's new attitude toward SALT is that he may now move to free himself from restraints that have prevented him from making the fullest use of American technological superiority to protect both the U.S. and its allies from that unrestrained build-up of Soviet weapons. The "restrictive" interpretation of the ABM treaty continues to inhibit research on the Strategic Defense Initiative. And the administration says it doesn't agree with this interpretation but continues to follow it, as it followed SALT II.

Thirty former Soviet scientists now working in the U.S. have just drafted an open letter to the American people and Congress saying that the Soviet Union has been working on its own Strategic Defense Initiative since the 1960s and continues to apply more effort to defense than does the U.S. (see Notable and Quotable nearby). That won't come as news to American nuclear strategists, but it is a useful reminder in any interpretation of Soviet efforts to dissuade the U.S. from pursuing strategic defense.

Mr. Reagan has left the door open to the Soviets if they want to talk seriously. But yesterday's explicit statement that SALT II

is dead shows that Mr. Reagan does not see security as merely a P.R. problem.

[From the Economist, June 7, 1986]

SALT-2 Is Dead—Long Live SALT-3

It has been hand-wringing time for arms control this past couple of weeks. To judge by many people's laments, the chances of a missile-cutting deal between Russia and America have almost vanished. In fact, they have improved: because of an intelligent Russian concession, and a risky but shrewd piece of American poker-playing.

The Russians' concession is their reported lowering of the price they want President Reagan to pay in his star-wars plans in return for their agreement to slash the superpowers' long-range missile forces. Instead of asking Mr. Reagan to abandon everything except "laboratory research" for his Strategic Defense Initiative, the Russians now seem willing to settle for much less. They may be ready to let Mr. Reagan continue his experiments with anti-missile weapons provided he undertakes, by an amendment of the anti-ballistic-missile (ABM) treaty, not to deploy for a given number of years any such weapons that actualy turn out to work. That brake on deployment would limit the lead that America could get over them.

The Russians have been looking more relaxed about star wars lately. They have read in western newspapers (and presumably know from their own research) how tricky star-wars technology is. They can see Congress's reluctance to give Mr. Reagan the money he wants for it. They have already stopped saying that star wars has anything to do with medium-range missiles in Europe. The 15-20 years' ban on deployment of anti-missile weapons they are now said to be suggesting, in return for a long-range missile deal, is much too long (*The Economist* suggested three to five years when we first proposed this solution 15 months ago). But Mr. Reagan almost certainly has to give something on SDI. The Russians may now be hinting that he will not have to give too much.

The American poker-play was President Reagan's announcement that America will soon step outside SALT-2's limits on nuclear weapons unless Russia steps back inside them. The past fortnight's attack of the glooms, which this set off, was exaggerated.

That Mr. Reagan would this time renounce the SALT-2 agreement, having twice before resisted pressure to do so, was more or less inevitable. Nobody seriously disputes that Russia has a total of 2,500-plus nuclear missiles and bombers, compared with SALT's ceiling of 2,250 (the present American total is about 1,900). Most people accept that Russia's new SS-25 missile breaks the agreement (and that its Krasnoyarsk radar breaks the ABM treaty). Although other governments may tell America to protest about these things but do nothing, few would be so nonchalant if they were in America's place. The counteraction that Mr. Reagan is now threatening seems unlikely to produce catastrophic results (see page 56). For both sides, the first ventures outside SALT will probably be on tiptoe rather than on stilts. But the main reason for saying that the current lament for SALT-2 is unwarranted is that what America has just done may have the effect of pushing Mr. Mikhail Gorbachev towards a new and better SALT-3.

Consider Mr. Gorbachev's calculations. Until now, his nuclear-weapons choice has been either to keep things as they are (the SALT-2 figures, plus a bit of Russian fiddling) or to go for the deep cuts the Americans have been suggesting since 1983. His own instinct is probably for cuts, but his reluctant generals still have powerful allies in the Politburo. Mr. Reagan has now put an unwelcome third possibility before him: another big round of nuclear spending.

Russia's first additions to its present nuclear armoury—more warheads in its big missiles, more missiles off existing production lines—would be fairly cheap (but so would the cruise missiles that America will add). After that, big money would be involved. Everything Mr. Gorbachev has said about his country's economy suggests that he will not reduce military spending unless America does too, but that he certainly does not want to increase it. If he concludes that he now has to choose between negotiated cuts and another arms race, he may prefer the cuts.

That the month when America may stick its first toe outside SALT-2—November—is also the month when Mr. Reagan would like to have his next meeting with Mr. Gorbachev is one of those coincidences that deserve a quiet smile. Russia and America are not far apart in their ideas about reducing the number of long-range missiles, except for the star-wars argument (which Russia may now be helping to solve). A deal on medium-range Euromissiles ought to be fairly easy, if Russia agrees to cut its SS-20s in Asia and is allowed some compensation for any future expansion of the French and British nuclear forces. The prospects of cutting the overkill are better than they have been for years, provided Russia's conservatives do not keep Mr. Gorbachev sitting on his status quo. He may have been given the nudge that will get him off it.

[From the Financial Times, June 9, 1986]

A Soviet Paddle, Perhaps, for Mr. Reagan's Canoe

(By Ian Davidson)

President Reagan's declaration of intent to throw over the nuclear weapons limits enshrined in the 1979 Salt II treaty continues to generate heated controversy on both sides of the Atlantic. Democrats in the US have denounced it; European governments have deplored it; the Russians have threatened counter-retaliation, and warned that it could jeopardise the second Reagan-Gorbachev summit due some time later this year.

But the interesting thing is that the controversy is not as heated as one might have expected. The Russian condemnation, in particular, seems muted and formal. They have protested, but the tone of their protest has been carefully controlled, and their threats of retaliation have sounded deliberately non-specific and conditional.

The explanation may be simple. President Reagan's decision will not be implemented until November or thereabouts and has been hedged with a let-out clause: if the Soviet Union does something to deal with American accusations that it is already violating the Salt II treaty, or perhaps if the Geneval negotiations on new arms control agreements start to make real progress, Washington might "take this into account." In theory, therefore, there could still be just time to avert the worst. President Reagan has allowed the hawks in his administration to push his water-logged canoe towards the rapids; the waterfall is still five months away; can any of the available rescue teams paddle fast enough to rescue him in following President Reagan time? It may be doubtful, but it is still possible.

There may also be a second explanation. From a higher vantage point in the canyon, it looks as if the waterfall is not, after all, a waterfall but a series of steeply descending pools. Deeply dangerous, of course, especially for a navigator who does not know one end of a canoe from the other, but not necessarily and absolutely terminal.

The equipping of one extra B-52 with air-launched cruise missiles beyond the limits permitted under Salt II would be a very important political step to take, but in military terms it would be meaningless; and the same distinction would apply if the Russians were to match a symbolic American violation with an exactly equivalent violation of their own.

Eventually, a process of tit-for-tat might start to affect the military balance, especially if it gathered momentum. But the Russians should have no desire, and above all no interest, in down the rapids. During the 1970s they built up their nuclear weapons at all levels, while the American inventory stayed pretty static; this gave them the appearance of an edge, and contributed in 1980 to the election of Ronald Reagan and his rearmament programme. If the unravelling of arms control were to lead to an unconstrained arms race, the Russians know it would be very expensive and politically uncomfortable, but they do not know that it would turn to their advantage in military terms.

They could easily multiply the numbers of warheads on top of their heavy land-based missiles. But the US has a large number of new weapons systems in deployment or development: the MX land-based missile, the Trident D-5 submarine-launched missile, the B-1 bomber, the Stealth bomber, the Midgetman small mobile missile, and advanced cruise missiles. The accuracy of these weapons may enable them to destroy hardened military targets; so that the multiplication of warheads on the Soviet SS-18 silo-based missiles, which until now have looked particularly threatening to America's land-based missiles, might instead start to look like a serious point of Soviet vulnerability, at risk to an American first strike.

President Reagan's freedom to go down this road is currently constrained by Congressional support for arms control defense spending. But the Russians cannot be sure that these constraints would not be lifted if they are seen to be engaging on their side, in a new arms race; nor can they be sure that a new arms race would not be used to restore urgency and legitimacy to President Reagan's Star Wars programme which, even if it never results in any effective defences, would certainly drive the development of high-technology weapons in which the US has overwhelming advantages.

In other words, the Russians have good reasons to avoid overreacting to President Reagan's latest move, even if he splashes over the edge into the first pool below. Who knows, it might still be possible to prevent him from being swept all the way to the bottom, with outstretched hands to drag the leaky craft to the side, and by skillful and determined poterage bring it back up to the calmer waters of Arms Control Reach. It would not be easy; but it might be conceivable.

One tantalising hint of an outstretched Soviet hand emerged the same week that President Reagan launched himself down the rapids: in Geneva, the Soviet delegation made what could turn out to be a radical shift in its attitude to Star Wars.

Until now the Russians have been demanding an absolute ban on any testing or deployment of Star Wars defences, under a strict interpretation of the 1972 Anti-Ballistic Missile treaty. (This interpretation is endorsed by most US experts though it has recently been contested by some Administration lawyers.) In what seems to be a major shift of line, the Russians are now proposing instead a guarantee that there would be no testing or deployment for an extended period—say 15 or 20 years.

The ABM treaty is in principle of indefinite duration; but it can be denounced by giving six months' notice. The implication of the new Soviet proposal is not merely that the wording of the ABM treaty would be tightened to exclude any slippery interpretation, but that this six-month denunciation notice would be changed to 15 or 20 years.

The proposal makes sense in political as well as in arms control terms. Last November's Geneva summit meeting made clear to Mikhail Gorbachev, if he did not know it before, the depth of President Reagan's commitment to his dream of a perfect sanctuary from nuclear weapons. Whatever else may be attainable in the arms control negotiations, President Reagan will certainly not agree to an explicit renunciation of that dream.

Fewer and fewer people now seriously believe that any amount of high technology could ever take America to the end of that particular rainbow. I recently met an analyst at a leading US military research establishment, which is trying to work out how a defensive system could be deployed without being vulnerable to Soviet counter-measures. In the process, the researchers hold formal debates. "The trouble is," he said "that everybody wants to be on the Red (i.e. Soviet) team."

An arms control seminar the other day was considering whether it would be possible to make a safe transition to spacebased defences. The conclusion? Very, very difficult. A military-research analyst at the seminar described a study of the more limited problem of groundbased defences, to protect missile silos, for example, as permitted under the ABM treaty. Question: if both sides are allowed the same number of interceptor missiles, which number is best for the US? Answer: Zero.

Rational analysis will not release Mr. Reagan from his dream, however. So if there is to be an arms control agreement, it must encompass a contradiction: the President must be able to claim that Star Wars is still alive and well: the Russians must have near-certainty that the dream will remain a dream until long after Reagan has gone. Perhaps that contradiction can be reconciled by lengthening the denunciation notice.

A long denunciation period would also match the needs of any plan to cut strategic nuclear weapons. For mutual confidence, deep reductions would have to be phased over, perhaps, 10 years. Presumably the new lower totals would stay in force for several more years, say five. Total: 15 years.

Administration reaction to the Soviet shift is predictably divided. The doves seem cautiously interested; the hawks describe it as a trap, because they fear that it could skewer Star Wars on the slab. In the most optimistic scenario the Soviet hint could presage the beginning of movement in the Geneva negotiations; if movement led to real momentum, the prospects for arms control and for a summit later this year could be transformed; and in that case, the deployment of the extra B-52 would scarcely matter.

Moreover, in exchange for the long-term stability of a new arms control agreement, the Russians might be prepared to rectify violations which they deny in the context of the old.

But it is obvious that the most optimistic scenario is not the only one; indeed, the cards look stacked against it. The Soviet shift may be encouraging in theory, but it will not by itself achieve anything. Mr. Gorbachev may think that he is offering a significant concession on Star Wars, and from his point of view he is right; but President Reagan will regard it as an American concession on Star Wars, without a compensating advantage. He will not bang heads together in Washington and come down decisively in favour of arms control, unless a major agreement on the control/reduction of offensive weapons, on terms which the hawks cannot plausibly reject, comes within reach. Until the Russians start to move on this front, optimism will be just wishful thinking.

The real danger in the short and even medium term is not that the 131st B-52 bomber will trigger the unstoppable process of a new arms race, nor that it will lead to a major crisis in relations between the two superpowers, but that it could start a major quarrel between the US and its European partners. The Salt treaties may not have done much to contain the arms race, but they are what we have; to throw them away like that looks recklessly irresponsible. The question facing Mr. Gorbachev is this: would such a quarrel help the Soviet Union, and should he try to foment it? If it played into the hands of the quasi-neutralists in Europe, like the Labour Party, the answer is yes; if it strengthened the position of those, like Mr. David Owen, who argue for a stronger European defence identity, the answer is no. Since he cannot know which is more likely, I suspect he will play safe and try to rescue Reagan from the rapids.●

NAUM AND INNA MEIMAN: IN THE NEWS

● Mr. SIMON. Mr. President, I have made a daily statement on the plight of Inna and Naum Meiman since March 6, 1986. Naum and Inna are Soviet Jews who have been refused permission to emigrate to Israel. Inna is critically ill with cancer and Naum is getting no younger. He is 74.

Today's Washington Post carries an article written by Celeste Bohlen entitled "Ailing 'Refuseniks' Seek Aid." The subtitle is "Moscow Denies Visas to Cancer Victims." The story focuses on Naum and Inna Meiman. Naum and Inna have taken an enormous risk by going public with their story. The Soviet Government does not look kindly on those who make the Soviets appear in a bad light.

The Soviets will continue to get "bad press" for not allowing Naum and Inna Meiman to emigrate to receive badly needed medical care. The easiest solution for the Soviets is to let Naum and Inna go to Israel.

I ask that the article from the Post be printed in the RECORD.

The article follows:

AILING "REFUSENIKS" SEEK AID—MOSCOW DENIES VISAS TO CANCER VICTIMS

(By Celestine Bohlen)

Moscow, June 12.—With new urgency and new hopes, three families of Soviet Jews seeking permission to emigrate appealed today for help in getting medical treatment abroad for relatives stricken by cancer.

"We especially want to appeal to the people of the world to pay attention to our desperate situation," said Naum Meiman, 75, a human rights activist whose wife Inna Kitrosskaya suffers from cancer of the spine.

Kitrosskaya, 53, who has undergone four operations in the last three years and is now being treated with chemotherapy, has been invited abroad by several doctors. But she has been repeatedly denied even a temporary visa because of her marriage in 1981 to Meiman, a mathematician who did classified work 30 years ago.

"It is a killing, a murder in fact," said Meiman today.

Jewish emigration from the Soviet Union has slowed to a trickle since 1979 when it reached its peak of 51,000. Last year, about 1,000 people were given permission to leave.

Refuseniks, as those refused permission to emigrate are called, say tens of thousands have applied to leave. On Tuesday, the official Soviet news agency Tass scoffed at reports from Washington that 400,000 Jews are waiting to leave, saying that the figure is "overstated more than 100 times."

The small group of families of invalids gathered amid reports that new cases of refuseniks have been resolved favorably.

A Soviet official recently said permission has been given in 71 cases for Soviets to join family members in the United States. These cases involve "more than 200" people, the official said.

So far, the full list of cases has not been disclosed here, although several well-known refuseniks have recently been allowed to leave. One, Boris Gulko, a former Soviet chess champion, left with his family after several public demonstrations.

For Meiman and the others, the new hopes come after years of waiting. Benjamin Bogomolny, 40, applied to leave the Soviet Union for Israel 20 years ago, making him thje longest waiting refusenik.

Bogomolny's wife, Tatiana Kheifetz, underwent surgery for breast cancer seven months ago. She has been told that her request for a visa was refused because her husband had served in the Soviet Army, and his departure would be a security risk.

Benjamin Charny, 48, applied to emigrate to Israel in 1979 and shortly afterward was diagnosed as having melanoma. Like many other refuseniks, he and other members of this family lost their jobs.

Mr. President, I implore the Soviets to let Naum and Inna Meiman emigrate to Israel.●

STATE OF EMERGENCY IN SOUTH AFRICA

● Mr. PELL. Mr. President, yesterday the tragic and potentially explosive situation in South Africa took another turn for the worse. The South African Government imposed a state of emergency—the second in less than a year—and ordered its security forces to move against those who have been at the forefront of the struggle

against apartheid. Hundreds of antiapartheid activists associated with black community organizations, churches, trade unions, the United Democratic Front, the Azanian People's Organization, and the End Conscription Campaign have been arrested. Reportedly, Government forces are continuing their sweep through the black townships in search of others. The security forces have been given far-reaching powers including the right to use force. Strict restrictions designed to prevent the South African people and the international community from viewing the unrest have been imposed on the local and foreign press and media.

In an attempt to justify these actions, South African President P.W. Botha pointed yesterday to the increasing violence in the black townships and the threat of "large scale unrest planned by radicals" on June 16, the 10th anniversary of the 1976 Soweto uprising in which some 600 blacks were gunned down by Government forces. However, the roundup of antiapartheid activists leaves little doubt that the South African Government's real purpose is to undermine the antiapartheid movement which is growing among blacks and even expanding into sectors of the white community.

By resorting to repressive measures and Gestapo-like tactics, the South African Government has demonstrated not only its failure to understand the causes of violence in South Africa but also the shallowness of its stated commitment to "reform" and negotiation. The violence in the black townships is rooted in the evil and inhumane apartheid system which denies blacks full political rights and deprives them of social and economic opportunities. The frustration and anger at being on the bottom rung of a ladder where rights and privileges are granted according to the whiteness of one's skin have come to a head in the last 2 years with the implementation of a new constitution that deliberately denies parliamentary representation to blacks and the introduction of the police and soldiers into the black townships. The brutal use of force against blacks, many of them children, combined with the Government's refusal to release Nelson Mandela and enter into negotiations with legitimate representatives of the black community have spurred South African blacks on to new heights of resistance and determination.

In his State of the Union Address in January, President Botha stated:

> We have outgrown the outdated colonial system of paternalism as well as the outdated concept of apartheid.

Yet, since then, South African Government has opened fire on thousands of peaceful black protesters, conducted raids against the capitals of neighboring Zimbabwe, Zambia, and Botswana in what Botha characterized as the "first installment" in a campaign to crush the African National Congress, introduced new legislation that would give the police extensive powers in areas of unrest and the right to detain people for 6 months without charge, and rejected the proposals made by the Commonwealth's Eminent Persons Group to bring an end to the violence and open negotiations with genuine black leaders. By most accounts, the South African Government is also aiding and abetting vigilante groups in the Crossroads squatter camp in an effort to drive the people out. The violence in Crossroads has claimed the lives of more than 30 blacks and left some 30,000 homeless. The Government's recently announced abolition of the pass laws—a potentially positive step—pales against this litany of its disregard for the legitimate aspirations of the victims of apartheid.

The reimposition of the state of emergency will surely be an ill-fated decision. Rather than quelling the level of violence, it promises to increase it. On Monday black South Africans will remember Soweto 1976 by taking to the streets in defiance of the Government's insensitive and provocative ban against commemoration activities. If the Government responds with force, as I fear it will, the number of deaths, which now stands at more that 1,600, is bound to rise.

In its report issued this week, the Eminent Persons Group forecast a "racial conflagration with frightening implications * * * in the very foreseeable future" unless the South African Government abandons its "obstinancy and intransigence." As a nation committed to peace and justice, the United States has a moral and political obligation to help all the people of South Africa to avoid this end. We must move beyond the President's Executive order. We must adopt a sustained policy of pressure which will prod the South African Government toward the negotiating table and make it clear to South African blacks that we are on their side. The time to act is now, lest the opportunities for peaceful change slip away and the clock runs out.●

TENTH ANNIVERSARY OF COOK COUNTY OCCUPATIONAL MEDICAL PROGRAM

● Mr. DIXON. Mr. President, I would like to call to the attention of my colleagues the 10th anniversary of the Cook County Occupational Medical Program, which will be celebrated tomorrow.

This splendid program provides badly needed occupational health services to residents of Cook County and surrounding areas. The Cook County Hosptial is responding to a national advisory from the Graduate Medical Education Council, which noted a severe deficiency in the number of adequately trained physicians in the field of occupational medicine.

Cook County is at the forefront of this national problem, training physicians in both occupational medicine and in occupational consulting with various governmental policymaking bodies.

I commend all the hardworking people who have made this program such a model of its kind, and I wish all of them the very best of luck in the future.●

SPEECH BY PAMELA C. HARRIMAN ON THE 40TH ANNIVERSARY OF WINSTON CHURCHILL'S "IRON CURTAIN" SPEECH

● Mr. BUMPERS. Mr. President, I wish to bring to the attention of my colleagues in the Senate and to the Nation a speech given on May 19, 1986, by Pamela Harriman commemorating the 40th anniversary of Winston Churchill's historic speech at Westminster College, Fulton, MO—the famous "Iron Curtain" speech. Mrs. Harriman has presented Churchill's message, his foresight, and his wisdom in a most eloquent manner.

His prescription for a just peace in the post-World War II era is no less true today than it was 40 years ago. Churchill not only advocated a tough stance against the Soviets. He also sought to establish a just and lasting peace in a nuclear age. He insisted there was a common base on which to deal with the Soviets—neither side could successfully wage a nuclear war against the other. With that mutual common base, he urged us to approach them with caution and resolve, but to approach them nevertheless.

Churchill's advice cannot go unheeded. We cannot survive this nuclear age without a constant effort toward peace. We must negotiate firmly, but we should negotiate with every intention of achieving an agreement. Pamela Harriman has emphasized this point in Churchill's message with penetrating clarity. I ask that her speech appear in the RECORD.

The speech follows:

> Today we honor the anniversary of an event, which, like so many in Winston Churchill's life was accounted as an historic moment, and yet the man himself was out of power. He was unique among the leaders of twentieth century democracy in that his influence did not disappear with his office. Perhaps his only rival in this respect was General DeGaulle—who pales by comparison with Churchill's capacity to stand astride the world stage, even while relegated to the backstage of opposition in his own country.
>
> This role had not come easily, or early to Churchill. In his long political exile of the 1930's, he was a lonely voice, "crying in the wilderness," and few turned to hear him or

to see the approaching storm. Yet he never tired, for he always knew that history, too, had its claims. Perhaps he understood that because he wrote history as much as he made it. He was an author as well as an orator. He was not only a Prime Minister; he was also a prophet of things to come.

It was this unique ability that he took with him to Fulton, Missouri, forty years ago last March. Winston Churchill made his mistakes; but he was more often right than wrong on more matters of consequence than any other statesman of this century.

He was not only an early, isolated critic of appeasement. He was also one of the first—perhaps the first non-scientist—to comprehend and describe the dawning wonders and terrors of modern invention. In a 1932 essay—more than a decade before the Manhattan project—he speculated, "that new sources of energy, vastly more important than any we yet know, will surely be discovered. . . . Nuclear energy is incomparably greater than the molecular energy we use today. . . . There is no question that this gigantic source of energy exists. What is lacking is the match to set the bonfire alight, or it may be the detonator to cause the dynamite to explode."

He wrote of "wireless telephones and televisions"—and of genetic engineering. He looked to a time, "fifty years hence," when "explosive machinery will be available upon a scale which can annihilate whole nations." In 1925, he wrote of "guided missiles" and of "electrical rays which could claw down aeroplanes from the sky."

Churchill was different from most political leaders in that he thought beyond the next election to the next generation. It was this sense of perspective which enabled him to persevere despite recurring disappointments in his public life. His moment of triumph did not come until he was sixty-six, past the normal retirement age, and long after he had been written off. In its greatest trial, Britain found its greatest modern leader. Yet five years later, with the war won, he was defeated for reelection. He had the world's honor and respect, but not his country's vote.

So it was that a year after that, President Truman invited Winston Churchill—as prophet and not Prime Minister—to speak in Truman's home state, at Westminster College—"a name," as Churchill said, "somewhat familiar to me." It was five thousand miles from the Parliament at Westminster to this midwestern college podium. And the speaker of the day brought with him one of the most famous speeches of all time, a speech which is so often cited as a text for our time.

When he spoke of the "Iron Curtain" that had descended from "Stettin in the Baltic to Trieste in the Adriatic," Winston Churchill was acknowledging and announcing a truth which so many in the West were so unwilling to admit—the onset of the Cold War. So powerful was the phrase—it cut like a thunderbolt through the public dialogue; so pronounced was the turning point marked by this speech; so wise does it seem, at least in retrospect—that leaders since then return to it and quote it repeatedly to validate their own policies.

Half of the lectures delivered since 1946 in the Westminster series, in which Churchill spoke, have been primarily or partly commentaries on his speech. Presidents, Vice-Presidents, Cabinet officials, Senators, Ambassadors, and one other British Prime Minister have followed in his footsteps.

All this, I suspect, would evoke from Churchill a reaction something like Lincoln's description of the man tarred and feathered—and ridden out of town on a rail: "If it wasn't for the honor of the thing, I'd rather walk." Winston Churchill sought to be memorable—but I am certain that he would rather be remembered for what he actually said and believed, and not have his remarks misused as an all-purpose proof text for the prevailing policies of the hour. He spoke so often and so well over so many years that by taking selected words out of their context, or whole speeches out of the context of their times, virtually anyone who is clever enough can quote Churchill to suit his own purposes.

So what did he really say at Fulton, Missouri—what did he mean—and how does it apply today?

First, as one of the architects of the Grand Alliance, he, in effect, recognized the tragic reality of its dissolution. No one else of similar authority had said what he did so plainly or so publicly before. And this, too, he had foreseen. At the Cairo Conference in 1943, he told Harold MacMillan of his fears about the rise of Soviet power—and the failure of the West to observe and respond to the danger.

Second, he traced the roots of the dawning conflict to Soviet territorial ambitions. As he put it, "What they desire is the fruits of war and the indefinite expansion of their power and doctrines."

Power and doctrine—Winston Churchill had read history and he knew that ideology was not simply or solely the reason for Soviet aggression and subversion; it was, in sinister combination, the rationalization of conquests otherwise coveted. The Soviet Commissars were fulfilling, on a grander scale, the expansionist ambitions of the Russian Czars. This continuing, expansionist impulse was felt in Eastern Europe in the 1940s; it is felt in Afghanistan today.

Third, he urged the West to be firm—in the form of both closer British-American association and a new European unity—from which, he said, "no nation should be outcast." Already again prophetically, he was anticipating the then almost unimaginable reapproachment between France and Germany. Most of all, Churchill gently warned, firmness required American involvement; we cannot afford, he said in politer words than these, a repetition of the catastrophic American retreat from international responsibility after World War I.

He saw the emerging parallel in 1946; in less than a year, the United States Army had shrunk by nearly 90 percent. The boys were coming home—but Churchill was reminding us that now all Europe and the world were our neighborhood.

He was looking toward a system of collective security; he was anticipating NATO by three years, each year marked by recurrent and escalating crisis with the Soviet Union. So he asked the Western powers "to stand together"—and he concluded: "There is nothing [the Russians] admire so much as strength, and there is nothing for which they have less respect than weakness, especially military weakness."

It is at this point, for the most part, that the reading, citation, and interpretation of the Fulton speech all stop. Probably that is because it was Churchill's sounding of the alarm about Soviet misdeeds which drew the most attention and the most controversy at the time. Indeed that aspect of the speech aroused nearly violent protest among many Americans, who once again were hoping that they had finished the war to end all wars. In New York a few days after Fulton, the police had to be called out to protect the former British Prime Minister from hostile demonstrators parading outside the Waldorf-Astoria, where he was staying.

To the extent the "Iron Curtain" speech is seen and cited as a powerful and historic warning against an emerging and ruthless adversary, we can say of this interpretation: so far, so true. We can largely say this, even when, as frequently happens, the interpretation ignores the subtleties of Churchill's argument. But if we stop here, if that is all we see in the speech, then all we are getting is a half-truth.

There are three other points Winston Churchill made at Fulton which apply with equal force today—but which do not seem to be as clearly heard and heeded in the councils of power.

First, the address was a plea for peace, not conflict. It began with the reminder that "our supreme task and duty is to guard the homes of the common people from the horrors and miseries of another war." Churchill viewed that prospect with undisguised apprehension. He spoke of future world conflict, and I quote, "as incomparably more rigorous than what the world had just been through. The Dark Ages may return, the Stone Age may now return on the gleaming wings of science, and what might shower immeasurable material blessings upon mankind may even bring about its total destruction."

Forty years ago, when the West held a temporary nuclear monoply, Churchill was not talking of "winnable" nuclear wars; he was worried about nuclear wars in which the only winner would be death. And to him, even then, the issue was urgent: "Beware I say; time may be short. Do not let us take the course of allowing events to drift along until it is too late."

Second, the former and future Prime Minister insisted that there was a basis on which to deal with the Soviets. He had stated it before, shortly after the outbreak of the war in 1939. In another famous phrase which is also usually only half-quoted, he said: "Russia . . . is a riddle, wrapped in a mystery, inside an enigma; but perhaps there is a key. The key is Russian national interest."

The part about national interest is invariably the part of the speech that is left out. But in 1946, at Fulton, Churchill identified precisely what that interest was: The Soviets might want expansion, but they did not want war. The inevitable truth of that principle, in the atomic age, still eludes foolish and dangerous people on both sides of the Iron Curtain, who assume that on the other side, a first strike is being planned, a nuclear exchange is being actively considered—and therefore, arms control is an impossible dream or an undesirable snare. To them, Churchill replied, forty years in advance: "What we have to consider . . . is the permanent prevention of war." This, he believed, was in the Russian interest as surely as our own.

Third, Winston Churchill was convinced that the West should actively pursue what he called "a good understanding with the Russians . . . There is the solution which I would offer to you. . . ."

He was to expand on this theme again and again. At the Conservative Party Conference in North Wales in 1949, during the most frigid days of the Cold War, he called on the West to take the initiative in opening talks with the Soviets. This time, it was the hawks who assailed him. They and their ide-

ological descendants perfer to edit Fulton, to forget the Party Conference, and to neglect the sweeping proposal of Churchill's second Prime Ministership in 1953.

After Stalin's death in March of that year, the new Soviet regime appeared to Churchill to be signaling, in various ways—for example, in the Austrian treaty negotiations—a new readiness to reduce tensions. He believed there was at least a glimmer of light, a possibility of progress. He told President Eisenhower in a letter: "A new hope has been created in the unhappy, bewildered world." And he suggested that the West make a new approach to Moscow. He wrote in a top secret message: "If we fail to . . . seize this moment's precious chances, the judgment of future ages would be harsh and just."

The moment, unfortunately, remained unseized. John Foster Dulles and some in his own Foreign Office accused Winston Churchill of starting down the road of appeasement. As the recently published diary of his private secretary, Sir John Colville, recounts, it was one of the bitter moments of Churchill's life when Eisenhower rejected the policy of negotiation.

The issue is not whether the policy surely would have worked; many of his friends conceded that at that time it might very well have failed. But Winston Churchill was steadfast in believing that it should be tried. As he said in 1955, in one of his last, great speeches to Parliament, "I have hoped for a long time for a top-level conference where these matters can be put plainly and bluntly"—and he was talking then specifically about the issue of nuclear weapons.

This is the complete Churchill, not the hardliners' conveniently quotable half. He was, I believe, right about the Soviet danger—and the nuclear danger. He was right to warn against appeasement—and equally right to warn against a rigid, all or nothing approach to the Russians. Today his insights, in their full form, still have the freshness of morning, a crispness which has not wilted with the years. But we cannot have his counsel about the Soviets without his counsel about ourselves: the two parts are of a single piece, shaped by a single, subtle mind, the product of a complex and realistic world view.

Across four decades, Winston Churchill's voice and his advice still speak to us and they come down to this: yes, you can deal with the Russians—but only if you have both strength and suppleness, a willingness to stand your essential ground, and yet to see a great common interest which transcends inevitable rivalries, regional conflicts, and petty quarrels.

Now the question is, how have we applied this prescription in the long passage of time since the Fulton speech? Sometimes not at all, sometimes with great uncertainty, and always with great inconsistency.

In his brief years in office, President Kennedy, who took a special pleasure in conferring the first honorary American citizenship on Winston Churchill, became the post-war American leader who seemed to understand best the Churchill formula of toughness and negotiation. One October, he prevailed in the Cuban Missile crisis—a victory which he then used as an opportunity to seek a Test Ban Treaty. By the next July, he had sent Averell Harriman to Moscow to conclude the agreement.

It was in many ways a fitting choice of a negotiator, not least in terms of our topic today: Just after the Fulton speech, Churchill and Harriman met in Washington for a long private talk. Harriman shared Churchill's conclusion, as he reported it in his notes—that he "was very gloomy about coming to any accommodation with Russia unless and until it became clear to the Russians that they would be met by force if they continued their expansion . . . ." Seventeen years later, after the Soviet installation of missiles in Cuba had been met and repulsed, it was Averell Harriman who initiated, for the United States, the first great formal accommodation of the post-war era.

Most of the time, however, we appear to have followed only half the lesson of this history—to stand fast—and not the other half—that the stand should not be a stopping place, but a departure point toward making the world safer for human survival. Each tough stand, once taken, should be another step in the thousand mile journey toward peace.

A number of observers had believed—or hoped—that in his second term, Ronald Reagan could and would move in this direction. He certainly does have the same kind of freedom of action Richard Nixon did when he reopened the door to China: no one could accuse him of being soft. Mr. Reagan surely would not encounter the attacks from the right visited on Gerald Ford when he tried to negotiate SALT-II as the 1976 Republican primaries neared. He certainly would have a far more receptive Senate than Jimmy Carter found when he submitted an arms agreement in 1979.

Just as a certain measure of strength is a precondition for negotiating a treaty with the Soviets, so perhaps a certain measure of perceived toughness is a precondition for securing its approval here at home. Ronald Reagan undoubtedly meets that test. Over and over again, from the beginning of his Administration, he has attacked the Soviets as the "focus of evil in the world" and he has constantly urged larger and larger defense budgets to meet the Soviet threat.

Yet the President and his Secretary of Defense, so intent on demonstrating their resolve, so fond of quoting Churchill, seem increasingly reluctant to take the full measure of Churchill's advice. The Administration talks of arms control; under public pressure, the President speaks of the unwinnability of nuclear war. But our negotiations in Geneva so far resist any compromise on the Star Wars concept, even in return for the most comprehensive strategic arms agreement. When the Russians concede ground on the question of intermediate range missiles in Europe—and agree to a treaty in this area regardless of what happens on Star Wars, the Administration reponds by restating its own previous position.

Winston Churchill had a purpose in his strategy of deploying strength in dealing with the Soviets. He was, as Sir John Colville says, a leader who adopted a "flexibility" which "may have a certain relevance in the 1980's." His aim, as he himself expressed it in the Fulton speech, never wavered. He said, "What is needed is a settlement, and the longer this is delayed, the more difficult it will be and the greater our dangers will become." To Churchill, military strength, divisions, missiles were not an end in themselves; he armed in order to parley.

On the fortieth anniversary of the Fulton speech, in the sixth year of the Reagan Administration, it is fitting and fair to ask of them: What is the aim of their policy? Do they expect—by military intimidation or economic exhaustion—to bring the Soviet system down—something that Churchill, one of the original anti-Bolsheviks, considered foolhardy in the atomic age? If so, do they expect the Soviets to go gently into the twilight of their diminishing power—or abjectly accept an internal collapse?

These are not realistic hopes, but danger fantasies—and we should pray that no one in office really has such irrational views. Perhaps the Administration's stubbornness is a bargaining strategy. But the strategy can be justified only if, at the end of the negotiating process, there is a negotiated agreement.

I would be more encouraged if the President would read the entire Fulton speech and Winston Churchill's other post-war writings. He would discover that the spirit of Winston Churchill was one of both resolution and conciliation; of magnanimity based on strength—and that is the spirit the world urgently needs today.

In short, we should recall that Churchill entitled his Fulton speech "The Sinews of Peace"—not war. And I would like to close with some words which he was composing at nearly the same time he was drafting the speech. He wrote:

"Those who are prone by temperament and character to seek sharp and clear-cut solutions of difficult and obscure problems, who are ready to fight whenever some challenge comes from a foreign Power, have not always been right. On the other hand, those whose inclination is to bow their heads, to seek patiently and faithfully for peaceful compromise, are not always wrong. On the contrary, in the majority of instances they may be right, not only morally but from a practical standpoint. How many wars have been averted by patience and persisting good will! . . . How many wars have been precipitated by firebrands! How many misunderstandings which led to war could have been removed by temporizing! How often have countries fought cruel wars and then after a few years of peace found themselves not only friends but allies!"

These words are from the first volume of Winston Churchill's World War II memoirs, in preparation even as he traveled to Missouri. He called the volume "The Gathering Storm." We would be well advised today to heed his warning, to hear the real Churchill voice and views.

For now we must deal with the potentially even more cataclysmic storm gathering in our own time.●

BALTIC FREEDOM DAY

● Mr. LAUTENBERG. Mr. President, I am a cosponsor of Senate Joint Resolution 271, a resolution to declare June 14, 1986, Baltic Freedom Day, and I wish to express my concern and support for the courageous people of Lithuania, Latvia, and Estonia.

The year 1986 marks the 46th anniversary of Soviet occupation of these countries. In 1940, Joseph Stalin's Red army invaded the borders of the three autonomous nations of Lithuania, Latvia, and Estonia. Each one had its own culture, national identity, and traditions. By invading these clearly independent states, the Soviet Union violated the Helsinki Final Act, an agreement it had voluntarily signed.

Throughout the illegal incorporation into the Soviet Union, the people of Lithuania, Latvia, and Estonia have endured great hardship. Over 600,000

Baltic people have been deported to gulags in Siberia and elsewhere. And the Soviets have stripped these people of a great part of their cultural, religious, and national traditions through their deliberate policy of russification. The Soviet Union has attempted to cut over 5 million people off from their cultural heritage.

But 1986 represents another anniversary as well. It is the fifth consecutive year that the Congress has designated June 14 as Baltic Freedom Day. The United States is known the world over as a protector of liberty. We cherish the right of every person to participate in the activities and traditions of his or her own culture and religion. For this reason, we must show our continued support for those brave individuals who, despite their oppression, still dare to long for freedom.

Mr. President, I urge my colleagues to proclaim June 14, 1986, and every June 14 that follows as Baltic Freedom Day so long as Lithuania, Lativa, and Estonia are not free. We must do so to clearly express our vehement opposition to the capture and occupation of these countries. And, as representatives of a nation that believes in the right of all people to be free, we must communicate our continued recognition of their oppression, and our continued solidarity with their cause.●

AMENDMENTS TO THE HOME AUDIO RECORDING BILL

● Mr. MATHIAS. Mr. President, I would like to share with my Senators the amended and improved version of S. 1739, the home audio recording bill, that the Subcommittee on Patents, Copyrights, and Trademarks recently approved for consideration by the full Judiciary Committee.

I joined with 10 Senators to introduce S. 1739 in an effort to ensure that copyright owners are properly compensated for the unauthorized home taping of their work. Uncompensated home taping is inconsistent with basic copyright principles and undermines the property rights of holders of copyrights in recorded music. The lost income is particularly troubling because it reduces incentives for the investment of time, money and creativity in America's music. In recent years, the proliferation of easy-to-use audio recording equipment—including dual port and high-speed machines—and the concomitant increase in the amount of home taping has exacerbated these problems and sharpened the challenges to our constitutional responsibility to promote the progress of the arts. The vigorous response of the subcommittee to this challenge is thus particularly gratifying.

The amended bill retains the basic framework of the bill initially introduced. The legislation would still amend the Copyright Act to permit individuals to copy music for private use and, in return for that privilege, impose a modest royalty on the tools used to copy copyrighted material.

The most significant improvement that the subcommittee made was to confine that royalty to audio recording equipment. We heard from many Americans—businesses, charitable groups, and individual citizens—who argued that audio recording tape had diverse uses and did not lend itself to the royalty arrangement contained in S. 1739. Their message was, "Don't tax tape." We heard them and heeded them: the amended bill eliminates the royalty on blank tape of every kind.

The other major improvement to the bill provides the Copyright Royalty Tribunal [CRT] with comprehensive instructions that assure that the royalty fees are used to assist developing musical artists and less popular forms of music such as classical and the uniquely American genres of jazz, folk, and gospel.

Specifically, the amendment provides support to the aspiring artists who have not yet completed their training or had that big break by allocating 2 percent of the royalty fund directly to the National Endowment for the Arts.

In addition, the bill maximizes the incentive for further creative activity in the field by setting aside a portion of the collected royalties for the artists who have not yet gained widespread commercial success. It also tells the CRT how to provide all those who participated in creating America's recording music—the composers, lyricists, musicians, vocalists, record companies, and publishers—their fair share of the royalties.

By approving the Home Audio Recording Act, the subcommittee has reaffirmed a basic copyright principle: creative artists deserve compensation when the fruit of their labor is taken without permission. I encourage all of my colleagues to add their names as cosponsors of the bill as amended and to join us in this reaffirmation.

I ask that the text of the bill as amended by the subcommittee, along with a brief summary of its provisions, be printed in the RECORD.

The bill and summary follow:

S. 1739

A bill to amend title 17 of the United States Code with respect to home audio recording and audio recording devices and media, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Home Audio Recording Act."

SEC. 2. (a) Chapter 1 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 119. Limitation on liability: Audio recording

"(a) AUDIO RECORDING.—Notwithstanding the provisions of section 106(1), an individual who makes an audio recording of a musical work or a sound recording is exempt from any liability for infringement of copyright if the recording made is for the private use of that individual or members of his or her immediate household: *Provided, however,* That nothing in this section shall exempt from liability a person who, for purposes of direct or indirect commercial advantage, induces, causes or materially contributes to the making of audio recordings by any individual or entity, by any action other than the importation, manufacture, or distribution of audio recording media or the licensed importation, manufacture, or distribution of audio recording devices.

"(b) COMPULSORY LICENSE FOR AUDIO RECORDING DEVICES.—

"(1) AVAILABILITY OF COMPULSORY LICENSE.—Notwithstanding the provisions of section 106(1), the importation into and distribution in the United States, and the manufacture and distribution in the United States, of any audio recording device shall be subject to compulsory licensing if the importer or manufacturer of the device records the notice, and deposits the statement of account and total royalty fees, specified by this paragraph.

"(A) The importer or manufacturer shall, at least one month before the distribution in the United States of any audio recording device or within sixty days after the date this section becomes effective, whichever date is later, record a notice with the Register of Copyrights (hereafter in this section referred to as the 'Register'). Such notice shall include a statement of its identity and address and a description of any trade or business names, trademarks, or like indicia that it uses in connection with the importation, manufacture, or distribution of audio recording devices in the United States. Thereafter, from time to time, the importer or manufacturer shall record such further information as the Register shall prescribe by regulation to carry out the purposes of this paragraph.

"(B) The importer or manufacturer shall deposit with the Register, at such times, for such periods, and in accordance with such requirements as the Register shall prescribe by regulation, a statement of account, covering the pertinent period next preceding, specifying the number of audio recording device imported into or manufactured in the United States during such period, and the number distributed in the United States during such period, together with such other information, and in such form, content and manner, as the Register shall from time to time prescribe by regulation. Such statement shall be accompanied by the total royalty fee specified in subsection (c) of this section for the period covered by the statement, computed in accordance with such regulations as the Register shall from time to time prescribe.

"(2)(A) INFRINGEMENT.—Notwithstanding the provisions of paragraph (1), the importation into and distribution in the United States, or the manufacture and distribution in the United States, of any audio recording device is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, 509, and 511, if the notice, statement of account, or total royalty fee specified by paragraph (1) has not been recorded or deposited, or if the statement of

account or total royalty fee does not materially comply with the requirements of paragraph (1) or any regulations prescribed thereunder.

"(B) Multiple audio recording devices shall not be subject to compulsory licensing under paragraph (1), and the importation into and distribution in the United States, or the manufacture and distribution in the United States of such device shall be actionable as an act of infringement under section 501, and shall be fully subject to the remedies provided by sections 502 through 506, and section 509.

"(3) DEPOSIT OF ROYALTY FEES.—The Register shall receive all fees deposited under this section and, after deducting reasonable administrative costs, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury shall direct. All funds held by such Secretary shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal (hereafter in this section referred to as the 'Tribunal') as provided by this title. The Register shall promptly submit to the Tribunal a compilation of all statements of account covering the pertinent periods provided by paragraph (1).

"(4) ALLOCATION OF ROYALTY FEES.—(A) The Tribunal shall allocate to the National Endowment for the Arts 2 percent of the royalty fees available for distribution pursuant to this subsection. The National Endowment for the Arts shall distribute one-half of such fees to support aspiring lyricists and composers, and the other one-half of such fees to support aspiring vocalists and musicians, either directly or through not-for-profit foundations or similar institutions for the sole purpose of providing such support.

"(B)(i) After deducting its reasonable administrative costs under subparagraph (H) of paragraph (5) of this subsection, the Tribunal shall, in accordance with the procedures specified in paragraph (5) and subject to the requirements of subparagraphs (B) and (E) of paragraph (5), allocate the remainder of the royalty fees available for distribution pursuant to this subsection to the owners of copyrights in musical works and sound recordings based upon the demand within the United States for such works. Such demand shall be calculated by measuring the number of times musical works and sound recordings were included in radio transmissions originating in the United States, and the number of phonorecords of such works distributed to the public in the United States, during the period to which such fees pertain, as adjusted by the extent to which such radio transmissions or phonorecord distributions resulted in the making of audio recordings of musical works or sound recordings by individuals for private use.

"(ii) In calculating the demand within the United States for each musical work and each sound recording for which a claim has been duly filed pursuant to subparagraph (A) of paragraph (5) of this subsection, the Tribunal shall develop a formula that will: (I) adjust the number of publicly distributed phonorecords of each sound recording to reflect the price category at which they were so distributed; and (II) adjust the number of times each musical work and sound recording was included in a radio transmission to reflect the size of the listening audience.

"(5) DISTRIBUTION OF ROYALTY FEES.—The royalty fees available for distribution pursuant to subparagraph (B) of paragraph (4) shall be distributed in accordance with the following procedures:

"(A) During the 30-day period specified by the Tribunal for each year after the year in which this section becomes effective, every copyright owner claiming to be entitled to compulsory licensing fees under subparagraph (B) of paragraph (4), or his or her agent, shall file a claim with the Tribunal for fees covered by all statements of account for periods during the preceding year. Such claim shall specify the fund against which it is filed (the Sound Recording Fund under subparagraph (C) or the Musical Work Fund under subparagraph (D)), and shall be in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provision of the antitrust laws, for purposes of this subparagraph any claimants may agree to the proportionate division of compulsory licensing fees amongst them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(B) Of the funds available for distribution under subparagraph (B) of paragraph (4), the Tribunal shall allocate: (i) 75 percent to the Sound Recording Fund; (ii) 23 percent to the Musical Work Fund; and (iii) 2 percent to the Musician and Vocalist Fund.

"(C) The Tribunal shall, within one year following the conclusion of the 30-day period referred to in subparagraph (A), issue an order providing for the distribution of the funds contained in the Sound Recording Fund, as follows:

"(i) Eighty percent of the Sound Recording Fund shall be distributed to the Sound Recording Fund claimants under subparagraph (A) in direct proportion to the demand within the United States for the sound recordings with respect to which their claims were filed.

"(ii) Incentive Class claimants shall be eligible to share in the remaining 20 percent of the Sound Recording Fund. The Incentive Class shall consist of that 30 percent of the sound recordings for which the smallest distributions were allocated under clause (i). The Tribunal shall specify in its order a formula which takes into account demand within the United States and which permits the allocation to the greatest number of sound recordings in the Incentive Class of the remaining 20 percent of the Sound Recording Fund without permitting any sound recording within the Incentive Class to yield a cumulative distribution from the Sound Recording Fund in excess of the amount yielded by a sound recording for which funds were allocated only pursuant to clause (i).

"(iii) The Tribunal shall order each claimant to allocate from the funds received under this subparagraph for each sound recording 60 percent to the recording company and a total of 40 percent to the recording artist or artists featured on such sound recording. The allocation made by the order shall supercede any provision of a contract between the recording company and the featured recording artist or artists that purports to require or permit a different allocation of funds received under this subparagraph.

"(D) The Tribunal shall, within one year following the conclusion of the 30-day period referred to in subparagraph (A), issue an order providing for the distribution of funds contained in the Musical Work Fund, as follows:

"(i) Eighty percent of the Musical Work Fund shall be distributed to the Musical Work Fund claimants under subparagraph (A) of paragraph (5) in direct proportion to the demand within the United States for the musical works with respect to which their claims were filed.

"(ii) Incentive Class claimants shall be eligible to share in the remaining 20 percent of the Musical Work Fund. The Incentive Class shall consist of that 30 percent of the musical works for which the smallest distributions were allocated under clause (i). The Tribunal shall specify in its order a formula which takes into account demand within the United States and which enables the greatest number of Incentive Class claimants to share in the remaining 20 percent of the Musical Work Fund without permitting any musical work within the Incentive Class to yield a cumulative distribution from the Musical Work Fund in excess of the amount yielded by a musical work for which funds were allocated only pursuant to clause (i).

"(iii) The Tribunal shall order each claimant to allocate from the funds received under this subparagraph for each musical work, 50 percent to the music publisher and a total of 50 percent to the composer or composers and lyricist or lyricists of such musical work. The allocation made by the order shall supercede any provision of a contract between the music publisher and the composer or composers or lyricist or lyricists that purports to require or permit a different allocation of funds received under this subparagraph.

"(E) The Tribunal shall, within one year following the conclusion of the 30-day period referred to in subparagraph (A), issue an order providing for the distribution of the funds contained in the Musician and Vocalist Fund. The Tribunal shall allocate 12.5 percent of such funds to the American Federation of Television and Radio Artists, and the remaining 87.5 percent of the funds to the American Federation of Musicians. the Tribunal shall reduce such allocations to the extent necessary to reflect the demand within the United States (as a portion of total demand) for sound recordings made by musicians and vocalists not represented by the American Federation of Television and Radio Artists or the American Federation of Musicians, and shall direct an appropriate disposition of the remaining funds after the deduction of such allocations The Tribunal shall order organizations receiving funds from the Musician and Vocalist Fund to allocate such funds for the benefit of musicians and vocalists performing on sound recordings distributed in the United States, or for the advancement of instrumental or vocal musical performances in the United States.

"(F) If the Tribunal determines that it is appropriate, the Tribunal may appoint representative claimants, or their agents or designees, to assist the Tribunal in fulfilling any of the responsibilities described in this section. The Tribunal shall not, however, delegate any of its authority provided in this section, and any decision made by any such representative claimants, agents, or designees shall be subject to review and approval by the Tribunal.

"(G) After the first day of the month following the period established for the filing of claims under subparagraph (A), in each year after the year in which this section becomes effective, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that a controversy exists, the Tribunal shall, pursuant to chapter 8 of this title, conduct a proceeding

to determine the distribution of royalty fees in accordance with this subsection. During the pendency of any proceeding under this subsection, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.

"(H) The Tribunal shall deduct from the funds available for distribution under paragraph (4)(B) the reasonable costs necessary to calculate the demand within the United States for each musical work and each sound recording for which a claim has been filed pursuant to subparagraph (A), and any other reasonable costs incurred by the Tribunal to fulfill its responsibilities as described in this section.

"(c) ROYALTY FEES.—

"(1)(A) AUDIO RECORDING DEVICES.—The royalty fee payable under subsection (b) for each audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be five per centum of the price charged for the first domestic sale of such device.

"(B) DUAL AUDIO RECORDING DEVICES.—The royalty fee payable under subsection (b) for each dual audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be twenty-five per centum of the price charged for the first domestic sale of such device.

"(C) EXEMPTIONS.—The Tribunal shall by regulation exempt from royalty fees particular kinds of audio recording devices, if any, that the Tribunal finds, on the basis of technical criteria that are relevant to the purposes of this section, are unsuitable for making audio recordings by individuals for private use.

"(D) NONINFRINGING USES.—The Tribunal shall by regulation establish a procedure under which audio recording devices purchased and used only under the circumstances specified in this paragraph shall not be subject to payment of any of the royalty fees otherwise payable under subsection (b). Pursuant to this paragraph the Tribunal shall exempt from royalty fees audio recording devices that—

"(1) are purchased under circumstances where any part of the purchase price is deductible by the purchaser either as an ordinary and necessary business expense under section 162 of the Internal Revenue Code of 1954 or as an allowance for depreciation under section 167 of such Code, or, in the case of purchases by a nonprofit organization, would be so deductible if either section was applicable; and

"(ii) will not be used for making audio recordings by individuals for private use or for other infringing purposes in violation of this title.

"(2)(A) ADJUSTMENT OF ROYALTY FEES.—The fees specified in paragraph (1) shall be subject to adjustment by the Tribunal in the fifth calendar year after the date this section becomes effective, and in each subsequent fifth calendar year, in accordance with the petition procedure described in section 804(a)(2) of this title and regulations that the Tribunal shall prescribe. Notwithstanding the provisions of section 809 of this title, any final determination by the Tribunal in the first and any subsequent adjustment proceeding under this paragraph shall become effective thirty days following its publication in the Federal Register.

"(B) In determining royalty fees under this paragraph, the Tribunal shall consider, in addition to all other relevant factors, the following criteria:

"(i) the value to an individual of the right to reproduce copyrighted works pursuant to subsection (a) of this section;

"(ii) the compensation that would have been received by copyright owners from distribution in the United States of phonorecords of their sound recordings and musical works but for private audio recording of such works;

"(iii) the projected impact of royalty fees on consumers and the benefits derived by consumers from the use and availability of audio recording devices;

"(iv) the benefits derived by importers and manufacturers of audio recording devices from the distribution in the United States of those products;

"(v) the projected impact of private audio recording on copyright owners;

"(vi) the projected effect of royalty fees on the structure and financial condition of the audio recording device importing and manufacturing industries;

"(vii) the relative roles of copyright owners and importers and manufacturers of audio recording devices with respect to creative and technological contribution to the development of sound recordings and musical works;

"(viii) the objective of maximizing the creation of new sound recordings and musical works;

"(ix) reasonable estimates of the number of audio recording devices used in the United States during a relevant period for purposes other than making audio recordings by individuals for private use if such purposes are lawful under this title; and

"(x) new technologies for making audio recordings by individuals for private use.

"(C) Any determination by the Tribunal under this paragraph may distinguish among different kinds of audio recording devices, and may establish different royalty fees for different kinds of audio recording devices.

"(d) DEFINITIONS.—As used in this section, the following terms and their variant forms means the following:

"(1) An 'audio recording' is a phonorecord of a musical work or sound recording that has been reproduced directly from a radio transmission or from a phonorecord that has been lawfully made and distributed to the public.

"(2) An 'audio recording device' is any machine or device, now known or later developed, which can be used for making audio recordings by individuals for private use, and which is capable of reproducing the sounds embodied in a radio transmission, or in a phonorecord, by means of internal or external wire, cable or like connection between the equipment receiving or performing such sounds and the equipment reproducing them. The term 'audio recording device' includes dual audio recording devices. Such term does not include a device (A) which can be used by individuals for reproducing the visual images of an audiovisual work for private use; (B) which is unable to receive the sounds embodies in a radio transmission, or in a phonorecord, except by microphone; (C) which is capable only of performing such sounds, such as playback only equipment; or (D) which incorporates a decoder or similar mechanism that prevents the device from reproducing, or permits the device to reproduce, the sounds embodies in a phonorecord in accordance with special instructions encoded in the phonorecord for that purpose.

"(3) An 'audio recording medium' is any material object, now known or later developed, in any form commonly distributed for use by individuals (such as analog or digital tape cassettes, cartridges or reels), in which a musical work or sound recording can be fixed by use of an audio recording device.

"(4) A 'dual audio recording device' is any machine or device, now known or later developed, intended for use in private homes, which can be used for making audio recordings by individuals for private use, which is capable of reproducing the sounds embodied in a phonorecord by copying such sounds from a phonorecord in any digital or any tape format to an audio recording medium in any digital or any tape format, and which contains in a single apparatus one cavity for the insertion of a phonorecord in any such format and one cavity for the insertion of an audio recording medium in any such format.

"(5) The 'first domestic sale' of an audio recording device is the first sale of such device in the United States to an unrelated party. For purposes of this paragraph, an unrelated party is a person who is not controlling, controlled by, or under common control with the seller, and who is not acting in concert with the seller in order to avoid or lessen the obligations of subsection (b). Control will be deemed to exist if there is a fifty per centum or greater direct or indirect ownership interest between the seller and such other person.

"(6) A 'multiple audio recording device' is any machine or device, now known or later developed, intended for use in private homes, which can be used for making audio recordings by individuals for private use, which is capable of reproducing the sounds embodied in a phonorecord by coypright such sounds from a phonorecord in any digital or any tape format to an audio recording medium in any digital or any tape format, and which contains in a single apparatus one or more cavities for the insertion of a phonorecord in any such format and two or more cavities for the insertion of an audio recording medium in any such format.

"(7) A 'radio transmission' is a transmission of sounds without accompanying visual images by a broadcast station, cable system, multipoint distribution service, subscription service, direct broadcast satellite, or other means of transmission that is intended for reception in private homes.".

(b) The table of sections for chapter 1 of title 17, United States Code, is amended by adding at the end thereof the following new item:

"119. Limitation on liability: Audio recording.".

SEC. 3. (a) Chapter 5 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 511. Additional remedy for infringing importation or manufacture, and distribution of audio recording devices

"In any action filed pursuant to section 119(b)(2), the court may order that, in addition to any other remedies provided by this title, for a period not to exceed ninety days, the importer or manufacturer shall be deprived of the benefit of a compulsory license under section 119(b)(1). In the absence of such license by reason of such order, any importation into and distribution in the United States, or any manufacture and distribution in the United States, of audio recording devices by such party is actionable as an act of infringement under section 501,

and is fully subject to the remedies provided by sections 502 through 506, 509, and this section.".

(b) The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end thereof the following new item:

"511. Additional remedy for infringing importation or manufacture, and distribution of audio recording devices.".

SEC. 4. Chapter 8 of title 17 of the United States Code is amended as follows:

(1) Section 801(b)(1) is amended by striking out "and 116," in the first sentence, and inserting in lieu thereof ", 116 and 119,".

(2) Section 801(b)(3) is amended by striking out "and 116," and inserting in lieu thereof ", 116 and 119,".

(3) Section 804(d) is amended by striking out "or 116," and inserting in lieu thereof ", 116 or 119,".

(4) The second sentence of section 809 is amended by striking out "or 116," and inserting in lieu thereof ", 116 or 119,".

SEC. 5. SUPPLEMENTARY AND TRANSITIONAL PROVISIONS.—(a) This Act, and the amendments made by this Act, shall become effective on July 1, 1987.

(b) Section 501(a) of title 17 is amended by striking out "118" and inserting in lieu thereof "119".

Amend the title to read as follows: "A bill to amend title 17 of the United States Code with respect to home audio recording and audio recording devices, and for other purposes.".

SUMMARY OF PROVISIONS OF THE HOME AUDIO RECORDING ACT (S. 1739) (AS AMENDED MAY 21, 1986, BY SUBCOMMITTEE ON PATENTS, COPYRIGHTS AND TRADEMARKS)

S. 1739 would amend the Copyright Act to allow individuals to tape music for private use from records, compact discs, and prerecorded tapes, or from the airwaves, without first securing the permission of the copyright holder. In exchange for that privilege, the bill would impose a modest royalty on the equipment used to copy copyrighted music. It also provides for the distribution of the royalty fees to copyright owners, with a special emphasis on encouraging newer artists and less commercially established genres.

As amended by the Subcommittee on Patents, Copyrights, and Trademarks, the royalty is applicable only to audio recording equipment. It does not apply to any type of blank tape, nor to:

(1) Equipment used for home video recording (e.g., VCRs);

(2) Audio equipment which can record only by microphone (e.g., dictation equipment);

(3) Playback-only equipment (e.g., many "personal stereos");

(4) Recorders equipped with copy-code technology to prevent unauthorized copying;

(5) Equipment purchased for use in a trade or business, or comparable nonprofit organization.

For those tape recorders not falling within one of the exemptions, the royalty rate would be: 5 percent of the wholesale price for "dual-port" equipment, which allow direct copying—including high-speed dubbing—of prerecorded tapes.

The bill would also prohibit the sale of "multiple-port" equipment, capable of making more than one copy of prerecorded tapes simultaneously.

The royalty fees would be collected by the Copyright Office, and distributed by the Copyright Royalty Tribunal (CRT), an existing agency in the legislative branch of government with similar responsibilities in the field of cable television and jukeboxes. While the original text of S. 1739 contained general instructions to the CRT for developing a distribution formula, the amendment adopted by the subcommittee substitutes a specific formula that insures that all the participants in the music recording process share in the royalties, and that maximizes the incentive for further creative activity in the music field.

In summary, the distribution formula adopted by the subcommittee allocates 2 percent of the royalty fund to the National Endowment for the Arts, for the support of aspiring musical artists.

The remainder of the fund is to be distributed in proportion to the sales and radio airplay of copyrighted musical recordings, with certain adjustments that weight the distribution in favor of recordings in the lower 30 percent of the sales and airplay charts. The amendment also specifies a royalty allocation applicable to each recording that divides the royalty among the copyright holders in the sound recording (45 percent), the featured recording artist (30 percent), the composer/lyricist (11.5 percent) and publisher (11.5 percent) of the copyrighted musical work, and the unions representing back-up musicians and vocalists (2 percent). This allocation is somewhat more generous to composers, publishers and musicians than the division of existing copyright royalties found in most music industry contracts.

The royalty fees established by S. 1739 would remain constant for five years, after which the CRT could adjust them in accordance with specified criteria. If enacted, the Home Audio Recording Act would take effect July 1, 1987.●

THE RELEASE OF RICARDO DUQUE

● Mr. CHILES. Mr. President, we began this week with the news Fidel Castro had released Cuban political prisoner Col. Ricardo Montero Duque. This decision is a welcome one. However, none of us should think this is the result of a new found compassion or sense of justice on the part of Fidel Castro. The decision to grant Montero freedom is the result of efforts undertaken by the Senator from Massachusetts [Mr. KENNEDY]. The Senator is to be commended for this effort.

Cuba continues as one of the worst violaters of human rights. A few prisoner releases do not erase its long record of abuse. Montero's release serves to remind us of the freedom of which he was deprived for so long and the freedom denied to those languishing in Castro's jails.

Colonel Montero himself reminded us that whenever Castro releases political prisoners, he keeps others behind and then continues to imprison more prisoners. This comes from a man who knows first hand the harshness of Cuban justice; cruel and long prison terms, torture, isolation, physical and mental abuse. All are tragically commonplace for Cuba's political prisoners. One of those he refers to as being left behind is fellow 2506 Brigade member Ramon Conte Hernandez. Both Montero and Conte were captured by Cuban forces during the Bay of Pigs liberation effort. Their long imprisonment offers but a glimpse of the hardship encountered by Cuba's political prisoners.

Montero was imprisoned for 25 long and hard years. For Conte, the suffering continues. He remains the sole remaining prisoner captured during the Bay of Pigs. The release of Montero should revitalize efforts to free Conte and the other political prisoners remaining in Cuba.

Mr. President, I recently visited "La Casa de la Brigada," the headquarters of the Brigade 2506 veterans. I was given a tour of the Brigade Home by its presiding president, Juan Perez Franco. One of the lasting impressions I have of my visit to the Brigade Home is of a wall covered with the pictures of the fallen members of the Brigade. They were the faces of young men eager for the return of liberty to their beloved homeland. They were pictures of patriots willing to die in the struggle for democracy.

The Brigade members I met that evening held the highest respect for these fallen heroes. I know they are equally as proud to be welcoming back a hero who survived the ordeal. Montero's life has been dedicated to the struggle against the totalitarian Cuban Government of Fidel Castro. I know the Brigade members rejoice for his freedom but they will not forget those who remain. We must never forget those who remain in Cuba's prisons.

Mr. President, I ask that a copy of a Miami Herald editorial be inserted in the RECORD.

The editorial follows:

CASTRO'S GULAG

Ricardo Montero Duque's 25-year ordeal ended on Sunday, but it should have ended in December 1962. That's when the U.S. Government paid $53 million in food and medicine to Cuba as ransom for the defeated Bay of Pigs invasion force. Cuba released all but nine of the 1,189 captured invaders then.

These nine men were kept in Cuban prisons for 18 years or longer. Six of them were released between 1979 and 1984. Mr. Montero Duque, a commander of Brigade 2506's Fifth Battalion, is the seventh freed. An eighth died in prison.

Now only one, Ramon Conte Hernandez, remains in jail. His and Mr. Montero Duque's prolonged incarceration is tangible evidence that Americas Watch, a New York-based human-rights organization, is correct when it says that "there are more long-term political prisoners in Cuba than anywhere else in the world."

Mr. Montero Duque would still be in jail were it not for the efforts of Sen. Edward Kennedy, whose intercession came at the urging of Miami banker Raul Masvidal.

Both men deserve this community's appreciation for their efforts.

It's imperative, however, to renew efforts to free Mr. Conte Hernandez and the hundreds of political prisoners who remain in Fidel Castro's dreary prisons. Some were imprisoned relatively recently, but others have been in jail for decades. Tragically, Mr. Montero Duque is quite right when he says that whenever Mr. Castro releases a number of political prisoners, he always keeps a small group behind—"and then he makes some more [prisoners]."

This is a propitious moment for the State Department to remind Cuban officials that civilized countries the world over are appalled at Cuba's total disregard for human rights. Senator Kennedy and other individuals who have contracts with Cuba's government should stress the same point. A concerted effort will be needed to persuade Mr. Castro to release all of his political prisoners.

Nor should the intercession efforts end there. It's imperative that the Administration do as Gregory Craig, Senator Kennedy's foreign-policy adviser, did in his recent talks with Cuban officials: Reiterate the urgent need for Cuba to restore the immigration and refugee agreement that it suspended in May 1985.●

THE SENATE PAGE BANQUET

Mr. DOLE. Mr. President, on Wednesday evening, June 11, several of my Senate colleagues and I participated in a special tribute to the Senate pages. At the annual Senate page "end-of-the-year banquet," we had the opportunity to express our appreciation to 54 of the Nation's finest young men and women.

Each and every one of our Senate pages have devoted countless hours, unlimited energy, and unabashed enthusiasm to the U.S. Senate. I know I speak for all Senators when I say thank you. Our pages are a credit to this great country and are a symbol of democracy in action. We are all proud to have worked with them, and it is an inspiration to every Member of the Senate to know that these bright, energetic individuals will be tomorrow's movers and shakers.

Mr. President, I ask that the text of the speeches of the distinguished minority leader, Senator BYRD from West Virginia; the distinguished Senator from South Dakota, Senator ABDNOR; and the Senator from Kansas be inserted in the RECORD.

I also want to point out that the distinguished pro tempore of the Senate, Senator THURMOND, was a featured speaker at the banquet and delivered a stirring, off-the-cuff message on freedom and the American way. Senator THURMOND urged the pages to use their unique experiences on Capitol Hill to move ahead into the future as active participants in government and society.

Our distinguished colleague from Delaware, Senator BIDEN, also addressed the group, stressing the need for tolerance in all walks of life: At home, at work, and at play. He noted that our Nation is comprised of many different kinds of people, some with radically different ideologies, and encouraged the pages to enter every situation with an open mind and an open heart.

And Mr. President, our distinguished colleague from North Carolina, a man who is "grandfather" in the eyes of the pages, Senator HELMS, underscored the importance of the pages' "unoffical" role—that of a friend. In his remarks, he thanked the pages for their ever-present smiles, laughter, and cheer, which provided encouragement and made the long hours in the Senate a little bit easier to bear.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATE MAJORITY LEADER BOB DOLE

First, let me thank all of you for inviting me to your wonderful banquet. I speak to many groups during the course of the year, but this invitation is a special honor because it comes from my fellow workers on Capitol Hill.

Believe me, the Senate recognizes, and fully appreciates, the substantial contributions you pages make to our daily activities in Washington. So let me say "thank you" for all of your hard work; for the long hours; for putting up with menial tasks; and for tolerating 100 Senators. Your selfless dedication is much appreciated. But that's not to say your efforts are unrecognized.

You see, television viewers now have the opportunity to watch the Senate in action. And that means millions of Americans are watching Senate pages: They see you running back and forth with papers and messages; carrying lecterns and water glasses; and having fingers snapped at you. Our viewers are probably wondering how you put up with us. But, seriously, I am pleased that the American people are now learning the special role you play in the life of the Senate.

History tells us that pages date back as far as the snuff boxes and spittoons in the Chamber. Together, the Senate and its pages have come a long way.

You are the successors of Grafton Hanson, a 9-year-old who was appointed to be the first Senate page by Daniel Webster and Henry Clay, back in 1827. Hanson—and other pages in the 19th century—were expected to keep filled the ink wells and the sand shakers for blotting ink; and they had to light the gas lamps, and keep the wood stoves burning. When messages needed to be delivered downtown to the executive departments, pages were sent off on horseback! And once a week, all pages were handed tickets to go down to the Capitol basement and bathe in the large marble tubs. Come to think of it, running a Xerox machine doesn't seem all that rough—does it?

Well, a few things have changed since then. But we still depend on our pages. The U.S. Capitol has served as a unique learning institution for hundreds of young men—and an increasing number of young women—during the past 200 years. Working in the Capitol, you have had the unique opportunity to see your Government up close and personal. You didn't have to read a textbook; you were eyewitnesses, maybe even to history!

That's why I'm not surprised that some pages have returned to Congress as elected Members of the Senate and House, or as senior staff members. As far as I'm concerned, there can be no better endorsement of the page program than those facts. I am certain your experience has enhanced your appreciation for our representative democracy, and that as you leave Washington, you will do so not only better informed about your Government, but more committed to becoming an active participant in it—whatever career you pursue. I trust this has been an experience never to be forgotten, and one about which you will never tire of telling.

Personally, I want to thank each and every one of you for your diligence, your tireless energy, and your enthusiasm. And I wish you the very best of luck in all future endeavors. You are fine young men and women, who have given your best—and deserve the best.

REMARKS OF SENATOR ROBERT C. BYRD

In April 1912, the great ocean liner *Titanic* struck an iceberg and sank off Newfoundland. Over fifteen hundred people lost their lives in that disaster.

In hindsight, experts say that the *Titanic* tragedy did not have to happen—that all of those fifteen hundred people did not have to lose their lives.

The main problem was not an iceberg, but that too many people took too much for granted.

The *Titanic*'s builders took for granted that their ship was too well built to sink.

The *Titanic*'s officers took for granted that April was too late for icebergs to be so far south.

And the *Titanic*'s owners took for granted that their ship was so safe that they did not need lifeboats for everybody aboard.

Taking things for granted can sometimes be dangerous.

Nobody here tonight was around when the *Titanic* sank. But many of us here were born before the space age. Fifty years ago, radio was still a novelty. America had few four-lane highways. For most Americans, automobiles, and telephones were still luxuries. And the idea of traveling to the Moon or to Mars was best left for Flash Gordon serials at Saturday movie matinees.

Most of us who are older do not take for granted most of the technical marvels of this age—television, computers, super highways, space rockets, and such. We remember when we did not have those conveniences.

Many of us also remember when America was threatened from both the Atlantic and Pacific Oceans by powerful aggressor nations—Nazi Germany and Imperial Japan. We remember Americans going off to war, rationing, air-raid drills, and worrying if our country could defeat the foreign dictatorships arrayed against us.

Many of us also remember a time when only a few went on to college after high school, when as much as twenty-five percent of America's workforce was unemployed, and when polio scourged whole communities every summer.

Just as we do not take so much for granted many modern inventions and technological advances, then, we do not take for granted America's security, the need to keep improving our country, or the possibility that Americans might not enjoy the standard of living that we do today if we lose the competitive edge that made our country great.

Most of the young men and women in this room were born less than twenty years ago. You were born into the space age. You were born into the television and computer ages. You could not be blamed, particularly, if you were to take many of today's conveniences for granted.

But statistics show that those who serve as pages on Capitol Hill are a select group. Often, because of their experience here, former pages go on to become leaders in their own right—Senators and Congressmen, even. Others become leaders in many other fields.

I want to express to you my appreciation for your service to us as Senate pages. And I want to wish each of you every success in whatever fields into which you go in the years ahead.

But as the years go by and as you rise to positions of responsibility, I hope that you will not take for granted our country or our country's institutions.

As you have followed Senate elections, and as you have followed Senate debates, you may have taken those events for granted. But hundreds of thousands of men and women over countless centuries suffered and sacrificed to make our freedoms possible. Many of the men who signed the Declaration of Independence lost every earthly possession that they owned. Even while the dome of the U.S. Capitol Building was being raised, multitudes of Americans, north and south, were dying on battlefields not too far from here.

Every generation has its challenges to meet. My prayer for you is that the inspiration that you have found here in the Senate will help each of you to meet the challenges that your generation will face, that you will not take your privileges as Americans for granted, and that you will live up to the promise and the leadership abilities that you have shown as pages.

And because of your experiences here, I hope that you will be able better to meet those challenges with a positive attitude, looking for opportunities to make our country stronger and more prosperous, ever turning aside from counsels of discouragement and defeat.

I saw them tearing a building down
A group of men in a busy town
With a "ho, heave, ho" and a lusty yell
They swung a beam and the sidewall fell.

I said to the foreman, "are these men skilled?
The type you would hire if you had to build?"

He laughed, and then he said, "no indeed,
Just common labor is all I need;
I can easily wreck in a day or two,
That which takes builders years to do."

I said to myself as I walked away,
"Which of these roles am I trying to play?
Am I a builder who works with care,
Building my life by the rule and square?
Am I shaping my deeds by a well-laid plan,
Patiently building the best I can?
Or am I a worker who walks the town
Content with the labor of tearing down?"

REMARKS OF SENATOR ABDNOR

So far this evening you have heard how responsible, diligent, and conscientious the pages are. Well, this may be true most of the time, but not always. I'd like to set the story straight with a few stories of my own.

For instance, occasionally while on the Senate floor or in the cloakroom, I will ask the pages how they enjoy working on the Hill or perhaps what they saw sight-seeing the past weekend. On several occasions the pages remarked to me what a wonderful Sunday brunch they had at Hulihan's, a restaurant in Georgetown. Additionally, they told me what a great deal this brunch was. Well, after hearing these same comments a number of times, I began wondering what I was missing.

This being the case, I decided I would have brunch there the next weekend I spent in the city. After arriving at the restaurant and getting a table, I started searching the menu for "this great deal." After a couple of minutes of looking without finding anything that looked especially cheap, I decided to ask the waiter what this special was I had heard so much about. He replied, "Oh, that's the champagne brunch—all you can drink for 99 cents."

Of course I'm sure that Bret Berlin's friends back in Florida will be speechless when he tells them how he lounged the largest bubble bath on Capitol Hill when he put detergent in the beautiful Longworth Fountain. And certainly envious when he tells how he got Lori Olson and Rita Nething to join him in it.

Probably, if it weren't for tonight, Chad Moore, Mark Fox, and Martin Heinze would be telling their friends how after curfew they used to deactivate the alarm on the security door between the 3rd and 4th floor so they could run up to see the girls.

I'm sure as the years pass, these stories will get better and better as will the story about how Mary Magner and Debbie Pops acquired their nicknames, Air and Space, on a field trip when they were left behind by the bus at Bob's Big Boy because they were in the bathroom.

It seemed that by the end of the term most of the interns had acquired nicknames. I understand they call John Brost the "Beast," but no one will tell me why. Speaking of John, I got an interesting letter from Mrs. Corley Bowman, John's chemistry teacher. It seems that John received a deficiency report because of an unexcused absence. Well, this didn't seem like John so I asked him to come to see me. I expected that John would have some legitimate excuse and we could get this whole thing straightened out. When I asked John where he was he replied, "The beach."

Finally, I have one last story to tell about John. I had eight beautiful Omaha steaks that I was saving for a very special occasion. Well, you can imagine my surprise when I open my freezer to find—not just one or two missing—but all of them gone. Next, I went to the drawer to get a fork and there were none there. Looking to see where all my utensils had disappeared to, I open the dishwasher to find it jam-packed with just about all my pots and pans. As you can imagine that I wasn't amused. I have a young staffer who keeps an eye on my place while I'm out of town who I was getting ready to send to the unemployment line unless he had a good reason for this whole thing. Well, he finally confessed that he was at the beach that weekend and had lent his keys to none other than John Brost with the understanding that John was only to use my place as somewhere to go after the prom for just a short time before curfew.

Seriously though, I think you're all a great bunch of kids. Some of us tend to forget that you are just high school kids—and most of you would want us to forget it.

Thanks for the great work you do for all of us. And, may this experience you have had here on Capitol Hill help you stay interested in government the rest of your lives.

50TH WEDDING ANNIVERSARY OF MORMIE AND DELORIS O'DELL

Mr. BYRD. Mr. President, I call to the attention of my colleagues the 50th wedding anniversary of Mormie and Deloris O'Dell of Mt. Nebo, Nicholas County, WV.

The O'Dells were married on June 17, 1936 in Nicholas County, WV. Mormie is a retired miner from the Westmoreland Mine No. 2 and is a past master Mason. Deloris is a member of the Eastern Star. Mr. and Mrs. O'Dell are members of the Spruce Grove Methodist Church. They are the parents of Shirley Spencer O'Dell and Edria Shanon Young and the grandparents of Pam, Michael, Beth, Susan, and Jeanne.

Mr. President, I congratulate them and their family and friends and wish them many more years of happiness.

THE MARS PROJECT: JOURNEYS BEYOND THE COLD WAR

Mr. SIMON. Mr. President, I am pleased to congratulate my good friend and distinguished colleague from Hawaii, Senator MATSUNAGA, on the recent publication of his book, "The Mars Project: Journeys Beyond the Cold War." It is an important and timely book, and one that I know will benefit all of us concerned about our Space Program and our national security.

Sometimes we do not see the obvious because it makes too much sense. Senator MATSUNAGA makes great sense out of what should be a simple proposition but which is too often obscured by cold war politics: we simply have to cooperate with all space-faring nations to build a more secure future on the final frontier. Instead of racing against each other—the Moon race, the space station race, and now the space weapons race—we will all be better off with international space cooperation.

The American and Soviet space programs each have their own strengths, and we ought to complement instead of duplicate each other's efforts. Despite our best efforts to outbuild each other in new weapons of destruction, we still manage to find it within our better selves to cooperate with one another to save lives, as in the United States-Soviet-Canadian-French search and rescue satellite system for ships and planes in distress. Over 200 lives have been saved in this remarkable program, most through the Soviet satellite.

We have periodically cooperated together in space, most spectacularly in the 1975 Apollo-Soyuz link-up. There is a whole universe to explore out there, beginning with Mars and our other neighbors in the solar system. We need to sit down with the major

space powers and define a common agenda. We ought to pioneer the new worlds in concert with each other, and pool our financial and scientific resources for the benefit of all humanity. Senator MATSUNAGA's book is a testament to this simple but powerful idea. It is an idea that we all should keep in mind whenever we think about defense, space, and arms control. I highly commend "The Mars Project" to my colleagues.

I think the big lesson from the book is the need for space cooperation. A go-it-alone attitude on the part of the United States or the Soviet Union or any other country simply is not realistic for the year 1986 and beyond.

One of the other points that I think is important is that we have this satellite that the United States, the Soviet Union, the French, and the Canadians cooperated on, which lets us know if a ship is in dire straits out in the water, and we can cooperate to see that that ship is rescued. That is the kind of satellite cooperation, the use of space jointly, that we should have much more of.

If we can work together on that kind of thing more and more, we are going to find that we will start moving in a more sensible and rational direction.

Why do we pile up all these weapons? Because we fear each other. Why do we fear each other? In large measure, because we do not understand each other. The more we work together, whether it is space or whatever, the more we will find that we understand each other. It does not mean that we are going to like the Soviet system or they are going to like our system. But let us not blow up this world.

I think that is one of the important messages of the book by our colleague. I commend him for taking the leadership in this matter. Not only is this body and the other body better informed because of that book, but also, it is the kind of book which is well written, and I think the American people will appreciate it, too. I appreciate what our colleague has done.

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Mr. MATSUNAGA. Mr. President, I wish to thank the Senator from Illinois [Mr. SIMON] for his most generous remarks and especially for taking the time to read my book, "The Mars Project, Journeys Beyond the Cold War."

To have the Senator not only read my book but to come and voluntarily hear talk in praise of my book is more than friendship. I truly appreciate the Senator's remarks.

Mr. SIMON. I thank the Senator from Hawaii.

I had the privilege of serving with him in the House in addition now to serving with him in the Senate. He preceded me in the House, he preceded me in the Senate, and he is preceding most of us in understanding what we ought to be doing in space.

I commend him.

Mr. PELL. Mr. President, I am delighted to join with my colleagues today in commending our friend, the Senator from Hawaii [Mr. MATSUNAGA] for a valuable and farsighted contribution to our thinking about future approaches to the peaceful exploration of space, "The Mars Project: Journeys Beyond the Cold War." In his excellent new book, the Senator brings into focus the splendid opportunities the future holds for international cooperation in space.

At this point, we are beset with questions about the wisdom—or lack of it—in deploying weapons in space, mindful of the terrible *Challenger* disaster, and seized with the problems inherent in the deteriorated relationship with the Soviet Union. Accordingly, it is easy to become so enmeshed in current difficulties that we lose sight of the fact that there are wonderful future possibilities for us and those who will succeed us if we are wise enough to prepare the way now.

Since 1982, the Senator from Hawaii has introduced seven resolutions dealing with international cooperation in space. I have supported him wholeheartedly in those efforts. I was particularly pleased to join him as an original cosponsor with the Senator from Maryland [Mr. MATHIAS] of Senate Joint Resolution 236, which called for renewed cooperation with the Soviets in space cooperation and for the exploration of further opportunities for cooperative East-West ventures in space, including cooperative ventures in such areas of space medicine and space biology, planetary science, manned and unmanned space exploration. That resolution was approved by the Congress and signed into law by President Reagan on October 30, 1984.

The Senator has been vigorous in his efforts to identify other endeavors which could encourage and nurture greater cooperation, including an International Space Year in 1992 and a joint manned mission to Mars.

Senator MATSUNAGA writes:

Pursuit of the cold war is becoming, for lack of an alternative, the American dream. We need the Space Age to rediscover the best in ourselves. It presents America's leaders with an extraordinary opportunity to develop policies that use democratic openness as a force for constructive change. Sustained pursuit of those policies will, in turn, revive and rejuvenate the deepest hopes and aspirations of the American people. In its awesome vastness and grandeur, its transcendent opportunities, the Space Age is the American dream, cast onto a cosmic frontier.

Even while dealing with the bitter realities of the cold war, the United States should pursue distinctive Space Age policies whose objective is to go beyond the cold war. That task will place a special burden on the current generation of American leaders, forcing them to live in two worlds at once—a cold war on earth and a new age in space—until the transition from the first to the second is completed.

Mr. President, I do not hesitate in recommending this new work by Senator MATSUNAGA to my fellow Members. It will help us all understand the potential benefits—and pitfalls—as we move much more deeply into the space age.

THE MARS PROJECT: A MAINE DELEGATION VISITS MOSCOW IN SUPPORT OF A JOINT MISSION TO MARS

Mr. MITCHELL. Mr. President, in the years immediately ahead, the United States faces numerous crossroads. As a nation, we must confront issues—and hard choices—ranging from world trade to nuclear arms control.

The U.S. Space Program also faces major crossroads. In May, the report of the National Commission on Space, outlined possible challenges for us to pursue. This past week, we also have been reminded poignantly of the potential risks of those challenges, with the release of the report of the Presidential Commission on the Space Shuttle *Challenger* accident.

Major organizational changes now await the National Aeronautic and Space Administration [NASA]—along with a renewed commitment to safety, and design changes in the Shuttle Orbiter itself. But as the Rogers Commission pointed out in a "Concluding Thought" to its report, NASA and the Space Program are "a symbol of national pride and technological leadership."

The Commission applauded NASA's "spectacular achievements of the past"—and anticipated "impressive achievements to come."

One potential glimpse of achievements yet to come is provided by our colleague, Senator MATSUNAGA of Hawaii, in his recently published book "The Mars Project: Journeys Beyond The Cold War."

Senator MATSUNAGA's book is a statement of hope. It is a masterpiece of imagination and a blueprint for legislative determination. In one bold stroke, he addresses the need for the United States to retain our leadership in a global economy in the 1990's; the search for arms control and world peace; and the directions which our Space Program should follow.

"The Mars Project" challenges us to look beyond the arms race and the cold war to a joint, cooperative effort with the Soviet Union to launch a manned mission to Mars in the 21st century.

Senator MATSUNAGA has articulated an idea which is not a Buck Rogers fantasy or cosmic pipedream, but

rather, an opportunity that is within the outer limits of our grasp.

We already have taken first steps toward Mars. In 1976—the year of the American Bicentennial—our Viking I and II space probes orbitted and landed on Mars. In 1988, the Soviet Union will launch an unmanned scientific mission to the Mars moon, Phobos. In 1990, the United States will launch its Mars Observer probe.

There is no reason why the United States and the Soviet Union should not coordinate these next two scheduled missions to Mars, and use them as a springboard to the future. Together, we can proclaim 1992 as an International Space Year—the same year as the 500th anniversary of the discovery of America by Christoper Columbus; the 75th anniversary of the Russian Revolution; and the 35th anniversary of both the launching of sputnik and the International Geophysical Year.

The United States and the Soviet Union already have cooperated in the 1975 Apollo-Soyuz mission. The achievements of our respective space programs also are complementary. The Soviets have extensive experience with long-duration space flights. Americans have landed men on the Moon.

A joint American-Soviet mission to Mars would proclaim a bold frontier for the entire world. It would look beyond the strategic defense initiative to a higher purpose. Instead of "star wars," we would embark on a "star trek" together. Instead of the destructive competition of the arms race, it would represent a constructive, cooperative competition with the laws of physics.

My home State of Maine already has called on the United States Congress and the Soviet Union to rise to the challenge of peaceful space exploration. On February 21, 1986, the Maine State Legislature adopted a joint resolution calling on our governments "to do everything within their power to commit their nations to participation in a joint Soviet-American manned space flight to the planet Mars."

In the spirit of the late Samantha Smith, the young girl from Maine who traveled in 1983 to the Soviet Union on a mission for peace and understanding, the resolution of the Maine State Legislature was carried to Moscow in April 1986 by a delegation of 77 Maine high school students and educators. Leading the delegation was Mr. William Fortschen, a teacher at Mountview High School, who previously had been one of Maine's five finalists for NASA's "Teacher in Space"—an honor which finally went to our neighboring State of New Hampshire's Christa McAuliffe, who of course perished in the *Challenger* accident.

On April 22, 1986, the Maine students visited the Cosmonautics Museum in Moscow and presented the Maine State Legislature's resolution to former Apollo-Soyuz Cosmonaut Alexei Leonov. They also presented him with a copy of Senator MATSUNAGA's book.

U.S. astronaut Rusty Schweickart was present at the ceremony.

Four Soviet speakers attempted to link the proposal of a joint American-Soviet mission to Mars to the need for the United States to abandon the strategic defense initiative—saying that our nations cannot afford to pursue both.

But 13-year-old Dallas Brennan of Maine challenged the Soviet representatives, asking why they could not simply accept the proposal. The Maine State Legislature's resolution was presented by children representing the children of Maine—and the Mars Mission must not be a pawn in the arms race, but rather, as an aspiration and bond between the children of our two societies.

The Soviets were stunned—and impressed—by young Dallas' forthrightness. They then broke into smiling laughter and applause when 9-year-old Edith Webster, another member of the group, presented the Maine State flag to Cosmonaut Leonov—and asked him to please take it with him when he goes to Mars.

Cosmonaut Leonov will not live to travel to Mars. But the son or daughter of a Soviet cosmonaut very well may—and I can think of no greater achievement for our nations than if they are accompanied by one of our own American sons or daughters.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks, the full text of the Maine State Legislature's Mars resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, like Senator MATSUNAGA and the Maine State Legislature, I endorse the proposal for an American-Soviet mission to Mars. We also are not alone, and we are bipartisan in spirit. Senators MATHIAS of Maryland, PELL, of Rhode Island, PROXMIRE of Wisconsin, SIMON of Illinois, KASSEBAUM of Kansas, STAFFORD of Vermont, and GORTON of Washington, who chairs the Senate Commerce Committee's Subcommittee on Space, also support the concept.

A joint mission to Mars will provide an ideal opportunity for asserting the U.S. technological leadership. As Senator MATSUNAGA declares in his book: "Space is responsive to American instincts * * * American genius works best when it has room. American ingenuity thrives in the expansive physical environment of a new frontier."

A joint mission to Mars also represents a more prudent investment than the Reagan administration's strategic defense initiative—which again, as Senator MATSUNAGA writes, "will have no constructive economic application and might not even work. Space weapons systems won't provide infrastructure or constitute stepping-stones for space exploration and settlement. They will just sit up there in space, a trillion-dollar building block to nowhere."

It will cost the United States at least $8 billion to construct a space station by 1993. A manned Mars mission will cost $40 billion by one estimate. However, SDI would cost a hundred times that figure—and represent a tragic diversion of national resources.

On the other hand, a joint mission to Mars would spread the costs of space exploration. It would foster international cooperation and peace, not mutual distrust and the spectre of war.

Moreover, a joint American-Soviet mission to Mars will necessarily require the Soviet Union to join in open, democratic experiments. Again, as Senator MATSUNAGA so aptly points out: "Joint activity in space means open competition, which is inherently democratizing and favors free enterprise."

A joint mission to Mars would see levels of cooperation that elude us in other contexts. The 1975 Apollo-Soyuz Mission is a historical example. Its technical imperatives set precedents for openness, information exchange, coordination and verification—important issues which have otherwise defied resolution by our arms control negotiators.

We all share a hope for world peace. A joint mission to Mars could provide a vision of that peace.

Men and women must never cease to reach for the stars. Nations must never cease to reach out together in search of peace, in common spirit and purpose.

If not to ourselves, we owe this commitment to our children, and to future generations.

EXHIBIT 1

JOINT RESOLUTION

Whereas, a citizen of the State of Maine, Samantha Smith, has paved the road to understanding and cooperation between the people of the United States and the Soviet Union; and

Whereas, the recent summit meeting between Ronald W. Reagan, President of the United States, and Mikhail S. Gorbachev, General Secretary of the Communist Party of the Soviet Union, has opened new and exciting avenues for peaceful exchange of culture and technology; and

Whereas, 75 young students from the State of Maine will be traveling to the Union of Soviet Socialist Republics in April 1986, on a mission of friendship and education, in an effort to promote greater understanding and cooperation between the people of the United States of America and the people of the Union of Soviet Socialist Republics; and

Whereas, the United States and the Soviet Union pledged not to introduce nuclear or other weapons of mass destruction in Earth's orbit or on any other celestial body. According to the treaty ratified in Moscow and Washington in January 1967, the nations are to "facilitate and encourage international cooperation" in the scientific exploration of the Moon and planets and "shall regard astronauts as envoys of mankind;" and

Whereas, joint activities on other planets are explicitly encouraged by Article I of the Treaty, which reads: "The exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind;" and

Whereas, further peaceful progress was made in May 1972, when United States President Richard M. Nixon and Soviet Premier Alexei Kosygin signed an agreement providing for United States-Soviet cooperation in exploring space for peaceful purposes; and

Whereas, joint cooperation was expanded by the Apollo-Soyuz space linkup in July 1975, between Lt. General Thomas Stafford, United States Air Force and Major General Alexei Leonov of the Soviet Air Force; and

Whereas, further Soviet and American joint activities in planetary exploration would contribute much toward the achievement of a lasting peace between our 2 great spacefaring nations; now, therefore, be it

Resolved, That We, your Memorialists, do hereby respectfully urge and petition the President of the United States of America and the General Secretary of the Communisty Party of the Soviet Union to do everything within their power to commit their nations to participation in a joint Soviet-American manned space flight to the planet Mars; and, be it further

Resolved, That duly attested copies of the Joint Resolution be transmitted to the President of the United States of America and the General Secretary of the Communist Party of the Soviet Union.

□ 1650

SENATOR MATSUNAGA AND AMERICA'S LEADERSHIP IN SPACE

Mr. BYRD. Mr. President, the Rogers Commission report on the *Challenger* disaster has been acclaimed as professional and through, and it was. That report has pointed the way toward resolving the failures of technology and management which it so carefully documented as having led to that catastrophe. It was necessary and proper that we look back carefully on the recent history of the Space Shuttle Program.

We must absorb and act on the lessons we have learned from that painful inquisition; but, Mr. President, we are not merely witnessing the end of one tragic episode in America's space program. We stand on the edge of opportunity for American leadership for the peaceful uses and explorations of space—in our immediate earthly environs, in the exploration of our solar system, and in the exploration of deep space. Our enterprises and explorations are limited only by our own visions and our own dreams. It is time for the United States to reassess, to look upward again, and to recapture the imagination of our people here and mankind everywhere.

Mr. President, the distinguished junior Senator from the State of Hawaii, Mr. MATSUNAGA, has been a leader in this body in the area of cooperative ventures in space, in articulating a vision for the future. His timing could not have been better. He has just published a book which expresses his philosophy and proposals on man and space. His book, entitled "The Mars Project: Journeys Beyond The Cold War" has just been made available. It is a powerful, persuasive, and positive prescription for the future of our space program.

It is upbeat and refreshing, and full of good ideas. It has been getting excellent reviews.

The underlying theme of Mr. MATSUNAGA's new book is that the virtues of openness, a value which he argues is the greatest asset and the most central characteristic of American society, will redound to our benefit in our space policy. The same openness that characterized the Rogers Commission inquiry, and produced its outstanding report, will lead to productive ventures, both commercial and scientific, in space exploration. At one point, he states:

Open opportunity—open government—open competition—open communication. I don't think Americans fully realize the decisive role that openness has played in the formation of our values and our institutions. Other nations have embraced democracy and capitalism, but none with the same unified commitment to openness as the United States. From that commitment comes the unique dynamism—the mobility, flexibility, individual freedom—of American society. Democratic openness is our greatest strength. Our weakness is a failure to fashion intelligent foreign policies that use it.

Mr. MATSUNAGA carefully chronicles the recent history of cooperation which has characterized European space efforts, and shows how even the Soviets have been willing to engage in joint ventures. He says, "space cooperation is becoming more international and governments are insulating it from short-term policy shifts in order to pursue its unique long-term potential." Mr. MATSUNAGA believes that the United States "bears a special responsibility not merely to follow but to lead in the move toward greater and enduring cooperation in space."

He has been tireless in pursuing his vision. Since 1982, he has introduced seven resolutions dealing with space cooperation, one calling for dedicating 1992 as an International Space Year. He has called for a joint Soviet American manned mission to Mars. He believes that the 1977 United States-Soviet space cooperation agreement, which was not renewed by the United States in 1982, should now be dusted off and renewed.

Mr. President, there is a great deal to recommend to my colleagues between the covers of Mr. MATSUNAGA's new book. I congratulate him on his achievement and I commend him for his dedicated and continuing leadership on the grand theme of American leadership in the open use and exploration of space. His emphasis on democratic competition and cooperation is one to which we can all relate. I look forward to working with him in the Senate to make his noble vision a practical reality for our Nation and for all people.

Mr. President, I ask unanimous consent that an item from the current issue of Air & Space, the magazine of the Smithsonian Institution, be printed in the RECORD at this point. The item bears the heading "The Mars Project: Journeys Beyond the Cold War, by Senator SPARK M. MATSUNAGA, Foreword by Arthur C. Clarke."

This is an excellent review of Mr. MATSUNAGA's excellent publication.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Air & Space Magazine, June-July 1986]

THE MARS PROJECT: JOURNEYS BEYOND THE COLD WAR, BY SENATOR SPARK M. MATSUNAGA, FOREWORD BY ARTHUR C. CLARKE

(By Katie Janssen)

Senator Spark Matsunaga asks, "Would someone in the policy-making councils of government please look up?" The senator from Hawaii might better have asked whether someone would please join him in doing so. Matsunaga has already looked up—literally, to the skies, and figuratively, to the future—and he has seen a refreshing panorama of possibilities for international cooperation in space.

Matsunaga does not claim any special knowledge of space science or exploration, dating his interest in space only to 1980, when he first visited the observatory on Mauna Kea. But perhaps only someone with this outside perspective could suggest such radical, but nonetheless essentially plausible, changes in American space policy.

Since 1982, Matsunaga has introduced seven Congressional resolutions dealing with international, particularly American-Soviet, cooperation in space. One calls for dedicating 1992—a year significant to both major space powers, since it is the 500th anniversary of Columbus's discovery of America and the 75th anniversary of the Russian Revolution—as an International Space Year for "concerted worldwide commemorative recognition" of progress in space. Most of the other resolutions propose ways to foster American-Soviet cooperation in ventures ranging from space medicine and biological research to space rescue operations.

But his grandest plan calls for a joint manned mission to Mars. Repeatedly, the senator explains his motives: "Allowing space to become an arena of conflict without first exerting every effort to make it an arena of cooperation would amount to an abdication of governmental responsibility that would never be forgotten."

The book reprints Matsunaga's Congressional resolutions (which in themselves make fascinating reading) and describes the context—both political and, to some extent, personal—in which he proposed them.

The senator argues that the logic of day-to-day politics and the cold war have combined to create a "closed loop of insanity"—a hypothesis best supported by the seemingly unstoppable arms race. Too often, the senator writes, American foreign policy simply reacts against Soviet foreign policy. American space policy has frequently followed the same reactive pattern: the Russians launched Sputnik, which Americans interpreted as the beginning of a "space race," so the U.S. inaugurated an intensive lunar-landing program. In this, the U.S. has unnecessarily handed the Soviets a tremendous advantage: the initiative.

Matsunaga suggests that asking the Soviets to join us in the trip to Mars would be a step toward taking the initiative ourselves. There is every indication that the Soviets would accept such an invitation. Over the years, the U.S. and the U.S.S.R. have developed oddly complementary space capabilities, "almost as if the two chief space powers . . . had unconsciously divided up the best initial opportunities," Matsunaga says. The U.S. has better planetary orbiters, while the Soviets have better planetary landers, for example. Cooperation on a major interplanetary expedition would thus serve the interests of both nations.

Such a massive project would require long-term planning on a scale to which American politicians are unaccustomed—but the benefits would be enormous. First and foremost, cooperation requires the open exchange of information—an inherently democratizing process, in Matsunaga's view—and this exchange would be just as beneficial to us as it would be to the Soviets. The threat of technology transfer would be minimal, since most of the technology employed in the types of missions Matsunaga envisions is already public knowledge, and any new technology could be adequately protected. Cooperation would prevent us from being "Sputniked" again—and it is worth noting that the Soviets have made no secret of their desire to send a manned mission to Mars. The 75th anniversary of the October Revolution would be a prime target date for a Soviet space spectacular. And finally, Matsunaga posits, cooperation would establish a precedent for peaceful cooperation and democracy in space that might prove decisive in shaping the laws by which space ultimately will be governed.

Matsunaga opposes the militarization of space. He is an outspoken and persuasive critic of Star Wars. "Even if the Strategic Defense Initiative works to perfection and Soviet ICBMs are rendered 'impotent,'" Matsunaga writes, "the disease [of arms build-up] will continue to spread: the Soviets will simply shift to other strategies of nuclear deployment even more mad than MAD [Mutually Assured Destruction]. . . . An 'impotent' nuclear-armed Soviet Union would present us with problems that would make Middle East terrorism seem like a playful lark."

This is not to say that he sees no role for the military in space: to the contrary, Matsunaga reminds us that "America's first and still most glorious expedition of exploration was led by two Army officers—Lewis and Clark." Drawing on that tradition, the senator proposes "a space exploration policy that aligns the Air Force with NASA. NASA would handle conception and design of all space missions, and the operation of unmanned missions. To the Air Force would fall operational direction of manned space exploration that would be carried out openly and in cooperation with other space-faring nations."

There is much more to this book: a discussion of American strengths and weaknesses in the global high-tech marketplace, for example, and speculation on the role of the frontier in shaping American history and national character.

The Senator's writing is not elegant—the jumps between personal autobiography, political memoir, and policy analysis are sometimes awkward—but Matsunaga is eloquent in his vision of hope for the future. The Mars Project could prove to be a tremendously important book, and it certainly should be read by anyone with an interest in America's space program.

Mr. MATSUNAGA. Mr. President, I would like to thank the distinguished Senator from West Virginia for his most generous remarks. My book "The Mars Project, Journeys Beyond the Cold War," is dedicated to the memory of my deceased father. However, the opening lines of the book's acknowledgments section constitute a second dedication, and here I quote:

I have had the privilege of serving as a member of the United States Congress since 1963. To acknowledge fully all that I have gained in learning and fellowship from my colleagues in the House of Representatives and the Senate is an impossible task. I hope this book will contribute to the ongoing and open congressional dialogue concerning United States policy in the Space Age.

This book, Mr. President, is in large part a statement of respect for the Congress and of profound gratitude to my colleagues, both in the House and in the Senate, for their part in adding to my learning process and providing an irreplaceable warm fellowship. Again, I would like to thank the distinguished Senator from West Virginia for his comments and for taking the time to read my book.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his gracious remarks. Again, I compliment him and thank him for this fine contribution to an exceedingly important subject.

COMMENDING SENATOR MATSUNAGA FOR HIS EFFORTS TO PROMOTE SPACE COOPERATION

Mr. MATHIAS. Mr. President, over the past 6 years, the distinguished Senator from Hawaii, SPARK MATSUNAGA, has vigorously pursued an imaginative strategy to improve East-West relations and expand our understanding of the universe. The key to his strategy is international cooperation in space. His new book, "The Mars Project: Journeys Beyond the Cold War," offers the world an intriguing plan for international space cooperation in a conflict-ridden age.

Space is the common frontier of all mankind. No boundaries have been claimed nor fences built. It therefore offers the international community a unique opportunity for cooperative efforts.

That is the visionary message of Senator MATSUNAGA's book. That is the vision the Senator wants us to see when he urges policymakers to "please look up." Space opens up a new dimension of possible cooperative ventures. By working together on projects in space, the international community can make the best use of its diverse resources and limit wasteful duplication of effort. More importantly, cooperation in space can help moderate international competition—particularly superpower competition—on Earth. The Apollo-Soyuz linkup is just one dramatic example of how space cooperation can serve this purpose. As Senator MATSUNAGA has so eloquently said,

Allowing space to become an arena of conflict without first exerting every effort to make it an arena of cooperation would amount to an abdication of governmental responsibility that would never be forgotten.

I have been privileged to work with Senator MATSUNAGA, Senator PELL, and others to make space an arena of cooperation. Reviving the United States-Soviet space cooperation agreement and mkaing 1992 an international space year are two critical steps along this path. We must continue to take such steps whenever possible. Eventually, we may be able to attain Senator MATSUNAGA's grand goal—a joint United States-Soviet manned mission to Mars.

Each cooperative step that we take along this journey beyond the cold war may seem small by itself; but taken together these small steps will constitute, to borrow the words of Neil Armstrong, "a giant leap for mankind." Senator MATSUNAGA has played an invaluable role in inspiring us to begin that leap.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask the Democratic leader if he is now prepared to entertain the boilerplate unanimous consent request.

□ 1700

Mr. BYRD. Yes, I say to the distinguished acting majority leader that this side is ready to proceed.

THE CALENDAR

Mr. DANFORTH. Mr. President, I would like to inquire of the minority leader if he is in a position to pass any of the following calendar items: Calendar No. 676, S. 2069; Calendar Order 683, Senate Joint Resolution 311; Calendar Order 684, Senate Joint Resolution 357; and Calendar 685, Senate Resolution 406.

Mr. BYRD. Mr. President, all of the calendar orders identified by the distinguished acting Republican leader have been cleared on this side, and we are ready to proceed with action thereon.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the calendar items just identified be considered en bloc, passed en bloc, and that all committee reported amendments and preambles be considered agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOB TRAINING PARTNERSHIP ACT AMENDMENT OF 1986

The Senate proceeded to consider the bill (S. 2069) to amend the Job Training Partnership Act, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Job Training Partnership Act Amendments of 1986".

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

SEC. 2. Section 124(d) of the Job Training Partnership Act (hereafter in this Act referred to as the "Act') is amended to read as follows:

"(d)(1) An individual shall be eligible to participate in the training program authorized by this section—

"(A) If the individual has attained 55 years of age; and

"(B)(i) is economically disadvantaged, or

"(ii) has a low income.

"(2) For the purpose of this subsection, low income includes any individual whose income is not more than 125 percent of the poverty guideline established pursuant to the Community Services Block Grant Act.".

PRESIDENTIAL AWARDS FOR OUTSTANDING BUSINESS INVOLVEMENT IN JOB TRAINING PROGRAMS

SEC. 3. Part D of title I of the Act is amended by adding at the end thereof the following new section:

"PRESIDENTIAL AWARDS FOR OUTSTANDING BUSINESS INVOLVEMENT IN JOB TRAINING PROGRAMS

"SEC. 172. (a)(1)(A) The President is authorized to make Presidential awards for outstanding achievement by business in the job training partnership program authorized by this Act. The President is authorized to make such awards to individual executive officers who, and business concerns which, have demonstrated outstanding achievement in planning and administering job training partnership programs or in contributing to the success of the job training partnership program.

"(B) In making the awards pursuant to subparagraph (A) of this paragraph, the President shall consider the effectiveness of the program for which the award is made.

"(2) The President is authorized to make Presidential awards for model progams in the job training partnership program authorized by this Act which demonstrate effectiveness in addressing the job training needs of groups of individuals with multiple barriers to employment.

"(b)(1) Each year the President is authorized to make such awards under subsection (a) of this section as the President determines will carry out the objectives of this Act.

"(2) The President shall establish such selection procedures, after consultation with the Secretary and the Governors of the States, as may be necessary.".

WITHIN STATE ALLOCATION

SEC. 4. (a)(1) Section 202(a) of the Act is amended—

"(A) by striking out "Of" in paragraph (2) and by inserting in lieu thereof the following: "Subject to the provisions of paragraph (3), of";

"(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Each Governor may provide that any service delivery area within a State may receive more than the allocation for a fiscal year determined under this subsection for that fiscal year, but in no event more than 90 percent of the average share or amount which the service delivery area received for each fiscal year for the 3 fiscal years prior to the fiscal year for which the determination is made.

"(B) Each fiscal year in which a Governor revises the allocation pursuant to subparagraph (A) of this paragraph, the Governor shall reallocate the allocations among service delivery areas not affected by the adjustments made pursuant to subparagraph (A) of this paragraph.".

(2) For the purpose of determining the hold harmless for the program year beginning July 1, 1986, under the amendment made by paragraph (1) of this subsection, the Governor shall recalculate the 9-month transition period described in section 161(c)(1) of the Job Training Partnership Act on a 12-month basis.

(b) The last sentence of section 202(b)(3)(B) of the Act is amended by striking out "which do not qualify for incentive grants under this subparagraph".

SERVICES TO YOUTH

SEC. 5. Section 203(b)(1) of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of the preceding sentence, the term 'eligible youth' includes individuals who are 14 and 15 years of age.".

SUMMER YOUTH EMPLOYMENT PERFORMANCE STANDARDS

SEC. 6. (a) Part B of title II of the Act is amended by inserting at the end thereof the following:

"REMEDIAL EDUCATION SET-ASIDE AND PERFORMANCE STANDARDS

"SEC. 255. (a) For fiscal year 1987 and for each of the three succeeding fiscal years, in each service delivery area 25 percent of the amount available for this part for such year for the service delivery area shall be reserved for the conduct of remedial education programs.

"(b) During the period described in subsection (a), the Secretary shall develop standards to be applied to programs conducted under this part. Such standards may include (A) improvement in basic educational skills, (B) improvement in English language proficiency, and (C) attainment of recognized youth employment competencies prescribed pursuant to section 106(b)(2)(A).

"(c) Beginning after September 30, 1990, the Secretary shall establish and apply standards of performance for programs under this part based upon subsection (b).".

(b) The table of contents of the Act is amended by inserting after item "Sec. 254." the following new item:

"Sec. 255. Performance standards.".

IDENTIFICATION OF DISLOCATED WORKERS

SEC. 7. (a) Section 302(a) of the Act is amended—

(1) by striking out "or" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "or"; and

(3) by inserting at the end thereof the following:

"(4) were self-employed and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters subject to the next sentence.

The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which clause (4) of the preceding sentence applies.".

(b) Section 302(d) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Whenever the State determines that it is practicable, the State is authorized, in carrying out the provisions of this title, to assist eligible individuals who reside outside the State but are employed in a labor market area, part of which is located within the State or employed in a service delivery area that is contiguous to a service delivery area in the State.".

REFERRAL OF APPLICANTS

SEC. 8. Section 424 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall improve the coordination between training programs authorized by this Act conducted in service delivery areas and the Job Corps program. In carrying out the provisions of the preceding sentence, the Secretary shall assure that applicants for programs in service delivery areas should be referred to Job Corps centers, and vice versa, where the requirement of this subsection is appropriate and feasible.".

VETERANS' AMENDMENTS

SEC. 9. (a)(1) Section 4(5) of the Act is amended by inserting after "handicapped" a comma and the following: "including disabled veterans".

(2) Section 4(27) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) The term 'recently separated veteran' means any veteran who applies for participation under any title of this Act within 48 months of the discharge or release from active military, naval, or air service.

"(D) The term 'Vietnam era veteran' means a veteran any part of whose active military service occurred between August 5, 1964, and May 7, 1975.".

(b) Section 106(b)(3) of the Act is amended by striking out "and offenders" and inserting in lieu thereof "disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, and offenders".

(c) Section 108(c)(2)(B)(ii) of the Act is amended by inserting after "handicapped individuals" a comma and the following: "including disabled veterans".

(d) Section 121(c)(10) of the Act is amended by adding before the period at the end thereof a comma and the following: "including Veterans' Administration programs".

(e) Section 123(c)(1) of the Act is amended by inserting after "offenders" a comma and the following: "veterans".

(f) Section 124(b) of the Act is amended by inserting after "nonprofit private organizations" a comma and the following: "including veterans organizations".

ADDITIONAL EXPERIMENTAL AND DEVELOPMENTAL PROJECTS AUTHORIZED

SEC. 10. Section 453(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation, and

(2) by adding at the end thereof the following new paragraph:

"(2) From funds made available under this part, the Secretary may provide financial assistance for pilot projects for the training of individuals who are threatened with loss of their jobs due to technological changes, international economic policies or, general economic conditions.".

PROJECTS FOR SPECIAL POPULATIONS

SEC. 11. (a) Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"PROJECTS FOR SPECIAL POPULATIONS

"SEC. 456. In carrying out this part, the Secretary shall include projects designed to serve populations with multiple barriers to employment, such as individuals listed in section 203(a)(2) and individuals not otherwise targeted for assistance under this Act, with special consideration for displaced homemakers and the handicapped.".

(b)(1) Section 4 of the Act is amended by inserting at the end thereof the following new paragraph:

"(29) The term 'displaced homemaker' means an individual who—

"(A) was a full-time homemaker for a substantial number of years; and

"(B) derived the substantial share of his or her support from—

"(i) a spouse and no longer receives such support due to the death, divorce, or permanent disability of the spouse; or

"(ii) public assistance an account of dependents in the home and no longer receives such support.".

(2) The table of contents of the Act is amended by adding after item "Sec. 455." the following new item:

"Sec. 456. Projects for special populations.".

THE JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1986

Mr. QUAYLE. I am pleased that the Senate is considering S. 2069, the Job Training Partnership Act [JTPA] Amendments of 1986, which I introduced on February 7, 1986. S. 2069 is the result of oversight activities that have taken place since JTPA was enacted on October 13, 1982.

Senator KENNEDY, the ranking minority member of the Labor and Human Resources Committee, is a cosponsor of these amendments, as he was of the original JTPA legislation I introduced. S. 2069 had bipartisan support throughout committee consideration and I am confident that it will also have bipartisan support during consideration by the full Senate today. Also, I commend Senator HATCH, chairman of the committee, for his leadership during the development and consideration of S. 2069.

These amendments are based on oversight findings from the initial implementation period of JTPA, starting October 1983 and extending through the end of this month, which marks the completion of the first 2-year planning period. During this time, the Subcommittee on Employment and Productivity has clearly monitored the implementation of JTPA through oversight hearings, site visits, and informal discussions. The subcommittee also received written comments from other congressional offices, research groups, and from State and local program operators throughout the country.

On behalf of myself and my staff, I would like to thank everyone in Indiana who assisted and advised us on program operations during oversight. I applaud my constituents for their diligent commitment to making JTPA an effective program. In particular, I wish to thank the Indiana Office of Occupational Development which responded to our numerous inquiries in a timely and professional manner.

Many thanks are also due to other individuals and organizations who have conducted research and provided valuable expertise and advice to the committee members and their staff, contributing to our oversight findings. I would like to name just a few of these organizations that deserve special acknowledgment: the Department of Labor, the National Commission for Employment Policy, the Cogressional Research Service, the Government Accounting Office, the Office of Technology Assessment, the National Governor's Association, the National Alliance of Business, the National Association of Counties, Wider Opportunities for Women, the Opportunities Industrialization Centers of America [OIC's], 70,001, the Manpower Development and Research Corporation, and the New England Training and Employment Council.

To briefly summarize the oversight findings, testimony indicated strong and widespread support for the public-private partnership that is credited for program success. Witnesses testified that the increased autonomy and flexibility accompaning JTPA's decentralized approach is essential to the continued involvement of the private sector. There is consensus that, with the exception of some fine tuning to enhance the ability of service delivery areas to meet the goals of JTPA, changes are not necessary and amendments should be avoided.

I support these findings. In general, States and service delivery areas should explore administrative remedies to common problems rather than seek legislative solutions. When JTPA was enacted, it was recognized that program stability is essential for effective administration; a factor that contributed to the instability of previous employment and training programs was the tendency to legislate frequent changes. From the time it was enacted in 1972 to its termination in 1982, the Comprehensive Employment and Training Act [CETA] had major programmatic changes annually. There is broad agreement that JTPA should not be subject to the same constant revision. Therefore the amendments we are considering today are the first offered since the enactment of JTPA. They neither alter the goals of the act nor change the new administrative structure.

Having recognized these points, we also recognize that legislative changes are sometimes necessary to ensure program stability. Also, the need for stability must be weighed against the need to respond to legitimate concerns. In S. 2069, we have attempted to strike a balance among these competing demands.

Now I will turn to a brief description of some significant provisions of the bill.

An amendment that will enhance program stability authorizes Governors to apply a hold harmless on allocations to service delivery areas for title II. The hold harmless level may be as high as 90 percent and it would be applied to the average of service delivery areas' share or amount for the prior 3 years.

This amendment is necessary because the substate allocation formula has resulted in extreme fluctuations in funding levels for service delivery areas, as high as 25 percent or more in some cases. These fluctuations interfere with program planning and the maintenance of an administrative structure.

Another significant improvement is a requirement that all service delivery areas set-aside 25 percent of their allocation for the Summer Youth Program, title II-B, to fund a remedial education component for those youth who lack basic literacy skills. This provision will be in effect temporarily, from fiscal year 1987 to fiscal year 1990. During that time the Secretary will collect data and develop performance standards for all aspects of the Summer Youth Program. In fiscal year 1991, the set-aside will expire and the performance standards will be implemented.

This amendment is in response to reports about alarmingly high illiteracy rates among youth, particularly among disadvantaged youth. In response to this national problem, the committee believes that funds available to serve disadvantaged youth during the summer months should be used to reduce illiteracy, either through classroom training or in conjunction with work experience. Re-

ports indicate that during the summer months youth suffer academic loss which for disadvantaged youth may contribute to high dropout rates. The academic loss is particularly important since the level of education has a major impact on future success in the job market.

One other significant change is a clarification that dislocated farmers are eligible to participate in the Dislocated Worker Program, title III. Recognizing that farming is only the most recent occupation to be affected, the language has been broadly worded to permit the Secretary to establish categories of self-employed individuals eligible for title III.

In conclusion, I believe this package of amendments to JTPA is noncontroversial and that S. 2069 deserves broad support. I urge my colleagues to approve these necessary changes. I want to express my special appreciation to Renee Coe, of my subcommittee staff, who worked so hard on this bill.

I ask unanimous consent that a description of the provisions contained in S. 2069 be inserted in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

Sec. 2: Add the income eligibility criteria for the Community Services Employment Program, Title V of the Older Americans Act.

PRESIDENTIAL AWARDS

Sec. 3: Establish Presidential Awards to acknowledge outstanding private sector involvement, through direct and indirect contributions, to the successful operations of job training programs. Also, establish awards to recognize outstanding model programs for serving individuals with multiple barriers to employment.

WITHIN STATE ALLOCATION

Sec. 4(a): Authorize Governors to use up to a 90 percent hold harmless on the Title II-A allocations for service delivery areas, based on the average allocation for the three preceding program years.

Sec. 4(b): Authorize Governors to use the balance of funds available under the six percent setaside for technical assistance to all service delivery areas.

SERVICES TO YOUTH

Sec. 5: Clarify that, if services are provided to 14 and 15 year olds for activities such as pre-employment training, the cost of those services may be charged to the service delivery area's credit in meeting the requirement to spend 40 percent of its funds on youth.

SUMMER YOUTH PROGRAM

Sec. 6: Require service delivery areas to use 25% of funds available for the Summer Youth program to provide a remedial education component for four years. During that time the Secretary of Labor will collect data and develop performance standards for the Summer Youth program. These performance standards will take effect after September of 1990 at which time the 25 percent requirement will terminate.

DISLOCATED WORKERS

Sec. 7(a): Expand the eligibility criteria to authorize the Secretary to establish categories of self-employed individuals eligible for services, such as dislocated farmers.

Sec. 7(b): Authorize States to serve eligible individuals who live outside the State but whose place of employment is within the State.

REFERRAL OF APPLICANTS

Sec. 8: Require cross referral of applicants, where appropriate, between Job Corps centers and service delivery areas.

VETERANS

Sec. 9: Insert "including disabled veterans" after "handicapped" in the definition of community based organizations; add definitions of "recently separated veteran" and "Vietnam era veteran"; add "Vietnam era veteran" to language requiring the Secretary to prescribe performance standards for national programs; insert "including disabled veterans" following "handicapped" in language prescribing a waiver of the 30 percent cost limitation for individuals requiring substantial additional supportive services; insert "including Veterans' Administration programs"; in language authorizing the Governor to coordinate with related Federal, State, and local programs; insert "including veterans organizations" after "nonprofit private organizations" in language authorizing the Governor to contract with public and private service providers.

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

Sec. 10: Authorize the Secretary of Labor to conduct pilot projects, with funds available under Title IV, Part D, to retrain individuals threatened with the loss of their jobs due to technological changes, international economic policies, or general economic conditions.

Sec. 11: Require the Secretary to use funds available for research, demonstration, and pilot projects, under Title IV, Part D, for populations with multiple barriers to employment, with special consideration for displaced homemakers and handicapped.

Mr. SIMON. Mr. President, I want to join the majority leader and the distinguished chairman of the Subcommittee on Employment and Productivity in support of S. 2069, the Job Training and Partnership Amendments of 1986. These amendments make minor, but important changes in the Job Training and Partnership Act [JTPA] and are based on extensive hearings held by the subcommittee. I want to commend my friend and colleague from Indiana, Senator DAN QUAYLE, for his persistence and diligence in conducting hearings on the implementation of the JTPA program since its enactment into law in October of 1982. The subcommittee, under Senator QUAYLE'S leadership, held extensive hearings in Indiana and here in Washington.

S. 2069 makes several significant changes which I strongly support: First, a new requirement that 25 percent of funds available for the Summer Youth Program be spent on a "remedial education component;" second, the definition of dislocated workers is clarified to include self-employed individuals, especially farmers, who have been adversely affected by farm prices, the availability of credit and the devaluation of farm land; and third, several new research and demonstration programs are authorized for displaced homemakers and for the retraining of currently employed workers whose jobs are threatened with the loss of their jobs to technological changes, international economic policies, or general economic conditions.

I am especially pleased that the bill includes stronger provisions to improve the language and computation skills of inner-city youth. A summer job which does not reenforce the academic program in our public high schools may place money temporarily in the pockets of eligible summer youth, but does nothing to build on the knowledge and skills they need to succeed in life.

I also appreciate the chairman's willingness to work with me to fashion an amendment to provide for the retraining of those currently employed but who may shortly face unemployment. Under the current law, only those persons who have been notified of their termination or permanent layoffs are eligible to receive assistance under title III, JTPA. Many U.S. manufacturers—facing increasingly serious challenges from high quality, low-cost foreign competitors—are committed to keeping as much manufacturing as possible in this country. To ensure a continual strong production and employment base, these companies are making major investments in the highest technology available. Most current State and Federal Government programs focus on training costs for the dislocated worker. While the need in this area is critical, attention must also be given to retraining workers faced with the need to upgrade their job skills to guarantee continued employment in this high-tech era.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as amended.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

The joint resolution (S.J. Res. 311) designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 311

Whereas there are more than one million one hundred and eighty thousand women

veterans in this country, representing 4.2 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 9, 1986, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contributions of women veterans, to express the Nation's appreciation for their service, to inspire more responsive care and services for women veterans and to continue and reinforce important gains made in this regard in the last two years as a result of the designation of the first and second National Women Veterans Recognition Weeks in November of 1984 and 1985; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 9, 1986, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe that week with appropriate programs, ceremonies, and activities.

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

The joint resolution (S.J. Res. 357) to designate the week of September 15, 1986, through September 21, 1986, as "National Historically Black Colleges Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 357

Whereas there are one hundred and one Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 15, 1986, through September 21, 1986, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

HONORING THE ANNIVERSARY OF ORGANIZED CAMPING IN THE UNITED STATES

The resolution (S. Res. 406) honoring the 125th anniversary of organized camping in the United States, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 406

Whereas, in August of 1861, Frederick William Gunn, headmaster of the Gunnery School in Washington, Connecticut, set out with his students on a forty-mile excursion to Welches Point on Long Island Sound in the first recorded organized children's summer camping experience in the history of our Nation;

Whereas the camp at Welches Point promoted the development and self-discipline of the participants, and was perceived to have been a valuable experience for the young students and adults who pitched tents and lived for two weeks in the out-of-doors, doing their own cooking, fishing, and chores, and enjoying songs and stories by campfire at night;

Whereas since those origins in the late nineteenth century, organized camping has provided young people with activities designed to promote personal growth and development skills; to encourage positive behavioral change; and to foster the ability to communicate with both other children and adults;

Whereas today over eleven thousand camps, in fifty States, serve four million young Americans each year; and

Whereas 1986 is the one hundred and twenty-fifty anniversary of organized camping in the United States;

Resolved, That due honor and recognition be accorded the institution of organized camping in its one hundred and twenty-fifth year of existence, with the acknowledgement of the contributions that organized camping has and continues to offer the youth of America, together with invaluable opportunities for enhanced mental, physical, spiritual, and social development.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the bill and resolutions were passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SAFETY IN THE WORKPLACE WEEK

Mr. DANFORTH. Mr. President, I ask the Democratic leader if he is prepared to consider House Joint Resolution 131.

Mr. BYRD. Mr. President, House Joint Resolution 131 has been cleared by all Members on this side, and we are ready to proceed.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 131 dealing with safety in the workplace just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 131) to designate the week of June 15, 1986, as National Safety in the Workplace Week.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 131) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNIFORMED SERVICES RETIREMENT SYSTEM

Mr. DANFORTH. Mr. President, I ask the Democratic leader if he is prepared to move to a House message on H.R. 4420.

Mr. BYRD. There is no objection on this side.

Mr. DANFORTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4420.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 4420) entitled "An Act to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees: Mr. Aspin, Mr. Price, Mr. Bennett, Mr. Montgomery, Mr. Dickinson, Mrs. Holt, and Mr. Hillis.

Appointed as additional conferees: For the consideration of titles I–III of the House bill, and sections 1–12 of the Senate amendment; Mrs. Schroeder, Mr. Skelton, Mr. Sisisky, Mr. Robinson, Mr. Bustamante, Mr. Hunter, Mr. Bateman, and Mr. Sweeney.

For the consideration of title IV of the House bill, and sections 13–15 of the Senate amendment: Mr. Stratton, Mr. Nichols, Mr. Daniel, Mr. Dellums, Mr. Mavroules, Mr. Whitehurst, Mr. Spence, Mr. Badham, and Mr. Stump.

Mr. DANFORTH. Mr. President, I move that the Senate insist on its amendment, and agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. DURENBERGER] appointed Mr. GOLDWATER, Mr. THURMOND, Mr. WARNER, Mr. HUMPHREY, Mr. COHEN, Mr. QUAYLE, Mr. EAST, Mr. WILSON, Mr. DENTON, Mr. GRAMM, Mr. NUNN, Mr. STENNIS, Mr. HART, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, and Mr. GLENN conferees on the part of the Senate.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

□ 1705

REFERRAL OF S. 1793

Mr. DANFORTH. Mr. President, is the Democratic leader prepared for the next item before me which is referral of S. 1793?

Mr. BYRD. Yes, Mr. President, we are ready on this side to accede to that request.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Calendar No. 657, S. 1793, be referred to the Committee on Armed Services for a period not to exceed 45 calendar days, provided that the Committee on Armed Services shall consider only section 3(b) relating to the CHAMPUS Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. DANFORTH. Mr. President, I would like to inquire of the minority leader if he is in a position to confirm any or all of the following Executive Calendar nominations: Calendar No. 855, Stephen F. Williams; Calendar No. 856, William W. Wilkins, Jr.; Calendar No. 857, Douglas P. Woodlock; Calendar No. 858, William D. Stiehl; Calendar No. 859, John E. Conway; Calendar No. 860, Edwin M. Kosik; Calendar No. 861, Karen LeCraft Henderson; Calendar No. 862, James G. Richmond; Calendar No. 863, James P. Jonker; Calendar No. 864, Laurence C. Beard; Calendar No. 865, Denny L. Sampson; Calendar No. 866, Patricia Diaz Dennis; Calendar No. 867, J. Edward Fox; Calendar No. 868, G. Norman Anderson; Calendar No. 869, John Dale Blacken; Calendar No. 870, Paul Matthews Cleveland; Calendar No. 871, Patricia Gates Lynch; Calendar No. 872, Vernon DuBois Penner, Jr.; Calendar No. 873, Cynthia Shepard Perry; Calendar No. 874, Chester A. Crocker; Calendar No. 875, Edward Noonan Ney; Calendar No. 876, Arch L. Madsen; Calendar No. 877, James Albert Michner; and Calendar No. 878, Lilla Burt Cummings.

Mr. BYRD. Mr. President, on the several nominations that have been identified by the distinguished acting Republican leader, on this side there are no objections on the part of any Member. We are ready to proceed with action thereon.

EXECUTIVE SESSION

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider the nominations just identified and that the nominations so identified be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM D. STIEHL TO BE A U.S. DISTRICT JUDGE

Mr. SIMON. Mr. President, Bill Stiehl, a lawyer from Belleville, IL, has been confirmed for a Federal judgeship.

Bill Stiehl is going to be a very fine Federal judge. He has only one liability that I know of and that is his party affiliation. But that does not seem to have been an insurmountable liability with the administration and so he has been nominated, and he will be a good judge for all the people of that area.

I am very pleased that he has been nominated. I know I express the opinion of Senator DIXON in this also.

NOMINATION OF WILLIAM D. STIEHL

Mr. DIXON. Mr. President, I have known Bill Stiehl since childhood. He is a lifelong resident of Belleville, IL—my own hometown. He is a great lawyer and a great public servant. Most of all he is truly a great friend, a man I respect on two levels—personal and professional.

I attest to the integrity of Bill Stiehl. I attest to his probity, his intelligence, and his capacity for fairness under the law. William D. Stiehl offers the southern district of Illinois a rare opportunity to gain a district judge with a proven record of honor and straightforwardness.

After graduating from the University of North Carolina, Bill Stiehl attended the St. Louis University School of Law. He completed his formal legal education in 1949. In that year, Bill Stiehl entered into private practice in Belleville, IL.

From 1950 to 1952, William Stiehl served in the Korean war. He was legal advisor to the naval delegate at the Korean Armistice conference. He returned to Illinois in 1952 and began a universally respected career as a lawyer and public servant.

From 1956 to 1960, Bill served as assistant State's attorney for St. Clair County. From 1970 to 1973, he served as a special assistant attorney general. He is the president of Belleville Township High School and junior college board of education.

Mr. President, I cannot begin to say enough about the accomplishments and personal integrity of my friend William Stiehl. He has never failed his hometown or his State, and I am certain he will never fail the law as a U.S. district judge.

NOMINATION OF WILLIAM W. WILKINS, JR.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for William W. Wilkins, Jr., President Reagan's nominee to be a judge on the fourth circuit court of appeals. Judge Wilkins presently serves as a U.S. district judge for South Carolina as well as chairman of the U.S. Sentencing Commission.

Judge Wilkins is a native of Greenville, SC, a graduate of Davidson College, and the University of South Carolina School of Law. He was editor-in-chief of the South Carolina Law Review, captain of the South Carolina national moot court team, and a member of the Wig and Robe. During his senior year in law school, Judge Wilkins was selected by the faculty as the outstanding graduate of the year.

After law school, Judge Wilkins served for 2 years in the U.S. Army. Upon his discharge from active duty, he worked as a law clerk to former Chief Judge Clement F. Haynsworth, Jr., of the U.S. Court of Appeals for the Fourth Circuit.

After completing his work with Judge Haynsworth, Judge Wilkins served as a legislative assistant for the Antitrust and Monopolies Subcommittee of the Senate Judiciary Committee.

In January 1971, he returned to Greenville and entered the private practice of law. In January 1975, Judge Wilkins was sworn in as solicitor for the 13 judicial circuit. This meant that he was the State district attorney for a large judicial circuit. He was reelected to that position in 1978. Judge Wilkins was the first solicitor elected in South Carolina on the Republican ticket since Reconstruction. He developed a reputation as a fearless and vigorous prosecuting attorney yet one who always treated everyone fair and equal.

Judge Wilkins was appointed U.S. district judge for the district of South Carolina on July 22, 1981, and thus became the first Federal judge appointed by President Reagan. In addition to performing his duties on the district level, Judge Wilkins has served

as an appellate judge on the fourth circuit by designation.

In October 1985, President Reagan appointed Judge Wilkins Chairman of the U.S. Sentencing Commission. He was served diligently and enthusiastically in that capacity.

Judge Wilkins compiled a fine record as public servant. During his tenure on the district court in South Carolina, he demonstrated that he is a man of courage and ability. Judge Wilkins is committed to hard work and is deserving of the highest marks for judicial temperament. I was very pleased to recommend Judge Wilkins to President Reagan and I am confident that he will be an outstanding circuit court judge. I urge my colleagues to vote for his confirmation.

NOMINATION OF KAREN LECRAFT HENDERSON

Mr. THURMOND. Mr. President, I am very pleased today to recommend Mrs. Karen L. Henderson for confirmation as U.S. district judge for the district of South Carolina. Mrs. Henderson was born in Oberlin, OH. She graduated in 1966 from Duke University where she received her bachelor of arts degree. Mrs. Henderson then entered the University of North Carolina School of Law and received her juris doctorate degree in 1969. From 1969-71 she was a practicing attorney in North Carolina, and in 1973 she passed the South Carolina bar examination. From 1973-82, Mrs. Henderson served with distinction with the office of the attorney general for the State of South Carolina. In this capacity she served as assistant attorney general from 1973-78. From 1978-82, she served as senior assistant attorney general and director of the special litigation section. In 1982, she served as the first woman deputy attorney general and director of the criminal division. In 1983, Mrs. Henderson joined the law firm of Sinkler, Gibbs & Simons, where she has continued to prove herself as a very able attorney.

Mrs. Henderson, who will be the first woman appointed to the Federal court in South Carolina, brings to the bench impressive qualifications and a legal background that is well suited to the Federal district court. Her areas of specialization have included constitutional law as well as criminal and administrative law. She is a woman of ability, integrity, and independence. Mrs. Henderson is a dedicated and trustworthy individual whose commitment to justice for all is exemplified through the courage of her convictions. Mrs. Henderson's outstanding record speaks for itself. She has the experience and the judicial temperament to become an outstanding judge for the district court. It was with considerable pride that I recommended Mrs. Henderson to President Reagan for this very important position, and I urge my colleagues to vote in favor of Karen Henderson for the position of district court judge for the district of South Carolina.

NOMINATION OF DOUGLAS P. WOODLOCK

Mr. KERRY. Mr. President, I support the nomination of Douglas P. Woodlock as a Federal judge for the U.S. District Court for the District of Massachusetts. I will vote in favor of his confirmation, and I urge my colleagues to do so as well.

I have spoken many times, on the floor of the Senate and elsewhere, about my concern over the trend toward ideological "litmus tests" for the Federal judiciary. I am pleased to note that Douglas Woodlock does not fall into that category. Mr. Woodlock is a first-rate nominee for the Federal bench, and one whom I am pleased to support. He is an extremely able lawyer, and I know that he will be a fine Federal judge for Massachusetts.

Douglas Woodlock comes to the Federal bench well prepared by a wide range of legal experience. He is currently a partner with the distinguished firm of Goodwin, Proctor & Hoar in Massachusetts, where he has engaged in securities, trade regulation, constitutional law, criminal law, land use, and corporate litigation. Prior to this, Mr. Woodlock was a special assistant to the New England Organized Crime Strike Force, where he prosecuted drug smuggling cases. He also served from 1979-82 as assistant U.S. attorney in Boston, where he was involved in the investigation and prosecution of crimes of political corruption, white-collar fraud, and large-scale narcotics distribution. Mr. Woodlock was the recipient of the 1982 "Director's Award" of the Executive Office of United States Attorneys in Washington, DC for his successful prosecution of several political corruption cases.

I have met with Mr. Woodlock, and discussed with him his judicial philosphy, and his concept of the role of a Federal judge. He has assured me that he sees himself as neither liberal nor conservative, but rather as a practitioner of legal craft. I agree with Mr. Woodlock that the proper role of a Federal judge is not to promote an ideological agenda, but rather to interpret the law in light of past precedent, and in conformity with the Constitution. I an confident that Douglas Woodlock will fulfill that role fairly and properly.

Mr. President, I have previously criticized President Reagan for his approach to judicial nominations, and for placing ideology before quality in too many cases. So I am pleased now to commend President Reagan for his selection of Douglas Woodlock as a Federal judge. In selecting Mr. Woodlock, President Reagan has met a high standard of quality. I hope that we will see more nominees like Douglas Woodlock in the future.

NOMINATION OF JOHN E. CONWAY

Mr. DOMENICI. Mr. President, I rise in support of the confirmation on the nomination of John E. Conway to the U.S. District Court for the District of New Mexico. Late last year, this body approved the nomination of Judge Bobby R. Baldock to the U.S. Court of Appeals for the Tenth Circuit. I am pleased that President Reagan has nominated Mr. Conway to succeed Judge Baldock on the district court.

It is fitting that Mr. Conway should be nominated to replace Judge Baldock on the district court, not only because both are outstanding members of the legal profession, but also because Mr. Conway was selected by the New Mexico Federal Judicial Selection Committee as a finalist for the district court seat to which Judge Baldock eventually was appointed in 1983. It is now Mr. Conway's turn to come before the Senate.

When the vacancy on the district court occurred, John Conway immediately came to mind as the candidate to fill it. He demonstrates the intelligence, high character, temperament, and diligence which are hallmarks of American judges. After reviewing Mr. Conway's background, President Reagan agreed that Mr. Conway's qualifications and experience make him an excellent candidate for the Federal judiciary and nominated him for the district court.

Let me share some of Mr. Conway's qualifications with you. John Conway was born in Joplin, MO, in 1934. He attended the U.S. Naval Academy from 1952 to 1956, when he received his bachelor of science degree. After serving his country as a first lieutenant in the U.S. Air Force from 1956-60, Mr. Conway attended Washburn University Law School. He received his law degree magna cum laude and was ranked first in his class. He served as both editor-in-chief of the Washburn University Law Journal and president of the Student Bar Association.

After graduating from law school, Mr. Conway practiced law with Matias A. Zamora in Santa Fe. In 1964, he joined the Wilkinson & Durrett law firm in Alamogordo. He stayed with this firm, which eventually became Durrett, Conway & Jordan, until 1980. He also served as city attorney for the city of Alamogordo from 1966-72. Mr. Conway currently is a partner with the Albuquerque office of the Montgomery & Andrews law firm.

Mr. Conway has been admitted to practice before the courts of New Mexico, both State and Federal, the U.S. Claims Court, the U.S. Court of Appeals for the Tenth Circuit, and the Supreme Court of the United States.

It is noteworthy, since the district court is the Federal trial court, that Mr. Conway's practice consists pre-

dominantly of litigation. He, therefore, will bring with him to the district court the experience of many years of trial practice and the knowledge of the rules of evidence and procedure which are so vital to the proper functioning of our courts. This wealth of experience is reflected in the fact that the American Bar Association committee which evaluated Mr. Conway's qualifications for a district court judgeship unanimously voted to give Mr. Conway a rating of "well qualified."

Mr. Conway has a long history of service to the State of New Mexico. He served as State senator from Otero and Lincoln Counties from 1970–80. He was chosen by his fellow Republican senators to be minority leader of the State senate from 1972–80. He has served as chairman of the New Mexico Judicial Council, the Governor's Organized Crime Prevention Commission, and the Disciplinary Board of the New Mexico Supreme Court. He also has served on the New Mexico State Bar Judicial Selection Committee, the New Mexico Medical-Legal Committee, which is New Mexico's medical malpractice review panel, and the National Commissioners on Uniform State Laws.

He has been involved with a large number of organizations serving his profession, including the American Bar Association, the New Mexico Bar Association, the Albuquerque Lawyers Club, the Albuquerque Bar Association, and the Otero County Bar Association, of which he served as president.

Mr. Conway is married to Karen Howard Conway. He has three sons, John, Matthew, and Christopher, and three stepchildren, Rebecca, Geoffrey, and Strom Peterson.

I would also like to point out that my junior colleague from New Mexico, Senator BINGAMAN, as well as Representatives LUJAN and SKEEN from the House of Representatives, testified on behalf of Mr. Conway at his confirmation hearing. This broad and bipartisan support is indicative of the respect in which Mr. Conway is held in New Mexico.

Of course, this is just a brief portrait of Mr. Conway, but I'm sure that the Senate will agree that it has before it a man of extraordinary achievement. It is easy to see why the President nominated Mr. Conway for this position.

In sum, I would say that John Conway is well suited by training, experience, and temperament to serve on the Federal judiciary. I look forward to John Conway being able to bring his unique talents and long history of service to the U.S. district court. I hope that the Senate will act favorably on this nomination.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Stephen F. Williams, of Colorado, to be U.S. circuit judge for the District of Columbia Circuit.

William W. Wilkins, Jr., of South Carolina, to be U.S. circuit judge for the fourth circuit.

Douglas P. Woodlock, of Massachusetts, to be U.S. district judge for the District of Massachusetts.

William D. Stiehl, of Illinois, to be U.S. district judge for the southern district of Illinois.

John E. Conway, of New Mexico, to be U.S. district judge for the district of New Mexico.

Edwin M. Kosik, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Karen LeCraft Henderson, of South Carolina, to be U.S. district judge for the district of South Carolina.

DEPARTMENT OF JUSTICE

James G. Richmond, of Indiana, to be U.S. attorney for the northern district of Indiana.

James P. Jonker, of Iowa, to be U.S. marshal for the northern district of Iowa.

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma.

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada.

FEDERAL COMMUNICATIONS COMMISSION

Patricia Diaz Dennis, of Virginia, to be a member of the Federal Communications Commission.

DEPARTMENT OF STATE

J. Edward Fox, of the District of Columbia, to be an Assistant Secretary of State.

G. Norman Anderson, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

John Dale Blacken, of Washington, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Paul Matthews Cleveland, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Patricia Gates Lynch, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Vernon Dubois Penner, Jr., of New York, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Cynthia Shepard Perry, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

AFRICAN DEVELOPMENT FOUNDATION

Chester A. Crocker, an Assistant Secretary of State, to be a member of the Board of Directors of the African Development Foundation.

BOARD FOR INTERNATIONAL BROADCASTING

Edward Noonan Ney, of New York, to be a member of the Board for International Broadcasting.

Arch L. Madsen, of Utah, to be a member of the Board for International Broadcasting.

James Albert Michener, of Pennsylvania, to be a member of the Board for International Broadcasting.

Lilla Burt Cummings Tower, of Texas, to be a member of the Board for International Broadcasting.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 16, 1986

Mr. DANFORTH. Mr. President, I ask unanimous consent that once the Senate reconvenes on Monday, June 16, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and that following the recognition of the two leaders under the standing order there be special orders in favor of the following Senators not to exceed 5 minutes each: Senators KASSEBAUM, PROXMIRE, BAUCUS, GORE, MELCHER, and LEVIN;

To be followed by a period for the transaction of routine morning business not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not more than 5 minutes each;

Provided, further, that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object—I will not object—what time will the Senate be convening on Monday next?

Mr. DANFORTH. 11 a.m.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DANFORTH. Mr. President, to recapitulate the schedule for Monday, the Senate will convene at 11 a.m. The two leaders will be recognized under the standing order for 10 minutes each. Thereafter, there will be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators KASSEBAUM, PROXMIRE, BAUCUS, GORE, MELCHER, and LEVIN.

Subsequent to those special orders, there will be a period for routine morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate will resume the unfinished business, H.R. 3838, the tax reform bill. Votes can be expected during Monday's session but will not occur prior to the hour of 3:30 p.m. and not past the hour of 6 p.m.

ADJOURNMENT UNTIL MONDAY, JUNE 16, 1986, AT 11 A.M.

Mr. DANFORTH. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until Monday, June 16, 1986, at 11 a.m.

The motion was agreed to and, at 5:10 p.m., the Senate adjourned until Monday, June 16, 1986, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 13, 1986:

FEDERAL COMMUNICATIONS COMMISSION

Patricia Diaz Dennis, of Virginia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1980.

DEPARTMENT OF STATE

J. Edward Fox, of the District of Columbia, to be an Assistant Secretary of State.

G. Norman Anderson, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

John Dale Blacken, of Washington, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Paul Matthews Cleveland, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Patricia Gates Lynch, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America in the Federal and Islamic Republic of the Comoros.

Vernon Dubois Penner, Jr., of New York, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Cynthia Shepard Perry, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

AFRICAN DEVELOPMENT FOUNDATION

Chester A. Crocker, an Assistant Secretary of State, to be a member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1991.

BOARD FOR INTERNATIONAL BROADCASTING

Edward Noonan Ney, of New York, to be a member of the Board for International Broadcasting for a term expiring April 28, 1988.

Arch L. Madsen, of Utah, to be a member of the Board for International Broadcasting for a term expiring April 28, 1987.

James Albert Michener, of Pennsylvania, to be a member of the Board for International Broadcasting for a term expiring April 28, 1987.

Lilla Burt Cummings Tower, of Texas, to be a member of the Board for International Broadcasting for a term expiring May 20, 1989.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Stephen F. Williams, of Colorado, to be U.S. circuit judge for the District of Columbia Circuit.

William W. Wilkins, Jr., of South Carolina, to be U.S. circuit judge for the fourth circuit.

Douglas P. Woodlock, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

William D. Stiehl, of Illinois, to be U.S. district judge for the southern district of Illinois.

John E. Conway, of New Mexico, to be U.S. district judge for the district of New Mexico.

Edwin M. Kosik, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Karen LeCraft Henderson, of South Carolina, to be U.S. district judge for the district of South Carolina.

DEPARTMENT OF JUSTICE

James G. Richmond, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years.

James P. Jonker, of Iowa, to be U.S. Marshal for the northern district of Iowa for the term of 4 years.

Laurence C. Beard, of Oklahoma, to be U.S. Marshal for the eastern district of Oklahoma for the term of 4 years.

Denny L. Sampson, of Nevada, to be U.S. Marshal for the district of Nevada for the term of 4 years.

HOUSE OF REPRESENTATIVES—*June 16, 1986*

The House met at 12 noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONIOR of Michigan) laid before the House the following communication from the Speaker.

WASHINGTON, DC,
June 12, 1986.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on Monday, June 16, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are thankful, O God, for those who give of their time and talents helping other people along life's way. We specially remember the volunteers who, with no thought of reward, give of their energy to assist and encourage those whose lives have been touched by problems. Encourage each of us, O God, not only to do what is expected of us, but to walk the extra mile of service and good will. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 131. Joint resolution to designate the week of June 15, 1986, as "National Safety in the Workplace Week."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4420) "An act to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GOLDWATER, Mr. THURMOND, Mr. WARNER, Mr. HUMPHREY, Mr. COHEN, Mr. QUAYLE, Mr. EAST, Mr. WILSON, Mr. DENTON, Mr. GRAMM, Mr. NUNN, Mr. STENNIS, Mr. HART, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, and Mr. GLENN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2069. An act to amend the Job Training Partnership Act;

S.J. Res. 169. Joint resolution to commemorate the bicentennial anniversary of the first patent and the first copyright laws;

S.J. Res. 311. Joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week";

S.J. Res. 357. Joint resolution to designate the week of September 15, 1986, through September 21, 1986, as "National Historically Black Colleges Week"; and

S.J. Res. 361. Joint resolution opposing the participation of the Chilean vessel Esmeralda in the July 4th Liberty Weekend celebration.

CONSENT CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Consent Calendar. The Clerk will call the eligible bill on the Consent Calendar.

RURAL WATER RIGHT-OF-WAY POLICY ACT OF 1985

The Clerk called the bill (H.R. 3617) to exempt rural water systems facilities assisted under the Consolidated Farm and Rural Development Act as amended from certain right-of-way rental payments under the Federal Land Policy and Management Act of 1976.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. WALKER. Mr. Speaker, I object.

Mr. LUNGREN. Mr. Speaker, I object.

Mr. ROBERT F. SMITH. Mr. Speaker, I object.

The SPEAKER pro tempore. Three objections are heard. The bill is stricken from the Consent Calendar.

This concludes the call of the Consent Calendar.

TERRORISM, ARSON, AND BOMBINGS OF WOMEN'S HEALTH CLINICS

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, the subcommittee that I chair of the Judiciary Committee has jurisdiction over the FBI and over terrorism in the United States. I am pleased to say that the FBI has a handle on terrorism in the United States. A few years ago there were a hundred incidents a year. Last year in 1985 the incidents had been reduced to seven and I believe it is much less than that this year; however, Mr. Speaker, we have another kind of epidemic, which is not called terrorism, but which really is going on in this country and that is the arson and bombing of women's health clinics. It is approaching an epidemic situation with up to 40 in the last few months, the latest 2, 1 in Wichita and 1 in St. Louis just last week.

Now, the jurisdiction there over arson and bombing is Federal. It is with the Alcohol, Tax, and Firearm Agency of the Department of the Treasury. They are doing a good job. More than half the cases have been solved and the people convicted and many of them are in jail today; but the epidemic goes on.

We are studying, a number of us are studying, whether new laws are needed perhaps to designate arson and the bombing of women's health clinics as terrorism, which would then bring the FBI into the matter.

In addition, Mr. Speaker, I think it is sad that our political leaders and high elected officials here in Washington, DC, do not speak out on this issue and condemn this epidemic of bombing and arson of women's clinics.

THE FEDERAL GOVERNMENT SHOULD BE PROTECTING WOMEN'S HEALTH CARE CLINICS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this weekend in my district, we saw an example of the Justice Department really not aiding women in any way, fashion, or form. I have said that allowing Attorney General Meese to be in charge of women's rights is like asking Evil Knievel to take care of your car.

What we saw in Denver this weekend were massive attempts to try to close down family planning clinics. I was inside one of those clinics as we watched the door being smashed.

Thank goodness, the Denver police got it under control, but it was nothing but a family planning clinic and they were trying to close it down and keep people from coming in.

The incredible violence that was displayed by this group was just amazing.

Clearly, what they are doing is not the Roe versus Wade decision, but the Griswald versus Connecticut decision dealing with the right of people to have access to family planning.

The head of the Right to Life group meeting in Denver this weekend said that they did not agree with the violence that was exhibited by different groups in Denver. I certainly hope he will join with me and others in asking Attorney General Meese then to please enforce the law about criminal conspiracy over State lines. That is clearly what is going on as we saw the 39th clinic being bombed and we saw many others with terrific violent acts, such as the one in Denver, forcing the local police to do what the Federal Government should be doing.

ELIMINATE CLASS 1 DIFFERENTIAL PROVISION IN FARM BILL

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, in debate on the farm bill last year, a number of us tried to warn the House that the class 1 differential provision in the bill at that time made absolutely no economic sense and was in fact regional inequitable.

Saturday, members of the Farmers' Union in my district, when I met with them in Junction City, gave me copies of 10,000 petitions which farmers from the seven-State area had signed, indicating their opposition to this differential provision and indicating their desire that the new farm bill be changed to eliminate that differential.

Later in the week, I will see to it that these petitions are delivered to the Department of Agriculture and to the White House, but I simply want to take this time right now to make clear once again on the floor that farmers recognize that it makes no sense whatsoever to be telling farmers in most areas of the country that they ought to be reducing production through devices such as the whole herd buyout, while at the same time the differential in fact provides an incentive for increased dairy production at a time when we are already in surplus.

I hope that sooner or later the Federal Government recognizes that we have to change not just this differential provision, but a good many other provisions in that agriculture bill as well.

THE BEAT GOES ON

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, about 20 years ago, there was a song on the radio that had words to the effect that "the beat goes on."

Well, Mr. Speaker, on the southern borders of the United States, the beat does go on. We continue to have day after day after day apprehensions in record numbers of people slipping across the border illegally, and yet we have done nothing to this point in this Congress or the previous Congress, or the Congress before that, or the Congress before that, or the Congress before that, to respond to that problem.

Two weeks ago, we set a new record. We apprehended, unfortunately, our 1 millionth illegal alien in the United States in this calender year. If that continues, we will apprehend between 1.8 and 2 million illegal aliens in the United States in a single year, enough to make up four new congressional districts, and that is just the number who have been caught.

There are all sorts of reasons why people are coming. We can sympathize, we can empathize with many of them, but the United States is a sovereign nation. It has a right to determine its own borders and to assure that it does have sovereignty and it exercises that sovereignty.

The missing link in all this is action by the Congress. We hope tomorrow in the Judiciary Committee to be marking up a new bill, an immigration reform package. It is my hope that we will continue marking it up this week until completed and then expeditiously have it on the floor so that we might join the other body in answering the cries of many Americans across the land, "When is Congress going to act?"

SOUTH AFRICA ON VERGE OF EXPLODING

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, South Africa is on the verge of exploding. The Botha government has decided to crack down on the black majority with every conceivable repressive measure, including violence.

As for the international outrage, South Africa has defiantly told the world and the United States to take a hike, that they will preserve their racist structure at any cost, even if it means killing people.

Mr. Speaker, our policy of constructive engagement has become a constructive disaster. Expressing outrage and expelling South African diplomats and closing down consulates will not be enough. If South Africa believes that the world's greatest superpower only winks at their excesses, they will continue their hard line policy.

What can the United States do? First, we can impose economic sanctions and disinvest. We can stop protecting South Africa every time the United Nations tries to do something. We can take their moderate black leaders seriously, like Bishop Tutu and the Reverend Boesak. We can mobilize the international community and world opinion against this racist structure.

Mr. Speaker, we are ready to impose sanctions when it comes to standing up for democracy in leftwing Nicaragua, but strangely silent when it comes to standing up for democracy in rightist South Africa.

OUR "ALICE IN WONDERLAND" POLICY WITH SAUDI ARABIA

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, in "Alice in Wonderland," the Red Queen instructed Alice at one point, "A word means what I want it to mean, neither more nor less."

Well, if President Reagan can certify this week to the Congress that Saudi Arabia has played a constructive role in the peace process, then I submit, Mr. Speaker, that we now have Alice in Wonderland topsy-turvy logic governing us.

I fully submit that we have destroyed the usefulness of the certification to Congress as a means of extending congressional oversight to make sure that the actual implementation of policies follows the congressional will.

The Saudis have opposed the peace process and obstructed it in every way that they could. They penalized Egypt for making peace with Israel. They voted to expel Egypt from the Arab League. They voted to assay economic sanctions against Egypt. They voted to oppose Egypt's readmission to the Arab League and they threatened the same thing in 1983 against King Hussein of Jordan when he began to indicate interest in negotiating with the Israelis on the terms of President Reagan's own peace initiative in the Middle East.

It would be a travesty if the President, in the face of the clear record of obstructionism by Saudi Arabia, including financing terrorism and the PLO to the extent of $500 million a year or more for many years, can honestly and with a straight face certify to this Congress that the Saudis have had a constructive influence on the road to peace in the Middle East.

□ 1215

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 17, 1986.

VETERANS' EMPLOYMENT RIGHTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2798) to amend title 38, United States Code, to prohibit discrimination in employment because of the status of certain individuals as a member of a Reserve component of the Armed Forces or as a member of the National Guard.

The Clerk read as follows:

H.R. 2798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2021(b)(3) of title 38, United States Code, is amended—

(1) by inserting "or seeks" after "who holds"; and

(2) by inserting "hiring," after "shall not be denied".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Before yielding time, Mr. Speaker, I want to thank my colleague, the gentleman from South Dakota, for bringing this bill to the floor. This is a measure I introduced some time ago, and I am grateful for his action to get the bill before the House. Having been with TOM DASCHLE when we did visit Reserve and National Guard members in his great State of South Dakota, I know he shares my views on this legislation.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from South Dakota [Mr. DASCHLE], chairman of the Subcommittee on Education, Training and Employment.

Mr. DASCHLE. I thank the gentleman for yielding time to me.

Mr. Speaker, I commend the gentleman for his insight and his dedication in bringing this bill to the floor this afternoon. Without his help and his cooperation, certainly our success in this effort would not have been possible.

Mr. Speaker, since 1940, Congress has protected the citizen soldier who leaves employment to perform military duty by safeguarding the former service member's return to preservice employment. Additionally, title 38, United States Code, provides that National Guard and Reserve members shall not be denied retention in employment because of Guard and Reserve obligations. Title 38 also extends to a reservist or National Guard member the right to take unpaid leave of absence from his or her civilian job to participate in military drills or active duty for training. Current law, however, provides no protection for members of the Guard and Reserve against discrimination in initial employment because a jobseeker is a member of a Reserve component.

Witnesses who testified before the Subcommittee on Education, Training and Employment, which I have the honor to chair, told us that there have been instances of employers refusing to hire reservists and Guard members because of their military status. According to the Labor Department's Office of Veterans' Employment and Training, the number of Guard and Reserve personnel falling victim to hiring discrimination is rising dramatically. In 1977, 31 percent of employment discrimination cases handled by DOL were for Guard and Reserve members. The number has jumped to 56 percent of the 1986 cases handled this year.

As a part of the country's total force, the Reserve components are assuming increased roles and missions. For example, by fiscal year 1989, the combined Reserve component strength is planned to be 51 percent of the total Army, 20 percent of the total Navy, 24 percent of the total Air Force, and 22 percent of the total Marine Corps.

Increased dependence on the Guard and Reserve may well result in longer and more frequent training. In order to avoid the generally minor disruptions which can be caused by an employee's status as a reservist, some employers will undoubtedly discriminate against job applicants who serve in a Reserve component. The result of this sort of action is a decreased willingness of individuals to join and serve in the Guard or Reserve.

The Department of Defense, which is sensitive to the importance of employer cooperation and support, established the National Committee for Employer Support of the Guard and Reserve. This committee's role is to familiarize employers with the importance of the Guard and Reserve, thus encouraging personnel policies and practices that are tolerant of employee participation in Reserve programs.

In spite of these effective efforts to establish strong ties with the employer community, it is our feeling that statutory protection against discrimination in hiring must be enacted. Further growth of the Reserve and National Guard is planned and recruitment will be even more difficult because of the declining young population. These circumstances make the enactment of H.R. 2798 critical to the effort being made by our Reserve Forces to reduce losses due to employment conflicts.

I also want to encourage the Federal Government to extend maximum support to its employees who serve in the Reserve components. Such Federal support, including the support of Members of Congress for their Guard and Reserve employees, is important and will demonstrate the Federal commitment for the Reserve components to civilian employers. We surely cannot ask any more of employers outside the Government than we ask of ourselves.

Again, I want to compliment the chairman of the full committee, SONNY MONTGOMERY, for introducing this legislation. I am proud to be a cosponsor and am grateful to all members of the Subcommittee on Education, Training and Employment for their cooperation and assistance as we moved this bill through committee.

Mr. Speaker, this is important legislation, and I urge all of my colleagues in this House to join me in its support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking member of the Committee on Veterans' Affairs, I rise in strong support of H.R. 2798, a bill to prohibit discrimination in employment of members of the National Guard and military Reserves.

This is an excellent step to encourage and facilitate participation in the Nation's defense by citizen soldiers. More than 45 years ago Congress recognized in the law that citizens leaving the military should have the right to return to their former civilian jobs after taking up arms to defend our country. National Guard and Reserve members also have been given the legal right to retention in their employment while participating in military training.

Yet, somehow the right to employment itself was never protected. An employer can ask an applicant for employment whether he or she is a member of the National Guard or Reserves and refuse to hire the applicant if the answer is yes. The applicant has no legal recourse under Federal law, and few State laws provide any protection. It seems obvious, when the law prohibits so many other kinds of discrimination, that men and women who

serve their country should have such protection.

Mr. Speaker, the Subcommittee on Education, Training and Employment conducted hearings on H.R. 2798 and found support for it was unanimous. The Veterans' Administration, the Department of Labor, and the Department of Defense strongly favor this bill. It has the backing of National Guard and Reserve members, and veterans.

Is there really a problem with this kind of employment discrimination? Unfortunately, the evidence presented to the subcommittee shows that there is. It may be difficult to document the extent of the discrimination, but it is occuring, according to wholly credible testimony contained in the record of the hearing on April 23, 1986. We should act to put a stop to it.

The Congressional Budget Office estimates that the measure would cost the Government nothing. The enforcement mechanism already exists in the Department of Labor and the Department has adequate resources.

H.R. 2798 was introduced and nurtured by our very able chairman, Mr. MONTGOMERY, who is a leading protector of veterans and members of our armed services. It was reported out of subcommittee, thanks to the efforts of Mr. DASCHLE, chairman of the subcommittee on Education, Training and Employment, and of Mr. MCEWEN, the subcommittee's ranking member.

With the decision by DOD to rely increasingly on the National Guard and Reserves to provide a significant portion of the manpower for our military forces, rather than have very large standing forces, it becomes doubly important to ensure that nothing like this employment discrimination is going to interfere with the ability of our military services to recruit sufficient members of qualified men and women.

Mr. Speaker, this legislation just makes plain good sense, and I urge my colleagues to adopt it.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 2 minutes.

It is only fair, Mr. Speaker, that those citizens who stand ready to defend our Nation should not be discriminated against in the job market.

I certainly want to thank the distinguished gentleman from South Dakota [Mr. DASCHLE] again, and also the ranking minority member on the subcommittee, the gentleman from Ohio [Mr. MCEWEN], for his cooperation and help, and also to our ranking member on the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for working with the subcommittee in bringing this bill out.

Mr. Speaker, I urge the adoption of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2798.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1225

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2798, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

VETERANS' READJUSTMENT APPOINTMENT AUTHORITY EXTENSION AND IMPROVEMENT AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4384) to amend title 38, United States Code, with respect to Veterans' Readjustment Appointments.

The Clerk read as follows:

H.R. 4384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VETERANS' READJUSTMENT BENEFITS.

(a) IN GENERAL.—Section 2014(b)(1) of title 38, United States Code, is amended—

(1) by striking out "GS-9" in clause (A) and inserting in lieu thereof "GS-11";

(2) by striking out "who is" in clause (C) and all that follows in that clause through "line of duty";

(3) by striking out "and" at the end of clause (C);

(4) by redesignating clause (D) as clause (E); and

(5) by inserting after clause (C) the following new clause:

"(D) a veteran of the Vietnam era who has more than 14 years of education and who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be given a preference for such an appointment over other veterans of the Vietnam era who have more than 14 years of education; and".

(b) EXPIRATION DATE.—Section 2014(b)(2) of such title is amended by striking out "September 30, 1986" and inserting in lieu thereof "December 31, 1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to appointments made after September 30, 1986.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. DASCHLE], the distinguished chairman of the Subcommittee on Education, Training and Employment.

Mr. DASCHLE. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, I urge my colleagues to support H.R. 4384, the Veterans' Readjustment Appointment Extension and Improvement Amendments of 1986.

The Veterans Readjustment Appointment [VRA] authority allows Federal agencies to hire Vietnam-era veterans without requiring them to compete on civil service registers. Subsequently, these veterans may convert to career or career-conditional appointments following 2 years of satisfactory employment and training.

The concept of the VRA authority was first instituted by Executive Order 11397, issued by President Lyndon Johnson on February 7, 1968, and further developed when President Nixon issued Executive Order 11521 in 1970. We on the Veterans' Affairs Committee consider the VRA Program one of the most successful veterans' employment programs available. The value and success of this program is clearly demonstrated by the 250,000 veterans of the Vietnam era who have entered the civil service under the VRA Program.

Under current law, the authority for the VRA Program expires on September 30, 1986, and legislative action is required to extend it. Under the provisions of H.R. 4384, the veterans' readjustment appointment authority would be extended until December 31, 1991.

In addition to extending the VRA authority, H.R. 4384 would improve the program by eliminating the restriction on education achievement for VRA appointees, maintaining the advantage which now exists for disabled veterans and raising the highest entry grade for VRA hires from GS-9 to GS-11. These provisions were contained in H.R. 1408, which was passed by the House last year. Unfortunately, the Senate has never acted on this bill. When I introduced H.R. 4384, I includ-

ed these provisions because I think we in the House want to again say to the other body that we support improved employment opportunities in the Federal Government for Vietnam veterans.

There are two features of the VRA Program that I think are important to emphasize. First, this program is cost effective. In fact, there are no costs associated with the VRA Program. These positions are regular civil service positions that count against an agency's staffing level.

Second, this is a voluntary program. Federal agencies are not legally obligated to use this hiring authority. I think I can probably speak for all my colleagues, however, when I say that we believe Federal agencies are morally obligated to use the VRA Program. The same Federal Government that asked its citizens to serve their country during the Vietnam era has a clear responsibility to assist these veterans in their efforts to find meaningful employment and to pursue a career. Additionally, those agencies who have made it a point to hire veterans under the VRA authority do so because they know they are hiring responsible, productive employees.

I particularly want to thank the chairman and ranking minority member of the full committee, SONNY MONTGOMERY and JOHN PAUL HAMMERSCHMIDT, who are cosponsors of H.R. 4384, for their support and cooperation. I also want to thank all members of the Subcommittee on Education, Training and Employment, particularly BOB MCEWEN, the distinguished ranking minority member.

Our Nation is obligated to assist Vietnam veterans who are seeking employment. It is also in the best interest of this Nation to encourage veterans to seek employment with the Federal Government. The VRA Program accomplishes both of these goals. I urge support for H.R. 4384.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise, as ranking member of the Veterans' Affairs Committee, in strong support of H.R. 4384, a bill which I am pleased to cosponsor. This legislation would extend the very successful Veterans Readjustment Appointment [VRA] Program for 5 years and would widen participation opportunities for Vietnam-era veterans.

VRA has already given Federal career employment opportunities to a quarter of a million Vietnam-era veterans. We are not talking about a make-work program. These veterans fill existing Federal job vacancies, but they are not required to compete on the civil service register. A trial period of 2 years ensures that Government employers can eliminate unsatisfactory participants in the program, and agency participation is strictly voluntary.

Most Federal agencies are participating, and they tell us they are extremely happy with the quality of employees they obtain under VRA.

Mr. Speaker, there is no cost to the VRA Program, because it involves only existing positions. Greater opportunities would be offered Vietnam-era veterans by increasing the highest possible entry grade from GS-9 to GS-11, and by removing the current limit of 14 years of education. The bill would maintain the current preference given to service-connected disabled veterans under VRA.

I commend Mr. DASCHLE, the chairman of the Subcommittee on Education, Training and Employment, and Mr. MCEWEN, the ranking member of the subcommittee, for their leadership and work on behalf of H.R. 4384, and I would be remiss if I were not to thank Mr. MONTGOMERY, chairman of the Veterans' Affairs Committee, for bringing this legislation to the floor.

Mr. Speaker, this body passed these same provisions last year; however, the other body did not act. We should act again in another effort to preserve a worthy program for veterans. I urge my colleagues to vote "yes" on H.R. 4384.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the Vietnam Veterans Readjustment Appointment Program is a worthy and useful program, as already pointed out by my distinguished colleagues. The improvements we are recommending to the House today will enhance the success of the program, and I urge the adoption of the bill.

Mr. GILMAN. Mr. Speaker, I am pleased to offer my strong support for H.R. 4384, the veterans readjustment appointment authority extensions and improvement bill. I thank the gentleman from Mississippi [Mr. MONTGOMERY], for shepherding this legislation through the Veterans' Affairs Committee, which he so ably chairs, and for bringing this measure to the House at this time.

The Veterans' Readjustment Appointment Program [VRA] was established in 1970, to help returning Vietnam veterans locate employment and begin to rebuild their lives and careers. Under this program, veterans serve a 2-year appointment in a Federal civilian job. If at the close of their tenure their job performance is found to be satisfactory and if they have acquired the necessary education and training, the veteran receives career or career-conditional status. This program grants preferences to our disabled, educationally disadvantaged veterans as well as to our veterans with service-connected disabilities.

H.R. 4384, extends the VRA Program through December 31, 1991, and makes some important changes which reflect the current job market. Presently participants of the VRA Program cannot be placed in positions exceeding a GS-9 level. I am pleased that the committee has recognized the need to readjust the wage scale and has, accordingly, raised the maximum grade level of appointment from GS-9 to GS-11. This legislation also expands the prior eligibility standards, deleting the requirement that a veteran have no more than 14 years of education to be eligible for participation.

To date approximately 250,000 veterans have utilized the Veterans' Readjustment Appointment Program with an appointment rate of close to 80 percent. I hope that my colleagues will recognize the important service being offered to those who so willingly and courageously served our country and will support this veteran's readjustment reauthorization legislation.

On a similar note, I would also like to take this opportunity to speak in support of another piece of legislation also recently reported out of the Veterans' Affairs Committee, and considered in the House earlier today. H.R. 2798, the Veterans' Employment Rights Act prohibits employers from discriminating against members of the Reserves and the National Guard when making hiring decisions. While current law grants members of the Reserves and of the National Guard, the right to unpaid leaves of absence from civilian jobs to fulfill their military duties, there is no law on the books prohibiting employers from refusing to hire Reserve service personnel. Because the law forbids an employer from dismissing an employee because of absence for the fulfillment of Reserve obligations, many private-sector employers simply choose not to hire reservists.

Our Reserve Forces perform a vital role in the defense of our Nation—a defense that we all benefit from. It is crucial that private-sector employers be prohibited from engaging in any discriminatory hiring practices regarding reservists. Accordingly I am pleased that my colleagues offered their strong support earlier today for this bill.

I thank the gentleman from Mississippi, for providing this opportunity to discuss these measures. I entreat my colleagues not to forget the tremendous contributions made by those who have served and continue to serve in a Reserve capacity, as members of our Armed Forces.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4384.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 4384, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1235

KLAMATH INDIAN TRIBE RESTORATION ACT

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3554) to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes as amended.

The Clerk read as follows:

H.R. 3554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Klamath Indian Tribe Restoration Act".

SEC. 2. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any provision of law, Federal recognition is hereby extended to the tribe and to members of the tribe. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and the members of the tribe under any Federal treaty, Executive order, agreement, or statute, or any other Federal authority, which may have been diminished or lost under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 564 et seq.), are restored, and the provisions of such Act to the extent that they are inconsistent with this Act, shall be inapplicable to the tribe and to members of the tribe after the date of the enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and its members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members without regard to the existence of a reservation for the tribe. In the case of Federal services available to members of federally recognized Indian tribes residing on or near a reservation, members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation. Any member residing in Klamath County shall continue to be eligible to receive any such Federal service notwithstanding the establishment of a reservation for the tribe in the future. Nothwithstanding any other provision of law, the tribe shall be considered an Indian tribe for the purpose of the "Indian Tribal Government Tax Status Act" (Sec. 7871, I.R.C. 1954).

(d) CERTAIN RIGHTS NOT ALTERED.—Nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

(e) This Act does not apply to the members of the Modoc Indian Tribe of Oklahoma as recognized under section 2(a) of the Act of May 15, 1978 (92 Stat. 246) and the Klamath Tribe of Indians does not (except for the purposes set out in section 2(a)(1) of that Act) include the members of the Modoc Indian Tribe of Oklahoma.

SEC. 3. TRIBE CONSTITUTION AND BYLAWS.

The tribe's constitution and bylaws shall remain in full force and effect and nothing in this Act shall affect the power of the General Council to take any action under the Constitution by Bylaws.

SEC. 4 CONSERVATION AND DEVELOPMENT OF LANDS.

(a) IN GENERAL.—Nothwithstanding the tribe's previous rejection of the Act of June 18, 1934 (25 U.S.C. 461 et seq.), upon written request of the General Council, the Secretary of the Interior shall conduct a special election pursuant to section 18 of such Act to determine if such Act should be applicable to the tribe.

(b) ADOPTION OF CONSTITUTION.—Upon written request of the General Council, the Secretary shall conduct an election pursuant to section 16 of the Act approved on June 18, 1934 (43 Stat. 987; 25 U.S.C. 476), for the purpose of adopting a new constitution for the tribe.

SEC. 5. HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.

Nothing in this Act shall affect in any manner any hunting, fishing, trapping, gathering, or water right of the tribe and its members.

SEC. 6. TRANSFER OF LAND TO BE HELD IN TRUST.

The Secretary shall accept real property for the benefit of the tribe if conveyed or otherwise transferred to the Secretary. Such property shall be subject to all valid existing rights including liens, outstanding taxes (local and State), and mortgages. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

SEC. 7. CRIMINAL AND CIVIL JURISDICTION.

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, respectively.

SEC. 8. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—The Secretary shall—

(1)(A) enter into negotiations with the Executive Committee of the General Council with respect to establishing a plan for economic development for the tribe; and

(B) in accordance with this section and not later than two years after the date of the enactment of this Act, develop such a plan.

(2) Upon the approval of such plan by the General Council (and after consultation with the State and local officials pursuant to subsection (b)), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c). During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary;

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 9. DEFINITIONS.

For the purposes of this Act the following definitions apply:

(1) The term "tribe" means the Klamath Tribe consisting of the Klamath and Modoc Tribes of Oregon and the Yahooskin Band of Snake Indians.

(2) The term "member" means those persons eligible for enrollment under the Constitution and Bylaws of the Klamath Tribe.

(3) The term "Secretary" means the Secretary of the Interior or his designated representative.

(4) The term "State" means the State of Oregon.

(5) The term "Constitution and Bylaws" means the Constitution and Bylaws of the Klamath Tribe of Indians in effect on the date of the enactment of this Act.

(6) The term "General Council" means the governing body of the tribe under the Constitution and Bylaws.

SEC. 10. REGULATIONS.

The Secretary may make such rules and regulations as are necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. STRANG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon [Mr. WEAVER] will be recognized for 20 minutes and the gentleman from Colorado [Mr. STRANG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. WEAVER].

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3554, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3554 is a bill which would provide for the restoration of the Federal trust relationship with the Klamath Tribe of Indians of Oregon.

Prior to 1954, the Klamath Tribe was a federally recognized tribe and had a 1.9-million-acre reservation which it reserved to itself in a 1864 treaty with the United States. In 1954, however, Congress enacted the Klamath Termination Act. Pursuant to this act, the tribal reservation was sold and the tribal members lost their eligibility to participate in Federal programs available to Indians because of their status as Indians.

After 1954, the Klamath Tribe did not cease to exist and the tribal government continued to operate even though it was no longer recognized as such by the Federal Government.

The termination act was passed not because of tribal support but of the "termination" policy then in effect. This policy was a failure and has not been repudiated by the United States.

The Klamath Indians are in full support of H.R. 3554. The administration also supports the bill. The bill would not restore to the tribe its reservation and does not contain any authorization for new appropriations. The bill would restore the government-to-government relationship between the tribe and the United States and would make the tribal members eligible to benefit from Federal programs available to other Indians because of their status as federally recognized Indians.

Mr. Speaker, I know of no known opposition to this bill and therefore I urge the Members to support passage of the bill.

Mr. STRANG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3554, the Klamath Tribal Restoration Act; I commend our colleague from Oregon, the Honorable BOB SMITH, for introducing H.R. 3554, a bill which would restore to the Klamath Tribe and its members all rights and privileges lost under the Termination Act of August 13, 1954. I believe this is another important step of rectifying a failed policy—that of termination. During our hearing on H.R. 3554 we heard testimony from the tribal officials, the academic researchers, and the administration—all in support of H.R. 3554. The administration suggested several technical and clarifying amendments, which were incorporated into H.R. 3554 at the committee level.

The struggle has been long for the tribe. Again, I commend my colleague, BOB SMITH; and I urge all Members to support H.R. 3554.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, it is with pleasure that I rise today to urge my colleagues to support this bill, H.R. 3554, legislation to restore the historic tribal status of the Klamath Indian Tribe in my Second District of Oregon.

Mr. Speaker, allow me at the outset to make it clear that this bill would not restore land to the Klamath Tribe's reservation, nor would it suggest that the Federal Government should ever provide land for a reservation.

I, personally, would not support Federal legislation to create a new reservation. If it is the tribal chiefs' intention to reconstruct a reservation in the future, it must be done through the same land acquisition methods available to any American.

Nor would this bill have any impact on the tribal hunting and fishing rights which exist under law.

But this bill would accomplish something extremely important: it will return to the Klamath Indians their historic identity, the one-of-a-kind niche which this tribe deserves in America.

It's a niche that was lost with the termination of tribal status and the selling of the reservation in 1954, when—in all good intentions, I'm sure—our Government convinced many American Indian tribes to do the same.

Called mainstreaming, the idea was to bring the American Indian fully into the "melting pot" of America.

In 1954, tribal lands were sold, tribal members were given cash awards, and the traditional trust relationship between the U.S. Government and the Klamath Tribe was terminated.

Admittedly, in the years since 1954, there has been plenty of discussion about the original terms.

Hindsight being so much more precise than foresight, I think there's an inevitability in the questions that have cropped up since then: was the price paid for land a fair one; were the terms accepted generous enough; were tribal members coerced or unfairly cajoled into an agreement by more sophisticated Government negotiators?

I admit those questions are inevitable. But it isn't the place of this Congress to rewrite history. What was done then in the way of compensation, will not be undone by this bill or by any future bill with my name or my support behind it.

What can and should be undone, however, was the loosening of ethnic ties which had existed in the Klamath Tribe for centuries.

We've discovered that "mainstreaming" tribal organization really amounts to the loss of tribal identity and the loss of cultures and heritage which are uniquely American in nature and impossible to recapture.

The Klamath Tribe wants to perpetuate the heritage and values that have bound members of their tribe in spirit for generations.

This bill will tighten those ties once more, just as tribal restoration has done for other tribes in Oregon and across America.

It will reinstate the eligibility of Klamath tribal members to receive Federal social, educational, and economic programs which are available to all members of federally recognized Indian tribes.

That recognition alone will open the door to many of the opportunities which the U.S. Government has offered over the years.

Most important among them is the chance for Klamath children to receive a decent education and for tribal members to benefit by adequate health care.

Mr. Speaker, I believe that this bill is entirely in keeping with the historical precedents of United States dealings with our native Indian tribes.

I'm pleased to mention that the bill is cosponsored by three fellow Members of Oregon's delegation in this House, by Oregon's Governor, local, city, and county governments where the majority of the tribal members live.

I urge you to act favorably on this bill.

Mr. WEAVER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STRANG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. WEAVER] that the House suspend the rules and pass the bill, H.R. 3554, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GETTYSBURG NATIONAL MILITARY PARK ADDITION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 4259, to amend the act of February 11, 1895 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park.

The Clerk read as follows:

H.R. 4259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall accept on behalf of the United States, the donation of approximately 31 acres of land known as the "Taney Farm" for administration as part of the Gettysburg National Military Park in Pennsylvania if such land is offered to be conveyed to the United States without cost to the United States by the Gettysburg Battlefield Preservation Association. Upon acceptance of title thereto by the United States, such property shall be subject to all laws and regulations applicable to the park.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4259, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4259 would authorize the donation by the nonprofit Gettysburg Battlefield Preservation Association of a 31-acre parcel, known as the Taney Farm, for inclusion within Gettysburg National Military Park. I commend the gentleman from Pennsylvania [Mr. KOSTMAYER], a member of the Interior and Insular Affairs Committee and the sponsor of this commonsense proposal.

The Taney Farm is located immediately adjacent to the existing administrative park boundary. According to the testimony of the National Park Service's Chief Historian and others, the farm was of strategic importance during the later part of the Battle of Gettysburg on July 2 and 3, 1863, serving as the staging ground for the Confederate assault of the Union's position on Culp's Hill. A 1978 report of the Advisory Council on Historic Preservation identified the Taney Farm as a "critical area."

I want to point out to Members that the farm is within the congressionally authorized lands for the park. The enabling legislation establishing the park in 1895 noted that land for the park may not exceed in area the parcels shown on the map prepared by Maj. Gen. Daniel E. Sickles, and such other adjacent lands as may be necessary to preserve the important topographical features of the battlefield. The Taney Farm is one of the parcels identified on the Sickles map.

In 1974, the National Park Service developed an administrative plan for the park's boundary that was a modification of the Sickles map. This plan has served as an unofficial guide for the park's boundary for the last 12 years. It is important to note that the 1974 administrative plan for the park's boundary was never enacted by Congress. As such, the boundary provisions of the 1895 act remain in force.

The fact of the matter here is that this legislation makes the Taney Farm donation pass additional muster. The National Park Service, which supports H.R. 4259, has authority to accept the donation under existing law but is hesitant to do so because of the continuing questions regarding the overall boundary of the park. The Park Service has recently undertaken a study of the historical lands associated with the Battle of Gettysburg to provide future guidance on where the park's boundary lines should rest.

While there may be questions with the overall boundary of the park, no one questions the historical appropriateness of this particular track to the park. This is not an indiscriminate addition to the park, rather it involves land that is important historically and geographically to the park. The property itself will be conveyed to the Federal Government at no cost and it contains no structures which would require perpetual care. Further, this addition will not detract from the local tax base, since the land is already tax-exempt because of its ownership by a nonprofit organization.

We have here the opportunity to add, at no cost to the Federal Government, a parcel that is part of the story of the Battle of Gettysburg. This measure has the strong support of the U.S. National Park Service and the administration as well as bipartisan support of the House Interior and Insular Affairs Committee. I urge support of the House.

I urge adoption of the measure.

□ 1245

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, thank you for the opportunity to comment on H.R. 4259, the bill before us today.

As the chairman of the subcommittee has explained, this bill would authorize the donation of a 31-acre land parcel to the National Park Service to become a part of Gettysburg National Military Park. While I agree on the merits of this legislation and believe it should move forward, I would also like to express a concern on this issue which I share with the Member who represents the Gettysburg area, Mr. GOODLING. The concern is simply, that as Gettysburg Park, and in fact many of our national parks, continue to grow, the local tax bases are adversely affected.

Unfortunately, a legislative boundary has never been established for Gettysburg Park. When the park was created in 1895, the authorizing legislation recommended the acquisition of the parcels of land indicated on a map prepared by Maj. Gen. Daniel E. Sickles of the U.S. Army. However, the parcels were not clearly delineated on the map, creating a great deal of ambiguity in later years as to the actual intent of Congress regarding the boundary. In 1974, Senator Alan Bible, chairman of the Interior Subcommittee of the Senate Appropriations Committee, negotiated an administrative boundary with the National Park Service for Gettysburg Park. However, this boundary was never established through legislation. The land parcel in H.R. 4259 is adjacent to the 1974 administrative boundary.

In an effort to prevent hodgepodge donations to the park and further erosion of the tax base, I strongly believe that Congress should establish a permanent boundary for Gettysburg Park. The National Park Service has indicated it is currently studying this issue and will submit recommendations to Congress next year. I would hope that Congress could act on a permanent boundary proposal at that time.

While I recognize the merits of H.R. 4259 and support its passage, I would hope that this body will not authorize any additional land donations to the Gettysburg Park outside of the 1974 administrative boundary until a permanent boundary can be thoroughly considered and established.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, I'd like to take my colleagues for a moment back to July 2, 1863, on that sultry summer afternoon.

Shortly after 4 o'clock, General Lee made the decision to move against the Union line entrenched in defensive positions at Gettysburg, PA.

He directed Gen. James Longstreet, a fellow Virginian, to move against the Union left. Gen. George Meade, a Pennsylvanian, ordered the Union left reinforced and directed that all but one brigade be diverted from the defense of Culp's Hill to the Union left.

This lone brigade defending Culp's Hill was commanded by the Union brigade general, George Green.

Now the Confederates saw an opening. If they could take Culp's Hill, beyond which lay the Baltimore Pike, the road that constituted the Union rear, the Yankees would be outflanked and be forced to withdraw from Gettysburg. Thus, the struggle to seize Culp's Hill became, in the words of Edmund Beavss the historian of the National Park Service, "the crucial engagement of Gettysburg."

At the foot of the hill lay the Taney Farm.

At 7:30 that night, Confederate General "Maryland" Steuart led the first assault on Culp's Hill. Steuart's Confederates crossed the Rock Creek, seizing the Union earthworks in the area of Spangler Springs and the Taney Farm. The late Civil War historian Bruce Catton described the subsequent action in his classic work on Gettysburg, "Glory Road."

Four times the Rebels surged up the slope through the trees, a solid division of first rate troops, and each time the fire over the trees drove them back. Yet part of the Union line, which ran through low ground southeast of the hill, was overrun, and as the darkness came down the Union position here was still insecure. It was certain as anything could be that the Confederate attack would be renewed at dawn.

During the night, however, the Union 12th Corps returned to reinforce Green on Culp's Hill. Before dawn on July 3—the final day of the battle, the rebels attacked but were stopped cold by the strengthened Union line. Led by the 2d Massachusetts Regiment, nicknamed the "Harvard Brigade," and the 27th Indiana Regiment, the Yankees counterattacked.

They drove the Confederates from the base of Culp's Hill, back across the Taney Farm, suffering terrible losses in the process. As Catton described the action, "The two regiments put up a cheer and charged out into the little meadow. There were three rebel brigades within range, concealed among trees and rocks, and they cut loose with what wintry-faced old Colonel Colgrove of the Indiana Regiment later described as one of the most destructive fires I ever witnessed. But by mid-morning Steuart's troops had been completely driven back and Culp's Hill and the Union left was secured."

It was on the Taney Farm and nearby Spangler's Meadow at the foot of Culp's Hill that hundreds of northerners and southerners alike fell.

It is this land, the Taney Farm itself, that H.R. 4259 would save.

After the bloody struggle on the evening of July 2, and the morning of the 3d, the Taney Farm became the site of one of the largest field hospitals at Gettysburg. Union doctors attended northern and southern wounded alike—with many from both sides dying on the operating tables because of the horrendous medical care available during the war.

Still later, Taney Farm became the site of the first battlefield marker at Gettysburg—the first of hundreds of such monuments to the armies of both sides. The survivors of the 2d Massachusetts Regiment erected a marker on the Taney Farm to commemorate the heroic counterattack of their comrades on the morning of July 3, 1863.

Finally, Mr. Speaker, let me say that the Taney Farm and the 31 acres on which it is situated currently belong to the Gettysburg Battlefield Preservation Association. The association wishes to contribute it to the United States. H.R. 4259 authorizes that transfer of land.

Two final points, Mr. Speaker. First, the addition of these 31 acres will not exceed the boundary limits of 3,874 acres now set.

Second, Mr. Speaker, this will not cost the Federal Government anything, nor will it cost the local municipality anything, since this land is not currently on the tax rolls.

Mr. Speaker, on November 19, 1863, President Lincoln traveled to Gettysburg from Washington. He spoke to a crowd of about 30,000 that day, delivering the Gettysburg Address. We have the opportunity this afternoon to renew President Lincoln's words and renew the deeds of those brave men who died there, by passing H.R. 4259.

Mr. LUJAN. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman from New Mexico for yielding.

Mr. Speaker, the battlefield at Gettysburg is a national treasure, the American people know it to be a national treasure, the people of Pennsylvania, even more importantly, know it to be a national treasure, and certainly the people of the area of Gettysburg know it to be a national treasure. It is far more of a treasure for those people who live there than for anyone else. They know what it is they have. The trouble is, with this bill that we have before us, no one bothered to consult with the people of Gettysburg, no one could care what the people of Gettysburg think.

Mr. Speaker, the Representative from that area says flatly that he opposes this bill because it represents a concern about expansion of the battlefield that could ultimately have adverse economic consequences for that area that he represents. Many people in that area do know what is involved in this, and they do not want the expansion. It seems to me that somewhere along the line we ought to pay a little bit of attention to the people of these areas. This Congress has a propensity toward ignoring the wishes of the people of the area that we tend to govern. We do it time and time again; the Member of Congress from an area comes to the floor and suggests that this is not good for his area, that the people do not want it, and we say "We know better." Uncle Sam knows better than the people of the area what is good for them. So they drive it down their throats. We do it on wilderness land, we do it often on national park lands. That is precisely what we are doing here. It is Uncle Sam versus the people.

When we read the letter of the gentleman from Pennsylvania who proposed this bill, he tells us that the bill is wanted by the National Park Service and by the Department of the Interior. That is not the people of Gettysburg. That is big government. Big government is saying to the people of Gettysburg they want it. When we read that it has been approved by the subcommittee, well, the subcommittee is Uncle Sam in Washington; that is not the people of Gettysburg.

It was approved unanimously by the Interior Committee. The Interior Committee is not the people of Gettysburg; that is the people right here in Washington.

This is Washington versus Gettysburg, is what it amounts to. The people of Gettysburg do not want it, the people in Washington say "You'll take it anyway."

I think that that kind of arrogance is of highly questionable validity on the House floor. It seems to me that somewhere along the line we ought to consult with the people of the area, and we ought to take their views into account as we do some of these kinds of things. Why, for example, is this bill being brought to us by someone who lives several counties away from Gettysburg? Why did not the people who propose to have this happen go to the Member of Congress from that area? Why did they not go to people closer? The point being that the Member from Gettysburg, the Member who represents that area says flatly the people there do not want it.

He knows the people best. Why do we not listen to the Representative of the people around here? Why is it always the bureaucrats and powerful leaders in this Congress who have to say to the Representatives of the people "Well, you don't matter in all this."

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I thank the gentleman for yielding.

Mr. Speaker, I wonder if the gentleman could tell me where the membership of the Gettysburg Battlefield Preservation Association lives? This is the group which came to me and asked me to introduce the legislation. I wonder if the gentleman knows where their membership lives.

Mr. WALKER. Well, the gentleman probably has more information about that than I do because the gentleman deals directly with them. I would say to the gentleman, however, I think the membership——

Mr. KOSTMAYER. I wonder if the gentleman would allow me, would continue to yield and allow me to finish my question.

Mr. WALKER. I thought the gentleman wanted an answer. But if he does not, I continue to yield.

Mr. KOSTMAYER. May I finish my question?

It was the Gettysburg Battlefield Preservation Association, a local organization in Adams County, Gettysburg, PA, that suggested to me the introduction of this legislation. They live in the area.

Mr. WALKER. Well, this gentleman wondered though why they did not suggest that to their local Congressman, the man who represents them in this body.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman continue to yield?

Mr. WALKER. I yield to the gentleman.

Mr. KOSTMAYER. I thank the gentleman for yielding further.

If the gentleman will allow me to respond, before I introduced the legislation I visited with our colleague and our friend, BILL GOODLING. I asked him if he had any objection to the bill. He said he did not.

Shortly after that, he came back to me and said he had spoken with the borough manager of Gettysburg who objected to the additional 31 acres.

□ 1300

But it was the Gettysburg Battlefield Preservation Association, a local group, which requested the introduction of the bill.

If I may say one final thing to my friend, the gentleman from Pennsylvania, in this morning's edition of the Gettysburg Times, which is the largest newspaper in that congressional district, this bill is endorsed and supported.

Mr. WALKER. Mr. Speaker, I would just make the point to the gentleman that once again, what the gentleman has just told the House is the Representative of the area went back and checked with the local people and the local people told the gentleman, no, they did not want this.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, if the gentleman will let me make a statement on my own time here, it would be very helpful. I allowed the gentleman the time. Just let me reply, if I may.

What the gentleman has now told us is that the Representative of this Congress from the area went back to the people of the area and found out they did not want the bill. That is the reason why the gentleman is opposed.

We have a letter here from our colleague who represents the area that says the gentleman is opposed and the people of the area are opposed.

Mr. Speaker, I would simply say to the gentleman that the point still stands. The preservation society which the gentleman mentions probably is headquartered in the area. That would seem logical. It is also an association, as I understand it, that has a broad base beyond the area and raises its money from outside the area. So it is not necessarily totally representative of all of the people of Gettysburg.

It is my feeling that somewhere along the line when people get elected to this body to represent their district, their opinion on behalf of the people of those districts ought to be taken into account. That is this gentleman's only point, that if we have elected Representatives of the people here in the body, they ought to be able to speak for their folks in this body. We ought not have Congress constantly coming along and departments and agencies constantly coming along telling the people of various areas, no, you do not count.

That is exactly what we are saying with this bill. We are saying to the people of that particular part of Pennsylvania, "No, you don't count. Washington knows better. We in our bureaucratic wisdom, we in our congressional wisdom, know better than you do what is good for your area, and you take this or you leave it."

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, while I appreciate the concern that my colleague, the gentleman from Pennsylvania [Mr. WALKER] has taken in this issue, I am puzzled as to why the gentleman who so ably represents this district, the gentleman from Pennsylvania [Mr. GOODLING] is not here with us today, if the gentleman is so fired up in opposition to this legislation.

Mr. Speaker, I would say, finally, as I did a moment ago, that this legislation originated with a local group, people who live, work, and pay taxes in Gettysburg, the Gettysburg Battlefield Preservation Association. It is endorsed and supported by the largest newspaper in that district.

That apparently is not acceptable to the gentleman from Pennsylvania [Mr. WALKER]. I do not know why. I do not know why these people are somehow less aware of the feelings of the people in that area than he.

This, finally, is not strictly a local issue. It is a national issue as well. I hope that the House will agree to the legislation.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the fact is that we had a full hearing in the subcommittee on this. Of course, the gentleman from Pennsylvania [Mr. GOODLING] did participate in that. I know the gentleman's absence today in no way indicates his interest in this particular legislation. I know the gentleman is deeply interested in the issue.

Finally, I would say that we did have a full hearing on this, and there are differences locally in the Gettysburg area with regard to the direction we should take. I would just point out that we have to make decisions on this. It is an important addition, an important parcel to the park in the 1895 boundary, within that boundary. In fact, I think some could interpret that this legislation is not necessary, that this could be added without it.

But in fact, we are going through the legislative process again to provide for a full airing and the full authority so that there is no misunderstanding about it.

But we do care about what is happening. Gettysburg is a very important area in terms of tourism in that area, and what happens in the park is immensely important to their total economy.

This parcel, incidentally, is not located in the town of Gettysburg, but in Adams County adjacent to it. We are going to look carefully at these parcels that are added so that they do not have the type of consequence that is adverse.

I just wanted to share that with the body, because there has been some suggestion that we did not care about what the local people feel. That is not my thought. It is not the sentiment of our committee or of the members. I do not want that impression to be left.

Mr. GOODLING. Mr. Speaker, let me begin by saying that both the citizens of Adams County, PA, and I are proud of the history and heritage which the Gettysburg National Military Park represents. It is very much a worthwhile tribute to this troubling time in our Nation's history, as well as serving as a wonderful natural setting for visitors.

Despite my strong support for the park, I have a number of concerns about the bill my colleague from Pennsylvania has chosen to introduce and bring before the House today.

On the face of it, the legislation might appear as a reasonable proposal, primarily because it appears to simply donate, free of charge, a 31-acre tract of land known as the Taney Farm to the Federal Government for the Gettysburg National Military Park.

Frankly, it's just not that simple.

Confusion about the Gettysburg National Military Park was brought about by its original enabling legislation enacted in 1895. This law provided a map showing a park in excess of 5,000 acres. However, the law limited the size of the park to 3,874 acres.

This confusion was settled by a May 24, 1974, agreement between the National Park Service and Senator Alan Bible after a study by the Park Service. This study noted the boundaries of the park have been—

Reviewed within the Service to assure that the historic resources and character of these areas are preserved and are firm and no longer subject to any administrative adjustment or alteration.

The Bible agreement thus limited the park to 3,874 acres.

Senator Bible, in approaching the study, directed the Park Service that—

Implicit in this approval is the firm understanding that the depicted boundaries will not be subject to change in the future except for substantial and compelling reasons.

H.R. 4259 will abrogate this agreement.

Moreover, this legislation will establish a precedent for the park and the surrounding communities which greatly concerns me. Perhaps if this piece of land were the only land that will be acquired by the park, it might truly be a reasonable acquisition. I fear, however, that this is just the first step of a new effort by the Park Service to significantly expand the park once again.

In this regard, the Gettysburg Battlefield Preservation Association [GBPA], the group donating the Taney property, openly touts its desire for the park. In a brochure seeking funds for its efforts, the GBPA states:

The purchase of the Taney Farm is just a first step, and highlights an urgent need to obtain public support to continue the GBPA's efforts. In addition to assisting the park in purchasing the remaining 250 acres of land authorized by Congress to be included in Gettysburg National Park, the GBPA sees even a larger need to make the public aware of more than 1,000 acres of land not included in the park boundaries, but vitally important in protecting the historic landscape.

Certainly, there may well be pieces of land with viable historical background which should belong to the park. But must every foot of land upon which a Union or Confederate soldier stepped be acquired for the park?

Similarly, I am concerned about the long-range effects of an enlarged park on the surrounding communities. The Taney property will not hurt the tax base because it already belongs to a nonprofit group. But imagine the effect on these small townships if 1,000 acres are no longer available to assist local governments. Already, Cumberland Township, which lies north, south, and west of the park has 21 percent of its tax base reserved due the park and church rights. Similarly, 45 percent of the borough of Gettysburg is preserved from taxes due to the park and other local obligations.

The National Park Service has indicated that it is undertaking a study to provide a plan for the future development of the park. It does not make sense to me to begin further expansion of the Gettysburg National Military Park in the haphazard process H.R. 4259 will begin. I ask my colleagues in the House to consider the views of the citizens of Adams County who will be affected by this legislation when they vote on this matter. Ninety-five percent of the people in Adams County resent the continued expansion of the park, taking property off the tax roles, raising the price of farmland dramatically and taking away the possibility of growth in the area. I urge my colleagues to vote against this measure.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4259.

The question was taken.

Mr. LUJAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

BOUNDARY WATERS CANOE AREA WILDERNESS AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4348) to amend the Boundary Waters Canoe Area Wilderness law to change the authorizations of appropriations for resource management review and grants.

The Clerk read as follows:

H.R. 4348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATIONS.

Section 6(d) of the Act entitled "An Act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes", approved October 21, 1978 (92 Stat. 1653), is amended—

(1) in paragraph (1) by striking out "$8,000,000" and inserting in lieu thereof "$6,000,000"; and

(2) in paragraph (2) by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect October 1, 1987.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4348, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4348 would authorize a revenue neutral shift of $2 million in authorization from the Federal forestry intensification provision of the Boundary Waters Canoe Area Wilderness Act of 1978 (Public Law 95-495) to the State and private forestry provisions of that same law.

Section 6(d) of Public Law 95-495 authorized a 10-year forestry intensification program on Federal, State, county, and private timberlands adjacent to the Boundary Waters Canoe Area. H.R. 4348 would amend that provision effective October 1, 1987, by decreasing the authorization for the Federal Forestry Intensification Program from $8 million to $6 million, and by increasing the State, county, and private forestry intensification program from $3 to $5 million. This small shift in authorization will help better reflect the reality of development that has occurred since the 1978 act, and maximize the benefits during the remaining 4 years of the program.

The change in authorizations will not impact on the historical pattern of forestry spending on Federal lands outside the BWCA, but will better allocate resources for the efforts being out forth under the cooperative forestry program, which, incidentally, is done on a cost-sharing basis—80-20.

Mr. Speaker, I am pleased to note that the testimony the committee received gave evidence to the high level of cooperation that is being put forth by Federal, State, and local participants in the program. As many Members may recall, the 1978 BWCA Act was a divisive issue. Through programs such as forestry intensification, the purposes of the act are being met. The management program we have estab-

lished for the BWCA has made it one of the flagships of our wilderness system.

I urge adoption of H.R. 4348.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to make a few brief comments on H.R. 4348.

As you know, this bill would decrease the authorization for Federal forestry intensification activities from $8 million to $6 million and increase the authorization for State, county, and private forestry intensification activities from $3 million to $5 million. While it is apparent that the counties in northern Minnesota have managed their forest land very well due in large part to the Federal assistance provided annually under the 1978 Boundary Waters Canoe Area Wilderness Act [BWCA], I have a few concerns about the possible ramifications of this bill.

First, it alters a compromise which was developed when the BWCA legislation was passed by Congress. Not only does this upset the balance between existing Federal and State programs, but it also establishes a dangerous precedent to amend previous compromises on other issues.

In addition, by increasing the authorization for this State grant program, other Forest Service cooperative forestry programs could be deprived of necessary funding.

Having expressed these concerns, I recognize the reasons for this legislation and do not object to its passage. However, prior to final congressional action, I would urge that all aspects of the issue be thoroughly considered.

□ 1310

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], who has worked diligently the past years since the enactment of the 1978 law. He has done an outstanding job of representing the interests of that area, especially, I think, before the Appropriations Committee in seeking funds to implement this act. I have been happy to work with him in that endeavor. The changes or modifications here are, in large measure, due to his advocacy and the success of this program in no small part is due to his work with local governments pointing out the positive aspects of this particular policy. Although not agreeing fundamentally with all the changes that were initiated at that time, he certainly has worked in a good-faith manner to ensure and see that this law has borne the fruit and has been as much benefit to his area.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, I want to express my very great appreciation for the speed with which the subcommittee, under the leadership of the gentleman from Minnesota has moved with this legislation, giving it a full hearing, analyzing all aspects of the legislation, bringing it through committee and to the House floor in an expeditious manner.

I also want to express my appreciation to the Members of the minority side of the committee who have taken a careful look at the legislation, particularly the gentleman from Alaska [Mr. YOUNG], who has spent quite some time in thinking it through, and the gentleman from California [Mr. LAGOMARSINO], who sat through the committee hearings, and raised pertinent questions and ultimately expressed his support for the legislation.

The gentleman from New Mexico has raised a valid point of question, perhaps two questions, about the legislation. He expressed concern about ramifications, first, that it alters the basic law, boundary waters canoe area wilderness law, in a way that may set a dangerous precedent. It may set a precedent, but I do not think it is a dangerous one. It is one that recognizes the reality of what has happened in the wake of passage of the Boundary Waters Wilderness Act since 1978.

Timber harvesting practices and the needs of the wood fiber industry in Minnesota have changed significantly in the years since 1978, I would say to my colleague. The industry is now using more aspen wood for its requirements than soft woods, and the aspen is found in greater concentration on lands outside the Superior National Forest and outside the Chippewa National Forest. Those lands are largely in county and State ownership. It makes sense to turn the focus of increased harvesting of that species away from the Federal forestry lands and onto these underutilized State and county lands where a greater yield can be offered and the needs of the wood fiber industry satisfied.

The basic act recognized that creating wilderness would take lands out of wood fiber production within the area of the Boundary Waters Canoe Area Wilderness. It, therefore, provided for two kinds of compensatory actions: First, intensifying forestry on Federal lands; and second, intensifiying forestry on State and county lands. It now appears a wise move to shift that authorization from the Federal lands onto the State and county lands.

The second point the gentleman raised is that other programs within the U.S. Forest Service might be deprived of funds. Let us face that openly. From the outset, I have said: First, this is a revenue-neutral amendment; second, it is not intended in the appropriation process to diminish funds for any other program but, within the overall context of our budget limitations, to attempt to increase the funding for State and country forestry. That would be my purpose in seeking appropriations.

So the purpose of H.R. 4348 is very straightforward and unmistakable. At least I have tried to make it unmistakable and as clear as possible in a sensitive issue of this kind, that the bill proposes a revenue-neutral shift of $2 million in authorization from the Federal forestry provision of the Boundary Waters Canoe Area Wilderness Act of 1978 to the State and private forestry provisions of the same law. I think I have fairly well clarified the purpose.

If the gentleman has any further questions, I would be glad to respond to the gentleman.

Mr. LUJAN. No. As a matter of fact, I see why we need such legislation. I was reiterating the questions that have been asked before.

Mr. OBERSTAR. I think entirely properly so.

Mr. LUJAN. In order to press those issues before the full House. I must tell the gentleman I do not oppose his bill.

Mr. OBERSTAR. I thank the gentleman.

The purpose of H.R. 4348 is to authorize a revenue-neutral shift of $2 million in authorization from the Federal forestry provision of the Boundary Waters Canoe Area Wilderness Act of 1978 to the State and private forestry provision of that same law.

The shift is needed to keep pace with changes in species utilization within the wood fiber industry since enactment of that law. The focus of the wood fiber industry has shifted since 1978 from softwood harvesting principally on Federal forest lands to hardwood harvesting on State and county lands. The authorization level provided in section 6(d)(1) of Public Law 95-495 has never been fully used nor is that authorization any longer needed for the purpose originally intended. However, funds are needed to carry out one of the purposes of the act: to intensify wood fiber yield and production outside the Boundary Waters Canoe Wilderness and beyond the Superior National Forest.

The timber stand improvement and yield intensification programs carried out on State and county lands have constituted the major portion of the BWCA appropriation every year since enactment. This Federal appropriation has funded three program areas, the national forest program on the Superior and Chippewa National Forests, the grant to the State of Minnesota for forest intensification programs on State, county, and private lands, and a third program funding research projects and studies.

The national forest program has utilized the funding principally for two activities, reforestation and timber stand improvement and for road forest work. Accomplishments of this program in the Superior Forest, for the period fiscal years 1980 through 1986

includes the reforestation of 19,238 acres, timber stand improvement of 10,470 acres, construction of 150.6 miles, and the resurfacing of 169.9 miles.

Similar successes can be found in the Chippewa National Forest, where 2,333 acres have been reforested since 1980; timber stand improvements have been made to 4,019 acres; 79.8 miles have been constructed and 108 miles have been resurfaced.

The total cost of section 6 funding under Public Law 96-495 since fiscal year 1980 has been $29.3 million. Under section 6(d)(1) of Public Law 95-495, the Federal Government is authorized at levels not to exceed $8 million. However, the U.S. Forest Service has never sought nor have there ever been appropriations even approaching that amount. The largest amount ever appropriated under section 6(d)(1) was $5.8 million, designated in fiscal year 1981. Since that time we have seen a steady decrease in Federal funds allotted to the Public Law 95-495 forestry intensification program. In fiscal year 1986, the section 6(d)(1) program received only $2.49 million.

The same legislation authorization that $3 million be designated at the State and local level, under section 6(d)(2). In each year that full amount has been utilized by State and country governments to manage the 7 million acres of forest land in the region. Every cent has been used to plant more acres, improve existing plantations, and invest in the region's forest road network.

In the period including fiscal years 1984 through 1985, 7.2 miles have been constructed and 2 more are expected to be constructed in fiscal year 1986 and 1,113.2 miles have been resurfaced in that same period with 570 expected to be maintained this year. Reforestation occurred on 28,287 acres in those 2 years and 41.4 million seedlings were planted.

Again, Mr. Speaker, H.R. 4348 is a straightforward piece of legislation that addresses the need to expand our timber industry and the need to adhere to budgetary guidelines. The effect of enacting this legislation will be a positive sign or northeastern Minnesota that Congress intends to follow through on its promise to make amends for inconveniencies caused by the Wilderness Act. At the same time, H.R. 4348 will continue growth and development at the State and county level.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, the fact is, this just demonstrates, I think, what is a successful model in terms of forestry intensification with the cooperative private Federal type of activity, and I would suggest that I think when we find something that is working, it does not hurt to try and give it a little bit more authorization, especially in terms of shifting it around. I think the real result here is that indeed there will be, in other words, insofar as the gentleman from Minnesota and myself, and others, can encourage appropriation dollars to fill out that authorization, but I think we ought to be free to compete on the basis of the merit that this program has and the way that it functions. And we ought to have that freedom to compete for those dollars on that basis, especially when this money leverages as well as it does. So I think it is a very good program. We ought to consider it as a tool that we often face in terms of the economic development fallout that occurs when we designate certain conservation units and shift around the use of those lands.

It is a good example, and I think that is why we are responding in this. I think the fact is this is the first time we have amended the law since 1978.

Mr. Speaker, I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4348.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMENDING THE GOVERNMENT AND PEOPLE OF BERLIN FOR COMMEMORATING THE 50TH ANNIVERSARY OF THE BERLIN OLYMPIC GAMES

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con Res. 325) to commend the government and the people of Berlin for keeping alive the spirit of equality, freedom, and human dignity through their solemn commemoration of the 50th anniversary of Jesse Owens' victories at the 1936 Berlin Olympic games.

The Clerk read as follows:

H. CON. RES. 325

Whereas the people of Berlin will celebrate the fiftieth anniversary of Jesse Owens' epochal winning of four gold medals at the 1936 Berlin Olympic Games on August 14 or 15, 1986;

Whereas the people of the United States have long maintained a unique and special relationship with the government and people of Berlin;

Whereas Jesse Owens represented himself, the United States, and the principles of freedom, equality, and human dignity so nobly and resolutely during the 1936 Olympic games;

Whereas Jesse Owens represented the United States internationally as the American "Ambassador of Sports", in a State Department tour of South Asia, as personal representative of President Eisenhower to the 1956 Olympic games in Australia, and as director of the United States Olympic Committee; and

Whereas no other athlete better symbolizes the human struggle against tyranny, racism, and bigotry than Jesse Owens: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends the government and people of Berlin for keeping alive the spirit of equality, freedom, and human dignity through their solemn commemoration of the fiftieth anniversary of Jesse Owens' historic victories at the 1936 Berlin Olympic games;

(2) reaffirms the commitment of the United States to the government and people of Berlin as they celebrate the legacy of Jesse Owens at the international athetics competition and memorial weekend in Berlin on August 14-15, 1986; and

(3) recalls and honors the significant work of Jesse Owens on behalf of the people and Government of the United States, and his victories in 1936 as a symbol of perseverance and the triumph of equality and justice over bigotry and racism.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 325 and House Concurrent Resolution 326 which we will be considering shortly. These resolutions draw our attention to the political symbolism that the city of Berlin holds today. They recognize two noteworthy anniversaries in Berlin and come before us on the eve of Berlin's 750th anniversary as a city which occurs in 1987.

Mr. Speaker, House Concurrent Resolution 325 has the support of the State Department. It was approved unanimously by the Subcommittee on Europe and the Middle East, on May 21, 1986, and by the Committee on Foreign Affairs on June 5, 1986. I want to commend Congressman LANTOS, the chief sponsor of these resolutions, for his strong leadership on the issue.

House Concurrent Resolution 325 commends the government and people of Berlin for keeping alive the spirit set by the accomplishments of Jesse Owens at the 1936 summer Olympic games in Berlin. The story of Jesse Owens is well known. His victories 50 years ago were a courageous challenge to racist and hateful values practiced by Adolf Hitler's Nazi government. Jesse Owens' accomplishments symbolized the principles of freedom,

equality, and human dignity—principles which the city of Berlin has sought to protect since the end of the Second World War.

Mr. Speaker, this resolution is of great importance to the people of Berlin, who look to the United States as a friend and as one of the defenders of their freedom. I urge my colleagues to vote for House Concurrent Resolution 325.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, first, I want to thank my friend and colleague, the chairman of our committee, for his support of these resolutions.

I would like to spend a minute or two asking, and then answering, the question: What is the merit of passing historical resolutions? We are often preoccupied with the problems of the day. Some might ask: What is the purpose of talking about the 1936 Olympics and Jesse Owens' spectacular victories at those Olympics?

Unless we root ourselves in historical context, we will be like a cork bobbing on a stormy sea. We will have no compass, no bearing, we will not know where we came from and we will not know where we are headed. I believe one of the very important tasks of the Congress is to remind itself and to remind the American people of important historical events.

The 1936 Olympics in Berlin and Jesse Owens' spectacular performance at those Olympics is one such event.

The 1936 Olympics was Hitler's Olympic games. There was a raging debate at the time as to whether in fact democratic countries should be represented at those Olympics. There were many who argued, in my view, quite persuasively, that the democratic societies of the globe should not have participated in those Olympics because, by doing so, they, in a sense, provided further legitimacy to the racist regime of Hitler.

The voices of those who said that politics and athletics should be separated prevailed. The Western democracies were still preoccupied by the aftermath of the Great Depression. They did not want to take on new problems. They took the course of least resistance, and they fielded teams at the 1936 Berlin Olympics.

Once that decision was made, the presence of the American Olympic team, and particularly the heroic achievements of Jesse Owens, became of paramount importance. The American Olympic team at the Berlin Olympics represented the triumph of democratic, free, and open societies.

I remember as a boy listening on the radio to those Olympics and the rhythmic chant of the American contingent, "U.S.A., U.S.A." It sounded like liberty. It was a voice for decency, dignity, and freedom amidst Hitler's government.

Jesse Owens, a black American, demonstrated the phoniness of Hitler's theories of racial supremacy. In a moving, gripping series of performances, he succeeded in winning four Olympic gold medals.

It is interesting to contemplate how far we have come in the field of human rights in the last half a century. Could anyone contemplate holding the Olympics in South Africa today? Yet South Africa today, in terms of its racial orientation, is certainly no different from Hitler's Germany in 1936. We have come a long way, partly because of the efforts of heroic athletes like Jesse Owens, whom we commemorate in this resolution. Along with paying tribute to him, we pay tribute to the people of West Berlin who have maintained the memory and spirit that Jesse Owens represented in 1936 by honoring him in the forthcoming special commemorative athletic games in the city of Berlin in August 1986.

□ 1325

I urge my colleagues to support this resolution as a tribute to a great American athlete and to the free people of Berlin.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to compliment the gentleman from California for sponsoring this bill, and I want to join in strong support with the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana, Mr. LEE HAMILTON.

Mr. Speaker, I support the resolution before us which commends the government and people of Berlin for their commemoration of the anniversary of Jesse Owens' victories at the Olympic games.

Many of us remember the outstanding performance of Jesse Owens at the 1936 Olympic games in Germany. As a young black American, Jesse Owens beat Hitler's hand-picked "master race" athletes in their own backyard. His successes at those games are symbols of the human struggle against tyranny, racism, and bigotry that all of us must never forget.

Jesse Owens went on to serve his country as the "Ambassador of Sports" for many years and continued to bring credit upon himself and his country. America did not forget Jesse Owens or the people of Berlin. Since the end of the Second World War, the United States has maintained a special relationship with the government and people of that city.

It is appropriate that this resolution commends the Government and people of Berlin for commemorating the 50th anniversary of Jesse Owens' victories at the 1936 Berlin games.

The resolution also honors Jesse Owens for his victories and for his fine work on behalf of the people and Government of the United States.

I urge my colleagues to join me in supporting this worthwhile resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 325, commending the government and people of Berlin for commemorating on August 14 and 15 the 50th anniversary of Jesse Owens' victories at the 1936 Berlin Olympics.

This legislation reminds us of an unhappy time for Berlin. The luster of the Olympics—the "Hitler Olympics" was tarnished by the triumph of "Aryan racism." The highlight of that event was the stunning victory of an American black, Jesse Owens, who triumphed, not only over his athletic adversaries, but whose victory also was symbolic of the triumph of equality and justice over the forces of hate and racism which were so virulent in those days.

It is therefore highly appropriate that we commend the people and the government of West Berlin for the special celebrations honoring this anniversary of Jesse Owens' efforts on behalf of our Nation and I commend the gentleman from California [Mr. LANTOS] for focusing our attention on them. I urge my colleagues to fully support this resolution.

Mr. BROOMFIELD. Mr. Speaker, I want to compliment the gentleman from New York for his contribution.

I have no further requests for time and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rule and agree to the concurrent resolution, House Concurrent Resolution 325.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SENSE OF CONGRESS THAT THE BERLIN WALL IS AN INDICTMENT OF THE COMMUNIST SYSTEM

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 326) expressing the sense of the Congress that the existence of the Berlin Wall after 25 years is a visible indictment of the Communist system and that the continued vitality of the Western sectors of the city is a testament to the Berliners' courage and devotion to freedom.

The Clerk read as follows:

H. CON. RES. 326

Whereas, on August 13, 1961, authorities in East Berlin erected the Berlin Wall, cruelly dividing the city and its people with barbed wire and concrete, following the exodus of more than two million Germans fleeing political oppression;

Whereas the Berlin Wall has failed to prevent the Western sectors of Berlin from regaining the position of a vibrant world city, firmly tied to the West;

Whereas the United States applauds and commends the courage and success of the Berliners in overcoming past adversity and geographic isolation;

Whereas people continue to risk and even to lose their lives scaling the Wall to freedom;

Whereas the United States remains committed to the principle of freedom for all men and women everywhere;

Whereas the United States remains committed to the strict observance and full implementation of the Quadripartite Agreement on Berlin;

Whereas the United States remains committed to the principles of the United Nations Declaration on Human Rights and the Final Act of the Conference on Security and Cooperation in Europe; and

Whereas the United States remains committed to overcoming the artificial barriers dividing Berliners, Germans, and Europeans, and promoting the observance of human rights and self-determination: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) expressly commends the courage and steadfastness of the Berliners in making the western part of the city a showcase of Western values and an internationally renowned metropolis;

(2) condemns the continued existence of the Berlin Wall and calls upon its builders to dismantle it; and

(3) reaffirms the commitment of the United States to Berlin and its brave people.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 326, the second resolution dealing with Berlin. Mr. Speaker, House Concurrent Resolution 326 has the support of the State Department. It was approved unanimously by the Subcommittee on Europe and the Middle East, on May 21, 1986, and by the Committee on Foreign Affairs on June 5, 1986. I want again to commend Congressman LANTOS, the chief sponsor of this resolution, for his strong leadership on the issue.

House Concurrent Resolution 326, condemns the existence of the Berlin Wall, commends the residents of the western part of the city for making the city a model for Western values, and reaffirms the U.S. commitment to Berlin. August will mark the 25th anniversary of the construction of the Berlin Wall. It exists not because of fear of invasion but rather because of a fear that East Germans will leave for the freedom of the West. It also symbolizes the continued division of Europe and the imposition of a Soviet domination over the nations of Eastern Europe.

Mr. Speaker, this resolution is of great importance to the people of Berlin, who look to the United States as a friend and as one of the defenders of their freedom. I urge my colleagues to vote for House Concurrent Resolution 326.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. I thank the gentleman for yielding to me.

Mr. Speaker, first I want to thank the distinguished chairman of the Subcommittee on Europe and the Middle East for his support of this very important resolution.

West Berlin has occupied a unique role in the post-World War II history of our globe. It has been a democratic island in a totalitarian ocean. In a variety of ways, the Soviet Union and its satellites have attempted to squeeze Berlin and to squeeze the Berliners to force them to surrender to destroy the independent status of West Berlin.

First, in the late forties came the Berlin blockade. The Berlin blockade was a crude, primitive but potentially devastatingly effective device to suffocate that free city. Our response resulted in the Berlin airlift, at the height of which, every 45 seconds an airplane landed in West Berlin bringing food and fuel and other supplies to the beleaguered citizens of West Berlin and broke the blockade.

The Soviet leadership was not satisfied with allowing Berlin to live freely. East Berlin and East Germany were hemorrhaging. Large numbers of people, hundreds of thousands of people, were voting with their feet. They were trying to get out from under a Communist, totalitarian system to make their way to the free world.

In July of 1961, over 30,000 people fled East Germany for West Berlin. In the first 10 days of August 1961, some 16,000 East Germans voted with their feet and made their way to freedom. A half-hour past midnight on the 13th of August, East German military police and army units deployed along the 25-mile zone between East and West Berlin began to build, Mr. Speaker, the first wall in human history designed not to keep the enemy out, but to keep their own people in.

It is often said that there is nothing new under the Sun. I submit, Mr. Speaker, that the Berlin Wall is very much something new under the Sun. It is the first wall in history, the only wall in history, designed to keep people from escaping their own homeland.

The walls and ramparts of medieval castles and fortresses, the Great Wall of China, were all defensive barriers against the enemy.

□ 1335

This wall is a wall against the people of East Germany.

When this January my distinguished friend and colleague, the gentleman from New York [Mr. GILMAN], and I led a bipartisan congressional delegation to East and West Berlin, we met with the head of East Germany, Chairman Honecker. Our delegation called on him to dismantle the Berlin Wall. Twenty-five years is long enough. Economic developments in East Germany have progressed far enough so East Germany should now have the guts to dismantle the wall that keeps its people in, and finally join the community of civilized nations.

It is my earnest hope, Mr. Speaker, that next year, when the city of Berlin celebrates its 750th anniversary, East Berlin and West Berlin will no longer be divided by this wall of shame, and that the people of the two parts of that great city will be able to move freely, as civilized people ought to, in the closing years of the 20th century.

Mr. Speaker, I strongly urge my colleagues to support this resolution. It is critical that the American people and their representatives in Congress cry out loud and clear for the dismantling of a wall of shame that stands as a visible reminder of the bankruptcy of the Communist system and the outrageous division of the continent of Europe.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to compliment the gentleman from California [Mr. LANTOS] and also my colleague, the gentleman from Michigan [Mr. VANDER JAGT], as cosponsors of this legislation.

Mr. Speaker, I support the resolution before us which states that the Berlin Wall is an indictment of the Communist system and that the vitality of the western sector of the city is a testament to the courage of the people of Berlin.

Who can forget the tragedy of the Berlin wall of shame? Twenty-five years ago, that offensive structure was built to divide the city and the people of Berlin. In spite of that barrier, the western part of Berlin has become an impressive world city closely linked to the West, in spite of its geographic isolation.

Even today, brave freedom-loving people continue to try to flee from East Berlin by scaling the Berlin wall of shame. Divisive artificial barriers as the wall are offensive to all people who believe in human rights and self-determination.

This resolution commends the courage of the people of West Berlin and reaffirms our commitment to that city and its people.

It also condemns the continued existence of the Berlin wall of shame and calls on its builders to dismantle it.

This resolution deserves our support. I call on my colleagues to join me in accepting this legislative initiative.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from New York, Mr. BEN GILMAN, who is a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, this resolution marks the 25th anniversary of the erection of the Berlin Wall, a monstrosity that is an affront to all freedom-loving people.

When a House delegation led by the distinguished gentleman from California [Mr. LANTOS] was in Berlin last January, we personally witnessed the courage of the people of West Berlin, who are confronted with an extremely onerous situation made all the worse by the wall and the continued barbarity of this artificial division of their city.

The fact that the wall serves no purpose whatsoever except to keep the people behind it isolated from the Western World, demonstrated the fundamental weakness of the system by which East Germany is governed.

The anniversary of the wall's construction is a shameful reminder of yet another aspect of man's inhumanity to man. We all look forward, Mr. Speaker, to the day that the Berlin Wall will come tumbling down.

Mr. BROOMFIELD. Mr. Speaker, I urge adoption of the resolution. I have no further requests for time, and I yield back the balance of my time.

Mr. LANTOS. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 326.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 326, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 4868, ANTI-APARTHEID ACT OF 1986

Mr. DORGAN of North Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight to file a report on H.R. 4868.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

THE LESSON OF CUBA

(Mr. PEPPER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. PEPPER. Mr. Speaker, on the 20th of May at the Omni Hotel in Miami, there was a great throng gathered together to commemorate Cuban National Independence Day and also the first anniversary of Radio Marti. The Vice President was the principal speaker on that occasion.

The gentleman who introduced the Vice President was the Honorable Jorge Mas, a great Cuban-American, indeed a great citizen of the world, a great national and world leader of the cause of freedom and in the fight against communism.

In his address introducing the Vice President, Mr. Mas told very movingly about the experience that he had had when he was a citizen of Cuba under the despotic tyranny of the present man who heads up that beautiful island of the Caribbean, Castro. He told movingly of how it was too late on the part of too many to fight against Castro, because he was already established.

He warned that we might make the same mistake if we allow communism to take firm root in Nicaragua. He therefore urged that we remember that freedom is a precious product to be saved by those who are forward in their understanding of its jeopardy and its danger.

There was great applause for this moving address of Mr. Jorge Mas. I think it would be a subject of treasure for the Members of the House to read this moving address.

Therefore, I am including that address in the RECORD immediately following my remarks, as follows:

MAY 20, 1986.

Mr. Vice-President, Elected Officials, Ladies and Gentlemen.

Welcome to Miami Mr. Vice-President. Thanks for your visit. It will bring hope to the oppressed Cuban people who will listen to your speech through Radio Marti. Thanks to all of you for your continuing support.

Today, we are commemorating Cuba's National Independence Day and the first Anniversary of Radio Marti. I would like to begin by sharing with you a real story that occurred 26 years ago.

A few days after my arrival from Cuba, as a political refugee in July 1960, I went to North Carolina to visit some of my former college professors.

One night in a meeting at a friend's home, I told them about my reasons for leaving Cuba. I mentioned the loss of political freedom. In reply, they asked me about the Cuban Army and how it was performing its duty to defend the Constitution. I had to explain that Castro had taken over the Army and it couldn't help. When I described the confiscation of all private property by the Cuban Government, they asked me about the role of the police. I had to explain that the police had been dissolved. Economic freedom was gone, too.

One of my former professors suggested that labor leaders, students, and professionals should unite and do something. I had to explain that all free organizations had been banned and a totalitarian form of government was being established. By then, they could not believe what I was saying.

"Had you gone to the press to protest?" asked one of my friends. No, because all papers, radio and T.V. stations, I responded are under the control of the government. And they don't allow dissenters to protest.

I could sense that they did not want to believe what I was describing. But I went on to explain about my future plans.

I told them that I was going to join other fellow Cubans already in training camps who were getting ready to invade the Island and liberate Cuba. If we don't invade, I said the U.S. will suffer a devastating blow to its prestige and influence. Meanwhile, Castro's ambitions of ruling the world will be unleashed.

It was just too much for my American friends. They did not want to be disturbed with bad news. My former English professor looked at my eyes and said: "Jorge, you are

so emotionally involved in your problems that you lack the objectivity to make a fair presentation. You are either exaggerating or you are obsessed with your fears about communism.

Twenty six years later, history has proved that I was, unfortunately, right. But the worst thing is that ignorance of the threats to our freedom I confronted in North Carolina is still widespread in America and even here in Miami.

Such ignorance generates a contrast of perceptions. It is the contrast between those who have never lost their freedom and live with the serenity and security that a free society provides and those, like most of us, who live with intensity and motivation driven into their hearts because they have suffered fear, grief and persecution.

We see history repeating itself in Nicaragua. However, we also see people reluctant to confront reality and people who are afraid to stand up to today's challenge.

Lack of knowledge is one thing. But dismissing what is already known is another thing altogether. We cannot ignore what happened in the Soviet Union 70 years ago, in Cuba in 1959, and what is happening in Nicaragua right now. We must acknowledge the truth and learn from the lessons of history. And ladies and gentlemen, this is a national tragedy. No wonder that when Anatoly Scharansky was asked last week in New York which was his biggest disappointment since he left the Soviet Union, he said the "non-understanding of the Soviet Union by the West. The West ignores the real nature of the Soviet system."

That is why we value so much this, and every opportunity to meet in this free land, to speak our free mind to the free world.

Yes, we Cuban-Americans have prospered in the United States. Yes, we have made a contribution to Florida because of hard work, dedication, and talent. But I prefer to talk about other contributions that we make everyday to the U.S. and to the free world through the efforts of the Cuban-American National Foundation.

I prefer to talk about the publications we share with our American brothers and sisters detailing our experiences and our concerns for the future. I prefer to talk about our investments, not in local banks or in local business ventures, but in the political arena to preserve freedom in the U.S. and to protect the national security of this great nation.

I prefer to talk about what we are doing on Capitol Hill to educate our Senators and Congressmen in order to avoid another Bay of Pigs in Nicaragua.

And I prefer to talk about the Foundation's efforts to bring together all the ethnic groups of the Americas, including Anglos in the U.S., Indians of Central America, and blacks of the Caribbean islands. We do this because we learned from Jose Marti that "at the time of hope and peril, all the peoples of the Americas become one."

And during these times of peril, we must stand together or we will perish together. We have no choice. Either we stop Communism in Central America or we will be fighting a war at the Mexican border. Therefore, Cuba and Nicaragua must be freed or there will be no peace in this Hemisphere.

Welcome to Miami, Mr. Vice-President. Welcome to the city that has become a crossroad through which men and women seeking freedom and peace come to tell others about the value of democracy and liberty.

We thank you Mr. Vice-President for your courage and compassion. We thank you for spending time with the people of Cuba and Nicaragua. We thank you for sharing with us the frustrations and ideals of people whose lives have been crushed and have had to start all over again.

We thank you for helping our President liberate Granada and for providing help to freedom fighters all over the world.

We thank you Mr. Vice President because when everybody thought that Radio Marti would never become a reality, you stood tall and firm, and gave us a hand. And then, Radio Marti went on the air just a year ago today.

You are, Mr. Vice-President, a leader with vision. It is a great privilege, ladies and gentleman, to introduce to you the Vice-President of the United States, the Honorable George Bush.

BALTIC STATES FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, June 14 marks yet another anniversary of the occupation of the Baltic States by the Soviet Union. Forty-six years have passed since the proud people of Estonia, Lithuania, and Latvia were overrun by the Communists, who inhumanely exiled, deported, tortured, and murdered thousands.

The Soviet Union in 1940 was committed to the systematic destruction of these three Baltic nations, along with eliminating the language, literature, culture, religion, and heritage of their peoples. In order to insure the success of their intentions, the Soviets first ordered the executions of the intellectuals and those who were politically active. Efforts were then concentrated on the massive deportation of the peasants and others whose only desire was to be left alone and live in peace.

Within a year, the Communists intensified their efforts to break the will of the people who resisted their oppressive rule. Men, women, and little children of entire villages were rounded up and herded together under miserably overcrowded and unsanitary conditions, and were shipped in railroad boxcars east to the Soviet Union. Although these genocidal deportations briefly stopped when Germany invaded the Baltic States in June 1941, when the Red Army regained control in 1944, this activity began again.

During the last 46 years of occupation, the Soviets have continued to deport millions of Estonians, Lithuanians, and Latvians, from their native land to remote parts of the Soviet Union, and at the same time have introduced large numbers of Russians into the Baltic States in an attempt to russify them further. Despite this action, the Communists have been unable to completely crush the spirit of the Baltic people, and their desire to determine the course of their own destiny and live in Freedom.

The United States had never recognized the illegal annexation of the Baltic States by the Soviet Union, and I was privileged to add my name as a cosponsor to House Joint Resolution 500, a bill to designate June 14, 1986, as "Baltic Freedom Day." Similar legislation was approved with my strong support by the full House of Representatives on March 15, and signed into public law by President Reagan on May 28. The text of House Joint Resolution 500 follows:

H.J. RES. 500

Joint resolution designating June 14, 1986, as "Baltic Freedom Day"

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics have existed as independent, sovereign nations belonging to and fully recognized by the League of Nations; and

Whereas the Union of the Soviet Socialist Republics (U.S.S.R.) in collusion with Nazi-Germany signed the Molotov-Ribbentrop Pact which allowed the U.S.S.R. in 1940 to illegally seize and occupy the Baltic States and by force incorporated them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.;

Whereas due to Soviet and Nazi tyranny, by the end of World War II, the Baltic nations had lost 20 per centum of their total population;

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions and languages distinctively foreign to those of Russia;

Whereas the U.S.S.R. since 1940 has systematically implemented its Baltic genocide by deporting native Baltic peoples from their homelands to forced labor and concentration camps in Siberia and elsewhere, and by relocating masses of Russians to the Baltic Republics, thus threatening the Baltic cultures with extinction through russification;

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom;

Whereas the people of Lithuania, Latvia, and Estonia find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights, and persecuted for daring to protest;

Whereas the U.S.S.R. refuses to abide by the Helsinki accords which the U.S.S.R. voluntarily signed;

Whereas the United States as a member of the United Nations has repeatedly voted with a majority of that international body to uphold the right of other countries of the world to determine their fates and be free of foreign domination;

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States of Lithuania, Latvia, and Estonia the right to exist as independent republics separate and apart from the U.S.S.R. or permit a return of personal, political, and religious freedom;

Whereas 1986 marks the forty-sixth anniversary of the United States continued policy of nonrecognition of the illegal forcible occupation of Lithuania, Latvia, and Estonia by the U.S.S.R.: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independence from the domination of the U.S.S.R.;

(2) the Congress deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their

rightful demands for independence from foreign domination and oppression;

(3) the Congress reaffirms the indictment against the U.S.S.R. of the Copenhagen Manifesto signed by the Baltic Tribunal on July 26, 1985 by Doctor Theodor Veiter, Reverend Michael Bourdeaux, Sir James Fawcett, Per Ahlmark, and Jean Marie Daillet;

(4) the fourteenth day of June 1986, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people; and

(5) the President of the United States be authorized and requested to issue a proclamation for the observance of Baltic Freedom Day with appropriate ceremonies and activities and to submit the issue of the Baltic Republics to the United Nations so that the issue of Baltic self-determination will be brought to the attention of the United Nations General Assembly.

Mr. Speaker, I am proud to join with Americans of Estonian, Lithuanian, and Latvian descent in the 11th Congressional District of Illinois which I am honored to represent, and all over this Nation, in commemorating the 46th anniversary of Baltic States Freedom Day. The sad fate and memory of the victims of Communist persecution shall never be forgotten, as we hope and pray that democracy will ultimately triumph over this tyranny, and the sovereignty of these three nations will one day be restored.

SOLUTIONS FOR OUR FARM PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN], is recognized for 60 minutes.

Mr. DORGAN of North Dakota. Mr. Speaker, I have asked for some time in today's session to discuss, along with my friend from Kansas [Mr. GLICKMAN], the farm situation in this country and the agricultural program which currently exists, and what we might do about it.

I come from one of the most rural areas of America. I represent the entire State of North Dakota. I was looking at some unemployment information the other day, and I realized, as I have for some time now, that the deterioration of the farm economy is affecting not just farmers but everyone who lives in rural parts of this country from North Dakota all the way down to Texas.

New York City currently has an unemployment rate of 7.9 percent; Bismarck, ND, has an unemployment rate of 8.8 percent. Pittsburgh has an unemployment rate of 8.1 percent; in Dickinson, ND, it is 11.9 percent. Baltimore has unemployment at 6.9 percent; Williston, ND, at 13.2 percent.

Why is there such great unemployment in States like North Dakota? Well, in North Dakota we are losing 32 family farmers a week at this point. These are not just statistics. Behind the number 32 is a farm family with the name of Olson or Larson or Johnson, and so forth, with a farm they have lived on and worked for a couple of decades, and who discover now that with farm prices falling, and falling rather rapidly over a long period of time, they can no longer pay their bills.

□ 1345

Not too many years ago, in 1980, to be exact, we were spending somewhere around $3 to $4 billion on the farm program in this country. Well, this year it is estimated to be $26 billion. Now, think of the difference, going from $3½ billion expenditures on the farm program to $26 billion, and things have gotten worse.

In other words, the taxpayer is paying much, much more to support a farm plan, and that farm plan has left family farmers in a condition that is much, much worse.

How can that happen, you might ask? Well, it is because the farm program in this country is rooted with the philosophy that you are going to follow production and therefore those who produce the most get the most from this farm program.

The current farm program is fundamentally wrong. I believe it takes the wrong approach. The right policy, in my judgment, is to develop a farm program that says we want to maintain a network of family farms in America. If we did so as a matter of policy, we would spend our money in a much different manner than it is now spent under the present farm plan.

Now, the gentleman from Kansas [Mr. GLICKMAN] is with me today and what we want to do during this special order is discuss between the two of us what we have been talking about with other Members of Congress concerning the course which should be taken to solve this farm crisis that exists in this country.

We have parity prices that are lower than what they were in the Great Depression. We have family farmers every single day across the farm belt having to sell and leave the farm, not because they want to, but because our condition in the farm belt of this country does not give family farmers a decent chance to make a living. We have our small communities in the Midwest suffering great unemployment. Main street businesses are closing their doors. The taxpayer, on the other hand, is paying enormous amounts of money for the farm program and yet it is not working.

So what shall we do about it? That is exactly what we want to discuss today.

I would like to yield to my good friend, the gentleman from Kansas, who does such excellent work on agricultural problems.

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman. I appreciate my colleague from North Dakota yielding.

I think what we have to do first is examine this problem that we have. This is not just a farm problem, but an enormous problem affecting our rural America. We should look at what solutions have been offered, and then examine the current solution, the administration's solution. Their solution, as the gentleman has so aptly stated, is to let the marketplace prevail. In order to do that there has been a tendency to allow a precipitious drop in farm prices, particularly grain prices, in order to let the world marketplace decide who shall survive and who shall die. That is what we have seen, particularly in the grain country, wheat, corn, soybeans, we have seen a dramatic reduction in the prices of those commodities as the support levels have been dropped rather precipitously. That has also affected livestock prices as well, particularly cattle prices.

Now, to make up for this difference, the administration says, "Let's lower the price of farm commodities." So we have done that rather precipitously.

They said, "Well, let's keep the deficiency payments or basically the subsidy payments up for awhile." So even though those payments have been under some pressure from Gramm-Rudman and other budget related pictures, what we have had here is the base farm prices started to fall rather dramatically, but the subsidy prices stayed up about this level.

So curiously and ironically, farmers have both very low prices as a result of the deliberate attempt on the part of this administration to lower those prices, but very, very high deficiency payments, very high budget exposure and very high Government cash payments.

So perhaps with the most conservative administration in decades, we see a farm policy that is based upon huge Government payments to farmers.

Where do those payments go? They go largely to the largest farmers. So we see a lot of the mid-sized farmer who are in the most trouble facing very low prices, not really getting a lot of payments, and we see the very largest farmers who are getting the most payments under this formula. So you have the worst of all worlds. You have very low prices, deliberately set by the administration. You have huge budget exposure because of massive Government payments going to the people who may not need them as much as others who are hurting; so you have a basic, fundamental policy problem here. This is a policy which truly has its head screwed on backward and one which we ought to try to do something about.

I think that is the function of this special order, to talk about what constructive options we may come up with.

Mr. DORGAN of North Dakota. I think it is safe to say both of us agree it is not a Democratic or a Republican problem. We have had miserable and good farm programs under both Republicans and Democrats in the past.

But I think it is important to explore what has happened so far in the 1980's. It is now 1986. I know the gentleman has sat on the committee with me when Secretary Block came in his maiden voyage to the Agriculture Committee in the House and began to steer a course that he believed represented his vision of where we ought to be moving in agricultural policy.

Here was his vision, and it was fatally flawed and that is why we are where we are today. His vision was that we would develop a program which received its signals from the marketplace. We would give producers in this country maximum flexibility to produce what they wanted, and allow the administration to simply market it overseas.

Well, it took about 12 months to sober him up, because clearly that was not working and then he moved from that idea to an acreage set-aside program. Then he regressed from that to a set-aside program with incentives. Then he went from a set aside with incentives to a PIK program, and then to a paid diversion program. He just zigzagged his way through his term as Secretary of Agriculture with the premise that what this country produced it could sell.

Back in those days, we were selling approximately $40 billion of agricultural commodities overseas. This year it is going to be something under $30 billion in export sales. So not only are we not selling more, we are selling dramatically less, which describes the fundamental failure of the underpinnings of this current policy. That is why I am sure the gentleman from Kansas and some others from our part of the country believe, we have to reevaluate where we are and what we do to shift gears philosophically and demonstrate how we solve the problem for family farmers.

My feeling is that no matter what we do, it must have at its roots a pursuit of policies that maintain a network of family farms in this country. If that is not our goal, then we are going to fail. Our goal must be to do what is necessary to maintain a network of family farms. If you pursue that goal, you develop a substantially different farm program than we now have.

Mr. GLICKMAN. Mr. Speaker, if the gentleman will yield further, I think what he is talking about is the theory behind this administration's export oriented farm policy. It would get prices so low that we would drive the competition out of business, the Argentines, the Canadians, the Australians, the Europeans, would just fold up shop and go home. The only problem is that a large number of our own are folding up shop and going home in the meantime.

The administration would argue, "Aha, but in the long term people will be a lot better off."

I think it was H.L. Mencken who described the difference between the short term and the long term. He once said that the difference between the short term and the long term was that in the long term we are all dead, and that is certainly true in agriculture. If we are going to go for this very long term of an export-oriented policy, which is to drive prices down to out compete with the competition, we are going to kill off our competitors and us at the same time.

In the meantime, it will cost us dramatic amounts of dollars in the process, and the policy just is not producing any result.

All of this money which is going theoretically into agriculture is not helping our rural communities, small towns, rural banks, rural infrastructure, and rural schools. It is a very serious problem for America. It just cries out for a responsible legislative solution that we can try to reach some consensus on.

As the gentleman also points out, this is not just a partisan problem. I would have to say that it has been this administration pushing this market-oriented low price farm policy for a long time; but all of us have had great difficulty finding a responsible answer, particularly having to deal with an administration that has been so ideological about it.

Mr. DORGAN of North Dakota. Well, it is true that this administration's farm plan is a mirror of Herbert Hoover's approach to farming because Herbert Hoover and this administration both in essence say. "Let's get Government out of the business of farming."

Now, that sounds excellent. I mean, everybody would say, "Yes, let's have less Government if we can have less Government."

If what that means is we want to drive prices down to world levels, then that is just a subterfuge for saying. "Let's not care about who farms America. Let's not worry about whether we have 2 million or 2,000 farmers. Let's just worry about seeing how much we can capture when we get those prices down to an international export load."

Well, my feeling is that this approach ignores part of the question which we should be addressing in rural America. One of the things that we ought to be asking ourselves, as Japan and some Western European countries have, is it our policy to care about whether we have family farms or not? If not, you are probably persuaded to move in the direction of the President's farm program, because we will certainly end up with very few farmers under that kind of a farm program. We will end up with some giant agrifactories that start tractors in the West and farm them all the way to the East and harvest the same way. But that is not my vision of what rural America's future ought to be.

My vision of rural America's future is a country with a policy on price structures which says that we want to be able to maintain a network of family farms for lots of very important reasons. Let me just mention a couple.

If the consumers think they are paying too much now, wait until they face the dilemma if we have a couple thousand corporations farming America. Then the corporations will set prices. Then we will find out what kind of prices the consumers are faced with.

A network of family farms is very important, in my judgment, for many reasons. It is important for consumers, for security, for lifestyle in rural America, for the old Thomas Jefferson notion that if you maintain a network of broad ownership patterns in this country, you also maintain a network of support necessary to guarantee our basic freedoms in this country. For all those reasons, I think it is very important for us to do what Japan and some others have done, to maintain a network of family farms.

Mr. GLICKMAN. Mr. Speaker, I would just echo what the gentleman is saying and make the point that if we are serious about the kind of program we have been following in the last 4 or 5 years, it will inevitably mean fewer and fewer people living in the vast rural sections of this country. This means that the millions of folks who live in States like North Dakota, South Dakota, Nebraska, Kansas, Texas, Oklahoma, Missouri and the 30 or 40 other States with predominantly rural populations will see those populations just dry up, atrophy, diminish. The people will move to the urban areas of this country where that probably will precipitate into more and more types of urban problems which we have avoided by keeping a good solid rural population.

You can already see that happening in small towns around America. That is one reason for wanting to preserve a family farm style of agriculture, is to preserve basically a rural style of life which is important for America's security and also for America's values.

To reiterate what the gentleman is saying, we will always produce food in America. God blessed us with land that is incredibly fertile. The issue is who will produce that food? The way we are going right now, we will have an infinitesimal amount of people, a fraction of what we had 15, 20, and 30 years ago, doing the farming.

It has profound implications on the cost of food, on the availability of food, and perhaps even on our national security in terms of decentralization of the food production capabilities of America.

So the challenge for us is to figure out what can we do with the dollars that we have and/or the public policy choices that we make, as the gentleman says, to maintain those people in that part of the country.

□ 1400

So we just do not have the center part of America or the Southeast part of America drying up and nobody living there any more. We will have a bunch of tenant farmers with thousands of tractors run by a central clearinghouse in New York City or Chicago or Los Angeles or Dallas, and so forth.

That is our challenge. The challenge is a serious challenge. It is also a challenge to do more than just complain about the administration's policies. We have had great difficulty in coming up with alternatives, and I think that is what we are trying to do here today.

Mr. DORGAN of North Dakota. Let me say that I think the threat here in the short term is that the administration's approach is to drive down prices, which they admit, and prices are going to keep moving down in order to reach some level at which they think they can slide all this grain out in some world market.

What this does, as the gentleman explained on the floor today and on several other occasions as well, is magnify the difference between the world price and deficiency payments or loan rates, and that creates the artificially high expenditure here at the Federal Government level for the farm program. Incidentally, the administration estimated this year's Federal Farm Program cost would be $9½ billion. That is what they originally estimated, $9½ billion. In fact, they just missed it. It is going to be $26½ billion.

Mr. GLICKMAN. Does the gentleman mean the cost of this farm program to the Government is going to be equal or greater than the amount of agricultural exports overseas?

Mr. DORGAN of North Dakota. Probably, very close to that.

In addition, Gramm-Rudman is going to take effect, unless this Congress agrees on a budget to avert that and there is no guarantee it will happen. Gramm-Rudman will make an artificial cut; that is, a cut without determining what is useful and what is useless, and we are going to see a substantial cut in these current support prices which will lead to chaos out there in the farm community.

That is what I see in the near future. The current setup is a bad program, and as bad as it is, it will get cut by 20 or 30 percent at some point under Gramm-Rudman.

So our job at this point is to find out what we can do that would cost the taxpayer less money and at the same time give family farmers in this country a chance to make a living. Can that be done? The answer is "Yes." Without any question, the answer is "Yes." This Congress can save the American taxpayers money and largely solve the farm problem domestically if we develop the right kind of farm plan that focuses on the needs of family farmers and pursues the policy that this country wants to maintain a network of family farmers.

This is the type of effort that the gentleman from Kansas and I and some others have been meeting on for weeks. The latest series of meeting is simply an ongoing part of meetings that we have been having for the last several years.

We have got to develop policies that move us from a position of having a farm program that costs too much and does not work to having a farm program that costs less and works much, much better, and gives family farmers a shot at making a living out in farm country.

That assurance does not exist today, but it could, spending less money than we now spend.

We have talked about this during the reauthorization of the 1985 farm bill, and the gentleman made a very interesting point. This farm bill is particularly sensitive to budget cuts because it is basically a dollars-going-out-to-farmers farm bill. Therefore, if we are forced to cut the budget, those dollars going out to farmers will be cut rather dramatically. As a matter of fact, in terms of cutting the budget, if we cut across the board, farmers will probably suffer more than anybody else because we have designed a farm bill that is basically huge Government payments going to farmers to make up the difference of low grain prices.

So it may be just in a curious, ironic way, that these budget cuts we are going through will cause us to sit back and say we want to save the family farmer. The present farm program is being particularly and acutely hit by these budget cuts, so we have to find a policy alternative to keep family farmers in business, and we have talked about a couple. One has to do with the targeting of farm benefits to those who desperately need the help, or a certain size of farmer. Maybe we target the first x thousands bushels of production or units of production. Another possibility would be a more mandatory program that is based upon significant cutbacks in production coupled with higher loan rates, not lower loan rates.

None of these policy choices are easy, but both of those policy choices, as different as they are from each other, will save this Government significant amounts of money and also tend to get aid to those who need it the greatest.

Mr. DORGAN of North Dakota. I sometimes describe the current farm program as a cake-and-crumbs program; the largest producers get the cake and the rest of them get the crumbs. Gramm-Rudman, if it intersects the farm program, not only slices the cake but it also slices the crumbs. When we start slicing something which is not worthwhile in the first place, we end up with chaos and catastrophe for family farm units.

But let us talk about targeting just for a few minutes. The gentleman from Kansas is correct. We could take the money we now spend and, in fact, spend less, and target it in a way that improves the network of family farms in this country. May I suggest rather than try to control supply in some definite way and, therefore, support prices throughout the line of supply and ultimately benefiting those who produce or supply the most with the largest support prices, we instead support the price of wheat to the tune of 15,000 bushels of wheat you raise because that is all the Government can afford. We do this by layering in a decent support price of $5 a bushel, and say, "We are going to give you a good support price on the first 15,000 bushels, but if you want to produce over that, you are welcome to do so in a free market system but you are going to have to sell at the world price. We, frankly, do not have enough money to support you over the first 15,000 bushels; we do have enough money to give a good, strong price support for the first increment of production of a family farm."

That is one approach. Some would say that is radical. I say that is true; it is substantially different. As somebody once said, that which is right has always been called radical by those who have a vested interest in that which is wrong. A lot of folks have a vested interest in the wrong way to develop farm policy and they exert pressure on this House as the gentleman from Kansas knows.

Developing an approach that provides a strong support price for the first increment of production is one way to target stronger price support benefits to family farmers. There are other ways, as the gentleman from Kansas just suggested. Farmers themselves could develop, in a democratic way, a desire to control supply and decide, as they already do with some commodities, they are only going to produce so much and can only make it if they have a marketing certificate. There a number of ways of achieving it.

We had a debate on this floor during the deliberation on the last farm bill.

We were approximately 28 votes short of turning the corner on farm policy, to target and to provide a higher marketing loan. We came very close in this House of Representatives during the debate on the last farm bill in turning the corner philosophically.

I believe it is my responsibility at this point not to sit by and watch 32 farmers a week go broke in my great State of North Dakota, or watch dozens of farmers a week go broke in the gentleman's State. It is our responsibility to say we are spending too much money and getting virtually nothing for it. How do we fix it? What more can we do to convince other Members of Congress, most of whom to not come from agricultural districts, that there is a better way?

Mr. GLICKMAN. We have a couple of very serious public policy choices, and one is to stay the course. We have heard that term before, stay the status quo. In our parts of the country, and in rural parts of the country generally, not just in Kansas and North Dakota, but in California and Georgia and South Carolina and Illinois and Iowa, that staying the course is not acceptable.

The other public policy choice is to do something different, do something not just unique for the sake of being unique, but to try to provide the help to those who really need it.

The gentleman from North Dakota has been the leader in developing the concept of targeting, getting the aid to those who need it. Folks at home are so surprised, particularly in the urban parts of this country, when we tell them every farmer can receive Federal support, regardless of whether they need it or not. They say, "Well, that is not the way we thought the farm programs were supposed to operate. There is so little money for everything else, why can every farmer get support even if they do not necessarily need it?"

So the concept of targeting is based upon the theory that we provide assistance for those who basically need help. I submit to the gentleman, because of his leadership in this area, when we finally acquire constructive solutions to this year's farm bill, it should be based upon that concept, targeting farm benefits to those who need it. This should be done largely because we have a limited amount of resources and funds and, therefore, we should give it out to those who cannot survive without it.

□ 1410

Mr. DORGAN of North Dakota. Mr. Speaker, I always hesitate to use individual names on the floor of the House, and I do not mean to use them unfairly, but let me give you an example. Tenneco Corp. is a big corporation, but is also a farmer.

Now, most of the farmers that the gentleman and I know in our districts are real farmers; that is, they are people with family names who live on the family farms. Tenneco Corp., Prudential and some others get a significant slice of the farm program benefits because they are farmers as well. But it is hard for me to become convinced that the large corporate farms need to collect such an enormous amount of the money we are spending in the pursuit of an agricultural policy.

The U.S. Department of Agriculture was established under Abraham Lincoln. In the early 1900's, and during FDR's period, we began with some moderate price supports in what had been conceived originally as a little bridge across price-depression valleys, where the international price was unpredictable.

It was felt that family farmers had too thin a financial structure to survive, so they created a little bridge across those valleys. That bridge in modern times has become a set of golden arches for the biggest producers in the world. The big producers are collecting the major amounts of capital from the farm bill, and wrongly so.

Those of us who are trying to change this faltering policy are, I suspect, viewed as radical by those who have a vested interest in keeping what is. I tell you, if we do not change this type of policy in the next couple of years, and probably you and I would submit, if we do not do it in the next 6, 8, or 10 months, we are going to see a ravaged rural America. We will not be able to shape policies years down the road which will recapture or recover what we know now as a lifestyle very important to this country.

The paradox is that the family farmers are really America's economic allstars. I mean, their production has exceeded anything civilization has ever known. They are enormously successful, and yet they are going broke in record numbers. That must mean one of a couple of things: The most likely of which is our agricultural policy in this country is fundamentally wrong, and it is an area we are going to have to try and fix.

Mr. GLICKMAN. Mr. Speaker, I totally agree with the gentleman. Let us hope that we have the openmindedness as Members of a great diverse body to deal with these issues intelligently without being locked into traditional vested interests which may be comfortable, but may not be right for the times.

Mr. DORGAN of North Dakota. I might also say in conclusion that the gentleman from Kansas [Mr. GLICKMAN] and I and others have been holding meetings. In fact, we are holding another one at 8 a.m. tomorrow with other like-minded Members to discuss an alternative farm policy which turns the corner and gives the family farmer something to hope for.

I feel certain we are not going to be able to come up with a new farm program for this crop year. But I am hoping we can exert enough influence and spend enough time to put together a sound proposal which could have an opportunity to be considered by Congress in time for next year's crop year.

If we do not do it, nobody is going to do it. I fear if we leave it up to the administration, their attitude would be not to care how many farmers exist out there. Somebody is going to be pulling the plow; somebody is going to drive the combine; somebody is going to move wheat to the elevator, and they do not care who that somebody is.

I think who that somebody is is the entire issue. The issue is: Are we or are we not going to have family farmers in this country. If we are going to have family farmers, we had better get about the business of developing policy which spends less of the taxpayers' money, but does a whole lot more for family farmers than the current system.

The nice part of this problem, if there is anything nice about a problem like this, is it has a solution which spends less money, but does work for family farmers.

I thank the gentleman from Kansas [Mr. GLICKMAN] for participating in this special order.

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GILMAN) to revise and extend their remarks and include extraneous material:)

Mr. LUNGREN, for 60 minutes, today.

Mr. LUNGREN, for 60 minutes, June 17.

Mr. LUNGREN, for 60 minutes, June 18.

Mr. LUNGREN, for 60 minutes, June 19.

(The following Members (at the request of Mr. DORGAN of North Dakota) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LEVIN of Michigan, for 5 minutes, today.

Mr. DORGAN of North Dakota, for 60 minutes, today.

Mr. WISE, for 60 minutes, on June 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GILMAN) and to include extraneous matter:)

Mr. FRENZEL.
Mr. GUNDERSON.
Mr. CONTE.
Mr. CHAPPIE.
Mr. DORNAN of California.
Mr. KEMP.
Mr. CRANE in two instances.
Mr. SILJANDER in two instances.
Mr. BROOMFIELD.

(The following Members (at the request of Mr. DORGAN of North Dakota) and to include extraneous matter:)

Mr. DYSON.
Mr. MINETA.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in 10 instances.
Mr. MACKAY.
Mrs. SCHROEDER.
Mr. DORGAN of North Dakota.
Mr. WOLPE in two instances.
Mr. RODINO.
Mr. GARCIA in two instances.
Mr. DOWNEY of New York.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2069. An act to amend the Job Training Partnership Act; to the Committee on Education and Labor.

S.J. Res. 169. Joint resolution to commemorate the bicentennial anniversary of the first patent and the first copyright laws; to the Committee on Post Office and Civil Service.

S.J. Res. 311. Joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 357. Joint resolution to designate the week of September 15, 1986, through September 21, 1986, as "National Historically Black Colleges Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 361. Joint resolution opposing the participation of the Chilean vessel *Esmeralda* in the July 4th Liberty Weekend celebration; to the Committee on Foreign Affairs.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on June 13, 1986 present to the President, for his approval, a Joint Resolution of the House of the following title:

H.J. Res. 479. Joint resolution to designate October 8, 1986, as "National Fire Fighters Day."

ADJOURNMENT

Mr. GLICKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 17, 1986, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3717. A letter from the Acting Comptroller General of the United States, transmitting notification of two deferrals of budget authority that have not been reported by the President, pursuant to 2 U.S.C. 686(a) (H. Doc. No. 99-234) to the Committee on Appropriations and ordered to be printed.

3718. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the proposed decision to convert to contractor performance the dry cleaning services functions at the Marine Corps Development and Education Command, Quantico, VA, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

3719. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-170, "Prohibition of Discrimination in the Provision of Insurance Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3720. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-171, "Street and Alley Closing and Acquisition Procedures Act of 1982 Relocation Assistance Amendment Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3721. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-172, "Closing of a Segment of Neal Street, N.E., S.O. 84-410, Adjacent to Squares 4491 and 4492 Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3722. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-173, "Homestead Housing Preservation Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3723. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 6-174, "Victims of Violent Crimes Compensation Act of 1981 Amendments Act of 1986", and report, pursuant to D.C. Code section 1-233(c)(i); to the Committee on the District of Columbia.

3724. A letter from the Secretary of Health and Human Services; transmitting a draft of proposed legislation to enhance the ability of States to improve the administration and delivery of preventive and remedial family crisis assistance and protective services, including prevention and treatment of abuse and neglect of children, spouses, and the elderly, to eliminate unnecessary restrictions on federally assisted programs for those purposes, and for other purposes; to the Committee on Education and Labor.

3725. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Kuwait for defense articles and services estimated to cost $70 million (Transmittal No. 86-37), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3726. A letter from the Secretary General, U.S. Olympic Committee, transmitting a copy of the committee's financial statement and a report on its activities, pursuant to the act of September 21, 1950, chapter 975, section 113(a) (92 Stat. 3049); to the Committee on the Judiciary.

3727. A letter from the Administrator, General Services Administration, transmitting a copy of an amended construction prospectus for Charleston, SC, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

3728. A letter from the Comptroller General of the United States, transmitting a copy of a report entitled, "Financial Audit—Examination of GSA's Fiscal Year 1985 Financial Statement" (GAO/AFMD-86-55), pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations, Armed Services, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order the House on June 12, 1986, the following report was filed on June 13, 1986]

Mr. WOLPE: Committee on Foreign Affairs. H.R. 4868. A bill to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, with an amendment (Rept. 99-638, Part 1). Ordered to be printed.

[Submitted June 16, 1986]

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4868. A bill to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes; with an amendment (Rept. 99-638, Part 2). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affair. Subdivision among programs of budget allocation for fiscal year 1986 (Rept. 99-639). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4463. A bill to establish programs to promote effective schools and to encourage joint parent-child educational approaches, and for other purposes; with an amendment (Rept. 99-640). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 4841. A bill to amend

the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act. (Rept. 99-641). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Omitted from the Record of June 12, 1986]

The Committee on Agriculture discharged from further consideration of H.R. 4348; H.R. 4348 referred to the Union Calendar, and ordered printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X, and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARR:

H.R. 5033. A bill to require that the U.S. Postal Service assign a single ZIP code with respect to points of delivery within Waterford, MI, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FRENZEL:

H.R. 5034. A bill to provide for temporary duty-free treatment for cyclosporine; to the Committee on Ways and Means.

By Mr. RANGEL (for himself and Mr. CONTE):

H.R. 5035. A bill establishing a commission to coordinate the commemoration of the bicentennial of the Congress; to the Committee on Post Office and Civil Service.

By Mr. LEVIN of Michigan:

H. Con. Res. 356. Concurrent resolution to condemn the Government of South Africa for invoking the state of emergency in certain magisterial districts in response to the anniversary of the 1976 Soweto uprising, and to demand an end to the state of emergency in South Africa; to the Committee on Foreign Affairs.

By Mr. WILSON:

H. Con. Res. 357. Concurrent resolution calling upon the U.S. Government to recognize the Afghan resistance as the legitimate representative of the Afghan people and terminate diplomatic relations with the Soviet-installed element; to the Committee on Foreign Affairs.

By Mr. SEIBERLING:

H. Res. 477. Resolution to amend the Rules of the House of Representatives to authorize the Committee on Standards of Official Conduct to provide for payment of reasonable attorney's fees of any Member, officer, or employee of the House against whom a complaint is made; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 704: Mr. PACKARD, Mr. ARMEY, and Mrs. MARTIN of Illinois.

H.R. 997: Mr. FOGLIETTA.

H.R. 1213: Mr. WATKINS, Mr. BOLAND, Mr. FASCELL, Mr. FUSTER, Mr. MCDADE, Mr. DORGAN of North Dakota, Mrs. BENTLEY, and Mr. YATRON.

H.R. 1626: Mr. WEAVER.

H.R. 2255: Mr. SMITH of Florida.

H.R. 2535: Mr. COOPER.

H.R. 2952: Mr. WEAVER and Mr. HAYES.

H.R. 3429: Mr. BORSKI.

H.R. 3766: Mr. EDWARDS of Oklahoma.

H.R. 4057: Mr. RAHALL, Mr. HAYES, Ms. MIKULSKI, Mr. WORTLEY, Mr. DONNELLY, Mr. FISH, Mr. BORSKI, and Mr. DORNAN of California.

H.R. 4060: Mr. LUNDINE, Mr. BENNETT, Mr. SABO, Mr. BROOKS, Mr. MONSON, and Mr. COBEY.

H.R. 4194: Mr. VENTO.

H.R. 4233: Mr. HANSEN.

H.R. 4260: Mr. SMITH of Iowa, Mr. MAZZOLI, Mr. SAVAGE, Mr. SISISKY, Mr. STENHOLM, Mr. BROOMFIELD, Mrs. MEYERS of Kansas, Mr. MITCHELL, Mr. IRELAND, Mr. LUKEN, Mr. TORRES, Mrs. LONG, Mr. COOPER, Mr. HILER, Mr. WEBER, Mr. DREIER of California, Mr. DIOGUARDI, Mr. GALLO, Mr. CHAPMAN, Mr. NOWAK, Mr. RAY, Mr. ROEMER, and Mr. HAYES.

H.R. 4388: Mr. LEVINE of California.

H.R. 4593: Mr. HUGHES.

H.R. 4660: Mr. DE LUGO, Mr. DE LA GARZA, Mr. FUQUA, and Mr. BENNETT.

H.R. 4828: Mr. FROST.

H.R. 4864: Mr. MRAZEK and Mr. SOLARZ.

H.R. 4871: Mrs. BURTON of California, Mr. FROST, and Mr. FISH.

H.J. Res. 381: Mr. WYLIE, Ms. MIKULSKI, and Mr. VISCLOSKY.

H.J. Res. 508: Mr. HUGHES.

H.J. Res. 593: Mr. APPLEGATE, Mr. SHUMWAY, Mr. WEAVER, and Mr. PACKARD.

H.J. Res. 642: Mr. BURTON of Indiana, Mr. DIOGUARDI, Mr. ANDERSON, Mr. SCHUETTE, Mr. HOYER, Mr. DICKS, Mr. DICKINSON, Mr. DYMALLY, Mr. ERDREICH, Mr. STENHOLM, Mr. FLIPPO, Mr. GUNDERSON, Mr. HOWARD, Mr. HUNTER, Mr. GEJDENSON, Mr. GILMAN, Mr. HATCHER, Mr. STUDDS, Mr. HORTON, Mr. IRELAND, Mr. JEFFORDS, Mr. CHENEY, Mr. KOSTMAYER, Mr. HUCKABY, Mr. BEDELL, Mr. PASHAYAN, Mr. LANTOS, Mr. LAGOMARSINO, Mr. CONTE, Mr. COELHO, Mr. SILJANDER, Mr. LOWERY of California, Mr. LUNGREN, Mr. MCDADE, Mr. SMITH of New Hampshire, Mr. TAYLOR, Mr. THOMAS of Georgia, Mr. VOLKMER, Mr. WYDEN, and Mr. MARTIN of New York.

H.J. Res. 649: Mr. VOLKMER, Mr. OBERSTAR, Mr. DENNY SMITH, Mr. HARTNETT, Mr. MURTHA, Mr. LEWIS of Florida, Mr. CONYERS, Mr. DE LUGO, Mr. DORNAN of California, Mr. MONSON, Mr. HEFNER, Mr. LAGOMARSINO, Mr. DYSON, Mr. BYRANT, Mr. BEVILL, Mr. DAUB, Mr. WILSON, Mr. FAZIO, and Mr. SPENCE.

H. Con. Res. 325: Mr. WYLIE.

H. Res. 413: Mr. EDWARDS of Oklahoma, and Mr. DUNCAN.

H. Res. 468: Mr. APPLEGATE, Mr. HEFNER, Mr. BEREUTER, Mr. DANIEL, Mr. ACKERMAN, Mr. BOLAND, Mr. RINALDO, Mr. STENHOLM, Mr. WORTLEY, Mr. YOUNG of Florida, Mr. DE LUGO, Mr. ST GERMAIN, Mr. NELSON of Florida, Mr. FAZIO, Mr. LELAND, Mr. MACKAY, Mr. SCHUETTE, and Mr. MITCHELL.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

388. By the SPEAKER: Petition of the city council, Euclid, OH, relative to recognition of Save American Industry/Jobs Day; to the Committee on Post Office and Civil Service.

389. Also, petition of the International Good Neighbor Council, Monterrey, Mexico, relative to the establishment of a 200-mile free-trade zone; jointly, to the Committees on Foreign Affairs, Banking, Finance and Urban Affairs, and Ways and Means.

SENATE—*Monday, June 16, 1986*

The Senate met at 11 a.m., and was called to order by the Honorable CHARLES E. GRASSLEY, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*God created man in His own image, in the image of God created He him; male and female created He them. And God blessed them, and God said unto them "be fruitful and multiply, and replenish the earth, and subdue it and have dominion * * * over every living thing."*—Genesis 1:27-28.

Eternal God, our Father, the most God-like thing a man and woman can do is bear and rear children, nurturing them and training them in love and truth and righteousness and justice; by this fundamental responsibility, producing responsible citizens who accept their God-given mandate. Help us to understand and accept parenting to be the most important achievement in life, without which society could not continue. In Your name and for Your glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 16, 1986.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES E. GRASSLEY, a Senator from the State of Iowa, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. GRASSLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate majority leader is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, Senator GRASSLEY.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders have 10 minutes each and I will leave 5 minutes of my time to the Senator from Kansas [Mrs. KASSEBAUM], followed by special orders in favor of Senators KASSEBAUM, PROXMIRE, BAUCUS, GORE, MELCHER, and LEVIN for not to exceed 5 minutes each; routine morning business then until 12 noon, with Senators permitted to speak therein for not more than 5 minutes each, and then we return to H.R. 3838, the tax reform bill. I do expect votes, but there will be no record votes prior to the hour of 3:30 p.m., by a previous agreement, and we will honor our Monday custom not to have record votes after 6 p.m.

It would be my hope that we could complete action on the Tax Reform Act tomorrow evening, and I believe that is the desire of most Members on both sides. If there are amendments, hopefully they can be disposed of this afternoon or tomorrow, and we will probably get an early start tomorrow morning.

NATIONAL AGRICULTURAL EXPORT WEEK

Mr. DOLE. Mr. President, today marks the beginning of "National Agricultural Export Week." A joint resolution designating the week of June 16, 1986, for this purpose was passed by both Houses of Congress and signed into law by President Reagan earlier this year.

The timing of this commemoration, Mr. President, is particularly appropriate in underscoring the importance of farm exports to rural America, and to the national economy. As has been said repeatedly by Members of Congress, farm leaders, and industry spokesmen, exports are the lifeblood of American agriculture. When farm exports rise, as they did in the 1970's, farm income rises with them. For example, the peak year of 1981 saw the value of agricultural sales abroad crest at $43.8 billion, and net farm income reached nearly $30 billion. Unfortunately, the opposite relationship also holds true.

After 5 years of decline, farm exports in 1986 are estimated at only $27.5 billion—down more than 50 percent from 1981. And net farm income is expected to fall below $23 billion. As a result, the cost of agriculture's "safety net" of Government programs has escalated sharply—from an average of only $4 billion per year in the late 1970's, to an estimated $26 billion in 1986.

That is over six times as much being spent by the Government for the farm programs in 1986 as in 1979, so there is no doubt about it, we need to find some way to expand our exports. We are getting some relief from the lower value of the dollar. We have some good export provisions in the farm bill, but, very frankly, they have not worked. The export enhancement program has not worked; it is discriminatory, and in my view it has not been aggressively administered by some at the USDA. Last week a number of us met with Secretary Lyng, Ambassador Yeutter, members from the private sector, farm groups, and a number of Republican farm State senators in an effort to reach some agreement, and hopefully involve our other colleagues on both sides of the aisle to see if there might be some way to stimulate farm income through more aggressive export policy.

Mr. President, we know that we are faced with unfair subsidies by the European Community. We know that there are a number of reasons that farm income is down: The dollar, discrimination in certain countries, lack of access in certain countries, and export subsidies in certain countries, but we hope that eventually, and again before this year is out, we can put together a broad coalition, bipartisan coalition behind a more effective agricultural trade policy.

Clearly, we need to find some way to get U.S. agricultural exports moving again, to raise farm income and to bring the cost of farm programs down. Congress and the administration set the stage with last year's major farm bill, by providing for significant reductions in price support loan rates that can make our products more competitive in world markets. We also included a "tool box" of various export initiatives, giving the Secretary of Agriculture a great deal of discretion in tailoring trade policy to the realities of world market demand and competition.

So far, the results of the new farm bill must be characterized as uneven. A new program known as the "marketing loan" is enabling producers of rice and, starting in August, of cotton, to price their crops at, or below, those of their competitors in other exporting countries.

However, in the case of wheat, feed grain, and soybean farmers, the administration has opposed using the marketing loan as too costly given the potential export improvement. I have written Agriculture Secretary Lyng on two occasions in recent months, to urge the administration to find an alternative way to reverse the continuing downtrend in grain exports.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Last Friday, I called a meeting to allow Members of the Senate from key farm States to discuss ways to raise farm exports with representatives of various commodity and general farm organizations, major exporters, and top administration officials. The meeting focused on the administration's current export enhancement program, which is being used to target sales to countries where the United States has lost exports due to the use of unfair subsidies by the European Community. Many in the private sector, as well as some Members of Congress, are concerned that the narrow scope of this program is driving out many of our best customers, who are not eligible for any benefits. We agreed to continue to examine, and to discuss, ways to improve farm exports, and to build a broad bipartisan coalition behind a more effective agricultural trade policy.

In closing, Mr. President, I would emphasize that the key to restoring the U.S. share of foreign agricultural markets lies in convincing our export competitors, and our import customers abroad, that we have made the long-term decision to give agriculture, and farm exports, the same high level of importance that they do. The first step toward accomplishing this objective is to convince the 80 percent of Americans whose livelihoods are not tied to agriculture that farm exports must be a top national priority. So, farmers and their allies in agribusiness, and the Congress, have a major selling job cut out for themselves. The occasion of "National Agriculture Export Week" is an appropriate time for those of us who recognize the vital importance of agriculture to our Nation to rededicate ourselves to this basic goal.

Mr. President, any time I have remaining I will yield to my colleague from Kansas, following the remarks of the distinguished minority leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senate Democratic leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I thank the leader but I will be happy in this instance to have the distinguished majority leader yield time to the distinguished Senator from Kansas, and I will withhold my comments for the moment.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, I very much appreciate the majority leader yielding to me some additional time and the Democratic leader withholding his remarks for a few moments.

□ 1110

SOUTH AFRICA

Mrs. KASSEBAUM. Mr. President, today is the 10th anniversary of a tragic but important day in the history of South Africa. It was 10 years ago that thousands of black students took to the streets to protest a government order requiring that half their classes be taught in Afrikaans, the language of the white minority.

The government's response to this protest was immediate and harsh. Police began shooting children in the streets. So began the Soweto uprising of 1976, which claimed hundreds of lives and began a profound and frightening process of change.

In the past 2 years, the violence that began in 1976 has steadily escalated to the point that the South Africa of 1986 is a far different place from that of 1976. Today, the white government no longer worries about imposing its own language on black schoolchildren. Today it must focus its efforts on maintaining its own version of law and order. In South Africa, this has come to mean suspending the law and using every power of the state to maintain order.

This is what President P.W. Botha did last Thursday when he imposed yet another state of emergency on South Africa. For the second time in a year, the police have been given sweeping powers to arrest and detain anyone without regard to legal processes or protections. The press once again is under strict government controls. To even protest such extraordinary steps is cause for detention.

At the same time, South Africa faces increasing problems with its own economy and its relations with Western nations. Western banks and businesses are deeply troubled by the country's prospects, and they are taking steps to protect themselves from the very real possibilities of what probably lies ahead. International bank loans to South Africa have virtually ceased. Businesses, particularly American ones, are scaling back their operations or leaving South Africa completely.

I emphasize that this is not the result of some arbitrary, political decision to punish South Africa. Instead, it is a hardheaded business judgment by people who have weighed the future and decided the risks are becoming excessive.

There should be a powerful message in this for the ruling white minority and some not only have heard it but understand its implications. However, inside the government, this message, as usual, seems to fall on deaf ears. Indeed, in announcing the new state of emergency, President Botha seemed to be daring the West to impose sanctions. He said: "The government is aware that stricter security measures will bring criticism and punitive measures from the outside world. But South Africa will not crawl before anyone to prevent it."

In fact, no one is asking South Africa to crawl. Most of us simply want the Government of South Africa to deal rationally and realistically with its own problems—problems that the government created.

Unfortunately, the South African Government seems so hypnotized by the past that it is blind to present realities. It is a government that is so intransigent toward any suggestion of change that it seems bent on self-destruction. Many white South Africans, in and out of the government, seem to believe that the old ways are the only ways. If they cannot maintain unilateral white control, they are willing to destroy the nation. In their minds, white control and South Africa are inseparable. If one dies, both die.

Mr. President, this thinking, and the government's unambiguous steps to enforce this thinking, make it clear, I believe, that the situation in South Africa is now virtually beyond hope.

For the past 5 years, since President Reagan took office, the United States has pursued a policy known as "constructive engagement." Through those years, this policy has produced small and sporadic signs of progress, but it has become increasingly controversial due to the South African Government's refusal to make significant lasting reforms.

Whatever the pros and cons of constructive engagement, it clearly has been a sincere, good-faith effort by our Government to work with South Africa in the hope of bringing about peaceful change. South Africa now has smashed any such hope. It has blocked any progress on the question of Namibia. Its actions toward Mozambique remain highly suspect and South Africa recently conducted military raids into three neighboring black nations.

Given South Africa's destabilizing behavior in the region and its harsh internal crackdown on all dissent, it is clear that South Africa no longer cares about the opinions of the United States and other democracies. It has rejected cooperation and restraint and placed itself on a course toward confrontation and isolation.

In the present situation, our policy toward South Africa has become largely irrelevant. Our ability to influence events, which was never very great, now appears to be ended altogether.

All of these events have produced new calls within the British Common-

wealth and here in Congress for economic sanctions against South Africa. In recent days, I have come to the conclusion that sanctions now are probably inevitable. For the first time, I can no longer flatly rule out that my own support for such action would not be possible.

In saying this, I have no illusions that sanctions will be a magic solution to South Africa's problems. I think there is a serious risk that such actions will harden the resolve of that government's leader and further destabilize an already dangerous situation.

Economic sanctions are a blunt instrument. If effectively applied with all major trading partners participating, they would produce great hardship in South Africa which is likely to fall most heavily on the black majority. This would indeed be a bitter course for the United States to follow.

However, the Government of South Africa seems bent on giving us no other choice. In turning aside every effort to seek cooperation and to promote peaceful change, the government has left the United States with options that are increasing more limited and stark, and indeed the South African Government's own options are becoming increasingly limited as well. Faced with no means to influence events and little hope for progress, the only action left to us is to protest in the strongest terms possible.

This is why I say that economic sanctions may now be unavoidable.

Before we take such drastic steps, however, I want to be certain that we have explored every avenue open to us and exhausted every opportunity to be a positive force for change in South Africa. I believe the last chance for us to play such a role now rests with President Reagan.

While the South African Government obviously no longer cares about the opinions of Congress or the State Department, I believe it would listen to a direct appeal from the President.

I urge the President to launch such a personal initiative very soon. In my own view, this initiative should have three purposes. First, we should give the South African Government a very frank and clear statement of the U.S. views on the present situation. Second, we should call for the release of Nelson Mandela and the start of negotiations. Third, we should assess the South African response to see whether there is any reason at all to hope for this.

As part of this effort, I urge that President Reagan consult with the Governments of Great Britain, West Germany, and other allies to obtain their views and to seek united support for this initiative.

Mr. President, I am not optimistic about the possibilities for success for such action and there should be no expectation of a miraculous breakthrough. But I believe it is imperative that we make such an effort before more drastic steps are considered.

If the President will undertake such an effort, I would urge my colleagues to exercise restraint in the weeks ahead to give every chance for success.

Ultimately, Mr. President, the answer to this tragic situation lies within South Africa. But the other nations of the world will not stand idly by and watch this important nation destroy itself.

I yield back whatever time I may have remaining.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate Democratic leader under the previous order.

Mr. BYRD. Mr. President, I thank the Chair.

SOUTH AFRICA

Mr. BYRD. Mr. President, I have listened carefully to the remarks of the distinguished Senator from Kansas, and I compliment her and wish to associate myself with her comments.

Senator KASSEBAUM is the chairman of the African Subcommittee of the Foreign Relations Committee of the U.S. Senate, and her comments are entitled to the closest scrutiny of all of us.

I think her statement this morning is thoughtful and reasonable, and I hope that all Senators will make themselves available for the reading of the Senator's statement in the RECORD. I think it is a wise one, and again I wish to say that I am very supportive of the thoughts and reasonableness of her statement.

Mrs. KASSEBAUM. Mr. President, I just wish to thank the Democratic leader for his comments.

□ 1120

(Mrs. KASSEBAUM assumed the chair.)

JOINT CHIEFS BACK REAGAN SALT PLAN

Mr. BYRD. Madam President, today's Washington Post carries a headline: "Joint Chiefs Back Reagan SALT Plan."

Excerpts from the story are as follows:

Adm. William J. Crowe, Jr., chairman of the Joint Chiefs, engineered the document sent to Reagan. Sources said it states that the chiefs' primary interest is to get new generations of strategic missiles, bombers and submarines deployed. The question of whether this can be done better inside or outside SALT II is a political call for the president, not the military, the document contends.

Madam President, in the first place, this apparently is a leaked document and I can only comment at this time on what the report indicates to be the contents.

The Joint Chiefs, if the story is accurate, are attempting to walk away from a responsibility that I think is incumbent upon them. In other words, they are saying that this is a political decision and it is up to the call of the President.

Madam President, this report, if the contents are as they are purported to be, constitutes a walking away by the Joint Chiefs from a decision that is not one that they can say is entirely a political one. In my judgment, their document is a PR gimmick to help them to avoid a sticky political decision. But if it be a political decision, and perhaps there are aspects of it that would constitute such, it cannot be separated entirely from military considerations. Because who is to say, if the President decides against a no-undercut policy at this point, that such a decision would not impact on military considerations, would not impact on his Geneva talks and on the forthcoming summit, would not impact on what would then become the necessity for the military to decide what counteractions would have to be taken in the event that the Soviets then decide to break out of the central numerical sublimits of the SALT II accord? And to say that the Joint Chiefs are not responsible for advice to the Commander in Chief and to the Nation and to the committees of the Congress as to how they view the military implications of our country's failing to live up to the central systems limitations in the SALT II accord is to abdicate their responsibility.

Madam President, there are obviously important military consequences of walking away from the warhead and launcher ceilings in the treaty. They do impact on the defense spending requirements and upon the overall military ceilings.

Madam President, I am not sure that any of us really know what Mr. Reagan's SALT plan is now. I think I understand what he said in his May 27 statement indicating that any constructive steps that the Soviets take between now and November will be taken into account. I know that there are those in the administration who want the President to simply say, here and now, final and for all, "To heck with SALT." But I hope that we would not let such advisers obscure the importance of keeping our eye on the ball. And that is, that in the final analysis it is in this country's security interests and it is in the interests of the Soviet Union and the interests of peace in the world that our two countries negotiate responsibly and sincerely at the negotiating conferences that

are going on in Geneva, and that there be a summit down the road this year and that nothing be done at this point to cast a cloud either over those negotiations in Geneva or a summit later in the year between the Soviet leader and the President.

I congratulate Mr. Reagan on writing to Mr. Gorbachev urging that Secretary Shultz and Soviet Foreign Minister Shevardnadze meet, as they did prior to the summit last year, and begin to prepare an agenda for the forrthcoming summit.

I would also urge that it is the responsibility of the congressional committees to determine just what the personal views of the Joint Chiefs are. Because if we cannot have the advice of the highest military body in this country; namely, the Joint Chiefs of Staff, then where shall we get military advice? The Joint Chiefs of Staff are abdicating their responsibility if they do not take a position, because the political and the military are tied together.

A political call, they say, yes; but to make that political call, we have to understand what the military ramifications are.

Madam President, I yield the floor.

□ 1130

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. Thank you, Madam President.

WE HAVE ARMS CONTROL OR STAR WARS; NOT BOTH

Mr. PROXMIRE. Madam President, can arms control survive the next 2½ years of the Reagan administration? This Senator is beginning to doubt it. Until recently it seemed likely that the 8 Reagan years could delay the progress of arms control, but not kill it. But not now. Why not now? Because the administration is not simply stalling on arms control. It is not just failing to keep our Government's promise to negotiate an arms control agreement to end nuclear weapons testing.

The Reagan administration has made it crystal clear that there is nothing the Soviets can do that will persuade the President to enter into arms control negotiations to stop nuclear testing. The Soviets have indicated a willingness to negotiate the placement of monitoring stations within the Soviet Union to detect and measure any seismic event such as a nuclear weapons test explosion. The U.S.S.R. has indicated it will negotiate an arms control requirement for on-the-spot inspection of suspicious explosions. And finally it has indicated that it will agree to unilaterally extend its moratorium on all nuclear weapons tests until next August 6. If the Soviets do this, it will mean they will have refrained from any nuclear weapons tests for a full year.

None of this has persuaded the administration to keep the pledge this country made in the limited test ban treaty in 1963 to negotiate an end to nuclear weapons testing. In fact, the administration has not budged an inch on this critical arms control issue. It is now obvious that there is no way this administration will ever negotiate an end to nuclear weapons testing and the development of ever more lethal and devastating nuclear weapons.

Second, the administration has made its intention absolutely unmistakable to go all out to build an antiballistic missile or strategic defense system also known as star wars. In fact, the President has made this SDI initiative his No. 1 military priority. There can be no question that the deployment of SDI would bluntly and frontally destroy the ABM arms control treaty. This arms control treaty pushed hard by the United States in the late 1960's and early 1970's was resisted for years by the Soviet Union. It was ratified by the Senate by a stunning 89 to 2 vote.

The ABM treaty was important because it stopped an arms race in space. It was more important because it laid vital groundwork for an arms control treaty that would provide a mutual superpower reduction to cutback offensive nuclear arms. Why did the ABM treaty make a limitation or cutback in offensive arms feasible? Because if either superpower builds a star wars defense, the absolutely essential imperative for the other superpower would be to go all out to build the biggest, strongest, most penetrating nuclear offense possible. That was our vigorously expressed threat to the Soviet Union in the late 1960's, and we meant it. Secretary Gorbachev has delivered the same message to us this year. In other words, the Reagan commitment to the SDI guarantees an all-out superpower arms race offensive and defensive. The U.S. pursuit of star wars drives a silver spike into the heart of arms control.

So why does 2½ more years of the Reagan administration now threaten death to arms control? Because in 2½ more years the momentum of star wars may be unstoppable. By 1989 when a new President takes office the Congress will probably have committed more research money to star wars than it has to any other weapons program in history, and certainly more than it has committed to any weapons program that has been terminated. It has been our consistent experience that once a weapons program of massive dimensions begins, it takes on a life of its own. The jobs and profits that flow from such a program sweep everything before it including Senators and Congressmen.

Madam President, the distinguished Senator from Tennessee, Mr. GORE in a series of brilliant speeches has made the case crystal clear that we can have star wars or we can have arms control. We cannot have both. After all this country would not agree to stop or even limit the deployment of additional offensive nuclear weapons if the Soviet Union were building a star wars system. It is absolutely certain that if this country pushes ahead with star wars, the Soviets will respond with an all-out offensive nuclear weapons buildup. The nuclear arms race will be on with a vengeance. Arms control will be dead.

S. 430 KNOCKS OUT CRIMINAL PENALTIES FOR FAILING TO STOP THE BUILDING OF CORPORATE SLUSH FUNDS

Mr. PROXMIRE. Madam President, this is the fourth in a series of speeches I have been making against a Senate bill, S. 430, that is designed to amend the Foreign Corrupt Practices Act. This Senator was the author of the Foreign Corrupt Practices Act. Everyone acknowledges that it has served the country well for more than 8 years. It has stopped the bribery of foreign officials by American corporations. It has done so without a single charge of any unfair, or unjust prosecution of a corporate official under the act. We have the strongest documentation that this law has not adversely affected our country's exports. But now S. 430—the bring-back-bribery bill—would gut that Foreign Corrupt Practices Act.

Today I will discuss still another part of the proposed bill that will seriously weaken the antibribery provisions of the present law. To many legal experts the biggest contribution of the Foreign Corrupt Practices Act goes beyond its success in stopping bribery of foreign officials by American corporations. The most constructive contribution of the FCPA to justice has been its requirement that corporations subject to the jurisdiction of the Security and Exchange Commission must keep accurate records and internal accounting control systems under reasonable standards. One distinguished lawyer told the Banking Committee in testimony on June 10 of this year that this provision has "had a more significant effect on corporate accountability than any statutory provision that I have seen in my 25 years of the practice of law." Madam President, this "accurate books and records" section of the FCPA is crucial to achieving the purposes of the act. It prevents off-the-books corporate slush funds from being established. It pro-

vides the paper trail that alone can identify the bribe from a corporate executive to a foreign offical. It is essential for successful criminal prosections of corporate officials under the Foreign Corrupt Practices Act.

So how does S. 430—the bring-back-bribery bill destroy that vital paper trail? It does it by knocking out the provisions in the present law that makes it a criminal offense for a corporation to knowingly fail to have an accounting system in place that prevents the establishment of off-the-books slush funds. What does that mean? It means that we are sending a clear signal to corporate management that we are not serious about corporate bribery. We are sending a signal that it is OK to have sloppy books and records that would not establish a paper trail for the prosecution of anyone.

We have been told by a leading corporate defense lawyer that right now top corporate management tells its employees to keep accurate books and records or the corporation can be prosecuted. That we are told has been a significant factor in getting rid of corporate slush funds. If S. 430 were the law that would change. Top corporate management could close its eyes to whether such funds were established. The lower corporate official who deliberately falsified books could be prosecuted, but not the top guys who failed to have systems in place to prevent that from happening. So if slush funds are built to finance bribes, the briber can be prosecuted.

But for the corporation itself, which allowed off-the-books slush funds to be built by sloppy bookkeeping, only civil penalties can apply. There could be no criminal penalties for even knowing failures to have proper accounting systems in place to prevent the building of slush funds. Why not? In view of the immense profits bribes might yield, the prospect of a mere civil penalty for violating the accurate books and records section of the law as amended would in many cases become a chance well worth taking for a corporation.

Madam President why should the law not apply a criminal penalty to management which willfully, knowingly, and intentionally fails to have proper controls on the disbursement of corporate assets so slush funds can be created. Why should the Congress give immunity from criminal prosecution to corporate officials who fail in such a duty? What kind of message does the removal of criminal penalties send to corporate America? We have been told how important the accounting system controls are to holding corporations accountable. We do not give immunity from criminal penalties under the present Foreign Corrupt Practices Act. It has been the law of the land for almost 9 years now. It has been the law under both Democratic and Republican administrations. Have there been unjust prosecutions? Detailed testimony before the Banking Committee has failed to disclose a single one. So why the effort to change this provision? Efforts to gut criminal penalties for those who deliberately fail to have systems in place to ensure proper use of corporate fund is uncalled for.

Madam President, S. 430 would do even more violence to the accurate books and records section of the FCPA. That section of the act as now written requires books to be kept in enough detail to "accurately and fairly reflect the transactions and dispositions of the assets of the issuer". This helps prevent our large corporations with billions of dollars in assets from hiding illegal payments in miscellaneous accounts. Changes to this section made by S. 430 imply that corporate officials are not libel for corporate payments that do not rise to a level of materiality.

What does this mean? It means that if a corporate official wanted to conceal a $25,000 bribe in a miscellaneous account, top management would have less reason to worry as they would not be held libel. It would also be much more difficult for auditors to find such a payment hidden in corporate books. A lower corporate official might be quite willing to make and hide such a payment if it would help his career and if he felt there was little chance he would be caught.

Madam President, does anyone still doubt why this Senator calls S. 430—the bring-back-bribery bill?

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

TAX REFORM BILL

Mr. GRASSLEY. Madam President, there are three givens in life: death, taxes, and Government's ineptitude in forecasting what the deficit for our Federal Government would be. When it comes to forecasting, Madam President, Congress would rather be optimistic than correct. This is a narcotic of optimism that infects Congress. It has subverted our better judgment. It has prevented us from making disciplined decisions to control Federal deficits. That is the prime reason why Congress voted overwhelmingly for Gramm-Rudman-Hollings.

In other words, if Congress continues to paint rosy scenarios, Gramm-Rudman will strip our responsibilities from us.

Over 80 percent of our deficit misestimates is from revenues. We are forever overoptimistic in our projections of revenues. The worst case occurred back in 1981. We thought fiscal year 1983 would show a $14 billion surplus. Instead, there was a $200 billion deficit. That is quite a miscalculation, Madam President.

We thought revenues would total $792 billion by that year. Instead, revenues were $603 billion. That is a difference of $189 billion, or 90 percent of the miscalculation. Not only did we not get $792 billion in revenues in fiscal year 1983, it is now 3 years later, and we are only up to around $770 billion. That is how bad the estimate was. And although this is probably the worste case, others are nearly as bad.

Much of the discrepancy in the 1981 projection resulted from fundamental changes made in 1981 in the Tax Code. We did not estimate very well the consequences of our decisions in 1981. The sweeping changes themselves should have been enough to cause concern about the accuracy of any projection. But most important is that the tax cuts of the early 1980's were delayed.

The delay created a disincentive to economic, and therefore taxable, activity. It helped contribute to the 1981–82 recession. We must be cautious about any similar effect as a result of this new tax legislation.

Given history, there is good reason for concern. Congress has this strange compulsion to be wildly optimistic, even when all indicators are pointing elsewhere.

I raise these issues, Madam President, to caution my colleagues. Bad habits are hard to break. We estimate that the tax bill will raise $22 billion in fiscal year 1987. Yet in fiscal year 1987, effective tax rates will rise. The net effect on revenues may very well be the opposite of what we project: not more revenues, but less.

Again given history, Madam President, that is not a bad assumption to make.

At this point, Madam President, I ask unanimous consent to include in the RECORD an editorial that appeared in a recent issue of the Wall Street Journal, which discusses the possible adverse effects of a tax cut delay.

Thank you, Madam President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 4, 1986]

STOP THE STAGGER

As the Senate takes up tax reform, both the Republican leadership and the administration are vowing to resist any and all amendments to the bill passed by Sen. Packwood's Finance Committee. This is just as well. The likely amendments range from trivial to horrendous, and an avalanche of them would destroy the Packwood bill's chief attraction, its relative cleanness.

There is one absolutely urgent repair, however, that should be the first business for House-Senate conferees. As currently

written, both the Senate Finance and House bills repeat the 1981 mistake of phasing in the tax cuts, by taking away deductions on Jan. 1, and reducing tax rates at mid-year. This staggering of the cuts condemns us to 18 months of a staggering economy, just as it did the last time. From the 1982 recession we learned—or should have—that staggered tax cuts create incentives to defer income and economic activity.

To analyze the incentives in the Senate Finance bill start by remembering that you calculate your taxes only once a year. So a "midyear" tax cut merely means half of the rate cut in 1987 and the other half in 1988. Thus the advertised top marginal rate of 27% in the Senate Finance bill would be reached in two stages. The rate for top earners would be 50% in 1986, 38.5% in 1987 and 27% in 1988.

The same pattern is repeated in income classes not paying the top rate; indeed, some taxpayers would face even stiffer marginal rates due to the way the bill phases out personal exemptions at higher income levels. Due to the staggering, some taxpayers will inevitably find their total tax bill higher in 1987 than under current law, even though they benefit in 1988.

The obvious incentive is to push any income you can into 1988, or failing that, to 1987 from 1986. While ordinary wages and salaries cannot be deferred, high-income proprietors, professionals and executives typically have discretion over when to receive major fractions of their income. As they defer income they also postpone spending, and the effects spread throughout the economy.

Then there is the particular problem of the capital gains rate. Under the Finance Committee bill, the rate for long-term gains by top earners would bounce from 20% in 1986, to 38.5% in 1987 and 27% in 1988. No doubt a lot of capital gains will be realized yet this year, and almost none in 1987. These capricious changes in incentives are bound to create turbulence in both the real economy and the stock market.

The incentives for deferring income in the Senate Finance bill are in fact substantially greater than those in the 1981 bill. In that case, the big cut to a marginal rate of 50% from 70% for investment income was effective immediately; the capital gains tax rate was unchanged; the top income classes stayed at a 50% marginal rate while the staggering affected taxpayers with less discretion over earnings. Yet the staggering in the 1981 bill almost certainly played an important part in the 1982 recession.

The 1982 recession surprised most forecasters, though in December 1981 Arthur B. Laffer pointed to incentives to defer income, and told Barron's: "1981, obviously, has been a bad year because they postponed the tax cuts, and 1982 doesn't look great." He also forecast that "Once we are in '83 and '84, we are going to be in a great economy." The 1982 recession is a curious episode deserving further study, for despite its apparent depth final sales to domestic purchasers increased; the recession was in exports and inventories. But what we know for sure is that the recession turned off like a light on Jan. 1, 1983, the first day the tax cuts were fully effective. Under the Packwood bill as currently written, the same thing will happen—on Jan. 1, 1988.

The reason we have to give up 18 months of prosperity is so that imaginary numbers games will come out right in the bowels of the Capitol and Treasury. It says on a stone tablet somewhere that the tax changes must be "revenue neutral" over five years. The second commandment is that you have to use "static analysis," which assumes the tax changes have no effect on anything else. Such nonsense is probably a useful discipline on congressional largesse in handing out tax favors, but there is a real world to be reckoned with. You don't collect capital gains taxes if there are no capital gains realizations, for example. More generally, a bill that curbs prosperity will also curb tax collections.

In the imaginary numbers games, though, staggering is the key that makes the whole bill work. It provides an extra $22 billion in imaginary revenues in 1987, offsetting imaginary losses in later years and coming out with an imaginary zero when you add up the imaginary changes over the imaginary years. For this we have to sweat out the next 18 months waiting for the full tax cut.

So let the Senate maintain the polite fictions of static analysis as it beats off amendments. But when the bill gets to conference, we hope all hands have the wit to save us from the stagger. If a 27% rate is good for us in 1988, it will be good for us next Jan. 1.

□ 1140

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee, Senator GORE, is recognized for not to exceed 5 minutes.

MIDGETMAN

Mr. GORE. Madam President, I have been making a series of speeches on SDI. I wish to return to that series tomorrow.

Madam President, over the weekend, the press has reported that in a subcommittee of our Armed Services Committee, the administration's budget proposal for Midgetman has been cut in half with no objection from the administration. Of course, this decision may be reversed or substantially ameliorated in full committee, but that remains to be seen.

I rise today, to examine the logical consequences of this decision should it not be reversed and should the administration express some enthusiasm for the system. Three years ago, when the Scowcroft report was endorsed by the President, the question was whether a true compromise and exchange of political values would take place. That is, in exchange for his support of the report's wisdom on such matters as nuclear stability, de-MIRVing as a goal in arms control, and the rapid development of the Midgetman as the means to implement these objectives, would the President be able to salvage the MX missile from virtually certain defeat and liquidation?

Those of us who made that outcome possible argued that the Midgetman would rationalize a decision to deploy MX in existing silos, although we also said that it made sense to stop at 50, rather than press our luck by overdeploying in that mode. We visualized the situation in terms of the ability of our ICBM force as a whole to deter a first strike, and to make completely impossible any even hypothetical advantages from a first strike, by virtue of having a mix of systems in which the strong suit of one system would offset the vulnerability of others.

Though the MX might be vulnerable in its silo, the presence of a mobile small ICBM would make it impossible for the Soviets to carry out the kind of one-shot first strike that might at a stroke destroy our fastest, most certain counterresponse: the land-based ICBM force.

Blend these two forces together, a limited number of MX missiles and the invulnerable Midgetman force, and the result will be stronger than either one alone.

Well, the administration has now begun to call into question whether or not the Midgetman will ever be built. In doing that, it also puts in question the rationale upon which Congress accepted the deployment of the first 50 MX missiles. If the Nation is going to rethink its solution to the ICBM vulnerability problem, then it should rethink the full problem.

Absent Midgetman, MX may become what its critics always claimed, a superb counterforce weapon in a highly vulnerable basing mode: therefore, the worst of all possible combinations from the point of view is stability.

There are of course, some alternatives to stopping the MX, which ought to be thought about carefully:

We can accept its vulnerability and simply disregard concerns about a first strike. That is something that many experts might find reasonable, but certainly not the Right Wing which has fought this issue for almost 20 years.

Indeed, many of us have also expressed concern about the hypothetical advantages which can come from a first strike because of its capability of destroying stability.

We can go to launch on warning. That may not scare the Strategic Air Command, but ought to scare the rest of us a good deal and we should not go down that road.

We can keep on looking for the perfect basing mode for MX, including such implausibilities as deep underground basing.

But, of course, that search has already gone on for quite a long time.

We can build a defense for our missiles, whether based on SDI technologies or ABM technologies. Either way, we kiss the ABM Treaty goodbye and touch off an accelerated double arms race.

We can ask the Soviets to solve our problems for us by getting rid of their heavy ICBM force. That is our present negotiating position which quite a few of us have thought implausible.

Of course, if the administration was willing to trade restraints on SDI, such an outcome might be possible.

There is also, Madam President, another dimension to the Midgetman and its crisis, which needs to be given some thought. At the moment, many of us are still hoping that the President will reverse his decision to abandon SALT limits. Most of us are arguing that less drastic, more proportionate responses to Soviet infractions are preferable. And the development of the Midgetman is the proportionate response of choice.

In short, much has been put at risk by events last week. At what may be the critical moment in this administration's efforts to negotiate with the Soviet Union, the entire possibility for doing so on the basis of bipartisan support is severely at risk. Only one faction has profited: it is the group which does not believe in arms control at all; it is the group which believes that SDI is a value superior to any possibility we might realize at the negotiating table.

I am confident that the ultimate outcome will yet be favorable. But the chances of that depend upon our realizing now what is at stake.

RECOGNITION OF SENATOR BAUCUS

The PRESIDING OFFICER. Under the previous order, the Senator from Montana [Mr. BAUCUS] is recognized for not to exceed 5 minutes.

THE YOUNG COMMISSION ACT

Mr. BAUCUS. Madam President, a little over 1 year ago, a highly talented group of individuals assembled in Washington for a conference full of meaning for America's future.

That group, led by John Young, president of Hewlett-Packard, met to put the final touches on what became known as the Young Commission report.

That report documented America's declining international competitiveness and provided hundreds of recommendations for reversing it.

But over 1 year later, that report has gone ignored by this administration. The President has utterly failed to act on his own study.

But the worth of the Young Commission report remains untarnished.

So today I join with Senators CHILES and ARMSTRONG in introducing the Young Commission Act, a bill that incorporates many of the best recommendations made by the Young Commission.

THE NEED TO ACT

Today, America needs to make a total commitment to competitiveness. Halfway measures will not be enough. Unless we make a total commitment to become more competitive, the United States will be in big trouble down the road.

So what can we do?

We can begin by recognizing that much of our trade problem is our own fault.

For the last several years, we have blamed our trade problem on foreign unfair trade barriers.

Eliminating unfair trade barriers is important, but we should not delude ourselves into believing that it is a total solution.

Let me give you an example. We have a $50 billion trade deficit with Japan. Yet even if Japan eliminated all of its unfair trade barriers, United States exports to Japan would only increase by $10 billion.

If we are honest with ourselves, we must recognize that the lion's share of the problem is our own lack of competitiveness.

Let me point out a few facts.

Between 1960-83, U.S. productivity grew by only 1.2 percent annually. During the same period, Japan's productivity grew by 5.9 percent annually.

The United Kingdom—which some regard as an empire in decline—rose by 2.3 percent, almost twice the United States rate.

Japan employs 23 robots for every 10,000 workers. The United States employs three.

The list of facts goes on and on, but the point is the same: The United States is losing its competitive edge on many fronts.

Obviously, there are no easy solutions. We cannot blame all our problems on foreign countries.

In the end, we must compete our way out of the trade deficit.

And that will require some dramatic changes in the way we Americans do things.

THE YOUNG COMMISSION ACT

Madam President, the bill we are introducing today takes the first step toward making those changes.

The bill we are introducing today incorporates four of the best recommendations of the Young Commission report.

First, it would direct the Commerce Department, within 6 months, to draft a proposal establishing a semiprivate, nonprofit United States export promotion organization similar to those used successfully by Japan, Korea, and other countries.

Second, the bill would restructure Freedom of Information Act procedures so that foreign companies could not use FOIA to practice industrial espionage against their U.S. competitors.

Third, the bill would require U.S. Ambassadors to submit annual reports to the President on their Embassies' efforts and accomplishments in helping U.S. industry improve its market position overseas.

Fourth, the bill would direct the Commerce Department to monitor Japanese technical information and translate selected Japanese technical documents, just as the Japanese have been monitoring our information for years.

The legislative ideas I have described are intended to achieve concrete changes, but they are also intended to achieve something much more difficult—to change the way we Americans think. Because ultimately, we can only increase our competitiveness if we fundamentally change our attitude and emphasis.

Will Rogers once said, "There's a little cowboy in all of us, a little frontier."

We stand at the edge of a wonderful frontier in international trade, a frontier that is filled with uncertainty, but brimming with hope. If we begin to confront our competitiveness problem now, we can transform uncertainty to promise and hope to reality.

Madam President, before I yield the floor, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Young Commission Act".

TITLE I—ESTABLISHMENT OF AN EXPORT PROMOTION ORGANIZATION

SEC. 101. Not later than 6 months after the date of enactment of this Act, the Secretary of Commerce (hereinafter referred to as the "Secretary") shall transmit to the Congress a proposal that would establish a semiprivate, nonprofit United States export promotion organization similar to JETRO and export organizations used by other major trading nations, in accordance with section 102.

SEC. 102. (a) PURPOSE OF THE ORGANIZATION.—The proposal shall set forth with specificity the activities the organization should undertake. These activities may include the following:

(1) Foreign market research.

(2) Participation in international trade fairs.

(3) The provision of market information to United States exporters.

(4) Public relations efforts directed toward promoting United States exports generally, with special emphasis on those industries in which the United States has the greatest competitive potential.

(5) Providing intermediary services to facilitate transactions between United States exporters and foreign purchasers.

(6) Publication of materials useful to United States exporters.

(7) Operation of offices in the United States and foreign countries to provide the above services.

The proposal shall specify the extent to which any of the foregoing activities can be funded through payments by private entities, such as the extent to which market research can be performed on a contract basis, and the extent to which any of the above

activities can be contracted out to be performed by private entities.

(b) FUNDING.—The proposal shall outline how the new organization is to be funded. The various funding sources should include the following:

(1) Funding by the Federal Government.

(2) Funding by State and local governments or State and local governmental trade organizations, or both, either in the form of general funding or user fees.

(3) Private contributions.

(4) Public or private subscriptions.

(5) User fees.

(6) Any other appropriate means of funding.

If any of the above-mentioned forms of funding are not included in the proposal, the Secretary shall give the reason for their omission. The Secretary shall include in the proposal an estimate of the total funding required and the percentage of total funding expected to come from each funding source. To the maximum extent possible, the Secretary shall seek to fund the organization through user fees, subscriptions, and other forms of funding that do not require expenditures by the Federal Government. The proposal shall include a detailed description of the means by which the organization will be capitalized.

(c) STRUCTURE OF THE ORGANIZATION.—The proposal shall specify the structure and composition of the organization, and shall include the following:

(1) A description of the governing body of the organization. To the maximum extent feasible, this body shall consist of representatives of business and government, with a majority of this body consisting of representatives of business.

(2) A description of the management of the organization. For the purpose of this paragraph, the Secretary shall assess the feasibility of having representatives of the business community manage the organization. Specifically, the Secretary shall consider the following alternatives:

(A) Establishing a fellowship program under which managers from the private sector receive fellowships to serve as managers in the organization.

(B) Establishing a special fund, paid for by the private sector, that would pay the salaries of long-term managers who have had the experience in export activities in the private sector.

(C) Establishing a program in which private sector entities "donate" managers to serve temporarily as managers in the organization.

(D) Any other programs that would encourage private sector participation in the management of the organization.

(d) RELATIONSHIP WITH OTHER FEDERAL AGENCIES.—The proposal shall also specify the role of the proposed organization in relation to the Foreign Commercial Service, the Foreign Agricultural Service, and other Federal agencies currently involved in promoting United States exports.

(e) RELATIONSHIP WITH STATE AND LOCAL GOVERNMENTS.—The Secretary shall propose the role the organization will play with regard to State and local governmental trade development organizations.

TITLE II—CONFIDENTIALITY OF BUSINESS RECORDS

SEC. 201. This title may be cited as the "Business Confidentiality Improvement Act".

SEC. 202. Section 552(a) of title 5, United States Code, is amended by adding after paragraph (6) the following new paragraph:

"(7)(A) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(i) a submitter shall be required to designate any information consisting of trade secrets, or commercial, research, financial, or business information which is exempt from disclosure under subsection (b)(4) at the time such submitter provides such information to the agency;

"(ii) the agency shall notify the submitter that a request has been made for disclosure of information provided by the submitter, within ten working days after the receipts of such request, and shall describe the nature and scope of the request and advise the submitter of the right of the submitter to submit written objections in response to the request;

"(iii) the submitter may, within ten working days of the forwarding of the notification of a request for disclosure, submit to the agency written objection to such disclosure, specifying all grounds upon which it is contended that the information should not be disclosed; and

"(iv) the agency shall notify the submitter of any final decision regarding the release of such information.

"(B) An agency is not required to notify a submitter pursuant to subparagraph (A) if—

"(i) the information requested is not designated by the submitter as exempt from disclosure in accordance with agency regulations promulgated pursuant to subparagraph (A)(1);

"(ii) the disclosure is required by law (other than this section) and the agency notified the submitter of the disclosure requirement prior to the submission of the information;

"(iii) the information lawfully has been published or otherwise made available to the public; or

"(iv) the agency is a criminal law enforcement agency that acquired the information in the course of a lawful investigation of possible violations of criminal law.

"(C) Whenever an agency notifies a submitter of the receipt of a request pursuant to subparagraph (A), the agency shall notify the requester that the request is subject to the provisions of this paragraph and that notice of the request is being given to a submitter. Whenever an agency notifies a submitter of final decision pursuant to subparagraph (A), the agency shall at the same time notify the requester of such final decision.

"(D) Whenever a submitter has filed objections to disclosure of information pursuant to subparagraph (A)(iii), the agency shall not disclose any such information for ten working days after notice of the final decision to release the requested information has been forwarded to the submitter.

"(E) The disposition of the request by the agency and the objections of the submitter shall be subject to judicial review pursuant to paragraph (4) of this subsection. If a requester files a complaint under this section, the administrative remedies of a submitter of information contained in the requested records shall be deemed to have been exhausted.".

SEC. 223. Section 552(a)(4) of title 5, United States Code, is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) On complaint filed by a requester within one hundred and eighty days from the date of final agency action or by a submitter after a final decision to disclose submitted information but prior to its release, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction—

"(i) to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the requester; or

"(ii) to enjoin the agency from any disclosure of records which was objected to by a submitter under paragraph (7)(A)(iii) or which would have been objected to had notice been given as required by paragraph (7)(A)(i).."; and

(2) by redesignating subparagraphs (C), (E), (F), and (G) as subparagraphs (E), (F), (G), and (H), respectively, and by adding after subparagraph (B) the following new subparagraphs:

"(C) In an action based on a complaint—

"(i) by a requester, the court shall have jurisdiction over any submitter of information contained in the requested records, and any such submitter may intervene as of right in the action; and

"(ii) by a submitter, the court shall have jurisdiction over any requester of records containing information which the submitter seeks to have withheld, and any such requester may intervene as of right in the action.

"(D) The agency that is the subject of the complaint shall promptly, upon service of a complaint—

"(i) seeking the production of records, notify each submitter of information contained in the requester records that the complaint was filed; and

"(ii) seeking the withholding of records, notify each requester of the records that the complaint was filed.

"(E) In any case to enjoin the withholding or the disclosure of records, the court shall determine the matter de novo. The court may examine the contents of requested agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section. The burden is on the agency to sustain its action to withhold information and the burden is on any submitter seeking the withholding of information.".

SEC. 204. (a) Section 552(e) of title 5, United States Code, is amended to read as follows:

"(e) For purposes of this section—

"(1) the term 'agency', as defined in section 551(1) of this title, includes any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) the term 'submitter' means any person who has submitted to an agency (other than an intelligence agency), or provided an agency access to, trade secrets, or commercial, research, or financial information (other than personal financial information) in which the person has a commercial or proprietary interest; and

"(3) the term 'requester' means any person who makes or causes to be made, or on whose behalf is made, a proper request for disclosure of records under paragraph (1), (2), or (3) of subsection (a).".

(b)(1) Section 552(a) of title 5, United States Code is amended—

(A) in paragraph (6)(A)(i), by striking out "person making such request" and "person" and inserting in lieu thereof "requester";

(B) in paragraph (6)(A)(ii), by striking out "person making such request" and inserting in lieu thereof "requester";

(C) in paragraph (6)(B), by striking out "person making such request" and inserting in lieu thereof "requester";

(D) in paragraph (6)(C), by striking out "person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection" in the first sentence thereof and inserting in lieu thereof "requester"; and

(E) in paragraph (6)(C), by striking out "person making such request" in the third sentence thereof and inserting in lieu thereof "requester".

(2) Section 552(b) of title 5, United States Code is amended by striking out "person requesting such record" in the last sentence thereof and inserting in lieu thereof "requester".

TITLE III—ANNUAL REPORT REGARDING THE PROMOTION OF THE UNITED STATES EXPORTS

SEC. 301. Not later than March 1 of each year, each chief of a diplomatic mission of the United States in a foreign country shall prepare and transmit to the President a report on the efforts made by such diplomatic mission during the preceding 12 months to promote United States exports in such country, including—

(1) a description of the services provided to United States exporters and efforts to eliminate unfair trade practices in such country, including a description of the specific product areas sought to be promoted and the problems encountered in removing unfair trade barriers;

(2) a description of the progress achieved during the preceding 12 months in promoting United States exports in such country, including, where practicable, an estimate of the value of the increased exports resulting from the efforts of such diplomatic mission;

(3) a description of the efforts which such diplomatic mission intends to make during the next 12 months to promote United States exports in such country;

(4) a determination by such diplomatic mission of the industries in which United States producers can compete most effectively, now and in the future; and

(5) a description of the trade barriers which United States exporters face in entering a foreign market in such country.

TITLE IV—JAPANESE TECHNICAL LITERATURE TRANSLATION

SEC. 401. This title may be cited as the "Japanese Technical Literature Act of 1986".

SEC. 402. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following new subsection:

"(d) JAPANESE TECHNICAL LITERATURE.—(1) In addition to the duties specified in subsection (c), the Secretary shall establish and, through the National Technical information Service and such other offices within the Department of Commerce as the Secretary considers appropriate, maintain a program (including an office in Japan) which shall, on a continuing basis—

"(A) monitor Japanese technical activities and developments;

"(B) consult with libraries, businesses, and professional societies in the United States regarding their needs for information on Japanese developments in technology and engineering;

"(C) acquire and translate selected Japanese technical reports and documents that may be of value to agencies and departments of the Federal Government, and to businesses and researchers in the United States; and

"(D) coordinate with other agenices and departments of the Federal Government to identify significant gaps and avoid duplication in efforts by the Federal Government to acquire, translate, and disseminate Japanese technical information.

Activities undertaken pursuant to subparagraph (C) of this paragraph shall only be performed on a cost-reimbursable basis. Translations referred to in such subparagraph shall be performed only to the extent that they are not otherwise available from sources within the private sector in the United States.

"(2) Beginning in fiscal year 1987, the Secretary shall prepare annual reports regarding important Japanese scientific discoveries and technical innovations in such areas as computers, semiconductors, biotechnology, and robotics and manufacturing. In preparing such reports, the Secretary shall consult with professional societies and businesses in the United States. The Secretary may, to the extent provided in advance by appropriation Acts, contract with private organizations to acquire and translate Japanese scientific and technical information relevent to the preparation of such reports.

"(3) The Secretary also shall encourage libraries, professional societies, and private businesses in the United States to increase their efforts to acquire, screen, translate, and disseminate Japanese technical literature.

"(4) In addition, the Secretary shall compile, publish, and disseminate an annual directory which lists—

"(A) all programs and services in the United States that collect, abstract, translate, and distribute Japanese scientific and technical information; and

"(B) all translations of Japanese technical documents performed by agencies and departments of the Federal Government in the preceding 12 months that are available to the public.

"(5) The Secretary shall transmit to the Congress, within 1 year after the date of enactment of the Japanese Technical Literature Act of 1986, a report on the activities of the Federal Government to collect, abstract, translate, and distribute declassified Japanese scientific and technical information.".

SEC. 403. (a) Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3713) is amended by—

(1) redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) inserting immediately after subsection (b) the following new subsection:

"(c) In addition to authorization of appropriations under subsections (a) and (b), there is authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of section 5(d) not to exceed $1,000,000 for the fiscal year ending September 30, 1987.".

(b) Section 14(d) of the Stevenson-Wydler Technology Innovation Act, as so redesignated by subsection (a) of this section, is amended to read as follows:

"(d) Such sums as may be appropriated under subsections (a), (b), and (c) shall remain available until expended.".

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana [Mr. MELCHER] is recognized for not to exceed 5 minutes.

NO ECONOMIC RECOVERY IN RURAL AMERICA

Mr. MELCHER. Madam President, there is economic recovery in some parts of the country, but just how far it goes and who benefits from it seems to be rather narrow. I shall tell you for sure where there is not economic recovery. That is in rural America, the countryside of America. They are hurting, the people in agriculture and forest products, the people in mining. Their incomes are down and there is liquidation of farms and liquidation of ranches, jobs are lost in mills and in mines, and their communities along with them are suffering. Those communities, in fact, are drying up as the liquidations of the farms and ranches occur around them or the shutdown of a mine on whom the population depends for jobs or a sawmill has to close down and people lose their jobs. So the communities are hurt and are suffering tragically.

In the discussion of all this, it seems that we touch on it from time to time, but really, nothing much is done. That tax bill does not really give much relief at all. In fact, it works the other way. This tax bill is a hardship for agriculture, for mining, and for forest products. Therefore, the rural communities of the entire country that depend upon these basic industries are disadvantaged further by the tax bill if it passes in the form that is before us today. That means there must be some corrections. We must leave no stone unturned if we are going to ramrod, steamroller this bill through the Senate and then into conference committee. We must make every effort to make these corrections and there will be amendments offered.

Later today, I think some of us may be wanting to discuss in detail why this is so essential, first to let people understand that there is time to make corrections and where the flaws are in the bill and how it can be corrected. We will want our amendments understood.

At least one amendment and possibly more will be on income averaging for farmers and ranchers, for people in agriculture. There will be also an amendment on saving capital gains for people in agriculture, particularly when land is sold. These discussions in depth take some time. It has taken us some time even to collect the facts, even to get the numbers that are involved. We have just come into possession of those numbers in the last couple of days—on Friday, and some

of the figures are still coming in today. We hope to be in a position to offer corrective amendments either late today or tomorrow.

Madam President, I think it is worth taking our time to review the direction of the economy, particularly with the tax bill that is before us, on these basic industries. We think everybody is entitled to understand just what is being done, what is being proposed, how the tax bill would affect them. If they are going to have to pay more income taxes, they are entitled to know. If we can correct some of the flaws in the bill, they are entitled to know that we are trying and what the advantages would be if we did correct the flaws.

Madam President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon, with statements therein limited to 5 minutes each.

Mr. DIXON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized for not to exceed 5 minutes.

Mr. LEVIN. I thank the Chair.

SOUTH AFRICA

Mr. LEVIN. Madam President, the tragedy of South Africa and in South Africa continues to grow. The daily reports of continuing violence, leading to further repression, and further violence are a call for action by the United States. Up to this point, official U.S. policy has been tentative and irresolute. The policy of constructive engagement has amounted to little more than constructive avoidance of the actions necessary to peacefully bring about majority rule in South Africa. As the report from the Commonwealth mission known as the Eminent Persons Group indicates, further steps must be taken by the outside world to impress upon South Africa the need for change. The alternative is to drift to a conflagration of historic proportions and cataclysmic consequences.

Madam President, there is no polite way to put it. Congress must push the President to take the strong steps toward economic sanctions against South Africa which he has heretofore resisted. We can no longer afford to take modest steps, hoping that the totality of our policy will be greater than the sum of its parts. Continued halfway measures will cost us valuable time during which the violence in South Africa will escalate. I call upon the chairman of the Senate Foreign Relations Committee to move the legislation imposing sanctions on South Africa to the top of the committee's agenda. I ask the majority leader, Senator DOLE, to move the Senate to that legislation as soon as it is reported out of committee.

□ 1200

This country cannot condemn acts of terrorism in the Middle-East or Europe and ignore the institutional terrorism which the South African Government imposes daily upon the majority of its population. It is dangerously inconsistent for this administration to focus its antiterrorism efforts on one or two countries and to effectively ignore the terrorism of the South African Government against its people. Unfortunately, that appears to be its inclination. That is why this Senate and this Congress must take the lead.

If we fail to act, we lessen the chances for the emergence of moderate, constructive, nationalistic leadership in South Africa. In that regard, I would like to cite a few passages from the report by the Eminent Persons Group about its meeting with imprisoned nationalist leader Nelson Mandela. Anyone who reads these words must be struck by the continuing tragedy of his imprisonment for the hopes for peaceful change and reconciliation in South Africa.

To cite from the report:

We were first struck by his physical authority . . . he exuded authority, and received the respect of all around him, including his jailers . . . In our discussions, Nelson Mandela also took care to emphasize his desire for reconciliation across the divide of color . . . He pledged himself anew to work to a multiracial society to which all would have a secure place.

He emphasized that he was a nationalist, not a Communist, and that his principles were unchanged from those to which he subscribed when the Freedom Charter was drawn up in 1955.

We questioned Nelson Mandela extensively about his view on violence. The A.N.C. (African National Congress), he said, had for many years operated as a nonviolent organization and had only been forced into armed struggle because it became the unavoidable response to the violence of apartheid. In a mood of unrest and upheaval, with growing black awareness and political protest being matched by increasing anxiety among whites, and the rise of white extremism, the Government expressed the fear that his release might result in an uncontrollable explosion of violence. We do not hold this view. Provided the negotiating process was agreed, Mr. Mandela's own voice would appeal for calm. We believe his authority would secure it.

Our judgment of Nelson Mandela has been formed as the result of lengthy discussions with him . . . He impressed us as an outstandingly able and sincere person whose qualities of leadership were self-evident. We found him unmarked by any trace of bitterness despite his long imprisonment.

Mr. President, as we read these words, common sense would seem to compel the release of Nelson Mandela as an essential predicate to productive negotiations for a peaceful resolution to the crisis in South Africa. We can no longer delay in taking strong steps to bring about his release and those negotiations.

Finally, Mr. President, I am submitting today a concurrent resolution similar to the one which is being submitted in the House of Representatives which condemns the Government of South Africa for invoking a nationwide state of emergency. Mr. President, the concurrent resolution demands an end to that nationwide state of emergency. Let me indicate that I am submitting this along with Senators SARBANES, PROXMIRE, SIMON, HART, and KENNEDY. I ask unanimous consent that the text of this concurrent resolution appear in the RECORD following my remarks.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

(Expressing the sense of the Congress concerning the situation in South Africa)

Whereas June 16, 1986 is the tenth anniversary of the Soweto uprising of 1976;

Whereas more than 600 black anti-apartheid protesters were killed by South African Government forces during the 1976 Soweto uprising making this the largest peace time killing of blacks in recent South African history;

Whereas after ten years of struggle, the black majority in South Africa continues to be violently repressed;

Whereas even those who demonstrate peacefully against the South African Government are subjected to harassment and arrest;

Whereas in the last 20 months over 1,600 people have been killed and over 36,000 arrested in growing anti-apartheid protests;

Whereas the unrest in South Africa continues to increase rapidly;

Whereas the anniversary of the 1976 Soweto uprising is an important event commemorating the struggle for basic human rights and freedoms in South Africa;

Whereas the South African Government has banned all public meetings to commemorate the 10th anniversary of the Soweto uprising;

Whereas the South African Government declared a nationwide state of emergency on June 12, 1986 and began a round-up of anti-apartheid activists;

Whereas an estimated 2,000 black political, church and labor union leaders have been arrested and detained without charge under the state of emergency;

Whereas the South African Government has granted the security forces unprece-

dented powers including the right to use force under the present state of emergency;

Whereas local and foreign press and media are prohibited from filming, photographing, recording, or illustrating any incidents of unrest or any action taken by the security forces under the state of emergency;

Whereas continuation of the state of emergency in South Africa can only lead to further deterioration of the already difficult situation with more violence and bloodshed: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress condemns the Government of South Africa for imposing a nationwide State of Emergency and demands an end to the State of Emergency and the release of all those detained and arrested since the State of Emergency began.

Mr. LEVIN. Mr. President, I thank the Chair and I yield the floor.

NATIONAL AGRICULTURAL EXPORT WEEK

Mr. PACKWOOD. Mr. President, I join with my colleagues in designating this week as "National Agricultural Export Week." Agricultural exports have a long history of importance to our country, and a week of recognition is appropriate. In my 18 years of serving Oregon, I have watched my State's agricultural trade with foreign markets rise dramatically. These markets have become essential to Oregon farmers and the overall health of the State's economy.

The scope of agriculture in Oregon is immense. Some 170 different commodities are raised or grown by ranchers and farmers. When considering all aspects of the industry—from production to shipping—these products provide 1 in 6 jobs for Oregonians, and contribute roughly $13 billion to the State's $34 billion economy. Every county contributes to this important industry and each is active in making Oregon a major farm State.

The success of Oregon's agricultural sector has been due in large part to efforts to market its goods abroad. One of the best examples of this is with the State's wheat industry.

Oregon produces a soft white wheat which is ideal for making noodles and crackers: Products well known in the Orient and Middle East. Various wheat groups took Oregon's wheat to these regions and worked vigorously to establish markets there. They were successful. In marketing year 1982, Oregon wheat exports were valued at $220 million, and at times, these exports have been as high as 85 percent of production.

Mr. President, despite Oregon's success in marketing their agricultural products abroad, Oregon agricultural exports have been dropping in recent years. Specifically, Oregon wheat exports for this marketing year are estimated to be half of what they were 5 years ago. This is disturbing. I have long supported fair and free trade policies to ensure foreign markets for Oregon. As an elected Senator from Oregon and the chairman of the Senate Finance Committee, which oversees our trade policies, I will continue to work to keep Oregon, and the Nation, competitive in world agricultural markets.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

RETROACTIVE REAL ESTATE PROVISIONS ARE A MISTAKE

Mr. DIXON. Mr. President, I am pleased to join so many of my colleagues on the Senate floor today to discuss the impacts that the committee-reported tax reform bill will have on the real estate industry.

The Finance Committee bill makes a number of changes in this area changes that are of such scope and extent as to change the fundamental nature of the real estate industry in this country.

The bill lengthens depreciation recovery periods for rental residential structures to 27½ years from the current 19 years, and requires the use of "straight-line" depreciation, thereby eliminating the option for accelerated depreciation under current law. The bill lengthens depreciation recovery periods for commercial property from the current 19 years to 31½ years. As in the residential area, it requires the use of straight-line depreciation, again eliminating the option for the use of accelerated depreciation which is available under current law.

The bill also limits investment interest expense to the amount of a taxpayer's investment income. The capital gains exclusion would be repealed, and all gain taxed as ordinary income.

Perhaps the single most important change is the provision that has come to be known as the "passive loss rule." This provision, as I understand it, disallows the deduction of losses from real estate activities and most other passive investments against all other types of losses. This means, for example, that an Illinois family who bought a share of an apartment building as an investment, could only deduct any losses they might incur while holding that investment against income from other real estate they might own. They could not deduct any losses from their salary income, or any interest income or stock income they might have.

An exception from this general rule would allow taxpayers that "materially participate" in rental real estate activity to offset up to $25,000 of wages or portfolio income with losses from that activity. However, this exemption phases out over income levels of between $100,000 and $150,000 a year.

I have taken the time to summarize the major real estate provisions in the committee bill, Mr. President, to illustrate the dimensions of the changes real estate would face under this bill.

I am not arguing that we ought to go back to current law. The theory behind the committee bill is to try to reduce, if not eliminate, the influence of the Tax Code on people's investment decisions so that the fundamental economics of an investment, rather than tax considerations, will dictate whether and where people invest their money. There are strong arguments for this kind of approach, and it has considerable attraction over the long run.

However, Mr. President, there is a problem: "How do we get there from here without causing major disruptions in rental real estate and commercial real estate markets?" That is where, it seems to me, the committee bill has some pretty serious problems.

There have been literally tens of billions of dollars of real estate investments in recent years that were made based on the existing nature of the tax law. These investments are relatively long term, and changing the rules in the middle of the game can effectively destroy them.

Now, I will admit that the Government was not a party to any of these real estate contracts. However, it seems to be that the people who invested the money did so with that we lawyers would call a good faith reliance on the state of the tax law at the time those investments were made. It seems to me that these investments need to be protected for a transitional period and that they deserve that kind of protection.

We routinely, in the tax law area, grandfather activities that began before the date of a change in tax law in a particular area, so providing transitional relief for real estate investments made based on current law is not at all an unprecedented request. The committee recognized the need for transitional relief and created what is effectively a 4-year phase-in of the passive loss rule.

□ 1210

This phase-in, though, is widely perceived to be inadequate by the real estate industry. It could, therefore,

devastate over $50 billion in real estate development.

It must be remembered that many real estate investments are structured so that the total investment is paid in over a number of years. Without appropriate transitional relief, many real estate investors could well decide to walk away from their investments in order to cut their losses. I think many investors would decide to make no further payments and would allow a tremendous number of real estate projects in America to go bankrupt, unless the committee transitional rules can be improved upon either here in the Senate or in the conference.

The result could be additional massive problems for banks, savings and loans, and other lenders, who could be stuck with bankrupt buildings. The result could be higher rents for many Americans who do not own their own homes. The result could be a poisoning of the climate for long-term real estate investments, with very serious consequences for the production of multifamily housing and commerical space.

We can avoid these consequences by doing what is right and what is fair, Mr. President. If a person parked his or her car in a legal spot on the street, no one would consider it right for the city to come along and put up a parking meter and then ticket the person for not putting in the required quarter. That would not be fair; that would not be just. Similarly, it is neither fair nor just to change the tax rules for real estate and apply them to investments that have already been made.

I am told that there may be efforts to try to improve transition rules covering real estate that would be modest in cost and would be financed through slight changes in the real estate area. A coalition of real estate interests is attempting right now to finalize such a proposal.

If there is an amendment, I would hope that the committee would give it their most careful and considerate attention. If an amendment is not offered on the Senate floor, I would hope the committee would keep in mind the comments made during this debate by a great many Senators and would seek to improve transitional relief for real estate in the House-Senate conference on this tax bill.

Let me conclude, Mr. President, by stating that the points I have raised are really only the tip of the iceberg. We could spend hours, for example, outlining the adverse consequences this bill will have for low-income housing, an area I have not talked about at all. I do not think it is possible to underestimate the serious consequences we are facing if we do not act to smooth the path from the old law to the new committee proposal. We can avoid having to come back here next year to fix this problem if we do so now, and I think we will be back next year to fix this problem if we do not fix it now. I believe our duty demands that we act to provide the greatly needed and well-deserved transitional protection for real estate investments made based on current law.

There is no reason to apply these changes retroactively. For decades, tax legislation has provided reasonable transition rules for transactions that have already taken place. The Tax Reform Act of 1986 should meet the same standards of equity and fairness.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1240

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

The Senator from Minnesota is recognized.

PASSIVE LOSS LIMITATION RULES

Mr. BOSCHWITZ. Mr. President, I want to continue the colloquy that was begun on Friday afternoon about the deductibility of losses, so-called passive losses, against other forms of income.

I would say to my friend the chairman, the Senator from Oregon, that we have already had 10 Senators speak on this: myself, Senators LAXALT, MELCHER, ZORINSKY, ANDREWS, GORE, D'AMATO, LEVIN, KERRY, MATSUNAGA, and MATTINGLY.

Mr. SYMMS. Mr. President, I join with my colleagues in again highlighting a major problem that results each time the Congress undertakes changing the Tax Code. The problem is that no one can really plan for the future when making savings, investment, or business decisions. As I stated earlier in the week in a prior floor statement, "Congress keeps changing the rules of the game." There have been over the last decade five major changes in the code that have had substantial impact on American business, investment, and saving.

The matter of retroactivity is a case in point. The retroactive aspect of the passive loss provision is a problem in that we are again changing the rules of the game almost before the ink setting forth the old rules is dry. We are creating major economic dislocation by doing so. It is patently unfair to cause such extraordinary change in existing transactions.

Because in this, I call upon my colleagues to join with me in urging the conference committee to address this problem by stretching out the implementation of this provision.

It is a matter of fairness to those who have relied upon the laws passed by the U.S. Congress. The best thing this Congress can do, is to ensure stability so that the marketplace can now make long-term decisions based upon set rules.

Mr. TRIBLE. Mr. President, I rise to join Senator BOSCHWITZ in expressing my hope that the passive loss limitation rules in the tax reform bill can be substantially modified, and their retroactive effect eliminated, during the conference on the tax bill.

I support the effort to eliminate future tax shelters, so that future investments will be guided by economic return, rather than by tax benefit. If we can achieve that, we will make our country more prosperous.

But, as the chairman of the committee can attest, I am very concerned about the process of reaching this "promised land." And one of the most troublesome things about this bill is the large number of severe transition problems it creates by making changes that are effectively retroactive.

There are many retroactive features in the committee bill, but none so onerous or objectionable as the passive loss limitation rule as applied to existing investments.

It is fundamentally wrong for Congress to lay out one set of tax rules and then, when taxpayers have used them as intended, to change those rules in an abrupt and ruinous way. But this is exactly what the loss limitation rule does.

It is fundamentally wrong to entice investors into legally binding obligations to make future payments by promising tax benefits, and then take those benefits away.

This is especially true in areas, such as low-income housing, where no investor would risk his own funds without the promise of tax benefits. For in low-income housing, virtually the only return an investor can expect is generated by promised tax benefits.

Are we now to penalize, and in some cases to ruin, individuals whose only mistake was to rely on the very law and incentives which the Congress created. I think not.

Not only is retroactive change wrong, Mr. President, it is risky and potentially very costly. Do we really want to force huge numbers of partnerships to default on their loans, weakening a banking system which is already reeling under problem energy, international and agricultural loans? Do we want the Federal Government to have to pay off huge amounts of Government-backed loans, when projects fall into default? I don't think so.

Mr. GORTON. Mr. President, I want to add my voice to those of my colleagues who are concerned with the passive losses provisions contained in

the pending bill. Most of the objections to the bill's provisions in this area have centered on the question of fairness: Should we enact legislation which imposes new taxes on income from investments which have already been made, and which the investors made in anticipation of an entirely different tax regime? Regardless of the desirability of enacting these new provisions on a prospective basis—and I agree that this is desirable—to do so on a retroactive basis violates a basic notion of fairness, and places the Senate in the position of acting arbitrarily and capriciously in carrying out its duties.

I have heard some say that there is nothing particularly disturbing about this provision, because we enact retroactive provisions all the time, and every time we change the Tax Code we impose unexpected losses or gains on individuals. "This is simply one more example of such a case," they maintain. I do not believe this to be accurate.

In the first place, the retroactive provisions affecting passive losses that this bill contains are different from the typical retroactive provisions we often enact in tax bills. Often we enact tax bills with effective dates prior to the date of final passage. For example, the date of a bill's introduction, or of committee markup of a bill, are often selected as effective dates, with the goal of discouraging certain types of activity during the period that the bill is pending. But that is not what this bill does. This bill imposes the new loss limitation on all previously made investments, regardless of when made. It cannot be justified on the grounds traditionally advanced to justify retroactive effective dates—that it is need to discourage such activity during an interim period—because it applies also to investments made before the proposal was even introduced, let alone before it was enacted.

What can we expect if the provisions on passive lost limitations contained in this bill become law? In the first place, we will impose a number of unfair losses on individual investors around the country. But beyond this, we can expect to impose serious losses on the syndicators of such projects, as investors simply walk away from existing projects because the investment benefits no longer justify any further contributions.

In addition, there is another aspect of this problem which has not received quite so much attention. This other aspect is a result not only of the retroactive element of this provision, but of its prospective element as well. One of the principles which has guided the committee's bill is that the Tax Code should no longer be used as an instrument for furthering government social policies to the degree to which it has been so used in the past. I agree with this general proposition. I must point out to my colleagues, however, that if we agree to cease using the Tax Code as an instrument of social policy, then we must either abandon the policy entirely, or face up to the need to pay for it by an explicit appropriation. In this context, I am particularly concerned about certain Federal Government low-income housing programs, in particular, those administered by the Farmers Home Administration. These programs permit developers of the low-income housing to charge only limited rents for a prolonged period, in order to enjoy low-interest-rate direct Federal loans for the building of this housing. The program is especially important in rural areas of this country.

These programs rely, openly and candidly, on the tax benefits implicit in the developments for their viability. Without the tax benefits, they simply will not be built. Therefore, if we repeal the ability to write passive losses off against ordinary income, we must either acknowledge that it will be the end of this low-income assistance, or we must be prepared to authorize and appropriate the expenditure of Federal funds directly for this purpose. As a matter of principle, I am inclined to favor appropriations over tax expenditures, although I recognize that there are arguments to be made on both sides of the issue. But I want to make sure that my colleagues are aware of the problem that we are going to have to addresss in this area.

Mr. President, I think that the tax bill before us is, for the most part, a good, and even historic, measure. But it is not perfect. There are several important ways in which it needs to be improved, and I believe that one way to do so is eliminate the retroactive nature of the passive loss limitation.

Mr. SPECTER. Mr. President, the Senate is now on the threshold of undertaking a historical reform of our Nation's Tax Code. This bill currently before us is truly tax reform; it offers greater simplification, increased fairness, and lower rates. I have great admiration for the distinguished chairman of the Finance Committee, Senator PACKWOOD, the majority leader, Senator DOLE, and the other Members of this body who have contributed to this legislation.

There is no Member more concerned than I that we increase the fairness of our tax system. Wealthy corporations and individuals who have paid little or no taxes will be required to pay a significant minimum tax under the provisions of this bill. In addition, this bill takes an important step forward by eliminating tax shelters which have allowed individuals to delay or avoid the payment of tax and also altered the flow of investments funds from economically sensible projects to tax-oriented projects.

At the same time, Mr. President, we must recognize that our Tax Code in the past and also now has been designed to encourage certain social goods. Many important provisions, such as the historic rehabilitation tax credit, will remain part of the Tax Code under this bill. Provisions such as this have created great benefit in Pennsylvania and other parts of this country. In particular, this has led to many important projects such as revitalization of the Frankford Arsenal in Philadelphia, Strawberry Square in Harrisburg, and Armstrong Square in Pittsburgh. These projects result in the creation of thousands of jobs and are vital to saving many inner-city neighborhoods.

Many persons in Pennsylvania and other States have entered into binding contracts in good faith reliance on our current Tax Code. Mr. President, we pride ourselves on having a government based on the rule of law. This key principle allows our citizens to know in advance the boundaries of permissible behavior. Some laws, such as our criminal laws, are designed to restrict behavior, while others, such as our tax laws, are designed to encourage behavior.

In some cases, our national policies have changed. In others, abuses have been identified. In these circumstances we have modified our laws, but generally only to future, not past, transactions.

Today, I have concern about some aspects of the tax bill which would set a dangerous precedent by affecting past transactions. In particular, abrupt changes in the means by which investment losses are treated could have very adverse affects on many projects important to my State, including rehabilitation of the Frankford Arsenal. It is my sense that as the bill moves from the floor of the Senate to conference that great consideration be given to providing fairer transition relief for those persons who have acted in good faith reliance on the current law. This is important not only as a matter of equity to those persons affected but also to ensure the long-term confidence in our Tax Code which is necessary for economic growth and job creation.

Mr. BOSCHWITZ. Mr. President, that makes a total of 14 Senators who have spoken on the question of deductibility of passive losses. We have quite a collection of additional Senators. We have called them. We hope they come to the Chamber soon.

□ 1250

In many cases, they are not here, in the city, at the present time so we may not be able to complete our colloquy today. But I believe that 25 or 30 Senators here will, in one form or another, speak within the next day or

two before this bill is concluded, about the deductibility of passive losses. I am leading this colloquy because I believe that taxpayers who entered into transactions in good faith and in reliance on the tax law as they found it should not be retroactively penalized and not now, in effect, have their assests confiscated.

That is really what this tax bill is doing, Mr. President. There is no question that the tax bill is correct, in my judgment, that these kinds of losses should not be deductible against other income in the future. Really, the question is whether or not transactions, real estate or otherwise, that were entered into prior to the passage of the bill now before us should be treated in the same way as future actions should be treated.

I feel that should not be the case. I feel tht if taxpayers are going to rely in the future on the tax law and make their investment decisions based upon the tax law, as they should, it is important that they be able to rely upon it and that they be able to have the assurance that it will be that way over the term of the investment.

Frankly, Mr. President, I believe that the tax law, with the 27-percent rate, will create very little incentive, really, to get into abusive tax shelter transactions. When I use the term "abusive," I use that rather guardedly. It was permitted under the tax law and was entirely proper and legal and perhaps the word "abusive" is a little too strong. When one can shelter $1 and gain only 27 cents, it is a good deal different than sheltering $1 and gaining 50 cents, as under the present law. Under the new law, a total of perhaps 25 cents will be taxed of every dollar at a maximum rate when you consider State and local taxation combined, at least in the case of Minnesota, where we have a very high income tax rate, a rate that maxes out at 14 percent.

However, by and large, people will be in lower brackets and the incentive to get into rather complicated tax transactions or take a chance on buildings or other assets that may not produce revenue—that opportunity is substantially diminished when the only saving one can make is 27 percent.

Mr. President, when I first went into business in 1963, the maximum tax rate was 91 percent. It was almost imperative that one shelter his income. Unfortunately, when I went into business, I did not have any income but the idea of having a 91-percent top rate is almost compelling with respect to taxpayers and their need to shelter their income from taxation. Under a law that was promoted by President Kennedy prior to his death, in 1964, the rates went down to 77 percent and in 1965 to 70 percent. They remained at that level until 1981 when, under this President, rates came down to 50 percent.

Obviously, if 70 cents of every dollar is going to be taxed away, plus, as in Minnesota's case, 14 percent of the remainder so that roughly 75 cents of every dollar is taxed away, the incentive to shelter income, to use tax preferences as they are properly called—or loopholes as they are called in the press, even though those loopholes were legislated and proper—the incentive to use these kinds of preferences is very great. But when the rate came down to 50 percent, we found that people shelter less and less. Now, when it comes down to 27 percent, they will shelter even less than before.

What we have also seen is that the weight of tax collections shifts to the people in the upper brackets. The lower the rates, the more of the total tax pie is paid by people in the upper brackets. The lower the rates, the more of the tax dollar that is collected by the Federal Government is paid by people in the higher brackets. The lower the rates, the more economic the investments are that are made by people in every bracket; investments no longer have the tax preference or tax loophole type of character that they do under existing law.

Mr. President, I think that this law, as I have said a number of times on the floor, is most constructive in the direction it is taking. But the question in this colloquy is, Should investors who made investments under the old law—even though the new rates will now apply to those investments—not be able to take their losses and should they not have the consequences of those investments that they had planned on, that they had thought would be available as they always have been available when there has been a law change of this type?

I might have said if those advantages were reduced as the investment tax credit is reduced because there is a lower rate of income earned, that would not be unsatisfactory. But to wipe out the ability to deduct losses when investors have made those investments predicated on law as it existed at the time the investment was made is, in my judgment, confiscatory. That is why 14 Senators have now spoken out about it; that losses, passive losses that were the result of investment made under existing tax laws, should be allowed.

Mr. President, we shall continue this colloquy as our colleagues come to the floor. Again, most of them are not in the city at the present time. They will be as the day progresses and we will have more of them speak.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, we may be facing an amendment this afternoon that is going to open up——

Mr. BOSCHWITZ. Would the Senator from Oregon yield for 10 seconds?

Mr. PACKWOOD. Yes, Mr. President.

Mr. BOSCHWITZ. I wish to add Senator DIXON's name to the names of Senators who have spoken on the issue of passive losses. He will be the 15th Senator.

I appreciate the Senator's yielding.

Mr. PACKWOOD. Mr. President, we may be facing this afternoon an amendment that is absolutely going to open up this bill to some of the richest people in America and, again, allow them to pay no taxes. The argument may be phrased on two losses: (1) it is unfair that the bill is retroactive; or (2) if people have actual cash losses, they ought to be able to offset those losses against unrelated income. If such an amendment is offered, be perfectly aware, Mr. President, that it will open up in the bill the biggest personal tax shelter loophole that we closed for some of the richest people in America.

Let me take first the retroactive argument, because here I find an interesting two-way argument. They complain if we say the rules that have been in effect through the end of 1985 or through the end of 1986 will be changed and you can no longer take what are called passive income losses against your unrelated income, reduce your income to zero, and pay no taxes, even though you may have several million dollars in income. That, they say, is unfair. Interestingly, they do not complain about our lowering the rate to 27 percent. They do not say, keep the rate at 50 percent. We eliminated retroactively the investment tax credit as of the first of this year—we will use the money from eliminating the tax credit to allow corporations to lower their tax rate from 46 to 33 percent—most businesses have not complained about using the credit to lower rates, but those that do complain only about the retroactive loss of the investment tax credit, not the lowering of the rates. And you will be able to go through this theme time after time. Capital gains: "It is unfair. I bought my stocks last year expecting to have them taxed at a maximum rate of 20 percent, when the top rate of taxation was 50 percent." Now we are going to eliminate capital gains tax and say what? All income will be taxed at a top rate of 27 percent, with an interesting change. Short term capital gains,

those that have to be held 6 months before they are eligible for any capital gains treatment, can now be taxed at the short term rate, 27 percent, not 50 percent. They would not have to be held for 6 months. If somebody wants to get into the stock market, sell today, buy tomorrow, sell today, buy tomorrow, they will be taxed at 27 percent on all of those exchanges. You have not heard anybody complain about the effect of that change or any question about its being retroactive.

□ 1300

Let us talk about dividends, dividends that you receive from a corporation. You bought the stock last year. You bought the stock 5 years ago. You thought it was a good investment. They are currently taxed at a top rate of 50 percent, but if you receive the dividends in the future they are going to be taxed at a top rate of 27 percent. I am not discovering anybody who bought the stock a year ago or 5 years ago or a decade ago who says that is an unfair change in the retroactivity: "You are now going to tax me lower than I expected when I bought the stock."

Now, Mr. President, we made a very fair arrangement in this bill as far as passive tax shelters are concerned. Passive is a term of art among tax lawyers, so for purposes of discussion here, let us just talk about losses and gains. For years, real estate especially has been the biggest single shelter. Persons of immense wealth put money into it, have expenses greater than their income from it, and write off the excess losses against their income from the practice of law or the practice of dentistry, or the practice of whatever. Those who are genuinely involved in real estate for a profit, who are in it full time, are allowed to write off their losses against their income. We have even said that they can write off their real losses against real income from unrelated projects, even projects unrelated to real estate. They simply cannot write off their losses against their other regular income.

Now, if this amendment comes forth, Mr. President, let me emphasize again, it will open up a loophole which will be the largest loophole that will allow those of immense wealth, with millions and millions of dollars of personal income a year, to escape any taxation.

I do not know where the votes are on such an amendment, but there will be a vote for those who support it, I simply want the record to show and the public to understand that the biggest single loophole that could possibly be put back into this bill is being put back. We have already allowed a 5-year phaseout of the so-called passive losses. A certain percentage can be deducted in 1987, then 1988, 1989, and then 1990. So that you already have 5 years to phase out these passive losses. But in addition to that—and here is where the unfairness comes in—in many of these real estate projects, projects that were built in 1979, 1980, 1981, 1982, or 1983, the biggest single loss was accelerated depreciation, those losses the investors have already taken against a maximum of a 50-percent tax rate. If they had $100,000 in depreciation today, we are saving in essence $50,000 on their income tax. Accelerated depreciation basically says you get to take your big up-front writeoffs early. If you have a building that cost a million dollars and it has a 10-year life, straight-line depreciation would say you take $100,000 a year for 10 years, which equals $1 million. Accelerated depreciation says that you can take more than $100,000 the first year even though it has a 10-year life. If it is a double declining balance, you can take $200,000 the first year and set off $200,000 against your other income in hopes of reducing it to zero and pay no taxes. Most of the real estate projects in existence have already had their first year or 2 or 3 or 4 or 5 of rapid, accelerated, up-front depreciation, which allowed the very wealthy to reduce their taxes to zero or have minimal taxes. Now that we are down to the tail end of the depreciation, what those people are now saying is that we not only want a longer time to phase it out, not only have we already taken the biggest writeoffs against a 50-percent maximum tax level, even now that we are down to a 27-percent tax level and even though you have given us a 5-year further phaseout, we want more.

Mr. President, it is not fair. I would prefer that this amendment not be offered, but if it is going to be offered, let the Senate understand it will reinstate the single biggest personal income tax loophole that exists in the current Tax Code. I yield the floor.

Mr. METZENBAUM and Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I appreciate the comments of the chairman of the committee, and I again want to publicly commend him for the efforts that he has made in bringing this bill to the floor. I have said publicly before I support the bill, and I intend to vote for it come final passage. I have indicated that I am concerned about the loopholes that exist in the bill and the new loopholes and hope to eliminate some or all of those. I will address myself to that very subject.

Now, the chairman of the Finance Committee seems to suggest that the Senator from Ohio is going to come to the floor with a new amendment that is going to protect all the millionaires and he is going to create a new loophole. I would want to assure him that I do not intend to bring any amendment to the floor that will permit taxpayers to zero out. I expect to work with the chairman before offering the amendment in making certain that the language is tight, because I am as concerned as he—and maybe even a little bit more—that what the final product looks like is a fair and equitable one. In addition, we are talking about those who are making a living in the real estate business, those in the business of renting real estate, and I think they are in a somewhat different category than people who just go into real estate because they are dentists or druggists or doctors or whatever and find the use of real estate provides a means for them to shelter other income. I do not intend to bring any amendment to the floor that permits that to happen. Someone else may. I cannot assure the chairman about that. But I know the Senator from Ohio does not have those intentions.

Now, I am concerned about one provision that is in the bill, and I do expect my amendment, when and if it comes to the floor and if we can figure out exact language for it and learn the exact dollar amounts involved, will propose to eliminate the so-called FIRPTA provision, which is the foreign investors in real property provision. The bill does provide special provisions for those foreign investors, gives them a tax advantage that domestic investors do not have, and I believe that that provision should be eliminated.

Now, in 1980, Congress enacted the Foreign Investment in Real Property Tax Act known as FIRPTA. It requires investors who sell U.S. real property to pay taxes on any gains realized. In 1982, Congress strengthened the tax by instituting various enforcement procedures. The bill eliminates that tax altogether. Now, this means that wealthy foreign investors who buy and sell U.S. real estate will pay no U.S. tax, none whatsoever, on their profits.

□ 1310

Why? According to the committee report, the committee believes that FIRPA is an undesirable impediment to foreign investment in U.S. real estate.

On that basis, I suppose you could argue that we should exempt all American investors from paying taxes on real estate transactions, but I am sure nobody is prepared to come to the floor to make that kind of ludicrous argument; so why would we provide the exemption for foreign investors? I see no such reason. This provision, if it remains in the bill, will reduce receipts by $1.2 billion over the next 5 years. The only beneficiaries will be foreign real estate investors.

I look forward to hearing sponsors of the foreign investors provisions dis-

cussed; but, absent compelling additional information, I believe this provision should be stricken from the bill. I hope we may be able to fashion an amendment that would provide for fair and equitable treatment of others who have invested in real estate, particularly those who are active in the real estate investment field and who are actively in the real estate business, as distinguished from those who are inactive or passive investors.

I think all of us agree—particularly the chairman, the Senator from Ohio, and others—that what we are trying to do is to fashion a bill that treats all people equally and treats them fairly.

I want the chairman to know—I am repeating myself—that I do not intend to be a party to the opening of any new tax loopholes, and we will attempt to work out the language with him and his staff, to see that it works out so that everyone can agree that we have made a positive step forward and not a negative step in connection with the equities contained in this bill.

Mr. BOSCHWITZ. Mr. President, I join the Senator from Ohio in the amendment.

I should like to point out to my friend, the chairman of the Finance Committee, the desirability of the bill that he has brought before the Senate; yet, I do take exception to this particular phase of it.

The 5-year phaseout that my friend from Oregon speaks about means that losses that would now be deductible at 100 percent would be deductible in the first year at 65 percent, then 40 percent, 20 percent, 10 percent, and zero—the 5th year being zero. So, perhaps it is not quite fair to count the 5th year as part of the phaseout. Even the 4th year at 10 percent and the 3d year at 20 percent is a very severe phaseout.

I agree with the Senator from Oregon that these kinds of tax advantages at lower rates are less advantageous, and perhaps they should not be in it—somewhat similar to the investment tax credit I spoke about. The fact that the investment tax credit was reduced by 30 percent, I think, is not unfair, inasmuch as the tax rates have been reduced. If the carryover provision with respect to these losses were reduced by 30 percent and allowed to string out over the years, as investors had planned and counted upon, that would not be unfair, in my opinion. But to phase them down to 65, 40, 20, and 10 is indeed unfair. I think the taxpayers have a right to rely upon the tax law. If we want them to make investments in the future, they should be able to rely upon the tax laws, and it is in our interests that they should.

I also say to the Senator that not all these people are in the class of the super rich. Millions of people have made these investments in limited partnerships and other things. While they will not be able to do so in the future—and correctly so, in my judgment—nevertheless, again the question is whether or not their past activities, done under the law as they found it, should now be penalized.

The Senator from Ohio is going to speak about the accelerated depreciation and whether or not it should be allowed in the future. I agree with him that perhaps we should not allow it in the future, and this bill does so allow it in the future. I think that is a way of gaining some revenues and using those revenues to ameliorate the impact of this bill on those who have made investments in the past.

I look forward to more of my colleagues coming to the flooor to speak about this matter. I think it is an important matter. I believe that reliance by taxpayers on the tax law as they find it at the time of their investments is of critical importance to development of the Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, is the Senator from Minnesota seeking the floor?

Mr. DURENBERGER. Yes, I do. I should like 15 minutes.

Mr. METZENBAUM. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, the crisis in rural America did not go unnoticed by the members of the Finance Committee when we drafted this bill. BOB DOLE, CHUCK GRASSLEY, JACK DANFORTH, myself, and many other members of the committee worked with the chairman to help the farming community overcome this crisis.

When I say "crisis," I do not use that word lightly. The Subcommittee on Intergovernmental Relations, which I chair, just issued a report detailing the devastation that has overwhelmed the Nation's heartland.

Farm land values have fallen a staggering $146 billion in the last 5 years—a loss of wealth equal to the combined assets of America's "biggest corporations—$146 billion in lost values is like wiping out every farm in the States of Illinois, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, and Nebraska. In my own State of Minnesota, farm land values dropped 55 percent during the first 5 years of this decade. Iowa saw a 59-percent drop, Missouri, 43 percent—I ask the occupant of the Chair (Mr. DANFORTH), did I pronounce "Missouri" correctly?—Kansas, 41 percent. Net farm incomes, measured in constant dollars, declined 64 percent between 1979 and 1983.

The statistics, Mr. President, are an endless nightmare, and the occupant of the Chair recognizes this as well as anyone else in this Chamber.

It is my belief that the Finance Committee bill may ultimately help to reverse this trend. One of the most significant achievements we have accomplished in this bill is to bring economic sense back into farming. This bill sends a clear and direct message to tax shelter farmers who have distorted the agricultural economy: "Get out of farming and stay out."

For too long, the American family farmer has had to compete with tax shelter farmers who could not tell the difference between a tractor and a combine. We often talk in this body about the unfair competitive practices of our foreign competitors. But what about the farming family that can barely turn a profit because they have to compete with doctors, dentists and lawyers whose only interest in farming is to generate tax losses to offset their five-, six-, and seven-figure incomes?

Mr. President I believe this bill's passive loss rules will sound the death knell to tax-shelter farming. The limits we placed on deducting "prepaid expenses" will close yet another loophole that has attracted urban yuppies to become tax shelter farmers.

We doubled the depreciable life of single purpose agriculture structures—hog pens and chicken coops—so there's less up front tax shelter benefit from these operations. We did that because the old depreciation rules just led to overproduction and depressed prices for hog farmers.

□ 1320

When the tax shelter merchants find no more investment tax credit, longer depreciation lives, and limits on deducting losses, tax shelter farming will come to a dead stop. And then, I believe the farm community will begin to return to prosperity and it is then we will see a renaissance in rural America.

The Finance Committee bill does not just focus on tax shelter farmers. We have tried to help those family farmers who are today struggling to survive and compete. Farm indebtedness is dangerously high. Between 1979 and 1984, farm debt-to-asset ratios climbed 29 percent.

Today, one out of six medium-size farmers and one out of five large farmers are courting bankruptcy with debt-to-asset ratios over 70 percent.

Our legislation directly addresses this problem. We encourage financially troubled farmers to renegotiate their loans with local banks. Then, this bill says that if the bank writes down the loan and gives the farmer the opportunity to get back on his feet and back on the farm, the IRS is not going to come in and tax the farmer on the amount of the loan writedown.

When we adopted this badly needed provision in committee, the effective date of the new rule was never speci-

fied because I believe we all assumed that the provision would go into effect on the first of January 1986. Although the bill adopts a prospective effective date, I have asked the chairman to make the provision retroactive, if a committee amendment is offered. If not, I will offer an amendment making this provision retroactive to January 1, 1986.

For troubled farmers who lost their land through foreclosure, there is some good news. We have extended and redefined tax-exempt bond financing. This will authorize State and local governments across America, but particularly in rural America, to help these farmers to buy new land and get back into farming. And they will be able to use this financing to purchase used equipment, which, as anyone who has traveled in rural America knows, is lying in disuse all across this country today.

Mr. President, these are important changes that I hope will improve the economic and psychological depression that hangs over our Nation's rural communities. The trends we are seeing in the rural economy, of course, are not just a bunch of cold statistics. They have very real implications for very real persons.

Less income means less money for essential goods and services. And health insurance and routine or preventive health care can be discretionary purchases which get neglected, particularly when family finances are put under the kind of economic stress we are now seeing all over rural America.

Health insurance is something that a lot of us take for granted—particularly those of us who are fortunate enough to have one of these cards—and with it access to employer-sponsored group insurance programs.

There are probably 160-some million Americans today that can go into their pockets and pull out one of these little cards. I will not identify the health plan this one designates. But all over America, there are health insurance plans and other health plans and they are insuring people against a catastrophe of the disadvantages of their health.

But not everybody in America has one of these cards, not everybody in America when they are sick or in an accident or when something befalls one of their children can just reach into their pocket and get a ticket to a doctor or hospital.

Most people in rural America, for example, work for themselves; they do not work for someone else, or if they do they are working for a neighbor, or a small employer in a construction business somewhere building homes or building roads. In many cases these people cannot afford to buy health insurance at the rate that the cost of health insurance has risen in America today.

Mr. President, I wish I could bring into this Chamber even a handful of the farm families I have had the privilege of visiting with over the past year—farmers who have spoken with tears in their eyes about the choices they are having to make between food on the table and making health insurance coverage available to their families.

I do not know how recently any of the millions of Americans who are lucky enough to have one of these cards have looked at what it would cost to buy a health insurance policy—if that purchase had to be made out of their own pocket rather than being provided—tax free—by an employer.

Well, I asked—and, I was shocked with what I found out.

The cost of a $100 deductible nongroup insurance policy for a typical farm family in Minnesota is $232 per month—$2,800 per year—all out of after-tax income. After they have paid the taxes on it, if they have $2,800 left, they can buy family coverge.

This situation is shared not just by farmers, but by families of all Americans who are self-employed, temporarily unemployed, not eligible for their employer's health insurance plan because they work part time, or work for a small employer who does not or cannot afford to offer health insurance as a benefit.

Mr. President, it really is not fair that the large corporate executive over here, a very familiar face, a real person, or anybody else who makes $1.6 million a year, can receive $3,300 a year in tax-free health insurance benefits while a farm family in my State or in your State or in any other State in our country, barely able to pay the bills they have for other services, is forced to buy health insurance out of their own pockets without any tax benefit whatsoever. Mr. President, it just is not fair.

Mr. President, that is why I have introduced the Health Equity and Fairness Act, which gives families the same deduction as big corporations for health insurance premiums. There are some important elements of health policy represented in that proposal—but there is also a whole lot of fairness—fairness needed to end this kind of disparity. You work for the Chrysler Corp., you have a pretty secure future, plus you have $3,300 a year in tax-free health benefits subsidized by all the farmers and everybody else in the country. But if you are a farmer in southern Minnesota who last year averaged $5,487 in taxable income, you get zero from the taxpayers of this country by way of a health care subsidy.

We did not get all the hay in the barn on this tax bill, Mr. President, but we have made some major progress. And, one of the things that will help right these kinds of wrongs is the provision in the Senate tax bill allowing self-employed individuals to deduct up to one-half the cost of their health insurance premiums.

Mr. President, that is not enough, but like a lot of things in this bill, it is a start and it is an important start, and one of the things that makes this tax reform bill a good tax reform bill for rural America.

Mr. President, in concluding, I ask unanimous consent that a summary of the report of the Intergovernmental Relations Subcommittee, "Governing the Heartland: Can Rural Communities Survive the Farm Crisis?" which I referred to earlier in my statement, be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

GOVERNING THE HEARTLAND: CAN RURAL COMMUNITIES SURVIVE THE FARM CRISIS?

By the end of this decade, entire communities risk falling victim to the farm crisis unless federal and state policies are fashioned which respond to their growing needs. In the absence of appropriate policy responses, local government revenues in many rural states may fall 20% below the amounts needed to continue current services. At the same time, many rural communities will face increased service demands as financial and emotional stress takes its toll among farmers and main street businessmen. Left alone, such communities will have little choice but to hasten their own decline by raising taxes from a dwindling tax base and by cutting the services needed to promote longterm economic development.

Can rural communities survive the farm crisis? Yes, but only if federal and state governments act creatively to address this growing revenue and service squeeze and help rural America cope with the transition to a more stable agricultural economy.

INTRODUCTION

For three years ominous headlines describing an expanding farm crisis have filled the nation's newspapers. The public has learned of the serious financial problems facing America's farmers, and of the massive drops in farm income and farm land values which have occurred during this decade. Attention has been focused on the direct, often dramatic impacts on individual farmers, their families, and on small businesses in rural communities throughout America.

Another dimension of the farm crisis has been largely overlooked—the growing threat to the financial viability of rural local governments. Declining farm incomes and farm property values erode the local tax base. At the same time, demands for many publicly provided services increase, creating a squeeze between falling revenues and higher costs. In many communities, the financial vise is being tightened further by cuts in federal and state aid.

If these trends continue, rural local governments cannot avoid cutting services and raising taxes. In the absence of such actions, local government revenues will fall short of existing expenditure levels by an average $106 per capita in the eight multi-county regions examined. (figure 1) Under more pessimistic assumptions about further drops in

land values and cuts in intergovernmental aids, per capita revenue shortfalls of $250 or more were estimated for some areas. (figure 18) The higher taxes and reductions in service necessary to overcome such shortfalls have the potential to permanently change the quality of life in the rural America.

THE TROUBLED AGRICULTURAL ECONOMY

Since 1980, net farm incomes have fallen precipitously. From 1980 through 1984, real farm incomes averaged only $25 billion in 1982 dollars, down nearly 40 percent from the average of the seventies and down more than 25 percent from the average of the sixties.

When farm incomes decline, main street spending also falls, eliminating jobs and reducing incomes in the local commercial sector. The size and scope of those impacts was estimated for a nine-county region in southwestern Minnesota. Assuming that the average farm income levels of the early 1980s continue, there are 3650 fewer commercial sector jobs (about 15 percent) than there would have been had the relatively high-income years of the mid-1970s continued.

VANISHING WEALTH

The decline in agricultural income since 1981 has produced an enormous drop in the value of farm land. (figure 4) Nationwide, agricultural land values fell by more than 30 percent, or $227 per acre, during the past four years. Farm land values declined only one other time in the postwar period, in 1954, when they fell by one dollar.

When viewed in constant dollars, the results are even more sobering. Nationwide, between 1982 and 1985, farm land values fell by $146 billion—a loss of wealth for farm land owners equal to the combined assets of IBM, GE, Kodak, Proctor & Gamble, 3M, Dow Chemical, McDonald's, RCA, Upjohn, Weyerhauser, and CBS.

IMPACTS ON LOCAL PROPERTY TAXES.

Over time, this massive devaluation in farm assets will significantly erode the local tax base of rural communities. The impacts are already evident in Minnesota where taxable valuations dropped about 25 percent between 1983 and 1985. In other states, agricultural assessed values have remained relatively stable when measured in current dollars because assessment systems based on agricultural productivity are slow to adjust to changes in market values. Nevertheless, taxable valuations have already dropped an average of 20 percent since 1981 in inflation adjusted dollars. (figure 8) With land values continuing to fall, it is only a matter of time before declines in assessed valuations in current dollars are observed.

Dramatically increased rates of property tax delinquencies are a leading indicator of future problems. Between 1980 and 1985, annual delinquencies jumped severalfold in the Nebraska localities examined—rising from $.75 million to over $5.5 million. Delinquencies also more than doubled in the Iowa, Kansas, Minnesota, and Montana communities surveyed. (figure 10)

THE SERVICE SQUEEZE

Rural governments are being squeezed by increased service demands as well as falling revenues. Many of the new demands for services are a direct response to increasing unemployment in the agriculturally dependent regions. Although national unemployment rates fell 9 percent from January, 1985, to January, 1986, unemployment rose an average of 10 percent in five of the states studied and fell in only two.

Rising unemployment and financial stress are taking their toll on rural Americans and straining social service facilities. A regional mental health center in southwest Minnesota reports outpatient services up 30 percent since 1984; 24-hour crisis intervention activities are up over 300 percent; and substance and family abuse consultations are up 67 percent. Similarly, overall social service demands are up 30 percent in northern Iowa, despite declining population.

DIM PROSPECTS FOR STATE AID

Rural local governments can expect little immediate assistance from their states. State tax bases also depend on the health of the agricultural economy, and many states are under serious budgetary stress. Six of the eight study states had tax revenues grow more slowly than the national average in fiscal 1985, 1986, or both. There were absolute declines in revenues in four of the eight states in one of those two years. Six of the eight states surveyed were forced to take the extreme step of making mid-year reductions in their fiscal 1986 budgets.

FEDERAL AID CUTS COMPOUND THE FISCAL SQUEEZE

Federal aid reductions, past and prospective, are compounding the effects of the farm crisis on rural governments. Between 1982 and 1984, federal aid to general purpose local governments, excluding General Revenue Sharing, rose by .1 percent nationwide. In the eight agriculturally dependent regions examined in this study, federal aid actually declined by 18 percent during that same period.

The proposed elimination of revenue sharing will hit rural local governments twice as hard as the average locality. Revenue sharing comprised 44.5 percent of all federal aid received by agriculturally dependent local governments, but only 21.8 percent of the federal aid received by all general purpose local governments.

POLICY RESPONSES: COPING WITH CHANGE

The fiscal bind confronting rural governments is both immediate and long term. In the short run, the difficulties stem from the rapid rise in property tax delinquencies. The resulting cash flow problems are being compounded by reductions in state and federal aid.

Ultimately, the most serious problems are posed by the dramatic declines in farm land values. But, because assessed values in most states have only begun to reflect the steep fall in market values, serious long-term erosion in public services can still be avoided if prompt actions are taken at all levels of government. For local governments, this means continuing efforts to "do more with less," although there is evidence that many have already exhausted the efficiency gains from cutback management. For state governments, it means diversifying and broadening the tax base and attempting to maintain a constant level of state aids through tough fiscal times. For the federal government, it means preserving a leaner, more targeted version of general aid to local governments and maintaining those portions of the tax code that support local economic development and self-help.

The farm crisis ranks among the most severe regional economic recessions since the 1930s. If left unchecked, it has the potential to seriously—and in some cases permanently—undermine the fiscal foundations of many rural communities. But intelligent policy decisions, made before the situation worsens, can ease the impacts of transition to a more stable agricultural economy, and rural local governments can avoid becoming another victim of the farm crisis.

Mr. INOUYE. Mr. President, a vital element of the tourism industry in the State of Hawaii are the rental car companies. These companies are an important segment of Hawaii's economy.

Because of what must have been a lack of understanding of the rental car industry on the part of the Finance Committee, this tax reform bill has treated this industry in a very harsh manner.

The rental car companies under this bill are faced with a much less favorable depreciation system than present law while other industries received a more favorable treatment. For regular tax purposes, automobiles will be depreciated over 3 years on a straight line basis, and for minimum tax purposes, they will be considered to be 5-year property. Rental cars should be in a 3-year class for both regular and minimum tax purposes. The average rental car has a useful life of less than 18 months.

Car rental companies replace their entire fleets on very short cycles between 13 and 24 months. Since they are such high mileage vehicles, they have to be turned over at such a fast rate for both economic and safety reasons.

Because of competition and uncertainty, companies have had to continue to factor the investment tax credit into their pricing decisions during their current year even though, under this bill, the investment tax credit is repealed as of December 31, 1985.

In addition to the unfair retroactive repeal of the investment tax credit, the rental car companies have an increased burden placed upon them by this bill through the recapture of the ITC. If rental car companies are to turn their fleets over at the same pace as they are presently doing, they need to have relief from the recapture rules of the investment tax credit.

In 1969, the last time the investment tax credit was repealed, companies faced with recapture and replacing their equipment were given relief through a transitional rule. It is only fair and economically right that similar transitional rules also be enacted at this time concerning recapture of the investment tax credit.

I sincerely urge that when this bill goes to conference, that the Senate conferees work with all diligence to remedy the problems created by this tax bill for the rental car companies concerning both depreciation and the recapture of the ITC. If this is not done, the rental car companies in Hawaii and elsewhere will be forced to curtail their operations.

RENTAL CAR DEPRECIATION

Mr. DURENBERGER. Mr. President, I want to join the distinguished

Senator from Hawaii in expressing my concern regarding automobile depreciation in this bill. I am specifically referring to the depreciation preference included in the alternative minimum tax, and how it affects rental care companies.

When the Finance Committee considered how automobiles should be depreciated, I urged the committee to maintain automobiles in the 3-year category. I was especially concerned that, at a minimum, rental automobiles should be included in the 3-year category because most rental companies replace their entire fleets in cycles of 13 to 24 months. Since they are such high mileage vehicles, and because of competitive reasons, most rental car companies just can't afford to keep cars any longer.

The committee adopted an amendment to include automobiles in the 3-year category, but only provided for straight-line depreciation. This is far less generous than current law. However, the Finance Committee bill exacerbates the economic impact on rental car companies. It treats automobile straight-line depreciation over 3 year as a preference, to the extent depreciation exceeds the amount that would be allowed if a car was depreciated over 5 years.

The result of this minimum tax treatment is to significantly reduce the benefit that we intended to achieve when we agreed that automobiles should be depreciated over 3 years. I would hope that the conferees will seriously reconsider this provision and make certain that rental car companies are not so severely penalized by this legislation.

PASSIVE LOSS PROVISIONS OF THE TAX BILL

Mr. INOUYE. Mr. President, I rise to join my colleagues in expressing concern regarding the retroactive application of the passive loss provisions of the tax reform bill we are considering today.

We all agree that tax reform should change tax policy by closing loopholes and shuting down unproductive and responsibility-evading tax shelters.

In doing so, however, we must live by the tenets of fairness and equity. I am concerned that by imposing new restrictions on loss allowances both of passive and active real estate owners and investors retroactively, we fail to adhere to this standard.

Historically, we have tried when enacting tax reform legislation to apply new restrictions to future transactions and activities in order to alter taxpayer behavior. The tax reform bill we are now considering, however, would impact not only future investments, but also existing real estate investments; investments made in good faith based on existing tax law provisions.

I do not feel this is in the spirit of fairness and equity which we have espoused over and over again during the consideration of this bill. If the changes in the treatment of passive losses proposed by this bill are sound—and I feel that in general they are—then they should be instituted. If we start, however, to impose such sweeping reforms as these retroactively, we will make it impossible for businesses across America to plan long-term decisions.

The unfair application of these rules should also be evaluated in light of the effect they would have on the real estate industry today.

If these provisions are applied retroactively, many formerly attractive investments will suddenly become disasters and will be defaulted on. These properties will revert to the banks who financed the deals, putting great strain on them at a time they can ill afford it. All this could have a chilling effect on the construction and housing industries and cause great hardship to lower- and middle-class Americans whose rents could skyrocket overnight. I know this is not the intention of tax reform, Mr. President, and I feel it must be avoided through a fair approach to passive loss rules.

In March 1985, in preparation for congressional consideration of tax reform legislation, Finance Committee Chairman PACKWOOD issued a joint statement with House Ways and Means Chairman ROSTENKOWSKI assuring the business and investment community that changes in tax reform would not be applied to existing transactions. I felt this policy was sound then and I think it remains sound today. If we try to punish people who have made investments within the guidelines of the Tax Code, we undermine the credibility of this and future tax bills.

How can we expect taxpayers to make spending and investment decisions based on this bill if they feel we could turn around next year and punish them for doing so? I feel this is a dangerous precedent to set, and I urge my colleagues to take action to correct this unfair aspect of the tax reform bill.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1340

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PASSIVE LOSS PROVISION

Mr. DECONCINI. Mr. President, I rise today to join with many of my colleagues in an expression of concern over the retroactive implementation of the passive loss provision of this bill before us today.

Americans have a sense of fair play, and the retroactive section of this bill that applies to passive losses is anything but fair play. These new restrictions on passive losses may, as the committee so well maintains here, redirect the country toward profit-based investments, not tax-based investments. And that is a good goal.

However, we are imposing a great penalty on those that followed the will of the Congress over the years in investing in the type of investments that they may have already put their hard working dollars in by making these new provisions retroactive.

I am concerned that retroactive implementation of these provisions as they relate to passive losses will unfairly penalize Americans who made investment decisions based on the current law.

We need to make some changes to ease the transition to this new world of tax reform so that these individuals do not see their investments—in some cases no doubt their life savings—completely disappear.

I am sure the writers of this bill did not intend that. However, we have a decision here where the passive losses for some are extended and for others are totally wiped out.

I have been working with a number of my colleagues to try to find a way to phase in the new restrictions on passive losses on investments. Any proposal I support will be revenue neutral and will not raise the rates above the 15, 27, 33 levels set out in the bill. But I do believe we need to find a way to make this proposal less punitive for existing agreements and existing investments that were made in good faith.

Individuals who took advantage of legal tax shelters that this Congress approved should not be penalized for following the rules as they understood them.

We are about to change those rules, and rightfully so in my judgment. And new investors will know what the rules are. And they will adapt to those rules and make sound investments.

Additionally, I am looking at ways to ensure that all taxpayers who are active, material participants, in real estate are allowed the $25,000 reduction against regular income. The bill as written phases out that allowed deduction between $100,000 and $150,000 adjusted gross income.

I see no reason to treat those people different than some of the other special interests that were allowed to continue passive losses such as the oil and gas industry which we debated last week. If it is good for the geese, it ought to be good for the gander, and in this case the ganders are those who invested in real estate. This is not an

unreasonable proposal in my judgment.

Under the bill, active owners of nonreal estate investments are allowed this unlimited loss deduction. An example of the kind of situation I am describing is as follows: a couple who own, and solely operate a beachfront property of, say, three rental units, under normal conditions the rent collected during the beach season covers all of their expenses—the upkeep, taxes, utilities, insurance, and the interest on their mortgage and probably leaves them some profit. Just prior to the rental season, however, in this scenario, a severe storm came and damaged the units so severely that it eroded the beach, making the property almost useless for part of the season.

As a result, the couple must front a significant amount of cash to revitalize the property, to replace the damage done by the storm, and for awhile the property sits vacant with no tenants on that particular beach.

□ 1350

Additionally, the damage to the beach has caused many vacationers to spend their vacation money elsewhere. In response, the couple must reduce their rents in order to get tenants, even after they have revitalized the property for the remainder of the summer. This couple has an extraordinary cash expense for repairs as well as reduction of anticipated rental income.

These are real losses, not something that they invested in to generate loss, but a real loss. Under this bill, in many cases they would not be allowed to take these losses. Even the $25,000 loss allowed, would be phased out for those making more than $100,000.

I think we need to be a little bit more fair in this transition phaseout area.

As I said before, this is a good piece of legislation, and I mean it sincerely when I compliment the Senator from Oregon and the members of the committee, the Senator from Louisiana, Senator LONG, Senators BRADLEY, BAUCUS, and so many others who have worked so long to put this together.

I know that they struggled long and hard to come up with something that they believed was fair and should not be touched or altered. I believe that it is only fair that we touch or alter this section, particularly in the range that I am speaking of, where we would not change any rate, and we would not lose any dollars. Perhaps we would lower the $25,000 to $20,000 and permit it to be used by everyone.

That is just one suggestion. There will be others coming forward.

Fairplay, Mr. President, has to be the foundation of real tax reform. Do we want to have tax reform that is fair? The answer to that is yes. How can we do that when we single out someone who has a real, genuine loss and cannot deduct that loss against their ordinary income, unless they fall into a certain specific category?

I hope the managers of this bill will consider, if not on the floor, certainly in conference. We can find a neutral solution to this equity in this bill.

Mr. President, I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I am about to send an amendment to the desk, after I decide at what point I will send it to the desk.

I see the distinguished Senator from Oklahoma is on the floor to be the advocate for the amendment that is in the bill. I am frank to say that there is an advocate out there lurking, indicating his concern, Congressman JONES, who has already indicated his position with respect to the Phillips Petroleum amendment. He is obviously in the same position as the Senator from Oklahoma.

I would guess before too long we will be hearing from the other Senator from Oklahoma.

This bill imposes a 10-percent excise tax on funds removed by companies from existing pension plans. Over a period of time, I have addressed myself both on the floor of the Senate as well as elsewhere about the inequity of removing billions of dollars from existing pension plans, thus jeopardizing the retirement security of millions of American workers.

There have been so many egregious cases of these removals. In fact, I always like to think of one particular where a German company bought the A&P Tea Co., the Great A&P Tea Co. Immediately after buying it, they came in and removed from the pension fund more dollars than the total purchase price.

There have been others across the country where we are talking about tens and hundreds and sometimes figures close to a billion dollars.

These funds were put into the pension trust in order that they would be available for retirees. The argument is made that they are now overfunded, that the interest rates were higher, that the stock market was better, and, therefore, these funds can be taken back out.

Sometimes these funds have been taken out in order to contribute the dollars that the company wanted to use for a leverage buyout.

Sometimes they have been used to forestall an effort to take over the company.

Phillips Petroleum Co has decided that it will soon raid its pension plan to remove more than $400 million. It has not done it yet. It just plans to do it.

Then the committee provided a 10-percent excise tax in connection with those removals. But the bill exempts Phillips from the 10-percent excise tax.

That is not all that we have provided for Phillips. In addition, the bill closes a loophole in existing law that has enabled some companies to increase their foreign tax credits by treating interest rates on U.S. debt as though the debt was incurred overseas. That provision is phased in over a 4-year period. In some respect, it has a similarity to the Unocal provision because this money has to do with treating U.S. debt as though the debt was incurred overseas, and that is the same approach that Unocal was using.

But in this amendment, the bill enables Phillips to continue to use this loophole by phasing in the new restrictions over a 10-year period.

We know why Phillips has so much debt. It is somewhat similar to Unocal. It is because the company undertook a massive recapitalization plan to fend off a hostile takeover, first from Mason Petroleum and then from financier Carl Icahn.

I have my own thoughts about takeovers and whether or not these raids should occur and whether or not there ought to be green mail payments made in order to fend off the takeover.

But that is not the issue before us. The issue before us has to do with whether or not the taxpayers of this country are being called upon to provide the financing, to provide the dollars, in order to pay for the cost the company incurred at the time the takeover was brought to a halt.

According to the Joint Tax Committee, these two special concessions will cost $106 million. The taxpayers of the country should not be asked to dig into their pockets for $106 million to subsidize the takeover game.

I have no doubt that we will hear a plaintive cry about how difficult the oil industry is at the moment, or the fact that oil company prices have gone down, mitigating in favor of this provision being in the bill.

I suppose you can make that argument out for any number of companies in this country, that business is not good and, therefore, the American taxpayers ought to subsidize that particular corporation or group of corporations.

This is not a provision that is applicable to a lot of companies. It is applicable to only one company, Phillips Petroleum Co. I believe that it is not

right, that it is not fair, that Phillips be given this extra-special consideration.

I want to point out there is a third provision in the tax bill that takes care of Phillips. That third provision is somewhat less familiar to me but we have examined into it. We thought that at least a logical argument could be made that it was justified to include it as part of the transition rules. But we do not believe that these two are justified and, therefore, we are suggesting that two out of the three special Phillips Petroleum Co. provisions be eliminated, thus resulting in a saving of $106 million for all the rest of the taxpayers of this country.

Mr. President, at an appropriate time I will send an amendment to the desk in order that it may be acted upon at some later point. I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Oklahoma.

□ 1400

Mr. BOREN. Mr. President, I have listened with interest to my good friend and colleague from Ohio as he explained these provisions that are now under discussion that are dealing with transition rules that apply to the Phillips Petroleum Corp., which is a corporate citizen, a very important corporate citizen, of my State. I am very glad to have this opportunity to describe those rules.

Both of those provisions were inserted in the Finance Committee at my request. I am proud of the fact that they were inserted at my request because I think in both cases, they are fully justifiable. I think they are sound. I think they are right in terms of fairness in the tax policy. So I am very pleased to have this opportunity to explain them.

I am very hopeful that, as my friend from Ohio has said, he is willing to listen to explanations of these transition rules. He has stressed several criteria that he is going to use in deciding personally whether he thinks they are justifiable or not. I hope that after he listens to the entire discussion of these provisions, he will decide not to send an amendment to the desk because I think that these are rules that should remain in the bill.

First, the Senator from Ohio said last week that one of the factors that he would weigh in making a decision about opposing transition rules was whether or not those rules had been slipped into the bill through some surreptitious process or whether they had been truly and openly discussed by the committee. During the discussion of the bill in the Finance Committee, as I recall, there was only one transition rule that was fully discussed in open session as opposed to committee session that now fits into the transition provisions. That was the rule relating to interest allocation by the Phillips Petroleum Co.

Not only did I discuss this rule fully with my fellow committee members; I brought it up in open discussion, which was being televised, in the full committee meeting. I explained it fully to the entire committee, offered to propose it as an amendment to the bill. It was suggested to me by the chairman and the staff that it would more appropriately fit into the transition category. So not only is this not a provision that was slipped into this bill through the back door; indeed, it was publicly presented by me with confidence in the merit of this proposition and was presented and discussed with all the members of the committee.

If you were to ask all of us in this body whether or not we believe in retroactive tax policy changes, Mr. President, I think the answer would be no. We realize and we have written into the Constitution, in fact, as it applies to the Criminal Code that we shall not have ex post facto legislation. In other words, it is not fair to change the rules in the middle of the game. It is not right, in the case of the Criminal Code, to make something illegal after the fact rather than before the fact. It would not be right to say that you are subject to a 30-day jail sentence, for example, for wearing a red tie if, on the day that you put on that tie and wore it, it was not against the law to do so. It would not be at all fair a year later to come back and say, "Because you wore a red tie a year ago, you are now going to be subjected to a 30-day jail term." We all recognize that it would not be fair.

I think we also recognize that it is not fair to change the tax rules in the middle of the game. The law is the law. Companies have to make investment decisions. When they make those long-range decisions based upon the law as it is, it is not fair and right to come back retroactively and say, "Oh, we are going to change the rules, and we are now going to levy a different tax on you, even though perhaps you would not have taken the action in the first place if you had known the rules were going to be changed."

So I think bascially as a policy matter, whenever we can avoid it, we all try to avoid retroractivity in the law. We try to avoid changing the rules in the middle of the game. That is exactly what has happened in this situation. That is why we have transition rules in tax bills that change the Tax Code. We try to deal with those individual situations where it is most clearly and patently unfair to change the rules in the middle of the process. That is exactly what we have done in this particular case.

I hope my colleague from Ohio will bear in mind the facts that I am about to present. Let us go back and trace some of the history of what has happened with the Phillips Petroleum Co. over the past 2 or 3 years.

Late in the year 1984, and again in January 1985, this company was subjected to two hostile takeover attempts, the first, as has been mentioned, by the Mesa Petroleum Co. and the second by Mr. Carl Icahn. At that time, the Phillips Petroleum Co. had one of the lowest debt-to-equity ratios in the entire industry, about 30 percent. It was an attractive takeover target because it had been well managed.

Let me say that we have no finer corporate citizen in our State than the Phillips Petroleum Co. Whenever we seek to raise scholarship funds, whenever we try to do anything for our universities, whenever citizens in our State launch a major drive to do something in the public interest and seek the help of the private sector, Phillips Petroleum Co. is always there. They are always among the very first of all our corporate citizens to step up and do their part in helping with worthy projects in our State.

Many of the major companies of my home State have been the subject of takeover attempts by other corporations. We have lost the direction of many of those companies in our State. Their corporate headquarters have moved elsewhere. Companies that previously were independent companies have become subsidiaries of larger, sometimes multinational, corporations that have very little interest in our State. This makes it more and more difficult to raise the private funds and to get the private leadership for things that need to be done voluntarily by private citizens in our State. The maintenance of a home-directed independent Phillips Petroleum Co., especially after the loss of several other major corporations, was important not just to the employees of that company; it was important to our entire State because we needed to continue to have those kinds of home-controlled, home-directed corporate citizens who play such an important part in the life of a State.

During this period of time in which the takeover attempt began, I have heard my good friend from Ohio speak many times on the floor of the Senate about the damage that has been done as corporate raiders have attempted to take over responsible corporate citizens and have done so oftentimes because of incentives in the Tax Code that made it attractive for them to launch these takeover attempts. In this situation, particularly in the case of the second takeover attempt by Mr. Icahn, it was clear that had he succeeded, the Phillips Petroleum Co. would have been liquidated. Experts tell us that had he succeeded in the takeover attempt, the debt to equity

ratio of that company would have been 14 to 1.

All financial experts indicate that when you have a debt to equity ratio that high, there is only one course of action for a company: it must be liquidated and the assets of that company have to be sold off piecemeal. The company in essence ceases to exist and the employees of that company cease to have an employment opportunity. Such a development would have been a disastrous blow to all of the people of my State and of course, it would have been a particularly devastating blow to those in the geographic area surrounding the Phillips Petroleum Co.

□ 1410

And so all of us breathed a great sign of relief when the leadership of the company decided to fight for the survival of that company, to fight for the employees of that company, and to fight, indeed, for the interest of the community where it was located and for the State in which it was located. It was not an easy task, but it was a task that I would have thought the Senator from Ohio would have been here on this floor applauding, as he has decried so often the evils of these takeover attempts in the past.

When it was over, in order to save the company, the Phillips Petroleum Co. which has been one of the least leveraged companies in the industry, now ended up with the highest debt-to-equity ratio of the Fortune 500 companies. By the end of that takeover period, their debt-to-equity ratio had reached 80 percent. They were forced to borrow $7 billion during that takeover period. And since then in order to service that heavy debt, which they had to undertake to save the company, they have been forced to reduce their number of employees from 30,000 to 23,000 and they have also sold off an additional $2 billion of their assets.

Now, Mr. President, that is the situation in which the company has found itself. When we are trying to deal with the fairness and justice of a transition rule, I think it is very important for us to understand all of the facts. Phillips Petroleum did not go into debt voluntarily. Phillips Petroleum Co. did not increase its debt-to-equity because they wanted to somehow reduce their tax burden. They were not looking for a tax benefit. They were not looking for a tax loophole. They were looking to save the jobs of thousands of dedicated and devoted employees. They were fighting to retain the corporate identity in order that they might continue to play the role in the broader community in our State that they had played in the past. And so it was not a voluntary matter that led them to go into debt on this scale. And when they borrowed that additional money, the $7 billion, there were certain rules in place in the Tax Code that gave the company the right—and all companies, not just Phillips Petroleum, all companies that went into debt, the right to deduct their interest payments for tax purposes, in a certain way.

So let it be clear, Mr. President. We are not here seeking some benefit for Phillips Petroleum Co. which changes the current law. That is the second distinction with this particular provision and that which was considered on the floor last week. Not only was this provision discussed in public session, in fact in televised session of the Senate Finance Committee, but, second, it does not change current law. It does not give Phillips Petroleum some benefit that they would not receive if current law were not being continued.

Now, let us talk about why we changed current law. What kind of loophole were we trying to close? What kind of abuse were we trying to curb?

I hope my friend from Ohio will listen to me on this particular point. We proposed changing the law on how we allocate interest for this reason. There were companies which were borrowing money in the United States and deducting fully their interest payments on that debt in the United States to reduce their domestic taxable income. They gave them a tax advantage. In many cases they were then taking the borrowed money, investing that money by buying assets overseas, thereby increasing the income for that company from foreign sources.

Now, when foreign source income goes up, the foreign tax credit also goes up, and that further reduces the taxable income for the U.S. Government of that corporation. So corporations were doing two things to get their taxes down: Borrowing money in the United States and paying interest to reduce the taxable income here at home, and using the borrowed money to buy assets abroad to generate income to build up their foreign tax credits so they again got a further reduction in their taxable income in the United States.

Now, one of the reasons why I introduced this transition rule to benefit Phillips Petroleum Co. is because they are doing exactly the opposite. They are not practicing this abuse. In the first place, they did not go into debt in order to buy some foreign income-producing properties or assets so that they could increase the amount of their foreign tax credits. They went into debt to save the company from a corporate takeover that would have left them with a 14-to-1 debt-to-equity relationship and left them with the dissolution of the company as the only possibility. Not only have they not bought additional foreign assets during this period—in fact, because they are having to operate under this huge debt burden they have sold off $2 billion of foreign assets that they previously had. So they have done just the opposite of what other companies were doing that were seeking to go into debt to gain tax advantage.

I can guarantee the Senator from Ohio, when they undertook this debt they were not undertaking it for tax purposes; they were undertaking it for the purpose of saving the company.

Mr. METZENBAUM. Will the Senator from Oklahoma yield for a question?

Mr. BOREN. I will be happy to yield.

Mr. METZENBAUM. I agree they were not borrowing the money for the purpose of avoiding taxes. But is it not the fact that they are now attempting to gain the advantage of treating these deductions as if they were subject to the foreign tax credit? And by doing so, it is costing the rest of the taxpayers of this country a substantial number of dollars—the two amendments together being $106 million. And is it not the fact that this is a special carve out for one corporation?

Mr. BOREN. No, it really is not that situation. We are not seeking some advantage. I heard the Senator from Ohio say one of the reasons why he opposed the Unocal provision is because it was changing current law, it was giving Unocal some advantage the current law does not give.

In the case of Phillips Petroleum Co., they are not seeking any advantage that the current law does not give to them. In fact, they are not even asking to be grandfathered in, which I think with justice I could ask for this company that has had to go so heavily in debt. It has already lost 7,000 of its 30,000 employees. Much heartache and suffering has already been inflicted because of what has happened to this company, which I think was an unjustifiable takeover attempt by a man who certainly did not intend to keep the company intact or operate it, at least in the second takeover attempt, because it would have been impossible to have done so given the financial situation. They are not even asking that they be allowed to keep the benefit of current law. All they are saying is: "You are going to change the rules on us in the middle of the game. We had to go into debt to save the company and to save those jobs."

Now, here we come as Congress and we say, "Oh, we are going to retroactively change the law. You have made that debt."

They cannot undo that debt. They have made those obligations. But, "We are going to change the rules on you. And we are going to change the rules in a way that we are going to increase your tax burden by somewhere between $100 million and $200 million."

Now, Phillips Petroleum Co. did not even say, "Well, we want to be grandfathered in. We don't want to have any of the change affect us." They simply said, "Given our situation, if you are going to change the rules on us, at least give us some time to adjust." So we have provided in this transition rule a 10-year transition, 10 percent of the tax increase phases in every year for 10 years. Phillips Petroleum under this transition rule will still be paying more taxes—a tax increase for that company of somewhere between $50 million to $100 million—than they would have paid if we had not proposed changing the rules in the middle of the game.

All we are saying is that in terms of justice, since they were not undertaking the debt to get a tax benefit and since they were trying to do it to save the company, we think it unfair to say that we are going to hit them with about a $200 million tax increase by changing the rules in the middle of the game. We are saying, "Well, let's just phase this in and only hit them with half as large an increase as they would otherwise get."

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. BOREN. I will be happy to yield.

Mr. METZENBAUM. As I understand it, the position of the Senator is that it is not fair to change the rules in the middle of the game, but we have changed the rules for consumers, as to what is deductible, as far as their borrowings are concerned; we have changed them for farmers as to the matter of income averaging; we have changed them for the elderly; we have changed them for people who have medical deductions; we have changed all those, and the Senator is saying because we change them with respect to Phillips they are entitled to some special consideration.

So I will just ask my colleague, are all companies receiving the same treatment with respect to foreign tax credits as Phillips?

Mr. BOREN. I would say to my friend from Ohio that all companies are not in the same situation as the Phillips Petroleum Co. Now, let me say——

Mr. METZENBAUM. Why?

Mr. BOREN. In most of the cases that you have talked about we are changing these rules prospectively.

□ 1420

In other words, the tax bill has an effective date. For most provisions, it is going to be January 1 of next year. So when people make a decision next year, or if they are getting ready to make a decision that will take effect next year, they know what the rules are going to be.

As I said to the Senator from Ohio a moment ago, the reason why we passed this resolution—we were not trying to hurt innocent companies or people that had to go into debt for a good reason. The abuse we were trying to stop was the manipulation of the tax law, the current tax law, by some companies to deliberately go into debt, to deliberately increase their interest payments in this country, to get their taxable income down. In many cases, they went to the second step and used that borrowed money to buy foreign-income-producing properties so that they could further increase the foreign tax credit.

Phillips Petroleum Co. is different from those companies. They did not go into debt for that reason. That is the reason why we passed this change. They were not doing that. They went into debt because they had a situation—and the Senator from Ohio and I have had many discussions about this, and I have told him in the course of the last year that I have had to recant and admit many of the things he said on this floor. We were discussing the corporate merger mania and the tax incentives given to some of these corporate raiders to take over companies, the greenmail that has been paid. I have introduced a bill of my own to put a very high tax on those who are paid greenmail.

Mr. METZENBAUM. But when I tried to stop it before, I remember saying to the Senator that on that one, he had indicated originally supporting the antitakeover provision of the Senator from Ohio; and when it came time to vote on it, he went the other way.

Mr. BOREN. The Senator from Ohio remembers that I was not certain at that time that the method he was using was the proper one. I have told him since—and I hope I will hear from the Senator from Ohio the same thing—that I think, upon reflection, that he was right to warn us as he did at that time. Many of the provisions the Senator from Ohio was proposing at that time, I have since introduced, in terms of trying to put brakes on these takeovers.

I hope the Senator from Ohio will end this conversation in the same way that I ended our discussion about the earlier matter.

Mr. METZENBAUM. It may take me as long as it took the Senator from Oklahoma.

Mr. BOREN. I hope not. The Senator from Ohio has a quick mind, quicker than mine.

In all honesty, I say to the Senator that I offered this transition rule, and my colleague understands I did this openly.

Mr. METZENBAUM. The Senator did, indeed. I want to congratulate him on that. He offered this amendment openly, in contrast to many of the other provisions in the Tax Code. He brought it up in the committee, and he attempted to debate it, and it was not one we found out after the fact. That does not mean I think I give him enough credit that I believe the amendment is warranted.

I would like him to address himself to the issue as to the change with respect to pensions.

Mr. BOREN. I will get to that.

I do want to say again to the Senator that I offered this amendment because I sincerely believe it is right.

When we get into transition rules and try to avoid retroactivity and changing the rules in the tax law, it is impossible for us, when we write a new tax bill, to take care of each situation. We have transition rules because we try to identify the most glaring problems, the areas of greatest injustice that are caused by changing the rules.

I simply say to the Senator from Ohio that I think it would be a glaring injustice for us not to provide a transition rule for a company in this situation. We are not dealing with a company that has the normal level of debt. We are dealing with a company that has the highest debt-to-equity ratio of the Fortune 500 companies. We are dealing with a company that undertook the debt voluntarily. We are dealing with a company because it was a responsible corporate citizen, because they care about the employees of that company, that undertook this debt to save the company from what would have been total dissolution and liquidation of that company.

I cannot tell you what it has done to that area of Oklahoma to have had the Phillips Petroleum Co. go through the trying period in which it has found itself through no fault of its own. Already, they have reduced from 30,000 employees to 23,000. I have talked with some of the officers of this company. I am proud of the kind of good citizens they are. I think that if every citizen of this country could sit down and talk to the leaders of that company and judge for themselves the kind of people they are, and understand that they have fought for its survival to save the jobs of good, dedicated, highly trained, hardworking people, so that they can meet the responsibilities they have to their families, their communities, and others, the attitude would be far different.

I can tell you that if this company is hit because of a change in the rules with another $200 million of tax burden—and let us make clear what we are talking about. We are not talking about cutting taxes for Phillips Petroleum Co. Nothing in this transition rule cuts their taxes from the current law. They are going to end up with a tax increase from the current law. What we are saying is that for a company that has had to go into debt to save itself and save the jobs of its em-

ployees, they should not be hit with a massive tax increase.

This transition rule simply cuts in half the amount of the increase. We are not asking the American people to give a tax cut to the Phillips Petroleum Co. and asking other Americans to pay for that. But we are saying that we believe it is a principle of American fairness that you do not change the rules on people in the middle of the game, and especially do not come in and kick people when they are down, when they have had to go so heavily in debt already to save the company.

You do not come in and say that they have had to lay off 7,000 employees already, and we are going to hit them again, so that they can create more tragedy in the communities where that company is located. I do not think that is fair or right. I do not think I would be worthy of serving in the U.S. Senate if I did not attempt to do something to right that injustice.

As I have said, I was proud to offer that amendment in the Finance Committee, and I am proud to defend it now.

I hope my colleagues will sit down and carefully consider what this is all about. It is not wrong to have transition rules in a tax bill. It is not wrong to try to minimize the retroactive effect on taxpayers who are relying in good faith on the law as it existed at the time they had to make decisions. That is not wrong. That is right. That is what should be done.

When we are dealing with companies in this kind of situation, we are dealing with a company that was not using a loophole to reduce its taxes. It did not borrow money to go overseas and buy assets in order to get tax breaks, but, instead, went into debt to save the company, and, even so, had to sell off—not acquire, but sell off—additional assets overseas. Clearly, this is a transition rule that is justified.

Let me go into the second provision that was mentioned by the Senator from Ohio, and the second provision he is considering challenging with an amendment, to strike it from the bill. It has to do with pension reversions.

Again, it has to do with the Phillips Petroleum Co. I have already described the situation in which the company found itself. We are trying now, as best we can—and I have talked to the managers of the company several times. I know the sleepless hours these people are spending, trying to figure out how they can save the jobs of the employees that they have left in that company.

□ 1430

Many, many people have been forced to an early retirement. They are trying to save the jobs that are left.

Several years ago the company greatly overfunded its pension plan. We are not talking about a pension plan that was barely funded. We are not talking about a pension plan that had questions about its actuarial soundness. In fact, impartial experts who have audited the retirement funds of Phillips Petroleum Co. tell us that particular plan has been overfunded by approximately 400 percent. In other words, the company put in four times as much money of company funds as were needed to make sure that all of the benefits promised to the employees would always be able to be paid.

The company, facing this tremendous debt that they now have in order to save the jobs of those that are left, has decided that they should reorganize the pension plan and use the benefit of some of the excess funds that are now in it.

What are they going to use the money for? Are they going to go out and buy more assets as some companies have done? And again we have been very concerned in this body, quite properly so. We do not want companies endangering their pension funds by pulling money out and going and making other business investments with the funds. We do not want that to happen. All of us quite rightly feel very strongly that we must make absolutely certain that those pension funds are secured for the employees.

What is the Phillips' proposal? They are proposing to spin off a part of the excess from the pension fund program and still leave it funded at a 200-percent minimal level in terms of actuarial soundness. In other words, if they take all of the actions that they are proposing they will leave the fund with at least twice as much money in it as is necessary to meet all the obligations to the employees. That is a unique situation in itself. We are not talking about a company spinning off so much from its pension fund that they would leave in question whether or not they could meet the responsibility to their employees. We are talking about a company that has guaranteed they will keep in the pension fund at least 200 percent of the amount necessary to meet all the responsibilities to the employees.

Then what will they use the money for? Not for other business investment. They will use the money solely to reduce the company debt so that they can increase the cash flow and keep from laying off additional employees.

So it is, Mr. President, a special circumstance again. How many companies in this country had overfunded their pension funds by 400 percent? How many are still pledging to maintain a 200-percent overfunding of the pension plan? And in how many cases are companies refunding and refinancing their pension fund solely for the purpose of reducing their debt to save jobs and avoid laying off additional employees?

I do not know of another single case like this in the United States. I do not know of another case where the pension fund is still going to be 200-percent overfunded and where they are going to use the proceeds solely to save jobs.

So, Mr. President, I hope that my colleagues will consider this matter. I hope that my colleague from Ohio will consider this matter. We are dealing here with real people who have real problems. We are dealing with a community, Bartlesville, OK, where the principal source of employment for half of its employees and retirees is the Phillips Petroleum Co., already decimated by a 25-percent reduction of employment.

I know the kind of people we are dealing with in that company. I think I can speak without contradiction that the vast majority of those who are current employees or participants as retirees in that pension fund of Phillips Petroleum Co. would strongly support the action that the company has taken. They want to save the jobs of their neighbors. They want to save the jobs of their coworkers and they know that they can do it under this plan in a manner that will in no way endanger the future soundness of that plan.

So, Mr. President, I simply hope my colleagues will take the time. I urge them to read the fine print of this proposal. Not only should it see the light of day, not only should we be having this discussion, but I hope they will do their homework and look at the provisions of this amendment and understand that we are dealing here with an extraordinary situation, that we are dealing with a saving of jobs, that we are dealing with a situation of basic American fairness, and that is that you do not decimate a company that is already struggling to maintain itself by hitting them with additional unforeseen burdens because you have changed the rules in the middle of the game.

We have had transition rules in tax bills in the past. In my opinion, if there were ever a situation that justified a transition rule, and there are more situations than one, this is that kind of situation. It is appropriate. It is right. It is the kind of thing that I think not only the people of my State but the vast majority of the American people would approve because they understand what fairness is all about. They understand what it means to have responsible corporate citizens who are trying to preserve the jobs of their employees and their role in the community.

So I hope that when this discussion is completed, my good friend from Ohio will weigh the merits. I know he is very sincerely motivated. We have

had many discussions together. I respect him as an individual. I hope he will weigh all of the merits of the case and decide not to offer the amendment.

If I cannot convince him and we end up with a difference of opinion, then I hope my colleagues will take the time to weigh this individual case, will take the time to understand all of the facts, and then will join me in voting to retain this transition rule in the bill.

Mr. NICKLES. Mr. President, I wish to compliment my senior colleague from the State of Oklahoma, Senator BOREN, for the outstanding statement that he just made.

I will save the Senate time by not trying to repeat everything he has mentioned. But the effect of the amendment of the Senator from Ohio would be devastating on this one company.

He seems to have isolated this company because of a couple of transition rules. But look at the essence of the rules and I would hope that maybe the Senator from Ohio will return to the floor so I might ask him a question and maybe we can get to the issue at hand.

I would hope at the same time that after he considers the merit of the transition rules that we have now in the bill he would withdraw his amendment.

I am not yet certain, although I understand he is considering two amendments, and I am not sure which one, if both, he might place before the Senate. I would hope that we would do neither. He talked about the two amendments we have heard discussed. One is the interest allocation.

I wish it were not a fact, but it is a fact that Phillips did incur a lot of debt. I wish that had not happened. I wish that they were not subject to a hostile takeover attempt by a couple different groups. They were. That is a fact. It is history. It has happened.

I wish it was not necessary for them to go into debt, increase their debt load ratio another $4.5 billion in total debt and increase that debt-equity ratio from 30 percent in the third quarter of 1984 to 80 percent in the second quarter of 1985. I wish that had not happened, but it did happen. It is a fact. They incurred that debt under past law. They did not have any special treatment. They had no special exemptions. They incurred that debt to prevent a hostile takeover in order to protect the company and their employees. They incurred that debt under past law, under present law, under the law that is still on the books, a law that would allow them to take the deductions as now that we are talking about changing.

It is unfortunate but now in the bill that is before the Senate we talk about changing that even on past incurred debt. I would question that.

And then we say we will leave in the transition and give a 4-year transition rule. Phillips Petroleum has obtained and increased the debt load to such a significant amount, $4.5 billion on top of previously incurred debt, that a 4-year transition period is not significant or sufficient enough to help them.

So Senator BOREN was successful in inserting a 10-year transition rule because their debt certainly will cover that period of time. We are talking about an astronomical amount of debt for a company the size of Phillips to be able to pass on.

So again we are talking about fairness. They incurred that debt under past law. The really proper transition rule I would think would be one totally excluding them from this provision and making this provision strictly prospective and not retroactive as past incurred debt. Then we would not be here today.

□ 1440

I hope, again, that Senators will look at that and realize what we are talking about, because we are talking about jobs, we are talking about people, and we are talking about a tax change being made retroactively that would certainly adversely affect this company that is already going through some very, very serious and difficult times.

Senator BOREN mentioned that they have actually reduced employment by 7,000 in the last couple of years. There were big headlines in our State papers not too long ago that Phillips Petroleum was reducing their work force by 2,500 in one announcement. They reduced the total number of employees in Bartlesville, their headquarters, in the same announcement; said their total reduction in work force would be 1,000 in the town of Bartlesville, which is not particularly a large town.

I see my friend from Ohio is on the floor. I remember well when Marathon was under attack, a company in the Senator's hometown, that he worked hard to try and defend Marathon Oil, and I complimented him for his efforts then.

I hope that he will look at what we are trying to do here and possibly consider the merits of the arguments that the senior Senator from Oklahoma and myself have made concerning this provision and allow them this 10-year transition period.

They incurred that debt—if I can get the attention of the Senator from Ohio just 1 minute, I will ask the Senator just a brief question, if I could. Is he aware of the fact that Phillips incurred this debt under past law; that they really did not want to incur the debt but found it necessary to do so to defend a hostile takeover? So they incurred it under past and present laws, still the current law. Does the Senator not think it would be only right to allow them to maintain present law since they incurred that debt not for tax avoidance purposes, but really for the purpose of trying to maintain the integrity and health of the company and its employees?

Mr. METZENBAUM. I am aware of the fact that the company incurred the debt under past law. I have no objection to their being able to deduct it under past law. But I want to point out to my distinguished friend from Oklahoma that what this provides is the right to treat it as if it were incurred for foreign debt. That is the point that I am making.

I have no problem about their having the right to deduct under past law—the interest on debts is deductible—but they are asking for a special provision. They are asking for the right to treat it as if it were incurred for foreign debt, and that gives them a special kind of tax treatment that would not otherwise be available except under the provisions of this bill.

I also want to point out——

Mr. NICKLES. If the Senator would be just kind enough to answer that question or comment, I believe he was incorrect. I hope that we could clear that up because I think the Senator would agree they incurred that under present law. It is present law today. And so it was no special tax consideration for the Phillips transaction. They are basically incurring it under present law. Would the Senator agree?

Mr. METZENBAUM. I agree that under present law they would have been permitted to characterize this as foreign debt and therefore get the foreign tax credit. I agree, under the bill, all other companies would be precluded from doing that. I further agree that there is a special carve-out for Phillips. Now, will the Senator from Oklahoma agree with my interpretation to that effect?

Mr. NICKLES. I agree with everything the Senator said—and I appreciate his acknowledgment of what we were talking about—except for the special carve-out. What we are doing is saying or hoping to say that Phillips would be under present law. And even the transition rule that is in there does not allow them to stay under present law, which would be more advantageous to Phillips than this transition rule. This transition rule still penalizes them. It just does it over a longer period of time. If we are going to be philosophically pure about it, we would have maintained present law for that past-incurred debt.

Mr. METZENBAUM. Under current law, how much would they have received as far as tax benefits are concerned and how much will they receive under this amendment?

Mr. NICKLES. I say to the Senator from Ohio, under present law, basical-

ly, in this Senator's opinion, since they incurred that debt under present law, we should be keeping them under present law. However, the transition rule is not even present law. The transition rule moves them under the same law, it just does it over a little longer period of time.

It would be most advantageous, if the Senator from Ohio would like to do it, we will just say that this act will be strictly treated, under present law, when they incurred the debt, so it should be allowed as present law treatment would allow it.

Mr. METZENBAUM. How long is the debt that would be incurred?

Mr. NICKLES. It is a much longer period of time than 4 years. I am assuming it would go well beyond 10 years. You are talking about $4½ billion in additional debt that was incurred between third quarter of 1984 and first quarter of 1985.

Mr. METZENBAUM. The bill gives a 10-year period within which to take advantage of the deduction, is that not correct; this amendment gives that?

Mr. NICKLES. The Senator is correct.

Mr. METZENBAUM. Is it also not a fact that the other part of the amendment makes it possible to handle this 10-percent tax in connection with the termination of a pension plan and that termination has not even as yet occurred, and this provision would make it possible for Phillips to get that advantage and other companies are not given that advantage under the law?

Mr. NICKLES. Well, I believe I have the floor, and I will make a response to the second part.

Let me ask the Senator a question before we go into the reversion side of the issue. Is the Senator's intention to have an amendment both on the interest allocation and on the pension reversion?

Mr. METZENBAUM. The answer is yes; and I think I should also advise you and my other colleague from Oklahoma that it is also our intention to use the proceeds of that for the purpose of providing additional funds so that farmers may do income averaging. In fact, with this amendment and the first $50 million we picked up on the Unocal amendment, we would be able to say to farmers that, if this one passes, we will have mitigated to the extent of 50 percent of the harm being done by income averaging and hopefully will be able to pick that $150 million up with other amendments the Senator from Ohio expects to offer.

Mr. NICKLES. Mr. President, the Senator from Ohio is trying to put some attractive bells and whistles in and I compliment him for his legislative ingenuity. I just hope he is not successful.

It is unfortunate. I wish—again, I will say to the Senator, since he was not here for my opening comments—I wish we were not here. I wish that Phillips Petroleum did not have to incur that $4½ billion fending off the hostile takeover, but they did so under past law and under present law. We are talking about making a change that would change their tax obligation.

So, basically, we said, "OK, since they have incurred such a massive amount of debt, we would let them do that over a longer period of time," which is certainly a reasonable method or resolution to the dilemma that they have.

I wish the oil and gas prices had not fallen in half to where again they had to lay off the number of people and find themselves in the difficult straits that they are in.

Let me make just a couple quick comments to the Senator on the second part of the amendment dealing with pension reversion. The Senator made a statement that, "Well, they have not done it, but it has been common knowledge that they are going to do it." So what is the effect of it?

The Senator from Oklahoma, Senator BOREN, put in an amendment that says, "Well, the 10-percent reversion wouldn't apply."

We are talking about some big dollars. Phillips Petroleum did overfund their pension plan; did overfund it substantially. I wish that they did not have to have this reversion to retire some of this debt but, unfortunately, it is a fact that they do. Their debt load is to such an extent that they have to bring that debt load down and they have been generous with their pension contributions in the past. It is an overfunded plan today and so they are going to have a reversion and use the reversion not to make hostile takeovers, not to give executives high bonuses, but to reduce their debt so the company can survive from a very, very difficult time.

□ 1450

The Senator from Ohio has wrestled on pension issues before, and he went to bat. The Senator from Ohio went to bat for a company in his State, Wheeling-Pittsburgh, a company that had a significantly underfunded pension plan that dumped a lot of those assets on PBGC, and the Senator from Ohio seemed to think that was all right. We are not talking about $50 or $30 million. We are talking about $400 or $500 million. But he went to bat for that company in Ohio. I respect him for it although I disagree with the termination, and all the liabilities going to the rest of the taxpayers, or the rest of any company or participant that was contributing to the Pension Benefits Guarantee Corporation. It did not seem equitable to me.

What we are talking about in this case is a version of an overfunded plan where a company has been generous in the past, where there is going to be at least 100 percent of all the obligations to all their employees under this plan, and use the balance of those funds to reduce this enormous debt load that they find necessary to reduce.

So I hope at the proper time the Senator from Oregon and the Senator from Kansas—and myself or whoever—will move to table the Metzenbaum amendment. I hope we will do it at that time.

Mr. KENNEDY and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would like to very briefly speak on behalf of this transitional rule.

Mr. President, this tax bill I think has been a legislative miracle. It has put together the most salable series of tax changes I have seen here in 14 years in the Senate. And it has been a miracle that it could all hang together.

In order to achieve this miracle, Mr. President, it had to hurt a lot of people. We had to change a lot of rules in the law and take away a lot of vested rights. In order to make a palatable thing, in order to take away these vested rights, the committee had to come back and look at individual cases to see whether unfair became unbearable; whether a change became so difficult that it had to be leavened by the firm hand of the committee in alleviating those worst aspects.

Mr. President, the Phillips Co. is one of those such cases. Using the provisions of existing law they have become the most highly leveraged company in all of the Fortune 500. Without this kind of relief, Mr. President, the Phillips Co. may be another one of those companies that go broke in the midst of the worst oil crisis in terms of the people who work in the oil industry that we have ever seen in this country.

Mr. President, it is a simple case of survival for the Phillips Oil Co. There are three States in this Nation which are most heavily impacted by the oil crisis: my own State of Louisiana, the State of Texas, and the State of Oklahoma. Phillips is one of the biggest employers in the whole State of Oklahoma.

We are not asking to do anything for Phillips that is unfair. All we are asking is to continue in effect the present law. All we are asking is to continue the present law so that they can survive. Why would it make any sense to intentionally try to put out of business one of our major oil companies when imports have gone up 26 percent just in the last few months, and independent oil operators, bug oil companies, and small employers are dropping like flies all around this country, victims of the predatory oil

pricing policies of OPEC and the Saudi Arabians? Why we should not give them at least the benefit of present law, I do not know.

It seems to me, Mr. President, that this transition rule which basically continues present law for this company is a good thing because it allows them to survive, we hope, at a time when the oil industry is an endangered species around this country, and in a very short period of time will again be called upon to fulfill the difference between that which we have in supply and that which is being imported from the Middle East.

Mr. President, I hope we will vote in favor of this transition rule, and against the Metzenbaum amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know the Senate's attention is focused on the various transition rules in the current legislation that is before us. But I would like to take the Senate's time to address the situation which I think merits our focusing on, certainly the world community is focusing on; that is, what is happening in South Africa today.

I would like to ask, Mr. President, that these remarks appear in an appropriate place in the RECORD so as not to interrupt the dialog on this particular transition rule.

(Mr. KENNEDY'S remarks at this point are printed later in today's RECORD.)

Mr. METZENBAUM. Mr. President, we have been talking about transition rules with reference to the treatment of debt. That involved $60 million in the amendment that I shall be shortly sending to the desk. But there is another $46 million that is involved. That $46 million relates to the fact that it is to be a credit or a special exemption for Phillips from the 10-percent tax that is to be placed, under this bill, on pension termination funds.

I must ask my colleagues from Oklahoma, neither of whom is on the floor at the moment, I must inquire of them, on what logical basis can they suggest that Congress exempt Phillips from the 10-percent tax that everybody else is going to have to pay when they terminate the pension plan? I start off with the basis the these pension plans should not be terminated without giving fair consideration to the employees affected. Then I go from there to the point that the committee said, "Well, if they are going to terminate them, we are going to tax them 10 percent."

I understand that. I do not have any quarrel with that. They are going to tax the proceeds 10 percent. But now Phillips comes along and says, "We want an exemption from that 10-percent tax." I have to say, "Why should you get it? You have not even terminated the plan. You are only indicating you are intending to terminate the plan. You are talking about taking $400 million out of the plan. This proposal provides that everybody would pay 10 percent on the proceeds of that termination. You are asking Congress to permit you to be the one corporation in all of America to be exempt from that 10 percent tax."

I have to ask, how many other corporations should be entitled to this same benefit? Is it logical that one company in Oklahoma gets the benefit and a company in Iowa does not get the benefit, a company in Nevada does not get the benefit, a company in New York does not get the benefit, a company in Ohio does not get the benefit?

What kind of special tax legislation is this that says we are putting this tax on all companies except Phillips? I have difficulty in understanding how anybody can come out here on the floor and justify that kind of position.

Mr. LEVIN. Mr. President, would the Senator yield?

Mr. METZENBAUM. I do indeed, Mr. President.

Mr. LEVIN. While the Senators from Oklahoma are not here, I wonder if I could ask the Senator from Ohio to go back to the other portion of his amendment, the portion that relates to the $60 million which he pointed out?

First, let me say that I believe the Senator from Ohio is performing an extraordinarily valuable service in pointing out where this bill is carving out special exemptions from its provisions for particular companies.

Mr. METZENBAUM. I thank the Senator.

Mr. LEVIN. It is a notable venture that he is engaged upon and I think we are all in his debt and the country is in his debt for doing so.

Last week, the Senator's amendment put the spotlight on a company that actually would have been better off as a result of this bill that is before us than they would have been under the existing law. I think the case was a compelling case and I supported the Senator on it.

Mr. METZENBAUM. I thank the Senator for his support.

MR. LEVIN. I have a question on this amendment and I am troubled, frankly, by both aspects of it. I do not know what the right answer here is.

We have a situation where, because of the retroactivity of these rules, this company is going to be worse off than they are under existing law. They relied on the existing law. The rules are being changed on them as they are being changed on millions of other people.

I frankly am troubled by that. I am troubled by the retroactivity of this bill. I think there should be a generic action taken to avoid that retroactivity. I do not believe we should be changing rules on people after they have relied on those rules. In general, I think it is wrong.

Now we have a situation where this bill would change the rules for hundreds of thousands, indeed perhaps for millions of Americans. For instance, on consumer loans; I have constituents who relied on the rules, who went and borrowed money for their kids' education or whatever, because in part, the interest would be deductible on that loan. Now we are saying it will no longer be deductible and we are going to change the rule retroactively; we are going to have a phaseout but we are still changing the rule. So people who went and borrowed money for their kids' education can no longer deduct the interest. I am troubled by it. It is a flaw in this bill and there is no way to put a focus on that flaw, although Senator BOSCHWITZ and others came to the floor on Friday to put a spotlight on that flaw as it applies to real estate.

Would the Senator agree that there is an injustice to this company in changing that rule on them retroactively?

Mr. METZENBAUM. Mr. President, I would agree that whenever you change a rule retroactively, it creates an injustice. Having said that, I have to point out, and the Senator has already stated it, there are innumerable changes that are being made on a retroactive basis. Farmers are being affected by retroactive changes, consumers are being affected by retroactive changes, the elderly are being affected by retroactive changes, real estate people are being affected by retroactive changes. I will accept the concept that by making many of these provisions retroactive, there is an element of unfairness in it.

Mr. LEVIN. Here is the following situation, that this bill does not do justice to all of those groups that relied on the existing rules because we are changing the rules. We are creating an element of injustice for those who followed those rules. Then an amendment comes along and says, for this particular person, however, do justice. Are we not then in a position where we are being asked by the Senator from Ohio not to do justice in this instance to that particular company because no one else is having justice done to them under these rules?

Why should this company get justice when we are perpetrating an injustice on folks who have taken out consumer loans, people who have invested in real estate, the elderly and so forth?

Mr. METZENBAUM. Other oil companies, too.

Mr. LEVIN. Exactly. Is that not the dilemma that we are now in, that the Senator is telling us—I do not know the answer to the dilemma he raised, but the Senator from Ohio is saying

unless we do justice to other people similarly situated, we should not do justice to them? To which I might say, why not do justice on all of them?

Mr. METZENBAUM. I think the problem the Senator has and that the Finance Committee has—because I think many on the Finance Committee would agree with the Senator on retroactivity—but I believe if he made an overall exemption with respect to retroactivity, we would then fall so far short with respect to the proceeds in order to achieve the objective of the bill that it would be tantamount to killing the bill.

The Senator from Ohio has made it clear from the inception, right from the beginning, that he intend to vote for the bill and I think they have done a good job.

□ 1520

I think what you have to say is that whenever you have a piece of legislation there is a certain amount of give and take. There is a certain amount of compromise. Where I come in on this particular point is that there may be a broad-based injustice in making something retroactive but it certainly is far more unjust to say, "Well, but we are going to take one single corporation, who had the right lobbyist or the right friend in the Finance Committee, and provide that that one company will get this kind of consideration."

Mr. LEVIN. Perhaps, though, that company would be worse off as a result of this injustice than some of the other people who are unjustly treated but I will not even disagree with the Senator on that. My point is this: Why do we have to defend the retroactivity of the rule? Why do we not try to cure the injustice for everybody? The only answer I have gotten from the Senator from Ohio and others is that then you will not have enough revenue to do some other things you want to do in the bill—for instance, give a lot of tax cuts to folks. We are giving out $100, $150 tax cuts already to average Americans, at least most of them, we think. We do not know the exact percentage. We think a third of middle-income America may be paying more, two-thirds of middle-income America may be paying less, but in order to have those small tax cuts for at least a majority, we are perpetrating an injustice on folks who have taken out consumer loans or people who have invested in real estate. Is that a goal of this bill, that we should perpetrate injustices on companies and on individuals?

Mr. METZENBAUM. Let me try to make a distinction. I think there is a distinction between the average consumer who takes out a loan in order to buy a car and is going to be adversely affected by this provision's retroactive language and somebody who has been involved in creating a tax shelter and who feels aggrieved because they entered into the tax shelter when the law was one way and did not expect it to be changed. Now, the Finance Committee recognized the problem with that and provided that there would be a phaseout of the benefits of those tax shelters, 35 percent the first year, 25 percent the second year, I guess it is 20, 10 and 10, if my recollection serves me right. So that they recognized that problem.

I come back to the point that I do not know whether they are right about making it retroactive, and I have heard many arguments saying it is unfair with respect to those tax shelters, but at least those people are involved in a situation of not paying any taxes where they may have anticipated somebody at some point would get upset about it. With respect to the consumer who buys an automobile, he or she never had any reason to believe the tax law would be changed and the deductibility of that interest would not be available come tomorrow. But with respect to Phillips, the only argument that I have heard that has any merit, and I do not believe it has much merit, is that they need it, and that the poor oil companies of this country are in bad shape and that Phillips is in particularly bad shape because at first Mesa Petroleum attempted to take them over and then Carl Icahn attempted to take them over and as a consequence they fended off those efforts.

Mr. LEVIN. Will the Senator yield? Has he not heard the argument, because I thought I did, that they also relied on an existing law?

Mr. METZENBAUM. I think they relied on an existing tax law, that is correct, and I think that that is an understandable position. But so did every other oil company.

Mr. LEVIN. I agree. I think we ought to treat all of them fairly and individuals fairly.

Mr. METZENBAUM. I believe that the Senator from Michigan and I would not be in any difficulty if he can figure out a way to eliminate some of the retroactive provisions of the law provided that at the same time you figure out where to get the revenue so that we do not participate in an effort that would unravel the momentum that this bill has, because I have said before and continue to say I support the overall bill.

Mr. LEVIN. I thank my friend.

Mr. METZENBAUM. I want to make it clear that will happen if this amendment passes, and I am a realist enough to know that it is going to be difficult to pass this amendment. But I want my colleagues to understand that there are other things that are happening in this bill that we will be making some effort to correct if we adopt this amendment. At the present time a family farmer whose income is high one year and low the next year has the right to provide for income average. But that right is being denied him under this bill. He can go back and restate his income and therefore not fall in the higher brackets because one year he made $110,000 and the next year he lost $5,000. He is permitted to income average. But that right is being denied him under this bill. And it affects family farmers. Now, it is a fact that farmers suffer from fluctations in income. Some years the crop is good, some years the weather is good, some years the price is right, and some years it is not so good. Today they can income average. Under this bill they will not be permitted to income average. By the bill's terms, it prevents farmers from being forced to pay higher taxes as a result of these fluctations if and only if we adopt this amendment.

Now, let me explain the financial facts. We are talking about $250 million. It is not a munificent sum, but if you happen to be that family farmer who is affected it is a very large sum. The other day in the Unocal amendment we provided that the $50 million which would be picked up if the amendment passed could be allocated by the Secretary of the Treasury in order to mitigate the hurtfulness and the harm of the income averaging provisions. The amendment that I am about to send to the desk provides that the Secretary of the Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised by this amendment as determined by the Joint Committee on Taxation.

That language might be improved upon when it goes to conference, but suffice it to say that if this amendment is adopted, with the $106 million and the $50 million amendment of the other day, which we already have passed, we have $158 million toward solving the problem of the $250 million cost that will be otherwise borne by family farmers. And so I say to my colleagues you have a choice today and your choice is to vote with Phillips Petroleum Co. or we vote to help the family farmers of this country. I hope that the Members of this body will see fit to help the family farmer and not be as concerned about the plight of the Phillips Petroleum Co. as described by the two distinguished Senators from Oklahoma.

AMENDMENT NO. 2081

(Purpose: To strike out a transition rule)

Mr. METZENBAUM. Mr. President, I see that the hour of 3:30 has about arrived. I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2081:

On page 1810, beginning with line 14, strike out all through line 19, and redesignate accordingly.

On page 2134, beginning with line 13, strike out all through line 24.

At the appropriate place insert the following:

The Secretary of the Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised by this amendment as determined by the Joint Committee on Taxation.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, just let me speak very briefly against this amendment, if I might. What you have here——

Mr. METZENBAUM. I am sorry; I could not hear the Senator.

Mr. PACKWOOD. Speaking against the amendment very briefly, what you have is an amendment attempting to pit the poor farmers against the poor employees of Phillips Petroleum. I thought the Senators from Oklahoma made a very good case on behalf of Phillips but in a nutshell let me explain it as follows, if I might. Let us assume you have $100 million in the pension fund and you only need at the moment $70 million to pay the benefits. The company under current law is entitled to withdraw the $30 million. We do not change that. We simply say that if they do withdraw it, there will be a 10-percent reversion tax. That is what the bill is changing to. In Phillips' case, assume the same $100 million example. It is not exactly the same, but for purposes of illustration let us assume it. Let us say there is $100 million in the fund; $70 million is needed for the employees' pensions. Phillips plans to withdraw not $30 million but $20 million. And under the new law there will be a 10-percent tax so that out of their own pocket they will have to pay $2 million on the $20 million withdrawal. In that case what Phillips is going to do is say, "Well, all right, in that case we will take $22 million out of the pension fund. That will take care of the $2 million in taxes, and, at least out of pocket, we will only have to pay $200,000." Who loses on that? Those who are eligible for Phillips' pensions will eventually run the risk of losing, not Phillips.

That is why this is the genuinely transition law.

□ 1530

There is an amendment that I think might be offered at some stage that will attempt to help the farmers with their income averaging, that will not pit the poor farmers against the poor pensioners of Phillips.

So I think the arguments of the Senators from Oklahoma have been well taken, and I oppose the amendment.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I yield.

Mr. METZENBAUM. The Senator from Oregon said that it would not pit the poor farmers against the pensioners. As I see it, the issue is not only the farmers and the Phillips Co.

If the Senator is suggesting that they will ask for more money, I should like to point out that there are limits to what they might do, because they will take out the maximum they possibly can under the rules that are presently applicable. They cannot take any number they want.

Mr. PACKWOOD. The present plan is to take out as much as they legally can.

Mr. METZENBAUM. That is correct. They could take out more; but they are taking out $400 million, or at least they intend to. They have not done anything at this point.

Mr. PACKWOOD. That is correct.

Mr. BOREN. Mr. President, I thank my colleague from Oregon, the distinguished chairman of the Finance Committee, for his statement. I think he is exactly on point.

It is easy for the Senator from Ohio to talk about the Phillips Petroleum Co. We can talk about companies and corporations as if they are somehow disembodied beings, headed by magnates in tall office buildings, who have no connection to reality.

What we are talking about here are real people who are suffering. In the past 2 years, this company, because of the hostile takeover attempts they had to fend off, have lost 7,000 employees already and are reduced from 30,000 to 23,000 employees. If this amendment is adopted, they will have to eliminate many other jobs.

Let us go back for just a moment and review what is being proposed here. In the first place, we had a company that went into debt—not voluntarily but involuntarily. If they had allowed the takeover to succeed, they would have a leverage of 14 to 1 and would have been dissolved and been sold off piecemeal, and all those employees would have lost their jobs.

We have a reported abuse we are trying to correct in the tax laws this year. The abuse is this: A company borrows money in this country so that it can get the benefit of an interest payment deduction in this country to reduce its tax. It uses the money it borrows to go overseas and buy income-producing assets so that it can increase its foreign tax credit and further reduce taxes it pays in this country. That is the abuse.

Is that what Phillips Petroleum Co. is doing? No. They did not borrow money to take advantage of the tax law. They borrowed money to save the company and the jobs of the employees. Have they used the money to buy foreign investment tax credits? No. In fact, they sold off $2 billion of their foreign assets because they are trying to keep the company intact.

So here we have a company which has to go into debt to save itself, which is the most heavily in debt of the Fortune 500 companies. It is now going to have the rules changed in the middle of the game to take care of an abuse that they are not practicing.

I ask my colleagues to consider: Is this what you would call American fairness? Does that meet the American test of fair play, that people will have the rules of the game changed to get at some guilty parties, and then have this innocent party that is affected by debt have the jobs of real people lost, the jobs of real people inpacted? There is nothing fair about that.

The second portion of the amendment also deals with a very special situation. We are not talking about a company that has an underfunded pension plan.

We are talking about a company that had its pension plan overfunded by 400 percent. They are going to spin off part of those funds to use them in a business venture but to reduce their debt and for the very purpose of saving jobs, and they will still have a pension fund funded at a minimum of 200 percent of what is required to pay all the benefits and be actuarily sound. They will still have twice as much money in it as the actuaries say they have to have—again, because they are trying to preserve jobs.

So this is clearly a case where a transition rule is appropriate. It meets the test the Senator from Ohio announced on the floor last week. It has not tried to do something that the current law does not do. It is a transition from current law to something less favorable. There will still be a tax increase to Phillips Petroleum Co. under this provision.

Second, this is a provision, in terms of most of the measure, that was discussed in open meeting, in open session of the committee, and fully considered. It was not something that was slicked-in under some kind of cloak of secrecy. It was done because it should have been done, because it was fair and right to do it.

As I said a moment ago, I do not underestimate for a moment the intelligence or political shrewdness of the Senator from Ohio. He knows that this Senator has fought as hard as any other Senator in this body for the farmers of this country. A little over a year ago, we conducted a filibuster in behalf of the farmers, in trying to get something done about farm credit. He knows that his Senator fervently

wants to see something done to help farmers with their income averaging.

However, as the Senator from Oregon has pointed out, it is not right to solve the problem of one deserving group of people who are hurting from an unfair point of view by going around and attacking another group that is being treated unfairly in the same bill. The solution is to try to find a way to help both with an appropriate offset, not try to pit one deserving group against another deserving group. It is not pitting farmers against an impersonal corporation. We are talking about the jobs of real people at stake.

This Senator will do all he can to help farmers, through an appropriate vehicle—not through this one, by damaging those who do not deserve to be damaged.

● Mr. LEVIN. Mr. President, I will vote against tabling the amendment offered by my colleague from Ohio because I do not believe that action on balance will increase the fairness of this legislation. As I made clear in my earlier discussion with Senator METZENBAUM, I am deeply disturbed by the provisions in this bill which would apply certain changes in the Tax Code retroactively to thousands, perhaps millions, of individuals and corporations. The provision the Senator from Ohio seeks to eliminate would exempt one important, and presumably worthy, corporation from those retroactive provisions. Those companies and individuals who may be just as worthy who were not well connected enough to get a tailor-made provision inserted in this bill will still suffer from the Senate changing the rules in the middle of the game. So we have to ask ourselves—are we adding to the overall equity of this legislation by protecting just one, or a few, of the literally thousands and thousands of taxpayers from the potentially devastating effects of retroactively in these new tax provisions? It is a difficult question, but I have decided we are not. Insulating just a favored few from the retroactive closing of loopholes only serves to underline the remaining inequities in this bill and, indeed may make it more difficult to ahead a just result for the whole on that we would have been beguiled, perhaps, into believing we addressed the "retroactivity unfairness" issue.●

Mr. BOREN. Mr. President, at this time I move to table the Metzenbaum amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1540

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Oklahoma to lay on the table the amendment of the Senator from Ohio.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. I announce that the Senator from Arizona [Mr. GOLDWATER], the Senator from Texas [Mr. GRAMM], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. LAXALT], the Senator from South Dakota [Mr. PRESSLER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. TRIBLE], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

Mr. BYRD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Nebraska [Mr. ZORINSKY] are necessarily absent.

The PRESIDING OFFICER (Mr. MCCONNELL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 73, nays 14, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—73

Abdnor	Evans	McConnell
Andrews	Exon	Melcher
Armstrong	Ford	Mitchell
Baucus	Garn	Moynihan
Bentsen	Gorton	Murkowski
Bingaman	Grassley	Nickles
Boren	Hart	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pryor
Bumpers	Hecht	Quayle
Byrd	Heflin	Riegle
Chafee	Heinz	Rockefeller
Chiles	Helms	Roth
Cochran	Hollings	Rudman
Cohen	Humphrey	Simon
D'Amato	Inouye	Stafford
Danforth	Johnston	Stennis
Denton	Kassebaum	Stevens
Dixon	Kennedy	Symms
Dodd	Long	Thurmond
Dole	Lugar	Wallop
Domenici	Mathias	Warner
Durenberger	Matsunaga	Wilson
Eagleton	Mattingly	
East	McClure	

NAYS—14

Burdick	Kasten	Proxmire
DeConcini	Leahy	Sarbanes
Glenn	Levin	Sasser
Gore	Metzenbaum	Specter
Harkin	Pell	

NOT VOTING—13

Biden	Kerry	Trible
Cranston	Lautenberg	Weicker
Goldwater	Laxalt	Zorinsky
Gramm	Pressler	
Hawkins	Simpson	

So the motion to lay on the table amendment No. 2081 was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to table was agreed to.

Mr. PACKWOOD. Mr. President, if I could announce, it would be my hope that we might be able to have another one or two votes this afternoon. I know the Senator from Ohio has another amendment that he is planning to bring up now. I hope he has another one after that. I think we can go through them in reasonably rapid fashion, and have a couple more votes before 6 o'clock.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I was intrigued today when I read this week's issue of Newsweek. The heading is "Why the Bad Guys Lose." It is a one-page description of what we are doing here this afternoon discussing the tax bill.

The "bad guys are supposed to be 'high voltage lobbysts.'" They are the ones that lose.

So we have here unfolding during this past week, and this week, the effort to just shove this bill right through the Senate, and hopefully get it enacted into law. But those hopes should be moderated somewhat, about the speed of just ramroding or steamrolling a huge, monstrous tax bill through the Senate without proper and adequate examination to see what amendments are essential for it.

Let me tell you some of the people I do not believe Newsweek or anybody else wants to call bad guys. Let me tell you about charitable organizations who feel that they have a big stake in correcting one of the errors in this bill. We had a vote on that last week. We came close to correcting it. But it was not corrected. I do not think we want to call charitable organizations bad guys. Yet they have a big stake in now this bill is finally passed in this Senate.

Then there is some of our young people. Do we want to call them bad guys if they have to pay more taxes? One of the things we pride ourselves on as Americans is let young people save up some dough, save up some money so they can go to college or save up some money so they can get some sort of start. Yet, when you examine some of the examples of young people today who have an exemption on their own and their parents can claim them for an exemption, too, if they still are living at home, you see the changes. Is that intended to make these young people pay some more taxes? If they would feel apprehensive about that and wish we would change

it, are they to be termed "bad guys"? I think not.

Then there is the question of double taxation. There are several examples of that.

□ 1610

One of them, mind you, is taxing the retirement fund a second time after they were already taxed once when the individual employees put money into their annuity accounts, or into their retirement funds.

I do not believe anybody would want to call these retirees bad guys simply because they might object to the fact that this is truly double taxation. So perhaps an amendment would be correct in some of these areas to make this bill workable.

Then, of course, we have the question of IRA's. About 60 percent of the people in this country are looking forward to using IRA's this very year in order to add to their retirement account. To have that tax incentive removed is not very encouraging for saving, not very encouraging for a lot of people whose plans are cemented or rooted in that type of a savings program for their retirement years.

Then there is the question of middle-income people. We have heard this lament for the past several years: Why do the middle-income people have to pay a higher percentage of their earnings into the U.S. Treasury under Federal income taxes?

It was thought that tax reform would somehow alleviate this burden on the middle-income of paying the higher percentage.

Well, there is plenty wrong with this tax bill. There is plenty wrong with it and there is no reason that we should bow or become sort of downtrodden here, those of us who would like to offer amendments to improve it.

But there is a broader group of our basic industries that are going to have to pay more taxes if this bill becomes law as it now stands. These basic industries are agriculture, forest products and mining. They are pretty basic. We built this country. We built this country from the ground up. It is called being an entrepreneur. It is really based on individual families throughout the history of this country, investing whatever capital they have and attempting to make a go of it, whether it is on a farm or a ranch, or whether it is in small business in one of the many communities of rural America, serving the interests of those people in the countryside, producing from their land, farming or ranching, or mining from the earth, mining the minerals that this country needs; or in the forest products industry, felling the trees, logging, bringing them to the mills, converting them into usable lumber and other forest products that we need.

There are some corrections needed in order to protect them, and above all it is necessary to do it now.

Let me review a few of the facts.

Agriculture producers have had losing years. The forest products industry, which is doing a little bit better this year, is on a tightrope. Mining ventures are all going down. Why? Why would we want to make their lives tougher, make it harder for these people to recover, to share in economic recovery, by creating tax policy that will increase their taxes? Income averaging is one of those.

Present in the Tax Code now is the opportunity to average your income. So why would that be necessary? Well, it is very essential for agriculture because of the vagaries of nature—some years there is drought, some years there is hail, some years there is flood, such as South Dakota is suffering from now and perhaps some other States; some years it is grasshoppers or other pests that inflict either grievous damage on the crops or virtually leave the crops without meaning since there is no crop there.

Then there is the market, the economic situation. Right now the market on most commodities is very low. It is sagging yet. We do not know where the bottom is. We do not know whether we have reached the bottom in wheat or corn prices, or whether cattle prices are going to sink lower, whether hog prices are going into another tailspin.

These uncertainties are real and because they are there they make a farmer's or a rancher's income sometimes nothing, sometimes a huge loss, and in those few good years, and we hope and pray there will be good years coming in 1988, 1989, or 1990, to bring some relief to these people who have been pressured with serious losses over the last 5 years. Yet if we do get into some better times when the prices are better, the crops are there, the cattle weigh more, a better price for the cattle, a higher price for the hogs, and farming and ranching are coming up, we would lose income averaging if this bill is enacted as it is now. Therefore, an amendment to leave that existing law alone in regard to agriculture is absolutely essential.

Leave income averaging just the way it is now.

We are told, if we allowed that to happen, that amendment would mean a $300 million change, $300 million less, available in revenue gains.

Well, that is a very small item.

By the way, that is $300 million over 5 years. And yet, it is a very, very big amount when you apply it to the agricultural producers that we have.

The next point I would like to bring up is the question of capital gains. There are a lot of reasons, there are many reasons, why we have had the capital gains law. This bill would wipe it out.

When it applies to agriculture, let me tell you what that could mean to a whole host of farmers and ranchers that are now actively engaged in farming and ranching, whose only retirement hopes are involved with the sale of their farm or ranch upon their retirement.

We should not take that lightly. We have had a lot of discussion on fairness. We have had a discussion on changing the rules after the game has started. This would be changing the rules, changing the law, after the lifetime of work and industry and investment and sweat and toil have been put in, to change the rules to where the sale of their property as a retirement account is deleted or depleted greatly.

I do not think these people should be called bad guys. We have not seen them lobbying. We have not seen a cavalcade of farmers or ranchers in town telling us that they cannot take any tax increases. They are not bad guys. They are not these high voltage lobbyists.

If we are going to do anything about it, it has to be by amendment, and it has to be by individual Senators standing up and talking for these people, fighting for their cause, fighting to help them out.

That does not make a bad guy out of us, I hope. I do not feel that way. I am not wearing a black hat.

I do not think when you are telling the trust, when you are fighting for the very backbone of this country, that there is any term of bad guy in the plot. The bill needs changing. We have had a desperate time in rural America, Countryside U.S.A., over the past several years. When we sing that song "America the Beautiful," we have to think of countryside America, "for spacious skies."

You know, Mr. President, that says something about us. It says something about us that when we talk about a beautiful song to represent our country, we think of "America"—I mean the song. When we sing it, I believe we visualize a very beautiful country, spanning the rural countryside from ocean to ocean, from north to south. We think of people, we think of real, living people representing the very roots of this country, the very starch of this country. And we think of pride, the pride these independence-loving people have who live in rural America. We think of what that means now to the country and what it has meant in the past.

I find it rather sad that we have a tax bill here to affect the tax policy of this country at least for the next generation that would turn its back on rural America, on its basic industries, on those stalwart people who, through their own ingenuity and through their

own investment in time and in money and, in many cases, their entire lives, make this country what it is. There is an old saying that all wealth comes from the earth. It is not farfetched; it is true today as it has been in all times.

These are the people out in the countryside that make that relevant, make it true. I want to speak about a portion of them. I want to speak about those in agriculture for a few moments.

Last year, we passed a new farm bill. It touched on almost every segment of agriculture in America. It touched on the agriculture that is a model for the world of all the agriculture there is in the world. Right here in the United States, we lead in agriculture. We lead in technology. We lead in investment. We lead in production. We create a great abundance of food products and fiber for this country.

The first question that comes up is, is there enough food in the world? We are thinking about the entire world; not just the United States, not just this hemisphere, but the entire world: Is there enough food? That is a logical question. The answer to that is yes, there is enough food. It about balances out 1 year as compared to the other and totaling all of mankind, all of mankind on this entire planet that we call Earth.

Yes, there is enough food for everyone on Earth right now. But it is not properly distributed. Not all people, not all countries produce nearly enough food for their own people. Japan comes to mind immediately. Some countries import. They import from the abundance of other countries. But we have it to export. We have more than enough. Canada is like that, too, and some of the European countries are like that. They have more than enough for their own people and they export a portion of their production.

Does it all balance out? The answer is no, it does not all balance out because the distribution is not equal. There are some countries that do not have enough money. Their people are too poor to buy food. Just as in our own country, where we have so much food abundance, there are some of our own people who do not have enough money to purchase the necessary food for their families.

So, what do we do about that? We have food stamps, we have women's, infants', and children's nutrition programs; we have food banks that are voluntary; we have the Salvation Army, many church groups that pay attention to the poor, particularly the hungry poor. They provide, out of their generosity and their own work, help to them; and out of the Treasury through the Food Stamp Program and WIC and the School Lunch Program, we provide. Out of the Treasury, we provide some of the food to them.

Then, for countries abroad, we have similar programs. For friendly countries, we have Public Law 408 and section 416, food for peace, where we donate food to hungry countries to help them out. And all in all, we still cannot reach everyone.

As a matter of policy, therefore, what we did last year when we passed the farm bill is, we made a policy. Both Congress and the administration made a policy that we would continue to produce large amounts of food, amounts of food so great that we are going to have them in surplus, whether it is wheat or corn or soybeans. We know that. We made that policy. That is what the farm bill was about. It said as a policy for the United States of America, we shall continue large agricultural production even of commodities that are much in surplus for our domestic needs.

How much? Let me tell you, Mr. President, have you ever thought of how much in dairy products we have stored in Federal warehouses belonging to all of us, belonging to the United States? In Federal warehouses, we have 2 billion pounds of dried milk and cheese and butter. That is a lot.

□ 1630

We know we are going to have 1.5 billion bushels of wheat over and above what we need for our domestic needs this year. And we carry about that amount every year, between 1 billion and 1.5 billion bushels of domestic wheat. And do you know what a bushel of wheat weighs? About 60 pounds. Do you know what 1 pound of wheat will do for you? How many calories it has in it? It is about 1,400 calories and it is high energy, too. Boy, it will give you a lot of zip. You eat a few ounces of ground wheat—you can call it cream of wheat or make your own, just grind it up and mix it with a little milk or whatever you like. You eat a few ounces of that in the morning and, I will tell you, you know you have eaten something, you have got a lot of go to you. Fourteen hundred calories? Just 1 pound? And there are 60 pounds in a bushel of wheat. That is a godsend. That is a godsend for mankind. That gives us the opportunity to supply a lot of our nourishment in the United States and a lot of nourishment needed by hungry people around the world.

I could go on about a lot of other surpluses that we have and tell you what that means and what you can do with it, know what a blessing it is. In reality it is a very big blessing. It means a lot to America to know that from year to year you can save some of your land, you can leave some of it idle for good, sound conservation practices, and it still going to produce more, much more than we need, more than enough to supply a whole lot of people, millions of people around the world.

But what does it mean to farmers? What does all this mean to farmers? They get a lot of enjoyment and content out of producing a big, bountiful crop, to do it year in and year out, and to feel all the pain that goes with what that and all the worry and stress that goes with it. But they are not feeling very happy when they look at the price and the price is low because there is more than enough to satisfy our domestic needs and more than enough to satisfy those around the world who have the cash to buy it from us.

What did the farm bill do about that? Well, that is the second policy we established in the farm bill. After we established the dominant one, that there would be big production of crops in the United States, we established a policy that says to American farmers, we are going to try to hold onto you. We are going to try to keep you in business because we like you and because we want big production.

And the farmers wonder which comes first, whether it is because we like them or because we just want big production. Well, it is both. It is both. We want to keep this great agricultural industry in the United States intact and allow it to have economic recovery so they can make a profit again, so they can get some return from their investment and their years of sweat and toil. They have it coming, they really do. They really do have it coming. And so in the bill we protect the grain farmers, dairy farmers, soybean farmers, cotton farmers, corn farmers, sorghum farmers, other feedgrains. We protected them. We protected rice farmers also. And we did it so we can keep them in production, keep them on the land.

There are some farmers I have not mentioned. Not all farmers are protected. Not all farmers fit into one of these programs. Cattle ranchers and feedlot operators do not fit into one of these programs. Hog producers do not fit into one of these farm programs. Their prices are low, too. There is more beef, pork, and poultry than we can consume in this country. They simply have nothing in the farm program. They have not asked us for anything. They realized that once we got into trying to manage their production, it would be a very, very risky thing. They are not asking us to do that.

But what every producer in agriculture expects in this country is some sort of policy that says we are going to utilize the benefits of your production in a worthwhile way and in a manner that means economic good sense for you, and so that is the third part of the farm bill. That is the third great

farm bill policy. And whether it is a good farm bill will be judged on whether this third policy ever comes into effect.

What is that policy? That policy is that the abundance, more than we need for our domestic uses in the United States to satisfy all of our own people, will be utilized elsewhere in the world. It means that you have an import and an export policy that makes some sense. Farm producers of this country are still waiting to see what kind of import-export policy the United States is going to have that makes some sense for them.

What we have right now is chaos. We have imports coming into this country which have aggravated our beef market and they have aggravated our pork market. They have not helped the poultry industry—hurt them in effect. We have that kind of policy. We do not have much of an export policy for these commodities. In fact, we had the very peculiar, very disastrous type of action in the farm bill that I am ashamed of. I opposed it from the word go. It is this dairy herd buyout plan. It pits dairymen against beef producers or pork producers or poultry producers. It creates a big fund, authorizes utilization out of the Treasury of large amounts of money to buy up dairy cows, to take them out of production and pay for them on the basis of their production. Believe me, it costs a couple billion dollars to do that.

Rather than saying we have a surplus of milk and cheese and butter in these Federal warehouses that ought to be utilized by the hungry people in the United States first and by the hungry abroad second, rather than going at it that way, the dairy herd buyout program goes at it by buying out the production factory, bossy cow, buying a dairy herd out and making hamburger out of those fine cows. The week it went into effect, it just staggered the beef market, knocked about $5 a hundred out of it. The beef market was sick before. It was in intensive care immediately.

This is not the way to run the U.S. store of food commodities. This is the wrong way.

I mentioned earlier that we have Public Law 480, section 416. Those are donation programs, called Food For Peace, or we can donate to friendly countries some of our surplus commodities, and we go beyond that. Contained in the farm bill was section 108. What is section 108?

Well, it says that you take some of the commodities and rather than shipping cash to friendly countries and foreign aid and economic security funds, it says here is another opportunity to use something that we have. It is not cash. It is something we bought and paid for. It is surplus commodities in Federal storage, over and above what we need for our domestic needs, for all domestic needs, for all of them, for the hungry here, over and above what we need for all of our needs, including the poor that are dependent upon food banks or the Salvation Army or some private, charitable organization that helps them out with food or they are on food stamps.

□ 1640

Section 108 says that you can utilize some of these surplus commodities by donating them to the very countries to be utilized, not just for their food but as a gift to the country, to private voluntary organizations there. I will mention two or three: CARE or Catholic Relief Services or World Vision, and others like them.

The food can be donated to them so that it can be sold in that country, and the cash that is received in the currency of that country can be used as a fund, for example, to create the capital form a bank of cooperatives, so that from the grassroots level up, those countries can have economic recovery.

What is good about that? There are a couple of things good about that. First of all, we have the surplus commodities, and they are bought and paid for. They are not doing us any good sitting in storage. It costs quite a bit. We spend about $200 million a year just to store it. So if we decrease the surplus commodities, we gain on the other end.

Beyond that, what does it do by reducing the surplus for American farm producers? By reducing the surplus, the market prices of those commodities start to come up. The surplus is so large now that the commodity prices are very low. If you alleviate part of the surpluses, you get a market response, and that gives hope to some of the agriculture producers around our country.

Maybe we have bottomed out, they think; maybe the price has found the very bottom, and now we are going to have increased prices and we are going to start back up where we meet the cost of production and have a profit. It will not come this year, that we get back to the happy day of a profit in agriculture. At least, we would like to see it starting up. We would like to see a little gain. That is what section 108 is for, and there are other portions of the farm bill similar to that.

Food for Progress is one. It is not being utilized yet. The Department of Agriculture tells us that the farm bill is only 6 months old. These farmers are desperate. The Department of State tells us, "We have other good programs, but we haven't gotten around to using them yet. It takes a lot of study." I know it takes a lot of study. That is about all we have had for the last 6 or 7 years. How much study does it take to know what to do with good luck with abundance?

The farmers have to wait. They cannot control this, any more than they can control the weather. They are just there, and they are hanging on. They are barely hanging on.

When I said that the policy of the farm bill is to hang on to as many farm and ranch producers as possible, I meant just that. Liquidations are occurring month in month out, and the effect on them is staggering.

It is also staggering on another group of people connected with them. It is staggering on their brothers and sisters who are helping them in their rural communities—whether it is a feed store or a grocery store, whether it is a dentist or doctor, whether it is somebody working in the rural hospitals of America, whether it is their clergy, the pastor of their local church. They are all together. They are part and parcel of rural America.

Agricultural prices are low. In mining towns, the prices of the minerals are low and the mines are curtailed or down. Because of uncertainty in the forest products industry, they do not know whether the sawmill can continue operation, whether it will make it or not. It is on a tightrope. All those communities are affected. They are also part of rural America.

So I come back to where I started. I come back to the point of this: Is it going to be the policy of this Congress and this country to levy additional taxes on farmers and ranchers and mines and miners, because their jobs are on the line; on forest products, because jobs are on the line in those mills that are shaky?

Is it going to be the policy of this country to make it tougher from them and on those owners of small parcels of land that are producing timber to help satisfy the forest products needs of this country? Is that sound policy—changing the law, making them pay more taxes? I do not believe so. I think it is bad policy.

I do not think these people are bad guys. To the contrary, I think they are very good people, and they deserve our attention and our good judgment.

I could speak about fairness or I could speak about compassion, but I want to speak more directly to the point. I want to speak about what is good for the economy of the United States. I believe these endeavors, family by family, community by community, are endeavors that are essential for the economic wellbeing of the entire country.

We are told that we are enjoying somewhat economic recovery. Economic recovery has not come to rural America. Economic recovery has not come to farmers and ranchers. Economic recovery has not come to mining. Economic recovery is not

really in some of the energy patches of this country. Economic recovery is not out there in the forests for those people working there. Their days are tough. Some of them are not employed. Some of them are desperate for jobs. Their communities are shrinking.

Can you imagine what it means when enough of the producers in an area are liquidating that you have to cut back on the number of stores in the community because there simply is no business, and storefront after storefront is closed down because the owner has had to sell out, is liquidated, or could not continue in business?

Can you imagine what it means to the community life when these people have to move away? Can you imagine how dismal it is to see a main street where one-fourth or one-third of the buildings are unoccupied? Can you imagine what it means to the school districts when they find that they are not getting the same amount of money through taxation, with the same levies, as they had before, and they have had to curtail the school teachers, and some schools have to close down, or hospitals find themselves in a situation where after reducing part of the staff to the level that they think they can absorb and still they are finding that their hospital is such that there is simply no way of keeping it going.

□ 1650

Is that what we want? Of course it is not. That is what we do not want. That is what we want to turn around. We have to see better days. We have to have some assurance that there is going to be enough economic activity in the countryside of America so that they prosper, too.

Above all, we should not create tax policy at this particular time that hampers that recovery.

In the coming days we shall be offering amendments to correct some of the flaws in the bill with regard to these people, and these are people who are the backbone of our country, I believe, just as these industries are the backbone of our country.

There is the argument that says you cannot have little exceptions here or you cannot recognize that because, after all, we have a bill that is of such a balance that if you do anything to it it will all start to come unraveled. Or you might buy that argument that says if it is wrong we will patch it up next year. If it is demonstrated that it is wrong, we are in session next year, and we can make those alterations or those changes that are necessary.

Try to sell that to the banker, if you have a big debt like many of our farmers and ranchers have. If you have a big debt, try to tell that to your banker, or your line of credit, tell your creditors, "Well, you know, they are going to make it better for me next year."

There is an old philosophy that we have in Montana that we are a hard people to convince that when times are tough that next year will not be better. We take perhaps too much pride in that, but that is the way it is and that is the way we are. We have seen drought and a lot of it. We have seen low prices, too much of it. We have seen debt too big and interest rates too high, too much of that. We have seen hailstorms come along and wipe out the crop, or grasshoppers so bad they take half of the crop or more. The felling we always have is well, next year ought to be better.

Let me confess that unless this year is better there is not going to be a next year for a lot of people who are on these farms and ranches. Let me confess that if we do not make something more this year, there are a lot of these small business people in these small towns who are not going to be able to be here next year.

So next year's correction or alteration or improvement of a wrong or straightening out a wrong as we might enact into the Tax Code this year is not a sound argument. It is of no avail at all.

We need to know where we are going this year. We need to see that there is some improvement this year, not a slipping backward. That we cannot afford.

Let me give you some of the other side of the argument, too, because I think it is worth your consideration. The General Accounting Office was asked to present their views on the economic effects of agricultural tax policy, in particular in relationship to this bill. What should be the tax policy? They were able to present some of the statistics to demonstrate what they feel has been happening in American agriculture and where it has either been helped or hindered.

Obviously, our tax policy is just one of the policies that we have in this country that affects an industry like agriculture. We have heard a lot of discussion on this tax bill about passive investment. Passive investment means someone is investing in something to make a profit but they are not actively engaged in whatever the endeavor is.

So the tax bill has been described as removing the advantages of passive investments, in other words, removing tax shelters, because the feeling in this country is that through our Tax Code we have created so many different tax shelters where individuals who wanted to invest their money could make a bigger return simply because of how much taxes would be assessed on any profits made out of such an investment. Hence, the word "tax shelter," to shelter your income from Federal taxes.

So it is considered a very meritorious improvement in the tax bill, some of the features in this tax bill which will change that, repeal, in other words, repeal, a lot of the advantages of this type of passive investment into some type of operation which would be sheltered from taxes and, therefore, escape paying some Federal income tax.

First of all, I want you to clearly understand that we are not talking about making some corrections in this bill for farmers and ranchers, for mining, for forest products. I am only speaking about active people, working people who are engaged actively in investing their money or who are endeavoring through their own efforts to gain from that particular occupation.

Mr. MOYNIHAN. Mr. President, will the Senator from Montana yield for a question at this point?

Mr. MELCHER. Mr. President, I will yield to the distinguished Senator from New York without releasing my right to the floor.

Mr. MOYNIHAN. I very much would like to ask a question of my friend, the distinguished Senator from Montana, who for so long has spoken knowledgeably about agricultural matters on the Senate floor. Would he not agree, or would he share the view of many, that the tax shelters in agriculture, for example feed lots for cattle, are designed solely for the purpose of creating passive losses that can be deducted against nonagricultural income? Which is to say, these activities are not economic; in fact, they do not need to be economic. The only thing they need to be able to do is guarantee losses, and this has had a distorting effect on agricultural markets, not the least being cattle, an industry of some concern to Montana.

(Mr. SYMMS assumed the chair.)

Mr. MELCHER. To answer the question, and I would say to my good friend from New York that he and I briefly discussed this only last week——

Mr. MOYNIHAN. Yes, we did.

Mr. MELCHER. To answer the question, I referred to the General Accounting Office statistics, that collected all the data they said they could lay their hands on, and that says that those who have been investing in tax shelters in a passive way and those who are registered with the National Association of Securities Dealers, Inc.—and from my own knowledge I do not know whether that is a preponderance of those who invest in such shelters or it is a small portion—but at any rate, using their table gathered from that data, it showed that in the early 1970's the number built up to a high point, tapers off in the latter 1970's, and now in the 1980's is almost negligible.

□ 1700

Now, to answer the question, I think that there has been a viewpoint that those who make investment in large amounts in tax shelters of one kind or another, whether it is a feedlot operation or cattle operation to fatten cattle, used as an example, most people in agriculture say that it would tend to distort the market.

Mr. MOYNIHAN. Yes. I would like to say that no one is more knowledgeable on this subject than the Senator from Montana. But, on the face of it, that is the logic, is it not, of people who enter an activity for noneconomic reasons to compete with people who are there to make a living?

Mr. MELCHER. And in terms of those people operating those feedlots and those cattlemen and cowboys that raise the cows that produces the calves that goes into those feedlots, I would tell you that they feel rather strongly that they would like to have it somewhat limited; that they feel if there is a distortion they want to correct it.

So their viewpoint has been, "Well, maybe this is worthwhile in the tax bill." But I must give a very practical warning that when you are trying to make some corrections in an economy as big as the livestock industry, you better be careful that you are not throwing the baby out with the bath water.

So when this bill deals with passive investments in this type of operation in what is termed as a tax shelter, it should not be viewed as something that you just automatically take over to those who are engaged actively and, through their own sweat and toil and their own investment, are making something operate, whether it is a farm or a ranch, cow-calf operation or feedlot, trying to produce something for the United States.

But if it was a big problem in the early seventies, as the General Accounting Office has demonstrated in their chart—and again I repeat for accuracy that these are just data they were able to collect from those registered with the National Association of Securities Dealers, Inc., and may not have included every one—that if——

Mr. DANFORTH. Will the Senator yield for a question?

Mr. MELCHER. I will in just a minute. I want to complete this sentence.

That if their data were representing the vast majority of those types of investment, they are practically nonexistent as of now.

Now I cannot speak to it from my own knowledge. I know what the general viewpoint of our own cattle producers is that it has been a problem and so, therefore, they would feel that that is a plus in the tax bill as it affects those who invest passively, who are not actively engaged in the business.

I am delighted to yield to my friend from Missouri for a question.

Mr. DANFORTH. I simply wanted to ask the Senator from Montana what his intentions are for the remainder of the afternoon. I do have an amendment which I came over to the floor to offer. It is designed to provide at least some ray of hope for people who are living in our small towns and in the rural areas of our country. I would like to offer the amendment this afternoon if I could. But if the Senator from Montana intends to hold the floor, of course, he can, and I will go back to my office.

Mr. MELCHER. Mr. President, I will have some more remarks to make, but might I yield to my friend from Missouri for a description of his amendment without losing the floor?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. It is an amendment which is designed to improve economic opportunities in rural parts of our country.

Mr. MELCHER. Through what means?

Mr. DANFORTH. To try to provide some tax incentives to encourage the location of job opportunities in rural communities.

Mr. MELCHER. I thank my friend from Missouri. I will respond directly. I am very much intrigued by his amendment. Would it take long to discuss it? Might it take an hour or so?

Mr. DANFORTH. My remarks would take probably 15 minutes, something like that.

Mr. MELCHER. I will be sure to keep that in mind, and I will yield the floor in probably about a half hour. Would that be all right?

Mr. DANFORTH. Well, it is your floor. I am trying to figure out whether to go back to my office at this point or stick around. I might go back to the office.

Mr. MOYNIHAN. Will the Senator yield for a comment?

Mr. MELCHER. I yield to the Senator and still hold the floor.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. MOYNIHAN. As the substitute manager of the bill at this point, I think I can, with good conscience, suggest to my friend from Missouri that he might usefully apply himself to such matters as are waiting in his office, as I do not expect that any substantive business will be transacted for the rest of the afternoon.

Mr. DANFORTH. I appreciate the unfailing good advice of the Senator from New York.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MELCHER. Mr. President, the question of the tax shelter and passive versus active investment is one that truly is part of this bill. While we seek some corrections in the bill dealing with matters that affect agriculture producers and dealing with matters that affect woodlot owners in the forest products industry and dealing with matters that affect the mining industry, our amendments are not of the nature that would change any of the present bill's application to those who make passive investments. Simply put, if you are not working at it, if you are not active in it, the amendment would do you no good.

For those who are interested in passive investment in agriculture or mining or forest products, we are simply not offering amendments that they would find advantageous. We only seek the corrections in the tax bill in regard to those who are actively engaged in this industry.

The need for discussing and describing the need for these corrections is one that has had very little airing on the floor of this Senate. It had very little consideration in the Senate Finance Committee when they drafted the bill. It is a need that can no longer be ignored, however, and it must be considered extremely serious and given adequate consideration by the Senate. I hope that our amendments can be accepted.

The acceptance of these amendments is not necessarily going to make it all well in rural America. We do not expect that. We just want to have the amendments accepted so we do not have to take a step backward in rural America. We want to do that because the situation is one where, as I earlier stated, we are hoping the next year is better. But we cannot take a step backward this year and then hope for next year to be better. So it is with this attitude that we approach the problem and it is on this basis that we hope we can have some thorough debate, good consideration, and successful votes adopting the amendments.

□ 1710

The opportunity for amendments were available last week to any and all of us who wanted to offer them. I must now tell you why it was impossible to do that last week. In order to make an amendment balance out as we are doing here in the Senate's consideration, an amendment that does not take away revenue or any more revenue than it allowed within the bill itself, in order to put money back in that we take out we have to find the source of revenue to offset that. It is that simple.

If we are going to take some out, we have to put some back in—the same amendment, so you come out revenue neutral. That is the way we have been considering it.

It is not a bad method. It is a method of prudence. It is a method of guiding us so we do not all of a sudden

find that we have less revenue coming in, and the economy of the United States really cannot stand that.

But it takes hard, firm data to get those figures. That data comes from the Joint Committee on Taxation. We have just been able to get that type of data from them during the past several days. We are still right in the process of really going back to them now. Is this right? Have you considered this point? In order to do that, we have to wait on that Joint Committee on Taxation, and they and their computer have been overworked.

Mr. President, I yield to my friend from Iowa for a question, if I will not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I thank the Senator from Montana for yielding for a question.

I heard the distinguished Senator say earlier in his comments, and he made the observation that many farmers, ranchers, and small business people in small communities have over a period of years built up equity bases in their small business, farm, and ranching operations that really represents for them sort of their retirement policy.

It is true that under the present system—indeed, under the Finance bill that we have before us now—in many cases because of the inflationary increase in the value of the asset they might have, the land they might have, or the small business this person may have built up over the years, that when this person decides to retire and sell that asset the taxes on that sale are not only discriminatory, but they are almost prohibitive. They take so much of the value of that asset that has been built up only because of inflation.

The distinguished Senator from Montana is absolutely right about adding amendments. Last week we were told we could offer amendments but many people could not get the estimates back from the Joint Committee on Taxation to find out what the revenue loss would be from an amendment that we might have, or what the revenue gain might be from the area in which we propose to gain that revenue.

Such is the case with an amendment that I have drafted and which I am proposing to offer hopefully within the next day or two as soon as we get back to our estimates from the Joint Committee on Taxation.

But the distinguished Senator is right on both of those points. I do not feel we ought to be excluded or in any way prohibited from proposing these amendments in the next day or two because we could not get these figures back from the Joint Committee on Taxation.

Second, the distinguished Senator is right. Overall—I believe probably the overall and I do not know if he agrees with me on this—the thrust of this tax bill in the long term is probably more beneficial to farmers and ranchers than the present system right now. However, that is not saying a heck of a lot because the present system right now is not that good for farmers and ranchers.

So the amendment that I shall propose in the next couple of days, I think will redress one failing that we have in the present system which is carried over in the tax bill as reported from the Finance Committee. That is simply this: When the farmer sells the farm of the small business person sells the small business and gets ready to retire, as I said with a tax bill, that really takes a big chunk of money and which is based upon nothing more than the inflated increase in the value of that asset.

So the amendment—if I can have again the further attention of the distinguished Senator from Montana—that I am proposing to offer would provide for a one-time lifetime adjustment in basis let us say for a small farmer or small business person who, as the Senator correctly pointed out, builds up perhaps that asset as their only retirement policy.

So my amendment would propose to allow any person over the age of 55—which goes along the lines of the once-in-a-lifetime exclusion on the gain of the sale of a home or a private residence, and it would provide for that personal rate for those who are materially and substantially engaged in farming or small business—to adjust the basis on real property in the business or farm for inflation for the purpose of calculating the gain upon the sale of the business or farm.

The ownership, in my amendment which I am going to propose, will have to have been maintained for at least 10 years again, to limit the application of this to the average family farm or the small business. I am going to propose that the basis be adjusted only for the first $500,000 of the sale price rather than letting it go on unlimited.

By limiting it to the first $500,000 and that by phasing it out for transactions over $1 million on the dollar-for-dollar basis, then this would really be targeted to those strictly small business, family farm, and family ranch operations.

As I said, for many farmers the sale of their business is in fact a retirement program. Businesses and farms are often property that is held for very long periods of time. For most or all of what may appear to be a large gain, by the time they sell it is only due to inflation and due to nothing else. So the amendment that I am going to offer would help reduce a downward pressure on the price of farmers. That is another effect it would have—caused by the increase in the capital gains rate.

Just as an example of how this amendment might operate, let us say that the sale price of a farm is $500,000. Let us say that the basis in this farm was $100,000; let us say the person bought the farm in 1969 for $100,000. But the sale price today is $500,000.

Since 1969 there has been a tripling in the inflation rates, so the adjusted basis under my amendment would be $300,000. So the net gain from the sale of this house under this amendment would not be $400,000. It would not be the difference between what the farmer purchased it for in 1969 and the sale price today, it would be the difference between the adjusted basis and the sale price.

So rather than having a gain of $400,000, the farmer would only have a gain of $200,000. That is only fair because that gain really, that $400,000 gain has only been the result of the increase in inflation and quite simply put, the farmer or the small business person has not taken anything out of that asset during that period of time other than of course the income that was made off of the operation of that farm or small business.

So under the present bill, or under the bill that is before us, that farmer who is selling that farm at $500,000 who bought it for $100,000 in 1969 would have—get this—would have a tax of $108,000 to pay on the sale of that farm. That is really a discriminatory tax on what is essentially the retirement policy of that farmer.

□ 1720

Under the amendment that I will be proposing, by adjusting that base upward for inflation, the tax would be $54,000. So the farmer would not be excluded from paying any tax, but he would pay a more realistic tax on what the real value of that land was rather than just the artificially inflated value of the land due to inflation.

Another example to help illustrate how this might help in this one situation:

Let us say that a farm was sold for $750,000 and let us say that its base was $300,000 and that the Consumer Price Index had tripled since 1969, to use the same year.

Under the present bill before us, again assuming that farmer bought the farm for $300,000 and now sold it for $750,000, the taxable income would be $450,000, and he would pay $121,500 in taxes on that farm if it were sold.

The amendment that I will be proposing, however, will take the first $500,000 of that and adjust that base upward so that the tax that would be owed by that farmer would be $40,500,

a significant savings to that farmer or that rancher or that small business person.

On the way we propose to get the revenue source to pay for this, to help ease the burden on those small businesses and farmers who are now retiring, without this confiscatory tax, to offset the revenue cost I am proposing that there be an excise tax on large corporate mergers or acquisitions above $250 million. I should have, I hope, within the next 24 hours, a figure from the Joint Committee on Taxation, but it looks as though it will be less than 2 percent. Probably somewhere in the neighborhood of maybe 1.5 to 1.7 percent tax only on mergers and acquisitions above $250 million.

Again, that would only be on companies where the sum of the transactions, as I said, would be more than $250 million.

I think that is a small price to pay by those large mergers and acquisitions. One point five percent? That is not even a fraction of what the investment bankers and speculators make on these large mergers and acquisitions. But just that small amount alone would be enough to provide for these ranchers, farmers, and small businessmen who sell their businesses after age 55 and not have a confiscatory tax laid upon them only because of the effects of inflation for a long period of time.

I am certain, as my distinguished friend from Montana knows, in many areas of rural America today, I know in my home State of Iowa, because of the farm program of this administration and because of what is happening in agriculture, we are seeing a lot of small businesses go out of our small towns and communities. In many cases these are small businesses owned by people who have had them for 20, 30, or 40 years, perhaps. When those businesses go, no one takes them over. They simply close down. Or they are sold, perhaps, to someone else in that community, sold perhaps to another concern. That is where the tax bite hits them very hard because they pay a lot of tax on an artificially inflated price over which they have had no control.

So the real thrust of this amendment is to allow, as I said, these farmers and small business people to have at least some form of retirement income that they have built up with their assets for a number of years. If I am not mistaken, I believe that is one of the points that the distinguished Senator from Montana has mentioned, that these people who are getting ready to retire will be hit with this big tax from the sale of their business or small farming and ranching operation.

Again, I will ask if this was, indeed, one of the points that the senator from Montana was trying to make.

Mr. MELCHER. The Senator from Iowa [Mr. HARKIN] is entirely correct. He has described it very well. Indeed, it is something that we look forward to offering under his leadership, to offer it here on the Senate floor. It makes sense. All those people in rural America, whether on a farm, a ranch, or in their own small businesses in the communities, will have an opportunity to protect what they thought they were doing all their working lives, to save up for their retirement and have a nestegg there of some substance so they could look forward to retirement and the golden years where they would have an adequate income to live decently. It is a very meritorious amendment. I compliment my good friend for preparing the amendment.

I might say that it does add to the point I last made, that we have had to wait for the Joint Committee on Taxation to work these figures through their computer to determine what the cost of a particular amendment is.

Mr. President, I yield to the Senator for a question.

Mr. HARKIN. I thank the Senator.

Mr. President, I compliment the Senator from Montana for his diligence in analyzing this bill, which was sort of put on a steamroller and coming down the tracks, blowing everything out of the way, with them saying, "We cannot have an amendment. They will tear this fragile document apart."

Sometimes when things get on a steamroller it is good to sort of slow it down a little bit, take a look at it and see what the effects are going to be. I think the Senator from Montana has made a great contribution to the debate on this tax bill by really asking the hard questions of just exactly how is this going to affect that individual rancher in Montana, out in the West, or farmers in Iowa and other places. I think there is a mixed bag there.

There are some provisions in this which are not going to be right away to the benefit of those farmers, and, in fact, may make them pay a little bit more in taxes right now.

The Senator from Montana knows that the farmers cannot afford to pay any more taxes. They are hardly making an income right now.

So a hard look has to be taken at this tax bill.

Sure, they can tell me in the long run my family farmers will be better off, but in the short run they are dying. What good is it going to do them 2 years from now if they are not on the farm?

I think, again, that is a great contribution that the distinguished Senator from Montana has made. He has made that point time and time again and it is a point that has to be made. It does not do them any good 2 years from now if they are not on the farm or the ranch. I want to thank the Senator from Montana for making that point clearly and distinctly here on the Senate floor.

Mr. MELCHER. The Senator has been very generous. I thank him.

Mr. President, I want to make a couple of points and then I will yield the floor.

First of all, there is the question presented to any and all of us who want to read it from the Bureau of National Affairs in their report saying that taxes on individuals would increase by nearly $1.4 billion in fiscal 1986 and 1987 under the Senate Finance Committee's overall bill.

Everybody ought to know that. That is because on January 1, if this becomes law as now drafted, the deductions that are allowed, many of them, will be changed, altered, or repealed. Then the lower tax rates will not go into effect on January 1. They will go into effect on July 1. So everybody who is thinking about a tax cut right away better look at the bill.

The fact is that with the state of the economy and the state of the Treasury I suspect additional tax revenues will be highly welcomed next year. That is just on the way the bill is drafted. But there are other points to be made, too.

I advise every taxpayer who is concerned about how much taxes they pay to Uncle Sam to look at this bill to see whether it treats them in a good way or a bad way. If you assume it is a good way, that means a tax cut. The bad way would mean a tax increase. Every individual should look at this and run it through the traces themselves on their own situation. That is only fair. That is only prudent. That is only wise.

There are a lot of people who are going to pay more taxes not just next year but every year. If you are of the opinion that that is OK and the Treasury needs the money to cut the deficit or to spend on whatever program you think it wise that Congress appropriate money for and the Federal Government spends it on, that is OK.

But if you think you are paying enough taxes, that you have had it up to here with how much taxes you are paying in to Uncle Sam and are not in agreement that you want to pay that much, then you had better run it through, too, and see whether you are going to pay more. There is no guarantee in this bill that you are going to get a tax cut. The very rich are going to get a tax cut and the very poor are going to get a tax cut. If you are for the poor, as most people with compassion are, you say that is a good feature in the bill. But if you are for the rich paying less taxes, then indeed, you have a big heart.

That is exactly what this bill does. It will tax at least a third of the middle-income more, and it is going to give a big tax cut to the very wealthy, going

to give a big tax cut to a lot of corporations, some of which need it. On the other hand, it is going to collect some taxes through the minimum tax, which is on the corporations which have been getting away without paying any taxes or very little in taxes. So there is good and bad in it.

I am saying this is not a perfect bill. It has a lot of flaws in it, and they should be corrected as best we can.

There is one more thing I want to bring up. Then I shall ask unanimous consent to have these two items printed in the RECORD.

A letter from the Society of American Foresters, a very worthwhile society, a very professional group, warns us that one feature of the bill is extremely bad for small woodlot operators. I have mentioned that previously. It has to do with capital gains, and the Society of American Foresters makes quite a case in this letter for retaining that feature as it is in current law and, instead of repealing that feature, to make an amendment here, on the Senate floor, to make sure that the current law as it affects the capital gains application to small woodlot owners remains in effect because it is good for the forest products industry, it is good for the woodlot operators, it is good for America.

That is another amendment we shall be offering on the floor. I hope when the time comes, it will have kind consideration and agreement that it is best for the United States to retain such an amendment.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SOCIETY OF AMERICAN FORESTERS,
Bethesda, MD, June 11, 1986.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, DC.

DEAR SENATOR MELCHER: This nation's forests are a most vital natural and commercial resource. Over 70 percent of them are in private ownership. Federal tax policies should reflect a long-term commitment to private landowners to establish trees today for the generations of tomorrow. If tax policies are enacted that work against wise, long-term investment in this treasured resource's future, we as a society indeed will lose.

The forestry profession believes that encouraging investments in private forestlands through federal tax policies is essential to: (1) meet the national demand for wood products, (2) provide equitable treatment for forestry relative to other, nonforestry investments, (3) maintain the U.S. in a competitive posture relative to international trade in forest products, (4) maintain stable private forestland ownership, (5) provide sources of investment capital, and (6) ensure a sound forest environment. Encouragement of these investments must be directed toward both corporate lands and the lands of the six million private citizens who own 58 percent of the commercial forestland in the United States.

The current tax code encourages investment in private forestlands. It fosters the application of sound forest management principles and improves the productivity of the nation's privately owned timberlands. The current federal tax system does this by the treatment of timber income as a long-term capital gain, the deductibility of timber management costs, and amortization and tax credits for reforestation and related stand establishment costs. The current tax code encourages the establishment of trees which help minimize soil erosion, enhance wildlife habitats, and provide for a more aesthetically pleasing environment.

As the enclosed position statement indicates, the Society of America Foresters (SAF) strongly urges that current federal tax provisions relating to private forest lands remain law. We arrived at our recommendation after a thorough study by an SAF task force composed of federal forest taxation experts. They recently completed a comprehensive report on the subject, which will be published shortly. Preliminary copies are available now if you should want one.

The Society of American Foresters, with nearly 21,000 members, is the national scientific and educational organization representing all segments of the forestry profession in the U.S. including public and private practitioners, researchers, administrators, educators, and forestry students. The objectives of the Society are to advance the science, technology, education, and practice of professional forestry in America, and to use the knowledge and skills of the profession to benefit society.

Thank you for your consideration of this important matter. If we can be of further assistance, please feel free to contact me.

Sincerely,

RONALD R. CHRISTENSEN,
Executive Vice President.

TAX REFORM: FINANCE PANEL BILL WOULD RAISE INDIVIDUAL TAXES IN FIRST YEARS, SET 38.5 PERCENT TOP RATE IN 1987

Taxes on individuals would increase by nearly $1.4 billion in fiscal 1986 and 1987 under the Senate Finance Committee's tax overhaul bill, scheduled to be taken up this week by the full Senate, because a host of tax breaks would be scaled back before the dramatic tax rate cuts in the bill fully take effect.

Private analysts maintained that this anomaly puts in question the claims of the bill's authors that the legislation would provide net tax cuts for most Americans. Instead, an analysis by a national accounting firm shows that, for many middle-income taxpayers, the sharp drop in tax rates proposed in the legislation would be outweighed in many instances by the loss of deductions for consumer interest, miscellaneous expenses, individual retirement accounts, and the deduction for two-earner couples, the accounting firm of Arthur Young concluded.

This is especially the case in 1987, when the consolidation and reduction of tax rates would take effect at mid-year, so that a blended tax rate combining current-law and the new rates under the bill would be in effect, the analysis found. But, to some extent, this trend also is found in later years, according to an analysis of the legislation performed by Arthur Young.

This blended rate structure would create a top tax rate of 38.5 percent, rather than 27 percent when the rate cuts fully take effect in 1988.

According to the report accompanying the legislation, which was provided to senators late last week, the bill would increase individual taxes by $815 million in FY 1986, chiefly by repealing the investment tax credit at the start of 1986. Individual taxes would rise by another $561 billion in FY 1987, when the blended rates take effect. However, by the end of FY 1988, individuals would realize a $35.6 billion tax cut, and the total tax cut for individuals would amount to slightly more than $100 billion over six years, FY 1986–FY 1991, according to the report.

Reducing the top tax rate to 38.5 percent in FY 1987 under the blended rate system would provide individuals with a $2.5 billion tax reduction, accompanied by a $13.1 billion tax cut from increasing the personal exemption and a $1.1 tax drop from increasing the standard deduction. However, these tax cuts in FY 1987 are far outweighed by base broadening measures that would take effect at the start of the year, including repealing the two-earner deduction—raising $1.4 billion during the fiscal year—repealing the deduction for miscellaneous itemized expenses—raising $853 million—and repealing the sales tax deduction—raising $714 million.

The committee contended in its report that the legislation reduces individual tax liabilities by 6.4 percent. Individuals earning less than $75,000 annually would receive 73.5 per cent of the benefit of the total cut in taxes, while those earning between $75,000 and $200,000 would receive 10.4 percent of the tax reduction. Those earning more than $200,000 would get 16.1 percent of the benefit. The House-passed version of H.R. 3838 would provide 72.3 percent of the tax reduction to those earning below $75,000, 13.6 percent of the cut to those earning between $75,000 and $200,000, and 14.1 percent of the tax cut to taxpayers earning more than $200,000 annually.

Arthur Young calculated the impact of these rates under the Finance Committee bill for both 1987 and 1988 for taxpayers in six different situations, based on 1984 data of average deductions taken by taxpayers with different incomes.

Because the benefits of the 15 percent tax rate in the bill phase out for single taxpayers with adjusted gross incomes over $45,000, heads of households earning over $55,000, and joint filers earning over $75,000, an additional 2.5 percent of adjusted gross income would have to be added to the taxpayer's total adjusted gross income to determine actual tax liability.

In two cases involving relatively low-income families with one wage earner, the taxpayers would be better off in both 1987 and 1988 under the Finance Committee bill than under present law. In one case, the family filed a joint return and had wages of $40,000 and had one IRA deduction of $2,000.

However, when the $40,000 of wages is broken up into two earners, the loss of the two-earner deduction, an extra IRA deduction, the consumer interest deduction, for miscellaneous expenses causes a tax increase from $4,305 under current law to $5,251 in 1987 under the blended rates. That increase is reduced somewhat in 1988, but the taxpayer is still left with a $279 tax hike compared to present law.

These tax hikes for both 1987 and 1988 are increased dramatically if the same two-earner couple had capital gains income, which would be taxed at a top rate of 27 percent, rather than 20 percent under current law.

Similarly, a two-earner family with combined wages of $120,000 would face a tax increase in 1987 under the blended rates, but would receive a tax cut of nearly $1,000 in

1988. The same couple with capital gains income of $20,000, would find themselves with an even larger tax hike in 1987 of more than $6,000 over current law and a tax hike of more than $2,000 when the rate cuts and personal exemption increases are fully in place in 1988.

"The people who really get hit are those with tax shelters and capital gains," said Larry Goldstein, tax manager for Arthur Young's office in New York City. But he added that "low- and moderate-income people do not necessarily do that well" because the cut in tax rates and the increase in the personal exemption and the standard deduction does not make up for the loss of other key deductions.

The text of the blended rate tables, prepared by Arthur Young, is in Section J.

PROJECTED BLENDED TAX TABLES FOR 1987 UNDER SENATE FINANCE COMMITTEE TAX REFORM BILL (HR 3838)

(Prepared by Arthur Young)

SINGLE

Taxable income [1]	Tax [2]
0–2,670	No tax.
2,670–3,820	13 percent.
3,820–4,940	149.50 + 13.5 percent.
4,940–7,290	300.70 + 14.5 percent.
7,290–9,540	641.45 + 15.0 percent.
9,540–12,120	978.95 + 15.5 percent.
12,120–14,480	1,378.85 + 16.5 percent.
14,480–16,840	1,768.25 + 17.5 percent.
16,840–17,600	2,181.25 + 19.0 percent.
17,600–20,430	2,325.65 + 25.0 percent.
20,430–26,370	3,033.15 + 26.5 percent.
26,370–32,320	4,607.25 + 28.5 percent.
32,320–38,270	6,303.00 + 30.5 percent.
38,270–46,570	8,117.75 + 32.5 percent.
46,570–62,060	10,815.25 + 34.5 percent.
62,060–91,800	16,159.30 + 37.5 percent.
Over 91,800	27,311.80 + 38.5 percent.

[1] In determing taxable income, itemized deductions would be reduced by the 1987 standard deduction of $3,950. For nonitemizers, taxable income is determined without any reduction for the standards deduction.

[2] Brackets based on 1986 rates adjusted for inflation (assumed at 4 percent).

Phase-out of benefit of 15% bracket:

To the tax determined using the table, add 2.5% of AGI in excess of $45,000, with a maximum addition of $1,056. (After 1987 5%, maximum $2,112.)

Phase-out of personal exemptions:

To the tax determined using the table, add 1.35% times number of exemptions times AGI in excess of $87,240, with a maximum addition of $513 per exemption. (After 1987—maximum $540 per exemption.)

HEAD OF HOUSEHOLD

Taxable income [1]	Tax [2]
0 to 2,670	No tax.
2,670 to 4,940	13.0 percent.
4,940 to 7,290	295.10 + 13.5 percent.
7,290 to 9,770	612.35 + 14.5 percent.
9,770 to 13,240	971.95 + 16.0 percent.
13,240 to 16,840	1,527.15 + 16.5 percent.
16,840 to 20,430	2,121.15 + 17.5 percent.
20,430 to 23,500	2,749.40 + 19.5 percent.
23,500 to 26,370	3,348.05 + 25.5 percent.
26,370 to 32,320	4,079.90 + 27.5 percent.
32,320 to 38,270	5,716.15 + 29.5 percent.
38,270 to 50,170	7,471.40 + 31.0 percent.
50,170 to 68,010	11,160.40 + 34.5 percent.
68,010 to 91,800	17,315.20 + 36.0 percent.
91,800 to 121,540	25,879.60 + 37.5 percent.
Over 121,540	37,032.10 + 38.5 percent.

[1] In determining taxable income, itemized deductions would be reduced by the 1987 standard deduction of $3,950. For nonitemizers, taxable income is determined without any reduction for the standards deduction.

[2] Brackets based on 1986 rates adjusted for inflation (assumed at 4 percent).

Phase-out of benefit of 15% bracket:

To the tax determined using the table, add 2.5% of AGI in excess of $55,000, with a maximum addition of $1,410. (After 1987—5%, maximum $2,820.)

Phase-out of personal exemptions:

To the tax determined using the table, add 1.35% times number of exemptions times AGI In excess of $111,400, with a maximum addition of $513 per exemption. (After 1987—maximum $540 per exemption.)

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Taxable Income [1]	Tax [2]
0 to 3,950	No tax.
3,950 to 6,180	13.0 percent
6,180 to 8,530	289.90 + 13.5 percent
8,530 to 13,350	607.15 + 14.5 percent
13,350 to 17,960	1,306.05 + 15.5 percent
17,960 to 22,670	2,020.60 + 16.5 percent
22,670 to 27,610	2,797.75 + 18.5 percent
27,610 to 29,300	3,711.65 + 20.0 percent
29,300 to 33,560	4,049.65 + 26.0 percent
33,560 to 39,500	5,157.25 + 27.5 percent
39,500 to 51,400	6,790.75 + 30.0 percent
51,400 to 67,340	10,360.75 + 32.5 percent
67,340 to 96,060	15,541.25 + 34.5 percent
96,060 to 122,770	25,449.65 + 36.0 percent
122,770 to 182,260	35,065.25 + 38.0 percent
Over 182,260	57,671.45 + 38.5 percent

[1] In determining taxable income, itemized deductions would be reduced by the 1987 standard deduction of $3,950. For nonitemizers, taxable income is determined without any reduction for the standards deduction.

[2] Brackets based on 1986 rates adjusted for inflation (assumed at 4 percent).

Phase-out of benefit of 15% bracket:

To the tax determined using the table, add 2.5% of AGI in excess of $75,000, with a maximum addition of $1,758. (After 1987—5%, maximum $3,516.)

Phase-out of personal exemptions:

To the tax determined using the table, add 1.35% times number of exemptions times AGI in excess of $145,320, with a maximum addition of $513 per exemption. (After 1987—maximum $540 per exemption.)

Mr. MELCHER. Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2082

(Purpose: To provide for the establishment of rural enterprise zones while maintaining revenue neutrality)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] for himself and Mr. ABDNOR, Mr. DURENBERGER, Mr. MATTINGLY, Mr. GRASSLEY, Mr. NICKLES, Mr. ANDREWS, Mr. PRESSLER, Mr. BOSCHWITZ, Mr. KASTEN, and Mr. SYMMS, proposed an amendment numbered 2082.

Mr. DANFORTH. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new title:

TITLE XIX—RURAL ENTERPRISE ZONES

SEC. 1901. SHORT TITLE.

This title may be cited as the "Rural Enterprise Zone Act of 1986".

SEC. 1902. PURPOSES.

The purpose of this Act is to provide for the establishment of Rural Enterprise Zones (REZs) to stimulate the creation of new jobs, to promote revitalization of economically distressed rural areas, and to provide increased economic opportunity for residents thereof, primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services, particularly through the increased involvement of private, local, and community organizations.

Subtitle A—Designation of Rural Enterprise Zones

SEC. 1911. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Rural Enterprise Zones

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'rural enterprise zone' means any area—

"(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as a rural enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as a rural enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as a rural enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of a rural enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as rural enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1987.

"(C) NUMBER OF DESIGNATIONS.—The Secretary of Housing and Urban Development may not designate—

"(i) more than 45 nominated areas as rural enterprise zones under this section, and

"(ii) more than 18 nominated areas as rural enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation of an area as a rural enterprise zone under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as a rural enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of such area is already included in a rural enterprise zone or in an area otherwise nominated to be a rural enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a rural enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as a rural enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is—

"(i) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

"(ii) outside of a metropolitan statistical area (within the meaning of section 103A(l)(4)(B)), or

"(iii) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be a rural area.

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least 1,000, or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, or distress, having met 1 of the following criteria:

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period,

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relates,

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available), and

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section.

"(4) WAIVER UNDER CERTAIN CIRCUMSTANCES.—The Secretary of Housing and Urban Development may waive the requirements of paragraph (3)(B) for 1 area in each State if no area in such State otherwise meets the requirements of paragraph (3)(B).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as a rural enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a rural enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the rural enterprise zone,

"(B) an increase in the level or efficiency of local services within the rural enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the rural enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the rural enterprise zone.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the rural enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as a rural enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the rural enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a rural enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau; and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter D—Designation of Rural Enterprise Zones".

SEC. 1912. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the third calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as rural enterprise zones under section 7891 of the Internal Revenue Code of 1954, and at the close of each third calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 1913. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of a rural enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of a rural enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

Subtitle B—Federal Income Tax Incentives

PART I—CREDITS FOR EMPLOYERS

SEC. 1921. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED RURAL ENTERPRISE ZONE EMPLOYMENT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 43. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.— For purposes of section 38, the amount of the rural enterprise zone credit determined under this section for any taxable year shall be an amount equal to 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year.

"(b) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all rural enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) DOLLAR AMOUNT LIMITATION AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed an amount which is equal to the lower living standard for a family of 4 as determined by the Bureau of Labor Statistics for the calendar year with or within which such taxable year ends.

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any rural enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the rural enterprise zone was designated as such under section 7891, or

"(ii) the date on which the rural enterprise zone was designated as such under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (d)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for the calendar year with or within which the taxable year for which the amount of the credit under subsection (a) is being computed ends.

"(c) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(d) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) who resides during the taxable year in a rural enterprise zone,

"(B) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in a rural enterprise zone,

"(C) who performs at least 50 percent of his services for the employer during the taxable year in a rural enterprise zone, and

"(D) whose wages for the taxable year do not exceed 2 times the dollar amount determined under subsection (b)(2).

"(2) EXCEPTION FOR INDIVIDUALS PREVIOUSLY EMPLOYED BY THE TAXPAYER OR RELATED TAXPAYERS.—The term 'qualified employee' shall not include an employee of the taxpayer in a rural enterprise zone who has previously been employed by the taxpayer (or by a related taxpayer as defined in section 267(b)) after the beginning of the 12-month period described in subsection (b)(3) at a location other than a rural enterprise zone unless the Secretary determines that the taxpayer's primary purpose for employing such an employee in the rural enterprise zone is not the evasion or avoidance of Federal income tax.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 40(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as a rural enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (b)(2), and the base period wages determined under subsection (b)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (c)(2) and the 90 percent and 50 percent tests set forth in subsection (d)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as a rural enterprise zone is in effect.".

(b) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit), as amended by section 1413(b)(1), is amended by striking out "plus" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(6) the rural enterprise zone credit determined under section 43(a)."

(c) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR RURAL ENTERPRISE ZONE CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined under section 43. This subsection shall be applied under a rule similar to the rule of the last sentence of subsection (a)."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 43. Credit for rural enterprise zone employment."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

PART II—DEFERRALS OF GAIN OR LOSS WITH RESPECT TO INVESTMENT IN TANGIBLE PROPERTY IN RURAL ENTERPRISE ZONES

SEC. 1922. NONRECOGNITION OF GAIN OR LOSS ON THE SALE OF RURAL ENTERPRISE ZONE PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. NONRECOGNITION OF GAIN OR LOSS ON THE SALE OF RURAL ENTERPRISE ZONE PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

"(a) IN GENERAL.—No gain or loss shall be recognized on the sale or exchange of rural zone enterprise property of the taxpayer if the proceeds realized from such sale or exchange are used by the taxpayer to acquire rural enterprise zone property within the qualified period.

"(b) RURAL ENTERPRISE ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'rural enterprise zone property' means—

"(A) any tangible personal property which is acquired and placed in service by the taxpayer in a rural enterprise zone during the period the designation as a zone is in effect under section 7891 and which is used predominantly by the taxpayer in the active conduct of a trade or business within such zone,

"(B) any real property located in a rural enterprise zone which is acquired by the taxpayer during the period the designation as a zone is in effect under section 7891 and which is used predominantly by the taxpayer in the active conduct of a trade or business, and

"(C) any share of stock of a corporation or interest in a partnership or other entity if, for the most recent taxable year of such entity ending before the date of acquisition of such interest, such entity is a rural enterprise zone business.

"(2) RURAL ENTERPRISE ZONE BUSINESS.—The term 'rural enterprise zone business' means any person—

"(A) which is actively engaged in the conduct of a trade or business during the taxable year,

"(B) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business which produced goods, or provides services, within a rural enterprise zone, and

"(C) with respect to which substantially all the tangible assets of such person are located within a rural enterprise zone.

"(3) PROPERTY REMAINS QUALIFIED AFTER RURAL ENTERPRISE ZONE DESIGNATION CEASES TO APPLY.—

"(A) IN GENERAL.—The treatment of property as rural enterprise zone property under paragraph (1) shall not terminate when the designation of the rural enterprise zone in which the property is located or used ceases to apply.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply after the first sale or exchange of property occurring after the designation ceases to apply to the rural enterprise zone.

"(c) QUALIFIED PERIOD.—For purposes of this section, the term 'qualified period' means the period which ends 12 months after the date of the sale or exchange of rural enterprise zone property.

"(d) BASIS OF ACQUIRED RURAL ENTERPRISE ZONE PROPERTY.—If the acquisition of rural enterprise zone property by a taxpayer results in nonrecognition of any gain or loss on the sale or exchange of other rural enterprise zone property of such taxpayer under subsection (a), the basis of such taxpayer in the acquired rural enterprise zone property shall be the cost of such property—

"(1) decreased by the amount of gain which was not so recognized, or

"(2) increased by the amount of loss which was not so recognized.

If such acquired rural enterprise zone property consists of more than 1 item of property, the basis determined under the preceding sentence shall be allocated among such items in proportion to their respective costs.

"(e) STATUTE OF LIMITATIONS.—If the taxpayer during a taxable year sells or exchanges rural enterprise zone property at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's intention not to acquire any rural enterprise zone property within the qualified period, or

"(B) a failure to make such purchase within the qualified period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions), as amended by section 1101(e)(1) of this Act, is amended by inserting after paragraph (27) the following new paragraph:

"(28) RURAL ENTERPRISE ZONE PROPERTY.—The acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of applying section 1043."

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (25), by striking out the period at the end of paragraph (26) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(27) to the extent provided in section 1043(d) in the case of the property the acquisition of which resulted in nonrecognition of gain or loss on other property under section 1043(a)."

(3) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held property, the acquisition of which resulted under section 1043 in nonrecognition of the gain or loss on the sale or exchange of any other property, there shall be included the period during which such other property was held by such taxpayer prior to such sale or exchange."

(4) Paragraph (4) of section 1245(b) (relating to gain from disposition of certain depreciable assets) is amended by striking out "or 1033" and inserting in lieu thereof ", 1033, or 1043".

(5) Paragraph (4) of section 1250(d) (relating to gain from disposition of certain depreciable realty) is amended—

(A) by striking out "or 1033" in subparagraphs (A) and (E) and inserting in lieu thereof ", 1033, or 1043", and

(B) by inserting "or 1043(a)" after "section 1033(a)(2)" in subparagraph (C)(ii).

(6) Paragraph (2) of section 6212(c) (relating to notice of deficiency) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) Deficiency attributable to gain on sale of property, see section 1043(e)."

(7) Section 6504 is amended by adding at the end thereof the following new paragraph:

"(13) Gain on the sale or exchange of property, see section 1043(e)."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter c of chapter 1 is amended by inserting after the item relating to section 1042 the following new item:

"Sec. 1043. Nonrecognition of gain or loss on the sale of rural enterprise zone property where reinvestment in such property occurs within 1 year."

PART III—RULES RELATING TO INDUSTRIAL DEVELOPMENT BONDS

SEC. 1923. INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO RURAL ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended by inserting "or which is placed in service as rural enterprise zone property (within the meaning of section 48(s))" after "section 103(b)(4)(A)".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new clause:

"(iv) EXCEPTION FOR RURAL ENTERPRISE ZONE FACILITIES.—This subparagraph shall not apply to any obligation which is part of an issue 95 percent or more of the proceeds of which are used to finance facilities within a rural enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891 (without regard to the subsequent revocation of such designation under section 7891(b)(2))."

(c) CERTAIN SMALL ISSUE VOLUME CAPS MODIFIED.—

(1) IN GENERAL.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues), as amended by section 1501(d)(3) of this Act, is amended by adding at the end thereof the following new subparagraph:

"(R) DOLLAR LIMITATIONS NOT TO APPLY FOR RURAL ENTERPRISE ZONE FACILITIES.—The dollar limitations described in subparagraph (A) and (D) shall not apply to any obligation which is part of an issue 95 percent or more of the proceeds of which are used to finance facilities within a rural enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891 (without regard to the subsequent revocation of such designation under section 7891(b)(2))."

(2) AGGREGATE LIMIT PER TAXPAYER WITH RESPECT TO RURAL ENTERPRISE ZONE FACILITIES.—Paragraph (15) of section 103(b) (relating to aggregate limit per taxpayer for

small issue exception) is amended by adding at the end thereof the following new subparagraph:

"(F) RURAL ENTERPRISE ZONE FACILITIES.—For purposes of this paragraph, with respect to any issue used to finance facilities within a rural enterprise zone, subparagraph (B) shall be applied by inserting 'used for facilities within a rural enterprise zone' after 'all industrial development bonds'."

(d) PORTION OF STATE IDB VOLUME CAP SET ASIDE FOR RURAL ENTERPRISE ZONE FACILITIES.—Paragraph (4) of section 103(n) (relating to limitation on aggregate amount of private activity bonds issued during any calendar year) is amended by adding at the end thereof the following new subparagraph:

"(D) STATE CEILING SET-ASIDE FOR RURAL ENTERPRISE ZONE FACILITIES.—For any calendar year, at least five percent of the State ceiling applicable to any State shall be set-aside for use only in rural enterprise zones in such State. The preceding sentence shall apply only to a States having one or more rural enterprise zones and only for taxable years in which such state elects to issue industrial development bonds for facilities located in the rural enterprise zone."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1986, in taxable years ending after such date.

PART IV—SENSE OF THE CONGRESS WITH RESPECT TO TAX SIMPLIFICATION

SEC. 1924. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury and his delegates should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this title.

Subtitle C—Regulatory Flexibility

SEC. 1931. DEFINITION OF SMALL ENTITIES IN RURAL ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified rural enterprise zone business; any governments which designated and approved an area which has been designated as a rural enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified rural enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within a rural enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 43(e) of such Code)."

SEC. 1932. WAIVER OR MODIFICATION OF AGENCY RULES IN RURAL ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in rural enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as a rural enterprise zone under section 7891 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the rural enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the rural enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the rural enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) The table of sections for such chapter is amended by redesignating the items relating to sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new item immediately after the item relating to section 610:

"Sec. 611. Waiver or modification of agency rules in rural enterprise zones."

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means."

(d) Section 613 of such title, as redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. 1933. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within a rural enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary."

Subtitle D—Establishment of Foreign-Trade Zones in Rural Enterprise Zones

SEC. 1941. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the

establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within a rural enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within a rural enterprise zone (as so designated).

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with rural enterprise zones (as so designated), the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

At the appropriate place in subtitle D of title VI, insert the following:

SEC. . LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—For purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

RURAL ENTERPRISE ZONES

Mr. DANFORTH. Mr. President, on behalf of myself and Senators ABDNOR, DURENBERGER, MATTINGLY, GRASSLEY, NICKLES, ANDREWS, PRESSLER, BOSCHWITZ, SYMMS, and KASTEN, I today offer an amendment which would aid some of America's neediest communities by establishing rural enterprise zones. The cost and scope of this legislation are modest by congressional standards, and I cannot offer a panacea for all that ails rural America. Nonetheless, our amendment would promote hope and economic opportunity in communities which have been devastated by recent upheavals or which have wallowed in chronic depression. I consider this sufficient to warrant Senate approval.

Drawing on legislation which has twice been approved by the Senate, our amendment would authorize the Secretary of Housing and Urban Development to designate up to 45 depressed rural areas as Federal enterprise zones. Only severely distressed areas, as measured by Urban Development Action Grant critiera, as well as unemployment, poverty, and population loss, would qualify for Federal incentives under this amendment. Businesses which locate or expand within the designated zones would be eligible for limited Federal tax and regulatory benefits in addition to substantial benefits offered by State and local governments. Together, these commitments would give community leaders a powerful tool in their efforts to attract and keep needed jobs.

Our amendment would raise the necessary revenues to pay for rural enterprise zones by modifying the net operating loss carryback rules. Under both current law and the Finance Committee bill, net operating losses from a taxable year may be carried back to offset income from the 3 preceding taxable years. Thus, a corporation incurring a $100,000 net operating loss in 1988 will be able to reduce 1985 taxable income by $100,000. This will result in a tax refund of taxes paid in 1985. Under our amendment, the amount of the tax refund would be limited to the top tax rate in the year the net operating loss is incurred. Thus, in the example just described, the tax refund would be $33,000, which is $100,000 multiplied by the 1988 corporate tax rate of 33 percent. Absent this proposal, the corporation would be entitled to a $46,000 refund because the tax rate in 1985 was 46 percent. In short, the bill recognizes that a loss in 1988 should not be worth more than the top tax rate in 1988 multiplied by the amount of the loss.

Mr. President, rural America is today experiencing an upheaval as severe as any since the Great Depression. In the Midwest, agricultural crisis has added new urgency to long-term economic and social trends, calling the very existence of many small towns into question. During the 1980's, net farm income has averaged nearly 40 percent less than in the 1970's, asset values have plunged, and total farm debt has grown to more than $200 billion. Stressed by low income and high debt loads, too many farmers are deferring purchases or simply going without. Local businesses of all types, from feed and equipment stores to florists and theaters, are failing.

This is not only a farm crisis, it is an American crisis, one which involves thousands of personal tragedies. Families are losing farms they have worked for generations. Storeowners in towns like Trenton and Chillicothe, MO, can no longer hold out for better times. As tax revenues diminish, schools, libraries, and roads suffer, making decline ever more difficult to reverse. Rural America's brightest young people are leaving the farm because they see no hope for the future.

Another, darker story is less visible than empty main streets and pealing paint. In Gentry County, MO, the number of food stamp recipients has nearly tripled since 1980. Hospitalizations for mental illness, alcoholism, and drug abuse jumped 57 percent in my State's nonmetropolitan areas between 1979 and 1983; many others are not receiving needed health care. Farm suicides in Missouri doubled between 1982 and 1984.

Almost overnight, the gains which rural America made during the 1970's are being lost, and disparities between rural and urban residents in such basic indicators as income and housing are widening. Three years ago, when times were better in most small towns than they are today, members of nonmetropolitan households earned just 77 percent as much as their metropolitan counterparts. In Missouri, metropolitan residents earn 50 percent more than rural residents, on average, and true poverty is all too common. Almost two-fifths of this Nation's poor live outside of metropolitan areas, while the poverty rate is one-third greater in rural areas than in cities and suburbs.

Rural America needs jobs, and this is where enterprise zones can help. Jobs off of the farm provide an economic safety net for farm families, providing extra income in good times, allowing them to keep the farm in bad times such as these. Last year, 69 percent of Missouri's farm families supplemented their income with other work. Nationally, dependence on off-farm earnings has risen from 42 percent of total farm family income in 1960 to more than 60 percent today.

With stores and businesses closing, there are fewer jobs available, yet more and more families are seeking work which will allow them to keep their farms. Thirty-seven percent of the farm families which responded to a poll conducted by the University of Missouri last summer said that someone in their household had taken off-farm employment within the past year, and another 23 percent said that a family member was currently looking for employment. For some who lose their farms, local employment opportunities can make the difference between rebuilding in their home community, supported by family and friends, and setting out in search of an entirely new life, leaving a shattered one behind.

Federal enterprise zones can provide an essential element of balanced eco-

nomic recovery in severely depressed areas. These zones would complement—but not replace—existing Federal programs for housing and development. Because designation as an enterprise zone would depend upon substantial community commitment and support, Federal incentives would do more than encourage job creation. In the neediest towns, they would play a role in reviving the unity and determination which have characterized rural America, and which can do as much to regain prosperity as any form of outside assistance.

The concept of rural enterprise zones is not a new one. In 1981, I introduced legislation substantially similar to the amendment now at the desk, and the Senate approved bills which included rural enterprise zones in 1983, and again in 1984. Even without Federal action, 28 States have initiated enterprise zone programs. These initiatives have been credited with attracting $6.6 billion in new investments to depressed areas. Nearly 4,000 new jobs were created in Missouri's enterprise zones during the first 3 years of the State program.

The benefits of enterprise zone designation have helped Cuba, MO, a community devastated by import competition in shoes and other industries, regain a bright future. Macon, MO, a town of 5,800 people, had a countywide unemployment rate of 22 percent when it was designated as a State enterprise zone. Taking advantage of that status, civic leaders convinced the owners of two major plants to expand their existing facilities, rather than leaving town. Between these two plants alone, 600 jobs were retained, 350 new jobs were created, and $3.5 million was reinvested in facilities and equipment.

Enterprise zones are already an integral part of economic development for many States. Our amendment would build on this success to address rural America's increasingly desperate need for jobs. To be sure, rural enterprise zones would be an experiment. No more than 45 zones could be created under this legislation, and periodic reports would be required so that the concept could be reviewed and, if necessary, refined. But adoption of our amendment would not be a gamble. The cost of enterprise zones, if any, would be proportionate to the program's success in attracting new jobs to depressed rural areas. Enterprise zones have proven themselves in Missouri and other States, and Federal participation would add vital impact to these efforts.

Our amendment provides a means of helping rural communities to help themselves, and an affordable way of testing the enterprise zone concept at the Federal level. Uncertainties surrounding enterprise zones are negligible, and the risks of inaction are mounting. Unless Congress acts, it may soon be too late to reverse the decline that threatens our small towns. Poverty and unemployment are an unacceptable future for rural America, though the spectre of chronic depression is real. Mr. President, Congress cannot delay action any longer.

Mr. DURENBERGER. Mr. President, I rise today to join and congratulate my distinguished colleague from Missouri as cosponsor of his amendment, the Rural Enterprise Zone Act of 1986. I have long been a supporter of the enterprize zone concept as an innovative approach to promote new jobs and industry in distressed areas.

I think we know that typically enterprize zones are envisioned as a response to economic decline which has been prevalent for many years in urban areas of this country. Since the mid-to-late 1960's when the cities were burning and the Kerner Commission was telling us about the problems of the cities of America, we have tended to focus our attention on the large city-urban American problem of redevelopment and it was probably in that area that the enterprise zone had its birth. But as the Senator from Missouri knows so well, his State is really two States. His State is two large metropolitan areas in St. Louis and Kansas City, and the rest of it is rural Missouri.

In rural Missouri are hundreds of communities of people, small towns and large towns and counties of people living in little villages, supporting primarily an agricultural economy. These communities, Mr. President, in the 1980's, are in danger of the same kind of decline and perhaps disappearance that the cities of America were in the 1960's.

The needs of rural America have never been greater than they are today, particularly in the communities of rural America. My Subcommittee on Intergovernmental Relations recently explored a dimension of the farm crisis which we are all well aware of, but a dimension of that crisis has been largely overlooked, and that is the growing threat which that crisis, coupled with simultaneous cuts in Federal and State aid, poses to the future of rural communities.

Now, many of you in this Chamber are familiar with the grim reality of the current farm crisis reflected in these numbers: real net farm income declined from $14.9 billion in 1979 to just $5.5 billion in 1983. In some States, farmland values have gone down as much as 44 percent over the past 5 years, and at the same time, total farm debt has soared to over $200 billion.

The farm crisis is not only a personal tragedy for thousands of farmers but also for small businesses. In one 9-county area in southwestern Minnesota, we found that there are 3,650 fewer commercial sector jobs—about 15 percent—than there would have been had the relatively high income years of the mid-1970's continued. Without a healthy farm economy to support them, local businesses are forced to close, jobs are lost, and commercial property values decrease.

Together, these effects of the farm crisis threaten to undermine rural governments as well. As farmland and commercial property values decline, assessed property tax valuations—the cornerstone of the local tax base—will also decline. And with property taxes comprising up to 48 percent of local own source revenues in some farm States, this devaluation places a severe strain on local governments' capacity to raise very basic public services like education, public safety, and health.

So the bottom line, as our report shows, Mr. President—the report is entitled, "Governing the Heartland—Can Rural Communities Survive the Farm Crisis?"—is that if we do not respond now in some way or ways while there is still some time, local governments in rural areas are in danger of losing almost one-fifth of their per capita revenues due to falling land values and cuts in Federal and State aid. That amounts to $1,000 per family of four.

At the same time local revenues are being squeezed, service demands on rural governments are increasing. More and more farmers and their families are seeking stress and financial counseling from public agencies and applying for AFDC and State and local general assistance programs.

In short, Mr. President, if we do not act now, we may bear witness to a permanent decline in the quality of life in rural America.

The farm crisis does not lend itself to easy quick-fix solutions. The report suggests that action by all levels of government is needed to ease the financial squeeze felt by farmers, businesses, and rural government.

At the national level, tax policy offers one important avenue for addressing the long-term needs of rural America. As we approach the home stretch in our drive to enact tax reform, one of the most critical decisions we can make is to preserve the full deductibility of State and local taxes. This deduction is the single most important national policy tool for enabling rural State and local governments to address their own public service and economic development needs. Without this deduction, State and local revenues may decline by as much as 20 percent over the long term.

The ability of State and local governments to issue tax-exempt bonds is another important tax policy which we, in Congress, must protect. The tax-exempt treatment of municipal bonds directly supports public infra-

structure needs and lays a foundation for diversifying the economy.

The amendment offered today by my distinguished colleague, Mr. DANFORTH, is yet another approach to using tax policy to aid distressed rural communities. Our proposal to provide special tax incentives for businesses locating or expanding in rural enterprise zones will create new job opportunities and strengthen the economic base of small rural towns. It will supplement bonds and other tools in diversifying distressed rural economies. I urge my colleagues to join me in supporting this amendment.

Still, tax policy is only half the story. We must look at all the tools available to us in addressing this complex and difficult problem. In recent years, we, at the national level, have expressed concern about the rural crisis, but our budget decisions have sometimes made the rural decline more precipitous. Among the 85 agricultural counties studied by my subcommittee, Federal aid declined by 18 percent between 1982-84, compared to a national average increase of 0.1 percent. And the scheduled elimination of GRS will hit towns and counties in rural America twice as hard as the average locality.

Is there a way to balance our growing budget constraints with our responsibility to aid rural communities in need? I believe there is. Over the coming weeks, I will be urging my colleagues to consider a streamlined program of general-purpose grants targeted to our most distressed communities—both in rural and urban areas.

□ 1750

The program, called Targeted Fiscal Assistance (TFA) will serve as a fiscal safety net for needy communities, guaranteeing that they will be able to provide their citizens with a minimum level of basic services like police and fire, public health and sanitation, roads and bridges. The program I have proposed retains the heart of GRS but applies it to today's economic realities. At a funding level of $2.3 billion, it will go further than a full-funded GRS program in reducing fiscal disparities. How does it do it? It is simple. Like the rural enterprise zone proposal, assistance is targeted to those communities that need it most.

TFA eliminates the distortions in the GRS formula which permit Montgomery County, MD—one of the richest counties in the country—to receive the same per capita allocation as Newark, NJ. It excludes the wealthiest communities from the program and it permits poor communities that make a strong tax effort to receive up to twice the average per capita grant of the State.

TFA has neither an urban nor a rural bias. Its only bias is need. But, given the current economic situation of our Nation's heartland, it can provide a lifeline for struggling rural communities.

For example, the nine agricultural dependent counties we studied in Missouri—where the value of farmland has fallen 43 percent since 1981—would receive a 41-percent increase in their funding under TFA compared to GRS. The nine rural counties in Montana—where the property tax decline has doubled since 1980-85—would receive a 41-percent increase and those in my State of Minnesota, where property values have dropped more than 50 percent, would receive a 39-percent increase.

Can rural communities survive the farm crisis? I think they can, but only if governments at all levels act swiftly and creatively. We, in Congress, must accept our part of the responsibility. We must seek innovative and effective solutions that balance our fiscal responsibilities with our responsibilities to communities in need. Both the rural enterprise zone proposal and the Targeted Fiscal Assistance Program meet this challenge. I urge my colleagues to support them.

Mr. President, at this time, I am glad to yield the floor to the Senator from South Dakota [Mr. ABDNOR], who is a chief cosponsor of this amendment and who has been a leader, for the time he has been in the U.S. Senate, in drawing our attention to rural America and the concerns of rural communities and the farm families who are dependent on the existence of those communities.

Mr. ABDNOR. I thank the Senator from Minnesota.

The PRESIDING OFFICER. The distinguished Senator from South Dakota [Mr. ABDNOR] is recognized.

Mr. ABDNOR. Mr. President, I strongly support this amendment that is offered by my distinguished colleague, the Senator from Missouri. I am happy to be a cosponsor. I commend the Senator for his timely leadership on this most urgent issue.

This issue is not new to me or to the Senate. As a matter of fact, as vice chairman of the Joint Economic Committee, the problems of rural America—which go beyond farming—have been a concern of mine for a long time. I have dedicated much of my time, during my tenure on the Joint Economic Committee, attempting to bring out the problems of rural America and what might be done to help revitalize rural America and bring it back into a prosperous time once again.

Enterprise zones would be a good place to start and would not interfere with the free market and its valuable features—entrepreneurship, innovation, efficiency, cost control, and the profit motive. Instead, enterprise zones retain those ingredients for a thriving economy and add to them incentives for free enterprise to get a foothold on economically distressed areas. These are not handouts, but rather, carefully considered and well-crafted provisions to motivate interest and to attract capital and human resources when they are needed.

Enterprise zones are a perfect example where desired public policy goals can be attained using the private sector as the means. The merits of this concept speak for themselves.

My Joint Economic Committee staff has analyzed some income figures recently released by the Bureau of Economic Analysis. Two conclusions stand out in this research: First, incomes in nonmetropolitan and rural areas suffered dramatic setbacks in the 1977-81 time interval; and second, although income growth improved substantially from 1981 to 1985, nonmetropolitan and rural areas were far outpaced by cities. As the following table shows, per capita income, adjusted for inflation, was flat from 1977 to 1981, but grew 8.1 percent in the 4 subsequent years for the United States. But for the 16 States whose nonmetropolitan population exceeds its metropolitan population—Alaska, Arkansas, Idaho, Iowa, Kansas, Kentucky, Maine, Mississippi, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Vermont, West Virginia, and Wyoming—the 1981-85 growth rate was half that amount.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PER CAPITA PERSONAL INCOME

[Constant 1985 dollars]

	1977	1981	1985	Percent change— 1977-81	1981-85
Region:					
United States	$12,432	$12,442	$13,451	0	8.1
16 rural States	11,403	11,382	11,859	−.2	4.2

Source: Bureau of Economic Analysis data.

Mr. ABDNOR. Mr. President, not only are rural income growth rates lower than urban figures; the levels of income also lag far behind. Residents of those 16 rural States earn, on average, $1,600 less than the typical U.S. resident.

These statistics provide just a general picture of the need for rural economic development. But other statistics reveal even greater cause for redoubled efforts for rural development. Consider these facts:

Even though nonmetropolitan America accounts for 24 percent of the total U.S. population, it accounts for just 20 percent of personal income, 38 percent of all poverty, and 67 percent of total U.S. substandard housing.

The incidence of "working poor" is double the U.S. average.

Only about 1 in 10 jobs created since 1982 was created in nonmetropolitan areas.

The unemployment rate in nonmetropolitan areas is 2 percentage points higher than metropolitan areas.

The "underemployment rate—those whose wages or hours are reduced involuntarily"—is 5 percentage points greater—or half again larger.

All of these grim figures could be improved through economic development. Not only would development improve living standards for rural people, it would reduce Government expenditures to rural areas for desperately needed social programs.

Mr. President, rural America has its share of critics in the U.S. Congress. They argue that rural America is a relic of a past era, doomed for extinction just like the dinosaur. They view it as a dying wasteland. I saw that statement in a newspaper the other day by a businessman in New York about my State. Nothing could be farther from the truth.

Rural America is a vast national resource whose full potential contribution to the U.S. economy is yet untapped. Countless billions of dollars in assets are out there waiting to be utilized better—homes, stores, businesses, schools, clinics. Why should these resources lie undiscovered, or worse yet, abandoned? Why should outmigration lead to economic decline for any rural area when cities are plagued with overcrowding, congestion, pollution, crime, and a host of other social problems.

Rural enterprise zones can make a vital contribution to the economic viability of rural areas experiencing hardship. They are not the sole answer, but can be an integral part of a new generation of rural economic promotions. Other innovative strategies of community development are appropriate to rural communities. The new ideas promoted by the Joint Economic Committee are the following:

□ 1800

Let me tell you a few of the things that we have taken up in the joint committee hearings.

Partnership and teamwork at the local level. Industry and Government leaders must work together to promote the community, diversify the economic base, and train the labor force.

Community colleges, vocational schools, and all higher education institutions can play a major role in community and economic development. Not only are they natural education and retraining centers, but also they have highly professional staffs who offer unique skills in marketing and "selling" the merits of the community.

State-sponsored economic development activities. Besides promoting the advantages of the State as a whole, professional State planners can provide expert assistance in first, community assessments and economic profiles; second, small business promotion to foster new enterprises and to provide information on business planning and management, laws and regulations; third, financial resources and planning; and fourth, referring community planners to the host of private, Federal, and State resources available.

School-based development enterprises. This innovative approach links the local school's curricula and even some social activities to local economic development projects. It has been a very effective means to attract new industry and to elevate the wages of the local labor force.

Small business "incubators." These are something new out in my State. Several States have established facilities where entrepreneurs are given the chance to launch their ideas into practice. Many firms and individuals have excellent innovations and inventions but lack the financial means or business know-how to commercialize them. "Incubators" can provide them with a chance to get their ideas off the ground.

I think teamwork is the word that describes successful economic development efforts. Community planning and job creation is no longer a one-man job. Teamwork among local business, education, and government leaders is the best way to ensure success. Rural enterprise zones can be a very important aspect of stimulating the local economy.

Rural America is seeing its new identity in the so-called information age which is revolutionizing the entire U.S. economy. Computers are changing the way we work and live, and modern telecommunications services are eliminating geographic barriers. This is paving the way for new jobs and rural revitalization. America has plenty of opportunity for people and companies to come into rural America to help create jobs. The labor force is there—qualified and ready to work.

Small cities and rural towns have economic development opportunities today that just weren't feasible even 10 years ago. But thanks to innovative rural enterprisers, rural localities are in a position to attract new industry. However, the competition promises to be intense.

Rural enterprise zones can make the difference between economic vitality and decay. Small towns already struggling with high unemployment, low income and poverty, population declines, and other economic problems deserve the type of stimulus offered by the enterprise zone concept. What better way can we offer economic opportunity than to provide private sector incentives that local economic development planners can use to their advantage? Today, we can demonstrate leadership in effective job creation, economic growth, and community development.

Mr. President, we owe it to our rural residents to give them this opportunity for economic and social advancement. What better contribution could we make than to provide free enterprise incentives for industry and individuals to help themselves. I will match the productivity, resourcefulness, and value of rural Americans against anyone else. And all of America stands to benefit from utilizing them.

I would just like to say one other thing. Out in these rural areas with the agricultural situation such as it is, rural enterprise zones could be the difference between keeping many people on the farms or their having to liquidate. In some instances people not only close out their farm but move out of the State and into urban areas trying to seek a job. I think that the talent of these people, the ability of these people to work and produce a solid day's work for their pay, is a great tribute to the kind of people we have out there. Enterprise zones are a good program.

Again, I commend the Senator from Missouri for offering this amendment today.

Mr. President, with pleasure and gratitude, I am pleased to see such a demonstration of support for rural America by my colleagues. For over 2 years, I have dedicated a considerable part of my time to rural issues on the Joint Economic Committee.

As vice chairman, I have conducted an ongoing rural initiative called "The Economic Evolution of Rural America." Last year we convened seven hearings on just about every conceivable topic affecting rural America—small business and main street, job creation and labor issues, the elderly, community services, health care, and education were among the main issues discussed.

My rural initiative did not end with these important hearings. This year, to supplement the hearing record, I invited rural scholars and experts from across the country to make a contribution to rural policy. The response was overwhelming. Ninety authors responded to my call, and contributed 65 essays of public interest. These papers will be published in a forthcoming Joint Economic Committee print entitled "New Dimensions in Rural Policy—Building Upon Our Heritage."

That title describes exactly what the book was intended to do. It explores new ideas in rural policy. It recognizes that America's heritage is rural in nature. With this book, I issue a challenge to all my colleagues in the U.S. Congress, the administration, and all Americans, to rediscover our rural her-

itage. Creating new policies that embrace rural values, traditions, needs and potential can unleash opportunities for all Americans.

I invite my colleagues to join me in making a renewed, national commitment to rural America. Giving rural Americans their due recognition is long overdue, and our rural enterprise zones proposal today is a step in the right direction.

● Mr. MATTINGLY. Mr. President, I am pleased to rise as a cosponsor of this amendment. This amendment would aid many of America's communities which are facing severe problems. This amendment would promote opportunity and growth in rural areas which have been economically devastated in recent times.

I could stand here today and recite the well-known statistics about the current distressed economic situation which faces many of our agricultural producers in America, but that would repeat what each of us already knows. Burdened with enormous increases in land and operating costs, it is no wonder that farming in this decade has become almost financially impossible. That is why I introduced the family homestead protection amendment. It was designed to help ease the pain currently experienced by those farm producers who need help to survive the present crisis. I am pleased the Senate and the House have passed this legislation.

Enterprise zones can help solve the current crisis. They can provide a critical component of a comprehensive approach to restoring economic vitality in severely depressed areas. This amendment will build on other programs which have been established and would help resolve many of rural America's problems.

The amendment would accomplish this through an innovative use of tax incentives and waivers of bureaucratic redtape. To be designated as a rural enterprise zone, the area must be within a government jurisdiction of less than 50,000 persons, outside of a metropolitan statistical area, or determined to be rural by the Secretary of the Department of Housing and Urban Development. The zone must demonstrate high unemployment, poverty, or population loss. Local and State governments must make commitments if the area is to be considered for designation as a Federal enterprise zone.

I am particularly pleased the amendment will allow the use of small-issue industrial development bonds to finance commercial activities within rural enterprise zones. According to the amendment, a State must set aside a portion of its volume cap for rural enterprise zones issued.

Mr. President, the need is obvious. And this amendment addresses that need in a constructive manner. I commend the distinguished Senator from Missouri for his work, and I urge my colleagues to join us in this effort.●

Mr. ANDREWS. Mr. President, I support this amendment that is initially cosponsored by our colleague, the Senator from Missouri, and cosponsored by a number of us. We have heard the statistics that bear out the need for this amendment. But let me talk, Mr. President, for just a minute, about the unique type of infrastructure we have in rural America that is all too often overlooked by our city cousins.

True, the statistics show that rural America has a problem in the economy now. We have rising unemployment, farm prices are low, farm families have to have one or both the farm family working in the city to stretch income on the farm. All of these are the statistics. But I think if we enact this amendment or if we move in the direction of these rural enterprise zones, we are going to find something entirely unsuspected in big city America. They are going to find, Mr. President, that the work ethic is still prevalent in rural America.

The companies that are urged, nudged, perhaps, by this type of an amendment for a favorable tax climate to locate in rural America, companies that in the past have said, "No, I do not really want to go out to Cooperstown, ND, I do not want to go to West Overshoe, IA," or wherever it might be, "because it is a little far off the beaten path and there is not a plant already there constructed," are going to find, Mr. President, as the company that moved into Jamestown, ND, found that the productivity is higher in these rural towns than it is in the big city and that the job ethic, the work ethic, is there and that the quality of production is good and the enthusiasm to get to the jobs on time is something companies do not normally see in the bigger cities, the major metropolitan area.

I think, Mr. President, you are going to find that rather than costing our economy, rather taking from the tax coffers of this country, we are going to see that this kind of initiative will begin to pay dividends and that rural America will repay in kind this attention being focused on it by the entire Congress.

Mr. President, it would be my hope that we would pass this amendment not just because of the statistics that have been laid out so eloquently and so accurately in the past few months on the floor of the Senate, but because of that intangible thing, the character of the rural work force. These people will give an honest day's work for an honest day's pay. It will balance rural America so that its entire economic infrastructure is not devoted solely to agriculture. It will help in setting up in rural America a job force that will help the local hardware store, that will help the local drugstore, that will help the local dry goods store that is in jeopardy now because the economy on the farm is going down.

The job opportunities in a small plant in a rural American location will help preserve the infrastructure for the farm force already there just as it will give employment to those farm family members who need off-farm earnings to keep them in place for the production that will be more definitely needed in the America of the future.

So, Mr. President, I am very happy and very proud to join with my colleagues in moving this concept forward, and it would be my hope that this amendment would be adopted or at least that we would be able to set into place a study that would point up the economic realities and the dividends that can be paid by this kind of an initiative.

It would be my hope that we can focus on this because the dividends in the future from this type of action will redound to the benefit of all Americans, city as well as rural.

I yield back the remainder of my time.

□ 1810

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise in support of this amendment. I thank the Senator from Missouri for his thoughtful approach to this problem of rural America. I see this piece of legislation as one way of easing the transition from farm problems to a transition in increasing and improving the economy of rural America, of broadening the economic base in rural America. Not that any of us want to deemphasize agriculture in rural America. It is still going to be the backbone of the economy. But a realization that there are some people who were farmers, probably good farmers, who are not going to be able to farm for the rest of their lives and yet want to be a part of rural America.

I see legislation like this as providing jobs, not ony for people who are leaving the farm for good but also for farmers who need a supplemental income. I see legislation like this providing those jobs.

I join in cosponsorship of this legislation because I have long supported the concept of enterprise zones for urban America. And that legislation has been well thought out and has tremendous support within the Congress as a whole. It seems to me that those concepts that have been researched to provide jobs in urban America can also be a basis for providing jobs in small-town America as well.

If you go to the small towns of my State, you see many businesses that used to be thriving businesses that are no longer prosperous. They may not even be in existence. I have visited many of our rural towns and have been very concerned with the amount of change I see happening throughout our small communities. Hundreds of businesses are now boarded up, and block after block, you see businesses closed and there seems to be no end in for many people in smalltown America.

For each farmer that goes out of business, that translates into lost jobs for many people in small-town America. And this concept of enterprise zones will help to create jobs in these towns and will help to lead to the revitalization of those communities.

For that reason, I encourage this entire body to go along with this concept that can be very helpful.

Mr. DANFORTH. Mr. President, I want to thank the various Senators who have spoken on this issue. I think they have done so very eloquently and clearly and they have pointed out from the perspectives of their States the problem in rural America today. We have had much debate on the floor of the Senate on the question of the farm crisis.

During the consideration of the farm bill late last year, that bill, as I recall, was on the floor of the Senate a month or more. Every day we talked about the problem of the American farmer. It is a severe problem. There is absolutely no doubt about it.

I think one thing that we sometimes fail to focus on is that the problem of farm families has a ripple effect throughout the whole region that is based on American agriculture. Small communities are literally boarded up. If you drive down Main Street in Trenton, MO, you see one shop after another that has been boarded up or with a "for sale" sign out in front of it. If you drive through the residential areas you see "for sale" signs in front of a large number of homes and, of course, there are no buyers because people perceive that there is no future.

Sixty percent of farm families, in my State 69 percent of farm families, have jobs off the farm. This has been one way of trying to keep a hold of your farm, to have a supplemental source of income. So it is a two-way street. Rural communities are dependent on farmers and farmers are dependent on rural communities and job opportunities.

I have talked so frequently to people who have been plant managers of smaller factories located in our State and plant managers who have come in from other parts of the country. I ask them about our rural work force and they say it is topflight. It is topflight because people who have a farm background know how to work. They have a work ethic. They are handy. They know how to operate equipment. They show up on time. They are diligent. It is a tremendous investment for people who want to build a small plant to put it in a rural community.

So I really see great hope in this legislation. I think that it does offer up real prospects for a future for people who now are hard pressed to find any future for themselves and for their children. Go to a high school graduation in a small community in the Midwest and ask the principal, "How many of these kids do you think will be here in another 5 years?" "Maybe 10 percent; maybe less. They will go to the cities."

What is at stake really is a way of life. A way of life, part of our tradition as a country, is located in rural communities. So I feel very strongly about this amendment.

I also recognize the difficulty, Mr. President, of incorporating this amendment in this bill. All of us who have worked on this bill for months now recognize that we are doing something very exciting in the Senate. This is true tax reform. This is not the usual tax bill, the usual meddling, the usual shifting of preferences from one sector to another. This is major tax reform, a tax reform that reduces rates and gets 6 million low-income people off the tax rolls and removes tax shelters. It is true reform and it is worth doing.

I announced to my constituents weeks ago that it was my intention to oppose all amendments, and I have done that. I do not think there are too many Senators left, after some 9 or 10 days of consideration of the bill, that have opposed all the amendments. I have.

Some of the amendments I have opposed have been very worthy amendments in my mind. But I have felt that this is a very fragile bill. And I have been very concerned about opening the floodgates; that when one amendment is accepted or one amendment is adopted, I think that it does tend to make the bill vulnerable.

Therefore, I have been torn about the amendment that I have offered. I feel very strongly that we should do something for rural America. I feel very strongly that the rural enterprise zone concept is a good one that would help rural America. And yet I have been very concerned about offering an amendment myself that could unravel the whole process.

Mr. MOYNIHAN. Will the Senator yield for a comment without losing his right to the floor?

Mr. DANFORTH. Certainly.

Mr. MOYNIHAN. If I anticipate the direction of the Senator's remarks, it is that he perhaps will ask that this matter not be considered today in the context of this bill, but that the issue be brought before the Senate at another time and soon. I would like to associate myself with those thoughts.

The Senator from New York represents that great city; but New York is far more a rural State in its geography than an urban one. Of our 62 counties, 10 perhaps are urban counties. Some are suburban, but the great number are agricultural counties dotted with small towns. Indeed, some of the great literature of the small town in the United States comes from upstate New York.

The distinguished Senator from North Dakota was referring to Jamestown, ND, and Cooperstown, ND. Well, I should like to say that there is a Jamestown, NY, and Cooperstown, NY. The scene he describes of that once important place—the small town, with its courthouse and its First Presbyterian Church and its grange and its schools that was the incubator of so much that we value and associate ourselves with in this Nation—can be found in countless communities throughout New York. The Senator from New York lives in upstate New York on a farm near a small town.

□ 1820

You can drive through one after another; they are a beautiful sight. When they go, they will not be re-created. You do not re-create those towns that have been there 100 years or 150 years. You do not keep that architecture. You do not keep that community. You shall have lost something not to be regained.

There is a problem generally with enterprise zones. Which is to say in an urban setting how do you have one set of taxes on one side of the street and another set of taxes and rules on the other side of the street? No such problem arises when there is a discrete unit of governance and community, and to some extent, economy such as is found in small towns. It is a matter to be explored. I would like to join the Senator from Missouri in hoping that it will be explored. I thank him for bringing it to the floor.

Mr. DANFORTH. I appreciate that comment. I do not know. The farm problem, the problem in rural America, is so serious that there is no simple solution. But there are in my judgment some relatively good ideas and some very bad ideas for dealing with the farm crisis and the rural America crisis.

I think this is a good idea. I think that, for example, 45 enterprise zones which are envisioned in this amendment, let us suppose that a couple of them could be located north of the Missouri River in my State. Maybe that is asking too much. But say a couple of them could be located in the northern half of my State. People would drive 30, 40 miles for jobs there.

If an enterprise zone in a community like Macon, MO, could create a couple of hundred jobs, that is a couple hundred farms that are saved. I think that is worth doing.

Mr. MOYNIHAN. Will the Senator yield for one other comment?

First, may I ask to be added as a cosponsor to the legislation?

Mr. DANFORTH. Of course.

Mr. MOYNIHAN. I wish only to say the situation he described in Missouri is identical to New York State where the largest single economic activity is agriculture; the greatest number of our farms are supported by industrial or commercial income earned off the farm. It is a most viable arrangement, given the crops and such. It works. I have long believed that our farm policy should begin to address itself to farm units as opposed to just farm production—as the European Economic Community has been doing for 40 years, perhaps with too much success. But then there are places and parts of the world that value their countryside in ways that I am not sure we do. We say we do. But we do not act as if we do. I would think the Senator would find that situation he describes to be counted not just in the Great Plains area of the country, but countrywide.

Mr. DANFORTH. I appreciate the comments of the Senator from New York.

I see the chairman on the floor. I wonder if I might engage in some colloquy at this point. We have talked many times about the importance of this bill and about the need to ward off amendments. The Senator from Oregon knows very well that I feel strongly about that cause. He also knows that I feel very strongly about trying to do something for these smaller communities.

I do not want to gum up this legislation. I realize that even if an amendment were successfully offered on the floor of the Senate, it could still go to the conference. There is nothing comparable in the House bill. I doubt that it would advance the cause very far to proceed at this point.

But I wonder if the chairman of the Finance Committee might be forthcoming in assuring that there might be some future for the idea of rural enterprise zones within the Finance Committee.

Mr. PACKWOOD. As my good friend knows, I have supported the enterprise zone in the past, which has often been urban rather than rural.

In listening to the exchange between the Senator from Missouri and Senator MOYNIHAN, I continue to think of my own State. In my own State, as in every State—even Rhode Island, and nobody thinks of Rhode Island as very big—I found farm towns boarded up, as Senator MOYNIHAN has described. When you get to New York, and I have been to upstate New York, as in Missouri, you have not acre upon acre but mile upon mile of depressed farm areas, you find town after town after town. I do not mean towns that are populated by 50, or that are ghost towns. But I mean towns that 2 years ago were 2,000 or 3,000 in population.

So I am very receptive to having hearings on this. I would like to have the position of the administration. I would like to know how they distinguish between urban zones, because they have always pushed the urban zone concept. I think it is a very fitting subject. I agree with the Senator about the kind of resolve that he finds with rural people, and why industries would be willing to go there because of the kind of employee they get.

Mr. DANFORTH. Can the chairman foresee the possibility of having a markup maybe, and attaching such a proposal to some meaningful piece of tax legislation down the road? I know there are those who feel that we should not pass another tax bill for another 5 years and there is a certain appeal to that. I do not think that is an idea that will hold for too long. But let us assume that by chance we have another tax bill in the foreseeable future. Does the chairman think there is any possibility at that time of entertaining a hearing on this legislation?

Mr. PACKWOOD. I hate to suggest the possibility. May the Lord strike me dead for saying it, but the debt ceiling bill is coming. I hope that is not what my good friend is thinking of attaching it to.

Mr. DANFORTH. That is a possibility.

Mr. PACKWOOD. The debt ceiling is a must piece of legislation. I have not thought about rural enterprise zones on the debt ceiling bill, though my hunch is other things will be offered to the debt ceiling bill by the time we are done.

Mr. DANFORTH. Sometimes the Senator is surprised.

Mr. PACKWOOD. I would like to have hearings. I would like to have a markup. Again, my good friend is chairman of the Trade Subcommittee. He knows the problem. We have four hearings scheduled on trade after the recess, a markup that we are going to have on trade after the recess, and the conference starting on the tax bill after the recess. We have only about a month between mid-July when we come back and mid-August when we go out.

So the answer is yes. My heart is willing. The spirit is strong. Whether the clock will cooperate is another matter. But I would like to have the hearing. I would like to have a markup.

Mr. DANFORTH. I understand. I would also like to make clear that I know the chairman has hoped that we would wrap this bill up tomorrow. I do not think that is likely. But let us suppose that the bill really becomes unraveled. I will try to keep it from becoming unraveled by proposing amendments and by forbearing on this amendment. But if it happens that we can see some way to accommodate either this amendment, or perhaps the scaled-down version of the amendment without doing violence to the bill, I would hope at least it could be entered in that light.

Mr. PACKWOOD. So long as that last modifier is in the bill without doing violence to the bill. This is the seventh day we have been on the bill. There has only been one amendment agreed to. And through the good offices of the Senator from Missouri, I might add, he has voted against all amendments which was the position we took.

Mr. DANFORTH. I am now being billed as the core person.

Mr. PACKWOOD. Some of the core members have slipped off. The Senator is still the solid core person who has not voted for any amendments. In fact, the majority leader indicated that we will meet all day tomorrow—as I understand, there are going to be no filibusters on this bill—starting relatively early in the morning on into the night. He says he is prepared to meet Wednesday, Thursday, Friday, and Saturday if necessary, and eventually to finish this bill up this week.

So in the best of all possible worlds I would love to finish it tomorrow. I would love to be able to have a hearing on enterprise zones on Thursday and move right along. But all we do is take this day by day. But we will be on this bill until we finish it—however long it takes.

□ 1830

My hunch is, and this is sensing the Senate and sensing some of the amendments that are going to be pulled down, that will not be offered, that the bill is not going to be bollixed up. By and large, it is going to pass. The core group has held together pretty well. We have had no damaging amendments and I do not think we are going to have damaging amendments that will be insisted upon being offered to this bill.

Mr. DANFORTH. Mr. President, with the understanding that there will be serious opportuntiy to address these questions in the Finance Committee, and I have had no problem at all in working on matters of concern with the chairman, appreciating his cooperation, with that in mind, and also bearing in mind that, if this bill does become undone by amendments, we may be back, or we may figure out some acceptable way to accomplish this objective. We will continue to explore that.

Mr. PACKWOOD. Mr. President, I am in sympathy with what the Sena-

tor wants to achieve. We will have the hearings.

Mr. DANFORTH. Mr. President, with that in mind, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

ROUTINE MORNING BUSINESS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond the hour of 6:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 10TH ANNIVERSARY OF THE SOWETO UPRISING

(The following occurred earlier:)

Mr. KENNEDY. Mr. President, today we commemorate a tragic day in the history of a tragic country—the 10th anniversary of the Soweto uprising in South Africa. That day is a day that will live forever in the hearts and minds of South Africans, whatever their race.

It began with a simple, peaceful protest. A group of black high school students organized a demonstration opposing the requirement that Afrikaans be taught in their schools in Soweto. The South African police responded with gunfire, killing a 13-year-old child.

The people of Soweto—led by their children—began a demonstration in the streets of their township to protest such brutality by the police. But the brutality had only just begun. The repression was vicious. Hundreds of people, many of them children, were shot and killed. The government concedes a death toll of almost 600, but other estimates suggest the toll may have reached 1,000. Thousands were wounded. Thousands more were arrested. Such is the bitter fruit of apartheid.

Day after day since then, the killing has gone on. In the past 2 years, the death rate has averaged 130 a month, and the prospects are ominous that massive violence lies ahead, as South Africa inexorably descends into the abyss of civil war.

The recent declaration of a new state of emergency causes us again to ask the question that we asked 10 years ago, one that Americans have been asking themselves for more than 40 years: What is the United States to do in the face of inhumanity of apartheid. How can we act to help end that cruel system of government by race? If we are to remain true to the ideals on which our own country was founded, we cannot look the other way when the racist regime in South Africa resorts to violence against its own citizens in order to maintain its abhorrent system of apartheid.

Increasingly, individual Americans are responding to the crisis in South Africa in ways that are consistent with our own best values and traditions. On campuses and in communities across the country, citizens have been quick to march, to protest, to disinvest, and to express by every available peaceful means their concern for the victims of apartheid and their desire for our Government to take stronger action.

But collectively, as a nation, our response has been shameful and unworthy.

If there were cause to hope that persuasion might work, if there were reason to think that the apostles of apartheid might change course voluntarily, if there were evidence to suggest that our pleas for justice might be answered, our current policy of constructive engagement might suffice. But there is no sign that constructive engagement is succeeding.

To the contrary, constructive engagement has become synonymous with aid and comfort to racism in South Africa. Instead of the last best hope on Earth, the United States of America has become the last friend of apartheid.

On April 2, 1986, Bishop Desmond Tutu, the most eloquent voice for human freedom in South Africa today, risked his own freedom when he suggested the direction that all true friends of a free South Africa should now take:

> I have no hope of real change from the [South African] Government unless they are forced. We face a catastrophe in this land, and only the action of the international community, by applying pressure, can save us. Our children are dying. Our land is burning and bleeding. And so I call upon the international community to apply punitive sanctions against this government to help us establish a new South Africa that is nonracial, democratic, participatory and just.

□ 1500

Other eloquent voices in the international community have joined in Bishop Tutu's plea. Just last week, the members of the Eminent Persons Group from the Commonwealth of Nations, after lengthy study, issued a report which concluded that economic sanctions by Western nations are necessary to forestall even greater violence inside South Africa. They said:

> It is quite clear that gentle diplomacy and quiet persuasion have failed. It is our very firm view that the South African Government will never be moved by such approaches. There is no guarantee that sanctions will work, but greatly increased international pressure involving the use of sanctions offers the only chance to avert the tragedy of which we speak involving the destruction of all Western interests in South Africa.

Despite Bishop Tutu's appeal and the recommendations of the Eminent Persons Group, the administration persists in its rejection of economic sanctions against South Africa.

Last week, by declaring the current state of emergency, President Botha of South Africa delivered another blow to the policy of constructive engagement. But again, the administration looked the other way.

In response to the quiet diplomacy of the Reagan administration, Mr. Botha imposed the broadest and most ruthless state of emergency yet. No matter what the South African Government does—no matter how many innocent people are killed, how many neighboring nations are invaded, how many children are tortured, how many peaceful demonstrators are arrested, how much censorship is imposed, how many journalists are expelled, how many deceptions are foisted on United States diplomats—the administration clings to a bankrupt policy that puts the United States on the wrong side of history and human rights in South Africa, and transforms the United States into the second-most-detested government in the eyes of all Africa.

If the leaders of the administration are unwilling to change this policy of constructive engagement, then Congress must change it for them.

President Botha claims that if economic sanctions are imposed against South Africa, South Africa will go it alone. But South Africa is already going it alone—straight into racial war.

The Government of South Africa has made it clear that it will not respond to the quiet overtures of diplomats from the United States or any other nation. The Botha regime has nothing but contempt for quiet diplomacy and constructive engagement. It has lied to our diplomats, belittled our influence—and wrought unprecedented violence upon its own citizens. By our continued insistence on constructive engagement, we are implicated in their policy of racism and the violence of apartheid.

The opponents of economic sanctions say that sanctions will not work. But Bishop Tutu responded to this argument in his commencement address at Hunter College last month. He said then:

> But if they don't work, why oppose them so vehemently? If they don't work, why did Margaret Thatcher apply them to Argentina during the Falklands war? Why did the United States apply them to Poland and to Nicaragua? Why was President Reagan so annoyed that his European allies did not want to impose sanctions against Libya? If sanctions are so ineffective, why does the United States still maintain a blockage of Cuba? But we have all this wonderful sophistry when it comes to South Africa.

In fact, the failure of the international community to adopt economic sanctions only encourages the architects of apartheid to increase their repression. As the Eminent Persons Group pointed out:

It is not whether economic sanctions will compel change; it is already the case that their absence, and Pretoria's belief that they need not be feared, defers change.

Second, the administration argues that sanctions will be counterproductive, because they will exacerbate the pathological siege mentality of the South African Government. But as the cochairmen of the Eminent Persons Group wrote on June 12:

We reject completely the argument that international pressure will force the South African government to withdraw into itself. This commonly held view is masterly disinformation. It has hitherto been successful in persuading major states not to take substantive measures or sanctions against South Africa. The Afrikaners have, in fact, only changed course when under extreme pressure.

Third, the administration suggests that economic sanctions will injure the very people they are intended to help, the black majority in South Africa. But that argument has been consistently rejected by black South Africans. Recent surveys report that 70 percent of all blacks in South Africa support economic sanctions. As Bishop Tutu said:

Blacks are saying, "We are suffering already. To end it, we will support sanctions, even if we have to take on additional suffering." . . . I must ask, To whom is the international community willing to listen? To the victims and their spokesmen, or to the perpetrators of apartheid and those who benefit from it.

Finally, there are those who say that sanctions will destroy the South African economy and leave that nation in a financial and economic morass. But if the South Africa Government continues on its present course, then with or without sanctions, the South African economy will be destroyed by the violence and bloodshed that are now threatening to explode into an all-consuming civil war.

The case for economic sanctions is clear. Quiet diplomacy has failed; only concerted economic pressure from the international community—combined with continued peaceful pressure inside South Africa—can persuade the apartheid regime to change course.

One day, South Africa will be free, and the people of South Africa will look back and ask where the United States stood at their moment of greatest testing. The Eminent Persons Group has described what a South Africa will be like if the West refuses to aid the struggle by imposing sanctions:

Without [sanctions], black leaders will again have their view confirmed that they are without fundamental support from the West. The kind of government that would emerge from increased violence through much larger-scale civil conflict, whether it is eight or ten years hence or even longer, would be totally radical, owing its allegiance to those countries from which it would obtain arms and support. The politics of the whole of Southern Africa would be soured. Such a government would nationalize all major corporations. The strategic, economic and commercial interests of the West would be utterly destroyed.

The current violence of apartheid in South Africa cannot in any way be attributed to a "tribal situation" in that country. Yet that incredible statement was made by President Reagan himself last week—a statement which will be remembered in South Africa by those who will one day rule that land.

The true leaders of South Africa today are patriots like Desmond Tutu, Allan Boesak, Beyers Naude, and Nelson and Winnie Mandela. They are desperately exploring all avenues of peaceful change, and they are looking to the United States for support of their cause, before peaceful change becomes impossible and violent revolution begins.

There is still time for the United States to act, and for a catastrophe to be avoided in South Africa. But time is running out. I urge my colleagues, in the memory of the thousands who have already died for freedom in South Africa, to renew our commitment to their cause—and to resolve that before this session of Congress ends, the United States will be where it ought to be—leading the nations of the free world in a new and more effective initiative to achieve the peaceful end of apartheid in South Africa.

Mr. President, I ask unanimous consent that the following three items appear at this point in the RECORD:

A letter from the cochairmen of the Eminent Persons Group to me, dated June 12, 1986;

Excerpts from the report of the Eminent Persons Group as they appeared in the June 13 issue of the New York Times; and

The text of Bishop Desmond Tutu's commencement address to Hunter College as it was reprinted in this morning's New York Times as an op-ed piece.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMONWEALTH SECRETARIAT,
MARLBOROUGH HOUSE,
London, United Kingdom, June 12, 1986.

Senator EDWARD M. KENNEDY,
113 Senate Russell Office Building, Constitution Avenue, Washington, DC.

DEAR SENATOR KENNEDY: We wrote to you from Bonn on 10 June 1986 commenting on the anti-apartheid bill which you have introduced, with some views of our own concerning the kinds of measures that should be introduced. We thought you might be interested in the following arguments in favour of sanctions which we hold very strongly.

While we put a great deal of effort into making a success of our mandate, we have reluctantly, but unequivocally come to the conclusion that at present the South African Government is not ready to and has no intention of negotiating in good faith. Its concept of negotiation is not one that can meet the escalating problems of South Africa. We have reached this conclusion on the basis of the government's own communications and discussions with us.

In addition, actions of the government have fouled the possibility of negotiations and have confirmed our view that we are not dealing with a government which wishes to negotiate. On the morning on which we met with eight government ministers in Cape Town, it attacked three neighbouring commonwealth countries, two of which had nominated General Obasanjo and John Malecela to the commonwealth group. This was a significant provocation. It then introduced new and draconian security legislation into the parliament which admittedly has not yet been passed, but which is quite unnecessary, given the panoply of powers already available. The comments of the state president were uncompromising. Renewed attacks on the credibility of the ANC have been launched.

It is difficult to understand why the government turned its face against negotiation when negotiation was within grasp on the basis of the concept which we put to it some three months earlier. For example, the government had earlier accepted the suspension of violence, but then returned to its insistence on renunciation of violence which was not capable of being achieved and which, in our common judgment, was unreasonable.

The government did not pick up the suggestion of enabling Nelson Mandela to communicate with other black leaders, whether in goal or elsewhere in South Africa. An attempt was made by the government to have Mandela meet Chief Buthelezi, but Mandela had insisted, quite justifiably, on being able to meet with his own people first so that a group view could be properly formed. Discussions between Mandela and Buthelezi would necessarily have had to take place at a later stage.

The government may well have been unwilling to face the prospect of negotiation with a united African opposition led by Mandela, Tambo and Buthelezi acting in concert. From the discussions we had with Mandela, which had been fully reported to the government, that prospect was a likely one.

The government has reiterated throughout that the exercise of economic and political rights in its dispensation would have to be through racial groups requiring the maintenance of the population registration act. In all our discusions with the government, it was emphasised that any constitutional dispensation would only be negotiated within the context of its reform programme which has at its heart "group" rather than individual rights. It would seem that the government has decided to proceed with that programme and, if necessary, to impose it by force, believing, falsely, that a sufficient number of blacks will in the end support it.

On the basis of existing policies, our group is unanimous in holding the view that a much greater descent into violence is inevitable. Black leaders were always sceptical of the government's intention to negotiate in good faith. Unfortunately, they will take our report as confirmation of their scepticism. Other things being equal, the more radical elements will use it to push through decisions involving full scale guerilla warfare of a kind that it would inevitably win over time, but at enormous cost in terms of black and white lives as soft targets came increasingly to be attacked by both sides. To that would have to be added great destruction of property and real assets.

There is only one factor remaining which might prevent that kind of destruction. If the major Western states which have trade weight with South Africa really seek to bring pressure to bear on the South African Government, those decisions towards greater violence may be deferred and may be made unnecessary. That pressure can only be evidenced through sanctions. Without such actions, black leaders will again have their view confirmed that they are without fundamental support from the west.

The kind of government that would emerge from increased violence through much larger-scale civil conflict, whether it is eight or ten years hence, or even longer, would be totally radical, owing its allegiance to those countries from which it would obtain arms and support. The politics of the whole of Southern Africa would be soured. Such a government would nationalise all major corporations. The strategic, economic and commercial interests of the West would be destroyed.

We reject completely the argument that international pressure will force the South African Government to withdraw into itself. The commonly held view is masterly disinformation. It has hitherto been successful in persuading major states not to take substantive measures or sanctions against South Africa. The Afrikaners have, in fact, only changed course when under extreme pressure. Any minimal change which has been achieved in South Africa recently has been as a result of substantial pressure from within South Africa, not as a result of quiet persuasion.

It is important to understand also that the South African Government believes in economic sanctions as an instrument of national policy. It has applied such measures against its neighbours on a number of occasions and, from discussions with us, it is clear that ministers fear the imposition of sanctions against their own country.

It is quite clear that gentle diplomacy and quiet persuasion have failed. It is our very firm view that the South African Government will never be moved by such approaches: and that what it has done so far, little as it is, has been achieved as a result of internal pressure. There is no guarantee that sanctions will work, but greatly increased international pressure involving the use of sanctions offers the only chance to avert the tragedy of which we speak involving the destruction of all Western interests in South Africa.

Yours Sincerely,

MALCOLM FRASER.
OLUSEGUN OBJASANJO.

[From the New York Times, June 13, 1986]

EXCERPTS FROM REPORT ON SOUTH AFRICA ISSUED BY COMMONWEALTH MISSION

LONDON, June 12.—Following are excerpts from the report on South Africa issued here today by the Commonwealth mission known as the Eminent Persons Group:

During the preliminary visit, General Obasanjo was permitted to see Mr. Mandela. Thereafter, the full group met with him on two occasions, although not with other detainees.

The group approached the meetings with Mr. Mandela with another measure of care. It was impossible not to be aware of the mythology surrounding him, but equally, we were determined that it should not color our impressions or influence our judgment. As far as possible, we resolved to approach these meetings with an open mind.

We were first struck by his physical authority—by his immaculate appearance, his apparent good health, and his commanding presence. In his manner, he exuded authority, and received the respect of all around him, including his jailers. That in part seemed to reflect his own philosophy of separating people from policy.

His authority clearly extends through out the nationalist movement, although he constantly reiterated that he could not speak for his colleagues in the A.N.C.: that, apart from his personal view point, any concerted view must come after proper consultation with all concerned; and that his views could only carry weight when expressed collectively through the A.N.C.

Second, we found his attitude to others outside the A.N.C. reasonable and conciliatory. He did not conceal his differences with Chief Buthelezi and he was conscious of the divisions which has arisen among the black community. Nevertheless, he was confident that, if he were to be released from prison, the unity of all black leaders including Chief Buthelezi, could be achieved.

In our discussions, Nelson Mandela also took care to emphasize his desire for reconciliation across the divide of color. He described himself as a deeply committed South African nationalist but added that South African nationalists came in more than one color—there were white people, colored people and Indian people who were also deeply committed South African nationalists. He pledged himself anew to work to a multiracial society to which all would have a secure place.

He recognized the fears of many white people, which had been intensified by the Government's own propaganda, but emphasized the importance of minority groups being given a real sense of security in any new society in South Africa.

CLIMATE FOR TALKS AND CONFIDENCE

It was his strongly stated view that if the circumstances could be created in which the Government and the A.N.C. could talk, some of the problems which arose solely through lack of contact could be eliminated. The fact of talking was essential in the building of mutual confidence.

Thirdly, we were impressed by the consistency of his beliefs. He emphasized that he was a nationalist, not a Communist, and that his principles were unchanged from those to which he subscribed when the Freedom Charter was drawn up in 1955.

Those principals included the necessity for the unity and political emancipation of all Africans in the land of their birth; the need for multiracial society, free from any kind of racial, religious or political discrimination; the paramountcy of democratic principals, and of political and human rights, and equality of opportunity.

We questioned Nelson Mandela extensively about his view on violence. The A.N.C. he said, had for many years operated as a nonviolence organization and had only been forced into armed struggle because it became the unavoidable response to the violence of apartheid. He stressed that violence could never be an ultimate solution and that the nature of human relationship required negotiation.

He was not in a position to renounce the use of violence as a condition of his release, and we recognized that in the circumstances currently prevailing in South Africa, it would be unreasonable to expect that of him, or anyone else.

We accept that the release of Nelson Mandela presents the South African Government with a difficult dilemma. Having held him too long in prison, there is a growing realization in Government circles that any benefits of incarceration are outweighed by the disadvantages which daily become more apparent.

Yet to release him now—as some in Government say is their wish—would be to do so into conditions much changed from 10, or even 5, years ago. In a mood of unrest and upheaval, with growing black awareness and political protest being matched by increasing anxiety among whites, and the rise of white extremism, the Government expressed the fear that his release might result in an uncontrollable explosion of violence.

We do not hold this view. Provided the negotiating process was agreed, Mr. Mandela's own voice would appeal for calm. We believe his authority would secure it.

"SELF-EVIDENT" QUALITIES OF LEADERSHIP

Our judgment of Nelson Mandela has been formed as the result of lengthy discussions with him, spanning three meetings. He impressed us as an outstandingly able and sincere person whose qualities of leadership were self-evident. We found him unmarked by any trace of bitterness despite his long imprisonment.

In the Government's thinking, there were a number of nonnegotiables; for example, the concept of group rights—the very basis of the apartheid system—was sacrosanct; the "homelands" created in furtherance of that concept would not disappear, but be reinforced with the emergence of an "independent" KwaNdebele; the principle of one man one vote in a unitary state was beyond the realm of possibility; the Population Registration Act would continue; and the present Tricameral Constitution which institutionalizes racism must be the vehicle for future constitutional reform.

From these and other recent developments, we draw the conclusion that while the Government claims to be ready to negotiate, it is in truth not yet prepared to negotiate fundamental change, not to countenance the creation of genuine democratic structures, nor to face the prospect of the end of white domination and white power in the foreseeable future. Its program of reform does not end apartheid, but seeks to give it a less inhuman face. Its quest is power sharing, but without surrendering overall white control.

Behind these attitudes lurks a deeper truth. After more than 18 months of persistent unrest, upheaval and killings unprecedented in the country's history, the Government believes that it can contain the situation indefinitely by use of force. We were repeatedly told by Ministers that the Government had deployed only a fraction of the power at its disposal. Although the Government's confidence may be valid in the short term, but at great human cost, it is plainly misplaced in the longer term. South Africa is predominantly a country of black people. To believe that they can be indefinitely suppressed is an act of self-delusion.

Put in the most simple way, the blacks have had enough of apartheid. They are no longer prepared to submit to its oppression, discrimination and exploitation. They can no longer stomach being treated as aliens in their own country. They have confidence not merely in the justice of their cause, but in the inevitability of their victory. Unlike the earlier periods of unrest and Government attempts to stamp out protest, there has been during the last 18 months no out-

flow of black refugees from South Africa. The strength of black convictions is now matched by readiness to die for those convictions. They will, therefore, sustain their struggle, whatever the cost.

The writ of the Government will be increasingly circumscribed. Inter-black rivalry and violence, partly encouraged and fomented by the Government, will grow, making the task of negotiating a settlement even more difficult. Political upheaval and social unrest will accelerate the flight of capital and professional skills and the economy's downward spiral.

Amidst all this gloom, the quality of the country's black leaders shines through. Their achievement in bringing about popular and trade union mobilization in the face of huge odds commands respect. Their idealism, their genuine sense of nonracialism, and their readiness not only to forget but to forgive, compel admiration. These are precious assets which a new South Africa will need; they may be lost altogether if the Government continues to shrink from taking the necessary political decisions with a sense of urgency. The options are diminishing by the day.

What can be done? What remaining influence does the international community have? What can major states do to help avert an otherwise inevitable disaster? There may be no course available that can guarantee a significantly more peaceful solution. But against the background in which ever-increasing violence will be a certainty, the question of further measures immediately springs to mind. As the Nassau Accord makes clear, Commonwealth Heads of Government have agreed that, in the event of adequate progress not having been made in South Africa within a period of six months, they would consider further measures.

While we are not determining the nature of extent of any measures which might be adopted, or their effectiveness, we point to the fact that the Government of South Africa has itself used economic measures against its neighbors and that such measures are patently instruments of its own national policy. We are convinced that the South African Government is concerned about the adoption of effective economic measures against it.

If it comes to the conclusion that it would always remain protected from such measures, the process of change in South Africa is unlikely to increase in momentum and the descent into violence would be accelerated. In these circumstances, the cost in lives may have to be counted in millions.

The question in front of heads of government is in our view clear. It is not whether such measures will compel change; it is already the case that their absence and Pretoria's belief that they need not be feared, defers change. Is the Commonwealth to stand by and allow the cycle of violence to spiral? Or will it take concerted action of an effective kind? Such actions may offer the last opportunity to avert what could be the worst blood bath since the Second World War.

We hope this report will assist the Commonwealth—and wider international community—in helping all the people of South Africa save themselves from that awesome tragedy.

[From the New York Times, June 16, 1986]

SANCTIONS VS. APARTHEID

(By Desmond M. Tutu)

A clear message resounds in recent surveys in South Africa in which more than 70 percent of blacks supported sanctions against the Government. Blacks are saying: "We are suffering already. To end it, we will support sanctions, even if we have to take on additional suffering."

Our people have shown they mean business by their use of consumer boycotts. Last year, organizations representing more than 12 million South Africans called for sanctions and economic pressure. These are not insignificant actions or irresponsible bodies or individuals.

I must ask, To whom is the international community willing to listen? To the victims and their spokesmen or to the perpetrators of apartheid and those who benefit from it?

I would be more impressed with those who made no bones about the reason they remain in South Africa and said, honestly, "We are concerned for our profits," instead of the baloney that the businesses are there for our benefit. We don't want you there. Please do us a favor: get out and come back when we have a democratic and just South Africa.

It is true that many foreign corporations in South Africa have introduced improvements for their black staff. They now have a better chance of promotion. They get better salaries. But these improvements have come about largely through the pressures of the disinvestment campaign. American companies, especially, have begun to speak out more forthrightly against apartheid than has been their wont, and they would be the first to admit that they got a considerable jog to their consciences from the disinvestment campaign.

There has been progress, but we do not want apartheid ameliorated or improved. We do not want apartheid made comfortable. We want it dismantled.

You hear people say sanctions don't work. That may be so. But if they don't work, why oppose them so vehemently? If they don't work, why did Margaret Thatcher apply them to Argentina during the Falkland war? Why did the United States apply them to Poland and to Nicaragua? Why was President Reagan so annoyed that his European allies did not want to impose sanctions against Libya? If sanctions are so ineffective, why does the United States still maintain a blockade of Cuba? Yet we have all this wonderful sophistry when it comes to South Africa.

I am unaware of anything that has changed in South Africa without pressure. Changes in the sports policy were due to pressure from the sports boycott and not because there had been a change of heart on the part of white sports administrators.

We hear some say that sanctions will destroy the South Africa economy and leave us with a financial morass. My response is that the ball is surely in the South African Government's court. Its decisions about the future of the country will determine whether sanctions should be invoked or not. I certainly do not want to destroy a land I love passionately. But if the South African Government remains intransigent and obstinate, then sanctions or no sanctions the economy will be destroyed in the wake of the violence, bloodshed and chaos that will ensue if a full-scale civil war breaks out.

There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk with a chance. President Reagan's policy of constructive engagement, and similar efforts to persuade white South Africans who support apartheid to change, have failed dismally. Let's try another strategy.

There are those who are not ashamed to argue that if they pull out others will come in to exploit black South Africa. The moral turpitude of that argument is quite breathtaking. We are not asking people to make economic or political decisions. We are asking for a moral decision.

There is no room for neutrality. When you say you are neutral in a situation of injustice and oppression, you have decided to support the unjust status quo. Are you on the side of injustice? Are you on the side of oppression or liberation? Are you on the side of death or of life? Are you on the side of goodness or of evil?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COHEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, about 1 hour ago I spoke with the Reverend Allan Boesak, who is in Cape Town, South Africa. He is president of the World Alliance of the Reformed Church. As I mentioned in my other comments, he is one of the most courageous and eloquent leaders in the antiapartheid struggle. He told me that some church services have been permitted to go forward, but in other cases entire congregations have been arrested, those who have been involved in prayer and also involved in song having been hauled off to jail.

He also indicated that he was unable to be in touch with his brother, who is also a distinguished member of the clergy, who is conducting church services in another part of South Africa, and that there has been a virtual interruption in communication with many other communities in South Africa.

□ 1510

In light of the comprehensive gag rule being imposed upon the press in South Africa, it will take some time for us to find out what is happening under this most recent crackdown. I think all of us have a sense of satisfaction that the leaders in the church, in the private sector, and among the workers are still strongly committed to peaceful resolution of this extremely challenging situation. There are still many of those who still look to the United States as a light and as a beacon of freedom. I think all of us want to make sure and insist that that beacon and that light of hope which remain for those individuals is not extinguished by continuation of support for the policy of constructive engagement.

I thank the Chair.

Mr. President, I yield the floor.

(Conclusion of earlier proceedings.)

UNITED STATES RESPONSES TO SOVIET NONCOMPLIANCE

SOVIET CHEATING

Mr. McCLURE. Mr. President, the American people place a particular value on nations keeping their word. As the President has made clear in three detailed reports to the Congress, the Soviets do not—at least not where major arms control agreements are concerned. They have violated their political commitment under SALT II in several areas, most importantly in deploying a second new ICBM and in inhibiting verification through excessive telemetry encryption. They are violating the SALT I agreement. They are building a major new ABM radar in violation of their legal obligations under possible development of a prohibited territorial defense. The President's response was the only possible answer to this persistent pattern of Soviet violations. Unless the Soviets reverse their SALT violations, the United States must stop its unilateral compliance with the SALT II Treaty.

RESPONDING TO VIOLATIONS

Mr. President, one of the plainest lessons of human history is that violators of the law do not cease their violations if there is no penalty for continuing. The President had a clear obligation to ensure that Soviet violations did not go unanswered; indeed the Congress has expressed its sense that it would not endorse unilateral restraint and that it desires proportionate United States responses to uncorrected Soviet violations. The President has met his responsibility; now the Congress must meet ours. We must demonstrate that Congress shares the President's determination to ensure our security.

THE NEED FOR CONSTRUCTIVE SOVIET ACTION

Mr. President, last June 10, almost 1 year ago, the President made clear the Soviet actions necessary for the United States to exercise restraint. But the Soviets ignored our call for truly mutual interim restraint. The President went the extra mile to give the Soviets adequate time. He asked for a reversal of the violations; they continue to deploy the SS-25, to encrypt telemetry, and to build the illegal radar at Krasnoyarsk. He asked for a reversal of the unprecedented buildup in Soviet strategic forces; yet it continues unabated. Finally, he asked the Soviets to show their seriousness in the Geneva negotiation; they have yet to move beyond rhetoric. Those who decry the President's decision should address their remarks to the Soviet leadership; it is Soviet behavior which made that decision necessary.

IMPORTANCE OF U.S. MODERNIZATION PROGRAMS

Mr. President, much recent rhetoric has focused on the President's announcement that future strategic program decisions will be based on our security needs, rather than on expired agreements discredited by persistent Soviet violations of their obligations. But equally important is the President's reaffirmation of the importance of modernizing our strategic deterrent, including the full 100 MX, and of the strategic defense initiative. As his recent message to Congress makes clear, full funding for these programs is an essential response to Soviet actions and a necessary prerequisite if arms control is to succeed. Those who oppose these programs must shoulder the burden of proposing an effective alternative.

COMPLYING WITH THE LAW

Mr. President, Congress has made it clear in past legislation that we would not endorse "unilateral United States compliance with * * * agreements," or actions "prohibiting the United States from carrying out proportionate responses to Soviet undercutting of strategic arms agreements." Given the extensive Soviet failure to comply with their obligations, which is increasingly undermining our security, continued United States unilateral compliance with expired and unratified agreements would clearly be misguided. The President has met his obligations to the law, to Congress, and to the American people.

NEGOTIATING WITH THE SOVIETS

Mr. President, I am amazed that some claim that the President's announcement that he will base future strategic program decisions on our security needs, rather than on flawed and expired agreements with repeated Soviet violations have seriously undercut, will somehow impede negotiations. Why does anyone think the Soviets will negotiate the truly verifiable reductions we all want if the United States shows itself indifferent to past and ongoing Soviet violations? Those who want to see serious negotiations should join with the President in making it clear that we will not impose unilateral limits on ourselves in the absence of similar Soviet restraint.

THE EXTENT OF SOVIET VIOLATIONS

Mr. President, the calls of some for continued United States unilateral restraint are particularly strange in the face of the serious and widespread nature of Soviet noncompliance with their obligations. While the second new ICBM, telemetry encryption, and the illegal radar at Krasnoyarsk are the most serious Soviet violations, they are not the only ones. The Soviets have violated SALT I, SALT II, the ABM Treaty, the Limited Test Ban Treaty, the biological and toxin weapons convention, the Geneva protocol on chemical weapons, and the Helsinki Final Act. Inaction in the face of this widespread, persistent pattern would have been indefensible; decrying the President's measured response is incomprehensible.

THE QUESTION OF AN ARMS RACE

Mr. President, some decry the President's decision as likely to lead to an arms race. But past U.S. restraint has not been reciprocated. Restraint cannot be one-sided. Even now, the President's decision shows utmost restraint: older systems will be retired as security requirements and the Soviet threat permit; he has said that we will not deploy more strategic nuclear delivery vehicles or more strategic ballistic missile warheads than the Soviets; and there will be no appreciable numerical growth in United States forces. This is not a formula for an arms race but a prudent and restrained response to a growing threat. Furthermore, we want to move into a genuine arms reduction regime, based on equal levels, effective verification, and greater stability, as we have proposed in the Geneva negotiations.

A MESSAGE TO THE SOVIETS

Mr. President, the United States has gone the extra mile in seeking to have the Soviets meet their obligations. We have come to the end of that mile. But, because fiscal and military considerations have led to the retirement of two Poseidon submarines, the United States will be in technical observance of SALT II for several months. If Congress makes clear that it will not do the Soviets' work for them and that the Soviets must meet their obligations, the Soviets will have the opportunity and the incentive to reverse their past violations, reverse their unjustified military buildup, and negotiate seriously at Geneva.

CHILD CARE

Mr. MOYNIHAN. Mr. President, in recent years there has been a marked retreat from social policy on the part of the National Government, and this has been encountered in the Congress as well as in the executive branch. Yet simultaneously, at least of recent time, there has been a gross unconcern with certain social issues. I do not think any has been more conspicuous than the growing level of comment and interest in the condition of American families and of American children. We are the first society in history of which it can be said that the worst off group in the population were the children. In the past, it was in old age that persons could expect low incomes, ill health and destitution. Children were only as well or badly off as their parents.

This is suddenly not so. Thanks to Social Security, now a half-century in place, and other measures such as private pension systems, poverty has reached something near the vanishing point among the aged while it grows in extraordinary degrees and rates among children. A child 6 or younger in this country is seven times more

likely to be poor than someone 65 or over. No such situation has existed probably in the history of human society, and this is not some Nordic paradise where there are 100 poor people and 6 of them are over 65 and the rest of them are fishermen still. Almost a quarter—nearly 22 percent—of all American children are poor and, over time, almost half of American children will live in a single-parent family before they are 18 and, increasingly, family structure defines the prospects of well-being or its absence in the form of poverty.

This was a subject which Judy Woodruff addressed last month in a remarkable commencement address at Keuka College, a small liberal arts college in the Finger Lakes region of New York State. Specifically, she spoke of the issue of child care. She made a striking statement which I think we would have to agree with in the Senate. She contrasts our policies or absence thereof, our programs or absence thereof in the United States with other countries. She says, "The contrast with other industrialized nations is stark—we are, in fact, the only major Western nation, other than South Africa, without a national child care policy." We are the only other Western nation other than South Africa without a national child care policy. "Our kids spend 25 percent less time in school than their European counterparts and our parents take only half as much vacation. You can see that is a lethal combination for a family."

And as she points out later in this address, half the children being born in our Nation today can expect to live in a single-parent family before they reach maturity.

This is a matter which sooner or later—and I would hope sooner—the Congress and the administration are going to have to address, and in order that there should be a record of Miss Woodruff's remarkable address I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

KEUKA COLLEGE COMMENCEMENT ADDRESS

(By Judy Woodruff)

President Kirk, distinguished faculty, trustees, graduates, family and friends of Keuka College. It is a very real honor to be here this afternoon. Congratulations to all of you.

In all candor, I'm not comfortable with commencement speeches for at least three reasons. First, I doubt that anything I have to say is sufficient to sustain you for all the rigorous challenges ahead. Second, I'm aware of the eminently forgettable nature of most commencement addresses, including my own graduation, where I not only cannot recall what was said, but cannot even remember who said it. Finally, graduation exercises often are on gorgeous late spring weekends, such as this one, where it's more enticing to be down on the Chesapeake Bay with my husband and four year old son. So, it was with skepticism that I agreed Dr. Kirk's invitation last January. But then I read what he and others had to say about Keuka College and that made it impossible not to be here today.

I found myself enormously empathetic with the traditions and history of this little college "that could," going back to your original mandate almost 100 years ago to "assure that the son or daughter of the poorest minister or farmer could receive a quality education." Your determination to survive, both 70 years ago, and these past few years, culminating in the decision to admit males, is a mirror reflection of the vigorous and indomitable will that marks our country. When you in the class of 1986 were freshmen, the school seemed on the brink of collapse; classmates left amid a bleak winter of unrest and uncertainty. But today, you bask in the bright sunshine of success and hope.

I was the first in my immediate family to attend college—and so are many of you. You've already learned a little about the world of work through the internship program requires of all its graduates. You've been fortunate indeed to have a leader here in President Kirk, who came to this school when times were tough, has seen you through them, and continues to provide the sort of inspiration and strong leadership most colleges would dearly love to have. What college president would drive 4 to 5 hours each way to attend a basketball game, the night before he had a meeting of his own board of trustees? You have every reason to be proud of what you have achieved, and to turn that pride into a real assertiveness as you face the reality of earning a living out there somewhere.

The conventional commencement address contains a few quotes from Cardinal Newman, Edmund Burke, or de Tocqueville, accompanied by an admission of how the speaker's generation fouled everything up and it's up to you graduates to march out into this cold, tough world and correct all these ills. But now, there's always a counter conventional wisdom which often surpasses its counterpoint in popularity and acceptability. This would be to tell you how terrific everything is and it's up to you not to screw it up. Well, today I'm going to act like a journalist and split the difference.

In the first place, while we do have many ills, the society you're entering really is a pretty good place. For 40 years we've lived with the threat of nuclear war and avoided it. Economically, there is more opportunity for more young people than in any other time in our history. It is difficult to think of a more exciting and challenging time to live than in the United States of America than today.

But I'm going to set aside such cosmic matters this afternoon to instead talk about an issue that if not of interest to you right now will become vitally important in coming years. Specifically, the difficulty of achieving the goal of combining a successful career and flourishing family. Some 40 years ago when my mother was your age, the choice was simple: she knew family would take precedence. Eighteen years ago, when I was sitting where you are today, it seemed equally obvious: nothing would interfere with the pursuit of a successful career. But you women graduates today are wiser and realize you are likely to pursue both, a reality that many of your male friends also understand. Moreover, I suspect many of you already realize achieving these twin goals won't always be easy.

Now I'm sure some of you may decide that children aren't for you. Others may decide to have children and then stay home and raise them full time for awhile. These are perfectly legitimate options, and disregard anyone who expresses disapproval of any free choice you exercise. But with some combination of economic necessity and social and intellectual fulfillment, most of you are apt to combine children and career. I hope the men in the audience don't think I'm ignoring them in these remarks—far from it! Whether it's paternity leaves, equal responsibility for child care or a willingness to consider your spouse's work as important as yours, then supportiveness of men in these modern arrangements is absolutely essential.

Permit me a moment of personal aside. I have a pretty busy professional schedule, and also enjoy a husband and 4½-year-old son. This arrangement works out very nicely for us. But before anyone jumps to overly optimistic conclusions, consider: (a) We are very fortunate in that we are relatively affluent; we have a live-in nanny, a luxury that most working couples cannot afford, and (b) we are older first-time parents, and those earlier years brought us a certain security that makes dealing with the conflicts between career and family considerably easier. Yet, even in our relatively ideal situation, there have been tough times. I was in California covering the 1982 U.S. Senate race when my son, Jeffrey took his first step—That hurt. There are times with Jeffrey when my mind wanders to a story; there are even more occasions at work when my mind wanders to Jeffrey. Still, I would not trade this combination for anything. I feel more fulfilled professionally and personally: a better mother because of my work experiences, a better journalist because of my family situation. But it all has been much different than any of the daydreams when I was sitting in your seat some years ago; the landscape is so much different now than it was 20 or 30 years ago.

This country has seen a revolution of working women. Today, women are expected to constitute 44 percent of the growth in the work force over the next decade. This situation doesn't change much when children arrive. Fifty percent of women with kids under 3 are working today. In 1969 only a quarter of those women worked full time. Most of these women work out of economic necessity, whether they are poor or middle class. The American dream is very difficult for most one-wage-earner families.

But while more women today will work for most of their lifetime and many of these women also will raise a family, our efforts in this country at any family support system are a disgrace. Unless this is altered radically in the years ahead it will create considerable aggravation and agony for you and your children.

First consider what happens after you have a baby. In every Western European country, you would be guaranteed at least 3 months maternity leave with pay. In Sweden you would be given a year off with pay; in West Germany it would be 6 months.

But in America—despite the presence of a vigorous feminist movement and despite these dramatic trends of women in the work force—more than 60 percent of working women have no guarantee of any protective leave after giving birth, much less receiving paid time off. Parental leaves, commonplace in Europe, are rarities here. In short, you have a baby at your own professional risk. Yet Berry Brazelton, the renowned pediatri-

cian, insists that 4 months maternity leave after a child is born is a bare minimum for both parent and child, that 6 months is far better and a year ideal.

Now if somehow you are one of the lucky ones to escape the maternity or paternity leave problem and go back to work, the next dilemma is child care. The situation, I'm afraid doesn't get much better unless you have a lot of money. Experts estimate that fewer than 50 percent of our young children today have access to day care and much of that is inadequate. Florida has a waiting list of 21,000 youngsters for government subsidized day care programs; the Children's Defense Fund estimates that in Pennsylvania less than 10 percent of the 300,000 children in need of subsidized day care receive it. Connecticut officials report that fewer than one third of their needs can be met by licensed day care facilities. At the same time the Federal Government actually has reduced the amount of Federal funds available for day care by about 20 percent over the past 5 years.

Again the contrast with other industrialized nations is stark—we are, in fact, the only major western nation, other than South Africa, without a national child care policy. Our kids spend 25 percent less time in school than their European counterparts and our parents take only half as much vacation. You can see that's a lethal combination for a family.

Unfortunately, I think many average working women have been trapped between two sharply divergent views, neither of which has much relevance for them. On the one hand there is the political right which argues essentially that the problem is cultural and would be solved if only women would return to those days where they were content to be barefoot and pregnant in the kitchen. And, on the left, we have seen some ardent feminists throw all their energy into issues such as abortion rights and dignity for lesbian women.

Sylvia Ann Hewlitt, an economist and self-described feminist, has written a new book on this subject, entitled "A Lesser Life." Women in America today, she writes, are at the mercy of two powerful and antagonist traditions. The first is the ultradomestic 1950's with its powerful cult of motherhood; the other is the strident feminism of the seventies with its attempt to clone the male competitive model. Now I happen to believe that perfect homemaking, abortion rights and fairness for gays are all desirable and important ideals; but I'm not sure any one of them can become the dominant preoccupation for the woman in her 30's struggling to make ends meet so she can give her kids a better life than she enjoys.

For the main problem, as Ms. Hewlitt shows, is, and I quote from her, "despite all those new female M.B.A.s, M.D.s, astronauts, and TV anchorpersons, modern American women suffer immense economic vulnerability. They are considerably worse off than women in other advanced countries."

Many conservatives who want to return to those simple Leave It to Beaver situations with the little woman as homemaker, are as out of touch with reality as an old Ozzie and Harriet movie. As I've already noted, most women work out of economic necessity, not because they've been browbeaten by Gloria Steinem to abandon home.

I personally take issue with Sylvia Hewlitt's wholesale denunciation of the women's movement; those of us working successfully today owe a huge debt to the perseverence of earlier feminists. And the Equal Rights Amendment is as desirable and as necessary as ever. But I do think that some women's groups must start to focus much more of their efforts on the family and working women than they have in the past.

The unfinished agenda for women in the workplace is large and the fallout of these problems is considerable. In the short run, to cite just one horror, almost all child experts agree that the terrible tragedies of child abuse would be reduced sharply if poorer parents had access to free day care. In the longer run, consider the fact that the fertility rate in this country dropped to 1.7 children per couple over the past decade or so, a problem with negative long term implications. There are many causes for this, but the headaches that still accompany combining career and family may be one of them.

The issue of single women heads of households remains especially acute. A stunning 50 percent of our children will be raised in a single-parent family, predominately female-headed, by the time they are 18 years old. And the economics for these families is getting worse. Women continue to make only 60 percent of what men earn, and proponents of comparable worth measures convincingly argue that the trades dominated by women—such as nursing and teaching—fields Keuka has traditionally stressed, by the way—customarily are held back financially. Moreover, since the advent of no-fault divorce laws, women and children, on the average, have suffered a 73 percent decline in their standard of living, while ex-husbands have enjoyed a 42 percent increase.

There are some encouraging developments over the past few years. More enlightened companies are experimenting with innovative possibilities in the area of career and family. For instance:

Companies like Campbell Soup have instituted an on-site day care center for its employees.

Near here, Corning Glass Co. was one of the first companies to share day care costs with employees.

Polaroid Co. subsidizes child care expenses with vouchers of up to 80 percent of the costs for all its employees making less than $25,000 a year.

The 3-M Co. sends trained professionals to employees' homes to take care of sick children.

The Merck Co. gives maternity leaves in excess of a year to some of its employees with guaranteed return to a comparable position, and also has some 20 mothers doing parttime work at home.

And American Can now allows employees to be reimbursed for child care costs when they travel or work long hours.

Labor unions, once thought insensitive to to the needs of working women, are making some dramatic changes, too. Maternity leaves, and sometimes even paternity leaves, the option of flex time and child care assistance, are becoming important bargaining matters. The American Federation of State, County, and Municipal Employees, with 600,000 women members, or more than half of its 1.1 million total membership, proudly calls itself a leading advocate for rights of women workers and has negotiated child care leaves for both mothers and fathers. In New York, the International Ladies Garment Workers Union has day care facilities for its members' kids.

The public sector also is paying more attention. Some local governments are using more of their school facilities and other resources to alleviate burdens of working families. There are important stirrings on the federal level. Colorado Congresswoman Patricia Schroeder and Connecticut Senator Christopher Dodd are pushing legislation that would guarantee an 18-week unpaid leave for either parent after a birth, adoption or serious illness; that or similar legislation has a good chance of passage in the next year. A group of moderate House Republicans have proposed a modest $200 million child care voucher system for poorer working parents to be financed by limiting child care credit of affluent taxpayers. Finally, the tax bill, winding its way through Congress, contains some very important provisions for working families: the personal exemption would be doubled for most taxpayers and about 6 million working poor people would be taken off the rolls altogether. All of these are encouraging signs.

While the situation is improving, we have a long way to go. But I'm optimistic in no small part because of you all sitting out there in the graduating class. Many of you—and your parents—have made sacrifices to be here today and certainly Keuka College has made sacrifices. But out of adversity and difficulty, I think you're going to be less accepting of conventional cliches.

A final note to the men in the audience this afternoon. Unlike my classmates 18 years ago, and certainly unlike my father's peers 40 years ago, I think many of you understand and are ready for a sharing arrangement with work and family in the years ahead. Sometimes, it'll be a pain in the neck; dashing home to see a sick child, or staying up through the night with a restless baby, or altering your work or social schedules to take in a soccer game, isn't always convenient. But the rewards far outweigh these problems. We'll never come to grips with the problems of career and family without full involvement of the fathers; this isn't just a woman's problem. I think you men are ready.

We're all learning a lot about these issues. At the start of this speech, I suggested that I wouldn't quote Cardinal Newman, Burke or de Tocqueville. Permit me one citation from Mark Twain, however. "When I was a boy of 14," Twain wrote, "my father was so ignorant I could hardly stand to have the old man around. But when I got to be 21, I was astonished at how much the old man had learned in 7 years." My heartiest congratulations to the graduating seniors as well as your parents, for all that you have learned, and the best of luck in the very exciting times ahead.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1850

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR

Mr. McCLURE. Mr. President, the following unanimous-consent requests

have been cleared with the distinguished Democratic leader.

NATIONAL IMMIGRANTS DAY

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 682, Senate Joint Resolution 290, National Immigrants Day.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

The joint resolution (S.J. Res. 290) to designate July 4, 1986, as "National Immigrants Day".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was read the third time and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 290

Whereas on July 4, 1986, the restored Statue of Liberty will be unveiled at the centennial celebration of the erection and dedication of the Statue;

Whereas the Statue of Liberty has been the symbol of freedom, hope, and opportunity for millions of immigrants over the past 100 years;

Whereas the Statue of Liberty serves as a reminder to all that the United States is a Nation of immigrants, a Nation of nations;

Whereas the Statue of Liberty is a lasting memorial to the immigrants who have made America great;

Whereas millions of immigrants settled throughout the vast territory of the United States, and supported the ideals of independence and liberty;

Whereas the torch held by the Statue of Liberty serves as a beacon of freedom that lives in the soul of every American; and

Whereas it is only fitting that when the torch is relit also be a time to honor the immigrants welcomed by the burning torch of the Lady of Liberty to a land of freedom where any dream was and is achievable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 4, 1986, the centennial celebration of the Statue of Liberty, is designated as "National Immigrants Day", and the President is authorized and requested to issue a proclamation encouraging the people of the United States to join the President and the Congress in observance of National Immigrants Day with appropriate programs, ceremonies, and activities.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I am pleased that Senate Joint Resolution 290 has passed the Senate today. This joint resolution authorizes and requests the President of the United States to designate July 4, 1986, as "National Immigrants Day."

A constituent of mine from Scottsdale, AZ, Joan Wade, originally gave me the idea to introduce legislation to honor this Nation's immigrants on the same day America will be celebrating the newly renovated Statue of Liberty. Joan Wade's suggestion reminded me that we honor many different parts of our society with a special day, but we do not have a day to honor our immigrants, the backbone of this great Nation.

Through the efforts of America's citizens, the Statue of Liberty is being restored. The values she represents—freedom, hope and opportunity—are precious to us. She, herself, is an immigrant who came to us in the name of liberty. I believe it is only fitting to honor the immigrants she welcomed to our shores when her torch is relit, and I appreciate my colleagues support of this bill.

SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN DISTRIBUTION ACT

Mr. McCLURE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1106.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1106) entitled "An Act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the United States Claims Court, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE; DEFINITIONS

SECTION 1. (a) This Act may be cited as the "Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act".

(b) For purposes of this Act—

(1) The term "tribe" means the Saginaw Chippewa Indian Tribe of Michigan.

(2) The term "Tribal Council" means the Saginaw Chippewa Tribal Council.

(3) The term "Secretary" means the Secretary of the Interior.

ABROGATION OF PRIOR PLAN

SEC. 2. Notwithstanding Public Law 93-134 (25 U.S.C. 1401 et seq.) or any plan prepared or regulation promulgated by the Secretary pursuant to such law—

(1) the funds appropriated in satisfaction of judgments awarded the tribe in dockets numbered 59 and 13E of the Indian Claims Commission, and

(2) the balance of any undistributed funds appropriated in satisfaction of the judgments awarded the tribe in docket numbered 57 of the Indian Claims Commission and docket numbered 13F of the United States Claims Court,

and any interest or investment income accrued on the amount of such funds on or before the date of any transfer made pursuant to section 5 or 8 (less any attorneys' fees and court costs), shall be distributed and used in accordance with the provisions of this Act.

INVESTMENT FUND

SEC. 3. (a)(1) The tribe, through the Tribal Council, shall establish a trust fund for the benefit of the tribe which shall be known as the "Investment Fund". The principal of the Investment Fund shall consist of—

(A) the funds transferred by the Secretary to the Tribal Council pursuant to section 5(a),

(B) the amounts required to be included in principal under subsection (c) or section 8(c),

(C) such portion of the funds paid to the Tribal Council under section 8(a) as the Tribal Council may elect to add to the principal, and

(D) such other amounts of the income of the Investment Fund which the Tribal Council may elect to retain and add to the principal.

(2) The Tribal Council shall be the trustee of the Investment Fund and shall administer the Investment Fund in accordance with the provisions of this Act.

(b)(1) The principal of the Investment Fund shall be used exclusively for investments or expenditures which the Tribal Council determines—

(A) are reasonably related to—

(i) economic development beneficial to the tribe, (or)

(ii) the development of tribal resources, or

(B) are otherwise financially beneficial to the tribe.

(2) Under no circumstances shall any part of the principal of the Investment Fund be distributed in the form of per capita payments to the members of the tribe or used or expended for purposes other than investment or economic development projects and programs.

(3) None of the income of the Investment Fund may be distributed or expended before the date that is 18 months after the date on which the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe (within the meaning of such constitution).

(c) At least 10 percent of the income earned on the Investment Fund during each of the first ten fiscal years of the Investment Fund beginning after such Investment Fund is established shall be retained in the Investment Fund and become part of the principal of the Investment Fund.

(d)(1) The Investment Fund shall be maintained as a separate book account.

(2) The books and records of the Investment Fund shall be audited at least once during each fiscal year of the Investment Fund (or before the end of the 3-month period beginning on the last day of such fiscal year) by an independent certified public accounting firm which shall prepare a report on the results of such audit. Such report shall be treated as a public document of the tribe and a copy of the report shall be available for inspection by an enrolled member of the tribe.

(e)(1) From the funds described in section 2 and transferred to the Tribal Council pursuant to section 5(a), the sum of $1,000,000 shall be set aside within 90 days of receipt of

such funds by the Tribal Council for the express purposes of establishing a separate Elderly Assistance Investment Fund.

(2) Income generated by the Elderly Assistance Investment Fund shall be distributed on a per capita basis to each enrolled Tribal member who is 50 years of age or older on the date that is 18 months after the date on which the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe.

(3) Tribal members entitled to participate in the distribution of such income shall submit verifiable documentation as to their age to the Tribal Council no later than the date that is 3 months after the date established pursuant to paragraph (2) of this subsection. The Tribal Council shall prepare and certify a list of all Tribal members entitled to participate in the distribution of income from the Elderly Assistance Investment Fund within 30 days following the above date.

(4) Distribution of the income from the Elderly Assistance Investment Fund shall be made pursuant to the following terms and conditions:

(A) No Tribal member certified to participate shall receive more than the aggregate sum of $3,000 from the income generated by the Elderly Assistance Investment Fund.

(B) Payments shall be made to each Tribal member certified to participate on an equal pro-rata basis from the available income generated by the Elderly Assistance Investment Fund.

(C) The initial per capita distribution shall be made no sooner than the date that is 30 days after the date that the Tribal Council certifies the list of eligible Tribal members pursuant to paragraph (3) nor no later than 120 days following such date.

(E) If succeeding per capita distributions are necessary to bring the aggregate payment to each Tribal member certified to participate to the sum of $3,000, such distribution shall be made on or before the anniversary date of the initial per capita distribution.

(F) If any Tribal member certified to participate should die before receiving the initial or any succeeding per capita distribution, the payment which would have been paid to that individual shall be returned to the Elderly Assistance Investment Fund for distribution in accordance with this subsection.

(5) When all Tribal members certified to participate in the per capita distribution have been paid the aggregate sum of $3,000, the principal sum of $1,000,000 together with any remaining interest of the Elderly Assistance Investment Fund shall revert back and become part of the Investment Fund established pursuant to subsection (a)(1): Provided, That, nothing in this subsection shall be construed to prevent the Tribal Council from establishing an Elderly Assistance Investment Fund or Program providing for per capita distributions or other programs for elderly Tribal members from the income of the Investment Fund and subject to such terms, conditions and eligibility criteria as the Tribal Council may provide.

(6)(A) The Elderly Assistance Investment Fund shall be governed and subject to the same conditions as provided for in subsections (b) and (d) but not the provisions of subsection (c) of this section.

(B) Any Elderly Assistance Investment Fund or Program which may be subsequently established by the Tribal Council shall be subject to the terms of this Act except that subsection (e) of this section shall not be applicable to such Fund or Program.

TRIBAL CONSTITUTION

SEC. 4. (a) Notwithstanding any other provision of law, the Tribal Council may call a tribal election and, pursuant to such election, the tribe may adopt (without the approval of the Secretary) any amendments to the constitution of the tribe which were approved by the Tribal Council on April 15, 1985, in resolution L and O-03-85.

(b) Any amendments to the constitution of the tribe other than the amendments referred to in subsection (a) may only be adopted in accordance with the provisions of such constitution and applicable Federal law and may not be adopted before the date that is 18 months after the date on which the amendments referred to in subsection (a) are adopted and ratified by the qualified voting members of the tribe.

(c) The adoption of any amendment referred to in subsection (a) to the constitution of the tribe shall take effect when such amendment is ratified by the qualified voting members of the tribe (within the meaning of such constitution).

(d) The tribe shall submit to the Secretary a copy of any amendment to the constitution of the tribe referred to in subsection (a) within 10 days after the date on which such amendment is ratified by the qualified voting members of the tribe (within the meaning of such constitution).

TRANSFER OF FUNDS BY THE SECRETARY

SEC. 5. (a) The Secretary shall transfer the funds described in section 2 (which have not previously been transferred to the Tribal Council under section 8(a) to the Tribal Council by no later than the date that is 60 days after the date on which the Secretary receives written notice of the adoption by the Tribal Council (in accordance with the constitution and bylaws of the tribe) of a resolution requesting the Secretary to make the transfer under this subsection if the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe (within the meaning of such constitution).

(b)(1) Notwithstanding any other provision of law, the approval of the Secretary for any payment or distribution from the principal or income of the Investment Fund, after the transfer of funds pursuant to subsection (a), shall not be required and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the principal or income of the Investment Fund.

(2) The Secretary may take such action as the Secretary may determine to be necessary and appropriate to enforce the requirements of this Act. After notice and hearing, the Secretary may take such action as the Secretary may determine to be necessary and appropriate to assume administration of the Investment Fund if it is determined that the Tribal Council has materially failed to administer the Investment Fund in accordance with the requirements of this Act. The Secretary shall provide whatever assistance may be necessary to the Tribal Council to correct any such deficiencies prior to any proposed Secretarial assumption of the administration of the Investment Fund and immediately thereafter, if necessary. The Secretary's assumption of the administration of the Investment Fund shall not exceed a period of 6 months.

TREATMENT OF AMOUNTS PAID OR DISTRIBUTED FROM THE INVESTMENT FUND

SEC. 6. (a) No amount of any payment or distribution—

(1) from the principal or income of the Investment Fund, or

(2) of any funds transferred to the Tribal Council under section 8(a)

to any payee or distributee who is an enrolled member of the tribe shall be included in the gross income of the payee or distributee for purposes of any Federal, State, or local income tax.

(b) Any payments or distributions described in subsection (a), and the availability of any amount for such payments or distributions, shall not be considered as income or resources or otherwise used as the basis for denying or reducing—

(1) any financial assistance or other benefit under the Social Security Act—

(A) to which any enrolled member of the tribe, or the household of any such member, is otherwise entitled, or

(B) for which such member or household is otherwise eligible, or

(2) any other—

(A) Federal financial assistance,

(B) Federal benefit, or

(C) benefit under any program funded in whole or in part by the Federal Government, to which such member or household is otherwise entitled or for which such member or household is otherwise eligible.

WAIVERS OF SOVEREIGN IMMUNITY

SEC. 7. Notwithstanding any other provision of law, the tribe may execute limited waivers of the sovereign immunity of the tribe and consent to the civil jurisdiction of the courts of the State of Michigan with regard to the use as security for indebtedness of—

(1) any amount of income of the Investment Fund which is not retained and added to the principal of the Investment Fund pursuant to subsection (a)(1)(D) or (c) of section 3,

(2) a portion of the principal of the Investment Fund equal to the total amount, if any, of the funds transferred to the Tribal Council under section 8(a) that are added to the principal of the Investment Fund,

(3) any funds transferred to the Tribal Council under section 8(a) that are not added to the principal of the Investment Fund and any interest or investment income accrued on such funds, or

(4) any asset acquired by use of the income described in paragraph (1), or of the funds described in paragraph (3), which is not held in trust by the Secretary for the benefit of the tribe,

if such waivers of sovereign immunity do not exceed individually or collectively the total amount or value of such security and such waivers specifically identify and limit the parties who have been granted the authority to bring an action against the tribe pursuant to such waiver.

OPTIONAL USE OF DOCKET 57 FUNDS

SEC. 8. (a) The Secretary shall transfer to the Tribal Council all or any portion of the undistributed funds appropriated in satisfaction of the judgment awarded the tribe in docket 57 of the Indian Claims Commission (including all interest and investment income accrued on such funds) which the tribe requests the Secretary to transfer under this subsection. Such transfer shall be made by no later than the date that is 60 days after the date on which the Secretary receives written notice of the adoption of a resolution by the Tribal Council (in accord-

ance with the Constitution and bylaws of the tribe) requesting a transfer of funds under this subsection.

(b) Any funds transferred to the Tribal Council under subsection (a) shall be subject to the same accounting and auditing requirements applicable to the Investment Fund under section 3(d).

(c) At least 10 percent of the interest or investment income, if any, that accrues during each year of the 10-year period beginning on the date any transfer is made under subsection (a) on any funds held by, or on behalf of, the tribe which were transferred to the Tribal Council under subsection (a) shall be transferred to the Investment Fund and become part of the principal of the Investment Fund.

NONDISCRIMINATION

SEC. 9. (a) Any distribution or expenditure or the income of the Investment Fund, and any program or activity funded, in whole or in part, by the principal or income of the Investment Fund, shall not discriminate against—

(1) individuals who become members of the tribe after the date on which the amendments to the constitution of the tribe referred to in section 4(a) are adopted and ratified by the qualified voting members of the tribe (within the meaning of such constitution), or

(2) members of the tribe who do not reside on the reservation of the tribe.

(b) Any—

(1) expenditure for any improvement on the reservation of the tribe that can be enjoyed by all members of the tribe, or

(2) program or activity conducted only on the reservation of the tribe in which any member of the tribe can participate,

shall not be construed to be discriminatory for purposes of subsection (a) merely because the benefits of such improvement, program, or activity are more readily available to members of the tribe who reside on the reservation of the tribe.

Mr. RIEGLE. Mr. President, I rise to voice my support for S. 1106.

It has been nearly 2 years since I first introduced judgement fund legislation on behalf of the Saginaw Chippewa Indian Tribe of Michigan, and I am happy that the Senate once again has the opportunity to consider this important matter.

The legislation before us today has been reviewed extensively in both the House and the Senate during the course of three public hearings. I believe that the issues raised during these hearings have been addressed in S. 1106 in such a way that reflects the legitimate concerns of both the tribe and the descendants not living on the reservation.

S. 1106 establishes an investment trust of nearly $10 million for the Saginaw Chippewas from funds previously awarded by the Indian Claims Commission. Income generated by the principal investment fund would be used to promote the economic development of the tribe and to fund badly needed social programs for tribal members.

I support the House added provision that would establish an elderly assistance program by setting aside $1 million of the judgment funds. The interest and income generated from the $1 million will then be distributed on a per capita basis among tribal members over 50 years old. The maximum amount anyone could receive under this program would be $3,000.

Mr. President, tribal self-determination and the enhancement of local reservation economies has long been a stated policy objective of the Reagan administration, and one with which I can certainly agree. S. 1106 compliments this objective because it allows the tribe to administrate and to channel its resources from the principal investment fund to respond to the economic and social needs of tribal members living on and off the reservation. In their letter of support for S. 1106, the Department of the Interior agreed with this assessment and stated:

Maintaining judgment funds as a capital pool for individual tribes to invest enhances the stated administration objective of tribal self-determination.

In closing, Mr. President, I am reminded of one statement made by Ben Quigno, a member of the Saginaw Chippewa Tribe, during the first public hearing conducted by the Senate Select Committee on Indian Affairs. In concluding his testimony Mr. Quigno reflected on what the council of his ancestors might have been if asked how to best use the judgment funds. He said:

In remembrance of our ancestors, who guided their lives by the finest of all principles, the cultural values of caring, sharing, and always the concern for their children. Their counsel would be * * * do your best for your children, and your children's children, for that is the way we lived, and it was a good way.

Unfortunately, Ben Quigno did not live to see this legislation enacted into law, but I am sure he would agree that it will provide a solid foundation for the tribe's future.

I too am convinced that S. 1106 provides a solid foundation for the Saginaw Chippewa Tribe to utilize their judgment funds in the best possible manner that will lead to greater economic and social development for all tribal members. I urge my colleagues to support this legislation.

Mr. McCLURE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho.

The motion was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDENT'S COUNCIL ON HEALTH PROMOTION AND DISEASE CONTROL

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 658, S. 2057, the President's Council on Health Promotion and Disease Control.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

The bill (S. 2057) to establish the President's Council on Health Promotion and Disease Control.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2084

(Purpose: To revise the termination date for the Council)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. HATCH, proposes an amendment numbered 2084.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 1, strike out "eighteen" and insert in lieu thereof "twenty-four".

On page 6, line 2, strike out "or".

On page 6, between lines 2 and 3, insert the following:

"(2) eighteen months after the first date on which all members have been appointed to the Council pursuant to subsection (c); or

On page 5, line 3, strike out "(2)" and insert in lieu thereof "(3)".

Mr. McCLURE. Mr. President, I move the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2084) was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to table was agreed to.

Mr. HATCH. Mr. President, it seems that Americans are indifferent to hearing about staggering amounts of money. We hear every day about $200 billion deficits and $2 trillion national debts. A million dollar legal judgment hardly rates a yawn anymore. But I want to throw a statistic at you that gave me a jolt, even after having these fantastic figures going in and out of my ears every day.

Americans have at their fingertips the ability to save $500 billion in health care costs and lost productivity. That's one-half of a trillion dollars in savings available to us—if we can just change a few bad habits.

Heart disease, cancer, and stroke cost an estimated 1.6 million lives and $137 billion annually. Substance abuse costs us an estimated $245 billion a year—$140 billion a year due to alcohol abuse, $65 billion a year due to cigarette smoking, and $40 billion attributable to other substances. And there are approximately 1 million teenage pregnancies a year in this country, costing $16.5 billion per year. The tragedy is that most of these costs are preventable with a little education—and a lot of effort.

Exercise, improved diet, moderating alcohol use, quitting smoking and substance abuse, less sexual promiscuity, and wearing seatbelts—any or all of these changes in lifestyle can bring about a tremendous improvement in the quality and length of life.

But too many Americans—especially the economically disadvantaged—just do not know about the tremendous advantages of these simple good health habits. Alcohol abuse, drug abuse, and tobacco use, for example, are much more common among the economically disadvantaged. Black women are twice as likely to be clinically obese as the general public. Five of the top 10 causes of death for native Americans are related to alcoholism. And to be painfully frank, the higher mortality rates and shorter life expectancies faced by minority and economically disadvantaged populations in America are due in large part to decisions that are within their control—including what foods to eat, how much to drink, whether or not to smoke, whether or not to exercise, and so on.

Despite this rather gloomy outlook among some groups, many Americans are beginning to catch on. In the last 15 years, mortality rates from coronary heart disease among 35 to 74-year-olds have fallen by more than 20 percent. The number of people who have quit smoking has increased by 50 percent over the last 20 years. More people are exercising today than ever before. And while infant mortality is still too high in this country, the good news is that it has continued to fall over the last 5 years, and the rate of decline for blacks has been twice as fast for whites. Life expectancy has also been increasing twice as fast for blacks as for whites during the Reagan administration.

Because of the tremendous potential payoff provided by these simple good habits, last February I introduced legislation to establish the President's Council on Health Promotion and Disease Prevention. S. 2057 creates a high-level council to recommend approaches that will bring the good news of preventive health care to all Americans—rich, poor, middle class, black, white, brown, or red. This bill unanimously passed the Labor and Human Resources Committee, which I chair, on March 19, 1986.

This Council will require a $500,000 investment in America's health and would represent a small change compared to the $1.2 billion we spend every day on health care or the potential one-half trillion dollars in savings we could gain from healthier lifestyles.

Mr. President, Americans may be more conscious of Government spending today—but they are also more conscious of good health. As Ray Cave, managing editor of Time magazine, has written:

A major change in modern life has been the increasing understanding of the benefits of fitness and preventive medicine. It is not a fad or craze. It is not a jog. It is here for the long run.

I am committed to the long run, too. I am committed to educating Americans about the simple changes that they can make to improve the length and the quality of their lives, and I hope that my colleagues will join me and the distinguished cosponsors of this bill on the fast track to good health for all Americans.

I ask unanimous consent that a statement from the ADA be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEALTH PROMOTION AND DISEASE PREVENTION IN DENTISTRY

The oral health of this nation has benefitted tremendously from health promotion and disease prevention efforts. Prevention has long been the cornerstone of the dental profession. Dental preventive measures include regular professional cleanings, fluoride treatments, instruction in proper brushing and flossing, nutrition counseling, hypertension screening and education on the adverse effects of tobacco products. The results of these preventive practices on the dental health of the public have been dramatic. Tooth decay among school children decreased by one-third in the 1970's. Currently, about 37 percent of children ages 5-17 are totally free of cavities. Adults have also benefitted. The number of elderly able to retain their teeth has increased significantly.

The preventive focus of dentistry, coupled with technological advances such as fluoridation and sealants, have also had a significant impact on dental costs. During the past 15 years, when costs of other health care services consistently exceeded the rate of inflation, dental costs have actually stayed well below this inflationary trend.

(By request of Mr. MCCLURE, the following statement was ordered to be printed in the RECORD:)

● Mrs. HAWKINS. Mr. President, I support the bill to establish a President's Council on Health Promotion and Disease Prevention (S. 2057). For the last 20 years, health promotion and disease prevention have been two of the fastest growing fields in the United States. Many diseases such as diphtheria and polio have been effectively controlled by modern medical research and technology. Also, in the last 10 years there has been an outstanding resurgence of interest in personal health and physical fitness. Medical studies are proving that simple behaviors such as proper exercising, dieting, and especially stopping the use of tobacco, alcohol, and illegal drugs can substantially increase one's life expectancy.

The above facts are just a few of the many reasons for establishing a President's Council on Health Promotion and Disease Prevention. A Council would help to increase the President's awareness of these issues so vital to the lives of all Americans. Moreover, such a Council will provide more information to the public through educational programs and services established across the Nation. These programs will reduce the number of accident-related deaths by merely providing people with basic safety information. Also, while supporting health and disease research groups, the Council will be a positive force in assessing what resources can be more efficiently used at State, local, and private levels.

In addition, as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism, I am particularly interested in any program that will help to end the incessant abuse of illegal drugs, alcohol, and tobacco in this Nation. A President's Council would inform the President not only of the magnitude of America's drug problem, but also of the numerous ways in which mind-altering substances can cause permanent injury and even death. Hundreds of thousands of lives each year are ended in deaths directly related to alcohol, tobacco, or illegal drugs; the methods span from drunk driving accidents to heroin overdoeses. I firmly believe that the President's Council will lend a strong hand in the war on drugs, and I am also confident that it will be effective.

For a duration of 18 months, the proposed Council will inform the President and save many lives through programs of education, research, and skill development. For the reasons given, Mr. President, I am strongly in favor of the bill to establish a President's Council on Health Promotion and Disease Prevention (S. 2057).●

Mr. LUGAR. Mr. President, I am pleased, along with my colleagues Senators HATCH and KENNEDY, to be an original cosponsor of this bill to establish the President's Council on Health Promotion and Disease Prevention.

Since I first came to the U.S. Senate, I have been interested in issues surrounding health and fitness. In recent years such topics have come to the

forefront of discussion because of the public's growing awareness of the tremendous impact which lifestyle decisions have on disease prevention, health promotion, and fitness. Disease prevention and health promotion, including the importance of physical fitness, have become a national policy issue, and we all have become more conscious than ever before that it is an area with serious economic consequences.

Lifestyle and fitness decisions have consequences in terms of health care expenditures which must be paid not only by the individual but also by society. The Council which this legislation proposes to establish will contribute a great deal toward elevating public awareness of how important these choices are for a nation that spends some $438 billion each year for health care, much of it for the treatment of preventable diseases.

The fact is, health care costs are escalating at a rate well beyond inflation. In 1960, the Nation spent less than $26 billion on health care. In 1985, Americans spent $438 billion, an increase of nearly 17 times over a period of only 25 years. This increase in health care costs has placed a heavy financial burden not only on individuals but also on business and government. A major part of the Federal budget is directly linked to these costs. Health care and other social welfare programs now make up almost half of the Nation's budget.

Given the impact of escalating health care costs, it is important to emphasize that changes in nutrition and lifestyle have tremendous influence on an individual's personal health and productivity. For example, it is estimated that an employee who smokes costs employers between $624 and $4,611 more per year in medical costs, lowered productivity, absenteeism, and other expenses than a nonsmoking employee. Alcoholism is thought to account for $19 billion in lost work productivity annually. However, the results of a recent medical study published in the New England Journal of Medicine indicated that the risk of heart attack in male cigarette smokers decreases within a few years of quitting to a level similar to that of men who have never smoked.

Most Fortune 500 companies as well as thousands of smaller firms are taking an active interest in the physical condition of their employees. The establishment of physical fitness and nutrition programs within a company results in lower health and insurance costs, less absenteeism and turnover, and increases productivity within the work force.

In the past several years, there have been major political debates in Congress over the question of food additives that cause cancer in laboratory animals. Yet the study by the National Cancer Institute found that food additives cause less than an estimated 1 percent of the cancer in the Nation. More than a third of all cancers are directly linked to diet. In short, the leading causes of cancer are factors that individuals can control.

Given these facts, the need to elevate public awareness of the issues involved with health promotion and disease prevention is clear. The President's Council on Health Promotion and Disease Prevention would take various steps to educate citizens of the health impact of nutrition, physical exercise, and lifestyle choices. The Council would encourage State and local governments, and private entities to develop research programs and activities related to health promotion and disease prevention. The Council will examine the most effective means of informing all segments of society, particularly the poor and least educated of our citizens. They have suffered the most from preventable diseases, but have been traditionally underinformed about the health consequences of nutrition and lifestyle choices.

I am particularly pleased to be a part of this legislation, as I have had a longstanding personal interest in health promotion and disease prevention. I am a runner and have sponsored a fitness festival in my home State of Indiana for the past 7 years. The greater questions of our national health are critical to our ability to compete in the world. If we are to be competitive as a nation, we must be prepared for the challenges mentally and physically, factors which greatly supplement the foundations of strong character and leadership ability. We must care for our own sakes, but even more importantly we must prepare our children with good lifelong habits of health and fitness. The Council will be a national vanguard of this endeavor.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "President's Council on Health Promotion and Disease Prevention Act of 1986".

ESTABLISHMENT OF COUNCIL

SEC. 2. Title XVII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"PRESIDENT'S COUNCIL ON HEALTH PROMOTION AND DISEASE PREVENTION

"SEC. 1707. (a) There is established the President's Council on Health Promotion and Disease Prevention (hereafter in this section referred to as the 'Council').

"(b) The Council shall—

"(1) advise the President with respect to all matters concerning the building and maintaining of the maximal personal health of Americans;

"(2) advise the President, with respect to State, local, and private activities relating to health promotion and disease prevention;

"(3) encourage State and local governments and private entities in the development and conduct of research relating to, and programs and activities to foster, health promotion and disease prevention;

"(4) prepare an inventory of Federal, State, local, and private programs and activities for promotion of health and the prevention of illness and injury, particularly programs and activities directed toward subgroups of the American population who have special risks to health;

"(5) assess which of the available health promotion and disease prevention resources are not being fully used by Americans and how such resources may be better targeted toward the subgroups described in paragraph (4); and

"(6) make recommendations to the President concerning—

"(A) appropriate methods to make available to the public information concerning available health promotion and disease prevention resources, including information concerning the programs and activities included in the inventory prepared under paragraph (4); and

"(B) additional health promotion and disease prevention programs and activities which should be undertaken to improve the personal health of Americans.

"(c) The Council shall be composed of fifteen members appointed by the President, of which—

"(1) five shall be Federal, State, and local officers and employees who have expertise and experience in health promotion or disease prevention;

"(2) four shall be representatives of academic institutions who have expertise and experience in health promotion or disease prevention;

"(3) four shall be representatives of public and private organizations who have expertise and experience in health promotion or disease prevention; and

"(4) two shall be representatives of the general public.

"(d) Members shall be appointed for the life of the Council. A vacancy in the Council shall be filled in the same manner as the original appointment was made.

"(e) The President shall designate a member of the Council as Chairperson.

"(f) The Council shall meet at the call of the Chairman.

"(g) Eight members of the Council shall constitute a quorum, but a lesser number may hold hearings. A vacancy in the Council shall not affect its powers.

"(h) Each member of the Council shall serve without compensation. While away from their homes or regular places of business in the performance of services for the Council, all members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under section 5702 of title 5, United States Code.

"(j)(1) The Secretary shall appoint and fix the compensation of an Executive Director for the Council. The Executive Director shall be an individual who has expertise and experience in health promotion or disease prevention. The Secretary shall provide the Council with such additional personnel, and with such additional support services and facilities, as the Secretary considers neces-

sary to enable the Council to carry out its functions.

"(2) Any Federal employee may be detailed to the Council without reimbursement, and such detail shall be without interrruption or loss of civil service status or privilege.

"(k)(1) The Council may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

"(2) The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this section. Upon request of the Chairman of the Council, the head of such department or agency shall furnish such information to the Council.

"(3) The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(l) Within eighteen months after the date of enactment of this section, the Council shall prepare and transmit to the President and the Congress a report which describes the activities of the Council under this section.

"(m) The Council shall terminate at the earlier of—

"(1) twenty-four months after the date of enactment of this section;

"(2) eighteen months after the first date on which all members have been appointed to the Council pursuant to subsection (c); or

"(3) thirty days after the date on which the President and the Congress receive the report of the Council pursuant to subsection (l).".

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-749. A joint resolution adopted by the Legislature of the State of Maryland to the Committee on Appropriations.

"RESOLUTION

"Whereas, The Washington Metro rail system, which serves the nation's capital and the millions of people who live, work, and visit there, should be a model system; and

"Whereas, The completed portions of the Metro system have promoted economic growth, access to employment, reduction of traffic congestion, and a cleaner, healthier environment; and

"Whereas, Failure to complete the entire Metro rail system would assure the continuance of the disparity that exists in the Washington metropolitan area regarding access to the workplace preventing many citizens from sharing in the economic growth and prosperity that have accompanied the development of Metro rail in other parts of the region; and

"Whereas, The citizens of the Washington metropolitan area, through their local governments, have contributed billions of dollars for Metro rail construction based on the expectation that a full 103-mile regional system would be completed; and

"Whereas, The dream of an area-wide mass transit rail system could never have begun to be realized without the strong and consistent support of the citizens of the entire region, including those who have yet to see the benefits of the system reach their neighborhoods, and who continue to wait at the end of the line; and

"Whereas, completion of the entire 103-mile system is endangered by the federal government's threat to cut off all funds for Metro rail construction; and

"Whereas, Anything less than completion of the entire Metro rail system would signify a serious breach of the commitment made by the federal government to create a model transit system to serve the entire Washington area and the nation; now, therefore, be it

"Resolved by the General Assembly of Maryland, That the General Assembly strongly opposes any effort to reduce the federal government's share of funding for construction of the Washington Metro rail system; and be it further

"Resolved, That this body urges President Reagan and the Congress of the United States to act vigorously to assure that the government of the United States provides its full share of construction funds to complete the entire 103 mile Metro rail system; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Honorable Ronald Reagan, President of the United States, 1600 Pennsylvania Avenue, Washington, D.C.; the Honorable George Bush, Vice President of the United States, United States Senate, Washington, D.C. 20510; and the Honorable Thomas P. O'Neill Speaker of the United States House of Representatives, United States House of Representatives, Washington, D.C. 20515; and to the Honorable Elizabeth Hanford Dole, Secretary of Transportation, 400 7th St., S.W., Washington, D.C. 20590; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Maryland Congressional Delegation: Senators Charles McC. Mathias, Jr. and Paul S. Sarbanes, Senate Office Building, Washington, D.C. 20510; and Representatives Royden P. Dyson, Helen Delich Bentley, Barbara A. Mikulski, Marjorie S. Holt, Steny H. Hoyer, Beverly B. Byron, Parren J. Mitchell, and Michael D. Barnes, House Office Building, Washington, D.C. 20515."

POM-750. A joint resolution adopted by the Legislature of the State of Maryland; to the Committee on Appropriations:

"HOUSE JOINT RESOLUTION No. 22

"Whereas, The Washington Metro rail system, which serves the nation's capital and the millions of people who live, work, and visit there, should be a model system; and

"Whereas, The completed portions of the Metro system have promoted economic growth, access to employment, reduction of traffic congestion, and a cleaner, healthier environment; and

"Whereas, Failure to complete the entire Metro rail system would assure the continuance of the disparity that exists in the metropolitan area regarding access to the workplace, preventing many citizens from sharing in the economic growth and prosperity that have accompanied the development of Metro rail in other parts of the region; and

"Whereas, The citizens of the Washington metropolitan area, through their local governments, have contributed billions of dollars for Metro rail construction based on the expectation that a full 103 mile regional system would be completed; and

"Whereas, The dream of an area-wide mass transit rail system could never have begun to be realized without the strong and consistent support of the citizens of the entire region, including those who have yet to see the benefits of the system reach their neighborhoods, and who continue to wait at the end of the line; and

"Whereas, Completion of the entire 103 mile system is now endangered by the federal government's threat to cut off all funds for Metro rail construction; and

"Whereas, Anything less than completion of the entire Metro rail system would signify a serious breach of the commitment made by the federal government to create a model transit system to serve the entire Washington area and the nation; now, therefore, be it

"Resolved by the General Assembly of Maryland, That the General Assembly opposes any effort to reduce the Federal Government's share of funding for construction of the Metro rail system; and be it further

"Resolved, That the General Assembly of Maryland strongly urges President Reagan, the Congress of the United States, the Secretary of the U.S. Department of Transportation, the Secretary of the Maryland Department of Transportation, and the Washington Metropolitan Council of Governments, to act vigorously to assure that the government of the United States provides its full share of construction funds to complete the entire 103 mile Metro rail system; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Honorable Ronald Reagan, President of the United States, 1600 Pennsylvania Avenue, Washington, D.C.; the Honorable George Bush, Vice President of the United States, United States Senate, Washington, D.C. 20510; and the Honorable Thomas P. O'Neill, Speaker of the United States House of Representatives, United States House of Representatives, Washington, D.C. 20515; and to the Honorable Elizabeth Hanford Dole, Secretary of Transportation, 400 7th St. S.W., Washington, D.C. 20590; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Maryland Congressional Delegation: Senators Charles McC. Mathias, Jr. and Paul S. Sarbanes, Senate Office Building, Washington, D.C. 20510; and Representatives Royden P. Dyson, Helen Delich Bentley, Barbara A. Mikulski, Marjorie S. Holt, Steny H. Hoyer, Beverly B. Byron, Parren J. Mitchell, and Michael D. Barnes, House Office Building, Washington, D.C. 20515; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Honorable William K. Hellmann, Maryland Secretary of Transportation, P.O. Box 8755, Baltimore-Washington International Airport, Baltimore, Maryland 21240; and to Walter Scheiber, Executive Director, Washington Metropolitan Council of Governments, 1875 I St. N.W., Washington, D.C. 20006."

POM-751. A resolution adopted by the City Council of Culver City, California, supporting legislation to continue funding for section 8 housing assistance programs at the current level; to the Committee on Banking, Housing, and Urban Affairs.

POM-752. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Commerce, Science, and Transportation.

"HOUSE CONCURRENT MEMORIAL 2001

"Whereas, most Americans feel that the most efficient government is one that operates in close contact with the people; and

"Whereas, this state believes that it is most qualified to determine and set the most appropriate speeds to be driven on the highways; and

"Whereas, the original objective of the national maximum speed limit of fifty-five miles per hour to conserve fuel is offset by the loss of other efficiencies such as the loss of productivity due to the length of travel time by business and industry; and

"Whereas, engineering and design features of new motor vehicles have had a greater impact in conserving fuel than has the fifty-five mile per hour maximum speed limit; and

"Whereas, traffic fatalities continue to decline even though recent studies indicate that an increasing majority of drivers is exceeding the fifty-five mile per hour maximum speed limit; and

"Whereas, traffic fatalities in low population areas actually increase because of the monotony of driving on long open stretches of highway.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the President and Congress give their most earnest consideration to the prompt enactment of legislation which would retain the maximum speed limit of fifty-five miles per hour only in designated suburban and metropolitan areas and would grant the states the authority to increase the maximum speed limit, after traffic and engineering studies, in those rural areas where local population conditions, traffic volume and safety factors indicate that a speed limit greater than fifty-five miles per hour would be appropriate.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

POM-753. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 6

"Whereas, state and local governments issue bonds to raise revenue to finance public programs such as industrial development, public energy programs, road improvements, water supply systems, and capital improvements; and

"Whereas, this method of raising revenue by the sale of bonds is the only means available to state and local governments for financing very costly projects; and

"Whereas, proposals have been made that Congress remove the federal income tax exemption from interest on bonds issued by state and local governments; and

"Whereas, in the absence of this significant source of revenue, state and local governments would be forced to abandon essential programs.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to oppose elimination of the federal income tax exemption for interest on bonds issued by state and local governments.

"Be it further resolved that a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-754. A concurrent resolution adopted by the legislature of the State of Iowa; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION 115

"Whereas, the United States Congress in 1977 created what is known as the Social Security 'notch'; and

"Whereas, the 'notch' arbitrarily reduced benefits to recipients born between 1917 and 1921; and

"Whereas, the 'notch' did not adversely affect recipients born prior to 1917; and

"Whereas, the 'notch' does not adversely affect recipients born after 1921; and

"Whereas, the 'notch' was created to balance the Social Security System; and

"Whereas, the 'notch' is arbitrary and without justification and discriminates against the class of recipients born in 1917 through 1921; and

"Whereas, this discrimination has severely and adversely affected the lives of many Social Security recipients who had relied upon the prior level of benefits: Now therefore,

"Be it resolved by the House of Representatives, the Senate concurring, That the Iowa General Assembly request the United States Congress to address the adverse effects created by the 'notch'; and

"Be it further resolved, That the United States Congress be urged not to arbitrarily discriminate against a class of recipients, current or future, in such a fashion which adversely affects the class; and

"Be it further resolved, That copies of this resolution be sent to the President of the Senate of the United States, the Speaker of the United States House of Representatives, and to all members of the Iowa Congressional Delegation.

We, Donald D. Avenson, Speaker of the House and Robert T. Anderson, President of the Senate; Joseph O'Hern, Chief Clerk of the House and K. Marie Thayer, Secretary of the Senate, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives and the Senate of the Seventy-first General Assembly."

POM-755. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Foreign Relations:

"RESOLUTION

"Be it resolved by the Legislature of the State of Alaska:

"Whereas, at the urging of the Soviet Union and other anti-Semitic countries, the United Nations General Assembly adopted a resolution on November 10, 1975, that asserted that Zionism is a form of racism; and

"Whereas Zionism is more accurately described as the liberation movement of Jewish people revolting against anti-Semitic oppression while seeking restoration of peaceful Jewish independence in their ancient homeland; and

"Whereas the United Nations resolution directly contravenes the most basic principles of the United Nations Charter by singling out for slanderous attack the liberation movement of the Jewish people; and

"Whereas that resolution undermines universal human rights values by fueling the flames of anti-Semitism; and

"Whereas the United States Congress sharply condemned this United Nations action in 1975 and the United States Senate formally denounced the action again in 1985 by adoption of S.J. Resolution 98 which called upon other countries to join in the denunciation:

"Be it resolved by the Alaska State Legislature that it

"(1) soundly condemns any assertion that Zionism is comparable to racism;

(2) unequivocally charges that an assertion equating Zionism with racism is tantamount to bigotry itself; and

"(3) strongly urges repeal of United Nations Resolution 3379 which inaccurately linked Zionism with racism; and be it

"Further resolved that the President of the United States is respectfully requested to direct the United States Ambassador and the United States delegation to the United Nations to work determinedly for adoption by the United Nations of a resolution that would have the dual purpose of repealing Resolution 3379 and acknowledging the integrity and legitimacy of Zionism; and be it

"Further resolved that Congress should continue to call upon other countries to condemn United Nations Resolution 3379.

"Copies of this resolution shall be sent to the Honorable Ronald Reagan, President of the United States; the Honorable Vernon A. Walters, United States Ambassader to the United Nations; the Honorable George Bush, Vice-President of the United States and President of the United States Senate; the Honorable Thomas P. O'Neill, Jr., Speaker of the United States House of Representatives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-756. A joint resolution adopted by the Legislature of the State of Utah; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 13

"Be it resolved by the Legislature of the State of Utah:

"Whereas, the First Congress of the United States on September 25, 1789, pro-

posed by resolution the following amendment to the United States Constitution:

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, that the following [Article] be proposed to the Legislatures of the several States, . . . which [Article], when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.:

"[An ARTICLE] in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

"Article the second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened. ; and

"Whereas, the above-quoted Article of Amendment to the United States Constitution has already been ratified by the Legislatures of the following states: Maryland (1789); North Carolina (1789); South Carolina (1790); Delaware (1790); Vermont (1791); Virginia (1791); Ohio (1873); Wyoming (1978); Maine (1983); Colorado (1984); South Dakota (1985); New Hampshire (1985); Arizona (1985); Tennessee (1985); and Oklahoma (1985).

"Now, therefore, be it resolved, that the legislature of the state of Utah, pursuant to Article V of the United States Constitution, hereby ratifies an Amendment to the Constitution of the United States proposed by resolution of the First Congress of the United States in New York, New York on September 25, 1789.

"Be it further resolved that a copy of this resolution be prepared and forwarded to the Administration of General Services of the United States, the members of the Utah's congressional delegation, the Vice President of the United States and the Speaker of the U.S. House of Representatives, with a request that it be printed in the Congressional Record."

POM-757. A joint resolution adopted by the Legislature of the State of Maryland; to the Committee on Labor and Human Resources:

"Whereas, The Department of Health and Mental Hygiene currently possesses sufficient tools and flexibility to enforce federal certification and licensing regulations applicable to nursing homes in Maryland; and

"Whereas, The community of nursing home providers supports the Department's efforts in the flexible enforcement of federal certification and licensing regulations, and continues to offer assistance to the Department in improving the quality of care afforded to residents of health related institutions; and

"Whereas, The U.S. Department of Health and Human Services has mandated that effective April 1, 1986, all Maryland health related institutions be inspected under a new patient oriented survey process known as "Long-Term Care Surveys"; and

"Whereas, The U.S. Department of Health and Human Services has also mandated new federal certification and termination procedures affecting all Maryland health related institutions which could result in immediate termination of federal Medicaid and Medicare funds for nursing homes without prior right of appeal; and

"Whereas, The Secretary of Health and Mental Hygiene has determined that the ability of the Office of Licensing and Certification to utilize the enforcement tools provided by the General Assembly will be greatly restricted under the federally mandated procedures; and

"Whereas, The Secretary of Health and Mental Hygiene has determined that the implementation dates for the new survey process and the new decertification procedures make it virtually impossible to train survey personnel and implement the new procedures in a timely manner which could result in the loss of federal Medicaid and Medicare funds; now, therefore, be it

"Resolved by the General Assembly of Maryland, That this body requests the President of the United States, the Congress of the United States, the Governor, and the National Governors' Association to urge the U.S. Department of Health and Human Services to adopt a system for revising the long-term care survey process based on experience with the system, and to authorize states that currently have survey programs comparable to the federally mandated program to continue their programs, and finally, to allow each state the flexibility needed to implement and enforce appropriate regulations with innovative procedures; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Honorable Ronald Reagan, President of the United States, 1600 Pennsylvania Avenue, Washington, D.C.; the Honorable George Bush, Vice President of the United States, United States Senate, Washington, D.C. 20510; the Honorable Thomas P. O'Neill, Speaker of the United States House of Representatives, United States House of Representatives, Washington, D.C. 20510; the Honorable Robert Dole, United States Senate, Washington, D.C. 20510; the Honorable Otis R. Bowen, M.D., Secretary of the U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20590; and the National Governors' Association, 444 No. Capital St., Washington, D.C.; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Maryland Congressional Delegation: Senators Charles McC. Mathias, Jr. and Paul S. Sarbanes, Senate Office Building, Washington, D.C. 20510; and Representatives Royden P. Dyson, Helen Delich Bentley, Barbara A. Mikulski, Marjorie S. Holt, Steny H. Hoyer, Beverly B. Byron, Parren J. Mitchell, and Michael D. Barnes, House Office Building, Washington, D.C. 20515."

POM-758. A joint resolution adopted by the Legislature of the State of Maryland; to the Committee on Rules and Administration:

"HOUSE JOINT RESOLUTION 59

"Whereas, 1987 is the Bicentennial of the Constitution of the United States, a Constitution which established, for the first time, a large democratic republic in which the persons charged with making decisions on behalf of all the citizens are held accountable by those citizens in elections; and

"Whereas, In our democratic republic, it is essential that laws be voted upon in public, with the votes of the representatives of the people cast and recorded publicly, so that the voters may know how their representatives vote; and

"Whereas, The General Assembly of Maryland, in the Rules of the Senate of Maryland and Rules of the House of Delegates, requires that votes on final passage of all legislation, both in the Standing Committees and on the Floors of the two Houses, be cast in public and be recorded for public scrutiny and accountability; and

"Whereas, The Senate and House of Representatives of the United States of America can, and regularly do, enact into law legislation seriously and permanently affecting the incomes, activities, and very lives of millions of citizens, and the defense of the entire nation, without casting a recorded vote; and

"Whereas, The House of Representatives, on December 18, 1985, did pass the so-called Tax Reform Act of 1985, a bill changing the tax obligations of all citizens, and changing provisions affecting millions of dollars, on the basis of a voice vote, with no recorded vote requested or cast; now therefore, be it

"Resolved by the General Assembly of Maryland, That both Houses of the Congress of the United States of America are hereby petitioned to revise their respective Rules, to provide that a recorded vote be taken upon final passage of all legislation, so that the voters may be informed of the actions of their representatives, in order to hold them accountable on election day; and be it further

"Resolved, That copies of this Resolution be forwarded by the Department of Legislative Reference to the Clerk of the United States House of Representatives and the Secretary of the United States Senate, Washington, D.C., 20510."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 2555. A bill to provide for the establishment of an export promotion organization, to increase the competitiveness of U.S. businesses, and for other purposes, to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT (for himself and Mr. HECHT):

S. 2556. A bill to suspend the site selection process under the Nuclear Waste Policy Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAXALT (for himself and Mr. HECHT):

S. 2557. A bill entitled the "Indian Gambling Authorization and Regulation Act of 1986"; to the Select Committee on Indian Affairs.

By Mr. LAUTENBERG:

S. 2558. A bill to increase monetary penalties based on the effect of inflation; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 2559. A bill to increase civil monetary penalties based on the effect of inflation; to the Committee on Governmental Affairs.

By Mr. HUMPHREY (for himself, Mr. ANDREWS, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. DENTON, Mr. EXON, Mr. GARN, Mr. HATCH, Mrs. HAWKINS, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. LAXALT, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. NICKLES, Mr. NUNN, Mr. PRESSLER, Mr. PROXMIRE, Mr. RIEGLE, Mr. RUDMAN, Mr. SARBANES and Mr. THURMOND):

S.J. Res. 362. Joint resolution to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN (for himself, Mr. SARBANES, Mr. PROXMIRE, Mr. SIMON, Mr. HART, and Mr. KENNEDY):

S. Con. Res. 149. Concurrent resolution expressing the sense of the Congress concerning the situation in South Africa; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 2555. A bill to provide for the establishment of an export promotion organization, to increase the competitiveness of United States businesses, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. BAUCUS and the text of the legislation appear earlier in today's RECORD.)

By Mr. LAXALT (for himself and Mr. HECHT):

S. 2556. A bill to suspend the site selection process under the Nuclear Waste Policy Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

SUSPENSION OF NUCLEAR WASTE SITE SELECTION PROCESS

● Mr. LAXALT. Mr. President, today I am introducing the companion to H.R. 5031, Congresswoman VUCANOVICH's bill introduced last week. This legislation would repeal sections 112 and 113 of the Nuclear Waste Policy Act. It would require the Secretary of Energy to suspend site selection and characterization activities for a high-level nuclear waste dump until the Congress issues new guidelines.

The Department of Energy's recent decision to drop plans for a second repository is but the latest in a long line of actions that indicate the DOE's willingness to ignore the spirit, if not the letter, of the Nuclear Waste Policy Act. This disregard of the express statutory mandate calls into question the validity of site selection activities carried out thus far.

The Nuclear Waste Policy Act intended that site selection decisions be made after careful scientific evaluation and in consultation with affected States and Indian tribes. This impartial, deliberate, technically conservative process is essential to promote public confidence in the outcome. Yet despite the requirement for State consultation, the DOE has repeatedly ignored the legitimate efforts of affected States to participate. Despite the gravity of this undertaking, the DOE has taken every opportunity to shortcut the site selection process. The desire to meet deadlines had preempted concerns of public confidence and safety.

Mr. President, we simply cannot allow this bad process to continue unchallenged. The recent disaster at Chernobyl reminds us of the seriousness of this undertaking. We in Government have a duty to be absolutely certain that we are utilizing the best, safest means of disposing of this waste. Only by suspending the process and reevaluating the guidelines will better solutions be sought.

We cannot follow the path of least expense and least resistance. We owe it to ourselves and to future generations to take the time and spend the money to do it right. We cannot overlook any possible answer to a problem this crucial, for we will not have the chance to correct our mistake.●

By Mr. LAXALT (for himself and Mr. HECHT):

S. 2557. A bill entitled the "Indian Gambling Authorization and Regulation Act of 1986"; to the Select Committee on Indian Affairs.

INDIAN GAMBLING AUTHORIZATION AND REGULATION ACT OF 1986

● Mr. LAXALT. Mr. President, I am pleased to introduce today the "Indian Gambling Authorization and Regulation Act of 1986." This legislation is the result of a compromise between the Department of the Interior and the Department of Justice. It strikes a balance between tribal interests and State and law enforcement interests and preserves a valuable tribal asset by subjecting it to Federal regulation.

Beginning with the decision in Seminole Tribe of Florida versus Butterworth, several Federal courts have held that State regulatory laws concerning the playing of bingo do not apply on Indian reservations. Accordingly, a number of tribes have begun operating high stakes bingo games free from any State control. Since there are no Federal laws to regulate this type of activity, the only regulation is that provided by the tribes themselves.

The Seminole Tribe decision has therefore given many Indian tribes a valuable asset—the right to run a profitable gambling operation free from State control. At the same time, high stakes gambling on Indian reservations, just as anywhere else, involves large sums of cash and lucrative peripheral service industries that might draw attention from organized crime. While an Indian-run gambling operation is no more susceptible to corruption than is gambling run by any other group of persons, the nature of the enterprise requires constant and vigorous regulation and control.

Under this bill gambling would be divided into three categories: First, purely ceremonial or social gambling; second, bingo; and three, "all other" forms. Ceremonial or social gambling would not be subject to controls, except as the tribes choose to control it; bingo would be controlled by a Federal commission; and "all other" gambling would be controlled by the laws of the State where the tribe is located. Thus, gambling such as numbers games, lotteries, parimutuel wagering, and the operation of casinos would be subject to State licensing and control. This is especially important to the State of Nevada, which has great experience regulating gambling; we believe that the State is the expert in this area, and the States have traditionally regulated these types of gambling. There is no need for the Federal Government to get involved in the intricacies of regulating these types of gambling which are not anywhere near as prevalent on Indian reservations as is high stakes bingo.

To license and regulate tribal bingo operations, this legislation would create a three-member Commission within the Interior Department. The Secretary of the Interior would appoint two members, one of whom would be Chairman. The Attorney General would appoint the third member. The Commission would draft regulations; tribes would be allowed to participate in rulemaking and enforcement in certain circumstances. The Commission's final decisions on licenses, management contracts, and disciplinary action against licensees and management contractors would be subject to judicial review.

Finally, the bill would create new Federal offenses for theft or embezzlement of property belonging to licensed bingo establishments. It would make explicit that violations of State gambling laws committed on Indian reservations—other than licensed bingo or ceremonial gambling—may be prosecuted in State courts.

In short, this proposal fairly balances Federal, State, and tribal interests. It is the result of exhaustive negotiations between the Departments of the Interior and Justice. I urge the Committee on Indian Affairs to act promptly and favorably on this important legislation.

Mr. President, I ask unanimous consent that the text of the legislation and a section-by-section analysis be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Indian Gambling Authorization and Regulation Act of 1986."

TITLE II. FINDINGS AND PURPOSE

SEC. 201. The Congress finds that—

(a) In recent years, numerous Indian tribes have become engaged in or have authorized gambling activities in Indian country.

(b) This gambling is often not subject to state or federal regulation because—

(1) state criminal laws are applicable in Indian country only to the extent that the Congress has provided by legislation that the states, rather than the federal government, should exercise jurisdiction over a particular subject matter;

(2) the federal and tribal governments exercise criminal jurisdiction over crimes committed in Indian country, except in a few situations generally not related to gambling;

(3) federal law often assimilates the laws of the states when there is no federal statute on point; and

(4) several federal courts have held that only state criminal laws are assimilated for enforcement by the federal government in Indian country, that state gambling enforcement statutes are regulatory laws which are not assimilated, and consequently the Indian tribes themselves have the exclusive rights to regulate gambling activity which is not prohibited by federal law and which is conducted in a state which does not, as a matter of public policy, prohibit such gambling activity.

(c) Most of the gambling authorized by the Indian tribes has involved the playing of bingo, typically for much larger stakes than those for which the game is played when operated by religious or charitable organizations under state regulation and control, and in an atmosphere often resembling that of a casino.

(d) Some Indian tribes have expressed an intention to authorize other forms of gambling including pari-mutuel wagering on horse and dog racing and on jai-alai.

(e) While two states presently authorize casino gambling, and a number of states authorize pari-mutual wagering and bingo, these activities are subject to strict regulation and control.

(f) Close and constant supervision is necessary to keep high stakes gambling free from the influence of organized crime, racketeers, and others who would attempt to gain access to the gambling operation and corrupt it for their own unlawful purposes.

(g) While bingo has provided considerable economic benefits to some Indian tribes, including a reduction in unemployment, enhanced self-sufficiency and strengthened tribal governments, some tribes are not able to provide the necessary type of supervision and control over their bingo operations.

(h) Existing federal statutes do not clearly provide an adequate basis for regulating or controlling gambling in Indian country.

SEC. 202. The purpose of this Act is:

(a) To provide a statutory basis for the operation of bingo by Indian tribes free from state control or regulation, as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments, so that this source of revenue cannot be destroyed if subsequent federal court decisions hold that state regulatory laws governing bingo are assimilated as federal statutes and must be enforced in Indian country.

(b) To provide a statutory basis for the federal government to regulate bingo engaged in or authorized by an Indian tribe to shield it from organized crime and other corrupting influences, to ensure that the tribe rather than individuals are the primary beneficiaries of the bingo operation, and to assure that bingo is conducted fairly and honestly by both the operator and players.

(c) To provide clearly that gambling in Indian country (other than bingo and ceremonial or social gambling involving only tribal members) is regulated and controlled by state law and that violations of such state gambling statutes in Indian country may be prosecuted in federal as well as state court.

(d) To allow tribes already engaging in or authorizing bingo to continue their operation for a reasonable time to comply with the provisions of this Act.

TITLE III. AMERICAN INDIAN BINGO COMMISSION

DEFINITIONS

SEC. 301. (a) As used in this title—

(1) "Bingo" means a game of chance (commonly called bingo or lotto) which

(A) is played for prizes, including monetary prizes;

(B) is played with cards or other devices bearing letters or other designating symbols in one line, under each of which are numbers or other designating symbols, which the holder seeks to cover with objects, as the particular number or other symbol is determined by chance; and

(C) is won by the person who first covers a previously designated arrangement of numbers on such card or other devices.

The term does not include the game commonly known as "keno." It includes the game described in subparagraphs (A), (B), and (C) only when such a game is played by a gathering of persons, and does not include games commonly called "punch boards," "pull tabs," "instant bingo," or any other game which is played by revealing concealed numbers, letters, or other symbols on a card or other object to determine if the holder of such card or other object is entitled, or may be entitled, to a prize.

(2) "Bingo establishment" means any premises licensed under the provisions of this title wherein or whereon bingo is conducted;

(3) "Bingo employee" means any person employed by or connected directly with the operation of a bingo establishment including, but not limited to, employees of management contractors;

(4) "Bingo license" means any license issued by the American Indian Bingo Commission for the operation of, employment by, or other connection with a bingo establishment;

(5) "Chairman" means the chairman of the American Indian Bingo Commission;

(6) "Commission" means the American Indian Bingo Commission established by section 302 of this title;

(7) "Commissioner" means a member of the American Indian Bingo Commission and includes the Chairman;

(8) "Gross bingo revenue" means the total of cash received by a licensed bingo establishment from players for the playing of bingo, plus any credit extended to players for purposes of playing bingo, minus the total of any cash and the value of any merchandise given as bingo winnings or prizes;

(9) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which is recognized by the Secretary as eligible for the special programs and services provided through the Bureau of Indian Affairs to Indians because of their status as Indians and as possessing powers of self-government;

(10) "Individual licensee" means any person, other than a tribal licensee, to whom a valid bingo license has been issued;

(11) "Management contract" means any agreement between a tribal licensee and another person or entity whereby such other person or entity agrees to operate or participate in the management of a bingo establishment licensed under the provisions of this title, or to operate or participate in the management of any activity carried on in such an establishment;

(12) "Management contractor" means a party to a management contract other than the tribal licensee;

(13) "Net income" means gross bingo revenue plus revenue from other sources in connection with the operation of a bingo establishment, minus reasonable expenses incurred in running a bingo establishment including payments to management contractors, if any;

(14) "Reservation" means an area recognized or established by treaty, federal statute, or Executive Order for an Indian tribe and over which the Indian tribe has governmental jurisdiction. In Oklahoma, "reservation" means land held in trust by the United States for an Indian tribe;

(15) "Secretary" means the Secretary of the Interior; and

(16) "Tribal licensee" means any federally recognized Indian tribe, or any organization established by such a tribe, which holds a valid bingo license permitting the operation of a bingo establishment.

ORGANIZATION AND COMPENSATION

SEC. 302. (a) There is hereby established in the Department of the Interior a commission to be known as the American Indian Bingo Commission. The Commission shall be composed of three members, two of whom shall be appointed by the Secretary and be employees of the Department of the Interior, and one of whom shall be appointed by the Attorney General and be an employee of the Department of Justice. The Commissioners may be appointed without regard to the provisions of Title 5, United States Code. The Commissioners shall have knowledge and ability in the areas of gambling regulation, law enforcement, and Indian affairs.

(b) The Commissioners appointed by the Secretary shall serve at the pleasure of the Secretary and may be removed at any time and without cause. The Commissioners appointed by the Attorney General shall serve at the pleasure of the Attorney General and may be removed at any time and without cause.

(c) The Secretary shall designate one Commissioner appointed by him to serve as Chairman. The Chairman shall coordinate all activities of the Commission.

(d) For the purpose of carrying out its functions under this title, unless otherwise stated, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote or concurrence of at least two Commissioners.

(e) The annual salaries of the Commissioners shall be determined in accordance with the provisions of Title 5, United States Code. Each Commissioner shall devote his or her entire time and attention to the business of the Commission, shall not pursue any other business or occupation, and shall not receive compensation from any other federal, state, tribal, or nongovernmental office or position.

(f) Each Commissioner shall, before taking office, take an oath to execute faithfully his or her duties.

(g) Payment of salaries and related benefits for the Commissioners and expenses related to costs associated with drafting the Commission's initial regulations pursuant to section 305 shall be paid from funds appropriated under section 601. All other expenses of the Commission, including but not necessarily limited to administrative and personnel costs under section 303, shall be paid from the special fund created in section 315(e).

EMPLOYEES AND FACILITIES

SEC. 303. (a) The Secretary shall provide administrative services to the Commission on a reimbursable basis, including such things as making available to the Commission appropriate office space, furnishings, equipment, supplies and such other things as, in his judgment, the Commission may require in the performance of its duties.

(b) Except as provided in subsection (c) of this section and except as provided by paragraph 304(a)(3), the Secretary shall provide all personnel services to the Commission, including, but not limited to, appointment and removal of Commission staff members, in accordance with the Secretary's determination of what the Commission needs to carry out its duties, subject to funds available (not including inital start-up costs authorized under section 601). Any person appointed under this subsection shall be appointed and paid subject to the provisions of title 5, United States Code.

(c) The Secretary shall appoint a General Counsel for the Commission who shall serve as its legal adviser. The annual salary for the General Counsel shall be determined in accordance with the provisions of Title 5, United States Code. Subject to the appointment authority of the Secretary and funding limitations (except initial start-up costs), the Chairman shall secure such other attorneys as the Chairman, after consultation with the General Counsel, shall deem necessary to assist the General Counsel. The General Counsel and other attorneys appointed under this subsection shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Attorney General shall represent the Commission in any legal proceeding to which the Commission is a party.

(d) No statute which grants a preference to Indians in personnel actions shall apply with respect to the Commission.

ORGANIZATION AND DUTIES, IN GENERAL

SEC. 304. (a) The Commission shall, under any plan of organization it deems expedient,

(1) subject to the approval of the Secretary, make rules and regulations to carry out the provisions of this title and the purposes of this Act;

(2) issue orders;

(3) enter into contracts or agreements with federal, state, or tribal agencies and private firms for the performance of any activity necessary to discharge its duties either on a reimbursable or nonreimbursable basis (and persons who engage in activities for the Commission pursuant to such contracts or agreements shall be considered agents of the Commission while so engaged); and

(4) perform any and all other acts consistent with this title and the purposes of this Act.

(b) The Commission shall submit a report concerning its activities to the Secretary at least once in each fiscal year and at such other times as the Secretary may direct.

RULEMAKING AUTHORITY

SEC. 305. (a) The Commission shall, in accordance with the provisions of 5 U.S.C. 553, and subject to the approval of the Secretary, adopt, admend, and repeal rules of general application. Such rules shall include, but shall not be limited to:

(1) rules setting out the requirements for a bingo license entitling the holder thereof to operate a bingo establishment or a particular class of bingo establishment, the methods and forms of application which any applicant for such a license must follow, and the type of information to be furnished by any applicant for such a license;

(2) rules setting out the requirements for employment in a bingo establishment and for any bingo license required for employment in or other connection with a bingo establishment and the methods and forms of application which any applicant for such a license must follow;

(3) rules establishing fees pursuant to subsection 315(b);

(4) rules defining and limiting the hours and conditions of play in a bingo establishment;

(5) rules defining and limiting the types of bingo that may be played in a bingo establishment, and the manner in which such games may be played or conducted;

(6) rules concerning the cost of admission to a bingo establishment;

(7) rules concerning the cost of participating in bingo games and extensions of credit to allow such participation;

(8) rules concerning the value of the cash or other property that may be, or that shall be required to be, awarded as prizes for bingo;

(9) rules concerning the dispensing of alcoholic beverages in licensed bingo establishments which must, as a minimum, require that such dispensation be in accordance with any applicable state or tribal ordinance, regulation, or licensing requirement;

(10) rules concerning the amount of compensation that may be paid to employees of bingo establishments; and

(11) rules concerning management contracts and management contractors.

(b) The Commission may adopt rules authorizing an Indian tribe itself to promulgate rules concerning may of the above matters (except for the matters described in paragraphs (a)(1), (a)(2), (a)(3) and (a)(11)) pertaining to the regulation of any bingo establishement within the tribe's jurisdiction, and such tribal rules shall become effective upon adoption by the Commission in accordance with this section. Where the Commission adopts the such rules, the Commission shall, to the extent practical, contract with the Indian tribe under paragraph 304(a)(3), on a reimbursable basis, for the provision of personnel and services to be used in enforcing such rules: *Provided*, That such personnel shall be commissioned by the Commission as officers of the United States for the sole purpose of carrying out responsibilities under such contracts. Reimbursement for any such contact shall not exceed the amount of the fees paid to the Commission by such an Indian tribe pursuant to subsections (b) and (c) of section 315.

(c) Nothing in this Act precludes an Indian tribe from exercising regulatory authority provided under tribal law over a bingo establishment within the tribe's jurisdiction: *Provided*, That such regulation is not inconsistent with this Act or with any rules or regulations adopted by the Commission.

MANAGEMENT CONTRACTS

SEC. 306. (a) Subject to the provisions of this title, any tribe or organization established by a tribe entitled to apply for a license to operate a bingo establishment pursuant to subsection 307(a) may enter into a management contract.

(b) A management contract must be approved by the Commission either prior to or contemporaneously with the granting of a license to operate a bingo establishment to the tribe or tribal entity that is a party to the contract. The term of the management contracts shall not exceed the term of the license. After notice to the Commission, a tribal licensee may terminate a management contract before the expiration of the term of the license, and if tribal licensee so terminates a management contract and intends to continue to operate a bingo establishment it must apply for a new license. *Provided, however*, That the Commission may, in its discretion and under such conditions as it may approve, allow such a tribal licensee to continue operating under the current license without a management contractor while the application for a new license is pending.

(c) In considering whether to approve a management contract, the Commission may, *inter alia*,

(1) request the furnishing of information pertaining to the prospective management contactor and any person described in paragraph (1) of subsection 307(b) in the possession of any federal, state, or tribal organization (and notwithstanding any other provision of law, the head of any such federal organization receiving such a request shall make such information available to the Commission, and without charge);

(2) arrange for any federal, state, tribal, or private organization to conduct an investigation of the prospective management contractor and of any person described in paragraph (1) of subsection 307(b) and to furnish the results of the investigation to the Commission; and

(3) require the prospective management contractor and any person described in paragraph (1) of subsection 307(b) to respond to oral or written questions concerning any matter the Commission deems relevant to determining the management contractor's suitability including, but not limited to, the type of information described in subsection 307(b).

(d) The Commission may only approve a management contract that—

(1) complies with all rules of the Commission governing such contracts;

(2) contains all the provisions for such contracts mandated by subsection (e); and

(3) provides for payment to the management contractor of either a reasonable sum certain, or a reasonable percentage of the net income, which shall not, in any event, exceed forty percent of the net income including the payment to the management contractor.

(e) Any management contract must specifically provide:

(1) that it will not take effect until approved by the commission and that its term shall not exceed the term of the license granted to the tribal licensee that is a party to the contract;

(2) that adequate accounting procedures are maintained and that verifiable financial reports are prepared by or provided to the tribal licensee on at least a monthly basis;

(3) that appropriate tribal officials shall have reasonable access to the daily operations of the bingo establishment and shall have the right to verify the daily gross bingo revenue and rent income from such establishment;

(4) for a minimum guaranteed payment to the tribal licensee that has preference over the retirement of development and construction costs;

(5) for an agreed ceiling for the repayment of development and construction costs; and

(6) for grounds and mechanisms for terminating the contract without the approval of the Commission.

(f) The Commission shall not approve any management contract that it determines not to be in the best interests of the bribe, or if it determines that any person listed in paragraph (1) of subsection 307(b)—

(1) is an elected member of the governing body of the Indian tribe which is a party to the management contract or which has authorized an entity established by the tribe which is a party to the management contract;

(2) has been or subsequently is convicted of any felony or of any gaming offense;

(3) has knowingly provided materially false statements or information to the Commission;

(4) is a person whose prior activities, criminal record, if any, or reputation, habits and association pose a threat to the public or tribal interest or to the effective regulation and control of bingo, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of bingo or the carrying on of the business and financial arrangements incidental thereto;

(5) has, or has attempted to, unduly interfere or influence for gain or advantage any decision or process of tribal government relating to the bingo activity; or

(6) has deliberately or substantially failed to comply with the terms of any management contract approved pursuant to this section.

(g) A management contract may be suspended, modified, or revoked, and a fine imposed on a management contractor pursuant to section 310.

(h) The Secretary may delegate his authority and responsibilities pursuant to the provisions of section 2103 of the Revised Statutes, as amended, (25 U.S.C. 81) (which requires his approval of management contracts) to the Commission, with respect to such contracts. Upon such delegation, Commission approval of a management contract shall be deemed to satisfy the provisions of section 2103 (25 U.S.C. 81).

LICENSING AND INSPECTION OF BINGO ESTABLISHMENTS

SEC. 307. (a) Any Indian tribe, except an Indian tribe in a state which does not authorize or permit bingo to be conducted by any person or organization, may, pursuant to a valid tribal ordinance or resolution,

(1) apply for a license entitling it to operate a bingo establishment; or

(2) establish or authorize a separate entity to apply for such a license.

(b) The application shall be in such form and contain such information as is required by this title and the rules of the Commission *Provided,* however, That the application must state whether the applicant is planning to enter into a management contract. If the applicant indicates it is planning to enter into such a contract, a copy of any proposed contract shall be submitted with the application. Any application indicating that the tribal applicant is planning to enter into such a contract shall also include, in addition to any other information required by the Commission:

(1) The name, address, and other pertinent background information on the management contractor (including individuals comprising the management contractor having a financial interest in, or management responsibility for, such contract) or in the case of a corporation, those individuals who serve on the Board of Directors of such corporation and each of its stockholders who hold (directly or indirectly) five percent or more of its issued and outstanding stock;

(2) a complete financial statement of each person listed pursuant to paragraph (1), a description of the previous experience which each person listed pursuant to paragraph (1) has had with other management contracts with Indian tribes or with the gaming industry generally; and

(3) such other information as the Commission may be regulation prescribe including but not limited to the name and address of any licensing or regulatory agency with which such person has had contact relating to gaming, proof of the identity of individual persons, employment record of individual persons, arrest record of individual persons, criminal history of individual and other persons, tax returns of individual and other persons, lists of past and present business associates of individual and other persons, and lists of past and present personal associates.

(c) The Commission may approve applications for a license under this section only if it has approved any proposed management contract submitted in connection with the application and is satisfied that—

(1) the entire net income of the bingo establishment is to be deposited in a fund for the use of the general welfare of the tribe;

(2) the applicant will, if granted the bingo license, allow annual independent audits of all aspects of the operation of the bingo establishment by an independent Certified Public Accountant or public accounting firm, the results of which will be furnished to the Commission;

(3) the applicant has paid, and will continue to pay, all fees and other charges required by subsection 315(a);

(4) the proposed bingo establishment will be located entirely on lands that for a continuous period of at least ten years prior to the date of the application have been within the limits of an Indian reservation: *Provided, however,* That any land which becomes the original reservation of an Indian tribe upon the tribe's becoming federally acknowledged shall be deemed to have met the requirement of this paragraph, *And provide further,* That the existing gaming facilities on trust land now held for the following tribes at their following respective locations shall also be deemed to have met the requirements of this paragraph:

(A) The existing gaming facility on trust land of the Fond du Lac Band at Duluth, Minnesota;

(B) The existing gaming facility on trust land of the Mashantucket Pequot Tribe at Ledyard, Connecticut;

(C) The existing gaming facility on trust land of the Pasqua Yaqui Tribe in Arizona;

(D) The existing gaming facility on trust land of the Poarch Band of Creek Indians in Alabama; and

(E) The existing gaming facility on trust land of the Seminole Tribe at Tampa, Florida.

(5) Except pursuant to a management contract approved pursuant to section 306, no person employed by or in any way connected with the bingo establishment for which the license is sought will receive compensation in any form based on a percentage of gross bingo revenue or net income or based on a percentage of any other money or property received in connection with the operation of the bingo establishment.

(d) With respect to any application for a license to operate a bingo establishment, the Committee shall ascertain the ability of the prospective licensee, and any management contractor with which the prospective license, and any management contractor with which the prospective licensee has entered into a management contract, to comply with the provisions of this title and the rules of the Commission, and otherwise determine the suitability and fitness of the prospective tribal licensee and the management contractor, if any, to operate a licensed bingo establishment in an honest manner, for the general economic benefit of the tribe. The Commission shall grant or deny such an application and may grant a license to operate a bingo establishment shall state that its holder consents to the inspections by the Commission pursuant to subsection (f), and either that the tribal licensee is entitled to operate the bingo establishment without a management contract, or that the tribal licensee is entitled to operate the bingo establishment in accordance with a specifically identified management contract approved by and filed with the Commission.

(e) The Commission may suspend, modify, or revoke a license to operate a licensed bingo establishment pursuant to sections 310 and 311, and may, with the consent of the tribe, impose additional conditions of operating such an establishment.

(f) For the purposes of determining and ensuring compliance with this title and any rule or regulation thereunder, and of investigating possible violations of sections 1166-1168 of Title 18 of the United States Code, the Commission and its agents or employees may, at any reasonable time and without prior notice or the requirement for a warrant—

(1) inspect and examine any licensed bingo establishment as frequently as the Commission shall by regulation provide, but in no event shall there be fewer than two inspections per year;

(2) inspect all equipment and supplies, and ascertain the identity of any person in, upon, or about a licensed bingo establishment or in any portion thereof;

(3) summarily seize and remove from a licensed bingo establishment any equipment or supplies for the purpose of examination or inspection;

(4) demand immediate access to and inspect, examine, photocopy and audit all papers, books, and records of tribal licensees on the premises of their licensed bingo establishments, or elsewhere as practicable; and

(5) demand immediate access to any portion of the premises of a licensed bingo establishment and, in the presence of an appropriate representative of a tribal licensee, conduct a physical count of cash, tokens, receipts, chips or any other material.

(g) The refusal of a tribal licensee or management contractor to cooperate fully and promptly with the Commission and its agents and employees in their carrying out of any inspection authorized by this subsec-

tion shall be the basis for disciplinary action pursuant to subsection 310(b).

LICENSING OF BINGO EMPLOYEES

SEC. 308. (a) The Commission may determine which classes of bingo employees shall be licensed as a condition of employment or connection with, or of continued employment or connection with, a bingo establishment.

(b) With respect to any applicant for a license as a bingo employee, the Commission—

(1) may demand proof of the applicant's identity and may require the applicant to submit such other information as the Commission, in its discretion, deems relevant including, but not limited to, employment record, criminal and arrest record, tax returns, and lists of past and present business and personal associates;

(2) may request the furnishing of information pertaining to the applicant in the possession of any federal, state, or tribal organization (and notwithstanding any other provision of law, the head of any such federal organization receiving such a request shall make such information available to the Commission, and without charge);

(3) may arrange for any federal, state, tribal, or private organization to conduct an investigation of the applicant and to furnish the results of the investigation to the Commission; and

(4) may require the applicant to respond to oral or written questions concerning any matter the Commission deems relevant to the application including, but not limited to, the type of information described in paragraph (1).

(c) A license issued pursuant to this section shall be carried by the holder thereof while engaged in the performance of his or her duties.

CONSIDERATION OF APPLICATIONS FOR BINGO LICENSES; TIME LIMITS; HEARINGS

SEC. 309. (a) Upon receipt of an application for a bingo license, the Commission shall cause an appropriate review to be made.

(b) If the application is for a license to operate a bingo establishment and the applicant indicates it intends to enter into a management contract, the Commission shall, within 270 days, either approve the contract and issue the license, or notify the prospective licensee and management contractor that the type of license applied for will not be granted or the management contract will not be approved and advised the tribal applicant and the management contractor that they are entitled to a hearing before the Commission pursuant to Title 5 U.S.C. 558(c).

(c) If the application is for a license to operate a bingo establishment and the tribal applicant indicates it does not intend to enter into a management contract, or if the application is for a license as an individual licensee, the Commission shall, within 90 days, either issue the license, or notify the prospective licensee that the type of license applied for will not be granted and advise the applicant that such applicant is entitled to a hearing before the Commission pursuant to Title 5 U.S.C. 558(c).

RENEWAL AND REVOCATION OF BINGO LICENSES; DISCIPLINARY ACTIONS

SEC. 310. (a) A bingo license shall continue in effect in accordance with the following schedule, unless earlier suspended, modified, or revoked by the Commission in accordance with this title—

(1) A license issued to an individual licensee shall remain in effect for one year;

(2) A license entitling a tribal licensee to operate a bingo establishment pursuant to a management contract shall remain in effect for two years; and

(3) A license entitling a tribal licensee to operate a bingo establishment without a management contract shall remain in effect for three years.

Provided, however, That the Commission may extend the effective period of any license for up to eighteen months to facilitate its consideration of license renewals in an orderly manner.

(b) Whenever the Commission has reason to believe that a tribal licensee, individual licensee, or management contractor who is a party to a management contract approved by the Commission has violated any provision of this title, any rule adopted pursuant to this title or any order of the Commission, in such a manner that the license or approval of the management contract should be suspended, modified, or revoked, or that a monetary fine should be imposed it shall provide such a licensee or management contractor with a written complaint stating the acts or omissions which form the basis for such belief and of the action or choice of actions being considered by the Commission. The allegations of acts or omissions must be set forth in ordinary and concise language and must specify the statutes or regulations which the licensee or management contractor is alleged to have violated, but must not consist merely of allegations stated in the language of the statutes or regulations.

(c) The Commission shall serve a copy of the complaint issued pursuant to this section upon the individual or tribal licensee or management contractor either personally or by certified or registered mail at such licensee's or management contractor's address on file with the Commission.

(d) Any licensee or management contractor to whom is addressed a complaint issued pursuant to this section shall submit a response within 60 days of service. The response shall state in short and plain terms any terms any defense to each act or omission alleged in the complaint, shall admit or deny the facts alleged in the complaint, shall state which allegations in the complaint such licensee or management contractor is without knowledge or information to form a belief as to their truth (which allegations shall be deemed to be denied), shall set forth any matter which constitutes an avoidance or an affirmative defense, and may demand a hearing before the Commission.

(e) Failure to demand a hearing constitutes a waiver of the right to a hearing and to judicial review of any order or decision of the Commission. Failure to answer the complaint within the time specified in subsection (d), or failure to appear at the hearing scheduled pursuant to subsection (f), shall constitute an admission by the licensee or management contractor of all matters alleged in the complaint, in which case the Commission may take action based on such an admission and on other evidence without further notice to the licensee.

(f) The Commission shall determine the time and place of the hearing requested by the licensee pursuant to subsection (d) as soon as reasonably practical after receiving the licensee's or management contractor's response. The Commission shall notify the licensee or management contractor of the time and place of the hearing either by personal service or by certified or registered mail at least 20 days before the hearing.

(g) After the preceding provisions of this section have been complied with, the Commission may do any or all of the following with respect to any licensee or management contractor to whom a complaint has been addressed under this section:

(1) suspend, modify, or revoke the bingo license;

(2) suspend, modify, or revoke the approval of the management contract (and a suspension or revocation of the management contract operates as a suspension or revocation of the tribal license as well);

(3) order a tribal licensee or management contractor to keep an individual from the premises of the bingo establishment or not to pay the individual any remuneration; and

(4) fine any licensee or management contractor any amount not more than $50,000 for each separate violation of the provisions of this title or of a rule or order of the Commission.

(h) Fines imposed pursuant to this section shall, when paid, be deposited in the general funds of the Treasury. Fines imposed pursuant to this section on a tribal licensee shall not be considered as an expense for purposes of computing net income.

EMERGENCY ORDERS

SEC. 311. (a) Notwithstanding the provisions of the preceding section, the Commission may issue an emergency order for the suspension, modification, or limitation of a bingo license whenever—

(1) it has reason to believe that an individual licensee or management contractor has committed or has knowingly allowed the commission of a violation of 18 U.S.C. 1167 or 1168, that a tribal licensee has knowingly allowed such a violation, or that such action is necessary to prevent such a violation; or

(2) it has reason to believe the licensee has not paid any fee or charge authorized by this title.

(b) Such an emergency order must be personally signed by all Commissioners serving at the time it is issued and shall include a statement of facts constituting the alleged emergency necessitating such action.

(c) Such an emergency order shall be effective immediately upon service on the licensee to whom it is directed, either personally or by registered or certified mail to the licensee's address on file with the Commission. The emergency order remains effective until further order of the Commission or until the matter is finally disposed of in accordance with the preceding section.

(d) Within five days after the issuance of an emergency order, the Commission shall cause a complaint to be served on the individual or tribal licensee involved in accordance with the preceding section.

CIVIL PROCEEDINGS

SEC. 312. (a) At the request of the Commission, the Secretary may request the Attorney General to institute a civil action in a district court of the United States to restrain a violation of any provision of this title, or of any rule, order, or decision of the Commission, to compel compliance with any rule, order, or decision of the Commission, or to collect a fine imposed by the Commission

(b) For purposes of subsection (a), venue shall be in any district wherein any defendant resides, is employed, or does business, or in the district where is located any bingo establishment or proposed bingo establishment which is involved in or which is the subject of the case or controversy.

REVIEW OF COMMISSION ORDERS

SEC. 313. (a) The Secretary shall have authority to review any final decision of the Commission concerning management contracts pursuant to section 306, licensing of bingo establishments and bingo employees pursuant to sections 307 and 308, and disciplinary action pursuant to section 310.

(b) The court of appeals (as designated in subsection (c)) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part) or to determine the validity of—

(1) any final rule made pursuant to sections 304 and 305; and

(2) any final decision of the Commission concerning management contracts, licensing of bingo establishments and bingo employees, and disciplinary action, which has been approved by the Secretary or which the Secretary has declined to review.

(c) Chapter 158 of title 28 applies to review under this section and—

(1) for purposes of any final rule made pursuant to sections 304 and 305, and for purposes of any final decision of the Commission concerning management contracts, the licensing of bingo establishments and bingo employees, and disciplinary action, which has been approved by the Secretary or which the Secretary has declined to review, the Secretary shall be considered the "agency" as that term is used in that Chapter; and

(2) any final rule or decision described in subsection (b) of this section shall be considered to be the "order" as that term is used in that Chapter.

SUBPOENA AND DEPOSITION AUTHORITY

SEC. 314. (a) A Commissioner shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Commission may request the Secretary to request the Attorney General to bring an action to enforce any subpoena under this section.

(c) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Commission (and produce books, papers, or documents if so ordered) and give evidence concerning the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) A Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Reasonable notice must first be given to the Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which a Commissioner proposes to take a deposition, reasonable notice must be given to the holder of any bingo license or any applicant for such a license, or his attorney, whose interests would be affected thereby. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission, as hereinbefore provided.

(e) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this chapter, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

FEES AND OTHER CHARGES

SEC. 315. (a) The Commission shall require that an applicant for a license as a tribal licensee pay to the Commission a fee which, in the opinion of the Commission, will be equal to the cost of conducting the investigation described in sections 306 and 307 concerning the tribal applicant and the management contractor, if any, and any hearing pursuant to section 309. The Commission may require such a fee to be paid in installments or increments if, in its opinion, it is impracticable to determine these costs in advance.

(b) The Commission shall establish a schedule of fees to be paid by each tribal licensee to the Commission. Such fees shall be fixed to derive as nearly as possible an amount equal to all expenses of the Commission not covered by the fees described in subsection (a) (except the salaries and related benefits paid to the Commissioners and except the costs attributable in fiscal years through Fiscal Year 1987 to the organization of the Commission and its preparation of regulations) and shall be based on a percentage of each tribal licensee's gross bingo revenue or net income.

(c) Until altered by regulation to comply with the requirements of subsection (b), each tribal licensee shall pay to the Commission an amount as determined by the Commission but not to exceed five percent of its gross bingo revenue and one percent of its net income per calendar month.

(d) The Commission shall submit an annual report accounting for fees derived pursuant to this section, for fines derived pursuant to Section 310, and for all expenditures of the Commission to the Inspector General of the Department of the Interior. The Inspector General shall, in addition to any other authorized activities with respect to the Commission, conduct an annual audit of its receipts and expenditures and shall submit the results to the Secretary.

(e) There is established in the Department of the Treasury a special fund into which all fees collected under this section shall be deposited and used to pay the expenses of the Commission, as limited by subsection (b) of this section, in such amounts and to the extent provided in appropriations acts.

TITLE IV. CRIMINAL SANCTIONS

SEC. 401. Chapter 53 of title 18 of the United States Code is amended by adding at the end thereof new sections 1166–1168 to read as follows:

"§ 1166. Gambling in Indian Country

"(a) Except as provided in subsection (c), all state laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, shall apply in the Indian country in the same manner and to the same extent as such laws apply elsewhere in the state.

"(b) Whoever in the Indian country is guilty of any act or omission involving gambling, whether or not conducted or sanctioned by an Indian tribe, which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State in which the act or omission occurred, under the laws governing the licensing, regulation, or prohibition of gambling in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

"(c) For the purposes of this section, the term "gambling" does not include bingo conducted in a bingo establishment licensed by the American Indian Bingo Commission and does not include purely ceremonial or social gambling involving only members of an Indian tribe.

"(d) It is the intent of Congress that criminal prosecutions of violations of state gambling laws in Indian country should ordinarily be undertaken by the state, pursuant to subsection (a), and that prosecutions by the United States under subsection (b) should take place only where the circumstances justify.

Provided, however, That this subsection is not intended to confer any rights enforceable at law or in equity on any person.

"§ 1167. Theft From Licensed Bingo Establishments

"(a) Whoever embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, or other property of a value of $1,000 or less belonging to a bingo establishment licensed by the American Indian Bingo Commission shall be fined not more than $100,000 or be imprisoned for not more than one year, or both.

"(b) Whoever embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, or other property of a value in excess of $1,000 belonging to a bingo establishment licensed by the American Indian Bingo Commission shall be fined not more than $250,000, or imprisoned for not more than ten years, or both.

"§ 1168. Theft by Officers or Employees of Licensed Bingo Establishments

"(a) Whoever, being an officer, employee, or individual licensee of a bingo establishment licensed by the American Indian Bingo Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such bingo establishment of a value of $1,000 or less shall be fined not more than $250,000 and be imprisoned for not more than five years, or both;

"(b) Whoever, being an officer, employee, or individual licensee of a bingo establishment licensed by the American Indian Bingo Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such bingo establishment of a value of $1,000 or less shall be fined not more than

$1,000,000 or imprisoned for not more than twenty years, or both.".

SEC. 402. The analysis for chapter 53 of title 18 of the United States Code is amended by adding at the end thereof the following:

"1166. Gambling in Indian Country.
"1167. Theft From Licensed Bingo Establishments.
"1168. Thefts by Officers or Employees of Licensed Bingo Establishments.".

TITLE V. EFFECTIVE DATES

SEC. 501. The provisions of this Act shall take effect on enactment except the provisions of Title IV shall take effect on October 1, 1987. *Provided, however,* That management contracts entered into and approved by the Secretary before the effective date of this Act shall remain in effect until October 1, 1987 unless earlier terminated by the Secretary.

TITLE VI. AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Subject to subsections (b) and (e) of section 315, there are hereby authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of this Act.

SECTION-BY-SECTION ANALYSIS

Title I of the Act sets out its name, The Indian Gambling Authorization and Regulation Act of 1986.

Title II sets out findings and a statement of purposes for the Act. The findings first make reference to the complicated allocation of jurisdiction in Indian country between the tribes, the federal government and the states which, coupled with recent federal court decisions, have resulted in many tribes running high stakes bingo games free from either state or federal regulation.

For criminal law jurisdiction there are two major types of reservations. The first are reservations where jurisdiction over Indian residents is shared between the federal and tribal governments and state laws do not apply. The second are those where Congress by statutes, generally enacted in the 1940's and 1950's, has allowed the states to exercise some or all criminal jurisdiction over Indians. (See, e.g., 18 U.S.C. 1162.) Even on the first type of purely "federal" reservation, however, some types of state laws have long been held to be applicable to conduct by Indians through the Assimilative Crimes Act (18 U.S.C. 13) and 18 U.S.C. 1152. See *United States* v. *Sosseur,* 181 F. 2d 873 (7th Cir. 1950); *United States* v. *Marcyes,* 557 F. 2d 1361 (9th Cir. 1977). Nevertheless, courts have held that only state *criminal* laws are assimilated and that state *regulatory* laws, even though enforceable by criminal penalties, do not qualify as criminal. Moreover, it has also been held that even on the second type of reservation, where the state criminal laws apply to Indians, state regulatory laws do not.

The distinction between criminal and regulatory laws, while questionable, has been applied in situations involving bingo where courts have held that certain state laws involving such matters as hours of play and the type of organizations that may profit from bingo do not apply in Indian country. See *Barona Group of Mission Indians* v. *Duffy,* 694 F. 2d 1185 (9th Cir. 1982); *Seminole Tribe of Florida* v. *Butterworth,* 658 F. 2d 310 (5th Cir. 1981). Since there are no federal laws regulating these matters, the only regulation is that provided by the tribes themselves.

The findings further reflect that while a number of tribes have reaped economic benefits, with a resultant increased sense of self-sufficiency, from their ability to run bingo free from outside control, some are not able to exercise the type of control and supervision which the states invariably assert over legalized gambling to minimize infiltration by organized crime, skimming, tax evasion, and other forms of corrupt practices. Some tribes have allowed individual members, rather than the tribe as a whole, to profit from bingo operations, and others have entered into management contracts which have allowed complete outsiders to profit. In short, the findings explain that at the present time Indian tribes have an asset—the ability to conduct high stakes bingo—not shared by other persons or organizations, but that the asset is one which needs to be particularly carefully controlled and supervised.

This Act is to ensure that this asset is maintained and continued for the benefit of the tribe. Subsection 202(a) states that one purpose of the Act is to provide a statutory basis for the judicially created exemption from state gambling control laws that has created this asset for the tribes. The importance of this point cannot be overemphasized. While two circuits (the Fifth and the Ninth in the *Barona Group* and *Seminole Tribe* cases) and one district court, see *Oneida Tribe of Indiana of Wisconsin* v. *Wisconsin,* 518 F. Supp. 712 (W.D. Wisc. 1981)), have recognized the aforementioned distinction between regulatory and criminal laws in Indian country, the Supreme Court has not decided this issue, at least in a case involving gambling. On the other hand, one federal district court, after holding that the state gambling laws at issue were criminal under the *Barona Group-Seminole Tribe* analysis, went on to hold that that analysis might, in any event, be appliable only in states (like California and Florida where the Barona Group and Seminole Tribe are located, respectively) to which criminal jurisdiction had been ceded. *United States* v. *Dakota,* No. M 84-246 CA2 (W.D. Mich., June 28, 1985), Appeal Pending, CA No. 85-1568 (6th Cir., July 8, 1985). Recently a state supreme court held that the state could regulate Indian gambling by virtue of its "residual jurisdiction." *State of Oklahoma* v. *Seneca-Cayuga Tribe of Oklahoma,* No. 60,074 (Okla. Sup. Ct., July 2, 1985).

While it is, of course, impossible to predict what the Supreme Court would hold in a case of this type, the Court has at least hinted that it might not agree with *Barona Group* and *Seminole Tribe.* In *Rice* v. *Rehner,* 103 S.Ct. 3291 (1983), a case in which the Court construed the federal statutory scheme governing the sale of liquor in Indian country and held that an Indian operating a liquor outlet on a reservation was required to obtain a state license, it stated it would not find a distinction between state "substantive" and "regulatory" laws in the absence of a context that might require it, such as in areas where the tribes have enjoyed a traditional immunity from state regulation. (See *Rice,* pp. 3301 and 3303, fns 13 and 18.) The immunity from state gambling regulations is of recent vintage, unlike immunity in more traditional areas such as hunting and fishing regulations and immunity from most types of states taxes.

Subsection 202(b) states that a purpose of the Act is to provide a statutory basis for the United States to regulate bingo so that this tribal asset will not be lost through infiltration by organized crime, or dissipated through theft or unreasonable compensation to management or through cheating.

Subsection 202(c) states that another purpose of the Act is to provide clearly that types of gambling other than ceremonial or social gambling or bingo in Indian country are governed by state criminal, regulatory and licensing laws. The Act would thus prevent tribes from operating other types of gambling such as casinos, slot machines, and pari-mutuel wagering unless they complied with all state licensing and regulatory requirements. These other types of gambling are, if anything, even more closely regulated by the states than is bingo and are at least as subject to infiltration by criminal elements. Consequently, while regulation of these activities is necessary, it would be extraordinarily difficult and expensive for the federal government to attempt to do so. (By contrast, the Act provides that virtually all of the cost of regulating bingo will be borne by the tribes operating bingo establishments through fees.) Moreover, courts have recognized the right of at least some Indian tribes to operate bingo free of state control, but the right to so run other forms of gambling is much less clear, and few, if any, tribes are presently deriving economic benefits from other types of gambling.

Subsection 202(d) states that a purpose of the Act is to allow the tribes that are already running bingo games to continue to do so free of federal regulation for a reasonable time. As will be described in more detail in connection with Titles IV and V, tribes will have approximately one year to bring their bingo operations into compliance with the provisions of the Act.

Title III establishes a Commission within the Department of the Interior to license tribal bingo establishments and otherwise regulate tribal bingo operations.

Section 301 sets out definitions for the title. Many are self-explanatory and others will be discussed in connection with the analysis of subsequent sections. In paragraph 301(a)(1), "bingo" is defined narrowly. It is intended to include only the game traditionally played by a gathering of people and does not include pull tabs, punch boards, "instant bingo," or other games where a person pays for the privilege of revealing hidden numbers or symbols which may entitle him to a prize. These latter types of games are essentially "numbers" games or lotteries, not bingo. On the other hand, it should be emphasized that the term is broad enough to include bingo games with carry-over jackpots and other features frequently disallowed by state statutes or regulations.

Paragraph 301(a)(4) defines the term "bingo license" as "any license issued by the American Indian Bingo Commission for the operation of, employment by, or other connection with a bingo establishment." Three different types of licenses may be required. First, a "tribal licensee" license must be obtained before operations begin. A "tribal licensee" is defined in paragraph 301(a)(16) as any federally recognized Indian tribe, or any organization established by such a tribe, which holds a valid bingo license permitting the operation of a bingo establishment. Second, the Commission may, by regulation, determine what types of employees of licensed bingo establishments must be licensed as an "individual licensee" (defined in paragraph 301(a)(10) as any person other than a tribal licensee to whom a valid bingo license has been issued). For example, the Commission may decide that managerial personnel and all persons with access to the

bingo hall's counting room should be licensed. Third, the phrase "or other connection with a bingo establishment" in 301(a)(4) is intended to make it clear that the Commission may by regulation require individual licenses to be obtained by certain persons other than employees who are closely connected with the bingo operation such as employees of management contractors. The Commission might also decide that persons who supply bingo equipment or food services to the bingo establishment should be licensed as a way of minimizing criminal infiltration through these routes.

Section 302 establishes the American Indian Bingo Commission. Subsection 302(a) provides that the Commission will be located in the Interior Department because Interior has the responsibility for administering and supervising Indian affairs. The Commission will be composed of three members, two appointed by the Secretary of the Interior and one appointed by the Attorney General. Rather than stating a requirement that one or more Commissioners be an Indian, this bill leaves the appointment authority in the full discretion of the Secretary and the Attorney General. The Secretary of the Interior shall designate one of his appointees to serve as Chairman. The Commissioners may be appointed without regard to the provisions of title 5, a recognition that the Commission will be an important policy making body that should ultimately reflect the wishes of the Secretary and the Attorney General concerning bingo, its impact on tribal welfare, and how it should be policed to keep it free of criminal infiltration. The fact that the Attorney General is to appoint one of the three Commissioners is intended to facilitate the Commission's carrying out its important law enforcement functions in licensing and inspecting high stake gambling operations. Such operations are a frequent target for criminals.

Subsection 302(a) also provides that the Commissioners shall have knowledge and ability in the areas of gambling regulation, law enforcement, and Indian affairs. The Commissioners must be able to consider both the needs of the tribes for the revenue generated by high stakes bingo and the need to keep such a gambling operation free of criminal infiltration.

Subsection 302(b) states that the Commissioners appointed by the Secretary serve at his pleasure and may be removed at any time without cause. The Commissioner appointed by the Attorney General serves at his pleasure and may also be removed at any time without cause.

Subsection 302(c) provides that the Secretary must designate one of his appointees to serve as Chairman. The Chairman has overall responsibility for running the Commission.

Subsection 302(d) provides that two members of the Commission shall constitute a quorum for the transaction of any business and that official action requires the affirmative vote of at least two Commissioners.

Subsection 302(e) provides that the Commissioners' salaries shall be determined in accordance with the provisions of Title 5, United States Code. This means that the Secretary of the Interior shall set the salaries of his two appointees and the Attorney General shall set the salary of his appointee. See 5 U.S.C. 5383(a). Subsection 302(e) also provides that the Commissioners must devote full time and attention to their duties and must not receive compensation from any other source.

Subsection 302(f) provides that each Commissioner shall take an oath to perform faithfully his or her duties before taking office, another reminder of the importance of the office.

Subsection 302(g) sets out the funding arrangements for the Commission. The only items to be paid out of appropriated funds are the Commissioners' salaries and the one time start up costs attributable to the Commission's drafting of an initial set of regulations. All other expenses of the Commission, including the salaries of the Commission's employees, other than the Commissioners, will be paid from a special account in the Treasury funded by assessments levied on the tribes operating bingo.

Section 303 deals with the Commission's employees and facilities. Subsection 303(a) provides that the Secretary of the Interior shall supply the Commission, on a reimbursable basis, with administrative services such as appropriate office space, furnishings, equipment and supplies as the Commission may require. While the Secretary will make the ultimate determination of what the Commission is to receive in the way of such things, it is intended that the Secretary give considerable latitude to the Commission in determining its needs. It is intended that the Commission's headquarters will be in the Washington, D.C. area, although it need not be located in a building of the Interior Department. It should be emphasized that the Commission is responsible directly to the Secretary and is not part of or subordinate to the Bureau of Indian Affairs. Therefore, the Secretary may well decide not to house the Commission with the BIA.

Subsection 303(b) provides that the Secretary is to provide to the Commission the support staff that the Commission will require. It is expected that this staff will be quite small because the Commission will be authorized to contract with federal, state, tribal, and private organizations to obtain the information it needs to evaluate applications for licenses and to inspect bingo establishments. Nevertheless, the salaries and related benefits of the persons assigned to the Commission, and the cost of office space and other items mentioned in subsection 303(a) are, after the initial start-up period of the Commission, to be considered as expenses of the Commission which are to be paid by the special taxes on bingo operations.

Subsection 303(c) states that the Secretary shall appoint a General Counsel for the Commission. The Chairman will, after consulting with the General Counsel, appoint, such other attorneys as are needed to provide legal advice for the Commission. The General Counsel and his or her staff will be independent of the Interior Department's Solicitor's Office, since that Office may not be able to handle the legal issues concerning the Commission and adequately carry out its other responsibilities. It is intended that the General Counsel and staff will be full time Commission employees. It is not intended that the Commission contract with a private law firm for legal advice. The subsection also provides that the Department of Justice will represent the Commission in any judicial proceeding to which it is a party. This is consistent with present arrangement concerning Justice's representation of the Interior Departmet in judicial proceedings.

Section 304 deals with the Commission's organization and duties. It is provided that the Commission may organize itself as it sees fit, but it is intended that the three Commissioners take an active part in the day-to-day work of the Commission, first in drafting regulations and then in considering license applications and in coordinating the inspection functions of the Commission. They are not to act merely as quasi-judicial officers or as a sort of triumvirate of hearing examiners.

Paragraph 304(a)(1) provides that the Commission shall make rules and regulations but that these rules and regulations shall be subject to approval by the Secretary. It is intended that during approximately the first year of its existence the Commission will draft a set of rules governing the subjects mandated by subsection 305(a) such as the criteria to be met by tribes seeking a license to operate a bingo establishment, rules concerning management contracts and management contractors, rules of play, and rules governing minimum and maximum prizes. It is further intended that the Commission will draft other rules it considers appropriate not specifically listed in section 305. These rules will be published in the Federal Register to give tribes and other interested persons the opportunity for review and comment. They will become final and go into effect only with the approval of the Secretary. A similar process will take place from time to time as general rules are added or amended. The Commission will cause them to be published for comment and review and they will take effect on the Secretary's approval.

Paragraph 304(a)(2) gives the Commission the authority to issue orders. This is designed to allow the Commission to issue orders to individual and tribal licensees and management contractors concerning what they must or must not do to comply with the statutory scheme or Commission rules, and set time limits for such compliance. It should be noted that section 310 also gives the Commission the authority to impose fines and issue orders concerning license suspensions, revocations, or modifications after a hearing and section 311 gives the Commission authority in certain limited situations to issue emergency orders concerning these matters.

Paragraph 304(a)(3) provides that the Commission may enter into contracts with federal, state, or tribal agencies, or with private firms for the performance of activities necessary to discharge its duties. As indicated, it is intended that the Commission have a relatively small staff and that most of its work in considering whether to approve management contracts and investigating applicants for bingo licenses under sections 306-308, and its post-licensing inspection of bingo establishments will be done through contracting. For example, the Commission may request another federal agency, like the FBI or the Secret Service, to conduct a background investigation on a proposed management contractor or on an individual applicant for a bingo license. Normally, the other federal agency would be expected to receive reimbursement from the Commission for this service and paragraph 304(a)(3) allows the Commission to pay such reimbursement. It also allows the other agency to provide the service free of charge, or at less than cost, if it so desires. Tribal, state, or private personnel could also be used for such background investigations, with or without reimbursement.

For background investigations, paragraph 304(a)(3) must be read in conjunction with paragraphs 306(c)(1) and 308(b)(2). The latter provisions state that in connection with a request for approval of a manage-

ment contract or with an application for a bingo license from an individual, the Commission may request a federal, state, or tribal organization to furnish it with information in its possession concerning the contractor or individual, and a federal organization receiving such a request shall make the information available to the Commission free of charge. This is intended to allow federal agencies to furnish reasonably identifiable information already in their files (including in files maintained in field offices) concerning a prospective management contractor or an individual license applicant to the Commission at no charge. Typically, law enforcement agencies like the FBI would have this type of information such as arrest records. Other agencies, such as the Small Business Administration, might also have relevant information in their files that must be furnished at no cost if requested by the Commission. Paragraphs 306(c)(1) and 308(b)(2) do not, however, require another federal agency to conduct an investigation beyond a file review at no cost to the Commission. For anything beyond a review of its files and the furnishing of information contained therein to the Commission, the Commission must enter into a contract or agreement with the other agency under 304(a)(3).

The Commission may also enter into contracts or agreements with federal, tribal, state or private organizations for audits and inspections of bingo establishments. Paragraph 304(a)(3) states explicitly that persons who engage in activities for the Commission pursuant to contracts or agreements are agents of the Commission while so engaged. This is to ensure that such persons working pursuant to an agreement or contract are able to carry out the extensive inspection functions set out under subsection 307(f) free from any objection by the tribal licensee or management contractor that they are not entitled to do so because they are not employees of the Commission or even federal employees. In short, all persons with whom, or for whose services, the Commission has contracted to conduct inspections are the Commission's agents.

Subsection 304(b) provides that the Commission shall submit a report concerning its activities to the Secretary at least once a year, in keeping with the role of the Commission a subordinate to the Secretary.

Section 305 concerns the rule making authority of the Commission. Subsection 305(a) states that in accordance with 5 U.S.C. 553, part of the Administrative Procedure Act, the Commission shall adopt, amend, and repeal rules of general application. As previously discussed, the Secretary has the final say over the general rules of the Commission. In brief, section 305 in conjunction with 5 U.S.C. 553, will require the Commission to publish notice of its proposed rules in the Federal Register along with a copy of the proposed rule or a description of the issues involved. The Commission must give interested persons—such as the tribes and other persons or organizations—an opportunity to participate in the rule making through submission of data and, at the Commission's discretion, oral presentation. After consideration of these views, the Commission will present the Secretary with its recommended rule or set of rules which, if signed by the Secretary, will be published as a final rule in the Federal Register and become effective not less than thirty days thereafter.

It is intended that the Commission exercise broad discretion in drafting rules for the Secretary's approval to carry out the provisions of title III and the other purposes of the Act. For example, the Commission may well decide to draft a rule providing for the establishment of a list of persons who are to be barred or ejected from any licensed bingo establishment if the Commission determines, based on such factors as convictions for gambling offenses or known association with persons who have been so convicted, that their presence poses a threat to the orderly operation of licensed bingo. A regulation providing for such a "bar" list is common in gambling law enforcement. See Section 463.151 of the Nevada Revised Statutes.

In addition to providing the Commission with broad discretionary rule drafting authority, subsection 305(a) also sets out a list of subjects on which the Commission *must* prepare regulations. Paragraph 305(a)(1) provides that the Commission must draft rules setting out the requirements for a license to operate a bingo establishment. These requirements are in addition to the statutory requirements for such a license set out in subsection 307(c), which are discussed in connection with that subsection. 305(a)(1) is intended to allow the Commission to draft rules concerning such matters as the source of loans to allow a tribe to open a bingo establishment, and rules concerning forms on which license applications must be submitted (and possibly short or abbreviated forms for license renewals).

Paragraph 305(a)(1) also states that the Commission must adopt rules setting out the requirements for a bingo license entitling the holder thereof to operate a bingo establishment "or a particular class of bingo establishment." The quoted phrase is intended to make it clear that the Commission can adopt rules providing for more than one type of bingo establishment. For example, it could adopt rules allowing tribes with a relatively large amount of capital, or those which have already demonstrated some expertise in operating bingo, to operate a bigger bingo establishment and offer greater prizes than would be permitted for a tribe with less capital and no previous bingo experience. It could also adopt rules differentiating among classes of bingo establishments with respect to which employees have to be licensed. For example, it might decide that certain supervisory personnel of a small bingo establishment do not need to be licensed but that such personnel in a larger establishment (where bigger sums of cash are routinely changing hands) should be licensed.

Paragraph 305(a)(2) mandates rules setting out the requirements for employment by or other connection with a bingo establishment. As indicated, the Commission is to draft rules determining which, if any, persons need to be licensed.

Paragraph 305(a)(3) states that the Commission must draft rules establishing fees pursuant to subsection 315(b). As will be described in more detail under the discussion of section 315, that subsection requires the Commission to establish a schedule of license fees based on a percentage of the revenue derived from the bingo establishments which will pay for the operation of the Commission.

Paragraphs 305(a) (4)-(8) states that the Commission must draft rules defining and limiting hours of play, the type of bingo that may be played, admission fees, fees for participating in the games, and rules concerning the maximum or minimum prizes that may or must be awarded. In preparing these rules it is intended that the Commission balance the need for tribal revenue against the influence a high stakes gambling operation may have on the surrounding community, both Indian and non-Indian. Nevertheless, it must be kept in mind that these rules should not be influenced by what the states allow by way of bingo play because this regulatory scheme is wholly separate and apart from state law, except in the five states listed in the discussion of subsection 307(a) in which the tribes are forbidden to operate bingo at all.

Paragraph 305(a)(9) provides that the Commission must draft rules concerning the dispensing of alcoholic beverages in licensed bingo establishments. It is intended that these rules be at least as restrictive as state and tribal laws and regulations, but the Commission may decide to make them more restrictive. For example, the Commission could adopt a rule prohibiting or limiting free drinks in a bingo establishment even though dispensing free drinks is not prohibited under state and tribal laws and regulations.

Paragraph 305(a)(10) provides that the Commission must draft rules concerning the amount of compensation that may be paid to employees of bingo establishments. This subsection is intended to allow the Commission to draft rules to forbid excessive salaries to a few persons with the top bingo jobs and thus deprive the tribe as a whole of the benefits of a successful bingo operation because the profits are unreasonably reduced.

Paragraph 305(a)(11) provides that the Commission must draft rules concerning management contracts and management contractors. A number of statutory requirements are set out for management contracts and management contractors in section 306 and other sections, but 305(a)(11) is to ensure that all aspects of management contracts are carefully regulated by the Commission. In fact, approval of these contracts and their close supervision is one of the most important tasks of the Commission since such contracts, although of benefit to a number of tribes, create the potential for unfairly depriving tribes of the full economic benefits of operating high stakes bingo.

Subsection 305(b) provides that the Commission may adopt rules authorizing an Indian tribe itself to promulgate rules on any of the subjects listed in subsection 305(a) on which the Commission must adopt rules, except for rules concerning licensing, management contractors, and fees to be paid to the Commission. Licensing, the approval of management contracts, and the setting of fees are the responsibility of the Commission alone. But the Commission could, for example, adopt a rule authorizing a tribe or a particular class of tribes with previous experience in operating bingo to promulgate rules concerning hours of operation, prizes, and the types of bingo to be played. Such tribally made rules would then become effective as Commission rules when adopted by the Commission, subject, as with all Commission rules, to approval by the Secretary. This subsection thus allows the Commission to receive suggestions from the tribes for local rules pertaining to bingo, a recognition of the fact that several tribes are themselves regulating bingo and that others may develop expertise in doing so. Nevertheless, the subsection requires that tribally drafted rules will become effective as Commission rules only upon adoption by the Commission to ensure that such rules do not conflict with the provisions of the Act or with other Commission rules.

The subsection also states that the Commission shall, to the extent practical, pursuant to its authority under paragraph 304(a)(3), contract with the tribe concerned when the Commission adopts tribal rules for the enforcement of those rules. It provides the Commission with latitude to determine what, if any, enforcement authority should be contracted to the tribe. The purpose of the contract requirement is to allow the tribe to participate in the enforcement of its rules, as adopted by the Commission, and to indicate that the fees it pays to the Commission should be returned to it to help defray the costs incurred by the tribe in enforcing its rules, to the extent the Commission believes tribal enforcement is practical. Consistant with *Buckley* v. *Valeo*, 424 U.S. 1 (1976), individuals who assist in enforcement under those contracts would be officers of the United States.

Subsection 305(c) states that nothing in the Act precludes an Indian tribe from exercising regulatory authority over a bingo establishment within the tribe's jurisdiction. However, compliance with tribal laws or rules does not satisfy the requirement of compliance with this Act or with any rule or regulation of the Commission. This subsection is intended to take cognizance of the fact that the tribes are governmental entities exercising governmental functions within their own reservations. It would allow a tribe itself to regulate an aspect of the bingo operation to the extent the Commission rules do not supersede the tribal rules. If the Commission does not adopt a regulation on a particular aspect of bingo, the tribal rules would control.

For example, assuming that the Commission did not adopt rules concerning seating capacity in the bingo hall, subsection 305(c) would allow the tribe itself to adopt a tribal ordinance on this subject. such a tribal ordinance would not, unlike a rule proposed by a tribe pursuant to subsection 305(b), have to be approved by the Commission to be effective. Such a tribal ordinance might, however, because of an approval requirement in tribal or other federal law, have to be approved by the Secretary. A tribal ordinance regulating some aspect of bingo would be rendered of no effect if the Commission subsequently adopted a rule on the same subject that was more restrictive than the tribe's own rule. Thus, in the above example, if a tribe adopted an ordinance limiting bingo establishments to a seating capacity of 2,000 players, and the Commission subsequently adopted a general rule limiting the seating capacity to 1500, the Commission rule would prevail. Note that in the reverse situation—if the Commission were to adopt a rule limiting seating capacity to 2,000 (i.e. a rule that gives the tribes the right to operate, pursuant to the licensing and other provisions of this Act, a bingo establishment seating up to 2,000 people) but the tribe felt it wanted an establishment seating no more than 1500—the tribal ordinance would still be effective since it is more restrictive than the Commission's rule and so is not in conflict. In short, subsection 305(c) means that the tribes can regulate what the Commission has chosen not to regulate, or to regulate themselves more closely than the Commission has chosen to regulate them. However, the rules of the Commission, and of course the provisions of this Act, are to prevail in the event of a conflict.

Section 306 deals with management contracts. The term "management contract" is defined in paragraph 301(a)(11) as "any agreement between [the tribe or organization established to operate bingo such as a tribal corporation] and another person or entity whereby such other person or entity agrees to operate or participate in the management of a [licensed] bingo establishment . . ., or to operate or participate in the management of any activity carried on in such an establishment." "Management contractor" is defined in 301(a)(12) as the party to the contract other than the tribe or organization established by the tribe to run the bingo. This section in effect delegates the Secretary of the Interior's already existing power to approve or disapprove management contracts to the Commission and sets out detailed requirements for such contracts.

Subsection 306(a) provides that, subject to the provisions of the Act, any tribe entitled to apply for a bingo license or any organization established by such a tribe pursuant to subsection 307(a) may enter into a management contract.

Subsection 306(b) provides that a management contract must be approved by the Commission either prior to or contemporaneously with the granting of a license to operate a bingo establishment. To reemphasize this point, paragraph 306(e)(1) subsequently provides that any management contract must specifically state that it will not take effect until approved by the Commission. It is intended that, as described in more detail under section 307, any tribe wanting to operate bingo must make a choice by the time it applies for the license whether or not it will use a management contractor or manage the bingo operation itself. If the tribe decides to use a management contractor it must submit a copy of the proposed contract and other detailed information about the management contractor and its key personnel and office holders. The background of the management contractor and its key employees and the contents of the contract will be carefully examined by the Commission in determining whether to approve the contract.

Subsection 306(b) is intended to prohibit a tribe that has received a bingo license entitling it to operate without a management contract to enter into such a contract at a later date, and to prohibit a tribe that has entered into a management contract with one contractor from switching to another contractor, without first submitting to a new licensing procedure. This is because a management contract (or a management contract with a different management contractor), as its name implies, puts an entirely new group of persons in charge of the bingo operation and they must be carefully screened by the Commission before being given this responsibility.

On the other hand, a tribal licensee operating with a management contractor may decide, for a number of reasons, to terminate the contract before the term of the license has expired. In this situation, subsection 306(b) allows the tribe to terminate a Commisison-approved contract after giving notice to the Commission, although it is not intended to impair any legal rights that may accrue to the management contractor for a "breach" of such a contract on the part of the tribe. If the tribe terminates a contract it must apply for a new license, but the Commission may allow the tribe to operate on the existing license, but only without any management contractor, while its application for a new license is pending.

Subsection 306(b) is also intended to require all management contracts, including those already entered into before the effective date of this title, to be submitted for Commission approval. There is to be no "grandfathering" of existing contracts, although section 501 (dealing with effective dates) is intended to allow management contracts in effect on the effective date of the Act to remain in force until October 1, 1987, unless terminated earlier by the Secretary pursuant to his general supervisory power over such contracts.

Subsection 306(c) authorizes the Commission to order a thorough investigation of the management contractor and its key officials before deciding whether to approve the contract. To more fully understand this subsection, it must be read in conjunction with subsection 307(b). Subsection 307(b) requires an applicant for a tribal license that indicates it plans to enter into a management contract to submit detailed information about the proposed management contractor and its key personnel to the Commission at the time the application for the license is submitted. Specifically, the tribal applicant must submit the name, address, and other pertinent background information on the management contractor, on individuals comprising the management contractor (for example if it is a partnership), and on individuals having a financial interest in or managerial responsibilities for the contract (for example a person who has loaned money to the management contractor to allow it to undertake the contract or an on-site manager). For corporate management contractors, the name, address and other pertinent background information of the members of its Board of Directors and stockholders who own or control five percent or more of its stock must be submitted.

Subsection 307(b) also requires the submission of a complete financial statement of all of the above persons, a description of their previous experience with the gaming industry, lists of their business and personal associates, employment history, tax returns, and "such other information as the Commission may by regulation prescribe." It is intended that this provision be construed very broadly and that the Commission draft regulations allowing it to get a complete and detailed picture of the proposed management contractor and its key personnel.

Subsection 306(c) then authorizes the Commission to make use of the information submitted under 307(b). Paragraph 306(c)(1) states that the Commission may request any federal, state, or tribal organization to furnish information it has containing the management contractor and its key employees and officials. As previously discussed, any federal agency receiving such a request must furnish the information at no charge.

Paragraph 306(c)(2) authorizes the Commission to enter into a contract with a federal, state, tribal, or private organization to conduct a background investigation of the prospective management contractor and of any of its key employees and officials and to furnish the results to the Commission.

Paragraph 306(c)(3) authorizes the Commission to require the prospective management contractor and any of the key employees and officials to respond to oral or written questions concerning any matter the Commission deems relevant to determining the management contractor's suitability including, but not limited to financial statements, employment records, list of past and present associates and other matters specifically listed in subsection 307(b).

Subsection 306(d) provides that the Commission may only approve management contracts that comply with all Commission

rules pertaining to such contracts, contain all of the mandatory provisions for such contracts set out in the following subsection, 306(e), provide for payment to the management contractor of either a reasonable sum certain or a reasonable percentage of the net income but not greater than 40 percent.

Paragraph 306(d)(3) sets out the requirement that the contractor receive either a reasonable sum certain—for example a flat monthly or annual fee regardless of the success or failure of the bingo operation—or not more than forty percent of the net income. It is intended that the Commission consider the proposed compensation of the management contractor in each management contract. Indeed, subsection 306(f) specifically states that the Commission must not approve a contract that it determines is not in the tribe's best interest. This means that the Commission need not approve a contract that calls for, say, a forty percent fee, if it concludes that the percentage is too high based on the difficulty of the task or the expected amount of the net income.

It is also intended that the Commission may decide to base a percentage contract on the gross bingo revenue (i.e. the net winnings from bingo) rather than on the net income. For example, if a bingo establishment's anticipated gross bingo revenue was $10,000 a night but its net income was expected to be advanced to $15,000 because its sales of food and alcohol would likely bring in $5,000 more than was needed for the bingo employees' pay, utilities, etc., the Commission might deem it fair to base the management contractor's percentage on only the $10,000 gross bingo revenue, rather than on the $15,000 net income. On the other hand, if the net income was expected to be less than the gross bingo revenue—if, in the above example the $10,000 gross bingo revenue was expected to be reduced by $3,000 in operating expenses—the Commission could only consider the $7,000 net income figure in setting a fair percentage fee.

It should be emphasized that the forty percent maximum fee is based on net income as determined *after* deducting the management contractor's fee. This is because net income is defined as gross bingo revenue plus revenue from other sources, "minus reasonable expenses incurred in running a bingo establishment *including payments to management contractors.*" For example, assume a net income of $100,000 a month before any management fee is paid and a contract that allows the statutory 40% maximum. The maximum amount that can go to the management contractor is not $40,000, but $28,571 computed as follows:

The management fee is 40%, or 2/5ths, of the net income. The net income, in turn, is $100,000 minus the management fee. This can be expressed as the following formula in which M means the management contract:

M=2/5 ($100,000−M).

Solving the formula, M is $28,571.

Subsection 306(e) contains a list of provisions that must be included in any management contract. The first such provision is that the contract will not take effect until approved by the Commission and that the term of the contract shall not exceed the term of the license. The other mandatory terms covering such matters as an agreed upon ceiling for the repayment of development and construction costs and for a minimum payment to the tribe that has preference over the retirement of such costs are largely self explanatory.

Subsection 306(f) provides that the Commission shall consider the best interests of the tribe in deciding whether to approve a contract and also sets out six factors relating to the management contractor or any of its key employees listed in subsection 307(b) which mandate the disapproval of the contract.

First, paragraph 306(f)(1) states that no management contract may be entered into with an elected member of the governing body of the tribe operating the bingo. This is because the right to run bingo is a tribal asset. While it may be necessary to share some of the bingo profits with an outside management company as a way of developing the asset, the right to run bingo is not to be converted into a lucrative, private business through the guise of a management contract for a few elected tribal officials at the expense of the tribe as a whole.

Second, no management contract may be approved if one of the persons listed in subsection 307(b) has been or is subsequently convicted of any felony or any offense, felony or misdemeanor, involving gaming. The reason for this prohibition is obvious. The Commission must keep out management contractors who have demonstrated by their criminal conduct that they are unqualified to undertake such a position of trust and responsibility. In this connection, the requirement in paragraph 305(a)(11) that the Commission make rules concerning management contracts would allow it to make a rule providing that once a contract is approved, it would be suspended if the contractor or one of the key officials were even indicted for a gaming violation until such time as his trial or until the official was removed from his connection with the bingo operation.

Paragraph 306(f)(3) provides that the Commission shall not approve a management contract if one of the persons listed in 307(b) has knowingly provided false statements to the Commission. It is intended that this paragraph apply if the false statement was in connection with the current application or with any previous application.

Paragraph 306(f)(4) is intended to give the Commission the widest possible discretion in deciding whether to approve a management contract. It provides that the Commission shall not approve such a contract if any of the persons listed in 307(b) "is a person whose prior activities, criminal record if any, or reputation, habits and associations pose a threat to the public or tribal interest or to the effective regulation and control of bingo, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of bingo or the carrying on the business and financial arrangements incidental thereto." This paragraph is designed to allow the Commission to exercise subjective judgment and not to approve a contract even if it does not violate any statutory provision or rule, if it concludes the management contractor or any of its key employees is such a person. For example, the Commission could refuse to approve a management contract if it has evidence that the company or one of its key officials has associated with reputed organized crime figures, or if a proposed on-site manager was strongly suspected—although never formally charged—of a gaming related offense such as skimming or with some sort of fraud. Of course in a situation where one of the key employees, rather than the management contractor itself, was believed to be such an "unsuitable" person, the Commission could inform the contractor and the tribe that the contract would be approved if the person in question ceased to have any connection with it or with the company.

Paragraph 306(f)(5) provides that no management contract shall be approved if one of the persons listed in 307(b) has attempted to unduly interfere with or influence any decision or process of tribal government concerning bingo activity. The type of conduct aimed at here is offering a bribe to a tribal official in return for the bingo contract, or paying voters at a tribal election to vote for certain tribal officials who will in turn award the bingo contract to a particular company.

Finally, paragraph 306(f)(6) states that no management contract shall be approved if any of the persons listed in 307(b) has deliberately or substantially failed to comply with the terms of any previous management contract, with the present tribe or with another tribe.

Subsection 306(g) states that a management contract may be suspended, modified, or revoked, and a fine imposed on the management contractor pursuant to the notice and hearing provisions of section 310. This subsection emphasizes that by entering into a management contract to run bingo with a prospective tribal licensee, the management contractor agrees to submit to the disciplinary proceedings of the Commission.

Subsection 306(h) is intended to minimize or eliminate duplicative review of management contracts by the Commission and the review required of the Secretary pursuant to the provisions of 25 U.S.C. 81. 25 U.S.C. 81 provides for Secretarial approval of contracts involving Indian tribes. A number of federal courts have held that without Secretarial approval under section 81, bingo management contracts are void and unenforceable. See *Wisconsin Winnebago Business Committee* v. *Koberstein*, 762 F. 2d 613 (7th Cir. 1985); *United States ex rel. Shakopee Mdewakanton Sioux Community* v. *Little Six Enterprises*, 616 F. Supp. 1200 (D. Minn., 1985), on appeal Nos. 85-5279, 85-5280 (8th Cir.); *Flandreau Indian Management Company* v. *Flandreau Santee Sioux Tribe*, Civ. No. 84-4055 (D. S. Dak., unreported opinion, April 11, 1984). Accordingly, tribes are submitting bingo management contracts to the Secretary or his designee for review. Subsection 306(h) provides that the Secretary may delegate to the Commission his authority and responsibility under section 81 to review these contracts. It affirms existing case law, provides that such review authority and responsibility may be delegated by the Secretary to the Commission, and directs that upon such a delegation Commission approval of a management contract pursuant to section 306 shall be deemed to satisfy the provisions of 25 U.S.C. 81.

Section 307 deals with the licensing and inspection of bingo establishments. Subsection 307(a) provides that any "Indian tribe" (a term defined in 301(a)(9) as a tribe recognized by the Secretary as eligible for special BIA services and as exercising powers of self-government) except an Indian tribe in a state which does not authorize or permit bingo may, pursuant to a valid tribal ordinance or regulation, either apply itself for a license entitling it to operate bingo or establish or authorize a separate entity to apply for such a license.

The phrase "except an Indian tribe in a state which does not authorize or permit bingo to be conducted by any person or organization" is included because of the distinction made by the courts in the above described *Barona Group* and *Seminole Tribe*

cases between state regulatory and prohibitory laws. State prohibitory laws would be assimilated while these cases hold that state regulatory laws would not be. Thus, even accepting the prohibitory/regulatory distinction as valid, the tribes in five states (Arkansas, Hawaii, Indiana, Mississippi, and Utah) could not under present law operate bingo because state law would apply and prohibit them from doing so. The phrase is necessary to maintain the status quo and keep any federally recognized Indian tribes in those states where bingo is prohibited (or at least not authorized at all) from applying for bingo licenses and thus obtaining a benefit different in both degree and kind from that available to other persons or organizations in those states. If, however, the legislature of one of those states should permit bingo by any organization, for example by churches or fire departments, any federally recognized tribe in that state could then apply for a federal license.

The phrase "pursuant to a valid ordinance or resolution" is included because the Secretary has the authority to approve or disapprove tribal ordinances. If the Secretary determines that a particular tribe does not have the authority to enact an ordinance providing for bingo, he could act to prevent the Commission from even considering such a tribe's application.

It is anticipated that in some cases the tribes will themselves apply for a license and operate the bingo establishment as a tribal business. Other tribes may opt to set up a separate entity, such as a corporation, to apply for the bingo license and operate the bingo. That is permissible, and in many instances may be preferable as a way of segregating the funds necessary to operate the bingo games and derived therefrom, from funds associated with general tribal activities or other tribal businesses, so long as no individuals, other than pursuant to a management contract approved by the Commission, have any sort of a proprietary interest in the entity. In other words, there can be no individual shareholders or partners entitled to share in the profits. All profits must go to the tribe.

Special mention should be made of the phrase "Indian tribe" as it applies to the Penobscot and Passamaquoddy Tribes in the State of Maine. The history of federal, tribal, and state relationships in Maine is unique. These relationships are governed by federal and state statutes. See 30 Maine R.S.A. 6201-6214, which Congress expressly approved and ratified in the Maine Indian Claims Settlement Act. 25 U.S.C. 1721-1735. As the Maine Supreme Court has noted, it has been "generally agreed that these acts set up a relationship between the tribes, the state, and the federal government different from the relationship of Indians in other states to the state and federal government." *Penobscot Nation* v. *Stilphen*, 461 A. 2d 478, 489 (Sup. Judic. Ct. of Maine, 1983). The Maine state statute provides that the Maine Indian tribes were to be treated as municipalities, but states that "internal tribal matters" are not subject to regulation by the state. In *Penobscot Nation* the Maine Supreme Court held that as a matter of statutory construction, bingo was not an internal tribal matter and hence could be regulated by the state. (It might be added that the *Penobscot Nation* opinion, written by that State's Chief Justice for a unanimous court, contains a lengthy discussion of federal Indian common law as it has been developed by the Supreme Court and concludes that on that basis, also, Indian tribes cannot operate bingo in violation of state laws and regulations. This is another indication that the Supreme Court might not agree with the federal court cases that have held to the contary.) In any event, this bill would, in effect, overrule *Penobscot Nation* and put the federally recognized Maine Indian tribes on a par with other tribes and allow them to apply for federal bingo licenses.

Subsection 307(b) provides that the application must state whether the applicant intends to enter into a management contract and if it does, sets out the type of information about the management contractor and its key employees that must be submitted. This paragraph has previously been discussed in connection with section 306.

Subsection 307(c) sets out five statutory requirements that must be met before the Commission may issue a license.

Paragraph 307(c)(1) provides that the Commission may approve an application only if it is satisfied that the applicant has a plan of operation that will ensure that the entire net income of the bingo establishment is deposited in a fund for the use of the general welfare of the tribe. The term "net income" is defined in section 301, as is the term "gross bingo revenue." Gross bingo revenue" is the total of cash received from players for the playing of bingo, plus any credit extended to allow the playing of bingo, minus the total value of any cash and merchandise awarded for bingo prizes. The term is the equivalent to the gross receipts in the accounting of a more conventional business. "Net income," in turn, is defined as gross bingo revenue plus revenue from other sources in connection with the operation of the bingo hall—for example the sale of food or parking fees—minus the expenses of running the establishment such as payments to management contractors, salaries, the cost of equipment, mortgage payments on the building, utilities, etc. The purpose of 307(c)(1) is to ensure that the bingo operation is kept separate from other tribal businesses or general operations and that the bingo income is used for the benefit of the tribal activities because its books and records are subject to inspection by representatives of the Commission, whereas other tribal activities are not. Moreover, a special tax is to be collected on gross bingo revenue and on net income so these figures must be readily ascertainable. Nevertheless, since the entire net income from the bingo must go to the tribe, the net income may be deposited into a tribal account on a recurring basis, so long as clear records are maintained to account for how the income was derived and to demonstrate that all of it made its way into the tribal treasury.

Ensuring that the income from the bingo goes into the tribal treasury and is not diverted anywhere else is one of the main functions of the Commission in carrying out both its licensing and inspection functions. However, the Commission's responsibility stops with respect to any funds once deposited into the tribal treasury. In other words, the Commission has no responsibility over how a tribe uses such funds, and this legislation is not intended to change the way in which tribes use their money. The phrase "fund for the general welfare of the tribe" is intended to mean either the tribe's "general fund" or a special fund for some purpose related to the general welfare of the tribe but which may benefit only a certain class of persons, such as housing for the elderly or a program for children with special educational needs. Thus, the tribe has very broad discretion over how it will use the bingo revenue. Should the Commission be in doubt whether a particular program would qualify as one for the "general welfare of the tribe," it is intended that it consult the Secretary for his or her determination of the point.

Paragraph 307(c)(2) provides that the applicant must, if granted a license, allow an independent annual audit by an independent accounting firm, the results of which are to be furnished to the Commission. The tribal licensee and the management contractor, if any, are expected to cooperate fully with the outside accountants. This audit is to ensure that the tribe's accounting practices with respect to the bingo operation are adequate, that all income and expenses are accurately reported, and that the bingo establishment's managerial practices are sound. Normally, such an audit is scheduled well in advance and the tribe and management contractor will have an opportunity to prepare for it. This audit, of course, is separate from and in addition to the unannounced inspections of the bingo establishment's books and records to be conducted by the Commission pursuant to subsection 307(f).

Paragraph 307(c)(3) provides that the applicant must satisfy the Commission that it has paid and will continue to pay all fees required by subsection 315(a). That subsection requires the Commission to establish a fee to be paid by each applicant for a tribal license which will pay for the investigations required by sections 306 and 307, concerning applicants for tribal licenses and prospective management contractors and any hearing necessitated by section 309. Obviously, the amount of the fee will be different for each applicant. The fee may be paid in installments and the Commission may assess the fee in increments if it is impractical to determine at one time how much the investigation or hearing will cost. Paragraph 307(c)(3) would allow the Commission, for example, to require a tribal applicant to submit part of its investigation fee with the initial application, and post a bond to ensure the payment of any additional cost.

Paragraph 307(c)(4) is designed to ensure that tribes operate bingo only on lands that historically have been associated with the tribe as a place where its members actually reside as a community. It provides that the proposed bingo establishment must be located entirely on lands that for the prior ten years have been part of that tribe's reservation. "Reservation" is defined in 301(a)(14) as an area recognized or established by treaty, statute, or Executive Order for an Indian tribe and over which the tribe has governmental jurisdiction. 301(a)(14) further provides that in Oklahoma, the term "reservation" means "land held in trust by the United States for an Indian tribe." Paragraph 307(c)(4) contains two exceptions to the general limitation that bingo be conducted on land that has been part of an Indian reservation for ten years. The first provides that land which becomes the original reservation of an Indian tribe upon the tribe's becoming federally acknowledged shall be deemed to have met the ten year requirement. The second exception recognizes that off-reservation bingo operations are presently ongoing at five sites in Minnesota, Connecticut, Arizona, Alabama, and Florida. It states that these sites are deemed to meet the ten year rule, thus allowing operations there to be licensed by the Commission, if they meet the other necessary licensing requirements.

Subsection 307(d) states that the Commission must ascertain the ability of an applicant for a tribal license, taking into account any management contractor with whom the tribe intends to contract, to comply with all the statutory requirements of the Act and the rules of the Commission. However, 307(d) is also intended to give the Commission discretion to consider other, nonstatutory, factors in deciding whether to grant a license. It states that the Commission shall consider the suitability and fitness of the prospective tribal licensee to operate the bingo establishment in an honest manner, for the general economic benefit of the tribe, and otherwise in conformity with all the provisons of Title III of this Act. This is intended to allow the Commission to exercise wide discretion to make determinations on a case-by-case basis of whether the tribal applicant should be given a license by taking into account such things as possible ties of prospective managerial personnel with organized crime figures, and proposed management salaries.

The subsection provides that the Commission may grant a license under such restrictions, limitations, or conditions as it deems advisable. For example, it could grant a license on the condition that certain individuals not have any connection with the bingo operation, or with a limitation that bingo be played only for smaller prizes than those authorized by regulations established pursuant to section 305. It is intended that if such conditions or limitations are imposed and the tribe agrees, that the conditions be agreed to in writing by both the tribal applicant and the Commission. If the tribe does not agree, the Commission would not issue the license and the tribal applicant would be entitled to the hearing described in section 309.

Subsection 307(e) provides that the Commission may suspend, modify, or revoke a license to operate a bingo establishment and may impose additional conditions of operation on bingo establishment. A license suspension, modification, or revocation may only be done pursuant to section 310, which entitles the holder of the license to a hearing, or in unusual situations pursuant to the emergency provisons of section 311. Additional conditions of operation may be imposed with the consent of the tribe. It is intended that if the Commission believes additional operating conditions should be imposed on a tribal licensee, the Commission and the tribe try to mutually agree on them. If such agreement proved impossible, and the matter in question involved something for which the Commission believed disciplinary action was warranted, it could proceed to attempt to do so under the notice and hearing procedure in section 310.

Subsection 307(f) describes the important inspection functions of the Commission. It provides that for the purposes of determining and ensuring compliance with Title III or any rule or regulation of the Commission, and for the purpose of investigating violations of new sections 1166–1168 of title 18, members of the Commission or its agents or employees may exercise extremely broad inspection powers with respect to licensed bingo establishments. Sections 1166–1168 of title 18 are added by Title IV of the bill and, as will be explained, deal with such matters as unlicensed gambling and theft from tribal bingo establishments. While the Commission is given the authority to investigate possible violations of these matters in the course of its inspections, it is not intended that the Commission have the sole responsibilty of investigating these offenses, although the United States Attorney in whose district the apparent violation occurs could request assistance from tribal or BIA police forces, if he should so desire.

Under subsection 307(f) the Commission may, at any reasonable time and without prior notice, inspect and examine the establishment, inspect or summarily seize and remove equipment for the purpose of inspecting and examining it, ascertain the identity of any person in the establishment—for example by requesting the display of licenses issued to licensed employees or by other means such as an examination of a driver's license—inspect books and records, and count the cash or other material. A reasonable time for some of these actions would be during or immediately after a session of bingo. For example, that would certainly be a reasonable time to demand access to the counting room, ascertain the identify of all persons therein, and conduct a count of the cash. On the other hand, a reasonable time for an examination or audit of the books would not necessarily be during hours when the bingo hall is in operation. Paragraph 307(f)(4) is intended to allow the Commission to have immediate access to the books and records of the bingo hall even if they are, pursuant to regulation of the Commission, kept at a location other than in the hall itself, for example in the tribal office in another building or in the office of the management contractor.

Subsection 307(f) is intended to allow the Commission to carry out its inspection functions without prior notice and of course without a warrant. A regular and certain pattern of inspections is ordained to provide "a predictable and guided federal regulatory presence," *Donovan* v. *Dewey*, 452 U.S. 594, 604 (1981), in line with warrantless inspection processes sanctioned in other industries requiring intensive regulatory supervision. See, *United States* v. *Biswell*, 406 U.S. 311 (1972); *Colonnade Catering Corp.* v. *United States*, 397 U.S. 72 (1970). The subsection does not require, nor is it intended, that representatives of the Commission identify themselves every time they enter a bingo establishment. On the contrary, it is intended that they conduct at last some inspections simply by observing the operation from public areas to look for possible problems. It is intended, however, that the tribal licensee and management contractor will cooperate fully and immediately once a representtive of the Commission identifies himself or herself as such. Such an identification would normally take place by a Commission employee's displaying an identity card indicating he or she is a Commission employee, or by an employee of another federal or a private agency with which the Commission has contracted for inspections displaying his or her credentials and a letter from the Commission indicating that the person is an agent of the Commission.

Section 308 deals with the licensing of bingo employees. Subsection 308(a) provides that the Commission may determine which classes of bingo employees shall be licensed as a condition of employment or connection with a bingo establishment. It is intended that the Commission prepare regulations concerning which employees have to be licensed and the criteria that are necessary for a license or that would disqualify an applicant. The Commission is not to determine on an ad hoc basis as part of an application for a tribal license which employees should be licensed.

Subsection 308(b) deals with how the Commission may obtain information concerning a prospective individual licensee.

Paragraph 308(b)(1) states that the Commission may demand proof of the applicant's identity—for example by requiring him or her to submit such things as a social security number and a set of fingerprints—and other information it deems relevant such as criminal record, employment history, former addresses, and lists of business and personal associates.

Paragraph 308(b)(2) provides that the Commission may request any federal, state, or tribal organization to furnish the Commission with information concerning the applicant in its files. It also provides that the head of any federal agency receiving such a request shall make such information available to the commission without charge.

Paragraph 308(b)(3) provides that the commission may request any federal, state, or tribal organization to conduct an investigation of the applicant beyond just a file search. The Commission would have to reimburse the other organization for this type of assistance, if, as is likely, the other organization requested it.

Paragraph 308(b)(4) provides that the Commission may require an applicant for an individual license to respond to oral or written questions concerning any matter the Commission deems relevant. This is intended to allow the Commission to ask questions to follow up on the information the applicant is required to furnish to the Commission, and to pursue the answers furnished thereto with further questions if the Commission deems that advisable.

Subsection 308(c) provides that an individual license shall be carried by the holder whenever he or she is engaged in the performance of his or her duties.

Section 309 deals with the time limits in which the Commission must consider applications for bingo licenses, both individual and tribal, and the right of an applicant to a hearing.

Subsection 309(a) provides that on receipt of an application for either type of license, the Commission shall cause an appropriate review to be made.

Subsection 309(b) provides that the Commission has 270 days to decide whether to grant an application for a tribal license if the applicant indicates it intends to enter into a management contract. Subsection 309(c) states that the application for a tribal license without a management contract or for an individual license must be considered in 90 days. The longer period is required for management contractor cases because they frequently will require background investigations on many more persons.

Subsections 309(b) and (c) further provide that within the 90 or 270 day period after the receipt of an application, the Commission shall either grant it or notify the applicant that it will not be granted and of the fact that such an applicant is entitled to a hearing. The 90 or 270 day period starts only when both the completed application form and any required fee are received by the Commission, and it is intended that this time period is tolled for any period of time during any fee owned by the applicant to the Commission remains unpaid.

It is intended that during the 90 or 270 day period the Commission will not only carry out the required investigation but discuss the application and any problems that appear to be presented with the applicant and the proposed management contractor, if any, in an attempt to get them resolved so

that a license can be issued. If, however, any problems are presented that cannot be resolved so that the applied-for license cannot be granted within the 90 or 270 days, subsections 309(b) and (c) provide that the applicant shall be entitled to a hearing before the Commission pursuant to 5 U.S.C. 558(c), part of the Administrative Procedure Act. Subsection 5 U.S.C. 558(c), in turn, states that the hearing shall be held within a reasonable time in accordance with other sections of the Administrative Procedure Act concerning adjudications. It is intended that the Commissioners themselves conduct the hearing and that they not rely on hearing examiners.

Section 310 deals with the periods of time in which bingo licenses remain in force, and with various forms of disciplinary action that can be taken against licensees and management contractors.

Subsection 310(a) provides that a license issued to an individual licensee shall remain in effect for one year, a license issued to a tribal licensee operating with a management contract shall remain in effect for two years, and a license issued to a tribal licensee operating without a management contract shall remain in effect for three years. It is anticipated that the type of background investigations conducted for individual licensees will be less complicated than for tribal licensees, and that much of the information can simply be updated, hence it is relatively easy to renew individual licenses annually. Tribal licensees may wait three years before applying for renewal. However, since the presence of a management contractor will mean that a group of persons from outside the tribe has considerable control, and since the management personnel and persons exercising a controlling interest in corporations and other business organizations can change rapidly, tribal licensees operating with management contracts are required to renew their licensees every two years.

It is intended that the Commission may, if it desires, adopt special rules pertaining to the renewal of licenses, such as merely requiring the updating of certain information, although of course all statutory conditions must be complied with.

Subsection 310(a) provides that the Commission may extend the effective time period of a license for up to eighteen months to facilitate its consideration of license renewals in an orderly manner. It is intended that this provision have two applications. First, the Commission may extend the license of an individual or tribe that has applied for a renewal of the license if, through no fault of the licensee, it appears that the Commission cannot evaluate the renewal application in time. In this situation it would often be unfair to make a tribal licensee cease operations or an individual stop working until the Commission has decided whether to approve the new license. Second, this provision is intended to allow the Commission to extend the effective period of a license at the time it is issued or at any time thereafter as a way of preventing a large number of licenses coming up for renewal at about the same time. For example, if twenty tribal licenses with management contracts were approved so that they were due to expire within a few days of one another, the Commission might decide to "stagger" the terms and extend some beyond the two year period. It is intended that the Commission may do this by any means it chooses and that a licensee whose license period is not extended has no right to challenge the Commission's decision to extend other licenses and not its license.

Subsection 310(b) provides that whenever the Commission has reason to believe that an individual or tribal licensee or management contractor has violated any provision of this title or any rule or order of the Commission in such a manner that the bingo license or approval of the management contract should be suspended, modified, or revoked, or that a monetary penalty should be imposed, it shall provide the holder of the license or the management contractor with a written complaint setting out the acts or omissions of the licensee or contractor which form the basis for the belief, and of the actions being considered by the Commission. The phase "reason to believe" is intended to mean a reasonable suspicion which may be based on the Commission's own investigation or on information from other sources, and is less than "probable cause." Subsection 310(b), and subsections (c) through (f) are patterned after Section 463.312 of the Nevada Code which deals with disciplinary action by the Nevada Gaming Commission.

Subsection 310(c) provides that the Commission must serve a copy of the complaint on the individual or tribal licensee or management contractor either personally or by certified or registered mail to the person's address on file with the Commission. The provision for personal service on a tribal licensee or management contractor would be satisfied by serving the complaint on the chief operating official of the bingo establishment or on the manager of the bingo establishment on duty at the time of service.

Subsection 310(d) provides that any licensee or management contractor to whom a complaint is issued must respond within 60 days of service. (By comparison, the Nevada provision gives the licensee only 20 days.) In the response, the licensee or contractor is required to state any defenses to the acts or omissisons charged, admit or deny the facts alleged in the complaint, and set forth any matter which constitutes an avoidance or an affirmative defense. The licensee or contractor may demand a hearing. He does not have to do so, however, and may decide to let the Commission decide the matter based on his response.

Subsection 310(e) provides that failure to demand a hearing constitutes a waiver of the licensee's or contractor's right to a hearing and to judicial review of the Commission's decision. It also provides that failure to answer the complaint within the 60 day time period set out in subsection 310(d), or failure to appear at a hearing scheduled pursuant to subsection 310(f), shall constitute an admission of all matters alleged in the complaint. In such a case, the Commission may take action on such an admission and on any other evidence in its possession without further notice and without a formal hearing.

Subsection 310(f) states that the Commission shall determine the time and place of any hearing required by this section which must be held as soon as reasonably practical after receiving the licensee's or contractor's response to the complaint and demand for a hearing. The Commission must give the licensee or contractor notice of the time and place of the hearing at least 20 days in advance.

Subsection 310(g) provides that after the notice and hearing provisions of the section have been complied with, the Commission may do one or all of several things. First, it may suspend, modify, or revoke the license of any bingo licensee to whom the section applies. Second, it may suspend, modify, or revoke its approval of the management contract of any management contractor to whom the section applies. (It is also explicitly provided that in this situation the suspension or revocation of approval of the management contract also acts as a suspension or revocation of the tribal license.) Third, the Commission may order a tribal licensee or management contractor to keep a specified individual from the premises of the bingo establishment or not to pay the individual any remuneration. Finally, the Commission may levy a monetary fine on the bingo licensee or management contractor of not more than $50,000 for each separate violation of a provision of the Act or a rule or order of the Commission.

Subsection 310(h) provides that fines imposed under the section shall, when paid, be deposited in the general fund of the Treasury of the United States. They are not to count toward paying the expenses of the Commission to avoid any suspicion that the Commission would levy fines for other than legitimate violations. Moreover, the subsection provides that fines on tribal licensees are not to be considered when computing its net income. This is to prevent fines from being considered as merely a cost of doing business.

Section 311 sets out the authority of the Commission to issue emergency orders for the suspension, modification, or limitation of a bingo license without a hearing. It is derived from Section 463.311 of the Nevada Code which provides for similar authority for the Nevada Gaming Commission to issue emergency orders.

Subsection 311(a) provides that notwithstanding the provisions of section 310, the Commission may issue a license suspension, limitation, or modification order without a hearing in the following situations. First, where it has reason to believe that an individual licensee has committed or has knowingly allowed the commission of a violation of either 18 U.S.C. 1167 or 1168, the new criminal offenses involving theft from a licensed bingo establishment, it may suspend, modify, or limit his or her license. Second, where it has reason to believe that a tribal licensee or management contractor with whom the licensee has contracted has knowingly allowed such a violation—for example if managerial personnel of the bingo establishment were themselves involved in such a violation or knew of others who were and did not act to stop it—the Commission could suspend, modify, or limit the tribal license. Third, where the Commission has reason to believe that a license suspension, revocation, or limitation is necessary to prevent a violation of 18 U.S.C. 1167 or 1168 either by the licensee or a management contractor with whom a tribal licensee has contracted, it may issue an emergency suspension, revocation, or limitation order to either an individual or tribal licensee. Finally, the Commission may issue such an order whenever it has reason to believe a licensee has not paid any applicable fee, for example, where a tribal licensee is not paying or deliberately underpaying its monthly fee to the Commission based on its gross bingo revenue and net income.

Such an emergency order is obviously an extraordinary step. Consequently, subsection 311(b) provides that to be effective, an emergency order must be signed by all the Commissioners in office at the time it is issued. Normally all three Commissioners

would have to approve, but two could take such action during a vacancy in the office of the third Commissioner.

Subsection 311(c) provides that an emergency order is effective immediately upon service on the licensee either personally or by certified mail. The emergency order remains effective until modified by another order of the Commission or until the matter is disposed of in accordance with the more formal procedures of section 310.

Subsection 311(d) provides that within five days after the issuance of the emergency order, the Commission must serve a complaint on the licensee to whom it is directed in accordance with section 310, which will lead to a resolution of the matter pursuant to the provisions of that section.

Section 312 gives the Commission the right to seek the aid of a federal district court in furtherance of its authority in certain situations. Subsection 312(a) provides that at the request of the Commission, the Secretary may request the Attorney General to institute a civil action in a United States district court to restrain a violation of any provision of title III of this bill or of any order, rule, or decision of the Commission, to compel compliance with any rule, order, or decision of the Commission, or to collect a fine imposed by the Commission. Again it should be emphasized that the Commission is subordinate to the Secretary, so the Secretary has the ultimate responsibility of requesting action by the Justice Department and the suit would be brought in the Secretary's name. However, in accordance with long standing policy it is intended that the Justice Department exercise ultimate control over whether or not to bring a civil action under this section.

Subsection 312(b) provides that venue shall be in any district where any named defendant resides, is employed, or conducts business, or in the district where any bingo establishment or proposed bingo establishment involved in the controversy is located.

Section 313 deals with review of Commission decisions. Initially, it should be remembered that subsection 305(a) provides that rules of the Commission shall take effect on approval by the Secretary. Subsection 313(a) provides that the Secretary shall have authority to review final decisions of the Commission concerning management contracts, licenses, and disciplinary action. Although the Secretary might prefer not to review many of these Commission decisions, his review has been authorized because a statutory prohibition on Secretarial review of a Commission within his Department might be invalidated by the courts as eroding the unitary executive authority required by the Constitution. Nevertheless, there is nothing to prevent the Secretary's approving regulations which provide that the Secretary will not, as a matter of policy, review Commission decisions in one or more of these areas, and that the Commission decision will be the "final" decision for purposes of judicial review under subsection 313(b).

Subsection 313(b) states that the courts of appeal have the exclusive jurisdiction to enjoin, suspend, set aside (in whole or in part), or to determine the validity of any final rule of the Commission approved by the Secretary, and of any final decision of the Commission concerning management contracts, licensing applications, and disciplinary action, if the Secretary has reviewed the decision or has declined to review it (either because he has approved regulations that preclude his review of such a matter, or on an ad hoc basis has decided that he will not review a particular decision). Since subsection 313(b) provides that the courts of appeal shall have jurisdiction to enjoin, set aside, or determine the validity of *final* orders of the Commission concerning disciplinary action, an emergency order of the Commission under section 311 would not be subject to judicial review since it is not a "final" order. An order under section 311 becomes a "final" order, for purposes of judicial review, only after the subject of such an emergency order is afforded the notice and hearing provisions of section 310.

Subsection 313(c) provides that the provisions of Chapter 158 of title 28 apply to judicial review under this section. That chapter governs judicial review of the rules and decisions of a number of agencies including the Federal Maritime Commission, the Interstate Commerce Commission, and the Secretary of Agriculture. The Chapter covers such matters as how and when any party aggrieved by a final rule of decision may seek judicial review (filing a petition in the court of appeals within 60 days), venue, certification of the record for review, whether a hearing is required or whether the case will be decided on the record of the hearing before the Commission, representation of the Commission by the Attorney General, and possible ultimate review by the Supreme Court.

Section 314 provides that the Commission shall have subpoena authority to compel the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation by the Commission. The Section also gives the Commission the authority to order testimony taken by deposition in any proceeding or investigation before it. Such subpoena and deposition authority are common to most federal agencies and commissions. Each Commissioner has the right to issue a subpoena or order testimony taken by deposition. It is intended that these powers be exercised in connection with the purely investigative functions of the Commission in considering license applications and management contracts, in connection with gathering of information necessary to draft general rules, and in connection with a scheduled hearing.

Section 315 deals with fees and other charges of the Commission and is designed to make the tribal licensees bear the costs of operating the Commission.

Subsection 315(a) provides that an applicant for a license as a tribal licensee shall pay a fee to the Commission which will cover the costs of the Commission's investigation of the applicant and of the management contractor, if any, and of any hearing required for either the granting of the license or the approval of the management contract. The Commission's estimate of these costs are intended to be conclusive. The Commission may require the fee to be paid in installments and may revise its estimate of what the costs of the investigation and hearing will be from time to time if it is impractical to determine the final cost in advance. This will frequently be the case if the Commission determines that more investigation is required.

Subsection 315(b) provides that the Commission must establish a schedule of fees to be paid by each tribal licensee. These fees, which are to be based on a percentage of each tribal licensee's gross bingo revenue and net income, must be fixed so as to derive an amount equal to all the expenses of the Commission except the investigative expenses for which the Commission has been reimbursed pursuant to subsection (a), the Commissioners' salaries and related benefits such as health insurance and contribution to their retirement plans, and start-up costs associated with the initial organization of the Commission and its drafting of an initial set of regulations. To avoid even the appearance of impropriety that might result from having their salaries paid by the very businesses they are regulating, the Commissioners' salaries are exempted from the general rule that expenses of the Commission should be borne by the tribal licensees. The start-up costs are exempted because it would be unfair to assess these costs to the tribes. Nevertheless, the tribes presently operating bingo establishments will be expected to pay for the investigation necessary for their initial bingo license.

Subsection 315(c) provides that until the Commission is able to determine its operating costs each tribal licensee shall pay an amount as determined by the Commission but not greater than five percent of its gross bingo revenue and one percent of its net income per month. Later, these percentages can be adjusted and the fee could be based on either the gross bingo revenue or net income, but not necessarily on both. It is intended that in setting the initial fees (which cannot exceed five percent of the gross revenue and one percent of the net income) and in later adjusting these fees, the Commission is free to do so in a manner whereby all bingo licensees are not necessarily required to pay the same percentage. For example, it could provide that all bingo establishments of one size pay a certain percentage of their gross bingo revenue and that bigger bingo establishments pay a bigger percentage, or it could provide for a sliding scale in which bingo establishments would pay, say, three percent of the first $150,000 of gross revenue, four percent of the next $250,000 of gross revenue, and five and one-half percent of all gross revenue in excess of that amount. (These figures correspond to the license fees that must be paid by holders of Nevada Gaming Licenses to that State's Gaming Commission. See Nevada Revised Statutes 463.370.)

Subsection 315(d) requires the Commission to submit an annual report accounting for fees derived by the Commission, for fines derived pursuant to section 310, and for all of its expenditures to the Interior Department's Inspector General. The Inspector General is to conduct an annual audit of the Commission's receipts and expenditures and submit the results to the Secretary. It should be noted that since the Commission is part of the Interior Department, the Inspector General of that Department has independent authority to examine, inspect, and audit any aspect of the Commission's work and the requirement of an annual audit of the Commission's receipts and expenditures is in addition of the more general authority of the Inspector General.

Subsection 315(e) provides for the establishment in the Treasury Department of a special fund into which all fees collected pursuant to subsections 315(a), (b) and (c) are to be deposited. The funds in this account are to be used to pay the expenses of the Commission, except the Commissioner's salaries and the one-time costs associated with drafting the initial set of regulations, in such amounts and to the extent provided in appropriations acts.

Title IV of the bill grants the states' power to enforce in Indian country all of their laws concerning the regulation, licens-

ing, or prohibition of all forms of gambling other than bingo licensed under this bill. (Some states already have this power pursuant to P.L. 280 or similar statutes.) It also provides federal criminal sanctions for the purposes of limiting gambling in Indian country that is not in conformity with state criminal and regulatory provisions to bingo, and of protecting the licensed bingo operations from theft. Section 401 adds three new sections, 1166-1168 to Chapter 53 of Title 18.

Subsection 1166(a) states that except as provided in subsection 1166(c), all state laws pertaining to the licensing, regulation, or prohibition of gambling, including criminal sanctions, if any, shall apply in the Indian country. (Subsection (c) contains an exception for bingo licensed by the American Indian Bingo Commission and purely ceremonial or social gambling involving only members of an Indian tribe.) The reasons for not allowing gambling other than bingo to be conducted on Indian reservations free from state licensing and regulation have been previously discussed.

This section means that if a tribe wants to conduct another form of gambling, for example pari-mutuel wagering on horse or dog racing or on jai-alai, in a state where a state license is required for these activities, it must obtain the license from the state and comply with all state requirements. If the state has a criminal penalty that applies to unlicensed pari-mutuel wagering, section 1166 would allow the state to prosecute any person or organization (including the tribe itself) responsible for such gambling. This provision does not mean that tribe will not be allowed to profit by such activities as horse or dog racing. It does mean that in states where such racing is allowed, the tribe, either alone, or in partnership with outside interests, is in the same position as any other person or organization in the state wanting to engage in such a business.

As for casino gambling, no such activity would be allowed in states where such gambling is prohibited. In states such as Nevada, the tribe or other potential operator of a casino in Indian country in that state would be required to obtain a state gaming license and all state controls over the operations of the casino and its personnel would apply. This should be contrasted with the requirements for any federally recognized tribe in Nevada that wanted to conduct only bingo. Such a Nevada tribe would have to comply only with the provision of Title III of this bill, not with the gaming control provision under Nevada state law.

It is intended that the term "gambling" in section 1166 be construed broadly. It includes, *inter alia* lotteries, "numbers games," punch boards, pull tabs, pari-mutuel wagering and casino gambling. In short, if it is not bingo as licensed by the American Indian Bingo Commission, it is subject to state regulatory and licensing requirements and state criminal prosecution of any act or omission which carries a criminal sanction.

Subsection 1166(b) is intended to complement subsection (a). It provides for the assimilation as a federal crime of any act or omission in violation of a state licensing, regulatory, or prohibitory statute involving gambling in Indian country by any person. Thus, if the state has a criminal penalty that applies to, say, unlicensed pari-mutuel wagering, subsection 1166(b) would assimilate such a provision and any person or organization (again, including the tribe itself) could be prosecuted in federal court for the violation as well as in state court under subsection (a). Of course, subsection 1166(b) does not apply to bingo licensed by the American Indian Bingo Commission or to purely social or ceremonial gambling.

While the prosecution of criminal cases arising out of state gambling regulation and control schemes in Indian country is primarily the responsibility of the states, some states may be reluctant to act. Consequently, subsection 1166(b) allows the federal government to play a back-up role in the prosecution of these offenses.

Subsection 1166(d) provides that it is the intent of Congress that criminal prosecutions of violations of state gambling laws in Indian country should be undertaken by the state pursuant to subsection (a), rather than by the United States under subsection (b), unless the circumstances justify federal prosecution. For example, if the state prosecutor refuses to prosecute or does so ineffectively, federal prosecution can and should be undertaken.

Section 1167 creates a new offense of theft from a licensed bingo establishment. It covers theft, embezzlement, and misapplication of money or other property from a bingo establishment licensed by the American Indian Bingo Commission. If the property involved has a value of $1,000 or less, the offense is a misdemeanor punishable by a fine of up to $100,000 and imprisonment for not more than one year. If the property involved is worth more than $1,000, the offense is a felony with punishment of up to a $250,000 fine and ten years' imprisonment. This section covers both offenses by outsiders—for example a customer who steals money from the bingo hall—and by persons who are employed by the bingo establishment.

Section 1168 creates the same offense as does section 1167 but is limited to theft, embezzlement or willful misapplication of money or other property of a licensed bingo establishment by officers, employees or individual licensees of the bingo establishment. Since such crimes by insiders will generally pose a greater threat to the economic success of the bingo operation than will thefts by outsiders, the offense under section 1168 is a felony even if the amount involved in the theft is $1,000 or less. For such an offense by an insider, the punishment is up to five years' imprisonment and a fine of up to $250,000. For such an offense by an insider involving property valued at more than $1,000, the punishment can extend to imprisonment for up to twenty years and a $1,000,000 fine. It should be noted, however, that in any case, where an officer, employee, or individual licensee is involved, he or she could be charged under section 1167 with its less severe penalty provisions rather than under section 1168, at the discretion of the prosecutor.

While the conduct described in sections 1167 and 1168 could be prosecuted under existing statutes—for example section 1163 of title 18 covers embezzlement and theft from Indian tribal organizations, and sections 1152 and 1153 together with section 661 would reach most thefts—use of existing statutes could prove cumbersome. For example, if a tribe established a separate organization to operate the bingo establishment, prosecution under section 1163 would require proof of how the organization was constituted to show its "tribal" nature. Moreover, the separate provisions in sections 1167 and 1168 with their severe penalties—which are justified to deter those who might be tempted to steal by the large amounts of cash typically involved in a bingo operation and thus cause a diminution of tribal assets—will serve to emphasize the strong federal interest in protecting licensed Indian bingo.

Title V of the bill sets out its effective dates, and Title VI authorizes appropriations. All of the provisions of the bill will become effective on the date of its enactment, except for the criminal provisions in Title IV. Section 501 provides that the criminal provisions will not take effect until October 1, 1978 (the first day of Fiscal Year 1988). It is intended that between the date of enactment and October 1, 1987, the Commission established pursuant to Title III will be appointed, will draft rules which will be reviewed and approved by the Secretary of the Interior, and that the Commission will consider license applications from tribes already operating bingo establishments and from others that may wish to do so. Meanwhile, since the criminal provisions have a delayed effective date, there is nothing in this bill to prevent the tribes already operating bingo games from continuing to do so without a license until October 1, 1987. A *proviso* clause states that management contracts already in effect as of the date of enactment remain in effect until October 1, 1987, unless terminated earlier by the Secretary. However, any person connected with a bingo operation that had not obtained a license by that date would, from that date on, be subject to state or federal prosecution under the new section 1166 if his or her conduct violated any state law which carries a criminal sanction.

Section 601 of the bill authorizes, subject to subsections (b) and (e) of section 315, the appropriation in each fiscal year of such sums as may be necessary to operate the Commission. Expenses of the Commission are, with the minor exceptions previously noted, to be paid from the fund created by subsection 315(e).●

By Mr. LAUTENBERG:

S. 2558. A bill to increase criminal monetary penalties based on the effect of inflation; to the Committee on the Judiciary.

S. 2559. A bill to increase civil monetary penalties based on the effect of inflation; to the Committee on Governmental Affairs.

UPDATING THE LAW ON CIVIL PENALTIES AND CRIMINAL FINES

● Mr. LAUTENBERG. Mr. President, I rise today to introduce the Federal Civil Penalties Inflation Adjustment Act of 1986 and Federal Criminal Fines Inflation Adjustment Act of 1986. These two bills would adjust for inflation the maximum level of various civil monetary penalties and criminal fines.

Mr. President, the Occupational Health and Safety Administration made headlines recently, when it slapped $1,377,700 in civil penalties on the Union Carbide Corp., for 221 alleged health and safety violations at its Institute, WV, plant. Most of the penalty sought—$1.31 million of it—was based on a finding of 131 major violations, each carrying a $10,000 penalty.

Yet, Union Carbide was getting a price break. The penalties chargeable should really have topped $3,759,000, a 273-percent increase. That would be so, had Congress simply adjusted for inflation the penalties that were set back in 1970, and have remained the same since. Ten thousand dollars in 1970 dollars would be worth $27,300 today.

Union Carbide is not alone. For alleged violations of Federal Aviation Administration safety regulation, Eastern Airlines faces penalties of $9.5 million. The penalty for most FAA violations is $1,000. That penalty was set in 1958. Inflation has risen 375 percent since then. But, it seems, the price for endangering the safety of airline passengers has not.

The cases of Eastern and Union Carbide are just two of thousands each year in which the Government imposes monetary penalties for violations of civil laws and regulations. These penalties are designed to deter businesses and individuals from crossing various legal and regulatory lines, and to penalize those who do.

A resolute Congress wants to talk tough when it sets penalties for violating remedial laws like the Occupational Safety and Health Act. But, its bark is bigger than its bite. Intervening years of inflation reduce the real impact of the sanction. By its inaction, Congress each year pulls the punch of penalties for a variety of transgressions. While the rate of inflation has slowed recently, congressional inaction spans periods of high inflation, as well as low.

The price for violating OSHA rules has dropped 63 percent since 1970.

The price for violating airline safety requirements has dropped 73 percent.

And these are not, apparently, isolated cases. Throughout the body of Federal laws, there are enforcement provisions that are falling out of date. According to a survey of the agricultural laws by the Congressional Research Service, 40 percent of the penalty provisions are over 20-years-old. Another 30 percent are over 10-years-old.

While every consumer must cope with price hikes in everything from food to medical care, those who violate the law do not.

As a rule, many of the remedial laws remain on the books unchanged until some major development requires that they be rewritten. The law provided a $10,000 penalty for violations of rules and regulations of the Nuclear Regulatory Commission. After the Three Mile Island disaster, Congress raised that to $100,000 in 1980. It has not changed since.

It would be unrealistic to assume that Congress can or will reopen every major law, to review and update civil enforcement provisions. Congress strains each year to pass a budget and the required appropriations acts. If Congress wants to maintain the deterrent power of civil penalties, and if it wants to maintain compliance with the law, it must adjust the amount of penalties automatically.

The legislation I propose today would do just that. The Civil Penalties Inflation Adjustment Act would adjust civil penalties automatically for inflation. Agencies would be required to publish a schedule of penalties each year. These would apply unless expressly superseded by Congress. Adjustments would, in the first year, be made retroactive to the last time Congress set or raised the penalty.

Mr. President, Congress recently increased the authorized levels of criminal fines, when it passed the Comprehensive Crime Control Act of 1984. The law also establishes a Sentencing Commission, which shall establish guidelines that judges shall apply in setting sentences, including the imposition of fines, within the statutory maximums.

While the maximum fines Congress set in 1984 were substantially above previous fine levels, they shall slowly lose value for inflation, unless Congress adjusts those fines. Consequently, the Criminal Fines Inflation Adjust Act which I am introducing would adjust for inflation the maximum authorized criminal fines. It would also direct the Sentencing Commission to take account of inflation when it sets its guidelines with respect for fines.

Mr. President, not only is enforcement of the law weakened by the failure to update fines and penalties. The Federal Treasury is denied tens if not hundreds of millions of dollars.

Total fines, penalties, and forfeitures of the Federal Government in fiscal year 1985 topped $250 million. This does not include those collected under the tax laws—which generally are not identified separately from tax receipts themselves. By inflation adjusting penalties each year, revenues would increase. If this adjustment included inflation since the penalty was set, the impact would be substantial.

Unfortunately, it is difficult to determine exactly how much is lost due to inflation. In the course of Senate Budget Committee hearings this year, the Office of Management and Budget confessed to me that it could not provide an estimate.

The OMB maintains no detailed central account that tracks penalty assessments and collections and matches them with the laws under which they are imposed. There is no accounting of which laws need updating the most. Apparently, the bureaucracy thinks $250 million is small change that is not worth watching more closely.

Under each bill I am introducing, OMB would be required to maintain a central accounting of agencies' performance and collections. So, Congress and the public would know whether the laws are being enforced.

Mr. President, Congress should ensure that we have civil monetary penalties and criminal fines that pack as much punch tomorrow as they did the day a resolute Congress passed them. That would mean more respect for the laws, and more money in the Treasury. The Federal Civil Penalties Inflation Adjustment Act and the Federal Criminal Fines Inflation Adjustment Act are intended to secure these goals.

I urge my colleagues to support these two bills.

Mr. President, I ask that the two bills and section-by-section analyses of them be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.2558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Federal Criminal Penalties Inflation Adjustment Act of 1986".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the power to impose monetary fines for various Federal criminal offenses plays an important role in deterring offenses and in punishing those who violate the law;

(2) the Federal Government does not maintain comprehensive, detailed accounting of the imposition and collection of criminal fines;

(3) the Comprehensive Crime Control Act of 1984 increased the authorized fines for various criminal offenses; and

(4) the deterrent effect of authorized criminal fines will depreciate in the future because of inflation unless they are adjusted.

(b) PURPOSES.—The purposes of the Act are to—

(1) provide for regular adjustment for inflation of criminal fines;

(2) maintain the deterrent effect of criminal fines and to promote compliance with the law;

(3) improve the collection by the federal Government of criminal fines.

DIRECTION TO UNITED STATES SENTENCING COMMISSION TO INCLUDE INFLATION AS A FACTOR IN GUIDELINE ADJUSTMENTS

SEC. 3. Subsection (n) of section 994 of title 28, United States Code, is amended by adding at the end thereof the following: "In periodically reviewing and revising the guidelines promulgated pursuant to the provisions of this section, the Commission shall modify the guidelines with respect to criminal monetary fines to reflect the impact of inflation of the level of such fines.".

ADJUSTMENT OF CRIMINAL FINES BY INFLATION FACTOR

SEC. 4. Section 3571 of title 18, United States Code, as added by the Comprehensive Crime Control Act of 1984 (Public Law 98-473), is amended by adding at the end thereof the following subsection:

"(c) ADJUSTMENT FOR INFLATION.—(1) The authorized fines provided in subsection (b)

shall be adjusted for inflation as provided in this subsection.

"(2)(A) Not later than December 15, 1988, the Attorney General shall prescribe and publish in the Federal Register a schedule of authorized fines which shall apply for offenses in the year beginning after December 31, 1988, in lieu of the fines authorized in subsection (b).

"(B) The schedule of authorized fines shall be prescribed by increasing the amounts in subsection (b) by the historical cost-of-living adjustment for the preceding four years. Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100.

"(3)(A) Not later than December 15 of 1992 and every subsequent four years, the Attorney General shall prescribe and publish in the Federal Register a schedule of authorized fines which shall apply in lieu of the schedule prescribed in paragraph (2) and the schedule last prescribed pursuant to this paragraph.

"(B) The schedule of authorized fines shall be prescribed by increasing the amounts prescribed in paragraph (2) or the amounts last prescribed under this subsection, whichever are greater, by the historical cost-of-living adjustment for the preceding four years. Any increase determined under this subparagraph shall be rounded to the nearest multiple of $100.

"(4) For purposes of this subsection—

"(1) the historical cost-of-living adjustment for the preceding four years means the percentage by which—

"(A) the Consumer Price Index for the preceding calendar year, exceeds

"(B) the Consumer Price Index for the calendar year four years prior to the preceding calendar year;

"(2) the Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year; and

"(3) the term Consumer Price Index means the Consumer Price Index for all-urban consumers published by the Department of Labor.".

SEC. 5. COMPREHENSIVE REPORT BY THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall annually prepare and issue a comprehensive report that includes—

(1) the number and amount of criminal fines imposed pursuant to each provision of law providing for such fines; and

(2) the number and amount of such fines actually collected.

(b) REPORTS BY OTHER AGENCIES.—The Director of the Office of Management and Budget shall establish a system of reporting to enable the Director to prepare the report described in subsection (a).

SECTION-BY-SECTION ANALYSIS

Section 1. Title section.

Section 2. Sets forth Congressional findings, including finding that deterrent impact and revenue impact of newly authorized criminal fines will be reduced in the future unless adjusted for inflation.

Sets forth purposes, including purpose to provide regular adjustment for inflation of criminal fines.

Section 3. Directs the U.S. Sentencing Commission to include inflation as a factor in adjusting sentencing guidelines with respect to the imposition of criminal monetary fines.

Section 4. Provides for the adjustment for inflation of the maximum authorized criminal fines provided under the Comprehensive Crime Control Act of 1984. Provides for initial adjustment before December 15, 1988, to be effective beginning in 1989. That initial adjustment would account for inflation since 1984. Adjustments shall be rounded to the nearest $100. Future adjustments shall be made every four years. The Attorney General shall publish a schedule of the maximum authorized criminal fines as adjusted.

Section 5. Requires the Office of Management and Budget to issue an annual report on the number and amount of fines and penalties imposed and collected by law. Requires the establishment of a reporting system by agencies, to enable the OMB to prepare the annual report.

S. 2559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Civil Penalties Inflation Adjustment Act of 1986".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the power of Federal agencies to impose civil monetary penalties for violations of Federal law and regulations plays an important role in deterring violations, and furthering the policy goals embodied in such laws and regulations;

(2) the dollar amount of many civil monetary penalties has been reduced due to inflation that has occurred since Congress last set or adjusted the penalty amount;

(3) the reduction by inflation of civil monetary penalties has reduced the effect of civil monetary penalties in deterring violations and promoting compliance with the law, and has reduced revenues to the Federal Government; and

(4) the Federal Government does not maintain comprehensive, detailed accounting of the effects of governmental agencies to access and collect civil monetary penalties.

(b) PURPOSES.—The purposes of the Act are to—

(1) provide for regular adjustment for inflation of civil monetary penalties;

(2) maintain the deterrent effect of civil monetary penalties and to promote compliance with the law;

(3) improve the collection by the Federal Government of civil monetary penalties.

INFLATION ADJUSTMENT OF CIVIL MONETARY PENALTIES

SEC. 3. Effective January 1, 1987, any civil monetary penalty provided for in Federal law shall be adjusted as provided in this Act.

ADJUSTMENT FOR TAXABLE YEAR BEGINNING IN 1987

SEC. 4. (a) IN GENERAL.—Not later than December 15, 1986, the head of each Federal agency shall prescribe and publish in the Federal Register a schedule of civil monetary penalties for each civil monetary penalty provided by law within the jurisdiction of the Federal agency which shall apply for the year beginning after December 31, 1986, in lieu of the penalties provided in the law as of the date of the enactment of the Federal Civil Penalties Inflation Adjustment Act of 1986.

(b) METHOD OF PRESCRIBING SCHEDULE.—The schedule of civil monetary penalties shall be prescribed by increasing each penalty amount by the historical cost-of-living adjustment. Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $10, but in no event shall such increase exceed 1000 percent of the original penalty amount.

(c) HISTORICAL COST-OF-LIVING ADJUSTMENT.—For purposes of subsection (b), the historical cost-of-living adjustment for each penalty amount is the percentage (if any) by which—

(1) the average of the Consumer Price Index as of the close of the 12-month period ending on September 30, 1986, exceeds

(2) the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of the calendar year in which such penalty amount was last determined under law prior to the date of the enactment of the Federal Civil Penalties Inflation Adjustment Act of 1986.

ANNUAL ADJUSTMENTS FOR TAXABLE YEARS BEGINNING AFTER 1987

SEC. 5. (a) IN GENERAL.—Not later than December 15 of 1987 and each subsequent calendar year, the head of each Federal agency shall prescribe and publish in the Federal Register schedules of civil monetary penalties which shall apply in lieu of the schedule prescribed under section 4 with respect to taxable years beginning in the succeeding calendar year.

(b) METHOD OF PRESCRIBING SCHEDULES.—The schedule which under subsection (a), is to apply in lieu of the schedule prescribed under section 4, with respect to years beginning in any calendar year shall be prescribed by—

(1) increasing each base penalty amount by the cost-of-living adjustment for such calendar year; and

(2) adding to the schedule any civil monetary penalty within the jurisdiction of the Federal agency that was enacted into law in the previous calendar year and increasing the base penalty amount by the cost-of-living adjustment for the current calendar year.

Any increase determined under clause (1) or (2) shall be rounded to the nearest multiple of $10.

(c) COST-OF-LIVING ADJUSTMENT.—For purposes of subsection (b), the cost-of-living adjustment for any calendar year is—

(1) in the case of base penalties provided by law before December 15, 1986, the percentage (if any) by which—

(A) the Consumer Price Index for the preceding calendar year, exceeds

(B) the Consumer Price Index for the calendar year 1986; and

(2) in the case of base penalties provided by law on or after December 15, 1986, the percentage (if any) by which—

(A) the Consumer Price Index for the preceding calendar year, exceeds

(B) the Consumer Price Index for the calendar year in which the base penalty was provided by law.

(d) CONSUMER PRICE INDEX FOR ANY CALENDAR YEAR.—For purposes of subsection (c), the Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

DEFINITIONS

SEC. 6. For purposes of this Act—

(1) the term "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor; and

(2) the term "base penalty amount" means the civil monetary penalty provided by law, absent any adjustments made pursuant to this Act.

REPORTING

SEC. 7. (a) COMPREHENSIVE REPORT BY THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall annually prepare and issue a comprehensive report that includes—

(1) the number and amount of civil fines or penalties imposed pursuant to each provision of law providing for such fines or penalties; and

(2) the number and amount of such fines and penalties actually collected.

(b) REPORTS BY OTHER AGENCIES.—The Director of the Office of Management and Budget shall establish a system of reporting to be used by the agencies empowered to impose or collect civil monetary fines and penalties to enable the Director to prepare the report described in subsection (a).

SECTION-BY-SECTION ANALYSIS

Section 1.—Title section.

Section 2.—Sets forth Congressional findings, including finding that many civil monetary penalties have been reduced due to inflation, thereby reducing the deterrent effect of such penalties and the revenues such penalties bring to the Treasury.

Sets forth purposes, including purpose to provide regular adjustment for inflation of civil monetary penalties.

Section 3.—Requires that all civil monetary penalties be adjusted for inflation, as provided in the act, effective January 1, 1987.

Section 4.—Sets forth methods for adjusting for inflation civil monetary penalties for 1987. Provides that the head of every federal agency with the power to impose civil monetary penalties shall publish a schedule of penalties no later than December 15, 1986, to be effective in 1987. That schedule shall include all civil monetary penalties within the agency's jurisdiction, as adjusted for inflation. Adjustments shall take account of increases in the cost-of-living since Congress set or last revised the dollar amount of the penalty. Increases shall be rounded to the nearest $10. In no event shall the increase exceed 1000 percent of the original penalty amount. The increase in the cost of living shall be computed by taking the percentage by which the Consumer Price Index for the year ending September 30, 1986 exceeds the average CPI for the year ending September 30 in which the penalty was set or last adjusted.

Section 5.—Sets forth methods for adjusting civil monetary penalties for years after 1987. Provides for publication of a new schedule of penalties before December 15 of each year. The schedule shall account for changes in the cost of living since the last adjustment. However, if Congress has legislatively increased a penalty, the adjustment shall be for inflation since that action.

Section 6.—Definitions. Defines "Consumer Price Index" and "base penalty amount".

Section 7.—Requires the Office of Management and Budget to issue an annual report on the number and amount of penalties imposed and collected by law. Requires the establishment of a reporting system by agencies, to enable the OMB to prepare the annual report.●

By Mr. HUMPHREY (for himself, Mr. ANDREWS, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. DENTON, Mr. EXON, Mr. GARN, Mr. HATCH, Mrs. HAWKINS, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. LAXALT, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. NICKLES, Mr. NUNN, Mr. PRESSLER, Mr. PROXMIRE, Mr. RIEGLE, Mr. RUDMAN, Mr. SARBANES, and Mr. THURMOND):

S.J. Res. 362. Joint resolution to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

● Mr. HUMPHREY. Mr. President, I am pleased to once again introduce a joint resolution designating "National Drunk and Drugged Driving Awareness Week." For the past 4 years, many of my colleagues have joined me in introducing similar joint resolutions. The weeks, which have taken place right before the Christmas and New Year holiday season, have proven enormously successful in increasing public awareness of the dangers of driving while impaired from drugs or alcohol.

Over the past 4 years, hundreds of volunteers throughout the Nation have participated in the programs and activities of National Drunk and Drugged Driving Awareness Week. Activities during the week have included the issuance of parallel proclamations by many Governors, mayors, and local officials; introduction of new drunk driving legislation in various States; the appointment of task forces, and issuance of task force reports; roadblocks and other increased enforcement efforts; candlelight vigils; a "Speak Out for Safety" campaign; and voluntary efforts to provide rides from holiday parties. All of the groups involved in this effort have asked that once again we designate such a week right before the holidays this year.

Traffic accidents result in more violent deaths each year than any other cause, approximately 44,000 in 1985. According to the National Highway Traffic Safety Administration, about 38 percent of all drivers killed in 1985 had blood alcohol concentrations of 0.10 or above and this figure rises to about 54 percent for single-vehicle crashes. The cost to society of drunk driving has been estimated to be more than $26 billion a year, which does not include the needless pain and suffering caused by drinking and driving.

In addition, we are continuing to hear reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs. Scientists are just beginning to collect data on the concentrations of various drugs in the blood of fatally injured drivers and to conduct studies of the effects of drugs on driving ability.

Of increasing concern is the combination of drugs and alcohol and its impact on the incidence of traffic accidents. Surveys of our young people show that drinking and driving often accompany marijuana use. We have also been made aware that driving after the use of therapeutic drugs, either alone or in combination with alcohol, counter to the advice of physician, pharmacist, or manufacturer, may create safety hazards on the roads. Clearly we need more research to determine the effect of drugs, both alone and in combination with alcohol, on the incidence of traffic accidents and we must alert the public to the risks of combining alcohol and drugs with driving.

In large part due to the volunteer efforts of citizens such as Mothers Against Drunk Drivers [MADD] and Remove Intoxicated Drivers [RID], the public has been demanding changes in the Nation's approach to drunk driving. It is important that we press forward with current efforts to develop new and creative approaches, by combining the expertise of government, community groups, and voluntary organizations, and bringing the unique talents of each to bear on this devastating national problem.

I believe we should designate 1 week annually as National Drunk and Drugged Driving Awareness Week, to ensure that the momentum does not skip away as society turns its attention to other pressing problems. It is my hope that each year, this week will be marked by radio and TV programs, articles in the print media, and local initiatives such as dial-a-ride, candlelight vigils, and roadblocks, all aimed at increasing the public awareness of the risks of drunk and drugged driving. This will provide an annual opportunity to focus attention on the problem, assess our progress, and address the question of further measures needed. It will guarantee we do not forget the enormous costs in human suffering and dollars caused by the deadly combination of alcohol, drugs, and driving.

I urge all my colleagues to join me in sponsoring this Senate joint resolution to designate the week beginning December 14, 1986 as "National Drunk and Drugged Driving Awareness Week."

Mr. President, I ask unanimous consent that the text of the joint resolution I am introduciang today be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-four thousand in 1985;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas about 54 percentum of drivers killed in single vehicle collisions and 38 per centum of all drivers fatally injured in 1985 had blood alcohol concentrations of .10 or above;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as 10,000 lives each year.

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in each of the last four years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter;

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congresss assembled, That the week of December 14, 1986, through December 20, 1986, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.●

ADDITIONAL COSPONSORS

S. 1826

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1826, a bill to protect the Social Security trust funds and other retirement funds from actions designed to avoid the statutory limit on the public debt.

S. 2081

At the request of Mr. STAFFORD, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2081, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, for deferred cost care programs, and for other purposes.

S. 2198

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2198, a bill to provide that the full cost-of-living adjustment in benefits payable under certain Federal programs shall be made for 1987.

S. 2288

At the request of Mr. CHILES, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under 1 year of age.

S. 2312

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2312, a bill to amend title VII of the Omnibus Crime Control and Safe Streets Act of 1968, relating to armed career criminals, to include a serious drug offense and any crime of violence as an offense subject to enhanced penalties.

S. 2333

At the request of Mr. DURENBERGER, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

S. 2398

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2398, a bill to amend title 18 of the United States Code to ban the production and use of advertisements for child pornography or solicitations for child pornography, and for other purposes.

S. 2444

At the request of Mr. STAFFORD, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2444, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, the dependent care State grant program, and for other purposes.

S. 2508

At the request of Mr. GRASSLEY, the names of the Senator from Alabama [Mr. DENTON], and the Senator from North Carolina [Mr. EAST] were added as cosponsors of S. 2508, a bill to amend section 112 of title 18, United States Code, relating to protection of foreign officials, official guests, and internationally protected persons, to remove the exemption for the District of Columbia.

SENATE JOINT RESOLUTION 290

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 290, joint resolution to designate July 4, 1986, as "National Immigrants Day."

SENATE JOINT RESOLUTION 314

At the request of Mr. QUAYLE, the names of the Senator from Massachusetts [Mr. KERRY], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 314, joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

SENATE JOINT RESOLUTION 338

At the request of Mr. RIEGLE, the names of the Senator from Florida [Mrs. HAWKINS], the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. DIXON], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 338, joint resolution to designate November 18, 1986, as "National Community Education Day."

SENATE JOINT RESOLUTION 358

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 358, joint resolution to designate the month of

September 1986 as "Adult Literacy Awareness Month."

SENATE CONCURRENT RESOLUTION 112

At the request of Mr. BUMPERS, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 112, expressing support for the President's no-undercut policy concerning existing strategic offensive arms agreements.

SENATE CONCURRENT RESOLUTION 137

At the request of Mr. HOLLINGS, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Concurrent Resolution 137, concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a national STORM program.

SENATE RESOLUTION 411

At the request of Mr. SYMMS, the names of the Senator from Nevada [Mr. HECHT], the Senator from Wisconsin [Mr. KASTEN], the Senator from Nevada [Mr. LAXALT], and the Senator from Georgia [Mr. MATTINGLY] were added as cosponsors of Senate Resolution 411, resolution expressing the support and encouragement of the Senate for those working for freedom and against communism in South West Africa/Namibia.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of Senate Resolution 424, resolution commending Colonel Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

SENATE CONCURRENT RESOLUTION 149—SENSE OF THE CONGRESS CONCERNING THE SITUATION IN SOUTH AFRICA

Mr. LEVIN (for himself, Mr. SARBANES, Mr. PROXMIRE, Mr. SIMON, Mr. HART, and Mr. KENNEDY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 149

Whereas June 16, 1986 is the tenth anniversary of the Soweto uprising of 1976;

Whereas more than 600 black anti-apartheid protesters were killed by South African Government forces during the 1976 Soweto uprising making this the largest peace time killing of blacks in recent South African history;

Whereas after ten years of struggle, the black majority in South Africa continues to be violently repressed;

Whereas even those who demonstrated peacefully against the South African Government are subjected to harassment and arrest;

Whereas in the last 20 months over 1600 people have been killed and over 36,000 arrested in growing anti-apartheid protests;

Whereas the unrest in South Africa continues to increase rapidly;

Whereas the anniversary of the 1976 Soweto uprising is an important event commemorating the struggle for basic human rights and freedoms in South Africa;

Whereas the South African Government has banned all public meetings to commemorate the 10th anniversary of the Soweto uprising;

Whereas the South African Government declared a nationwide state of emergency on June 12, 1986 and began a round-up of anti-apartheid activists;

Whereas an estimated 2000 black political, church and labor union leaders have been arrested and detained without charge under the state of emergency;

Whereas the South African Government has granted the security forces unprecedented powers including the right to use force under the present state of emergency;

Whereas local and foreign press and media are prohibited from filming, photographing, recording, or illustrating any incidents of unrest or any action taken by the security forces under the state of emergency;

Whereas continuation of the state of emergency in South Africa can only lead to further deterioration of the already difficult situation with more violence and bloodshed: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress condemns the Government of South Africa for imposing a nationwide State of Emergency and demands an end to the State of Emergency and the release of all those detained and arrested since the State of Emergency began.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

METZENBAUM AMENDMENT NO. 2081

Mr. METZENBAUM proposed an amendment to the bill (H.R. 3838) to reform the Internal Revenue laws of the United States; as follows:

On page 1810, beginning with line 14, strike out all through line 19, and redesignate accordingly.

On page 2134, beginning with line 13, strike out all through line 24.

At the appropriate place insert the following:

The Secretary of the Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised by this amendment as determined by the Joint Committee on Taxation.

DANFORTH (AND OTHERS) AMENDMENT NO. 2082

Mr. DANFORTH (for himself, Mr. ABDNOR, Mr. DURENBERGER, Mr. MATTINGLY, Mr. GRASSLEY, Mr. NICKLES, Mr. ANDREWS, Mr. PRESSLER, Mr. BOSCHWITZ, Mr. SYMMS, and Mr. KASTEN) proposed an amendment to the bill H.R. 3838, supra; as follows:

At the appropriate place in the bill, insert the following new title:

TITLE XIX—RURAL ENTERPRISE ZONES

SEC. 1901. SHORT TITLE.

This title may be cited as the "Rural Enterprise Zone Act of 1986".

SEC. 1902. PURPOSES.

The purpose of this Act is to provide for the establishment of Rural Enterprise Zones (REZs) to stimulate the creation of new jobs, to promote revitalization of economically distressed rural areas, and to provide increased economic opportunity for residents thereof, primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services, particularly through the increased involvement of private, local, and community organizations.

Subtitle A—Designation of Rural Enterprise Zones

SEC. 1911. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Rural Enterprise Zones

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'rural enterprise zone' means any area—

"(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as a rural enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as a rural enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as a rural enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of a rural enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as rural enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1987.

"(C) NUMBER OF DESIGNATIONS.—The Secretary of Housing and Urban Development may not designate—

"(i) more than 45 nominated areas as rural enterprise zones under this section, and

"(ii) more than 18 nominated areas as rural enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation of an area as a rural enterprise zone under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as a rural enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of such area is already included in a rural enterprise zone or in an area otherwise nominated to be a rural enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a rural enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as a rural enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is—

"(i) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

"(ii) outside of a metropolitan statistical area (within the meaning of section 103A(l)(4)(B)), or

"(iii) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be a rural area.

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least 1,000, or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, or distress, having met 1 of the following criteria:

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period,

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relates,

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available), and

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section.

"(4) WAIVER UNDER CERTAIN CIRCUMSTANCES.—The Secretary of Housing and Urban Development may waive the requirements of paragraph (3)(B) for 1 area in each State if no area in such State otherwise meets the requirements of paragraph (3)(B).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as a rural enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a rural enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the rural enterprise zone,

"(B) an increase in the level or efficiency of local services within the rural enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the rural enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the rural enterprise zone.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the rural enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as a rural enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the rural enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a rural enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau; and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter D—Designation of Rural Enterprise Zones".

SEC. 1912. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the third calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as rural enterprise zones under section 7891 of the Internal Revenue Code of 1954, and at the close of each third calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 1913. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of a rural enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of a rural enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

Subtitle B—Federal Income Tax Incentives

PART I—CREDITS FOR EMPLOYERS

SEC. 1921. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED RURAL ENTERPRISE ZONE EMPLOYMENT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 43. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.— For purposes of section 38, the amount of the rural enterprise zone credit determined under this section for any taxable year shall be an amount equal to 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year.

"(b) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all rural enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) DOLLAR AMOUNT LIMITATION AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed an amount which is equal to the lower living standard for a family of 4 as determined by the Bureau of Labor Statistics for the calendar year with or within which such taxable year ends.

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any rural enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the rural enterprise zone was designated as such under section 7891, or

"(ii) the date on which the rural enterprise zone was designated as such under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (d)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for the calendar year with or within which the taxable year for which the amount of the credit under subsection (a) is being computed ends.

"(c) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(d) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) who resides during the taxable year in a rural enterprise zone,

"(B) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in a rural enterprise zone,

"(C) who performs at least 50 percent of his services for the employer during the taxable year in a rural enterprise zone, and

"(D) whose wages for the taxable year do not exceed 2 times the dollar amount determined under subsection (b)(2).

"(2) EXCEPTION FOR INDIVIDUALS PREVIOUSLY EMPLOYED BY THE TAXPAYER OR RELATED TAXPAYERS.—The term 'qualified employee' shall not include an employee of the taxpayer in a rural enterprise zone who has previously been employed by the taxpayer (or by a related taxpayer as defined in section 267(b)) after the beginning of the 12-month period described in subsection (b)(3) at a location other than a rural enterprise zone unless the Secretary determines that the taxpayer's primary purpose for employing such an employee in the rural enterprise zone is not the evasion or avoidance of Federal income tax.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 40(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as a rural enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (b)(2), and the base period wages determined under subsection (b)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (c)(2) and the 90 percent and 50 percent tests set forth in subsection (d)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as a rural enterprise zone is in effect.".

(b) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit), as amended by section 1413(b)(1), is amended by striking out "plus" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(6) the rural enterprise zone credit determined under section 43(a)."

(c) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable is amended by adding at the end thereof the following new subsection:

"(c) RULE FOR RURAL ENTERPRISE ZONE CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined

under section 43. This subsection shall be applied under a rule similar to the rule of the last sentence of subsection (a)."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 43. Credit for rural enterprise zone employment."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

PART II—DEFERRALS OF GAIN OR LOSS WITH RESPECT TO INVESTMENT IN TANGIBLE PROPERTY IN RURAL ENTERPRISE ZONES

SEC. 1922. NONRECOGNITION OF GAIN OR LOSS ON THE SALE OF RURAL ENTERPRISE ZONE PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. NONRECOGNITION OF GAIN OR LOSS ON THE SALE OF RURAL ENTERPRISE ZONE PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

"(a) IN GENERAL.—No gain or loss shall be recognized on the sale or exchange of rural zone enterprise property of the taxpayer if the proceeds realized from such sale or exchange are used by the taxpayer to acquire rural enterprise zone property within the qualified period.

"(b) RURAL ENTERPRISE ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'rural enterprise zone property' means—

"(A) any tangible personal property which is acquired and placed in service by the taxpayer in a rural enterprise zone during the period the designation as a zone is in effect under section 7891 and which is used predominantly by the taxpayer in the active conduct of a trade or business within such zone,

"(B) any real property located in a rural enterprise zone which is acquired by the taxpayer during the period the designation as a zone is in effect under section 7891 and which is used predominantly by the taxpayer in the active conduct of a trade or business, and

"(C) any share of stock of a corporation or interest in a partnership or other entity if, for the most recent taxable year of such entity ending before the date of acquisition of such interest, such entity is a rural enterprise zone business.

"(2) RURAL ENTERPRISE ZONE BUSINESS.—The term 'rural enterprise zone business' means any person—

"(A) which is actively engaged in the conduct of a trade or business during the taxable year,

"(B) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business which produced goods, or provides services, within a rural enterprise zone, and

"(C) with respect to which substantially all the tangible assets of such person are located within a rural enterprise zone.

"(3) PROPERTY REMAINS QUALIFIED AFTER RURAL ENTERPRISE ZONE DESIGNATION CEASES TO APPLY.—

"(A) IN GENERAL.—The treatment of property as rural enterprise zone property under paragraph (1) shall not terminate when the designation of the rural enterprise zone in which the property is located or used ceases to apply.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply after the first sale or exchange of property occurring after the designation ceases to apply to the rural enterprise zone.

"(c) QUALIFIED PERIOD.—For purposes of this section, the term 'qualified period' means the period which ends 12 months after the date of the sale or exchange of rural enterprise zone property.

"(d) BASIS OF ACQUIRED RURAL ENTERPRISE ZONE PROPERTY.—If the acquisition of rural enterprise zone property by a taxpayer results in nonrecognition of any gain or loss on the sale or exchange of other rural enterprise zone property of such taxpayer under subsection (a), the basis of such taxpayer in the acquired rural enterprise zone property shall be the cost of such property—

"(1) decreased by the amount of gain which was not so recognized, or

"(2) increased by the amount of loss which was not so recognized.

If such acquired rural enterprise zone property consists of more than 1 item of property, the basis determined under the preceding sentence shall be allocated among such items in proportion to their respective costs.

"(e) STATUTE OF LIMITATIONS.—If the taxpayer during a taxable year sells or exchanges rural enterprise zone property at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's intention not to acquire any rural enterprise zone property within the qualified period, or

"(B) a failure to make such purchase within the qualified period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions), as amended by section 1101(e)(1) of this Act, is amended by inserting after paragraph (27) the following new paragraph:

"(28) RURAL ENTERPRISE ZONE PROPERTY.—The acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of applying section 1043."

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (25), by striking out the period at the end of paragraph (26) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(27) to the extent provided in section 1043(d) in the case of the property the acquisition of which resulted in nonrecognition of gain or loss on other property under section 1043(a)."

(3) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held property, the acquisition of which resulted under section 1043 in nonrecognition of the gain or loss on the sale or exchange of any other property, there shall be included the period during which such other property was held by such taxpayer prior to such sale or exchange."

(4) Paragraph (4) of section 1245(b) (relating to gain from disposition of certain depreciable assets) is amended by striking out "or 1033" and inserting in lieu thereof ", 1033, or 1043".

(5) Paragraph (4) of section 1250(d) (relating to gain from disposition of certain depreciable realty) is amended—

(A) by striking out "or 1033" in subparagraphs (A) and (E) and inserting in lieu thereof ", 1033, or 1043", and

(B) by inserting "or 1043(a)" after "section 1033(a)(2)" in subparagraph (C)(ii).

(6) Paragraph (2) of section 6212(c) (relating to notice of deficiency) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) Deficiency attributable to gain on sale of property, see section 1043(e)."

(7) Section 6504 is amended by adding at the end thereof the following new paragraph:

"(13) Gain on the sale or exchange of property, see section 1043(e)."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter c of chapter 1 is amended by inserting after the item relating to section 1042 the following new item:

"Sec. 1043. Nonrecognition of gain or loss on the sale of rural enterprise zone property where reinvestment in such property occurs within 1 year."

PART III—RULES RELATING TO INDUSTRIAL DEVELOPMENT BONDS

SEC. 1923. INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO RURAL ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended by inserting "or which is placed in service as rural enterprise zone property (within the meaning of section 48(s))" after "section 103(b)(4)(A)".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new clause:

"(iv) EXCEPTION FOR RURAL ENTERPRISE ZONE FACILITIES.—This subparagraph shall not apply to any obligation which is part of an issue 95 percent or more of the proceeds of which are used to finance facilities within a rural enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891 (without regard to the subsequent revocation of such designation under section 7891(b)(2))."

(c) CERTAIN SMALL ISSUE VOLUME CAPS MODIFIED.—

(1) IN GENERAL.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues), as amended by section 1501(d)(3) of this Act, is amended by adding at the end thereof the following new subparagraph:

"(R) DOLLAR LIMITATIONS NOT TO APPLY FOR RURAL ENTERPRISE ZONE FACILITIES.—The dollar limitations described in subparagraph (A) and (D) shall not apply to any obligation which is part of an issue 95 percent or more of the proceeds of which are used to finance facilities within a rural enterprise

zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891 (without regard to the subsequent revocation of such designation under section 7891(b)(2))."

(2) AGGREGATE LIMIT PER TAXPAYER WITH RESPECT TO RURAL ENTERPRISE ZONE FACILITIES.—Paragraph (15) of section 103(b) (relating to aggregate limit per taxpayer for small issue exception) is amended by adding at the end thereof the following new subparagraph:

"(F) RURAL ENTERPRISE ZONE FACILITIES.—For purposes of this paragraph, with respect to any issue used to finance facilities within a rural enterprise zone, subparagraph (B) shall be applied by inserting 'used for facilities within a rural enterprise zone' after 'all industrial development bonds'."

(d) PORTION OF STATE IDB VOLUME CAP SET ASIDE FOR RURAL ENTERPRISE ZONE FACILITIES.—Paragraph (4) of section 103(n) (relating to limitation on aggregate amount of private activity bonds issued during any calendar year) is amended by adding at the end thereof the following new subparagraph:

"(D) STATE CEILING SET-ASIDE FOR RURAL ENTERPRISE ZONE FACILITIES.—For any calendar year, at least five percent of the State ceiling applicable to any State shall be set-aside for use only in rural enterprise zones in such State. The preceding sentence shall apply only to a States having one or more rural enterprise zones and only for taxable years in which such state elects to issue industrial development bonds for facilities located in the rural enterprise zone."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1986, in taxable years ending after such date.

PART IV—SENSE OF THE CONGRESS WITH RESPECT TO TAX SIMPLIFICATION

SEC. 1924. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury and his delegates should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this title.

Subtitle C—Regulatory Flexibility

SEC. 1931. DEFINITION OF SMALL ENTITIES IN RURAL ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified rural enterprise zone business; any governments which designated and approved an area which has been designated as a rural enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified rural enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within a rural enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 43(e) of such Code)."

SEC. 1932. WAIVER OR MODIFICATION OF AGENCY RULES IN RURAL ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in rural enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as a rural enterprise zone under section 7891 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the rural enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the rural enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the rural enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) The table of sections for such chapter is amended by redesignating the items relating to sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new item immediately after the item relating to section 610:

"Sec. 611. Waiver or modification of agency rules in rural enterprise zones."

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means."

(d) Section 613 of such title, as redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. 1933. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within a rural enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such

intervals as may be designated by the Secretary."

Subtitle D—Establishment of Foreign-Trade Zones in Rural Enterprise Zones

SEC. 1941. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within a rural enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within a rural enterprise zone (as so designated).

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with rural enterprise zones (as so designated), the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

At the appropriate place in subtitle D of title VI, insert the following:

SEC. . LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—For purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

MATHIAS AMENDMENT NO. 2083

(Ordered to lie on the table).

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill H.R. 3838, supra; as follows:

Section 205(c)(1)(D) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(D) SPECIAL RULES FOR HISTORIC STRUCTURES.—In the case of any certified historic structure (as defined in section 48(g)(3) of the Internal Revenue Code of 1954),

"(i) clause (i) of subparagraph (B) shall be applied by substituting 'December 31, 1980' for 'August 13, 1981', and (ii) clause (ii) of subparagraph (B) shall be applied by substituting 'January 1, 1987' for 'January 1, 1986' if

"(I) the structure was, on January 1, 1986, owned by an instrumentality of the United States government established pursuant to Public Law 92-578, and

"(II) the total construction costs of the unified project of which the structure was a part exceeded $100,000,000."

● Mr. MATHIAS. Mr. President, I send to the desk an amendment which will affect the rehabilitation tax credit as it was rewritten by the 1982 Tax Equity and Fiscal Responsibility Act [TEFRA]. The amendment would affect the use of the rehabilitation tax credit by the Willard Hotel.

The restoration of the Willard Hotel is the cornerstone of the revitalization of the Pennsylvania Avenue corridor of Washington, DC. The Pennsylvania Avenue Development Corp. [PADC] a governmental agency, purchased the interest in the hotel and the underlying land in 1978 and entered into leases with a partnership of developers to reestablish the Willard as a hotel, retail, and office complex.

The tax credit for rehabilitation of certified historic structures was the essential element in inducing investors to provide capital for the restoration of the Willard Hotel, truly an architectural and historical treasure of the Nation's Capital. All efforts to finance the rehabilitation of the Willard prior to the time the rehabilitation credit for certified historic structures become available in 1982 had failed. This credit was the catalyst to bring together funds from many diverse sources to allow the developers to undertake an extensive, authentic reproduction of the hotel. The credit held the net cost to an amount that would make it economically possible, although with substantial risk to investors, to operate this property as a commercial hotel, as it operated in the time of Abraham Lincoln.

The project was one of the largest rehabilitation projects—by cost—in the country. Moreover, the extent and scope of the actual rehabilitation—as compared to new construction—was also significant. Thus, although PADC bought the land in 1978, and began the project in 1980 and 1981, the Willard will not begin operations until mid-1986.

The unique difficulties of completing a project like this one in a major metropolitan area also lengthened the time of the process. Artisans and design experts were used and consulted on numerous details in order to retain the authenticity of the restoration. Moreover, the PADC maintained a very strict oversight role in the process and reviewed every element of the project. Any PADC objections required redesign and resubmission or proposals. The D.C. Department of Transportation refused to allow use of an entrance on Pennsylvania Avenue and, as a consequence, involved the developer in zoning disputes that delayed the project still more.

This lengthy development process has caused an unfortunate denial of anticipated tax consequences pursuant to the rehabilitation tax credit. The 1982 Tax Equity and Fiscal Responsibility Act [TEFRA] reduced the tax basis of rehabilitation property—and thus reduced future depreciation deductions—by one-half of the amount of the rehabilitation tax credit taken except for certain projects already in process at that time. To accommodate projects like the Willard, that had depended on the tax provisions of the law as it applied when TEFRA was passed, Congress exempted projects involving certified historic structures that had entered into binding contracts between January 1, 1981, and July 1, 1982, if the rehabilitated building was placed in service by January 1, 1986.

The Willard project will not be entitled to this transition relief because delays not anticipated when it was first begun, beyond the control of the developers, have prevented the hotel from being "placed in service" by January 1, 1986. Thus, the tax advantages that were available at the project's inception and indeed during the initial development of the project will be lost.

Given the project's unique nature and the fact that the project as well underway when TEFRA was passed, my amendment would extend the "placed in service" date under the TEFRA transitional rule to January 1, 1987, to allow the Willard project to qualify for TEFRA's relief.●

PRESIDENT'S COUNCIL ON HEALTH PROMOTION AND DISEASE PREVENTION

HATCH AMENDMENT NO. 2084

Mr. McCLURE (for Mr. HATCH) proposed an amendment to the bill (S. 2057) to establish the President's Council on Health Promotion and Disease Prevention; as follows:

On page 6, line 1, strike out "eighteen" and insert in lieu thereof "twenty-four".

On page 6, line 2, strike out "or".

On page 6, between lines 2 and 3, insert the following:

"(2) eighteen months after the first date on which all members have been appointed to the Council pursuant to subsection (c); or

On page 5, line 3, strike out "(2)" and insert in lieu thereof "(3)".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, June 16, to hold an oversight hearing on the second waste repository site selection under the Department of Energy's Office of Civilian Radioactive Waste Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SOVIET OCCUPATION OF LITHUANIA

● Mr. WEICKER. Mr. President, June 15 marked the 46th anniversary of the Soviet Union's forcible occupation of Lithuania. Over the years, the Lithuanian people have been oppressed and denied many of their basic human rights. One year after the occupation, the Soviets began mass deportations of Lithuanians to Siberia. The country has now been annexed by, and incorporated into the Union of Soviet Socialist Republics. However, none of this has kept the Lithuanians from fighting for their freedom.

The country was used as a bargaining chip between the Soviet Union and Nazi Germany. After World War II, Lithuania's freedom and independence were never restored. Now, over four decades later, the Lithuanian people are still struggling to regain their sovereignty. They are only fighting for what they are entitled to—independence and their own identity.

As a representative of the U.S. Government, I am especially upset by this oppression of the Lithuanian people. America was founded on a promise of freedom for all. These ideals should not be confined to our borders, they should extend around the world. Lithuania is an example of a nation whose very identity is being denied. As Americans, we must remain committed to our basic convictions, and support these people in their struggle.

We must continue to strive toward human rights for all people. In this case, that means standing up in support of the Lithuania people and their plight. The anniversary of the Soviet occupation of Lithuania is the perfect time to reaffirm our ideals. We must support these people in their struggle to regain their independence. The Lithuanian people's fight to reacquire their freedom should serve as a model for all of us. It should inspire us to see that our ideals are upheld everywhere in the world.●

POLL SHOWS AMERICANS WANT PRODUCT LIABILITY REFORM

● Mr. KASTEN. Mr. President, a recent Harris poll shows that the American public is in favor of product liability reform. The poll reveals that Americans, by a convincing majority, believe that litigation incentives—including lucrative contingency fee agreements and excessive cash settlements—are major contributors to the current liability crisis. Clearly we cannot ignore the concerns of the American public; and product liability reform is how we can address those concerns. I ask that the results of this poll be printed in the RECORD. I strongly urge my colleagues to consider the support this poll gives to the drive for product liability reform.

The results follow:

[From the Harris Survey 1986, June 9, 1986]

EXCESSIVE CASH SETTLEMENTS AND LAWYERS FAULTED FOR RISE IN LIABILITY SUITS

(By Louis Harris)

The American people favor radical change in the laws governing liability suits. A substantial 65-23 percent majority would support a new law that would allow an individual to collect no more than $150,000 for any injury, "but if that person needed special medical treatment they would get it free for the rest of their life, no matter what it would cost."

The crisis that has occurred over liability suits is that the awards have been so large that insurance companies have, in turn, raised the premiums to a point where many civic and private facilities have had to be closed due to inability to pay for liability insurance.

When asked directly about it, a big 69-24 percent majority nationwide is convinced that it is too easy "for people to sue for damages when they think they have been injured or some wrong has been done to them." In a word, most Americans believe that the court system and the liability laws have in fact provided an incentive for claimants to press suits for damages in unfair ways. Implicit is a public demand that the procedure for filing claims ought to be overhauled to provide disincentives against many who would sue for damages.

Not only do people think it is too easy to file suit for damages, but a big 63 percent majority is also convinced that the size of most of the cash settlements of such cases have been "excessive." Only 12 percent have the impression that the amounts usually awarded in such liability cases are "about right" and only 13 percent believe they have been "not enough." Clearly, by any measure, the vast majority is convinced that the system of rectifying wrongs done to individuals in liability cases is totally out of control.

These results are highly significant because they point up little basic sympathy among the public for those who claim to be victims of injury of other wrongdoing and file suits for damages. Clearly, the size of the settlements and the frequency with which people think such claims are made have stripped away much of the traditional underdog sentiment that might have been attached to such injury suits in the past.

When asked whom they feel is primarily responsible for the big rise in liability cases brought to the courts, the public was not reluctant to point the finger of blame.

By 80-12 percent, a big majority believes that lawyers looking for big contingency fees are responsible for what is seen as the flood of liability suits. A solid 56 percent majority of the people think that lawyers are "very responsible." It is apparent that the public wants to send a message to eager lawyers to curb their efforts to take cases so readily into court.

However, another 77-12 percent majority of the American people also lays blame for the liability crisis at the doorstep of "people who figure they can make a lot of money from such suits." An even 50 percent hold the view that that individual who feel they have been wronged are "very responsible."

A slightly lower 71-19 percent are prepared to lay the blame on "laws which make it too easy to sue." They think the legal system has so eased access for claimants that the system has grown out of control.

By 42-16 percent, another majority is prepared to place responsibility for the liability mess "laws which allow too big settlements to be handed out." Again, the size of the settlements has struck an extremely negative response among the people themselves.

Throughout these results it is evident that public outrage is both deep and rising about the liability crisis. President Reagan has called for limits on the amount that can be awarded and other remedies have been put forth, it is unlikely that change will be denied over an issue with this amount of public upset surrounding it.

Too easy to sue for damages?

	Percent
Too easy	69
Not too easy	24
Neither (vol)	1
Not sure	6

"Do you think the size of most of the cash settlements of cases like this have been excessive, about right, or not enough?"

Size of cash settlements too excessive?

Excessive	63
About right	12
Not enough	13
Not sure	12

"How much do you feel responsible for the big rise in liability cases being brought to the courts—very responsible, somewhat responsible, not very responsible, or not responsible at all?"

Between May 16th and 20th, the Harris Survey asked a nationwide cross section of 1,243 adults by telephone:

"As you know, there have been a lot of questions asked lately about suits that are filed for damages against companies, towns and cities, doctors, accountants and other types these days. In general, do you think it is too easy or not for people to sue for damages when they think they have been injured or some wronged has been done to them?"

RESPONSIBILITY FOR RISE IN LIABILITY SUITS

	(W) VR percent	SR percent	NVR percent	RAA percent	NS percent
Lawyers looking for big contingency fees	56	14	7	5	8

RESPONSIBILITY FOR RISE IN LIABILITY SUITS—Continued

	(w) VR percent	SR percent	NVR percent	RAA percent	NS percent
People who figure they can make a lot of money from such suits	50	27	9	6	8
Laws which allow too big settlements to be handed out	40	32	9	7	12
Laws which make it too easy to sue	43	28	12	7	10

(w) VR=Very responsible.
SR=Somewhat responsible.
NVR=Not very responsible.
RAA=Responsible at all.
NS=Not sure.

"Let me describe for you a different system that might be put into effect on such liability suits in the case of injuries to individuals. The most an individual could collect would be $150,000 for any injury, but if that person needed special medical treatment they could get it free for the rest of their life, no matter what it would cost. Would you favor or oppose such a system?"

Favor maximum settlement of $150,000?

	Percent
Favor	65
Oppose	20
Not sure	12

1,243 results nationwide. Figures for age, sex, race and education were weighted where necessary to bring them into line with their actual proportions in the population.

In a sample of this size, one can say with 95 percent certainty that the results have a statistical precision of plus or minus three percentage points of what they would be if the entire adult population had been polled.

This statement conforms to the principles of disclosure of the National Council on Public Polls.●

1986 PRESIDENTIAL END HUNGER AWARDS

● Mr. LEAHY. Mr. President, the desire to help those who are less fortunate has always been a characteristic of the American people. The tremendous outpouring of concern and aid for millions of starving Africans last year was one of many examples of this trait.

Most memorable of all was the "We Are the World" concert which raised tens of millions of dollars for emergency food and medical aid. That event, and the creation of the U.S.A. for Africa Foundation which is distributing this aid, would almost certainly not have occurred had it not been for the vision and determination of one individual, Ken Kragen.

I have known Ken Kragen since his association with Harry Chapin, the folksinger who dedicated his life to ending hunger in the world. Harry Chapin died in a tragic accident in 1981, but Ken Kragen, Harry's wife Sandy and others who worked closely with Harry have carried on his campaign against hunger.

After the "We Are the World" concert, Ken set out to combat hunger in the United States. "Hands Across America" was Ken Kragen's most recent achievement.

Hands Across America began as Ken's dream of a unique way to focus the attention of the entire country on the problem of hunger and homelessness. It took Ken and the many who joined in his cause just 6 months to achieve what many of us would never have believed possible. Hands Across America brought together over 5 million Americans, including homeless children, major private corporations, and the President of the United States in an outpouring of concern for the hungry.

Ken's goal was to make people aware of the serious problem of hunger in all parts of the United States—to raise interest, consciousness and money. He achieved his goal in the same way that he produced "We Are the World"—by his extraordinary commitment, his inexhausable energy, and by reaching out to millions to people who he knew shared his dream.

Of the tens of millions of dollars in contributions from the millions of participants in Hands Across America, 60 percent will be used for emergency relief for the hungry. Forty percent will be for ongoing income-generating projects to alleviate the causes of hunger, including job training, child care and preventive medical care.

Mr. President, each year the Agency for International Development sponsors the Presidential End Hunger Awards, to honor U.S. citizens and institutions that have made significant contributions to the alleviation of world hunger. The nominations are submitted to the President of the United States for final selection on October 16, the international observance of World Food Day.

This year will mark the fourth annual Presidential End Hunger Awards, and I have nominated Ken Kragen for an individual award. Ken's tremendous response to the plight of starving Africans last year, and Hands Across America this year, are outstanding examples of how one individual can move mountains. Ken has described Hands Across America as a first step—a way of making people aware of the serious problem of hunger in our own country, and of making a statement of commitment to end it. By taking a creative idea and capturing the attention and concern of an entire country to make it a reality, Ken Kragen has moved us a big step closer to our goal of ending hunger.

Mr. President, I can think of no better way to acknowledge Ken Kragen's contribution to his country and to the world than by this award.●

ARKANSAS SESQUICENTENNIAL CELEBRATION

● Mr. PRYOR. Mr. President, I was privileged to spend this past weekend in my native State of Arkansas as a participant in our sesquicentennial celebration. It was a splendid few days for me and for my colleague, Senator DALE BUMPERS, who was also there for the weekend. In fact, it was a major series of events for all my fellow Arkansans who took part in this impressive recognition.

There were parades and picnics and tours and banquets, and a gala homecoming in Little Rock's War Memorial Stadium. Thousands took part in these ceremonies and festivities, and those responsible for orchestrating a considerably full schedule should be commended. It was a big 150th birthday in every way.

Since the beginning of this year, Arkansas towns and cities have been celebrating our sesquicentennial with just about every form of recognition you can imagine, a total of more than 1,000 separate celebrations. This weekend was the official salute to statehood, since it was exactly 150 years ago—on June 15, 1836—that Arkansas was admitted to the Union as the 25th State.

We had been a territory since 1819, when the capital was situated at Arkansas Post. But 2 years after the territory was established the seat of government moved to Little Rock, then a bustling port on the Arkansas River and located close to the center of the State.

It was to Little Rock that the news of statehood was first brought on that day in June of 1836. We are told that a celebration erupted that has not been equalled in the State since that time.

At least, it was not equalled until this weekend. Mr. President, I have never seen as large and diverse collection of people come together as fully and impressively as my fellow Arkansans have during this year, and particularly in the past few days. I have long recognized the fierce independence of our people and the wide divergence of regions within the State. Anyone familiar with Arkansas geography and demographics knows the distinctions between the mountain communities and the farms along the Mississippi River, and between the piney woods in south Arkansas and the towns along Crowley's Ridge that formed the first settlements in the State.

Those distinctions have all but disappeared in this year's anniversary recognition. Of course, differences in terrain are still apparent, and differences in local history will always characterize Arkansas. But something in our mutual pride and in the pleasure of recognizing our common heritage has pulled Arkansas together as never before.

Arkansas has always been known for its open friendliness, and for the hospitality with which we greet visitors from other parts of the country and the world. I commend this spirit of

welcome to my colleagues today, Mr. President, along with an open invitation to visit our State and take part in our birthday celebration.

For anyone in Washington who wants a sample of Arkansas tradition and hospitality, we are sponsoring an exhibit in the rotunda of the Russell Office Building. Our official opening of this display will be on Wednesday of this week, and we're expecting the largest turnout of Arkansas ever assembled in the Washington area. And on Friday the Senate dining room will feature Arkansas chicken and rice dishes on its menu.

I know that Senator BUMPERS joins me in this salute. We're especially proud of our State today, and I hope that other Members of this body will join in our celebration and recognition.●

TWO OUTSTANDING HIGH SCHOOL DEBATERS

● Mr. DURENBERGER. Mr. President, I would like to take this opportunity to recognize the achievements of two outstanding high school debaters from my home State, Carl Lehmann Jr. and James Lansing of South St. Paul High School. Carl and James, in their young careers, have established reputations for mental agility, wit, and charm, backed by an unfaltering knowledge of their debate topics. Their reputations are deserved.

These two gentlemen, last week, reaped another award for their outstanding debating capabilities in the National Water Alliance National Capitol Open Debate Championship. Carl and James were chosen as one of the top nine debating teams in the country, after winning the Minnesota State championship, and bringing that title to South St. Paul High School for the 10th time in the school's history.

Carl and James and eight other two-member teams spent 3 days in Washington debating, on a highly important issue, national water policy. As a member of the National Water Alliance, I am encouraged by the interest in water policy, and the skill, displayed by the South St. Paul High School team, and their counterparts from across the country.

Mr. President, I would like to congratulate the nine teams which took part in the National Water Alliance tourney, and especially the South St. Paul High School team, the recipients of the U.S. Geologic Survey award for the "Best Use of Scientific Principles for the Hydrologic Cycle."

The level of competition displayed during the debate signals the educational excellence in our Nation's high schools and the vast potential for dedication, creativity, and the roots of a new national water policy in our young people.●

A DRUG AGENT'S LIFE IN DEEP COVER

● Mrs. HAWKINS. Mr. President, to arrest the spread of drugs, the DEA agents are doing a great job. In the farflung areas of the world, they live away from their homes and families, and risk their lives every day to uncover the international drug traffickers.

The New York Times of June 16, 1986, has carried an article entitled "Acting on a Deadly Stage: A Drug Agent's Life in Deep Cover." The article is very perceptive and draws our attention to the dangers posed to the life of a drug agent, and I commend it to my colleagues.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

[From the New York Times, June 16, 1986]

ACTING ON A DEADLY STAGE: A DRUG AGENT'S LIFE IN DEEP COVER

(By Peter Kerr)

Some drug traders first saw him as a heroin smuggler in Thailand. Others met him as a cocaine buyer in Buenos Aires. And others as a gunrunner in Buffalo.

He can recall how they all looked into his eyes, trusted him and, as a result, went to jail.

So as Michael Levine, a special agent of the Federal Drug Enforcement Administration, sat down to dinner at a restaurant in Greenwich Village last week, his eyes shifted from table to table in search of a familiar face. He was armed with a boyish smile under a thick mustache and, in case of the worst, a 9-millimeter automatic pistol under his pant leg.

NOW A SUPERVISOR

Mr. Levine is described by his agency as an expert in "deep cover"—an agent who assumes invented characters to penetrate underworld organizations. Deep cover means living among criminals for weeks or months at a time, unable to return home or admit anyone one's real name.

"An agent is what I am, not what I do," said the 46-year-old Mr. Levine. "You create the person they want you to be. It's a slow process because first you have to know who they want to meet."

After playing the part of underworld figures for the Federal Government for 21 years, Mr. Levine now works as a supervisor in the D.E.A.'s New York office. His eyes are dark. His words recall the past in the tough cadences of his native Bronx.

"Sometimes I've thought I've got nothing but this job," he said. "My wife would say, 'I didn't sign up for this. I married an accountant.' "

Deep cover specialists play a crucial role in the D.E.A.'s long-term narcotics investigations, as well as in major investigations of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department and some local police departments. Rarely, however, do law-enforcement officers who engage in deep cover discuss their techniques publicly, and rarely, if at all, do they describe the psychological difficulties they experience or the sometimes devastating effects of their job upon their families.

But over several hours last week, Mr. Levine outlined how he gave up a career as an accountant to become a Federal agent, how he learned to invent and portray characters that criminals would trust and how he and colleagues cope with the psychological strain of life both in and out of deep cover.

"DIVIDE YOUR BRAIN IN HALF"

The interview took place with the permission of his superiors, who said they wanted the public to understand the kind of work D.E.A. undercover agents do and the difficulties they face.

"You have to divide your brain in half," Mr. Levine said. "This half is the character you are playing. This half is always a Federal agent recording the details. If the half that is a Government official becomes inefficient, it can cost you your life."

Mr. Levine, who has acted in community theater productions, said acting in the theater was easy compared with playing roles undercover. "The audience is sometimes six inches away from your face and far more critical."

He admits that his career involves something like an addiction to the fast-paced and deadly way of life known only to international drug traffickers and the people who try to apprehend them. But, he says, it is also an act of vengence on behalf of his younger brother, who died a heroin addict.

"At one point I felt that if I could fill the jails I could cure him," he said of his brother, who died in 1977. "But there was nothing I could do. His salvation was in his own head."

BRONX STREET GANG

Mr. Levine was born, the son of Polish-Jewish immigrants, in the Tremont section of the Bronx in 1939. During his childhood blacks and Puerto Ricans were moving into the neighborhood as Jews and Italians were moving out. To fit in and survive, he joined a teen-age gang dominated by Puerto Ricans. Eventually he grew into a tough street fighter, 6 feet 1 inch tall and weighing more than 200 pounds, with a keen ear for Spanish accents and dialects.

After four years in the Air Force and graduating from Hofstra University with a degree in accounting, Mr. Levine, then 25 years old, with a wife and a child, decided he could not stand a career behind a desk. He joined the Internal Revenue Service as an agent investigating gambling operations and by 1969 he had entered his first major deep cover operation as an agent for Alcohol, Tobacco and Firearms.

The assignment involved joining a Buffalo motorcycle gang, "The Knight Riders," that was believed to be selling drugs and arms. Mr. Levine said he interviewed an informer for three days. Then he was introduced to the gang as a biker of Cuban ancestry with connections to an anti-Castro terrorist group.

"JUST SHOWBIZ"

After several weeks of living with the gang in its clubhouse, Mr. Levine faced a severe test of his action skills. A drunk in a bar approached Mr. Levine in front of the gang members and began shouting obscentities. The gang members expected him to respond to the drunk as they would—with a violent attack. But as a Federal agent he could not attack the man—that would be assault—and he did not want to get into a fight.

"I could see a glimmer of fear in his eyes, so I stood up, half grinning, and did this laugh," Mr. Levine said. Later he realized that the laugh was stolen from the 1947 movie, "Kiss of Death," in which Richard Widmark portrayed a psychopathic killer with a monstrous cackle.

"It was just showbiz," Mr. Levine said.

The gang members however, burst into laughter as his bravado, and the drunk, after an exchange of threats, apologized. The incident gained the gang's full trust, Mr. Levine said, and at the end of three months, a dozen gang members were arrested for selling guns, drugs and explosives.

One night during those years, his mother called him at home to report finding something in his brother's bedroom, a hypodermic needle and a spoon. When his brother came home that night, Mr. Levine was there with his mother and they talked and cried until dawn.

"'You're dead,' I hold him, 'Anyone who gets into heroin dies,'" he said. "My heart went out to him. I told him we would try to do the best."

Mr. Levine's brother lives with him and his wife as he moved in and out of drug rehabilitation programs and tried to hold down a job. In 1975, he disappeared to Florida. Two years later, he shot himself to death.

In 1970, Mr. Levine joined the Customs Service and when his section was merged with other Federal agencies in 1973 to form the Drug Enforcement Administration, he became a D.E.A. agent. Over the years he has been stationed in New York, Washington, Miami, Buenos Aires and Germany, and has followed investigations to Asia, South America and the Middle East. Often they required deep cover identities.

'THE ALIMONY GANG'

He and other agents sometimes worked on cases 24 hours a day, even when they were not under deep cover, sleeping on desks or in the office gym. So many of their marriages fell apart, he said, that his group of investigators was known as "the alimony group." For several years, he and his wife were legally separated.

"All of our lives were being narcs, moving from country to country, living as though you are bigger than life," Mr. Levine said. After a major deep cover operation, he said, "For the first 24 hours you are a rubber band, taut, taut, taut."

In Thailand, Mr. Levine used half of a torn photograph of him and an American drug buyer to gain entry to a major heroin syndicate. After two weeks under cover, the heroin wholesalers were arrested by the Thai police.

From Argentina, Mr. Levine sent informers into Bolivia to put out the word that a Puerto Rican named "Miguel" was in Buenos Aires ready to buy cocaine for a major American organized-crime family. An emissary of Roberto Suárez Gómez, the head of a Bolivian cocaine empire, came to Argentina to negotiate a deal. The representative, Marcello Ibáñez-Vélez, met "Miguel" over dinner in Buenos Aires.

"He was very much a family man," Mr. Levine recalled. "He didn't drink. His profession was cocaine.

"As I sat there I created a character. A Latin man. A family man. A businessman. He doesn't drink. He is soft-spoken. Someone you can trust. Very decent."

D.E.A. FAMILY

The two men became friends and Mr. Levine invited Mr. Ibáñez to Miami to see his home, family and cocaine processing operation. When Mr. Ibáñez arrived in Miami he was Miguel's life, as constructed by the Federal Government and acted out by D.E.A. agents: a wife, servants, pilots, a luxurious beach house, limousines, an airplane, a cocaine processing plant and a $9 million roll of cash.

Taken in, Mr. Ibáñez agreed to fly to the Bolivian jungle with Mr. Levine's pilot to sell the cocaine. But, as he was about to board the plane Mr. Ibáñez turned to him, Mr. Levine recalls, and said, "If something is wrong, Miguel, you are killing me."

A few hours later the agents seized 854 pounds of cocaine. Mr. Ibáñez and another cocaine dealer eventually were returned to the United States and sentenced to 13 years in prison. And, according to informers, Mr. Suárez, the head of the cocaine empire, put out a $150,000 contract on Mr. Levine's life.

It "was a seduction," Mr. Levine said. "There was a real relationship happening. The feelings are genuine. They have to be."●

TENTH ANNIVERSARY OF SOWETO UPRISING IN SOUTH AFRICA

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. KERRY. Mr. President, June 16 marks the 10th anniversary of the Soweto uprising in South Africa. June 16, 1976, is a very significant date in South African history. It marked the beginning of a struggle which led to over 600 casualties, and to the ending of both complacency among the white ruling establishment in South Africa, and of passivity and compliance with the apartheid system by the black majority in South Africa.

Today, 10 years later, South Africa is a nation in crisis. The recent state of emergency imposed by the regime of State President P.W. Botha is a testimony to the moral bankruptcy of the apartheid system, and to the illegitimacy of the South African Government. The press restrictions imposed by the Botha government, which are designed to keep its brutality and repression from the eyes of the world, are a further admission of its own failure, and of its contempt for democratic values.

It appears that the Botha government no longer cares about world opinion. This is the message conveyed by the imposition of the state of emergency, by the arrests of over 2,000 black political and trade union organizers, by the new press restrictions, and by the rejection of the recommendations of the Commonwealth Eminent Persons Group, which recently completed a mission to South Africa. The Eminent Persons Group was led by two distinguished world statesmen, former Prime Minister Robert Fraser of Australia, and Gen. Olusegun Obasanjo of Nigeria. Ironically, these two leaders were literally in the midst of presenting their final report in London, calling for negotiations between the South African Government and black leaders in South Africa, when they were handed a bulletin reporting the reimposition of a state of emergency in South Africa.

The report of the Eminent Persons Group outlines the gravity of the situation in South Africa, and makes it clear that much stronger measures must be taken by Western countries to influence the outcome of events in South Africa. As the report states:

After more than 18 months of persistent unrest, upheaval, and killings unprecedented in the country's history, the Government believes that it can contain the situation indefinitely by use of force * * *. Although the Government's confidence may be valid in the short term, but at great human cost, it is plainly misplaced in the longer term. South Africa is predominantly a country of black people. To believe that they can be indefinitely suppressed is an act of self-delusion * * *. Put in the most simple way, blacks have had enough of aparthied. They are no longer prepared to submit to its oppression, discrimination, and exploitation. They can no longer stomach being treated as aliens in their own country. They have confidence not merely in the justice of their cause, but in the inevitability of their victory * * *. The strength of black convictions is now matched by readiness to die for those convictions. They will, therefore, sustain their struggle, whatever the cost.

While the South African Government may no longer care about world opinion, it is concerned, as the report of the Eminent Persons Group points out, about "the adoption of effective economic measures against it." As the report points out:

If it comes to the conclusion that it would always remain protected from such measures, the process of change in South Africa is unlikely to increase in momentum, and the descent into violence would be accelerated. In those circumstances, the cost in lives may have to be counted in the millions.

In order to be effective, such economic measures will have to include strong and meaningful sanctions by both the United States and Britain, South Africa's two largest trading partners. As the report of the Eminent Persons Group states, "Such measures may offer the last opportunity to avert what could be the worst bloodbath since the Second World War." These words are not mere rhetoric from some extremist group. They represent the sober and considered judgment of a group of distinguished statesmen representing the countries of the British Commonwealth.

Because of the pressing need for strong and meaningful economic sanctions against the South African regime, I have joined with Senators KENNEDY and WEICKER in cosponsoring the Anti-Apartheid Act of 1986. This act would impose sanctions and economic measures of the kind envisioned in the report of the Commonwealth Eminent Persons Group. These would include no new investment or new loans to South Africa; no contribution toward the development of additional energy resources for South Africa; no exploration, extraction, processing, or trade in natural resources from Namibia, which is illegally occupied by South Africa; a ban on landing rights for South African air-

craft in the United States; a ban on imports of coals, uranium, and steel from South Africa; disinvestment from the computer industry in South Africa, coupled with a ban on exports of computers; and $25 million per year in aid for refugee educational assistance for South Africans and Namibians outside their countries, and for black-led antiapartheid community development organizations. This is a package of sanctions and economic measures which is designed to put meaningful pressure on the South African Government. Unlike President Reagan's program of watered-down sanctions, these measures have teeth, and if enacted will have a real effect on bringing about a change in the policies of the South African Government.

The time has come for negotiations in South Africa between the white minority government and representatives of the black majority. As the Eminent Persons Group has made clear, the South African Government must release Nelson Mandela, who is the one black leader universally accepted throughout South Africa. Members of the Eminent Persons Group met with Nelson Mandela in prison three times during their mission to South Africa. They stated that, "He impressed us as an outstandingly able and sincere person whose qualities of leadership were self-evident. We found him unmarked by any trace of bitterness despite his long imprisonment." They also stated that "Providing the negotiating process was agreed, Mr. Mandela's own voice would appeal for calm. We believe his authority would secure it."

I am somewhat encouraged by the fact that, after 6 years, President Botha has finally seen fit to meet with Archbishop Desmond Tutu for a 90-minute discussion. Archbishop Tutu has described this meeting as inconclusive and unsatisfactory, but the fact that it took place at all is a positive sign. However, to be truly meaningful, this meeting must be followed up by a prompt release of Nelson Mandela and all other political prisoners, by the dropping of all charges against Rev. Allan Boesak, by the "unbanning" of Winnie Mandela and other "banned" persons, and by lifting of the state of emergency and of all restrictions on press freedom in South Africa. And the South African Government must then enter into meaningful negotiations with Mr. Mandela, with Archbishop Tutu and Reverend Boesak, and other representatives of the black leadership in South Africa, for a transition to democracy and majority rule in South Africa.

At this moment, the South African Government does not appear to be ready to take those steps. Tragically, the Botha regime seems to be headed in the other direction, toward greater repression and greater bloodshed. But it is not too late for South Africa to change course, before it arrives at the "blood bath" envisioned by the Eminent Persons Group. Just as the United States and other Western nations took on the moral obligation of combating the evil of Nazi Germany in the 1940's, so do we have an obligation to do all that we can today to combat the evil of apartheid, and to prevent the occurrence of another Holocaust. If we have no leverage other then economic sanctions, then we must use economic sanctions to effect change in South Africa, before it is too late.

On the occasion of the 10th anniversary of the uprising in Soweto, the world is reminded once again of the evil of apartheid. We must act now to change that system, before South Africa is engulfed by racial hatred and violence which can only lead to a historic tragedy.

I ask permission to include excerpts from the report of the Commonwealth Eminent Persons Group in the RECORD, and I urge my colleagues to study its recommendations, and to act upon them.

The excerpts follow:

[From the New York Times, June 13, 1986]

EXCERPTS FROM REPORT ON SOUTH AFRICA ISSUED BY COMMONWEALTH MISSION

LONDON, June 12.—Following are excerpts from the report on South Africa issued here today by the Commonwealth mission known as the Eminent Persons Group:

During the preliminary visit, General Obasanjo was permitted to see Mr. Mandela. Thereafter, the full group met with him on two occasions, although not with other detainees.

The group approached the meetings with Mr. Mandela with another measure of care. It was impossible not to be aware of the mythology surrounding him, but equally, we were determined that it should not color our impressions or influence our judgment. As far as possible, we resolved to approach these meetings with an open mind.

We were first struck by his physical authority—by his immaculate appearance, his apparent good health, and his commanding presence. In his manner, he exuded authority, and received the respect of all around him, including his jailers. That in part seemed to reflect his own philosophy of separating people from policy.

His authority clearly extends throughout the nationalist movement, although he constantly reiterated that he could not speak for his colleagues in the A.N.C.; that, apart from his personal view point, any concerted view must come after proper consultation with all concerned; and that his views could only carry weight when expressed collectively through the A.N.C.

Secondly, we found his attitude to others outside the A.N.C. reasonable and conciliatory. He did not conceal his differences with Chief Buthelezi and he was conscious of the divisions which had arisen among the black community. Nevertheless, he was confident that, if he were to be released from prison, the unity of all black leaders including Chief Buthelezi, could be achieved.

In our discussion, Nelson Mandela also took care to emphasize his desire for reconciliation across the divide of color. He described himself as a deeply committed South African nationalist but added that South African nationalists came in more than one color—there were white people, colored people and Indian people who were also deeply committed South African nationalists. He pledged himself anew to work to a multiracial society to which all would have a secure place.

He recognized the fears of many white people, which had been intensified by the Government's own propaganda, but emphasized the importance of minority groups being given a real sense of security in any new society in South Africa.

CLIMATE FOR TALKS AND CONFIDENCE

It was his strongly stated view that if the circumstances could be created in which the Government and the A.N.C. could talk, some of the problems which arose solely through lack of contact could be eliminated. The fact of talking was essential in the building of mutual confidence.

Thirdly, we were impressed by the consistency of his beliefs. He emphasized that he was a nationalist, not a Communist, and that his principles were unchanged from those to which he subscribed when the Freedom Charter was drawn up in 1955.

Those principles included the necessity for the unity and political emancipation of all Africans in the land of their birth; the need for multiracial society, from any kind of racial, religious or political discrimination; the paramountcy of democratic principles, and of political and human rights, and equality of opportunity.

We questioned Nelson Mandela extensively about his view on violence. The A.N.C., he said, had for many years operated as a nonviolent organization and had only been forced into armed struggle because it became the unavoidable response to the violence of apartheid. He stressed that violence could never be an ultimate solution and that the nature of human relationships required negotiation.

He was not in a position to renounce the use of violence as a condition of his release, and we recognized that in the circumstances currently prevailing in South Africa, it would be unreasonable to expect that of him, or anyone else.

We accept that the release of Nelson Mandela presents the South African Government with a difficult dilemma. Having held him too long in prison, there is growing realization in Government circles that any benefits of incarceration are outweighed by the disadvantages which daily become more apparent.

Yet to release him now—as some in Government say is their wish—would be to do so into conditions much changed from 10, or even 5, years ago. In a mood of unrest and upheaval, with growing black awareness and political protest being matched by increasing anxiety among whites, and the rise of white extremism, the Government expressed the fear that his release might result in an uncontrollable explosion of violence.

We do not hold this view. Provided the negotiating process was agreed, Mr. Mandela's own voice would appeal for calm. We believe his authority would secure it.

SELF-EVIDENT QUALITIES OF LEADERSHIP

Our judgment of Nelson Mandela has been formed as the result of lengthy discussions with him, spanning three meetings. He impressed us as an outstandingly able and sincere person whose qualities of leadership were self-evident. We found him unmarked

by any trace of bitterness despite his long imprisonment.

In the Government's thinking, there were a number of nonnegotiables; for example, the concept of group rights—the very basis of the apartheid system—was sacrosanct; the "homelands" created in furtherance of that concept would not disappear, but be reinforced with the emergency of an "independent" KwaNdebele; the principle of one man one vote in a unitary state was beyond the realm of possibility; the Population Registration Act would continue; and the present Ticameral Constitution which institutionalizes racism must be the vehicle for future constitutional reform.

From these and other recent developments, we draw the conclusion that while the Government claims to be ready to negotiate, it is in truth not yet prepared to negotiate fundamental change, not to countenance the creation of genuine democratic structures, nor to face the prospect of the end of white domination and white power in the foreseeable future. Its program of reform does not end apartheid, but seeks to give it a less inhuman face. Its quest is power sharing, but without surrendering overall white control.

Behind these attitudes lurks a deeper truth. After more than 18 months of persistent unrest, upheaval and killings unprecedented in the country's history, the Government believes that it can contain the situation indefinitely by use of force. We were repeatedly told by Ministers that the Government had deployed only a fraction of the power at its disposal. Although the Government's confidence may be valid in the short term, but at great human cost, it is plainly misplaced in the longer term. South Africa is predominantly a country of black people. To believe that they can be indefinitely suppressed is an act of self-delusion.

Put in the most simple way, the blacks have had enough of apartheid. They are no longer prepared to submit to its oppression, discrimination and exploitation. They can no longer stomach being treated as aliens in their own country. They have confidence not merely in the justice of their cause, but in the inevitability of their victory. Unlike the earlier periods of unrest and Government attempts to stamp out protest, there has been during the last 18 months no outflow of black refugees from South Africa. The strength of black convictions is now matched by readiness to die for those convictions. They will, therefore, sustain their struggle, whatever the cost.

The writ of the Government will be increasingly circumscribed. Interblack rivalry and violence, partly encouraged and fomented by the Government, will grow, making the task of negotiating a settlement even more difficult. Political upheaval and social unrest will accelerate the flight of capital and professional skills and the economy's downward spiral.

Amidst all this gloom, the quality of the country's black leaders shines through. Their achievement in bringing about popular and trade union mobilization in the face of huge odds commands respect. Their idealism, their genuine sense of nonracialism, and their readiness not only to forget but to forgive, compel admiration. These are precious assets which a new South Africa will need; they may be lost altogether if the Government continues to shrink from taking the necessary political decisions with a sense of urgency. The options are diminishing by the day.

What can be done? What remaining influence does the international community have? What can major states do to help avert an otherwise inevitable disaster? There may be no course available that can guarantee a significantly more peaceful solution. But against the background in which ever-increasing violence will be a certainty, the question of further measures immediately springs to mind. As the Nassau Accord makes clear, Commonwealth Heads of Government have agreed that, in the event of adequate progress not having been made in South Africa within a period of six months, they would consider further measures.

While we are not determining the nature of extent of any measures which might be adopted, or their effectiveness, we point to the fact that the Government of South Africa has itself used economic measures against its neighbors and that such measures are patently instruments of its own national policy. We are convinced that the South African Government is concerned about the adoption of effective economic measures against it.

If it comes to the conclusion that it would always remain protected from such measures, the process of change in South Africa is unlikely to increase in momentum and the descent into violence would be accelerated. In these circumstances, the cost in lives may have to be counted in millions.

The question in front of heads of governments is in our view clear. It is not whether such measures will compel change; it is already the case that their absence and Pretoria's belief that they need not be feared, defers change. Is the Commonwealth to stand by and allow the cycle of violence to spiral? Or will it take concerted action of an effective kind? Such actions may offer the last opportunity to avert what could be the worst blood bath since the Second World War.

We hope this report will assist the Commonwealth—and the wider international community—in helping all the people of South Africa save themselves from that awesome tragedy.●

WISCONSIN CELEBRATES JUNE DAIRY MONTH

● Mr. KASTEN. Mr. President, June is a wonderful time of year in Wisconsin, and not just because Wisconsinites awaken each morning with relative confidence that there won't be snow on the ground.

June is National Dairy Month. And Wisconsin is "America's dairyland," which makes us especially proud of the celebrations from coast to coast honoring the dairy farm families whose hard work and dedication helps to feed America and the world.

Mr. President, since the settlers of the Jamestown colony welcomed cows to the Eastern shore in 1611, America's dairy cow population has grown to 10,820,000. I am proud to note that 16.6 percent of that female bovine population—1,854,000 dairy cows, a number equal to more than one-fourth the human population of our State—lives in Wisconsin.

And I am proud to call to my colleagues' attention that Wisconsin dairy farmers working with those Holsteins, Guernseys, Jerseys, and other breeds have made Wisconsin the leading producer of milk, butter, and cheese in America.

"June Dairy Month" is a time for all Americans to pay tribute to the Nation's dairy farm families. These men, women, and childen work from before sunrise until well after sundown to provide the quality products we have come to expect to be in our refrigerators and on our kitchen tables in fresh condition and at low cost.

And we enjoy milk, ice cream, butter, and cheese without really even giving much thought to where those foodstuffs come from. I'm sure we all remember the tale of the city child who, when asked where milk comes from, answered "a bottle."

Mr. President, June Dairy Month was first celebrated in 1937, which makes this June the 50th anniversary of this national tribute to dairy farmers.

I am proud to congratulate America's dairy farmers for their industry, for their developing and adapting to new methods of production, for continuing to lead the world in the production of fresh, healthful dairy products.

And I especially praise Wisconsin's dairy farmers, who in recent years, perhaps more than any time since the Great Depression, are struggling to make ends meet in the face of severe economic setbacks. The spirit of these dedicated farm families will carry them through these hard times.

I join with all Americans in thanking our dairy farmers for the day-to-day, year-round contributions they make to the quality of our lives.●

JUDGE WILLIAM WILKINS, JR.

● Mr. HOLLINGS. Mr. President, this is my second opportunity to let you know of my support for Judge Billy Wilkins, and I am delighted to have it. Five years ago, I listed his many accomplishments as a student, as a law clerk, and as a solicitor, as evidence of his fitness to become a Federal district judge for South Carolina, and you agreed that we were lucky to get a man of his caliber by making him the first Reagan judicial appointee to be confirmed. Now, I am back to tell you that your confidence in him was justified. From the bench, he has demonstrated the insight and thoughtfulness that I assured you he would. In fact, he has done such an outstanding job that he has been given the additional responsibility of chairing the Sentencing Guidelines Commission.

Briefly, let me run through Judge Wilkins' impressive credentials. He was editor of the South Carolina Law Review, law clerk for the Honorable Clement Haynsworth, U.S. Court of Appeals for the Fourth Circuit, partner in the firm of Wilkins & Wilkins, and solicitor for the 13th Judicial Cir-

cuit of South Carolina. In these various positions, he has had an opportunity to observe and participate in all aspects of our legal system. And I am confident that the members of the bar of the fourth circuit will appreciate his experience, his knowledge of the law, and his even-handed approach just as lawyers in South Carolina have.

Mr. President, I am happy to enthusiastically endorse the elevation of Judge William Wilkins, Jr., to the court of appeals.●

S. 2198—COLA'S FOR CIVIL SERVANTS AND MILITARY RETIREES

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2198, worthy legislation which affects those individuals who have devoted their lives in service to this Nation. I am pleased that my colleague from Virginia, Mr. TRIBLE, has addressed a serious issue which affects these public servants.

This Nation has a serious Federal deficit. I do not believe, however, that those individuals who have served this country—either in the military or as civilians—should have to bear an unfair share of the burden of reducing the deficit. These individuals have spent most of their lives in service to this Nation. They deserve respect and dignity in return, not a reduction of their retirement benefits.

During the 1986 budget process, a provision which totally eliminated COLA's for civil service and military retirees for a year was added to the budget package. As a result, civil service retirees, military retirees, and railroad retirees did not receive their well-deserved 3.1 percent cost-of-living adjustment this year.

Civil services retirees lost $530 million in COLA's, military retirees lost $400 million in COLA's, and railroad retirees lost $18 million in COLA's. In total, $948 million was lost from COLA's from these retirement programs.

I want to be sure that this injustice does not occur again. Currently, 80 Members of the House have cosponsored 1 or more of 5 bills to protect civil service COLA's from again being cut as a result of the Gramm-Rudman-Hollings deficit-reduction law. In the Senate Mr. TRIBLE has introduced legislation, S. 2198, to guarantee a full COLA for Federal retirees, military retirees, and railroad retirees. This bill ensures that these servants of the Federal Government will definitely receive their full, deserved COLA in 1987.

S. 2198 relieves our Federal and military retirees from a burden they should not have to bear—soaking up the cost of this Nation's Federal deficit. In addition, the bill ensures that no last-minute maneuver can take away retirees' COLA's.

The fiscal year 1987 Senate budget package already contains a provision granting civil service, military, and railroad retirees a full COLA for 1987. I supported this budget package on the floor of the Senate. However, the budget is still in conference. Consequently, enactment of S. 2198 is vital in order to make certain that these retirees receive their COLA.

I commend Senator TRIBLE for ensuring that the public servants of this Nation receive their deserved cost-of-living adjustment.●

DAN MANION BY THOSE WHO KNOW HIM

● Mr. QUAYLE. Mr. President, over the past few months those of us in Washington have witnessed a barrage of criticism against Dan Manion of South Bend, IN, President Reagan's nominee to fill a vacancy on the bench of the Court of Appeals for the Seventh Circuit. Mr. Manion has been criticized by a number of Senators from outside Indiana, by a liberal-oriented group of lawyers in Chicago, IL, and by a well-funded lobbying organization founded by a Hollywood entertainment magnate. I have read about these criticisms in the New York Times, the Washington Post, and in numerous other nationally oriented newpapers in full page ads paid for by a group calling itself "People for the American Way."

Mr. President, I would say I was perplexed by all this criticism of the personal and professional qualifications of Dan Manion if I were not so outraged by the inaccuracy and misleading information which characterizes it. What I find most disturbing is that the criticism comes from people who have never met Dan Manion, do not understand the nature of his work, and apparently have not bothered to correct their preconceived notions about him, his political philosophy, or his work.

Instead of quoting legal scholars, many of whom would be lost in an actual courtroom, or lobbying materials prepared by paid publicists, I would like to share with my colleagues the testimony of people who know and have worked with Dan Manion. I believe any fair examination of a man and his record should assign greater weight to the firsthand knowledge of his acquaintances and colleagues than the exaggerated charges of lobbyists looking for a convenient focus of all their efforts to overturn the clear results of the 1980 and 1984 elections.

Mr. President, it is clear that those who know Dan Manion best are convinced beyond any shadow of a doubt that he is personally and professionally qualified for the position for which he has been nominated. Fully 95 percent of the communications I have received thus far regarding the Manion nomination have been in support of him. I would like to share a sample of these communications with my colleagues so that they, too, can see the depth and breadth of support Dan Manion received from those who know him well. What I have heard from Dan Manion's friends and professional colleagues leaves no doubt that he is a man of high moral values and personal integrity, a man of equanimity, and a skilled lawyer with the type of professional experience sorely lacking on the bench of the Circuit Court of Appeals.

I would, first of all, emphasize the clear and unambiguous testimony of the bar in northern Indiana, where Dan Manion has spent his professional career, in favor of Mr. Manion's appointment. Even though he has received a qualified rating from the American Bar Association, Mr. Manion's critics have fabricated an argument which directly contradicts the ABA's judgment. To corroborate the judgment of the ABA, let us review the testimony of those who have practiced with Mr. Manion. First, I ask that a letter, and enclosure from the president of the St. Joseph County Bar Association transmitting the association's endorsement of Dan Manion be included in the RECORD at this point:

The material follows:

ST. JOSEPH COUNTY
BAR ASSOCIATION,
South Bend, IN, June 5, 1986.

Re: Daniel A. Manion.

Hon. STROM THURMOND,
Chairman, Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR THURMOND: Within the past week the St. Joseph County Bar Association polled its members concerning the issue of publicly endorsing Dan Manion. I am pleased to report that these lawyers who have worked with Dan Manion on a daily basis have overwhelmingly endorsed his nomination to the Seventh Circuit bench.

A copy of the resolution adopted by our association is enclosed herewith. We sincerely hope that this action may prove to be of assistance in Dan's confirmation.

Very truly yours,

JAMES W. OBERFELL,
President.

RESOLUTION

The St. Joseph County Bar Association is pleased to endorse President Reagan's nomination of South Bend Attorney Daniel A. Manion to the United States Seventh Circuit Court of Appeals. Mr. Manion is a well respected and competent attorney who has practiced law in this community since 1974. Mr. Manion is an attorney who is unafraid of hard work and who has always maintained the highest standards of honesty, integrity, and ethical conduct. Those of us who know him best believe that Mr. Manion possesses the requisite legal ability and open mindedness and an innate sense of fairness that will enable him to serve the Court with honor and distinction. This bar association is proud of the high quality of

its members and is greatly honored that President Reagan has chosen one of them to serve in this very important position. Since the last three appointments to the Seventh Circuit have been law professors, we feel Mr. Manion, as a practicing attorney, will add balance to the Court and will represent Indiana and the Seventh Circuit very well.

Second, I ask that the text of a petition in favor of Dan Manion's nomination signed by 134 lawyers in northern Indiana be included in the RECORD at this point.

The petition follows:

PETITION

Hon. RICHARD G. LUGAR,
U.S. Senate, Senator for the State of Indiana, Washington, DC.
Hon. DAN QUAYLE,
U.S. Senate, Senator for the State of Indiana, Washington, DC.

We, the undersigned Indiana attorneys, support President Reagan's appointment of Daniel A. Manion to the U.S. Court of Appeals for the Seventh Circuit.

This appointment is for an Indiana seat on the Court; and, Manion was strongly endorsed for this appointment by Senators Lugar and Quayle of Indiana.

Manion was certified as "Qualified" by the American Bar Association through its extensive judicial review process.

We believe that his certification as "Qualified" by the American Bar Association, his high reputation for integrity, conscientiousness and fairness, and his excellent skills, makes him a competent nominee for a seat on the U.S. Court of Appeals for the Seventh Circuit.

We urge the U.S. Senate to vote favorably on the President's appointment of Mr. Manion.

Third, I would like to share with my colleagues letters from three professinals in the legal community in South Bend who have known Dan Manion's work and have had occasion to make a judgment on his judicial temperament. Although each identifies himself as a Democrat, I believe the crucial testimony is their professional judgment on Mr. Manion's qualifications. I ask that letters from David T. Ready, Prof. Tang Thanh Trai Le and Judge John W. Montgomery be placed in the RECORD at this point:

The letters follow:

SOUTH BEND, IN,
April 28, 1986.

Re: Daniel Manion.

Senator STROM THURMOND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing concerning the Senate Judiciary Committee's consideration of Attorney Daniel Manion's pending appointment to the United States Seventh Circuit Court of Appeals.

I have known Mr. Manion for a number of years. I believe that he is eminently qualified to fulfill the position of the United States Circuit Court Judge. I firmly believe he possesses the necessary intellect, integrity, and open-mindness which practicing members of the Bar have a right to expect in our judicial appointments.

I would hasten to add that Mr. Manion enjoys an excellent reputation amongst his peers.

During the years 1977 through 1981 I had the opportunity to serve as United States Attorney for the Northern District of Indiana, having been appointed to that position by President Carter. This gave me the opportunity to practice in our Federal Courts at both the trial and appellate levels with greater frequency than most legal practitioners. It also gave me the opportunity to observe our Federal Judiciary at both trial and appellate levels. As such, I would hope that it also gave me some insight into what the Judicial qualities best serve our legal system, especially at the Federal Appellate level. I firmly believe Mr. Manion possesses those qualities, temperament, legal intellect, experience, fairmindedness, judicial integrity, and a plain, old-fashioned willingness to work long and hard. I have no doubt that Mr. Manion's appointment will reflect credit upon the Federal Judiciary.

Mr. Manion is, of course, a Republican while, as you may surmise from my appointment by President Carter, I am a Democrat. Additionally, Mr. Manion enjoys a reputation of being a "conservative" while I am not. Nevertheless, the fact that Mr. Manion and I are not of a similar political persuasion or, for that matter philosophically attuned, it does not dissuade me from my admiration for him as a person and as a lawyer. He is, in short, a good lawyer who can become a great Judge.

Within the past week I have received two telephone calls inquiring as to Mr. Manion's qualifications. I suppose these calls came to me, based upon my prior services as United States Attorney. One of these calls came from the National Federation of Women Lawyers Organization based in Washington, D.C. Their questions and inquiries regarding Mr. Manion's qualifications were both pointed and thorough. I do not know what position this organization has adopted regarding Mr. Manion's appointment, but from the inquiry I received it appeared that they were open-minded about such an appointment and were merely calling to obtain information regarding his overall qualifications.

However, the second inquiry came from the People for the American Way. I must say that I was disappointed in the nature of their inquiry and the questions they asked of me. I have no bone to pick with that organization and, in fact, am sure that they serve a very valid and useful purpose in attempting to counter-balance some of our more conservative minded organizations. That is all in the give and take of the American political system. However, I must say that the overall tone of their inquiry was not one in which they were seeking my opinion on Mr. Manion's qualifications, but rather looking for something negative concerning Mr. Manion. When it became apparent that I was not going to accommodate them, simply because I do not know anything negative about Mr. Manion, their interest in talking to me waned sharply and the conversation terminated abruptly.

When I compare the two telephone interviews referred to above, I find that one was a thorough search into my opinions as to Mr. Manion's qualifications, whereas the latter was simply looking for negatives.

Finally, Senator Thurmond, I would note that the most recent appointments to our Seventh Circuit Court of Appeals have emanated from the area of academia. I have no problems with the qualifications of many of those persons who were so appointed. However, I believe that our Courts of Appeals are best served when they are comprised of former trial judges, academics, and practicing lawyers. It is my opinion that Mr. Manion is an excellent representative of that latter group and will well serve on the Court of Appeals.

Thank you for your indulgence.

Sincerely,

DAVID T. READY.

NOTRE DAME, IN,
May 20, 1986.

Re: nomination of Daniel A. Manion to 7th Circuit Court of Appeals.

Hon. DAN QUAYLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR QUAYLE: Although I consider myself a Democrat, I feel I must write a letter to you to recommend Senate approval of the nomination of Mr. Daniel A. Manion to the Court of Appeals, Seventh Circuit.

According to what transpired at the hearing before the Senate Subcommittee, the reasons for which the nomination of Mr. Manion was not recommended were, quite simply, his political views.

I believe that a judge should be chosen for his or her integrity, honesty, and trustworthiness and not for his or her political views. Issues change. Our history shows that what may be deemed "conservative" today may be part of the "liberal" cause tomorrow and vice-versa. Old issues fade with time and new issues arise. The best way then to insure good judgment on the bench is to choose judges from amongst men and women of character. Such persons, when placed in positions of authority, rise to their task.

I believe Mr. Manion is such a person. A man of "decency and honor" as Senator Biden himself declares, Mr. Manion possesses the qualities necessary for faithful service as a federal judge. In spite of all the efforts of the people who wanted to stop his confirmation, no blemish could be found on Mr. Manion's record. in fact, his record in the community is impeccable.

A person of good conscience must choose judges not on the basis of transient political issues, but according to the character of the person. I therefore wish to recommend most highly that you lend your support to the approval of Mr. Manion for appointment to the Seventh Circuit Court of Appeals.

Sincerely,

TANG THANH TRAI LE.

SOUTH BEND, IN,
June 9, 1986.

Hon. JOSEPH R. BIDEN, JR.,
Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: This letter supports Dan Manion for judge of the Seventh Circuit Court of Appeals.

I am a Democrat by heritage. I am also a Democrat by conviction. I was for six or eight years Chairman of the St. Joseph County Democratic Central Committee and during that time of some state-wide significance.

I fear right-wingers as threats to the survival of constitutional government as we know it in this nation. Many of them have gone to the federal bench in the last five years. I hope you have not participated in their confirmation.

Now, however, you are opposing the confirmation of Dan Manion as a right-winger and an incompetent. Yet you do not know this man. You seem to be relying on hearsay given you by some Chicago lawyers. This group, among others, sought information

from me about Manion and when they didn't hear what they wanted to hear they terminated the conversation.

It is being made to appear that you are opposing Manion because he is his father's son as well as an incompetent small town lawyer. I suppose he is proud of his father just as you are proud of yours.

I know Dan Manion is honest, honorable, conscientious, intelligent, diligent, competent and an altogether decent human being because I know him and because I have seen him demonstrate a temperament which is, perhaps above all other requirements, basic to good judicial performance at any level. I also know, despite you and yesterday's New York Times editorial, that he can and does read and write, speaks grammatically and can spell. That he should be done in by some unknown stenographers whose ignorance escaped a proof reader isn't fair and square.

Without really wanting to compare hometowns, you surely know South Bend, Indiana is about twice the size of Wilmington, Delaware. Likewise, I am surely correct to assume that the relative small size of Wilmington and your status as an even smaller-town lawyer than Manion did not lead you to believe that you were not qualified to serve as a Senator of the United States. (You know Franklin Roosevelt wasn't born in a big town. He was born out in the country but he became, perhaps you will agree, the preeminent political figure of the twentieth century.)

Once there was a senator from Indiana named Sherman Minton who came from New Albany, Indiana with a population now of about 37,000 who was attorney for the Indiana Public Service Commission and perhaps prosecuting attorney of Floyd County with a law practice not much more than that. This man became a Judge of the United States Court of Appeals for the Seventh Circuit and from there became a Justice of the United States Supreme Court! I have never known it to have been said that because he was a small-town lawyer he was not competent to be a Senator of the United States or a Judge of the Seventh Circuit or a Justice of the Supreme Court of the United States. (I just now happened to think that Springfield, Illinois wasn't much of a town when Abraham Lincoln practiced law there and which he left to save the Union.)

Senator, it has been made to appear that you have been misled as to Manion by a bunch of Chicago lawyers hostile to his nomination and have been persuaded to assert groundless reasons to make their case for them. Manion is qualified. If he were not, I have enough principle about me not to say that he is.

Respectfully,

JOHN W. MONTGOMERY.

Fourth, I submit for the RECORD a letter from Eugene I. Goldman, a director of the Washington Council of Lawyers, a group founded on the same principles as the Chicago Council. The Washington Council of Lawyers has taken no position on the Manion nomination, but Mr. Goldman, writing from the law firm of Steptoe & Johnson in Washington, has worked professionally with Dan Manion in Federal court cases. Please note that Mr. Goldman points out how the major part of the report from the Chicago Council of Lawyers constitutes high praise for Dan Manion. This praise comes from people familiar with Mr. Manion's work whom the Chicago group contacted before issuing its report. Others who have worked with Manion on Federal cases share the esteem he has earned from Mr. Goldman. I ask that letters from Mr. Goldman and from Arthur M. Wisehart, another lawyer who has worked with Manion professionally, appear in the RECORD at this point.

The letters follow:

STEPTOE & JOHNSON,
ATTORNEYS AT LAW,
Washington, DC, April 23, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN THURMOND: I am writing in support of the confirmation of the nomination of Daniel A. Manion to serve on the United States Court of Appeals for the Seventh Circuit. By way of background, I have been a Democrat all of my life. For the last seven years, I have served as a director and member of the Executive Committee of the Washington Council of Lawyers, which shares its origins and commitment to the public interest with the Chicago Council of Lawyers. I am also a great admirer of Senator Simon and contributed to his campaign for the Senate. I have also had the opportunity to work with Mr. Manion in defending a lawsuit in South Bend.

I believe that Mr. Manion is an excellent lawyer and would be a distinguished member of the Seventh Circuit. I have reviewed the Chicago Council's letter to Senator Simon, dated April 9, 1986, and note the Council's findings that Mr. Manion "has a high reputation for integrity, conscientiousness, and fairness . . . has excellent interpersonal skills, and that lawyers who work both with and against him like and respect him . . . that the majority of lawyers . . . felt that he was a competent lawyer. A few lawyers told us that Mr. Manion was an outstanding lawyer. All vouched for his forthrightness and his adherence to high ethical standards."

I believe that the Chicago Council's findings, including its finding that Mr. Manion has been found to be a competent and outstanding lawyer, are inconsistent with the Council's ultimate, speculative conclusion that Mr. Manion will have difficulty with the legal issues routinely presented to the Seventh Circuit. I respectfully encourage the Committee to vote favorably on the President's nomination of Mr. Manion.

Very truly yours,

EUGENE I. GOLDMAN.

WISEHART & KOCH,
New York, NY, May 15, 1986.

Hon. DAN QUAYLE,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR QUAYLE: Enclosed is a copy of a letter that I sent to Daniel A. Manion, Esq., regarding Tom Wicker's column in the New York Times on May 6, 1986.

Although Dan Manion was and is my litigation adversary in a complex federal court case pending in South Bend, Indiana, I deprecate the inaccuracies and bias to which he has been subjected in connection with his appointment to the United States Circuit Court of Appeals for the Seventh Circuit.

Very truly yours,

ARTHUR M. WISEHART.

Enclosure.

WISEHART & KOCH,
New York, NY, May 8, 1986.

DANIEL A. MANION, Esq.,
Doran, Manion, Boynton, Kamm & Esmont, Suite 725, St. Joseph Bank Building, South Bend, IN.

DEAR DAN: I thought that Tom Wicker's column in the New York Times on May 6, 1986 to be tremendously unfair. A number of the statements concerning you are false, to my direct knowledge, which makes me think that the whole thing should be written off as a journalistic smear under the doctrine "falsus in uno, falsus in omnibus," a rule of evidence recognized in New York.

An adversary does not typically find many admirable qualities to exist in his opponents, as you know. However, notwithstanding the fact that we have been adversaries, you have always conducted yourself in a highly competent, professional manner, as far as I am concerned, and I deprecate the kind of shoddy journalism to which you have been subjected by the Wicker column.

With best personal regards,

Sincerely,

ARTHUR M. WISEHART.

As a last exhibit in the testimony of lawyers who have worked with Dan Manion, I want to share five letters which, in one form or another, argue that Manion has unique qualifications as a practicing lawyer which make him especially valuable to the Court of Appeals for the Seventh Circuit. Some of the observations of these practicing lawyers are rather direct, but they reflect a widely held perspective amongst working lawyers of the need for one to have as a judge one who understands their practice and their problems. This practitioner's perspective, I believe, is well understood by the American people, but sadly misunderstood by the press, by large segments of the academic community, and especially by Washington-Hollywood based lobbying organizations. I ask that letters from Messrs. Rowe, Kaminski, a past president of the Indiana Bar Association, Spangler, Tolbert and Ellis be included in the RECORD at this point.

The letters follow:

SOUTH BEND, IN,
May 21, 1986.

Re: Daniel A. Manion, Esq.

Senator DAN QUAYLE,
Senate Office Building,
Washington, DC.

DEAR SENATOR QUAYLE: Even my staunch loyalty to the Democratic Party of which I am a member will not deter me from writing this letter urging you to continue to support and press for the appointment of Attorney Daniel A. Manion of this City to the United States Seventh Circuit Court of Appeals. Far too much unwarranted and unfounded criticism has been leveled at Mr. Manion, both personally and professionally, all of which transcend the decent boundaries of our political system. It seems to be that just because one is selected as a candidate or nominee for a political office does not entitle his opponents to disseminate unbridled commentary about him under the guise of political opposition.

In any case, when criticism is undeserved, it should be disclosed by those who know better regardless of their political affiliations. It concerns me that the remarks of various political opponents and lack of comment from those groups allegedly impartial have resulted in encouraging sweeping broad derogatory remarks from other sources. I am most concerned at the moment about an editorial report of Tom Wicker which appeared in the South Bend Tribune on Wednesday, May 7, 1986, declaring Daniel Manion unqualified. Of course, I do not know Mr. Wicker, but I do know Dan Manion personally and I am a trial lawyer of some thirty years experience and I can tell you that Mr. Wicker does not know the first thing about what is required or expected of a Federal Appeals Court Judge! I have been privileged to work at all levels of the Indiana State and Federal trial and Appeals Courts in this area, including the Seventh Circuit Court of Appeals and I must tell you that it is more than a small comfort to a real "working lawyer" to know that at least one of the several judges who may be deciding his case heard on appeal, was at least at one time in his life, an active trial attorney. I am certainly not demeaning the academicians, economists, or other disciplines enjoyed by the various members of the present court, but not enough of them have had actual trial experience to know and appreciate the efforts of and difficulties faced by the "working trial lawyer" who must eventually find himself appearing before an appeals court.

Mr. Wicker's comments that Mr. Manion has participated "in only twelve federal court trials at the district level, not one of which addressed issues of federal law of the complex kind that the Chicago-based Seventh Circuit is frequently called upon to decide" demonstrates the author's true lack of understanding of both the breadth of Mr. Manion's experience as a trial attorney and exposes Mr. Wicker's complete ignorance of the cases and issues presented to an appeals court in the practical handling of its normal workload. "Complex cases" do not just suddenly appear before Court of Appeals Judges, they are like all cases processed normally through trial courts and the issues are briefed and argued at the trial level long before they reach the Court of Appeals to be rebriefed and reargued perhaps in greater detail and precision. Nevertheless, before a decision is made in the Court of Appeals, ample time and opportunity is given each member judge to familiarize himself with, study and confer with other judges and lawyers about every aspect involved and under consideration. In short, every case whether it is of a "complex" nature or otherwise deserves an examination, briefing, advocacy and study before it is decided and that is what a successful "working lawyer" does every day of his life. Whether or not it is true that Daniel Manion has participated in any particular kind of "complex case" or not is unimportant. It is only important that Mr. Manion's past experience should demonstrate that he can handle such matters.

I wish to go on record as one of many who know Mr. Manion personally and who have seen him "under fire" in actual litigation to give my support for his appointment to the Seventh Circuit Court of Appeals. I have seen Mr. Manion in the stress of trial in an adversary system that demands much of its trial lawyers and I can tell you for certain that Mr. Manion is a person of integrity and one who can think rationally and correctly under pressure and at the same time is able to control his emotions and passions to the end that his client's interests are served and some measure of justice attained as the case merits. In spite of the demeaning comments of Mr. Wicker and his article to contrary, I know Mr. Manion is bright, compassionate, energetic, courageous and impeccably honest and moral in every respect. In spite of the fact that we are on opposite sides of the political spectrum and we have always been adversaries at trial in both State and Federal Courts, the best or worst of any individual is most often displayed in such combative environments as the political arena or trial system.

It is not enough to say of Dan Manion that he is simply "qualified" for an appointment to the Bench, it is more appropriate that it be said that his personal attributes, some of which I have mentioned, and his skills as an attorney demonstrate that his appointment would immeasurably enhance the quality of the "Chicago-based Seventh Circuit!" You may be assured that this attorney who has given his life effort to the trial bar and one who has been before the Seventh Circuit Court of Appeals and other appeals courts now wishes to make his voice heard in support of Dan Manion's selection to the Bench. Whether one considers his political philosophy "conservative" or not, one may be certain that Dan Manion's practical, intellectual and professional competence to handle whatever matters may come before him will always exceed the demands of those who expect the highest quality in the judicial environment at the highest levels.

Very truly yours,

R. KENT ROWE.

LA PORTE, IN,
May 21, 1986.

Re Daniel A. Manion, Judicial Nomination.

Hon. JOSEPH R. BIDEN,
Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: Since you are listed in Martindale-Hubbell as an attorney from Wilmington, Delaware, population 70,000, and in view of the fact that the Associated Press has quoted you as making certain observations about "small town lawyers" not qualified to sit on the second highest court in America, I deem it important to make certain observations about your comments.

First, since you are a senator from Delaware whose population is less than 1/10 of the population of Indiana, I would assume that you feel that no lawyer from Delaware is qualified to sit on the court by reason of the fact that he would be a "small town lawyer."

Second, since you come from a town one-half the size of South Bend, Indiana, and based on your "small town lawyer" standard, no lawyer from Wilmington, including yourself, would be qualified to sit on the second highest court in America.

The mentality that is being exhibited by comments such as yours castigating small town lawyers as second class citizens who are not qualified to sit on courts is contrary to American philosophy of equal justice, rights and opportunities for all. I am offended by remarks such as yours since I am a small town lawyer and feel that fact does not disqualify me or any other small town lawyer from sitting on any court of any size or rank. The history of the United States Supreme Court indicates that many of the Justices were "small town lawyers."

I am attaching to this letter the article from the Associated Press and I am also attaching to this letter a copy of my professional card from Martindale-Hubbell. I am sending copy of this letter to the two outstanding senators from Indiana, one of which is a "small town lawyer" from Huntington, Indiana.

Yours very truly,

LEON R. KAMINSKI.

MERRILLVILLE, IN,
May 19, 1986.

Senator RICHARD LUGAR,
Senator DAN QUAYLE,
Senate Office Building,
Washington, DC.

GENTLEMEN: This letter is being directed to your attention on behalf of Mr. Daniel A. Manion, Esquire, who has recently been nominated to serve on the Seventh Circuit Court of Appeals.

The writer has been closely associated with the Doran-Manion firm for some forty (40) years, both as opposing counsel and co-counsel in major litigation. With this experience in mind, I feel qualified and competent to provide you with my opinions concerning Mr. Daniel A. Manion.

Daniel A. Manion has an exemplary reputation, both as a journeyman lawyer and as a citizen, without any blemishes whatsoever on his record. Frankly, with all of the criminal indictments of lawyers, both in the State of Indiana and the State of Illinois, it seems almost ridiculous for some attorneys who are not acquainted with Mr. Manion in any respect to raise the hue and cry against a person of Daniel A. Manion's stature.

The Doran-Manion firm has been one of the most prominent trial firms in Northern Indiana, with an excellent reputation. Moreover, all of the individuals connected with the firm are highly regarded in this entire area. The writer doubts very sincerely whether any lawyer in this part of the country who is acquainted with Daniel A. Manion would raise objections to him simply predicated upon the isolated fact that he does not have a "major" case experience. We need only look to several of the most competent judges presently serving on the Seventh Circuit Court of Appeals, some of whom had no extensive experience whatsoever in the trial courts. Nevertheless, they have served their appointment with great esteem, and it would appear that the Bar of the Seventh Circuit should be extremely proud of those individuals, notwithstanding the fact that they did not have extensive "major" case experience. This is not the case insofar as Daniel A. Manion is concerned, inasmuch as he has had sufficient experience to merit confirmation of his appointment.

This office, which is primarily trial motivated, heartily endorses the appointment of Daniel A. Manion. Furthermore, it is the writer's personal opinion that the bench and bar will be extremely proud of the performance of Daniel A. Manion during his tenure on the bench.

Very truly yours,

WILLIAM S. SPANGER, Sr.,
Merrillville Office.

LOGANSPORT, IN,
May 19, 1986.

HON. DAN QUAYLE,
Senate Office Building,
Washington, DC.

DEAR SENATOR QUAYLE: I would like to call to your attention the nomination of Daniel A. Manion to the Seventh Circuit Court of Appeals. We have been acquainted with the distinguished firm of Doran, Manion, Boyn-

ton, Kamm & Esmont for more than 30 years in our office and Glenn Miller of our office and Ed Doran probably go back 50 years or more. Through that office we have come to know of the work of Daniel Manion who has handled civil cases for insurance clients of the firm, discovery and development of evidence in civil cases, including "major" cases including the preparation of appellate briefs. Daniel A. Manion's work has always been thorough and innovative and excellent results have been achieved on behalf of that firm. We know that Daniel A. Manion is a student of the law, loves the practice of law and feels bound by basic legal principles, including stare decisis.

As a trial lawyer, I am interested in securing appointments to the Federal Courts of lawyers with underlying trial experience.

In our opinion, Daniel A. Manion is an Indiana lawyer who will fill one of the Indiana vacanies on the Seventh Circuit Court of Appeals in an exemplary manner and will serve both the State of Indiana and the Court quite well. I would appreciate your consideration of his nomination.

Very truly yours,

FRANK E. TOLBERT.

ELLIS, GAMBLE & NOLAN,
Kokomo, IN, May 19, 1986.

Hon. DAN QUAYLE,
Senate Office Building,
Washington, DC.

DEAR DAN: I write in support of the appointment of Daniel A. Manion of South Bend, Indiana, to the Seventh CCA.

I do not personally know Dan, and do not practice, and have not ever practiced, before that court. While my practice is confined to the state courts in Indiana, I have a vital interest in the decent administration of justice, and, therefore, in appointments to the Bench of qualified people.

I have checked with lawyers in the South Bend area who, over the years, have been competitors of Dan in the practice of law. They are unequivocal in stating that Manion:

A. Is a competent practitioner;

B. Is bright; and,

C. Is experienced and is a man of high principle.

I have followed the rather tortuous course and amusing (if the matter were not so serious) claims of the opposition that Manion lacks "major" case experience.

In almost 40 years of practice as a county seat lawyer, I have never had General Motors (or the injured of India for that matter) drop in as clients . . . if, indeed, this is what is meant by the term "major"; rather, any lawyer worth his salt finds most cases to be challenging and "major". Nor should the judiciary be guided by any other principle.

Lastly, when did the type of major case experience which so greatly troubles Dan's opposition, ever become a prerequisite to judicial appointment? The Bench reflects (as it should) a broad spectrum of experience, some major, some minor, but all important: that of judges, trial lawyers, politicians, law professors, city lawyers, country lawyers and the like.

I urge Manion's appointment and commend your efforts in his behalf.

An identical letter is being sent today to Senator Richard Lugar.

With kindest personal regards, I remain,

Sincerely yours,

DICK ELLIS.

Mr. President, another lesson I would draw from the letters I have received concerning Mr. Manion is that he enjoys broad bipartisan support for his nomination. Despite the politically motivated attacks by groups and individuals outside Indiana, those who really know Dan Manion—and we should remember this means knowing his strong conservative philosophy—respect and admire him. Almost uniformly, Manion's colleagues agree that he is fair minded and able to make informed and objective judgments. Although most of these correspondents disagree with much of Dan Manion's philosophy, they are unanimous in their judgment that this philosophy would not interfere with his objective judgment and sense of balance and fairness in the decisions he would be entrusted with as an appellate judge. I ask that letters from Messrs. Kerger, Hunt, Hartke, Bauer, Sullivan, Kendall, Childs, Baldoni, and Fedder be included in the RECORD at this point.

The letters follow:

STATE OF INDIANA,
South Bend, IN, May 27, 1986.

Hon. ROBERT BYRD,
U.S. Senate,
Washington DC.

DEAR SENATOR BYRD: I am a Democratic member of the Indiana State Senate. For four years I served with Mr. Daniel Manion, whose pending nomination to the U.S. Court of Appeals was as you know opposed by most Democratic members of the Judiciary Committee.

Actions in committee and elsewhere seem to indicate that some members of your caucus have selected the Manion nomination as the opportunity to vent resentment which has built up over the judicial nominating practices of President Reagan. To put a more constructive light on it, perhaps some Senators hope to alter those practices by stopping the Manion nomination.

I must say plainly that they have chosen indefensible ground on which to take a stand, because Dan Manion is totally competent to serve in the position for which he is nominated.

I sympathize with those who would wish for nominees whose views are akin to their own. However, political views have always been a consideration and to some degree a prerogative in judicial nominations under Presidents of both parties. The grave offense takes place when political views preempt questions of competence, and I would urge my brother Democrats to strike hard upon those occasions.

This, however, is not one of the those occasions. Perhaps the temptation is too great, because Dan's nomination has given an opportunity to those who want to strip a gear in the Reagan nominating machinery. The chance for political gain arises from the extreme views held by Dan's late farther and from the fact that Dan has not held judicial office.

I am sure that Dan finds it morally repugnant to cast stones at his father's career as a way of defining his own; it is a method of defense which should be unnecessary and is not worth the price to his conscience. So it is up to those of us who know Dan to illuminate his political views as we have come to know them.

His views are clearly conservative and, in many ways, not akin to my own. But he is fair, and he is a clear thinker. He is not under the domination of some inner world view of life to which every situation must submit. I believe that he will give weight to the past, as it seems to me a judge should do; but I do not believe that he will use the past as a mask to put upon the face of contemporary legal issues.

These thoughts do not arise from deep discussions which I have had with Dan, but from the kinds of experiences like those which you have had with your own colleagues in the give and take of the legislative process. I am sure you will agree that these moments reveal more about a person than sweeping statements made either by supporters or detractors while in the kleig light atmospherics of a political hearing.

If Dan were a red-faced, right wing, tub thumper, then the subsequent question of his competence in judicial functions would also be answered, and in the negative. But Dan is as I have described him, a conscientious, fair-minded man; and beyond that he is by intellect and by temperament well-suited to serve on the Appellate Court. His seat on the court will be a source of solid, productive work, and at the conclusion of his long career, observers will mark his tenure as such. Dan may well travel even beyond those prospects, as few have. None of us can say.

Whatever the future holds for Dan Manion, I trust that the qualities I have described will serve him well. If I, like my Democratic brethern, were faced with the choice of confirming Dan Manion to this appointment, I would vote to confirm. Please urge your colleagues to support the Manion nomination.

In Indiana we note that a person who has gotten his comeuppance has had "a knot jerked in his tail." The owner of the tail in this venue may be Mr. Meese, and I am appreciative that Democrats in the Senate are alert to such opportunities to confound ill-chosen nominations. But the Manion appointment is not the opportunity, and to discharge long pent up resentment against this man discredits the goals such vigilance is meant to serve.

Sincerely,

DOUGLAS HUNT,
State Senator.

KENDALL LAW OFFICE,
Jasper, IN, June 12, 1986.

Hon. JOSEPH BIDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: You were considerate enough to meet with me when I was a Democratic candidate for the United States Senate from Indiana in 1982. You spent almost two (2) hours listening and counseling; for that I shall always be in your debt. Although I am no longer a State Senator, I still observe politics, and I hope you seek and achieve the Democratic nomination for President in 1988. I support you because you are a courageous, pragmatic liberal who has not been consumed by the seductive society and economy of Washington, D.C. You worked me in at the end of the day before flying home to your children. That said it all.

I want to express my opinion about another matter of concern to you as a member of the Judiciary Committee. After I first met you in 1974 when I was working for former Congressman Phil Hayes (D.-Indiana), I ran for the State Senate and was elected in 1978. During my four (4) year term, I met another freshman from South Bend, Dan Manion. I was widely regarded as

the most liberal member of the State Senate, and Dan was touted as one of the more conservative members. Nevertheless, we developed mutual respect and friendship at the outset. He was the most sincere, honest, unaffected, and straightforward member of his caucus. He always voted his conscience, and he always had a well-considered reason for every vote.

Thus I was very distressed to read in the National Law Journal, Tom Wicker's column, and elsewhere, that his nomination has come under fire. I have never contacted a State or Federal elected official and expressed my opinion on a specific vote, but I decided to write you after I read the articles. I delayed because I, too, am appalled by the hundreds of Federal judges Reagan has appointed since 1980. And as a loyal Democrat, I agree with the need to raise this important issue in 1986 and 1988. But Dan Manion is the wrong vehicle.

He is very intelligent and has thought long and hard on all major constitutional issues. He and I would discuss them many times, and we would usually disagree about exactly what the correct result was. But Dan would listen to my liberal views, think about them, and occasionally be persuaded. He never let improper personal prejudices interfere with his thought process.

Dan is very committed to our legal system and to due process. He generally supported nuclear energy, but when I was spearheading a study committee investigation of the Marble Hill nuclear power plant construction defects and cover-up, he defended me to his party leadership, fellow Republicans, and my own fellow Democrats at great personal risk because he believed in the process and abhorred the cover-up. When I spoke out in the State Senate about the accepted legal practice in Indiana of accepting large and small gifts from lobbyists and interest groups, some Republicans attacked me harshly. Dan Manion spoke out in favor of curtailing the practice and for my right to address the problem, again at personal cost and against the grain of an extremely clubby Senate.

Clarence Darrow, whose legend inspired me to become a trial lawyer, once said that he did not want a "judge who is for me, just a judge who is fair to me." Dan wil be fair to all who come before him. He will uphold their procedural rights, regardless of the issue. He will listen to those with whom he disagrees, and if persuaded, he will change. He will only be persuaded by intellectual argument and evidence, not personal prejudice.

Issue by issue, there are undoubtedly several more liberal nominees I know and would prefer if that were the only test. But issues change as do people. Dan's intelligence, fairness, and willingness to listen to both sides will do honor to the Federal judiciary and be more important in the long run than his views on any one issue now. You can get more liberal or moderate nominees. You can get more nominees who have better paper credentials. You cannot get many nominees from this President, except by accident, who are more honest, truthful, unassuming, dedicated, or judicious in their temperament.

I represent plaintiffs in civil rights, EEOC, personal injury, product liability, and medical malpractice in State and Federal courts three hundred (300) miles from Dan. My law firm works for the UAW, the UMWA, the AFGE, the USWA, and other unions who face Federal judges and State judges often. Give me a judge like Dan Manion everytime. Not because he'll rule for "for me;" but because he'll rule for the law—and that I can predict.

Sincerely

MICHAEL C. KENDALL.

STATE OF INDIANA,
Hammond, IN, May 26, 1986.

Hon. DAN QUAYLE,
Senate Office Building,
Washington, DC.

DEAR SENATOR QUAYLE: It has been brought to my attention that a question arose regarding the background and integrity of former Indiana State Senator Dan Mannion. I felt after reading the newspapers that I must write to inform you of my knowledge regarding Dan. I met Dan Mannion when I served in the State Senate in 1979. While I was on the democratic side of the aisle, it didn't take long to recognize that he possessed qualities that I felt were paramount in a person.

What Dan Mannion is, in all respects is what Lord Cook, an English jurist in the 16th Century said: "To become a judge three qualifications should be met.

1. Honesty
2. Dilligence
3. Gentleman
4. If he knows a little law, that would help.

That sums up what Dan Mannion really is. He is very bright, honest and a gentleman at all times.

In these times of disgrace in the courts, we cannot afford to appoint men who do not possess these qualities. My family and I have been democrats all of our years, but when you recognize a person like Dan you must put politics in your back pocket and vote for the person that will do a job for all the people.

I hightly recommend Dan Mannion for the position of U.S. Circuit Court of Appeals—7th District and know that you will be proud of him and his record once he is appointed.

Respectfully,

MATHIAS A. KERGER,
Former Indiana State Senator.

HARTKE & HARTKE,
Falls Church, VA, May 28, 1986.

Senator ROBERT BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR: Dan Manion has been nominated by the President of the United States for the positiom of Judge for the Circuit Court of the United States for the Seventh Circuit.

Dan Manion is a respected and intelligent man and has a good legal mind. He has been outspoken on many issues that has caused some opposition to his confirmation. His father was an outstanding American and was also controversial in many of his views. Dean Manion added spice and interest to the American people. His son, Dan, has done the same.

My views of the American scene do not coincide with many of these approaches. In fact, we had and have sharp philosophical disagreements.

I am confident that Dan Manion will be an objective, sincere and capable member of the Court and that he will put the best interests of the United States and her citizens ahead of any subjective feelings he may have.

Dan Manion is my friend and I respectfully endorse him for the position of Judge. If I were still in the Senate I would vote for his confirmation.

Sincerely,

VANCE HARTKE,
U.S. Senator, Retired.

STATE OF INDIANA,
HOUSE OF REPRESENTATIVES,
Indianapolis, IN, May 16, 1986.

Hon. ROBERT C. BYRD,
Hart Senate Building, Washington, DC.

DEAR SENATOR BYRD: I have known Dan Manion for over twenty years. Sixteen of those years I have served as a Democratic State Representative. I have twice been elected Assistant Democratic leader and twice have been appointed as the Democratic leader of Ways and Means. I am one of two Democratic votes on the five-vote State Budget Committee.

During the time I have known Dan Manion, I have known him to be intellectually honest and competent in both the law and legislature. He has earned the respect of his community, those who know him best, which include those of the opposite political party and those of contrary philosophy.

If I were voting on Dan Manion; on his integrity, his competency, and his ability to give credit to the federal judiciary, I would vote an unequivocal *yes.*

My vote would not be in support of the ideology of the appointing authority or the appointee, but for the personal qualities of the man with a recognition that the time to facilitate the nomination and approval of a nominee closer to my point of view is in 1988 when I can help change the appointing authority through the elective process. Manion is the nominee as one of the results of the 1984 election which is still in place and has not completed its constitutional course.

Manion has been a credit to his community, to his profession, to the State Senate, and will be a credit to the federal judiciary. I encourage your support.

Respectfully,

B. PATRICK BAUER,
State Representative.

MENDELSON, KENNEDY,
MILLER, MULLER & HALL,
Indianaplis, IN, May 9, 1986.

Renomination of Daniel Manion to 7th Circuit Court of Appeals.

Senator ROBERT BYRD,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: I would like to recommend the confirmation of the nomination of Daniel Manion to the 7th Circuit Court of Appeals.

I am a life-long Democrat. I have been our party's nominee to the office of Mayor of Indianapolis. I have been a delegate to our national convention. Also, I have been an attorney practicing law in Indiana for ten years.

Obviously, my political philosophy and that of Dan Manion are quite different. However, over the years I have respected Dan Manion as an individual, as a legislator and as an attorney.

I recall a discussion several years ago with Dan Manion regarding criticism he was receiving from members of his own party for his failure to support certain obscenity legislation because he believed the proposed legislation was unconstitutional. Dan Manion could have chosen the easier course of approving the legislation and letting the

courts declare it unconstitutional, but he believed that the burden should not have been shifted to the court.

Some have criticized Dan Manion for his failure to publish articles or for his lack of appellate experience before the 7th Circuit. Good trial attorneys, particularly those from medium and small size firms, do not always have time nor the staff to author legal treatises.

In general practice, unless there is a matter of principle that will require higher court review, a good trial attorney will posture his case to avoid an appeal. Appeals are costly and are often the result of attorneys who do not fully brief their case for trial.

The appellate courts need good trial attorneys who understand the law and the every day practice thereof. Dan Manion is a good trial attorney who is qualified to be an appellate judge. As an appellate judge, I believe that Dan Manion will follow the law. I would urge you and your colleagues to vote to confirm his nomination.

Very truly yours,

JOHN J. SULLIVAN.

JAMES B. CHILDS & ASSOCIATES INC.,
ARCHITECTS & PLANNERS,
South Bend, IN, May 14, 1986.

Re Nomination of Daniel A. Manion, 7th Circuit Court of Appeals.

Senator ROBERT BYRD,
Minority Leader, U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR BYRD: I write to you to state my support for the nomination of Daniel A. Manion to the 7th Circuit Court of Appeals.

Please weigh my declaration of support with my personal background as a lifelong Democrat and former officer of the St. Joseph County Democrat Central Committee. The significance of a Democrat in my position declaring support for a Republican nomination should not be overlooked.

I think that it is critical that when dealing with judicial appointments we maintain the ability to place ideological political differences in the background and view the personal strengths and weaknesses of the nominee. In my opinion, Dan Manion is an excellent choice as a nominee and will bring honor and respect to the Court. Dan rightfully enjoys an outstanding reputation in our community both as a lawyer and as a man of honor.

As a citizen, and a Democrat, I would feel very comfortable with Dan Manion representing Indiana in this very important judicial capacity. Your consideration of my support will be appreciated.

Sincerely,

JAMES E. CHILDS.

IDEAL BALDONI,
Mishawaka, IN, May 28, 1986.

Hon. DAN QUAYLE,
U.S. Senator, Hart Building, Washington, DC.

DEAR SENATOR: This letter concerns the nomination of Dan Manion to be a judge of the Seventh Circuit Court of Appeals. Dan Manion is being badly treated by the Democrats in the Senate. He does not deserve this treatment. He is a good lawyer nd perfectly competent to serve long, honorably and competently. I wish I could do something more for him than just write this letter.

But I am writing this letter as a Democrat—an active Democrat for more than forty years as a precinct committeman, South Bend City Democratic Chairman, Chairman of the St. Joseph County Democratic Central Committee for ten years, Chairman of the Third Congressional District Democratic Central Committee for more than ten years and Secretary of the Indiana State Democratic Central Committee for about ten years.

Irrespective of this, I am outraged, as a Democrat, of what the Democrats are doing to try to destroy a fine young man who should on the merits be confirmed as a Seventh Circuit Judge.

I hope you and other Republicans in the Senate can prevent this injustice to Dan and thereby assure the Court of his long and competent service.

Sincerely yours,

IDEAL BALDONI.

VOOR, ALLEN, FEDDER, HERENDEEN & KOWALS,
ATTORNEYS & COUNSELORS AT LAW,
South Bend, IN, June 6, 1986.

Re Daniel A. Manion.

Hon. DAN QUAYLE,
U.S. Senate, Senator for the State of Indiana, Hart Building, Washington, DC.

DEAR SENATOR QUAYLE: I write concerning the nomination of Dan Manion to be a Member of the Seventh Circuit Court of Appeals. I do this from the point of view of a practicing Attorney and as a former Assistant United States District Attorney for the Northern District of Indiana, a former Chief Deputy Prosecuting Attorney of St. Joseph County, Indiana, and as the present Chairman of the St. Joseph County Democratic Central Committee of Indiana.

It clearly appears, from the nature of the opposition to Dan Manion, that the Senate is being asked to deny confirmation to his Father. Dan is a good Lawyer and will be a good Judge. He is not a crusader for right-wing ideology now, nor will he be such as a Judge. He is, in no way, a menace to the Constitutional System of the United States of America.

Dan Manion is, of his own merits, entitled to be confirmed by the Senate as a Judge of the Seventh Circuit Court of Appeals.

Respectfully,

KENNETH P. FEDDER.

Mr. President, Dan Manion has a distinguished military record. He is the first Vietnam veteran to be nominated to the Court of Appeals. I personally believe that his patriotism in a time when that was not fashionable is another testament to his character. I hope that it is not a source for opposition to him from those who are self-proclaimed interpreters of the "American Way." As testimony of his distinguished military service, I ask that a letter of endorsement from the Reserve Officers Association of the United States and from one of Manion's commanding officers be included in the RECORD at this point.

The letters follow:

RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES,
June 2, 1986.

Re Daniel A. Manion.

Senator STROM THURMOND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: We are writing you on behalf of Dan Manion's nomination as a Circuit Court of Appeals judge. You will most likely recognize this endorsement as unusual because our membership is what we consider "Mainstream America" and accordingly we find it difficult, if not impossible, to reach full agreement on controversial political matters. However, the primary reason our organization is able to make this endorsement is because we deem the vast majority of the opposition to Dan to be "strictly political" and totally devoid of the recognition of his countless positive attributes which we personally know him, as our neighbor and community leader, to possess.

To the best of our knowledge, this is the first time in the history of our organization that we ever took affirmative group action on behalf of any nominee for anything, but you must remember that almost all of us have "a lot of hard miles" on us, many of which included the privilege of serving the greatest nation on the face of the Earth in time of war. Accordingly, we felt that we could not sit idly by and watch one of the very finest gentlemen in our community be "crucified" because of suggested political persuasions not in harmony with those of his liberal opponents.

We firmly believe that Dan has all the attributes to be an excellent Appeals Court judge and the fact that, to our knowledge, he would be the first Vietnam Veteran to fill such a high position is an additional plus which your colleagues might well consider.

We will appreciate your extra efforts and persuasion in this vitally important matter.

Sincerely yours,

JOSEPH RODINO,
CW3, USAR President.
H. CHRIS OVERGAARD,
Captain, USNR (retired), Secretary—Treasurer.

416TH ENGINEER COMMAND,
Chicago, IL, May 13, 1986.

Senator DANIEL QUAYLE,
Washington, DC.

DEAR SENATOR QUAYLE: I am aware of your efforts in regard to the confirmation of Daniel Manion as Federal Judge.

I want to take this opportunity to formally indicate my very strong feelings regarding Dan Manion. I first became acquainted with Dan when he was assigned as 1st Lieutenant to me in an Army Reserve unit I was commanding in South Bend, Indiana. This was approximately 1967-1968. Dan was an outstanding officer. Since that time I have followed Dan's career with interest—including living in his district when he was a State Senator in Indiana.

I have the highest regard for Dan Manion and appreciate very much your efforts on his behalf.

Please advise me should you require further information in support of Dan Manion. I can be contacted as shown below: Dr. Mark W. Tenney, President, TenEch Engineering, Inc., 744 W. Washington Street, South Bend, IN 46601, Phone (219) 234-1166.

Sincerely.

MARK W. TENNEY,
Brigadier General, USAR, Deputy Commanding General.

Finally, I would like to call the attention of my colleagues to two letters attesting to the personal qualities of Dan Manion. From these and other letters from those who know him, I conclude that Dan Manion is a man of

high moral standards, personal strength, intelligence, excellent legal skills, and equanimity. Mr. President, I believe all these qualities make him eminently qualified to serve on the Court of Appeals for the Seventh Circuit, and I urge my colleagues to come to the same conclusion. I ask that letters from Father Hesburgh and Frieda Fuchs be included in the RECORD at this point.

The letters follow:

UNIVERSITY OF NOTRE DAME,
Notre Dame, IN, 46556, May 15, 1986.

Hon. DANIEL QUAYLE,
U.S. Senate,
Washington, DC.

DEAR DAN: I am writing to support Daniel A. Manion, who has been nominated by the President to be a member of the U.S. Court of Appeals for the Seventh Circuit.

I have known Dan since he was a youth. His father was dean of the Notre Dame Law School, and his mother, Gina, is a longtime personal friend and wonderful woman. Dan is a reflection of the strong morals and high values that have always been so much a part of his family. I strongly believe that he would serve this country and the Seventh Circuit extremely well if his nomination were approved.

Dan compiled a fine record while he was an undergraduate student at the University. He was honored as the recipient of the John J. Cavanaugh Award, which is annually given to the senior Army cadet ROTC officer showing excellence in leadership, academic attainment, and participation in military affairs. In addition, Dan was a fine Notre Dame student, and has brought honor to both the University and himself as an alumnus who has shown himself dedicated to service and hard work for his country and his fellow human beings.

Again, I recommend the appointment of Daniel Manion as a federal judge. I believe that he will bring dedication, integrity, and a keen knowledge of the law to that position. His life has been one of service and commitment to justice. I believe that he will exhibit these same qualities sitting on the federal bench, and that his appointment will be a strong one. I would be happy to provide further information if requested.

With warm personal regards and best wishes, I remain.

Sincerely in Notre Dame,
(Rev.) THEODORE M. HESBURGH, C.S.C.,
President.

MRS. HARRY FUCHS,
South Bend, IN, May 22, 1986.

Hon. ROBERT BYRD,
Senate Minority Leader, U.S. Senate, Washington, DC.

MY DEAR SENATOR BYRD: A few words about Daniel Manion, his attributes as my former representative to the state legislature, his personal qualities as a human being and why I feel compelled to express myself about him.

Some time ago I wrote to then State Senator Manion asking for intervention on behalf of our handicapped son. We wanted to secure additional private help at our expense while our son was a patient in a state institution and under court commitment. (I enclose one of his responses.)

The charges that Daniel Manion is an untested jurist is not in dispute, but to portray him as an arch conservative whose ideological rigidity woud prevent an objective and sensitive approach to constitutional interpretation is totally contrary to our experience with him as a human being. I have yet to meet the person who can divide himself between ideology and personhood so completely that he forms two distinct people.

I have no doubt that the qualities that reflect him as a person such as his caring, fairness, understanding and regard for others will be especially mirrored in his role as a jurist on the U.S. Seventh Circuit Court of Appeals.

Sincerely,

FRIEDA FUCHS.

OCTOBER 15, 1982.

Re Kurt Fuchs.

Dr. EDWARD SIRLIN,
Fort Wayne State Hospital and Training Center, Fort Wayne, IN.

DEAR DR. SIRLIN: Enclosed please find a copy of a letter that I received from Frieda Fuchs, from Herbert T. Juliano, and a copy of a letter that Mrs. Fuchs previously received from Dr. Otis Bowen. You have had previous correspondence with Mrs. Fuchs.

I do not understand the details of a problem as difficult as this one. But I do understand the desperation that a parent feels when this kind of situation exists.

It seems to me that if the parents are willing to go the extra mile to help their child while he is institutionalized, it does not seem to be an unreasonable request to allow them to do so. Please give every consideration to Kurt's situation, and if outside help paid for by the parents is in any way possible, I strongly recommend that you allow it. If for any reason you are convinced that such treatment is unnecessary or will not have any benefit, please allow the Fuchs to obtain a second opinion so that at least they will be relieved to know that they are doing everything possible for their child. If that outside opinion concurs with yours, I know they will be relieved to the extent that they will know they are doing their best.

If you feel that this request is unreasonable or out of line in any way, please let me know, and further let me know what would be a proper method to request private assistance in the case of an institutionalized patient. I am well aware of the extreme financial restraints that the State Hospital is under, but if there is no appreciable cost for allowing a private physician to participate in Kurt's treatment, I would really hope that you would accommodate him and Kurt's parents.

Sincerely yours,

DANIEL A. MANION.

CONFIRMATION OF KAREN HENDERSON TO BE U.S. DISTRICT JUDGE

● Mr. HOLLINGS. Mr. President, I am pleased to be here to support the nomination of Karen Henderson to fill the vacancy in the District Court of South Carolina left by the elevation of my friend, Judge Billy Wilkins to the Fourth Circuit of Appeals.

In order to understand why I'm so pleased, one only needs to look at her record. She was selected by my friend, Dan McLeod, South Carolina's attorney general for 24 years, to join his staff, and she did a superb job of representing the State's interests in a wide range of issues.

Her litigation experience has ranged from general practice in State courts to a rare case in the original jurisdiction of the U.S. Supreme Court. Particular attention should be paid to her outstanding work as a member of the attorney general's office. For example, she made a substantial contribution to the body of law developed under South Carolina's "home rule" statute. Ms. Henderson not only helped implement this law but also authored a multitude of attorney general opinions that helped smooth the transition to more independent local government. She has also worked on sensitive and important cases involving constitutional and voting rights issues and taken these cases all the way to the U.S. Supreme Court.

In addition to her work as a practitioner, Ms. Henderson is also widely respected for her contributions to South Carolina's Continuing Legal Education Program. Over the years she has made numerous presentations to lawyers throughout the State, giving them the benefit of her expertise developed in her work with the attorney general.

Mr. President, it should be plain to everyone that Ms. Henderson has an outstanding record that encompasses both the practical and the scholarly sides of the law, and I wholeheartedly endorse her nomination.●

NATIONAL ENDOWMENT FOR DEMOCRACY

● Mr. KASTEN. Mr. President, I ask that an article from the New York Times be entered into the RECORD. The article provides a clear picture of the national endowment's importance to the advance of democracy around the world.

The article follows:

[From the New York Times, June 1, 1986]

MISSIONARIES FOR DEMOCRACY: U.S. AID FOR GLOBAL PLURALISM

(By David K. Shipler)

WASHINGTON, May 31.—For several years after Soviet troops entered Afghanistan in 1979, a former editor and information minister in Kabul tried to get money to restore the village school system destroyed in rebel-held areas of his country.

The Afghan, Sabahuddin Kushkaki, applied unsuccessfully to the United States Agency for International Development and to major American private foundations. Every one turned him down thinking the war would be short.

Then, as the fighting continued, he and some friends happened upon an organization with the right combination of Government money, bureaucratic flexibility and anti-Communist commitment—the National Endowment for Democracy.

Using Federal money, it provided $180,845 to train teachers, conduct literacy courses for rebel fighters, reopen some schools and publish new textbooks with unflattering accounts of the Soviet role in Afghan history. "They have been giving us help without any strings attached," Mr. Kushkaki said on a recent visit to Washington.

PUBLIC MONEY, PRIVATE INTERESTS

This is part of an unusual worldwide campaign, billed as a promotion of democracy and free enterprise, which mixes public funds and private interests. Conceived in a new spirit of ideological confidence in the United States, the effort is described by some of those involved as an expression of the "Reagan Doctrine," which envisions an aggressive American policy in fostering a move toward democracy in the third world. After three years, the program has now taken a clear shape.

The National Endowment for Democracy, a private group created for the purpose, has channeled a total of $53.7 million in Government money to foreign political parties, labor unions, newspapers, magazines, book publishers and other institutions in countries where democracy is deemed fragile or nonexistent.

The Federal money is being used for such undertaking as helping the Solidarity labor union print underground publications in Poland, buying materials for an opposition newspaper in Nicaragua, bolstering the opposition in South Korea, aiding a party in Northern Ireland that is a member of the Socialist International and getting out the vote in Grenada and Latin American countries.

Money is also going to monitor and publicize human-rights abuses by Vietnam, for union-organizing in the Philippines and for public-opinion surveys to help political parties opposing the right-wing dictatorship in Chile.

"We're engaged in almost missionary work," said Keith Schuette, head of the National Republican Institute for International Affairs, which conveys some of the money to foreign political parties that share the Republicans' views. "We've seen what the Socialists do for each other. We've seen what the Communists do for each other. And now we've come along, and we have a broadly democratic movement, a force for democracy."

In some respects, the program resembles the aid given by the Central Intelligence Agency in the 1950's, 60's and 70's to bolster pro-American political groups. But that aid was clandestine and, subsequent Congessional investigations found, often used planted newspaper articles and other forms of intentionally misleading information.

The current financing is largely public—despite some recipients' wish to keep some activities secret—and appears to be given with the objective of shoring up political pluralism, broader than the C.I.A.'s goals of fostering pro-Americanism. Although some grants go to unions and parties that are close to the Administration's policy line, others support groups that disagree with Washington on the danger of the Soviet threat, for instance, or on aid to the Nicaraguan rebels.

Supporters praise it for lending a novel flexibility to Government-aide efforts abroad, for doing what official agencies have never been comfortable doing in public.

Opponents in Congress have branded it as more anti-Communist than pro-democratic and have faulted it for meddling in other countries' internal affairs.

The National Endowment was created in 1983 as an amalgam of various sectors of American society, including business, labor, academic institutions and the two major political parties.

Its board of directors reflects that diversity, including such prominent figures as former Vice President Mondale; former Secretary of State Henry A. Kissinger; Lane Kirkland, president of the A.F.L.-C.I.O.; Representative Dante B. Fascell, the Florida Democrat who heads the House Foreign Affairs Committee; Olin C. Robison president of Middlebury Colllege; Frank J. Fahrenkopf Jr., chairman of the Republican National Committee, and Charles T. Manatt, former chairman of the Democratic National Committee.

CONCEPT COLLECTS PRAISE AND CRITICISM

The concept of a private group as a conduit for Government funds for such a program has drawn both praise and criticism from liberals and conservatives alike.

The endowment's chairman is John Richardson, who was president in the 1960's of Radio Free Europe, which was funded by the C.I.A.. He was Assistant Secretary of State for Educational and Cultural Affairs in the 1970's, and has worked with nonprofit agencies such as Freedom House and the International Rescue Committee.

The money, disbursed to the National Endowment by the United States Information Agency, then flows through complex channels. Some is given directly by the group to those who use it. But most of it goes from the endowment to four "core grantees." They are the A.F.L.-C.I.O.'s Free Trade Union Institute; the Center for International Private Enterprise of the Chamber of Commerce, and the National Republican and National Democratic Institutes for International Affairs, which are affiliated with the Republican and Democratic national committees. Those either run programs themselves or pass the money on to others.

The concept of the endowment took shape as the country moved from the dark self-doubts after the Vietnam War into a new era of confidence in its own virtues and a conviction that democracy should be supported publicly and proudly, without the secrecy that tainted the C.I.A.'s activities.

"We should not have to do this kind of work covertly," said Carl Gershman, president of the endowment and an aide to Jeane J. Kirkpatrick when she was the chief United States delegate to the United Nations. "It would be terrible for democratic groups around the world to be seen as subsidized by the C.I.A. We saw that in the 60's, and that's why it has been discontinued. We have not had the capability of doing this, and that's why the endowment was created."

Mr. Gershman insists that there is no contact between the C.I.A. and the endowment and that before grants are made, a list of the potential recipients is sent by the endowment through the State Department to the C.I.A. to be sure none is receiving covert funds. No such case has been reported, Mr. Gershman said.

J. Brian Atwood, president of the National Democratic Institute for International Affairs, which receives some of the money, denies that the endowment's work bears any resemblance at all to earlier C.I.A. activities, which he said "did terrible damage to our own values" and "reflected a misunderstanding of what our values as a democratic society were all about."

He said that "many institutions didn't know they were receiving C.I.A. money," and that those who get money from the endowment are supposed to know where the money comes from and must agree to have the fact publicized.

Some grants seem at least superficially similar, however, La Prensa, the opposition paper in Nicaragua, is receiving $100,000 worth of newsprint, ink and other supplies this year to help it survive. In the early 1970's, the C.I.A. gave at least $1.6 million to El Mercurio, the major Santiago daily, which also faced economic pressure, from the Government of President Salvador Allende Gossens. Books and magazines were published with C.I.A. money, and campaigns to get out the vote were conducted, as they are now with endowment money.

The prospect of publicity causes discomfort to some who receive money. Because Congress has made the endowment subject to the Freedom of Information Act, Eugenia Kemble, head of the A.F.L.-C.I.O.'s Free Trade Union Institute, has expressed uneasiness about providing the detailed financial statements that are being required by the General Accounting Office. In a draft report, the G.A.O. criticized the endowment for inadequate monitoring of expenditures and recommended tighter procedures. Miss Kemble complained that any report going to the endowment can become public.

Since the end of World War II, the A.F.L.-C.I.O. had funneled money from various Government agencies to build up non-Communist unions abroad. Despite its denials, the labor movement has been suspected of conveying C.I.A. money. Miss Kemble expressed worry that publicity could endanger individuals facing dictatorial governments and invovled in "sensitive" work.

"There are some grantees we are phasing out because they cannot stand this," she said. "There's a failure to empathize with the people out there in terms of the political difficulties in which they have to operate."

For example, detailed expense reports, including names and specifics of the clandestine Solidarity printing operation inside Poland, would probably give the Polish police enough information to close down the operation. Miss Kemble said one European organization had infiltrators in communist unions to report on their plans and activities; making details public would damage the effort, she said.

But Mr. Schuette, of the Republican Institute, has a different view. "We cannot be secret," he said. "There is nothing secret. Our rule is, it's going to be public. Therefore, I'm not going to do anything that is going to damage people if it becomes public."

CONGRESSIONAL CRITICISM IS NOT UNCOMMON

Although $53.7 million seems a small amount when compared with the $38.3 billion allocated in foreign aid over the last three years, some members of Congress objected to the grants in view of cutbacks in domestic programs. At a recent Congressional hearing. Representative Barney Frank, Democrat of Massachusetts, said, "To say that we're not going to fund public transportation or research on cancer bacause we're got to give money to a French union for political purposes just deosn't seem reasonable."

Representative Hank Brown, Republican of Colorado, raised questions about possible conflict of interest, noting that the endowment's board includes current or former officers of some of the major grant recipients, including the A.F.L.-C.I.O., the Democratic and Repubican institutes, and the Chamber of Commerce. Although they do not vote on their own programs, he said, "The board has seen its job as one of dividing the public money among their own organizations."

Mr. Gershman and others involved counter that the input of such experienced people is essential for a wise program.

But that wisdom has also been challenged. At a Congressional hearing recently, Representative Frank chided the Democratic Institute for supporting the Social Democratic and Labor Party of Northern Ireland, which grew out of the nonviolent Catholic civil rights movement. Mr. Atwood called it "the only major party that is seeking to work through the democratic process," and said it needed help in building a structure. A total of $85,000 has been allocated for a training institute and a seminar on financing, communications and organization, Mr. Atwood said.

TAXING AMERICANS TO TELL IRISH OF POLITICS

Representative Frank raised an eyebrow. "Maybe I've been in Massachusetts too long," he said, "but the notion that we have to tax the Americans to teach the Irish about politics seems to me a very strange one. If people want to help one party or another in Northern Ireland, that's fine. But I don't think the American taxpayers ought to be taxed to do that."

That is precisely what is happening, however, not only in Northern Ireland, but also in Asia, Latin America and elsewhere. Those involved argue that democracy cannot be bolstered without strengthening democratic institutions.

The Republicans and Democrats approach the task in different ways. The Democrats usually hold conferences and seminars for a variety of parties in a given county or region, while the Republicans choose a particular party that seems to share conservative American positions on foreign policy and economic issues. The two institutes worked together to monitor the recent elections in the Philippines, documenting fraud and intimidation.

The effort thus provides common ground for diverse American viewpoints. "A conservative may see it as a better way to compete with the Communists," Mr. Atwood said. "I see it as a better way to bring about human rights in the world and a better way to bring about change and development in the world."

This sometimes puts the program at odds with the Administration's policies and preferences. The Social Democratic and Labor Party of Northern Ireland, for example, is a member of the Socialist International and a supporter of the Sandinista Government of Nicaragua, which the Reagan Administration would like to see overthrown.

STATE DEPARTMENT OPPOSED SEOUL PROGRAM

Similarly, when the Democrats proposed a conference in Washington of the South Korean opposition, the State Department worried about adverse reaction from the Seoul Government. The endowment gave the grant anyway, the conference was held and the State Department ultimately revised its assessment.

On May 9-11, the Democrats used their money to sponsor a conference in Caracas of Democratic parties from Venezuela, Chile, Argentina, Uruguay and Spain "to share ideas and experiences of party leaders who have been through the same problem—military dictatorship," Mr. Atwood said.

This kind of activity has two longterm benefits, he says: First, to build a sense of international solidarity among those who believe in democracy, and second, to reduce the fear of some leaders in Washington that friendly military dictatorships may give way to democratically elected governments prone to Communist influence.

In Mr. Atwood's view, this can reassure "the people who are status quo-oriented, who say that we can't get on the side of change because we don't know what will happen."

"The fear of the unknown factor is less if you know the people who are pushing for change," he said.

The Republican institute focuses more narrowly on moderate and conservative parties. "We wouldn't get involved with a Socialist Party," Mr. Schuette said. Those the Republicans have helped have often lost elections—in Portugal, Costa Rica and Bolivia, and most recently in Colombia, where the Conservative Party's Presidential candidate. Alvaro Gomez Hurtado, lost in a landslide May 26 to Virgilio Barco Vargas of the Liberal Party. The grant was intended to increase the participation of disaffected voters and party members.

"We do not fund political candidates in campaigns overseas," Mr. Schuette said. "Our programs are not designed or intended to have any effect on elections."

This was seconded by Mr. Fahrenkopf, the Republican national chairman and vice chairman of the endowment. "We feel we are accomplishing our purpose if in a country there are free elections," he declared. "It's really superfluous whether the particular parties we're helping are victorious or not."

The lines between promoting democracy and promoting a particular party's chances in an election are hard to draw, however. The A.F.L.-C.I.O.'s Free Trade Union Institute has channeled money to unions and other organizations associated with particular parties in Latin America, Africa, Asia and Western Europe.

FUROR OVER AID TO FRENCH RIGHTISTS

In an unpublicized move that was disclosed late last year, a $575,000, two-year grant was authorized to an extreme right-wing French group, the National Inter-University Union, known as U.N.I., its acronym in French. In 1982, a parliamentary inquiry found that U.N.I. had been created largely by a paramilitary, extremist nationalist organization called Service d'Action Civique, or S.A.C., which was founded in 1947 to provide order at meetings and protection for Gen. Charles DeGaulle.

S.A.C. was infiltrated by criminal elements in the 1960's and 70's, the inquiry found, and was declared an illegal organization after a political scandal arose around the killing of six people in the southern French town of Auriol in 1981. "U.N.I. was, at its beginnings, a satellite movement of S.A.C.," the inquiry concluded, "and it is today closely associated with it."

U.N.I. opposed the governing Socialists before and during the last election campaign, pasting posters over subway maps declaring, "Socialism is a lie and a fraud." It has distributed pamphlets accusing a Catholic aid agency of being a Marxist-Leninist front, and has compaigned against what it sees a Marxist influence in universities.

Last November, after French journalists reported the American funding of U.N.I., the endowment suspended its grant, Mr. Gershman said, leaving $73,000 of the $575,000 undelivered. The board is to decide next week whether to resume payments on the current grant, but Mr. Gershman said that no further grant would be made.

It is a new process, Mr. Fahrenkopf observed, one that is bound to run into trouble in the beginning, if it is as bold as it should be. "We're going to make mistakes," he said. "If we don't make mistakes, we shouldn't exist."●

FRANKING COSTS—HOW MANY MORE TIMES?

● Mr. QUAYLE. Mr. President, I have just received a copy of the latest quarterly report on congressional mailing costs from the U.S. Postal Service to the Clerk of the House. It shows that "the deficiency in provisional payments" is $6,355,387. Translated into English that means that Congress is overspending for the frank. Furthermore, that overspending is at a rate of more than 10 percent, making the March 1 4.3 percent Gramm-Rudman sequester absolutely meaningless. Congress is continuing to let out its belt—while requiring everybody else to tighten theirs.

The Postal Service report also demonstrates that the Senate's action in imposing discipline on its franking expenses is of little avail. I supported Senate Resolution 374, as reported by the Rules Committee and passed by the Senate on May 14, which imposed franking costs limitations on Senators, but I also pointed out that we cannot actually control these costs unless controls apply to the House as well. That was the purpose of my proposal—Senate Concurrent Resolution 139—which the Senate passed on the same day that it adopted the Rules Committee resolution.

The Rules Committee resolution that we passed is based on the assumption that the House and Senate will each use one-half of the available funds for mailing. It provides mechanisms to ensure that the Senate lives within that limitation—but only expresses a pious hope that the House will do the same. My concurrent resolution would convert that hope into reality, and the Postal Service report demonstrates conclusively that hope is not sufficient.

Let us look at the record as provided by the Postal Service. In the first quarter of this fiscal year, the House used 52 percent of the funds available for official mail costs—reasonably near the 50-percent assumption and in line with prior years' expenditure patterns. In the second quarter, the House used 61 percent of the funds. In the portion of the third quarter of fiscal year 1986 for which data is available, the House used 67 percent.

I rest my case. We cannot protect the taxpayer, we cannot impose fiscal discipline, by imposing limits on one-half of the franking account and letting the other half grow without limits. I call on fiscally responsible Members of the other body to act on Senate Concurrent Resolution 139.

I ask that the letter from the Postal Service and an extract from its report

to the Clerk of the House be printed in the RECORD.

The material follows:

UNITED STATES POSTAL SERVICE,
Washington, DC., May 23, 1986.

Hon. BENJAMIN J. GUTHRIE,
Clerk, U.S. House of Representatives, Washington, DC.

DEAR MR. GUTHRIE: Detailed data is enclosed on franked mail usage by the Congress for the second postal quarter, fiscal year 1986. Total postage and fees for the quarter is $25,461,544.

A year-to-date summary of congressional franked mail usage based upon two quarters of actual data for fiscal year 1986 is as follows:

Volume	423,097,406
Revenue per piece	$0.1227
Revenue	$51,910,941
Provisional payments (prorated to March 14)	$45,555,554
Deficiency in provisional payments	$6,355,387

We have not applied our normal procedure for projecting year-to-date results to an annual estimate in view of the atypical mailing patterns for this fiscal year and the passage of Senate Resolution 374. At the request of Senate officials, we have developed data on franked mail actual cost through May 21, 1986. Working from this status as of May 21, we are developing fiscal year 1986 estimates using assumptions to deal with the current uncertainty regarding franked mail mailing patterns. I will send you the results of our analysis when it is completed.

Sincerely,

JAMES S. STANFORD,
Manager, Official Mail Accounting Branch, Office of Accounting.
Washington, DC 20260-5215

FRANKED MAIL POSTAGE AND FEES OCT. 1, 1985, TO MAY 21, 1986

Quarter	House	Senate	Total
I	$13,764,256	$12,685,141	$26,449,397
II	15,611,880	9,849,664	25,461,544
II (through May 21, 1986)	11,888,898	5,734,138	17,623,036
Totals	41,265,034	28,268,943	69,533,977

●

TENTH ANNIVERSARY OF THE SOWETO RIOTS

● Mr. RIEGLE. Mr. President, today marks the 10th anniversary of the Soweto riots, which initiated a decade of bloodshed and violence in South Africa.

Reflecting on that date, Rev. Allan Boesak said recently:

Since Soweto, in 1976, we have lost all innocence in regard to the South African government and its intentions. Since Soweto, we have been bereft of all illusions we may have had of the willingness of the government to use every force at its disposal to maintain its position of power and privilege.

Tragically, that awakening has still not occurred within our own administration, which seems to remain blind to the true character of the apartheid regime in South Africa. The dismal record of the United States policy of constructive engagement, and America's virtual international isolation in its political and economic support for South Africa, testify to our failure to face the realities of apartheid and of the government which continues it.

Last week's declaration of a nationwide state of emergency and the subsequent arrest of some 2,000 suspected opposition leaders is only the most recent and most blatant effort on the part of the white regime to suppress the outrage felt by the victims of apartheid.

It has become increasingly obvious that 5 years of "constructive engagement" and half-hearted sanctions have done little to alter the basic character of the white minority regime in South Africa. The Botha government and its conservative supporters tenaciously hold on to the reigns of power, avoiding any meaningful compromise with the black majority. Banishment to barren homelands, deprivation of all political and economic rights, continual violence and the threat of police detention have become facts of life for South Africa's 23 million blacks.

Many South African whites find solace in their historical cultural and economic ties to the West. However, as Americans, who pride ourselves on this Nation's defense of individual rights and liberties, we find it impossible to feel a kinship with those who support the continuation of the injustices inherent in the apartheid system.

In clearly demonstrating how fragile these ties are, Americans have the opportunity to shake apartheid supporters out of their complacency and help steer them onto a more constructive course.

The delegates to the recent meeting of Commonwealth nations on South Africa concluded that the absence of effective sanctions on the part of the major Western countries, primarily the United States, Great Britain, and West Germany, encourages South African intransigence and renders actions taken by other nations completely ineffective. It is a travesty that the United Nations Conference on sanctions against South Africa now taking place in Paris is being boycotted by precisely these three countries.

Continued United States appeasement and vacillation will only encourage the South African security forces to engage in further excesses, both within South Africa's borders and beyond, and will prolong the suffering of the black majority struggling to secure their most basic political, economic and human rights.

If the administration is unwilling to clearly domonstrate what I believe is the American people's outrage over the failure of the South African Government to respond to the cries of its people for justice, then the Congress must move forward with its own initiatives.

S. 2498, the Anti-Apartheid Act of 1986, would impose significant economic and political sanctions on South Africa in the absence of serious reforms by the Government. This legislation will, among other things, strengthen pro-Western, democratic black leaders who will, one day, lead their country, and will provide the United States with the means to promote constructive change within South Africa.

I hope the Senate will act promptly to pass this important legislation.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act, as amended.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and the revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, Senate Concurrent Resolution 32. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32 and is current through June 13, 1986. The report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

No changes have occurred since my last report.

With best wishes.

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JUNE 13, 1986

[Fiscal year 1986—in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,057.1	980.3	778.5	2,033.0
Budget resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over resolution by		12.7		
Under resolution by	12.6		17.2	45.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate committee or passed by the Senate. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99th CONGRESS, 2d SESSION, AS OF JUNE 13, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds.	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	
Total enacted in previous sessions.	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation urgent supplemental appropriation, 1986 (Public Law 99–243).			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99–251).		4	
VA home loan guarantee amendments (Public Law 99–255).		51	
Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).	−4,259	−6,001	765
Department of Agriculture urgent supplemental, 1986 (Public Law 99–263).			
Advance to Hazardous Substance Response Trust Fund (Public Law 99–270).			
FHA and GNMA Credit Commitment Assistance Act (Public Law 99–289).		−380	
Federal Employees Retirement Act of 1986 (Public Law 99–335).			−90
Total	−4,259	−6,428	675
III. Continuing resolution authority.			
IV. Conference agreements ratified by both Houses.			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Veterans compensation.	272	185	
Veterans readjustment benefits.	91	91	
Compact of free association.	205	205	
Special benefits (Federal employees).	14	14	
Family social services	100	75	
Guaranteed student loans.	6		
Payment to civil service retirement[1].	(37)	(37)	
Total entitlements	688	570	
Total current level as of June 13, 1986.	1,057,108	980,302	778,469
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution.		12,702	
Under budget resolution.	12,592		17,231

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

NAUM AND INNA MEIMAN: THE PLIGHT CONTINUES

● Mr. SIMON. Mr. President, since March of this year, I have been calling the Senate's attention to the plight of Naum and Inna Meiman. They are a warm, caring couple who wish to emigrate to Israel. Their situation is tragic as they are in poor health. As each month passes and the Soviet Government continues to deny them the permission to emigrate, the Meimans' chances to live in Israel dwindle.

Inna is critically ill with cancer. Naum is getting older. He is 74. The Meimans have little time left to enjoy the land of their ancestors. They must be given the chance to breathe the air of Israel. What do the Soviets gain by harassing this elderly and sick couple?

I strongly urge the Soviets to allow the Meimans to emigrate to Israel.●

ORDERS FOR TUESDAY

RECESS UNTIL 9:30 A.M.

Mr. McCLURE. Mr. President, I ask unanimous consent that once the Senate completes its business today it stands in recess until 9:30 a.m., on Tuesday, June 17, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. McCLURE. Mr. President, following the recognition of the two leaders under the standing order of 10 minutes each, I ask unanimous consent that there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HECHT, PROXMIRE, GOLDWATER, KERRY, DENTON, GORE, WALLOP, SASSER, SYMMS, and LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. McCLURE. Following the recognition of the Senators under the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM BILL

Mr. McCLURE. At 10:30 a.m., the Senate will resume consideration of H.R. 3838, the tax reform bill. Votes can be expected to occur prior to the hour of 12 noon.

A late night session is expected.

RECESS BETWEEN 12 NOON AND 2 P.M.

Mr. McCLURE. I further ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m. in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. At 2 p.m. the Senate will resume consideration of H.R. 3838, the tax reform bill, and votes can be expected through the day on Tuesday, June 17, 1986.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. McCLURE. Mr. President, I move that the Senate stand in recess pursuant to the previous order.

The motion was agreed to; and, at 6:50 p.m., the Senate recessed until tomorrow, Tuesday, June 17, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 16, 1986:

DEPARTMENT OF STATE

Brunson McKinley, of New Jersey, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

PEACE CORPS NATIONAL ADVISORY COUNCIL

John J. Petillo, of New Jersey, to be a member of the Peace Corps National Advisory Council for a term of 2 years expiring November 29, 1987, new position.

ENVIRONMENTAL PROTECTION AGENCY

Thomas Lynch Adams, Jr., of Kentucky, to be an Assistant Administrator of the Environmental Protection Agency, vice Courtney M. Price, resigned.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Frank B. Kelso II, [redacted]/1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Daniel L. Cooper, [redacted]/1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. David E. Jeremiah, [redacted]/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Kendall E. Moranville, [redacted]/1310, U.S. Navy.

IN THE AIR FORCE

The following dean of the facility, U.S. Air Force Academy, for reappointment to the active duty list of the Regular Air Force in the grade of colonel, Regular Air Force, effective 17 November 1986 under the provisions of section 531, title 10, United States Code:

LINE OF THE AIR FORCE

Ervin J. Rokke, xxx-xx-xxxx

IN THE ARMY

The following-named officer for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, sections 624 and 628:

MEDICAL CORPS

To be lieutenant colonel

Abraham A. Ghiatas, xxx-xx-xxxx

DENTAL CORPS

To be major

Joey C. Dobbins, xxx-xx-xxxx

The following-named officer for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, sections 624 and 628:

CHAPLAIN CORPS

To be major

Michael D. Mantooth, xxx-xx-xxxx

EXTENSIONS OF REMARKS

AGNES KJORLIE GEELAN, NORTH DAKOTA'S FIRST LADY

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. DORGAN of North Dakota. Mr. Speaker, Agnes Kjorlie Geelan recently celebrated her 90th birthday, still bright, sharp, and quick to discuss the day's events.

Her public career is an inspiration to all who hear about it, especially the young women of today.

She has ties to Congress—having written a biography of North Dakota's famous Senator Bill Langer and having herself run for Congress from North Dakota as the first woman endorsed by a major political party.

I'd like to share with my colleagues an article written 4 years ago in North Dakota Horizons by Nancy Edmonds Hanson. It tells Agnes Kjorlie Geelan's remarkable story:

AGNES KJORLIE GEELAN

(By Nancy Edmonds Hanson)

When she was appointed the first woman commissioner of workmen's compensation in state history in 1961, Agnes Geelan had long taken for granted the special role of breaking new ground for her sex.

But her new colleagues on the three-member board were less sanguine. One expressed his reservations to a newspaper reporter. "She will have to hold up her duties and conduct meetings and hearings just as the rest of us do," he commented huffily.

Reporting his comments in her hometown newspaper, the *Enderlin Independent,* its editor chortled, "At which, all the local men and women who have worked with her laughed loud and long. He just hasn't worked on a committee with our Agnes!"

Agnes Geelan, 86 today, has been honored and reviled over a lifetime in the public eye in North Dakota, admired and bitterly opposed . . . but seldom as badly underestimated.

She's still adding new accomplishments to a career that has spanned education, fraternal groups, labor, state and national politics, government service and—in the last decade—authorship of an acclaimed biography of William Langer and a brand-new first novel.

She casually describes herself as "an old grey political mare," and downplays the achievements won as North Dakota's first woman mayor, first woman state senator, first woman endorsed for Congress by a major political party, as well as leadership in the Nonpartisan League and, later, the Democratic-NPL Party.

But her close friends and colleagues, still admitting that they're outdistanced and inspired by her, prefer a more imposing title—the First Lady of North Dakota liberal politics.

Today, as she has for the past decade. Agnes lives a quiet life in the apartment to which she retired in Fargo, scheduling her days around the writer's discipline that, she says, delights her.

"Writing is fun! It's the most enjoyable activity I can imagine," she says, pouring a cup of coffee and setting down in the bedroom she's converted into a study and research library.

"My dear friend, Sister Anne Burns of Mary College, told me years ago that to become a writer I must write every day. She gave me a tiny owl to remind me, and it's watched from the wall ever since," she reflects. "I had never thought I could write. Since I discovered that I could, I've been faithful to her advice."

Encouraged by Sister Anne and Alice Dickey, from whom she took basic writing courses at North Dakota State University in 1972 and 1973, Agnes set out on a quest she says she "couldn't believe no one had done yet" writing the biography of North Dakota's most famous and controversial political figure, Willliam Langer. (Only one writer had tackled the story before—a Langer political crony, who produced a book as campaign literature in 1940.)

From her own experience campaigning both for and against him, from interviews with more than 300 of his friends and enemies around the nation, and from copious research in the mountain of Langer papers left behind after his 50 years in politics, she composed *The Dakota Maverick.*

Several national publishers turned the manuscript down because of its limited geographic market and the time elapsed since Langer's death in 1958. Another brusquely refused to so much as open it. "He obviously thought I was just another senile old lady," Agnes still fumes. "He told me that they had far too many good books to consider to even bother to look at mine."

Agnes scraped up the money to publish just 3,000 copies of *The Dakota Maverick,* partly through a loan from her old political allies at the Farmers Union. "When I saw those 60 big boxes of books and got the bill from the printer, then I really knew the price of vanity," she quips.

A large Fargo bookstore accepted just five copies for its shelves, and only one other store responded at all to her sales literature. But word of mouth suddenly made the book into a North Dakota phenomenon: After news of it reached the public, every copy from that first printing was sold between Nov. 15 and Dec. 20, 1975. The Fargo book store sold 500 more copies that month.

Second and third printings quickly followed, and sold out just as rapidly through a novel marketing approach suggested by Jerry Rustad of Newman Signs in Jamestown. The company helped publish more books, then blitzed the state with 100 billboards advertising the Langer volume. "I doubt they thought it was more than an experiment in billboard marketing, and perhaps a favor to an old friend," Agnes suggests. But results were spectacular. Thousands of books were sold in coming months, a reaction so stunning that it was written up in national advertising publications.

All in all, 7,000 copies of the book for which publishers had expected no market were sold in two years, almost all within the state of North Dakota. (By contrast, 5,000 copies of a nonfiction book by a new author is considered a respectable showing—marketed from coast to coast.)

"Bill was a fascinating, misunderstood man, born 25 years before this time," Agnes sums up the career of the man who so often stood alone during his last isolationist days in the U.S. Senate. "I was amazed to find how many errors had appeared in published accounts of his career and adventures over the years."

Colleagues urged Agnes to follow up the success of her Langer book (which she has allowed to go out of print, despite excellent prospects for continued sales) with more writing on North Dakota politics, drawing again on her firsthand role in the Nonpartisan League and its insurgent movement.

Instead, she chose to use her experiences in an entirely different way, the writing of fiction.

Her first novel is to be available in April. Entitled *The Ministers' Daughters,* it's the saga of two women who begin life best friends in a small Minnesota town, and conclude it bitter enemies after parallel successes in fields which Agnes knows well.

"I knew I wanted to write another book. At first I thought it would be a history of fraternal organizations," she says. She'd already lived the background for such a book as past department commander of the American Legion Auxiliary in North Dakota and a long-time Grand Lodge officer of the Ladies Auxiliary of the Brotherhood of Railroad Trainmen, to which her husband Elric belonged.

Instead, she sidetracked those plans into the new challenge of writing fiction. Though only a few minor characters in her novel are drawn directly from life, it relies heavily on Agnes' observations and personal interests—from the Chappewa Indians to World War II war bond campaigns, from education and banking (in which she briefly worked during the war) to mythical fraternal orders like the Followers of Mary and the Ancient Order of Penguins.

Now experienced in the ways of publishing and marketing her own work, she chose once again to underwrite the publication of *The Ministers' Daughters.* She'll market it in North Dakota and Minnesota, where its fictional small town of Pine Cover is set in the forests south of Duluth.

She still hopes to take on the history of fraternal organizations in small town America, an influence on community life in the past generation which she believes is badly underrated and misunderstood.

But first, while marketing the novel, she intends to tackle college courses in science and matematics, two fields in which she says she's particularly weak. "If the first courses I take go well," she speculates, "I may go back and finish my degree. I probably have enough English classes for a master's, but I'm woefully short in other areas."

Born in 1896, Agnes—daughter of Norwegian immigrants Harold and Jane Kjorlie—grew up in Hatton, where she and another famous North Dakotan, Carl Ben Eielson, were one-third of the high school graduating class of 1914.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Agnes almost did not graduate. "When I was a sophomore, I had three job offers and didn't think Hatton could get along without me. I quit school to take the best one, head operator of the local telephone exchange," she chuckles.

"Our superintendent, Oscar Erickson, begged me to come back to school," she says. "Back then, being on the debating team was like being on the first string of the Minnesota Vikings; he promised me that, if I came back to school, I could be a debater when I was a junior."

She couldn't resist, though she did schedule the operator job on afternoons and evenings. At Erickson's suggestion, she'd saddle a horse from her father's livery stable during her free time and, on long solitary rides in the country, practice pronouncing words minus her thick Norwegian accent.

"Ben Eielson had the same problem; he practiced while he was milking the family cow," she recalls. "Finally the cow wouldn't give milk unless you talked to her."

Their practice paid off. As juniors, their team was runner-up in the state debating contest; as seniors, they were champions. The issues on which they debated so successfully were "Should the Post Office establish parcel post," and "Should North Dakota establish its own terminal elevator?"

The latter was a hot issue in the populist atmosphere of the state, and bitter debates centered around it at the Kjorlie home. Agnes' father was a dedicated Republican conservative, her uncle a Leaguer. Agnes soaked up the arguments.

After a year taking the teaching course at Mayville Normal School (now Mayville State College), she set out as an 18-year-old schoolteacher to her first job in Lankin. "I truly loved teaching. When I left, the children and I shed many a tear," she remembers.

Her second position was in Oberon, where her old inspiration Oscar Erickson again made his influence felt. The Women's Suffrage Association in North Dakota needed a field worker to support passage of the 19th amendment. She quit her job in 1919 to join that cause. But the final state ratified the amendment before she could begin, and she found herself unemployed.

(Agnes was close to the issue of women's suffrage. She'd refused to vote in 1918, the first year in which she was of age, because North Dakota women were limited to voting on a separate ballot with choices only for county superintendents of schools and the state superintendent of public instruction. "I was outraged and refused to vote at all. I regret that now" she concedes.)

Erickson rescued his protege with an offer to teach for him, now in Mayville. Two years later she accepted a position in Enderlin that was to change the course of her life, she says, for the better.

It was in Enderlin where the young teacher, already known as a superb public speaker and community livewire, met her husband Elric through a blind date—not her own, but one she fixed up for a friend.

"One of my friends had very few dates, and we thought it would be great if we could fix her up for a dance that was coming up," she says. She thought of the young "red-faced Irish farmer" whom she'd seen driving his team past town; that day she flagged him down and set up the date.

"It was love at first sight. It truly was," Agnes recalls. "He did take my friend to the dance and I went with another fellow, but that night Elric took me home while I left Ruth with my date."

They dated for five years. The Irishman, Elric Geelan, worked for the Soo Line railroad as well as helped his family farm near Enderlin and, since jobs were shaky then, the young couple wanted to wait until he was sure his employment was secure. They were married in 1926, a marriage Agnes recalls as "so happy that I am almost embarrassed to say so."

She adds, "Elric encouraged me in everything I've done. He'd ask, 'Is it what you really want, Ma? Then do it.' "

Agnes taught for nearly ten years after they were married. She chaired the elementary division of the North Dakota Education Association in the 1920s, meanwhile delving into every activity Enderlin had to offer. ("Elric always told me, 'You speak Norwegian and you speak English, but you never learned to say no in either language.' " Agnes remembers.)

She headed the local American Legion Auxiliary in 1934 and the state auxiliary the next year, and was national committeewoman an in 1936. In the early 1930s, as Americanism chairman, she took part in an in-depth investigation of Communist activity across the state; her report concluded that, while their goals were antithetical to everything the Legion stood for, no official action needed to be taken because the Communists would lose support as soon as times improved for farmers and working men.

She became a member of the nation's largest fraternal order of that day, the Ladies Auxiliary of the Brotherhood of Railroad Trainmen, through Elric's position with the Soo Line. Soon Agnes became deeply immersed in labor activities. Local president in Enderlin in 1926, she was elected national vice president in 1936 and continued as a field worker in the West and Midwest until 1946, when the national organization moved to draft her to run for its president.

"It would have meant the end of my marriage. I'd have had to live in Ohio, and Elric in Enderlin," she says. "I told them 'no.' Without personal happiness, nothing else counts. I've never regretted that decision."

Instead she accepted the chairmanship of the Grand Lodge board of trustees and headed its important insurance investment fund, as well as served as national legislative represenative in the 1950s. (She resigned from national office in 1961, after accepting Governor William Guy's appointment as the labor representative on the Workmen's Compensation Commission, the first appointment of his administration.)

In 1946 her membership in the trainmen's auxiliary prompted Agnes to run, unknown to her, for mayor of Enderlin. "The ladies had sponsored a Thanksgiving Eve Dance for several years in the town hall that was a great success—so successful that, the firemen decided it shouldn't be run by the ladies anymore. The city council gave them 'our' building instead," she explains.

Agnes herself was away on Grand Lodge business. "When I got back, Elric met the train grinning from ear to ear," she says. "He said, 'What would you say to a move to elect you mayor?'

"I said, 'They must be crazy. I can't do that.' " Agnes recalls.

"Elric said, 'The hell you can't.' "

She was elected.

The men of Enderlin lined the curb outside the council room when Agnes presided over her first meeting, sure she'd emerge in tears. Instead, biding her time, she succeeded in making her points and leading Enderlin into a period of dramatic city improvements (not to mention Thanksgiving dances). That she'd won the city confidence was clear: After Agnes decided not to run again in 1954, they elected a second woman mayor in her place.

Labor and the Farmers Union urged Agnes to become involved in politics in 1947. ("It's nonsense that women can't get support in politics," she observes. "Win an election, and the politicians beat a path to your door.") The revitalized Nonpartisan League reacted to the anti-labor and Farmers Union trend then seen in state politics by nominating Agnes as one of their candidates for the U.S. House of Representatives. She ran as the NPL candidate facing Republican Organizing Committee (ROC) favorites in the primary, and was defeated. At that time the NPL still ran in the Republican column; to win the Republican primary was tantamount to succeeding in the general election in the fall.

In 1950 she became a candidate for state senator from Ransom County, opposing an incumbent who'd made derogatory comments a year earlier when several Bismarck women had testified before his legislative committee. "All the ladies got out of this was a morning's housework," he told the press, adding that women should keep their noses out of politics and let the Legislature go about its work.

That fall she defeated him by 66 votes.

Agnes served in the 1951 and 1953 sessions, with her faithful supporter Elric seated behind her desk in the senate chambers. "He never told me how to vote, but afterward he'd say whether he agreed or not," she says.

Elric campaigned with Agnes whenever she was a candidate. During her speeches, she'd look forward anxiously to his reviews. "I remember one appearance in Hillsboro during a statewide campaign. He looked like a thundercloud," she recounts. "Afterward I rushed to him and said, 'Elric, what was wrong?' "

"He exploded, 'Ma, where on earth did you get that hat?' "

Education, city governments and labor were Agnes' greatest concerns in the Legislature; she believes her two sessions passed beneficial bills in all three areas. But her service is marked more, she says, by another bill she introduced—to ban the sale of candy cigarettes.

"The press just killed us. We got derogatory coverage across the country," she says, philosophical now. "But that bill was just ahead of its time. Today, with the changed attitude toward smoking, we'd all be heroes."

She was defeated in 1954 by Don Holand, who she concedes was "the better man." But in the meantime her deep involvement in the Nonpartisan League, which like so many things had grown out of her marriage to Elric, led to service on the NPL executive committee.

Agnes was among the "insurgents," the liberal wing of the Nonpartisan League which was to lead it in the late 1950s into a merger with the Democratic Party and, as a result, create the first true two-party system in North Dakota history.

In 1956 she was again nominated for the U.S. Congress, this time on the Democratic-NPL rather than the Republican side of the ballot. Despite a strong showing, she lost, at least in part due to the opposition of William Langer and sentiment that had dubbed the Democrats "the war party." Langer's opposition, like so many of his actions, was ironic; four years earlier, his future bio-

grapher and Elric has spent the entire summer campaigning for his reelection to the Senate.

After the merger of the NPL and the Democrats, Agnes continued her role as a leader—state vice chairman in 1958-1961, delegate to national conventions in 1956 and 1960, a member of the powerful platform committee in 1960, and various leadership positions in North Dakota campaigns throughout that period.

After Elric retired from the railroad in 1961, Agnes became a member of Bill Guy's transition team and his first appointment—as workmen's compensation commissioner, the second-most-highly-paid appointee in state government.

In 1964, with Elric's health deteriorating, Agnes retired for the first time. "We spent two wonderful years, wintering in Arizona and spending summers in our cabin on the Ash River Trail," she reminisces. The cottage, near Lake Kabetogama in Voyageurs National Park, allowed them to pursue their love of fishing and boating. In fall, they hunted ducks and pheasant together, as they had for a lifetime.

Elric died in 1966. "We had 40 years together. He was a tremendous human being," Agnes says. "Without his support, I'd have done none of these things."

Governor Guy called Agnes back to Bismarck after her husband's death to resume her work with the workmen's compensation board, which reviews payments for workers injured or killed on the job across the state. She accepted provided that she could chair the group, and served from 1966 until 1971.

"I always told the governor I wouldn't serve beyond my 75th birthday because I wanted no one to be able to say he had a senile old lady in his administration," she says firmly. "I made him promise that if I started slipping, he'd tell me so that I could quit."

A national officer, too, of the Association of Workmen's Compensation Administrators during that period, Agnes chaired Guy's newly formed Commission on the Status of Women in 1963-64. She was a state director of COPE, the AFL-CIO's Committee on Political Education, in the early 1960s.

After her second retirement, in 1972 she served as an elected delegate to the constitutional convention, one of her fondest memories.

Always renowned for her inimitable, moving style as a speaker, Agnes had retired from the platform as well as the Guy administration in 1971 . . . she thought. But when a young friend virtually begged her a year later to address the first meeting of the Women's Coalition, a group of state supporters of the Equal Rights Amendment, she accepted—and initated a new round of speaking on women in politics that culminated in the International Women's Year meeting in 1975, followed by her election as a delegate to the national forum in Houston.

Yet despite her active participation in women's groups, she believes that women belong in the mainstream of political parties, not in organizations limited to their sex.

"Until women exert an influence as part of the general membership of their political parties instead of through women's groups on the side, they will never be very successful," she believes.

"I've been asked so many times if being a woman has been a handicap in my political career. I say, 'Absolutely not!' " she adds.

"When I was elected mayor in Enderlin, all the men were going to resign, of course," she says. "It started a bit rough, but we got along beautifully.

"When I was in the Senate, it was much the same." Agnes asserts, "When you do your best and stand up for what you believe in, men quickly forget that you're female and treat you like a person, as a rule."

Looking back on her career, Agnes readily points out mistakes, but voices no regrets. "Not everything I've done has been politically wise, or politically successful, but I've always done what I believed in. I've never been untruthful." She adds, "Unpopular, maybe . . ."

In the past 20 years, Agnes has collected a wide variety of awards and tokens of appreciation, some for her landmark achievements as a woman, others for her landmark achievements, period.

She maintains close ties to friends in many fields as well as to her adopted hometown of Enderlin.

"Everything I am, I owe to the small North Dakota towns in which I've lived, where I was raised and married and worked and was trusted with responsibilities," Agnes says. "That's why I dedicated my new book 'to the small towns I've known and loved.' "

That those towns are better for her residence there is indisputable . . . as is the evidence that, among many of the North Dakotans with whom she has struggled and served over a lifetime in the state, a not-inconsiderable number love Agnes Geelan right back.

LEGISLATION TO AUTHORIZE PAYMENT OF REASONABLE ATTORNEY'S FEES FOR MEMBERS, OFFICERS, OR EMPLOYEES OF THE HOUSE AGAINST WHOM A COMPLAINT IS FILED WITH THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. SEIBERLING. Mr. Speaker, rule X, clause 4(e)(1) of the Rules of the House of Representatives authorizes the Committee on Standards of Official Conduct to take administrative actions to "establish or enforce standards of official conduct for Members, officers, and employees of the House," and to investigate any alleged violation by Members, officers, or employees of the House "of the Code of Official Conduct or of any law, rule, regulation, or other standard applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities. . ."

The consequences of an affirmative finding by the committee of improper conduct by a Member, officer, or employee of the House can be severe. Even if the consequences of an affirmative finding are limited to a public rebuke in the House, a Member's reputation and career can be irreparably damaged. Moreover, the mere filing of a complaint can have dire consequences for those of us who live our public and private lives in a fishbowl, thus subject to rumor, innuendo, and speculation.

In short, the filing of a complaint against a Member before the Standards Committee is a very serious matter for both the Member and the House. Proceedings following the filing of a complaint sometimes turn on a fine point of a particular law or standard of conduct applicable solely because the individual is a Member of the U.S. Congress. Moreover, once a complaint is filed, the committee not only has a substantial staff to pursue the matter, but is frequently authorized to hire additional staff to investigate and prosecute the complaint. Faced with such formidable forces against him, only a naive or foolish Member would fail to sense the need to retain legal counsel when called before the committee to answer a complaint. If he does so, however, the first thing he will discover is that lawyers are expensive.

The next thing he will discover is that there is no set procedure to provide for counsel for Members of the House called before the committee. It is true that Members may, in certain circumstances, pay for the cost of counsel from "excess" campaign contributions, or may establish a special legal defense fund empowered to accept contributions for the cost of legal fees. Clearly these are far from satisfactory solutions, if indeed they are solutions at all. The right to counsel should not depend either on whether a Member is a person of financial means or can persuade others to finance his or her defense.

Curiously, Members of Congress appear to be the only officials of the Government who are not provided with legal counsel when called upon to answer charges relating to their official duties. Under procedures laid out by the Department of Justice (28 CFR, chapter 1, section 50.15), "a Federal employee . . . may be provided representation in civil and congressional proceedings and in State criminal proceedings in which he is sued, subpoenaed, or charged in his individual capacity . . . when the actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment. . . ."

The Department will, under certain circumstances, also authorize reimbursement for the retention of private counsel by Federal employees. According to a Congressional Research Service study, under the current policy, DOJ will provide private counsel "to present or former Government employees who are being sued for acts alleged to have been performed within the scope of their employment when (1) the Department . . . finds that consideration of professional ethics prohibit direct review of the facts by attorneys of the litigating division . . . (2) the employee is the target of a Federal criminal investigation concerning the act or acts for which he seeks representation but no decision to seek an indictment . . . has been made . . . (3) a conflict exists between the legal or factual positions of various employees in the same case which makes it inappropriate for a single attorney to represent them all . . . or (4) adequate representation of the employee requires the making of an argument which conflicts with a governmental position."

Of course, Members of Congress accept the specifics of the Code of Conduct of the

House when they take office, and I do not suggest that there is any inherent lack of fairness in the procedures followed by the Standards Committee when it conducts investigations or recommends disciplinary action against a Member. On the other hand, elementary fairness, indeed the Constitution's guarantee of due process of law, is not met unless every accused person has reasonable assurance of professional legal counsel, and without having to impoverish himself in order to retain counsel. Officers and employees of the House likewise should have such assurance if a complaint is filed against them in the Standards Committee.

It is worth recalling that the Supreme Court, in the famous decision of Gideon versus Wainwright, has ruled that the Government must, if necessary, pay for a defendant's counsel in a criminal case, if the defendant is unable to pay. More recently, the Federal Government paid several hundred thousand dollars in legal fees incurred by Edwin Meese in connection with the investigation arising out of proceedings on his nomination to the office of Attorney General, although there was a controversy over the size of the fee.

With these considerations in mind, I have today introduced a resolution which will amend the Rules of the House of Representatives to authorize the Standards Committee to provide for the payment of reasonable attorney's fees when a complaint if filed against a Member, officer, or employee of the House. In order to ensure that we do not have a repeat of the Meese case, the resolution also authorizes the Committee on House Administration to promulgate regulations governing the payment of such fees. I would expect that committee to take what ever steps are necessary to ensure that such fees are held within reasonable grounds. The resolution would apply only to complaints or independent investigations launched by the Standards Committee, not to any civil or criminal actions taken against Members, officers, or employees of the House.

SOWETO: AN ANNIVERSARY OF SHAME

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. DOWNEY of New York. Mr. Speaker, today, we stop to reflect on the events that occurred in Soweto in 1976.

Ten years ago, a student demonstration in an unknown black township outside Johannesburg was set upon by the police of the racist South African regime. A 13-year-old, Hector Peterson, was the first casualty. But in the long run, the greatest casualty was the credibility of the South African Government which lost all claims to moral authority in the eyes of all but its most die-hard supporters.

Ten years ago, none of us had heard of Soweto. Today, its name has become a symbol of the moral, political—and possibly economic—bankruptcy of apartheid.

Ten years ago, there were few reporters from the Western media present. Today, the anniversary itself is front page news around the world, despite the fact that reporters are operating under severe restrictions and the ironically named South African Bureau of Information is the only source of news from the townships.

Ten years ago, Nelson Mandela was in prison, his fate largely ignored by the world outside Africa. Today, Nelson Mandela remains in prison, but he has become a worldwide symbol of black South Africa's aspirations.

What happened 10 years ago in Soweto, Mr. Speaker? The youth of South Africa's black townships took to the streets and revitalized the struggle for black liberation. They set in motion a massive confrontation between the white government and the black people of South Africa.

This was not an isolated event, a sudden, unpredictable flareup of violence. It was the result of long pentup frustrations within the African community, of empty promises of reform, of economic collapse, of events in neighboring countries.

In September 1974, the South African Ambassador to the United Nations delivered a long-awaited speech in which he promised that the South African Government was about to embark on a series of reforms that would soften the effects of apartheid on the nation's African majority. But then, as now, the promise of reform rang hollow.

Apartheid South Africa was in crisis by 1976, Mr. Speaker. Its troops, which had invaded Angola in a vain attempt to install their puppet, Jonas Savimbi, had been defeated. The economy was in sharp decline. In the black townships that surround the white cities, unemployment was at an all time high. Foreign investment was declining.

Perhaps most ominous for the future of apartheid, young black men and women were beginning to organize and to state their opposition to apartheid more forcefully.

The educational system became the focal point for young people's disaffection. Faced with ridiculously inadequate facilities, a shortage of teachers, and too few textbooks for African students, the rulers of apartheid decided that educational reform was needed. What did they do, Mr. Speaker? They issued a decree that said that African students should learn Afrikaans—the language of apartheid. This colossal blunder would have been laughable, had its immediate consequences not been so tragic.

African students began a school boycott and on June 16, 1976, organized a demonstration against the Afrikaans language decree. The police attacked the school children and Soweto became the watchword of the liberation struggle. The young people of the black townships moved apartheid back into the consciousness of the world.

Mr. Speaker, I have taken the time to go back over the events of 1976 because it is clear that there are some in this administration who still do not see apartheid and the inept and futile attempts of South Africa's rulers to reform an incorrigibly racist system as the cause of the present violence in South Africa.

It is now 10 years later. Thousands of people have died. Apartheid still hangs on in Pretoria and this administration still seems eager to help it make it through another 10 years.

But we should not delude ourselves. If Pretoria's rulers make it through today, it does not confer any more legitimacy on them. If they make it through today, it can not alter the fact that apartheid is doomed.

In the past 2 years, we have seen an unprecedentedly sustained protest against apartheid, here in the United States, but more significantly, in South Africa.

Tragically, this protest has been costly in terms of human lives. More than 1,600 people have died in South Africa. South Africa's rulers have declared war on the 23 million Africans which is rules but refuses to allow to participate in the civic life of the nation.

This week, we here in the House will begin consideration of legislation to move the United States more forcefully into the camp of those who oppose apartheid. It is tragic that the administration has equivocated so much in its opposition to this racist system. President Reagan refused to condemn last week's announcement of a nationwide state of emergency by the South African Government. He refused to condemn the middle of the night roundups of black trade union, church, student, and civic leaders. Once again, President Reagan blamed the victim. All he could do is express regret and remind us of black on black violence. Incredibly he told us that there is a civil war going on and that it is tribal in origin. Who briefs the President on South Africa? The South African Ambassador? No, Mr. President, the civil war is not tribal in origin. The South African Government is at war with the majority of South Africans. And once again, you have aligned yourself with this terrorist regime. How much longer will you march with Pretoria?

Mr. Speaker, when the House consider H.R. 4868 later this week, we will have the chance to move the administration toward a more realistic policy on South Africa. I hope that we remember Hector Peterson and the countless other South Africans who have died in the hope of creating a better society in South Africa and pass this legislation overwhelmingly.

RUGBY COMES TO CONGRESS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mrs. SCHROEDER. Mr. Speaker, immigration legislation is at yet another impasse, a parliamentary scrummage, because we have no clear purpose in mind.

The words "reform," "control," and "amnesty" are pitched around like rugby balls.

But the real name of the game is farm labor.

Set out below is my statement, filed last week during Judiciary Committee consideration of H.R. 3810, the Immigration Control and Legalization Amendments Act of 1985:

STATEMENT OF U.S. REPRESENTATIVE PAT SCHROEDER

HOUSE JUDICIARY COMMITTEE CONSIDERATION OF H.R. 3810

A member of congress once argued that a liberal U.S. immigration policy was fine when the country was new and unsettled, but now that we had reached maturity and full population, immigration should cease. That argument was made in 1797 and has been repeated ever since.

Sometimes the rhetoric gets so heated, the statistics go off the charts. In The Immigration Time Bomb: The Fragmenting of America, by Richard D. Lamm and Gary Imhoff, the authors gloomily note that the population density in the United States is now 64 people per acre. That works out to 145 billion people. Quite a bomb. At ease everyone. The correct figure is 64 people per square mile.

Today's debate is not much different than the one in 1797—with one major difference. The most significant immigration development in the past 45 years has been the importation of labor into the U.S. to service the agriculture industry—the one domestic industry that operates inside the United States but outside the labor market.

In any other industry, if there is a labor shortage they raise wages to attract workers, they mechanize or they do both.

Could you imagine the row if Ford Motor Company demanded guest workers to make cars in Michigan; if Martin Marietta demanded guest workers to make missiles in Colorado; if Smith Barney demanded guest workers to sell stocks in New York?

But that is exactly what the agriculture industry is demanding and has been demanding since World War II.

One way or another, bracero program, guest worker program, or illegal alien "program," major segments of the agricultural industry have been living outside our domestic labor economy for decades.

In spite of what the doomsayers may preach, illegal immigration is neither a new phenomenon nor at record levels.

Relatively more illegal aliens were apprehended by the INS in 1954 than in 1985. Almost 1.1 million illegal aliens were captured in 1954, when the populations of Mexico and the U.S. were 25 and 150 million, then in 1985, when their respective populations were 80 and 240 million, and 1.2 million aliens were apprehended.

In fact, illegal immigration is not out of control—it is very much a supply and demand system. But it is illegal.

Congress for some time has been struggling to balance immigration enforcement with civil rights protections and amnesty provisions.

One proposal before us today rejects that approach. It legitimizes bartering citizenship for agricultural labor. It is a wholesale elimination of immigration law. I would not be surprised if entrepreneurs don't immediately run out and buy farms so they can sell agricultural jobs to aliens.

Why not make the law universal? Anyone who agrees to come to the U.S. to work—at McDonald's, Pan Am, Budweiser, wherever—can become a U.S. citizen. And while we're at it, we can abolish INS because we won't need it.

The sad fact is that we cannot honestly deal with immigration issues until we decide what our goal is.

A TRIBUTE TO THE CITY OF GRAND LEDGE ON ITS SESQUICENTENNIAL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to the city of Grand Ledge, MI, on the occasion of its sesquicentennial celebration.

Grand Ledge, MI—the only Grand Ledge in the world—has adopted as its sesquicentennial slogan "A Proud Past, A Promising Future." The city is indeed rich in history and its residents are understandably confident about the city's future.

The Ojibwa Indians of Chief Okemos once lived where Grand Ledge is now located and before it was carved out of the wilderness a century and a half ago. During the early 1900's the Seven Islands Resort, where as many as 15,000 tourists would spend a holiday weekend, was known throughout the Nation. The picturesque sandstone ledges, for which the city was named, remain a mecca for geologists and botanists and for the training of mountain climbers. The city's clay pits contain some of the finest layers of preserved fossil plants in North America.

Modern-day Grand Ledge boasts a 30,000-volume public library, 15 church denominations, 30 civic groups, numerous recreational facilities and a rich blend of agriculture and light manufacturing industries. I would also note that the Grand Ledge High School band program was recently recognized by the John Philip Sousa Foundation as one of America's outstanding high school band programs; likewise its Wacousta elementary school was selected as one of the outstanding elementary schools in Michigan.

Mr. Speaker, the people of Grand Ledge know that they reside in a very special place—where the city's slogan, "Grand Ledge, where people are still important," is lived out each and every day. I am honored to represent Grand Ledge and to work with constituents who use the celebration of their history as a means of rededicating themselves to the future of their community.

ON DISAPPROVING THE PRESIDENTIAL MFN WAIVER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. CRANE. Mr. Speaker, today I am introducing a resolution to disapprove the Presidential request for a waiver under section 402 of the Trade Act of 1974, as amended. The purpose of this resolution is to deny renewal of most-favored-nation (MFN) trade status to the Socialist Republic of Romania.

MFN status entitles a U.S. trade partner to the lowest allowable tariff rates. MFN treatment, means in fact, nondiscriminatory, equal treatment, but in the case of Communist or nonmarket economy countries, amounts to preferential treatment. The United States extends the MFN treatment in foreign trade to all countries except to most Communist countries. MFN status can be granted by the United States to a Communist country only if the latter's emigration policy is substantially nonrestrictive and the Congress concurs in such grant. Under this procedure, in effect since 1975, MFN status has been extended to Romania.

The United States has granted MFN to Romania for 11 years now, in hopes that it would increase "leverage" to move the Romanians away from the Soviet Union and reduce the number of human rights violations. U.S. expectations have never been fully met, and in fact, evidence displays the blatant failures of MFN waiver approval. It is time for us to stop deceiving ourselves about the nature of the Romanian Government. We must not be so naive as to accept their promises as truths. MFN status should be reserved to those nations that share our belief in basic economic and personal freedoms. Such nations are, by definition, not Communist. Romania is a repressive regime and the granting of MFN and other special trade considerations only legitimize this repression.

The President once again granted Romania the MFN waiver on June 3, 1986. This step only enhances the problem with MFN treatment in Communist countries. The President stated concern "regarding the Romanian Government's restrictions on religious liberties" and other human rights violations. Let me add that concern is not enough; it is time for us to take a firm stand in favor of the principles on which the amendment was established.

There are four main areas of utmost discontent: repression of religion, oppression of dissidents, support of terrorism, and trade imbalances. Let me cite some examples of Romania's gross violations of human rights. Romania is supposed to be making progress in human rights, thanks to our generous trade policy. However, repression of any religious activity is outrageous. Regardless of your religious beliefs, it is appalling that possession of, or transfer of, Bibles is punishable by beating and incarceration for years. A regime that bulldozes numerous churches and refuses applications for church building permits is not making progress in human rights. Religious activist Geza Palffi, a Catholic priest who was beaten and murdered for wanting Christmas to be a public holiday, is an example of the extreme religious repression in Romania.

Other Christian prisoners, such as Catarama and Sfatcu, were released after emotional and physical tortures. Unfortunately, however, both prisoners were released on the condition that they leave Romania. This, therefore, indicates no substantive change in the Romanian Government's attitude toward religious freedom inside the country. Many other Christians were not so fortunate as to be released; instead they died under mysterious circumstances shortly after police interrogations. Rev. Peter Dugulescu was smashed by a car, and Rev. Vasile Talos was hit head-on by a public truck. Both assassination attempts were covered up by the federal police.

Romanian freedom to emigrate is also a facade to appeal to U.S. interests. According

to the latest (February 1986) State Department "Country Reports on Human Rights Practices," the Romanian Government continues to harass and oppress those who wish to emigrate. Demotion or dismissal from jobs, dismissal from universities, and denial of ration cards all result from application to emigrate. Dissidents lose citizenship and other forms of oppression make some emigrant hopeful truly exiles within their own country.

The Trif family applied for emigration in 1976 and are still denied, to date. Mrs. Grommes' 23 requests to meet her family in West Germany have continually been denied. Mrs. Muller tried to emigrate for 25 years, and when a petition was finally granted, she was beaten in her factory immediately thereafter. All property of emigrants is sold at low, fixed governmental rates. Any relatives who may be left behind are harassed and persecuted.

Why should this continue? For 11 years, we have accepted their assurances of change, and for 11 years, these assurances have turned out to be tragically empty promises. Romanian President Ceauseascu permitted the emigration of Jews and Germans, in order to ease President Reagan's doubts. However, Gen. Ion Pacepa, former Deputy Director of Romania's Department of Foreign Intelligence and former personal adviser to Nicolae Ceauseascu, discredits Mr. Ceauseacu's motives when he quotes Mr. Ceausescu as saying, "We should make as much money as possible on our vanishing natural resources—oil, Jews, and Germans." Mr. Ceausescu, with sharp calculation, sold Romanians as an export commodity.

Mr. Speaker, you will agree that our emigration requirements are very simple and represent only the bare minimum in human rights considerations. It minimizes and depreciates our sincerity when we allow these simple requirements to be waived in order to grant MFN to a Communist country which does not even respect these simple basic requirements. We mock ourselves, Mr. Speaker, and we allow the Communist countries to mock us also, when they see how readily we grant a waiver year after year.

During the same years as the MFN waiver, the Romanian Government has been actively involved in international terrorist activities, as well. In July 1978, Mr. Pacepa was instructed personally by Mr. Ceausescu to conduct secret assassinations; Mr. Pacepa refused and defected. Moreover, Romania is closely tied with the PLO and has used this organization to perform terrorists acts, such as the PLO's brutal attack in 1976 on Monica Lovinescu, a Romanian emigré working for Radio Free Europe. Romania also organized paramilitary training schools for terrorist and guerrilla-type operations. Romania is not showing independence from communism, on the contrary. Support of terrorism and terrorist organizations completely oppose U.S. restrictions.

Administration after administration continues to support MFN for Romania, yet it is notably more valuable to Romania than to the United States. The United States is doing Romania an unwarranted favor by trading with them, and they show no appreciation by supporting our trade agreements. Romania exported $949.7 million worth of goods last year to the United States, and only imported 206.5 million dollars' worth of goods from the United States, leaving a deficit of $743.3 million. Also, some Romanian products imported into the United States are duty-free due to the "generalized system of preferences." Last year alone, Romania shipped 134 million dollars' worth of goods duty-free.

The Department of Commerce June 1986 report shows that the mineral fuel trade between Romania and the United States is 4:1 in their favor. In 1985, Romania exported $458 million in mineral fuel to the United States, while United States mineral fuel exports were only $36 million. Nevertheless, Romania turned off its heat in the severe winter to conserver energy, causing many people to freeze to death. Another contradictory report shows that while Romania traded $7 million worth of food to the United States in 1985, and the United States, in turn, traded only 60,000 dollars' worth of food, Romanians still suffer from severe malnutrition.

In regards to transfers of technology, Mr. Pacepa writes, "Mr. Ceausescu serves as a conduit for the transmission of embargoed Western technology to Moscow." (Wall Street Journal op-ed by Pacepa, January 13, 1986). The USTR lists Romania as one of the most frequently subject to anti-dumping actions, as well. The December 1985 Washington excerpt from Mr. Pacepa's book discusses some of Romania's industrial espionage. The Romanian Ministry of Agriculture estimated that it saved over $300 billion by stealing the entire United States national hybrid-corn collection, containing more than 14,000 assortments and species, which became the basis for further research in Romania. Romania has recently been noted by the Department of Agriculture as the largest producer of corn in Eastern European countries.

Mr. Speaker, we should not conduct this process of review as business as usual. We must move ahead, with or without Romania. Romanian conduct in regard to U.S. policies is an affront to our heritage, principles, and commonsense. Many tout the alleged leverage MFN gives us to soften their harsh Communist, totalitarian system. But since 1975, little has improved.

It is time for Congress to examine the reasonableness of what we are doing when we consider whether we will grant special trade benefits and guarantees to Communist countries. In the past 11 years, the granting of MFN has not produced reforms in the Romanian governmental system. As a policy goal—as a policy lever—it has clearly failed. We must ask ourselves what exactly the United States gets in exchange for granting MFN. Emigration problems still exist. Although this year 1,000 more people were allowed to emigrate, we must note that the concession was made the day before President Reagan's decision on MFN waiver. Emigration was not used as leverage, but as ransom for the United States to legitimize MFN status in Romania. Jeri Labor of the U.S. Helsinki Committee argues that ploys such as this merely "distract attention from other impediments of emigration. * * *." Moreover, religious persecution remains a constant threat to Christian activists. Terrorism is spreading throughout Romania and surrounding countries, and assassination attempt reports are growing. Trade between the United States and Romania is grossly imbalanced in favor of the Eastern European needs. The political reality is that the government of this country is a totalitarian dictatorship run by the Communist regime of Nicolae Ceausescu.

Information regarding the MFN trade status for Romania in relation to its emigration and human rights practices strongly suggests that the trade concessions and guarantees being provided by the United States are being used as a ransom for their own citizens—plain and simple.

Why should we support Romania in their complicity? Why should we indicate approval of their failure to comply to our trade agreement policies? Why should we hold our own law in such disrespect that we would waive its simple provisions year after year? Mr. Speaker, we should not. I call upon all who support simple and basic human rights for all—including those who live under Communist regimes—to deny MFN and not taint our position with support of their repression. We, as a country, deplore the inhumane activity of Romania. Our government is, in most cases, a reflection of those collective beliefs and its policies should reflect that. But here is a classic case where our governmental policy is clearly out of step with the heritage, principles, and commonsense of the people. In 11 years, Romanian human rights have improved little. To follow this logic, we should grant MFN to Cuba and Vietnam; both crave trade and positive bilateral relations with the United States. I ask you all to stand in support of this resolution to disapprove the Presidential request for a waiver for Romania. Now is the time to take action. This charade has gone on too long.

THE 10TH ANNIVERSARY OF THE SOWETO UPRISING

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. GARCIA. Mr. Speaker, today is the 10th anniversary of the Soweto uprising. It is a highly symbolic event, symbolic of the repression of South Africa's majority community. I am submitting for the RECORD three articles on South Africa from today's Washington Post and New York Times. One of those articles is by the Nobel Prize winner and the Anglican Archbishop-elect of Cape Town, Desmond Tutu. In his essay, Bishop Tutu makes a strong case for imposing sanctions against South Africa. He makes a strong and clear case for sanctions, by saying that it is not a political or economic decision but a moral decision. He is right. The United States must unequivocally come down on the side of morality when dealing with South Africa. That is, we must support sanctions.

The articles follow:

[From the New York Times, June 16, 1986]

SANCTIONS VS. APARTHEID

(By Desmond M. Tutu)

A clear message resounds in recent surveys in South Africa in which more than 70

percent of blacks supported sanctions against the Government. Blacks are saying: "We are suffering already. To end it, we will support sanctions, even if we have to take on additional suffering."

Our people have shown they mean business by their use of consumer boycotts. Last year, organizations representing more than 12 million South Africans called for sanctions and economic pressure. These are not insignificant actions or irresponsible bodies or individuals.

I must ask, To whom is the international community willing to listen? To the victims and their spokesmen or to the perpetrators of apartheid and those who benefit from it?

I would be more impressed with those who made no bones about the reason they remain in South Africa and said, honestly, "We are concerned for our profits," instead of the baloney that the businesses are there for our benefit. We don't want you there. Please do us a favor: get out and come back when we have a democratic and just South Africa.

It is true that many foreign corporations in South Africa have introduced improvements for their black staff. They now have a better chance of promotion. They get better salaries. But these improvements have come about largely through the pressures of the disinvestment campaign. American companies, especially, have begun to speak out more forthrightly against apartheid than has been their wont, and they would be the first to admit that they got a considerable jog to their consciences from the disinvestment campaign.

There has been progress, but we do not want apartheid ameliorated or improved. We do not want apartheid made comfortable. We want it dismantled.

You hear people say sanctions don't work. That may be so. But if they don't work, why oppose them so vehemently? If they don't work, why did Margaret Thatcher apply them to Argentina during the Falkland war? Why did the United States apply them to Poland and to Nicaragua? Why was President Reagan so annoyed that his European allies did not want to impose sanctions against Libya? If sanctions are so ineffective, why does the United States still maintain a blockade of Cuba? Yet we have all this wonderful sophistry when it comes to South Africa.

I am unaware of anything that has changed in South Africa without pressure. Changes in the sports policy were due to pressure from the sports boycott and not because there had been a change of heart on the part of white sports administrators.

We hear some say that sanctions will destroy the South Africa economy and leave us with a financial morass. My response is that the ball is surely in the South Africa Government's court. Its decisions about the future of the country will determine whether sanctions should be invoked or not. I certainly do not want to destroy a land I love passionately. But if the South African Government remains intransigent and obstinate, then sanctions or no sanctions the economy will be destroyed in the wake of the violence, bloodshed and chaos that will ensue if a full-scale civil war breaks out.

There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk with a chance. President Reagan's policy of constructive engagement, and similar efforts to persuade white South Africans who support apartheid to change, have failed dismally. Let's try another strategy.

There are those who are not ashamed to argue that if they pull out others will come in to exploit black South Africa. The moral turpitude of that argument is quite breathtaking. We are not asking people to make economic or political decisions. We are asking for a moral decision.

There is no room for neutrality. When you say you are neutral in a situation of injustice and oppression, you have decided to support the unjust status quo. Are you on the side of injustice? Are you on the side of oppression or liberation? Are you on the side of death or of life? Are you on the side of goodness or of evil?

[From the Washington Post, June 16, 1986]

A BITTER ANNIVERSARY IN SOUTH AFRICA

(By William Raspberry)

The government of South Africa will survive this day—the 10th anniversary of the Soweto uprising. But the means it has chosen to do so—the most thoroughgoing repression in its history—raises a far more fundamental question: Can South Africa survive this government?

President P.W. Botha's regime has run out of ideas, options and the necessary resolve to work out of its desperate situation. It may finally have run out of time as well.

For a long time, the government survived through the combination of black patience and white concessions that again and again turned out to be too little too late. But patience is an increasingly scare commodity, and there is very little more to be delivered by way of cosmetic concessions. It is no longer, as the Rev. Allan Boesak said here nine days ago, a question of whether apartheid can be reformed or modernized or streamlined or beautified, "Apartheid," he told the annual dinner of TransAfrica, "can only be irrevocably eradicated."

For a long time, there were options for reform: local self-government of the townships, some sort of federation in which whites would share political power, an expansion of educational and economic rights to ease the transition to power sharing. But the options have evaporated.

Some Americans, startled recently by the antigovernmental violence of the Afrikaner right wing, are now voicing sympathy for the Botha government, gripped as it is between the radicals of the right and the radicals of the left, Boesak said we shouldn't be "hoodwinked" into believing that the Nazi-like violence of the right forces new options on the government.

"What essentially is the difference between the right wing and the South African government? They are not fighting about the right of black people to participate in democratic elections; they are not fighting about the redistribution of the land; they are not fighting about the right of every black child to have a decent education; they are not fighting about issues of redistribution of the wealth of the country that we with our blood and sweat and tears have built up. They are not fighting about these crucial issues.

"So what are they fighting about? Nothing that matters to you or me."

The fight is over how best to maintain the power and privilege of white people. And that is also the point of the newly intensified repression designed to prevent today's commemoration of the 1976 Soweto demonstrations that ended in the death of some 500 blacks at the hands of the government.

The government hopes—absurdly—to forestall violence by preventing demonstrations and even church services on this bitter anniversary, by making arrests under special emergency laws, by jailing the black leadership.

The more likely outcome is to turn what might have been peaceful demonstrations into open warfare between blacks who are out of control because their leaders are in jail and whites who are out of control because the government has exhausted its moral authority.

Even if the government succeeded in limiting today's demonstrations, it wouldn't matter. The crucial fact is that the South African government is running out of time. And so is the American government.

President Reagan is still trying to nudge his South African counterpart into behaving more decently while it talks of reform. There was a time when that might have made sense.

The far more urgent question now is: What side is America on? Pretoria obviously thinks it knows the answer. It sees in the Reagan administration a sympathetic friend.

Boesak is convinced that it needn't be so, that President Reagan could, if he were to see the situation with sufficient clarity, save the South African government from its own folly.

"Virtually by lifting one finger, the United States can change the course of history in South Africa," said Boesak, now free on condition that he not discuss disinvestment. What could America do? "It can stop protecting South Africa every time the United Nations tries to do something, it could take our real leaders seriously—not with meaningless words of moral indignation but with nonviolent pressure to push the South African government to the point where they understand that what is necessary is fundamental change."

Black South Africans will not easily or quickly win the war that is all but officially under way in that strife-torn land. But neither will white South Africans have peace so long as the Botha government remains in power.

South Africa, already out of options, is quickly running out of time as well.

[From the New York Times, June 16, 1986]

PERCEIVING SOUTH AFRICA

(By Anthony Lewis)

BOSTON.—South Africa must be the most thoroughly studied country on earth. Statesmen and scholars of all kinds have had their say. But there has been nothing like the Commonwealth mission to South Africa, just concluded. Its work and its findings carry special weight.

The Commonwealth mission had a unique opportunity for intensive discussion with both the white Government and the imprisoned black leader, Nelson Mandela. The diversity of the group's seven members, from around the world, gave it particular credibility. It won the respect of all sides in South Africa.

What did it find? It found reason for hope and reason for despair. There is a way out of the country's cruelty and violence, the mission said: negotiation. But if the way is not taken, the human price will be appealing—and by all signs the Government is not ready to take it.

The mission went to see Mr. Mandela wary, as it says, of "the mythology surrounding him." But the members were deeply impressed.

"He exuded authority," their report says, "and received the respect of all around him,

including his jailers . . . he impressed us as a outstanding able and sincere person whose qualities of leadership were self-evident. We found him unmarked by any trace of bitterness despite his long imprisonment."

The report views the African National Congress as "a movement of pragmatists, not ideologues." It says Mr. Mandela emphasized he was "a nationalist, not a Communist," committed to "political and human rights and equality of opportunity."

"He described himself as a deeply committed South African nationalist," the report says, "but added that South African nationalists came in more than one color. . . . He recognized the fears of many white people, which had been instensified by the Government's own propaganda, but emphasized the importance of minority groups being given a real sense of security in any new society in South Africa."

"A crucial passage in the discussion of Mr. Mandela's views said he thought some of the problems between the Government and the A.N.C. "arose solely through lack of contact" and could be eliminated if they could talk. "The fact of talking was essential in the building of mutual confidence."

That was the Commonwealth mission's objective; negotiation. For a while it thought the Government would open the way for talks by releasing Mr. Mandela and ending the ban on the A.N.C. But when it returned to South Africa in mid-May, the mission found the official line harder. Then, on May 19, South Africa raided three neighboring countries.

"It is our considered view," the report says, "that despite appearances and statements to the contrary, the South African Government is not yet ready to negotiate . . . fundamental change, nor to countenance the creation of genuine democratic structures, nor to face the prospect of the end of white domination . . . Its program of reform does not end apartheid but seeks to give it a less inhuman face. . .

"Behind these attitudes lies a deeper truth. After more than 18 months of persistent unrest, upheaval and killings unprecedented in the country's history, the Government believes that it can contain the situation indefinitely by use of force."

The very day the report was published last week President P.W. Botha confirmed that unhappy conclusion. His decision to impose drastic emergency regulations told the world that his Government has opted for force, not negotiation.

Can force work? It might, in a certain sense. The Government has enormous power at its disposal. The police and army have been freed from virtually all legal restraints, and they have already shown how brutal they can be.

But the consequences for South Africa, black and white, will be terrible. As the Commonwealth report says, skill and capital will continue to flow out of the country. And blacks will not give up their vision of equal humanity.

"They can no longer stomach being treated as aliens in their own country," the report says. "To believe that they can be indefinitely suppressed is an act of self-delusion."

The Commonwealth report lays down a challenge to the Western world. Ronald Reagan and others on the right cannot dismiss as soft liberalism the warning of a group whose co-chairman was Malcolm Fraser, the deeply conservative former Prime Minister of Australia. The warning is: If the West does not press South Africa to negotiate, "the cost in lives may have to be counted in millions."

IVAR AXEL GUNDERSEN AND THE MORGAN KANE FILM SERIES

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. GUNDERSON. Mr. Speaker, I am most pleased to include in the RECORD an article from the Norway Times describing a recent event hosted by Ambassador Kjell Eliassen for motion picture producer/director Ivar Axel Gundersen at the Norwegian Embassy in Washington.

Mr. Gundersen is about to shoot a series of films in Mexico and the United States based on the Louis Masterson character of Morgan Kane. The project, which will utilize American actors, was highlighted in a short "pre-premier" pilot film for the many distinguished guests in attendance that evening.

I commend the following article, which describes Mr. Gundersen's upcoming films in greater detail, to the attention of my colleagues.

MORGAN KANE FILM PROJECT HAS "PRE-PREMIER" IN WASHINGTON

WASHINGTON, D.C.—A "pre-premier" of the Morgan Kane films, based on the writings of Louis Masterson (Kjell Halibing), was presented in Washington recently, hosted by His Excellency and Mrs. Kjell Eliassen at the Norwegian Embassy residence.

After Ambassador Eliassen introduced Ivar Axel Gundersen, the producer director of the future films backed by the new Scandinavian Motion Picture Syndicate (SMPS), a large crowd of distinguished guests viewed a short pilot introduction to the project.

Before the film presentation. Gundersen discussed the "nature of Morgan Kane's character, a U.S. Marshal operating during the tempestous period of American western expansion in the post Civil War period."

Gundersen said the marvelous mixture of Masterson's best selling novels and the medium of technologically advanced film techniques will create a viable example of the western film genre, an exciting 1980's technology superimposed on an 1880's setting.

The films are scheduled to be shot in Mexico and the United States in early fall.

Guests at the reception included a cross section of Washington life, such as former U.S. Secretary of Labor (during the Kennedy and Johnson Administrations). Willard Wirtz, and officials such as Dave Parker, Motion Picture Division of the Library of Congress, and others. Former Norwegian Ambassador to the United States. Soren Chr. Sommerfelt. attended, as did press representatives from the Untied States, Norway, and Mexico.

Besides the Norwegian press agencies in the Washington area, a delegation also attended from the Oslo paper Verdens Gang. Representating the SMPS investors from Norway was Ms. Kari Utne.

An internationalist in fact and spirit, Lvar Axel Gundersen was born of Norwegian parents in New Jersey on June 23, 1950.

The son of Ivar Andreas Gundersen, a businessman and the former Olympic Attache for Norway at the 1968 Olympic Games in Mexico, Ivar Axel grew up in Mexico, the principal site of the films he will be directing and producing in behalf of the Scandinavian Motion Picture Syndicate.

A U.S. citizen permanently residing in Mexico, Gundersen was educated in Mexico City at the Lycee Franco-Mexican, the American High School Foundation, and the University of the Americas, where he majored in Business Administration and Creative Arts. Gundersen has pursued extensive graduate studies in all aspects of filmmaking and firm production. An Honours Graduate of the London School of Film Technique at the London International Film School, he attended a number of film production and direction seminars, including some at the Unviersity of Texas, Austin, where he studied under the director Edward Dymtryk.

Gundersen's professional credits are varied. A Producer/Director of short dramatic motion pictures, his 20-minute film "Intercourse" won prizes at the Edinburg Film Festival, the Guadalajara Film Festival in Mexico, and was shown at the National Film Theatre, London. Included in his production and direction are documentary films such as "Movement," a documentary on the blind, London, and commercials for a list of clients, among whom are the Ford Motor Co., Volkwagen, and Sterling Drug, Inc.

Gunderson has taken part in advertising and promotion campaigns for selected clients serving both as Art Director and Account Executive. His initial foray into feature films was as a Coproducer/Director and Writer on "Value for Money," a Norwegian-Swedish co-production.

Gundersen melds business acumen with a drive to create, and a fluent command of the film medium with that of English, Norwegian and Spanish.

Scheduled to be shot in Mexico and the U.S., cast with American actors, and based on a character embodying the tensions between civilization and that which is dark and questionable in human existence, the Morgan Kane films promise to deliver both excitement and historical prespective.

THE INCREASING NEED FOR A NATIONAL NUTRITION MONITORING SYSTEM

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. MACKAY. Mr. Speaker, I would like to bring to the attention of my colleagues the following article from the Washington Post. Its author, Dr. Jean Mayer, a noted international nutritionist, is currently serving as the president of Tufts University. The legislation referred to is H.R. 2436, the National Nutrition Monitoring and Related Research Act of 1986, introduced by Mr. BROWN of California, Mr. WALGREN, and myself. I am happy to say that the bill has been reported by both the Science and Technology Committee and the Agriculture Committee and we look forward to its passage in the full House.

The need for this legislation has been clearly established. Without a cohesive national nutrition surveillance system in place, an accu-

rate picture of American's nutritional status eludes us. Such an assessment is necessary not only for developing sound food and nutrition policies for the general healthy population, but is crucial for the identification of vulnerable subgroups of the population who may be at high risk for nutrition-related health problems.

Second, H.R. 2436 establishes an interagency plan and budget for all Federal nutrition monitoring activities permitting, for the first time, congressional and public oversight of all nutrition monitoring expenditures. Coordination of Federal nutrition monitoring programs would permit more effective use of existing funds and encourage State, local, and private participation in these activities.

The administration contends that cases of undernourishment do not exist; yet, it simultaneously acknowledges that 93 million meals are provided daily by the Federal Government and that an increasing number of private agencies have been forced to initiate similiar programs to meet the growing need. This disjointed analysis of the Nation's health and nutritional problems underscores the urgency of focusing Federal efforts on developing a national nutrition monitoring network.

H.R. 2436, as endorsed by both the Science and Technology Committee and the Agriculture Committee, addresses this concern. We urge your support of this important legislation in the full House.

Dr. Mayer's comments follow:

[From the Washington Post, May 21, 1986]

NUTRITION

(By Jean Mayer and Jeanne Goldberg)

Q. Recently a friend who is a dietitian tried to convince me to write to my legislators encouraging them to support a nutrition monitoring act. Frankly, I was skeptical that this might be just another layer of government.

What do you think?

A. We wholeheartedly support this legislation. The nation has been waiting a long time for a coordianted nutrition monitoring program. It will ensure more timely, complete and accurate information on which to base health, nutrition and dietary policy, and help identify and target resoruces to meet existing needs. A coordinated effort will benefit all of us, not just special groups within our population who are at particular risk.

The bill is called the National Nutrition Monotoring and Related Research Act, or HR 2436 and S 1569. As for your concern about adding to the cost of government, this legislation is urgently needed to promote efficiency and reduce duplication of efforts at the federal level. That will save money in the long run.

The White House Conference on Food, Nutrition and Health in 1969, which was chaired by Dr. Mayer, recommended a national nutrition surveillance program. We hope that now, 17 years later, that recommendation will at last be realized.

We join your dietitian friend in encouraging you, and all other concerned citizens, to write to your legislators to support passage of the legislation.

NORTHERN TELECOM, SMITHSONIAN EXHIBITION SPONSOR

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. MINETA. Mr. Speaker, as a member of the Smithsonian's Board of Regents, and a native of the Silicon Valley, I am delighted to make my colleagues aware of the fact that one of my corporate constituents, Northern Telecom Inc., has become a major sponsor of the Smithsonian's new "Information Revolution" exhibition.

I am delighted that Northern Telecom will be making it possible for the Smithsonian to bring into perspective for the American people the enormous impact of the "Information Revolution" on our times.

I have grown up watching developments in Silicon Valley, where orchards and farms have been replaced by high technology global competitors like Northern Telecom.

Northern Telecom is the second largest manufacturer of telecommunications equipment in the United States, and it is the world's leading manufacturer of fully digital telecommunications systems. It is one of the largest employers in my California district, and it employs more than 22,000 people throughout the United States in 15 manufacturing facilities and 15 R&D centers. Its U.S. employees and facilities are producing information and communications products for U.S. telephone companies, corporations, institutions, and for the U.S. Government. It is producing equipment in the United States for export abroad, and it contributes favorably to the U.S. trade balance.

Northern Telecom executives and I will be working with Dr. Robert McC. Adams, the Secretary of the Smithsonian, to plan and design a 12,000-square-foot exhibit which will explain the "Information Revolution" in terms of new products and new equipment, and also in terms of their social and cultural contexts.

All of us know that the "Information Revolution" has changed our lives. It is the unique contribution of the Smithsonian Institution to examine the computer and telecommunications industries in terms that the American people can understand. The Smithsonain is more than a museum; it is a research center with the capacity to relate scholarly research to the daily lives of Americans.

The "Information Revolution" exhibition at the Smithsonian will make it possible for the American people to relate the computer and telecommunications age to the industrial revolution and to the future. It is a profoundly important undertaking, and one that I am proud to support. I commend Northern Telecom Inc., its management, and its 22,000 U.S. employees for being willing to be an important part of such an important Smithsonian exhibition.

DANGEROUS HIGH WATER LEVELS ON THE GREAT LAKES

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. SILJANDER. Mr. Speaker, I rise today out of great concern about the recent decision to resume the full flow of waters out of the Ogoki diversion in the Canadian province of Ontario into Lake Superior. For some time now, the water levels on the Great Lakes, particularly Lake Superior and Lake Michigan, have risen and remained at dangerously high levels. Such action to resume the full flow of the Ogoki diversion only increases the likelihood of further damage to property along the shores of Lake Superior and Lake Michigan.

Mr. Speaker, in light of this action, I sent a letter to Vice President George Bush on the eve of his recent trip to Canada urging him in his talks with Prime Minister Mulroney and other Canadian officials to stress the urgent need for prompt and cooperative efforts on behalf of both the United States and Canada to address the issue of the extremely high water levels on the Great Lakes. Mr. Speaker, the letter reads as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 6, 1986.

Hon. GEORGE BUSH,
Vice President, The White House, 1600 Pennsylvania Avenue, NW., Washington, DC.

DEAR MR. VICE PRESIDENT: On December 1 and 2, 1985, a deadly storm struck the coast of many Great Lakes states bringing with it tremendous devastation to private and public property. Throughout the Great Lakes states many communities reported damage to utility systems and washed out roads. Homes and businesses on the lake shores and along contributing riverways were damaged by 10'-16' waves pushed by winds gusting up to 75 mph.

This storm, termed the "storm of the decade" by the Corps of Engineers, resulted in a traumatic magnification of the ever present problem of record high water levels on the Great Lakes and the destructive erosion that is created. The impact of that one winter storm is estimated at $12-14 million worth of flood and erosion damages in one Congressional district alone. Within a stretch of hundred miles of lakeshore sixteen homes were destroyed, 46 others were damaged and 108 are now in danger of destruction. If above average rainfall continues in 1986, the Army Corps of Engineers estimates that another 150-200 more buildings in that one 100-mile stretch will be destroyed.

Though we realize the tremendous role of "mother nature" in creating high lake levels, we must do all that we possibly can to minimize the destruction of lakeshore property. Therefore, we urge you in your upcoming visit to Canada to express to Prime Minister Mulroney and other Canadian officials the utmost importance of prompt, cooperative efforts between the United States Government and the Government of Canada to address the issue of the extremely high lake levels on Lake Michigan, Lake Huron, Lake Superior and the other Great Lakes.

Sincerely yours,

MARK D. SILJANDER, M.C.

Mr. Speaker, while the purpose of the Vice President's trip was to review a wide range of policy issues between our two countries, the threat of severe and widespread damages on the Great Lakes is one of the most urgent. We lost millions of dollars' worth of property in the last year. Now, we must do all we possibly can to make sure that any further losses are kept to a minimum or are avoided altogether.

ALZHEIMER'S DISEASE DESERVES OUR ATTENTION

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. DOWNEY of New York. Mr. Speaker, if, as Hubert Humphrey once said, the test of how just a nation is lies in how it helps those unable to help themselves, then our Government has much soul searching, and more hard work, to do.

More than 2 million Americans suffer from Alzheimer's disease, a "neurological disorder * * * characterized by a deterioration of cognitive functions such as memory, attention and judgment." These 2 million—that's roughly 100 percent more than the number of Americans who have fallen in battle since the first shots rang out at Lexington and Concord—suffer from a disease that is degenerative and irreversible.

What does Alzheimer's disease do to its victims? It starts slowly. Perhaps family members notice that their father or mother does not remember as they once did. As Alzheimer's progresses constant supervision becomes necessary. As the Alzheimer's victim wanders, the risk of accidents become greater and greater. The victim may not recognize family or friends. The average life expectancy of an Alzheimer's victim is 7 years, although in some cases, its victims live much longer.

The dimensions of the sorrow caused by this insidious disease are almost incomprehensible: capable, vibrant people are reduced to a state of near vegetation, families are broken to pieces as their finances are strained beyond repair and their psychological defenses against more natural human tragedies are ripped to pieces.

The victims of Alzheimer's are not limited to the unfortunate souls who contract this disease. They include, most certainly, the families of the primary victims. Wives, husbands, sons and daughters lose control of their own lives because they must provide the around-the-clock care to the feebled—and sometimes violent—victims.

Can someone who has not experienced the horror of Alzheimer's effect on the family structure truly understand its consequences? "One finds family members to be spouses who are themselves elderly and suffering from chronic illnesses * * * one finds sons and daughters themselves in their sixties who may also have responsibility for an aging spouse, adult children and grandchildren * * * when Alzheimer's disease strikes its victims early, one finds adolescents struggling to accept this devastating illness in a parent," says a report cited in joint hearings of the Subcommittee on Health and Long-Term Care and the Subcommittee on Health and the Environment.

The cost in economic terms is staggering. While figures vary widely, we are told that $20 billion per year is spent caring for Alzheimer's victims. That figure includes the $30,000 to $50,000 a year families must spend to care for their Alzheimer's victim. We have not yet arrived at a time when private insurance companies or the Medicare Program are equipped to deal with the custodial care necessitated by Alzheimer's disease.

And Alzheimer's does not inflict itself primarily on the rich, middle class, or poor. It is truly a democratic disease, striking all segments of our society with equal horror.

But, it must be said, there is progress—however slow—being made. Research is providing clues to the cause. Family support groups have grown exponentially in the past few years. Thanks to the efforts of some of our colleagues here in the House and in the other body, Federal funds are increasing for research. Health and Human Services Secretary Bowen now has it in his power to assist these family support groups with Federal dollars.

These family support groups provide a vital service. They counsel families on how to deal with the financial, legal, and emotional strains of caring for an Alzheimer's victim. They provide assistance on the emotional side of dealing with the guilt that family members feel. They are certainly worthy of our support.

As our population grows older the problems associated with Alzheimer's will also grow. It is an urgent national problem worthy of further attention and scrutiny.

Mr. Speaker, at the request of my colleague, Mr. MRAZEK, I will be chairing a field hearing of the Select Committee on Aging on June 21 on Long Island. This hearing will focus on the effects of Alzheimer's on the victim and the victim's family. We will hear from families, psychologists, nursing home providers, social workers, attorneys and others with concrete expertise in this area. I will report the results of the hearing to the House next week.

PERSONAL EXPLANATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mrs. SCHROEDER. Mr. Speaker, I was absent Thursday, June 12, 1986, for two votes. Had I been present, I would have voted as follows:

Rollcall No. 166, the Wylie amendment, "nay."

Rollcall No. 167, passage of H.R. 1, "yea."

A TRIBUTE TO THE U.S. COAST GUARD AUXILIARY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to the U.S. Coast Guard Auxiliary.

Since its founding by an act of Congress on June 23, 1938, the U.S. Coast Guard Auxiliary has provided voluntary assistance worth countless millions of dollars and has saved thousands of lives of recreational boaters. Currently, the auxiliary provides boating education, courtesy marine examinations, and search and rescue services as well as voluntary support and services to its parent organization, the U.S. Coast Guard. It does so at very little cost to the taxpayers. In recognition of its outstanding record of accomplishments, Gov. James Blanchard—our former colleague—has declared June 21, 1986, to be Coast Guard Auxiliary Day in the State of Michigan.

Mr. Speaker, I am certain that my colleagues will want to join me in recognizing the members of the Coast Guard Auxiliary for the commitment and dedication they have demonstrated so consistently during the past 47 years, and in wishing them a most successful future.

"SAVING" SOCIAL SECURITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. CRANE. Mr. Speaker, it appears that the issue of the future of the Social Security System has once again receded to the back of the collective mind of Congress. Back in 1983, many in Congress congratulated themselves for having "saved" Social Security. Yet the system wasn't "saved" then, it isn't "saved" today, and conveniently forgetting about it will not serve either the Nation or our constituents well.

We have repeatedly enacted measures that were billed at the time as permanent fix for the system, only to be faced several years later with another Social Security crisis. I believe that our latest effort will prove no different, for it neither addressed the problems inherent in a pay-as-you-go system nor accounted for the demographics involved in a declining labor pool facing the necessity of supporting a system paying an ever-increasing number of beneficiaries. It is probably that by the turn of the century, there will be only two people paying taxes to support each beneficiary.

It is time for Congress to give serious consideration to true Social Security reform and deal with the faulty underpinnings of the system. In the past, Congress has too often succumbed to the temptation to tack on new and always increasing benefits to the Social Security System, without thought to how these

would be paid for into the next century, or even today. We need to consider returning the system to its intended role as a basic floor of protection to support other retirement savings.

One possible long-term solution is the gradual privatization of a large part of the Social Security System. This could be done through thoughtful legislation that would restore sanity to the current system while insuring a safety net for those who require it, which was the original intent of the Social Security System.

We owe it to our sons and daughters to have the courage and foresight to enact serious, qualitative, and long-lasting reform. The days of the quick-fix have passed. I have included an article by Peter Young that appeared in the March 3, 1986 issue of US News and World Report, in which he opines on the need for reform in the Social Security System and the shape that that reform might take. I commend the article to my colleagues' serious consideration.

SAVING SOCIAL SECURITY

(By Peter Young)

The Social Security system was a great deal for Ida Mae Fuller of Brattleboro, Vt., the first recipient. She paid a total of $44 in Social Security taxes, yet received full benefits for the rest of her lifetime—$20,884.52 in all.

It will prove a very bad deal, however, for those who retire around the middle of the next century, when the whole system will collapse as the number of beneficiaries rises substantially and the number of contributors falls.

The weakness of the system is its "pay as you go" nature. Payments into the system are immediately paid out as current benefits. Vote-hungry politicians like to keep these benefits high and forget about the approaching disaster. (They will have retired by then.)

But fundamental reform is possible and is currently being attempted in Britain, where the government has proposed to privatize the upper section of its social-security system. As an incentive, those who switch to private pensions will pay lower social-security taxes and receive tax relief on their private-pension contributions.

At the same time, benefits will be cut, but only for those retiring in the next century. All existing government-pension entitlements will be honored.

This shift to private pensions will avert a financial crisis in the next century and greatly increase personal wealth, since a worker's pension will become one of his largest assets.

The lessons of the British reforms for America are clear:

Reducing the benefits of current retirees or those about to retire is political suicide. Honor promised benefits but privatize for the future.

Workers should be encouraged first to opt out of survivor's, disability-and-hospital insurance—and then parts of basic Social Security. Future Social Security benefits should be reduced to the extent these private options are utilized.

Creating a private alternative builds its own political constituency, which can be harnessed to the cause of privatization—including further tax incentives for private pensions and IRA's.

Gradual, piece-by-piece reform is more likely to succeed than any attempt to solve the whole problem at once.

Such a gradual shift from the present shaky system to a fully funded, private system is the only way to prevent collapse of Social Security.

DEATH OF A WRITER

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. GARCIA. Mr. Speaker, this past Saturday, one of the world's greatest writers passed away, Jorge Luis Borges. Born in Argentina, his work helped usher in a Renaissance in Latin American literature.

But he was more than a writer of essays and stories, he was a great thinker. The world will mourn the loss of this great Latin American man of letters. I am submitting for the RECORD an obituary on Mr. Borges from Sunday's New York Times.

[From the New York Times, June 15, 1986]

JORGE LUIS BORGES, A MASTER OF FANTASY AND FABLES, IS DEAD

(By Edward A. Gargan)

Jorge Luis Borges, the Argentine short-story writer, poet and essayist who was considered one of Latin America's greatest writers, died yesterday in Geneva, where he had been living for three months. He was 86 years old.

Mr. Borges died of liver cancer, the executor of his estate, Osvaldo Luis Vidaurre, said in Buenos Aires.

While almost unknown outside Argentina before 1961, his stories, punctilious in their language and mysterious in their opaque paradoxes, later attained a modest following in the United States, a following that grew steadily to international proportions.

His writings explored the crannies of the human psyche, the fantastic within the apparently mundane, imaginary bestiaries and fables of obscure libraries and arcane scholarship.

His prose provoked the literary imaginations of general readers, scholars and critics, and many of the latter hailed him as the most important Latin American writer of this century.

Among his works of fiction that have appeared in the United States are "Ficciones," "The Aleph and Other Stories," and "Labyrinths," all published in 1962, and "A Universal History of Infamy," in 1971.

"His fables are written from a height of intelligence less rare in philosophy and physics than in fiction," Mr. Updike said. "Furthermore, he is, at least for anyone whose taste runs to puzzles or pure speculation, delightfully entertaining."

Moreover, Mr. Updike insisted, "For all his modesty and reasonableness of tone, he proposes some sort of essential revision in literature itself."

It is, the historian and philosopher Imaginary Beings" (1969) and "An Introduction to American Literature" (1971). "Selected Poems, 1923-1967" was published in 1972 and "In Praise of Darkness," which consists of poetry and short pieces, in 1974.

In 1975 John Updike wrote that Mr. George Steiner wrote, perhaps something even more: "Borges's universalism is a deeply felt imaginative strategy, a maneuver to be in touch with the great winds that blow from the heart of things.

"When he cites fictitious titles, imaginary cross-references, folios and writers that have never existed, Borges is simply regrouping counters of reality into the shape of possible other worlds. When he moves, by wordplay and echo, from language to language, he is turning the kaleidoscope, throwing the light on another patch of the wall."

One of his earliest short stories, "Pierre Menard, Author of the Quixote," compressed this embrace of language and illusion foreshadowing the tenor of his later work. In the story, written in 1938, Mr. Borges proposed, in short, an extreme examination of T.S. Eliot's dictum that each new work of art alters the perception of previously existing works of art.

For Mr. Borges, the short story—a literary form "whose indispensable elements are economy and a clearly stated beginning, middle, and end"—was the most compelling form. Once he wrote: "In the course of a lifetime devoted chiefly to books, I have read but few novels, and, in most cases, only a sense of duty has enabled me to find my way to their last page. I have always been a reader and rereader of short stories.

Beginning in 1927, when he had a series of operations on his eyes, Mr. Borges was increasingly afflicted by blindness, which ran in his family. While he called it a "slow, summer twilight," it did not impede his work.

BEGAN WRITING AT 6 OR 7

Jorge Luis Borges was born in Buenos Aires, in the house of his maternal grandparents, on Aug. 24, 1899. His father, of Italian, Jewish and English heritage, professed the law but, as Mr. Borges once wrote, "was a philosophical anarchist—a disciple of Spencer—and also a teacher of psychology." His mother, of Argentine and Uruguayan stock, lived far into her 90's and translated William Saroyan, Nathaniel Hawthorne, Virginia Woolf and Herman Melville into Spanish.

While he was very young, his parents moved to the northern suburbs of the capital, to Palermo, a place he later described as a slum. But it was not, he wrote, a slum in the American sense. It was, rather, a district where "shabby-genteel people as well as more undesirable sorts" lived.

At the age of 6 or 7, the young Borges began to write. "I was expected to be a writer," he recalled much later in life. He confessed that his writings of extreme youth were modeled on the those of classic Spanish writers, mostly Cervantes. The young man's first effort, titled, "The Fatal Helmet," was avowedly romantic—"nonsensical," he later called it—and very much a stylistic derivative of Cervantes.

In 1914 the family moved to Europe so that Jorge and his sister could attend school in Geneva. Jorge enrolled at the College of Geneva. In school, the young man was immersed in Latin, and outside it he tackled German. He learned to love the language through Heine and found his way to Schopenhauer, who was to be his favorite.

FIRST POEM PUBLISHED IN SPAIN

"Were I to choose a single philosopher, I would choose him," Mr. Borges wrote. "If the riddle of the universe can be stated in words, I think these words would be in his writings."

After Mr. Borges received his degree in Geneva, his family moved to Spain for a year, and it was there that his first poem was published. Called "Hymn to the Sea," it

was deliberately fashioned in the style of Walt Whitman.

In 1921, he returned; with his family to Buenos Aires, where he continued to write, experimenting with styles of prose that were either artificially Latinate or sodden with Argentine colloquialisms. Of his early works, he was relentlessly scornful.

The "real beginning" of his career came, Mr. Borges wrote, in the early 1930's with the publication of a series of sketches called "A Universal History of Infamy."

In these, which "were in the nature of hoaxes and pseudo-essays," Mr. Borges chronicled the lives of Lazarus Morell, who at once freed and imprisoned slaves; of Tom Castro, an implausible prodigal son; of the widow Ching, a pirate who terrorized the seas of Asia; of Monk Eastman, a New York gunman and "purveyor of iniquities"; of Kotsuke no Suke, who refused to commit hara-kiri, "which as a nobleman was his duty."

STORIES' SHAPE ESTABLISHED

With his next story, "The Approach to al-Mu'tasim," written in 1935, the shape of many of his later stories was established. The story is a fictive review of a book purportedly published in Bombay. Mr. Borges invests the mythical volume with a genuine publisher and reviewer but, as he wrote later, "the author and the book are entirely my own invention."

In this early story, many of the basic literary elements that came to characterize Mr. Borges's style were apparent: a concern for history and identity; the central role of an obscure scholarly work; a maze of discourse laden with elaborate and Byzantine detail; footnotes; meticulous references to remote academic journals, and the presence of deliberately translucent paradox.

For a sum equivalent to about $70 or $80 a month, Mr. Borges took his first full-time job in 1937 as the first assistant in the Miguel Cane branch of the Buenos Aires Municipal Library. He was to remain there for nine years, completing his work each day in an hour or so and devoting the rest of his time to reading and writing.

In this period, he wrote "Pierre Menard, Author of the Quixote"—a "halfway house between the essay and true tale," he wrote.

"Pierre Menard" led to a story of a strange world that displaces our planet—"Tilon, Uqbar, Orbis Tertius"—and then quickly to another and then the next, stories concerned with labyrinths and mirrors and encyclopedias that came to form the foundation of Mr. Borges's oeuvre. "The Garden of Forking Paths," an anthology of short stories, was published in 1941, and three years later "Ficciones," perhaps his most celebrated collection of short stories, went into print.

BAFFLING APPOINTMENT BY PERON

In 1946, Juan Domingo Peron—"a President," Mr. Borges wrote, "whose name I do not want to remember"—came to power. Not long afterward, Mr. Borges was named inspector of poultry and rabbits in the public markets. He found his selection for the new position baffling, and he resigned.

By then, his reputation as a writer was secure, and he was asked to lecture on English literature at the Free College of Higher Studies and the Argentine Association of English Culture.

After the Peron Govenment was overthrown in September 1955, Mr. Borges was appointed director of the National Library in Buenos Aires. The next year he became a professor of English and American literatute at the University of Buenos Aires.

With Adolfo Bloy-Casares, whom he met in the 1940's, he collaborated in writing a collection of short stories under the name H. Bustos Domecq.

Mr. Borges once described the "Chronicles" of Bustos in 1967: "These are articles written on imaginary, extravagantly modern artists—architects, sculptors, painters chefs, poets, novelists, couturiers—by a devotedly modern critic. But both the author and his subjects are fools, and it is hard to tell who is taking in whom."

BLINDNESS AND POETRY

By the late 1950's, Mr. Borges was completely blind. "One salient consequence of my blindness was my gradual abandoment of free verse in favor of classical metrics," he wrote later. "In fact, blindness made me take up the writing of poetry again. Since rough drafts were denied me, I had to fall back on memory. It is obviously easier to remember verse than prose and to remember regular verse forms rather than free ones."

After he shared the Formentor Prize with Samuel Beckett in 1961, Mr. Borges's books began to sell increasingly well internationally, and he was invited abroad to lecture and to take up visiting professorships.

Over the following years he traveled extensively in the United States and Europe, lecturing and receiving bouquets of literary awards.

And though he was perennially a candidate for the Nobel Prize in Literature, it was denied him. It was perhaps less a concern to him than to others. After winning the prize in 1982, the Colombian novelist Gabriel Garcia Marquez said of Mr. Borges, "I hope he receives it, and I still don't understand why they haven't given it to him."

Some have insisted that it was Mr. Borges's aversion to politics, his unwillingness to criticize the repression of post-Peronist regimes—"I suppose they are a necessary evil, for the next 50 years, or so," he said—that kept him from becoming a Nobel Laureate.

He was, however, sympathetic to the plight of mothers whose children were victims of death squads that were tacitly or actively supported by Argentina's military Government.

"I had my say about the disappeared," he told an interviewer. "But what can I do? I'm an old man. What can they do to me? Torture me, eh?"

AN UNWORLDLY LIFE

Mr. Borges led a hermetic, unworldly life. Seemingly fragile in his last years, as he leaned on a vertebral wooden cane, he was gentlemanly in manner and locution. With blindness he relied increasingly on assistants to read to him and to write what he dictated. Always Mr. Borges wrote and read, and perhaps it was, in the end, the later that was paramount.

"To me, reading has been a way of living," he once said. "I think the only possible fate for me was a literary life. I can't think of myself in a bookless world, I need books. They mean everything to me."

During his lecture tours, he had a particular fondness for New Orleans. When he was not writing in his hotel room there, he was listening to jazz, invariably distinguished in his suit and tie from other jazz club patrons.

"My father told me a gentleman never goes in public in his shirt sleeves," he said, "but I think these people are right to dress comfortably when it is hot."

At the age of 68, Mr. Borges was married for the first time, to a childhood Sweetheart, Elsa Astete Millan, the widow of a friend. It proved to be an unhappy episode, and they divorced three years later.

He married Maria Kodama, his 41-year-old secretary and longtime traveling companion, a few weeks ago.

BUENOS AIRES "DREARY"

In later life, Mr. Borges was not so happy as he had once been with Argentina and its capital. "Buenos Aires is a dreary city now," he told an interviewer during the war with Britain over the Falkland Islands in the spring of 1982, a war he termed "atrocious."

"I don't understand my own country. But the world is not meant to be understood by men. Every night, I dream. I have nightmares—of being lost, of being in an unknown city. I don't remember the name of the hotel, or I can't find my way home in Buenos Aires. Maybe I feel very lost because the world is meaningless."

Yet Mr. Borges found meaning in his own work. At the end of his published conversations with the literary scholar Richard Burgin, Mr. Borges wrote:

"Through the years, a man peoples a space with images of provinces, kingdoms, mountains, bays, ships, islands, fishes, rooms, tools, stars, horses, and people. Shortly before his death he discovers that the patient labyrinth of lines traces the image of his own face."

WE NEED PROTECTION AGAINST SOVIET MISSILES NOW

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. KEMP. Mr. Speaker, protection against Soviet missiles is not just something that would be "nice to have," something that we can afford to speculate about and at our leisure, figure out the very best way of obtaining. Protection is something America needs so badly that we ought to try to get it any reasonable way we can, as fast as we can.

When the Soviet Union acquired the means to largely disarm the United States by using only a small fraction of its missile forces, it put us all in a terrible bind. Nothing, in our current or projected military budgets is designed to undo this momentous Soviet achievement and to get the United States out of this terrible predicament.

Even if we built 500 MX missiles, instead of the 50 the administration and Senator NUNN agreed on, we could not count on enough surviving a Soviet first strike to put Soviet reserve forces at risk.

Without that capacity, our ability to deter a serious Soviet attack has deteriorated. This is especially true since the Soviets are building antimissile defenses to protect themselves against the few American missiles that would be left for us to use. Given that Soviet antimissile defenses would be working against a much-depleted American force, those Soviet antimissile defenses would not have to be technically excellent to do a credible job. That is why American ability to deter is deteriorating with every passing year.

Under these circumstances, it is the height of self-indulgence for Americans to treat SDI as merely a "research" project. Is defense

against ballistic missiles possible? Well, of course it is.

We see the proof of this in the Soviet Union today: The six Pechona-class radars, full Soviet production of the Flat-twin radar, the SH-4 and SH-8 interceptors, and the SA-12 mobile ABM, as well as the forthcoming Soviet high energy laser in space—all of these could knock out American missiles.

The truth is, the United States could do better than these Soviet systems right now. In fact, we could have done better some years ago. But we have not, because we have tended to treat ballistic missile defense as a theoretical question rather than as a vital task we must perform.

Protecting American lives from the dreaded threat of Soviet missiles must be a top national priority. We cannot afford to wait until the best possible defense system emerges from the research laboratories. We cannot afford to let "the best" become the worst enemy of "the good." We must begin to build strategic defense now.

THE SESQUICENTENNIAL ANNIVERSARY OF THE SAINT LUKE'S EPISCOPAL CHURCH OF LANESBORO, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. CONTE. Mr. Speaker, on June 22 the Saint Luke's Episcopal Church of Lanesboro, MA will mark its sesquicentennial with a special service of Festive Evensong. I address you today in praise of this, the oldest surviving stone church in Berkshire County, and a strong symbol of religious perseverance and dedication.

Along with the old North Church in Boston, the stone church in Lanesboro is one of the original 13 colonial congregations and structures of the Protestant Episcopal Church in the United States. By 1835 the existing wood structure, which began construction in 1800 with the generous donation of land by area farmers, could no longer house the rapidly growing congregation. Church leaders soon established provisions for a larger, stone structure which opened on Christmas Day of 1836.

The new church meant a great deal to its members, allowing for increased access to religious thought and thereby helping to enhance the already strong faith of its evergrowing congregation. Even natural disasters could not waver the spirit and the drive of these people. In 1858 lightning struck the church's tower. It was quickly repaired. Again, in 1870, strong winds destroyed the upper portion of the tower, ruining the 2,400 pound bell purchased merely 3 years earlier to celebrate the 100th anniversary of the founding of the parish. These hardships only acted to unify the congregation. A new bell was quickly purchased.

However, a turn of events, primarily the move of Lanesboro's business center southward, lead to the establishment of a new parish structure. Hence, need of the old stone church's facilities began to diminish and soon it was only being used in the summer months. By 1959, the stone building was forced to close due to its worsening condition.

The proud, unfaltering faith of the members of Saint Luke's and the drive to preserve a piece of America's past, changed the fate of the church. With their efforts, in 1972, Saint Luke's became a National Historic Place. After renovations and much hard work, the church was able to reopen in 1975, again serving as a structure for worship during the summer months.

Today the old stone church stands as a symbol of strength and a symbol of religious endurance. The history of this fine structure is an encouraging story of pride and concern. After serving the needs of its congregation for 150 years, I am proud to have Saint Luke's a National Historical Place in my First Congressional District.

THE 30TH ANNIVERSARY OF GARDEN GROVE, CA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. DORNAN of California. Mr. Speaker, the beautiful city of Garden Grove, Orange County CA; the city I am proud to call home, will celebrate its 30th anniversary on June 18, 1986.

The good people of Garden Grove have witnessed many changes during the past 30 years. The once rolling farms of orange and strawberry groves have been transformed into a thriving community of homes, businesses, and schools.

Under the leadership of Mayor Jonathan Cannon and the city council, and with the support and guidance of its citizens, Garden Grove has achieved its "quest for quality." We are proud of the excellent educational facilities available to our children, our city's accomplishments in developing a strong and flourishing business community providing jobs and important services for our citizens, and our government's ability to meet the many and diverse needs of our community.

Much of the richness of our city comes from the diverse backgrounds and heritages of its people. As we look to the future, we remember our past and the strong community values upon which our city was built. And with great joy and excitement we look forward to the next 30 years.

Mr. Speaker, on behalf of the entire U.S. Congress, I salute the city of Garden Grove and congratuate them for 30 years of excellence.

TRIBUTE TO PAUL BATTISTI

HON. GENE CHAPPIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. CHAPPIE. Mr. Speaker, I rise today in honor of Paul Battisti, a health care professional in my district who is retiring in August after a 40 year career in health care. Mr. Battisti has contributed his energy, judgment and excellent management skills to developing long term residential care for U.S. veterans.

The Veterans Home of California has flourished under Mr. Battisti's direction and reached an enviable status as the largest and most unique facility in the country for veteran care. This home and medical center, located in Yountville in the Napa Valley, is the "homeport" to 1,400 men and women wartime veterans who are advanced in age. This facility is certainly a national model for gerontological care. Under Mr. Battisti's administration, it has gained needed plant improvements, a facility-wide Employment Training Program, a new data processing system, quality assurance programs consistent with standards of the Joint Commission on Accreditation of Hospitals, and expanded and refined medical services.

Mr. Battisti is credited with many improvements during his tenure at the Veterans Home, yet the change he is proudest of is the least visible. From the beginning, he has fostered a sense of pride and dignity in the members of the Home and has taken a variety of measures to encourage more of their imvolvement in the policies and operations which affect them.

Mr. Speaker, I am positive Mr. Battisti's coworkers are going to miss his humor, warmth and strong dedication to the Veterans Home. I know that my colleagues will want to join me in commending Paul Battisti and in wishing him the best of luck in the future.

GOSPEL MUSIC WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. RODINO. Mr. Speaker, June 14-21, the city of Newark will ring with the sweet sounds of gospel music during Gospel Music Week.

The celebrations will be kicked off on June 16 with a special presentation at the Newark City Hall, from 12 noon to 2 p.m. The hosts are Prof. Albert Lewis, Bro. Donny Harper and Rev. Archie Mitchell. Featured performers include:

The Newark Boys Choir, Randall Sname, director.
Evang. Sharon Dodd & The Y.T.E. Christian Theatrical Assoc. of Newark.
Evang. Matte Moultree Wilson & the Original Halos of Newark, N.J.
Miss Shanty Hardy (5 years old) of Newark, N.J.
Ms. Connie Pitts of Newark, N.J.
Evang. Gail Squire & Company of Newark, N.J.
Min. Harry Johnson of Newark, N.J.
Master Shaun Miles of Newark, N.J.
Ms. Verna Rue-Law of Irvington, N.J.
The Rawls Family of Newark, N.J.

This year's event is being covered by Mr. Kelvin Johnson, local origination access coordinator, Storer Cable, in Plainfield, N.J. Mr. Johnson's video project will be distributed to various cable companies throughout the State of New Jersey for airing at a later date.

This is not a rare phenomenon—many of the greatest performers in the world got their

start by singing gospel music. As a musical style, it has influenced all other forms of music while still enduring as an important genre all its own. Gospel music has been called the first truly American form of music, having as its origins the spirituals that expressed the hope for a better life during the days of slavery. To the millions of people who enjoy the beauty and appreciate the history of gospel music, this celebration is an event that ought not be missed.

A TRIBUTE TO THE MARGARET BRENT BUSINESS AND PROFESSIONAL WOMEN'S CLUB

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to an organization which will be celebrating on June 18, 1986, 20 years of protecting, promoting, and procuring the civil rights of women in the workplace. I speak of the Margaret Brent Business and Professional Women's Club of St. Mary's County, MD.

Proudly continuing the legacy of Margaret Brent, the great 17th-century crusader for women's suffrage, the St. Mary's branch of this venerated national organization has been a leader in ensuring women that they are guaranteed equality in the job market. By serving the needs of the working women through educational and job training supports, the Margaret Brent Business and Professional Women's Club of St. Mary's County has profoundly affected the lives of countless persons.

Indeed, we all owe a special debt of gratitude to this distinguished organization which has played a large role in the burgeoning economy of Maryland's Eastern Shore. So, Mr. Speaker, I applaud the Margaret Brent Business and Professional Women's Club of St. Mary's County on their 20th anniversary for work which stands as a great source of pride to their community and all of Maryland's First Congressional District.

RULE ON H.R. 4868, THE ANTI-APARTHEID ACT OF 1986

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. ROSTENKOWSKI. Mr. Speaker, I take this opportunity to inform my colleagues that the Committee on Ways and Means today favorably reported to the House of Representatives as amended H.R. 4868, to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

I wish to serve notice, pursuant to the rules of the Democratic Caucus, that I intend to seek less than an open rule for the consideration of this legislation by the House of Representatives of those provisions under the jurisdiction of the Committee on Ways and Means.

DUTY SUSPENSION ON CYCLOSPORINE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 1986

Mr. FRENZEL. Mr. Speaker, today I have introduced H.R. 5034, which would eliminate the duty on cyclosporine until January 1, 1991.

This bill was introduced at the request of the University of Minnesota Medical School. However, I assume it will benefit other medical schools and institutions as well.

Cyclosporine is an FDA-approved immunosuppressive agent which is used in research conducted to improve organ transplantation techniques. The drug, to my knowledge, is manufactured by only one company in Switzerland.

Even though the column I tariff is low at 1.5 percent currently, the tariff combined with a customs broker fee can make the price of entry very high for a research facility with scarce resources. Often, an experimental drug will be donated to a research facility, yet that facility will still have to pay for the drug through the tariff and broker fee.

My bill would enable the users of this drug to enter the drug themselves to avoid unwanted expenses and delays.

The column II duty would not be changed.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 17, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 18

9:00 a.m.

Armed Services

Closed business meeting, to continue consideration of S. 2199, authorizing funds for fiscal year 1987 for the Department of Defense, S. 2218, authorizing funds for fiscal years 1987 and 1988 for national security programs of the Department of Energy, and S. 2132, authorizing funds for fiscal year 1987 for military construction programs.

SR-222

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold oversight hearings on implementation of the fair housing initiatives program.

SD-538

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on the effects of the high cost and unavailability of product liability insurance on the general aviation industry.

SR-253

9:30 a.m.

Governmental Affairs

To hold hearings on the nomination of Evelyn E. Crawford Queen, to be an Associate Judge of the Superior Court of the District of Columbia.

SR-301

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nominations of Kalo A. Hineman, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission, Kathleen W. Lawrence, of Virginia, to be Under Secretary of Agriculture for Small Community and Rural Development, Kenneth A. Gilles, of Virginia, to be Assistant Secretary of Agriculture for Marketing and Inspection Services, and Robert W. Beuley, of Virginia, to be Inspector General, Department of Agriculture.

SR-332

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Environment and Public Works

Nuclear Regulation Subcommittee

To continue hearings on S. 1235 and S. 2291, bills to promote more effective and efficient nuclear licensing and regulation, and to begin hearings on section 2 of S. 2471, to establish an Office of Inspector General in the Nuclear Regulatory Commission.

SD-406

Governmental Affairs

Civil Service, Post Office, and General Services Subcommittee

To hold joint hearings with the House Committee on Post Office and Civil Service on a Postal Rate Commission report on the use and abuse of the preferred mail rate.

SD-342

Judiciary

To resume hearings on S. 2334, to restrict all Federal employees from lobbying the Federal Government and from working for a foreign entity after they leave Government service.

SD-226

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

11:00 a.m.
Foreign Relations
To hold hearings on the nominations of Robert B. Keating, of the District of Columbia, to be United States Executive Director of the International Bank for Reconstruction and Development, Jonathan Moore, of Massachusetts, to be United States Coordinator for Refugee Affairs and Ambassador-at-Large while serving in this position, Robie M.H. Palmer, of Vermont, to be Ambassador to Hungary, Harry W. Shlaudeman, of California, to be Ambassador to the Federative Republic of Brazil, and Frank G. Wisner, of the District of Columbia, to be Ambassador to the Arab Republic of Egypt.
SD-419

1:00 p.m.
Judiciary
Security and Terrorism Subcommittee
To resume hearings in closed session on legal mechanisms to combat terrorism.
S-407, Capitol

2:00 p.m.
Armed Services
Closed business meeting, to continue consideration of S. 2199, authorizing funds for fiscal year 1987 for the Department of Defense, S. 2218, authorizing funds for fiscal years 1987 and 1988 for national security programs of the Department of Energy, and S. 2132, authorizing funds for fiscal year 1987 for military construction programs.
SR-222

Judiciary
To hold hearings on pending nominations.
SD-226

Conferees
On H.R. 2005, to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
SD-G-50

JUNE 19

9:00 a.m.
Armed Services
Closed business meeting, to continue consideration of S. 2199, authorizing funds for fiscal year 1987 for the Department of Defense, S. 2218, authorizing funds for fiscal years 1987 and 1988 for national security programs of the Department of Energy, and S. 2132, authorizing funds for fiscal year 1987 for military construction programs.
SR-222

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the Department of Defense.
SD-192

Commerce, Science, and Transportation
Business meeting, to resume consideration of proposed legislation to provide for a uniform product liability law to conform with an alternative claim system for expedited recovery of damages by those injured by defective products (text of Amendment No. 1951 to S. 1999).
SR-253

Energy and Natural Resources
To hold oversight hearings to review the impact of the explosion of the Soviet nuclear powerplant at Chernobyl on the domestic nuclear industry.
SD-366

Finance
To hold hearings on the nominations of Robert B. Helms, of Maryland, and Ronald F. Docksai, of Virginia, each to be an Assistant Secretary of Health and Human Services.
SD-215

Special on Aging
To hold hearings on equality in the work force regardless of age.
SD-106

10:00 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and prosecution of certain tax cases.
SD-215

Foreign Relations
To resume hearings on proposals relating to nuclear testing issues, including S.J. Res. 252, S. 2220, H.J. Res. 3, S. Con. Res. 7, and S. Con. Res. 135.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Small Business
To hold oversight hearings on the implementation of the Prompt Payment Act (P.L. 97-177).
SR-428A

11:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
Business meeting, to mark up S. 2083, to promulgate regulations for asbestos hazard abatement in the Nation's schools, and S. 2300, to set standards for identification and abatement of hazardous asbestos in Federal and other buildings.
SD-406

2:00 p.m.
Armed Services
Closed business meeting, to continue consideration of S. 2199, authorizing funds for fiscal year 1987 for the Department of Defense, S. 2218, authorizing funds for fiscal years 1987 and 1988 for national security programs of the Department of Energy, and S. 2132, authorizing funds for fiscal year 1987 for military construction programs.
SR-222

Foreign Relations
Western Hemisphere Affairs Subcommittee
To hold a closed briefing on the current situation in Mexico.
S-116, Capitol

4:00 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

JUNE 20

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on miscellaneous public land bills, including S. 2266, S. 2287, S. 2320, S. 2351, S. 2466, S. 1019 and H.R. 2182, S. 2483, and S. 2532.
SD-366

10:00 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To continue oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and posecution of certain tax cases.
SD-215

Judiciary
To hold hearings on S. 2323, to exempt from the antitrust laws any joint agreement or action by persons in the television broadcast industry to alleviate the negative impact of violence in television broadcast material.
SD-628

Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings to review the progress of this year's Administration refugee policies.
SD-226

JUNE 23

10:00 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To resume oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and prosecution of certain tax cases.
SD-215

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review budget requests for the Department of Energy's Office of Energy Research and the Office of Environment, Health and Safety.
SD-366

JUNE 24

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1903, and a related measure to improve the safe operations of commercial motor vehicles.

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.
SD-366

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 489 and H.R. 3174, bills to allow members of the armed forces to bring claims for damages against the United States for personal injury or death arising out of medical, psychological, or dental care furnished by a Department of Defense hospital.
SD-226

2:30 p.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2522 and H.R. 4378, bills to govern the placement of additional commemorative works within the National Capital Region of the National Park System.
SD-366

JUNE 25

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253
Rules and Administration
Business meeting, to mark up S. 1787, to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns, and related proposals, an original bill authorizing funds for fiscal year 1987 for the Federal Election Commission, H. Con. Res. 288, to authorize the printing of additional copies of a certain committee print, H. Con. Res. 301, to authorize the printing of additional copies of a certain Presidential Message, to resume mark up of S. 2255, to prohibit the expenditure of Federal funding for Congressional newsletters, and other pending legislative and administrative business.
SR-301
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Environment and Public Works
Nuclear Regulation Subcommittee
Business meeting, to consider S. 1225, to revise certain provisions of the Atomic Energy Act of 1954 regarding liability of nuclear accidents.
SD-406
Labor and Human Resources
To hold hearings on the administration of the Mine Safety and Health Review Commission.
SD-430
Select on Indian Affairs
To hold hearings on H.R. 1344, to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas.
SR-385

JUNE 26

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.
SR-253
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on certain provisions of S. 2403, to improve access to health insurance coverage for Americans.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Edward V. Hickey, Jr., of Virginia, to be a Federal Maritime Commissioner.
SR-232A
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

4:00 p.m.
Select on Intelligence
Closed business meeting, to consider pending calendar business; to be followed by a closed hearing on intelligence matters.
SH-219

JULY 15

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 1310, Clean Campaign Act of 1985.
SR-253

10:00 a.m.
Energy and Natural Resources
To hold hearings on the nominations of A. David Rossin, of California, to be an Assistant Secretary of Energy for Nuclear Energy, Marshall A. Staunton, of California, to be Administrator, Economic Regulatory Administration, Theodore J. Garrish, of Virginia, to be Federal Inspector, Alaska Natural Gas Transportation System, and Richard H. Francis, of Virginia, to be President, Solar Energy and Energy Conservation Bank.
SD-366

JULY 16

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Labor and Human Resources
To hold oversight hearings on barriers to children's health care.
SD-430

JULY 17

9:20 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2417, to provide for the establishment of an independent commission to study and make recommendations regarding the management of aviation safety.
SD-562

9:30 a.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430
Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2412, to withdraw and reserve certain public lands.
SD-366

JULY 18

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2407, the Animal Drug Amendments and Patent Term Restoration Act of 1986.
SD-430

JULY 22

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on barriers to agricultural trade.
SR-332
Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430
Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 230, to relieve the city of Dickinson, North Dakota of all obligations incurred in a contract entered into with the Secretary of the Interior concerning construction of certain facilities under the Reclamation Authorization Act of 1975, S. 252, to provide for the construction, operation, and maintenance of the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri River basin program, South Dakota, and S. 1704, to increase the authorization of appropriations for the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska.
SD-366

2:00 p.m.
Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.
SD-430

JULY 23

9:30 a.m.
Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.
SR-301

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JULY 24

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1026, to implement the policies of the proposed Continental Scientific Drilling Program of the United States relating to earth science research and technological development.
SD-366

JULY 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-322

10:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review the response for home health care services.
SD-430

JULY 30

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 13

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

HOUSE OF REPRESENTATIVES—*June 17, 1986*

The House met at 12 noon.

The Reverend Dr. Dennis Johnsey, First Baptist Church, Pascagoula, MS, offered the following prayer:

Our Father, to You, who are author of our liberty, and under whom we have our freedom, we make our prayer.

Give to us open minds, to receive and to welcome such new light of knowledge as it is Your will to reveal. Let not what happened yesterday be so great that it sets a limit for the future. Give us courage to change our minds. Help us to be mindful of the thoughts of others, for we never know in what voice You will speak.

Keep our ears open to Your voice, for we know in our hearts that only in Your will is our peace and the prosperity of our land.

In the name of Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

THE REVEREND DR. DENNIS JOHNSEY

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. LOTT. Mr. Speaker, it is a great privilege for me today to rise and introduce to the Members of the House Dr. Dennis L. Johnsey, our guest chaplain today. Dr. Johnsey is pastor of the First Baptist Church in Pascagoula, MS, my hometown church. Dr. Johnsey comes to us with a distinguished background.

He is a native of Corinth, MS, completed his undergraduate work at Mississippi State University and went on for his master's degree from Southwestern Baptist Theological Seminary. He then obtained his doctorate from the New Orleans Baptist Theological Seminary.

Since entering the ministry, Dr. Johnsey has had a distinguished career of preaching and service, both here and abroad. He has traveled and preached extensively throughout South America, the Far East, and Africa. He has pastored two other congregations in my home State of Mississippi before coming to the First Baptist Church of Pascagoula. Dr. Johnsey has led in 47 revivals in Mississippi and has served as camp pastor for Youth Week at the Gulfshore Baptist Assembly for 4 years.

As a member of his congregation in Pascagoula, I am proud to have Dr. Johnsey honored as our guest chaplain today.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the bill on the Private Calendar.

STEVEN McKENNA

The Clerk called the bill (H.R. 1598) for the relief of Steven McKenna.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

PERMISSION FOR SUBCOMMITTEES OF COMMITTEE ON ARMED SERVICES TO SIT DURING 5-MINUTE RULE TODAY AND BALANCE OF THIS WEEK

Mr. MONTGOMERY. Mr. Speaker, I ask leave of the House that subcommittees of the Committee on Armed Services be permitted to sit during the 5-minute rule today and the balance of this week.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TODAY AND TOMORROW DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask that the Committee on the Judiciary be permitted to sit today, Tuesday, June 17, 1986, and tomorrow, Wednesday, June 18, 1986, during proceedings of the House under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

WHAT DID HONDURAS DO TO DESERVE $1.5 MILLION IN CONTRA AID MONEY?

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I have here a facsimile of a check that is payable to the high command of the Honduran Armed Forces in the amount of $450,000. It is only a fraction of the nearly $1.5 million in aid that was intended for humanitarian assistance to the Contras, that in fact has wound up being paid to the Honduran Army.

Why should the armed forces of a foreign government be paid $1.5 million with money that was appropriated by the Congress specifically for the sole purpose of providing aid to the Contras?

Of the $4.4 million in Contra aid that was looked at by the GAO, as little as 4.2 percent can actually be traced as being for humanitarian purposes.

Mr. Speaker, this investigation by the GAO, this check, raises very serious questions about accountability. We would not tolerate this kind of abuse in any other program. We ought not to tolerate it in this program.

Answers are needed now before any further funds are provided.

WHY DELAY IMPEACHMENT?

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, why are we making the impeachment of Federal Judge Harry Claiborne so difficult? Why are we complicating the clearest case for impeachment in American history?

In the 12 previous impeachment proceedings in the House of Representatives, the process has at least started at the full committee or special committee level. Since the existence of the House Judiciary Committee, initial consideration of impeachment, as far as I know, has always been full committee business.

If there were ever a case for impeachment that did not call for another layer of review, the Claiborne case is it. After nearly 6 years of investigation and litigation, the facts are in. All direct appeals are over.

Yet the matter of impeaching a convicted and imprisoned Federal judge who disgraces the judiciary every day

and whose salary costs taxpayers nearly $215 a day has been referred to a subcommittee. No one expects this matter to reach full committee before the July 4th recess. Since I have already drafted an article of impeachment, why do we need 6 weeks to draft articles of impeachment? Why do we need an unprecedented layer of review? Why make our case harder to try in the Senate? Those who advocate a muddled course of impeachment have the burden of justifying to the American people why we can't move swiftly on Claiborne's impeachment.

REMEMBER THE ALAMO

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I fully realize Texans do not like to be rescued by outsiders—but we all remember the Alamo and there is a time and place where even Texans need help.

After 2 weeks and 25 tries, the Texas National Guard could not place the 3,000 pound "Goddess of Liberty" on top of the Texas Capitol down in Austin.

A Mississippi National Guard crane helicopter and crew from my hometown of Meridian, MS, were called on to do the job. I talked to the commander of my unit a couple of days before this historic mission—he said it would be a "piece of cake."

It took the Mississippi National Guard unit 10 minutes to install the new Miss Liberty and they did it, in only one try.

Even Texans need help on occasion—remember the Alamo.

A TEXAS-SIZE THANK YOU TO MISSISSIPPI

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, of course, we want to extend a Texas-size thank you to the State of Mississippi for helping us install our new statue of the Goddess of Liberty on our State Capitol Building. The Mississippi National Guard did succeed where the Texas National Guard had failed in lowering the statue on the State Capitol Building. I would just say that now we know where all the National Guard Federal funds are going because General Montgomery has seen fit to send all the big choppers to Mississippi. You send us the CH-47 helicopter, but you keep for Mississippi the CH-54—the big helicopter with a 100-foot crane span and a big electronic eye. Even "Blind Tony" from Mississippi couldn't miss with that kind of equipment.

We're proud of our Texas pilots. Right now, Texas has two pilots involved in precision flying competition in England. They are currently ranked No. 1 out of 26 world teams. These are Texas boys, General Montgomery—competing to be world champions.

But we appreciate the help from Mississippi and we are proud to work with Mississippi. Every year a detachment of Texas National Guardsmen go to Mississippi and get aboard a Corps of Engineers barge and literally dredge the Mississippi. So, if you mess with us too much, we might not send those boys over there. And if that happens, it will take more than a CH-54 helicopter to unstop the mighty Mississippi.

But seriously, I just want to respond to the gentleman from Mississippi by saying that it is always a pleasure and a great honor to have Mississippians in our State. If my history serves me correctly, there were a few Mississippians who helped to settle Texas in the early days. As a rule, it has been established that Mississippians, once they set foot in Texas, generally have no desire to return to Mississippi. It is reported to me that several members of the Mississippi helicopter crew are planning to return to Texas for their vacations. It wouldn't surprise me if those Mississippi boys had already put in for a permanent transfer to the Lone Star State. But we welcome Mississippians and will continue to welcome them to Texas, so long as they don't hover over our great State very long.

THE MOST POTENT AGENT OF CIVILIZATION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, in 1874, as today, the United States was on a floating dollar standard, and a great debate was going on whether the resumption of a gold standard would have any merit. One of the participants of the debate, Senator John P. Jones, had this to say on the floor of the U.S. Senate on April 1, 1874:

> Does this Congress mean now to leave entirely out of view and discard forever a standard of value? Did any country ever accumulate wealth and achieve greatness or attain a high civilization without such a standard? And what but gold can be that standard? What other thing on earth possesses requisite qualities? Gold is the articulation of commerce. It is the most potent agent of civilization. It is gold that has lifted the nations out of barbarism. So exact a measure is it of human effort, that when it is exclusively used as money it teaches the very habit of honesty. It neither deals in nor tolerates false pretense. It keeps its promise to rich and poor alike.

Thanks to the efforts of men like Senator Jones, Congress decided to resume the gold standard. The country went on to greatness and became the world's leading creditor.

In 1971 we discarded our standard of value, and by 1986 the country became the world's leading debtor, in fulfillment of the word of the Gospel:

"The man who has will be given more, and the man who has not will forfeit even what he thinks he has." (Luke, 8:18.)

□ 1215

INCREASED FLEXIBILITY IN FEDERAL-AID HIGHWAY PROGRAM

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, today I have introduced legislation to reauthorize the Federal-Aid Highway Program and provide increased flexibility in its operation.

This bill authorizes appropriations for the Federal-Aid Highway Program through 1990 and dramatically increases the funds available for new highway construction.

This legislation is nearly identical to legislation introduced in the other body by Senator SYMMS. The bill eliminates the need for congressional approval of the interstate cost estimate and the interstate substitute cost estimate.

The bill also establishes a combined interstate-primary category allowing total transfer between interstate construction, 4R and primary funds. These funds may then be spent on any construction or reconstruction project on either the interstate or primary system.

This will bring the most cost-effective use of limited highway funds by leaving allocation decisions to be made by the States according to their individual priorities. I urge my colleagues to join me in support of this legislation.

BACK-HOME POLITICS

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, Georgia Gov. Joe Frank Harris doesn't seem to understand why family farmers are upset about plans to establish eleven 2,000-cow dairy operations in his State.

About a week ago, one of Governor Harris' aides said that complaints about these operations were motivated simply by "back-home politics."

Well, Mr. Speaker, the dairy farmers in my State of Wisconsin have every reason to be angry. The Federal Government is paying family farmers to go out of business through the whole-herd buyout program while Federal

tax and price incentives are encouraging new corporate dairy farms to open up.

It's wrong. And it's wrong whether you call it "back-home politics" or not.

The farmers of Wisconsin have no quarrel with free and fair competition from dairy farmers elsewhere in the United States. But the Government sets higher prices for milk produced elsewhere than it pays Wisconsin's dairy farmers.

That's not free and fair competition.

I have introduced a bill, H.R. 4232, to reduce this disparity and get a fairer deal for the Midwest's family farmers. I commend this bill to your attention.

STOP BACKING LOSERS AND END SUPPORT FOR CONTRAS

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute.)

Mr. BONIOR of Michigan. Mr. Speaker, former Contra Commandante Eden Pastora has now told the American people who the Contras really are:

"Their military and political tactics are Somocista," Pastora says in today's Washington Post. "Their commanders are Somocistas."

Before every vote, the administration argues that the Contras have been reformed. But former Contra commander Eden Pastora knows better.

"As proof of their criminal strategies," Pastora notes, "during 4 years of guerrilla warfare, they haven't turned one prisoner over to the International Red Cross.

Can the Contras win their 5-year-old war? Pastora's answer is clear. The Contras have "no chance"—no chance, "whatsoever"—"of military or political victory."

Mr. Speaker, it is time for America to stop backing losers. Let's end support for the Contras.

THREE THOUSAND EIGHT HUNDRED ACRES ARE ENOUGH FOR GETTYSBURG BATTLEFIELD

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, without being cute, wise, and immature, let me say that one of my colleagues from Pennsylvania proved yesterday on the floor of the House what we have all known time and time again: That, as a matter of fact, we know more about our district than we know about some other Member's district.

He read an article from the Gettysburg newspaper, a newspaper in my district, and from that he assumed that the people in Adams County supported what that editorial had to say. Let me remind all of my colleagues that editorial writers in Gettysburg, PA, pass through Gettysburg on their way to some bigger city or larger town, and by and large they do not represent what the people of Adams County believe and want.

The people of Adams County want us to vote "no" on H.R. 4259. Ninety percent of the people of Adams County feel very strongly that 3,800 acres are enough acres to, as a matter of fact, commemorate the Civil War battle in the Gettysburg area. They do not want us to open the doors so that they can get what the Park Service wants—5,000 acres.

VOTE "YES" ON GETTYSBURG BATTLEFIELD ADDITION

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, the Gettysburg Battlefield Preservation Association wants to contribute 31 acres it owns to the National Park Service. The Park Service wants it. The administration supports the bill, H.R. 4259.

There is no cost to the Federal Government and no tax loss to the local government since the 31 acres are owned by a nonprofit citizens' group.

This modest parcel of land was the scene of a crucial engagement at Gettysburg. The donation of land was endorsed in the Gettysburg daily newspaper yesterday and in the Philadelphia Inquirer this morning. Today, the citizens of Gettysburg have journeyed to Washington in Civil War garb and stand on the front steps of the Capitol to lobby for this addition to the national park.

The ranking Republican on the subcommittee and the full committee voted for the legislation and endorsed it yesterday on the floor of the House. I hope the House will do the same. As another fellow once said, "It is altogether fitting and proper that we do so."

TRIBUTE TO MRS. HELEN COPLEY

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, the Anti-Defamation League of B'nai B'rith tonight will honor one of America's great ladies, San Diego's own Helen K. Copley.

As chairman of the board and chief executive officer of the Copley Press, she oversees the publication of 12 dailies, 28 weeklies, and 1 biweekly, a giant in the publishing field throughout America.

Mrs. Copley currently serves as the chairman and president of the American Newspaper Publishers Association Foundation. She has also served on the ANPA board of directors for 9 years.

But in San Diego, she is perhaps best known for her charitable work, as a trustee for the world-famous Scripps Clinic in La Jolla, and generous contributor and tireless advocate for dozens of religious, charitable, and educational causes.

Tonight, she will receive the league's national distinguished community service award, honoring her spirit and good works. The league is speaking for the people of San Diego and America in their appreciation of Mrs. Helen Copley, and I want to add my own voice to the chorus of praise.

Thank you for all you have done, Helen, and God bless you.

LEGISLATION TO PROVIDE JUDICIAL REVIEW OF BENEFIT CLAIMS

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS of California. Mr. Speaker, today, after House legislative business has been completed, a number of members will speak in support of H.R. 585, the bill that will provide judicial review of benefit claims denied by the VA's Board of Veterans' Appeals.

Mr. Speaker, the 28 million American veterans are the only major group of men and women denied access to the American system of justice. Welfare and social security recipients, illegal aliens, and even convicted felons can appeal to the Federal courts, but not the veterans who defended our Nation in time of need.

H.R. 585 now has 223 cosponsors, of both parties. A Veterans' Affairs Committee vote will come soon.

The legislation has strong opponents, chiefly the Veterans' Administration itself, who naturally wants to keep the total control it now has over veterans' claims.

I invite my colleagues to participate this evening in the special order and urge more cosponsors of this badly needed legislation to provide fundamental justice to our Nation's veterans.

FINANCIAL AND MANAGEMENT STABILITY FOR SOCIAL SECURITY ADMINISTRATION

(Mr. JONES of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Oklahoma. Mr. Speaker, I take this occasion to inform the House that today I will be intro-

ducing legislation designed to give financial and management stability to the Social Security Administration.

This legislation, as initial cosponsors, has all the members, Democrat and Republican, of the Social Security Subcommittee, and 150 Members of the House of Representatives of both parties and all political philosophical persuasions.

It does several things, but primarily it does two things that are important to Social Security. No. 1, it makes the Social Security Administration an independent agency and takes it off the political football field entirely.

No. 2, it prohibits entirely in the future any Secretary of the Treasury from dipping into the Social Security surplus reserves and disinvesting those in order to keep the Government operating, as was done in 1984 and 1985.

I am sure my colleagues have heard from senior citizens across this country who are outraged that Social Security reserves have been used to finance the cost of Government and that we had to go in and force the Secretary to repay those funds with interest. I am sure they are outraged because we have had nine different Administrators in the last 12 years.

We must restore financial and management stability to the system, not only for those who are presently retired but for those who are presently working and paying into the system. We must send a signal that Social Security will be there for them when they are ready to retire. I hope other colleagues will join in cosponsoring this legislation.

□ 1225

SOUTH AFRICAN CATASTROPHE

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, the Government of South Africa is plunging that nation toward total catastrophe. Repression of freedom is becoming complete, including supression of the press.

Yesterday, I introduced a House concurrent resolution to condemn the Government of South Africa for invoking martial law and to demand an end to martial law in South Africa. The junior Senator from Michigan introduced a similar resolution in the other House.

The South African Government is trying to put a lid on aspirations for freedom in that country. Whatever may be the temporary outcome, it is doomed to failure. Indeed, the longer and harder that government tries to suppress freedom there for all citizens, the more violent will be the ultimate explosion.

It is time, indeed, beyond the appropriate hour, for people and nations of conscience to go beyond words and to join together to act and force the South African Government to its senses.

SALT II SUPPORT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, because I believe in a strong defense, I feel that President Reagan's decision to abandon SALT II could be a fatal mistake. In doing so, 15 years of arms control negotiations, created and upheld by Presidents Johnson, Nixon, Ford, and Carter, will be entirely shattered. These Presidents pursued arms negotiations not because they believed they were doing the Soviets a favor, but because they knew it was in the best interest to the security of this Nation. And now, the administration has opted to discard what little progress we as a nation have made to resolve disputes with the Kremlin.

Mr. Speaker, there are further consequences which will arise if the SALT II Treaty is destroyed. First, abandoning the SALT II will undoubtedly fuel an ever-increasing arms race which will give both the United States and the Soviet Union an opportunity to double their number of nuclear warheads. Second, the destruction of this treaty will create tension between the United States and our NATO allies, as evidenced by the fact that not one of our Western allies supports the President's decision. Finally, the impact on our budget will be tremendous, for to keep up with Soviet arms expansion will cost us literally billions of dollars.

I feel that it is imperative that both the United States and the Soviet Union make a move to abate the escalation of the arms race. By opposing the President's decision to dismantle the SALT II Treaty, we will decrease the risk of an intensified nuclear dispute. I urge all of my colleagues to support House Concurrent Resolution 350 which proposes that we adhere to the SALT agreements as long as the Soviet Union does likewise.

ANTI-APARTHEID

(Mr. FAUNTROY asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, I have asked for this opportunity to explain to my colleagues in the Congress, to my wife, and to my constituents why I continue to be arrested in protest of apartheid in South Africa.

The reason is simply this: Every day that we delay taking action in these United States, we place at risk the lives of thousands, indeed, maybe millions of black men, women, and children in South Africa.

When I talk with the Reverend Allen Boesak or with Bishop Tutu and they tell me of the cruel beatings and the murders that go on daily in South Africa, I must do something to try to raise the consciousness and prick the conscience of the people of this country to take an action.

When the South African Government can do as it did last week and declare a state of emergency and arrest 2,000 labor, church, and other anti-apartheid activists; when they can pay for blacks to kill blacks; as they have done in Crossroads, giving them machetes and guns to shoot other blacks; and when they can pay Savimbi and Angola to protect their diamond interests there by attacking other blacks, it is time for an action.

Quite frankly, today in the Congress, we have an opportunity. This week, we can vote an action that will move the Government of South Africa away from its blind march toward tragedy and destruction and violence and turn them up the road toward reconciliation and brotherhood.

When we take that action, when that day is achieved, then I will stop embarrassing my colleagues in the Congress by following conscience and seeking to prick the conscience of this Nation to move us in the Congress to impose the sanctions that are necessary to bring about peace and stability in that region.

VETERANS NEED JUDICIAL REVIEW

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise today to speak in support of a veteran's right to appeal decisions by the Veterans' Administration to a court of law. I am a cosponsor of H.R. 585, which would give veterans the same rights as any other citizen who believes that he or she has been considered unfairly by a governmental agency.

There is a basic inequity in a system which allows the VA to go to court if it believes that a veteran owes it money, but which prevents veterans from going to court if they believe the VA owes them money. There is further injustice in that those who have fought and risked their lives in defense of our Nation and our freedom should be denied such a basic right of redress.

Some of my friends in the veterans community have argued that the right of judicial review is unnecessary, because the Board of Veterans' Appeals has done such an exemplary job in adjudicating veterans' claims. They also argue that the flood of cases into the

courts will further tie up our overloaded judicial system, making that slow and costly system even slower and more costly.

Obviously, these claims are contradictory. If the BVA is doing as good a job as some claim, then there will not be that many veterans filing suit to overturn their decisions. If there are a lot of veterans who feel that their case was not fairly heard, and do choose to file suit, then this should indicate that the BVA is not doing as well as some of us had thought.

But putting aside the particulars of judicial review, there is a principal at stake here. Our court system was established as a way to make sure that every citizen has a forum to air his grievances, to seek redress, and to seek justice. As an attorney I know that this right, whether or not it is ever exercised by an individual, is basic to our trust in our legal and political system.

That is why it is especially ironic that legislation is even needed to allow veterans, the defenders of our Nation, to file their grievances in a court of law. Perhaps some of the national organizations which represent veterans do not realize this. But I know that in Pennsylvania, the American Legion and other veterans groups have voted overwhelmingly in support of the concept of judicial review. They believe as I do that veterans deserve the same rights and privileges as any other citizen.

That is why I am proud to be a supporter of H.R. 585.

HIGHER EDUCATION AMENDMENTS OF 1986

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1965) to reauthorize and revise the Higher Education Act of 1965, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, I reserve the right to object, although I do not intend to object. I just want to say that this was discussed with this side and we are in unanimous agreement with what the chairman plans to do.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1986".

(b) REFERENCES.—References in this Act (except as otherwise provided) to "the Act" are to the Higher Education Act of 1965.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; references; table of contents.
Sec. 2. Effective date.
Sec. 3. Contracting authority subject to appropriations.

TITLE I—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS

SUBPART 1—PELL GRANTS

Sec. 101. Extension of program; eligibility.
Sec. 102. Maximum grant.
Sec. 103. Cost of attendance rules.
Sec. 104. Family contribution schedule for Pell Grants.
Sec. 105. Procedure with respect to award errors and overpayments.

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Sec. 107. Authorization of appropriations.
Sec. 108. Maximum amount of grant.
Sec. 109. Priority for needy students.
Sec. 110. Apportionment.

SUBPART 3—STATE STUDENT INCENTIVE GRANTS

Sec. 112. Authorization of appropriations.
Sec. 113. Authorization of community service work learning study grants.
Sec. 114. Participation of institutions.
Sec. 115. Federal share limitation.

SUBPART 4—STUDENT SUPPORT SERVICE PROGRAMS

Sec. 117. Reauthorization; prior experience provision.
Sec. 118. Student support services.
Sec. 119. Outreach and staff development.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

Sec. 121. Authorization of appropriations.

SUBPART 6—HONORS SCHOLARSHIP PROGRAM

Sec. 123. Authorization of appropriations.

PART B—GUARANTEED LOANS

Sec. 131. Extension of programs.
Sec. 132. Needs basis for the guaranteed student loan program.
Sec. 133. Increasing loan limits.
Sec. 134. Interest rate for new borrowers.
Sec. 135. Prohibiting the practice of forcing students to use certain lenders.
Sec. 136. Administrative fee.
Sec. 137. Repayment schedule; rounding of payments.
Sec. 138. Premiums, inducements, and unsolicited mailings prohibited.
Sec. 139. Deferment rules.
Sec. 140. Transfer of loans authorized.
Sec. 141. Information on default.
Sec. 142. Reporting requirement for multistate guarantors.
Sec. 143. Rule for reinsurance based on default rates.
Sec. 144. Multiple disbursements of loans.
Sec. 145. State guaranty agencies as lender of last resort.
Sec. 146. Auxiliary loan limits.
Sec. 147. Student loan consolidation.
Sec. 148. Authority of the Secretary to impose and enforce limitations, suspensions, and terminations.
Sec. 149. Additional student loan information and contact required.
Sec. 150. Authority of the Secretary to sell defaulted student loans.
Sec. 151. Definition of eligible lender; prohibition of certain inducements by eligible lenders.
Sec. 152. Special eligible institution rule for certain medical schools.
Sec. 153. Special allowance.
Sec. 154. Repeal of duplicative provisions.
Sec. 155. Student loan marketing association.
Sec. 156. Study of practices of State guaranty agencies and multistate guarantors under the guaranteed student loan program.
Sec. 157. Treatment of certain educational loans in bankruptcy proceedings.

PART C—WORK STUDY PROGRAMS

Sec. 161. Authorization of appropriations.
Sec. 162. Apportionment.
Sec. 163. College work study and proprietary institution rules.
Sec. 164. Private sector employment agreement.
Sec. 165. Community services job location and development programs.
Sec. 166. Work study for community service-learning on behalf of low-income individuals and families.

PART D—DIRECT LOANS

Sec. 167. Authorization of appropriations.
Sec. 168. Apportionment.
Sec. 169. Priority of needy students.
Sec. 170. Increasing loan limits.
Sec. 171. Rounding of payments.
Sec. 172. Student loan information.
Sec. 173. Deferment for maternal leave.
Sec. 174. Deferment for mothers with preschool aged children.
Sec. 175. Peace Corps and VISTA forgiveness provisions.

PART E—GENERAL STUDENT AID PROVISIONS

Sec. 181. Need analysis.
Sec. 182. Submission of family contribution schedules.
Sec. 183. Simplified needs test.
Sec. 184. Calendar for awarding financial aid prescribed.
Sec. 185. Less than one-half time course of study rule.
Sec. 186. Satisfactory progress.
Sec. 187. Certification of student eligibility; additional requirements.
Sec. 188. Counseling for borrowers.
Sec. 189. Combined payment plan.
Sec. 190. National student loan data bank.
Sec. 191. Installment deduction for indebtedness due to default for Federal Government employees.
Sec. 192. Installment deduction for indebtedness due to default.
Sec. 193. Truth in advertising.
Sec. 194. Availability of State grant assistance.
Sec. 195. Financial and student support services training.
Sec. 196. Ineligibility for Federal loans and discretionary grants for any loan borrower who is in default.
Sec. 197. Advisory Committee on Student Financial Assistance.
Sec. 198. Clarifying the statute of limitations for administrative offset.

PART F—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

Sec. 199. Demonstration project authorized.

PART G—ADDITIONAL STUDENT ASSISTANCE SAVINGS PROVISIONS.

Sec. 199A. Additional student assistance savings provisions.

TITLE II—INSTITUTIONAL AND PROGRAM ASSISTANCE
PART A—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING
Sec. 201. Repeal of title I.
Sec. 202. National Advisory Council on Continuing Education.
PART B—LIBRARIES
Sec. 211. Reauthorization.
Sec. 212. College library resources.
Sec. 213. Study of the effectiveness of the needs criteria for the College Library Resource Program authorized.
Sec. 214. Strengthening research library resources.
Sec. 215. Repeal of part D.
PART C—INSTITUTIONAL AID
Sec. 221. Institutional aid reauthorized.
PART D—TEACHER TRAINING AND DEVELOPMENT
SUBPART 1—TEACHER TRAINING PROGRAMS FOR HIGHER EDUCATION PERSONNEL
Sec. 231. Repeal of part B.
SUBPART 2—TRAINING FOR SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN
Sec. 232. Repeal of part C.
SUBPART 3—COORDINATION
Sec. 233. Repeal of part D.
SUBPART 4—CARL D. PERKINS SCHOLARSHIP PROGRAM
Sec. 234. Extension of authorization.
SUBPART 5—THE CHRISTA MCAULIFFE TALENTED TEACHER FELLOWSHIP PROGRAM
Sec. 235. Fellowship designation.
Sec. 236. Extension of authorization.
PART E—INTERNATIONAL EDUCATION
Sec. 241. Findings and purpose; international education.
Sec. 242. Language and area centers.
Sec. 243. Foreign language resource centers.
Sec. 244. International studies and foreign language programs.
Sec. 245. Summer institutes for foreign languages.
Sec. 246. Research.
Sec. 247. Distribution of funds.
Sec. 248. Reauthorization of part A.
Sec. 249. Reauthorization of part B.
Sec. 250. Advisory Board restructured.
Sec. 250A. Study authorized.
PART F—CONSTRUCTION AND RENOVATION
Sec. 251. Reauthorization.
Sec. 252. General provisions for loan program.
Sec. 253. Housing and other educational facilities loans reauthorized.
Sec. 254. Establishment of the college construction loan insurance association.
PART G—COOPERATIVE EDUCATION
Sec. 261. Cooperative education reauthorized.
PART H—GRADUATE AND PROFESSIONAL PROGRAMS
SUBPART 1—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION
Sec. 271. Repeal of part A.
SUBPART 2—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY
Sec. 272. Institutional and individual grant amounts.
Sec. 273. Application procedures.
Sec. 274. Reauthorization.
SUBPART 3—NATIONAL GRADUATE FELLOWS PROGRAM
Sec. 275. Reauthorization; designation of awardees.
Sec. 276. Reconstituting of National Graduate Fellows Program Fellowship Board.
SUBPART 4—TRAINING IN THE LEGAL PROFESSION
Sec. 277. Reauthorization.
SUBPART 5—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS
Sec. 278. Reauthorization.
PART I—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION
Sec. 281. Reauthorization.
Sec. 282. Innovative projects for community services and student financial independence.
Sec. 283. Minority Institutions Science Improvement Program reauthorization.
PART J—URBAN UNIVERSITY PROGRAM
Sec. 286. Repeal of title XI.
PART K—MISCELLANEOUS HIGHER EDUCATION PROGRAMS
Sec. 291. Reauthorization of treatment of territorial student assistance.
Sec. 292. Reauthorization of the National Advisory Committee on Accreditation and Institutional Eligibility.
Sec. 293. Commission to study postsecondary institutional and programmatic recognition process.
Sec. 294. Disclosures of foreign gifts.
PART L—ROBERT A. TAFT INSTITUTE
Sec. 296. Reauthorization.
TITLE III—EDUCATION ADMINISTRATION
PART A—RESEARCH AND IMPROVEMENT
Sec. 301. Program authorized.
Sec. 302. Center for Education Statistics.
Sec. 303. Personnel.
Sec. 304. Use of Council staff and facilities.
Sec. 305. Repeal.
PART B—STUDY ON THE ESCALATING COST OF HIGHER EDUCATION
Sec. 311. Study required.
PART C—STUDY ON EQUITABLE FUNDING ON FINANCIAL AID FOR FARM FAMILIES
Sec. 321. Study required.
PART D—USE OF VOLUNTEERS IN THE CLASSROOM STUDY.
Sec. 331. Study required.
TITLE IV—PINPOINT DISASTER ASSISTANCE UNDER FEDERAL IMPACT AID
Sec. 401. Application required.
TITLE V—NATIVE AMERICAN CULTURE AND ART DEVELOPMENT
Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Definitions.
Sec. 504. Establishment of institute.
Sec. 505. Board of trustees.
Sec. 506. President; employees.
Sec. 507. General powers of the institute.
Sec. 508. Functions of the institute.
Sec. 509. Native American preference.
Sec. 510. Nonprofit and nonpolitical nature of the institute.
Sec. 511. Tax status.
Sec. 512. Transfer of functions.
Sec. 513. Annual report.
Sec. 514. Headquarters.
Sec. 515. Compliance with other Acts.
Sec. 516. Authorization.
TITLE VI—UNITED STATES INSTITUTE OF PEACE
Sec. 601. Authorizations of appropriations.
TITLE VII—APPROPRIATION PROVISION
Sec. 701. Appropriation provision.
TITLE VIII—SHELTER FOR THE HOMELESS IN THE DISTRICT OF COLUMBIA
Sec. 801. Release of funds for homeless shelter.

EFFECTIVE DATE

SEC. 2. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 1986.

CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS

SEC. 3. The authority to enter into contracts or other obligations under this Act (other than amendments made to part B of title IV of the Act) shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE I—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS

SUBPART 1—PELL GRANTS

EXTENSION OF PROGRAM; ELIGIBILITY

SEC. 101. (a) EXTENSION.—Section 411(a)(1)(A) of the Act is amended by striking out "1985" and inserting in lieu thereof "1991".

(b) ELIGIBILITY.—Section 411(a)(2)(B) of the Act is amended—

(1) by redesignating division (iii) as division (iv), and

(2) by inserting after division (ii) the following new division:

"(iii) No basic grant shall be awarded to a student under this subpart if the income of the family of such student is equal to or is greater than $30,000 after subtracting Federal and State income taxes.".

(c) DURATION.—The first sentence of section 411(a)(3) of the Act is amended by adding before the period at the end thereof a comma and the following: "except that such period may not exceed 5 years".

MAXIMUM GRANT

SEC. 102. (a) MAXIMUM AMOUNT.—Section 411(a)(2)(A)(i) of the Act is amended to read as follows:

"(i) The amount of the basic grant for a student eligible under this part shall be—

"(I) $2,400 for academic year 1987–1988,

"(II) $2,600 for academic year 1988–1989,

"(III) $2,800 for academic year 1989–1990,

"(IV) $3,000 for academic year 1990–1991, and

"(V) $3,200 for academic year 1991–1992,

less an amount equal to the amount determined under section 411A to be the expected family contribution with respect to that student for that year.".

(b) COST OF ATTENDANCE.—Section 411(a)(2)(B)(i) of the Act is amended to read as follows:

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 per centum of the cost of attendance (in accordance with subsection (c) and section 411A) at the institution at which the student is in attendance for that year.".

(c) TECHNICAL AMENDMENT.—Section 411(a)(1)(B) of the Act is amended—

(1) by striking out "in academic year 1985–1986, 70 per centum" and inserting in lieu thereof "60 per centum"; and

(2) by striking out "not in excess of $3,700".

(d) PAYMENTS.—Section 411(b)(3)(A) of the Act is amended to read as follows:

"(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.".

(e) REPEAL.—Paragraph (5) of section 411(b) of the Act is repealed.

COST OF ATTENDANCE RULES

SEC. 103. Section 411 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) For the purpose of this subpart, the term 'cost of attendance' means—

"(1) the student's tuition and uniform compulsory fees at the institution at which the student is in attendance for any award year, plus

"(2)(A) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not be greater than $1,800 for a student without dependents residing at home with parents; and

"(B) an allowance for room and board costs, books, supplies, transportation, child care, and miscellaneous expenses incurred by the student which shall not be greater than $2,400 for all other students;

except that, if the maximum award under such subpart is less than or greater than $2,400, then the dollar amounts specified in subclauses (A) and (B) of clause (2) of this subsection shall be increased or decreased by an amount equal to the amount by which such maximum award is greater than or less than $2,400, respectively.".

FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS

SEC. 104. Subpart 1 of part A of title IV of the Act is amended by inserting after section 411 the following new section:

"FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS

"SEC. 411A. (a) GENERAL RULE FOR DETERMINATION OF EXPECTED FAMILY CONTRIBUTION.—(1) The expected family contribution for a dependent student and for independent students with dependents (other than a spouse) shall be determined in accordance with subsection (b), and the expected family contribution for each other independent student shall be determined in accordance with subsection (c).

"(2) The following data elements are considered in determining the expected family contribution:

"(A) the effective income of (i) the student and the student's spouse; and (ii) the student's parents, in the case of a dependent student;

"(B) the number of family members in the household;

"(C) the number of family members in the household who are enrolled in, on at least a half-time basis a program of postsecondary education;

"(D) the assets of (i) the student and the student's spouse, and (ii) the student's parents, in the case of a dependent student;

"(E) the marital status of the student;

"(F) the unusual medical expenses of (i) the student's parents, in the case of a dependent student, or (ii) the student and the student's spouse, in the case of an independent student;

"(G) the additional expenses incurred (i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954; and

"(H) the tuition paid (i) in the case of a dependent student, by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school, (ii) in the case of an independent student, by the student or the student's spouse for dependent children who are so enrolled.

"(b) RULES FOR DEPENDENT STUDENTS AND INDEPENDENT STUDENTS WITH DEPENDENTS (OTHER THAN A SPOUSE).—(1) For each dependent student, and independent student with dependents, the expected family contribution is equal to—

"(A) the sum of (i) the family income contribution amount determined under paragraph (2), (ii) the family asset contribution amount determined under paragraph (3), (iii) the student income contribution amount determined under paragraph (4), and (iv) the student asset contribution amount determined under paragraphs (5) and (6); adjusted for—

"(B) the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award year for which Pell Grant assistance is requested in the following manner:

"Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in subparagraph (A).
2	70 percent of the contribution determined in subparagraph (A).
3	50 percent of the contribution determined in subparagraph (A).
4 or more	40 percent of the contribution determined in subparagraph (A).

"(2)(A) The family income contribution amount is determined by deducting from effective family income (i) a family size offset determined in accordance with subparagraph (B), (ii) an unusual expense offset determined in accordance with subparagraph (C), (iii) an employment expense offset determined in accordance with subparagraph (D), and (iv) an educational expense offset determined in accordance with subparagraph (E). If such discretionary income is a negative amount, the family income contribution amount is zero. If such discretionary income is a positive amount the family income contribution amount is determined in accordance with the following chart:

"Discretionary income	Expected contribution
$0 to $5,000	11% of discretionary income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(B)(i) The family size offset is equal to the amount specified in the following table:

"Family Size Offsets

"Family members	Amount
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6.

"(ii) In determining family size—

"(I) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents;

"(II) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents; and

"(III) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subdivision (II) of this division, the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income.

"(iii) In determining family size in the case of an independent student with dependents—

"(I) family members include the student, the student's spouse, and the student's dependents; and

"(II) if the student is divorced or separated, family members do not include the spouse (or ex-spouse) but include the student's dependents.

"(C)(i) The unusual expense offset is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective income of the parents. The expenses of both parents are included only if the income of both parents are included in determining effective family income. A stepparent's expenses are included only if the parent's income is included in determining effective family income.

"(ii) The unusual expense offset in the case of an independent student with dependents is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the independent student with dependents. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

"(D)(i) The employment expense offset is determined as follows:

"(I) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

"(II) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the parent's earned income.

"(ii) The employment expense offset in the case of the independent student with dependents is determined as follows:

"(I) If both the student and the student's spouse were employed in the year for which their income is reported and both have their

incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

"(II) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

"(E)(i) The educational expense offset is equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school.

"(ii) The educational expense offset in the case of an independent student with dependents is equal to the tuition paid by the student and the student's spouse for dependent children enrolled in elementary or secondary school.

"(3)(A) The expected family contribution from parental assets is determined in the manner described in subparagraphs (B) through (H).

"(B) If the parental assets include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(C) If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(D) If the parental assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(E) If the sum of the farm and business deduction and the deductions in subparagraphs (B) and (C) of this section exceeds $100,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000 or $130,000 as the case may be.

"(F)(i) The expected contribution from parental assets equals 5 percent of the total of the results obtained in subparagraphs (B), (C), and (D) of this paragraph.

"(ii) If the calculation of discretionary income required by this subsection produces a negative number, the expected contribution from parental assets, calculated under this subparagraph, shall be reduced by the amount of that negative discretionary income. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

"(G)(i) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

"(ii) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income also is included in computing effective family income, the assets of that parent's spouse shall also be included.

"(H) In the computation of family contributions from effective family income and parental assets for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(4)(A) The student income contribution amount is equal to—

"(i) 75 percent of the student's discretionary income in the case of a single dependent student;

"(ii) 25 percent of the student's discretionary income in the case of a married dependent student; or

"(iii) zero if the student's discretionary income is a negative amount.

"(B) A student's discretionary income is equal to the effective student income of such student minus—

"(i) $3,500 in the case of a single student or $5,300 in the case of a married student, if the amount determined under paragraph (2)(A) for parental discretionary income is a positive amount; or

"(ii) if such parental discretionary income is a negative amount, the sum of (I) the amount allowed as an offset under clause (i), plus (II) the amount, if any, by which the result of the subtraction performed under paragraph (3)(A) is less than zero.

"(5) The student asset contribution amount is equal to—

"(A) 33 percent of net value of the student's assets, in the case of a single dependent student; or

"(B) in the case of a married dependent student and spouse, 5 percent of (i) the net asset value, minus (ii) $25,000.

If such value minus such amount (as computed under clause (B) (i) and (ii)) is a negative amount, the student asset contribution amount is zero.

"(6)(A) For an independent student with dependents, the expected family asset contribution from the student and the spouse of the student is determined in the manner described in subparagraphs (B) through (G).

"(B) If the assets include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(C) If the assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(D)(i) If the assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

"(ii) If the sum of the farm and business deduction and the deductions in subparagraphs (B) and (C) of this paragraph exceeds $100,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000 or $130,000, as the case may be.

"(E)(i) The expected contribution from the assets of the independent student with dependents equals 5 percent of the total of the results obtained in subparagraphs (B), (C), and (D) of this paragraph.

"(ii) If the calculation of discretionary income required by this subsection produces a negative number, the expected contribution from the student's (and spouse's) assets, calculated under this subparagraph, shall be reduced by the amount of that negative discretionary income. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

"(F) If the married independent student with dependents is separated, only assets of the independent student shall be considered.

"(G) In the computation of family contributions from effective family income and parental assets for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(7) The provisions of this subsection apply to dependent students and independent students with dependents (other than a spouse).

"(c) RULES FOR OTHER INDEPENDENT STUDENTS.—(1) For each independent student, other than an independent student with dependents subject to subsection (b), the expected family contribution is equal to—

"(A) the sum of (i) the family income contribution amount determined under paragraph (2), and (ii) the family asset contribution amount determined under paragraph (3), adjusted for—

"(B) the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award year for which Pell Grant assistance is requested in the following manner:

"Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in subparagraph (A).
2	70 percent of the contribution determined in subparagraph (A).

"(2)(A) The family income contribution amount is determined by deducting from effective family income (i) a family size offset determined in accordance with subparagraph (B), (ii) an unusual expense offset determined in accordance with subparagraph (C), (iii) an employment expense offset determined in accordance with subparagraph (D), and (iv) an educational expense offset determined in accordance with subparagraph (E). If such discretionary income is a negative amount, the family income contribution amount is zero. If such discretionary income is a positive amount the family income contribution amount is equal to 75 percent of such discretionary income in the case of a single independent student with no dependents or a married independent student without children.

"(B)(i) The family size offset is equal to the amount specified in the following table:

"Family Size Offsets

"Family members	Amount
1	$5,300
2	$6,700

"(ii) In determining family size—

"(I) family members include the student and the student's spouse; and

"(II) if the student is divorced or separated, family members do not include the spouse (or ex-spouse).

"(C) The unusual expense offset is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

"(D) The employment expense offset is determined as follows:

"(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

"(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

"(3)(A) The family asset contribution amount of an independent student and the student's spouse is equal to 5 percent of (i) the sum of the amounts computed under subparagraphs (C) and (D), reduced by (ii) the amount, if any, by which discretionary income as computed under paragraph (2)(A), is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

"(B) The family asset contribution amount of an independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which discretionary income as computed under paragraph (2)(A) is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

"(C) If the assets of an independent student with a spouse include a principal place of residence, deduct $25,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(D)(i) If the assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

"(ii)(I) If the assets include farm or business assets, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets. If the subtraction required by the preceding sentence of this division produces a negative number, the amount determined under this division shall be zero.

"(II) If the sum of the farm and business deduction and the deductions in paragraphs (C) and (D)(i) exceeds $100,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $100,000 or $130,000, as the case may be.

"(E) In the computation of family contributions from effective family income and parental assets for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(d) REGULATION AUTHORITY LIMITATIONS.—The Secretary shall promulgate only such regulations as may be necessary to require the use of the most recent and relevant data in determining the expected family contribution under this section. Such regulations shall also include procedures for computing family contributions when the student's family or an independent student have encountered extraordinary circumstances.

"(e) SPECIAL RULE FOR DISLOCATED WORKERS.—(1) For the purpose of this section, the income of a dislocated worker shall be the income for the year for which the determination is made.

"(2) For the purpose of this subsection, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

"(f) DEFINITIONS.—For the purpose of this section, the terms—

"(1) 'Annual adjusted family income' means the sum received in the year immediately preceding the award year, by the student's parents (in the case of a dependent student), or by the student and the student's spouse (in the case of an independent student), except excludable income under clause (6) of this subsection, from the following sources subject to the following rules:

"(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954.

"(B) Investment income upon which no Federal income tax is required to be paid, such as the interest on municipal bonds.

"(C) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid except for—

"(i) veterans' benefits paid under chapters 34 and 35 of title 38 of the United States Code;

"(ii) Social Security educational benefits received by or on account of the student; and

"(iii) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students.

"(D) Income from one-half of any veteran's benefits to be paid to the student for the previous year under chapters 34 and 35 of title 38 of the United States Code.

"(E) Income from Social Security educational benefits to be paid to the student, or to the student's parents for the student for the previous award year.

"(F) Income for a student whose parents are divorced or separated is determined under the following procedures:

"(i) Include only the income described in subsection (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(iii) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(G) Income in the case of the death of any parent as follows:

"(i) If either of the parents have died, the student shall include only the income of the surviving parent.

"(ii) If both parents have died, the student shall not report any parental income.

"(H) Income in the case of a parent whose income is taken into account under clause (F) of this section, or a parent who is a widow or widower and whose income is taken into account under clause (E) of this section, has remarried, under the following rule: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in the 2 previous award years, the student on July 1 of the award year concerned was not 23 years of age or older and—

"(i) has received or will receive financial assistance of more than $750 in either of such award years from that spouse;

"(ii) has lived or will live for more than 6 weeks in either of those years in the home of the parent and that spouse; and

"(iii) was claimed as a dependent by the parent or legal guardian of the student on the appropriate individual Federal income tax return.

"(2) 'Assets' means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, real estate, income producing property, as well as business assets and farm assets.

"(3) 'Award year' is the period of time between July 1 of 1 year and June 30 of the following year.

"(4) 'Business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

"(5) Except as otherwise provided, 'dependent of the student' means the parents of the student, the student's spouse, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for title IV aid; and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.

"(6)(A) The term 'excludible income' means the income described in subclauses (B), (C), and (D) of this clause which is excluded for the purpose of determining 'annual adjusted family income' under clause (1).

"(B) For a Native American student, the annual adjusted family income does not include the income received by the student, the student's spouse, or the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

"(C) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

"(D) The annual adjusted family income does not include any student financial assistance except veterans' or Social Security benefits set forth in clause (1) of this subsection.

"(7) 'Farm assets' means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"(8) 'Medical expenses' means unreimbursed medical and dental expenses that may be deducted under section 213 of the Internal Revenue Code of 1954 and that were paid in the taxable year immediately preceding the award year, unless the student files an application with the Secretary under the provisions of regulations promulgated by the Secretary. In that case, the expenses reported are expenses paid in the award year.

"(9) 'Net assets' means the current market value at the time of application of the assets included in the definition of 'assets' minus the outstanding liabilities (indebtedness) against the assets.

"(10) 'State income tax' means the tax on income paid to one or more of the 50 States of the United States or the District of Columbia.

"(11) 'Effective family income' is the annual adjusted family income minus the Federal taxes and State income taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.".

PROCEDURE WITH RESPECT TO AWARD ERRORS AND OVERPAYMENTS

SEC. 105. Section 411 of the Act (as amended by section 103(1)) is amended by adding at the end thereof the following new subsection:

"(e)(1) Each contractor processing applications for awards under this subpart shall, in a timely manner, furnish to the student financial aid administrator at each institution of higher education which a student awarded a basic grant under this subpart is attending an estimate of the eligibility index for each such student. Each such student financial aid administrator shall—

"(A) examine and assess the data used to calculate the eligibility index of the student furnished pursuant to this subsection;

"(B) recalculate the eligibility index of the student if there has been a change in circumstances of the student or in the data submitted;

"(C) make the award to the student in the correct amount; and

"(D) report the corrected data, if necessary, to such contractor for a confirmation of the correct computation of amount of the eligibility index for each such student.

"(2) Whenever a student receives an award under this subpart, due to recalculation errors by the institution of higher education, that is in excess of the amount which the student is entitled to receive under this subpart, the institution of higher education which such student is attending shall pay to the Secretary the amount of such excess.

"(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986-1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the eligibility index, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.".

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

AUTHORIZATION OF APPROPRIATIONS

SEC. 107. Section 413A(b) of the Act is amended to read as follows:

"(b)(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 487, for use by such institutions for payments to undergraduate students of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $433,125,000 for fiscal year 1987, $454,781,000 for fiscal year 1988, $477,520,000 for fiscal year 1989, $501,396,000 for fiscal year 1990, and $526,466,000 for fiscal year 1991.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions of higher education until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.".

MAXIMUM AMOUNT OF GRANT

SEC. 108. Section 413B(a)(2)(A) of the Act is amended by striking out "$2,000" and inserting in lieu thereof "$3,000".

PRIORITY FOR NEEDY STUDENTS

SEC. 109. Section 413C(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

"(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

"(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.

"(B) In determining exceptional need under this paragraph, expected family contribution of a student may not exceed 50 percent of the cost of attendance at the institution of higher education.".

APPORTIONMENT

SEC. 110. (a) GENERAL RULE.—Section 413D of the Act is amended—

(1) by redesignating paragraph (3) of subsection (b) as subsection (c);

(2) by redesignating paragraph (4) of subsection (b) as subsection (d); and

(3) by amending subsection (a) and paragraphs (1) and (2) of subsection (b) to read as follows:

"(a)(1)(A) From the sums appropriated pursuant to section 413A(b)(1) for any fiscal year which are equal to or less than the amount appropriated for this subpart for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this subpart an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.

"(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this subpart bears to the total amount available under this subpart for that year.

"(2)(A) In any fiscal year in which the amount appropriated for this subpart exceeds the amount appropriated for this subpart in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this subpart an amount which bears the same ratio to such excess as the number of eligible undergraduates who are enrolled full time and the full-time equivalent of the number of eligible undergraduates enrolled part time in the institution of higher education, bears to the total number of such undergraduates in all institutions of higher education.

"(B) For the purpose of subparagraph (A) of this paragraph, the term 'eligible undergraduates' means undergraduates who were eligible to receive a supplemental grant under this subpart for the fiscal year preceding the fiscal year for which the determination is made.

"(b) If the Secretary determines that the sums apportioned to any institution of higher education under paragraph (2) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this subpart.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 413D of the Act (as redesignated by subsection (a) of this section) is amended by striking out "from apportionments made to the State under subsection (a)(1) and under subsection (a)(2)".

SUBPART 3—STATE STUDENT INCENTIVE GRANTS

AUTHORIZATION OF APPROPRIATIONS

SEC. 112. Section 415A(b)(1) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated $76,000,000 for fiscal year 1987, and for each succeeding fiscal year ending prior to October 1, 1991, for payments to the States for grants to eligible students under this subpart.".

AUTHORIZATION OF COMMUNITY SERVICE WORK LEARNING STUDY GRANTS

SEC. 113. (a) PROGRAM AUTHORIZED.—(1) Section 415A(a) of the Act is amended by inserting before the period at the end thereof a comma and the following: "and grants to eligible students for campus-based community service work learning study".

(2)(A) Section 415C(b) of the Act is amended by striking out "50 per centum" and inserting in lieu thereof "the Federal share".

(B) Section 415C(b)(2) of the Act is amended—

(i) by inserting "(A)" after "for"; and

(ii) by inserting before the semicolon a comma and the following: "and (B) for campus-based community service work learning study jobs".

(C) Section 415C of the Act is amended—

(i) by redesignating subsection (c) as subsection (d); and

(ii) by adding after subsection (b) the following new subsection:

"(c) The Federal share for grants described in subsection (b)(2)(A) shall be 50 percent for each fiscal year. The Federal share for grants described in subsection (b)(2)(B) shall be 60 percent for each fiscal year.".

(b) DEFINITION.—Subpart 3 of part A of title 4 of the Act is amended by adding at the end thereof the following new section:

"DEFINITION

"SEC. 415E. For the purposes of this subpart, the term 'community service' means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local non-profit, governmental, and community-based organizations, and which—

"(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literary training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

"(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.".

PARTICIPATION OF INSTITUTIONS

SEC. 114. (a) PROPRIETARY INSTITUTIONS.—Section 415C of the Act is amended by striking out "nonprofit" in clause (4) each time it appears.

(b) TECHNICAL AMENDMENT.—Section 481(a) of the Act is amended by striking out "part 6" and inserting in lieu thereof "part 7".

FEDERAL SHARE LIMITATION

SEC. 115. Section 415C of the Act is amended by adding at the end thereof the following new subsection:

"(e) Each State shall pay the non-Federal share of the cost of the State student incentive grant program authorized by this subpart from State or other public sources.

SUBPART 4—STUDENT SUPPORT SERVICE PROGRAMS

REAUTHORIZATION; PRIOR EXPERIENCE PROVISION

SEC. 117. (a) REAUTHORIZATION.—Section 417A(c) of the Act is amended to read as follows:

"(c)(1) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $185,249,000 for fiscal year 1987, $194,511,000 for fiscal year 1988, $204,237,000 for fiscal year 1989, $214,449,000 for fiscal year 1990, and $225,171,000 for fiscal year 1991.

"(2) In each fiscal year, $1,000,000 may be available for carrying out programs authorized by section 417D(f).".

(b) PRIOR EXPERIENCE CONSIDERATION.—Section 417A(b)(2) of the Act is amended by adding at the end thereof the following new sentence: "For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985.".

STUDENT SUPPORT SERVICES

SEC. 118. (a) GENERAL RULE.—(1)(A) Section 417D(a) of the Act is amended by striking out "special services for disadvantaged students (hereinafter referred to as 'special services')" and insert in lieu thereof "student support services".

(B) Section 417D of the Act is amended by striking out "special services" each place it appears in subsections (b), (c), and (d) and inserting in lieu thereof "student support services" each such time.

(2) Section 417D of the Act is further amended by adding at the end thereof the following new subsection:

"(e) The Secretary may provide financial assistance to Student Support Service programs which include an outreach and counseling provision for low income and first generation college and university students in their junior and senior years to encourage application and enrollment in graduate programs excluding professional schools. Such a program may include consortium contracts with graduate centers or programs on campus which provide research assistantships in the summer months for such students in their fields of study. Each student receiving service assistantships under this subsection may be paid a stipend not to exceed $2,400.".

(b) TECHNICAL AMENDMENT.—The heading of section 417D of the Act is amended to read as follows:

"STUDENT SUPPORT SERVICES".

(c) REAUTHORIZATION OF VETERANS' COST OF INSTRUCTION PAYMENTS.—(1) Section 420A(a) of the Act is amended—

(A) by striking out "September 30, 1985" in paragraph (1) and inserting in lieu thereof "September 30, 1991"; and

(B) by striking out "September 30, 1986" in paragraph (2) and inserting in lieu thereof "September 30, 1992".

(2) Section 420A of the Act is amended by inserting at the end thereof the following new subsection:

"(h) There are authorized to be appropriated $3,150,000 for fiscal year 1987, $3,307,000 for fiscal year 1988, $3,473,000 for fiscal year 1989, $3,646,000 for fiscal year 1990, and $3,829,000 for fiscal year 1991.".

OUTREACH AND STAFF DEVELOPMENT

SEC. 119. Section 417F of the Act is amended to read as follows:

"OUTREACH AND STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purposes of improving the operation of the special services programs and projects authorized by this subpart, and to expand the outreach of related activities which extend postsecondary educational opportunities to students from disadvantaged backgrounds, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel (including junior and high school counselors) employed in, or preparing for employment in, such programs and projects. Such training shall include—

"(1) conferences, internships, seminars, workshops, and training manuals designed to improve the operation of programs and projects assisted under this subpart; and

"(2) training institutes to enable junior and senior high schools' counselors and teachers, personnel involved in programs and projects assisted under this subpart, college admissions personnel, and community agency staffs to counsel more effectively students and adults regarding postsecondary opportunity and financial aid eligibility. Training under this section shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants made under this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.".

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

AUTHORIZATION OF APPROPRIATIONS

SEC. 121. Section 418A(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated $7,875,000 for fiscal year 1987, $8,269,000 for fiscal year 1988, $8,682,000 for fiscal year 1989, $9,116,000 for fiscal year 1990, and $9,572,000 for fiscal year 1991, to carry out the provisions of this subpart.".

SUBPART 6—HONORS SCHOLARSHIP PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 123. Section 419 of the Act is amended by striking out ", 1987, and 1988" and inserting in lieu thereof "through 1991".

PART B—GUARANTEED LOANS

EXTENSION OF PROGRAMS

SEC. 131. (a) Section 424(a) of the Act is amended—

(1) by striking out "1988" and inserting in lieu thereof "1992"; and

(2) by striking out "1992" and inserting in lieu thereof "1996".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1988" and inserting in lieu thereof "1992"; and

(2) by striking out "1992" and inserting in lieu thereof "1996".

NEEDS BASIS FOR THE GUARANTEED STUDENT LOAN PROGRAM

SEC. 132. (a) NEEDS BASIS REQUIRED.—(1) Section 428(a)(2)(B) of the Act is amended to read as follows:

"(B) For the purpose of clause (ii) of subparagraph (A) a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need.".

(2)(A) Section 428(a)(2)(B) of the Act is amended to read as follows:

"(D) The schedule of expected family contributions required by section 482 shall apply to the determination required by this paragraph.".

(B) Section 428(a)(2)(E) of the Act is repealed.

(b) INSTITUTIONAL RESPONSIBILITY FOR DETERMINATION OF NEED.—Section 428(a)(2)(F) of the Act is amended to read as follows:

"(E)(i) For the purpose of subparagraph (B), the amount of the loan which is qualified for a payment under paragraph (1) is the amount of the need of such student as determined by the eligible institution.

"(ii) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which permits the student to receive any loan under this part in excess of the maximum amount applicable to such loan.".

(c) EXPECTED FAMILY CONTRIBUTION OFFSET.—Section 428(a)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(F) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan ob-

tained by a student or a parent under section 428B of this Act or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.".

INCREASING LOAN LIMITS

SEC. 133. (a) FEDERALLY INSURED LOANS.—(1) Section 425(a)(1) of the Act is amended by striking out "$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000" and inserting in lieu thereof "$3,000 in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education, $4,000 in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,500".

(2)(A) Section 425(a)(1)(A) of the Act is amended by striking out "$2,500" and inserting in lieu thereof "$3,000".

(B) Section 425(b)(1)(B) of the Act is amended by striking out "$1,500" and inserting in lieu thereof "$2,000".

(3) Section 425(a)(2) of the Act is amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(B) by striking out "$25,000" and inserting in lieu thereof "$55,500".

(b) GUARANTEED LOANS.—(1) Section 428(b)(1)(A) of the Act is amended by striking out "$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000" and inserting in lieu thereof "$3,000 in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education, $4,000 in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,500".

(2)(A) Section 428(b)(1)(A)(i) of the Act is amended by striking out "$2,500" and inserting in lieu thereof "$3,000".

(B) Section 428(b)(1)(A)(ii) of the Act is amended by striking out "$1,500" and inserting in lieu thereof "$2,000".

(3) Section 428(b)(1)(B) of the Act is amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(B) by striking out "$25,000" and inserting in lieu thereof "$55,500".

(c) LOANS UNDER SUPPLEMENTAL GUARANTY AGREEMENT.—(1)(A) Section 428A(a)(1)(A) of the Act is amended by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000" and inserting in lieu thereof "$3,000 (in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education), $4,000 (in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program), or $7,500".

(B) Section 428A(a)(1)(A) of the Act is further amended—

(i) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(ii) by striking out "$25,000" and inserting in lieu thereof "$55,500".

(2) Section 428A(a)(2)(A) of the Act is amended by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000" and inserting in lieu thereof "$3,000 (in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education), $4,000 (in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,500".

(3) Section 428A(a)(2)(A) of the Act is further amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(B) by striking out "$25,000" and inserting in lieu thereof "$55,500".

INTEREST RATE FOR NEW BORROWERS

SEC. 134. (a) NEW BORROWERS.—Section 427A of the Act is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by adding after subsection (c) the following new subsection:

"(d) INTEREST RATES FOR NEW BORROWERS AFTER JUNE 30, 1986.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to section 428B and section 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1986, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

"(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending with the commencement of the repayment period; and

"(2) 10 percent per year on the unpaid principal balance of the loan during the repayment period.".

(b) CONFORMING AMENDMENTS.—Section 427A is amended—

(1) by inserting after the subsection designation (a) the following: "RATES TO BE CONSISTENT WITH BORROWER'S ENTIRE DEBT.—";

(2) by inserting after the subsection designation (b) the following: "REDUCTION FOR CERTAIN BORROWERS AFTER DECLINE IN CERTAIN RATES.—";

(3) by inserting after the subsection designation (c) the following: "RATES FOR SUPPLEMENTAL AND PARENTAL LOANS.—";

(4) by inserting after the subsection designation (e) (as redesignated by subsection (a)) the following: "LESSER LOAN RATES PERMITTED.—"; and

(5) by inserting after the subsection designation (f) (as redesignated by subsection (a)) the following: "DEFINITIONS.—".

PROHIBITING THE PRACTICE OF FORCING STUDENTS TO USE CERTAIN LENDERS

SEC. 135. Section 428(a)(2) of the Act (as amended by section 132(c)), is further amended by adding at the end thereof the following new subparagraph:

"(H) Except as provided in subparagraph (F), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any State or nonprofit private institution or organization, a statement which permits a student to receive any loan under this part.".

ADMINISTRATIVE FEE

SEC. 136. Section 428(b)(1)(H) of the Act is amended to read as follows:

"(H) provides for collection of an insurance premium equal to not more than 3 percent per loan for the first year of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;".

REPAYMENT SCHEDULE; ROUNDING OF PAYMENTS

SEC. 137. (a) FEDERALLY INSURED LOANS.—Section 427(a)(2)(B) of the Act is amended—

(1) by striking out "and" at the end of subclause (ii);

(2) by inserting "and" at the end of clause (iii); and

(3) by adding at the end thereof the following new clause:

"(iv) upon the request of the borrower, the lender shall provide a revised repayment schedule which is based upon graduated repayments,".

(b) GUARANTEED LOANS.—Section 428(b)(1)(L) of the Act is amended—

(1) by inserting "(i)" after the clause designation; and

(2) by adding at the end thereof the following new divisions:

"(ii) upon request of the borrower, the lender shall provide a revised repayment schedule which is based upon graduated repayments; and

"(iii) provides that the total payments by a borrower for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;".

PREMIUMS, INDUCEMENTS, AND UNSOLICITED MAILINGS PROHIBITED

SEC. 138. Section 428(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) Each State and nonprofit private institution or organization shall not—

"(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part,

"(B) conduct unsolicited mailings to students enrolled in secondary school of student loan application forms, or

"(C) conduct fraudulent or misleading advertising concerning loan availability.".

DEFERMENT RULES

SEC. 139. (a) DISABILITY RULE.—(1) Section 428(b)(1)(M)(vii) is amended by striking out "spouse" and inserting in lieu thereof "dependent".

(2) Section 427(a)(2)(C)(vii) of the Act is amended by striking out "spouse" and inserting in lieu thereof "dependent".

(b) MATERNAL LEAVE.—(1)(A) Section 428(b)(1)(M) of the Act is amended by striking out "or" at the end of clause (vii) and by adding before the semicolon at the end thereof the following new clause: "or (ix) not in excess of 6 months of maternal leave".

(B) Section 427(a)(2)(C) of the Act is amended by striking out "or" at the end of clause (vii) and by adding before the semicolon at the end thereof the following new clause "or (ix) not in excess of 6 months of maternal leave".

(2) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(k) The term 'maternal leave' means a period of time during which the borrower is pregnant, is caring for her newborn child, is caring for her child immediately following

the placement of the child through adoption, if the child has not attained 3 years of age, if the borrower meets the criteria for needs applicable to loans under this part.".

(c) WORKING MOTHERS WITH PRESCHOOL AGED CHILDREN.—(1) Section 428(b)(1)(M) of the Act is amended by striking out "or" at the end of clause (ix) and by adding before the semicolon at the end thereof the following new clause: "or (x) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the workforce and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938".

(d) Section 428(b) of the Act (as amended by section 139) is further amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of paragraph (1)(M) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program.".

TRANSFER OF LOANS AUTHORIZED

SEC. 140. Section 428(b)(2) of the Act is amended—

(1) by striking out "and" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(E) provide that any State or nonprofit private institution or organization that has entered into such an agreement with the Secretary can transfer loans which are insured under this part to any State, nonprofit private institution, or organization that also has such an agreement with the Secretary with the approval of the recipient, State, institution, or organization.".

INFORMATION ON DEFAULT

SEC. 141. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(j)(1) In order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guarantee agency may, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection may include the names and addresses of such students.

"(2) Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).".

REPORTING REQUIREMENT FOR MULTISTATE GUARANTORS

SEC. 142. (a) GENERAL RULE.—Section 428(b) of the Act (as amended by section 140) is further amended by adding at the end thereof the following new paragraph:

"(5)(A) Each multistate guarantor guaranteeing loans under this part shall, with respect to loans insured by the multistate guarantor for students who are residents of a State for which the multistate guarantor is not the State designated guaranty agency for the purpose of this part, report such loans to the appropriate State-designated guaranty agency.

"(B) The information required by subparagraph (A) shall include—

"(i) the name, the social security number, and the address of the borrower;

"(ii) the amount borrowed, the cumulative amount borrowed, the income reported for application, the purposes and cost of attendance of the borrower.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to loans made after October 1, 1986, and shall be reported not later than six months after the date of enactment of this Act and at each six-month interval thereafter.

RULE FOR REINSURANCE BASED ON DEFAULT RATES

SEC. 143. Section 428(c)(1)(B) of the Act is amended—

(1) by striking out "90 per centum" in clause (i) and inserting in lieu thereof "80 per centum"; and

(2) by striking out "80 per centum" in clause (ii) and inserting in lieu thereof "70 per centum".

MULTIPLE DISBURSEMENTS OF LOANS

SEC. 144. Section 428(i) of the Act is amended to read as follows:

"(i)(1) Any guaranty agency or eligible lender (hereafter in this subsection referred to as the 'escrow agent') may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the 'lender') for the purpose of authorizing multiple disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 45 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

"(2) Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.".

STATE GUARANTY AGENCIES AS LENDER OF LAST RESORT

SEC. 145. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(k) LENDERS OF LAST RESORT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(g)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B) nor be less than $200.".

AUXILIARY LOAN LIMITS INCREASED

SEC. 146. Section 428B of the Act is amended—

(1) by striking out "$3,000" in subsection (b)(1) and inserting in lieu thereof "$4,000";

(2) by striking out "$15,000" in subsection (b)(2) and inserting in lieu thereof "$20,000";

(3) by striking out "$2,500" in subsection (c)(4)(A) and inserting in lieu thereof "$4,500"; and

(4) by striking out "$12,500" in subsection (c)(4)(B) and inserting in lieu thereof "$22,500".

STUDENT LOAN CONSOLIDATION

SEC. 147. (a) LOAN CONSOLIDATION AUTHORIZED.—Part B of title IV of the Act is amended by inserting after section 428B the following new section:

"CONSOLIDATION LOANS

"SEC. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans—

"(A) made, insured, or guaranteed under this part,

"(B) made under part E of this title, or

"(C) made under subpart II of part C of title VII of the Public Health Service Act,

the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with—

"(i) the Student Loan Marketing Association;

"(ii) agencies described in subparagraphs (D) and (F) of section 435(g)(1); and

"(iii) eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purpose of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such guaranty agency.

"(3) For the purpose of this section, the term 'eligible borrower' means a borrower who—

"(A) has an outstanding indebtedness, at the time of application for a consolidation loan, to one or more lenders or programs described in paragraph (1) of not less than $5,000;

"(B) has not during the previous 4 months carried at an eligible institution at least one-half the normal full-time academic workload;

"(C) if in repayment status, is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

"(D) is not a parent borrower under section 428B(a)(1).

"(4) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under

this section except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an individual, only loans received after such date shall be taken into account.

"(b)(1) Any lender described in clause (i), (ii), or (iii) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A)(i) that, in the case of lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if (I) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (II) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3)(A)(i), and (ii) which is equal to the sum of the unpaid principal, accrued unpaid interest and late charges of all loans received by the eligible borrower under programs described in subsection (a)(1) which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans; and

"(E) such other terms and conditions as the Secretary or a guaranty agency (whichever is party to the agreement) may specifically require of the lender to carry out this section.

"(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. A guaranty agency may issue a certificate of comprehensive insurance coverage to a lender if the lender has entered into an agreement under paragraph (1) of this subsection. The Secretary shall not issue such a certificate under this paragraph to a lender described in clause (ii) or (iii) of subsection (a)(1) if the Secretary determines that such lender has reasonable access in its State, for the purpose of obtaining such a certificate, to a State or guaranty agency. In either case, such certificate shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(F) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(3) A consolidation loan made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section and contains notice of the possibility of a revised repayment schedule under paragraph (2) of such subsection;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition;

"(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(iv) which is a single period, not in excess of 12 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c)(1)(A) Subject to subparagraphs (B), (C), and (D), each consolidation loan made under this section shall bear interest at the rate of 10 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made pursuant to section 428B, the consolidation loan shall bear interest at a rate per annum on such unpaid balance which is equal to the highest applicable interest rate under section 427A on any loan which is selected for consolidation by the borrower. For the purpose of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(B) The rate of interest applicable to any consolidated loan shall be adjusted by the holder of the loan in the first month of the tenth year of the repayment period of the loan to a market rate equal to the rate established by the Secretary of the Treasury pursuant to subparagraph (C).

"(C) The Secretary of the Treasury shall, for each calendar year beginning in the first calendar year beginning 10 years after the date of enactment of this section, establish the interest rate to be applicable under subparagraph (B) of this paragraph—

"(i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 4 quarters preceding the period for which the determination is made; and

"(ii) by adding 3.25 per centum to the per centum determined in clause (i).

The Secretary, after consultation with the Secretary of the Treasury, shall publish for each calendar year beginning with the first calendar year beginning 10 years after the date of enactment of this section the interest rate determined by the Secretary of the Treasury under this subparagraph for each calendar year.

"(D) No interest rate adjustment shall be made under subparagraph (B) of this paragraph for any eligible borrower who, at the time the determination is made—

"(i) is a low-income individual, and

"(ii) who has a high ratio of outstanding loans under programs described under subsection (a)(1) of this section (whether or not such loans are consolidated), to income,

as determined pursuant to regulations prescribed by the Secretary.

"(2)(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan, with the agreement of the borrower, may establish such repayment terms as will promote the objectives of this section, including the establishment of graduated repayment schedules, except that the minimum payment must equal the accrued unpaid interest for the payment period.

"(B)(i) Except as provided in division (ii) a consolidation loan shall be repaid in not more than 15 years.

"(ii) In any case in which the original amount of the consolidated loan exceeds $25,000, and the borrower has loans under subpart I of part C of title VII of the Public Health Service Act, which together with the original amount of the consolidated loan exceed $30,000, the consolidated loan shall be repaid in not more than 20 years.

"(C) The lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next

highest whole dollar amount that is a multiple of $5.

"(3) Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(4) No origination fee or insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

"(d) The authority to make loans under this section expires at the close of September 30, 1991. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).".

(b) CONFORMING AMENDMENTS.—(1) Section 427(a) of the Act is amended by striking out "A loan" and inserting in lieu thereof "Except as provided in section 428C, a loan".

(2) Section 435(g)(1) of the Act is amended—

(A) by striking out "section 439 (o) and (q)" in subparagraph (G) and inserting in lieu thereof "sections 428C and 439(q)"; and

(B) by striking out "section 428(j)" in subparagraph (H) and inserting in lieu thereof "sections 428(h) and 428C".

(3) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(l) The term 'guaranty agency' means a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to section 428(b).".

(4) Section 438 of the Act is amended—

(A) in subsection (b)(5)(A)(ii), by inserting ", 428C," after "428B"; and

(B) in subsection (c)(2), by striking out "section 428B and section 439(o)" and inserting in lieu thereof "sections 428B and 428C".

(5) Section 439(d)(1)(C) of the Act is amended by striking out "428(A), and except with respect to loans under section 439(o)," and inserting in lieu thereof "428A, and except with respect to loans under section 428C,".

(c) COST EVALUATION REPORT.—The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.

AUTHORITY OF THE SECRETARY TO IMPOSE AND ENFORCE LIMITATIONS, SUSPENSIONS, AND TERMINATIONS

SEC. 148. (a) GENERAL RULE.—Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(f)(1) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

"(A) has substantially failed—

"(i) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

"(ii) to make the reports or statements under section 428(a)(4),

"(iii) to pay the required loan insurance premiums to any guaranty agency, or

"(B) has engaged in—

"(i) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

"(ii) the practice of making loans that violate the certification for eligibility provided in section 428,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part. The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under clause (A) of this paragraph or practice under clause (B) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

"(I) exercise the necessary care and diligence,

"(II) comply with the requirements described in clause (A), or

"(III) cease to engage in the practices described in clause (B),

as the case may be.

"(2)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428A(a)(1)(F) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall disqualify such lender from participation in the student loan insurance program of each guaranty agency under this part, and notify each such guaranty agency of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with the requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the lender has corrected the failures or practices which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"(3)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428A(a)(1)(E) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall disqualify such institution from participation in the student loan insurance program of each guaranty agency under this part, and notify each such guaranty agency of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with the requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the institution has corrected the failures or practices which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.".

(b) CONFORMING AMENDMENT.—(1) Section 428A(a)(1)(F) of the Act is amended to read as follows:

"(F) provides (i) for the eligibility of all lenders described in section 435(g)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary annually concerning such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.".

(2) Section 428A(a)(2)(F) of the Act is amended to read as follows:

"(F) provides (i) for the eligibility of all lenders described in section 435(g)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary annually concerning such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.".

ADDITIONAL STUDENT LOAN INFORMATION AND CONTACT REQUIRED

SEC. 149. (a) LOAN INFORMATION.—Section 433A of the Act is amended—

(1) by redesignating clauses (8), (9), (10), (11), and (12), as clauses (9), (10), (11), (12), and (13), respectively, and

(2) by adding after clause (7) the following new clause:

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student, the projected level of indebtedness of the student based on a four-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a four- or five-year college career;".

(b) SEPARATE STATEMENT.—Section 433A of the Act is amended by adding at the end thereof the following new subsection:

"(d) Each eligible lender shall, at the time such lender disperses a loan with respect to a borrower which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this paragraph shall be

in addition to the information required by subsection (a) of this section.".

AUTHORITY OF THE SECRETARY TO SELL DEFAULTED STUDENT LOANS

SEC. 150. Section 432 of the Act (as amended by section 149) is amended by adding at the end thereof the following new subsection:

"(q) The Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies on such terms as the Secretary determines are in the best financial interests of the United States.".

DEFINITION OF ELIGIBLE LENDER; PROHIBITION OF CERTAIN INDUCEMENTS BY ELIGIBLE LENDERS

SEC. 151. (a) DEFINITION.—(1) Section 435(g)(1)(A) of the Act is amended by inserting after "Association" a comma and the following: "stock savings bank, trust companies".

(2) Section 435(g)(1)(A)(ii) of the Act is amended by inserting before the semicolon a comma and the following: "and unless it is a trust company which makes student loans as a trustee pursuant to an express trust".

(b) PROHIBITION OF CERTAIN INDUCEMENTS.—Section 435(g) of the Act is amended—

(1) by striking out "Except" in paragraph (1) and inserting in lieu thereof "Subject to paragraph (5), except"; and

(2) by adding at the end thereof the following new paragraph:

"(5) An eligible lender under this part may not—

"(A) offer, directly or indirectly, points, premiums, payments, or other inducements to any educational institution or individual in order to secure applicants for loans under this part;

"(B) offer, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

"(C) engage in fraudulent or misleading advertising.".

(c) REPORT REQUIRED.—Section 438 of the Act (as amended by subsection (b)) is amended by adding at the end thereof the following new paragraph:

"(6) In order to evaluate the program authorized by this part, each eligible lender shall report annually to the Secretary such data relating to the payment of special allowance under section 438 received by such lender as the Secretary determines are required. The Secretary may make information furnished under this paragraph available only in the aggregate and may not identify any individual eligible lender.".

SPECIAL ELIGIBLE INSTITUTION RULE FOR CERTAIN MEDICAL SCHOOLS

SEC. 152. Section 435(a) of the Act is amended—

(1) by inserting "(1)" after "(a)",

(2) by redesignating clauses (1), (2), and (3), as clauses (A), (B), and (C), respectively, and

(3) by adding at the end thereof the following:

"(2) For the purpose of qualifying an institution under clause (C) of this subsection, the Secretary shall establish criteria by regulation. In the case of a medical school outside the United States, such criteria shall include a requirement, with respect to the eligibility of students attending such medical schools for loans made, insured, or guaranteed under part B, that a student is ineligible for such loans unless the student is attending such a medical school in which at least 75 percent of the students enrolled are nationals of the country in which such medical school is located.".

SPECIAL ALLOWANCE

SEC. 153. (a) GENERAL RULE.—Section 438(b)(2)(A) of the Act is amended by striking out "3.5 per centum" and inserting in lieu thereof "3.25 per centum".

(b) SPECIAL RULE FOR HOLDERS OBTAINING LOANS FROM TAX EXEMPT OBLIGATIONS.—The first sentence of section 438(b)(2)(B)(i) of the Act is amended by inserting before the period at the end thereof a comma and the following: "except that in setting the rate under this division the per centum prescribed in clause (iii) of subparagraph (A) shall be 3.5 per centum.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall take effect with respect to loans made on or after July 1, 1986.

REPEAL OF DUPLICATIVE PROVISION

SEC. 154. Section 438 of the Act is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

STUDENT LOAN MARKETING ASSOCIATION

SEC. 155. (a) GENERAL AUTHORITY.—Section 439(d)(1)(D) of the Act is amended by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "except that—

"(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

"(ii) nothing in this clause (D) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

"(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this clause (D), the Association shall advise the Chairman and the Ranking Member on the Committee on Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.".

(b) REINSURANCE AUTHORITY.—(1) Section 439(d)(1) of the Act, as amended by subsection (a), is amended—

(A) by striking out "and" at the end of clause (c);

(B) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding after clause (D) the following new clause:

"(E) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings, subject to paragraph (6); and".

(2) Section 439(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) The authority contained in clause (E) of paragraph (1) of this subsection shall be available only for educational facilities purposes described in each clause which do not qualify under usual business practice because of—

"(A) the difficulty or inability of the institution to otherwise obtain financing on reasonable terms for such purposes;

"(B) the difficulty or inability to obtain financing through the use of the proceeds of bonds or other evidence of indebtedness by the institution or reasonable terms for such purposes; or

"(C) the difficulty or inability to obtain guarantees or insurance by the institution on reasonable terms for such purposes.".

STUDY OF PRACTICES OF STATE GUARANTY AGENCIES AND MULTISTATE GUARANTORS UNDER THE GUARANTEED STUDENT LOAN PROGRAM

SEC. 156. (a) STUDY REQUIRED.—The Comptroller General shall conduct a complete study of the practices of State guaranty agencies and multistate guarantors under the guaranteed student loan program authorized by part B of title IV of the Higher Education Act of 1965. The study shall investigate, on a comparative basis—

(1) due diligence practice of lenders;

(2) default rates and recovery rates on student loans;

(3) changes in loan volume;

(4) methods of soliciting student borrowers;

(5) potential for fraudulent double borrowing by students;

(6) participation agreements between the types of guarantor and lenders;

(7) eligible institution participation agreements;

(8) adequacy of reserved funds in relation to guaranty commitments made by the agency;

(9) types of services provided to lenders, eligible institutions, and borrowers;

(10) use of funds generated through participation in the guaranteed student loan program by amount and nature of expenses for administrative support for programs other than the guaranteed student loan program;

(11) to what extent the guarantors meet the requirements of truth-in-lending provisions;

(12) profile of defaulters and other characteristics;

(13) coordination of the loan guaranty program with grant programs; and

(14) general student access to loan assistance.

(b) REPORT.—The Comptroller General of the United States shall prepare and submit a report, not later than June 30, 1987, to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives on the findings of the study required by subsection (a) of this section, together with such recommendations as the Comptroller General deems appropriate.

TREATMENT OF CERTAIN EDUCATION LOANS IN BANKRUPTCY PROCEEDINGS

SEC. 157. (a) GENERAL RULE.—Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraph (5) or (8) of service 523(a)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to any case under title 11, United States Code, commenced before the date of the enactment of this Act.

PART C—WORK STUDY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 161. Section 441(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated for carrying out this part $622,125,000 for fiscal year 1987, $653,231,000 for fiscal year 1988, $685,893,000 for fiscal year 1989, $720,187,000 for fiscal year 1990, and $756,197,000 for fiscal year 1991.".

APPORTIONMENT

SEC. 162. (a) GENERAL RULE.—Section 442 of the Act is amended to read as follows:

"APPORTIONMENT

"SEC. 442. (a)(1)(A) From the sums appropriated pursuant to section 441(b) for any fiscal year which are equal to or less than the amount appropriated for this part for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this part an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.

"(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this part bears to the total amount available under this part for that year.

"(2)(A) In any fiscal year in which the amount appropriated for this part exceeds the amount appropriated for this part in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this part an amount which bears the same ratio to such excess as the number of eligible students who are enrolled full time and the full-time equivalent of the number of eligible students enrolled part time in the institution of higher education, bears to the total number of such students in all institutions of higher education.

"(B) For the purpose of subparagraph (A) of this paragraph, the term 'eligible students' means students who were eligible for the work study program under this part for the fiscal year preceding the fiscal year for which the determination is made.

"(b) If the Secretary determines that the sums apportioned to any institution of higher education under subsection (a) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this part.".

(b) CONFORMING AMENDMENTS.—(1) Section 446(a) of the Act is repealed.

(2) Section 446 of the Act is amended—

(A) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(B) by striking out "in the same State" in subsection (a) (as redesignated by this clause).

(3) The heading of section 446 of the Act is amended to read as follows:

"AVAILABILITY OF ASSISTANCE".

COLLEGE WORK STUDY AND PROPRIETARY INSTITUTION RULES

SEC. 163. Section 443(b) of the Act is amended—

(1) by striking out "(except in the case of a proprietary institution of higher education) in clause (1);

(2) by striking out "and" at the end of clause (8); and

(3) by redesignating clause (9) as clause (10) and by inserting after clause (8) the following new clause:

"(9) provide assurances, in the case of each proprietary institution, that students attending the proprietary institution receiving assistance under this part may be employed by the institution in jobs—

"(A) on campus only;

"(B) solely related to the students' educational objectives; and

"(C) furnishing student services, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; and".

PRIVATE SECTOR EMPLOYMENT AGREEMENT

SEC. 164. Section 443 of the Act is amended by adding at the end thereof the following new subsection:

"(c) PRIVATE SECTOR EMPLOYMENT AGREEMENT.—In addition to the agreement described in subsection (b), an institution of higher education may, at its option, enter into an additional agreement with the Secretary which shall—

"(1) provide for the operation by the institution of a program of part-time employment of its students in work for a private for-profit organization under an arrangement between the institution and such organization that complies with the requirements of subparagraphs (A) through (D) of subsection (b)(1);

"(2) provide that the institution will use not more than 25 percent of the funds made available to such institution under this part for any fiscal year for the operation of the program described in paragraph (1);

"(3) provide that, notwithstanding subsection (b)(6), the Federal share of the compensation of students employed in such program will not exceed 60 percent for academic years 1987-1988 and 1988-1989, 55 percent for academic years 1989-1990, and 50 percent for academic year 1990-1991 and succeeding academic years, and that the non-Federal share of such compensation will be provided by the private for-profit organization by which the student is employed;

"(4) provide that jobs under the work study program will be academically relevant; and

"(5) provide that the for-profit organization will not use funds made available under this part to pay any employee who would otherwise be employed by the organization.".

COMMUNITY SERVICES JOB LOCATION AND DEVELOPMENT PROGRAMS

SEC. 165. (a) PROGRAM AUTHORIZED.—Section 447(a) of the Act is amended to read as follows:

"SEC. 447. (a) The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 percent or $20,000 of its allotment under section 446, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions and through formal or informal consultation with local nonprofit, governmental, educational, and community-based organizations, locates and develops community services jobs for students eligible under this part which are suitable to the scheduling needs, and to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.".

(b) CONFORMING AMENDMENTS.—(1) Section 447(b)(2) of the Act is amended by inserting before the semicolon at the end thereof a comma and the following: "unless such jobs directly relate to the objectives described in subsection (a) of this section".

(2) Section 447 of the Act is amended by adding at the end thereof the following new subsections:

"(c) An eligible institution may use funds, reserved under subsection (a) of this Act but not used, to pay wages to students who are engaged in community services work learning jobs pursuant to section 448.

"(d) For the purpose of this section, the term 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), housing and neighborhood improvement, rural development, and community improvement.".

(c) PRIORITY CONSIDERATION FOR LITERACY TRAINING.—Section 447 of the Act is further amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision in this section, the Secretary shall give priority consideration to applications which propose community service projects involving literacy training and education.".

WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

SEC. 166. (a) GENERAL RULE.—(1) Section 448(b)(1)(B) of the Act is amended to read as follows:

"(B) to the maximum extent practicable, provides participating students with work-learning opportunities which complement and reinforce their educational programs or vocational goals; and".

(2) Section 448(b)(2) of the Act is amended to read as follows:

"(2) 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), housing and neighborhood improvement, rural development, and community improvement.".

(3) Section 448(c)(3) of the Act is amended by inserting after "planning" a comma and the following: "development,".

(b) FEDERAL SHARE.—(1) Section 443(b)(2) of the Act is amended by inserting after "except that" the following: "(A) an institution may use not to exceed 10 per centum of the funds granted to the institution in any fiscal year to carry out the work study program described in section 448 at the increased Federal share specified in clause (6)(B) of this subsection, and (B)".

(2) Section 443(b)(6) of the Act is amended—

(A) by inserting "(A)" after "except that"; and

(B) by adding before the semicolon at the end thereof a comma and the following: "and (B) the Federal share of the compensation of the students employed in the work

study for community service-learning programs described in section 448 from funds available under clause (2)(A) in accordance with the agreement will not exceed 90 per centum of such compensation".

(c) REALLOTMENT CONFORMING AMENDMENTS.—(1) Section 442(a)(1) of the Act is amended—

(A) by inserting "(A)" after "except that"; and

(B) by adding before the period at the end thereof the following: "(B) the Secretary shall give preference for not less than one-half of the remainder of such reallotments to eligible institutions for use in initiating, improving, and expanding programs of community service-learning conducted in accordance with section 448 of this part".

(2) Section 442(d)(2) of the Act is amended by—

(A) inserting "(A)" after the paragraph designation; and

(B) adding at the end thereof the following new subparagraph:

"(B) The requirement for preference for reallotment contained in subparagraph (E) of paragraph (1) of this subsection shall be made upon application by the eligible institution to the Secretary in such manner and such form as the Secretary may require. The Secretary shall, in determining the distribution of funds under such preference, give consideration to the ratio of the number of students participating in community service-learning work-study programs at the eligible institution to the number of all students participating in the work-study program at such institution. No eligible institution may receive amounts that exceed 5 per centum of the amount available for preference under paragraph (1)(B) of this subsection.".

PART D—DIRECT LOANS

AUTHORIZATION OF APPROPRIATIONS

SEC. 167. (a) GENERAL.—Section 461(b)(1) of the Act is amended to read as follows:

"(b)(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $228,356,000 for fiscal year 1987, $239,774,000 for fiscal year 1988, $251,763,000 for fiscal year 1989, $264,351,000 for fiscal year 1990, and $277,568,000 for fiscal year 1991, except that no funds are authorized to be appropriated for any fiscal year which begins after there has been a capital distribution under section 466(a).".

(b) CONTINUING.—Section 461(b)(2) of the Act is amended by striking out "1985" each time it appears and inserting in lieu thereof "1991".

APPORTIONMENT

SEC. 168. (a) GENERAL RULE.—Section 462(a) of the Act is amended to read as follows:

"(a)(1)(A) From the sums appropriated pursuant to section 461(b)(1) for any fiscal year which are equal to or less than the amount appropriated for this part for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the loan program under this part an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.

"(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this part bears to the total amount available under this part for that year.

"(2)(A) In any fiscal year in which the amount appropriated for this part exceeds the amount appropriated for this part in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the loan program under this part an amount which bears the same ratio to such excess as the number of eligible students who are enrolled full time and the full-time equivalent of the number of eligible students enrolled part time in the institution of higher education, bears to the total number of such students in all institutions of higher education.

"(B) For the purpose of subparagraph (A) of this paragraph, the term 'eligible students' means students who were eligible to receive a loan under this part for the fiscal year preceding the fiscal year for which the determination is made.

"(3) If the Secretary determines that the sums apportioned to any institution of higher education under paragraphs (1) and (2) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this part.".

(b) CONFORMING AMENDMENTS.—(1)(A) Section 462(b)(1) of the Act is amended by striking out "from the apportionment of the State in which it is located".

(B) Section 462(b)(2) of the Act is amended by striking out ", from the amount apportioned to the State in which it is located,".

(2)(A) Section 462(c)(1)(A) of the Act is amended by striking out "from a State" and "to that State".

(B) Section 462(c)(1)(B) of the Act is amended by striking out "in a State in" and inserting in lieu thereof "for".

(C) Section 462(c) of the Act is amended—

(i) by striking out "(A)" in paragraph (1);

(ii) by striking out paragraph (2);

(iii) by redesignating subparagraph (B) as paragraph (2); and

(iv) by striking out "subparagraph (A)" in paragraph (2) as redesignated and inserting in lieu thereof "paragraph (1)".

(c) DEFAULT PENALTY.—Section 462 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) For award year 1987–88, no new Federal capital contribution shall be made to an institution which has a default rate in excess of 20 percent; and for any institution which has a default rate which exceeds 7.5 percent, such institution's new Federal capital allocation shall be reduced in accordance with regulations of the Secretary.

"(2) For award year 1988–89 and subsequent award years, no new Federal capital contribution shall be made to an institution which has a default rate in excess of 15 percent; and for any institution which has a default rate which exceeds 5 percent, such institution's new Federal capital allocation shall be reduced in accordance with regulations of the Secretary.".

PRIORITY FOR NEEDY STUDENTS

SEC. 169. Section 463(a) of the Act is amended—

(1) by redesignating clause (9) as clause (10); and

(2) by inserting after clause (8) the following new clause:

"(9) provide that the institution of higher education will make loans first to students with exceptional need; and".

INCREASING LOAN LIMITS

SEC. 170. Section 464(a)(2) of the Act is amended—

(1) by striking out "$12,000" in clause (A) and inserting in lieu thereof "$16,000";

(2) by striking out "$6,000" in clause (B) and inserting in lieu thereof "$8,000"; and

(3) by striking out "$3,000" in clause (C) and inserting in lieu thereof "$4,000".

ROUNDING OF PAYMENTS

SEC. 171. Section 464(c)(1)(C) of the Act is amended—

(1) by inserting "(i)" after the clause designation; and

(2) by adding at the end thereof the following new subclause:

"(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;".

STUDENT LOAN INFORMATION

SEC. 172. Section 463A of the Act is amended—

(1) by redesignating clauses (8), (9), (10), (11), and (12), as clauses (9), (10), (11), (12), and (13), respectively, and

(2) by adding after clause (7) the following new clause:

"(8) a statement of the total cumulative balance owed by the student, the projected level of indebtedness of the student based on a two- or four-year college career, and an estimate the projected monthly repayment given the level of indebtedness over a two-, four-, or five-year college career;".

DEFERMENT FOR MATERNAL LEAVE

SEC. 173. (a) GENERAL RULE.—Section 464(c)(2)(A) of the Act is amended—

(1) by striking out "or" at the end of clause (vi);

(2) by striking out the period at the end of clause (vii) and inserting in lieu thereof a semicolon and the word "or"; and

(3) by adding at the end thereof the following new clause:

"(viii) is on maternal leave, as defined in section 435(h).".

(b) CONFORMING AMENDMENT.—Section 464(c)(2)(A) of the Act is further amended by adding at the end thereof the following new sentence: "The period during which the repayment may be deferred by reason of clause (viii) shall not exceed six months.".

DEFERMENT FOR MOTHERS WITH PRESCHOOL AGED CHILDREN

SEC. 174. (a) GENERAL RULE.—Section 464(c)(2)(A) of the Act is amended—

(1) by striking out "or" at the end of clause (vii);

(2) by striking out the period at the end of clause (viii) and insert in lieu thereof a semicolon and the word "or"; and

(3) by adding at the end thereof the following new clause:

"(ix) is a mother with preschool age children who is just entering or reentering the workforce and who is compensated at a rate not to exceed the rate prescribed by section 6 of the Fair Labor Standards Act of 1938.".

(b) CONFORMING AMENDMENT.—Section 464(c)(2)(A) of the Act is further amended by adding at the end thereof the following new sentence: "The period during which the

repayment may be deferred by reason of clause (ix) shall not exceed 12 months.".

PEACE CORPS AND VISTA FORGIVENESS PROVISIONS

SEC. 175. (a) GENERAL RULE.—Section 465(a)(2) of the Act is amended—

(1) by striking out the comma and the word "or" at the end of clause (B) and inserting in lieu thereof a semicolon;

(2) by striking out "or" at the end of clause (C);

(3) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "or"; and

(4) by adding at the end thereof the following new clause:

"(E) as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973.".

(b) CONFORMING AMENDMENTS.—Section 465(a)(3)(A) of the Act is amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the word "and"; and

(2) by adding at the end thereof the following new clause:

"(iv) in the case of service described in clause (E) of paragraph (2) at the rate of 15 per centum for the first or second year of such service and 20 per centum for the third or fourth year of such service.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) of this section shall take effect with respect to borrowers to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1986.

PART E—GENERAL STUDENT AID PROVISIONS

NEED ANALYSIS

SEC. 181. Section 482 of the Act is amended to read as follows:

"NEED ANALYSIS

"SEC. 482. (a) GENERAL AUTHORITY.—(1) The Secretary, in cooperation with the Advisory Committee on Student Financial Assistance established under section 491 of this title, shall prepare and publish a schedule of expected family contributions for programs under subpart 2 of part A, part B for loans for which an interest subsidy is paid pursuant to section 428, part C, and part E of this title in accordance with the master schedule established under section 482B.

"(2) In preparing the schedule of expected family contributions under this section, the Secretary shall, in evaluating the ability of the family to pay and the eligibility of the student for assistance under the program subject to the schedule, apply the following policies:

"(A) Parents of dependent students have a responsibility to finance their children's education to the extent that they are able to do so.

"(B) The ability of parents to pay derives from an evaluation of their financial resources at the time their dependent son or daughter applies for assistance.

"(C) Both income and assets of the parents and student are considered in arriving at an estimate of a family's ability to contribute to educational costs. Both income and assets of the parent, in the case of a divorced or separated parent, who is responsible for the dependent student are considered in such estimate.

"(D) Basic and nondiscretionary expenses for food, shelter, and clothing and obligatory expenditures, such as taxes, are assumed not to be available to the family to pay for the children's educational costs. A portion of the remaining discretionary income is assumed to be available for postsecondary educational expenses.

"(E) Students who are dependent on their parents also are expected to contribute to their own educational expenses through their earnings, savings, or other resources (including an $800 minimum contribution) that may be available directly to them, such as veterans' benefits.

"(F) Students are expected to contribute a greater proportion of their income and assets for education than their parents.

"(G) To qualify as self-supporting, students must meet age or other criteria established in this title.

"(H) Students determined to be self-supporting who have not accumulated sufficient personal resources should be able to receive financial assistance to pay for direct educational costs and minimum living costs for themselves and their dependents.

"(I) Through a combination of financial aid and personal resources, all self-supporting students and their families should be able to maintain a minimum living standard.

"(J) Students with no minor dependent children and their spouses who earn income should be expected to contribute most of that income toward direct and indirect educational expenses and be allowed to retain a portion of that income in order to improve their standard of living.

"(K) Self-supporting students with minor dependent children should be expected to contribute the same proportion of income and assets toward direct and indirect educational expenses as families of dependent students.

"(L) All self-supporting students and their spouses should be expected to contribute a minimum amount of resources toward their education.

"(b) BASIC CRITERIA.—The basic criteria to be followed in promulgating the expected family contribution are as follows:

"(1) The total income, including Adjusted Gross Income and other untaxed income, of the student and the student's spouse; or the student and the student's parents, in the case of a dependent student.

"(2) Allowances against income shall include:

"(A) United States income tax, Social Security taxes paid under sections 1401 and 3101 of the Internal Revenue Code of 1954, and a standard allowance for State income taxes.

"(B) A standard living allowance, based on consumption and other living costs for a family at a low standard of living as estimated by the Bureau of Labor Statistics, or a comparable standard as recommended by the Advisory Committee on Student Financial Assistance.

"(C) Any unusual medical and dental expenses, and expenses which may arise from a catastrophe such as a natural disaster, of the student and the student's spouse; or the student and the student's parents, in the case of a dependent student.

"(D) An allowance for unreimbursed tuition paid for dependent children other than the student enrolled in private elementary or secondary institutions not to exceed for each such child the national average per pupil instructional cost as published by the National Center for Educational Statistics, using the most recent available data.

"(E) An allowance for employment-related expenses in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed.

"(3) The net assets of the student and the student's spouse in the case of an independent student; and the student and the student's parents, in the case of a dependent student, including—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the equity in a principal place of residence;

"(C) the net value of investments and other real estate; and

"(D) the net worth of a business or farm.

"(4) An asset protection allowance based on the age of the older parent or the age of the student, in the case of the independent student.

"(5) An $800 mandatory expected minimum contribution for dependent students and for independent students with dependents from savings, summer earnings, or academic year employment. For independent students without dependents the mandatory expected contribution shall be $1,200 for the student and $4,200 for the student's spouse.

"(6) The number of dependents in the family of the student, including the student's spouse in the case of an independent student, and the number of dependents in the family of the student, in the case of a dependent student.

"(7) The number of dependents in the family of the student who are enrolled in, on at least a half-time basis, a program of postsecondary education.

"(8) In the case of an independent student, the marital status of the student and the number of minor dependents in the student's family.

"(9) In determining the expected family contribution under this section, a schedule of marginal taxation rates shall be applied to the amount of Adjusted Available Income. Separate taxation rates shall be developed for the parents of dependent undergraduate students, independent students with minor dependents, parents of dependent graduate students, and for independent students without minor dependents.

"(c) SEPARATE SCHEDULES.—Separate schedules of expected family contributions shall be developed for independent students and independent students with dependent minor children. Such separate schedules shall be consistent with the basic criteria set forth in subsection (b), except that such schedules shall—

"(1) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependent minor children shall be the same as the portion so exempt for the family of a dependent student;

"(2) provide that the rate of assessment for contribution on that portion of assets of such an independent student with minor dependents which is not exempt under subsection (b)(3) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

"(3) in determining the family contribution for an independent student who has one or more dependent minor children, provide that the assessment rate which is to be applied to the student's available income shall be the same as the assessment rate applied to the available income of the family of a dependent student.

"(d) ASSESSMENT FROM ADJUSTED AVAILABLE INCOME.—(1) The Adjusted Available Income for the parents of dependent students and for independent students with dependents is assessed according to the following table:

"Assessment From Adjusted Available Income (AAI)

If AAI is—	The Assessment is—
Less than —$3,409	—$750
—$3,409–$7,600	22% of AAI
$7,601–$9,500	$1,672 + 25% of AAI over $7,600
$9,501–$11,400	$2,147 + 29% of AAI over $9,500
$11,401–$13,300	$2,698 + 34% of AAI over $11,400
$13,301–$15,200	$3,344 + 40% of AAI over $13,300
$15,201 or more	$4,104 + 47% of AAI over $15,200.

"(2) The Available Taxable Income of an independent student (and that student's spouse) with no dependent children is assessed according to the following table:

"Family Size	If ATI is—	Assessment and contribution is—
1	0 to $8,900	70% of ATI
	$8,901 or more	$6,230 + 90% of ATI over $8,900
2	0 to $11,970	70% of ATI
	$11,971 or more	$8,380 + 90% of ATI over $11,970

"(3) The Secretary shall, for each subsequent academic year, revise the assessment tables in paragraphs (1) and (2) of this subsection by increasing each dollar amount that refers to Adjusted Available Income or Available Taxable Income, as the case may be, by a percentage equal to the percentage increase in the Consumer Price Index, rounded to the nearest $100.

"(e) COST OF ATTENDANCE.—For purposes of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution of higher education, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

"(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

"(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount assessed its residents for room and board; and

"(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study;

"(6) an allowance based on actual expenses for child care for minor dependent children who require care, during the hours the student is in class or engaged in academic-related activities or in transit; and

"(7) for a handicapped student, an allowance for those expenses related to his handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

"(f) INDEPENDENT STUDENT.—(1) For the purpose of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents or legal guardians of the students.

"(2) In carrying out paragraph (1) of this subsection, the Secretary shall apply the criteria specified in paragraph (3) for the relevant years described in paragraph (4).

"(3) A student qualifies as an independent student for an award year if the student—

"(A) does not, during any of the relevant years described in paragraph (4), live for more than 6 weeks in the home of the student's parent for whom income must be reported;

"(B) is not, for any of the relevant years described in paragraph (4), claimed as a dependent for Federal income tax purposes by such parent; and

"(C) does not, during any of the relevant years described in paragraph (4), receive financial assistance of more than $750 from such parent.

"(4) Except as provided in paragraph (5), to qualify as an independent student for any award year—

"(A) an unmarried student who has not attained 23 years of age by January 1 of the first calendar year of the award year must satisfy the criteria set forth in paragraph (3) for the first calendar year of an award year and the 2 preceding calendar years;

"(B) an unmarried student who has attained 23 years of age by January 1 of the first calendar year of the award year must satisfy the criteria set forth in paragraph (3) for the first calendar year of an award year and the preceding calendar year;

"(C) a married student must satisfy the criteria set forth in paragraph (3) for the first calendar year of the award year and the preceding year; and

"(D) an unmarried student with minor dependents (excluding a minor spouse) must satisfy the criteria set forth in paragraph (3) for the first calendar year of the award year and the preceding year.

"(5) Any student will qualify to be an independent student if, before the end of the award year—

"(A) the student is an orphan;

"(B) the student is declared a ward of a court; or

"(C) the student is a veteran.

"(g) ADDITIONAL TERMS.—For the purpose of this title, the term—

"(1) 'available income' is the difference between the parent's income and allowances against income;

"(2) 'Adjusted Available Income' is the sum of available income and a supplement from assets;

"(3) 'Available Taxable Income' means the total estimated annual taxable income of the student (and the spouse of the student if applicable) minus the estimated United States income taxes and the standard allowance for State income taxes; and

"(4) 'family contribution' is the amount which the student and the family of the student may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with the family contribution schedule required by this section.

"(h) SPECIAL RULE FOR FORECLOSURE, FORFEITURE, LIQUIDATION, OR BANKRUPTCY.—(1) In the computation of family contributions for the programs under this title for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(2) SPECIAL RULE FOR DISLOCATED WORKERS.—(A) For the purpose of this section, the income of a dislocated worker shall be the income for the year for which the determination is made.

"(B) For the purpose of this subsection, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

"(i) FINANCIAL AID ADMINISTRATOR DISCRETION PERMITTED.—Nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to make necessary adjustments to the cost of attendance and expected family contribution computations to allow for treatment of individual students with special circumstances. For the purpose of the preceding sentence, each student financial aid administrator must maintain adequate documentation of adjustments. In addition, nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to use supplementary information about the financial status of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts C and E of this title.".

SUBMISSION OF FAMILY CONTRIBUTION SCHEDULES

SEC. 182. Title IV of the Act is amended by inserting after section 482 the following new section:

"SUBMISSION OF EXPECTED FAMILY CONTRIBUTION SCHEDULES

"SEC. 482A. (a) SUBMISSION; JOINT RESOLUTION.—Each schedule of expected family contribution required under section 482 shall be submitted to the President of the Senate and to the Speaker of the House of Representatives not later than March 1 of the year preceding the year for which the schedule is applicable. Before each such schedule shall become effective, both the Senate and the House of Representatives must adopt a joint resolution approving or modifying, in whole or in part, the proposed schedule.

"(b) DISAPPROVAL.—If, not later than September 1, any such schedule has not been approved by both the Senate and the House of Representatives pursuant to subsection (a) of this section, and has been signed by the President, the Secretary shall, not later than September 15 in any year in which the schedule was submitted—

"(1) publish the family contribution schedule for the previous academic year for Pell Grants under subpart 1 of part A modified to reflect the most recent and relevant data; and

"(2) publish the family contribution schedules for the previous academic year for the programs under subpart 2 of part A, part B for loans for which an interest subsidy is paid pursuant to section 428, part C, and part E modified to reflect the most recent and relevant data.".

SIMPLIFIED NEEDS TEST

SEC. 183. Section 482 of the Act (as amended by section 181 of this Act) is amended by

adding at the end thereof the following new subsection:

"(j)(1) The Secretary may use a simplified needs analysis based upon the elements set forth in paragraph (2) for the calculation of the expected family contribution for families which have adjusted gross incomes which are equal to or less than $15,000 per year and which are eligible to file a form 1040A pursuant to the Internal Revenue Code of 1954.

"(2) The five elements to be used for the simplified needs analysis are—

"(A) adjusted gross income,

"(B) Federal and State taxes paid,

"(C) untaxed income and benefits,

"(D) the number of family members, and

"(E) the number of family members in postsecondary education.".

CALENDAR FOR AWARDING FINANCIAL AID PRESCRIBED

SEC. 184. Title IV of the Act is amended by adding after section 482A (as added by section 182 of this Act) the following new section:

"MASTER CALENDAR

"SEC. 482B. (a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

"(1) Development and distribution of Federal and multiple data entry forms—

"(A) by February 1: first meeting of the Education Department's technical committee on forms design;

"(B) by March 1: Proposed family contribution schedule published in the Federal Register;

"(C) by June 1: final family contribution schedule;

"(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

"(E) by August 30: final approved forms delivered to servicers and printers;

"(F) by October 1: Federal and multiple data entry forms and instructions printed; and

"(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

"(2) Allocations of campus-based and Pell Grant funds—

"(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

"(B) by October 1: final date for submission of FISAP by institutions to Department of Education;

"(C) by November 15: edited FISAP and computer printout received by institutions;

"(D) by December 1: appeals procedures received by institutions;

"(E) by December 15: edits returned by institutions to Department of Education;

"(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

"(G) by February 15: closing date for receipt of institutional appeals by the Department of Education;

"(H) by March 1: appeals process completed;

"(I) by April 1: final award notifications sent to institutions; and

"(J) by June 1: Pell Grant authorization levels sent to institutions.

"(b) TIMING FOR REALLOCATIONS.—With respect to any funds reallocated under section 413D or section 442, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purposes of the programs under subpart 2 of part A and part C, respectively. Such reallocation shall occur at least once each year, not later than September 30 of that year.

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this title that have not been published in final form by December prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.

"(d) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.".

LESS THAN ONE-HALF TIME COURSE OF STUDY RULE

SEC. 185. (a) GENERAL RULE.—Section 484 of the Act is amended—

(1) by redesignating subsection (b) as subsection (c), and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) A student may be eligible for student assistance described in paragraph (2) if—

"(A) the student carries less than one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution of higher education, and

"(B) the institution of higher education has met the need for assistance under each such program described in paragraph (2) for students enrolled at the institution described in clause (2) of subsection (a).

"(2) The student assistance to which paragraph (1) of this subsection applies are—

"(A) supplemental education opportunity grants under subpart 2 of part A of this title;

"(B) work-study programs under part C of this title; and

"(C) direct student loans under part E of this title.".

(b) REPEALS.—(1) Section 413C(c) of the Act is repealed.

(2) Section 443(b)(3) of the Act is amended by striking out "except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for less-than-half-time students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a)".

SATISFACTORY PROGRESS

SEC. 186. (a) GENERAL RULE.—(1) Section 484(a)(3) of the Act is amended—

(A) by inserting after "progress" the following: "toward a degree or certificate"; and

(B) by striking out "according to the standards and practices of the institution at which the student is in attendance" and inserting in lieu thereof the following: "in accordance with the provisions of subsection (c) of this section".

(2) Section 484 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) For the purpose of clause (3) of subsection (a) of this section, a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

"(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Whenever a student fails to meet the eligibility requirements of clause (3) of subsection (a) as a result of the application of this subsection and subsequent to that failure the student has a cumulative C average for any grading period, the student may, subject to this subsection, again be eligible under such clause (3) for a grant, loan, or work assistance under this title.

"(3) Any institution of higher education at which the student is in attendance may, for the purpose of clause (3), waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

"(A) the death of a relative of the student,

"(B) the personal injury or illness of the student, or

"(C) special circumstances as determined by the institution.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect for the first academic year, or its equivalent, as determined by the Secretary of Education, beginning after the date of enactment of this Act.

(c) SURVEY AUTHORIZED.—The Secretary of Education, through the Office of Educational Research and Improvement, shall conduct a survey on the impact, if any, on grades of students of the amendments made by subsection (a) of this section. The study required by this subsection shall be conducted over the 5-year period ending September 30, 1991. The Secretary, after the end of each year of the study, shall submit to the Congress a report of the survey required by this subsection, together with such recommendations as the Secretary of Education deems appropriate.

CERTIFICATION OF STUDENT ELIGIBILITY; ADDITIONAL REQUIREMENTS

SEC. 187. (a) CERTIFICATION RULES.—Section 484 of the Act is amended by inserting at the end thereof the following new subsection:

"(c) Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this title prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this title, if—

"(1) checks for the loans are mailed to the eligible institution prior to disbursements;

"(2) the disbursement is not made until the review is complete; and

"(3) the eligible institution has no evidence or documentation on which the insti-

tution may base a determination that the information submitted by the applicant is incorrect.".

(b) REQUIREMENTS.—(1) Section 484 of the Act (as amended by subsection (a)) is amended by adding at the end thereof the following:

"(d) No student shall be eligible to receive any grant, loan, or work assistance under this title if the eligible institution determines that the student borrowed in violation of the annual loan limits under part B or part E of this title in the same academic year, or if the student borrowed in excess of the cumulative maximum loan limits under such part B or part E.".

(2) Section 484 of the Act (as amended by paragraph (1)) is amended by adding at the end thereof the following new subsection:

"(e) A student who is admitted on the basis of the ability to benefit from training shall in order to remain eligible for any grant, loan, or work assistance under this title, receive the general education diploma or complete by the end of the first year of the course of study an institutionally prescribed course of remedial or developmental education. In the case of such a student who is attending an institution for less than one year the student shall complete an institutionally prescribed course of remedial or developmental education, or receive a general education diploma prior to certification or graduation.".

COUNSELING FOR BORROWERS

SEC. 188. Section 485 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Each eligible institution shall through financial aid officers or otherwise, provide counseling to borrowers of loans which are made, insured, or guaranteed under part B of this title or made under part E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

"(1) general information with respect to the average indebtedness of students who have loans under part B or part E; and

"(2) the average anticipated monthly repayments, a review of the repayment options available, together with such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness.

In the case of a borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information to the student in writing.".

COMBINED PAYMENT PLAN

SEC. 189. Part F of title IV of the Act is amended by inserting after section 485 the following new section:

"COMBINED PAYMENT PLAN

"SEC. 485A. (a)(1) Upon the request of the borrower, a lender described in clause (i), (ii), or (iii) of section 428C(a)(1) of this Act, or defined in subpart I of part C of title VII of the Public Health Service Act may, with respect to all loans eligible for consolidation under section 428C of this Act and loans guaranteed under subpart I of part C of title VII of the Public Health Service Act, offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

"(2) A lender offering a combined payment plan must comply with all provisions of section 428C applicable to loans to be consolidated under this section and must comply with all provisions of subpart I of part C of title VII of the Public Health Service Act applicable to loans under that subpart which are made part of the combined payment plan.

"(3) Such lender may offer a combined payment plan only if—

"(A) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

"(B) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

"(4) In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component, if any.

"(5) Upon selection of a lender to administer the combined payment plan, the proceeds of such loan selected by the borrower for incorporation in the combined payment plan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, except that—

"(A) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan made part of the combined payment plan (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) that in the case of loans under this part or under subpart I of part C of title VII of the Public Health Service Act, the insurance on such loan is in full force and effect.

"(6) Lenders offering combined payment plans that include loans eligible for and selected by the borrower for consolidation must comply with all provisions of section 428C of this Act in order to consolidate such loans.

"(7) The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan or upon receipt of a consolidation loan under this section except with respect to loans received under this title or pursuant to subpart I of part C of title VII of the Public Health Service Act after the date of receipt of the combined payment plan or the consolidation loan.

"(8) No origination or insurance premium shall be charged to the borrower on any combined payment plan.

"(9) Repayment of a combined payment plan shall commence within 60 days after all holders have, pursuant to paragraph (5), discharged the liability of the borrower on the loans selected for consolidation.

"(b) Upon the request of the borrower, each lender, with respect to all loans of a borrower made, insured, or guaranteed under part B of this title which are held by the lender, shall provide a combined payment plan under which the lender will submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.".

NATIONAL STUDENT LOAN DATA BANK

SEC. 190. Part F of title IV of the Act is amended by inserting after section 485A (as added by section 189) the following:

"NATIONAL STUDENT LOAN DATA BANK

"SEC. 485B. (a) In order to assure improved and accurate information on student loan indebtedness and institutional lending practices, and to insure improved compliance with the repayment and loan limitation provisions of this title, the Secretary is authorized to establish and carry out a nationwide computerized student loan data bank containing information regarding loans made, insured, or guaranteed under part B and loans made under part E. The information in the data bank shall include—

"(1) the exact amount of such loans made,

"(2) the names, social security numbers, and addresses of the student borrowers (and in the case of dependent students the names and addresses of the parents of such students), and

"(3) the guarantee agency responsible for the guarantee of the loan in the case of loans made, insured, or guaranteed under part B.

The information to be stored in the student loan data bank established by this subsection shall be furnished by guaranty agencies.

"(b)(1) Subject to the provisions of paragraph (2) and (3), and notwithstanding the provisions of section 552(a) of title 5, United States Code, relating to freedom of information, access to information in the data bank established and maintained pursuant to subsection (a) of this section shall be restricted to individuals and Federal agencies, specifically authorized by the Secretary to have such access.

"(2) In carrying out this subsection, the Secretary shall approve access to information for—

"(A) research on student loan practices, student and parental indebtedness, repayment and debt collection trends, Federal costs associated with the guaranteed student loan program under part B of this title, including the cost of interest subsidies and special allowance payments;

"(B) the improvement of Federal debt collection practices and Federal criminal prosecutions under this title, relating to loans made, insured, or guaranteed under part B or loans under part E of this title; and

"(C) furnishing information in response to an official request made by any committee of the Congress.

"(3) No name, address, or social security number of any individual borrower may be made available to any requesting individual, Federal agency, or organization, unless the Secretary determines that the request is connected with the enforcement or debt collection responsibilities imposed by Federal law on such individual, agency, or organization;

"(c) The Secretary shall prepare and submit to the Congress twice in each fiscal year a report describing the results obtained by the establishment and operation of the student loan data bank authorized by this section.".

INSTALLMENT DEDUCTION FOR INDEBTEDNESS DUE TO DEFAULT FOR FEDERAL GOVERNMENT EMPLOYEES

SEC. 191. Part F of title IV of the Act is amended by inserting after section 485B the following new section:

"INSTALLMENT DEDUCTION FOR INDEBTEDNESS DUE TO DEFAULT FOR FEDERAL GOVERNMENT EMPLOYEES

"SEC. 485C. (a)(1) Notwithstanding any other provision of law, when the head of any Federal agency receives notice under subsection (c) of this section—

"(A) that an individual is in default on any loan which is made, insured, or guaranteed under part B of this title, or is made under part E of this title, and

"(B) of the amount of the debt,

the head of such agency shall, in accordance with the provisions of this section, collect the amount of indebtedness furnished under subsection (c), in monthly installments, by deduction from the pay account of the individual employed in that agency.

"(2) The amount deducted for any monthly installment may not exceed 15 percent of the amount otherwise payable to such individual.

"(3) In carrying out the provisions of this section, the head of each agency shall follow the procedures set forth in paragraphs (2) and (3) of section 5514(a) of title 5, United States Code.

"(b) The head of each Federal agency shall transfer to the Secretary the amounts collected by deduction pursuant to subsection (a) of this section.

"(c) The Secretary shall notify the head of each Federal agency promptly of the names and social security numbers of each borrower of a loan described in subsection (a) who is in default and of the amount of the debt owed on such loan.

"(d) The head of each Federal agency shall notify each individual subject to the provisions of this section of the amount of each deduction made by reason of this section.

"(e) Notwithstanding any other provision of law, in any case in which the indebtedness relates to loans described in this section and has been reduced to judgment in a court of the United States, the deductions from basic pay shall be 25 percent.

"(f) For the purpose of this section—

"(1) the term 'Federal agency' has the same meaning given that term by section 5514(4)(B) of title 5 of the United States Code; and

"(2) the term 'pay account' means basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay.".

INSTALLMENT DEDUCTION FOR INDEBTEDNESS DUE TO DEFAULT

SEC. 192. Part F of title IV of the Act is amended by inserting after section 485C the following new section:

"INSTALLMENT DEDUCTION FROM BENEFITS FOR INDEBTEDNESS DUE TO DEFAULT

"SEC. 485D. (a)(1) Notwithstanding any other provision of law, when the head of any Federal agency receives notice under subsection (c) of this section—

"(A) that an individual is in default on any loan which is made, insured, or guaranteed under part B of this title, or is made under part E of this title, and

"(B) of the amount of the debt,

the head of such agency shall, in accordance with the provisions of this section, collect the amount of indebtedness furnished under subsection (c), in monthly installments, by deduction from the amount of the benefits payable to such individual under any program for which the head of the Federal agency is responsible.

"(2) The amount deducted for any monthly installment may not exceed 25 percent of the amount otherwise payable to such individual, except that the Secretary is authorized in demonstrated cases of exceptional need to waive the deductions required by this section.

"(b) The head of each Federal agency shall transfer to the Secretary the amounts collected by deduction pursuant to subsection (a) of this section.

"(c) The Secretary shall notify the head of each Federal agency promptly of the names and social security numbers of each borrower of a loan described in subsection (a) who is in default and of the amount of the debt owed on such loan.

"(d) The head of such Federal agency shall notify each individual subject to the provisions of this section of the amount of each deduction made by reason of this section.

"(e) For the purpose of this section—

"(1) the term 'Federal agency' has the same meaning given that term by section 5514(4)(B) of title 5 of the United States Code; and

"(2) the term 'benefits' means cash assistance or its equivalent which is payable under a Federal program and which is specified by regulations issued by the Secretary, after consultation with the Director of the Office of Management and Budget, except that such term does not include—

"(A) benefits paid under the Food Stamp Act of 1977;

"(B) benefits paid under a State plan approved under part A of title IV of the Social Security Act, relating to aid to families with dependent children;

"(C) compensation paid to an officer or employee of any Federal agency;

"(D) benefits paid under a State plan approved under title XIX of the Social Security Act relating to Medicaid; and

"(E) Supplemental Security Income.".

TRUTH IN ADVERTISING

SEC. 193. Section 487(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(7) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will publish in the catalog of the institution actual employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements.".

AVAILABILITY OF STATE GRANT ASSISTANCE

SEC. 194. Section 487(a) of the Act (as amended by section 193 of this Act) is amended by adding at the end thereof the following new paragraph:

"(8) In the case of an institution participating in a program under part B, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance.".

FINANCIAL AND STUDENT SUPPORT SERVICES TRAINING

SEC. 195. Section 486(c) of the Act is amended by striking out "1985" and inserting in lieu thereof "1986".

INELIGIBILITY FOR FEDERAL LOANS AND DISCRETIONARY GRANTS FOR ANY LOAN BORROWER WHO IS IN DEFAULT

SEC. 196. Part F of title IV of the Act is amended by adding after section 490 the following new section:

"INELIGIBILITY FOR FEDERAL LOANS AND DISCRETIONARY GRANTS FOR ANY LOAN BORROWER WHO IS IN DEFAULT

"SEC. 490A. No borrower of a loan made, insured, or guaranteed under part B of this title or made under part E of this title who is in default may be eligible for the period of default to receive any loan or discretionary grant under any provision of Federal law.".

ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

SEC. 197. (a) ADVISORY COMMITTEE AUTHORIZED.—Section 491 of the Act is amended to read as follows:

"ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

"SEC. 491. (a) ESTABLISHMENT AND PURPOSE.—(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the 'Advisory Committee') which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

"(2) The purpose of the Advisory Committee is—

"(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

"(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

"(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

"(b) INDEPENDENCE OF ADVISORY COMMITTEE.—In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department.

"(c) MEMBERSHIP.—(1) The Advisory Committee shall have 11 members of which—

"(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

"(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

"(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

"(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

"(d) FUNCTIONS OF THE COMMITTEE.—The Advisory Committee shall—

"(1) develop, review, and comment upon the system of needs analysis established under section 482 of this title;

"(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

"(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the de-

livery of student aid and in assessing the impact of legislative and administrative policy proposals;

"(4) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

"(5) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met;

"(6) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; and

"(7) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs.

"(e) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

"(A) 4 shall be appointed for a term of 1 year;

"(B) 4 shall be appointed for a term of 2 years; and

"(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

"(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

"(4) Six members of the Advisory Committee shall constitute a quorum.

"(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

"(f) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Advisory Committee shall submit any of its proposed studies or recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

"(g) COMPENSATION AND EXPENSES.—(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

"(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

"(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"(i) AVAILABILITY OF FUNDS.—An amount not to exceed $1,000,000 in any fiscal year, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.".

(b) TERMINATION.—(1) The Advisory Committee shall cease to exist 1 year after the first meeting of the Advisory Committee.

(2) Effective 1 year after the first meeting of the Advisory Committee, section 491 of the Act is repealed.

CLARIFYING THE STATUTE OF LIMITATIONS FOR ADMINISTRATIVE OFFSET

SEC. 198. Section 2415(i) of title 28 of the United States Code is amended to read as follows:

"(i) The provisions of this section shall not prevent the United States or an officer or agency thereof from collecting by means of administrative offset at any time, any claim of the United States or an officer or agency thereof from money payable to or held on behalf of an individual. Whenever the head of an agency or the designee attempts to collect a claim of the United States by administrative offset pursuant to an applicable statute or the common law, the head of an agency or the designee shall prescribe regulations and establish standards for the exercise of such administrative offset which are consistent with the standards promulgated under section 3711(e) of title 31, and are based on the best interest of the United States, the likelihood of collecting by offset, and the cost effectiveness of carrying an open claim beyond 6 years.".

PART F—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

DEMONSTRATION PROJECT AUTHORIZED

SEC. 199. The Act is amended by adding after part C the following:

"PART D—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

"STATEMENT OF PURPOSE

"SEC. 451. It is the purpose of this part to examine the feasibility of a direct loan program which uses the income contingent repayment method in order to increase the economic and full use of direct student loan funds.

"DEMONSTRATION PROJECT AUTHORIZED

"SEC. 452. (a) The Secretary shall from the amounts appropriated each fiscal year carry out demonstration projects in accordance with the provisions of this part.

"(b) For the purpose of making contributions to student loan funds established pursuant to this part there are authorized to be appropriated $5,000,000 for the fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1991.

"(c)(1) The Secretary shall allot the amounts appropriated in each fiscal year pursuant to subsection (b) among institutions of higher education which desire to participate in the pilot project authorized by this part and which have agreements with the Secretary under section 453.

"(2) The Secretary may not enter into agreements with more than 10 institutions of higher education under this part.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"SEC. 453. An agreement with an institution of higher education under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

"(2) provide for the deposit in such fund of Federal capital contributions from funds appropriated pursuant to section 452;

"(3) provide for the deposit in such fund of a capital contribution by such institution equal to not less than one-ninth of the amount of the Federal capital contribution described in clause (2);

"(4) provide for the deposit in such fund of collections of principal and interest on student loans made from deposited funds and any other earnings of such funds;

"(5) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses; and

"(C) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations;

"(6) provide that repayment of the loans made from such student loan funds will be made in accordance with a repayment schedule, which will be adjusted annually on the basis of the total amount borrowed by the student and the adjusted gross income of the student borrower for the most recent calendar year preceding the year in which the payment determination is made, together with such adjustments in the schedule as the Secretary and the institution determine will best carry out the purpose of this part, except that for the first two years of the repayment period the schedule shall require a fixed payment plan;

"(7) provide for the distribution of assets from student loan funds under this part in accordance with criteria prescribed by the Secretary, based upon the provisions of section 466; and

"(8) provide for such other assurances and limitations as the Secretary may reasonably require.

"TERMS OF LOAN UNDER THE PILOT PROGRAM

"SEC. 454. (a)(1) Loans from any student loan fund established pursuant to an agreement under section 453, to any student by any institution shall, subject to such conditions, limitation, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate amount of all loans made by institutions of higher education from loan funds established pursuant to agreements under this part to any student may not exceed $17,500.

"(3) The total amount of loans made by institutions of higher education from loan funds established pursuant to such agreement for any academic year may not exceed—

"(A) $2,500 in the case of a student who is in the first or second academic year of a program of education leading to a bachelor's degree;

"(B) $3,500 in the case of a student who is in the third such year; and

"(C) $4,500 in the case of a student who is in the fourth and fifth such year.

"(4) The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of ninety-one day Treasury bills auctioned for such three-month period preceding such year, and (B) by adding 3 per centum to the resulting per centum.

"(5) Loans made from loan funds established pursuant to such agreements shall contain such agreements for deferments, interest accrual during deferments, and loan cancellation, as are consistent with the provisions of part E of this title, subject to such modifications as the Secretary may, by regulation, prescribe.

"(b) The Secretary may by regulation prescribe such other terms for loans made from loan funds established pursuant to such agreements as the Secretary determines will contribute to carrying out the provisions of this part.

"FEASIBILITY STUDY

"SEC. 455. (a) The Secretary shall, based upon the projects assisted under this part, conduct a study of the feasibility of extending the pilot project to a direct student loan fund program of general applicability beginning after September 30, 1990.

"(b) The Secretary shall prepare and submit to the Congress a report on the feasibility study begun pursuant to subsection (a) not later than October 1, 1991 and October 1, 1995, together with such recommendations as the Secretary deems appropriate.".

PART G—ADDITIONAL STUDENT ASSISTANCE SAVINGS PROVISIONS

ADDITIONAL STUDENT ASSISTANCE SAVINGS PROVISIONS

SEC. 199A. Notwithstanding any other provision of this Act, or the amendments made by this Act—

(1) the maximum amount for a Pell Grant under section 411(a)(2)(A)(i) of the Act shall be—

(A) $2,300 for academic year 1987-1988,

(B) $2,500 for academic year 1988-1989,

(C) $2,700 for academic year 1989-1990,

(D) $2,900 for academic year 1990-1991, and

(E) $3,100 for academic year 1991-1992;

(2) the per centum to be applied under clause (iii) of section 438(b)(2)(A) of the Act shall be 3 per centum; and

(3) a student shall qualify as an independent student for an award year if, in addition to the requirements otherwise applicable, the student demonstrates to the satisfaction of the institution, in accordance with guidelines prescribed by the Secretary, how, for any of the relevant years prescribed, such student was self-supporting.

TITLE II—INSTITUTIONAL AND PROGRAM ASSISTANCE

PART A—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

REPEAL OF TITLE I

SEC. 201. Title I of the Act is repealed.

NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

SEC. 202. (a) COUNCIL ESTABLISHED.—Title II of the Department of Education Organization Act is amended by adding at the end thereof the following:

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"SEC. 215. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including, but not limited to—

"(1) one representative each from—

"(A) the Department of Education,

"(B) the Department of Agriculture,

"(C) the Department of Defense,

"(D) the Department of Labor, and

"(E) the Veterans' Administration; and

"(2) twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served.

The Advisory Council shall meet at the call of the Chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of the Higher Education Act of 1965 with respect to continuing education.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under the Higher Education Act of 1965 with respect to continuing education and other federally funded continuing education and training programs and services.

"(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary of its findings and recommendations, including recommendations for changes in the provisions of the Higher Education Act of 1965 with respect to continuing education and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by adding after item "Sec. 214." the following new item:

"Sec. 215. National Advisory Council on Continuing Education.".

PART B—LIBRARIES

REAUTHORIZATION

SEC. 211. Section 201(b) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated to carry out part A $5,000,000 for fiscal year 1987, $5,250,000 for fiscal year 1988, $5,512,500 for fiscal year 1989, $5,788,125 for fiscal year 1990, and $6,077,530 for fiscal year 1991.

"(2) There are authorized to be appropriated to carry out part B $1,050,000 for fiscal year 1987, $1,103,000 for fiscal year 1988, $1,158,000 for fiscal year 1989, $1,216,000 for fiscal year 1990, and $1,277,000 for fiscal year 1991.

"(3) There are authorized to be appropriated to carry out part C $6,300,000 for fiscal year 1987, $6,615,000 for fiscal year 1988, $6,940,000 for fiscal year 1989, $7,280,000 for fiscal year 1990, and $7,650,000 for fiscal year 1991.".

COLLEGE LIBRARY RESOURCES

SEC. 212. (a) GRANT AMOUNT; NEED CRITERIA.—Section 211 of the Act is amended to read as follows:

"COLLEGE LIBRARY RESOURCES

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to eligible institutions of higher education or combinations thereof (and to branches of institutions which are located in different communities from that in which its parent institution is located). The amount of a grant under this part shall not be less than $2,000 nor more than $10,000 and shall reflect the number of full-time equivalent students enrolled at the recipient institution. If the funds are not sufficient to provide grants to all eligible institutions, grants shall be made to those institutions demonstrating the greatest need, based on the eligibility criteria in section 211(c).

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant has expended for all library materials (exclusive of construction) during the institutional fiscal year preceding the year of application for which the grant is sought (hereafter in this section called the 'base year'), from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the 2 years preceding the base year;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part;

"(4) for making such reports as the Secretary may require, including a report on how such funds received under a grant were ex-

pended, and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports; and

"(5) a statement setting forth how the funds received under this part will be used to improve the quality of the institution's library services.

"(c) In order to be considered an eligible institution, an institution must provide the Secretary assurance that—

"(1) the expenditures of the institution per full-time equivalent student for library materials is less than the average of the expenditures for library materials per full-time equivalent student by other institutions of comparable size and program, as determined by the Secretary in accordance with definitions established by the National Center for Education; and

"(2) the number of volumes per full-time equivalent student is less than the average of such number of volumes held by institutions of comparable size and program, as determined by the Secretary in accordance with definitions established by the National Center for Education Statistics.

"(d) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials, or which resulted in unusually high expenditures for library materials.

"(e) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent an otherwise eligible institution from qualifying under subsection (c), the requirements of subsection (c) may be waived. The Secretary may not grant such waivers to more than 5 percent of the eligible institutions receiving grants under this part.

"(f) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance of networks for sharing library resources with other institutions of higher education.".

STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED

SEC. 213. Title II of the Act is amended by inserting after section 211 the following new section:

"STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED

"SEC. 212. (a) The National Commission on Libraries and Information Sciences shall conduct a study on the effectiveness in directing assistance to libraries with the greatest need of the needs criteria specified in section 211 under this part.

"(b) The National Commission on Libraries and Information Sciences shall prepare and submit a report to the Congress not later than 3 years after the conclusion of the first fiscal year in which appropriations are made for the College Library Resource Program authorized by section 211, as amended by section 212 of the Higher Education Amendments of 1985, together with such recommendations as the Commission on Libraries and Information Sciences deems appropriate.".

STRENGTHENING RESEARCH LIBRARY RESOURCES

SEC. 214. Section 231 of the Act is further amended by inserting at the end thereof the following new subsection:

"(c) In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.".

REPEAL OF PART D

SEC. 215. Part D of title II of the Act is repealed.

PART C—INSTITUTIONAL AID

INSTITUTIONAL AID REAUTHORIZED

SEC. 221. Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"FINDINGS AND PURPOSES

"SEC. 301. (a) FINDINGS.—The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities, including endowment building;

"(3) the title III program prior to 1985 did not always meet the specific development needs of historically black colleges and universities and other institutions with large concentrations of minority, low-income students;

"(4) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

"(5) providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in title III and enhance their role in providing access and quality education to low-income and minority students; and

"(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent.

"(b) PURPOSE.—It is the purpose of this title to assist such institutions through a program of Federal assistance.

"PART A—STRENGTHENING INSTITUTIONS

"PROGRAM PURPOSE

"SEC. 311. (a) GENERAL AUTHORIZATION.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b) GRANTS AWARDED; SPECIAL CONSIDERATION.—(1) From the sums available for this part under section 358(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

"(2) Special consideration shall be given to any eligible institution—

"(A) which has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; or

"(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

"(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

"(A) faculty development;

"(B) funds and administrative management;

"(C) development and improvement of academic programs;

"(D) acquisition of equipment for use in strengthening funds management and academic programs;

"(E) joint use of facilities such as libraries and laboratories; and

"(F) student services.

"DEFINITIONS

"SEC. 312. For purposes of this part:

"(1) The term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

"(2) The term 'eligible institution' means—

"(A) an institution of higher education—

"(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes at least 50 percent of the students so enrolled who are receiving need-based assistance under title IV of this Act (other than loans for which an interest subsidy is paid pursuant to section 428), unless this requirement is waived under section 352(a), and (II) which, in the case of junior or community colleges, has an enrollment which includes at least 50 percent of the students so enrolled who are receiving need-based assistance under title IV of this Act (other than loans for which an interest subsidy is paid pursuant to section 428) unless this requirement is waived under section 352(a);

"(ii) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

"(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered

or is, according to such an agency or association, making reasonable progress toward accreditation;

"(v) except as provided in section 352(b) has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

"(I) met the requirement of either subclause (iii)(I) or (iii)(II), or of both such subclauses (simultaneously or consecutively); and

"(II) met the requirement of subclause (iv); and

"(vi) meets such other requirements as the Secretary may prescribe;

"(B) any branch of any institution of higher education described under clause (A) which by itself satisfies the requirements contained in subclauses (i) and (ii) of such clause;

"(C) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause;

"(D) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subclauses (i), (ii), (iii), and (iv) of such clause; and

"(E) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under clause (A)(i) shall be given twice the weight of the factor described under clause (A)(ii).

"(3) The term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

"(4) The term 'junior or community college' means an institution of higher education—

"(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(C) that—

"(i) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

"(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"DURATION OF GRANT

"SEC. 313. (a) GENERAL RULE.—The Secretary may award a grant to an eligible institution under this part for—

"(1) not to exceed 3 years,

"(2) not to exceed 4 years if the eligible institution provides assurances that the eligible institution will not reapply for a grant under this part for 4 years; and

"(3) not to exceed 5 years if the eligible institution provides assurances that the eligible institution will not reapply for a grant under this part for 5 years.

"(b) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of 1 year for the purpose of preparation of plans and applications for a grant under this part.

"PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"FINDINGS AND PURPOSES

"SEC. 321. The Congress finds that—

"(1) the historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for black, low-income, and educationally disadvantaged Americans;

"(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support black public institutions under the Morrill Act of 1862 and its progeny, and against public and private black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education;

"(3) the current state of black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

"(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

"DEFINITIONS

"SEC. 322. For the purposes of this part:

"(1) The term 'graduate' means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

"(2) The term 'part B institution' means any historically black college or university that was established prior to 1964 and whose principal mission was, and is, the education of black Americans.

"(3) The term 'Pell Grant recipient' means a recipient of financial aid under title IV, part A, subpart 1 of this Act.

"(4) The term 'professional and academic areas in which blacks are underrepresented' shall be determined by the Assistant Secretary for Educational Research and Improvement and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of black Americans who have been educated, trained, and employed is less than the percentage of blacks in the general population.

"(5) The term 'school year' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

"GRANTS TO INSTITUTIONS

"SEC. 323. (a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available under section 358(a)(2) in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Renovation and improvement in classroom, library, laboratory, and other instructional facilities.

"(3) Support of faculty exchanges and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(4) Academic instruction in disciplines in which black Americans are underrepresented.

"(5) Purchase of library books, periodicals, microfilm, and other educational materials.

"(6) Tutoring, counseling, and student service programs designed to improve academic success.

"(b) LIMITATION.—No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this subsection, the term 'school or department of divinity' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"ALLOTMENTS TO INSTITUTIONS

"SEC. 324. (a) ALLOTMENT; PELL GRANT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance and in good standing at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

"(b) ALLOTMENT; GRADUATES BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

"(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which blacks are underrepresented, bears to the number of such graduates for all part B institutions.

"(d) REALLOTMENT.—The amount of any part B institution's allotment under subsection (a), (b), or (c) for any fiscal year which the Secretary determines will not be required for such institution for the period

such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

"(e) SPECIAL MERGER RULE.—(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

"(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

"(f) SPECIAL RULE FOR CERTAIN DISTRICT OF COLUMBIA ELIGIBLE INSTITUTIONS.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

"APPLICATIONS

"SEC. 325. (a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution meets the requirements of section 312(2)(A) (iii), (iv), and (v) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the payments under this Act will be used for the purposes set forth in section 322; and

"(2) provide for making an annual report to the Secretary and provide for—

"(A) conducting, except as provided in clause (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(B) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (A) for the period covered by such audit.

"(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

"PROFESSIONAL OR GRADUATE INSTITUTIONS

"SEC. 326. (a) GENERAL AUTHORIZATION.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for black Americans.

"(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 per centum of the cost of the purposes for which the grant is made will be paid from non-Federal sources.

"(b) DURATION.—Grants shall be made for a period not to exceed 5 years. No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.

"(c) USES OF FUNDS.—A grant under this section may be used for—

"(1) any of the purposes enumerated under section 323;

"(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

"(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 333 of this title.

"(d) APPLICATION.—Any institution eligible for a grant under this section shall submit an application which—

"(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for black and low-income students, and lead to greater financial independence; and

"(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

"(e) ELIGIBLE PROFESSIONAL OR GRADUATE INSTITUTIONS.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

"(1) Morehouse School of Medicine;

"(2) Meharry Medical School;

"(3) Charles R. Drew Postgraduate Medical School;

"(4) Atlanta University; and

"(5) Tuskegee Institute School of Veterinary Medicine.

"REPORTING AND AUDIT REQUIREMENTS

"SEC. 327. (a) RECORDKEEPING.—Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose—

"(1) the amount and disposition by such recipient of the proceeds of such assistance;

"(2) the cost of the project or undertaking in connection with which such assistance is given or used;

"(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

"(4) such other records as will facilitate an effective audit.

"(b) REPAYMENT OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

"SEC. 331. (a) GENERAL AUTHORIZATION; ELIGIBILITY.—(1) From the sums available under section 360(a)(3) for each fiscal year, the Secretary may award a challenge grant to each institution—

"(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

"(B) which is an institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree.

"(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

"(b) USES OF FUNDS.—A grant under this section may be used by an institution eligible for a grant under this section to assist the institution to achieve financial independence.

"(c) CONTENTS OF APPLICATIONS.—Any institution eligible for a challenge grant under this section may apply for such a grant under section 351, except that the application for the purpose of this part shall—

"(1) provide assurances that funds will be available to the applicant within 1 year to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) demonstrate how challenge grant funds will be used to achieve financial independence.

"(d) NOTICE OF APPROVAL.—Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions will receive challenge grants under such section and notify the institutions of the amount of the grant.

"(e) PREFERENCE.—In approving applications for such grants, preference shall be given to institutions which are receiving, or have received, grants under part A or part B of this title.

"ENDOWMENT CHALLENGE GRANTS

"SEC. 332. (a) PURPOSE; DEFINITIONS.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

"(2) For purposes of this section:

"(A) The term 'endowment fund' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is main-

tained for the purpose of generating income for the support of the institution, but which shall not include real estate.

"(B) The term 'endowment fund corpus' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

"(C) The term 'endowment fund income' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

"(b) GRANTS AUTHORIZED.—(1) From sums available for this section under section 360, the Secretary is authorized to award challenge grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

"(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

"(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

"(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant;

"(ii) applies for a grant in an amount exceeding $1,000,000; and

"(iii) provides assurances that the institution will not make an application for a grant under this section for a period of 10 years after the approval of its application pursuant to this subparagraph.

"(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

"(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

"(B) No institution shall be ineligible for a challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

"(5) Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

"(A) not be less than $50,000 for any fiscal year; and

"(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

"(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

"(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

"(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

"(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

"(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

"(c) GRANT AGREEMENT; ENDOWMENT FUND PROVISIONS.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

"(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

"(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

"(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

"(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

"(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

"(d) REPAYMENT PROVISIONS.—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

"(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

"(e) AUDIT INFORMATION.—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

"(f) SELECTION CRITERIA.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

"(1) give priority to an applicant which is a recipient of a grant made under part A or part B of this title during the academic year in which the applicant is applying for a grant under this section; and

"(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution;

"(3) consider—

"(A) the effort made by the applicant to build or maintain its existing endowment fund; and

"(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

"(g) APPLICATION.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

"(h) TERMINATION AND RECOVERY PROVISIONS.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

"(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

"(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

"(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

"(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

"PART D—GENERAL PROVISIONS

"APPLICATIONS FOR ASSISTANCE

"SEC. 351. (a) APPLICATION REQUIRED; APPROVAL.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application

meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

"(b) CONTENTS.—An institution, in its application for a grant, shall—

"(1) set forth, or describe how the institution (other than an institution applying under part C) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

"(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 356;

"(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

"(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than 1 year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;

"(F) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F); and

"(8) include such other information as the Secretary may prescribe.

"(c) PRIORITY CRITERIA PUBLICATION REQUIRED.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

"(d) ELIGIBILITY DATA.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

"WAIVER AUTHORITY AND REPORTING REQUIREMENT

"SEC. 352. (a) WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.—The Secretary shall waive the requirements set forth in section 312(2)(A)(i)(I) in the case of an institution (1) which is extensively subsidized by the State in which it is located and charges low or no tuition; (2) which serves a substantial number of low- and middle-income students as a percentage of its total student population; (3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals; or (4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions.

"(b) WAIVER DETERMINATIONS; EXPENDITURES.—(1) The Secretary may waive the requirements set forth in section 312(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of such parts.

"(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 312(2)(A)(ii), have been determined to be eligible institutions under part A institutions which enroll significant numbers of Hispanic, Native American, Asian American, or Native Hawaiian students under part A, as the case may be. Such report shall—

"(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with section 312(2)(A) (i) and (ii); and

"(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

"(c) WAIVER DETERMINATIONS; AUTHORITY AND ACCREDITATION.—The Secretary may waive the requirement set forth in section 312(2)(v) in the case of an institution—

"(1) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(2) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians;

"(3) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

"(4) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

"(5) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

"APPLICATION REVIEW PROCESS

"SEC. 353. (a) REVIEW PANEL.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) The Secretary shall take care to assure that representatives of historically black colleges, Hispanic institutions, Native American institutions, and Asian Americans and Native American Pacific Islanders, including Native Hawaiians are included as readers.

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

"(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(b) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

"(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

"(1) the scores given the applicant by the panel pursuant to this section;

"(2) the recommendations of the panel with respect to such application; and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

"COOPERATIVE ARRANGEMENTS

"SEC. 354. (a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements—

"(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

"(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

"(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

"(c) DURATION.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313.

"SPECIAL PAYMENTS RULES

"SEC. 355. (a) HISTORICALLY BLACK COLLEGE PAYMENTS RULE.—Any historically black college or university which, prior to September 30, 1986, received a grant under part A of this title in effect prior to such date and continues to receive a grant under such part A for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid from amounts appropriated to carry out part B of this title.

"(b) OTHER INSTITUTIONS SPECIAL PAYMENT RULE.—Each eligible institution other than an historically black college or university which received a grant under part B of this title in effect prior to such date and continues to receive a grant under such part B for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid out of appropriations made pursuant to part A.

"(c) SPECIAL RULE FOR UNOBLIGATED PART A AND PART B FUNDS.—In any fiscal year in which amounts appropriated pursuant to part A or part B for this title are available for obligation in the year succeeding the year in which the funds were appropriated, the Secretary shall make such funds available for grants under section 332, relating to the Endowment Challenge Program, for the same type of institution for which the grants would have been made had the funds been paid pursuant to such part A or part B.

"ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

"SEC. 356. (a) ASSISTANCE ELIGIBILITY.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B shall be eligible for waivers in accordance with subsection (b).

"(b) WAIVER APPLICABILITY.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

"LIMITATIONS

"SEC. 357. The funds appropriated under section 360 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

"PENALTIES

"SEC. 358. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

"CHALLENGE GRANT APPLICATION REQUIRED

"SEC. 359. The Secretary shall not make a Challenge Grant to any grantee institution under section 313(a)(2) or under part B which has not applied for funds under part C and complied with section 332(a)(1) of part C after September 30, 1989.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 360. (a) AUTHORIZATIONS.—(1) There are authorized to be appropriated to carry out part A $85,000,000 for fiscal year 1987, $89,250,000 for fiscal year 1988, $93,710,000 for fiscal year 1989, $98,398,000 for fiscal year 1990, and $103,318,000 for fiscal year 1991.

"(2)(A) There are authorized to be appropriated to carry out part B (other than section 326) $55,000,000 for fiscal year 1987, $57,750,000 for fiscal year 1988, $60,637,000 for fiscal year 1989, $63,669,000 for fiscal year 1990, and $66,850,000 for fiscal year 1991.

"(B) There are authorized to be appropriated to carry out section 326 $5,000,000 for fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1991.

"(3) There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1987, $21,250,000 for fiscal year 1988, $22,560,000 for fiscal year 1989, $23,940,000 for fiscal year 1990, and $25,387,000 for fiscal year 1991.

"(4) Funds appropriated for part C shall remain available until expended.

"(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(c) PRIORITY; SPECIAL CONSIDERATION.—(1) Of the sums appropriated under subsection (a)(1) for any fiscal year for part A, the Secretary shall make available for use for the purposes of parts A and C to institutions that are junior or community colleges not less than $51,400,000 for the fiscal year 1987 and each fiscal year ending prior to October 1, 1991, if the appropriations for part A for each such fiscal year are equal to or exceed the amount appropriated for part A for fiscal year 1986.

"(2) Of the sums appropriated under subsection (a)(1) for any fiscal year which exceed the amount appropriated in fiscal year 1986 for part A, the Secretary shall give priority to applications from eligible institutions with significant groups of students who are minority, or who are underrepresented in higher education, or who are educationally disadvantaged.

"(d) RATABLE REDUCTION IN FISCAL YEARS IN WHICH AMOUNTS APPROPRIATED ARE INSUFFICIENT.—In any fiscal year in which the sums appropriated for part A are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.".

PART D—TEACHER TRAINING AND DEVELOPMENT

SUBPART 1—TEACHER TRAINING PROGRAMS FOR HIGHER EDUCATION PERSONNEL

REPEAL OF PART B

SEC. 231. Part B of title V of the Act is repealed.

SUBPART 2—TRAINING FOR SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN

REPEAL OF PART C

SEC. 232. Part C of title V of the Act is repealed.

SUBPART 3—COORDINATION

REPEAL OF PART D

SEC. 233. Part D of title V of the Act is repealed.

SUBPART 4—CARL D. PERKINS SCHOLARSHIP PROGRAM

EXTENSION OF AUTHORIZATION

SEC. 234. Section 561(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated to carry out the provisions of this part $10,500,000 for fiscal year 1987, $11,050,000 for fiscal year 1988, $11,570,000 for fiscal year 1989, $12,150,000 for fiscal year 1990, and $12,760,000 for fiscal year 1991.".

SUBPART 5—THE CHRISTA MCAULIFFE TALENTED TEACHER FELLOWSHIP PROGRAM

FELLOWSHIP DESIGNATION

SEC. 235. (a) Section 571 of the Act is amended by inserting before the period a comma and the following: "to honor Christa McAuliffe".

(b) Section 571 of the Act is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Individuals awarded fellowships under this part shall be known as the 'Christa McAuliffe Fellows'.".

EXTENSION OF AUTHORIZATION

SEC. 236. (a) AUTHORIZATION.—The first sentence of section 572 of the Act is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this part $5,250,000 for fiscal year 1987, $5,513,000 for fiscal year 1988, $5,788,000 for fiscal year 1989, $6,080,000 for fiscal year 1990, and $6,380,000 for fiscal year 1991.".

(b) TECHNICAL AMENDMENT.—The heading of section 572 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS".

PART E—INTERNATIONAL EDUCATION

FINDINGS AND PURPOSE; INTERNATIONAL EDUCATION

SEC. 241. Section 601 of the Act is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 601. (a) The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

"(b) It is the purpose of this part to assist in the development of knowledge, international study, resources, and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.".

LANGUAGE AND AREA CENTERS

SEC. 242. (a) COMPREHENSIVE CENTERS.—(1) Section 602(a)(1) of the Act is amended—

(A) by striking out ", and enter into contracts with,";

(B) by striking out "graduate and undergraduate" and inserting in lieu thereof "comprehensive";

(C) by inserting before "aspects" the following: "and foreign language"; and

(D) by inserting before the period at the end thereof a comma and the following: "or for instruction and research on issues in world affairs which concern one or more countries.".

(2) Section 602(a)(2) of the Act is amended by striking out "or contract".

(3) Section 602(a) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training under this subsection in any center or program approved by the Secretary under this part.

"(B) Stipend recipients must be individuals who are engaged in a program of competency-based language training in combination with area studies, international studies, or the international aspects of a professional studies program.

"(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(5)(A) The Secretary is also authorized to award, on the basis of a national competition, stipends to students beginning their third year of graduate training under this subsection.

"(B) Stipend recipients will be selected by a nationally recognized panel of scholars on the basis of exceptional performance (on a nationally referenced test, if available) in the specialty language and evidence of substantial multidisciplinary area training.

"(C) Stipends may be held for up to a maximum 4 years contingent on periodic demonstration of a high level of language proficiency.

"(D) Stipends are tenable for continuation of studies at the institution where the recipient is currently enrolled and for the conduct of research and advanced language study abroad.".

(b) UNDERGRADUATE CENTERS.—Section 602(b) of the Act is amended to read as follows:

"(b)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international and foreign language aspects of professional and other fields of study, or for instruction and research on issues in world affairs which concern one or more countries.

"(2) Any such grant may be used to pay all or part of the cost of establishing or operating a center or program—

"(A) the cost of faculty and staff travel in foreign areas, regions, or countries,

"(B) the cost of teaching and research materials, the cost of curriculum planning and development,

"(C) the cost of bringing visiting scholars and faculty to the center to teach or to conduct research,

"(D) the cost of acquiring periodicals published outside the United States which are not commonly held by an American academic library and which are of scholarly and research importance, together with the cost of maintaining and preserving such periodicals and making them available to researchers and scholars, and

"(E) the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for carrying out the objectives of this section.

"(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.".

FOREIGN LANGUAGE RESOURCE CENTERS

SEC. 243. Section 603 of the Act is amended to read as follows:

"LANGUAGE RESOURCE CENTERS

"SEC. 603. (a) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating language training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

"(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

"(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

"(3) the development and application of proficiency testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(4) the training of teachers in the administration and interpretation of proficiency tests, the use of effective teaching strategies, and the use of new technologies;

"(5) the publication of instructional materials in the less commonly taught languages; and

"(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

"(b) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.".

INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

SEC. 244. (a) CLARIFYING PROVISION.—The matter preceding clause (1) of section 604 of the Act is amended by striking out "comprehensive" each time it appears.

(b) TYPE OF TRAINING.—Section 604(a)(7) of the Act is amended by inserting before "teacher" the following: "pre-service and in-service".

SUMMER INSTITUTES FOR FOREIGN LANGUAGES

SEC. 245. The Act is amended—

(1) by redesignating sections 605, 606, and 607 as sections 606, 607, and 608, respectively; and

(2) by inserting after section 604 the following new section:

"INTENSIVE SUMMER LANGUAGE INSTITUTES

"SEC. 605. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

"(2) Training authorized by this section shall be provided through—

"(A) institutes designed to meet the needs for intensive language training by advanced students; or

"(B) institutes designed to provide professional development and improve instruction through pre-service and in-service training for language teachers.

"(3) Grants made under this section may be used for—

"(A) intensive training in languages critical to the national economic and political future;

"(B) training in neglected languages; and

"(C) stipends for students and faculty attending the institutes authorized by this section.

"(4) Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under sections 602.

"(b) Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.".

RESEARCH

SEC. 246. Section 606(a) of the Act (as redesignated by section 245 of this Act) is amended—

(1) by striking out "and part N of title III of the Elementary and Secondary Education Act of 1965";

(2) by striking out "and" at the end of clause (2);

(3) by redesignating clause (3) as clause (4);

(4) by inserting after clause (2) the following new clause:

"(3) the application of proficiency tests and standards across all areas of instruction and classroom use; and"; and

(5) by inserting "and publication" after "development" in clause (4) (as redesignated by this section).

DISTRIBUTION OF FUNDS

SEC. 247. Section 607 of the Act (as redesignated by section 245) is amended to read as follows:

"EQUITABLE DISTRIBUTION OF FUNDS

"SEC. 607. (a) The Secretary shall establish criteria based on excellence for the selection of grants awarded under section 602, employing separate but no less rigorous criteria for undergraduate and comprehensive programs.

"(b) The Secretary shall, to the extent practicable, award grants under this part (other than section 602(a)) in such manner as to achieve an equitable distribution of assistance throughout the Nation, based on the merit of a proposal with peer review by broadly representative professionals.".

REAUTHORIZATION OF PART A

SEC. 248. Section 608 of the Act (as redesignated by section 245) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 608. There are authorized to be appropriated to carry out the provisions of this part $35,000,000 for fiscal year 1987, $36,750,000 for fiscal year 1988, $38,587,500 for fiscal year 1989, $40,576,875 for fiscal year 1990, and $42,775,312 for fiscal year 1991.".

REAUTHORIZATION OF PART B

SEC. 249. Section 613 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 613. There are authorized to be appropriated to carry out the provisions of this part $2,200,000 for the fiscal year 1987, $2,310,100 for fiscal year 1988, $2,425,600 for fiscal year 1989, $2,546,900 for fiscal year 1990, and $2,674,250 for fiscal year 1991.".

ADVISORY BOARD RESTRUCTURED

SEC. 250. Section 621 of the Act is amended to read as follows:

"ADVISORY BOARD

"SEC. 621. (a) Not less than two times each year, the Secretary shall convene an advisory board on the conduct of programs under this title. The Advisory Board shall consist of—

"(1) five members selected by the Secretary from among members of the postsecondary educational community, at least two of whom shall be considered by their peers to be specialists in one or more fields of language, area or international studies;

"(2) two members selected by the Secretary from among members of the public; and

"(3) two members selected by the Secretary from among representatives of the business community.

"(b) The Secretary may consult with or include as ad hoc ex officio participants in Advisory Board meetings a representative from any appropriate executive agency.

"(c) The Advisory Board shall advise the Secretary on—

"(1) any geographic areas of special concern to the United States;

"(2) innovative approaches which may help to fulfill the purposes of this title;

"(3) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations;

"(4) emerging trends within various segments—pre-college, undergraduate, graduate, and postgraduate—of the international education community;

"(5) administrative and staffing requirements of international education programs in the Department; and

"(6) special needs with regard to the programs operated under part B.

"(d) The Advisory Board shall advise the Secretary and the Congress on adequate budget levels for part A and part B of this title.".

STUDY AUTHORIZED

SEC. 250A. Title VI of the Act is amended by adding at the end thereof the following new section:

"NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES

"SEC. 622. (a) The Secretary shall, in consultation with the Director of the United States Information Agency, the Director of the Agency for International Development, the Secretary of State, and the Secretary of Defense, conduct a study on the establishment of a National Endowment for International Studies. The study shall develop a program, a plan funding, and priorities for such an Endowment.

"(b) In carrying out the study required by this section, the Secretary shall consider—

"(1) the extent of the need for international studies programs at all educational levels, not served by this title;

"(2) the programs at the Agency for International Development, the United States Information Agency and the Departments of State, Defense, and Education which can be coordinated to increase the scope and number and kinds of participants in international educational programs;

"(3) the feasibility of an Endowment for International Studies, by whom it shall be administered, and procedures for receiving corporate and other private contributions for supplemental funding, similar to Treasury fund accounts at other Federal agencies; and

"(4) a comprehensive evaluation of the weaknesses and strengths in international education and foreign language training at all levels of education in our Nation and the role of the Endowment to remedy these weaknesses, and encourage expansion of these strengths.

"(c) The Secretary shall prepare and submit to the Congress, not later than 6 months after the date of enactment of this section, a report on the study required by this section, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.".

PART F—CONSTRUCTION AND RENOVATION

REAUTHORIZATION

SEC. 251. Section 702 of the Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 702. There are authorized to be appropriated $5,000,000 for fiscal year 1987, $5,525,000 for fiscal year 1988, $6,076,250 for fiscal year 1989, $6,655,063 for fiscal year 1990, and $7,262,816 for fiscal year 1991 for part A. There are authorized to be appropriated $5,000,000 for fiscal year 1987, $5,525,000 for fiscal year 1988, $6,076,250 for fiscal year 1989, $6,655,063 for fiscal year 1990, and $7,262,816 for fiscal year 1991 for part B. There are authorized to be appropriated $18,795,000 for fiscal year 1987, $19,734,750 for fiscal year 1988, $20,721,488 for fiscal year 1989, $21,757,562 for fiscal year 1990, and $22,845,440 for fiscal year 1991 for part C. There are authorized to be appropriated $24,675,000 for fiscal year 1987, $25,908,750 for fiscal year 1988, $27,204,188 for fiscal year 1989, $28,564,397 for fiscal year 1990, and $29,992,617 for fiscal year 1991 for section 734.".

GENERAL PROVISIONS FOR LOAN PROGRAM

SEC. 252. (a) GENERAL RULE.—Section 732(b)(5)(B) of the Act is amended to read as follows:

"(B) granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (c) if the repayment is (i) made from non-Federal sources, (ii) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (iii) made on a loan that has been outstanding for at least five years; and".

(b) COMPUTATION OF ALLOWABLE DEDUCTIONS.—Section 732 of the Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan, if (A) the repayment is made from non-Federal sources, (B) the Secretary has received satisfactory assurances that the housing or other educational facilities financed with the loan will continue to be used for purposes related to the educational institution for the original term of the loan, and (C) the repayment is made prior to October 1, 1991.".

HOUSING AND OTHER EDUCATIONAL FACILITIES LOANS REAUTHORIZED

SEC. 253. Title VII of the Act is amended—

(1) by redesignating part D as part E;

(2) by redesignating section 741 and section 742 as section 751 and section 752, respectively; and

(3) by adding after part C the following new part:

"PART D—HOUSING AND OTHER EDUCATIONAL FACILITIES LOANS

"FEDERAL ASSISTANCE IN THE FORM OF LOANS

"SEC. 741. (a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist undergraduate postsecondary educational institutions in the construction, reconstruction, or renovation of housing, undergraduate academic facilities, and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

"(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favor-

able as the terms and conditions applicable to loans under this title; and

"(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

"(b) USE OF LOANS FOR PREVIOUSLY MADE CONTRACTS.—Any undergraduate postsecondary educational institution which, prior to the date of enactment of this section, has contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this title, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to the effective date of this section, or completed prior to the filing of an application under this title.

"(c) AMOUNT AND CONDITIONS OF LOANS.—A loan to an undergraduate postsecondary educational institution—

"(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

"(2) shall be secured in such manner and be repaid within such period, not exceeding forty years, as may be determined by the Secretary; and

"(3) shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the average current yield on outstanding obligations of the United States of comparable maturities in the month preceding the month in which the contract for such loan is made.

"(d) USE OF FUNDS FROM TITLE IV OF THE HOUSING ACT OF 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be available for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after the effective date of the Higher Education Act Amendments of 1985 shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the average current yield on outstanding obligations of the United States of comparable maturities in the month preceding the month in which the contract for such loan is made. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(e) USE OF FUNDS.—Not less than 10 percent of the funds held by the Secretary under subsection (d) of this section shall be made available for loans under this part for each fiscal year.

"(f) APPROPRIATION TO COVER NOTES AND OBLIGATIONS NOT COVERED BY LOAN REPAYMENT.—There are authorized to be appropriated to the Secretary such sums as may be necessary, together with principal and interest payments made by postsecondary educational institutions assisted with loans made under this part (or under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.

"GENERAL PROVISIONS

"SEC. 742. (a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefore, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this part;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

"(6) obtain insurance against loss in connection with property and other assets held;

"(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (C) made on a loan that has been outstanding for at least five years; and

"(8) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

"(d) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall, in consultation with the Secretary of the Treasury and to the extent consistent with the best financial interests of the Federal Government, compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5). The price which may be offered shall be the present value of the scheduled future payments on the loan discounted by using, as an imputed interest rate, the current market yields on outstanding marketable obligations of the United States having comparable maturities.

"(e) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

"(f) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

"(g) WAGE RATES.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors or any project assisted under this part, the construction or rehabilitation of which was commenced after the date of enactment of the Housing Act of 1950—

"(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

"(2) shall be employed not more than forty hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed;

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to

the educational institution undertaking the construction.

"APPORTIONMENT; PRIORITIES; LIMITATION

"SEC. 743. (a) APPORTIONMENT.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

"(b) PRIORITIES.—In awarding loans under this part, the Secretary shall give priority—

"(A) to loans for renovation or reconstruction of undergraduate academic facilities;

"(B) to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period.

"(c) LIMITATION.—No loan application may be made under this part until 10 years after the date on which an undergraduate postsecondary educational institution received a loan under this part.

"DEFINITIONS

"SEC. 744. For the purposes of this part—

"(1) HOUSING.—The term 'housing' means—

"(A) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

"(B) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

"(2) EDUCATIONAL INSTITUTION.—The term 'undergraduate postsecondary educational institution' means—

"(A)(i) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a two-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

"(ii) any public educational institution which—

"(I) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

"(II) offers technical or vocational instruction; and

"(III) provides residential facilities for some or all of the students receiving such instruction;

"(B) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

"(C) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

"(i) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in clause (A) of this paragraph without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

"(ii) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 741, will pass to such institution (or to anyone or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

"(D) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in clause (A) of this paragraph, but nothing in this paragraph shall require an institution included in clause (A) of this paragraph to obtain loans or grants through any instrumentality included in this clause; and

"(E) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in clause (A) of this paragraph.

In the case of any loan made under section 741 to a corporation described in clause (C) of this paragraph which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in clause (E) of this paragraph, and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

"(3) UNDERGRADUATE ACADEMIC FACILITIES.—(A) Except as provided in subparagraph (B) of this paragraph, the term 'undergraduate academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'undergraduate academic facilities' shall not include—

"(i) any facility intended primarily for events for which admission is to be charged to the general public,

"(ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part,

"(iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or

"(iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

"(4) DEVELOPMENT COST.—The term 'development cost' means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

"(5) FACULTIES.—The term 'faculties' means member of the faculty and their families.

"(6) OTHER EDUCATIONAL FACILITIES.—The term 'other educational facilities' means (A) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (B) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.".

ESTABLISHMENT OF THE COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION

SEC. 254. Title VII of the Act is amended by adding at the end thereof the following new part:

"PART F—COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION

"CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION

"SEC. 761. (a) PURPOSE.—The Congress declares that it is the purpose of this part to authorize participation of the United States Government and the Student Loan Marketing Association in a private, for profit corporation to be known as the College Construction Loan Insurance Association (hereafter in this part referred to as the 'Corporation') which will, directly or indirectly, alone or in collaboration with others—

"(1) guarantee, insure and reinsure bonds, debentures, notes, evidences of debt, loans and interests therein, the proceeds of which are to be used for an education facilities purpose;

"(2) guarantee and insure leases of personal, real or mixed property to be used for an education facilities purpose; and

"(3) issue such letters of credit and undertake such obligations and commitments as the Corporation deems necessary to carry out the purposes described in clauses (1) and (2).

"(b) STATUS AS NON-GOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality or establishment of the United States Government and shall not be a 'Government corporation' nor a 'Government controlled corporation' as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

"(c) CORPORATE POWERS AND LIMITATIONS; APPLICABILITY OF THE PROVISIONS OF THIS PART.—The Corporation shall be subject to the provisions of this part and, to the extent not inconsistent with this part, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this sec-

tion. It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

"(d) DEFINITION OF EDUCATION FACILITIES PURPOSE.—As used in this section, an 'education facilities purpose' includes any activity relating to the construction, reconstruction, renovation, acquisition or purchase of (1) education, training or research facilities or housing for students, faculty or staff, (2) any underlying real property or any interest therein, (3) furniture, fixtures and equipment to be used in connection with any education or training facility or housing for students, faculty or staff, and (4) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

"CRITERIA FOR GUARANTEES AND INSURANCE

"SEC. 762. (a) GENERAL RULE.—In carrying out the purposes and activities described in section 761, the Corporation shall assure that not less than 100 percent of the aggregate amount of—

"(1) the bonds, debentures, notes, evidences of debt, loans, and interest therein, the proceeds of which are to be used for an education facilities purpose, and

"(2) the lease of personal, real, or mixed property to be used for such purpose,

shall be made available for educational facilities purposes which do not qualify under usual business practice because of—

"(A) the difficulty or inability of the institution to otherwise obtain financing on reasonable terms for such purposes;

"(B) the difficulty or inability to obtain financing through the use of the proceeds of bonds or other evidence of indebtedness by the institution on reasonable terms for such purposes; or

"(C) the difficulty or inability to obtain guarantees or insurance by the institution on reasonable terms for such purposes.

"(b) CRITERIA REQUIRED.—The incorporators of the Corporation appointed pursuant to section 763 shall establish uniform criteria for the requirement imposed by subsection (a) of this section.

"(c) NONDISCRIMINATION REQUIRED.—(1) The Corporation may not carry out any activities with respect to any education facilities purpose of a participating institution if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition.

"(2) Each participating institution shall certify to the corporation that the institution does not discriminate as required by the provisions of paragraph (1).

"PROCESS OF ORGANIZATION

"SEC. 763. The Secretary of the Treasury, the Secretary of Education and the Student Loan Marketing Association shall each appoint two persons to be incorporators of the Corporation. If either the Secretary of the Treasury or the Secretary of Education fail to appoint incorporators within 90 days after the date of enactment of the Higher Education Amendments of 1986, the Student Loan Marketing Association, after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, shall have the authority to name the incorporators which have not been so appointed. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

"OPERATION AND ELECTION OF BOARD OF DIRECTORS

"SEC. 764. (a) IN GENERAL.—The Corporation shall have a Board of Directors which shall consist of eleven members, of whom one shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of one year or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds. Two Directors shall be appointed by the Secretary of the Treasury; two Directors shall be appointed by the Secretary of Education; three Directors shall be appointed by the Student Loan Marketing Association; and the remaining four Directors shall be elected by the holders of the Corporation's voting common stock at least one of whom shall be a college or university administrator.

"(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-327(d)).

"INITIAL CAPITAL

"SEC. 765. (a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within six months of its incorporation as shall be designated by the initial Board of Directors, for an aggregate consideration of not more than $16,000,000. During each of the four years thereafter, the Corporation shall issue additional voting common stock at such date or dates in each year determined by the Board for an aggregate consideration of not more than $41,000,000 in each year.

"(b) SUBSCRIPTION BY SECRETARY OF EDUCATION.—The Secretary of Education is authorized and directed to subscribe to and purchase, in each of the five years referred to in subsection (a) of this section, voting common stock of the Corporation having an aggregate purchase price of not more than $11,000,000, subject to availability of appropriations.

"(c) SUBSCRIPTION BY ASSOCIATION.—The Student Loan Marketing Association is authorized to subscribe to and purchase in each of the five years referred to in subsection (a) of this section voting common stock of the Corporation having an aggregate purchase price of not more than $5,000,000.

"(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public in each of the second through fifth years referred to in subsection (a) of this section voting common stock having an aggregate purchase price of not more than $25,000,000. Not less than $10,000,000 of such stock shall be set aside for purchase by institutions of higher education prior to being offered to the general public.

"ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC

"SEC. 766. The Corporation may issue without limitation as to amount or restriction as to ownership such nonvoting common, preferred and preference stock, debt and such other securities and obligations, in such amounts, at such times and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

"OBLIGATIONS NOT FEDERALLY GUARANTEED

"SEC. 767. No obligation which is insured, guaranteed or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States.

"AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL

"SEC. 768. (a) AUTHORITY TO SELL.—The Secretary of Education may, at any time after a date which is five years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Student Loan Marketing Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of plans of the Secretary.

"(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) of this section shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase. In no event shall the purchase price be less than the original issuance price.

"(c) BOARD OF DIRECTORS ELECTED AFTER MAJORITY BUY-OUT.—If the Student Loan Marketing Association acquires from the Secretary of Education sufficient voting common stock so as to own more than 50 percent of the issued and outstanding voting common stock of the Corporation, section 764 (except subsection (b)) of this Act shall be of no further force or effect and the Board of Directors of the Corporation shall thereafter be elected entirely by the voting common shareholders.

"(d) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Student Loan Marketing Association acquires all of the voting common stock owned by the Secretary, the Student Loan Marketing Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

"(e) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Student Loan Marketing Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Student Loan Marketing Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 765 and 766, and arrangements for the provision of management and other services to the Corporation, as shall be approved by

the Student Loan Marketing Association and the Corporation.

"RETURN OF STOCK SALE PROCEEDS

"SEC. 769. The proceeds received by the Secretary of Education upon the sale of any of its shares of the Corporation to the Student Loan Marketing Association shall be deposited in the general fund of the Treasury.

"AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS

"SEC. 770. (a) ACCOUNTING REQUIREMENT.—The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

"(b) REPORTS.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this part, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 771. There are authorized to be appropriated $11,000,000 to carry out the provisions of this part, to remain available until expended.".

PART G—COOPERATIVE EDUCATION

COOPERATIVE EDUCATION REAUTHORIZED

SEC. 261. Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"APPROPRIATIONS AUTHORIZED; RESERVATIONS

"SEC. 801. (a) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated $15,120,000 for fiscal year 1987, $15,876,000 for fiscal year 1988, $16,670,000 for fiscal year 1989, $17,500,000 for fiscal year 1990, and $18,380,000 for fiscal year 1991 to carry out the cooperative education program authorized by this title.

"(b) RESERVATIONS.—Of the amounts appropriated in each fiscal year—

"(1) not less than 75 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions for cooperative education under section 802;

"(2) not to exceed 12½ percent shall be available for demonstration projects under clause (1) of section 803(a);

"(3) not to exceed 10 percent shall be available for training and resource centers under clause (2) of section 803(a); and

"(4) not to exceed 2½ percent shall be available for research under clause (3) of section 803(a).

"(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

"GRANTS FOR COOPERATIVE EDUCATION PROGRAMS

"SEC. 802. (a) GRANTS AUTHORIZED; MAXIMUM AMOUNT OF GRANT.—(1) The Secretary is authorized, from the amount available under section 801(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education, or to combinations of such institutions, to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions.

"(2)(A) Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(B) The amount of each grant shall not exceed $500,000 to any one institution of higher education in any fiscal year, and shall not exceed an amount equal to the product of $345,000 times the number of institutions participating in such combination, for any fiscal year.

"(b) APPLICATIONS.—Each institution of higher education, or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(1) set forth the program or activities for which a grant is authorized under this section;

"(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

"(4) describe the plans which the applicant will carry out to assure that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1);

"(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate candidates and who carry at least one-half the normal full time academic workload;

"(6) provide that the applicant will—

"(A) make such reports as may be essential to insure that the applicant is complying with the provisions of this section, including in the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

"(i) the number of students enrolled in the cooperative education program,

"(ii) the number of employers involved in the program,

"(iii) the income of the students enrolled, and

"(iv) the increase or decrease of enrollment in the program in the second previous year compared to such previous fiscal year; and

"(B) keep such records as are essential to insure that the applicant is complying with the provisions of this title;

"(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(8) include such other information as is essential to carry out the provisions of this title.

"(c) DURATION OF GRANTS; FEDERAL SHARE.—(1)(A) Except as provided in paragraph (3), no individual institution of higher education, and no individual participant in a combination of such institutions may receive grants under this section for more than 5 fiscal years.

"(B) The limitation contained in subparagraph (A) shall apply to each institution of higher education or participant in a combination of such institutions whether the grant was received before or after the date of enactment of the Cooperative Education Act of 1985.

"(2) The Federal share of a grant under this section may not exceed—

"(A) 90 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

"(B) 80 percent of such cost in the second such year;

"(C) 70 percent of such cost in the third such year;

"(D) 60 percent of such cost in the fourth such year; and

"(E) 30 percent of such cost in the fifth such year.

"(3) Any institution of higher education, or participant in a combination of such institutions which—

"(A) has received a grant for 5 fiscal years under this section;

"(B) has conducted without Federal assistance a cooperative education program for at least 2 academic years subsequent to the end of the fifth such fiscal year;

"(C) has expended for the cooperative education program for each such subsequent academic year an amount at least equal to the total cost of the program in the fifth fiscal year in which the institution, or participant, received assistance under this section; and

"(D) provides statistics in the application required under subsection (b) on the number of students enrolled in the cooperative education program, the number of institutional personnel, including faculty advisers and cooperative education coordinators, and the income of the students enrolled, for each such year

may apply under subsection (b) as an institution, or participant, to which clause (A) of paragraph (2) applies.

"(4) Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers,

"(2) the commitment of the institution of higher education to cooperative education has demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance,

"(3) the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit, and

"(4) such other factors as are consistent with the purposes of this section.

"DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH

"SEC. 803. (a) AUTHORIZATION.—The Secretary is authorized, in accordance with the

provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 801(b)(2);

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

"(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 801(b)(3); and

"(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 801(b)(4).

"(b) ADMINISTRATIVE PROVISION.—To carry out this section, the Secretary may—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.".

PART H—GRADUATE AND PROFESSIONAL PROGRAMS

SUBPART 1—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

REPEAL OF PART A

SEC. 271. Part A of title IX of the Act is repealed.

SUBPART 2—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

INSTITUTIONAL AND INDIVIDUAL GRANT AMOUNTS

SEC. 272. (a) INSTITUTIONAL AMOUNT REPEALED.—Section 922(b) of the Act is amended—

(1) by striking out paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

(b) MINIMUM INSTITUTIONAL PAYMENT.—Section 922(f) of the Act is amended by inserting at the end thereof the following new sentence: "The amount paid to an institution of higher education under this subsection for any such person may not be less than $4,200".

(c) MAXIMUM INDIVIDUAL AWARD.—Section 923(a) of the Act is amended by striking out "$4,500" and inserting in lieu thereof "$7,000".

APPLICATION PROCEDURES

SEC. 273. Section 922(c) of the Act is amended by adding at the end thereof the following: "Each such application may be made on behalf of any professional school, academic department or similar organizational unit, or interdisciplinary or interdepartmental program within the institution of higher education meeting the requirements of this subsection.".

REAUTHORIZATION

SEC. 274. Section 924 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 924. There are authorized to be appropriated to carry out the provisions of this part $18,480,000 for fiscal year 1987, $19,404,000 for fiscal year 1988, $20,374,000 for fiscal year 1989, $21,393,000 for fiscal year 1990, and $22,463,000 for fiscal year 1991.".

SUBPART 3—NATIONAL GRADUATE FELLOWS PROGRAM

REAUTHORIZATION; DESIGNATION OF AWARDEES

SEC. 275. (a) EXTENSION OF PROGRAM.—Section 931(a) of the Act is amended by striking out "1985" and inserting in lieu thereof "1991".

(b) DESIGNATION OF FELLOWS.—Section 931(a) of the Act is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) Students receiving awards under this part shall be known as 'Jacob J. Javits Fellows'.".

(c) LIMITATION ON APPROPRIATIONS.—Section 932(c) of the Act is amended by adding at the end thereof the following new sentence: "No sums are authorized to be appropriated to carry out the provisions of this part in excess of $2,625,000 for fiscal year 1987, $2,756,000 for fiscal year 1988, $2,894,000 for fiscal year 1989, $3,039,000 for fiscal year 1990, and $3,191,000 for fiscal year 1991.".

RECONSTITUTING NATIONAL GRADUATE FELLOWS PROGRAM FELLOWSHIP BOARD

SEC. 276. (a) APPOINTING AUTHORITY; COMPOSITION.—Section 932(a)(1) of the Act is amended—

(1) by striking out "President" and inserting in lieu thereof "Secretary"; and

(2) by striking out "15 individuals" and inserting in lieu thereof the following: "13 individuals after July 31, 1987, and prior to August 1, 1989, 11 individuals after July 31, 1989, and prior to August 1, 1991, and 9 individuals after July 31, 1991"; and

(3) by adding at the end thereof the following new sentence: "The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in the arts, humanities, and social sciences.".

(b) DUTIES.—Section 932(a)(2) of the Act is amended to read as follows:

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee its operations;

"(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

"(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of directing fellows; and

"(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.".

(c) TERMS OF OFFICE.—Section 932(a)(4) of the Act is amended to read as follows:

"(4) The term of office of each member of the Board shall be four years; except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of six years.".

(d) MEETINGS REQUIRED.—Section 932(a)(6)(B) of the Act is amended to read as follows:

"(B) The Board shall meet at least once a year, or more frequently, as may be necessary to carry out its responsibilities.".

(e) SELECTION CRITERIA.—Section 932(b) of the Act is amended to read as follows:

"(b) The recipients of fellowships shall be selected from among all applicants nationwide by distinguished panels appointed by the Fellowship Board to make selections under criteria of academic excellence established by the Board.".

(f) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) of this section shall take effect with respect to individuals appointed to the Fellowship Board to fill vacancies occurring after the date of enactment of this Act on the Fellowship Board as constituted prior to the amendments made by this section. The Secretary shall make initial appointments under this subsection so that the terms of three members expire at the end of two years, three members expire at the end of three years, and three members expire at the end of four years.

SUBPART 4—TRAINING IN THE LEGAL PROFESSION

REAUTHORIZATION

SEC. 277. Section 942 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 942. There are authorized to be appropriated to carry out the provisions of this part $1,575,000 for fiscal year 1987, $1,653,750 for fiscal year 1988, $1,736,437 for fiscal year 1989, $1,823,259 for fiscal year 1990, and $1,874,421 for fiscal year 1991.".

SUBPART 5—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

REAUTHORIZATION

SEC. 278. Section 953 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 953. There are authorized to be appropriated to carry out the provisions of this part $1,575,000 for fiscal year 1987, $1,653,750 for fiscal year 1988, $1,736,437 for fiscal year 1989, $1,823,259 for fiscal year 1990, and $1,874,421 for fiscal year 1991.".

PART I—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

REAUTHORIZATION

SEC. 281. Section 1005 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this title $13,350,000 for fiscal year 1987, $14,010,000 for fiscal year 1988, $14,710,000 for fiscal year 1989, $15,450,000 for fiscal year 1990, and $16,220,000 for fiscal year 1991.".

INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

SEC. 282. (a) INNOVATIVE PROJECTS AUTHORIZED.—Part B of title X of the Act is amended to read as follows:

"PART B—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"STATEMENT OF PURPOSE

"SEC. 1021. It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs.

"INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"SEC. 1022. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to and contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this part.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and contained or accompanied by such information as the Director may require.

"(c) APPLICABLE PROCEDURES.—(1) No application may be approved under subsection (b) unless the National Board Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

"(2) The provisions of section 1004(b) shall apply to grants made under this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1023. (a) There are authorized to be appropriated to carry out this part, $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, $4,200,000 for fiscal year 1989, $4,400,000 for fiscal year 1990, and $4,600,000 for fiscal year 1991.

"(b) No funds may be appropriated pursuant to subsection (a) of this section for any fiscal year unless funds are appropriated for part A of this title for such fiscal year.".

(b) CONFORMING AMENDMENT.—Section 205 of the Department of Education Organization Act is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) There is established, in the Office of Postsecondary Education, a Community College Unit (hereafter in this section referred to as the 'Unit') which shall have the responsibility for coordinating all programs administered by the Secretary which affect, or can benefit, community colleges, including such programs assisted under this Act, and the Carl D. Perkins Vocational Educational Act.

"(2) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code.".

MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM REAUTHORIZATION

SEC. 283. Title X of the Act is amended by adding at the end thereof the following new part:

"PART C—MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM

"PROGRAM AUTHORIZED

"SEC. 1031. There are authorized to be appropriated for the purpose of carrying out the Minority Institutions Science Improvement Program transferred to the Secretary from the National Science Foundation by section 304 of the Department of Education Organization Act, $5,250,000 for fiscal year 1987, $5,512,500 for fiscal year 1988, $5,789,125 for fiscal year 1989, $6,078,580 for fiscal year 1990, and $6,382,500 for fiscal year 1991.".

PART J—URBAN UNIVERSITY PROGRAM

REPEAL OF TITLE XI

SEC. 286. Title XI of the Act is repealed.

PART K—MISCELLANEOUS HIGHER EDUCATION PROGRAMS

REAUTHORIZATION OF TREATMENT OF TERRITORIAL STUDENT ASSISTANCE

SEC. 291. Section 1204(c) of the Act is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1991".

REAUTHORIZATION OF THE NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

SEC. 292. Section 1205(f) of the Act is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1991".

COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS

SEC. 293. Title XII of the Act is amended by adding at the end thereof the following new section:

"COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS

"SEC. 1206. (a) There is established in the legislative branch a Joint Study Commission on Postsecondary Institutional Recognition (hereafter in this section referred to as the 'Commission').

"(b) The Commission shall be composed of 5 members appointed jointly by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, and by the Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader.

"(c)(1) Members of the Commission shall be appointed, on the basis of their integrity, impartiality, and good judgment, from among individuals who, as a result of their training, experience, and attainment, are widely recognized by professionals in the fields of education and governmental administration as experts in those fields.

"(2) Members of the Commission and staff of the Commission may not, at the time of their appointment, be serving as either employees or officers of any accrediting agency or an organization of accrediting agencies, currently serving as administrators of accredited institutions, or be current or past members of the Advisory Committee on Accreditation and Institutional Eligibility of the Department.

"(3) Vacancies in the membership of the Commission shall not affect the power of the remaining members to perform the duties of the Commission and shall be filled in the same manner in which the original appointment was made.

"(4) Each member of the Commission not otherwise employed by the United States Government shall receive the daily equivalent of the annual basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

"(d)(1) The Commission shall conduct a thorough study of the institutional and programmatic recognition process used by the Department of Education in determining institutional or programmatic eligibility for student participation in Federal student assistance programs under this Act with attention being given to the various types of public and private postsecondary institutions and programs.

"(2) The study shall address, analyze, and report specifically on—

"(A) the comprehensiveness of the standards and criteria used by existing accreditation agencies;

"(B) the reliability and validity of the institutional and programmatic review processes used by the existing accreditation agencies;

"(C) the adequacy of the current accreditation methodology and system;

"(D) alternative structures, standards, criteria, and processes that might be used in accrediting institutions and programs;

"(E) the indicators of educational quality that might be incorporated into the accreditation process;

"(F) the educational outcome measurements that might be used in the accreditation process;

"(G) the indicators of institutional and programmatic quality that should be provided to applicants and students; and

"(H) alternative approaches that might be used by the Secretary for institutional and programmatic recognition to permit student participation in Federal student assistance programs,

as each factor bears on eligibility for participation in Federal student assistance programs.

"(e) The Commission shall adopt procedures allowing any interested party to submit information with respect to the recognition process, including critiques of current accrediting agency recognition procedures, accreditation procedures, possible alternative procedures, and proposed changes in criteria for recognition of individual accrediting agencies.

"(f) The Commission shall prepare a narrative and statistical report consisting of—

"(1) an overview description of the voluntary accrediting process used for postsecondary education in the United States; and

"(2) a brief description of each accrediting agency recognized by the Department.

The report shall include at least a statement of the agency's purpose and a description of the organizational and governance structure of the agency, the agency's accreditation and visitation procedures, employers of members of the accrediting agency's governing body, the agency's sources of financial support, and a ten-year record of the number of members, number of candidates for accreditation, number of members voluntarily withdrawn after membership, number of applications withdrawn before membership, number of members dropped, and number of applicants denied accreditation. The report shall include the types of

information shared among the various accrediting agencies, the degree of duplication among accrediting agencies in the current system, and an analysis of reported complaints by the agency and its member institutions and programs.

"(g)(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space, clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

"(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof.

"(2) In conducting the study authorized by this section, the Commission is authorized to—

"(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

"(B) arrange for the detail of staff personnel from other Federal agencies;

"(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

"(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

"(E) provide transportation and subsistence for persons serving without compensation.

"(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

"(h) The Commission shall submit a report of the findings and recommendations of the study required by this section to the Postsecondary Education Subcommittee of the Education and Labor Committee of the House of Representatives and the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee of the Senate not later than nine months after funds are appropriated and made available for this study.

"(i) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.".

DISCLOSURES OF FOREIGN GIFTS

SEC. 294. (a) GENERAL RULE.—Title XII of the Act is further amended by adding at the end thereof the following new section:

"DISCLOSURES OF FOREIGN GIFTS

"SEC. 1207. (a) Whenever any institution receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

"(b) Each report to the Secretary required by this Act shall contain:

"(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

"(c) Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

"(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

"(d)(1) If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

"(2) If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this Act, a copy of this report may be filed with the Secretary in lieu of a report required under subsection (a).

"(e) All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

"(f)(1) Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of the Act.

"(2) For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

"(g) The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

"(h) For purposes of this section—

"(1) the term 'contract' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

"(2) the term 'foreign source' means—

"(A) a foreign government, including an agency of a foreign government;

"(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

"(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

"(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

"(3) the term 'gift' means any gift of money or property;

"(4) the term 'institution' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

"(A) is legally authorized within such State to provide a program of education beyond high school;

"(B) provides a program for which it awards a bachelor's degree (or provides not less than a two-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

"(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

"(5) the term 'restricted or conditional gift or contract' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.".

(b) REPEALER.—Section 1207 of the Act, as added by subsection (a) of this section is repealed on August 1, 1989.

PART L—ROBERT A. TAFT INSTITUTE

REAUTHORIZATION

SEC. 296. Section 1373 of the Education Amendments of 1980, relating to the Robert A. Taft Institute, is amended by inserting after "1985" a comma and the following: "$750,000 for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1988".

TITLE III—EDUCATION ADMINISTRATION

PART A—RESEARCH AND IMPROVEMENT

PROGRAM AUTHORIZED

SEC. 301. Section 405 of the General Education Provisions Act (hereafter in this title referred to as "the Act") is amended to read as follows:

"OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

"SEC. 405. (a)(1) The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age,

handicap, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, improvement activities, data collection, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) The Congress further declares it to be the policy of the United States to—

"(A) promote the quality and equity of American education;

"(B) advance the practice of education as an art, science, and profession;

"(C) support educational research of the highest quality;

"(D) strengthen the educational research and development system;

"(E) improve educational techniques and training;

"(F) assess the national progress of this Nation's schools and educational institutions, particularly special populations; and

"(G) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(3) For purposes of this section—

"(A) the term 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act;

"(B) the term 'Council' means the National Advisory Council on Educational Research and Improvement established by subsection (c);

"(C) the term 'educational research' includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education;

"(D) the term 'Office' means the Office of Educational Research and Improvement established by section 209 of the Department of Education Organization Act; and

"(E) the terms 'United States' and 'State' include the District of Columbia and the Commonwealth of Puerto Rico.

"(b)(1) It shall be the purpose of the Office to carry out the policies set forth in subsection (a) of this section. The Office shall be administered by the Assistant Secretary and shall include—

"(A) the National Advisory Council on Educational Research and Improvement established in subsection (c);

"(B) the Center for Education Statistics established by section 406; and

"(C) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

"(2) The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the priority research and development needs described in paragraph (3).

"(3) The needs to which paragraph (2) apply are—

"(A) improving student achievement;

"(B) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for all students, including those with limited English-speaking ability, women, older students, part-time students, minority students, gifted and talented students, handicapped students, and students who are socially, economically, or educationally disadvantaged;

"(C) collecting, analyzing, and disseminating statistics and other data related to education in the United States and other nations;

"(D) improving the dissemination and application of knowledge gained from educational research and data gathering;

"(E) encouraging the study of the sciences, the arts, and the humanities, including foreign languages and cultures;

"(F) improving the data base of information on special populations and their educational status;

"(G) conducting research on adult educational achievement, particularly literacy and illiteracy as it affects employment, crime, health, and human welfare;

"(H) conducting research on postsecondary opportunities, especially access for minorities and women; and

"(I) conducting research on education professionals, especially at the elementary and secondary levels including issues of recruitment, training, retention, and compensation.

"(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. In addition, there shall be such ex officio members who are officers of the United States as the President may designate, including the Assistant Secretary. A majority of the appointed members of the Council shall constitute a quorum. The chairperson of the Council shall be designated by the President from among the appointed members. Ex officio members shall not have a vote on the council. The members of the Council shall be appointed to ensure that the Council is broadly representative of the general public; the education professions, including practitioners; policymakers and researchers; and the various fields and levels of education.

"(2)(A) Except as provided in subparagraph (B), members shall be appointed to terms of three years.

"(B) Of the members first appointed—

"(i) five shall be appointed for terms of one year;

"(ii) five shall be appointed for terms of two years; and

"(iii) five shall be appointed for terms of three years;

as designated by the President at the time of appointment.

"(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of a term until a successor has taken office.

"(D) An appointed member who has been a member of the Council for six consecutive years shall be ineligible for appointment to the Council during the two-year period following the expiration of the sixth year.

"(3) The Council shall—

"(A) advise the Secretary and the Assistant Secretary on the policies and activities carried out by the Office;

"(B) review and publicly comment on the policies and activities of the Office;

"(C) conduct such activities as may be necessary to fulfill its functions under this subsection;

"(D) prepare such reports to the Secretary on the activities of the Office as are appropriate; and

"(E) submit, no later than March 31 of each year, a report to the President and the Congress on the activities of the Office, and on education, educational research, and data gathering in general.

"(d)(1) In order to carry out the objectives of the Office under this section, the Secretary within the limits of available resources shall—

"(A) conduct educational research;

"(B) collect, analyze, and disseminate the findings of education research;

"(C) train individuals in educational research;

"(D) assist and foster such research, collection, dissemination, and training through grants, cooperative arrangements, and technical assistance;

"(E) promote the coordination of educational research and research support within the Federal Government and otherwise assist and foster such research; and

"(F) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(2) The Secretary may carry out the activities in paragraph (1) directly, or through grants, contracts, and cooperative agreements with institutions of higher education, public agencies, private organizations and institutions, and individuals. When making awards under this subsection, the Secretary shall, to the fullest extent possible—

"(A) solicit recommendations and advice regarding research priorities, opportunities, and strategies from qualified experts, such as education professionals and policymakers, personnel of the regional education laboratories and of the research and development centers supported under paragraph (3), and the Council, as well as parents and other members of the general public;

"(B) employ suitable selection procedures utilizing the principles of peer review; and

"(C) determine that the activities to be supported by the award will be conducted efficiently, are of high quality, and are consistent with the purposes and priorities of the Office.

"(3)(A) In carrying out the functions of the Office, the Secretary shall, in accordance with the provisions of this subsection, support—

"(i) regional educational laboratories established by public agencies or private nonprofit organizations to serve the needs of a specific region of the Nation under the guidance of a regionally representative governing board, the regional agendas of which shall, consistent with the priority research and development needs established by subsection (b) (2) and (3), be determined by the governing boards of such labs;

"(ii) research and development centers that are established by institutions of higher education, public agencies, private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

"(iii) meritorious unsolicited proposals for educational research and related activities that are authorized by this subsection; and

"(iv) proposals that are specifically invited or requested by the Secretary, on a competitive basis, which meet objectives authorized by this subsection.

"(B) Each application for assistance under clause (i) or (ii) of subparagraph (A) as a regional educational laboratory or a research and development center shall contain such information as the Secretary may reasonably require, including assurances that the applicant will—

"(i) be responsible for the conduct of the research and development activities;

"(ii) prepare a long-range plan relating to the conduct of such research and development activities;

"(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

"(iv) provide technical assistance to appropriate educational agencies and institutions; and

"(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities.

"(C) No regional educational laboratory or research and development center receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Office authorized by law.

"(4) The Secretary may, from funds appropriated under this section, establish and maintain research fellowships in the Office, for scholars, researchers, and statisticians engaged in the collection and dissemination of information about education and educational research. Subject to regulations prescribed by the Secretary, the fellowships may include such stipends and allowance, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary deems appropriate.

"(e)(1) In addition to the other responsibilities of the Office under this section, the Secretary, through the Office, shall carry out, by grant to or cooperative agreement with a nonprofit educational organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communication, and other subjects and skills. Such a National Assessment shall—

"(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

"(B) report periodically data on changes in knowledge and skills of such students over a period of time;

"(C) conduct special assessments of other educational areas, as the need for additional national information arises;

"(D) include in assessment activities information on special groups of individuals;

"(E) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to—

"(i) the basic skills of reading, mathematics, and communication, and

"(ii) on making comparisons of such assessments with the national profile (including special population profiles) and change data developed by the National Assessment; and

"(F) with respect to each State which voluntarily participates in accordance with paragraph (5), provide a statement of information collected by the National Assessment for each such State.

"(2)(A) The educational organization through which the Office carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee, established with the advice of the Secretary. The Assessment Policy Committee shall be composed of—

"(i) five members appointed by the educational organization of whom two members shall be representative of business and industry and three members shall be representative of the general public, and

"(ii) fourteen members appointed by the educational organization from the categories of membership specified in subparagraph (B).

"(B) Members of the Assessment Policy Committee appointed in accordance with clause (ii) of subparagraph (A) shall be—

"(i) one chief State school officer;

"(ii) two State legislators;

"(iii) two school district superintendents;

"(iv) one member of a State board of education;

"(v) one member of a local school board;

"(vi) one Governor of a State;

"(vii) four classroom teachers;

"(viii) one elementary school principal; and

"(ix) one secondary school principal.

"(C) The Assistant Secretary shall serve as an ex officio member of the Assessment Policy Committee. The Assistant Secretary shall also appoint a member of the Council to serve as a nonvoting member of the Assessment Policy Committee.

"(D) Members appointed in accordance with clauses (i) and (ii) of subparagraph (A) shall be appointed for terms of three years on a staggered basis.

"(3) The Assessment Policy Committee shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment. The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than sixty days.

"(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

"(5) Participation in the National Assessment by State and local educational agencies selected as part of a sample of such agencies shall be voluntary.

"(6) The Secretary shall provide for a periodic review of the National Assessment. The review shall provide an opportunity for public comment on the conduct and usefulness of the National Assessment and shall result in a report to the Congress and to the Nation on the findings and recommendations of the review, if any. The Secretary shall consider the findings and recommendations in designing the competition to select the educational organization through which the Office carries out the National Assessment.

"(f)(1)(A) There are authorized to be appropriated to carry out the provisions of this section (other than subsection (d)(3)(A)(i)) and section 406 $53,231,000 for fiscal year 1987 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1991.

"(B) There are authorized to be appropriated to carry out the provisions of subsection (d)(3)(A)(i) $19,000,000 for the fiscal year 1987 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1991.

"(C) The Secretary may not enter into a contract for the purpose of regional educational laboratories under subsection (d)(3)(A)(i) for a period in excess of five years.

"(2) Not less than 90 per centum of the funds appropriated pursuant to this subsection for any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

"(3) When more than one Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering such funds.

"(g) In each fiscal year in which appropriated funds equal or exceed the amount of funds appropriated in fiscal year 1986 to carry out sections 405 and 406, the Secretary shall at least maintain the level of funding provided for the operations during fiscal year 1986 of the Center for Educational Statistics, the National Assessment of Educational Progress, and the Educational Resources Information Center for such fiscal year.".

CENTER FOR EDUCATION STATISTICS

SEC. 302. (a) GENERAL AUTHORITY.—(1) Section 406 of the Act is amended—

(A) in the heading to read as follows: "CENTER FOR EDUCATION STATISTICS";

(B) by striking out subsections (e) and (g); and

(C) by redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively.

(2) The first sentence of section 406(a) of the Act is amended by striking out "Office" and everything that follows through the end thereof, and inserting in lieu thereof "Office of Educational Research and Improvement, a Center for Education Statistics (hereafter in this section referred to as the 'Center').". The second sentence of such section 406(a) is amended by striking out "an Administrator" and inserting in lieu thereof "a Director".

(3) The first sentence of section 406(b) of the Act is amended by inserting a comma and "analyze," immediately after "collect".

(b) ADVISORY COUNCIL.—Section 406(c) of the Act is amended—

(1) in paragraph (2)—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(C) by striking out in subparagraph (A) (as redesignated in subparagraph (A)) "Director of the National Institute of Education," and inserting in lieu thereof "Assistant Secretary,";

(2) by striking out paragraphs (3) and (5); and

(3) by redesignating paragraphs (4), (6), and (7) as paragraphs (3), (4), and (5), respectively.

(c) ANNUAL REPORT.—Section 406(d)(1) of the Act is amended to read as follows:

"(d)(1) The Secretary shall not later than June 1 of each year submit to the Congress an annual report which—

"(A) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States; and

"(B) clearly sets forth areas of critical need for additional qualified education personnel in local educational agencies and, after discussion and review by the Advisory Council on Education Statistics, identifies priorities within the areas of need and includes recommendations of the Council with respect to the most effective manner in which the Nation and the Federal Government may address such needs.".

(d) STATISTICAL RECORDS.—Section 406(e) of the Act (as redesignated by subsection (a)(3)) is amended—

(1) in paragraph (1)—

(A) by striking out the subparagraph designation "(A)";

(B) in the fourth sentence therein by striking out "Assistant Secretary" each place it appears and inserting in lieu thereof "Secretary"; and

(C) by striking out subparagraph (B); and

(2) by striking out paragraph (3).

(e) UNIFORM FINANCING DATA.—Section 406(f) (as redesignated by subsection (a)(3)) is amended to read as follows:

"(f) In addition to its other responsibilities, the Center shall collect uniform data from the States on the financing of elementary and secondary education. Each State receiving funds under the Education Consolidation and Improvement Act of 1981 shall cooperate with the Center in carrying out this subsection.".

PERSONNEL

SEC. 303. Section 401(c) of the Department of Education Organization Act is amended in the last sentence therein by striking out "be equal to" and everything that follows through the end thereof and inserting in lieu thereof "exceed the maximum rate of pay for grade GS-15 in section 5332 of title 5, United States Code, except that the pay of any employee originally appointed under section 405(e)(5) of the General Education Provisions Act (effective prior to the amendments of section 301 of the Higher Education Amendments of 1986) shall not be reduced by reason of such maximum rate.".

USE OF COUNCIL STAFF AND FACILITIES

SEC. 304. Neither the National Advisory Council on Educational Research and Improvement nor the Advisory Council on Education Statistics, nor any of their respective members, may use Council staff, facilities, equipment, supplies, or franking privileges for activities unrelated to the purposes of the respective Councils.

REPEAL

SEC. 305. Section 400A of the Act is repealed.

PART B—STUDY ON THE ESCALATING COST OF HIGHER EDUCATION

STUDY REQUIRED

SEC. 311. (a) STUDY REQUIRED.—The Comptroller General shall conduct a study on the escalating cost of higher education. The study required by this section shall—

(1) identify the current cost of obtaining a higher education and determine how that cost has changed in recent years,

(2) forecast the future cost of obtaining a higher education with consideration given to prospective demographic changes in student enrollments,

(3) determine the specific causes of recent changes in cost and the extent to which each of those causes has contributed to such changes,

(4) evaluate the impact of such changes in cost on institutions of higher education, their students, and lower and middle income families,

(5) make recommendations on how such changes in cost can be minimized in the future, and

(6) outline State and Federal policy options which may help to minimize such changes in cost in the future.

(b) SPECIAL CONSIDERATION.—In conducting such study, the Comptroller General shall give special consideration to the impact of escalating costs on lower and middle income students and families, the impact of escalating costs on female and minority students, the impact of escalating costs on the career choices made by students, and the relationship between escalating costs and the Federal student financial assistance programs.

(c) CONSULTATION REQUIREMENTS.—During the conduct of such study, the Comptroller General shall consult frequently with the Department of Education, the Chairman of the Senate Committee on Labor and Human Resources, and the Chairman of the House Committee on Education and Labor.

(d) REPORT TO CONGRESS.—The Comptroller General shall, within one year of the date of enactment of this Act, submit to the Congress a report on the study required by this section, together with recommendations, including recommendations for legislation, as the Comptroller General deems appropriate.

PART C—STUDY ON EQUITABLE FUNDING ON FINANCIAL AID FOR FARM FAMILIES

STUDY REQUIRED

SEC. 321. STUDY REQUIRED.—The United States Secretary of Education shall commence a study under title IV of the Higher Education Act of 1965 with respect to financial aid formulas for students in postsecondary educational institutions with special attention to devising a more equitable formula for farm families.

PART D—USE OF VOLUNTEERS IN THE CLASSROOM STUDY

STUDY REQUIRED

SEC. 331. (a)(1) STUDIES REQUIRED.—The Secretary of Education (hereafter referred to in this section as "Secretary") shall conduct a thorough study of how volunteers can best be used in the classroom. The study required by this section shall include—

(A) the feasibility of using recipients of student loans made, assured, or guaranteed under part B of title IV of the Higher Education Act of 1965 or part E of such title as part of repayment of such loans;

(B) the use of older Americans as such volunteers;

(C) the use of business persons and other professionals as volunteers; and

(D) the place of incentives to encourage volunteerism.

The study required by this section shall examine the methods of using volunteers designed to provide the greatest flexibility for local educational agencies.

(2) The Secretary shall also contract with the National Academy of Sciences to conduct a concurrent independent study for the purposes described in paragraph (1). For purposes of such study, the Secretary shall provide to the National Academy of Sciences any relevant data available to the Secretary at the onset of the study and on a continuing basis.

(3) REPORTS REQUIRED.—The Secretary and the National Academy of Sciences shall, not later than 1 year after the date of enactment of this Act, prepare and submit to the Congress their respective reports, together with a description of programs on the use of volunteers and with such recommendations as the Secretary deems appropriate.

(b) AVAILABILITY OF FUNDS.—Funds available for the administration of the Department of Education shall be used for the study required by this section.

TITLE IV—PINPOINT DISASTER ASSISTANCE UNDER FEDERAL IMPACT AID

APPLICATION REQUIRED

SEC. 401. Notwithstanding the notice relating to applications for pinpoint disaster assistance (43 Federal Register 57194 (1978)) or any other provision of Federal law or regulation, the Secretary of Education shall accept an application from Preston County Board of Education, West Virginia, under section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) filed after the date of enactment of this Act.

TITLE V—NATIVE AMERICAN CULTURE AND ART DEVELOPMENT

SHORT TITLE

SEC. 501. This title may be cited as the "Native American Culture and Art Development Act".

FINDINGS

SEC. 502. The Congress finds and declares that—

(1) Native American art and culture has contributed greatly to the artistic and cultural richness of the Nation;

(2) Native American art and culture occupies a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental influence on the American people;

(4) although the encouragement and support of Native American arts and crafts are primarily a matter for private, local, and Native American initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Native American art and culture and to complement programs for the advancement of Native American art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Native American art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Native American art and culture, it is desirable to establish a national Institute of Native American Culture and Arts Development.

DEFINITIONS

SEC. 503. For purposes of this title—

(1) The term "Native American art and culture" includes, but is not limited to, the traditional and contemporary expressions of Native American language, history, visual and performing arts, and crafts.

(2) The term "Institute" means the Institute of Native American Culture and Arts Development established by this title.

(3) The term "Native American" means any person who is a member of an Indian tribe or is a Native Hawaiian.

(4) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(5) The term "Native Hawaiian" means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "Board" means the Board of Trustees established under this title.

ESTABLISHMENT OF INSTITUTE

SEC. 504. (a) IN GENERAL.—There is hereby established a corporation to be known as the "Institute of Native American Culture and Arts Development", which shall be under the direction and control of the Board of Trustees established under this title.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The corporation established under subsection (a) shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

BOARD OF TRUSTEES

SEC. 505. (a) IN GENERAL.—The Board of Trustees of the Institute shall be composed of 18 members as follows:

(1) 12 individuals appointed by the President of the United States by and with the advice and consent of the Senate from among individuals from private life who are Native Americans widely recognized in the field of Native American art and culture;

(2) 3 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the majority leader and the minority leader of the Senate, and

(3) 3 Members of the House of Representatives appointed by the Speaker of the House of Representatives, upon the recommendation of the majority leader and the minority leader of the House of Representatives.

(b) APPOINTMENTS.—In making appointments pursuant to subsection (a)(1), the President of the United States shall—

(1) consult with the Indian tribes and the various organizations of Native Americans; and

(2) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board.

(c) TERMS OF OFFICE.—

(1) The term of office of each member of the Board appointed pursuant to subsection (a)(1) shall be 6 years, except that of such members first appointed, 4 shall serve for a term of 2 years, 4 for a term of 4 years, and 4 for a term of 6 years, as designated by the President as of the time of appointment. Any member of the Board appointed pursuant to subsection (a)(1) to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of the term. No member of the Board appointed pursuant to subsection (a)(1) shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until his successor is appointed.

(2) The term of office of each Member of Congress appointed to the Board under subsection (a) shall expire at the end of the congressional term of office which such Member holds at the time of such appointment.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1). Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. The Chairman and Vice Chairman shall thereafter be elected by the members of the Board appointed pursuant to subsection (a)(1) and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1) and the member filling such vacancy shall serve for the remainder of the unexpired term.

(e) CONGRESSIONAL MEMBERS.—Members of Congress appointed to the Board under subsection (a) shall not be eligible to vote on any matter considered by the Board; but such Members of Congress shall be entitled to attend any meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(f) QUORUM.—Unless otherwise provided by the bylaws of the Institute, a majority of the members of the Board appointed under subsection (a)(1) shall constitute a quorum.

(g) POWERS.—The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this title, including the organization and procedures of the Board.

(h) COMPENSATION.—Members of the Board appointed pursuant to subsection (a)(1) shall, for each day they are engaged in the performance of the duties under this title, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

PRESIDENT; EMPLOYEES

SEC. 506. (a) PRESIDENT.—The Board shall appoint a President of the Institute. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(b) COMPENSATION.—The President of the Institute shall be compensated at an annual rate not to exceed that prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(c) STAFF.—The President of the Institute, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(d) The Institute shall be considered an agency for purposes of chapter 71 of title 5, United States Code.

(e) Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5, United States Code.

GENERAL POWERS OF THE INSTITUTE

SEC. 507. In carrying out the provisions of this title, the Institute shall have the power, consistent with the provisions of this title—

(1) to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(6) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(7) to obtain insurance or make other provisions against losses;

(8) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(9) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(10) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, and institutions, and individuals;

(11) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the purposes of this title;

(12) to use any funds or property received by the Institute to carry out the purposes of this title; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this title and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

FUNCTIONS OF THE INSTITUTE

SEC. 508. (a) IN GENERAL.—The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, the arts and culture of Native Americans, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native American art and culture.

(b) SPECIAL CENTERS.—There shall be established within the Institute—

(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include, but not be limited to, Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology; and

(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

(A) a museum of Native American arts,

(B) a learning resources center,

(C) programs of institutional support and development,

(D) research programs,

(E) fellowship programs,

(F) seminars,

(G) publications,

(H) scholar-in-residence and artist-in-residence programs, and

(I) inter-institutional programs of cooperation at national and international levels.

(c) OTHER FUNCTIONS.—In addition to the centers and programs described in subsection (b), the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Native American art and culture through—

(A) resident programs,

(B) cooperative programs, and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Native American art and culture; and

(3) coordinate efforts to preserve, support, revitalize and develop evolving forms of Native American art and culture.

NATIVE AMERICAN PREFERENCE

SEC. 509. Notwithstanding any other provision of Federal or State law, the Institute is authorized to extend a preference to Native Americans in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

NONPROFIT AND NONPOLITICAL NATURE OF THE INSTITUTE

SEC. 510. (a) STOCK.—The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) NONPROFIT NATURE.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) NONPOLITICAL NATURE.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

TAX STATUS

SEC. 511. The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, county, municipality, Indian tribe, or local taxing authority.

TRANSFER OF FUNCTIONS

SEC. 512. (a) IN GENERAL.—There are hereby transferred to the Institute, and the Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary of the Interior in 1962.

(b) PERSONNEL, PROPERTY, AND LIABILITIES.—

(1) All personnel, liabilities, contracts, personal property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of subsection (a) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by subsection (a) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) REFERENCES IN OTHER LAWS.—All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this title, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute under subsection (b), shall be deemed to refer to the Institute or an officer of the Institute.

ANNUAL REPORT

SEC. 513. The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

HEADQUARTERS

SEC. 514. The site of the Institute of American Indian Arts, at Santa Fe, New Mexico, shall be maintained as the location for the Institute of Native American Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Secretary is authorized to enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

COMPLIANCE WITH OTHER ACTS

SEC. 515. (a) IN GENERAL.—The Institute shall comply with the provisions of—

(1) Public Law 95-341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa, et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470, et seq.).

(b) CRIMINAL LAWS.—All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or property of the United States shall apply to the funds and property of the Institute.

AUTHORIZATION

SEC. 516. There are authorized to be appropriated to carry out the purposes of this title—

(1) for the fiscal year beginning October 1, 1986, the sum of $4,000,000, and

(2) for each fiscal year thereafter, $4,000,000.

TITLE VI—UNITED STATES INSTITUTE OF PEACE

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. (a) AUTHORIZATIONS OF APPROPRIATIONS.—(1) The first sentence of section 1710(a) of the United States Institute of Peace Act (22 U.S.C. 4609(a)) is amended—

(A) by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal year 1987"; and

(B) by striking out "fiscal year 1986" and inserting in lieu thereof "fiscal year 1988".

(2) The amendments made by paragraph (1) shall take effect on October 1, 1986.

(b) AVAILABILITY OF FUNDS.—The second sentence of section 1710(a) of such Act (22 U.S.C. 4609(a)) is amended to read as follows: "Amounts appropriated under this section are authorized to remain available to the Institute until expended.".

TITLE VII—APPROPRIATION PROVISION

APPROPRIATION PROVISION

SEC. 701. Funds appropriated in Public Law 97-377 under the terms of H.R. 3598 (97th Congress) shall be available as a direct appropriation.

TITLE VIII—SHELTER FOR THE HOMELESS IN THE DISTRICT OF COLUMBIA

RELEASE OF FUNDS FOR HOMELESS SHELTER

SEC. 801. (a) The Senate finds that—

(1) the Federal Government has agreed to provide for an adequate shelter for the homeless in the District of Columbia;

(2) the Federal Government has agreed to provide $5,000,000 for the renovation and remodeling for such a shelter; and

(3) it is essential that construction begin immediately in order to be completed by the cold weather months.

(b) It is the sense of the Senate that—

(1) the Administration should immediately release a portion of the $5,000,000 the Administration has agreed to provide for the renovation and construction of the homeless shelter at 425 Second Street, Northwest, in the District of Columbia; and

(2) the remaining funds should be immediately released upon the official conveyance of title to the shelter from the Federal Government to the District of Columbia.

MOTION OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAWKINS moves to strike all after the enacting clause of the Senate bill, S. 1965, and to insert in lieu thereof the texts of the House-passed bills, H.R. 3700, Higher Education Amendments of 1985, and H.R. 2246, Education Research and Statistics Amendments of 1986, as follows:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1985".

(b) REFERENCES.—References in this Act to "the Act" are to the Higher Education Act of 1965.

SEC. 2. EFFECTIVE DATE.

Except as otherwise provided therein, the amendments made by this Act shall take effect on October 1, 1986.

SEC. 3. CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS.

The authority to enter into contracts or other obligations under this Act shall be effective for any fiscal year only to such

extent or in such amounts as are provided in appropriation Acts.

TITLE I—AMENDMENT TO TITLE I OF THE ACT

SEC. 101. REVISION OF TITLE I.

Title I of the Act is amended to read as follows:

"TITLE I—POSTSECONDARY PROGRAMS FOR NON-TRADITIONAL STUDENTS

"SEC. 101. FINDINGS.

"The Congress finds that—

"(1) the increasing incidence of relocation and dislocation of industries and workers, the entry and reentry of adults into the labor force, and the rapid rate of change in technology, the economy, population demographics, and social conditions, necessitate significant improvement in postsecondary educational opportunities for adults in all stages of life;

"(2) the majority of adults who continue their education do so for job-related and career-oriented reasons or to fulfill admissions requirements for educational or vocational training;

"(3) minority-group citizens comprise the fastest growing segment of the population and labor force, yet are underrepresented in adult education programs;

"(4) access to postsecondary educational opportunities is limited for adults whose educational needs have been inadequately served, or for those whose age, sex, race, disability, national origin, rural isolation, or economic or personal circumstances (such as marital status or responsibility with regard to dependent children) are barriers to such opportunities;

"(5) enrollment of adult learners (including individuals aged 50 and over) approaches or equals that of traditional students in postsecondary institutions and such enrollment patterns are changing the demography of postsecondary education;

"(6) the organizational structure and administration of postsecondary institutions often represents a significant barrier to matriculation for the adult learner and such institutions need to adapt themselves to integrate adult learners;

"(7) the Federal Government should encourage the development of institutional partnerships between the public and private sectors and postsecondary institutions for the purpose of planning and implementing effective educational programs and services for the adult learner; and

"(8) it is in the interest of the Federal Government to support continuing education for adults in order to reduce unemployment and underemployment, enhance job opportunities, and promote a well-trained, flexible, internationally competitive workforce and an educated citizenry.

"SEC. 102. DEFINITIONS.

"For the purposes of this title—

"(1) the term 'continuing education' means postsecondary instruction and support services that are designed to meet the educational needs of adult learners;

"(2) the term 'adult learner' means an individual who by reason of personal circumstance, age, gender, disability, minority status, income, rural isolation, economic or educational disadvantage, marital status, presence of dependent children, lack of or need for new employment skills (including those needed to pursue a new career) or other significant barrier (A) is not a traditional student and (B) engages in some form of structured postsecondary study to improve his or her knowledge, information skills, or employment opportunities;

"(3) the term 'eligible institution' means an institution of higher education, combinations of institutions of higher education, or consortia of any such institutions; and

"(4) the term 'qualified entity' means a public or nonprofit private organization which has—

"(A) experience in administering a program consistent with the requirements of this title; and

"(B) demonstrated the ability to coordinate, manage, and provide technical assistance to programs that receive grants under this title.

"SEC. 103. LIMITATION ON CONTRACT AUTHORITY.

"The authority to enter into contracts under this title is subject to the availability of appropriations.

"PART A—PROGRAM AND PLANNING GRANTS

"SEC. 111. INSTITUTIONAL DEVELOPMENT.

"(a) PURPOSES.—It is the purpose of this section—

"(1) to assist eligible institutions to establish programs relating postsecondary education resources more closely to the continuing educational training needs of the American work force;

"(2) to help strengthen the capacity of postsecondary institutions to respond to the continuing education needs of adults, especially those—

"(A) dislocated by technological and economic change,

"(B) seeking entry, reentry, or progression in the work force after prolonged absences due to marriage and child-rearing;

"(C) isolated from educational resources due to age or geographic location;

"(D) seeking entry into nontraditional occupations for their race or sex;

"(E) receiving Aid to Families with Dependent Children;

"(F) who are functionally illiterate; and

"(G) adults desiring to pursue a new career; and

"(3) to support cooperative arrangements between eligible institutions, community-based organizations, and private and public sector employers that will facilitate meeting the goals of paragraphs (1) and (2).

"(b) GRANTS.—To carry out the purposes of this section, the Secretary shall make grants to, and enter into contracts with, eligible institutions for activities, such as—

"(1) structuring an academic program designed to facilitate the attendance of working students, parents caring for dependent children, and individuals seeking to reenter the educational system;

"(2) making academic programs available to adult learners at convenient times and locations;

"(3) the encouragement of resource sharing for innovative uses of technology, including telecommunications (on an interstate or intrastate basis) to overcome barriers to continuing education opportunities and to develop innovative delivery systems for education programs;

"(4) the creation or expansion of education programs and curriculum, including adult literacy efforts, designed to meet the present and future needs of the labor market;

"(5) development of cooperative relationships between business and labor organizations, community-based organizations, and agencies which provide opportunities for continuing education;

"(6) the removal of barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation or economic circumstance which may place adults at a disadvantage in seeking continuing educational opportunities;

"(7) educational information, including literacy information, student financial assistance information, and occupational information and counseling services designed to meet the special needs of inadequately served adults and to assist their entry or reentry into continuing education and the labor force;

"(8) training for administrators, faculty, and staff to improve their ability to teach and serve adult learners; and

"(9) development of remedial instruction programs for adult learners to enable them to enroll in college-level educational programs.

"(c) ADDITIONAL USE OF FUNDS.—(1) Funds awarded under this section to any eligible institution shall be used for the purposes under subsection (b), except that, to a limited extent as approved by the Secretary, such funds may also be used for program planning and development to carry out the purposes of this section including—

"(A) making adult and continuing educational opportunities available at convenient times and locations, including off-campus locations;

"(B) evaluating the responsiveness of continuing education programs to the work and career-related objectives of adults;

"(C) developing or expanding educational and occupational information and counseling services to meet the special needs of adults, including information concerning available forms of student financial assistance;

"(D) training of personnel in continuing education programs to improve their ability to serve adult learners;

"(E) developing or expanding high-technology delivery systems and curricula to ensure closer development and career transitions for adult learners;

"(F) joint planning and implementation activities between institutional and private sector representatives to expand educational opportunities;

"(G) promoting the sharing of personnel and resources between an eligible institution and an employer;

"(H) contributing to dependent care programs for low income participants in adult and continuing education and the development of dependent care programs; and

"(I) encouraging and developing collaborative efforts between the institution or institutions and combinations of education institutions, private and public institutions, organizations, business, and labor to develop programs responsive to current employment and economic conditions.

"(2) Funds made available under this section may not be used—

"(A) to purchase or rent facilities to be used in connection with the program or for general operational overhead of the eligible institution; or

"(B) to pay stipends or provide direct financial assistance to any individual participating in the programs established under this section.

"(d) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution may submit an application to the Secretary at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the need for assistance. The Secretary shall make awards on a competitive basis.

"(2) Each such application shall—

"(A) provide evidence that the eligible institution has identified the educational needs of potential adult learners in the area served by the applicant, especially those adults identified in subsection (a)(2);

"(B) describe the current continuing education program offered by the eligible institution (including information concerning the professional competence of faculty and staff, their degree of participation in the continuing education program, and institutional resources committed to the continuing education program) and the activities proposed to be developed or assisted to meet the purposes of this section;

"(C) provide assurance that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, 75 percent in the third year, and 62.5 percent in the fourth year;

"(D) describe procedures for evaluating the effectiveness of the activities for which a grant or contract is awarded under this section;

"(E) provide for such financial controls and accounting procedures as are necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section and to ensure that funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this section and in no case supplant those funds;

"(F) provide assurances that the continuing education programs, services, and activities, funded under this section will not be limited to individuals who are enrolled in programs of study that lead to baccalaureate or graduate degrees, but will also include programs for adults enrolled in noncredit continuing education programs, that address the purposes of this section;

"(G) provide assurances that the program funded under this section does not duplicate existing State funded programs, and, in the case of any public institution, that the proposed program is consistent with the State's goals for that institution;

"(H) provide the projected number of students who will participate in the program and the proposed operational budget for the program, including the specific amounts proposed to be expended for salaries;

"(I) include assurances that the applicant intends to continue the activities to be supported under the grant after termination of the grant, including a detailed plan for obtaining funds to continue such activities;

"(J) provide assurances that funds made available under this section will be used only for the purposes of this section;

"(K) provide for a reasonable period of review and comment on the proposed program by the appropriate State agency and include any such comments with the application to the Secretary; and

"(L) include such other information as the Secretary may reasonably require to carry out the provisions of this section.

"(3) In awarding grants or contracts the Secretary shall give priority consideration to eligible institutions which—

"(A) as appropriate, include area employer and employee organizations in the planning of the proposed continuing education activity and provide assurances of the continued participation of such organizations in the implementation, operation, and evaluation of the funded activities;

"(B) include assurances that the appropriate State agencies concerned with postsecondary education and State labor market and economic agencies have been consulted in the development of the proposal;

"(C) demonstrate a willingness to conduct and integrate into the curriculum work-oriented professional and technical continuing education programs;

"(D) demonstrate the capacity to obtain contributions of staff, equipment, and resources for such programs from nonacademic sources, particularly employers;

"(E) provide assurances that adults enrolled in such programs will have access to suitable and adequate financial assistance opportunities, including Federal student aid funds available for students enrolled less than half-time.

"SEC. 112. ESTABLISHMENT OF OFF-CAMPUS PROGRAM GRANTS.

"(a) PURPOSE; OFF-CAMPUS EDUCATION PROGRAMS.—The Secretary shall establish a grant program to assist postsecondary institutions in developing programs to encourage the establishment and growth of off-campus educational programs.

"(b) USES OF FUNDS.—Grants made under this section to any institution may be used for planning, developing, or operating a program designed by the institution to carry out the purposes of this section including—

"(1) the development and use of high-technology educational delivery systems using computers, radio, television, teleconferencing, video-disc, print, any combination of such components, or such other means as may provide direct use and access by individuals to off-campus programs;

"(2) the development of interstate educational delivery systems, cooperative, and consortia arrangements and programs (including telecommunications) which more effectively address regional needs for education;

"(3) training of faculty and staff to develop educational programs using creative and innovative delivery systems;

"(4) development of technological systems designed to enhance the teaching capabilities of faculty for students off-campus;

"(5) the development of curricula and student support services for students off-campus; and

"(6) acquisition (by lease or purchase) of necessary equipment, except that not more than 10 percent of such funds may be used for such acquisition.

"(c) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

"(2) An institution, in its application for a grant, shall—

"(A) describe a program for establishing or improving delivery systems for students off-campus which shall include (i) the proposed operational budget for the program or activities to be conducted with funds received under the grant; (ii) the educational program or courses which would be made available off-campus; and (iii) the educational needs which the program is designed to address;

"(B) describe the applicant's current off-campus program or plans for an off-campus program;

"(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

"(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this section and in no case supplant those funds;

"(E) provide assurances that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, 75 percent in the third year, and 62.5 percent in the fourth year;

"(F) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

"(G) provide such other information as the Secretary may require.

"(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

"SEC. 113. ADULT AND CONTINUING EDUCATION STAFF DEVELOPMENT.

"(a) PURPOSE.—It is the purpose of this section to assist eligible institutions to provide in-service training to individuals involved in providing adult and continuing education services, including personnel involved in training offered under the Adult Education Act, the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the National Apprenticeship Act, the Older Americans Act of 1965, and the Social Security Act.

"(b) GRANTS AUTHORIZED.—To carry out the purposes of this section, the Secretary shall make grants to eligible postsecondary institutions that have entered into agreements with the Secretary to carry out an adult and continuing education staff development training program in accordance with the requirements of this section, which may include—

"(1) programs designed to enhance the pedagogical skills of the staff involved in programs offering adult and continuing education, including the training of staff and volunteers for literacy programs;

"(2) technical assistance to programs of adult education, with particular emphasis on federally funded programs; and

"(3) development of adult and continuing educational curricula materials, including adult literacy curricula, that may be used in adult and continuing education staff development training, especially materials that focus on utilization of new technologies.

"(c) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

"(2) An institution, in its application for a grant, shall—

"(A) describe a proposal for establishing or improving staff development programs including the proposed operational budget

for the program or activities to be conducted with funds made available under this section;

"(B) describe the applicant's current staff development program;

"(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

"(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this part and in no case supplant those funds;

"(E) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

"(F) provide such other information as the Secretary may require.

"(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

"(4) A grant under this section may not exceed $50,000 for any fiscal year and may be awarded for a period not to exceed three years.

"SEC. 114. ADMINISTRATION OF PROGRAMS BY THE SECRETARY.

"The Secretary shall ensure the equitable geographic distribution of funds under this part. In making awards under this part, the Secretary shall consider the appropriate levels of funding for urban and rural areas. Grants and contracts under sections 111 or 112 may be awarded for a period not to exceed four years and may not exceed $125,000 in the first year of funding, except that a grant or contract involving combinations of institutions of higher education or a consortia with other institutions or organizations may not exceed $175,000 in the first year.

"SEC. 115. AUTHORIZATIONS OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this part $30,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years. Not less than fifty-five percent of the funds appropriated under this section for any fiscal year shall be available only to carry out section 111.

"PART B—NATIONAL PROGRAMS

"SEC. 121. EVALUATION.

"(a) EVALUATION.—The Secretary shall enter into a contract with a qualified entity to study and evaluate the programs established under part A of this title.

"(b) SECRETARY'S RESPONSIBILITIES.—The Secretary shall assist in evaluating the status and progress of adult education and postsecondary continuing education in achieving the purposes of this title. Such assistance shall include—

"(1) an analysis of the findings of the report under subsection (a) together with suggestions for improvements in planning or program operation; and

"(2) an information network on research in adult and continuing education, the operation of model or innovative programs, successful experiences in the planning, administration, and conduct of adult and continuing education programs, and advances in curriculum and instructional practices and technologies.

"(c) REPORTS TO CONGRESS.—Not later than January 1, 1988, and every two years thereafter, the Secretary shall submit a report to the Congress on the program evaluations required under this title and on any progress in fulfilling the goals and purposes of this title. The Secretary may include in the report appropriate recommendations or legislative proposals.

"SEC. 122. ADULT LEARNING RESEARCH.

"(a) ESTABLISHMENT OF PROGRAM.—To carry out the purpose of this section by providing assistance to institutions of higher education, the Secretary is authorized to make grants to, and to enter into contracts with, eligible institutions to ensure a sustained capacity to undertake independent research and research application activities in adult and continuing education.

"(b) USES OF FUNDS.—Funds made available under this section to any eligible institution may be used for planning, developing, or operating a program which may include—

"(1) identifying and analyzing the special problems and needs of adult learners;

"(2) collecting, analyzing, and disseminating information relating to adult learners and their educational and employment objectives, with particular focus on analyzing and disseminating information on the current and projected needs of the labor market;

"(3) examining and applying uses of education technologies to reach new and isolated learners;

"(4) collecting and disseminating relevant data from Federal agencies and other national and State resources applicable to postsecondary institutional planning for continuing education, including information related to Federal and other forms of student financial assistance;

"(5) supporting training programs designed to enhance the effectiveness of faculty to teach adult learners;

"(6) developing curriculum and instructional methods for adults seeking new employment opportunities;

"(7) demonstrating and disseminating new and existing programs designed for the adult learner; and

"(8) promoting resource sharing for innovative uses of technology, including telecommuncations, to overcome barriers to postsecondary educational opportunities.

"(c) APPLICATION FOR ASSISTANCE.—A grant or contract authorized by this part may be awarded by the Secretary on a competitive basis upon receipt of an application, which is submitted to the Secretary at such time or times and contains such information as the Secretary may prescribe. Each such application shall—

"(1) contain provisions that demonstrate the existing resources and academic reputation of the institution of higher education in the field of continuing education and its ability to conduct such activities; and

"(2) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

"SEC. 123. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out the purposes of this part $5,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.".

TITLE II—AMENDMENTS TO TITLE II OF THE ACT

SEC. 201. PURPOSE; AUTHORIZATION.

(a) DESIGNATION OF TITLE.—The heading of title II is amended to read as follows:

"TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT".

(b) PURPOSE.—Section 201(a) of the Act is amended by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part D.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 201(b) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated to carry out part A $12,500,000 for the fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years. Additionally, there is authorized to be appropriated $75,000 for carrying out the study mandated in section 212.

"(2) There are authorized to be appropriated to carry out part B $5,000,000 for the fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(3) There are authorized to be appropriated to carry out part C $12,500,000 for the fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(4) There are authorized to be appropriated to carry out part D $5,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.".

SEC. 202. COLLEGE LIBRARY RESOURCES.

(a) AMENDMENT TO SECTION 211.—Section 211 of the Act is amended to read as follows:

"COLLEGE LIBRARY RESOURCES

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to eligible institutions of higher education or combinations thereof (and to branches of institutions which are located in different communities from that in which its parent institution is located). The amount of a grant under this part shall not be less than $2,000 nor more than $10,000 and shall reflect the number of full-time equivalent students enrolled at the recipient institution. If the funds are not sufficient to provide grants to all eligible institutions, grants shall be made to those institutions demonstrating the greatest need, based on the eligibility criteria in section 211(c).

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant has expended for all library materials (exclusive of construction) during the institutional fiscal year preceding the year of application for which the grant is sought (hereafter called the 'base year'), from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two years preceding the base year;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part;

"(4) for making such reports as the Secretary may require, including a report on how such funds received under a grant were expended, and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports; and

"(5) a statement setting forth how the funds received under this part will be used to improve the quality of the institution's library services.

"(c) In order to be considered an eligible institution, an institution must provide the Secretary assurance that—

"(1) the expenditures of the institution per full-time equivalent student for library materials is less than the average of the expenditures for library materials per full-time equivalent student by other institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the National Center for Education Statistics; and

"(2) the number of volumes per full-time equivalent student is less than the average of such number of volumes held by institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the National Center for Education Statistics.

"(d) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials, or which resulted in unusually high expenditures for library materials.

"(e) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent an otherwise eligible institution from qualifying under subsection (c), the requirements of subsection (c) may be waived. The Secretary may not grant such waivers to more than five percent of the eligible institutions receiving grants under this part.

"(f) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, computer software, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance of networks for sharing library resources with other institutions of higher education.".

(b) STUDY OF CRITERIA AND DEFINITION OF FULL-TIME EQUIVALENT STUDENT.—Part A of title II of the Act is further amended by inserting after section 211 the following new sections:

"STUDY OF EFFECTIVENESS OF CRITERIA

"SEC. 212. The National Commission on Libraries and Information Science will conduct a study on the effectiveness of the criteria specified in section 211(c) in directing funds to libraries with the greatest need. The study shall be forwarded to the Congress no later than three years after the conclusion of the first fiscal year in which appropriations are made available for this purpose.

"DEFINITION

"SEC. 213. For purposes of this part the term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve).".

SEC. 203. REPEAL OF SPECIAL PURPOSE GRANTS.

(a) REPEAL.—Section 224 of the Act is repealed.

(b) CONFORMING AMENDMENTS.—(1) Section 221 of the Act is amended to read as follows:

"GRANTS AUTHORIZED

"SEC. 221. From the amounts appropriated for this part for any fiscal year, the Secretary shall make grants in accordance with sections 222 and 223. Of such amount, two-thirds shall be available for purposes of section 222 and one-third shall be available for purposes of section 223.".

(2) Section 231(b) of the Act is amended by striking out "or 224".

SEC. 204. RESEARCH AND DEMONSTRATION.

Section 223 of the Act is amended by striking out "and information technology,".

SEC. 205. STRENGTHENING RESEARCH LIBRARY RESOURCES.

Section 231 of the Act is further amended by inserting at the end thereof the following new subsection:

"(c) In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.".

SEC. 206. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION.

Part D of title II of the Act is amended to read as follows:

"PART D—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

"ESTABLISHMENT OF PROGRAM

"SEC. 241. (a) The Secretary is authorized to make grants for technological equipment and other special purposes to—

"(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, installation, maintenance, or replacement of technological equipment (including computer hardware and software) necessary to participate in networks for sharing of library resources;

"(2) combinations of higher education institutions which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment;

"(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services to institutions of higher education; and

"(4) institutions of higher education conducting research or demonstration projects to meet special national or regional needs in utilizing technology to enhance library or information sciences.

"(b) From funds appropriated for this part, the Secretary shall make competitive awards to institutions or combinations of institutions in each of the categories described in clauses (1) through (4) of subsection (a). The minimum award shall be $15,000 and may be expended over a three-year period.

"(c) A grant under this section may be made only if the application (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that the applicant will expend during the three-year period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

"(d) This program shall be administered in the Department of Education by an expert in library technology.".

TITLE III—AMENDMENT TO TITLE III OF THE ACT

SEC. 301. REVISION OF TITLE III.

Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"SEC. 301. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities;

"(3) the title III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority and low-income students;

"(4) the solution to the problems of these institutions would enable them to become viable, thriving institutions of higher education;

"(5) providing a minimum level of assistance to each category of eligible institutions will assure the continued participation of the institutions in the programs established in title III and enhance their role in providing access to low-income and minority students;

"(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations; and

"(7) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

"(b) PURPOSE.—It is the purpose of this title to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

"PART A—STRENGTHENING INSTITUTIONS

"SEC. 311. PROGRAM PURPOSE.

"(a) GENERAL AUTHORIZATION.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b) GRANTS AWARDED; SPECIAL CONSIDERATION.—From the sums available for this part under section 357(a)(1), the Secretary

may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"SEC. 312. DEFINITIONS.

"For purposes of this part:

"(1) The term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

"(2) The term 'eligible institution' means—

"(A) an institution of higher education—

"(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving Pell Grants in the second preceding fiscal year, in comparison with the percentage of students receiving Pell Grants at all such institutions in such fiscal year, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving Pell Grants in the second preceding fiscal year, in comparison with the percentage of students receiving Pell Grants at all such institutions in such fiscal year;

"(ii) the average educational and gen- eral expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

"(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(v) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

"(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

"(II) met the requirement of clause (iv); and

"(vi) meets such other requirements as the Secretary may prescribe;

"(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph;

"(C) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of clauses (i) and (ii) of such subparagraph;

"(D) any institution of higher education which has an enrollment of at least 60 percent American Indian, Alaskan Native or Aleut, or combination thereof, and which also satisfies the requirements of clauses (i) and (ii) of such subparagraph; and

"(E) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

"(3) The term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) at such institution.

"(4) The term 'junior or community college' means an institution of higher education—

"(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(C) that—

"(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(ii) offers a two year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"SEC. 313. DURATION OF GRANT.

"(a) GRANTS OF 3 TO 7 YEARS DURATION.—The Secretary shall award a grant to an eligible institution under this part for not less than three nor more than seven years, subject for each fiscal year to the availability of appropriations therefor.

"(b) LIMITATION ON CONSECUTIVE YEARS OF PARTICIPATION.—An institution shall not receive a grant under this part for more than seven consecutive years. As regards an institution which had received a grant or grants under part A or B of this title during fiscal years 1981 through 1986, the Secretary shall include the period of such grant or grants in determining the remaining duration of such institution's eligibility.

"(c) RESUMPTION OF ELIGIBILITY.—An institution shall resume eligibility (for an additional seven consecutive years) to apply for a subsequent grant after a period of nonparticipation equal to the total number of years for which the institution received its immediately preceding grant under this part, excluding any year that the institution received a grant pursuant to subsection (d)(1) or (d)(2). As regards an institution which had received a grant or grants under part A or B of this title during fiscal years 1981 through 1986, the Secretary shall add the period of such grant or grants to the period of the immediately preceding grant referred to in the previous sentence for the purpose of determining the first period of nonparticipation.

"(d) EXCEPTIONS.—(1) Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this part.

"(2) The Secretary may waive the requirements of subsections (a), (b), and (c) and permit an institution to receive a grant under this part for an additional year or years if the Secretary determines that the institution has not achieved the purposes of the grant but has made, and requires extension of grant eligibility to continue to make, substantial progress in achieving such purposes. The Secretary shall make such determinations on the basis of evaluations conducted pursuant to a contract with an organization qualified to make an independent judgment on the merits of granting the waiver.

"PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"SEC. 321. FINDINGS AND PURPOSES.

"The Congress finds that—

"(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

"(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under the Higher Education Act of 1965 and other Federal programs which benefit institutions of higher education;

"(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

"(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

"SEC. 322. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'graduate' means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than five consecutive school years.

"(2) The term 'part B institution' means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education

of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.

"(3) The term 'Pell Grant recipient' means a recipient of financial aid under title IV, part A, subpart 1 of the Higher Education Act of 1965.

"(4) The term 'professional and academic areas in which Blacks are underrepresented' shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

"(5) The term 'school year' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

"SEC. 323. GRANTS TO INSTITUTIONS.

"(a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Construction, maintenance, renovation, and improvements in classroom, library, laboratory, and other instructional facilities.

"(3) Support of faculty exchanges and faculty fellowships to assist faculty in attaining advanced degrees in their field of instruction.

"(4) Academic instruction in disciplines in which Black Americans are underrepresented.

"(5) Purchase of library books, periodicals, microfilm, and other educational materials.

"(6) Tutoring, counseling, and student service programs designed to improve academic success.

"(b) LIMITATION.—No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this subsection, the term 'school or department of divinity' means an institution or department whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"SEC. 324. ALLOTMENTS TO INSTITUTIONS.

"(a) ALLOTMENT; PELL GRANT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell grant recipients in attendance at such institution in the second preceding fiscal year bears to the total number of Pell Grant recipients at all part B institutions in such fiscal year.

"(b) ALLOTMENT; GRADUATES BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

"(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the number of such graduates for all part B institutions.

"(d) REALLOTMENT.—The amount of any part B institution's allotment under subsection (a), (b), or (c) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time, on such date, during such period as the Secretary may determine, to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

"(e) SPECIAL RULE.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

"SEC. 325. APPLICATIONS.

"(a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the payments under this Act will be used for the purposes set forth in section 323; and

"(2) provide for making an annual report to the Secretary and for auditing the books and monitoring expenditures as may be reasonably required to carry out this Act.

"(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this title, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

"SEC. 326. PROFESSIONAL OR GRADUATE INSTITUTIONS.

"(a) GENERAL AUTHORIZATION.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary or other graduate educational opportunities for Black Americans.

"(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 per centum of the cost of the purposes for which the grant is made will be paid from non-Federal sources.

"(b) DURATION.—Grants shall be made for a period not to exceed five years. No more than two five-year grants (for a period of not more than ten years) may be made to any one undergraduate or postgraduate institution.

"(c) USES OF FUNDS.—A grant under this section may be used for—

"(1) any of the purposes enumerated under section 323;

"(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

"(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 333 of this title.

"(d) APPLICATION.—Any institution eligible for a grant under this section shall submit an application which—

"(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

"(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

"(e) ELIGIBLE PROFESSIONAL OR GRADUATE INSTITUTIONS.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

"(1) Morehouse School of Medicine;

"(2) Meharry Medical School;

"(3) Charles R. Drew Postgraduate Medical School;

"(4) Atlanta University; and

"(5) Tuskegee Institute School of Veterinary Medicine.

"SEC. 327. REPORTING AND AUDIT REQUIREMENTS.

"(a) RECORDKEEPING.—Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose—

"(1) the amount and disposition by such recipient of the proceeds of such assistance,

"(2) the cost of the project or undertaking in connection with which such assistance is given or used,

"(3) the amount of that portion of the cost of the project or undertaking supplied by other sources, and

"(4) such other records as will facilitate an effective audit.

"(b) REPAYMENT OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which such funds were paid within ten years after the beginning of the first fiscal year for which funds are appropriated to carry out this part shall be repaid to the Treasury of the United States.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"SEC. 331. ESTABLISHMENT OF CHALLENGE GRANT PROGRAM.

"(a) GENERAL AUTHORIZATION; ELIGIBILITY.—(1) From the sums available under section 357(a)(3) for each fiscal year, the Secretary may award a challenge grant to each institution—

"(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred

to a postgraduate degree rather than a baccalaureate degree;

"(B) which is a part B institution or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

"(C) which is an institution that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

"(b) DURATION OF GRANT.—The Secretary may make a grant under this section for a period of not more than five years, subject to annual appropriations.

"SEC. 332. APPLICATIONS FOR CHALLENGE GRANTS.

"(a) CONTENTS.—Any institution eligible for a challenge grant under section 331(a) may apply for such a grant under section 351, except that the application for the purpose of this part shall—

"(1) provide evidence that funds are currently available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) in the case of an application by an institution described under section 331(a)(1)(B), demonstrate how challenge grant funds will be used to achieve financial independence.

"(b) NOTICE OF APPROVAL.—Not later than July 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this part, the Secretary shall determine which institutions will receive challenge grants under this part and notify the institutions of the amount of the grant.

"(c) PREFERENCE.—In approving applications for grants under this part, preference shall be given to institutions which are receiving, or have received, grants under part A or part B.

"SEC. 333. CHALLENGE GRANTS.

"(a) PURPOSE; DEFINITIONS.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fundraising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

"(2) For purposes of this section:

"(A) The term 'endowment fund' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

"(B) The term 'endowment fund corpus' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

"(C) The term 'endowment fund income' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

"(b) GRANTS AUTHORIZED.—(1) From sums available for this section under section 357, the Secretary is authorized to award challenge grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

"(2) No institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

"(3) The period of a grant under this section shall be not more than twenty years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment funds corpus plus any endowment fund income for any educational purpose.

"(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

"(B) No institution shall be ineligible for a challenge grant for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than two fiscal years out of any period of five consecutive fiscal years.

"(5) A challenge grant under this section to an eligible institution shall—

"(A) not be less than $50,000 for any fiscal year; and

"(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

"(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

"(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

"(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulations;

"(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulations; and

"(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulations, including any monetary liability that may arise as a result of such violation.

"(c) GRANT AGREEMENT; ENDOWMENT FUND PROVISIONS.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

"(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

"(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his or her own affairs.

"(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

"(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

"(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

"(d) REPAYMENT PROVISIONS.—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary shall use such repaid funds to make additional challenge grants, or to increase existing challenge or endowment grants, to other eligible institutions.

"(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary shall use such repaid funds to make additional challenge grants, or to increase existing challenge or endowment grants, to other eligible institutions.

"(e) AUDIT INFORMATION.—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

"(f) SELECTION CRITERIA.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

"(1) give priority to an applicant which is a recipient of a grant made under part A or B of this title during the academic year in which the applicant is applying for a grant under this section; and

"(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution;

"(3) consider—

"(A) the effort made by the applicant to build or maintain its existing endowment fund; and

"(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

"(g) APPLICATION.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

"(h) TERMINATION AND RECOVERY PROVISIONS.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

"(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

"(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

"(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

"(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant or grants under this section plus income earned thereon. The Secretary shall use such repaid funds to make additional challenge grants, or to increase existing challenge or endowment grants, to other eligible institutions under this part.

"PART D—RESERVATION FROM PART A APPROPRIATION

"SEC. 341. STATEMENT OF FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) Hispanic, Asian American, and Black students in the United States are heavily concentrated in public postsecondary institutions, especially in two-year community colleges;

"(2) Hispanic, Black, and Native American, including Native American Pacific Islander, students rarely transfer to a four-year institution of higher education, after receiving an associate degree, and often do not complete the requirements for a baccalaureate degree even when they enroll in a four-year institution;

"(3) Black students in the United States have historically been denied equal educational opportunities in postsecondary education and are significantly underrepresented in 4-year baccalaureate programs as well as graduate and professional programs;

"(4) Native American students are the most grossly underrepresented of all American minorities in higher education, constituting one-half of 1 percent of all students, and 0.3 percent of those receiving degrees; and Hispanics comprise 3 percent of all students in higher education, with less than 3 percent receiving bachelors, masters, and doctoral degrees;

"(5) Native Hawaiians represent less than 5 percent of the population of Hawaii who hold a college degree; less than 25 percent of the traditional college-age population actually attends college;

"(6) although in some of the Pacific Basin territories (Northern Mariana Islands) fewer than 20 percent actually complete more than a high school education, (A) a single community college may be the only form of postsecondary education available on the island, (B) many teachers possess an associate's degree or less, and (C) literacy rates in both English and the native language rank far-below national averages;

"(7) the special problems of providing higher education opportunities for Puerto Ricans in the Commonwealth of Puerto Rico require separate attention and different solutions than those which relate to Hispanics in the United States; and

"(8) many Asian American students attain a reduced level of academic achievement in postsecondary institutions as a consequence of low socio-economic background, welfare dependency, limited English proficiency, and other cultural impediments.

"(b) PURPOSE.—It is therefore the purpose of this part to provide a set-aside to address the special needs of Black, Hispanic, Native American, Asian American, and Pacific Basin students, when they constitute a significant portion of the institutional student population.

"SEC. 342. RESERVATIONS.

"Of the sums appropriated under section 357(a)(1) for any fiscal year for part A, the Secretary shall make available for use for the purpose of such part—

"(1) $45,700,000 to eligible institutions under part A (excluding institutions receiving assistance under part B of this title) which serve the highest percentages of Black, Mexican American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaskan Native, Aleut, Asian American, Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian students or any combination thereof; and

"(2) not less than 30 percent to institutions that are junior or community colleges.

"PART E—GENERAL PROVISIONS

"SEC. 351. APPLICATIONS FOR ASSISTANCE.

"(a) APPLICATION REQUIRED; APPROVAL.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

"(b) CONTENTS.—An institution, in its application for a grant, shall—

"(1) set forth or describe how it will develop a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

"(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 356;

"(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

"(A) a description of the various components of the proposed project including the estimated time required to complete each such component;

"(B) in the case of any proposed project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the proposed project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

"(D) information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollments, increased energy costs, and other problems;

"(E) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

"(F) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

"(8) include such other information as the Secretary may prescribe.

"(c) PRIORITY CRITERIA PUBLICATION REQUIRED.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

"SEC. 352. APPLICATION REVIEW PROCESS.

"(a) REVIEW PANEL.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and

universities and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders are included as readers.

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

"(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(b) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

"(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

"(1) the scores given the applicant by the panel pursuant to this section,

"(2) the recommendations of the panel with respect to such application, and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and modifications, if any, in the recommendations of the panel made by the Secretary.

"SEC. 353. COOPERATIVE ARRANGEMENTS.

"(a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements—

"(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

"(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

"(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

"(c) DURATION.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or section 323.

"SEC. 354. PENALTIES.

"Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"SEC. 355. ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.

"(a) ASSISTANCE ELIGIBILITY.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B shall be eligible for waivers in accordance with subsection (b).

"(b) WAIVER APPLICABILITY.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

"SEC. 356. LIMITATIONS.

"The funds appropriated under section 357 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

"SEC. 357. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—(1) There are authorized to be appropriated to carry out part A $175,000,000 for the fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2)(A) There are authorized to be appropriated to carry out part B (other than section 326) $110,000,000 for the fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326 $2,500,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(3) There are authorized to be appropriated to carry out part C $35,000,000 for the fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) USE OF MULTIPLE YEAR AWARDS.—(1) In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(2) From the sums appropriated for part C, the Secretary shall reserve such sums as may be necessary to fund continuation awards for institutions which had received multiple year challenge grants under part C prior to fiscal year 1987. From the sums appropriated for part B, the Secretary shall reserve such sums as may be necessary to fund continuation awards for historically Black colleges and universities which had received multiple year awards under part A or B prior to such year. From the sums appropriated for part A, the Secretary shall reserve such sums as may be necessary to fund continuation grants for all other institutions which had received multiple year awards under part A or B prior to such year.".

TITLE IV—REVISIONS TO TITLE IV OF THE ACT

PART A—REVISION OF PART A OF TITLE IV

SEC. 401. AMENDMENT TO PART A OF TITLE IV.

(a) AMENDMENT.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended to read as follows:

"TITLE IV—STUDENT ASSISTANCE

"PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

"SEC. 401. STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION.

"(a) PURPOSE.—It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

"(1) providing basic educational opportunity grants (hereinafter referred to as "basic grants") to all eligible students;

"(2) providing supplemental educational opportunity grants (hereinafter referred to as "supplemental grants") to those students who demonstrate financial need;

"(3) providing for payments to the States to assist them in making financial aid available to such students;

"(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

"(5) providing assistance to institutions of higher education.

"(b) SECRETARY REQUIRED TO CARRY OUT PURPOSES.—The Secretary shall, in accordance with subparts 1 through 8, carry out programs to achieve the purposes of this part.

"Subpart 1—Basic Educational Opportunity Grants

"SEC. 411. BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS: APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1992, advance to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2). Such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students.

"(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of

the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) Basic grants made under this subpart shall be known as "Pell Grants".

"(b) PURPOSE AND AMOUNT OF GRANTS.—(1) The purpose of this subpart is to provide a basic grant that (A) as determined under paragraph (2), will meet 60 percent of a student's cost of attendance; and (B) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 percent of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(2) The amount of the basic grant for a student eligible under this part shall be—

"(A) $2,300 for academic year 1987-1988,

"(B) $2,500 for academic year 1988-1989,

"(C) $2,700 for academic year 1989-1990,

"(D) $2,900 for academic year 1990-1991, and

"(E) $3,100 for academic year 1991-1992,

less an amount equal to the amount determined under part F to be the expected family contribution with respect to that student for that year.

"(3) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 percent of the cost of attendance (as defined in sections 472 and 478) at the institution at which the student is in attendance for that year.

"(4) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance at the institution at which that student is in attendance. If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

"(5) No basic grant shall be awarded to a student (other than a less-than-half-time student) under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $200. In the case of a less-than-half-time student, no basic grant shall be awarded under this subpart if the amount of that grant for that student as determined under this paragraph for any academic year is less than $50.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance. Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution as necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or, in the case of courses in English language instruction, are necessary to enable the student to utilize already existing knowledge, training, or skills. No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—(1) The Secretary shall from time to time set dates by which students must file applications for basic grants under this subpart.

"(2) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Secretary may deem necessary to enable him to carry out the functions and responsibilities of this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section. Such regulations shall include a provision that will enable an institution, at its option, to recalculate the amount of the grant under this subpart to any student when the institution discovers that there is a change in circumstances or an error in the application data that affects the amount of the student's eligibility. Changes made by an institution shall be subject to review and approval or disapproval by the Secretary.

"(f) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b), the amount paid with respect to each entitlement shall be—

"(A) the full amount for any student whose expected family contribution is $200 or less, or

"(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(2) Any schedule established by the Secretary for the purpose of paragraph (1) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $50, no payment shall be made.

"(g) USE OF EXCESS FUNDS.—(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

"(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

"(h) NONCONTRACTOR STATUS OF INSTITUTIONS.—Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

"Subpart 2—Supplemental Educational Opportunity Grants

"SEC. 413A. PURPOSE; APPROPRIATIONS AUTHORIZED.

"(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part F of this title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $500,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

"SEC. 413B. AMOUNT AND DURATION OF GRANTS.

"(a) AMOUNT OF GRANT.—From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (1) the amount determined by the institution, in accordance with the provisions of part F of this title, to be needed by that student to enable him or her to pursue a course of study at the institution, or (2) $4,000.

"(b) PERIOD FOR RECEIPT OF GRANTS; CONTINUING ELIGIBILITY.—(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

"(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

"(c) DISTRIBUTION OF GRANT DURING ACADEMIC YEAR.—Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

"SEC. 413C. AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS.

"(a) INSTITUTIONAL ELIGIBILITY.—Assistance may be made available under this subpart only to an institution which—

"(1) has, in accordance with section 487, an agreement with the Secretary applicable to this subpart;

"(2) agrees that the Federal share of awards under this subpart will not exceed 90 percent of such awards in fiscal year 1989, will not exceed 85 percent of such awards in fiscal year 1990, and will not exceed 80 percent of such awards in fiscal year 1991 and thereafter, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations,

that a larger Federal share is required in furtherance of the purposes of this subpart; and

"(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

"(A) institutional grants and scholarships;

"(B) tuition or fee waivers;

"(C) State scholarships; and

"(D) foundation or other charitable organization funds.

"(b) ELIGIBILITY FOR SELECTION.—Awards may be made under this subpart only to a student who—

"(1) is an eligible student under section 484; and

"(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

"(c) SELECTION OF INDIVIDUALS AND DETERMINATION OF AMOUNT OF AWARDS.—From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D, select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them. Not less than three-quarters of the individuals so selected for that year shall be individuals who will receive Pell Grants for that year pursuant to subpart 1 of this part. In selecting such individuals and determining the amount of such grants, the institution shall give preference to those individuals who demonstrate the greatest need for assistance under this subpart, and who, for lack of such assistance, would, in the opinion of the institution, be unable to obtain the benefits of a postsecondary education.

"(d) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—If the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full-time, a reasonable proportion of the institution's allocation shall be made available to such students.

"(e) USE AND TRANSFER OF FUNDS FOR ADMINISTRATIVE EXPENSES.—An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 489 of this title, and may transfer such funds in accordance with the provisions of section 488 of this Act.

"SEC. 413D. ALLOCATION OF FUNDS.

"(a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 413A(b), the Secretary shall first allocate to each eligible institution—

"(A) for fiscal year 1987 or 1988, an amount equal to 100 percent of the amount such institution received and used under this subpart for fiscal year 1979; and

"(B) for each succeeding fiscal year, an amount equal to 95 percent of the amount such institution received and used under this subpart for the second preceding fiscal year.

"(2) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1979, an amount equal to the greatest of—

"(A) $5,000;

"(B) an amount equal to (i) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (ii) the number of full-time equivalent students enrolled at such comparable institutions in such fiscal year, multiplied by (iii) the number of full-time equivalent students enrolled at the applicant institution in such fiscal year; or

"(C) 90 percent of the institution's allocation under this part for the preceding fiscal year.

"(3) If the amount appropriated for any fiscal year is less than the amount required to be allocated to eligible institutions under paragraphs (1) and (2) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced. If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From the remainder of the amount appropriated pursuant to section 413A(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount (other than an institution participating in the program under this subpart for the first or second time) an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution (other than an institution participating in the program under this subpart for the first or second time), the excess eligible amount is the amount, if any, by which—

"(A)(i) the amount of that institution's need (as determined under subsection (c)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 413A(b) of the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a).

"(c) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to—

"(A) the sum of the need of the institution's eligible undergraduate students; minus

"(B) the sum of grant aid received by students under subparts 1 and 3 of this part.

"(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 75 percent of the average cost of attendance (computed in accordance with section 472) for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance (computed in accordance with section 472) for all undergraduate students minus the expected family contribution determined under subparagraph (B) of this paragraph for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) of this paragraph for each income category of dependent students;

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) of this paragraph for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) of this paragraph for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G) of this paragraph.

"(d) REALLOCATION OF EXCESS ALLOCATIONS.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

"(e) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"Subpart 3—Grants to States for State Student Incentives

"SEC. 415A. PURPOSE; APPROPRIATIONS AUTHORIZED.

"(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants or State work-study jobs to eligible students attending institutions of higher education.

"(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated $100,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the purposes of this subpart.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

"SEC. 415B. ALLOTMENT AMONG STATES.

"(a) ALLOTMENT BASED ON NUMBER OF ELIGIBLE STUDENTS IN ATTENDANCE.—(1) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive

71-059 O-87-25 (Pt. 10)

less than the State received for fiscal year 1979.

"(2) For the purposes of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

"(b) REALLOTMENT.—The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under subsection (a) for such year.

"(c) ALLOTMENTS SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for continuing incentive grants only to those States which continue to meet the requirements of section 415C(b).

"SEC. 415C. APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS.

"(a) SUBMISSION AND CONTENTS OF APPLICATIONS.—A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

"(b) PAYMENT OF FEDERAL SHARE OF GRANTS MADE BY QUALIFIED PROGRAM.—From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants or State work-study jobs (as provided for in paragraph (3)) pursuant to a State program which—

"(1) is administered by a single State agency;

"(2) provides that such grants will be in amounts not in excess of $3,000 per academic year for attendance on a full-time basis at an institution of higher education;

"(3) for any fiscal year beginning after September 30, 1985, for which allotment to the State exceeds allotment received in fiscal year 1985, uses the amount of additional funds received to provide for student grants (as defined in this section) or to provide funds for students participating in State work-study programs;

"(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary;

"(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

"(6) provides for the payment of the non-Federal portion of such grants or of such State work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or State work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

"(7) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

"(8) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

"(9) for any fiscal year beginning after September 30, 1988, provides the non-Federal share of the amount of student grants or State work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

"(c) RESERVATION AND DISBURSEMENT OF ALLOTMENTS AND REALLOTMENTS.—Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or State work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or State work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

"(d) RESTRICTION ON USE OF FUNDS FOR STATE WORK-STUDY PROGRAMS.—None of the funds made available under this subpart may be used for any State work-study program unless such program is conducted in accordance with the requirements of section 443(b)(1) of this title.

"SEC. 415D. ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

"(a) DISAPPROVAL OF APPLICATIONS; SUSPENSION OF ELIGIBILITY.—(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

"(b) REVIEW OF DECISIONS.—(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"SEC. 417A. PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.

"(a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

"(b) ELIGIBLE GRANT AND CONTRACT RECIPIENTS.—(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) DEFINITIONS.—For the purposes of this subpart—

"(1) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree;

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census; and

"(3) no veteran shall be deemed ineligible to participate in any program under this subpart by reason of such individual's age who—

"(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

"(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

"SEC. 417B. TALENT SEARCH.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) TUTORIAL SERVICES.—A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E;

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E; and

"(4) require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

"SEC. 417C. UPWARD BOUND.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) PERMISSIBLE SERVICES.—Any upward bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) MAXIMUM STIPENDS.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

"SEC. 417D. STUDENT SUPPORT SERVICES.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as student support services (hereinafter referred to as 'support services').

"(b) PERMISSIBLE SERVICES.—A support services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services and counseling and peer counseling;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

"(8) activities designed to assist students currently enrolled in two year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for support services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school;

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

"(5) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"SEC. 417E. EDUCATIONAL OPPORTUNITY CENTERS.

"(a) PROGRAM AUTHORITY; SERVICES PROVIDED.—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary educa-

tion is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) TUTORIAL AND COUNSELING SERVICES.—An educational opportunity center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"SEC. 417F. STAFF DEVELOPMENT ACTIVITIES.

"For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

"SEC. 417G. NATIONAL CENTER FOR POSTSECONDARY OPPORTUNITY.

"(a) ANNUAL PLAN FOR DISSEMINATION THROUGH CENTER.—To help ensure equal opportunity in postsecondary education and to increase students' awareness of their potential eligibility for financial assistance, the Secretary shall, in consultation and cooperation with agencies and organizations involved in counseling and student financial assistance, annually prepare a plan for disseminating information on Federal student assistance programs through a National Center for Postsecondary Opportunity (hereafter in this section referred to as the 'national center'). The national center shall help ensure that adequate information and counseling regarding Federal financial aid programs is readily available to students, parents, and others interested in postsecondary education opportunities.

"(b) CONTRACTS AUTHORIZED.—The Secretary shall contract with appropriate institutions, private non-profit organizations, or States for the purpose of establishing the national center which will—

"(1) coordinate the development and dissemination of pre-eligibility information for Federal, State, and institutional student assistance, as well as information regarding postsecondary access;

"(2) develop materials as necessary to increase student awareness of those Federal student assistance programs and postsecondary opportunities;

"(3) operate short-term training institutes to enable junior and senior high schools counselors and teachers, TRIO personnel, college admissions personnel, and community agency staffs to more effectively counsel students and adults regarding postsecondary opportunity and financial aid eligibility.

"(c) EMPHASIS ON PROVIDING INFORMATION TO CERTAIN INDIVIDUALS.—Particular emphasis shall be placed upon providing information to—

"(1) disadvantaged, minority, and handicapped individuals;

"(2) adults and non-traditional students;

"(3) geographically isolated or rural communities;

"(4) other groups who may be under-represented in postsecondary education;

"(5) junior high school students and parents; and

"(6) individuals who normally serve as counselors, teachers, or service providers to persons interested in obtaining postsecondary education.

"(d) CONTRACTOR SUITABILITY.—In determining whether to enter into a contract under this subpart, the Secretary shall consider the ability of the potential contractor to involve organizations representing a broad range of professionals including student financial aid administrators, TRIO personnel, high school counselors, and college admissions counselors.

"(e) COSTS FOR PROGRAM.—An amount of $5,000,000 shall be allocated each year from the appropriations for salaries and expenses of the Department of Education to cover the costs associated with the center.

"Subpart 5—Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

"SEC. 418A. MAINTENANCE AND EXPANSION OF EXISTING PROGRAMS.

"(a) PROGRAM AUTHORITY.—The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

"(b) SERVICES PROVIDED BY HIGH SCHOOL EQUIVALENCY PROGRAM.—The services authorized by this subpart for the high school equivalency program include—

"(1) recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past twenty-four months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;

"(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

"(3) supportive services which include the following:

"(A) personal, vocational, and academic counseling;

"(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

"(C) health services;

"(4) information concerning and assistance in obtaining available student financial aid;

"(5) weekly stipends for high school equivalency program participants;

"(6) housing for those enrolled in residential programs;

"(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

"(8) other essential supportive services, as needed to ensure the success of eligible students.

"(c) SERVICES PROVIDED BY COLLEGE ASSISTANCE MIGRANT PROGRAM.—Services authorized by this subpart for the college assistance migrant program include—

"(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;

"(2) supportive and instructional services which include:

"(A) personal, academic, and career counseling as an ongoing part of the program;

"(B) tutoring and academic skill building instruction and assistance;

"(C) assistance with special admissions;

"(D) health services;

"(E) other services as necessary to assist students in completing program requirements;

"(3) assistance in obtaining student financial aid which includes, but is not limited to:

"(A) stipends;

"(B) scholarships;

"(C) student travel;

"(D) career oriented work study;

"(E) books and supplies;

"(F) tuition and fees;

"(G) room and board; and

"(H) other assistance necessary to assist students in completing their first year of college;

"(4) housing support for students living in institutional facilities and commuting students;

"(5) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

"(6) other support services as necessary to ensure the success of eligible students.

"(d) MANAGEMENT PLAN REQUIRED.—Each project application shall include a management plan which contains assurances that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

"(1) staff inservice training;

"(2) training and technical assistance;

"(3) staff travel;

"(4) student travel;

"(5) interagency coordination; and

"(6) an evaluation plan.

"(e) THREE-YEAR GRANT PERIOD; CONSIDERATION OF PRIOR EXPERIENCE.—Except under extraordinary circumstances, the Secretary shall award grants for a three year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same

level of consideration given this factor for applicants for programs authorized by subpart 4 of this part in accordance with section 417A(b)(2).

"(f) MINIMUM ALLOCATIONS.—The Secretary shall not allocate an amount less than—

"(1) $150,000 for each project under the high school equivalency program, and

"(2) $150,000 for each project under the college assistance migrant program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the high school equivalency program $9,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) There are authorized to be appropriated for the college assistance migrant program $3,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"Subpart 6—Federal Merit Scholarships

"SEC. 419A. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to establish a Federal Merit Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

"SEC. 419B. DEFINITION.

"For the purpose of this subpart—

"(1) the term 'secondary school' has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

"(2) the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 419C. SCHOLARSHIPS AUTHORIZED.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

"(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

"(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education.

"SEC. 419D. ALLOCATION AMONG STATES.

"From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

"(1) $1,500 multiplied by the number of individuals in the State eligible for merit scholarships pursuant to section 419G(b), plus

"(2) $10,000, plus 5 percent of the amount to which a State is eligible under clause (1) of this section.

"SEC. 419E. AGREEMENTS.

"The Secretary shall enter into an agreement with each State desiring to participate in the merit scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

"(1) the State educational agency will administer the merit scholarship program authorized by this subpart in the State;

"(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of Federal merit scholarships to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the merit scholarship program authorized by this subpart;

"(4) the State educational agency will pay to each individual in the State who is awarded a merit scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

"(5) the State educational agency will use the amount of the allocation described in clause (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

"SEC. 419F. ELIGIBILITY OF MERIT SCHOLARS.

"(a) HIGH SCHOOL GRADUATION OR EQUIVALENT AND ADMISSION TO INSTITUTION REQUIRED.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

"(b) SELECTION BASED ON PROMISE OF ACADEMIC ACHIEVEMENT.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

"SEC. 419G. SELECTION OF MERIT SCHOLARS.

"(a) ESTABLISHMENT OF CRITERIA.—The State educational agency is authorized to establish the criteria for the selection of merit scholars under this subpart.

"(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures which are designed to assure that ten individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed ten individuals will be selected in such district or Commonwealth).

"(c) CONSULTATION REQUIREMENT.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

"SEC. 419H. STIPENDS AND SCHOLARSHIP CONDITIONS.

"(a) AMOUNT OF AWARD.—Each student awarded a merit scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

"(b) USE OF AWARD.—The State educational agency shall establish procedures to assure that a merit scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

"SEC. 419I. AWARDS CEREMONY.

"(a) LOCAL CEREMONY. The State educational agency shall make arrangements to award merit scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

"(b) TIMING OF SELECTION.—The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

"SEC. 419J. CONSTRUCTION OF NEEDS PROVISIONS.

"Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a merit scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

"SEC. 419K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $8,000,000 for each of fiscal years 1986, 1987, and 1988 to carry out the provisions of this subpart.

"Subpart 7—Assistance to Institutions of Higher Education

"SEC. 420. PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION.

"(a) COST OF EDUCATION PAYMENTS.—Each institution of higher education shall be entitled for each fiscal year to a cost-of-education payment in accordance with the provisions of this section.

"(b) COMPUTATION OF AMOUNT.—(1) The amount of the cost-of-education payment to which an institution shall be entitled under this section for a fiscal year shall be, subject to subsection (d), the amount determined under paragraph (2)(A) plus the amount determined under paragraph (2)(B).

"(2)(A)(i) The Secretary shall determine the amount to which an institution is entitled under this subparagraph on the basis of the total number of undergraduate students who are in attendance at the institution and the number of students who are also recipients of basic grants under subpart 1, in accordance with the following table:

"If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500.	$500 for each of 100 recipients; plus $400 for each recipient in excess of 100.
Over 2,500 but not over 5,000.	$500 for each of 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000.	$500 for each 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each recipient in excess of 500.
Over 10,000	$500 for each of the 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each of 500 recipients in excess of 500; plus $100 for each recipient in excess of 1,000.

"(ii) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving a cost-of-education payment under this subpart on less than a full-time basis, the amount determined under this subparagraph with respect to the student shall be reduced in proportion to the

degree to which that student is not attending on a full-time basis.

"(iii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

"(B)(i) The Secretary shall determine with respect to each institution an amount equal to the appropriate percent (specified on the table below) of the aggregate of—

"(I) supplemental educational opportunity grants under subpart 2;

"(II) work-study payments under part C; and

"(III) loans to students under part E;

made for such year to students who are in attendance at such institution. The Secretary shall determine such amounts on the basis of percentages of such aggregate, and the number of students in attendance at institutions during the most recent academic year ending prior to such fiscal year, in accordance with the following table:

"If the number of students in attendance at the institution is—	*The percentage of such aggregate shall be—*
Not over 1,000	50 percent.
Over 1,000 but not over 3,000	46 percent.
Over 3,000 but not over 10,000	42 percent.
Over 10,000	38 percent.

"(ii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

"(3)(A) In determining the number of students in attendance at institutions of higher education under this subsection, the Secretary shall compute the full-time equivalent of part-time students.

"(B) The Secretary shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

"(c) APPLICATIONS; CONTENTS AND MANNER OF FILING.—An institution of higher education may receive a cost-of-education payment in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Secretary determines necessary to carry out his functions under this title, and shall—

"(1) set forth such policies, assurances, and procedures as will insure that—

"(A) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

"(B) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(C) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(D) the applicant will submit to the Secretary such reports as the Secretary may require by regulation; and

"(2) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States.

"(d) APPORTIONMENT OF APPROPRIATIONS.—(1) The Secretary shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

"(2) Of the total sums appropriated to make payments on the basis of entitlements established under this section and to make payments under part D of title IX—

"(A) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(A) of subsection (a);

"(B) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(B) of subsection (a); and

"(C) 10 percent shall be available for making payments under part D of title IX.

"(3) No payments on the basis of entitlements established under paragraph (2)(A) of subsection (a) may be made during any fiscal year for which the appropriations for making grants under subpart 1 does not equal at least 50 percent of the appropriation necessary for satisfying the total of all entitlements established under such subpart. In no event shall, during any fiscal year, the aggregate of the payments to which this paragraph applies exceed that percentage of the total entitlements established under such paragraph (2)(A) which equals the percentage of the total entitlements established under subpart 1 which are satisfied by appropriations for such purpose for that fiscal year.

"SEC. 420A. VETERANS EDUCATION OUTREACH PROGRAM.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) SIZE AND DURATION OF AWARDS.—(1) The minimum grant that may be awarded to an institution under this section is $1,000, which may remain available for expenditure over a period not to exceed two academic years.

"(2) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year;

"(B) $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38, or who is disabled, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs; and

"(C) $100 for each person who is in attendance at such institution as an undergraduate student during such year and who has received an honorable discharge from military service but who is no longer eligible to or does not receive educational benefits under chapter 31 or chapter 34 of title 38 of the United States Code.

"(3) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

"(4)(A) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. If the amount appropriated for any fiscal year is not sufficient to pay the amounts to which all such institutions are entitled, the Secretary shall ratably reduce such payments. If any amounts become available for a fiscal year after such reductions have been imposed, such reduced payments shall be increased on the same basis as they were reduced.

"(B) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of the first $9,000 (or the amount of its entitlement for that fiscal year, but not less than $1,000, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(5) Not less than 90 percent of the amounts paid to any institution under paragraph (3)(A) in any fiscal year shall be used to implement the requirement of subsection (c)(2)(C)(i), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 percent requirement shall be used for implementing the requirements of clauses (ii) through (v) of subsection (c)(2)(C), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(c) ELIGIBILITY FOR AWARDS.—(1) During the period beginning July 1, 1987 and ending September 1, 1991, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if the number of persons who are veterans with honorable

discharges and are in attendance as undergraduate students at the institution is at least 100.

"(2) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought;

"(iv) the applicant will expend, during the academic year for which a payment is sought, for enhancing the functions of the Veterans Education Outreach Program, an amount equal to at least the amount of the award under this section from sources other than this or any other Federal program; and

"(v) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain an office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

"(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

"(iv) to carry out an active tutorial assistance program for veterans, including dissemination of information regarding such program, with special emphasis on making maximum use of the benefits available under section 1692 of such title 38, and

"(v) to coordinate activities carried out under this part with the readjustment counseling program authorized under section 612A of title 38, United States Code, and with the programs of veterans employment and training authorized under the Job Training Partnership Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans,

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in subclauses (i) through (v) of clause (C), may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(3) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(4) Any institution which has been eligible under this section prior to September 30, 1985, for a continuous period of three of the last five years, and has at least 100 persons counted pursuant to subsection (b)(2), shall be determined eligible under the terms of this section.

"(d) COORDINATION OF PROGRAMS.—The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(e) ADMINISTRATION OF PROGRAM.—The program provided for in this section shall be administered by an identifiable administrative unit in the Department of Education.

"(f) DISSEMINATION OF INFORMATION.—From the amounts appropriated for this section, the Secretary shall retain one percent or $10,000, whichever is less, for the purpose of collecting information about exemplary Veterans Educational Outreach Programs and disseminating that information to other institutions of higher education having such programs on their campuses. Such collection and dissemination shall be done on an annual basis.

"Subpart 8—Special Child Care Services for Disadvantaged College Students

"SEC. 420B. SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS.

"(a) PROGRAM AUTHORITY.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

"(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

"(1) a description of the program to be established;

"(2) assurances by the applicant to the Secretary that—

"(A) not less than two-thirds of the participants in the program are low-income individuals;

"(B) the remaining participants in the program are either low-income individuals;

"(C) the participants require the services to pursue a successful program of education beyond high school;

"(D) the participants are enrolled at the institution which is the recipient of the grant;

"(E) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and

"(F) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

"(3) such information (and meet such conditions) as may be required by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section, $15,000,000 for the fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) DEFINITIONS.—For the purposes of this subpart—

"(1) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree;

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.".

PART B—REVISION OF PART B OF TITLE IV

SEC. 411. AMENDMENT TO PART B OF TITLE IV.

(a) AMENDMENT.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended to read as follows:

"PART B—GUARANTEED STUDENT LOAN PROGRAM

"SEC. 421. STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED.

"(a) PURPOSE; DISCRIMINATION PROHIBITED.—

"(1) PURPOSE.—The purpose of this part is to enable the Secretary—

"(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435),

"(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b),

"(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

"(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(B).

"(2) DISCRIMINATION BY CREDITORS PROHIBITED.—No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part—

"(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

"(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

"(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

"(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

"(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended.

"SEC. 422. ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS.

"(a) PURPOSE OF AND AUTHORITY FOR ADVANCES TO RESERVE FUNDS.—

"(1) PURPOSE; ELIGIBLE RECIPIENTS.—From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

"(2) MATCHING REQUIREMENT.—No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term 'unencumbered non-Federal portion' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

"(A) the sum of—

"(i) advances made under this section prior to July 1, 1968;

"(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

"(iii) the proceeds of earnings on advances made under this section; or

"(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

"(3) TERMS AND CONDITIONS; REPAYMENT.—Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purposes of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

"(b) LIMITATIONS ON TOTAL ADVANCES.—

"(1) IN GENERAL.—The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available, however, for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

"(2) CALCULATION OF POPULATION.—For the purposes of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

"(c) ADVANCES FOR INSURANCE OBLIGATIONS.—

"(1) USE FOR PAYMENT OF INSURANCE OBLIGATIONS.—From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

"(2) AMOUNT OF ADVANCES.—(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

"(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

"(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

"(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

"(C) For purposes of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

"(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

"(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

"(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

"(3) USE OF EARNINGS FOR INSURANCE OBLIGATIONS.—The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

"(4) REPAYMENT OF ADVANCES.—Advances made by the Secretary under this subsection shall, subject to subsection (d), be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 431.

"(5) LIMITATION ON NUMBER OF ADVANCES.—Advances pursuant to this subsection shall be made to a State—

"(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the date of enactment of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

"(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after the date of enactment of this subsection or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

"(6) PAYMENT OF ADVANCES WHERE NO STATE PROGRAM.—(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

"(B) The Secretary may enter into an agreement with private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

"(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

"(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions or the student's lack of need; and

"(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

"(d) RECOVERY OF ADVANCES DURING FISCAL YEAR 1988.—

"(1) AMOUNT AND USE OF RECOVERED FUNDS.—Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $50,000,000 during fiscal year 1988.

"(2) DETERMINATION OF GUARANTY AGENCY OBLIGATIONS.—In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity, as determined by the Comptroller General, of the reserve and insurance funds of the State or nonprofit private institution or organization assisted by such advances; and

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection.

"(3) STANDARDS FOR COMPTROLLER GENERAL REVIEW.—In making determinations under paragraph (2)(A) of this subsection, the Comptroller General shall take into account the requirements of State law in effect on the date of enactment of this paragraph.

"SEC. 423. EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS.

"(a) FEDERAL INSURANCE BARRED TO LENDERS WITH ACCESS TO STATE OR PRIVATE INSURANCE.—Except as provided in subsection (b), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

"(b) EXCEPTIONS.—The Secretary may issue certificates of insurance under section 429 to a lender in a State—

"(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State);

"(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

"(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

"SEC. 424. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

"(a) LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1992. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1997.

"(b) APPORTIONMENT OF AMOUNTS.—The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"SEC. 425. LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE.

"(a) ANNUAL AND AGGREGATE LIMITS.—

"(1) ANNUAL LIMITS.—(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary), excluding any amount of such loans made available (pursuant to section 428(a)(2)(D)) to cover the origination fee with respect to such loans, which may be covered by Federal loan insurance under this part may not exceed—

"(i) $2,500, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

"(ii) $5,000, in the case of a student who has completed such first and second year but who has not completed the remainder of a program of undergraduate education; or

"(iii) in the case of a graduate or professional student (as defined in regulations of the Secretary)—

"(I) $5,000, if such student attends an institution for which the sum of the tuition, fees, and costs (as determined under section 472(1)) is less than $5,000;

"(II) an amount equal to such sum, if such sum is equal to or greater than $5,000 but less than $8,000; and

"(III) $8,000, if such sum is equal to or greater than $8,000.

"(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

"(2) AGGREGATE LIMITS.—(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

"(i) $14,500 in the case of any student who has not successfully completed a program of undergraduate education; and

"(ii) an amount equal to the sum of the annual limits applicable to the borrower under paragraph (1)(A)(iii) of this subsection for each of the first five academic years of graduate or professional study for which the borrower obtained loans under this part, plus $14,500, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student).

"(B) The Secretary shall increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

"(b) LEVEL OF INSURANCE COVERAGE BASED ON DEFAULT RATE.—

"(1) REDUCTION FOR DEFAULTS IN EXCESS OF 5 OR 9 PERCENT.—(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

"(i) if, for any fiscal year, the total amount of payments under section 430 by the Secretary to any eligible lender as de-

scribed in section 435(d)(1)(D) exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

"(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

"(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 435(d)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the four succeeding fiscal years.

"(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(d)(1)(D) shall be—

"(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1967, or

"(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

"(2) COMPUTATION OF AMOUNTS IN REPAYMENT.—For the purposes of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

"(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

"(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

"(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C); and

"(D) the original principal amount of loans repaid by the Secretary under section 437.

"(3) PAYMENTS TO ASSIGNEES.—For the purposes of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

"(4) PLEDGE OF FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

"SEC. 426. SOURCES OF FUNDS.

"Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"SEC. 427. ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS.

"(a) LIST OF REQUIREMENTS.—A loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

"(1) made to a student who (A) is an eligible student under section 484, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study he or she is pursuing (as determined by the institution); and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under the applicable law, create a binding obligation, endorsement may be required;

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid or unless the student, during the nine months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning nine months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

"(i) as provided in subparagraph (C);

"(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

"(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a student has requested and obtained a repayment period of less than five years, he or she may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than five years;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower is pursuing at least a half-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

"(iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act;

"(iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

"(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) not in excess of three years during which the borrower is engaged as a full-time teacher in a public or private elementary or secondary school;

"(vii) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(viii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled;

"(ix) not in excess of three years during which a single parent borrower is unable to secure employment by reason of the care required by a disabled child of such borrower (as defined in section 435(g)(3));

"(x) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; or

"(xi) not in excess of six months of parental leave,

and that any such period shall not be included in determining the ten-year period provided in subparagraph (B);

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 427A, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

"(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purposes of section 437;

"(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

"(G)(i) contains a notice of the system, of disclosure of information concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations; and

"(H) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

"(3) the funds borrowed by a student are disbursed to the institution by check or

other means that is payable to and requires the endorsement or other certification by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and

"(4) in the case of a loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more, the proceeds of the loan will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).

For purposes of paragraph (4), all loans issued for the same period of enrollment shall be considered as a single loan.

"(b) MINIMUM REPAYMENT RATE.—The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less.

"SEC. 427A. APPLICABLE INTEREST RATES.

"(a) RATES TO BE CONSISTENT FOR BORROWER'S ENTIRE DEBT.—With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

"(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

"(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

"(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is three months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

"(b) REDUCTION FOR NEW BORROWERS AFTER DECLINE IN TREASURY BILL RATES.—If for any twelve-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

"(c) RATES FOR SUPPLEMENTAL LOANS FOR STUDENTS AND LOANS FOR PARENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428B or 428C on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

"(2) REDUCTION OF RATE AFTER DECLINE IN TREASURY BILL RATES.—If for any twelve-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 428B or 428C on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

"(3) INCREASE OF RATE AFTER INCREASE IN TREASURY BILL RATES.—If for any twelve-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 428B or 428C on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

"(d) INTEREST RATES FOR NEW BORROWERS AFTER OCTOBER 1, 1987.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to section 428B, 428C, and 428D) to cover the cost of instruction for any period of enrollment beginning on or after October 1, 1987, to any borrower who on, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

"(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

"(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

"(e) LESSER RATES PERMITTED.—Nothing in this section shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

"(f) DEFINITIONS.—For the purposes of subsections (a) and (d) of this section—

"(1) the term 'period of instruction' shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

"(2) the term 'period of enrollment' shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

"SEC. 428. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

"(a) FEDERAL INTEREST SUBSIDIES.—

"(1) TYPES OF LOANS THAT QUALIFY.—Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Secretary under this part; or

"(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

"(2) ADDITIONAL REQUIREMENTS TO RECEIVE SUBSIDY.—(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(I) sets forth such student's estimated cost of attendance (as determined under section 472); and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part F of this title) and the amount of such need, subject to the provisions of subparagraph (D).

"(C) For the purpose of paragraph (1) and this paragraph—

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A, and parts C and E of this title, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to

such student plus any estimated financial assistance reasonably available to such student.

"(D) For the purpose of subparagraph (B), the amount of the loan which is qualified for a payment under paragraph (1) is the amount of the need of such student as determined by the eligible institution, increased by an amount necessary to cover the origination fee with respect to such loan (as authorized by section 438(c)).

"(3) AMOUNT OF INTEREST SUBSIDY.—(A) Subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid on his or her behalf and for his or her account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C). Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4). The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

"(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b), (ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and (iii) the Secretary determines that subsection (d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

"(4) SUBMISSION OF STATEMENTS BY HOLDERS ON AMOUNT OF PAYMENT.—Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

"(5) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1992, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 1996.

"(6) ASSESSMENT OF BORROWER'S FINANCIAL CONDITION NOT PROHIBITED OR REQUIRED.—Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

"(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

"(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

"(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) in any amount, excluding any amount of such loans made available (pursuant to section 428(a)(2)(D)) to cover the origination fee with respect to such loans, up to a maximum of—

"(i) $2,500 in the case of a student who has not successfully completed the first or second year of a program of undergraduate education;

"(ii) $5,000, in the case of a student who has completed such first and second year but who has not completed the remainder of a program of undergraduate education;

"(iii) in the case of a graduate or professional student (as defined in regulations of the Secretary)—

"(I) $5,000, if such student attends an institution for which the sum of the tuition, fees, and costs (as determined under section 472(1)) is less than $5,000;

"(II) an amount equal to such sum, if such sum is equal to or greater than $5,000 but less than $8,000; and

"(III) $8,000, if such sum is equal to or greater than $8,000;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

"(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

"(i) $14,500 in the case of any student who has not successfully completed a program of undergraduate education; and

"(ii) an amount equal to the sum of the annual limits applicable to the borrower under subparagraph (A)(iii) of this subsection for each of the first five academic years of graduate or professional study for which the borrower obtained loans under this part, plus $14,500, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he became a graduate or professional student),

except that the Secretary shall increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

"(C) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Secretary);

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

"(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than five years (unless the student, during the nine months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning nine months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;

"(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 percent per year on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower), except as otherwise required by section 427A;

"(G) insures not less than 100 percent of the unpaid principal of loans insured under the program;

"(H) provides for collection of an insurance premium equal to not more than 3 percent per loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

"(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a) (1) and (2);

"(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

"(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

"(L) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less;

"(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower is carrying at least one-half the full-time academic workload as determined by an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

"(iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act;

"(iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

"(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) not in excess of three years during which the borrower is engaged as a full-time teacher in a public or private elementary or secondary school;

"(vii) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(viii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled;

"(ix) not in excess of three years during which a single parent borrower is unable to secure employment by reason of the care required by a disabled child of such borrower (as defined in section 435(g)(3));

"(x) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

"(xi) not in excess of six months of parental leave;

"(N) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;

"(O) provides that the proceeds of any loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment), or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for purposes of this subparagraph;

"(P) requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;

"(Q) provides for the guarantee of loans made to students and parents under sections 428B and 428C;

"(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

"(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

"(T) provides no restrictions with respect to eligible institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

"(i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

"(ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

"(U) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary annually concerning such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.

"(2) CONTENTS OF INSURANCE PROGRAM AGREEMENT.—Such an agreement shall—

"(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

"(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

"(C) provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit.

"(c) GUARANTY AGREEMENTS FOR REIMBURSING LOSSES.—

"(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 100 percent of the amount expended by it in discharge of its insurance obligation incurred under

its loan insurance program. In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon.

"(B) Notwithstanding subparagraph (A)—

"(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 percent of the amount of such excess; and

"(ii) if, for any fiscal year, the amount of such reimbursement payments, exceed 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 percent of the amount of such excess.

"(C) For purposes of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

"(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

"(ii) the original principal amount of loans insured by it which have been fully repaid; and

"(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to section 428(b)(1)(M).

"(2) CONTENTS OF GUARANTY AGREEMENTS.—The guaranty agreement—

"(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known);

"(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

"(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

"(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c);

"(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school; and

"(G) may include such other provisions as may be necessary to promote the purposes of this part.

"(3) FORBEARANCE.—To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'insurance beneficiary' and 'default' have the meanings assigned to them by section 435.

"(5) APPLICABILITY TO EXISTING LOANS.—In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

"(6) SECRETARY'S EQUITABLE SHARE.—(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

"(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(ii) an amount equal to 30 percent of such payments (subject to subparagraph (D) of this paragraph) for the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, the administrative costs of supplemental preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment and repayment status of students (as such terms are defined in subparagraph (B) or (C) of this paragraph).

"(B) For the purpose of this paragraph, the term—

"(i) 'administrative costs of collection of loans' means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable;

"(ii) 'administrative costs of preclaim assistance for default prevention' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable; and

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

"(C)(i) For purposes of this paragraph, 'administrative costs of supplemental preclaims assistance' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised pre-claims assistance required or permitted under paragraph (2)(A) of this subsection and subsection (f), and which has been in delinquent status for at least 120 days; and

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed with the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f).

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan; or

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan.

"(iv) The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less.

"(D)(i) In the case of a State which enacts a garnishment law that complies with the requirements of this subparagraph, subparagraph (A)(ii) shall be applied by substituting '35 percent' for '30 percent'.

"(ii) A garnishment law complies with the requirements of this subparagraph if such law—

"(I) provides that the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved;

"(II) provides the individual with a minimum of 30 days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under such law;

"(III) provides the individual with an opportunity to inspect and copy records relating to the debts;

"(IV) provides the individual with an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt;

"(V) provides the individual with an opportunity for a hearing in accordance with division (iii) on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to clause (IV), concerning the terms of the repayment schedule, but does not permit additional administrative or judicial procedures that would delay collection of the debt (such as reduction of the debt to a judgment);

"(VI) provides that the employer will be held liable to the agency for any amount which such employer fails to withhold from wages due an employee following receipt by such employer of proper notice under clause (II), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this clause; and

"(VII) provides for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any individual subject to wage withholding required by this subparagraph because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer.

"(iii) A hearing described in division (ii)(V) shall be provided if the individual, on or before the 15th day following receipt of the notice described in division (ii)(II), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under division (ii)(V) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(iv) The notice given to the employer pursuant to division (ii)(II) shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(v) For purposes of this subparagraph, the term 'disposable pay' means that part of pay of any individual remaining after the deduction of any amounts required by law to be withheld.

"(7) NEW PROGRAMS ELIGIBLE FOR 100 PERCENT REINSURANCE.—(A) Notwithstanding paragraph (1)(B), the amount to be paid a guaranty agency for any fiscal year—

"(i) which begins on or after the effective date of this paragraph; and

"(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the four succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

"(B) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

"(8) ASSIGNMENT TO PROTECT FEDERAL FISCAL INTEREST.—If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

"(9) REHABILITATION OF DEFAULTED LOANS.—(A) Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of this subsection, or upon a determination that a loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status, the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the rehabilitated loan to an eligible lender, other than an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part. Such agreement between the guaranty agency and the Secretary shall provide—

"(i) for the repayment by the agency to the Secretary of 70 percent of the amount of the principal balance outstanding at the time of such sale multiplied by a percentage amount equal to the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(ii) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program and (II) of the obligation to pay to the holder of the rehabilitated loan a special allowance pursuant to section 438.

"(B) Amounts received by the Secretary pursuant to the sale of rehabilitated loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B) of this section for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

"(C) Any borrower whose loan is rehabilitated under subparagraph (A) shall not be precluded by section 484 from receiving additional loans under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to rehabilitation.

"(D) A loan which is rehabilitated under this paragraph shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

"(d) APPLICABILITY OF OTHER LAW.—

"(1) USURY LAWS INAPPLICABLE.—No provision of any law of the United States (other than this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

"(A) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

"(B) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

"(2) STATUTES OF LIMITATIONS.—Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(A) a guaranty agency which has an agreement with the Secretary under subsection (c) may file suit for collection of the amount due from a borrower on a loan made under this part during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower; and

"(B) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit for collection of the amount due the Secretary from a borrower pursuant to subsections (c)(2)(D) and (c)(8) of this section until six

years following the date on which the loan is assigned to the Secretary under this part.

"(3) DEFENSE OF INFANCY.—Notwithstanding any provision of State law to the contrary, in collecting any obligation arising from a loan made under this part, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

"(e) PAYMENTS FOR LENDER REFERRAL SERVICES.—

"(1) IN GENERAL.—The Secretary shall make payments in accordance with this paragraph to a guaranty agency in any State which provides a lender referral service for students who meet the requirements of paragraph (2).

"(2) STUDENT ELIGIBILITY.—A student is eligible to apply for lender referral services to a guaranty agency in a State if—

"(A) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and

"(B) such student has sought and was unable to find a lender willing to make a loan under this part.

"(3) AMOUNT OF PAYMENT.—The amount which the Secretary shall pay to any eligible guaranty agency under this paragraph shall be equal to one-half of 1 percent of the total principal amount of the loans (upon which insurance was issued under this part) to a student described in paragraph (2) who subsequently obtained such loans because of such agency's referral service.

"(4) INCENTIVE FEES TO LENDERS.—Nothing in this or any law shall prohibit an agency from using all or a portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a lender referral service.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.

"(f) PAYMENTS OF CERTAIN COSTS.—

"(1) PAYMENTS BASED ON INSURANCE PROGRAM AGREEMENT.—(A) The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency for the purposes of—

"(i) the administrative cost of promotion of commercial lender participation;

"(ii) the administrative costs of collection of loans;

"(iii) the administrative costs of preclaims assistance for default prevention;

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

"(v) other such costs related to the student loan insurance program subject to such agreement.

"(B) The total amount of payments for any fiscal year made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

"(2) APPLICATIONS FOR PAYMENTS.—No payment may be made under paragraph (1) of this subsection unless the guaranty agency submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(A) set forth assurances that the student loan insurance program subject to the guaranty agreement complies with subparagraphs (A), (B), (G), (R), (S), (T), and (U) of subsection (b)(1);

"(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

"(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

"(D) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

"(E) set forth assurances that the guaranty agency will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require to carry out the provisions of this subsection.

"(g) ACTION ON INSURANCE PROGRAM AND GUARANTY AGREEMENTS.—If a nonprofit private institution or organization—

"(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and

"(2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii),

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

"(h) LENDING BY GUARANTY AGENCIES.—

"(1) LENDING FROM SALLIE MAE ADVANCES.—From sums advanced by the Association pursuant to section 439(p), each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2) AMOUNT OF ADVANCES.—(A) Each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have three years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

"(B) Each guaranty agency and each eligible lender in a State described in section 435(d)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered into between the Association and such agency or lender.

"(3) LOAN TERM, CONDITIONS, AND BENEFITS.—Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

"(i) MULTIPLE DISBURSEMENT OF LOANS.—

"(1) ESCROW ACCOUNTS ADMINISTERED BY ESCROW AGENT.—Any guaranty agency or eligible lender (hereafter in this subsection referred to as the 'escrow agent') may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the 'lender') for the purpose of authorizing multiple disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 45 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

"(2) AUTHORITY OF ESCROW AGENT.—Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

"(j) LENDERS-OF-LAST-RESORT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200.

"SEC. 428A. COMMINGLING OF FUNDS.

"Notwithstanding any other provision of this part, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

"(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

"(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

"SEC. 428B. SUPPLEMENTAL LOANS FOR STUDENTS.

"(a) AUTHORITY TO BORROW.—Students shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), loans under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount a student may borrow in any academic year or its equivalent (as defined by regulation by the Secretary) is $4,000.

"(2) AGGREGATE LIMIT.—The aggregate insured principal amount for insured loans made to any student under this section shall not exceed $20,000.

"(3) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loans may be made to any student under this section which would cause his or her combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of the student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c) INTEREST RATES AND SUBSIDIES.—

"(1) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal and interest are deferred shall, at the option of the lender (A) be paid quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(2) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the rate provided in section 427A(c).

"(d) REFINANCING.—Notwithstanding the annual insurable limit on account of the student, an eligible lender may provide for the consolidation of loans made under this section, including loans made under section 428B as in effect prior to the enactment of this Act, under a single repayment schedule, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan.

"SEC. 428C. LOANS FOR PARENTS.

"(a) AUTHORITY TO BORROW.—Parents of a student shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the term 'student' and 'borrower' used in this part shall include a parent borrower under this section, but such a parent borrower shall not be eligible for any deferment pursuant to section 427(a)(2)(C) or 428(b)(1)(M) except for the deferments allowed under clauses (viii) and (x) of such sections.

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation of the Secretary) is $4,000.

"(2) AGGREGATE LIMIT.—The aggregate insured principal amount for insured loans made to parents on account of a student shall not exceed $20,000.

"(3) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section which would cause the combined loans of the parent and the student for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c) PAYMENT OF PRINCIPAL AND INTEREST.—

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 90 days after the date such loan is disbursed by a lender.

"(2) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the rate provided in section 427A(c).

"(d) REFINANCING.—Notwithstanding the annual insurable limit on account of the parent, an eligible lender, may provide for the consolidation of loans made under this section, including loans made under section 428B as in effect prior to the enactment of Higher Education Amendments of 1985, under a single repayment schedule, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan.

"SEC. 428D. CONSOLIDATION LOANS.

"(a) AGREEMENTS WITH ELIGIBLE LENDERS.—

"(1) AGREEMENT REQUIRED FOR INSURANCE COVERAGE.—For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans made, insured, or guaranteed under this part or made under part E of this title, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

"(A) the Student Loan Marketing Association;

"(B) State agencies described in subparagraphs (D) and (F) of section 435(d)(1); and

"(C) other eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) INSURANCE COVERAGE OF CONSOLIDATIONS LOANS.—Except as provided in section 429(e) and 439(o), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such agency.

"(3) DEFINITION OF ELIGIBLE BORROWER.—(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

"(i) has an outstanding indebtedness of not less than $7,500;

"(ii) is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

"(iii) is not a parent borrower under section 428C.

"(B) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this part, be counted against the applicable limitations on aggregate indebtedness contained in sections 425(a)(2) and 428(b)(1)(B).

"(b) CONTENTS OF AGREEMENTS, CERTIFICATES OF INSURANCE, AND LOAN NOTES.—

"(1) AGREEMENTS WITH LENDERS.—Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A) that, in the case of all lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that he or she has no other application pending for a loan under this section and (I) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (II) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(2), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) that the lender will make a reasonable effort to notify each borrower who has received a loan or loans under this title which are held by the lender of the availability and terms of consolidation loans under this section; and

"(F) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

"(2) ISSUANCE OF CERTIFICATE OF COMPREHENSIVE INSURANCE COVERAGE.—The Secre-

tary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) unless the Secretary determines that such lender has been denied a certificate of insurance by the guaranty agency which insures the preponderance of its loans (by value).

"(3) CONTENTS OF CERTIFICATE.—A certificate issued under paragraph (2) shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

"(B) that a consolidation loan will not be insured unless the lender has obtained from the holder or holders of each loan being consolidated a certificate—

"(i) that the loan is a legal, valid, and binding obligation of the borrower;

"(ii) that each loan was made and serviced in compliance with applicable laws and regulations; and

"(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guarantee agency which will process claims and perform other related administrative functions;

"(F) the alternative repayment terms which will be offered to borrowers by the lender;

"(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(4) TERMS AND CONDITIONS OF LOANS.—A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under section 427(a)(2)(C) or 428(b)(1)(M), and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c) PAYMENT OF PRINCIPAL AND INTEREST.—

"(1) INTEREST RATES.—(A) Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B) or (C). For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to—

"(i) 8 percent during the period beginning on the date of disbursement of the loan and ending four years after the commencement of repayment;

"(ii) 9 percent during the 5th through 7th years after such commencement of repayment;

"(iii) 10 percent during the 8th through 10th years after such commencement of repayment; and

"(iv) 12 percent during the 11th through 25th years after such commencement of repayment.

"(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is not less than the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

"(2) REPAYMENT SCHEDULES.—Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, including the establishment of graduated, income sensitive repayment schedules. However, a consolidation loan shall be repaid as follows:

"(A) In the case of a consolidation loan which is less than $15,000, such loan shall be repaid in not more than 15 years.

"(B) In the case of a consolidation loan which equals or exceeds $15,000, but is less than $35,000, or if the sum of the consolidation loan and the amount outstanding on other student loans to the same individual equals or exceeds $15,000, but is less than $35,000, such loan shall be repaid in not more than 20 years.

"(C) In the case of a consolidation loan which equals or exceeds $35,000, or if the sum of the consolidation loan and the amount outstanding on other student loans to the same individual equals or exceeds $35,000, such loan shall be repaid in not more than 25 years.

"(3) COMMENCEMENT OF REPAYMENT.—Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(4) INSURANCE PREMIUMS PROHIBITED.—No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan.

"(d) TERMINATION OF AUTHORITY.—The authority to make loans under this section expires at the close of September 30, 1992. Loans made under this section shall be considered to be new loans made to students for purposes of section 424(a).

"SEC. 429. CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE.

"(a) LOAN-BY-LOAN INSURANCE.—

"(1) AUTHORITY TO ISSUE CERTIFICATES ON APPLICATION.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) EFFECTIVENESS OF CERTIFICATE.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

"(3) CONTENTS OF APPLICATIONS.—An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

"(b) COMPREHENSIVE INSURANCE COVERAGE CERTIFICATE.—

"(1) ESTABLISHMENT OF SYSTEM BY REGULATION.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certifi-

cate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) UNCOVERED LOANS.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

"(c) CHARGES FOR FEDERAL INSURANCE.—The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

"(d) ASSIGNABILITY OF INSURANCE.—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

"(e) CONSOLIDATION NOT TO AFFECT INSURANCE.—The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"SEC. 430. DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM.

"(a) NOTICE TO SECRETARY AND PAYMENT OF LOSS.—Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount had been determined. The 'amount of the loss' on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

"(b) EFFECT OF PAYMENT OF LOSS.—Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

"(c) FORBEARANCE NOT PRECLUDED.—Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

"(d) CARE AND DILIGENCE REQUIRED OF HOLDERS.—Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"SEC. 430A. REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION.

"(a) AGREEMENTS TO EXCHANGE INFORMATION.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, and each guaranty agency having a guaranty agreement with the Secretary under section 428, shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary, concerning loans covered by Federal loan insurance, or by a guaranty agency, concerning loans covered by a guaranty agreement, to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary or the guaranty agency, as appropriate, to disclose to such organizations, with respect to any loan under this part—

"(1) the date of disbursement and the amount of the loan;

"(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

"(b) ADDITIONAL INFORMATION.—Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

"(c) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this section

shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary or the guaranty agency unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purposes of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary or the guaranty agency with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(d) CONTRACTOR STATUS OF PARTICIPANTS.—A guaranty agency or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

"(e) DISCLOSURE TO INSTITUTIONS.—The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

"(f) DURATION OF AUTHORITY.—Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

"(1) seven years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty, or

"(2) with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, seven years from that date.

"SEC. 431. INSURANCE FUND.

"(a) ESTABLISHMENT.—There is hereby established a student loan insurance fund (hereinafter in this section called the 'fund') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) BORROWING AUTHORITY.—If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c), the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"SEC. 432. LEGAL POWERS AND RESPONSIBILITIES.

"(a) GENERAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

"(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing on the record, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

"(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

"(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 428(c); and

"(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

"(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

"(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

"(c) DATA COLLECTION.—

"(1) COLLECTION BY CATEGORY OF LOAN.—(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

"(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institu-

tions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

"(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) as the Secretary deems appropriate.

"(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

"(2) COLLECTION AND REPORTING REQUIREMENTS.—(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

"(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

"(3) INSTITUTIONAL, PUBLIC, OR NONPROFIT LENDERS.—For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

"(d) DELEGATION.—

"(1) REGIONAL OFFICES.—The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Office of Education established pursuant to section 403(c)(2) of the General Education Provisions Act.

"(2) DELEGABLE FUNCTIONS.—The functions which may be delegated pursuant to this subsection are—

"(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

"(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

"(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim.

"(e) USE OF INFORMATION ON BORROWERS.—Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

"(f) AUDIT OF FINANCIAL TRANSACTIONS.—

"(1) COMPTROLLER GENERAL AND INSPECTOR GENERAL AUTHORITY.—The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

"(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 428(b);

"(B) any eligible lender as defined in section 435(d)(1) (D), (F), or (H); and

"(C) any Authority required to file a plan for doing business under section 438(c).

"(2) ACCESS TO RECORDS.—For the purpose of carrying out this subsection, the records of any entity described in subparagraphs (A), (B), or (C) of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purposes of section 716(c) of title 31, United States Code, such records shall be considered to be records to which the Comptroller General has access by law, and for purposes of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General.

"(3) DEFINITION OF RECORDS.—For the purposes of this subsection, the term 'record' includes any information, document, report, answer, account, paper, or other data or documentary evidence.

"(g) CIVIL PENALTIES.—

"(1) AUTHORITY TO IMPOSE PENALTIES.—Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(2) LIMITATIONS.—No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

"(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial representation is material.

"(3) CORRECTION OF FAILURE.—A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) CONSIDERATION AS SINGLE VIOLATION.—For the purposes of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) ASSIGNEES NOT LIABLE FOR VIOLATIONS BY OTHERS.—If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) COMPROMISE.—Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

"(h) AUTHORITY OF THE SECRETARY TO IMPOSE AND ENFORCE LIMITATIONS, SUSPENSIONS, AND TERMINATIONS.—(1) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed (A) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part, (B) to make the reports or statements under section 428(a)(4), or (C) to pay the required loan insurance premiums to any guaranty agency, the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part. The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure has ceased and finds that there are reasonable assurances that the lender will, in the future, exercise the necessary care and diligence or comply with such requirements, as the case may be.

"(2)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(U) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the lender has corrected the fail-

ures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"(3)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(T) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"SEC. 433A. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

"(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part, provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

"(1) the name of the eligible lender, and the address to which communications and payments should be sent;

"(2) the principal amount of the loan;

"(3) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

"(4) the stated interest rate on the loan;

"(5) the yearly and cumulative maximum amounts that may be borrowed;

"(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

"(7) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

"(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(9) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

"(10) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

"(11) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(12) an explanation of any cost the borrower may incur in the making or collection of the loan.

"(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include:

"(1) the name of the eligible lender, and the address to which communications and payments should be sent;

"(2) the scheduled date upon which the repayment period is to begin;

"(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

"(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

"(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

"(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

"(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

"(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

"(c) COST OF DISCLOSURE AND CONSEQUENCES OF NONDISCLOSURE.—Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

"SEC. 434. PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS.

"Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(B).

"SEC. 435. DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

"As used in this part:

"(a) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(1) an institution of higher education;

"(2) a vocational school; or

"(3) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for purposes of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1), 428B, or 428C at that institution or school. For the purposes of qualifying an institution under paragraph (3) of this subsection, the Secretary may establish criteria by regulation. In the case of a graduate medical school outside the United States, such criteria may include a requirement that not less than 90 percent of the students who are nationals of the United States enrolled in such school shall have scored in the top one-quarter on an approved medical college admissions examination; and that such students achieve a pass rate of not less than 50 percent on the examinations administered by the Educational Commission for Foreign Medical Graduates.

"(b) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance;

"(2) is legally authorized within such State to provide a program of education beyond secondary education;

"(3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

"(4) is a public or other nonprofit institution; and

"(5) is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose or, if not so accredited—

"(A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time; or

"(B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term includes any school which provides not less than one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (1), (2), (4), and (5). If the Secretary determines that a particular category of such schools does not meet the requirements of paragraph (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, the Secretary shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of paragraph (5) meet those standards. For purposes of this subsection the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authorities as to the quality of training offered.

"(c) VOCATIONAL SCHOOL.—The term 'vocational school' means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

"(1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit (as determined by the institution under section 481(d)) from the training offered by such institution;

"(2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

"(3) has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

"(4) is accredited—

"(A) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph;

"(B) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this paragraph; and

"(C) if the Secretary determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards.

For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

"(d) ELIGIBLE LENDER.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) through (5), the term 'eligible lender' means—

"(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, or a credit union which—

"(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

"(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless it is a bank which is wholly owned by a State;

"(B) a pension fund as defined in the Employee Retirement Income Security Act;

"(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

"(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

"(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

"(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market;

"(G) for purposes of making loans under section 439 (o) and (q), the Student Loan Marketing Association;

"(H) for purposes of making loans under section 428(j), a guaranty agency; and

"(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (Ch. 152, 64 Stat. 98 (1950)).

"(2) ADDITIONAL REQUIREMENTS OF ELIGIBLE INSTITUTIONS.—To be an eligible lender under this part, an eligible institution—

"(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution; and

"(B) shall not be a home study school.

"(3) DISQUALIFICATION FOR HIGH DEFAULT RATES.—The term 'eligible lender' does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of two consecutive years, 15 percent or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in section 435(o).

"(4) WAIVER OF DISQUALIFICATION.—Whenever the Secretary determines that—

"(A) there is reasonable possibility that an eligible institution may, within one year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

"(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

"(5) DISQUALIFICATION FOR USE OF CERTAIN INCENTIVES.—The term 'eligible lender' does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after the date of enactment of this paragraph—

"(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part; or

"(B) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product.

"(e) LINE OF CREDIT.—The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"(f) DUE DILIGENCE.—The term 'due diligence' requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

"(g) TEMPORARILY TOTALLY DISABLED.—

(1) IN GENERAL.—The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years.

"(2) SPOUSE OF A BORROWER.—Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years, and who during such period required continuous nursing or other similar services.

"(3) CHILD OF A DISABLED BORROWER.—Such term when used with respect to the disabled child of a single parent borrower means a dependent child who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during a period of injury or illness of not less than 3 months and who during such period requires continuous nursing or similar services.

"(4) DETERMINATIONS.—The determination that a borrower, a spouse, or dependent child is temporarily totally disabled must be established by a sworn affidavit of a qualified physician.

"(h) DEFINITION OF PARENTAL LEAVE.—The term 'parental leave' means a period—

"(1) during which the borrower is pregnant, caring for his or her newborn child, or caring for his or her child immediately following the placement of the child through adoption;

"(2) during which such borrower is not in attendance at an eligible institution or gainfully employed; and

"(3) which follows, by six months or less, a period during which the borrower was in attendance at an eligible institution.

"(i) HOLDER.—The term 'holder' means an eligible lender in possession of a loan.

"(j) GUARANTY AGENCY.—The term 'guaranty agency' means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b).

"(k) INSURANCE BENEFICIARY.—The term 'insurance beneficiary' means the insured or its authorized representative assigned in accordance with section 429(d).

"(l) DEFAULT.—The term 'default' includes only such defaults as have existed for (1) 180 days in the case of a loan which is repayable in monthly installments, or (2) 240 days in the case of a loan which is repayable in less frequent installments.

"SEC. 436. DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM.

"(a) AUTHORITY.—The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this title, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

"(b) BINDING EFFECT ON MINORS.—Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

"(c) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

"SEC. 437. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS.

"(a) REPAYMENT IN FULL.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) REPAYMENT OF AMOUNT DISCHARGED.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Secretary shall repay the amount of the loan so discharged.

"SEC. 438. SPECIAL ALLOWANCES.

"(a) FINDINGS.—In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b) COMPUTATION AND PAYMENT.—

"(1) QUARTERLY PAYMENT BASED ON UNPAID BALANCE.—A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2) RATE OF SPECIAL ALLOWANCE.—(A) Subject to subparagraph (B) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such three month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.5 percent to the resultant percent, and (iv) by dividing the resultant percent by four.

"(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

"(ii) The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (II) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (c) of this section.

"(3) CONTRACTUAL RIGHT OF HOLDERS TO SPECIAL ALLOWANCE.—The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such three-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

"(4) PENALTY FOR LATE PAYMENT.—(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) DEFINITION OF ELIGIBLE LOAN.—As used in this section, the term 'eligible loan' means a loan—

"(A)(i) on which a portion of the interest is paid on behalf of the student and for his account to the holder of the loan under section 428(a);

"(ii) which is made under section 428B, 428C, 428D, or 439(o); or

"(iii) which was made prior to October 1, 1981; and

"(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

"(6) REGULATION OF TIME AND MANNER OF PAYMENT.—The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) ORIGINATION FEES.—

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

"(2) AMOUNT OF ORIGINATION FEES.—With respect to any loan (other than loans made under sections 428B, 428C, 428D, and 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 5 percent of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower.

"(3) RELATION TO APPLICABLE INTEREST.—Such origination fee shall not be taken into

account for purposes of determining compliance with section 427A.

"(4) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating the origination fee.

"(5) PROHIBITION ON DEPARTMENT COMPELLING ORIGINATION FEE COLLECTIONS BY LENDERS.—Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 428(a)(3)(A) or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as originations fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before the enactment of this paragraph, together with interest thereon.

"(d) LENDING FROM PROCEEDS OF TAX EXEMPT OBLIGATIONS.—

"(1) PLAN FOR DOING BUSINESS REQUIRED.—In order for the holders of loans any portion of which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Governor of the State, and to the guaranty agency determined by the Secretary to be the principal guaranty agency for the State, a plan for doing business. The Governor shall, after consultation with the guaranty agency, approve or disapprove the plan within 30 days of the receipt of the proposed plan from the Authority. Such plan shall also be transmitted to the Secretary within 60 days after approval.

"(2) CONTENTS OF PLAN.—Each such plan shall contain provisions designed to assure that—

"(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

"(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

"(C) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

"(D) the Authority will, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

"(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program;

"(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan; and

"(G) the Authority will not issue obligations for amounts in excess of the reasonable needs for student loan credit within the area served by the Authority, after taking into account existing sources of student loan credit in that area.

"(3) NONDISCRIMINATION.—In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

"(4) REPORT BY THE SECRETARY.—The Secretary shall, no later than September 30, 1988, and each succeeding September 30th, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate specifying—

"(A) the amount of student loan credit provided through the use of tax-exempt obligations for the most recent fiscal year;

"(B) an assessment of the impact of the availability of such financing on the availability of student credit in the areas served by the authorities issuing such obligations;

"(C) an assessment of the need for additional tax-exempt financing for student credit for the next fiscal year, as evidenced by the information submitted under paragraph (2)(G) of this subsection; and

"(D) any other information determined by the Secretary to be relevant to the purposes of the report.

"(e) REGULATIONS TO PREVENT DENIAL OF LOANS TO ELIGIBLE STUDENTS.—The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

"SEC. 439. STUDENT LOAN MARKETING ASSOCIATION.

"(a) PURPOSE.—The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(2) EXEMPTION FROM STATE AND LOCAL TAXES.—The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(3) APPROPRIATIONS AUTHORIZED FOR ESTABLISHMENT.—There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

"(c) BOARD OF DIRECTORS.—

"(1) BOARD MEMBERSHIP.—The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(2) INTERIM BOARD.—An interim Board of Directors shall be appointed by the President, one of whom he shall designate an interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(3) REGULAR BOARD.—When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(4) SUCCESSION OF REGULAR BOARD.—At the time the events described in paragraph (3) have occurred, the interim Board shall turn

over the affairs of the Association to the regular Board so chosen or appointed.

"(5) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(6) MEETINGS AND FUNCTIONS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d) AUTHORITY OF ASSOCIATION.—

"(1) IN GENERAL.—The Association is authorized, subject to the provisions of this section—

"(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

"(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 435(d)(1) (D) or (F);

"(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;

"(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 428, and except with respect to loans under subsection (o), the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

"(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

"(2) WAREHOUSING ADVANCES.—Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality or corporation of the United States for which the credit of such agency, instrumentality or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

"(3) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

"(4) FORM OF SECURITIES.—Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

"(e) ADVANCES TO LENDERS THAT DO NOT DISCRIMINATE.—The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

"(f) STOCK OF THE ASSOCIATION.—

"(1) COMMON STOCK TO INSURED LENDERS AND ELIGIBLE INSTITUTIONS ONLY.—The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States.

"(2) VOTING RIGHTS.—Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) NONVOTING COMMON STOCK.—The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.

"(g) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"(h) DEBT OBLIGATIONS.—

"(1) APPROVAL BY SECRETARIES OF EDUCATION AND THE TREASURY.—The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such

manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1) (B) and (C) of this section and as to which the income is exempt from taxation under the Internal Revenue Code of 1954 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for purposes of section 265 of the Internal Revenue Code of 1954.

"(2) GUARANTEE OF DEBT.—The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

"(3) BORROWING AUTHORITY TO MEET GUARANTEE OBLIGATIONS.—To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"(4) ACTION ON REQUEST FOR GUARANTEES.—Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

"(5) AUTHORITY OF TREASURY TO PURCHASE DEBT.—The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) SALE OF DEBT TO FEDERAL FINANCING BANK.—Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

"(i) GENERAL CORPORATE POWERS.—The Association shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

"(k) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

"(l) LAWFUL INVESTMENT INSTRUMENTS; EFFECT OF AND EXEMPTIONS FROM OTHER LAWS.—All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of

the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 3701 of the Revised Statutes (31 U.S.C. 742). For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3466 of the Revised Statutes (31 U.S.C. 191) shall not establish a priority over the indebtedness of the Association. The Federal Reserve Banks are authorized to act as depositaries, custodians or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

"(m) PREPARATION OF OBLIGATIONS.—In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

"(n) REPORT ON OPERATIONS AND ACTIVITIES.—The Association, shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"(o) LOAN CONSOLIDATIONS.—

"(1) IN GENERAL.—The Association or its designated agent may, upon request of a borrower, consolidate loans received under this title in accordance with section 428D.

"(2) USE OF EXISTING AGENCIES AS AGENT.—The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

"(p) ADVANCES FOR DIRECT LOANS BY GUARANTY AGENCIES.—

"(1) IN GENERAL.—The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 428(h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

"(2) LIMITATION.—No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q) LENDER OF LAST RESORT.—

"(1) ACTION AT REQUEST OF SECRETARY.—(A) Whenever the Secretary determines that eligible borrowers in a State not served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

"(2) ISSUANCE AND COVERAGE OF LOANS.—(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 435(d)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) TERMINATION OF LENDING.—The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

(b) EFFECTIVE DATES.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall take effect on October 1, 1986, except—

(1) as otherwise provided in such part B;

(2) that the extension of authority to make loans under such part shall be effective on the date of enactment of this Act;

(3) that the extension of the grace period (under sections 427(a)(2)(B) and 428(b)(1)(E)) from six to nine months shall only apply with respect to loans made after October 1, 1987, to borrowers who, on the date of entering into the note or other written evidence of the loan, have no outstanding balance of principal or interest on any loan made, insured, or guaranteed under such part B;

(4) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act shall apply only to loans made on or after July 1, 1987; and

(5) the changes in sections 435(d)(5) and 438(d) of the Act shall take effect 30 days after the date of enactment of this Act.

(c) CHANGES EFFECTIVE WITHOUT REGARD TO REGULATIONS; REGULATIONS SUBJECT TO APPROVAL.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for purposes of such part. No change in any regulation relating to such part that is prescribed by the Secretary on or after October 1, 1985, shall be effective unless approved by a joint resolution of the Congress.

SEC. 412. STUDY OF USE OF MULTIPLE-YEAR LINES OF CREDIT.

The Secretary of Education shall evaluate the feasibility and efficiency of permitting students to establish lines of credit with eligible lenders under part B of title IV of the Act that cover more than one year of attendance at an institution of higher education. Such evaluation shall determine the extent to which such an arrangement would reduce the administrative costs associated with making separate loans annually under such part. In conducting such evaluation, the Secretary shall consult institutions of higher education and eligible lenders under such part. Within six months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the results of such evaluation together with such recommendations as the Secretary considers appropriate.

SEC. 413. STUDY OF MULTIPLE DISBURSEMENT.

The Comptroller General shall evaluate the impact of the multiple disbursement system required for student loans under part B of title IV of the Act on the ability of both students and institutions of higher education to meet their expenses as they arise. Such evaluation shall include an assessment of any other impacts of such system on such students or institutions that the Comptroller General determines to be significant. A report on the results of such evaluation shall be submitted to the Congress not later than two years after the date of the enactment of this Act.

SEC. 414. STUDY OF ADMINISTRATIVE COST ALLOWANCES TO STATE GUARANTEE AGENCIES.

The Secretary shall conduct a comprehensive study of administrative cost allowances paid to guaranty agencies under part B of title IV of the Act and report to Congress within one year of enactment of this section. The Secretary shall evaluate guaranty agency reserves and outlays and identify cost-saving measures to reduce Federal expenditures and make recommendations on such measures.

PART C—COLLEGE WORK-STUDY AMENDMENT

SEC. 411. REVISION OF PART C.

Part C of title IV of the Act is amended to read as follows:

"PART C—WORK-STUDY PROGRAMS

"SEC. 441. PURPOSE; APPROPRIATIONS AUTHORIZED.

"(a) PURPOSES.—The purpose of this part is to stimulate and promote the part-time employment of students who are enrolled as undergraduates or graduate or professional students and who are in need of earnings

from employment to pursue courses of study at eligible institutions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $700,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"SEC. 442. ALLOCATION OF FUNDS.

"(a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 441(b), the Secretary shall first allocate to each eligible institution—

"(A) for fiscal year 1987 or 1988, an amount equal to 100 percent of the amount such institution received and used under this part for fiscal year 1979; and

"(B) for each succeeding fiscal year, an amount equal to 95 percent of the amount such institution received and used under this part for the second preceding fiscal year.

"(2) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1979, an amount equal to the greatest of—

"(A) $5,000;

"(B) an amount equal to (i) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (ii) the number of full-time equivalent students enrolled at such comparable institutions in such fiscal year, multiplied by (iii) the number of full-time equivalent students enrolled at the applicant institution in such fiscal year; or

"(C) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(3) If the amount appropriated for any fiscal year is less than the amount required to be allocated to eligible institutions under paragraphs (1) and (2) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced. If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From the remainder of the amount appropriated pursuant to section 441(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount (other than an institution participating in the program under this subpart for the first or second time) an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution (other than an institution participating in the program under this subpart for the first or second time), the excess eligible amount is the amount, if any, by which—

"(A)(i) the amount of that institution's need (as determined under subsection (c)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 441(b) for the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a).

"(c) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

"(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 25 percent of the average cost of attendance (computed in accordance with section 472) for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance (computed in accordance with section 472) for all undergraduate students minus the expected family contribution determined under subparagraph (B) of this paragraph for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) of this paragraph for each income category of dependent students;

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) of this paragraph for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) of this paragraph for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G) of this paragraph.

"(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

"(A) establish various income categories of graduate and professional students;

"(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) determine the average cost of attendance (computed in accordance with section 472) for all graduate and professional students;

"(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

"(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

"(d) REALLOCATION OF EXCESS ALLOCATIONS.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions; except that the first $5,000,000 or portion thereof shall be reserved and divided equally between college work-study programs at the institutions which currently receive grants under title VIII of this Act and college work-study programs which provide opportunities for literacy related jobs.

"(e) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"SEC. 443. GRANTS FOR WORK-STUDY PROGRAMS.

"(a) AGREEMENTS REQUIRED.—The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

"(b) CONTENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall—

"(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

"(A) will not result in the displacement of employed workers or impair existing contracts for services;

"(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

"(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

"(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 446 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with the provisions of section 482, and who meet the requirements of section 484 will be assisted, except that, if the institution's grant under this part is based in part on the financial need demonstrated by students attending the institution less than full-time, a reasonable proportion of the institution's grant shall be made available to such students;

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;

"(5) provide that the Federal share of the compensation of students employed in the work study program in accordance with the agreement will not exceed 80 percent for academic years 1987-1988 and 1988-1989, 75 percent for academic year 1989-1990, and 70 percent for academic year 1990-1991 and succeeding academic years, except that the Federal share may exceed such amounts of such compensation if the Secretary determines, pursuant to regulations adopted and promulgated by him or her establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purposes of this part;

"(6) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

"(7) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part;

"(8) include such other reasonable provisions as the Secretary shall deem necessary or appropriate to carry out the purposes of this part; and

"(9) provide that students attending proprietary institutions and receiving assistance under this part may be employed by the institution in jobs solely related to providing student services, as determined by the Secretary pursuant to regulations.

"(c) PRIVATE SECTOR EMPLOYMENT AGREEMENT.—In addition to the agreement described in subsection (b), an institution of higher education may, at its option, enter into an additional agreement with the Secretary which shall—

"(1) provide for the operation by the institution of a program of part-time employment of its students in work for a private for-profit organization under an arrangement between the institution and such organization that complies with the requirements of subparagraphs (A) through (D) of subsection (b)(1);

"(2) provides that the institution will use not more than 25 percent of the funds made available to such institution under this part for any fiscal year for the operation of the program described in paragraph (1);

"(3) provide that, notwithstanding subsection (b)(6), the Federal share of the compensation of students employed in such program will not exceed 60 percent for academic years 1987-1988 and 1988-1989, 55 percent for academic year 1989-1990, and 50 percent for academic year 1990-1991 and succeeding academic years, and that the non-Federal share of such compensation will be provided by the private for-profit organization to which the student is employed.

"SEC. 444. SOURCES OF MATCHING FUNDS.

"Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

"SEC. 445. FLEXIBLE USE OF FUNDS.

"(a) CARRY-OVER AUTHORITY.—Of the sums granted to an eligible institution under this part for any fiscal year, 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

"(b) CARRY-BACK AUTHORITY.—Up to 10 percent of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.

"SEC. 446. JOB LOCATION AND DEVELOPMENT PROGRAMS.

"(a) AGREEMENTS REQUIRED.—The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 20 percent or $50,000 of its allotment under section 445, whichever is less, to establish or expand a program under which such institution, separately, in combination with other eligible institutions, or through a contract with a nonprofit organization, locates and develops jobs for currently enrolled students which are suitable to the scheduling and other needs of such students.

"(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

"(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

"(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

"(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

"(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

"(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

"(6) provide satisfactory assurance that Federal funds used for the purposes of this section can realistically be expected to help generate student wages exceeding in the aggregate the amount of such funds and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

"(7) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

"SEC. 447. WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES.

"(a) PURPOSE.—The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) 'community service-learning' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) provides participating students with work-learning opportunities related to their educational or vocational programs or goals; and

"(2) 'community services' means direct service, planning or applied research activities designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.

"(c) USE OF OTHER FUNDS TO CONDUCT PROGRAM.—Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning and administration of such programs.".

PART E—PERKINS LOANS

SEC. 161. AMENDMENT TO PART E OF THE ACT.

Part E of title IV of the Act is amended to read as follows:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"SEC. 461. APPROPRIATIONS AUTHORIZED.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions. Loans made under this part shall be known as 'Perkins Loans'.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $300,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.

"(c) USE OF APPROPRIATIONS.—Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

"SEC. 462. ALLOCATION OF FUNDS.

"(a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 461(b), the Secretary shall first allocate to each eligible institution—

"(A) for fiscal year 1987 or 1988, an amount equal to 100 percent of the amount such institution expended under this part for fiscal year 1979; and

"(B) for each succeeding fiscal year, an amount equal to 95 percent of the amount such institution expended under this part for the second preceding fiscal year.

"(2) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1979, an amount equal to the greatest of—

"(A) $5,000;

"(B) an amount equal to (i) 90 percent of the amount expended under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (ii) the number of full-time equivalent students enrolled at such comparable institutions in such fiscal year, multiplied by (iii) the number of full-time equivalent students enrolled at the applicant institution in such fiscal year; or

"(C) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(3) If the amount appropriated for any fiscal year is less than the amount required to be allocated to eligible institutions under paragraphs (1) and (2) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced. If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From the remainder of the amount appropriated pursuant to section 461(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount (other than an institution participating in the program under this subpart for the first or second time) an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution (other than an institution participating in the program under this subpart for the first or second time), the excess eligible amount is the amount, if any, by which—

"(A)(i) the amount of that institution's need (as determined under subsection (c)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 461(b) for the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a).

"(3) For any eligible institution other than an institution that began participation in the program under this part after fiscal year 1979, the eligible amount of that institution is equal to—

"(A) the amount of the institution's self-help need, as determined under subsection (c); minus

"(B) the sum of (i) the institution's anticipated collections; and (ii) the institutions cash-on-hand, as determined under subsection (d); multiplied by

"(C)(i) the institution's default penalty, as determined under subsection (e), if the institution has a default rate in excess of 10 percent or (ii) one, if the institution has a default rate equal to or less than 10 percent;

except that, if the institution has a default rate in excess of 25 percent, the eligible amount of that institution is zero.

"(c) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

"(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 25 percent of the average cost of attendance (computed in accordance with section 472) for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance (computed in accordance with section 472) for all undergraduate students minus the expected family contribution determined under subparagraph (B) of this paragraph for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) of this paragraph for each income category of dependent students;

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance (computed in accordance with section 472) for all undergraduate students minus the expected family contribution determined under subparagraph (B) of this paragraph for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) of this paragraph for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G) of this paragraph.

"(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

"(A) establish various income categories for graduate and professional students;

"(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) determine the average cost of attendance (computed in accordance with section 472) for all graduate and professional students;

"(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

"(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

"(d) ANTICIPATED COLLECTIONS; CASH-ON-HAND.—(1) An institution's anticipated collections are equal to 90 percent of the amount which would be collected during the year preceding the beginning of the award period if all outstanding loans under this part were repaid in accordance with their respective repayment schedules.

"(2) An institution's cash-on-hand is the balance of the fund established under section 463 that is not obligated for expenditure as of the close of the preceding fiscal year.

"(e) DEFAULT PENALTY.—For any institution which has a default rate which exceeds 10 percent but does not exceed 25 percent, the institution's default penalty is a percentage equal to the complement of such default rate.

"(f) DEFINITION OF DEFAULT RATE.—(1) For purposes of this section, the default rate is computed by dividing—

"(A) the total principal amount of defaulted loans;
by
"(B) the total principal amount of loans made under this part.

"(2) For purposes of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

"(A) amounts that have been repaid or cancelled on such loans;

"(B) loans discharged in bankruptcy;

"(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a); and

"(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.

"(3) A loan shall be considered to be in default—

"(A) 120 days (in the case of a loan repayable monthly), or

"(B) 180 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

"(g) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"SEC. 463. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

"(a) CONTENTS OF AGREEMENTS.—An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

"(2) provide for the deposit in such fund of—

"(A) Federal capital contributions from funds appropriated under section 461;

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

"(C) collections of principal and interest on student loans made from deposited funds;

"(D) charges collected pursuant to regulations under section 464(c)(1)(H); and

"(E) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part,

"(B) administrative expenses, as provided in subsection (b),

"(C) capital distributions, as provided in section 466, and

"(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

"(4) provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in a report describing the total number of loans from such fund which are in such default, and made to the Secretary at least semiannually;

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 462; or

"(B) if the institution is not one described in subparagraph (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

"(6) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations; less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs, among other institution in accordance with section 462;

"(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived;

"(8) provide assurances that the institution will comply with the provisions of section 463A; and

"(9) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

"(b) ADMINISTRATIVE EXPENSES.—An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 485.

"(c) COOPERATIVE AGREEMENTS WITH CREDIT BUREAU ORGANIZATIONS.—(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

"(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with requirements of section 430(b)(2) except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

"(A) the date of disbursement and the amount of any such loan;

"(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until—

"(A) seven years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) seven years from the date the Secretary first reports the account to a consumer reporting agency, if that account has not been previously reported by any other holder of the note.

"SEC. 463A. STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS.

"(a) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include:

"(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

"(2) the principal amount of the loan;

"(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

"(4) the stated interest rate on the loan;

"(5) the yearly and cumulative maximum amounts that may be borrowed;

"(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

"(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

"(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(9) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

"(10) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

"(11) to the extent practicable, in effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(12) an explanation of any cost the borrower may incur in the making or collection of the loan.

"(b) DISCLOSURE REQUIRED PRIOR TO REPAYMENT.—Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include:

"(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

"(2) the scheduled date upon which the repayment period is to begin;

"(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

"(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

"(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

"(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

"(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

"(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

"(c) COSTS AND EFFECTS OF DISCLOSURES.—Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

"SEC. 464. TERMS OF LOANS.

"(a) TERMS AND CONDITIONS.—(1) Loans from any student loan fund established pursuant to an agreement under section 463, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) $20,000 in the case of any graduate of professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(B) $10,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(C) $5,000 in the case of any other student.

"(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

"(b) DEMONSTRATION OF NEED AND ELIGIBILITY REQUIRED.—(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.

"(2) If the institution's Federal capital contribution under section 461 is based in part on the financial need demonstrated by students attending the institution less than full-time, a reasonable proportion of the loans under this part shall be made available to such students.

"(c) CONTENTS OF LOAN AGREEMENT.— (1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending ten years and nine months after such date except that such period may begin earlier than nine months after such date upon the request of the borrower;

"(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

"(C) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the ten-year maximum repayment period provided for in clause (A) of this paragraph;

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 percent per year or 4 percent per year in the case of any loan made on or after July 1, 1981, or 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A) (i) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary.

"(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6);

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this clause shall exceed 20 percent of the amount of the monthly payment of the borrower; and

"(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).

"(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary;

"(ii) is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

"(iii) is in service as a volunteer under the Peace Corps Act;

"(iv) is in service as a volunteer under the Domestic Volunteer Act of 1973;

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is

71-059 O-87-26 (Pt. 10)

exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) is engaged as a full-time teacher in a public or private elementary or secondary school;

"(vii) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(viii) is temporarily totally disabled (as defined in section 435(g)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(ix) is on parental leave, as defined in section 435(h).

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (viii) shall not exceed three years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed three years. The period during which repayment may be deferred by reason of clause (vii) shall not exceed two years. The period during which repayment may be deferred by reason of clause (ix) shall not exceed six months.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year maximum period provided for in clause (A) or paragraph (1).

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until six months after the completion of such period of study, service, disability, or combination thereof.

"(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

"(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

"(d) AVAILABILITY OF LOAN FUND TO ALL ELIGIBLE STUDENTS.—An agreement under this part of payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

"SEC. 465. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

"(a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The per centum specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be canceled under paragraph (1) for service—

"(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purposes of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such title I;

"(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: *Provided*, That the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

"(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system; or

"(D) as a member of the Armed Forces of the United States, for services that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.

For purposes of this paragraph, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

"(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) or (C) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

"(ii) in the case of service described in clause (B) of paragraph (2), at the rate of 15 percent for each year of such service; or

"(iii) in the case of service described in clause (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

"(4) For the purposes of this subsection, the term 'year' where applied to service as a teacher means academic year as defined by the Secretary.

"(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.

"(b) REIMBURSEMENT FOR CANCELLATION.—The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

"SEC. 466. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

"(a) IN GENERAL.—After September 30, 1996, and not later than March 31, 1997, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1996, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) DISTRIBUTION OF LATE COLLECTIONS.—After March 31, 1997, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1996, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

"(c) DISTRIBUTION OF EXCESS CAPITAL.—Upon a finding by the institution or the Secretary prior to October 1, 1997, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

"(2) The remainder of the capital distribution shall be paid to the institution.

"SEC. 467. COLLECTION OF DEFAULTED LOANS.

"(a) AUTHORITY OF SECRETARY TO COLLECT REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—With respect to any loan—

"(1) which was made under this part, and

"(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a),

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for ex-

penses reasonably incurred in attempting such collection.

"(b) COLLECTION OF REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.

"SEC. 468. STATUTE OF LIMITATIONS.

"Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under this part during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

"(2) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit for collection of the amount due from a borrower on a loan made under this part until six years following the date on which the loan is assigned or referred to the Secretary under this part.

"SEC. 469. GENERAL AUTHORITY OF SECRETARY.

"In carrying out the provisions of this part, the Secretary is authorized—

"(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

"(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

"(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

"(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.".

PART F—NEED ANALYSIS

SEC. 471. ADDITION OF A NEW PART F RELATING TO NEED ANALYSIS FOR STUDENT ASSISTANCE.

Title IV of the Act is further amended by redesignating part F as part G and by inserting after part E the following new part:

"PART F—NEED ANALYSIS

"SEC. 471. AMOUNT OF NEED.

"Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subpart 3 of part A) is equal to the cost of attendance of such student minus the expected family contribution for such student.

"SEC. 472. COST OF ATTENDANCE.

"For the purposes of this title (subject to section 478), the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

"(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

"(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

"(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

"(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (7));

"(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

"(6) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study (as determined by the institution);

"(7) for a student with one or more dependents, an allowance (as determined by the institution) based on the expenses reasonably incurred for dependent care based on the number and age of such dependents;

"(8) for a handicapped student, an allowance (as determined by the institution) for those expenses related to his or her handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies; and

"(9) for a student receiving all or part of his or her instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs.

"SEC. 473. FAMILY CONTRIBUTION.

"For the purposes of this title, except subpart 3 of part A, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

"SEC. 474. DATA ELEMENTS USED IN DETERMINING EXPECTED FAMILY CONTRIBUTION.

"The following data elements are considered in determining the expected family contribution:

"(1) the available income of (A) the student and his or her spouse; or (B) the student and the student's parents, in the case of a dependent student;

"(2) the number of dependents in the family of the student;

"(3) the number of dependents in the family of the student who are enrolled in, on at least a half-time basis, a program of postsecondary education and for whom the family may reasonably be expected to contribute to their postsecondary education;

"(4) the net assets of (A) the student and his or her spouse, and (B) the student and the student's parents, in the case of a dependent student;

"(5) the marital status of the student;

"(6) any unusual medical and dental expenses of (A) the student and the student's parents, in the case of a dependent student, or (B) the student and his or her spouse, in the case of an independent student;

"(7) the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid (A) in the case of a dependent student, by the student's parents for such dependent children, or (B) in the case of an independent student with dependents, by the student or his or her spouse for such dependent children who are so enrolled; and

"(8) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when both the student and his or her spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954.

"SEC. 475. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student the expected family contribution is equal to the sum of—

"(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

"(2) the student contribution from available income (determined in accordance with subsection (g)); and

"(3) the student income supplemental amount from assets (determined in accordance with subsection (h)).

"(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

"(1) computing adjusted available income by adding—

"(A) the parents' contribution from available income (determined in accordance with subsection (c)); and

"(B) the parents' income supplemental amount from assets (determined in accordance with subsection (d));

"(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

"(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested.

"(c) PARENTS' CONTRIBUTION FROM AVAILABLE INCOME.—

"(1) IN GENERAL.—The parents' contribution from available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) a standard maintenance allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5);

"(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

"(G) an educational expense allowance, determined in accordance with paragraph (7).

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
American Samoa, Guam, Louisiana, Texas, Trust Territory, Virgin Islands, Wyoming	4	3
Florida, Nevada, Tennessee	5	4
Alabama, Indiana, Mississippi, North Dakota, Oklahoma, Puerto Rico, South Dakota, Washington, West Virginia	6	5
Arizona, Arkansas, Illinois, Kansas, Missouri, New Hampshire, New Mexico, Ohio	7	6
Alaska, Connecticut, Iowa, Georgia, Idaho, Kentucky, Montana, Nebraska, North Carolina, South Carolina	8	7
California, Colorado, Delaware, Maine, New Jersey, Oregon, Pennsylvania, Utah, Virginia, Canada, Mexico	9	8
Hawaii, Michigan, Vermont, District of Columbia	10	9
Maryland, Minnesota, Rhode Island, Wisconsin	11	10
Massachusetts	12	11
New York	14	13

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

"Standard Maintenance Allowance

Family Size (including student)	Number in College				
	1	2	3	4	5
2	$8,540				
3	10,640	$9,180			
4	13,140	11,670	$10,210		
5	15,500	14,040	12,570	$11,110	
6	18,140	16,670	15,210	13,750	$12,280
7	20,180	18,720	17,260	15,790	14,330
8	22,230	20,770	19,310	17,840	16,380
9	24,280	22,820	21,350	19,890	18,430
10	26,330	24,870	23,400	21,940	20,480
11	28,380	26,920	25,450	23,990	22,530
12	30,430	28,960	27,500	26,040	24,570
For Each Additional Add:	2,050	2,050	2,050	2,050	2,050

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows:

"(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,000 or 35 percent of the earned income of the parent with the lesser earned income.

"(B) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,000 or 35 percent of his or her earned income.

For any fiscal year after fiscal year 1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

"(6) MEDICAL-DENTAL EXPENSE ALLOWANCE.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 5 percent of the total income of the parents.

"(7) EDUCATIONAL EXPENSE ALLOWANCE.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student's parents for each dependent child, other than the student, enrolled in elementary or secondary school, not to exceed for each such child the national average per pupil instructional cost as published by the National Center for Educational Statistics using the most recent available data.

"(d) PARENTS' INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

"(1) IN GENERAL.—The parents' income supplemental amount from assets is equal to—

"(A) the parental net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) PARENTAL NET WORTH.—The parental net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value of the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Families and Students

If the age of the oldest parent or student is—	And there are	
	two parents	one parent
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,800	1,400
27	3,600	2,900
28	5,500	4,300
29	7,300	5,800
30	9,100	7,200
31	10,900	8,700
32	12,700	10,100
33	14,600	11,600
34	16,400	13,000
35	18,200	14,500
36	20,000	15,900
37	21,800	17,400
38	23,700	18,800
39	25,500	20,300
40	27,300	21,700
41	27,900	22,200
42	28,600	22,800
43	29,400	23,200
44	30,200	23,800
45	31,000	24,400
46	32,100	25,000
47	32,900	25,500
48	33,800	26,100
49	35,000	26,800
50	35,900	27,500
51	37,100	28,300
52	38,400	29,000
53	39,700	29,800
54	41,000	30,700
55	42,300	31,500
56	43,700	32,400
57	45,200	33,200
58	46,700	34,200
59	48,500	35,300
60	50,000	36,400
61	52,000	37,500
62	54,000	38,600
63	56,000	39,800
64	58,500	41,200
65 or more	60,600	42,400

"(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

"(A) if the parental net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

"(B) if such parental net worth minus such asset protection allowance is less than zero and the parents' contribution from available income (determined in accordance with subsection (c)) is greater than $15,000, the conversion rate is zero percent;

"(C) if such parental net worth minus such asset protection allowance is less than zero and such parents' contribution from available income is equal to or greater than zero but less than $15,000, the conversion rate is equal to 6 percent multiplied by a fraction—

"(i) the numerator of which is equal to $15,000 minus such parents' contribution from available income; and

"(ii) the denominator of which is $15,000; and

"(D) if such parental net worth minus such asset protection allowance is less than zero and such parents' contribution from available income is less than zero, the conversion rate is 6 percent.

"(e) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 479):

"Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $7,600	22% of AAI
$7,601 to $9,500	$1,672 +25% of AAI over $7,600
$9,501 to $11,400	$2,147 +29% of AAI over $9,500
$11,401 to $13,300	$2,698 +34% of AAI over $11,400
$13,301 to $15,200	$3,344 +40% of AAI over $13,300
$15,201 or more	$4,104 +47% of AAI over $15,200

"(f) COMPUTATIONS IN CASE OF SEPARATED OR DIVORCED PARENTS.—

"(1) IN GENERAL.—If the student's parents are separated, or divorced and not remarried, only the income and assets of the parent with whom the student predominantly resided during the preceding year shall be included in computing available income for purposes of this section. If that parent has remarried, or if the parent was a widow or widower who has remarried, and that stepparent's income is also included in computing available income (as determined under paragraph (2)), the assets of that parent's spouse shall also be included for purposes of this section.

"(2) INCLUSION OF STEPPARENT'S INCOME IN AVAILABLE INCOME.—The stepparent's income is included in computing available income if—

"(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(B) the student is not an independent student (as defined in section 480(d)).

"(g) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—

"(1) IN GENERAL.—The student contribution from available income is equal to—

"(A) the applicable minimum contribution (determined in accordance with paragraph (2)); minus

"(B) the adjustment to student income (determined in accordance with paragraph (3)).

"(2) APPLICABLE MINIMUM CONTRIBUTION.—The applicable minimum contribution is the greater of—

"(A) a mandatory self-help amount of $700 for a first-year undergraduate student;

"(B) a mandatory self-help amount of $900 for any other undergraduate student; or

"(C) an amount equal to 70 percent of the student's total income (determined in accordance with section 480).

"(3) ADJUSTMENT TO STUDENT INCOME.—The adjustment to student income is equal to the sum of—

"(A) estimated Federal income taxes of the student;

"(B) an allowance for State and local income taxes (determined in accordance with paragraph (4)); and

"(C) an allowance for social security taxes determined in accordance with paragraph (5).

"(4) ALLOWANCE FOR STATE AND LOCAL INCOME TAXES.—The allowance for State and local income taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table:

"Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, New Hampshire	1
Illinois, Indiana, Mississippi, New Mexico, North Dakota, Puerto Rico	2
Alabama, Arizona, Colorado, Kansas, Missouri, Nebraska, Ohio, Oklahoma, West Virginia, New Jersey	3
Alaska, Arkansas, Georgia, Idaho, Iowa, Kentucky, Maine, Michigan, Montana, Pennsylvania, Rhode Island, South Carolina, Utah, Virginia, Canada, Mexico	4
California, Massachusetts, Hawaii, North Carolina, Vermont	5
District of Columbia, Maryland, Oregon, Wisconsin	6
Delaware, Minnesota, New York	7

"(5) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(h) STUDENT INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—The student supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

"(1) the current balance of checking and savings accounts and cash on hand;

"(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

"(3) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"SEC. 476. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student without dependents (including a spouse), the expected family contribution is equal to the sum of—

"(1) the student's contribution from income (determined in accordance with subsection (b)); and

"(2) the student's income supplemental amount from assets (determined in accordance with subsection (c)).

"(b) STUDENT'S CONTRIBUTION FROM INCOME.—

"(1) IN GENERAL.—The student's contribution from income is determined by—

"(A) computing the student's adjusted available income by deducting from the student's adjusted gross income—

"(i) Federal income taxes;

"(ii) an allowance for State and local income taxes, determined in accordance with paragraph (2);

"(iii) the allowance for social security taxes, determined in accordance with paragraph (3); and

"(iv) a maintenance allowance for periods of non-enrollment not to exceed $1,750;

"(B) assessing such adjusted available income in accordance with paragraph (4); and

"(C) adding to the assessment resulting under subparagraph (B) the amount of the untaxed income and benefits of the student (determined in accordance with section 480(c)),

except that the student's contribution from income shall not be less than $1,200.

"(2) ALLOWANCE FOR STATE AND LOCAL INCOME TAXES.—The allowance for State and local income taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, New Hampshire	1
Illinois, Indiana, Mississippi, New Mexico, North Dakota, Puerto Rico	2
Alabama, Arizona, Colorado, Kansas, Missouri, Nebraska, Ohio, Oklahoma, West Virginia, New Jersey	3
Alaska, Arkansas, Georgia, Idaho, Iowa, Kentucky, Maine, Michigan, Montana, Pennsylvania, Rhode Island, South Carolina, Utah, Virginia, Canada, Mexico	4
California, Massachusetts, Hawaii, North Carolina, Vermont	5
District of Columbia, Maryland, Oregon, Wisconsin	6
Delaware, Minnesota, New York	7

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) ASSESSMENT OF ADJUSTED AVAILABLE INCOME.—The student's adjusted available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed as follows:

"(A) if such adjusted available income is equal to or greater than $0 but less than or equal to $8,900, then the assessment is equal to 70 percent of such adjusted available income; and

"(B) if such adjusted available income is greater than $8,900, then the assessment is equal to $6,230 plus 90 percent of such adjusted available income in excess of $8,900.

"(c) STUDENT'S INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

"(1) IN GENERAL.—The student's income supplemental amount from assets is equal to—

"(A) the student's net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) STUDENT'S NET WORTH.—The student's net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Students

If the age of the student is—	Then the asset protection allowance is—
25 or less	$0
26	1,800
27	3,600
28	5,500
29	7,300
30	9,100
31	10,900
32	12,700
33	14,600
34	16,400
35	18,200
36	20,000
37	21,800
38	23,700
39	25,500
40	27,300
41	27,900
42	28,600
43	29,400
44	30,200
45	31,000
46	32,100
47	32,900
48	33,800
49	35,000
50	35,900
51	37,100
52	38,400
53	39,700
54	41,000
55	42,300
56	43,700
57	45,200
58	46,700
59	48,500
60	50,000
61	52,000
62	54,000
63	56,000
64	58,500
65 or more	60,600

"(4) ASSET CONVERSION RATE.—The asset conversion rate is 35 percent.

"SEC. 477. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student with dependents (including a spouse) the expected family contribution is equal to the amount determined by—

"(1) computing adjusted available income by adding—

"(A) the family's contribution from available income (determined in accordance with subsection (b)); and

"(B) the family's income supplemental amount from assets (determined in accordance with subsection (c));

"(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d); and

"(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested.

"(b) FAMILY'S CONTRIBUTION FROM AVAILABLE INCOME.—

"(1) IN GENERAL.—The family's contribution from available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) a standard maintenance allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5);

"(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

"(G) an educational expense offset, determined in accordance with paragraph (7);

except that the family's contribution from income shall not be less than $700 for a first year undergraduate student or $900 for any other student.

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory-of-residence is—	and parents' total income is	
	less than $15,000	$15,000 or more
	then the percentage is—	
American Samoa, Guam, Louisiana, Texas, Trust Territory, Virgin Islands, Wyoming	4	3
Florida, Nevada, Tennessee	5	4
Alabama, Indiana, Mississippi, North Dakota, Oklahoma, Puerto Rico, South Dakota, Washington, West Virginia	6	5
Arizona, Arkansas, Illinois, Kansas, Missouri, New Hampshire, New Mexico, Ohio	7	6
Alaska, Connecticut, Iowa, Georgia, Idaho, Kentucky, Montana, Nebraska, North Carolina, South Carolina	8	7
California, Colorado, Delaware, Maine, New Jersey, Oregon, Pennsylvania, Utah, Virginia, Canada, Mexico	9	8
Hawaii, Michigan, Vermont, District of Columbia	10	9
Maryland, Minnesota, Rhode Island, Wisconsin	11	10
Massachusetts	12	11
New York	14	13

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

"Standard Maintenance Allowance

Family Size (including student)	Number in College				
	1	2	3	4	5
2	$8,540				
3	10,640	$9,180			
4	13,140	11,670	$10,210		
5	15,500	14,040	12,570	$11,110	
6	18,140	16,670	15,210	13,750	$12,280
7	20,180	18,720	17,260	15,790	14,330
8	22,230	20,770	19,310	17,840	16,380
9	24,280	22,830	21,350	19,890	18,430
10	26,330	24,870	23,400	21,940	20,480
11	28,380	26,920	25,450	23,990	22,530
12	30,430	28,960	27,500	26,040	24,570
For Each Additional Add:	2,050	2,050	2,050	2,050	2,050

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows:

"(A) If both the student and a spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,000 or 35 percent of the earned income of the student or spouse with the lesser earned income.

"(B) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,000 or 35 percent of his or her earned income.

For any fiscal year after fiscal year 1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the Consumer Price Index.

"(6) MEDICAL-DENTAL EXPENSE ALLOWANCE.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 5 percent of the total income of the family.

"(7) EDUCATIONAL EXPENSE ALLOWANCE.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student or the student's spouse, or both, for each dependent child, enrolled in elementary or secondary school, not to exceed for each such child the national average per pupil instructional cost as published by the National Center for Educational Statistics using the most recent available data.

"(c) FAMILY'S INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

"(1) IN GENERAL.—The family's income supplemental amount from assets is equal to—

"(A) the family net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) FAMILY NET WORTH.—The family net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a

dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Families and Students

If the age of the student is—	And there are	
	two spouses	one spouse
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,800	1,400
27	3,600	2,900
28	5,500	4,300
29	7,300	5,800
30	9,100	7,200
31	10,900	8,700
32	12,700	10,100
33	14,600	11,600
34	16,400	13,000
35	18,200	14,500
36	20,000	15,900
37	21,800	17,400
38	23,700	18,800
39	25,500	20,300
40	27,300	21,700
41	27,900	22,200
42	28,600	22,800
43	29,400	23,200
44	30,200	23,800
45	31,000	24,400
46	32,100	25,000
47	32,900	25,500
48	33,800	26,100
49	35,000	26,800
50	35,900	27,500
51	37,100	28,300
52	38,400	29,000
53	39,700	29,800
54	41,000	30,700
55	42,300	31,500
56	43,700	32,400
57	45,200	33,200
58	46,700	34,200
59	48,500	35,300
60	50,000	36,400
61	52,000	37,500
62	54,000	38,600
63	56,000	39,800
64	58,500	41,200
65 or more	60,600	42,400

"(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

"(A) if the family's net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

"(B) if such family's net worth minus such asset protection allowance is less than zero and the family's contribution from available income (determined in accordance with subsection (c)) is greater than $15,000, the conversion rate is zero percent;

"(C) if such family's net worth minus such asset protection allowance is less than zero and such family's contribution from available income is equal to or greater than zero but less than $15,000, the conversion rate is equal to 6 percent multiplied by a fraction—

"(i) the numerator of which is equal to $15,000 minus such family's contribution from available income; and

"(ii) the denominator of which is $15,000; and

"(D) if such family's net worth minus such asset protection allowance is less than zero and such family's contribution from available income is less than zero, the conversion rate is 6 percent.

"(d) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (a)(1) and hereafter referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 479):

"Assessment from Adjusted Available Income (AAI)

If AAI is—	Then assessment is—
Less than —$3,409	—750
—$3,409 to $7,600	22% of AAI
$7,601 to $9,500	$1,672 + 25% of AAI over $7,600
$9,501 to $11,400	$2,147 + 29% of AAI over $9,500
$11,401 to $13,300	$2,698 + 34% of AAI over $11,400
$13,301 to $15,200	$3,344 + 40% of AAI over $13,300
$15,201 or more	$4,104 + 47% of AAI over $15,200

"SEC. 478. ADJUSTMENTS TO NEED ANALYSIS FOR PURPOSES OF THE PELL GRANT PROGRAM.

"(a) OFFSETS TO STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—For the purposes of making awards under subpart 1 of part A of this title—

"(1) in determining the student contribution from available income for a dependent student under section 475(g)(1), the applicable minimum contribution (referred to in subparagraph (A) of such subsection) shall be reduced by both the adjustment to student income (referred to in subparagraph (B) of such subsection) and an additional allowance of $4,490, except that the subtraction of such additional allowance shall not result in a student contribution from available income that is less than zero; and

"(2) an independent student shall be allowed, in lieu of the offset of $1,750 for periods of nonenrollment under section 476(b)(1)(A)(IV), an offset of $5,520 to be subtracted from the student contribution from available income (as determined under section 476(b)(1)(A)), except that such subtraction shall not result in a student contribution from available income that is less than zero.

"(b) ALLOWANCES FOR ROOM AND BOARD COSTS.—For the purposes of determining the cost of attendance under section 472 for making awards under subpart 1 of part A of this title—

"(1) the allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student shall not be greater than $1,700 for a student without dependents residing at home with parents; and

"(2) the allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student shall not be greater than $2,300 for all other students;

except that, if the maximum award under such subpart is less than or greater than $2,300, then the dollar amounts specified in paragraphs (1) and (2) of this subsection shall be increased or decreased by an amount equal to the amount by which such maximum award is greater than or less than $2,300, respectively.

"SEC. 479. REGULATIONS; UPDATED TABLES.

"(a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

"(1) as required to prescribe updated tables under subsections (b) through (e) of this section; and

"(2) as required by section 480(a)(2).

"(b) STANDARD MAINTENANCE ALLOWANCE.—For each academic year after academic year 1988–1989, the Secretary shall publish in the Federal Register a revised table of standard maintenance allowances for purposes of sections 475(c)(4) and 477(b)(4). Such revised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the percentage increase in the Consumer Price Index between December 1987 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

"(c) ADJUSTED NET WORTH OF A FARM OR BUSINESS.—For each academic year after academic year 1988–1989, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for purposes of sections 475(d)(2)(C), 475(h)(3), 476(c)(2)(C), and 477(c)(2)(C). Such revised table shall be developed—

"(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the percentage increase in the Consumer Price Index between 1987 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $5,000; and

"(2) by adjusting the dollar amounts '$26,000', '$91,000', and '$169,000' to reflect the changes made pursuant to paragraph (1).

"(d) ASSET PROTECTION ALLOWANCE.—For each academic year after academic year 1988–1989, the Secretary shall publish in the Federal Register a revised table of asset protection allowances for purposes of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by determining the present value cost of an annuity that would provide, for each age cohort, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics) and the current average social security retirement benefits. In making such determinations—

"(1) inflation shall be presumed to be 6 percent per year;

"(2) the rate of return of an annuity shall be presumed to be 8 percent; and

"(3) the sales commission on an annuity shall be presumed to be 6 percent.

"(e) ASSESSMENT SCHEDULES AND RATES.—(1) For each academic year after academic year 1988–1989, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for purposes of sections 475(e) and 477(d). Such revised table shall be developed—

"(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the percentage increase in the Consumer Price Index between December 1987 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(B) by adjusting the other dollar amounts to reflect the changes made pursuant to subparagraph (A).

(2) For each academic year after academic year 1988-1989, the assessments made pursuant to section 476(b)(4) shall be made—

"(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the percentage increase in the Consumer Price Index between December 1987 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(B) by adjusting the other dollar amount to reflect the changes made pursuant to subparagraph (A).

The Secretary shall publish in the Federal Register the adjustments required to carry out this paragraph.

"(f) DEFINITION OF CONSUMER PRICE INDEX.—As used in this section, the term 'Consumer Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor.

"SEC. 480. DEFINITIONS.

"As used in this part:

"(a) TOTAL INCOME.—(1) Except as provided in paragraph (2), the term 'total income' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year.

"(2) The Secretary shall, within 30 days after the date of enactment of this subsection, promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 1 of part A and part B of this title for any academic year beginning on or after July 1, 1985, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(b) UNTAXED INCOME AND BENEFITS OF PARENTS AND INDEPENDENT STUDENTS WITH DEPENDENTS.—The term 'untaxed income and benefits' when applied to parent contributions or the contributions of independent students with dependents (including spouses) means—

"(1) the Federal income tax deduction for a married couple when both work;

"(2) child support received for the student's children;

"(3) welfare benefits, including aid to families with dependent children and aid to dependent children;

"(4) untaxed portions of unemployment compensation, except in any case in which a student is a dislocated worker certified in accordance with title III of the Job Training Partnership Act;

"(5) workman's compensation;

"(6) veterans benefits such as death pension, dependency and indemnity compensation, and Veterans' Administration vocational rehabilitation program benefits (excluding educational benefits);

"(7) educational benefits received under chapter 31 or chapter 34 of title 38, United States Code, by family members excluding its student;

"(8) interest on tax-free bonds;

"(9) the amount of dividends excluded for Federal income tax purposes;

"(10) untaxed portions of pensions and capital gains;

"(11) housing, food, and other living allowances for military, clergy, and others (including cash payments and cash value of benefits);

"(12) Job Training Partnership Act noneducational benefits;

"(13) payments to individual retirement accounts and Keogh accounts;

"(14) the amount of earned income credit claimed for Federal income tax purposes;

"(15) credit for Federal tax on special fuels;

"(16) the amount of dividend reinvestment excluded for purposes of Federal income taxes;

"(17) the amount of foreign income excluded for purposes of Federal income taxes;

"(18) untaxed social security benefits; and

"(19) any other untaxed income and benefits, such as black lung or railroad retirement benefits.

"(c) UNTAXED INCOME AND BENEFITS OF DEPENDENT STUDENTS OR INDEPENDENT STUDENTS WITHOUT DEPENDENTS.—For the purposes of this part, the term 'untaxable income and benefits' when applied to the contributions of dependent students or independent students without dependents means—

"(1) veterans benefits such as death pension, dependency and indemnity compensation, and Veterans' Administration vocational rehabilitation program benefits (excluding educational benefits);

"(2) educational benefits received under chapter 31 or chapter 34 of title 38, United States Code, by the student;

"(3) interest on tax-free bonds;

"(4) the amount of dividends excluded for purposes of Federal income taxes;

"(5) untaxed portions of pensions and capital gains;

"(6) housing, food, and other living allowances for military, clergy, and others (including cash payments and cash value of benefits);

"(7) Job Training Partnership Act noneducational benefits, except in any case in which a student is a dislocated worker certified in accordance with title III of the Job Training Partnership Act;

"(8) untaxed portions of social security;

"(9) welfare benefits;

"(10) untaxed portions of unemployment compensation;

"(11) workmen's compensation;

"(12) payments to individual retirement accounts and Keogh accounts;

"(13) credit for Federal tax on special fuels;

"(14) the amount of dividend reinvestment excluded for purposes of Federal income taxes;

"(15) the amount of foreign income excluded for purposes of Federal income taxes; and

"(16) any other untaxed income and benefits, such as black lung or railroad retirement benefits.

"(d) INDEPENDENT STUDENT.—The term 'independent' when used with respect to a student means any individual who is—

"(1) an orphan or ward of the court;

"(2) married;

"(3) not married, but has legal dependents;

"(4) a veteran of the Armed Forces of the United States;

"(5) 23 years of age or older on July 1 of the award year concerned;

"(6) a graduate or professional student;

"(7) a student with unusual circumstances as determined by the student financial aid administrator; or

"(8) a student who demonstrates through documentation acceptable to the student financial aid officer, total self-sufficiency during the two-year period preceding July 1 of the year in which the initial award will be granted; and

who, if treated as an independent student during the preceding calendar year, was not claimed as a dependent by any other person for such preceding calendar year.

"(e) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(1) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members;

"(2)(A) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or (B) is receiving public assistance on account of dependent children in the home; and

"(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"SEC. 480A. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.

"Nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to make necessary adjustments to the cost of attendance and expected family contribution computations to allow for treatment of individual students or groups of students with special circumstances. In addition, nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to use supplementary information about the financial status of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts C and E of this title.

"SEC. 480B. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

"No portion of any student financial assistance received by an individual from any program funded in whole or in part under title IV of this Act which is used by that individual for the payment of tuition and fees, as those terms are used in section 472 (1) and (2) of this title, shall be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.".

PART G—REVISION OF GENERAL PROVISIONS

SEC. 481. AMENDMENT TO PART G OF TITLE IV OF THE ACT.

Part G of title IV of the Act, as redesignated by section 471, is amended to read as follows:

"PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"SEC. 481. DEFINITIONS.

"(a) INSTITUTION OF HIGHER EDUCATION.—(1) For the purposes of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading

to an associate degree in nursing or to an equivalent degree.

"(2) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

"(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—For the purposes of this section, the term 'proprietary institution of higher education' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under subsection (d) of this section) from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) POSTSECONDARY VOCATIONAL INSTITUTION.—For the purposes of this section, the term 'postsecondary vocational institution' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least two years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under subsection (d) of this section) from the training offered by the institution.

"(d) DETERMINATION OF ABILITY TO BENEFIT.—(1) An institution shall be presumed to have established acceptable criteria for the admission of students on the basis of their ability to benefit from the education or training offered, if the institution's admissions procedures for such students includes counseling or a validated test measuring the student's aptitude to successfully complete the program to which the student has applied.

"(2) An institution shall maintain complete records of the admissions criteria utilized for all students admitted under paragraph (1) of this subsection.

"(3) The Secretary shall not promulgate regulations defining the examination that may be used under paragraph (1) or other criteria that may be utilized by an institution in admitting students on the basis of their ability to benefit from the education or training offered.

"(e) ACADEMIC YEAR.—For the purpose of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"SEC. 482. MASTER CALENDAR.

"(a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

"(1) Development and distribution of Federal and multiple data entry forms—

"(A) by February 1: first meeting of the Education Department's technical committee on forms design;

"(B) by March 1: updated tables published in the Federal Register pursuant to section 479;

"(C) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

"(D) by August 30: final approved forms delivered to servicers and printers;

"(E) by October 1: Federal and multiple data entry forms and instructions printed; and

"(F) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

"(2) Allocations of campus-based and Pell Grant funds—

"(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

"(B) by October 1: final date for submission of FISAP by institutions to Department of Education;

"(C) by November 15: edited FISAP and computer printout received by institutions;

"(D) by December 1: appeals procedures received by institutions;

"(E) by December 15: edits returned by institutions to Department of Education;

"(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

"(G) by February 15: closing date for receipt of institutional appeals by the Department of Education;

"(H) by March 1: appeals process completed;

"(I) by April 1: final award notifications sent to institutions;

"(J) by June 1: Pell Grant authorization levels sent to institutions.

"(b) TIMING FOR REALLOCATIONS.—With respect to any funds reallocated under section 413D(e) or 442(e), the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purposes of the programs under subpart 2 of part A and part C, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this title that have not been published in final form by December prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.

"(d) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within seven days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

"SEC. 483. FORMS AND REGULATIONS.

"(a) COMMON FINANCIAL AID FORM AND PROCESSING.—(1) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common Federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under this title (other than under subpart 3 of part A). No student or parent of a student shall be charged a fee for processing the form prescribed by the Secretary whether the student completes that form or any other approved form. A student or parent may be charged a fee for processing an institutional or a State financial aid form or data elements that is not required by the Secretary.

"(2) The Secretary shall enter into not less than three contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing official eligibility reports.

"(3) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

"(4) All approved contractors will be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

"(5) The Secretary may contract for additional data gathering services to assist the Department in developing a Management Information System which will provide it with a representative statistical sample of applicants and recipients to assure coordination of financial aid from both Federal and non-Federal sources, and to provide information, training, and similar services to institutions, financial aid administrators, counselors, lenders, parents and students.

"(6) Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title.

"(b) INFORMATION TO COMMITTEES OF CONGRESS.—Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least 45 days prior to their effective date.

"(c) INFORMATION ON ELIGIBILITY FOR ASSISTANCE.—To help insure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

"(1) developing a common pre-eligibility Federal financial aid form,

"(2) distributing and processing such form on a year-round basis free of charge to students, and

"(3) issuing on the basis of information reported by the student on such form a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subparts 4 and 5 of part A of this title.

"(d) TOLL-FREE INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this title.

"(e) NOTICE OF STUDENT AID RECEIPT.—(1) The Secretary shall develop a single form on which the amount of assistance received under this title (except assistance received under subparts 4, 5, and 7 of part A) by each student who receives such assistance can be recorded. This form shall be titled "U.S. Department of Education, Federal Student Assistance Report". Such form shall have prominently displayed the Great Seal of the United States. Such form shall be the same or a closely similar color to that of checks issued by the Treasury Department and be provided by the Secretary free to eligible institutions in sufficient quantity and in a timely manner so that each eligible institution can provide a completed copy to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) at the time awards are made but not less than once annually.

"(2) Eligible institutions shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) a completed copy of the "United States Department of Education, Federal Student Assistance Report" form at the time awards are made but not less than once annually.

"SEC. 484. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant, loan, or work assistance under this title, a student must—

"(1) be enrolled or accepted for enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

"(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution at which the student is in attendance;

"(3) not owe a refund on grants previously received at any institution under this title, or be in default on any loan from a student loan fund at any institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

"(5) be a citizen or national of the United States, a permanent resident of the United States, in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident, a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands, or a person having a certificate of graduation from a school providing secondary education in the United States.

"(b) ELIGIBILITY FOR STUDENT LOANS.—In order to be eligible to receive any loan under this title (other than a loan under section 428B or 428D) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

"(1) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

"(2) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period; and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

"SEC. 484A. STATUTE OF LIMITATIONS.

"(a) IN GENERAL.—Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due; and

"(2) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit for payment of a refund due from a student on a grant made under this title until six years following the date on which the refund first became due.

"(b) ASSESSMENT OF COSTS AND OTHER CHARGES.—Notwithstanding any provision of State law to the contrary, a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs.

"SEC. 485. INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.

"(a) INFORMATION DISSEMINATION ACTIVITIES.—(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full-time) regarding the institution and all financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(2).

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) FINANCIAL ASSISTANCE INFORMATION PERSONNEL.—Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c) DEPARTMENTAL PUBLICATION OF DESCRIPTIONS OF ASSISTANCE PROGRAMS.—The Secretary shall make available to eligible institutions, eligible lenders, and secondary

schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this title. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

"SEC. 486. TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in post-secondary institutions, communities or statewide programs.

"(b) USE OF FUNDS.—Financial assistance under this section may be used for—

"(1) development of materials and inservice training and career awareness programs;

"(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

"(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1991.

"SEC. 487. PROGRAM PARTICIPATION AGREEMENTS.

"(a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for purposes of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purposes specified in and in accordance with the provision of that program.

"(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance, or for completing or handling the Federal Student Assistance Report provided for in section 483(e).

"(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

"(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title.

"(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

"(7) The institution will comply with the requirements of section 485.

"(b) RECOVERY OF FUNDS.—If no fraud is involved, the Secretary may seek recovery of funds paid to an institution under this title only in those final audit or program review determinations pending on or made after the date of enactment of this sentence in which the disputed expenditures are not in substantial compliance with the law.

"(c) HEARINGS.—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than forty-five days after receipt of notification of the final audit or program review determination.

"(2) The Secretary shall, upon receipt of written notice in (c)(1), arrange for a hearing on the record and notify the institution within thirty days of receipt of such notice the date, time and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

"(3) In all final audit or program review determinations pending on or made after the date of enactment of this section, the burden of proof shall be on the Secretary, and discovery shall be available to all parties under procedures provided under Rules 26, 28 through 34, and 36 of the Rules of Civil Procedure of the United States district courts.

"(d) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organization, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

"(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to reenroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to reenroll; and

"(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

"(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

"(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

"(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

"(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the

quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"(c) DEFINITION OF ELIGIBLE INSTITUTION.—For the purpose of this section the term 'eligible institution' means any such institution described in section 435(a) of this Act.

"SEC. 488. TRANSFER OF ALLOTMENTS.

"Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"SEC. 489. ADMINISTRATIVE EXPENSES.

"(a) AMOUNT OF PAYMENTS.—From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or under part E of this title shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 447 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section.

"(b) PURPOSE OF PAYMENTS.—The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"SEC. 490. CRIMINAL PENALTIES.

"(a) IN GENERAL.—Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) ASSIGNMENT OF LOANS.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) INDUCEMENTS TO LEND OR ASSIGN.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"SEC. 491. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

"(a) ESTABLISHMENT.—There is hereby established an Advisory Committee on Student Financial Assistance (henceforth referred to as the 'Committee') which shall provide advice and counsel to the Congress on student financial aid matters.

"(b) MEMBERSHIP.—The Advisory Committee shall have twelve members, six appointed by the President Pro Tempore of the Senate and six by the Speaker of the House of Representatives including, but not limited to representatives of States, institutions of postsecondary education, secondary schools, credit institutions, students, and parents.

"(c) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of three years, except that, of the members first appointed—

"(A) four shall be appointed for a term of one year;

"(B) four shall be appointed for a term of two years; and

"(C) four shall be appointed for a term of three years.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the committee shall, upon his or her request, continue to serve after the expiration of a term until a successor has been appointed. A member of the committee may be reappointed to successive terms on the committee.

"(3) The Committee shall elect a Chairman and a Vice Chairman from among its members.

"(4) Six members of the Committee shall constitute a quorum but a lesser number of two or more may conduct hearings.

"(5) The Committee shall meet at the call of the Chairman or a majority of its members.

"(d) FUNCTIONS OF THE COMMITTEE.—The Committee shall—

"(1) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

"(2) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid and in assessing the impact of legislative and administrative policy proposals;

"(3) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

"(4) conduct studies, surveys and analyses of student financial assistance programs, policies and practices, including the special needs of low income, disadvantaged and non-traditional students, and the means by which these needs may be met;

"(5) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

"(6) promote research and development activities which will improve the system of data collection;

"(7) review and comment and promote research and development of the student information system established under section 483(c) and (d) of this part;

"(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs; and

"(9) publish and disseminate such interim reports as it considers appropriate and submit an annual report to the Congress on the state of student assistance, including assistance under this title, State scholarship assistance, need-based institutional loan and grant programs, and all other forms and sources of such assistance.

"(e) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Committee may submit any of its studies or recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

"(f) COMPENSATION AND EXPENSES.—(1) Members of the Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Committee who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) PERSONNEL AND RESOURCES.—Such personnel as the Committee deems necessary may be appointed by the Committee without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule:

"(1) The Committee or, on the authorization of the Committee, any subcommittee thereof, may, for the purpose of carrying out the provisions of the Act, hold such

hearings and sit and act at such times and such places as the Committee or such subcommittee may deem advisable.

"(2) In carrying out its duties under the Act, the Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment or instrumentality is authorized and directed to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Committee, upon request made by the Chairman.

"(4) For the purpose of securing necessary data and information the Committee may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Committee in carrying out this section.

"(6) The Committee is authorized to utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement.

"(h) There is authorized to be appropriated an amount not to exceed $750,000 for each of the fiscal years beginning on or after October 1, 1986, to carry out the provisions of this section, which shall remain available until expended or until the termination of the Committee whichever occurs first.".

"SEC. 492. DATA COLLECTION.

"(a) PURPOSES OF SURVEY.—The Secretary shall survey student aid recipients on a regular cycle, but not less than once every three years, to—

"(1) identify the population of students receiving Federal student aid;

"(2) determine the income distribution and other socioeconomic characteristics of federally aided students;

"(3) describe the combinations of aid from State, Federal, and private sources received by students from all income groups; and

"(4) disseminate such information in both published and machine readable form.

"(b) BREADTH AND DESIGN OF SURVEY.—The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

"SEC. 493. NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING THE COSTS OF POSTSECONDARY EDUCATION.

"(a) FINDINGS.—The Congress finds—

"(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and the Nation's economic potential, its strength, security, and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

"(2) that it is the responsibility of the Federal Government to establish a clearly defined national policy regarding—

"(A) the role and expectations of respective institutions in society (the family unit, institutions of higher education, government, and the individual in financing the costs of postsecondary education);

"(B) the most efficient and effective use of limited Federal, State, and private resources for supplementing the family effort in financing postsecondary education and for creating incentives for individuals and families to plan for financing postsecondary education; and

"(3) the appropriate response to economic, budgetary, demographic, and social changes which will require individuals, families, institutions of higher education, and government to plan and adapt to the future needs for student financial assistance for postsecondary education.

"(b) ESTABLISHMENT OF THE COMMISSION.—(1) There is established as an independent agency in the executive branch a Commission to be known as the National Commission on Family Responsibilities for Financing Postsecondary Education (hereafter in this section referred to as the 'Commission').

"(2) The Commission shall be composed of 9 members, three of whom shall be appointed by the President, three of whom shall be appointed by the Speaker of the House of Representatives, and three of whom shall be appointed by the majority leader of the Senate. The membership of the Commission shall provide expertise and experience in the provision and financing of postsecondary education, including student financial aid administrators, secondary school administrators, individuals skilled in education economics research, individual having expertise in the development of standards and systems of need analysis for student assistance programs, and individuals with particular expertise in credit financing for postsecondary education.

"(c) DUTIES OF THE COMMISSION.—

"(1) IN GENERAL.—The Commission shall study and investigate the extent to which—

"(A) there is a consistent and coherent Federal policy regarding the appropriate family role in financing the costs of postsecondary education for family members;

"(B) the current Federal laws and regulations promote the stated Federal policy; and

"(C) the extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area.

"(2) REPORT AND RECOMMENDATIONS.—The Commission shall—

"(A) summarize the appropriate findings of the National Commission on Student Financial Assistance;

"(B) recommend to the Congress a comprehensive analysis on the extent to which a consensus exists regarding the appropriate role of the family in financing postsecondary education;

"(C) to the extent that a consensus exists, recommend changes in current law that would be required to achieve the desired Federal policy, including recommendations on Federal incentives to encourage families to plan and save for their financial responsibilities in financing postsecondary education for family members taking into account the needs of future generations.

"(d) SPECIFIC REQUIREMENTS.—In carrying out its responsibilities under subsection (c), the Commission shall make a study of the following areas:

"(1) NEED ANALYSIS.—

"(A) The most appropriate mechanisms for measuring student and family ability to pay for postsecondary education.

"(B) The incentives and disincentives for family saving in existing need analysis systems.

"(C) The feasibility and impact of different need analysis systems and eligibility formulas for determining student and family contributions for Federal and non-Federal grant, loan, and work-study programs.

"(D) The extent to which existing systems of need analysis take into account the circumstances of older and non-traditional students, students with minor dependents, and divorced and separated parents.

"(E) The extent to which existing systems of need analysis recognize differing regional economic conditions.

"(F) The feasibility of a simplified need analysis system for determining ability to pay for low-income families, economically disadvantaged families, and families receiving public assistance benefits.

"(G) The postsecondary education financing 'partnership', and the impact of external influences, such as economic conditions or State-level initiatives, that affect the balance of financial support among students and their families, the Federal Government, States, postsecondary institutions, credit institutions, and the private sector.

"(2) STUDENT INDEPENDENCE.—The most appropriate mechanisms and factors to be considered in determining student independence and self-support and in determining when families should be expected to provide parental financial information in determining expected family contributions for Federal student assistance programs.

"(3) PARENTAL RESPONSIBILITY.—In consultation and cooperation with associations of higher education institutions and administrators, secondary schools, student and parent associations, and other organizations, the most effective means of reinforcing and promoting the principle of parental responsibility for contributing, to the extent that they are able, to the costs of their children's postsecondary education.

"(4) STUDENT RESPONSIBILITY.—The most effective mechanisms for measuring student ability to contribute to educational cost through earnings and savings, the extent to which such mechanisms reflect the circumstances of students from disadvantaged families, and the existing levels of student contributions from past, current, and future earnings.

"(5) INSTITUTIONAL RESPONSIBILITY.—The most effective mechanisms of reinforcing and promoting the principle of institutional responsibility for providing need-based aid to students attending postsecondary institutions.

"(6) GOVERNMENTAL RESPONSIBILITY.—The most efficient and appropriate mechanisms for providing student assistance from the various levels of government.

"(7) EARLY INFORMATION, PLANNING, AND INFORMATION TECHNOLOGY.—The extent to which programs providing early information on postsecondary education, costs, and financial aid programs to students and their families influence educational opportunity and family saving.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,500,000.

"(f) TERMINATION.—The Commission shall terminate two years after the initial appointment of members.".

SEC. 482. CONFORMING PROVISION.

Effective with respect to any academic year beginning on or after July 1, 1987, the Student Financial Assistance Technical Amendments Act of 1982 is repealed.

TITLE V—AMENDMENT TO TITLE V OF THE ACT

SEC. 501. REVISION OF TITLE V.

Title V of the Act is amended to read as follows:

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title—

"(1) to assist in strengthening the content and delivery of teacher preparation programs;

"(2) to promote school, college, and university partnerships which advance the quality of teacher education programs and provide a stronger link between teacher preparation programs and the challenges facing today's classroom teachers;

"(3) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills and expansion of their subject matter expertise;

"(4) to improve the leadership and administrative skills of elementary and secondary school administrators; and

"(5) to support data collection and research activities on teaching which better direct Federal, State, and local resources.

"SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

"(a) EXCELLENCE IN TEACHER EDUCATION PROGRAMS.—For part A, there are authorized to be appropriated $10,000,000 for subpart 1 for fiscal year 1987 and $4,000,000 for subpart 2 for fiscal year 1987, and such sums as may be necessary to carry out the provisions of such part for each of the four succeeding fiscal years.

"(b) SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS.—For part B, there are authorized to be appropriated $20,000,000 for subpart 1 for fiscal year 1987, $7,500,000 for subpart 2 for fiscal year 1987, and such sums as may be necessary to carry out the provisions of such part for each of the four succeeding fiscal years.

"(c) PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAMS.—For part C, there are authorized to be appropriated $20,000,000 for subpart 1 and $20,000,000 for subpart 2 for fiscal year 1987, and such sums as may be necessary to carry out the provisions of such part in each of the four succeeding fiscal years.

"(d) TEACHER SCHOLARSHIPS AND FELLOWSHIPS.—For part D, there are authorized to be appropriated $5,000,000 for subpart 1, $20,000,000 for subpart 2, and $2,000,000 for subpart 3 for fiscal year 1987, and such sums as may be necessary to carry out the provisions of such part in each of the four succeeding fiscal years.

"(e) RESEARCH, DATA COLLECTION, AND PLANNING.—For part E, there are authorized to be appropriated $2,000,000 for subpart 1 for fiscal year 1987, $1,000,000 for subpart 2 for fiscal year 1987, and such sums as may be necessary to carry out the provisions of such part in each of the four succeeding fiscal years.

"PART A—EXCELLENCE IN TEACHER EDUCATION PROGRAMS

"Subpart 1—Enhancing the Quality of Teacher Education Programs.

"SEC. 511. PROGRAM AUTHORITY AND REQUIREMENTS.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to make grants, in accordance with the provisions of this subpart, to institutions of higher education and combinations of such institutions, including community and technical colleges, for programs which are designed and implemented jointly with local elementary and secondary schools, to provide institutional support for teacher education programs, to promote accessibility, diversity, and quality curricula, and to provide convenient and economical services for the participants.

"(b) USE OF FUNDS.—Grants under this subpart may be used for developing and implementing—

"(1) high quality teacher education programs having selective admissions criteria, and encouraging talented students to enter into such programs, including recruitment of students from minority populations;

"(2) cooperative projects and programs involving faculties of liberal arts and sciences and faculties of education to revise and strengthen general studies and professional education programs, including programs incorporating clinical experiences and nontraditional teacher preparation programs involving course curricula in excess of four years;

"(3) joint projects between local education agencies and institutions of higher education to provide programs of assistance for beginning teachers;

"(4) clinical experience programs for teacher education candidates which are interspersed throughout their training program and involve classroom teachers from the school site;

"(5) assistance in the design and development of staff development units involving teams of faculty, elementary and secondary school teachers, and administrators to work together on school site projects;

"(6) projects jointly involving college and university faculty and elementary and secondary school faculty in the practical application of educational research and evaluation findings, and the integration of such research into the teacher education program;

"(7) alternative professional preparation programs for nontraditional teacher education students but maintaining the same standard for graduation;

"(8) special support to institutions preparing teachers to serve in disciplines where shortages have been identified through the data collection required under part E;

"(9) teacher education programs designed to meet the needs of historically underrepresented populations and institutions with large numbers of such populations as identified through the data collection required under part E;

"(10) staff development projects for faculty of collegiate departments to provide training to familiarize faculty with research on teaching, learning, and innovative teaching practices;

"(11) programs to train education personnel in the application of new and advanced technologies; and

"(12) training educational personnel who will specialize in the teaching of disadvantaged Native Hawaiians and the development of model projects to carry out improved preservice or support activities for teachers of Native Hawaiian elementary and secondary students.

"(c) APPLICATION REQUIREMENTS.—(1) No grant may be made under this subpart, except as described in paragraph (2), unless an application is made by an institution of higher education, or a combination of such institutions including community and technical colleges, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each applicant shall use the assistance provided under this subpart to supplement and not to supplant activities conducted by institutions of higher education described in subsection (a).

"(2)(A) The Secretary is authorized, in the State of Hawaii, to enter into contracts with a local school of education and organizations recognized by the Governor of the State of Hawaii which primarily serve and represent Hawaiian natives for the purpose of conducting and administering programs, or portions of programs, that benefit Hawaiian natives and are consistent with the purposes of this section.

"(B) For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"Subpart 2—Midcareer Teacher Training for Nontraditional Students

"SEC. 512. PROGRAM AUTHORITY AND REQUIREMENTS.

"(a) PURPOSE.—It is the purpose of this subpart to encourage institutions of higher education with schools or departments of education to establish and maintain programs that will provide teacher training to individuals who are moving to a career in education from another occupation.

"(b) SELECTION PROCEDURES.—From the funds available for this subpart, the Secretary shall make grants to institutions of higher education on the basis of the competitive selection among qualifying applications. Institutions selected as recipients shall be awarded (1) an initial planning grant for use during the first two fiscal years after selection, and (2) for those institutions demonstrating successful performance with the planning grant, a renewal grant for use during not more than two additional years.

"(c) CONTENTS OF APPLICATIONS.—Applications for grants under this subpart shall demonstrate that—

"(1) the applicant will establish and maintain a program of midcareer teacher retraining designed to prepare individuals for teacher certification requirements who already have a baccalaureate or advanced degree and job experience in education-related fields of study;

"(2) the applicant has designed a program which includes at least the following elements:

"(A) a screening mechanism to assure that individuals who are admitted to the program possess the current subject matter knowledge needed and the characteristics that would make them likely to succeed as classroom teachers;

"(B) a clear set of program goals and expectations which are communicated to participants; and

"(C) a curriculum that, when successfully completed, will provide participants with the skills and credentials needed to teach in specific subject areas as well as a realistic perspective on the educational process;

"(3) the program has been developed with the cooperation and assistance of the local business community;

"(4) the program will be operated under a cooperative agreement between the institution and one or more State or local educational agencies; and

"(5) the program will be designed and operated with the active participation of qualified classroom teachers and will include an

in-service training component and follow-up assistance.

"(d) REVIEW OF APPLICATIONS.—Applications for grants under this subpart shall be reviewed by a panel of experts in teacher training designated by the Secretary. The Secretary shall, to the extent of available funds, select at least one applicant from each of the ten regions served by the Department of Education and assure that programs offered reflect all significant areas of national need in which shortages exist.

"(e) AMOUNT OF GRANTS.—The initial planning grant to an institution of higher education shall not exceed $100,000 for the two years for which it is available. The renewal grant to an institution shall not exceed $50,000 for each of the two years for which it is available.

"(f) REPORTS AND INFORMATION.—Each institution of higher education that receives a grant under this subpart shall submit to the Secretary such reports and other information on the program it conducts under this part as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education for the purpose of promoting greater use of midcareer teacher training programs without direct Federal financial assistance.

"PART B—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

"Subpart 1—University and High School Partnerships

"SEC. 521. GENERAL PURPOSE.

"It is the purpose of this subpart to encourage partnerships between institutions of higher education and secondary schools serving low-income students, to support programs that improve the academic skills of public and private nonprofit secondary school students, increase their opportunity to continue a program of education after high school and improve their prospects for employment after high school.

"SEC. 522. PARTNERSHIP AGREEMENT.

"(a) PARTNERSHIP AGREEMENT.—To be eligible for a grant under this subpart, an institution of higher education and a local education agency must enter into a written partnership agreement. A partnership may include businesses, labor organizations, professional associations, community-based organizations or other private or public agencies or associations. All partners shall sign the agreement.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnerships;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources to be contributed by each participant in the partnership.

"SEC. 523. GRANTS.

"(a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated for this subpart pursuant to section 502(b), the Secretary shall reserve 65 percent to carry out programs operating during the regular school year and 35 percent to carry out programs operating during the summer.

"(b) AMOUNT AND USE OF GRANTS.—From such funds, the Secretary shall make grants of no less than $250,000 and no more than $1,000,000. The grants may be used by the partnership for programs that—

"(1) use college students to tutor high school students and improve their basic academic skills;

"(2) are designed to improve the basic academic skills of high school students;

"(3) are designed to increase the high school student's understanding of specific subjects;

"(4) are designed to improve the high school student's opportunity to continue a program of education after graduation; and

"(5) are designed to increase the high school student's prospects for employment after graduation.

"(c) PREFERENCES.—In making grants under this subpart, the Secretary shall give a preference to—

"(1) programs which will serve predominantly low-income communities;

"(2) partnerships which will run programs during the regular school year and the summer; and

"(3) programs which will serve educationally disadvantaged students, potential dropouts, pregnant adolescent and teen parents, or children of migratory agricultural workers or of migratory fishermen.

"SEC. 524. APPLICATION FOR GRANTS.

"(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this subpart must submit an application to the Secretary.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the written and signed partnership agreement;

"(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

"(3) a description of the programs to be developed and operated by the partnership;

"(4) assurances to the Secretary that—

"(A) the partnership will establish a governing body including one representative of each participant in the partnership;

"(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

"(C) a local educational agency receiving funds under this subpart shall not reduce its combined fiscal effort per student or its aggregate expenditure on education; and

"(D) a local educational agency receiving funds under this subpart shall use the Federal funds so as to supplement and, to the extent practical, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in the project, and in no case may funds be used to supplant such non-Federal funds; and

"(5) provide such information and meet such conditions as may be required by the Secretary.

"SEC. 525. COMMUNITY COLLEGE PILOT PROJECT.

"(a) PROGRAM AUTHORIZED.—In addition to the grants awarded under section 523, the Secretary is authorized to award four grants for pilot community college partnership projects under this section.

"(b) PARTNERSHIP AGREEMENTS.—To be eligible for a grant under this section, a community college shall enter into a partnership agreement as in accordance with section 522 with a local educational agency and at least one local business or industry.

"(c) AMOUNT AND USE OF GRANTS.—Grants under this section shall be no less than $250,000. The grants may be used by the partnership for programs that—

"(1) use college students to tutor high school students and improve their basic academic skills;

"(2) are designed to improve the basic academic skills of high school students;

"(3) are designed to increase the high school student's understanding of specific subjects;

"(4) are designed to improve the high school student's opportunity to continue a program of education after graduation; and

"(5) are designed to increase the high school student's prospects for employment after graduation.

"(d) APPLICATION.—To receive a grant under this section, a community college shall submit an application in accordance with section 524(b).

"(e) AWARD OF GRANTS.—In making awards under this section, the Secretary shall give preference to applications indicating that the business or industry partner is engaged in technological or aerospace activities.

"(f) ELIGIBLE INSTITUTIONS.—The institutions which may be awarded grants under this section are—

"(1) the Wayne County Community College of Wayne County, Michigan;

"(2) the Community College of Vermont;

"(3) the Compton Community College of Compton, California; and

"(4) the Metropolitan Community College of Kansas City, Missouri.

"(g) REPORTS AND INFORMATION.—Each community college that receives a grant under this subpart for establishing pilot projects shall submit to the Secretary such reports and other information as requested in order to evaluate program effectiveness and to disseminate information on exemplary programs to other community colleges, area vocational-technical schools, and other institutions of higher education, for the purposes of promoting greater use of university-high school partnerships without direct Federal financial assistance.

"Subpart 2—Teaching Academies Demonstration Projects

"SEC. 526. PURPOSE.

It is the purpose of this subpart to establish teaching academy demonstration projects to provide more effective instruction and guidance in the development of teaching skills through the creation of internships for beginning teachers. Such internships will be directed by experienced, highly qualified teachers with input on recent research on teaching effectiveness from schools of education. Such internships would give beginning teachers greater time and assistance in making the transition from college study to actual teaching by allowing them to teach a reduced load during their beginning year, with the nonteaching time spent in seminars and programs learning from and observing experienced teachers and benefiting from the most recent research findings on effective teaching and classroom techniques.

"SEC. 527. TEACHING ACADEMIES.

"(a) AUTHORITY.—(1) In order to establish demonstration programs to promote better transition into classroom practice for entry level teachers, the Secretary is authorized to make grants to consortia of schools of education and local education agencies to assist such consortia in the planning, establishment, and operation of teaching academies.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'teaching academy' means any program operated by local education agencies and their teachers in conjunction with a school of education, in which qualified local education agency teachers with a

minimum of 7 years of teaching experience—

"(A) serve as adjunct faculty to assist in the further training of entry level teachers, with the organization and supervision of such adjunct faculty shared between the school of education and the local education agency; and

"(B) provide supervision and instruction to entry level teachers in order to assure that entry level teachers have greater opportunity to plan, seek guidance, observe experienced teachers, make use of available resources to improve their professional skills, and gradually assume greater levels of responsibility as teachers;

"(2) the term 'school of education' means institutions of higher education, and administrative units of institutions of higher education, specializing in the training of individuals to serve as teachers, guidance and counseling personnel, administrative personnel, or other education specialists; and

"(3) the term 'entry level teacher' means any teacher who has met the State teacher certification requirements within the last 24 months or has been employed as a full-time teacher from a public or private nonprofit school for no more than one year since certification.

"SEC. 528. REQUIREMENTS OF GRANT RECIPIENTS.

"(a) INTERNSHIPS.—Each teaching academy shall provide one-year internships for entry level teachers who have met initial State certification requirements for teaching. Entry level teachers participating in such internships shall teach fewer classes than the normal full teaching load required by the local education agencies. The time made available by the reduced teaching load shall be spent in observation of adjunct faculty's classroom teaching skills, seminars, classes or other activities conducted or directed by the adjunct faculty in conjunction with the school of education and with programs operated under section 531 where applicable.

"(b) SUPERVISION OF ACADEMY.—Each teaching academy shall be operated under the supervision of a teaching academy policy board, the majority of which is composed of qualified elementary and secondary classroom teachers, but which includes representatives of, or designees of, the school board of the local school district participating in the academy, at least one entry level teacher, at least one representative designated by the school of education participating in the academy, at least one representative of the local community, and at least one representative of local business.

"(c) APPLICATIONS.—Any local education agency and school of education desiring to receive a grant under this section shall make application therefor at such time, in such manner and containing or accompanied by such information, as the Secretary may by regulation require. Such applications shall be submitted jointly by the local education agency, the school system's teachers' organization, and a school of education. The Secretary's approval of the application shall be on a competitive basis.

"SEC. 529. CONTENTS OF GRANT PROPOSALS.

"A grant under this Act may be made only if the proposal provides—

"(1) assurances that the applicant has demonstrated knowledge of and ability to link current research on teaching and classroom skills with effective teacher development and screening;

"(2) sufficient input from the school of education to demonstrate a commitment on the part of the school of education to continue programs to improve the selection, evaluation, and training of entry level teachers;

"(3) specific, objective criteria by which the adjunct faculty and entry level teachers participating in the teaching academy will be selected; and

"(4) assurances from the local education agency that both the adjunct faculty and the entry level teachers will be granted sufficiently reduced classroom responsibilities to ensure adequate time for the planning, development, and execution of the various seminars, programs, and activities described in the proposal.

"SEC. 530. REPORT.

"Within 3 years of the establishment of such teaching academies, the Secretary shall file a report with the Congress evaluating the strengths and weaknesses of the teaching academies, with recommendations for their improvement and coordination with the other parts of this title.

"PART C—PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAMS

"Subpart 1—Professional Development Resource Centers

"SEC. 531. PROGRAM AUTHORITY AND PURPOSE.

"(a) AUTHORITY.—The Secretary is authorized to make grants under this subpart to assist teachers from public and private nonprofit schools in the continuous improvement of their professional skills and the expansion and updating of their subject matter expertise by establishing professional development resource centers for teachers.

"(b) PURPOSE.—It is the purpose of this subpart to assist in the establishment of professional development resource centers that will—

"(1) help teachers make effective use of educational tools including understanding new technologies and their application;

"(2) enhance teachers' subject matter expertise;

"(3) help teachers learn new classroom management techniques;

"(4) help teachers learn and apply the latest research on learning and teaching;

"(5) help teachers to apply creative approaches toward achieving instructional goals, including making the best use of available community resources; and

"(6) help retain effective teachers in the profession by providing them with collegial interaction and support and opportunities for professional growth.

"SEC. 532. GEOGRAPHICAL DISTRIBUTION OF GRANTS.

"In making grants under this subpart, the Secretary shall ensure that eligible applicants within each State receive sufficient funds to plan, establish, or operate at least one professional development resource center within the State in each fiscal year.

"SEC. 533. GRANT REQUIREMENTS.

"(a) ELIGIBLE APPLICANTS.—The Secretary is authorized to make grants to local educational agencies or consortia of local educational agencies, in accordance with the provisions of this section, to assist such agencies in planning, establishing, and operating professional development resource centers.

"(b) DEFINITION OF CENTER.—For the purpose of this part, the term 'professional development resource centers' means any year-round program operated by a local educational agency, a combination of such agencies, or an educational service agency which serves teachers from public and private nonprofit schools in a State or from an area or community within a State. Through the centers, teachers, with the assistance of such consultants and experts as may be necessary, including expertise available at institutions of higher education, shall conduct activities to advance the goal of professional excellence and to improve teaching skills for the teachers they serve.

"(c) USE OF FUNDS.—Grants under this subpart may be used for—

"(1) developing and disseminating curricula designed to meet the educational needs of students in kindergarten through grade 12, in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula, and including the use of technology and telecommunications;

"(2) providing training to enable teachers to better meet the educational needs of students and to familiarize teachers with developments in curriculum, testing, and educational research including the manner in which the research can be used to improve classroom instruction;

"(3) providing for dissemination of information to those served by the center and to other professional development resource centers nationally about the activities and services of the centers;

"(4) bringing together teachers and materials from various school sites to serve as resources for teachers using the center;

"(5) encouraging collaborative activities between elementary and secondary school teachers and faculty at institutions of higher education;

"(6) encouraging the application of institutional and community resources to the goal of improving the quality of classroom instruction; and

"(7) providing professional development opportunities for teachers of special population groups (handicapped children, limited English proficient children, educationally and economically disadvantaged children) in rural settings.

"SEC. 534. PROFESSIONAL DEVELOPMENT POLICY BOARD.

"Each professional development resource center shall be planned and operated under the supervision of a professional development policy board, the majority of which shall be representatives or designees of the public and private nonprofit, elementary and secondary classroom teachers to be served by such center. Such board shall also include individuals representative of, or designated by, school administrators, the school board (or boards) of the local educational agency (or agencies) served by such center, local business and at least one representative designated by institutions of higher education, when such institutions are located within reasonable proximity of the center, including but not limited to institutions that have departments, schools, or colleges of education.

"SEC. 535. SUBMISSION AND APPROVAL OF APPLICATIONS.

"(a) SUBMISSION.—(1) Any local educational agency or any consortium of local educational agencies including educational service agencies, desiring to receive a grant under this subpart shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Secretary may by regulation require. Each application shall be submitted through State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and rec-

ommend each application the State agency finds should be approved. The recommendations of the State education agency shall be taken into consideration by the Secretary in awarding grants under this part.

"(2) Each State education agency, in reviewing local educational agency applications for a grant under this subpart, shall seek to assure an equitable within-State geographical distribution of center grant funds so that both large urban and small rural school districts are served.

"(b) PRIORITIES AND PREFERENCES FOR SELECTION.—Priority for awards under this subpart will be given to those agencies that demonstrate a commitment to establishing and maintaining a high quality and professional working environment for elementary and secondary teachers. Preference shall be given to applications which involve teachers as instructors as well as learners in center activities.

"(c) MINIMUM REQUIREMENTS.—A grant under this subpart may be made only if the application provides—

"(1) satisfactory assurances that the program designed for the professional development resource center is based on a thorough assessment of instructional and professional development needs identified by the teachers to be served and establishes goals for the center derived from such assessment;

"(2) satisfactory assurances that the program the center plans to provide will meet the needs of the teachers served, including assurances that center activities will lead to in-depth and incremental knowledge and skill development;

"(3) a description of the activities planned to meet the center's goals;

"(4) procedures for the conduct of a yearly evaluation of center activities;

"(5) satisfactory assurances that the center will employ a full-time center director who has had classroom teaching experience and other staff as may be necessary;

"(6) satisfactory assurances that teachers will be given adequate paid time away from classroom activities to participate in center activities; and

"(7) satisfactory assurances that the facilities of the center will not be used for the purpose of influencing the result of an election to an office in Federal, State, or local government or for the purpose of supporting or opposing any campaign for such office.

"(d) SELECTION PROCEDURES.—(1) In approving any application under this subpart, the Secretary shall take into account the resources which the applicant will provide in addition to Federal funds provided under this or any other Federal program.

"(2) In approving applications under this subpart, the Secretary shall substantially involve teachers in reviewing and recommending programs for funding.

"(e) SUBCONTRACTING.—Any local educational agency having an application approved under this subpart may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application.

"(f) RESERVATION FOR DIRECT EXPENDITURES.—Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that professional development resource centers be operated by local educational agencies, 10 percent of the funds expended under this subpart may be expended directly by the Secretary to make grants to institutions of higher education to operate professional development resource centers, subject to the other provisions of this subpart.

"Subpart 2—Leadership in Educational Administration Development

"SEC. 536. PURPOSE; INTENTION; REGULATIONS.

"(a) PURPOSE.—It is the purpose of this subpart to improve the level of student achievement in public and private nonprofit elementary and secondary schools through the enhancement of the leadership skills of school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of public and private nonprofit elementary and secondary school administrators with particular emphasis upon increasing access for minorities and women to administrative positions.

"(b) INTENTION.—It is the intention of Congress that contractors seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in—

"(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives;

"(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

"(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

"(4) mastering and implementing objective techniques for evaluating teacher performance; and

"(5) improving communication, problem-solving, student discipline, time-management, and budgetary skills.

"(c) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out this subpart.

"SEC. 537. ALLOCATION OF APPROPRIATIONS.

"Of the amount appropriated for this subpart for any fiscal year, the Secretary shall make available an amount as may be necessary for establishing and operating a technical assistance center in each State, but not less than $150,000 for each State.

"SEC. 538. TECHNICAL ASSISTANCE CENTERS.

"(a) ELIGIBLE CONTRACTS RECIPIENTS.—The Secretary shall, subject to the availability of funds pursuant to section 537, enter into contracts with local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 539.

"(b) CONTRACT REQUIREMENTS.—Each contract entered into under subsection (a) shall require the contractor—

"(1) to make the services of the technical assistance center available to school administrators from any of the public and private nonprofit schools within the State served by that contractor;

"(2) to collect information on school leadership skills;

"(3) to assess the leadership skills of individual participants based on established effective leadership criteria;

"(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators;

"(5) to operate consulting programs to provide personnel within school districts with advice and guidance on leadership skills;

"(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian and military governmental agencies, and existing effective schools;

"(7) to conduct programs which—

"(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

"(B) offer internships in business, industry, and effective school districts to school administrators,

for the purpose of promoting improved leadership skills of such administrators;

"(8) to disseminate information on leadership skills associated with effective schools; and

"(9) to establish model administrator projects.

"(c) SELECTION OF CONTRACTORS.—In making a selection among applicants for any contract under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

"SEC. 539. GENERAL CRITERIA FOR CONTRACTS.

"(a) CONTRACT REQUIREMENTS.—The following criteria shall apply to each contract under this subpart:

"(1) The contract shall assure the involvement of private sector managers and executives in the conduct of such programs.

"(2) The contract shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this subpart through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this subpart, (B) making inkind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this subpart, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, private nonprofit schools, and local and State educational agencies.

"(3) The contract shall indicate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

"(4) The contract shall establish a system for the evaluation of the programs conducted.

"(b) DURATION OF CONTRACT.—Each contract under this subpart shall be for a term of three years subject to the availability of appropriations. Such contract shall not be renewable, except that a single three-year extension may be granted if the contractor agrees to maintain the programs with assistance under this part reduced by one-half.

"SEC. 540. DEFINITIONS.

"For the purposes of this subpart—

"(1) the term 'Secretary' means the Secretary of Education;

"(2) the term 'institution of higher education' has the meaning provided by section 1201 of the Higher Education Act of 1965;

"(3) the term 'school administrator' means a principal, assistant principal, district superintendent, and other local school administrators;

"(4) the term 'local educational agency' has the meaning provided by section 595 of the Education Consolidation and Improvement Act of 1981; and

"(5) the term 'leadership skills' includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques.

"PART D—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"Subpart 1—Training for Elementary and Secondary School Teachers to Teach Handicapped Children in Areas With Shortages

"SEC. 541. GRANTS AUTHORIZED.

"(a) GRANTS TO SUPPORT FELLOWSHIP PROGRAMS.—The Secretary is authorized to make grants, in accordance with the provisions of this subpart, to State educational agencies to enable such agencies to support a fellowship program of stipends and allowances to institutions of higher education for teachers to be trained to provide special education for handicapped children.

"(b) CRITERIA TO TARGET GRANT FUNDS ON NEED.—The Secretary shall establish criteria for—

"(1) determining if there is a shortage of teachers in the area of special education for handicapped children in the State;

"(2) assuring that the institutions of higher education, at which recipients of fellowships awarded under this part are pursuing courses of study, offer a program designed to prepare such recipients in the area of special education for handicapped children; and

"(3) assuring that individuals trained with assistance under this subpart receive specialized training in the subject areas in which there is the greatest need for such teachers.

"(c) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall assure an equitable distribution among the States of grants made under this subpart, consistent with criteria established under subsection (b).

"SEC. 542. APPLICATION REQUIREMENTS.

"(a) SUBMISSION AND CONTENTS.—No grant may be made under this subpart unless an application is made by a State educational agency at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe a fellowship program under which the State will make stipends to recipients and make allowances to institutions of higher education, in accordance with the provisions of this subpart, for teachers and other specialists to be trained in special education for handicapped children;

"(2) provide assurances that each recipient of a fellowship under this subpart will enter into an agreement with the State under which the recipient will—

"(A) within the five-year period after the completion of the training for which the fellowship was awarded, teach in the field of special education for handicapped children for a period of not less than two years in a public or private nonprofit elementary or secondary school in that State, or an educational program approved by the local educational agency or the State, which has, or has provided assurances that it will have, a special education program for handicapped children; or

"(B) repay all of the stipend awarded to the recipient plus the allowances paid to any institution of higher education based upon that fellowship in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control;

"(3) provide procedures under which recipients of fellowships who, for reasons beyond their control, teach less than the two-year period required under clause (2) of this subsection will have the repayment requirement reduced according to a schedule established by the State agency;

"(4) provide procedures under which stipends and institution of higher education allowances will be paid by the State agency in accordance with the provisions of this part; and

"(5) provide that the State agency will make continuing efforts to encourage recipients of fellowships under this subpart to continue to provide special education for handicapped children in areas where there is a shortage of such teachers.

"(b) APPROVAL OF APPLICATIONS.—The Secretary shall approve any application which meets the requirements of subsection (a) of this section. Prior to approving any applications under this section, the Secretary shall prepare regulations setting forth detailed requirements with respect to clauses (2) and (3) of subsection (a).

"SEC. 543. STIPENDS AND ALLOWANCES.

"(a) STIPEND AMOUNT.—(1) Each State educational agency receiving a grant under this subpart shall pay to individuals awarded fellowships under this subpart such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"(2) No stipend may be paid to any single recipient in any one year in excess of $9,000.

"(b) ALLOWANCES.—Each State educational agency receiving a grant under this subpart shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such individual is pursuing a course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"SEC. 544. FELLOWSHIP CONDITIONS.

"(a) CONCENTRATION ON ACADEMIC PURSUIT.—An individual awarded a fellowship under the provisions of this subpart shall continue to receive the payments provided in this subpart only during such periods as the State educational agency finds that the individual is maintaining satisfactory progress and devoting at least one-half of the full-time academic workload to study in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation. The amount of any payment to an individual engaged in such gainful employment shall be appropriately reduced pursuant to regulation.

"(b) PROOF OF COMPLIANCE.—The State educational agency is authorized to require reports containing such information in such form and to be filed at such times as it determines necessary from any individual awarded a fellowship under the provisions of this subpart. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education approved by the State educational agency, stating that such individual is making satisfactory progress in, and is devoting at least one-half of the full-time academic workload to, the program for which the fellowship was awarded.

"(c) SUPPORT OF RELIGIOUS INSTRUCTION PROHIBITED.—No fellowship shall be awarded under this subpart for study at a school or department of divinity.

"SEC. 545. DEFINITION.

"As used in this subpart 'special education' has the same meaning as prescribed by section 602(a)(16) of the Education of the Handicapped Act.

"Subpart 2—Congressional Teacher Scholarship Programs

"SEC. 546. DECLARATION OF PURPOSE.

"It is the purpose of this subpart to make available, through grants to the States, scholarships during fiscal years 1987 through 1991 to a maximum of ten thousand individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the elementary or secondary level. Such scholarships shall be referred to as 'Congressional Teacher Scholarships'.

"SEC. 547. ALLOCATION AMONG STATES.

"(a) PER CAPITA ALLOCATION.—From the sums appropriated for this subpart pursuant to section 502(d) for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) USE OF CENSUS DATA.—For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"SEC. 548. GRANT APPLICATIONS.

"(a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 546 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) CONTENT OF APPLICATIONS.—The Secretary shall approve an application under this subpart only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

"(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student

incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Congressional Teacher Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 550(b) of this part who receives a Congressional Teacher Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the ten-year period after completing the postsecondary education for which the Congressional Teacher Scholarship was awarded, teach, for a period of not less than two years for each year for which assistance was received, in a public or private nonprofit elementary or secondary school in any State, in a public education program in any State, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a school serving large numbers or high concentrations of economically disadvantaged students, or who teach children with limited English proficiency or handicapped children, the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 552 as required by the State agency; and

"(C) repay all or part of a Congressional Teacher Scholarship received under section 549 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 552, in the event that the conditions of clause (A) are not complied with, except as provided for in section 553;

"(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

"(A) a description of the procedures required to be established under paragraph (6); and

"(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

"(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 552 and 553;

"(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

"(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

"(9) provides assurances that Congressional Teacher Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

"(c) SELECTION CRITERIA AND PROCEDURES.—The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

"(d) SOLICITATION OF VIEWS ON SELECTION CRITERIA AND PROCEDURES.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

"SEC. 549. AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE.

"(a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c), each Congressional Teacher Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become an elementary or secondary teacher. No individual shall receive scholarship assistance for more than four years of postsecondary education, as determined by the State agency.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) ASSISTANCE NOT TO EXCEED NEED.—Congressional Teacher Scholarship assistance awarded by the statewide panel established pursuant to section 550 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. If the amount of the Congressional Teacher Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Congressional Teacher Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Congressional Teacher Scholarship established under this subpart, in any academic year, which shall exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending.

"SEC. 550. SELECTION OF CONGRESSIONAL TEACHER SCHOLARS.

"(a) SELECTION BY STATEWIDE PANELS.—Congressional Teacher Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, and parents.

"(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of Congressional Teacher Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Congressional Teacher Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

"SEC. 551. SCHOLARSHIP CONDITIONS.

"Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is (1) enrolled as a full-time student in an accredited postsecondary institution; (2) pursuing a course of study leading to teacher certification; and (3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SEC. 552. SCHOLARSHIP REPAYMENT PROVISIONS.

"Recipients found by the State agency to be in noncompliance with the agreement entered into under section 548(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

"SEC. 553. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 548(b)(4)(C) during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of three years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed twelve months;

"(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit elementary or secondary school or a public or private nonprofit education program; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"SEC. 554. FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

"(a) DISAPPROVAL HEARING REQUIRED.—The Secretary shall not finally disapprove any application for a State program submitted under section 548, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) COURT REVIEW.—(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"Subpart 3—National Talented Teacher Fellowship Program

"SEC. 555. DECLARATION OF PURPOSE.

"It is the purpose of this subpart to establish a national fellowship program for outstanding teachers.

"SEC. 556. USE OF FUNDS FOR FELLOWSHIPS AND ADMINISTRATION.

"Funds appropriated for any fiscal year for fellowships to outstanding teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 2.5 percent of such funds shall be used for purposes of administering this subpart.

"SEC. 557. TALENTED TEACHER FELLOWSHIPS.

"(a) AWARD DISTRIBUTION AND AMOUNTS.—(1) Except as provided under paragraph (3), sums available for the purpose of this subpart shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Talented teacher fellows may not receive an award for two consecutive years. Subject to the repayment provisions of section 560, talented teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least two years following the fellowship award.

"(3) If the appropriation for this subpart under section 502(d) is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 558.

"(b) USE OF AWARDS.—Talented teacher fellows may use such awards for such projects for improving education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

"SEC. 558. SELECTION OF TALENTED TEACHER FELLOWSHIPS.

"Recipients of talented teacher fellowships in each State shall be selected (in accordance with section 559) by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"SEC. 559. EVALUATION OF APPLICATIONS.

"(a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for talented teacher fellowship assistance shall submit proposals for projects under section 557(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such proposals to the local education agency for comment prior to submission to the statewide panel (appointed under section 558) for the State within which the project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting two recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to education; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

"(b) PUBLIC ANNOUNCEMENT.—Announcement of awards shall be made in a public ceremony.

"SEC. 560. FELLOWSHIP REPAYMENT PROVISIONS.

Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

"PART E—RESEARCH, ASSESSMENT, AND PLANNING

"Subpart 1—Research and Data Collection

"SEC. 561. PURPOSE.

"It is the purpose of this subpart to provide information about the supply of teachers, including demographic and academic background and the current and projected demand for teachers in elementary and secondary schools to improve local and State decisions about the need for teachers in each academic area and at each grade level, and for other purposes.

"SEC. 562. COLLECTION OF DATA AND RESEARCH.

"(a) IN GENERAL.—The Secretary shall utilize the legislative authority under section 406(b) of the General Education Provisions Act to annually assess current and future supply and demand for teachers with particular attention to—

"(1) long-term and short-term shortages of personnel in various subject areas or teaching specialties;

"(2) shortages in particular States or regions;

"(3) the number of minorities entering teaching;

"(4) the number of women and minorities entering educational administration;

"(5) the effect of State curriculum and graduation requirements on the need for teachers in each State;

"(6) the extent to which demographic characteristics of persons currently employed as teachers and persons studying to be teachers match the characteristics of the students in each state (race, age, sex);

"(7) the academic qualifications of prospective teachers and the academic preparation of persons currently preparing to be teachers;

"(8) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

"(9) an assessment of new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students, with added emphasis on the preparation required to teach combined classrooms of handicapped, or other highly targeted groups of students and other students within a vocational education setting.

"(b) OTHER EDUCATIONAL NEEDS.—The analysis conducted may include assessment of other educational needs identified by the Congress, including an assessment of the need for instructional equipment and materials in elementary and secondary schools and in institutions of higher education.

"SEC. 563. PAPERWORK REDUCTION AND REIMBURSEMENT OF RESPONDENTS.

"(a) REDUCTION OF REPORTING BURDEN.—In undertaking the data collection required under this subpart the Secretary shall take all necessary actions to reduce the reporting burden on respondents through use of voluntary responses and sampling techniques.

"(b) REIMBURSEMENT OF EXTRAORDINARY COSTS.—Subject to the availability of appropriations therefor, the Secretary may reimburse respondents for any extraordinary costs incurred in the provision of information to assist the Secretary in complying with this part.

"SEC. 564. RESEARCH GRANTS.

"The Secretary may award, in accordance with this subpart, grants to institutions of

higher education, including community and technical colleges, for the conduct of research consistent with the purposes of this part.

"Subpart 2—Requirement for State Task Forces on Teacher Training

"SEC. 571. REQUIREMENT FOR STATE TASK FORCES ON TEACHER TRAINING.

"(a) IN GENERAL.—No institution of higher education or other entity in any State shall be eligible for assistance under this title for any fiscal year beginning on or after October 1, 1987, unless the State educational agency has established a task force on teacher training in accordance with the requirements of subsections (b) and (c) of this section.

"(b) TASK FORCE.—The State educational agency, in consultation with the task force established under this section, shall be responsible—

"(1) for conducting a State-wide assessment of the State's needs for recruiting, retaining, retraining, and improving the performance of, instructional and administrative personnel in elementary and secondary schools within the State;

"(2) for developing plans to meet the needs identified pursuant to paragraph (1); and

"(3) for conducting such activities in cooperation with the State needs assessment required under section 208 of the Education for Economic Security Act (20 U.S.C. 3968).

The Secretary may waive the requirements of this subsection if the Secretary finds that the State educational agency has, prior to the date of enactment of this section, substantially complied with the requirements of paragraphs (1), (2), and (3) of this subsection.

"(c) MEMBERSHIP OF TASK FORCE.—A task force established under this section shall be composed of at least one representative of each of the following:

"(1) The Governor of the State.

"(2) The chief State school officer.

"(3) The State higher education executive officer.

"(4) The State board of education.

"(5) The deans of the schools or colleges of education within the State.

"(6) The presidents of colleges and universities within the State.

"(7) Elementary and secondary school teachers.

"(8) Elementary and secondary school administrators, including local superintendents and principals.

"(9) The State legislature.

"(10) Private nonprofit elementary and secondary education.

"(d) ALTERNATIVE MEMBERSHIP.—Any previously existing State organization or entity whose membership is substantially the same as the membership required by subsection (c) may, with the approval of the State educational agency, assume the responsibilities of the task force on teacher training under this section.

"(e) LONG-RANGE PLANNING.—From the funds available to carry out this subpart, a State educational agency may apply to the Secretary for assistance in order to develop a long-range plan, in consultation with the task force established under this section. Such plan shall—

"(1) assess the supply and determine the future needs of educators in the State;

"(2) assess the ability of teacher training institutions, the State educational agency, and local educational agencies within the State to meet such needs;

"(3) describe the steps being taken within the State to improve the qualifications and performance of practicing and prospective educators and the availability of training resources for such educators;

"(4) if determined to be appropriate by the State education agency, establish a program of competitive grants to local educational agencies, professional organizations, institutions of higher education, and consortia of such agencies and institutions within the State that are allocated in accordance with specific criteria developed by the task force on teacher training; and

"(5) provide for the performance of such other activities as are deemed appropriate to carry out purposes of this subpart.

"(f) DISPOSITION OF FUNDS TO STATES.—Funds appropriated for this subpart shall be allocated among the States based on the number of children aged 5 through 17, inclusive, except that no State shall receive less than the greater of $10,000 or 0.01 percent of the amount so appropriated.

"(g) STATE APPLICATIONS.—Any State educational agency which desires to obtain a grant under this subpart shall file an application with the Secretary which—

"(1) describes the methods which will be used to insure active and continuing consultation with the task force;

"(2) provides for timely public notice and public dissemination of the information collected and plans developed; and

"(3) insures that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary under this subpart.".

SEC. 502. TAFT INSTITUTE.

Section 1373 of the Education Amendments of 1980 is amended—

(1) by striking out "$750,000" and inserting in lieu thereof "$1,000,000"; and

(2) by striking out "1985" and inserting in lieu thereof "1991".

SEC. 503. DEVELOPMENT OF TEACHER WARRANTY STANDARDS.

(a) CONSULTATION AND PUBLICATION REQUIRED.—The Secretary shall develop, in consultation with representatives of State superintendents of public instruction, teacher organizations, and colleges of teacher education, standards for the establishment of teacher warranty programs. Such standards shall be developed and published in the Federal Register within one year after the date of enactment of this Act.

(b) DEFINITION.—For purposes of subsection (a), the term "teacher warranty program" means a program of a college of teacher education that provides, to its graduates who receive an unsatisfactory evaluation after the first or second year as a teacher, the training, retraining, or support the graduate requires to eliminate the deficiency (without further charge).

TITLE VI—AMENDMENTS TO TITLE VI OF THE ACT

SEC. 601. FINDINGS AND PURPOSES.

Section 601 of the Act is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

"(b) It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.".

SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS.

Section 602 of the Act is amended—

(1) in subsection (a)(1)—

(A) by striking out ", and enter into contracts with,";

(B) by striking out "or for research" and inserting in lieu thereof "for research";

(C) by inserting before the period at the end thereof ", or for instruction and research on issues in world affairs which concern more than one country";

(2) in subsection (a)(2), by striking out "or contract"; and

(3) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b)(1) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part in accordance with the following requirements:

"(A) Stipend recipients shall be individuals who are engaged in a program of competency-based language training in combination with area studies, international studies, or the international aspects of a professional studies program.

"(B) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2) The Secretary is also authorized to award, on the basis of a national competition, stipends to students in their third year of graduate training in accordance with the following requirements:

"(A) Stipend recipients shall be selected by a nationally recognized panel of scholars on the basis of exceptional performance on a nationally referenced test in the specialty language and evidence of substantial multidisciplinary area training.

"(B) Stipends may be held for up to a maximum four years contingent on periodic demonstration of a high level of language proficiency.

"(C) Stipends may be used for continuation of studies at the institution where the recipient is currently enrolled and for the conduct of research and advanced language study abroad.

"(3) The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available by grants under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1985 under paragraph (1).

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available

for such travel are expended as part of a formal program of supervised study.".

SEC. 603. LANGUAGE RESOURCE CENTERS.

Section 603 of the Act is amended to read as follows:

"LANGUAGE RESOURCE CENTERS

"SEC. 603. (a) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of establishing, strengthening, and operating centers, which serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

"(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

"(2) the development of new teaching materials reflecting the use of such research into effective teaching strategies;

"(3) the development and application of proficiency testing for use as a standard measure of skill levels in all languages;

"(4) the training of teachers in the administration and interpretation of proficiency tests, the use of effective teaching strategies, and the use of new technologies;

"(5) the publication of instructional materials in the less commonly taught languages; and

"(6) the dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

"(b) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.".

SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

Section 604 of the Act is amended—

(1) in subsection (a), by striking out "comprehensive";

(2) in subsection (a)(7), by striking out "in teacher training" and inserting in lieu thereof "pre-service and in-service teacher training";

(3) by inserting before the period at the end of subsection (b) the following: ", if such contribution cannot be made by eligible institutions under subsection (a) of this section"; and

(4) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary is also authorized to make grants to institutions of higher education whose applications are approved under subsection (a) for the purpose of providing assistance to model programs designed to improve and expand foreign language studies at those institutions. Any institution of higher education desiring to receive a grant under this subsection shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(2)(A) An institution of higher education shall not be eligible for a grant under this subsection for a fiscal year unless—

"(i) the sum of the number of students enrolled at such institution in qualified postsecondary language courses on October 1 of that fiscal year exceeds 5 per centum of the total number of students enrolled at such institution;

"(ii) such institution requires that each entering student have successfully completed at least two years of secondary school foreign language instruction or requires that each graduating student have earned two years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in a foreign language).

"(B) For purposes of subparagraph (A)(i), the total number of students enrolled in an institution shall be considered to be equal to the sum of (i) the number of full-time degree candidate students enrolled at the institution, and (ii) the number of part-time degree candidate students who are enrolled at the institution for an academic workload which is at least half the full-time academic workload, as determined by the institution in accordance with standards prescribed by the Secretary.

"(3) As a condition for the award of any grant under this section, the Secretary may establish criteria for evaluating programs assisted with funds under this section and require an annual report which evaluates the progress and proficiency of students in such programs.".

SEC. 605. INTENSIVE SUMMER LANGUAGE INSTITUTES.

Title VI of the Act is further amended—

(1) by redesignating sections 605, 606, and 607 as sections 606, 609, and 610, respectively; and

(2) by inserting after section 604 the following new section:

"INTENSIVE SUMMER LANGUAGE INSTITUTES

"SEC. 605. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing intensive summer language institutes. Grants made under this section may be used for intensive training in languages critical to the national economic and political future and in neglected languages. Such training shall be provided through—

"(A) institutes designed to meet the needs for intensive language training by advanced students and faculty;

"(B) institutes designed to improve the language skills of beginning or intermediate college and secondary school students (including students not enrolled in regular academic language courses) and faculty; or

"(C) institutes designed to provide professional development and improve language instruction through pre- and in-service training for language teachers.

"(2) Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

"(b) Grants made available under this section shall be awarded on the basis of recommendations made by peer review panels that are broadly representative of institutions of higher education.".

SEC. 606. RESEARCH; STUDIES; ANNUAL REPORT.

Section 606 (as redesignated by section 605 of this Act) is amended—

(1) by striking out "and part N of title III of the Elementary and Secondary Education Act of 1965"; and

(2) by striking out "listing of" in subsection (b) and inserting in lieu thereof "listing".

SEC. 607. PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES.

Title VI of the Act is further amended by inserting after section 606 (as redesignated by section 605 of this Act) the following new section:

"PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES

"SEC. 607. (a) In addition to the amount authorized to be appropriated by section 609, there is authorized to be appropriated $1,000,000 for fiscal year 1987, and such sums as may be necessary for each of the four succeeding fiscal years to provide assistance for the acquisition of, and provision of access to, periodicals published outside the United States.

"(b) From the amount appropriated under subsection (a) for any fiscal year, the Secretary shall make grants to institutions of higher education or public or nonprofit private library institutions or consortia of such institutions for the following purposes:

"(1) to acquire periodicals published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance;

"(2) to maintain current bibliographic information on periodicals thus acquired in machine-readable form and to enter such information into one or more of the widely available bibliographic data bases;

"(3) to preserve such periodicals; and

"(4) to make such periodicals available to researchers and scholars.

"(c) The Secretary shall approve as a recipient of a grant under this section only an institution or consortium which has an established library or consortium of libraries with collection strengths in either specific geographical areas of the world or particular fields or issues in world affairs which concern one or more countries, or both, and which demonstrates a commitment to share the resources of the collection.

"(d) Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, United States Code, relating to copyright.".

SEC. 608. SELECTION OF GRANT RECIPIENTS.

Title VI of the Act is further amended by inserting after section 607 (as added by section 607 of this Act) the following new section:

"SELECTION OF GRANT RECIPIENTS

"SEC. 608. (a) The Secretary shall award grants under section 602 competitively on the basis of criteria that that separately, but not less rigorously, evaluate the applications for undergraduate and graduate programs.

"(b) The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

"(c) To the extent practicable, the Secretary shall award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of assistance throughout the Nation, based on the merit of a proposal with review by peers from broadly representative institutions.".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Section 610 of the Act (as redesignated by section 605 of this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 610. There are authorized to be appropriated $70,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.".

SEC. 610. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.

Part B of title VI of the Act is amended—

(1) in section 611(a)(1) by inserting "and educational" after "skills in the business";

(2) by redesignating section 613 as section 614 and inserting after section 612 the following new section:

"STUDY ABROAD AND INTERNSHIPS

"SEC. 613. (a) The Secretary is authorized to make grants to institutions of higher education, or to consortia of such institutions, whose application is approved under subsection (b) for the purposes of providing assistance to enable advanced foreign language students to develop their language skills and their knowledge of foreign cultures and societies through study abroad. Such study abroad may be combined with an internship in an international business enterprise. Any institution or consortium whose application is so approved shall be eligible to receive a grant in an amount not to exceed one-half the cost of providing such assistance.

"(b) Any institution of higher education or consortium of such institutions desiring to receive a grant under this section shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No such application may be approved by the Secretary unless the application—

"(1) contains a description of the proposed program of study abroad in any of the following areas:

"(A) Latin America, the Caribbean, and Puerto Rico for the study of Spanish, Portuguese, and other major languages of that region;

"(B) the Middle East for the study of Arabic and other major languages of that region;

"(C) Japan for the study of Japanese;

"(D) the People's Republic of China or the Republic of China for the study of Chinese;

"(E) the Republic of Korea for the study of Korean;

"(F) the Union of Soviet Socialist Republics for the study of Russian and other major languages of that region;

"(G) Africa for the study of major languages of that region;

"(H) South Asia for the study of Hindi and other major languages of that region;

"(I) Eastern Europe for the study of major languages of that region;

"(J) Southeast Asia for the study of major languages of that region; and

"(K) the Netherlands for the study of major languages in that region;

"(2) provides adequate assurance that those who wish to participate will be selected on the basis of demonstrated proficiency in the language, as shown by testing comparable to that conducted by the Foreign Service Institute of the Department of State; and

"(3) demonstrates that the program will provide the opportunity to combine language study with the study of journalism, international business, finance, economic development, science, engineering, political science, international studies, or other related areas.

"(c) Funds available to institutions under this section may be used to cover costs associated with the study abroad program, including tuition, fees, administration, and living expenses.".

SEC. 611. ADVISORY BOARD.

Section 621 of the Act is amended to read as follows:

"ADVISORY BOARD

"SEC. 621. (a) Not less than two times each year the Secretary shall convene an advisory board on the conduct of programs under this title. The Advisory Board shall consist of—

"(1) five members selected by the Secretary from among members of the postsecondary educational community, at least two of whom shall be considered by their peers to be specialists in one or more fields of language, area, or international studies;

"(2) two members selected by the Secretary from among members of the public; and

"(3) two members selected by the Secretary from among representatives of the business community.

"(b) The Secretary may consult with, or include as ad hoc ex officio participants in Advisory Board meetings, a representative from any appropriate executive agency.

"(c) The Advisory Board shall advise the Secretary on—

"(1) any geographic areas of special concern to the United States;

"(2) innovative approaches which may help to fulfill the purposes of this title;

"(3) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations;

"(4) emerging trends within various segments (pre-college, undergraduate, graduate, and postgraduate) of the international education community;

"(5) administrative and staffing requirements of international education programs in the Department; and

"(6) special needs with regard to the programs operated under part B.

"(d) The Advisory Board shall advise the Secretary and the Congress on adequate budget levels for parts A and B of this title.".

TITLE VII—AMENDMENT TO TITLE VII OF THE ACT

SEC. 701. REVISION OF TITLE VII.

Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"SEC. 701. GENERAL PURPOSES.

"(a) IN GENERAL.—The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition and maintenance of special equipment if the primary purpose of such assistance is—

"(1) to enable such institutions to bring their facilities into conformity with the requirements of:

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

"(B) section 504 of the Rehabilitation Act of 1973;

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed; or

"(D) hazardous waste disposal, treatment, and storage requirements mandated by the Resource Conservation and Recovery Act of 1976, or similar State statutes;

"(2) to enable such institutions to more efficiently use available energy resources, especially coal, solar power, and other renewable energy resources;

"(3) to enable such institutions to detect, remove, or otherwise contain asbestos hazards in academic and other facilities used by students, in accordance with regulations prescribed by the Secretary;

"(4) to enable such institutions to construct, reconstruct, or renovate the Nation's academic and research facilities, including libraries, and to acquire and maintain special research and instructional equipment;

"(5) to enable such institutions to provide facilities for advanced skill training programs that relate to emerging technologies and skill needs;

"(6) to enable institutions with unusual increases in enrollment or with significant internal programmatic enrollment shifts (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

"(7) to enable such institutions to preserve significant architecture.

"(b) PRIORITY ON RENOVATION.—In the awarding of grants under this title, priority shall be given to projects involving the renovation of facilities.

"SEC. 702. APPROPRIATIONS AUTHORIZED.

"(a) PARTS A AND B.—There are authorized to be appropriated $100,000,000 for fiscal year 1987 and such sums as may be necessary for each of the succeeding four fiscal years for parts A and B, except that no funds may be appropriated for parts A and B for any such fiscal year unless at least $25,000,000 is appropriated for part E of this title for such fiscal year.

"(b) OTHER PROGRAMS.—There are authorized to be appropriated—

"(1) $50,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years for part C;

"(2) such sums as may be necessary for fiscal year 1987 and for each of the four succeeding fiscal years for part D; and

"(3) $50,000,000 for fiscal year 1987 and each of the four succeeding fiscal years for part E.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"SEC. 711. STATE PLAN.

"(a) SUBMISSION AND CONTENTS OF PLAN.—Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

"(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) certifying the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) HEARING REQUIRED BEFORE DISAPPROVAL.—The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

"(c) SUSPENSION FOR NONCOMPLIANCE.—Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determi-

nation is made that there is no longer a failure to comply.

"SEC. 712. BASIC CRITERIA.

"(a) SECRETARY TO PRESCRIBE CRITERIA.—The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

"(b) RULEMAKING PROCEDURES REQUIRED.—Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"SEC. 713. ALLOTMENT OF FUNDS.

"(a) USE FOR PUBLIC COMMUNITY COLLEGES AND TECHNICAL INSTITUTES; OTHERS.—From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 percent shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education.

"(b) ALLOTMENT FOR PUBLIC COMMUNITY COLLEGES AND TECHNICAL INSTITUTES.—(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

"(c) ALLOTMENT FOR OTHER INSTITUTIONS.—For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

"(d) AGGREGATE LIMITS AND RATABLE REDUCTIONS.—The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

"(e) REALLOCATION.—(1) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

"(2) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

"(f) USE FOR CONSTRUCTION, RECONSTRUCTION, RENOVATION.—Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

"(g) USE FOR MAINTENANCE.—In addition, an amount less than or equal to 15 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

"(1) instructional or research equipment, and

"(2) equipment and structural changes necessary to obtain and sustain the environment (temperature, air quality, etc.) requisite to proper functioning of a new or renovated laboratory,

may be allocated by the recipient for maintenance of equipment and changes described in clauses (1) and (2). Part or all of this percentage may also be applied to costs of upgrading said equipment and structural changes within three years of the date of initial use.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"SEC. 721. GRANTS.

"(a) GRANT TO INSTITUTIONS; STATE LIMITATION.—(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 percent of sums appropriated for this part.

"(b) PEER REVIEW REQUIRED.—In making grants under this section, the Secretary shall utilize a national peer review panel. Such panel shall make recommendations to the Secretary based on their assessment of—

"(1) the effectiveness of the program in the proposed use of Federal assistance; and

"(2) the extent to which the receipt of the grant will assist the institution in overcoming deficiencies in existing equipment and facilities.

"(c) CONTENTS OF APPLICATIONS.—Applications made pursuant to this section shall contain—

"(1) a description of the basic research programs of the applicant;

"(2) information specified by the Secretary to provide an indication of the ability of the institution to make effective use of the funds received;

"(3) a description of the advanced training programs of the institution;

"(4) an assessment of the applicant's past and projected contributions to the growth of knowledge in science; and

"(5) such other information as deemed necessary by the Secretary to carry out the purposes of this section.

"(d) COST LIMITATIONS.—The amount of the grant shall not exceed 50 percent of the development cost of the project. No funds or resources provided through Federal programs shall be used to meet the institution's share of the program supported under this section.

"(e) USE FOR MAINTENANCE.—An amount less than or equal to 15 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

"(1) instructional or research equipment, and

"(2) equipment and structural changes necessary to obtain and sustain the environment (temperature, air quality, etc.) requisite to proper functioning of a new or renovated laboratory,

may be allocated by the recipient for maintenance of equipment and changes described in clauses (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"SEC. 731. ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS.

"(a) SELECTION OF RECIPIENTS.—From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

"(1) not less than 20 percent of the development cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under part F of this title.

"(b) TERMS OF LOANS.—Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not more than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per-

cent, or (2) the rate of 5.5 percent per year, whichever is less.

"(c) USE FOR MAINTENANCE.—An amount less than or equal to 15 percent of that portion of a loan granted under this part which is allotted by the recipient to meet costs of—

"(1) instructional or research equipment, and

"(2) equipment and structural changes necessary to obtain and sustain the environment (temperature, air quality, etc.) requisite to proper functioning of a new or renovated laboratory,

may be allocated by the recipient for maintenance of equipment and changes described in clauses (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use.

"SEC. 732. GENERAL PROVISIONS FOR LOAN PROGRAM.

"(a) CONCLUSIVENESS OF SECRETARY'S TRANSACTIONS.—Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

"(b) GENERAL AUTHORITY.—In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which he has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) sell, exchange, or lease real or personal property and securities or obligations;

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which he is a party, including—

"(A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment; and

"(B) granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (c) if the repayment is (i) made from non-Federal sources, (ii) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (iii) made on a loan that has been outstanding for at least five years; and

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

"(c) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall, in consultation with the Secretary of the Treasury and to the extent consistent with the best financial interests of the Federal Government, compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5). The price which may be offered shall be the present value of the scheduled future payments on the loan discounted by using, as an imputed interest rate, the current market yields on outstanding marketable obligations of the United States having comparable maturities.

"SEC. 733. REVOLVING LOAN AND INSURANCE FUND.

"(a) ESTABLISHMENT.—There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the 'fund') which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

"(b) MANAGEMENT OF FUND.—(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

"PART D—GRANTS TO PAY INTEREST ON DEBT

"SEC. 741. ANNUAL INTEREST GRANTS.

"(a) GRANT AUTHORITY.—To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

"(b) LIMITS ON GRANTS.—The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) STATE ALLOCATION LIMITS.—The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 percent of sums appropriated for this section.

"(d) REQUIREMENTS FOR GRANTS.—No annual interest grant shall be made unless (1) assurance is provided that not less than 10 percent of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"PART E—COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION

"SEC. 751. CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION.

"(a) PURPOSE.—The Congress hereby declares that it is the purpose of this part to authorize participation of the United States Government and the Student Loan Marketing Association in a private, for profit corporation to be known as the College Construction Loan Insurance Association (hereinafter referred to as the 'Corporation') which will, directly or indirectly, alone or in collaboration with others—

"(1) guarantee, insure and reinsure bonds, debentures, notes, evidences of debt, loans and interests therein, the proceeds of which are substantially to be used for an education facilities purpose;

"(2) guarantee and insure leases of personal, real or mixed property substantially to be used for an education facilities purpose; and

"(3) issue letters of credit and undertake obligations and commitments as the Corporation shall deem appropriate for the purpose of increasing the availability of funds for educational facilities and equipment.

"(b) STATUS AS NON-GOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality or establishment of the United States Government and shall not be a 'Government corporation' nor a 'Government controlled corporation' as defined in section 103 of title 5, United States Code.

"(c) CORPORATE POWERS AND LIMITATIONS.—The Corporation shall be subject to the provisions of this part and, to the

extent not inconsistent with this part, to the District of Columbia Business Corporation Act. It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

"(d) DEFINITION OF EDUCATION FACILITIES PURPOSE.—As used in this section, an 'education facilities purpose' includes any activity relating to the construction, reconstruction, renovation, acquisition or purchase of (1) education, training or research facilities or housing for students, faculty or staff, (2) any underlying real property or any interest therein, (3) furniture, fixtures and equipment to be used in connection with any education or training facility or housing for students, faculty or staff, and (4) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

"SEC. 752. PROCESS OF ORGANIZATION.

"The Secretary of the Treasury, the Secretary of Education and the Student Loan Marketing Association shall each appoint two persons to be incorporators of the Corporation. If either the Secretary of the Treasury or the Secretary of Education fail to appoint incorporators within 90 days after the date of enactment of the Higher Education Amendments of 1985, the Student Loan Marketing Association shall have the authority to name the incorporators which have not been so appointed. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

"SEC. 753. OPERATION AND ELECTION OF BOARD OF DIRECTORS.

"(a) IN GENERAL.—The Corporation shall have a Board of Directors which shall consist of eleven members, of whom one shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of one year or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds. Two Directors shall be appointed by the Secretary of the Treasury; two Directors shall be appointed by the Secretary of Education; three Directors shall be appointed by the Student Loan Marketing Association; and the remaining four Directors shall be elected by the holders of the Corporation's voting common stock at least one of whom shall be a college or university administrator.

"(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-327(d)).

"SEC. 754. INITIAL CAPITAL.

"(a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within six months of its incorporation as shall be designated by the initial Board of Directors, for an aggregate consideration of not more than $30,000,000. During each of the four years thereafter, the Corporation shall issue additional voting common stock at such date or dates in each year determined by the Board for an aggregate consideration of not more than $55,000,000 in each year. Such shares shall be issued and sold to the Secretary of Education and the Student Loan Marketing Association in the ratio of five-to-one as provided in subsections (b) and (c) of this section.

"(b) SUBSCRIPTION BY SECRETARY OF EDUCATION.—The Secretary of Education is authorized and directed to subscribe to and purchase, in each of the five years referred to in subsection (a) of this section, voting common stock of the Corporation having an aggregate purchase price of not more than $25,000,000, subject to availability of appropriations.

"(c) SUBSCRIPTION BY ASSOCIATION.—The Student Loan Marketing Association is authorized to subscribe to and purchase in each of the five years referred to in subsection (a) of this section voting common stock of the Corporation having an aggregate purchase price of not more than $5,000,000.

"(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public in each of the five years referred to in subsection (a) of this section voting common stock having an aggregate purchase price of not more than $25,000,000. Not less than $10,000,000 of such stock shall be set aside for purchase by institutions of higher education prior to being offered to the general public.

"SEC. 755. ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC.

"The Corporation may issue without limitation as to amount or restriction as to ownership such nonvoting common, preferred and preference stock, debt and such other securities and obligations, in such amounts, at such times and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

"SEC. 756. OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY.

"No obligation which is insured, guaranteed or otherwise backed by the Corporation, shall be deemed to be an obligation which is federally guaranteed within the meaning of section 103(h) of the Internal Revenue Code of 1954, as amended. The priority established in favor of the United States by section 3466 of the Revised Statutes (31 U.S.C. 191) shall not establish a priority over the indebtedness of the Corporation.

"SEC. 757. EXEMPTION FOR CORPORATION FROM INSURANCE LAWS AND STATE QUALIFICATION LAWS.

"(a) INSURANCE LAWS.—The Corporation and its activities shall be exempt from the laws of any State, territory, possession, Commonwealth or dependency of the United States and of the District of Columbia regulating or licensing insurance or reinsurance, surety, guaranty or similar organizations and activities as they relate to the conduct of the Corporation's business.

"(b) QUALIFICATION LAWS.—The Corporation shall be exempt from the laws of any State, territory, possession, Commonwealth or dependency of the United States requiring the Corporation to be qualified to do business in such jurisdiction or having a similar requirement or purpose.

"SEC. 758. AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL.

"(a) AUTHORITY TO SELL.—The Secretary of Education may, at any time after a date which is five years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Student Loan Marketing Association at the price determined pursuant to subsection (b).

"(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) of this section shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase.

"(c) BOARD OF DIRECTORS ELECTED AFTER MAJORITY BUY-OUT.—If the Student Loan Marketing Association acquires from the Secretary of Education sufficient voting common stock so as to own more than 50 percent of the issued and outstanding voting common stock of the Corporation, section 753 (except subsection (b)) of this Act shall be of no further force or effect and the Board of Directors of the Corporation shall thereafter be elected entirely by the voting common shareholders.

"(d) TERMINATION OF OWNERSHIP RESTRICTIONS AND STATE LAW EXEMPTIONS AFTER COMPLETE BUY-OUT.—If the Student Loan Marketing Association acquires all of the issued and outstanding voting common stock of the Corporation owned by the Secretary of Education, section 757 shall be of no further force or effect as from the first day of the calendar year commencing after such acquisition is completed.

"(e) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Student Loan Marketing Association acquires all of the voting common stock owned by the Secretary, the Student Loan Marketing Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

"(f) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Student Loan Marketing Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Student Loan Marketing Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 754 and 755, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Student Loan Marketing Association and the Corporation.

"SEC. 759. USE OF STOCK SALE PROCEEDS.

"The proceeds received by the Secretary of Education upon the sale of any of its shares of the Corporation to the Student Loan Marketing Association shall be paid into a fund established on behalf of the Secretary of Education and administered by the Corporation. The purpose of the fund shall be to provide guarantees and insurance on behalf of those institutions of higher education which do not otherwise qualify for programs conducted by the Corporation because of an inability to comply with financial criteria required by the Corporation.

"SEC. 760. AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS.

"(a) The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

"(b) REPORTS.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this part, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a).

"PART F—HOUSING AND OTHER EDUCATIONAL FACILITIES LOANS

"SEC. 761. FEDERAL ASSISTANCE IN THE FORM OF LOANS.

"(a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist undergraduate postsecondary educational institutions in the construction, reconstruction, or renovation of housing, undergraduate academic facilities, and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

"(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

"(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

"(b) USE OF LOANS FOR PREVIOUSLY MADE CONTRACTS.—Any undergraduate postsecondary educational institution which, prior to the date of enactment of this section, has contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this title, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to the effective date of this section, or completed prior to the filing of an application under this title.

"(c) AMOUNT AND CONDITIONS OF LOANS.—A loan to an undergraduate postsecondary educational institution—

"(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

"(2) shall be secured in such manner and be repaid within such period, not exceeding fifty years, as may be determined by the Secretary; and

"(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in subsection (d) of this section.

"(d) USE OF FUNDS FROM TITLE IV OF THE HOUSING ACT OF 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be available for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(e) USE OF FUNDS.—Not less than 10 percent of the funds held by the Secretary under subsection (d) of this section shall be made available for loans under this part for each fiscal year.

"(f) APPROPRIATION TO COVER NOTES AND OBLIGATIONS NOT COVERED BY LOAN REPAYMENT.—There are authorized to be appropriated to the Secretary such sums as may be necessary, together with principal and interest payments made by postsecondary educational institutions assisted with loans made under this part (or under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.

"SEC. 762. GENERAL PROVISIONS.

"(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefore, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this part;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

"(6) obtain insurance against loss in connection with property and other assets held;

"(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (C) made on a loan that has been outstanding for at least five years; and

"(8) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

"(d) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall, in consultation with the Secretary of the Treasury and to the extent consistent with the best financial interests of the Federal Government, compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5). The price which may be offered shall be the present value of the scheduled future payments on the loan discounted by using, as an imputed interest rate, the current market yields on outstanding marketable obligations of the United States having comparable maturities.

"(e) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

"(f) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

"(g) WAGE RATES.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors or

any project assisted under this part, the construction or rehabilitation of which was commenced after the date of enactment of the Housing Act of 1950—

"(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

"(2) shall be employed not more than forty hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed;

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

"SEC. 763. APPORTIONMENT; PRIORITIES.

"(a) APPORTIONMENT.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

"(b) PRIORITIES.—In awarding loans under this part, the Secretary shall give priority—

"(1) to loans for renovation or reconstruction of undergraduate academic facilities;

"(2) to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period.

"SEC. 764. DEFINITIONS.

"For the purposes of this part—

"(a) HOUSING.—The term 'housing' means—

"(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

"(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

"(b) EDUCATIONAL INSTITUTION.—The term 'undergraduate postsecondary educational institution' means—

"(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a two-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

"(B) any public educational institution which—

"(i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

"(ii) offers technical or vocational instruction; and

"(iii) provides residential facilities for some or all of the students receiving such instruction;

"(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

"(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

"(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in clause (1) of this subsection without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

"(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 761, will pass to such institution (or to anyone or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

"(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in clause (1) of this subsection, but nothing in this paragraph shall require an institution included in clause (1) of this subsection to obtain loans or grants through any instrumentality included in this clause of this subsection; and

"(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in clause (1) of this subsection.

In the case of any loan made under section 761 to a corporation described in clause (3) of this subsection which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in clause (5) of this subsection, and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions): *Provided*, That where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

"(c) UNDERGRADUATE ACADEMIC FACILITIES.—(1) Except as provided in paragraph (2) of this subsection, the term 'undergraduate academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(2) The term 'undergraduate academic facilities' shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

"(d) DEVELOPMENT COST.—The term 'development cost' means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

"(e) FACULTIES.—The term 'faculties' means member of the faculty and their families.

"(f) OTHER EDUCATIONAL FACILITIES.—The term 'other educational facilities' means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

"PART G—SPECIAL PROGRAMS

"SEC. 771. WELCH HALL.

"(a) PROGRAM AUTHORITY.—In recognition of the unique architectural and historic significance to the education profession of Welch Hall, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for the purpose of the renovation and restoration of the physical facilities of Welch Hall.

"(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"SEC. 772. ACADEMIC HEALTH EDUCATION CENTER AUTHORIZED.

"(a) ASSISTANCE AUTHORIZED.—The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the Rochester Institute of Technology located in Rochester, New York, to pay the Federal share of the cost of construction, and related costs (including equipment), for the Academic Health Education Center facility at the Rochester In-

stitute of Technology, to be used as a national model for the integration of student academic, counseling, health, and professional development activities. The Center will integrate students and programs developed for the hearing-impaired.

"(b) TERMS AND CONDITIONS.—(1) No financial assistance may be made available under this section except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) For the purpose of this section, the Federal share of the cost of the Academic Health Education Center facility at the Rochester Institute of Technology shall not exceed 50 percent.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $1,800,000, to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"SEC. 773. ESTEY HALL.

"(a) PROGRAM AUTHORITY.—In recognition of its historic and architectural significance as the first Black women's college dormitory, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Shaw University of Raleigh, North Carolina, for the purpose of the renovation and restoration of the physical facilities of Estey Hall.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $550,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"SEC. 774. ELECTRONIC INSTRUCTIONAL NETWORK FOR GIFTED AND TALENTED STUDENTS.

"(a) ASSISTANCE AUTHORIZED.—In recognition of the benefits to be gained from applying existing and emerging technologies to classroom instruction, the Secretary is authorized, under the provisions of this section, to provide financial assistance to a four-year postsecondary institution in cooperation with school districts, for the purpose of renovating, constructing, and equipping a facility incorporating such technological advances as two-way interactive video communications to extend an existing electronic instructional network for providing college and advanced level courses to talented and gifted secondary school students.

"(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"PART H—GENERAL

"SEC. 781. RECOVERY OF PAYMENTS.

"(a) PUBLIC BENEFIT.—The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

"(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within twenty years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"SEC. 782. DEFINITIONS.

"The following definitions apply to terms used in this title:

"(1)(A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3)(A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on

which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility not to exceed 1 percent of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'maintenance', with respect to instructional and research equipment obtained with funding under this title, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, 'maintenance' shall mean that portion of care above and beyond normal overhead costs.

"(5) The term 'Federal share' means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 percent of its development cost.

"(6) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

"(7) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(8) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(9) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

SEC. 702. CONFORMING PROVISION.

Title IV of the Housing Act of 1950 is repealed.

TITLE VIII—AMENDMENT TO TITLE VIII OF THE ACT

SEC. 801. REVISION OF TITLE VIII.

Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"SEC. 801. APPROPRIATIONS AUTHORIZED.

"(a) AUTHORIZATION FOR SECTION 802.—There are authorized to be appropriated $25,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years, to enable the Secretary to make grants pursuant to section 802 to institutions of higher education, or to combinations of such institutions, for the planning, establishment, expansion, or carrying out by such institutions or combinations of programs of cooperative education. Such programs shall provide alternating or parallel periods of academic study and of public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but, so far as practicable, giving them work experience related to their academic or occupational objectives.

"(b) AUTHORIZATION FOR SECTION 803.—There are further authorized to be appropriated $4,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years, to enable the Secretary to make training, demonstration, or research grants or contracts pursuant to section 803.

"(c) FUNDS NOT AVAILABLE FOR STUDENT COMPENSATION.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this part.

"(d) LIMITATION ON APPROPRIATIONS.—Of the funds appropriated for this title for any fiscal year, not more than 20 percent may be for the purposes of section 803.

"SEC. 802. GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION.

"(a) AUTHORITY FOR AND MAXIMUM AMOUNT OF GRANTS.—(1) From the sums appropriated pursuant to subsection (a) of section 801, and for the purposes set forth therein, the Secretary is authorized to make grants to institutions of higher education that have applied therefor in accordance with subsection (b) of this section. Such grant shall not exceed $500,000 to any one such institution or combinations of such institutions (that have so applied) for any fiscal year.

"(2) From not less than 20 percent of the sums appropriated pursuant to subsection (a) of section 801, and for the purpose set forth therein, the Secretary is authorized to make grants on a competitive basis to institutions of higher education that have made or intend to make a major commitment of their own resources—

"(A) to apply the techniques of cooperative education to the widest possible spectrum of institutional programs; and

"(B) to open their cooperative education programs to all students who can benefit from opportunities to relate their academic program to prospective occupations.

"(b) SUBMISSION AND CONTENTS OF APPLICATIONS.—Each application for a grant authorized by subsection (a) of this section shall be filed with the Secretary at such time or times as he may prescribe and shall—

"(1) set forth program or activities for which a grant is authorized under this section;

"(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

"(4) describe the plans which the applicant will carry out to assure that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1);

"(5) provide that the applicant will—

"(A) make such reports as may be essential to insure that the applicant is complying with the provisions of this section, including in the reports (for the second and each succeeding fiscal year for which the applicant receives a grant) data with respect to the impact of the cooperative education program in the previous fiscal year, including—

"(i) the number of students enrolled in the cooperative education program,

"(ii) the number of employers involved in the program,

"(iii) the income of the students enrolled, and

"(iv) the increase or decrease of enrollment in the program in such previous year compared to the second previous fiscal year; and

"(B) keep such records as are essential to ensure that the applicant is complying with the provisions of this title;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this section; and

"(7) include such other information as is essential to carry out the provisions of this part.

"(c) LIMITATIONS ON GRANT DURATION AND AMOUNT.—(1) Except as provided in paragraph (2), no individual unit of an institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than five fiscal years.

"(2) The eligibility of any institution made ineligible under paragraph (1) shall be reinstated if the institution:

"(A) has not received an award for five fiscal years; and

"(B) has maintained its cooperative education program at a total support level at least equal to the amount expended for the pro-

gram in the last year an award was received by the institution under this section.

"(3) No such institution or combination thereof may receive—

"(A) a grant in excess of 100 percent of the total administrative cost for the first of such fiscal years;

"(B) a grant in excess of 90 percent of such cost for the second of such years;

"(C) a grant in excess of 80 percent of such cost for the third of such years;

"(D) a grant in excess of 60 percent of such cost for the fourth of such years; or

"(E) a grant in excess of 30 percent of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) APPROVAL OF APPLICATIONS.—(1) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(A) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers, and

"(B) the commitment of the institution of higher education to cooperative education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance.

"(2) The Secretary shall also give special consideration to applications from institutions of higher education or combinations thereof which demonstrate a commitment to serving special populations such as women, the handicapped and black, Mexican American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro) and Northern Marianian students.

"(3) The Secretary shall also consider such other factors as are consistent with the purposes of this section.

"(e) INITIAL AWARDS TO NEW PARTICIPANTS.—The number of initial awards to newly participating institutions made under this section each year shall be no fewer than the number of institutions becoming ineligible by reason of having received five annual awards.

"SEC. 803. DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH.

"(a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education;

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance; and

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

"(3) the conduct of research relating to cooperative education.

"(b) ADMINISTRATIVE PROVISION.—To carry out this section, the Secretary may—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

"SEC. 804. REQUIREMENTS TO IMPROVE DISTRIBUTION OF FUNDS.

"(a) COMPETITIVE GRANTS TO NON-PARTICIPATING INSTITUTIONS.—From not less than 20 percent of the funds appropriated pursuant to section 801(a), the Secretary shall make grants, on a competitive basis, to institutions of higher education which are carrying out comprehensive programs of cooperative education, but which are not recipients of assistance under section 802 for the fiscal year for which application is made for assistance under this section.

"(b) PURPOSE OF GRANTS.—Grants under this section shall be used for the purposes of maintaining, improving, or expanding existing comprehensive programs of cooperative education. Not less than 50 percent of each such grant shall be used for purposes of assisting institutions of higher education other than the applicant under this section to develop and expand existing programs of cooperative education, toward the goal of establishing comprehensive programs of cooperative education.

"(c) SELECTION OF GRANT RECIPIENTS.—In ranking applications under this section, the Secretary shall take into account—

"(1) the degree to which the applicant institution has entered into agreements with other institutions of higher education, to provide such other institutions with technical assistance, guidance, or other help in planning, establishing, expanding, or improving comprehensive programs of cooperative education at such other institutions (or branches thereof); and

"(2) the number of full-time or full-time equivalent students enrolled in programs of cooperative education at the applicant institution, expressed as a percentage of the full-time equivalent enrollment at the applicant institution.

"(d) RECIPIENTS NOT RESTRICTED FROM PARTICIPATION IN FUTURE.—Notwithstanding that eligibility for receipt of a grant under this section is conditioned on the institution not being a current recipient of a grant under the other provisions of this title, the Secretary shall issue no rules or regulations which shall have the effect of placing such institutions (or other institutions assisted thereby) at a disadvantage in subsequent applications for assistance under any provision of this title.".

TITLE IX—AMENDMENT TO TITLE IX OF THE ACT

SEC. 901. REVISION OF TITLE IX.

Title IX of the Act is amended to read as follows:

"TITLE IX—GRADUATE PROGRAMS

"PART A—GRANTS TO INSTITUTIONS TO ENCOURAGE MINORITY PARTICIPATION IN GRADUATE EDUCATION

"Subpart 1—Program for Undergraduates

"SEC. 901. PROGRAM AUTHORIZED; AUTHORIZATIONS.

"The Secretary shall make grants to public and private, nonprofit higher education institutions to enable such institutions to identify talented undergraduate students from minority groups underrepresented in graduate education, and provide such students with an opportunity to participate in a program of research and scholarly activities at such institution designed to provide such students with effective preparation for graduate study in such field or related fields.

"SEC. 902. SUBMISSION AND CONTENTS OF APPLICATIONS.

"(a) REQUIRED INFORMATION.—Eligible higher education institutions shall submit applications for grant funds to the Secretary under this section in such form and containing such information as the Secretary may by regulation prescribe. Such application shall provide information regarding—

"(1) the program of study, to take the form of summer research internships, seminars, and other educational experiences;

"(2) the institution's plan for identifying and recruiting talented minority undergraduates;

"(3) the participation of faculty in the program and a detailed description of the research in which students will be involved;

"(4) a plan for the evaluation of the effectiveness of the program; and

"(5) such other assurances and information as the Secretary may require by regulation.

"(b) SELECTION TO CONSIDER QUALITY OF RESEARCH.—The Secretary shall consider in making awards to institutions, the quality of the research in which students will be involved as well as the recruitment program and program of study.

"SEC. 903. USE OF FUNDS.

"Awards made to institutions under this part shall provide stipends, tuition, fees, and allowances (including travel and subsistence expenses and dependency allowances), as approved by the Secretary. Such awards shall also provide for payments to be made to the institution as determined by the Secretary.

"Subpart 2—Program for Graduate Students

"SEC. 906. PROGRAM AUTHORIZED; DESIGNATION AS HARRIS FELLOWS.

"From the sums available for purposes of this subpart, the Secretary shall award a one-year graduate fellowship to each student who successfully completes the undergraduate internship program conducted under subpart 1. Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll. Each recipient of such a fellowship shall be known as a 'Patricia Roberts Harris Fellow'.

"SEC. 907. STIPENDS AND COST OF EDUCATION PAYMENTS.

"(a) USE OF FUNDS FOR STIPENDS AND COST PAYMENTS.—A grant awarded under this subpart shall consist of a stipend paid to the student and a cost of education payment to the institution.

"(b) AMOUNT OF STIPEND.—The amount of the stipend paid to any student under this subpart shall be $10,000, or the demonstrated level of need of the student (determined in accordance with part F of title IV of this Act), whichever is less.

"(c) COST OF EDUCATION.—The Secretary shall (in addition to the stipends paid to individuals under subsection (b)) pay to the institution of higher education at which the student is enrolled a cost of education payment of $6,000, which shall be accepted by an institution accepting a fellowship recipient in lieu of payment by the student of tuition and fees for the duration of the fellowship.

"(d) CONDITIONS FOR CONTINUED RECEIPT OF AWARD.—Notwithstanding the provisions of section 906, no student shall receive an award—

"(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded; or

"(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress toward a degree.

"(e) RATABLE REDUCTIONS.—If the amount available to carry out this subpart for any fiscal year is not sufficient to pay each fellowship recipient and institution the amount for which it is eligible under subsections (b) and (c), then the amount paid to each such recipient and institution shall be ratably reduced.

"SEC. 908. APPLICATIONS.

"Applications for awards under this subpart shall be submitted at such time, in such form, and contain or be accompanied by such information as the Secretary may require by regulation.

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"SEC. 921. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of a post-baccalaureate education to graduate and professional students who demonstrate financial need.

"SEC. 922. PROGRAM AUTHORIZED.

"(a) GRANTS BY SECRETARY.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

"(b) DISTRIBUTION AND AMOUNTS OF GRANTS.—(1) In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) The Secretary shall not make a grant to a single institution of higher education of less than $100,000 from the sums appropriated under this part for any fiscal year.

"(3) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

"(c) APPLICATIONS.—Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

"(d) EVALUATION AND SELECTION OF APPLICATIONS.—(1) In evaluating applications for grants under this part, the Secretary shall assess the extent to which—

"(A) a professional school, academic department, or similar organizational unit that previously received a grant under this part achieved the objectives specified for students previously supported under this program; and

"(B) a professional school, academic department, or similar organizational unit has demonstrated the high quality of its academic program in terms of course offerings and academic requirements for students, and has demonstrated an effective commitment to minority graduates and professional education.

"(2) In making grants to institutions of higher education, the Secretary shall also—

"(A) take into account present and projected needs for highly trained individuals in all areas of education beyond high school;

"(B) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

"(C) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this part, awards are made to—

"(1) individuals who plan to pursue a career in public service; and

"(2) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1) and (2) of this subsection for each fiscal year is not less than the amount expended for each category in fiscal year 1985.

"(f) INSTITUTIONAL PAYMENTS.—From sums required to be expended by the Secretary for grants under subsection (e), the Secretary shall (in addition to the awards made to individuals) pay to the institution of higher education at which such person is pursuing his or her course of study such amounts as are paid under similar fellowship programs administered through the National Science Foundation and other similar agencies, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"(g) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No fellowship shall be awarded under this part for study at a school or department of divinity.

"SEC. 923. AWARD OF FELLOWSHIPS.

"(a) AWARDS BASED ON NEED.—An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed the lesser of $10,000, or the demonstrated level of financial need as determined under part F of title IV of this Act.

"(b) REQUIREMENTS FOR AWARD.—No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award of a degree) in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period, in addition to the 3 year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"PART C—NATIONAL GRADUATE FELLOWS PROGRAM

"SEC. 931. AWARD OF NATIONAL GRADUATE FELLOWSHIPS.

"(a) NUMBER AND TIMING OF AWARDS.—The Secretary is authorized to award not more than 450 fellowships per year in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

"(b) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

"SEC. 932. ALLOCATION OF FELLOWSHIPS.

"(a) FELLOWSHIP BOARD.—(1) The President shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than nine and not more than fif-

teen individuals representative of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the President shall give due consideration to the appointment of individuals who are highly respected in the academic community.

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee its operation;

"(B) select each year the fields in which fellowships under this part are to be awarded;

"(C) determine the number of fellowships each year to be awarded under this part in each designated field;

"(D) appoint distinguished panels in each field for the purpose of selecting fellows; and

"(E) prepare and submit to the Congress, at least once in every three year period, a report on any modifications in the program that the Board determines to be appropriate.

"(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

"(4) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, one-third of the members for terms of two years, one-third of the members for terms of four years, and one-third of the members for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

"(5) The President shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of two years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6)(A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

"(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding the rate prescribed for GS-18 of the General Schedule under section 5332, title 5, United States Code, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"SEC. 933. STIPENDS.

"(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary. The stipend levels established by the Secretary shall reflect the purpose of this program to encourage highly talented students to undertake graduate study and shall provide a level of support comparable to that provided by federally funded graduate fellowships in the science and engineering fields.

"(b) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $6,000.

"(2) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1) of this subsection.

"SEC. 934. FELLOWSHIP CONDITIONS.

"(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

"PART D—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

"SEC. 941. PURPOSE.

"In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of this part to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

"SEC. 942. GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS.

"(a) GRANT AUTHORITY.—(1) The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this part.

"(2) The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Non-degree granting institutions eligible for awards as part of such joint proposals include any organization which—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1954, and is exempt from tax under section 501(a) of such Code;

"(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

"(C) is not a private foundation;

"(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

"(E) has necessary research resources not otherwise readily available in such institutions to such students.

"(b) AWARD AND DURATION OF GRANTS.—(1) The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

"(2) The Secretary shall approve a grant recipient under this part for a three-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $500,000 per fiscal year.

"(3) Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this part.

"(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—(1) The Secretary shall make new grant awards under this part only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

"(2) To the extent that appropriations under this part are insufficient to comply with paragraph (1) of this subsection, available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

"SEC. 943. INSTITUTIONAL ELIGIBILITY.

"(a) DEPARTMENTS IN AREAS OF NATIONAL NEED ELIGIBLE.—Any academic department or program of an institution of higher education that offers a program of post-baccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this part. No department or program shall be eligible for a grant unless the program of post-baccalaureate study has been in existence for at least four years at the

time of application for assistance under this part.

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need, such as mathematics, biology, physics, chemistry, engineering, computer science, or foreign languages or areas studies. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support post-baccalaureate study in the area concerned.

"SEC. 944. CRITERIA FOR APPLICATIONS.

"(a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

"(b) CONTENTS OF APPLICATIONS.—An academic department or program of an institution of higher education, in its application for a grant, shall—

"(1) describe the current academic program of the applicant for which the grant is sought;

"(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this part an amount equal to at least 25 percent of the amount of the grant received under this part;

"(3) set forth policies and procedures to assure that, in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

"(4) set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

"(A) have financial need, as determined under criteria developed by the institution;

"(B) have excellent academic records in their previous programs of study;

"(C) plan teaching or research careers; and

"(D) plan to pursue the highest possible degree available in their course of study;

"(5) set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this part and in no case to supplant those funds;

"(6) provide assurances that, in the event that funds made available to the academic department or program under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

"(7) provide that the applicant will comply with the limitations set forth in section 945; and

"(8) include such other information as the Secretary may prescribe.

"SEC. 945. AWARDS TO GRADUATE STUDENTS.

"(a) COMMITMENTS TO GRADUATE STUDENTS.—(1) From at least 60 percent of the funds received under this part, an academic department or program of an institution of higher education shall make commitments to graduate students at any point of their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

"(2) No such commitments shall be made to students under this part unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this part, or from institutional funds.

"(b) AMOUNT OF STIPENDS.—The size of the stipend awarded to students for an individual academic year shall be determined by the institution, except that no annual stipend award under this part may exceed $10,000, or the demonstrated level of need (according to criteria of need developed by the institution), whichever is less.

"(c) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award (1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or (2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

"SEC. 946. ASSISTANCE FOR THE GRADUATE PROGRAM.

"(a) USE FOR TUITION AND FEES AND FOR ACADEMIC PROGRAM IMPROVEMENT.—From up to 40 percent of the funds received under this part, the academic department or program of an institution of higher education may award fellowship recipients under section 945 additional amounts to pay the recipients' tuition and fees and may conduct activities to improve the quality of the academic program offered at the academic department or program, including—

"(1) acquisitions of library resources;

"(2) acquisition, lease, or upgrading of laboratory or instructional equipment;

"(3) support for research projects of faculty and fellowship recipients; and

"(4) support for the preparation and delivery of academic papers, including necessary travel expenses.

"(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.

"PART E—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"SEC. 951. PROGRAM AUTHORIZED.

"(a) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) USE OF FUNDS.—Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than six months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

"PART F—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"SEC. 961. PROGRAM AUTHORIZATION.

"(a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of continuing, establishing, or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) USE OF FUNDS.—Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) LIMITATIONS ON AMOUNTS.—No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"(d) DEFINITION.—For the purpose of this part the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"SEC. 962. APPLICATIONS.

"(a) REQUIREMENTS.—A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as the Secretary may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) DISTRIBUTION OF GRANTS AND CONTRACTS.—The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"PART G—AUTHORIZATION OF APPROPRIATIONS

"SEC. 971. AMOUNT AND DURATION OF AUTHORIZATION.

"(a) PART A.—(1) There are authorized to be appropriated to carry out part A of this title $20,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) There are authorized to be appropriated to carry out subpart 2 of part A of this title $15,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) PART B.—There are authorized to be appropriated to carry out part B of this title $30,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(c) PART C.—There are authorized to be appropriated to carry out part C of this title $10,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) PART D.—There are authorized to be appropriated to carry out part D of this title $50,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(e) PART E.—There are authorized to be appropriated to carry out part E of this title $5,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(f) PART F.—There are authorized to be appropriated to carry out part F of this title $5,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.".

TITLE X—AMENDMENT TO TITLE X OF THE ACT

SEC. 1001. REVISION OF TITLE X.

Title X of the Act is amended to read as follows:

"TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

"PART A—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"SEC. 1001. AUTHORIZATION OF PROGRAM.

"Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"SEC. 1002. CONSULTATION.

"No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

"SEC. 1003. NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

"(a) ESTABLISHMENT OF BOARD.—There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members as Chairman.

"(b) MEMBERSHIP OF BOARD.—A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change. Members shall be appointed for a term of three years, except that of the members first appointed, five shall be appointed for a term of one year and five shall be appointed for a term of two years, as designated by the President. Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed for the remainder of such term. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year. A majority of the Board shall constitute a quorum.

"(c) FUNCTIONS OF THE BOARD.—The Board shall—

"(1) establish, pursuant to procedures adopted by the Board, the priorities for making annual awards under this part which are responsive to the educational needs of postsecondary students and institutions;

"(2) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

"(3) advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;

"(4) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

"(5) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

"(d) INFORMATION AND ASSISTANCE TO THE BOARD.—The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"SEC. 1004. ADMINISTRATIVE PROVISIONS.

"(a) TECHNICAL EMPLOYEES.—The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"(c) BOARD PRIORITIES NOT SUBJECT TO MODIFICATION.—Notwithstanding any other provision of law, the Secretary may not set or modify through regulations or by any

other means the priorities established by the Board under subsection (c)(1).

"SEC. 1005. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $20,000,000 for fiscal year 1987, and such sums as may be necessary for each of the four succeeding fiscal years.

"PART B—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS

"Subpart 1—Minority Science Improvement Program

"SEC. 1021. PURPOSE; AUTHORITY.

"(a) It is the purpose of this subpart to continue the authority of the Department of Education to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department of Education by section 304(a)(1) of the Department of Education Organization Act of 1979.

"(b) The Secretary of Education shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities in scientific and technological careers.

"SEC. 1022. GRANT RECIPIENT SELECTION.

"(a) ESTABLISHMENT OF CRITERIA.—Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

"(b) PRIORITIES TO BE GIVEN IN CRITERIA.—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

"(c) REQUIRED CRITERIA.—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

"(1) plan of operation;

"(2) quality of key personnel;

"(3) budget and cost effectiveness;

"(4) evaluation plan;

"(5) adequacy of resources;

"(6) identification of need for the project;

"(7) potential institutional impact of the project;

"(8) institutional commitment to the project;

"(9) expected outcomes; and

"(10) scientific and educational value of the proposed project.

"SEC. 1023. USE OF FUNDS.

"(a) TYPES OF GRANTS.—Funds appropriated to carry out this subpart may be made available as—

"(1) institutional grants (as defined in section 1043(6));

"(2) cooperative grants (as defined in section 1043(7));

"(3) design projects (as defined in section 1043(8)); or

"(4) special projects (as defined in section 1043(9)).

"(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.—(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

"(A) faculty development programs; or

"(B) development of curriculum materials.

"(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

"(A) assisting institutions in sharing facilities and personnel;

"(B) disseminating information about established programs in science and engineering;

"(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or

"(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

"(3) The authorized uses of funds made available as design projects include (but are not limited to)—

"(A) developing planning, management, and evaluation systems; or

"(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

"(4) The authorized uses of funds made available as special projects include (but are not limited to)—

"(A) advanced science seminars;

"(B) science faculty workshops and conferences;

"(C) faculty training to develop specific science research or education skills;

"(D) research in science education;

"(E) programs for visiting scientists;

"(F) preparation of films or audio-visual materials in science;

"(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

"(H) development of pre-college enrichment activities in science; or

"(I) any other activities designed to address specific barriers to the entry of minorities into science.

"SEC. 1024. ADMINISTRATION.

"The Secretary shall submit to the Congress on an annual basis a list of grantees receiving awards under this part.

"Subpart 2—Science and Engineering Access Programs

"SEC. 1031. MINORITY SUPPORT IN SCIENCE AND ENGINEERING PROGRAMS.

"The Secretary of Education shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent).

"SEC. 1032. SPECIAL SERVICE PROJECTS PROGRAM.

"The Secretary of Education shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology.

"SEC. 1033. SUPPORTABLE ACTIVITIES.

"Funds appropriated for purposes of this subpart may be made available for—

"(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

"(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

"(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

"(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics and engineering;

"(5) improving access of minority students to careers in the sciences, mathematics, and engineering;

"(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

"(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

"(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

"(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

"Subpart 3—Administrative and General Provisions

"SEC. 1041. ELIGIBILITY FOR GRANTS.

"Eligibility to receive grants under this part is limited to—

"(1) public and private, nonprofit institutions that are minority institutions (as defined in section 1071(c));

"(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

"(3) for the purposes of section 1032, public and private nonprofit institutions that have at least 10 percent minority enrollment.

"SEC. 1042. GRANT APPLICATION.

"(a) SUBMISSION AND CONTENTS OF APPLICATIONS.—An eligible applicant (as determined under section 1041) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

"(1) a program of activities for carrying out one or more of the purposes described in section 1021(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

"(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) APPROVAL BASED ON LIKELIHOOD OF PROGRESS.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substan-

tial progress toward achieving the purposes of this part.

"SEC. 1043. CROSS PROGRAM AND CROSS AGENCY COOPERATION.

"The Minority Science and Engineering Improvement Programs shall cooperate with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

"SEC. 1044. ADMINISTRATIVE PROVISIONS.

"(a) TECHNICAL STAFF.—The Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than two technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROCEDURES FOR GRANT REVIEW.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this title may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

"SEC. 1045. ADVISORY PROVISIONS.

"(a) ADVISORY BOARD FOR THE MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS.—There shall be established an Advisory Board for the Minority Science and Engineering Improvement Programs. The Board shall consist of nine members, at least six of whom must be racial and national origin minority scientists, engineers, or science or engineering educators. In constituting the initial board under subsection (c), efforts shall be made to achieve a balance on the Board with respect to sexual, geographic, and institutional background.

"(b) PURPOSES OF THE BOARD.—The Board shall act as an advisory group to the program. Drawing on the expertise of members, the Board will recommend to the Secretary and the director of the program those policies, procedures, and other measures which will further the efforts made through the program to improve the quality of science and engineering education by contributing to the access and retention of ethnic minorities in science and engineering education programs. Upon the request of the Secretary, the Board may be called upon to advise the Secretary on any matters within the Department which could be expected to have an impact on the access of minority students to careers in science, mathematics, or engineering.

"(c) CONSTITUTION OF BOARD.—The initial Board shall be constituted in as follows:

"(1) The Director of the Programs shall solicit nominations for the Board from present and past grant recipients of the Minority Institutions Science Improvement Program. The Director shall select from among the nominees 18 candidates whose names shall be given to the Secretary.

"(2) The Secretary shall choose 9 Board members from among the 18 presented.

"(3) The Secretary shall assign three Board members to a three year term, three members to a four year term, and three members to a five year term. Upon expiration of these initial terms, replacement Board members shall serve for three year terms. Board members may serve more than one term.

"(4) The Chair of the Board shall be selected by a simple majority vote of Board members and will serve a single term.

"(5) Vacancies on the Board shall be filled by the Board soliciting nominees from institutions eligible to receive grants through the Program. From among the nominees the present and immediate past Chair of the Board shall submit at least two nominees for each vacancy to the Secretary, who shall fill vacancies from among the names submitted.

"(d) COMPENSATION OF THE BOARD.—Members of the Board shall receive compensation at a rate not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

"SEC. 1046. DEFINITIONS.

"For purposes of this part—

"(1) The term 'accredited' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

"(2) The term 'minority' means American Indian, Alaskan Native, black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

"(3) The term 'minority institution' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

"(4) The term 'science' means, for the purposes of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

"(5) The term 'underrepresented in science and engineering' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

"(6) The term 'institutional grant' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

"(7) The term 'cooperative grant' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

"(8) The term 'design projects' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

"(9) The term 'special projects' means—

"(A) a special project grant to a minority institution which support activities that—

"(i) improve the quality of training in science and engineering at minority institutions; or

"(ii) enhance the minority institutions' general scientific research capabilities; or

"(B) a special project grant to any eligible applicant which supports activities that—

"(i) provide a needed service to a group of eligible minority institutions; or

"(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

"SEC. 1047. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the purposes of this part, $12,000,000 for fiscal year 1987, and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) APPROPRIATION LIMITATION.—For any fiscal year, 50 percent of the funds under this part shall be allocated for the purposes of section 1021, 33.33 percent for the purposes of section 1031, and 16.67 percent for the purposes of section 1032.".

TITLE XI—AMENDMENT TO TITLE XI OF THE ACT

SEC. 1101. REVISION OF TITLE XI.

Title XI of the Act is amended to read as follows:

"TITLE XI—COMMUNITY PARTNERSHIPS AND ECONOMIC DEVELOPMENT

"SEC. 1101. APPROPRIATIONS AUTHORIZED.

"There is authorized to be appropriated, for carrying out the purposes of this title, $40,000,000 for fiscal year 1987, and such sums as may be necessary for each of the four succeeding fiscal years.

"SEC. 1102. ALLOCATION OF FUNDS.

"Any funds appropriated for this title for any fiscal year, shall be divided equally between parts A and B of this title.

"PART A—URBAN GRANT UNIVERSITY PROGRAM

"SEC. 1111. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds and declares—

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that the skills, talents, and knowledge of urban universities must be applied in a systematic and sustained manner to make a significant contribution toward the solution of these problems;

"(3) that local agencies of general government and other entities within the community have a need for and desire access to the skills, talents and knowledge of urban universities and urban community colleges working cooperatively to help meet urban problems;

"(4) that the application of the skills, talents, and knowledge of urban universities is hindered by the limited funds available to sustain their commitment; and

"(5) that it is the policy of the United States to encourage and facilitate the application of the skills, talents, and knowledge of urban universities toward serving the needs of urban centers of the Nation.

"(b) PURPOSE.—The Secretary shall carry out programs in accordance with the provisions of this part, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to address the problems of the urban communities in which they are located.

"SEC. 1112. PROJECT ASSISTANCE.

"(a) PAYMENT OF FEDERAL SHARE; PRIORITY FOR COOPERATIVE AGREEMENTS.—(1) The Secretary shall make grants to urban universities to pay the Federal share of the cost of carrying out projects consistent with the purposes of this part.

"(2) The Secretary shall give priority to applications containing cooperative arrangements among urban universities, community colleges and other institutions of higher education and other entities in the public, private, and nonprofit sectors within an urban area.

"(b) CONTENTS OF APPLICATIONS.—An application submitted under this section shall contain provisions designed to show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the need or needs to be addressed by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants under this part, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of such local agency or agencies of general government and of the community in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government or by other entities within the community, which may include the applicant university, to pay the non-Federal share of the cost of such project or projects required by subsection (d) of this section. Not more than one-half of such non-Federal share may be in the form of services, supplies, or equipment.

"(c) ADVICE FROM OTHER AGENCIES.—The Secretary may request the advice of any Federal agency the Secretary considers appropriate before approving an application for project assistance under this section.

"(d) FEDERAL SHARE DEFINED.—No grant under this section shall exceed 90 percent of the cost of the project for which assistance is granted.

"(e) DESIGNATION OF URBAN GRANT UNIVERSITIES.—An institution of higher education which receives a grant under this section shall be designated by the Secretary as an 'urban grant university'. The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

"(f) PEER REVIEW REQUIRED.—The Secretary shall base applications for grant awards under this part on a broad-based peer review process.

"SEC. 1113. LIMITATIONS.

"(a) STATE LIMITATION.—The total amount of payments in any fiscal year under section 1112 to institutions within any one State shall not exceed 15 percent of the total amount paid.

"(b) GEOGRAPHIC DISTRIBUTION.—In allocating assistance under section 1112 of this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"SEC. 1114. COORDINATION.

"The Secretary, in consultation with other agencies, as appropriate, shall develop regulations and procedures under which funds made available under this part may be used in a coordinated manner with funds made available to meet urban problems under programs administered by such other agencies.

"SEC. 1115. DEFINITIONS.

"As used in this part—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the entity of the State having an agreement under section 1203 may, or if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part;

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2); and

"(4) 'resources' are programs of institutions of higher education including specialized training, research and planning services, and technical assistance responsive to the needs and priorities of the urban area and contiguous areas.

"PART B—NATIONAL HIGHER EDUCATION AND ECONOMIC DEVELOPMENT PROGRAM

"SEC. 1121. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the economic vitality and international competitiveness of the United States depends upon utilizing all available resources;

"(2) effective community economic development is enhanced by the active participation of postsecondary education institutions;

"(3) there is a need for more systematic and comprehensive efforts to link postsecondary education institutions with State and local governments, labor, business and industry in order to plan, maintain, and attract lasting economic improvement;

"(4) Federal leadership is critical to promoting such linkages.

"(b) PURPOSES.—The purposes of this part are therefore—

"(1) to stimulate colleges and universities to mobilize more fully their resources to overcome problems which impede economic development in the area or region which they serve;

"(2) to encourage the involvement of postsecondary education institutions with units of government, labor, business and industry and other appropriate organizations in the planning, research, and development of activities that promote expansion and retention of local job opportunities;

"(3) to foster linkages which can contribute to a community's overall economic development efforts for retraining and expanding business and industry opportunities in the area;

"(4) to stimulate and augment local initiatives which recognize postsecondary education institutions as important resources and utilize their expertise in addressing solutions to overcome economic decline; and

"(5) to demonstrate the effectiveness of new approaches to stimulating economic development involving partnerships of postsecondary education institutions and others concerned with economic development and to make those approaches available to other areas of the Nation.

"SEC. 1122. ALLOWABLE ACTIVITIES.

"(a) IN GENERAL.—An eligible institution or consortium of such institutions may apply for assistance under this part to support one or more of the following activities:

"(1)(A) planning and research (including applied research) directed at solving problems for local economic development and which is designed to complement local initiatives to promote growth and improve productivity;

"(B) resource exchange to encourage the exchange of faculty, government, and business experts to support economic development; and

"(C) any combination of the activities described in subparagraph (A) or (B) that promotes the purposes of this part; and

"(2) special projects for economic growth which address broad or national economic development issues, are innovative in their approach, and hold promise of application beyond the area served.

"(b) SPECIAL PROJECTS AUTHORIZED.—Special projects which may be supported under subsection (a)(2) include—

"(1) the application of technology research to manufacturing aspects of mature industries in a region or State;

"(2) the design and development of technical assistance centers based at eligible institutions which will provide an integrated program of education, research and technology transfer to business and industry;

"(3) projects to support entrepreneurship training and technical assistance; and

"(4) projects to develop new approaches or complement efforts to explore, expand and foster opportunities for international business and trade.

"(c) DISSEMINATION PROJECTS.—In addition to the activities described in subsection (a), the Secretary is authorized to make a limited number of grants to identify and disseminate effective models and techniques which use partnerships of postsecondary education institutions and others involved in economic development to support lasting economic improvement.

"(d) LIMITATIONS ON GRANT AMOUNTS.—The maximum grant which may be awarded under subsection (a)(1) for any fiscal year shall be $50,000, except that this limitation shall not apply in the case of an application submitted by a consortium of eligible institutions.

"SEC. 1123. ELIGIBILITY FOR ASSISTANCE.

"The Secretary may make grants under section 1122(a) of this Act to an eligible institution or consortium of such institutions that demonstrates in its application that the program it intends to conduct with the support of the grant will involve the active participation of and commitment of resources and personnel by one or more of the following organizations:

"(1) local or State units of governments;

"(2) business or industry;

"(3) labor unions or union representatives; or

"(4) non-profit organizations concerned with economic development in the area to be served.

"SEC. 1124. CONTENTS OF APPLICATIONS.

"(a) GENERAL CONDITIONS.—Each application for a grant authorized under this Act

shall be filed with the Secretary at such time or times as he or she may prescribe and shall—

"(1) set forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part;

"(2) describe how the plan fits into the overall economic development and or redevelopment plan for the area to be served, contributes to long term economic growth and employment opportunities, and furthers the goals of the postsecondary education institution;

"(3) provide an effective dissemination strategy to ensure that the successful results of the activities can be shared with other institutions and organizations;

"(4) provide assurances that an assessment has been made of Federal and State resources and that these resources are unavailable for the proposed activity;

"(5) describe the consultation and, if appropriate, coordination with other Federal and State economic development efforts such as the Job Training Partnership Act and programs sponsored by the Department of Commerce;

"(6) contain assurances that the applicant and the organizations identified under section 1123 will contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in-kind;

"(7) contain assurances that the eligible institution will, to the extent practicable, coordinate its use of resources available for student assistance (such as college work study, cooperative education, and opportunities for graduate student thesis and research) in a manner which will support the activities conducted under this part; and

"(8) contain such other information and assurances as the Secretary may require by regulation.

"(b) WAIVER OF MATCHING REQUIREMENT.—The Secretary may waive the requirement of subsection (a)(6) with respect to an eligible institution that demonstrates a unique hardship that precludes its compliance with that requirement.

"SEC. 1125. SELECTION OF GRANT RECIPIENTS.

"(a) USE OF PEER REVIEW PANEL.—The Secretary shall designate a peer review panel of experts in the field of higher education and economic development to review the applications submitted under section 1124 and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with other appropriate Cabinet-level officials and non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of an equal number of representatives from public and private higher education, labor, business, and State and local government who have expertise in the area of economic development.

"(b) DURATION OF GRANTS.—Grants may be made on a multi-year basis except that no institution, individually or as a participant in a combination of such institutions may receive a grant for more than five years.

"(c) SPECIAL CONSIDERATIONS IN SELECTION.—In making awards for activities under section 1122(a)(1) of this part, the Secretary shall give special consideration to applications which have one or more of the following characteristics:

"(1) The application proposes to serve an area which has an unemployment rate 1 percent above the national average unemployment rate for the most recent twenty-four month period or is an area which has experienced or is about to experience sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(2) The application is submitted by a consortia of postsecondary education institutions, including four- and two-year, public and private postsecondary education institutions, and provides a regional geographic approach to solving economic development problems.

"(3) The application develops approaches which promote economic diversification for rural areas or areas whose economy is dependent upon a single industry or single employer.

"(4) The application proposes to involve in the participation of the proposed activities, several of the organizations described in section 1123 of the part.

"SEC. 1126. ALLOCATIONS OF APPROPRIATIONS.

"For the purpose of making grants under section 1101 of this title, 75 percent of the funds appropriated for this part shall be used to fund projects under section 1122(a)(1), and 25 percent shall be used to fund projects under sections 1122(a)(2) and 1122(c).

"SEC. 1127. DEFINITIONS.

"As used in this part—

"(1) the term 'Secretary' means the Secretary of Education; and

"(2) the term 'eligible institution' has the meaning given such term by section 435(a) of the Higher Education Act of 1965.

"PART C—WAGNER INSTITUTE OF URBAN PUBLIC POLICY

"SEC. 1131. PURPOSE; DESIGNATION.

"It is the purpose of this part to provide assistance to the City University of New York to enable the University to establish a center to coordinate resources for the development of solutions to pressing urban and social problems. The institute shall be known as the 'Robert F. Wagner, Sr., Institute of Urban Public Policy' (hereafter in this part referred to as the 'Institute').

"SEC. 1132. APPLICATION FOR AND USE OF FUNDS.

"(a) APPLICATION.—No payment may be made under this part except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) USE OF FUNDS.—Payments made under this part may be used by the City University of New York to establish and operate the Institute and to support the following activities of the institute:

"(1) The Institute shall inventory and assess academic research, education, and training capabilities with respect to urban redevelopment strategies. The Institute shall insure that information derived from this activity shall be available for use in public policy debates on solutions to urban problems.

"(2) The Institute shall conduct a series of forums to promote and coordinate decisionmaking on urban problems. Such forums shall be focused upon such issues as economic development, youth employment, law enforcement, education, services to the elderly, health care delivery systems, and immigration patterns. Participants in such forums shall be drawn from Federal, State, and local government, the business and professional community, labor, education, and community based organizations.

"(3) In developing topics for the forums to be conducted under paragraph (2), and in establishing priorities for the allocation of its resources, the Institute shall establish and regularly consult with an advisory council of urban advisors representing leaders in government, business, labor, education, and community based operations.

"(4) The Institute shall prepare and publish reports on the forums conducted pursuant to paragraph (2) and publish and disseminate the results of its research activities.

"SEC. 1133. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the purposes of this part, $2,000,000, which may remain available until expended.".

TITLE XII—AMENDMENTS TO TITLE XII OF THE ACT

SEC. 1201. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.

Section 1204 of the Act is amended—

(1) by striking out the first sentence of subsection (a) and inserting in lieu thereof the following: "Within six months after the date of enactment of the Higher Education Amendments of 1985, the Secretary shall promulgate regulations in accordance with the recommendations in the report entitled 'Postsecondary Education in the U.S. Territories' (May 1982) in order to adapt programs under this Act to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.";

(2) by striking out "October 1, 1985" in subsection (c) and inserting in lieu thereof "October 1, 1991,"; and

(3) by striking out subsection (b), by redesignating subsection (a) as subsection (b), and by inserting before such subsection the following new subsection:

"(a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria does not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Northern Mariana Islands. Priority shall be given to proposals submitted by these territories which otherwise meet program criteria.".

SEC. 1202. EXTENSION OF NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY.

Section 1205(f) of the Act is amended by striking out "1985" and inserting in lieu thereof "1992".

SEC. 1203. DISCLOSURES OF FOREIGN GIFTS.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"DISCLOSURES OF FOREIGN GIFTS

"SEC. 1206. (a) Whenever any institution receives a grant from, or enters into a contract with, a foreign source, the value of which is $100,000 or more, considered alone or in combination with all other grants from, or contracts with, that foreign source within the current fiscal year, the institution shall within 90 days of the receipt of such grant or the entrance into such contract, file a disclosure report with the Secretary.

"(b) Each report to the Secretary required by this Act shall disclose:

"(1) the name, nationality and country of residence of the foreign source,

"(2) the amount and date of the grant or contract;

"(3) the full details of any conditions, restrictions, requirements, reserved powers or matching provisions of the grant or contract including its purpose or purposes; and

"(4) the name of any person whom the grant or contract is explicitly intended to benefit.

"(c)(1) Notwithstanding the provisions of subsection (b), if the foreign source is a natural person and no grant or contract as to which a disclosure report is required by this Act contains any conditions, restrictions, requirements, reserved powers or matching provisions, other than that the grant or contract is given or entered into for the benefit of the institution as a whole, the disclosure report required to disclose need not contain the name of the foreign source.

"(2) Notwithstanding the provision of subsection (a), if a grant is given solely for the benefit of the institution as a whole and contains no conditions, restrictions, requirements, reserved powers, or matching provisions, and has a value of less than $250,000, a disclosure report need not be filed with the Secretary.

"(3) Notwithstanding the provision of subsection (a), if an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of conditions of contracts received from, or grants entered into with, foreign sources, that are substantially similar to the requirements of subsection (a), a disclosure report need not be filed with the Secretary. The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law.

"(4) Notwithstanding the provision of subsection (a), if an institution receives a grant from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this Act, a disclosure report need not be filed with the Secretary.

"(d) All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

"(e)(1) Whenever it appears that an institution has failed to comply with the requirements of this Act, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of the Act.

"(2) For knowing or willful failure to comply with the requirements of this Act, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

"(f) The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this Act.

"(g) For purposes of this section—

"(1) the term 'contract' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

"(2) the term 'foreign source' means—

"(A) a foreign government, including an agency of a foreign government;

"(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

"(C) a nonresident alien; and

"(D) an agent, including a subsidiary or affiliate of foreign legal entity, acting on behalf of a foreign source;

"(3) the term 'grant' means any gift of money or property;

"(4) the term 'institution' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

"(A) is legally authorized within such State to provide a program of education beyond high school;

"(B) provides a program for which it awards a bachelor's degree (or provides not less than a two-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

"(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits.".

SEC. 1204. FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS

"SEC. 1207. Nothing in this Act or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by (1) making advance payment of such tuition and fees, (2) making deposits in an escrow account administered by such institution for such payments, or (3) obtaining a bond or other insurance that such payments will be made.".

SEC. 1205. NATIONAL TASK FORCE ON THE COST OF HIGHER EDUCATION.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"NATIONAL TASK FORCE ON THE COST OF HIGHER EDUCATION

"SEC. 1208. (a) STUDY OF ESCALATING COST.—The Secretary of Education shall study the escalating cost of higher education. Such study shall—

"(1) identify the current cost of obtaining a higher education and determine how that cost has changed in recent years,

"(2) determine the specific causes of such changes in cost and the extent to which those causes have contributed to such changes,

"(3) evaluate the impact of such changes in cost both on institutions of higher education and their students, and

"(4) make recommendations on how such changes in cost can be minimized in the future.

"(b) REPORT TO CONGRESS.—Within two years of the enactment of this Act, the Secretary shall submit to the Congress a report on the findings and recommendations of his study.".

SEC. 1206. STUDY OF SEXUALLY TRANSMITTED DISEASES.

(a) STUDY REQUIRED.—The Secretary of Health and Human Services shall, through the Centers for Disease Control, provide for the conduct of a study of sexually transmitted diseases (including acquired immune deficiency syndrome) among college students. Such study shall analyze the incidence, changes in patterns of distribution, correlation with drug or substance abuse, and other factors determined to be significant. The Secretary shall submit to the Congress a report on the results of such study.

(b) CONSULTATION.—In conducting the study required by subsection (a), the Secretary of Health and Human Services shall consult with representatives of local and State public health authorities, institutions of higher education, and the Department of Education.

(c) DISTRIBUTION OF PREVENTIVE MEASURES.—The Secretary of Health and Human Services shall provide for the publication and distribution to institutions of higher education of any information gathered as a consequence of the study required by subsection (a) that may assist such institutions in preventing the spread of sexually transmitted diseases.

TITLE XIII—NATIVE AMERICAN CULTURE AND ART DEVELOPMENT

SEC. 1301. SHORT TITLE.

This title may be cited as the "Institute for Native American Culture and Art Development Act".

SEC. 1302. FINDINGS.

The Congress finds that—

(1) Native American art and culture has contributed greatly to the artistic and cultural richness of the Nation;

(2) Native American art and culture occupies a unique position in American history as being our only native art form and cultural heritage;

(3) although the encouragement and support of Native American arts and crafts are primarily a matter for private, local, and Native American initiative, it is also an appropriate matter of concern to the Federal Government;

(4) it is appropriate and necessary for the Federal Government to support research and scholarship in Native American art and culture and to complement programs for the advancement of Native American art and culture by tribal, private, and public agencies and organizations;

(5) current Federal initiatives in the area of Native American art and culture are fragmented and inadequate; and

(6) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Native American art and culture, it is desirable to establish a national Institute of Native American Culture and Arts Development.

SEC. 1303. ESTABLISHMENT OF INSTITUTE.

There is hereby established a corporation to be known as the "Institute of Native American Culture and Arts Development", which shall be under the direction and control of a Board of Trustees established under section 1304.

SEC. 1304. BOARD OF TRUSTEES.

(a) COMPOSITION.—(1) The Board shall be composed of 15 voting members and 4 nonvoting members.

(A) The voting members shall be appointed by the Secretary not later than October 1, 1986, from among individuals from private life who are Native Americans, or other individuals, widely recognized in the field of Native American art and culture and who represent diverse political views.

(B) The nonvoting members shall be as follows:

(i) One member of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(ii) One member of the Senate appointed by the majority leader of the Senate in consultation with the minority leader of the Senate.

(iii) The President of the Institute, ex officio.

(iv) The President of the student organization of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the Secretary shall—

(A) consult with the Indian tribes and the various organizations of Native Americans;

(B) publish in the Federal Register an announcement of the expiration of terms no less than four months before such expiration;

(C) solicit nominations from Indian tribes and various Native American organizations to fill the vacancies; and

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board.

(3) The Speaker of the House of Representatives and the majority leader of the Senate may recommend individuals to be appointed under paragraph (1).

(b) TERMS OF OFFICE.—(1) Except as otherwise provided in this section, members shall be appointed for terms of six years.

(2) The terms of the Member of the House of Representatives and of the Senator shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members first appointed—

(A) five shall be appointed for terms of two years;

(B) five shall be appointed for terms of four years; and

(C) five shall be appointed for terms of six years;

as designated by the Secretary at the time of appointment.

(4) No member of the Board shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

(c) VACANCIES.—(1) Any member of the Board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(2) If a vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B), a replacement shall be appointed in the manner in which the original appointment was made.

(d) REMOVAL.—No member of the Board shall be removed during the period of appointment except for just and sufficient cause.

(e) MEETINGS.—The Board shall hold no more than two regular meetings during any calendar year. Special meetings may be held upon the call of the chairperson or not less than eight voting members of the Board. Meetings of the Board may only be held in Santa Fe, New Mexico, or Washington, D.C.

(f) QUORUM.—Unless otherwise provided by the bylaws of the Institute, a majority of the members of the Board shall constitute a quorum.

(g) ELECTION OF OFFICERS.—(1) During its initial meeting, the Board shall elect a chairperson, vice-chairperson, secretary, and treasurer from among the voting members of the Board appointed under subsection (a)(1)(A), who shall serve for two-year terms and may be reelected to additional two-year terms.

(2) In the case of a vacancy in any position under this subsection, such vacancy shall be filled by an election among such voting members. Any member appointed to fill any such vacancy shall serve for the remainder of any such unexpired term.

(h) FUNCTIONS.—The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this title, including the organization and procedures of the Board.

(i) COMPENSATION.—(1) Except as provided in paragraph (2), voting members and the ex officio members of the Board may receive reasonable travel expenses in accordance with section 5703 of title 5, United States Code, when engaged in the actual performance of the duties vested in the Board.

(2) No Member of the House of Representatives or Senate appointed under this section may receive compensation for performing duties of the Board, except that any such Member or Senator who does not represent the congressional district in which the Institute is located may receive travel expenses, including a per diem allowance, when performing duties of the Board.

(j) REVIEW BY SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, United States Code, the Board (by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.

SEC. 1305. EXECUTIVE BOARD.

(a) COMPOSITION.—The Board shall have an Executive Board composed of—

(1) the chairperson of the Board;

(2) the vice-chairperson of the Board;

(3) the secretary of the Board;

(4) the treasurer of the Board; and

(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) VACANCIES.—In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) MEETINGS.—The Executive Board shall hold not more than four regular meetings per calendar year. Special meetings may be held upon the call of the chairperson or three members of the Executive Board.

(d) QUORUM.—A majority of the Executive Board shall constitute a quorum.

(e) POWERS.—The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

SEC. 1306. GENERAL POWERS OF THE BOARD.

In carrying out the provisions of this title, the Board shall have the power, consistent with the provisions of this title—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(6) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(7) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(9) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, and institutions, and individuals;

(10) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purposes of this title;

(11) to use any funds or property received by the Institute to carry out the purposes of this title; and

(12) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this title and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 1307. PRESIDENT OF THE INSTITUTE.

(a) APPOINTMENT.—The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairperson of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) COMPENSATION.—The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS-15 of the General Schedule.

SEC. 1308. STAFF OF INSTITUTE.

(a) EXEMPTION FROM CIVIL SERVICE.—Except as otherwise provided in this section, title 5, United States Code, shall not apply to the Institute.

(b) APPOINTMENT AND COMPENSATION.—(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and

employees as the President deems necessary for the efficient administration of the Institute.

(2) The President shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, applies.

(3)(A) Not later than 180 days after the President is appointed under section 1307, the President shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without cause, notice of the reasons therefor, and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) HIRING PREFERENCE.—In carrying out subsection (b)(1), the President shall, to the maximum extent practicable, give preference in hiring to Native Americans.

(d) APPEAL TO BOARD.—Any officer or employee of the Institute may appeal to the Board any determination by the President to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President with respect to the employment of such officer or employee.

(e) NO REDUCTION IN CLASSIFICATION OR COMPENSATION.—Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such personnel for not less than one year after the transfer.

(f) LEAVE.—(1) Any individual who—

(A) elects under subsection (h) to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for the purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b), with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(3) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) shall not be so liquidated.

(4) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Civil Service Commission.

(g) APPLICABILITY.—This section shall apply to any individual appointed after the date of the enactment of this title for employment in the Institute. Except as provided in subsections (e) and (h), the enactment of this title shall not affect—

(1) the continued employment of any individual employed immediately before the date of the enactment of this title; or

(2) such individual's right to receive the compensation attached to such position.

(h) TERMINATION OF CIVIL SERVICE POSITIONS.—(1) At the end of the two-year period beginning on the effective date of section 1311, any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that such individual may elect to continue to be subject to chapter 83 of title 5, United States Code (relating to retirement).

(2) Any individual who makes an election under paragraph (1) to continue to be subject to chapter 83 of title 5, United States Code, shall, so long as continually employed by the Institute without a break in service, continue to be subject to such chapter. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for purposes of subchapter III of such chapter. The Institute shall be the employing agency for purposes of section 8334(a) of such title, and shall contribute to the Civil Service Retirement and Disability Fund such sum as is required by such section.

SEC. 1309. FUNCTIONS OF THE INSTITUTE.

(a) PRIMARY FUNCTIONS.—The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, the arts and culture of Native Americans, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native American art and culture.

(b) ESTABLISHMENTS WITHIN INSTITUTE.—There shall be established within the Institute—

(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology; and

(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

(A) a museum of Native American arts;

(B) a learning resources center;

(C) programs of institutional support and development;

(D) research programs;

(E) fellowship programs;

(F) seminars;

(G) publications;

(H) scholar-in-residence and artist-in-residence programs; and

(I) inter-institutional programs of cooperation at national and international levels.

(c) OTHER PROGRAMS.—In addition to the centers and programs described in subsection (b), the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Native American art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Native American art and culture; and

(3) coordinate efforts to preserve, support, revitalize and develop evolving forms of Native American art and culture.

SEC. 1310. NONPROFIT AND NONPOLITICAL NATURE OF THE INSTITUTE.

(a) STOCK.—The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) INCOME AND ASSETS.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) POLITICAL CONTRIBUTIONS.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

SEC. 1311. TRANSFER OF FUNCTIONS.

(a) INSTITUTE OF AMERICAN INDIAN ARTS.—There are hereby transferred to the Institute, and the Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary of the Interior in 1962.

(b) CERTAIN MATTERS RELATING TO TRANSFERRED FUNCTIONS.—(1) All personnel, liabilities, contracts, real property (including the museum located on the site known as the "Santa Fe Indian School" and its collections), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this title (regardless of the administrative entity providing the services on the date before the transfer), are hereby transferred to the Institute.

(2) Personnel engaged in functions transferred by this title shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) APPLICABLE LAWS AND REGULATIONS.—All laws and regulations relating to the Institute of American Indian Arts transferred to the Institute by this title shall, insofar as such laws and regulations are applicable, remain in full force and effect. With respect to such transfers, reference in any other Federal law to the Institute of American Indian Arts, or any officer so transferred in connection therewith, shall be deemed to be a reference to the Institute.

(d) TECHNICAL AND SUPPORT ASSISTANCE.—(1) During the transfer period, the Secretary of the Interior shall provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services.

(2) For the purposes of paragraph (1), the term "transfer period" means the 2-year

period beginning on the effective date of this section.

(e) ADVISORY BOARD.—Notwithstanding the effective date of this section, during the period beginning on the date of the enactment of this title and ending on the effective date of this section, the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute.

(f) EFFECTIVE DATE.—This section shall take effect beginning on October 1, 1986.

SEC. 1312. REPORTS.

(a) ANNUAL REPORT.—The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) BUDGET PROPOSAL.—(1) During the two-year period beginning on the effective date of section 1311, the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress.

(2) After the period described in paragraph (1) and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(3) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the two fiscal years succeeding the fiscal year during which such proposal is submitted.

(4) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 1313. HEADQUARTERS.

The site of the Institute of American Indian Arts, at Santa Fe, New Mexico, shall be maintained as the location for the Institute of Native American Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Secretary may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

SEC. 1314. ENDOWMENT PROGRAM.

(a) ESTABLISHMENT.—(1) From the amount appropriated pursuant to section 1316, the Secretary shall make available to the Institute not more than $500,000 which shall be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(2) The President of the Institute shall provide for the deposit into such fund—

(A) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(B) any earnings of the funds deposited under paragraph (1) or (2)(A).

(3) Such funds shall be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time.

(4) If at any time the Institute withdraws any capital contribution made by that Institute, an equal amount of Federal capital contribution shall be withdrawn and returned to the Treasury as miscellaneous receipts.

(5) No part of the net earnings of such trust fund shall inure to the benefit of any private person.

(6) The President of the Institute shall provide for such other provisions as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as are agreed to by the Secretary and the Institute, including record-keeping procedures for the expenditure of accumulated interest which allow the Secretary to audit and monitor programs and activities conducted with such interest.

(b) USE OF FUNDS.—Interest deposited pursuant to paragraph (2)(B) in such trust fund may be periodically withdrawn and used, at the discretion of the Institute, to defray any expenses associated with the operation of the Institute, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(c) COMPLIANCE WITH MATCHING REQUIREMENT.—For the purpose of complying with the contribution requirement of paragraph (2)(A), the Institute may use funds which are available from any private or tribal source.

(d) ALLOCATION OF FUNDS.—From the amount appropriated pursuant to section 1316, the Secretary shall allocate to the Institute an amount for a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of that Institute in accordance with subsection (a)(1).

SEC. 1315. DEFINITIONS.

As used in this title—

(1) the term "Board" means the Board of Trustees established under section 1304;

(2) the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians;

(3) the term "Institute" means the Institute of Native American Culture and Arts Development established by this title;

(4) the term "Native American" means any person who is a member of an Indian tribe;

(5) the term "Native American art and culture" includes the traditional and contemporary expressions of Native American language, history, visual and performing arts, and crafts; and

(6) the term "Secretary" means the Secretary of the Interior.

SEC. 1316. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE XIV—EDUCATION RESEARCH AND STATUTES

SECTION 1401. SHORT TITLE.

This title may be referred to as the "Education Research and Statistics Amendments of 1986".

SEC. 1402. EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.—Section 405 of the General Education Provisions Act (20 U.S.C. 1221e; referred to in this Act as "the Act") is amended to read as follows:

"OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

"SEC. 405. (a)(1) The Congress declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, handicap, national origin, or social class. Although the American education system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, improvement activities, data collection, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) The Congress further declares it to be the policy of the United States to—

"(A) promote the improvement of American education;

"(B) advance the practice of education as an art, science, and profession;

"(C) support educational research of the highest quality;

"(D) strengthen the educational research and development system;

"(E) improve educational techniques and training;

"(F) assess the national progress of this Nation's schools and educational institutions, particularly special populations; and

"(G) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(3) For the purposes of this section—

"(A) the term 'educational research' includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education; and

"(B) the terms 'United States' and 'State' include the District of Columbia and Puerto Rico.

"(b)(1) It shall be the purpose of the Office of Educational Research and Improvement (referred to in this section as the 'Office') established by section 209 of the Department of Education Organization Act to carry out the policies set forth in subsection (a). The Office shall be administered by the Assistant Secretary for Educational Research and Improvement (referred to in this section as the 'Assistant Secretary') established by section 202 of the Department of Education Organization Act and shall include—

"(A) the National Advisory Council on Educational Research and Improvement (referred to in this section as the 'Council') established in subsection (c);

"(B) the Center for Statistics established by section 406 of the Act; and

"(C) such other units as the Secretary considers appropriate to carry out the purposes of the Office.

"(2)(A) The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the following priority research and development needs—

"(i) improving student achievement;

"(ii) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for all students, including those with handicaps, those of limited English-speaking ability, women, older students, part-time students, and students who are socially, economically, or educationally disadvantaged;

"(iii) collecting, analyzing, and disseminating statistics and other data related to education in the United States and other nations; and

"(iv) improving the dissemination and application of knowledge obtained through educational research and data collection, particularly to education professionals and policy makers.

"(B) The Secretary shall publish proposed research priorities in the Federal Register every two years, not later than October 1, and shall allow a period of sixty days for public comments and suggestions.

"(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. In addition, there shall be such ex officio members who are officers of the United States as the President may designate, including the Assistant Secretary. A majority of the appointed members of the Council shall constitute a quorum. The chairperson of the Council shall be designated by the President from among the appointed members. Ex officio members shall not have a vote on the Council. The members of the Council shall be appointed to ensure that the Council is broadly representative of the general public; the education professions, including practitioners; policymakers and researchers; and the various fields and levels of education.

"(2)(A) Except as provided in subparagraph (B), members shall be appointed to terms of three years.

"(B) Of the members first appointed—

"(i) five shall be appointed for terms of one year;

"(ii) five shall be appointed for terms of two years; and

"(iii) five shall be appointed for terms of three years;

as designated by the President at the time of appointment.

"(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of a term until a successor has taken office.

"(D) An appointed member who has been a member of the Council for six consecutive years shall be ineligible for appointment to the Council during the two-year period following the expiration of the sixth year.

"(3) The Council shall—

"(A) advise the Secretary and the Assistant Secretary on the policies and activities carried out by the Office;

"(B) review and publicly comment on the policies and activities of the Office;

"(C) conduct such activities as may be necessary to fulfill its functions under this subsection;

"(D) prepare such reports to the Secretary on the activities of the Office as are appropriate; and

"(E) submit, no later than March 31 of each year, a report to the President and the Congress on the activities of the Office, and on education, educational research, and data gathering in general.

"(d)(1) In order to carry out the purposes of the Office under this section, the Secretary may conduct educational research; collect, analyze, and disseminate the findings of educational research; train individuals in educational research; assist and foster educational research, data collection, dissemination, and training; promote the coordination of education research and research support within the Federal Government and otherwise assist and foster such research; and collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(2) The Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or professional employees of the Office as the Secretary considers necessary to accomplish its functions. The Secretary may also appoint and compensate not more than one-fifth of the number of full-time, regular scientific or professional employees of the Office without regard to such provisions. The rate of basic pay for such employees may not exceed the maximum annual rate of pay for grade GS-15 under section 5332 of title 5 of the United States Code, except that the pay of any employee employed before the date of enactment of the Education Research and Statistics Amendments of 1986 shall not be reduced by application of such maximum pay limitation.

"(3)(A) The Secretary may carry out the activities in paragraph (1)—

"(i) directly;

"(ii) through grants, contracts, and cooperative agreements with institutions of higher education, public and private organizations, institutions, agencies, and individuals; and

"(iii) through the provision of technical assistance.

"(B) When making awards under this subsection, the Secretary shall—

"(i) solicit recommendations and advice regarding research priorities, opportunities, and strategies from qualified experts, such as education professionals and policymakers, personnel of the regional education laboratories and of the research and development centers supported under paragraph (4), and the Council, as well as parents and other members of the general public;

"(ii) employ suitable selection procedures utilizing the procedures and principles of peer review; and

"(iii) determine that the activities assisted will be conducted efficiently, will be of high quality, and will meet priority research and development needs under this section.

"(4)(A) In carrying out the functions of the Office, the Secretary shall, in accordance with the provisions of this subsection, support—

"(i) regional educational laboratories established by public agencies or private nonprofit organizations to serve a specific region of the Nation under the guidance of a regionally representative governing board;

"(ii) research and development centers established by institutions of higher education, by institutions of higher education in consort with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

"(iii) meritorious unsolicited proposals for educational research and related activities that are authorized by this subsection; and

"(iv) proposals that are specifically invited or requested by the Secretary, which meet priority research and development needs under this section.

"(B) Prior to awarding a grant or entering into a contract for a regional educational laboratory or research and development center under subparagraph (A)(i) or (A)(ii), the Secretary shall invite applicants to compete for such laboratories and centers through notice published in the Federal Register.

"(C) Each application for assistance under subparagraph (A)(i) or (ii) as a regional educational laboratory or a research and development center shall contain such information as the Secretary may reasonably require, including assurances that the applicant will—

"(i) be responsible for the conduct of the research and development activities;

"(ii) prepare a long-range plan relating to the conduct of such research and development activities;

"(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

"(iv) provide technical assistance to appropriate educational agencies and institutions; and

"(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities.

"(D) No grant may be made and no contract entered into for assistance described under subparagraph (A)(i) or (ii) unless—

"(i) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Office;

"(ii) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Office; and

"(iii) the Office determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Office.

"(E) No regional educational laboratory or research and development center receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Office authorized by law.

"(F) The Secretary shall make available adequate funds to support meritorious, unsolicited proposals as described under subparagraph (A)(iii), and provide sufficient notice of the availability of such funds to individual researchers in all regions of the country.

"(5) The Secretary, from funds appropriated under this section, may establish and maintain research fellowships in the Office, for scholars, researchers, and statisticians engaged in the collection and dissemination of information about education and educational research. Subject to regulations published by the Secretary, fellowships may include such stipends and allowance, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary considers appropriate.

"(e)(1) In addition to the other responsibilities of the Office under this section, the Office shall carry out, by grant or cooperative agreement with a nonprofit organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communication, and other subjects and skills. Such a National Assessment shall—

"(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

"(B) report, periodically, data on changes in knowledge and skills of such students over a period of time;

"(C) conduct special assessments of other educational areas, as the need for additional national information arises;

"(D) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to the basic skills of reading, mathematics, and communication, and on making comparisons of such assessments with the national profile and change data developed by the National Assessment; and

"(E) with respect to each State which voluntarily participates in accordance with paragraph (5), provide for a statement of information collected by the National Assessment for each such State.

"(2)(A) The organization through which the Office carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee, established by such organization. The assessment Policy Committee shall be composed of—

"(i) five members appointed by the organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public; and

"(ii) fourteen members appointed by the organization from the categories of membership specified in subparagraph (B).

"(B) Members of the Assessment Policy Committee appointed in accordance with subparagraph (A)(ii) shall be—

"(i) one chief State school officer;

"(ii) two State legislators;

"(iii) two school district superintendents;

"(iv) one member of a State board of education;

"(v) one member of a local school board;

"(vi) one Governor of a State;

"(vii) four classroom teachers;

"(viii) one elementary school principal; and

"(ix) one secondary school principal.

"(C) The Assistant Secretary shall serve as an ex officio member of the Assessment Policy Committee. The Assistant Secretary shall also appoint a member of the Council to serve as nonvoting member of the Assessment Policy Committee.

"(D) Members appointed in accordance with subparagraph (A)(i) and (ii) shall be appointed for terms for three years on a staggered basis.

"(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment. The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than sixty days.

"(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

"(5) Participation in the National Assessment by State and local education agencies selected as part of a sample of such agencies shall be voluntary.

"(6) The Secretary shall provide for a periodic review of the National Assessment. This review shall provide an opportunity for public comment on the conduct and usefulness of the National Assessment and shall result in a report to the Congress and to the President on the findings and recommendations, if any, stemming from the review. The Secretary shall consider these findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

"(f)(1) There are authorized to be appropriated to carry out the provisions of this section $51,200,000 for fiscal year 1987 and such sums as may be necessary for each of the fiscal years 1988 and 1989.

"(2) Not less than 95 per centum of funds appropriated pursuant to this subsection for any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

"(3) When more than one Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering those funds.".

(b) TRANSITION PROVISIONS.—On the effective date of this title, the property and records of the National Institute of Education shall be transferred to the Office of Educational Research and Improvement.

(c) EMPLOYMENT LIMITATION WAIVER.—Notwithstanding the three-year employment period limitation under section 405(d)(2) of the General Education Provisions Act, the Secretary may continue to employ for an indefinite period three individuals, selected by the Secretary, who are employed by the Office of Educational Research and Improvement on the date of the enactment of this Act, were employed by such office on April 1, 1986, and were employed by the National Institute of Education under its excepted hiring authority immediately prior to employment by such office.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 401 of the Department of Education Organization Act (Public Law 96-88) is amended by striking subsection (c).

SEC. 1403. CENTER FOR STATISTICS.

(a)(1) The heading of section 406 of the Act is amended to read as follows: "CENTER FOR STATISTICS".

(2) Section 406 is amended by striking out subsection (e) and redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

(b) Section 406(a) of the Act is amended—

(1) in the first sentence by striking "Office" and everything that follows and inserting "Office of Educational Research and Improvement, a Center for Statistics (referred to in this section as the 'Center').";

and

(2) in the second sentence by striking "an Administrator" and inserting "a Director".

(c) Section 406(b) of the Act is amended—

(1) in the first sentence by inserting ", and analyze," immediately after "collect";

(2) in paragraph (1) by inserting "if feasible, on a State-by-State basis," after "(1)";

and

(3) in paragraph (5) by striking "Education Division" and inserting "Department of Education".

(d) Section 406(c)(2) of the Act is amended—

(1) by striking subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C); and

(2) in subparagraph (A) (as redesignated in paragraph (1)) by striking "Director of the National Institute of Education," and inserting "Assistant Secretary,".

(e) Section 406(d)(1) of the Act is amended by striking "Assistant Secretary" and inserting "Secretary".

(f) Section 406(e) of the Act (as redesignated in subsection (a)(2)) is amended—

(1) in paragraph (1)—

(A) by striking "(A)";

(B) by striking out the first sentence and inserting "The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals. The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.";

(C) in the fourth sentence by striking "Assistant Secretary" each place it appears and inserting "Secretary"; and

(D) by striking subparagraph (B); and

(2) by striking paragraph (3); and

(g) Section 406(f) (as redesignated in subsection (a)(2)) is amended to read as follows:

"(f) There are authorized to be appropriated to carry out the provisions of this section and section 405(e) $20,000,000 for fiscal year 1987 and such sums as may be necessary for each of the fiscal years 1988 and 1989.".

(h) Section 406(g) (as redesignated in subsection (a)(2)) is amended to read as follows:

"(g) In addition to its other responsibilities, the Center shall collect uniform data from the States on the financing of elementary and secondary education. Each State receiving funds under the Education Consolidation and Improvement Act of 1981 shall cooperate with the Center in this effort.".

SEC. 1404. USE OF COUNCIL STAFF AND FACILITIES.

The National Advisory Council on Educational Research and Improvement, the Advisory Council on Education Statistics, and members of such councils may not use any staff, facilities, equipment, supplies, or franking privileges of the councils for activities unrelated to the purposes of the councils.

SEC. 1405. SPECIAL PROJECTS UNDER THE SECRETARY'S DISCRETIONARY FUNDS.

(a) DISCRETIONARY PROGRAMS.—Section 583(a)(1) of the Education Consolidation and Improvement Act of 1981 is amended by striking ", including" and all that follows before the semicolon.

(b) PRIORITY FUNDING.—Section 583(b) of the Education Consolidation and Improvement Act of 1981 is amended—

(1) by striking "and" after the comma in paragraph (3);

(2) by inserting "and" after the comma in paragraph (4);

(3) by adding after paragraph (4) the following:

"(5) a National Diffusion Network program as described in subsection (c),";

(4) by striking "paragraph (4))" and inserting "paragraph (4) and not less than 34 percent of funds reserved for the purposes of this section in the case of the program referred to in paragraph (5))".

(c) NATIONAL DIFFUSION NETWORK.—Section 583 of the Education Consolidation and Improvement Act of 1981 is amended by adding the following subsection (c):

"(c)(1) The National Diffusion Network program under subsection (b)(5) shall be a national program that recognizes and furthers excellence in education by: (A) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and (B) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

"(2) The program shall be directed toward improving the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(3) In carrying out the program the Secretary shall—

"(A) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(B) assist them in implementing programs, products, and practices, which those persons determine to hold promise for improving the quality of education in the schools for which they are responsible by providing materials, initial training, and ongoing implementation assistance;

"(C) ensure that all such programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(D) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(E) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

"(4) For the purpose of carrying out the program the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and nonprofit private educational institutions and organizations.".

SEC. 1406. EFFECTIVE DATE.

This title shall take effect October 1, 1986.

□ 1235

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HAWKINS].

The motion was agreed to.

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to include in the RECORD at this point an exchange of letters which I had with Chairman ROSTENKOWSKI concerning a provision of the House-passed education bill.

These letters follow:

COMMITTEE ON WAYS AND MEANS,
Washington, DC, June 17, 1986.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you to express an item of serious concern to the Committee on Ways and Means regarding H.R. 3700, the Higher Education Amendments of 1986.

The issue arises from a provision in the House-passed version of the legislation which is not in the Senate version. Both bills would authorize establishment of a new Federally-funded corporation, to be known as the College Construction Loan Insurance Association, to insure debt obligations of colleges and universities, issued to finance educational facilities. Our problem is with the provision in the House bill (new section 756 of the Higher Education Act) which would deem any obligation incurred by the new corporation as not Federally guaranteed "within the meaning of section 103(k) of the Internal Revenue Code of 1954, as amended." This provision is clearly a matter within the jurisdiction of the Committee on Ways and Means.

Frankly, Mr. Chairman our Committee was not aware of this provision when the Higher Education Amendments were on the House floor. Our Committee was in the final stages of considering the tax reform bill at that time. Had we noticed the provision, I would have raised a point of order against the bill under clause 5(b) of Rule XXI of the Rules of the House of Representatives. The purpose of section 103(k) of the Internal Revenue Code is to prevent tax-exempt obligations being issued in combination with a direct or indirect guarantee of those obligations by the Federal government. Federally-guaranteed tax-exempt obligations are financial instruments with a preferred position in the capital markets relative to the Federal government's own securities (which are not tax-exempt) and the traditional obligations of state and local governments for schools and other purposes (which are not Federally guaranteed or insured). The Tax Reform Act of 1985, H.R. 3838, as passed by the House of Representatives and as currently being considered on the Senate floor, retains the anti-Federal guarantee rule for tax-exempt bonds.

The Senate version of the higher education bill does not contain any override of the Tax Code. This was made clear during floor consideration of the bill. (See, p. S6548 of the Congressional Record for June 3, 1986.)

I, therefore, urge you and the other House Conferees to defer to the Senate on this provision. To override the Internal Revenue Code restrictions regarding taxation of interest payments on debt obligations would cause serious concern.

I would appreciate your assurance that the provision in the House-passed version of the Higher Education Amendments of 1986 (which would deem any obligation incurred by the College Construction Loan Insurance Association as not Federally guaranteed for Internal Revenue Code purposes) will be deleted from the bill during the House-Senate conference on the legislation. Without such an assurance, the jurisdictional concerns of the Committee on Ways and Means would force me to object to any unanimous consent request to amend the Senate bill with the House-passed legislation.

Mr. Chairman, at the earliest opportunity, I will ask the Committee on Ways and Means to study your concerns regarding the tax treatment of interest on obligations contemplated under H.R. 3700 and to review the merits of an amendment to the Internal Revenue Code in this regard. I hope that we can work together to address any inequities that may exist regarding the tax exemption for obligations issued under the legislation.

I hope you understand my serious concerns regarding the inclusion of this provision in a non-tax bill. Thank you for your assistance in deleting the provision at this time.

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, June 17, 1986.

Hon. DAN ROSTENKOWSKI,
Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter raising concerns about the new section 756 of the Higher Education Act contained in H.R. 3700 which would deem any obligation incurred by the new College Construction Loan Insurance Association as not Federally guaranteed "within the meaning of section 103(k) of the Internal Revenue Code of 1954, as amended."

This is clearly a matter within the jurisdiction of the Ways and Means Committee, and the House conferees will recede to the Senate (dropping this provision) in conference. I appreciate very much your willingness to consider this matter on its merits at the earliest possible date.

With kind regards.

AUGUSTUS F. HAWKINS,
Chairman.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF AMENDMENT TO S. 1965, HIGHER EDUCATION AMENDMENTS OF 1986

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that in the engrossment of the amendment to the Senate bill S. 1965, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the

House in amending the Senate bill, S. 1965.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on both motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes will be taken after debate has been concluded on both motions to suspend the rules.

EFFECTIVE SCHOOLS AND EVEN START ACT

Mr. HAWKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4463) to establish programs to promote effective schools and to encourage joint parent-child educational approaches, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Effective Schools and Even Start Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) successful education of the Nation's children depends on effective learning that occurs at home and on effective teaching in the Nation's schools;

(2) increasing the academic skills of children before they begin school and increasingly school effectiveness will enhance the learning and achievement of children throughout their educational careers;

(3) parental involvement in preparing their children for school will improve a child's ability to obtain an even start in school and assist in early identification of problems which might hinder a child's readiness for school;

(4) research indicates that many parents are not full partners in the education of their own children because many of them lack basic literacy skills;

(5) participation by parents in the education of their children can be increased by helping them to acquire specific skills and strategies needed to work with their children;

(6) there are schools that are effectively teaching the Nation's children, and school children are increasing their learning and achievement in schools that have been identified as being effective;

(7) there is an increasing body of experience and knowledge built on research which indicates that school effectiveness can be increased; and

(8) where school improvement programs (based on effective school principles and practices) have been instituted, student academic achievement often increases, especially in schools serving poor, minority, or educationally deprived students.

SEC. 3. EFFECTIVE SCHOOLS PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist State and local educational agencies in increasing school effectiveness through effective schools programs to improve student achievement, student behavior, teaching, learning, and school management.

(b) FUNDING FROM STATE ALLOCATION UNDER CHAPTER 2 OF ECIA.—(1) Each State receiving an allotment under section 563 of the Education Consolidation and Improvement Act of 1981 after the date of enactment of this Act shall use not less than one-half of the amount remaining from any such allotment (after making the distributions to local educational agencies required by section 565(a) of such Act) to carry out one or more of the activities described in subsection (c). Such activities may be carried out directly by the State educational agency or other agency of that State or indirectly by grant to or contract with a local educational agency of that State, an institution of higher education, a private nonprofit organization, or an intermediate school district.

(2) The amount that a State is required to use to carry out one or more of the activities described in subsection (c) shall be reduced by the amount that the State demonstrates, pursuant to section 5(a)(3), has been expended, during the most recent school year for which satisfactory data are available, from other Federal or State (excluding local educational agency) sources to carry out an effective schools program in that State by conducting one or more of such activities.

(c) AUTHORIZED ACTIVITIES.—Funds required to be used to carry out activities described in this subsection may be used (in accordance with a program agreement entered into pursuant to section 5 of this Act)—

(1) to plan for effective schools programs under this section, and to conduct reviews and propose revisions of such programs, either by local or State educational agencies, by combined local and State task force, or by an advisory committee established pursuant to section 564(a)(2) of the Education Consolidation and Improvement Act of 1981;

(2) to implement and support effective schools programs through activities such as training; workshops; forums and other mechanisms to improve parent and community organization involvement and participation; demonstration programs; and improved communication and coordination between schools, school districts, and such demonstration programs;

(3) to obtain technical assistance and consultant services with respect to effective schools programs from (A) regional educational laboratories and research and development centers supported under section 405(f) of the General Education Provisions Act, (B) institutions of higher education, and (C) other qualified nonprofit educational organizations and institutions;

(4) to design, develop, and publish educational materials on effective schools programs;

(5) to develop and implement systems to collect, analyze, and interpret data concerning effective schools programs and to communicate the results to school personnel;

(6) to promote State and local educational agency awareness of effective schools information through conferences at schools and district and multidistrict offices, and through onsite visits to model effective schools;

(7) to conduct evaluations of effective schools programs conducted under this section, including the evaluations required by section 5(a)(2)(B) of this Act;

(8) to plan and conduct, for teachers and administrators, training and other professional development activities related to the implementation of effective schools programs;

(9) to plan and conduct training in (A) the assessment of students and programs, (B) the evaluation of such assessments, and (C) the use of such assessments and evaluations in improving effective schools programs; and

(10) to otherwise identify, document, and disseminate information concerning exemplary effective schools programs.

(d) TECHNICAL ASSISTANCE.—The Secretary shall, on request, make available information and technical assistance to State educational agencies in order to assist such agencies in carrying out the provisions of this Act.

SEC. 4. EVEN START PROGRAM.

(a) PURPOSE.—It is the purpose of this section to successfully combine adult basic education for parents and school readiness training for children into a single education program by—

(1) assisting pilot basic education programs having a major component designed to assist parents to be more effective in preparing their children for entrance into school;

(2) helping parents learn techniques and skills that can be used to assist in their children's education; and

(3) providing parents with supervised opportunities to practice the techniques and skills at educational facilities and in the home.

(b) FUNDING FROM CHAPTER 2 ECIA AND FROM ADULT EDUCATION ACT.—The Secretary shall—

(1) from $2,000,000 of the amount available for allotment for a fiscal year by the Secretary pursuant to the third sentence of section 563(a) of the Education Consolidation and Improvement Act of 1981 from amounts appropriated after the date of enactment of this Act, and

(2) from $1,000,000 of the amount appropriated for a fiscal year pursuant to the Adult Education Act after the date of enactment of this Act,

make grants in accordance with this section to eligible applicants. The requirements of this subsection shall cease to be effective after the Secretary has made grants for four fiscal years.

(c) USE OF FUNDS.—(1) Funds made available to a grant recipient under this section shall be used to provide a program of adult literacy training which includes as a major component involving parents and children together in an effort to enhance the likelihood of educational achievement.

(2) Each program provided by a grant recipient under this section shall include the following elements:

(A) identifying and recruiting eligible participants;

(B) screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

(C) designing programs and providing support services to suit the participants' work and other responsibilities, including—

(i) scheduling and locating services to allow joint participation by parents and children;

(ii) child care; and

(iii) transportation;

(D) establishing instructional programs that promote adult literacy, equip parents to support the education and growth of their children, and prepare children for success in regular school programs;

(E) providing and monitoring integrated instructional services to participating parents and children through home-based programs; and

(F) coordinating programs assisted under this Act with programs assisted under chapter 1 of the Education Consolidation and Improvement Act of 1981, the Adult Education Act, Head Start, volunteer literacy organizations, and other relevant service providers.

(3) An eligible participant in a program provided by a grant recipient under this section may be a parent or a child (aged 3 to 7, inclusive) from a family—

(A) that includes a parent who is eligible for participation in an adult basic education program under the Adult Education Act; and

(B) that resides—

(i) in a school attendance area designated for receipt of funds under chapter 1 of the Education Consolidation and Improvement Act of 1981; and

(ii) with a child aged 3 to 7, inclusive.

(d) SELECTION OF GRANT RECIPIENTS.—(1) Any agency, organization, or institution that—

(A) operates an adult basic education program under the Adult Education Act; and

(B) serves an area which has an especially high concentration of children from low-income families, as determined by the Secretary in a manner consistent with section 117 of the Elementary and Secondary Education Act of 1965;

is eligible to apply for a grant under this section.

(2) To be selected as a grant recipient, an eligible applicant shall submit an application in such form and containing or accompanied by such information as the Secretary may require. Such application shall include a demonstration by the applicant that—

(A) the applicant has the qualified personnel required (i) to develop, administer, and implement the program required by this section, and (ii) to provide special training necessary to prepare staff for the program; and

(B) in the case of an applicant that is not a local educational agency, the applicant plans and operates such programs in coordination with the applicable State and local educational agency.

(3) In addition, such application shall include a plan of operation for the program which includes—

(A) a description of the program, goals;

(B) a description of the activities and services which will be provided by the program (including training and preparation of staff);

(C) a statement of the methods which will be used (i) to ensure that the program will serve those eligible participants most in need of the activities and services provided by this section, (ii) to provide services under this section to special populations, such as individuals with limited English proficiency and handicapped individuals, and (iii) to encourage participants to remain in the program for a time sufficient to meet program goals;

(D) a description of the methods by which the applicant will coordinate programs under this Act with programs assisted under chapter 1 of the Education Consolidation and Improvement Act of 1981, the Adult Education Act, Head Start, volunteer literacy organizations, and other relevant service providers; and

(E) a demonstration of the applicant's capacity to carry out the requirements of section 5(b)(2)(C).

(4) From the applications submitted in accordance with this subsection, the Secretary shall select not less than 15 nor more than 20 for final review. Of the applications so selected, two-thirds shall be from urban areas and one-third from rural areas. Such final review shall be conducted by a review panel composed of the Secretary and the following individuals appointed by the Secretary:

(A) a State director of programs under chapter 1 of the Education Consolidation and Improvement Act of 1981;

(B) a State director of programs under the Adult Education Act;

(C) a director of a local program under such chapter;

(D) a director of a local program under such Act;

(E) a chief State school officer;

(F) a representative from a local Parent-Teacher Association;

(G) an individual with training in early childhood education; and

(H) an individual with training in adult literacy education.

(5) The review panel shall select applications for the receipt of funds under this section. Unless the applicant fails to comply with the requirements of this section or withdraws its application, an applicant whose application is so selected shall continue to be eligible to receive a grant for each of the four fiscal years referred to in section 4(b).

SEC. 5. APPLICATIONS AND AGREEMENTS.

(a) EFFECTIVE SCHOOLS.—(1) Any State educational agency required to use funds under section 3 shall amend the application filed under section 564 of the Education Consolidation and Improvement Act of 1981 to reflect the activities and programs to be conducted with such funds.

(2) In addition, a State educational agency shall enter into a program agreement with the Secretary in accordance with this subsection. Each program agreement under this subsection shall—

(A) contain a description of the methods by which funds under section 3 will be used to carry out effective school programs by applying the effective schools principles set forth in section 7(5)(B);

(B) provide for an independent annual evaluation of activities conducted pursuant to section 3 and for making the results of such evaluation available to the Secretary;

(C) demonstrate how funds will be used to improve schools in districts with the greatest number or percentages of educationally deprived children;

(D) contain a description of the methods by which the applicant will involve parents in establishing goals for, and in planning, implementing, and evaluating, the programs conducted under the agreement; and

(E) contain such information and assurances as the Secretary may require to ensure compliance with the applicable requirements of this Act.

(3) Any State that desires to take advantage of the provisions of section 3(b)(2) for any fiscal year shall submit to the Secretary a statement of—

(A) the amount of funds expended by the State educational agency, during the most recent school year for which satisfactory data are available, from other Federal or State (excluding local educational agency) sources to carry out an effective schools program in that State by conducting one or more of the activities described in section 3(c);

(b) the sources of such funds and the amounts provided from each source;

(C) the activities so conducted, the amount expended for each such activity, and the relationship of such activities to the objectives and factors required by subparagraphs (A) and (B), respectively, of section 7(5); and

(D) the numbers of students affected by such activities and the schools and local educational agencies for which such activities were provided.

(4) A program agreement entered into pursuant to paragraph (2) of this subsection shall be in effect, to the extent possible, for the same period as the State's application is in effect pursuant to section 564 of the Education Consolidation and Improvement Act of 1981. Such program agreements may be amended annually as may be necessary to reflect changes without entering into a new program agreement.

(b) EVEN START.—(1) An eligible applicant whose application has been selected for funding under section 4(d) shall enter into a program agreement with the Secretary in accordance with this subsection.

(2) Each program agreement under this subsection shall—

(A) contain such information and assurances as the Secretary may require to ensure compliance with the applicable requirements of this Act;

(B) assure that the grant recipient will comply with evaluation and dissemination requirements prescribed under section 6; and

(C) contain assurance that the grant recipient will provide, from non-Federal sources, not less than 20 percent of the cost of the program for each year of operation.

The amount that a grant recipient is required by subparagraph (C) to provide from non-Federal sources may be in cash or in kind, but not more than one-half of the amount so provided shall be in kind.

SEC. 6. EVALUATION AND DISSEMINATION OR RESULTS.

(a) EFFECTIVE SCHOOLS.—(1) The Secretary shall, on the basis of the evaluation reports received pursuant to section 564(a)(5) of the Education Consolidation and Improvement Act of 1981 and section 5(a)(2)(B) of this Act, and such further investigation as may be necessary, analyze the programs conducted pursuant to section 3 of this Act and, not later than September 30, 1989, submit to the Congress a report thereon, together with such recommendations as may be useful in strengthening and improving such programs.

(2) The Secretary shall, on the basis of effective schools research, including research conducted or reviewed by research centers funded under section 405(f)(1) of the General Education Provisions Act, report to the Congress not later than September 30, 1988, and biennially thereafter, on recent developments in such research.

(b) EVEN START.—(1) The Secretary shall provide for annual evaluations of programs under section 4 of this Act in order to determine their effectiveness in providing—

(A) for the participation of special populations;

(B) adult education services;

(C) for the training of parents to work with their children;

(D) home-based programs involving parents and children;

(E) coordination with related service programs; and

(F) for the training of personnel in the appropriate skill areas.

(2) The evaluations shall be conducted by individuals not directly involved in the administration of the program or project operation under section 4 of this Act. These outside evaluators and the program administrators shall jointly develop a set of evaluation criteria which provide for appropriate analysis of the factors listed in paragraph (1). When possible, these evaluations shall include comparisons with appropriate control groups.

(3) In order to determine a program's effectiveness in achieving its stated goals, the evaluations shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

(4) The results of the evaluations conducted under this subsection shall be submitted to the national diffusion network, in the form required for consideration, for possible dissemination.

SEC. 7. RESTRICTION ON REGULATIONS.

Section 591 of the Education Consolidation and Improvement Act of 1981 shall apply to the effective schools programs authorized by this Act.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of Education.

(2) The term "local educational agency" has the meaning given such term by section 595(a)(4) of the Education Consolidation and Improvement Act of 1981.

(3) The term "State educational agency" has the meaning given such term by section 595(a)(3) of such Act.

(4) The term "institution of higher education" has the meaning given such term by section 481(a)(1) of the Higher Education Act of 1965.

(5)(A) The term "effective schools programs" means school programs having the objective of (i) promoting school-level planning, instructional improvement, and staff development, (ii) increasing the academic achievement levels of educationally deprived children through early childhood education programs and the use of the factors identified by effective schools research as distinguishing effective from ineffective schools, and (iii) achieving each of those factors as ongoing conditions in the school.

(B) For the purpose of subparagraph (A) of this paragraph, the factors identified by effective schools research as distinguishing effective from ineffective schools are the following:

(i) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving:

(ii) emphasis on the acquisition of basic and higher order skills;

(iii) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

(iv) a climate of expectations that virtually all children can learn under appropriate conditions; and

(v) continuous assessment of students and programs to evaluate the effects of instructions.

(6) The term "parent" includes a legal guardian or other person standing in loco parentis.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my good colleague, Congressman BILL GOODLING, and I have introduced the Effective Schools and Even Start Act (H.R. 4463). This is an important measure for education in this country because it has two major purposes tied to this Nation's national interests. If passed by the Congress, it will foster a better and improved educational environment in the school, and it will demonstrate the significance of promoting learning in the home. Equally important in this proposal is the fact that this bill calls for no additional cost to the Federal Government.

The bill's effective schools part is based on considerable research and study, on the factors that differentiate effective schools from non-effective schools. These factors are identified as: Strong leadership by school administrators; high expectations for student academic success; a stable, nonrepressive school atmosphere; a strong academic focus; and the continuous assessment of student progress.

In support of the results of effective schools practice, the U.S. Department of Education has highlighted the success of effective schools practices in their newly released report called What Works.

According to a recent National Institute of Education report, some 7,500 schools in 1,750 schools districts have instituted effective schools programs.

Among the States initiating statewide effective schools are: Vermont, South Carolina, Connecticut, New York, Montana, Michigan, Ohio, and Maine—to name a few States.

In developing the even start portion of this bill, Mr. GOODLING and I became increasingly aware of the deleterious effects illiteracy is having on our populations. Nowhere is this more devastating than on parents with small, pre-school children at home. We also know that there is an overwhelming body of research that articulates the importance of early learning that occurs in the home and the impact of such learning for the later development of literacy skills. Equally important is helping parents who are illiterate overcome their illiteracy in order to help them help their children.

The Even Start part of the bill directly focuses on this problem by combining adult education for parents with a program of early childhood education for their children. This would be done in a format which would make grants available from the Department of Education, for the implementation of pilot/demonstrations in a single program, combining basic education for illiterate adults and school readiness training for their children.

Parents in this program would receive adult basic education as well as training in how to help their young children, if those parents were illiterate or lacking a high school diploma.

The funding for the Effective Schools programs would target one-half of the State portion of each State's grant under the chapter 2 education block grant (10 percent) of the total State grant).

This funding approach provides States with more guidance on Federal priorities for use of chapter 2 funds, while continuing State administrative control of those funds.

The Even Start program would be funded by reserving $2 million from the top of the chapter 2 appropriation, and $1 million from the Adult Education Act for this purpose.

Although Even Start is a relatively small demonstration program, it deals with a critical national concern, illiteracy. Additionally, it would further build upon our knowledge of the positive effects of parental involvement upon student learning.

I believe that with the passage of H.R. 4463, this Nation will further its continuing objective of providing excellence, equity, and quality in our schools, and thereby greatly enhance teaching and learning.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has been a real pleasure working with Chairman HAWKINS on the development of this legislation. The Effective Schools and Even Start bill represents a combination of our efforts and the efforts of staff and the efforts of many other people in the Congress of the United States.

In the Effective School approach, the chairman is right in saying that there are many models that can be developed that will help us to improve our overall ability to educate our children, and there are some being used at the present time. We would hope that these models would spread and that districts all over this country would

capitalize on some of the efforts that have been made in the past, and some that will be made as this legislation becomes law.

The Even Start part of the program is nothing new to me; it is relatively new overall, I think.

As a superintendent of schools, I used my ESEA-1 money at that particular time to do what I envision here; and that is to tackle the biggest problem I think facing America domestically, and that is the problem of functional illiteracy.

We have, depending on whose figures are used, anywhere between 26 million and 60 million functional illiterate people in this country. It seems to me that it will not be an outside force that will destroy this country; if the functional illiteracy situation grows, we will be destroyed internally.

So the hope is to have just a few, as the chairman mentioned, demonstrated projects so that we can show how combining the education of the functionally illiterate adult with the training of that adult to show as a matter of fact what they can do to make sure that their children have an even start when they come to school, will, we believe, break that cycle.

I do not think we can attack the problem only from one end or the other. I think we have to attack it together. Someone stated, "Well, the way to help children become ready for school is to get the parents to go out and buy books and sit down and read to them." The people we are trying to deal with in this legislation, as a matter of fact, cannot read. They could not go out and buy books; they would not know what the titles say. Certainly they would not come back and read to their children.

They want their children to be successful; but they do not know what it is that you do at home as far as reading readiness is concerned, because they are functionally illiterate parents to start with.

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So it is our hope that even though the demonstration projects are small in number or will be small in number, they will prove that combining this approach dealing with the children and the parents at the same time will, as a matter of fact, hit this literacy problem head-on and try to, as a matter of fact, decrease the number of functional illiterates in the United States rather than sit back and watch that number increase.

If we had lot of money to deal with, we would not be asking for a small amount of money. We know the budget problems, as the chairman has said. As a matter of fact, if money were available, we would not ask to take it from two other programs that are very successful at the present time.

But we believe that we must move ahead in this area both in the Effective Schools approach to bringing about a better education in the United States for our children and dealing with the functional illiteracy problem.

Mr. Speaker, I hope that my colleagues will support our effort here today.

Mr. Speaker, I yield such time as he may consume to the ranking member of the Committee on Education and Labor, the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I rise in support of H.R. 4463, the Effective Schools and Even Start Act. I am pleased to be a cosponsor of this legislation which was introduced by Chairman HAWKINS and Mr. GOODLING. Both of the purposes contained in H.R. 4463 are worthy of the body's support.

The Even Start Act provides new Federal support for programs to fight illiteracy. A series of joint House-Senate hearings on illiteracy and a recent report by the Census Bureau documenting the magnitude of the illiteracy problem have clearly placed illiteracy at the top of any list of domestic problems. Mr. GOODLING's initiative offers an innovative approach to illiteracy by combining services for parents and their children into a single program. I would like to point out that the Even Start Program would require no new budget authority, but would be funded through programs currently authorized (chapter 2, the Adult Education Act).

While sometimes thought to be an urban problem, illiteracy is also a major problem in my home State of Vermont. I applaud the provison in this legislation which stipulates that one-third of the grants will be awarded to applicants servicing rural areas.

Experience in Vermont has shown that delivery of services directly to the home is an effective model in rural areas. The Even Start Program is strengthened by including home-based instruction as part of the program requirements.

The Effective Schools portion of the bill has the potential of adding a great deal to the ongoing school reform movement. At a hearing on the Effective Schools Act, we heard from a fellow Vermonter that his model has a great deal of promise for improving vocational programs in rural areas. State departments of education will continue to be responsible for how the chapter 2 funds are spent for this purpose. At full committee, I offered report language which was accepted that encourages local education agencies to join in a partnership with the State agency to create effective schools.

Again I want to commend Chairman HAWKINS and Mr. GOODLING on their work, and thank them for the amendments which they adopted at subcommittee which addressed the concerns I had heard from educators in Vermont. With those amendments and the report language approved at full committee, I urge my colleagues to join me in support of this legislation.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to take this opportunity to commend the gentleman from California [Mr. HAWKINS] for his leadership in producing this legislation and my colleague, the gentleman from Pennsylvania [Mr. GOODLING], for his very substantial contribution in this effort.

Mr. Speaker, I rise in support today of H.R. 4463, the Effective Schools and Even Start Act. It is a measure designed to establish programs in two vital areas of educational concern—to promote effective schools and to attack the growing problem of adult illiteracy. I am proud to have joined as an original cosponsor.

The Effective Schools concept has been in existence in New York City since the late 1970's. Since that time, we have witnessed a dramatic transformation in that our city's elementary schools are now instructionally effective schools. The percentage of our elementary school children testing at or above the national norm has risen from 33 percent in 1974 to 55 percent in 1983. The success of New York City's Effective Schools Programs has convinced me of the need to expand this program and introduce the effective schools concept across the entire country.

Adult illiteracy is a problem reaching epidemic proportions in our Nation. The Even Start Program will provide funds for adult literacy programs that involve both parents and their children. The successful education of our Nation's citizens depends on effective learning and teaching in both the home and the classroom.

At this time, I wish to commend Mr. HAWKINS, our distinguished chairman, for his efforts on behalf of this bill. He has contributed a great service to this Nation's children by recognizing the importance of the effective schools concept, and expanding this program to include children throughout the country. I would like to commend him for his work in this area. I also wish to recognize my colleague from Pennsylvania, Mr. GOODLING, for his work and contributions on behalf of this legislation. Adult literacy training is a responsibility often overlooked in the field of education. He has realized we must improve the basic nature of teaching and learning for both parents and their children.

Education is the very foundation upon which we build a quality future—the future of an individual, and the future of this great Nation. This legislation offers us the opportunity to do just that.

Mr. GOODLING. Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, may I simply indicate the pleasure we have experienced in working with the minority members, Mr. GOODLING and Mr. JEFFORDS, on this proposal. It represents the first real initiative in education that we will have taken in the last decade. I think it will go a long way toward removing the illiteracy rate in this country. It is a bipartisan approach to a very difficult problem, and it does not call for any new money. I can see no reason why we should not unanimously adopt this proposal today.

Mr. OWENS. Mr. Speaker, I rise in support of H.R. 4463, the Effective Schools and Even Start Act. The act would serve to direct moneys from chapter 2 block grant funds and adult education funds to provide for the active development of effective schools programs and for support for parents who are illiterate or who lack a high school program. The thrust of the act is to help parents to improve their skills so that they can, in turn, provide active support for the education of their children and to expand the effective schools model so that more children will benefit from this well proven approach to education.

The effective schools approach consists of a number of elements brought together in each school. It has been demonstrated that schools which have an effective administration, a clear statement of academic goals, programs directed toward those goals, and frequent and effective measurement of progress toward academic goals encourage students to accomplish their academic objectives. Although these schools are also orderly and work oriented, they are not grim places where children merely trudge through the basics. In contrast, they tend to be schools with a shared air of excitement as students, faculty, and administration share the satisfaction of knowing that they are all involved in a shared venture in which everyone benefits. Parents are also a component of the success story. They are kept in touch with the children's progress on a regular basis and they are encouraged to be active partners in that progress. By including a component to assist parents who lack basic academic skills, that partnership is encouraged.

In a very real way, the effective schools approach is a vehicle for once again coming to a clear understanding of the goals of a school program. Those goals have changed as it has become necessary to prepare children for an ever more complex world. However, the path to understanding that more complex world still begins with the steps that we all had to take as we learned to read, write, and do basic arithmetic. All the modern aids available, be they computers, video tapes, or other devices, do not really alter what children learn or the way in which they learn it. It is still one step at a time toward basic skills and the more complex understanding which follows.

I urge all of my colleagues to support the Effective Schools and Even Start Act. Let us all be clear that the basic policy goal of Federal support for education is to encourage schools to pursue the most effective means to see to it that each child achieves as much as he or she is capable of achieving. The Effective Schools Program is a proven approach which has demonstrated what we all intuitively know—a clear sense of direction in an orderly atmosphere encourages children to learn.

Mr. HAWKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HAWKINS] that the House suspend the rules and pass the bill, H.R. 4463, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VOCATIONAL EDUCATION AMENDMENTS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4841) to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

The Clerk read as follows:

H.R. 4841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOTMENTS UNDER THE CARL D. PERKINS VOCATIONAL EDUCATION ACT.

Section 101(a)(3) of the Carl D. Perkins Vocational Education Act is amended to read as follows:

"(3)(A)(i) Notwithstanding any other provision of law and subject to clause (ii), for any fiscal year for programs authorized by title II or part B of title III of this Act, no State shall receive less than the payments made to the State for each such program for fiscal year 1985 under Public Laws 98-619 and 99-88. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States, but no such amount shall be reduced to an amount which is less than the amount a State received under the Act for each such program for fiscal year 1985.

"(ii) If for any fiscal year the amount appropriated for programs authorized by title II or part B of title III and available for allotment under this section is insufficient to satisfy the provisions of clause (i), the payments to all States for each such program shall be ratably reduced as necessary.

"(B)(i) Notwithstanding any other provision of law and subject to subparagraph (A) and clause (ii), for any fiscal year for which the amounts appropriated for programs authorized by title II or part A, B, C, D, or E of title III (and available for allotment under this section) exceed the amounts so available for fiscal year 1985, no State shall receive less than one-half of one percent of the amount available for each such program for that fiscal year under this subsection. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

"(ii) Due to the application of the provisions of clause (i), for any fiscal year. No State shall receive more than 150 percent of the payments made to the State for each program authorized by title II, or part A, B, C, D, or E of title III for the preceding fiscal year.

"(C) In the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the minimum allotment for all programs under the Act shall be $200,000.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky [Mr. PERKINS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Today, I bring before the House, House Resolution 4841, which is an amendment to the Vocational Education Act. This bill will address a problem that is threatening the consumer and homemaking portion of the Vocational Education Program. Now before I explain the legislation, I would like to take this opportunity to express my appreciation to Chairman HAWKINS for his help in moving this bill through the Committee on Education and Labor so expeditiously, and I would like to also thank my dear friend and colleague from Pennsylvania, Mr. GOODLING. It is always nice to have a bipartisan situation and be able to work together to produce a piece of legislation. Certainly, with Mr. GOODLING, that is always a possibility and a probability.

Mr. Speaker, without the application of this Vocational Education Act, which was put together with this bipartisan support I was just referring to, both as to committee members and staff, we will deal with a fundamentally unfair shift in the distribution of consumer and homemaking funds.

Now the result of the shift will cause some States to receive increases of over 1,000 percent while other States will be losing as much as two-thirds of their consumer and homemaking funds.

Now let me just give you a list of some of the losers in this situation.

Michigan, in 1985, got $1,275,142. Now in 1986, unless we pass this bill, they will only get $465,789.

Ohio received $1,496,734; under this bill, unless this bill passes, it will receive $555,922, a 63-percent decrease.

Wisconsin, which received $679,000 last year, this year would receive $215,000; they would lose 68 percent.

Now these unusual distributions are a result of the combination of the Gramm-Rudman, March 1, cut; a small State minimum in the Vocational Act formula; and a hold harmless provision placed by the Vocational Education basic grants in the fiscal year 1986 appropriations bill.

Now under the vocational Education Act, States receive three pots of money. I think to understand what I am talking about today, it is good to remember the concept of three separate pots.

Now for the separate line item appropriations, we have basic grants, that is one pot; we have consumer and homemaking funds in the second pot; and we have community-based organization grants, last, in this final third pot.

Now when the Gramm-Rudman bill took effect, it triggered the appropriation bill provision that held each State's basic grant harmless at the fiscal year 1985 level. So that 95 percent of the funds, pot No. 1 over here, which has 95 percent of the money, that pot is frozen. We cannot do anything with that 95 percent.

So all the increased funds that small States were supposed to receive due to the small State minimum requirement had to be found in these other two pots of money, or these other two programs.

Now because both of these pots or both of these programs together make up less than 5 percent of the total appropriations, the addition of the funds for the small States resulted from these unusual shifts that we have been talking about.

Now this legislation, H.R. 4841, would place a hold harmless at the 1985 funding level on the consumer and homemaking funds, in addition to the one already existing on the basis grants.

Thus, no State would receive a deeper cut in fiscal year 1986 for the overall Gramm-Rudman cut of 4.3 percent in basic grants or in consumer and homemaking, nor would any State gain at the expense of others.

Now the small State minimum would be applied and calculated separately for each of the three separate pots, the three different programs.

Now the solution is not an inequitable solution to the small States. It would lock in the increases that those States have already received in fiscal year 1985 during the first operative year of the small State minimum requirement under the Vocational Education Act.

Now the appropriation for fiscal year 1985 including $100 million supplemental of which approximately $12.5 million went to the small States, which is a proportion that is much greater for these small States than their portion of population; in the future it would also allow the small States to be first in line for any increases that might occur in consumer and homemaking program funding.

Now the actual details of this issue become pretty involved and sound pretty technical.

But basically the end result is this: We are able to provide for fair and permanent distribution of the cuts in the consumer and homemaking programs across the country. We are not going to hurt anybody unduly by this legislation.

What we are doing is trying to flatten it out so we do not destroy the program in some States. That is what this legislation is designed to accomplish.

Again, I would like to thank the chairman for his help in getting this legislation considered by the House today.

This legislation corrects a very unfair and unintended distribution of funds in the consumer and homemaking programs all across the country.

I would again like to thank my dear colleague from Pennsylvania, Mr. GOODLING, for all his assistance on this particular bill.

Mr. Speaker, I urge my colleagues to support this legislation, this correction of the Vocational Education Act.

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Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with the gentleman from Kentucky [Mr. PERKINS] in support of H.R. 4841, an amendment to the Carl D. Perkins Vocational Education Act.

As indicated, this legislation would correct a problem in the distribution of funds under the act. So that none of our colleagues get the idea that they may lose money and others may gain if we fool around here, I want to assure them that all of the directors in all of the States have indicated that, if the funds would be distributed the way they would be under this understanding, they would have so much money in some States they would not know what to do with it and could not use it effectively; and on the other hand, in many other States, effective programs that are now ongoing would be killed.

Mr. Speaker, as I indicated, it is a pleasure to join with the gentleman from Kentucky [Mr. PERKINS] to introduce this legislation.

As I indicated, the State Directors of Vocational Education, the American Vocational Association, and the Home Economics Association all agree that the situation was inequitable and asked Congress to correct the problem.

I would urge my colleagues to join me in supporting this amendment.

Mr. PERKINS. Mr. Speaker, I yield 2 minutes to my esteemed colleague, the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I thank the gentleman from Kentucky [Mr. PERKINS] for yielding me this time, and I want to commend the gentleman for his activities in connection with this legislation. Clearly it is fitting and proper that we deal with H.R. 4841, a bill that will amend the State allotments under the Carl D. Perkins Vocational Education Act.

I am sure our former colleague, who is now residing in more celestial abodes, is smiling to know that his work over the years in being carried on by his equally illustrious son, the gentleman from Kentucky.

Mr. Speaker, I rise in strong support today of H.R. 4841, a bill that will amend the State allotments under the Carl D. Perkins Vocational Education Act. I wish to commend my colleague and dear friend from Kentucky [Mr. PERKINS] in bringing this legislation before us today. It is a measure essential to my home State of New York.

This bill is in direct response to a decision made by the Department of Education to revise the formula under which funds were distributed to the States. In approving this legislation, New York will avert a staggering 60-percent reduction in funds for consumer and homemaking education services. In 1985, New York received $2,129,936 for consumer and homemaking education. Without passage of H.R. 4841, our share would have plummeted to an astonishing $876,384. Clearly, this bill is vital if we are to continue an able and effective homemaking education program in New York, and many other large States who were severely affected by this change in formula. During this time of budget tightening and budget constraints, we need every dollar to promote a quality education across this Nation.

H.R. 4841 will specifically limit reductions for all States to no more than 4.3 percent—the overall Gramm-Rudman reduction. No one State would gain in funds at the expense of others. However, this bill would not be inequitable to small States, inasmuch as it would lock in the increase that those States have already received during fiscal year 1985.

It is clear that passage of this bill is fair and equitable for all States. But even more importantly, it will allow and permit the continuation of responsible homemaking education services throughout the Nation.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I rise in support of the bill, H.R. 4841, an

amendment to the Carl D. Perkins Vocational Education Act. Vocational education is a critical component of the education training system of this Nation, not to mention my home State of Vermont. In Vermont, area vocational-technical centers and postsecondary vocational-technical institutions provide training that is essential to economic growth and our ability to maintain a competitive edge in a world marketplace. This fact is recognized in the education and training provisions that were contained in H.R. 4800, the omnibus trade bill we considered a few short weeks ago.

When we authorized the Carl D. Perkins Act in 1984, we carefully developed a formula for the allocation of funds to States to be used for the basic State program, consumer and homemaking and the new community based organization program. The formula contained an overall state hold-harmless to the fiscal year 1984 appropriations level and a small state minimum at 0.5 percent for any new money above the fiscal year 1984 level. In addition, the fiscal year 1986 appropriations act contained a provision that changed the hold harmless to fiscal year 1985 only for the basic State grant portion of the State allotment. The effect of these changes, combined with the Gramm-Rudman-Hollings reductions, has been to distort the funds States would receive under the consumer homemaking program and the community based organization programs.

For example in Vermont, the average allocation for consumer homemaking has been around $80,000. Without the amendment we are considering today, Vermont would experience a tenfold increase dedicated solely to these programs. As much as I support greater funding for programs in Vermont, such an increase could not be justified, nor could the system make such an accommodation in a single year. Officials in Vermont themselves have recommended adoption of the amendments before us today recognizing these facts.

While the amendment corrects the current inequitable distribution of funds, it should be clarified that in no way are we affecting the basic State grant allocation through these amendments. Further, it is my understanding that in the future, any new funding above the fiscal year 1985 level will first go to satisfy the small State minimum. This amendment in no way alters that important provision.

Also, it is imperative that we move this bill quickly in order to meet the July 1 allocation time frame. I urge my colleagues to support this bill, and urge the other body to move quickly on these amendments as well.

Mr. HAWKINS. Mr. Speaker, H.R. 4841 makes a small but urgently needed revision in the Carl D. Perkins Vocational Education Act. This amendment rectifies a problem that has arisen in the allocation for the consumer and homemaking education program authorized by that act.

This legislation must be enacted by July 1. Otherwise, the $30 million appropriated for consumer and homemaking education for fiscal year 1986 will flow to the States in a very irrational and inefficient distribution pattern, with some States' grants increasing twentyfold and others dropping by two-thirds. This problem has occurred due to the interaction of the March 1 Gramm-Rudman cut with various hold harmless provisions and other factors in the program's formula. We had no way of anticipating this situation when we passed the Perkins Act in 1984.

Without this bill, we will see hundreds of good programs discontinued and thousands of educators out of jobs in a majority of the States.

For purposes of legislative history, I would like to state that the insular areas—the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands—are not subject to the one-half of 1 percent minimum provision, but instead, have their own minimum allotments of $200,000 for the sum of all the programs under the act.

This legislation has support from both parties and from every geographic region. The bill was noncontroversial in committee. The legislation is supported by the State directors of vocational education and the American Home Economics Association.

I urge my colleagues to join me and speedily pass H.R. 4841.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. PERKINS] that the House suspend the rules and pass the bill, H.R. 4841.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained, and then on the motions on which further proceedings were postponed on Monday, June 16, 1986.

Votes will be taken in the following order:

H.R. 4841 de novo;
H.R. 2798 by the yeas and nays;
H.R. 4384 by the yeas and nays; and
H.R. 4259 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

VOCATIONAL EDUCATION AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4841.

The Clerk read the title of the bill.

□ 1310

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Kentucky [Mr. PERKINS] that the House suspend the rules and pass the bill, H.R. 4841.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 30, as follows:

[Roll No. 168]

YEAS—402

Ackerman	Berman	Byron
Akaka	Bevill	Callahan
Alexander	Biaggi	Carper
Anderson	Bilirakis	Carr
Andrews	Bliley	Chapman
Annunzio	Boehlert	Chappell
Anthony	Boggs	Chappie
Applegate	Boland	Cheney
Archer	Boner (TN)	Clay
Armey	Bonior (MI)	Clinger
Aspin	Bonker	Coats
Atkins	Borski	Cobey
AuCoin	Boucher	Coble
Badham	Boulter	Coelho
Barnard	Boxer	Coleman (MO)
Barnes	Brooks	Coleman (TX)
Bartlett	Broomfield	Collins
Barton	Brown (CA)	Combest
Bateman	Brown (CO)	Conte
Bates	Broyhill	Conyers
Bedell	Bruce	Coughlin
Beilenson	Bryant	Courter
Bennett	Burton (CA)	Coyne
Bentley	Burton (IN)	Craig
Bereuter	Bustamante	Crane

Crockett	Jones (NC)	Ortiz
Daniel	Jones (OK)	Owens
Dannemeyer	Jones (TN)	Oxley
Darden	Kanjorski	Packard
Daschle	Kaptur	Panetta
Daub	Kasich	Parris
DeLay	Kastenmeier	Pashayan
Dellums	Kennelly	Pease
Derrick	Kildee	Penny
DeWine	Kindness	Pepper
Dickinson	Kleczka	Perkins
Dicks	Kolbe	Petri
DioGuardi	Kolter	Pickle
Dixon	Kostmayer	Porter
Donnelly	Kramer	Price
Dornan (CA)	LaFalce	Pursell
Downey	Lagomarsino	Quillen
Dreier	Lantos	Rahall
Duncan	Latta	Ray
Durbin	Leach (IA)	Regula
Dwyer	Leath (TX)	Reid
Dyson	Lehman (CA)	Richardson
Early	Lehman (FL)	Ridge
Eckart (OH)	Leland	Rinaldo
Eckert (NY)	Lent	Ritter
Edwards (CA)	Levin (MI)	Roberts
Edwards (OK)	Levine (CA)	Robinson
Emerson	Lewis (CA)	Rodino
English	Lewis (FL)	Roe
Erdreich	Lightfoot	Roemer
Evans (IA)	Lipinski	Rogers
Evans (IL)	Livingston	Rose
Fawell	Lloyd	Rostenkowski
Fazio	Loeffler	Roukema
Feighan	Long	Rowland (CT)
Fiedler	Lott	Rowland (GA)
Fields	Lowery (CA)	Roybal
Fish	Lowry (WA)	Rudd
Flippo	Lujan	Russo
Florio	Luken	Sabo
Foglietta	Lungren	Savage
Foley	Mack	Saxton
Ford (MI)	MacKay	Schaefer
Frank	Madigan	Schneider
Franklin	Manton	Schroeder
Frenzel	Markey	Schuette
Frost	Marlenee	Schulze
Gallo	Martin (IL)	Schumer
Garcia	Martin (NY)	Seiberling
Gaydos	Martinez	Sensenbrenner
Gejdenson	Mazzoli	Sharp
Gekas	McCain	Shaw
Gibbons	McCandless	Shelby
Gilman	McCloskey	Shumway
Glickman	McCollum	Shuster
Gonzalez	McCurdy	Sikorski
Goodling	McDade	Siljander
Gordon	McEwen	Sisisky
Gradison	McGrath	Skeen
Gray (IL)	McHugh	Skelton
Gray (PA)	McKernan	Slattery
Green	McKinney	Slaughter
Gregg	McMillan	Smith (FL)
Guarini	Meyers	Smith (IA)
Gunderson	Mica	Smith (NE)
Hall (OH)	Michel	Smith (NJ)
Hall, Ralph	Mikulski	Smith, Denny (OR)
Hamilton	Miller (CA)	
Hammerschmidt	Miller (OH)	Smith, Robert (NH)
Hansen	Miller (WA)	
Hartnett	Mineta	Smith, Robert (OR)
Hatcher	Mitchell	
Hawkins	Moakley	Snowe
Hayes	Molinari	Snyder
Hefner	Mollohan	Solarz
Heftel	Monson	Solomon
Hendon	Montgomery	Spence
Henry	Moody	Spratt
Hertel	Moore	Staggers
Hiler	Moorhead	Stallings
Holt	Morrison (CT)	Stangeland
Hopkins	Morrison (WA)	Stark
Horton	Mrazek	Stenholm
Howard	Murphy	Stokes
Hoyer	Murtha	Strang
Hubbard	Myers	Stratton
Huckaby	Natcher	Studds
Hughes	Neal	Stump
Hunter	Nelson	Sundquist
Hutto	Nichols	Sweeney
Hyde	Nielson	Swift
Ireland	Nowak	Swindall
Jacobs	Oakar	Synar
Jeffords	Oberstar	Tallon
Jenkins	Obey	Tauke
Johnson	Olin	Tauzin
Taylor	Walgren	Wirth
Thomas (CA)	Walker	Wise
Thomas (GA)	Watkins	Wolf
Torres	Waxman	Wolpe
Torricelli	Weaver	Wortley
Towns	Weber	Wright
Traficant	Weiss	Wyden
Traxler	Wheat	Wylie
Udall	Whitehurst	Yates
Valentine	Whitley	Yatron
Vento	Whittaker	Young (AK)
Visclosky	Whitten	Young (FL)
Volkmer	Williams	Young (MO)
Vucanovich	Wilson	Zschau

NAYS—1

St Germain

NOT VOTING—30

Bosco	Dowdy	Hillis
Breaux	Dymally	Kemp
Campbell	Edgar	Lundine
Carney	Fascell	Matsui
Chandler	Ford (TN)	Mavroules
Cooper	Fowler	O'Brien
Davis	Fuqua	Rangel
de la Garza	Gephardt	Roth
Dingell	Gingrich	Scheuer
Dorgan (ND)	Grotberg	Vander Jagt

□ 1325

Mr. REGULA changed his vote from "present" to "yea."

Mr. STRATTON changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ST GERMAN. Mr. Speaker, on this vote, rollcall No. 168, my attention was diverted at the time I voted. By mistake or through distraction, I cast a "nay" vote, whereas I should have cast a "yea" vote. Subsequently I was called to the phones.

Mr. Speaker, I ask unanimous consent that my vote be changed in the permanent RECORD to reflect a "yea" vote on rollcall No. 168.

The SPEAKER pro tempore. The Chair would advise the gentleman that he cannot change his vote. The gentleman's statement will appear in the RECORD, immediately following the vote.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

VETERANS' EMPLOYMENT RIGHTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2798.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2798, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 169]

YEAS—409

Ackerman	Crockett	Hayes
Akaka	Daniel	Hefner
Alexander	Dannemeyer	Heftel
Anderson	Darden	Hendon
Andrews	Daschle	Henry
Annunzio	Daub	Hertel
Applegate	DeLay	Hiler
Archer	Dellums	Holt
Armey	Derrick	Hopkins
Aspin	DeWine	Horton
Atkins	Dickinson	Howard
AuCoin	Dicks	Hoyer
Badham	Dingell	Hubbard
Barnard	DioGuardi	Huckaby
Barnes	Dixon	Hughes
Bartlett	Donnelly	Hunter
Barton	Dorgan (ND)	Hutto
Bateman	Downey	Hyde
Bates	Dreier	Ireland
Bedell	Duncan	Jacobs
Beilenson	Durbin	Jeffords
Bennett	Dwyer	Jenkins
Bentley	Dyson	Johnson
Bereuter	Early	Jones (NC)
Berman	Eckart (OH)	Jones (OK)
Bevill	Eckert (NY)	Jones (TN)
Biaggi	Edgar	Kanjorski
Bilirakis	Edwards (CA)	Kaptur
Bliley	Edwards (OK)	Kasich
Boehlert	Emerson	Kastenmeier
Boggs	English	Kemp
Boland	Erdreich	Kennelly
Boner (TN)	Evans (IA)	Kildee
Bonior (MI)	Evans (IL)	Kindness
Bonker	Fascell	Kleczka
Borski	Fawell	Kolbe
Bosco	Fazio	Kolter
Boucher	Feighan	Kostmayer
Boulter	Fiedler	Kramer
Boxer	Fields	LaFalce
Brooks	Fish	Lagomarsino
Broomfield	Flippo	Lantos
Brown (CA)	Florio	Latta
Brown (CO)	Foglietta	Leach (IA)
Broyhill	Foley	Leath (TX)
Bruce	Ford (MI)	Lehman (CA)
Bryant	Frank	Lehman (FL)
Burton (CA)	Franklin	Leland
Burton (IN)	Frenzel	Lent
Bustamante	Frost	Levin (MI)
Byron	Gallo	Levine (CA)
Callahan	Garcia	Lewis (CA)
Carper	Gaydos	Lewis (FL)
Carr	Gejdenson	Lightfoot
Chapman	Gekas	Lipinski
Chappell	Gibbons	Livingston
Chappie	Gilman	Lloyd
Cheney	Glickman	Loeffler
Clay	Gonzalez	Long
Clinger	Goodling	Lott
Coats	Gordon	Lowery (CA)
Cobey	Gradison	Lowry (WA)
Coble	Gray (IL)	Lujan
Coelho	Gray (PA)	Luken
Coleman (MO)	Green	Lungren
Coleman (TX)	Gregg	Mack
Collins	Guarini	MacKay
Combest	Gunderson	Madigan
Conte	Hall (OH)	Manton
Conyers	Hall, Ralph	Markey
Cooper	Hamilton	Marlenee
Coughlin	Hammerschmidt	Martin (IL)
Courter	Hansen	Martin (NY)
Coyne	Hartnett	Martinez
Craig	Hatcher	Mavroules
Crane	Hawkins	Mazzoli

McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NOT VOTING—24

Anthony
Breaux
Campbell
Carney
Chandler
Davis
de la Garza
Dornan (CA)
Dowdy
Dymally
Ford (TN)
Fowler
Fuqua
Gephardt
Gingrich
Grotberg
Hillis
Lundine
Matsui
O'Brien
Rangel
Roth
Smith (NE)
Vander Jagt

□ 1335

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS' READJUSTMENT APPOINTMENT AUTHORITY EXTENSION AND IMPROVEMENT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4384.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HUTTO). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4384, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 20, as follows:

[Roll No. 170]

YEAS—413

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Borski
Bosco
Boucher
Boulter
Boxer
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Carper
Carr
Chapman
Chappell
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Franklin
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—0

NOT VOTING—20

Bonker
Breaux
Campbell
Carney
Chandler
Davis
de la Garza
Dowdy
Dymally
Ford (TN)
Fowler
Fuqua
Gephardt
Gingrich
Grotberg
Hillis
Lundine
O'Brien
Rangel
Vander Jagt

□ 1345

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GETTYSBURG NATIONAL MILITARY PARK ADDITION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4259.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4259, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 264, nays 146, answered "present" 1, not voting 22, as follows:

[Roll No. 171]

YEAS—264

Ackerman	Feighan	Miller (WA)
Akaka	Flippo	Mineta
Alexander	Florio	Mitchell
Anderson	Foglietta	Moakley
Andrews	Foley	Mollohan
Annunzio	Frank	Moody
Anthony	Frost	Morrison (CT)
Applegate	Gallo	Mrazek
Aspin	Garcia	Murphy
Atkins	Gaydos	Murtha
AuCoin	Gejdenson	Natcher
Barnard	Gibbons	Neal
Barnes	Glickman	Nelson
Bateman	Gonzalez	Nowak
Bates	Gordon	Oakar
Bedell	Gray (IL)	Oberstar
Beilenson	Gray (PA)	Obey
Bennett	Green	Olin
Bereuter	Gregg	Ortiz
Berman	Guarini	Panetta
Bevill	Hall (OH)	Pease
Biaggi	Hall, Ralph	Penny
Bilirakis	Hamilton	Pepper
Bliley	Hatcher	Pickle
Boehlert	Hefner	Porter
Boggs	Heftel	Price
Boland	Hendon	Pursell
Boner (TN)	Henry	Rahall
Bonior (MI)	Hertel	Ray
Bonker	Hiler	Reid
Borski	Hoyer	Richardson
Boucher	Hubbard	Rinaldo
Boxer	Huckaby	Ritter
Brooks	Hughes	Robinson
Brown (CA)	Hutto	Rodino
Broyhill	Jacobs	Roe
Bruce	Jenkins	Roemer
Bryant	Jones (NC)	Rose
Burton (CA)	Jones (OK)	Rostenkowski
Bustamante	Kanjorski	Rowland (GA)
Carper	Kastenmeier	Roybal
Carr	Kennelly	Russo
Chapman	Kildee	Sabo
Clay	Kleczka	Savage
Cobey	Kolbe	Saxton
Coble	Kolter	Scheuer
Coelho	Kostmayer	Schroeder
Coleman (TX)	LaFalce	Schulze
Collins	Lagomarsino	Schumer
Combest	Lantos	Seiberling
Conte	Leach (IA)	Sharp
Cooper	Leath (TX)	Sikorski
Coughlin	Lehman (CA)	Siljander
Courter	Lehman (FL)	Sisisky
Coyne	Leland	Skelton
Crockett	Lent	Slattery
Darden	Levin (MI)	Smith (FL)
Daschle	Levine (CA)	Smith (IA)
Dellums	Lipinski	Smith (NJ)
Derrick	Long	Smith, Robert
DeWine	Lowery (CA)	(NH)
Dicks	Lowry (WA)	Snowe
Dingell	Lujan	Solarz
Dixon	Luken	Spratt
Donnelly	MacKay	St Germain
Dorgan (ND)	Madigan	Staggers
Downey	Manton	Stallings
Durbin	Markey	Stark
Dwyer	Martinez	Stenholm
Early	Matsui	Stokes
Eckart (OH)	Mavroules	Strang
Eckert (NY)	McCain	Stratton
Edgar	McCloskey	Studds
Edwards (CA)	McCurdy	Sweeney
English	McHugh	Swift
Erdreich	Meyers	Synar
Evans (IL)	Mica	Tallon
Fascell	Mikulski	Tauzin
Fazio	Miller (CA)	Thomas (GA)
Torres	Weaver	Wise
Torricelli	Weber	Wolpe
Traficant	Weiss	Wright
Traxler	Wheat	Wyden
Vento	Whitehurst	Yates
Visclosky	Whitley	Yatron
Volkmer	Whitten	Young (MO)
Walgren	Williams	Zschau
Watkins	Wilson	
Waxman	Wirth	

NAYS—146

Archer	Holt	Pashayan
Armey	Hopkins	Perkins
Badham	Horton	Petri
Bartlett	Howard	Quillen
Barton	Hunter	Regula
Bentley	Hyde	Ridge
Boulter	Ireland	Roberts
Broomfield	Jeffords	Rogers
Brown (CO)	Johnson	Roth
Burton (IN)	Jones (TN)	Roukema
Byron	Kasich	Rowland (CT)
Callahan	Kemp	Rudd
Chappell	Kindness	Schaefer
Chappie	Kramer	Schneider
Cheney	Latta	Schuette
Clinger	Lewis (CA)	Sensenbrenner
Coats	Lewis (FL)	Shaw
Coleman (MO)	Lightfoot	Shelby
Craig	Livingston	Shumway
Crane	Lloyd	Shuster
Daniel	Loeffler	Skeen
Dannemeyer	Lott	Slaughter
Daub	Lungren	Smith (NE)
DeLay	Mack	Smith, Denny (OR)
Dickinson	Marlenee	Smith, Robert (OR)
DioGuardi	Martin (IL)	Snyder
Dornan (CA)	Martin (NY)	Solomon
Dreier	Mazzoli	Spence
Duncan	McCandless	Stangeland
Dyson	McCollum	Stump
Edwards (OK)	McDade	Sundquist
Emerson	McEwen	Swindall
Evans (IA)	McGrath	Tauke
Fawell	McKernan	Taylor
Fiedler	McKinney	Thomas (CA)
Fields	McMillan	Towns
Fish	Miller (OH)	Udall
Ford (MI)	Molinari	Valentine
Franklin	Monson	Vucanovich
Frenzel	Montgomery	Walker
Gekas	Moore	Whittaker
Gilman	Moorhead	Wolf
Goodling	Morrison (WA)	Wortley
Gradison	Myers	Wylie
Gunderson	Nichols	Young (AK)
Hammerschmidt	Nielson	Young (FL)
Hansen	Owens	
Hartnett	Oxley	
Hawkins	Packard	
Hayes	Parris	

ANSWERED "PRESENT"—1

Kaptur

NOT VOTING—22

Bosco	Dowdy	Hillis
Breaux	Dymally	Lundine
Campbell	Ford (TN)	Michel
Carney	Fowler	O'Brien
Chandler	Fuqua	Rangel
Conyers	Gephardt	Vander Jagt
Davis	Gingrich	
de la Garza	Grotberg	

□ 1440

Messrs. BARTON of Texas, KEMP, and ARMEY changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MAKING TECHNICAL CORRECTIONS TO THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 5036) to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. BARTLETT. Mr. Speaker, reserving the right to object, and I shall not object, I would ask the gentleman from Montana to explain the purpose of this legislation.

Mr. WILLIAMS. Mr. Speaker, if the gentleman will yield, I will be pleased to respond to the gentleman from Texas by saying that this bill is necessary to correct a cross-referencing error in Public Law 99-194, signed into law on December 20, 1985.

In drafting the legislation that became Public Law 99-194, the list of items that describes the activities the chairpersons of the arts and the humanities endowments are directed to support was altered. In the arts, the list was increased from five items to eight. In the humanities, the list grew for seven items to nine.

These listings are contained in sections 5, arts, and 7, humanities, of the act. In section 11 of the act, a reference is made to the items listed out in sections 5 and 7. Unfortunately, staff failed to make the change in section 11 so Public Law 99-194 is not correctly cross-referenced.

This bill simply corrects this oversight and changes the language in section 11 to reflect the fact that the list of authorized activities described in sections 5 and 7 are increased from five to eight in the case of NEA and from seven to nine in the case of NEH.

Mr. Speaker, I trust that this properly explains the changes in this bill.

Mr. BARTLETT. Further reserving the right to object, Mr. Speaker, and I shall not object, I do support the legislation, I will support the legislation, and I would point out that I have been made aware of a letter from the National Endowment on the Humanities in which they support the need for this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sec-

tion 11(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)) is amended—

(1) in subparagraph (A)(ii) by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (8)", and

(2) in subparagraph (B)(ii) by striking out "paragraph (7)" and inserting "paragraph (9)".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 463, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4116.

□ 1407

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4116) to extend the Volunteers in Service to America [VISTA] Program under the Domestic Volunteer Service Act of 1973, with Mr. MONTGOMERY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 10, 1986, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Volunteer Service Act Amendments of 1986".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. VOLUNTEERISM POLICY.

(a) VOLUNTEERISM POLICY.—The Domestic Volunteer Service Act of 1973 is amended by inserting immediately after the table of contents the following new section:

"VOLUNTEERISM POLICY

"SEC. 2. The purpose of ACTION, the Federal domestic volunteer agency, is to foster and expand voluntary citizen service in communities throughout the Nation in activities designed to help the poor, the disadvantaged, the vulnerable, and the elderly. In carrying out this purpose, ACTION shall utilize to the fullest extent the programs authorized under this Act, coordinate with other Federal, State, and local agencies and utilize the energy, innovative spirit, experience, and skills of all Americans.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting before the item relating to title I the following:

"Sec. 2. Volunteerism policy.".

The CHAIRMAN. Are there any amendments to section 2? If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. ASSIGNMENT OF VOLUNTEERS.

(a) RECRUITMENT AND ASSIGNMENT.—Section 103(b) of the Domestic Volunteer Service Act of 1973 (referred to in this Act as "the Act") is amended to read as follows:

"(b) The Director shall establish procedures to recruit and place individuals from all walks of life, age groups, economic levels, and geographic areas to serve as VISTA volunteers. The procedures shall include an information system to ensure that potential applicants are made aware of the broad range of VISTA volunteer opportunities and a system to identify and place qualified volunteers where their skills are most needed. The Director shall also establish procedures for national and local recruitment, media and public awareness efforts, and specialized campaigns designed to recruit recent college graduates, special skilled volunteers, and individuals 55 years of age and older. The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. The Director shall make efforts to assign volunteers to serve in their homes or nearby communities and shall make national efforts to attract other volunteers to serve in the VISTA program. The Director shall also, in the assignment of volunteers, recognize that the community identified needs which cannot be met in the local area, and the individual desires of VISTA volunteers in regard to placement in various geographic areas of the nation, should be taken into consideration.".

(b) REPORTS.—Section 407 of the Act is amended—

(1) by inserting "(a)" after "407."; and

(2) by adding the following subsection:

"(b) Not later than 120 days after the end of each fiscal year, the Director shall prepare and submit to the appropriate committees of the Congress a report describing activities under section 103(b).".

The CHAIRMAN. Are there any amendments to section 3? If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. ESTABLISHMENT OF VISTA LITERACY CORPS.

(a) ESTABLISHMENT OF LITERACY CORPS.—The Act is amended by inserting after section 108 the following new section:

"VISTA LITERACY CORPS

"SEC. 109. (a) As part of the Volunteers in Service to America program, the Director shall establish a VISTA Literacy Corps for the purpose of strengthening, supplementing, and expanding the efforts of public and private nonprofit organizations to mobilize local, State, Federal, and private sector financial and volunteer resources in addressing the problem of illiteracy throughout the United States.

"(b) The Director shall assign volunteers to projects and programs that are designed to meet the special needs of illiterate individuals and fulfill the antipoverty criteria of part A.

"(c)(1) The Director shall assign volunteers under this subsection to projects and programs that utilize volunteers to address the needs of illiterate individuals.

"(2) Programs and projects under this subsection may be administered by public or private nonprofit agencies and organizations including local, State, and national literacy councils and organizations; community-based nonprofit organizations; local and State education agencies; local and State agencies administering adult basic education programs; educational institutions; libraries; antipoverty organizations; local, municipal, and State governmental entities, and administrative entities designated to administer job training plans under the Job Training Partnership Act.

"(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to—

"(A) local programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest concentrations of illiteracy and of low income individuals and families; and

"(B) Statewide programs and projects that encourage the creation of new literacy efforts, encourage the coordination of intrastate and interstate literacy efforts, and provide technical assistance to local literacy efforts.

"(d)(1) The Director shall assign volunteers under this subsection to projects and programs that primarily utilize volunteers to tutor illiterate individuals.

"(2) Programs and projects under this subsection may be administered by local public or private nonprofit agencies and organizations including local literacy councils and organizations, community-based nonprofit organizations, local educational agencies, local agencies administering adult basic education programs, local educational institutions, libraries, antipoverty organizations, local and municipal governmental entities, and administrative entities designated to administer job training plans under the Job Training Partnership Act.

"(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to local programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest concentrations of illiteracy and of low income individuals and families.

"(e) The Director shall ensure an equitable distribution of volunteers under this section between rural and urban areas.

"(f) The VISTA Literacy Corps shall consist of all volunteers serving under part A working on literacy projects and programs.

"(g) Funds made available under section 501(a) for the purposes of this section shall be used to supplement and not supplant the level of services provided under part A in fiscal year 1986 to address the problem of illiteracy.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after the item relating to section 108 the following:

"Sec. 109. VISTA Literacy Corps.".

The CHAIRMAN. Are there any amendments to section 4? If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. SERVICE LEARNING PROGRAMS.

Section 111 of the Act is amended—

(1) by inserting "(a)" after the section designation;

(2) by striking out the second and third sentences of such section; and

(3) by adding the following new subsection:

"(b) This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education. The purpose of the UYA program is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of coursework while attending such institutions. Volunteer service under this part is conducted in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by individuals experiencing such problems.".

The CHAIRMAN. Are there any amendments to section 5? If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. EVALUATION.

Section 416(a) of the Act is amended to read as follows:

"(a) The Director shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals, in general, and in relation to their cost, their impact on related programs, and their structure and mechanism for delivery of services. Each program shall be evaluated at least once every three years. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 414 of this Act.".

The CHAIRMAN. Are there any amendments to section 6? If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. SERVICES TO INDIANS.

(a) SPECIAL VOLUNTEER PROGRAMS.—Section 122(a)(1) of the Act is amended by inserting "(including Indian reservations)" after "rural areas".

(b) DEFINITIONS.—Section 421 of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following paragraph:

"(5) the terms 'public agencies or organizations' and 'Federal, State, or local agencies' shall include any Indian tribe, band, nation, or other organized group or community (including any Alaskan native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act) which is recognized by the United States or the State in which it resides as eligible for special programs and services provided to Indians because of their status as Indians.".

The CHAIRMAN. Are there any amendments to section 7? If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. AUTHORIZATIONS OF APPROPRIATIONS.

(a) NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.—Section 501 of the Act is amended by striking subsections (a), (b), (c), and (d)(1) and inserting the following:

"SEC. 501. (a)(1) There is authorized to be appropriated to carry out part A of title I (except section 109) $25,000,000 for fiscal year 1987, $26,250,000 for fiscal year 1988, and $27,560,000 for fiscal year 1989.

"(2) There is authorized to be appropriated to carry out section 109(c) and to expand the number of VISTA literacy corps volunteers in literacy programs and projects under part A of title I of this Act $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $5,000,000 for fiscal year 1989.

"(3) There is authorized to be appropriated to carry out section 109(d) and to expand the number of VISTA literacy corps volunteers in literacy programs and projects under part A of title I of this Act such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

"(b) There is authorized to be appropriated to carry out part B of title I of this Act $1,800,000 for each of the fiscal years 1987, 1988, and 1989.

"(c) There is authorized to be appropriated to carry out part C of title I of this Act $1,984,000 for each of the fiscal years 1987, 1988, and 1989.

"(d)(1) Of the amounts appropriated under this section for parts A, B, and C of title I and for sections 109(c) and 109(d), there shall first be available for part A of title I (other than section 109), an amount not less than the amount necessary to provide—

"(A) 2,600 years of volunteer service in fiscal year 1987;

"(B) 2,730 years of volunteer service in fiscal year 1988; and

"(C) 2,865 years of volunteer service in fiscal year 1989.".

(b) RETIRED SENIOR VOLUNTEER PROGRAM.—Section 502(a) of the Act is amended—

(1) by striking out "$30,412,000" and all that follows through "1985, and", and

(2) by inserting after "1986" the following: ", $32,340,000 for fiscal year 1987, $33,730,000 for fiscal year 1988, and $35,320,000 for fiscal year 1989".

(c) FOSTER GRANDPARENTS AND COMMUNITY SERVICE PROGRAMS.—Section 502(b) of the Act is amended—

(1) by striking out "$52,650,000" and all that follows through "1985, and", and

(2) by inserting after "1986" the following: ", $61,050,000 for fiscal year 1987, $63,680,000 for fiscal year 1988, and $66,660,000 for fiscal year 1989".

(d) SENIOR COMPANIONS PROGRAM.—Section 502(c) of the Act is amended—

(1) by striking out "$17,607,000" and all that follows through "1985, and", and

(2) inserting after "1986" the following: ", $29,740,000 for fiscal year 1987, $31,020,000 for fiscal year 1988, and $32,480,000 for fiscal year 1989".

(e) ADMINISTRATION AND COORDINATION.—Section 504 of the Act is amended by striking out "$25,800,000" and all that follows and inserting "$25,000,000 for each of the fiscal years 1987, 1988, and 1989.".

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE: Page 10, strike out lines 15 through 18, and insert in lieu thereof the following:

"SEC. 501. (a)(1) There are authorized to be appropriated to carry out part A of title I of this Act (except section 109) $19,000,000 for fiscal year 1987 and such sums as may be necessary for each of the fiscal years 1988 and 1989.

Page 11, strike out lines 6 through 11, and insert in lieu thereof the following:

"(b) There are authorized to be appropriated to carry out part B of title I of this Act $1,368,000 for fiscal year 1987 and such sums as may be necessary for each of the fiscal years 1988 and 1989.

"(c) There are authorized to be appropriated to carry out part C of title I of this Act $1,801,000 for fiscal year 1987 and such sums as may be necessary for each of the fiscal years 1988 and 1989.

Page 12, strike out lines 3 through 6, and insert in lieu thereof the following:

(2) by inserting after "1986" the following: ", $29,620,000 for fiscal year 1987, and such sums as may be necessary for each of the fiscal years 1988 and 1989".

Page 12, strike out lines 11 through 14, and insert in lieu thereof the following:

(2) by inserting after "1986" the following: ", $56,100,000 for fiscal year 1987, and such sums as may be necessary for each of the fiscal years 1988 and 1989".

Beginning on page 12, strike out line 19 and all that follows through line 2 on page 13, and insert in lieu thereof the following:

(2) by inserting after "1986" the following: ", $18,086,000 for fiscal year 1987, and such sums as may be necessary for each of the fiscal years 1988 and 1989".

(e) ADMINISTRATION AND COORDINATION.—Section 504 of the Act is amended by striking out "$25,800,000" and all that follows through "1986" and inserting in lieu thereof "$25,312,000 for fiscal year 1987 and such sums as may be necessary for each of the fiscal years 1988 and 1989.".

□ 1410

Mr. TAUKE. Mr. Chairman, let me first emphasize that I fully support the programs authorized by the Domestic Volunteer Service Act. However, I cannot support the unrealistic and budget-busting authorization levels included in this bill.

The amendment I am offering changes the authorization levels in this bill to the fiscal year 1986 appropriation. Specifically, the following changes are made:

VISTA, from $25 million to $19 million.

Service Learning, from $1.8 million to $1.368 million.

Special Volunteer, from $1.984 million to $1.801 million.

RSVP, from $32.34 million to $29.62 million.

Foster Grandparents, from $61.05 million to $56.1 million.

Senior Companions, from $29.74 million to $18.086 million.

Program administration, from $25 million to $25.312 million.

The amendment reduces the total of the authorizations for these programs from $176.914 million to $151.287 million in fiscal year 1987, and it provides "such sums" authorizations in fiscal years 1988 and 1989.

The amendment does not delete or reduce the authorization for the new Literacy Corps Program authorized for the first time in this bill at $2 million in fiscal year 1987. While I am concerned about a new initiative being added in title I of this bill, I am not seeking at this time to delete or reduce the authorization for this section of the bill.

Mr. Chairman, this amendment does not jeopardize the volunteer programs authorized by this legislation. In fact, adoption of this amendment will probably not affect the appropriations for these programs at all, which says something about the authorization levels in this bill. It says that these levels are totally unrealistic and offer nothing but false hope to the dedicated individuals that serve in these programs.

The bill as reported authorizes nearly $177 million for programs that are presently operating on less than $145 million. This $32 million gap represents a 22-percent increase in these programs. Surely, no one in this Chamber expects a 22-percent increase in any program this year.

Moreover, H.R. 4116 as reported flies in the face of the budget resolution adopted by this body only 28 days ago by a vote of 245 to 179.

That budget resolution freezes the ACTION programs at $145 million—the fiscal year 1986 post-Gramm-Rudman level—for 3 years. The Senate-passed budget resolution provides an identical amount for these programs. It amazes me that this body can so quickly disregard a budget that we passed less than a month ago.

Mr. Chairman, this amendment does not necessitate any cuts in appropriations for ACTION programs. In fact, appropriations for these programs could increase by 4.3 percent in fiscal year 1987, recouping the Gramm-Rudman cuts made this year, with the authorization levels provided in this amendment.

Adopting this amendment will demonstrate that we are concerned about the budget deficit and that we are willing to hold the line and respect the spending levels reflected in the House budget resolution.

The authorization levels provided for in this amendment are realistic and responsible. I urge your support.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. TAUKE] has expired.

(By unanimous consent, Mr. TAUKE was allowed to proceed for 2 additional minutes.)

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I am pleased to yield to the gentleman from Vermont, the distinguished ranking member of the Committee on Education and Labor.

Mr. JEFFORDS. Mr. Chairman, I just want to commend the gentleman on his statement.

We all would like to expand the programs that we are reauthorizing today. Many of them are very excellent programs; in fact, all of them are in my mind. But as you point out, we have had a budget resolution that set some guidelines for us this year.

Also, this is, as I understand it, a 3-year authorization, is that correct?

Mr. TAUKE. That is correct.

Mr. JEFFORDS. Mr. Chairman, we had goals set in Gramm-Rudman to try to get the budget balanced by 1991, so halfway through that period, we will have an opportunity to again look at what we are setting for limits here.

It seems to me very, very important that during the first part of this period of time when we are trying to get the budget under control that we do exercise that kind of restraint which the gentleman is exercising in his amendment in not putting out false hope, as the gentleman expressed, that we somehow are going to have more money for these important programs.

I support the gentleman and I commend him on his amendment.

Mr. TAUKE. Mr. Chairman, I thank the gentleman from Vermont for his comments.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding because I want to make certain that the House Members understand what the gentleman is saying.

The gentleman is a supporter of the ACTION Program, as I recall, all the way through committee and subcommittee, and serves as the ranking member of the subcommittee that oversees the majority of this bill. The gentleman supports ACTION and reauthorization.

What I understand the gentleman to be saying is that we ought to live with the budget that we have already set and that is what the gentleman's proposal is. Is that correct?

Mr. TAUKE. Mr. Chairman, that is essentially correct and I do want to emphasize again that I am a strong supporter of these programs. Those of us who have listened to the hearings have been impressed with all of the people involved in the program and it seems to me that it is the most appropriate for us to deal fairly with those who are out there attempting to make these programs work.

So I want to live within the budget resolution to the maximum extent possible and I also want to be as straightforward with all the people who participate in these programs as possible.

That is what this amendment does.

Mr. BARTLETT. Mr. Chairman, if the gentleman will further yield, so we make certain that people understand the exact numbers that we are dealing with, this year, as I understand, we are spending $145 million in the aggregate on ACTION. That is how much we are actually spending.

Mr. TAUKE. Mr. Chairman, at the current time, we are spending $145 million for these programs.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. TAUKE] has again expired.

(On request of Mr. BARTLETT, and by unanimous consent, Mr. TAUKE was allowed to proceed for 2 additional minutes.)

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, the gentleman is proposing a modest increase from that to accommodate the sequestration that occurred up to $151 million.

Mr. TAUKE. Mr. Chairman, that is correct. It seems to me that these authorization levels have increased; $151 million will give us more than enough flexibility.

Mr. BARTLETT. Mr. Chairman, the authorization levels that are contained in the bill are up to $176 million.

Mr. TAUKE. $179 million.

Mr. BARTLETT. $179 million, about a 16.8-, almost a 17-percent increase over current levels that we are spending in fiscal year 1986.

Does the gentleman know of any other authorization legislation that has been passed out of the Committee on Education and Labor this session, whether it is Headstart or vocational rehabilition or education for the handicapped, that has contained that high an increase in 1 year?

Mr. TAUKE. Mr. Chairman, I do not know of any program that has had that kind of increase in 1 year. I would point out that, in fact, the increase, according to my calculations, is greater than 16 percent. It actually is well over 20 percent, and then it goes up in fiscal year 1988 and fiscal year 1989 even higher than that.

It just seems to me that it is totally out of the ballpark.

Mr. BARTLETT. Mr. Chairman, if the gentleman will further yield, what the gentleman is trying to do is to reduce back to current sequestration levels what is an authorization increase of 20 percent in 1 year?

Mr. TAUKE. Right.

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield further, I can answer my own question. There have been no 20 percent or any increases in authorization levels for any program that has come out of the Committee on Education and Labor during this session, anything in that size range.

Mr. TAUKE. Mr. Chairman, the point is that we are not here to play games. We are not here to say to

people that we are going to do things that we know will not be done.

□ 1420

What we want to do instead is to be decent policymakers and project what is likely to happen. That is why I urge support for what I think is a very realistic amendment.

Mr. WILLIAMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to speak in opposition to this amendment not only as the chairman of the committee which brings this legislation before you here today, but perhaps in this instance more importantly, I want to speak as a member of the House Committee on the Budget, and as a conferee of that committee.

The gentleman is simply wrong. The gentleman that is offering this amendment is simply wrong. This bill is not, repeat not, a piece of legislation which busts the budget. This bill does not, repeat not, include a 20-percent increase above what the Federal Government spent on this program in the previous year.

Now let me explain. There are three parts to the title I program. Part A is VISTA. This bill freezes VISTA, and the budget that the House has passed and is now considering in conference freezes VISTA.

The second part of title I in this bill is called the Service Learning Demonstration Programs. The budget suggests a freeze in that program. This bill freezes that program.

Part C, the third part of title I, is the Special Volunteer Demonstration Program; again, the budget freezes, this bill freezes it.

Mr. TAUKE. Will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman.

Mr. TAUKE. Would the gentleman acknowledge that he is talking about freezing authorization levels and I am talking about freezing at current spending levels?

Mr. WILLIAMS. That is correct. The gentleman is talking about apples, and this bill has to deal with oranges. The gentleman is correct.

Reclaiming my time, Mr. Chairman, let me be clear to everyone that on title I of this bill, VISTA, the Service Learning Demonstration Programs, and the Special Volunteer Demonstration Programs, this bill does precisely what the budget resolution asks us to do.

Now with regard to the Older American Volunteer Programs under title II of the statute, this bill asks for an inflationary 4-percent increase for those programs to help older Americans. Now hear me: The budget, that overwhelmingly passed this body and is now in conference committee, asks the same thing; an inflationary increase for those older American programs.

This bill is completely and fully within the levels required by the Committee on the Budget, and let me submit to have included at this point in the RECORD, a letter from the chairman of the House Budget Committee, Congressman GRAY, to the chairman of the House Education Committee, Congressman HAWKINS, and for the enlightment of the Members here, let me read this two-paragraph letter:

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

DEAR GUS: Thank you for the letter from you and Mr. Kildee, Chairman of the Subcommittee on Human Resources, concerning H.R. 4116, the Domestic Volunteer Service Act Amendments of 1986.

After carefully reviewing this legislation, I find that H.R. 4116 does not provide budget authority or any entitlement authority. Therefore, the bill does not violate any provision of the Budget Act or the House-passed budget resolution which is currently in conference. The legislation simply authorizes the appropriation of budget authority for these programs. The actual level of funding for these programs would be detemined by the appropriations process.

Thank you for taking the time to inquire into this matter.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

In other words, if the Appropriations Committee should come out with an amount above the budget, then any of us have a right, and will take the floor—particularly those of us who are members of the Budget Committee, and say, "This appropriation violates the budget, and we will stop it as we have been doing year after year on this floor."

This is an authorization bill. Second, this bill, as an authorization bill, does not violate the budget totals.

Mr. TAUKE. Will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman.

Mr. TAUKE. I think this is a very critical point. It gets into the issue of what the role of the authorization process should be.

Now, the gentleman and I both know that the letter from the chairman of the Budget Committee is not a surprise; no authorization can violate the Budget Act, and no one contends that an authorization does violate the Budget Act.

The question is, should we have an authorization that authorizes spending levels that are so far in excess of what the Budget Act allows to be appropriated for these programs.

Mr. SPEAKER pro tempore. The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

(On request of Mr. TAUKE and by unanimous consent, Mr. WILLIAMS was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. Will the gentleman yield?

Mr. WILLIAMS. I yield to the gentelman.

Mr. TAUKE. If we can only spend $145 million for these programs, why in the world does the gentleman want to authorize $179 million and then give all the discretion away to the appropriating committee?

Mr. WILLIAMS. I am sorry?

Mr. TAUKE. What I do not understand, the gentleman is chairman of the authorizing subcommittee; if we are only allowed to spend $145 million on these programs under the budget resolution, why in the world does the gentleman want to authorize $179 million and give all the discretion to the appropriating committees?

Mr. WILLIAMS. Because the Appropriations Committee have first, very seldom come up to an authorization level. Second, it has been the role of the authorizing committees to provide the Appropriations Committees with a high ceiling within the budget, but a high ceiling; and if the Appropriations Committees then decide that they want to fund one program within a function higher than another program, they can do so; and they can do so without violating the budget.

This gives the Appropriations Committee the discretion they need, within the budget, to make congressional discretion operative.

Mr. TAUKE. Will the gentleman yield further?

Mr. WILLIAMS. I yield to the gentleman.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, I guess it is a different approach to the authorization process that we have. Of course, we could triple the spending levels in the authorization bills and we would not violate the Budget Act. We all now agree on that.

The fact is that we authorize here spending levels far in excess of what the budget approves. Now if we do that over and over again, of course then the authorizations mean less and less, because all of the decisions then are made by the appropriating subcommittee and the appropriating committees, and through a continuing resolution which probably cannot be amended on the floor; and none of the decisions that are made in the authorizing committees and subcommittees, or in this authorization, have much meaning.

I do not understand what benefit we get out of inflating all the figures and pumping up the figures, I guess, to make ourselves look good so we can run back and say, "Boy, look what we did for you folks out there in the VISTA Program," when we know darn well the money will never be spent anyway.

I do not get it. Why do we do this?

Mr. BARTLETT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, what we have before us is purely and simply a budget issue. The gentleman from Iowa [Mr. TAUKE], who has offered the amendment, is attempting to give the House an opportunity to do what I believe the House wants to do; and that is to comply with the budget that we just passed.

The issue is the meaning of the budget resolution. The issue is not the worthiness of the ACTION Programs; that has all been agreed to. The issue is purely a budget issue.

In the authorization legislation, the authorizing legislation, the authorizing committee has recommended a total spending to be authorized of $176 million, approximately a 20-percent increase. Either the House intends for that increase to be spent or we intend to compy with the budget resolution.

We ought to make the authorizing levels consistent with what we intend to have happen. Now, there is no dispute, it seems to me, because it is in black and white, as to what the House has adopted as far as a budget. The House budget conferees are using a document in which they compare—the House Budget Committee and the Senate-passed resolution—in which the Congressional Budget Office printout for the House budget resolution recommendation for ACTION Agency shows ACTION to be $145 million.

Mr. TAUKE's amendment would increase it slightly, even over from that, to $151 million, but the gentleman would say that we should at least attempt to keep the authorizing levels within the budget.

I refer the House to page 45 of the concurrent resolution on the budget for fiscal year 1987. It says very explicitly: The committee recommendation assumes discretionary programs will be maintained at fiscal year 1986 levels for 3 years.

The report goes on to identify some specific programs in the function as low income programs which primarily serve individuals that are disadvantaged within society to exempt them from the 3-year freeze, and mentions those programs by name.

□ 1430

But the ACTION Agency is not one of those programs; it is not mentioned in the House budget resolution by name. Therefore, the Congressional Budget Office in preparing for the House budget conference has specified, I think, the intent of the House and that is $145 million level.

The issue is the classic issue of what do we mean by authorizing levels? I think Mr. TAUKE has laid before us the issues that when we adopt an authorization level, we ought to adopt that authorization level at the level we intend to be spent for that program. We can make that judgment as the House. We can make that judgment based on merit. Now this process, if we do not adopt the Tauke amendment, is precisely how deficits have run out of control year after year, and it is precisely the reason that the House has decided through the budget process to attempt to set a budget, decide what the budget will be within the overall context of the budget for each and every program and then to follow that budget. What we have done in past years is we have thrown the budget out the window at the first opportunity. What Mr. TAUKE in his amendment is attempting to do is to say, "Wait a minute, this year is different. This year we don't plan to follow business as usual. We plan to follow the letter and the spirit of the budget that we just adopted."

So I would urge a vote for the Tauke amendment and a vote to follow the House budget resolution that we have just adopted.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let us make one thing clear: the budget resolution, looking at needs, did provide a specific additional $500 million in function 500 and directed that the $500 million be used for a number of target areas including the low income and the elderly.

Now the RSVP, Foster Grandparents and Senior Companions are all programs for senior citizens, and Foster Grandparents and senior citizens are specifically for low-income senior citizens.

Now if the Appropriations Committee wants to appropriate at the levels we have in this bill, they can do that within that $500 million and in no way violate the budget resolution. I think Mr. TAUKE and I both agree on that.

Let me tell you why I think we should give the Appropriations Committee some flexibility. If you feel that the present system of diagnostic related groups, the DRG's—and you have written a lot of letters to people saying these DRG's are harsh, and you are going to try to find some means to soften the harshness of those DRG's which are putting our senior citizens in many cases who are on Medicare out of the hospitals sicker and quicker. We know that.

Now if you really feel that you want to soften the harshness of those DRG's, you should oppose this amendment, clear and simple.

I do not play games with this bill, and I know you are not accusing me of that, although that term has been used; I am very concerned with those DRG's.

Now if you want to soften those, you should oppose this amendment. The RSVP programs, the senior volunteer programs, provide services for these older Americans. These older Americans very often who are put out of the hospital are able to remain in their homes and get at least some services because of these programs rather than going to extended care facilities or convalescent homes.

I know that. You see that. I have in my own family people who have been able to stay in their homes because of programs like this when they were put out of hospitals because of these DRG's. Now what we have done here, then, is we have merely provided some flexibility which is covered by function 500. When the Appropriations Committee looks at this, they might be able to see that we have been saving some money, wisely or unwisely, on Medicare with the DRG's. They can say let us try to soften the harshness of those DRG's by helping these programs which will provide some companion, some volunteer to help those persons in their homes.

Now at most we are $5 million over last year's authorization. At most, no matter how you calculate it, and $19 million over last year's appropriation.

That is, I think, a small price when we consider the savings which the administration claims they have made in the DRG's, which have been harsh. You have written your letters on that, saying that you are going to try to find some means to soften the blow of the DRG's.

Here is your chance to do that, by giving the flexibility to the Committee on Appropriations within function 500 for which they have the money. They have been directed to use that for programs like this if they find it in their wisdom to do so.

So, please vote "no" on these amendments and consider our ability to perhaps soften the harshness of those DRG's.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I will be happy to yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding because his comments raise two questions. My first question is, At what level does the gentleman believe that we ought to be spending in fiscal year 1987, 1988, and 1989? Mr. WILLIAMS seemed to indicate he thought we ought to be spending at the fiscal year 1986 levels, but authorizing at a different level. Does the gentleman believe we ought to spend more or less or the same? How much? $25 million?

Mr. KILDEE. I would hope, and this is my own personal hope you are asking me, I can only respond for myself, not the other members of the subcommittee, but I would hope or I would not have put in the bill, that within function 500 and the money allocated under function 500 they could

fund this at the fullest. I don't know whether they will. But I think if they want to, looking at the savings that have been made elsewhere in the Medicare budget, they might find that at most they can spend $5 million over the previous authorization.

Mr. BARTLETT. Mr. Chairman, would the gentleman from Michigan yield for a brief question in order to clarify on that point?

Mr. KILDEE. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding further.

I just want to make certain: Then the gentleman is saying that he believes that we ought to actually spend $176 million, a 20-percent increase approximately.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. KILDEE] has expired.

(On request of Mr. BARTLETT and by unanimous consent, Mr. KILDEE was allowed to proceed for 5 additional minutes.)

Mr. KILDEE. Mr. Chairman, let me respond in this fashion: I myself would be willing to spend $5 million over last year's authorization or, at most, it would be about $18 million or $19 million for these three programs for which I have responsibility as chairman of the subcommittee. I would be willing to spend the $18 million or $19 million. But I am not on the Committee on Appropriations.

I send them a signal as to what I think the needs are. We have had hearings throughout the country. I know what the needs are. There are people languishing in their beds with no care at all because they have been put out of the hospital under the DRG's.

I think this is what the need is. They will look at the resources and I think that within function 500 they have the resources. But it is up to their wisdom to do what they want to do.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Montana.

Mr. WILLIAMS. I thank the gentleman for yielding.

The gentleman from Texas asks the operative question of this side when he asks of us, do we believe that more money should be spent on this effort? And the answer is yes, we do. And so did the Budget Committee. So did the House when it passed the Budget Committee product. So did the other body's Budget Committee believe that more money should be spent on these programs. So did the full Senate, controlled not by our party but by yours, when it passed the budget to us.

So the vast majority of people in both the House and the other body believe, yes, more money should be spent on these programs, and both the other body and the House have put that money in the budget so that more can be spent. So the answer to the gentleman from Texas' question when he says, "do you believe more money should be spent?," is "yes."

The point is that it is within the budget because the Budget Committee has said to the Committee on Appropriations that we are going to increase the budget allowance for this function by $1,500,000,000.

Now the Committee on Appropriations has to decide whether they are going to use that. We are simply making room in this bill for them to use it for this program if they should so desire.

Mr. KILDEE. Reclaiming the balance of my time, let me say this: We all know that each and every one of the 435 voting Members in this body have their own priorities. You suspect what my priorities are. We all have our priorities. But let me remind the gentleman from Texas that last year the gentleman from Texas voted for a defense authorization that was $10 billion over the figure in the budget resolution, $10 billion, because that is the gentleman's priority. I respect him for that.

My priority happens to be old people. I am asking for $5 million or at most $19 million over the appropriation. You were willing to vote last year, with your priorities, to vote for $10 billion in the defense budget over the budget resolution. I respect your right to have your priorities. But I have mine.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I will be glad to yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

First of all, I want to commend the gentleman for his commitment to these programs because he is an outstanding chairman of the subcommittee which brings these programs forward, and I enjoy working with him.

Second, I want to observe that he cannot say that about my defense spending. Frankly, I think it is irrelevant. But my personal priority happens to be to spend enough money—spend no more money at the Federal level than we can afford. I also think we ought to be honest with the American people. Now we adopted a budget resolution which says we are going to live within the Gramm-Rudman targets. The gentleman is correct that the budget resolution provides for an additional $500 million in spending. But unlike what the gentleman from Montana indicated, the Budget Committee did not anticipate any more spending for these programs; in fact, it specifically indicated these programs, it assumed, would be frozen.

The $500 million, the committee outlined where it is going to go: compensatory education, handicapped education, student financial assistance, job training, work incentives, older Americans and employment, Head Start and community services block grant. In each case they indicated how much money would go to those programs, the biggest increase being the 10.3-percent increase for Head Start.

Nowhere is there any room unless we cut out finding for those programs for the 23-percent increase that the gentleman proposes in these authorizations.

Now I offer in the amendment that I propose a $6 million increase above the current spending levels. The Budget Committee does not even want to give that. It seems to me that gives adequate flexibility.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. KILDEE] has expired.

(By unanimous consent, Mr. KILDEE was allowed to proceed for an additional 2 minutes.)

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Montana.

Mr. WILLIAMS. I thank the gentleman for yielding.

I say to Mr. TAUKE that he is reading from, as we know, from function 500 in the House Budget Committee report, and he is noting that this program is not mentioned. But he needs to turn the page and go to page 46 where the Budget Committee, in language I drafted, says this: "The committee recommendation includes $1,500 million in budget authority and $450 million in outlays for the coming year for additional programs for existing high priority efforts including," and then it singles this one out, "older American programs."

I assure you as the author of the amendment that put this in the Budget Committee, this program is within the budget.

Mr. TAUKE. Mr. Chairman, would the gentleman from Michigan yield one more time?

Mr. KILDEE. I will be happy to yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

Obviously, the Congressional Budget Office, when it prepared its documents, assumed that that meant the Older Americans Act programs included Older Americans employment. That is why the Congressional Budget Office tells us there is no increase in funding permitted for the programs we are discussing here, and it uses up that money in other programs that are mentioned in the language which the gentleman read.

Mr. KILDEE. Reclaiming my time, this authorization level is clearly within the budget resolution, is clearly within the parameters for function

500. I had that in mind. I did not pick these figures out of the air. I wanted to give to the Committee on Appropriations that authority or power, if they could, to add to these programs again to soften the blow of the DRG's.

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Actually, Mr. Chairman, I am sorry; I jumped up because I was rather upset, my blood was boiling for 1 minute when I heard my colleague from Texas being attacked, in a sense, because he voted for defense figures which were substantially higher than I voted for, or the gentleman from Iowa or my good colleague from Michigan. Suggesting that because he did so his priorities and concerns for senior Americans were less intense than the gentleman's.

Now the gentleman knows that that is simply an inappropriate way to face what is a very, very emotional and difficult set of choices between this body.

□ 1445

Clearly I would not get up and suggest that those of us who have voted for less by way of defense authority and less by way of defense spending and outlay than others have less by way of commitment to this Nation's defense.

The issue here is truth in budgeting. The issue is what the distinguished gentleman from Montana said, we have a little misunderstanding here on apples and oranges, I guess. Some of us feel that authorizations ought not get so far removed from political reality that they absolutely obfuscate the meaning and integrity of the budget process. We ought not allow our authorization resolutions to become so far removed from the budget bills, which we battle and fight over and write newsletters back saying who the winners and who the losers are and we are sorry because there are never enough winners given the kind of situation, to allow the authorization vehicles to raise hopes, but also in the process to lose what influence we have as a committee to set priorities within the thresholds that we know are likely to go on these basic generic areas.

The gentleman also knows, because I have communicated with the gentleman, my personal concern about trying to see if we can redirect and reprogram moneys in the Older Americans Act to increase, particularly under title V in the Older Americans Act, if I am not mistaken, and try to come to some kind of, I would hope, commonsense language that would encourage the use of these monies which are used to provide employment opportunities for senior citizens into these kinds of particularly socially appropriate roles. The gentleman is aware of that.

I would simply say I am concerned here, because the problem we have faced is the same problem as last year, but the time bomb is ticking on this budget over and over and over again.

What some of us are arguing is that when we get appropriations that bear relationship to the Budget Act, we actually strengthen our ability to affect the final outcome of these very difficult choices rather than diminish it by means of some kind of bargaining to get money off line.

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Montana.

Mr. KILDEE. Mr. Chairman, I would just say that I certainly did not intend to be offensive when I mentioned Mr. BARTLETT'S vote last year on the defense bill. The gentleman and I have discussed this in the elevator. We have worked together on many things. We worked together on bilingual education.

I merely pointed out that the amount of money we are talking about here, which is within the budget resolution, pales when we compare it to $10 billion, which was the gentleman's effort last year. It pales. We are talking about a very small amount of money for the people who are the most vulnerable people in our society. That is all I intended to convey.

The gentleman from Texas [Mr. BARTLETT] and I have been discussing this for years and we still remain very close friends.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I appreciate the gentleman from Michigan [Mr. HENRY] bringing the House back to the purpose of the debate, which is truth in budgeting, which is to say that the House has adopted a budget, a House budget resolution, and we ought to follow it.

I want to read into the record on the gentleman's time at this point those lists of the high priority programs which are contained in appendix H of the House Budget Committee report, page 147. The budget actually lists those programs that are to be considered for the additional funding under function 500.

They include compensatory education, handicapped education, Indian education, student financial assistance, TRIO in historically black colleges, job training, work incentive, older American employment, other vocational rehabilitation, child welfare services, Head Start, community services block grant. No place on that list is ACTION.

Had the House intended to place ACTION at the same priority level of handicapped education, which I do not believe it die, then the House could have added it on that budget list.

Mr. Chairman, I would ask the gentleman from Michigan [Mr. HENRY] a very important question. The gentleman is not proposing that we cut funding for ACTION, as I understand it. The gentleman is proposing that we follow the budget resolution.

Mr. HENRY. The amendment before us actually increases it over the postsequestering levels.

Mr. BARTLETT. The gentleman is proposing that it be increased modestly within the House budget resolution.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. HENRY. Mr. Chairman, truth in budgeting is no different than truth in advertising.

Here is the problem. It is if I were advertising some kind of fluid washer for a windshield or something like this that I am getting because I have flies on my windshield, and the container says, "This holds 1 gallon," and in fine print it says, "filled with 2 quarts." That is basically what these kinds of bloated authorizations are doing.

It also in section 8 gives the discretionary power in the hands of fewer and fewer people while, at the same time, obfuscating the entire process in such a way that the American public in no way can understand what we are doing. That does not help our process in the least.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment, as I said before.

I would just like to point out what we are really talking about here. We have an amendment which is, in essence, as far as budget goes, a freeze-plus amendment. What it does is it brings the levels back to presequestration.

We have a bill which is a freeze-plus, plus, plus, plus. That is what it does. It brings it back to the presequestration levels, and then adds some more, and in another year it adds some more and it adds more.

I took a pledge, I think we all did, that this year and for the immediate future, during the period of Gramm-Rudman, we are going to have to bite the bullet. We are going to have to not do all the things we would like to do. We are going to have to live within the budget.

In my mind, as we have previously discussed in the last few minutes, this is not one of the high priority programs. It is a priority program. I like it, too, and I love the programs that are involved here. I love the people

who are involved with the programs. I like the WIC Program and I like a lot of other programs which, in my mind, have to have a higher priority in the distribution of what additional funds we may have when the budget process is over.

But I would urge my colleagues in the House that if we are going to have anything in the sense of a freeze, and that is let us keep the programs where they are, bump them up a little bit as we have done in this amendment to take care of some problems that were created or should not have been created with perhaps a sequestration, if we are not going to live up to our commitment to bring this budget under control in this program, how can we bring into the kind of alignment that we need to have a balanced budget in any of the programs?

So I urge the Members to take into consideration that this is a freeze-plus amendment as versus a freeze-plus, plus, plus, plus bill.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I just want to reiterate for my colleagues the key numbers. At the current time, we are spending $145 million on these programs. The amendment that I offer and which the gentleman supports provides $151 million, and the bill that is before us provides $179 million.

So those are the key figures from which we choose.

Mr. JEFFORDS. Mr. Chairman, those are a lot of pluses.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. TAUKE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARTLETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 221, not voting 23, as follows:

[Roll No. 172]

AYES—189

Andrews	Chappie	Edgar
Archer	Coats	Edwards (OK)
Armey	Cobey	Emerson
Badham	Coble	English
Barnard	Coleman (MO)	Evans (IA)
Bartlett	Coleman (TX)	Fawell
Barton	Combest	Fiedler
Bateman	Courter	Fields
Bereuter	Craig	Fish
Bilirakis	Crane	Frenzel
Bliley	Dannemeyer	Gallo
Boulter	Darden	Gekas
Broomfield	Daub	Gibbons
Brown (CO)	DeLay	Gingrich
Broyhill	DeWine	Goodling
Burton (IN)	Dickinson	Gradison
Byron	DioGuardi	Green
Callahan	Dornan (CA)	Gregg
Carper	Dreier	Gunderson
Chapman	Eckert (NY)	Hamilton
Hammerschmidt	McCurdy	Shaw
Hansen	McEwen	Shumway
Hartnett	McGrath	Shuster
Hendon	McKernan	Siljander
Henry	McKinney	Skeen
Hiler	McMillan	Slattery
Holt	Meyers	Slaughter
Hopkins	Michel	Smith (FL)
Hubbard	Miller (OH)	Smith (NE)
Huckaby	Miller (WA)	Smith, Denny (OR)
Hunter	Molinari	Smith, Robert (NH)
Hyde	Monson	Smith, Robert (OR)
Ireland	Montgomery	Snowe
Jeffords	Moore	Snyder
Jenkins	Moorhead	Solomon
Johnson	Myers	Spence
Jones (OK)	Nielson	Stallings
Kasich	Olin	Stangeland
Kemp	Oxley	Stenholm
Kindness	Packard	Strang
Kolbe	Parris	Stratton
Kramer	Pashayan	Stump
Lagomarsino	Penny	Sundquist
Latta	Petri	Swindall
Leach (IA)	Pickle	Synar
Leath (TX)	Porter	Tauke
Lent	Pursell	Taylor
Lewis (CA)	Ray	Thomas (CA)
Lewis (FL)	Regula	Thomas (GA)
Lightfoot	Ridge	Vento
Livingston	Ritter	Vucanovich
Loeffler	Roberts	Walker
Lott	Rogers	Watkins
Lowery (CA)	Roth	Weber
Lujan	Roukema	Whitehurst
Lungren	Rowland (CT)	Whittaker
Mack	Rowland (GA)	Wolf
Madigan	Rudd	Wortley
Marlenee	Saxton	Wylie
Martin (IL)	Schaefer	Young (FL)
Martin (NY)	Schneider	Zschau
McCain	Schuette	
McCandless	Sensenbrenner	
McCollum	Sharp	

NOES—221

Ackerman	Dingell	Jones (NC)
Akaka	Dixon	Jones (TN)
Alexander	Donnelly	Kanjorski
Anderson	Dorgan (ND)	Kaptur
Annunzio	Downey	Kastenmeier
Anthony	Duncan	Kennelly
Applegate	Durbin	Kildee
Aspin	Dwyer	Kleczka
Atkins	Dymally	Kolter
AuCoin	Dyson	Kostmayer
Barnes	Early	LaFalce
Bates	Eckart (OH)	Lantos
Bedell	Edwards (CA)	Lehman (CA)
Beilenson	Erdreich	Lehman (FL)
Bennett	Evans (IL)	Leland
Bentley	Fascell	Levin (MI)
Berman	Fazio	Levine (CA)
Bevill	Feighan	Lipinski
Biaggi	Flippo	Lloyd
Boehlert	Florio	Long
Boggs	Foglietta	Lowry (WA)
Boland	Foley	Luken
Bonior (MI)	Ford (MI)	MacKay
Bonker	Frank	Manton
Borski	Frost	Markey
Bosco	Garcia	Martinez
Boucher	Gaydos	Matsui
Boxer	Gejdenson	Mavroules
Brooks	Gilman	Mazzoli
Brown (CA)	Glickman	McCloskey
Bruce	Gonzalez	McDade
Bryant	Gordon	McHugh
Burton (CA)	Gray (IL)	Mica
Bustamante	Gray (PA)	Mikulski
Carr	Guarini	Miller (CA)
Chappell	Hall (OH)	Mineta
Clay	Hall, Ralph	Mitchell
Clinger	Hatcher	Moakley
Collins	Hawkins	Mollohan
Conte	Hayes	Moody
Conyers	Hefner	Morrison (CT)
Cooper	Heftel	Morrison (WA)
Coyne	Hertel	Mrazek
Crockett	Horton	Murphy
Daniel	Howard	Murtha
Daschle	Hoyer	Natcher
Dellums	Hughes	Neal
Derrick	Hutto	Nelson
Dicks	Jacobs	Nichols
Nowak	Savage	Traficant
Oakar	Scheuer	Traxler
Oberstar	Schroeder	Udall
Obey	Schulze	Valentine
Ortiz	Schumer	Visclosky
Owens	Shelby	Volkmer
Panetta	Sikorski	Walgren
Pease	Sisisky	Waxman
Pepper	Skelton	Weaver
Perkins	Smith (IA)	Weiss
Price	Smith (NJ)	Wheat
Quillen	Solarz	Whitley
Rahall	Spratt	Whitten
Reid	St Germain	Williams
Richardson	Staggers	Wilson
Rinaldo	Stark	Wirth
Robinson	Stokes	Wise
Rodino	Studds	Wolpe
Roe	Sweeney	Wright
Roemer	Swift	Wyden
Rose	Tallon	Yates
Rostenkowski	Tauzin	Yatron
Roybal	Torres	Young (AK)
Russo	Torricelli	Young (MO)
Sabo	Towns	

NOT VOTING—23

Boner (TN)	Davis	Grotberg
Breaux	de la Garza	Hillis
Campbell	Dowdy	Lundine
Carney	Ford (TN)	O'Brien
Chandler	Fowler	Rangel
Cheney	Franklin	Seiberling
Coelho	Fuqua	Vander Jagt
Coughlin	Gephardt	

□ 1510

Mr. MARTINEZ, Mr. CLINGER, Ms. OAKAR, and Mrs. LLOYD changed their vote from "aye" to "no."

Ms. SNOWE changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GREGG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it has come to my attention that the ACTION Agency has interpreted various provisions of the authorizing statute for the Foster Grandparent Program in a manner which frustrates the intent of Congress expressed during the last reauthorization of the Older American Volunteer programs that agency control over non-Federal funds be minimized.

Specifically, I understand that a grantee under the Foster Grandparents Program who submitted an application for refunding in full compliance with the statutory requirement that an amount equal to 90 percent of the Federal award be utilized for direct volunteer expenses, has been notified that the grant will not be refunded. The grantee in question has been instructed by the agency to effectively allocate a greater percentage of their excess non-Federal funds toward volunteer support expenses so as to allow a greater percentage of their Foster Grandparents grant to be used to pay for volunteer stipends.

Section 224 specifically provides that the Director of ACTION may not restrict the manner in which non-Federal funds available to the grantee in excess of the matching requirement may be used, provided that the use of

such funds is not inconsistent with the provisions of the act.

What would be the gentleman's understanding of the legal effect of section 224 on a situation where a grantee had met their non-Federal funding matching requirement and had met the requirement that an amount equal to 90 percent of their Federal grant was being used for direct volunteer expenses?

Mr. Chairman, I yield to the gentleman from Michigan [Mr. KILDEE] for his response.

Mr. KILDEE. I thank the gentleman for yielding to me.

Mr. Chairman, in response to the question from the gentleman from New Hampshire, section 224 was intended to limit ACTION's control over local funds raised in excess of the 10-percent match required in the law. Congress was very clear as to this intent, and this has been discussed at some length with ACTION personnel.

ACTION has the responsibility to monitor excess funds to the extent of determining that these funds are spent consistent with the purposes of the act. Beyond that, local programs have the responsibility and the right to make their own decisions about the most effective way to use local funds contributed over and above the 10 percent required in the law.

In the case you describe, it seems clear that ACTION is going beyond its statutory authority by requiring a local program to use its excess matching funds in a particular way. As long as the local agency is using its excess local contributions for appropriate expenditures such as transportation for foster grandparents or other legitimate costs, ACTION does not have the authority to take reprisals or otherwise try to force the program to use these excess funds in a particular way.

Mr. GREGG. Mr. Chairman, I thank the gentleman from Michigan, and I yield back the balance of my time.

AMENDMENT OFFERED BY MRS. MARTIN OF ILLINOIS

Mrs. MARTIN of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MARTIN of Illinois: Page 11, line 17, strike "2,600" and insert "2,400".

Page 11, line 19, strike "2,730" and insert "2,400".

Page 11, line 21, strike "2,865" and insert "2,400".

□ 1520

Mrs. MARTIN of Illinois. Mr. Chairman, the bill before us contains funding for the VISTA—that is the Volunteers in Service to America—in excess of both the fiscal year 1987 House budget resolution, and current services funding.

Mr. Chairman, it starts getting a little complicated, and these amendments get complicated, which means that it is easy to vote against them. So I ask the Members on both sides of the aisle to listen to this, because I will be brief.

We passed Gramm-Rudman; we passed a House budget resolution, which the Democratic majority supported; and we also tried to pass a Republican budget amendment. In all of those resolutions we looked for a number that is not reflected in the authorizing committee's project as they are given to us.

The only reason that that matters is because authorizing is starting to matter less and less around here, and we know it. Appropriations is mattering more and more, and this is the case where the authorizing level defines the appropriation.

Historically the VISTA service year funding floor contained in the authorizing legislation does dictate the appropriation. The Appropriations Committee calls the authorizing committee. It says, "What is your funding level per service year including the ancillary services?" Then it multiplies by the service year floor level contained in that legislation.

Because of that automatic funding necessitated by the VISTA service year floor, this is right now the first appropriations bill for fiscal year 1987.

Currently the VISTA Program has a service year allotment of 2,400. The committee of jurisdiction has increased the service year level to 2,687, 2,730, in 1988, and 2,865 in 1989. This means that the funding level would be increased, assuming a 3-percent inflation rate, by 11 percent in 1987, 8 percent in 1988, and 8 percent in 1989.

I am not here to argue the merits of an increase. We can all stand up and propose increases for programs that are wonderful. We can all talk about how we are for senior citizens and volunteers. But I am opposed to providing program increases of over 11 percent a year in a year that we must meet for the first time the Gramm-Rudman confines.

Mr. Chairman, may I remind my colleagues that we must meet that deficit target of $144 billion, and it is this type of appropriation that will lead to sequestration, which will destroy the VISTA Program. That would be a terrible, terrible thing for us to do.

With full respect to the authorizing committee, with full understanding that they believe that this program should be funded at the higher levels, I tell the Members of the House that this amendment is it. We get to give them an increase under this amendment, but we do not, it is true, give them the increase that will literally break the Democratic budget, the Republican budget, and totally ignore the realities of Gramm-Rudman.

It is the first such vote that we have here. It will provide the path for the rest of the votes.

I do not think that it is enough to just say that we are in favor of a program. I think that if we voted for either Gramm-Rudman or the Democratic budget or the Republican budget, we must support this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. WEISS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as with the last amendment that was offered, the authorization levels in this legislation regarding VISTA do not exceed the authorizations in the budget resolution. The fiscal year 1986 authorization was $25 million; the fiscal year 1987 level is $25 million; the fiscal year 1988 is $26,250,000; and the fiscal year 1989 level is $27,560,000. All of it is within the parameters of the budget resolution.

What is included in the legislation is a VISTA funding floor, a guaranteed amount, minimum amount that must be first spent on VISTA prior to the appropriation of any funds for part B, the Service Learning Program, or part C, the Demonstration and Special Volunteer Programs.

What the legislation does is to create priorities. The VISTA funding floor levels in this bill for fiscal year 1987 provide for 2,600 volunteer service years, and that is the equivalent to approximately $20,020,000 where you have a $25 million authorization level. For fiscal year 1988 it provides for 2,730 volunteer service years, equivalent to approximately $21,021,000, and the authorization level is $26,250,000. And for fiscal year 1989 the volunteer service years are 2,865, and that is equivalent to approximately $22,060,500.

So again, I do not know where the suggestion comes from that these are in violation of the budget resolution. They are not. They are absolutely within the legislation.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WEISS. When I conclude, I will be pleased to do that.

In each of the past 5 years, President Reagan attempted to abolish the VISTA Program. But the American people, through their elected Representatives in Congress, rejected those efforts although there have been drastic cuts. I am pleased that the administration now supports VISTA's continuation. By passing H.R. 4116 without this crippling amendment, we would assure the continuation of the VISTA Program.

With 33 million Americans living in poverty in the United States, this vital, cost-effective program is more essential than ever.

Since 1965, over 80,000 Americans have served as VISTA volunteers and have demonstrated that our Government can help people to help themselves. VISTA's "hands on" approach has provided millions of our Nation's poor with an opportunity for a better life. VISTA has brought lasting and positive improvements to thousands of urban and rural low-income communities and neighborhoods.

VISTA has provided invaluable assistance to thousands of community self-help projects ranging from battered women's shelters to agricultural cooperatives. And VISTA continues to demonstrate the ability to respond to newly emerging issues and needs. Before homelessness was in the headlines, VISTA volunteers were organizing shelters. While a national debate raged over the extent of hunger among Americans, VISTA volunteers were putting together food banks. While the recession was at its peak, VISTA volunteers were establishing job banks to deal with the crisis of unemployment. And long before illiteracy was recognized as a national crisis, VISTA volunteers were initiating literacy outreach efforts and recruiting and training volunteer tutors in the poorest of American communities.

Today, VISTA volunteers—the majority of whom are themselves low income—continue to generate the tangible benefits of jobs, resources, and services to poor communities, as well as the intangible benefits of dignity, hope, and self-respect. But, today there are only 2,400 volunteers, and the budget is $18 million, compared to nearly 5,000 volunteers and a budget of $34 million in 1981.

The fiscal year 1987 VISTA authorization, which is frozen at its fiscal year 1986 level, is equivalent to 76 cents for every man, woman, and child in the United States living below the poverty level. The Martin amendment would freeze the service year funding floor at 2,400, which is similar to 2,400 full-time equivalent employees [FTE's], instead of allowing the modest annual increases included in H.R. 4116.

A freeze in the minimum number of VISTA volunteers that doesn't allow for increased need is not really a freeze, it is a cut, and it would cut a program that has already been cut drastically. VISTA needs to increase the number of volunteers in order to continue to do its important work. For example, 545 VISTA volunteers are currently assigned to hunger programs and food banks in 40 States, 301 VISTA volunteers are assisting the homeless in 28 States, 383 VISTA volunteers are working with the elderly in 32 States, and 177 are helping abused childern in 20 States. If the minimum number of volunteers is frozen through 1989, at a time when the number of elderly, homeless, and abused children is expected to increase, then there will be more impoverished Americans who have no where to turn.

The service year floors included in H.R. 4116 are designed to regain some of the ground lost since 1981. Although I support the kinds of demonstration projects that could be funded under part B and part C of title I, I do not support cutting or freezing levels for the VISTA Program, which has been proven effective, in order to fund demonstration projects. And, the service year funding floor included in H.R. 4116 is 20 percent below the funding authorized by the bill, providing quite a lot of flexibility between the minimum and maximum funding that the law would allow.

□ 1530

So I urge my colleagues to reject the Martin amendment and any other amendments that would reduce the authorization levels for VISTA service year funding floors provided for in H.R. 4116, as reported by the committee.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am happy to yield to my colleague, the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, listening to the gentleman, I am always amazed that we do not increase everything, because then according to the gentleman's logic we would have no deficit whatsoever.

Mr. WEISS. Well, taking back my time just for a moment, all that we are asking is that we not be put into the kind of straitjacket that the gentlewoman intends to put this program in for three successive years. That is what the gentlewoman's amendment would do.

Mrs. MARTIN of Illinois. That is correct.

Mr. WEISS. I am pleased to yield further to the gentlewoman.

Mrs. MARTIN of Illinois. Did the gentleman support the Democratic budget amendment?

Mr. WEISS. Of course, I did.

Mrs. MARTIN of Illinois. Well, may I quote:

> The committee recommendation assumes discretionary programs will be maintained at fiscal year 1986 levels for three years.

I mean, the gentleman voted for that freeze. I am giving the gentleman more than that in my amendment. I just think what we do one month we should continue to do the next.

Mr. WEISS. Mr. Chairman, if I may take back my time again, what the gentlewoman attempts to do is through a sleight of hand by limiting the numbers of people, the number of service years that can be paid for out of the money that has been authorized or appropriated, in fact is to cut back by freezing the program. That is what the gentlewoman attempts to do.

The legislation as it now exists is fully within the parameters of the budget resolution as adopted by this House.

Mrs. JOHNSON. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my friend, the gentlewoman from Connecticut.

Mrs. JOHNSON. Mr. Chairman, are there not dollars, however, associated with every service year? It seems only rational that if we increase the service years from 2,600 to 2,730——

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 3 additional minutes.)

Mrs. JOHNSON. Mr. Chairman, will the gentleman yield further?

Mr. WEISS. I am pleased to yield to my friend.

Mrs. JOHNSON. That I would associate dollars with that increase in the number of service years.

Mr. WEISS. The gentlewoman is right, except that as I have indicated before, the number of service years that are provided for in this legislation come well within the amount. In fact, they are about 20 percent below the total amount that has been authorized in money terms.

Mrs. JOHNSON. If we increase the service years and the funding attributed to those service years and if the budget is capped and we are freezing the budget for 3 years by our own resolution, then something has to go.

What we are doing here, unfortunately, if we do not pass this amendment, is to mandate an increase in service years and the dollars attached to those increases and blindly ignoring the things that are going to be unfunded then or underfunded that are equally important, every bit as important, because this function of the budget has never gotten an increase.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, if I may, what is going on here now is sort of a double-headed effort to try to cut this program.

The first amendment that was offered suggested cutting the authorization level. That failed. Now the effort is being made to say, OK, the authorization levels will be left alone, but the number of people on whom you can spend that money will be limited.

This legislation does not increase dollars for the service years. It says 20 percent below the total amount authorization shall be spent for service

number of years. There is a great deal of flexibility there. The gentlewoman's premise, if I may suggest, is wrong.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my friend, the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

The gentlewoman from Illinois made reference to the statement that the committee recommendation assumes discretionary programs will be maintained at fiscal year 1986 levels for 3 years. That is correct; however, the gentlewoman fails to follow up with the next sentence: "The recommendation assumes that within the overall totals funding levels for individual programs will be determined through the annual appropriations process."

Clearly, this program is still substantially below the Budget Reconciliation Act.

Mr. WEISS. Mr. Chairman, I thank my friend for his comments.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield, since my name was mentioned?

Mr. WEISS. I am pleased to yield to my friend.

Mrs. MARTIN of Illinois. Mr. Chairman, I thank the gentleman from New York. I am super pleased that the gentleman read that last line. I did not want to take up more of the gentleman's time.

The gentleman is making my point, may I say to the Congressman, so beautifully, that by this particular amendment for once on this bill we are appropriating, so in effect what we vote on with my amendment will determine if we keep to the budget document or not.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my friend.

Mr. BIAGGI. Mr. Chairman, I am glad the gentlewoman thinks that I made her point. I think contrarywise; however, the fact of the matter is, with this bill the cost for 1987 for 2,600 will be $20.2 million.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. WEISS. I yield to my friend.

Mr. BIAGGI. The cost will be $20.2 million, which is almost $5 million below the $25 million authorization.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my friend, the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, just a correction for the RECORD. I think it is important that Members understand that the gentlewoman's amendment does not limit the number of VISTA volunteers. It merely leaves the number of guaranteed VISTA volunteers at today's level of 2,400 service years.

The gentlewoman is dealing with a minimum guarantee.

I see on the floor members of the Appropriations Committee. What we are doing, without this amendment, what we are doing in the bill, without the Martin amendment, is to guarantee an appropriations level that would increase by 11 percent in this one very narrow program in the first year; so the gentlewoman's amendment does not limit the number of VISTA volunteers.

Mr. WEISS. Mr. Chairman, if I may, in fact what it does, because that is the way it has worked out, that floor becomes the ceiling. That is the way it has always worked and indeed the gentlewoman's amendment would limit for 3 successive years the number of service years to 2,400, which would end up being a cutback.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

I must admit after hearing the discussion in the last few minutes, I am rather confused as to what this does or does not do.

As I read the legislation, and as I understand the gentlewoman's amendment, she is basically trying to do what it is we said we would do in the resolution that was passed, the budget resolution. In that resolution, we said we would freeze for a 3-year period.

Now, I do not understand what it is we cut, if as a matter of fact we increase spending in this area. I assume there is some other program that will be coming or programs that will be offered where there will be a considerable reduction in order to get to the overall freeze. I do not see how you can look at it in any other direction.

I certainly support VISTA and appreciate all they have done in my district and throughout the country, but it seems to me that if we pass a document one month and then the very next turn right around, as a matter of fact, and deviate from that, I do not see really how we are going to get our fiscal house in order; so it would be my hope that we would do as we said we would do in the budget resolution, and that is to freeze, so that as a matter of fact those other programs, and I do not know which they are, will not have to take the kind of cuts that I suppose they would have to take in order to do something more than freeze this particular program.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, the gentleman from Pennsylvania is a member of the Budget Committee and a conferee to the budget. Does the gentleman see any evidence that the Senate-House conference is going to increase the numbers in the Democratic budget for these programs?

Mr. GOODLING. I see no possibility that that will happen.

Mrs. MARTIN of Illinois. So that if we rise above the democratically passed House budget resolution, we would be not only sending the wrong signal, but in effect falsely giving hope where there will be none.

Mr. GOODLING. Yes, and I think we have to be careful when we send out that kind of false hope.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in opposition to Mrs. MARTIN's amendment to H.R. 4116, the Domestic Volunteer Service Amendments of 1986 an amendment which would freeze the volunteer service year floor levels for the next 3 years. I wish to address two of the arguments in particular.

The first of these arguments is that increasing the VISTA volunteer service year floor levels to 2,600 in fiscal year 1987, 2,730 in fiscal year 1988 and 2,865 in fiscal year 1989, would be in violation of the Budget Reconciliation Act.

Clearly, this is not a fact, and I think that should put that argument to rest.

VISTA's current post sequestration appropriation is $18.1 million. The estimated cost of the volunteer service years floor level increase in fiscal year 1987 would be about $20 million which includes the public relations and media campaigns mandated by H.R. 4116. This figure is still below the $21.13 million that title I received post-sequestration in fiscal year 1986. Therefore, the increases in floor levels would not necessitate an increase in title I funding.

In this time of necessary deficit reduction, it is important that we examine all federally funded programs and give priority to those we feel are essential. VISTA is the Federal Government's only full-time antipoverty service to persons from all walks of life, all economic levels, and all age groups. VISTA has a 20-year record of accomplishments and cost-effectiveness. The self-reliance fostered by VISTA programs has done much to create a lasting positive change in the impacted neighborhoods. In January of 1981, VISTA had 5,000 volunteers at nearly 900 projects. In the past 5 years,

VISTA has remained a constant target of deficit reduction, to the extent that by the end of fiscal year 1986, with a 2,400 service year level, the number of VISTA volunteers will drop to 1,700 at 375 projects. This represents a 66-percent decrease in volunteer service years. It is essential that we halt this decrease—that we give priority to VISTA. That is all that these increased floor levels intend.

The other argument alluded to is that increased floor levels for VISTA will in some way sacrifice the valuable older American volunteer programs, and therefore hurt our older Americans. As chairman of the Human Services Subcommittee of the Select Committee on Aging, let me clarify that older Americans participate in the VISTA program both as volunteers and as beneficiaries. In fact, the law requires, through an amendment I introduced several years ago, that 20 percent of all VISTA volunteers be age 55 or older; currently this minimum is being exceeded. The atmosphere of decency and dignity for all that is promoted by VISTA programs is the mainstay of life for the elderly in our communities. H.R. 4116, in no way threatens the older American volunteer programs including RSVP, Foster Grandparents, and Senior Companions. In fact the national associations representing these program's project directors support the VISTA service year floor levels in H.R. 4116. I, therefore, urge my colleagues to join me in defeating this devastating amendment, and that is what it is, a devastating amendment, where we will be pursuing the same route that we have since 1981, from 5,000 volunteers down to 1,700 and further.

Mrs. JOHNSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. We stood here on the floor and we passed Gramm-Rudman. It is not going to be any fun to live within the terms of Gramm-Rudman, but if we do not do it, then we invite sequestration. If we do not support the Martin amendment, we take the first step down the road of sequestration and when we end up with no budget and with a budget drawn by the formula in Gramm-Rudman, VISTA will be devastated. Public education will be devastated. Head Start will lose more slots as they did in 1986 when we refused to take our responsibility to select the Gramm-Rudman and let them go by formula.

My seniors who depend on Meals on Wheels will lose more Meals on Wheels slots, as they did in 1986 when we refused to take the responsibility to make the cuts and allowed Gramm-Rudman's formula budget to go into effect.

If we do not stand up today and have the courage to implement our own budget resolution, then we take the first step toward failing to pass a budget in the House and allowing sequestration to take place and a Gramm-Rudman formula budget to dictate to this Nation what our priorities are.

You cannot buy something and pay nothing. If you buy something for more volunteer hours, under title I you will have to reduce the number of student service volunteer hours, or you could reduce the number of general volunteer hours, or you could fail to provide any literacy volunteer funds; but you cannot have it both ways. You cannot increase the mandated number of volunteer years and fully fund the other volunteer service programs under title I and still stay within Gramm-Rudman.

□ 1545

It is simple logic. There is not one taxpayer listening to us who does not run their own household and does not know that they cannot buy increased funding over here for this and freeze funding for these other things and come out with a freeze across the board. You cannot do it.

This is mandating. This is appropriation. And this is Gramm-Rudman on the line. In this budget function, we did vote, and selectively, the Committee on the Budget chose this, made deliberate decisions to increase funding by $1.5 billion for Headstart, dislocated workers, vocational rehabilitation, handicapped education, TRIO and Job Corps. They did not increase funding for VISTA volunteers.

I like VISTA. I support VISTA. There is no one on this floor who does not understand the good work that they did, but ladies and gentlemen of this House, we committed ourselves and we are obligated to this Nation to pass a budget that meets Gramm-Rudman targets. Part of that pain is freezing this function of the budget because we choose to increase in other areas and we chose to cut more deeply in other areas.

So I urge my colleagues to support the Martin amendment.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN].

Mr. Chairman, nothing is new. Our friends on the other side like this program and they like that program, they do not want to put much money in them and they certainly do not want to increase them, even though inflation goes up, but they want us and the American people to know that they sure like VISTA; they just do not want to fund it properly.

In fact, if they could, they would cut it, but they want us to know how much they really support it way down deep.

Here are the hard facts. The gentlewoman from Connecticut is absolutely correct, and I have no argument with it, and that is, if we are going to within title I, and there again are three efforts within title I, mandate that one of them be increased, then that means if we are going to stay within the budget, the other two must be decreased. The gentlewoman is absolutely right.

That is precisely the statement that we are making here on the House floor today. The increase that we are insisting upon for VISTA is plainly and simply the Congress of the United States saying to the Executive that we want to use our influence and prioritize one program within title I as more important than the other two. That is what we are doing with this.

Is that not why the Members of the House come to this city and gather in this Chamber, to express our options, to pick and choose, to prioritize, to say where we want this spending to happen?

In this instance we are saying that under title I, we want VISTA to increase ever so slightly, but to increase. We are not increasing the final total in the bill under title I, so that, of course, means that the other two programs, two small discretionary programs, special volunteer programs, will have to decrease. We understand that.

But that is within the prerogative of the House, and that is what we are herein doing. Our friends on the other side of the aisle are saying do not do that; Congress, do not exercise your discretionary power; do not tell the administration that they have to increase one program within title I over another.

I am saying Congress, exercise your discretionary power. If we decide that we like VISTA better than we like these other two small discretionary programs which are not as effective as is VISTA, then we should say in this legislation that we, the lawmakers of this land, have decided that we want more money in VISTA and slightly less money in the two other discretionary programs under title I.

There is nothing wrong with that. It does not violate the budget in any way. I say again to the Members of this House, as a member of the Committee on the Budget, as one who was successful in offering the low income and education amendments to this year's budget, what we are doing in this bill does not violate the budget. The amendment offered by the gentlewoman from Illinois does not bring us down to the budget; it brings us simply below what the authorizing committee

in this House believes should go to VISTA.

Mrs. JOHNSON. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I would be pleased to yield to the gentlewoman from Connecticut.

Mrs. JOHNSON. I thank the gentleman for yielding.

Mr. Chairman, I think it is important that we do acknowledge that by increasing the VISTA volunteers, we are cutting out two-thirds of all of the other volunteers and we are not allowing a single literacy volunteer to be put in place, even though literacy is a major problem in our Nation and probably the foundation upon which both unemployment and welfare rest.

Mr. WILLIAMS. In reclaiming my time, I say to the gentlewoman that in order to take care of that, I amended the VISTA part of title I to include a literacy corps, and we increased the literacy effort. That is part of the reason for increasing the service years. So literacy will be more than taken care of in this bill.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I would be pleased to yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

This is on a factual correction. If, in fact, the Committee on Appropriations does as the gentleman suggests, and takes all of the funding for this mandated increase in appropriations out of parts B and C, which is students and other citizens and volunteer programs around this country for parts B and C, the result is that it would reduce those two programs by two-thirds in the first year, but by the second year it would have eliminated those programs completely, not nibbling around the edges, not small reductions, but eliminating those student programs, and by the third year there would not be enough money just from those two programs to fund the mandated appropriation increases that the gentleman has in the bill.

The gentleman is mandating far more appropriations than can possibly be funded by eliminating parts B and C, the student volunteer programs, and the citizen volunteer programs, and I hope that is not what the gentleman intends.

Mr. MOODY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentlewoman from Illinois.

Mr. Chairman, I will be brief, but I want to stress that my understanding of the amendment is that it would curtail legislative discretion by this body; that if there is an increase in VISTA it will be offset by a decrease, as the gentleman from Texas points out, in the other programs. Therefore, the problem raised by the gentlewoman from Connecticut does not arise.

The total budget expenditures will not go up; the mix will simply alter from what the administration wants to what the Congress wants, and I think that is what we are here for.

Mrs. JOHNSON. Mr. Chairman, will the gentleman yield on that point for a moment?

Mr. MOODY. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON. I thank the gentleman for yielding.

Mr. Chairman, if we raise the mandated level, then the Committee on Appropriations is faced with the situation that they have this mandate. I, frankly do not for a moment think that the Committee on Appropriations is going to eliminate the student volunteers or cut the other volunteer programs by two-thirds and not put any literacy volunteers in.

The gentleman is trying to force them into that position, but they are going to say, "You wanted this mandate. We will add this on." I would remind the gentleman that it was the Democratic Committee on the Budget that failed to choose this as one of the programs that they increased, although they increased this function $1.5 billion over and above where we are this year, which we did to very few functions.

So this is a serious dollars and cents matter. We just cannot have it both ways.

Mr. MOODY. Mr. Chairman reclaiming my time, the gentlewoman suggests that the Committee on Appropriations will be forced to make a decision. That is exactly what we want to have happen.

I think the authorizing committee, if I read them correctly, wants that decision to be forced on the Committee on Appropriations. So I do not think that problems described by the gentlewoman from Connecticut arise. This is a matter of Congress working its will to establish priorities. We are not busting any budgets here. We are staying within the budget limits.

Mr. Chairman, the legislation we are considering today, the reauthorization of the Domestic Volunteer Service Act, is an excellent measure that should enjoy the support of my colleagues on both sides of the aisle. H.R. 4116 would reauthorize the domestic volunteer programs of the ACTION Agency, including the VISTA Program and the three popular older American volunteer programs—the Retired Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program. There has been much talk about voluntarism by the current administration. This bill is our chance and the President's chance to show appreciation and support for the work of hundreds of thousands of volunteers of all ages who are serving in ACTION sponsored volunteer programs.

I know firsthand the contributions and positive and lasting change these programs have brought to low-income people and communities throughout the Nation. In my district Milwaukee Associates in Urban Development [MAUD] has sponsored the VISTA Program since 1967, making it the oldest continuing VISTA sponsor in the United States.

Over its 19 year history, MAUD has used VISTA resources to address the widest possible spectrum of community problems. VISTA volunteers have helped establish community health centers, community schools, mental health programs, neighborhood organizations, programs for older adults, and advocacy programs that benefit thousands of Milwaukee residents. Furthermore, as the community changes, as new issues are identified or as the urgency of issues is reprioritized, MAUD has responded to these changing needs with VISTA resources. The MAUD structure has allowed new, emerging organizations with innovative programs to compete successfully for VISTA resources.

The successes of MAUD VISTA projects would be too numerous to list here. The record does, however speak for itself in just the "first" VISTA's have been responsible for in Milwaukee. The first shelter for battered women, the first, second, and third neighborhood credit unions, the first and now largest transportation system for the elderly, the first Citizen Advocacy Program for Retarded Citizens and the first parent-run community schools all began as VISTA projects. Well over 500 VISTA volunteers have served the community through MAUD. They represent an investment of well over $1 million in the development of community based solutions to the problems of poverty and generated 20 times that amount in other resources.

I urge my colleagues in this body to act quickly and positively on this legislation and reject all attempts to reduce the authorization levels for these invaluable programs included in H.R. 4116. This bill also includes a service year funding floor for VISTA that Mr. BARTLETT is attempting to freeze. The service year floors included in the bill are absolutely critical to VISTA's survival and revitalization. The floor ensures that a minimum funding level in each year—that I might note is far below the authorization level—first be spent for VISTA, the only full-time antipoverty program in ACTION prior to the appropriation of funds for other demonstration programs that are far less proven

and far less focused on addressing the needs of the poor and disadvantaged than VISTA. The service year funding floor in this bill does not necessarily require new funds; they merely state that of the funds appropriated for title I programs, there must first be available adequate moneys to support certain minimum levels of VISTA service to the poor and disadvantaged.

There are also false arguments being made that the funding floor will jeopardize older American programs. This is absolutely incorrect. In fact, three associations representing the older American programs have continuously been supportive of the funding floor concept and of VISTA's service to senior citizens.

As major cuts in social programs begin to severely impact households everywhere, our responsibility is even greater to prioritize funding and retain the relatively minuscule investment of Federal dollars in programs such as these which doggedly work at helping the disadvantaged help themselves and their neighbors stay warm, nourished, and decently housed. This is exactly what the service year floors included in H.R. 4116 accomplish.

Let us pass H.R. 4116 and reject the crippling amendments.

□ 1555

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think on that last statement, I yield briefly to the sponsor of the amendment, the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, I thank the gentleman from Texas.

Please let me assure my colleagues on both sides of the aisle that this is not meant to demean the work of the authorizing committee. In this very special category, the authorizing committee does dictate to the Committee on Appropriations.

It is not my amendment that dictates to them. With or without my amendment, the authorizing committee will be proscribed and prescribed to do certain things. The only question is what should they be proscribed from doing and prescribed to do.

I am suggesting we do something old-fashioned, like follow the budget amendment that we passed but a few weeks ago.

Mr. BARTLETT. Mr. Chairman, I thank the gentlewoman for her comments.

I want to try to bring the House back to the issue before us, because in the Tauke amendment earlier, we did consider authorization levels, and by a relatively close vote, the House decided to go with the authorization levels being recommended by the committee. But this is appropriations. Make no mistake about it. The amendment that the gentlewoman from Illinois [Mrs. MARTIN], is offering from the House Committee on the Budget, goes to the heart of appropriations.

The bill, the way it stands, mandates what, in effect, becomes a guaranteed level of appropriations. It is mandated by a term that is not used very often on this House floor because it is not very often in very many pieces of legislation.

It is called a funding floor. What a funding floor means, translated, is a guaranteed or a mandated appropriation. The appropriation may be taken out of other programs; it may be taken out of literacy programs, as the gentleman from Montana suggested. It may be taken out of youth programs, or citizen programs, or it may be just simply added, but one way or the other, unless we adopt the gentlewoman's amendment, we will have mandated an 11-percent increase in appropriations, not in authorizations, but in appropriations.

Let me redescribe again for the House what a funding floor does. A funding floor is a floor, or a minimum number of units of production. Units of production in this case are measured by service years. A service year is a classic or, by definition, current services analysis. So if this House were to mandate the same number of service years next year as we have this year, that, by definition, would provide for inflation and would provide for a current services increase because that is the definition.

No one is discussing the devastating cuts, so-called devastating cuts I heard discussed a moment ago. In fact, the gentlewoman from Illinois [Mrs. MARTIN] is proposing that we mandate current services by definition at 2,400 service-years.

We currently have 2,400 service-years mandated in law. The gentlewoman is proposing those 2,400 years be continued as a funding floor. The bill, on the other hand, mandates an increase in number of service-years to 2,600 in the first year and an additional 5-percent increase in each of the next 2 years, thus mandating appropriations of 11 percent in real dollars in the first year that either has to bust the budget or has to be taken away from student programs or from literacy programs or from some other programs within VISTA.

It is not in the budget. There is nowhere to go in the budget. I suppose one way or the other, the House would be stepping outside of what is, I think, our intent.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield,

Mr. BARTLETT. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, I hope that everyone realizes that it would be very easy to demogog this issue, and kind of fun for Republicans to say, "You are against literacy programs; you are against teenage volunteers; you are against other volunteers." We are not saying that.

We think that perhaps for all of us in the House, the results of Gramm-Rudman are just beginning to be apparent. As this particular authorizing committee is the first one through with this very specific appropriation, it is understandable, perhaps, in your desire to be supportive of VISTA, that you could try to do what we have always done before: You get it from somewhere else and at the end, it always works out. It is just that this year is different.

Mr. BARTLETT. Mr. Chairman, I thank the gentlewoman for her comments.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

(By unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

Mr. BARTLETT. Mr. Chairman, the point is that whether it is within this legislation or within the House budget resolution that has already been passed, or whether it is within Gramm-Rudman or a combination of all three, as the gentlewoman from Connecticut [Mrs. JOHNSON] said, whatever we mandate to be appropriated in this program will have to be taken from somewhere else.

Now maybe it will be taken from students. Maybe it will be taken from literacy within the same program or maybe it will be taken by other programs within the priority list of needs to come from the Committee on Education and Labor. Maybe it will be taken from education of the handicapped or from Headstart or Women, Infants and Children or from vocational rehabilitation, but the money will have to be taken from somewhere, and unless this House adopts the Martin amendment, we will just have adopted, mandated the largest appropriations increase of any bill before this House this session.

Mr. CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has again expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I am happy to yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I ask the gentleman to yield to me because there has been some broad-brush, generalized discussion as to what the impact of the amendment would be and what the legislation currently pro-

vides from what it takes away from the two small demonstration projects.

Let me just read through those. The primary focus areas: hunger. Part B, service learning, provides no funds right now. Part C, demonstration grants, no funds VISTA in hunger areas supports 129 projects, 545 VISTA volunteers in 40 States.

Let me take one area where there are, in fact, four grants in youth programs; runaways, delinquency prevention, troubled youth, under the part B demonstration project, for $51,689. VISTA supports in that very area 269 projects, 1,586 VISTA volunteers in 42 States.

In alcohol and drug abuse, the part C demonstration grant has two projects at $248,000. VISTA has 77 projects, 441 VISTA Programs in 39 States.

The final demonstration project for refugees has 1 project for slightly under $50,000, whereas VISTA for refugees has 37 projects, 185 VISTA volunteers in 24 States.

Those two small demonstration projects are not being disadvantaged at all. What we are doing in the legislation, in fact, is providing much more handsomely than those demonstration projects ever did or could have.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has again expired.

(By unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

Mr. BARTLETT. Mr. Chairman, I will not use the entire minute, but just to respond briefly, the Martin amendment does not cut those programs. In fact, by definition, it provides for current services continuation at the same level of those programs. I will read you simply from the committee report in one section, on page 9, of the part C special volunteers, which would by necessity be eliminated without the Martin amendment. "Current projects include a runaway youth program, a drug prevention program, a refugee assistance program, placement and counseling services, and a literacy program."

What the gentlewoman is proposing is that we do not tie the hands of appropriations and we continue to fund those programs and not mandate the additional appropriations in the VISTA Program.

Mr. WEISS. Mr. Chairman, if the gentleman will yield to me for just 1 second, my point is precisely that those very programs the gentleman has mentioned as part of the demonstration projects have been provided for in the VISTA Program.

They are not being hurt or cut at all.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I would hope that we would reject the Martin amendment because it is an amendment that is aimed at the heart of VISTA, aimed at the heart of this legislation, and can be fatal to the program.

The proponents of the Martin amendment say that if you accept the committee bill, you will be strengthening VISTA. Yes, we will. That is what we want to do.

□ 1605

Why? Because we have seen VISTA as an effective agency to help poor people help themselves. What we have also seen is money drained off in part B and part C, the demonstration grants, for little political projects by this administration, that have come under question by the GAO and others.

We would rather take what limited resources we have under Gramm-Rudman, under the budget constraints, and put them into a program that is effective in working with people and helping those people organize their communities. That is the testimony of VISTA; it is an effective organizing tool for poor people to make their communities a better place to live, a better place for their children, a better place for consumers.

What we have seen is these programs that the gentlewoman from Illinois and the gentlewoman from Connecticut and the gentleman from Texas are now crying about, what we now find out is three-quarters of the way through the fiscal year, less than 6 percent of the appropriated funds have been awarded for part B. Three-quarters of the way through the fiscal year, less than 27 percent of the part C moneys have been appropriated.

The fact of the matter is, those programs are duplicative of what VISTA's main mission is, and so you can take the Republican model, which is to throw more money, redundant programs at that, or you can come back and work with the one program that has in fact proven effective.

As pointed out, this amendment has no impact on the budget; this legislation is within the budget that we passed in this House; the chairman of the Committee on the Budget has certified that. The tough choices. It is interesting that the other side is now worried about the Committee on Appropriations having to make tough choices, or they are shocked that an authorizing committee would consider priorities and changing authorization upon rereview of the program.

The VISTA Program, the ACTION agencies, are an agency that has been tormented by this administration, that has engaged in illegal activities; that under the previous director, Mr. Pauken, misused the money, misspent the money, squandered the resources for the very programs that the other side is so terribly concerned about.

So what has the authorization committee done? The authorization committee said, "Let's get rid of these little slush funds, and let's put them into programs that have a trusted track record" of dealing with the very problem that you say you are so concerned about.

You are so concerned about illiteracy that those funds would be transferred to VISTA. In fact, in illiteracy so far this fiscal year, no projects have been funded under part B or part C, but under VISTA we find out that there are 110 projects in 40 States that are working on that problem.

So why do not we consolidate our resources, put them into the agency that is the most effective, with the longest track record, and put them there; and that we have made that choice on the authorization committee. We think the appropriations committee should make that choice, also.

The funding floor is there for one reason: Because this Congress, on a bipartisan basis, caught this administration with their hand real deep into the political cookie jar by misusing money that was supposed to be used for VISTA volunteers.

The only way we could keep them from doing that was to put a floor, to say you could not go below the minimum. Now, this is documented, do not look excited about it—we have been through all of the GAO hearings and everything else.

So to keep them from raiding the VISTA Program which to their shock and dismay, organized poor people to make a better community, to keep them from raiding that program, we put a floor on it; and now we think that that floor ought to be increased, and if that has to come out of the hide of part B and part C, so be it.

We think it is a better utilization of the taxpayers money than what is going on in terms of the rest of the program. That is in the spirit of Gramm-Rudman. That is in the spirit of pay-as-you-go.

Choices have to be made; we have made that choice. We think that is the more effective way in terms of the authorization of this.

Mrs. MARTIN of Illinois. Will the gentleman yield?

Mr. MILLER of California. I would be delighted to yield to my colleague on the Committee on the Budget, where we know that this does not violate the Budget Act.

Mrs. MARTIN of Illinois. We also know the reason it does not, according to the gentleman, is because it is an authorization, and no authorization can violate the Budget Act.

The author of pay-as-you-go certainly realizes, and has said honestly—and I just was standing up to give my ap-

preciation for the fact it would decimate these other programs. It is not, as some of your colleagues said, no, it's not going to affect them much at all—the gentleman has at least said it honestly.

If I am correct, the gentleman said it will absolutely curtail and decimate and by golly, he meant it.

Mr. MILLER of California. That would be my hope.

Mrs. MARTIN of Illinois. All right.

Mr. MILLER of California. Reclaiming my time, we find that VISTA is far more extensively involved, with a far better track record.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. With a far better track record on the programs dealing with runaways, delinquency, troubled youth, with alcohol, drug-related abuse, with refugees.

My point is this: In the spirit of Gramm-Rudman, we ought to put our resources where they are most effectively used. That is what this authorization committee has done; that is what has been done over the years; that is what has been proven; we have been through 10 years of witch hunts in VISTA—no, some of this starts way back before the gentlewoman came here—and what we in fact found was that VISTA is one of the most effective agencies. For every VISTA volunteer we find that we attract 10 hours—of hours compared to the ACTION volunteers—in being people-involved in the community.

We think that is where we ought to put our eggs, in this basket.

Mrs. MARTIN of Illinois. Will the gentleman yield, since he said he would?

Mr. MILLER of California. I will yield after I explain. What the gentlewoman is suggesting is that this will decimate those programs. As the gentleman from New York [Mr. WEISS] and I have pointed out, those programs are not doing anything else. They are not doing anything; so what this will do is it will decimate their funding.

Do not pretend it is going to have a big impact in terms of the programs that you said you are concerned about, because they are not doing anything in hunger this year; they are not doing anything in illiteracy this year; they are not doing anything with the homeless; they are not doing anything with the elderly; they have one project in refugees, two projects in alcohol abuse; and four grants with runaway youth.

Mrs. MARTIN of Illinois. Will the gentleman ever yield?

Mr. MILLER of California. Yes. Oh, yes, I am always yielding.

Mrs. MARTIN of Illinois. Eventually. It is a wonderful speech. I am not quite sure why the gentleman is yelling at me.

Mr. MILLER of California. Because the gentlewoman is confusing the facts again. The gentlewoman is confusing the facts.

We are going to decimate their funding; not the program.

Mrs. MARTIN of Illinois. I thought the gentleman yielded.

The gentlewoman has not been able to say anything. One hesitates to interrupt a diatribe. I just——

Mr. MILLER of California. Well, if it is a diatribe, I will take my time back.

Mrs. MARTIN of Illinois. I just would quote——

Mr. MILLER of California. Mr. Chairman, I take back my time. If the gentlewoman wants to characterize my speech on the floor as diatribe, she can get her own time.

Let me summarize, Mr. Chairman, and members of the Committee.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for an additional minute.)

Mr. MILLER of California. The point is this, Mr. Chairman. The authorizing committee has had a tough choice to make; the appropriations committee is going to have a tough choice to make. The point is this. We have a limited pool of money to spend; we believe the track record and the performance suggests that it should be spent by sending it to the VISTA, not to these other programs; and that is all this amendment is about.

There are no budget implications for this amendment because, as the gentlewoman knows, in function 500 they are going to have to make tradeoffs all of the time. Those tradeoffs are going to come and go on a daily basis in the appropriations committee.

Once again, I would like to yield to the gentlewoman.

Mrs. MARTIN of Illinois. Mr. Chairman, I am going to ask, when the gentleman's time is up, which I am sure it is right now, to give the gentleman another minute so perhaps he might yield to me.

Mr. MILLER of California. I might not yield that minute.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mrs. MARTIN of Illinois and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Does the gentlewoman want this minute?

Mrs. MARTIN of Illinois. I am asking——

Mr. MILLER of California. I thought you wanted the last minute.

I will yield this minute. This is confusing.

Mrs. MARTIN of Illinois. Yes, I know.

Mr. Chairman, I hate to do it, but I would like to bring it back a little, if I might, to the issue. If these programs were so dreadful, I cannot say why your committee authorized them at all; but since they did, we are only pointing out—and I hope the gentleman understands this—that we would like VISTA continued, which is why amendment affords current services level, but—and I hope the gentleman will let me finish the sentence—that we cannot have increases; we cannot claim to include these other things; we cannot just keep going on and then, if I may give the rather extraordinary line that with increases there are no budget implications; I will respectfully differ with the gentleman, and I will say—and I hope on this we can agree—that without my amendment there are increases that other programs are affected and that overall, that is what will be mandated by the Committee on Appropriations and we will differ on whether that is a good idea or not.

Mr. MILLER of California. If I can reclaim my time, Mr. Chairman, the suggestion has been that somehow this violates the Budget Act; that we are over the ceilings, we are over the functional total, and the fact of the matter is we are not.

Mrs. MARTIN of Illinois. You are. You are.

Mr. MILLER of California. The budget implication is within that function, and the gentlewoman knows that.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. WILLIAMS and by unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. The gentlewoman knows that. She knows that in fact that is the case; the budget implications are within title I, under parts B and C, because that is the tradeoff; the budget implications are within function 500.

The suggestion that somehow—the gentlewoman from Connecticut went on how this was the onslaught of Gramm-Rudman and this was going to bring down the budgetary house—that is simply not the case.

The case is that the budget implications are for the choices, and that is why we are here.

Mr. WILLIAMS. Will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. WILLIAMS. Mr. Chairman, let me say for the record that the efforts which have been funded under part B and C are, as near as I can determine, worthwhile efforts. Such things as substance abuse efforts and independ-

ent living and early intervention programs.

□ 1615

So the part B and C effort, I would not want to see those current efforts—I know there have been some past problems—I would not want to see the current efforts in parts B and C denigrated. But our dilemma is different than that. Our dilemma is this: Our Budget Committee has asked that VISTA be frozen. This committee, the authorizing committee, has agreed with that and has frozen VISTA, but we have also looked at the need to provide locally based projects which would help the poor find shelter and learn to read and get a hot meal and get a job. Those are the things which VISTA volunteers provide. So we have said "all right, we will freeze VISTA but within title I we want to take some money, yes, from B and C, and put it over here in the main effort in VISTA so that we can help those low-income people in a very meaningful way." So it is because we are within the budget that we must make this type of priority effort for VISTA at the expense of the other two efforts.

Mr. MILLER of California. If I can reclaim my time, that is exactly what the authorizing committees are supposed to be doing. We have a difference of opinion. I do not think that efforts B and C are that great. The gentleman from Montana thinks B and C are. That is where some of the money is going to have to come from to pay for this increase that the gentlewoman is trying to prevent. That is within the budgetary guidelines of this House.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. I thank the gentleman for yielding.

You will have to remember that at the initial part of this debate it was said to the Members listening that there would be very little effect to B and C.

Mr. MILLER of California. No, no, if I may reclaim my time. What the gentleman said, Mr. WEISS, was that, if you are trying to suggest to these people that you are going to damage the programs, and you talked hunger and illiteracy, B and C are not working in those areas anyway.

PARLIAMENTARY INQUIRY

Mr. WILLIAMS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. Mr. Chairman, how much time does the gentleman in the well, Mr. MILLER of California, have remaining?

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. HOYER and by unanimous consent, Mr. MILLER of California was allowed to proceed for 30 additional seconds.)

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am delighted to add my support of the VISTA Program, voluntarism, and H.R. 4116 to that of so many of my colleagues. It is all too infrequently that we in the Congress have an opportunity to support a program that features the rare combination of being not only worthwhile and effective, but a bargain at the same time.

The VISTA Program is a shining example of American voluntarism put to work to benefit those least able to help themselves. It shows that no matter where we all come from, whether we grow up poor or grow up rich, whether we go to college or drop out of high school, whether we're young or old, we all in some way possess the underlying spirit of compassion and humanity that makes us want to reach out and help our fellow citizens.

This program has persisted against virtually all odds since the present administration targeted it for extinction 6 years ago. It survives today because the needs have not gone away, and even this administration can't successfully sweep them under the rug. And it survives today also because this body has refused to surrender it to the will of the administration to gut this program that has provided hope and an opportunity for a better life to impoverished and disadvantaged Americans.

It was VISTA that President Johnson was alluding to when in March 1964 he delivered a message to Congress in which he declared:

> The war on poverty is not a struggle simply to support people, to make them dependent on the generosity of others. It is a struggle to give people a chance.

A chance to read, a chance to get a job, a chance for adequate food and shelter, a chance for a safer neighborhood, or a chance to escape any of a lengthy list of problems that afflict millions of Americans because they're poor. And it is VISTA and its volunteers who are making those modest dreams come true. But the sad fact is that while there are more and more poor people in need today, there are fewer and fewer chances for those dreams to become realty.

In Maryland, where once there were 60 VISTAs working in 14 different antipoverty organizations, today there are fewer than 20 VISTAs working in five projects. That, my friends, is an outrage. In Prince Georges County, MD, which is my home, there are no VISTA volunteers available to help with the growing population of needy people who are rapidly finding themselves without anyplace to turn. When I see what VISTAs are capable of accomplishing elsewhere in Maryland, I have a great interest in seeing the program expanded so that those volunteers can begin helping the needy in my district, and I can't believe all of you don't feel the same way.

At the Maryland Food Bank, for example, VISTA volunteers have assisted in the distribution of 7 million pounds of food—nearly half a million pounds each month. They are directly feeding the hungry through soup kitchens and pantries. They are recruiting more and more agencies to help with the distribution of the food, and they are finding more and more private and Government sponsors to make more food available. The food bank's director says the program couldn't possibly continue at its present level without the help of the VISTA volunteers. The fact that they are trained, stipended, and committed makes them irreplaceable within the community.

We desperately need to recommit ourselves to VISTA by passing H.R. 4116. There are some among us who claim that service year funding floor included in this bill in some way harm other volunteer programs in parts B and C, but as a member of the Appropriations Committee with responsibility for all ACTION programs, I can tell you that's nonsense. It's a made-up argument coming from the same people who wanted to get rid of VISTA in the first place. The VISTA service year funding floor protects VISTA, prioritizes VISTA and ensures that VISTA will receive a minimum funding level prior to the appropriation of funds for other programs that are less proven or critical than volunteers in service to America.

As a member of the Appropriations Committee, I know what programs pay their way and what programs don't. VISTA pays its way. For a modest amount of money, VISTA not only goes to the root of poverty and fights it head on, but it perpetuates the concept of voluntarism and self-help, generating far greater resources within the community than it requires to pay for itself. This amendment claiming to represent fiscal responsibility in this budget-conscious times would freeze rather than further curtail one Federal program that we know efficiently and effectively spends the public's money.

By passing H.R. 4116 without the Martin amendment, we send a message to the rest of the country that we are serious in our commitment to fight poverty and hunger, and that we be-

lieve as a people in the idea that we have the ability to help each other to overcome what threatens us. I ask those who would vote otherwise what message they are sending with their position. I submit that it is a message of indifference and hopelessness to the 33 million Americans living in poverty. I want no part of such a message, and I believe the vast majority of my colleagues feel the same way.

Let us pass H.R. 4116 without the Martin amendment, and therefore send a message to America's poor and disadvantaged that they have not been forgotten and that their dreams for a better life do have a chance of coming true.

Mr. JEFFORDS. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Illinois.

Many of the arguments that made the Tauke amendment appropriate apply equally to the amendment under consideration.

The bill before us raises from 2,400 to 2,600 the minimum VISTA Program service years or slots, if you will, that must be funded in fiscal year 1987. The VISTA service year minimum is increased to 2,730 in fiscal year 1988 and 2,865 in fiscal year 1989.

Higher VISTA service year "floors" or "minimum" levels dictate that more money must be appropriated. The funding mechanism provided in the bill requires that, should the appropriations fall short of the dollars needed to sustain the new, higher VISTA service year floors, any additional dollars needed to make up any VISTA funding shortfall will come from other smaller title I programs.

Generally, I have misgivings about the inclusion of mandatory minimums in an authorization measure making it a vehicle for predetermining and dictating what the appropriations must be for this program.

While the gentlewoman's amendment does not address this broader concern, it will maintain the VISTA Program service year level at the current 2,400 level. After cost-of-living adjustments are made, maintaining the current service year level, as we know, in and of itself, will result in additional spending for the VISTA Program. The bottom line is this: The Martin amendment maintains VISTA at its current service level. The amendment under consideration is timely; it makes good policy sense. It is fiscally sound. I wish to commend the gentlewoman for her initiative and urge my colleagues to adopt the Martin amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARTLETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 204, noes 208, not voting 21, as follows:

[Roll No. 173]

AYES—204

Archer	Gunderson	Penny
Armey	Hammerschmidt	Petri
AuCoin	Hansen	Pickle
Badham	Hartnett	Porter
Barnard	Hendon	Pursell
Bartlett	Henry	Quillen
Barton	Hiler	Ray
Bateman	Holt	Regula
Bennett	Hopkins	Ridge
Bentley	Hubbard	Ritter
Bereuter	Hunter	Roberts
Bilirakis	Hutto	Rogers
Bliley	Hyde	Roth
Boehlert	Ireland	Roukema
Boulter	Jeffords	Rowland (CT)
Broomfield	Johnson	Rowland (GA)
Brown (CO)	Jones (OK)	Rudd
Broyhill	Kasich	Saxton
Burton (IN)	Kemp	Schaefer
Byron	Kindness	Schneider
Callahan	Kolbe	Schuette
Carper	Kramer	Schulze
Carr	Lagomarsino	Sensenbrenner
Chapman	Latta	Sharp
Chappell	Leach (IA)	Shaw
Chappie	Leath (TX)	Shumway
Cheney	Lent	Shuster
Clinger	Lewis (CA)	Siljander
Coats	Lewis (FL)	Skeen
Cobey	Lightfoot	Slaughter
Coble	Livingston	Smith (NE)
Coleman (MO)	Loeffler	Smith (NJ)
Coleman (TX)	Lott	Smith, Denny (OR)
Combest	Lowery (CA)	Smith, Robert (NH)
Coughlin	Lujan	Smith, Robert (OR)
Courter	Lungren	Snowe
Craig	Mack	Snyder
Crane	Madigan	Solomon
Daniel	Marlenee	Spence
Dannemeyer	Martin (IL)	Spratt
Darden	Martin (NY)	Stallings
Daub	Mazzoli	Stangeland
DeLay	McCain	Stenholm
DeWine	McCandless	Strang
Dickinson	McCollum	Stratton
DioGuardi	McDade	Stump
Dornan (CA)	McEwen	Sundquist
Dreier	McGrath	Sweeney
Duncan	McKernan	Swindall
Dyson	McKinney	Tauke
Eckert (NY)	McMillan	Taylor
Edwards (OK)	Meyers	Thomas (CA)
Emerson	Michel	Thomas (GA)
English	Miller (OH)	Valentine
Evans (IA)	Miller (WA)	Volkmer
Fawell	Molinari	Vucanovich
Fiedler	Monson	Walker
Fields	Moore	Weber
Fish	Moorhead	Whitehurst
Franklin	Morrison (WA)	Whittaker
Frenzel	Myers	Wolf
Gallo	Nelson	Wortley
Gekas	Nichols	Wylie
Gilman	Nielson	Young (AK)
Gingrich	Olin	Young (FL)
Goodling	Oxley	Zschau
Gradison	Packard	
Green	Parris	
Gregg	Pashayan	

NOES—208

Ackerman	Bonker	Dicks
Akaka	Borski	Dingell
Alexander	Boucher	Dixon
Anderson	Boxer	Donnelly
Andrews	Brooks	Dorgan (ND)
Annunzio	Brown (CA)	Downey
Anthony	Bruce	Durbin
Applegate	Bryant	Dwyer
Aspin	Burton (CA)	Dymally
Atkins	Bustamante	Early
Barnes	Clay	Eckart (OH)
Bates	Coelho	Edgar
Bedell	Collins	Edwards (CA)
Beilenson	Conte	Erdreich
Berman	Cooper	Evans (IL)
Bevill	Coyne	Fascell
Biaggi	Crockett	Fazio
Boggs	Daschle	Feighan
Boland	de la Garza	Flippo
Boner (TN)	Dellums	Florio
Bonior (MI)	Derrick	Foglietta
Foley	Lowry (WA)	Savage
Ford (MI)	Luken	Scheuer
Ford (TN)	MacKay	Schroeder
Frank	Manton	Schumer
Frost	Markey	Shelby
Garcia	Martinez	Sikorski
Gaydos	Matsui	Sisisky
Gejdenson	Mavroules	Skelton
Gibbons	McCloskey	Slattery
Glickman	McCurdy	Smith (FL)
Gonzalez	McHugh	Smith (IA)
Gordon	Mica	Solarz
Gray (IL)	Mikulski	St Germain
Guarini	Miller (CA)	Staggers
Hall (OH)	Mineta	Stark
Hall, Ralph	Mitchell	Stokes
Hamilton	Moakley	Studds
Hatcher	Mollohan	Swift
Hawkins	Montgomery	Synar
Hayes	Moody	Tallon
Hefner	Morrison (CT)	Tauzin
Heftel	Mrazek	Torres
Hertel	Murphy	Torricelli
Howard	Murtha	Towns
Hoyer	Natcher	Traficant
Huckaby	Neal	Traxler
Hughes	Nowak	Udall
Jacobs	Oakar	Vento
Jenkins	Oberstar	Visclosky
Jones (NC)	Obey	Walgren
Jones (TN)	Ortiz	Watkins
Kanjorski	Owens	Waxman
Kaptur	Panetta	Weaver
Kastenmeier	Pease	Weiss
Kennelly	Pepper	Wheat
Kildee	Perkins	Whitley
Kleczka	Price	Whitten
Kolter	Rahall	Williams
Kostmayer	Reid	Wilson
LaFalce	Richardson	Wirth
Lantos	Rinaldo	Wise
Lehman (CA)	Robinson	Wolpe
Lehman (FL)	Rodino	Wright
Leland	Roe	Wyden
Levin (MI)	Roemer	Yates
Levine (CA)	Rostenkowski	Yatron
Lipinski	Roybal	Young (MO)
Lloyd	Russo	
Long	Sabo	

NOT VOTING—21

Bosco	Dowdy	Horton
Breaux	Fowler	Lundine
Campbell	Fuqua	O'Brien
Carney	Gephardt	Rangel
Chandler	Gray (PA)	Rose
Conyers	Grotberg	Seiberling
Davis	Hillis	Vander Jagt

□ 1630

Messrs. COOPER, SCHUMER, WATKINS, and ANDREWS changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1640

AMENDMENT OFFERED BY MR. MCCANDLESS

Mr. McCANDLESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCANDLESS: Page 13, after line 2, insert the following (and redesignate references and succeeding sections accordingly):

SEC. 9. SERVICES PROVIDED BY FOSTER GRANDPARENTS.

(a) SERVICES FOR MENTALLY RETARDED INDIVIDUALS.—Section 211(b) of the Act is amended—

(1) in paragraph (1) by striking out ", pursuant to the provisions of paragraph (2) of this subsection";

(2) by striking out paragraph (2); and

(3) in paragraph (3)—

(A) by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)"; and

(B) by redesignating paragraph (3) as paragraph (2).

(b) DEFINITION.—Section 211(c) of the Act is amended by inserting before the period the following: ", except that such terms shall include any mentally retarded individual or individuals who are less than 60 years of age."

Mr. McCANDLESS. Mr. Chairman, this amendment would amend the Domestic Volunteer Service Act of 1973 to permit Foster Grandparent services to be provided to mentally retarded individuals who are less than 60 years of age.

This amendment would accomplish the same purpose as my bill, H.R. 1063, which is cosponsored by 33 of our colleagues including the distinguished chairman of the Select Committee on Aging. It is especially important to the Foster Grandparent volunteers, many of whom have written to me from all parts of the country.

Current law allows Foster Grandparents to continue with mentally retarded persons after the age of 21, but only if the mentally retarded person was receiving services before age 21. My amendment would allow foster grandparent services to be provided to a mentally retarded individual at age 24 or 25, or at any age, if it appeared that the program would be helpful to that individual.

This amendment was requested by the hospital advisory board of the Frank D. Lanterman State Hospital and Developmental Center in California. The Board has assured me that they do not anticipate an increase in cost for the program at their hospital because of this change. It would simply provide the developmental center with more flexibility in individual case decisions.

This amendment would not mandate Foster Grandparents' services for every mentally retarded patient in State hospitals. It would, however, give hospital authorities the option of providing Foster Grandparents' services if it seemed appropriate for a particular patient.

I believe the older mentally retarded residents at our State hospitals should be given a chance to be included in the program. While they may have a chronological age of 25 or 30, most of them have a mental age of between 5 and 8 years old. Their physical age has absolutely nothing to do with their mental age.

I urge the adoption of this amendment.

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not oppose the amendment at this point. However, if it is adopted, I would like to work with the gentleman from California [Mr. McCANDLESS], and other parties, to look at this issue between now and the conference.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding, and I do appreciate his not objecting to this amendment. I would support the gentleman's amendment and will work with the gentleman from Michigan between now and conference, but I would point out that the gentleman's amendment is a permissive amendment that allows volunteers to volunteer on those things that they believe there is the greatest need.

Mr. KILDEE. I understand, and I look forward to working with the gentleman from California [Mr. McCANDLESS].

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, let me be sure with the sponsor of the amendment that I fully understand both the reality and the purpose of the amendment.

Is my understanding correct that the amendment does not mandate the Foster Grandparent services with regard to having the foster grandparents work with the mentally retarded persons over the age of 21? Does it mandate that?

Mr. McCANDLESS. If the gentleman will yield, no. It is permissive. And it simply gives the administrators of this program the flexibility, where they feel it is justified, to get into the chronological age above the age of 21 but less than 60. It does not mandate the expansion of the program beyond the 21-year period.

Mr. WILLIAMS. Will the gentleman also tell me if his purpose here is to allow Foster Grandparents to work with those individuals who have reached and are past the age of 21 but whose mental capabilities would place them at a level of a person of 5, 8, 10, or 12 years old? In other words, below the age of 21 in mental capability? Is that the purpose of the gentleman's amendment?

Mr. McCANDLESS. If the gentleman will yield, the gentleman has grasped the situation exactly.

Mr. WILLIAMS. I will tell my colleagues that, with some reservation, which I may want to express again in the conference committee, I will accept the gentleman's amendment, with the clear understanding that it has its limited focus as the gentleman has described.

Mr. McCANDLESS. If the gentleman will yield further, it is interesting to note that during the previous Congress this bill was introduced, and had opposition from the National Association of Foster Grandparents Program directors. It currently now has the favor of that organization. I certainly accept the position that is being taken by those Members on that side of the aisle, in the hope that this can be put together in a proper way by which to accomplish what I think we are both interested in by way of an objective.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. McCANDLESS].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer amendments, and I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. PANETTA: Page 10, after line 10, insert the following new section (and redesignate the subsequent sections accordingly):

SEC. 9. VOLUNTARY NATIONAL YOUTH SERVICE PROGRAM.

(a) ESTABLISHMENT OF VOLUNTARY NATIONAL YOUTH SERVICE PROGRAM.—Title I of the Act is amended by adding after part C the following new part:

"PART D—VOLUNTARY NATIONAL YOUTH SERVICE PROGRAM

"STATEMENT OF PURPOSE

"SEC. 131. The purpose of this part is to encourage individuals age 16 through 24 years to participate in voluntary national service by providing grants to eligible States and units of general local government for the operation of youth service projects.

"DEFINITIONS

"SEC. 132. For purposes of this part:

"(1) The term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, or any combination of such political subdivisions recognized by the Director. Such term also includes any public body or agency, including a political subdivision, created by or under the laws of a State or two or more States, any combination of such public bodies or agencies, or any Indian tribe or organization.

"(2) The term 'economically disadvantaged' has the meaning given such term in section 4(8) of the Job Training Partnership Act.

"YOUTH SERVICE PROJECT GRANTS

"SEC. 133. The Director shall establish a program of grants to States and units of general local government for youth service projects consistent with the provision of this part.

"DESIGNATION OF SERVICE CATEGORIES

"SEC. 134. (a) The Director shall by regulation designate specific activities as service categories in which individuals serving in youth service projects may serve for purposes of this part.

"(b) An activity may be designated as a service category under subsection (a) if the Director determines that—

"(1) such activity is of substantial social benefit in meeting unmet human, social, or

environmental needs of or in the community where service is to be preformed;

"(2) involvement of individuals serving in youth service projects under this part in such activity will not interfere with the availability and the terms of employment of employees of sponsoring organizations with positions available in such activity;

"(3) the physical, mental, and educational qualifications required for such activity are appropriate for individuals serving in youth service projects; and

"(4) such activity is otherwise appropriate for purposes of this part.

"(c) The service categories referred to in subsection (a) may include—

"(1) service in State, local, and regional governmental agencies;

"(2) service in nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, day care centers, and schools;

"(3) service in law enforcement agencies, and penal and probation systems;

"(4) service in private nonprofit organizations whose principal purpose is social service;

"(5) service in the rehabilitation or improvement of pubic facilities, neighborhood improvements, literacy training benefiting educationally disadvantaged individuals, weatherization and basic repairs to low-income housing, energy conservation including solar energy techniques, removal of architectural barriers to access by handicapped individuals to public facilities, and conservation, maintenance, or restoration of natural resources on publicly held lands; and

"(6) such other service as the Director determines to be appropriate for purposes of this part.

"(d) The service categories referred to in subsection (a) may not include any position in any—

"(1) business organization for profit;

"(2) labor union;

"(3) partisan political organization;

"(4) organization engaged in religious activities; or

"(5) domestic or personal service company or organization.

"SUBMISSION OF PLAN

"SEC.135. (a) In order to be eligible for any grant under this part a State or unit of general local government shall submit a plan to the Director that describes the existing or proposed youth service project for which such grant will be used.

"(b) The plan shall include—

"(1) a list of positions from which an individual serving in such project may choose a service position, which list shall, to the extent practicable, identify a sufficient number and variety of positions so that any individual living within such State or unit of general local government who desires to serve in voluntary youth service may serve in a position that fulfills the needs of such individual;

"(2) a list of requirements to be imposed on any sponsoring organization of any individual serving in a youth service project under this part, including a provision that any sponsoring organization that invests in any project under this part by making a cash contribution or by providing free training of any individual participating in such project shall be given preference over any sponsoring organization that does not make such an investment;

"(3) a provision that any permanent, part-time, or full-time employee shall not be displaced from any position by an individual serving in a youth service project under this part;

"(4) a provision that an individual serving in a youth service project under this part who is not a high school graduate shall participate in an educational component whereby such individual can earn a high school diploma or its equivalent;

"(5) a provision that any individual serving in a youth service project under this part may arrange to receive academic credit in recognition of learning and skills obtained from service satisfactorily completed;

"(6) a provision that individuals who are eligible to serve in a youth service project under this part shall be consulted as to the types of positions that should be available to individuals who serve in youth service projects under this part;

"(7) a provision that special efforts will be made to enroll and recruit youths who are economically disadvantaged;

"(8) a schedule for allowance payments which may include post-service benefits; and

"(9) such other information and assurances as the Director considers necessary to carry out the purposes of this part.

"AWARD OF GRANTS

"SEC. 136. (a) In making grants to eligible States and units of general local government under this part, the Director shall determine which States and units of general local government will best use such funds to further the purposes of this part on the basis of the plans submitted under section 135.

"(b) For any fiscal year, in the award of fifty percent of funds available for the purposes of this part, the Director shall give priority consideration to grants for the establishment of new programs of youth service in States and units of general local government.

"(c) Not more than 5 percent of any grant awarded to any State or unit of general local government under this part may be used for administrative expenses.

"NONDISCRIMINATION PROVISION

"SEC. 137. No person in the United States shall on the ground of race, creed, belief, color, national origin, sex, handicap, or political affiliation, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any youth service project for which any State or unit of general local government receives a grant under this part.

"LIMITATIONS ON VOLUNTARY YOUTH SERVICE

"SEC. 138. (a) Any individual who serves in a youth service project under this part shall be not less than 16 years of age and not more than 24 years of age.

"(b)(1) No individual may serve in a youth service project under this part for more than a 2-year period.

"(2) Any individual who agrees to serve in a youth service project under this part shall agree to serve for not less than a 6-month period.

"(c) An individual without a high school diploma or its equivalent may not be accepted for service in a youth service project under this part unless such individual has not been enrolled as a high school student during the 3-month period before the date of such acceptance.

"REVIEW AND REPORTING REQUIREMENTS

"SEC. 139. (a) Each State and unit of general local government that receives a grant under this part shall provide oversight of service by any individual in a youth service project under this part, and of the operations of any employer of such individual, in accordance with procedures established by the Director. Such procedures shall include fiscal control, accounting, audit, and debt collection procedures to ensure the proper disbursal of, and accounting for, funds received under this part. In order to carry out this section, each State and unit of general local government that receives a grant under this part shall have access to such information concerning the operations of any sponsoring organization as the Director determines to be appropriate.

"(b) Each State and unit of general local government receiving a grant under this part shall prepare and submit an annual report to the Director on such date as the Director shall determine to be appropriate. Such report shall include—

"(1) a description of activities conducted by the youth service project for which such grant was awarded during the year which is the subject of the report;

"(2) characteristics of individuals serving in such youth service project;

"(3) characteristics of positions held by such individuals;

"(4) a determination of the extent to which relevant standards, as determined by the Director, were met by such individuals and their sponsoring organizations;

"(5) a description of the post-service experiences, including employment and educational achievements, of individuals who served during that year in youth service projects under this part; and

"(6) any additional information that the Director determines to be appropriate for purposes of this part.

"(c) The Director shall submit to the President and the Congress an annual report of the activities conducted under this part.".

"(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents of the Act is amended by adding after the item related to section 123 the following:

"PART D—VOLUNTARY NATIONAL YOUTH SERVICE PROGRAM

"Sec. 131. Statement of purpose.
"Sec. 132. Definitions.
"Sec. 133. Youth service project grants.
"Sec. 134. Designation of service categories.
"Sec. 135. Submission of plan.
"Sec. 136. Award of grants.
"Sec. 137. Nondiscrimination provision.
"Sec. 138. Limitations on volunteer youth service.
"Sec. 139. Review and reporting requirements.".

Page 10, strike out lines 12 through 14, and insert in lieu thereof the following:

(a) NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.—Section 501 of the Act is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by striking out subsections (a), (b), (c), and (d)(1) and inserting in lieu thereof the following:

Page 11, after line 11, insert the following:

"(d) There is authorized to be appropriated to carry out part D of title I of this Act $10,000,000 for each of the fiscal years 1987, 1988, and 1989.

Page 11, line 12, strike "(d)(1)" and insert "(e)(1)".

Page 11, line 13, strike "A, B, and C" and insert "A, B, C, and D".

Page 11, line 22, strike out the last period and insert in lieu thereof "; and".

Page 11, after line 22, insert the following:

(3) by adding at the end of subsection (e), as so redesignated, the following new paragraph:

"(4) Subject to paragraph (1), of the amounts appropriated under this section for section 109(c) and part D of title 1, there shall first be available $2,000,000 for section 109 (c).".

Mr. PANETTA. Mr. Chairman, I will offer these amendments and speak to the program that I wish to bring to the attention of my colleagues, but because of the close vote on the last amendment and the concerns raised with regard to the question of authorizations and appropriations, it is also my intent to ask unanimous consent to withdraw them.

The purpose of these amendments is to provide as part of the programs that ACTION would consider voluntary programs for national service for young people in this country.

These programs are being implemented in a number of cities right now throughout this Nation. There are something like 14 States that are now participating in these programs, some 22 localities and some 42 programs. There are about 6,000 young people who are benefiting from these programs from California to Iowa to Michigan to New Jersey to Texas to Washington and a number of other States.

One example I would like to bring to the attention of my colleagues is in New York City. It is the New York City Volunteer Corps. These young people 17 to 20 are working in areas from hospitals to nursing homes to senior centers to schools to libraries to law enforcement to conservation. For the period of service that they work, they are not only receiving pay but ultimately can receive a scholarship of $5,000 in order to go to college. These kinds of efforts are being generated at the local level to serve young people. The reasons I think these kinds of programs are right are several: First of all, it is cost effective. For every dollar that these communities put into these programs, they save $4. Second, it is the right thing to do for young people, to give them some sense of commitment to public service, something that John Kennedy spoke to 25 years ago. It is the kind of spirit I think we need to resurrect at the present time. Third, it is happening at the community level. I am not saying that the Federal Government ought to design these programs. What the Government ought to do is support in a matching way those communities that are prepared to develop these kinds of programs for the young. The point is that this is a grassroots effort that is taking place in our country, and I think it is important for us at the Federal level to try to provide some incentives to do that.

These amendments would have provided that incentive. I recognize the concern about the funding in the authorization. What I would have done is basically allowed VISTA to be funded first and then allow the Appropriations Committee to make its decision as to whether it wanted to fund it or not. But I understand the concern about a new authorization, and I do not want to jeopardize what I think is a very good approach to try to stimulate public service in this country. So I intend to return one of these days with these amendments, because I think they are right from a human point of view, I think they are right from a cost effectiveness point of view and I think they are right because they rely on State and local governments that are designing these kinds of programs.

So I hope in the future that I can draw support for this kind of an approach.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I appreciate the gentleman bringing up these amendments today and also, in a sense, withdrawing them, although it makes me sad, in a sense, because we have worked a number of years over trying to get this body to pay attention to these kinds of programs.

I think it is incredibly important as we go into the future that we do some work in this area to find out what advantages we can gain from national service. I know, from talking to my young people, that especially when you talk in terms of other alternatives that may arise in the future, that this is one thing they would love to do as an alternative. I think that this kind of a program, in essence, saves money. It really does not spend more money. We get so much more value out of our young people through these kinds of programs than probably any other way.

So I commend the gentleman for his efforts here. I am somewhat disappointed, but I understand, in view of my own position on amendments over here, as to his reasons for withdrawing the amendments.

Mr. PANETTA. I thank the gentleman for his comments.

Mr. Chairman, I ask unanimous consent to withdraw the amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. TECHNICAL AMENDMENTS.

(a) USE OF GENDER NEUTRAL TERMINOLOGY.—

(1) Section 105(b) of the Act is amended by striking "he deems" and inserting "are considered".

(2) Section 112 of the Act is amended by striking "he" and inserting "the Director".

(3) Section 114(c) is amended by striking "he" both places it appears and inserting in both places "the Director".

(4) Section 122(b) of the Act is amended by striking "he" and inserting "the Director".

(5) Section 402 of the Act is amended—

(A) in paragraph (3) by striking "of his functions" and inserting "functions of the Director";

(B) in paragraph (7) by striking "he deems" and inserting "the Director considers";

(C) in paragraph (8) by striking "he shall deem" and inserting "the Director considers";

(D) in paragraph (10) by striking "him" both places it appears and by inserting in both places "the Director";

(E) in paragraph (11)(B) by striking "him" and inserting "the Director";

(F) in paragraph (11)(B)(ii) by striking "his" and inserting "the"; and

(G) in paragraph (14) by striking "he deems" and inserting "the Director considers".

(6) Section 403(a) of the Act is amended by striking "his" and inserting "an".

(7) Section 404(e) of the Act is amended in the second sentence by striking "he" and inserting "the Director".

(8) Section 412(a) of the Act is amended by striking "he" and inserting "the Director".

(9) Section 415(d) of the Act is amended by striking "he" and inserting "the Director".

(b) OTHER TECHNICAL AMENDMENTS.—

(1) Section 103(a) of the Act is amended by striking "and" at the end of paragraph (2).

(2) Section 113(c)(2) of the Act is amended by striking "Health and Human Services" and inserting "Education".

(3) Section 501(d) of the Act is amended by striking paragraph (3).

The CHAIRMAN. Are there amendments to section 9?

The Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. EFFECTIVE DATES.

Except as otherwise provided, the amendments made by this Act shall take effect October 1, 1986.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. DOWNEY of New York, Mr. Chairman, today we vote on H.R. 4116, which includes authorizations for VISTA and other volunteer antipoverty programs, and for the Older American Volunteer programs which expire at the end of fiscal year 1986.

Once upon a time, in the depths of the Great Depression, Herbert Hoover said in response to questions about whether the Federal Government would assist Americans fighting the ravages of poverty, "There is nothing that can replace the God-imposed responsibility of the individual man."

Well, Mr. Speaker, the Domestic Volunteer Service Act of 1973—Public Law 93-113—was created with Mr. Hoover's philosophy in mind. Specifically, under the VISTA Program—

Volunteers in Service to America—volunteers work for 1 year with low-income individuals to help them overcome poverty related problems and improve their economic situation by increasing their self-reliance, and I stress the work self-reliance.

Programs such as these have assisted in the unbridled self-satisfaction for the volunteers and enormous savings from the care they so unselfishly provide. The Federal Government must continue to provide fuel to this care-giving machine.

Franklin Roosevelt once said that, "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

We all know too well that there are many in this country who have too little food, housing, health care, and education. In addition, there are many Americans who are lonely and isolated, some need assistance with physical ailments, and still others need emotional support.

Mr. Roosevelt was concerned with what he called the "forgotten man." Programs like VISTA, and the Older Americans Volunteer Program, were created to help such forgotten people. Unselfish volunteers, many of whom are forgotten themselves, have provided an enormous service to the Nation, both morally and economically.

In fiscal year 1986, the Retired Senior Volunteer Program funded 751 projects, with an estimated 365,000 volunteers; Foster Grandparents funded 249 projects, with 18,000 volunteers; and Senior Companions funded 94 projects, with an estimated 5,300 volunteers.

Legislation such as this has enabled our senior citizens, once the poorest in the Nation, to become a group with more freedom from fear and want. Perhaps if we continue to fund these volunteer programs, we will help alleviate the burdens of the newest poor, our children.

I urge my colleagues to vote yes to reauthorize H.R. 4116.

Ms. MIKULSKI. Mr. Chairman, I am proud to speak in support of VISTA. VISTA is one of the few agencies that focuses on fighting poverty and helping the disadvantaged.

Too many people are acting as if the war on poverty is over. Unfortunately nobody has gotten around to telling the poor people this good news. I have some neighborhoods in my own district where my constituents would really like to know that they do not have to worry anymore. And there are poor people in almost all of our districts.

Fortunately there are people in our districts who are proud to be called idealists. They are VISTA's. And they are out there in the community doing the tough work for the rest of us.

I have always had a special place in my heart for VISTA, and for the principles of community participation and self-help on which it was founded. My involvement in politics is based on the strong beliefs that the only real solutions to community problems are those in which the community is involved. VISTA is a perfect example of that belief.

I congratulate Mr. WILLIAMS and his committee for presenting us with a fine bill today. H.R. 4116 begins the revitalization of the VISTA Program. It builds upon the strong foundation of effectiveness—both from a practical and a cost standpoint—that makes VISTA one of the Government's leanest, meanest, and toughest programs.

I have been associated with VISTA since the program was launched in 1965. At that time, I taught community organizing to the first class of VISTA's. They were a bright, energetic and committed group of people, and they are today as well. They are a group we need to nurture, and they are a group that needs to grow.

Right not, there are less than 2,600 VISTA's attempting to help 33 million poor and disadvantaged Americans. In 1980, there were nearly 5,000 VISTA's. We have half as many VISTA's today as we had 6 years ago. But nobody can tell me that we have half as many poor as we had 6 years ago.

With 33 million people living in poverty today, each VISTA has almost as many constituents as each of us. But they don't have a staff. They don't have a budget. They don't even have the support of their own government. What they do have is the personal dedication, the training, the resourcefulness and the guts to go into the streets, roll up their sleeves, and reach out to the people who need them.

The hungry, the illiterate, the homeless, the old, the disadvantaged, the sick, the mentally and physically disabled, the victims of family violence, the refugees, the unemployed—these are the people who are touched by VISTA. Many of my colleagues have risen and will rise to cite specific examples of VISTA service which has hit home with them. I'd like to cite one of my own.

In southwest Baltimore, communities organized to improve life [COIL] operates with the help of three VISTA volunteers. It is a coalition of 38 community associations and neighborhood organizations who address, among other things, the problem of adult literacy.

COIL is a perfect example of how VISTA volunteers mobilize community resources to attack a problem at the local level. COIL's three VISTA's went to work identifying what it would take to fight illiteracy in southwest Baltimore, and then got the financing to do it. B. Dalton Bookstores gave $1,000 to the project to buy materials for teachers and students. A matching neighborhood grant of $25,000 was received to provide for a reading resource center for the literacy program. The State of Maryland came up with $8,000 to encourage cooperation between the community organization and the Baltimore Public Schools and Libraries. Those three VISTA's made all that possible. Is there a better example of a Government program inspiring cooperation and partnership between neighbors, government, the private sector, and the people in need?

Another problem VISTA's have been enormously successful in dealing with is that of family violence. This is an important issue to me, and I have watched for many years the way VISTA's approach the problem head on. Domestic violence, child abuse, incest, and rape are so prevalent in our society today that they are the subject of magazine covers and television movies. Fortunately, they are among the chief focuses of VISTA's attention. Today there are 90 VISTA's at work in 24 domestic violence projects, and 137 VISTA's work in child abuse programs.

VISTA is one of Government's toughest, leanest, most action-and-effect oriented programs. Every single dime we spend on it is returned to us many times over. This bill calls for the barest minimum of increases on VISTA's corps over the next 3 years. It calls for a long-overdue program to reinvigorate VISTA by reaching out to the Nation's young people. This bill represents a step in the march against poverty, a step in the right direction.

Mr. Chairman, I urge all of my colleagues to reject any and all amendments designed to sabotage VISTA's growth and progress, and to vote for an intact H.R. 4116.

Mr. VENTO. Mr. Chairman, a mentor of mine and many in this Chamber once made a challenge to this Government. He challenged it to provide for its sick, its hungry, its disadvantaged, and its homeless. Hubert Humphrey, our late Vice President and my Senator and colleague from Minnesota would have been proud to see how Government is meeting that challenge today in our State, and in every State in the Union through the VISTA Program. I rise today in strong support of H.R. 4116, the Domestic Volunteer Service Act Amendments of 1986. This legislation provides for a 3-year authorization of the ACTION Agency, VISTA, and the Older American Volunteer programs.

The VISTA volunteers are doing remarkable things in my home State of Minnesota. Volunteers are active in a number of food banks, handicapped programs, programs for the elderly, and in programs serving the homeless. The volunteers are at work identifying affordable housing for low-income persons, at job training and development sites for the chronically unemployed, in employment programs for the handicapped. They work with refugees, the hungry, and others who are in need of help. In all, there are 45 VISTA's working in 10 projects in my State, and each and every one of them is vital to the well-being of hundreds of people.

This kind of basic fundamental work is being carried out all over the country. H.R. 4116 expands on this foundation. Among the key provisions of the bill is one to reestablish a nationwide recruitment and promotional effort for the VISTA Program, specifically on our college campuses. One of the best features of the VISTA idea when it was first established was the appeal it had to the idealism and the energy of the youth—a year of service to America and to society. A year of volunteering that has left some 80,000 men and women with a lifelong sense of social responsibility.

Our Nation's people have just demonstrated their desire to fight poverty, hunger, and homelessness in this country by stretching a line of hands across America. The Congress can complement Hands Across America by responding in stretching a line of hope across America, through the full reauthorization of VISTA.

I would like to commend my good friend from Montana, Mr. WILLIAMS, for all of his work on this legislation. I urge my colleagues to support this bill as aproved by the Educa-

tion and Labor Committee, and to vote against any amendments which would reduce the funding levels and protection for VISTA or the Older Americans Volunteer Programs contained in H.R. 4116.

Mr. EVANS of Illinois. Mr. Chairman, I must state at the outset that I am not an unbiased observer of the VISTA Program. I am very definitely an admirer and an ally of the tremendous service VISTA and its volunteers are providing to the needy of this country.

As a former legal services attorney working in my home State of Illinois, I am familiar with the work of VISTA and saw first-hand the results of their contributions to society. They are the long-missing link between Government bureaucracy and individual needs. They are the facilitators, they are the advocates, and they are the people who get their hands dirty working in the streets, the community centers, and the forgotten rural communities of this Nation where people live in need and desperation.

I have never forgotten the lessons I learned while working at legal aid. In some way, the things I saw, the people I met, and the satisfaction I gained from that experience impact on nearly every decision I make as a Member of Congress. I know from my dealings with present and former VISTA's that the same is true for them. The year-long service of VISTA volunteers marks the beginning of a lifelong commitment to helping your fellow citizens. It changes your perspective. It reshapes your values. It makes you appreciate both what you have and what others don't have. And I'd like to ask my colleagues what Government program is more worthy of our support than one with accomplishments like that.

The entire ACTION Agency is one of the tangible pieces of evidence that Government is fulfilling its obligations to meet the needs of people throughout the economic and social spectrum. Under the bill we are considering today, and throughout the entire ACTION Agency, nearly a half million volunteers are spread across the United States serving the needs of millions of their fellow men, women, and children.

Besides VISTA, the Older American Volunteer programs, which have successfully harnessed the tremendous resources society has in its senior population, are also demonstrating that Government is capable of doing more than just throwing money at a problem and hoping it will go away. I for one am comforted and reassured by the fact that these programs exist, and I am determined to see to it that they not only continue to exist but that they flourish in the years ahead.

That is precisely what H.R. 4116 sets out to do. It lays the groundwork for bringing all of these programs back to where they were when Government was more keen on volunteerism and more optimistic that we as a society had the capacity to help people to help themselves.

We in the Congress pride ourselves with having the ability to make important decisions concerning the needs of our fellow Americans. Yet, I wonder how many of us would be able to offer practical assistance on a day-to-day basis to some of our less fortunate constituents. I'm talking about the illiterate who must learn to read before he can support himself. The unskilled who must learn a trade before she can support her family. The sick who must receive care before they can pay their bills. The mentally ill who must receive treatment before they can be independent. The homeless who must receive shelter, and the poor who must be fed a meal before they can start thinking about tomorrow.

All over my State, and all across this Nation, 2,600 VISTA volunteers are coping with these conditions. The reports we hear from the field from VISTA sponsoring agencies and from individuals and families who have been assisted raise questions about how this Government could have allowed the VISTA Program to be decimated over the last 5 years. Here we have thousands of Americans willing to work for a stipend that actually puts them below the poverty level, who are willing to devote an entire year of their lives, postponing their own individual agendas so that they can give of themselves to the less fortunate, and we have amendments on the floor whose sole purpose is to discourage that kind of behavior. I cannot support such amendments even if they are cloaked in budget belt tightening rhetoric.

H.R. 4116 represents the very least we in the Congress can do to voice our approval of what VISTA and the Older American Volunteer Programs are doing. To pass any amendment designed to dilute those achievements and deny those opportunities to potential volunteers and the recipients of their generosity is misguided and has no basis in cost efficiency or anything else. I urge my colleagues to stand foursquare behind H.R. 4116 and all of the good it represents by passing it without amendment. In particular, I urge you to vote against any amendment that might be offered to reduce the committee's recommendation for the VISTA service year funding floors or the authorization for VISTA or the Older American Volunteer Programs.

Mr. FRENZEL. Mr. Chairman, like many members of the Education and Labor Committee, I generally support many of the programs authorized by H.R. 4116. Like those same members, I am appalled by the large increases in authorization levels, especially at a time when Congress is struggling to meet Gramm-Rudman-Hollings deficit reduction targets.

I especially favor the title II Older American Volunteer Programs [RSVP], Foster Grandparents, and Senior Companions. Even these excellent programs could be held at current levels, while real voluntarism could be given more opportunity and more incentive.

On the other hand, the title I programs could well be reduced or repealed. VISTA has been a program marked by controversy from its origins. That history should not be rewarded by large spending increases at a time of fiscal emergency.

Unless substantial reductions are achieved by amendment, I shall vote against the bill, and respectfully suggest that other Members may want to do the same.

Mr. TALLON. Mr. Chairman, I rise in support of H.R. 4116, the Domestic Volunteer Service Act Amendments of 1986, as reported by the Education and Labor Committee. VISTA and Older Americans Volunteer Programs reauthorized in this bill are outstanding volunteer programs that provide much to the neediest of our society. These programs deserve the wholehearted support of all members.

VISTA has been of particular benefit in reducing the tragic problem of illiteracy in my State of South Carolina and across the Nation. The rate of illiteracy in the United States is a national disgrace; 25 million Americans cannot read or write. For many of these, unemployment and poverty are the inevitable results. Today over 600 VISTA volunteers are working at over 100 projects is nearly 40 States to reverse the cycle of illiteracy and poverty.

VISTA has been a real asset in its work with the South Carolina Literacy Association. The South Carolina Literacy Association's goal is plain and simple: to reduce the illiteracy rate among adults in the State.

In the first 2 years of the project the VISTA volunteers enabled the literacy association to double the number of workshops, students, and volunteers. In 6 months, volunteers assigned to the association recruited 577 students, 248 volunteer tutors, led 14 workshops in addition to generating nearly $40,000 in public and private resources for the battle against illiteracy. They have succeeded in making the public more aware of the scope of the illiteracy problem in South Carolina and elsewhere in society, and they have succeeded in getting the resources and the commitments necessary to do something about it.

That, I think, is the bottom line where VISTA is concerned. VISTA and its volunteers are doing something about it—whether "it" is poverty, hunger, homelessness, illiteracy, drug abuse, domestic violence, unemployment, or any of the other problems facing the needy of this country.

VISTA is one of the most effective, efficient antipoverty programs in Government today. It has earned our continued support by providing hope and an opportunity to the impoverished and disadvantaged. I am proud to support H.R. 4116 and the fine work VISTA volunteers are currently doing in addressing hunger, unemployment, alcohol and drug abuse, rural economic development and so many other issues. I urge my colleagues to join me in support of this measure.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GRAY of Illinois) having assumed the chair, Mr. MONTGOMERY, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 4116) to extend the Volunteers in Service to America [VISTA] Program under the Domestic Volunteer Service Act of 1973, pursuant to House Resolution 463, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the

Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

□ 1655

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JEFFORDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 52, not voting 21, as follows.

[Roll No. 174]

YEAS—360

Ackerman	Conte	Gaydos
Akaka	Conyers	Gejdenson
Alexander	Cooper	Gibbons
Anderson	Coughlin	Gilman
Andrews	Courter	Gingrich
Annunzio	Coyne	Glickman
Anthony	Crockett	Gonzalez
Applegate	Daniel	Goodling
Aspin	Darden	Gordon
Atkins	Daschle	Gradison
Barnes	Daub	Gray (IL)
Barton	de la Garza	Gray (PA)
Bateman	Dellums	Green
Bates	Derrick	Guarini
Bedell	DeWine	Gunderson
Beilenson	Dickinson	Hall (OH)
Bennett	Dicks	Hall, Ralph
Bentley	Dingell	Hamilton
Bereuter	DioGuardi	Hammerschmidt
Berman	Dixon	Hartnett
Bevill	Donnelly	Hatcher
Biaggi	Dorgan (ND)	Hawkins
Bilirakis	Downey	Hayes
Boehlert	Duncan	Hefner
Boggs	Durbin	Heftel
Boland	Dwyer	Hendon
Bonior (MI)	Dymally	Henry
Bonker	Dyson	Hertel
Borski	Early	Hiler
Bosco	Eckart (OH)	Holt
Boucher	Edgar	Hopkins
Boulter	Edwards (CA)	Horton
Boxer	Emerson	Howard
Brooks	English	Hoyer
Broomfield	Erdreich	Hubbard
Brown (CA)	Evans (IA)	Huckaby
Bruce	Evans (IL)	Hughes
Bryant	Fascell	Hutto
Burton (CA)	Fawell	Hyde
Bustamante	Fazio	Ireland
Byron	Feighan	Jacobs
Callahan	Fiedler	Jeffords
Carper	Fish	Jenkins
Carr	Flippo	Johnson
Chapman	Florio	Jones (NC)
Chappell	Foglietta	Jones (OK)
Clay	Foley	Jones (TN)
Clinger	Ford (MI)	Kanjorski
Coats	Ford (TN)	Kaptur
Coelho	Frank	Kasich
Coleman (MO)	Franklin	Kastenmeier
Coleman (TX)	Frost	Kemp
Collins	Gallo	Kennelly
Combest	Garcia	Kildee
Kindness	Murphy	Smith (IA)
Kleczka	Murtha	Smith (NE)
Kolter	Myers	Smith (NJ)
Kostmayer	Natcher	Smith, Robert (NH)
Kramer	Neal	Snowe
LaFalce	Nelson	Snyder
Lagomarsino	Nichols	Solarz
Lantos	Nielson	Solomon
Latta	Nowak	Spence
Leach (IA)	Oakar	Spratt
Leath (TX)	Oberstar	St Germain
Lehman (CA)	Obey	Staggers
Lehman (FL)	Olin	Stallings
Leland	Ortiz	Stangeland
Lent	Owens	Stark
Levin (MI)	Oxley	Stokes
Levine (CA)	Panetta	Stratton
Lewis (FL)	Parris	Studds
Lightfoot	Pashayan	Sundquist
Lipinski	Pease	Swift
Lloyd	Penny	Synar
Loeffler	Pepper	Tallon
Long	Perkins	Tauke
Lott	Petri	Tauzin
Lowery (CA)	Pickle	Taylor
Lowry (WA)	Porter	Thomas (CA)
Lujan	Price	Thomas (GA)
Luken	Pursell	Torres
MacKay	Quillen	Torricelli
Madigan	Regula	Towns
Manton	Reid	Traficant
Markey	Richardson	Traxler
Martin (NY)	Ridge	Udall
Martinez	Rinaldo	Valentine
Matsui	Ritter	Vento
Mavroules	Roberts	Visclosky
Mazzoli	Robinson	Volkmer
McCain	Rodino	Vucanovich
McCandless	Roe	Walgren
McCloskey	Roemer	Watkins
McCollum	Rogers	Waxman
McCurdy	Rostenkowski	Weaver
McDade	Roth	Weiss
McEwen	Roukema	Wheat
McGrath	Rowland (CT)	Whitehurst
McHugh	Rowland (GA)	Whitley
McKernan	Roybal	Whittaker
McKinney	Russo	Whitten
McMillan	Sabo	Williams
Meyers	Savage	Wilson
Mica	Saxton	Wirth
Mikulski	Scheuer	Wise
Miller (CA)	Schneider	Wolf
Miller (OH)	Schroeder	Wolpe
Miller (WA)	Schuette	Wortley
Mineta	Schulze	Wright
Mitchell	Schumer	Wyden
Moakley	Seiberling	Wylie
Molinari	Sharp	Yates
Mollohan	Shaw	Yatron
Montgomery	Shelby	Young (AK)
Moody	Sikorski	Young (FL)
Moore	Siljander	Young (MO)
Moorhead	Sisisky	Zschau
Morrison (CT)	Skelton	
Morrison (WA)	Slattery	
Mrazek	Smith (FL)	

NAYS—52

Archer	Dreier	Rudd
Armey	Eckert (NY)	Schaefer
Badham	Fields	Sensenbrenner
Barnard	Frenzel	Shumway
Bartlett	Gekas	Shuster
Bliley	Gregg	Skeen
Brown (CO)	Hansen	Slaughter
Broyhill	Hunter	Smith, Denny (OR)
Burton (IN)	Kolbe	
Chappie	Lewis (CA)	Smith, Robert (OR)
Cheney	Livingston	
Cobey	Lungren	Stenholm
Coble	Marlenee	Strang
Craig	Martin (IL)	Stump
Crane	Michel	Sweeney
Dannemeyer	Monson	Swindall
DeLay	Packard	Walker
Dornan (CA)	Ray	Weber

NOT VOTING—21

AuCoin	Dowdy	Lundine
Boner (TN)	Edwards (OK)	Mack
Breaux	Fowler	O'Brien
Campbell	Fuqua	Rahall
Carney	Gephardt	Rangel
Chandler	Grotberg	Rose
Davis	Hillis	Vander Jagt

□ 1705

Mr. MOLLOHAN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

TITLE AMENDMENT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. KILDEE: Amend the title of H.R. 4116 so as to read "A bill to extend and improve the Domestic Volunteer Service Act of 1973."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. AUCOIN. Mr. Chairman, on rollcall 174, I was unavoidably detained in my office on official business. Had I been here, I would have voted "aye" on final passage of that legislation.

□ 1715

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4116, DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1986

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4116, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4116, the Domestic Volunteer Services Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4116, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON FINANCIAL INSTITUTIONS SUPERVISION, REGULATION AND INSURANCE OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, TO SIT DURING 5-MINUTE RULE ON THURSDAY, JUNE 19, 1986

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Financial Institutions

Supervision, Regulation and Insurance of the House Banking Committee may have permission to sit during the 5-minute rule on Thursday, June 19, 1986, for consideration of H.R. 4701, the Financial Institutions Emergency Acquisitions Amendments of 1986.

This has been cleared with the ranking minority member, Mr. WYLIE.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4175, MARITIME AUTHORIZATIONS FOR FISCAL YEAR 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 473 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 473

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4175) to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and to the amendment made in order by this resolution and which shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule, and each section shall be considered as having been read. It shall be in order to consider en bloc the amendments recommended by the Committee on Merchant Marine and Fisheries to section 1 now printed in the bill, and said amendments shall be considered as having been read. All points of order for failure to comply with the provisions of clause 7 of rule XVI and clause 5(a) of rule XXI are hereby waived against the amendment recommended by the Committee on Merchant Marine and Fisheries adding new sections 3 through 8 now printed on page 3, line 6 through page 6, line 16 of the bill, and said amendment shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may use.

Mr. Speaker, House Resolution 473 is an open rule providing for the consideration of H.R. 4175, which would authorize appropriations for fiscal year 1987, for certain maritime programs of the Department of Transportation, and the Federal Maritime Commission.

The rule provides 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Merchant Marines and Fisheries. The rule also makes in order en bloc consideration of the committee amendments to section 1 of the bill, these amendments are to be considered as read.

Mr. Speaker, there are two waivers of points of order against the consideration of the committee amendments that are now printed in the bill. The first waiver is clause 7, of rule 16, the germaneness waiver. The bill as introduced was a reauthorization of the programs that are administered by the Maritime Administration and the Federal Maritime Commission. Section 3 through 8 of H.R. 4175 were added as an amendment by the committee and contain new provisions that were not included when the bill was originally introduced, because of this a waiver of clause 7 of rule 16 is required.

Mr. Speaker, the second waiver is clause 5(a) of rule 21, which prohibits appropriations in a legislative bill. Section 5 of H.R. 4175 authorizes the redistribution of $1 million from previously appropriated funds to the operation account of the Maritime Administration. Because these funds were previously appropriated for another purpose it constitutes an appropriation in a legislative bill. Mr. Speaker, this waiver is purely technical in nature and would result in no further cost to the Federal Government.

Finally, Mr. Speaker, House Resolution 473 provides for one motion to recommit.

Mr. Speaker, H.R. 4175 is a bill to authorize appropriations for certain maritime programs that are administered by the Department of Transportation and the Federal Maritime Commission for fiscal year 1987. H.R. 4175 authorized $388 million for the Maritime Administration, of this amount $320 million would go to the payment of operating differential subsidies. This subsidy is paid to U.S. companies to enable them to operate U.S.-flag ships competitively in the U.S. foreign trade by offsetting certain portions of the excess of U.S. operating costs over comparable foreign ship operating costs.

In addition, H.R. 4175 authorized $3.5 million for research and development programs that would concentrate on developing information and technology to reduce shipbuilding and operating costs

Also, Mr. Speaker, the bill authorized $64.7 million for operations and training activities of the Maritime Administration. These funds are used to pay salaries and expenses for the operation of the U.S. Merchant Marine Academy, six State maritime academies, and for security support programs.

Finally, H.R. 4175 authorizes $11.9 million to operate the Federal Maritime Comnmission, which is in charge of administering shipping laws and ocean commerce.

Mr. Speaker, this is an annual authorization for programs that promote and maintain the merchant marine industry for foreign and domestic trade and for our national security. I urge adoption of House Resolution 473.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this is a good rule which should be adopted. It makes in order a good bill which also should be adopted, but the bill does not go far enough. Before the debate takes place on the floor of the House, let me lay a little ground work, if I may.

Since World War II, the merchant marine has gone down and down and down and down. To me, it is an arm of our national security. I do not understand why the funds are not beefed up, with the agreement of the administration, to provide for ships so that we will not be dependent on foreign bottoms for imports and exports, so that we will not be dependent on foreign crews, and so that we can have our own American crews man these vessels. If ever we are in another crisis, our merchant marine will come to our rescue, as they did in World War II. Without that shipbuilding effort and without the use of the merchant marine vessels, the war would have been much longer and harder. I do not understand why we do not have the will to upgrade our merchant marine fleet.

It is not the fault of the committee, I wish to say. Under administrations since World War II, this has happened. We must not continue to let it happen.

This authorization bill is a good one. Let us get down to the debate on the bill and its final passage.

Mr. Speaker, I urge adoption of the rule. I have no requests for time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 393, nays 5, not voting 35, as follows:

[Roll No. 175]

YEAS—393

Ackerman	Dornan (CA)	Jones (TN)
Akaka	Dreier	Kanjorski
Alexander	Duncan	Kaptur
Anderson	Durbin	Kasich
Andrews	Dwyer	Kastenmeier
Annunzio	Dymally	Kemp
Anthony	Dyson	Kennelly
Applegate	Early	Kildee
Archer	Eckart (OH)	Kindness
Armey	Eckert (NY)	Kleczka
Aspin	Edgar	Kolbe
Atkins	Edwards (CA)	Kolter
AuCoin	Edwards (OK)	Kostmayer
Badham	Emerson	Kramer
Barnard	English	LaFalce
Barnes	Erdreich	Lagomarsino
Barton	Evans (IA)	Lantos
Bateman	Evans (IL)	Latta
Bates	Fascell	Leach (IA)
Bedell	Fawell	Leath (TX)
Beilenson	Fazio	Lehman (CA)
Bennett	Feighan	Lehman (FL)
Bentley	Fiedler	Leland
Bereuter	Fields	Lent
Bevill	Fish	Levin (MI)
Biaggi	Flippo	Levine (CA)
Bilirakis	Florio	Lewis (CA)
Bliley	Foglietta	Lewis (FL)
Boehlert	Foley	Lightfoot
Boggs	Ford (MI)	Lipinski
Bonior (MI)	Ford (TN)	Livingston
Bonker	Fowler	Lloyd
Borski	Frank	Long
Bosco	Franklin	Lott
Boucher	Frost	Lowery (CA)
Boulter	Gallo	Lowry (WA)
Boxer	Garcia	Lujan
Brooks	Gaydos	Luken
Broomfield	Gejdenson	Lungren
Brown (CO)	Gekas	Mack
Broyhill	Gibbons	MacKay
Bruce	Gilman	Madigan
Bryant	Gingrich	Manton
Burton (CA)	Glickman	Martin (IL)
Burton (IN)	Gonzalez	Martin (NY)
Bustamante	Goodling	Martinez
Byron	Gordon	Matsui
Callahan	Gradison	Mavroules
Carper	Gray (IL)	Mazzoli
Carr	Gray (PA)	McCain
Chapman	Green	McCandless
Chappell	Gregg	McCloskey
Chappie	Guarini	McCollum
Cheney	Gunderson	McCurdy
Clay	Hall (OH)	McDade
Clinger	Hall, Ralph	McEwen
Coble	Hamilton	McGrath
Coelho	Hammerschmidt	McHugh
Coleman (MO)	Hansen	McKernan
Coleman (TX)	Hartnett	McKinney
Collins	Hatcher	McMillan
Combest	Hawkins	Meyers
Conte	Hayes	Mica
Conyers	Hefner	Michel
Cooper	Heftel	Mikulski
Coughlin	Hendon	Miller (CA)
Courter	Henry	Miller (OH)
Coyne	Hertel	Miller (WA)
Craig	Hiler	Mineta
Crockett	Holt	Mitchell
Daniel	Hopkins	Moakley
Dannemeyer	Horton	Molinari
Darden	Howard	Mollohan
Daschle	Hoyer	Monson
Daub	Hubbard	Montgomery
de la Garza	Huckaby	Moore
DeLay	Hughes	Moorhead
Dellums	Hunter	Morrison (CT)
Derrick	Hutto	Morrison (WA)
DeWine	Hyde	Murphy
Dickinson	Ireland	Murtha
Dingell	Jacobs	Myers
DioGuardi	Jeffords	Natcher
Dixon	Jenkins	Neal
Donnelly	Johnson	Nelson
Dorgan (ND)	Jones (NC)	Nichols
Nielson	Schneider	Swift
Nowak	Schroeder	Swindall
Oakar	Schuette	Synar
Oberstar	Schulze	Tallon
Obey	Schumer	Tauke
Olin	Seiberling	Tauzin
Ortiz	Sensenbrenner	Taylor
Owens	Sharp	Thomas (CA)
Packard	Shaw	Thomas (GA)
Panetta	Shelby	Torres
Parris	Shumway	Torricelli
Pashayan	Shuster	Towns
Pease	Sikorski	Traficant
Penny	Siljander	Traxler
Pepper	Skeen	Udall
Perkins	Skelton	Valentine
Petri	Slattery	Vento
Pickle	Slaughter	Visclosky
Porter	Smith (FL)	Volkmer
Price	Smith (IA)	Vucanovich
Pursell	Smith (NE)	Walgren
Quillen	Smith (NJ)	Walker
Ray	Smith, Denny (OR)	Watkins
Regula		Waxman
Reid	Smith, Robert (NH)	Weiss
Richardson		Wheat
Ridge	Smith, Robert (OR)	Whitehurst
Rinaldo		Whitley
Ritter	Snowe	Whittaker
Roberts	Snyder	Whitten
Robinson	Solarz	Williams
Rodino	Solomon	Wilson
Roe	Spence	Wirth
Roemer	Spratt	Wise
Rogers	St Germain	Wolf
Rostenkowski	Stallings	Wolpe
Roth	Stangeland	Wortley
Rowland (CT)	Stark	Wright
Rowland (GA)	Stenholm	Wyden
Roybal	Stokes	Wylie
Rudd	Strang	Yates
Russo	Stratton	Yatron
Savage	Studds	Young (AK)
Saxton	Stump	Young (FL)
Schaefer	Sundquist	Young (MO)
Scheuer	Sweeney	Zschau

NAYS—5

Bartlett	Crane	Marlenee
Cobey	Frenzel	

NOT VOTING—35

Berman	Downey	Oxley
Boland	Fuqua	Rahall
Boner (TN)	Gephardt	Rangel
Breaux	Grotberg	Rose
Brown (CA)	Hillis	Roukema
Campbell	Jones (OK)	Sabo
Carney	Loeffler	Sisisky
Chandler	Lundine	Staggers
Coats	Markey	Vander Jagt
Davis	Moody	Weaver
Dicks	Mrazek	Weber
Dowdy	O'Brien	

□ 1740

Mr. BARTLETT changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4868, ANTI-APARTHEID ACT OF 1986

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 99-644) on the resolution (H. Res. 478) providing for the consideration of the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MARITIME AUTHORIZATIONS FOR FISCAL YEAR 1987

The SPEAKER pro tempore. Pursuant to House Resolution 473 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4175.

□ 1748

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4175), to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission, with Mr. DARDEN in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes and the gentleman from Kentucky [Mr. SNYDER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we have before us H.R. 4175, a bill to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission. As I am sure you know, it hasn't been an easy task to work within the current budgetary constraints.

In today's budgetary climate it is necessary to constantly reevaluate our national priorities. And while this legislation does not differ in the total authorized from the amount requested by the administration, it does change the priorities of how that money should be spent.

It is vitally important to the United States that we maintain a U.S. merchant marine for both defense and commerce purposes. H.R. 4175 authorizes $388 million for the programs administered by the Maritime Administration. This includes: $320 million for operating-differential subsidy; $3.5 million for research and development; $9.5 million for national security support; $19.2 for the U.S. Merchant Marine Academy; and $9 million for training at State maritime academies.

The authorization levels in this legislation for the Maritime Administration differ from the administration's request in one respect: It redistributes the funding from research and devel-

opment to operations and training to permit continued Federal assistance to the State maritime academies. The totals are identical as between the administration's request and H.R. 4175.

The $11.9 million authorization level for the Federal Maritime Commission is identical to the administration's request.

H.R. 4175 makes a number of other changes in the maritime law such as permanently allowing U.S. vessels carrying coal in our domestic commerce to have priority loading at our ports. This legislation also imposes, for the purposes of the Gramm-Rudman-Hollings sequestration requirements only, an obligation ceiling of $500 million beginning in fiscal year 1986 for loan guarantees for the construction of vessels in U.S. shipyards under title XI of the Merchant Marine Act of 1936.

Mr. Chairman, I believe that the legislation we have before us is routine and noncontroversial. Therefore, I urge my colleagues' support for this legislation to authorize funds for the small maritime program we have left to support our strategic needs.

□ 1750

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4175, a bill authorizing the program activities of the Maritime Administration and the Federal Maritime Commission for fiscal year 1987.

As reported by the Committee on Merchant Marine and Fisheries, the bill authorizes a total of $400.1 million for both agencies' programs—$388.2 million for MARAD and $11.9 million for the FMC. Both agency figures coincide with the administration's overall budget requests and there is no controversy regarding the FMC figures in the bill.

To get to the heart of the matter, Mr. Chairman, the controversy associated with the MARAD portion of this bill is that certain of the monetary provisions in H.R. 4175 represent a difference in philosophy from that of the administration. Those policy differences are reflected in two program areas: First, Federal financial support for the six State maritime academies; and second, extension of Federal loan guarantees for vessel construction under title XI of the Merchant Marine Act of 1936.

The State maritime academy funding issue is one which has been debated both within the Merchant Marine Committee and the Appropriations Committee for the past several years. And, I expect the debate to continue for the Next fiscal year budget. I acknowledge the argument that the administration's almost total elimination of support for fiscal year 1987—a request of $1.035 million compared to almost $12 million in fiscal year 1986 appropriations—may have been precipitous. On the other hand, I think the Merchant Marine Committee, the Appropriations Committee, and the Congress have been equally quick in accepting on faith the protests from the State academies that withdrawal of Federal funding will mean the end of those schools. As budgetary pressures increase, I submit that a more rigorous examination of this issue will be in order. The $9 million in assistance contained in this legislation is, however, a compromise which I accept, particularly since other provisions of the bill are designed to create some savings in Federal outlays in support of State academy programs.

The title XI loan guarantee program for ship construction has become a real problem area for the Maritime Administration and the U.S. Treasury. It is true that over $1 billion has been borrowed from the Treasury in the last year to make up for loan defaults. Nowhere has the situation been more desperate than in the inland barge and towing industry, and in the offshore oil and gas exploration, drilling and support industries. Both groups are in severe economic recessions and the layup of unemployed equipment in those industries can be traced to investor-owned barges, towboats, and supply vessels stimulated by tax concessions and the ready availability of title XI guarantees.

The committee responded to this situation in the 98th Congress by initiating legislation amending title XI, including provisions which I authored that tighten up the procedures by which loan guarantees are made to prospective vessel operators. That bill was signed into law in 1984. While dealing with title XI programs in prospective fashion, that fix does nothing to address the continued payout on obligations made in years gone by. Regrettably, neither do the administration's proposals, which would limit title XI obligations for fiscal year 1986 to $67 million—after Gramm-Rudman-Hollings sequestration—and eliminate the program altogether beginning in fiscal year 1987.

Recognizing that it is within administrative discretion to make no more loan guarantees under the title XI program, the Merchant Marine Committee chose, nevertheless, to signal its disagreement with OMB by adopting the language in H.R. 4175 which would raise that ceiling to $500 million for fiscal years 1986 and 1987. I, for one, don't expect new loan guarantee commitments to even come close to those levels, and I find it curious that the administration is now sending veiled threats of veto over what is, at best, a congressional expression of disagreement with administration policy. Despite the language contained in this bill, MarAd is free to not make any more loan guarantees, period—this year, next year, or ever. At the same time, the intent of the bill's provisions is to enable MarAd to make guarantees above $67 million in the event that meritorious projects do come along. I submit that that is a reasonable approach.

There are other provisions of H.R. 4175 which are particularly meritorious, Mr. Chairman, but I will focus briefly on only one: Section 6 of the bill, making permanent a 1980 provision of law granting priority loading status at U.S. ports to colliers engaged in the domestic coastwise trade. As the author of this provision, I am pleased to point out that the current law, which would expire in 1987, has been in effect for 5 years now. During that time, it has enabled U.S.-flag vessel operators serving domestic utilities to avoid long lines of foreign-flag colliers waiting to load. The savings in transportation costs total 6 cents a ton on up to 40,000 tons for each hour of delay avoided, enabling the U.S. energy consumer to benefit from lower fuel costs. During that time, there have been no problems of any sort with service disruptions or delays. This provision is sound public policy, and I am pleased to be associated with it.

In conclusion, Mr. Chairman, although the administration has expressed its reservations about certain portions of H.R. 4175, any differences can be ironed out with the other body, I am sure, and we can send to the President a bill he will sign. I urge the Members to vote for this legislation.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BIAGGI].)

Mr. BIAGGI. Mr. Chairman, I rise in support of H.R. 4175, a bill that authorizes appropriations for the Maritime Administration and the Federal Maritime Commission for fiscal year 1987.

When we examined the President's fiscal year 1987 budget proposals for the Maritime Administration, we found them to be very disconcerting. MarAd's legislation mandate is to promote a U.S.-flag merchant marine. Clearly, the President's budget does very little to promote—and would reduce—most levels of activity. In other words, budget decisions are again driving policy decisions that might not be in the national interest.

The 1987 budget proposal:

Would continue to hold the operating-differential subsidy program at existing levels and fails to recognize the need for change;

Would terminate funding for the State maritime schools;

Would terminate Federal assistance for maritime research and development; and

Would terminate the title XI Loan Guarantee Program.

The Committee on Merchant Marine and Fisheries took a hard look at all these proposals. While this industry needs more help if it is to survive in the international marketplace, the current budgetary crisis dictates restraint and difficult choice. The committee adopted the funding levels requested by the administration. H.R. 4175 authorizes the appropriation of $388.2 million for various maritime programs—and $11.9 million for the Federal Maritime Commission.

Policy considerations, however, dictated the need to redistribute funding levels within the various line items. This rearrangement was necessary because the administration proposed that funding for the State maritime academies be discontinued—except for existing student incentive payments. This was a major policy change that the committee found to be unacceptable. None of the members on the committee—nor other members who were directly affected—had been advised in advance of this significant change. Further, the Navy—a direct beneficiary of the program—had not been consulted.

The legislation differs from the administration's request in that it redistributes funding in all areas of operations and training and in research and development to permit continuing assistance to the State maritime academies.

The State maritime academies have been receiving Federal assistance averaging $12 million a year. The bill before us cuts Federal assistance by 25 percent to $9 million. This is a severe reduction, and funding cannot be reduced any further if we are to preserve the Federal-State maritime training and education relationship.

During the authorization hearings, we uncovered certain problems with the implementation of student incentive payments to State maritime academy students. H.R. 4175 includes a number of changes to this program that will benefit the Government by removing the potential for abuse. It would require the incentive payment for the first year to be made during the beginning of the second year—and only after a U.S. Naval Reserve agreement is signed by the student and accepted by the Government.

The bill also provides the Republic of Panama the opportunity to send up to six additional nationals to the U.S. Merchant Marine Academy each year, on a reimbursable basis. This additional training in the navigation and piloting of vessels should materially help Panama in providing reliable and experienced pilotage assistance for vessels transiting the Panama Canal.

H.R. 4175 also imposes—for the purposes of Gramm-Rudman-Hollings' sequestration requirements only—an obligational ceiling of $500 million beginning in fiscal year 1986 for loan guarantees for the construction of vessels in U.S. shipyards under title XI under the Merchant Marine Act, 1936.

Other sections make minor changes or clarify existing laws.

In light of the difficult choices that Gramm-Rudman-Hollings is forcing upon us, I believe that this legislation—as reported by the Committee on Merchant Marine and Fisheries—is fair and reasonable and enjoys bipartisan support. H.R. 4175 deserves your support.

Mr. SNYDER. Mr. Chairman, I yield such time as he may consume to the ranking member of the full committee, the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I am pleased to rise in support of the authorization bill for the Maritime Administration of the Department of Transportation, and the independent Federal Maritime Commission for fiscal year 1987.

Our Merchant Marine and Fisheries Committee studied the request of the administration for funding for these two agencies and has come up with what I feel is a reasonable level of funding. The bill contains an authorization of $400 million. The amount is identical to the total requested by the administration. Our committee, however, made some adjustments in the funding categories for the Maritime Administration.

In response to the proposal of the administration to eliminate all financial support for the six State maritime academies, we took some funding from several of the budget categories and came up with $9 million to continue a modest level of Federal support to the academies. The funding is $3 million less than the six State academies received last year. We felt that we should not eliminate all Federal support for these schools because there is a need to continue the schools as a source of trained people to serve aboard commercial ships. More importantly, these graduates will be available if we have to call up our Reserve forces for a military emergency. It is all well and good to have ships available for military sealift, but those ships will not do us any good if we do not have trained people to operate them. These 6 schools graduate 600 students each year.

As our committee considered the President's request for this authorization, we adopted a number of amendments to minimize the budgetary impacts of the bill and provide adequate funding for these two important Federal agencies. The funds authorized for fiscal year 1987 are $9 million more than was appropriated in fiscal year 1986, but $77 million less than fiscal year 1985. The $9 million increase from last year is for operating subsidies—which are contracts the Government has with vessel operating companies.

One of our amendments generated some opposition in the Office of Management and Budget [OMB]. We propose to retain the Federal program that enables the Government to guarantee loans for the construction of commercial vessels. The administration wants to eliminate this program because there have been some defaults in the past year that required the Government to pay off some of the guaranteed loans. The Merchant Marine and Fisheries Committee—along with every knowledgeable person in the maritime industry—believes that the problem is not the loan guarantee program but the economic conditions facing the U.S. merchant marine. Consequently, we did not go along with the proposal to eliminate the title XI loan guarantee program. In fact, we provide in this bill that up to $500 million in construction loans could be guaranteed by MarAd if the experts in the agency believe the projects are good ones.

The Merchant Marine and Fisheries Committee believes that the United States needs a healthy merchant marine. We are not prepared to gamble that this country will not need sealift support for the military. I would much rather spend a few dollars to help maintain a merchant fleet and to train people to operate ships, than to be faced with the alternative of having to launch a nuclear response because our military did not have the necessary sealift ships to send our conventional forces overseas.

I am convinced that our committee has acted responsibly in developing this legislation. I urge my colleagues to join me in supporting this bill as a realistic, moderate, measure that will provide an appropriate level of Federal support to the industry that President Eisenhower called our fourth arm of defense—the U.S. merchant marine.

□ 1800

Mr. JONES of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, today the House considers H.R. 4175, the maritime authorization bill for fiscal year 1987. It is a good bill that deserves swift and decisive enactment. I had the honor of serving on the Committee on Merchant Marine and Fisheries through the first session of the 98th Congress. The committee leadership and members are to be commended for bringing this bill to the floor today.

Last year, I took to the floor during consideration of the 1986 maritime bill to warn that America's maritime

strength was fast eroding, and soon would be but a distant memory unless aggressive action was taken in Washington to reverse the decline in the U.S. shipbuilding base and flag fleet. I told the House last year that four shipyards designated by the Navy as components of our defense mobilization base had closed their gates in the previous 2 years.

Today, I rise to inform the House that the roll of accelerating decline in America's shipyards has not abated. Jeffboat, Inc., a shipyard astride the Ohio River delivered its last ship. Jeffboat was once America's largest inland shipbuilder.

She has built fine ships for the peacetime commerce and wartime defense. Jeffboat's existence has meant decent paying jobs for generations of hardworking shipbuilders from the bordering States of Kentucky and Indiana.

Last month, the General Dynamics Fore River shipyard in my Massachusetts' district delivered the last of five maritime pre-positioning ships it was building for the Navy. The Quincy yard is one of America's largest and most capable shipbuilding facilities. There is a century-old tradition of shipbuilding at Quincy that is now at risk because the current owner is seeking bids for the disposal of the facility. A valiant effort is underway to keep the yard in shipbuilding, and save the jobs of her dedicated workers. The men and women who have worked at the yard are a vital and irreplaceable national resource, with skills, experience, and pride that only comes with many years of hands-on hard work.

These two troubled yards, one in Massachusetts, one in Indiana, are hundreds of miles apart, but they face a common fate unless national decisionmakers realize what is at stake for America's future in Quincy and Jeffersonville.

It is in the national interest that we preserve a capable and geographically dispersed shipbulding base. These yards must remain available to meet the demanding requirements for vessel activation and repair in the first critical weeks and months of a major international crisis.

H.R. 4175, while generally a routine authorization bill, includes several important provisions to correct the current void in Federal maritime policy. Two specific provisions are intended to help maintain American shipyard jobs. The bill makes permanent a provision of law granting front of the line preference at domestic ports to U.S.-built, U.S.-flag vessels engaged in the coastwise transport of coal. I had the honor of working closely with my colleague, the ranking minority member from Kentucky, Mr. SNYDER, in 1980 to enact the original priority loading provision. This is a brief but productive provision of the Merchant Marine Act. Its original enactment preceded, and insured the economic viability, of the construction of the vessel *Energy Independence* at the Quincy shipyard in the early eighties.

The bill also rejects the administration's unwise and unreasonable limitation on title XI ship construction loan guarantee obligations. The bill sets an annual legislative cap of $500 million in title XI commitments by the Maritime Administration. Title XI is one of the last meaningful incentives for the domestic construction of U.S.-flag ships. In spite of the program's recent problems, title XI has served, and should continue to serve the valid national purpose of maintaining an American-flag fleet built in U.S. shipyards. Another initiative that has made progress in the committee this year is the *Mariner* build and charter program which would add militarily useful merchant ships to the U.S.-flag fleet, and provide lifesaving work for up to five domestic shipyards. The *Mariner* program must proceed ahead.

Other nations, including our adversaries, recognize the importance of fostering national flag fleets and shipyards. It is time that we arrest the decline in America's merchant marine before it is too late.

I urge an aye vote on this bill. Its enactment will put the House firmly on record in favor of preserving American shipyards and seagoing jobs.

Mr. SNYDER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I rise in support of H.R. 4175, both for the Maritime Administration and the Federal Maritime Commission.

As a former Chairman of the Federal Maritime Commission, I know the needs of that agency and have a special familiarity with the activities of the Maritime Administration.

This $400 million authorization is little enough for our maritime industry to maintain a position and not even a leading position, as far as we can see, internationally. But I want to commend the leadership on both sides of the aisle for not allowing any further erosion of funding for what we have so frequently referred to as the "fourth arm" of defense. I only regret that the Government no longer provides construction funds so that our ship building segment of the maritime industry also would be supported by new construction of merchant vessels in this country and prevent more shipyards from closing down here.

As the gentleman from Tennessee [Mr. QUILLEN] so eloquently stated before this body when the rule on the floor was presented, the American merchant marine is vital to the defense of our country, and it has been short-shrifted for all too long.

Oh, yes, I have heard the arguments by opponents of the industry that subsidy is bad and the American flag ships should be sent out to compete without any government assistance. Let me just say this, Mr. Chairman: the United States gives less support to its merchant marine than does any other major maritime nation.

I would hate to think how our merchant marine would suffer if we did not make even this small effort to support our fleet. Mr. Chairman, I urge support of this bill. I yield back the balance of my time.

Mr. FRENZEL. Mr. Chairman, the legislation we are considering today will not make headlines, and it is relatively modest in scope. Nevertheless, I oppose its passage, because it contains unnecessary and unproductive expenditures of scarce Federal dollars.

The bulk of this program's funding goes to subsidies for U.S.-flag shippers. The operating differential subsidy has existed for passenger ships since 1936 and for bulk carriers since 1970. The program has not caused our industry to become more competitive. On the contrary, it has become reliant on the subsidies. I can't see how, after 16 years, the program is suddenly going to revitalize our shipping industry.

I also share the administration's strong objections to other provisions of this legislation. Our taxpayers are supporting six State maritime academies, in addition to the National Academy. Our taxpayers are apparently educating officers for jobs that don't exist.

We are also helping to build ships for business U.S. companies don't seem to be getting except when it is given to them by subsidies.

Mr. Chairman, the administration is correct in opposing this bill. We need a new approach, not a continued reliance on a program that has a long and clearly unsuccessful history.

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SNYDER. Mr. Chairman, I had one other request, the gentleman from Ohio [Mr. KASICH]. I do not see him presently, so I yield back the balance of my time.

The CHAIRMAN. All time for general debate having expired under the rule, each section is considered as having been read. The amendments recommended by the Committee on Merchant Marine and Fisheries to section 1 now printed in the bill shall be considered en bloc, and all the committee amendments printed in the bill are considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are authorized to be appropriated for the use of the Maritime Administration for fiscal year 1987 as follows:

(a) for payment of obligations incurred for operating-differential subsidy, not to exceed $320,000,000;

(b) for expenses necessary for research and development activities, not to exceed $5,500,000; and

(c) for expenses necessary for operations and training activities, not to exceed $62,693,000, including not to exceed—

(1) $28,413,000 for maritime education and training expenses, including not to exceed $18,278,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $9,000,000 for financial assistance to State maritime academies, and $1,135,000 for expenses necessary for additional training;

(2) $9,566,000 for national security support capabilities, including not to exceed $8,048,000 for Reserve Fleet expenses and $1,518,000 for emergency planning operations; and

(3) $24,714,000 for other operations and training expenses; and

(d) for payment of obligations incurred for ocean freight differential costs, not to exceed $54,000,000.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will designate the committee amendments to section 1.

The text of the committee amendments is as follows:

Committee amendments: on page 2, line 6 strike "$5,500,000;" and substitute "$3,500,000;

On page 2, line 9, strike "$62,693,000;" and substitute "$64,693,000,";

On page 2, line 11, strike "$28,413,000;" and substitute "$29,413,000";

On page 2, line 13, strike "$18,278,000;" and substitute "$19,278,000";

On page 2, line 23, strike "$24,714,000;" and substitute "$25,714,000";

On page 2, line 24, strike "training expenses; and" and substitute "training expenses."

On page 3, strike lines 1 and 2.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Chairman, we are familiar with the amendments, and we accept the committee amendments.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. Funds are authorized to be appropriated for the use of the Federal Maritime Commission in the amount of $11,940,000 for fiscal year 1987.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will designate the committee amendment.

The text of the committee amendment is as follows:

Committee amendment: On page 3, after line 5, add new sections to read as follows:

SEC. 3. (a) Section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c) is amended as follows:

(1) in section 1304(g)(1)(B), strike "and" after "subsistence;";

(2) in section 1304(g)(1) strike subparagraph "(C)" and substitute:

"(C) paid by the Secretary for the first academic year to the individual in a lump sum of $1,200 after its successful termination and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and

"(D) paid by the Secretary for the following academic years as the Secretary shall prescribe while the individual is attending the academy.";

(3) in section 1304(g)(2) strike "apply for midshipman status" and substitute "accept midshipman and enlisted reserve status"; and

(4) in section 1304(g)(3)(D) strike "to apply for an appointment as,".

(b) The provisions of this section apply beginning the first academic year after the date of enactment.

SEC. 4. Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended by adding a new subsection to read as follows:

"(g) For the purpose of sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), in each fiscal year 1986 and 1987, a $500,000,000 obligation ceiling is imposed for new guaranteed loan commitments under this section. The total of guaranteed obligations may not exceed the outstanding authorized level, provided in subsection (f) of this section.".

SEC. 5. The sum of $1,000,000 if available, is authorized to be reprogrammed, from the sum of $9,350,000 previously appropriated for the replacement of a State maritime academy training ship and for fuel, for the general administration and operation of the Maritime Administration for fiscal year 1987.

SEC. 6. Section 5 of Public Law 96-387 (46 App. U.S.C. 1121-1) is amended by striking "until June 30, 1987,".

SEC. 7. Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended to read as follows:

"SEC. 11. (a) The Secretary of Transportation shall maintain a National Defense Reserve Fleet (including the Ready Reserve Force or any component of that fleet) consisting of those vessels owned or acquired that the Secretary, after consultation with the Secretary of the Army and the Secretary of the Navy, determines are of value or national defense purposes and that the Secretary of Transportation decides to place and maintain in the National Defense Reserve Fleet.

"(b) Except as otherwise provided by law, a vessel in the National Defense Reserve Fleet may be used only for an account of an agency of the United States Government during a national emergency, proclaimed by the President, under a charter, contract, or other agreement arranged by the Secretary of Transportation.".

SEC. 8. Strike section 1303(b)(7) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(b)(7)) and substitute the following:

"(7)(A) The Secretary may annually permit, until September 30, 1995, upon approval of the Secretary of State, up to six additional individuals from the Republic of Panama to receive instruction at the Academy, in addition to those individuals appointed under paragraphs (3), (4), (5), and (6) of this subsection.

"(B) The Secretary shall insure that the Republic of Panama reimburse the Secretary for the cost of that instruction (including the same allowances as received by cadets at the Academy appointed from the United States) as determined by the Secretary.

"(C) An individual receiving instruction at the Academy under this paragraph shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

"(8) An individual appointed as a cadet under paragraph (3), or receiving instruction under paragraph (4), (5), (6), or (7) of this subsection is not entitled to hold a license authorizing service on a merchant marine vessel of the United States solely by reason of graduation from the Academy.".

AMENDMENT OFFERED BY MR. BIAGGI TO THE COMMITTEE AMENDMENT

Mr. BIAGGI. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI to the committee amendment: Page 4, strike out lines 24 and 25.

Page 5, strike out lines 1 through 15.

Mr. BIAGGI. Mr. Chairman, I do not expect to take 5 minutes. The amendment is a simple amendment. It deletes one section in the bill as reported out by the committee in order to obviate the need for an amendment which clears certain conditions within the legislation, within the committee, and also expedites passage of this legislation.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am happy to yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Chairman, we are prepared to accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BIAGGI] to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois], having assumed the chair, Mr. DARDEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4175) to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission, pursuant to House Resolution 473, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 29, not voting 37, as follows:

[Roll No. 176]

YEAS—367

Ackerman	Coyne	Goodling
Akaka	Crockett	Gordon
Alexander	Daniel	Gradison
Anderson	Darden	Gray (IL)
Andrews	Daschle	Green
Annunzio	Daub	Guarini
Anthony	de la Garza	Gunderson
Applegate	DeLay	Hall (OH)
Archer	Dellums	Hall, Ralph
Aspin	DeWine	Hamilton
Atkins	Dickinson	Hammerschmidt
AuCoin	Dicks	Hansen
Badham	Dingell	Hartnett
Barnard	DioGuardi	Hatcher
Barnes	Dixon	Hawkins
Bateman	Donnelly	Hayes
Bates	Dorgan (ND)	Hefner
Bedell	Dornan (CA)	Hendon
Beilenson	Downey	Henry
Bennett	Duncan	Hertel
Bentley	Durbin	Hiler
Bereuter	Dwyer	Holt
Bevill	Dymally	Hopkins
Biaggi	Dyson	Horton
Bilirakis	Early	Howard
Bliley	Eckart (OH)	Hoyer
Boehlert	Edgar	Hubbard
Boggs	Edwards (CA)	Huckaby
Bonker	Emerson	Hughes
Borski	English	Hunter
Bosco	Erdreich	Hutto
Boucher	Evans (IL)	Hyde
Boxer	Fascell	Ireland
Brooks	Fawell	Jeffords
Broomfield	Fazio	Jenkins
Broyhill	Feighan	Johnson
Bruce	Fiedler	Jones (NC)
Bryant	Fields	Jones (TN)
Burton (CA)	Fish	Kanjorski
Bustamante	Flippo	Kaptur
Byron	Florio	Kasich
Callahan	Foglietta	Kemp
Carper	Foley	Kennelly
Carr	Ford (MI)	Kildee
Chapman	Ford (TN)	Kindness
Chappell	Frank	Kleczka
Chappie	Franklin	Kolbe
Clay	Frost	Kolter
Clinger	Gallo	Kostmayer
Coelho	Garcia	Kramer
Coleman (MO)	Gaydos	LaFalce
Coleman (TX)	Gejdenson	Lagomarsino
Combest	Gekas	Lantos
Conte	Gibbons	Leach (IA)
Conyers	Gilman	Leath (TX)
Cooper	Gingrich	Lehman (CA)
Coughlin	Glickman	Lehman (FL)
Courter	Gonzalez	Leland
Lent	Oberstar	Smith (NJ)
Levin (MI)	Obey	Smith, Robert
Levine (CA)	Olin	(NH)
Lewis (CA)	Ortiz	Smith, Robert
Lewis (FL)	Owens	(OR)
Lightfoot	Oxley	Snowe
Lipinski	Packard	Snyder
Livingston	Panetta	Solarz
Lloyd	Parris	Solomon
Long	Pashayan	Spence
Lott	Pease	Spratt
Lowery (CA)	Penny	St Germain
Lowry (WA)	Pepper	Staggers
Lujan	Perkins	Stallings
Luken	Petri	Stark
MacKay	Pickle	Stenholm
Madigan	Porter	Stokes
Manton	Price	Stratton
Markey	Pursell	Studds
Martin (IL)	Quillen	Sundquist
Martin (NY)	Rangel	Sweeney
Martinez	Ray	Swift
Matsui	Regula	Synar
Mavroules	Reid	Tallon
Mazzoli	Richardson	Tauke
McCain	Ridge	Tauzin
McCandless	Rinaldo	Taylor
McCloskey	Roberts	Thomas (CA)
McCollum	Robinson	Thomas (GA)
McCurdy	Rodino	Torres
McDade	Roe	Torricelli
McEwen	Roemer	Towns
McGrath	Rogers	Traficant
McHugh	Rostenkowski	Traxler
McKernan	Roth	Udall
McKinney	Roukema	Valentine
McMillan	Rowland (CT)	Vento
Meyers	Rowland (GA)	Visclosky
Mica	Roybal	Volkmer
Mikulski	Rudd	Vucanovich
Miller (CA)	Russo	Walgren
Miller (OH)	Sabo	Walker
Miller (WA)	Savage	Watkins
Mineta	Saxton	Waxman
Mitchell	Schaefer	Weiss
Moakley	Scheuer	Wheat
Molinari	Schneider	Whitehurst
Mollohan	Schroeder	Whitley
Montgomery	Schuette	Whittaker
Moody	Schulze	Whitten
Moore	Seiberling	Williams
Moorhead	Sensenbrenner	Wilson
Morrison (CT)	Sharp	Wirth
Morrison (WA)	Shaw	Wise
Mrazek	Shelby	Wolf
Murphy	Shumway	Wolpe
Murtha	Shuster	Wortley
Myers	Sikorski	Wright
Natcher	Siljander	Wyden
Neal	Skeen	Wylie
Nelson	Skelton	Yatron
Nichols	Slattery	Young (AK)
Nielson	Slaughter	Young (FL)
Nowak	Smith (IA)	Young (MO)
Oakar	Smith (NE)	Zschau

NAYS—29

Armey	Crane	Marlenee
Bartlett	Dannemeyer	Michel
Barton	Dreier	Monson
Boulter	Eckert (NY)	Smith, Denny
Brown (CO)	Frenzel	(OR)
Burton (IN)	Gregg	Strang
Cheney	Jacobs	Stump
Cobey	Kastenmeier	Swindall
Coble	Loeffler	Weber
Craig	Lungren	Yates

NOT VOTING—37

Berman	Dowdy	Mack
Boland	Edwards (OK)	O'Brien
Boner (TN)	Evans (IA)	Rahall
Bonior (MI)	Fowler	Ritter
Breaux	Fuqua	Rose
Brown (CA)	Gephardt	Schumer
Campbell	Gray (PA)	Sisisky
Carney	Grotberg	Smith (FL)
Chandler	Heftel	Stangeland
Coats	Hillis	Vander Jagt
Collins	Jones (OK)	Weaver
Davis	Latta	
Derrick	Lundine	

□ 1825

Messrs. DANNEMEYER, BURTON of Indiana, BROWN of Colorado, DENNY SMITH, SWINDALL, and COBLE changed their votes from "yea" to "nay."

Mr. RANGEL and Mrs. LONG changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation be allowed to sit on Wednesday, June 18, 1986, during the 5-minute rule.

This has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERSONAL EXPLANATION

(Mr. VENTO asked and was given permission to address the House for 1 minute.)

Mr. VENTO. Mr. Speaker, today on the Tauke amendment to H.R. 4116, Domestic Volunteer Service Act Amendments of 1986, I voted incorrectly in favor of the amendment, and in attempting to reverse my vote to "no," I submitted a green card at the desk. Mr. Speaker, this, of course, did not result in changing my vote, but I want the record to show that I intended to vote "no" and to submit a red card reversing my "yes" vote that I made in error.

INTRODUCTION OF LEGISLATION TO EXTEND AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT TO INSURE LOANS UNDER THE FEDERAL HOUSING ADMINISTRATION

(Mr. WYLIE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous material.)

Mr. WYLIE. Mr. Speaker, today I am introducing legislation to extend the authority of the Secretary of Housing and Urban Development to insure loans under the Federal Housing Administration. My phone has been ringing off the hook in the last few days asking that I do something about this situation.

The Wall Street Journal says there are about 100,000 homebuyers involved. I think they must all live in my district.

My legislation would extend this authority until September 30, 1987.

Today marks the 11th straight day that the FHA has been out of business and the 42d day overall since last October 1. The ability of low and moderate income families to obtain FHA insurance is being held hostage for political leverage, and I believe this is grossly unfair to potential homebuyers and the housing industry.

On six different occasions Congress has extended the Secretary's authority for short periods of time because a housing authorization bill had not been passed.

Last Thursday the House approved a housing bill. My bill takes the FHA date from that bill.

We also extended the authority, by unanimous consent, but only for a week from Friday.

My legislation would also increase the FHA commitment authority level since HUD has reached its legal limit once again.

Mr. Speaker, it is time we quit playing politics with FHA. Homebuyers and the industry deserve better than these off again, on again extensions. I hope the House will pass FHA extension legislation soon.

Mr. Speaker, I include an article from the Wall Street Journal of June 17, 1986, as follows:

CONTINUED SUSPENSION OF FHA PROGRAM IS SEEN BY INDUSTRY, CONGRESSIONAL AIDES

(By Joann S. Lublin)

WASHINGTON.—The suspension of the Federal Housing Administration's popular mortgage-insurance program could last at least another week, congressional aides and industry groups warned.

The FHA stopped its program of backing mortgages for single-family homes at midnight June 5 after its operating authority expired. Congress hasn't acted to extend the program yet because of related disputes among members over housing legislation and a formula for distributing urban-development action grants.

"It could be awhile" before the suspension ends, says Bonny Caldwell, a Democratic staff member for the House Banking Commttee's housing panel.

The continued suspension means mounting mortgage backlogs and delayed closings for purchasers during the prime homebuying season. By the end of this week, the shutdown will have affected an estimated 100,000 consumers seeking $6 billion in mortgage insurance.

"Consumers are screaming (at lenders), 'What do you mean you can't close?' " says Glen Corso, a Mortgage Bankers of America lobbyist. "We think the chances are rather dim for getting it resolved this week. . . . It's very frustrating."

The FHA's operating authority, usually renewed routinely each year, recently has become a political football. Congress has extended the agency's authority for only brief periods since last October. The latest shutdown is the sixth and longest of the current fiscal year.

The House last Thursday passed legislation that members said would revive the program through July 25. But a Senate vote has been held up by attempts by law-makers from both parties to attach a provision revising the urban-development grant formula to give Southern and Western cities a bigger share of the aid.

Congressional aides warned that the House may refuse to clear the bill if the Senate adds that provision to it. Although the House did include the formula change in a broader housing bill it passed last week, many House Democrats would be reluctant to approve it as part of the temporary FHA extension because they fear that the Senate then wouldn't feel compelled to take up the big housing bill.

To make matters worse, a paper mixup in the House will require that chamber to act on the measure again even if the Senate approves it without the formula change. Although House members thought they had voted to extend the program through July 25, the House clerk recorded the date as June 27—a flaw that would have to be corrected by another House vote.

"The FHA has a greater chance of being reenacted this week if the Senate would just change the date and send it (the FHA extension bill) back to us," Ms. Caldwell of the housing panel said.

Meanwhile, a House-Senate conference is scheduled to resume talks this afternoon on an $8.6 billion supplemental appropriation that cleared the Senate June 6. The legislation would reinstate the FHA's operating authority until July 25 and would raise the agency's loan-guarantee limit to $132 billion this fiscal year, which ends Sept. 30. House leaders, however, would prefer to deal with the FHA's operating authority separately because of a threatened presidential veto of the supplemental bill.

The FHA could reach its current $74.2 billion credit limit for this fiscal year shortly after the agency resumes insuring mortgages, FHA officials have said. Falling mortgage rates have triggered an avalanche of home buying and refinancing this spring, swelling demand for FHA-backed loans.

SOCIAL SECURITY ADMINISTRATION AND INVESTMENT REFORM ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. JONES] is recognized for 5 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, I would like to inform the House that I am introducing legislation today which is cosponsored by all of the members of the Subcommittee on Social Security, a majority of members of the Committee on Ways and Means, and more than 150 Members of the House. This bill, the Social Security Administrative and Investment Reform Act of 1986, enjoys the broad bipartisan appeal drawing support from all ranges of the political spectrum.

The legislation represents a combination of the main provisions of H.R. 3470, the independent agency bill approved earlier this Congress by the Subcommittee on Social Security, and cosponsored by more than 175 Members of the House, with a provision to assure that the Social Security trust fund assets are only used to finance Social Security expenditures, and not for the purpose of dodging the debt limit. Both parts of the bill respond to the general concern that Social Security has become overly politicized, and that independence from administrative and financial meddling will improve and protect the program.

In the past decade, constant turnover in high level policy positions, repeated internal reorganizations, and political intervention in day-to-day administrative decisions have led to a deterioration in the quality of public service provided by SSA. To counter this trend, the legislation approved by the subcommittee creates a new, independent agency to administer Social Security, free from redundant layers of bureaucratic redtape created by the Department of Health and Human Services. The new agency would be headed by a bipartisan, 3-member Social Security board appointed by the President to staggered, 6-year terms. The board would have broad legislative, regulatory, and administrative authority, and would generally serve as the policy-making arm of the agency. To manage day-to-day administration, the board would appoint a commissioner to a 5-year term to serve as chief operating officer.

This legislation would also specifically prohibit the Treasury from tapping into the long-term assets of the Social Security trust funds to keep the Government running when the debt limit has been reached. This bill would guarantee that the disinvestment of the trust funds that took place in September and October 1984, and September, October, and November 1985, will never be repeated. This provision has the full support of the Treasury Department. I know that many of our colleagues have been hearing from their constituents on this issue, and I want to let Members know that we have developed effective legislation that will respond to these concerns.

Additionally, the subcommittee approved three miscellaneous changes: First, the suspension of benefits to deported Nazi war criminals; second, the provision of interim benefits to disability claimants who have received a favorable decision by an administrative law judge, but whose claims have been delayed by more than 90 days by the appeals council; and third, the termination of the Government representative project. The provision of H.R. 3470 to remove the Social Security trust funds from the unified budget that has already been enacted into law—effective fiscal

year 1986—as part of Public Law 99-177, the Gramm-Rudman Budget Balancing Act, has been dropped from the new bill.

I urge all our colleagues to join in supporting this important bill.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. LEHMAN] is recognized for 5 minutes.

Mr. LEHMAN of Florida. Mr. Speaker, last Thursday on June 12, 1986, I was present on the floor during the vote on final passage of H.R. 1, the bill to amend and extend certain laws relating to housing. Although I was present for back-to-back votes to recommit H.R. 1 and final passage, strangely only my vote to recommit was recorded. Had my vote been recorded, it would have been among the votes of the overwhelming majority of supporters for the bill. Mr. Speaker, as you know, the bill passed by a total of 340 ayes to 36 noes.

INTRODUCTION OF LEGISLATION TO TRANSFER CONTROL OF METROPOLITAN WASHINGTON AIRPORTS TO A FEDERAL CORPORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] is recognized for 10 minutes.

Mr. HAMMERSCHMIDT. Mr. Speaker, anyone who has flown out of or even visited National or Dulles Airport can plainly see that both these airports have a problem. The terminals at National are old, temporary facilities that desperately need renovation. Dulles needs a new midfield terminal to accommodate a dramatic increase in the number of airlines and passengers using that facility. Both airports could use more parking spaces. And National Airport could benefit from a total revamping in order to make access easier for both automobiles and Metro passengers.

Fortunately, DOT Secretary Dole has recognized this problem and has moved to solve it. Under her leadership, a master plan has been developed and updated that, if implemented, would make the necessary improvements. But the question is—how do we finance the improvements called for in this plan? The current budget and appropriations process has not been successful in providing the necessary funds.

To her credit, Secretary Dole has also recognized this barrier and has moved to overcome it as well. She established a commission to look for solutions. This commission, under the chairmanship of former Gov. Linwood Holton, determined that the airports should be transferred to a local authority which could issue revenue bonds to finance the necessary improvements.

Through the efforts of Secretary Dole, Governor Holton, Senator NANCY KASSEBAUM, Congressman FRANK WOLF, and others, the Commission's report was translated into legislation and passed by the Senate. They are all to be commended for their efforts.

But I must say that their bill is not without its problems. Some have charged that the lease/transfer price is too low. Others say that these airports should remain in Federal hands and under Federal control.

Therefore, I have joined with the chairman of the Aviation Subcommittee, NORM MINETA, in the introduction of a bill to transfer control of the two airports to a Federal Government corporation under the supervision of the Secretary of Transportation. I think it is important to allow an opportunity for Congress to consider another option that could achieve the same airport improvements as the administration's bill without the control problems. I will continue to be open minded and objective as we hear witnesses on the merits or demerits of the two approaches, or to hear any new ideas.

Under this bill, the corporation would be authorized to borrow up to $700 million for capital improvements at the airports. The corporation would also be eligible for airport improvements grants from the airport and airway trust fund.

The corporation would be run by a general manager appointed by the Secretary. A five-member advisory board would review the corporation's general policies. The corporation would operate the airports through a self-supporting revolving fund, which would not be subject to annual appropriations.

It is also important to note that this bill would keep the perimeter rule at 1,000 miles. In the Senate bill, the perimeter rule had been expanded to 1,250 miles. I think that it is also important that we find a way to accommodate the unique needs of Dallas and Fort Worth as we further consider the legislation.

I want to emphasize that I am not locked into the Federal corporation approach and still have an open mind toward the administration's bill as well as other possible approaches. I believe that the bill we are introducing today is a good vehicle for examining these issues. I look forward to working with my colleagues to develop legislation that will enable us to make the sort of improvements at National and Dulles that we all agree are necessary.

VETERANS SHOULD HAVE RIGHTS OF JUDICIAL REVIEW OF BENEFIT CLAIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. EDWARDS of California. Mr. Speaker, I am going to speak tonight, together with some other Members, on H.R. 585, which is a measure granting veterans judicial review of benefit claims and other rights.

It is very hard to believe, Mr. Speaker, that the 28 million veterans of the United States, unlike practically every other American, do not have access to the Federal courts.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, there has been no one in the House of Representatives who has taken an issue with greater diligence of leadership than has the gentleman from California [Mr. EDWARDS] on this particular issue. There are, literally, hundreds of thousands of veterans across this land who are watching very carefully, watching to see whether the House, at long last, will respond to the gentleman's leadership in this regard, watching to see, at long last, that they will have the opportunity to obtain the same rights and privileges as most other Americans have, and they are watching tonight as we set the stage, hopefully, for a vote on this issue in the Veterans' Affairs Committee at some point in the near future.

For me, this issue goes back to a point very early in my congressional career. Having had the opportunity to help a couple of veterans work their way through the whole process of claims and reviews and appeals and ultimately to the appeal board in Washington, DC, and having been completely convinced of the merit of their case all the way through, those particular individuals were turned down, and turned down for the last time, with no place to go.

Not understanding that at that time they did not have judicial review, I encouraged them to get a lawyer and to go to court and to do what Social Security recipients and others do when they have a similar situation. They were mystified as to the reason why they were not able to do what Social Security recipients and even prisoners do today. They were told that there was not any judicial recourse.

Having had that experience, I brought it up in a myriad of conversations around the country, only to find that veterans found similar situations wherever they went, and, having gone through the entire process of this long and drawn-out review of each and every one of these cases, coming to the conclusion at long last that the Veterans' Administration had told them "no."

Well, it is troubling to me, troubling that veterans cannot get the same opportunity that others do, troubling that in a situation like this the Veterans' Administration is really not only the defendant in these cases but the judge, as well. That, to me, is really the fundamental problem with the situation, as I see it, as veterans who,

above all else, ought to have the same rights and privileges as they seek redress of their difficulties and grievances they have against their own Government.

□ 1840

So, to me it is a fundamental right. To me, it is something that should have been accorded decades ago. To me, it is something that really goes beyond a given issue with regard to a problem as difficult as a case may be, as difficult as agent orange might be for so many, as difficult as many of the troubling circumstances with which many veterans find themselves today.

There is no way that we can come up with an appeals process that meets every criteria set out and regardless of how long that code may be. A disinterested third party, a judge, someone who can look at these cases objectively is simply what judicial review is all about. Giving them the opportunity to finally evaluate this case on its merits, outside the pressures that may or may not be found within the Veterans' Administration is all we ask in the concept of judicial review.

I think there is something wrong. That after a century of effort, after a century of seeing the shortcomings of the system that we have within the process today, that this has not been addressed earlier. It has been addressed, unfortunately, in the other body. On six other occasions the other body has taken this issue up and overwhelmingly passed it. I think the time has come for the House of Representatives to follow suit. The time has come for us to recognize what shortcomings there are and say, without equivocation, that our veterans deserve the same rights. Our veterans deserve the same recourse. Our veterans deserve the same opportunities as anyone else in this country today. Certainly, that is all we ask.

This is not a criticism, necessarily, of the Veterans' Administration or the process within which our people within the VA must work. It goes beyond that. It goes to the system itself. The confined process by which our veterans are receiving their attention today is simply not adequate dealing with the complexities and dealing with the incredible intricacy of the laws that exist today and the complex change in the process that we have experienced in the last decade.

So I really commend the gentleman from California. I commend him for his leadership; I certainly commend him for the bipartisan effort that he has made in making sure that this issue comes to the floor, and that at long last we can put the judicial review test before the House to give veterans and everyone interested in this issue the opportunity to see the House vote affirmatively on something as important as this is to hundreds of thousands of people that call out for that assistance and that understanding as they face these difficult moments today.

I thank the gentleman for yielding and I applaud his efforts this afternoon in bringing this to the attention of the House.

Mr. EDWARDS of California. I thank the gentleman from South Dakota.

Mr. Speaker, I would like to add right now that without the efforts of the gentleman who just spoke, who explained in such exquisite, accurate detail the problem that faces the more than 25 million veterans in the United States, without his leadership and without his prodding, without his input, we would not be where we are today with 223 cosponsors of both political parties in the House of Representatives, and with a vote coming in the House Veterans' Affairs Committee, we certainly hope before the end of next month.

As the gentleman from South Dakota pointed out, this bill has passed the Senate innumerable times, and indeed, a bill almost similar to H.R. 585 passed the Senate just last year.

Again, I thank the gentleman. I also commend not only the gentleman from South Dakota but other national leaders like Mr. EDGAR of Pennsylvania; Mr. BONIOR of Michigan; Mr. RUSSO of Illinois. They have been of immeasurable help in offering the kind of leadership that we are going to need if we enact this bill because there is strong opposition.

The Veterans' Administration does not want this bill to pass. Why? Because the Veterans' Administration, as fine an organization as they are, they like the in-house review process. Who would not?

They make all the decisions; they are the judge, the jury, and the appeals court, and they do not want to change that system. I thank the gentleman again.

Mr. Speaker, as the gentleman from South Dakota pointed out, during the Great Depression—this is when it first started—veterans were denied judicial review of their benefit claims. This 50-year-old provision now denies veterans' basic rights extended to nearly every American.

Thus, persons who are denied food stamps, SSI, Medicaid, AFDC benefits, as well as prisoners and those threatened with deportation, are all entitled to their day in court. Even military personnel can obtain court review of the numerous disputes that arise between soldiers and the military departments—including issues like promotions, peformance evaluations, retirement benefits, disability decisions, and criminal punishments. but the veterans are not; the veterans do not have this privilege.

The root reason that Congress has provided Federal court review in all these situations is simply that no agency should be allowed to make decisions unchecked. This is not just because agencies inevitably make mistakes sometimes interpreting the law improperly or improperly interpreting or weighing the evidence before them. And it is not just because agencies are inevitably subject to political pressures in administering their programs. Congress has provided time and time again for review by an independent Federal judiciary which is appointed for life because, aside from any problems in agency decisionmaking, Americans have a right to their day in court. Americans have the right to benefit from the system of checks and balances bequeathed to them by those who founded our Nation.

This debate is not about the fairness of the VA; it is about honoring the principles observed by our Founding Fathers in setting up a system of checks and balances. Even more importantly, however, it is about granting America's veterans the rights which the rest of our society is allowed to enjoy. America's veterans deserve these rights and they deserve judicial review.

The VA is one of the largest Federal agencies in terms of the amount of money it provides in public assistance. In fiscal year 1984, nearly $15 billion was given by the VA to over 4 million veterans and their dependents in compensation, pension, and educational benefits. The Board of Veterans' Appeals annually reviews over 40,000 claims under these programs and regularly approves less than 14 percent of all claims.

It is plain that compensation, pension, and educational assistance benefits are often critical to veterans and their dependents. They are basic components of the safety net for millions of those who served our country honorably. Yet, under the current section 211(a) of title 38, all of the VA decisions in these areas are barred from court review.

At the last House and Senate hearings on judicial review in 1983, nearly every veterans' organization which testified—except for the American Legion—supported some form of judicial review of VA decisionmaking. The supporters included the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, the Jewish War Veterans of the United States, the National Association of Atomic Veterans, the Retired Officers Association, the American Veterans Committee, and Veterans Due Process.

H.R. 585, the Veterans' Administration Adjudication Procedure and Judi-

cial Review Act, is a bill would remedy the injustices that currently exist. It has broad support. There are currently over 200 cosponsors, and a similar bill has passed the Senate in this Congress as well as in each of the previous three Congresses. This bill has all the proper ingredients for a fair and equitable system of judicial review.

First, it codifies, as a permanent part of VA law, the nonadversarial system that the VA has been using and the requirement that the VA give the veteran the benefit of reasonable doubt. In the past, the American Legion has opposed bills authorizing judicial review based upon the speculation that court review would change the VA system so that it became adversarial and the VA would not give the veteran the benefit of reasonable doubt. This part of H.R. 585 ensures that this will not happen.

□ 1850

Second, H.R. 585 allows court review only after the Board of Veterans' Appeals has finally denied a claim for benefits. This ensures that the veteran is not able to bypass the VA system by going directly to court. It also ensures that the VA has been able to review the claim completely and apply its expertise, allowing a reviewing court the benefit of the VA's reasoning.

Third and last, H.R. 585 allows access to the court system through the U.S. district courts. Mr. Speaker, the U.S. Federal court system is the safeguard of our liberties in this Nation. This is far better than creating a speciality court, which has been advocated by some supporters. Allowing court review at the district court level has several advantages. First, it is good for the entire process because it provides all involved the benefit of the learning and experience of the highly qualified Federal bench. Second, it provides veterans with access to a local court, instead of having to travel to or secure a representative from a centralized location like Washington, DC. Third, it mirrors the court review system that veterans use when they are denied military disability benefits or other claims at the Board for Correction of Military Records [BCMR]. This system of court review of the BCMR has worked well. Last, the VA can file suit now against a veteran in a local U.S. district court. There is no reason why the veteran cannot use the Federal district court when they have a claim against the Veterans' Administration.

So, Mr. Speaker, we will soon have a vote on H.R. 585, and all of the veterans, nearly 28 million veterans who fought for our country when we were in trouble and who are denied this basic American right, will get their chance to see if Congress really cares about how they are treated by their Government.

The other body has already acted. It is now time for the House of Representatives to act.

Mr. Speaker, I thank you, and I yield back the balance of my time.

Mr. RUSSO. Mr. Speaker, when we talk about the needs of our veterans today, we could produce a long list, and at the top of that list would be ensuring that veterans are treated justly. The Veterans' Administration Adjudication Procedure and Judicial Review Act provides a long overdue access to judicial review in the Federal courts and the right to adequate counsel.

Veterans, receiving an adverse benefit decision by the Veterans' Administration, must have this right of appeal. At present, they are the only Federal beneficiaries deprived of this due process. I chose to cosponsor this bill because it addresses this problem in a straightforward manner. It simply adds attorney representation and judicial review after all existing VA procedures are exhausted. That's fair.

This is not to say that the VA does not satisfactorily resolve almost all veterans' claims, and appeals may be unnecessary in all but a handful of cases. But mistakes can be made. Unfamiliar ailments, for example, may be misinterpreted by a VA accustomed to processing comparatively routine claims. A bureaucratic snafu must not deprive a deserving veteran of his or her benefits.

In the case of attorneys' fees, it is incredible that we are still using a Civil War-era law limiting to $10 what a veteran can pay for a counsel on a VA matter. We raise this limit to $500. Veterans need adequate counsel and a reasonable dollar amount to obtain a fair chance in their appeal.

This bill has won bipartisan support. It is a good bill. It is a necessary bill. Let's bring it to the floor for a vote.

Mrs. BOXER. Mr. Speaker, I thank my distinguished colleagues for allowing me this opportunity to speak in support of our Nation's veterans.

I am a strong supporter of our Nation's veterans and I believe that H.R. 585 represents another step in our Nation's commitment to those who have made the highest contribution they can make to their country.

As my colleagues have made clear, H.R. 585 grants veterans the opportunity to have court review of Veterans' Administration decisions. This is a basic constitutional right that has been denied to veterans since World War I. In addition, H.R. 585 allows veterans to pay reasonable lawyer fees, thus assuring that they will be adequately represented.

This is an issue that needs action now. In each of the last three Congresses, the Senate has passed similar legislation. Yet such a bill has never been voted on in the House. We owe too much to our Nation's veterans to continue to deny them these basic rights.

I urge my colleagues on the appropriate committees to act quickly on this legislation so that it can be brought to the floor of the House for a vote. We owe it to our Nation's veterans.

Mr. WORTLEY. Mr. Speaker, the House of Representatives has a generally good record when it comes to recognizing this country's special obligation to our veterans. However, there is one area that is badly in need of reform: the appeals process for Veterans' Administration decisions on veterans' benefits cases.

The current system for VA appeals is outmoded. As it now operates, the Veterans' Administration, in effect, judges its own decisions with outside input limited by a 19-century cap on attorneys' fees. Because the VA's purpose is to serve veterans, this may work sometimes. But there are cases when it does not. Two basic reforms in the appeals process are badly needed in order to bring it into the 1980's and provide the same protections and rights to veterans that others enjoy.

The first is to repeal the current $10 cap on attorneys' fees. This amount has not been raised since it was first approved in 1862 during the Civil War. The value of the dollar obviously has changed since then. The idea that a veteran can pay an attorney only $10 while the Veterans' Administration has the resources of the Federal Government upon which to draw creates an obvious inequity.

The second basic reform that is needed is judicial review of VA decisions. The fact that the VA's function is to serve veterans does not mean that a veteran may not sometimes disagree with the VA on a specific benefits case. When disagreements do arise between a veteran and the VA, the situation generally becomes adversarial. There should be an opportunity for judicial review of VA decisions in these cases.

These necessary reforms are incorporated in H.R. 585. As an original cosponsor of this legislation, I firmly believe that the House of Representatives must take action to reform the VA appeals process in order to make it fairer to veterans. The other Chamber of this Congress has already taken this step.

After more than 20 years of debating these changes, it is past time for the House to take a vote. I strongly urge that H.R. 585 be brought before the full membership of the House for consideration at the earliest opportunity.

Mr. BONKER. Mr. Speaker, we are on the threshold of passing legislation of major importance to our Nation's veterans. This bill, H.R. 585, the Veterans' Administration Adjudication Procedure and Judicial Review Act, would provide aggrieved veterans with the recourse of judicial review of Veterans' Administration benefit decisions. As one of over 200 cosponsors of H.R. 585, I rise today to urge the Veterans' Affairs Committee to act favorably and send this legislation to the floor for consideration.

I doubt that any of us in Congress wish to deny compensation to those veterans who bravely risked their lives for our country. Yet, that is exactly what can happen under our current system. Veterans who have been victimized by arbitrary or capricious VA decisions have no recourse to legal appeal. By law, they are denied the basic constitutional right of due process when it comes to appealing decisions of the Board of Veterans Appeals.

This right is granted throughout the Federal Government to groups ranging from Federal prisoners, to welfare recipients, from illegal aliens to military personnel. All have access to the Federal courts for review of disputed agency decisions. The injustice to veterans

under current law is compounded by the fact that even though veterans are denied the right to challenge VA decisions in court, the VA is allowed to go to court if it believes that a veteran owes it money. In fact, the VA currently has $1.4 billion in overpayment claims against 1 million veterans. Over 130,000 of these VA claims have been filed in Federal court.

Under the present system, the vast majority of the 4 million veterans and dependants receiving benefits had no complaint with the VA. Nevertheless, it is clear that in serving that many individuals, errors in benefit decisions are likely to occur. Veterans may now appeal decisions before the BVA, but their access to legal representation is restricted by a $10 attorney fee ceiling written into law over 60 years ago. Furthermore, there is no oversight of BVA decisions and it is likely that one of the consequences of these twin problems has been that only 14 percent of the veteran claims that have come before the BVA have been successful.

This legislation, if passed, would codify the existing nonadversial proceedings for establishing benefit levels, currently characterized by the guiding principle that the veteran should be given the benefit of reasonable doubt. It would also lift the $10 cap on attorney fees, giving veterans an opportunity to seek the type of representation they feel most comfortable with. This change, however, is only allowable after a BVA decision has been reached. In the event that judicial review is sought by the veteran, the VA's decision can only be overturned if the VA is found to have acted arbitrarily, capriciously, or in direct violation of the law. This provides uniformity of decisionmaking and ensures that incorrect VA decisions are properly resolved—without asking the Federal courts to make their own determinations on claims that had not the benefit of VA consideration.

This is good legislation that directly addresses a clear injustice being suffered by our Nation's veterans. At the same time, it recognizes the primacy of the VA in making benefit determinations. When Congress passed these original restrictions back at the turn of the century, the intention was to protect veterans from unscrupulous lawyers. Over time, however, a new problem has developed where veterans have an extremely limited ability to challenge unreasonable VA benefit decisions.

The intent of H.R. 585 is not to lay blame at the doorstep of the VA or to imply that there is a deliberate policy of denying veterans the benefits to which they are due. I believe that in the overwhelming majority of cases the VA makes the correct decision. Rather, its purpose is twofold. The first is to ensure that veterans have avaliable to them the same judicial recourse and access to representation available to other citizens. The second is to provide some oversight of VA decisions to correct the inadvertent errors that are inevitable in an agency of the VA's size and magnitude and to ensure that BVA decisions are fair and consistent.

I would like to commend the sponsor of H.R. 585, DON EDWARDS, for his hard work on this bill, which has already traveled a long road in Congress. In addition, I would like to commend TOM DASCHLE, BOB EDGAR, and LANE EVANS for their tireless efforts in support of this legislation and for their work on Vietnam veteran issues in general.

Mr. Speaker, time is beginning to run out for this bill because of the shortened legislative year and the enormous amount of work we have left to accomplish before we adjourn. With the other body having already passed this legislation and the tremendous support for H.R. 585 within the House, I hope that we will soon be able to favorably consider this vital legislation.

Mr. MARTINEZ. Mr. Speaker, I would like to thank the distinguished gentleman from California for sponsoring this special order on a topic of utmost urgency for millions for American citizens: judicial review for our Nation's veterans.

Our Nation rightly prides itself on its dedication to the principle of equal justice under law. Everyone in this country—regardless of wealth, race, or creed—has the right to due process of law; that is, everyone except the very people who have fought and sacrificed a very important part of their lives to protect this and other freedoms enjoyed by American citizens: our veterans.

The current law precluding veterans from judicial review for benefits claims was enacted in 1933, when our Nation was reluctant to provide benefits for veterans. Since then, the United States has been involved in three major wars and the veteran population has multiplied. Those still reluctant to provide Federal benefits to veterans are clearly a minority, but sadly, our laws do not reflect this. What we still have is an archaic, closed system which provides very little of the assurance of justice that most citizens enjoy when bringing their cases before a court of law.

Representing a congressional district containing over 200,000 veterans, I have not the slightest doubt that the current system is inadequate. Each year, hundreds of my constituents bring before me their legitimate claims to pensions for service-connected disabilities that have been coldly turned down by the Board of Veterans Appeals. Where can they go? They are effectively barred from hiring a lawyer by a 1924 law that places a $10 limit on the amount a veteran may pay an attorney to represent him before the VA.

They have come to us, their Representatives in Congress. And we have responded, 223 of us who have cosponsored H.R. 585, to correct this inequity which veterans have been forced to suffer for so many years. I am not proud of the reluctance of this body to pass this legislation. The other body has already passed comparable legislation three times in recent sessions, and has approved it in committee this session. The burden rests on us, in this august body, to act. For in our action, or our inaction, we will show our country the depth of our respect for the principles which guide this Nation, and for the millions of veterans who have sacrificed so much to defend them.

Mr. JEFFORDS. Mr. Speaker, I would like to thank my colleagues, Mr. EDGAR, Mr. EDWARDS, Mr. DASHLE, and Mr. EVANS, for reserving this special order and allowing me to publicly voice my support for H.R. 585, the Veterans' Administration Adjudication Procedure and Judicial Review Act.

I am quite concerned that, presently, veterans are not afforded the same rights to judicial review as those involved in other Federal programs. It seems less than fair that a veteran's claim for benefits is decided within the closed system of the Veterans' Administration when, for instance, Social Security recipients are able to receive a review by the courts on unfavorable decisions. Presently, if a veteran disagrees with the decision passed down by the Board of Veterans' Appeals, he has to reopen his claim again by submitting new and material evidence and, thus, begin the long, arduous process all over again. I feel strongly that the veteran, if he disagrees with BVA's decision, have the option of judicial review of that decision.

I want to again thank my colleagues for reserving this special order. I certainly hope that this legislation receives the prompt, successful consideration it deserves so that our Nation's veterans can finally have "their day in court."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIGHTFOOT) to revise and extend their remarks and include extraneous material:)

Mr. LUNGREN, for 60 minutes, on June 23.

Mr. LUNGREN, for 60 minutes, on June 24.

Mr. LUNGREN, for 60 minutes, on June 25.

Mr. HAMMERSCHMIDT, for 10 minutes, today.

Mr. JEFFORDS, for 60 minutes, on June 24.

(The following Members (at the request of Mr. BRUCE) to revise and extend their remarks and include extraneous material:)

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. ANNUNZIO, for 50 minutes, today.

Mr. LEHMAN of Florida, for 5 minutes, today.

Mr. EDWARDS, of California, for 60 minutes, today.

Mr. FRANK, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JEFFORDS, at the request of Mr. LIGHTFOOT, following Martin of Illinois amendment to H.R. 4116, in the Committee of the Whole, today.

(The following Members (at the request of Mr. LIGHTFOOT) and to include extraneous matter:)

Mr. MCKINNEY.
Mr. BROWN of Colorado.
Mr. BROOMFIELD.
Mr. JEFFORDS.
Mr. COURTER in two instances.
Mr. LIVINGSTON in two instances.
Mr. CLINGER in two instances.
Mr. HENRY.
Mr. HORTON.
Mr. CLINGER.
Mr. CRANE.
Mr. KEMP.
Mr. SMITH of New Jersey.
Mr. GEKAS in two instances.
Mr. RITTER.
Mr. YOUNG of Alaska.
Mr. KOLBE.
Mrs. SCHNEIDER.

(The following Members (at the request of Mr. BRUCE) and to include extraneous matter:)

Mr. ROE in two instances.
Mr. DYMALLY.
Mr. VENTO.
Mr. HEFTEL of Hawaii.
Mr. WEISS.
Mr. MOAKLEY.
Mr. CHAPPELL.
Mr. DARDEN.
Mr. TALLON.
Mr. SABO.
Mr. LANTOS.
Mr. FROST.
Mr. SWIFT.
Mr. DE LA GARZA.
Mr. COELHO.
Mr. MAZZOLI.
Mr. SWIFT.
Mr. GORDON.
Mr. NEAL.
Mr. OBEY.
Mrs. BOGGS.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 131. Joint resolution to designate the week beginning June 15, 1986, as "National Safety in the Workplace Week."

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 321. Joint resolution to designate October 1986 as "National Down's Syndrome Month."

ADJOURNMENT

Mr. EDWARDS of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 18, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3729. A letter from the Executive Director, D.C. Retirement Board, transmitting the Board's fiscal year 1985 annual report, pursuant to D.C. Code section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

3730. A letter from the Secretary of Labor, transmitting a report on the administration of the Longshore and Harbor Workers' Compensation Act for the period October 1, 1984 through September 30, 1985, pursuant to 33 U.S.C. 942; to the Committee on Education and Labor.

3731. A letter from the Acting Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more (Transmittal No. MC-27-86) pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3732. A letter from the Acting Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the political contributions for Brunson McKinley of New Jersey, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3733. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3734. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the Inspector General (October 1, 1985 through March 31, 1986), pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

3735. A letter from the Assistant Secretary of Transportation for Administration, transmitting notification of an alteration of systems of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3736. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting a report of review and revision of royalty payments for fiscal years 1984 and 1985 for Federal onshore and Outer Continental Shelf oil and gas leases, pursuant to 30 U.S.C. 237; to the Committee on Interior and Insular Affairs.

3737. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report dated April 25, 1986, from the Chief of Engineers, Department of the Army, on Hampton Roads, VA (water supply), together with other pertinent reports, which is in response to a resolution passed by the House Committee on Public Works on October 10, 1974; to the Committee on Public Works and Transportation.

3738. A letter from the Executive Secretary, Department of Defense, transmitting a report on Defense procurement from small and other business firms for October 1985 through March 1986, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

3739. A letter from the Administrator of Veterans Affairs, Veterans' Administration, transmitting the fiscal year 1985 report on the activities of the Veterans' Administration, pursuant to 38 U.S.C. 214, 221(c), 1521 and 4001(c)(3); to the Committee on Veterans' Affairs.

3740. A letter from the Director, Administrative Office of the United States Courts, transmitting notification of the suspension of civil jury trials, effective June 16, 1986; jointly, to the Committees on Appropriations and the Judiciary.

3741. A letter from the Comptroller General of the United States, transmitting a report entitled, "Nuclear Energy—A Compendium of Relevant GAO Products on Regulation, Health, and Safety" (GAO/RCED-86-132); jointly to the Committees on Government Operations, Energy and Commerce, Interior and Insular Affairs, Armed Services, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. OAKAR: Committee on Post Office and Civil Service. H.R. 4060. A bill to amend title 5, United States Code, to provide that the full cost-of-living adjustment in annuities payable from the Civil Service Retirement and Disability Fund shall be made for 1987; with amendments (Rept. 99-642). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. H. Con. Res. 350. Concurrent resolution providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise; with an amendment (Rept. 99-643). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. H. Res. 478. Resolution providing for the consideration of H.R. 4868, a bill to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes (Rept. 99-644). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4868. Referred to the Committee on Rules for a period ending not later than June 18, 1986, for consideration of such provisions of section 4(d) of the bill and section 4(d) of the amendment recommended by the Committee on Foreign Affairs as fall within that committee's jurisdiction pursuant to clause 1(q), Rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WILLIAMS (for himself and Mr. BARTLETT):

H.R. 5036. A bill to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965; to the Committee on Education and Labor.

By Mr. WHITTEN:

H.R. 5037. A bill making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes; to the Committee on Appropriations.

By Mr. ALEXANDER:

H.R. 5038. A bill to provide for the establishment of a Presidential commission to conduct an ongoing evaluation of international terrorism, monitor the activities of the Federal agencies relating to international terrorism, and recommend specific steps the United States and its allies can take to combat the spread of international terrorism, and for other purposes; to the Committee on Foreign Affairs.

By Mr. DYSON:

H.R. 5039. A bill to amend the National Housing Act to provide the Secretary of Housing and Urban Development with permanent authority to insure mortgages on single-family dwellings; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MINETA (for himself, Mr. HOWARD, Mr. SNYDER, Mr. OBERSTAR, and Mr. HAMMERSCHMIDT):

H.R. 5040. A bill to create the National Capital Airports Corporation, to provide for the operation of the federally owned airports in the metropolitan Washington, DC, area by the Corporation, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FRENZEL (by request):

H.R. 5041. A bill to amend the Social Security Act to make administrative improvements in the programs of aid to families with dependent children and child support enforcement, and for other purposes; to the Committee on Ways and Means.

By Mr. MARTINEZ (for himself, Mr. BLAZ, Mr. BUSTAMANTE, Mr. COELHO, Mr. DE LA GARZA, Mr. DE LUGO, Mr. FUSTER, Mr. GARCIA, Mr. GONZALEZ, Mr. LUJAN, Mr. ORTIZ, Mr. RICHARDSON, Mr. ROYBAL, Mr. TORRES, Mr. BATES, Mr. BIAGGI, Mrs. BOXER, Mrs. BURTON of California, Mr. CLAY, Mr. COLEMAN of Texas, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAZIO, Mr. FRANK, Mr. HAWKINS, Mr. HAYES, Mrs. JOHNSON, Mr. KILDEE, Mr. LEHMAN of California, Mr. LEVIN of Michigan, Mr. MATSUI, Mr. MCCAIN, Mr. MINETA, Mr. PERKINS, Mr. RODINO, Mrs. SCHROEDER, Mr. SMITH of Florida, Mr. STARK and Mr. TOWNS):

H.R. 5042 A bill to establish literacy programs for individuals of limited English proficiency; to the Committee on Education and Labor.

By Mrs. SCHNEIDER (for herself, Mr. UDALL, Mr. PORTER, Mr. SEIBERLING, Mr. MILLER of Washington, and Mr. BONKER):

H.R. 5043. A bill to amend title 23, United States Code, to limit outdoor advertising adjacent to Interstate and Federal-aid primary highways; to the Committee on Public Works and Transportation.

By Mr. TALLON:

H.R. 5044. A bill to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. YOUNG of Alaska:

H.R. 5045. A bill to amend the Alaska National Interest Lands Conservation Act to provide for monetary compensation to professional registered guides in Alaska for loss of income resulting from restrictions on hunting, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WYLIE (for himself, Mr. LEACH of Iowa; Mr. SHUMWAY, Mr. PARRIS, Mr. MCCOLLUM, Mr. WORTLEY, Mrs. ROUKEMA, Mr. BEREUTER, Mr. DREIER of California, Mr. HILER, Mr. RIDGE, Mr. BARTLETT, Mr. ROTH, Mr. MCCANDLESS, Mr. KOLBE, Mr. MCMILLAN, Mr. LATTA, and Mrs. BENTLEY):

H.J. Res. 656. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HORTON (for himself, Mr. WRIGHT, Mr. MICHEL, Mr. FASCELL, Mr. BROOMFIELD, Mr. KEMP, and Mr. HOYER):

H.J. Res. 657. Joint resolution to designate October 23, 1986, as "National Hungarian Freedom Fighters Day"; to the Committee on Post Office and Civil Service.

By Mr. SENSENBRENNER:

H.J. Res. 658. Joint resolution proposing an amendment to the Constitution of the United States relating to a prohibition from service in any Federal office of any person convicted of a crime punishable by either death or imprisonment for a term exceeding 1 year; to the Committee on the Judiciary.

By Mr. DIOGUARDI:

H. Con. Res. 358. Concurrent resolution condemning the repression of ethnic Albanians by the Government of the Socialist Federated Republic of Yugoslavia; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 128: Mr. WORTLEY.

H.R. 349: Mr. MACKAY.

H.R. 526: Mr. MCHUGH, Mr. DYMALLY, Mr. WORTLEY, Mr. CHAPPELL, Mr. LANTOS, Mr. EDWARDS of Oklahoma, Mr. SOLARZ, Mrs. BOXER, and Mr. MOLLOHAN.

H.R. 704: Mr. STUMP.

H.R. 864: Mr. KINDNESS.

H.R. 997: Mr. KOSTMAYER and Mr. MARKEY.

H.R. 1156: Mr. GILMAN.

H.R. 1402: Mr. WIRTH, Mr. YATRON, Mr. DE LUGO, and Ms. MIKULSKI.

H.R. 2337: Mr. BURTON of Indiana.

H.R. 2684: Mr. PACKARD.

H.R. 2793: Mr. KOSTMAYER.

H.R. 3006: Mr. CAMPBELL.

H.R. 3099: Mr. RIDGE, Mr. SENSENBRENNER, Mr. FASCELL, and Mr. WILLIAMS.

H.R. 3263: Mr. OBERSTAR.

H.R. 3644: Mr. MCCLOSKEY.

H.R. 3654: Mr. WILLIAMS.

H.R. 3661: Mr. CRANE and Mr. SWIFT.

H.R. 3747: Mr. RICHARDSON.

H.R. 3767: Mr. HAMMERSCHMIDT.

H.R. 3866: Mr. MCCURDY.

H.R. 4030: Mr. FAUNTROY.

H.R. 4060: Mr. MILLER of California, Mr. BLILEY, Mr. MONTGOMERY, and Mr. OBEY.

H.R. 4070: Mr. FRANK.

H.R. 4140: Mr. ROBERT F. SMITH.

H.R. 4260: Mr. GONZALEZ.

H.R. 4270: Ms. OAKAR, Mr. SHUMWAY, and Mr. CHENEY.

H.R. 4333: Mr. COATS.

H.R. 4469: Mr. WILSON, Mr. EVANS of Illinois, Mr. WISE, Mr. WILLIAMS, and Mr. NOWAK.

H.R. 4473: Mr. JONES of North Carolina.

H.R. 4488: Mr. SIKORSKI, Mr. BEDELL, Mr. WALGREN, Mr. LIPINSKI, and Mr. VENTO.

H.R. 4519: Mr. KRAMER, Mr. COATS, and Mr. MCCURDY.

H.R. 4520: Mr. KRAMER, Mr. COATS, and Mr. MCCURDY.

H.R. 4524: Mr. GILMAN and Mr. BATEMAN.

H.R. 4567: Mr. ANDERSON and Mr. DERRICK.

H.R. 4650: Mr. KILDEE and Mr. BARNES.

H.R. 4671: Mr. COELHO, Mr. MOLLOHAN, Mr. BRYANT, Mr. ACKERMAN, and Mr. PEASE.

H.R. 4714: Mr. GUNDERSON.

H.R. 4738: Mr. WIRTH.

H.R. 4753: Mr. SYNAR.

H.R. 4755: Mr. SHAW.

H.R. 4762: Mr. MCKINNEY, Mr. WIRTH, and Mr. GARCIA.

H.R. 4766: Mr. HEFNER, Mrs. HOLT, Mr. ROBERTS, and Mr. BEDELL.

H.R. 4787: Mr. GUNDERSON, Mr. WEBER, and Mr. MILLER of Washington.

H.R. 4792: Mr. DASCHLE.

H.R. 4812: Mr. SMITH of New Hampshire.

H.R. 4817: Mr. HUGHES, Mr. RODINO, and Mr. GARCIA.

H.R. 4824: Mr. GLICKMAN.

H.R. 4825: Mr. NIELSON of Utah and Mr. VENTO.

H.R. 4828: Mr. WHITEHURST.

H.R. 4853: Mr. GRAY of Illinois.

H.R. 4876: Mr. BATEMAN, Mr. BENNETT, and Mr. GREGG.

H.R. 4882: Mr. YATRON, Mr. VENTO, Mr. LOWRY of Washington, Mr. MARKEY, Mrs. BURTON of California, and Mr. DYMALLY.

H.R. 4889: Mr. LENT, Mr. BONKER, Mr. GEJDENSON, and Mr. KLECZKA.

H.R. 4924: Mr. STARK, Mr. JACOBS, Mrs. BOXER, Mr. WILSON, Mr. MONSON, Mr. CHANDLER, Mr. STUDDS, Mr. HANSEN, Mr. PACKARD, Mr. STENHOLM, Mr. NIELSON of Utah, Mr. CONYERS, Mr. MRAZEK, Mr. MILLER of California, Mr. ORTIZ, Mr. DURBIN, Mr. CHAPMAN, Mr. WAXMAN, Mr. LUKEN, Mr. DOWNEY of New York, Mr. WEISS, Mr. SCHEUER, Mr. GIBBONS, Mr. LOWRY of Washington, Mr. MICA, Mr. BENNETT, and Mr. EDWARDS of California.

H.R. 4937: Mr. WILLIAMS.

H.R. 4945: Mr. WHITEHURST, Mrs. BURTON of California, Mr. SEIBERLING, Mr. MILLER of California, Mr. LAGOMARSINO, Mr. STENHOLM, Ms. OAKAR, Mr. NELSON of Florida, Mr. MITCHELL, and Mr. HENDON.

H.R. 4953: Mr. PACKARD, Mr. COBEY, and Mr. JEFFORDS.

H.R. 4984: Mr. GRAY of Illinois.

H.R. 5000: Mr. PACKARD, Mr. KOLBE, and Mr. CAMPBELL.

H.R. 5011: Mr. COBEY.

H.J. Res. 7: Mr. WYLIE.

H.J. Res. 127: Mrs. JOHNSON and Mr. HEFTEL of Hawaii.

H.J. Res. 231: Mr. HENRY.

H.J. Res. 244: Mr. WILSON, Mr. LIPINSKI, and Mr. GEPHARDT.

H.J. Res. 429: Mr. PARRIS, Mr. WOLPE, Mr. EVANS of Illinois, Mr. MOLINARI, Mr. LUN-

GREN, Mr. KILDEE, Mr. BLAZ, Mr. MOAKLEY, and Mr. FOLEY.

H.J. Res. 458: Mr. ROTH.

H.J. Res. 498: Mr. GLICKMAN.

H.J. Res. 524: Mr. CARNEY, Mr. MCDADE, Ms. OAKAR, Mr. SOLOMON, Mr. EVANS of Illinois, Mr. DAUB, Mr. DYMALLY, Mr. FRANKLIN, and Mrs. HOLT.

H.J. Res. 529: Mr. KEMP, Mr. DIXON, Mr. LEHMAN of California, Mr. BOSCO, Mr. RODINO, Mr. BROWN of California, Mr. LUNGREN, Mr. LEWIS of California, Mr. JONES of North Carolina, Mr. SNYDER, Mr. BOUCHER, Mr. NEAL, Mr. REID, Mr. DANIEL, Mr. DORGAN of North Dakota, Mr. TAUKE, Mr. HEFNER, Mr. ROBERTS, Mr. HYDE, Mr. MOORE, Mr. CONYERS, Mr. MARKEY, Mr. SAVAGE, Mr. SKELTON, Mr. MONSON, Mr. HANSEN, Mr. CONTE, Mr. BATES, Mr. TRAXLER, Mrs. LLOYD, and Mr. COYNE.

H.J. Res. 531: Mr. FLORIO and Mr. COURTER.

H.J. Res. 577: Mr. EMERSON, Mr. DICKINSON, Mr. HATCHER, Mr. WALGREN, Mr. ERDREICH, Mr. MORRISON of Washington, Mr. DANNEMEYER, Mrs. JOHNSON, Mr. DORGAN of North Dakota, and Mr. SABO.

H.J. Res. 623: Mr. DINGELL and Mr. FOGLIETTA.

H.J. Res. 624: Mr. CRANE.

H.J. Res. 640: Mrs. HOLT, Mr. SKELTON, Mr. RITTER, Mr. BONKER, Mr. DURBIN, Mr. FAUNTROY, Mr. KASICH, Mr. HERTEL of Michigan, Mr. DANNEMEYER, Mr. BENNETT, Mr. VENTO, Mr. CROCKETT, Mr. EDWARDS of Oklahoma, and Mr. LUKEN.

H.J. Res. 642: Mr. VALENTINE, Mr. MONSON, Mr. TAUKE, Mr. STALLINGS, Mr. RAHALL, Mr. VENTO, Mr. FEIGHAN, Mr. RUDD, Mrs. LONG, Mr. SCHEUER, Mr. FOLEY, Mr. SPENCE, Mr. PANETTA, Mr. MOORE, Mr. KASICH, Mr. DARDEN, Mr. CHAPPIE, Mr. JONES of North Carolina, Mr. WORTLEY, Mr. BATES, Mr. HUTTO, Mr. DAUB, Mr. CLAY, Mr. SAXTON, and Mr. NOWAK.

H. Con. Res. 116: Mr. COBEY.

H. Con. Res. 127: Mr. SPENCE and Mr. TAUZIN.

H. Con. Res. 129: Mr. BROYHILL.

H. Con. Res. 244: Mr. BONER of Tennessee, Mr. DOWNEY of New York, Mr. DYMALLY, Mr. GILMAN, Mr. HAWKINS, Mr. KLECZKA, Mr. KOLTER, Mr. LELAND, Mr. LIPINSKI, Mr. MCCURDY, Mr. MILLER of Washington, Mr. MURPHY, Mr. PEASE, Mr. ST GERMAIN, Mr. SIKORSKI, Mr. STOKES, Mr. WEAVER, and Mr. WHEAT.

H. Con. Res. 291: Mr. FRANK, Mr. DYMALLY, Mr. PURSELL, Mr. MITCHELL, Mr. DIXON, Mr. CROCKETT, Mr. LEHMAN of Florida, Mr. REID, Mr. YATRON, Mr. LANTOS, Mr. BIAGGI, Mr. NIELSON of Utah, Mr. ROYBAL, Mr. MATSUI, Mr. BERMAN, Mr. LEVINE of California, and Mr. KOLBE.

H. Con. Res. 308: Mr. HEFNER, Mr. KILDEE, Mr. HENDON, Mr. MCHUGH, Mr. REID, Mr. MARTINEZ, Mr. MONSON, Mr. LEACH of Iowa, Mr. PERKINS, Mrs. BYRON, Mr. MOAKLEY, Mr. LOEFFLER, Mr. DAVIS, and Mr. HAMILTON.

H. Con. Res. 317: Mr. AKAKA, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANDREWS, Mr. ASPIN, Mr. ATKINS, Mr. BARNARD, Mr. BARNES, Mr. BATEMAN, Mr. BATES, Mr. BARTLETT, Mr. BEDELL, Mr. BEILENSON, Mr. BLILEY, Mr. BONIOR of Michigan, Mr. BONKER, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mr. BROOKS, Mr. BRYANT, Mr. CLAY, Mr. COBEY, Mr. COELHO, Mr. COLEMAN of Texas, Mr. COOPER, Mr. DANIEL, Mr. DASCHLE, Mr. DAUB, Mr. DERRICK, Mr. DICKS, Mr. DIOGUARDI, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. DOWNEY of New York, Mr. EDGAR, Mr. EDWARDS of California, Mr. FLORIO, Mr. FOLEY, Mr. FORD of Tennessee, Mr. FOWLER, Mr. GEPHARDT, Mr. GIBBONS, Mr. GINGRICH, Mr. GLICKMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GUARINI, Mr. RALPH M. HALL, Mr. HALL of Ohio, Mr. HEFNER, Mr. HOWARD, Mr. HUBBARD, Mr. JONES of Oklahoma, Mr. KEMP, Mrs. KENNELLY, Mr. KLECZKA, Mr. LEATH of Texas, Mr. LIPINSKI, Mrs. LLOYD, Mr. LUNGREN, Mr. MANTON, Mr. MARKEY, Mr. MATSUI, Mr. MCHUGH, Mr. MINETA, Mr. MITCHELL, Mr. MOODY, Mr. NEAL, Mr. NELSON of Florida, Ms. OAKAR, Mr. PANETTA, Mr. PERKINS, Mr. PETRI, Mr. RAHALL, Mr. RANGEL, Mr. RAY, Mr. REID, Mr. RITTER, Mr. ROEMER, Mr. ROSE, Mr. RUSSO, Mr. SEIBERLING, Mr. SHELBY, Mr. SISISKY, Mr. SKELTON, Mr. SLATTERY, Mr. SMITH of Iowa, Mr. SOLARZ, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STARK, Mr. STOKES, Mr. STRANG, Mr. STRATTON, Mr. SWIFT, Mr. TAUZIN, Mr. TORRES, Mr. TRAFICANT, Mr. TRAXLER, Mr. WALKER, Mr. WATKINS, Mr. WAXMAN, Mr. WEBER, Mr. WEAVER, Mr. WHITLEY, Mr. WILLIAMS, Mr. WYDEN, Mr. VENTO, Mr. YOUNG of Missouri, Mr. BENNETT, Mr. DARDEN, Mr. DELLUMS, Mr. DIXON, Mr. FLIPPO, Mr. HERTEL of Michigan, Mr. LEHMAN of California, Mrs. LONG, Mr. LUNDINE, Mr. MCCURDY, Mr. OLIN, Mr. PENNY, Mr. SAVAGE, Mr. WHEAT, Mr. YATES, Mr. YATRON, Mr. HYDE, and Mr. MCDADE.

H. Con. Res. 332: Mr. HENRY, Mr. DIOGUARDI, Mr. HERTEL of Michigan, Mr. LENT, Mr. PORTER, Mr. LEWIS of California, Mr. SOLOMON, Mrs. KENNELLY, Mr. SCHEUER, Mr. WOLF, Mr. BUSTAMANTE, Mr. GARCIA, Mr. RINALDO, Mr. FISH, Mr. ECKERT of New York, Mr. BERMAN, Mr. LIPINSKI, Mr. TRAFICANT, Mr. DONNELLY, Mr. RODINO, Mrs. BENTLEY, Mrs. BOXER, Mr. ST GERMAIN, Mr. RITTER, Mr. BILIRAKIS, Mr. CARPER, Mr. BORSKI, Mr. CRANE, Mr. MCDADE, Mr. MANTON, Mr. HYDE, Mr. MCCLOSKEY, Mr. OBERSTAR, Mr. FRENZEL, Mr. MOAKLEY, and Mr. VANDER JAGT.

H. Con. Res. 334: Mr. BORSKI.

H. Con. Res. 338: Mr. CARPER, Mr. VENTO, Mr. HEFNER, Mr. FAWELL, Mr. CROCKETT, Mr. BIAGGI, Mr. SEIBERLING, Mr. FAZIO, Ms. KAPTUR, Mr. ROBINSON, and Mrs. COLLINS.

H. Con. Res. 353: Mr. GREEN, and Mr. YATRON.

H. Res. 116: Mr. FUSTER, Mr. BEILENSON, Mrs. BENTLEY, Mr. DE LUGO, Mr. WOLF, Mr. MRAZEK, Mr. GEPHARDT, Mr. HENRY, Mr. KOSTMAYER, Mr. BEDELL, Mr. SCHEUER, Mr. LEVINE of California, Mr. HAMILTON, and Mr. DORGAN of North Dakota.

H. Res. 373: Mr. KOSTMAYER, Mr. KASTENMEIER, Mrs. BOGGS, and Mr. BONIOR of Michigan.

H. Res. 404: Mr. BOSCO, Mr. CROCKETT, Mr. DORNAN of California, Mr. DUNCAN, Mr. ECKART of Ohio, Mr. HUGHES, Mr. JACOBS, Mr. MCGRATH, and Mr. ROBERTS.

H. Res. 438: Mr. SAVAGE, Mr. WEISS, Mr. MRAZEK, Mr. WOLPE, Mr. DORNAN of California, Mr. GARCIA, Mr. EVANS of Illinois, and Mr. HUGHES.

H. Res. 451: Mr. ARMEY, and Mr. MOLLOHAN.

H. Res. 461: Mr. ROBINSON, Mrs. VUCANOVICH, Mr. BARNES, Mr. FAZIO, Mr. DE LUGO, and Mr. BLILEY.

H. Res. 462: Mr. OBERSTAR, Mr. LEVINE of California, Mr. FRENZEL, Mr. LANTOS, and Mr. ACKERMAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

390. By the SPEAKER: Petition of the New England District (1), United Steelworkers of America, Cambridge MA, relative to the conflicts in Central America; to the Committee on Foreign Affairs.

391. Also, petition of Mr. W. Bieder, et al, Vienna, Austria, relative to the removal of Navajo and Hopi families from their homeland; to the Committee on Interior and Insular affairs.

392. Also, petition of the Association of American Geographers, Washington, DC; relative to nuclear weapons; jointly, to the Committees on Foreign Affairs and Armed Services.

393. Also, petition of the Board of Supervisors, County of Los Angeles, CA; relative to H.R. 3810, the Immigration Reform and Legalization Act of 1985; jointly, to the Committees on the Judiciary and Armed Services.

394. Also, petition of the Nevada Commission on Nuclear Projects, Carson City, NV; relative to the proposed transportation corridors for high-level radioactive waste; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4868

By Mr. BURTON of Indiana:

—In section 5(b), insert the following after paragraph (2): "No such assistance may be used to support, directly or indirectly, the African National Congress or any organization or institution affiliated therewith, until such time as the controlling body of the African National Congress no longer includes members of the South African Communist Party."

—Insert the following after section 7 and redesignate the succeeding sections and references thereto, accordingly:

SEC. 8. EXEMPTION FOR CERTAIN COMPANIES.

(a) EXEMPTION FOR COMPANIES COMPLYING WITH SULLIVAN PRINCIPLES.—The prohibitions contained in this Act shall not apply with respect to any business enterprise located in South Africa which, in the operation of that business enterprise, implements those principles set forth in subsection (b).

(b) STATEMENT OF PRINCIPLES.—The principles referred to in subsection (a) are the following:

(1) DESEGREGATING THE RACES.—Desegregating the races in each employment facility, including—

(A) removing all race designation signs;

(B) desegregating all eating, rest, and work facilities; and

(C) terminating all regulations which are based on racial discrimination.

(2) EQUAL EMPLOYMENT.—Providing equal employment for all employees with regard to race or ethnic origin, including—

(A) assuring that any health, accident, or death benefit plans that are established are nondiscriminatory and open to all employees without regard to race or ethnic origin; and

(B)(i) implementing equal and nondiscriminatory terms and conditions of employment for all employees, and (ii) abolishing job reservations, job fragmentation, apprenticeship restrictions for blacks and other nonwhites, and differential employment crite-

ria, which discriminate on the basis of race or ethnic origin.

(3) EQUITABLE PAY SYSTEM.—Assuring that the pay system is equitably applied to all employees without regard to race or ethnic origin, including—

(A) assuring that any wage and salary structure that is implemented is applied equally to all employees without regard to race or ethnic origin;

(B) eliminating any distinctions between hourly and salaried job classifications on the basis of race or ethnic origin; and

(C) eliminating any inequities in seniority and ingrade benefits which are based on race or ethnic origin.

(4) MINIMUM WAGE AND SALARY STRUCTURE.—Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families.

(5) INCREASING BLACKS AND OTHER NONWHITES IN CERTAIN JOBS.—Increasing, by appropriate means, the number of blacks and other nonwhites in managerial, supervisory, administrative, clerical, and technical jobs for the purpose of significantly increasing the representation of blacks and other nonwhites in such jobs, including—

(A) developing training programs that will prepare substantial numbers of blacks and other nonwhites for such jobs as soon as possible, including—

(i) expanding programs and forming new programs to train, upgrade, and improve the skills of all categories of employees, including establishing and expanding programs to enable employees to further their education and skills at recognized education facilities; and

(ii) creating on-the-job training programs and facilities to assist employees to advance to higher paying jobs requiring greater skills; (B) establishing procedures to assess, identify, and actively recruit employees with potential for further advancement;

(C) identifying blacks and other nonwhites with high management potential and enrolling them in accelerated management programs; and

(D) establishing timetables to carry out this paragraph.

(6) IMPROVING LIFE OUTSIDE THE WORKPLACE.—Taking reasonable steps to improve the quality of employees lives outside the work environment with respect to housing, transportation, schooling, recreation, and health, including—

(A) providing assistance to black and other nonwhite employees for housing, health care, transportation, and recreation either through the provision of facilities or services or providing financial assistance to employees for such purposes, including the expansion or creation of in-house medical facilities or other medical programs to improve medical care for black and other nonwhite employees and their dependents; and

(B) participating in the development of programs that address the education needs of employees, their dependents, and the local community.

(7) FAIR LABOR PRACTICES.—Implementing fair labor practices, including—

(A) recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity;

(B) refraining from—

(i) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization under this paragraph,

(ii) dominating or interfering with the formation or administration of any labor organization or sponsoring, controlling, or contributing financial or other assistance to it, except that an employer may permit employees to confer with the employer during working hours without loss of time or pay,

(iii) encouraging or discouraging membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other condition of employment,

(iv) discharging or otherwise disciplining or discriminating against any employee who has exercised any rights of self-organization under this paragraph, and

(v) refusing to bargain collectively with any organization freely chosen by employees under this paragraph; and

(C)(i) allowing employees to exercise rights of self-organization, including solicitation of fellow employees during nonworking hours, (ii) allowing distribution and posting of union literature by employees during nonworking hours in nonworking areas, and (iii) allowing reasonable access to labor organization representatives to communicate with employees on employer premises at reasonable times where there are no other available channels which will enable the labor organization to communicate with employees through reasonable efforts.

(8) ACTIVITIES OUTSIDE THE WORKPLACE.—Taking reasonable measures to extend the scope of influence on activities outside the workplace, including—

(A) supporting the unrestricted rights of black businesses to locate in urban areas;

(B) influencing other companies in South Africa to follow the standards of equal rights principles;

(C) supporting the freedom of mobility of black workers to seek employment opportunities wherever they exist, and making provision for adequate housing for families of employees within the proximity of workers' employment; and

(D) supporting the recission of all apartheid laws.

—Insert the following after section 7 and redesignate the succeeding sections, and references thereto, accordingly:

SEC. 8. EXEMPTION FOR CERTAIN COMPANIES.

The prohibitions contained in this Act shall not apply with respect to any business enterprise which is controlled by South Africans disadvantaged by the apartheid system.

H.R. 4868

By Mr. CONYERS:

—Insert the following after section 7 and redesignate succeeding sections and references thereto accordingly:

SEC. 8. NUCLEAR EXPORTS.

(a) COOPERATION.—Cooperation of any kind provided for in the Atomic Energy Act of 1954 is hereby prohibited with respect to the Republic of South Africa.

(b) NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS.—The Nuclear Regulatory Commission may not issue any license or other authorization under the Atomic Energy Act of 1954 for the export to the Republic of South Africa of any source or special nuclear material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109 b. of the Atomic Energy Act of 1954, or any other material or technology requiring such a license or authorization.

(c) DISTRIBUTION OF NUCLEAR MATERIAL.—The authority of the Atomic Energy Act of 1954 may not be used to distribute any special nuclear material, source material, or byproduct material to the Republic of South Africa.

(d) SUBSEQUENT ARRANGEMENTS.—No department, agency, or official of the United States Government may enter into any subsequent arrangement under the Atomic Energy Act of 1954 which would permit the transfer to or use by the Republic of South Africa of any nuclear materials and equipment or any nuclear technology.

(e) AUTHORIZATIONS OF SECRETARY OF ENERGY.—The Secretary of Energy may not provide any authorization (either in the form of a specific or a general authorization) under section 57 b. (2) of the Atomic Energy Act of 1954 for any activity which would constitute directly or indirectly engaging the Republic of South Africa in activities which require an authorization under that section.

(f) EXPORT LICENSES.—

(1) NUCLEAR RELATED USES.—The Secretary of Commerce may not issue any license under the Export Administration Act of 1979 for the export indirectly to the Republic of South Africa of any goods or technology—

(A) which are intended for a nuclear related end use or end user;

(B) which have been identified pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 as items which could, if used for purposes other than those for which the export is intended, be of significance for nuclear explosive purposes; or

(C) which are otherwise subject to the procedures established pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(2) PROHIBITION ON ADDITIONAL EXPORTS.—In addition, the Secretary of Commerce shall use the authorities set forth in the Export Administration Act of 1979 to prohibit any export directly or indirectly to the Republic of South Africa of any goods and technology contained on any of the lists prepared pursuant to paragraph (3) of this subsection. Export controls shall be imposed pursuant to this paragraph without regard to the requirements otherwise applicable to the imposition of export controls under the Export Administration Act of 1979.

(3) LIST OF PROHIBITED GOODS AND TECHNOLOGY.—Not later than 6 months after the date of the enactment of this Act, the Nuclear Regulatory Commission, the Secretary of Commerce, the Secretary of Energy, and the Secretary of State shall each prepare a list of all goods or technology, whose transfer to the Republic of South Africa is not otherwise prohibited by this section, which in their judgment could, if made available to the Republic of South Africa, increase the ability of that country to design, develop, fabricate, test, operate, or maintain nuclear materials, nuclear facilities, or nuclear explosive devices. Such lists shall include goods or technology which, although not intended for any of the specified nuclear related end uses, could be diverted to such a use.

(g) INFORMATION.—No officer or employee in any department or agency of the executive branch (including the Nuclear Regulatory Commission) may make available to the Republic of South Africa, directly or indirectly, any technology or other information which could increase the ability of that country to design, develop, fabricate, test, operate, or maintain nuclear materials, nu-

clear facilities, or nuclear explosive devices. This subsection does not require that an officer or employee withhold information in published form which is available to the public from such officer or employee.

(h) PRIOR LICENSES AND AUTHORIZATIONS.—Any license or authorization described in this section which was issued before the enactment of this Act is hereby terminated.

SEC. 9. OTHER EXPORTS.

(a) ITEMS ON CONTROL LIST.—Any goods or technology which are subject to export controls under the Export Administration Act of 1979 and the export of which are not otherwise prohibited by section 8 may not be exported, directly or indirectly, to South Africa.

(b) ITEMS ON THE UNITED STATES MUNITIONS LIST.—Any item on the United States Munitions List established pursuant to section 38(a)(1) of the Arms Export Control Act may not be exported, directly or indirectly, to South Africa.

In section 4(a)(2) of the bill, insert before the period the following: ", the export of which is not otherwise prohibited by section 8 or 9".

H.R. 4868

By Mr. DELLUMS:

—In section 4, strike paragraphs (1) and (2) and insert the following:

(1) no United States person may, directly or through another person, make or hold any investment in South Africa;

(2) notwithstanding any other provision of law, no article which is the growth, produce, or manufacture of South Africa may be imported into the United States, except for those strategic minerals of which the President certifies to the Congress that the quantities essential for military uses exceed reasonably secure domestic supplies and for which substitutes are not available; and

(3) no goods, technology, or other information subject to the jurisdiction of the United States may be exported to South Africa, and no goods, technology, or information may be exported to South Africa by any person subject to the jurisdiction of the United States.

The prohibition contained in paragraph (3) shall apply to goods, technology, or other information of any kind, which is subject to controls under the Export Administration Act of 1979, the Arms Export Control Act, the Atomic Energy Act of 1954, or any other provision of law. The prohibition contained in paragraph (3) shall not apply to exports described in section 6(g) of the Export Administration Act of 1979.

(Amendment in the nature of a substitute.)

—strike all after the enacting clause and insert the following:

SECTION 1. PROHIBITION ON INVESTMENTS IN SOUTH AFRICA.

No United States person may, directly or through another person, make or hold any investment in South Africa.

SEC. 2. PROHIBITION ON IMPORTS AND EXPORTS FROM SOUTH AFRICA.

(a) IMPORTS.—Notwithstanding any other provision of law, no article which is the growth, produce, or manufacture of South Africa may be imported into the United States, except for those strategic minerals of which the President certifies to the Congress that the quantities essential for military uses exceed reasonably secure domestic supplies and for which substitutes are not available.

(b) EXPORTS.—

(1) GENERAL RULE.—No goods, technology, or other information subject to the jurisdiction of the United States may be exported to South Africa, and no goods, technology, or other information may be exported to South Africa by any person subject to the jurisdiction of the United States. The prohibition contained in this paragraph shall apply to goods, technology, or other information of any kind, which is subject to controls under the Export Administration Act of 1979, the Arms Export Control Act, the Atomic Energy Act of 1954, or any other provision of law.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply to exports described in section 6(g) of the Export Administration Act of 1979.

SEC. 3. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) DEFINITIONS.—For purposes of this section, the terms "aircraft" and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958.

SEC. 4. PROHIBITION ON IMPORTATION OF KRUGERRANDS.

No person may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

SEC. 5. ENFORCEMENT PENALTIES.

(a) AUTHORITIES OF THE PRESIDENT.—The President shall take the necessary steps to ensure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with such provisions, regulations, licenses and orders. In ensuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and production of all books, papers, and documents relating to any matter under investigation.

(b) VIOLATIONS.—Any person that knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall—

(1) if other than an individual, be fined not more than $500,000; and

(2) if an individual, be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(c) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who willfully carried out such act or practice,

shall, upon conviction, be fined not more than $250,000, or imprisoned not more than five years, or both.

(2) RESTRICTION OF PAYMENT OF FINES.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d) SEIZURE AND FORFEITURE OF AIRCRAFT.—Any aircraft used in connection with a violation of section 3 or any regulation, license, or order issued to carry out that section shall be subject to seizure by and forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 6. REGULATORY AUTHORITY.

The President may issue such regulations, licenses, and orders as are necessary to carry out this Act.

SEC. 7. DEFINITIONS.

For purposes of this Act—

(1) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) UNITED STATES PERSON.—The term "United States person" means any United States resident or national and any partnership, corporation, or other entity organized under the laws of the United States or of any of the several States, of the District of Columbia, or of any commonwealth, territory, or possession of the United States.

(3) INVESTMENT IN SOUTH AFRICA.—The term "investment in South Africa" means—

(A) a commitment of funds or other assets (in order to earn a financial return) to a business enterprise located in South Africa or owned or controlled by South African nationals, including—

(i) a loan or other extension of credit made to such a business enterprise, or security given for the debts of such a business enterprise;

(ii) the beneficial ownership or control of a share or interest in such a business enterprise, or of a bond or other debt instrument issued by such a business enterprise; or

(iii) capital contributions in money or other assets to such a business enterprise; or

(B) the control of a business enterprise located in South Africa or owned or controlled by South African nationals, in cases in which subparagraph (A) does not apply.

(4) SOUTH AFRICA.—The term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(5) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as such ownership or control is determined under regulations which the President shall issue.

(6) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

(7) SOUTH AFRICAN NATIONAL.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(8) CONTROL BY SOUTH AFRICAN NATIONALS.—For purposes of paragraph (3)(A), South African nationals shall be presumed to control a business enterprise if—

(A) South African nationals beneficially own or control (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise;

(B) South African nationals benefically own or control (whether directly or indirectly) 25 percent or more of the voting securities of the business enterprise, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(C) the business enterprise is operated by South African nationals pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of a South African national;

(E) South African nationals have the authority to appoint a majority of the members of the board of directors of the business enterprise; or

(F) South African nationals have the authority to appoint the chief operating officer of the business enterprise.

(9) CONTROL BY UNITED STATES PERSONS.—For purposes of paragraph (3)(B), a United States person shall be presumed to control a business enterprise if—

(A) the business enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(B) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the United States person;

(C) the United States person has authority to appoint a majority of the members of the board of directors of the business enterprise; or

(D) the United States person has authority to appoint the chief operating officer of the business enterprise.

SEC. 8. APPLICABILITY TO EVASIONS OF ACT.

This Act shall apply to any United States person who undertakes or causes to be undertaken any transaction or activity with the intent to evade the provisions of this Act or any regulation, license, or order issued to carry out this Act.

SEC. 9. EFFECTIVE DATE.

The provisions of this Act shall take effect 180 days after the date of the enactment of this Act.

H.R. 4868

By Mr. SILJANDER:

—In section 2(b) of the bill, insert the following after paragraph (3):

(4) The prohibitions contained in subsection (a)(1)(A) and (B) shall not apply with respect to wheat, corn, rice, any other agricultural commodity, computers, computer software, or any goods or technology intended to service computers.

Strike section 4 of the bill, and redesignate succeeding sections and references thereto accordingly.

H.R. 4868

By Mr. WOLPE:

—In section 2(a)(1), strike "directly or through another person".

In section 4(a)(1), strike "directly or through another person,".

In section 7(a), strike "directly or through another person".

In section 12(a)(2)(A), insert "directly" after "financial return)".

SENATE—*Tuesday, June 17, 1986*

(Legislative day of Monday, June 16, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The prayer this morning is a Gelasian sacramentary from the eighth century * * *

O, God, Light of the minds that know Thee, strength of the thoughts that seek Thee and life of the souls that love Thee, to Whom to be turned is to rise, from Whom to be turned away is to fall, and in Whom to abide is to stand fast forever; grant us Thy forgiveness and Thy blessing, and though we are unworthy lift us up to Thee. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader is recognized.

SCHEDULE

Mr. ANDREWS. Mr. President, the program for the Senate today is that the Senate will convene, as we have, at 9:30 a.m. The two leaders under the standing order will be recognized for 10 minutes each. There are special orders in favor of the following Senators for not to exceed 5 minutes each. Senator HECHT, Senator PROXMIRE, Senator GOLDWATER, Senator KERRY, Senator DENTON, Senator GORE, Senator WALLOP, Senator SASSER, Senator SYMMS, and Senator LEAHY.

There will be routine morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

At 10:30 a.m., the Senate will resume the unfinished business, H.R. 3838, the tax reform bill. Votes could occur prior to 12 noon in relation to H.R. 3838.

The Senate will stand in recess between the hours of 12 noon and 2 p.m. in order for the weekly party caucuses to meet. At 2 p.m. the Senate will again resume H.R. 3838, the tax reform bill. Votes can be expected throughout the day today.

Mr. President, I reserve the remainder of the majority leader's time for the Senator from Wyoming [Mr. WALLOP].

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The able Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

TAX REFORM

Mr. BYRD. Mr. President, I believe that the Senate will complete action this week on the tax bill. Certainly we should be able to complete action by the first of next week, but I hope we will complete action this week.

The tax bill reverses the trend of putting the burden on the middle class, and it makes some overdue improvements in the Tax Code. It moves in the direction of increasing fairness, but it can and it should go further in that direction.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. ANDREWS). The Senator is correct. The Senate will be in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

At Mr. LEVIN's request, the Joint Committee on Taxation has estimated the winners and losers in this bill. For 55 percent of the income group over $200,000, the average tax cut is $53,000.

That is double the total median income of family taxpayers in this country.

I do not believe that the American people feel that this group of 359,000 tax filers need a tax cut of that size.

In a study done last year, the Joint Tax Committee found that 152,000 taxpayers in the $200,000-and-above income group used tax shelters to reduce their taxes by $6 billion. That is an average of $41,000 on each tax return.

This bill nails up the condemnation notices on tax shelters and sends in the bulldozers to sweep them out. I applaud that.

But as the Government begins collecting revenues on the taxes now sheltered, it should use those revenues to assist all Americans, and especially should the middle-income taxpayer receive benefits that will relieve him of the lion's share of the burden that he now bears.

The middle class, in fact, has been bearing the burden of extra taxes because so many of the very high-income individuals in this country have used tax shelters so extensively.

The committee bill improves the take-home pay of the middle classes less than it does of the income group over $200,000. I am not just talking about dollar increases, which could be expected; I am talking in terms of percentage increases in take-home pay, which should not be the case.

To correct this inequity, we should assure that every sector of the middle class gets a percentage increase in take-home pay that is at least equal to the average increase in takehome pay for all high-income taxpayers.

Mr. President, I believe that middle America is entitled to a better tax break.

VISIT OF AFGHAN REBEL LEADERS

Mr. BYRD. Mr. President, the New York Times and the Washington Post report a visit to this country of Afghan rebel leaders. Mr. Burhanuddin Rabbani is the leader of the Afghan rebel coalition.

The President met yesterday with the coalition leaders, and I met with the leaders following their visit with the President. I hosted a luncheon in their honor with Senators INOUYE, PELL, HOLLINGS, MELCHER, SASSER, and LEVIN. We had a very productive discussion on the current state of affairs in Afghanistan with Mr. Rabbani and his delegation.

Our luncheon itself was a testament to the increased unity of the Afghan resistance. The leaders of various religious and political factions were represented in this group.

They spoke to us of their cooperation in the campaign to return Afghanistan to its people. They spoke of the hardships, the profound cost in human lives, and the extreme brutality of an enemy that makes war on unarmed women and children. And they told us that, after more than 6 years of Soviet occupation and a genocidal campaign against the Afghan people, "They have not destroyed the will of the people."

On May 5, the seventh round of United Nations-sponsored talks on the Afghanistan occupation began. The Soviets have enjoyed a very good return on their investment in public relations. Through a series of asides

and so-called leaks to the press, Soviet officials have hinted at a desire on the part of their leadership to end the Afghan occupation. Now we see reports of a timetable for Soviet withdrawal. The departure of President Karmal has fed speculation of a new willingness to reach an agreement. But the talks adjourned on May 23 with United Nations representatives declaring that the parties were very far apart. A recent Far East Economic Review article provides an excellent summary of events.

When I met with General Secretary Gorbachev—and seven other Senators were in the delegation that met with Mr. Gorbachev—we told him that he had the ability to end the Afghan crisis anytime he wished to simply by withdrawing Soviet troops. We think that point bears remembering now.

While the Soviet forces on the ground have stepped up their war on the Afghan people, displacing millions—millions—and killing untold scores of thousands—old men, women, children, and young men and others who bear arms, such arms as they can get—Moscow basks in the rhetoric of good intentions.

We all hope the United Nations' talks will result in genuine progress and the return of Afghanistan's sovereignty in peace and dignity. The success of those talks rests solely upon the Soviet Union.

I commend Mr. Rabbani and his colleagues. Their courage and determination are inspirational. We are grateful that he and his associates could take time away from their struggle to free their country to share their insights with us. All the Senators present left our gathering with a renewed commitment to support the effort that Mr. Rabbani spearheads. I hope that our efforts—in general—will encourage other nations to join in support for the struggle of the Afghan people, particularly the Muslem nations. And I hope that members of the press will renew their efforts to keep this struggle, which has been going on for more than 6 years, with hundreds of thousands of Afghans dying for liberty and for their country, with antiquated weapons, sometimes little more than rifles or pistols or a few hand grenades—before the eyes of the world.

Mr. President, I ask unanimous consent that an article from the Far East Economic Review of June 12 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOSCOW'S WITHDRAWAL RUSE

(By Rodney Tasker in Islamabad)

The seventh round of indirect talks in Geneva between Afghanistan and Pakistan went quickly to the heart of the antagonism between the two countries: the presence of 120,000 Soviet troops in Afghanistan. But this last diplomatic hurdle in the four-year-long talks is proving to be a solid brick wall.

After the talks were adjourned on 23 May, to be resumed on 30 July, UN mediator Diego Cordovez put on a brave face to announce that there had been "substantial progress" in what he described as a crucial stage in the intermittent talks. Pakistani Foreign Minister Yaqub Khan echoed Cordovez' optimism on his return to Islamabad, probably more to convey the impression that Pakistan was not dragging its heels in the negotiations than any true reflection of the Moscow-backed regime in Kabul.

Diplomatic sources said the issue of a timetable for the withdrawal of Soviet forces from the Afghan battleground is an impasse that may well redound to the advantage of the Soviets. If the Soviet-Afghan side can convince the world that it wants the Soviet troops to be pulled out, but that the Pakistanis are quibbling about the timeframe, the annual UN General Assembly vote condemning Moscow's military occupation of Afghanistan might start to waver. And that seems to be Moscow's plan.

A senior Pakistani Foreign Ministry official said the Afghans want the Soviets to be allowed three to four years to pull out their troops, while Pakistan saw no reason why this could not be done in six months. "We were disappointed by the attitude of the Afghan side," the official told the Review. He described Kabul's timetable as "utterly unreasonable and unacceptable," adding that Islamabad now believes that "the Soviet objective is to engage in a process of repression and liquidation of opposition to the regime they have installed in Kabul."

The two sides have already drafted agreements on the issues of reciprocal assurances between the two countries of non-interference in each other's affairs, the return of 3 million Afghan refugees now living in Pakistan to their homeland and for the U.S. and the Soviet Union to act as guarantors of a political settlement. These clauses would be components of any eventual agreement package. But apart from the timeframe for a Soviet withdrawal, the question of a simultaneous cut-off of support for the mujahideen rebels in Afghanistan is proving problematic. Although Pakistan officially denies it, the Muslim rebels are receiving increasingly sophisticated weapons and ammunition from the U.S., China, Egypt and other Middle East sources.

The mujahideen themselves are likely to be another hurdle in the progress towards a settlement between Pakistan and Afghanistan. Despite Pakistan's attempts to convince them that a Geneva agreement would allow them to live peacefully in their country, the rebels scorn the negotiations as an attempt by the Soviets to appear the honest broker and to defuse international condemnation while they systematically try to mop up the resistance. The attitude of Iran, which also has 1 million Afghan refugees on its soil, to any settlement is another imponderable, given its insistence that any political solution should first be cleared with the refugees.

Even if there is agreement on a timeframe for a Soviet withdrawal, the Pakistanis are concerned about the prospect of continued mujahideen violence giving the Soviets a pretext to remain in the country and also to swing world opinion in their favour. Statements by Soviet leader Mikhail Gorbachov and, latterly, by former Soviet ambassador to the U.S. Anatoli Dobrayain, suggesting that Moscow is anxious to get its soldiers out of the Afghan quagmire had boosted hopes for a settlement. But the Pakistanis did not detect any such sentiments in the latest round of Geneva talks.

Meanwhile, the mujahideen are reported to have been badly mauled by Soviet troops in a recent prolonged offensive in southeastern Paktia province, near the Pakistan border. Diplomatic sources said Moscow is now using tough Septznaz Special Forces to carry out ambushes against the rebels and their supply lines and have also thrown in KGB border guards into the campaign in northern Afghanistan.

At the same time, pressure is being kept on the Pakistanis by cross-border shelling and bombing raids, ostensibly directed at Afghan mujahideen camps. Islamabad has a policy of not retaliating, though two Pakistani advanced F16 fighters shot down what Pakistan has said was an Afghan SU22 ground-attack aircraft over Pakistani territory on 17 May. The point has not been missed in Islamabad that when dealing with the Soviet bear, due caution should be exercised both on the ground and at the negotiating table.

Afghan warplanes have strayed across the Pakistani border with increasing frequency, but normally venturing only a few kilometres into Pakistani airspace. On this last incursion, four Afghan aircraft are reported to have flown 27 km over Pakistan before being intercepted by the two Pakistani F16s, recently supplied by the U.S., one of which used Sidwinder missiles to shoot the aircraft down. The F16s, according to Pakistani officials, were on a routine patrol at the time.

The situation on the border is such that Islamabad does not rule out the possibility that the Afghans, or more probably the Soviets, might launch a more devastating bombing raid deep into Pakistan, similar to the U.S. raid on Libya. Another ominous possibility is that Soviet-Afghan troops might now resort to hot pursuit of Afghan rebels across the border, a situation which would force Islamabad seriously to reconsider its policy of non-retaliation.

As a senior Pakistani Foreign Ministry official said: "I think they have calculated that they can commit air violations and drop bombs on our territory with impunity, because they know that Pakistan does not want to get involved inside Afghanistan. If the Afghans level their barrels against us, what do we do?" This is a central question in Pakistani thinking at the moment, having endured some 800 border violations over the past two years. But the point had not been missed in Islamabad that when dealing with the Soviet bear, due caution should be exercised on the ground and at the negotiating table.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I yield the floor.

Mr. President, what is the next order of business?

The PRESIDING OFFICER. The next order of business is the special orders.

Mr. BYRD. For whom is the first special order?

The PRESIDING OFFICER. The Senator from Nevada [Mr. HECHT].

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR DENTON

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized for a special order not to exceed 5 minutes.

Mr. DENTON. I thank the Chair.

SOUTH AFRICA IN CRISIS

Mr. DENTON. Mr. President, like most of my colleagues, I have been watching the developing situation in South Africa with considerable concern and anxiety. Among the many concerns of mine, none is as vital as the one stemming from my awareness that the Western industrialized world would have no ability to maintain its freedom and prosperity without retaining access to the strategic mineral resources that lie beneath South African soil. This body cannot afford to ignore the fact that this access is endangered. Except for access to the great oil fields of the Middle East, there is no other access indispensable to the survival of the West. We must, therefore, act with extreme caution and prudence in our response to the current crisis in South Africa.

We are beyond the point where Members of this body can even consider harmful sanctions as a means of sending a signal or as a demonstration of their opposition to apartheid. Neither can we afford to force the pursuit of any policy undermining the South African Government without full consideration of the concern previously expressed, the concern about our own existence, or without full consideration of all the facts.

Our failure adequately to consider the origins of the current violence in South Africa, and our tendency to view it as an entirely justified response to apartheid, together with a Senate mood developing to adopt a policy of economic sanctions, may lead to action that will be counterproductive to the achievement of freedom, peace, and security in South Africa, as well as to prosperity in South Africa and even all of southern Africa. The principal point is that, if the South African Government falls, we will lose access to metals and minerals we cannot afford to do without.

Mr. President, we must realize that the peaceful incorporation of black South Africans into the political, economic, and social life of their country, which is highly desirable from our point of view and the humanitarian point of view, is not solely a function of unilateral choices by the South African Government. Any United States policy that fails to address the other side of the equation, the African National Congress and its real nature and agenda, will hasten a bloodbath in South Africa and hasten the demise of the great democracies of the world, including the United States, two facts which I hope will interest this body, whose primary mandate is to provide for our survival. The African National Congress is not the least concerned with the betterment of the lot of black South Africans. It once was but for years has had other objectives.

□ 0950

As many of you know, Mr. President, I chaired hearings before the Judiciary Subcommittee on Security and Terrorism in 1982. These hearings irrefutably established the control of the African National Congress by the South African Communist Party. They established the responsiveness of the ANC to Moscow itself, and its strict adherence to Soviet ideology, policies, and objectives, none of which have any interest whatever in the improvement of blacks in South Africa or anywhere else. One witness who appeared before my subcommittee, Bartholomew Hlapane, a high-ranking official of the ANC who was blowing the whistle on the ANC, told me before he gave his testimony that he would be sacrificing his life by what he told us. Indeed, he did. A few weeks later, he was brutually murdered, his wife was murdered, one of his daughters was maimed; and two of his daughters, at the expense of my staff, are now undergoing education in the United States. He told the truth. Many other witnesses, all black, told similarly clear truths, generally ignored by the liberal media and unfortunately unknown to too many in this body.

Subsequent to those hearings, in June 1985, at its Second Party Conference in Kabwe, Zambia, the ANC selected a new executive committee, still largely dominated by members of the South African Communist Party. It blatantly outlined its anti-United States, pro-Soviet agenda; it reiterated its solidarity with such morally repugnant terrorist groups as the Palestine Liberation Organization, and reaffirmed its inviolable commitment to the use of violence to achieve its own very specific political agenda, which does not include freedom for any one. Its actions are correspondingly repugnant to genuine liberals, but ironically ignored by or unknown to those liberals.

Indeed, the first target of its violent strategy was and is South African blacks, particularly those blacks whom they usefully label "sell-outs" or "collaborators." Make no mistake about it, the definition of "sell-out" or "collaborator" is entirely cynical. They are the blacks who are trying to work with the Government for an improvement in the situation, which is improving at a rate faster than it did in our own country when we addressed similar problems. In the townships, revolutionary justice is dispensed quickly, painfully, and often terminally on the basis of mere rumor and emotional frenzy. And in the press we are reading about that as if it is solely the Government killing blacks.

Ladies and gentlemen of the Senate, please let us avoid being utilized again as useful idiots, as we were in the cases of Castro taking over Cuba, of Vietnam, of Iran, of Cambodia, of Laos, of Nicaragua, and nuclear negotiating issues. Wake up! Let us wake up to realities. Genuine grievances, of which the blacks in South Africa have aplenty, should not be reacted to by us in a way to bring about much greater tragedy to them and a survival threat to ourselves.

Mr. President, although as yet insufficient, I have been encouraged by the very genuine progress that the South African Government has made toward dismantling its pernicious legal framework for the maintenance of apartheid. They have made progress. At the same time, I am dismayed by the escalating ANC-inspired violence with its implications for our survival as well as for the prospects for South African progress. The South African Government and our interests deserve more than the casual "too little, too late" justification given to ANC violence by many Americans.

I am horrified that the level of violence in the townships, a violence which is part of the ANC's stated strategy to make the country ungovernable, is used as a measure for whether further sanctions are necessary. This strategy has been repeated over and over again with Uruguay being the principal classic example.

This strategy is part of a timeworn pattern. I submit to my colleagues that the only appropriate measure today is a full and fair evaluation of both the South African Government's and the ANC's and other black leaders' willingness to be truly constructive participants in a process to end apartheid and accord full political rights to all South Africans. The current simplistic push for sanctions does not contribute to peace, justice, or our own vital interests. In conclusion, I urge my colleagues seriously to reconsider the inevitability and the wisdom of sanctions to accomplish our objective of peaceful change in South Africa by the proper means.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

ADELMAN SHOWS HOW THE ADMINISTRATION WILL JUNK ARMS CONTROL

Mr. PROXMIRE. Mr. President, Kenneth Adelman, the Director of the Arms Control and Disarmament Agency has just shown why those of us who voted and spoke against his appointment were right. Adelman, like the President who appointed him, had a long record of opposition to arms control when the President made this shockingly contradictory appointment.

The gist of the Adelman letter is, first, that the Soviets are violating SALT II in two respects. They are encrypting their telemetry. That is another way of saying they are encoding and thereby concealing the signals from their missile tests. Is this a violation of the SALT II treaty? What does the SALT II treaty provide? The treaty actually authorizes the encryption or encoding of telemetry. It provides that signals from missile tests can be concealed, provided that the concealment does not interfere with enforcement of the treaty. Sure, that was a bad provision. But it is in the treaty.

In response to our charges that the Soviet encoding is inhibiting our verification of their treaty compliance, the Soviets say: "Tell us how, in what respect, which tests do you want us to stop encoding?" We respond that we will not tell them because it would reveal what we do not know that we want to know.

Now, Mr. President, how about this situation? Wouldn't it make sense for this Nation to go to the Standing Consultative Commission and have it out with the Soviet Union on this issue? If we cannot specify the particular encoding we need for verification, we should immediately and directly renegotiate this highly ambiguous and obviously unsatisfactory treaty provision. We should not simply call attention to it, throw our hands in the air, and walk away.

The second alleged violation of the treaty to which Adelman refers is the Soviet production and deployment of the SS-25 missile. Adelman and other administration officials claim this is a new missile—a second new missile—and hence constitutes a violation of the SALT II treaty that permits only one new missile. The Soviets deny this. They claim it is simply a variation of the earlier SS-13. Who is right?

We claim that our information on the Soviet's tests of the SS-13 and the SS-25 shows the SS-25 does not meet the definition of a modification of SS-13 because it exceeds the limits specified in the treaty for a modification in velocity, throw-weight, and other characteristics. The Soviets say our data underestimate the performance of the SS-13 and overestimate the performance of the SS-25. Here, again, is a dispute that should go directly to the Standing Consultative Commission for resolution. If we are dissatisfied with the decisions of the SCC, we should not renounce the treaty. We should keep the treaty and reopen negotiations on it.

The other major argument made by Adelman is that SALT II does not restrain the Soviet buildup as its American advocates claim. He argues that the Soviets probably would have dismantled their older missiles when they brought the new ones into deployment with or without SALT II. He also contends that the Soviets will increase their warhead buildup with or without SALT II.

For the answer to this argument, see the position taken by the Joint Chiefs of Staff until June 14 when they, of course, like good soldiers, accepted their Commander in Chief's decision that SALT II was dead. At that point, the Joint Chiefs had no choice. They could obey their Commander in Chief on a matter of military policy or they could quit. They obeyed. But up until that point, the record shows that four of the five Joint Chiefs, our top military experts, took the position that the national security interests—the strict military interests of this country—would be better served by continuing to abide by the SALT II Treaty. Why? Because in their judgment SALT II had only a slight effect in restraining America's buildup and provided significant restraint on the Soviet Union.

Now, Mr. President, whose military judgment do we rely on? The judgment of Mr. Adelman, whose military experience is almost as insignificant as mine, or the judgment of the country's top military officials? Of course, I am talking about the judgment of the Joint Chiefs before they were whipped into line last week.

Finally, Mr. President, Director Adelman contends with a straight face that President Reagan is not against arms control; he is just against arms control agreements. He writes that what the President is proposing is a "clear new formula." And it sure is. The President will pledge that he will not increase launchers or ballistic missile warheads above Soviet levels. Adelman says that this pledge creates real cost for a Soviet buildup and provides real rewards for Soviet reductions and restraint. Then he adds the phrase: "just as genuine arms control should do." How about that, Mr. President? The Director of the Arms Control Agency tells us to forget agreements, forget about negotiating any painstaking, detailed verification treaty that will provide a basis for compliance. Forget about working out the details of numbers and performance of missiles.

The President has made a nice speech pledging that he will not increase warheads and missiles above the Soviet present level unless they do. Perfect. Who needs an agreement? What is wrong with that? Don't I believe this Presidential pledge? I believe it. But what is it worth? The next President can follow whatever policy he wishes.

More important, the Soviets are not primarily interested in numbers; they are interested in stopping quality improvements in the lethal capacity of arms. It is the technology that worries them. The Defense Department, only a few months ago, told the Congress in detail how the United States is miles ahead of the Soviet Union in technology. If both superpowers have the same number, the United States is certain to have an advantage as time and our technology goes on. And there is something even more difficult for the Soviets to accept. The President has announced that building an SDI, a star wars missile defense, is our top priority. The Soviets must assume the worst case. They must assume that such a defense will work if they restrain their missile production and especially if they cut back their missiles. The Adelman formula of skipping an arms control agreement and relying on the commitment of this President to keep launchers and missile warheads at the same level as the Soviets is a proposition that absolutely guarantees an arms race.

Adelman concludes with "what we want above all is serious negotiations at Geneva." How can we expect the Soviets to take negotiations at Geneva seriously when the Director of the U.S. Arms Control Agency declares that the superpowers do not need an arms control agreement, that all they need is a pledge by the President that we will restrain the buildup in our nuclear arsenal?

Mr. President, I ask unanimous consent that the article to which I have referred by Kenneth Adelman in the June 15 New York Times, headlined "Why Mr. Reagan Is Right About SALT" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY MR. REAGAN IS RIGHT ABOUT SALT

(By Kenneth L. Adelman)

WASHINGTON.—Bertrand Russell once remarked that we often defend most passionately those opinions for which we have the least factual basis. It is difficult to find any other way to explain the torrent of emotion that has greeted the President's decision that we are no longer bound by the second strategic arms limitation accord.

Even on its face, the case against the President's decision looks dubious at best. After all, the Senate Armed Services Committee agreed unanimously in 1979 that SALT II was not in the country's "national security interests." The treaty was never ratified. It never had the force of law. It never subsequently gained the support needed for ratification. The chief prediction

of its critics—that it would permit a vast modernization and expansion of Soviet strategic forces—has come true, in spades. On top of all this, the Soviet Union is violating the central provisions of the agreement.

What could be more clear-cut? Why do critics say that the United States should continue to abide unilaterally by SALT II?

First, Soviet violations are alleged to be "peripheral." The President's critics would like to have it both ways. When SALT II was up for ratification in 1979, its supporters commonly cited three provisions as its main advantages: the numerical limits (on warheads-per-launcher and overall launchers); the prohibition on a second new type of land-based intercontinental missile; and the restraints on encoding test data. The Soviets are completely contravening the provisions on new missiles and encoding, and they have exceeded the limit on missile launchers. Provisions hailed as central when SALT II was being sold cannot be considered "peripheral" now that the Soviets are violating them.

Second, the Soviet violations are sometimes said to be "ambiguous" or unimportant. The new, SALT-violating SS-25 missile is not in any sense marginal. It is one of two powerful new land-based strategic missiles that the Soviets are now adding to their arsenal. In short, a major portion of the current Soviet buildup of land-based missiles is occurring in clear contravention of SALT II. The violation is clear since the throw-weight, or payload, of the SS-25 missile is not, as some critics continue to claim, just "slightly" greater than its alleged predecessor, the SS-13, but roughly twice that—clearly beyond the 5 percent increase permitted by the treaty. In addition, the Soviets' scrambling of their test signals is seriously impeding verification.

Third, it is sometimes claimed that the Soviets have dismantled 1,000 or more systems to comply with SALT. This is contradicted by the fact that the Soviets themselves claim to have dismantled only 540 weapons under SALT. More important, what the critics' figures really demonstrate are not the quantitative limits on the Soviet arsenal but the vast qualitative growth of the Soviet arsenal under the treaty. The Soviets dismantled more during SALT than the United States did because they built faster and modernized much more than we did. The majority of silos said by the critics to be dismantled because the homes of new, vastly more powerful missiles. The figures are less a testimony to SALT's effectiveness than a measure of what it failed to control.

Nor should we attribute the dismantling of any Soviet systems solely or even mainly to SALT. When new Soviet systems come on, old, obsolescent systems generally go. For example, 650 SS-4 and SS-5 medium-range missiles—unconstrained by any arms accord—were dismantled by the Soviets after the SS-20, a far more potent threat, came on stream. The claim that the Soviets' decisions to dismantle weapons during the period of SALT were necessarily due to SALT is a case of misplaced causality.

Fourth, critics claim that without SALT II the Soviets will vastly increase their warheads and accelerate the arms buildup. Projections of large increases in Soviet warheads—beyond the considerable increases already anticipated under SALT—are easily made on paper. In reality, such changes are neither quick nor cheap—nor necessarily even militarily useful. For example, some critics claim that the Soviets would put 20 or 30 warheads on the SS-18 missile, instead of 10. But this is likely to undermine, if not preclude, the SS-18's main mission—that is, to destroy our missiles in their silos.

The basic notion that SALT is significantly constraining the Soviet buildup now, or would do so in the future, is an illusion. It presumes future compliance with critical provisions, when we already have seen clear and major violations of key parts of the treaty. Even while adhering to terms of SALT II, the Soviets have nearly doubled their strategic warheads, from 5,000 to 9,200. Under SALT II, the number could rise further to 12,000 by 1990. With or without SALT II, we envision a 5 to 7 percent growth in Soviet strategic investment every year as far ahead as we can see. With or without SALT II, we envision an all-new Soviet land-based missile force in the next decade.

If this is constraint, it is hard to envision a lack of constraint. With their defense spending running at 15 to 17 percent of their gross national product, the Soviets already have their accelerator near or on the floor.

Ironically, many of the critics who now base so much of their argument on predicting increases in Soviet warheads beyond those envisioned by SALT II (which did not explicitly limit warheads) used to tell us that warheads don't count. Back in the 1970's, when the United States enjoyed a 3-to-1 advantage in warheads, many of these same critics were arguing that "strategic superiority" and numbers of warheads were "meaningless" and could be bargained away without risk to United States security.

Fifth, it is argued that the President's decision is bad for our alliances. Despite extensive Administration consultations with the allies, there have been some allied disagreement and some adverse effects on allied public opinion. We naturally regret this. As the reasoning for the President's decision and the facts become better known, we hope this will change. We hope our allies' concerns will be alleviated.

But short-term popularity cannot be the criterion by which we judge the wisdom of policy. Our overriding concern must remain long-term strategic safety and genuine arms control. Continued adherence to an ineffective and unratified treaty that our adversary is seriously violating is not cost- or risk-free either. As the President has said, what is needed are real reductions. Only this will ultimately provide a solid basis for mutual restraint.

Sixth, it is alleged that what the Administration wants is an "all-out arms race." This is simply false. Anyone who reads the President's decision and listens to what he is saying will see that he has provided a clear new formula for restraint that will be more effective than SALT. The President pledged, for example, that we will not increase launchers or ballistic missile warheads above Soviet levels. This is a serious pledge, one that creates real costs for a Soviet buildup and provides real rewards for Soviet reductions and restraint—just as genuine arms control should do. It is verifiable and do-able. In contrast, continued unilateral observance of SALT II in the absence of Soviet compliance would merely reinforce the dangerous idea that Soviet violations can easily be tolerated. It would also likely encourage even further violations and convince the Soviets to continue their drive for military superiority.

As the President has repeatedly made clear, what we want above all are serious negotiations in Geneva leading to agreements with which the Soviets will comply—to equitable and verifiable reductions in American and Soviet nuclear arsenals.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HECHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

RECOGNITION OF SENATOR HECHT

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada [Mr. HECHT] is recognized for not to exceed 5 minutes.

55-MILE-PER-HOUR SPEED LIMIT

Mr. HECHT. Mr. President, on January 31, 1985, I introduced legislation, S. 329, for the purpose of changing the 55-mile-per-hour speed limit law. My reasoning for doing so stemmed from seemingly endless pleas of the citizens of Nevada for relief from this law which they felt to be unnecessary, an intrusion in the lives of free spirited Americans, and, overall, a nuisance. Today, more than ever before, the need for this legislation is obvious as we witness a wholesale violation of the 55-mile-per-hour law by a nation that will not comply and by States which have found it to be unenforceable and almost universally ignored.

There can be no question, Mr. President, that the time is right for Congress to take a long overdue look at the state of the 55-mile-per-hour law and realize that the law today is a joke and must be modified. And this discussion is even more pertinent today, Mr. President, because just within the last few weeks, the States of Arizona and Vermont experienced the long arm of our Government reaching out and taking away highway construction funds. The only crime committed by these two States is that their motorists exceed the law while enfocement continues to be virtually impossible.

Mr. President, we are all aware that when the 55-mile-per-hour law was passed, the United States was experiencing a period of national crisis. There is also no question that upon enactment of 55, highway fatalities decreased 15 percent. But it is an equally established fact that over the life of 55, motorists have continually driven faster, and, contrary to the speed kills argument, highway fatality rates have actually declined. In fact, for numerous reasons, America's fatality rate is lower today than the period immediately following enactment of 55. Obvi-

ously, linking speed to fatalities does not stand the test.

One other reason for changing the 55-mile-per-hour speed limit, and I think the most important, Mr. President, is the simple matter of States rights. Upon placing 55 on the books, the Federal Government once again entered into the private lives of each and every one of us. Washington stepped in to tell us what we could and could not do; and, even more distressing, the Federal Government threatened to take away highway funding if States failed to enforce 55. At a time when we are placing premier emphasis on returning government back to the people, Congress continues to maintain a law that smacks of unneeded intrusion into our daily lives, this must be changed.

Mr. President, compliance figures show that over 75 percent of all drivers today exceed the 55-mile-per-hour limit. Obviously, something must be changed, which is why I introduced S. 329. I believe we must bring this issue back into focus before Secretary Dole is forced to take away highway funds from every State in the Union. The 55-mile-per-hour speed limits' time has come and gone, Mr. President, and I hope Congress will act this year.

THE 55 MPH NATIONAL SPEED LIMIT

Mr. SYMMS. Mr. President, during the Arab oil crisis in 1973, Congress adopted the 55 mph national maximum speed limit as an energy conservation measure. The speed limit issue has flared up from time-to-time since then, but it has recently become a matter of serious public concern as a result of the Secretary of Transportation's announcement that highway funds may be withheld from Arizona and Vermont for their failure to comply with the speed limit law.

As one who has made numerous speeches and written articles in opposition to "55," I am pleased that the issue has drawn the attention of the news media and many Members of Congress. Today, I want to take a few minutes of the Senate's time to let my colleagues know that there are others around the country who believe, as I do, that the national maximum speed limit should be reformed in the interest of safety, efficiency, and good public policy.

Mr. President, in a June 13, 1986, article printed in the New York Times, Iver Peterson notes the growing rebellion in Western and Plains States over the speed limit issue. According to Mr. Peterson:

> Nearly a dozen states have recently adopted laws designed to reduce driving 65 or even 70 to a minor infraction, with fines of $5 to $10 and no records kept on the violations.
>
> In Montana, for example, the penalty for driving as fast as 70 miles an hour in a 55-mile-an-hour zone is a $5 fine, collected on the spot (credit cards accepted) by an officer who issues a pink ticket that drivers joke is good for all day. Utah, New Mexico, Nevada, the Dakotas and Minnesota, among others, have similar laws.

Why are these States taking actions which may increase their chances of losing Federal highway funds? For an answer, I would direct my colleagues' attention, first, to a March 14, 1985, Washington Post column by James J. Kilpatrick in which Mr. Kilpatrick makes the following observation about the national speed limit:

> One finds in this situation a perfect example of the advantages of old-fashioned federalism. The founding fathers recognized the folly of giving the national government the power to legislate on every topic, everywhere. It is nonsense to contend that a 55 mph speed limit is the perfect, untouchable, sanctified quintessence of legislative wisdom, to be enforced on every mile of rural highway from Portland, Maine to San Diego.

And in a similar vein, Smith Hempstone, a nationally syndicated columnist, calls the 55 mph national speed limit "the most publicly ignored law since Prohibition" and "a nonsense," Washington Times, January 22, 1986.

In fact, speed limit compliance data indicate that well over half of the Nation's drivers exceed the speed limit when traveling on roads posted at 55. And the figures are even higher on rural interstates.

There is a simple and reasonable explanation for these astounding statistics. The motoring public perceives what Mr. Hempstone refers to in his article as the "arbitrary rigidity and * * * irrationality" of the national speed limit law. "What may make sense for the aging Jersey Turnpike," says Mr. Hempstone:

> A high-density road that feeds into New York City from Washington, Baltimore, and Philadelphia, does not make sense for lightly traveled I-70, which cuts straight as an arrow and flat as a pool table across the wheat fields of Kansas from Oakley to Kansas City.

Aside from the noncompliance rates, Mr. President, there are other interesting statistics on 55 which should not go unnoticed. As pointed out in an April 28, 1986, Wall Street Journal article by Damon Darlin, the highway fatality rate has continued to drop since 1974, in spite of the fact that highway speeds have been increasing. Mr. Darlin says that in 1974:

> The fatality rate dropped 15.3% to 3.6 fatalities per 100 million miles, the sharpest drop ever . . . DOT statisticians estimated that more than 9,000 lives were saved that year, and they pinned the medal on 55.
>
> Then another peculiar thing happened. Drivers started ignoring the "double nickel," and average highway speeds crept up again—but the fatality rate dropped more than 25% in the next decade. The fatality rate dropped a whopping 12.7% in 1982 alone, even though the speed limit didn't change from the year before.

I know that every Member in this body is concerned about highway safety, and I think it is important to note that the correlation between speed and highway fatality rates may not be quite as clear as some would suggest. Moreover, there is reason to believe that continued attempts to comply with the law may actually be reducing highway safety in some States, as noted by Dr. Walter Williams in his November 11, 1985, column in the Washington Times. Dr. Williams observes:

> In one way, the law may actually cost lives. If states do not enforce the limit they face the possibility of losing highway funds. Thus states focus enforcement where it counts statistically rather than where it delivers the greatest safety effect.
>
> For example, Maryland puts large numbers of state troopers on heavily traveled superhighway I-95 to catch people going 65. They put less emphasis on back roads to catch those doing 55 in a 45 mph zone. While high speeds are more dangerous on back roads than on the interstate, fewer people travel these back roads. So Maryland looks better in the eyes of Congress by ticketing numerous people on I-95 doing 65 on a road built for 70.

The same point has been argued recently by the California Highway Patrol in connection with its excellent, detailed study of issues relating to the national speed limit law. In recent testimony on the issue, J.M. Barnett, the deputy chief of the California Highway Patrol said:

> The Patrol strongly believes that a 65 mph speed limit would be appropriate for selected rural freeways of interstate quality. . . Of particular interest to law enforcement agencies are the considerable resources required for national minimum speed limit enforcement on affected routes. These could be redirected to other enforcement efforts or greater safety concern. These include detection and apprehension of drinking drivers, or concentrating on speed enforcement where there is an associated accident problem.

And the New York Times article I mentioned previously includes the remarks of Jerry Baum, chief of the South Dakota State Highway Patrol, who says:

> We have the Federal Government worrying about whether or not I've got a trooper out on the interstate at 10 o'clock in the morning to keep a guy from going 60 on a road designed for 70 miles per hour. If I could concentrate my troopers on the road on a Wednesday or a Friday night when the bars close, we could save 10 times the lives we lose to speeding.

Let me just reemphasize this point: The continued effort to comply with this unenforceable law may be reducing highway safety and is an inefficient use of state law enforcement personnel, equipment, and funds.

Finally, Mr. President, I concur with Walter Williams' contention that—

> The greatest cost of the 55 mph limit is the disrespect for the law it engenders. Otherwise law-abiding citizens purchase radar

detectors and CB radios to contravene the law. Often kids, riding with parents, get their first lesson on how to get around the law.

James Kilpatrick makes the same argument in more personal terms, as follows:

I spend a substantial part of my life on Interstate 66 from Washington west toward my home in the Blue Ridge Mountains. I voice no objection to the 55 mph limit on this highway. It is heavily traveled; here the limit makes sense. But if you are driving from El Paso to Tucson on Interstate 10, or from Cheyenne to Salt Lake City on Interstate 80, the limit makes no sense at all. This is a land of long straight stretches, relatively little traffic and relatively few fatal accidents. On such Western highways, the 55 mph limit is bound to breed contempt for the law.

Mr. President, I believe it is time for Congress to reform the national speed limit so that we may avoid this public contempt for the law. I will offer an amendment to do just that during the Environment and Public Works Committee's markup of highway reauthorization legislation. I encourage my colleagues and the administration to support this important effort.

Mr. President, I also encourage our colleagues to contact Senator HECHT, of Nevada, if they are interested in this effort in cosponsoring his legislation, of which I am a cosponsor, which would allow for a 65-mile-an-hour speed limit on rural interstate highways throughout the country if the States chose to do so.

I ask unanimous consent that the articles to which I have referred and the testimony of the deputy chief of the California Highway Patrol be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 14, 1985]

LET THE STATES DO THE DRIVING

(By James J. Kilpatrick)

A 10-year-old controversy once again is simmering on Capitol Hill: Should the nationwide speed limit of 55 mph be preserved intact, or should the states be permitted to set higher limits on certain of their rural roads?

You will recall that back in 1973, at the peak of the energy crisis, Congress adopted the 55 mph limit as a measure to conserve gasoline. This was intended to be a temporary limit, but in 1974 it was made permanent. Prior to that time, some of the states had fixed limits of 65 or 70 on portions of their interstate highways.

The 1974 law did two things: It saved fuel, and it saved lives. It is possible to preserve a decent skepticism about the precise numbers. Reportedly the fuel savings amount to $2 billion a year, but the figure has been pulled from a hat filled with estimates, averages, ballpark guesses and informed approximations. It is also said that the 55 mph limit continues to save 2,000 to 4,000 lives every year, but that figure also involves elements of large conjecture.

Be that as it may, there is no question that the lowered speed limit has contributed significantly to highway safety and to fuel conservation. There have been other substantial savings in a reduction in serious injuries, auto repairs and insurance costs.

Still, the law merits a second glance. Sens. Chic Hecht of Nevada and Alan Simpson of Wyoming have introduced a bill to permit the states to fix limits up to 65 mph outside urban areas. Reps. James V. Hansen of Utah and Dave McCurdy of Oklahoma have offered similar bills in the House. Their arguments make good sense.

One finds in this situation a perfect example of the advantages of old-fashioned federalism. The founding fathers recognized the folly of giving the national government the power to legislate on every topic, everywhere. It is nonsense to contend that a 55-mph speed limit is the perfect, untouchable, sanctified quintessence of legislative wisdom, to be enforced on every mile of rural highway from Portland, Maine, to San Diego.

I spend a substantial part of my life on Interstate 66 from Washington west toward my home in the Blue Ridge Mountains. I voice no objection to the 55 mph limit on this highway. It is heavily traveled; here the limit makes sense. But if you are driving from El Paso to Tucson on Interstate 10, or from Cheyenne to Salt Lake City on Interstate 80, the limit makes no sense at all. This is a land of long straight stretches, relatively little traffic and relatively few fatal accidents. On such Western highways, the 55 mph limit is bound to breed contempt for the law.

Beyond question, as the sponsoring members concede, the limit contributes toward a saving of lives and fuel. It is equally beyond question that the limit results in a tremendous loss of time—and time has an economic value, just as fuel and lives have economic value. The National Research Council estimates that obedience to the law results in an extra 1 billion hours spent by motorists on the road. That figure may be subject to the same skepticism that applies to other such estimates, but the loss is plainly significant.

Opponents of change contend that if the limit were raised to 65 mph on about 32,600 miles of rural interstates, another 500 lives would be lost every year. It might be so. But if loss of life were the sole criterion, why stop at the limit of 55? Why not 45? Or 34? Or why not ban automobiles altogether and go back to horses?

In the name of national fuel conservation, Congress might say that 70 mph is tops anywhere. Otherwise, on this issue, we ought to trust the judgment of the states.

DUBIOUS DOUBLE NICKEL

(By Walter Williams)

Sen. Robert Byrd, Democrat of West Virginia, at a 1980 dinner sponsored by the Institute for Socioeconomic Studies, suggested that President Reagan's suggestion to scrap the 55 mph speed limit was just another sign of insensitivity. After all, the senator pointed out, 55 saves lives. This writer asked Mr. Byrd: "Since mandating 55 mph saved lives, why doesn't Congress make it 25 mph?" Recognizing the trap, Mr. Byrd replied that it would be impractical. Impractical translates into: the extra lives saved aren't worth the inconvenience.

Writing in the current (November) Reason magazine, Alan E. Pisarski, a transportation consultant based in Washington, D.C., tells it all in, "Deep-Six 55." Will Rogers once said, "Oklahomans will always vote dry, even if they have to stagger to the polls." Americans have the same ambivalence about 55 mph. Survey after survey shows 70 percent of us support the law. But, according to Mr. Pisarski, ". . . not since the dark days of Prohibition has a government decree met with such widespread disobedience."

Mr. Pisarski was a special assistant in the U.S. Department of Transportation in 1974 when Congress gave us the Emergency Energy Conservation Act calling for the nationwide reduction in the speed limit. DOT's first proposal called for a 55 mph limit for trucks, 50 for cars. The higher truck limit was because of truck transmission design. Trucks use less fuel at the higher speed. But the prospect of more lenient treatment for trucks caused a furor. Thus, 55 mph for everybody became an act of political compromise.

DOT estimated the fuel savings from 55 mph would be 200,000 barrels a day. But it's hard to tell exactly, because of reduced travel and a shift to smaller, better-mileage cars. Mr. Pisarski says the fuel-saving argument doesn't matter anymore. Government now rests its case on the assertion that 55 saves lives.

There are benefits to a lower speed limit; however, there's no free lunch. Every benefit bears a cost. Were that not true, we'd make the limit 5 mph, or, as Mr. Pisarski says, "Think of all the lives we'd save if we just abolished cars!"

In one way, the law may actually cost lives. If states do not enforce the limit they face the possibility of losing highway funds. Thus states focus enforcement where it counts statistically rather than where it delivers the greatest safety effect.

For example, Maryland puts large numbers of state troopers on heavily traveled superhighway I-95 to catch people going 65. They put less emphasis on back roads to catch those doing 55 in a 45 mph zone. While high speeds are more dangerous on back roads than on the interstate, fewer people travel these back roads. So Maryland looks better in the eyes of Congress by ticketing numerous people on I-95 doing 65 on a road built for 70.

Another cost is time. Mr. Pisarski says, "On the average it is estimated that 55 mph saves one life for every 25 years of driving time lost; on rural interstates that ratio declines dramatically—to one life saved per 100 years of time lost." Interstates are built to the highest engineering standards and have low traffic volumes, considering their capacity. It'd make more sense to have the speed limit dependent on road quality, traffic conditions, and weather.

But the greatest cost of the 55 mph limit is the disrespect for the law it engenders. Otherwise law-abiding citizens purchase radar detectors and CB radios to contravene the law. Often kids, riding with parents, get their first lesson on how to get around the law.

The 55 mph speed limit is not a federal law. States make it a law in order to get highway handouts. States need to exercise states' rights. They must tell Mr. Byrd & Co. to take their highway funds and play hopscotch with them—on the highway.

[From the Washington Times, Jan. 22, 1986]

DOUBLE NICKEL'S DUBIOUS VALUE

(By Smith Hempstone)

Opposing the 55 mph national speed limit is about as safe as deploring motherhood, apple pie, and the persecution of drivers

who have lingered too long over the drop that cheers.

Driving 55, we are told, saves up to 4,000 lives a year, reduces petroleum consumption by about 200,000 barrels a day, and cuts millions of dollars from the nation's health care bill diverted to patching up the injured.

All of this is true. Nevertheless, the 55 mph national speed limit, the most publicly ignored law since Prohibition, is a nonsense.

Let us deal first with the safety factor:

It is clear that the driver of a car going 55 mph when he hits a concrete abutment has a greater chance of survival than one going 70 mph (although both are likely to meet their Maker). But if the primary object were safety, then the national speed limit should be reduced to 25 mph. Better still, cars, airplanes, bicycles, and roller skates could be outlawed.

The point is that all movement entails risk: seated in your easy chair, you are unlikely to stub your toe. One needs to find a reasonable compromise between speed and danger. And what is reasonable on one stretch of road can be unreasonable on another.

And, clearly, speed is not the only factor in safety. The use of seat belts, better car design, and more soundly engineered highways all contribute to the mix. If the federal government were seriously interested in saving lives, it could bully the states—as it has on drinking—into raising the minimum age for a driver's license to 21. The trouble is, that would put a few million people out of work.

The Emergency Conservation Act of 1974 was rushed through Congress at the time of the Arab oil embargo against sales of petroleum to the United States because of our support of Israel in the Yom Kippur War. And the saving of 200,000 barrels a day amounted to about 1 percent of national consumption.

Today, there's a glut of oil in the world, and friendly Third World nations are on their uppers because they can't sell enough of the stuff to finance their development plans.

The reduction of 1 percent in American consumption never represented a net financial gain. Obviously, if you drive 55 mph rather than 70, you're not going to get where you're going as quickly. The loss in driving time is estimated at 1 billion hours a year. And time is money, as they say.

The principal rap against a 55 mph national speed limit is its arbitrary rigidity and, hence, its irrationality. What may make sense for the aging Jersey Turnpike, a high-density road that feeds into New York City from Washington, Baltimore, and Philadelphia, does not make sense for lightly traveled I-70, which cuts straight as an arrow and flat as a pool table across the wheat fields of Kansas from Oakley to Kansas City.

All of which, to belabor the obvious, is another way of saying that this country is too big and varied to have an arbitrary speed limit imposed by a bunch of bureaucrats in Washington make much sense.

More, properly, the speed at which we drive should be determined by state authorities, more familiar with the road design, volume and mix of traffic, terrain and weather, and age and state of maintenance of their roads.

Theoretically, of course, the state authorities do control their own speed limits. But failure to have—and to enforce—a 55 mph speed limit is nonsense because it is unenforceable. As anyone knows who has been so foolish as to try to drive 55 on an interstate, there simply are not enough cops to arrest the speeders. As a recent study by the National Academy of Sciences noted, fully 37 of the 50 states would be cut off from federal funds were it not for "dubiously valid" statistical adjustments (that is a euphemism for cheating).

As for the man behind the wheel, Sen. Steven D. Symms, the Idaho Republican (who favors a change in the law), points out that the proportion of 55 mph scofflaws "had risen to 75 percent last year."

Anyone who has driven 55 mph down an interstate with a 18-wheeler tailgating him and flashing its lights, and with other traffic passing him as if he were standing still, knows that compliance with the law can be worth your life.

Indeed, a host of studies shows what every fool knows: that there is a more remote relationship between speed and danger than there is between speed *variance* and danger. In other words, it is uniformity of traffic flow that makes for highway safety, whether the flow is at 70 mph or 55 mph.

The interstate highway system, designed for speeds well in excess of 55 mph and inaugurated by President Dwight D. Eisenhower, is rapidly approaching its 30th birthday. To celebrate the system's arrival at the age of maturity, and to strike a blow for rationality in an irrational world, Congress could do worse than to repeal or amend the Emergency Conservation Act of 1974 to substitute incentives for its punitive provisions.

Barring that, individual governors might consider announcing they will keep the 55 mph limit but not enforce it. Their chances of losing Highway Trust Fund monies would be slight: no state to date has been deprived of them.

[From the New York Times, June 13, 1986]

REBELLION GAINS IN WEST AND THE PLAINS OVER U.S. SPEED LIMIT

(By Iver Peterson)

DENVER, June 11.—Like a driver in a hurry, a rebellion against the Federal speed limit of 55 miles an hour is gaining momentum in the Western and Plains states.

Speeding fines have been sharply reduced and speeding arrests are not recorded in many states. The police, burdened with increased emphasis on drunken driving and truck safety programs, concede that infractions of up to 65 miles an hour are generally ignored, and state legislatures are attempting to get Washington to let them once again set their own speed limits of up to 70 miles an hour.

The Western attack on the Federal law could have an important impact on Federal policy, since traffic speeds nationally have been found to be creeping up, and the Department of Transportation recently announced that it would impose on Arizona and Vermont the first penalties for failure to enforce the speed limit.

LEGISLATORS SEEK REVOLT

Many Western legislators hope that a state-by-state revolt against the speed limit could produce the same results as the refusal of California and Utah in the 1970's to enact federally mandated laws on motorcycle helmets. When the Department of Transportation moved to withhold highway aid from these states, as it is now moving to do against Arizona and Vermont, the reaction in Congress was so strong that it repealed the helmet law.

Since Ronald Reagan campaigned against the 55-mile-an-hour speed limit in 1980, some state officials wonder whether the fines announced by Secretary Elizabeth Hanford Dole were intended to prompt a challenge to the law.

So far, the White House is saying that it is up to Congress to decide the speed limit. There are currently two bills pending in Congress that would change the law. One would return power to the states to set speed limits and the other would do the same but restrict higher speeds to the rural parts of the interstate system.

NATIONAL LIMIT SET IN 1973

The 55-mile-an-hour national speed limit was approved by Congress in late 1973 as a way to save motor fuel in the Arab oil embargo. It was later made permanent on the ground that it saved lives. A Federal study estimated that 3,000 to 5,000 lives a year are saved with a 55-mile-an-hour law.

The Department of Transportation measures compliance with the speed limit with 1,785 buried sensors on various roads around the country that have 55-mile-an-hour limits.

For reasons that have to do with its wide open spaces, long distances between settlements and a traditional dislike for Federal meddling, the West has long been the flashpoint for anti-55-an-hour sentiment. And as the summer tourist season gets under way, the region is preparing what may be the opening shots of a drawn-out war with Washington over the logic and usefulness of driving no faster than 55 miles an hour.

Nearly a dozen states have recently adopted laws designed to reduce driving 65 or even 70 to a minor infraction, with fines of $5 to $10 and no records kept on the violations.

In Montana, for example, the penalty for driving as fast as 70 miles an hour in a 55-mile-an-hour zone is a $5 fine, collected on the spot (credit cards accepted) by an officer who issues a pink ticket that drivers joke is good for all day. Utah, New Mexico, Nevada, the Dakotas and Minnesota, among others, have similar laws.

Nevada has passed a law, conceded to be largely symbolic, to raise the speed limit on one, so far unspecified road, to 70 starting July 1, while Arizona voters appear likely to amend the state Constitution this October to make speeds limits a state issue.

"LOST THE BATTLE OVER 55"

Some state police organizations resent having to draw patrols from such high-priority programs as catching drunken drivers in order to enforce what they consider an unreasonable and unpopular speed limit.

"We have the Federal Government worrying about whether or not I've got a trooper out on the interstate at 10 o'clock in the morning to keep a guy from going 60 on a road designed for 70 miles per hour," said Jerry Baum, chief of the South Dakota State Highway Patrol. "If I could concentrate my troopers on the road on a Wednesday or a Friday night when the bars close, we could save 10 times the lives we lose to speeding."

"We have lost the battle over 55, absolutely," he said. "So let's go out and fight a battle we can win."

A recent study by the California Transportation Department and the State Highway Patrol recommended that speeds be raised on selected stretches of rural high-quality roads thus freeing more officers to enforce lower speed limits on more dangerous and congested roads.

"55 REALLY MEANS 60 OR 65"

"Increased speed limits on carefully selected, limited segments of rural interstate-quality freeways are considered appropriate from a number of viewpoints and may indeed be essential for the long-term preservation of the 55," the committee summary recommended "Basically, motorists are more likely to comply with speed limits that they feel are realistic for the roadways they are traveling on."

A state is deemed to be out of compliance with the Federal law, and thus liable for the withholding of up to 10 percent of its Federal aid to noninterstate roads if more than half of its traffic exceeds the limit in a year.

Opponents of the speed limit argue that safer cars, the increasingly widespread use of safety belts and child restraint seats and a declining number of drivers in the statistically accident prone 16-to-21 age group account for the continuing decline in traffic fatalities. They contend that what clinches their argument that the 55-mile-an-hour speed limit does not necessarily save lives is that most traffic already moves at 60 to 65 miles an hour.

"The fact is that we don't have a 55-mile-an-hour speed limit anymore," said James Baxter, president of the Citizens Coalition for Rational Traffic Laws, a group pressing for raising the speed limit. "Everyone knows by now that 55 really means 60 or 65 on open streatches of road."

Mr. Baxter and other critics of the maximum speed limit assert that the system of Federal enforcement is already highly elastic.

"The Federal Government is not eager to get into a confrontation with the states over the speed limit," Mr. Baxter said. "In fact, they've tried so hard to play ball with the states that they skew the numbers to try to keep everyone in compliance. So instead of counting actual speeds, they make all kinds of adjustments to drag the speeds down."

The actual speeds measured by the buried sensors are not the ones used to check for compliance. Rather, a statistically adjusted figure is designed to allow for sensing error, automobile speedometer errors and statistical errors, according to the Transportation Department.

Mathematically, such variances should more or less cancel out, but Mr. Baxter argued that the Transportation Department's adjustments all served to lower the speeds recorded.

Thus, the department's adjusted figures for the 1985 fiscal year, which are used to compute compliance with the Federal law, show that 43.2 percent of all traffic exceeded the posted 55-mile-an-hour limit at any given time. The unadjusted figures for the same year shows that 62.15 percent of traffic exceeded the speed limit.

LOWER ADJUSTED FIGURES

New York state's adjusted rate was 45.6 percent for traffic going over 55 miles an hour, but the unadjusted rate was 71.1 percent. New Jersey's adjusted rate was 46.1 percent, but unadjusted it was 60.8, while in Connecticut the adjusted rate of 36.8 percent contrasted with an unadjusted rate of 48.5.

Although Arizona has been singled out for sanctions, most of the pressure is, in fact, on Eastern states to comply with the Federal speed limit. This is because, proportionately, more travel takes place on interstate highways in the East than in the West, and speeds on interstates tend to be higher than on the secondary roads that the West depends upon more heavily. Therefore, the Federal computers show higher speeds over all in the East.

Ultimately, it is the long distances between Western driving destinations that provokes the greatest resistance to the Federal law. The distance from Las Vegas to Reno, for example, is not much less than that from New York to Cleveland, only the Nevada drive is on some of the emptiest and straightest roads in the country.

Westerners argue that boredom, and not speed, is the greatest danger they face in trying to obey the Federal law.

"Can you imagine driving from Rapid City to Sioux Falls at 55?" demanded Gov. William J. Janklow of South Dakota, a fierce critic of the speed limit. "You'd have to bring a sleeping bag."

DOES 55-MPH SPEED LIMIT SAVE LIVES? MORE DRIVERS ARE DOUBTFUL

(By Damon Darlin)

The 55 miles-per-hour speed limit, which has already lost its appeal as a fuel saver, might not be the life saver it is cracked up to be either.

That, at least, is the argument of a small but increasingly ardent group of statisticians, academics and performance-car buffs. They want to raise the speed limit, and are attracting a growing audience by contending that the correlation between lower speed limits and fewer highway fatalities is weak.

If the government really wants to cut highway deaths, they argue half-facetiously, it should foment a recession, for that's when deaths have declined most in the past. Their serious suggestions include enforcing seat-belt and drunk-driving laws, and assuring that vehicles move in traffic at a uniform speed—be it high or low. "Americans have been brainwashed into believing 55 saves lives," complains James Baxter, a Wisconsin lobbyist who is trying to form a nationwide group of anti-55ers.

Brainwashed or not, most Americans do believe that. Fully 70 percent of Americans want to keep 55, a Wall Street Journal/NBC News nationwide opinion poll found, and even 34% of those who admit they speed agree. Transportation Secretary Elizabeth Dole wants to keep it too; "I am in favor of retaining anything that saves lives," she says.

"MONEY IS RIDING ON IT"

Nonetheless, if ever there was a time for the anti-55 forces, it is now. Gasoline prices are lower, adjusted for inflation, than they were before the 1973 oil crisis that provoked 55. What's more, within a few months the federal government may withhold millions in federal highway funds from states that it says don't enforce the speed limit. If the threat becomes reality, the resulting outcry may carry more weight than any statistical evidence. "Normally, pointy-headed things are ignored," says Charles A. Lave, an economist at the University of California-Irvine who favors lifting the speed limit. "But this time a lot of money is riding on it."

The highway fatality rate has been trending downward since the horseless carriage began appearing on roads. In 1922 about 18 people died in accidents for every 100 million miles traveled. By the end of World War II that rate had dropped nearly in half. And although highway speeds were increasing, fatality rates continued to fall an average of 3.1% a year since then. That's because of safer highways—such as the Interstate system—safer cars, more experienced drivers and better emergency care.

But a peculiar thing happened in 1974. The fatality rate dropped 15.3% to 3.6 fatalities per 100 million miles, the sharpest drop ever. The most obvious explanation was the lower speed limit adopted nationwide in March of that year. Federal Department of Transportation (DOT) statisticians estimated that more than 9,000 lives were saved that year, and they pinned the medal on 55.

Then another peculiar thing happened. Drivers started ignoring the "double nickel," and average highway speeds crept up again—but the fatality rate dropped more than 25% in the next decade. The fatality rate dropped a whopping 12.7% in 1982 alone, even though the speed limit didn't change from the year before.

RECREATIONAL DRIVERS

Explaining this phenomena is fueling the debate between the pro-55 and anti-55 forces. Although it may sound silly at first, the sharp drop in the fatality rate may actually be more closely related to economics than to speed limits. The oil embargo of 1973-74 kept recreational drivers off the roads. Statistically, they tend to have more accidents if only because they tend to be tired and traveling unfamiliar roads.

There is substantial historical evidence. For instance, in 1946, as speeds went up after wartime gasoline conservation ended, the fatality rate dropped 12.7%, and then fell 10% more in 1947. A recession also kicked in at the same time. The great economic boom of the early 1960s also saw the highway fatality rate rise, but it dropped during the recession in 1982. In fact, a 1983 DOT study demonstrated that 98% of the variation in annual highway fatalities could be accounted for by an equation incorporating such economic factors as unemployment.

Mr. Lave of the University of California uses a different analysis to explain why states with speeding drivers can have lower fatality rates. He argues that it isn't speed that causes accidents, but cars going either much faster or slower than other traffic. "Patrolmen ought to pay as much attention to slow drivers as they do to fast ones," he says. Mr. Lave recommends that states return to an old policy of setting speed limits for a certain highway near the speed most people traverse it, what highway engineers call the 85th-percentile rule.

In 1984, the national 85th-percentile speed was 67.7 mph, which makes Mr. Lave's speed variance study unpopular with those who favor keeping the 55-mph limit. "He doesn't hesitate to talk about things he doesn't know anything about," says Patricia F. Waller, associate director for driver studies at the University of North Carolina's Highway Safety Research Center. She says it makes more sense to have fast drivers slow down than have slow drivers, who tend to be elderly, speed up, because when accidents do occur more damage is done at high speeds.

SLOWER DRIVERS

"It's hard to look at the data and say speed isn't a factor in highway fatalities," says Damian J. Kulash, the assistant director for special projects at the National Research Council. He says the economic speed-variance study makes sense, but adds that 55 has helped narrow the range of highway speeds. The nonprofit research group published a study of the speed limit that concluded that despite the dissenting arguments, 55 saves between 2,000 and 4,000 lives each year. And though it found that in 39 states the average speed is above 55, drivers go slower than they did before 1974. The

average speed on rural interstates in 1985 was 59.6 mph, down from 65 mph in 1973.

And importantly, speeds are much lower on the primary and secondary roads that aren't designed for high-speed travel. "There has been a substantial behavior change," says Mr. Kulash.

The study also recommended that 55 could be lifted on rural interstates where driving long distances at slow speeds can be onerous. The idea, which should appeal to a government interested in turning more decisions over to the states, has drawn little reaction. Nervous about appearing to come out against safety, the DOT hasn't asked Congress to change the law making states enforce 55 at the risk of losing up to 10% of their federal highway funds.

DOT officials say it isn't their fault. "It's not that we are sticking to our guns," says Philip Haseltine, Transportation's deputy assistant secretary for policy and international affairs. "It's that there is no consensus for change." Counters Rep. Daniel Glickman of Kansas, who is leading efforts to raise the speed limits on rural interstates, "Secretary Dole has abdicated her responsibility on this issue."

The threat of losing federal money may hasten some politicians to act. Mrs. Dole is expected to decide in the next few weeks whether to withhold federal funds from Vermont and Arizona because studies show those two states have the highest portion of drivers who exceed the limit. If she does, says Mr. Haseltine, Eastern states may show less reluctance to join the cause because many, such as Maine, are just as vulnerable to the charge that 55 isn't enforced.

But few states have gone as far as Nebraska. Earlier this month, the state legislature voted to raise its interstate speed limit to 70 mph. The governor vetoed the bill because it would have cost the state $130 million in federal funds.

The 55 National Maximum Speed Limit: An Enforcement Perspective

Thank you, and good afternoon, Ladies and Gentlemen. I am honored to be here today to discuss the 55 national maximum speed limit on behalf of the California Highway Patrol (CHP). The CHP is the largest State traffic law enforcement agency in the country. With over 5,500 uniformed personnel. Through enforcement of the vehicle code and the provision of motorist services, it is the duty of these officers to ensure safe, expeditious travel on some 98,000 miles of California highways.

As many of you are already aware, the CHP is actively involved in research and evaluation of issues surrounding the 55 national maximum speed limit (NMSL). Members of our executive staff have traveled to Washington, DC to discuss the NMSL with Congress and Department of Transportation (DOT) official, and have made formal presentations before several interest groups, including the International Association of Chiefs of Police (IACP) and the American Association of Motor Vehicle Administrators.

As commander of our department's planning and analysis division. I am ultimately responsible for research and evaluation of NMSL issues which affect our department. In my presentation this afternoon, I would like to discuss several enforcement concerns regarding the 55 MPH speed limit, and then talk about two broader issues of present interest: Federal sanctions for noncompliance and selective increase of the 55 limit.

I should emphasize at the outset that the CHP strongly supports the 55 NMSL. We participated in the comprehensive study of the NMSL coordinated by the Transportation Research Board, and generally concur with the conclusions contained in the TRB final report, "55: A Decade of Experience." The 55 MPH speed limit has had a tremendous safety impact, and is still responsible for saving a significant number of lives on the highways.

As with many traffic law enforcement agencies, the CHP is aggressively enforcing the 55 speed limit. We presently deploy approximately 85 percent of our officers on 55 MPH roadways, and average one on-duty officer for every 27 miles of 55 highway (compared to the national average of one officer per 190 miles). In 1984, we issued over 1 million citations for exceeding the 55 MPH speed limit, or about two citations per minute. We project that this total—already the highest in the Nation—will be even greater in 1985. Although California has only 4 percent of the total 55 roadway mileage in the country. The CHP was responsible for 13 percent of all speeding citations.

In addition to our routine enforcement operations. In the past 8 years, the CHP has conducted 11 special NMSL enforcement projects at a cost of over $15 million. We are definitely not alone in this approach. In a survey conducted by the IACP earlier this year, 93 percent of the 46 States responding had also conducted special 55 enforcement programs using Federal funds. In California, our current special program involves three fixed-wing aircraft devoted exclusively to 55 enforcement working with designated teams of supplementary ground units. This effort is costing some $3 million annually.

Although we have had some limited success with these programs, they are expensive. Based on costs for the aerial enforcement project, the estimated price of a 1-percentage-point reduction in vehicles exceeding 55 MPH on 100 miles of project roadway was $250,000. Extrapolating this to the 24,670 miles of 55 highways in California, the cost of a 1-percentage-point reduction in statewide noncompliance would be $61 million.

In spite of our continuing enforcement efforts, the overall compliance situation in California is similar to that of many other states; and can best be described as discouraging. In fiscal year 1984, California reported 59.4 percent (unadjusted) of motorists on 55 highways exceeding the NMSL. On three of the six functional classes of 55 roadways, the noncompliance figures were even higher, ranging up to 78.1 percent exceeding 55 on rural interstate freeways.

California is certainly not unique with this enforcement/compliance disparity. Some of you are familiar with the compliance situation in the State of Maryland. The Maryland State Police make full use of available speed enforcement technologies and innovative deployment strategies. They issued some 170 citations per mile of 55 highway in 1984—third highest in the Nation, and four times the California rate. Yet, that year, Maryland had the highest unadjusted rate of noncompliance in the country; 73.0 percent of their motorists were exceeding the 55 MPH speed limit.

Maryland suffers from some special compliance problems, which I am told were discussed by Tom Hicks of Maryland's Department of Transportation at this subcommittee's June meeting. But the experience of Maryland and California, like that of many other States, clearly demonstrates a basic limitation of law enforcement: Routine enforcement efforts simply cannot coerce compliance with a law which is not supported by the public when they are driving on the highway.

The unfortunate truth is that the public does not support the 55 MPH speed limit to the extent that law enforcement (or the Federal Government) would prefer. Although public opinion polls continue to show strong verbal support of 55, ranging from 60 to 76 percent in recent surveys, I believe the national compliance figures are the better indicator of public opinion. It is this actual driving behavior, not survey response, with which law enforcement and State governments must contend. For 1984, the nationwide noncompliance rate for all 55 roadways was 50.2 percent before adjustments. As most of you know, in 1984, three States exceeded the 50-percent maximum rate of noncompliance allowed by the Federal Government, and may be subject to fiscal sanctions. Preliminary data indicates that noncompliance figures will be higher for fiscal year 1985. As many as 12 more States (including California) may be in sanctionable status if the present method of compliance measurement is continued.

For law enforcement, the principal consequence of this compliance problem is the high opportunity cost. As with most departments of transportation, law enforcement agencies are confronting increased problems with static—or, in some cases, reduced—resources. To again use California as an example; since 1974, our licensed drivers have increased 29 percent, registered vehicles 28 percent, and vehicle miles traveled a substantial 54 percent. But during the same period, the number of CHP officers on the road actually decreased slightly. With fixed resources, the extensive efforts that traffic officers devote to 55 enforcement directly impacts their ability to address other, more hazardous violations, such as driving under the influence.

Clearly, the 55-MPH speed limit requires a substantial commitment of law enforcement resources at the expense of other programs; yet our speed enforcement efforts do not have—and without public support, cannot have—a widespread and long-lasting impact.

Fortunately, there are some prospects for improvement in the near future. The first of these is a possible change in the present method of measuring compliance. The existing system strictly considers the (adjusted) percent of vehicles exceeding 55 MPH, or, using the simplified method of adjustment allowed by DOT. The percent exceeding 57.5 MPH. Many of us have some doubts about the accuracy of present speed monitoring practices and the data which is reported. A greater concern, however, is that the current compliance process does not consider the severity or the location of noncompliance. No distinction is made between a 58-MPH violation on an interstate freeway and a 75-MPH violation on a winding two-lane country road, despite the vast difference in hazard.

One fact ignored by the present monitoring system is what we call "enforcement tolerance." Traffic officers have traditionally allowed a certain degree of violation before taking enforcement action, regardless of the speed limit. The exact tolerance varies depending on the practices of local enforcement agencies and courts, but it is generally in the range of 4 to 9 miles per hour. As a result, motorists may drive several miles per hour over 55, and be technically "out of

compliance," yet still believe they are complying with the spirit of the law.

One of the specific recommendations in the TRB report was that the existing method of compliance measurement be modified to better represent noncompliance severity. In response to the TRB recommendation, the Subcommittee on Surface Transportation of the House Committee on Public Works and Transportation recently proposed a completely revised method of measuring a State's NMSL compliance. A refined adaptation of the TRB concept, the proposal assigns specific weighting factors for three speed ranges and for two roadway types. Higher speeds and lower quality roadways are weighted more heavily, and an overall "point" total is used to determine compliance.

This point system would more accurately and more equitably represent the compliance situation in individual States. The proposal, contained within H.R. 3129, is supported by the CHP, and we testified on behalf of its adoption at a House Subcommittee meeting in Washington. We also offered some amendments, and the bill is now awaiting consideration by the full Committee on Public Works and Transportation. The prospects for this proposal are promising, but it is not likely to be considered by the full House until sometime next year. Even if it is signed into law, it is uncertain whether the provisions of the proposal can be applied retroactively to the 1984/85 compliance certifications.

Anticipating passage of the compliance proposal, the CHP recently petitioned the Federal Department of Transportation to adopt, on an interim basis, a 4.0-MPH adjustment factor for fiscal year 1985. By counting only those violations above 59 MPH, this factor would account for the enforcement tolerance perceived by motorists in addition to the statistical adjustments now permitted. This adjustment factor would have eased the noncompliance situation for many of the States expected to be in sanctionable status this year. Unfortunately, our proposal was rejected outright by the DOT, as it was in 1983.

Either the provisions of H.R. 3129 or the 4.0 adjustment factor would provide a temporary respite from widespread fiscal sanctions, and a potential NMSL crisis. I believe in the longer term, however, modification of the speed limit itself will be necessary because of the underlying noncompliance problem.

The selective increase of the 55-MPH speed limit on rural interstate quality freeways is one approach which is of particular interest to many enforcement agencies. Because of the high design standards, low congestion, and traffic flow, these freeways exhibit some of the lowest death and injury rates in the Nation's highway system. They carry 19 percent of the traffic, yet account for only 9 percent of the fatalities. The TRB committee estimated that drivers on rural interstates expend approximately four times as much travel time at 55 MPH to achieve the equivalent safety benefits as travelers on other maximum speed highways.

This is true despite the fact that rural interstate freeways have the highest noncompliance rates of any class of roadway. In fiscal year 1984, the national percentage of motorists exceeding 55 MPH on rural interstates was 75.3 percent. In 17 States, the noncompliance rate was nearly 85 percent. I know that many traffic engineers believe that the most appropriate and safest speed limits are those determined by the "85th percentile speed" concept. Clearly, the majority of motorists driving on rural interstates do not believe that 55 MPH is an appropriate speed limit. On many of these freeways, the 85th percentile speed is over 65 MPH.

The TRB committee recommended that Congress decide the issue of raising speed limits on rural interstate freeways. The CHP strongly believes that a 65-MPH speed limit would be appropriate for selected rural freeways of interstate quality, and has supported such action in the past. It is believed that motorists frustrated with the NMSL could be eased somewhat; and 55 would be viewed as a more appropriate speed limit where it is retained. Of particular interest to law enforcement agencies are the considerable resources required for NMSL enforcement on affected routes. These could be redirected to other enforcement efforts of greater safety concern. These include detection and apprehension of drinking drivers, or concentrating on speed enforcement where there is an associated accident problem.

There could be some negative safety impacts on affected freeways, although probably not as great as the 20 to 25 percent fatality increase projected by the TRB (among other factors, their estimate ignores the considerable erosion of compliance that already exists on these routes, and consequently overstated the expected speed increase). These safety impacts could be offset, to some extent, by redirected enforcement in other areas.

It is also possible that higher interstate speed could "spill over" onto other routes where 55 is retained. However, multiple tier speed limits were relatively common before the NMSL, and varied with roadway, vehicle type, and even time of day in some States. If the limits are perceived as appropriate by the motoring public, speed spillover should not be a serious problem.

There is increasing support for selectively raising the limit on rural interstates, particularly among the Western States. In the recent IACP law enforcement survey, 54 percent of western State police agencies supported an increased limit on rural freeways. This summer, the California Legislature sent Senate Joint Resolution 4 to Congress requesting that States be allowed this option. Four NMSL bills are now pending in Congress; and two, H.R. 693 and S. 329, would retain 55 on most roadways but allow selected increases on rural highways. The CHP is supporting this legislation, but has recommended amendment to allow State, rather than Federal, selection of appropriate freeway segments.

In conclusion, the CHP believes that the 55 NMSL has been an extremely effective traffic safety policy; but its present application has placed many State governments and their enforcement agencies in a difficult and frustrating position. For the short term, modification of the present system of compliance measurement is both appropriate and necessary. For a longer term solution, modification of the limit itself may be required, with selective increases on segments of rural interstate freeways an appropriate action. The CHP is urging support of these concepts by individual States, and we strongly recommend that States consider the legislation now pending in Congress to effect these changes. It will take a joint effort by the States and the Federal Government to bring the NMSL into conformance with the present driving behavior of American motorists, and to thereby preserve the remaining safety benefits of 55.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1010

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR GORE

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized for 5 minutes.

SDI ASSESSMENT

Mr. GORE. Mr. President, over the last 4 weeks, I have been delivering, in the form of daily speeches on the floor, what amounts to an extended assessment of the strategic defense initiative and its implications. I think the time has come now to sum up, not because the last word has been said on SDI, but rather as a way to put things in order, the better to deal with new dimensions of this issue, as they appear.

There is no doubt that the strategic defense initiative is a revolutionary, or more accurately, a radical concept. The impulse behind it is not to modify existing approaches to the prevention of nuclear war but to abandon them entirely for the sake of something utterly new. As explained by the President, the purpose of SDI is to find the keys to deliverance, deliverance from strategies based on a balance of terror, deliverance to a world in which nuclear weapons, having been rendered militarily useless by a supremely effective defense, can finally be physically eliminated.

In a sense, the President's conception amounts to a remarkable convergence between the objectives of political polar opposites, the far right, trying to achieve through technology, what the far left has been trying to achieve through politics, an initiative to throw off the entire body of nuclear doctrine and nuclear weaponry which has gradually accumulated since 1945.

There are other similarities, as well, each marking a peculiar transition by which the President, long accused of bellicosity, seems to have arrived at a meeting of the minds with those in our society whose views are closest to pacifism. He and they declare a policy of deterrence to be immoral at its core. He and they believe in the need for complete nuclear disarmament as the only practical way to prevent nuclear war. He and they predicate their

hopes for this on the most extraordinary forms of United States-Soviet collaboration.

In a way, this remarkable convergence explains why some of us are prepared to see pure research in SDI go forward. It is for the same reason that we listen with tolerance to those who still keep vigil for complete disarmament, because we know that in the longer term, something more than incremental change will be needed to prevent nuclear war, something akin to a change in human consciousness, a maturation marked not only by an awareness that war is itself obsolete, but by concrete action to render it so. Money for SDI research is a way to keep up such a possibility.

But we also believe that the path toward that goal has no shortcuts, whether technological or spiritual. The President's conception of SDI is something which cannot ripen in either sense for many years, if ever. It is the ultimate long shot. The real challenge before us is to deal in precise, unerring fashion with those elements of the arms race that create and nourish the risk of nuclear war. If we cannot do that in the near term, then circumstances propitious for SDI will never come into existence.

And it is here that one finds in SDI the seeds of a great perversity, because the President's unchanging imagery and rhetoric about an ultimate defense for populations conceals an entirely different reality. Those who support SDI with zeal and impatience, and those who are actually managing this program, neither anticipate nor particularly desire the President's ultimate defense of the people. What they want is a near-term defense of our ICBM's.

What a profound difference between these two conceptions. The President points us toward total novelty, toward a world operating on principles of international relations dissimilar from anything in our experience. But what our dollars are actually paying for is something we already understand very well in principle: having been through it all once before during the great national debate on antiballistic missile systems during the late 1960's.

At every level, the implications of these two concepts display striking divergencies and contradictions.

The President's concept argues for research with a longtime horizon; demanding breakthroughs in basic science, and vast improvements in applied technology. It is no less dependent upon profound changes in the psychology of United States-Soviet relations—manifesting themselves in deep reductions of offensive forces, and restructurings for improved stability. These changes, too, argue for a long-range view.

In the here-and-now, however, the President's conception ought—if it were being logically applied—to be compatible with intelligent programs for modernization and arms control. There is no need, if you are thinking of a process lasting 15 or 20 years, to disparage SALT, to undermine the ABM Treaty, and to muddle ICBM modernization by abandoning the Midgetman. Nor is there a need to shun objective measures of performance and utility such as the Nitze criteria.

And, above all, there would be no reason to reject any Soviet proposal in the arms control talks that might allow these elements to be intelligently combined if we explored them fruitfully.

If, however, one's objective is to overturn the existing order of things first, and to worry about consequences later—if one's objective is to build a limited defense at breakneck speed—then a quite different logic applies.

The purpose of that game is not stability but dominance. And its rules make all arms control unacceptable. SALT, once criticized for failure to neutralize the Soviet Union's advantage in throwweight, is now dismissed on the assurance that the Soviets have neither means nor motive to exploit that advantage. Disputes with the Soviets over compliance, which might be answered by proportional means, are exploited to bring about the elimination of all restraints. The ABM Treaty, already grossly undermined by a reinterpretation out of Alice in Wonderland, is in the hands of its sworn enemies.

Forms of modernization, such as the Midgetman, which could end this country's long, wandering struggle with the problem of ICBM vulnerability, are sabotaged, as though what we really need is more delay, more debate, amd more paralysis. Because, in the end, what is wanted by this group is more and more firepower, regardless of the consequence. And if that firepower is in the form of weapons exposed and vulnerable, then so much the better, since the task of undermining the ABM Treaty would be lightened by the circular argument that the missiles must be defended. As for the question of efficiency and cost effectiveness, forget them: treat these as standards for lesser projects such as the Midgetman, but brush them aside for SDI.

Where the Soviet Union is concerned. According to this group, there is no need to wait for a political ripening. Instead, the formula is to press indeed, to ram SDI at them tell the Soviets to: "cut your forces in half; eliminate your heavy ICBM's; forget about a couple of hundred land attack sea launched cruise missiles; pardon us while we deploy 4,000 hard target warheads at sea; and don't expect us to recognize your concerns about our work on defense, which we intend to prosecute to the limit of our ingenuity and our funds. Take it or leave it. And if you leave it, you make our day."

Well, in the name of bipartisanship and patriotism, most of us have dutifully let the Soviets have it with both barrels for all their faults: especially, for what they have done to prospects for arms control by playing fast and loose with compliance. Mr. President, we are haunted by the sense that our own government may be at bottom no more serious than the Soviet Union about arms control; while much of the rest of the world has begun to believe that we are not even as serious. I disagree with that and I hope that we will be able, in the months ahead, to prove our critics in the rest of the world wrong.

But, like any other revolutionary impulse, the call to SDI is based on a claim that existing concepts and forms have been played out: that our central concepts about deterrence, stability, arms control and the like are exhausted beyond refurbishing, and should instead be discarded.

But one of the great ironies of history is that revolutions foment counter-revolutions, bringing back the very thing which they sought to replace. And so it is with SDI, as envisaged and encouraged by its true believers. Seeking to replace the balance of terror, SDI will instead reinforce it by demanding of planners more warheads for those to be lost; more randomness to compensate for uncertainties. In the end, we shall not be liberated from mutual assured destruction, but bound to it forever by this limited version of SDI.

As I said at the beginning of the speeches, Mr. President, the time for a great national debate on SDI is at hand. Not after a decade, when choice in this matter maybe illusory, but now, while we still have real options. And to prepare the stage for that debate, this Congress needs to let the administration know that we will not allow them to make revolution at the Nation's expense; that we will not quietly accept the destruction of SALT; that we will indeed insist that the ABM Treaty be preserved; that we will not approve the inversion of priorities signified by moves to drain funds from the Midgetman for the sake of SDI.

And if we move to do these things, we will of course be told that we are damaging the President's negotiating position. And, as has happened so often, all of us who believe in the need for arms control, will be tempted to restrain and censor ourselves. We should not. We dare not. This is an administration divided against itself; intoxicated with its own words; indulgent with its own errors and inconsistencies.

In only one respect may we consider it solid, and that is, in a stubborn will

to have its own way, regardless of consequences, and in frequent disregard of the facts. If that characteristic is not resisted in the realm of strategic affairs, the price could be unacceptably high.

RECOGNITION OF SENATOR SASSER

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the senior Senator from Tennessee for not to exceed 5 minutes.

REEXAMINATION OF THE MILITARY SPACE SHUTTLE PROGRAM

Mr. SASSER. Mr. President, last weekend I visited the space shuttle launch facilities at Vandenberg Air Force Base in California.

What I found there was a facility which has cost the taxpayers almost $3 billion, a facility that is unprepared to safely launch shuttles into space. The problems preventing such launches, in all fairness, I must say, do appear correctable, but it was clear to me that these problems will have a substantial impact on the capability of the Air Force to safely launch a shuttle for many years to come.

Based on my personal inspection and a staff report I ordered regarding this situation some week ago, I am today asking the General Accounting Office to conduct an investigation into the problems at Vandenberg.

Given the difficulties at the west coast shuttle facility, it is time for a fundamental reexamination of the military space shuttle program.

Last week, we received the report of the Rogers Commission on the *Challenger* accident. That report showed us NASA has a long road before it if it is going to come back and if it is to regain internal confidence and public trust in its manned space shuttle program.

The issue before the Department of Defense, however, is more basic than that facing NASA.

The issue is that: Are manned space missions absolutely vital to providing national security access to space? I think the answer to that is becoming very clear, and the answer is no.

The significant technical problems at Vandenberg lead me to believe that a military space shuttle program is not necessary. There are much less costly and more dependable alternatives available that entail less risk and achieve the same end.

In my view, we should no longer plan to use manned space flight to deliver military payloads into space unless there is no other alternative.

Now, this does not mean I no longer support NASA's shuttle program. Indeed, it is my belief we should press ahead on that front, recognizing its importance as an invaluable research and development tool.

□ 1030

But there is a clear difference in the natures of the Defense Department and NASA programs. Our military needs can best be met with a program that is a highly operational one that can go, and perhaps more importantly, one that can be implemented in a short period of time.

That program is the construction of a new complementary expendable launch vehicle, approved by Congress last year. The CELV, as it is known, should be available by 1988 or 1989 and will be capable of putting most military payloads into space without putting men at risk.

My investigation at Vandenberg showed that the facility can be made ready for unmanned rockets in a relative short period of time.

The problems in making Vandenberg shuttle ready are much more complex, costly, and much more unpredictable.

Frankly, I believe the shuttle was oversold several years ago. Those of us who sat on the Space Appropriations Subcommittee were misled about the shuttle's capabilities. And those of us on the Military Construction Appropriations Subcommittee were oversold by the Department of Defense on the shuttle's promise for the accomplishment of military missions.

We now know those promises will likely never be fulfilled.

To that end, I have written the Secretary of Defense and urged that the Vandenberg shuttle facilities be mothballed until it can be proven such a facility is absolutely necessary. This will save the American taxpayers $400 million each year.

Should the Vandenberg shuttle program on the west coast be canceled, then I would suggest the need for a fourth shuttle orbiter for NASA merits reconsideration.

It is my belief that as long as serious questions surround the necessity of a military shuttle program, we should seek to rebuild our military space capability around proven expendable launch vehicle technologies—unmanned launch vehicles that can go, and go quickly when we need to put a military payload into orbit, or when we need to put a military surveillance satellite into polar orbit.

Mr. President, I ask unanimous consent that my letter to the General Accounting Office, and my letter to the Department of Defense be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 17, 1986.

Hon. CASPAR WEINBERGER,
Secretary of Defense,
Washington, DC.

DEAR MR. SECRETARY: This weekend, I visited the space shuttle launch facility constructed at Vandenberg Air Force Base, California. I made this trip after receiving a staff report which raised a number of important issues concerning technical problems which exist at the Vandenberg site.

Today, I have asked the General Accounting Office to take a deeper look at the issues being raised and to provide the Congress with a report detailing if a fourth orbiter is necessary, if the SLC-6 site is placed in mothball. I have also asked GAO to review the military need for manned space flight.

The purpose of this letter is to ask that you direct all responsible defense officials to cooperate fully with the GAO investigation.

Frankly, I am concerned that military space shuttle flights from Vandenberg may no longer be necessary. The purpose of such a capability was to assure the launch of heavy payloads into polar orbit. Questions are now being raised regarding the capability of the Vandenberg facilities to support such launches safely. But, beyond that, as the Department of Defense achieves the ability to launch the Complementary Expendable Launch Vehicles from Vandenberg, shuttle launches from the West Coast no longer appear necessary.

In fact, with CELV capable of performing planned missions, it would appear that the shuttle is redundant to the accomplishment of military space missions. It is my view that the nation cannot afford such redundant capabilities. Certainly, DoD will be able to utilize the shuttle from the Kennedy Space Center in Florida. For heavy polar-orbit missions, CELV can be utilized in the future from Vandenberg. A West Coast shuttle capability, thus, is no longer a necessary ingredient for assuring national security access to space.

I would urge you to initiate a review of the Department's plans to continue to utilize the shuttle from Vandenberg. Technical problems alone may serve to prevent such launches. In my view, if manned space flight is not necessary to lift high-priority, national-security payloads into space, we should plan on utilizing ELVs in future missions.

I was briefed that the nation's taxpayers could save as much as $1.6 billion in the next five years, if the shuttle facilities at Vandenberg were to be put in mothball. I would, therefore, urge that DoD mothball these redundant and unnecessary facilities.

As you know, I have been a strong supporter of the CELV program as an insurance policy, should the shuttle not be available to support military flights. It is now my belief that the DoD should adopt CELV as its primary launch vehicle, instead of the shuttle, in view of shuttle uncertainties and launch site uncertainties. I continue to support the shuttle as a research and development platform, but it no longer appears to be the short- and near-term, least-cost, least-risk option available for national security access to space.

I look forward to working with you as the nation develops an appropriate strategy for future military space missions.

Sincerely,

JIM SASSER,
Ranking Minority Member,
Subcommittee on Military Construction.

COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 17, 1986.

Mr. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: This weekend I visited the space shuttle launch facilities at Vandenberg Air Force Base, California. The purpose of my visit was to review the status of construction approved by the Subcommittee on Military Construction.

I made this trip after I received a staff report which alleged a number of specific problems affecting the ability of these facilities to safely support West Coast shuttle launches. Because of the magnitude of the issues being raised, I request the General Accounting Office to undertake an immediate review of each of them, as well as additional issues which may require investigation.

Specifically, the Congress needs to know the history of construction and testing at the Vandenberg STS facility. The GAO should seek to provide the Congress with an evaluation of the ability of the facility to support shuttle launches in the future.

I also request that GAO provide me with information which outlines the savings which would accrue to the U.S. Treasury, if a decision were made to place SLC-6 into mothball or caretaker status.

In addition, I request the GAO to review planned shuttle military missions to ascertain if any of these missions can only be accomplished by manned flight. As the Congress begins a thorough evaluation of the future of manned space flight, such a GAO report will be of tremendous value.

GAO should also address the need to build a fourth orbiter, if shuttle flights from Vandenberg are cancelled.

I request GAO to draft the report in a manner which provides the Congress with an unclassified response to this request. Any classified information which the GAO feels should be submitted to the Congress in support of such a report, should be submitted as a separate annex to the basic report.

Thank you for your assistance in this matter.

Sincerely,

JIM SASSER,
Ranking Minority Member, Subcommittee on Military Construction.

Mr. SASSER. Mr. President, I yield the floor.

RECOGNITION OF SENATOR WALLOP

The PRESIDING OFFICER. Under a previous order, the Chair will now recognize the able Senator from Wyoming, Mr. WALLOP, for not to exceed 12 minutes, the Chair being advised that the Senator has available to him the remaining time of the majority leader in addition to his own 5 minutes.

Mr. WALLOP. Mr. President, I thank the Chair.

SOUTH AFRICA

Mr. WALLOP. Mr. President, I rise to speak on the current situation in South Africa and the acute problems with U.S. foreign policy toward the increasingly ominous situation confronting South Africa. With all the legitimate emotion it is tempting to yield to passion and abandon logic. We do so at our own national peril and more importantly to the increased peril and harm of the very people we wish most to assist. To the end of seeking reason I seek to make certain points this morning.

Mr. President, my first point is that the African National Congress [the ANC] is waiting to exploit South Africa's anguish with more terror. The ANC is a terrorist organization now benefiting from liberal political eagerness to romanticize the deteriorating political situation in South Africa. My second point is that the Soviets are actively engaged in trying to prevent any conciliation with the ANC. My third point is that if the current Government of South Africa is destroyed, there is no obvious alternative concentration of power to take over the functions of government. Perhaps that same ANC organization would be the only such group. Such a development will play into the hands of the Soviets and result in a bloodbath for the very South Africans we want to help.

Mr. President, my fourth point is that the imposition of economic sanctions against South Africa at this time would accelerate the deterioration of the political situation in South Africa at the very time when apartheid is being systematically dismantled by that country's government. My fifth point is that if the United States imposes sanctions, the Western allies will feel compelled to follow suit. My sixth point is that the South African Government can prevent increasing violence by calling a conference of those black leaders who do exist, such as Rev. Allan Boesak, Bishop Tutu, and Chief M. Gatsha Buthelezi to confer on power sharing arrangements and that the United States should encourage the calling of such a conference.

My final point, Mr. President, is that a stable South Africa under a democratic government is in the national interest of the United States for national security reasons. We cannot afford to let the Soviet Union exploit a potential power vacuum in South Africa by turning that country into a marxist state, choking some of the world's most important strategic sealanes and gaining control of some of the world's most important strategic minerals.

On my first point, that the ANC is a terrorist organization waiting to explode, I want people to realize that the ANC counts a majority of Communists among its leaders. The ANC is affiliated with the Communist Party of South Africa and with the Communist Party of the Soviet Union. One ANC leader, Oliver Tambo, has close ties with Bulgaria, with Czechoslovakia and with the PLO. The fact that the ANC is a Communist front is very well documented in books published here by Roberta Goren, by Dr. Ray Cline and by Yonah Alexander, an authority on terrorism. ANC terrorists thought up the brutal "necklace" method of killing, where a gasoline-soaked tire is put around a victim's neck and then ignited. ANC-style "liberation" of black South Africans would be savage indeed. I might say that they use this not against their white oppressors, but against their black neighbors who wish to be a part of a government seeking lawful change.

My second point, Mr. President, is that the ANC has resisted all efforts of the moderate South Africans to reconcile with it. It frankly refuses to talk, but prefers to continue its brutal murders and rampages, and has failed utterly to explain to the world how the necklace murders help black South Africans.

My third point is that people who would bring about the downfall and destruction of the present South African Government seem not to know or care that there is no viable alternative to take its place. Black South Africans have no rallying point, no leaders, no shadow government ready to step in to govern the country.

Until such a leadership develops and until black South Africans can unite and work together to produce a structure that would lead to self-government, the destruction of the current government would lead immediately to chaos, civil war, anarchy, and death for the vast majority of South Africans of all colors.

Mr. President, my fourth point is that to impose economic sanctions against South Africa will accelerate the deteriorating political situation there. This will play into the hands of the Soviet-affiliated ANC terrorists and hurt the very South Africans it is supposed to help.

Mr. President, United States investment in South Africa has been a strong force for positive change there. Investment has provided jobs for black South Africans, trained them, helped them to grow and increased their economic freedoms and yes, their political freedoms, too. Naturally the Communists don't like this and naturally the Communists want the capitalists out of South Africa. The South African economy itself, a flourishing one, will deteriorate under ANC terrorism and decline sharply under Marxism. Who would say that the black worker is benefited by this? How can they make that argument?

□ 1040

Mr. President, we do not need to weaken the South African economy, as the ANC wants us to do, by imposing sanctions. Unfortunately, if we do, other Western nations will follow suit, I am afraid, and there could be a band-

wagon leading to collapse in the South African economy. This would, of course, be exploited by the ANC, who regard the downfall of capitalism as inevitable under the Marxist doctrine they learned in Moscow.

But much of this might change, if the Government of South Africa would call a conference of all black leaders in the country, such as Reverend Boesak, Bishop Tutu, Mr. Buthelezi, and perhaps even the Mandelas, if they renounce terrorism, to plan for power sharing. I believe, Mr. President, that our Government should call on South Africa to hold such a conference as soon as possible before increasing ANC terrorism explodes.

Lastly, Mr. President, I want to talk about the national security interest of the United States in South Africa. South Africa is a strategic mineral treasure house for the industries and defense production of the Western World. The Soviet Union would like nothing better than to cut us and our NATO allies off from these rich mineral resources and do as they did with Rhodesian chrome—buy it themselves, then sell it back to us at a premium, earning hard currency and profiting from Western sensibilities in complete immorality.

Next, South Africa is situated on the key sealane between the Atlantic Ocean and Persian Gulf and the Cape of Good Hope.

Bear in mind that the Soviets now control or seek to control the major oil straits of the world, such as the Strait of Hormuz, and with their rebels in Morocco they seek additional controls, such as the Strait of Gibraltar. With the Great South African sealanes under their control, one only has to look at the direction and purpose of their foreign policy.

A Soviet base there would cut us off from secure links to the Indian Ocean and prevent shipment of oil to the West by the cape route. It is in the national security interest of our country and of the West to have a stable, peaceful, and democratic South Africa free of terrorists, violence, and chaotic internal political upheaval.

The last point, Mr. President, is that one only has to look at those countries in Southern Africa who are dependent upon the government and the economy of South Africa for their very existence, and while seeking to punish South Africa the greatest harm would fall on those black governments basically and intrinsically linked to the economy of the world through the country of South Africa.

For all these reasons, Mr. President, I am vehemently opposed to sanctions against South Africa. But I am for a conference of all South African groups to plan for their own future in self-government, prosperity, and democracy. Let us see what we can do to promote that. I salute President Reagan's statement over the weekend that sanctions will not help.

I trust that in our desire to show our solidarity with groups with which we wish to identify, that we do not in the process abandon them in the face of death, bloodshed, chaos and civil strife, and the possibility of achieving the very dream which we all seek now for the great country of South Africa.

ORDER OF BUSINESS

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that I might be able to use the time of the Senator from Vermont [Mr. LEAHY]. He has indicated to me that that would be agreeable to him.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Florida is recognized for not to exceed 5 minutes.

ROCK AND CRACK COCAINE

Mr. CHILES. Mr. President, 6 months ago, I did not know about the dangers of rock and crack cocaine. I did not even know what they were. Today, I consider it the No. 1 drug problem in the Nation and I am not alone.

Newsweek calls it a plague. According to Time, the rate of addiction to rock cocaine may prove worse than the wave of heroin addiction in the late 1960's the Washington Post says that rock has swept affluent and poor neighborhoods alike.

Experienced narcotic officers tell me they have never seen anything like rock cocaine for potency and impact.

What really scared me was when I heard that heroin addicts are afraid of rock.

Rock and crack cocaine are now widely available in 25 States. It is out of control in New York, Los Angeles, Detroit, Miami, and Houston. But you know it is a national disaster when Sumter County, a rural county of 27,000 people in Florida, has 40 known rock dealers. One narcotic expert claims it is the most addictive drug known to man right now. The addict is going to sell, deal, or steal to get rock cocaine.

We know that crime rates have doubled in cities where rock and crack are spreading. Once addicted, scruples and morals disappear and addicts with no criminal records become thieves and killers. We face an emergency and need to take emergency steps. There is no one solution.

But clearly those dealing in rock and crack cocaine should face the stiffest penalties that law allows. Right now a crack dealer faces no greater risk than does a small time pusher.

The bills I am introducing today will change that. Dealers in rock and crack will face the prospect of long prison sentences and punitive fines. Loopholes in the law will be closed and the insidious practice of employing children in this trade will be a fully punishable offense. It should be no less.

Rock and crack cocaine are relatively new forms of cocaine which are freebase cocaine—cocaine whose hydrocholoride has been released by heat. The heating of the cocaine with baking soda and water leaves a residue—this is cocaine freebase which is almost a pure narcotic and therefore lethal and potent. The residue paste is allowed to dry and then is broken up into nuggets or slithers for distribution.

The nuggets are rocks. The slithers are crack.

The very potent nature of this rock and crack is the reason I am introducing a bill to place cocaine freebase in schedule I of the Controlled Substances Act.

This step would elevate the drug into the most dangerous class of narcotics and thereby increase the penalties for Federal violations involving rock and crack. But, I have gone a step further to demonstrate the lethal nature of these drugs. My bill specifies that the heaviest penalties will apply if one posses 1 gram of rock or crack. Current law applies the stiffest penalties for powdered cocaine at 1 kilogram—1,000 grams. One kilogram of cocaine could make 25,000 rocks. One gram of cocaine makes about 20 to 25 rocks. The high concentration of rock and crack warrants that 1 gram receive the stiffest penalty.

Some think I am being too harsh with these penalties. I do not have such qualms. My changes are to Federal Law and Federal law is unsually directed at those who deal and traffic in significant amounts of drugs. In my book, if you have 20 rocks on you—you should have the book thrown at you. This is a lethal, potent drug.

To be listed in schedule I of the Controlled Substances Act a narcotic must:

First have potential for abuse; second, have no known medical use; and third, have a lack of accepted safety for use under medical supervision.

Cocaine freebase—rock and crack cocaine—definitely meet these standards and should be listed amongst the most dangerous drugs. By listing cocaine freebase in schedule I, the penalties for violations are increased substantially.

These penalties would apply under my bill when the perpetrator has 1 gram of rock and/or crack on his person. For first offenses, the penalties could be as high as 20 years and $250,000 for first time offenders. For

repeat offenders, the fines could be as high as $500,000 with imprisonment up to 40 years. Under 1 gram of rock and cocaine possession would result in penalties up to 15 years and $25,000 for first offenses and as high as 30 years and $50,000 for repeat offenses.

I am hoping that States will follow suit and move rock and crack up to schedule I in their statutes so that penalties will be tougher for possession.

Florida police tell me when they moved quaaludes—methaqualone—up to schedule I, it almost disappeared on the streets. I am hoping this might happen with rock and crack. If dealers and traffickers know the penalty is tough, they might think twice before dealing in rock and crack.

My other two bills are directed at those who prey on our youth to work in their illegal drug enterprises. Rock and crack dealers in particular use minors to staff their rock or freebase houses where the drugs are processed, sold, distributed, and smoked.

Kids are indispensable to these dealers and cannot be linked to them. Minors are used as staff in the houses selling and distributing the drugs, hustling customers from the streets, and acting as lookouts against police. The minors are paid—often with a hit of rock or crack. They soon become hard addicts.

Teenage girls in New York City admit to selling their bodies daily to pay for their rock habits. Rock dealers in Tallahassee gave kids new bikes on the condition they would ride around the neighborhoods and alert them to police.

A 16-year-old good student in the Bronx killed his mother with a butcher knife in a fight over crack.

Regrettably, these are not exaggerations. I could go on and on. Drug hotlines everywhere are telling of dramatic increases in calls for help—many from teenagers hooked on rock and crack.

My bills would double and triple the penalties for those who employ minors in illegal drug enterprises and for those who manufacture or process drugs within 1,000 feet of a school.

These penalties are identical to those in current law for distribution to minors, those under 21. By making it a felony to employ minors, dealers and traffickers could be prosecuted without being caught with the drug in their possession. Penalties up to life imprisonment could be realized. I believe such penalties should be imposed against those who use our youth with no regard for their well-being.

If these three laws were implemented tomorrow, they would likely not stop rock and crack, but maybe they would slow it down which at this point could stop the epidemic.

It is imperative that all levels of law enforcement act now to combat this spreading phenomenon. I am glad to report that the conferees on the urgent supplemental appropriations bill have agreed to my amendment which directs the Attorney General to call an emergency meeting of the National Drug Enforcement Policy Board to address rock and crack cocaine.

The Board would then be required to develop a national plan of assistance to halt trafficking in rock and crack cocaine; to promote effective law enforcement efforts to identify, investigate, prosecute, and incarcerate perpetrators engaged in rock and crack cocaine; and, to foster public understanding of the dangerous effects of this substance on public health and safety.

This plan is required in 60 days and I am hopeful that the supplemental will soon be enacted so the States will have this assistance. It is crucial to the fight against rock and crack. There must be a cooperative effort from all levels before it is too late.

One DEA agent claims rock and crack will soon become the drugs of choice. No needles, no sniffing, and no drug paraphernalia—just smoke the stuff. We might not be able to address the convenience of these drugs but we sure can make the dealer as well as user think twice.

There should be no choice about these drugs. Rock and crack are lethal. They must be stopped. I urge my colleagues to join me in making the penalties the toughest against rock and crack cocaine.

Mr. President, I am introducing today three bills to deal with the scourge that we now find coming across the Nation, rock and crack cocaine. Rock and crack cocaine have hit this country in a tidal wave. DEA has said it is probably now the drug of choice in the United States. It is available in 25 States. It is out of control in Los Angeles and New York. I know the kind of problem it is in my State when in a county, a rural county, in central Florida, Sumter County, population of about 27,000, the sheriff in that county has told me he has now identified 40 rock dealers in that small county. It has hit our counties and our State in the last 6 months. Now law enforcement officers say they cannot cope with it, they do not have the personnel to cope with it.

One of the problems, Mr. President, is that it is so readily available. It sells for $5 to $10. They take regular cocaine and they mix it with baking soda and water, apply heat, and then they make rocks out of it, little hard granules. They sell those for $5 to $10. You can make a pipe to smoke that out of a Coca-Cola can or a beer can. It gives a high that is 5 to 10 times more potent than heroin.

After using it two or three times, you become an addict. Sheriffs have told us now that once someone is an addict, they sell, they deal, or they steal in order to feed their habit. They sell their body if they can find a customer, they deal in rock themselves, or they steal from anywhere they can to get the money.

Again, law enforcement officers are telling us that crime is increasing. It is almost double in my State, while it had been going down. Most of those crimes are robberies. There are assaults in connection with the dealers themselves. It is simply out of control.

One of the problems in addition to this low cost is how simple it is to make—$20 worth of equipment and you can convert cocaine into rock. If you buy $100 worth of cocaine you can make $250 profit off of that $100 cocaine when you convert it into rock and sell it. So that is an inducement.

But the other inducement, Mr. President, is right now the penalties are so low. One police officer told me that he had arrested a pusher three times and he would have to arrest him eight more times before he would really be able to get him off the street and have a felony with the strength where they would really be able to incarcerate him.

Mr. President, one of the bills I am introducing today is to move rock cocaine to the class I schedule under the Controlled Substances Act. That makes it a very, very severe penalty. It means that you can get up to 20 years in prison and a $250,000 fine in the first offense, and it increases after that.

The other bill, Mr. President, would be to double the penalties if you use minors in your drug operation.

We are finding not only in Florida but in New York and Los Angeles they are using kids to deliver the drugs, they are using them to go out and seek the customers, and they are using them as watchmen. In fact, in Tallahassee, FL, they gave a bunch of kids new bikes to ride around with walkie-talkies and tell them if they saw law enforcement people coming into the neighborhood.

Another bill would be to double the penalties for the normal use, the normal offense, if they use minors in the operation.

The third bill, Mr. President, would double the penalties if they had a rock or coke freebase house within 1,000 yards of a school. We increased the penalties if you are selling within the school, we have increased the penalties if you are distributing to a minor, but we need to increase those penalties if you are using a minor in your operation.

Mr. President, I will have to say that if we pass all of these bills, I do not know that we will stop the epidemic that we are now seeing happening with rock and coke, but I think we will slow it down.

Obviously, there has to be a great deal done toward educating people to see that young people and parents understand the scourge that is out there, that three uses, smoking three rocks, make them an addict. The terrible, terrible problems that will come from that addiction, and it is now hitting so many of our young people, is something we have to get out there.

Mr. President, Newsweek has said this is a plague. Time magazine has said that they think that the scourge that is happening now with rock is stronger than the wave of heroin that hit this country in the 1960's.

The Washington Post has said that it hits neighborhoods of the affluent as well as the poor, black as well as white.

□ 1040

It is a drug that we have to try to deal with. There is no medical use for this drug. When you make it into rock or crack, it is only used to take inside your body and this drug will destroy your body. We have to come to grips with it.

Mr. President, I hope the bills I introduce today making it a class I felony, increasing the penalties so that we can try to put the people who are dealing in this lethal drug behind bars and keep them there, as well as increasing and doubling the penalties if they use minors or if they place this in a school, will help us come to grips with this terrible, terrible problem.

Mr. President, I send these bills to the desk and ask unanimous consent that they be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) schedule I of section 202(c) of the Controlled Substances Act is amended by adding at the end thereof the following:

"(d) COCAINE FREEBASE.".

(b) Subsection (b)(1)(A) of section 401 of the Controlled Substances Act is amended by—

(1) striking out "or" after the semicolon in clause (iii);

(2) striking out the matter after the semicolon in clause (iv) through the period and inserting in lieu thereof "or" and the following:

"(v) 1 gram or more of cocaine freebase, such person shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $250,000, or both.".

S. 2561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part D of the Controlled Substances Act is amended by adding after section 405A the following new section:

"EMPLOYMENT OF PERSONS UNDER AGE TWENTY-ONE TO DISTRIBUTE DRUGS

"SEC. 405B. (a) Any person at least eighteen years of age who violates section 401(a)(1) of this Act by employing a person under twenty-one years of age to distribute a controlled substance is (except as provided in subsection (b) of this section) punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b) of this Act, and (2) at least twice any special parole term authorized by section 401(b) of this Act, for a first offense involving the same controlled substance and schedule.

"(b) Any person at least eighteen years of age who violates section 401(a)(1) of this Act by employing a person under twenty-one years of age to distribute a controlled substance after a prior conviction or convictions under subsection (a) of this section have become final, is punishable by (1) a term of imprisonment, or a fine, or both up to three times that authorized by section 401(b) of this Act, and (2) at least three times any special parole term authorized by section 401(b) of this Act, for a second or subsequent offense involving the same controlled substance.".

S. 2562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended—

(1) in subsection (a) by inserting "manufacturing or" before "distributing"; and

(2) in subsection (b) by inserting "manufacturing or" before "distributing".

(b) The caption for section 405A of the Controlled Substances Act is amended to read as follows:

"MANUFACTURE OR DISTRIBUTION IN OR NEAR SCHOOLS"

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAREFUL EXAMINATION OF TAX REFORM BILL SUGGESTED

Mr. MELCHER. Mr. President, earlier, I spoke about the adverse effect that the pending tax bill will have on the basic industries of agriculture, mining, and forest products. I have noted that we will be offering some corrections to the bill, hopefully to pass and enact into a part of the bill some way of dealing with those very inequitable provisions affecting the basic industries. However, this morning, I think I should comment on three other groups that should be examining this tax bill and seeing how it directly affects them, whether they will be paying more taxes or less taxes.

First, I want to talk about the young people, the very young people below the age of being out on their own but who are living with their parents or who are students in one of our colleges, trade schools, or universities. They should be looking at this bill because, in many instances, they will find that the provisions in the bill will require them to pay more taxes.

That is not generally what we think of as good legislation, or good tax policy, but unfortunately, it is true that in the bill, in some instances, young people earning $4,000, $5,000, or less or who are earning about $7,000 or $8,000 will find that their taxes are increased. Each individual, I warn the public, should be looking at this tax bill in a very private way, in a very intimate way, on just how it affects them. I believe it is poor tax policy to garner more taxes, force young people just starting out to pay more Federal income taxes.

The next group that I would like to refer to is the so-called middle-income earners, many of whom are married couples where both have gainful employment, both have paychecks coming in to support themselves. In a great number of instances, these young people will find that their tax liability has been increased if this bill becomes law as it now stands.

Mr. President, I ask unanimous consent to have printed an article from the Wall Street Journal that comments on this feature in the bill. I also ask unanimous consent to have printed in the RECORD, a description of a couple of instances of where the youngsters will be finding themselves paying more taxes if the tax bill is enacted as is.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 27, 1986]

YOUNG PROFESSIONALS MAY BE LOSERS IN SENATE PLAN TO REVISE TAX CODE

(By Alan Murray)

Yuppies, beware.

The tax plan pending in the Senate cuts taxes for most Americans, but for one closely-watched group—the young urban professionals—it may mean a big tax increase.

Consider this profile of a typical young professional couple. They have few or no children and they own their own home. Both work at major corporations. Their combined salary is between $50,000 and $75,000 a year. True to form, they buy lots of things, often with credit cards. And while they aren't big savers or investors, they are savvy enough to take full advantage of the one tax shelter readily available to them: the individual retirement account.

That's also the profile of a loser under the Senate Finance plan. If it becomes law, their tax bill is likely to become upwardly mobile.

CAUGHT IN THE MIDDLE

The tax plan offers significant rate cuts to taxpayers currently in the highest tax rate brackets; it also offers big increases in the standard deduction and the personal exemption to low- and middle-income families. But for the prototypical young professional, it's easy to get caught in the middle.

For example, here's what would happen to the taxes of such couple in Maryland, as calculated by the Washington office of the accounting firm of Coopers & Lybrand.

She makes $40,000 a year; he makes $20,000. Currently, they deduct $13,000 in interest on their home mortgage, $2,000 in interest on car and credit card loans, $4,535 in state taxes and $1,000 in charitable contributions. Each makes an annual $2,000 contribution to an IRA, although each is also covered by an employer's pension plan.

If the Senate bill is enacted, their taxes would jump 13% in 1988.

Why such a heavy burden? Mostly because the rate reductions offered by the Senate plan mean little to this couple. Under current law, their deductions already bring them down to the 28% tax bracket; under the Senate Finance proposal the top rate falls just slightly to 27%. Meanwhile, the plan's big increase in personal exemptions—which would nearly double to $2,000 in 1988 under the Senate plan—helps a little, but not much, because the couple has no children. Nor does the plan's increase in the standard deduction help much, because the couple itemizes their deductions.

Instead, the Senate Finance Committee would chop two of the couple's itemized deductions. The deduction for interest on auto, credit card and other consumer loans would be phased out over four years, cutting non-mortgage interest deductions by $1,200 in 1988, and the deduction for sales taxes would be eliminated, reducing the couple's deduction by another $426.

PORTRAIT OF A LOSER

[The following shows the 1988 tax liability of a family with two wage earners, $60,000 a year in wages and salaries and no children]

	Current law	Senate finance
Wages, salary	$60,000	$60,000
Interest income	1,000	1,000
Deductions:		
IRA	(4,000)	
Two-earner deduction	(1,800)	
State and local taxes	(4,535)	(4,109)
Mortgage interest	(13,000)	(13,000)
Consumer interest	(2,000)	[1] (800)
Charitable contribution	(1,000)	(1,000)
Personal exemptions	(2,333)	(4,000)
Tax	5,988	6,769

[1] Under the "phase-out" of the consumer interest deduction, 40 percent of such deductions would still be allowed in 1988.

Source: Coopers & Lybrand.

The Senate Finance plan would also eliminate two adjustments the couple currently uses to reduce their adjusted gross income: $4,000 in deductions for the IRAs and the $1,800 "two-wage earner" deduction.

The picture improves slightly if the couple quickly produces two children. Even so their tax bill would still be 7 percent higher under the Senate Finance plan than under current law.

SOBERING MESSAGE

David T. Wright, national director of tax services at Coopers & Lybrand, says the above example is typical of what young professional families can expect. His message is clear: This tax bill isn't for them.

The tax plan passed by the House of Representatives would be less painful. The same couple with no children would face only a 2 percent tax rise; with two children, their tax bill would be virtually unchanged from current law.

The Joint Committee on Taxation argues that families with incomes ranging from $50,000 to $75,000 would enjoy an average tax cut of 3.9% under the Senate plan. But that's just an average; Coopers & Lybrand says that many families will be far worse off than that.

FAMILIES WHO BENEFIT

To be sure, a family earning $75,000 that doesn't own a home and has few deductions would enjoy a significant windfall: Their top tax rate could drop to 27% from 42%. Likewise, a family with five or six kids would almost certainly enjoy a tax cut, thanks to the generous boost in the personal exemption. And families that have avoided IRAs and by most things with cash rather than credit would be equally likely to enjoy some benefit under the plan.

But the stereotypical young professional owns his own home and uses lots of credit cards. Statistics show that most such people also have IRAs. The Employee Benefit Research Institute shows that over 50% of all families earning from $50,000 to $75,000 a year contribute to an IRA. A majority of those make the full contribution—$2,000 for singles and $4,000 for couples—allowed each year. And most IRA contributors are covered by employer pension plans and therefore would lose that deduction if the Senate plan were enacted.

For a two-earner family with no children, which shelters $4,000 in IRAs each year, the loss of that tax break alone could easily offset any benefit from lower tax rates and an increased personal exemption.

LOSING CONSUMER INTEREST

Add to that the loss of consumer interest deductions and the picture grows worse. "Consumer interest is a big item that people haven't given a lot of thought to yet," says Mr. Wright. Interest on the typical small car loan can easily run $1,000 a year. And in the year in which a car is bought, taxpayers will also lose the separate deduction for the sales tax paid on the car.

The loss of the interest deduction could be avoidable. Taxpayers may be able to escape that by increasing their home mortgage—since interest on home mortgages will still be deductible—and then paying cash for cars and other big-ticket items.

But many young professionals are likely to find themselves disillusioned with the Senate tax plan. "I haven't talked to any of my friends—all two-earner couples—who don't lose under the plan," says Pamela Pecarich, 42-year-old manager of tax policy for Coopers & Lybrand. "A lot of people are concentrating on the marginal tax rates and expect a tax cut. But they may be surprised."

Basic industries tax increase: young people, two-earner households, yuppies, retirees—income tax payment comparisons

1. Young person, living at home, full-time student:	
Current law 1986:	
Income	$4,000
Personal exemption	1,080
Total	2,020
Standard deduction	2,480
Taxable income	340
Income taxes	37
Senate tax bill 1988:	
Income	4,000
Personal exemption	0
Total	4,000
Standard deduction	3,000
Taxable income	1,000
Income taxes	150
2. Young person, full-time job, on their own:	
Current law 1986:	
Income	11,000
Personal exemption	1,080
Total	9,820
Standard deduction	2,480
IRA contribution	500
Charitable deduction	350
Taxable income	6,490
Income taxes before tax credits	851
Political contribution credit	50
Income taxes	801
Senate bill 1987:	
Income	11,000
Personal exemption	1,900
Total	9,100
Standard deduction	2,570
Taxable income	6,530
Income tax	993
Senate bill 1988:	
Income	11,000
Personal exemption	2,000
Total	9,000
Standard deduction	3,000
Taxable income	6,000
Income taxes	900
3. Young professional couple, two-wage earners, no children:	
Current law 1986:	
Salary	60,000
Interest income	1,000
Total income	61,000
IRA	4,000
Two-earner deduction	1,800
State and local taxes	4,535
Mortgage interest	13,000
Consumer interest	2,000
Charitable contribution	1,000
Personal exemptions	2,160
Total deduction	28,495
Taxable income	32,505
Income taxes	5,988
Senate bill 1988:	
Salary	60,000
Interest income	1,000
Total income	61,000
IRA	
Two-earner deduction	
State and local taxes	4,109
Mortgage interest	13,000
Consumer interest (40 percent under phase out)	800
Charitable contribution	1,000

Personal exemptions	4,000
Total deduction	22,909
Taxable income	38,091
Income taxes	6,769

Mr. MELCHER. The third group I wish to refer to this morning is retirees, who have paid into an annuity plan, have paid into their own retirement plan, and have had their contributions for that already taxed; in other words, they have been taxed once. Under the terms of this bill, when they start to retire and start drawing out their annuities, their retirement benefits, they will find that they are taxed again. I do not think that is wise tax policy, because it is double taxation. I vigorously object.

Mr. President, my constant advice to the taxpayers of the United States is this: Look at this bill and how it affects you. Do not take it for granted that it is all rosy. Do not just assume that because good things have been said, mentioning significant features in the bill, it automatically means that your taxes will be reduced or that you are treated in an equitable and fair way.

Mr. President, I yield the floor.

SQUARE MIRANDA RIGHTS WITH REASON

Mr. LONG. Mr. President, recently there appeared in the Wall Street Journal of June 13, 1986, a statement by Attorney General Edwin Messe III entitled "Square Miranda Rights With Reason."

Mr. President, I find a tremendous amount of appeal in this article and I commend it to my colleagues as well as thoughtful Americans, particularly those who either practice law or are familiar with the problems of law enforcement—sheriffs, chiefs of police. In fact, I think anyone involved in the field of law enforcement would be interested in this article.

Mr. President, I ask unanimous consent that the article referred to be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SQUARE MIRANDA RIGHTS WITH REASON

(By Edwin Meese III)

Twenty years ago today the Supreme Court handed down one of this century's most important, and controversial, legal decisions. By a vote of 5-4, in an opinion written by Chief Justice Earl Warren, the court revolutionized the law of police interrogation in a ruling that provoked heated complaints from the public, from the law-enforcement community and from the dissenting justices. Today, two decades later, that controversy continues.

Those involved in law enforcement have a special responsibility both to protect the public safety and to respect the rights of criminal suspects. This is a difficult balance to strike, and there are many opinions on how best to do it. But after wrestling with the approach in Miranda for a score of years I am convinced that this case, which sharply skewed the rules of custodial interrogation in favor of the criminally accused, failed to find that necessary balance. It is time for a better approach.

In 1963, a man named Ernesto Miranda was arrested for the kidnap and forcible rape of an 18-year-old girl near Phoenix, Ariz. At the police station the victim picked Miranda out of a lineup. He was then taken to a separate room and interrogated by two officers. A short time later he gave both detailed oral and written confessions of his crime. In the words of Supreme Court Justice John Harlan, "All this was accomplished in two hours or less without any force, threats or promises."

RADICALLY DIFFERENT

This was the context in which the Supreme Court worked its controversial revolution. The problems created by the Miranda decision stem from assumptions held by five justices in that case concerning the nature of police interrogation and the scope and application of certain constitutional provisions. These assumptions were questionable at the time of the decision, and they remain so today.

As Justice Byron White correctly observed, the decision "is neither compelled nor even strongly suggested by the language of the Fifth Amendment, is at odds with American and English legal history, and involves a departure from a long line of precedent. . . ."

The Fifth Amendment's privilege against self-incrimination says only that no person "shall be compelled in any criminal case to be witness against himself." For nearly 175 years after the ratification of the Bill of Rights this sensibly meant, for pre-trial interrogation, that a person in custody couldn't be forced to answer incriminating questions. But in Miranda the court rewrote the privilege to mean something radically different and new. Overturning its own numerous prior decisions to the contrary, the Supreme Court gave suspects hitherto unknown "rights" to prevent questioning and have counsel present at interrogations. Moreover, the decision required police to give suspects detailed descriptions of these newly minted rights—the "Miranda warnings."

By inventing a right for a person in custody to demand the presence of counsel and shut off questioning, the Miranda majority acted against what it wrongly perceived as the inherently "coercive" nature of all custodial interrogation. In their defense, the majority justices were aware of the history of so-called "third-degree" or physically abusive interrogations. But it is ironic that by the early 1960s such practices were almost completely a thing of the past. Even Chief Justice Warren conceded that "the modern practice of in-custody interrogation" was not "physically oriented."

Long before this 1966 decision the Supreme Court has articulated a constitutional standard that allowed, indeed required, courts to throw out confessions obtained through interrogation abuses. That standard considered every criminal defendant's right to "due process of law." It insisted that in every such case the proper inquiry should be: Was the defendant's admission really voluntary?

What was—and remains—radical about the Miranda decision is that it substituted for this traditional question of whether or not a confession had been voluntary with a much different one: Did the police follow the newly established "Miranda rules?" Because of this decision, convictions are lost when police officers trip up on the technicalities, even when there is no doubt that the confession they obtain is both voluntary and reliable.

The problem is compounded by the court's opinion on what must occur for a confession to be admissible in evidence. A suspect need not assert the Miranda rights to protect himself. Instead, the burden is on police and prosecutors to show that the accused made a "knowing, voluntary and intelligent" waiver of those rights.

Anyone who doubts that this case affected the U.S. criminal-justice system need only check the casebooks. They are filled with examples of seemingly voluntary confessions thrown out on Miranda grounds. Several years ago the California Supreme Court, relying on Miranda, reversed the conviction of a confessed triple-murderer who had been given repeated warnings of his rights and had repeatedly signed statements waiving those rights and confessing to his crime.

But the biggest cost to society of Miranda may be the statements it prevents from being made in the first place. Even those suspects eager to unburden themselves of criminal guilt may choose silence in the face of the warnings. The evidence supports the conclusion that Miranda has caused a significant drop in voluntary confessions.

Given its obvious deficiencies, some may ask why after 20 years Miranda is still with us. The answer is that it isn't, at least in its original 1966 form. At the time the decision was handed down, it was remarkable both for its theoretical innovations and its prescription of a detailed, codelike set of rules for police conduct—the sort of rules more properly devised by the legislative or executive branches of government. The Warren court maintained that failure to abide by these prescriptions, or others like them, violated the Constitution. More recent Supreme Courts, however, have seen things differently.

Eight years later, in 1974, the court held in *Michigan vs. Tucker* that the Miranda warnings are "not themselves rights protected by the Constitution." Within the past two years the court has twice rejected the proposition that a violation of these preventive standards is a violation of the Constitution.

Where does this leave us? In a sense the Miranda rules are not like the grin of the Cheshire cat, lingering long after the cat itself has disappeared. The time is now right for us to erase this legal smirk.

RESTORE THE TRADITIONAL

Needed today is a restoration of harmony between the case law and the Constitution. The baroque edifice erected in Miranda and its legal progeny lack a firm foundation. The court's prescriptive interrogation rules mask and confuse the genuine rights and issues at stake.

Congress agrees. In 1968 it reacted to Miranda by enacting a statute specifically intended to restore the previous test for admitting pre-trial statements, namely, was the admission truly voluntary? In view of the Supreme Court's having declined to rule that the Miranda rules are constitutionally required, it is time to restore the traditional standard in our court decisions.

Doing away with Miranda would not mean a return to some dark age of police inquisition. Even before this decision the law had the tools for preventing the use of coerced confessions at trials. Moreover, many police

departments will no doubt continue to give suspects some type of warning as a matter of caution, just as the Federal Bureau of Investigation did for many years before 1966.

What getting rid of Miranda will do, however, is permit elected governments to return to the area so long fenced in by this unfortunate decision, and there develop legislative and administrative standards that will better balance the rights of all our citizens. It will also permit the judiciary to return to its proper role—determining whether there has actually been a violation of constitutional rights, and limiting the use of evidence only when the Constitution so requires.

Justice White warned in his dissent that "in some unknown number of cases the Court's rule will return a killer, a rapist or other criminal to the environment that produced him, to repeat this crime whenever it pleases him." Since 1966 that prophecy has been fulfilled too many times. Returning the law of interrogation to its proper moorings by abandoning this famous decision would be a fitting present—anniversary or not—for all Americans.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will state the unfinished business of the Senate.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the internal revenue laws of the United States.

The Senate resumed consideration of the bill.

Mr. PACKWOOD. Mr. President, I should like very briefly to respond to the comments made earlier by the Senator from Montana. Again, I want to emphasize averages. The Senator from Montana is right in saying that every individual taxpayer ought to look at his or her situation and see how they fare under present law and under the bill. But on average everyone gets a tax cut and they get a tax cut for two very simple reasons. First, we closed about $50 billion in tax shelters taken by individuals. Second, we moved about $100 billion off individuals and onto business. If you add the $100 billion moved from individuals to business and you couple that with the closing of $50 billion in tax loopholes for individuals, you have roughly $150 billion over 5 years, $30 billion a year, that you used to lower individual rates.

□ 1100

And on average everyone got their rates lowered. Those in the zero to $10,000 bracket got their rates lowered the most. Those in the $10,000 to $20,000 bracket the next most, those in the $20,000 to $30,000 the next most. But even those above $100,000 got some reduction.

Now, there are two exceptions, of course. Corporations that have been making immense profits and paying no taxes are going to be caught under this bill and they are going to pay taxes. Second, very wealthy individuals who have been using tax shelters, tax loopholes, and paying nothing or next to nothing are going to pay taxes. I want to give three typical examples to show what the situation is under the current law and what the situation would be under the bill.

First, let us take a family of four with a gross income of $42,000. Presumably they do not itemize. Under present law, the so-called standard deduction or zero bracket amount is built into the rate structure. You do not deduct it. So under the current law, if a family had $42,000 in income, they would deduct their personal exemptions, which, for a family of four, under the current law would be $4,160. The remaining $37,840 would be taxable income. It would be taxed at a 33-percent marginal rate.

Now let us take exactly the same family under the bill, with $42,000 in family income. First we raised the personal exemption to $2,000 per person. So if you have four people, it will be $8,000. Second, we raised the standard deduction to $5,000 for a married couple. So they have $8,000 in personal exemptions, $5,000 in standard deduction. If you deduct that from $42,000, you have remaining $29,000 of taxable income which is taxed at the 15-percent rate. So, on average, this family does very well.

Second, let us take the head of the household, usually a divorced family, and either the mother or the father has the children. Let us take a head of household with two dependents. Let us presume $33,500 in income, total income. Under the present law, assuming you are not itemizing, you would get three personal exemptions, the head of the household and two dependents. That comes to $3,120. You would have taxable income of $30,380 and on that you would pay a 32-percent marginal rate. Now, let us look at this same family making $33,500 under the bill. The personal exemptions have increased to $2,000. This family has three personal exemptions: head of household and two children. Their personal exemption is $6,000. Second, for the head of household, you have a $4,400 standard deduction so you add that to the $6,000 personal exemption. This amounts to $10,400. Deduct this from your gross income of $33,500. This leaves you with $23,100 upon which to pay a 15-percent rate. Again, on the average, this family is better off.

Now let us take the single taxpayer that my good friend from Montana was talking about; a young kid, living at home, who has just finished high school, finished college, whatever. Let us assume that this kid has $22,000 of gross income. Under current law, that taxpayer has one exemption, the one for himself or herself. And that is worth $1,040 under current law. Subtract that from $22,000 gross income. This leaves $20,960 of taxable income which is taxed at a 26-percent marginal rate. Now take this same kid under the bill. First, he gets a $2,000 exemption. Second, he gets a $3,000 standard deduction. You deduct this $5,000 from the $22,000. You get $17,000 and upon that you pay 15 percent. So in each of these three cases—and these would be more like the average cases—the taxpayer gets a greater deduction and pays less in taxes.

Now, could I imagine a situation where a 22-year-old kid, living at home, making $22,000 in income, could pay more under the bill? I can imagine it, but it would not be typical. Let us say the kid has been relatively frugal, pays his parents nothing for rent, buys relatively little food because the parents are providing it, and has gone out and has bought, after saving for a year or so, a $35,000 or $40,000 Porsche—say, $40,000, paid $5,000 down, $35,000 loan at 10 percent. Right away, that kid has $3,500 in interest that is currently deductible that will not be deductible under the bill. So already it is getting marginal as to whether or not the kid could be better off, but I ask you how many 22-year-old kids making $22,000 can buy a $35,000 or $40,000 Porsche. Is there one or two around? My hunch is, there is one or two around. Are they typical? They are not typical.

Mr. MELCHER. Will the chairman yield?

Mr. PACKWOOD. Yes.

Mr. MELCHER. The chairman is making some comments on some comments I earlier made, but I want to assure the chairman that I was not referring to somebody who was buying a Porsche. And I do not know what an average taxpayer is. I do not believe taxpayers do, either. But I will just cite an example of a very young person who works full time on their own and under current law as it stands now with an income of $11,000, with a personal exemption of $1,080, with a standard deduction of $2,480, with allowable deductions typical of such a young person, has a taxable income of $6,490 with a Federal income tax obligation of $801. That is under current law.

Under the Senate bill as it now stands, that same person with an income of $11,000 would have a personal exemption of $2,000, a standard deduction of $2,000, a taxable income of $6,530, and a tax obligation of $993 in 1987. That is a 24 percent tax hike. In 1988, the same person with $11,000

income would pay $900 Federal taxes, just 13 percent higher than current law. But in both years and forever, a single person will be taxed more.

Now, there is no Porsche, there is nothing unusual about it. It is somebody working who earns $11,000, presumably on their first, second, or third job, presumably trying to get ahead. And this young person would actually find a tax obligation increase by 24 percent the first year, 13 percent the second year and beyond.

That is not what we are talking about as good policy. Perhaps single taxpayers are in the minority. But I do not think it is good that some young person making $11,000, on their own, finds that through our actions here have had their tax obligation increased. That will happen, unless this bill is changed. It is happening under this bill. And I want to point that out because I think we move so fast on tax changes and tax policies that we get ahead of ourselves and we certainly get ahead of the taxpayers in this country. I thank the chairman for yielding.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1110

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to address the Senate for not more than 2 minutes, out of order, notwithstanding the Pastore rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

ONE MAN'S VALIANT STRUGGLE

Mr. BYRD. Mr. President, since becoming majority leader, the distinguished Senator from Kansas [Mr. DOLE] has been both praised and analyzed by the press. As a colleague and friend, I want to express my appreciation to him for the grace and the courtesy with which he has always treated me and my colleagues on this side of the aisle.

Understandably, then, I read with interest an article on Senator DOLE in yesterday's New York Times. That article, both sensitive and penetrating, goes far in explaining the courage and strength of will that have enabled Senator DOLE to overcome the kind of obstacles that many people would have found to be insurmountable.

I ask unanimous consent that the article from the New York Times, entitled "To Dole, It Was an Education To Get Past Disability," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TO DOLE, IT WAS AN EDUCATION TO GET PAST DISABILITY

(By Jonathan Fuerbringer)

WASHINGTON, June 15.—Bob Dole spent 10 minutes one morning recently buttoning the second button on his shirt.

Mr. Dole, the Senate Republican leader, has little feeling in his left thumb and forefinger, which is why buttoning is a challenge. But that is the least of the damage done when he was wounded in an attack on Hill 913 in the Po Valley of Italy on April 14, 1945.

His right shoulder was destroyed. His neck was broken. He was in the hospital for 39 months and lost one kidney. He has almost no use of his right arm and hand.

"I can't do buttons like you do, just feel and push them in there," he said, "I've got to be able to see the hole and sort of push the button in. The trouble is these buttons on this shirt are just about a fraction too high, so it's very hard to do that. So every day you get a little test; you're tested."

PERSISTENCE PAYING OFF

The persistence to struggle with a button for 10 minutes has paid off in a remarkable recovery for the Kansas Senator. What is more, as a result of his experience with being disabled, he has established a foundation to provide training and jobs for others who are physically impaired, as well as those who are mentally impaired.

Thus far, the three-year-old organization, the Dole Foundation, has distributed $520,000 to 21 projects around the country. On Monday, it will have its first major fundraising event, a star-studded occasion that Senator Dole hopes will raise $1 million. Among the guests will be Edward M. Kennedy Jr., who lost a leg to cancer, and Representative Tony Coelho, a California Democrat, who has epilepsy.

For years, Senator Dole pondered setting up the foundation. But it was not until he went to a meeting in Dodge City, Kan., that he finally decided to act. At that meeting, where constituents expressed bitter opposition to a now-repealed law for withholding taxes on dividends and interest, were two youths in wheelchairs with severe disabilities.

"The boy could not even move," Mr. Dole recalled. "All he could move was his eyes. The gal was just about in the same shape. All they wanted was help."

AN INTIMATE GLIMPSE

Discussing that meeting the other day and the formation of the foundation, Mr. Dole gave a rare personal glimpse of his own disability, its effect on him physically and how it has affected his outlook on life.

He said that the pen regularly clasped in his right hand is there "so people won't grab my hand and break it off." The reason he sometimes reaches across his body with his left hand, seizes his right arm at the elbow and pulls it up, he explained, is a habit from the days when he had almost no control in his right arm.

He never loosens his tie in public, he continued, because of the struggle cinching it up again would entail. "I could probably do it," he said. "But I'd rather not have to go through that in the presence of a stranger."

BOTH PARTIES SOUGHT HIM

He readily concedes that the Po Valley was a major turning point in his life. A man who before the war had been a fine athlete intent on becoming a doctor suddenly found himself badly disabled, facing a struggle of years to recover.

But there was a plus side, too. He returned a hero to his hometown of Russell, Kan., sought by both political parties as a candidate for office. And the struggle to overcome his wounds steeled him for the rough-and-tumble of politics and Washington.

In discussing his medical history, Senator Dole put aside his noted rapier wit, which he often uses to deflect unwanted political inquiries. His replies were straight.

Asked what he had learned in the hospital, he said: "I learned I couldn't get up. That sounds strange, unless you have never been there. That's where it all begins. You learn you can't do things. I fancied myself as quite an athlete. I never thought about politics. I thought about football, basketball and all that stuff."

"I'm probably pretty much like anyone else," he said describing his disability. "First, I was embarrassed about it. I tried to hide it. I put my hand in my pocket; concealed it, disguised it. All those things. You sort of feel like you're out of the mainstream; you're sort of an oddity."

In graduate school, he said, his first wife went with him to take his notes. "That's always a little embarrassing," he said.

IT IS NOT DISPLAYED

Other than those who treated him and family members, few people have ever seen his damaged shoulder. "When I'm out in the sun," he said, "either I keep my T-shirt on or, if I take it off, I have a towel over my shoulder. Now, maybe that's too sensitive. Of course, Elizabeth always says that it's a badge of honor."

He was referring to Secretary of Transportation Elizabeth Hanford Dole, his second wife.

His long recovery, he says, taught him the patience he needs for the daily details of his life. A broken fingernail on his forefinger is a temporary setback since it is needed for his buttoning or other tasks. "Just that one little nail—it's a problem," he explained.

Before he goes to bed each night, he lays out his shirt. He puts in his cufflinks and collar stays to save time in the morning. And when his wife is away, he simply must persevere until he finishes.

HE HAS NOT SEEN THE GYM

The war wound not only cost Mr. Dole his cherished athletic pursuits but has also kept him from visiting the Congressional Gym. At the University of Kansas, he played football and basketball and nearly broke the indoor record for the quarter-mile.

"I've never been to the gym," he said wistfully. "I don't know where the gym is. If I were healthy, I'd probably have been there every day."

He said he worked harder for what he wanted after his injury than before the war. He said he chose not to be the local disabled veteran with a good pension, a store and "probably a very happy life."

"I hope in some cases it might be an inspiration," he said of his choices and the results. He writes letters to young people who are also disabled. "I think I handle it pretty well," he added.

"I don't think you're trying to prove yourself when you're disabled," he concluded.

"But I think, at least, you're trying to make certain that everybody understands that you can carry your load, your fair share."

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I realize that we are discussing the tax reform measure this morning but I should like to make a few comments at this time on the 55-mile-an-hour speed limit; and I ask unanimous consent that my remarks be placed in the RECORD immediately following the remarks of the junior Senator from Nevada [Mr. HECHT] this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1120

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I have talked with the majority leader, and this is so everyone is on alert. It is his intention and mine to go late this evening, tomorrow evening and Thursday evening, and into the weekend, if necessary in an attempt to finish the bill.

We know there are amendments suggested around.

I would simply say that this is the eighth day now that we have been on the bill. Only one amendment has been adopted. Relatively few even have been offered.

The majority leader is anxious to finish. He has other business he wishes to do this week, if possible, and late next week before the recess.

We will be late tonight, tomorrow night, and Thursday night, at a minimum, and he says he is prepared to work into the weekend if necessary.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1150

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION (S. RES. 428) COMMEMORATING THE 50TH ANNIVERSARY OF THE UNITED STEELWORKERS OF AMERICA

Mr. HEINZ. Mr. President, I send a resolution to the desk on behalf of myself, Mr. GLENN, Mr. DIXON, Mr. GARN, Mr. NUNN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ABDNOR, Mr. LEVIN, Mr. SPECTER, Mr. SARBANES, Mr. DANFORTH, Mr. GRASSLEY, Mr. EAGLETON, Mr. DENTON, Mr. INOUYE, Mr. MATHIAS, Mr. MOYNIHAN, Mr. BAUCUS, Mr. LUGAR, Mr. KENNEDY, Mr. DOLE, Mr. FORD, Mr. HATCH, Mr. SIMON, Mr. GORE, Mr. SASSER, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. BYRD, recognizing the 50th anniversary of the United Steelworkers of America, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 428) commemorating the 50th anniversary of the United Steelworkers of America.

Mr. LONG. Mr. President, reserving the right to object, this resolution has been cleared with the minority leader, and he, in turn, has taken appropriate steps to clear it on this side of the aisle. There is no objection on this side of the aisle.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. HEINZ. Mr. President, I thank the Senator from Louisiana and I thank both the majority and minority leaders for their willingness to clear this. I appreciate their cooperation and that of all Senators.

Mr. President, today we congratulate the United Steelworkers of America on the occasion of their 50th anniversary. In doing so, we recognize not just their survival as one of our oldest unions, but also their contributions to our economy and their members. The Steelworkers have literally built this country—its industry, its transportation system, its buildings. And in doing so, they have enhanced the economic advancement and social consciousness of their members in hundreds of communities all across the United States and Canada.

Organized labor has played a vital role in America's history since our Nation began its period of industrialization. The once unorganized and exploited worker has long since become a major political and economic force to be reckoned with. This has been due largely to the efforts of unions like the Steelworkers who have brought political power to the worker, the backbone of the American economy, and through the exercise of this political power have increased the standard of living and the productivity of all Americans.

The history of the United Steelworkers of America began on June 17, 1936, when 11 trade unionists, with a vision of justice in the American workplace, agreed to form the Steelworkers Organizing Committee. In just 3 years, the SWOC organized some 500,000 workers in the steelmills of Canada and the United States. The SWOC became the United Steelworkers of America in 1942, when it became a leading affiliate of the Congress of Industrial Organizations. Ultimately, the USWA rolls would swell to over 1 million industrial workers in North America, and eventually the union would merge with six other industrial unions which had also pioneered advancement for workers in the steel, aluminum, nonferrous metals, mining, chemical, stone and quarry, and upholstery industries.

I would also note, Mr. President, that the USWA is steeped in the democratic traditions that affirm our country's basic values. All of the union's officials, from the international officers, to the executive board members down to the local union officials, are elected by vote of the members. As a result, members are encouraged to take leadership roles in the community and, perhaps more importantly, to participate in and appreciate the value of the democratic process.

In paying tribute to the Steelworkers union we should not forget to say a word on behalf of the individuals who comprise the group. Do not let anyone tell you that these men—and women—are not skilled workers. Making steel is hard, sweaty, dangerous, and challenging work. Some economists, who have the luxury of keeping their hands clean, have suggested wage rates in the industry are too high; yet even the briefest of looks will demonstrate the skill and strength that are required and the dangers that must be faced daily. It is no accident that steelworkers are almost invariably the highest paid manufacturing workers in every country in the world. It should be no different here.

Their hard work has literally built this country—its railroads, its bridges and the cars that ride over them, its office buildings and homes, and the machinery that fills them. Oil drilling and exploration, nuclear powerplants, and jet engines would all be impossible without steel production. What is more, they have helped build a fairer, more just society with their commitment to Social Security and Medicare, civil rights and workers rights, education and job training.

Over the yeas the USWA and I have not always been on the same side in elections, but we have been on the same side on the important issues facing this country's workers. To their credit they have begun to lead the way in accommodating new economic reali-

ties, in accepting new work rules and wage levels that have led to major productivity improvements. In doing so they have insisted that management make a continuing commitment to the steel industry. This process has been long and difficult, but in the end it will produce a healthier industry and a stronger union.

Mr. President, the steel industry has been through some dark days; massive layoffs and plant closings. Steelworkers not ony lost their jobs, they found their communities faced with bankruptcies and service reductions. In mill town after mill town, the people of this great union were often the leaders in forming the support networks and food banks that meant the difference for many families as to whether or not they had food for the table or minimal health protection for their children. That leadership in community affairs exemplifies the best spirit of this country and the individuals who make up this union.

Today we should all salute the United Steelworkers and its workers for their labor, for their vision and foresight, and for their unflagging commitment to our country and the democratic principles that have made it great.

On behalf of the Senate, Mr. President, I would like to extend congratulations and appreciation to the members of the USWA on this memorable occasion.

● Mr. GLENN. Mr. President, today is a great day in the history of organized labor, the 50th anniversary of the United Steelworkers of America. I am proud to be a cosponsor of the resolution commemorating the 50th anniversary of an organization which has done a great job in representing the needs and concerns of so many Ohioans.

As a founding member of the Steel Caucus, I have had the privilege of working closely with the leadership of the United Steelworkers of America [USWA]. During my association with the organization, I have been impressed with the care and concern with which the leaders of the USWA represent their membership. Throughout its 50-year history they have worked to provide their membership with fair and equitable wages and benefits. In recent years the USWA has had to adapt to a changing American economy and labor environment. In Ohio alone the number of employed steelworkers has dropped from 79,740 to 37,000. However, despite this drastic drop in membership, the USWA has continued to represent its membership in an exemplary fashion and has earned the respect of steel communities throughout the Nation.

The United Steelworkers of America is currently sponsoring the Steel Crisis Action Program, which will culminate this Saturday with "Save American Industry and Jobs Day," a day of national recognition for the accomplishments of workers, business, and manufacturing industries. As part of this program, residents of devastated steel communities have been visiting Washington weekly to dramatize the plight of the steel industry and the entire manufacturing sector. They have come to share their knowledge of the crisis in steel and to seek congressional support on trade and economic actions to reverse the trends that are devastating America's industrial sector. I have met with many of them during their visits to Washington, and I have been impressed with the cross-section of the community involved in this effort and the respect that the community leaders and residents have for the United Steelworkers of America.

The Steel Crisis Action Program is only one example of the commendable efforts of the United Steelworkers of America to bring attention to the dangerous implications of a declining American steel industry. The USWA is also extensively involved in legislative activities in the areas of trade, labor, economic policy, and infrastructure investment. I am proud to rely on their expertise when considering important national issues. I urge my colleagues to join me in congratulating the United Steelworkers of America on their 50th anniversary.●

Mr. BYRD. Mr. President, I am pleased to join with my colleague, Senator HEINZ, in cosponsoring a resolution commemorating the 50th anniversary of the United Steelworkers of America.

Over the past 50 years, this organization has provided invaluable help for America's working men and women—affording them the dignity of collective bargaining, and assuring fair wages and benefits for their labors.

These are difficult times for the United Steelworkers Union and for its members. Many jobs have gone overseas and many of our primary industries face mounting problems from unfair foreign trade competition. In the face of this adversity, the union provides, and will continue to provide the best means for maintaining for its members a vital, decisionmaking role in their economic lives.

It is fitting that we take this opportunity—on the union's 50th anniversary—to recognize the invaluable role of the union—past and present—and to congratulate its leadership on the maintenance of a clear, steady, and forwardlooking course.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 428) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 428

Whereas, On June 17, 1936, eleven trade unionists gathered on the 12th floor of a building in downtown Pittsburgh, Pennsylvania to form the Steel Workers Organizing Committee (SWOC), which would become affiliated with the Congress of Industrial Organizations (CIO), and

Whereas, The SWOC did within a short three years organize some 500,000 workers employed in the mills of the steel industry in Canada and the United States and became a catalyst of industrial unionism in North America, and

Whereas, The SWOC was constituted as the United Steelworkers of America in 1942, becoming a leading affiliate of the CIO for thirteen years and of the AFL-CIO since then, and

Whereas, The United Steelworkers of America would ultimately embrace more than one million working people in North America, and would merge with six other industrial unions which had pioneered advancement for workers in the steel, aluminum, nonferrous, mining, chemicals, stone and quarry and upholstery industries, and

Whereas, Its International Presidents—Philip Murray, David J. McDonald, I.W. Abel, Lloyd McBride and Lynn R. Williams—have brought exceptional leadership and organizational talents to the betterment of their fellow members throughout Canada in this half-century, and

Whereas, The Steelworkers and its leadership and membership in its Districts has contributed to the economic well-being, social consciousness and legislative advancement of our communities in these fifty years, and

Whereas, The United Steelworkers of America has continued a strong democratic tradition for its fifty years, electing through referendum vote all of its International Officers and Board Members as well as all of its Local Union officials, and has as a consequence impressed upon its members the importance of participating in the democratic process.

Resolved, that the Senate of the United States does congratulate and extend its appreciation to the members of the United Steelworkers of America on the occasion of their Fiftieth Anniversary.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Does anyone seek recognition? If not, under the previous order the hour of 12 noon having arrived, the Senate will stand in recess until 2 p.m.

Thereupon, at 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SIMPSON).

□ 1400

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPREME COURT NOMINATIONS

Mr. DOLE. Mr. President, I would hope that we can move right along with the tax reform bill. The chairman is ready. The distinguished Senator from Louisiana is ready. They are ready for business. I also want to commend the President of the United States for the announcement he just made. He will be sending the Senate the nomination of Justice Rehnquist to become Chief Justice and the nomination of Antonin Scalia to be a justice of the Supreme Court. Chief Justice Burger will be retiring.

□ 1410

I believe that, without question, the President has selected two outstanding individuals who have the experience, the background, the integrity, the intelligence, and the right stuff. And I would guess that the nominations will be confirmed by this body without any great deal of delay.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. I am happy to yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I want to join the distinguished majority leader in congratulating the President on his choice of Justice Rehnquist. In my judgment, Justice Rehnquist is a great justice on the Supreme Court. His views and mine are consistent with those of the President of the United States. I think it is appropriate that Justice Rehnquist be appointed Chief Justice. I think he has been a great Justice and a great American, and I will be pleased to support the confirmation of his nomination.

Mr. DOLE. I thank the distinguished Senator from Louisiana.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. DOLE. I yield to my friend, the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I greatly appreciate the distinguished majority leader yielding to me.

I, too, want to congratulate the President on his two appointments today.

As an Italian-American whose parents came here from Italy, right to Albuquerque, NM, it is with a great deal of pride that I not only congratulate the President, because I think both of his nominees are excellent, but also, I should like to take a moment to talk about Judge Scalia. I know the judge very well. However, that is not why I rise.

I rise because this is the first Italian-American who will serve on the Supreme Court of the United States in the history of the Republic. I believe that is a magnificent tribute to the Italian-Americans of this Nation. I am convinced that President Reagan is absolutely faithful to what he has said about all his nominees: He will pick the very best. In this case, I am sure he picked the very best.

I do not think we will have a lot of trouble confirming the nomination of Judge Scalia. The President picked the very best, but in this case he also happens to be an Italian-American.

There are millions of Italian-Americans in this country, many of whom started with nothing, many of whom started with immigrant parents who saw that they got an education, all of whom have benefited from this magnificent country that permits all of us to share in its opportunities at every level, in every field of endeavor.

So today I think we are witnessing the first step in the confirmation of the nomination of a new justice who will serve on the U.S. Supreme Court, who will serve with distinction, and who will have the credit of being the first Italian-American to serve on that high court.

Looking at his background, obviously, it is absolutely exemplary. He attended Harvard and served as editor of their Review. He also was a distinguished professor at one of the best universities in the United States. There are many, but one of the best is the University of Virginia.

From that point on, everything he has done has been of a very high quality. His opinions, as he served on the circuit court here, are noted for their clarity, for their absolute distinction in terms of scholarship and following precedent.

I compliment the President, and I compliment Judge Scalia as the nominee, and I hope the U.S. Senate will act with dispatch.

Mr. DOLE. Mr. President, I thank my distinguished friend, Senator DOMENICI, who does have a personal relationship, a good relationship, and friendship with soon-to-become Justice Scalia. Senator DOMENICI has underscored the nominee's qualifications. I thank him for that.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the distinguished Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. I thank the leader. I will not take long.

Mr. President, I want to compliment my good friend from New Mexico, Senator DOMENICI, on raising the importance of ethnic Americans.

We are all Americans and we all pull together when the times make it necessary; but there is a certain pride, whether you are Polish-American, Irish-American, or Italian-American. Being of Italian-American ancestry, it is with great pride that I see the President choose Judge Scalia today as his nominee.

Many Italians have risen to some outstanding positions in our Government and served in the judiciary. I speak of my own father, who served as Supreme Court Justice in the State of Arizona. Yet, we have never had an Italian-American serve on the U.S. Supreme Court. So I hope the Senate will act very quickly.

As to Justice Rehnquist, he is an Arizonan. He was educated at Stanford University. He has served with distinction not only on the Supreme Court but also as a member of the Bar in the State of Arizona. He knows the law, and he is indeed a scholar.

I wish him every success, not because he is from Arizona but because he is taking on a tremendous job. He has proven his ability as a superior Justice of the Supreme Court, and now he has some very big shoes to fill.

I have had disagreements with Chief Justice Burger, but I have had many agreements with him. He has been an outstanding Chief Justice of the United States, and Justice Rehnquist is the ideal person to fill those shoes.

As an Italian-American, it makes me proud today for Judge Scalia; as an Arizonan, it makes me proud today for Justice Rehnquist; and as an American, it makes me proud to see President Reagan choose quality people for the Top Court of this land.

Mr. DOLE. I thank the distinguished Senator from Arizona.

Mr. President, I yield to the distinguished chairman of the Senate Judiciary Committee, Senator THURMOND.

Mr. THURMOND. I thank the majority leader very much.

Mr. President, just before 2 o'clock, the President called me and stated that he would announce new appointments to the Supreme Court. He has announced them. He stated that Chief Justice Burger had resigned and that he was going to nominate Justice Rehnquist to succeed him as Chief Justice.

In my opinion, this is a logical appointment. Justice Rehnquist is a comparatively young man. He is a conservative judge. I believe his thinking is in line with that of the administration, people as a whole and with that of President Reagan. Justice Rehnquist is a true scholar, and in my opinion, he will make an outstanding Chief Justice.

I told the President that I commended him for his appointment and I felt there would be no trouble in having the nominations confirmed by the Senate.

The President also announced that he is going to nominate Mr. Scalia who is now a member of the Circuit Court of the District of Columbia, to succeed Justice Rehnquist. Mr. Scalia, who will be the first person of Italian descent to serve on the Supreme Court of the United States, has a fine record. He was an outstanding student. In my opinion, he will be a worthy successor to Justice Rehnquist.

I do not think these changes will change the philosophy of the Court. Had there been some other resignations, it might have changed the philosophy. I have been asked the question as to what effect it would have on the Court. I do not think that, as a whole, the balance of the Court will be changed by these appointments.

Chief Justice Burger has resigned because he has been on the Court for 17 years. He has worked extremely hard; he has really been overworked. He is also chairman of the Bicentennial Commission on the Constitution. The 200th anniversary of the Constitution will be celebrated next year. I think he wants to devote the remainder of the time to that and give more time to it, and therefore he has resigned as Chief Justice.

Chief Justice Burger, in my judgment, has made one of the finest Chief Justices the Nation has ever had. He is a sound thinker, he is an able writer, and he is a great scholar. We are very proud of his service. We commend him for serving his Nation so actively and effectively and wish him success in the future.

□ 1420

I am very honored to serve with him on the Constitutional Commission to celebrate the Constitution, and I look forward to working with him until this work has been completed next year.

Mr. DOLE. Mr. President, I thank the distinguished Senator from South Carolina, the chairman of the Judiciary Committee, who will have the responsibility to move these nominations forward. I am not certain when they will be coming to the Senate. But I am certain as soon as they are here, we will start disposition and, hopefully, we can take action on these two nominations at the earliest possible time.

Mr. THURMOND. Mr. President, in response to the able majority leader's statement, as soon as the nominations come to the Senate, we will set hearings as promptly as we can, and we hope to expedite these nominations. There should not be a delay in filling vacancies on the Supreme Court of the United States. It is important that they be acted upon promptly, and that is exactly what we expect to do.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. DOLE. Mr. President, let me indicate in another matter, the President called me this morning to very strongly indicate his support for a nominee to the circuit court, Mr. Manion. I indicated to the President I would be bringing that nomination to the floor at the earliest possible time.

As I understand, minority views have not yet been filed, but hopefully will be filed soon.

I would like to dispose of that nomination before we commence the so-called July Fourth recess.

The President feels very strongly about this particular nominee. He gave me a lot of information, which will be available for the record, and which is already available about Mr. Manion's qualifications. The President feels strongly that Mr. Manion is well qualified and should be confirmed by the Senate. I hope that we can accommodate the President and the Senators from Indiana, who strongly support the nomination. Senator QUAYLE and Senator LUGAR have also made their views known to me.

I will, at the earliest possible time, bring that nomination to the floor.

TAX REFORM ACT OF 1986

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. GRASSLEY). The distinguished Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank the Chair.

Mr. President, I shall take a few minutes this afternoon as we begin to wind up the tax bill, this monumental effort at reforming the American tax structure, to talk to the U.S. Senate about what I perceive to be a very serious problem.

I think we ought to all understand it as we move through completing our work on this major overhaul of the tax laws of this land. I do not come to the floor to in any way talk about, attack, or in any way complain about the new tax bill.

What I am going to assume, in my discussion with the U.S. Senate and with those who are interested in the fiscal policy of this land, is that, when we are finished with the tax bill over a 2- or 3- or 4-year period, the tax bill will be revenue neutral, and it will come out yielding the same amount of taxes that we now take from the American people for all of those things that the National Government provides for its citizens. Included in that overall big tax coffer are the taxes for Social Security and Medicare that make up what we ask the American people, the American working men and women, American corporations, all as taxpayers to pay into our tax coffers so we can run this Government of ours.

The purpose of my discussion today is to show the Senate the dramatic change that has occurred in the U.S. tax revenue base available to operate our Goernment on a day-to-day basis.

We hear a lot in this country with reference to 19 to 19.5 percent of our GNP coming to the U.S. Government by way of income taxes, corporate taxes, Social Security taxes, and those taxes imposed for the health care system called Medicare.

Some people say we got along with taxes at 18 or 19 percent of GNP 20 years ago, we ought to be able to get along with it now. Some would say we got along with 19 percent 10 years ago, we ought to get along with it now.

The purpose of this discussion today is to show the U.S. Senate and those who are interested why even though we got along with that 20 years ago and 15 years ago, we cannot get along with that amount of revenue any longer unless we are willing to live with deficits in the neighborhood of $160 billion to $200 billion.

I believe I can show the U.S. Senate in unequivocal terms that there is no way that the U.S. Government can maintain its posture on Social Security and Medicare which I understand the U.S. Senate, the U.S. House of Representatives, the President of the United States want to leave exactly as is. If we are going to leave those programs exactly as they are, and that is a given for now, and pay the interest payments that have now accrued that must be paid out of the National Treasury and insist that we have a tax base that is no more than 19 percent of our gross national product, I think I can convince the U.S. Senate that the only result will be deficits in the neighborhood of $160 to $200 billion.

Let me start with the simplest of charts. If you go back to 1955 and ask yourself what portion of the Social Security and Medicare taxes are as a percent of our gross national product, you will find that in 1955 it was slightly more than 1 percent. Now, if you then move up to 1985 and say, what portion of our gross national product is it now, it is now right at 6 percent.

Now, so everyone understands in 1955 we taxed our people and we paid for Social Security and Medicare, as Medicare phased in about here, we paid for that with just over 1 percent of our gross national product. One gets up around 1965 and you are at about 3 percent, and now we are at 6. The taxes for Social Security and Medicare are right up at 6 percent of the gross national product.

Now very simply so that everyone will understand the significance of each percent of GNP, let us use a round number. It is good enough for these discussions and reasonably accu-

rate. For each 1 percent of gross national product, we are talking about $40 billion.

So that if in 1955 it was slightly over 1 percent, which way back then, was $4.4 billion. Today, using the numbers I have just told you about, it is over 6 percent of GNP which is six times $40 billion or just over $240 billion that are collected and dedicated in trust funds to the Social Security and Medicare Program of our country.

This chart does it in a little more dramatic terms. What we have on this top line is the total revenue take of the United States. This is the number we up here in Congress always look at and say, that is the revenue against which we measure the expenditures of our Government.

As I said to you, back to 1955 it was less than 18 percent of GNP, and you notice the line does not change much. It is just under 19 percent of GNP. And, incidentally, it has remained there even in the last 5 years, at about 18 to 19 percent of our gross national product.

□ 1430

Now, look at the next box that we have there, and you will see the dilemma that we are confronted with in terms of that total revenue line which remains constant at 18 to 19 percent of GNP and the Federal Government still having to pay for defense, agriculture, environmental protection, student aid, and all the other things we want to pay for because you see the next line, the next line is Social Security and Medicare revenues. And look what is happening to that line. It is now using up 6 percent of GNP reducing the amount we have available for all other things from 19 to 12.5 percent GNP.

Here, in the late 1950's and early 1960's these commitments equaled about 1 to 2 percent. So that what has happened is, in our wisdom as a people, we took more and more of the revenues of our Nation and said, "Let's use that for our senior citizens."

I do not stand before the Senate arguing about that policy. As a matter of fact, there are few policies that have worked as well. In 1970, 24.5 percent of America's senior citizens were in poverty. In 1984, 88 percent of the senior citizens are out of poverty and only 12.5 at the poverty line or below.

Part of that is because we have dramatically increased both the revenues and the distribution of those revenues; that is, increased the taxes and the distribution to our seniors by way of Social Security and Medicare.

But look at the dramatic difference in terms of what is available to pay for all the rest of Government.

And now I have for you the dark blue part of this. In 1955, over 16 percent of the revenues taken in by the United States was available for operating revenues. Now what has happened, because we have increased these programs, we made a conscious policy decision to do that, but we insist that this line, the revenue take, not change because it is remaining rather constant.

Now you can see that today, the U.S. Senate, the U.S. House, and the President of the United States are trying to get a balanced budget, comply with Gramm-Rudman-Hollings totals, fund defense, pay the interest that we owe on our national debt and other entitlements that we have, such as agriculture, student aid, Medicaid and the like, and we are trying to do this with a revenue base equal to only 12½ to 13 percent of GNP. This is a small amount for all of those things that we in the National Government, including defense, think are absolutely imperative for our Nation's future.

Let me put it another way. If I had one more chart, it would be interest on the national debt. Back in about 1955, interest on our national debt was 1 percent of GNP. Remember, we started this discussion saying that the numbers should be understood—1 percent of GNP in 1955 was about $4 billion. Today it is $40 billion. In 1955, we were collecting about $41 billion in Social Security taxes. But what we have done, since our deficit now has gone to $2 trillion and moving up dramatically, we now use 3 percent of our gross national product on interest payments and, as I indicated, 1 percent of GNP today is $40 billion. Three times $40 billion is $120 billion and this is the low. I am using 3, it is more like moving toward 3½ and steadily moving toward 4 or 4½ if we stay on the same path. But, this is a good example.

When some of us say, "We better cut the deficit because we are relegating the responsibility to pay for what we won't pay for to the next generation," there are many ways to look at it, but the simplest way is that interest payments are going up and going up as a percent of our total productivity and you have got to meet the payments. So you have to take it from somebody. So what we are saying is we are going to take it from the next and the next generation as we move up toward $150 billion, $160 billion in total interest on the public debt. If we stay on this path I would think we may even be at $200 billion a year in interest payments on the national debt.

So that in this operating revenue that we now have for all of our Government, there could be another sliver taken off it. We have taken off Social Security and Medicare revenues. But we could just as well take off another one for interest on the national debt because what is left below that line is what we have to spend for the things we as a people, as evidenced by the will of Congress, think our people need from its Government, including defense, including Medicaid, including the Environmental Protection Agency, including the education programs that we have, the agricultural stabilization programs that we have, all of them.

The point of it is that even with total revenues remaining somewhat constant, the piece that is available for operating our Government is getting smaller and smaller. And there are those who say, "This cannot change. This tax line, we cannot increase it. It must remain the same."

Well, I repeat, if it remains the same and we as a people think we must spend as we have been in the last 5 years on defense—and I believe we must, and perhaps slightly higher—if we feel that there is very little that we can do in the other entitlements, such as agriculture—and I believe we cannot restrain it much more—if we believe we must continue the student aid programs—and, indeed, there are some who think they should be more—and if we should continue to pay for the Environmental Protection Agency—and there are some who think we must spend every penny we have been spending and perhaps more—and I can go on and on down the list—then, I repeat, if we want to do all of those things and we want to leave the Social Security and Medicare Programs intact and we want to dedicate the revenue for those programs that we take in from our people for those programs, and we do not increase revenues overall and they are not growing regardless of those who said it will grow, then we are going to have deficits.

The operating revenues, as you can see, are coming down as a percent of GNP. And they are coming down in the last 5 years because the revenues for Medicare and Social Security are going up, not down and the total revenue base has not changed.

Now let me see if I could put this in terms of some numbers so that everybody could understand where the deficit comes from.

Obviously, from these revenues for Social Security and Medicare, they are dedicated. They must go for those programs. The operating revenues are available for all of the rest of Government. And let me now show you the difference in actual dollars resulting in the deficit.

In 1965, if we draw a line about here—so that some will not say, "Senator DOMENICI, you are talking about ancient history," we will not talk about ancient history. If 1955 is ancient, we will talk about 1965, right here.

Social Security and Medicare in 1965 were about 3 percent of our gross national product. Interest on the national debt was 1 percent. So the sum total of Social Security, Medicare, and in-

terest was 4 percent of our Nation's productivity.

Today, Social Security is 6 and interest is 3. That is 9. The difference is 5. That means we had 5 percent more in GNP in revenues alone to spend to run our Government than we do today.

Does 5 percent of GNP strike anyone as having some relationship to our current state of fiscal policy? Five times 40 is 200. And, lo and behold, the deficit is $200 billion. That is precisely where it comes from. We now spend 6 percent on Social Security and Medicare and 3 percent on interest. We used to spend only 3 percent on Social Security and Medicare and 1 percent on interest. And the difference is 5 full percent of GNP, which equals the deficit.

Now, I ask you: Without increasing this line, the taxline, where will that 5 percent come from? Only two places. You will either increase taxes or you will cut expenditures. And what expenditures are around to cut? Social Security and Medicare? I doubt it. There is a commitment to leave it just like it is.

□ 1440

We cut defense? I doubt it. Defense has now reached close to 7 percent of GNP, slightly under its level of 8 percent in 1965 but moving forward rather rapidly. It has increased 1½ full percent of GNP in the last 5 years. Many of us think it had to. How much more can it go up? Well, I will tell you. The charts I have given you would say it cannot go up unless you want the deficit to grow more. What other things might you do? Let me put it into this kind of a chart now which I think is very easy to understand.

You see the white portion of the chart at the bottom below the red. That is the "operating" revenues for our National Government that have been available historically. That is the revenues we have left after we take out those revenues that are specially dedicated to Social Security and Medicare. In 1965 we had this amount of operating revenue, and we had this amount of operating outlays. And the deficit is the red in the middle. Look at what is happening at this end of the chart. Here are the operating outlays, especially right here. Here are the operating revenues, and here is the operating deficit. Look at it. It is getting bigger. Even if it is stabilized it will stabilize somewhere between $180 and $200 billion. There is no way to get around it. Let me tell you it is getting more difficult to get around it rather than less because we have done a couple of very interesting things in this history of an evolving American budget which are perceived by policymakers as doing the kind of things that the American people want. Let me tell you about them.

From 1955, a period of time when the most significant entitlement around was Social Security, we had grafted on the outlay side of the American budget many, many new entitlements. Let us make sure that the record is clear as to what an entitlement is. It sounds like a fancy name, and we now have begun to educate ourselves and the American people, and people frequently now say entitlements are growing too fast when an entitlement in its simplest form is this: If an American citizen or an American institution or entity can go to a court and say, "Mr. Judge, here is my petition, the Government of the United States owes me something." If that judge can say, "You are right, Citizen Jones, or Institution Jim," if the judge says, "You are right," the U.S. Government gives that person a check. That is an entitlement. What are they? Social Security right off the top. Any American citizen who fits the definition, as my friend from New York knows, of a beneficiary of Social Security, he is entitled to the check. Unless and until we change the law, if the appropriators of the United States did not appropriate another penny, they can go to a Federal judge and that judge will say, "U.S. Government, give them a check."

Agriculture: If you are entitled to a stabilization stipend subsidy because you planted wheat and it says there that you are entitled to a subsidy, you go to a Federal judge and say, "What is the matter with our Government? They are not giving me the check." The judge will say, "Give them the check." That is an entitlement. And there are many, many more.

No one wants to change them. As a matter of fact, if they want to change them, they want to add to them, not subtract from them. I have not seen us save any money in agriculture. I am not here today to say that we can. But it does kind of irk me that some people run around saying the last 4 or 5 years we have been denying our farmers these entitlements we are talking about. I note my friend, the senior Senator from Louisiana, is here. Let me tell him that is not the case. On average for the 4 years of President Jimmy Carter, we spent $4 billion a year on the principal agricultural programs of our land. On average for the last 5 years we have spent $20 billion—not just two times more, but four to five times as much. And that is not going to go down.

On defense, let me talk about it for a minute. You go back here to these days of 1955, and 1960, I will admit that the defense of our land was 8 percent even 10 percent of GNP at times. I regret to have to continue to use this GNP, and to remind everyone for numbers purposes. Every 1 percent is $40 billion today. If you are to move that economy into our today's economy with inflation and all, it would still be relevant. So we used to spend say 8 percent. It was down to 6 percent of GNP in the decade of the seventies. It is now rising toward 7. Is that right? Seven times 40 is 280. Remember that is billions of dollars. Is that the whole debate? Should we spend $278 billion or $282 billion on defense? So the numbers are right. We are now slightly over 7 and growing just a little bit a year.

Well, so we got to a point where we spend about 7 and 8 percent on defense. The entitlements that I just spoke to you about in addition to Social Security, not Medicare and Social Security, are 4 percent of gross national product. Let us add them up. Seven for defense, 4 for the new entitlements, that is 11, and what do we have for all the other programs of our Government in terms of today's budgeting? Four percent. That does not seem to be very much. That is all of those other programs such as science, health, NASA, Coast Guard, drug prevention, law enforcement, FAA, highways—all of those programs 4 percent. But is it not interesting? Seven for defense, 4 for the new entitlements that have come in since Social Security. That is 11. Four for the normal things that we appropriate every year that we seem to be down here thinking we can solve this whole deficit.

Incidentally, they will barely solve the deficit if you got rid of them all because 4 percent times 40 is 160. The deficit this year is going to come out $212 billion. So if you want to balance, you can take all of those programs and get rid of them—not just the little ones the President asks us to do, you know, the 44 that we can do; not a 5-percent cut. All of them, 100 percent, you still have a deficit. That is not going to happen.

Let us just finish the addition. Seven for defense, four for the new entitlements like agriculture, four for the discretionary account, and if my arithmetic is right, that is 15 percent of GNP.

Well, how much do we have left by way of taxes? When we take out Social Security and Medicare, Medicaid and 3 percent interest, how much do we have left? We do not have 15, my friends. We have 10. So what is the difference? Five. What is five? Five times 40—a $200 billion deficit.

Unless we are prepared to say defense can come down—a lot—unless we are prepared to say those other entitlements besides Social Security, they have to come down a bunch. All the other discretionary programs have to come down an awful lot. As a matter of fact, in round numbers, you have to cut them all one-third. You will have to cut defense one-third, the discretionary appropriated accounts one-third, the new entitlements since 1955

one-third, and lo and behold, you just about have a balanced budget.

That is not going to happen either because for whatever anyone can say about Dave Stockman's book, and perhaps he should not have written it, maybe he should have, some say he was a better OMB Director than he was a book writer. I do not know any of that. But you notice the title of his book, "The Triumph of Politics." The politics is that the U.S. Congress representing our people after 5 years of trying to restrain domestic spending cannot restrain it much more than where we are today. And what I have just given you, I say this to all of my friends here in the Senate, is not history. It is today. It is America today.

□ 1450

You cannot get there without finding substantial new revenues or by dramatically reducing defense, dramatically reducing entitlements for our people, dramatically reducing the other accounts of Government which we as Congress seem to say we cannot do because we believe our people need it and deserve it, and, in the final analysis, want. In spite of saying they do not want deficits, they seem to want Social Security and Medicare. They seem to say, "We want the agricultural programs more or less as they are," and on and on.

Mr. MOYNIHAN. Will the Senator yield for a moment?

Mr. DOMENICI. I will in just a moment.

Let me make sure I have stated my case.

Total revenues today are 19 percent of GNP. It has not changed very much since 1965 when it was 18 percent of GNP. Today revenues are only 1 big percentage point up as a percent of GNP. Social Security and Medicare and interest, I think you will all agree those items are not available year in and year out for the normal deficit because, as a matter of fact, they are dedicated to the elderly or they are our obligations, like interest. Revenues, 19 percent of GNP; Medicare, Social Security, and interest, total 9 percent; leaving the remaining revenues equal to only 10 percent of GNP.

In 1965, revenues were lower, 18 percent of GNP, but Social Security and Medicare and interest only totaled 4 percent of GNP. This compares to 9 percent of GNP for these programs, today the difference is 5 full percentage points of GNP in revenues that are no longer available for the normal operation of our Government today that were available in 1965. This means that we had an amount of revenues equal to 14 percent of GNP available for all the rest of Government compared to 10 percent today. Four times 40 is only $160 billion. The deficit is bigger than that.

I close by saying matters are slightly worse than I have described.

Mr. MOYNIHAN. Would my good friend yield for two questions?

Mr. DOMENICI. Let me finish my thought.

Remember, right now you are permitting the trust fund in Social Security, and I think it is quite appropriate that the Senator from New York is on the floor because he has talked about this and knows what I am talking about, that under Gramm-Rudman-Hollings we have until 1991 the accounting allows us to disguise the true size of the deficit with the surpluses in the Social Security trust fund. We are applying to this year alone about $15 billion of the surplus to the deficit. Next year it will be $15 billion higher and by fiscal year 1989 from now it will be almost $40 billion. So we are using that in our accounting for the maximum deficit targets. It is not really available in terms of free revenues to pay the debt.

Now I will be pleased to yield for a question.

Mr. MOYNIHAN. May I first express the appreciation of this Senator, and I think all of us who have been listening with great attention, for the clarity and purpose of the chairman to resolve the situation by first describing it, which he has done for 5 years.

First, the Senator remarked that Mr. Stockman's book is entitled, "The Triumph of Politics," with respect to the doubling of the national debt in the last 5 years, and so on, with the interest rising to the third largest element in our outlays after defense spending and Social Security, and rising fast.

But the Senator will recall that Mr. Stockman makes clear that what happened in his view is that the Congress did not respond to the crisis which he created. He said as early as September 1980 it was clear that the huge tax cut being proposed, which was not larger than they had in mind, would not be matched by increase revenues from growth. Instead of saying, "Stop, we do not want to do that," he said, "Good, we will do that. We will create a crisis."

His statement in the book is, "The politicians"—you and I who have been elected; though he was previously elected, he was then appointed—would be forced to "turn against their own handiwork—the bloated budget of the American welfare state," as he would term it.

"Why?" he asked.

I believe I quote accurately what he said: "Because they had to! In the final analysis, I had made fiscal necessity the mother of political invention." Which is to say, we would have to, owing to the deficit that would otherwise exist.

But the fiscal necessity, the deficits which have led to the debt and led to the interest, was foreseen and was deliberate. I do not know if the chairman wants to respond specifically, whether he will agree that "The Triumph of Politics" in Stockman's term meant that Congress did not behave the way he wished it to behave in the aftermath of the crisis which he helped to create. I think that is a fair judgment of his book; is it not?

Mr. DOMENICI. Mr. President, does the Senator from New Mexico still have the floor?

The PRESIDING OFFICER. Yes, he does.

Mr. DOMENICI. Let me say to my friend from New York, that is one way to look at his conclusion in "The Triumph of Politics." I am not stating that is not the right way or giving my opinion on anything about it. I read the book and I concluded slightly differently.

I concluded that he was saying you have got to the point where you would not cut any more out of the domestic programs and that was the triumph of politics. He had assumed a so-called revolution to get more out and it could not be done. He concludes that we are still 100 U.S. Senators and 51 are required for a majority, and a majority in the House, and you will do here a little bit and cut there a little. He got to the point where he believed we would not cut any more. I perceived that is what he was saying.

Mr. MOYNIHAN. He also said we should have known that, and that the slashing of operating revenues was "a willful act of ignorance and grotesque irresponsibility." He concluded: "In the entire twentieth-century history of the Nation there has been nothing to rival it." That is what he said of his time in Government.

Mr. DOMENICI. That is correct, he said that.

Mr. MOYNIHAN. A second question just to be clear on the entitlements, about which the Senator speaks with great authority. I think he would make the distinction that with very few exceptions the 4-percent entitlements that he described are not funded by contributions from those who receive them. Farmers do not pay money into a price stabilization fund from which they are paid out benefits. Social Security is self-financing, is it not?

Mr. DOMENICI. The Senator is absolutely correct. As a matter of fact, the Senator will note that one of the reasons that I have two colors for the two types of revenues is that the light blue is what we collect from the American people, taxpayers, just like the operating revenues. The light blue goes into a dedicated trust fund for Social Security and Medicare, but it is all part of this 19 percent or so that we take from our economy and its people. It is that to which I refer.

Some say it does not matter how you change the makeup and what you can use it for, but you only talk about its total. I am talking about the fact that we are now here today facing the reality that total revenues have not changed but this dark blue has, the portion that left over to pay for the general programs of Government is shrinking. We are being asked to balance the budget with a shrinking revenue base and yet increase the largest accounts of Government because we believe it is necessary that they be increased.

Mr. MOYNIHAN. And were it not for the surplus in Social Security, which will grow, our actual deficit would be worse than it is.

Mr. DOMENICI. As a matter of fact, if the Gramm-Rudman-Hollings bill had not included an allowance for us to use the surpluses for the next 5 years, whatever they may be, if we think we are having trouble reaching those goals now we would have to take $5 billion more out this year for next year's budget to get to the totals. That is the surplus. It is growing and by 1989 will be about $40 billion.

□ 1500

So to get to the fourth year of the Gramm-Rudman totals, we think we have to do a certain amount. We actually have to do $40 billion more because $40 billion of that deficit is accounted for by the excess in Social Security. We are not spending it, so nobody thinks that the Senator and I are talking about spending their money. It is there. In a sense, since it is there, it reduces the deficit by that amount.

Mr. MOYNIHAN. Since we are on television, may I just say in conclusion to confirm what the distinguished chairman has said, because the Treasury borrows, in effect, money from the Social Security fund, it does not have to borrow money from the public and hence the amount of the debt does not go up to that extent. The moneys are held in absolute trust, in absolute secure bonds owned by the Treasury, owned by the fund through the Treasury.

Mr. DOMENICI. The Senator is correct, and I thank him for his questions.

Mr. MOYNIHAN. I thank the chairman for his generous responses and I thank him for his presentation.

Mr. DOMENICI. Mr. President, I want to conclude with a couple observations. I am sure there are some in this body, perhaps some in the House, perhaps some in the White House, who, if they had this explanation, would say, "Well, all you got to do is cut expenditures."

(Mr. ARMSTRONG assumed the chair.)

Mr. DOMENICI. Now, I would just like to take a very, very few minutes and make sure everybody understands once again what we are talking about.

What expenses would you have us cut? Not Social Security and Medicare. And I just got through showing you this is how much of the revenues go to it and a corresponding amount of our budget goes there.

Defense, really there are very few people, when you get right down to the bottom line, who want to cut defense by a substantial amount. We are talking about how much would it increase for the most part from a very significant continuation of the 5-year buildup to something that may be just continuing defense at about its current level. There are really not very many people who are saying you are going to fix this problem with it.

Now, how about those other entitlements, non-Social Security, that I talked to you about? Agriculture, student aid, some of those. I do not think anybody really figures you are going to literally pick up $160 billion to $200 billion over the next 5 years by cutting those. So really in essence I want to close by saying you have 4 percent of GNP, 4 times 40, about $160 billion in domestic appropriated accounts that you can reduce and cut and reform and perhaps get rid of some programs in order to bring this deficit under control. Frankly, I think the one place where the distinguished former OMB Director, David Stockman, missed taking some credit is that those accounts are the only accounts of Government in the last 5 years that have been reduced.

Let me see if I can give you the numbers. Defense on average went over 6 percent real growth for each of the last 5 years—not down, up. The entitlements, including Social Security, Medicare and the others, went up, not down, not as dramatically on the increase as in the decade of the 1970's but overall 3.4 percent real growth, up. The accounts that we are told to cut, reduce, reform, eliminate, came down 3.4 percent real growth, negative, each of the last 5 years. I repeat down 3.4 percent per year on average in real terms. Not bad for a democracy, not bad for a wide open society, not bad for a U.S. Congress with the kinds of rules we have, the desire that individuals be represented, that States be represented, not bad. My conclusion is that even if we continue to grow at a healthy pace, we are not going to get these lines to change very much and the deficit is going to hover between $140 and $160 billion for as far as you can see unless and until we address the issue.

Mr. CHILES. Mr. President, I wish to compliment the Senator on his remarks and presentation. I have heard him say this many, many times. I know how he feels. I think the presentation he made today was very, very excellent. My understanding of what the Senator concludes with is there is not the will now in the administration or in the Congress, in either House, in either party, to make the kind of cuts off of the entitlement programs, off of defense, off of these other—4 percent of the programs that we have made the cuts to reduce this deficit, if the revenue numbers stay the same. So if we are not going do anything on the revenue number, then the result is that we will continue to have these deficits.

Now, they are not free, are they? There is a price that we have been paying and that we will pay for those deficits.

Mr. DOMENICI. The Senator is absolutely correct.

Mr. CHILES. There is no free lunch.

Mr. DOMENICI. There is no free lunch. We are paying the debts which we are financing by borrowing from banks and savings and loans and insurance companies and Americans and foreign countries. We are paying them interest.

Mr. CHILES. The chairman was a mayor of his city before he came here and the Senator from Florida was in the State legislature. I think his city was the same as the State of Florida. Before we could go home every year, after we decided what we were going to spend, we had to raise the taxes to pay for it and we could not leave. I assume his charter had something like that in it. Our State constitution had that in it. So we had to raise some revenue at times. It was painful. But because we had to do it, it made us consider whether we wanted to spend for a program or not as opposed to being able to run a printing press.

I assume that the Senator had the same experience.

Mr. DOMENICI. No doubt about it. Cities are even less than the States. Cities get all that power from States.

Mr. CHILES. Yes.

Mr. DOMENICI. We would not even consider floating a loan. We did not have any such authority.

Mr. CHILES. Does the Senator agree with the Senator from Florida that this deficit we are talking about, which is hovering around $200 billion, which has increased about a trillion dollars over the last 4½ or 5 years, that is a tax as sure as you had levied a tax? It is a hidden tax perhaps. We do not talk about it being a tax but it has every effect of a tax that we would levy, except we do not seem to have the restraint on spending as long as we can borrow that money.

Mr. DOMENICI. The Senator is absolutely correct. In addition, I say to the Senator, as I tried to indicate already today—and I thank the Senator for his remarks and his tremendous cooperation and helpfulness as we attempt to reduce the deficit together and make somebody begin to under-

stand the nature of the problem—basically there are some who must believe that we can continue to borrow and let that interest rate go up and up and up. As I indicated, it is 3 percent of GNP and going up, approaching 4, approaching $200 billion a year.

Mr. CHILES. The fastest growing program in the Federal Government today is that interest.

Mr. DOMENICI. In the past 5 years the fastest by far.

Mr. CHILES. Yes.

Mr. DOMENICI. There are some who assume, No. 1, it will not hurt the economy; No. 2, it is better to borrow than to pay your way. On the first point, let me suggest that we have had a very, very fortunate occurrence. Our interest rates have been abnormally high. That is good for somebody who wants to lend us money as a nation because we pay high interest rates.

Mr. CHILES. That is right.

Mr. DOMENICI. So we attracted scores and scores of billions of dollars from foreign countries. Japan is our largest contributor now to paying for our folly of deferring paying for the things we think we need. They are lending us the money at 4, 5, and 6 percent real interest rates, that is, over inflation, which they take home. They give us the money to pay our bills.

□ 1510

Last year, it was a large amount of money. What if they cannot do that a year from now? Where do we get the money?

Mr. CHILES. We have to raise our interest rates.

Mr. DOMENICI. We have to raise our interest rates, or we have to take more money out of our own economy.

Mr. CHILES. That is right.

Mr. DOMENICI. We want as much of that to stay in our economy as possible, to be used to build homes and factories, pay our workers, raise their standard of living, and let the economy grow, not take it out. They are not the only ones contributing.

As a matter of fact, for poor countries, countries that ought to be keeping their own capital to build their own base, to give their own people an increased standard of living, the attraction of high interest rates in the United States, plus our stability as a nation, is causing money to flow from all those countries. For what? I am not now talking about building a new plant in Tennessee or Florida. I am talking about coming here to buy things to help us in the short-term to pay for what we think we need in defense and all the other programs.

What if that stops? What happens? Interest rates go up or the economy begins to suffer for lack of capital, which will cause inflation to rise. Then we will not be saying that two generations—the next and the next—will pay our bills which we did not want to pay ourselves. Rather than fixing it, we will cause another recession, and then we will really be in the soup. These numbers will go off the wall next time we have an economic downturn. This deficit that hovers between 160 and 180—if there is a 2 or 3 percentage point drop in the economy in the next 3 months, it will go to $300 billion.

Mr. CHILES. Sooner or later, all that money has to be paid back.

Mr. DOMENICI. Absolutely.

Mr. CHILES. That is an equation that has to balance out and will balance out. We are seeing, as we suffer through our trade deficit because of what has happened to our interest rates, that we have actually exported jobs overseas. We are seeing that we do not have the capital to build the kind of construction and infrastructure we need in this country to compete.

That is the price we are paying, just as surely as we had tried to raise the tax, except that we did not get the restraint on spending.

Mr. DOMENICI. Mr. President, I want to make a report to the Senate, very briefly.

Clearly, we tried in the U.S. Senate to do something about this. Clearly, we tried, with 70 positive votes, to restrain the growth of defense but let it grow a little; to restrain the growth in those accounts I spoke of and let some of them grow. We asked the U.S. Congress to insist that its tax-writing committees raise $10.5 billion in 1987 and $17 billion and $18 billion, respectively, in 1988 and 1989.

We thought we were doing the right thing in trying to reverse these tendencies and this inability on our part to begin to pay for what we thought we need even in good times. It is the fourth year of a recovery, and we are still wondering whether we ought to be paying for Government by buying one-fifth of what we need every year, as part of an indenture program, where you borrow and somebody will pay for it later. Some people sound as though they are saying: "What if, and maybe we won't have to." But we thought we were doing that when 70 of us voted to do something about it.

Now we are in conference with the House. They do not want to put the taxes on, because they say the President will not support it. We have submitted to the House a proposal which says to them: "Why don't you do it? Why don't you do it with us?"

At least, it is the right thing to do from our perspective. We will hold some of these funds in abeyance, and then we will put the tax on, and then fund them part for defense and part for the other things that both bodies seem to think they need for domestic initiatives that cost money.

I do not think the House is prepared to accept this proposal as of now. They have offered another proposal. It is very different from ours. We will meet with them because we are under the Senate's direction to do so. We will continue to meet and try to get some budget issue that addresses this issue.

I started by saying that I was not here to throw cold water on the tax package, because I join many who say it is a marvelous achievement to reform that three- or four-decade-old tax law which was filled with inequities and was like a big brick wall that had all kinds of bricks built into it, of different textures, all of which were for some special purpose. We had to take most of it down and say, "Let's start over now at lower rates."

So I am not here to pour cold water on that. But I do suggest that to the extent in any of the given years—1987, 1988, or 1989—that bill lowers the revenue base, these deficits go up. The achievement of the Gramm-Rudman totals in each of the years is made more difficult; and, at least on the accounting side, we should try to do something about that.

However, even more than that, since we are here passing a new tax bill, with people being very upbeat, I hope they understand that if it is passed, if it gets rid of all the shelters or most of them and moves toward fairness and simplicity, it yields only the amount of revenues that we are now taking in under our existing tax laws. I hope everyone understands that we have not taken one step toward resolving the deficit. It will be the same or worse when we finish that bill as it was before. All I can say is, "What a pity; what a pity."

Mr. GRASSLEY. Mr. President, we have talked for quite a few months, on the floor of the Senate, about the farm crisis; and there is some relationship between the crisis in agriculture and the present Tax Code.

I am not here to say that the major cause of the farm crisis is the use of the Tax Code by nonfarmers as a major tax shelter and hence unfair competition to the family farmer. But there is some aspect of the Tax Code being a part of the farm crisis and a threat to the family farm.

The bill now before the Senate, this major overhaul of the Tax Code, addresses this problem. It changes the Tax Code so that unfair competition—the use of agriculture as a gigantic tax shelter for the nonfarmer—will no longer exist.

Mr. President, I have worked long and hard on this tax reform package, just as 19 other members of the Senate Finance Committee have. I have also worked on the farm crisis. I am happy to report that this bill goes a long way toward doing away with one of the biggest enemies of the

family farmer, the tax-loss farmer—or, perhaps I should say the tax-loss nonfarmer. My family farmers in Iowa—and, for that matter, in most States, particularly the upper Midwest—can no longer afford to subsidize wealthy outside investors who use farming as a tax shelter.

Tax loss farming hurts everyone except those who farm the Tax Code and not the soil. The Government and the taxpayers lose because of an increase in the cost of farm programs and a decrease in income from lost tax revenues. The farmer loses because this over investment has created excess supplies of farm products, often being sold below the cost of production by people who care more about losing money than making money from farming. My family farmers, who are in business to make money for their future, and particularly for the future of their children, cannot afford to sell at a loss. Iowa farmers, and for that matter most farmers, do not have any excess income to shelter.

□ 1520

In addition to lower prices, overinvestment has helped to create massive debts in rural America. This debt has broken, and will continue to break, thousands of family farmers and lenders until we stabilize the situation, and that is not going to happen overnight. Just one example is the Farm Credit System which holds one-third of all farm debt. The Farm Credit System lost $2.7 billion last year, which is a larger loss than any other financial institution in U.S. history. The System's losses last year were over 2½ times as high as Continental Illinois's largest loss, which at that time was large enough to bring Federal intervention. The Federal Government and the taxpayers may end up paying for the System's recovery because farmers cannot pay for their excessive debt with the low prices that they receive today.

Mr. President, I am happy we included provisions in this tax bill which would limit tax loss farming. One of my amendments would allow farmers to deduct no more than 50 percent of their prepaid expenses, no more than 50 percent of their prepaid expenses of all their schedule F expenditures. This provision discourages the use of farm operations, particularly in the livestock and of agriculture, from being used as tax shelters. In the past outside investors would use the prepaid expenses provision of the Tax Code to buy feed and supplies just to get large writeoff on their income tax, mostly, of course, to offset their nonfarm income.

Another provision extends the depreciation allowance for single-purpose agricultural structures and an example of this would be livestock confinement buildings, and it would extend this depreciation from the present 5-year period of time to 10 years. This is important because many investors have used the faster depreciation schedule to buy facilities, not to produce livestock for profit, but to produce a massive tax advantage and to roll over ordinary income from 1 year into the next.

Finally, a provision of this Tax Reform Act limits passive investors in a farming operation to no more than $25,000 in deductions against their nonfarm income.

Mr. President, a great deal of the credit for this provision goes to the leadership of Senator ABDNOR of South Dakota who first proposed this in this body.

This should help to prevent people from investing large amounts of money into agricultural operations only for the purpose of receiving large deductions. By limiting this deduction we will be forcing investors to look at a farm operation in terms of profitability and not in terms of deductibility.

Mr. President, I know that these provisions and the bill in general has some negative side effects and maybe even some for agriculture, and I also know that it will take time for some people in agriculture to adjust to these changes. I believe strongly, however, that the positives of this bill far outweigh the negatives. The family farmers will benefit as a result of this bill both because of the provisions I have outlined and others that probably a longer speech could cover.

The real family farmers, in both the short and long run, will be grateful to this body for making these changes and to bring about a fairness to the family farmer as opposed to that unfair competition from the nonfarmer using agriculture as the biggest tax shelter in the Tax Code.

The President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1530

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. METZENBAUM. I thank the Chair.

AMENDMENT NO. 2085

(Purpose: To modify certain transition rules)

Mr. METZENBAUM. Mr. President, the bill repeals the investment tax credit effective as of January 1, 1986. However, among other beneficiaries of transition relief, Merrill Lynch will qualify for tax credits on office equipment and leasehold improvements for its new world headquarters building, not for a short period but in perpetuity.

When my staff raised this issue with attorneys from Merrill Lynch, we were told that it was merely a drafting error.

We came across this provision providing for a transition to be extended out into perpetuity as we were looking through the transition rules. My amendment would impose a limit on those taxpayers receiving transition relief. It would require property to be placed in service by the end of 1988.

I believe that an open-ended exception for Merrill Lynch and other beneficiaries of transition relief is unwarranted.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2085.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 1491, line 22, insert "and subsection (d) (other than paragraph (9) (relating to solid waste disposal facilities) and paragraph (13) (relating to certain satellites) thereof)" after "Paragraph 1".

Mr. LONG. Mr. President, I am checking on this amendment at the moment. It is my understanding, Mr. President, that this amendment by the Senator from Ohio has been cleared on the other side of the aisle. So far as I know, there is no objection on this side of the aisle.

I suggest we not reconsider at this moment because someone might come in with an objection unbeknownst to this Senator. But in due course we could reconsider it.

Mr. METZENBAUM. I ask that we agree to it without reconsidering it.

Mr. LONG. Yes. I have no objection to agreeing to the amendment at this time.

Mr. President, I feel confident this is what the distinguished chairman, who is momentarily absent from the floor, would agree to. If I find out other than that, I will seek to help to protect his rights.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2085) was agreed to.

Mr. METZENBAUM. Mr. President, I appreciate the cooperation of the manager of the bill on the minority side. I do want to make it clear that Merrill Lynch is aware of this amendment and they have no objection to it.

71-059 O-87-30 (Pt. 10)

They recognize there was to be some time limit as to when they go forward.

Mr. President, I see the manager of the bill is here. With respect to the last amendment, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2086

(Purpose: To strike out a transition rule)

Mr. METZENBAUM. Mr. President, I am about to call up an amendment that will not take us long, but it covers a situation where only two taxpayers in the whole world are being benefited. That is one of my concerns about transition rules, whether or not they should be carved out for a limited group of people and, in this case, only two individuals.

Under current law, capital gains are taxed at a preferential rate of no more than 20 percent. In addition, under current law, there is a special rule that treats royalty payments from coal leases as capital gains.

The bill before us repeals the favorable tax treatment for capital gains for individuals beginning in 1987. This means that, instead of paying a maximum rate of 20 percent, taxpayers with capital gains will pay as much as 27 percent.

My appearance on the floor in connection with this matter is not to take issue with that. Corporations will continue to receive existing favorable capital gains treatment. My appearance on the floor at this point is not to take issue with that.

But the point to which this amendment is addressed has to do with an exception written into the bill, and that exception will cover two individuals.

Under the bill, royalties paid under leases held by two limited partners in the Cimarron Coal Co. are exempt from repeal of the capital gains rate. This means that these two individuals will be the only taxpayers in America that would enjoy preferential capital gains treatment.

I am frank to say to the Members of this body, I do not even know who those two people are. I think we are entitled to know who they are. I think when we are giving a special tax advantage we ought to be told who they are and why they are getting that advantage. We are also entitled to know why they deserve this special treatment; why they get a tax break. All other royalty owners in the United States will pay their taxes in full, but not these two individuals.

The language that spells this out is to be found on page 1585 of the tax bill. It is called a transition rule. I am not sure it actually is that. Let me read it to you. It is very short.

"The tax on the long-term capital gain on rights to royalties paid under leases and assignments binding on September 25, 1985, by a limited partnership"—only one, you understand—"formed on March 1, 1977, which on October 30, 1979, assigned leases and which assignment was amended on April 27, 1981, shall not exceed 20 percent."

Now, just think about what that says. That says that capital gains are going to be paid by everybody in this country—the rich, the poor, the middle class, everyone—at 27 percent, but two people are going to be given that favorable treatment.

Now, I would guess that there may be some logical reason to this, but, as of this point, my inquiries have not produced a logical reason nor an adequate answer.

□ 1540

Absent compelling information, I believe the provisions should be stricken. I want to point out that we are not talking about enough money to balance the budget. We are not even talking about a substantial sum of money as we discuss figures around these Halls. But I will say this: It is only $2 million—only $2 million, but it is for only two people. If we are going to give $1 million to each of two people, should we not be thinking about whether the balance of the 230 million people in this country are entitled to the same $2 million?

If there is an adequate answer, if there is something I do not know about this matter that provides a convincing case as to why it should be permitted, I am frank to say that I would be prepared to take the amendment down. But absent that, I am prepared to go to a vote on it.

Mr. METZENBAUM. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2086.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1585, beginning with line 24, strike out all through page 1586, line 4, and redesignate accordingly.

Mr. METZENBAUM. Mr. President, I am aware of the fact that the acting President pro tempore is the one who is prepared to speak to this particular amendment. I advised him in advance that I hoped he would have somebody to substitute for him. I am not attempting to create an inconvenient situation for him. If he wants me to relieve him at the desk or somebody else can do that, I am perfectly happy to cooperate.

The PRESIDING OFFICER. I thank the Senator from Ohio for his concern. We think we have it under control.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER (Mr. PACKWOOD). The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I think brevity is really the essence of floor procedure at this moment. We have had lengthy discussions of the tax bill. I think the general disposition on the part of the Senate is to dispose of the few remaining issues quite quickly.

I am going to certainly try to facilitate that. The issue raised by the Senator from Ohio is really a quite simple one. Let me take a moment to explain my perspective on it, and the reason why the Senate Finance Committee has incorporated into this bill a transition rule the beneficiary of which is the Cimarron Coal Co. in my State.

It is not exactly as portrayed by the Senator from Ohio. In fact, the justice of the case I think bears the other way entirely. For a long time the Cimarron Coal Co. had been selling coal under a fixed-price contract, a contract between the coal company and the public service company of Colorado. The contract which I guess is about 5 years old now, was entered into in 1981. The contract is predicated on existing tax laws. The existing law permits the taxpayers to be treated to capital gains treatment; that is, under which 60 percent of the income is excluded before the computation of the income tax. That has been the law for a long, long time. It was the law when this contract was entered into. It is still the law as of today. It is the judgment of the Finance Committee and I think it will be the judgment of the Senate to eliminate in general the capital gains provision in the tax law.

Why then should we continue it for the specific instance? The reason is very simple. The contract is in force, it runs for the life of the mine, and it covers all of the coal which is deposited in the mine. The project was financed and the coal provided on the basis of the tax law, and the taxpayers involved entered into it reasonably I think relying on that tax treatment.

May I just point out to my colleagues that this is completely consistent with past practice. In 1969 when we amended the law we did much the same thing with respect to gas royalties. It is just a fundamental question of justice. Whatever we think about the policy for the future, and I happen to endorse the proposal in the bill, which phases out the capital gains tax treatment in favor of a lower cor-

porate and a lower individual rate, it does seem fair to hold harmless taxpayers who would otherwise be seriously and unfairly jeopardized.

Mr. President, I see no reason to discuss this longer. In short order, I intend to move to table. But before I do so, I would like to yield the floor to permit the Senator from Oklahoma to come to the floor and speak to this issue if he wishes to do so.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the Senator from Colorado yield for a question?

Mr. ARMSTRONG. I am happy to yield for a question, if I know the answer.

Mr. METZENBAUM. I think he does in this instance.

Is it not a fact that there are many fixed price contracts that are in Colorado and other parts of the Western part of the country that would complain that they were entitled to equal treatment provided for under this amendment?

Mr. ARMSTRONG. I do not know the answer to that question. There may be. I know quite a number of specific injustices were brought to the attention of the committee. This is one of them. We have attempted to deal with them. Whether or not we have caught them all, I do not know. I will say this to the Senator, though: If I were to discover that a coal company in his State faced a similar problem, I would be happy to help him try to fix it up just as we considered dozens, I think maybe even hundreds, of transition rules of one character or another. That is not to say all transition rules are justified. But in this case, I think this one is.

Mr. METZENBAUM. Is it the fact only two people are helped by this amendment?

Mr. ARMSTRONG. I say to the Senator I do not know. The first time I ever heard that asserted was during the course of the Senator's presentation about 5 minutes ago. He may be correct. Frankly, that is not the issue. If it is just, if the principle is equitable, it is equitable whether it is one, two, or a thousand taxpayers. The question is whether or not having acted in reliance on the law, a law which they had no reason to expect to be changed, a law which previously had permitted similar transitions to the one which is proposed by this amendment, he entered into it in good faith. To me, the question is not who is helped or hurt.

I know there are times when the Senator from Ohio has wished to personalize such issues. But the Senator from Colorado has absolutely no desire to do so.

Mr. METZENBAUM. Mr. President, I think we ought to understand what the Senator from Colorado is talking about and what he says. I respect him for his candor. Some people in Colorado entered into a contract. My information is that there are only two people who benefit from this. The contract is in the name of Cimmaron Coal. But I understand there are only two individuals that will benefit from what he is saying because they entered into a contract with respect to the price of coal, and royalty payments on that by reason of previous legislative decisions are treated as capital gains which is a special privilege.

What he is saying is because they entered into that contract in yesteryear that in the future we could never change the rates having to do with that coal contract.

(Mr. ARMSTRONG assumed the chair.)

Let us think about the significance of that. Does that mean that all of the provisions in this bill that would affect some contract that somebody entered into is going to impact upon their income, either up or down, that we are to be guided by somebody else's contract, and we are to provide an exemption? I cannot really believe that is intended.

I would really believe that, in this instance, this is such a far-out amendment in the bill, such a special privilege, that it behooves those who have brought it to the floor of the Senate as a part of the bill to withdraw it. It is not logical. It is not right for two people to be given special treatment because all they are saying is they agreed to a contract for a certain amount per ton of coal. They knew it was going to be taxed at a certain rate. Let us be fair about that. In yesteryear, capital gains were taxed at far higher rates than 20 percent. Before this, I think they were taxed at 28 percent, and then there was another figure higher than that. I think it was 40 percent.

I do not remember anybody coming in and saying but there ought to be a special exemption for these two particular beneficiaries when we cut the rate from 40 percent to 28 percent, or when we cut the rate from 28 percent to 20 percent, but these two individuals are getting the benefit.

I want to say to my colleague that my opinion is if the chairman of the Finance Committee moves to table my amendment, he will probably prevail. But he should not prevail. This certainly was not the price of getting the Senator from Colorado on the bill. Certainly, this was not something that was a way to get the bill out of committee.

There are many more worthy people who have bought stock who have purchased shares a year ago and in expectation of selling it. They wanted to hold it. They like the company. But if they sell it, after the terms of this bill become effective, they are going to pay 27 percent. But these people are only going to pay 20 percent.

□ 1550

We are not talking about a tremendous amount of money, but it symbolizes this amendment as much as any other amendment in the whole bill, the inequities of the transition rule game.

Cimarron got taken care of because they came to the distinguished Senator from Colorado, a member of that committee. They made their case. He took it to committee. Many others lacked access to the committee and they were left out in the cold.

You can keep the amendment in the bill or you can take it out as the amendment of the Senator from Ohio would have you do. But if you keep it in the bill, you cannot overlook the fact that they have been provided a special privilege, a special privilege for two people, and left all the other people who own stocks or have royalty coal leases out in the cold.

I do not think that is the way it ought to be. I think this amendment is one that speaks at loudly as any other single amendment in asking, do we want to be fair? If you want to be fair, you will refuse to table this amendment. If you do not want to be fair, you will table the amendment.

Mr. President, I am prepared to vote.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, my colleague from Colorado is uncertain how many people are involved. I have in my hand a matter called Cimarron Coal Co., pending disposition of ordinary Federal income taxation on coal royalty income, description of taxpayers and income.

I only rise to confirm the representation that I made to the Senate. That is, it provides its general partners are a Nevada corporation and Colorado's limited partnership. Its limited partners are two individuals.

So what we are talking about is two people against 230 million Americans who will receive this special privilege.

Mr. President, whenever the Chair is ready, I am prepared to vote. Before proceeding, does the Presiding Officer understand the Rules of the Senate? [Laughter.]

The PRESIDING OFFICER (Mr. DOLE). I believe so.

Mr. ARMSTRONG. Mr. President, I do not think there is a need for laboring the point. I want to make a couple of brief observations.

First of all, I insist that the issue is not how many taxpayers are affected. The question is the merits, justice, the equity of the case.

I say again if there are other taxpayers similarly situated, they ought to be taken care of in exactly the same way. As a matter of fact, there is also a precedent for transitional relief of this kind in both the House and Senate bills which are now pending. The House bill includes a provision providing that for contracts entered into before September 25, 1985, the taxpayers continue to receive the benefits of the tax credit. The Senate bill has a similar provision.

The House bill provides a 3-year phaseout in capital gains for coal royalties. The Senate does not have a similar provision.

Furthermore, the House bill provides an exception providing a contract is entered into by September 25, 1985.

The thing that is unusual here is talking about a limited partnership instead of a corporation. So the owners are in a catch 22. They entered into a contract 5 years ago in good faith. They cannot escalate it, they cannot change the price. It is a question of whether or not they are going to get the same kind of transitional relief that has been traditionally granted both in this bill and in the House bill and in previous legislation, as I have pointed out.

With that in mind, Mr. President, I think we are ready to dispose of this.

Is the Senator seeking recognition?

Mr. METZENBAUM. Just for a moment. I just would like to respond. If the Senator is talking about the provision in the House bill which may or may not have merit, I am not prepared to address myself to that. But each of those read were applicable to all taxpayers. The fault that I find with their amendment is that it is applicable only to two taxpayers.

I read the language. It is so specific. It talks about royalties paid under leases and assignments binding on September 25, 1985. By who? By a limited partnership formed on March 1, 1977. What did they do? Which on October 30, 1979 assigned leases and which assignment was amended on April 27, 1981.

Those are the only leases and obviously they are the only ones having to do with Cimarron Coal. Those are the only leases that get special treatment.

I would agree that there is reason to have transition rules, and the Senator from Colorado knows that I have listened heretofore and I have not attempted to zero in on any broad-based treatment because it truly was a transition matter.

This is not a transition matter. This is a matter of providing two people in the whole country an exemption for a special tax rate of 230 percent whereas everybody else would be paying 27 percent.

Mr. ARMSTRONG. Mr. President, the Senator from Ohio and I see this differently. There are many transition rules, indeed of an identical character in this bill. The reason is because we are making a sweeping and unforeseen change in the tax law that we catch a lot of people in a net and we do not want to catch them in a net. It is unfair. Then we provide equitable relief. We provide it 150 times or so in this bill just as we have on a number of occasions in previous bills.

Mr. President, I do move to table the amendment of the Senator from Ohio.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado to lay on the table the amendment of the Senator from Ohio.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is necessarily absent.

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—68

Abdnor	Gore	Mattingly
Andrews	Gorton	McClure
Armstrong	Gramm	McConnell
Baucus	Grassley	Moynihan
Bentsen	Hart	Murkowski
Boren	Hatch	Nickles
Boschwitz	Hatfield	Packwood
Bradley	Hawkins	Pressler
Chafee	Hecht	Pryor
Cochran	Heflin	Quayle
Cohen	Heinz	Roth
Cranston	Helms	Rudman
Danforth	Humphrey	Sasser
Denton	Inouye	Simpson
Dixon	Johnston	Stennis
Dole	Kassebaum	Stevens
Domenici	Kasten	Symms
Durenberger	Kennedy	Thurmond
East	Laxalt	Trible
Evans	Long	Wallop
Ford	Lugar	Warner
Garn	Mathias	Wilson
Goldwater	Matsunaga	

NAYS—31

Biden	Glenn	Pell
Bingaman	Harkin	Proxmire
Bumpers	Hollings	Riegle
Burdick	Kerry	Rockefeller
Byrd	Lautenberg	Sarbanes
Chiles	Leahy	Simon
D'Amato	Levin	Stafford
DeConcini	Melcher	Weicker
Dodd	Metzenbaum	Zorinsky
Eagleton	Mitchell	
Exon	Nunn	

NOT VOTING—1

Specter

So the motion to table the amendment (No. 2086) was agreed to.

□ 1620

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, my colleague from Minnesota [Mr. BOSCHWITZ] and I are bringing to the floor today an amendment to provide a partial exclusion of long-term capital gains from taxation. The net effect of our amendment will be to restore a top capital gains rate of 20 percent for individuals in the 27-percent bracket under the committee bill and a rate of 12 percent for individuals in the 15-percent bracket.

Our amendment is written so that the long-term capital gains rate will be 20 percent even if the top rate is increased to 29, 30, or even 38 percent, as provided in the House tax reform bill.

The essential purpose of the amendment is provide a meaningful differential in the tax rate on ordinary income and capital gains income in order to provide strong support for long-term capital markets.

On May 14, I submitted Senate Resolution 407 expressing the sense of the Senate in support of a meaningful capital gains differential. The resolution's text states the argument for the retention of a tax differential for long-term capital gains.

I would like to read the text of my resolution at this time:

Whereas, the availability of venture capital is critical to the needs of small business ventures whose owners cannot obtain loans from traditional sources of financing; and

Whereas, small businesses provide the greatest numbers of new jobs; and

Whereas, many promising new technologies first are developed commercially by small enterprises; and

Whereas, technological leadership is one of this nation's most important resources; and

Whereas, the vital high technology sector is unusually dependent upon infusions of outside risk capital to meet intensively competitive markets; and

Whereas, the tax reform experiment of 1969 erased a significant differential between capital gains tax rates and ordinary income tax rates; and

Whereas, the flow of risk capital to high technology companies dwindled from $1.6 billion in 1969 to less than $37 million in 1977; and

Whereas, many high technology companies were forced to sell their technology to foreign competitors in order to raise capital; and

Whereas, the Congress in 1978 recognizing the seriousness of the drought of venture

capital enacted the Capital Gains Reduction Act of 1978 to lower the rate on long-term gains from a possible maximum of 49% to 28%, thereby providing a meaningful differential for longterm capital investments; and

Whereas, since 1978, the electronics industry has created over one million new jobs; and

Whereas, the availability of venture capital to small businesses has declined in the past year; and

Whereas, the pressure of international competition is driving up the demand for outside risk capital; and

Whereas, the experience of the 1970's has shown the potential harm done to risk investment by eliminating the capital gains differential from our tax system; and

Whereas, wisdom suggests we ought to learn the lessons of history;

Therefore, be it resolved,

It is the sense of the Senate that appropriate tax treatment for longterm capital gains investments should be incorporated into tax reform legislation and, that this can be accomplished by one or both of the following measures:

(1) a meaningful differential for longterm capital gains; or,

(2) proper indexation of invested assets to account for inflation.

I know many of my colleagues agree with Senator BOSCHWITZ and me that capital investment brings substantial benefits to our economy and that the economy is strengthened by increased capital investment encouraged by a significant tax differential for capital gains.

However, there are those who question whether the capital gains differential does encourage increased capital investment. This issue is presented straightforwardly by the contention that the Finance Committee's very low top rate of 27 percent on all income will not deter venture capital or other long-term commitments of capital to various enterprises.

Recent history suggests that increasing the capital gains tax will decrease venture capital investment.

The chart, which I have had placed on each Senator's desk, graphically displays what happened after Congress lowered the rate on capital gains from a maximum possible rate of 49 percent to 28 percent in 1978 and again in 1981 to 20 percent.

Venture capital rose from negligible levels to in excess of $4 billion and more.

Defenders of the committee's disregard of a capital gains differential argue that nearly all but 13 percent of venture capital investments today are made by tax-exempt institutions for whom capital gains taxes are irrelevant.

That is a fact which should cause concern.

Institutional investors are not risk takers. They are accountable under fiduciary rules which discourage innovative, risky investments.

The relatively small proportion of venture capital being raised from private sources ought to be increased, not decreased as it will by the committee's bill. Now more than ever American industry and business needs individual entrepreneuers willing to take on extraordinary risks. And these individuals are motivated, in part, by the potential for great rewards if they are successful. And new entrepreneuers need to be able to attract top quality minds and talent in order to develop into production their innovative ideas. Capital gains provides an ownership benefit which enables new startup companies to attract talent.

I remind my colleagues that new businesses create new jobs.

□ 1630

Apple Computer grew in a few short years to an employer of over 4,000 men and women. Their jobs did not exist a few years earlier. Those jobs were a net new addition to the supply of job opportunities in California.

The electronics industry nationwide has created over 1 million jobs since 1978.

Many of those jobs would not have come about had we not cut capital gains.

It is a short-sighted policy to increase capital gains taxes when our experience has shown that the results of an increase are associated with job losses and unemployment. And that decreases in capital gains taxes are associated with new jobs and lowered unemployment rates.

The first fact to observe about the Finance Committee's proposal is that the 27-percent tax on capital gains will be the highest capital gains tax rate among industrial nations today.

The chart displayed on the Senate floor lists current capital gains tax rates among our principal international competitors.

Let me read the list:

Japan—zero.
Canada—17 percent.
Taiwan—zero.
West Germany—zero.
Hong Kong—zero.
South Korea—zero.
Italy—zero.

Note that those nations, most of them, are among our stiffest competitors today.

Those rates hold long-term significance for the future of the American economy and our place in world competition.

We have a substantial trade deficit with every nation having a significantly lower capital gains tax rate.

The Pacific Rim nations are steadily pulling away from the United States. Our technological lead really does not exist across-the-board. Others are as good as we are. Some are better.

American companies are discovering that their competitors from Japan have huge financial resources counted in the billions of dollars. In world competition virtually any company smaller than an IBM is rapidly becoming a "small business." And, indeed, it is a shock to many billion-dollar corporations in the United States to learn than they are small fish compared to their foreign competitors.

The size of the capital resources foreign companies command reflects the capital tax policies of their nations.

These nations recognize something we tend to overlook. They treat capital as a resource. A scarce resource. The more of that resource the Government commands by taxing it, the less remains of the resource to be recycled in the economy in the form of new capital investments.

This fact is noted by the American Electronics Association in a letter dated May 23 to the chairman of the Finance Committee, in which Stephen Levy, writing for AEA, states:

We are therefore understandably concerned over the impact of shutting down an engine of economic growth such as this at a time when America's high-technology markets are being targeted by strong foreign competitors whose own cost of capital is significantly lower than ours—partly because they pay no taxes on capital gains.

The Finance Committee bill, however, increases the tax on capital gains from 20 to 27 percent which will be a 7-percent increase in the highest rate on capital gains in the industrialized Western World.

Essentially, the committee proposes to convert to the use of the Government 27 percent of the realized gain on a capital investment. That amounts to a forced conversion of capital into consumable income taken in the form of tax dollars which the Government will spend.

I've described the process from the point of view of capital because I want to drive home the point to my colleagues in the Senate that the capital gains tax takes $1 out of investment and spends it. That's a loss to the economy and in the long run to the Government. Because an invested dollar earns income for the Government as it does for its owner.

It is because capital investment is so absolutely necessary for the strong development of our national economy, and to the Treasury, that we should consider carefully how to tax capital in an appropriate manner.

Our traditional method of taxing long-term capital gains has been to provide a partial exclusion of long-term capital gains from taxation. The result in figuring one's tax has been to produce an effective rate on long-term capital gains lower than the rate on comparable amounts of ordinary income.

Many recognize that the exclusion of gains from the tax base is a very awkward and inaccurate measure of what portion of a capital gain should be taxed, if at all. The committee approach continues the traditional

method of simply taking a broad-brush swipe at capital gains providing a generous windfall for some and for others a confiscation of their investment.

For those individuals who are realizing long-term capital gains in order to spend all or some of the gain on consumption, the committee approach reflects fair tax policy—that is all income should be taxed equally.

But for those whose intention is to reinvest their gain, the committee's approach is a reduction of the amount of capital which could be invested back into the economy for the benefit of all.

My personal preference for taxation of capital gains is not to tax any reinvested gain but to tax at ordinary income rates those amounts of gain not rolled over into new investments.

In the past, I have introduced legisaltion to provide for this method of taking long-term capital gains.

I think it makes sense.

It treats capital as a resouce as long as it is invested, and by taxing it as income when used as income, my proposal provides considerable pressure to keep capital invested and not to spend gains in the form of income.

This approach which I have advocated for a number of years, however, is not before us today.

We must consider the issue as it has been put before the Senate by the Finance Committee's bill: Should there be a tax differential for long-term capital gains and if so what should that differential be?

My colleagues may be deterred by reports that the tax reform bill depends for its lowering of rates on elimination of the capital gains differential.

The Joint Committee on Taxation has provided us with revenue estimates. According to a letter I have from Mr. David Brockway, the chief of staff of the joint committee, the cost to the bill of restoring a capital gains rate of 20 percent over 5 years is only $19.3 billion. I, of course, dispute that figure.

That number is hardly the glue that holds this bill together, however.

And it definitely is not the $220 billion figure wildly rumored to be collected if the capital gains differential is repealed.

I recognize that $19.3 billion within the context of the floor situation and the extreme constraints imposed by the top rate of 27 percent in the bill is a large amount of revenue to be picked up.

We have seen that 27 percent is a number than can beat any other amendment.

It is my opinion, and I believe it is shared by my colleague Senator BOSCHWITZ, that our amendment is at least revenue neutral. We think keeping the capital gains tax rate at 20 percent will not lose revenues to the Treasury over the 5-year period in question.

I would like to submit for the RECORD two additional expert opinions on the revenue cost of our proposal.

The first is an estimate prepared by deSeve Economics of Washington which calculates the revenue cost over 5 years at $1.9 billion.

The second is a letter from Professor Lindsey of Harvard University explaining that his analysis shows a revenue gain of over $10 billion over the 5-year period.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

deSEVE ECONOMICS ASSOCIATES

[Increase maximum capital gains tax rate from 20 percent (current law) to 27 percent (Senate Finance Committee bill)]

	Year					Cumulative 1987–91
	1987	1988	1989	1990	1991	
Static effect:						
Individual rate schedule change	−0.3	−1.5	−2.4	−2.7	−3.0	−9.9
Exclusion rate changes	2.3	11.5	18.9	21.0	23.7	77.5
Total, static effect	2.0	10.0	16.5	18.3	20.7	67.6
Induced effect	2.3	−10.3	−24.8	−15.6	−17.3	−65.7
Net effect	4.3	−0.2	−8.3	2.7	3.4	−1.9

Joint Committee on Taxation

[Decrease maximum capital gains tax rate from 27 percent (Senate Finance Committee bill (current law)]

Year:	
1987	−7.8
1988	12.7
1989	0.2
1990	−10.1
1991	−14.3
Cumulative 1987–91	−19.3

HARVARD UNIVERSITY,
DEPARTMENT OF ECONOMICS,
Cambridge, MA, June 11, 1986.

Hon. RUDY BOSCHWITZ,
Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOSCHWITZ AND SENATOR CRANSTON: In answer to your recent question regarding the revenue impact of a 30 percent capital gains exclusion under the Senate Finance bill, it is clear that such an exclusion would raise revenue in each of the first 5 calendar years the law was in place. My estimates of personal income tax liability with such an exclusion relative to an unamended version of the Senate Finance bill are:

Calendar year:	*Billions*
1987	+$2.22
1988	+2.19
1989	+2.36
1990	+2.57
1991	+2.77

These simulation estimates were obtained using the National Bureau of Economic Research TAXSIM model. This model, like the models used by the Joint Committee on Taxation and the Treasury Office of Tax Analysis is based on a large stratified random sample of actual tax returns. These data are added to reflect the macroeconomic conditions forecast for the years in question.

The model was programmed to incorporate the likely behavioral response of taxpayers to changes in their capital gains tax rates. Taxpayers were assumed to adjust their long term capital gains realizations to their actual capital gains tax rate in each year of the forecast period to the same extent as they did during the years 1965–82.

As you know, the overall revenue effect of the 30 percent capital gains exclusion is the result of two factors: lower revenue due to a lower tax rate on each dollar of gain realized and higher revenue due to more capital gains being realized. In each year simulated, the added revenue from more realizations exceeded the revenue lost due to the lower rates, producing a net revenue gain for the Treasury.

I hope that these results answer your question regarding the likely revenue impact of the 30 percent exclusion. If I can be of any further help, please do not hesitate to ask.

Sincerely,

LAWRENCE B. LINDSEY.

None of these estimates, including that of the joint committee, is wildly off base.

I call to the Senate's attention the swings in revenue gains and losses which vary from year to year.

For example, the joint committee expects to pick up $7.8 billion in 1987 and to lose $12.7 billion the next year. And then it expects to gain revenues rapidly under a 27-percent rate in each year thereafter.

Estimating capital gains revenues to the Treasury is perhaps the most difficult estimate to make in the entire bill.

I have distributed a printed sheet which sets out the differences between our estimates and those of the joint committee. It is not possible, however, to argue that the joint committee's estimates are in error because the differences in assumptions which produce the final figures are themselves not great.

Frankly, I consider it a major concession that the capital gains provision in the bill is not as costly to correct as some had anticipated.

I remind my colleagues that the House tax bill does provide for a capital gains tax rate of 22 percent.

So it is possible, Mr. President, to provide a capital gains differential in the context of a tax reform bill. Our colleagues in the House did it.

Second, the Finance Committee bill, too, also provides for a capital gains differential. At the bill's top income tax rate of 27 percent the exclusion of long-term gains from the tax base is zero. But should the top rate be increased above 27 percent, then the exclusion increases from zero to a percent that will keep the tax rate on capital gains at 27 percent.

This is significant both for those who support a capital gains differential as well as for those who think all

income should be taxed at the same rates.

For those who agree with Senator BOSCHWITZ and me that capital gains deserve a different tax rate, the issue is at what rate should long-term gains be taxed?

We say 20 percent, as provided by current law. The committtee says 27 percent.

For those who believe capital gains and ordinary income should be taxed at the same rates, the committee bill says, "Yes, so long as the top rate on ordinary income does not exceed 27 percent."

I urge my colleagues to keep an open mind on the problem of appropriate tax treatment of long-term capital gains. We do have an investment problem in this country. The tax reform bill promises to make major revisions in how people will decide to invest in the future. These generally are all to the good. But in the rush to eliminate tax shelters and other wasteful inducements, the Senate should take the time to consider carefully crafted proposals for the fair and appropriate taxation of capital gains in ways which will not be costly to the revenue neutrality of the bill.

I would like to draw my colleagues' attention to a similar debate over revenue estimates which occurred during consideration of the 1978 tax bill which eventually reduced the capital gains tax rate from a possible maximum of 49 percent to 28 percent.

At the time, the Treasury and the Joint Tax Committee dolefully predicted that revenues to the treasury would fall. The cost was placed in the billions.

Senator LONG disagreed with those revenue estimates and sought outside opinions, from such outstanding economists as Martin Feldstein who told him that cutting capital gains taxes would increase revenues to the Treasury, not decrease them.

And that's what happened.

Revenues up $20 billion in 2 years. Up again in 1982 and so on.

I also want to address a point often overlooked in the debate on capital gains tax rates.

Those of us who participated in the 1978 effort to cut capital gains taxes are in the habit of saying that the rate was 49 percent. Actually, the capital gains rate was 35 percent—the additional increase in rates resulted from the minimum tax provisions in effect at the time.

So we really reduced the basic rate on capital gains by 7 points, from 35 percent to 28 percent.

Seven points is exactly the increase proposed by the Finance Committee.

We've seen the historical record of what happened when Congress reduced the capital gains rate by 7 points. So why are we acting directly counter to that experience by increasing the rate by 7 points?

I know our distinguished chairman, Senator PACKWOOD, will have something to say on that subject.

Perhaps I anticipate him but I imagine his response in general terms will be that the overall low rate of 27 percent in the bill will offset various factors in such ways that long-term capital will not be impaired. But perhaps he will add an important caveat—which he has placed in his bill—that an increase in the top rate will require a differential for capital gains.

I don't think there is a vast difference between us on the subject of capital gains.

There is a difference in the perceived benefits of providing no differential for long-term gains in the context of a tax bill establishing a top rate of 27 percent.

Finally, I have noted before and I will mention it again, the bill provides a powerful incentive for individuals subject to tax to invest in the public sector through tax-exempt securities.

In the last analysis zero tax is still less than a 27-percent tax. Human nature is not legislated out of existence by this bill. Capital is going to flow heavily into public sector investment to the disadvantage of high-risk entrepreneurial capital needs.

I think that result to be a mistake in policy.

Mr. President, I now yield the floor to my colleague in this endeavor, Senator BOSCHWITZ.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I thank the Senator from California. I certainly agree with the statement that he has made about capital gains. As a matter of fact, he covered the waterfront very thoroughly in every aspect of the problem.

The revenues from capital gains, indeed, do not go up as the rates go up. It is a voluntary tax. It is a tax that somebody can choose to postpone. It is a tax that somebody can choose not to undertake at all by not selling. And it is a tax that people can indeed avoid by not investing.

That is what happened. As the Senator from California pointed out, when the rates went up, the collections went down. Indeed, the collections went down in the middle seventies by 50 percent when the rates were increased by 50 percent. When the rates went up in the middle twenties to nearly 50 percent, the collections of capital gains revenues went from $7.2 billion down to $3.6 billion over a 3-year period.

Lower capital gains rates, most economists say, not only bring about more capital investments, not only spur the idea of investment into new enterprises, but, indeed, it also brings about more revenues for the Federal Government. The history of capital gains is such that almost from the very beginning capital gains has been treated differently as a recognition of the fact that investment is somewhat different than earned income; that income made by investment and held for a certain period of time, that income that is made on a speculative basis needs to be encouraged and that, by doing so, we created jobs and create a more vibrant economy.

The first capital gains rate was 12.5 percent, I believe, in approximately 1921. And for most of the years since then, it has been 25 percent, though for a short period it did go up very high.

□ 1640

And then during that short period capital gains revenues which went to the Federal Government fell even though the rates were higher and capital investment for new enterprises fell off dramatically.

Interestingly, this is a bill to lower tax rates. It does lower tax rates. The chairman of the Finance Committee has heard me say a number of times on the floor that this is a remarkable bill, perhaps the only tax reform bill that I have ever voted on in the U.S. Senate. I approve of the bill. I laud the bill. I will vote for the bill. But it will be my hope that the distinguished chairman of our committee and the chairman of the House committee in conference will be able to make a change in the rates as they respect capital gains.

Mr. President, again this is a bill to lower tax rates. Yet, it does the opposite with capital gains rates. The maximum capital gains rate is now 20 percent. It will rise to 27 percent. That is a 35-percent increase. As a matter of fact, if your income is between $75,000 and $145,000 for a married couple, the capital gains will be 32 percent. That is a 60-percent increase over the present rate of 20 percent. That is not the purpose of this bill—to increase rates.

The really fundamental appealing aspect of this bill is the fact that rates are going to come down. History has shown time and again that capital gains rates when they are lower will indeed yield more dollars for the Federal Government, and perhaps even more importantly create more jobs and be very meaningful to the economy as a whole.

The distinguished Senator from California has also pointed out what capital gains rates are in other industrialized societies. Without exception there is no other industrial country which has a capital gains rate on venture capital at the same rate as the United States will have if we raise that

rate to the rate that it applies to all other income, 27 and 32 percent. We will be higher than the countries named, and virtually every country that has a positive trade balance with the United States has a lower capital gains rate.

Indeed, investment in retooling, investment in efficiency, investment in new business, in new methods, investment in new loans of doing business pays off in the long run for the entire economy.

Sometime ago the distinguished Senator from California and I talked about the necessity and the desirability of having lower capital gains rates; that there simply has to be a difference between an investor who invests in a new business, a venture-type business, and an unsure type of situation, and one who decides to invest in a commodity in an overnight type of transaction as a place to put his money for the purpose of making a small amount of interest in a hurry.

There simply has to be a difference between long-term investment if we are to really spur this economy and make this economy successful in the international arena that is extraordinarily competitive.

Mr. SYMMS. Will the Senator yield for a question?

Mr. BOSCHWITZ. I am happy to yield.

Mr. SYMMS. I thank the distinguished Senator for yielding for a question.

One of the problems that I have—I am sympathetic with the amendment and I applaud the Senator for what he just said. I very much agree with the Senator's statement. I support the bill. I have supported the bill. I have been very concerned about this. I know there are a lot of people in agriculture also very concerned about it in his State and in my State.

Has the Senator done any numbers on costs of what the change in the rate, say, to a percent rate from the bill where it is 27 percent would cost?

I have challenged the numbers. By law we go with what the Joint Tax Committee comes out with. They say $220 billion over a period of 5 years in the bill.

What is the Senator's opinion of that?

Mr. BOSCHWITZ. That is the amount not of tax loss, Senator, but that is the amount of money that would be sheltered they say away from taxation.

Mr. SYMMS. In this bill, if we look in the committee report, there is a $220 billion number here. What is the Senator's opinion of that?

Mr. BOSCHWITZ. That was a mistake number. But what the Joint Tax Committee has said is that in the event the rate is lowered from 27 percent to 20 percent, over the 5-year period, there will be a loss of revenue to the Federal Government of approximately $19.5 billion. I believe that is the figure.

As the Senator points out, we do indeed have to go by what the Joint Tax Committee says. I contest those figures. As the Senator knows, many economists contest that figure. I know Professor Feldstein at Harvard says the maximum amount of taxes collected will occur at about an 18-percent rate.

Mr. SYMMS. The Senator was in the Senate when the bill was passed to reduce the tax rate—as I was in the other body—from 49 percent down to 28 percent in 1979. After that passed, revenue flowed into the Treasury, and the Treasury actually received more revenue, not less.

Mr. BOSCHWITZ. That is correct.

Mr. SYMMS. I fear if this differential is not left, it will actually have a negative drain.

Mr. BOSCHWITZ. The Senator, I know, has in his hand a chart put out by my friend from California, Senator CRANSTON. That chart shows new investment just soared at the time the rates went down, and that new investment even went up when the rates were changed from 49 to 28 percent, and they really took off when the rate went down to 20 percent. So, indeed, it has an enormous positive impact on the economy. I hope my friend from California will proceed with his amendment. It is an amendment very worthy of the Senate's consideration.

I might say that a number of Senators talked to me about wanting to participate in this colloquy. I say to them that this is the time to come down and submit their statements. If they submit them to me, I would be happy to put them in the RECORD. If they wish to come down, certainly they are most welcome.

I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I thank my colleague very much for his very forceful and good statement on this matter. I believe that our case will be better if certain changes take place in the conference that lead to a higher rate than 27 percent. There are many who feel that the House will come into conference with a bill having a top rate of 38 percent and, essentially, four rates, while the Senate will come in with a bill that has two rates, the highest of which is 27 percent. The outcome may well be that there will be a third rate, or at least a higher rate than 27 percent, emerge from that conference in the final version.

I believe the case would then be stronger than now, as strong as our case is in my opinion, for preserving the capital gains differential. While it is rather apparent that it is very difficult to prevail with amendments that are substantive as this one is substantive in the current situation on the floor of the Senate, I believe that there might be a far greater likelihood that we would emerge with a bill that would do what we seek to do.

I would like to ask my friend from Texas, who is presently managing this bill on the Democratic side, how he would feel about the capital gains differential in that eventuality.

Mr. BENTSEN. Let me say first to the distinguished Senator from California that I know he has been concerned about the capital gains rate for a long time, and so have I. I can recall when the rate was 49 percent, then 28 percent, and then 20 percent and each step of the way the Treasury opposed us and said it was going to cost the Treasury millions and millions of dollars. We said it would not. The people would make more trades, that they would incur more taxes, and that finally the Treasury would not lose any money.

What we were doing was freeing capital. So it was not locked in. People would be free to commit the money to where it should go economically.

Mr. CRANSTON. We were right and they were wrong.

Mr. BENTSEN. That is right. Absolutely. So I think one of the hardest calls I ever made was when they talked about this bill having a 15-percent rate and a 27-percent rate, two rates, and cutting out the differential for capital gains. I know what the capital gains preference means to venture capital in this country. One of the great differences between this country and Germany is that when you go to the second level of financing in Germany, banks take over, but here venture capitalists put the money in and young people start out, they build businesses and create jobs.

So if we get to conference on this tax bill and they are talking about more than two levels of tax, if we are talking about raising the rate above 27 percent, this Senator is certainly going to push and try to see that we get a differential for venture capital for capital gains.

□ 1650

I will do everything I can to assist in that regard.

Mr. CRANSTON. I thank the Senator from Texas very much for those assurances. His statements in regard to capital gains are fully in accord with the history of development in our handling of the capital gains rate. In view of the fact that we surely could not win given the circumstances on the floor now and given the fact that our argument would be better if we had the Senator from Texas on the right side, in those circumstances I

will not ask that we proceed with a vote on this amendment at this time.

Mr. BUMPERS. Will the Senator not withdraw his amendment until I can speak to it?

Mr. CRANSTON. I am not going to withdraw it yet. I will yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have enjoyed listening to the presentation of the Senator from California and the others who have spoken on this because this issue of capital gains has always been a matter of considerable interest to me. In 1978 I supported reducing the capital gains rate from 49 to 28 percent but I strenuously opposed reducing the holding period of capital gains from 1 year to 6 months. I also strenuously opposed the reduction in 1981 of the rate from 28 to 20 percent. I took these positions not because I do think capital gains should not play a part in our tax structure as the incentive to invest in new business. I feel the capital gains exclusion should be targeted to this purpose.

I do want to say that these charts may not be totally accurate. They show claim to that because we reduced the capital gains rate from 28 to 20 percent and reduced the holding period from 1 year to 6 months that all of a sudden the investments just went over the board. There were other factors involved in that growth in investments.

I say to the Senator, do not be apprehensive because generally I agree with the capital gains concept and I will come back to that in a moment. But I am not at all sure that these charts, which show venture capital as skyrocketing because of rate cuts, are entirely accurate.

I do not know what the definition of venture capital is in this chart. Venture capital to me is money invested in a new business and from that standpoint I applaud the use of venture capital and I applaud the capital gains rates.

But listen to these statistics and then take another look at the chart.

Remember that the U.S. Department of Labor revised its restrictions on pension plan investments in 1978. Previously, the Department of Labor had thought that equity investments were too risky for pension funds. Bear in mind, pension plans do not invest because of the tax rate because they are tax exempt. But as a result of that change by the Labor Department, from 1978 to 1984, 36 percent of the increase in venture capital came from pension funds which had previously been restricted from making these investments. Other tax-exempt entities and foreigners, who up to that point had been indifferent to investment in this country, supplied 23 percent of the increase in venture capital. Then another 28 percent in this so-called investment in venture capital came from corporations such as life insurance companies and banks who traditionally pay a very, very low average rate.

So, in short, a mere 13 percent of the increase in venture capital represents the kind of increase we could expect due to tax considerations.

Having said that, here is the way I feel about capital gains. Capital gains was originally instituted in this country for two purposes. One, to encourage people to take risk, particularly risk in new businesses. And, No. 2, it was designed to protect people against inflation. Both of these are very laudable purposes.

The bottom line with me, what I would like to see and what I would hope that the conference committee consider, is to say to somebody, "If you are willing to put money in a real risky venture, if it is a new business, for example, you can be taxed at preferential rates. It does not take a lot of courage to call your broker and buy 1,000 shares of IBM stock. It takes a lot of money, but not much courage, because everybody has a fairly good feeling that the value of IBM stock is going to go up so why should we give somebody an exorbitant tax cut for investing in one of the oldest, most reliable and profitable businesses in the country?

On the other hand, if somebody has a good idea and he says that he wants to start a new business and needs money, and he is asking people to help finance it, we should encourage him. If he is willing to invest in that venture and leave that investment there for, say, 2 years, maybe we should give him a 20-percent tax rate or even give him a 10-percent rate, some incentive to invest. That is well below the 27-percent tax rate in this bill.

If he leaves his investment with the firm for 3 years, we could give him a 15-percent tax rate or even a 10-percent rate. If he wants to leave it for 4 years, maybe we should not tax him at all. Most new businesses need 4 years to really get going.

If somebody is willing to put his or her money in a real venture and leave it there for 4 years until that business can get on its feet, that is a risk and so far as I am concerned, you can let them off scot free on taxes on that investment as Germany and other countries do.

I might also say, another reason for this skyrocketing chart is the fact that there were a lot of new companies being formed, or a lot of new high technology products being bought during that period. That also created an incentive for a lot of new investment.

My proposition on capital gain is very simple, Mr. President. I would like to think that the conference would give serious consideration to the original reasons for capital gains: To protect people against inflation and to encourage them to take real risks.

I do not know whether I would have voted for the amendment of the Senator from California or not. I am glad he has raised the issue of capital gains so some debate or some discussion of it could be had here on the floor of the Senate and hopefully have some influence on our conferees when they go to meet with the House.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DENTON). The Senator from Texas.

Mr. BENTSEN. Mr. President, I do not think anyone could say exactly what the change in venture capital would be from raising the capital gain rate—whether 13 percent, whether some other figure.

As far as the change in the pension law, I am very much aware of that and I took part in that.

The pension funds could always invest in equities, but the point was the type of equity. The change we made was to say that pension funds could go into high risk venture capital, new enterprises, regardless of the degree of risk, as long as those investments remained a very small percentage of their portfolio. So the funds have diversification and broad coverage.

The Senator is quite right that we have seen a very substantial increase in venture capital formation since the late 1978. That is what we were trying to bring about by the changes of the law, both on capital gains and pension funds. The results are there, as the Senator pointed out so well.

On the other point, I was not very excited either about bringing the capital gains period down to 6 months. One of the things we should really be trying to do is to compensate for risk and for inflation. Inflation adjustment is not so important for short-term investments or during periods of low inflation.

Not having inflation, however, I still think it is important that we try to encourage venture capital in this country. Around the world, we see the banks taking over equity position instead of trying to promote the entrepreneur for the kind of creation of jobs that we have in this country but that you have not seen in Europe. Even in Japan, where they are trying to find capital, the banks provide capital to the very largest of companies, but not to the very small entrepreneur starting out.

□ 1700

Mr. BUMPERS. Mr. President, I thank the Senator for his comments. When I mentioned that the Labor Department allowed these retirement funds to invest in equities, I meant venture capital. Seventy percent of all

the investments in stocks in this country are made by pension funds.

The other thing I want to say is about the venture capitalists I would like to protest. It is the small businessman I would like to promote, particularly those with a new idea. We held hearings in the Small Business Committee about 2 weeks ago, and we have a number of people from these small venture capital companies, which we encourage through the Small Business Administration. They come in and testified as to the kind of results they have achieved. It was impressive.

Small business investment companies receive a little tax break from the Government in order to set up companies that will invest in venture capital. These company presidents came in to testify, and they told us about the investments they had made and about how successful venture capital companies are. Most of them are averaging a return of 25 percent on their investments, and they are pleased as punch with it. This is their principal incentive but capital gains is important, too.

I want to reward those people who actually make investments in a risky venture. That is the point that I wanted to emphasize.

I am not squawking about something that has happened in the past. I did not think it was fair to reward people with a 20-percent rate when the marginal rate was 50 percent just for going out and buying good solid equity stocks and holding them for 6 months.

Mr. BENTSEN. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. BENTSEN. The Senator makes a good point about venture capital firms averaging 25 percent, but I think this additional point ought to be made. In the vast majority of the companies they go into they lose it all. But they hit it so big on the one that it makes up for the other and gets the 25 percent. At least that is the way they plan it and that is the way they hope it works out.

Mr. BUMPERS. I think those people are fairly sophisticated. They have a much better track record. The Senator is correct when he says that of all these new sort of risky ventures, when you compile it probably no more than 2 to 5 out of 100 make it, but these small business investment companies are fairly sophisticated in their analyses and their track record is much, much better than that, of course, in their investments.

Mr. BENTSEN. I will tell the Senator from Arkansas the other side of it. Venture capitalists are trying to attract capital from outside investors for investments. It reminds me of a fellow I was listening to one day talking about what a great shot he was and how he shot this coyote on a dead run. And finally I heard his kid say to him, "Daddy, don't you ever miss?" He said, "Not to speak of." That is the way it is with a lot of these investors in venture capital. They do not talk about their losses. They talk about the ones they hit, where they hit the home run. They want to continue to attract that outside capital.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I would like to thank my friend from Arkansas for his contribution to this discussion. To achieve what he suggests, if you have a capital gains investment, take the money out, whatever profit you made, put it in a trust account and then invest in another capital gains enterprise to start another business or expand another business. No tax is paid until you take the money out and consume it in some other way. I think that is the way to achieve just what the Senator from Arkansas is talking about. I am glad he turned his thumb up and I will look forward to collaboration with him on that.

I just want very briefly to say a few more things on this subject. I will not take much time.

Mr. CRANSTON. Let me add that I dispute all of those figures. I believe that we will win revenues, gain revenues if we maintain a capital gains differential and that we will lose revenues if we do not. We went through that same argument at the time that I helped lead the way along with Senator Hansen, a Republican, when we cut capital gains from 48 to 28 percent. At the time the Treasury Department and many others said we would lose revenues. Actually, we gained revenues. I would like to read extracts from a letter that RUSSELL LONG, then the chairman of the Finance Committee, received at that time from George P. Shultz, who had been Secretary of the Treasury, was then President of the Bechtel Corp., and was of course destined to become Secretary of State. He wrote on September 1, 1978, to Senator RUSSELL LONG in part as follows:

> I believe this legislation to be about as important as anything your Committee has considered in a long time.
>
> There is no question in my mind but that the effect on Treasury revenues from the type of capital gains reduction being proposed would be positive. The immediate "unlocking" would have a dramatic impact and the estimate provided by Dr. Feldstein on the basis of his careful research does not surprise me at all.
>
> It, therefore, seems totally wrong, even ludicrous, to make a calculation on "revenue loss" on the basis that behavior does not change as a result of a change in tax rates. Behavior does change and will change in this case so that a revenue gain will clearly result.
>
> But I believe that the positive implications of your proposed changes go far beyond these effects of "unlocking". I happened to meet yesterday at Stanford University with a group of around one hundred entrepreneurs who have started and are managing small businesses. They see these possible changes in capital gains tax rates as being of tremendous importance to them. The changes would open up sources of risk capital not now available to them but that could be attracted to help their businesses. Everyone knows that investment in a new small business is risky.
>
> All you have to do is look at the bankruptcy statistics to see this point. If the Government continues to insist on heavy taxation of any possible gains from such risk-taking, financing tends to dry up. On the other hand, if the taxation is reduced, then more capital would be available to these businesses and they will have much more chance to survive and prosper. In the process, jobs are created. In the process, new and creative ideas are brought to the American consumer. In the process, new competition is brought into the marketplace.
>
> Mr. Chairman, you, your distinguished Committee and the Government of the United States generally can contribute tremendously to the vitality of our economy by acting boldly to reduce the rate of taxation on capital gains. By doing so, you will surely increase Treasury revenues not diminish them. But far more important, you will stimulate creativity and employment throughout our economy.

So spoke George P. Shultz. In addition to the other responsibilities I mentioned in regard to him, he is a noted economist. He was proven to be absolutely correct. We got more revenues. We did not lose revenues when we cut capital gains. And the action that I am now proposing along with Senator BOSCHWITZ to see to it that we maintain a capital gains differential is exactly for the purpose of promoting the entrepreneurial opportunities in our country, for business to provide profit opportunities and jobs, with, therefore, government called upon to do less to create jobs for people who need them.

Mr. President, I trust that in the long run, we will pass the bill finally that will retain a capital gains differential, and I now will, so far as I am concerned, end this discussion at this time on the Senate floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I just wanted to ask the Senator from California one question. Is that the letter from the American Electronics Association indicating that they support the package as it is without amendments?

Mr. CRANSTON. Yes; that is correct.

Mr. PACKWOOD. I just do not want anybody to be under a misapprehension about the American Electronics Association. They are supporting this bill without any capital gains revision.

Mr. CRANSTON. But they are hoping that there will be a capital gains differential by the time we are done, as I share that hope.

Mr. BENTSEN. Mr. President, I have spoken many times on this bill. I think it is a good bill. I think it answers many of the concerns of the American people. Ever since I have been in the U.S. Senate, I have heard people saying, "The rich don't pay enough taxes and the middle-income pay too many. There are too many tax shelters. There are too many loopholes."

This bill tries to address each of those criticisms. It is not a superficial approach. It is not cosmetic. It is a substantive tax reform bill. What it has done is to accomplish a long overdue purging of the preference system. Time and time again we have added tax preferences we thought would secure an economic advantage for our country. For example, we encouraged research and development and tried to achieve social objectives. In each instance, this body thought it was right, and we passed it.

But conditions change. The problem is that tax incentives remain after they have outlived their usefulness. This bill does remove such incentives. I voted for this bill in committee, and I support it here. But, in one respect, I think this bill sells the American public a bill of goods, and that greatly disturbs me. We have promoted this bill as providing the American people with a tax cut. We have said we are closing loopholes; we are imposing a minimum tax on profitable corporations which have heretofore made hundreds of millions of dollars a year and not paid any taxes; and we are using the money saved to provide the average American family with a substantial tax cut.

We published a lot of charts that show how much we are going to cut taxes. We say people making less than $10,000 a year are going to get a 60-percent tax cut. We say people making between $10,000 and $20,000 a year are going to get a 20-percent tax cut, and those making between $20,000 and $30,000 are going to get an 8-percent tax cut. We say that we are going to take 6 million people below that poverty line off the tax rolls. We say that people who are paying 28 percent, 26 percent, 22 percent, are going to pay at a 15-percent rate; that 80 percent of the American taxpayers will be paying a 15-percent rate; and that the top rate will be cut from 50 percent to 27 percent.

That is all true; that is all great; and that is the way public relations goes. But all that it is not going to happen until 1988. In 1987, this bill increases taxes on the American people by $25 billion.

□ 1710

Look at what is going to happen in 1987: The tax rate cut does not go into effect until July 1, but you start losing your deductions on January 1 of that year. You do not get the lower rates until the middle of 1987. But at the start of 1987, you lose your IRA deduction. At the start of 1987, you lose part of your consumer interest deduction. At the start of 1987, you lose all your sales tax deduction.

In July of next year, you get a lower rate. But in January of next year, you lose part of your medical expense deduction. You lose your miscellaneous deductions, including such things as union dues, the cost of work uniforms, and association dues.

In January 1987, you lose your investment tax credits, the first 1 percent of your employee business expenses, the marriage penalty deduction, and the deduction for part of your losses from real estate. You lose the deductions for some of the other investments you have made. But you are not going to get lower rates until July 1987.

The whole thing adds up to a $25 billion tax increase for 1987. I think that is a serious flaw and one which must be corrected.

Mr. President, the economists have been predicting that our economy is going to go to town in the second half of this year. But the numbers we have seen in recent days are giving some of those economists pause.

Unemployment in May edged up from 7.1 to 7.3 percent. Retail sales, instead of climbing last month, as many had predicted, took a slight drop.

A new Commerce Department survey shows that American businesses plan to invest even less in new plants and equipment this year than last year; a second consecutive year in the decline of that kind of investment.

Industrial production for May was down, while wholesale prices were up. No wonder there is a growing uncertainty about our country's economic prospects. Unemployment is up; industrial production is down. Inflation is up; retail sales are down. Business investment is down.

Mr. President, I submit that if Congress and the President want to add to the economic uncertainty, let us pass this legislation as it is, providing for a $25 billion tax increase in 1987. That would be a rude shock to the American taxpayer and a shock to the American economy.

So far as 1987 is concerned, we have not put the total tax reform into effect. In 1987, there is a tax increase for many. For 1987, this is not a revenue neutral tax bill.

Mr. President, one of the principal reasons for undertaking the effort to rebuild our tax system was to promote respect for the tax system. We wanted to restore the credibility of the tax system. We wanted to strike at the $100 billion worth of underground economy that is taking place today. We wanted to reach people who are turned off by the tax system and are not abiding by it. We wanted a tax system that people have confidence in and one that treats them fairly. After all, in this country, the tax system is one of self-assessment, and it will not work without the confidence of the taxpayer.

I do not understand why we should undertake this effort but mar it with a first-year signal that business goes on as usual.

We want to instill the confidence of the American taxpayer in this system. When we promise them lower taxes, let us see that they go into effect at the beginning of 1987.

In my judgment, if this tax bill takes effect as it is now drafted, many American taxpayers are going to think they have been tricked. They will say: "Where is this tax cut I have been promised by Congress? Why is it that my taxes are more in 1987 than they were in 1986?"

I acknowledge that most Americans who do not itemize deductions will receive a slight tax cut in 1987, because their rates do go down for half of the year. But even nonitemizers who now claim the IRA deduction or the marriage penalty deduction will pay higher taxes in 1987. Any Americans who itemize deductions will really be taking it on the chin in 1987.

Mr. President, I am not going to offer an amendment to the tax bill to make the lower tax rates effective on January 1, 1987. It is very clear that no such major amendment is going to be adopted on the floor of the U.S. Senate.

□ 1720

I am not going to offer a resolution to the conference committee or reduce the rates effective January 1, 1987, because I think that is a meaningless exercise. But I want everyone to know that I am going to be pushing—and I am going to be pushing hard—for an effective date of January 1, 1987, for the 15, 27, and 33 percent tax rate structure in the conference committee for the bill.

I am confident there will be a lot of other conferees who will share that concern.

I am optimistic that we will be able to work out what I think is a flaw in the bill as it is presently structured.

Mr. President, I yield the floor.

● Mr. NUNN. Mr. President, the pending tax reform proposal is historic legislation; reducing marginal tax rates, eliminating deductions, simplifying the Tax Code and creating a more level playing field upon which taxpayers will make decisions based upon the economics of a situation rather than the tax advantages a particular decision might generate. I applaud the chairman and the ranking minority member of the Senate Finance Com-

mittee for steering the bill through committee and to the Senate floor.

Yet while I, like all of my colleagues, believe the bill is a significant improvement over the current tax system, I am concerned that it eliminates incentives for risk taking which are vital to certain segments of the economy. In particular, I am concerned about the elimination of individual capital gains as it applies to timber.

Georgia is the second largest timber producing State in the Nation. Most of this timber is grown by individual landowners, often farmers. And while the Tax Reform Act before us retains corporate capital gains so that large timber companies continue to receive capital gains treatment on the timber they grow, the individual landowner fails to receive any such similar treatment. If an incentive to grow trees is necessary for large corporations, it only stands to reason that the same incentive is necessary for individual landowners. The same rationale which justifies corporate capital gains treatment of timber justifies capital gains treatment for individual landowners who grow timber.

Although I am not aware of any economic studies on the issue, the failure to allow individuals to take capital gains treatment on the timber they grow is likely to raise the cost of timber to southern lumber manufacturers. It reduces the benefits of an individual growing timber and will probably lead to that individual trying to make this tax increase up on the sale of the timber to a mill. Thus, it has the potential of raising the price of lumber manufactured by southern mills.

The House version of the Tax Reform Act maintains capital gains treatment of the timber grown by individuals. In the negotiations to come, the give and take in conference, I hope that the Senate conferees think back to the underlying arguments of the capital gains tax reduction in 1978, to the need to create rewards for individuals to take risks, and to restore individual capital gains. Individual timber growers face the risk of fire, disease, drought, and flood. Like all individual investors, they face the possible total loss of their investment. To secure a continued adequate supply of timber at reasonable prices, and to ensure the equitable treatment of individuals, I urge the Senate conferees to keep a capital gains differential for individuals.●

Mr. SASSER. Mr. President, I want to add my voice to those who have expressed concern over the loss of the capital gains differential in this bill. I direct my remarks to a particular segment of the this debate, the ability of venture capital firms to raise money from tax-exempt sources.

Attention has been focused on the fact that 50 to 60 percent of the dollars contributed to larger, professionally managed venture capital firms come from tax-exempt sources such as pension funds, foreign investors, endowments and foundations. Pointing to such funds, many suggest that the capital gains rate would have no impact on the venture capital industry.

I believe this is an incorrect conclusion. This conclusion fails to recognize the impact of a number of other participants in the venture capital process beyond the formally organized venture capital funds.

The venture capital process requires a number of participants. Entrepreneurs, early investors, venture capital funds and public markets are all a part of this process. All of these participants are affected by after tax rates of return.

Informal venture capitalists are at least as important to the venture capital process as are organized firms. Moreover, they are particularly critical to the formation of new companies. I have two exhibits which I ask unanimous consent appear in the RECORD at the end of my remarks, Mr. President. The first of these exhibits shows that early investors represent a larger funding source than full-time venture firms. By including this source of funds and SBA licensed and regulated small business investment companies, it is apparent that the preponderance of equity funding for private companies comes from taxable sources.

In contrast with most of the larger, organized venture firms, smaller venture capital firms are heavily involved in startup entrepreneurial efforts and the majority of funding for these firms comes from taxable sources such as individuals, families, partnerships and operating corporations. As shown in the second exhibit, small venture capital firms received 80 percent of their funding from such sources and for medium-sized firms, 75 percent.

Taking into account the fact that only 15 percent of the professionally managed, bigger venture firms' capital goes to startup financing, and the fact that early investors and smaller venture capital firms are largely responsible for startup financing, it is clear that the major source in small company financing is being overlooked by those who concentrate solely on tax-exempt sources and their role in entrepreneurial ventures.

Finally, the key to successful venture investing is attraction and motivation of the entrepreneur. Taxing the potential gain of the entrepreneur at a higher rate will either reduce the flow of qualified entrepreneurs or leave institutional investors with a lower rate of return. In either case, the implications for our economy are negative.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED SOURCES OF EQUITY CAPITAL FOR PRIVATE COMPANIES

[In billions of dollars]

	Estimate annual funding	
	Total	From taxable sources
200 professionally managed venture capital firms [1]	$2.0	[2] $1.0
SBIC's [3]	.4	.4
"Angels" and informal venture capital firms [4]	5.0	5.0
Total	7.4	6.4

[1] 1984 National Venture Capital Association data.
[2] Estimated based upon historical sources of funding.
[3] U.S. Small Business Administration, Investment Division.
[4] "Informal Risk Capital—Knowns and Unknowns." William E. Wetzel, Jr., University of New Hampshire, February 1985.

TABLE III.1.1.—SOURCES OF FUNDS FOR SMALL VENTURE CAPITAL FIRMS BY TYPE OF FUND [1]

[In percent]

	Type of fund		
	SBIC	Independent	Corporate
Sources of funds:			
Individuals, families and partnerships	41.2	77.5	50.0
Operating corporation	44.4	2.5	33.3
University endowment funds	.0	.0	.0
Pension funds	.1	17.5	.0
Foundations	2.3	.0	.0
Foreign sources	.0	2.5	16.7
Other	10.1	.0	.0

[1] A small venture capital firm is defined as having a venture capital fund of $1.2 million or less.

TABLE III.1.2.—SOURCES OF FUNDING FOR MEDIUM-SIZED VENTURE CAPITAL FIRMS BY TYPE OF FUND [1]

[In percent]

	Type of fund		
	SBIC	Independent	Corporate
Individuals, families and partnerships	26.0	57.7	16.5
Operating corporation	40.6	17.7	50.7
University endowment funds	.0	2.0	1.3
Pension funds	4.0	11.8	1.7
Foundations	3.3	.3	.0
Foreign sources	2.2	5.8	21.7
Other	25.7	7.3	8.1

[1] A medium-sized venture capital firm is defined as having a venture capital fund of between $1.2 and $13.5 million.

Source: "Venture Capital and Innovation," Joint Economic Committee, December 28, 1984.

Mr. GORTON. Mr. President, in our consideration of the remarkable tax bill that the Senate Finance Committee has produced—and I commend Chairman PACKWOOD and the members of the committee for a truly outstanding job—we have not really considered all of the impacts of eliminating the capital gains tax rate differential for individual investors.

A number of Senators have addressed different reasons for supporting the capital gains differential. I am especially concerned about the impact of the repeal of the capital gains differential on investment by individuals in timber resources.

In Washington State timber is a major industry. There are more than

161,000 owners of timberlands. These lands comprise 8.5 million acres of commercial forests. Most of these landowners are individuals, and most of them are small landowners—tree farmers. While the tree species that flourish best in the Pacific Northwest have high commercial value, they grow very slowly—50 to 75 years—before reaching a size that they are harvestable for an optimum return.

In Washington State, timber is the basis—the natural resource and the raw material—for paper and wood products processing industries which had combined shipments of $6.3 billion in 1984. The industry provides jobs for some 60,000 people with a payroll of nearly $1.6 billion.

Our timberowners have planted trees and cared for them for many decades with the expectation that at harvest the income they receive will be taxed at the capital gains rate. Through the years of caring for their trees they have had to contend with all kinds of risks—fires, insects and disease, wind damage—which could wipe them out.

It doesn't make sense that for their hard work and for assuming heavy risks they will be taxed on their income—which may be once-in-a-lifetime income—at a rate higher even than that at which we tax income from a bank C.D. or a municipal bond, because we are even fixing inflationary increases in asset values.

Under present tax law the top capital gains tax rate is 20 percent. The bill we are considering would raise the capital gains rate to the same top rate as that on ordinary income—27 percent—and with surcharges the rate can go to 32 percent. For most taxpayers the top capital gains rate would be 27 percent—a 35-percent increase in taxes. But many individual taxpayers are paying at a current rate of 20 percent, because they are not in the top tax brackets.

For taxpayers whose precapital gains taxable income is between $8,200 and $12,800, the increase in taxes on their long-term investment would be 168 percent on a joint return. In the next tax bracket, $12,800 to $17,200, the capital gains tax increase is 134 percent. These are the income levels of many small tree farmers. Is there any incentive to grow trees, considering the heavy risks and long holding period, and then to have a tax burden of these proportions heaped upon them? The answer is "no."

The history of capital gains treatment of timber is really a success story. It is the instrument that has enabled the United States to become second to none in the world in growing trees. Prior to 1944, when capital gains treatment of timber was enacted, the United States had less timber at the end of every year than at the start. Since 1944, that trend has been reversed. We are growing more new wood than we are harvesting. Capital gains encouraged tree planting and higher productivity on our private forests. It would not be in the public interest to return to the pre-1944 status.

Both Government and private forecasts predict that demand for timber in the United States will increase dramatically in the next 50 years, and that there will be a gap between timber supply and demand for forest products. Penalizing our tree-growing entrepreneurs—many of them small family tree farmers who pass their woodlands from generation to generation—with horrendous new tax burdens will only worsen the long-term gap between supply and demand. Many timberowners will be forced to dispose of their lands or to look to other crops that promise quicker rewards and lower tax rates.

Mr. President, there are more than 7.5 million timberowners in the United States—and most of them are small landowners. Without the reward of a lower capital gains tax rate forestry and tree farming will fail to attract the investment needed to assure our country of enough high-quality timber to meet its future needs for wood and paper products. Timber owners will be unable to afford to replant their land after harvest, just as they were unable to afford replanting before 1944. In fact, compared with other types of investment they would be penalized with higher taxes. Most surely they will look for more secure, shorter term investments.

Mr. President, eliminating the tax rate differential implicitly in the capital gains treatment of timber harvest income will slow the flow of capital to this industry for two reasons.

First, and most simply, it will impose a real tax rate on long-term capital gains income that exceeds—not that is equal to, but that exceeds—the real tax rate on ordinary income. Why is this, when the law states that all income will be taxed at the same rate? Answer: Because long-term capital gains are typically composed partly of purely inflationary increases in asset values. By applying a single ordinary income rate to long-term income, we are taxing purely inflationary gains as if they were real income; in effect increasing the effective capital gains rate above the ordinary income rate. The best way to deal with this problem would clearly be to index the basis of capital gains for inflation—a proposal that was contained in the early, "Treasury I" tax reform proposal. I regret that the Finance Committee did not consider this option; and it seems to me that we should consider preserving the capital gains differential if only as a sort of second-best inflation correction.

Second, even if there were no need for an inflation correction, the capital gains differential would be essential to continuing the current flows of capital into such activities as timber growth, which are high risk and unstable. I recognize that there are many legitimate criticisms that can be lodged against the way the current capital gains preference works, in terms of who receives the benefit of the preference. But I hope that the conference committee will take a look at this issue, and consider seriously continuing to extend the differential to transactions that lead to real capital formation, such as timber investment.

IMPORTANCE OF A CAPITAL GAINS DIFFERENTIAL TO SMALL BUSINESS CAPITAL FORMATION

Mr. WEICKER. Mr. President, it is well known that the lion's share of new jobs in our country is developed by young companies which thrive, prosper, and grow on their ability to attract and retain capital. It is new and emerging businesses which offer our country its best opportunity for remaining internationally competitive and at the cutting edge of new technologies. If we turn our backs on these companies, the entrepreneurial hunches and ideas that could blossom into the next generation of new companies will be crippled, as will our Nation's ability to grow and prosper.

Since 1921, in one form or another, there has been a differential between the tax treatment of capital gains and that of ordinary income to encourage and reward the entrepreneurs and risk takers of this country. And history has shown that when we provide these incentives in the tax law, America's entrepreneurs and small businesses respond. When you take it away, small business is hurt, and the economy moves in a tailspin.

Before 1969 the maximum rate that applied to long-term capital gains was 25 percent, due to the 25-percent alternative tax that applied to all long-term gains. Then Congress began a series of significant increases in the tax rates on capital gains that resulted in a maximum marginal rate of 49 percent by 1976.

To demonstrate the debilitating impact of these higher capital gains rates, the venture capital industry points out that it invested a total $450 million in portfolio companies in 1969, while in 1975 the industry committed only $250 million. More striking is the reduction of capital investment in venture capital firms themselves—the fuel that runs this engine. In 1969, $171 million was committed to investment in venture capital, yet 1975 saw only $10 million invested. In other words, when Congress raises the tax on capital gains, it only causes sharply reduced commitments by venture capital firms to small businesses.

Then in 1978 there was a dramatic reversal in the taxation of capital gains with the maximum rate being

dropped from 49 to 28 percent. The response of the venture investment industry was equally as strong to these rate reductions as to the earlier tax rate increases.

In the 3 years before the 1978 tax reduction, venture capital firms had committed only $950 million to new business ventures. In the 3 years following the reduction, $2.6 billion was committed to portfolio companies, an increase of almost 300 percent. Some $4.5 billion in new private capital was committed to venture capital firms in 1983, surpassing for the first time the amount of money venture capitalists themselves committed to portfolio companies which in 1983 was $2.8 billion.

What has heightened my concern with the Finance Committee's shortsighted decision to eliminate the individual capital gains differential is that the committee never specifically addressed the issue. There were only a few hearings earlier this session on the general topic of capital formation and international competitiveness, but never was the elimination of the capital gains differential addressed and explored. Until this bill emerged from committee, there was no indication tht such a longstanding tax preference so critical to the formation of capital for small and emerging businesses would be in jeopardy. For this reason I called a hearing of the Small Business Committee on June 4, 1986, to examine the importance of a capital gains differential. And I would like to share with my colleagues some of the testimony that was delivered at the hearing.

The committee was fortunate to receive the perspective of former U.S. Senator Paul Tsongas. He described his evolution on this issue from his 1978 vote against the capital gains tax rate reductions to his current conviction that these rate reductions were the single most important factor in the development in high technology industries in his State.

Burton McMurty, General partner of Technology Venture Investors and president of the National Venture Capital Association, testified next:

> It would be overly simplistic and probably wrong to take the position that the only factors driving venture capital availability are the tax rate on capital gains and the differential between tax rates on captial gains and ordinary income. It would be even more foolish to ignore such strong evidence and argue, as some do, that capital gains tax rates could be raised and the differential eliminated without significant disruption to the number of startup companies and to the flow of equity capital to growth companies."

Mr. McMurty rebutted the claim that 60 percent of investments in venture capital come from pension funds and insurance companies which are not affected by a capital gains differential. His response was that "taxable investors are the leaders in creating a favorable environment for investment activity." It is the individual investor who takes the risks and clears the path that more cautious investors follow. Without a proper incentive, the individual investors would take a safer route as well.

Mr. President, I am additionally concerned that the elimination of a capital gains differential will have a profoundly damaging effect on our international competitiveness. Mr. Stanley E. Pratt, chairman of Venture Economics, Inc. of Wellesley Hills, MA, underscored that point during the hearing. He noted that both Japan and West Germany, which have been running massive trade surpluses with us for years, have essentially no capital gains tax on long-term investments. They provide a healthy environment for their investors by allowing an adequate reward for the risks they undertake. Now we are planning to eliminate any differential, and in the process, we're actually raising the capital gains tax rate from 20 to 27 percent for most investors. I believe that the elimination of a capital gains differential will eventually only enhance the competitive posture of some of our international trading partners at our expense.

The Joint Tax Committee estimated that it will cost the Treasury $19.3 billion over the next 5 years to restore the maximum capital gains rate to 20 percent. I disagree with this estimate, and though I am forced to accept it, in my judgment, the joint committee has failed to consider the dynamic impact that a capital gains differential has on economic growth, new business formations, and job creation. The experience of the 1978 capital gains reduction eloquently tells this story. The indisputable fact is that this cut in the capital gains rate was a revenue raiser nor a loser.

Thomas Vasquez, president of the policy economic group, further amplified on this issue before my committee. Mr. Vasquez joined the Treasury Department, Office of Tax Analysis in 1972, and by 1983 was Deputy Director of that Office. The Office is responsible for the administration's revenue estimates of all tax proposals originating with the administration or Congress. Clearly, Mr. Vasquez has had much experience analyzing the revenue impact of changes in capital gains rates.

In Mr. Vasquez' judgment:

> The provisions in this legislation that increase capital gains tax rates have little impact on revenues over the 5-year period. The corollary to this is that returning to current law taxation of capital gains will not significantly alter the revenue neutrality of this legislation.

And as Martin Feldstein, former chairman of the President's Council of Economic Advisers wrote recently:

> The increased revenue from capital gains changes is only an illusion, since the rise in the tax rate would cause a substantial fall in the volume of asset sales.

Mr. President, I would hope that the House-Senate conferees on the tax bill will correct this problem area. The legislation before us is a remarkable achievement. The reduction of individual tax rates is truly historic. However, I am convinced we can achieve these objectives of the bill while maintaining necessary capital formation incentives. Martin Feldstein, in an article that appeared in the Wall Street Journal on May 19, 1986, labled the Senate Finance Committee's bill a "gamble with capital formation." Mr. Feldstein summarized his concerns:

> We are about to have a monumental tax reform. It would be a great pity if this historic change in tax rules ended up hurting the captial-accumulation process that is the driving force of economic growth and of the international competitiveness of our manufacturing industry.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2087

(Purpose: To retain current law relating to tax treatment on foreign investment in United States real property)

Mr. METZENBAUM. Mr. President, I am going to take up at this point an amendment that is in the bill called FIRPTA. It involves $1.2 billion.

In 1980 Congress enacted FIRPTA. It requires investors who sell U.S. real property to pay taxes on any gains realized. That sounds reasonable. If you are a foreign investor and you sell real estate, you ought to pay taxes on it. If you are an American and you sell real estate and you make a profit, you pay taxes on it.

In 1984 Congress strengthened the tax by instituting various enforcement procedures.

Now what happens? This bill eliminates the tax altogether. "Foreigners, we love you. Here is a billion, two hundred million dollars."

I am not clear. I can understand a lot of amendments. But I do not understand even where the special interests are here, where the special lobby is taking care of some particular group. Why are we in this bill giving away $1.2 billion to foreign investors who buy and sell U.S. real estate? Why should they pay no tax whatsoever?

□ 1730

Now I have seen the votes around here today. I can see that those on the other side of the aisle are en bloc

voting against amendments. And I understand that.

But I do not understand how they can vote against my amendment to eliminate special preferential treatment for foreign investors. Why in the world we reach out and hand $1.2 billion to non-Americans?

According to the committee report, the committee believes that FIRPTA is an undesirable impediment to foreign investment in the U.S. real estate. Well, I guess that is so. We are saying to foreigners, "If you buy United States real estate and make a profit on it, you are going to have to pay a tax on it."

Well, I guess if you really want to help the real estate market, let us take taxes off for Americans. We ought to treat them equally as well as we treat foreigners. This is a new twist in "Buy America" legislation, except this is a reverse twist. You buy it and we pay for it.

If somebody can come on the floor of the U.S. Senate and explain to me why we are going to give $1.2 billion away, I will be impressed. They are going to have to tell me more than they have told me so far. The only beneficiaries will be wealthy foreign real estate investors.

Mr. President, some of these amendments we have talked about take care of one or two people. Some of them take care of one corporation. This is not one that takes care of an individual, or two individuals, or five. This amendment takes care of all the foreign investors.

Now let me tell you what we are going to do with the money if we repeal it because, under the provisions that govern us on the floor, we cannot provide a revenue loss or a revenue increase. So when we pick up this $1.2 billion, we are going to use it, if the amendment is adopted, in the following manner: under the committee amendment, the Finance Committee bill, they did what I think is a real injustice to family farmers. They took away from family farmers the right to average their incomes either backward or forward. And they denied them that income averaging right. That will cost about $300 million, or pickup about $300 million.

The other day with the Unocal amendment we picked up $50 million of that and this would pick up $250 million—it is only a $250 million total, so $200 million of this $1.2 billion would be used in order to see to it that family farmers would be able to have income averaging in the future.

We would put that into statutory language. In the amendments the Senator from Ohio has previously offered, we provided that that amount could be arranged for by the Secretary of Treasury. We do not do that. We are now putting it into the amendment in statutory language.

But we would do something else. We would do something in an area that has not been much discussed on the floor of the Senate, and that is the right to deduct medical expenses. Now, I do not think most Members of this body are aware of the fact that medical expenses can only be deducted under this bill if they exceed 10 percent—10 percent. That is a big amount. You can only deduct them if they exceed 10 percent.

Up until 1982, you could deduct your expenses in excess of 3 percent. And then in 1982, we said you could deduct your expenses in excess of 5 percent. Under this bill, we are saying you can deduct them only if they are in excess of 10 percent.

So we would make the billion dollars available for the purpose of reducing that 10-percent number. And I cannot tell you whether it would reduce it to 9 or 8.5 percent or whatever the number is. But it is the ill, the sick, those who have tremendous medical bills that are being adversely affected by the provisions of the Finance Committee bill.

What we are doing here is we are saying that we are going to take the money away from the foreign investors, we are going to require them to continue paying the taxes that they are presently paying. They are presently paying those taxes. No transition rule; it is nothing like a transition rule. This is just a rule to eliminate the tax on the foreign investors. So it is not a transition rule. It is a gift of $1.2 billion to foreign investors alone. My amendment will provide that $200 million of that will be used to overcome the entire problem of income averaging for farmers and the other billion dollars will be used for the purpose of permitting individuals to deduct their medical expenses to a figure less than 10 percent. Whatever mathematically we are advised that comes out to will be the figure that is used.

So if you want to help those who have high medical bills, high hospital bills, if you want to help farmers who are concerned about income averaging, then I would say this is an amendment that indeed should be accepted.

Now, I do not want to say that the committee has characterized this repeal of the tax on foreign investors as a transition rule. But this whole body of amendments has gained an appearance in the public's mind, in the news media's mind, as all having to do with transition rules. This one is not a transition rule. This is just a plain, simple, unadulterated gift to the foreign investors who buy and sell real estate.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2087.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 1853, beginning with line 11, strike out all through page 1856, line 6, and redesignate accordingly.

On page 1416, beginning with line 6, strike out all matter through page 1418, line 10, and insert in lieu thereof the following new section:

SEC. 141. REPEAL OF INCOME AVERAGING FOR TAXPAYERS OTHER THAN FARMERS.

(a) IN GENERAL.—Subsection (a) of section 1303 (defining eligible individual) is amended by inserting "and who is a qualified farmer" after "United States".

(b) QUALIFIED FARMER.—Section 1303 (defining eligible individuals) is amended by adding at the end thereof the following new subsection:

"(e) QUALIFIED FARMER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified farmer' means a person who is actively engaged in the trade or business of farming (within the meaning of section 2032A(e)(4) and (5)), including the trade or business of aquaculture on a farm.

"(2) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis."

(c) CONFORMING AMENDMENTS.—

(1) The heading of part I of subchapter Q of chapter 1 is amended by inserting "FOR FARMERS" after "AVERAGING".

(2) The table of parts for subchapter Q of chapter 1 is amended by inserting "for farmers" after "averaging" in the item relating to part I.

At the appropriate place add: the following:

The Secretary of Treasury is authorized to issue regulations that reduce the floor for itemizing medical deductions to the extent that such regulations will not reduce revenues more than the revenue raised by this amendment as determined by the Joint Committee on Taxation.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the Senator from Ohio is right; this is not a transition rule at all. No one intends it to be. It is not supposed to be.

All we are trying to do is return the law to what it was before 1981, to cut out the special FIRPTA rules, to try to say to foreign investors that the same laws apply to their real estate investments that apply in every other type of investment they make in this country. We are saying to foreign investors that we want to live up to the treaties that we make with foreign countries. We expect to abide by them.

Who is the special interest here? I will tell you who the special interest is. The special interest is the farmer in this country who is hanging on by his fingernails and has seen the property on that farm go down every year in value, seeing the situation get more serious every year, and seeing the bank examiner coming into the bank and questioning farm loans. That is who the special interest is here. We are talking about foreign money coming in and buying farmland. That helps hold up the value at a time that the farmer desperately needs it to be held up—so that the bank examiner will say that the collateral is sufficient. That is what this amendment is.

□ 1740

I was just down in Mexico talking to the President of Mexico and talking to the Secretary of Finance, Silva Herzog. I argued with them that they ought to open Mexico up to foreign investment. That is part of their economic problem—not encouraging foreign investment. There are all kinds of barriers to outside capital entering Mexico. This country should not get into that kind of a trap.

Do you know why FIRPTA was written? I will tell you why it was written. It was written at a time in the late seventies when farm values were going through the roof. And the concern was expressed by some farmers and farm groups that foreigners were going to come in, buy their land, and bid up the price of their land so they could not afford to buy additional land to add to their farms. That is why it came about. That is why FIRPTA was created.

Our provision repealing FIRPTA was fully considered in the Finance Committee and fully debated. The committee decided it made sense to encourage investment, and that we ought to repeal this special set of laws affecting real estate investments. Far from being a transition rule, what we are talking about here is a broad issue of U.S. tax and economic policy.

What is FIRPTA? FIRPTA is a statute that creates special rules for the imposition of tax on foreign investments in U.S. real estate and in U.S. corporations whose assets are predominantly real estate. Note what I said: special rules. It is an aberration from the normal U.S. tax rules on foreign investors in this country.

What are the normal rules governing foreign investors in the United States? Generally speaking, a foreign investor in this country is not subject to U.S. tax on gains from his investments unless those investments are directly concerned with a trade or business. For example, suppose a citizen of France buys stock in a startup electronic corporation in Texas. The stock rises in value. He sells the stock. Is he subject to the U.S. tax? No. Under our traditional rules his profit is not subject to tax. It may be subject to tax in France but this country does not impose another tax. Correspondingly, most of our trading partners treat our investors the same way because they want to encourage foreign investment.

On the other hand, let us suppose that the investor makes a direct investment in Texas, builds that electronics company, operates the business, and later sells it at a profit. He operates the business. Is he subject to U.S. tax? You bet he is because his profits are derived from the building up of that business.

Where does FIRPTA come in? It came in back in the 1970's, as I mentioned before, when we were concerned about the increase in the price of land and about foreigners buying up our land. That situation has turned all the way in the other direction.

It does not make any sense, I believe, to create an exception or create a special rule for real estate investments. That's what FIRPTA does. Under FIRPTA, if a foreigner invests in U.S. real estate he's required to pay capital gain tax even if the real estate is not used in a business and even if the investment is merely in stock of a real estate corporation. What we are doing in this bill is merely putting the law back where it was before 1980.

In 1984 we repealed the 30-percent withholding on bond interest paid abroad. We thought that was appropriate because we are trying to encourage foreign investors to buy our securities and to keep interest rates down in this country. If you impose a tax on the interest, you help discourage foreign investment again in our securities, and interest rates come up. Who is the special interest? The American people.

How about the economic effects of FIRPTA? FIRPTA erects a barrier to investments not only in real estate but in companies whose assets consist of more than half of real estate. That is not just real estate companies. Let us look at start-up companies. When a company gets started, what is its first big asset? It is usually their real estate—their buildings, their factories, their grounds. It is simply absurd to put a disincentive to investment in companies that could run into FIRPTA problems.

I do not see any reason why we ought to be discouraging foreign investment in farm land in the circumstances we face today. Those farmers are going to be the direct beneficiaries of repealing FIRPTA. Is too much farm land being purchased by foreigners? Not according to the Agriculture Department, which estimates that only one percent of our farm land is foreign-owned.

Has FIRPTA slowed down foreign investment in real property in this country? Well, that is pretty tough to say with any great certitude. But Commerce Department figures may shed some light on this. According to the Commerce Department, from 1977 to 1981, the number of significant real estate investments in the United States by foreigners increased from 19 to 564. The first year that FIRPTA was in effect was 1981. After 1981, real estate investments fell each year until they totaled only 135 in 1984. These may not tell a definitive story but they certainly show the FIRPTA may have had some effect.

I am particularly concerned that FIRPTA may be discouraging direct investment in manufacturing companies. Modernizing U.S. industry takes all the investment capital we can get if we are to be competitive in world trade today. We had a $149 billion trade deficit last year, and if you extrapolate what has happened in the first half of this year, we are heading for a $165 billion or $170 billion trade deficit. That is in spite of the fact that we have had a change in currency valuations against the dollar—the mark, the pound, the yen, and the franc. Currency devaluation is not going to resolve all of our problems on trade. We are going to continue to need to modernize the productive capacity of this country and increase its productivity.

Another problem with FIRPTA is it was drafted to override U.S. treaty obligations. There was a 5-year grandfather on that, but the grandfather has now expired. Our treaty obligations are now overridden. I have serious doubts as to whether that is the way we ought to go in our tax law. The United States can hardly afford to give the appearance of not living up to the tax treaty agreements with our principal trading partners.

Mr. President, I yield the floor.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, FIRPTA should be repealed because it is a major disincentive to foreign investment. We may not think that is of great importance. But we have hundreds of millions of acres in our country not all federally owned, but privately owned, State owned, county owned that could be purchased if there were a different attitude toward foreign investment.

FIRPTA discourages investment not only in land but in projects that may increase the competitiveness of many U.S. industries, and create also many U.S. jobs. Also FIRPTA is depressing the value of farmland and putting farmers in a worse position.

FIRPTA defines "real property" so broadly that land includes oil and gas leases, farm machinery, excavation equipment, furniture, and laundry

equipment. Also, the stock of any U.S. corporation owning a single building at any time during the previous 5 years, even if the building has been sold, is potentially covered. It makes no sense to call these kind of investments real estate. Yet that is what FIRPTA does.

The Tax Code already taxes foreign investors and we do not need FIRPTA. A foreign nonbusiness real estate investor pays a flat 30-percent tax on any gross annual income from the property without any of the deductions or exemptions available to U.S. citizens. Foreign persons cannot deduct property taxes paid on the land and they cannot deduct interest charges on financial arrangements made to buy the land. Numerous tax benefits, such as accelerated depreciation, are also not available to foreign land investors.

Mr. President, people might be interested in why I am concerned about this particular part of the subject we are discussing because this is not basically my business. But I come from the West where there are I say millions of acres of land available for investment.

□ 1750

Mr. President, I am looking, not at this moment, at a little town over in the Far Pacific called Hong Kong and everybody jumping up and down clapping their hands on how things are going to change in Hong Kong when the Chinese Government is no longer Communist.

If you wait around for that to happen, you will be an old, old, man. In fact, you might be past being an old man. The Government of China will be Communist, I think, forever. If they ever change, if they ever make up their minds to become a democratic government or a capitalistic government, if you want to call it that, then they can become a world economic power.

But what is going to happen to the money that is now in Hong Kong? I think I am correct in saying that there is more money in Hong Kong than any other city in the world and they are looking around for places to invest, and they are putting it into some rather strange places.

I want to see one of those strange places in the Western part, in the whole of the United States. But that will never be put up if we have to put up with FIRPTA.

We have to recognize, I think, finally, that foreign capital provides investment capital for the economy at a time of massive Government deficits. If we tell foreign land investors, "Put your money into some other country, we discourage you from investing here," then how else are we going to offset the borrowing needs of the U.S. Treasury? Repealing FIRPTA is a better way to attract foreign investment than raising interest rates.

The amount of foreign investment that would come into this country immediately on the repeal of FIRPTA I think would excite this economy to a stage where our present high rate of growth would continue just on this alone.

Mr. President, I yield the floor.

TAX FAIRNESS FOR FARMERS

Mr. BUMPERS. Mr. President, I support the amendment to retain income averaging for farmers. While the reduction in tax rates will reduce the need for income averaging for most taxpayers, there is no group of taxpayers who are more affected by the repeal of income averaging than farmers.

On the whole the tax reform bill is fair to farmers. The dramatic reduction in income tax rates will be helpful to those farmers which have profits, though their number is decreasing annually. The loss of the investment tax credit will hurt some farmers, but the increase in the amount of investment which may be expensed and the shorter depreciation schedules will help to offset this impact. The cash method of accounting is retained for farmers, which is very important.

But, the elimination of income averaging will result in huge tax increases for certain farmers who receive substantial income in one year and suffer with little income the next. It is the bane of farmers that their income often fluctuates from year to year. Unfortunately, in recent years it has fluctuated between little and none. But, for a farm family of five which is fortunate enough to have income of $40,000 in one year and unfortunate enough to have no income in the next, it would pay five times as much tax as the family of five earning $20,000 in each year without income averaging.

This is not fair. This unfair result is what income averaging helps to avoid. This is why I support the amendment to retain income averaging for farmers who have taxable income. Tax reform will not help the farmer who has little or no income to start with. But at a minimum we can ensure that tax reform does not hurt those farmers who have income at least in the good years.

TAX FAIRNESS FOR THE ELDERLY

Mr. President, I am delighted to see that the tax reform legislation provides to the elderly tax benefits which are somewhat better than those they currently enjoy. This is a simple matter of fairness and it is one reason why I am happy to support this tax reform bill.

Specifically, the elderly will continue to receive the present law tax credit for elderly individuals. Elderly taxpayers would lose the additional personal exemption they currently can claim—worth $1,080—but they would receive an additional $600 standard deduction and all individuals would benefit from the doubling of the personal exemption and the increase in the standard deduction—worth $2,040—a trade worth $960 in additional tax relief to each elderly individual.

I am concerned, however, that the itemized deduction for medical expenses would be available only when such expenses exceed 10 percent of adjusted gross income. Let me emphasize that this limitation applies only for taxpayers who itemize, which are a small percentage of the elderly. Indeed, there are only six States which have fewer taxpayers who itemize their deductions than does Arkansas, so this provision should affect very few of the elderly in Arkansas. Taxpayers who itemize their deductions tend to be in the higher income categories so this provision should not affect any elderly taxpayer in the middle- or low-income class. But those taxpayers who experience catastrophic health care costs and who itemize their deductions can be badly hurt. For this reason, I support the amendment holding the floor as close as possible to the current level.

Many individuals seem to be confused about the new 15-percent tax rate, thinking that this rate is applied to all of their income. When taxpayers use the tax tables, they do not see the standard deduction subtracted from their income before the tax bracket rate is applied and they sometimes don't understand what the personal exemption means. Some have called or written to me about this. Obviously, if the 15-percent tax rate is levied on all of their income, they will experience a major tax increase, but this is not the case under this bill.

Under this tax reform bill for single, elderly individuals, no tax at all is paid on their first $5,600 in income, up from the current tax threshold of $4,640—the $960 tax benefit referred to above. For married couples filing jointly the tax threshold is $10,200, up from $7,990 under current law—a tax benefit of $2,210 for the couple. Only income above these levels is taxed at the 15-percent tax rate.

The net result of all of this is that the tax reform bill will lower the tax liability of most elderly couples and individuals, especially those at the lower income levels. Overall the tax reduction in the Finance bill for individuals with income of less than $10,000 is 62.3 percent. For individuals earning between $10,000 and $20,000, the tax cut is 18.1 percent.

This reduction in taxes for those in the lower income classes is one of the most desirable features of this tax reform bill. Since 1981 persons living at or below the official poverty level have had to pay taxes, something that had not been true for many years

before. It is unconscionable to force people with so little income to pay any Federal income tax and this wrong is righted in this bill. No one living at or below the poverty level will have to pay any income tax and we have designed the system so that they will not have to do so ever again. This is welcome news to me and I am sure it is welcome news to many elderly citizens of Arkansas.

Mr. WALLOP. Mr. President, I cannot add a great deal to the cogent remarks of my colleagues from Texas and Arizona. I happen to think that the Senator from Ohio does not truly understand the application of tax on foreign investments in this country or else he would not have so completely misrepresented the means by which those taxes are collected and the times in which they are owed.

He was right when he said that it was not a transition rule. It is a matter of tax reform. Curiously enough, it is a matter of tax reform that is supported by the Senator from Texas and I who were its original parents, who thought that we were doing something for the U.S. farmer.

It has turned out that it has been a perfectly grave disservice to that very person we sought to help.

The last thing the American farmer needs today is a diminished marketplace for his land, especially if he is one of those many unfortunate farmers in this country burdened with debt forcing him to the sale of that property.

The last thing he needs is fewer buyers in the marketplace.

The Senator from Ohio suggests that the only beneficiaries were wealthy foreign real estate investors, but it really benefits the U.S. farmer. Another person that it benefits is the U.S. purchaser.

I do not think very many people realize that the purchaser of real estate is responsible for the collection of that tax and the ascertainment of the citizenship of the person from whom he is buying it.

I just happened to sell my house last week and the purchaser of my house had to put a form in front of me which I signed saying I was not nor did I have any foreign investors in that property with me.

Had I had a different circumstance and had I told a lie to that man, he would have been responsible to the Treasury Department for the settlement of the tax. It is not the foreign investor but it is the U.S. purchaser.

That seems a very obvious way of dealing with Americans in legitimate business transactions that they go through.

There is a really key point, and the Senator from Texas made it. It is that foreign investment in active business ventures is taxed just as American investments in active business ventures in real estate or anywhere else. In a passive investment, a foreign investor will have 30 percent of anything collected right off the top regardless of any expenses that he might have. Under FIRPTA, he is also subject to capital gains, whereas in no other capital investment in this country would he be. Where does that steer investment but away from real property?

The last little thought that may occur to some people who are worried about foreign investment in this country is its liquidity, that they might pack up their marbles and take their money and run away, leaving the country really broke. I doubt that anyone really believes that scenario.

Let me assure that the best insurance against that catastrophe is some foreign investment not composed of liquid assets, some foreign investments that will take time in transactions. We ought to be encouraging that. It also has the effect that the Senator from Texas mentioned, of at least working downward on the interest rate in this country.

So while the goals of the Senator from Ohio referred to as the purposes for which he would like to have this great savings are so laudable, the means of achieving those goals is not laudable. It is damaging to the U.S. economy and damaging to the U.S. farmer. It is damaging to the U.S. buyer of real property in this country.

Mr. President, I cannot add to the stories of certain transactions which have taken place, but I do think this is a very unwise step. This is a piece of tax reform that belongs in the tax reform bill.

Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. SYMMS. Will the Senator yield for a comment, briefly?

Mr. WALLOP. I yield.

Mr. President, I withhold the tabling motion.

Mr. SYMMS. Mr. President, I compliment the Senator on his comments. I would like to restate very clearly from someone who comes from an agricultural State that the point about distressed values in real estate is not just some conversation piece. This is a real problem in agricultural America. These real estate values are not holding the equity. It is putting operators into a situation where they are not able to get financing because they do not have the proper debt-to-equity ratio.

This amendment repealing FIRPTA is important, particularly for the older farmer, who wants the opportuntiy to retire, to get out of agriculture, so there is not just a depressed, disintegrated value to their property.

I compliment the Senators for their comments.

One other thing is that foreign investors cannot take this farmland with them anyway. That has been something that has been waved around here ever since I have been in Congress. When I was in the other body the subject came up during the 1970's. Many of us on the Agriculture Committee made the point that they could not take farmland as fixed assets with them.

Mr. President, I think the Senator from Wyoming makes a very, very cogent point. The investment in those fixed assets is an insurance policy to values of real estate and farmland in this country. It is not something we have to fear. Our friends south of the border, in Mexico, when they thought they had a problem with U.S. citizens owning too much, simply said, "You have to have a citizen of this country owning part of it."

Overnight, they corrected the problem. Now they have second owners at a 50-percent level.

Mr. President, there are all kinds of ways to protect the American agriculture because that land is not going anyplace anyway. I think the Senator is absolutly right, that it should be repealed. When he makes the motion to table, I will certainly support him with enthusiasm, coming from an agricultural State.

Mr. WALLOP. I thank the Senator from Idaho.

Does the Senator from Ohio wish me to yield?

□ 1800

Mr. METZENBAUM. As long as he is holding the floor. After he concludes, I would like to put in a quorum call for a short period of time. I think there are some other Senators who desire to be heard.

Mr. WALLOP. I point out to the Senator, if other Senators desire to be heard, we have been here all day and it would be my intention to move to table unless some of those Senators were to come to the floor. I just point to this little chart over here. Most of our major trading partners do not tax long-term capital gains. On every single place on that chart where it says "none" the United States is abrogating a treaty, a solemn treaty granted by the United States and that is not the kind of reputation I think this country seeks in the world of international relations. Now, Mr. President, I would inquire of the Senator from Ohio how much time he seeks to delay this because——

Mr. METZENBAUM. The Senator from Wyoming I think is improper in suggesting a delay. The Senator from Ohio has been prepared to move forward all afternoon on his amendments. I have been here all day. I have not delayed anything and did not have any intenton of delaying anything. I intend to be heard further with respect to this amendment and assume I

will not be cutoff. It is my understanding, but I am not certain and I am checking, a couple of other Senators wanted to be heard in connecton with this matter. So far I might say to the Senator from Wyoming——

Mr. WALLOP. Mr. President, I yield the floor.

Mr. PRESIDING OFFICER. Who seeks recognition?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am hearing some rather interesting arguments made today as to why this is great for the American farmer. I have talked to some Members of this body who are closer to farmers than I am, although I certainly have a substantial farm community, but some in this body actually farm the land and I have not had the privilege of doing that. They are just aghast at the idea that somehow we want to be helping foreigners buy up American farms. I cannot believe that American farmers want that to happen.

Now, let us look at the facts. This tax on foreigners came into the law, as I understand it, at the instance and suggestion of the Senator from Wyoming. It is my understanding that in 1980, the Senator from Wyoming was the one who proposed the first FIRPTA tax. In 1984, the distinguished majority leader tightened FIRPTA in the tax bill. Now, I am suddenly told 2 years later how harmful and hurtful this is. Well, if the Senator from Wyoming, who does have a large farm constituency, offered it in the first instance and the Senator from Kansas, who has a large farm constituency, tightened it in 1984, what revolutionary development has occurred that makes us say that we should repeal it and give away $1.2 billion? Now, if you want to help farmers and because taking the tax off makes it possible to help farmers, then why do you not take the tax off everybody who deals in farm real estate? I am not for that. I am not for that. But it seems to me to be logical, if you are going to take it off people who do not live in this country, who do not pay taxes in this country, who do not have any loyalty to this country, who do not have any relation——

Mr. WALLOP. Will the Senator yield for a question?

Mr. METZENBAUM. Who do not have any relationship with this country other than the fact that they are wheeling and dealing in American real estate, in farms, why do you not do that for Americans? Why do you discriminate against them? Do farmers really want foreigners buying their land? I cannot believe that. And I cannot believe that I am standing on the floor before those who first proposed this tax and opposing them in their efforts to repeal it. I am saying if you repeal it, you pick up $1.2 billion and you really help farmers because you will have the funds in order to restore to the bill income averaging for farmers. You take care of that entire problem. And in addition to that the sick and the hospitalized and those who have health problems will be able to deduct more of their medical expenses. We will be able to reduce that increase that is provided for in the bill, the increase making it possible only for those who have medical deductions to deduct that which is over 10 percent, whereas in the present law it permits them to deduct that which is over 5 percent. So I say I do not understand this amendment.

Now, the Senator from Wyoming had asked me a moment ago whether I would yield to a question. Without losing my right to the floor, I do indeed yield.

Mr. WALLOP. Mr. President, I wonder why the Senator from Ohio chooses to continually mischaracterize this, one, as relating only to farmers, and, two, as being somehow a giveaway and a special treatment for foreigners as though they pay no other tax. I do not know whether the Senator heard the responses to his question delivered by the Senator from Texas and the Senator from Wyoming, but they do. A foreigner in an active business venture in the United States pays the same tax as a U.S. taxpayer. If he is in a passive business venture and if there is income off of it, he has a 30-percent withholding unlike any American investor. And the only investment that he has that is passive or nonstock that has capital gains collected on it is under FIRPTA. If he goes to the stock market he does not pay it. Any other place he invests in a passive way, for withholding of stocks or other kinds of things, he pays no capital gains. Only in real property. And that means real estate holding companies, that means oil and gas with leases. It means a whole variety of other things.

Mr. METZENBAUM. Is the Senator suggesting that we place a tax on the profits that they make in the stock market or would not that be prohibited by reason of a treaty that we have?

Mr. WALLOP. I say to the Senator this is prohibited by reason of a treaty.

Mr. METZENBAUM. If it is prohibited by reason of the treaty, then you do not need to repeal the law because the Senator was the one who authored the law in the first instance in 1980, if the same treaty was in effect then. Senator DOLE was the one who had the provision tightening the language in 1984. And so the fact is that there is this provision that takes care of foreign investors. Now, if the Senator is saying that to me, I stand corrected because it not only has to do with farm real estate but it has to do with all kinds of real estate, whether they are large buildings or small buildings or whatever. If that is the point that the Senator makes and he tells me as one of the members of the Finance Committee that that is the fact, I am perfectly agreeable to debate the issue on that score. Is that what the Senator is saying?

Mr. WALLOP. I am saying it is a fact it is not an issue that is solely related to farmland.

Mr. METZENBAUM. Pardon?

Mr. WALLOP. I am saying that it is not an issue that is solely related to farmland.

Mr. METZENBAUM. Then the Senator is saying that all real estate profits that are made by foreigners are going to no longer be subject to the tax.

Mr. WALLOP. I wish the Senator would not continue to mischaracterize this.

Mr. METZENBAUM. Just a minute. Just a minute. They paid real estate tax. That we know. But I am talking——

Mr. WALLOP. They pay capital gains on it.

Mr. METZENBAUM. I am talking about sales—pardon?

Mr. WALLOP. They pay capital gains if they are involved in active business. The only time they do not is passive holdings. Stock in real estate holding companies, they would not. If this was repealed or if they are a passive investor and that is the only circumstance in this country, they would not pay capital gains.

Mr. METZENBAUM. The Senator agrees with me, does he not, that what you are doing is repealing $1.2 billion of taxes that would be paid by foreigners in connection with their profits on real estate? The Senator agrees on that, does he not?

Mr. WALLOP. The Senator has argued with the Joint Tax Committee on that assessment and with the Treasury Department as well. My own guess is that having collected only $70 million last year, it is very unlikely over 5 years they would have this explosion of foreign investors with this inhibition.

Mr. METZENBAUM. Is the Senator challenging the figures that were provided to us by the Joint Taxation Committee?

Mr. WALLOP. The Senator does.

Mr. METZENBAUM. These are the figures that we use on the floor. The figures that I used on the floor come entirely from the Joint Tax Committee. We do not pick them out of our head. We do not attempt to make our own calculations.

□ 1810

These are figures that come from the Joint Tax Committee. The Joint Tax Committee has indicated that

there is $1.2 billion involved in this amendment, and I have not heard anybody question the accuracy of those figures.

So when the Senator says something about $70 million, I do not know anything about that. I am only going on the basis of the figures we were able to obtain from the normally accepted source.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, reserving the right to object—and I do not intend to object—it is my understanding that no motion to table will be made.

Mr. DOLE. I would like to, but I am not going to.

Mr. President, I want to indicate that I understand there may be two additional speakers on this amendment, and I hope that whoever they are, they will come to the floor and speak.

We had one vote yesterday, one vote today. It is now a quarter to 6. I know that the distinguished managers of the bill, Senator PACKWOOD and Senator LONG, hope to finish this bill tonight. I think it is the intention of the chairman, Senator PACKWOOD, to stay here late this evening. But we would like to speed up the amendment process.

This bill is like watching grass grow. We have been on the bill for 54 hours; we are in the 8th day. I do not fault the Senator from Ohio, because he has been here offering amendments. But let us offer them more rapidly, if we can. If those who oppose the distinguished Senator from Ohio will take less time, maybe we can move along and finish the transition rule amendments. We hope Senator MITCHELL will lay down his amendment this evening.

It is our hope to complete action on this bill no later than tomorrow. Tomorrow could go into Thursday morning.

We still have a number of things to do this week. I hope we can accommodate our colleagues who have been at it for 8 days. No one has been pressed to speed up the process, but in my view, I think it is time we start pressing to speed up the process on both sides.

Mr. METZENBAUM. Mr. President, the Senator from Kansas knows that I have indicated from the beginning that I had no intention of delaying for 1 minute.

The day before yesterday, one Senator spoke toward the end of the day, rather long. I guess that was yesterday. Today we had a number of Senators addressing themselves to capital gains and other issues.

I am prepared to proceed and intend to proceed. I am prepared to go with at least a couple of more amendments tonight.

□ 1820

Mr. President, I suggest the absence of a quorum.

Mr. SYMMS. Mr. President, before the Senator invokes that, will the Senator yield?

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may yield to the Senator from Idaho for the purpose of a comment or question.

Mr. SYMMS. I want to say to the distinguished majority leader that I suspect that he and the chairman of the committee and the ranking Democrat on the committee have not pressed amendments but as one Senator, I think we have been 8 or 9 days on this bill, I think it is time we do start pressing our colleagues.

I urge our leadership to dispose of this amendment. We gave the Senator plenty of time to discuss it. We have had the bill on the floor here for well over an hour. The Senator from Ohio ably represented his point of view. I think our point of view was ably represented. I think it is time for the Senate to vote. I would encourage the leadership to dispose of this so we can get on to the next amendment.

Mr. METZENBAUM. I might say to the leader if the other two Senators do not show up shortly I will be prepared to enter a unanimous-consent request to set it aside temporarily and call up another amendment so it would not be delayed. I suggest if they are not here in 5 minutes to go ahead and do that.

Mr. DOLE. Let us go ahead and vote if they are not here.

Mr. METZENBAUM. I am sure the majority leader and minority leader, who I see here—I am concerned with protecting Members on his side. Two Members indicated they wanted to get on the floor on this issue. I told the majority leader who they are. They told me within the last 5 minutes that they are coming, but in order not to delay the process I would be willing to set this aside with the understanding that as soon as they come back and make their speeches we then can return to this amendment and dispose of it, whatever is the pleasure of the majority leader.

Mr. DOLE. Mr. President, if the Senator will yield, let me suggest we hope they will come to the floor now. I think that would be the wish of the managers and certainly an orderly way to proceed. We could have a vote by, say, 6:40 p.m. and then we would have an agreement that the next vote would not come before 7:40 p.m. Then Members would have an opportunity to do what they need to do. I know some have commitments to run in and out of receptions. That would give everyone, except those involved in the amendment, at least an hour to do what they need to do. Would that be possible?

Mr. METZENBAUM. I do not want to agree to a vote by 6:40 p.m. at this moment. But if we can have a quorum call until they can get here so if they want to speak for 10 minutes or 15 minutes I have not precluded them from doing so.

But I have no problem if the majority and minority leaders want to provide for a window. I certainly can understand that and would not stand in its way.

Mr. DOLE. I assure Senators we are not pressing anyone, but I hope they know they are holding up the Senate.

Mr. METZENBAUM. Senator HARKIN came to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DOLE FOUNDATION

Mr. SIMPSON. Mr. President, while we have a moment of respite here with our duties on the tax reform issue, I wish to take this opportunity to pay respect and high regard to our distinguished majority leader, Senator BOB DOLE, as many of us are wont to do from time to time. I want to share just very briefly with you that last night the Dole Foundation, which was fostered and nurtured and has grown magnificently under the watchful eye of the majority leader, staged an event here in Washington which successfully raised in excess of $1 million, the proceeds of which will make local community level job training and career enhancement opportunities available for persons with disabilities. These funds go all across these United States.

It was the foundation started by Senator DOLE. It came to him several years ago as a thoughtful idea and he has brought it to full fruition.

There was a very inspiring piece in the New York Times of Monday, June 16, with regard to the event and to the disabilities that the senior Senator from Kansas suffered which gave rise to his willingness and desire to sponsor this foundation in order to assist others who had been disabled either through the military or through birth or other events during their lives.

Senator ROBERT BYRD has thoughtfully placed that in the RECORD to

share that with our colleagues. I think Senator DOLE serves as a very epitome of the grit and toughness, which is needed in the face adversity if one is to overcome a personal handicap, and his very selfless participation in the creation of the Dole Foundation is but one more remarkable example of his strength and his tremendous leadership.

This foundation, since its inception in 1983, has aided lives all over America. I think last night's event underscores the importance of it all. It is a very unique foundation founded by a very unique person who serves us in such extraordinary ways as our leader.

With that, I join in the previous request and ask unanimous consent that the article from the New York Times of Monday, June 16, be printed in the RECORD.

(The article was printed earlier in today's RECORD.)

Mr. SIMPSON. Mr. President, I richly commend our leader for bringing this remarkable endeavor to the people of the United States who are so much less fortunate than we.

SUPREME COURT

Mr. SIMPSON. Mr. President, just very briefly, let me, while we are still waiting and dabbling in the mystic arts here, say something quite seriously, and that is with relation to the President's appointment of Justice Rehnquist to be the Chief Justice of the United States. There has been a great deal of discussion today of that. I think that is a remarkably fine appointment.

And I think that we are going to find that Justice Antonin Scalia will be a fine Supreme Court Justice. His accomplishments are extraordinary.

I will look forward as a member of the Judiciary Committee to participating in the confirmation of the appointment of the Chief Justice and the new Justice.

I certainly would be remiss if I did not just say a word about Chief Justice Burger whom I have come to know in my time here, a most extraordinary and delightful man—a man of good humor and warm spirit, and I say thanks to him for what he has done for this country.

He served with tremendous distinction and ability, with firmness and kindness and it has been a rich personal privilege to come to know him, to have visited with him in his chambers. He shall be greatly missed.

I say Godspeed to him and to his lovely wife Vera as they go forward to pursue the many things that they will enjoy in life. He is creative. He loves art and antiques and people. He is a cultured and civilized man.

I wish him well. To both of them we express our gratitude for a job very well done and very deeply appreciated by this country. God bless our Chief Justice as he goes on to new things in his life.

I thank you.

□ 1830

I suggest the absence of a quorum on behalf of the Senator from Ohio.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Ohio. I cannot think of a worse time, nor can I think of worse circumstances under which we should try to repeal the FIRPTA law that was enacted in 1980.

Right now, under the committee bill, as it now stands, if a person in a foreign country wants to come in and buy U.S. farmland, that person can do so, realize a gain on the sale of that farmland, and not pay any taxes. But if a young farmer, a young person wanting to get into farming in America now wanted to go out and buy some land, realized a gain on it sometime later and wanted to sell it, then, under this bill, of course, that person would pay 27 percent taxes.

It seems rather odd to me that we are going to give this kind of a large tax break to foreigners who might want to come in and buy U.S. farmland. And we all know who those foreigners probably are. They are people with a lot of money. And we put in this law, this 30 percent withholding on the gain of a sale of real estate and farmland in 1980, specifically to keep our farmland from falling into the hands of foreign investors. And I believe that is a worthwhile goal.

Now, the Dear Colleague letter that came out asking us to keep this provision in the committee bill and to repeal FIRPTA asked us to repeal this because we need to have some investments in U.S. farmland. We need to bring in some foreign money.

And I heard the arguments made earlier here on the floor of the Senate that we indeed have to repeal this to bring foreign investments into farmland because then that would shore up the price of farmland, which we all know has fallen to disastrously low levels; that somehow this foreign investment would shore up the price of this farmland and that farmers would benefit from this because the farms that they now have, of course, the bottom would be shored up and we would not see this fall in land prices like we have seen over the last several years.

□ 1840

It is true. We have seen this fall in land prices. I can tell you right now that in my State of Iowa the last 4½ years, almost 5 years, we have seen over a 50 percent, almost 60 percent decline in the asset value of the farmland in Iowa over the last 5 years. We still have not seen the bottom. The price of farmland still continues to go down in the State of Iowa as I am sure it does in many States in the Midwest. So it is clear that we have a depressed situation in agriculture, and land prices are going down.

Let us examine this argument that somehow by repealing FIRPTA, repealing this 30 percent tax and letting a foreigner come in, buy farmland, not having any tax at all on the sale of that farmland, that somehow this is going to shore up the price of this farmland.

Well, I submit that is the worst thing we can do to shore up the price of farmland. The answer, the simple, straightforward answer to stopping the fall in land prices to our farmers is not to open the floodgates to foreign investment, but to get a better price for the commodities that those farmers grow.

You stop the fall in prices of corn, wheat, beans, cattle, and dairy and everything else, the fall in land prices is going to stop, too. The reason that the land is falling in price is because the price for commodities grown on that land has fallen to ridiculously low levels.

So really the answer to falling land prices is to get a better price for the commodities that are grown on that land. That can be done. All we have to do is modify the farm bill that was passed last year. I would bet anything as long as I am standing here today that prior to yearend we are going to see some changes in that farm bill, and I hope we will see the price of farmland start to come back up again, hopefully not in the too-distant future.

That is why I said at the beginning that the worst possible time to do away with FIRPTA is right now when land prices are at depressed levels. I mean they are at fire sale levels right now. To open up the gates, let foreign investors come in and buy at fire sale prices by telling them that any increase in the value of that land in the next year and two, you can turn around and sell it and there will not be any taxes. Yes. You are right. You repeal FIRPTA, you will get a lot of foreign investment in farmland. They will come in and buy it at fire sale prices. They will buy a lot of that farmland.

The last estimate I saw is we had something in the neighborhood of a quarter million acres of farmland right now in Iowa that is up for sale,

and estimated to be close to half a million acres by the end of this year.

I am sure if you repeal FIRPTA, you will probably get a lot of foreigners coming in, investing in that farmland knowing full well that this Congress is going to do something to change the farm bill to get a better price for farmers so that those land prices will start to come back up again.

So if it was important to put FIRPTA into place in 1980, it is even more important to keep FIRPTA in place right now.

If we want people to buy farmland in America, I submit that the people that ought to be buying this farmland are the young people who want to go into farming. They would love to buy the farmland. It is at low prices right now. I know a lot of young people who want to go into farming, who have gone through agricultural school at our universities, are ready, and equipped to go into farming. But they cannot get any money at any kind of reasonable interest rate to go ahead and purchase this land on which they would like to farm.

So if we want our farms to be purchased and if we want some of this available farmland to be bought up, I submit rather than opening up the floodgate to foreigners that what we need is a good, long-term, low-interest rate program for young beginning farmers to let them purchase the farmland and let them farm it, let them own it, and not someone from Saudi Arabia, Europe, Japan, or wherever else. It can be any country.

So that is really the answer to getting our young people and getting American citizens, people who want to live on that land, own it, work it, raise their families on it, and we have actually a program in the law right now, the beginning farmer program, which I was instrumental in getting drafted in the 1977 farm bill. It is there. It is on the books. But this administration is not utilizing it.

I tell you, if we utilize that provision, and if we had a program for long-term, low-interest rate loans, we would not have to worry about getting investment in farmland. We would have the investment in farmland. It would not be by foreigners. It would be by again people who want to live on that land, who want to farm it, and raise their families on it.

I dare say that the foreigners who are coming in to buy this farmland, if they repeal FIRPTA, I doubt very much are going to live on that land or contribute anything to the local economies near where they are purchasing that farmland.

So I think that is really kind of a phony argument to make, that somehow we have to bring in the foreign capital to buy the farmland to shore up the price of that land. The best thing to shore up the price of land is get a better price for the commodities that our farmers are growing and then you will stop and slide in land prices. That is the way we ought to do it, not by letting the foreigners get off without paying any taxes on the gain in the value of the land.

The second part of the amendment offered by the distinguished Senator from Ohio takes money from keeping FIRPTA in there—I understand it takes $200 million and puts it in income averaging. Last week we passed the amendment here that puts $50 million back into income averaging for farmers. This will put $200 million more into income averaging.

That is more important to my farmers in Iowa right now than letting some foreigner come in and buy the quarter million acres that are on the auction block in Iowa right now. If you look at the committee bill, what it does to a farmer, you will see why income averaging is so important. We all know that farmers have wide variations in income. One year a farmer may make quite a bit of money and the next year he may make nothing. Under the committee bill a farmer who makes $40,000 in one year and then the next year because of flood, hail, drought, or loses his crop and makes nothing, that farmer will pay five times as much tax as another farmer who made $20,000 in each year. That is simply not fair. I am going to repeat that for emphasis sake.

Take a farmer who makes $40,000 one year, next year makes nothing, that farmer will pay five times as much taxes as the farmer that makes $20,000 in each of those 2 years. That is why income averaging is so necessary for farmers. They are not on wages and salaries. They are subject to all kinds of drought, flood, hail, pests, anything that can disrupt their normal growing pattern, not to mention the vagaries of Government programs which may in 1 year depress the price, and may in another year boost that price up.

So it is in the nature of a farm business that they are up 1 year, down the next, and income averaging is very necessary for our farmers, more necessary than letting a foreigner come in and buy that farmland to shore up the prices which again I submit is a phony argument.

So again, just to sum up, I think the argument is, No. 1, we do not need foreigners coming in buying up farmland to shore up prices. What we need are better prices for the commodities that are growing on that land. That is something we ought to be addressing ourselves today.

Second, it does not seem fair to this Senator that a foreigner coming in to buy farmland in Iowa will pay zero taxes on any increase in value of that farmland but an Iowan who buys that farmland and then later on sells it is going to have to pay a 27-percent tax rate. I do not know how you explain it. But that sure does not seem fair to this Senator.

The third point I would make is we need the money for income averaging. In fact, we need the money for income averaging now more than we have ever needed it for the past because of these wide fluctations in farm income that we are seeing happening out there.

So I would hope that the Senators would vote to retain the provisions that we put into the law, the FIRPTA provisions and would support the amendment offered by the distinguished Senator from Ohio.

Mr. President, I yield the floor.

□ 1850

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I would if the Senator from Arkansas might permit us to vote on this amendment at 6:55.

Mr. BUMPERS. I would rather vote on it at 7.

Mr. DOLE. We have a problem. We have been waiting for Members to come to the floor and speak in opposition. We have Members who are supposed to be on TV programs.

Mr. BUMPERS. They can be on TV here.

Mr. DOLE. If we could, we would like to vote at 6:55.

Mr. BUMPERS. I would have to object to that. I may finish by that time, but I do want to be heard on this amendment. I may speak for 5 minutes and I may want to take a little longer.

Mr. DOLE. All right.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. METZENBAUM. Mr. President, if the Senator will yield, I ask unanimous consent to add Senators HARKIN and ZORINSKY as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have tried to address these transition rules on an ad hoc basis. I do not think all transition rules are bad and I do not think all of them are good, so I have tried to vote for the ones that I thought were good, on a meritorious basis, those by Senator METZENBAUM, and I have voted against him on the ones that I thought did not have merit. This one seems especially meritorious to me from almost any standpoint.

First of all, why should not foreigners who buy and sell real estate in the country pay taxes? It makes absolutely no sense, as the Senator from Iowa has pointed out, for an American citizen to buy a farm, sell it later, made a

profit and pay taxes on it but if you happen to be a foreigner you do not have to pay any taxes.

That sounds like palpable nonsense to me. So, No. 1, I agree with the amendment from that standpoint.

No. 2, by striking that part of the bill, we raise over $1 billion a year, and I think that the purpose for which the Senator from Ohio has chosen to put that money are extremely meritorious. No. 1, of the $5 billion this will raise over a 5-year period, $200 million of it will go for income averaging for farmers. The point has already been well made.

I might say that is probably an overestimate. I do not know of any farmers paying any taxes these days. But if they do happen to hit the one year in the next 2 or 3 years, say, they can at least go back and pick up the years in which they made nothing, which is all they have made for the past several years, and average their income. That will be something that will help them that we can do with this amendment.

Next, some people may not realize that if you itemize your deductions on your tax return now, you can deduct all of your medical expenses in excess of 5 percent of your adjusted gross income. This bill, for reasons which I do not understand, changes that to 10 percent. So, you can only deduct your medical expenses in excess of 10 percent.

Next, when you consider the fact that your rate is going to be 15 or 27 percent, then you are probably losing in sort of a double way because normally the rate would have been higher before.

We have already hit the elderly pretty hard in two ways: We have cut back on Medicare payments and we have increased their copayments in a very dramatic way.

I can tell you the AARP favors this tax bill. They have not had a chance to study the amendment of the Senator from Ohio but I guarantee you if they would strongly favor this amendment because it strikes that part of the law that only allows you to deduct medical expenses in excess of 10 percent and goes back to existing law of 5 percent.

So, Mr. President, for all of those reasons I think this is one of the most meritorious amendments we will have an opportunity to vote on.

The other thing that you should bear in mind is, in my opinion, this is the last chance you are going to get to vote on the medical part of this amendment. There are not an awful lot of elderly people in this country who itemize their deductions. But I want to make one last point. If you are now deducting in your own mind how you are going to vote on this amendment, I want to make this last point.

Every poll in America shows that one of the gravest concerns of all Americans, not just the elderly, is what is going to happen to them in case of catastrophic illness.

If you look at what the elderly feel on that, the numbers go up expotentially. Most Americans have $30,000, $40,000 or maybe $50,000 as a nest egg, and they know if they have a very serious illness in their family they are going to get wiped out. It is a major concern of all Americans. It is absolutely consuming among the elderly.

Here is a chance for this body to alleviate those fears ever so slightly at least among those people who itemize their deductions.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I ask unanimous consent to add Senator BUMPERS and Senator BURDICK as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, let me make a quick point. One, this is not only a benefit to farmers. Two, it is a mischaracterization to say that foreigners pay no taxes on farmlands. Any person who is actively engaged in farming is going to pay full capital gains. Any person actively engaged in real estate as a business will pay full capital gains. This is the only investment in which foreigners are taxed on capital gains. It abrogates the treaties with over 20 nations. I suggest that is not the kind of thing this country wants to do. It is bad for the oil and gas business. It is bad for American buyers of property. It is bad for farmers, and it is bad tax policy.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1900

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered.

ORDER FOR VOTE AT 8:30 P.M.

Mr. DOLE. Mr. President, I ask unanimous consent that the vote on the motion to lay on the table the amendment of the distinguished Senator from Ohio [Mr. METZENBAUM] occur at 8:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me indicate to all Senators that that will be the first vote. We have a window now from 7 to 8:30. It is my understanding that Senator TRIBLE is prepared to offer his amendment now and debate that. That will take an hour. I am not certain whether he is going to insist on a rollcall vote. I do not know anything about the amendment. The distinguished chairman is here and he does. At any rate, there will be no votes now before 8:30 p.m. That will give Senators time. We have reached a point that we are going to have to decide as a body to finish this bill and finish it by tomorrow evening—that will make it a lot easier to meet the deadline we have.

Mr. PACKWOOD. Now I ask a question that will also involve the Senator from Ohio?

Mr. DOLE. Yes, Mr. President, I yield.

Mr. PACKWOOD. I do not mind setting the vote on his amendment aside and debating Senator TRIBLE's amendment for the moment. I have talked to the Senator from Ohio and he has indicated that he is willing to bring up Avon and Denver-Rio Grande even if we vote on the present amendment.

Mr. METZENBAUM. I do indeed. It is my understanding that the manager of the bill does not intend to accept the Trible amendment. Is that correct?

Mr. PACKWOOD. Not if it is the amendment I think it is. I think it is the one involving retirement on Federal employees. If it is, the committee felt very strongly about it and I am not going to accept it.

Mr. METZENBAUM. The Senator is not going to change his mind under any circumstances? It would be good to know if the Senator decides to accept it so the rest of us——

Mr. PACKWOOD. Oh, yes. Unless it is a totally different amendment from the one I am thinking of.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unamimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FUTURE OF TAIWAN

Mr. PELL. Mr. President, last month, two distinguished Americans—Arthur Schlesinger, Jr., and former Senator George McGovern—visited Taiwan to lecture at the Academia Sinica in Taipei. Although guests of

the Taiwanese authorities, they had stipulated as a condition of their trip that they be able to meet with representatives of the political opposition.

Following that trip, on May 30 in the Wall Street Journal, Professor Schlesinger recorded his reflections on Taiwan's current situation and its future. Having myself devoted considerable attention and energy to this subject, I read with considerable interest the observations of this winner of Pulitzer prizes in both history and biography.

Taiwan today is remarkable paradox: an economic miracle and a political anachronism. Although its future relationship with mainland China remains a crucial long-term issue, its most urgent need is prompt movement toward the implementation—on Taiwan—of truly democratic procedures and institutions. To champion this cause, Senator KENNEDY and I recently agreed to serve as honorary cochairman of the newly formed Committee for Democracy in Taiwan, a grouping of Americans who believe that this issue holds the key to Taiwan's future and to the future of United States relations with Taiwan.

For those interested in this subject, I recommend Professor Schlesinger's clearly written article, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWILIGHT IN TAIWAN

(By Arthur Schlesinger, Jr.)

Taiwan has long since drifted to the far edge of American attention. Its problems draw few reporters and stimulate even fewer editorials. Its cause, once the acid test for the militant right, is in eclipse, now that the Reagan administration has chosen geopolitics over ideology and extended the Nixon-Carter policy of strengthening ties with Communist China.

Yet there Taiwan still stands, a thriving country of 19 million people. It has, for Asia, a fairly equitable distribution of wealth, in part because of the effective land-reform program of the 1950s. It has some $30 billion of foreign-exchange reserves. The main current complaint is the decline of the annual growth rate from more than 10% to less than 5%. But 5% growth would give most countries today a feeling of eminent satisfaction.

I have just returned from a week in Taiwan in the company of George McGovern. We no doubt seem an unlikely duo to visit what remains of Chiang Kai-shek's old regime. But younger Taiwanese officials apparently understand that America's once powerful China Lobby is a spent force and that the regime must seek a larger audience if it is to retain sympathy in the U.S. In any event, Mr. McGovern and I were invited to lecture at the Academia Sinica in Taipei. We stipulated we would wish to see representatives of the opposition as well as of the regime. We were assured this presented no problem. And so we went.

REMAINS AN AUTHORITARIAN STATE

Taiwan remains, by any usual definition, an authoritarian state. President Chiang Ching-kuo. Chiang Kai-shek's son, is in undisputed control. The Kuomintang is the single legal party (except for a couple of token groupings, also imported from the mainland, that always toe the KMT line). Martial law, imposed in 1949, is still in effect nearly 40 years later. The Legislative Yuan was mostly elected in 1949. In any case, it has no power to initiate or alter legislation.

The opposition is basically Taiwanese. Actually, the so-called Taiwanese are Chinese who came from the mainland two centuries ago as against the Nationalists who came after the communists victory in 1949. The Taiwanese, who constitute 85% of the population, dominate the island's economic life. But the Nationalists keep political power tightly in their own hands.

The regime professes an interest in democracy. The constitution promises freedom of speech and publication. Martial law, however, supersedes the constitution, and members of the aging regime, when pressed, display testy impatience with the idea of debate and criticism. The very notion of opposition runs counter to the Confucian ethos, which places highest value on the concept of harmony—harmony in the soul, in the family, in the state Opposition thus seems to the older generation illegitimate by definition. This Confucian sentiment is reinforced by the more secular desire to retain a monopoly of power.

In the past years the regime has cracked down savagely on critics. A protest demonstration on International Human Rights Day in 1979 at Kaohsiung, Taiwan's second largest city, led to prison sentences ranging from two years to life for 18 opposition leaders. Henry Liu, an American journalist who has attacked the regime from afar, was murdered in California in 1984 by order of Taiwan military intelligence. Opposition journals on the island are regularly censored, confiscated, suspended and banned. Index on Censorship, the invaluable English magazine, published last year leaked minutes of a secret meeting held by the Taiwan Garrison Command in October 1984 to draw up further plans for the repression of "thought pollution" and "illegal opinions."

This record roused much criticism abroad, and the international reaction seems to have had some effect. Most of the Kaohsiung prisoners are now released. The chief of military intelligence received a life sentence for Henry Liu's murder. While press censorship continues, opposition editors, a lively crowd, are permitted access to newsprint and often after suppression bring out their old journals under new names. American sources in Taiwan say there are only a few hundred political prisoners left in Taiwan jails. Our meeting with oppositionists would have been inconceivable, say, in Castro's Cuba, which I visited a couple of times last year.

The central opposition demands are the end of martial law, the end of censorship, the right to establish a political party, fresh elections and new authority for the Yuan. At present, oppositionists function only as unorganized independents, known as *dangwai,* which means "outside of party." As criticism mounts, the regime has begun to give a little ground.

Chiang Ching-kuo himself is said to favor a policy of conciliation. He has appointed a Taiwanese as his vice president, though no one supposes that Lee Teng-hui, an agricultural economist, will take over when the president, who is diabetic and has a pacemaker, passes from the scene. Still, last December Mr. Chiang said the Chiang dynasty was at an end; no member of his family would run for the presidency after his death. The Taiwanese are getting token representation in the KMT. In May the president instructed the KMT to improve relations with the dangwai in order to promote social harmony. While we were in Taiwan, the KMT, after negotiations with dangwai leaders, granted them permission to establish branches of the Dangwai Research Association for Public Politics. This is far short of a political party. But it marks a possibly significant step in the democratic direction.

If the regime could get over its Confucian hang-ups, it would be greatly to its advantage to move at a much faster pace toward democratization. Both Chinas today are one-party states. The KMT originally was modeled on the Communist Party. Chiang Ching-kuo himself was trained in Moscow. Movement toward human rights and a pluralist system would dramatize the differences between Taiwan and the mainland and give Taiwan a much stronger claim on the support of the democratic world. Mr. McGovern made this point with tact and force in his press conferences. His comments were printed, at least in the English-language press.

A miasma of uncertainty hangs over Taiwan. The reason is that neither the regime nor the opposition has a plausible scenario for the island's future. The regime has dropped its old bluster about reconquering the mainland. Now it forlornly hopes that Taiwan's example may in time convert the mainland to democracy and free enterprise. For its part, the opposition shows no eagerness to submit to a communist government under which it would have far fewer freedoms than it has in Taiwan today. Indeed, members of the regime accuse the opposition of secretly favoring not communism but independence.

There is a certain logic to independence for Taiwan. It is a larger and more prosperous country than most members of the United Nations. But independence would mean the renunciation of the conviction, held with equal fervor in Taipei and Peking, that Taiwan is part of China. Moreover, independence probably would provoke an attack from the mainland in order to recover the lost province. War in the straits would create problems for Japan and the U.S. Both Tokyo and Washington regard independence talk with disfavor.

Deng Xiaoping's line is "one country, two systems." This slogan impresses neither the regime nor the opposition. Even if Mr. Deng means it, his free-swinging economic policy may well be followed by a reversion to Maoism, as the New Economic Policy in the Soviet Union in the 1920s was followed by Stalinism.

Maybe incremental change will quietly move the problem toward some new equilibrium. The two-way indirect trade between Taiwan and the mainland, mostly through Hong Kong, amounts now to more than $1 billion a year. Taiwanese visit the mainland, again through Hong Kong, and private money transfers take place to mainland relatives. A formula was developed this spring to permit both governments to sit as members of the Asian Development Bank. Communist China recently returned a Taiwanese plan flown to Canton by a defector who wanted to see his father in Peking. Taiwan

insisted that the negotiations were on a technical, not a political, level—airline-to-airline, not government-to-government. Still they represent the first formal contact ever between the two states. After all, relations between Peking and the U.S. began with Ping-Pong.

CANDOR IS MISSING

The miasma of uncertainty gives political discussion in Taiwan a sense of twilight unreality. The nationalist leaders are elderly men, set in their thoughts and ways. One does not get the impression one got even in Cuba of any desire to stir up the government by giving important posts to bright young technocrats. A much vaunted Economic Revitalization Commission, set up to reform antiquated and corruptible financial institutions, has been a flop. The regime is mired in slogans of the past; the opposition is mired in preoccupation with the regime. Neither side dares think, or at least talk, with candor about the future.

Yet a new generation of Nationalists is growing up who were born after the civil war and have never seen the mainland. This generation is intermarrying with the Taiwanese, thereby reducing tensions between the two migrations. Perhaps the strongest of all arguments for democratization is that it will free this new generation to undertake the fresh and hard thinking that Taiwan so urgently needs.

Mr. PELL. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

The Senator from Kentucky.

HONORING DOROTHY S. RIDINGS, PRESIDENT, NATIONAL LEAGUE OF WOMEN VOTERS

Mr. FORD. Mr. President, I ask unanimous consent that I may submit a resolution honoring the retiring president of the National League of Women Voters, Dorothy S. Ridings, from Louisville, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FORD. I send the resolution to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 430) honoring Dorothy S. Ridings for her outstanding service to the National League of Women Voters.

The Senate proceeded to consider the resolution.

□ 1910

Mr. FORD. Mr. President, I would like to recognize the accomplishments of Dorothy S. Ridings, who is approaching the end of her second term as president of the National League of Women Voters. I take pride in the fact that Dot hails from the Commonwealth of Kentucky. Her tenure as president of the League of Women Voters has provided an opportunity for her to guide the organization through a period of progressive change and opportunities for women and the Nation as a whole.

Dot's involvement in the league has included an impressive record of community service. She joined the league in 1968 in Louisville, KY, and became a local board member. From 1972 to 1974, Dot served on Louisville Mayor Frank Burke's Honest Election Commission. In 1974, she was elected president of the Louisville and Jefferson County League. From 1975 to 1979 Dot was a member of the Kentucky State Advisory Committee to the U.S. Commission on Civil Rights. Also, in 1977, she served on the steering committee for Kentucky observance of International Women's Year. In 1982, Dot was appointed to the Governor's Commission for Full Equality.

I would like to take this special opportunity to commend Dot's outstanding efforts in organizing the series of 1984 Presidential debates.

I salute Dot for the longevity of her outstanding service as president of the league and for her accomplishments in her business ventures. I urge my colleagues to join with me in formally recognizing Dot's dedication to promote the ideals of our democratic government.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, could I be added as a cosponsor of that resolution?

Mr. FORD. I was just about to do that. Mr. President, I ask unanimous consent to add the distinguished Senator from Oregon [Mr. PACKWOOD] as a cosponsor, and that the possibility of adding cosponsors be left open until the adjournment or recess of the Senate this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I would like to add just a few words of additional compliments. I have known Dot Ridings for 5 or 6 years. I have met her in a number of capacities. Just this morning I was with her on the Capitol steps with 2,000 League of Women Voters and they were here to lobby on the tax bill. The League of Women Voters, if anyone knows them well, realizes they do not come to positions fast and easy. Just because something happens to be chic, they do not jump on it and suddenly discover that in 3 months it is passed. They have been leading the fight for tax reform for a number of years. Several years ago they adopted their resolutions on tax reform and they have been one of the bulwarks in terms of lobbying on this bill and standing firm against amendments. So I am not only delighted in cosponsoring this resolution for Dot Ridings, who I think is sensational, I think the whole league is sensational.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I thank my distinguished colleague for his comments not only about Dot Ridings but about the organization she headed. I think any Senator who has had the opportunity to visit with the members of the League of Women Voters understands their dedication and thoroughness in making their positions on various issues known to those who will cast a vote for representation of their constituency.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 430) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 430

Whereas, the selfless efforts of Dorothy S. Ridings have increased the participation of millions of Americans in this Nation's political process, and renewed public faith in our system of government;

Whereas, her leadership of the League of Women Voters has served greatly to enhance public awareness of the major issues facing the Nation's political leaders;

Whereas, Dot Ridings long has served as a great civic and business leader in the City of Louisville and the Commonwealth of Kentucky;

Whereas, Dot Ridings is approaching the end of the second of two distinguished terms as President of the League of Women Voters: Now, therefore, be it

Resolved, That the Senate of the United States of America honors and commends Dorothy S. Ridings for her outstanding service to the Nation.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TRIBLE. Mr. President, I ask unanimous consent that the call of the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

(The following occurred later:)

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might now be able to proceed with a few comments on H.R. 3838 as amended or the tax bill that is now before us, and that my remarks appear in the RECORD prior to the amendment that is now before us by our distinguished colleague from Virginia, Senator TRIBLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

MUNICIPAL BONDS

Mr. DURENBERGER. Mr. President, as a member of the Finance Committee, I have been privileged to play a small role in shaping and now adopting this fundamental reform in our Tax Code which will be remembered as a landmark piece of legislation, which will enjoy the enthusiastic support of the American public. But when most of us think about tax reform, we think about how it will affect us as individuals.

But tax reform affects communities too—all of the towns and cities in Minnesota and all of the counties and school districts across the Nation are affected by this bill.

As citizens, we expect our communities to educate our children, to provide streets and sidewalks and to maintain public health and safety.

To fund the services we use each day, we use the tax dollars we raise each year. But education requires schools as well as teachers. And public safety requires fire houses and police stations as well as firefighters and policemen. It would be unfair to use today's tax dollars to pay the entire costs of facilities that will be used, not only by you and me, but by our children and our grandchildren.

So instead in America we borrow dollars and we use municipal bonds to effect that borrowing, and transfer the costs of these long-term facilities through the years to come.

From the very beginning of the Federal Tax Code the interest on these municipal bonds has been tax free. That means it costs less to borrow, and therefore to build a road and a shopping center. But some advocates of tax reform have tried to chip away at these municipal bonds which would raise the cost of every local government facility. These people are doing it at the worst possible time.

Over the past 5 years in virtually every area of the budget we have asked State and local governments to pay more and more for more and more public services, Mr. President, with less and less help from the Federal Government. In health care, Federal aid has been reduced by 14 percent, child nutrition programs are down 14 percent, social service funding from the Federal Government is down 29 percent, mass transit is down 19 percent, economic development is down 39 percent, training and employment funds is down 69 percent, and Federal general revenue sharing is on its way out the door at the end of this year.

Community development block grants, UDAG's, EDA's, virtually the entire alphabet soup of Federal aid is on the chopping block today. So when it comes to money, we in the Federal Government are sending State and local officials a very clear message. Do not count on us. All that remains of the financial partnership are the rules and regulations that went with the dollars to State and local government over the last 25 years. The old carrot and stick routine worked pretty well for a long period of time. But today, the carrots are going while the sticks remain.

Cooperative federalism is getting less and less cooperative as the mandates continue but the funding declines. So where does tax reform fit into this reality? The tax reform bill which was handed us by the House of Representatives, H.R. 3838, Mr. President, which got handed to us in the Finance Committee, cut the heart out of the capacity of State and local governments to finance long-term public improvements without having the interest taxed by the Federal Government.

What would that mean to your community? In Dassel, MN, the House bill would have blocked local efforts to build a major Nortronix plant after it was burned to the ground. In Rushford, MN, Dodge Center, and Madelia, it would have undercut efforts to rebuild the main streets of those communities. In the towns of Mora, Bagley, and Red Wing, it would have held up housing for the elderly. In St. Paul, our capital, it would have stymied the expansion of an innovative district heating and cooling system. In Minneapolis, there would have been no low-income multifamily rental housing. In International Falls the House bill would have blocked a conversion of a closed plant in a vital part of the community. So the list could go on and on.

In fact, Mr. President, this pile of letters that I have right here just from the State of Minnesota, and I am sure that my colleagues from the other 49 States, may have larger communications from their constituents, just this pile of letters contains descriptions of many other projects which might not have happened had the House tax reform bill been enacted. That would have cost every citizen of America more in local taxes.

When it became clear that tax reform was a serious issue in the Senate, I could not sit idly by as chairman of the Subcommittee on Intergovernmental Relations and a member of the Senate Finance Committee and simply watch as we laid waste to those provisions of the Tax Code that support a strong Federal system. Fortunately, our efforts paid off. And with the cooperation of BOB PACKWOOD, our distinguished chairman of the Finance Committee, we redesigned the tool which had gotten out of hand saving the best of municipal bonds and curbing the abuses.

□ 2000

Let me make it clear that I did not get everything I wanted for the communities of America in the provisions on tax-exempt bond financing in the bill we are considering here today. I am not happy, for example, with the restrictions on tax increment financing which inhibit one of the few effective tools for redevelopment that cities have left.

I am particularly concerned about the limitations on the size of tax increment districts which will stop dead in their tracks smaller communities in rural areas which are desperately trying to diversify their economies during a time of severe stress brought on by falling farm income and falling farm land values.

I hope the arguments made yesterday on behalf of rural communities by myself and my colleagues on the issue of rural enterprise zones have persuaded the Senate conferees and hopefully the House conferees of the need to amend the tax provisions relative to tax increment financing as it affects rural communities.

These and other changes in the use of tax increment financing deserve close attention in conference. If we don't exercise some restraint there, I believe we will be back soon to undo some of the problems we are now creating for our partners in State and local governments.

In general, however, this bill makes major improvements in the disaster which was created by the tax-exempt bond provisions of H.R. 3838 as it was delivered from the House of Representatives.

I am particularly pleased, Mr. President, that the Senate bill recognizes the fundamental role that tax-exempt financing has played in providing low and moderate rental housing for those individuals and families who cannot afford to take advantage of the tax benefits of home ownership.

I am well aware of the concerns shared by many of my colleagues about the effect that other provisions of this tax reform bill might have on the availability and cost of rental housing in America. That concern is one more justification for maintaining access to tax-exempt financing for that same purpose.

Mr. President, I am also pleased that this tax bill recognizes the vital public/private partnerships needed in the operation of facilities owned and used by the public.

And, this bill deserves strong support for its exclusion from the volume

cap of bonds used to finance water, sewer and solid waste facilities—and, for the first time, adding, under the volume cap, financing for hazardous waste facilities.

In addition, various other provisions of this bill lower the cost for the sale of municipal bonds in the highly competitive bond markets to make the bonds of State and local government more attractive to investors.

These and other accomplishments I have identified in my full statement make it clear that the tax-exempt provisions of this bill are something in which we can all take a great deal of pride.

Mr. President, this proposal was fashioned in the best tradition of cooperative Federalism—with the help and valued assistance of the Nation's Governors, mayors, and county commissioners, and township officers—to meet the needs of all the partners in the Federal system. It deserves our strong support.

Mr. President, I yield the floor.

(Conclusion of later proceedings.)

AMENDMENT NO. 2089

(Purpose: To strike the provision eliminating 3-year recovery of basis in pension plans, and for other purposes)

Mr. TRIBLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. TRIBLE] proposes an amendment numbered 2089.

Mr. TRIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2111, strike out lines 18 through 21, and redesignate the subsequent paragraphs accordingly.

On page 2113, line 16, strike out the end quotation marks.

On page 2113, between lines 16 and 17, insert:

"(5) APPLICATION WITH SUBSECTION (d).—This subsection shall not apply to any amount to which subsection (d)(1) (relating to certain employee annuities) applies."

On page 2114, lines 22 through 24, strike out "In the case of a plan which on May 5, 1986, permitted withdrawal of employee contributions before separation from service, subparagraph" and insert "Subparagraph".

On page 2116, beginning with line 13, strike out all through page 2117, line 8, and redesignate the subsequent paragraphs accordingly.

On page 1371, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $28,775	15% of taxable income.
Over $28,775	$4,316.25, plus 27% of the excess over $28,775."

On page 1371, strike out the matter between lines 14 and 15, and insert:

"If taxable income is	The tax is:
Not over $22,975	15% of taxable income.
Over $22,975	$3,446.25, plus 27% of the excess over $22,975."

On page 1372, strike out the matter preceding line 1, and insert:

"If taxable income is	The tax is:
Not over $17,075	15% of taxable income.
Over $17,075	$2,561.25, plus 27% of the excess over $17,075."

On page 1372, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $14,125	15% of taxable income.
Over $14,125	$2,118.75, plus 27% of the excess over $14,125."

On page 1664, lines 20 and 22, strike out "75,000" and insert "$74,475".

On page 1665, line 2, strike out "$11,000" and insert "$10,958".

Mr. TRIBLE. Mr. President, on behalf of myself and Senators WARNER, STEVENS, GORE, ANDREWS, HEFLIN, HAWKINS, MELCHER, SPECTER, SARBANES, and BURDICK, I have offered this amendment. This amendment proposes to maintain the current method of taxing contributory pension benefits by retaining the 3-year basis recovery rule. Approximately 20 million Americans, primarily Federal, State, and local government employees, contribute to their retirement plans. The recovery rule permits retirees to get back all their previously-taxed contributions before being subjected once again to Federal taxes. That recovery rule permits the average Federal retiree to draw benefits for 18 months before taxes on the Government's share of contributions begins.

The House bill would end the 3-year recovery rule after July 1. The Senate plan now before us would phase the recovery period out over 2 years, beginning in January 1988.

Mr. President, this provision will undo years of financial planning by some 20 million Americans. Just a few lines in this bill of some 1,500 pages will subject public employees in all levels of government and many private sector employees as well to significant financial problems. That we simply ought not to permit.

As my colleagues well know, no one makes retirement plans overnight. Planning for retirement begins years before people actually leave the workplace. Countless decisions are based on the character of retirement programs and millions of individuals and families have based their retirement plans on the expectation that under the 3-year basis recovery rule, they would not be taxed as they withdraw their own after-tax contributions to their retirement programs. It is simply unfair to change the rules of the game when people have been basing important retirement decisions on this provision for over 30 years.

Mr. President, who are these people who would be affected by eliminating the recovery rule? Well, they encompass all of our Federal employees, our Nation's scientists and engineers, doctors and nurses, executives and managers, all those good men and women who serve all of us in Federal Government. It would include Postal Service workers, State and local employees, including our teachers, firemen, and policemen. These are the men and women who provide the essential services of government and they are the people whose financial security is now being imperiled.

These individuals, again, 20 million by number, had planned for a tax-free period upon retirement. Instead, they will now, under the provisions of this Senate Finance Committee bill, experience an enormous and unexpected tax increase at a time when they must adjust to the lower income level of retirement.

Are these fat cats that receive a lot of dollars? The answer to that is no. The average annuity is equal to 56 percent of one's salary in the Federal Government.

OPM, the Office of Personnel Management, estimates—indeed, has established—the average annuity is $12,000. Not a royal sum but essential to the livelihood of millions and millions of people.

Now, 300,000 Federal employees are eligible for retirement by October 1, 1986. Surveys conducted in January of this year indicated that 75 percent to 95 percent of those eligible to retire would do so prior to the effective date of any tax reform provision eliminating the 3-year basis recovery rule.

And I would tell you, Mr. President, that the uncertainty about Federal retirement provisions and the recovery rule in particular have generated already a heavy surge of retirements by public employees who are bailing out to beat any possible change in the law.

In January, the Federal Bureau of Investigation was contacted about these proposed changes and how they would affect their personnel. The FBI said at that time, and I quote, "A substantial number of employees retiring at one time will result in a severe experience drain which will take years to overcome."

Well, Mr. President, the FBI is now suffering an experience drain. During the period of March 4—April 3 of this year, retirements at the FBI were 20 percent higher than in the same period in the last year. Thirty-three percent more retirements occurred between April 4 and May 3 of 1986 than in the previous year. And between May 4 and May 31, there was an increase of 86 percent in the number of retirements.

Mr. President, as the months pass and the time of contemplated changes approaches, more and more people are choosing to retire.

The Central Intelligence Agency indicated that ". . . A significant number (of employees) would retire to avoid the changes. These are officers who would not otherwise be leaving at this time. The potential loss of experience in our intelligence cadre and senior officer core would require the premature elevation of officers who would lack the desirable degree of experience to equip them to handle the added responsibilities in the same manner as their predecessors."

Since the beginning of this year, retirements at the CIA have dramatically increased and personnel officers cite the proposed tax changes and cause. The number of retirements between April and June has more than doubled since last year.

The Department of State commented that "over 70 percent of our senior foreign service employees are eligible to retire . . . an unusually large number of SFS retirements . . . would unquestionably strain our ability to manage the Department."

The State Department is beginning to feel the strain. There has been a 38 percent increase in retirements so far this year and the State Department reports that the proposed tax change is the number one personnel problem.

Mr. President, I could go on and on. The Veterans Administration has suffered a 50 percent increase in retirements due to proposed tax changes. The Immigration and Naturalization Service has experienced a 400 percent increase in retirements over last year for the period of April 3 to June 3.

Each and every department of Government is seeing an exodus of highly-qualified, hard-working, effective personnel; and they are leaving, unquestionably, because of the unease and the uncertainty generated by the provisions of this tax bill that would eliminate the 3-year basis recovery rule.

The Housing and Urban Development Department, in the last month, has seen a nearly 50-percent increase in retirements; the Agriculture Department, a 17.6-percent in retirements. Navy Labs, an essential key of our Nation's defense, has experienced an 84.2-percent increase in retirements. Those retirements, premature as they are, are attributed to these contemplated changes.

We could go on and on, but it is very clear that we are losing skilled, experienced employees at an alarming rate; and if the Senate adopts the proposed tax change, the loss of quality people will increase, and increase dramatically.

I want to point out that these increases in retirements have a severe budget impact. Agencies are not funded to absorb costs of retirements in excess of the number historically occurring in that agency. Agencies suffering unusual numbers of retirements will be forced to seek supplemental funding from Congress, which will be very difficult for us to provide.

The amendment that I am offering strikes the Senate's provisions regarding the 3-year basis recovery rule. The current taxation rules, long in existence, would continue. Employees would continue to be taxed on their retirement contributions and then receive those contributions back tax free before they are subject to any taxation on their retirement annuities.

The proposed amendment is revenue neutral, according to the Joint Committee on Taxation.

To pay for the retention of the recovery rule, the amendment reduces by $525 the levels of taxable income at which the top personal and corporate tax rates proposed by the committee take effect.

For example, the top corporate rate of 33 percent would kick in at a taxable corporate income above $74,475. This is also $525 less than the "breakpoint" in the committee bill.

The changes made by this amendment would be effective at the same time as the new corporate and individual tax rate schedules devised by the committee. Thus, the amendment would be partially effective in 1987, and fully effective in 1988.

The amendment does not affect the indexing of the Tax Code in the committee bill.

This amendment would not affect the poor. The vast majority of middle income taxpayers whose incomes are below the revised "breakpoints." Those taxpayers would still face a tax rate no higher than 15 percent.

The amendment would require those individuals and corporations with the most "ability to pay" to pay slightly more than the committee bill in order to keep our Federal, State, and local governments and many small businesses staffed by able and experienced employees.

Under the committee bill, taxpayers generally receive personal tax cuts. For those with incomes above $40,000 the committee's tax cuts average between 3.3 percent and 6.6 percent. For this reason, adopting my amendment would mean a slightly smaller tax cut, rather than an actual tax increase, for affected taxpayers.

I urge my colleagues to support the revision of the 3-year basis recovery rule. It is the fair thing to do for tens of millions of Americans who have shaped their lives and made countless economic decisions based on this provision of law.

Moreover, it is the smart thing for us to do from the standpoint of our Nation's budget, because if we approve this provision, it will lead inevitably and inescapably to a wholesale exodus from Government of good people on whom we depend. To pay for their retirement benefits and to find others to take their place will add substantially to the cost of Government and will burden not only our taxpayers but also our own deliberations.

I offer this amendment to the Senate, and I urge my colleagues to support this initiative.

Mr. WARNER. Mr. President, I support my distinguished colleague from Virginia.

However, I am informed by the distinguished Senator from North Dakota that he has an engagement, so I will be glad to defer my remarks until later.

Mr. ANDREWS. I appreciate my colleague yielding.

Mr. President, I wish to support this amendment offered by the Senator from Virginia, cosponsored by a number of us, to restore the 3-year recovery rule.

This provision is of particular concern to our Federal and Postal employees as well as State and local government workers. These individuals, who are not covered by Social Security, contribute to qualified retirement plans after-tax dollars.

Under present law, the annuity payment of these retirees is taxed according to the 3-year recovery rule. This rule provides that if the amount of the employee's contributions to a retirement annuity account could be paid out in 3 years or less, retirement distributions would not be taxed until all the employee's contributions are recovered. This assumes that the dollars paid out to a retiree are those which the worker, himself, contributed and has already paid tax on. Because tax has already been paid on these contributions, it pays out the already taxed dollars first.

On the average, Mr. President, under the 3-year rule, the benefits paid out during the first 18 months to 2 years consist of after-tax employee contributions.

Many individuals approaching retirement have financial plans based on this 3-year rule. They have counted on it. They have arranged for perhaps additional job after retirement to take care of the first 2 or 3 years. It is a tradition with them. To change horses, so to speak, in midstream is not fair at all, and it totally disrupts the programming that these families have made in good faith, based on the word of their Government.

□ 1930

The President's tax reform plan unfortunately proposed eliminating the 3-year rule. The House-passed tax reform bill also provided for its elimination.

In February, Mr. President, before the Finance Committee began considering tax reform legislation, I joined with a number of my colleagues in cosponsoring a sense-of-the-Senate reso-

lution, Senate Resolution 304, which urged the Senate to retain the 3-year recovery rule.

We made some progress. The Finance Committee package, while it eliminated the 3-year rule, at least kept it in being until 1988. That is progress to a certain degree, but not the progress we need to keep faith with these Federal workers.

Mr. President, let me point out again that without the 3-year recovery rule, retired individuals with such annuity plans will be taxed immediately upon receiving their first retirement check. It is not fair. It is not what they have been led to expect. It is not what they planned on, and it simply is not the way to run the Government if you care for your employees.

The payment of their contributions which have already been taxed would be deferred actuarially throughout the life to the annuitant.

By eliminating the 3-year rule we are unilaterally interfering with these retirement benefits, we are unilaterally tampering with a pledge that has been made to these workers, to those individuals who may have made retirement plans based on the 3-year rule. This is both unfair and inequitable.

I do not believe that the tax reform bill which is truly fair should take away this tax treatment from our retiring employees.

More important, Mr. President, how do you recruit into the Federal service men and women of good faith if they see the Government has broken faith with them? That is why we want to retain this 3-year rule.

Two days ago we overwhelmingly passed a resolution urging the conference committee to restore the IRA retirement saving plan to its current status.

While on the one hand we encourage people to save for their retirement, we ought then not eliminate the benefits from retirement annuitant payments.

Mr. President, I urge my colleagues to follow this pattern of equity in casting their votes in support of the Trible amendment.

I appreciate my colleague, the Senator from Virginia, yielding to me.

Mr. WARNER. Mr. President, I rise to support the amendment offered by my colleague from Virginia, Mr. TRIBLE, an amendment to preserve the 3-year recovery period for the return of employee pension contributions.

This has been an effort of many months, beginning last fall, when the 3-year recovery period was first proposed for elimination by the House Ways and Means Committee.

Some of my colleagues may remember that it was the proposed exemption from this tax change for the legislative branch which nearly killed the tax bill when it was first considered on the House floor.

As finally approved by the House and left on the doorstep of the Senate, the tax bill provided equal treatment for all contributory pension plans; that is, it was equally unfair to all contributory plan participants.

Earlier this year, I joined with 14 other Senators in cosponsoring Senator TRIBLE's resolution calling for the omission of the House-passed provision from the Senate version of the bill.

Indeed, we were relieved and greatly pleased with the midcourse approval by the Finance Committee of Senator CHAFEE's amendment accomplishing this action.

Our relief, however, turned out to be shortlived as the interim version of the bill was ultimately set aside.

Now, we have before us the tax reform bill approved by the Finance Committee.

Regretfully, the Senate tax reform initiative has been restored containing a new effort to eliminate the 3-year recovery rule.

Mr. President, we have in this country nearly 20 million Americans participating in contributory pension plans.

Of that figure, the single largest group is the civilian employee population of the U.S. Government at 3 million.

The balance is made up of numerous State and local government employees across the Nation and approximately 10 percent of the private sector.

As a rule of thumb, you could say that, wherever employees are not covered under Social Security, you will find them making substantial individual contributions to help finance their retirement plans.

The 3-year basis recovery rule has provided that, upon retirement, employees will have up to 3 years to recover in regular annuity payments a tax-free amount attributable to their own pension contributions.

I stress that this is their money, their own contributions, upon which taxes were paid by them at the time they earned these funds.

Federal employees in particular have long been promised by the U.S. Government the tax-free return up front of their mandatory 7 percent of salary contributions to the civil service retirement system.

I want it understood that our colleagues on the Finance Committee are not denying the tax-free return of employee pension contribution.

What is proposed is a fundamental change in the manner in which the contributions are returned.

The present 3-year recovery basis would be abolished and instead the employee's contribution would be returned prorated over the life of the pension.

Rather than giving employees their own money back, after which the pension would be totally subject to tax, employees would be left with a small tax-exempt share of every pension check, a procedure needlessly difficult to calculate and utimately providing the U.S. Treasury with no additional revenue.

As to that revenue effect, I have a letter from the Secretary of the Treasury, concurring that, "* * * the proposal is unlikely to be a revenue-gainer in the long run * * *" and that it would, in fact, be "closer to revenue neutral."

What then, Mr. President, is the attraction to this provision by both of our esteemed tax-writing bodies?

The answer is quite simple.

The short-term effect of eliminating the recovery period is a vast infusion of new revenue to the Government, estimated by the Secretary of the Treasury at $7.5 billion over the 1986-90 period.

This is understandably very tempting when we are dealing with a Presidential mandate to lower individual tax rates while maintaining revenue neutrality.

My Virginia colleague, Mr. TRIBLE, has worked very hard to provide the managers of the bill with this seriously thought-out amendment, and I join him.

The necessary revenue offset is provided through a slight adjustment to income levels in qualifying for the new and historically low tax rates.

The rates themselves are our engine, the driving force behind our whole effort, and we do not propose to change those rates.

Our distinguished chairman of the Finance Committee, Mr. PACKWOOD, has been heard to ask on this provision, "What is so wrong about taxing Federal employee pensions like everyone else?"

My response is that they already are, once their already taxed contributions have been returned.

Then they receive exactly the same treatment as the 90 percent of private sector pensions which are noncontributory, solely provided by employers, just as we provide the Nation's largest noncontributory plans for the uniformed personnel of our armed services.

In the private sector, in the military and new Federal employees, they are all paying Social Security taxes.

In Government, we have not had Social Security until recently and, I might add, we have just had an outstanding new pension plan signed into law for our post-1983 Federal workers.

It is career Government workers I am worried about, people who have spent their lives in civil service who are now facing a precipice in the design and plan of their retirement years.

My office has been inundated by many of these individuals with calls and letters for help, "because we have been promised that help by our Federal Government."

These are our senior civilian personnel, those with the most experience, the strongest loyalty and the greatest value because of their experience.

In an embattled civil service, these are precisely the people we need to keep.

I fear that if this tax change is approved, we will have an exodus from Government as stated by Mr. TRIBLE.

We have nearly 250,000 Federal employees eligible to retire, not to mention the hundreds of thousands behind them who would be forced to accept this arbitrary change.

The budget impact of a mass retirement would be staggering.

Yes, the annuities would be cheaper than salaries, but what about the costs of replacing these people and training new individuals to take their places?

□ 1940

While our colleagues on the Finance Committee have been closeted on tax reform, the Civil Service Subcommittee chaired by the distinguished Senator from Alaska [Mr. STEVENS] has been holding hearings on the severe recruiting and retention problems currently faced by the Federal Government.

The approval of this tax change can only make a difficult situation far worse.

No Senator in this body has more respect for the accomplishment of the Finance Committee in bringing this bill to the floor than myself.

Our distinguished managers know that they have and will continue to have my support for this bill.

Their leadership has been outstanding, but I believe they will want to consider this amendment as being a reasonable request. I call on all of our colleagues to lend their support to Mr. TRIBLE's amendment and let us correct an injustice.

Thank you, Mr. President.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, hidden in this monstrous tax bill here—monstrous in size—on page 2111 are three lines repealing the rule for employees annuities that governs the treatment in those instances in which employees have contributed to a pension plan. In other words, they were taxed on their income at the time they received it. They then make an after-tax contribution to a pension plan and, under the current rules, in the first 3 years after they retire, they are allowed to recover the amount of their contribution tax free. Subsequently, they pay full tax on their retirement representing the amount put into it by the employer.

Now, these are the rules under which almost 20 million Americans have operated. These are the rules upon which they have relied. These are the rules which have governed their planning for their retirement years. And I submit that those are rules that ought not to be lightly cast aside.

What the committee has done is not legislate sometime into the future, enabling people to adjust their plans, but, in effect, has legislated imminently. What that means, of course, is that people who have very carefully tried to provide for their retirement years—and it is not only Federal employees. You have State and local employees, teachers, firemen, policemen all across the country, people in the private sector who make a contribution to their pension plan in order to obtain an annunity. All of these people will be affected. In every instance, the rules will be changed on them at the latter stages of their working life.

Now I submit to you that that is unfair. You ought not to expect people to play by a set of rules throughout most of their working life, to base their retirement upon it, and then, shortly before they are going to retire, significantly change the rules on them.

This provision, which has been in the law, has worked well. It has been counted upon by literally millions of people. And the Senate now is proposing, in effect, to change the nature of the game.

Now, what is going to happen as a consequence of this, as my distinguished colleague from Virginia has pointed out, is that many people are taking early retirements in order to avoid the application of this changed law. That, in effect, will cost pension funds all across the country a significant amount of money which would not otherwise have been incurred. And, therefore, this proposal of the Finance Committee carries with it an additional cost that has not been fully calculated, and that is the cost that comes from the fact that many people faced with this rule—and who can blame them? Many people faced with this rule will retire earlier than would otherwise have been the case and, therefore, place a greater strain upon the retirement system.

Now, it is true that, over the long run, the provisions here will be revenue neutral by the time they factor themselves out. But what is not revenue neutral is the impact that it has in the immediate 3 years upon our retirees with respect to their benefits.

Now, public employees—and they constitute a large part of those who receive this particular benefit, although there are people in the private sector as well—but public employees have already suffered very severe cuts in their income and benefits, not only Federal employees, but State and local employees, all across the country. And if we are concerned about the vitality of our public service and about State and local government, as well as Federal service, being a career that will attract able and competent people, I do not think we can send a message that the rules will be changed on you at the very end of your working life.

This happens at once, with the possibility of a year or two delay in here. But it, in effect, happens at once. And it is not an instance in which the committee has decided for the future to lay down a different standard. The impact on people affected will be very severe indeed. It will change people's ability to handle their retirement, to handle their responsibilities. I submit to the Senate we ought not to be taking this step.

The Senator from Virginia has worked out very carefully a provision to address the question of coming up with the revenues in the short run which would be involved in going back to the existing system. I think it is a fair proposal that he has submitted to us.

I very strongly urge the Members of the Senate to support this amendment to restore the law to its existing state and to keep faith with millions of people who have based their retirement plans, wisely, reasonably, upon the existence of the current provision in the law with respect to a 3-year recovery of their contributions—contributions which were taxed at the time that they made them. The contributions made by the employees were taxed to them at the time that they made them.

I very much hope that the amendment of the Senator from Virginia will carry the support of this body.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might speak as though in morning business for approximately 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

□ 1950

CHIEF JUSTICE WARREN EARL BURGER

Mr. DURENBERGER. Mr. President, as a native of Minnesota, I have been very proud of the strong leadership which St. Paul, MN, native Warren Burger has given to the U.S. Supreme Court during 17 years of service as Chief Justice of the United States.

Although Warren Burger has presided over the Court during many important decisions, I believe that he will be remembered most for the courage and the timing displayed in asserting the supremacy of law over the actions of men during the near constitutional crisis this Nation experienced around the investigation and ultimate resolution of the Watergate scandal.

Certainly there have been many important cases decided by the U.S. Supreme Court during the Warren Burger years, cases which will shape the future of this country and the lives of future generations. But Warren Burger deserves the greatest acclaim for his work in professionalizing the Court, and striving to continually improve the administration of justice in America at all levels in this country. Warren Burger's greatest love is the U.S. Constitution. And it is fitting, and I am sure very satisfying to him personally, that he will now be able to devote full time to his role in commemorating the Constitution's bicentennial in 1989. We wish him well in that important task. And I know one other person who will appreciate Warren Burger's changing from Chief and chairman to simply chairman.

Since 1933, Elvera Stromberg has been Elvera Burger. Through outstanding times, Warren's partnership at the law firm of Faricy, Burger, Moore, and Costello in downtown St. Paul, to the time that he spent as Assistant Attorney General of the United States, appointed by President Eisenhower, and to the time that he spent as a judge of the U.S. Court of Appeals in the District of Columbia from 1956 to 1969. Through a variety of experiences that she has had in her own right, Elvera Burger has been an outstanding American, an outstanding contributor to this city, and to the community in the years that Warren served on the bench.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Alaska.

Mr. STEVENS. Mr. President, I am very concerned about a provision in the tax bill now being considered which would radically change the way in which retirement annuities are taxed. This proposed change would have a particularly adverse effect on Federal service retirees. The proposed change would eliminate the 3-year rule for tax-free recovery of an individual's contribution to his/her retirement fund.

Under the current system, Federal employees' annuities are paid entirely out of their own contributions for 18 months to 2 years on the average, tax-free. Of course, this money was taxed as income during working years. Many of our Federal employees count on using this initial period of time in retirement to pay taxes on other retirement savings, IRA's, and lump-sum accrued leave payments.

With these proposed tax changes, the employee's contributions would be spread out and paid in the form of annuities over the actuarially estimated period of the retiree's life. Beginning in the first year of retirement, the retiree would pay taxes on the portion of the annuity which comes from the Government's contribution. This would be in addition to the other taxes which must be paid on IRA's, accrued leave lump-sum payments, et cetera.

During the past few months, there has been a considerable amount of confusion in the Federal work force about this proposal. To begin with, the House Ways and Means Committee and Treasury proposals initially set a January 1, 1986, effective date for this very significant change, which meant that employees were faced with making a decision to retire in December on very short notice. In fact, under one interpretation, employees would have had to retire by December 3 to avoid the tax change. Needless to say, this created a degree of panic among Federal employees nearing retirement. The employees were very confused and the agencies were equally perplexed about advising employees on retirement.

I understand that the Ways and Means proposal now sets an effective date of July 1, 1986, which at least relieves some of the time pressure. The Finance tax bill sets a January 1, 1988, effective date, with full phase in of the repeal effective January 1, 1989.

Our Senate finance bill sets a January 1, 1988, effective date with full phase-in of repeal effective January 1, 1989.

I am troubled by the implications of the repeal of the 3-year recovery rule for Federal workers. Choosing when to retire is a major life decision. As a result, planning for retirement is a long-term process, requiring carefully thought-out financial arrangements. Many Federal employees have made lifelong plans for their retirement income security under the current rules.

Eliminating the 3-year recovery rule would mean undue, and sometimes irreversible, disruption to longstanding financial arrangements for retirement. It would mean that Federal retirees would pay thousands of dollars more in taxes much sooner than expected. The average retiree would pay about $8,500 additional taxes over a 2-year period. Higher income employees could be paying an additional $25,000 to $30,000 more over 3 years.

At present, Federal employees do not enjoy the same advantages of tax deferred retirement savings as their private sector counterparts do. Nor do Federal employees have the advantage of tax-deferred retirement contributions as do private sector employees. Eliminating the "3-year recovery" rule compounds the current inequity, putting the Federal employee at an even further disadvantage.

There is also a short-range pitfall as I see it. We run the risk of driving out a number of key senior Federal employees who have no choice but to retire perhaps before July 1, 1986, because of the tremendous financial loss they will face.

I sincerely regret this disruption that will be created in the Federal work force as a result of the pending proposal, and I intend to vote for the pending amendment of the Senator from Virginia, Senator TRIBLE.

I would like to call to the attention of the managers of the bill that since these bills have been before the House and before the Senate, the Congress has enacted and the President has signed the new Federal employment law. We now have a new noncontributory pension system for those employees hired after January 1, 1984. So the number of employees affected by this proposal are now known. They are those employees who were hired before January 1, 1984, and who have a retirement plan under the Federal civil service retirement plan.

We can get, I think, a better estimate of the cost of the proposal which has currently been given to the Finance Committee and the Ways and Means Committee now because of the change in the Federal law. I am hopeful that the conference on this bill will definitely take into account the number of employees that are affected.

We have definite statistics on the number of employees who now could be expected to retire who would be affected by the elimination of the 3-year recovery rule.

Since they are recovering moneys they contributed to a contributory retirement system after taxes, it is not the same thing as recovering those moneys that come from pension plans to which the employee does not contribute. I fear that the Ways and Means Committee in particular confused the two. I have every confidence that the Finance Committee here in the Senate reviewed the matter, because I know I asked the Finance Committee chairman to do so and he has done so. He has modified the House provision. I congratulate him for doing that. He has modified the

impact of this change. As I indicated, the proposal before the Senate would put off until January 1, 1989, the full phase in of the repeal.

□ 2010

So that does give those people who are in the position of nearing retirement—if the Senate provision prevails—at least a better chance in adjusting their retirement plans.

Mr. President, I am concerned about those people who will retire out beyond 1989 who are in the old system. They are not covered by Social Security, they will not begin getting Social Security payments immediately in terms of their retirement plans. They rely upon the Federal civil service retirement plan, which stays in effect for the old employees who were hired before January 1, 1984. As such, if we are going to keep those people in Federal civil service, I think we should do everything we can to maintain the advantages they had under the old system. They will not have the new contributory plan, the thrift plan that was in the bill the President has recently signed, whereby the employee will make contributions to a thrift plan for his own retirement if he chooses to save a portion of his income. They will not have the advantages of a noncontributory pension system that the new employees will have. They must rely now upon the old system.

I believe one of the problems we are going to face under the old system is to maintain the COLA's, the cost-of-living adjustments that will be required to make that old system viable in the future; whereas the people under the new plan will have the thrift plan, in which they will invest and the Federal Government as employer will contribute to, which will be invested in the private sector and it will grow as other investments grow. If there is a large amount of inflation, it will have the stability and diversity. It will certainly have a greater return on investment than those who have contributed to the civil service retirement plan have had.

In short, Mr. President, again, I thank my good friend from Oregon for the consideration he has given to the request that many of us made, that the Committee on Finance consider the proposition that was in the Ways and Means bill. I am pleased that the provision in the Senate bill as far as the treatment of Federal employees upon retirement is better with regard to this 3-year rule for tax-free recovery. But I, if my vote counts, would vote for maintaining the 3-year recovery rule, knowing full well that the number of people to which it will apply is limited because we have repealed, in effect, that retirement plan. No other people who come to work for the Federal Government will have the Federal civil service retirement plan a contributor plan, under which an employee would have the opportunity to recover his own or her own after-tax contributions to a retirement system.

Mr. President, I shall support the amendment of the Senator from Virginia.

Mr. President, I apologize for appearing before the Senate in this garb. I am supposed to join my wife at a party obviously, and I am here until this matter is over.

Mr. SARBANES. Will the Senator from Alaska yield?

Mr. STEVENS. Mr. President, I shall be happy to yield to the Senator for his comments.

Mr. SARBANES. Mr. President, I think the Senator from Alaska has made an extremely important point. He has been a major actor in the Senate in shaping the Federal retirement system. He has done a very skillful job of that.

The point he is making is that this existing provision could be retained in law and over time, at least as far as the Federal employees are concerned, would cease to have application because the new retirement plans, in effect, phase out this arrangement. So, in effect, what we are seeking through this amendment is to maintain an existing arrangement for an old retirement system. To the extent this involves the State and local people, you have local government employees, you have a similar development taking place and that is their incorporation into the Social Security system, which was not the case in many instances.

Over time, they have been drawn into the Social Security system so they have an alternative retirement system available to them at the State and local level. But for the people who do not have that available to them, this provision, just as in the case of the Federal employee, is extremely important.

I think the Senator has put his finger on a very, very important point that Members of the Senate ought to consider.

Mr. STEVENS. I thank the Senator from Maryland for his comments. I understand it well from the State and local employees, too. I do believe, Mr. President, that those who contribute after-tax dollars to the federal system ought to be continued to be allowed to draw down first in their retirement under the 3-year recovery rule those contributions they have made to the plan on an after-tax basis. It is part of the system that these people have planned on and they expect. To change that now and to have them paid on the basis of an actuarial estimate as to the time they ought to live means that there are going to be winners and losers under that proposition. For those who would be losers, those who feel they would have a shortened life expectancy, I believe that this is just an added incentive to leave the Government early. We have a tremendous investment in their experience and their know-how. I would prefer not to change the rule.

But I think we have to be sure we constantly remind the Senate that this is a better provision than the House provision and we want to do everything we can to see to it that the Senate provision prevails.

Mr. TRIBLE. Mr. President, would the Senator yield briefly?

Mr. STEVENS. I am happy to yield to the Senator from Virginia.

Mr. TRIBLE. I, too, want to thank the Senator for his leadership, for caring about Federal employees and for working so hard to be sure we can attract and retain the very best people who are so necessary to the ongoing work of Government. I would like to underscore a point that has been made now in the colloquy between the Senator from Maryland and the Senator from Alaska.

That is that these changes contemplated by the bill before us would impose an unexpected tax burden on public employees as they move from employment to retirement at a time when, history shows, their income becomes limited, substantially less.

Moreover, we are talking, in the case of Federal employees, about people who, at least to date, have been unable to contribute to Social Security and take part in that system and receive benefits from that system.

Finally, we are talking about a body of Federal employees who, on the average, receive in pretax annuity payments $12,000 a year. So we are talking about a whole lot of people who do not have a lot of outside income and a whole lot of income generally on which to depend as they move into these retirement years.

I thank the Senator for his remarks tonight. I thank him for supporting this measure and I thank him for his leadership.

Mr. STEVENS. I thank the distinguished Senator from Virginia for his kind remarks.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, may I ask the Senator from Virginia a procedural question?

Mr. TRIBLE. Surely, Mr. President.

Mr. PACKWOOD. As I understand it, there are no other speakers that he knows of who want to speak on this amendment.

Mr. TRIBLE. That is correct, Mr. President.

Mr. PACKWOOD. Mr. President, we have a vote in the Senate on the Metzenbaum amendment on the so-called transition rule and we could probably vote on this particular amendment shortly after the vote on the Metzenbaum amendment.

Mr. STEVENS. Why could we not start on it now?

Mr. PACKWOOD. Because we had an agreement that we would not vote until 8:30 p.m.

Mr. TRIBLE. Mr. President, would it be appropriate at this time to ask for the yeas and nays on my amendment?

Mr. PACKWOOD. Yes, Mr. President.

Mr. TRIBLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, let me compliment the distinguished Senator from Virginia, Mr. TRIBLE. If he has talked to me once on this subject, he has talked to me 20 times. He has followed me, he has dogged me, he has caught me in places I did not think he could catch me. If there is anybody who has been on the side of Federal employees, it is Senator TRIBLE. But this amendment, both in the House and in the Senate, does not apply just to Federal employees. We have been talking as if only Federal employees are involved. Yet it is any employee, whether in Federal employment or in private employment, who happens to fit the situation set forth in the 3-year basis recovery rule of current law.

The way the law now exists, it favors two particular types of employee.

□ 2020

It favors those employees who have higher pensions rather than lower pensions, and I will explain that a bit later. It favors those employees who pay proportionately less toward their retirement and whose employer pays more toward the retirement.

The current law requires that the employee must receive back all of the money that the employee has put into the pension plan within 3 years. If you do not receive it back within 3 years, then you are subject to taxation just like any other employee. Again, that applies to public or private employees. So let us assume two situations. Assume there is a total of a $200,000 contribution to a pension plan, and you are going to retire at age 65. If you are going to be presumed to live 10 years, then you are going to collect $20,000 a year. Now, I know the example is not representative and there will be some income on the $200,000 as you are retiring, but let's use it for purposes of debate.

Let us presume that you, the employee, have put $50,000 into the pension fund and your employer has put $150,000 into the pension fund. Now, remember, when we have a 3-year requirement, all of the money that you put in must be paid to you within the first 3 years. At $20,000 a year, you are going to collect all your money back before the first 3 years are out, so you get the advantage of not being taxed on the first $50,000.

Now assume an identical pension fund, $200,000 total contributions, you retire at age 65, and will receive a pension of $20,000 a year. You are presumed to live for 10 years. But in this fund you have put in $100,000 and the employer has put in $100,000. Because you do not collect the amount you put in in the first 3 years—you collect only $60,000—you do not get the advantage of the rule, and you pay taxes from the start. So right away the plan gives preference, the law gives preference to those employees who pay a relatively small amount into their pension fund and the employer pays a greater amount into the pension fund.

The reason so many Federal employees benefit under this 3-year rule is that they happen to fall into that category of employee who, on balance, pay relatively less into the pension fund than similarly situated private employees. That is the only reason. But now let us understand how it works so we get rid of this idea about double taxation.

Let us assume you fit into the 3-year rule. Let us assume now for purposes of this example you are going to live 10 years and your pension is $5,000 a year. Fifty-thousand dollars over the 10 years. If your contributions were $15,000, you fit within the so-called 3-year rule that now exists, you pay no taxes for the first 3 years. Then for the last 7 years you collect $5,000 each year and on that you pay taxes. The difference is that under the present 3-year rule you would pay no taxes for the 3 years but in the last 7 years you would pay higher taxes because all of your pension is taxable than you would pay if you paid taxes each year for the 10 years and only a portion of your pension is taxable. In either event you come out to the same at the end. But the advantage to the Federal employee is that the Federal employee, or whoever is under this system, pays no taxes for the first 3 years.

That brings me to the argument as to why this benefits those who are more wealthy pensioners as opposed to those who are poorer pensioners.

Let us say that you are relatively wealthy. For the first 3 years you are not going to be taxed at all and you have a house, you have a beach house someplace, you have some other miscellaneous investments but you have decided you are going to retire to Arizona or southern California or Florida. So you sell your house, you sell your beach house, and you dispose of whatever other assets you have, all at a time when none of your pension is being taxed so you are in a lower tax bracket and you dispose of whatever investments and assets you have at a very low tax rate, and dispose of them within the 3 years. Then after the 3 years—you have disposed of these assets at a low rate—your pension is now subject to taxation, and that is a wonderful situation for you if you are a wealthy enough retiree that you have these assets. But for the average retiree, the $12,000 a year Federal retiree or the normal retiree in private enterprise; they do not have those kinds of assets. If you are a low-paid pensioner, you are not in a position to dispose of your first house, your second house, your other assets. You are lucky to have one house. So you are not as favored as the richer retiree.

Now, who is going to pay for all this? We might as well call a spade a spade. This is a tax increase on the middle-income taxpayer in this country. It is a tax increase not because we increased the rate of tax. It is a tax increase because we start the rate at which you pay taxes in the 27-percent bracket at a lower amount. Example: Let us say that you would normally not pay the 27-percent tax rate until you reach $42,000. Now let us say in order to pay for this amendment—and again I am using this as an example, but this essence is what the proponents have done—you will now start to pay a 27-percent tax rate for a family of four at $41,475. It is a higher tax rate. You have increased the taxes on this person, and this amendment would increase the taxes on all of the middle-income taxpayers in this country to benefit basically wealthier retirees as opposed to poorer retirees.

Now, I full well understand why the Senators from Virginia and the Senators from Maryland support the amendment of Senator TRIBLE, and we all understand the necessity to take care of our States, and we should. No one else is going to take care of our States. If you are a Senator from Virginia or a Senator from Maryland, you ought to fight for that State. I am a Senator from Oregon, and I will fight for my State. Virginia and Maryland, simply because this is where people have lived while they have been working for the Federal Government, have a disproportionately large number of Federal retirees, infinitely larger in relation to the population of those States than any other State in the Union. Most people retire where they work and they stay retired there. So this is a very sensitive political issue, understandably a sensitive political issue, for the Senators from Maryland and the Senators from Virginia. But the Senate still postpones the effective date of this transition for a year and a half. You can retire this year, you can retire all of 1987, and still get the benefit of the 3-year rule in the existing law. If you retire in 1988, the Senate bill leaves 50 percent of the benefit of the 3-year rule. Compare this to the House bill, which has an effective date of July 1 of this year. It is going to be

71-059 O-87-31 (Pt. 10)

in effect the next 2 weeks. As a matter of fact, the Office of Personnel Management has said if you have not issued your intent to retire by June 3, it is too late. Under the Senate bill you have a 2½-year extension. That is a fair notice. We are changing provisions in this tax bill retroactively. We have abolished the investment tax credit as of January 1, 1986. We are changing rules on passive losses that apply to past investments, and here we are saying this change in the 3-year rule will not go into full effect for 2½ years. If the amendment of the Senator from Virginia prevails—which would keep current law—simply understood who will pay for it: The middle-income taxpayers of this country are going to have their taxes raised so that basically wealthier retirees, not poorer retirees, wealthier retirees, can continue to have the benefit of the Tax Code the way it is.

□ 2030

Mr. President, I do not think it is fair to ask those middle-income taxpayers to shoulder that burden, and I hope this amendment will be defeated.

VOTE ON AMENDMENT NO. 2087

The PRESIDING OFFICER. The hour of 8:30 having arrived, under the previous order, the vote occurs on the motion to table the Metzenbaum amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 18, nays 80, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—18

Armstrong	Hatch	Simpson
Bentsen	Hecht	Stafford
Cochran	Humphrey	Stevens
Danforth	Laxalt	Symms
Goldwater	Mathias	Wallop
Hart	McClure	Weicker

NAYS—80

Abdnor	Dixon	Hawkins
Andrews	Dodd	Heflin
Baucus	Dole	Heinz
Biden	Domenici	Helms
Bingaman	Durenberger	Hollings
Boren	Eagleton	Johnston
Boschwitz	East	Kasten
Bradley	Evans	Kennedy
Bumpers	Exon	Kerry
Burdick	Ford	Lautenberg
Byrd	Garn	Leahy
Chafee	Glenn	Levin
Chiles	Gore	Long
Cohen	Gorton	Lugar
Cranston	Gramm	Matsunaga
D'Amato	Grassley	Mattingly
DeConcini	Harkin	McConnell
Denton	Hatfield	Melcher
Metzenbaum	Proxmire	Simon
Mitchell	Pryor	Specter
Moynihan	Quayle	Stennis
Murkowski	Riegle	Thurmond
Nickles	Rockefeller	Trible
Nunn	Roth	Warner
Packwood	Rudman	Wilson
Pell	Sarbanes	Zorinsky
Pressler	Sasser	

NOT VOTING—2

Inouye	Kassebaum

So the motion to table the amendment (No. 2087) was rejected.

Several Senators addressed the Chair.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

Mr. WALLOP addressed the Chair.

The motion to table was agreed to.

Mr. WALLOP. Mr. President, objection. I believe the Senator is entitled to debate before the motion to table is made. I was seeking recognition.

The PRESIDING OFFICER. The motion to table is not debatable.

Mr. WALLOP. I understand that. I was seeking recognition in advance of the motion to table.

The PRESIDING OFFICER. The Chair recognized the majority leader who made the motion to table.

Mr. WALLOP. Mr. President, the Senator from Wyoming was seeking the floor to debate the motion to reconsider. The Senator from Wyoming is entitled to that motion whether or not the majority leader was seeking the floor.

The PRESIDING OFFICER. The motion to table has been made.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. MURKOWSKI). The majority leader is recognized.

Mr. DOLE. As I understand the distinguished Senator from Wyoming, he wants to discuss this matter. I hope we might withdraw the motion to table, and let him proceed to do that.

Mr. METZENBAUM. Is there some understanding that it is merely for the purpose of discussion?

Mr. WALLOP. There is no understanding whatsoever, Senator. I was entitled to seek the floor to debate the motion to reconsider.

Mr. LONG. Mr. President, I have been here on other occasions when the Chair failed to hear a Senator addressing the Chair, and the Chair put the motion while the Senator was on his feet seeking recognition. Without exception, even on some very hot and divisive issues when the Vice President came down to rule on the matter, the Presiding Officer, when it was called to his attention that the Senator had been on the floor seeking recognition, made the statement that he had not seen the Senator, and rescinded the statement that the motion carried, and he recognized the Senator. That is the precedence. I have seen it happen, Mr. President.

The Senator should be permitted to make his statement. I hope the Presiding Officer would simply say that he made a mistake because I heard the Senator address the Chair while this was going on, and before the motion was put and agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I think obviously the distinguished Senator from Wyoming should have that right. I ask unanimous consent that I might withdraw my motion to reconsider.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, will the distinguished Senator yield for just a moment so that I might inquire of the distinguished majority leader what the program is for the rest of the evening, and without the Senator losing his right to the floor?

Mr. WALLOP. By all means.

Mr. BYRD. I thank the Senator.

Mr. DOLE. Let me yield to the distinguished chairman of the committee. I think he has pretty well mapped it out.

Mr. PACKWOOD. Mr. President, we will probably be here close to midnight. Senator METZENBAUM has two amendments, one on Avon, and one on Denver-Rio Grande. When we finish disposition of this, we will be on the Trible amendment relating to retired Federal employees. I think we are not far from a vote on that.

The Senator from Arkansas, Mr. PRYOR, has an amendment on transition, all of which will require rollcalls. We are prepared to go on.

I think we can do two, three, or four in the next 2 or 3 hours.

Mr. BYRD. I thank the distinguished Senator.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, now that I have the floor, I do not intend to put the Senate through another vote. But I think that it is important to recognize that anyone is entitled to debate the motion to reconsider notwithstanding the customary recognition of the majority leader.

Mr. President, I only want to say, if I can have the attention of the Senate——

The PRESIDING OFFICER. Will the Senators conversing please step to the cloakroom?

Mr. WALLOP. Mr. President, we have just seen a rare run of courage when politics took precedence over tax policy.

I understand that, and I have been here long enough to know that is the way it is going to be. That is why I do

not seek to put the Senate through another vote.

But as I say, Mr. President, when the farmer who is going bankrupt or who is seeking to avoid bankruptcy puts his property on the marketplace, he is going to wonder very much why this Senate has diminished his marketplace, and diminished those who might have been able to bid on it.

□ 2110

We have heard of a lot of foreigners doing it, but there has been misinformation on this amendment tonight. A variety of Senators got up and said this was a means by which foreigners paid no taxes. And what a lie. What an absolute lie. That is not the case and I suspect that at least some of those who mentioned that argument knew it.

If a foreigner is in the active business of farming, that foreigner pays a capital gains. If a foreigner is in the active business of real estate investment, that foreigner pays capital gains, as well as income tax.

If a foreigner is in any way involved in leasing in the oil and gas business as a profession and a business, that foreigner pays capital gains.

The only circumstance that we were trying to address in the repeal in this amendment is really a rather simple thing: that the foreigner who invests in real estate, whether farming or any other kind of thing, in a passive way is entitled to the same tax treatment as any other foreigner investing in the stock market or anything else in this country.

Then if you will take a look at that chart behind the head of the Senator from Indiana, most of our trading partners do not tax long-term capital gains. Everyplace on that list that has "none" has a treatey violated tonight.

We gave the Treasury Department 5 years to renegotiate these treaties and they did not do any of them. In fact, they did not even try. They were simply counting on the U.S. Senate to abrogate treaties out of hand. That is what we have done tonight.

Now we have another interesting thing for the American buyers of property in this country. The American buyer of property goes up to somebody who has property for sale and offers him a price and they make a deal. I just sold my house, Mr. President, at a cost of $25. I was asked to sign a little sheet in front of a lawyer saying that I, as the seller, neither was a foreigner nor did I have foreign partners. But should a foreign seller lie and take this money from the sale of that property and go home to his foreign country, guess who pays? The American buyer is responsible for that.

I must suggest that the passive foreign investor in any real property, whether it is apartment houses, oil and gas leases, farmland, what have you, in this country does not have a way out of that. First of all, if there is any money coming off of that, there is a 30-percent withholding. So that foreign investor would rather go to the stock market where there is no withholding and where there is no capital gains.

If he stays in this thing in a passive way, he pays more taxes than his American neighbor who is an active or a passive investor.

What we have done is said to the hundreds of thousands of people in this country who own property, many of them foreigners, is, "Your market is diminished."

What you have said to the American people is really a more fascinating thing, that while we like foreign investments in this country since it lowers interest rates and provides more working capital, we want it all liquid so you can take it away in the morning. We do not want anything in here that will take a little time. Just take it away in the morning.

You heard that argument made and it is made for a purpose, because it represents a danger and a threat.

But, oh, the politics of it tonight were just simply spectacular, especially those who said, "Do not let them buy our farmlands."

Where will they take our farmlands? Will they take them to Germany, to Hong Kong, to anywhere? Farmland stays here.

One of the other curious things about it is, to everybody who has had anything to do with the farm crisis because I have and I own one and I represent a State that is thoroughly involved in agriculture, we have said the most fascinating thing of all. America says that we produce much food. We have talked to Indians, to the Chinese, to a lot people around the world who consume food. Yet those of us in the world produce more food than they can eat. We all know, and everybody in a farm State knows and better know if he does not, that much of what is now arable land in the farmland of America is going to have to go into passive holdings of some kind, be it recreation, to make a long-term holding for investment, to make some other type of thing.

Who do you want to buy that? Why have you said no to some people who want to buy that? Why have you said no to people who might take some land out of production for the time being so that there would be a chance for the American farmer to produce on the land which he wishes to have in an active manner? Why not tell him that, "What you produce is not going to be in competition with some land that some people would like to hold for the future."

No, this is in the department of absolute, glorious, political courage which said, "I would rather not make the argument."

Mr. President, I have made the argument and I am glad I did. I hope and I suspect that somewhere along the line some of America's farmers and some of America's property owners will wonder very much why we took this opportunity tonight to abrogate America's word on solemn treaties, obligations between our country and other countries; why the Senate tonight took the opportunity to diminish the marketplace when every single person who has property that has diminished by 50 and 60 percent would like nothing better than to have one more buyer come by and bid on that property.

But, no, the Senate in its courage finds that the easiest argument and the least responsible argument is the one to make, and that is the vote.

I want to thank those membrs of the Finance Committee and others who said that they would act with us for not doing so.

Mr. President, I yield the floor.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The question is on the amendment.

The Senator from Ohio.

Mr. METZENBAUM. I believe the motion is a tabling motion.

Mr. WALLOP. Mr. President, I move to table the motion to reconsider.

The PRESIDING OFFICER. A motion to reconsider has been withdrawn. Another motion is not in order. The question is currently on the amendment. All in favor signify by saying aye; opposed no.

There is some doubt in the mind of the Chair.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Those in favor will please stand.

A division has been requested by the Chair.

All those in favor of the amendment please stand.

Mr. METZENBAUM. Are you saying if in favor of the amendment stand?

The PRESIDING OFFICER. That is correct.

Mr. METZENBAUM. Is this to table the amendment or an up or down vote?

The PRESIDING OFFICER. This is up or down on the amendment.

Mr. METZENBAUM. So that those who voted no on tabling should be standing at this moment, is that correct?

The PRESIDING OFFICER. The Senator from Ohio is correct.

□ 2120

The PRESIDING OFFICER. The clerk will please count the Senators.

The clerk having completed the count; those opposed will please stand.

The yeas have it.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The amendment is agreed to.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The vote has been announced.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2089

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Virginia [Mr. TRIBLE].

Mr. TRIBLE. Mr. President, let me briefly summarize the intention of the sponsors of this amendment and respond to points raised by the chairman of the Committee on Finance. Then I shall quite willingly submit this amendment to the will of the body.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. TRIBLE. Mr. President, on behalf of myself and Senators WARNER, STEVENS, GORE, ANDREWS, HEFLIN, HAWKINS, MELCHER, SPECTER, SARBANES, and BURDICK, I have offered the amendment now before us.

This amendment would preserve the 3-year basis recovery rule. Today, there are 20 million public and private employees who contribute to their pension plans. Under the 3-year basis recovery rule, they are permitted to withdraw their after-tax contribution from those retirement plans upon retirement. Then, and only then, do they begin paying tax on the contribution made by their employer. That has been the rule for over 30 years.

Millions and millions of Americans have shaped their lives on the basis of this rule and the expectation that as they move into those first years of retirement that their after-tax pension contribution will be returned to them without paying taxes.

The House-passed bill would eliminate this recovery provision effective July 1. The Senate Finance Committee, responding to the concerns of this Senator and many of our colleagues, proposes to phase in the elimination of this provision. It would be eliminated between January 1988 and January 1989.

The Finance Committee approach is fairer. But the truth is, Mr. President, that millions and millions of Americans have shaped their lives and made countless economic decisions based on the expectation that their pension would be governed by this rule. By eliminating the recovery rule, even several years hence, we are putting millions of people in a difficult, if not impossible position. They are locked in. They have made decisions over the last 20 or 30 years. Postponing the implementation of this change only postpones the inevitable. Namely the imposition of an unexpected tax burden, on retiring public employees at the Federal, State, and local levels and many private-sector employees as well.

Moreover, we have expressed our concerns not only about the unfairness of this change but also about the massive exodus of people from Federal employment caused by the uncertainty, that this provision has generated.

Let me very briefy respond to some of the points made by the chairman of the Committee on Finance. First, I point out that there is broad support for this measure as evidenced by our 10 colleagues who have joined me in offering this amendment. There is widespread concern about the lives of 25 million Americans, 17 million public employees, and some 3 million private-sector employees, who will be adversely affected by the elimination of the 3-year basis recovery rule.

The chairman argues fairness. He says that Federal employees have a good deal and that the recovery provision is unfair to other taxpayers approaching retirement. He talks about Federal employees contributing a small portion of their benefits and posed a hypothetical in which a person retiring had contributed one-half of the dollars contained in his pension fund.

Mr. President, there are really no employees who contribute a large portion of their total benefits. There are, however, many employees who contribute nothing to their retirement plans. Indeed, most private-sector retirement plans require no employee contribution but are instead paid for entirely by the employer.

Does my colleague really mean to suggest that public employees, who not only must contribute to their retirement plans but also must make those contributions with tax-paid earnings, are favored over those employees who do not pay any portion of their retirement benefits? Of course not.

Or do the opponents of this measure mean to imply that public employees are favored over those employees who contribute to their retirement plans but receive tax-deferred earnings with which to do so? In the private sector, under the 401(k) approach, those tax-deferred contributions plus the employer contributions earn tax-deferred interest, yet another benefit public employees do not enjoy.

Contrary to what the opponents of this amendment might say, this 3-year basis recovery period has been provided since 1954 to provide public employees an opportunity to offset in some degree the disadvantages which fall to them during their years of contribution.

Let us talk further about fairness. Fairness, of course, is a rather subjective consideration. Is it fair to taxpayers to require them to shoulder additional retirement costs caused by induced early retirement, as this tax bill would do? Of course not.

Is it fair to other taxpayers to deprive them of the services of able and experienced Federal, State, and local employees who are being forced to retire early by this proposal? Of course not.

Is it fair to workers who want to work or should be able to stay on the job to force them to retire early to avoid a tax penalty? Of course not.

It seems to me and to the 10 cosponsors of this amendment that fairness dictates that we adopt this amendment.

Let me briefly respond to some other points made by the chairman. He said, "You know, after all, this will all work out the same over time." Well today, on the average, Federal employees and others withdraw their after tax contributions to their retirement pension programs.

Under the provisions of the bill, they would begin paying taxes from day one. They would pay taxes on part of their annuity and part of their annuity would be received tax free. By the time people reach about 72, which is the actuarial drop-dead date, they would receive all their contribution back and everything comes out neatly.

Well, a lot of those folks are not going to make it to 72 and they are going to be denied the benefits of their after-tax dollars for which they have worked long and hard. I suggest to my colleagues that that is eminently unfair and ought not to happen.

□ 2150

Now, finally the chairman set forth another hypothetical where he said that the recovery provision was really only helping the wealthy. Well, in this great universe of taxpayers it is easy to fashion an example of a wealthy taxpayer. But that hypothetical really does not accurately portray the class of taxpayers we are talking about here.

The average pretax annuity payment is $12,000 a year. We are not talking about a lot of rich folks here. In the main we are talking about good, solid citizens who work long and hard, and made countless decisions on the expectation that this recovery rule would be in effect. Just as they are transiting from a lifetime of earned income to the lower income retirement years, we are going to impose this tax burden. I think that is unfair.

Now, how would we propose to pay for this amendment? We are talking about $5 billion. To pay for the reten-

tion of the recovery rule, this amendment reduces by $525 the levels of taxable income at which the top personal and corporate tax rates come into play. Now, my colleague has argued that this deals unfairly with the average taxpayer. Well, again, the terms "average" and "middle class" taxpayer are hard to define. The breakpoint here is below that of the Finance Committee but ever so slightly. If the Finance Committee breakpoints are fair to middle America, then I would argue these breakpoints are fair to middle America because they are only slightly less than the breakpoints imposed by the Finance Committee bill.

Let me give you a real world example. A working couple filing a joint return and taking the deduction and exemptions that are permitted by this bill would have to have a gross income of about $38,000 to be affected at all. The median income for a family of four in America is $24,000. So this is not going to affect most middle-income people. Again if the Finance Committee bill is fair then surely this modest change is fair as well.

Finally—and on this point I will bring these remarks to a close—not only have the proponents of this amendment tried to underscore the unfairness of the tax bill to 20 million Americans in the public and private sector, but also to underscore the fact that this will be a very costly change. People are already leaving public employment in record numbers because of their concern about this change. If it takes place today or in the future, inevitably there will be a mass exodus. Now, again, this is not just rhetoric on the part of the proponents of this legislation. These concerns have already been translated into reality by our experience over the last several months.

During the course of my opening statement, I set forth how various agencies were being impacted by the proposed elimination of the 3-year basis recovery rule. The Federal Bureau of Investigation has seen a 47-percent increase in retirement, and these people are saying, "We are retiring now, we are getting out because the Congress may well change the way my pension is treated in those first years." The State Department has seen a 33-percent increase in retirements; the Central Intelligence Agency retirements have doubled over last year. Retirements at the Veterans Administration are up by 50 percent; the Immigration and Naturalization Service has experienced a 400 percent increase in retirements; the Housing and Urban Development Agency, a 47.7-percent increase over last year. At the Agriculture Department retirements have increased by 18 percent at the Navy Research Centers there has been a 84.2-percent increase in retirements over last year.

These people are saying, "We are leaving not because we don't like Federal employment, not because we don't want to make a contribution to this country but because you are reneging on a promise on which I had based a lifetime of economic decisions."

Finally, what will all of this cost the taxpayer—incalculable sums of money in terms of lost efficiency and productivity. We are talking about the best in public life, those people who have worked long and hard, who have developed expertise, who are enthusiastic about what they are doing. They are leaving in record numbers. There is no way that you can calculate the cost of that loss in terms of the workings of the Government, but you can—and on this I will bring these remarks to a close—you can compute with some certainty how much more this will cost in terms of additional annuity payments.

The Social Security Managers Association predict that, governmentwide some 75 percent of the 300,000 people that are eligible to retire will retire and that will mean $3.15 billion in pension costs.

The Senior Executives Association believes that that is a conservative estimate. They believe that somewhere near 90 percent of the 300,000 Federal employees eligible for retirement will take retirement because of these changes. That would cost the Federal Government $3.78 billion in annunity payments. These two figures are far in excess to OPM's annual estimate of $980 million.

So we are talking about a mass exodus of highly qualified, highly talented, highly experienced personnel from Government. We are also talking about the imposition of substantially greater costs because of added retirements.

I thank my colleagues for their attention at this late hour, and I yield the floor.

Mr. WARNER and Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise to join my distinguished colleague and add just a few concluding remarks. First, I ask unanimous consent that a letter on this subject written by Mr. TRIBLE and myself as far back as January 23 of this year to the Honorable ROBERT PACKWOOD, chairman of the Finance Committee, be included in the RECORD.

There being no objection, the letter was orderd to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 23, 1986.

Hon. BOB PACKWOOD,
Committee on Finance,
Washington, DC.

DEAR MR. CHAIRMAN: We are contacting you today to assure that you have the most recent information available on the impact of the House-passed tax reform provision eliminating the three-year basis recovery rule for contributory defined benefit pension plans. The specific provision is Section 1122(c) of H.R. 3838; the action we seek is its omission from further consideration.

The enactment of this provision would have an immediate and deleterious effect on all levels of government service. Some 20 million Americans, principally federal, state and local government employees, are now participating in this type of pension plan. If the three-year recovery basis is eliminated under which government retirees may now be repaid their own contributions tax free, an estimated 75 to 90 percent of those eligible to retire will retire prior to the effective date of tax reform legislation, leaving government service prematurely to protect their annuities.

There are currently 210,000 federal employees eligible to retire, about 10 percent of the total federal employee population. We cannot emphasize too strongly that these are the employees most valuable to the government, those with the greatest expertise and the longest service. NIH scientists, NASA technicians, DOD engineers, SDI specialists, FAA air flight controllers, VA career nursing employees, all those whom we have had the hardest time retaining. Of the nation's Senior Executive Service, 50 percent are eligible to retire and 90 percent of these have indicated that they will exercise that option if faced with the irrevocable loss of this key pension benefit.

The principal reason our colleagues on the House Ways and Means Committee, as well as interested parties in the Senate, are favoring this tax provision is that a great deal of new revenue is involved. There will be no real gain, however, for the current government obligation to those now eligible to retire is $2.5 billion in annuities, not to mention the vast costs of training and recruiting to replace the senior echelon of the Civil Service.

Mr. Chairman, enclosed for your use is a fact sheet we believe will be of assistance as you and your Finance Committee colleagues take up this critical item for debate. By way of corresponding House action, you will recall that the tax bill nearly died on the House floor because of complications surrounding this very provision. The House Republican Alternative, in its final form, had removed the pension tax change in lieu of the modified schedule of individual tax rates. This may well be an option the Senate may wish to consider.

With our thanks for your timely consideration,

Sincerely,

PAUL S. TRIBLE, Jr.,
JOHN W. WARNER,
ERNEST F. HOLLINGS,
U.S. Senators.
STAN PARRIS,
FRANK R. WOLF,
VIC FAZIO,
STENY H. HOYER,
U.S. Representatives.

FACT SHEET

CURRENT TREATMENT

Taxpayers who contribute to a retirement plan and elect to receive their retirement plan benefits in the form of an annuity currently are subject to special tax rules. Under these rules a portion of each annuity payment generally is excluded from income. The excluded portion represents the taxpayer's contributions to the plan. An exception to this general rule allows the taxpayer

to receive contributions tax-free over a three year period. After this period all amounts are included in income.

HOUSE WAYS AND MEANS REFORM BILL

The Tax Reform Bill recently passed by the Committee on Ways and Means would repeal the three year tax-free recovery rule. Thus, amounts received during this period no longer would be totally excluded from income but would be spread out actuarily over the life of the pension. The amendment is generally effective for people who retire after July 1, 1986.

WHO IS AFFECTED?

Employees at all levels of government.

State, local and federal governments from teachers, firefighters and police to FBI agents, cancer researchers at NIH and Air Traffic Controllers.

210,000 federal workers are eligible to retire next year. That is 10 percent of the federal workforce at the highest levels of management.

42.4 percent of NASA's corps of Scientists and Engineers are eligible to retire.

16.5 percent of the government's air traffic specialists are eligible to retire now.

6 percent of all FBI agents in the highest positions of investigation could retire.

16.7 percent of the Air Force's Inventory Mangement program overseeing purchase of spare parts could retire.

15 percent of NIH's senior scientists with doctorates could retire from government service.

50 percent of all federal Senior Executives are eligible to retire in 1986.

THE TAX CHANGE EFFECT

If enacted, the Ways and Means Committee provision could affect a career of financial plans for retirement. It would eliminate the "window" for cashing out IRA's, Keoghs, and savings bonds.

Recruiting in the federal government was severely impacted by proposals earlier this year to cut federal pay. With recruitment of qualified individuals at an all time low, the federal government depends on its current experienced workforce to provide the services expected by the American people. This tax proposal could exacerbate an already serious recruitment and retention problem in the federal government.

The tax reform plan is cited as revenue neutral. This provision could result in a real cost increase to the federal budget when it is considered that for every person who retires, a decision must be made on a replacement at generally the same salary as the departing employee plus an annuity must be paid to the separating individual. The income to the Treasury derived from the tax exclusion rule change could be insignificant when compared to the cost to the government of paying a salary and an annuity.

Mr. WARNER. Mr. President, I ask unanimous consent that two editorials from the Washington Post by Mike Causey be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

VOTE SET ON PENSION TAX

(By Mike Causey)

The Senate is expected to vote today on a controversial proposal to wipe out an important pension tax benefit for more than 20 million government and postal workers and others who contribute to their retirement funds.

Sen. Paul Trible (R-Va.) plans to offer an amendment to tax reform legislation that would protect the right of new retirees to recover previously taxes contributions without having to pay taxes a second time.

They currently have up to three years to recover those contributions before they resume paying taxes again. For the typical federal retiree, it takes about 18 months.

The House-passed tax reform bill would eliminate the recovery rule for persons who retire after July 1.

The tax reform bill before the Senate today would phase out that benefit in two stages, beginning in January 1988.

Once the Senate approves a tax reform plan, it will attempt a compromise with the House.

If the House version prevails, employes retiring after this month would be required to start paying taxes on the government contribution to their pension plans.

The amount taxed would be prorated over the life expectancy of each individual.

Trible wants the Senate to strike the pension tax change from its bill so that opponents of the change will be in a stronger bargaining position when it gets to the House-Senate conference.

Most federal and postal unions and groups representing supervisors, managers and executives oppose the pension tax change.

The Federal Government Service Task Force says that while the pension tax change would not increase the lifetime tax burden of retirees, it would require them to begin paying taxes much sooner.

The congressional civil service caucus says such a change would mean a tax bite of $10,000 in the first three years for the typical retiree, and up to $40,000 for top-paid executives.

SENATE SHOWDOWN

(By Mike Causey)

Groups representing 20 million government workers are hoping for a victory—but bracing for a "soft" loss—in the Senate fight over the tax status of employee pension contributions.

The Senate today may take up an amendment proposed by Paul Trible (R-Va.) to preserve the so-called three-year recovery rule, which would be abolished by the tax reform bill already approved by the House and under consideration in the Senate.

If Trible's amendment is approved by the Senate, or gets a substantial number of votes, it will strengthen the hand of conferees who want to protect the rule. If it loses badly, however, the House will be in a stronger position to push for immediate elimination of the benefit.

The recovery rule permits retirees to get back all previously taxed contributions to their pension programs before being subjected once again to federal taxes. That recovery rule permits the average federal retiree to draw benefits for 18 months before taxes on the government's share of contributions begin.

The House bill would end the three-year recovery rule after July 1. The Senate plan now being debated would phase the recovery period out over two years, beginning in January 1988.

Although public employee groups oppose both plans, all prefer the Senate version over the House plan.

Once the Senate approves its tax reform package it will go into conference with the House to seek a compromise.

Federal workers organizations would like to see the recovery rule retained. But if it is to be a victim of tax reform, they would like the effective date set well in the future to give employees time to rearrange their retirement plans.

If the House version became law, it would mean that workers would have only until the end of this month to retire and protect their pensions from being taxed, on a prorated formula linked to their life expectancy.

Federal agencies report a heavy surge of June retirements by employees who are bailing out to beat any possible change in the law.

Mr. WARNER. Mr. President, I cannot anticipate the outcome of the vote that will momentarily be made by the Senate, but in the conference it would be my hope, should we fail on this amendment, the distinguished chairman would do everything possible to assert the Senate position with respect to the phase-in date as opposed to the House date which brings incalculable harm to the Federal employees.

Last, Mr. President, I would like to share with my colleagues this booklet brought into my office by a retired Government lady employee, who had given her life to Federal service. She said, "Senator, I have relied throughout my long career on the communications from my Government to me with respect to my retirement." Now, this book is entitled "High Interest United States Savings Bonds. What to Tell Your Federal Coworkers." It is an official publication of the Savings Bond Division of the Department of the Treasury. I read this section:

The tax advantages of U.S. savings bonds: Option No. 1. If you cash in your bonds one at a time, the tax impact is minimal. You generally have less income after retirement. If you are over 65, you have a double exemption.

Now, listen to this part:

Civilian employees could also realize tax savings by redeeming bonds during the "exempt" period when Federal annuity payments consist of money they themselves contributed to the fund.

□ 2140

She said: "I relied on this and bought the bonds and put them away for my retirement. And now Congress is about to act on a bill to break the promise made to me by the Federal Government."

Mr. President, I urge my colleagues to support the amendment of Mr. TRIBLE, and myself, and others.

Mr. DANFORTH. Mr. President, we are now getting down to the basic philosophy of the bill before us.

I rise to oppose the amendment. I am not going to argue against the basic thrust of what the Senators from Viginia are supporting. I am not going to argue the merits, pro or con, about the question of when retired Government employees realize taxable income on the distribution from the retirement plans. I think that the Sen-

ators from Virginia make good arguments; and if this were a tax bill in the usual form of a tax bill, I am sure I would be voting for them and with them.

However, Mr. President, the question before us is what kind of tax bill this is. Let me recapitulate very briefly the history of this tax bill in the Senate Finance Committee.

We received the bill from the House. We held extensive hearings, and we began a markup of the bill. The markup went on day after day, week after week, and it was the usual kind of tax bill. The members of the Finance Committee—and usually all 20 of us were present—were offering amendment after amendment to defend the interests of one part of our constituency or another. We were, as editorial writers so often say about the Senate Finance Committee, decorating the Christmas tree.

Oftentimes, people attack us on the Finance Committee, attack us in Congress, for the way we go about writing tax bils. They say that we are suckers to the special interests, that we cave in to all the special interests that come around. The talk about the lobbyists with the Gucci shoes waiting outside the hallway in the Dirksen Building, outside the Finance Committee hearing room.

Again, the editorial writers and the commentators did it to us in this bill. Mr. Robert Evans, of Evans and Novak, said that the Finance Committee had become a laughingstock as we were proceeding with this bill because we were adding back all the interests of all our constituents.

Mr. President, we were only doing what comes naturally to a Member of Congress. That is the nature of all of us. If we represent large numbers of Federal employees, and I do—region 7 of the Federal bureaucracy is located in Kansas City. I represent a lot of Federal employees. It is natural for us to come to the aid of our interests, the groups we represent. It is natural in writing a tax bill. People criticize us for it, but that is what we do. That is the nature of being a Member of the Senate and trying to represent the people who sent you here in the first place.

However, it was clear that as we were putting this bill together, it was business as usual. It was clear that it was just another tax bill, and it was clear that we were just shuffling boxes around, that we were substituting one interest group for another interest group; and the process in the Finance Committee was falling apart in our effort to accommodate the various groups we represent.

So our chairman, Senator PACKWOOD, decided that matters were deteriorating in the Finance Committee and that the time had come to do something different. He pulled the bill out of committee and said, "We're not going to meet on this for 2 or 3 weeks."

Then, after about 2 or 3 weeks, he convened us again and he showed us a different kind of approach. He said to us: "How would you like something different in tax legislation? How would you like a bill with a 27-percent maximum individual rate, with a 15-percent maximum individual rate for some 80 percent of all taxpayers, and with a 33-percent corporate rate? How would you like a bill like that? Lower rates, dramatically lower rates—lower rates than we have had in this country for over 50 years. How would you like that kind of bill?" our chairman asked.

Our eyes lit up. This was something different. But then the question came: How are we going to pay for it? You cannot have it both ways. You cannot have it both ways. How are we going to pay for it?

You can either have lower rates or you can have all the goodies. You can either have lower rates or you can have the preferences. That is the question before the Senate.

The chairman of the Finance Committee presented us with a plan with low rates for individuals and low rates for corporations; and to get those low rates, he cast in wonderful things that over the years we put into the Internal Revenue Code. We were laughed at, because it is said that this is special interest legislation, when you put these things in. But when you are representing people whose concerns you are taking care of, it does not sound so laughable, does not seem so laughable.

However, we had gotten ourselves in a situation where, in the Senate Finance Committee, we were micromanaging the economy. We were making decisions about how tax preferences could change people's decision in one way or another, whether it is in Federal employment, which is what the Senator from Virginia has just debated, or energy conservation measures, or various incentives for capital investment, and on and on and on.

That was what we were doing in our tax laws.

What the chairman of our committee pointed out to us, when he called us in that back room of the Finance Committee a couple of months ago, was that there is an alternative to the micromanagement; there is an alternative to all the preferences; there is an alternative to all the goodies, and that is low rates. You cannot have them both. You cannot have them both unless you want a budget deficit that goes even farther through the roof than what we have now. Either you have the preferences, either you have the goodies, either you have all the special treatment that we have packed into the Internal Revenue Code year after year in tax legislation—in the last 5 years at a rate of some 1,200, 1,300, or 1,400 pages a year in new things that we have stuck in the code—either you have that or you have low rates. You cannot have it both ways.

That is the issue before us right now. The issue before us right now is whether the rate structure remains the same, as was pointed out in the Finance Committee, or whether we change it. It is called break points—that is, the point at which the rates change from 15 to 27 percent. If you move that break point down, the effect of that is to increase taxes.

So, Mr. President, the issue that the Senator from Virginia has placed before us is a basic issue of taxation. How do you feel about it?

□ 2150

If you believe that the point of taxation is to take care of every group, and I am not putting down those interest groups, but if you believe that the point is to take care of them one after another as they come through the door, vote for this amendment and then the next amendment and then the next amendment and then the next amendment because there is no end to it.

Once you say, "yes" to one group you can never ever say "no" again.

Mr. President, I only have one more point to make, and it is a practical one, a practical question. It is this: You do not put together an effort like this without supporters. You cannot do it without supporters. Boy, do we have them. Some 700 organizations came together in support of this bill, some 700 of them, diverse groups, from the League of Women Voters, to the American Association for Retired People, to the liquor industry. It could not be a more diverse group, and all of them said the same thing. They said, "We do not agree with every detail in this bill. We do not agree with some of the things you have done. We do not agree with what you have done with real estate or what you have done to the IRA's or what you have done to the State sales taxes. We do not agree with this, that, or the other things in the bill, but the bill is right, the bill is right. For once you are doing the right thing in the Congress of the United States. The bill is right and we will stick with you," said these 700 groups, "despite the fact that we do not agree with this point or the other. We will stick with you up to a point."

And what was the point? "We will stick with you," they said, "provided that you do not adopt an amendment dealing with the rates, or dealing with the break points or dealing with the personal exemption." Those were the conditions.

And they said, and they made it very clear—we had a meeting in the Fi-

nance Committee. It was in the nature of a rally. Hundreds of people were there representing these various groups, and they made it clear: "Change the rates, change the break points, change the personal exemptions and count us out. Change them and it's every man for himself, change them and it's every group for themselves."

People have said "Isn't it marvelous that we do not have all of these lobbyists out here outside the Chamber of the Senate? Remember the old tax bills, the waiting room outside the Senate floor, packed with people, the corridors out here packed with lobbyists." It was a bazaar of tax preferences, people peddling their wares to Members of the Senate and people have commented, "Isn't it wonderful, isn't it strange, isn't it unusual that all of those lobbyists are not packing the corridors of the Capitol of the United States?"

Mr. President, adopt this amendment and we have sent an engraved invitation to every lobbyist in this town, every interest group in this country, to show up tomorrow morning for the start of business.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment offered by the Senator from Virginia and the Senator from Maryland.

Let me say to the Senator from Maryland, who I respect greatly, that I know of no more fierce nor more skilled fighter for the interest of the Federal worker than the Senator from Maryland. I appreciate what he has suggested and also what the distinguished Senator from Virginia has suggested in this amendment, that they desire to protect the pension of the Federal worker. They desire for the Federal worker to be able to receive all that he has put in before he is taxed.

The bill that we are considering, however, requires one to pay for any amendment that is offered, and it is the means by which they have chosen to pay for this amendment that I would like to speak to.

On the surface it sounds rather harmless. The way we pay for this amendment is by reducing the break points by $525. For a joint return, that means that they will be in a 27-percent rate at $28,875 instead of at $29,300. That is the proposal. It sounds harmless.

But what is the effect of this proposal? The effect of this proposal is to raise taxes on 20 million Americans, to raise taxes on 20 million Americans in order to pay for the benefit that will be enjoyed by 1 million Americans.

Mr. President, this poses the question of the narrow interest versus the broader interest. In order to protect the pension of a relatively small number of Federal workers the Senators who propose the amendment are suggesting to raise taxes on 20 million Americans.

While I might sympathize with the intention of these Senators, I cannot support the way they have chosen to pay for it, and I hope that the Senate will not support raising taxes on 20 million Americans.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, first of all, there are 20 million Americans affected adversely with respect to their pensions by what the Finance Committee has done. That is the number of Americans who have contributed to a pension program, public employees, Federal, State, and local; schoolteachers, policemen, firemen all across this land; and people in the private sector, in other words, private employees who also make a contribution to their pension plan.

These people pay taxes on their income and make that contribution after taxes, and for more than 30 years the provision has been in the code that they can recover for a 3-year period the contribution which they made, not what the employer put in, what they themselves put in and on which they paid taxes, and recover it tax free. That strikes me as an eminently reasonable proposal.

Second, and most important, people have relied on this provision in the tax law in order to plan their retirement years. This is not a change which is being made that comes into effect in the future. This is a change which hits them now and it in effect pulls the rug out from close to 20 million people, 20 million people, not 1 million, 20 million people who have made these contributions.

Now are they entitled to place that reliance in making their plans? I say to the distinguished Senator from Missouri, that is also a fundamental question. To what extent are we to respect the reliance which hard working taxpaying citizens have placed on the code in making their plans for their retirement years?

What you have done is come along now and change the rules on them right at the end of their working life and the premise behind this amendment is that that is not fair or equitable.

That is not the way to achieve tax equity. That is unfair to people who have in good faith and proper reliance made this dependence on provisions in the Tax Code.

For that reason, this amendment stands different and apart from the typical sort of amendment that the Senator has referred to and I think ought to be supported by this body.

AMENDMENT NO. 2089

● Mr. LEVIN. Mr. President, I will vote against the amendment offered by the Senator from Virginia dealing with the 3-year recovery rule, not because I don't have sympathy with the concerns of public employees whose retirement benefits will be adversely affected by the committee bill, but because the method used to pay for this amendment exacerbates the problem which the committee bill has with respect to middle-income taxpayers. Like other provisions of the committee bill, I am disturbed by the retroactive aspect of this provision in that it applies to people who started their employment with one understanding of their retirement system only to find out that the rules have changed prior to their retirement.

However, based on information which I requested from the Joint Committee on Taxation, a significant number of middle-income taxpayers could receive tax increases under the committee bill. This amendment, by lowering the income level at which the maximum 27-percent rate applies, will have the effect of reducing the tax relief in the committee bill going to middle-income taxpayers. In some cases it will mean the difference for these taxpayers between a tax cut and a tax increase. For others, it will mean an even larger tax increase than they would receive under the bill. In spite of the merits of this amendment, the means by which it is financed makes a bad situation worse and I cannot support it for that reason.●

TAX FAIRNESS FOR PUBLIC EMPLOYEES

● Mr. BUMPERS. Mr. President, I support the current basis recovery rule for public employees who contribute after-tax dollars to their pensions. I oppose the President's proposal to phase out this rule and the House and Senate Finance Committee bills which adopt his proposal.

I oppose any change in the tax treatment of the contributions of Government employees to their own pensions. Unlike most employees, Government employees are required to make direct after-tax contributions to their own pension plans. These contributions are not given any tax preference when they are made and the employee is subject to full taxation on the amounts contributed. They, he or she, must wait 20 or more years to receive their contributions back with his or her pension, along with the contributions made to the pension by the Government itself. Thus, the employee pays tax on the contributions now and does not actually receive the contributions back until he or she retires, which may be 30 or more years. It is simply unreasonable for the Government to further delay the return of these contributions when the employee retires, which is what the repeal of the basis recovery rule means.

It is simply unfair for the Government to require that employees make the contributions to the pension, to

fully tax the amounts contributed when the contributions are made, and then to delay returning the funds to the employee when he or she retires. The employee has already paid the tax on these funds and he does not pay any tax again on them when they are returned. The only issue is whether the Government can hold the funds longer in its account, and earn interest on these funds for its own use, or whether it must return the money as soon as the employee retires.

Public employees have a right to their after-tax contributions when they retire. It is simply unconscionable for the Government to withhold the money so it can reap a tax windfall at the expense of the employee.

Public employees know about the basis recovery rule and they have invested whatever other funds they have for retirement with the rule in mind. In many cases these investment decisions are locked in and cannot be changed. The result will be a second windfall for the Government when these employees have much higher income in the first 3 years of retirement than they would had they known that the recovery basis rule did not apply.

I am particularly aggravated with the other body for not clarifiying the tax status of the pensions of Federal Government employees. The House tax reform bill would change the tax treatment of the pensions of Government employees on July 1, 1986, and many employees felt that they had to retire by June 3 of this year to make sure they are not affected by this provision. It is insensitive to delay clarification of the possible effective date of any modification of the basis recovery rule and I am hopeful that well before the July 1 effective date in the House bill it will be made explicitly clear that no change will become effective for at least several years in the future.

Last December I cosponsored a resolution stating that no provisons of the tax reform bill would go into effect until at least 1987, but unfortunately the other body would not agree to it. Since December when the other body passed the tax reform bill we have had constant calls to my office on this and other issues on the question of possible effective date of one or another provision. It is time that we make it clear that there will be no change in the basis recovery rule at least until 1988 or 1989, as specified in the Senate Finance Committee bill.●

● Mr. CRANSTON. Mr. President, I support the worthy purpose of Senator TRIBLE's amendment to restore the 3-year recovery rule for Federal and other public service retirees.

The purpose of the 3-year recovery rule is to allow retirees who have already paid income taxes on amounts they contributed to their pension plans to recover tax free those amounts within the first 3 years of retirement. In succeeding years, retirees pay taxes on the full amount of their pensions.

The method provided in this amendment to make up the revenue lost by the proposal is not acceptable, however.

To pay for the 3-year recovery provisions, the amendment increases taxes on those middle-income families whose incomes fall just below the threshold for the 27-percent rate.

The amendment also lowers the income threshold at which the 27-percent rate is effective by $525. This change would move thousands of taxpayers in California from the 15-percent rate to the 27-percent rate. And many more elsewhere would likewise be adversely affected.

I think the 27-percent rate already kicks in at a very low income level. I am supporting proposals to increase the level to promote fairness. Therefore, I cannot support an amendment to lower the income level which triggers the 27-percent tax rate notwithstanding the merit of the amendment's objective.●

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, we have now for the first time reached an amendment that is pivotal to this bill. There have been two other amendments passed that did not affect the rates and did not go to what I would consider the essence of this bill, but this one does, because as the Senator from Missouri said, for the first time we are touching what we said was inviolate.

□ 2200

We are changing the rates, raising the taxes, on about 20 million people to take care of a much smaller number of Federal employees.

Now let us understand exactly what happened first in the House of Representatives. They passed a bill and they said this elimination of the 3-year rule goes into effect this July, July 1 of this year, and if you have not retired by June 30 of this year, you are out. It is passed. For all practical purposes, the House has left you out. If you have not retired, you are now going to pay tax on your pension from the beginning of your retirement, and you are going to pay at a lot higher tax rates than in our bill because our bill has a 27-percent top tax rate and the House has a 38-percent top tax rate.

So when the bill passed the House, Federal employees came to us and they said, "Help. It isn't fair. They are changing it retroactively."

So what did we do? First, we said:

All right. We won't change it on July 1st, 1986 or even January 1st, 1987. We won't change it until January 1st, 1988, and then only halfway, and we won't change it fully until January 1st, 1989. You can have your 3-year rule benefits if you want. You have the next year and a half or two years and a half to make a decision as to whether you are going to retire.

But when we talk about what people expect and what they are getting, Senator DANFORTH said it better than I have heard it said. Everyone of us, when we put this bill together, looked at everybody else and said, "What will you give up?" I gave up individual capital gains. I did not like it. I wanted to keep it. We gave up the deduction of the sales tax. And we gave it up so we could get those rates down.

We shifted $105 billion in taxes from individuals to businesses, and we closed loopholes so General Dynamics and General Electric pay taxes. And we closed $50 billion in tax shelters on individuals. And we took that $155 billion and we lowered everybody's taxes. But most of all did we lower the taxes of those in the lower income groups.

The Senator from Virginia said that the average retirement benefit of a Federal employee is $12,000. Let's assume that is all a retired couple has. Under today's law, what they would expect in 1988—and I am assuming somebody at $12,000 is not likely to be itemizing deductions; they will take a standard deduction, personal exemption—under today's law, their tax will be $386 on the average a year. Under the bill that is now before us, their tax will be $270 a year.

We have given them an additional 1½ or 2½ year extension on when the change would take effect. We have cut their taxes by almost one-third. When everybody else has given and given and given to get these rates down, Mr. President, what we have said to the Federal retiree is: "You are going to get more than you thought you were going to get, not less." And they say it is not enough.

Mr. President, everybody, if we are going to make this bill work, has to give for the benefit of us all. What they get are less taxes and more money in their pockets under this bill than they have now. Mr. President, how much more can they want?

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. PACKWOOD. Yes.

Mr. LONG. Is it not true, so far as this Senator knows, everybody in this body right here will be paying some dues in one respect or another in order to make this bill a success? In other words, you can have lower rates, but you have got to give something up. You have to give up the capital gains and you have to give up your limited partnerships, and you have to give up opportunities for tax avoidance. Generally speaking, every group has been called upon to make some sacrifice in terms of deductions they can claim or some advantages favorable to them so they can have the lower rates; not everybody, but most people. And the

Senator said that there is a group, I assume he is correct about this, that is going to benefit a lot more than the average.

Mr. PACKWOOD. Well, not only that, they are going to be better off. We made a lot of people give things up so we could help people at the lower end of the scale. Taking the figures of the Senator from Virginia, the average retirement pay is $12,000. That is pretty much toward the low end of the scale. What we are going to do, in order to keep the present law for them—and I have not heard any of them come and say, "Please tax me at $386, not $270." Not one of them said that this is an unfair change of the rules. They like the lower taxes. But, in order to do that, we are going to raise the taxes of everybody in the 27-percent bracket on the average of $63 a year, forever. And that is not a fair tradeoff.

Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. COHEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon [Mr. PACKWOOD] to table the amendment of the Senator from Virginia [Mr. TRIBLE]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—57

Armstrong	Gramm	Metzenbaum
Baucus	Grassley	Moynihan
Bentsen	Hart	Murkowski
Biden	Hecht	Nickles
Boren	Heinz	Nunn
Boschwitz	Helms	Packwood
Bradley	Humphrey	Proxmire
Cochran	Kassebaum	Pryor
Cohen	Kasten	Quayle
Cranston	Kerry	Riegle
Danforth	Laxalt	Rockefeller
Dodd	Leahy	Roth
Dole	Levin	Rudman
Durenberger	Long	Simpson
East	Lugar	Stafford
Evans	Matsunaga	Symms
Exon	Mattingly	Thurmond
Goldwater	McClure	Wallop
Gorton	McConnell	Zorinsky

NAYS—42

Abdnor	DeConcini	Harkin
Andrews	Denton	Hatch
Bingaman	Dixon	Hatfield
Bumpers	Domenici	Hawkins
Burdick	Eagleton	Heflin
Byrd	Ford	Hollings
Chafee	Garn	Inouye
Chiles	Glenn	Johnston
D'Amato	Gore	Lautenberg
Mathias	Sarbanes	Stevens
Melcher	Sasser	Trible
Mitchell	Simon	Warner
Pell	Specter	Weicker
Pressler	Stennis	Wilson

NOT VOTING—1

Kennedy

So the motion to lay on the table amendment No. 2089 was agreed to.

□ 2020

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Maine, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I had previously indicated that we would——

Mr. MOYNIHAN. May we have order, Mr. President?

□ 2230

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I previously indicated that we would probably go on to Avon and then Denver and Rio Grande Railroad. I am led to believe that the Avon issue may be settled. They are attempting to work it out now and they need some figures. I believe the Senator from Arkansas is prepared to proceed on a steel transition amendment now.

Again, I advise Members that I hope we can vote on the steel transition amendment tonight. If we can work out something on Denver-Rio Grande, we could vote on Denver-Rio Grande. But in the meantime, they are trying to work out that problem.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 2090

(Purpose: To delete the section of the bill allowing steel companies to carry back unused investment tax credits for 15 years)

Mr. PRYOR. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 2090.

On page 1532 of the committee amendment, beginning with line 13, strike out Section 212 of the committee amendment.

Mr. PRYOR. Mr. President, this is probably one of the simplest amendments that has been offered to the tax reform bill of 1986. It strikes section 212 of the committee-reported bill. That section is entitled, for my colleagues' information, "The Effective 15-Year Carryback of Existing Carryforwards of Steel Companies."

I am not going to speak long, Mr. President. The hour is late and the issue is very simple. The reason that I am offering this amendment this evening is also simple.

I believe that the U.S. Senate should have an opportunity to vote up-or-down on this particular issue. This section of the bill is characterized as a transition rule. As most Members of the Senate are aware, there has been some debate over what is or is not proper when we are talking about transition rules. To the best of my knowledge, there is no one true, simple definition of what a transition rule is or is not. Mr. President, I would like the attention of the Senate——

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order.

Mr. PRYOR. I thank the Chair.

Over the years, through custom and tradition, what we believe, I think, in this body to be a proper transition rule is designed to preserve existing law for transactions in which expenditures have been incurred or plans have been made. Then Congress comes along and changes the rules to the detriment of a company or the individual involved. My point in proposing this amendment tonight, and making an issue of this particular proposal, is that section 212 does not meet the test of what a transition rule actually is or what it is intended to do.

I must say that the distinguished Senator from Ohio [Mr. METZENBAUM] has been somewhat successful in pointing out particular transition rules and has, on occasion in the last several hours, been able to eliminate some of these transition rules from this measure. But, I might say that those particular measures that he has won and lost on are small potatoes. They are peanuts—$5 million, $50 million, $30 million, whatever. The proposal that I seek to eliminate tonight is $500 million, one-tenth of all of the transition rules included in this whole package of tax reform. I attempt with this amendment to eliminate that proposal.

Using the standard that we have adopted for what is and what is not a transition rule, let us look at section 212. Under present law, investment tax credits, if not used in the year the investment is made, can be carried

back for the 3 previous tax years. They can be carried forward for 15 tax years. Congress is today changing that law in this tax reform bill by repealing the investment tax credit, but the language contained in section 212 of the bill is something that cannot be done today.

These particular steel companies that will benefit from this proposal, this so-called transition rule, are going to receive a check in the mail, Mr. President, from the taxpayers of America to the tune of $500 million. These companies, the steel companies—and, Mr. President, I support the steel industry. I was the coauthor with many of the Members of this body that helped in some way—I hope in some way—or made contributions to helping in the trade situation with steel. The steel companies are going to be allowed, if this amendment is not stricken, a 15-year carryback instead of the 3 years under the law today.

What does that mean? It means refunds. It means refunds in cash and it will mean a check going to many of these or several of these steel companies, one I think for over $200 million. A check, one of $38 million that I know of; one of somewhat over $100 million that I know of. And, the rest will be disbursed accordingly to the remainder of those companies.

Mr. President, this is not a transition rule. It cannot meet the test of what a transition rule is. It cannot meet a test of how we intend a transition rule in this body to be included in a major tax reform bill.

Further, Mr. President, this provision does not apply to shoe companies in Maine; it does not apply to oil companies; it does not apply to farmers; it does not apply to any other segment of our economy, but steel.

I am one who is willing to admit that steel is in desperate, dire circumstances. And, we are going to hear all of the arguments—and I do not blame my colleagues for making them—on how many people have lost their jobs in the steel industry; how foreign imports have helped to bankrupt many of our steel companies. The plight of American steel is well known and this Senator from Arkansas is very, very sympathetic. I want to help. But, I do not feel that putting this provision in this legislation under the guise of a "transition rule" is a proper way to do it.

Mr. President, let me say that this concept of the investment tax credit change was defeated by the Senate Finance Committee by a vote of 13 to 7. It was also argued behind closed doors by the 20 members of the Finance Committee of the Senate and, Mr. President, under an agreement, the members of our committee decided it would not be proper at this time to treat the investment tax credit any differently than it is treated under the present situation that we are attempting to change. I hope that I have made myself clear there.

The Senate Finance Committee did not have an opportunity to vote on this particular provision. I am not blaming anyone. I am not blaming any Member of this body for attempting to get their transition rule in. In fact, I have a couple of transition rules myself in this particular bill called tax reform.

Yes; this concept was rejected by the committee and a few days after the committee had adjourned, press reports indicated that there was, in fact, a transition rule that had been accepted to the tune of $500 million to benefit the steel companies.

Mr. President, I do not object to attempting to help the steel companies. I do object to the method by which this transition rule has been included and I think the U.S. Senate should have the opportunity of voting yes or no on this particular proposal.

□ 2240

Let me say, Mr. President, that once again I bring no quarrel tonight with the distinguished chairman. I bring no quarrel or fight with the Senator from Pennsylvania and those Senators who speak, and speak eloquently, for the constituencies that they represent.

I do not think it was proper, and I think it is time that we submit this issue to this body and let it work its will.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, unless my memory fails me completely, very recently—in fact, just last week as we were considering this very bill, the Senate debated the oil and gas working-interest provision. This legislation as reported from the Finance Committee retains special tax treatment for the oil and gas industry. During that debate my good friend—and he is a good friend—the Senator from Arkansas [Mr. PRYOR] made the following statement: "Special treatment for special problems is needed."

I do not disagree with that, but that is exactly what the steel transition rule that his amendment seeks to strike involves.

Now, I think we need to be clear on exactly what provision is in the legislation. The steel transition rule does not allow a category of companies, in this case steel companies, to reclaim all their unused, unexpired investment tax credits.

In the first place, it limits the recovery of those tax credits first to 50 percent of their total value, whatever that may be. They have to be on the books. They have to be earned. They represent investments made by steel companies, a portion of which, namely the investment tax credit, was under laws we passed not just in the Reagan administration but in the Nixon administration, giving them the opportunity to credit a portion of their investment against their taxes. Those were the rules of the game in 1985 all the way back through 1971.

What this bill says is that you can only claim 50 percent of everything you are entitled to claim with one other limitation and proviso, namely, that you can only claim as much as you have paid in taxes in the previous 15 years. It is literally true that no company is ever going to come out ahead on this amendment. They will all end up, first, having lost legitimate tax credits that they earned, and, second, in no event will the Government be in any way subsidizing them. They will have paid more taxes than they will ever get credit against.

Now, the other element that we need to bear in mind is that often used word "fairness." In this legislation, the Senate Finance Committee bill, we are doing something we rarely do. We have retroactive provisions in this legislation. The best known one is the retroactive provision affecting real estate, the so-called passive loss provision. It has been the subject of numerous comments. The committee, of course, did attempt to devise a transition period, a transition rule if you will, to try to phase in the pain of the limitations on real estate passive losses.

The bill also repeals retroactively to January 1 of this year the investment tax credit that steel companies, indeed all other companies, would normally have been allowed to credit against their taxes providing that they made productive investment. Since we rarely involve ourselves in retroactive taxation—and that is what we are doing—it seems to me that of all the cases you could make for a transition rule, this is among the strongest because of the retroactive nature of the repeal of the investment tax credit and its impact on a particularly capital-intensive industry; namely, the steel industry.

Now, I will be honest, I do represent what some have called over the years the steel city, Pittsburgh, PA, part of the rust belt, and I can tell you, as somebody who has been privileged to serve from Pennsylvania as a Congressman and as a Senator, I do know a little bit about the steel business. Lord knows, I do not know as much about it as people who have actually worked in the industry full time, either the blue-collar worker or someone in management, but I can tell you that this transition rule is of critical importance to the American steel industry.

The cash relief from the unfairness of this bill would provide the individual companies with desperately needed modernization and replace-

ment of plant and equipment in order to be competitive in the marketplace. It is likewise needed to protect the economic security of thousands of people employed in this industry, and this is an industry that has lost tens of thousands of jobs over the last several years. I do not have to remind any of my colleagues that steel is of major importance to our national economy, it being the most basic and pervasive of our building materials. It generates about $7 billion a year in wages and salaries. It employs approximately 208,000 people. It consists of 300 companies. They are located in 39 States and 299 communities. It is an industry that we all recognize as essential to our national defense and yet it has been ravaged, decimated in recent times, above all by unfairly imported foreign steel.

In responding to that challenge, our domestic industry has attempted to make, indeed I think they have made, dramatic strides in reducing costs. They have phased out obsolete facilities. They have replaced and modernized many steel mill operations. The workers in the industry have made wage and benefit concessions and in concert with management they have undertaken joint efforts toward improving both quality and productivity and reliability.

Now, the steel industry lost a substantial amount of money in 1982 through 1985. During that 4-year period they lost $7.4 billion. What we are saying, if we do not retain this transition rule, is that they are going to lost more money. They are going to lose not $7.4 billion but $7.9 billion. The $7.4 billion is losses that are a matter of record.

□ 2250

However, in spite of those losses, this industry has expended vast sums for the capital improvements I mentioned a moment ago.

Look at the record. In the past 7 years, the steel industry has invested approximately $14.2 billion in capital expenditures, and it needs to invest at least $3 billion per year over the next 5 years to continue modernization and to prevent further deterioration of plants and equipment.

Because of negative cash-flow, a negative cash-flow of at least $90 million annually in both 1984 and 1985—and I am not talking about profits; I am talking about cash-flow—the industry was only able to invest about $1.5 billion annually for those expenditures. In other words, they were investing only half of what they had to invest to stay competitive. That is a situation that has to be reversed.

Yet, the fact is that capital markets are rapidly being closed for most new investment in American steel. The revenue that this transition rule will provide compared to the problems of this industry, in a modest way, only helps meet those financial requirements.

Mr. President, I mentioned the subject of imports. Imported steel continues to capture an inordinately large proportion of the U.S. market, and that keeps U.S. domestic producers in an economic vise. I might add that American steelmakers are not just selling against other American companies or against other companies whether they are domiciled in the United States or not. They face other countries whose companies are the recipients of large portions of their Nation's treasury receipts.

Since 1977, for example, the European Economic Community countries—and that is just one portion of the amount of competition that is faced by our steel industry—have provided their steel industries with almost $40 billion in loans, grants, gifts, and forgiveness of debts in less than 10 years.

France, just one of those many countries, very recently provided its steel producers $3.5 billion to pay off debts. That is what American steel producers must compete against.

It is appropriate to this Senator, and I hope to my colleagues, that the tax laws of this Nation permit this industry access to its earned—and make no mistake, they have earned this—unused investment tax credits. The adoption, I might add, of the new alternative minimum tax and, as I mentioned, the repeal of investment tax credits, in effect, make it virtually impossible for companies with large net operating loss carryovers to obtain the benefit of unused investment tax credits. As a result, a transition rule of the type included in this legislation is virtually the only method to ensure that the industry will not lose this investment tax credit.

This bill contains numerous transition rules. It gives special benefits to numerous businesses, corporations, and individuals. We could examine each one of these transition rules, but I do not think that is necessary.

I know that the Senator from Arkansas says he is concerned about the procedure through which this transition rule was obtained. Let me say, first, as a member of the committee—and I think my friend from Arkansas will back me up on this—the committee never voted on any transition rules. The night we finished up this bill, there was a typed list of transition rules. It was available. Members could have examined the list if they had chosen to. To the best of my understanding the Senator from Arkansas did not object in committee while we were considering the bill and before we had reported the tax bill.

This is not a midnight transition rule. It did not just sneak into the bill, as some people have written. This was on that list, and there is no secret about it.

One other point, and then I will conclude: This rule is consistent with congressional action in recent legislation. I am referring to Public Law 98-573, the Steel Stabilization Act of 1984.

In that act, Congress committed itself to a program to help the steel industry and a program which included import relief and, most important, recognition of the capital requirements of steel companies. Like the congressional intent as expressed in that law, which passed this body as well as the House and was signed into law by the President, the denial of the use of earned investment tax credits would be a reversal of the status of Congress in support of the steel industry.

That act mandates that steel company cash flow be reinvested in modernization of steel plant and equipment as a condition precedent to a continuation of Presidential authority to enforce voluntary steel import restraint agreements, thus obviously providing for the further strengthening of our vital steel industry.

Mr. President, one last point, and I will be happy to yield the floor.

It has been said on more than one occasion—my friend from Arkansas so stated this evening—that this transition rule was defeated by a vote in committee. That, to the best of this Senator's understanding and recollection—and we are both members of the committee—is simply not an accurate statement. It is possible that the Senator from Arkansas is referring to an amendment I offered that had the following characteristics: First, it made a significant adjustment to the minimum tax and changed the basis in the minimum tax so that it would fall less harshly on capital intensive industries like steel; and, second, it permitted a large number of companies and industries—not just steel—to use the investment tax credit as an offset against the minimum tax. Most important, it paid for that amendment by increasing the corporate tax rate from 33 percent in the bill to a higher number. It was in many respects a much more complicated amendment. It touched on many more places in the bill.

If I correctly remember the debate in the committee on that amendment, the one thing people objected to above all was moving the 33 percent rate from where it had been up in any way. Even at that point, the committee was taking a very strong stand against changing the 15 percent, the 27 percent, and the 33 percent tax rates in this bill.

Mr. President, I will just conclude by saying what I said at the very outset: Last week, the Senator from Arkansas, who seeks to strike this transition rule, said, as we were debating the oil and gas working interest provision, that special treatment for special problems is needed. I do not know of a

situation that is a bigger problem to us all than this industry. There are many other industries that have problems—shoes have problems, textiles, apparel, oil and gas. We know there are plenty of problems. But there are few industries that are as capital intensive; there are few industries that have suffered more from unfair foreign competition. There are none, I venture to say, in the way of foreign government-supported subsidies, that have paid a heavier toll or a heavier price because of the size and extent of foreign government subsidies.

□ 2300

So, I hope my colleagues will join in defeating the amendment of the Senator from Arkansas and retain the so-called steel transition rule.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I rise in opposition to the amendment to strike the transition rule for the steel industry from the tax bill. Because of the severe losses the steel industry has incurred over the past 5 years—$7.5 billion to be exact—the industry will lose most, if not all, of its unused investment tax credits without the rule. The adoption of the new alternative minimum tax, and the repeal of the investment tax credit, would make it virtually impossible for companies with large net operating loss carryovers to obtain the benefit of their unused investment tax credits.

This rule is no giveaway to the industry. It has its price. It only makes half of the industry's unused credits available, not all of them. It is a one-time carryback of credits which were earned but not used and would only apply to taxes already paid in prior years. Any revenues generated by the rule would have to be used only for modernization.

A vital steel industry is imperative to the continuation of the United States as a preeminent power in the world. The industry is fighting for survival. It needs capital to make the needed investment in the future. The steel industry is going to be leaner and meaner and profitable 10 years from now with our continued help. The losses over the past 5 years have been utterly devastating. The new cooperation between the industry and its workers is one of the pluses that has come out of this difficult period.

The workers have done and continue to do their part to increase productivity; the companies have invested and will continue to invest in their own modernization; and the tax laws should not discourage any of the progress which has been achieved.

There are 22,000 steel-related jobs in my State of Illinois. There used to be thousands more. According to the American Iron and Steel Institute, in April of this year, there were 188,300 people involved in the production of steel in the United States. In 1979, there were 453,000. That is a 42-percent decline in employment over the past 6 years.

The steel transition rule which is part of the Senate tax bill is an important part of an overall prescription for renewed competitiveness. It may be too late if we wait for the trade relief to make a difference. Funds are needed now to invest in the future. I urge my colleagues to retain the steel provision in the bill by voting against the amendment before us right now.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise in support of the amendment offered by the Senator from Arkansas.

I say, first of all, I think he deserves a medal for bravery to stand up on this floor and take on this powerful industry.

I am very sympathetic and I understand the arguments that the Senator from Illinois has just put forward. I cannot disagree that that industry is hurting and that it has paid a price and that it has had import problems. The Senator from Pennsylvania has made the point very eloquently, and there are the loss of jobs.

But I say notwithstanding that, why should the steel industry be chosen out of all of the industries that have suffered through imports, through problems of lack of mechanization, through wage and benefit problems, with labor and management, why only the steel industry?

Let me just tell you one industry that is not in this bill and has suffered as severely or worse than the steel industry, and that is the industry of copper production. It happens to be the biggest industrial employer in my State of Arizona. That industry has lost over 50 percent of its workers in the State of Arizona—14,000-plus workers no longer have jobs. Half of the productive mines in Arizona have been closed.

I do not see any transition rule in this bill for copper. These companies have not made profits. They have unused tax credits, and I do not see anything in general in the bill to provide for every company who has unused tax credits to look back and charge them off to the years that they made money.

Why? The answer is very clear. I think the Senator from Missouri and the Senator from Oregon made such an eloquent argument on the last amendment why we should not vote to do something for the Federal retirees. Once you open this door you are sending an engraved invitation, I believe it was said, for every lobbyist to come forward.

For some reason the steel industry got an engraved invitation in the markup of the bill and they accepted that. I do not blame them because, as I understand, this amendment will allow them to take unused tax credits that they have had from years when they did not make money and offset them and get refunds from the U.S. Treasury. That is from your pocketbook and our pocketbooks, and from the U.S. Treasury on the years that they did make money.

If I am mistaken, and I would like to ask the Senator from Arkansas if I am correct—if a steel company, XYZ steel company say, had 4 years of unused tax credits. Say they did not make money in years 1982, 1983, 1984, and 1985, and those credits amounted to $1 billion, and they were unused. Under this transition rule they can take these tax credits and apply them to as many as 15 years back where they did have a profit and where they did pay a tax and thereby get a refund? I would like to ask the Senator from Arkansas if that is correct, can they go back to the year hypothetically—1969, 1968, 1967, and 1966 where they did pay taxes and use these offsets in order to get a refund. Would they in fact get a check, would they actually get money from the U.S. Treasury?

Mr. PRYOR. The Senator from Arizona is absolutely correct. In fact as I understand this process, a steel company and only a steel company can go back as far as the calendar year 1961, take up to 50 cents on the dollar, fill out an amended form—1120X I believe is the form—send it to the Internal Revenue Service, and lo and behold in a couple of weeks they will get a check in the mail for the amount that they filled in.

Mr. DECONCINI. If the Senator will yield, does the Senator have a copy of the form?

Mr. PRYOR. I do have a copy of 1120X. It is one page.

Mr. DECONCINI. I wonder if the Senator will share that with me?

Mr. PRYOR. It is an amended U.S. corporate tax return. I am glad to show it to the Senator from Arizona.

Mr. DECONCINI. If the Senator from Arizona understands what the Senator is saying, by filling this form out any steel company can get a check from Uncle Sam for any year in the last 15 years where they made money, is that correct?

Mr. PRYOR. They have an option of choosing which years they want to look at in their carryback position. That is the way I understand the process.

Mr. DECONCINI. I thank the Senator from Arkansas.

We heard here a little while ago why we could not do something for retirees to permit the existing law on their contributions to the retirement funds not to be taxed because of the good argument the Senator from Oregon made. He said we are going to give

them such a low rate that everybody has to give up something and this is what the retirees are going to give up. They are going to pay less taxes because the rates are going to come down substantially. Obviously, the Senator from Oregon was very convincing because that amendment offered by the Senator from Virginia and others indeed was tabled.

□ 2310

So we took that position and now we are here, thanks to the Senator from Arkansas, who has said: "Hey, I thought everybody was supposed to give."

Not if you are in the steel business. You not only do not give, you take. You take money from the Treasury of the United States by using tax credits you could not use because you did not make any money one year and apply for a year that you did make money and you get a check from Uncle Sam. If that is not a Christmas tree decorated fully to the tune of a half billion dollars I don't know what is.

I say it is not fair. I say it is not fair to the other industries and it is not fair to the steel industry. Why should they be singled out to take this kind of abuse on the Senate floor to be criticized for coming to Uncle Sam and asking for a bailout? I do not think the steel industry wants to do that.

I just challenge those who are defending this particular amendment to face the American public and say, "Hey, this is right and this is fair." because they know it is not right and fair. It just so happens it was done in a transition rule that was cleverly put together. It took 2 days after the bill passed out of the committee before this Senator could even find out what was in the transition rule. So nobody knew for days and days what was in there. But, boy, one big one was in there.

Here is a chance tonight not to table the amendment of the Senator from Arkansas and save one-half of a billion dollars.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. WILSON). The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in support of the transition rule for steel companies in the Senate tax bill because it is right and because it is fair. I urge my colleagues to oppose any efforts to delete this provision.

This transition rule is absolutely critical to our domestic steel industry and its efforts to survive and retain competitiveness in the world economy. A healthy steel industry is vital to our Nation's economic growth and national security, and is crucial to thousands of steelworkers and their communities.

Now, the steel industry was referred to as a powerful industry a moment ago by the distinguished Senator from Arizona. And it is a powerful industry, but it is a crippled industry, I would submit, also. And it is a special industry. That is why it is so different. It is not just another business. Of course, there is employment involved, but there also are national security aspects to this thing that cannot be ignored.

The transition rule provides steel companies with a 15-year carryback against taxes previously paid of 50 percent of value of unused investment tax credits, Now, I point out that those investment tax credits are for investments already made, not just prospective. It says that those are investments they already did make in trying to modernize the steel industry, so we are willing to go ahead and help them in that effort.

In electing this carryback, companies would have to forfeit the remainder of thier investment tax credit carryforwards. This rule will provide a critical cash infusion of some $500 million for the steel industry to continue its modernization program.

The steel transition rule recognizes the fact that steel companies will lose most, if not all, of their unused investment tax credits under the Senate tax bill, because of severe losses in earnings of $7.5 billion in the last 5 years. The adoption of the new alternative minimum tax and the repeal of the investment tax credit, in effect, makes it virtually impossible for companies with large net operating loss carryovers to obtain the benefit of unused investment tax credits, for those that have been trying to modernize, and have been making those investments, but there have been no profits to lay them off against. The transition rule included in the Senate tax bill will ensure that the steel industry will not lose their investment tax credits.

There are several reasons why we should preserve this measure as drafted by the Finance Committee. I want to treat briefly some of these reasons, which fall into three categories:

First, the need for and support for our steel industry is a legitimate tool of national policy. It is not just another piece of pork barrel. It is not just another piece of special interest legislation.

Second, this is an integral and essential part of our national steel policy, which is inextricably tied to our national security policy. Can we indeed imagine a nation that is going to have defense needs and have that nation without a basic, major, first-class, world-class steelmaking capacity?

Third, this measure will help ensure that the steel industry's ambitious capital improvement and modernization program will, in fact, take place, providing employment to thousands of Americans rather than to steel companies overseas.

Do we want to transfer our business overseas in steel? I think not.

Lest my colleagues in the Senate think that this is some special interest legislation, I will remind them that there is ample precedent for this congressional action. And I would emphasize this. Speakers prior to me have emphasized we are doing something very special for the steel industry. This is something special carved out, something very special that nobody else gets, so why should they get it when copper is going down in Arizona and so on?

Well, I would submit that similar rules have been enacted in the past for other industries allowing extended carrybacks of net operating losses. For example, financial institutions, business development corporations, and small business investment companies are allowed 10-year net operating loss carrybacks. So there is precedent enough for doing this to help a particular industry or segment of our economy.

A very important aspect of this bill deals with the way this tax provision relates to this country's overall steel policy. Let me explain how this works.

We passed here in this body the Steel Import Stabilization Act of 1984, which was Public Law 98-573. With that law, Congress committed itself to a program to help the steel industry. We did not do it out of the goodness of our hearts. We did not do it just because a few people were unemployed. We did it because the United States was committed to help.

So it is not a question of whether we are going to help or not. We helped. We passed that. We passed the Steel Import Stabilization Act. In fact, we committed to this industry as an important industry for our country, for our economy, and for our national defense.

So the question is, How will we help the industry that we are committed to by the act that we passed here in 1984? Not if, it is how.

The law that we passed then recognized the capital requirements of steel companies and provided for import relief to help give steel companies breathing space to perform their needed investments. Under this law, steel companies are required to reinvest their net cash-flow from steel operations into modernization, as a condition of the continuation of steel import relief program. They cannot go off and buy something else. They cannot invest in another industry. They cannot take this carryback and say, "Hey, we are going to go out and buy a supermarket chain because we might be able to make a few more bucks that way."

No; they have to be able to reinvest in steel and modernize. That was what

we provided in that Steel Import Stabilization Act.

This "invest in steel" requirement will be continued in the Senate tax bill transition rule. We must continue our commitment to maintain a viable American steel industry, and support this transitional rule.

Now, I hardly need to remind my colleagues that the steel industry faces major challenges. We have had an unremitting stream of steel imports. They are subsidized by foreign governments. They are being dumped into this country at predatory prices. Privately owned American steel companies have been forced into unfair competition with foreign governments which own, subsidize, and protect their mills. The result is that foreign imports are taking an enormous toll in American jobs, American production, American trade balances, and American tax dollars. Indeed, I submit if we let it go much further it will also eat into American security.

Something is indeed wrong when French steel is unloaded at the port of Toledo, trucks pull up and unload French steel, while steelmills in nearby Youngstown lie abandoned.

The total work force has been cut from 452,000 employees in 1977 to less than 200,000 employees today, a 56-percent drop. Ten years ago, imports constituted only 14 percent of the market; imports for 1985 reached 25.2 percent of the market.

American steel companies and workers are struggling to meet these challenges. Steel management and labor have been working together to reduce costs, to modernize, and to improve efficiencies. Obsolete plants have closed, wages and benefits have been reduced, work rules have been changed, and numerous capital-spending projects have been launched, despite the industry's lack of profitability.

They have been going ahead with this and expanding and investing at the very time that profitability is down and most of the steel companies are in a loss position. Yet they are going ahead with it. They have faith in this country and we have faith in them or we would not have passed that Steel Import Stabilization Act of 1984.

We feel they were needed for this country of ours, needed for our economy, and needed for the security of this country.

Despite that lack of profitability, in addition some progress has been made in restraining import growth. We have the VRA's, voluntary restraint agreements. They have been negotiated. They cover 80 percent of steel imports, and steel imports fell 15 percent during the first 4 months of this year as compared to the same period in 1985. That is very hopeful.

Further improvements in the steel stabilization program are needed to expand the coverage to other countries, and prevent transshipments through non-steel-producing countries which circumvent the VRA's, and to stop upgrading in the value of steel imports. Provisions were included in the House trade bill to improve the steel program, and I certainly plan to work to make sure that they are included in the Senate trade bill later this year.

Capital formation and reinvestment is urgently needed to help this effort to restore the American steel industry. The U.S. industry should be investing at least $3 billion per year to modernize and prevent further deterioration of plant and equipment over the next 5 years. During the last 2 years the industry was able to invest only about $1.5 billion annually for capital expenditures, less than half, just half of what supposedly is needed. Even that level was remarkable as the industry had negative cash-flow averaging $90 million annually during those years.

Mr. President, the great strides that the embattled steel industry has made to restore its economic health are seriously jeopardized by this capital formation crunch. The Senate tax bill, I submit, is a very major step forward in alleviating this crunch, and encouraging necessary investment in plant and equipment at steel facilities across this Nation of ours. Putting it another way, if we remove the ITC carryback, we are taking away hundreds of millions of dollars that would have been spent in steel plant modernization—not on expansion into a different industry, not into a different area of investment, but in the steel plant modernization. That is what is required. I for one cannot see that the Senate would willingly penalize an industry that has just tremendous capital needs, whose capital investment program is so intertwined with our national policy on steel, whose very existence is threatened, and whose need we have for military policy. If we get into a war, where will we get steel from? I submit that.

Mr. President, June 21 will be recognized across our country as "Save American Industry and Jobs Day," a day of national recognition for the accomplishments of workers, business, and manufacturing industries. This effort is being sponsored by the United Steelworkers of America, and residents of devastated steel communities have been visiting Washington weekly to dramatize the plight of the steel industry and the entire manufacturing sector. There are 37,000 employed steelworkers in Ohio, an additional 42,740 have been unemployed during the past 9 years. I have met with many of them during their visits to Washington.

They have had a program of a different group coming in each week for a couple of months now.

They cannot afford to wait for the President's steel import stabilization program to finally work and reach the goal of 21-percent import penetration.

Mr. President, the American steel industry is in serious difficulty. During the past 4 years the equity value of the industry has declined by some 55 percent. The industry lost more than $1 billion in 1985, and more than 1,273,000 jobs have been lost in the past 4 years—a 47-percent decline. The main cause of this problem has been dumped and subsidized imports which the industry attacked first through literally hundreds of trade complaints, and more recently through the voluntary restraints negotiated pursuant to the President's steel import program. In addition, competitive adjustments also have been taking place at home. Labor costs are down and productivity is up. Modernization of antiquated facilities has begun. Much more needs to be done if the domestic industry is to continue to be in a position to meet our defense and basic infrastructure needs.

Let me also say that the United States cannot sit idly by and wait for the program to be fully implemented, because the steel industry will continue to decline. Progress has been made on many fronts, but if the steel industry is to survive it needs capital today.

Let me summarize. The ITC carryback for steel has ample precedent in the Congress in those examples that I mentioned. It is not something new. It is not something that has never been tried before. We have used it before in policy matters for industries that we saw vital for this country and indeed have helped them. In addition to that it is an integral and essential part of our national steel policy. It will help ensure that the beleaguered domestic steel industry can continue on its ambitious program of steel plant modernization. It will help ensure that years from now there will continue to be a U.S. steel industry providing employment to U.S. workers, and of equal importance providing security for the defense of our Nation.

I urge my colleagues to support this provision.

Mr. SIMON and Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, when you are recognized at 11:25 at night, you ought to be brief. And I shall be.

The Senator from Arkansas, Senator PRYOR, is a highly respected Member of this body. But even a highly respected Member like Senator PRYOR can once in a while be wrong as we all can be.

In addition to the other arguments that have been used, let me just mention a couple. One is I would guess that within 2 or 3 years, we are going

to be back here with another tax reform bill—I see shock on the faces of some of my colleagues—because history suggests that we go through the investment tax credit business periodically. And my guess is we will have to again because there is something we have bought that I think is unrealistic.

We have accepted this myth, part myth anyway, that we have become an information society. There is some truth to that. But it is a limited truth. And we should not buy it too much. I cannot eat information. I cannot sit on information. I cannot drive in information. You need to produce concrete things to maintain a quality of life in a country.

And in a little over a decade we have moved from 35 percent of our population engaged in manufacturing down to 24 percent. A lot of those people are still working but a lot of former steelworkers are now working in McDonald's. While they are not listed as unemployed, something has happened to the quality of life.

So it is important that we maintain basic industry in this country. And to my friends who are not in steel States but who may be in States where you have coal like I see Senator FORD, and Senator BYRD on the floor, from two good coal States, this amendment affects not only steel. It affects coal. You put steel out of business and you are going to put coal miners out of business also.

There is one flaw in this amendment which the Senator from Arkansas has pointed out, and I happen to agree. And I will have an amendment tomorrow to deal with that; that is, it is not clear even though there was an understanding in the Finance Committee, that steel has to reinvest in steel.

Mr. PRYOR. Will the Senator yield on this point?

Mr. SIMON. I am pleased to yield to my colleague from Arkansas.

Mr. PRYOR. I am so glad my friend from Illinois has pointed out this fact because if I am correct two previous speakers have stated—and I am sure that it was not intentional—that the $300 million in checks going to the steel companies under section 212 would have to be reinvested for recapitalization, improvements, et cetera.

Mr. President, I submit that today there is nothing in section 212 which would cause that to happen. And, I once again want to thank the distinguished Senator from Illinois for pointing this evident fact out.

□ 2330

Mr. SIMON. I thank my colleague from Arkansas. I hope that amendment can just be adopted by voice vote tomorrow. I think we can then close that particular gap.

I would add one other thing. That is my friend from Arizona, Senator DECONCINI, said, "Why the steel industry?"

The reason for the steel industry is that it is so basic to this country. If we let steel continue to deteriorate, we let our country deteriorate. That is a simple reality. There is no way to hide from that reality.

So as much as I respect my good friend from Arkansas, I believe this amendment should be defeated, and we ought to do what we can to protect the steel industry of this country.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I hope the amendment of the Senator from Arkansas will be defeated. The Senator from Illinois was correct, this was not a surprise. This was not something that had to be discussed before we wrapped up the bill.

The reason I oppose the amendment of the Senator from Arkansas comes not as much from the hearings that were held on the tax bill as the hearings we have had on trade over the years. People made the argument in these hearings that we had to give a special duty, tariff, or barrier, because of national defense. Almost every industry tries to make the argument, so much so that when we debated the Israeli agreement some years ago, even the avocado industry attempted to make the argument of national defense.

For the life of me, other than mock handgrenades, I could not picture what we would do with avocados.

But with steel, I find an entirely different situation.

We cannot be a major power in this world if we do not have a steelmaking capacity. I do not mean a steel-importing capacity. I do not mean we could take raw steel from Brazil and roll it into fine steel here.

I mean a steelmaking capacity. I think the steel industry has endeavored to do a good job in reinvestment. I think the amendment of the Senator from Illinois, and we asked to have a chance to look at it overnight, will require that any money in the bill that the industry gets under this provision be reinvested in the steel industry, not the apparel industry, not the shoe industry, or the coffee industry. The money must be reinvested in the steel industry.

Count me as one of those who simply says if this industry disappears, America as a great nation disappears, at least until the day comes when somehow we find a way to make airplanes and ships out of plastic rather than steel. We have not come to that yet, and I do not see it coming soon. Consequently, I hope we defeat this amendment.

Mr. GLENN. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. GLENN. In the amendment to be proposed by the Senator from Illinois, if the Senator wanted to, I thought we could vote on it tonight, if the Senator wanted to.

Mr. PACKWOOD. We want to look it over and make sure that we can pass on it while our minds are fresh.

Mr. MOYNIHAN. Mr. President, I rise also in opposition to the amendment before us. I would not wish to extend our discussion, but to make an important point.

The Senator from Arkansas correctly pointed out that the bill as presently drafted does not limit the reinvestment of the investment tax credit refunds, but it will do so before this legislation moves out of the Senate, as the chairman of our committee has assured us.

This is an important point for one particular reason: The basic problem of the steel industry in our Nation is productivity. I believe in the year 1904 the United States passed Great Britain in productivity in iron and steel, and the onset of an American-dominated world economy began.

In 1969, Japanese productivity passed ours, and there is no escaping the arithmetic of productivity.

If we are to recover, and clearly we can—though I must note that it is a rare event in history when nations have done so—it requires an investment, the kind of investment anticipated by the stabilization legislation the Senator from Ohio spoke of, which would be facilitated by this provision.

That is why it is in the bill, and that is why in my view it ought to stay there.

I make the simple point that in 1977 our capacity peaked at 160 million tons and it is down to 128 million tons today. Employment has dropped much more, from 512,000 persons in 1974 to 188,000 today. The steel industry is at present operating at only 71 percent of capacity. That is not an economical level, and it is not a level that will ensure the survival of the capacity we still have. Unless we improve productivity, with additional investment, we shall continue to see this decline.

It is the hope of the Finance Committee that this transition provision for the phasing out of the investment tax credit will facilitate the industry's realignment into a more profitable and productive era. I hope the Senate will find in its wisdom to support the committee in this matter. I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, obviously the hour is late and I will be brief.

Without reiterating what the Senator from Ohio has said, the steel in-

dustry is unlike many other basic industries. It is not only basic but it is really a fundamental industry for national security. That is often said, but it is true.

It is a matter of what are we going to do if this country goes to war, who can we turn to, who can we count on. The steel industry fits into that particular equation more significantly than most others.

Let me say also, Mr. President, the steel industry has been through probably as many or more problems than any other industry that I can think of, three recessions, a whole series of problems with foreign imports, subsidization by foreign countries.

Throughout all of this, I have to say that management, labor, and the Government up until recently had not really been doing what they should have been doing to modernize and to create the kind of atmosphere for improvement.

The point is, Mr. President, that time has passed. The Government, labor, and management are now joined all going in exactly the same direction, moving for the same improvements.

Industry has made the kind of modernization and they should be credited not just for that but they have been doing it at a time when they have been losing money consistently.

It is one thing to modernize when you are making money but quite another thing to modernize when you are not.

The labor movement in the steel industry and the union part are very active with long histories. They have begun to make and are making the types of concessions realistically based that hold out great hope for the future of the steel industry provided the Government does its part.

I think it is entirely cosistent with national policy, entirely consistent with the basis of this tax reform bill, that the Government is fulfilling a commitment to continue its help to the steel industry through this bill. I think to remove the particular help from this bill is given to the steel industry would be a tremendous mistake. I truly believe that this is an industry in which Government, labor, and management have to work together or else the entire industry will disappear from the face of this particular Nation.

It once was the case when the Japanese were defeating us. Now it is a case where the Koreans are defeating the Japanese who are defeating us in this industry. We cannot back off from the efforts which have been made. I think the proposal to allow the steel companies to be paid for a portion of their unclaimed investment tax credits, unclaimed because they had no profits and no tax liability for the credits to offset, should be part of the bargain. The bill does that, and I would strongly urge not only that my colleagues consider the arguments that have been made tonight, but they defeat the effort to remove this provision from the bill.

□ 2340

Mr. SPECTER. Mr. President, I oppose the amendment to strike this transition rule for the steel industry, not only for my State of Pennsylvania but for the welfare of the Nation. I have just heard that this will be our last vote of the night. Good news for C-Span, good news for the U.S. Senate. I shall limit my remarks to 3 minutes.

Back to the basics: What is the purpose of the transition rule? The transition rule is intended to mitigate the unintended impact of new tax law to the detriment of the taxpayer who has made a major commitment in reliance on prior law. In a nutshell, Mr. President, that is precisely what this rule does. For this reason, due to the large net operating losses of the industry in recent years and large investment in prior years relative to the income generated in steel, most steel companies have large net operating loss carryovers. The imposition of the new corporate alternative minimum tax, which does not permit investment tax credits to be used as an offset, will render these ITC credits virtually worthless unless a special rule is provided for the industry. That is what this rule does.

Just two statistics illustrate the problem of the steel industry. In 4 years, the aggregate balance sheet equity of steel operations plunged from $15.4 billion to $6.8 billion, a 55-percent decline. That is the capital picture.

On the human side, in labor losses in the same period, 173,000 steelworkers lost their jobs, a 47-percent decline in employment. Those statistics are from the American Iron & Steel Institute.

The United Steelworkers of America make this case succinctly as follows: This measure is needed to supplement other relief measures which are already in place, including wage concessions and trade restrictions under the voluntary restraint agreements.

Mr. President, next Saturday, June 21, will be "Save American Industry and Jobs Day," a very important day to the welfare of this country. The U.S. Senate should make its contribution tonight by defeating this amendment and allowing this important transition rule for the steel industry.

I thank the Chair and I yield the floor.

Mr. PRYOR. Mr. President, the hour is late and I only have a very few moments to respond to my colleagues. I would like the attention of my colleagues if I may.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PRYOR. I thank the Chair very much. My statement is only going to take a very few moments.

One, during the course of this debate this evening, the issue of oil and special treatment of the oil industry has been brought to the floor again. Let me tell my colleagues why this issue of steel and the issue of oil are different: One, the issue of oil was taken to the Senate Finance Committee and in a scorching debate of 4 hours, those interests working for that particular proposal prevailed. They took it to the committee, they won that vote and it became a part of this proposal of the tax reform bill.

Only a few days ago, the Senator from Connecticut thought that that was a bad provision and he tried to strike that provision. Once again, after a long and searing debate on this floor in front of the entire public, the oil interests prevailed.

But, Mr. President, on the steel amendment, there has been no such debate. There was no such debate in the committee. The Senator from Pennsylvania has pointed out that this has not precisely been voted on or against in the committee. The Senator is correct. But what the Senator from Pennsylvania did not mention is that the committee, behind closed doors, agreed that the carryback concept of the investment tax credit should not be put in this particular measure.

If we may remember, under one of the original proposals, Senator PACKWOOD, our distinguished chairman, had a provision that we would buy back the unused tax credit at a 70-percent-of-value rate. I will never forget what one of my learned and distinguished colleagues said: "Now, can't you imagine, my colleagues, this photo opportunity of companies like General Electric and General Dynamics with us walking up and giving them a big check for many millions of dollars?"

Well, Mr. President, all of us laughed. We said, "That burden is too heavy to carry." We dropped the idea of the investment tax credit buyback. That issue, I thought, was dead. I sincerely thought so, I say to my colleagues, until I read about it in the paper.

So, the oil industry and the oil issue and the steel issue are two separate items.

Mr. President, the second point I would like to make is I would like to say to all of my colleagues, I do not disagree with one thing my colleagues who oppose this amendment say when they talk about the plight and the problems of the American steel industry. It is a problem and it is a crisis. But I would also like to say that if that argument is so meritorious, if the steel industry is in fact in such horrid shape, if the steel industry needs our help, then why does it have to be done

under the guise of calling this a transition rule, saying we are going to help the steel industry but we are not going to help any other industry?

All of these points about the number of people who have lost their jobs, the number of imports that have come to this country, or what has happened to the dynamics of the steel industry that was viable two or three decades ago—Mr. President, I do not disagree. Nor do I in any way attempt to say that I am unsympathetic to the steel industry in this great country of ours. But when we talk about sympathy, let us talk about an article yesterday in the State papers of Arkansas: 600 people lost their jobs yesterday. Mr. President—200 in a little electric plant because of Japanese imports, 400 in another shoe plant. That adds up to many thousands of people, in many of our States, who have lost their jobs.

Here is one from October 20, 1984. Three textile mills closed in two Arkansas cities; 1,800 people left without jobs.

Mr. President, is there anything in section 212 of this legislation that I am attempting to strike that assists those 1,800 people who lost their jobs in the textile business, or in the electric engine business, or in the shoe business? The answer, of course, is negative.

A garment factory just a few days ago, employer of 300, set to close. Is there anything in this bill, Mr. President, that is going to help those people? The answer is no.

Here is a map of our State of Arkansas, which demonstrates the jobs that have been lost in the past 12 months.

I also have one other sheet showing the number of plants that have closed in 1985, a list of the plants that have closed in our State, mostly due to imports. Once again, that is not the issue. The issue is that section 212 does not meet the tests of being a transition rule.

Yes; we have talked about imports this evening. We say that imports are ruining the steel industry. My answer to the opponents of my amendment—my question, rather—is a very simple question. If imports are the problem, if that is what is causing the crisis, why do we not do something on the trade bill and not on a major tax reform bill, where we only benefit one section, the steel section, of our economy?

Mr. President, in conclusion, I wish to state to my colleagues, in a final summary, I guess you might say, we have talked about tax reform for the last few days in this great Chamber. I think that the Senator from Missouri [Mr. DANFORTH] gave an eloquent message this evening on the spirit of tax reform and what it is about. Yes; it is about giving up loopholes and it is about giving up deductions and it is about giving up preferences and it is about not providing special treatment. That is what tax reform in 1986 is all about. That is exactly what section 212, called a transition rule, is all about, because it does show favoritisms to one section of our economy.

□ 2350

This sector is in trouble; it needs our help; but this provision flies in the face of the spirit of tax reform as we have debated it in 1986 in the Finance Committee and also on this Senate floor.

Mr. President, I have two forms that I would like to show my colleagues. One of those forms is a form 1040. That form 1040 is for John and Mary Doe to fill out on April 15. On that form they sign their names and they pledge that they have paid their taxes honestly, and that they have calculated their deductions and they are doing their best to comply with the law of this country. So they send in their check to the Internal Revenue Service, and that check, Mr. President, is going to go right out the window, $500 million worth, to comply with another form, 1120–X, the amended U.S. corporations income tax return, where a handful of steel companies, deserving as they might be, are going to fill out this form, choose those 15 years in the past that they want to use as a way to get a refund from the Internal Revenue Service or from the taxpayers or from John and Mary Doe, who have just filled out form 1040.

I say, Mr. President, once again, I think this rule does not meet the test of a transition rule and, Mr. President, I ask my colleagues to strongly consider upholding fairness and equity in this particular tax reform bill of 1986 by striking this section of this tax reform measure. I thank the Chair and I yield back the remainder of my time.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I came prepared to support the amendment offered by the distinguished Senator from Arkansas. However, I have some real questions about it.

I believe that we do need a steel industry in this country. We need a healthy and vibrant steel industry for our national defense, for our national security. I do not think there is any question about that. I have given many speeches in the past in my home State of Iowa and other places saying that same thing, we do need a steel industry and that I am prepared to vote for tax incentives to get our steel industry back on its feet again and competitive in the world market, for plant modernization, job retraining, whatever it takes. I am willing to vote for this because I believe this country needs a domestic steel industry second to none in the world.

Now, I said that I was ready to oppose the amendment offered by the distinguished Senator from Arkansas because I had a letter sent by the Senator from Ohio and the Senator from Pennsylvania and others, the prime sponsors of this provision in the committee bill. It said that the revenues generated from this transition rule could be used only for modernization. I assumed that was true, it could only be used for modernization. So I asked my staff to look into that. I asked other individuals to look into that. I found out that is not quite the case. In fact revenues generated from the provision basically could be used for anything. Now, therein lies the real problem for those of us who on the one hand want a good, strong steel industry in this country but do not want to give a big check to United States Steel or any other steel company and let them use it to go out and buy Marathon Oil Co. just as they did in 1981.

Mr. GLENN. Will the Senator yield for a question?

Mr. HARKIN. In just a second.

Mr. GLENN. Will the Senator yield?

Mr. HARKIN. I will yield in just a moment because I do have some questions.

Mr. GLENN. This was addressed on the floor.

Mr. HARKIN. Let me finish the statement and I will yield to the Senator.

In the 1981 Tax Act there were benefits that accrued to certain steel companies. United States Steel used those tax benefits to buy Marathon Oil Co. I said that was a gross negligence, a misappropriation on their part of the tax benefits Congress had given them. And so I was encouraged when I first thought the revenues could only be used for plant modernization. Then I listened to the arguments made by my distinguished colleague from the State of Illinois, Senator SIMON, who has an amendment directed directly at that provision. Now, with the adoption of the amendment by the Senator from Illinois, there is absolutely no doubt in this Senator's mind that I would oppose the amendment offered by the Senator from Arkansas because I would be assured that any revenues accruing to the steel industry from this transition rule would be used for plant modernization. It would be used to get our steel industry back on its feet again so it could compete in the world markets. The question I have for the distinguished Senator from Ohio is this: Would the Senator from Ohio and the Senator from Pennsylvania be receptive to the amendment that has been drafted, although not offered, by the Senator from Illinois? I guess that really is my essential question.

Mr. GLENN. Will the Senator yield for a response?

Mr. HARKIN. I would yield for a response without losing my right on the floor.

Mr. GLENN. The answer is an unequivocal yes, and I think before the Senator from Iowa arrived on the floor we had a short colloquy on this. We thought that perhaps legislative language, or legislative history as we discussed it on the floor here tonight would be satisfactory to take care of this, but just in case that did not suffice I had drawn up a proposed amendment that would do exactly what the Senator from Iowa is talking about.

The Senator from Illinois [Mr. SIMON] had done a similar thing. What we have done is to give Senator PACKWOOD and his staff both of the amendments. They will select one that they think does exactly the job, does exactly what the Senator from Iowa is talking about and will pass it tomorrow probably on a voice vote. If there is any requirement for a RECORD rollcall vote, I would be glad to have it but I think we can probably pass it. It does exactly what the Senator says. It requries that any of this money cannot be used to go out and buy oil companies, K-Marts, anything else; it has to be used in steel modernization. Both of the amendments do that. We will let the Finance Committee select the one which they think is most appropos.

Mr. HEINZ. Will the Senator yield on the first question?

Mr. HARKIN. Yes, I would be delighted to yield without losing the floor.

Mr. HEINZ. Mr. President, I thank the Senator for yielding. The answer I would give to the Senator is exactly the same as the Senator from Ohio, an unequivocal yes. This Senator intends that any of the funds that could be refunded to any steel company be directly invested only in steel facilities. I have had an opportunity to examine at least one amendment, which I believe was prepared by the Senator from Illinois, and I am prepared to support that amendment or one almost exactly like it, the full intent of which was described by the Senator from Iowa as well as by the Senator from Illinois.

Mr. GLENN. Will the Senator yield?

Mr. HARKIN. If I might direct another question to the two distinguished Senators, I assume the amendment drafted by the Senator from Illinois and that would be offered by him says the steel industry would have to reinvest that money in plant modernization, equipment, research and development in this country, in the United States and not abroad?

Mr. HEINZ. The Senator is correct.

□ 2400

[The following proceedings occurred after midnight.]

Mr. HARKIN. Mr. President, I think this is a marked improvement, and in light of the signal I have just had from the Senator from Ohio and the Senator from Pennsylvania, I am wondering if we might not—and I direct this question to my friend from Arkansas—if we might not pass over this amendment and provide an opportunity for this amendment to be brought up and adopted—the amendment by the Senator from Illinois——

Mr. PRYOR. May I respond to the Senator?

Mr. HARKIN. Without losing my right to the floor.

Mr. PRYOR. I do not want to take the floor. I want to give it up.

I think we started on this amendment about 10 or 10:30. We have debated it. I think every Member of the Senate knows how they are going to vote on this amendment. I do not see any need to prolong it.

Mr. HARKIN. As I said, if the Senator from Arkansas is right, that they can take this money and buy Burger Kings and Marathon Oil, I will support his amendment.

I have assurances from the Senator from Pennsylvania and the Senator from Ohio that there will be an amendment offered tomorrow, and probably will be adopted, and I do not mistrust their words at all. I am sure they have the best of intentions. But this Senator from Iowa does not like to buy a pig in a poke. I want to know that this is part of it and that the Simon amendment or the amendment offered by the Senator from Ohio is part of it. Then my vote would be different. I know it would vote against the Senator from Arkansas. But, again, I wonder if we might move on to that and get a clear indication.

Mr. MOYNIHAN. Mr. President, if the Senator from Iowa will yield for a comment, it might help in this matter.

It was remarked earlier that this particular change is already included in the technical corrections that have been drawn up, to be adopted at the end of the bill. We never had any doubt that it was our purpose.

Mr. HARKIN. Does the Senator from New York say that the Senator from Ohio could vote on the pending amendment with absolute, total assurance that there will be an amendment offered that will permit that this money could only be used domestically for modernization, equipment and upgrading?

Mr. MOYNIHAN. As near as the intentions of the committee can be stated.

Mr. HARKIN. That is what I mean. It would be nice to have it in now, before we move on.

That is why I ask unanimous consent that we pass over the amendment offered by——

Mr. PRYOR. I do not mean to interrupt——

Mr. HARKIN. Mr. President, I ask unanimous consent that we pass over the amendment at this point, until such time as an amendment is offered and debated, either by the Senator from Illinois or the Senator from Ohio.

Mr. LONG. Mr. President, reserving the right to object, I believe the record has been made amply clear that this matter will be modified in the fashion that has been suggested.

I assume that the chairman would agree with what the Senator from New york just said—that the technical corrections amendment will be offered at the end of the bill and that this matter will be taken care of in the technical corrections.

Mr. PACKWOOD. Mr. President, I think we are making a mountain out of a molehill. We have been on this subject about 20 minutes. The Senator from Ohio gave me one particular product. I want to get the strongest amendment possible, and I do not know why the Senator from Iowa cannot accept our good faith. We are going to accept some amendment, but at this hour of the night I do not want to pick the stronger one or the weaker one.

Mr. HARKIN. Mr. President, we probably can take care of this. Those of us who saw what happened with the provisions in the 1981 Tax Act—what at least one steel company did with those funds we gave them—can only be anxious about what they might do with these new revenues.

Again, with the assurance of the Senator from Ohio, the Senator from Pennsylvania, and the distinguished chairman of the committee, I am prepared to vote "no" on the pending amendment, with the assurance that tomorrow we will be able to adopt one of these amendments.

Mr. SYMMS. Mr. President, throughout consideration of the tax proposal. I have voted to keep the bill intact as it was passed by the committee.

The transition rule that the Senator from Arkansas seeks to strike from the bill is not a transition rule. It allows treatment that is not allowed under either current law or under the committee bill.

Mr. President, I have great empathy for the steel industry, its employees and stockholders. They—like farmers, miners, and loggers in my State—have not shared in the recovery evident in other parts of the country.

The farmers, miners, and loggers in my State are entitled to the same treatment as those in the steel industry. To do otherwise is unfair. Mr. President, I was an early proponent of refunding unused credits if and when the investment tax credit was repealed.

I still believe that it should be resolved so that all of those taxpayers in industries that have not been profitable can share in a refund of credits. This can be done in a manner so that there is no cost to the Treasury.

As I have pointed out, I am sympathetic with the amendment of the Senator from Arkansas for the reason stated.

It appears, however, that the best way for me to help my farmers, miners, and loggers is to vote to table the amendment so that the provision is retained and will be dealt with in conference.

I am not interested in beating up on the steel industry. What interests me is helping the farmers, miners, and loggers in my State. I will work diligently to see that they are dealt with fairly in the joint conference.●

● Mr. LUGAR. Mr. President, I oppose efforts to amend the Finance Committee bill and to remove provisions which will permit steel companies to claim 50 percent of their unused investment tax credits earned against taxes paid in the preceding 15 years. I will make only one point—this provision is properly within the normal scope of transition rules.

The chairman of the Finance Committee has spoken at length concerning transition rules. The rules are intended to mitigate the unintended impact of the new tax law to the detriment of a taypayer who has made a major commitment in reliance under prior law. The Finance Committee bill, which repeals the investment tax credit, would, without transitional relief, create a severe and unintended hardship on the steel industry. Significant net operating losses in the industry in recent years would limit the ability of the steel industry to carryback their unused credits. I would note parenthetically that these unused investment tax credits in the steel industry approximate $1.22 billion. If the transition rule had not been provided, it is possible that many steel companies would eventually lose the benefit of the credit.

My colleagues have highlighted the importance of the steel industry and I strongly concur with those statements. A strong and competitive steel industry is vital to our country. Our national defense relies upon adequate steel capacity. The prosperity of many States and regions of this country is dependent on revitalization of the steel industry.

Under the Steel Import Stabilization Act, which was approved by Congress in late 1984, major steel companies must commit substantially all of their net cash flow to reinvestment in modern plant and equipment. The most recent determination made by the President in September 1985, found that the major steel companies had complied with the provisions of that act and had reinvested in modernization.

The steel transition rule is an equitable response to past investment by the steel industry. It is essential to continue modernization by the industry. I urge my colleagues to join me in supporting retention of the steel transition rule.●

SEVERAL SENATORS. Vote. Vote.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, the case has already been well stated by several Senators in opposition to this amendment. I hope that the Senate will support the motion to table, which will be made. I certainly respect the viewpoint of the distinguished Senator from Arkansas. He came to my office today, or yesterday, and told me that he intended to offer this amendment; and I think that was a very fine gesture on his part. I certainly have no animus against any Senator for offering an amendment in which he believes.

This amendment would hurt our steel industry. We are not asking for sympathy. We have tried, under the trade laws, to get relief for our steel industry. I have talked to the President, I have appeared before the International Trade Commission, and our words have fallen upon deaf ears.

There have been times prior to this when we have offered amendments on this floor to give some assistance to the steel industry and the people who work in that industry, and we have not been successful. Always, whether under this administration or previous administrations, our efforts have been met with opposition from the State Department, or some other department downtown, or the White House—opposition to action on this floor that would bring some relief to our suffering steel industry.

Of course, other governments continue to subsidize their industries and make it impossible for the U.S. steel industry to compete.

So those of us who represent States that have large steel plants, can see the damage that has been done to our steel industries and the unemployment that has resulted from the unfair practices of our trading partners.

Mr. President, I simply say this: I think it was Mr. Regan who said some time ago to the steelworkers of this country, in essence: "You can forget it, boys. The wave of the future is McDonald's and Sears, Roebuck—the service industries."

I want to see our service industries prosper, and I am glad to see people employed in those industries. But if this country ever gets into a period of general mobilization again, we cannot build ships and tanks and guns out of plastic. We can make the finest hamburgers in the world and the finest hot dogs in the world, but we can say goodby to America as a superpower if we let the steel industry go under.

We are talking about national security, not just about the economy and the jobs of people, important as they are. We are talking about the national security of this country. The steel industry in this country not only made it possible for the United States to win victories in World War I and World War II and to fight in Korea and in Vietnam; but also, it was the steel industry in this country that enabled other countries—the Soviet Union, England, our allies in World War I and World War II—to wage the battle for freedom against Nazi Germany and to wage it successfully.

We will not be able to do that again if the American steel industry goes under. We will not even be able to provide our own fighting forces with the tanks and the guns and the planes and the ships.

I have worked in the shipyards as a welder. I helped build the Liberty and Victory ships of World War II. I will not have to do that again if we don't have the steel. I can get a job in a hamburger place or a hot dog stand in the next war.

□ 2410

But these will not build our ships, our tanks, and our guns.

I do not care how we bring relief to the industry. I will take it this way or any other way I can get it, because the steel industry is on its back. It is time we thought about the national security of our country first. Just kiss it goodbye. The United States of America can never be the great power that it has been if this industry goes under.

I hope that we do not have to depend upon other countries for steel to build the tanks and the guns that we will have to have if we ever fight another war.

I thank the Senators for their patience, and again may I say I respect the distinguished Senator from Arkansas for doing what he thinks is right. I hope the motion to table the amendment will be successful.

Mr. DOLE. Mr. President, let me just indicate I think this may be the last vote this evening. Well, evening ended, I guess. But it will be the last vote until 9 a.m. or 9:30 or 10.

I have been reluctant to get involved in all these debates. It is kind of hard not to be involved. But I must say, could I ask the Senator from Arkansas does this also protect American farmers? Is that included in this amendment?

Mr. PRYOR. I respond to the distinguished majority leader saying section 212 does nothing for the American farmer. It does nothing for any other segment of our economy, only the steel industry, and once again, I do not know if the majority leader was here,

but we have had great arguments about why we need to help the steel industry. I want to help the steel industry, but this does not meet the test of the transition rule, in my opinion, and that is why I brought the matter to the floor of the Senate.

I know that I am not going to prevail. I know that. But I did want the Senate to at least have the opportunity and I think even the responsibility to cast a vote, but it does not help the farmer.

Mr. DOLE. I do not quarrel with any people in the steel industry for seeking special relief, but I think those of us in the farm belt are going to hear some concern expressed by implement dealers, farmers, and others if we again pick out big companies to give special breaks and say, "Well, we will try to take care of you later."

I think that, coupled with the facts that most of us read in the newspapers, is troublesome.

Mr. HEINZ. Mr. President, it is the intention of the Senator from Pennsylvania to move to table the amendment of the Senator from Arkansas. I do not wish to cut off debate on the floor. I do not see a lot of people leaping to their feet. Maybe it has something to do with the fact that it is after midnight.

Let me just say one word, that if the steel industry goes under, I think the rest of America will go under.

Mr. President, I move to table the pending amendment.

Mr. BYRD. Mr. President, I ask unanimous consent that, notwithstanding there is no debate, it be in order that the majority leader may proceed for whatever time he may desire to respond to a question that I shall propound.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, before the vote, may I ask the distinguished majority leader what time the Senate will come in tomorrow and what Senators may expect as far as rollcall votes are concerned tomorrow?

Mr. DOLE. Mr. President, we have requests for 10 special orders.

I suggest we come in at 9 o'clock and be on the bill by 10 a.m.

Mr. PACKWOOD. Mr. President, I can be ready at 10 a.m.

Mr. DOLE. Mr. President, we hope to resume the pending legislation at 10 a.m. I understand from the chairman, the distinguished Senator from Maine [Mr. MITCHELL] may lay down his major amendment.

Mr. PACKWOOD. I hope so.

Mr. HEINZ. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Pennsylvania to lay on the table the amendment of the Senator from Arkansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announced that the Senator from Arizona [Mr. GOLDWATER], the Senator from Florida [Mr. HAWKINS], the Senator from Nevada [Mr. LAXALT], and the Senator from Idaho [Mr. MCCLURE].

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] and the Senator from Mississippi [Mr. STENNIS].

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 29, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—65

Armstrong	Glenn	Matsunaga
Baucus	Gore	McConnell
Bentsen	Gorton	Melcher
Biden	Gramm	Moynihan
Boren	Harkin	Murkowski
Boschwitz	Hart	Packwood
Bradley	Hatch	Quayle
Byrd	Hatfield	Riegle
Cochran	Hecht	Rockefeller
Cranston	Heflin	Sarbanes
D'Amato	Heinz	Sasser
Danforth	Helms	Simon
Denton	Inouye	Simpson
Dixon	Johnston	Specter
Dodd	Kassebaum	Stafford
Domenici	Kennedy	Symms
Durenberger	Kerry	Thurmond
Eagleton	Lautenberg	Trible
East	Levin	Wallop
Evans	Long	Warner
Ford	Lugar	Wilson
Garn	Mathias	

NAYS—29

Abdnor	Grassley	Pell
Andrews	Hollings	Pressler
Bingaman	Humphrey	Proxmire
Bumpers	Kasten	Pryor
Burdick	Leahy	Roth
Chafee	Mattingly	Rudman
Cohen	Metzenbaum	Stevens
DeConcini	Mitchell	Weicker
Dole	Nickles	Zorinsky
Exon	Nunn	

NOT VOTING—6

Chiles	Hawkins	McClure
Goldwater	Laxalt	Stennis

So the motion to lay on the table Amendment No. 2090 was agreed to.

□ 0030

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RETROACTIVITY

Mr. WEICKER. Mr. President, I rise to join my colleagues in decrying the retroactive tax provisions contained in H.R. 3838, which are nothing short of confiscatory. I do so because nothing could be more inherently unfair and troubling, more basically un-American, than changing the rules of the game in midstream for an innocent investor and then punishing him for his inability to predict the whimsies of Congress.

Mr. President, I am not innocent to the process at hand. We are all wearing the banner of tax housecleaning these days, and in the Finance Committee bill, we have finally found a proposal faithful to those goals. Yes; we all recognize the failings of the present Tax Code, and we have known for years that our tax laws had to be cleaned up. And now, in the pursuit of lofty and working principles, we are turning our backs on the ways of old.

But there are hallowed principles that we are also ignoring here—principles at the very core of America. One of those is basic fairness. And that means quite simply that if you play by the rules of the game, the Federal Government will play by the same rules. If you take the Congress at its word, and follow its initiatives, you'll be treated squarely. And another self-evident truth is the soundness and dependability of America as a place to invest your savings. What safer place in the world is there; what country offers greater stability and liquidity?

Generations of investors have come to believe in the United States, and it is quite simply because we can be relied on to live up to our obligations and undertakings. In our haste to enact tax reform, are we going to jeopardize our international reputation?

For the millions of investors in tax shelters, those principles will ring hollow—because if this tax bill passes in its present form, they'll find that the investments they made years ago, in complete conformity with the law—will become suddenly worthless, by virtue of the fact that they won't be able to use the losses that those investments generate. They plunked down their money, in areas where the Congress wanted to encourage investment—in low-income housing and real estate development and farming and mining. The Congress wrote those laws specifically to allow the deductibility of those losses, for very laudable goals, and perhaps there was some short-sightedness, perhaps we overdid things. But is that their fault or ours? Sure "tax shelter" has become an obscene word today, but only a few years ago, it was considered a vehicle of social engineering.

Mr. President, fairness to these investors cannot be sacrificed on the altar of tax reform. They cannot suddenly be made the scapegoats for the sad shape of our Nation's Tax Code. Because if the Congress can confiscate their property in this way, then we have cast a cloud on the very integrity of America as a place to invest one's money. If today we tax investors retro-

actively on tax shelters, then tomorrow what won't we do in the name of some other laudable goal? Will we try to default on our bonds and debts in an attempt to reduce the deficit? Can we ever be trusted again to live up to our undertakings? If we want to create other incentives, who will dare believe us?

No, Mr. President, America is a place that guarantees the safety and liquidity of its investments. For millions of individuals and corporations here and abroad, America is synonymous with integrity and trustworthiness.

Now, they say that this provision has a hefty price tag—some say as much as $20 billion. Mr. President, I don't know where that money will come from. I do know that it will prove a pittance compared with the loss of trust in our Government and the cynicism which will greet our every future promise.

IN FAVOR OF RETENTION OF SECTION 401(K) BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES

Mr. D'AMATO. Mr. President, I want to bring to the attention of my colleagues a provision in the current tax bill which I believe is unfair. The bill eliminates 401(K) plans for most State and local government employees while retaining them for private and nonprofit sector employees. In addition, recently passed legislation provides Federal employees with benefits similar to those of a 401(K). Therefore, if this bill is enacted, every employee in this country will be able to benefit from 401(K) plans except for those employed by State and local governments. There is no logical explanation for the exclusion of State and local government employees from 401(K) benefits. It is unjust to discriminate against this one group.

Mr. President, let me provide my distinguished colleagues with an example of how the provisions of this bill would impact on State and local employees. State and local employees who currently have a 401(K) are grandfathered in the Finance Committee bill. But those employees that have not set up 401(K) plans would be prohibited from ever enjoying the benefits of these plans.

The employees of New York City already have in place a 401(K) plan and, thus, would be grandfathered. However, New York State employees would be prohibited from ever having a 401(K) plan. A nurse working for a hospital operated by the State of New York or a local government could not have a 401(K) plan, but a nurse at a for-profit, charitable or Veterans' Administration facility could. This not only is unfair to the employee, but it is unfair to the employer who is incapable of offering a 401(K) plan as part of its compensation package. This is the type of unequal treatment that discourages qualified individuals from working for State and local governments.

Mr. President, we have been debating this bill for several days. A hallmark of the Finance Committee bill before us is the consistency with which it attempts to neutralize the Tax Code's impact on how individuals and businesses make decisions. This consistency, however, is not uniform. In New York State, more than 170,000 State employees will be treated differently from every other employee in the State in that 401(K) plans will not be available to them. Again, this is unfair.

If we decide that it is a desirable policy to provide tax favored savings to employees, then I believe all employees should be able to share in the benefit equally. It is inconsistent with the goal of fairness, equity, and tax reform to provide a tax benefit to one group of employees and to deny it to another. Moreover, by denying public employees 401(K) benefits it makes it far more difficult for a State or local government to attract and retain quality employees.

We must not subsidize the private sector at the expense of public employers and their employees. State and local governments must be able to continue to offer 401(K) benefits to their employees. It is wrong to single them out for discrimination. I hope all my colleagues will join with me in urging the conference committee to reinstitute 401(K) benefits for public employees.

Thank you, Mr. President.

METZENBAUM AMENDMENT (NO. 2085) ON PLACED-IN-SERVICE DEADLINE FOR INVESTMENT TAX CREDIT TRANSITION RULES

● Mr. MOYNIHAN. Mr. President, the amendment made by Senator METZENBAUM corrects a purely technical drafting error in the bill which had the unintended effect of leaving open the deadline by which property had to be delivered or otherwise put into use by a taxpayer in order to qualify for the investment tax credit.

I want to point out two things. First, there was never any intention on anyone's part to propose or enact transition rules for the investment tax credit that did not have deadlines. This was purely an administrative drafting error, which we fully intended to set right.

Second, though only one company—Merrill Lynch—was mentioned, I want to point out that the drafting error covered every provison in the bill that provides transition relief for the investment tax credit, of which there are more than one hundred.●

EXPRESSION OF APPRECIATION TO DAVID H. BROCKWAY AND STAFF

● Mr. DURENBERGER. Mr. President, the U.S. Senate this week will pass a revolutionary piece of legislation: the Tax Reform Act of 1986. This bill is true tax reform, the type of reform that just 2 years ago was considered by many to be a highly desirable yet unachievable goal. Now, thanks to the commitment of many dedicated people, the dream of a simpler, fairer tax system is about to become a reality.

Perhaps one group of individuals that has contributed more than any other to the success of tax reform is the Joint Committee on Taxation under the leadership of David H. Brockway. Brockway and his talented staff are responsible for writing the original draft tax reform proposals for the House Ways and Means Committee and for the Senate Finance Committee.

Not only did they come up with the ideas behind both proposals, estimate the revenue effects of each proposal and offer assistance on numerous amendments, they did so under impossible time constraints. Dave and his staff have been working around the clock to accommodate the requests of my colleagues, yet "Joint Tax" has been blamed time and again for slowing down consideration of H.R. 3838. Let me say to my colleagues that without the assistance of the Joint Committee on Taxation, the Senate would not be considering this comprehensive legislation today.

Dave Brockway and his staff have shown the highest level of professionalism, earning them the respect of Members from both sides of the aisle. This body has been fortunate to have the benefit of Dave's knowledge and experience throughout this complicated process. Although he has lived through many other tax bills—the Tax Reform Act of 1976, the Revenue Act of 1978, the Economic Recovery Tax Act of 1981, the Tax Equity and Fiscal Responsibility Act of 1982 and the Deficit Reduction Act of 1984—the Tax Reform Act of 1986 may go down as Dave's finest work yet.

Mr. President, I am proud of the Tax Reform Act of 1986, and I am proud of my role in the tax reform process. I hope that Joint Taxation Committee is also proud of its significant contributions to H.R. 3838. At this time, I would like to take the opportunity to express my appreciation to Dave Brockway and his staff for their support and hard work.

I ask unanimous consent that an article which appeared in the June 3, 1986, New York Times, as well as a list of the staff of the Joint Committee on Taxation, be included in the RECORD at the conclusion of my remarks.

The article follows:

[From the New York Times, June 3, 1986]

TAX BILL'S KEY NUMBERS MAN

(By Robert D. Hershey, Jr.)

WASHINGTON, June 2.—A sign on the door to David H. Brockway's office in the House of Representatives' Longworth Building proclaims him "Chief Tax Drone." Behind

his back he is sometimes called Senator Brockway.

Both titles reflect the critical behind-the-scenes role played by Mr. Brockway, who as staff chief of Congress's Joint Committee on Taxation is intimately involved in the architecture of nearly every tax plan that surfaces in Congress. That includes both the Packwood plan now before the Senate and the House bill.

"They did a whale of a job," Senator Packwood said today of the committee staff's work. Mr. Brockway's role, he added, "was especially critical" in the days following the chairman's decision to clear the decks and start over when his panel's initial efforts had come to naught.

A DOZEN OR MORE PLANS

Mr. Brockway, the Senator said, devised at least a dozen plans under which the maximum individual tax rate would be held to 25, 26 or 27 percent "and who knows how many" plans that the staff itself discarded. "Those poor devils do more than we do," Senator Packwood, Republican of Oregon, declared.

The members of the Joint Committee are five Senators and five Representatives, and in this Congress they are evenly split between the parties. But the committee's members almost never meet. Instead, most of the work is done by the staff. In fact, the committee is perhaps the ultimate example of staff dominance, and it was intentionally set up that way.

The committee's main tasks center on numbers—estimating the revenue effects of proposed changes in the tax code, analyzing how changes interact with each other and affect different groups of taxpayers, and presenting, often at a moment's notice, alternative ways of achieving various results. Although both the Senate Finance Committee and the House Ways and Means Committee have their own staffs, the Joint Tax staff remains the pre-eminent source of tax information for most legislators.

Although his is not a household name, Mr. Brockway, because of the position he has held since 1983, is one of America's most influential tax lawyers. Few others are as familiar with the broad scope or the minutiae of every tax idea that surfaces in Congress.

Such familiarity is not achieved easily, for him or his staff. "It's continuous hard work, an incredibly hectic pace," says Bernard M. Shapiro, national director for tax policy in the Washington office of Price Waterhouse, and a predecessor of Mr. Brockway's in a job that has been held by only six people in its 60-year history. Because Joint Tax is so important, and because it continues to labor after others have finished their work, "they're in the fast lane the entire time," Mr. Shapiro says.

The 42-year-old Mr. Brockway oversees a highly regarded team of 35 to 40 nonpartisan professionals, mainly lawyers and economists. Mr. Brockway and other staff members on the committee routinely attend tax-writing sessions in both chambers to field the inevitable questions that begin "What if . . .?" and "How could we . . .?"

Recent months have been particularly harried. "You feel under siege from time to time," Mr. Brockway said in an interview the other day after having worked until 6 A.M. presiding over the completion of the Finance Committee's bill and the report of its deliberations. Copies of those documents, totaling more than 2,600 pages, went on sale here today.

"But you're here because you care," he added, "because you think it's important to have a rational tax system."

Typical of the work Mr. Brockway performs was his appearance several weeks ago before a closed-door meeting of the Senate Finance Committee. It was a crucial moment, and a skeptical and inquisitive committee had questions about just how the numbers could be made to work in Senator Packwood's newly reworked plan.

Stepping up to the blackboard, Mr. Brockway conducted a two-hour session on the arithmetic and the conceptual intricacies of the most radical tax overhaul ever considered by Congress. Much of his effort focused on explaining two fundamental elements: the alternative minimum tax and a so-called passive-loss provision that would bar taxpayers from using paper losses from tax shelters to off-set regular income.

Some of Capitol Hill give Mr. Brockway and his aides the credit for that latter feature. "It was they who came up with the passive-loss provision that was really pivotal," said Gina Despres, a tax expert and top aide to Senator Bill Bradley of New Jersey.

Tax overhaul has been attracting serious attention for several years now, and the Joint Tax staff has played a pivotal role in most of the earlier efforts that laid the groundwork for the bills now being considered.

For example, once Senator Bradley and Representative Richard A. Gephardt of Missouri decided in 1981 to use the income tax, as opposed to some sort of consumption tax, as the vehicle for their Democratic overhaul plan, Joint Tax did the basic work that resulted in a full-blown plan. It later did much the same thing for the Republican alternative sponsored by Representative Jack F. Kemp of upstate New York and Senator Bob Kasten of Wisconsin.

Although known to hold strong personal views about the importance of tax overhaul, Mr. Brockway, like the others on his staff, is careful not to express in public his preferences on how it should be accomplished. He has not enrolled as a member of any political party, and he tries to avoid even the appearance of taking sides in partisan arguments.

"My job is to try to fairly outline what the considerations are," said Mr. Brockway, who tends to refer to his numerous bosses as "clients."

"I articulate the other side," he added, meaning that he often raises narrow considerations if these are receiving little attention or broader ones if the discussion seems to be bogging down over details.

But his role is always as a repository and explicator of ideas, never as an advocate of them. Or as Richard Gordon, a former Brockway deputy who now works in the Washington office of Arthur Andersen & Company, the accounting firm, puts it: "You've got to serve both houses and both sides of the aisle" and maintain credibility with both.

In addition to its main job, the committee also continues to perform in almost total obscurity the task for which it was originally created—reviewing all large tax refund payments by the Internal Revenue Service. Each year there are a few thousand individual and corporate refunds that exceed $200,000, and the staff director must sign off on every one of them.

Mr. Brockway, whose father was chairman of W.W. Norton & Company, the publishing concern, grew up in Fair Lawn, N.J., and became a tax lawyer almost by accident. After taking a degree in history at Cornell—he interrupted his studies briefly for a leave of absence because of what he calls an "attitude" problem—he was persuaded by his roommate to apply to Harvard Law School. He applied in the summer for the next fall's term and was accepted.

Then, after practicing law with Donovan Leisure Newton & Irvine in New York for five years, he came to Washington. Neither a routine law practice nor the academic life was for him, he had decided.

"I didn't want to wake up at 55 and find myself in East Podunk having written a monograph on projected hoe-handled production in Bratislava," he said. "You want to be somebody, do something" in the real world.

Although Mr. Brockway recognizes that the current tax overhaul process could well prove to be the professional accomplishment of a lifetime, he says he does not necessarily plan to leave his $73,600-a-year job anytime soon. Home is only a few blocks from his office, where he lives with his wife, Marilyn, a lecturer at the National Gallery of Art.

If he does leave, which would undoubtedly allow him to triple or quadruple his pay, he says he would offer these tips for his successor: Make sure to hire a good staff, maintain a good rapport with members and, perhaps most important, "limit the extent you let your own views show."

STAFF MEMBERS OF JOINT COMMITTEE ON TAXATION

Chief of Staff—David H. Brockway.
Deputy Chief of Staff—Randall D. Weiss.
Administrative Assistant—Marcia B. McConaghy.
Chief Clerk—Michael W. Cook.
Special Assistant—Leon W. Klud.
Special Counsel—Lauralee A. Matthews.
Legislation Counsels: Harold E. Hirsch, Richard B. Ruge, Melvin C. Thomas.
International Tax Counsel—H. Patrick Oglesby.
Pension Tax Counsel—William M. Lieber.
Legislation Attorneys: Alan L. Fischl, Maureen J. Gorman, H. Ben Hartley, Paul Jacokes, Bruce Kayle, Mary Levontin, Michael Livingston, Joseph Nega, Cecily Rock, Daniel Shaviro, LaBrenda G. Stodghill, Barry L. Wold.
Senior Economist—Albert Buckberg.
Chief of Revenue Analysis—Bernard Schmitt.
Economists: Eric Cook, William Gardner, Tom Koerner, John Lepley, Stephen Lerch, Shenn-yi Lo, Andrew B. Lyon, Peter Merrill, Ned Newland, John F. O'Hare, Joe Parker, Linden C. Smith.
Accountants: Stephen M. Parks, Mel Schwarz.
Librarians: Michael E. Boren, Madonna D. Lyons.
Programmer—Xe V. Nguyen.
Refund Counsel—Roland Ford.
Refund Attorneys: James Billinger, Norman Brand, Bob Gotwald.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The acting majority leader is recognized.

ROUTINE MORNING BUSINESS

Mr. HEINZ. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 12:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO DR. SAMUEL RICHARDSON HILL

Mr. HEFLIN. Mr. President, I am filled with great honor, today, as I rise to congratulate Dr. Samuel Richardson Hill for his tremendous contributions and outstanding achievements while serving as president of the University of Alabama at Birmingham. Dr. Hill recently announced that he will take a 1-year sabbatical beginning in September, and will resign as president in 1987. Fortunately, the university will not lose his excellent leadership, and outstanding teaching abilities, as he plans to return to the university medical school faculty.

Dr. Hill has worked for many years to strengthen and fortify the university in every way. Enrollment has increased by more than 4,000 students since he became president in 1977. The quality of education has been improved; curriculum offerings, graduate programs, and athletics have all enjoyed a period of prolonged growth and extended development under his guidance. Through his encouragement, the university offers excellent opportunities for students who are seeking a liberal arts education as well as those who prefer specialization in any one of the technical sciences. It has something for everyone. Because of Dr. Hill's work, UAB offers a greater education to a greater number of students.

While Dr. Hill has helped to improve UAB's graduate and undergraduate programs, which are now known nationwide for the excellent educational opportunities they provide, I suspect that his pride and joy is the UAB Medical School and University Hospital. For more than 30 years he has played an instrumental role in determining the shape and benefits of the medical facilities which UAB has to offer. Because of his direction, the medical complex offers the finest education and medical treatment available anywhere in the world. Doctors and students have worked together to make many wonderful breakthroughs in determining the causes and cures for such diseases as cancer, heart disease, and AIDS, as well as many other ailments which ravage society.

Dr. Hill is, himself, a specialist in endocrinology. He received his medical degree from Wake Forest University's Bowman Gray School of Medicine, and then performed his internship and residency at Harvard University's teaching hospital, the Peter Bent Brigham, in Boston, MA. He served for 2 years in the U.S. Air Force, reaching the rank of major and becoming chief of the medical service at Keesler Air Force Base in Biloxi, MS and, then, returned to Harvard University's medical faculty for 2 years, where he researched the effects of stress on the adrenal glands.

Dr. Hill first came to Birmingham in 1954 at the urging of the late Dr. Tinsley Harrison. He served as an associate professor of medicine and as director of the metabolic and endocrine division at the UAB Medical School's precursor, the Medical College of Alabama. He became dean of the medical school in 1962, and in 1968 he became vice president for health affairs and director of the UAB Medical Center, where he served until becoming president in 1977. Additionally, in 1972 he became the first director of the University of Alabama Medical Education Program and served until 1979. In the coming year, Dr. Hill plans to study England's medical delivery system, and, as I have said, then plans to return to the university faculty.

The wonderful achievements which Dr. Hill has made possible are immense. The University of Alabama at Birmingham stands as evidence of his timeless energy, contribution, and involvement. Many minds have been enriched, many lives have been improved, and many people have been saved because of his knowledge, his dedication, and his hard work. Thousands of college graduates and doctors are a product of his efforts to promote education in America. Their collective contribution to our Nation's past, present, and future are an indication of the importance of Dr. Hill's labor.

The university has been a great asset to Birmingham and to the State of Alabama as well. Through good times and bad, it has stood as a source of strength, power, and pride—providing essential services, education, and jobs.

By strengthening the university, helping to expand what it offers, and encouraging its excellence, Dr. Hill has strengthened our communities, our State, and our Nation. Through his efforts, he has helped to insure that our tradition of democracy and individual freedom will continue. Thomas Jefferson, himself, recognized a vital link between education and democracy when he said that education "enable(s) every man to judge for himself what will secure or endanger his freedom. Without it, no republic can maintain itself in strength."

Dr Hill has played an instrumental role in education, and, thus, in preparing people of all ages for an enhanced role in their communities. Through his contributions, he has greatly advanced both the well-being of our State and Nation, and the hope for the future of all Americans. His career has been outstanding, and I am certain that his future achievements will continue to help countless people. I commend Dr. Hill for his brilliant, tireless work. I feel that his life is an example of selfless service that all should follow.

I ask unanimous consent that the attached articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UAB PRESIDENT EXPECTED TO ANNOUNCE RESIGNATION

(By Mike Mayhan)

Dr. S. Richardson Hill Jr., president of the University of Alabama at Birmingham, is expected to announce today that he will take a one-year sabbatical beginning in September and resign in late 1987.

In a recent letter to top UAB leadership, Hill, 63, said he plans to spend a major part of his year away from UAB studying England's medical delivery system.

Hill is recognized as one of the country's leading authorities in the area of health manpower training and the delivery of health care services.

In his letter, Hill said he and Dr. Thomas Bartlett, chancellor of the University of Alabama System, have asked Dr. Charles A. McCallum, UAB's senior vice president for health affairs, to serve as acting UAB president.

Hill, Bartlett and McCallum could not be reached for comment. Hill's plans were confirmed by his wife, Janet.

UAB officials have scheduled a press conference this morning regarding a major administrative change but refused yesterday to confirm Hill's plans.

Those close to Hill said the recent funding crises at UAB had nothing to do with his decision.

"His decision preceded that," one official said.

Hill, a graduate of Duke University and Bowman Gray School of Medicine of Wake Forest University, was named UAB president in December 1976, 22 years after coming to what was then called the Medical College of Alabama as assistant professor of medicine and director of the metabolic and endocrine division.

After earning his medical degree in 1946, Hill left Bowman Gray to do an internship and two years of residency at the Peter Bent Brigham hospital, one of Harvard University's major teaching hospitals. He spent two years in the U.S. Air Force, reaching the rank of major and chief of the medical service at Keesler Air Force Base in Biloxi, Miss.

After his military service, Hill returned to Harvard for a faculty position. There, he researched the effects of stress on the adrenal glands.

Hill came to Birmingham at the urging of the late Dr. Tinsley Harrison, author and editor of the medical text "Principles of Internal Medicine."

As the author of the two chapters in that book on endocrinology and metabolism. Hill was recognized in his field when he took the position as head of the endocrinology department in the new Alabama medical school that was to become the University of Alabama School of Medicine.

Hill served as dean of the medical school from 1962 to 1968 and vice president for health affairs and director of the UAB medical center from 1968 to 1977. In 1977, he took the post as UAB president.

Hill also served as the first director of the University of Alabama System Medical Education Program from 1972 to 1979. That

program oversees the medical education and training programs at the three university campuses in Birmingham, Tuscaloosa and Huntsville.

Hill has served as president of the Association of Academic Health Centers and the American Federation for Clinical Research. He has been chairman of the board of regents of the National Library of Medicine and received honorary doctor of science degrees from Wake Forest University and the University of Alabama.

Hill's success as UAB's chief executive is demonstrated by the rapid and continuing growth of the institution, which has become the areas's largest employer.

Hill once said a leader should show "the quality of having people understand that you're a really caring individual and that you want to do something."

HILL'S ACT AS PRESIDENT WILL BE TOUGH TO TOP

(By Jamie Lucke)

A Dick Hill clone would be a shoo-in for president of the University of Alabama at Birmingham.

Hill, who this week announced plans to resign as UAB president in October 1987 and return to teaching, will be a tough act to follow, according to Birmingham civic and academic leaders.

An obvious candidate for the presidency is Dr. Charles A. McCallum, who will become acting president Sept. 1 when Hill begins a yearlong sabbatical leave in England.

McCallum, 60, is director of the UAB Medical Center and senior vice president for health affairs—the same position Hill held before being named UAB president in December 1976 at age 53. McCallum will continue in his present post while serving as acting president.

Birmingham-Southern College President Neal Berte said the new president should possess the qualities Hill brought to the job.

"A strong sense of educational vision, an obvious commitment to a quality urban institution and someone who gets along well with the external community and with colleagues in the academic community are the three main characteristics that I think will be needed," Berte said, adding that he does not plan to become a candidate for the UAB job.

"I'm very happy doing what I'm doing and grateful to be here," Berte said.

The search for Hill's successor will begin in September with the appointment of two advisory committees. The final selection will be up to the University of Alabama board of trustees. The governor serves as ex officio president of the board.

"The first thing the committee will need to do is stop and ask what the principle leadership needs will be," said Thomas Bartlett, chancellor of the University of Alabama System.

Candidates will be sought from a variety of sources, not just applications.

"These processes are quite properly called searches," Bartlett said. "You're not just selecting; you're searching, because often the people who you want aren't looking for jobs."

Bartlett said he will appoint an advisory committee representing UAB's various constituencies including faculty, staff, alumni, students and Birmingham residents. The other committee will be composed of trustees appointed by the board of trustees.

Civic and academic leaders said the UAB president must possess political and academic skills. As Birmingham's largest employer, UAB plays a crucial role in the local economy. Hill has sometimes been described as the second-most powerful person in the city, behind Mayor Richard Arrington.

Arrington said UAB needs a president "with established academic credentials in higher education administration or established credentials in a very high management position.

"UAB certainly needs someone who has exhibited a concern for community involvement this being an urban university, someone who is able to link his understanding of the academic world with some political persuasion since this is an institution which has to get its support through legislative action," Arrington said.

Arrington—who has a doctorate in zoology and served as a Miles College dean and director of the Alabama Center for Higher Education, a consortium of black colleges, before being elected mayor in 1979—said he is not interested in the UAB presidency, although he is interested in returning to higher education as an administrator.

"I would love to have a position at UAB," Arrington said. He said he still is undecided about whether to seek re-election when his term expires in November 1987.

"I would prefer to be in an academic setting awhile and become somewhat acquainted with operations and personalities before even attempting to take on the top leadership role," the mayor said.

Search committee members will have to decide how important a strong medical background is as a qualification for UAB president.

Although about 10,000 of the 14,200 UAB students are enrolled in non-health programs, the UAB Medical Center has brought the institution national recognition. Faculty in the health fields outnumbered non-health faculty 1,269 to 421 last year, including doctors who provide teaching services on a free, part-time basis.

UAB recently was ranked 23rd of 398 health professional schools in research funding by the National Institutes of Health.

Hill—who earns about $120,000 a year, according to Bartlett—is an endocrinologist. McCallum is a medical doctor and dentist.

Nursing school Dean Marie O'Koren, who served on the search committee in 1976 when Hill was chosen, said she does not consider a medical background necessary, as long as the new president is a "visionary" like Hill.

But dentistry school Dean Leonard H. Robinson, also was a member of the last presidential search committee, said "a thorough understanding" of medical centers would be essential to a UAB president because the medical center "represents such a large part of this institution and campus."

Thomas Hearn Jr., a former administrator at UAB, became president of Wake Forest University and the Bowman Gray School of Medicine in Winston Salem, N.C., in 1983 without any medical training.

"That's something the chancellor and board would have to discuss," Hearn said yesterday when asked if the UAB president should have a strong medical background. "I don't have an opinion. Clearly the nonmedical programs are essential. At the same time, one cannot underestimate the significance of the medical center and hospital. They are certainly critical to the future of UAB."

Asked if he would be a candidate for the UAB presidency, Hearn chuckled and said, "I am quite engaged where I am. That's a flattering question. I appreciate you asking." He said he does not anticipate being a candidate for the UAB job.

Frank Young, president of the Greater Birmingham Chamber of Commerce, said the UAB president should possess "great people skills, superior intellect, good organizational skills and some background in administration.

"Dick Hill is going to be a hard man to replace. He's done such an outstanding job.

"I would think the search committee will certainly be looking initially beyond the horizons of Birmingham and Alabama, and I don't think it's essential that his successor be from Birmingham or Alabama."

Dr. O'Koren said the UAB president should be "someone who's not satisfied with the status quo, somebody who's interested in program development and encouraging faculty to succeed."

DICK HILL STEPS DOWN

Although he is nearing what many consider normal retirement age, it is something of a surprise that Dr. S. Richardson Hill Jr. will be resigning as president of the institution he did so much to create, the University of Alabama at Birmingham.

However, there comes a time in the relationship between any top administrator and his institution when change is desirable for any number of reasons. And Hill has decided that time has come in regard to himself and UAB.

He is going on a year's sabbatical in September to study Great Britain's medical delivery system and will resign as president in late 1987 to return to the UAB faculty.

As president of the institution since December 1976, and before that as a member of the leadership team that built the school from its beginnings as a branch of the university in Tuscaloosa into a full-fledged urban university with one of the top medical centers in the country, Hill has left a major mark on this city and state.

UAB's rapid growth under Hill and his predecessor, Dr. Joseph F. Volker, has coincided with and contributed to what may prove to be the most important period of change in this community's history, both economically and socially.

From a grimy, segregated manufacturing center, Birmingham a cosmopolitan urban service center with a diversified economic base. We're not there yet, but we have moved much faster than might have been predicted 25 years ago. The people Hill and Volker attracted to UAB and the programs they have established have had a large role in producing that change.

The people of Birmingham owe Dick Hill a great deal for his contributions to this community. Contributions that will continue in another form when he returns to his first love of teaching.

The coming vacancy in the presidency of UAB is both a challenge and an opportunity. It is a challenge to find an individual who can measure up to the high standards set by Drs. Hill and Volker. It is an opportunity to reassess the future of the university and decide what kind of president is needed for the next several years.

The assumption of an interim presidency by Dr. Charles A. McCallum, UAB's senior vice president for health affairs, will keep the institution on a steady course while University of Alabama System trustees make decisions. McCallum may even be a candidate for the permanent job.

But before looking for a specific individual, UAB and the UA System should study the university itself, with eyes for both its current weaknesses and strengths and for where it should be going as an institution. Every element of the university and the general public should be involved in that study.

UAB will continue growing and expanding for the next few years as the result of the momentum created by Hill's administration. But the period of rapid growth is probably behind it. The university is at the end of its adolescence.

As UAB settles into its adulthood, it may need a different type leadership—but of the same high quality that it has had. The time to decide on the type president needed is before the decision is clouded by consideration of specific individuals.

Once that decision is made, the search for a new president should be as wide ranging as possible. But whether the next UAB president comes from within or without the university is less important than that he or she has the talents that are best suited for the next stage in the life of the institution.

A TRIBUTE TO CLAUDE D. KELLEY

Mr. HEFLIN. Mr. President, I am delighted to rise, today, to pay tribute to Claude D. Kelley, an Alabamian who has greatly advanced conservation efforts both in my home State and throughout the Nation. For his many years of outstanding achievements, the State of Alabama has recently renamed a State park in his honor. I cannot imagine a more fitting reward for a more deserving recipient.

Once employed as a lumber payroll clerk, and, later, the owner and operator of an oil company, Mr. Kelley has participated throughout his life in organizations committed to the protection of our great outdoors. He has served five times as the Alabama State Commissioner of Conservation and Natural Resources. He served as president of the National Wildlife Federation from 1950 to 1961, during which he increased the membership from 31 to 50 States and helped to establish the National Wildlife Federation Endowment, Inc. He served as the endowment's president from 1957 to 1969 and helped to steer its initial course of fostering advanced study in natural resource management. Mr. Kelley also received the first award of honor presented by the Natural Resources Council of America in 1974. One of his greatest contributions is the instrumental role he played in the $100 million expansion of Alabama's State park system. Because of this, the citizens of our State enjoy one of the best park systems in the Nation.

In addition to his great contributions to conservation, Mr. Kelley has worked to encourage and attract business in Alabama. He served as president of the Atmore and the Monroeville Chambers of Commerce.

Mr. Kelley's efforts will benefit all Americans for generations to come. He is known by his friends and colleagues throughout the Nation as "Mr. Conservation" and one can easily see that he richly deserves that honor. I commend Mr. Kelley for his long years of tremendous service. His life is an example for all to follow.

Mr. President, I ask unanimous consent that the attached article from the Atmore Advance be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE PARK BEING NAMED FOR CLAUDE KELLEY

(By Joe Patton)

A former Monroe County lumber company payroll clerk and Atmore businessman who became known nationally as "Mr. Conservation" will have an Alabama state park named for him.

The present Little River State Park between Huxford and Uriah will be renamed in honor of Claude D. Kelley of Atmore, who served as the president of the National Wildlife Federation from 1950-61.

An enabling resolution requested by the Alabama Department of Conservation and Natural Resources passed the Alabama Senate on Monday and was sent to Gov. George C. Wallace for his signature.

"He deserves the recognition, and I am elated about it," said present Commissioner John W. Hodnett, who called Kelley a father figure to himself and so many others.

Even now, Hodnett says he calls on Kelley for guidance.

"You could say that I am humbled and so very appreciative," said Kelley, who served five times as state commissioner of conservation and natural resources.

He was also instrumental in a $100 million expansion in the 1970's that gave Alabama one of the finest state park systems in the nation.

"Our state parks are one thing of which I'm particularly proud," Kelley said.

Folk singer and humorist Paul Ott, a nationally known wildlife spokesman who entertained at the Atmore Area Chamber of Commerce Banquet earlier this year, credited Kelley with helping the National Wildlife Federation turn the corner to becoming the largest citizen's conservation group in the world.

Kelley in 1974 received the first Award of Honor from the Natural Resources Council of America, an umbrella group with 1,400 member organizations.

During his tenure as the third National Wildlife Federation president, it grew from 31 to 50 state affiliates.

He was also instrumental in forming the National Wildlife Federal Endowment, Inc., and was its president from 1957-69.

Kelley, who served as president of both the Atmore and Monroeville Chambers of Commerce, moved to Atmore in 1944.

He became a partner in and later acquired the Graham Oil Company which he operated until 1960.

The boulevard in front of the Vanity Fair plant in Atmore was named for Kelley who played a key role in efforts to bring the industry to town.

A TRIBUTE TO EDGAR K. PAINE

Mr. HEFLIN. Mr. President, I rise, today, to congratulate Mr. Edgar K. "Ned" Paine, who was recently selected as both the Birmingham and as the Alabama Small Business Person of the Year. Mr. Paine, the founder, president, and chief executive officer of the Amerex Corp., of Trussville, AL, is a most worthy recipient of these tremendous honors. He has demonstrated an unselfish devotion to the welfare of his company and its employees, and has committed the prosperity of his corporation to efforts which will help his entire community.

Mr. Paine was chosen by his peers and business colleagues in Alabama industry because he best exemplifies the imagination, initiative, independence, and integrity by which the American small business person makes a vital contribution to the Nation, to the economy, and to our system of free enterprise. As the Alabama Small Business Person of the Year, Mr. Paine was considered for the National Small Business Person Award. He fared very well in this competition, being included among the final 10 names considered.

The rapid growth and success of the Amerex Corp. is highly indicative of Mr. Paine's great business ability and acumen. Amerex, which Mr. Paine established just 15 years ago with only 27 employees, now serves almost 40 percent of the commercial fire extinguisher market. The company roster lists approximately 460 employees, and last year's sales reached nearly $50 million. Not only do Amerex fire extinguishers line the walls of Senate buildings and other Federal buildings, but Amerex is also working under a Government contract to deliver extinguishers which will be used on every U.S. Air Force and Air National Guard Base in the world. Yet, Government contracts comprise only 5 to 10 percent of the corporation's business. Most sales are made to private industry in the United States and in many nations throughout the world.

These statistics provide only a glimpse of the true success of which the Amerex Corp. can boast. One of the company's greatest achievements is the sense of community shared by its workers. They are "concerned and involved with the business" and take a personal pride in their product. Mr. Paine encourages a familial environment, and sets the example by employing 13 members of his own family. This sense of community includes all those who live in the Trussville area, not just the employees of the company. Amerex sponsors several local boy scout troops and numerous community activities and sports teams.

Additionally, it has pioneered the adopt-a-school program, by which a corporation supports school activities, programs, and introduces students to the business world. Amerex has adopted Hewitt Middle School and Hewitt

High School. In an expression of their appreciation for Mr. Paine's help, students of the Hewitt Middle School sent hundreds of letters to me and to the Small Business Administration urging their support for Mr. Paine as the National Small Business Person of the Year. I would like to read a portion of a letter which eloquently states the contributions which Ned Paine has made, and the qualities which he possesses:

I'm sure you don't know him personally. Neither do I. I do know he has done great things for my school and community. I think that shows he cares for others and certainly a caring person can more successfully make a business prosper. (As he has done!)

Ned Paine is an outstanding businessman and a devoted community leader—a man who always strives to do his best and inspires others to do the same. I commend his efforts and am pleased by his success. Again, I congratulate him for being selected as the Alabama Small Business Person of the Year.

Mr. President, I ask unanimous consent that the attached articles be printed in the CONGRESSIONAL RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PAINE WINS STATE, LOCAL SMALL BUSINESS AWARDS

(By Howard Shatz)

After a seven-state search of the Southeast, Edgar K. "Ned" Paine settled on Trussville as the site for his new fire extinguisher company.

He started production at Amerex Corp. in 1971 with 70 employees and no sales. Last year, fire extinguishers left the Trussville company bound for 47 countries as 450 workers brought in sales of $50 million.

Because of his company's tremendous success, Paine became the first person to sweep the state and local Small Business Person of the Year awards, Birmingham Area Chamber of Commerce President Frank Young said Monday.

"We believe he has a very good chance to represent the Birmingham area and become the national Small Business Person of the Year," Young said.

Paine was named Alabama Small Business Person of the Year and Birmingham Small Business Person of the Year at Mondays' Small Business Breakfast to kick off the Small Business Week celebration.

Held at the Wynfrey Hotel at Riverchase Galleria, this year's Small Business Breakfast was a sellout with almost 400 people.

Amerex has 40 percent of the portable fire extinguisher market. It has produced more than 20 million fire extinguishers, and is the biggest fire extinguisher supplier to the U.S. government. As part of the firm's international operations, Paine is chairman of Amerex Fire Limited in Wales.

Paine also keeps the company involved in civic affairs. Amerex was the first company in Jefferson County to adopt a school when the chamber started that program.

At the breakfast, motivational speaker Chuck Reaves, the 1981 top salesman at American Telephone & Telegraph Co., told the assembled crowd about his "theory of 21."

"The theory of 21 says that for every person who says yes, there are 20 who say no," he said. Successful people must overcome the 20 who say no by following their goals, he said.

He said success can be reduced to the three-letter word, PRO, which means persistence, respect and teaching others.

"The worst thing the competition is going to do for you is make you a little better," he said. "It's not a dog-eat-dog world. It's just one person helping another succeed."

OUTSTANDING SMALL BUSINESS IS THE LARGEST OF IT'S TYPE

(By Kelly Green)

Since the Small Business Administration announced that Amerex Corporation will be among the outstanding small businesses honored during Small Business Week, May 18-24; Pell City residents E.K. "Ned" and Goldie Paine, the founders of Amerex, have been besieged by reporters requesting time for an interview.

But the Paine's are adjusting to all this publicity admirably, considering their extremely busy schedules, and are modestly attributing much of the company's success—Amerex is the largest manufacturer of industrial and commercial fire extinguishers in the world—and subsequent notoriety to their approximately 460 employees.

Ned Paine said he has always told his employees, "Amerex is you; you are the company." He continued, "We are very proud of the awards, but something like this requires the support of the entire community. It has to be a team effort. I know that is a cliche, but it's true."

A good work force has always been a major concern of Paine's and was an important consideration in his decision to locate Amerex in Trussville. Goldie Paine said in 1970 when her husband began looking for a new place for the manufacture of fire extinguishers his three primary considerations were the work force, accessibility to good transportation and a sunny climate. She said they contacted Don Newton, then the newly appointed executive director of the Metropolitan Development Board of Birmingham, and Newton helped them find the perfect site in Trussville.

Paine said the employees he found in Trussville have been instrumental in the company's success. "Here we had the availability of a work force at all levels—from factory workers to the executive level. And the South is different from the North. There people go home at five and that's that. Here it's different. They're concerned and involved with the business."

Now that the Paines are living in Pell City and commute to the plant in Trussville, they sometimes wish they had built the company in Pell City.

Paine said, "We were trying to decide between Pell City and Trussville, but because we needed to be close to the railroad and airport we decided to build in Trussville. We would have been one of the first businesses in the Industrial Park in Pell City."

While the drive to Trussville every day may be tedious for the Paines; the company's overwhelming success over the last 15 years has proved their decision right. Sales for the company are expected to exceed $50 million by the end of 1986. Amerex Corporation is the largest manufacturer of industrial and commercial fire extinguishers in the world.

Paine said, "We are the leader in this field. We sell everywhere in the United States and in 48 countries abroad." Paine is the president and Chief Executive Officer of Amerex Corporation. The Paines are also part owners of Amerex Fire Limited in Wales.

In addition to the Trussville plant, Amerex has warehouses and sales offices in Seattle, Chicago and Los Angeles. In 1971 Amerex began operations on a ten acre site on Highway 11 and the plant has since grown to encompass 100 acres. Paine said, "We have to number our buildings now to keep up with them."

Paine said he is surprised by how quickly the company has grown. "It really happened much faster than I had planned and I don't think this will be the end. Goldie Paine is the office manager for Amerex and she oversees and coordinates the 60 office employees. But she said when they began, she did everything from janitorial work to cutting the grass; working on the production lines and operating the fork lift.

Ned Paine has also been selected by the Birmingham area Chamber of Commerce as small business person of the year. He has received a letter of congratulations from President Ronald Reagan on being selected as Alabama's small business person of the year. In the letter Reagan said, "I understand you've done Trussville proud by becoming State Small Business Person of Year in Alabama, and I want to congratulate both you and your city."

Reagan also stated in the letter, "I've been told that it is the enthusiasm and loyalty of Ned Paine's people that have made your success possible, so I congratulate them too."

Paine has been in the fire extinguisher business for over 30 years. He was national sales manager for General Fire Extinguisher Corporation in Illinois and in 1964 he and John W. Howard bought Badger Fire Extinguisher Company in West Virginia. Badger was later bought by a conglomerate and Paine stayed on with the company until 1969 when he decided to start his own business again.

Paine is a native of California which helps explain why he wanted a sunny climate for his company. He said he enjoys living at Pine Harbor and is an avid golf player at the Pine Harbor Golf Course. Goldie Paine said she also enjoys the Pine Harbor community and has recently been elected to the Pine Harbor Improvement Association.

Because they are so busy, the Paine's said they do not get to spend as much time at home as they wish. They often travel to Japan, Great Britain or Europe to manage their business interests. "We are an internationally oriented company and we could live anywhere we want, but we choose to live in Pell City. We love Pine Harbor and our friends there," said Goldie Paine.

PUMPING SAFETY SALES TO THE TOP

(By Carolyn Van Laare)

In 1970 when E.K. "Ned" Paine began his search for "just the right place" to build his proposed industrial and commercial fire extinguisher business, he had a pretty good idea of what he was looking for. Having lived in the North for years, a primary consideration was a location with "lots of sunshine."

Another was the work force. Paine says he was looking for good community support, and workers who would do more than simply put in an eight-hour day. His search led him to Arkansas, Georgia, North and South Carolina, and ultimately ended in Trussville, Alabama.

Today the California native leaves little doubt that he is pleased with the decision to locate his company in the Birmingham suburb. Amerex Corporation began operations in 1971, and is now the largest manufacturer of industrial and commercial fire extinguishers in the world.

Federal safety regulations and state and municipal building codes provided a ready market for the company's portable and wheeled, all metal extinguishers. During the first year, production ran at approximately 2,000 to 3,000 fire extinguishers per month. Today it's about one hundred times that, at about 200,000 per month, or some 2.4 million a year.

There are companies that sell more, Paine says, qualifying Amerex's position, but they manufacture the "little home fire extinguishers."

The physical plant, located on U.S. Highway 11 in Trussville, has grown from an initial 28,000 square-feet on ten acres of land, to 200,000 square-feet on more than 100 acres. "We have to number our buildings now to keep up with them," he says.

Amerex's separate international corporation, Amerex Fire International, Inc., run by Paine's wife, Goldie, sells fire extinguishers in 42 countries. The international sales office displays a panoply of colorful flags representing each country in which Amerex does business. International sales make up about 6 to 7 percent of the company's total volume.

Though the greatest demand is for multipurpose dry chemical extinguishers (2- to 5-pound, 5-pound, 10-pound, and 20-pound sizes), there is a growing market for fire extinguishers containing a vapor product called Halon 1211. Uncle Sam is a primary purchaser of this product, through a contract calling for 15,000 of Amerex's 150-pound Halon 1211, wheeled fire extinguishers.

"We are still manufacturing under the largest contract for fire extinguishers ever ordered by the government. These will be used on every U.S. Air Force and Air National Guard base throughout the world. Government contracts amount to only 5 to 10 percent of our business." Paine is quick to add, however, that he feels the company is better off with an industrial sales base.

Statistics tell much of the story, but Goldie Paine helps fill in the gap—of how Paine began in the fire extinguisher business in 1954 as a national sales manager for General Fire Extinguisher Corporation in Illinois. And how, in 1964, Paine and John W. Howard (called the "Dean of fire extinguisher design" by Paine) bought the Badger Fire Extinguisher Company in West Virginia. Badger was later bought by ATO, a Cleveland-based conglomerate.

Paine stayed on with ATO until 1969, when he decided to go into business for himself again. Howard and ten other coworkers left ATO with Paine. These individuals, representing the accounting, purchasing, manufacturing, engineering, and sales departments, formed the nucleus of the new company.

"I think this denotes a high degree of integrity, friendship, and technical expertise and is the key ingredient to Amerex's success," she adds.

But Paine says the employees he found in Trussville also made a difference. "Here we had the availability of a work force at all levels—from factory workers to the executive level. And the South just isn't like the North. There people go home at five and that's that. Here it's different," he says, "they're concerned, and involved with the business."

"We began with 27 employees—many of whom were still in high school. Today there are about 450 employees. Some are the children of the employees who started out with us," he says, showing a little surprise.

Initially he says he was reluctant to hire husbands, wives, and other family members in the business, but later reconsidered. Now he sets the pace, employing 13 members of his own family, including his wife. Grandson, John "Chip" LeMaster, 18, one of the youngest, now works between college semesters and virtually grew up in the business. And today Paine says the "family-oriented" work force sets the management style.

The real satisfaction is in the people and seeing them grow. We started out here with quite a number of people who were in their teens and are now in their 30s. They manage from day-to-day with little supervision," he says. "Every time we've ever gone away, they have had the best month ever. Our employees here are special—they're concerned about the company and each other. It's not a cold and unfriendly atmosphere, and I like that."

A TRIBUTE TO DONALD COMER, JR.

Mr. HEFLIN. Mr. President, it is with great sorrow that I rise today to note the recent death of my good friend, Donald Comer, Jr. Mr. Comer was a man who possessed the greatest integrity, and who was regarded by all who knew him with the highest esteem. Throughout his life he made tremendous contributions to the cultural, spiritual, and business climate of his community and State as well as to industry throughout the world.

In 1932 Mr. Comer joined Avondale Mills, Inc., a textile company that his grandfather, former Alabama Governor, B.B. Comer, established in 1897. He provided essential leadership to the company, serving in virtually every existing company executive post. Avondale Mills expanded and prospered under his guidance, providing Alabama with many jobs and much pride.

Mr. Comer's contributions to the business community, however, extended far beyond Avondale Mills. With his knowledge and experience, he provided Alabama with crucial counsel and advice during a transitory economic period in the State's history. He served as a director of the Alabama Business Council, as president of the Alabama Chamber of Commerce, and as president of the Alabama Textile Manfacturers Association. Additionally, he served as a director of several Alabama banking and loan institutions. At the national level Mr. Comer served as a director and past president of the American Textile Manufacturers Institute, and as a director of American Mutual Insurance Co. His influence even extended to the international level. He served as president of the International Textile Manufacturer's Institute from 1982 to 1984. It would be impossible to list all of the organizations and businesses to which Mr. Comer lent his expertise. As one can see, however, he was a man who was looked on by the entire business community with the highest respect.

In addition to his work in business, Mr. Comer forever sought to advance the spiritual and cultural atmosphere of the State of Alabama and, thereby, improve the lives of countless people. He was instrumental in the establishment and operation of the Isabel Anderson Comer Museum and Art Center in Sylacauga, and served as a trustee and member of the Birmingham Symphony Association. He played a vital role with several benefit organizations, serving as a trustee of the Institute for the Deaf and the Blind, and as director of the South Talladega Chapter of the American Red Cross.

Perhaps Mr. Comer's greatest contributions were those he made to the many Alabama youths with whom he shared his guidance, his kindness, and his care. His dedicated work with both the Boy Scouts of America and the Sylacauga Boys Club helped to shape the characters of many who now serve, and of those who will soon be serving our State and our Nation. Additionally, he was an active member of the First United Methodist Church of Sylacauga, where he served on the administrative board.

Donald Comer was, indeed, a great man who did wonderful thngs for the people of my State. Because his work and contributions touched so many, he will be greatly missed. But, his life is an example of which all Alabamians will remain mindful. His service will long be remembered, and his memory will long be cherished.

Mr. President, I ask that the attached articles from the Birmingham News, and the Birmingham Post Herald be printed in the RECORD. Both tell of Mr. Comer's life and his achievements

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Birmingham Post-Herald, May 12, 1986]

FORMER AVONDALE MILLS CHAIRMAN DEAD AT 72

Donald Comer Jr., 72, former board chairman of Avondale Mills, died yesterday in University Hospital.

His grandfather, B.B. Comer, a former Alabama governor, founded Avondale Mills in 1897.

Memorial services will be 11 a.m. tomorrow in First United Methodist Church, Sylacauga, with burial at 2:30 p.m. in Greenwood Cemetery, Montgomery.

Mr. Comer was born in Birmingham and married Isabel Anderson of Montgomery. He joined Avondale Mills, in 1932. In 1954, he became executive vice president. In 1970, he served as president, treasurer and chief executive officer. In 1975, he became chairman of the board. In 1984 he retired as chairman and became chairman of the exec-

utive committee of the board. In 1985 he became chairman emeritus.

Mr. Comer was a past director of the Alabama Business Hall of Fame and past president of the Alabama Textile Manufacturers Association and the Alabama Chamber of Commerce.

He served as a director for the Alabama Aeronautics Commission, the Alabama Business Council, Alabama Federal Savings and Loan Association, First Federal Savings and Loan Association and AmSouth Bank.

Nationally, Mr. Comer served as director and past president of the American Textile Manufacturers Institute and director of American Mutual Insurance Co. He served as president of the International Textile Manufacturers Institute from 1982 to 1984.

Mr. Comer was a trustee of the Alabama Institute for the Deaf and Blind Foundation and a director of the American Red Cross South Talladega County Chapter and the Sylacauga Boys Club.

He was a trustee of the Southern Research Institute of Birmingham. A patron of the arts, Mr. Comer was instrumental in establishing the Isabel Anderson Comer Museum and Art Center in Sylacauga and was a trustee of the men's committee of the Birmingham Symphony Association.

He was a member of the National Conference of Christians and Jews and the Americans for Constitutional Action.

He was awarded the Silver Beaver Award and the Silver Antelope Award for his work with the Boy Scouts of America. He has also won textile awards on the state and national level.

A member of the First United Methodist Church of Sylacauga, Mr. Comer also served on its administrative board.

He is survived by son, Donald Comer III; daughter, Isabel Comer, Birmingham; three sisters, Mrs. Catherine Bowron and Mrs. Jane Shook, both Birmingham and Mrs. Martine McKenzie, Georgetown, Ga.

Memorials may be made to Sylacauga Boys Club, Sylacauga Area Council on Arts and Humanities or a favorite charity.

[From the Birmingham News, May 12, 1986]

AVONDALE MILLS' DONALD COMER, JR., DIES

Donald Comer, Jr., 72, a Birmingham native whose family founded one of Alabama's largest textile companies, died Sunday at University Hospital.

A memorial service will be at 11 a.m. Tuesday at the First United Methodist Church in Sylacauga. Burial will be at 2:30 p.m. at Greenwood Cemetery in Montgomery, Curtis and Son Funeral Home directing.

Comer's family built a fortune in the textile industry by founding Avondale Mills.

He was chairman emeritus of the board of directors of Avondale Mills, Sylacauga. He was born in Birmingham and was a grandson of former Gov. B.B. Comer.

In December 1985 Comer retired as director and chairman of the executive committee after 53 years with the company. He was the last of the relatives to hold an executive position with the company. The company was sold earlier this year for $93.3 million to Walton Monroe Mills.

Comer was associated with Avondale Mills since 1932. He was executive vice president from 1954 to 1970; president, treasurer and chief executive officer, 1970–1975; director, member of the executive committee, chairman of the board and chief executive officer, 1975–1979; chairman of the board, 1979–1984; chairman of the executive committee 1984–1985, and chairman emeritus, 1985–1986.

A leader in industry in Alabama, Comer served as director of the Alabama Business Hall of Fame; president of the Alabama Chamber of Commerce; director and president of the Alabama Textile Manufacturers Association; director and president of the Alabama Aeronautics Commission; director, Alabama Business Council; director, Alabama Federal Savings and Loan Association, Birmingham; director, First Federal Savings and Loan Association, Sylacauga, and director, AmSouth Bank.

At the national level, Comer served as a director and past president of the American Textile Manufacturers Institute and director of American Mutual Insurance Company. He served as president of the International Textile Manufacturers Institute from 1982 to 1984.

Comer was instrumental in the establishment of the Isabel Anderson Comer Museum and Art Center in Sylacauga. He also served as a trustee and member of the Men's Committee of the Birmingham Symphony Association.

Civic activities also included membership in Americans for Constitutional Action, the National Conference of Christians and Jews, the American Bible Society, the Phi Psi Textile Fraternity, and the American Newcomen Society.

He was a member of the First United Methodist Church of Sylacauga, where he served on the administrative board.

Survivors include a son, Donald Comer III; a daughter, Miss Isabel Comer, both of Birmingham, and three sisters, Mrs. Catherine Comer Bowron and Mrs. Jane Comer Shook, both of Birmingham, and Mrs. Martine Comer McKenzie, Georgetown, Ga.

The family suggests memorials be made to the Sylacauga Boys Club, the Sylacauga Area Council on Arts and Humanities or a favorite charity.

THE REEVES NAPKIN POLL

Mr. HEFLIN. Mr. President, 1986 is an important election year for the State of Alabama. Candidates are vying for public offices at the national, State, and at local levels. In this as, indeed, in every election year, the public is being flooded with political rhetoric and debate, with campaign promises and rallies. Additionally, it seems that each year there are an increasing number of preelection polls which attempt to predict the outcome of every election. All lay claim to the title of "scientific survey," promising to err by no more than 5 percent, and achieving such accuracy by testing a carefully selected sampling of society. The poll-takers endeavor to contact representatives of every race, gender, income level, age group, marital status, and hair color. You have in-poll results, out-poll results, prepoll results, and straw poll results. In my home State of Alabama alone, there are several different polls—you have the Harris poll, the Capstone poll, the Davis-Penfield poll. But, there is one poll in Alabama that stands alone. It has attained what all polls strive to accomplish—100 percent accuracy. This poll makes no attempt to solicit the views of large numbers of people, nor does it struggle to sample a broad cross section of society. The extraordinary survey to which I refer is the Reeves Napkin Poll.

Grady Reeves, a 42-year veteran of broadcasting, hosts a Huntsville-Based talk show with his son Robert. On "Mornin' Folks," the only father/son talk show in the Nation, Mr. Reeves conducts his napkin poll to try and predict the winner of the Alabama race for Governor. He has covered four gubernatorial elections and his poll has yet to be wrong.

Prior to each election, the crew of "Morning' Folks" broadcasts from Huntsville-area diners, including Ann's Dixie Grill, Eunice's Country Kitchen, the Little Farm Grill, the Wrecking Crew Restaurant, and Pee Wee's. In a highly secretive balloting process, Mr. Reeves instructs waitresses to write down their choice for Governor on a napkin and then tells them to carefully fold it. He tabulates the votes and the rest is history. This year has been no exception to the napkin poll's spotless record. The votes submitted during primary polling were remarkably proportional to the actual outcome.

Grady and Robert Reeves are gearing up now for the Democratic primary runoff. Shrouded in secrecy, filled with expectation, they are touring north Alabama diners with the staff of "Morning' Folks" hoping to keep their flawless record of outstanding polling. I am sure that candidates and citizens alike anxiously await the results of the Reeves Napkin Poll. At this time, he states that the candidates are in a dead heat.

WHAT HAPPENS IF THE CONTRAS LOSE? IT WILL BE CUBA ALL OVER AGAIN

Mr. HELMS. Mr. President, the Charlotte, NC, Observer is the largest newspaper in the two Carolinas, and I believe it is fair to say that the newspaper suffers from a severe case of editorial schizophrenia which many of its readers find, at once, infuriating and ridiculous. On its editorial page, the writers regularly attack Ronald Reagan and just about every other conservative. They do not hesitate to impugn the President's character, and they display lingering bitterness when one of their pet liberal candidates is defeated.

On the opposite page, however, it is quite another story. The Observer's publisher, Rolfe Neill, produces a readable and sensible weekly column which appears in the Sunday editions. Many but not all of the syndicated columnists whose comment appears on the op-ed page serve to contradict and refute the bombast on the left-hand side. In total, while the two pages do not balance, the situation could be worse.

Mr. President, having said all of that, I am obliged to compliment the Charlotte Observer for having recently published a column by no less than the president of the Charlotte Observer—Roberto Suarez, a native of Cuba who left his homeland in 1958 after having been imprisoned for his role in ousting Fulgencio Batista. In high school he and Fidel Castro had been friends, but Castro had not long been in control of Cuba before Mr. Suarez's safety was again threatened—this time because he opposed Castro's abandonment of democratic promises.

At this point, Mr. President, I ask unanimous consent that Mr. Suarez's column be printed in the RECORD, following which I will offer some comments of my own.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Charlotte Observer]

WILL CONGRESS LET NICARAGUA BECOME ANOTHER CUBA?

(We will pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, to assure the survival and the success of liberty.—John F. Kennedy)

(By Roberto Suarez)

Time is running out for peace and democracy in Central America. If Congress doesn't act in support of those Nicaraguans who are willing to fight for democracy, Marxism will win and the consequences will be felt for years to come.

There is little doubt now of the true character of the Sandinistas. Their attack against the Catholic Church has been vicious. Cardinal Miguel Obando y Bravo, archbishop of Managua, appeared in January before the Human Rights Commission of the Organization of American States (OAS) and accused the Nicaraguan government of acts of aggression against the Catholic Church. He mentioned detentions of Catholic priests and lay leaders, threats against their lives, harassment of church institutions, the closing of "Radio Catolica," the only communication link of the church with its people throughout the country, and confiscation of the church's printing facilities. The government's attempts to incite mobs against Cardinal Obando jeopardizes not only his pastoral abilities but his safety.

The Sandinistas eliminated freedom of the press. They have relentlessly censored Diario La Prensa, the only independent newspaper in Nicaragua. Now they are doing their best to run La Prensa out of business. At the Inter-American Press Association meeting in Brazil in March, Violeta Barrios de Chamorro, publisher of La Prensa, said, "The Sandinista dictatorship has submitted our people to an extreme repression, for which its principal tool is the terrible censorship imposed on La Prensa, precisely the instrument used daily by Pedro Joaquin Chamorro to struggle against the Somoza dictatorship."

A recent Observer editorial had this assessment of the Sandinista government: "Put no gloss on the Sandinistas. They have betrayed their 1979 revolution's promises of nonalignment and political pluralism. . . . Within Nicaragua, the increasing repression today is directed less at the insurgency than at the moderate, nonviolent opposition. Censorship reaches even to internal Catholic church documents. . . . This attachment of the Sandinistas to Soviet power and rhetoric is not peripheral, but central. And it is bad news for the Nicaraguan people and their neighbors. Even without Soviet bases, a consolidated communist state in Nicaragua would, indeed, threaten U.S. interests and hemispheric stability."

THE PONTIUS PILATE SYNDROME

Although this situation is well documented, Congress is paralyzed. Every time the question of helping the democratic forces in Nicaragua comes up, Congress finds excuses to avoid taking action. It is the Pontius Pilate syndrome. But Congress cannot wash its hands of the problem, for our own security is at stake.

Some Democrats in Congress use the Contadora peace process as their excuse for inaction. The Contadora process is a farce. The Sandinistas had a covenant with the OAS to establish a democratic government in Nicaragua, and under those conditions the OAS forced Somoza to leave Nicaragua. The Sandinista question should have been handled in the OAS, where the United States is a participant.

The Contadora process was created by Mexico to preempt OAS efforts to deal with the Sandinista problem, thereby excluding the United States from the process. Under the pretext of seeking peace and reconciliation, the Contadora process has given Cuba and the Soviet Union time to make the Nicaraguan army the most powerful in Central America. Even Libya's Col. Qaddafi had a hand in sending arms to Nicaragua.

For three years the Sandinistas have not signed the Contadora peace plan. The hypocrisy of the Contadora group has been demonstrated during this period.

Luis Alberto Monge, then president of Costa Rica, said last August, "It is really a shame that the Contadora group will not perceive the aggressive and lying attitude of the Nicaraguan government."

If Nicaragua signs the Contadora peace accord, the Sandinistas will give Congress the excuse it has been seeking to end all aid to those Nicaraguans who have been fighting for freedom and democracy in their country.

If that happens, and the freedom fighters, the so-called contras, are decimated, it will be a black day in American history. It will be Cuba all over again—another people abandoned by the greatest power for democracy in the world to the eternal subjugation to Marxism.

REMEMBER CUBA

During the missile crisis of 1963, the United States agreed not to invade or permit aggression against Cuba in exchange for Cuba's elimination of offensive missiles and promise to stop exporting its Marxist revolution. We did our part. They ignored theirs. Cuban advisers have been directing the Sandinistas since the first day.

The Sandinistas have outmaneuvered the United States. Now that they have subjugated their own people, they could accept a peace plan that will consolidate their government forever, if the United States drops the contras, the only force capable of maintaining the hope for freedom in Nicaragua.

To expect that anyone can negotiate a change of attitude from the Sandinistas requires a large degree of wishful thinking and complete ignorance of the expansionist designs of Marxism. The Sandinistas promised democracy, freedom of the press, freedom of religion and human rights. All these promises have been ignored. There is nothing in the history of Marxism or the record of the Sandinistas that offers any hope that they will abide by any agreement.

If the Sandinistas eliminate all opposition, the window of opportunity for democracy and peace in Central America will be closed. We will begin to see Russian advisers visiting Nicaragua. Then we will see some kind of Russian military presence there. Congress is paralyzed now, when Russia is not a factor; the situation will be all the more serious then.

One way to solve the Central Amerian dilemma would be for Democrats in Congress to join with Republicans, before a world audience, and repeat the words of the late President Kennedy: "We will pay any price, bear any burden . . ." and then do it. The world will take notice of what this country stands for.

Mr. HELMS. Mr. President, the preceding column by Mr. Roberto Suarez appropriately raises the question of what will happen if Congress allows Nicaragua to become another Cuba. And he also speaks forcefully about the so-called Contadora process, which is hoodwinking Members of Congress who ought to know better. In short, Mr. Suarez declares, correctly, that the Contadora process is a farce "created by Mexico to preempt OAS [Organization of American States] efforts to deal with the Sandinista problem."

Mr. Suarez is exactly right, and it may be helpful to review the history of the situation that now exists south of our borders.

Mr. President, Senators will recall that the Organization of American States received a promise in 1979 from the Sandinista regime that they would allow a democratic process in Nicaragua. The Sandinistas have broken this solemn commitment to the OAS and its member States. As Mr. Suarez notes, the Sandinistas' hypocrisy has created a sham in which a totalitarian Marxist-Leninist system, under Moscow's control, has been imposed on the Nicaraguan people.

Not only is there cause for grave concern about the points that Mr. Suarez so accurately raises in his article, there is cause for even more concern about Nicaragua within the overall context in Central America. Congress continues to slumber, ignoring the facts about the existing situation in Central America and Mexico, and the dynamics of the entire region which is headed toward chaos.

Mr. President, Roberto Suarez is well qualified to comment on this situation. He is a native of Cuba. In 1958, he left Cuba after being imprisoned for his role in the movement to oust the Batista regime. In 1959, he returned to Cuba to work with the movement led by Fidel Castro, a former high school basketball teammate. Working with the Castro regime opened Mr. Suarez's eyes to the real face of communism; he left Cuba in 1961 because he opposed Castro's abandonment of democratic promises.

Mr. President, I share Roberto Suarez's concerns about the fate of Nicaragua and its fine people. I share his concerns about the threat of Communist totalitarianism spreading through Central America and then both northward into Mexico and southward into the rest of Latin America. It is already happening at an alarming rate and with devastating consequences to the peace, prosperity, and happiness of those of us in the new world.

I am deeply concerned that so many in Washington—and the major news media—are sweeping under the rug the perilous state of affairs South of the border. It seems to me that we have been overtaken by events and that many of our deliberations and administration policies are far behind the power curve.

There are some hard facts that have been ignored, both by Congress and by the administration. It is about time we begin a careful consideration of the dynamics of the region that we confront today. I fear the worst, but hope that it can be avoided.

Mr. President, 7 years after the Sandinistas have imposed their Communist dictatorship on Nicaragua it is now clear that, in the near or medium term, freedom may not be possible for the Nicaraguan nation. The Contra organizations are patriotic and tough. They have fought bravely over the past 7 years. Yet, it is being said that the only way to dislodge communism in Nicaragua is through direct U.S. military action. At a minimum, a naval blockade combined with U.S. airstrikes and the limited use of U.S. special forces working with the Contras may be required. That would never have been necessary had there not been the political machinations in Congress—and in the major news media.

Even If Nicaragua were to be liberated in this manner, the mass migration of the business class, including entrepreneurs, professionals, and management, and their families, has stripped the country of the sector that could have rebuilt it. There are over 100,000 Nicaraguan exiles in this country, many of whom live in the greater Miami area. After the migration began in 1979, and after 5 years of the current administration and congressional policy, these folks are coming to the realization that they are not going back. The United States has not done its job.

Mr. President, Nicaraguans here today have, in the main, adjusted to life in the United States and are no longer merely exiles. They constitute a mass migration—just as our ancesters who migrated in massive numbers from the old world to the shores of this blessed land to seek freedom and a better way of life never to return.

Not only is this generation lost to Nicaragua but so is the younger generation of Nicaraguans who have come here with their families, or on their own. They have adopted the American lifestyle, they are getting their education here, they are working here, they are marrying here, and they are settling down to raise their families here.

Mr. President, I submit that even if Nicaragua were to be liberated from communism tomorrow morning, the country has lost one or two generations of its educated productive sector. These are the very people any country must have in order to advance the free enterprise system and create economic growth and prosperity.

What lies before us, then, is either a Communist Nicaragua, slowly and systematically spreading communism in Central and South America, or a liberated Nicaragua whose economy has regressed to the level of the 1940's with no real prospect for development for decades to come.

A similar situation is to be found in the case of immigrants from El Salvador; and, to a lesser extent, from Guatemala. So far, Honduras, Costa Rica, and Panama have not suffered this middle-class flight although these nations have suffered massive capital flight owing to corruption and socialism.

One example from El Salvador illustrates the point. In 1979, El Salvador had 150,000 manzanas of land—a measurement equal to about an acre and a half per manzana—planted in cotton. The cotton was internationally recognized as among the very highest quality available in world markets. It was also recognized that the yields were among the highest in the world owing to sophisticated agri-business techniques many of which were derived from the United States. Cotton was the largest source of foreign exchange and also it was the sector that provided the largest employment in the country.

But, Mr. President, all of this has changed because of the socialism imposed upon the people of El Salvador since 1979—with so-called land reform, and bank nationalization, and all the other trappings of socialist systems. Today, in 1986, only about 11,000 manzanas have been planted in cotton—a decrease of 150,000 to 11,000 manzanas in just 7 years. Last year, for the first time since 1948, El Salvador imported—note that word well—imported cotton just to meet its own basic domestic demand. This single example is a demonstration of what is happening to the region. It is sliding back to the days of the 1930's and 1940's.

The high point of Central American economic development was 1979-80. Since then, with communism in Nicaragua, and with socialism and corruption in the other Central American countries, the region has gone into an eclipse from which it is likely to take decades to recover—if it ever can recover.

No amount of U.S. aid money can change this situation. We must face up to the facts, and recognize the waste of U.S. taxpayers' money involved in further financing socialism in Central America today. I regret that certain reports have reached my office which indicate that the members of the so-called Contadora process core countries, such as Costa Rica and El Salvador, really do not want to see a free Nicaragua. Cynical as it may sound, these reports indicate that these countries are worried that if Nicaragua were to be liberated, they would lose the millions of dollars of U.S. aid money currently flowing into their coffers because the United States would be sure to reprogram funds for Nicaraguan reconstruction.

Mr. President, the disintegration of Central America and the consolidation of communism in Nicaragua might well be considered to be last year's issue. The region is in eclipse today, as I have observed earlier. The real issue today confronting the United States is the collapse of Mexico. This is why I have convened hearings on the subject of Mexico.

In the fall of 1982, I offered a resolution in the Senate about the bank nationalizations in Mexico, which had then just taken place. It was clear even at that time that the only consequence of this nationalization of private banks would be a further devastation of the Mexican economy with all its consequences for Mexico and for the United States. Nothing has changed my opinion and, indeed, subsequent events have confirmed my concerns. At that time, I directed my staff to carefully monitor events in Mexico with a view to holding a series of hearings on the matter when the situation demanded it. The collapsing situation in Mexico has been the occasion for the hearings already held, and addition ones in the future.

Mr. President, the situation in Mexico is very grave. I do not believe that Congress, or even the administration, has begun to face the massive consequences which confronting our own security as a result of six decades of socialistic dictatorship in Mexico. The hour of reckoning is here not only for Mexico, but also for the United States.

Before 1970, we did not really have a problem with Mexico in terms of illegal immigration. There may have been 200,000 illegal Mexican aliens within our boundries, but this certainly did not constitute a crisis. Then came the radicalization of Mexico. The Echevarria regime, which took power in 1970, unleashed a dramatic socialist internal program and a hard line pro-socialist foreign policy. By 1975, the Mexican economic situation had degenerated to the point that the United States began experiencing a significant increase in

illegal Mexican aliens crossing our borders. The regimes of Lopez Portillo, from 1976 to 1982, and de la Madrid, from 1982 to the present, have maintained these radical policies both domestic and foreign.

We have been feeling the consequences of these policies in an ever sharper manner for the last decade. Over the past 4 years, for example, the Border Patrol has arrested on the average 100,000 illegal aliens at our southern border each month. I repeat, each month. To get an idea of the flow into our country that the Border Patrol has not stemmed we could multiply each illegal caught by a factor of three or more to get a number of those who actually slip by. This would work out to a minimum of 3 million illegals per year entering our country during the past 4 years. A realistic total may be closer to 15 million. Of course the reason that they are coming is to find work, because the Mexican economy is collapsing under socialism and cannot possibly create the jobs needed.

Mr. President, there are over 80 million Mexicans. About 24 to 30 million are in the work force. Of this, there is a rate of unemployment and underemployment of close to 50 percent. Moreover, about half of the Mexican population is under 15 years of age. Each year, from now into the next century, 1 million additional jobs must be created in Mexico for these young people entering the workforce. Given the fact that the PRI party is wedded to socialism, it is obvious that under current policies the economy cannot accommodate these needs and that it is inevitable that: First, ever-increasing economic collapse will ensue; and second, severe social unrest and violence will haunt the Mexican scene for years to come. At the same time, millions of Mexicans have fled, are fleeing, and will flee the socialist dictatorship at home and illegally enter the United States. What the consequences of this will be for our country are hard to imagine at this time but they will be severe.

Mr. President, our distinguished and able colleague from Texas [Mr. GRAMM] pointed out to our committee last week that the only way out for Mexico is an immediate transformation of the economy to a free enterprise basis. I absolutely agree with the distinguished Senator from Texas whose testimony was the most clear-sighted analysis of the economic situation in Mexico that I have heard. I commend Senator GRAMM for his mastery of the facts of the situation and for his determination in informing not only the people of Texas about the crisis but also the American people at large.

There are several important factors affecting the Mexican economy which have not been really addressed by the media or, indeed, by the administration and Congress. First, of course, is the socialist system itself which I have just commented on.

Second, is the fact that Mexico cannot easily grow out of its morass by export oriented strategies for the simple reason that six decades of protectionism and import substitution policies have left the Mexican manufacturing sector noncompetitive on a global basis. In short, there is no real market for Mexican goods around the world because they are low quality, low value-added products. In order to transform the manufacturing sector in such a way as to be able to compete with serious high value-added manufactured goods from South Korea, Taiwan, Japan, Singapore among others, would take a fundamental decision to go free enterprise as state policy.

The problem is, from a political standpoint, this is virtually impossible, given the attitudes of the ruling PRI political mafia. Even if such a decision were to be undertaken, it would take a decade or so to transform the manufacturing sector—even if the $50 billion of flight capital could be repatriated and other outside capital attracted.

Third, much has been said about the fall in oil prices affecting Mexico. A very disturbing and little known fact is that many important oil fields may have been permanently damaged by recourse to secondary and tertiary oil recovery techniques before they were necessary. While this produced massive amounts of oil for sale, the fields themselves may well be permanently damaged and the future productive capacity of Mexico may well be less than is generally thought. Given this situation, a return to higher world oil prices may not help Mexico in the long run.

Fourth, Mexico has a debt of some $100 billion with little likelihood of repayment of the principal or even the interest. Given the socialist economic system in Mexico and the grave structural problems, some of which I have just outlined, it strains the imagination to believe that Mexico can get out of the grave that the PRI has dug for it.

It is not even within the realm of possibility that the U.S. taxpayer can bail out the banks, and bail out Mexico, given the enormity of the problems there. Of course, I have and will always oppose the use of U.S. taxpayers money to bail out profligate and corrupt foreign regimes or indeed to bail out our own big banks whose imprudence in lending seems to know no bounds.

If anyone takes the hit, it should be the big banks.

I am deeply concerned that some of our big banks, the so-called money-center banks, may already be technically bankrupt.

While the administration has proposed the so-called Baker Plan to get the banks out of their predicament, there is widespread doubt that it can work, given the realities so evident. It is no secret that this plan envisages increased leanding by U.S. banks combined with additional money from the World Bank and from the IMF. During our most recent subcommittee hearing, Paul Craig Roberts, a former Treasury official, and currently a professor at the Georgetown Center for Strategic and International Studies, gave a carefully reasoned analysis of this international debt problem as it affects Mexico. His conclusion was far from hopeful; he warned against what he called "the politicization of debt" and the abuse of the conduct of U.S. foreign policy by the banking interests of New York.

Nor is it any secret that in the U.S. banking community there is something of a civil war going on between the money center banks and the regional banks who got roped into international lending and syndications by the big banks years ago.

Now with the loans going sour, the regional banks do not desire to go along with further syndications. On the other hand, the big banks are bending every effort to keep the regional bankers roped into a new cycle of imprudent foreign loans. The big banks do not want to commit further money unless they have some guarantees from the World Bank and from the IMF.

And this, Mr. President, brings us back to the taxpayer in the United States. I can see a scenario developing in which the World Bank will move to expand its capital base in order to be able to provide more lending capability for the debt-ridden third world. To do this, they will sell their bonds which currently hold a triple A rating. To whom will they sell this paper? Will the Federal Reserve System step in to buy this paper, or to guarantee it? Obviously, the American taxpayer would be the ultimate guarantor.

As for increased IMF loans, again we will see a move in Congress to soak the American taxpayer for increased contributions to the IMF system. American taxpayers' money will then be used to bail out the banks via the IMF system. The bankers are essentially in the position of making billions of dollars on loans which are riskless to the bankers because the American taxpayer will be the ultimate guarantor.

This shocking and dangerous situation should never have occurred in the first place; it cannot be condoned today.

Mr. President, the American people have a right to know about the true situation in Mexico. They have a right

to know the demands being planned for their tax dollars. The collapsing situation in Mexico has been evident for more than a decade. It is about time that Congress and the administration leveled with the American people with respect to Mexico and Central America. That has been my reasoning behind the series of hearings that I have arranged.

MESSAGES FROM THE HOUSE

At 2:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3554. An act to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes; and

H.R. 4348. An act to amend the Boundary Waters Canoe Area Wilderness law to change the authorizations of appropriations for resource management review and grants.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 325. A concurrent resolution to commend the government and people of Berlin for keeping alive the spirit of equality, freedom, and human dignity through their solemn commemoration of the fiftieth anniversary of Jesse Owens' victories at the 1936 Berlin Olympic Games; and

H. Con. Res. 326. A concurrent resolution expressing the sense of the Congress that the existence of the Berlin Wall after twenty-five years is a visible indictment of the Communist system and that the continued vitality of the Western sectors of the city is a testament to the Berliners' courage and devotion to freedom.

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 321. Joint resolution to designate October 1986 as "National Down Syndrome Month"; and

H.J. Res. 131. Joint resolution to designate the week beginning June 15, 1986, as "National Safety in the Workplace Week."

The enrolled joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

At 4:54 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An act to amend and extend certain laws relating to housing, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3554. An act to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 4348. An act to amend the Boundary Waters Canoe Area Wilderness law to change the authorizations of appropriations for resource management review and grants; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 325. A concurrent resolution to commend the government and people of Berlin for keeping alive the spirit of equality, freedom, and human dignity through their solemn commemoration of the fiftieth anniversary of Jesse Owens' victories at the 1936 Berlin Olympic Games; to the Committee on Foreign Relations.

H. Con. Res. 326. A concurrent resolution expressing the sense of the Congress that the existence of the Berlin Wall after twenty-five years is a visible indictment of the Communist system and that the continued vitality of the Western sectors of the city is a testament to the Berliners' courage and devotion to freedom; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1. An act to amend and extend certain laws relating to housing, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 17, 1986, she had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 321. Joint resolution to designate October 1986 as "National Down Syndrome Month."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3328. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to establish authority for the Armed Forces to engage in humanitarian and civic assistance activities in friendly countries; to the Committee on Armed Services.

EC-3329. A communication from the Deputy Associate Director of the Minerals Management Service transmitting, pursuant to law, a report on 23 refunds of excess oil and gas royalty payments to certain corporations; to the Committee on Energy and Natural Resources.

EC-3330. A communication from the Deputy Associate Director of the Minerals Management Service transmitting, pursuant to law, a report on 5 refunds of excess oil and gas royalty payments to certain corporations; to the Committee on Energy and Natural Resources.

EC-3331. A communication from the Deputy Associate Director of the Minerals Management Service transmitting, pursuant to law, a report on 16 refunds of excess oil and gas lease royalty payments to certain corporations; to the Committee on Energy and Natural Resources.

EC-3332. A communication from the Deputy Associate Director of the Minerals Management Service transmitting, pursuant to law, a report on 25 refunds of excess oil and gas lease royalty payments to certain corporations; to the Committee on Energy and Natural Resources.

EC-3333. A communication from the Secretary of the Interior transmitting, pursuant to law, the Federal Coal Management Report, Fiscal Year 1985; to the Committee on Energy and Natural Resources.

EC-3334. A communication from the Secretary of State transmitting, pursuant to law, certification of improving human rights for the purpose of receiving military assistance in Guatemala; to the Committee on Foreign Relations.

EC-3335. A communication from the Acting Commissioner of Social Security transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3336. A communication from the Assistant Secretary of Transportation transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3337. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Inspector General, to the Committee on Governmental Affairs.

EC-3338. A communication from the Assistant Administrator of the Environmental Protection Agency transmitting, pursuant to law, a report on the termination of a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3339. A communication from the Assistant Attorney General of the U.S. transmitting, pursuant to law, the 1985 report on the civil rights of institutionalized persons; to the Committee on the Judiciary.

EC-3340. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for Education Department general administrative regulations; to the Committee on Labor and Human Resources.

EC-3341. A communication from the Secretary of the Treasury transmitting, pursuant to law, the annual report on the Student Loan Marketing Association; to the Committee on Labor and Human resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DURENBERGER, from the Select Committee on Intelligence, without amendment:

S. Res. 429. An original resolution increasing the limitation on expenditures by the

Select Committee on Intelligence for the procurement of consultants; referred to the Committee on Rules and Administration (Rept. No. 99-323).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services:

The following-named officer under provisions of title 10, United States Code, section 8034, to be Chief of Staff, U.S. Air Force:

To be Chief of Staff, U.S. Air Force

Gen. Larry D. Welch, [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 5081, to be Chief of Naval Operations, a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Adm. Carlisle A.H. Trost, [redacted] 1120, U.S. Navy.

Mr. WARNER. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 2 and June 5, 1986 at the end of the Senate proceedings.)

JUNE 13, 1986

*1. Rear Adm. Jonathan T. Howe, U.S. Navy to be vice admiral. (Ref. No. 1116)

*2. Lt. Gen. Robert L. Schweitzer, U.S. Army, to be placed on the retired list. (Ref. No. 1117)

*3. Maj. Gen. John L. Ballantyne III, U.S. Army, to lieutenant general. (Ref. No. 1118)

*4. Lt. Gen. Paul S. Williams, Jr., U.S. Army, to be placed on the retired list. (Ref. No. 1119)

*5. Chaplain (Brigadier General) Norris L. Einertson, U.S. Army, to be Chief of Chaplains. (Ref. No. 1120)

*6. In the U.S. Army there are six promotions to the grade of major general and below (list begins with Robert H. Buker). (Ref. No. 1121)

**7. In the Air Force there is one appointment to the grade of major (Frank W. Pate). (Ref. No. 1122)

**8. In the U.S. Air Force there are 12 promotions to lieutenant colonel and below (list begins with Michael F. Chorvat). (Ref. No. 1123)

**9. In the Reserve of the Air Force there are 32 promotions to the grade of lieutenant colonel (list begins with David W. Arnett, II). (Ref. No. 1124)

**10. In the U.S. Marine Corps and Marine Corps Reserve there are 262 promotions to the grade of lieutenant colonel (list begins with Richard D. Allen). (Ref. No. 1125)

*11. Gen. Charles A. Gabriel, U.S. Air Force, to be placed on the retired list. (Ref. No. 1131)

*12. In the U.S. Army there are 34 promotions to the grade of major general (list begins with Bernard Loeffke). (Ref. No. 1132)

**13. In the Air Force there are three appointments as second lieutenant (list begins with Kel Oliver Christianson). (Ref. No. 1133)

**14. In the Air Force there are 158 appointments as second lieutenant (list begins with Thomas G. Abbott). (Ref. No. 1134)

**15. In the Reserve of the U.S. Air Force there are 66 promotions to the grade of colonel (list begins with Larry K. Arnold). (Ref. No. 1135)

**16. In the U.S. Army there are 751 appointments under automatic integration in the active duty promotion grade of major (list begins with Johnny R. Abbott). (Ref. No. 1136)

**17. In the U.S. Army there are 24 appointments under automatic integration in the active duty promotion grade of colonel and below (list begins with Don C. Breland). (Ref. No. 1153)

**18. In the Marine Corps and Marine Corps Reserve there are 521 appointments to the grade of major (list begins with Raymond Adamiec). (Ref. No. 1154)

*19. Gen. John T. Chain, U.S. Air Force, to be reassigned. (Ref. No. 1156)

*20. Lt. Gen. Robert H. Reed, U.S. Air Force, to be general. (Ref. No 1157)

*21. Lt. Gen. Thomas H. McMullen, U.S. Air Force, to be placed on the retired list. (Ref. No. 1158)

*22. Maj. Gen. George L. Monahan, Jr., U.S. Air Force to be lieutenant general and reassigned. (Ref. No. 1159)

*23. Maj. Gen. Carl R. Smith, U.S. Air Force, to be lieutenant general and Senior U.S. Air Force member, Military Staff Committee of the United Nations. (Ref. No. 1160)

*24. Lt. Gen. William E. Thurman, U.S. Air Force, to be reassigned. (Ref. No. 1161)

Total: 1,882.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHILES:

S. 2560. A bill to amend Schedule I of the Controlled Substances Act to include cocaine freebase; to the Committee on the Judiciary.

S. 2561. A bill to amend the Controlled Substances Act to provide enhanced penalties for employment of persons under age 21 to distribute drugs; to the Committee on the Judiciary.

S. 2562. A bill to amend section 405A of the Controlled Substances Act, relating to the distribution of a controlled substance in or near a school, to include the manufacture of controlled substances; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 2563. A bill to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GOLDWATER (for himself and Mr. DECONCINI):

S. 2564. A bill to provide for the proper administration of justice within the Salt River Pima-Maricopa Indian Reservation by granting jurisdiction to the Salt River Pima-Maricopa Indian Community Court over certain criminal misdemeanor offenses; to the Select Committee on Indian Affairs.

By Mr. LAUTENBERG (for himself, Mr. ANDREWS, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. DECONCINI, Mr. DIXON, Mr. DURENBERGER, Mr. EXON, Mrs. HAWKINS, Mr. HEINZ, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KERRY, Mr. LEVIN, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SPECTER, Mr. STENNIS, Mr. SYMMS, Mr. WARNER, Mr. WILSON, and Mr. HEFLIN):

S.J. Res. 363. Joint resolution to designate July 2, 1986, as "National Literacy Day;" to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HEINZ (for himself, Mr. GLENN, Mr. DIXON, Mr. GARN, Mr. NUNN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ABDNOR, Mr. LEVIN, Mr. SPECTER, Mr. SARBANES, Mr. DANFORTH, Mr. GRASSLEY, Mr. EAGLETON, Mr. DENTON, Mr. INOUYE, Mr. MATHIAS, Mr. MOYNIHAN, Mr. BAUCUS, Mr. LUGAR, Mr. KENNEDY, Mr. DOLE, Mr. FORD, Mr. HATCH, Mr. SIMON, Mr. GORE, Mr. SASSER, Mr. BRADLEY, Mr. LAUTENBERG, Mr. BYRD, and Mr. METZENBAUM):

S. Res. 428. Resolution commemorating the 50th anniversary of the United Steelworkers of America; considered and agreed to.

By Mr. DURENBERGER, from the Select Committee on Intelligence:

S. Res. 429. An original resolution increasing the limitations on expenditures by the Select Committee on Intelligence for the procurement of consultants; to the Committee on Rules and Administration.

By Mr. FORD (for himself and Mr. PACKWOOD):

S. Res. 430. Resolution to commend Dorothy S. Ridings for her outstanding service to the Nation; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES:

S. 2560. A bill to amend Schedule I of the Controlled Substances Act to include cocaine freebase; to the Committee on the Judiciary.

S. 2561. A bill to amend the Controlled Substances Act to provide enhanced penalties for employment of persons under age 21 to distribute drugs; to the Committee on the Judiciary.

S. 2562. A bill to amend section 405A of the Controlled Substances Act, relating to the distribution of a controlled substance in or near a school, to include the manufacture of controlled substances; to the Committee on the Judiciary.

(The remarks of Mr. CHILES and the text of the legislation appear earlier in today's RECORD.)

By Mr. BENTSEN.

S. 2563. A bill to adjust the boundaries of areas of the National Wilderness Preservation System in the State of Texas; to the Committee on Agriculture, Nutrition, and Forestry.

ADJUSTMENT TO BOUNDARIES OF CERTAIN WILDERNESS AREAS IN TEXAS

● Mr. BENTSEN. Mr. President, today I am introducing legislation to make some minor adjustments in the boundaries of several of the wilderness areas in east Texas. These suggested changes would affect the Upland Island, Big Slough, Turkey Hill, Indian Mounds, and Little Lake Creek Wilderness Areas.

These wilderness areas were established by legislation which I introduced and helped pass in 1984. The principal measure designated approximately 34,000 acres of Federal land as components of the National Wilderness Preservation System. These areas were among the most beautiful and ecologically significant parts of the national forests of east Texas. This law insured the continued protection of these unique ecosystems, assuring that they would remain unspoiled for the enjoyment of future generations.

The alterations I am proposing today would authorize the addition of a total of 1,773 acres to these wilderness areas; 1,080 acres would come from existing U.S. Forest Service lands, and 693 acres from the acquisition of private lands. The private lands could be acquired only if the private owners were willing to sell, and the owners of these lands would be compensated through an exchange of less ecologically significant U.S. forest lands of comparable value. This approach will protect the property rights of the private landowners and will assure that there will be no cost to the taxpayers.

The additions would improve the existing wilderness areas from both an environmental and managerial standpoint, and I urge my colleagues to join with me in passing it.●

By Mr. GOLDWATER (for himself and Mr. DECONCINI):

S. 2564. A bill to provide for the proper administration of justice within the Salt River Pima-Maricopa Indian Reservation by granting jurisdiction to the Salt River Pima-Maricopa Indian Community Court over certain criminal misdemeanor offenses; to the Select Committee on Indian Affairs.

CRIMINAL JURISDICTION ON THE SALT RIVER PIMA-MARICOPA INDIAN RESERVATION

● Mr. GOLDWATER. Mr. President, the bill I an introducing today for myself and my colleague, Mr. DECONCINI, would confer upon the Salt River Pima-Maricopa Indian Community criminal jurisdiction over non-Indian and nontribal members within the reservation's boundaries. This would apply to misdemeanor scale crime.

The Salt River Pima-Maricopa Indian Community has a long history of viable self-government. The community maintains a department of public safety which includes both a police force and a fire department. It maintains a court system which includes an elected chief judge as well as a juvenile judge and two part-time associate judges who are appointed for set terms. The judges are supported by probation officers and other court personnel. The history of the courts and of the police department in maintaining a justice system based on the principles of the bill of rights as contained in the Indian Civil Rights Act of 1968 is unquestioned.

During the period of time preceding the decision in the case of *Oliphant* v. *Suquamish Indian Tribe*, 435 U.S. 191 (1978), the Salt River justice system worked without discrimination as between Indians and non-Indians, members and nonmembers. There is every reason to believe that having more sophisticated systems and the benefit of increased training and experience, the Salt River Community justice system is now even better able to deal with problems of public safety than it was before 1978.

While the issue of the lack of criminal jurisdiction by Indian tribes over non-Indians for crimes committed within tribal reservations has been a matter of great concern ever since the *Oliphant* decision, resolution of the problem has not been adequately addressed. The legislation I am proposing would apply for the Salt River Pima-Maricopa Indian Community the same principle of general criminal jurisdiction as applies to its municipal neighbors. It would allow the Salt River Community to protect both its people and visitors within its reservation boundaries from misdemeanor scale crime whatever the race or status of the accused.

The municipal neighbors, Phoenix, Scottsdale, Mesa, and Tempe all support this legislation as do the Governor of the State of Arizona and the Attorney General of the State of Arizona. The intent of the bill is not to supplant or diminish existing Federal or State law, but merely address, in a practical manner, the implementation of tribal local law enforcement authority. The bill maintains the existing jurisdiction of the Federal and State courts over misdemeanor violations of Federal and State laws respectively.

Mr. President, I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress finds that—

(1) the Salt River Pima-Maricopa Indian Reservation was established on Federal lands for the purpose of providing a place for members of the Salt River Pima-Maricopa Indian Community to live in peace and prosperity with other persons in Arizona;

(2) the Salt River Pima-Maricopa Indian Reservation is located within the eastern end of the Phoenix-Scottsdale-Mesa-Tempe metropolitan area and many thousands of non-Indians from those communities regularly transverse the Salt River Pima-Maricopa Indian Reservation;

(3) the courts of the Salt River Pima-Maricopa Indian Community do not have the jurisdiction to control criminal activity by non-Indians within the Salt River Pima-Maricopa Indian Reservation;

(4) the judges of the Salt River Pima-Maricopa Indian Community Court serve fixed terms and do not serve at the pleasure of the Salt River Pima-Maricopa Indian Community Council;

(5) the Chief Judge of the Salt River Pima-Maricopa Indian Community Court is elected by a vote of the people and the juvenile and associate judges are appointed by the President of the Salt River Pima-Maricopa Indian Community subject to the confirmation of the Community Council; and

(6) the Salt River Pima-Maricopa Indian Community has close relations with the municipalities surrounding it and those cities of Phoenix, Mesa, Tempe, and Scottsdale have endorsed the grant of jurisdiction made by this Act.

SEC. 2. (a)(1) The criminal ordinances of the Salt River Pima-Maricopa Indian Community which provide for misdemeanor offenses shall have the force of law in the area within the boundaries of the Salt River Pima-Maricopa Indian Reservation and shall apply with respect to acts and omissions committed in such area by any person, without regard to whether such person is an Indian or the interests of any Indian are affected by such acts or omissions.

(2) The courts of the Salt River Pima-Maricopa Indian Community shall have exclusive jurisdiction over misdemeanor offenses committed in the area within the boundaries of the Salt River Pima-Maricopa Indian Reservation in violation of the criminal ordinances of the Salt River Pima-Maricopa Indian Community by any person, without regard to whether such person is an Indian or the interests of any Indian are affected by such violation.

(b) The provisions of subsection (a) shall be considered to be a limited extension of the sovereignty of the Salt River Pima-Maricopa Indian Community over persons who are not Indians or are not members of the Salt River Pima-Maricopa Indian Community. Neither the criminal ordinances of the Salt River Pima-Maricopa Indian Community, nor the application or enforcement of such ordinances with respect to such persons, may be considered Federal law, or the exercise of Federal law, for any purpose.

(c) The provisions of title II of Public Law 90-284 (25 U.S.C. 1301, et seq.) shall apply with respect to—

(1) the criminal ordinances of the Salt River Pima-Maricopa Indian Community,

(2) the application and enforcement of such ordinances, and

(3) the jurisdiction granted to the courts of the Salt River Pima-Maricopa Indian Community under subsection (a)(2).

(d)(1) Nothing in this Act may be construed to alter or affect—

(A) the applicability of any Federal law in the area within the boundaries of the Salt River Pima-Maricopa Indian Reservation,

(B) the ability, or responsibility, of the United States to enforce Federal laws in such area, or

(C) the jurisdiction of the courts of the United States over misdemeanor or other offenses committed in such area in violation of any Federal law.

(2) The courts of the United States shall not have jurisdiction (except to the extent necessary to carry out the provisions of title II of Public Law 90-284) over misdemeanor offenses committed in the area within the boundaries of the Salt River Pima-Maricopa Indian Reservation in violation of the criminal ordinances of the Salt River Pima-Maricopa Indian Community, but such courts shall retain jurisdiction over any offense committed in such area in violation of Federal law, even if the act or omission that constitutes such violation of Federal law is also a violation of the criminal ordinances of the Salt River Pima-Maricopa Indian Community over which the courts of such Indian Community have jurisdiction.

(e)(1) Nothing in this Act may be construed to alter or affect—

(A) the applicability of any law of the State of Arizona in the area within the boundaries of the Salt River Pima-Maricopa Indian Reservation,

(B) the ability, or responsibility, of the State of Arizona to enforce the laws of the State of Arizona in such area, or

(C) the jurisdiction of the courts of the State of Arizona over misdemeanor or other offenses committed in such area in violation of any law of the State of Arizona.

(2) The courts of the State of Arizona shall not have jurisdiction over misdemeanor offenses committed in the area within the boundaries of the Salt River Pima-Maricopa Indian Reservation in violation of the criminal ordinances of the Salt River Pima-Maricopa Indian Community, but such courts shall retain whatever jurisdiction over any offense committed in such area in violation or any law of the State of Arizona that such courts would possess if this Act were not enacted, even if the act or omission that constitutes such violation of State law is also a violation of the criminal ordinances of the Salt River Pima-Maricopa Indian community over which the courts of such Indian community have jurisdiction.●

By Mr. LAUTENBERG (for himself, Mr. ANDREWS, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. DECONCINI, Mr. DIXON, Mr. DURENBERGER, Mr. EXON, Mrs. HAWKINS, Mr. HEINZ, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KERRY, Mr. LEVIN, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SPECTER, Mr. STENNIS, Mr. SYMMS, Mr. WARNER, and Mr. WILSON):

S.J. Res. 363. Joint resolution to designate July 2, 1986, as "National Literacy Day"; to the Committee on the Judiciary.

NATIONAL LITERACY DAY

● Mr. LAUTENBERG. Mr. President, today, I am pleased to introduce a joint resolution to designate July 2, 1986, as National Literacy Day. It is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the service and help available for illiterate people.

In the book "Illiterate America" by Jonathan Kozol, the author describes an invisible minority, the growing crisis of illiteracy in America. In this country it is often said that we live in the information age. Yet for many Americans, information is inaccessible. Over 25 million American adults cannot read. An additional 35 million read below the level needed to function successfully. The cost of these wasted human resources is estimated at $6 billion a year, although, in truth, no value can be put on the devastation of illiteracy.

The cost includes the lifetime earnings that will not be realized by men and women who cannot get and hold jobs requiring any reading skills. The cost includes child welfare expenditures for the children of adults who lack the skills to get jobs. The cost includes prison maintenance for the inmates whose imprisonment can be linked to their illiteracy. The cost includes on-the-job accidents and damage to equipment caused by the inability of workers to read and understand instructions for the operation of machines.

And the human cost is even higher. The daily activities that we take for granted—reading the newspaper, reading a menu, reading a street or subway map, reading a note from a child's teacher—become a nightmare for illiterate people. They devise remarkable strategies of evasion and coping. The creativity that goes into hiding the inability to read is a terrible waste and a tragic commentary on the losses illiterate people suffer.

It is vital to call attention to the problem of illiteracy. Our society must begin to understand the severity of this problem and its detrimental effects. Perhaps even more essential is the need to reach the people who need help in overcoming their illiteracy and to make them aware of the services that are available.

Mr. President, for these reasons, I am introducing a joint resolution to designate July 2, 1986, as National Literacy Day. I urge my colleagues to support this joint resolution.

I ask unanimous consent that text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 363

Whereas literacy is a necessary tool for survival in society;

Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are twenty-five million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas the annual cost of illiteracy to society has been estimated at $6,000,000,000;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare cost and unemployment compensation;

Whereas, although the largest number of adult illiterates is comprised of whites, in proportion to population size in percentages the number is higher for blacks and Hispanics, resulting in more economic and social discrimination problems;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children between the ages of twelve and seventeen cannot read above a third grade level and 15 percent of recent graduates of urban high schools read at less than a sixth grade level;

Whereas 85 percent of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47-percent illiteracy rate among black youths is expected to increase to 50 percent by 1990;

Whereas one-half of the heads of households cannot read past the eighth grade level and one-third of mothers on welfare are functionally illiterate;

Whereas the Federal, State, municipal, and private literacy programs have only been able to reach 4 percent of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to help others understand the severity of the problem and the detrimental effects on society, and to reach people who are unaware of the free service and help available for illiteracy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1986, is designated as "National Literacy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 985

At the request of Mr. GRASSLEY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 985, a bill to protect the rights of victims of child abuse.

S. 1941

At the request of Mr. DENTON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1941, a bill to protect the security of the United States by providing for

sanctions against any country that provides support for perpetrators of acts of international terrorism

S. 1942

At the request of Mr. DENTON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1942, a bill to amend title 10, United States Code, to improve the security of U.S. military installations.

S. 2133

At the request of Mr. KASTEN, the name of the Senator from Alaska [Mr. STEVENS] and the Senator from Alabama [Mr. DENTON] were added as cosponsors of S. 2133, a bill to amend the Social Security Act to safeguard the integrity of the Social Security trust funds by ensuring prudent investment practices.

S. 2291

At the request of Mr. BIDEN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2291, a bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and post-hospital services furnished under the Medicare Program, and for other purposes.

S. 2333

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

S. 2348

At the request of Mr. MOYNIHAN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2348, a bill to authorize the procurement and installation or cryptographic equipment at satellite communications facilities within the United States, and for other purposes.

S. 2401

At the request of Mrs. KASSEBAUM, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2401, a bill to prohibit the manufacture or distribution in, or the importation into, the United States of certain firearms.

S. 2402

At the request of Mr. KENNEDY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2402, a bill to amend the Public Health Service Act to assure access to health insurance, and for other purposes.

S. 2498

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2498, a bill to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2498 supra.

S. 2515

At the request of Mr. WEICKER, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 2515, a bill to reauthorize the Rehabilitation Act of 1973, and for other purposes.

S. 2547

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2547, a bill to amend title XVIII of the Social Security Act to require renal dialysis facilities and other providers of dialysis-related services, devices, and supplies to obtain informed, written consent from medicare patients with respect to the use of reprocessed dialysis devices and supplies.

SENATE JOINT RESOLUTION 143

At the request of Mr. GORE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to authorize the Black Revolutionary War Patriots Foundation to establish a memorial in the District of Columbia at an appropriate site in Constitution Gardens.

SENATE JOINT RESOLUTION 256

At the request of Mr. TRIBLE, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of Senate Joint Resolution 256, a bill designating August 12, 1986, as "National Neighborhood Watch Day."

SENATE JOINT RESOLUTION 274

At the request of Mr. GRASSLEY, the names of the Senator from Alabama [Mr. DENTON], the Senator from Utah [Mr. HATCH], and the Senator from Nevada [Mr. HECHT] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend."

SENATE JOINT RESOLUTION 311

At the request of Mr. CRANSTON, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 314

At the request of Mr. QUAYLE, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Joint Resolution 314, a joint resolution to designate the week beginning July 27, 1986 as "National Nuclear Medicine Week."

SENATE JOINT RESOLUTION 318

At the request of Mr. ABDNOR, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 318, a joint resolution designating November 1986 as "National Diabetes Month."

SENATE JOINT RESOLUTION 358

At the request of Mr. HEINZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 358, a joint resolution to designate the month of September 1986 as "Adult Literacy Awareness Month."

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKELS, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arizona [Mr. DECONCINI], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. HART] was added as a cosponsor of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress concerning representative government, political parties, and freedom of expression on Taiwan.

SENATE CONCURRENT RESOLUTION 138

At the request of Mr. DOLE, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of Senate Concurrent Resolution 138, a concurrent resolution expressing the sense of the Congress with respect to Farm Credit System agricultural loan restructing.

SENATE RESOLUTION 402

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Resolution 402, a resolution on minority setaside programs.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

SENATE RESOLUTION 428—COMMEMORATING THE FIFTIETH ANNIVERSARY OF THE UNITED STEELWORKERS

Mr. HEINZ (for himself, Mr. GLENN, Mr. DIXON, Mr. GARN, Mr. NUNN, Mr.

RIEGLE, Mr. ROCKEFELLER, Mr. ABDNOR, Mr. LEVIN, Mr. SPECTER, Mr. SARBANES, Mr. DANFORTH, Mr. GRASSLEY, Mr. EAGLETON, Mr. DENTON, Mr. INOUYE, Mr. MATHIAS, Mr. MOYNIHAN, Mr. BAUCUS, Mr. LUGAR, Mr. KENNEDY, Mr. DOLE, Mr. FORD, Mr. HATCH, Mr. SIMON, Mr. GORE, Mr. SASSER, Mr. BRADLEY, Mr. LAUTENBERG, Mr. BYRD, and Mr. METZENBAUM) submitted the following resolution; which was considered and agreed to:

S. RES. 428

Whereas, on June 17, 1936, eleven trade unionists gathered on the 12th floor of a building in downtown Pittsburgh, Pennsylvania to form the Steel Workers Organizing Committee (SWOC), which would become affiliated with the Congress of Industrial Organizations (CIO), and

Whereas the SWOC did within a short three years organize some 500,000 workers employed in the mills of the steel industry in Canada and the United States and became a catalyst of industrial unionism in North America, and

Whereas the SWOC was constituted as the United Steelworkers of America in 1942, becoming a leading affiliate of the CIO for thirteen years and of the AFL-CIO since then, and

Whereas the United Steelworkers of America would ultimately embrace more than one million working people in North America, and would merge with six other industrial unions which had pioneered advancement for workers in the steel, aluminum, nonferrous, mining, chemicals, stone and quarry and upholstery industries, and

Whereas its International Presidents—Philip Murray, David J. McDonald, I.W. Abel, Lloyd McBride and Lynn R. Williams—have brought exceptional leadership and organizational talents to the betterment of their fellow members throughout Canada in this half-Century, and

Whereas the Steelworkers and its leadership and membership in its Districts has contributed to the economic well-being, social consciousness and legislative advancement of our communities in these fifty years, and

Whereas the United Steelworkers of America has continued a strong democratic tradition for its fifty years, electing through referendum vote all of its International Officers and Board Members as well as all of its Local Union officials, and has as a consequence impressed upon its members the importance of participating in the democratic process,

Resolved, That the Senate of the United States does congratulate and extend its appreciation to the members of the United Steelworkers of America on the occasion of their fiftieth anniversary.

SENATE RESOLUTION 429—ORIGINAL RESOLUTION REPORTED INCREASING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DURENBERGER, from the Select Committee on Intelligence, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 429

Resolved, That section 20 of Senate Resolution 353, 99th Congress, agreed to March 13, 1986, is amended by striking "5,000" and inserting in lieu thereof "$31,000".

SENATE RESOLUTION 430—COMMENDING DOROTHY S. RIDINGS FOR OUTSTANDING SERVICE TO THE NATION

Mr. FORD (for himself and Mr. PACKWOOD) submitted the following resolution; which was considered and agreed to:

S. RES. 430

Whereas the selfless efforts of Dorothy S. Ridings have increased the participation of millions of Americans in this Nation's political process, and renewed public faith in our system of government;

Whereas her leadership of the League of Women Voters has served greatly to enhance public awareness of the major issues facing the Nation's political leaders;

Whereas Dot Ridings long has served as a great civic and business leader in the City of Louisville and the Commonwealth of Kentucky;

Whereas Dot Ridings is approaching the end of the second of two distinguished terms as President of the League of Women Voters: Now, therefore, be it

Resolved, That the Senate of the United States of America honors and commends Dorothy S. Ridings for her outstanding service to the Nation.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

METZENBAUM AMENDMENT NOS. 2085 AND 2086

Mr. METZENBAUM proposed two amendments to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

AMENDMENT NO. 2085

On page 1491, line 22, insert "and subsection (d) (other than paragraph (9) (relating to solid waste disposal facilities) and paragraph (13) (relating to certain satellites) thereof)" after "Paragraph 1".

AMENDMENT NO. 2086

On page 1585, beginning with line 24, strike out all through page 1586, line 4, and redesignate accordingly.

METZENBAUM (AND OTHERS) AMENDMENT NO. 2087

Mr. METZENBAUM (for himself, Mr. HARKIN, Mr. ZORINSKY, Mr. BURDICK, Mr. BUMPERS, Mr. MELCHER, and Mr. EXON) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1853, beginning with line 11, strike out all through page 1856, line 6, and redesignate accordingly.

On page 1416, beginning with line 6, strike out all matter through page 1418, line 10, and insert in lieu thereof the following new section:

SEC. 141. REPEAL OF INCOME AVERAGING FOR TAXPAYERS OTHER THAN FARMERS.

(a) IN GENERAL.—Subsection (a) of section 1303 (defining eligible individual) is amended by inserting "and who is a qualified farmer" after "United States".

(b) QUALIFIED FARMER.—Section 1303 (defining eligible individuals) is amended by adding at the end thereof the following new subsection:

"(e) QUALIFIED FARMER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified farmer' means a person who is actively engaged in the trade or business of farming (within the meaning of section 2032A(e) (4) and (5)), including the trade or business of aquaculture on a farm.

"(2) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis."

(c) CONFORMING AMENDMENTS.—

(1) The heading of part I of subchapter Q of chapter 1 is amended by inserting "FOR FARMERS" after "AVERAGING".

(2) The table of parts of subchapter Q of chapter 1 is amended by inserting "for farmers" after "averaging" in the item relating to part I.

At the appropriate place add the following:

The Secretary of Treasury is authorized to issue regulations that reduce the floor for itemizing medical deductions to the extent that such regulations will not reduce revenues more than the revenue raised by this amendment, as determined by the Joint Committee on Taxation.

LIABILITY ARISING FROM NUCLEAR TESTING

CRANSTON (AND OTHERS) AMENDMENT NO. 2088

(Ordered referred to the Committee on the Judiciary.)

Mr. CRANSTON (for himself, Mr. SIMON, Mr. DECONCINI, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to the bill (S. 2454) to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes; as follows:

On page one, line 6, insert "(1)" after "(b)".

At the end of the bill, add the following new paragraph:

(2) In any case in which the period provided in any Federal or State statute of limitations applicable to such an action expires within the one-year period beginning on the date of the enactment of that Act (after the application of paragraph (1) in such case), the action shall not be barred by such statute if the action is commenced within that period.

Mr. CRANSTON. Mr. President, I am today submitting for printing amendment No. 2088, an amendment to S. 2454, legislation I joined in introducing on May 15, 1986, with my colleague from Alaska [Mr. MURKOWSKI] to repeal section 1631 of the Department of Defense Authorization Act, 1985, Public Law 98-525. Section 1631

provides that suits for personal injury or death due to radiation exposure resulting from a Federal Government contractor's activities in carrying out nuclear weapons tests must be brought against the Federal Government—which has an absolute defense against such suits brought by former service personnel under the "Feres" doctrine—and may not be brought against the contractor. S. 2454, as introduced, would repeal section 1631, effective October 19, 1984, the date of its enactment.

Mr. President, joining me as original cosponsors of this amendment are my good friends, the Senator from Alaska [Mr. MURKOWSKI], who is, as I just noted, the author of S. 2454, as well as the Senator from Illinois [Mr. SIMON] and the Senator from Arizona [Mr. DECONCINI], both of whom are also original cosponsors of S. 2454. As I noted in my remarks when I joined in introducing S. 2454—which begin on page S6051 of the CONGRESSIONAL RECORD for May 15, 1986—I have been interested for some time in legislation which would repeal section 1631 and had been working with Senators SIMON and DECONCINI in preparing such a measure when Senator MURKOWSKI invited us to join him in introducing S. 2454.

Mr. President, this amendment is derived from the legislation on which I was working with Senators SIMON and DECONCINI. It would provide that in the event that on the date of the enactment of section 1631 an individual veteran or a veteran's survivor could have brought a civil suit under the applicable statute of limitations, that individual would have not less than 12 months following the date of the enactment of the repeal measure in which to initiate a civil suit against a contractor.

S. 2454 would extend the period by the period of time that elapses from the date of the enactment of section 1631 to the date of the enactment of our bill. But that could be a very short extension—for example, there might have been only a month remaining in which to file when that right was cut off by the enactment of section 1631. I believe that an additional period of time—such as our amendment would provide for—is needed so as to ensure that individuals who understood that they had lost the right to bring such an action as the result of the enactment of section 1631 have adequate time to learn of its repeal before again being barred from bringing suit by virtue of application of the relevant statute of limitations.

Mr. President, I look forward to working with Senator MURKOWSKI as well as with Senators SIMON and DECONCINI and our other colleagues on the Judiciary Committee, where S. 2454 is pending, on this overall matter and on the issue raised by our amendment.

TRIBLE (AND OTHERS) AMENDMENT NO. 2089

Mr. TRIBLE (for himself, Mr. WARNER, Mr. STEVENS, Mr. GORE, Mr. ANDREWS, Mr. HEFLIN, Mrs. HAWKINS, Mr. MELCHER, Mr. SPECTER, Mr. SARBANES, and Mr. BURDICK) proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 2111, strike out lines 18 through 21, and redesignate the subsequent paragraphs accordingly.

On page 2113, line 16, strike out the end quotation marks.

On page 2113, between lines 16 and 17, insert:

"(5) APPLICATION WITH SUBSECTION (c).—This subsection shall not apply to any amount to which subsection (d)(1) (relating to certain employee annuities) applies."

On page 2114, lines 22 through 24, strike out "In the case of a plan which on May 5, 1986, permitted withdrawal of employee contributions before separation from service, subparagraph" and insert "Subparagraph".

On page 2116, beginning with line 13, strike out all through page 2117, line 8, and redesignate the subsequent paragraphs accordingly.

On page 1371, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $28,775	15% of taxable income.
Over $28,775	$4,316.25, plus 27% of the excess over $28,775."

On page 1371, strike out the matter between lines 14 and 15, and insert:

"If taxable income is	The tax is:
Not over $22,975	15% of taxable income.
Over $22,975	$3,446.25, plus 27% of the excess over $22,975."

On page 1372, strike out the matter preceding line 1, and insert:

"If taxable income is	The tax is:
Not over $17,075	15% of taxable income.
Over $17,075	$2,561.25, plus 27% of the excess over $17,075."

On Page 1372, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $14,125	15% of taxable income.
Over $14,125	$2,118.75, plus 27% of the excess over $14,125."

On page 1664, lines 20 and 22, strike out "$75,000" and insert "$74,475".

On page 1665, line 2, strike out "$11,000" and insert "$10,958".

PRYOR AMENDMENT NO. 2090

Mr. PRYOR proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1532 of the committee amendment, beginning with line 13, strike out section 212 of the committee amendment.

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources has scheduled a field hearing on Tuesday, July 1, 1986, in Yakima, WA. The time and location of the hearing will be announced as soon as possible.

The purpose of this hearing is to receive testimony on S. 2519, to authorize certain elements of the Yakima River Basin water enhancement project, and for other purposes.

Those wishing to testify or submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Water and Power, U.S. Senate, Washington, DC 20510. For further information regarding this hearing, please contact Mr. Russell Brown at 202-224-2366.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 17, to hold a hearing on S. 2055, to establish the Columbia Gorge National Scenic Area, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND GOVERNMENT PROCESSES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation, and Government Processes, of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, June 17, to hold a hearing on S. 525, the Radiation Reorganization Act of 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HEINZ. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 17, in order to conduct a hearing on the overview of false claims and fraud legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. HEINZ. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Agriculture Policy, of the Committee on Agriculture, be authorized to meet until 12 noon during the session of the Senate on Tuesday, June 17, 1986, in order to

conduct a hearing on market development and activities of the National Commission on Agricultural Trade and Export Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. HEINZ. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, June 17, to hold a hearing to consider the following legislation:

S. 902, Indian Gaming Control Act;

H.R. 1920, Indian Gaming Regulatory Act; and

S. 2557, Indian Gambling Authorization and Regulation Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. HEINZ. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, June 17, to conduct a meeting on the review of the report of the space shuttle accident.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 17, in executive session, to mark up the fiscal year 1987 Department of Defense, military construction, and Department of Energy national security programs authorization bills; and to act on the nominations laid before the committee on Friday, June 13 (Admiral Trost, General Welch, and military nominations).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CALL TO CONSCIENCE

● Mr. ARMSTRONG. Mr. President, many Members of the Senate have joined in the Congressional Call to Conscience to bring attention to the plight of Jews in the Soviet Union. Anatoly Shcharansky has brought the awareness of the Soviet Jew to a new height. Through his own moral insight, Shcharansky has found freedom in a society that is enslaved. He is an example of strength of will, courage, and great moral character.

On July 14, 1978, Mr. Shcharansky was convicted of treason, espionage, and anti-Soviet agitation. He has since come out of 8 years in prison and labor camps, tortures of cold and hunger, and months in solitary confinement. He is indeed an extraordinary man. He spoke out for liberty in the Soviet Union and today continues to be the voice for those hundreds of thousands who wish to live in freedom.

As my colleagues know, Anatoly was able to rejoin his wife Avital in Jerusalem last February. Avital's tireless efforts are to be commended not only on behalf of Anatoly, but on behalf of all Soviet Jews. Her conviction to continue to speak out has inspired us to keep fighting for freedom for all of the oppressed.

Last month, Shcharansky was honored at the Capitol rotunda and recalled efforts of Soviet officials "to convince me that I am alone, but I knew that I was not alone, that my wife, my people, you all were with me. They were trying their best to find me a place where I would be isolated, but all the resources of a superpower are not enough to isolate a man who hears the voice of freedom, to isolate a Jew who hears the voice of solidarity with his people * * *."

Shcharansky continued, "I am not going to forget those who I left in the camps, in the prisons, who are still in exile or who still continue their struggle for their right to emigrate for their human rights." The release of Anotoly Shcharansky has been a great feat, but he reminds us that there are still 400,000 Jews in the Soviet Union wishing to leave. Many of them have started the emigration procedure by asking for invitations from their families abroad. This is often the beginning of Soviet harassment. There are 15,000 Soviet citizens who have applied for exit visas and been turned down. Emigration of Soviet Jews has steadily declined since the peak in 1979, when 51,320 were allowed to leave the country, and the total this year has only been a meager 216—the lowest emigration level in 8 months. There is no pattern of events in the emigration process. The unstated, unofficial requirements for emigration are subject to change without warning, and an emigrant does not know whether he will be allowed to leave after 1 year, 15 years, or ever. This obviously makes the hardship deeper and the process more unpredictable, but Anatoly is evidence that it is possible.

I call for my colleagues who have joined in the Call to Conscience to make others aware of the plight of Soviet Jews. But we must not stop here. Let Anatoly Shcharansky inspire us to continue to encourage the ideals of freedom that we believe in and claim as a right in our country.

STAR WARS LETTER OF CONCERN

● Mr. JOHNSTON. Mr. President, on May 22, 1986, 46 Members of this body sent a bipartisan letter to the Senate Armed Services Committee stating our concerns over the pace and direction of the President's Strategic Defense Initiative Program. Last Friday two more Senators formally announced their support for the letter bringing the total to 48 Senators. This bipartisan letter questioned whether the SDI Program contained within the DOD and DOE should be given any more than 3 percent real growth in the fiscal year 1987 budget. The President is requesting about 73 percent real growth.

I want to express my appreciation to Senators CHAFEE, EVANS, MATHIAS, CHILES, and PROXMIRE for helping me in collecting signatures on this letter. One need only look at the list of signatories to see that this is a group that spans the political and ideological spectrum.

Already the White House and the Pentagon have responded to our letter through news accounts. Frankly, I am surprised at some of the statements they are making.

Mr. President, if the Star Wars Program were limited to 3 percent real growth in fiscal year 1987, then DOD alone would receive about $3 billion and DOE would also receive $300 million in fiscal year 1987.

Yet in an article of May 24, 1986, entitled, "Senate Move Said To Imperil Research on Missile Defense," the New York Times quoted a Pentagon official, who spoke on the condition that he not be identified, as saying:

> We really feel this would be tantamount to terminating the program.

I'm not surprised that he did not want to be identified. If his identity were known some reporter might ask this official to repeat that statement with a straight face.

How many times have administration officials told us that SDI is a research program? Does anyone in this legislative body believe that we can't conduct a research program on ABM technology with $3 billion a year, that we have no choice but to terminate the program for inadequate funding? That's more than three times what we were spending on ABM research just prior to the President's star wars speech on March 23, 1983. It's more money than any other research program, military or civilian, receives today or will receive in fiscal year 1987.

Moreover, it is interesting to look at the funding level that the administration was planning prior to the President's star wars speech of March 23, 1983, to request for fiscal year 1987 on ABM research. Just prior to the President's visionary speech, his star wars epiphany, the administration gave the Congress a 6-year projection of their funding requests for ABM research. For fiscal year 1987, the administration planned to request only $2.5 bil-

lion. I say "only" $2.5 billion because it is $800 million less than what 3 percent real growth in the current program would provide to DOD and DOE for ABM research in fiscal year 1987. So the administration's budget request for fiscal year 1987 is now $5.4 billion which is more than twice the $2.5 billion figure they originally said they would need in fiscal year 1987. What is responsible for this increase? Has the anticipated Soviet threat doubled since the President's speech? There has been no suggestion of that.

Therefore, Mr. President, the assertion that limiting the Star Wars Program to 3 percent real growth or thereabouts would necessitate termination of the program is not only absurd, it is an insult to the intelligence of even the nonexpert. Three percent real growth would still provide in fiscal year 1987 three times what we were spending on ABM research just 3 years ago and $800 million more than what the administration, prior to the star wars epiphany, said it wanted for ABM research in fiscal year 1987.

Mr. President, let's turn now to the administration's budget request for star wars for fiscal year 1987. Six days after President Reagan's famous star wars speech, he was asked at a press conference if he had a cost figure for SDI. The President responded that unlike the Manhattan project: "This is not a crash program." Asked if he wanted the funding for star wars research, then about $1 billion, doubled or tripled the President responded, "I don't see any need for that, no."

Three years later, however, the administration now criticizes the Congress for having only tripled the SDI budget from its initial $1 billion level and insists that SDI funding be quintupled to $5.4 billion in fiscal year 1987.

If you think that's expensive, then as President Reagan says, "You ain't seen nothing yet!" The latest information from the SDIO and DOE show that the fiscal year 1988 budget request for star wars will be $6.3 billion or six times what we were spending before the President's epiphany on star wars.

Ironically, in assuring the public that the cost growth of SDI's budget request is not excessive, SDI proponents use as a yardstick the rate of funding growth of the Manhattan and Apollo projects, the most famous of America's crash programs.

In presenting the SDI fiscal year 1987 budget to Congress, General Abrahamson testified on March 5, 1986, that the current SDI budget request.

Only attempts to move closer to the levels recommended by the Fletcher study in 1983. It is imperative that we restore the funding levels if we are to reach our goal of providing sufficient information to support Strategic Defense decisions in the early 1990's.

Now what does this reference to the Fletcher study mean? After the President's historical star wars speech he directed the establishment of an intensive study to define a research program for a comprehensive ballistic missile defense system. Over 50 scientists led by Dr. James C. Fletcher wrote a classified multivolume study that laid out two distinct research programs, either of which would accomplish the objective.

One of the findings of the unclassified version of the Fletcher report was that, "An informal decision on system development cannot be made before the end of the decade, * * *" Conversely, the Fletcher report apparently concluded that a development decision on star wars could be made in the early 1990's if we funded a crash program in which no limits were imposed on funding.

In other words if you want an answer on SDI's feasibility as soon as possible—in the early 1990's, then you have to fund the program so that the only limiting factor is the technology itself—money is no impediment. Most important, the Fletcher report advised that a second approach existed, a fiscally constrained approach in which the required research was stretched out over a slightly longer period of time at substantially reduced annual cost.

The annual funding levels for the crash program and the fiscally constrained programs are classified and may not even be exactly appropriate today, as a lot of the technology for star wars has not panned out as the Fletcher panel had hoped. The point here is that while the administration insists that we must get back to the fast track, the crash program for star wars, the Fletcher report said the fiscally constrained, more measured approach will also give us the ABM research we need and at substantially reduced annual cost to make an informed development decision in the future.

In fact the Congress in funding the SDI has been following something not far removed from this second approach. We must not forget that this star wars system, if ever developed, won't be fully deployed until the next century, so a 2-, 3-, or 4-year delay overall simply won't make much difference. The administration is quick to note that although the Fletcher panel laid out two alternative research options, the report of the Fletcher panel recommended implementing the crash research program to permit a full scale system development decision as soon as possible—in the early 1990's.

That's true, but there are two things very odd about that recommendation of the Fletcher report to engage in a crash program. First, they offered no explanation or reasoning to substantiate their recommendation. And second, it appears that Dr. Fletcher himself does not subscribe to that recommendation. When Dr. James Fletcher was up for confirmation as head of NASA, Senator ROCKEFELLER asked him about the Fletcher report advocating a development decision in the early 1990's; that is, adoption of a crash program. Dr. Fletcher did not even recollect the early 1990's decision date in the report. He said he personally felt that a development decision in the mid-1990's was a safer estimate given the situation with the budget.

In a closed door hearing I asked General Abrahamson why is the administration pressing for the crash program aimed at a development decision in the early 1990's instead of the measured, more fiscally responsible approach. I only regret that the answer and the rest of the hearing are classified. The essence of his answer is that we can't be sure we know what the Soviets are up to. But, of course, that can be said of practically any military program.

Mr. President, there are many reasons why a more prudent pace for ABM research is justified. I will mention a couple more. There are a number of SDI experiments that the space shuttle was supposed to carry. We don't know exactly when the space shuttle or for that matter any other heavy-lift rocket will fly again.

Moreover, even SDI advocates concede that before we can make any SDI development decision we have to have progressed to the point where we know if SDI can meet the President's criteria of feasibility, survivability, and cost-effectiveness at the margin. On February 4, 1986, Paul Nitze, who first originated these criteria adopted by the President, announced, "It now appears that we will be well into the 1990's before that determination can be made."

In summary, Mr. President, the President never asked for a crash program. In fact he explicitly denied that we needed a crash program. Nevertheless, we are now being asked to fund a crash program when a fiscally prudent research program is adequate. No one has explained to the Congress why star wars must be a crash program, why a full-scale development decision must occur in the early 1990's. Instead, everyone points to the Fletcher report, but Dr. Fletcher himself apparently says that in light of the budget realities a mid-1990's decision is more appropriate. The shuttle and Titan are grounded, so key experiments will be delayed. And finally, we are now told that the very criteria by which a development decision will be made cannot be applied until well into the 1990's.

Finally, and most important, there is the consensus of at least 48 and I am confident that it's a majority of the

Members of this body, that we should not be slashing vital military programs to make further massive increases in the Star Wars Program. We have already tripled the program in just 3 years. Former Secretaries of Defense James Schlesinger and Harold Brown have counseled that annual funding increases in excess of 25 to 35 percent would result in wasted funds and could ultimately damage the program. But this program already has been increased by 200 percent in the past 3 years so that rule of thumb offered by Schlesinger and Brown suggests that it would take 5 more years before the SDI Program can efficiently absorb its current funding level.

What it all boils down to is a simple question—does it make any sense to cut military programs that will determine our military security over the next two decades in order to further bloat funding for a program that can't become fully operational until the beginning of the third decade from now? The answer is no.

Mr. President, I ask that the letters of May 22, 1986, and June 2, 1986, to the chairman and ranking minority member of the Senate Armed Services Committee, signed by a total of 48 Members of this body, be entered in the RECORD.

The letters follow:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 22, 1986.

Hon. BARRY GOLDWATER, *Chairman,*
Hon. SAM NUNN, *Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR BARRY AND SAM: As the Armed Services Committee marks up the FY 1987 Department of Defense Authorization bill, we want you to know we support your efforts to ensure that U.S. defense capabilities are not compromised because of budget constraints. We recognize it is uncertain whether it will be possible to generate broad, bipartisan support for any real growth in the defense budget. Accordingly, even though we as a Nation will be committing significant resources to DoD, the Committee faces the difficult task of substantially paring the Department's budget request.

Our concern is that the Strategic Defense Initiative has received excessive and inappropriate emphasis in DoD's budget. It is difficult to conceive of a sound rationale for increasing the combined DoD/DoE SDI budget by 77 percent while the entire DoD budget will likely be frozen at zero real growth and other vital military research programs are facing budget cuts. Not only are the goals of the research effort unclear, the need for accelerated funding for a long-range program such as SDI has not been demonstrated.

We support a vigorous ballistic missile defense research program which conducts research into innovative technologies. Such a program is necessary to hedge against Soviet breakout from the ABM Treaty, to protect the U.S. from technological surprises, and to maintain an array of strategic options including strategic defense.

We are concerned, however, that the SDI program is being rushed to a premature development decision in the early 1990's in order to meet an unrealistic schedule. As a result, SDI's director, General James Abrahamson, has been forced to deemphasize certain research efforts and reallocate money to other projects earlier than he would like. This has led to unnecessary technical risks being incurred in the program.

Ambassador Nitze has recently stated "it now appears that we will be well into the 1990's" before we can determine if SDI can meet "the President's criteria of feasibility, survivability, and cost-effectiveness at the margin." Moreover, the Fletcher Panel concluded that a vigorous SDI effort within a controlled budget would result in minimal schedule slippage. Therefore, we feel that a more evenly paced and broadbased SDI program is warranted at this time.

Former Secretaries of Defense James Schlesinger and Harold Brown have counseled that annual funding increases in excess of 25 to 35 percent would result in wasted funds and could ultimately damage the program. Yet, since 1984, the SDI budget has tripled. The current budget request would quintuple the program since its inception.

By any measure budget growth in the SDI has outpaced the progress of technology and, more importantly, has begun to impinge on other military research and development. The FY 1986 SDI budget is twice as large as the combined Advanced Technology budgets of the three military services and is nearly as large as the Technology Base budget of the entire Department of Defense.

For these and other reasons, we question whether the combined DoD/DoE SDI program should be funded for FY 1987 at a level higher than that which would allow for approximately three percent real growth. Such an increase, after all, is equal to the increase the President is seeking for all military programs.

We deeply appreciate your attention to our concerns. As leaders in the effort to ensure we maintain a strong defense second to none, we know that you will be doing all you can to see that America's tax dollars are spent wisely to protect U.S. national security interests. We, therefore, look forward to working with you closely on an appropriate funding level for SDI.

Sincerely,

Senators J. Bennett Johnston, Jr., John H. Chafee, Daniel J. Evans, Charles McC. Mathias, Jr., Lawton Chiles, William Proxmire, Lloyd Bentsen, John D. Rockefeller IV, Albert Gore, David Pryor, Paul Simon, Paul S. Sarbanes, Tom Harkin, Patrick J. Leahy, Claiborne Pell, Wendell H. Ford, Jim Sasser, Dennis DeConcini, Carl Levin, Spark M. Matsunaga, Quentin N. Burdick, Edward M. Kennedy, Robert T. Stafford, Russell B. Long, George J. Mitchell, Donald W. Riegle, Jr., Mark Andrews, Howard M. Metzenbaum, Daniel K. Inouye, Nancy Landon Kassebaum, Frank R. Lautenberg, Christopher J. Dodd, Gary Hart, John Melcher, David L. Boren, Lowell P. Weicker, Jr., Dale Bumpers, John F. Kerry, Max Baucus, Thomas F. Eagleton, Alan J. Dixon, Mark O. Hatfield, Daniel Patrick Moynihan, Joseph R. Biden, Jr., Alan Cranston, Arlen Specter.

U.S. SENATE,
Washington, DC, June 2, 1986.

Hon. BARRY GOLDWATER, *Chairman,*
Hon. SAM NUNN, *Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR BARRY AND SAM: As the Armed Services Committee marks up the FY 1987 Department of Defense Authorization bill, we want to add our support to the bipartisan letter of May 22, 1986, which you received from 46 Senators concerning the Strategic Defense Initiative.

We hope you will keep our views in mind as the Committee begins its markup.

Sincerely,

BILL BRADLEY,
U.S. Senator.
ORRIN HATCH,
U.S. Senator.●

COMMUNIST STRATEGY IN SOUTH AFRICA REVEALED

● Mr. GOLDWATER. Mr. President, last Thursday, the Botha Government of South Africa imposed a nationwide state of emergency in order to deal with potential violence anticipated throughout this week during the anniversary of the Soweta riots of 1976. Without condoning the government's action, I feel people in the United States should attempt to understand the grave conditions which led to this decision. I believe there should be some recognition on the part of the American people that there may have been serious reason for the South African Government to act as it did, an action designed to protect the security of all the country and to save black as well as white lives.

Mr. President, we might also inquire what South Africa would be like if revolutionary forces achieved their aim of overthrowing the present government.

Some of the truth is evident in the barbaric murder of more than 280 black citizens by South African black revolutionaries in the last 3 months alone. Other evidence is found in the scheme of radical groups to extend violence in South Africa, as proven by the disclosure last week of a document acquired by the South African intelligence community. This document originated with the South African Communist Party and points directly to the violent takeover of power in the country. The document was circulated by the politburo of the South African Communist Party in May of this year to its members. It is particularly significant because many observers believe a majority of members of the National Executive Committee of the African National Congress are members or supporters of the SACP.

Mr. President, this document shows that if the United States does not pursue a balanced, fair policy toward South Africa, the entire region may well be condemned to an era of anarchy, economic disaster, and bloodshed. I urge my Government and those who call for the dismantling of apartheid

not to allow their humane motives to be misconstrued by any revolutionary group in South Africa as being supportive of its terrorist activities.

Terrorism is terrorism, no matter who commits it, and no matter under what excuse it is waged. The United States Government should clarify that the African National Congress and other groups in South Africa can never have the assistance or support of the United States until they renounce violence and make a public commitment to a free and democratic South Africa under the rule of law.

Mr. President, while the administration and the Congress cannot be silent about our condemnation of apartheid, neither should we refrain from urging radical groups in South Africa to cease all acts of violence and terrorist activities and to expel any known Communists from their membership. Otherwise, we will send the wrong signal about the meaning of U.S. foreign policy in that region of the world. The antiapartheid voices in this country do not mean and must not be construed as meaning that the American people are on the side of violent revolutionaries in South Africa. That fact must be clearly understood in South Africa as well as here.

Mr. President, I ask that the document circulated in May 1986, by the South African Communist Party be printed in the RECORD, so that my colleagues may see the true strategy and violent aims of that revolutionary group and its effort to use the ANC as a front for achieving those aims.

The material follows:

SOUTH AFRICAN COMMUNIST PARTY
DIRECTIVE/DISCUSSION DOCUMENT MAY 1986

1. It is universally acknowledged that our situation is pregnant with the prospects for change. The use of brute force, combined with attempts at reformist diversions designed to avoid real change, are visibly failing. The resistance is not being subdued. Instead, more and more people are being awakened to political life.

2. The political statement circulated by the Central Committee after our last plenary session touches on these developments in greater detail and forms part of the background to this discussion document.

3. Our liberation front is becoming increasingly accepted as more than an agitational opposition; it is regarded by a large slice of the world and, more importantly, by the majority of our people, as the immediate alternative power to racism and exploitation. The heightened tempo of the conflict and the prospects which are emerging for radical transformation demand continuous attention to our organisational, agitational and mobilising tasks both in the military and political spheres as part of the unfolding revolutionary process. These developments also require reflection on a number of problems relating to the strategy and tactics of the revolutionary transformation which may previously have been in the realm of speculative debate but which have now assumed an immediate significance.

4. Party cadres at different levels of the liberation structures have of course participated in the process of elaborating answers to questions which changing reality is increasingly posing. It has obviously become more urgent than ever for the party as a collective to reflect more deeply than it has managed to do in the recent period on some of the problems raised by the changing situation.

5.1 The strategic objectives defined in our programme, party constitution and other basic documents remain valid. These documents define the main content of our National Democratic Revolution and describe it as a stage towards the struggle for social emancipation in the epoch of the world transition from capitalism to socialism and within the context of the struggle against imperialism. The dominant role of the working class at this stage of the struggle is stressed.

5.2 The freedom charter provides broad popular guidelines which describe the main content of the people's power in the immediate aftermath of a victory of the National Democratic Revolution. It is not a programme for a Socialist South Africa but, depending upon the social forces which come to power, it can become the starting point for creating conditions which would lead to a Socialist transformation.

5.3 Our broad strategy for achieving people's power is to mobilise the masses for a seizure of power through a combination of political action and armed struggle in which partial and general uprising will play a vital role in the developing stages of people's war.

6. Paragraph 5 very briefly summaries and describes the main beacons of our struggle. But the tactical journey toward these beacons must be influenced by the continuously changing and developing situation. And, as we have already emphasised, events of the last 20 months have resulted in a very significant transformation of the balance of class and national forces involved in our struggle.

7. There has already been an immeasurable strengthening of the revolutionary forces. Organisationally, this expresses itself primarily in the enormous growth in the popularity, reputation and status of the ANC led liberation alliance. This alliance attracts varying degrees of allegiance and support from the masses organised at local, regional and national level and from the organised working class. Roughly speaking, this sector as a whole encompasses the content of the main revolutionary forces as organised contingents. In class terms the core of those contingents are the urban and rural working people in alliance with other classes and strata among the nationally oppressed majority such as the black petty bourgeoisie whose objective interests will be served by the revolutionary transformation envisaged by the liberation alliance.

8. In addition the struggle in our country is creating a situation in which the white power bloc is beginning to lose its cohesion. Sections of the ruling class in the imperialist countries, which were previously quite ready to underpin the apartheid system, are also beginning to lose faith in its capacity to protect their interests. Sensing the inevitability of change, important sectors of the white power bloc and some imperialist strata are themselves beginning to seek a transformation involving mainly the extention of varying forms of political democracy within the framework of capitalism. Recognition by powerful segments of our ruling class (and some of their imperialist allies) that they can no longer continue ruling in the old way obviously favours the revolutionary forces; it brings to the fore the need to intensify the politico diplomatic terrain of struggle so as to weaken still further the cohesion of the forces ranged against us.

9. Thus, there are emerging in South Africa what Lenin called (in relation to the February 1917 Russian Revolution) "dissimilar currents, heterogenous class interests, contrary political and social stirrings," as objective factors in deepening the enemy crisis, fragmenting its previously monolithic character and therefore objectively strengthening the prospects of a radical breakthrough. On the face of it there appears to be a proliferation of new groupings which consider themselves to be part of the forces for change but which cannot necessarily be embraced as part of what we regard as the revolutionary forces. By far the most important class grouping which falls into this category is what one might call (for want of the better phrase) the "liberal" bourgeoisie. It is the representatives of the latter and their like-minded imperialist friends which triggered off the current series of talks and dialogue with the ANC. Many issues going to the very root of the politics and economics of an immediate transformation have been a subject of discussion with these forces and of continuous speculation in the international and South African media.

10. Let us be clear. The "liberal" bourgeoisie seek transformations of the South African Societ which go beyond the reform limits of the present regime but which aim to preempt the objectives of the revolutionary forces. Old style apartheid no longer serves their class interests. In addition, external pressures triggered off by an unending people's resistance, are taking a terrible toll of their existing and potential economic interests. It is clear that the new found political libaralism of a significant section of the bourgeoisie (represented by the signatories to the FCI business charter) has, as its primary objective, the saving of capitalism implying, by and large, the retention by them of the ownership of all or most of the means of production. Their business charter, which in certain respects proclaims the same liberties as the freedom charter, understandably incorporates clauses such as "everyone has the right to own property, alone as well as in association with others * * * and everyone has the right to employ labour and to own or manage a business in accordance with the rights and principles set out in this charter." And, (as we shall see later) the other side of the same coin is the fear of a revolutionary takeover and, therefore, an attempt to avoid majority rule in its true meaning.

11. In other words, the liberal bourgeoisie seek a February but, understandably, in a way which would prevent it from moving into an October. Their strategy for achieving this objective has been clearly articulated by them.

11.1 They seek transformation through negotiation and not the kind of conflict which would culminate in a revolutionary seizure of power. Lenin said of the Russian liberal bourgeoisie that it "Does not demand the overthrown of the tsarist government * * * it is striving to effect as peaceful a deal as possible between the tsar and the revolutionary people * * * a deal which would give a maximum of power to itself, the bourgeoisie, and a minimum to the revolutionary people * * * the proletariat and the peasantry."

11.2 To implement this tactic they, together with their external allies, can be expected to attempt to push the revolutionary

forces into negotiation before they are strong enough to impose their basic objectives. The intention is to defuse the people's struggles and to force a compromise based on existing power relationships.

11.3 A vital element of their strategy is to prevent effective majority rule so as to keep the national forces divided. For example Gavin Relly, one of the most influential signatories to the business charter casts doubts on the advisability of having a single directly, elected assembly, supports the perpetuation of tribal power centres such as the homelands and States that "an immediate handing over of power on the basis of one man one vote would result in political chaos and economic retreat."

11.4 Consistent with the above is the insistence by the Rellys and the Van Zyl Slabberts that there must be a break by the ANC with the Communist Party and that in any case the ANC must be regarded as only one of the many organizations among the black forces when it comes to a round table settlement discussion. Van Zyl Slabbert's report-back to Botha about his discussions with the ANC reveals another level of his approach. He described the ANC following among the people as a "myth" and asked for permission to see Barnard (the head of national intelligence) in order to discuss proposals (with security implications which he felt could "draw the teeth" of the ANC.

12. We have devoted space to the problem of the liberal bourgeoisie because it helps to highlight with greater clarity a number of questions related to the character of our revolution. More particularly:

12.1 Our situation differs from the situation facing the Russian Bolsheviks in 1905 and in the period prior to February 1917. In our case the white Bourgeoisie (including its political liberal segment) is in power: It is the ruling class. Therefore we must resist any confusion between the National Democratic Revolution (Whose content is spelt out in our programme, in the ANC strategy and tactics, etc.) and the classical constituents of bourgeois democratic revolutions. The unique and atypical form which South African capitalism has developed (based on colonialism of a special type) has placed on the agenda a struggle for national and political demands which are usually associated with the historic struggle waged by the bourgeoisie at the dawn of capitalism against fuedalism. These demands have become known as bourgeois democtratic rights.

12.2 In any case (in contrast to 1905 and Febraury 1917) no sector of our bourgeoisie (with the exception of the tiny weak black bourgeoisie) supports the struggle for bourgeois democratic rights in their true meaning. As we have seen they remain opposed to the very starting point of bourgeois democratic rights i.e., majority rule, one man one vote in a united national state. Despite a great deal of rhetoric on questions of democracy their ultimate solutions are always qualified by references to group rights which, in the South African context, implies various forms of protection of the accumulated privileges of the white group.

13. Our characterisation thus far of the liberal bourgeoisie does not however dispose of the question completely. A serious revolutionary movement always tries to divide the enemy and to broaden the base of opposition to the main enemy. This implies the need for ever-widening varieties of opposition some of which may not be motivated by revolutionary intentions. In this connection we must also bear in mind the danger of the potential growth in the strength of out-and-out Nazi forces such as AWB, HNP, Treurnichts CP (and their vigilante offshoots) and the possibility of an undisguised military dictatorship. Also we must not underestimate the counter revolutionary offensive against freedom movements orchestrated by the Reagan administration. On the other hand a political re-adjustment in the ruling power block which favours its liberal bourgeoisie wing would undoubtedly create better objective conditions for the continuing struggle by the revolutionary forces to achieve the aims of the National Democratic Revolution. Tactically, what flows from this?

13.1 On the one hand we are justified in helping by all means (including talks) to advance the process of breaking the cohesion and unity of the ruling class and to isolate and weaken its most racist and politically reactionary sector.

13.2 On the other hand, without blurring some very important distinctions between liberal bourgeoisie and their more reactionary class brothers.

13.2.1 We must expose their objective of co-opting forces from among the oppressed in order to frustrate the achievements of the main aims of the National Democratic Revolution.

13.2.2 We must not play into their hands by working out compromises (or being seen to work out compromises) for some hypothetical negotiating table which constitute a retreat from the main aims of the National Democratic Revolution. Nor must a genuine desire to project a public image of reasonableness, tempt us to paddle softly on the true nature of the Liberation Alliance and its revolutionary socio-economic objectives.

13.2.3 At the same time we must not mechanically dig in our heels against any future possibility of negotiation or compromise with other forces. We must remember that virtually all revolutionary struggles in the post war period (Algeria, Vietnam, Angola, Mozambique, etc.) reached their final climax at the negotiating table. But the question of negotiation usually arises at a time of a major revolutionary climax involving the transfer of power based on the massive strength of the people's offensive. At such a stage we have to judge what interim compromises are historically justified and take the people with us. The main thrust of our present strategy remains a revolutionary seizure of power. Premature speculation about possible compromises in order to tempt broader forces such as the liberal bourgeoisie on to our side, may serve to blunt the edge of the people's revolutionary militancy.

14. Another question which requires special attention is how to harmonise and achieve a correct balance between the imperatives of class alliances and the independent role of the working class and its political vanguard. In the area of mass organisation the answer is less problematic. The emergence of a strong trade union movement which is both independent of and part of the broad alliance of revolutionary forces creates a workers' constituency with enormous potential for acting at the mass level in defence of workers' interests both economically and politically. The trade union movement does not and cannot carry out the functions of the political vanguard of the working class. This is the role of the party of the working class, which we are. In the alliance headed by the ANC we represent both the short- and long-term political and social aspirations of the working class. We have always believed that our party can only carry out its historic mission by ensuring that its vital role in the alliance does not result in a negation of its role as a public independent vanguard of the working class. In this connection we must consider the following:

14.1 We continue to face the old problem of party work always being pushed into second place because of the necessary involvement of virtually all our talented personnel in other structures of the Liberation Alliance. This continues to limit our capacity for the independent spread of working class perspectives in the struggle and hinders the strengthening of the party organisationally. If no effective steps are taken to deal with this weakness, the party will not be able to carry out its historic mission.

14.2 It is also necessary to reflect on the profile of the party in the Liberation Alliance whose public head is correctly the ANC. The question which needs to be addressed is: To what extent has it become accepted as a permanent feature of the Alliance that the Party is not a participant as a party in the activities and relations of the Alliance with other forces? This question recently came under consideration in the preparations for the meeting with COSATU. After prior discussion which included an informal canvassing of the views of some of the COSATU delegation it was decided that the party should not be seen to be having an independent presence in the talks. Without questioning the correctness of the decision on this specific occasion it has become important to open up this problem for reflection and discussion especially in relation to the status and role of the party in our future serious negotiating processes. It is also necessary to reflect on the extent to which the party should (like SACTU) develop publicly-expressed independent relationships with selected working class groupings.

14.3 Making the formal profile of the party more visible will not, on its own, give it the capacity to perform its historic mission. In the end, it is the party's strength on the ground and more especially, its organised presence among the black working class, which counts.

15. The situation has shot into greater prominence than ever before the question of the character of the interim phase of people's power. We have partly touched upon this in reference to the role and objectives of the liberal bourgeoisie. The series of talks on which the Alliance has correctly embarked demand from us more precise formulations than are contained in the broadly stated objectives of the freedom charter. Understandably, there is increasing pressure for answers to questions which relate to the interim phase of people's power. It has clearly become necessary to elaborate more detailed approaches to matters such as the relationship between private and public property in the interim phase. These approaches must be guided by the following general considerations:

15.1 On the one hand, as clearly spelt out in our programatic documents, the immediate attainment of the Socialist revolution is not on the agenda. This does not mean that we are putting it off but, to quote Lenin's words, we "are taking the first step toward it in the only possible way, along the only correct path, namely the path of a democratic republic."

15.2 On the other hand, liberation implies a massive redistribution of wealth and

cannot have much meaning without the undermining of the economic hold over the means of production which is exercised by the existing ruling class and without (at a political level) creating a State form in which the working people are dominant. This implies more than an alteration in voting arrangements. Meaningful exercise of people's power during the interim phase is inconceivable in a situation in which the army, the police force, the State bureaucracy, the communication media, etc, etc, remain substantially in the control of the existing structures. It is only a provisional peoples government which can take measures which will ensure the possibilities of a real exercise of democracy.

16. In conclusion it is necessary to stress that the talks which have taken place have undoubtedly served to enhance the unity of the democratic forces and to weaken the cohesion of the enemy both at home and abroad. Indeed this area of the politico-military terrain of struggle needs to be pursued with even greater vigour. We must however make, sure that the whole membership of the liberation movement and the people generally are kept fully informed about the nature of the talks so as to avoid misunderstanding and distortion of their real nature.

The emphasis of the struggle rests on the rising momentum of the people's offensive which must be intensified with the object of winning people's power. The issue of future negotiations (to be distinguished from the talks) must always be dealt with in a manner which will not serve to divert or defuse this momentum. We must continue to make clear that our "bottom line" for negotiation is the transfer of political power to the majority in one United Democratic South Africa.

This objective should however not divert us from creating the broadest possible front of struggle around immediate basic demands such as the release of political prisioners, troops out of townships, dismantling apartheid, legalising the ANC and so on. The winning of these demands may create a better climate for negotiations but cannot in itself be regarded as a bargaining chip for slowing down or suspending the people's offensive.●

RELOCATION OF HOPI AND NAVAJO INDIANS

● Mr. GOLDWATER. Mr. President, on June 11, the senior Senator from California, ALAN CRANSTON, introduced S. 2545, on which I must comment. I wrote Senator CRANSTON of my feelings, but I think the action he took requires an answer, particularly when the legislation has no bearing on his native State, but has a tremendous impact on my native State.

First, in his statement he gave on the Senate floor last week, he wanted to halt the Federal Government's efforts to relocate Hopi and Navajo Indians from their ancestral homes at Big Mountain, AZ, for 18 months. Further, he said this issue involved grave national questions of religious freedom and Indian policy.

Now, for the Senator's information, the Federal Government is not forcibly evicting anyone from Big Mountain. The Hopi do not live on Big Mountain. There are about 165 Navajo Indians living in that area. I have known them literally from my young days when I ran an Indain trading post nearby and used to drive my truck to that area to pick up shale coal to use in my stove on Navajo Mountain.

Big Mountain has been used as a whipping boy in this dipute and the self-appointed Big Mountain Legal Defense/Offense Fund has grossly distorted the facts to the American public. I have been constantly defending the Big Mountain people, taking their position to the Hopi chairman and their council, and I do not think there is any desire to move them.

The issue does not involve grave questions of religious freedom, nor of Indian policy. The Hopis have sacred land. It is not shown on any map, nor will any Hopi Indian show where these sacred lands are located. They merely know where they are and they observe them, and Big Mountain is not included in this sacred land. If that had been the case, there would never be anyone, Hopi or Navajo, living on the Mountain or close to it. The question of Indian policy is such a broad one that the senior Senator from California should have known better than to have injected this subject into his argument.

In 1882, the Federal Government set aside lands in this general area to be used by the then called Moqui, now the Hopi Indians, and for other tribes. At that time there were no other tribes, although I firmly believe, and have for many years, that the Indians at Big Mountain, the Navajos, did live there at that time. In fact, I think they were the first Navajos to come as far south as that point.

Continuing with the Senator's remarks, he said Public Law 93-531 will change the status of the Navajo and Hopi joint use area in the Four Corners area of Arizona. The land in contest is nowhere near the Four Corners area, and this in itself could lead one to believe that these lands in question are actually in that vicinity, which is very close to the sacred lands of the Navajo Indians.

Big Mountain was never a sacred shrine when I ran my trading post on the Navajo Reservation which was located at the base of Navajo Mountain. This mountain is the home of the Navajos' War God. Besides Navajo Mountain, the San Francisco Peaks and one or two other large peaks are the only so-called mounts I have ever heard the Navajos refer to as religious or sacred land.

The Senator also states that Big Mountain suddenly became, not a natural religious area, but a mining site. This, again, is an incorrect statement. Big Mountain is located on a vast, expansive land mass called Black Mesa, and there is a large mining development on this Mesa, but Big Mountain is not part of it.

Navajo Indians are not being forcibly relocated to off-reservation sites as the Senator said. What we are trying to do is to get the Navajos to move off the Hopi lands and onto their own lands. They have jurisdiction over 16 million acres or, if the Navajos care to, they can move to any one of the numerous cities that are on the boundary of the reservation, such as Winslow, Flagstaff, on Holbrook. As a matter of fact, they can move anywhere they wish in the United States, as some of them have. Tuba City, as mentioned in the Senator's remarks, is on the Navajo Reservation, and Gallup, NM, is to the east of the reservation.

The Senator continues with other misstatements of fact. People are not literally being dragged out of their homes. The Navajos voluntarily sign a contract with the Federal Government, agree to move and are given a new home. There are about 238 families left on Hopi land and the majority have agreed to move. They are not being forced. It is merely an attempt to settle an argument which has been going on for over a hundred years as to who should rightly use this land, the Hopi or the Navajo. I might remind the Senator that at least four different courts, including the Supreme Court, have found in favor of the Hopi, but the Navajos have, in effect, disregarded the findings of the court.

This is something which has been of great concern and interest to the Arizona Members of Congress ever since I can remember. The thing that aggravates me is to find the Senator from California injecting himself into something that is purely and simply a matter concerning Arizona. It would be somewhat like my introducing legislation to control the flow of water into Los Angeles or the checking of highway speeds in that State. I see no reason why a Senator from California would seek to find legislation rooted in another State, whether that State be mine or someone else's.

This problem, I will tell my colleagues, is going to be solved only when the two chiefs of the two tribes sit down and calmly discuss the problem and come to a mutual understanding. If that cannot happen, the law and the court decisions should be enforced. Certainly, the injecting of Republican and Democrat politics into it is not going to help anyone or anything.

I wrote Senator CRANSTON, as I said earlier, but I thought my remarks should be made available to the public because people have written me asking why a California Senator would inject himself into a problem concerning Arizona.●

ALASKA'S VULNERABILITY TO INFILTRATION

● Mr. STEVENS. Mr. President, on Monday, June 16, the Washington Post carried an article by Jack Anderson on Alaska's vulnerability to infiltration.

Because of its vast size and close proximity to the Soviet Union, Alaska is more vulnerable to such infiltration than any other State in the Union.

Gen. Billy Mitchell believed, and I concur, that Alaska "is the most strategic place in the world," and that "in the future, he who holds Alaska will hold the world." It is also one of the most difficult to defend especially in this age of high-technology weaponry. Alaska's size is no longer as effective a defense as it was in the past. Alaska's strategic importance is not solely due to its geographic position, but also because of the Trans-Alaska oil pipeline which supplies oil to the rest of the States, and the distant early warning system which provides crucial early warning of missiles headed toward the lower 48.

These are of course, reasons which led to the decision to assign the 6th Light Infantry Division to Fort Wainwright, Alaska.

I recommend this column to my colleagues and ask that it be printed in the RECORD.

The article follows:

ALASKA VULNERABLE TO SOVIET INFILTRATION

(By Jack Anderson and Dale Van Atta)

The ugly reality of more than 30,000 highly trained Soviet men and women specializing in assassination, sabotage and other deadly mischief—the Spetsnaz forces—has not been lost on the Pentagon's counterterrorist experts. They've been quietly preparing U.S. defenses against the Soviet special forces.

No place is more vulnerable to Spetsnaz infiltration than Alaska. The vast area of the thinly populated 49th state—one-sixth of the total U.S. land mass—stretches to within three miles of the Soviet Union in the Bering Strait. Indeed, there are some in the Pentagon who maintain that Spetsnaz forces are training against targets in Alaska.

These suspicions, plus unconfirmed reports of unusual Soviet equipment in the Soviet Far East and possible Russian infiltration of Alaska, prompted Dale Van Atta to visit the area and investigate the threat posed by special forces commandos.

Last summer the Air Force took part in a coordinated exercise in Great Britain, Operation Brave Defender, aimed at a potential Spetsnaz strike. Even more to the point, the largest military exercise—open or secret—against the Soviet threat was staged in Alaska last year.

Operation Brim Frost involved 18,100 Army, Navy, Air Force, Marine and Coast Guard personnel, 285 aircraft and 1,150 vehicles.

The difficulty of defending Alaska against infiltrators is staggering. There are 72 square miles of Alaska for each U.S. soldier based there. Yet it may be, as the late Gen. Billy Mitchell once said, "the most strategic place in the world"—an area vital to U.S. security in the age of high-speed aircraft and intercontinental ballistic missiles.

Operation Brim Frost was in part "designed to meet the threat of sabotage operations against critical facilities by unconventional warfare forces," according to a briefing on the war game. In southern Alaska, "enemy" forces attacked the Beluga Power Station, which supplies electricity for much of the Anchorage bowl, where two-thirds of Alaskans live.

In central Alaska, Army Special Forces posing as Spetsnaz attacked the Trans-Alaska pipeline, which supplies oil to the "Lower 48."

While the security Van Atta inspected at the pipeline's source in Prudhoe Bay was impressive, oil officials acknowledged that it is impossible to defend the entire 799-mile length of the pipeline as it goes south. About 420 miles of pipeline are above ground: 4 feet in diameter but only an inch thick, easily vulnerable to even a rifle bullet.

Other tempting targets are the radar stations that provide the crucial early warning of missiles headed toward the Lower 48.

For example, Van Atta walked within a few feet of the "vitals" of an early warning station six miles east of the northernmost U.S. community, the Eskimo village of Barrow. He was not viewed with suspicion.

Pentagon and Alaskan officials admit there have been reports of suspicious activities by unidentified Caucasians along the state's western coast north of Nome and on St. Lawrence Island. This is the area closest to Siberia, and the intruders could have been Soviet Spetsnaz infiltrators.●

NAUM AND INNA MEIMAN: THE FATE OF REFUSENIKS

● Mr. SIMON. Mr. President, Naum and Inna Meiman are personal friends of mine in the Soviet Union who have been denied permission to emigrate to Israel.

The Meimans are one example of the plight shared by so many Soviet Jews who have expressed desire to leave their country. These people have been labeled refuseniks. Although they have not done anything illegal, they are ostracized from society. Often, they lose their jobs or are expelled from university or get harassed by the KGB.

Soviet authorities denied Naum a visa on the basis that he knew State secrets although his classified work actually ended in 1955, making his mathematical calculations outdated. Inna has been told that she cannot leave to obtain necessary medical treatment because she has lived with Naum, "a possessor of State secrets" for too long. Naum and Inna have been married for 5 years, 25 years after Naum did his calculations.

Since Naum applied for a visa 10 years ago, the Meimans have been constantly harassed. Naum was fired from his job. Their telephone was disconnected and their apartment has been ransacked.

Soviet officials can give no excuses that can justify keeping an elderly, sick couple, who no longer hold any secrets, captive in Moscow.

I strongly encourage the Soviet officials to allow Naum and Inna to emigrate to Israel.●

REFUSENIKS IN THE SOVIET UNION

● Mr. HUMPHREY. Mr. President, I urge that we take the time today to remember the plight of Soviet Jews, particularly the tragedy which besets the over 380,000 refuseniks who have been refused permission to emigrate from the Soviet Union. In doing so, we must bear in mind the critical section of the Helsinki accords, "basket 3," which deals with human contacts. This provision stipulates that signatories are obligated to expedite the handling in a positive and humanitarian manner of applications for reunion of families. The Soviet Union has systematically violated this principle by refusing thousands of legitimate emigration requests by Soviet Jews.

Notwithstanding the recent release of Anatoly Shcharansky and over two hundred other refuseniks, freedom is the exception rather than the rule for Soviets who wish to emigrate. The rule typically involves loss of employment, social ostracism, constant surveillance and harassment, and, all too often, imprisonment for trumped-up offenses such as parasitism—a result of having lost one's job. All of this for asking to leave a country where one's religious heritage is a liability, and pride in that heritage a crime.

The tragic example of Moisei and Eugenia Shukhgalter illustrates the nature of Soviet inhumanity. Eugenia witnessed the extermination of her family during World War II and was exiled to Siberia under Stalin. Years later, with their son Alexander working as a patent lawyer, the two decided to emigrate. As so often happens, Alexander was promptly fired, jarring the family into financial crisis. He now faces possible imprisonment for parasitism.

The Shukhgalters' anxiousness to emigrate heightened when Eugenia developed senile macular degeneration, a potentially blinding condition which afflicts the elderly. Laser treatment to prevent further deterioration of the eyes is available only in the United States, where Moisei's cousin works as a doctor in Massachusetts.

Eugenia's sister lives in Israel, so Soviet authorities can make no claim of an insufficient family tie in the outside world. Moreover, neither Moisei nor Eugenia ever worked in industries which involved State secrets, another convenient fiction created by Moscow to refuse emigration. In short, there exists no valid reason for the Soviets to impede the Shukhgalters' plans.

This is only one among thousands of similar cases. The Kremlin must be implored to comply with the Helsinki

accords. Pressure must be brought to bear from every segment of our free society. I urge all, Members of Congress and citizens alike, to appeal to Soviet officials for the release of the Shukhgalters and the thousands of others like them. If we will not speak for the refuseniks, nobody will. Please, then, write the following officials today and make your views known. All of the Shukhgalters in the Soviet Union are counting on us. (Nikolai I. Savinkin, Director, Department of Administrative Offices, Central Committee of the Communist Party, Moscow, U.S.S.R.; Arkady P. Burtsev, Director, O.V.I.R., Central Committee of the Communist Party, Moscow, U.S.S.R.)●

ESRD PATIENT RIGHTS ACT OF 1986

● Mr. D'AMATO. Mr. President, I rise today in support of S. 2547, legislation which affects dialysis patients across the country. My colleague, Senator HEINZ, has introduced the End Stage Renal Disease Patient Rights Act of 1986 to address the specific needs of the dialysis industry. I am pleased that Mr. HEINZ has recognized the importance of addressing this issue.

Medicare covers dialysis services for over 78,000 patients in his country. Over half of these individuals are over 55 years of age. Approximately 26 percent are 65 years and older; 34 percent of the new patients requiring dialysis services each year are over 65 years of age. Clearly, dialysis serves a significant number of senior citizens in this country.

A number of changes are taking place in the dialysis industry. Large dialysis clinics are growing at a rapid rate. It is estimated that 60 percent of these larger clinics reuse disposable devices. Information relating to the effectiveness and safety of reuse is scanty. Although some evidence indicates that reuse may be beneficial, other evidence implies that it could be detrimental in the long term. If Medicare intends to continue to cover dialysis treatment, reuse of disposable devises must be investigated. The Federal Government should not be further supporting any type of medical treatment which could potentially be harmful.

Consequently, I am pleased that Mr. HEINZ' legislation calls for proper clinical trials to determine definitely the effects of reusing disposable devices. I am hopeful that these trials will address the numerous unanswered questions which surround the whole area of reuse.

In addition, the ESRD Patient Rights Act of 1986 calls for the FDA and HCFA to develop safety standards for reuse procedures. Currently, no such standards exist.

Last, the bill requires that all patients be informed of possible effects of reuse. Presently, many patients who receive dialysis treatment with reused equipment are not informed of potential risks. It is not uncommon for patients to be forced to be treated with reused equipment, even if the patient has been informed of risks and opts not to reuse.

I commend my colleague for recognizing the seriousness of this issue in regard to the health and well-being of the senior citizens of this Nation.●

S. 2498, THE ANTI-APARTHEID ACT OF 1986

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2498, the Anti-Apartheid Act of 1986, offered by the distinguished senior Senators from Massachusetts and Connecticut. I lend my support to this measure because I believe it is essential that this Nation hold the moral and political high ground.

Yesterday marked the 10th anniversary of the Soweto uprising, which resulted in the death of over 500 blacks. That event, however, was only the beginning, the killing has continued: 31 people have been killed, and it is estimated that 2,000 people have been detained since the government imposed a new state of emergency last Thursday giving the police broad powers.

Incredibly, Mr. President, there have been over 1,200 deaths attributed to antiapartheid violence in the past year alone. In 1985, 10,836 people were detained without charges; and additional 25,000 were arrested between September 1984 and the end of 1985, but were charged. South Africa has transformed itself into a police state, and there seems to be no end to the senseless killings. A tragedy is unfolding that will no doubt get worse before it gets better.

For some time, our Nation has sent mixed signals to the South African Government on its policy of apartheid. Although the United States is firmly against the policy of apartheid, the economic sanctions we have placed against the South African Government are relatively innocuous. Our tough rhetoric is not backed by tough action and this is not lost on the South African Government. We cannot let the Botha regime think, even for a moment, that our Government is not 100 percent against its policy of apartheid. We cannot take the risk that our policy of quiet diplomacy and constructive engagement is viewed as implicit acceptance of apartheid. Such a misconception can only work to strengthen the resolve of the South African Government to maintain apartheid.

Although the administration has been adamant in its strong opposition to apartheid, its approach to help end this most heinous form of bigotry has been plainly ineffective. Essentially, Mr. President, the policy of constructive engagement, which the State Department has tenaciously defended, can no longer be a viable policy. The opportunity for this policy to be successful has passed.

Quiet diplomacy during a time in South Africa which even the President describes as civil war cannot work. The United States should first implement stiffer sanctions against the Government of South Africa, such as those found in S. 2498, to show explicitly that it will no longer do business with a government that follows a policy of apartheid. Second, our Government should do everything in its power to assist in peaceful dismantling apartheid. The potential for bloodshed of monumental proportions in South Africa is overwhelming. The United States should join other nations in providing the means to prevent such bloodshed and to offer solutions to their political chaos.

In April, Bishop Desmond Tutu stated that he had:

> No hope of real change from the South African Government unless they are forced. We face a catastrophe in this land, and only the action of the international community by applying pressure can save us * * * I call upon the international community to apply punitive sanctions against this government to help us establish a new South Africa—nonracial, democratic, participatory, and just.

Enactment of S. 2498 will send a clear and unmistakable signal to the Botha regime that its policy of apartheid prevents the United States from dealing with South Africa as a member of the family of nations. Without such a clear statement from the United States, South Africa will continue to deceive itself that the status quo is retainable. Recently, South Africa made the positive step of eliminating the pass laws. That gain, however, was more than wiped out by the subsequent imposition of the current state of emergency. Prime Minister Botha has made many promises that he does not keep. Whenever the Botha regime seems to be taking a step forward, it ends up taking three steps backward.

The Anti-Apartheid Act of 1986 will prohibit any new United States loans and investments in South Africa, while prohibiting the importation of certain minerals. It will also deny any South African bank from operating in the United States, as well as deny landing rights in the United States to any South African airline. These and other provisions of S. 2498 will increase United States pressure on South Africa to change its policy of apartheid.

As the chairman of the Helsinki Commission on Human Rights, I believe we will rid a glaring inconsistancy with our Nation's human rights policies by implementing further eco-

nomic sanctions against South Africa. We have imposed economic sanctions on Nicaragua because, in part, of their human rights abuses; and we deny most-favored-nation trading status with the Soviet Union and many of its satellite states because of their human rights abuses. Although the South African Government shares our anti-Communist beliefs, we cannot condone—indeed, we must do everything we can to change—that nation's policy of apartheid. S. 2498 puts the United States on the right side of this issue.

Mr. President, I strongly urge my colleagues to join me as cosponsors of the Anti-Apartheid Act of 1986. It is time to act with more resolve in showing South Africa that the United States cannot accept that nation's policy of apartheid.●

RETIREMENT OF GEN. CHARLES A. GABRIEL

● Mr. GOLDWATER. Mr. President, Gen. Charles A. Gabriel will retire as Chief of Staff, U.S. Air Force, on June 27, 1986, after 36 years of distinguished service to our country.

Charlie Gabriel is a combat veteran and fighter pilot. He served in Korea, where he was credited with downing two Mig's in air-to-air combat (although we all know it was three), and as a wing commander in Southeast Asia. His service extended from the Far East to Europe, and from flight training in Texas and Alabama to four tours of duty in the Pentagon. At West Point, he learned the important principles of duty, honor and country that have guided his career. And as air officer commanding [AOC] of the cadet wing at the newly established Air Force Academy, he was responsible for establishing policies and instructional philosophies that have given us a new generation of Air Force leaders.

As Chief of Staff, he will be remembered most for his initiative, innovation and commitment to interservice cooperation and joint force development. The landmark agreement initiated by General Gabriel and Gen. John Wickham, Chief of Staff of the Army, exemplified the true meaning of jointness. In addition, he was responsible for significant improvements in Air Force and Navy cooperation. This cooperation was displayed to the world in Libya on April 14, when America stood proud as our forces countered the growing threat of international, state-sponsored terrorism. His innovation task force and roadmaps for the future will guide balanced and fiscally responsible planning and programming for the Air Force for years to come.

My colleagues and I salute General Gabriel for an outstanding career of faithful and dedicated service to the country and the Air Force. All his many friends in Congress join me in wishing Charlie and his wife, Dottie, continued success.●

ORDERS FOR WEDNESDAY

RECESS UNTIL 9 A.M.

Mr. HEINZ. Mr. President, I ask unanimous consent that once the Senate completes its business today it stand in recess until the hour of 9 a.m., on Wednesday, June 18, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. HEINZ. I further ask unanimous consent that the leaders' time for tomorrow be reserved for their use later in the day, and that there then be special orders in favor of the following Senators for not to exceed 5 minutes each: Senator HAWKINS, PROXMIRE, HEINZ, LEAHY, CHAFEE, BUMPERS, QUAYLE, MELCHER, MCCONNELL, and LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. HEINZ. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HEINZ. At the conclusion of routine morning business, the Senate will resume the unfinished business, H.R. 3838, the tax reform bill. I am advised that votes can be expected throughout the day on Wednesday, June 18, 1986.

RECESS UNTIL 9 A.M.

Mr. HEINZ. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to; and, at 12:35 a.m., the Senate recessed until tomorrow, Wednesday, June 18, 1986, at 9 a.m.

EXTENSIONS OF REMARKS

WHY WE CELEBRATE BALTIC FREEDOM DAY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. BROOMFIELD. Mr. Speaker, as my colleagues know, June 14 is not only Flag Day, it is Baltic Freedom Day. That special day commemorates the continued oppression of the Lithuanian, Latvian, and Estonian people by the Soviet Union. Baltic Freedom Day also restates our Government's refusal to recognize the Soviet Union's illegal and forcible incorporation of the Baltic States.

Who can forget the tragedy of Lithuania, Latvia, and Estonia. Those once-free countries were brutally occupied and suppressed by the Soviet Union. The expanding Soviet Empire claimed three more victims which would be added to the long list of captive nations.

Since that time, the Kremlin has denied basic humans rights to the freedom-loving peoples of those once-free countries. Moscow has attempted to russify and militarize that once-peaceiul region and has attempted to suppress the Lithuanian, Latvian, and Estonian cultures to include the languages of those countries.

I am confident that all of my colleagues will join me in saying that someday those countries will again be independent and free from the grasp of the Soviet bear. Someday, the brave men and women of Lithuania, Estonia, and Latvia will have the liberty that they justly deserve. In the end, goodness will triumph over evil and justice will prevail.

It is important that free men everywhere know about the tragedy of the Baltic States and understand how freedom can be taken away by states that are ready, willing, and able to impose their totalitarian rule. I commend the work of the Joint Baltic American National Committee which represents the three countries for telling the story of how the Soviet war against the Baltic peoples continues unabated.

With these concerns in mind, I commend the following article from the Chicago Latvian Newsletter to my colleagues in the Congress. We must never forget that eternal vigilance is indeed the price of liberty.

[From the Chicago Latvian Newsletter, May-June 1986]

THE BALTIC HOLOCAUST HASN'T ENDED

(By Ojārs Kalniņš)

In the early morning of June 14, 1941, two heavily armed agents of the Soviet security police invaded the home of a Latvian in Soviet-occupied Riga. They ordered him out of bed and informed him that he was to be immediately deported to Soviet Russia as an "undesireable element."

They gave him fifteen minutes to pack. He was not even allowed to say goodbye to his wife, who was paralyzed and thus unable to go with him. "Her heart rending screams are still sounding in my ears," he stated later in a letter to the Latvian Minister in Washington DC. He was one of the lucky few to survive the Soviet-Nazi alliance to destroy the Baltic people. His wife was not. Although she lived through the first Soviet occupation of Latvia, she was later killed by the Nazis.

The above episode is typical of thousands experienced by Latvians. Lithuanians and Estonians on the night of June 13-14, 1941. During the previous year of occupation, when Baltic governments were toppled and leaders murdered, the people of these nations had already begun to feel the political consequences of Soviet rule. This night would bring the true meaning of "Sovietization" home to friends and loved ones.

It meant terror, beatings, deportation and death. In one fiendishly coordinated night of activity, the Soviet secret police arrested and deported over 15,000 Latvians. With similar sweeps in Estonia and Lithuania, the Soviets dragged off over 50,000 Baltic men, women and children and packed them into railroad cattle cars for a terrifying journey to Siberian slave labor camps. Many died in transit. Others died in the camps.

What began on June 14, continued for several weeks until over 100,000 Balts had been torn from their homes and families and sentenced to deprivation, degradation and death in Siberian forests, sub arctic tundras and arid steppes. They had received no warning. They had been charged with no crimes. To the Soviet regime in Moscow, they were simply annoying obstacles in the way of the Soviet invasion and absorption of the Baltic States.

If the viciousness of the Soviet takeover of the Baltic States sounds similar to what the Nazis did in Eastern Europe, it shouldn't come as a surprise. The Soviets and Nazis were both spiritual and political allies. In the 1939 Molotov-Ribbentrop Pact. Moscow and Berlin agreed to a neat division of Europe. The Soviets could have the Baltic States, Finland and part of Romania. The Nazis could have everything due west.

Thus, like brothers in blood, Stalin and Hitler proceeded to carve up and cut out the hearts of countless ancient Northern and Eastern European nations, cultures and people.

Hitler, of course, was finally stopped after destroying more than 11 million innocent lives. Stalin, however, eventually joined the Allies against Hitler, and thus had a free hand to ring up a total of more than 20 milion dead.

Today, the Soviet/Nazi engineered destruction of the Baltic States continues. The nations of Latvia, Estonia and Lithuania remain under illegal Soviet rule. Mass deportation has been replaced by systematic repopulation. The extermination of individuals has been superseded by the extermination of cultures, languages and traditions. What Hitler and Stalin wrought, Gorbachev continues.

French journalist Jean-Francois Revel has stated that "Soviet imperialism is irreversible not because it is invincible, but because it achieves recognition as legitimate under international law; sooner or later, de facto power is accepted as rightful power."

Baltic Freedom Day, June 14, was created to make sure that the illegal Soviet occupation of the Baltic States is not accepted as "legitimate under international law." It calls attention to the beginning of Soviet genocide against the Baltic peoples. It is observed in the White House, the US Congress and in nations throughout the world. It is a day of rememberance for a night of terror that has continued for 45 consecutive years. It is a chilling reminder that the Soviet war against the Baltic people has not ended.

INTRODUCTION OF WIN AMENDMENTS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. JEFFORDS. Mr. Speaker, last week I joined with Mr. HAWKINS, the chairman of the Education and Labor Committee in introducing H.R. 4986, a bill that amends the Work Incentive Program [WIN]. Although I agree with the basic premise of the bill, I have some reservations regarding portions of it. I hope to resolve these concerns by working with the chairman.

WIN was established in 1967 with the purpose of providing skill assessments, job training and employment placements to help AFDC recipients become self-supporting. Unfortunately, the program has not achieved its potential for a number of reasons, including its level of appropriations.

The WIN Program has sustained criticism and serious efforts to eliminate its funding. It needs to be reviewed and alternatives examined that could provide better services to eligible recipients. For example, AFDC recipients who register with WIN should not remain indefinitely in an unassigned pool without receiving services.

It is my belief that individuals should be expected to contribute to the extent they are able to while receiving support from society. As part of the provisions of the 1981 Omnibus Budget Reconciliation Act, States could for the first time, as part of their regular programs, require AFDC recipients to work in public or nonprofit agencies in return for their welfare benefits. In addition, greater flexibility was given to the WIN Program to fund on-the-job training programs by diverting recipients' welfare grants into wage subsidies for private employers.

Evaluations are being conducted of several State programs developed in response to the 1981 amendments, in order to address the questions associated with workfare and the impact of a variety of other welfare employ-

ment reforms. Extensive interim information is currently available from these evaluations regarding specific program implementation, but not with respect to relative impact and cost-effectiveness. The results have however, provided some challenge to the claims made by both the proponents and critics of workfare, and also have identified issues of importance that must be addressed by any policy developed to meet these concerns.

These interim results suggest that it is feasible to link welfare receipt to an obligation to participate in designated activities. They also suggest that a number of quite different program approaches will lead to increases in employment, but that the gains may be relatively modest. Further, the wide diversity of results suggests caution in assuming that results from one State can be easily translated to others. These findings should be used to improve the program and the options offered under WIN.

Proposed changes to WIN are of even greater interest to me due to recent program changes in my own State. Vermont has developed, and is in the process of implementing, a new program called "Up Reach" which is designed to consolidate at the State level many existing employment and training programs, including WIN. Registration for the program is required of all AFDC recipients who do not have federally defined exemptions. It is voluntary for all other recipients. The program requires that information about training, education, career planning, support services and job seeking opportunities be provided to participants. Program staff works with the clients to assemble their individual programs. The program choices remain with the clients, each option provided to enable them to prepare for and find good jobs. Further, the program is designed to work with potential employers so that meaningful jobs are available for program participants upon completion. Finally, transition and support services are provided, and follow-up and post-program assessments are available.

As greater concerns are raised about the WIN Program and the demand for welfare reform becomes more pronounced, the Education and Labor Committee must remain an active participant in the process. The committee has jurisdiction over employment and training programs, including WIN, education programs and the employment services. We should not lose sight of the experience gained through the development and oversight of the Job Training Partnership Act, and previous employment and training programs.

This bill, H.R. 4986, seeks to coordinate WIN with other employment and training programs, especially JTPA, and it establishes performance standards as a basis upon which the program can be evaluated. Additionally, it includes many programmatic provisions that are similar to those of Vermont's Up Reach Program. For these and other reasons, despite my reservations, I have joined Chairman HAWKINS in introducing this bill. I look forward to working with him to make this bill a strong part of any welfare reform proposal Congress may consider.

THE NICARAGUAN RESISTANCE IS DEMOCRATIC

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. LIVINGSTON. Mr. Speaker, on May 29th, the leaders of the United Nicaraguan Opposition [UNO], concluded a series of meetings on the principles, ojectives, and organization of the Nicaraguan opposition.

The agreements reached by Adolfo Calero, Alfonso Robelo, and Arturo Cruz are an important step in strengthening the democratic nature of the resistance. UNO is an alliance of Nicaraguans fighting to regain their revolution. As the "Basic Agreement" formulated by UNO clearly shows, the Nicaraguan opposition deserves our assistance. I commend to my colleagues the "Basic Agreements" document approved by the UNO Directorate.

[Original version in Spanish]

BASIC AGREEMENTS

1. Unidad Nicaraguense Opositora (UNO) (United Nicaraguan Opposition) is an alliance of organizations and individuals fighting to establish peace and democracy in Nicaragua.

2. The member organizations of UNO maintain their own identity and framework within a pluralistic union, and they are commited to the objectives, principles and guidelines of the alliance.

3. The organization and their internal structures, as well as the individual members of UNO, are under the collegiate authority of the Directorate and they accept it as the leading organization in all aspects of the struggle. The member organizations of the alliance with place all their political, financial, and military resources at the service of UNO in order to achieve their common goals.

4. UNO is the means to reach the goals of liberating and pacifying the fatherland, lay the foundations for an effective democracy, establish the rule of law, bring together all Nicaraguans, and initiate the reconstruction of the country.

5. UNO is a political and military organization, governed by the principle of civilian authority over the military, respecting the lines of command within each structure.

6. UNO fights to liberate and guide Nicaragua along the democratic path that the rest of Central America is experiencing today, as well as to rescue its sovereignty within the context of the continental solidarity and the interdependence of the modern world, without conditions and free from foreign interferences, placing the national interests above everything else.

7. A balance of power is established as an alliance principle to prevent the predominance of one organization over the others in any area. Specifically, UNO and the member organization, are commited to support a stronger military effort in all fronts. The political parties should have the highest participation in the political areas in order to promote the necessary pressures leading to the downfall of the Sandinista dictatorship.

8. A fundamental objective of UNO is to promote by every available means the full and equal participation within UNO of all democratic Nicaraguans and their respective political, civic and labor and busines organizations in the task leading to the liberation of Nicaragua.

9. A fundamental objective of UNO is the reconciliation of the Nicaraguan family. Consequently, all members of the alliance, including the Directorate, are obligated to abide by the principles, objectives and these basic agreements. They are also commited to cooperate with and respect each other, so that the pluralistic integration of the common structures is effective and harmonious.

10. UNO reaffirms the respect for the historic rights of the peoples of the Atlantic Coast of Nicaragua, and it recognizes their full and effective participation in the struggle for national liberation.

11. After the liberation of Nicaragua, the new National Army will be made of combatants from all fronts if they so desire and meet the requirements. For this reason, it becomes necessary from now to lay the groundwork that will assure the effectiveness and democratic structure of the army, and to establish mechanisms that will gradually incorporate those characteristics in the different war fronts.

Miami, Florida, May 29, 1986.

ADOLFO CALERO.
ALFONSO ROBELO.
ARTURO J. CRUZ.

CONGRESSIONAL SALUTE TO THE REVEREND WILLIAM ABBOTT, S.J. OF WAYNE, NJ, DIRECTOR OF SAN JOSE'S COLLEGE SEMINARY IN THE PHILIPPINES

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. ROE. Mr. Speaker, on Friday, June 20, residents of my congressional district and State of New Jersey will join with members of the Serra Clubs, Knights of Columbus, Nocturnal Adoration Society, Holy Name Society, and parishioners of the highly esteemed Holy Cross Church of Wayne, NJ, in testimony to a most distinguished member of the clergy and good friend—the Reverend William Abbott, S.J.—who will be returning to his hometown of Wayne from the Philippines to join in the golden wedding anniversary celebration of his parents, Ann and William Abbott.

All of us in my congressional district can point with pride to Father William Abbott and the excellence of his outstanding efforts in ever seeking the highest standards of excellence in service to God and his fellowman. There is no question that Father William is a credit to himself, his family, and the people of America. Underlying all of his great progress—and I am sure he would be the first one to agree—is the fine guidance and counseling of his mom and dad who enjoy an impeccable reputation throughout our community. The sensitivity of the extraordinary achievement of the offspring is the reward of fulfillment from the love and compassion of one's parents, and Ann and William Abbott exemplify the best and finest. We join with Father Abbott in extending our heartiest congratulations upon the celebration of their 50th wedding anniversary—a truly joyous occasion.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding, ever caring and respecting the individual religious beliefs of his or her fellowman, has been the lifeline of our democracy—ever inspiring our people with hope and urging the individual on to great achievements and purpose in pursuing the fulfillment of his or her dreams and ambitions. The exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to Father Abbott whose dedication and unselfish devotion in promulgating spiritual guidance, good will, fellowship, and brotherhood in service to God is applauded by all of us.

There is so much that can be said of the love, affection, and reverence with which Father Abbott is held by all who have had the good fortune to know him. We are pleased to share the pride of his family and many, many friends in his record of accomplishments, so unselfishly dedicated to the betterment of mankind.

Mr. Speaker, Father Abbott graduated from Holy Cross elementary school, Wayne, NJ, in 1955. Even then, as a student at Holy Cross, he thought about the priesthood and sought advice from the principal, Sister Dolorosa Hynes, C.S.J.P., and his pastor, the late Right Reverend Monsignor Edward J. Scully, V.P.

In 1955, William Abbott entered the divinity program of Seton Hall Prep, South Orange, NJ, to study for the diocesan priesthood. He later decided to enter the Society of Jesus, and in 1959, was accepted into the Jesuit Novitiate in Plattsburg, NY.

In 1962, he volunteered for religious work in the Philippines. During 8 years of study there, he received an M.A. degree in Philippine history. For 3 years, he served with San Jose Minor Seminary as a perfect and teacher.

He continued his studies in theology and specialization in Sacred Scripture in Innsbruck, Austria, where he received an M.A. degree in theology in 1978.

In 1972, Father Abbott was consecrated in the Sacrament of Holy Orders and ordained a priest in New York City at St. Ignatius Church by a Filipino Jesuit, the Most Reverend Francesco Claver. He continued his scriptural studies for 4 years in Rome, Italy at the Pontifical Biblical Institute, where he obtained a licentiate degree (S.S.L.) and became a candidate for doctorate.

In 1977, Father Abbott returned to Manila where he is currently professor of New Testament studies and assistant dean at Loyola School of Theology. He is beginning his fifth year as director of San Jose's College Seminary, an interdiocesan institution for training parish priests for all of the Philippines. Father Abbott's Jesuit ministry is the formation of Filipino diocesan clergy.

Mr. Speaker, on the 20th of June, as we gather together in tribute to all of his good deeds and welcome Father Abbott to Wayne after a 9-year absence from the United States of America, I know that you and all of our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations for the excellence of his service to God and mankind. He will be returning to the Philippines to continue his good works through the acts of faith, hope, and charity instilling within the hearts of others the noble bonds of brotherhood enriched with understanding, respect, good will, and communion among all peoples. We wish him well in all of his future endeavors and do indeed salute an esteemed clergyman and good friend, the Reverend William Abbott, S.J. of Wayne, NJ.

RESCO PRODUCTS, INC. CELEBRATES 40TH ANNIVERSARY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. CLINGER. Mr. Speaker, Mr. William T. Tredennick, chairman and chief executive officer of Resco Products, Inc. and its subsidiary, Crescent Brick Co., Inc., located in Clearfield, PA, is celebrating his 40th anniversary in business.

In 1946, Mr. Tredennick and three employees working out of a rented barn is West Philadelphia began production of refractory castables and mortars, heat-resistant materials used primarily in the steel and petro-chemical industries.

In 1955, the growing company purchased three ladle brick manufacturing plants in Clearfield, PA. With the acquisition of the Crescent Brick Co., Inc., Resco became a leading supplier of refractory brick to the American steel industry.

Today, Resco, highly respected in the refractories industry, has 500 employees and 11 plants and sells to customers worldwide. Though its headquarters are located in Norristown, PA. Resco has other plants in Canada and Britain.

Mr. Tredennick deserves to be proud of his successes and pleased with the dilligent contributions of his dedicated staff. He has carried the company to great heights, without the help of any public financing.

I know all of my colleagues join me in congratulating Mr. Tredennick on his business achievements of the past 40 years.

WALL STREET JOURNAL DISSECTS SALT II DECISION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. COURTER. Mr. Speaker, it is an old Washington axiom, that appearance is reality. The truth of this axiom was proven once again by the reaction to the President's decision on SALT II compliance.

As the Wall Street Journal notes in the following editorial, "SALT II as P.R.," it is now abundantly clear that "arms control talks and agreements are mainly public relations." They really have little to do with improving the United States part of the "correlation of forces" equation, which is the Soviet Union's bottom line. Accordingly, the Reagan administration is not to be condemned for the military implications of the SALT II decision, but, instead, for being the side which destroyed "the world's arms control illusions." This is a profoundly disturbing revelation, and one that my colleagues would do well to take into account.

[From The Wall Street Journal, June 13, 1986]

SALT II AS P.R.

Critics of President Reagan's decision to abandon SALT II are saying something like this: Sure the Senate refused to ratify SALT II in 1979, sure the treaty would have expired last year had it been ratified, and sure it didn't do much to limit proliferation of nuclear weapons; but why should the U.S. be the side to destroy the world's arms-control illusions?

In case there was any confusion about the status of SALT II growing out of the president's press conference Wednesday night, White House spokesman Larry Speakes cleared it up yesterday. SALT II is dead. Future U.S. arms-control moves will be predicated on what the Soviets do.

The abandonment has not gone down well in some quarters. House Majority Whip Thomas S. Foley (D., Wash.) argued at a Center for Strategic and International Studies (CSIS) seminar Wednesday that Mr. Reagan's move was a serious political mistake. The Europeans especially, he asserted, need constant reassurance that the U.S. believes in arms control. Reporters at the president's news conference Wednesday night echoed Rep. Foley's complaint.

In other words, arms-control talks and agreements are mainly public relations. We are clearly making progress in this debate when that truth is recognized.

So for a moment let's lay aside military questions, such as the fact that U.S. adherence to a defunct, ineffective agreement did not prevent the Soviets from doubling the size of their nuclear arsenal. Just how effective has SALT been on its own terms, how effective as public relations?

It has been a Russian goal for centuries to control the Eurasian continent. The Muscovites haven't done badly. Zbigniew Brzezinski noted at the CSIS seminar that over the past 250 years Russia has expanded its empire at the average rate of one Vermont *a year!* Since World War II, the Russians, having initially failed to capture France and Italy with uprisings by local communist parties, have been trying to sell Western Europe a prescription for security: You will be safe from our missiles and tanks if you invite the Americans to leave. This is the P.R. threat SALT is intended to offset.

Some American strategists who take the NATO alliance seriously, and Rep. Foley seems to be in this camp, believe that this makes it essential for the U.S. to constantly demonstrate to the Europeans that it is doing everything it can to keep the peace. In short, the Europeans, presumably more gullible than Americans, must be given a steady diet of fairy tales if they are to remain within the Western alliance.

Aside from its condescension toward the Europeans, this argument has two problems. The self-imposed pressure allows the Soviets to exploit the arms-control process to force the U.S. to accept limits that the Soviets have no intention of observing. And it places too much importance on those manifestations of European "opinion" that are essentially left-wing and at least to some extent Soviet influenced and Soviet financed. All Europeans are not alike; in France, for example, Mr. Reagan's alleged "recklessness" in raiding Libya won him a popularity reading exceeding 60%.

Over time, we think, Mr. Reagan will be accorded more respect, both in Europe and the U.S., for having confronted the dangerous illusion that the U.S. and the Soviets are practicing arms control. The European majority has few illusions about the Soviet Union and its minions, and its spirit will grow if it is no longer fed a constant diet of fairy-tale P.R.

The most significant hope to be found in Mr. Reagan's new attitude toward SALT is that he may now move to free himself from restraints that have prevented him from making the fullest use of American technological superiority to protect both the U.S. and its allies from that unrestrained build-up of Soviet weapons. The "restrictive" interpretation of the ABM treaty continues to inhibit research on the Strategic Defense Initiative. And the administration says it doesn't agree with this interpretation but continues to follow it, as it followed SALT II.

Thirty former Soviet scientists now working in the U.S. have just drafted an open letter to the American people and Congress saying that the Soviet Union has been working on its own Strategic Defense Initiative since the 1960s and continues to apply more effort to defense than does the U.S. (see Notable and Quotable nearby). That won't come as news to American nuclear strategists, but it is a useful reminder in any interpretation of Soviet efforts to dissuade the U.S. from pursuing strategic defense.

Mr. Reagan has left the door open to the Soviets if they want to talk seriously. But yesterday's explicit statement that SALT II is dead shows that Mr. Reagan does not see security as merely a P.R. problem.

A TRIBUTE TO MR. STEW LEONARD

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. McKINNEY. Mr. Speaker, I rise today to congratulate Mr. Stew Leonard of Fairfield, CT, who has been honored by the Small Business Administration as Connecticut's Small Business Advocate of the Year for 1986. This accolade is well deserved by Mr. Leonard, as his services have been as generous as his achievements have been extraordinary.

I am heartened by the Small Business Administration's recognition of Mr. Leonard, because I still find it difficult to maintain public awareness of the importance of small business to local and national economic strength. To a great extent, we as a nation often take small businessmen and women for granted because they so consistently and reliably meet our daily needs. We must never lose sight of the importance of small business and its success in creating new jobs, enhancing productivity, and providing the entrepreneurial spirit that has helped the United States compete in the world market. We also should not forget that most of us buy our cars, our houses, and our clothing, from small businessmen. In Fairfield County, we can never forget this, because in Fairfield, CT, many of us buy our groceries as well from a small businessman.

Stew Leonard began his career in the dairy industry as a milkman, going door to door delivering milk in his father's truck. He eventually took over the family business with its small dairy and seven employees, but was soon forced to relocate when the State decided to run a highway right through his butter section. That was in 1966; by 1969, Stew had succeeded in securing a $485,000 small business loan from the Merchant's Bank & Trust Co., in nearby Westport. With this small business loan and a few good ideas, Stew set up a new dairy in neighboring Norwalk.

Today, Stew Leonard's staff has swelled to 450. He has 50 butchers who cut meat to order. He buys produce by the ton and strawberries by the acre. Since he has opened, over 30 million customers have made their way through Stew Leonard's twisting aisle, and his store has been certified by Ripley's Believe It or Not as the largest dairy store in the world. Not only is it the largest, but it is also the most productive, with the highest sales per square foot of any retail store. In fact, in the Greater Bridgeport Area, Stew Leonard's does as much business with its 1 store as one of the national chains does with 12.

In his book, "A Passion for Excellence," Tom Peters says of Stew Leonard's:

It's a treat to shop there. It's a celebration of imagination and excellence. It's a show in every nook and cranny * * * Stew Leonard has turned shopping into an event.

Shopping at Stew Leonard's certainly is an experience, and for those who have had that opportunity it is clear why Stew is considered to be the intellectual heir to Walt Disney. I must admit that the first time I saw and heard his 9-foot mechanical dog singing and playing the banjo I was somewhat taken aback. But the kids love it, and as Stew has pointed out in the past, any parent whose child actually likes going to a grocery store is going to do a lot of shopping there.

It is this commitment to his customers which has allowed this small businessman from Connecticut to outsell even major national grocery chains. For instance, in his store, Stew has only two rules: "The consumer is always right," and, "If the customer is wrong, reread rule 1." Every day, he and his helpers go out of their way for their customers. He decides what merchandise to carry by a method he calls, "Ask the customers, and give them what they want," and he tells his people, "If you wouldn't take it home to your mother, don't put it out on the shelf." Stew Leonard knows that if you take care of the customer, the profits will take care of themselves. And as the 10,000 customers who shop at his store each week will attest to, Stew Leonard knows how to take care of his customers.

His ingenuity and constant innovation, his excellent merchandise and competitive prices, his efforts to make grocery shopping enjoyable, and his unswerving commitment to his customers, all set Stew Leonard at the very top of his class; however, it is his willingness to help other small businessmen and women which sets him in a class by himself. For the last 6 years, Stew has appeared as the opening speaker at the Greater Nowalk Chamber of Commerce's Free Small Business Development Center Program. And his services to small business do not end there, for it is a commitment which he honors every day of the year. Stew's office and advice are open for anyone who wants them, and there isn't a week that goes by that Stew isn't visited by people who own their own small businesses or are interested in starting one. These men and women come to Stew for advice because they know that he can help them, and he will help them.

Mr. Speaker, I congratulate Stew Leonard on receiving this honor, and I also commend the Small Business Administration for their choice. It is a wonderful compliment to Stew himself that though his store makes nearly $90 million annually, it has retained the friendliness and appeal of a small town general store. Through his integrity, innovation, and desire to please his customers, Stew Leonard has made his store as big as a small business can be.

THE ROLE OF THE AFRICAN NATIONAL CONGRESS IN SOUTH AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. CRANE. Mr. Speaker, the people of the United States have rightly proclaimed their extreme abhorrence of apartheid, the system of racial discrimination in the Union of South Africa. That same sense of indignation has been expressed by this body on many occasions. It is right and proper that we do so. It is also right that the Government of the United States provide whatever assistance we can in aiding the people of South Africa to achieve the peaceful transition from the system of apartheid to one of liberty and justice for which they strongly yearn.

We must be certain, however, that those actions undertaken by our Government are well planned so as to be a positive force for change. Certain efforts that we have made are most undeniably of this positive nature. In this vein, there are several United States assistance programs to help prepare those disadvantaged by apartheid for leadership roles in a future South Africa governed by the consent of all. Such programs provide resources to improve education, provide entrepreneurial and labor union training, and foster local leadership and economic development.

Alongside these publicly funded efforts stand the commendable efforts of private American firms operating in South Africa. These Americans firms stand in the vanguard of those who promote the continued advancement of the political and economic aspirations of all South Africans. Operating under the Sullivan principles, the majority of American firms have dedicated themselves to the dismantling of apartheid and the promotion of equal rights for nonwhite South Africans. To date, American firms have spent more than $140 million adding classrooms to schools, building health centers, awarding scholarships, and otherwise assisting their black employees.

In direct opposition to these positive efforts, both public and private, stand the efforts of those who counsel and proclaim that the best way to effect change in South Africa is to

detach ourselves, disinvest, and declare economic warfare upon those beleaguered people. While I am certain that those who favor disinvestment are well-motivated, I am equally certain that their advice is ill-founded. Such actions would be strongly detrimental to the South African economy. We must ask, "Who will pay the costs of such actions?" What the proponents of divestment do not seem to comprehend is that their actions would cause great hardship to those they intend to help. Without exception, proposals for divestment, if enacted will lead to greater black unemployment, greater black hardship, and, perhaps, even to more violence and bloodshed in that troubled area. To those who doubt this, I proffer the insight of Mrs. Lucy Mvubelo, general secretary of the 15,000 member Black Union of Clothing Workers and vice president of the Trade Union of South Africa:

Who will suffer [from divestment]? Clearly, the greatest hardships would fall on my people, the black people. They will be the first to lose their jobs. They will be left to die of starvation. They will be the first to die in a revolution.

The troubles which face South Africa are many and varied. Working between left-wing and right-wind extremists, the moderates in South Africa, in both Government and private sector, have worked on behalf of the peaceful evolution of a system in which all South Africans, regardless of race are free to participate on equal measure. For South African extremists who advocate violence, the economic chaos resulting from Western divestment would serve as fuel for their murderous fire.

It is with equal alarm that I regard the call for the Government of South Africa to provide for the unconditional release of Nelson Mandela, a leader of the African National Congress [ANC], who was convicted in 1964 of planning acts of sabotage, a crime to which Mandela freely confessed. In early 1985, South African President P.W. Botha offered to free the jailed revolutionary, if only Mandela would renounce the use of violence for political ends. Mandela has refused. Today finds Nelson Mandela and his ANC comrades as dedicated to violence and terrorism as ever before. My fear is that we will act unwisely, and deliver the people of South Africa to a future whose promises are only the too tragic shackles of economic chaos, civil war, and Soviet dominated totalitarianism.

Along this line, one might note that the relationship between the Soviet Union and the ANC via the South African Communist Party was spelled out in a book by Andre Gromyko's son Anatoly, who is head of the African Institute in Moscow. In his 1979 book, "Conflict in the South of Africa," young Gromyko says on page 214:

In November 1961 the South African Communist Party founded the militarized organization *Um Konto we Sizwe* (Spear of the Nation). At the head was a supreme command, the first leader of which was Nelson Mandela, one of the leaders of the ANC . . . In 1962, at the Fifth Congress of the South African Communist Party, a program of the party was adopted entitled "The Way to South Africa's Freedom" in which were established the tasks of the destruction of colonialism, of national liberation, and further development toward the great objective, the establishment of socialism and the basis for a classless communist society.

On page 215 of the same book, it says:

One of the highest aims of our revolutionary movement, writes the organ of the Communist Party *African Communist*, is to guarantee that the armed struggle will put down firm roots in the entire country.

Let us act wisely when we take action against apartheid. Let our actions strengthen the peaceful forces in South Africa that promote the evolution of a free society, a truely democratic republic reflective of the pro-Western ideals of her people. If we act instead, by emotion alone, and continue to abandon the people of South Africa, we act without regard for reason and further the interests of those who would replace one reprehensible system with another. Let us serve peace and freedom, not violence and its Soviet, ANC promoters.

For those who doubt that the ANC and the Soviet Union are prepared to drown South Africa in a bloody civil war, I recommend the following article on Soviet activities which appeared in the May edition of the Journal of Defense and Diplomacy. Unfortunately, the RECORD is unable to reproduce the pictures included in the article, so I will describe them. The pictures were taken at the March 15 funeral at Guguletu, near Capetown, for seven terrorists killed by police gunfire on March 3, while attempting to ambush a police patrol. Along with banners promoting the release of Nelson Mandela, there are banners and arm bands displaying the hammer and sickle emblem of Soviet communism. As the article relates, we should rightly associate the information in these pictures. The Soviet Union, Nelson Mandela, and the African National Congress are characters who would prefer only a repetition of such funerals. In the terrible death and destructing which are a grim possibility in South Africa, these characters see the opportunity for a Communist dictatorship on the Cape of Good Hope. It is my hope that we will not aid them in this end by abandoning the peace-loving, freedom-loving people of South Africa.

GRIEVANCES OF SPORT HUNTING GUIDES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing a bill today which I believe will redress grievances suffered by a group of Alaskans when the Alaska National Interest Lands Conservation Act [ANILCA] was enacted in December 1980. This group is composed of sport hunting guides who were assigned exclusive hunting areas prior to the closing of those areas by Presidential proclamation in December 1978 or on December 2, 1980.

Earlier versions of the Alaska Lands Act contained provisions that the interests of the sport hunting guides, a rugged group of Alaskans, would be protected. Several options were to have been offered them by the Secretary of the Interior. Unfortunately, somewhere along the line, these provisions were left out of the final version of Public Law 96–487.

It is the purpose of this resolution, to compensate those hunting guides who lost revenues, businesses, and possessions when their rights in exclusive areas were abrogated and the improvements they had made in the form of camps and forward bases were absorbed by the National Park System.

The remedy or redress called for by this legislation is simple and sure. Any guides who held a lawfully issued permit for an exclusive or joint use guide area upon enactment of ANILCA and who lost such permit will be eligible. Eligible guides must present evidence of income derived from guiding in the area during the 5-year period immediately preceding the closing date. Guides must also furnish maps certified by the State of Alaska Guide License and Control Board showing the acres lost and file for compensation no later than December 31, 1987.

Under the bill, the amount of compensation will be approximately $1 for each acre of exclusive guide area lost. The compensation for improvements made solely to facilitate their guiding services shall be equal to the fair market value of such improvements before the area was closed to sport hunting less the fair market value of the improvements after the area was closed.

Mr. Speaker, I am sure it was not the intention of Congress to single out this group of distinguished Alaskans for punishment, but that has been the end result. I have received copies of questionnaires sent guides by the Alaska Professional Hunters Association. Of 31 responses, every single one had lost hunting areas.

These areas lost ranged from 30 percent of their pre-ANILCA areas to 100 percent. Some had to close their own businesses and go to work for a more fortunate guide. Others changed their life long professions. As President Larry Rivers of the association stated to me.

It is ironic that the guides who levied and operated in the most remote parts of Alaska and who served the people of these areas all those years, even to guiding the oil industry to the Prudhoe Bay field, should have been so neglected by the law.

I agree with Larry Rivers and my friends who are sport hunting guides that they have suffered great financial loss through no fault of their own. I further submit to you that it is high time for Congress and the executive branch to redress their grievances. This legislation will do the job.

For these reasons, I urge my colleagues to support this legislation.

CONGRESSIONAL SALUTE TO ROGER WAYNE BANDY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Roger Wayne Bandy who will be honored at a retirement dinner on July 17,

1986 in San Pedro, CA. Mr. Bandy is retiring from his position as a paramedic III with the Los Angeles City Fire Department.

Born in Long Beach, and raised and schooled in Gardena, Roger Bandy enlisted in the Navy in 1958. He served in the Navy until 1961. Following his stint in the Navy, Roger Bandy entered the private ambulance industry in the South Bay area. In 1967, he was appointed as an ambulance driver for the city of Los Angeles Department of Receiving Hospitals. Mr. Bandy served as both an emergency medical ambulance driver and attendant with this department until 1970, when the ambulance service was absorbed by the Los Angeles City Fire Department. Upon joining the fire department, Roger Bandy became one of the first of the fire department's ambulance personnel to complete training at Los Angeles County's Paramedic Training Institute. During his illustrious career as a paramedic, Roger Bandy has served people throughout the city of Los Angeles and has attained the rank of paramedic III.

In addition to his work with the fire department, Roger Bandy is an avid sailor, and a member of the West End Sailing Club, the California Fire-Rescue Paramedic Association, and the Fraternal Order of Professional Paramedics. He and his wife, Mary, are both active members of Mothers Against Drunk Driving.

The circumstances surrounding Mr. Bandy's retirement are rather tragic. On the evening of October 21, 1984, Roger Bandy, while assigned to rescue No. 53 in San Pedro, was dispatched to the scene of a serious traffic collision. Upon arrival at the scene, Mr. Bandy realized that the vehicle involved belonged to his daughter's fiancé, Arturo Dorado. Mr. Dorado was found dead, and Mr. Bandy's daughter, Sherry Lynn, though she survived the accident, died on her way to the hospital. They were the victims of a drunk driver. As a result of this tragic chain of events, Roger Bandy was placed on medical disability leave. He was honorably retired from the fire department on May 22, 1986.

It is my privilege today to take a moment to honor this individual who gave of himself unselfishly and professionally in order to better serve the citizens of Los Angeles for over 20 years. My wife, Lee, joins me in wishing Roger Wayne Bandy, his wife, Mary, and their son, Shannon, all the best in the years ahead.

HELP FOR OIL AND GAS INDUSTRY

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. LIVINGSTON. Mr. Speaker, as you are well aware the oil and gas industry is in a state of depression which has resulted in the loss of thousands of jobs and the bankruptcy of many oil and gas operators. Unemployment in energy-producing States is running well above the national average, with Louisiana leading the Nation at 13.4 percent.

We have already begun to address this serious economic situation by the introduction of legislation to repeal many of the remaining vestiges of energy regulations implemented during previous administrations. In fact, there are two major legislative proposals before Congress right now, which I have cosponsored, that I highly recommend to my colleagues who are concerned about our energy policy.

The first of these measures is H.R. 4476, the Emergency Energy Act of 1986, introduced by BILL ARCHER, which encourages the continued exploration and production of domestic energy resources by removing Federal controls over domestic energy production and utilization. This bill includes a number of excellent provisions that will help the oil and gas industry.

For instance, it calls for a tax credit, not to exceed $5 per barrel, for each barrel of domestic crude oil produced from marginal wells. As you know, many of our marginal producers are being driven out of business by low oil prices, and this provision will help keep domestic production going until prices rise. Without actions such as this we would soon become too dependent upon foreign oil reserves and thus endanger our national security.

While it is very important to maintain our current domestic production levels, it is equally important to help stimulate further exploration activities. H.R. 4476 provides a 15 percent tax credit for expenses incurred in exploratory activities. And, it expands the definition of intangible drilling costs [IDC's] to include geological, geophysical, and surface casing expenses as deductible items. Since IDC's represent the bulk of costs involved in drilling exploratory wells, I believe that we could go even further in this area by eliminating the 10 percent minimum tax on these expenses, although this is not included in the Archer bill.

H.R. 4476 also calls for the repeal of the windfall profits tax. At current prices, there are no windfalls to collect, and the oil industry is forced to deal with large quantities of paperwork which costs it as much as $1 per barrel of oil. This is clearly a waste of time and money for both the oil producer and the Federal Government, and I strongly support its repeal.

Finally, this legislation calls for the complete filling of the strategic petroleum reserve with domestically produced oil. Although some may argue that using only domestically produced oil to fill the SPR would result in paying more, I believe that the strategic benefits of maintaining U.S. production by buying domestic oil outweighs the modest price difference between domestic and foreign oil. Further, it should be remembered that even domestic oil from marginal wells is much lower in price than it was a few years ago.

I am also an original cosponsor of legislation to decontrol the natural gas market, H.R. 4604. This bill, which was introduced by BILL DANNEMEYER at the request of the administration, opens access to interstate pipeline transportation, lifts all remaining controls on the prices of old gas, repeals the antigas portions of the Powerplant and Industrial Fuel Use Act, and repeals the Natural Gas Policy Act's Incremental Pricing Program. If passed, this legislation will provide up to $24 billion in net economic benefits to the country, and will lead to the production of about 34 trillion cubic feet of existing gas reserves that would otherwise be lost under current regulations.

Decontrol of natural gas would also benefit the oil industry. Since the majority of natural gas under controls is owned by independent oil producers, and is a byproduct of oil wells, decontrol would mean that these producers could market their byproducts and thus increase their capital investments. This added capital could lead to more drilling being undertaken.

Mr. Speaker, the best way to maintain our national economic security is to have a strong and stable domestic oil and gas industry, and the best way to do this is to remove the bonds of Federal control which strangle production and exploration initiatives. I urge my colleagues to join me in cosponsoring both H.R. 4476 and H.R. 4604 in order to preserve our domestic oil and gas industry.

CONGRESSIONAL SALUTE TO THE HONORABLE RALPH D. VANDER MAY OF NEW JERSEY, 1986 "PAUL HARRIS FELLOW," ROTARY CLUB OF WAYNE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. ROE. Mr. Speaker, on Wednesday, June 25, the residents of the Township of Wayne, my congressional district and State of New Jersey will join together with our fellow Rotarians in testimony to an outstanding community leader, distinguished citizen and good friend—Honorable Ralph D. Vander May of Wayne, NJ—whose standards of excellence throughout his lifetime have earned him the most highly coveted honor of being chosen 1986 Paul Harris Fellow of the Rotary Club of Wayne—the highest award that Rotary can bestow upon any of its members.

I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations to Ralph Vander May and share the great pride of his good wife Marilynn, daughter Pamela, and sons Clifford and Kenneth on this milestone of achievement in their family endeavors.

Mr. Speaker, the Rotary Club of Wayne is one of our Nation's most prestigious affiliates of Rotary International whose motto: "We make a living by what we get—we make a life by what we give"—"service above self"—and their good deeds in helping others, young and adults alike, have served to inspire all of us. Ralph has by his example and lifetime of dedication to these same true American ideals personified exemplary leadership in his outstanding responsible service to our people.

Mr. Speaker, Ralph Vander May has been a staunch supporter and active participant in many civic and community improvement programs and we applaud the quality of his leadership endeavors in the vanguard of service to people's needs. He was born in Paterson, NJ on November 18, 1937 and raised on a 14-acre farm in the Great Notch section of Little Falls, NJ. He attended Great Notch Grammar School and Passaic Valley Regional High School. After receiving a BS degree in busi-

ness administration from Babson College in Wellesley, MA, he graduated cum laude from the McAllister School of Embalming.

Upon completion of his formal education, Ralph Vander May established the Vander May Wayne Colonial Funeral Home in 1965. He has been at the forefront in many developments of the funeral service business. Among other accomplishments he now leads classes in pre-funeral and post-funeral grief counselling.

Among his many community and civic endeavors, we are especially appreciative of his 14 years of combined service to the Little Falls and Wayne First-Aid Squads. He is past president of the Wayne Chamber of Commerce and a member of the Wayne Presbyterian Church.

During his tenure with the Wayne Rotary Club he has held every office from sergeant at arms to president. He currently sits on the board of directors and has a perfect attendance record since joining the club in 1968.

Mr. Speaker, It is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of life and way of life here in America. As we gather together on June 25 in tribute to Ralph's leadership endeavors and personal commitment dedicated to service to people, I know that you will want to join with the Rotary Club of Wayne, NJ in honoring our good friend Ralph as an outstanding citizen and great American. We do indeed salute the Wayne Rotary Club's "Paul Harris Fellow"—Hon. Ralph D. Vander May of New Jersey.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. CLINGER. Mr. Speaker, I was absent from the floor of the House of Representatives for the last vote of the day on June 12, 1986. Had I been present, I would have voted in the following fashion:

Rollcall No. 167: H.R. 1—Housing, the House passed the measure to amend and extend certain laws relating to housing, "aye."

NEWARK STAR-LEDGER ENDORSES SALT II DECISION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. COURTER. Mr. Speaker, in contrast to all the recent confusion about the Reagan administration's decision on continued SALT II compliance, the Newark Star-Ledger, in the following editorial, has distilled the issue down to its essence and found the President's logic basically sound and worthy of support.

"Mr. Reagan's basic point is correct," the editorial says. "A seven-year-old treaty not formally in effect is not and cannot be the key to U.S.-Soviet relations or to world peace." This is the message that the administration is trying to convey, and I commend the full text of the editorial to my colleagues' attention.

THE REAGAN ARMS POLICY

Advocates of arms control and arms reduction—and that consists of the great portion of humanity—had reason to be pleased with President Reagan's latest pronouncements. They indicate that his stated impatience with the SALT II agreement does not mean he has turned his back on disarmament.

In fact, the President seems to have come full circle from the days early on in his Administration when he attacked the Soviet Union as an "evil empire." On two occasions during his recent news conference, he went out of his way to find kind words for Mikhail Gorbachev as the first Soviet leader to voice a desire for reducing weaponry. And, Mr. Reagan affirmed again his desire to hold a second summit meeting this year with Mr. Gorbachev.

The issue of arms control dominated the news conference and the event was useful in allowing Mr. Reagan to explain further his position on the complex issue of SALT II. A misunderstanding of his earlier words on the part of European leaders—and some opponents at home—had perhaps given a false impression of his concerns.

The President has consistently voiced dissatisfaction with the seven-year-old treaty, never ratified by the Senate—and with good reason. The treaty is imperfect because it does not reduce nuclear weaponry, and its verification features are weak. There is strong reason to believe that the Soviets have been violating it.

Nevertheless, as Reagan explained, the U.S. has been in compliance with the treaty and will continue to be so until near the end of this year. However, presidential spokesman Larry Speakes said after the news conference the U.S. position now is that SALT no longer exists.

Whether a new and better arms control agreement will be worked out with the Soviets before then will determine future U.S. policy. If the Soviets block an agreement, then at that point, the U.S. will no longer stick to the weapons limitations and will move ahead on adding cruise missiles.

In that context, the President also said a full look will be given to a new arms proposal by the Soviets, which has been put on the table in Geneva.

Mr. Reagan's basic point is correct. A seven-year-old flawed treaty not formally in effect is not and cannot be the key to U.S.-Soviet relations or to world peace. These will be affected much more by what happens in Geneva in the months and years ahead.

REMEMBERING LEMON AWTREY

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. DARDEN. Mr. Speaker, I wish to inform my colleagues of the death of L.M. Awtrey, Jr. of Acworth, GA, on May 16, 1986. As a former law partner and close friend of Mr. Awtrey, I want to express my condolences to his widow, Jane Awtrey, his daughters Jan Awtrey Pettys and Carol Awtrey Callaway, and to his entire family.

Lemon Awtrey was one of the kindest men I have ever known. He always conducted himself with dignity, integrity, and fairness. As envisioned by the prophet Micah, he did justly, loved mercy, and walked humbly with his God.

I also ask that an article written by Mr. Awtrey's friend Bill Kinney, of the Marietta Daily Journal, be inserted into the RECORD.

REMEMBERING LEMON AWTREY

(By Bill Kinney)

Lemon Awtrey died the other day.

You wouldn't call Lemon a shaker or a mover . . . just a man who walked quietly through this community doing what needed to be done.

He didn't try to overwhelm anyone with rhetoric and didn't ask accolades. He'd fill the pulpit as a lay preacher when his pastor was away, or quietly help some young lawyer in the county courthouse record room with a title problem.

His professional reputation was beyond reproach. Lemon took every person on the basis of what they were, not what he wanted them to be.

His word was his bond—nowadays a pretty important trait we don't run into often enough.

What a shame we don't honor those values any longer.

Lemon walked in the path of old America. He was buried by request in his Navy lieutenant commander's uniform. The body lay in state in the old house in which he was born.

He had a strong following in north Cobb. Acworth Presbyterian Church overflowed as the townpeople paid their respects. Even the city of Acworth sent a floral offering. It was a very traditional, old-fashioned funeral attended by leaders from all walks of life.

His name was a combination of two of Cobb's oldest and most influential families, long associated with the banking industry. Both his father and grandfather were bankers.

The S. Lemon Banking Company in Acworth later merged to become the old Cobb Exchange Bank, now National Bank of Georgia.

Lemon himself at one time served on the board of the Bank of Acworth and of Citizens and Southern Bank in Cobb County. He helped effect the merger of the Cobb and Fulton branches of C&S.

Lemon graduated from the University of Georgia with a degree in agriculture. He once served as county agent near Tifton. Later, he was associated with the Jason J. Calloway Foundation in management of its model farm experimental program across Georgia.

He got his law degree from Woodrow Wilson College of Law in Atlanta. He was not a significant trial lawyer. His strong suit was real-estate and business law. He was probably Cobb's foremost title authority.

Awtrey was one of the first presidents of the Cobb County Bar Association, and watched its transition from a small-town nucleus of about 35 attorneys to its present big-city membership of more than 400. He had been Acworth city attorney and counsel for the Cobb Electric Membership Corporation. He had served on the Board of Governors of the old Georgia Bar Association.

His contemporaries are about gone, except for some old-timers like Sam Welsch, Scott Edwards, Harold Willingham and Luther Hames. At his death, he was practicing with Sidney Parker and a group of younger partners.

Awtrey's firm always kept a low profile in the practice largely of real-estate and business law.

In recent years, the practice produced three Superior Court judges: Grant Brantley, Harris Hines and Tom Cauthorn, and a United States congressman, Buddy Darden.

This caused Awtrey to comment jokingly: "I wish public service would leave us alone so we could practice law."

Like many of the old-time lawyers, he was very active in the Masons and Shrine. Awtrey also was an authority and writer of Civil War history. The Cobb Chamber of Commerce recognized his activities by giving him one of its prestigious Public Service Awards.

The bespectacled Awtrey had an infectious laugh and enjoyed telling the story about washing out of Navy pilot training in World War II. Crestfallen he went to his commanding officr to learn why he had been rejected.

"Son," his C.O. snapped, "your psychological tests showed you weren't even safe to drive an automobile."

A long-time president of the Cobb County Democratic Party, he was one of a group of Democratic and Republican leaders who shaped Cobb's election procedures into its present workable form.

Cobb County will miss Lemon Awtrey, a man who was quietly involved in its growth and progress.

A TRIBUTE TO CAFFIE GREENE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. DYMALLY. Mr. Speaker, I would like to take this opportunity to give recognition to a very dear friend of mine, Caffie Greene, for her many years of dedicated service to the city of Lynwood, CA. She has given freely of her immense talent, and has focused her love of others on work that has made her city a better place in which to live. Caffie is a true pioneer. One whose devotion to helping others has earned her the respect and admiration of her peers. Caffie Greene is to be honored by her friends at a testimonial dinner at the Westin Bonaventure Hotel in Los Angeles on June 20.

During the early civil rights struggle, Caffie was always at the front of the battle lines. In 1945, she raised funds to send to Mississippi so that she could try to prevent the execution of then 21-year-old Willie Francis.

Her political career also blossomed during this time period. In fact, while attending Long Beach City College, she was selected the "most political" student of the year.

The highlights of Caffie's career have been the battles she has fought to help others. She fought in the struggle to end hunger in America by helping to organize ANC Mothers Anonymous, an active organization that was the forerunner of the National Welfare Rights Organization. This organization addressed the needs of welfare recipients in the Watts area. Through ANC Mothers Anonymous, food was solicited and distributed to the needy.

For years, Mrs. Greene was the Regional Medical Programs project director. There she organized groups to address health issues in California. In 1972, at King-Drew Medical Center, a gift shop was opened because of Caffie's efforts. The health organization at the medical center has contributed in excess of $30,000 per year to patient care. In addition, Caffie developed and organized successful nurse's assistant training programs for community youths.

With a sense of dedication that has been both uncompromising and unswerving, Caffie has always contributed to the betterment of her community. Her hard work and loyalty to duty over the years have been recognized with many awards. Among them are the Navy Leadership Award, Parent-Teacher Awards, California Democratic Committee Award, Christian Leadership Awards, Lawndale Rotary Club Award, King-Drew Medical Center Award, Congressional Awards, Joint Senate and Assembly Awards, Distinguished Community Service Awards and the Department of Health Services Recognition Award.

In addition to her many outside activities, Caffie is a devoted member of the Tabernacle of Faith Baptist Church in Los Angeles. She has a rich family life that is blessed by three children, E. Penney, Raymond and Steve. The proud grandchildren are Shavonda L., Kevin, Charu Nat, Bryana, and Stephanie A. Also, there are brothers James and Robert Thompson and 117 nieces and nephews.

Caffie Greene is a bulwark of the Democratic Party. We are forever grateful for her consistent dedication and support. She has steadfastly supported members of the Democratic team. She has been a significant influence in California politics for many years.

It is with great pride that leaders in politics, business, and the local community join with me in this tribute to my good friend Caffie Greene for such outstanding service to her community. I am honored to know and work with this fine citizen. I know that I speak for my colleagues who have been helped by her when I express the great admiration and affection that I feel toward Caffie. We all wish her the very best in the years to come.

A MEMORABLE MAYOR

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. VENTO. Mr. Speaker, a former mayor of the great city of St. Paul is retiring from his law practice this month and will be missed from the private sector. Joseph E. Dillon is an attorney with the Minneapolis-Washington firm of O'Connor & Hannan and is retiring after more than 20 years of representing corporations and associations, many from the State of Minnesota.

Joe Dillon's career as mayor of St. Paul began in 1954, when he was urged to run against an incumbent. As an attorney for the city's rent control office, Joe saw first-hand how the mayor's office had lost touch with its citizens. Joe was reluctant to take on the responsibilities of mayor, but gratefully he was pressed by his friends to run for office. For those of us who know "the Mayor" as he is still called today, it is hard to imagine him campaigning, but this serious and honest man won over the hearts of the citizens for three consecutive terms. As mayor, he appointed city council members over the objections of some who wanted their own men. His administration was tagged as the "Irish Mafia," but set the future course for St. Paul accomplishing great things for our community. The St. Paul Port Authority was created by Mayor Dillon and to this day is the leading factor in the city's economic development.

Working as a newspaper carrier in the 1950's, I remember reading some of the many memorable stories during Mayor Dillon's administration, examples of caring, honest, and dedicated public service. A real inspiration to those interested in our city and public service. Although he was a hard-working mayor, he could be talked into taking off for a few hours to enjoy his favorite hobby—sailing. Even an unexpected cyclone on the St. Croix River couldn't deter the mayor from his duties—the storm lifted the boat and set it on a sand bar just in time for him to return to his office and hold an important meeting.

A private man and a reluctant campaigner, the mayor ran for Congress when Gene McCarthy went to the U.S. Senate but lost in the primary. My constituents and all Minnesotans join me in wishing Mayor Dillon all the best in his new endeavors. I hope he will continue working with the Democratic Party and encourage him to be involved in the politics of Minnesota and his community.

REV. WILLIAM C. ABNEY

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. HENRY. Mr. Speaker, 25 years ago, Rev. William C. Abney assumed the pastorate of Bethel Pentecostal Church in Grand Rapids, MI. Thus began a new era in the life of the church—a church that has served as a station of help for the needy and oppressed and a source of spiritual inspiration to those in need.

Born in Detroit, MI, Reverend Abney began his ministry in 1950 and was ordained in 1960. Much of his life has been spent working with young people, having served with the National Pentecostal Young People's Union of the Pentecostal assemblies of the World, Inc., in an official capacity longer than any other person in the organization. Well known for his special rapport with young people, Reverend Abney has taught seminars nationwide dealing with the problems of the young.

Pastor Abney and Lorraine, his wife of 38 years, have been blessed with four children and eight grandchildren. A gospel singer and recording artist, Pastor Abney manages to find time to enjoy his love of music and sports, in addition to having served on the board of directors for the American Red Cross, United Way Fund, St. Mary's Hospital, Project Rehabilitation, and numerous other organizations. He currently serves as a district elder for the Northern District Council of the Pentecostal Assemblies of the World, and is actively involved in several Grand Rapids area ministerial organizations.

William Abney's love of his flock is evidenced by his untiring efforts to minister to

the needs of all God's children. Pastor Abney's purpose in life is to spread the gospel of Christ to as many people as can be reached. To be a vehicle of hope, spiritual and natural encouragement to others, and to develop a center of religious training for the development of Christian workers.

Mr. Speaker, Reverend Abney, through his ministry does indeed spread the gospel of Christ to all he meets, and in doing so has made Grand Rapids a better place in which to live. Please join with me in honoring Rev. William Abney on the occasion of his 25th anniversary of service to the congregation of Bethel Pentecostal Church.

FOR SDI, LET'S TAKE THE "BIRD IN HAND"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. KEMP. Mr. Speaker, conventional wisdom about the strategic defense initiative is that current defensive technology is not good enough, but that what we're doing in the research labs is terrific. In fact, current technology is quite adequate to defend against any attacks that might be attractive to the Soviets.

What's in the research laboratories is indeed terrific—potentially. But even as the Pentagon judges current technology inadequate to meet imaginary attacks in the year 2010, what eventually emerges from the labs will then be judged "inadequate" to meet an even more fanciful image of the year 2020.

If suitably modified and produced in sufficient numbers, the Navy's Aegis air defense system, the radar at Grand Forks, ND., the mothballed missiles associated with it, the Pave Paws radars, the Army's Aris interceptor and its flying optical radar, all would provide the United States and its allies with a respectable terminal defense against ballistic reentry vehicles.

A wide variety of experts admit that the space-based laser designed by DARPA in 1980–82 would devastate during boost phase a launch of any and all kinds of missiles ever built or designed.

Although there is now no sophisticated means of discriminating warheads from decoys in midcourse, nuclear weapons exploded far out in space in the vicinity of attacking warheads would kill some, and, above all, clear out decoys.

All this could not guarantee total protection from an irrational assault, but it would make highly improbable any attack that the Soviets or any rational person might consider meaningful. Thus the "bird in the hand" for the United States is substantial.

Everything we can do now we could, theoretically, do better 10 or 20 years hence. We could have terminal intercept radar four times as powerful, airborne optical radars able to cover much more space, homing projectiles able to withstand 200,000 times the force of gravity, space-based optical detectors hardened against nuclear explosions, better data processing, and more integrated command and control. Possibly—but only possibly—we will be able to transmit short-wavelength laser beams through the atmosphere, and thus trade the problems of space-based defense for those of pop-up defense. Possibly we will have a network of super-sophisticated sensors for positive discrimination of warheads in midcourse. The birds in the bush, too, are interesting.

It is remarkable how some people, so willing to find technical difficulties with proven technology, are eager to place full confidence on far-off systems that they have not been defined and whose scientific bases they admit are in doubt. I'm afraid that much of the preference for the birds in the bush is just a pretext for putting off doing now what we can do. This is both dishonest and harmful to our country.

For the sake of our Nation's security, for the protection of American citizens against nuclear attacks, it is far wiser to build the best defenses we can build now, and then build even better defenses in the future.

THE PROBLEM WITH HCFA

HON. BILL CHAPPELL JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. CHAPPELL. Mr. Speaker, there is a problem at the Health Care Financing Administration, one that affects some 31 million of our citizens. These people are the aged or disabled who must wait and wait for reimbursement for Medicare claims.

As most of my colleagues know, the Health Care Financing Administration has recently instituted a policy of slowing down payments and has directed carriers to extend processing times. This policy has resulted in many expressions of concern from my constituents and, I am sure, from yours as well.

Two years ago, HCFA's payment policy was to process claims as they came in, which generally resulted in beneficiaries receiving checks within 2 weeks. This year, however, the policy has been changed to a 30-day turnaround. In reality, the time lag has frequently been 45 days or longer. This situation creates an additional problem for the carriers who are building up an increasing backlog of cases that must be processed, which can only lead to further delays in payments. Blue Cross and Blue Shield of Florida, the carrier in my district, estimates that, as a result of the slowdown, they will have 2.1 milion claims pending at the end of fiscal year 1986 compared to 500,000 in fiscal year 1985.

As a result of this policy, our senior citizens are forced to choose between medical care and basic needs, such as food or shelter, while waiting months for reimbursement. HCFA supports this policy by saying that the funds are held in interest-bearing accounts which will earn an additional $130 million this year. In my view, these additional moneys are not worth the hardships they create; this is a bad policy and should be changed.

Accordingly, I have introduced House Resolution 468, which expresses the sense of the House in opposition to this policy. Specifically, my resolution calls upon HCFA to reverse their "slow pay" initiative and to allocate sufficient funds for claims processing. If you agree with these goals and would like to send a strong and clear message that America's aged and disabled should receive Medicare reimbursement in a timely fashion, please join me by cosponsoring House Resolution 468.

SHE'S THE ONLY MISS AMERICA FOR ME

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. BROWN of Colorado. Mr. Speaker, Mr. Chris Holloway of Canon City, CO, has been honored by the National Independence Day Festival and Parade by being appointed honorary grandmarshal for our Nation's 210th birthday this July 4. Mr. Holloway has written a song, "She's the Only Miss America for Me," which has been selected by the parade officials as the theme song for the 1986 parade.

In addition, Mr. Holloway has been asked to cohost the Salute to Liberty Show on July 3 and to perform as a guest star at the preparade show on July 4.

The 4th of July in Washington is always a special occasion, and I know Mr. Holloway and his family and friends are very proud of his selection. Since this is the 100th anniversary of the Statue of Liberty, the selection of Mr. Holloway's song is particularly appropriate. Knowing of my colleagues' interest in the festivities for this year's Independence Day celebration, Mr. Holloway's song is reprinted below:

SHE'S THE ONLY MISS AMERICA FOR ME

(Composer: Chris Holloway; lyrics: Chris Holloway; Idea assistant: Joe McTamney)

We saw her just the other day
In her faded dignity
Still loved by all who know her history
What a lady she has always been
For uncle and for me
Since we sailed to New York City in 1933

Chorus:
She's the real Miss America in all her majesty
Tall and proud she lights the way to liberty
What a lady, such a lady, a sign for all to see
She's the only Miss America for me

Now they say she's getting older
And maybe tumbling down
Time to rally 'round the lady in your hometown
Let's all stand beside her
The symbol of the free
Keep her torch forever burning
For Uncle Sam and me

Chorus:
She's the real Miss America in all her majesty
Tall and proud she lights the way to liberty
What a lady, such a lady, a sign for all to see
She's the only Miss America for me

Repeat chorus.

IN HONOR OF DR. JEROME GREEN

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. WEISS. Mr. Speaker, I am pleased to join my constituents in honoring Dr. Jerome Green who will retire after 20 years of devoted service as the principal of the Ochs Public School 111 in Manhattan.

Dr. Green has pursued a career in education for 38 years during which time he has held many positions of service and leadership. Such positions include the presidency of both the New York State English Council and the New York City Elementary School Principals Association, and the chair of the elementary section of the National Council of Teachers of English. Dr. Green is currently the president of the New York City Association of Teachers of English.

Dr. Green has spoken widely on English and education, taught graduate courses at New York University, Long Island University, and Hunter College. He wrote his Ph.D. dissertation on the poetry of Carl Sandburg. In addition, this great educator has always maintained warm and personal relationships with the students, parents, teachers, and staff of his school. During his years as principal of Public School 111, he has stressed the importance of the arts in the lives of children and developed the New York City Young Audiences Performing Arts Residency in the school's program. As a true humanist, Dr. Green has always opposed the impersonal numerical evaluations of students and schools, and has enabled all his students to maximize their fullest potential.

Mr. Speaker, I want to congratulate Dr. Green for his years of devoted service to his school and the community, and am happy to have this opportunity to report his good works to my colleagues. I know that our colleagues join us in commending Dr. Green for his accomplishments and wish him continued success in his future endeavors.

NATIONAL HUNGARIAN FREEDOM FIGHTERS DAY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. HORTON. Mr. Speaker, today six of our colleagues, including the distinguished majority and minority leaders, have joined with me in introducing a joint resolution proclaiming October 23, 1986, as "National Hungarian Freedom Fighters Day." This resolution serves to help us remember the heroic efforts of the hundreds of thousands of Hungarians who, 30 years ago, fought to free themselves and their country from the chains of Soviet hegemony. I hope you will join with us to cosponsor this important commemoration.

I have the honor of serving as the chairman of the Committee to Commemorate the Hungarian Revolution of 1956. Joining with me are Vice President BUSH as the honorary chairman; Speaker O'NEILL and Majority Leader DOLE as honorary cochairmen; and Minority Leader MICHEL, Majority Leader WRIGHT, DANTE FASCELL, WILLIAM BROOMFIELD, JACK KEMP, STENY HOYER, RICHARD LUGAR, ALFONSE D'AMATO, and CLAIBORNE PELL, all of whom serve as honorary vice chairmen.

I am convinced, Mr. Speaker, that the principles, the gallant actions and the impact on history of the Hungarian freedom fighters are worthy to be recalled, remembered, and honored. The message of 1956 is still very relevant; its lessons not fully realized. I hope that you will all join me in commemorating the important events in the fall of 1956. By doing so we will all help the world to remember, and to learn.

The freedom-loving peoples of Hungary recall with pride their valiant efforts to free themselves. A congressional tribute on this, the 30th anniversary, would be a fitting honor to their efforts.

BANGOR FIRE DEPARTMENT 100TH BIRTHDAY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. RITTER. Mr. Speaker, I would like to take this opportunity to recognize the 100th birthday of the Bangor Fire Department. I would like to extend the personal commendation of the U.S. House of Representatives to the Bangor Fire Department and the entire community on the special occasion.

A milestone in the history of Bangor was observed in 1975 when the borough celebrated its 100th birthday. This year, 1986, marks another milestone in Bangor's rich history as the Bangor Fire Department celebrates 100 years of service to the community.

Bangor Fire Department had its beginnings when Rescue Hose Co. No. 1, now Rescue Fire Co. No. 1, was originated on April 29, 1886, making it the oldest fire company of the slate regions of Northampton County. Along with the growth of the slate industry and increased population in the early 1900's residents of South Bangor and Fourth Ward felt that more protection was needed in the borough. Thus, Rescue Fire Co. assisted in the organizing of the Second Ward Fire Co. and the Liberty Fire Co. in July of 1908.

After a century of existence the active membership as set by borough ordinance allows 50 members with Rescue Fire Co., and 30 members each with Liberty and Second Ward. Fire Department personnel occupy a special place in both the history of our Nation and in the esteem bestowed upon him or her by fellow citizens.

Mr. Speaker, join me in congratulating the Bangor Fire Department for 100 years of faithful community service.

MILITARY CHAPLAINS FAITH BALANCE ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to advise my colleagues in this Chamber of legislation which I have recently cosponsored, legislation which I believe has great merit and will correct an ongoing unjust and unequitable situation involving our military personnel's Chaplain Corps. H.R. 1875, the Military Chaplains Faith Balance Act, introduced by my collegue from Pennsylvania, Representative BORSKI, will provide equal opportunity for Armed Forces personnel in being represented by a fully adquate and representative Chaplaincy Corps. The merits of H.R. 1875 are clear. The legislation attempts to secure the same basic constitutional guarantee of religious freedom outlined in the first amendment. It attempts to insure that any one specific religious body is not detrimentally impact by being underrepresented in the Chaplaincy Corps of the Armed Forces.

As a veteran of World War II, I know only too well how important the Chaplaincy Corps is to the fighting man and woman. While the stress that occurs to members of the military service under noncombatant conditions is less dramatic, the need for support from a chaplain of the same faith is nonetheless critical. Servicemen away from home and the stabilizing forces in their lives are often faced with severe personal and interpersonal conflicts.

I applaud the cosponsors of H.R. 1875 which would require that the Armed Forces alleviated the imbalances that unwarranted current Department of Defense policy perpetuates. The legislation in question would instruct the Department to make all reasonable attempts to increase the number of clergy from underrepresented faiths which would insure the men and women of the Armed Forces the personal counsel of the particular faith they have chosen. I urge all of my colleagues to support H.R. 1875.

SALUTE TO JOSEPH E. DILLON

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. SABO. Mr. Speaker, I would like to pay tribute today to a very special friend and fellow Minnesotan, Joseph E. Dillon, who will soon be retiring after a long and illustrious career in both the public and private sectors.

It has been my pleasure to have observed Joe's career since he served as the mayor of St. Paul from 1954 to 1960—then the youngest mayor of a major city in the entire United States. One of his proudest accomplishments as mayor was the establishment of the St. Paul Port Authority which has played such an important role in the city's economic development. Mayor Dillon took a very active role in

the Conference of Mayors, serving on its board of directors, during his years in office.

Before entering public service, Joe Dillon served our Nation with pride and dedication as a soldier in the U.S. Army. One of the youngest officers to attain the rank of major at 23 years old, Joe served most of his enlistment in the European theatre of operation. Following the war, he completed his undergraduate and law degrees at the University of Minnesota.

In 1954, Joe was encouraged to run and was elected mayor of St. Paul. He was reelected mayor twice and his administration is best remembered for its honesty and hard work.

After retiring from office, Joe Dillon reentered the private practice of law in St. Paul for 6 years and then became a partner with the Minneapolis-Washington firm of O'Connor & Hannan, representing corporations and associations on Washington-related legal matters. He has remained active in the Democratic Party, playing important roles in the campaigns of Hubert H. Humphrey for Vice President in 1964 and for President in 1968.

I join with our friends and colleagues of the State of Minnesota in wishing Joe Dillon and his wife, Mary Lou, the greatest happiness in this coming new chapter of their lives.

TRIBUTE TO GRAND PRAIRIE AND DALLAS POLICE

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. FROST. Mr. Speaker, I join with the congregation and pastor of the Matthew Road Baptist Church in Grand Prairie, TX, in observing their Annual Police Appreciation Day on Sunday, June 29. It is a public position that should also be taken by other religious and business groups.

Recently, I was honored to be asked to attend ceremonies at the National Peace Officers' Memorial Day Service in Washington, DC, where members of the Dallas Police Officers Choir performed.

These two services—one in the heart of the Nation's Capital, the other in the heart of north Texas—reflect on the tremendous responsibilities of the men and women serving in community police departments.

I commend Pastor Ron Proctor, the Matthew Road Baptist Church in Grand Prairie, TX, and the Dallas Police Choir for their taking the time to help our cities and our Nation to focus on the contributions of our police departments—both those currently serving and those who gave their lives for our protection.

SAVE THE ICE CREAM CONES

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. SYNAR. Mr. Speaker, Secretary Hodel said the other day that the "proposed increases in entrance fees to the national parks, which are a vital part of our meeting the challenge of both Federal debt reduction and the ever increasing visitation to the national parks, would cost the average family visiting a park about what it would cost that family for a round of double-dip ice cream cones."

It appears that the Secretary is willing to take ice cream out of the mouths of children, but is unwilling to charge fair market value for cattle grazing, and making movies and TV commercials on public lands for fear that it will cut into profits. I believe that the 2 percent of American cattle producers—including several corporate giants who graze their herds on public lands—and the makers of television commercials and movies like "Return of the Jedi," are in a better position to make sacrifices than is the average American family visiting a national park. But, it is typical of this administration to ask children to give up their ice cream cones in order to help balance the Federal deficit, while continuing to subsidize doing business on and making money off of public lands.

ARIZONA WILDCATS WIN COLLEGE WORLD SERIES

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. KOLBE. Mr. Speaker, on Monday, June 9, 1986 the Wildcats of the University of Arizona became the national champions of college baseball by winning the final game of the College World Series at Omaha, NE. This was the Cats' 14th appearance in the College World Series. The University of Arizona has previously won the national championship in 1976 and 1980.

The 1986 victory gives coach Jerry Kindall his third national championship, more than any other college coach in a comparable period. In his 14 seasons at the U of A, Coach Kindall has compiled an impressive 568–288–3, or .663 record. His performance this year makes him the leading contender for the American Association of Collegiate Baseball Coaches' Coach of the Year award.

The Arizona Wildcats are not a team of glamorous superstars. They are hard-working team players. Throughout the season they have come from behind. This was a team which nobody figured would be in the World Series. But the teamwork, discipline, and skill taught by Coach Kindall swept them through the central regional playoffs with a 4–0 record and into the series. Then the Cats took the World Series with a 4–1 record, twice beating the number one ranked team in the country. Now, 10 of these team players have been drafted to play in the major leagues.

The Arizona Wildcats were recognized on and off the field for their sportsmanship, hard work and character. Coach Jerry Kindall has become known throughout the country for developing young people of whom Arizona and America should be proud. With or without the national championship, Coach Jerry Kindall and the Arizona Wildcats are winners, but this year we also have the pleasure of congratulating them on winning the national championship of college baseball.

FASB UTILITY ACCOUNTING PROPOSAL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. RALPH M. HALL. Mr. Speaker, late last year, the Financial Accounting Standards Board issued a proposal that, if adopted, would cause utilities with large construction programs, including companies with substantial commitments in nuclear power facilities, to make fundamental changes in the valuation of certain assets on their balance sheets and the way earnings are reported. It seems to me that the FASB proposal needs to be carefully considered before being implemented since it may have the potential to create an enormous amount of confusion within the investment community and among utility stockholders and regulatory agencies at a time when we need stability in investments—hopefully leading to economic recovery.

I submit the following article on this subject from The Wall Street Journal of May 28, 1986, and the statement by R.J. Harrison, president of Public Service Co. of New Hampshire and chairman of the Committee for Consistent Accounting Practices, and commend them to my colleagues' attention.

No stone should be left unturned as we continue to seek answers to the problems facing both energy producing States and energy consuming States—with Texas being one of the leaders in both categories.

UTILITIES WILL FIGHT ACCOUNTING PROPOSAL—PLAN COULD REQUIRE NUCLEAR-COST WRITEOFFS

(By Lee Berton and Bill Paul)

New York—Utilities with big nuclear projects are preparing to take on accounting standard-setters next week over a proposal that utilities say could sharply limit growth of profit and assets.

Among other things, the proposal would force utilities to write off any nuclear plant costs that they can't recover within 10 years though rate increases granted by regulators.

The utilities have been steaming since last December, when the Financial Accounting Standards Board issued the proposal. And from June 4 through June 7, the chief rule-making body for accountants will hold public hearings on it at its headquarters in Stamford, Conn.

"We'll be there with our verbal guns blazing," says one utility executive who calls the proposal a "survival issue" for the utility industry.

CUTOFF CALLED ARBITRARY

"We feel the 10-year cutoff is very arbitrary and could do immense damage to all utilities with major power plants on their drawing boards," says Robert J. Harrison, president and chief executive officer of Public Service Co. of New Hampshire, Manchester.

The cutoff would apply to all types of power plants, but utilities building nuclear plants would be hit particularly hard because of costly and lengthy construction times. Many of the 27 nuclear plants now under construction in the U.S. were begun more than a decade ago. Moreover, state regulators usually don't allow utilities to charge customers for construction costs

until a plant is in operation, and they increasingly require that such costs then be phased into rates over several years.

The FASB won't decide on the proposal before fall, says Paul LePage, a project manager for the rule makers. "There's no question we're going to have to take a hard look at all the pertinent comment that comes out of these hearings," he adds.

Mr. LePage says the choice of 10 years was discretionary. "We could have have set a seven, eight or even nine-year cutoff," he says, "but if we seem arbitrary as all getout, it's because we haven't been very comfortable in the past with accounting judgments made by utilities and their auditors."

COST DEFERRALS

For many years accountants have permitted utilities to defer borrowing and other costs connected with construction of power-generating units. Utilities also have had free rein to include so-called noncash profit in current reported earnings.

Noncash profit consists of allowances for funds used during construction that the utilities expect to recover from further rate increases. But as the percentage of such noncash earnings, has risen, standard-setters are beginning to doubt the quality of those earnings.

Also, as regulators have stretched out recovery periods for nuclear plant costs, the probability of recovering such costs has lessened, according to Mr. LePage.

PS of New Hampshire, for example, reported net income of $113.7 million last year. But without noncash earnings and allowances for funds used during construction, the utility says it would have reported a loss of $62.3 million.

If the FASB proposal is adopted, it could force the company to write off major portions of its $1.8 billion investment in the troubled Seabrook nuclear plant, and it would sharply limit the utility's noncash earnings. "The FASB proposal could easily wipe out our entire net worth of $1.38 billion," says the utility's Mr. Harrison.

The FASB proposal also would force utilities to write down costs for certain abandoned nuclear plants. Currently, as regulators permit rate boosts, utilities can phase in recoveries of costs for such plants into income. But because of enormous outlays for nuclear plants, write-downs could add up to hundreds of millions of dollars if the FASB proposal is approved.

MOBILIZED OPPOSITION

That's why the utilities plan to pack the hearings next week with foes of the proposed rule changes. Mr. LePage says that 72 witnesses, mostly opposed to the proposal, will attend the four-day hearings—the largest number ever to speak out on an FASB proposal.

After the FASB issued its proposal late last year, Mr. Harrison got 20 other utilities to join PS of New Hampshire to build a $500,000 war chest to fight the FASB's proposal. He named the lobbying group the Committee for Consistent Accounting Practices.

The committee hired a Washington public relations firm that has enlisted big banks, brokerage houses, law firms and manufacturing companies dependent on electric power to write a barrage of letters to the FASB. The rule-making body received at least 1,600, more than it has ever received on any issue. But the effort has produced a backlash at the FASB.

"Frankly, we just got a lot of form letters, all saying the same thing, but few giving us useful information to consider in looking at our exposure draft" of the utilities-accounting proposal, says Mr. LePage. He concedes that few in the industry support the proposal.

FASB RESPONSE

Donald Kirk, FASB chairman, was so upset by the flood of form letters that he sent back his own form response to many of the complainers. In his reply, Mr. Kirk took issue with critics' contention that the proposal would sour investors on utilities and give regulators ammunition to delay rate boosts. Rather, he asserted, the FASB is seeking to improve disclosure of utilities' financial results.

"We doubt that relevant, reliable financial information will evoke irrational reactions on the part of investors or regulators," Mr. Kirk said.

The utilities sharply disagree. "The FASB shouldn't require us to write down productive facilities," says Richard Bushey, vice president and controller of Southern California Edison Co. Mr. Bushey is particularly upset by a section of the FASB proposal that would force utilities to write down a plant's book value by the amount state regulators determine was spent in cost overruns.

At the hearing, General Public Utilities Corp., Parsippany, N.J., which owns the Three Mile Island nuclear facility near Harrisburg, Pa., plans to criticize the FASB for proposing that a utility immediately writer down a nuclear plant "to its lesser value when state regulators determine it's an abandoned facility."

This change "could seriously impair a utility's net worth and damage its bond ratings and dividend payouts," says Verner H. Condon, GPU chief financial officer and a vice president.

Mr. Condon also strongly objects to a section of the proposed rule that would require a utility to write down the value of a new plant if regulators feel it creates unneeded or excess capacity. Capacity that is currently considered excessive could be sorely needed within five years because of rapid industrial and residential growth, he says.

The utilities accuse the FASB of failing to recognize that rate discussions with regulators can drag on for years because of nuclear plants' immense costs and the emotional opposition they generate from certain public groups. "The FASB board and staff doesn't fully appreciate the complexities" of trying to recover such big costs, says Southern California Edison's Mr. Bushey. "We're going to have to show them in Stamford," next week, he adds.

R.J. HARRISON'S OPENING REMARKS

Good morning and welcome to the Committee for Consistent Accounting Practices seminar on the effects of the proposed amendments to FAS 71. I'm Bob Harrison, President of Public Service Company of New Hampshire and Chairman of CCAP. As none of you I'm sure have ever heard of our group I'd like to give a little general background on who we are and what we are doing. Joining me today are Joseph Umbaugh from Deloite, Haskins and Sells, Bill Abrams from Duff and Phelps and Rodney Estrada from Middle South Utilities. They will each make a short presentation of their individual perspective on these changes, after which we will open up the floor to questions and then we will have some lunch.

Also present today are representatives of some of the member companies of CCAP. They, too, will be available to discuss these matters with you over lunch.

The Committee for Consistent Accounting Practices is composed of 21 utilities. These companies provide electric service to more than 40 million people, from New England to California. The committee got its start from a Duff and Phelps Special Report issued in January of 1985, that listed 52 companies with the potential to be adversely impacted by the proposed accounting changes. I became concerned that our industry was not responding on behalf of our companies or our customers as aggressively as perhaps it should to these amendments, so I contacted the CEO's of those companies. From that contact this committee was formed.

The committee felt that the FASB did not fully take into consideration the impact of these changes on the industry and the people we serve. We undertook a campaign to increase their awareness. The impact of the proposed changes is staggering. One of the handouts in your kit shows the result of an EEI survey on the effects of the change on existing disallowances, abandonments and phase-ins. The total write-off required would be 3.9 billion dollars. A First Boston Research analysis of the potential for write-offs associated with abandonments and disallowances put the figure at 6.7 billion dollars, or 30 percent of the aggregate retained earnings of the 40 companies in the affected group. Note that the First Boston numbers did not include any amounts for write-offs associated with phase-ins.

Our original concerns about the lack of obvious reaction to this issue were proven true when the FASB releases the exposure draft in December of 1985. In that document they indicated they had received 51 comment letters on the exposure draft, only 39 of those from affected companies. We wanted to ensure that would not happen during the official comment period on the exposure draft. The committee has succeeded in generating over 1,500 letters to FASB on this issue. These letters have come from the companies affected, consumer groups, organized labor, institutional and individual investors, investment bankers and a great number of industrial concerns. These letters have not been well received by the FASB. It seems we are engaged in arousing public opinion, and the FASB avers it will not be influenced by the public.

Our actions were not directed towards creating accounting standards by popular vote. They were undertaken to make sure the FASB was aware of the social and economic consequences of its actions. In that regard we have been successful. Today's meeting is a continuation of that informational process. The Chairman of FASB has stated "The proposal directly affects a limited number of companies, but in very significant ways as far as they're concerned". With the reactions FASB has already heard, and the letters they have received, we hope to make it clear to FASB that this is not the case . . . that, in fact, a large number of firms and individuals believe themselves to be adversely affected.

Beyond that, I'd urge FASB to consider very carefully even what they've labeled as form letters. First, these letters should serve as an indicator of the depth and breadth of informed public opinion which, once alerted, opposes this rule change. Respondents may chose to express their views in similar, even identical, ways for they are fundamentally the same, but they are no less valid for that. The Chairman of Westinghouse Elec-

tric Corporation, the Vice President of Finance of Red Devil, Inc., the Vice Chairman of A.G. Edwards and Sons, Inc., and the numerous others who wrote short letters to FASB don't take such positions lightly. And their willingness to step forward with us on this one may well be a signal to FASB that it's the group that's out of step.

Second, and far more important, I would urge FASB to consider them carefully because of the absolute exception I take—and which I am confident is shared by other accounting professionals, public officials and fairminded citizens—to Donald Kirk's allegation in a letter to me that "establishing and improving standards for financial accounting and reporting . . . is a technical task that cannot be accomplished by popular vote any more than establishing safety standards for nuclear plants can be."

Frankly, he could not have picked a worse comparison.

The Nuclear Regulatory Commission, while charged with carrying out a technical task equally complex as FASB's, is a very different creature from FASB with different procedures.

The members of the NRC are appointed by the President of the United States (who is, via the Electoral College, elected by popular vote) and confirmed by the Members of the United States Senate (also elected by popular vote). The authority they exercise is granted by laws passed by the Congress of the United States (all of whom are elected every two or six years). Those same laws ensure that NRC procedures will be open, fair, responsive and responsible. Their decisions are subject to administrative review and appeal to the courts. Their budget is subject to annual action and any abuses by them subject to instant Congressional investigation.

I would be loathe to argue that FASB's technical decisions be made by popular vote. But I equally loathe FASB's apparent blatant disregard of the public consequences of its actions.

In actions like the amendments to SFAS 71, FASB is no longer just making accounting rules. FASB is, in fact, setting public policy, just as surely as do the Congress of the United States, the NRC and state regulatory commissions.

If FASB is going to continue to enjoy the independence and freedom of its current extra-legal, non-governmental status, then it must be perceived to be at least as concerned about the public policy consequences of its decisions as it is about its technical accounting rulings.

While you may discount the "rhetoric" of my argument, I would still submit that democratic institutions historically leave technical decision making to independent experts only so long as they are responsible, responsive and consistent with the broad welfare of the people they serve, not just the narrow interests of a single profession. This country does not need a "priesthood" of experts separated from the consequences of their actions by an impenetrable wall.

In considering SFAS 71, the FASB has the opportunity to begin a new era in their public service.

Their decision on this proposed change, and how they come to that decision, can mark the beginning of a new era for the FASB, an era of public responsibility.

It can, and should, mark the end on an old era, and era of procedural regulation of a single profession.

FASB's single-mindedness of accounting-rule-making that once offered great advantages of technical competence and situational independence has brought with it equally great disadvantages of tunnel vision and public irresponsibility.

No one can deny the enormous duty that the FASB exercises on behalf of the Free World's financial transactions. Equally undeniable is the impact the FASB's rulings have on companies, investors and customers.

Given those two facts, neither the FASB, industry nor government can escape a third: That the time has come for the public consequencs of FASB rulings to be a valid factors considered in deciding both the rulings and the process by which they are achieved.

In sum, we feel that the current accounting standards are working and have worked for many years. The FASB should apply itself to conceptual standards that are general guidelines for all industries. Thus, they should study discounting as a separate issue and not apply it to utilities until it has been studied. They say they are going to study impairment on a conceptual basis. They should wait until the completion of the study to apply new impairment tests for utilities. They should do their job, and leave the job of setting rates to the utilities and their regulators. If they want to enter the rate-setting arena, then they should be ready to listen to public opinion like the rest of us.

Now the other members of the panel will provide some specific detail, which I think you'll find of great interest.

SUPPORT FOR FLEXIBLE EXCHANGE RATE SYSTEM

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. NEAL. Mr. Speaker, the ultimate results of the recent economic summit in Tokyo remain to be seen. It is still uncertain how Secretary Baker's call for increased economic cooperation and policy coordination will work. The administration and Congress, however, should resist pressure for a less flexible international monetary system that relies on government intervention to maintain currencies in "target zones," however loosely defined.

The wisdom of focusing on the macroeconomic fundamentals, that is, domestic economic policies, and not on the symptoms those policies externalize through the exchange rate, has recently been addressed by a number of leading scholars. Charles Schultze, former Chairman of the Council of Economic Advisers under President Carter and now senior fellow at the Brookings Institution is one such scholar. Following is his commentary as it was delivered on WETA-TV (PBS Network) on May 2, 1986, just prior to the Tokyo Summit.

CHARLES SCHULTZE: Ideally, the heads of government meeting at the Toyko Economic Summit a few days from now could adopt a set of policies that would greatly improve the chances for sustained economic growth and for a healthier balance of world trade. President Reagan could do his part in a dramatic way by agreeing to support the bipartisan budget resolution now before the Senate, including its moderate tax increase. Demonstrating that the United States really means to meet the Gramm-Rudman deficit-reduction targets would help lower the still-overvalued U.S. dollar, bring interest rates down further, and help put U.S. economic expansion on a sound long-term basis.

On the opposite side of the coin, Japan's Prime Minister Nakasone and Germany's Chancellor Kohl, whose governments have for some time been pursuing restrictive budget policies, should now take steps, perhaps in the form of extra tax cuts, to stimulate additional domestic spending in their own countries. As the falling U.S. dollar slows their export growth, they need to expand further at home.

Unfortunately, this set of measures is not in the cards. President Reagan, for domestic reasons, will not agree to a tax increase. And the Japanese and German governments, for domestic reasons, will not alter their own budget policies.

There is one thing that ought not to be done at the Tokyo Summit. It is sometimes suggested that we need a new set of international monetary arrangements under which governments would try to place some formal limits on movement in exchange rates. But so long as fundamental domestic policies are not coordinated, it's expecially important that exchange rates be left free to adjust so as to reflect divergent policies.

Occasionally, an ad hoc and pragmatic intervention in exchange markets can be successful, as it was last September. But the Tokyo Summit ought to avoid endorsing any fundamental movement away from the current system of floating exchange rates.

DOT RIDINGS DAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. MAZZOLI. Mr. Speaker, the Commonwealth of Kentucky, the city of Louisville, and the county of Jefferson County, have proclaimed June 18 as "Dot Ridings Day" to honor outgoing League of Women Voters' president, Dot Ridings, at the league's national convention here in Washington this week.

Dot Ridings, who is ending a 4-year tenure as national president of the league, is one of Kentucky's proudest "natural resources." She has devoted limitless talent and abundant energy to league activities as the local and national levels. In these endeavors she has made our Nation and our community a better place in which to live and work.

I commend to the attention of my colleagues the following article, which appeared in the June 15, 1986, Louisville Courier-Journal, and which shows why "Dot Ridings Day" is a fitting and a proper tribute to her. Dot is that rare person who is both a thinker and a doer.

I join Dot's many friends and all of the citizens of the Commonwealth in saying thanks and congratulations on a job well done.

DOT RIDINGS—ENDING 4 YEARS AS HEAD OF LEAGUE, SHE'S A DOER IN A WORLD OF ADMIRERS

(By Robin Garr)

Dot Ridings says she has the greatest admiration for Jaime Cardinal Sin, the round-faced Filipino cleric who helped inspire the

Pacific nation's relative peaceful revolution earlier this year.

But she didn't think much of the cardinal's jokes.

Ridings, national president for the League of Women Voters, was among a group of 10 Americans who visited the Philippines in January to gather information before the election there.

The group met President Ferdinand Marcos, his wife, Imelda, and members of the opposition led by Corazon Aquino, who became president when Marcos fled.

The meeting with Sin was a highlight of the tour.

"The Catholic Church in the Philippines was at the heart of what happened there, and we wanted to tell him that," Ridings said in an interview last week.

But she said the conversation took an odd turn.

"He was sitting in the middle in his beautiful robes, and he started telling these perfectly terrible jokes," Ridings recalled.

"He said, 'Do you know the difference between a woman and a mirror? A mirror reflects without speaking. . . .' Then, he had this expression, he laughed and said, 'beautiful, beautiful.' "

Then, she said, he told another: "Polygamy is being married to a bunch of women, bigamy is being married to two women, and *monotony* is being married to one woman. Beautiful, beautiful, isn't that beautiful?"

"I said, 'No. your Eminence, that's not beautiful.' " she said.

"Well, the group looked at me and just about fell on the floor. He took it with good grace, but I was just appalled at what I thought were tasteless, ill-advised and totally sexist jokes. I couldn't just sit there and let him think I thought that was acceptable."

The anecdote reveals much about Dorothy Sattes Ridings, 46, of Louisville: journalist, civic leader and mother of two, who will step down at the league's national convention in Washington, DC, this week after a pair of two-year terms as its national president.

It illuminates a personality that people who know her describe with startling consistency:

She is bright and articulate, a thinker who strikes to the core of issues and a doer who sees problems and acts to resolve them.

A woman executive who moves in a male-dominated world of power politics, she shuns confrontation but doesn't hesitate when confrontation seems necessary.

She has an inexhaustible fund of energy and a boundless sense of humor, but she can be very serious.

And it's impossible to find a soul who doesn't like her.

"I can't think of anybody who would be her enemy," said William Bundy, a Princeton University professor who was assistant secretary of state for Far Eastern affairs under President Lyndon Johnson. "She is my very favorite person."

Bundy, who was in the group that met Cardinal Sin, said Ridings' criticism didn't offend the cleric. "She is strong minded and outspoken, but she does it with flair. Somehow when you're having a discussion with Dot, you can't be small-minded."

Added former Jefferson County Commissioner Sylvia Watson, a long-time friend: "Dot is not intimidated by any person or thing. I'm sure she was as at home with the cardinal as she is with my daughter Emily."

Ridings leaves a similar reputation wherever she goes, from the White House to schoolhouses in Kentucky and league clubhouses around the nation.

She is able to laugh at herself and that can be effective, said Robert F. Sexton, executive director of Kentucky's Prichard Committee on Academic Excellence.

Prichard, a lifelong adviser to Kentucky governors, had run the committee with an iron hand before he died last year. Ridings, who had been vice chairman, succeeded him as chairman.

"He had been a dominant leader, to say the least, and following in his footsteps worried Dot," Sexton recalled.

"So for the first meeting, she brought a coach's whistle, and when things got a little out of hand, she'd blow her whistle. This was a clever way of reminding the people that she wasn't Ed Prichard. And she quickly inspired a confidence that was surprising."

"I've admired her since the very first day." said Prichard Committee member C. Waltman Taylor. "Her willingness to step in after Prichard's death was fantastic. She had great respect for Ed Prichard but was not intimidated by the past. She's continued and brought it statewide recognition."

Lillian Press, executive director of the Kentucky Governor's Scholars Program, said Ridings' annual talks to the student group on world politics and women's issues have earned enthusiastic response.

"She is able to relate very well to young people," Mrs. Press said. "She is absolutely honest and students admire that. She is warm, yet she is dignified and businesslike. She does not hold back. Her schedule can be horrendous, but she turns herself inside out to be available."

Judy Marks, president of the League of Women Voters of Kentucky, remembers Ridings' personal touch.

"Whenever anything comes from the national office, there's always a little something on it from Dot," she said. "There was a particular time I was quite ill, and everything I got [from Ridings] had a note on it hoping I was doing better. She knew and cared."

Ridings first encountered the league as a young reporter covering North Carolina state government for the Charlotte Observer.

She says she found the league's position papers on state issues impressively reasoned, but didn't join the group because of her reporter's instinctive desire for neutrality.

That changed when she and her husband, Don, moved here in 1968. He became the Courier-Journal's urban-affairs editor, she was expecting Chip, and she decided to take a break from journalism.

She called the league on her second day in Louisville and promptly volunteered to fill the vacant post of newsletter editor. "They said 'Great, you're on the board,' " she said.

She rose through the ranks, becoming president of the local league from 1974 to 1976 and serving as national first vice president before becoming national president in 1982.

Sylvia Watson said she and Don Ridings had to persuade Dot Ridings to take the unpaid job.

"She was quite reluctant. The very real humility that is part of her character held her back," Watson said.

Dot Ridings says she was worried that the effort would take time from her family. And she had returned to work in journalism as editor of the Kentucky Business Ledger, a job she was reluctant to give up. But she said her family's enthusiasm persuaded her.

"They said, 'Go for it, Mom,' " she said. "I knew these were guys who'd have to be doing more cooking, cleaning, laundry. We'd lose some family things and give up vacations for a while, but they saw I really wanted to do it. I have just enough ego to think I did have something to contribute to the league, and I've never regretted it."

One of the most visible achievements of her administration was the league's sponsorship of 1984 campaign debates between Reagan and Walter Mondale, Democratic nominee for president.

But she said she is even more proud of having guided the league to a position of greater advocacy on national issues.

The most controversial such position was the league's "pro-choice" stand on abortion.

Other league positions run the political gamut. They aren't clearly identifiable as Republican or Democrat, liberal or conservative, and that's how Ridings thinks it should be.

For example, the league has opposed the Reagan administration's efforts to support the contras rebels in Nicaragua and disagrees with the president's "star wars" defense initiative, arguing that it would increase world tensions.

But Ridings says the group agrees with the White House in its backing federal tax reform.

Ultimately, she said, the league's top priority—and hers—is to creating an informed electorate, not to sway voters.

"We represent a sizable amount of public opinion in the United States that we want to express to the president of the United States and the congress," she said.

"But we are much more interested in seeing somebody study the issues, understand them and come to their own informed viewpoint, rather than supporting our position as a kneejerk reaction."

Ridings isn't sure, or won't say, what she plans to do next.

But she says she won't stay in Washington after her term ends, when the convention closes Wednesday. And she has ruled out politics despite what she calls flattering offers from people who would back her in a run for Congress or a statewide office.

"My heart has never left the newspaper business, and I'm really aiming in that direction," she said.

"There will be a change, but I wouldn't say a letdown. She'll continue doing interesting things," said her husband, Don, who went from the Courier-Journal to become director of the Louisville-Jefferson County Planning Commission, county director of environmental protection and a television journalist. He now works for the Wenz-Neely Co., a Louisville public-relations firm.

Whatever she does, Dot Ridings said, she won't forget the last four years.

"It's been an experience that I could never have dreamed would be as enriching and exciting and rewarding as it's been," she said.

"There have been some downs along with the ups but that's all part of what makes it so exceptional."

CHANGE OF COMMAND AT THE COAST GUARD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. BIAGGI. Mr. Speaker, I rise today to call your attention to the change of command that took place within the U.S. Coast Guard. On May 30, 1986, Adm. James S. Gracey, the Commandant of the Coast Guard, retired after having served our Nation for 37 years. The event was marked by appropriate ceremonies at the Washington Navy Yard with the sail training vessel, the Coast Guard cutter *Eagle* in the background.

In turning over command, Admiral Gracey extolled the virtues of the Coast Guard and all those special people who are the Coast Guard family. These individuals make the Coast Guard work, and their work is symbolic of the good in America.

Admiral Gracey's parting words to the Coast Guard family were most stirring, and I urge my colleagues to review and reflect upon them.

ADMIRAL GRACEY CHANGE OF COMMAND CEREMONY, MAY 30, 1986

Secretary Dole, Admiral Yost, honored guests, friends of the Coast Guard, all: Thank you for coming today to share in this special celebration of a time-honored rite of passage. By your presence you honor Admiral Yost and me . . . but most especially you honor the men and women of the entire Coast Guard family. On their behalf—and for a few more minutes as their Commandant and cheerleader—I thank you most sincerely.

Secretary Dole—Boss—I thank you most sincerely and personally for the honor you have bestowed on me. A lot of those folks out there really earned it—but I wear it with pride and pleasure.

Admiral Yost: I am about to turn over to you full responsibility for the Coast Guard we both love—and for its people. I know you know full well what that means. It is a special trust because ours are special people. I wish you every success, and I hope you and Jan enjoy your tour as much as Randy and I have enjoyed ours. I wish you a clear horizon and bright stars to steer by. I won't wish you fair winds and gentle seas, because Coast Guard sailors aren't accustomed to weather like that. God speed, sir!

Four years ago, on taking command, I noted that in ancient times the Romans selected as the Commander-in-Chief of their army the man "on whom fortune smiled the most." I said that because I had been chosen to be the Commandant of the U.S. Coast Guard, fortune was truly smiling on me. The past four years have proven that to be true. What an adventure I have had as Commandant—and shared with my lifetime partner, Randy (or Dorcas, as some of you know her). In fact, ours has been an adventure that has lasted for 37 years. There were 4 more years when I had to go it alone because cadets at the Coast Guard Academy aren't allowed to have partners.

Like all Coast Guard families—the families of all the Armed Forces—mine also had to go it alone sometimes. Two or our three children were born while I was away. That I was home for the third was a fluke, she came a week early on one of two days I was home that month. Like the families of sailors from time immemorial they stayed at home and worried while I took my ship to sea in a hurricane. Like all military families, they learned the truth of the old saying: "They also serve who only sit and wait." They gave up jobs and friends and homes while we moved about. They learned that home is not a place—it is a state of mind. Through it all came a loving, caring family—and the greatest collection of Coast Guard enthusiasts you ever saw. We have an old saying in our house: "No one ever said an adventure has to be comfortable." The Gracey family understands that. The Coast Guard family understands that.

Like most Coast Guard people I have experienced the unmatchable thrill of saving a life. Like all graduates of the Coast Guard Academy I have felt the exhilaration of training under sail aboard *Eagle*. I had it again when I sailed in her as commandant.

I have felt the satisfaction of knowing the people of an American city would be warm and could continue their jobs because my ship had brought oil tankers and cargo ships through ice. I have walked piers looking for sabotage and other hazards to the port and the public around it. I have known that the ships bringing vital maritime trade to America were safe and the trade was flowing freely because the aids to navigation for which I was responsible were watching properly—and the Loran signals from my station were going out continuously.

I have seen the faces of families as our ships and aircraft brought home mariners all thought were lost at sea. I have thrilled at the heroics of the crews of our ships, boats and aircraft—marvelled at the courage and determination of our people who are fighting the wars against illegal drugs and migrants, and of those who have literally waded in to prevent the effects of hazardous chemical and oil spills.

During my years in the Coast Guard, our people have been with the other Armed Forces in World War II, Korea, Vietnam and Grenada. I have taken pride in their performance as I did just recently in noting the poise of the handful of Coast Guard people at the Loran station on Lampedusa in the Mediteranian as they came under Libyan fire. It has been a pleasure to see our defense role grow along with our readiness. There's a lot more, but you get the picture.

An adventure? You bet. Job satisfaction? If you can't get it doing Coast Guard work, where can you get it?

The Coast Guard has been serving America for 196 years. I have had the special privilege of helping with that service for more than a fifth of that history. For the past several years I have had the honor of being a Coast Guard flag officer—and in that time I have come to see clearly that the work of the Coast Guard is symbolic of the good in America—of the greatness of our country; where each human being is important and the life of each is to be preserved; where the environment and its natural resources are precious; where the Government works with the public; where the law prevails; where strength is directed at protecting peace and freedom; where international trade is free and open; where our constitution directs and we focus on the common defense and the general welfare; where the hand of friendship is extended to countries around the world.

For the past several years it has been part of my great adventure to travel the world—to extend America's hand of friendship to maritime countries; to share knowledge and experience; and to be received in friendship, honor, respect, and warmth. We have dined with Kings and Presidents, Cabinet Ministers and military chiefs. In Sweden during a world search and rescue demonstration the King of Sweden and I shared the experience of being wet down accidentally by a fire hose. We also dried each other off.

While visiting our Coast Guard people in the Shetland Islands we were serenaded by the Shetland fiddlers. In Guinea Conakry we stayed in the President's Guest Palace and were treated to a special performance by their National African Ballet. I lectured at the Nigerian Institute of International Affairs, was gowned a tribal chief in Liberia, counselled the fledgeling Indian Coast Guard in Bombay, and ate kooskoos with the Minister of Marine and Fisheries in Morocco.

We have met with local officials while visiting our Coast Guard troops at Loran stations, in Spain, Italy, Germany and Iceland. We have been hosted by the first Sea Lord of Great Britain, the fishing associations of Japan, shipping associations from Greece to India and from Norway to Australia, and the Minister of Marine of the Ivory Coast.

We have watched inter-island sail traders load in Jakarta, sampans in Kowloon, supertankers in Rotterdam, and cargo ships in Copenhagen. We have learned about port operations from Hong Kong to Hamburg, and from Singapore to Casa Blanca.

As the head of the United States delegation I have spoken for our country in the Marine Forum of the United Nations, the International Maritime Organization in London.

I count among my professional friends the present and former heads of Coast Guards or Coast Guard-like navies in countries all over the globe. Some have become good personal friends, as has the Secretary General of IMO. The same is true of U.S. ambassadors, delegates from other countries to IMO, and so no. An adventure? Yes, indeed.

In each of those places and all the others we visited—and from dozens of other national representatives who have come to my office here in Washington—the message has been the same: The United States Coast Guard is renowned and respected throughout the world as a special, one-of-a-kind, professional organization—a jewel in the crown of America. In one form or another the words have conveyed the same sense as some words from Winston Churchill about the United States Coast Guard. He said:

"Seldom in the annals of the sea has there been exhibited such selflessness, such cool courage, such unfailing diligence in the face of almost insurmountable difficulties. America is to be congratulated."

Our adventure has gone on at home too. We have dined at state dinners with the President and the Secretary of State. We have been guests in the home of the Vice President and have been pleased to see his respect for and strong support of the Coast Guard, especially in our war on illegal drugs.

I have, of course, worked closely with and had the pleasure of a friendly and supportive association with Secretary Dole and her predecessor, Drew Lewis. The same is true of other Cabinet officers and the Congress. Responding to Members and Committees of the House of Representatives and the Senate—and working with them to solve problems—has been a pleasant adventure in itself.

I count the chiefs of the other armed services and the Chairman of the Joint Chiefs

of Staff, the heads of the other law enforcement agencies, and the heads of other transportation agencies and agencies concerned with the oceans among my friends—and friends of the Coast Guard.

It has been a great pleasure to see the growing media interest in the work of the Coast Guard, and to respond to their quest for information or meet their challenge. Not new, but still great to experience is the close working relationship between the Coast Guard and all segments of the maritime industries—and maritime, Marine Insurance, and boating interests everywhere. We have conferred, debated, agreed, and agreed to disagree. We have found solutions—and where we couldn't, we have continued to work to find some. The mutual respect that is evident and the example of how the public and private sectors can work together in balance have been a job to me and a source of pride. A special pleasure is to see that our long-standing concerns for fishing vessel safety and the problem of drinking and boating are getting wide attention. As the head of the Coast Guard family and the champion and chief representative of Coast Guard people, I have been welcomed and feted and honored all over America—from Alaska to Puerto Rico and from Guam to Maine. But it has really been the Coast Guard that has been honored. Earlier this month, for example, the city of San Francisco devoted an entire week-end to a salute to the Coast Guard—focussed on the great work of Vice Admiral Jack Costello and his Coast Guard men and women. Everywhere the message has been the same: We are proud of the Coast Guard. We respect and admire the work of Coast Guard people, and we are truly grateful for what they do for America and how well they represent our country.

What have they done, those Coast Guard men and women? Let me give a tiny flavor of their service. Just in the four years of my adventure as Commandant they have saved well over 20,000 lives—that's actual recorded rescues. Lord knows how many thousands of deaths have been prevented through Coast Guard safety programs. Our people have prevented the loss of billions of dollars worth of cargo and other property. They have seized almost ten million pounds of illegal drugs, slowed illegal immigration by sea to a trickle, and seized or penalized dozens of vessels violating our fishing laws and threatening the viability of our fisheries. Ships carrying trade vital to the economy and industry of the United States and others carrying passengers have been kept moving safely and with dispatch.

Just a couple weeks ago an alert Coast Guard watchstander at our Vessel Traffic Center in New York spotted an impending collision between a cargo ship and a Staten Island ferry carrying thousands of rush hour commuters. He gave immediate commands to both vessels and the nightmare of what might have been was avoided by a matter of feet. Earlier—in San Francisco Bay—quick action by another VTS watchstander averted collision with and possible destruction of the San Rafael Bridge.

One of our Coast Guard women who is a helicopter aircrewman earned two Coast Guard medals—the highest Coast Guard award for heroism—in quick succession. Other helicopter crews flew in the teeth of hurricanes and Alaskan blizzards to bring 'em home alive. I won't even try to tell you about the other feats of derring-do by our aviators, our small boats and our cutters. Suffice it to say the tales of heroism are legion.

Aids to navigation crews restored the aids so trade could start flowing again in a major port in just 5 days after a hurricane virtually erased the channel and caused the port to be closed. A Polar icebreaker in Seattle, just returned from an annual voyage to Antarctica, did a quick turn-around and sailed on an unscheduled voyage to Greenland. From there she went to Alaska's North Slope and finally back to Seattle. In one year that ship and her crew had been to the Antarctic and back and had circumnavigated North America from west to east—a first. Those Coast Guard people were away from home almost eleven months. Talk about adventure! Talk about families going it alone!

On top of all that, Coast Guard people coped with the *Challenger* disaster and scores of less spectacular ones. At the Olympics and untold other marine events, the public and participants were kept safe; and in just a month or so Coast Guard people will ensure safety and control of the greatest maritime extravaganza ever, when the Statue of Liberty has her 100th birthday in New York.

But, you say, those were not your adventures—those were your people's adventures. Ah, but they were mine too—because I have the rare privilege of wearing the same true blue uniform they do. One of the great joys of being the Commandant is to share in the thrill and pride of the successess of your people.

And that gets me to the greatest adventure of all: Just working with the people of the Coast Guard family. I have exulted with them, cried over lost shipmates, stood in awe of their achievements, felt with them the sting of their frustrations, stayed awake worrying about those in harms's way, and stood with them in pride as the band played Semper Paratus. But best of all I have had—Randy and I have both had—the warmth of their smiles. We have laughed at their sense of fun, enjoyed being challenged to give them answers, and have been honored—and thrilled to have—their loyalty and love.

They are a marvelous, selfless, human, caring lot, those people of the Coast Guard family. Real, live American heroes are commonplace among them. In closing I want to salute all the members of the Coast Guard family through the representatives here today—and I want you to meet them. Don't applaud. I'm going to ask you to join in a cheer in a moment.

First, my partner and the First Lady of the Coast Guard for the past 4 years;

Now would all other Coast Guard spouses and offspring please, stand;

And retired Coast Guard people;

Coast Guard civilian employees;

Coast Guard auxiliary;

Members of the Coast Guard Reserve;

And finally, the men and women on active duty.

Please join me in three cheers for a great partnership: The United States Coast Guard and America.

HIGHWAY BEAUTIFICATION ACT OF 1986

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mrs. SCHNEIDER. Mr. Speaker, when the Highway Beautification Act of 1965 was passed Americans looked forward to an improvement in safety, recreation, and the aesthetic quality of our Nation's road system. I am sorry to tell you today that the act has actually decreased the beauty of our highways.

This summer Americans will take to the roads in unprecedented numbers. Terrorism abroad and low gas prices at home are making this a summer to explore America. What Americans will find amidst our beautiful landscapes is an enormous proliferation of huge, garish billboards. Twenty-one years after the passage of the Highway Beautification Act there are actually hundreds of thousands more billboards on our highways.

The intention of the 1965 act was to restrain the growing presence of billboards on our highways. This was and is an admirable purpose; all Americans have a right to enjoy the scenary. But I'm afraid the original act was so riddled with loopholes that the billboard industry has become its main supporter. My colleagues and I are introducing today the Highway Beautification Act of 1986 in the hopes that we can recapture the spirit of the original bill, a spirit which recognized that the beauty of our country should not be sacrificed for the commercial interests of the few.

The 1965 act placed restrictions on the use of billboards on Federal highways in nonurban, noncommercial areas. Three classes of billboards were created: legal, illegal, and nonconforming. Nonconforming billboards were those which were legal when built but, due to the act or changes in zoning, were no longer in compliance with the law. Illegal billboards could simply be torn down but nonconforming ones required cash compensation even though courts had long held that there was no right to use our highways as corridors for advertising. Indeed, courts have long held that billboards don't derive their value from the private land they stand on but from the public roads they stand next to. Today the Federal Highway Beautification Act is the only environmental law which requires the Federal Government to pay polluters to stop polluting.

Matters were made worse in 1978 when the billboard industry successfully pushed through an amendment to the original act. This amendment required that cash compensation be paid whenever a billboard was removed anywhere along Federal roads, including those inside cities. This amendment has had drastic consequences. In the past the cities and towns were able to take the initiative in billboard action. In particular they were able to use the traditional zoning method of amortization to provide compensation. Now their activities are hampered by the amount of funding the Federal Government is willing to supply for billboard removal. In recent years in particular, as Federal funding for billboard removal has dried up, the cities and States have been hamstrung. It is no wonder the billboard industry supports the Highway Beautification Act as it is: in the absence of Federal funding many State and local governments have been prevented from pursuing their own agendas for billboard reform. The act places all billboards within 660 feet of a Federal highway under these rules. This means that local communities, such as Montgomery County, MD, Bellevue, WA, and Nags Head, NC, have been prevented from removing billboards from

their own streets because of the presence of Federal highways in the vicinity. As long as the States are prevented from using their own laws we will be caught in a bind—no action can be taken without funding from the Federal Government but the Federal Government is not providing funding.

Mr. Speaker, this does not mean that our problem could be solved by once again allocating Federal funds to the program. Current estimates suggest that it would cost over $750 million to remove all the existing nonconforming billboards. Given the current State of the Federal budget deficit it would be irresponsible to continue subsidizing the billboard industry. But even if we had unlimited funds this would not be a wise course. The current law is helping the billboard industry erect new billboards. When billboards are to be removed they are selected from lists submitted by the billboard industry. The companies typically (and wisely) list their least profitable billboards. They are paid cash for these signs which they then reinvest in new signs. For example, the U.S. General Accounting Office tells us that in 1983 we paid taxpayers' dollars to remove 2,235 billboards along Federal highways which were then replaced with 13,522 new bill boards. Likewise, in Florida, taxpayers paid to remove 1,957 billboards between 1979–84; these billboards were then promptly replaced with 8,218 new, bigger billboards. In Georgia the billboards on a stretch of highway which has been bypassed were removed with Federal funds. This is a waste of taxpayers' money and an environmental nightmare. In other words, by using the cash compensation method, we are subsidizing billboard companies to move their billboards from areas where a few people will see them to area where a lot of people will see them.

This problem is further aggravated by the fact that billboard companies can legally construct new signs in areas which violate the spirit of the original law. The 1965 act imposed no restrictions on billboards in commerical or urban areas. This created a wide loophole in the law: Billboards in rural areas are now placed by an abandoned shack or surrounding the country store and are justified as being in commercial areas.

There are other loopholes in the law. For example, billboard companies have been given the right to help with "vegetation control" on the Federal highways. What this really means is that they are allowed to cut down trees on public land to make their billboards more visible. Ironically, many of these trees were planted under the original provisions of the Highway Beautification Act. On top of this, if the signs were obscured their value would decrease and the Government's compensation obligation would decrease.

Mr. Chairman, any law which allows thousands of new billboards to go up while asking taxpayers to pay for the removal of others offends plain common sense. I believe it is time to stop the spread of billboard blight and halt public subsidies to the billboard industry. Our bill will make highway beautification workable. It first, imposes a moratorium on new billboards on Federal highways even in urban areas. At the very least this will stop the situation from getting worse; second, allows amortization as a method of compensating billboard companies for nonconforming billboards; third, prohibits cutting down trees to make billboards more visible; fourth, closes the loopholes which allows signs in unzoned commercial and industrial areas; fifth, permits State and local governments to pursue billboard cleanup without the need for a Federal component to compensation.

Americans should have the right to enjoy our Nation's landscapes without the ugly interference of unsolicited advertising. This was the spirit behind the Highway Beautification Act of 1965 and our bill will enable this dream to become a reality.

There have been a number of fine articles on billboard blight and I insert one of them in the RECORD following my statement, together with a section-by-section analysis:

THE GREAT BILLBOARD DOUBLE-CROSS

(By James Nathan Miller)

The Highway Beautification Act was supposed to eradicate our countryside's most persistent parasite. Why, then, is the unsightly blight worse than ever? Ask Congress—and the powerful billboard lobby.

There are still long stretches of road in America from which you can see the amber waves of grain we sing about—and off in the distance white steeples, red silos and dark-green forests, the unspoiled landscape of America the Beautiful. But in recent years these stretches have been shrinking much faster than most people realize, as tens of thousands of new billboards have visually assaulted our most scenic roadways.

Ironically, the invasion of the big signs has been facilitated by the very law that was supposed to get rid of billboard blight—the Highway Beautification Act of 1965. In fact, the blight has been spreading so fast under this act that the law's original supporters have now begun lobbying to get its major provisions repealed. They are saying that the law was a double-cross from the beginning, a triumph of the billboard lobby and its Congressional supporters to promote the building of more signs.

The conflict goes back to the 1920s and '30s when billboard companies fought to persuade the courts that communities had no right to control them as esthetic nuisances. The companies argued that this violated the constitutional right of property owners to earn money by renting their roadside land for the billboards. But the courts threw the argument our via the "parasite principle"—i.e., billboards don't derive their value from the private land they stand on, but from the public roads they stand next to. An industry that exploits windfall values the public inadvertently creates is in effect a public parasite, and the community has the right to regulate it.

So the billboard companies adopted a new tactic. Since they couldn't escape regulation, they tried to make it too expensive for towns and states to afford. Their argument was that communities forcing the tearing down of signs must compensate their owners for the lost income from advertisers. (In small communities, this could run into the hundreds of thousands of dollars; in big ones, the tens of millions.) But the courts said there was a method of compensation that would be much easier on the public: amortization. Just give sing owners a grace period, allowing them to leave their signs up for, say, six years. That way they would recoup their investment from rentals, not from taxpayers.

That was the legal situation in the mid-1950s, when Congress began debating what the federal government could do to regulate billboards on the burgeoning federal-highway system. A national law would cover 300,000 miles of federally financed roads—the 40,000-mile Interstate system and the 260,000 miles of primary (mostly "U.S."-numbered) roads. Under the parasite principle, Congress could order removal of every sign on these heavily graveled arteries and, using the amortization technique, get rid of them in a few years, at no cost to the taxpayers.

Everybody expected the big sign companies to stage a knock-down fight against any kind of regulation. But, to the astonishment of all, the industry pledged to support regulation. Said its Washington lobby, the Outdoor Advertising Association of America, Inc. (OAAA), "Billboards have no place in the scenic areas of our highways."

The bill's sponsors couldn't have been more pleased, since scenic stretches were the only places where they wanted outright bans; in industrial and commercial areas all they wanted was modest reductions in the size and number of signs. "I am glad to hear," said Oregon's Sen. Maurine Neuberger, "that after years of opposing control of billboards they have finally and reluctantly been dragged in."

But she had heard wrong. When the law was passed, the billboard-control people found they'd been had. While the OAAA's lobbyists had been publicly vowing support of regulation, in private they had been persuading Congress to write a law that threw out 50 years of billboard-control decisions by the courts.

According to the law's fine print, amortization was henceforth forbidden. All signs removed had to be paid for by taxpayers. What if a town decided to use amortization to enforce a ban on its own streets? As long as the signs are located within 660 feet of an Interstate or primary highway, it's forbidden to do this.

In the 20 years since the law's passage, federal taxpayers have paid the industry an average of $10 million a year for sign control, $200 million in all. But Congress has grown tired of paying the money, and last year spent only $2 million. Since estimates of the value of signs that legally must still be removed range up to a couple billion dollars, at that rate it would take 1000 years to finish the job.

But that was just the beginning of the double-cross.

Shortly after the Beautification Act was passed, drivers on the Interstates began seeing signs like the one below popping up all over the country. They're called monopoles, and they're a direct product of the law's most profitable individual double-cross. One of the startling discoveries the law's sponsors made in examining its small print was that it didn't call for any reductions in the size or height of billboards; instead, it merely instructed federal-highway officials to sit down with their state counterparts and work out limits that would leave them roughly the same as before—300 square feet in size, and a maximum of 30 feet high.

Later, when the specific dimensions were announced, they produced additional shocks. First, it turned out that they had been developed not by the states but by the OAAA; second, they were as follows: size—1200 square feet; height—no limit.

The monster billboards made possible by these amended size limits have created a

whole new sign-building industry. In 1966 billboard sales were $150 million. In 1983 they passed the $1-billion mark.

What makes the new dimensions revolutionary is the signs' ability to command enormous stretches of road. Since the monopole's height is limited only by the laws of physics (the tallest is 15 stories), it can peer down from over the highest tree line, its message legible a half-mile away. And because the pole occupies only a few square feet of ground, it is profitable even in high-rent urban areas. One such monster, rising ten stories above a shopping center, can stare down on a whole neighborhood.

But the very success of the new design is beginning to cause second thoughts about it in the industry. It's been going up so fast in so many places that it's created a public backlash that's been largely responsible for the present resurgence of the whole billboard controversy.

Observe this McDonald's sign (opposite page) and the little shed next to it, both sitting in a lovely rural area of South Carolina. Like most of America's landscape, this particular piece of scenery out in the country has no zoning classification at all; it's unzoned agricultural land. But now, because of the shed, the land comes under a strange new zoning classification. Under the Beautification Act, the purported business function of the shed (labeled "McDonald's District Office and Warehouse Facility") makes this a "commercial property," which in turn designates the road next to it, for 600 feet on either side, "unzoned commercial." As such, it is eligible for three billboards.

According to a study this year by Congress's General Accounting Office, 4712 unzoned-commercial/industrial signs were erected in fiscal 1983; that's twice as many billboards as the government paid to get rid of the same year. Another report by the Department of Transportation (DOT) says that many of these "commercial properties" are shams. The report is illustrated with photographs of the phonies: a deserted shed—its door overgrown with weeds—labeled "Mike's Welding Shop," a private home billed as "Carter's Drafting Service," a solitary, old gas pump masquerading as a filling station next to a billboard set in the middle of a field. And so forth.

The picture on the next page shows a clump of trees that have just been knocked down to give drivers an unspoiled view of the billboard behind them. When the Interstates were built, the Federal Highway Administration (FHWA) wouldn't let billboard companies cut down trees that grow up in front of their signs. Then the Beautification Act exacerbated sign owners' problems by providing for the planting of hundreds of thousands of roadside trees.

In 1977, however, the industry solved the problem; it persuaded the FHWA to legalize tree-cutting by billboard owners on the federal right-of-way by reclassifying the process as "vegetation control." State-highway authorities now isssue thousands of vegetation-control permits to sign companies annually. Many of the trees they cut were planted under the federal landscaping program.

How serious is the tree-cutting problem? Last year, a DOT study made a spot-check of one state, Florida. It found that in 1983 and the first half of 1984, the state had allowed sign companies to conduct 1,118 tree-destroying operations on the public right-of-way, 906 of them to clear billboards that had been outlawed by the act but still hadn't come down.

Those, then, are the obvious double-crosses. But for every one the public can see from the highway, there's another rip-off behind the scenes:

When a state gets federal sign-removal money, the FHWA requires it to select the signs from lists volunteered by the billboard companies. And the companies simply volunteer their money-losing or lowest-profit signs. Says Charles F. Floyd, a leading authority on billboard law. "The FHWA has been paying the industry an average of $1,750 per billboard to prune out the signs it wants to get rid of anyway. for instance, when a stretch of U.S. 17 in Georgia was bypassed by a new highway, most of its old signs were removed with federal beautification funds."

In fiscal 1983 the government paid for the removal of 2,235 old billboards—while the industry added about 18,000 new ones. Most of the removed signs were small ones, on low-traffic roads. The new ones were bigger, taller and located on heavily traveled stretches.

Since 1982 the Administration has requested no new funds for sign removal. This means that when its present $11-million surplus runs out, the removal program will end. One FHWA document concedes that large companies are already erecting signs in known illegal locations, believing the beauty program to be dead.

Now the good news. The picture below shows a couple of small signs pointing to Sugarbush, Vermont's huge complex of hotels, condominiums and ski trails. These small signs at its access road, plus a few dozen six-by-six-inch plaques it can post at state-run sign plazas, are the only outdoor advertisements the resort is permitted in Vermont.

In 1968, when Vermont woke up to what the Beautification Act was doing to its roads, it was the first state to rebel. It threw out billboards altogether, even in commercial and industrial areas. To replace them, it has so far allowed 1,400 of these little markers to go up.

The OAAA says Vermont's law is unfair to the country's tourist industry. But Vermont's three major trade associations—the Vermont Ski Areas Association, the Hospitality and Travel Association and the Chamber of Commerce—strongly back the ban. Says Chandler Weller, publicity director of Sugarbush, "I suppose if we were allowed to put up billboards we'd steal some customers from other ski resorts. But then they'd put up their signs and we'd all be worse off, since we'd lose the people who come to Vermont because they like seeing scenery instead of billboards." (In Maine, which passed a law similar to Vermont's in 1977, the tourist industry's reaction has been the same.)

On the national level, in 1981, a group of citizens established the Coalition for Scenic Beauty, the first national organization even devoted solely to getting reform of the Beautification Act. By last year they had enough support to finance a Washington office, and now they're going to work on Congress.

A long, tough fight awaits them. The OAAA is widely known for the influence it exerts both on key Congressional committee members (it was the second-largest payer of speech fees to Senators in 1983) and on the bureaucrats at the FHWA. The Coalition's first job will be to get Congress to hold hearings on the subject, and investigate how to rewrite the law to bring back amortization and get rid of tree-cutting, "volunteer" lists, unzoned zoning and monopoles.

But passing a good law will have little effect if officials who administer it favor the industry. Congress should look into the lobby and its influence—put officials of both the FHWA and the OAAA under oath and find out what's been going on behind the scenes.

Fortunately, the Senate committee that oversees the Beautification Act—Environment and Public Works—is now chaired by Sen. Robert Stafford (R., Vt.), who has fought the OAAA harder than any other member of Congress. Any investigation he might conduct would be thorough and hard-hitting.

If you want to join the movement to protect America's scenic beauty, write your Representative and Senators (with a copy to Stafford) asking for committee hearings on the Beautification Act. To find out what you can do, nationally or in your own community, write to Coalition for Scenic Beauty, 1511 K St., N.W., Washington, D.C. 20005. The billboard industry is powerful but, like all parasites, it is vulnerable.

SECTION-BY-SECTION ANALYSIS OF THE HIGHWAY BEAUTIFICATION ACT OF 1985

Sec. 2(a)(1) removes the Secretary of Transportation's discretion to suspend the penalty for nonconformance with the Act.

Sec. 2(a)(2) permits the states to have stricter sign laws without a federal requirement of cash compensation for removal of nonconforming signs. State or local laws for compensation or amortization would apply.

Sec. 2(a)(3) is a conforming amendment which removes the loophole in the current law permitting signs in rural areas (unzoned commerical or industrial areas).

Sec. 2(a)(4) strikes all sections of the Act requiring federation compensation for the removal on nonconforming billboards. Retains bonus payment provision.

Sec. 2(a)(5) adds a new subsection requiring an annual report on state compliance with the Act, including information on the extent to which states are developing standard signs for roadside businesses.

Sec. 2(b) eliminates subsection (d) in the current law, which permits signs in both zoned and unzoned commercial or industrial areas. In effect, bans new signs in these areas.

Adds a new subsection (d) which prohibits destruction of vegetation on highway rights-of-way except in front of official signs.

Substitutes a new subsection (e)(1) which provides a five-year amortization period for signs in unzoned commercial or industrial areas made nonconforming by this bill. After five years, signs must come down.

Substitutes a new subsection (e)(2) which allows signs standing in areas zoned commerical or industrial on the date of introduction to remain standing.

Section 3 provies that the law goes into effect in each state after the end of the first regular session of the state legislature after the date of enactment.

THE CRISIS IN SOUTH AFRICA

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. SABO. Mr. Speaker, as the House begins debate on the Anti-Apartheid Act of 1986, I commend to all Members the state-

ment of Rev. David W. Preus, presiding bishop, the American Lutheran Church, which follows. Bishop Preus brings firsthand knowledge and insights which I believe are invaluable to our understanding of the problems in that troubled region of the world. I am hopeful that in the coming days we will pass meaningful legislation which not only registers our deep concern but also brings pressure to bear on the Government of South Africa.

STATEMENT OF REV. DAVID W. PREUS, PRESIDING BISHOP, THE AMERICAN LUTHERAN CHURCH

Good morning. I am Rev. David Preus, I serve as Presiding Bishop of The American Lutheran Church, headquartered in Minneapolis, Minnesota. I thank you for this opportunity to state my views on events in southern Africa.

The ALC has a baptised membership of 2.3 million in over 4900 congregations throughout the country. More importantly for our purposes here this morning, the ALC has close and long-standing ties to the churches of South Africa and Namibia. As you may know, more than half of the Namibian population is Lutheran, and as a church we feel a special responsibility to pay attention to the situation in Namibia, which so often seems to be left out of discussions about U.S. policy towards the region. I have traveled to Namibia twice in recent years, and also keep in touch with the Namibian Lutheran churches through our common work in the Lutheran World Federation. Representatives of the ALC travel to Namibia whenever possible, though some of our people continue to have visa applications denied. The most recent such trip was last March of this year, when four of our bishops led a group.

I will not spend time describing in great detail the situation of churches of Namibia. We are all apalled by the conduct of South African security forces during the so-called "State of Emergency" in South Africa. You should simply note that the Namibians have been living with even greater South African military repression for years.

I will, from time to time, however, quote from a speech given earlier this month in Brussels by Bishop Kleopas Dumeni, Bishop of the 350,000 member Evangelical Lutheran Church in Namibia (ELOC). Bishop Dumeni is an outstanding leader, deeply loved by his people, honored and respected by his peers in the Lutheran World Federation. He is intelligent, non-violent yet strong, and sustained by indomitable faith.

There have been negotiations aimed at the withdrawal of South African forces from Namibia since before its occupation was deemed illegal by the World Court 15 years ago. In 1978, the negotiations, with U.S. leadership, culminated in United Nations Security Council Resolution 435, which provides for a cease-fire between South Africa and the South West Africa Peoples Organization (SWAPO), the withdrawal of South African forces from Namibia, the drafting of a constitution, and free-elections run by the South Africans but supervised by the U.N. Since that time, the churches of Namibia have sought just one thing—implementation of that resolution. We in Lutheran churches of the U.S. have consistently supported them in this effort.

Yet it has not come. South Africa has had every opportunity to agree to its implementation, eight years of opportunities. Yet it has refused at every step of the way. In our view it is unfortunate that, since 1981, the U.S. government has provided the South Africans with the perfect excuse not to implement it. This excuse has been the American refusal to pressure South Africa to implement 435 until agreement has been reached on the withdrawal of Cuban troops from Angola. The Cuban troops are in Angola to help defend it from South African attacks launched from Namibia and attacks by a South African-supported (and now, American-supported) rebel group that also operates from Namibia.

The U.S. has put itself in an intolerable position. In spite of U.S. support for UNSCR 435, it grants South Africa the leeway to remain in Namibia for as long as it wants. South Africa, by its attacks on Angola, can assure itself that the condition placed on implementation of Resolution 435, that is, the removal of the Cubans, can never be fulfilled. And the U.S. has publicly accepted the South African position as reasonable.

Let me be as explicit as possible on this point. The churches and the vast majority of people in Namibia see no threat whatsoever in the presence of Cuban troops in Angola. They see no reason why we should allow South Africa to justify its brutal occupation of their land because of events which don't in any way concern them. To quote Bishop Dumeni:

"To link the issue of the presence of Cuban troops in Angola to the indipendence of Namibia as a precondition is, to us, precisely the same as to take a powerful gun and shoot to death the people of Namibia indiscriminately."

U.S. support for UNITA has made the U.S. position clearer in the Namibians' eyes. U.S. support for Jonas Savimbi makes the U.S. an ally of South Africa, both in fact and in perception. It is now U.S. weapons, as well, which are precluding the fulfillment of the condition the U.S. has placed on implementation of Resolution 435. As far as the Namibian churches are concerned, there are now two countries responsible for the occupation of Namibia: South Africa and the U.S.

Again, quoting Bishop Dumeni's speech, "We Namibians are demanding our freedom and independence from the Government of South Africa and America." This from a man and a people who have for years looked to the U.S. as a model for people seeking freedom and justice.

It is unclear whether the South African government will ever allow Resolution 435 to be implemented. It is clear that the last five years of U.S. attempts to cajole South Africa have not brought Namibia any closer to independence, and have sucked the U.S. into actions which make the negotiations more difficult. not less.

Effective U.S. support for Namibian independence now requires major changes in U.S. policy, not minor shifts.

The U.S. should:

1. Impose comprehensive economic sanctions against South Africa and Namibia. Bishop Dumeni says "the South African government nees to be liberated." He then called for economic sanctions against South Africa. I join him in that call, and our ALC national convention has by formal action asked the U.S. government to impose such comprehensive sanctions.

2. Call for the immediate implementation of U.N. Security Council Resolution 435, without precondition.

3. End aid to UNITA, which gives all of southern Africa—black and white—the belief that when push comes to shove, the U.S. will side with South Africa's White government.

4. Always include implementation of UNSCR 435 as one of the primary criteria by which the U.S. will judge the actions of the South African government.

5. Continue to reject any overtures by the current "MPC" government in Namibia or any government in Namibia not brought into place by the mechanism of Resolution 435.

6. Strengthen U.S. contacts and relationships with SWAPO. Minimally, we must ensure, for instance, that the unnecessary harrassment of SWAPO officials seeking to enter or return to the U.S. has ended.

There is a short answer to the commission's second question—how the U.S. government can assist private organizations helping the Namibian people. Unless the U.S. makes the necessary changes in its diplomatic policy, it cannot. For instance, the churches of Namibia have no interest in accepting U.S. government funds, nor do they want our churches to accept U.S. government funds for our work in Namibia, should they become available. I would add that we have been told by senior South African church leaders that they are not interested in U.S. government funds either, at the present time. The fact of the matter is that U.S. government involvement in private efforts in South Africa and Namibia are politically counter-productive, and not wanted by our partner churches in the two countries.

Lastly, you have posed the question of how one can build the domestic consensus necessary to sustain a useful policy towards South Africa. First, I would suggest that the basis of that consensus must be built around a common reading of the South African government. Our church leadership in Namibia is very clear about how they read the South African government. Again, I quote Bishop Dumeni. "I know for sure that the oppressor will never hand over freedom and independence to her victims, the oppressed, voluntarily and freely on a silver plate." I am convinced that we have misread the South African government time after time. It is not evil itself, but it is as much captured by evil as its victims are, and it is powerless to change by its own free will. That must be one leg of consensus.

Secondly, I understand one of the bits of conventional wisdom around Washington is that "all politics is local politics." I think that's true in this case, too. The U.S. consensus on southern Africa is split in two over which is the greatest evil: apartheid and South Africa's occupation of Namibia and destabilization of the region? Or is it what some claim is an impending domination of the region by surrogates of Moscow? In southern Africa, there is no debate about these questions. U.S. fear of "communism" in the region is seen as an absurd excuse not to address the clear and present dangers of apartheid. I would suggest that in a global geopolitical struggle, we will not do well if we do not get the local politics right. That must be the second leg of the consensus.

Thank you.

ASAT ARMS CONTROL VITAL ACCORDING TO SENIOR LIVERMORE OFFICIAL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. BROWN of California. Mr. Speaker, a recent issue of Science magazine contained one of the most significant articles yet published in support of arms control limitations on antisatellite [ASAT] weapons. The article, written by Michael M. May, the Associate Director of Lawrence Livermore Labs, makes clear that our national security interests would be greatly enhanced through ASAT arms control measures.

Dr. May's article, "Safeguarding our Military Space Systems," argues that protecting our military satellites can best be accomplished through a combination of unilateral satellite survivability measures and bilateral ASAT arms control limitations. In sharp contrast to the administration's view, Dr. May states that there exist a variety of constructive ASAT restrictions that would enhance U.S. security and could be verified with high confidence.

The administration's view has been that ASAT arms control is a bad idea. The administration has consistently refused to negotiate with the Soviets on ASAT weapons, claiming that ASAT agreements that would strengthen U.S. national security do not exist; and furthermore, even if they did, such arrangements would be hopelessly unverifiable. Dr. May disagrees, charging that "broad statements, arguing that * * * the deployment of antisatellite systems [ASAT's] is unverifiable, do not usefully summarize what can or cannot be done" in the area of ASAT arms control. May states that most ASAT threats, including powerful lasers capable of attacking U.S. satellites in high orbits, could be verified with ease. Powerful laser ASAT's, according to May, "would be extremely difficult to hide. They would probably be the size of a football field."

Dr. May is a veteran weapons designer with impeccable credentials within the defense establishment. His views cannot be casually dismissed. For this reason, it is of major significance that he has come out so forcefully for ASAT limits. His entire article rests on the two premises that: First, U.S. national security depends on the continued survivability of its vital military satellites; and second, ASAT arms control measures could play an important role in helping protect those satellites. Dr. May concludes that "proceeding with space arms control measures, in conjunction with unilateral survivability measures, is well warranted."

It should be realized that Dr. May's views are entirely in accord with the position that has been taken by the House. As my colleagues surely recall, the House attached an amendment to the defense authorization bill for fiscal year 1986 to increase funds for satellite survivability and also to impose a mutual United States-Soviet ASAT test moratorium. The moratorium, which was signed into law in December, was adopted on the grounds that it would help prevent an ASAT arms race. Such a competition, it was understood, would eventually jeopardize the survivability of important U.S. military satellites, which is what Dr. May warns against.

The House will soon debate this question again during consideration of the defense authorization bill for fiscal year 1987. At that time, I trust we will maintain our established position on this issue. For the interest of my colleagues, Dr. May's article follows:

[From Science Magazine, Apr. 18, 1986]

SAFEGUARDING OUR MILITARY SPACE SYSTEMS

(By Michael M. May)

[Figures not printed in RECORD]

The measures that can be taken to safeguard our military space systems or the functions carried out by these assets, the potential effectiveness of the measures, and the utility of arms control agreements vary according to the function to be safeguarded. Broad statements, arguing that space assets are few and fragile or that the deployment of antisatellite systems (ASAT's) is unverifiable, do not usefully summarize what can or cannot be done.

Military space systems consist of satellites, earth stations, and links between them (Fig. 1). The characteristics that mainly affect the vulnerability of these systems, such as altitudes of orbits, nature of components, and the like are discussed in the first part of this article. Then various ways of attacking the systems along with steps that can be taken to counter the attack or make it less effective are described. Next, the adequacy of these steps in safeguarding some space system functions are evaluated, mainly to illustrate the kind of analysis that must be done in each case. Finally, the potential value of some arms control agreements in further safeguarding these functions is discussed.

VULNERABILITY OF MILITARY SPACE SYSTEMS

Space systems can be used for surveillance of either strategic assets or tactical situations, for warning, for communication, for weather information, for navigation, and for targeting. Figure 2 displays typical orbits for these various kinds of missions. The orbit is the main determinant of vulnerability. It determines the time and cost for an earth-launched ASAT to get to the satellite, as well as the power needed for a laser or particle beam to destroy a satellite. Warning and communication satellites are typically in very high orbits. Surveillance, weather, and targeting satellites, which need to see details on the surface of the earth, will typically be in lower orbits—how low depends on the scale of the details needed and on the resolving power of the optics. Radar surveillance and navigation satellites can be in intermediate orbits.

Several kinds of componentry might go into the various kinds of satellites (Fig. 3): transponders used for communication, radar antennas, solar power panels, and internal electronics. Not all componentry would be on any one satellite, and there are other kinds. The ones shown in Fig. 3 are all necessary for some satellites. They illustrate the range of vulnerabilities that can be expected from most componentry.

Vulnerability can be due to material damage, blinding or jamming of sensors, or damage or false signals induced in the electronics. Let me take up material damage first. Some of the materials used on satellites that were designed without special attention to hardening can be quite fragile. Normal solar panels, for instance, will fail at relatively low levels of laser or nuclear irradiation. With special attention to the materials and design, however, the material problem can be solved to the point that a satellite can only be destroyed by either (i) a direct hit, (ii) a nuclear explosion sufficiently close that it can destroy only that satellite and no other (*1*), or (iii) laser irradiation at levels that can be delivered only by sizable, costly facilities designed and tested for the purpose.

The blinding or jamming of sensors must be done by radar, infrared, or visible light sources according to the frequency band the sensor operates in. Such "in-band" jamming can be countered by rapidly changing the frequency at which the radar operates, by rapidly shuttering the optical elements of a camera, or by other measures. One particular countermeasure applies to infrared sensors. For launch warning purposes these sensors need only pick up the infrared signal from the missile plume above the atmosphere. The plume emits over a whole range of frequencies. The frequency chosen for the sensor to react to, therefore, can be one that does not penetrate the atmosphere. Jamming such a signal would require mounting the source on a rocket, greatly increasing the cost and difficulty.

Damage to electronics componentry can be induced by nuclear explosions above the atmosphere, by penetrating neutral particle beams from space platforms, or possibly by extremely powerful radar transmitters. There are effective countermeasures against damage by radar transmitters. Nuclear explosions can destroy a satellite but, with proper system design, one nuclear explosion per satellite would be required. Space-based particle beams that can disable satellite electronics have not been designed. Counters to them are possible in principle at some cost in weight, and the particle beam satellite can itself be attacked.

Ground stations and links between the satellites and the ground are also needed for space systems (Fig. 4). Ground stations usually are large buildings. The major options for lessening the vulnerability of ground stations are the same as the major options for lessening the vulnerability of strategic weapons systems: to defend them actively, to harden them by putting them underground, to hide them, or to make them mobile and proliferate them. The latter is probably the preferred approach for ground stations. Underground siting is difficult for facilities that must keep communications open most of the time with space, hiding is unreliable in the United States, and active defense would run afoul of the Anti-Ballistic Missile Treaty requirements and may also be unreliable unless combined with some form of mobility and proliferation. Mobility can be, and is being, undertaken for several key systems with the use of airplanes, ships, and ground-mobile terminals.

The third element of space systems are the (electromagnetic) links between satellites and ground stations or among satellites. These links can be vulnerable to interference (including covert, deniable interference) unless measures are taken to protect them. The measures and countermeasures in this area are complex and classified and do not decisively favor either the offense or the defense. In general, it is difficult or impossible to deny with any confidence simple information, such as warning, even over a short period of time. Given a longer period of time, it is difficult to deny even complex information. If the information is both complex and time-urgent, however, as would be the case for a ballistic missile defense system, various means of interference, including nuclear means, could be very disrup-

tive. Laser communication links are very robust against jamming and could offer a solution.

ATTACKING AND PROTECTING MILITARY SPACE SYSTEMS

With this general survey of key componentry and vulnerabilities in mind, let me turn to the various methods of attacking and safeguarding space systems, concentrating on satellites since that is where the main technical questions are currently. Safeguarding ground stations and electronic links from attack is equally important, but the technological problems and potential solutions are probably more familiar.

Let me begin with nuclear explosives, which were the earliest ASATs historically. Since there is no way to harden against a nuclear explosion that comes close enough to the satellite, the key improvement from the standpoint of survivability is to make sure that one nuclear explosion is needed to destroy each satellite. That is possible to do, except possibly against nuclear-driven x-ray lasers. Satellites are typically thousands of kilometers apart, whereas the lethal range of even a 1-megaton explosion against a satellite hardened to a feasible level of hardness is less than 100 km. (An unhardened civilian communication satellite could be damaged at distances of thousands of kilometers by a high-yield nuclear explosion in space.) Making satellites nuclear-hard thus serves to make the task of attacking space systems more complex and time consuming. Nuclear weapons, however, probably remain the cheapest way to attack a properly designed and hardened space system.

Conventional explosives and kinetic energy weapons, the latter of which are sophisticated guided bullets, can also be used against satellites. The guidance requirements are much more severe for high-explosive weapons than for nuclear weapons and even more severe for kinetic energy weapons that must hit the target.

Nuclear weapons, conventional weapons, and kinetic energy weapons could all be stationed in space. (Nuclear weapons in space are prohibited by the Outer Space Treaty.) Space-basing would greatly increase the cost of any ASAT system. On the other hand, space-basing an adequate number of weapons can decrease the time needed for ASATs to put a target system composed of several satellites out of commission (Fig. 5). This time element is particularly important in the case of warning and strategic communication satellite systems. ASAT systems which can accomplish the destruction of these systems without giving any warning could be particularly dangerous.

Space-based ASAT systems that are to be effective on a prompt time scale against a hardened set of target satellites are likely to be noticeable, however, especially if the traget satellites are placed into unique orbits. It may be difficult or impossible to determine without actual inspection what is inside a satellite. But maneuvering or emplacing a number of otherwise unidentified satellites close enough to the several target satellites to destroy them promptly is likely to give warning of hostile intent. Agreements that satellites will be kept a certain distance apart when in the particular orbits, or that they will submit to some sort of identification procedure if they come closer than a certain distance, would greatly increase the likelihood of warning. Such agreements, conventionally termed "rules of the road," will be discussed below.

Laser ASATs, both ground-based and space-based (Fig. 6), have the advantage that they deliver their lethal punch at the speed of light and the disadvantage that it is much more difficult and costly to package enough energy to do damage in laser beams than in explosives or bullets. For this discussion, assume that the sensors have been designed so that lasers cannot do permanent damage by in-band illumination at any greater range than they can damage other materials in the satellite. Materials can be damaged either by continuous irradiation above a certain level or by a large single pulse of energy. We will assume a damage threshold against both mechanisms within the present state of the art—that is, above that of unhardened satellites but below what advanced material research promises to do.

Under these conditions, powerful but presently or soon to be available laser systems (lasers with the necessary optics, pointing, tracking, and computer capability) could damage a satellite from 100 to 1000 km away. Satellites in relatively low orbits could be damaged by such systems based on the ground. The main problem is not the laser power but adaptive optics to compensate for the natural fluctuations in the atmosphere's optical properties. The lasers and optics could probably be hidden, but the pointing and tracking and other experiments needed to develop the full ASAT system would probably be detected.

A high-orbit satellite of the stated level of hardness, on the other hand, could not be damaged from the ground except by lasers with power and optics far beyond what is now available or what will be available operationally in the next 10 years. Not only are these lasers not available now or expected soon, but they would be extremely difficult to hide. They would probably be the size of a football field, with optical components and stable bases for them larger than most astronomical installations, with power supplies in the hundreds of megawatts at least, the whole installed in a region that should be free from cloud cover most of the time if the ASAT system is to be effective.

Research on advanced material and other techniques could give us satellites orders of magnitude harder than the present state of the art. To damage such future satellites even in comparatively low orbits would take very complex, noticeable laser facilities.

High-orbit satellites with state-of-the-art level of survivability could be damaged by space-based lasers deployed within 100 to 1000 km of the targeted satellites, but such space-based laser ASAT's could not sweep the sky clear of satellites in a short time unless they were deployed one-on-one. This would make the space-based laser ASAT system not only difficult or impossible to deploy covertly, but also probably much more expensive than the targeted system.

In addition to lasers that operate in the visible and infrared frequency range and can be based on the gound, x-ray lasers and particle beams, which cannot penetrate the whole atmosphere, could be based in space or launched into space at the time of the attack. The x-ray lasers would involve the use of nuclear explosions. Particle-beam accelerators would be high-cost items, for the same reason that optical and infrared laser are, namely that expensive and heavy facilities would have to be orbited. Both x-ray lasers and particle beams are in the research stage.

SURVIVABILITY OF MILITARY SPACE SYSTEMS

How do these various threats to the space systems interact with the timely functioning of the systems and what can be done about it? The question of space survivability must be dealt with separately for each of the main types of space systems.

As a first example, let me consider warning and communication systems. They are stationed in high orbits, usually geosynchronous. They must function in minutes. Because of their central role in nuclear operations, interference with these systems in situations that do not threaten to become nuclear in any participant's judgment is perhaps unlikely. In situations involving nuclear threat or alert, on the other hand, these systems become salient potential targets.

Ground-launched, direct-ascent ASAT's would take hours to reach geosynchronous altitudes. During that time, there is a chance (how much of a chance depends on our detection capability and alertness) that they could be recognized and action could be taken. Such action could include evasive motion on the part of the targeted satellites (the reaction of ASAT's turn could confirm whether or not there was an attack on the system), higher states of alert, and attaching more credibility to the other means of strategic warning. The plausibility of any particular action would depend on the circumstances.

Although direct-ascent ASAT's against warning and communication systems might well be used in connection with a nuclear attack, space-based ASAT's and future, very powerful ground-based lasers that might be able to destroy the systems rapidly or without notice are of greater concern. As noted above, however, if we carry out the various measures now planned or in progress to make the warning and communication systems less vulnerable, to give them unique orbits, and to improve our ability to monitor what is going on in space in real time, we will probably be able to detect any ASAT system likely to be effective rapidly and will probably also know if an attack is in progress.

Low-altitude systems offer a more difficult safeguarding problem. The lower orbits make it easier for ground-based lasers and faster for direct-ascent ASAT's to destroy the satellites. We would probably know, from testing and other necessary activities, whether a threat existed and, with proper system design for survivability, the required ASAT system would have to be large and expensive. Thus, although sudden denial in a crisis of the information these satellites bring could not be ruled out, an attack could probably not be carried out in a covert or deniable way if we design the systems appropriately.

Different space systems have their own time lines, cost elements, and vulnerabilities. In most cases, perhaps all, easy or deniable interference with the systems can be prevented through the use of sophisticated techniques to protect communication links and by hardening satellites so that low to moderate power, ground-based lasers cannot damage them.

DISCUSSION

To reach some conclusion regarding the usefulness of various possible arms control arrangements in space (2), we must have some notion of what eventualities we want to prepare against at what level of priority. On the whole, there has been agreement that the essential warning and communication capabilities should be preserved at a very high priority even in the face of a neclear attack. Much can be done to preserve these capabilities by unilateral measures. Stabilizing this stituation seems a reasona-

ble objective for arms control agreements in space, assuming there is no overriding rationale for deploying ASAT's in connection with or to deter conventional wars or crises, an assumption which seems warranted by history to date. Such an objective would lead us to focus first on space-based weapons and on ground-based laser systems sufficiently capable to damage hardened satellite systems, especially at high altitudes.

Verification is a major concern. There is no hope of arms control agreements being adequately verifiable unless we take the steps outlined above, as well as others, to enhance the survivability of the space functions as much as possible unilaterally, consistent with reasonable increases in systems cost. If we do not take these steps, small, not readily identifiable ground-based lasers, for instance, could have an ASAT capability. If we do take those steps, however, several agreements might enhance the security of at least the high-altitude space assets most relevant to nuclear stability in an adequately verifiable way. The following is a tentative and partial list.

(1) Develop rules of the road, that is, international agreements governing the use of space. These agreements might, for example, make it legal for any signatory nation to take some action regarding other nations' satellites coming closer than certain distances to specified satellites of its own. The stated distances and specified satellites would have to be worked out according to the orbits of the satellites to be protected and according to the requirements of civilian space users. Rules of the road that provide effective protection or warning may only be feasible in orbits that are not heavily used by civilian space users. The action to be permitted would also depend on the circumstances. It could range from requiring that entering legal satellites carry beacons to providing opportunities for inspection to actual destruction of a trespassing satellite (3). These rules of the road would not provide foolproof safety against space mines and other space-based ASAT's. They would make the task of effective attack against certain space functions, which should already be a difficult matter if the systems carrying out these functions are suitably designed, more difficult yet and more uncertain.

(2) Ban the test and deployment of ground-based lasers in an ASAT mode. Bans on lasers in the appropriate power range coupled to sophisticated compensating optics to send the light through the atmosphere are probably very likely to be verifiable.

(3) Ban the test and deployment of projectile launchers, lasers, particle beams, and any other ASAT's in space. These would be in the main distinctive space installations that would require testing in space. The associated test program and deployment in numbers adequate to constitute a threat to a properly designed space system should both be verifiable.

Such arms control measures would not make our satellites safe against nuclear attack by specially configured intercontinental ballistic missiles, for example. They could, however, augment unilateral measures in ensuring that warning and communication systems, especially, could survive for some crucial period of time in the event of a nuclear war or crisis. They could also help avoid deployments that seem to add little or nothing to our security and that might make the handling of lower level conflicts more difficult and more risky.

If extensive strategic defenses are deployed, the ASAT and counter-ASAT picture changes completely. This is particularly true if space-based weapons are developed and deployed. Under such circumstances, all space assets, whether needed for defense or offense, for warning or other purpose, would have to operate in a very hostile environment. They would have to be hardened beyond anything now contemplated, at commensurate cost, or alternatively be mobile, defended, or proliferated. Space hardware would replicate the characteristics of earth-bound military hardware. We would have the space analog of tank corps and carrier battle groups. The recommendations herein do not apply to such an era. Arms control in such an era, if it were possible, would be closer to the Strategic Arms Limitation Treaty-type of agreements, in which limits in the thousands or perhaps hundreds are agreed to.

The question of whether and when to proceed toward strategic defenses thus subsumes the question of safeguarding present space functions. Space assets much more complex and expensive than the present ones must be safeguarded if there are to be effective space defenses, and they must be safeguarded against very severe threats. It is not clear to me when we will know whether this can be done. The sort of partial ASAT ban suggested above would not in the long term be compatible with an active R&D program aimed at testing the survivability of strategic defenses in space. We are therefore thrown back on whether and at what pace to proceed toward strategic defenses as the first question to settle.

My view is that the right kind of strategic defenses could be helpful both to deterrence and to survival but that we are a long way from being able to tell whether that potential will be realized. Defenses could be helpful to deterrence, if coordinated with survivable offensive forces, by reducing both the real and the perceived differences between first and second strikes and by offering the possibility of defending against accidents and of stalemating limited attacks. They could also limit damage from a nuclear attack, if they are sufficiently survivable and sufficiently cost-effective so as not to lead to offsetting buildups.

However, we are not close to knowing whether an effective defense system can be built or what it would look like. We do not know for instance whether it should be based in space and to what extent, nor do we know what the components of the system should be. If space deployments are needed, a whole new regime of launch capabilities will have to come into being first. It thus seems unlikely that a strategic defense deployment of any value can begin within at least 10 years.

Thus, the United States and the Soviet Union could agree to maintain the Anti-Ballistic Missile Treaty for some period of time, perhaps 10 years, possibly with exceptions to be negotiated for certain tests, without substantially harming the prospects for an effective defense. We could also complement the Anti-Ballistic Missile Treaty with ASAT agreements and rules of the road, those again to be good for the same period of time. Such measures could give us a chance to see what if anything new technologies might lead to in the way of a more satisfactory basis for peace.

CONCLUSION

Space systems are not all the same from the point of view of survivability. High-altitude systems, such as warning and communication systems have the best prospects.

Similarly, ASAT systems are not all the same form either the standpoint of effectiveness or verification. In general, the more survivable the space system, the more costly and extensive the ASAT system needed to attack if effectively and the more verifiable a ban on such effective ASAT systems is likely to be. The exception is in-orbit weapons, which might be handled with rules of the road.

Thus, from the point of view of safeguarding our space assets, especially our warning and communication assets which are most crucial for nuclear stability, there is a definite advantage to at least partial ASAT bans, if verifiable, and to appropriate rules of the road.

The deployment of strategic defense systems might change these conclusions. It might for one thing enormously increase the amount of resources that we would launch into space. However, that technology does not appear to warrant an early deployment decision for strategic defenses. As a result, it seems that proceeding with space arms control measures, in conjunction with unilateral survivability measures, is well warranted.

REFERENCES AND NOTES

1. What is said here and elsewhere in this article regarding nuclear explosions or lasers in space may not apply to nuclear-driven x-ray lasers.

2. For a history of ASAT negotiations and a survey of current positions, see "Nuclear Arms Control, Background and Issues" (National Academy Press, Washington, DC, 1985), chap. 6.

3. A Wohlsetter and B. Chow, Wall Street Journal, 17 July 1985, p. 28 (eastern edition).

4. Supported by DOE contract W-7405-ENG-48 to Lawrence Livemore National Laboratory.

DIVINE PROVIDENCE HOSPITAL DEDICATION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. GEKAS. Mr. Speaker, I will have the great pleasure of participating in the dedication and blessing ceremony for the Tower, the three-story addition at Divine Providence Hospital in Williamsport, PA, on Sunday, June 22, 1986, with the theme, "A Celebration of Life." The ceremony coincides with the hospital's 35th anniversary.

Participating in the ceremony will be Mother Georgeanne Eisenhower, provincial superior of the Sisters of Christian Charity; Most Reverend James C. Timlin, bishop of the Diocese of Scranton; Sister Jean Mohl, president of Divine Providence; Peter J. Goodwin, chairman of the board of directors at the hospital; Dolly M. Wilt, chairman of Lycoming County Commissioners; Mayor Stephen J. Lucasi; and Msgr. William J. Fleming, dean of the Lycoming County Deanery.

When Sister Mary Theresilla Hills, a native of Williamsport, reported the need for another hospital in her hometown to the Sisters of Christian Charity, plans were made in early

1945 to "provide a place where the sick and injured could be treated in accordance with the mercy and compassion of Christ, coupled with the best principles of medical practice."

Two campaigns were conducted to build Divine Providence Hospital, one in 1945–46 and the other in 1948–49. Excellent community and business support and involvement oversubscribed both goals. Ground was broken at 1100 Grampian Boulevard on June 27, 1948, and the hospital was dedicated on May 20, 1951. The hospital opened its doors on June 1, 1951, under the administration of Sister Emilene Wehner, SCC. There were 183 beds and 75 employees.

Always striving to improve services to patients, the hospital expended over $200,000 in improvements in its first 6 years of operation. Additional land was purchased for future needs, and services and employees increased.

The first expansion of facilities began in 1958. The construction, costing over $1 million, included a medical library, chapel, chaplain's quarters, convent, auditorium, and administrative offices. The laboratories, radiology, and dietary departments were expanded and bed capacity was increased to 200.

A psychiatric inpatient unit was opened on the south wing of the third floor in the early 1960's. In May 1963 the intensive care unit was opened. During its first year of operation, 334 patients were treated. In order to keep up with patient needs and medical advances, another major renovation and expansion plan was developed in 1968. Friends raised $1,355,000, and ground was broken in November 1972. The construction, when completed 3 years later, doubled the size of the hospital and provided space for several community services.

Major construction included the health services building, which was dedicated in July 1974 and housed doctors' offices, the outpatient pharmacy, and community health services. The latter was designed to meet the needs of the families without a family physician, and in its first year of operation, over 7,500 patients were seen by the CHS physicians. The new health services building also housed the Community Mental Health Center, which was designated by the Federal Government to offer comprehensive services in Lycoming and Clinton Counties under the Mental Health Act of 1966.

Several regional services were begun in 1974, including the Francis V. Costello Dialysis Center with a hemodialysis treatment and training center on the third floor. In 1975 the addition to the main building was completed. Total bed capacity was increased to 225—including 21 additional beds for the inpatient mental health unit, and 4 for the intensive care unit.

Divine Providence Hospital's concern for the total health needs of the area has generated numerous community programs. These include public service announcements on local radio stations to encourage healthful practices, free blood pressure screening clinics, industrial health programs, health hazard screenings, babysitting clinics, and educational seminars on selected health promotion subjects. Special group treatment programs are arranged for those, such as Vietnam veterans, who have particular needs not effectively addressed by conventional service programs.

After several years of detailed planning and hard work on the part of many people within and outside Divine Providence, the institution received a certificate of need in July 1983 from regional and State regulatory agencies to proceed with a modernization and renovation program. The $13.3 million construction project which is being dedicated on June 22, 1986, is largely the result of tremendous growth in outpatient services over the previous decade. The addition will house a new emergency department, ambulatory care center, and surgical suite and expanded space for the cancer treatment center.

Throughout 3 years of growth, change, and challenge, Divine Providence Hospital has never lost sight of its founding philosophy: To address the physical, social, emotional, and spiritual needs of each patient. I would like to ask my colleagues in the U.S. Congress to join me in recognizing Divine Providence Hospital on its 35th anniversary and everyone who worked to make dreams become reality.

TRANSFER OF DULLES AND NATIONAL AIRPORTS TO REGIONAL AUTHORITY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. MINETA. Mr. Speaker, the Senate has recently passed legislation implementing an administration proposal to transfer control of Washington Dulles and National Airports to a regional authority. Many of my colleagues have indicated their concern with the administration proposal. The issues raised include whether the proposal would place Baltimore-Washington International Airport at an unfair disadvantage; whether the proposal would adequately compensate the Federal Government for giving up control of the valuable airport properties; and whether there is a national interest in the airports serving the Nation's Capital requiring that these airports should continue to be run by the Federal Government.

The Aviation Subcommittee, to which the Senate bill has been referred, will soon begin hearings on the legislation. At these hearings I would like the subcommittee to have the opportunity to consider other options for the future control of the airports serving the Nation's Capital. For this reason, I have introduced legislation to transfer control of the airports to a Federal Government corporation under the supervison of the Secretary of Transportation. This legislative approach would preserve Federal control but would also permit the airports to go forward with the capital development they so badly need. Despite the extent of the need, this capital development is unlikely to be undertaken if we continue to rely on the current system of funding the airports through annual appropriations which operate under the constraints of the Gramm-Rudman-Hollings Act and the budget process.

I emphasize that I am not committed to a Federal corporation or any other particular approach for dealing with the Washington airports problem. Furthermore, I am prepared to give openminded consideration to the comments of interested persons on the advantages and disadvantages of various approaches. I would also emphasize that I am not locked into any of the details of the Federal corporation legislation and would welcome suggestions for changes to help the corporation function more effectively.

The introduced bill is cosponsored by Congressman HOWARD, chairman of the Committee on Public Works and Transportation, Congressmen SNYDER and HAMMERSCHMIDT, the ranking minority members of the committee and its Subcommittee on Aviation, and Congressman OBERSTAR. The bill establishes a Federal Government Corporation, the National Capital Airports Corporation, which would operate under the general supervision of the Secretary of Transportation.

The Corporation would be managed by a General Manager appointed by the Secretary. There would be a five-member advisory board appointed by the Secretary, which would meet at least once every 6 months to review the Corporation's general policies. The Corporation's employees would be civil servants.

The Corporation would operate the airport through a self-supporting revolving fund, which would not be subject to annual appropriations. Revenues from the airport would go into the fund, and the Corporation could use the fund to pay operating and capital expenses.

The Corporation would be authorized to borrow up to $700 million for capital development of the airports.

The Corporation would be eligible for Airport Improvement Program grants from the airport and airway trust fund. To avoid a conflict of interest for DOT/FAA in choosing between "their" airport and other airports in awarding discretionary grants, the bill provides that each year's discretionary grant to National and Dulles is limited to the average yearly discretionary grant to all large hub airports over the past 10 years.

Other important provisions in the bill include the following:

First, the Airport Corporation would be required to repay the U.S. Treasury, over a 35-year period with interest, the net amount which the United States has invested in the airports.[1]

The estimated amount of U.S. investment is about $44 million.

Second, all revenues generated by the airports must be spent for the capital and operating costs of the airports.

Third, the airports' property can only be used for airport purposes.

Fourth, parking revenues and landing fees generated at one of the airports may not be used for development at the other airport.

Fifth, there would be a freeze on slots at National Airport—slots could not be increased or reduced for reasons other than safety.

The bill continues the so-called perimeter rule which prohibits nonstop flights from Washington National Airport to any point more

[1] The level of U.S. investment is the excess of appropriations over airport revenues—including an assumed amount of AIP grants.

than 1,000 miles away. In the Senate bill the perimeter was increased to 1,250 miles which would permit nonstop service from National to Dallas/Fort Worth and other cities. At our hearing we will be considering proposals for changes in the perimeter rule. I intend to develop an amendment to accommodate the concerns of Dallas/Fort Worth.

Mr. Speaker, I look forward to working with my colleagues to develop legislation which will meet their concerns, while permitting us to modernize and develop the airports serving the Nation's Capital.

EFFECTIVE SCHOOLS ACT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. OBEY. Mr. Speaker, I am very pleased to cosponsor the Effective Schools and Even Start Act (H.R. 4463) that has been reported from the Education and Labor Committee by Chairman GUS HAWKINS. The bill contains no new Federal spending and instead redirects funds from the State set-aside in the Education Block Grant. These funds, one-half of the State set-aside of 20 percent of the Education Block Grant, will be used to implement a local school level educational program that has come to be known as effective school strategies. These strategies are built upon a great deal of Federal education research and have been shown to work with nearly any type of student in any kind of community.

The strategies, when fused together, sound like simple commonsense. Yet, they are contrary to most current educational practices. It is not enough to implement one or several of the principles, but rather all must be implemented if the program is to be a success. The funding from the Education Block Grant will be used to help schools create the environment using these strategies that have been shown to foster a high level of learning. Assuming that the block grant will receive at least the fiscal year 1986 level, this new program will receive $47.85 million.

The research shows that the most effective schools have the following characteristics. First, all the teachers and the principal in a school see themselves as and work as a team. This educational team has the discretion to make their own curriculum decisions at the school building level. In addition, buildings are kept clean and there are clear and uniformly enforced discipline standards. There are clearly understood academic standards that are considered by the entire staff to be the most important achievement to be sought by students. The students know what the academic standards are as does the local community where the school is located. Students are kept informed of their progress by the staff so that when help is needed they can get it before they fall behind.

This type of school is very different from many where the school principal is considered the tough disciplinarian, where the curriculum is dictated from somewhere else other than from the teachers who must teach it and where competition in sports is relied upon to determine the school's central focus and its reputation.

It will take guts for the school superintendent and the school board to implement this kind of program because they must admit that the most important people in the schools are not themselves but are the students, the teachers, and the principal. It also has taken the Education and Labor Committee a lot of courage to redirect funds from a portion of the Education Block Grant that until now has given money to State departments of education to use for their own operating expenses. Presently, we fund State departments of education on average to a tune of 42 percent of their entire budgets and thus they have become dependent upon the Federal Government. We, on the other hand, provide local school districts with only a little over 6 percent of their entire budgets. Not only is there a problem with the fact that we cannot establish how the States are accountable to Federal objectives in the State Education Block Grant, but there is also a real problem of imbalance between the two levels of government in terms of equity of funding. With Federal funds so very limited and States claiming to have made education a major priority, it is time for State legislators to fund their State educational agencies at a level adequate to serve the educational objectives of their State and for Congress to put Federal funds into programs that achieve important national objectives. This bill goes a long way toward meeting that goal.

A smaller section of the bill also authorizes $3 million to be taken from the Education Block Grant and the Adult Education Program to fund model programs that will educate illiterate parents along with their children. It is known among adult educators that the time when adults are most self-conscious about their illiteracy is when they cannot provide their young children help with their schoolwork. I hope that this program shows the same degree of success as have the schools that have led the way in implementing the "effective schools" principles.

As Federal funding becomes more and more scarce for domestic programs, I appreciate it when the authorizing committees show their capability to make the tough choices on programs that cannot be shown to be achieving national objectives.

The Education and Labor Committee has not only provided the House of Representatives with a responsible and far-reaching piece of legislation, but also a significant change of direction that redirects Federal efforts toward the individual school level that most directly provides students with their educational environment.

NATIONAL AGRICULTURAL EXPORT WEEK

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. COELHO. Mr. Speaker, this week, National Agricultural Export Week, should be a celebration of the successful efforts of our farmers in the greatest agricultural producing Nation on the globe in generating the best agricultural products for export sale to the international market. We should be celebrating the exportation of agricultural products that increase our balance of trade, reduce the overall national trade deficit, and promote jobs stemming from agricultural trade throughout all sectors of our national economy. We should be praising the administration for their leadership in creating market access to foreign markets. We should be celebrating the gains in market penetration made in conjunction with the fine group of experts at the USDA's Foreign Agricultural Service. We should be applauding the President's policies of breaking down the walls of tariff and nontariff trade barriers to U.S. agricultural exports. And, we should be here today, and throughout this week, focusing awareness on how to further expand our trading capabilities.

However, as is too readily apparent, what should be is quite different from reality. We are at war in real economic terms involving the unfair and predatory trade practices inflicted upon our agricultural sector by foreign nations using a variety of trade subsidies and import barriers to literally shut down our opportunities to compete effectively in the international area. As we all know, the policies of the past several years have done little or nothing to bring us back to the preeminence which we enjoyed during the last decade. Export sales have dropped from $44 billion in 1981 to $31 billion in 1985, with a forecast of $28 billion or less in export sales in 1986 against imports of $21 billion, leaving the United States of America with an agricultural trade balance in 1986 of only $7 billion.

I would like to stand here today before you, my colleagues, and extol the virtues of our national agricultural export policies which have been implemented over the past several years by the President who, under the Constitution, has the power and obligation of primacy in foreign trade affairs.

I would like to celebrate National Agricultural Export Week with our constituent producers across the Nation. However, this I cannot do. I can only share in the grief, anger, and frustration which our agricultural producers and exporters feel due to the lack of coordinated and cohesive policies which can successfully broaden our market access, eliminate predatory trade practices of foreign nations, and maintain and create our market penetration for agricultural exports abroad.

On May 22, we, here in the House of Representatives, passed H.R. 4800, an omnibus trade bill, by an overwhelming margin. I offer my hope to the agricultural producers throughout our country that this legislation measure be enacted into law. For it is then that our Nation will have the tools necessary to raise the Phoenix from the ashes.

Therefore, during this, our National Agricultural Export Week, I cannot celebrate our successes but only contemplate the failures of the policies of the past several years.

However, I believe that the despair which I share with our Nation's farmers over our export competitiveness should be tempered with the hope that our Nation can re-emerge as the preeminent force in the international

arena. I believe that, with the falling value of the dollar coupled with the passage and implementation of legislation such as that contained in H.R. 4800, the Omnibus Trade Act, American agriculture can and will regain its former stature.

We must use the Export Enhancement Program, the Public Law 480 Program, the export credit guarantee programs which are provided for in Public Law 99-198, the Food Security Act of 1985. If we don't exert promotional pressure to enhance exports while protecting our domestic industries, then the prophets of doom who forecast continued downturn in our farm trade will be right. I believe they are wrong and that we can turn around the export trade problems of the past and implement and use the necessary policies to put American agricultural exports back on track.

CELEBRATING NATIONAL AGRICULTURAL EXPORT WEEK

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. DE LA GARZA. Mr. Speaker, I want to call the attention of the House to the fact that we are now—in response to legislation which we passed last week—celebrating National Agricultural Export Week.

The legislation approved in the House and signed by the President was Senate Joint Resolution 310, which was similar to House Joint Resolution 572 which I introduced together with Mr. MADIGAN of Illinois, the ranking minority member of the Agriculture Committee, and which was cosponsored by 230 Members of this body.

At a time of record trade deficits, agricultural trade is one of the few areas in which the United States has a positive trade balance, although it is not nearly as good as it was just a few years ago. Commemoration of National Agricultural Export Week is our chance to emphasize the importance of agricultural exports and the need to increase such exports as a partial remedy for our trade deficit. Agricultural exports are crucial to the financial stability and future prosperity of our entire economy.

National Agricultural Export Week is providing a fitting dramatization of this fact, and it is being celebrated in conjunction with another significant event—the "Agexport" program which is being conducted here in Washington this week to give farmers, traders, and all other affected groups a chance to review the final recommendations of the National Commission on Agricultural Trade and Export Policy.

During the 1980's our agricultural exports have declined more than 36 percent. This decline represents a loss not only to our Nation's farmers, but to the entire U.S. economy. One fifth of our Nation's workforce is directly dependent upon the health of our Nation's agricultural industry. Declining exports mean that surpluses go up and farmers are forced to reduce acreage—and this affects the whole wide range of industries that produce farm supplies and handle farm commodities. Presently, the rural areas of our Nation are experiencing an economic crisis unlike any since the Great Depression. Agricultural exports represent one way in which our Nation can turn the tide of this difficult situation. Exports alone, of course, can't solve all of our problems overnight. Farm programs will continue to play an important role. But exports can be an important element in our national agricultural economic recovery. The resolution we passed last week requests that the Nation observe this week with appropriate ceremonies and activities designed to promote a better understanding of the importance of agricultural exports to the national economy.

In keeping with this request, the National Commission on Agricultural Trade and Export Policy, a body established by Congress in 1984 to recommend appropriate policy in agricultural trade matters, is now conducting a week-long series of programs during National Agricultural Export Week, entitled Agexport '86. For the past 18 months, the Commission has traveled to all regions of our Nation to listen to the views of all sectors of the agriculture and trade community, seeking positive solutions to our declining agricultural exports. As a result of these hearings, the Commission will submit its final report to Congress and the President during the third week of June 1986. In conjunction with the submission of the final report, the Commission and other agricultural leaders are reviewing and discussing specific proposals aimed at enhancing our agricultural exports, as part of the Agexport '86 program. This program is demonstrating U.S. commitment to leadership in world trade. Members of Congress and representatives from all areas of the agricultural community are participating in these discussions. I spoke to the opening Agexport session today, welcoming the participants in the meetings and urging them to join in efforts to rebuild our competitiveness as a Nation in world agricultural trade. In behalf of the National Commission on Agricultural Trade and Export Policy, I invite all Members of the House to support and share in this important undertaking.

GOOD THINGS ARE HAPPENING AT THE NATIONAL BUREAU OF STANDARDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. BROWN of California. Mr. Speaker, I would like to draw the attention of my colleagues to a recent article by Nell Henderson, in the Washington Post, titled "NBS Neutron Reactor is a Smashing Hit."

The National Bureau of Standards [NBS] is a true exemplar of what a governmental agency can be and how it should provide useful and much needed services to our private sector. Established in 1901, the mission of NBS was to set standards for measurement and calibration. The need for these services were dramatically displayed during a disasterous fire in Baltimore. Though fire engines were sent up from Washington DC, they were useless; their firehose couplings were a different size and could not connect with the Baltimore water system.

Yet, from the beginning, it was understood that the mission of the NBS involved both the basic research to determine physical constants and properties of materials as well as determination and description of construction of standards, testing, and calibration.

Over the years, the science community has developed a high regard for NBS and the Bureau is recognized as a hub for basic science research. Because of its reputation for scientific excellence and objectivity, its technological resources and high caliber scientists, NBS has repeatedly been assigned new responsibilities, from areas as diverse as calibration of antennas for the AWACS aircraft, to seismological and building construction materials research. Since 1965, Congress has passed close to 20 laws giving the Bureau specific assignments, without significantly increasing the Bureau's funding. At the same time, the number of personnel has decreased since 1965, from 3,800 employees to 2,900.

The National Bureau of Standards is a special agency in another respect. It is an existing model of the more interdisciplinary, cooperative approach to research and development, which now and in the future will be essential to U.S. technological preeminence. NBS is built upon a foundation of coordination and cooperation among universities, business and industry, local governments, and other Federal agencies. This can be seen in the sources of its funding. The budget for NBS for 1985 totaled $250.5 million and was comprised of: $124 million in direct appropriations, $68 million from other Federal agencies, and $58 million from private sector support.

The article below examines the benefit of the Cold Neutron Research Facility and NBS's plans to upgrade this facility. There is a strong need for this powerful tool of material science. The Cold Neutron Facility is critical to the investigation of a number of materials, including composites, alloys, and polymers, which directly affect the international competitiveness of U.S. industry. The Europeans have several cold neutron test facilities and are building more; the Japanese are developing such a cpability and are spending several times the amount proposed by NBS. The National Academy of Sciences has identified the Cold Neutron Facility as the No. 1 priority need for materials research in our country today.

Mr. Speaker, NBS seldom finds its way onto the front pages of our print news media. However, the high caliber research and deeply needed services provided by NBS, deserve the attention and support of us all.

The article follows:

[From the Washington Post, June 16, 1986]

NBS NEUTRON REACTOR IS A SMASHING HIT

(By Nell Henderson)

Genex Corp., the Gaithersburg biotechnology company, wanted to study the structures of enzymes.

E.I. du Pont de Nemours & Co., the chemical and life sciences giant, wanted to measure trace elements in Teflon.

General Electric Co. wanted to look at submicroscopic flaws in jet-engine turbine blades.

All three were able to perform their research by using a special tool found at the National Bureau of Standards' Gaithersburg campus.

Local entrepreneurs and international corporate giants alike use NBS' neutron reactor to probe the structure and other properties of various materials. Their research serves as the basis for future advances in biotechnology, electronics, fiber optics, aerospace and other fields.

The neutron reactor, one of only a handful in the world with similar capabilities, is one example of the link between federal research resources and U.S. industrial competitiveness. Like the federal supercomputers and medical laboratories located around the Washington area, the NBS research reactor is a multimillion-dollar facility that no single company can afford, but that many can use.

Like other federal research facilities, NBS, the nation's physical sciences and engineering measurement laboratory, nurtures technological progress by working to solve basic scientific problems. The agency, part of the Department of Commerce, develops standards, measurement techniques, reference data, test methods and instrument calibration services. This work lays the foundation upon which advanced technology companies can perform more applied research and product development.

"Business is their constituency," said Edward M. Chait, Du Pont's manager of business development and former chairman of an NBS advisory panel. "Buildings would fall down or materials would disintegrate" without the infinitely precise measurement standards established by NBS, he said.

The agency's collaboration with business dates from the turn of the century, when it set standards for railroad tracks and worked with the steel industry to improve the quality of the alloyed metal.

NBS also echoes the tone of other federal labs that, after years of shyness about corporate connections, now couch budget requests in terms that stress the benefits of their programs to U.S. industrial competitiveness.

NBS has relied on this theme while campaigning for a $27 million addition to its reactor that would bring its capabilities up to par with a $150 million facility in France and a $50 million facility planned in Japan.

Without the addition, which would enhance the reactor's "cold neutron" or low-energy capabilities, "our nation will be left far behind our main industrial competitors in access to essential cold-neutron measurement technology," Lyle Schwartz, director of the NBS Institute for Materials Science and Engineering, told a House subcommittee in March. He urged approval of the funding "in a competitive world in which standing still guarantees falling behind."

In simplest terms, the research reactor is a tool scientists can use to discern the structure of materials looking at things that are bigger than atoms but smaller than molecules. Industry can then use that structural knowledge to better understand the performance of materials—how an enzyme links to another protein or how Teflon reacts to heat or how a turbine blade wears down over time. Companies working to develop new products use this structural knowledge to design improved materials, such as better semiconductors, more effective pharmaceutical agents, stronger and lighter metals, or ceramic tiles to cover a space shuttle.

The reactor works by splitting atoms into particles called neutrons and concentrating them into pencil-thin beams that can penetrate a material without destroying it.

USE DETERMINES YIELD

The process yields information in different ways, depending on the instrument used. The reactor can produce a visual image, or radiograph, much like an X-ray image, if the neutrons are beamed through an object onto a piece of film. The Smithsonian Institution uses this process to look at paintings for hints of images that lie under the finished product, or for information about the elements that can be used to date a work.

Another method records the scattering patterns of neutrons beamed through an object and uses computers to determine the atomic or molecular structure that would yield such a pattern.

The reactor's power—20 megawatts—is less than 1 percent as powerful as the type of nuclear reactor that generate electric power. Its core contains a few pounds of uranium fuel, compared with the tons of fuels in the core of a power-generating reactor, and the research reactor can be shut down in less than a second while a power reactor may take days to halt, said Robert Carter, chief of NBS' reactor radiation division.

The NBS reactor is one of about 70 research reactors across the country, but is one of the top four in terms of power and research capabilities, Carter said. The others are one unit at the Brookhaven National Laboratory in Long Island, N.Y., and two at the Oakridge National Laboratory in Tennessee.

NBS has the only research reactor in his country with a large-volume source of "cold neutrons," which are brought from a refrigerated chamber within the reactor. Cold neutrons move slowly and allow researchers to conduct experiments that are not possible with conventional neutron beams.

NBS is installing two instruments to use its cold-neutron source, and hopes to have 15 or 16 instruments if it gets the additional funding. Western Europe has 60 cold-neutron instruments, and Jack Rush, leader of NBS' Neutron Scattering Group.

Cold neutrons are "one of the key tools used to provide information for the development of advances in materials and products," Rush said, adding that industry is expected to provide $5 million toward the upgrading. "It's an international competitiveness issue."

300 USE REACTOR EACH YEAR

Over the course of a year, about 300 scientists from government, academia and industry use the reactor on projects ranging from nuclear theory to analyses of food contaminants.

Most of the work performed on the reactor is basic science—fundamental scientific problems that yield results that belong in the public domain. But since 1984, NBS has allowed companies to use various facilities, including the reactor, for proprietary work—research that yields information not made public and that remains the property of the company and may be used to win patents or develop new commercial products.

The stated goal of this policy change was to "improve U.S. international competitiveness by providing U.S. industry access to special government facilities to advance technology and improve productivity."

Amoco Co., International Business Machines Corp. and Eastman Kodak Co. have, or are, using the reactor for proprietary purposes. Under this program, the companies pick up all the costs of using the reactor, and NBS does not ask about their projects.

When companies collaborate with NBS on nonproprietary work, they contribute the time of their corporate scientists but do not pay for access to the reactor. Users who are not collaborating with NBS and not doing proprietary work—such as the Food and Drug Administration, which is using the reactor to analyze food ingredients—pay for their time on the reactor according to the instrument used and the nature of the work.

The facility is available to any qualified investigator, but local users have the advantage of proximity.

Having NBS and other federal research facilities nearby is "absolutely" a benefit, said Du Pont's Chait.

MORE LOCAL FIRMS EXPECTED

Rush said NBS expects more local companies to use the reactor once the Center for Advanced Research in Biotechnology gets going at the nearby Shady Grove Life Sciences Center. CARB, the product of a partnership between NBS, the University of Maryland and Montgomery County, hopes to serve as a contact point and collaborator for biotech researchers who could use the reactor to probe the structures of proteins and other biomolecules, said Kevin Ulmer, director of CARB.

"CARB has no monopoly on the reactor, but proximity helps, "Ulmer said, nothing that many experiments can take months to complete. "The ability to be next door is essential."

EAGLE SCOUT AWARDED TO STEVEN RUSSELL GEIB

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. GEKAS. Mr. Speaker, I would like to take this time to express my heartfelt congratulations to Steven Geib of West Hanover Township, PA, who received the Boy Scout Eagle Award on Saturday, June 14, 1986. It is always an honor for anyone, especially a young man to be recognized by his family, friends, and fellow citizens for working so diligently for his community and country.

Steven, an eighth grade student from Central Dauphin East Junior High School is a member of Troop 27 at the Mount Calvary United Methodist Church in Harrisburg. He began the Scouting program at 8 years of age and has accomplished all the requirements for the Eagle Scout Award in a considerably short time period. Most young men finish the necessary requirements in about 10 years while Steven accomplished them in only 6 years at the age of 14. This indeed demonstrates a young man's ambition who has set goals for himself and achieves them.

Steven Geib has demonstrated exemplary service and leadership capabilities in his involvement with the Scouts and he should be congratulated for earning this very distinguished achievement at such an early age. I wish him the best of luck and much success in his future endeavors.

THE TRAGEDY OF DIABETES—FUNDING FOR RESEARCH MUST BE MAINTAINED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. LANTOS. Mr. Speaker, today I would like to call to the attention of my colleagues the disease which is the third leading killer in the United States; however, it is discussed far less frequently than most other diseases. Diabetes is a painful, traumatic, and costly ailment.

Although diabetes has been extensively studied, medical researchers have not yet found a cure. The countdown toward a cure, however, draws closer with every hour of research. Indeed, the work continually provides hope; there have been over a dozen significant research breakthroughs in just the last few years. If we maintain our commitment to defeating diabetes, we soon will be able to place it on the same list as polio and smallpox.

The fact that diabetes is the third leading killer in the United States does not by itself indicate the serious toll this disease takes. The many complications of diabetes produce extreme discomfort, even if they do not lead to death. Diabetes is the leading cause of new blindness, half of foot and leg amputations among adults, severe neurological disorders, and a disproportionately high infant mortality rate due to diabetes-caused congenital malformations, respiratory distress, and prematurity. In addition, diabetes is a major risk factor for cardiovascular disease and the cause of 20 to 25 percent of kidney failure.

Diabetes is a stressful experience for the afflicted person and his or her friends and family. The number of people involved is staggering: 1 out of every 20 people now has this deadly disease and the number is rising at the rate of 6 percent a year; 2 million of the 12 million people who suffer daily have juvenile—insulin-dependent—diabetes. This is the most severe form of the disease. The most saddening fact is that many are children. Although insulin helps to control the disease, it is not a cure. Friends and family must continually deal with pain, fright, and the threat of complications. The stress on those associated with those who suffer from diabetes is tremendous and, naturally, emotional problems can develop. In addition, the strain within a family often increases since diabetes is, in part, a hereditary disease.

As I mentioned, Mr. Speaker, researchers are making great strides toward obtaining a cure. The question which we must now ask is not, "Can we find a cure?" but, rather, "When will we find it?" It will require time, but the more funding that is available for research, the sooner we will be able to find that cure.

Recently, I had the pleasure of meeting with Mr. Michael Boman, president of the San Francisco Bay Area Juvenile Diabetes Foundation (JDF), and Ms. Maggie Lee Ehertshauser, legislative chairperson of the San Francisco Bay Area JDF. That meeting was very helpful for me. The Juvenile Diabetes Foundation, founded in 1970, is an international organization that was established by parents of diabetic children who believed expanded diabetes research was the best way to provide hope for a better future.

Now—only 16 years later—the JDF awards more dollars directly to diabetes research than any other organization in the world except the U.S. Government. The foundation has made significant progress in its research. Also, JDF chapters provide counseling and support to newly diagnosed diabetics and their families, in addition to offering volunteer services to hospitals and schools and helping to educate the public about the disease. The unselfish service of the JDF deserves our highest praise.

Mr. Speaker, although much has been accomplished in combating diabetes, 12 million people are still afflicted. Time and money are needed to eradicate this disease. We must at least maintain funding levels for diabetes research, although it would be preferable to increase them. This would not only benefit diabetics, but also all Americans. Currently, $15 billion is spent annually just on treating diabetes.

There is great public support for finding a cure for diabetes. Recently, I was presented with a petition signed by hundreds requesting more funding for research. It is imperative that Congress support this esential medical research. I urge my colleagues to work to eliminate diabetes in order to save the lives of millions and the quality of life of additional millions.

A SIGNER OF THE CONSTITUTION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. SMITH of New Jersey. Mr. Speaker, I would like to call the attention of my colleagues to the anniversary this month of the birth of David Brearly, born June 11, 1745 in Spring Grove, Lawrence Township, NJ, now part of the Fourth Congressional District.

David Brearly may not be known to many Americans, but those who serve in the Congress owe him a debt of gratitude.

David Brearly was a signer of the U.S. Constitution on September 17, 1787, one of New Jersey's four Founding Fathers. During the Constitutional Convention that preceded the signing, David Brearly was a leading proponent for adequate representation for States with a small population. In fact he was so concerned that the more populous States of the time, Virginia, Pennsylvania, and Massachusetts, might overwhelm the smaller States in the national legislature, that he suggested erasing the existing State boundaries and redistricting the Union. This radical idea never was discussed in the Constitutional Convention, but its very suggestion shows the extent of the conflicts that raged in Philadelphia 199 years ago.

I am proud of men like David Brearly who represented New Jersey at the Philadelphia convention for which we will celebrate the bicentennial in 1987. He was born on Spring Grove farm in what is now Lawrence Township. The farm had been settled by his grandfather in 1680, one of the many settlers from York, England, to arrive on the banks of the Delaware River near Trenton.

David Brearly attended the College of New Jersey—later Princeton—and chose the law as a career. He backed the revolutionary cause and helped draft the State constitution in 1776. During the War of Independence he became a colonel in the New Jersey militia.

In 1779 Brearly was elected chief justice of the New Jersey Supreme Court where, in Holmes against Walton (1780), he established the principle of judicial review of unconstitutional actions. He was 42 when he participated in the Constitutional Convention. He presided at the New Jersey convention that ratified the Constitution, he served as a President elector in 1789 and, later that year, President Washington appointed him a Federal district judge. He died at the age of 45 and is buried in Trenton.

As the 200th anniversary year of the Constitution approaches, in 1987, I think it is fitting that we in Congress lead the Nation in honoring those patriots and statesmen who gave us our form of government, who founded our Republic. I am proud to so honor David Brearly on behalf of all my fellow citizens of the fourth Congressional District of New Jersey.

MEETING OF THE COMMISSION ON THE BICENTENNIAL OF THE U.S. CONSTITUTION JUNE 20-21, 1986

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mrs. BOGGS. Mr. Speaker, I am pleased to invite the attention of my colleagues to the meetings of the Commission on the Bicentennial of the U.S. Constitution which will take place this week in Washington, DC.

The Commission will hold a public hearing on Friday, June 20, 1986, at 1 p.m., in the Hall of Flags meeting room of the U.S. Chamber of Commerce, at 1615 H Street NW., Washington, DC. It will meet in executive session on Saturday, June 21, 1986, at 8:30 a.m., in the Executive Council Room of the AFL-CIO Building, at 815 16th Street NW., Washington, DC.

All Members and their staffs are invited to attend the public hearing on June 20 which will be chaired by the Chairman of the Commission, Chief Justice Warren E. Burger. As you may know, I am honored to serve on this Commission along with my distinguished colleague, Representative PHILIP CRANE. The

Commission was established by the President in June of last year and has been planning a series of events to commemorate the Bicentennial of the Constitution and the founding of our Federal Government.

May I use this occasion to thank my colleagues, also, for the splendid cooperation which has been demonstrated in working with the Commission. Already, 214 Members of the House and 46 Senators have responded to the Commission's request to assign specific members of their staff as bicentennial liaison persons to work with the Commission.

The Commission is now providing informative materials on a monthly basis to 257 congressional staffers in Washington and 160 in State and district offices. Your office can obtain this information by contacting Susan Carleson, coordinator for congressional information, at the Commission on the Bicentennial of the U.S. Constitution, 734 Jackson Place NW., Washington, DC 20503 or telephone 653-9811.

TRIBUTE TO MARSHALL P. LEDBETTER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1986

Mr. GORDON. Mr. Speaker, I rise to pay tribute to a fine Tennessean and friend, Marshall P. Ledbetter, Sr., of Columbia, TN.

Tennessee is known as the Volunteer State and there is no greater volunteer for his community than Marshall. Known affectionately among his many friends as "Big Daddy," Marshall is an inspiration to all of us. A Rotarian for over 30 years, Marshall has held the offices of chapter president, district governor, and international convention delegate. He represents all of the qualities associated with the International Rotary—community service, assistance to the less fortunate, and providing educational assistance to deserving young men and women.

As a Master Mason and member of the 32d degree Scottish Rite, Marshall has been a leader among the Masons in raising funds to assist children who are victims of fires and crippling diseases. Many children have benefited from the efforts of Marshall and his fellow Masons.

Mr. Speaker, education has always been important to Marshall and as a member of the Frank G. Clement Foundation, he has worked to provide scholarships to students pursuing careers in the area of mental health. Cumberland University is fortunate to have him serve as a member of its board of trustees.

Marshall has also played an important role in State and national politics, having served as adviser to U.S. Presidents, Tennessee Governors, and Congressmen. I, too, have benefited from his many years of public service.

I know that my colleagues join me in congratulating Marshall P. "Big Daddy" Ledbetter for his unselfish service to his community and extend best wishes to him, his lovely wife Mary, and their family.

HOUSE OF REPRESENTATIVES—*Wednesday, June 18, 1986*

The House met at 10 a.m.

Rabbi Stuart L. Berman, Congregation Beth Chai, Seminole, FL, offered the following prayer:

Almighty God, help us, to reflect clearly and to strive conscientiously on the performance of our responsibilities. And may we be blessed with the enduring accomplishments of this 99th Congress.

Let us direct our efforts toward the eradication of hatred, prejudices, and blindness of mind.

May we never forget the common bond of kinship that unites all, who were created in Thine divine image.

Grant us strength of body and health of mind. Enable us to face the challenges of life with faith and courage.

In moments of doubt, strengthen us in our convictions, in hours of gloom, illuminate our paths.

In adversity and frustration, guide us with patience. Above all, imbue us with the wisdom to count our blessings.

And let us all say, amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 1106) "An act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the United States Claims Court, and for other purposes."

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2057. An act to establish the President's Council on Health Promotion and Disease Prevention; and

S.J. Res. 290. Joint resolution to designate July 4, 1986, as "National Immigrants Day."

RABBI STUART L. BERMAN

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Florida. Mr. Speaker, it is my pleasure this morning to introduce our guest chaplain for today, Rabbi Stuart Berman, my friend and constituent, who serves the Congregation Beth Chai in Seminole, FL.

Rabbi Berman has the distinction of recently being appointed as chaplain for the Florida State Correctional System—the first rabbi in the State's history to serve in this capacity.

Rabbi Berman returns to our Nation's Capital today where he has served in numerous capacities. He has worked on the White House staff, was a member of the President's Transition Committee, and was an appointee to the White House Conferences on Aging and on Children and Youth. In addition to serving a congregation in Washington, DC, he was also the host of a local weekly television talk show.

Rabbi Berman was born and raised in Allentown, PA, and is a graduate of Yeshiva University in New York City. He has served congregations in Allentown, upstate New York, Oceanside, NY, Plantation, FL, and Washington, as mentioned before.

He has been actively involved in a wide range of important State and county programs, including the Florida International University Death and Bereavement Counseling Program, and the Federation Task Force on Narcotic Addiction to Alcohol Abuse. Pinellas County Sheriff Gerry Coleman has appointed Rabbi Berman as a special deputy sheriff, he is chaplain for the Pinellas County Hospice Care Program, and he is a member of the Pinellas County Board of Rabbis and the Seminole Clergy Association.

Mr. Speaker, in just a short time, Rabbi Berman has made many important contributions to our community in Pinellas County and I am very happy to welcome him here to the House of Representatives.

PROVIDING FOR CONSIDERATION OF H.R. 4868, ANTI-APARTHEID ACT OF 1986

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 478 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 478

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of Rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of Rule XI and section 311(a) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two and one-half hours, with one hour and forty-five minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, and fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider, as an original bill for the purpose of amendment under the five-minute rule, the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill, as modified by striking out section 3 thereof and inserting in lieu thereof the text of the amendment recommended by the Committee on Ways and Means now printed in the bill. Said substitute as so modified shall be considered as having been read for amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of section 311(a) of the Congressional Budget Act of 1974, as amended, are hereby waived. No amendment to the bill or to said substitute shall be in order except the following amendments printed in the Congressional Record of June 17, 1986 by, and if offered by, the Members designated, and said amendments shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole:

(1) the first amendment by Representative Burton of Indiana, which shall be debatable for not to exceed fifteen minutes, to be equally divided and controlled by Representative Burton and a Member opposed thereto;

(2) the second amendment by Representative Burton of Indiana, which shall be debatable for not to exceed fifteen minutes, to be equally divided and controlled by Representative Burton and a Member opposed thereto;

(3) the amendment to section 4 by Representative Dellums of California, which shall be debatable for not to exceed fifteen minutes, to be equally divided and controlled by Representative Dellums and a Member opposed thereto, and all points of order against said amendment for failure to comply with the provisions of clause 7 of Rule XVI and section 311(a) of the Congres-

sional Budget Act of 1974, as amended, are hereby waived;

(4) the amendment in the nature of a substitute by Representative Dellums of California, which shall be debatable for not to exceed one hour, to be equally divided and controlled by Representative Dellums and a Member opposed thereto, and all points of order against said amendment for failure to comply with the provisions of section 311(a) of the Congressional Budget Act of 1974, as amended, are hereby waived;

(5) the amendment by Representative Siljander of Michigan, which shall be debatable for not to exceed twenty-five minutes, to be equally divided and controlled by Representative Siljander and a Member opposed thereto;

(6) the amendment by Representative Wolpe of Michigan, which shall be debatable for not to exceed fifteen minutes, to be equally divided and controlled by Representative Wolpe and a Member opposed thereto; and

(7) the amendment by Representative Conyers of Michigan, which shall be debatable for not to exceed fifteen minutes, to be equally divided and controlled by Representative Conyers and a Member opposed thereto.

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purpose of debate only, I yield 30 minutes to the gentleman from Missouri [Mr. TAYLOR], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 478 is a modified open rule providing for the consideration of H.R. 4868, the Anti-Apartheid Act of 1986. The rule provides for 2½ hours of general debate. One hour and forty-five minutes of debate time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The remaining debate time is allotted to the Public Works and Transportation, Banking, Finance and Urban Affairs, and Ways and Means Committees, which will each control 15 minutes of debate time.

All points of order against the bill for failure to comply with section 311(a) of the Congressional Budget Act of 1974, as amended, are waived. Section 311(a) prohibits consideration of legislation which would cause revenues to fall below the revenue floor set forth in the concurrent resolution on the budget. H.R. 4868 could possibly reduce revenues by $800,000 in fiscal year 1986 because duties will no longer be collected on the uranium, coal, and steel affected by the ban on importation from South Africa. The loss in revenue constitutes a violation of section 311(a) of the Budget Act, therefore, a waiver is necessary.

The rule also waives all points of order against the measure for failure to comply with clause 2(l)(6) of rule XI. Clause 2(l)(6) requires that committee reports be available to Members for 3 days prior to a bill's consideration on the floor. H.R. 4868 was reported out of the committees of jurisdiction late last week. Two committees have prepared and filed reports but the reports have not been available for 3 days. Therefore, a waiver of clause 2(l)(6) of rule XI is necessary.

The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill, as modified by striking out section 3 and inserting in lieu thereof the text of the amendment recommended by the Committee on Ways and Means, now printed in the bill.

The bill shall be considered as having been read for amendment under the 5-minute rule and no amendment shall be in order except the following amendments printed in the CONGRESSIONAL RECORD of June 17, 1986:

Two amendments to be offered by Representative BURTON of Indiana, which shall be debatable for a period not to exceed 15 minutes each and which shall be equally divided and controlled by Representative BURTON and a Member opposed thereto.

An amendment to be offered by Representative DELLUMS of California which shall be debatable for a period not to exceed 15 minutes and which shall be equally divided and controlled by Representative DELLUMS and a Member opposed thereto. All points of order against the amendment for failure to comply with clause 7 of rule XVI, that is the germaneness rule, and section 311(a) of the Congressional Budget Act of 1974, as amended, that is the rule which prohibits consideration of legislation which would cause revenues to fall below the revenue floor set in the concurrent resolution on the budget, are waived.

An amendment in the nature of a substitute to be offered by Representative DELLUMS of California. The amendment shall be debatable for 1 hour and shall be equally divided and controlled by Representative DELLUMS and a Member opposed thereto. All points of order against the amendment for failing to comply with section 311(a) are waived.

An amendment to be offered by Representative SILJANDER of Michigan. The amendment shall be debatable for 25 minutes and shall be equally divided and controlled by Representative SILJANDER and a Member opposed thereto.

An amendment to be offered by Representative WOLPE of Michigan which shall be debatable for 15 minutes and which shall be equally divided and controlled by Representative WOLPE and a Member opposed thereto.

An amendment offered by Representative CONYERS of Michigan which shall be debatable for 15 minutes and which shall be equally divided and controlled by Representative CONYERS and a Member opposed thereto.

The preceding amendments shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole.

Finally, the rule provides for one motion to recommit, with or without instructions.

H.R. 4868 prohibits new loans and investments to South Africa; bars the importation of South African uranium, coal, and steel; prohibits the use of United States technology or services to develop new energy sources in South Africa, denies landing rights to South African aircraft; and bars United States firms from mining and exporting natural resources from the South African-controlled territory of Namibia. The bill also requires the withdrawal of all United States investments in South African computer businesses and prohibits the export of computers to South Africa after 1 year. Finally, the legislation authorizes $25 million for community development and refugee assistance for South Africans and Namibians disadvantaged by apartheid.

All of the sanctions imposed by this measure can be terminated only if the President reports to Congress that the South African Government has dismantled apartheid or has freed all political prisoners, including Nelson Mandela, and has begun good faith negotiations with representative black leaders. The President's findings must then be approved by Congress through passage of a joint resolution.

□ 1015

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 478 is a limited rule under which the House will consider legislation imposing new and tougher economic sanctions on South Africa.

The rule waives two points of order that would otherwise lie against consideration of the bill, H.R. 4868, in order that the House might accommodate the majority leadership's agenda.

The rule waives our 3-day layover rule, since one of the two committee reports has only been available for 2 days.

The rule also waives section 311(a) of the Budget Act, since the bill will

cause revenues to fall below the floor set forth in the budget resolution for fiscal 1986.

Mr. Speaker, I have no illusions that these two waivers will cause the Members to reject this rule, but I did want to point out that we are making an exception to our legislative procedures in order to consider this bill today.

The rule limits both the number and type of amendments which may be offered. It makes in order seven specific amendments, which are required to have been printed in yesterday's RECORD.

In exercising its "judgment" on which particular amendments to make in order, the Committee on Rules has allowed the following amendments:

Two amendments by the gentleman from Indiana [Mr. BURTON], although he requested three;

An amendment to section 4 of the bill by the gentleman from California [Mr. DELLUMS];

An amendment in the nature of a substitute by the gentleman from California [Mr. DELLUMS];

An amendment by the gentleman from Michigan [Mr. SILJANDER];

An amendment by the gentleman from Michigan [Mr. WOLPE];

And an amendment by the gentleman from Michigan [Mr. CONYERS].

Mr. Speaker, the Committee on Rules applied a somewhat unusual standard in picking and choosing which particular amendments to make in order.

It granted a germaneness waiver for the amendment to section 4 by the gentleman from California [Mr. DELLUMS], but denied a similar request made by the gentleman from Kentucky [Mr. SNYDER], as well as a similar request made by the gentleman from New Hampshire [Mr. GREGG].

Mr. Speaker, this procedure is hardly what I would call fair. This rule does not treat all Members equally. It is especially unfair to the minority Members, who should have the same right to present their ideas to the House as do the majority Members.

Mr. Speaker, the bill we'll consider under this unusual procedure imposes a set of new economic sanctions tougher than those imposed by the President in his Executive order of last September, and tougher than those accepted by the House last summer.

The bill requires far more in the way of disinvestment by United States owned firms and comes mighty close to a total economic boycott of South Africa.

The President's Executive order created an Advisory Committee on South Africa, and gave it 12 months to make a report on how best to encourage peaceful change in South Africa.

Mr. Speaker, I do not think the Congress should preempt the Advisory Committee's report, which is due shortly. The issue is determining how best the United States can use our influence to promote further change in the social policies of the Government of South Africa.

Mr. Speaker, I yield 5 minutes to the distinguished minority whip, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. I thank the gentleman for yielding this time to me.

Mr. Speaker, let me say at the outset that I don't question for a moment the motives or intentions of the sponsors of this legislation. I have no doubt they are honorable and genuine. But let me hasten to add that those efforts are being demeaned and diminished by this shoddy precedure being foisted upon the House by the Democratic leadership.

Here we are, considering a bill designed to promote human rights in South Africa under a procedure which denies the basic rights of 430 democratically elected Members of the United States House of Representatives. That's right, only 5 of our colleagues will be permitted to offer amendments to this bill; the other 430 have been shut out.

Several Members' amendments which were requested before the Committee on Rules were specifically excluded, including one of three amendments requested by the gentleman from Indiana [Mr. BURTON]. When I asked what was the basis, the response was, "Well, it was just judgmental. We liked a couple of Mr. BURTON's; we did not like the other one. We did like one by Mr. SILJANDER, perhaps; but we did not think too much of the one from Mr. SNYDER."

Is that the role of the Committee on Rules? We ought to have some basic guidelines. We are either going to allow amendments or we are not; but just to say "We did not like this one," I think, far exceeds the responsibility of the Committee on Rules.

Why has the amendment process been shut down? Is this bill so complex or so perfect that it can't be perfected further? I doubt it. Last year we had a similar bill under an open amendment process that simply put an overall time limit on amendments, and that seemed to work out well. Why are we changing it this time?

But this year the leadership decided to put this on a fast, closed track, probably becaue they were more interested in an issue than in sound legislation and fair process. How else can you explain the fact that three of the five committees to which this was referred were pressured into waiving their jurisdictional claims. That includes the Rules Committee which only got a sequential referral yesterday.

How else can you explain that both the chairmen of the Foreign Affairs and Rules Committee ignored the Democratic caucus rule requiring published notice in the RECORD of intentions to request or grant less than an open rule?

How else can you explain the fact that the Democratic leadership tried to schedule this in the Rules Committee on Monday, when no Members would be around to testify on behalf of making amendments in order? Fortunately, there weren't enough Rules Committee members around either to make up a quorum.

How else do you explain that we are waiving the 3-day layover rule for committee reports, including one that was only filed on Monday?

Mr. Speaker, by now we have learned on this side that when the leadership starts to short circuit the normal legislative process and shut out Members from full and fair participation in that process, they are more interested in scoring partisan points than in shaping sound and rational policy. By your procedures ye shall be known. The procedure before us today let us know how little you think of democracy. Vote down this rule so we can have and fair, open, and democratic amendment process!

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding this time to me. I do not think I will need the 5 minutes.

Mr. Speaker, yesterday at the meeting of the Committee on Rules there were some arbitrary decisions made, one of which was alluded to by the gentleman from Mississippi who just spoke in the well.

I had three amendments that I thought were germane to the bill and very important. The legislation, I felt, needed some severe restructuring. The amendments that I proposed, I thought, were going to be helpful in that effort. Two of the amendments were accepted by the Committee on Rules. They agreed to hear those amendments in debate today, but the third amendment was arbitrarily discarded.

I think that was a terrible mistake. I think the particular amendment that they decided not to allow today was one of the most important amendments that would have been heard before this body.

So, Mr. Speaker, I object to the rule on that basis. I think that any rule that prohibits an amendment of that significance should be voted down by this body, and I urge my colleagues to vote against the rule when it comes up for a vote later today.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no requests for time, but I yield myself such time as I may consume.

Mr. Speaker, I would like to point out that the Committee on Rules is sensitive to considerations of shutting off Members. In fact, we gave very careful consideration to all of the amendments that were offered by Members before the Committee on Rules.

There was only one amendment that was excluded. It was the amendment offered by the gentleman from Indiana [Mr. BURTON]. However, two amendments offered by Mr. BURTON were accepted. While it is inappropriate to suggest that the Committee on Rules agreed with those amendments, it is appropriate to suggest that the Committee on Rules recognized that those amendments were legitimate amendments that reasonable people could discuss on the floor of the House of Representatives.

□ 1025

The two amendments ought to be debated. But in view of the time constraints that we placed on the consideration of this bill by the House of Representatives and the fact that the third amendment by the gentleman from Indiana [Mr. BURTON] was an amendment that did not speak to an issue that was going to come before this body in the debate. That is, no aid was being offered to the group that the gentleman talked about in his amendment, the Committee on Rules decided that it would be more appropriate to spend the time on debating the issue before us.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I just want to clarify. Do I understand that the reason why we cannot have an open rule on the bill and discuss amendments is because there were time constraints put on the bill?

Who put on those time constraints?

Mr. WHEAT. Mr. Speaker, when the chairman of Foreign Affairs came before the committee, he requested that we be able to address this bill in a timely manner, preferably today and tomorrow. It was an open request and it was not countered by any other person who was testifying. In fact, it was agreed to by all who came before the Committee on Rules.

Mr. WALKER. Mr. Speaker, in other words, we started off with an arbitrary time constraint that this bill, unlike the housing bill, is a bill where we cannot take a long enough period of time to assure that all amendments are heard. We just arbitrarily put on a time constraint and then decided that some people could not offer amendments because they fell outside the time constraints?

Mr. WHEAT. Mr. Speaker, the gentleman is aware that the minority leader pointed out that this bill was dealt with last year. At that time, there was an overall time limit placed on consideration of the bill. This is merely a different procedure to go about the same process. We are trying to finish consideration of the legislation within a reasonable period of time and still give Members the opportunity to bring up their amendments.

All of the Members who came before the Committee on Rules and requested that they be given amendments were, in fact, given the opportunity to offer their amendments.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, the problem is that last year we had an inclusive procedure that allowed people basically to be included in the process. This time, you have an exclusive procedure that says that many people are not going to be able to offer amendments. Now the Committee on Rules has taken upon itself to decide who and how those amendments will be offered.

It just seems to me that when we are dealing with an issue as important as this one, and as deeply held and as deeply felt by people as this one, that it is ill-behooving this House to move with a procedure which is this kind of a procedure.

I think it is a shame the Committee on Rules moved in that direction.

I thank the gentleman for yielding.

Mr. WHEAT. Mr. Speaker, this is an important matter for consideration. It is a matter of urgency. It is vital now that this issue come before the floor of the House of Representatives.

Mr. Speaker, I urge the Members to adopt the rule, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 127, not voting 20, as follows:

[Roll No. 177]

YEAS—286

Ackerman	Bates	Borski
Akaka	Bedell	Bosco
Alexander	Beilenson	Boucher
Anderson	Bennett	Breaux
Andrews	Bereuter	Brooks
Annunzio	Berman	Broomfield
Anthony	Bevill	Brown (CA)
Applegate	Biaggi	Bruce
Aspin	Boehlert	Bryant
Atkins	Boggs	Burton (CA)
AuCoin	Boland	Bustamante
Barnard	Bonior (MI)	Byron
Barnes	Bonker	Carper
Carr	Hubbard	Rahall
Chappell	Hughes	Rangel
Clay	Hutto	Ray
Coelho	Jeffords	Regula
Coleman (TX)	Jenkins	Reid
Collins	Jones (NC)	Richardson
Conte	Jones (OK)	Rinaldo
Conyers	Jones (TN)	Ritter
Cooper	Kanjorski	Robinson
Coughlin	Kaptur	Rodino
Courter	Kastenmeier	Roe
Coyne	Kemp	Roemer
Crockett	Kennelly	Rose
Daniel	Kildee	Rostenkowski
Darden	Kindness	Rowland (GA)
Daschle	Kleczka	Roybal
de la Garza	Kolter	Russo
Dellums	Kostmayer	Sabo
Derrick	LaFalce	Savage
Dicks	Lantos	Saxton
Dingell	Latta	Scheuer
DioGuardi	Leach (IA)	Schroeder
Dixon	Lehman (CA)	Schuette
Donnelly	Lehman (FL)	Schumer
Dorgan (ND)	Leland	Seiberling
Downey	Levin (MI)	Sharp
Duncan	Levine (CA)	Shelby
Durbin	Lewis (FL)	Sikorski
Dwyer	Lipinski	Sisisky
Dymally	Lloyd	Skelton
Dyson	Long	Slattery
Early	Lowry (WA)	Smith (FL)
Eckart (OH)	Luken	Smith (IA)
Edgar	Lundine	Smith (NJ)
Edwards (CA)	MacKay	Snowe
Edwards (OK)	Manton	Solarz
English	Markey	Spratt
Erdreich	Martin (NY)	St Germain
Evans (IA)	Martinez	Staggers
Evans (IL)	Matsui	Stallings
Fascell	Mavroules	Stark
Fawell	Mazzoli	Stokes
Fazio	McCloskey	Stratton
Feighan	McCurdy	Studds
Fish	McDade	Sweeney
Flippo	McHugh	Swift
Florio	McKinney	Synar
Foglietta	Mica	Tallon
Foley	Mikulski	Tauzin
Ford (MI)	Miller (CA)	Thomas (GA)
Ford (TN)	Miller (OH)	Torres
Frank	Miller (WA)	Torricelli
Franklin	Mineta	Towns
Frenzel	Mitchell	Traficant
Frost	Moakley	Traxler
Gaydos	Mollohan	Udall
Gejdenson	Montgomery	Valentine
Gekas	Moody	Vento
Gephardt	Morrison (CT)	Visclosky
Gibbons	Mrazek	Volkmer
Gilman	Murphy	Walgren
Glickman	Murtha	Watkins
Gonzalez	Natcher	Waxman
Goodling	Neal	Weaver
Gordon	Nelson	Weber
Gradison	Nichols	Weiss
Gray (IL)	Nowak	Wheat
Gray (PA)	Oakar	Whitley
Gregg	Oberstar	Whitten
Guarini	Obey	Williams
Hall (OH)	Olin	Wirth
Hamilton	Ortiz	Wise
Hatcher	Owens	Wolpe
Hawkins	Panetta	Wright
Hayes	Pease	Wyden
Hefner	Penny	Wylie
Heftel	Pepper	Yates
Henry	Perkins	Yatron
Hertel	Petri	Young (FL)
Holt	Pickle	Young (MO)
Horton	Price	Zschau
Howard	Pursell	
Hoyer	Quillen	

NAYS—127

Archer	Burton (IN)	Craig
Armey	Callahan	Crane
Badham	Carney	Dannemeyer
Bartlett	Chappie	Daub
Barton	Clinger	DeLay
Bateman	Coats	DeWine
Bilirakis	Cobey	Dickinson
Bliley	Coble	Dornan (CA)
Boulter	Coleman (MO)	Dreier
Brown (CO)	Combest	Eckert (NY)

Emerson	Mack	Shaw
Fiedler	Madigan	Shumway
Fields	Marlenee	Shuster
Gallo	Martin (IL)	Siljander
Gingrich	McCain	Skeen
Green	McCandless	Slaughter
Gunderson	McCollum	Smith (NE)
Hall, Ralph	McEwen	Smith, Denny (OR)
Hammerschmidt	McKernan	Smith, Robert (NH)
Hansen	McMillan	Smith, Robert (OR)
Hartnett	Meyers	Snyder
Hendon	Michel	Solomon
Hiler	Molinari	Spence
Hillis	Monson	Stangeland
Hopkins	Moore	Stenholm
Hunter	Moorhead	Strang
Hyde	Morrison (WA)	Stump
Ireland	Myers	Sundquist
Jacobs	Nielson	Swindall
Johnson	Oxley	Tauke
Kasich	Packard	Taylor
Kolbe	Parris	Thomas (CA)
Kramer	Pashayan	Vucanovich
Lagomarsino	Porter	Walker
Leath (TX)	Ridge	Whitehurst
Lent	Roberts	Whittaker
Lewis (CA)	Rogers	Wolf
Lightfoot	Roth	Wortley
Livingston	Roukema	Young (AK)
Loeffler	Rowland (CT)	
Lott	Rudd	
Lowery (CA)	Schaefer	
Lujan	Schulze	
Lungren	Sensenbrenner	

NOT VOTING—20

Bentley	Cheney	Huckaby
Boner (TN)	Davis	McGrath
Boxer	Dowdy	O'Brien
Broyhill	Fowler	Schneider
Campbell	Fuqua	Vander Jagt
Chandler	Garcia	Wilson
Chapman	Grotberg	

□ 1045

Messrs. MYERS of Indiana, LENT, COATS, CLINGER, and SHAW changed their votes from "yea" to "nay."

Mr. DUNCAN and Mr. BOEHLERT changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TOMORROW, JUNE 19, 1986, DURING 5-MINUTE RULE

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule on Thursday, June 19, 1986.

Mr. Speaker, this has been cleared with the minority.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ANTI-APARTHEID ACT OF 1986

The SPEAKER. Pursuant to House Resolution 478 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4868.

□ 1050

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, with Mr. TRAXLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from Michigan [Mr. WOLPE] will be recognized for 52½ minutes, the gentleman from Michigan [Mr. SIJANDER] will be recognized for 52½ minutes, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 7½ minutes, the gentleman from Illinois [Mr. CRANE] will be recognized for 7½ minutes, the gentleman from Rhode Island [Mr. ST GERMAIN] will be recognized for 7½ minutes, the gentleman from Ohio [Mr. WYLIE] will be recognized for 7½ minutes, the gentleman from California [Mr. MINETA] will be recognized for 7½ minutes, and the gentleman from Kentucky [Mr. SNYDER] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 10 years after the uprisings of Soweto, South Africa is in the midst of a crisis of catastrophic proportions. During the last 21 months, more than 1,700 people have been murdered in South Africa, most of them killed by security forces or Government-aided "vigilantes." In the last year, the South African Government has arrested more than 40,000 people on political charges. In the last few days the Afrikaner regime has raised the stakes even higher by installing a veritable state of seige and carrying out brutal raids against Zambia, Botswana, and Zimbabwe.

It is clear that the more than 300-year-old system of white domination in South Africa is crumbling. The black majority and its white allies are going to rule South Africa. The only remaining question is how much violence, how much bloodshed will accompany this inevitable transition.

It is against this backdrop that we today consider the Anti-Apartheid Act of 1986, legislation that would impose new economic sanctions on South Africa, sanctions that would be lifted when the horrendous, dehumanizing system of apartheid is finally dismantled or when the South African Government has at least freed Nelson Mandela and all political prisoners, and has entered into good faith negotiations with representative leaders of the black majority.

The Anti-Apartheid Act of 1986, like the antiapartheid legislation of last year, enjoys broad bipartisan cosponsorship and support. And for good reason. Because we Americans can no longer be party to the inhumanity of apartheid, not if we wish to be true to the ideals of freedom and of human rights that we so cherish. Our actions must be consistent with our words. To do otherwise is to compromise not only our values but our national interests.

Last year the 49 nations of the British Commonwealth created what came to be known as the Eminent Persons Group of seven distinguished world leaders in an attempt to move the tragic South African conflict from the streets to the conference table.

For 6 months this group, cochaired by former Australian Prime Minister Malcolm Fraser and former Nigerian head of state Olusegun Obasanjo, including leaders from Great Britain, Canada, the Bahamas, Tanzania, and India, worked quietly and patiently to facilitate a dialog between the Government and the nation's black leaders.

As we all know, the initiative of that Eminent Persons Group collapsed in the military raids by the South African Government into three Commonwealth countries and in the decision of the Afrikaner regime to greatly intensify its domestic repression of even the most peaceful forms of black protest and dissent.

Mr. Chairman, I hold in my hands the final report of the Eminent Persons Group. It is an extraordinary document, must reading for every Member of Congress, indeed for every American who cares about the terrible tragedy that is unfolding in South Africa.

These Commonwealth leaders who tried every way they knew how to facilitate a dialog among South Africans were finally forced to conclude, and I quote:

> While the Government claims to be ready to negotiate, it is in truth not yet prepared to negotiate fundamental change nor to countenance the creation of genuine democratic structures, nor to face the prospect of the end of white domination and white power in the foreseeable future. Its program of reform does not end apartheid, but seeks to give it a less inhuman face.

The Commonwealth report goes on to observe that the Government continues to believe that it can contain the situation indefinitely by use of force. The report warns that:

> Although the Government's confidence may be valid in the short term, but at great cost, it is plainly misplaced in the longer term. South Africa is predominantly a country of black people. To believe that they can be indefinitely suppressed is an act of self-delusion * * *. For all the people of South

Africa and of the subregion as a whole, the certain prospect is of an even sharper decline into violence and bloodshed with all its attendant human costs. A racial conflagration with frightening implications threatens. The uncoordinated violence of today could become in the not too distant future a major armed conflict spilling well beyond South Africa's borders * * *.

Mr. Chairman, in its report, the Eminent Persons Group makes a careful and convincing case for new economic sanctions. Cautioning that "there may be no course available that can guarantee a significantly more peaceful solution," the group nevertheless concludes:

We are convinced that the South African Government is concerned about the adoption of effective economic measures against it. If it comes to the conclusion that it would always remain protected from such measures, the process of change in South Africa is unlikely to increase in momentum, and the descent into violence would be accelerated * * *.

The question in front of heads of government is in our view clear. It is not whether such measures will compel change; it is already the case that their absence and Pretoria's belief that they need not be feared, defers change.

The Eminent Persons Group concludes its report with a question that we Americans must ask ourselves:

Is the Commonwealth to stand by and allow the cycle of violence to spiral? Or will it take concerted action of an effective kind? Such action may offer the last opportunity to avert what could be the worst bloodbath since the Second World War.

Mr. Chairman, the Anti-Apartheid Act of 1986 is our response to this question. By our passage of this bill, we will be affirming that the United States intends no longer to be an accomplice to apartheid. We will be affirming that we do not intend to stand mute before the violence of apartheid.

In passing the Anti-Apartheid Act of 1986, this House will be affirming that Americans, because of the weight of our own national experience with racial oppression, do understand the enormous moral issues that are at stake in the struggle against apartheid.

And last, we will be affirming by our passage of this legislation our recognition that the United States has other important national interests in trying to end the escalating violence in South Africa and disassociating itself from the repressive Afrikaner regime, the same kind of national interests that led the United States at the 11th hour to distance itself from the failed and repressive Marcos regime in the Philippines. Just as we came to recognize that it was Mr. Marcos himself, notwithstanding his professed anticommunism, and was, by his repression and corruption, fueling the Communist insurgency in the Philippines, so we must understand that it is the apartheid regime itself that is an open invitation to communism in South Africa.

□ 1100

We must act now to end the constructive engagement policy toward South Africa that refuses in deeds as well as words, to choose between justice and injustice, and we must move now to mobilize Western economic and diplomatic leverage on behalf of a transition to democratic rule. In doing so, we will be joining France, Canada, Australia, Norway, Sweden, and Denmark, all of who have recently strengthened their economic sanctions against South Africa.

In closing, I would like to respond briefly to some of the arguments that continue to be made by the administration and by other opponents of new U.S. economic sanctions.

Some claim that sanctions could backfire, heightening intransigence on both sides rather than strengthening voices of dialog and moderation. The truth is that limited Western sanctions and the threat of additional measures have already strengthened the forces for negotiated political change. White business leaders, Afrikaans-speaking as well as English-speaking, have, for the first time, called for the abolition of apartheid and political negotiations with representative leaders of the black majority. Some leading Government officials have called for political action to restore international confidence, lest the economy of South Africa be destroyed. And despite the emergence of a neo-Nazi extremist white faction, public opinion polls have shown that right-wing parties continue to be supported by less than a fifth of the white electorate, and that twice as many supporters of the ruling National Party feel that the pace of reform is too slow. For democratic, nonviolent opponents of apartheid, like Bishop Tutu, Reverend Boesak, the South African Council of Churches, the Southern African Catholic Bishops Conference, economic sanctions are essential, precisely because they represent the only conceivable alternative to increasing pressure for violent resistance from the black majority.

Others express concern that blacks will be hurt by tough economic sanctions. This parternalistic attitude must be reexamined. Representative black leaders themselves are telling us clearly that their people are willing to suffer any additional sacrifices occasioned by these sanctions to help avert the greater tragedy of a massive bloodbath and to help end an evil system that has endured for hundreds of years.

"Don't you worry," (about hurting blacks) United Democratic Front founder Alan Boesak told an audience on Capitol Hill just recently:

We will decide when we have suffered enough and then we will tell you so.

Some are concerned that by acting to undermine the apartheid system, the West could be creating the conditions for a Communist takeover of the country, due to the South African Communist Party's affiliation with the African National Congress [ANC]. In reality, it is further delay in ending apartheid which poses the greatest threat of increased Communist influence in South Africa and Soviet and Cuban intervention in the surrounding countries. The African National Congress today, in the words of Tom Lodge, one of South Africa's foremost experts on its internal politics, is essentially "a movement of pragmatists, not ideologues." The Eminent Persons Group itself reported that:

Among the many striking figures whom we met in the course of our work, Nelson Mandela and Oliver Tambo (the current President of the ANC) stand out. Their reasonableness, absence of rancour and readiness to find negotiated solutions which, while creating democratic structures would still give the whites a feeling of security and participation, impressed us deeply. If the Government finds itself unable to talk with men like Mandela and Tambo, then the future of South Africa is bleak indeed.

Put most simply, if we do not want those who are struggling for their freedom in South Africa or their independence in Namibia to turn to the Soviets for assistance, we had better not be ambiguous or ambivalent in placing the United States on the side of their struggle.

Some opponents of sanctions legislation have gone so far as to claim that South Africa is being unfairly singled out and is the victim of a double standard. Mr. Chairman, nothing could be further from the truth. If there is a double standard, South Africa has been its beneficiary, not its victim.

Just look at how we have responded to other situations of repression around the world and to other gross human rights abuses—Afganistan, Poland, Nicaragua, Uganda, Cuba, Viethan, Libya, and the list goes on and on. In every instance, sanctions have been applied, tough sanctions, including in the case of Libya total disinvestment. And in every instance, sanctions were applied with little, if any, controversy and on a bipartisan basis with bipartisan support, and without the appointment of special Presidential commissions. Do you recall a commission on Libya or a commission on Afghanistan or a commission on Poland?

Mr. Chairman, it is time that we all ask ourselves one simple but enormously revealing question: How would the United States have responded in the past several years if the racial composition of the forces in South Africa had been reversed, and there

was a black minority that was imposing the horrendous and dehumanizing system of apartheid on a white majority? Would we have engaged in a decades-long situation on the wisdom and morality and effectiveness of sanctions?

I think the answer is self-evident. We have indeed applied a very different standard to South Africa, and this is understood throughout the world, at great cost to America's moral authority and our political influence. That is another reason why it is not only American values that are on the line as we consider our policy toward South Africa, it is also American interests that are at stake.

In conclusion, Mr. Chairman, I hope this House and the President will listern to the voices of two men who will have much to do with a future, post-apartheid South Africa. One is that of Nelson Mandela, the imprisoned leader of the most popular organization in South Africa, the banned African National Congress. At his trial in 1964, Mandela talked of "the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities." It is an ideal which I hope to live for and achieve," he said, "But if need be, an ideal for which I am prepared to die."

The other voice is that of last year's winner of the Nobel Peace Prize, Bishop Desmond Tutu. Speaking at Hunter College's commencement last month, Tutu cited evidence that more than 70 percent of blacks support economic sanctions against the Government and asked:

To whom is the international community willing to listen? To the victims and their spokesmen or to the perpetrators of apartheid and those who benefit from it?

Finally, Bishop Desmond Tutu set forth the basic rationale of the legislation we will be debating today:

There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk with a chance. President Reagan's policy of constructive engagement, and similar efforts to persuade white South Africans who support apartheid to change, have failed dismally. Let's try another strategy.

Mr. Chairman, that is what the Anti-Apartheid Act of 1986 is all about. It is time to try another strategy.

Mr. SILJANDER. Mr. Chairman, I am honored to yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I find the South African system of apartheid to be abhorrent and contemptible. It is worthy of strong condemnation by the people and government of the United States.

A few days ago, Secretary of State George Shultz made some remarks before a conference taking place here in Washington and I would like to quote from his speech. The Secretary commented that:

All Americans condemn South Africa's policy of apartheid—institutionalized racial discrimination. Apartheid is wrong. It robs the blacks of South Africa of their fundamental human rights; it drains the country of its human potential; and it threatens the security and economic prospects of an entire subcontinent * * *. (A few lines later) *let me be catagorical on this point. Western interests—moral, strategic, economic, and political—will suffer if the process of constructive, peaceful change fails to deliver the goods in South Africa.* (Emphasis added.) Stated another way: An immoral system does not serve our interests; it offends our moral principles; and we must continue to seek to end it.

If we all agree on these points, then we need only agree on the best approach to preserving American interests in South Africa. I regretfully conclude that enactment of H.R. 4868 in its present form would not serve this purpose and, indeed, it would be tragically counter to the interests of both the United States and nonwhite South Africans.

The Foreign Affairs Committee held no hearings on this complex and somewhat confused legislation, The committee did not hear the informed views of the administration, the business community, legal scholars, and other participants in the debate over United States policy toward South Africa. We need this information in order to make an informed judgment as to how to proceed on this measure. We are rushing headlong into consideration of this bill because we do not like apartheid.

Well, Mr. Chairman, for this Congress to show its disapproval of apartheid by passing a bill the implications of which are really not known to any of us makes no sense to me.

I am aware of widely differing interpretations of a number of the provisions of the bill. Other provisions appear to be drafted in such a way as to have unintended consequences. Still other elements of the bill seem to be unenforcable.

One of the few constructive provisions of the bill authorizes up to $25 million in each fiscal year for assistance to South Africa. It earmarks $4 million of these funds for refugee assistance and $21 million for community development projects.

But, wait a minute. As drafted, this provision would seem to terminate the educational scholarship programs currently funded through the Foreign Assistance Act. These programs are designed to improve the quality of life for nonwhite South Africans and to prepare the country's future leaders for the time they will have control over their own affairs. There is a tremendous need for quality education in the nonwhite community in South Africa. It is shortsighted for the supporters of this legislation to bring these important programs to a crashing halt.

In closing, Mr. Chairman, let me again quote from the remarks of Secretary Shultz:

At this time of renewed American attention to South Africa, let us remember our goal: We seek the end of apartheid, racism, and repression. Hence, our actions should target apartheid policies and institutions and dissociate us from them. Our aim is not—I repeat not—to inflict random, indiscriminate damage on the South African people and their economy from abroad.

Mr. Chairman, finally I would like to submit a letter from Adm. John Poindexter, the President's material security adviser, setting forth the administrative's policy with regard to South Africa:

THE WHITE HOUSE,
Washington.

Hon. WILLIAM S. BROOMFIELD,
Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. BROOMFIELD: I am writing you to share our thoughts on South Africa, a subject of increasing concern to all of us. I want to explain how we view the situation and what we are doing about it.

At the recent Tokyo Summit, our seven governments reviewed the role that the industrialized democracies should seek to play in promoting the peaceful emergence of a racially just society in South Africa. Current events reinforce the sense of the Summit that we have an obligation to work toward moving South Africa quickly away from apartheid and toward a more just political system.

Naturally, seven countries with unique histories, trading patterns and political dynamics will have differing views on any given issue. On the question of South Africa, however, we found significant consensus. All saw apartheid as the central issue and look to its early end. All see the situation in South Africa as a delicate one that requires careful handling of our individual relationships with that country.

All leaders at the Summit were encouraged by the work of the Commonwealth's Eminent Persons Group (EPG) and agreed that it should be given our collective support. That seven person group, led by former Nigerian President Obassanjo and former Australian Prime Minister Fraser, took on a tough situation and succeeded in moving the parties closer to the negotiating table. We are disturbed that they did not see fit to continue their efforts, but we are encouraged by the progress they made, particularly in forcing all parties to begin to think through the sorts of measures necessary to get negotiations started in South Africa.

It is vital that the foundation the EPG has laid be built on by others, especially the parties directly concerned. The South African Government, in particular, should feel challenged to disprove the EPG's judgments about its intentions. It needs to reaffirm in actions, not just words, its commitment to ending apartheid and negotiating a new, non-racial basis for South African politics. That is the message the President has communicated to State President P.W. Botha.

The situation in South Africa is both volatile and fluid. The violence in townships all over South Africa reveals the tragic conse-

quences of the divisive policy of apartheid. The South African Government is making some important changes, most recently in announcing the abolition of the onerous pass laws, reflecting its stated judgment that apartheid is outdated. Yet much more must be done. Over the coming months, there is some reason to hope that additional positive steps will be taken. Discussions in Natal on the formation of a non-racial form of government in that key South African province may come to a conclusion next month. The South African parliament will meet in special session in August to consider a wide range of legislative actions to repeal key elements of the legal basis for apartheid. Also in August, the National Party will meet in an extraordinary session to consider further changes and options for power-sharing among all South Africans.

It would be unrealistic to expect that these changes, no matter how revolutionary they are in the South African context, will be enough. It is most unlikely that a system steadily elaborated and deeply entrenched over the course of three centuries can be undone in months. Much more will remain to be done.

We believe, however, that the record shows that we in the United States, and our allies in the industrialized democracies, have encouraged progress toward the ending of apartheid by the careful application of pressure and by our continued involvement on behalf of reform—as governments, and through such private entities as corporations, various universities and churches. We need to continue our efforts, not break them off by withdrawing our economic presence from South Africa. The South African Government and informed South Africans clearly understand that we are expecting the end of apartheid and the establishment of a representative system of government. But to reach this goal we must be careful to avoid moves that polarize attitudes, heighten intransigence, and hamper dialogue between the South African Government and representatives of the currently disenfranchised black population.

Since the President's Executive Order of September 9, we have moved ahead aggressively in a number of areas to send political signals to the South African Government and to use our influence and our resources on behalf of human rights and peaceful political transformation. In this fiscal year and next, we plan to spend $45 million in programs that have as their basic goal preparing South Africa for a post-apartheid future. We want to be involved, to make a difference, to help train black students, teachers, businessmen, labor leaders and others who will soon take their place, alongside white South Africans, in leading that country. Based on our recent and continuing exchanges with our key allies, it is clear that they share these goals. They, too, have no desire to see the West take actions that could weaken South Africa's economy and that of Southern Africa.

Secretary of State Shultz's Advisory Committee on South Africa, created by the Executive Order, is also hard at work. Many of its members have traveled to South Africa to study precisely how we can maximize our influence in bringing about needed changes in that country. They will present their report to the Secretary later this year.

We are conducting an active diplomacy to advance American goals in South and Southern Africa. The South African Government can be under no doubt about our views on the issues of apartheid and violence. Our own efforts to press U.S. goals forward are closely coordinated with our principal allies. Some of this activity is visible through our public statements. Much of it is not. You should know of our continuing determination to use all the influence at our disposal to create and pursue openings for accelerated change and negotiation.

The United States must continue to play an important role in promoting a peaceful and democratic future for South Africa through negotiation. This is an issue on which we Americans can speak with one voice. But the President must have the flexibility and the tactical discretion to pursue these goals if we are to succeed in producing the results we all want.

In this connection, we have grave misgivings and strong opposition to attempts to legislate punitive economic sanctions against South Africa. This will erode our capacity to promote negotiations in South Africa, and it is likely further to separate an already divided society. Americans are builders, not destroyers. We should help expand the middle ground, not strengthen the hands of extremists. Further sanctions would have precisely this latter result. Your support of our efforts is crucial to the promotion of peaceful change in South Africa.

Sincerely,

JOHN.

□ 1110

Mr. WOLPE. Mr. Chairman, I yield 9½ minutes to the distinguished gentleman from Pennsylvania, the chief, principal author of the legislation [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Chairman, today we consider a crucial issue. This is not a new issue. It is one that we have debated many times in this Congress, and we have held many hearings over the last few years. In 1985, this body took an unprecedented stand against apartheid, bipartisanly, I might add, when we approved my Anti-Apartheid Act of 1985 that called for sanctions on the apartheid regime of South Africa and a change in our policy of constructive engagement, which basically has amounted to "hear no evil, see no evil, speak no evil against apartheid." And now we are back again. Why? Because conditions have gotten worse. Last year, Mr. Chairman, when we debated my Anti-Apartheid Act for 1985, we were debating it in the midst of the loss of 70 lives per month. This year, over 130 lives per month are being lost. And while the defenders of apartheid keep telling us that reform has gone on, we see a lack of reform, we constantly see no dismantlement of apartheid, we see further invasions of neighboring states like Botswana, Zambia, Zimbabwe, we see continuing oppression internally of the apartheid system.

But yet the defenders of apartheid say to us: There is reform. Look, the pass laws are being repealed.

But they fail to tell us that the pass laws will be replaced with a universal identity document, with fingerprints mandatory, as well as the race of the cardholder placed on that "universal" document.

They also say: Well, there has been reform, because mixed marriages are now allowed.

I was in South Africa in January. I talked with many of the leaders of the majority population who are oppressed, and not one of them in any conversation said to me that mixed marriages were at the top of their agenda or a major goal. And, thus, to point to that as a reform is absolutely ludicrous; particularly when denied the right to vote. They are denied the right to work where they want to work, to have access to education, to live with their family and to be citizens of the republic in which they were born.

Mr. Chairman, there has been no structural change in apartheid. The defenders of apartheid today will probably rise up and say that sanctions do not work, they are ineffective. But yet they will not raise that same argument against the 20 nations in the world where we currently have sanctions, nations such as Afghanistan, Cuba, Iran, Nicaragua, Libya, North Korea. On those we have total comprehensive sanctions.

They will not mention the fact that none of us thought that the sanctions against Poland would bring down the Jaruzelski government. We wanted to demonstrate where we as a nation stood in the oppression of the Solidarity Movement. We also wanted to stop the economic fuel of oppression that is taking place in Iran. Yet, they will say to you "sanctions won't work, they are ineffective." They will not tell you why we have sanctions on 20 other nations in the world.

Today we have an opportunity to vote for H.R. 4868, a carefully drafted bill that goes far beyond last year's sanctions bill. H.R. 4868 targets precisely those sectors of the South African economy most dependent upon American involvement. In this bill, the American people from Peoria to Princeton, from Maine to New Mexico, from Pennsylvania to California, from Michigan all the way down to Florida, are saying that they do not want their bank deposits being utilized to provide the economic fuel for apartheid. They do not want new investments. They do not want coal and steel being imported from South Africa, taking their jobs. They no longer want to provide the economic fuel for apartheid.

And so what we have is a piece of legislation carefully crafted, designed to maximize the impact of our economic involvement in South Africa by removing American economic fuel for the engines of apartheid.

Contrary to what some may say, this bill does not throw up its hands. It does not focus on penalties. H.R. 4868 is a bill that has incentives. We say to the South Africans: If you begin to dismantle apartheid, if you free Nelson

Mandella and other political prisoners, if you begin to negotiate with the majority leadership there in South Africa, we will immediately lift all of the sanctions.

So it is not simply penalties; it is also a group of incentives that urges South Africa to move forward in a progressive manner.

Mr. Chairman, today you will hear other apologies for apartheid. You will hear someone say: We cannot impose sanctions because it will hurt the people we are trying to help.

Well, I call that the supplyside diplomacy school. It says the issue in South Africa is unemployment and the loss of jobs, but the problem in South Africa is not unemployment and loss of jobs. The people in South Africa are not going to funerals because of a lack of jobs but because of a loss of lives. They are not standing in rallies because of the fact that they are losing employment, but because of a loss of justice. The "jobs" argument confuses the issue. It distracts from the real issue.

The real issue is human rights, not jobs.

I would also point out that, factually the argument is based on a faulty foundation. We are willing to hold hostage 28 million human beings and deny them their human rights simply because there are 47,000—that is right, 47,000; jobs. The fact remains, however, that this legislation will not affect any of those 47,000 jobs.

Then someone else will rise on this floor and will say: "Look, if we impose sanctions, other nations will move into the vacuum." This argument amounts to saying "Let me mug you now because if I don't someone else may do it later to you."

Is that what the American foreign policy wants to be based on? Do we want to say we must participate in apartheid because if we do not, some other nation will come and take over the marketplace? I don't think that has credibility. In fact, we know when we take a stand other nations like Canada, Australia, and the Commonwealth nations have joined us in the past, and I predict that today when we pass H.R. 4868 they will join us again.

And then there will be some who will come to the floor and who will say: "Look, we have to be worried about the Communists. They will take over."

Well, let me tell you, my friends, if America does not rock Botha, if America keeps standing with apartheid, those people who are seeking their liberation will turn to another nation for the tools of their liberation. They will turn elsewhere, because we will be saying one thing while doing another.

So I say if we want to avoid a Communist takeover there, if we want to avoid the triumph of Marxist-Leninist doctrine, then, America, must stand for what we believe, freedom and democracy for all people. As we lit a candle for those oppressed in Poland, let us strike a match for those oppressed in South Africa. As we speak out, and correctly so, for those oppressed in the Soviet Union, like Sakharov—and, thank God, Shcharansky is free—let us speak up for Nelson and Winnie Mandela and have one consistent policy.

And then, finally, there will be some who will come here today and they will say: We cannot do anything because the Botha government is under siege. There are those from the far right that would overthrow the Botha government.

But we must never forget what the debate is between Botha and the far right. It is not a debate about dismantling apartheid. It is a debate about to what extent apartheid will be imposed.

I say to you today that America has an opportunity to send a message and to reduce the economic fuel for the engine of apartheid. I urge my colleagues, Republicans and Democrats, liberals, moderates, and conservatives; we must say to South Africa: "Just as we have said it to 20 other nations around the world we now say to you: We will no longer provide the economic fuel for your political repression."

When we do, my friends, we will not stand alone. Other nations will join us and call for freedom with us.

Mr. SILJANDER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I appreciate the gentleman from Pennsylvania, although I feel somewhat offended by his comment, and I am quite appalled that the gentleman from Pennsylvania would, even in a remote stretch of the imagination, imply that anyone against this particular bill, could be tagged as a "defender of apartheid." I was hoping this debate could be raised to an appropriate level. We all feel apartheid is an abomination, of incredible horror and violation of basic human rights. But to suggest that those of us who disagree with the approach of the gentleman from Pennsylvania, that that somehow makes us defenders of apartheid, is unfair and unwise and a very inappropriate accusation.

Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. BURTON].

□ 1125

Mr. BURTON of Indiana. I thank the gentleman for yielding to me.

Mr. Chairman, I want to echo my colleague's remarks and that is that I believe everybody in this Chamber is for freedom and democracy and against apartheid.

The question is not whether or not we are for apartheid but how do you end it and how do you end it in such a way so that that entire nation does not go back into the dark ages?

Many people are very concerned that if apartheid is attacked by these sanctions that the very economic fabric of that entire country will disintegrate, and if it disintegrates, there will be nothing to keep that society afloat.

My colleagues over there talked about us attacking sanctions from the standpoint that it might hurt the very people that we want to help. I submit to you that is a very valid argument. In the gold mines, for instance, there are 600,000 blacks who work. Each one of those people who work in the gold mines supports at least 5 other human beings so there are 3 million people who would be adversely impacted if we were to shut down the gold mines through economic sanctions worldwide. If those people could not put food on the table, they would then be ripe for all kinds of suggestions by organizations like the ANC which my colleagues have held up as some kind of a pillar of democracy; that is, my colleagues on the other side of the aisle.

The ANC has 30 people in its executive committee. Nineteen of those people, and I have their names, are members of the Communist Party. We know at least 19 are Communist; we believe that more like 25 are Communist, and they have talked continually about revolution and destroying that entire society as it is presently constituted in putting a Communist society in its place.

My concern is that we do not play into the hands of the people who would take away the freedoms, long-term, of the people of all of southern Africa. Angola is Communist; Mozambique is Communist; Zimbabwe is Communist; the entire crescent above South Africa is Communist, and we are going to play right into their hands, in my opinion, if we impose economic sanctions that undermine that Government to such a degree that it totally collapses, and falls to the Communist elements of the ANC and other organizations over there.

The President, 9½ months ago, this administration, 9½ months ago imposed sanctions. Those sanctions, although they have not borne the kind of fruit that we want, have been a step in the right direction. The pass laws have been changed. That is a step in the right direction. Those pass laws have been in existence for many, many decades.

My concern is, Mr. Chairman, that we, in this body, do the responsible thing. The President of the United States imposed sanctions. He has put pressure, through constructive engagement and the sanctions that were imposed 9½ months ago, on the South African Government.

In addition to that, the internal pressure has been greatly intensified

over the past few months. It is my feeling that if we work with the President, with the administration, that we will see some positive changes in South Africa.

Conversely, if we impose the kind of sanctions that my colleagues on the other side of the aisle are asking us to impose today, it is my feeling that chaos will evolve out of this; that the African National Congress and other Communist organizations will grow in strength and we are going to see a real bloodbath. Much worse than what we see right now. The benefactors of that will be the Communist Party and, of course, the Soviet Union.

Let me just end by saying this: We have a stake that goes beyond the ending of apartheid. Five minerals that are absolutely essential to the defense and the industry and economic health of this country come out of southern Africa. If southern Africa goes Communist, the only other place we can get those vital minerals are from the Soviet bloc, so we cannot allow that part of the world to go Communist.

I submit to you, my colleagues, that if this type of legislation is passed, and if these economic sanctions are imposed and that entire civilization and that entire governmental structure is destroyed, we are going to reap the whirlwind. The free societies of this world are going to be in big trouble if this happens.

Mr. WOLPE. Mr. Chairman, I reserve the balance of my time.

Mr. SILJANDER. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the gentleman for yielding me this time.

Mr. Chairman, my voice is going and perhaps I might not even last those 4 minutes, but I come before this House with a great sense of concern for the country of South Africa and for what we are about to do here today. I do not think that there is anyone in the House that does not have his stomach turned at the thought of apartheid and the consequences of that policy as it has been carried out in South Africa over these many, many years of history.

Certainly it is impossible to look at the news today and say that conditions are truly improving. I share the sense of my colleagues who have brought this motion that something must be done. But I have to ask them: Are we really doing the right thing with this bill?

Is it really the right thing that we do by coming here and saying, "You have not been living according to civilized standards or standards of the norm of democracy, and so therefore, we should pull the rug from under you. Therefore, we should disassociate ourselves with you because you have not been treating a majority of your people properly. We should not have anything to do with you."

Well, I see some nodding heads over there and I hear even a clap or two, but we really have not done that to the Soviet Union as they have trooped all of their millions of people to Siberia over the last century. We do not do it to the Soviet Union when they just eliminate people in Afghanistan through the process of systematic genocide.

We do not do it to our neighbors in our Latin American countries, specifically in Nicaragua, when they imprison people. A nation of only 3 million people, they have some 20 prisons, and are systematically putting anybody who speaks up against the government in prison, torturing them, and even executing them.

I suggest to the people that are offering this bill, in good faith, that perhaps we are not offering the right alternative. I do not stand here with the knowledge that I have the right alternative. I am genuinely concerned that as the turmoil builds in South Africa, you have people walking around in brown shirts, in some sort of neo-Nazi fashion, attempting to build their strength on the basis of hatred of black people so they can seize power and have a Fascist-type of government entrenched in South Africa.

On the other hand, I am concerned that the black community in South Africa is split, and that you have those people who are far on the left, militant in their view, who seek only to revolt to install revolution in that country of South Africa and to seize power of the country for the hard left.

□ 1135

Somewhere in the middle, unfortunately, the broad and the much quieter center of the nation, you have the peaceable folks who are trying to do what is right for all of their people, who are trying to work their way through the problems of South Africa, and who are frankly being systematically shoved aside by the more militant from both sides.

The Botha government has not been forthcoming. They have not done what we would have expected that they should have done to correct the problems, but let us be sure that when we do act, we do not make the problems that exist in South Africa far worse than they are today. That is the risk we run today, and it is a formidable one. Let's not destroy our friends in an effort to help them. I would advise my colleagues to go slowly, to follow our President, and to vote no on this legislation. Let's look for a better alternative.

The CHAIRMAN. The gentleman from Michigan [Mr. SILJANDER] has 39 minutes remaining and the gentleman from Michigan [Mr. WOLPE] has 28 minutes remaining.

The Chair recognizes the gentleman from Michigan [Mr. SILJANDER].

Mr. SILJANDER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, I think that we can have concurrence that the white government, and it is the white government, of South Africa, has treated a majority of its population in a way that is unacceptable. We can also have agreement that there are blacks in South Africa who would turn that nation, because of their beliefs, into a Communist bastion.

Today we talk about craft in the way that legislation has been worded. I am going to suggest that the argument about the Botha government or about the ANC, and indeed about how well this legislation has been crafted, is irrelevant. I am going to say that there reaches a point and a time when this Nation, black and white, must be counted. It can no longer say that there is a technicality of a piece of legislation that is good or bad, but it must see that in a nation where systematically 24 million people are excluded, the only choice will be disaster unless we view a stand for freedom, and I believe that we must support this bill.

I believe from my visit in South Africa that that nation of flowers and wealth lacks joy and lacks a sense of its future. And I believe moreover that in the air was the smell of blood, and perhaps I say this as a woman, that mothers were going to be comforting children frightened and dying, and the color of who is killing that child becomes irrelevant.

We must stand up and be counted. The time is now to vote for this bill.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. SILJANDER].

Mr. SILJANDER. Mr. Chairman, I reserve my time.

Mr. WOLPE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Chairman, I want to commend my friend, the gentlewoman from Illinois [Mrs. MARTIN] for an excellent statement. What is at stake here is not the particulars of this piece of legislation, although I believe it to be well crafted. What is at stake here is a fundamental principle, namely: Where do we stand vis-a-vis a government which is predicated on the principle of the primacy of pigmentation. That is the sole issue.

We vote every session on 500 or 600 pieces of legislation, and there are powerful arguments for and against most of those. But some pieces of legislation fall into a separate category. They are what I call "cannibalism issues." Cannibalism issues are like cannibalism. You are either for canni-

balism or you are against cannibalism. There are no degrees of cannibalism. There is no phasing out of cannibalism. Cannibalism is to be rejected, and apartheid is to be rejected.

On Monday of this week this body passed two pieces of legislation that I offered. One related to Jesse Owens' victory in the 1936 Olympics—Hitler's Olympics. Fifty years ago this summer Jesse Owens demonstrated to a rotten racist regime that it cannot function being built on the principle of racial supremacy.

It is high time that, 50 years after Jesse Owens' demonstration to Hitler's Germany, the Congress of the United States tell Mr. Botha and his colleagues and his opponents on the far right that South Africa cannot be predicated as a civilized modern nation on the principle of racism.

Some of my colleagues talk about communism and the Communist danger. There is no Member of this body other than myself who lived under and fought against a Communist regime, inside a Communist regime. If we wish to facilitate the coming to power of a Communist regime, let us prolong apartheid. It will surely come. The one hope that we have of preserving a non-Communist society in South Africa is to provide the people of South Africa—all the people of South Africa—the fundamental freedoms and beliefs that we cherish and value.

In a few weeks this Nation will go wild with celebration as we honor the 100th birthday of the Statue of Liberty. What kind of a phony message do we send to that magnificent lady presiding over New York Harbor by telling the world that we think that apartheid is really bad, but perhaps we can work with the people who perpetrate apartheid. No hurry, let us take it easy, let us cool it.

That magnificent lady presiding over New York Harbor is begging us today to rise to the occasion. We are at a hinge of history. We are connected to the past, but we are swinging in new directions. Our vote today will determine whether those directions will be toward freedom and opportunity for all the people living in South Africa, or whether we will have the bloodbath and the Communist takeover that protracted apartheid will surely mean.

Mr. Chairman, I beg my colleagues to support this legislation.

Mr. SILJANDER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I am one of those who has more than a passing interest in South Africa. I have been there. I have struggled with the question of how we can be contributors to constructive change, and I must regrettably tell you that I am not at all convinced that the United States can contribute positively to change in South Africa; I do not think that it will happen.

I would like to suggest that we ought to then ask ourselves the question today of really what ought the role of American foreign policy be, and I would suggest that that role ought to be to promote America's interest, America's long-term interests around the world.

Anyone who has looked at the situation in South Africa ought to understand from that perspective that there will and there must be change; whether it comes this year, in 2 years, 5 years, or 10 years, sooner or later there will be change in South Africa, and I would suggest that it is in our interest to be on the side of the majority rule in South Africa. If that is the question, then I would suggest that it is also the policy of the United States to send a signal to the moderate black leaders and the moderate white leaders that we want to work with them, that we share their common goals.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

Mr. SILJANDER. Mr. Chairman, I yield 30 additional seconds to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, in that regard, then, I would like to conclude by suggesting one other thing, that the moral issue, I think, of promoting equal rights and human rights around the world is obvious to everyone. I would suggest, however, that if we are the advocates of freedom, as we profess to be in Afghanistan, Nicaragua, Angola, and elsewhere, and democracy, that we also be the advocates of democracy and freedom for all people in South Africa.

This bill does not require disinvestment. This bill is a realistic response to the situation in South Africa. I encourage all Members, regardless of party, to support it.

□ 1145

Mr. SILJANDER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, there are two dominating issues I would say about this debate. The first one, which granted is less important than the overall concern of apartheid, is the way this bill has been handled. The Subcommittee on Africa has been holding hearings on apartheid, the implications of the system, and how America can best influence change in that country.

We have talked about the Dellums bill and held hearings on it. We held hearings a year ago on other previous pieces of legislation, but there has never been 1 minute of hearings in our subcommittee dealing with this specific piece of legislation and its implications. It was then ramroded immediately into the full committee, in which those have claimed that this bill has had more than appropriate hearings because we have talked about the issue of South Africa so often. Not more than 4 or 5 minutes after that comment, they were rushing for an amendment to change a major provision in the bill, which would have disallowed any company in South Africa, United States company, from even holding a checking account and paying bills.

Recognizing that this was a serious concern, they rushed to amend the bill and change it.

It was again ramroded through the full committee onto the floor.

The argument again is, well, it has had appropriate hearings in the full and subcommittees; yet the gentleman from Michigan [Mr. WOLPE] has another amendment to change another major provision of the bill.

The implications of this bill are clearly uncertain. We have not had an opportunity to hear from all forces, all elements, to determine the full implications and the agendas of this particular issue.

It is quite obvious that one of the major motivations of the ramroding of this legislation was not so much because it was imperative because of the deaths and the concerns in South Africa, but rather to coincide the debate with the 10th anniversary of the Soweto riots, seizing the political and media opportunities in a manipulative way. So I think that is an important issue that the membership of this body needs to understand.

POINT OF ORDER

Mr. DELLUMS. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DELLUMS. Mr. Chairman, I would like to move that the gentleman's words be taken down on the grounds that the gentleman is challenging the motives of Members of Congress, and as this gentleman understands, it is inappropriate to challenge the motives of Members of Congress. One can challenge the political position asserted by Members of Congress, but I do not believe that it is within the purview or the prerogatives of any Member to challenge the motives. The gentleman has mischaracterized the motives of Members of Congress.

I have a much more strenuous effort that I wish to make, so I am not trying to defend the position of the committee, but certainly do not challenge the motives.

I would like to stress that, move that the gentleman's words be taken down. If this gentleman is inappropriate, I will be happy to sit down.

The CHAIRMAN. The Chair would make an inquiry of the gentleman: does he insist upon his demand?

Mr. DELLUMS. Yes, Mr. Chairman. I think one gentleman earlier said that this debate ought to move on a higher level. This gentleman wants to insist upon it.

The CHAIRMAN. The Chair, under the rules, will ask that the Clerk take down the words in question.

Mr. DELLUMS. Mr. Chairman, in order to allow the debate to proceed, I will withdraw my point of order. The gentleman from California has made his point.

I wish that this debate go forward on the merits of the issue, rather than on impugning the motives or integrity of any Member of Congress on either side of the aisle. I think I have made that point. It is not necessary to rule, and I withdraw it.

The CHAIRMAN. The gentleman from California withdraws his demand.

Mr. SILJANDER. Mr. Chairman, I object, if that is appropriate, because I would like to have a ruling.

Mr. DELLUMS. There was no unanimous-consent request made.

Mr. SILJANDER. Mr. Chairman, I have been challenged and I would like to have a ruling by the Chair.

The CHAIRMAN. The gentleman will suspend.

The Chair would observe that under the rules, unanimous consent is not required for the gentleman to withdraw his request. The gentleman's request is withdrawn.

The gentleman from Michigan [Mr. SILJANDER] is recognized.

The Chair would observe to all parties to the debate that the highest degree of decorum is required under the House rules and all Members are requested to observe that.

The distinguished gentleman from Michigan [Mr. SILJANDER] is recognized.

Mr. SILJANDER. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, I stand here today as a Representative to the Congress of the United States of America knowing that the action we are about to take is the only action left to us to try to insure peaceful change in the Republic of South Africa.

I have some misgivings about H.R. 4868. The minority views filed by 11 members of the Foreign Affairs Committee prove that this bill has been hastily written and that it includes language and provisions that may have impacts far beyond the intent of the sponsors of the legislation. I have no doubt that these discrepancies and shortcomings in the bill can and will be corrected long before H.R. 4868 becomes law.

I have no further misgivings over the intent and the need for this legislation. As an original cosponsor of the Anti-Apartheid Act of 1985 (H.R. 1460) I had already concluded last year that South Africa must be encouraged not only with a carrot but also with a stick to move quickly to change its immoral and unsupportable methods of dealing with its black citizens.

I was pleased when President Reagan removed the need for H.R. 1460 last year by imposing virtually all of its provisions by Executive order. That method put those measures into effect more quickly than the legislative process allows and put the weight of the American Presidency as well as the American Congress behind those actions. Now, however, 9 more months have passed and progress in South Africa seems to be struck between very slow and backward.

Last week the apartheid government of Prime Minister Botha imposed a new and nationwide state of emergency to preclude any observation of the 10th anniversary of the Soweto incidents of 1976. Instead of using this occasion to admit its past mistakes and to boldly move into the future of freedom and liberty for all, the forces of oppression clamped down on its citizens and threatened to gun them down in the streets if they did not stay in their shacks in the black ghettos. The government succeeded in its efforts to maintain peace and order and now they are claiming a triumph. This display of raw power and oppression was no triumph.

Mr. Chairman, the actions of the Government of South Africa over the past week only prove more conclusively than ever that there is a basic lack of understanding on the part of the Government of South Africa that is combined with an inflexible and bull-headed attitude which can only lead to disaster, revolution and massive bloodshed in that blessed but wicked land.

The United States has tried every conceivable way to talk to and to convince the South Africans that change must come or anarchy will crush all order and every chance for peace. We have tried arms embargoes, We have tried United Nations resolutions. We have tried quiet diplomacy. And we have tried public diplomacy. Little if any impression has been made. Lately the South African Government has altered its public statements to say that they admit that apartheid is wrong and that it must change. They say that they are moving in that direction and that some of the most onerous apartheid laws have been repealed or changed. These statements are woefully lacking in conviction and they are not backed up by the facts.

South Africa continues to attempt to do the least possible for its own people and keep the hounds of revolution and international public opinion at bay. This head-in-the-sand approach may not be surprising, but it is wrong and it is morally indefensible. By refusing to deal directly with its undeniable oppression of all of its non-white citizens and continuing with its policy of confrontation and "keeping the lid on" the government is not only doing no better than postponing the inevitable change; but it is also guaranteeing that the change will be violent and revolutionary when it does come.

I cannot sit in comfort in the United States and do nothing while the whole of southern Africa explodes in gunfire and blood. The only beneficiary of such an explosion would be the forces of evil led by the Soviet Union which seek to insinuate themselves into any situation like this and eventually enslave the people who only wanted to be free. That is the result that I see from a continuance of current South African policy. That is the result that I see if the United States does not make every possible effort to make the South Africans understand the nature of their plight before it is too late.

Mr. Chairman, we must have a carrot and we must have a stick to avert disaster in southern Africa. We have the carrot in our treasury and in the generosity of our people who will be willing to help pay for change and evolution in South Africa. Now we must have the stick to make the South Africans wake up before it is too late. We have tried mild actions. The result that we have gotten is that last week when President Reagan called Prime Minister Botha to urge him to cancel the state of emergency, Mr. Botha was rude and belligerent. He displayed all of the reasonableness and flexibility of a man who knows that he is wrong, but who just cannot see his way clear to repent and rectify his past misdeeds. It is one thing to admit that apartheid is wrong—it is another thing to do the right thing and abolish apartheid. Mr. Botha and his government have done the first part—now they must do the second part.

I believe that H.R. 4868 and its measured and proportionate economic actions against South Africa is the legitimate next step to the actions that we took last year. This action is needed and it is reasonable. The minor disagreements that I have with the language can be fixed and the size of the problem of apartheid and the threat that it poses for all of the people of South Africa and for the future of America interests in that region make it imperative that we act before it is too late.

I will vote for H.R. 4868 and I urge all of my colleagues to do the same. We must send a message to the people and the Government of South Africa. We must send that message now and we must send it together.

Mr. SILJANDER. It is quite remarkable, Mr. Chairman, that moments ago on the floor in the well, the gentleman from Pennsylvania made a direct implication that anyone opposing this bill was, to quote, "defenders of apartheid."

What that says very clearly is that somehow those who oppose this bill somehow support the white racist regime in South Africa. I find that quite objectionable.

I did not play—and I will not yield—I did not play the political games that the gentleman from California has played by taking one's words down, and then knowing he would lose in the final analysis, then withdrawing his request. I wish we would have carried through on the decision by the Speaker to determine whether or not the words were appropriate or inappropriate.

So really, what it comes down to is not the issue of the horror of apartheid. I have not heard one speech on this floor in probably 40 hours of debate over the last several years, sup-

porting the white racist regime. We have differing philosophies of approach.

I visited South Africa. I visited the ghettos of Soweto and Crossroads. I was there and saw the horror of the young and old people.

We all are urging immediate changes in that racist system of apartheid in South Africa. There is a moral imperative to the United States that challenges us to utilize all the influence we can muster economically, politically, domestically, and internationally, use our prestige, our influence, to initiate change as quickly as humanly possible; but I would submit that cutting and running as this embargo bill would do is only yield our influence, our authority, our ability to control the situation, completely away.

It is not the tradition in America to cut and run, but rather to stay and fight. If our presence in South Africa, our economic presence there, if someone could convince me has contributed to the apartheid system in that country, I would support the measures of this bill; but quite the contrary has been the historic result.

The gentleman from Pennsylvania [Mr. GRAY] mentioned the Mixed Marriage Act and Immorality Act as irrelevant, and I agree. They are totally irrelevant. They are minuscule in the whole context of human rights and concerns for the oppressed black majority in South Africa.

The Group Areas Act, the Influx Control Act, the Pass Laws, Black Ownership of Land, these are also essentially irrelevant, but the important point is that the dogmatically inclined white government has finally changed. They finally budged from an immovable intransigent position, admitting essentially that apartheid is wrong and apartheid is immoral.

We indeed are a society of instantaneity. Each and every time we reach for the remote control of our television set or press for instant coffee in our microwave ovens, we realize how quick our society can engage itself in new technology; but cultures cannot change overnight. It is time to stop the killings in South Africa and time to begin talking.

Will sanctions in this embargo bill stop the killings in South Africa?

□ 1200

Will the sanctions in this bill cease the necklacing of innocent human beings, where a tire is placed around the neck, filled with gasoline and set afire? Would the sanctions bill have prevented the death of a 13-year-old girl buried alive, a black girl, because she was accused of being in cahoots with the white Government of South Africa?

I believe that a sanctions bill, quite contrary, would add fuel to the burning rage of the radical right and the radical left. They both sit poised in South Africa awaiting an excuse to initiate the radical behavior, the far right, the neo-Nazis, gathering 20,000 strong at rallies. They sit waiting for sanctions to be passed by the U.S. Government so they can argue more intransigence, more military action and more deaths, and the radicals on the left waiting for economic sanctions to bring economic chaos to the culture and the society, are waiting for excuses to perpetuate more revolution and more violence.

Before last May of 1985, one-third of all the deaths were black on black. From May of last year to July of this year, 51 percent of all the deaths were black on black. In the last several weeks, 71-plus percent of the deaths have been black on black.

I fail to see that the signals that the U.S. Congress has been systematically sending over the last several months have contributed to any significant decline of violence and killing in South Africa. We are truly a great nation. We are a great and powerful country that can send very pointed signals all over the world. Ronald Reagan's Executive order calling for four sanctions, the Sullivan Principles and aiding blacks and entrepreneurial and scholarship activities, have sent a clear message. The hours and hours of debates on the floor of the Congress and in the subcommittees and the full committees have sent messages.

The gentlewoman from Illinois mentioned it is time that we send clear messages as a great nation, and indeed, the ink is hardly dry on the report from the President, and the commission that he appointed to analyze dismantling of apartheid has not as yet had an opportunity to even speak its first report.

We have sent messages, but the messages and signals we are sending about cutting and running have, in my opinion, only fueled the fires of unrest, will increase the violence and deaths in South Africa.

Is it not interesting that blacks in South Africa in 7 days, through boycotts and through general strikes, if they so chose, could completely paralyze the economy of South Africa. So if that is truly the goal, to paralyze and create chaos in the economy of South Africa, why are we asking the blacks in South Africa to do something that they are themselves unwilling to do?

My heart does ache for those fighting for the basic human rights, to live in peace and to live in fairness with principles and dignity. The gentleman from California [Mr. LANTOS] said that apartheid must be rejected, and he is right. Apartheid must be, without any question, unequivocally rejected. I agreed with essentially every word of his very eloquent statement.

What we disagree on, Mr. LANTOS and I, is how we approach that change. I argue peaceful transition is possible. Others would argue sanctions somehow, through increasing economic chaos, will be the vehicle. We disagree on the vehicle, but certainly both of us agree the need to have apartheid totally abolished and freedom established for all people of South Africa.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. SILJANDER. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Michigan.

Mr. Chairman, I think the gentleman makes a very good point when he talks about the Executive order issued by President Reagan just 9 months ago. It has hardly had a chance to work. I think it is aimed in the right direction. This is aimed in the wrong direction.

The gentleman asked the fundamental question, and that is: Will this legislation help to bring about the changes in South Africa that all of us in the Chamber desire and want? I think the answer, as the gentleman has stated, is clearly no. I think the legislation will be harmful, not helpful to the process.

Mr. Chairman, I oppose H.R. 4868 because I believe it is a misconceived, poorly focused economic embargo ultimately aimed at the very people of South Africa the proponents say they want to help. If enacted, this bill would speed South Africa down the road of economic despair lessening the chances for peaceful and democratic change in that country. Like other Americans I strongly object to the policy of apartheid in South Africa. This inhuman, prejudicial system totally disregards man's inherent rights of freedom, liberty, and equality. I hope that South Africa will soon become a truly democratic nation based on majority rule and protection of minority rights. However, measures such as H.R. 4868 will not assist in the realization of this goal.

United States companies have been a vital instrument for change in South Africa. They have taken the lead in challenging the South African Government's discriminatory laws and practices in and out of the workplace while improving the standard of living for the blacks. As Sal Marzullo, the representative of the 199 Sullivan principles signatory companies, recently testified.

Our presence is better than our absence. Our presence allows up to shape and be participants in those dynamic forces present that must lead to the erosion and final elimination of apartheid.

Nine months ago, President Reagan issued an important Executive order that expressed America's conviction that apartheid must go and targeted specific elements of the South African Government. I think we should give the President's program a chance. Unlike H.R. 4868 the President's order does not seek to destroy the South African economy or hurt those we are trying to help.

Our goal is to end apartheid and see peaceful, democratic change come to South Africa as soon as possible. However, sanctions and disinvestment measures like those H.R. 4868 seeks to enact will cripple the economy and add even a greater economic burden to its weakest members, namely the blacks we are trying to help. This, obviously, leads to greater frustration, anger, and violence. The radical, uncaring elements take control leading to further death, destruction, and tyranny. The last thing Africa needs is another desperately poor, authoritarian, anti-Western nation. The enactment of H.R. 4868 could steer South Africa in this undesirable direction.

I also object to this bill because of the way it was rushed through committee without hearings on its intended, and unintended, effects. There was no consideration for our own national security objectives or the impact this would have on our own economy. After closely examining the bill, I found many flaws and inconsistencies. My opposition to the immoral and inhuman apartheid system is total. However, an ill-considered embargo such as the one H.R. 4868 seeks to impose would impair the type of societal and political restructuring in South Africa that would peacefully bring about democracy. Instead of displaying crude partisanship and racing this legislation to the floor to coincide with the Soweto Week commemorative events in South Africa, I urge my colleagues to consider the plight of the disadvantaged black and colored South Africans and prevent another Soweto from occurring.

Again, I oppose H.R. 4868 and urge my colleagues to vote against it.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. SILJANDER. I yield to the gentleman from Wisconsin.

Mr. ROTH. I thank the gentleman for yielding.

Mr. Chairman, the South African sanctions bill before this House today makes no distinction between those whom we are trying to help and those whom we are trying to pressure toward positive change.

And most explicitly, the bill before us forces Americans to abandon their efforts to improve the lives of black South Africans. It is Americans in South Africa that are in the forefront of those pressing for major institutional and political changes to eliminate the apartheid system. If we wish to change apartheid than we must stand behind these American who are making indicatives to change it. It is Americans who are working for the full and equal economic and political rights for all South Africans. Yet this bill says: "Take the easy way out, come home, and give up."

These are just some of the actions that Americans working and living in South Africa have taken in recent months:

The American Chamber of Commerce in South Africa has publicly endorsed and is campaigning for a charter calling for the full civil rights of all South Africans. Americans are doing that. With this bill, we would have no leverage at all.

American companies, among the first to integrate blacks and whites in the workplace, have embraced a political advertising campaign aimed at South African governmental reform on apartheid. Some companies are even considering organizing civil disobedience campaigns on behalf of their nonwhite workers.

American companies—such as Control Data, Hewlett Packard, Johnson & Johnson, Fluor, Burroughs, and many others—have contributed generous grants to renovate and build school classrooms, provide books and libraries, sports equipment, tuition and training for teachers, and the like.

IBM recently shipped $30 million worth of "Writing to Read" computers to teach black South African children how to read.

American companies have openly criticized police actions that have led to increased violence. They have openly advocated the integration of cities.

But this bill would have us virtually terminate our corporate involvement in South Africa. Yet most of the American firms operating in South Africa are Sullivan code participants, playing an active part in dismantling unequal and unjust educational and working conditions. For example:

Since 1980, the average annual pay increase for blacks working for American companies has been 20 percent. That pay increase is 25 percent greater than salary raises for whites working at the same companies.

American companies have funded over 1,000 scholarships each year for black South Africans.

Over one-fifth of all supervisory and management jobs in American companies in South Africa are held by blacks.

U.S. companies have voluntarily spent more than $158 million for health, education, community development, training, housing, and black entrepreneurship.

I urge my colleagues to oppose H.R. 4846, which, if enacted, would institute an economic embargo against the Republic of South Africa, force the withdrawal of American companies operating in South Africa, and lessen the chances for peaceful and democratic change in that country. As Karen House of the Wall Street Journal observed:

> It is easier to sit in America and argue the moral justification for applying economic pressure against South Africa than it is to walk through Soweto and see the mounting practical effects.

Americans stand firm and united against the policy of apartheid in South Africa. The apartheid system is abhorrent to the sensitivities of all people who believe in man's inherent right to freedom of choice and equality of opportunity. But we in this country are way behind in the debate. The question in South Africa is no longer whether or not apartheid will be retained as a policy. Clearly, it will not. The policy dilemmas now facing South Africans center around how to transform South Africa's society in a peaceful and nonthreatening manner.

I believe that forcing gradual disinvestment and an export embargo against South Africa will not contribute to dismantling apartheid, but only delays progress toward a more just society.

The trade and investment ramifications of H.R. 4868 are widespread and go far beyond the boundaries of United States-South African trade and economic ties. The bill prohibits United States companies from extending any forms of credit, including trade credits, to any companies located in South Africa—regardless of national ownership.

Trade between countries is typically handled on a letter-of-credit basis or company-to-company short-term extensions of credit. Such credits would be prohibited under this legislation. Consequently, exports of all products, including agriculture, are effectively cut off between the United States and South Africa. So for those of you who believe trade is an important issue back home, by voting for this bill, you can claim credit for adding $1.2 billion to the trade deficit.

And what do we export to South Africa? Heavy machinery, computers, engineering services, machine tools, aircraft, corn, rice, and many other products.

Further, United States companies are prohibited under this legislation from extending any form of credit, including trade credits, to any companies located in the United States or anywhere else in the world if South African citizens own or have controlling stocks in such companies. The definition of controlling stock can be 25 percent ownership. So the companies in your district will now have to research the stock composition of the companies they do business with. They will be required to

do so for all of their operations here in the United States as well as abroad.

To comply with this bill, no company can extend credit cards to South African nationals. Therefore, any American department store, gasoline company, or local bank which offers credit cards to its customers will now have to revise their application forms to add nationality as a condition for obtaining a credit card.

As United States persons are prohibited from directly or indirectly investing in South Africa, under this legislation all United States citizens buying stock in any American or foreign company—for example CBS, IBM, Citicorp, Coca Cola, Ford, General Motors, Xerox, Westinghouse—which holds investments in South Africa could be prosecuted.

The provisions concerning the total disinvestment of the computer industry are equally ill-conceived. The provision requires the total disinvestment of the United States computer industry in South Africa and a total prohibition of exports of United States computers, software, or computer technology to South Africa. Products containing United States computers or United States computer technology could not be sold in South Africa.

This bill unfairly singles out one industry for total disinvestment and total ban on exports.

In earlier years, some claimed that computers enabled the South African Government to enforce apartheid. The President's Executive order therefore specifically prohibited the export of computers to South Africa's apartheid-enforcing governmental agencies. Clearly, the authors of this provision are no longer targeting apartheid, but are declaring economic warfare on South Africa.

However, United States is not sole supplier of computers to South Africa. According to recent figures from the Department of Commerce, the United States supplied less than one-third of South Africa's computers last year, 30 percent.

Although the provision is effective only if conditions are not met, the result will be an immediate disinvestment of United States computer industry and distributors will immediately switch to Japanese and European vendors.

Obviously, any foreign company now selling a product to South Africa which is either a computer or contains a United States computer—like a videogame, medical equipment, you name it—will shift its supply source to a non-United States supplier. So what we are talking about is very clear. Any foreign company which includes South Africa as an export market and which presently incorporates United States computers, computer parts, or computer technology in its production line, will be forced to shift its supply source to non-United States suppliers.

The provision would equally require the disinvestment of any U.S.-owned retail or department stores selling computers.

The provision makes absolutely no exceptions for humanitarian, educational, religious, or vocational purposes. Thus, for example, any medical or safety equipment containing United States computer technology could not be exported to South Africa. Similarly, United States computers used to educate or train black South Africans would be prohibited.

The bottom line is that this provision does not achieve the objective of prohibiting computers from entering the South African economy. Nor does it serve as an incentive for the South African Government to negotiate. It only severely damages an important United States industry.

This bill is the equivalent of putting a bull in a china shop. It is indiscriminant in its rage. And as it plunders ahead, delicate efforts will be smashed. Goring American companies and their workers may give some in this body a sense of satisfaction. But not this Member.

United States companies have been an vital instrument for change in South Africa. I stand behind the efforts of Americans and American companies that are working to bring about a just society in South Africa.

This bill will not do anything to change the intend affairs in South Africa—all this bill will do is increase our deficits and shoot American business in the foot.

□ 1210

Mr. SILJANDER. Mr. Chairman, reclaiming my time, I appreciate the gentleman's eloquent comments, but our time, I am informed by the timekeeper, is running out.

Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding.

Hearkening back to an earlier comment the gentleman made, let us make sure that we all understand that no one is challenging anyone's integrity or motives in this body. We all know that honest men can disagree.

For example, we had hearings last Tuesday, all day long, on repealing most-favored-nation treatment for the Government of Romania. We had 8½ hours of testimony to the effect that the Ceausescu government is guilty of beating and murdering clergy, that the Ceausescu government is guilty simultaneously of bulldozing churches, of engaging in atrocities and promoting terrorism, and yet some of our colleagues feel that by maintaining most-favored-nation treatment for the Romanian Government, it gives us the opportunity, hopefully, to have some impact on that Government to mitigate and soften the atrocities that we heard testimony on.

I think the same is true here. No one is for apartheid, but I think we have got to set the record straight on some very important points. I, too, have had the privilege of traveling in South Africa and visiting and talking to black leadership, to Indian leadership, other members of the so-called colored community over there, and I heard exactly what the gentleman from Michigan has already commented on, that it would be the most unwise course of action conceivable for American companies and American involvement to depart from South Africa.

It is a mitigating influence. It has produced constructive changes. The 192 companies that have subscribed to the Sullivan principles have already put $140 million into South Africa for the benefit of black employees, improving their education, guaranteeing them favorable housing, helping to build strong communities.

As Secretary of Commerce Baldrige has stated, this legislation is a blunt instrument. It does not distinguish between those whom we want to help and those whom we are trying to pressure into change.

For example, it would engage in sanctions against black-owned companies in South Africa. There is no distinction made. Why would anyone want to beat up on black-owned companies in South Africa? In addition to that, we should listen to Mr. Akers, the president of IBM who stated:

> We believe the right thing to do is to remain and to redouble our efforts to advance social equality. Pressure on apartheid will be increased by more corporate involvement, not less.

Anyone that wants to challenge Mr. Akers' commitment, I think, has to recognize that there is a black-owned computer firm that is working with IBM in South Africa.

Further, Mr. Chairman, there are endless quotes from affected parties. For example: Magosuthu Gatsha Buthelezi, chief of the KwaZulu and president of Inkatha, August 1985:

> The actual implementation of the disinvestment campaign would be useless unless it hurt the economy and if it hurt the economy, Blacks would suffer more than whites. The disinvestment campaign is not only detrimental to the interests of Black South Africans, but ultimately detrimental to the interests of Blacks in the whole of the subcontinent.

Lucy Mvubelo, president of the National Union of Clothing Workers, one of the largest black unions. March 31, 1985, Richmond Times-Dispatch:

> Those in our country who urge a boycott of South African goods and the disinvestment of Western capital are simply a small fringe of revolutionaries. They realize that the basic conditions from which the revolution can rise do not exist, thus the world must create it. Who will suffer? Clearly, the greatest hardship would fall on my people, the black people. They will be the first to lose their jobs. They will be left to die of

starvation. They will be the first to be killed in a revolution.

John Nkadimeng, general secretary of the South African Congress of Trade Unions, Rand Daily Mail, March 1, 1985:

Economic sanctions against South Africa would only worsen the economic position of South African Blacks.

Trade Union Council of South Africa—multiracial and largest trade union federation:

TUCSA believes that any action of this sort (disinvestment) will hurt those it is supposed to help. TUCSA does not believe that most black South Africans support a policy which must lead to fewer jobs and opportunities for advancement. They want equal opportunities in a free and expanding economy not unemployment and poverty.

Again, as I said, it would be profoundly injurious.

Finally, there was a poll conducted in March 1986 of blacks in urban areas on the question: Should the outside world apply an economic boycott; namely, sanctions against South Africa?

Sixty-seven point seven percent said "no." When told, if you were to lose your job as a result of those sanctions, then the opposition went up to 74 percent.

I urge my colleagues to reject this clumsily crafted, self-defeating legislation.

The CHAIRMAN pro tempore (Mr. HEFNER). The Chair will inform the gentleman from Michigan [Mr. SILJANDER] that he has 11 minutes remaining, and the other gentleman from Michigan [Mr. WOLPE] has 24 minutes remaining.

Mr. SILJANDER. Mr. Chairman, I reserve the balance of my time.

Mr. WOLPE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, the Anti-Apartheid Act of 1986 remains the most important and critical bill to come before this body. If passed by my colleagues, this bill will enable the United States to stand on its ideals of freedom and reject the evils of slavery and discrimination. The sanctions implemented by this bill support peaceful and democratic change.

Critics of sanctions have stated that such measures are unnecessary. They compare South Africa with the United States and claim that justice will come there as it did here during the 1960's. There is absolutely no similarity. In South Africa, a tiny minority is oppressing the vast majority of the population. They are holding them down with whips and chains and torture. The oppressed have no rights; they have no lawful means of effecting change. They are not just second-class citizens in their own country, they are virtually serfs—legally bound to the squalor of ghetto. The United States must take a stand against this oppression. America cannot even appear to side with apartheid and still hold true her traditions and ideals. The time for action is now.

The blacks of South Africa have been subjugated since Europeans first landed on their shores. Once the Afrikaner regime took power, they were subjected to the institutionalized racism of apartheid. Now we must understand the true nature of apartheid; it is important that we know its true meaning. It is not only that blacks cannot eat in the same restaurant as whites, or live in the same community, or use the same restrooms. It is all that, but it is far more too. Apartheid is the attempt to systematically destroy blacks as a people, to rip out their humanity, their honor, and their dignity. It is a systematic effort to divide them and dehumanize them, to maintain them as a docile labor force for Afrikaners. that is the true nature of apartheid; a system with roots in the Dark Ages or Nazi Germany, but it is a system doomed to fail.

No matter how hard the apartheid regime tries, it cannot crush the dignity of a people or their yearning for freedom. First, there was Sharpeville in early 1960's, where blacks stood up to their oppressors and were met by bullets and death. That should have been a warning to Pretoria. Reforms could have begun then and today South Africa might be at peace. Instead, the apartheid regime instituted a policy of brutal repression. At Soweto, 10 years ago last Monday, police fired on a unarmed group of black demonstrators, This proved the spark needed to ignite the tensions generated by oppression. Aroused by the brutality of Soweto, blacks throughout South Africa took to the streets. In the townships and universities, they marched and in every case, the police cut them down. Hundreds and hundreds died.

Again, the Government had a chance to change. The events of Soweto should have demonstrated to Pretoria that their system was doomed, but still they clung to their old policies. They did so because they were sure that they could beat, and shoot, and torture at will with no sanctions from the rest of the world. So far, they have been right, at least in respect to the United States. Americans still invest in South African businesses and still buy their goods.

President Reagan says that the United States can bring about change through a policy of quiet diplomacy. He says that sanctions are not needed. Well, he has tried his quiet diplomacy and what has been the effect? Where is the change in South Africa? Sure, there have been a few facades of reform, designed to fool us into thinking that Pretoria is acting in good faith, but where is the substance? At this time, people are being arrested and held without charge, peaceful demonstrations are being repressed, and reports from the townships are being censored. Is this the kind of change that quiet diplomacy brings? New laws are being considered which will give South African security forces vast new powers of repression. Under the new laws, blacks can be arrested without reason, detained incommunicado, interrogated without warrant, and imprisoned for up to 6 months without charge. Property can be searched and seized without cause and the police will have virtually unlimited power to use lethal force. Is this the change of quiet diplomacy?

The time for America to act is now. The apartheid regime cannot last. Change will come to South Africa one way or another. History is rolling over the apartheid regime. Their business leaders, their intellectuals, even some Afrikaners are turning away from the policies of the past. It is time for the United States to demonstrate that it stands on the side of freedom and democracy.

A recent report to the Commonwealth nations states that without international action, particularly by the United States, South Africa could soon be confronted with "the worst bloodbath since the Second World War." Pretoria must understand that Washington can no longer ignore oppression. African nations must know that America truly stands for freedom. Sanctions will make this statement; they will shake Pretoria awake to the fact that they stand as international outcasts.

I fear for South Africa, not just for the black South Africans, but for all the people of that nation. Time is running out. Recently Rev. Allan Boesak spoke here. During his talk he was asked what he thought would happen in South Africa if reforms were not instituted soon. His answer was that it would turn into another Beirut, that his country was on the verge of a bloodbath. No one, black or white, can benefit from this fate. Change is coming; it can be peaceful or violent. The Anti-Apartheid Act is a vehicle for peaceful change. The challenge before us is simple. Are you for brutal system or apartheid or are you against it? If you abhor it, then stand up and be counted. Vote for H.R. 4868!

Mr. WOLPE. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. BURTON].

Mrs. BURTON of California. Mr. Chairman, apartheid is a blot upon the conscience of mankind. Its repressive nature serves to remind us daily of man's inhumanity to man.

As in the case of all repressive systems its beneficiaries have little desire to change voluntarily a society that has provided them with so much totalitarian control.

The sad fact of the matter is that our policy of constructive engagement has been a failure.

Mr. Speaker, it is clear that the views of this administration have not worked and cannot work. The "slap on the wrist" sanctions imposed by the Reagan administration last September only underscore their futility. For that reason it is imperative that our country make a moral and economic statement.

I urge passage of H.R. 4868 to help insure that justice and freedom will come to South Africa.

□ 1220

Mr. WOLPE. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I rise in support of this bill to impose sanctions on South Africa. The time to act is now. In South Africa, 84 percent of the people are forbidden to vote; there

is total deprivation of civil liberties; a blatantly racist government; invasions of surrounding nations.

This bill must pass so that the land of the free sends a clear message to the world and to the land of apartheid.

I had originally intended to offer an amendment on the subject of petroleum and those companies that do export and oil business with and for South Africa. Three American oil companies supply over 40 percent of South Africa's oil; two foreign companies that bid on federally owned oil and gas leases in the United States add another 30 percent.

While I feel that my language providing for an embargo on petroleum products would be an effective amendment to the Anti-Apartheid Act, I can understand the need to forge a bipartisan consensus on this issue. It is important to send a loud-and-clear signal to those in power in South Africa that we in the United States will not tolerate the continuing suppression of basic human rights. Will my friend from Michigan yield to a brief colloquy?

Mr. WOLPE. I would be pleased to respond to the gentleman.

I am certainly aware of the gentlemen's interest in this issue and I agree with him that we do want to have as much unanimity on this bill as possible.

Mr. WISE. In this light, I would ask my friend if he can give me some assurances that should the Government of South Africa fail to make the kind of progress we are all talking about here today, that the subject of my amendment will be a high priority of the gentleman's subcommittee in its future deliberations?

Mr. WOLPE. Let me say that I certainly do appreciate the gentleman's interest in achieving a consensus on this really vital issue, and I can assure my friend that the subcommittee will closely monitor the issue of oil shipments to South Africa and will consider adding it to a future list of sanctions.

Mr. WISE. I thank the gentleman for his consideration.

Mr. WOLPE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise today in support of H.R. 4868, the Anti-Apartheid Act of 1986.

Last year, we debated this same issue of whether or not to impose economic sanctions on the white minority ruled Government of South Africa. However, before Congress passed the final conference report on the legislation, the Senate deferred to the President and allowed him to impose his own limited economic sanctions.

We are back here today debating this issue again not only because the limited sanctions were ineffective in addressing the injustices of apartheid, but because the increased tension resulting from the continued racist policies of the white minority Government against the black majority has become increasingly alarming. In fact, over the past year, since President Reagan's limited sanctions were imposed, we have seen hundreds more killed and tens of thousands more arrested. Further, last Thursday the Government imposed a national state of emergency whereby the security forces have been able to detain or arrest individuals without legitimate reason. Since the state of emergency was imposed, the Government has acknowledged that 42 people have died, bringing the total slain in 21 months of turmoil in excess of 1,650 with more than 36,000 individuals arrested. We are on the verge of holocaust in South Africa.

Despite the severity of the situation, the Reagan administration continues to refuse to address the basic human rights of the majority of South Africans and deal up front on the apartheid issue with the white minority Government. The administration has rejected the strong economic sanctions which must be imposed if we are to resolve this conflict without further violence. Instead, "constructive engagement" has been the Reagan administration policy response and a failed policy at that. The administration's policies, including the limited sanctions imposed last year, have been merely cosmetic and do not address the real issue, the issue of dismantling apartheid. The President refuses to responsibly assist in resolving this crisis and instead, continues to turn his back on the South African majority.

Even now, as the crisis worsens, the Reagan administration refuses to take a firm stand against apartheid. In light of the worsening violence in South Africa, the administration requested the South African Government to restrain itself. This request was arrogantly rejected by South African President Peter W. Botha. However, despite this refusal, the administration continues to oppose strong economic sanctions. Again, the administration is prepared to make gestures but refuses to confront the repressive Botha regime.

H.R. 4868 is necessary if we are to responsibly deal with apartheid in South Africa. This bill will impose economic sanctions on the Government in an attempt to convince the Government to reverse its racially discriminatory policies. The legislation's prohibition on new loans or extensions of credit to South Africa is extremely important because of the amount of money borrowed by the South African Government. For example, as of March 1985, outstanding United States bank loans to South Africa totaled $4.2 billion, with the majority of these loans given to the Government.

Other provisions include: barring any new direct or indirect investment in South Africa; prohibiting deposits in banks located in South Africa and banks outside of the country but are operated or controlled by South African nationals; prohibiting the importation of South African uranium, coal, and steel into the United States; barring United States firms from mining and exporting natural resources from the South African-controlled territory of Namibia; prohibiting the use of United States technology, training or services for the exploration or research and development of new energy sources in South Africa; denying landing rights to South African aircraft; and, requiring the withdrawal of all United States investments in South Africa computer businesses and prohibiting the export of computers to South Africa after 1 year.

These sanctions could be terminated if the President reports to Congress that the South African Government has dismantled apartheid or has freed all political prisoners, including Nelson Mandela, and has begun good faith negotiations with representative black leaders.

H.R. 4868 also authorizes $25 million for community development and refugee assistance for South Africans and Namibians disadvantaged by the apartheid system and directs the President to negotiate with other countries to adopt restrictions similar to the ones included in H.R. 4868. This last provision would require the President to submit to Congress an annual report on the status of these negotiations, the extent to which these other nations have adopted similar restrictions, and whether other foreign nationals have taken actions to diminish the impact of United States sanctions against South Africa.

I strongly believe that H.R. 4868 and new economic sanctions are needed to pressure the South African Government to begin negotiations with representative black leaders toward a nonviolent political settlement. Thus far, Government reforms have not changed the basic nature of the apartheid system and no real effort has been made to negotiate a peaceful settlement.

Furthermore, despite claims to the contrary, these sanctions will not hurt the repressed black majority of South Africa. In fact, Bishop Desmond Tutu, among other black leaders, has appealed to Western nations to impose these sanctions and has stated that more than 70 percent of the blacks support such sanctions. Further, other leaders assert that the long-term benefits of these sanctions far outweigh any short-term economic costs.

Let us use the occasion of the 10th anniversary of the Soweto uprising as a reminder that little has been accomplished in South Africa. Each day the death toll rises and we hear of more unjustified imprisonments. It is time that we send a clear signal to the people and Government of South Africa that the United States will not idly sit by and allow the continuance of the apartheid system in South Africa. Now is the time to cease the impression, created through the Reagan administration's policies, that the United States is not concerned about the unrest and violence in South Africa. We must act now and we must act decisively by supporting H.R. 4868.

Mr. WOLPE. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this is a very strong and positive piece of legislation. Let me mention one thing that I do not think has been brought out that I deeply resent, and that is the disrespectful and snide attitude of the South African Government toward our President, who has stood behind them, although wrongly in my judgment.

Mr. Botha has been disrespectful in his comments back to the Secretary of State and the President in terms of re-

sponding to U.S. calls for reform. He has told us to take a hike in so many words.

I feel this bill is important because it now includes provisions that are very important to the Southwest and the mining areas of the United States. Besides the fact that this bill is making a strong statement on the issue of apartheid, the bill also bans the importation of coal, uranium, and steel.

Last year, I attempted to offer an amendment to last year's antiapartheid bill with having the import of minerals and it was defeated. The objective at that time was to give a period of time when improvements might be made in South Africa, the South African Government would be more responsive.

Things have gotten worse all around. The present bill now reflects this strong initiative, which is very important to the many States that have lost coal, uranium, and steel jobs. It is a bill that also protects jobs at the same time that it makes a very strong statement on apartheid.

So I would like to commend the Committee on Foreign Affairs for including this provision which is vitally important.

We are making a statement that we are against apartheid; that we are tired of waiting; but at the same time we are telling American workers that we stand behind them.

Mr. Chairman, timing of the consideration of this new antiapartheid bill is significant and crucial:

First, it coincides with the 10th anniversary of the Soweto uprising in which 600 people were killed.

Second, the situation in South Africa is deteriorating rapidly—over the past 2 years, 1,500 people have been killed in South Africa because of apartheid, and close to 38,000 have been arrested.

Third, recent declaration of a state of emergency by the Government of South Africa will only serve to further enrage the black population—this state of emergency gives the military and police virtually unlimited powers to arrest and jail citizens without charge.

Fourth, follows release of the Commonwealth eminent persons group's report on South Africa—the report indicates that the West has only a very short period of time left in which to prevent all out racial war in South Africa.

This legislation is important because it bans the importation of South African uranium, coal, and steel into the United States.

The United States is South Africa's largest export market—buying approximately 15 percent of all South African exports.

Coal: Despite the fact that our country has among the largest coal deposits in the world, we continue to increase our coal imports from South Africa—the leading importer of coal to the United States. Since 1980, coal imports from South Africa have more than doubled to over $27 million. This is at a time when 60,000 American coal miners are out of work.

Uranium: Our uranium imports from South Africa and Namibia have increased 350 percent since 1981—at a time when the number of domestic uranium mines has dropped from 362 to a mere handful, and over 85 percent of our miners have lost their jobs. Since 1981, New Mexico alone has lost about 11,500 mining jobs—the largest decline was in the uranium ores subsector. The State's two remaining conventional uranium producers were forced to close their mines and mills in 1985, laying off hundreds of workers.

In 1985, South Africa exported 192 million dollars' worth of uranium, 117 million dollars' worth of steel and 44 million dollars' worth of coal into the United States.

These statistics and lost jobs are not just indicators of the problems caused by foreign trade to industries in the United States. South Africa has been so successful at its exploitation of its mineral resources because it also relies on exploitation of its population—conditions for black miners reflect the adverse circumstances experienced by other blacks in South Africa. The labor conditions for black miners in South Africa and Namibia are frankly deplorable.

Black miners have virtually no job security—they must contract for a limited number of months, and then reapply for their jobs.

Black miners are not allowed to live with their families; white miners are.

Black miners are prohibited by law from holding skilled labor positions; these slots are reserved for whites only.

Black miners must pay for their health insurance; white miners receive free insurance.

Black miners receive one-fifth of the wages of white miners—their low wage has artificially depressed the world price of uranium and coal, making U.S. coal and uranium less competitive.

The crisis in South Africa is worsening day by day—every day our news sources indicate that the South African Government is increasing its repressive measures—political gatherings have been forbidden, press coverage has been prohibited, and the South African police have been given free reign to arrest and detain without charge.

Since last year, when the House passed an antiapartheid bill, the administration's policy, "constructive engagement," toward South Africa has clearly made no improvements in the situation there. Nowhere else in the world is the administration turning such a blind eye toward censorship, repression, and the implementation of a police state.

The Commonwealth Eminent Person's Group report has indicated that unless South Africa's largest Western trading partners, investors and creditors move quickly, the inevitable result in South Africa will be the emergence of a radical black government, that "will destroy Western interests absolutely," and will likely owe its allegiance to the Soviet Union.

The Commonwealth group also has reported back, after extensive discussions with all sides involved in South Africa, that the Pretoria government "is not interested in negotiating." Their conclusion: that sanctions are the only alternative for concerned Western governments.

Congress has tried being patient, it has tried allowing the President to implement "constructive engagement" measures—the end result is that South Africa is now experiencing upheaval and violent turmoil which will likely result in a bloodbath. We do not even have a clear picture of just how bad things are there—the press is forbidden to cover events.

Elsewhere in the world, particularly Nicaragua, the administration is pursuing the overthrow of a government which is not as repressive as the South African Government. Since the administration is not willing to take active steps to force South Africa to democratize, to allow equal participation in all facets of life for all members of the society, Congress has no choice now but to once again pursue the course of sanctions.

Sanctions are essential—and they are the only avenue left for the United States to pursue—must act, and act immediately, in order to salvage the region.

Mr. WOLPE. Mr Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, Mr. FASCELL.

Mr. FASCELL. Mr. Chairman, I rise in strong support of this legislation. It is timely, it is effective, it is a measured response.

Mr. Chairman, I rise in support of H.R. 4868, the Anti-Apartheid Act of 1986. First let me commend the chief sponsors of the bill, for their leadership and efforts over the past several years in helping shape this legislation. The bill which the committee brings before the House today has been carefully developed after many days of hearings on the issue of United States-South Africa relations. Legislation on this issue passed the House of Representatives during the 98th Congress and during the 1st session of the 99th Congress. Neither bill has been enacted into law.

During the 1st session of the 99th Congress, after extensive debate on this issue, restrictions on United States-South African relations were incorporated into the bill, H.R.

1460, which passed the House of Representatives and the other body. The House subsequently approved the conference report which is pending in the other body.

Mr. Chairman, during the period that has elapsed since the House last considered this matter the situation in South Africa has worsened. The situation is tragically illustrated by the continuing loss of life and violent confrontation which appears to have become a daily occurrence in that country. There is, today, in South Africa a state of emergency throughout the country. Peaceful protests by blacks have been banned, and the press is almost totally restrained from reporting on developments there. I believe that there can be no doubt that the conditions in South Africa are a consequence of the system of apartheid which maintains 23 million blacks, the overwhelming majority in that country, as outcasts in their own land. The bill which we have before us today is intended to manifest in the strongest terms U.S. opposition to that system. It is intended to associate the United States with those antiapartheid forces working for peaceful change in their strife-torn country.

Mr. Chairman, it is important that the House leave no dobut as to the position of the United States on this important moral issue. H.R. 4868 is the most appropriate vehicle at this time for the House to do so. I hope and believe that it will assist in bringing peaceful change to that troubled land. I urge all Members to vote in favor of this legislation.

Mr. WOLPE. Mr. Chairman, I yield 2¼ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, the time is now for action against the reprehensible situation that is daily escalating in South Africa. I would like to briefly address the portion of the bill that deals with the area of banking.

As a member of the Committee on Banking, I find it reprehensible that the American banks have loans outstanding of $3.4 billion as of September 1985. At the time of the suspension of United States credit by the President, the United States held approximately 20 percent of South Africa's bank debt, and we all know that that is critical to the economy of South Africa.

We might say, "Well, the President's Executive order bans these bank loans to the public sector." The fact of it is, it bans loans to the public sector, but it does not reach the private South African borrowers who relend to the significant public sector in that country.

For example, the South African Nedbank's American office borrowed short term money from United States banks and relent it, medium term, to government, South African-controlled corporations.

So we know it is a charade; and 3 of our top 10 banks in the United States have offices, very substantial offices, in South Africa. I think that portion of the bill is very, very important; and it plugs up a loophole that was in the President's sanction.

The other item which is significant is that the total direct U.S. investment is $1.8 billion as of 1984, and indirect investment is $6.4 billion. Think of what it would be like if these banks would lend this amount to their own people, the American people, instead of to the reprehensive situation in South Africa.

The other area which the bill addresses that I think is significant is that the bill bars the importation of South African uranium, coal, and steel. Now, I will tell you something. Here we are talking about our trade deficit—we should do that anyway. If we do that, it will create, according to a study by the Library of Congress, 4,800 new jobs in those various industries would be created. So let's stop supporting this evil government and start addressing the needs of our own American people.

Mr. WOLPE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, as we debate this legislation, South Africa hovers on the brink of a cataclysmic confrontation between the races, which could have profoundly destabilizing consequences, not only for that country but for the entire region and indeed for the entire world.

In the words of the old Negro spiritual, "God gave Noah the rainbow sign, no more water the fire next time." The fire next time is fast upon South Africa, and the question we have to answer today is how our own country can best contribute to quenching that fire.

What are our interests in South Africa? Our interests are in preventing massive bloodshed. Our interests are in preventing a descent into a long nightmare of violence and devastation. Our interests are in preventing the radicalization of the black majority in that country and the emergence of a new government which would be hostile to our interests.

I think it is abundantly clear that all of the Members of this House, on both sides of the aisle, are fundamentally opposed to the apartheid system. I take my friends at their word.

So the issue that we face today is not whether we are for or against apartheid, but how most effectively to eliminate it.

Five years ago, the Reagan administration said it had an answer to that question. It was based on the policy of constructive engagement.

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It was premised on the theory that by developing a closer and more cooperative relationship with the Pretoria regime, that we could somehow coax and cajole them into abolishing the apartheid system. I would submit that 5 years later the verdict is in: The policy of constructive engagement has failed.

It is a monument to moral myopia and to wishful thinking.

Clearly the time has come for another approach, one that I would characterize as constructive enragement. I think it is very clear that the whites in South Africa lead a very good life based largely on the exploitation of the blacks. And in the absence of increasing international pressure and intensification of internal resistance, what incentive would they have to change? Our interests in South Africa clearly require the abolition of apartheid. It is, after all, apartheid which is not only the greatest cause of, but the greatest incentive for, violence. It is, after all, apartheid which constitutes the greatest recruiting agent for communism in southern Africa. And it is, after all, apartheid which most significantly jeopardizes fundamental American interests in southern Africa. We hear from our friends on the other side of the aisle that sanctions are historically ineffectual. Yet I did not hear them opposing the far more stringent sanctions that President Reagan imposed against Nicaragua or the comprehensive sanctions which he imposed against Libya. If the administration believes and if our friends on the other side of the aisle believe that economic sanctions against Nicaragua and Libya can modify or alter the policies of those governments, why should not economic sanctions contribute to a modification of the policy of the Government of South Africa? And from a purely moral point of view, if we are going to stand up against repression in Central America and against terrorism in the Middle East, how can we justify remaining silent and standing still against racism and aggression in southern Africa?

Let me be very candid with you: There is no guarantee that the imposition of sanctions will result in the abolition of apartheid. But there is a guarantee that our failure to impose sanctions will result in the continuation of apartheid.

The only hope to bring about the abolition of this hateful system of institutionalized racial discrimination is by increasing the international pressure against the Government of that country in combination with increased and intensified internal resistance. And I believe that, if we are prepared to take that step, that the Commonwealth countries and the countries of the European Community will be prepared to join with us.

Alan Paton, in his moving and memorable novel which he wrote over three decades ago, "Cry the Beloved Country," wrote that "my great fear is that by the time the whites turn to loving, the blacks will have turned to hating."

One of the most remarkable things about South Africa today is that in spite of all of the suffering, in spite of all of the discrimination, in spite of all the repression, the black people of that country remain willing to enter into a compact with the white minority that has oppressed them on the basis of a truly nonracial system of government in that country, and I fear that, unless we enact this legislation, it may be too late and that the blacks who are now prepared to love, will turn to hate, and everything that has been built up will be destroyed.

The CHAIRMAN. The gentleman from Michigan [Mr. WOLPE] has 11¼ minutes remaining and the gentleman from Michigan [Mr. SILJANDER] has 11 minutes remaining.

Mr. SILJANDER. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. I thank the Chairman.

Mr. Chairman, I rise not only to oppose apartheid but to also oppose the double standard which I believe this legislation applies to South Africa when compared to other regressive governments around the world. Specifically with regard to the transportation sanctions in this legislation, this legislation revokes all the landing rights for South African Air Lines in clear violation of our international treaty agreements. In fact, it imposes sanctions more severe than those which we imposed against the Soviet Union in Poland and indeed which we have virtually none against Cuba today.

If a fellow on a block beats his wife, we condemn that; but if on the same block there are other men who not only beat their wives but starve their children, too, and we simply say nothing about that, then it raises fundamental questions about our fairness.

Indeed, Amnesty International tells us that there are widespread human rights violations throughout Africa, throughout the world indeed, particularly in Communist countries, including widespread torture. They published a book entitled "Torture in the Eighties," which tells us that in 23 African countries, mostly Marxist governments, there is widespread torture and violation of human rights. And yet where is our even-handed treatment over these violations? Where is our moral outrage? Where is our legislation to inflict sanctions against these other countries?

I respectfully suggest that we are applying a double standard here. I oppose apartheid, but I also oppose this legislation because it selectively applies our moral outrage against a non-Communist country while we virtually close our eyes to similar or worse violations of human rights practiced by Marxist states not only in Africa but around the world.

Mr. WOLPE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, my chosen political party, the Republican Party, was founded a little more than a century ago to end apartheid-like conditions in the United States. All we ask of this Republican administration is that it advance a foreign policy consistent with the views of the first Republican administration, that we put the Republican Party on the right side of its heritage, our foreign policy on the right side of history.

Strategically some have implied today that our Government should not stand up for abstract moral points because moral posturing in this instance tends to undercut our national security. Actually, the problem in South Africa is the reverse; failure to stand up for moral principles jeopardizes United States national interests. After all, ending apartheid is the most important foreign policy issue to the rest of sub-Saharan Africa and these countries, and their natural resources, are in total more important than those of South Africa.

In addition, can there be any doubt that sometime in the not-too-distant future there will be majority rule in South Africa? My guess is that it will be in this century, perhaps in this decade. If South Africa is as important to our national security as some proclaim, the question American industrialists and national security realists must ask is whether we can afford to be perceived in the 21st century as the one major country in the world which walked to the grave with the black glove of white supremacy. It is a moral issue, though, which must be our dominant concern. Ending apartheid in this century is as great a moral imperative as ending slavery was in the last.

After 5 years of pursuing a policy of so-called constructive engagement and even more years of benign persuasion, the case of business as usual today implies prejudice as usual tomorrow.

It is now 27 years since the first call for sanctions against South Africa was issued by former African National Congress president and Nobel Peace Prize winner, Albert Luthuli. It is more than 23 years since the U.S. General Assembly first adopted sanctions against South Africa. It is time now to act.

To be true to our heritage we do not have the luxury of ducking this issue; its meaning is too great, its result too important.

Mr. WOLPE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. BARNES].

Mr. BARNES. Mr. Chairman, we are moving today with our most forceful attack to date against apartheid in South Africa. And I am confident that, this year, the Congress will enact what will be an historic, but long overdue, indictment of this Government-sponsored institutionalized racist terror in South Africa.

Reinhold Niebuhr once wrote:

> Justice makes democracy possible, but injustice makes democracy necessary.

The only legitimate position for the United States to take in our relationship with South Africa is in favor of majority rule with minority rights.

Last September, President Reagan said:

> America's view of apartheid is simple and straightforward. We believe it is wrong. We condemn it. And we are united in hoping for the day when apartheid is no more.

But "hoping" won't make apartheid magically disappear, nor will it quell the rising and powerful forces of change in South Africa.

This administration's South Africa policy represents a betrayal of fundamental American values of justice and freedom. President Reagan believes that quiet diplomacy and constructive engagement can help bring about peaceful change. But even his tough words have fallen on deaf ears in Pretoria. The Commonwealth's Eminent Persons Group recently said of the Pretoria Government:

> The government believes it can contain the situation indefinitely by use of force. South Africa is predominantly a country of black people. To believe that they can be indefinitely suppressed is an act of self-delusion.

Some in this Chamber seem to believe that we really have a choice in the matter, that somehow our decisions here today will increase the pain and suffering of those on the firing line in South Africa.

I don't know how many times I have heard over and over again from the conservatives and administration supporters who say, but if we cut off bank loans, the blacks will suffer; if we stop corporate investment, nonwhites will be hurt the most; if we cut off the sale of computer goods and technology, then we are cutting off the future of the millions of oppressed people in South Africa.

How many times do we have to hear this chant from those who seem to know nothing of the genuine value of liberty, from those who would rather take the safe road than the high road.

As Bishop Tutu has said:

> For goodness sake, let people not use us as an alibi for not doing the things they know they ought to do. We are suffering now, and this kind of suffering seems to be going to go on and on. If additional suffering is going to put a terminus to our suffering, then we will accept it.

The Congress has accepted this challenge.

Our legislation last year on South Africa was one of those rare instances when a bipartisan Congress soundly

repudiated the President, and took the leadership on a moral issue into its own hands. This year, we will run with it.

In addition to last year's House bill provisions prohibiting no new investment or loans, the bill before us, H.R. 4868, includes the conditional disinvestment of American companies from the South African computer industry, including a mandatory ban on computer exports; a ban on coal, uranium, and steel imports from South Africa; no contributions to new energy sources for South Africa; and, a ban on landing rights for South African aircraft. In addition, the bill would ban exploration, extraction, processing, and trade in natural resources from Namibia.

Anyone who complains here today that our bill is too strong, that its passage is premature, that its approach is harmful to those fighting for freedom, those should stop, and think again, about the facts.

The long, sad human tragedy of South Africa has become a bloody war against the people, with over 1,600 people killed in the last 20 months. Twice as many people die today in South Africa as did just 3 months ago.

We should remember today that it was exactly 22 years ago this month that Nelson Mandela was sentenced to life imprisonment for fighting for the liberation of the South African people.

We should remember that just a few weeks ago, South African military forces launched commando raids against three of its neighbors in southern Africa.

Only last week the South African Government banned all commemorations of the 1976 Soweto uprisings, which millions quietly remembered yesterday by staying away from their jobs and virtually bringing South Africa's major cities to a standstill.

Determined to crush all opposition, the apartheid regime has reimposed the state of emergency, ready once again to unleash its reign of terror against the majority.

These new measures, which ban all unauthorized political gatherings, give police sweeping powers to make arrests and warrantless searches and detain persons indefinitely without charge, and put stringent new restrictions on local and foreign press coverage. These new restrictions come just 3 months after Botha lifted the first state of emergency imposed on three of the country's major urban areas. And the new rules are considerably more sweeping because they apply to the entire country and because they give broader powers than those authorized last year.

And, just yesterday, the South African Government placed further restrictions on the press, prohibiting live televised transmissions by foreign journalists.

In Bishop Tutu's words:

This is the kind of system that those who invest in apartheid are purchasing.

We know how great our purchasing power has been. In 1983 South African exports to the United States accounted for 15 percent of total South African exports, making the United States South Africa's No. 1 export market. Furthermore, imports from the United States represented about 19 percent of total South African imports, and the United States was South Africa's No. 1 supplier. Moreover, U.S. direct investments account for 70 percent of the computer industry, half of the petroleum sector, and about one-third of the automobile industry.

We are about to impose strong sanctions, not because we expect our actions to bring down apartheid, but because the United States must stop undergirding this oppressive system. As my colleague BILL GRAY said just a few days ago to the South African Ambassador to the United Nations:

We're not trying to knock you to your knees. We're trying to knock a little sense into your heads.

Some here today will say that there has been progress. They will point to the allowance of mixed marriages, the abolition of the pass laws—which are being replaced with new identity cards which, although universal, are coded by race—and other petty examples.

But what about the Group Areas Act, which has been the buttess of the pass laws and is the backbone of the racist system of segregation?

What about the violence, the killings, the cross-border raids?

A recent New York Times editorial on the raids, concluded as follows:

What drives the normally cautious Mr. Botha to such desperate acts? Even his paternalistic gestures toward blacks seem to have stirred a revolt on his right in the ruling National Party. Seeking to prove toughness, he has implied panic and division in his ranks. Instead of reconciling anxious whites to inescapable change, his Government persists in pretending that South Africa's problems at home and already painful economic losses abroad can be chased with a nightstick.

Don't point to the so-called progress of a government which clearly does not want it. The so-called reforms are paraded in front of us and masqueraded as progress.

But nothing has changed. The passbook may be "gone," but when your skin is black you are marked for life.

As Bishop Tutu has said:

Apartheid cannot be reformed. We can't keep on having people tinkering with peripheral issues when the basic problem is political power.

That is exactly the point.

The promise of freedom is not the measure of freedom.

Change is never comfortable, and in South Africa, it does not come without great costs. Recently, members of the Commonwealth study group warned that Pretoria's "obstinacy and intransigence" will result in the "worst bloodbath since the Second World War," that "the cost in lives can be counted in millions."

Either we seize the moment to put full pressure on the Botha regime to negotiate seriously for an end to apartheid, or we linger with the waning forces of injustice and witness unprecedented violence and bloodshed. We should be ashamed that it has taken us this long to come to terms with our moral obligations.

Rev. Allan Boesak, one of the founders of the United Democratic Front, said recently when he visited the United States:

They have tried for every single day of the past two years—with the most incredible violence—to stop this tide of resistance. It is not possible and they cannot do it.

That is why we are here today. That is why we are proposing more bold measures. This is a time when a bipartisan Congress is prepared to enact these tough sanctions.

Enactment of this bill will send a message to Pretoria that there is a real price to pay for apartheid. We must take full advantage of this critical opportunity. This time we can force the Reagan administration out of the way, and impose sanctions, a choice which Bishop Tutu has characterized as "the last nonviolent option left" to avoid Armageddon in South Africa.

I remember several years ago, Bishop Tutu said to members of the Foreign Affairs Committee:

. . . we are talking about a moral issue. You are either for or against apartheid, and not by rhetoric. You are either in favor of evil or you are in favor of good. You are either on the side of the oppressed or on the side of the oppressor. You cannot be neutral. Apartheid is evil, is immoral, is un-Christian, without remainder. . . .

America is a great country, with great traditions of freedom and equality. I hope this great country will be true to its history and its traditions, and will unequivocally and clearly take its stand on the side of right and justice in South Africa, ... Many lives will be saved, many blacks will be won for democracy in South Africa if the United States is true to her real self. . . .

We shall be free, and we will remember who helped us to become free.

The CHAIRMAN. The gentleman from Michigan [Mr. SILJANDER] has 7 minutes remaining, and the gentleman from Michigan [Mr. WOLPE] has 6¼ minutes remaining.

As the gentlemen know, by custom the manager of the bill generally has the last word.

Mr. SILJANDER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. RUDD].

Mr. RUDD. Mr. Chairman, I rise in opposition to this resolution, and I urge a vote on this legislation. Continued interference from the United States can only destroy the bal-

ance of power in South Africa, ending a bloody civil war with the outcome assuring a substandard economy, poverty and slavery for those people. It is reported that about 80 tribes and subtribes make up the black population of South Africa and that there is little hope of agreement among them on most subjects except that the majority of black South Africans oppose the current unrest and believe that more can be gained through internal debate and negotiations.

A recent opinion poll conducted by the Human Sciences Research council indicates that 75 percent of Black South Africans believe that nothing can be gained from the current unrest situation, without reasonable debate and negotiation. Both political extremes in South Africa are radical forces that oppose peaceful negotiations. Extremist whites want to restore apartheid by force. Extremist blacks refused the Government's offer to negotiate a new constitution and are conducting terror against blacks who support dialog by a negotiation and inadvertently or not, are being aided and abetted by interference by people in the United States who are intervening in the affairs of South Africa.

The Government of South Africa has promised an enactment of a law within the next 4 months which would lead directly toward a new antiapartheid situation. The bill creates a forum in which both blacks and whites will work for a new constitution assuring black political participation and sharing of power. Success cannot be achieved overnight.

Americans who press for sanctions are asking for violence and discourage those Americans with a clearer understanding of what is going on, including American businesses, from helping to bring about a discontinuance of apartheid. To oppose the Government of South Africa is in truth opposition to the United States and our people. Let us remember that 20 percent of the chrome we use, 9 percent of the manganese and 64 percent of our platinum imports come from South Africa. These and other precious metals are vital to our industries and to our continued economic and scientific advancement on land, sea and in space.

No positive end can come from U.S. interference into the affairs of a sister nation. Rather than interfere, we should allow South Africa to solve its own economic and racial problems as we have and are continuing to solve our own, without foreign interference.

Mr. SILJANDER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, first of all, let me say I have been somewhat disappointed in the tone of the debate from some on the other side who suggested earlier in the debate that there were people on this side who would oppose this bill who, therefore, would support apartheid. Let met make it very clear, there are a lot of us who are antiapartheid, who have been willing at times to take political risks in order to make that kind of statement, who think this is a bad bill and think it is wrong to bring this kind of bill to the floor.

Let me also express disappointment that a few minutes ago I heard someone back here put an economic context into this bill. One of the Members who spoke here a little while ago suggested there were 4,800 jobs in this country that were going to be saved as a result of this bill. Well, if we are going to do that, then let us also remember that 25,000 people are going to lose their jobs as a result of this bill; $1.2 billion in export trade that we are going to lose is 25,000 Americans who are not going to work as a result of this bill. They pay a real penalty for this. Finally, let me say to some of my colleagues on my side of the aisle that there is a good deal of moral posturing going on and that is fine, we ought to morally posture from time to time in the legislative body. But we do not posture this way when it comes to the Soviet Union. It seems to me that this bill is more than moral posturing, this bill has some real outright sanctions that can have some devastating consequences.

Mr. SILJANDER. I yield 4 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I think it is useful as we pass this bill today by an overwhelming vote, as I am sure it will—I will not support it but I can count, and it is going to pass easily—that we put the subject of human rights and relationships between races and groups, ethnic groups, in some sort of context.

□ 1245

I like to think of Bishop Tutu, a spiritual leader of Africa who has the ability and the privilege of going in and out of his country at will, and I contrast him to Andrei Sakharov, who is unable to even leave the town of Gorki. I think it is useful to put that in perspective.

There was a headline in Monday's Washington Post, "Millions Strike in South Africa." I hope I live to see the day that I will see the same newspaper have a headline, "Millions Strike in Leningrad." I do not think I will see that in my lifetime.

Apartheid, evil and obscene apartheid, has many forms. There is the evil, obscene apartheid of South Africa where people are judged by the color of their skin and by their race. There is religious apartheid, evil and obscene, of the Soviet Union, which judges people by their religion. There is a political apartheid in Ethiopia, where people, if they are from Eritrea of Tigre, know what the politics of hunger is like.

One anomaly in this bill is the denial of landing rights to any South African aircraft. Have we forgotten KAL-007 where one of our colleagues was shot down? I think we withdrew the landing rights for Aeroflot. Ladies and gentlemen, in case you have not noticed, Aeroflot is back.

Have we forgotten Afghanistan, where one of our sanctions was a grain embargo on the Soviet Union? We found that pinched, so we said Aeroflot cannot land. Well, Aeroflot is back, ladies and gentleman, I think we ought to remember that.

This bill is premised on the assumption that we are going to coerce the white minority Government of South Africa into adopting our solution for their almost intractable racial problem of 15 percent white population and 85 percent black, a very difficult problem. But arrogantly insist we have the solution over here.

This bill runs in exactly the wrong direction. One way to solve, in my opinion, the problems of racial discrimination in South Africa is through more corporate investments accompanied by strict application of the Sullivan principles. This will effect the transition. As South Africa becomes more industrialized, its black population will become more urbanized, where the walls of apartheid can no longer stand.

Millions of blacks came to South Africa for a job, and now we are going to pour the legislative gasoline of poverty and joblessness on a land already in flames.

In a way, this is a strikebreakers bill, because you cannot strike if you have no job. And there will be a lot of these people who now have the power to strike who will not have a job. Jobless, hungry people roaming the streets is a recipe for bloody riots, and do not think that is not on some people's agenda, bloody riots, because that is the way their solution will work out.

This is not a solution, ladies and gentlemen; this is scorched earth. Firmness, patience and understanding are called for, not coercion, which will cause the white minority Government to tighten its grip on the black majority, with tragic consequences.

Mr. WOLPE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. ROEMER], an original cosponsor of this legislation.

Mr. ROEMER. Mr. Chairman, I rise today in support of H.R. 4868, the Anti-Apartheid Act of 1986.

We all know what is happening in South Africa today. Political gatherings are banned, press coverage is prohibited, the police hold iron-fisted powers, the jails are full, death counts are climbing. Those warnings about "the worst bloodbath since the Second World War" are getting louder and louder.

So what should we, what should America do? Do we avert our eyes? Do we ignore the cries of pain? Do we let South Africa burn?

Or should we follow the moderate, but serious, steps outlined in H.R. 4868?

Elie Wiesel gave us the answers to these questions when he spoke in this city just 2 years ago. He said, "I have learned the danger of indifference, the crime of indifference." Mr. Wiesel said, "For the opposite of love, I have learned, is not hate but indifference."

In the case of South Africa, I say we cannot afford to be indifferent, because indifference means more violence, more death in South Africa. Because indifference means that South Africa will bleed to death. Because indifference means a victory for all those forces opposed to American values and opposed to American interests.

I do not think this body will embrace indifference. I believe we will pass this legislation. I know it is not perfect, and I know there are no guarantees, but there is a greater risk in no action. I think that we will send most of all a mighty message to all those struggling for freedom in South Africa. One thing this bill will do for sure is send a message, and it says this:

Take hope, America will not be indifferent.
Take hope, America will not be a silent witness.
Take hope, America will pass this test.
Take hope, you do not stand alone.
Take hope, America stands with you.

Mr. WOLPE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, in July, this country will celebrate 210 years of freedom and independence amid festivities honoring the restoration of the Statue of Liberty, a symbol of great freedom for the thousands of individuals who came to this country to find a richer, more fruitful life. Today in South Africa, over 22 million black Africans are not free. They are living under a violent system of discrimination and brutality that is socially repugnant and morally reprehensible.

Today we are speaking about establishing economic sanctions against a form of government that pretends to be part of Western society which prohibiting the press from reporting in full the numerous incidents of civil unrest which are leaving many blacks dead, wounded, and in prison. It is time to end any financial collaboration with a government that forbids free and peaceful assembly, the right to a voice in government, and the freedom to choose where to live and work, solely on the basis of your race.

I ask my colleagues to put their support behind a bill which tells the Government of Pretoria that, even with censorship of the press, we are aware of the continued brutality occurring daily in South Africa. We are telling them that we do not condone it; more importantly, we are telling them that we will not abet it.

As we speak, South Africa is under its seventh day of a nationwide state of emergency. Forty-two people have already died since the Government imposed the strict restrictions June 12 in anticipation of hostilities surrounding the 10th anniversary of the 1976 uprising.

In approving this bill, H.R. 4868, will not end the violence in South Africa or dismantle apartheid. What we will be doing is removing the financial benefits that the Government of South Africa has enjoyed from enforcing apartheid. We will end any U.S. loans or extensions of credit to that Government and prohibit further U.S. investments or deposits in that country. We will prohibit the use of U.S. technology for research or development in new energy resources. We will seek to pressure the Government of South Africa to move away from the system of apartheid or suffer severe economic consequences.

Does anyone really believe that after all these years, the Government of South Africa is going to change its ways without this kind of pressure? Our failure to act decisively now will result in the violent upheaval we all abhor.

Today we can take the first constructive step to achieve change in South Africa. Let us do it.

□ 1255

Mr. SILJANDER. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank my distinguished colleague. I thought it would be 2 minutes, so I will have to briefly, at the close of this debate, say in 30 seconds what is on my heart, and then elaborate during the amendment process.

What is a jambok? A jambok is a form of a whip. A similar type was used in Hitler's concentration camps. A similar type of beating is used in every repressive government around the world. South Africa does it openly, in the street, and it conjures up the hateful images of dogs and water hoses and Bull Connors in this country in our recent past.

I want to just, in closing this debate, say that I am going to vote against H.R. 4868 because I believe the White House does make a good case that this is not a perfect piece of legislation. There will be no dishonorable votes in this House. I respect everything that everybody is trying to do on the other side. In 5 seconds I want to put the Government of South Africa on notice. The first act, when I came back to this Congress in January, before we were sworn in, was to sign a letter presented to me by conservatives, putting the Government of South Africa on notice. So through the written record tomorrow and through the audio and visual means today, I tell the Government of South Africa: Do not cling to some threads that conservatives in the Government of the United States are going to be patient forever with your brutal oppressive defense of apartheid. I am not one of those threads. Time is running out. I honor those who are trying to put heavy pressure on you today. I just cannot join it because I think it has some shortfalls and might have some opposite effect of what they intend on that side.

The CHAIRMAN. The gentleman from Michigan [Mr. SILJANDER] has 30 seconds remaining to close debate.

Mr. SILJANDER. Mr. Chairman, I yield that 30 seconds to myself.

Mr. Chairman, the issue is death, the issue truly is human rights. The issue is freedom. As South Africa burns, as the deaths continue, as children go hungry, as rights are swept away, and as oppression continues, what should our response as a great and free nation be?

I believe, Mr. Chairman, without question, our response should be and must be to stay and fight, not to cut and run.

The CHAIRMAN. The gentleman from Michigan [Mr. WOLPE] is recognized for 2¼ minutes to close debate on his side.

Mr. WOLPE. Mr. Chairman, in my closing moments, I want to respond, just briefly, to the suggestion that has been made by some of the opponents of the legislation that focus on procedural and technical issues.

In the absence of any kind of compelling substantive case, it has been suggested that there was not adequate consideration of this subject in the committee process itself. In fact, it was asserted at one point that no hearings had even been held on this legislation. That is simply false. The Subcommittee on Africa and the Subcommittee on International and Economic Policy have held three hearings on developments in South Africa, on legislative options for sanctions. H.R. 4868, the legislation before us at this point, is the direct result of those hearings. All of the sanctions in this bill were discussed at length during the hearings in the subsequent subcommittee and full committee markups. Some, in fact, were actually passed by the House of Representatives last year.

Mr. Chairman, since this legislation was crafted, the situation has deteriorated further in South Africa. Under the state of emergency declared less than 1 week ago by the South African Government, the military and police have been given free rein to arrest, to search without warrants, to detain without charge, and, in practice, to torture and kill with impunity.

There is also a press blackout in South Africa so that what is happen-

ing in that country will be hidden from the view of the international community.

We need to respond as strongly as possible to these actions which threaten an imminent bloodbath. The legislation before us represents the absolute minimum response our Government must make to what we are seeing unfolding in South Africa. This legislation should not be necessary. We ought to have the administration seizing the initiative, taking advantage of the extraordinarily excellent rapport that has been developed by the Commonwealth group of nations that have tried as hard as they can to move the conflict from the streets to the negotiating table. Their failure must convey an important message to us as well. These people who were doing everything they could to avoid a widening of the confrontation have now concluded that absent strong international pressure and the application of economic sanctions, we will see only more bloodshed, increased radicalization and violence and prolongation of this terrible struggle.

We need now to make absolutely clear to the Afrikaner Government that the system of apartheid cannot be sustained indefinitely without growing economic costs and international isolation.

It is the only hope we have of shortening the timeframe of the struggle and ending the killing.

Mrs. LLOYD. Mr. Chairman, I rise to lend my support to H.R. 4868, the present legislation aimed at the disassociation of the United States from the repressive system of apartheid. History will record whether the United States stood on the side of democracy and majority rule or whether it stood in the way.

This bill provides the Congress with two opportunities: to send a message to our people, the South African Government, the South African people, and the world community that we are sincere in our opposition to the inhumane system of apartheid; and to take an active role, using whatever influence at our disposal, to help bring an end to the egregious injustices in that country. The administration's policy of "constructive engagement" has, in fact, provided no constructive progress in 6 years. The South African Government has claimed that it is dedicated to reform, but the few reforms they have enacted have not changed the basic nature of the apartheid system.

In recent months violence and government repression have reached new levels in South Africa. The government has prohibited almost all public dissent, closed opposition newspapers, and banned TV and other press coverage of unrest and police actions. In the last 20 months over 1,500 people have been killed and 36,000 arrested. It is distressing to know that these numbers rise every day.

The economic sanctions involved with this bill are needed to pressure the South African Government to begin negotiations with black leaders toward the goal of a nonviolent political settlement. The United States professes to be opposed to apartheid, but it is time to put some force behind those words.

Mr. COYNE. Mr. Chairman, I rise in support of H.R. 4868, the Anti-Apartheid Act of 1986.

This bill is in response to the intransigence of the South African Government and its refusal to work toward the elimination of the morally reprehensible policy of apartheid as practiced by that government.

H.R. 4868 is in effect a statement of prohibitions and sanctions to be imposed by the Government of the United States. It is our response to the South African Government's policy of apartheid.

This legislation prohibits any new loans to South Africa; bans any new investment in South Africa; and prohibits the importation of South African uranium, coal, and steel into the United States. The bill also bans the use of United States technology to explore, research or develop new energy sources in South Africa.

This bill would also prohibit the take off and landing in the United States of any aircraft owned by the South African Government or by South African nationals.

H.R. 4868 would also ban the mining of natural resources by U.S. firms in Namibia.

The bill also imposes a ban on United States investment in South African computer businesses and also bans the export of computers to South Africa. This provision becomes effective in 1 year.

This legislation authorizes $25 million for community development and refugee assistance programs for those who have suffered from South Africa's policy of apartheid.

The bill directs the President to enter negotiations with other countries to achieve actions by other governments comparable to what is contained in H.R. 4868.

The bill further directs the President to report to Congress by June 1988 on whether the South African Government has met either of the following conditions: the freeing of Nelson Mandella and other political prisoners or the dismantling of the system of apartheid. If the President makes a determination that either of these conditions has not been met, then he is required to include in his report recommendations as to whether disinvestment should then be required.

Why sanctions? Bishop Desmund Tutu states that: "There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left * * *."

One only has to read the report on South Africa by the Commonwealth Mission, known as the Eminent Persons Group, to realize how imminent chaos is.

The commission first poses the question "What can major states do to help avert an otherwise inevitable disaster?"

The commission states that it is convinced that the Government of South Africa is concerned about the adoption of effective economic measures against it. The commission continues: "The question in front of heads of government is in our view clear. It is not whether such measures will compel change; it is already the case that their absence and Pretoria's belief that they need not be feared, [which] defers change."

Effective actions, the commission warns us "* * * may offer the last opportunity to avert what could be the worst blood bath since the Second World War."

This from a commission whose members, to my knowledge, are not known for hyperbole.

Bishop Tutu, I think, gives us a sobering reminder of what indeed our cause of action should be and why we should indeed act.

The Bishop said: "There is no room for neutrality. When you say you are neutral in a situation of injustice and oppression, you have decided to support the unjust status quo. Are you on the side of injustice? Are you on the side of oppression or liberation? Are you on the side of death or life? Are you on the side of goodness or of evil?"

Mr. Chairman, I urge an aye vote on this legislation.

Mr. GLICKMAN. Mr. Chairman, I am a cosponsor of this legislation, and proudly so. What this legislation seeks to do is consistent with everything that this Nation of ours stands for; it seeks to implement a foreign policy reflecting our values and the fundamental principles which we as a nation support. It used legitimate means to bring pressure to bear on behalf of long overdue reforms in South Africa. It is pressure which should have been applied long ago, and we should wait no longer.

There is no need for me to repeat what has been said before about the policies which have been permitted to continue in South Africa. I find their system of apartheid morally repugnant, and I am confident that an overwhelming majority of Americans agree that it is an abhorrent system which we should not be supporting economically or otherwise.

Over the last several months, there has been talk of "reforms" coming out of South Africa, but recent events can leave no doubt in anyone's mind that, without strong pressure from the world community, what they are calling "reforms" will be superficial at best. And superficial reforms are not enough. We are talking about basic human rights, in fact, about people—who make up a majority in their own country—being able to pursue their lives and express their views without fear of physical retribution, imprisonment or even violent loss of life.

Some say we should not undermine the South African Government with which we have long been allied. I say we can no longer associate ourselves with a regime which has clearly rejected our most basic beliefs in the treatment of its own people. The momentum for reform is mounting and will succeed in South Africa; it is in our best interest to help to shape that reform so that what follows apartheid will not be violence and will not be a government pursuing policies contrary to our own, but instead will be a freedom-loving democracy that shares our values.

I hope today that this House, which has long been a bastion of strength for freedom, equity, and justice, will vote overwhelmingly in support of this legislation. There should be no doubt in any corner of this world where we stand when it comes to apartheid. We stand four square against it and will do everything we reasonably can to see that this cruel concept of governance is brought to an end.

Mr. BOLAND. Mr. Chairman, I strongly support H.R. 4868, the Anti-Apartheid Act of 1986, and urge its adoption by the House.

The world knows, Mr. Chairman, that the situation in South Africa is not good, and that the prospects for reconciling the government and the people are not bright. The world knows, even though the government has imposed a degree of press censorship more commonly associated with a Marxist state than a nation pledged to democracy, that the accumulated grievances of apartheid have brought South Africa to the brink of a destructive civil war. It may be too late to avert the catastrophe that civil war would produce, but the question is, will the United States try?

We do not have a great deal of leverage with the Government of South Africa, aside from our economic relationships. Last year, we approved some economic sanctions and some were imposed by the President. Regrettably, they have failed to make clear to the political leaders of South Africa the position of the United States on the policy of apartheid; that it must end and that it must end now. As the level of repression rise in South Africa, and the level of violence rises in tandem with it, we must do more to ally our country with those South Africans who are striving for freedom. H.R. 4868 offers an opportunity for us to do what we can, and should, do.

In my judgment, to continue to follow the delusory policy of constructive engagement is to guarantee that if the bloodbath comes in South Africa, the United States will be rightly criticized for having failed to do everything that was in its power to prevent it. We must not let that happen. As limited as our influence might be, we must not fail to use it. As a nation built on democratic principles which guarantee the rights of all, it is our moral responsibility to come down squarely on the side of those principles wherever their advancement is sought. H.R. 4868 may not end apartheid, but that is no reason to oppose it. Passage of this bill will send a concrete signal to both the oppressors and the oppressed in South Africa that the United States desires no further association with apartheid. A sound and effective foreign policy is built on just those kinds of signals and they are of undeniable value. Failing to pass H.R. 4868 would send precisely the wrong signal, and encourage the forces of represssion in South Africa. Our choice is then clear. Let's pass this bill.

Mr. FORD of Tennessee. Mr. Chairman, I rise in support of H.R. 4868, the Anti-Apartheid Act of 1986.

On January 31 of this year, President Botha addressed the opening of South Africa's Parliament by declaring that "Apartheid is an outdated concept which South Africa has outgrown."

The past has shown President Botha to be totally unresponsive to his nation's black majority. However, in the name of fairness, we should still put this remark to the test.

Specifically:

While much has been said in the months since the January address, have blacks been included in the South African Parliament?

In the months since the January address, the Government has established what is essentially martial law. Has apartheid been liberalized, or instead is it being protected and strengthened by that regime?

While there has been a great deal of talk out of Pretoria, has any significant reform been made to bring its majority into the mainstream of society?

We in America know better.

The comments coming out of the foreign ministry over the past few months have been strictly for public relations purposes in both the United States and Western Europe.

These comments were issued to stem the rising tide of divestiture and to ensure confidence in the Botha government.

Today, the House has an opportunity to put that government on notice. The Congress must act swiftly to disrupt the circle of segregation in South Africa.

Last year, we passed a bill to push the Botha government to reform its social and political policies.

At that time, we knew that the next course of action from this body would be a total disinvestment of U.S. interests.

That is precisely what the Dellums substitute does.

Simply put, the substitute prohibits any United States person or corporation from investing in, importing from, and exporting to South Africa.

Importantly, the substitute would require the immediate withdrawal or disinvestment of all United States assets currently in South Africa.

Mr. Chairman, we have never considered such a comprehensive action against South Africa before.

However, never before have we been faced with this type of situation. Today's South Africa is running a course to one of the bloodiest civil wars in history, where hundreds of thousands of lives will be lost.

Mr. Chairman, after sifting through all the rhetoric coming out of Pretoria, one thing is clear:

There is no reason for apartheid to continue 1 day longer. It is an outdated and repressive policy.

I, therefore, urge my colleagues to support the efforts of the gentleman from California. Our actions today must be felt by the leaders of that nation.

Mr. GUNDERSON. Mr. Chairman, as a member of Congress who has had more than just a passing interest in South Africa, I appreciate this opportunity to offer a few thoughts on the legislation now before us, from a bit of a different perspective.

Having previously visited South Africa, I have struggled with the important question of how the United States might be a constructive influence toward change in that country. And regrettably, I am close to the point of conceding that the United States, or any other country for that matter, is not going to be able to contribute to constructive and peaceful change. I suspect the elements within South Africa are moving to extreme positions. Moderate elements within both the black and white communities are becoming lost in the noise, violence, and bloodshed.

I would, however, suggest that we look at the legislation now before us from a realistic perspective. In doing so, we will quickly recognize that reality of the sanctions imposed in this legislation will not be major in any sense of the word.

The legislation bans new loans and credit to the Government of South Africa. It bans new investment within South Africa. And it bans new energy technology. My response is "so what?" Do we really think Americans are about to invest their money in a country with the unstable economic and political climate which exists today in South Africa? I think not.

The legislation also bans imports of uranium, coal, and steel. These actions are worthy of consideration from not only a foreign policy, but also a trade perspective.

A third trade element of the legislation is the divestiture of the computer industry that will be required unless Nelson Mandela and other political prisoners are freed, and apartheid is totally dismantled within 12 months. While a year may be too short a period to achieve a total dismantling of apartheid, I have always supported the concept of conditional investment. We must send the message to South Africa that if they wish to continue to do business with the United States, certain conditions must be met within a limited period of time.

I would like to suggest to my colleagues and to all Americans, that as we consider this legislation we ask ourselves a couple of much more basic questions. What is really the purpose of America's foreign policy? I would suggest that the sole purpose, or at least the major purpose, is to promote America's interests abroad. If we are to promote our long-term interest in a region, then we must ask the next question, which is how do we implement such a policy in relation to South Africa.

I do not know of any Americans, and few South Africans who do not suggest that it is only a matter of time before South Africa will be controlled economically and politically by the black majority. Whether it happens in 2 years, 5 years, or in a decade, it is clear to us all that it will happen.

I would suggest that at a minimum, our own selfish interests are served in taking some actions which signify to the merging and legitimate black majority population that we stand with them in their efforts to obtain justice. In taking such action, we are also sending a signal to both the black and white moderate leaders, that we support their efforts at peaceful change and negotiation. Let's not send the signal to the 24 million blacks in South Africa that their only alternative is violence, revolution, and affiliation with Communist countries.

Finally, there exists an important moral issue in the debate before us today. Everyone of us believes in the promotion of human and equal rights at home and around the world. That is stated by others here today in eloquent words and needs no expansion from me. But I would also suggest to my Republican colleagues, that under President Reagan our party has prided itself on the promotion of democracy around the world. We do so in Afghanistan. We do so in Nicaragua. We do so in Angola. We do so in Poland. If our goal is to promote democracy and freedom throughout the world, how can we stand by and allow the 85 percent of the population in South Africa to be denied their similar rights to freedom and majority rule?

For these reasons, I believe that the legislation before us today is neither extreme or ill-timed. It is a proper and restrained response by which we can best promote America's interests and the interests of the South African majority. The leader of the free world is being watched today. I hope we act wisely.

Mr. EDWARDS of California. Mr. Chairman, today the House of Representatives has an opportunity to reassert the role of the United States as a moral force in world affairs. By our action today we can assure that America speaks up for freedom, for equality, and for justice in South Africa.

I urge my colleagues not to let this opportunity slip away. Let us approve H.R. 4868, the Anti-Apartheid Act of 1986, and send a message to Pretoria that the United States will no longer conduct business as usual with South Africa so long as the repugnant policy of apartheid continues.

It saddens me that despite the continued repression of blacks in South Africa, despite the increasing curbs on freedom of the press and other civil liberties, indeed despite increasing signs that South Africa is on the very brink of civil war, the Reagan administration continues to pursue a policy of constructive engagement with the South African Government. Most Americans now recognize that constructive engagement has been a failure.

It embarrasses me, frankly, that the United States—which should be a world leader in condemning oppression—lags behind the world community in condemning the tyranny of the South African Government. Unless we act now, Mr. Chairman, to institute the needed economic sanctions provided by the bill we are debating today and to lend the prestige and the power of the United States to the effort to end apartheid, we will bear no small measure of the blame for the bloodbath which is almost inevitable to occur in South Africa.

Let's speak out for democracy. Let's make our message loud and clear—the United States stands for freedom not enslavement. Let's pass this bill.

Mr. GARCIA. Mr. Chairman, this legislation, imposing sanctions on the Government of South Africa, will certainly not bring down that Government. It will nonetheless, place the United States on the right side of this issue. We cannot do business with the South African Government as long as it practices apartheid.

Nadine Gordimer, the distinguished South African author, wrote recently of her country, "If you are in search of clarity within yourself as well as—professionally—in others, where better to test yourself and them than in the thickest murk of South Africa?"

That is what this is, a test of our ability to take responsibility for our actions. If we ignore apartheid or try to sidestep it by pointing to half measures of improvements by the Botha government—measures that are supposed to signal the beginning of the end of apartheid—then we are in reality nothing more than participants in its perpetuation. Constructive engagement is a charade, it is, to paraphrase Shakespeare, an act full of sound and fury, signifying nothing.

Joseph Lelyveld, a New York Times correspondent, writes in his new book on South Africa that apartheid is "A statement about reality amounting to a denial of that reality." The reality that he is referring to is that South Africa is a nation of blacks, not whites. Apartheid cannot change reality, and if we intend to continue to deal with South Africa, then we had better begin to establish a relationship with that nation's majority community. That is the very practical side of opposing apartheid, of supporting this bill.

But on a more philosophical note, both Lelyveld and Gordimer point out that terms such as constructive engagement are really only a reflection of the double talk offered by the Botha government. And it is through such double talk that the South African Government intends to put South African blacks in a permanent holding pattern while offering up the illusion that apartheid is being dismantled. Yet, in the last 21 months, 1,650 people have died in South Africa as a result of the Botha government's policies.

Apartheid is not being dismantled, and it will not be dismantled until the heart of the matter is addressed. This is more than a disagreement among races; it is a power struggle. It is a question of who will run South Africa. It is a question of how long the majority community can continue to be suppressed, or worse, ignored. It is a question of how long the majority community will be denied rightful access to the reins of government and a measure of control over their own destiny. The moderates in South Africa are quickly falling away. If there is to be any compromise, any hope of working things out in South Africa, the time to act is now. We can help wake up the Botha government to that reality by passing this bill.

Gordimer believes that sanctions will work. For the moment, I am willing to believe that they can make a difference. It is certainly the least we can do to make certain that the United States is not murky, but clear in its opposition to apartheid.

As Bishop Desmond Tutu said:

There is no room for neutrality. When you say you are neutral in a situation of injustice and oppression, you have decided to support the unjust status quo. Are you on the side of oppression or liberation? Are you on the side of death or life? Are you on the side of goodness or evil?

Clearly, our decision here today will indicate which side we are on, which path we intend to pursue. This Nation has always professed a belief in democracy and equality. We must now put that belief to the test by expressing our unequivocal support for H.R. 4868. We can do no less. In reality, there is no choice. The choice has been made by the Botha government. We are left with little alternative.

There is no place for slavery in the modern world. Those who practice it in any form—as does the Government of South Africa—must be condemned, must be shunned. I urge my colleagues to vote for this historic and most important legislation.

Mr. HOWARD. Mr. Chairman, I rise in support of the Anti-Apartheid Act of 1986. This legislation is an important and necessary step in bringing about the abolition of the apartheid regime in South Africa. The Committee on Public Works and Transportation has jurisdiction over the section prohibiting South African aircraft from landing in the United States, and I am pleased that the legislation on the floor today contains this provision.

This is an important provision because air travel is a major means of commerce internationally, and if we intend to have an impact on the regime of apartheid, a sanction against convenient air travel from South Africa to the United States is crucial. Air travel is also a highly visible and symbolic means of commerce, so the significance of the sanction goes far beyond the economic value of the air service.

Again, it is most important that we send a strong message to the people and Government of South Africa that apartheid is abhorrent and unacceptable to the American people and that we expect changes in their policies.

Again, I rise in support of this legislation and urge its passage.

Mr. TALLON. Mr. Chairman, we convene once again to debate United States action toward South Africa. Last year, both the House and the Senate overwhelmingly passed legislation imposing economic sanctions against South Africa. Yet the administration derailed this effort by ordering limited economic measures and quiet diplomacy. So we talk but we do not act. And with each year of American inaction, conditions in South Africa worsen.

Violence and Government repression have reached new levels in South Africa. The white minority government has declared a state of emergency giving the police and the military virtually unlimited powers to arrest and jail citizens without charge. The Government has prohibited almost all public dissent, closed opposition newspapers, and banned TV and other press coverage of unrest and police actions. In the first 24 hours of what amounts to martial law, South African police arrested approximately 2,000 opponents of apartheid.

The gravity and desperation of the situation has been confirmed by a report issued by the British Commonwealth Commission which called on the United States and other Western nations to impose strong economic sanctions against South Africa. Without international economic pressure, the commission concluded, South Africa would experience the worst bloodbath since the Second World War.

The incidents of violence, injustice, and inhumanity on the part of the South African Government can, and will, continue so long as South Africa is ruled by an apartheid government which maintains repressive, white minority rule at the expense of a black majority. We cannot give such a system our political or economic support.

We have today the opportunity to participate in our Government's first real step toward actively responding to the deplorable situation in South Africa. H.R. 4868 imposes numerous economic sanctions against South Africa, including a ban on new United States loans and investments, prohibiting the import of South Africa uranium, coal, and steel, and requiring the withdrawal of all United States computer-related investments in South Africa.

These economic sanctions will clearly indicate to the South African Government and the world that South African governance by threat or repression will no longer be tolerated. Through this legislation, we can move to the construction of justice, freedom and hope in South Africa.

Black South Africans seek what most Americans take for granted—liberty, responsive institutions of authority, majority rule and protection of minority rights. To continue supporting a government which denies the most basic of human rights to the largest racial group in its country is to deny the very principles on which our Nation was founded.

The South African Government has clearly indicated that it will not initiate substantive reform without pressure. It is up to us to forge justice, freedom and ultimately peace in South Africa through support of H.R. 4868. It is a decision that we can no longer ignore or postpone. Bishop Tutu of South Africa has said, "you are either for or against apartheid. You are either on the side of the oppressed or on the side of the oppressor." The issue is clear; I urge all my colleagues to join me in acting on behalf of the oppressed.

Mr. AuCOIN. Mr. Chairman, there is no question that the White House has a consistent policy toward South Africa. It consistently refuses to impose strong economic sanctions against the Botha government. It consistently ignores pleas for action by moderate black leaders such as Bishop Desmond Tutu. And it consistently uses the fiction of quiet diplomacy as an excuse for inaction.

As the White House fiddles, South Africa burns. More than 1,000 black South Africans have died violently in the past 21 months. Thousands more have been arrested or displaced. The Botha government has carried out military attacks on neighboring states and imposed a sweeping state of emergency at home.

The cries for change in South Africa are deafening, yet the White House does not hear. Violence by the white minority government is widespread, yet the White House does not see. The threat of civil war is rushing closer to reality, yet the White House will not act.

Those of us committed to human rights in South Africa have reached the end of our patience. By passing the Anti-Apartheid Act today, we can announce, loud and clear, that the vast majority of Americans oppose the inhumane system of apartheid.

The legislation calls for a ban on new loans and investment in South Africa, United States landing rights for South African aircraft, assistance in the development of new energy sources in South Africa and export of South African coal and uranium to this country.

If, within a year, the South African Government does not take steps to ensure equal status for the black majority in South Africa and to free Nelson Mandela, the act mandates the disinvestment of United States computer companies in South Africa.

Computers are the technological armor protecting the 20th century police state. Electronic bookkeeping allows South Africa's white minority to control the living conditions, working conditions and travel of the black majority. And U.S. computers are the Botha government's tool of choice, accounting for 70 percent of total computer sales in South Africa. Stopping the sale and production of U.S. computers in South Africa will make it harder to keep the machinery of apartheid running.

Economic sanctions by the United States will not, of themselves, topple the Botha government. They will not bring about a dramatic improvement in the condition of blacks in South Africa. But they are a step toward the dismantling of apartheid—and a step away from the Botha government.

Nearly 90 percent of foreign investment in South Africa comes from Great Britain, the United States, West Germany, France, and Switzerland. By aggressively working with these other governments, the United States could wield tremendous influence over the future course of events in South Africa. But, again yesterday, President Reagan ruled out any chance that he will act.

I simply don't understand the reasons for this coy policy. In the past, the Reagan administration has been anything but shy about using strong economic sanctions to achieve foreign policy goals. Just ask any citizen of Poland, Nicaragua, or Libya. And the administration hasn't been shy about taking unpopular foreign policy stands without the support of our allies.

But now that we have a chance to work with other nations to form a coordinated policy on South Africa, the White House refuses to budge. Our intransigence stands in stark contrast to actions of other Western nations. Culminating a 6 month effort to bring about peaceful change in South Africa, the Commonwealth Nation's Emminent Persons group last week recommended strong economic sanctions against South Africa. Israel is taking tentative steps away from the Botha government. A United Nations Commission met in Geneva earlier this week to discuss the possibility of sanctions.

Current United States policy can only be construed, by those struggling for their rights, as complicity with South Africa's white minority. By remaining a partner in repression, we weaken our chance to prevent bloodshed in the short term, and to play a part in the long-term development of southern Africa. Is this to be America's legacy?

The United States was founded on the principles of tolerance, freedom, and respect for the individual. When we have held to these ideals, we have achieved our brightest successes—such as the shift toward democracy in Haiti and the Philippines. We should hold ourselves to no less a standard in South Africa.

I urge my colleagues to vote for this vital bill and help put an end to the immoral policy of apartheid.

Mr. BRUCE. Mr. Chairman, I rise today in support of H.R. 4868, the Anti-Apartheid Act of 1986. The continuing denial of rights of South Africans by the South African Government and the lack of good faith negotiations by that government to end apartheid have demanded further action.

It is fitting that the House of Representatives consider this legislation this week as the world mourns the over 600 who died in the Soweto uprising just a decade ago. Pretoria has long promised reform. It is clear, however, with last week's declared state of emergency, the increased violence against the black majority and the severe restrictions placed on the media, that the foundations of apartheid are as strong as ever. It is also clear that the racist form of apartheid cannot be reformed—it must be ended.

Mr. Chairman, as we debate the crisis in South Africa today and this chamber's response to that crisis, I must ask strong consideration be given to the substitute offered by the gentleman from California. Mr. DELLUMS' substitute measure would prohibit any U.S. person or corporation from investing in, importing from, or exporting to South Africa. Equally important, the substitute bill would require the immediate disinvestment of all United States assets currently in South Africa. I support this measure and the sanctions it imposes because the situation in South Africa is rapidly worsening. As a Nation whose principles are based on a firm belief of justice and liberty, the United States should not wait any longer—we must make our statement clear and we must make it now.

In the words of Coretta Scott King, "Injustice anywhere is a threat to justice everywhere." Through our own struggle, we have the right to vote, the right to be educated, the right to live where we want to live, the right to a fair trial, the right to speak as we believe, the right to a free press, the right to assemble—could we want less for the people of South Africa?

South Africa has reached a critical turning point and the United States has a chance to make a difference in the establishment of a new South African democracy that would represent all its people equally. There is still time for a true democracy to rise from the crisis that now exists in South Africa. We need to take a firm stand immediately to show the people of South Africa, as well as the rest of the world, that the United States will not contribute economic support to a government that does not recognize the human rights and dignity of its citizens.

Mr. DURBIN. Mr. Chairman, we have an opportunity today to take a strong stand against apartheid, the most oppressive and outrageous system of government in the world. I urge my colleagues to join me in sending a strong, clear message to Pretoria to let Mr. Botha and his government know that we in America support freedom, not oppression.

During the past 2 years more than 1,600 blacks have been killed protesting the oppression of apartheid. Pretoria would have us believe that these protests are the result of insurrection by a small band of trouble makers. However, the message from black leaders such as Nobel Prize winner, Bishop Desmond Tutu and Rev. Allan Boesak is clear. The message they convey does not indicate that opposition to apartheid is isolated to a small group of individuals, but that the desire for freedom within the black community has grown stronger than fear of Pretoria's gun.

In April, I received a newsletter published by the South African Government in which, President Botha expressed his interest in negotiating with black leaders. He suggested that if we Americans knew of his sincere efforts to negotiate change, we would work to encourage these actions. Mr. Botha is right about Americans' desire for change in South Africa. In fact, I supported antiapartheid legislation last year in hopes that our actions would help encourage negotiations.

There is little evidence, however, that the South African Government has moved to im-

prove the condition of black life in South Africa. The government continues to detain blacks for political reasons—an estimated 36,000 men, women, and children were jailed in 1985. Over 2,000 children under the age of 16 were detained, more than 200 were killed and many others brutally tortured. In the black townships, thousands of children no longer go to school, fathers and sons disappear into police vans or are shot in the dark streets. If these actions represent evidence of dialogue with the black community, apparently Mr. Botha's definition of negotiation is quite different from my definition of negotiation.

I believe we must overlook the economic advantages of our ties with South Africa and focus on our moral obligation to justice and freedom. The issue is not tribalism or infighting, as President Reagan suggests, but a strong commitment of black South Africans to freedom. As an American, I am empathetic to their goal, and realize that our current policies are ineffective as a tool to influence change in apartheid. I believe passage of H.R. 4868 will send a clear, tangible sign to Pretoria that America will no longer support the oppression and injustice of the black people in South Africa.

Mr. FOGLIETTA. Mr. Chairman, I rise in support of H.R. 4868, the Anti-Apartheid Act. It is my hope that this legislation will do a great deal to encourage the Government of South Africa to negotiate with the leaders of the black majority.

This past Monday marked the 10th anniversary of the Soweto uprisings. The world's eye was once again upon South Africa and we witnessed a country in the throes of civil unrest. Eight people died and the press continued to be denied their freedom of access. The declared state of emergency has separated the people of South Africa into two armed racial camps. The unyielding policy of apartheid has produced this tragic condition.

I have long supported efforts to dismantle the racial policies of South Africa. The use of economic sanctions is a constructive vehicle to pressure the Botha government into action. H.R. 4868 sends a clear message of American intentions: we will not support a government that violates basic human rights. The situation in South Africa grows more desperate each day. A reported 1,650 people have died in the last 21 months of turmoil and I am afraid we have not seen the end of all the bloodshed and violence. As a leading South African columnist noted "South Africa has crossed the line that separates authoritarian from totalitarian societies."

Let us as Members of Congress remind the oppressed blacks of South Africa that we are committed to the establishment of basic human freedoms. Although this legislation may not immediately resolve the crisis in South Africa, it will remind the Botha government that we will not idly stand by and watch his army deny the majority of South Africa's people their right of self government.

Mr. SHUMWAY. Mr. Chairman, I rise today in opposition to the Anti-Apartheid Act of 1986.

The growing violence and the recent state of emergency in South Africa clearly demonstrate the urgent need for reform. The institutionalized racism of apartheid is contrary to the fundamental values of our society, including the equality and inherent rights of all individuals reflected in our Constitution. The question we must decide today is how the United States can most effectively contribute to peaceful and democratic change in South Africa.

While the international community expresses its moral indignation over the injustice of apartheid, it is up to the people of South Africa to redefine their internal system of government to provide for the participation of all South Africans. The need for sweeping change is complicated by the continuing recession and staggering unemployment. Increasing economic pressures in South Africa will result in greater instability as financial hardship increases, rather than promoting an atmosphere conducive to internal dialog and peaceful reform.

These economic sanctions will victimize the very people we are trying to help. Black South Africans will bear the burden of these measures as their jobs are cut in response to disinvestment and the decline in exports. The International Labor Organization estimates that 2 million black South Africans were unemployed in 1985. Recent estimates published in the Wall Street Journal indicate that the current unemployment rate for blacks is close to 30 percent, with this figure climbing to 50 percent in depressed areas such as Port Elizabeth, and a quarter of a million blacks entering the job market each year.

We will not achieve our goals by decreasing economic opportunity and removing U.S. companies which promote social and economic reform under the Sullivan principles. These principles include desegregation in the workplace, fair employment practices, and equal pay, as well as training, education, health care, and decent housing for blacks.

The Sullivan principles have been endorsed by 161 United States companies which have direct investment in South Africa. These firms represent 89 percent of the work force of United States companies in South Africa. In 1984, the communications task force of the Sullivan signatory companies announced that 99 percent of the companies reported desegregation and 100 percent reported equal pay for equal work. Black wages increased by an average of more than 20 percent per year from 1980–83.

The companies adhering to the Sullivan principles contribute millions of dollars each year to improve the quality of life for nonwhite South Africans. In 1983, U.S. companies contributed over $6 million to education and training programs for 13,000 black employees, nearly $3 million to similar programs for 22,000 black nonemployees, $4.2 million to encourage black entrepreneurship, $1.6 million for housing programs, and $1.3 million to improve health care and related programs. By 1983 over 20 percent of the supervisory and management positions were held by blacks. These companies are undermining the foundations of apartheid and providing a model for peaceful reform.

Given the opportunities and the programs provided by United States companies, it is not surprising that the majority of black South Africans oppose disinvestment. Recent polls indicate that over 70 percent of blacks in urban areas oppose disinvestment. The black national African Chamber of Commerce and industry has expressed its opposition to disinvestment as inhibiting economic growth, "which is a powerful catalyst in the process of peaceful social and political reform in the country." In the past 2 years, 46 United States companies have abandoned their activities in South Africa. So far this year 13 companies have withdrawn their investments from South Africa.

As a result of the ban on U.S. exports of computers or computer technology, there would be no further sales of computers used for medical or educational purposes. IBM recently shipped $30 million of their "Writing to Read" educational system to South Africa for use in black primary and secondary schools. This transaction would be illegal under the bill we are considering today. In addition, this legislation signals the end of the first black-owned computer company, Power Computer Services which distributes IBM products.

By prohibiting extensions of credit for sales to any South African company, this legislation will virtually terminate our trading relations with South Africa. Recently South Africa attempted to purchase 300,000 tons of United States hard red winter wheat valued at $40 million to be used primarily to feed Mozambican refugees in South Africa. After being informed that current United States policy precluded the sale, South Africa arranged to purchase wheat from Canada. Refusing to sell wheat to feed refugees in South Africa will not hasten political reform. Indeed this transaction demonstrates the ineffectiveness of economic sanctions when South Africa can purchase similar items from other countries.

For these reasons, I believe economic sanctions will increase the hardship of blacks in South Africa without contributing to the peaceful dismantling of apartheid.

Furthermore, I believe it is premature to impose additional economic restrictions at this time. Less than a year ago the administration imposed economic sanctions against the South African Government. The State Department's Advisory Committee on South Africa is currently reviewing the situation to recommend additional ways in which the United States can encourage reform in South Africa. At the very least, it seems reasonable to first evaluate the effectiveness of the existing sanctions and the recommendations of the Advisory Committee before we take steps which will decrease U.S. influence by diminishing our economic relations.

Mrs. SCHNEIDER. Mr. Chairman, I rise in support of H.R. 4868, which places economic sanctions on South Africa. This legislation is not complicated, and merely strengthens existing sanctions through provisions that:

Bans new investment in South Africa;

Bans new loans to the South African public and private sectors;

Prohibits United States involvement in South African energy development;

Bans the import of South African coal, steel, and uranium;

Denies landing rights of South African aircraft;

Allocates $21 million for community development programs and $4 million for refugee education; and

Requires American computer companies to withdraw from South Africa and ban the sale of computer hardware and software after one year if the government has not freed Nelson Mandela and other political prisoners and entered into good faith negotiations to establish a new political system.

The question before us is simple. Should the United States encourage further business dealings with a country whose government is based on the racist policies of apartheid? I am certain that there is not one Member of this body who has a single positive thing to say about the systematic denial of rights to the black majority of South Africa.

A more complicated question is whether the most effective way to bring about a democratic rule in South Africa is through the imposition of economic sanctions. We have taken a number of steps to show our displeasure with the South African Government. We have attempted encouragement and cajolery, threats and limited sanctions, all the while looking for a solid sign from the Government of South Africa that there is a plan to dismantle apartheid. What we have seen instead is the smallest of gestures of appeasement and the total failure to address the core of the problem.

The arguments today have consistently pointed out the immorality of apartheid. Some have argued that compared to other forms of repression, practiced by other governments, apartheid is merely one of a number of government sponsored forms of repression in the world today. I feel that it is important to point out that we must demand adherence to higher moral standards from those we seek to call our friends than those we see as our adversaries.

Do we wish to say to the world, and particularly to the nations of Africa, that we abhor apartheid, but that we are willing to see it continued indefinitely because we fear the result of majority rule, that we fear democracy? Can we ever hope to serve as a model for nations seeking justice if we fail to take action against apartheid?

In every endeavor there is a time for patience and a time for action. When faced with the clear-cut immorality of apartheid, patience is no virtue. Will the sanctions contained in H.R. 4868 hasten the end of apartheid? We cannot know. But the action proposed today provides a positive response to the oppressed in Africa who cry out for a sign of our awareness of their plight. I say that the time for patience has long passed and I ask my colleagues to join me in supporting the imposition of economic sanctions against South Africa.

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of H.R. 4868, the Anti-Apartheid Act of 1986, which calls for economic sanctions against the Government of South Africa.

Mr. Chairman, the U.S. Congress today is presented with an extraordinary and historic opportunity. We can help shape the course of events in a country in which the principles of morality and justice, of freedom and democracy, are routinely denied the vast majority of its people. That country, consequently, continues to edge ever closer to catastrophe.

The present situation in South Africa is horrifying. In the year since Congress last acted on South African sanctions, government repression and widespread civil unrest and radicalization have dramatically increased. In the last 20 months, over 1,500 people have been killed and over 36,000 arrested in antiapartheid protests. In just the last 3 months, the daily death rate has almost doubled. The South African Government's unyielding stance toward any opposition was illuminated in the recent and brutal raids against Zambia, Botswana, and Zimbabwe, supposed strongholds of the African National Congress.

Just 2 days ago, Mr. Chairman, saw the 10th anniversary of the Soweto uprising. The South African Government, in anticipation of major demonstrations marking that anniversary, implemented the most stringent and far-reaching security measures seen this side of the Iron Curtain. It imposed a nationwide state of emergency which effectively gave the security forces sweeping powers beyond the control of the courts. They can arrest people without warrant; they can conduct searches without a search warrant; and they can shoot on sight. It is estimated that 2,000 people were arrested in the first 24 hours under the new emergency laws. The new decree makes it an offense to utter what are called subversive remarks, including the call for sanctions and any criticism of the government. All unauthorized political gatherings are banned. And press coverage of any confrontation between blacks and whites—as well as of anyone considered an opponent of the government—has virtually been eliminated. Let all those who apologize for apartheid look no further than these police-state tactics to understand the odious nature of the Pretoria regime.

The government in Pretoria yesterday called its actions successful because only 42 people were killed in clashes with the security forces. Undoubtedly the violence could have been much worse. But it is a sad and sorry commentary on that regime that it requires such brutally repressive measures to control its citizenry, and that the deaths of 42 innocents is considered a success. Even though press coverage of the Soweto anniversary and of the events of the last week has been so severely restricted, we can easily conjure up images of what occurred: South African police rushing defenseless demonstrators, attacking them with clubs, dogs, hoses; arbitrary arrests; and random shooting into crowds. We have seen it all before.

Mr. Chairman, 20 years ago, these same images seared the conscience of America. Blacks who wanted nothing more than to be treated as equals with their white countrymen were beaten for merely demonstrating for that goal. These civil rightrs struggles of the sixties energized an entire Nation to provide its fellow black Americans with those basic rights guaranteed in the Constitution and enshrined in principles of justice, freedom, and equality. As we watch the situation in South Africa today, we must keep that struggle in mind, for it is equally incumbent upon us to take a stand against the repugnant system of apartheid, which allows a minority of 4.5 million whites to deny 22 million South African blacks their fundamental human rights: the right to vote; the right to live where they choose; the right to be treated as a full citizen in the land of their birth.

The bill we are debating, H.R. 4868, represents the best hope of turning South Africa away from bloodshed and towards a nonviolent political settlement in that troubled country. It builds upon the action this body took last year by:

Prohibiting new loans and investment to South Africa;

Barring the importation of South African uranium, coal, and steel;

Prohibiting the use of U.S. technology or services to develop new energy sources in that country;

Denying landing rights to South African aircraft;

Barring United States firms from mining and exporting natural resources from Namibia; and

Requiring the withdrawal of all United States investments in South African computer businesses and prohibits the export of computers to that country after 1 year.

The sanctions imposed by the bill could be terminated if the President reports to Congress that the South African Government has dismantled apartheid or has freed all political prisoners, including Nelson Mandela, and has begun good faith negotiations with representative black leaders.

I also lend my support to the Dellums amendment in the nature of a substitute to H.R. 4868, which is similar to H.R. 997 as introduced by Representative DELLUMS last year.

The Dellums substitute goes further than H.R. 4868. It calls for immediate disinvestment by United States firms in South Africa and Namibia, suspends all trade between the United States and South Africa except for strategic minerals, cancels landing rights for South African aircraft, permanently bans Krugerrand imports, and bars tax credits and deductions for income and profits received from South Africa.

Either version would make the United States a force for constructive change in South Africa, rather than for the failed policy of constructive engagement. It would move us away from a policy where we have merely helped perpetuate the status quo. It puts us squarely on the side of those South Africans committed to justice and peaceful change, of the British Commonwealth, and of other nations trying to force political negotiations now.

In the past year nearly all the most respected and moderate voices in South Africa—such as Bishop Desmond Tutu, the South African Council of Churches, and the United Democratic Front [UDF]—have appealed to Western countries to impose new economic sanctions to pressure Pretoria before it is too late. Contrary to the critics of this legislation, these sanctions will not hurt blacks in South Africa. In fact, it is the blacks themselves who are calling most strongly for sanctions. Bishop Desmond Tutu wrote in Monday's New York Times that over 70 percent of South African blacks support sanctions. As he so eloquently stated, "We are suffering already. To end it, we will support sanctions, even if we have to take on additional suffering."

Those who say we should take more moderate steps than sanctions ignore the fact that our policy of constructive engagement has been an abysmal failure, and has merely emboldened the South African regime to crack down further on internal dissent and to ignore black leaders' call for negotiations. Some argue that sanctions will merely increase the resistance of Pretoria to change. But if there is no pressure from the outside, what incentives are there to change? Indeed, one can certainly respond that whatever progress has been made in South Africa stemmed only from the South African Government's fear of economic isolation. As the influential Afrikaner editor, Willem de Klerk, recently wrote: "The West has the power to do us considerable damage and if our economy is affected we will become increasingly politically defenseless. * * * It is simply not a paying proposition to defy the West with stupidities."

Critics argue that the South African Government has already taken positive steps toward dismantling apartheid. While we should certainly applaud the abolition of the hated pass laws, we have seen no inclination on the part of Pretoria to deal with the major issues of continued white political domination and enduring segregation of residence such as homelands. In fact, I would say that the program of reform is not designed to end apartheid but to give it a more human face.

Finally, is it not hypocritical to support sanctions in Libya, Nicaragua, Poland, while shying away from such action against South Africa? We are at a critical juncture. A British Commonwealth commission seeking to bring about peaceful negotiations in South Africa—the eminent persons group—recently wrote that strong international economic pressure was the only way to prevent an all-out race war in South Africa that could result in the worst bloodbath since the Second World War. Can we afford to wait any longer to act?

In conclusion, Mr. Chairman, the political case for sanctions against South Africa now is compelling. The moral case for such action is overpowering. American interests and American values are at stake. The South African Government must realize that no amount of force can control the aspirations of millions to be free. We must do all that we can to ensure that black South Africans are free, free from tyranny and free from fear, and that they are free to determine their own destiny. This bill will set forces in motion which will assist that process. I urge my colleagues to support it.

Mr. GILMAN. Mr. Chairman, I rise in support of the legislation as reported by the Committee on Foreign Affairs. Earlier, in the consideration of this bill, I doubted whether applying additional sanctions would be a proper course of action.

Based on the recent behavior of the South African Government, however, which has brutally suppressed its internal opposition and given other indications that its commitment to the eventual dismantlement of apartheid is weakening, I feel that the House should proceed to pass the committee-reported legislation to impose prohibitions on new investment in South Africa, to end sales of computers to South Africa, and to ban purchases of certain goods from South Africa.

Mr. KILDEE. Mr. Chairman, as a cosponsor of this legislation, and as a cosponsor of H.R. 1460 which the House passed last year, I rise in strong support of H.R. 4868, the Anti-Apartheid Act of 1986.

The policy of apartheid in South Africa has resulted in unbelievably cruel, repressive, and inhumane acts by the South African Government against the overwhelming majority of the South African people. Such State-perpetrated activity is in direct conflict with the ideals of self determination and personal freedom which we Americans hold dear. Those in our Government who support sanctions against the South African Government do so because we feel we should not even indirectly condone the abhorrent domestic policies of that government. But aside from the morality of supporting change in South Africa, a lassiez-faire policy toward South Africa is also unwise on practical grounds. Eventually apartheid will collapse. If we are perceived to be on the wrong side we will have little or no influence with the new majority government in that country. The consequences of that would be grave.

Last week, the Government of South Africa imposed its most oppressive measures ever against the black majority of South Africa, resulting in the imprisonment of thousands of citizens without formal charges, the banning of all forms of public dissent, the closing of newspapers, and the barring of the international press from coverage of political and social events. At this period of transition in the history of South Africa, we must do everything we can to promote the peaceful transition to freedom for all the citizens of that nation. If we can provide peace and justice by exerting economic pressure, then we should undertake economic steps towards bringing about change there.

Government repression and violence have reached new heights in South Africa. The white minority government has declared a "state of emergency" which gives the police and the military virtually unlimited powers to arrest and jail citizens without formal charge. Sources of opposition to the oppressive government have been forcibly closed or violently eliminated. Within 24 hours of the government's declaration of an "emergency state," more than 2,000 opponents were arrested, and hundreds of blacks have been killed by security forces. Most unfortunate of all, the misguided Government of South Africa appears to be headed in the wrong direction.

Mr. Chairman, H.R. 4868 is based on the premise that foreign governments are not automatically entitled to close economic and cultural ties with the U.S. Government, and that we should reserve such ties for nations that adhere to at least a minimum respect for human rights and individual dignity. All of us oppose totalitarianism of the left and the right. The apartheid of South Africa and the gulags of the Soviet Union are both offensive to human dignity. We must balance the substance of all these offenses with the hope of actually achieving some remedy through a particular strategy or policy.

As we examine our strategy in dealing with apartheid, the question we must ask is what can we do here in the United States that will communicate the position of this country to the people and Government of South Africa. How can we back up our words with action?

Mr. Chairman, I believe that without international pressure of some sort, there is little hope that the Government of South Africa will act responsibly and seek to peacefully resolve the crisis that it now faces.

H.R. 4868 will accomplish two purposes. First, it will provide the Pretoria government with a tangible example of the opinion of the people of this Nation. Second, it will unite the voice of America to that of other countries to persuade the South African Government to enter into meaningful negotiations with representative leaders of the black majority.

It is noteworthy that almost every individual that South African blacks recognize as a leader is calling for new punitive economic sanctions to force political negotiations. Even multiracial groups—the South African Council of Churches, and most recently the Southern African Catholic Bishops Conference—are also appealing for increased economic sanctions.

Enactment of this bill will place the United States on the same side with those South Africans and international forces that are committed to justice and peaceful change. Nearly all of the moderate voices in South Africa have appealed to Western countries to impose new economic sanctions to apply pressure on the Pretoria government while there is still time to negotiate. The black population in South Africa is calling out for new economic sanctions. They insist the long-term benefits of sanctions far outweigh any limited economic costs.

For 6 years now, the administration's policy of constructive engagement has provided little if any progress. The oppression and violence of the South African Government has in fact increased under this construction. Obviously, some other measures are necessary. This bill's sanctions will have a tangible impact on the South African regime, and will give credibility to America's moral condemnation of apartheid. I strongly urge my colleagues to give their support to this important, and tangible piece of legislation.

Mr. BIAGGI. Mr. Chairman, as a cosponsor of the pending legislation, I rise in strong support and make an urgent plea that the House today pass the Anti-Apartheid Act of 1986. I can think of no greater political and moral evil in the world today than apartheid, and can think of few more compelling issues for us to act on than to impose pressure to end apartheid in South Africa.

This is not a new undertaking on the part of the House of Representatives. We have already been registered on this issue when we passed H.R. 1460. We have already gone on record in support of the need to impose meaningful and direct economic sanctions on the Botha regime in South Africa for the purpose of putting appropriate pressure on his government to end this policy.

The bill before us today would impose broad and sweeping sanctions on South Africa. It would prohibit new loans and investments; bar the importation of South African uranium coal and steel; prohibit the use of United States technology or services to develop new energy sources in that country; deny

landing rights to South African aircraft; and bar United States firms from mining and exporting natural resources from the South African controlled territory of Namibia.

The legislation does provide for a termination of the sanctions if the President certifies to Congress that South Africa has taken steps to dismantle apartheid, or has freed all political prisoners and has begun good faith negotiations with representative black leaders.

I challenge those who would contend that these measures are too strong, too punitive. Let us consider the system they are directed against, apartheid—government sanctioned discrimination of all types against the black majority in South Africa. These are sanctions aimed at advancing a nonviolent political solution to the problems in South Africa. Are we going to argue that economic sanctions are more punitive than the repressive state of emergency imposed by the Botha regime? Of course not. In fact, if those who are troubled by sanctions are so concerned, they should examine the relationship that exists or that could exist between sanctions and an end to apartheid, and they might change their mind.

Our action today also emanates from frustration over the administration's approach for dealing with South Africa—a policy commonly referred to as constructive engagement. What has it accomplished over these past 6 years? Have they put a stop to the institutional violence in South Africa? No. Has constructive engagement put an end to the government's crackdown on political dissent in South Africa? No. Has constructive engagement resulted in an improvement in the desperate economic conditions confronting blacks in South Africa the answer again is no.

Then why continue the policy? Constructive engagement is a paper tiger. It involves rhetorical opposition to apartheid. It does not involve meaningful activity that could actually lead to its abolition.

To the oft-stated argument by the administration that sanctions will affect the same blacks in South Africa that we are trying to help, I must strongly disagree. Many leaders in the black community in South Africa, including Bishop Desmond Tutu, support the kinds of sanctions proposed in this legislation. They recognize that the long-range goal of sanctions—pressure to affect change and an end to apartheid—far outweigh any short-term economic problems that may develop.

The situation involving South Africa takes on special and immediate urgency due to the increased tensions which mark the 10th anniversary of the Soweto uprising. This event, much like the bloody march at Newry in Northern Ireland, is considered a catalyst in the escalation of government control over the people. The Soweto uprising signalled a raising of the world consciousness about South Africa and apartheid. The 10th anniversary observance should remind the world that there is much more that must be done if we are to, in fact, eliminate apartheid.

I believe there is a universal sense in this Nation that we share a moral indignation over apartheid. Yet, the question is how do we translate this into meaningful action. How do we transform our current policy in South Africa from being one of constructive engagement to one which will actually affect change? It is time that we took the lead and established the moral standard rather than avoid the issue.

If it is a question of approach, let us err on the side of action. The time for caution has come and gone in South Africa. While the United States fiddles, the Botha regime flourishes and with that comes a strengthening of apartheid. Let us return to the approach advanced so courageously by President Carter. Using his doctrine of human rights, he embarked on a policy which included tighter restrictions on United States exports, to South Africa as well as imposing an embargo on the sale of goods and technical data to its military and police. It also banned the sale of computers. Simply put, it backed up a policy with action. That is what we must do today and that is, in fact, what we will do today if we pass H.R. 4868.

I urge passage. The consequences of our inaction are being felt each and every day in the violence and discrimination which is a part of daily life in South Africa today.

Mr. LUNDINE. Mr. Chairman, I rise today in support of H.R. 4868, the Anti-Apartheid Act of 1986.

All of us are opposed to the terrible and immoral system of apartheid that hangs over South Africa. I do not believe that there is any question that the American people, United States Government, or even the myriad of American corporations presently conducting business in South Africa would like to see apartheid ended and a fair and representative system of government put in its place.

Mr. Chairman, today the House is considering legislation which will, I believe, go a long way toward pressuring the government in Pretoria to end apartheid. This legislation also makes clear that America will not endorse or condone a system of repression such as that which exists in South Africa today. Last year, both the House and Senate voted overwhelmingly to pass legislation which imposed economic sanctions against South Africa. I was a cosponsor of last year's legislation, and I am a cosponsor of H.R. 4868.

Last year, although both Houses of Congress voted to impose economic sanctions on South Africa, the Reagan administration chose instead to put in place very limited economic measures against that country and to stand by its policy of "constructive engagement." Under the most tragic of circumstances, it has become clear that the administration's policies toward South Africa have not succeeded in either ending apartheid or increasing stability in the area.

The situation in South Africa is now critical. Recently, a British Commonwealth Commission called on the United States and other Western nations to impose strong economic sanctions against that country. This prestigious Commonwealth group stated that without international economic pressure there is little hope that the South African Government will act responsibly to resolve this acute crisis. The group concluded that unless some action is taken soon by the Western nations, an all-out war in South Africa is virtually inevitable.

As the crisis in South Africa deepens, arguments against economic sanctions become increasingly meaningless. The economy of South Africa will only deteriorate if the present state of social unrest continues to exist.

Mr. Chairman, I recognize that many American companies that do business in South Africa have been at the forefront of social progress in that country. Many corporations have introduced improvements in working conditions for black employees and have instituted more equitable promotion policies. These reforms, however do not change the fact that the overwhelming majority of black South Africans support economic sanctions, even if such sanctions mean that they themselves will suffer in the short term.

Our Government has imposed economic sanctions against other countries. We have applied them to Poland and to Nicaragua, and most recently to Libya. In my opinion, the moral and practical arguments for imposing sanctions against South Africa are as strong, indeed stronger than the arguments for imposing sanctions in any of these cases.

In an article which appeared recently in the New York Times, South African Bishop Desmond Tutu wrote:

> There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk with a chance.

I hope my colleagues will join me in supporting the legislation before us today, and once again make the will of Congress known on this important moral issue.

Mr. RODINO. Mr. Chairman, I rise as an orginal cosponsor of H.R. 4868, the Anti-Apartheid Act of 1986, to express my deeply felt belief in the necessity of this legislation and the urgency with which we must act on it.

I am dismayed to realize that just over a year ago, on May 21, 1985, I spoke similar words in support of H.R. 1460, and Anti-Apartheid Act of 1985, which contained many provisions now incorporated in H.R. 4868. As we all know, last year both the House and Senate gave overwhelming support to economic sanctions against South Africa, but final congressional action by the Senate on the conference report was forestalled by the President's last-minute action ordering very limited economic measures.

It is more evident than ever, one year later, that the administration's policy of constructive engagement is a total failure. It really constitutes a constructive avoidance of actions necessary to peacefully bring about majority rule in South Africa. The situation in South Africa is tragic. Under the state of emergency proclaimed by President P.W. Botha's regime, over 2,000 black political and trade union organizers have been imprisoned, people are being killed, and the pattern of repression and brutality has intensified. The incredible press restrictions, designed to prevent the rest of the world from learning the sad facts of life there today, are a stark admission of the Botha government's refusal to work toward abolition of apartheid and of its contempt for democratic values.

The bill prohibits loans or credits to the South African Government and its entities and bans new investment, direct or indirect, in South Africa. Banks owned or controlled by South African laws or nationals would be prohibited from establishing branches or agencies in the United States. It also prohibits contributions of technology or technological informa-

tion, training or services of any kind to the development of new energy sources for South Africa; bans the importation into the United States of South African uranium, coal and steel; prohibits landing rights for South African aircraft in the United States; and bans exploration, extraction, processing, or trade of natural resources from Namibia.

Under the bill there is a ban on investments in South African computer businesses and on computer exports to South Africa after 1 year, unless apartheid is dismantled or Nelson Mandela and all political prisoners are released and the South African Government negotiates in good faith with representative leaders of the black majority. Failure to meet either of these two conditions within a year would require disinvestment of all United States interests in South African computer businesses and an end to export of any computers or computer technology to South Africa.

The bill provides up to $25 million in aid for South Africa, including $4 million for refugee education assistance and $21 million for community development projects selected and controlled by disadvantaged South Africans.

The message we convey in H.R. 4868 is clear: Americans no longer intend to subsidize apartheid, and we are willing to apply the type of pressure that will encourage political negotiations to achieve a just system by peaceful means. We must act before it is too late, while the nonviolent movement remains viable. As Bishop Desmond Tutu said recently, "There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk with a chance."

Mr. Chairman, the foundation of American democracy is based on a moral principle deeply ingrained in our Nation—that everyone is equal before the law. It is this principle that separates a nation of laws from a lawless nation. Today this principle is subverted in South Africa, with brutal force and repression being used to perpertuate the system of injustice and lack of freedom that is apartheid.

Mr. Chairman, I believe that our Nation has only one course of action: to end our appalling silence and inaction and demonstrate our moral convictions with legislation that can have an impact. Every day that we delay, the situation in South Africa grows worse. Now is the time to act. I urge the passage of H.R. 4868.

Mr. RAHALL. Mr. Chairman, I rise in strong support of H.R. 4868, the Anti-Apartheid Act of 1986, and especially its provision to ban the importation of South African coal into the United States.

In recent years, we have witnessed a growing amount of foreign coal entering the United States. This imported coal has an unfair advantage over domestically produced coal primarily due to the lack of adequate health, safety, and environmental standards in the exporting countries. South Africa, which since 1980 has exported over 4.5 million tons of coal to the United States, is a prime example of this situation.

Using what constitutes as slave labor, South African coal miners are forced to mine coal deep underground with virtually no protection for their health and safety. Employers in South Africa are not concerned with safety as witnessed by the fact that more than 600 people die in their mines every year.

As we all know, South Africa engages in constitutional racial discrimination and its official government policies toward black workers are the very antithesis of accepted practices in this country. As the president of the United Mine Workers of America, Richard Trumka, recently noted: "Our citizens enjoy the benefits of a society dedicated to justice, equality, and compassion. The black miners of South Africa reap a bitter harvest of discrimination and abuse."

Mr. Chairman, the United States should not be supporting the racist Government of South Africa by importing its coal. Those who argue that South African coal is cheaper are placing a shamefully low prices on human freedom. I urge my colleagues to support this bill.

Mr. PANETTA. Mr. Chariman, I rise in support of H.R. 4868, the Anti-Apartheid Act of 1986. As my colleagues know, this bill would impose several economic sanctions against South Africa, including a ban on new U.S. loans and investments, a prohibition on the importation of South African uranium, coal, and steel, and a requirement that all U.S. computer-related investments in South Africa be withdrawn.

Last year, both Houses of Congress overwhelmingly passed legislation imposing economic sanctions against South Africa. The enforcement of these sanctions was forestalled only by the imposition of limited sanctions by President Reagan.

And so, Congress decided to hold off, and see what effect these limited sanctions might have in persuading the Government of South Africa to take positive action to change its apartheid policy. But the situation has only gotten worse. The time has come for the entire world, not just the United States, to apply pressure on South Africa.

Now the administration says that it opposes sanctions because they hurt the same people we are trying to help, but it is the blacks themselves who are calling for sanctions. They say that whatever price they may pay now will be worth the cost if the effect of U.S. sanctions is to bring down the apartheid system.

In the past year almost all of the most important players in this drama have urged the United States to impose strong sanctions against the Government of South Africa. The South African Council of Churches, the United Democratic Front, and Bishop Desmond Tutu all support sanctions.

The argument that sanctions are not an appropriate weapon in foreign policy just does not hold water. In the past few years the United States has imposed economic sanctions against Nicaragua, Libya, and Poland in order to make a strong statement of United States concern. And yet, like Bishop Desmond Tutu, I wonder why sanctions are considered legitimate when used in these instances, but illegitimate when it comes to South Africa. You can, after all, make the case that sanctions against Poland will harm the Polish people, and we certainly did not intend for that to happen. In the same way, it is not our intention to hurt the black citizens of South Africa in imposing sanctions on Pretoria.

This bill would allow the United States to back up its condemnation of apartheid with definite action. And it would give moderate black leaders in South Africa the leverage they need, and want, in forcing an end to apartheid. And if progress is made, then no sanctions would be imposed.

The images of South Africa today are amazingly similar to those images of the civil rights movement in this country during the 1950's and 1960's. The police dogs, the tear gas, the fire hoses, all appeared on American television screens 20 years ago, just as they appear nightly from South Africa, despite the imposition of nearly complete press censorship.

But there are major differences. In the United States, our system of Government made it possible to challenge segregationist policies, while in South Africa the Government perpetuates segregationist policies. In the United States, public opinion brought sympathy for the plight of Southern blacks and a free press allowed the issue of civil rights to be debated openly.

In South Africa, exactly the opposite is happening. Press censorship prevents open dialog and debate. The opinions of the vast majority of South African people are ignored. And the system of Government, if unchanged, will never allow for the full and equal participation of blacks in South African society.

President Kennedy once said that those who make peaceful revolution impossible make violent revolution inevitable. We are seeing a perfect example of this in South Africa today. The Government has failed to take the necessary steps to allow the 23 million blacks, 3 million coloreds, and 1 million Asians of South Africa to participate in a government that is controlled by 4.5 million whites. And, in doing so, the Government has left little choice for the people.

The United States may not be able to convince South Africa to make the changes necessary to allow for this participation. But we certainly can do something to prevent the United States Government and United States corporations from bringing profits to, and making profits from, the South African economy.

Full-scale revolution in South Africa may not come this year, or next year, or the year after—but it will come soon. And when it is finished, the black majority in South Africa will rule their own country and be the masters of their own fate. And when that time comes, they will remember those who stood by their side, just as they will remember those who ignored their plight and continued to support the apartheid policies of a racist government until the very end.

Mr. Chairman, I urge that my colleagues support H.R. 4868, so that when that day comes, the United States will be counted among those courageous nations who stood for freedom and equality for all the people of South Africa.

Mr. RICHARDSON. Mr. Chairman, I rise today in support of H.R. 4868. The timing of the consideration of this new anti-apartheid bill is significant and crucial. It coincides with the 10th anniversary of the Soweto uprising in which 600 people were killed. The situation in South Africa is deteriorating rapidly—over the past 2 years, 1,500 people have been killed in

South Africa and close to 38,000 have been arrested because of apartheid. The recent declaration of a state of emergency by the Government of South Africa will only serve to enrage further the black population. The state of emergency gives the military and police virtually unlimited powers to arrest and jail citizens without charge. This debate occurs just after the release of a significant report on South Africa done by the Commonwealth Eminent Persons Group. The report underscores the fact that the West has only a very short period of time left in which to prevent all-out racial war in South Africa.

H.R. 4868 prohibits new loans to and investments in South Africa and imposes sanctions which prohibit other types of business activity. The sanctions would be lifted if the South African Government dismantles apartheid or releases Nelson Mandela and all other political prisoners and negotiates in good faith with black leaders. The United States is South Africa's largest export market—buying approximately 15 percent of all South African exports. This relationship gives the United States a unique opportunity to insist on significant changes in South Africa's vile system of government.

An important provision in this bill bans the importation of South African uranium, coal, and steel into the United States. In 1985, South Africa exported 192 million dollars, worth of uranium, 117 million dollars, worth of steel and 44 million dollars, worth of coal into the United States. Despite the fact that our country has among the largest coal deposits in the world, we continue to increase our coal imports from South Africa, the leading importer of coal in the United States. Since 1980, coal imports from South Africa have more than doubled to over $27 million. This is at a time when 60,000 American coal miners are out of work.

Our uranium imports from South Africa and Namibia have increased 350 percent since 1981—at a time when the number of domestic uranium mines has dropped from 362 to a mere handfull, and over 85 percent of our miners have lost their jobs. Since 1981, New Mexico alone has lost about 11,500 mining jobs—the largest decline was in the uranium ores subsector. The State's two remaining conventional uranium producers were forced to close their mines and mills in 1985, laying off hundreds of workers.

These statistics and lost jobs are not just indicators of the problems caused by foreign trade to industries in the United States. South Africa has been so successful at its exploitation of its mineral resources because it also relies on exploitation of its populations. Conditions for black miners reflect the adverse circumstances experienced by other blacks in South Africa. The labor conditions for black miners in South Africa and Namibia are frankly deplorable.

Black miners have virtually no job security. They must contract for a limited number of months and then reapply for their jobs. Black miners are not allowed to live with their families; white miners are. Black miners are prohibited by law from holding skilled labor positions. These slots are reserved for whites only. Black miners must pay for their health insurance; white miners receive free insurance. Black miners receive one-fifth of the wages of white miners—their low wage has artificially depressed the world price of uranium and coal, making U.S. coal and uranium less competitive.

This description of the status of black miners in South Africa is clearly a reflection of the greater oppression the entire black population in South Africa experiences. Since last year, when the House passed an anti-apartheid bill, the administration's policy of "constructive engagement," toward South Africa has clearly made no improvements in the situation there. Nowhere else in the world is the administration turning such a blind eye toward censorship, repression, and the implementation of a police state.

Congress has tried being patient. It has tried allowing the President to implement "constructive engagement" measures—the end result is that South Africa is now experiencing upheaval and violent turmoil which will likely result in a bloodbath. We do not even have a clear picture of just how bad things are there—the press has been forbidden to cover events. Since the administration is not willing to take active steps to force South Africa to democratize, to allow equal participation in all facets of life for all members of the society, Congress has no choice now but to once again pursue the course of sanctions. Sanctions are essential, and they are the only avenue left for the United States to pursue. We must act, and act immediately in order to salvage the region. I strongly urge all of my colleagues to support H.R. 4868.

The CHAIRMAN. All time of the Committee on Foreign Affairs has expired.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, for 7½ minutes, and recognizes the distinguished gentleman from Illinois [Mr. CRANE] for 7½ minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4868 introduced on May 21, 1986, was jointly referred to the Committee on Ways and Means as well as three other committees of the House. The only provisions of direct jurisdictional interest to the committee, however, are the prohibition on imports of coal, uranium ore and oxide, and steel from South Africa in section 3 of the bill and the ban on imports of natural resources from Namibia in sections 3 and 7 of the bill.

On June 11, the Committee on Ways and Means ordered H.R. 4868 favorably reported by voice vote with one amendment. This amendment is made in order under the rule as a substitute for the text of section 3 of the bill. It amends the headnotes to the tariff schedules of the United States to implement in a more effective manner the import prohibitions on South Africa proposed in the original bill and the additional restrictions on Namibia proposed by the Committee on Foreign Affairs. The purpose of the amendment is to specify the particular products to be covered by the import prohibitions in the tariff schedules in order to ensure proper administration by the U.S. Customs Service at ports of entry. This treatment is consistent with normal legislative practice, rather than delegating the authority to the President to designate product coverage through regulations, as provided in the introduced bill. The amendment would also provide the normal 15-day notice period to the trade before the import prohibitions take effect.

The Committee on Ways and Means believes that an import prohibition on the particular products covered should be included in the bill as a form of economic pressure on the South African Government to dismantle the apartheid system. Trade in the particular products chosen are important to the South African economy, but this prohibition will not have an adverse effect on the United States.

The committee considered and reported the import prohibition only on certain specified products, as proposed in the original bill, in a timeframe to comply with the leadership's schedule for early consideration of the bill. The committee did not have time to consider the implications of a much broader total ban on imports from South Africa, which may affect U.S. producers who depend upon certain raw materials in short supply in the United States. Therefore, I will oppose amendments which prohibit all imports from South Africa.

Mr. Chairman, I reserve the balance of my time.

Mr. CRANE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Ohio [Mr. GRADISON], a member of the Trade Subcommittee of the Committee on Ways and Means.

Mr. GRADISON. Mr. Chairman, I rise, as an original cosponsor, in support of H.R. 4868, the Anti-Apartheid Act of 1986. The continued violation of fundamental human rights and dignity that occurs daily in South Africa has commanded the attention of the American people. Just over 1 year ago, the House acted favorably on a bill to impose certain limited economic sanctions against South Africa. Many of the sanctions proposed in Congress were incorporated in the President's Executive orders of September 9 and October 1, 1985.

As a result, among other sanctions, the United States prohibited new bank loans to the South African Government, barred the export of computers and related equipment for use by the South African military and police, and banned the importation of Krugerrands into the United States. The legislation currently under consideration strengthens these measures by prohibiting new American investment in

South Africa, and ending the importation of South African coal, uranium, and steel into the United States. If certain basic steps toward dialog and internal political reconciliation are not undertaken within a specified timeframe, the bill provides for additional sanctions.

During the debate in the last session of Congress, several Members noted that certain positive changes, albeit incremental, had taken place on the South African landscape. Those reforms, however, did not address the central issues involved in the evolution of South Africa toward a more open, just, and democratic society.

Ironically, what could have been labeled as minimal progress has been lost entirely in a spiraling cycle of violence over the last 2 years. In February of this year, the South African Government lifted the state of emergency it imposed in July 1985 in response to riots in the Eastern Cape townships. The most recent unrest in Crossroads, leading to the reimposition of a state of emergency, is emblematic of the indiscriminate violence that threatens to engulf moderate opinion in South Africa.

In the last 21 months, over 1,600 people have died in the escalating civil conflict. Within the last year alone, over 36,000 South Africans have been arrested and detained on grounds of involvement in antiapartheid activities. Sporadic raids by Pretoria on its neighbors have done little for the security of the region.

Against the background of these events, the House is considering strengthening American economic sanctions. Much of the debate today has focused on the effectiveness of economic sanctions in dealing with the South African problem and whether or not the imposition of added restrictions harms the average South African more than can be justified.

Economic sanctions are a policy option that has been exercised by the United States against a number of nations whose foreign policy or internal behavior we have sought to influence. Various economic restrictions have been imposed, for example, on the Soviet Union, Cuba, Iran, and Chile. In response to its role in international terrorism, the United States has imposed sanctions against Libya which require total divestment by American firms from that country. In addition, the United States maintains economic restrictions on Nicaragua in the face of wide international criticism.

It is a disingenuous argument to assert that further American sanctions against South Africa ought not be tried because they are liable to harm the people. The issue for the House is whether the restrictions in this bill will promote the chance of peaceful change in South Africa. It is my belief that further economic restrictions undertaken by the United States would be a significant addition to the recent moves along these lines by several of our allies, including France, Canada, Australia, and Denmark. Multilateral sanctions will obviously be more effective than unilateral action. The restrictions in this bill represent an opportunity for the United States to reassert its leadership on this question.

We have reached a critical juncture. For over 25 years, the potential for a destructive civil conflict has been brewing in South Africa. Absent significant change initiated by the South African Government to end the system of apartheid, South Africa, and perhaps the entire region, may be plunged into prolonged strife that can only diminish further the viability of an open and democratic society.

"Constructive engagement" was a policy that had to be tried, but has yielded few tangible results. A tightening of economic restrictions, short of total divestment, by the United States will serve as an incentive for South Africa to modify gradually, and eventually change, its social and political system to the benefit of all South Africans. The alternatives for South Africa leave no other choice.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. I thank the gentleman for yielding time to me.

Mr. Chairman, as one of the original cosponsors of the Anti-Apartheid Act of 1986, I strongly urge my colleagues to pass this legislation now.

Apartheid is an evil and repugnant system that oppresses the most basic human rights. But South Africa is not the only evil and repugnant political system in the world. Why, I am asked by colleague and constituent alike, why are we singling out South Africa. This is a question that deserves an answer.

First as Americans, we are painfully aware of the damage and havoc caused by entrenched and institutional racism. And when the oppressed group is the overwhelming majority rather than a minority, the potential for bloody chaos increases exponentially.

But not only apartheid is morally wrong, it is strategically stupid. So self-interest compels us to seek a swift end to apartheid in South Africa. We know that the white minority regime cannot win its struggle to maintain its position of privilege. But the regime's implacable opposition to real change, its refusal to negotiate seriously with responsible black leaders and its increased repression of peaceful demonstrations is squeezing out the democratic center in the opposition. Under these circumstances, at best we can expect an all out civil war, at worst a Communist-dominated revolution. We must act now to avert this scenario. We must apply pressure so that the South African Government accepts the inevitable and begins serious negotiations with the opposition.

With this pressure however, we are not singling out South Africa. The limited economic sanctions imposed by this bill are consistent with current American foreign policy as it relates to some 20 countries in the world. In fact, we have imposed total economic and political sanctions against five of these nations—Nicaragua, Libya, North Korea, Cuba, and Afghanistan. So we are not breaking any new ground here. And we do not impose these limited sanctions hastily. Only after decades of failed diplomatic initiatives of failed persuasions, are we finally imposing a foreign policy tool that is consistant with our position as leader of the free world. We can only hope that it is not too little too late.

Finally, this is not only an antiapartheid bill, it is a prodemocracy bill. Provisions in this legislation will distance us from the hated system of apartheid, while allying more closely with South Africans who are promoting peaceful democratic change. By building on my original amendment to the 1986 Foreign Assistance Act, this bill provides funds to nongovernmental community based groups who are working for a peaceful transition to a democratic government. It also provides funds for educational scholarships and vocational training for black South Africans.

Time is running out in South Africa. Unless the parties start serious negotiations now to end apartheid, the day will come when we are faced with a horrible choice between a racist police state and a Communist-dominated revolutionary regime. That would be bad for us and worse for South Africans. Today there is another choice: Peaceful democratic change and we should support all efforts to bring about such change.

Mr. CRANE. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, in this debate, as I indicated earlier, we are not in disagreement over the repugnance of the policy of apartheid, rather it is a question of how we arrive at our mutual goals and how we do it in a selective way that is calculated to guarantee that we bring about the desired result. I am opposed to this legislation because I do not think it is calculated to achieve to desired benefits. I think there are unintended consequences of this legislation that ought to be considered.

Amongst other things, there are two independent countries that have never been a part of South Africa, Lesotho and Swaziland, that are, nevertheless, quite dependent upon the South African economy, and their economies

would be injured almost proportionate to the degree of economic injury that we would be imposing on South Africa if this legislation were to pass.

In addition to that, I am puzzled, frankly, Mr. Chairman, over the inclusion of Namibia. Namibia has a transitional government in place right now, and that Namibian Government has abolished apartheid. There is no apartheid in Namibia. In addition to that, they have moved toward reconciling the entire country, and they have labored to remove any vestiges of discrimination. They have also recognized the six major political parties.

□ 1310

Namibia exports to the United States as well. At the very least, Namibia should have been excluded if we were attempting to direct our wrath against that one government which is guilty of practicing apartheid. Beyond that, there are trade considerations too that we ought to bear in mind.

First of all, this is a unilaterally protectionist action that we have taken here and it is illegal according to the General Agreement and Trade and Tariffs. There is also a very real possibility that it will invite retaliation on the part of South Africa. The retaliation I am talking about is in the exportation of strategic minerals to the United States.

There are a vast number of strategic minerals that we are dependent upon for our national security that are currently imported from South Africa and if denied access to those metals our only other source would be the Soviet Union. Remember, we did that in the case of Rhodesia some years ago to our own disadvantage.

I would urge, therefore, Mr. Chairman, that Members reject this bill however well-intentioned the legislation may be.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. I thank the gentleman for yielding me this time.

Mr. Chairman, I have listened to the debate here from the beginning. It has been said that economic sanctions will hurt blacks in South Africa. Blacks in South Africa answered that argument with their overwhelming support of the nationwide strike.

It has been said that blacks in South Africa are divided. The divide and conquer method was tried by the British rules of India in the 19th century with tragic results.

It has been said that economic sanctions will not work. That would be true only if Western nations are divided.

It has been said, I heard Mr. Botha say on television this morning, that the turmoil in South Africa was the result of a Communist plot. I doubt if millions of oppressed blacks in South Africa have ever heard of the Communist Party of South Africa.

The ultimate test of commitment is conduct. Constructive engagement has become destructive default. It is time for sanctions, not inaction. There has been much talk in Washington about standing tall. Thus far, the U.S. Government has come across much more as a moral pigmy.

I ask this question to those on the other side of the aisle: Why should the party of Lincoln have to be dragged into activism on this issue? That was too often true in the civil rights struggle in the 1950's and 1960's in the United States. It should not be true now of civil rights across the seas in South Africa or anywhere else.

Mr. CRANE. Mr. Chairman, I yield such time as he may consume to the gentlemen from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding me this time.

Mr. President, the previous gentleman in the well indicated that the Communist threat might be a red herring because the people, most of them over there, have never even heard of the Communist Party. I might remind the gentleman that in every country that has gone Communist, it has been a very small clique of Communist radicals that have led the revolution and put that country into the Communist column.

This includes the Soviet Union. As part of the Bolshevik Revolution in 1917, there were very small numbers of Communists, but they were able to grasp control of that country and of course we now see that hundreds of millions of people are under the heel of Communists. So the same thing could very easily happen in South Africa.

I would like to just go back to a couple of points that were made previously by my colleague from Illinois. A number of leaders in South Africa oppose the economic sanctions, and I would like to read a couple of quotes.

Mr. Buthelezi, chief of the Zulus, said:

> The actual implementation of the disinvestment campaign would be useless unless it hurt the economy, and if it hurt the economy, blacks would suffer more than the whites. The disinvestment campaign is not only detrimental to the interests of black South Africans, but ultimately detrimental to the interests of blacks in the whole of the subcontinent.

Mr. Lucy Mvubelo, president of the National Union of Clothing Workers, one of the largest black unions, on March 31, 1985, said this:

> Those in our country who urge a boycott of South African goods and the disinvestment of Western capital are simply a small fringe of revolutionaries. They realize that the basic conditions from which the revolution can rise do not exist, thus the world must create it. Who will suffer? Clearly, the greatest hardship would fall on my people, the black people. They will be the first to lose their jobs. They will be left to die of starvation. They will be the first to be killed in the revolution.

Now then, you say, "Let us go directly to the people." A poll was taken. A poll was taken in March 1986, a poll of blacks in urban areas in South Africa; 67.7 percent—over two-thirds—were opposed to these economic sanctions that some Members want to impose today. When they asked the question, as my colleague from Illinois mentioned a while ago, "If you were to lose your job, would you change your opinion?" that percentage went up to 73.8 percent. Almost three out of every four blacks were opposed to these economic sanctions.

My colleagues, I think we need to reevaluate our position. We are all against apartheid, but this is not the way to end it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the bill. The Congress and the American people, in word and deed, should make it clear that apartheid is antithetical to American values. Apartheid is an unjust and inhumane system. Indeed, there has been no argument raised in the House in defense of apartheid in my memory.

However, the question posed by H.R. 4868 is not whether apartheid is good or bad. The question is whether the economic sanctions imposed under this legislation are an effective and proper way to accelerate the demise of apartheid peacefully and to the benefit of all the people of South Africa.

Although the majority of the House appear to believe that the further harsh sanctions contained in H.R. 4868 is good policy, I regret that I do not agree. Such sanctions likely will not lead to the ending of apartheid, but may very well destroy South Africa's economy, leaving the field open to both black and white extremists.

Secretary Shultz, in a letter to the Congress, date June 10, said, "We do not believe it should be our purpose to harm the South African economy; nor do we believe that such action will hasten the end of apartheid." The Secretary went on to express concern that proposals such as H.R. 4868 actually will have the opposite effect than intended. I am afraid that I must agree. Such actions are likely to harden positions and promote violence while we are seeking moderation.

We must take on the uncomfortable responsibility of considering H.R. 4868 with a cool head so we don't hurt those who we most want to help.

For example, under H.R. 4868, a black education program, the Writing to Read Program, will be prohibited from using IBM computers. The bill's ban on investment in South Africa would prevent black businesses from securing a U.S. partner and adequate financing to get off the ground.

Along with these unwise sanctions, H.R. 4868 includes provisions which would harm U.S. businesses unnecessarily. This bill would prevent U.S. semiconductor and computer firms from selling to anyone who might resell to South Africa. It would punish unwary U.S. investors who happen to buy stock in any U.S. company with an economic relationship with South Africa. The import ban, which is effectively on all South African products, would foist severe supply restrictions on unsuspecting U.S. firms. We will hear from these companies only after H.R. 4868 is passed.

We can disagree about past practices, but U.S. businesses in South Africa currently are powerful influences to end apartheid. Integration of U.S.-owned workplaces is taken for granted and our companies are moving into extensive advertising campaigns and actions of civil disobediance aimed at pressuring the South African Government into dramatic reforms. We could work to put these folks out of business as this bill would do and extricate ourselves from the situation. Giving up our tools of positive influence may make us feel better in the short run but it paves the way for a bloody conflict.

Our ability to exert pressure for change is desperately needed. I urge my colleagues to defeat H.R. 4868.

The CHAIRMAN. All time of the Committee on Ways and Means has expired.

Under the rule, the gentleman from Rhode Island [Mr. ST GERMAIN] will be recognized for 7½ minutes and the gentleman from Ohio [Mr. WYLIE] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, America's strength around the world rests on its moral leadership. It is derived not from our arsenal of weapons, but from the world's belief that we, as a people, stand for human dignity and that we will use our leadership to oppose those who stifle human rights.

This week, the House of Representatives will take up H.R. 4868, legislation which would place broad economic sanctions on South Africa—sanctions designed to force that government to enter meaningful negotiations leading to a sharing of political and economic power with that nation's black majority.

Last week, the Banking, Finance and Urban Affairs Committee, along with three other House Committees, gave its endorsement to the legislation.

Mr. Chairman, this week's vote on H.R. 4868 will be an opportunity for this House to renew and reaffirm America's moral leadership.

H.R. 4868, the Anti-Apartheid Act of 1986, stands in sharp contrast to the timid policy of the Reagan administration, a policy clearly based more on wishful thinking than on the harsh realities of South Africa.

The administration's insistence on quiet diplomacy—the so-called constructive engagement—creates no real pressure for change in South Africa. For that repressive regime, quiet diplomacy translates into "business as usual."

Cruel repressive regimes down through history have existed because other nations and other peoples turned the other cheek in the face of evil.

If we repeat that mistake in South Africa, we must share in the responsibility for the bloodbath that appears likely if change does not come about through pressure on the Pretoria government.

In 1972, the then South African Prime Minister, John Vorster, boldly stated:

> Each trade agreement, each bank loan, each new investment is another brick in the wall of our continued existence.

H.R. 4868 would make certain that we do not add new bricks to the wall protecting apartheid.

Mr. Chairman, some oppose the sanctions on the grounds that they would work economic hardships on the blacks in South Africa. But the evidence coming out of South Africa suggests the black majority is more than willing to accept this risk if it means a chance of pushing back apartheid.

Bishop Desmond Tutu, writing in the New York Times this past Sunday, describes the consensus among the black majority as saying:

> We are suffering already. To end it, we will support sanctions even if we have to take on additional suffering.

Bishop Tutu went on to say:

> I would be more impressed with those who made no bones about the reason they remain in South Africa and said, honestly, "We are concerned for our profits," instead of the baloney that the businesses are there for our benefit. We don't want you there. Please do us a favor: get out and come back when we have a democratic and just South Africa.

There are others, Mr. Chairman, who say economic sanctions don't work; that they will not have great impact on the Pretoria government. Such arguments ignore both the realities of the South African economy and the impact of world opinion.

Those who denigrate the moral and economic forces unleashed by H.R. 4868 should be reminded of Robert Kennedy's speech in Capetown, South Africa, in 1965:

> It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends a tiny ripple of hope, and crossing each other from a million different centres of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

Mr. Chairman, the Banking, Finance and Urban Affairs Committee has a long record of supporting efforts to apply economic pressure on South Africa.

As far back as 1978—before sanctions were headline news—the Banking Committee included language in the Export-Import Bank Act prohibiting the Bank from granting credits or guarantees for any export which would help the South African Government maintain apartheid. The committee further required that assistance for exports to South African purchasers be granted only to those who had subscribed to the "Sullivan principles" designed to end segregation and inequality among the Nation's work force.

In 1983, the committee insisted that legislation authorizing new U.S. contributions to the International Monetary Fund include language that would require the representative to the IMF to oppose assistance to any country practicing apartheid. In addition, in 1983 and again in 1985, the committee endorsed other efforts to enact anti-apartheid legislation.

Mr. Chairman, I hope this latest effort—H.R. 4868—is overwhelmingly approved in the House this week. Our colleague from Pennsylvania, the Honorable BILL GRAY, is to be commended for introducing and pushing this legislation. The Gray bill sends a clear message to South Africa and the world. It mobilizes America's greatest strength, moral leadership in the arena of human rights.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise once again to state my opposition to the practice of apartheid in South Africa. There is no room in the world today for officially sanctioned racial discrimination. Unfortunately, as we reach the 10th anniversary of the Soweto riots, violence in that country continues.

My position against apartheid is clear. On December 4, 1984, I joined 34 of my Republican colleagues in signing a letter to South Africa's Ambassador in Washington expressing our grave concern about mounting violence in South Africa and the pernicious effect of apartheid on our bilateral relations.

Last year in this Chamber I voiced my support for this current legislation's predecessor, H.R. 1460, introduced by the gentleman from Pennsylvania [Mr. GRAY]. I affirmed that the time had come to do more than just talk about injustice—the time had arrived to take action.

I was privileged to be a conferee on that bill and was pleased when the House approved the conference report by the overwhelming vote of 380 to 48. Then on September 9, 1985, President Reagan issued an Executive order on South Africa. As far as the provisions under the Banking Committee's juris-

diction are concerned, President Reagan's action closely paralleled provisions in the conference report adopted by the House.

Mr. Chairman, I thought there was great merit in both the conference report and the Executive order last year which included exceptions for education, housing, or health loans and gave the Treasury Secretary discretion to approve loans to improve the welfare or expand opportunities to nonwhite South Africans. These limited humanitarian exceptions make a great deal of sense to me.

If there were a famine or natural disaster in South Africa, under this legislation banks could not make loans or issue letters of credit to send food, medical, or other emergency supplies to meet the needs of all the people of South Africa. I seriously wonder what is wrong with allowing trade and financing to continue to aid the people of South Africa? I think the bill misses the point that we can and should distinguish between what we do to help people and what we should not do in support of repressive governments. For these reasons I must say that President Reagan's Executive order of last year is superior to the bill before us today as far as those provisions which fall within the Banking Committee's jurisdiction are concerned.

In closing, I want to state again my strong opposition to the apartheid policies of the Government in South Africa. It is their policies which have provoked the demonstrations and the tragic bloodshed in that country. It is all too clear that the pace of reform in South Africa has not lived up to the expectations of either the people of that country or the world community. The Government there obviously has not lived up to the expectations of the U.S. Government.

The people of this Nation should be aware that Congress and the President already have acted to ban bank loans to the Government of South Africa. Congress and the President have acted to strike a new American gold coin symbolizing liberty and freedom at the same time that we banned the importation of the Krugerrand. As Secretary Shultz stated last week, "Apartheid is a doomed system, and it is fully appropriate that we use our influence to help speed its demise."

□ 1320

Mr. Chairman, I reserve the balance of my time.

Mr. MITCHELL. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. I thank the gentleman for yielding time to me.

Mr. Chairman, for some who seek disinvestment, this bill does not go far enough. For others, who would frankly like to continue to adhere to the administration's policy—I call it a "go slow" policy, a "don't rock the boat" policy—this bill goes too far. I suspect for the majority of us, however, Democrats and Republicans in this Chamber, this bill strikes the right balance.

Our Nation is founded, as you know, on the very same principles—the very same principles—that South African blacks are struggling to achieve: The notion that we are all created equal, with certain inalienable rights, among them the right to life, the right to liberty, and the right to pursue happiness.

Twenty million South African blacks want the same thing that we have in this country—freedom, freedom from repression. And some day, either with or without our help, they will enjoy that freedom.

It's vitally important for moral, as well as for geopolitical reasons, that Americans again demonstrate clearly today that we do stand on the principles on which our Nation was founded.

It is imperative for us to demonstrate clearly whose side we are on at this point in the battle, so that when an Armageddon in South Africa and a new generation of leadership takes hold, we will have been on the side of right, true to our principles and true to the oppressed South African majority.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I do have several questions that I think ought to be answered by other knowledgeable Members of the House who also serve on either the Foreign Affairs Committee or on the Banking Committee. They relate to the requirement in this legislation that commercial credit be denied.

My reading of that provision is that such a denial also covers by definition, letters of credit. Such letters of credit in fact are a basic instrument utilized today for international trade.

It has come to my attention that commercial banks are said to have stopped providing letters of credit recently, and so that all kinds of transactions now in international trade must be conducted on a cash basis. On the contrary others say commercial banks are only denying letters of credit to the Government of South Africa—not to commercial or cooperative parties. My reading is the latter. Trade on a cash basis would be a very difficult procedure for international trade, and I think that we ought to have an understanding regarding letters of credit. In fact, this legislation does deny the use of letters of credit.

Another point, I believe needs to be emphasized. The Eminent Persons' Group appointed by the 40-some nations of the Commonwealth has recently expressed their dismay, disappointment, and pessimism about the kind of progress thus far in bringing some impact upon the apartheid policy of the Government of South Africa.

I found their report to be both very discouraging and very important. It suggests that "strong economic pressures" are necessary, and that, I believe it is at least implied, such pressures must be brought in a concerted fashion against the Government of South Africa. If the EPG's recommendations are to have an effect, we must first of all examine what kind of economic pressures are appropriate. The EPG does not specify disinvestment. We also must look at whether or not the United States will be acting in conjunction with the Federal Republic of Germany and the United Kingdom, since those two countries along with the United States are the most important trading partners for South Africa.

Third, I believe that it is important that we also examine whether or not this legislation will deny food and agricultural products to the people of South Africa. This is a step, an embargo action, that I think is inappropriate for the United States to take against the most unprotected people of any country.

The disinvestment policies I have always opposed in the past, but I am now willing, based upon the recommendations of the Eminent Persons Group, to take appropriate further economic sanctions—hopefully in conjunction with the other two major trading partners of South Africa.

Mr. MITCHELL. Mr. Chairman, I yield 1½ minutes to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I am pleased, as an original cosponsor of the legislation before us today, to express my heartfelt appreciation to the chairman of the Banking Committee, the ranking minority member of the committee, and all of my colleagues in the Congress who support this very significant legislation, and who want to see the United States come down on the right side of history at this critical juncture. We must say to a government that continues to brutally repress the basic human rights of 27 million of those who live within its borders that we will no longer cooperate with the evil system of apartheid. We must say to a government which in the past week has declared a state of emergency, and that has arrested 2,000 leaders of nonviolent efforts to achieve change, that we will no longer cooperate with that evil system. We must say to a government that has been paying for the murder of innocent black citizens in townships, arming so-called vigilantes with guns and sending then in with machetes to cut up bodies, that we will no longer cooperate, that there will be no new bank loans, no new investments, no

landing rights, no sale of steel and coal and uranium to American citizens so long as this evil system persists.

I want to thank the Members of the Congress who today will take a stand for what is right, for what is just, and what is fair, and by voting for the Anti-Apartheid Act of 1986. Let us all join in doing what the Eminent Persons' Group in the United Kingdom has indicated is imperative; namely, that people of conscience stand up and employ the only nonviolent tool remaining to us to halt South Africa's blind march toward violence, bloodshed, and tragedy.

Late last month the South African Armed Forces conducted raids on the neighboring states of Zambia, Zimbabwe, and Botswana, demonstrating yet another example of terrorist acts commissioned by a government that thrives on violence. On June 12, the latest state of emergency was declared and the Government has blacked out the press, forbidden political gatherings and has given its police force Gestapo-like powers, beyond the reach of courts. These actions further illustrate that the South African Government, unchecked and unbridled, will pursue any means necessary to maintain its system of labor control and repression. This escalation of violence demands an escalation in our efforts in the United States to impose stronger sanctions on South Africa.

The Government of South Africa is seeking to avoid the inevitable fall of apartheid by eliminating proponents of change. History well records that such an approach is doomed to fail. The dreamers may be killed, but the dream will live on. Stronger sanctions by the United States and other nations of conscience is the only nonviolent tool available to us. We can no longer patiently wait for Pretoria to progress.

The Anti-Apartheid Act of 1986, H.R. 4868, strikes at the very heart of the system we all deplore. By banning new investments, we send a clear, crisp message that American business will not be used to buttress apartheid. By eliminating bank loans to South Africa's Government and private sector, we make clear that American money will not flow so long as blood continues to needlessly flow in South Africa. Under our bill, no South African airline will be allowed landing rights in the United States. In addition, we disallow the importation of uranium, coal, and steel. Not only do these products help to fund apartheid, but they also cause jobs to be lost in America because South Africa's cheap labor system can market the products more competitively.

H.R. 4868 also forbids the involvement of contracts or any form of commitment with respect to expansion of energy in South Africa. Taken together, these sanctions can have an impact in South Africa.

In the bill, we give the Government of South Africa a way out. The sanctions we impose can be immediately lifted if two things occur: First, the release of Nelson Mandela and other political prisoners; and second, initiation of good faith negotiations between the Government of South Africa and responsible South African black leadership. But if the Government does not take advantage of this road to a peaceful, nonviolent settlement, within 1 year of enactment of the bill, we provide for a complete pull out of U.S. computer companies.

Like the last state of emergency, the most recent one will likely be lifted at some point, but the emergency state in that bullet-ridden country will remain. The situation is more urgent than it has ever been. The Botha regime has deepened its resolve to stay in power at all costs, and the black majority has deepened its resolve to be free. These two opposite and irreconcilable attitudes are on a collision course. The United States, by standing for justice and equality can make a difference. Our action today may represent the last hope for peace in a land that for decades has only known violence, brutality, bloodshed, and death.

As legislators, our job is to make choices. Let's choose life for South Africa. I urge overwhelming passage of the H.R. 4868. It is in our political, economic, and strategic interest. Most importantly, it is the right thing to do. Thank you.

□ 1330

Mr. MITCHELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank my good friend PARREN MITCHELL for yielding to me this time.

Mr. Chairman, I rise today in strong support of H.R. 4868, the Anti-Apartheid Act of 1986. I would like to thank Representative GRAY and members of the committee for bringing this measure before the House of Representatives.

The situation in South Africa is critical. The death rate has more than doubled in the past 3 months. South Africa is quickly approaching a bloodbath. President Botha's recently imposed state of emergency and the Government's reluctance to make significant reforms may lead the country to violent civil war.

Monday marked the 10-year anniversary of the brutal massacre of the children of Soweto. To prevent commemoration of this historic event, President Botha imposed a state of emergency and prohibited commemorative activities. Tension in the South African townships has escalated as a result of these new restrictions. Some 31 people have been killed, between 2,000 and 4,000 political and labor leaders have been detained, and news coverage has been cut off. Did President Botha really believe these new restrictions would prevent blacks in South Africa from commemorating and honoring the children who were so brutally murdered during a peaceful protest on June 16, 1976?

Since President Reagan stalled sanctions legislation last year hundreds more have died and the situation has progressively deteriorated. The black townships are filled with riots and murders. Children are not going to school out of fear and people are being burned out of their homes. In Soweto, it is not unusual to wake every morning to find bodies in the streets. Actions by black youths provides us with perhaps the strongest indication of how committed and desperate South African blacks are to winning their freedom. A powerful picture in a recent Newsweek showed protesting youth holding a sign which read, "They will never kill us all." The youth particularly, are no longer willing to wait for change. They are willing, however, to die for it. Much like our very own civil rights movement of the 1960's people willing to throw down their lives in the name of freedom and justice are a mighty force.

And blacks in South Africa are giving their lives for freedom. It breaks my heart when I read the stories of the continued turbulence in South Africa. The disregard for human life is a disgrace. A 3-year-old baby girl was killed while playing in her yard, shot in the head by a policeman, during raids on a black township. During the 1977 Soweto uprising, over 600 people died. An astonishing 1,600 people have lost their lives in the past 2 years.

Still the South African Government holds on to policies they believe will maintain the status quo, making small concessions that only serve to prolong the inevitable. And why not, most white South Africans live outside of the riot areas. The economy is recovering from a recession and white South Africa continues to enjoy the benefits that come from controlling the wealthiest country in Africa.

But the South African Government must realize black South Africa is not requesting citizenship, they are not asking for equality in education, employment, access to the political system and an end to discriminatory policies. Black South Africans are demanding these rights, and if anyone thinks they intend to give up their struggle, they are mistaken.

President Botha might think that eliminating the need for identification cards is a significant step forward in the movement to make reforms, but such small concessions in the face of such repression is too little, too late.

Mr. Chairman, the British Commonwealth agrees that it may be too late to avoid "the worst bloodbath since the Second World War." On Thursday, the Commonwealth released a report calling on Pretoria to dismantle apartheid immediately. The Commonwealth's report also called for the release of political prisoners including Nelson Mandela.

It is imperative that the United States take note of the Commonwealth's findings and end the President's policy of "constructive engagement." Quiet negotiations, tactful di-

plomacy, weak Executive orders are not enough. These approaches are too weak a response to the brutal war taking place in South Africa at this very moment. As a world leader, the United States must not evade its responsibility to seek a peaceful ending to the racist, repressive policy of apartheid.

I recall a story told by the late Dr. Martin Luther King, Jr., about a priest and the levite, who while traveling along a road spotted a man lying on the ground, who they thought could be a robber. The priest and the levite asked themselves, "If I stop to help this man, what will happen to me?" Another traveler looked at the man lying on the road and asked, "If I do not stop to help this man, what will happen to him?" This is the question Congress, the President, and the American people must ask, "If we do not stop to help the blacks in South Africa, what will happen to them? Will 1,600 more die? 16,000? 160,000? 1.6 million?

Not only is it morally right for the United States to take a strong stand against apartheid, but it is in our best interest. The present South African Government will inevitably come to its knees. Blacks will have the freedom they have fought and died to gain. And when that day comes, history should show that the United States stood for democracy, freedom, and justice in South Africa, that we placed real pressure on Pretoria; that 10 years after the tragedy at Soweto, the United States Congress was finally able to decide that substantial economic sanctions were necessary to bring about a peaceful resolution.

Again, I commend Representative GRAY for his diligence and all of the hard work he and the committee have expended to bring this measure before the House of Representatives. I appreciate your leadership and commitment to bringing freedom to South Africa.

Mr. WYLIE. Mr. Chairman, I yield my remaining time to the gentleman from Connecticut [Mr. MCKINNEY].

Mr. MCKINNEY. Mr. Chairman, I only have a minute. As an original cosponsor of this bill, I believe it is the right thing to do. I want simply in my very brief time remaining to echo the comments of a wonderful man, a person and a human being who lived in the 1930's and remembers Nazi Germany, Elie Wiesel.

Holocaust survivor and author Elie Wiesel has said this:

> If someone suffers and he keeps silent, it can be a good silence. If someone suffers and I keep silent, then it's a destructive silence. If we envisage literature and human destiny as endeavors by man to redeem himself, then we must admit the obsession, the overall dominating theme of responsibility, that we are responsible for one another. I am responsible for his or her suffering, for his or her destiny. If not, we are condemned by our solitude forever and it has no meaning. This solitude is a negative, destructive solitude, a self-destructive solitude.

This Nation on July 4th will celebrate the Lady and its history. Let us not forget what it means. Do what you have to do today and do it quickly.

Mr. MITCHELL. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise in support of the Anti-Apartheid Act of 1985. Mr. Chairman, I rise in support of H.R. 4868, the antiapartheid legislation designed to provide positive incentives for political negotiations leading to the peaceful abolishment of apartheid. This new legislation, similar to last year's antiapartheid legislation which passed the House by a tremendous margin, includes sanctions banning imports of South African coal, uranium, and steel, as well as banning new loans and investments and prohibiting contributions to the development of new energy sources for South Africa.

Mr. Chairman, this antiapartheid legislation is desperately needed to place pressure on the South African Government to put an end to apartheid, once and for all. In recent years, the administration has pursued the policy of constructive engagement in the belief that through a closer relationship with Washington, the South African Government could be convinced to abolish apartheid. This policy has been shown to have been inadequate and the situation in South Africa has not improved but has gotten worse.

At present, the amount of violence and governmental oppression in South Africa have reached all time highs. The white minority has given the police and the military virtually unlimited powers to arrest citizens without charge. The Government has banned all press coverage of police actions against opponents of apartheid, has closed all opposition newspapers, and has prohibited public dissent almost entirely. Such governmental oppression can no longer be tolerated.

In response to the rapidly deteriorating situation in South Africa, the United States must now adopt tougher measures to put pressure on the South African Government to remedy the situation. It is unlikely that the white minority in South Africa would accept a fundamental policy change in the absence of increasing pressure at both the international and domestic levels. The economic sanctions contained in this legislation will place positive pressure on the South African Government to put an end to their policy of racial apartheid.

Since a number of restrictions on United States activities in South Africa already exist, this bill would close loopholes in the existing economic sanctions and give current executive orders the force of enacted law, requiring subsequent congressional action to change their provisions, rather than unilateral executive order. Imposition of the sanctions contained in the legislation would be dependent upon the success of current efforts to foster political negotiations with the South African Government. If the Government refuses to cooperate, the bill provides for additional sanctions including a further ban on computer exports to South Africa and disinvestment from the computer industry.

Mr. Chairman, I believe that these economic sanctions are necessary to place pressure on the South African Government to change their policy of apartheid and I urge my colleagues to support this legislation.

Mr. MITCHELL. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, in the 1960's there was a group of people, a trio, who sang the song and the words they sang went something like this:

> How many times does a man turn his head
> Pretending that he just doesn't see?
> How many years must some people exist
> Before they are allowed to be free?
> How many deaths will it take to believe
> That too many people have died?
> The answer, my friend, is blowing in the wind.
> The answer is blowing in the wind.

Mr. Chairman, the answer is in this House today. How many more times are we going to tell a black father that he must turn his head when his son is humiliated under this system of apartheid, when he is described as less than a human being, how many times?

How many more long years will it take before black South Africans can achieve their freedom?

The answer, my friends, is not blowing in the wind. The answer is in this Chamber, at this moment, at this hour in the destiny of this House and in the destiny of South Africa.

How many deaths will it take to believe that too many people have died?

You have got the answer. You have the answer in this legislation. If you care anything at all about human suffering, if you care anything at all about human dignity, if you have a modicum of compassion left in you for those millions of blacks in South Africa who are degraded and humiliated and even killed each day, then you will vote for this legislation.

How many times must a man turn his head pretending he just does not see? You cannot turn your head from this.

How many years must some people exist before they are allowed to be free? You hold a part of the key to freedom in this legislation today. I hope you will exercise it.

How many deaths will it take to believe that too many people have died? You have got the answer.

Mr Chairman, 9 months since the Reagan administration imposed its token approach to foster political change in South Africa, the South African Government has failed to demonstrate a real commitment to dismantle the evils of apartheid. Within the past 9 months, South African Government has imposed its most repressive measures yet, jailing thousands of citizens without charges, banning of public dissidents, closing newspapers, and barring TV coverage of unrest and police actions. The Botha regime has

continued to drive that country into deep turmoil and chaos.

Today, I rise in strong support for H.R. 4846, the Anti-Apartheid Act of 1986. The purpose of this new legislative proposal is to join America's energies to those of concerned South Africans, the British Commonwealth, the European Community, and other countries to persuade the South African Government to immediately dismantle apartheid and enter into political negotiations now.

Under the proposal, if the Botha regime dismantles apartheid, or if current efforts to foster political negotiations succeed, no sanctions will be imposed. However, if these efforts fail, then sanctions will be implemented in stages. Such negotiations must include the immediate and unconditional release of Nelson Mandela and other South African political prisoners, and recognize the African National Congress as a legitimate voice for black South Africans.

South Africa is now under the declared state of emergency, amid growing fear in even the white community that the police and army are out of control. Over 26,000 detentions and over 1,500 deaths of black South Africans have occurred under the emergency, and violent confrontation is escalating rapidly. We need to help the Botha regime realize that it cannot sustain white domination indefinitely and that "business as usual" will only invite greater violence.

I do not want to predict a catastrophe for South Africa—but there is growing evidence, each and every day, that unless change in South Africa is fundamental, the risk of disaster will continue to increase dangerously. South Africans will not be denied their freedom much longer, and they insist upon winning their rights of freedom and citizenship by peaceful, or by other means.

Monday, Bank of America announced its ban on future loans to South Africa, making them the first major United States financial institution to do so. Their action sends a clear message to the Botha regime—and to the Reagan administration that prosperity and stability cannot return to South Africa while the apartheid system remains.

Plain and simple, the Bank of America will not make new loans to borrowers in South Africa as long as the apartheid system exist. I commend their decision, for it clearly indicates that the private sector and the Congress are willing to take the moral responsibility in this issue, and a variety of interests are involved toward creating peaceful change in South Africa.

Mr. Chairman, our role today is an important one. Hopefully, we will be able to succeed where the Reagan administration failed. The legislation being proposd today is simple and direct. The limited sanctions announced by the Reagan administration last year are apparently having a minimal effect on South Africa, and nothing short of a complete pullout of U.S. investments in South Africa as envisioned in H.R. 4868, will get the Botha regime to move forcibly to end its racial segregation.

We must seize this opportunity today to use our vast influence and pursue a new policy initiative to help Africa end its turmoil. The United States should not continue to economically support the only country in the world that institutes racism in its Government. Swift passage of H.R. 4868 is essential in order to send a clear message to the Government of South Africa that the American people, and the world are no longer willing to cooperate with this evil system of social segregation, political domination, and economic exploitation known as apartheid. I urge my colleagues to support this bill.

The CHAIRMAN. Under the rule, all time of the Committee on Banking, Finance and Urban Affairs has expired.

Under the rule, the gentleman from California [Mr. MINETA] will be recognized for 7½ minutes and the gentleman from Kentucky [Mr. SNYDER] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4868, the Anti-Apartheid Act.

Apartheid is a moral abomination. The policies of apartheid and racial separation practiced by the Government of South Africa are an insult to all people who value democracy and human liberty.

South Africa is thousands of miles distant from the United States; its culture is profoundly different from ours. Why, then, are we so concerned about the actions of a faraway government? Because we are both members of the community of nations. Let us not turn our heads from this violence and injustice. We still can—and must—do all we can to halt these horrors. We have a responsibility to better this community, to fight for the rights and freedoms of all people in this community.

Who here doubts that apartheid is a grievous wrong? We have a tool available to us in our efforts to end this system. If you believe that apartheid must be dismantled, then you must agree that we have a moral responsibility to use that tool.

We have the ability to bring the full weight of American political, economic and social pressure to bear upon the South African Government. We have this ability; we also have the duty to use it.

As one who has seen the ugliness of Government-sponsored racism first-hand, and suffered under its indignity, I join with several of my distinguished colleagues in saying we must do all we can to end apartheid.

How can we not? How can we stand by and not act? The tension continues to mount. The violence grows. The hatreds and frustrations fester. The Freedoms of South Africa shrivel and atrophy. Yet the Government fails to take steps to end this system, which is poisoning that sad nation. And some talk now of massacres and bloodshed, asking not if, but when these horrors will erupt.

As Archbishop Desmond Tutu said in the New York Times earlier this week, there is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk with a chance. President Reagan's half-hearted policy of constructive engagement has failed. It is time for the Congress to exert its responsibility and leadership, and move beyond the administration's weak and ineffectual steps.

I congratulate those who worked to craft H.R. 4868 and bring it to the floor. As chair of the Subcommittee on Aviation of the House Committee on Public Works and Transportation, I am particularly pleased to see the withdrawal of landing rights for South African aircraft in the bill before us.

We have used the tool of withdrawing landing rights on numerous instances in the past, including the Soviet Union, Cuba, Poland, and Nicaragua. This is a legitimate tool of foreign policy, and I believe this is a timely and appropriate use of this toll.

As an isolated action, withdrawal of landing rights would be troublesome to South Africa. More importantly, a package of comprehensive sanctions which did not include this withdrawal would be incomplete and ineffective.

We must act decisively at this moment of extreme tension and danger.

Does anyone truly think that gentle persuasion and subtle signals will resolve the problems in South Africa?

I urge a yes vote on the Anti-Apartheid Act.

With respect to the Chicago convention, my understanding is that the convention would apply only to nonscheduled service. This means that the only possible violation of the convention would occur if a South African Airways aircraft flying on a nonscheduled charter or private flight were denied the right to make a technical stop, such as a nonemergency refueling stop. Since South Africa Airways operates no charters to the United States or Canada, there is little real possibility of a violation of the Chicago Convention. Again, emergency landings would be permitted. I must note that the general counsel of the Department of Transportation in his

letter of objection to the legislation made no reference to the violation of any provisions of the Chicago convention.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it's easy to see that this train is about to leave the station, but I do not intend to be on it. I am absolutely appalled with the manner in which H.R. 4868, the so-called anti-apartheid bill, is being railroaded through this body. This poorly drafted attempt at legislation will under no circumstances solve the problem in South Africa.

Members have already expressed several problems with this legislation and others will point out additional ones as we proceed today. Mr. Chairman, I agree with those criticisms and would not like to focus on section 6 of the bill which purports to require the Secretary of Transportation to prohibit takeoff and landing of aircraft by an air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals except for certain emergencies.

There are several unintended and counterproductive effects of this legislation which I want to bring to my colleagues' attention. I might add that a similar provision was rejected last year by the Senate Foreign Relations Committee as being unworkable and bad policy.

First, it is important to recognize that an immediate ban of the kind proposed in this legislation would place the United States in violation of its international legal commitments. The bilateral air transport services agreement between the United States and South Africa of May 23, 1947, as amended, grants landing rights to South African Airlines. If the United States were to breach this agreement, South Africa would be entitled to international arbitration. This would certainly place us in an embarrassing situation. This bilateral agreement contains a termination clause which requires 12 months advance notice to the South African Government before service can be terminated.

Second, the Chicago Convention on International Civil Aviation of December 7, 1944, a multilateral treaty ratified with the advice and consent of the Senate, confers certain limited civil aviation rights on state parties. If this legislation is enacted, it would place the United States in violation of that treaty agreement and thus expose the United States to South African claims in the International Civil Aviation Organization [ICAO] Council.

I should emphasize that the United States did not breach its ICAO obligations when it terminated landing rights of other countries. However, this legislation would go further and ban technical stops, not-for-hire charters, executive, and related flights which are granted to all state parties to the Chicago convention. Even in the case of Poland and the U.S.S.R., the United States did not attempt to terminate its Chicago convention rights, only rights granted under bilateral agreements.

I mentioned before that the legislation was poorly drafted and, as a result, section 6 may be interpreted in more than one way. On the one hand, the provision can be read as a nullity. I call my colleagues' attention to language in the bill which prohibits the takeoff and landing of any aircraft by an "air carrier" owned directly or indirectly by the Government of South Africa or by South African nationals.

On its face, this language seems to be rather clear. However, the Federal Aviation Act of 1958, to which section 6 refers, defines "air carrier" as a United States citizen engaged in the provision of air service—therefore, it is not possible for a South African national or the Government of South Africa to own an air carrier. As a result, we have language which is a nullity, or of no legal effect.

There is yet a second interpretation of this vague and poorly drafted provision. Section 6 could put us in a situation whereby we find the Government of South Africa or a citizen of South Africa petitioning the Secretary of Transportation to ground United States carriers such as American Airlines or Pan Am, or other foreign air carriers because the South African Government has purchased stock in those carriers.

This interpretation is possible because the language of section 6 states that air carrier aircraft are not permitted to takeoff or land if they are owned, directly or indirectly, by the Government of South Africa or by South African nationals. What is not defined is the word "owned." You can certainly argue that ownership is defined as stock ownership and if we have South Africans buying stock in United States carriers, then that could be deemed to be sufficient "ownership" requiring the Secretary to ground aircraft owned by the carrier no matter where they fly.

Mr. Chairman, I strongly object to the Democrat majority railroading this legislation through the House. It should not be our policy to cut off communications with South Africa. More, not fewer South Africans should be exposed to a system other than the repressive one in which they now live.

My colleagues should note that during the summer, South African Airways provides five round trips a week to the United States. We are hardly cutting off significant economic benefits to the Government, and I submit that we would be eliminating the convenient access to the United States which the critics of that Government now enjoy. This provision makes no distinction between those we are trying to help and those we are trying to pressure toward positive change.

It is extremely unfortunate that we would cut off landing rights of South Africa without a hearing on the ramifications of such a provision. I believe there are insufficient grounds on a foreign policy basis to deny international flights to and from South Africa without a close examination of what we are attempting to achieve.

In the end, we are being asked to consider this bill on a take it or leave it basis without a full and complete analysis of the policy that we would be adopting. I urge my colleagues to reject this legislation on this ground alone.

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Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Kentucky [Mr. SNYDER] has consumed 5½ minutes.

The gentleman from California [Mr. MINETA] has 3 minutes remaining.

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Let me just indicate this issue about the violation of the agreement. Yes, we probably would be in violation of the agreement but there are means in the agreement itself for resolving such a violation.

Violations of civil air agreements are contemplated under most bilateral civil air agreements, and procedures of arbitration for those violations are explicitly provided in our agreement with South Africa. We and the South Africans would go to arbitration, and in this instance the arbitrators would render a decision and the parties would carry it out, using their best efforts, but such decisions would not overrule any law that we pass today.

On top of that, some mention has been made about the stock ownership issue. First, the airline that does fly here to the United States is owned by the Government of South Africa, so I do not believe there is any question about the issue.

As for buying stock in a United States airline, I would interpret the language to mean that a South African national would have to have a controlling interest in that airline. Moreover, section 101 of the Federal Aviation Act of 1958, as amended, specifically defines a U.S. carrier as 75 percent owned or controlled by citizens of the United States.

In terms of the third issue about emergencies, section 6(b) on page 31 of the bill does provide for emergencies in terms of flights in order to provide for the safety of an aircraft or its crews or passengers, so emergency flights are dealt with in the bill itself.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. MINETA] has one-half minute remaining and the gentleman from Kentucky [Mr. SNYDER] has 2 minutes remaining.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Let me just respond to say that the bilateral does provide for the arbitration, as the gentleman said. I mentioned that in my prepared statement. However, arbitration is not provided for the Chicago Convention, which is the treaty ratified by the U.S. Senate and which they are signatory to.

Mr. Chairman, I yield the balance of my time to the gentleman from Indiana [Mr. BURTON].

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] is recognized for 2 minutes.

Mr. BURTON of Indiana. Mr. Chairman, I have in my possession a letter from the Ambassador from South Africa and I think it bears on this issue and needs to be read into the RECORD:

A few days ago, my Government called for enactment by Parliament within the next four months of a bill designed to lead directly toward a new, post-apartheid South Africa.

The bill creates a forum in which blacks and whites together will begin work on a new constitution providing for black political participation and a government in which blacks will share power.

This task will not be easy. At both extremes of the political spectrum are radical forces that oppose my Government's program for peaceful negotiation of fundamental change. Extremist whites, who two weeks ago violently broke up a Government party meeting, voted to oust the Government and restore apartheid by force. Extremist blacks refuse the Government's offer to negotiate a new constitution and they conduct terror against blacks who support dialogue and negotiation. Both of these extremist groups favor violence and revolution.

Sanctions will, in effect if not by intention, support the extemists in their attacks on the people who want peaceful negotiation and a new constitution providing for black political participation and the end of apartheid.

In my view, Americans who want to see violence end and black political participation begin in South Africa will have an important policy choice to make in the weeks ahead.

That choice is not between apartheid and democracy. My Government's abolition of the past laws and the series of earlier fundamental changes—granting of property rights and the opening of public accommodations to all, legalization of black and multiracial trade unions, acceptance of political participation by blacks through enfranchisement and power-sharing—have accelerated the abolition of apartheid.

This government, although it has not taken all the steps necessary, not nearly enough, and the repression does continue, I think has been pressured to head in the right direction and I think we should give them a chance to try to come up with a new constitution that gives black power sharing and a voice in this government.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. SNYDER] has expired.

The gentleman from California [Mr. MINETA] has ½ minute remaining to close debate.

Mr. MINETA. Mr. Chairmam, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Under the rule, all time has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. The amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill as modified by striking out section 3 thereof and inserting in lieu thereof the text of the amendment recommended by the Committee on Ways and Means printed in the bill shall be considered as an original bill for the purpose of amendment, which shall be considered as having been read.

No amendments to the bill or to said substitute are in order except the seven amendments made in order by House Resolution 478, printed in the CONGRESSIONAL RECORD of June 17, 1986, by, and if offered by, the Members designated in said resolution, and said amendments shall not be subject to amendment or to a demand for a division of the question but shall be debatable as specified in said resolution.

The Clerk will designate the committee amendment in the nature of a substitute, as modified.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

SECTION 1. SHORT TITLE.

This act may be cited as the "Anti-Apartheid Act of 1986".

SEC. 2. PROHIBITIONS ON LOANS TO, NEW INVESTMENT IN, AND OTHER ACTIVITIES INVOLVING SOUTH AFRICA.

(a) PROHIBITIONS.—

(1) ON UNITED STATES PERSONS.—No United States person may, directly or through another person—

(A) make any loan or other extension of credit to, or provide funds for the purpose of making a loan or other extension of credit to, the Government of South Africa or any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as determined under regulations which the President shall issue;

(B) otherwise make any investment in South Africa; or

(C) contribute technology or technological information, training, or services of any kind to the exploration for, or the research, development, or production of, new, or to the expansion of existing, energy sources in, for, or on behalf of South Africa.

(2) ON CERTAIN FOREIGN BANKS.—No foreign bank which is organized under the laws of South Africa or owned or controlled by South African nationals may establish or operate any branch or agency in the United States.

(b) EXCEPTIONS.—

(1) The prohibitions contained in subsection (a)(1) shall not apply to any loan or extension of credit for which an agreement is entered into before May 21, 1986.

(2) The prohibition contained in subsection (a)(1)(B) shall not apply to an investment which consists of earnings derived from a business enterprise establishment before May 21, 1986, and which is made in that business enterprise.

(3) The prohibition contained in subsection (a)(1)(C) shall not apply with respect to a contract entered into before May 21, 1986.

SEC. 3. BAN ON THE IMPORTATION OF CERTAIN PRODUCTS OF SOUTH AFRICA AND NAMIBIA.

(a) PRODUCTS OF SOUTH AFRICA.—

(1) URANIUM OXIDE.—Subpart C of part 2 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by adding immediately after headnote 1 the following new headnote:

"2. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of uranium oxide provided for in item 422.50 which is the product of the Republic of South Africa is prohibited."; and

(B) by striking out "Subpart C headnote:" and inserting in lieu thereof "Subpart C headnotes:".

(2) COAL.—Subpart J of part 1 of schedule 5 of such Schedules is amended by inserting immediately before item 521.11 the following:

"Subpart J headnote:

"1. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of coal provided for in item 521.31 which is the product of the Republic of South Africa is prohibited.".

(3) URANIUM ORE AND STEEL PRODUCTS.—The headnotes to schedule 6 of such Schedules are amended by inserting at the end thereof the following new headnote:

"3. Until the day on which the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of uranium ore provided for in item 601.57, and of any steel product, which is the product of the Republic of South Africa is prohibited. For purposes of this headnote, the term 'steel product' means an article of steel provided for in any of the following items:

606.67	646.25
606.69	646.26
606.79 through 610.52, inclusive	646.30
642.02	652.94 through 652.97, inclusive
642.08	653.00
642.11 through 642.16, inclusive	688.30
642.35	690.25
642.90 through 642.97, inclusive	690.30.".

(b) PRODUCTS OF NAMIBIA.—

(1) PETROLEUM AND NATURAL GAS.—The headnotes to part 10 of schedule 4 of such Schedules are amended by inserting at the end thereof the following:

"5. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of petroleum and natural gas which is the product of Namibia is prohibited.".

(2) NONMETALLIC MINERALS.—Part 1 of schedule 5 of such Schedules is amended by inserting before subpart A the following:

"Part 1 headnote:

"1. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of any nonmetallic mineral (not advanced in condition or value from its natural state) which is provided for in this part and is the product of Namibia is prohibited.".

(3) METAL BEARING ORES AND MATERIALS.—The headnotes to part 1 of schedule 6 of such Schedules are amended by adding at the end thereof the following:

"6. Until the day on which the prohibition in section 7(a) of the Anti-Apartheid Act of 1986 is terminated, the entry, or withdrawal from warehouse for consumption, of any metal-bearing ore or other metal-bearing material which is provided for in this part and is the product of Namibia is prohibited.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 4. CONDITIONAL DIVESTITURE FROM COMPUTER INDUSTRY; COMPUTER EXPORTS.

(a) PROHIBITIONS.—Unless the conditions set forth in subsection (b) are met within 12 months after the date of the enactment of this Act, then—

(1) effective 6 months after the end of that 12-month period, no United States person may, directly or through another person, make or hold any investment in South Africa in a business enterprise that sells computers, computer software, or goods or technology intended to service computers; and

(2) effective at the end of that 12-month period, no United States person may, directly or through another person, export to South Africa any computers, computer software, or goods or technology intended to service computers.

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) The President certifies to the Congress that the Government of South Africa—

(A) has freed Nelson Mandela and all political prisoners, and has entered into good faith negotiations with truly representative leaders of the black majority for a new political system; or

(B) has totally dismantled the apartheid system.

(2) A joint resolution is enacted approving the President's certification.

(c) DEFINITION.—For purposes of subsection (a)(2), the term "computer" includes any computer that is the direct product of technology of United States origin.

(d) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

(1) REFERRAL OF JOINT RESOLUTIONS.—All joint resolutions introduced in the House of Representatives and the Senate shall be referred immediately to the appropriate committees.

(2) COMMITTEE DISCHARGE.—If the committee of either House to which a joint resolution has been referred has not reported it at the end of 30 days after its introduction, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(3) CONSIDERATION OF RESOLUTIONS.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(4) RECEIPT OF RESOLUTIONS FROM THE OTHER HOUSE.—If before the passage by one House of a joint resolution of that House, that House receives a joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; and

(B) the vote on final passage shall be on the joint resolution of the other House.

(5) COMPUTATION OF LEGISLATIVE DAYS.—In the computation of the period of 30 days referred to in paragraph (2), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain of because of an adjournment of the Congress sine die.

(6) JOINT RESOLUTION DEFINED.—For purposes of this subsection, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress, having received on a certification by the President under section 4(b)(1) of the Anti-Apartheid Act of 1986, approves the President's certification.", with the date of the receipt of the certification inserted in the bank.

SEC. 5. ASSISTANCE FOR SOUTH AFRICA.

(a) AUTHORIZED ANNUAL AMOUNT OF ASSISTANCE.—In addition to any amount used for the Human Rights Fund for South Africa, up to $25,000,000 may be used each fiscal year for assistance for South Africa under the Foreign Assistance Act of 1961 and section 2(b) of the Migration and Refugee Assistance Act of 1962.

(b) USES OF ASSISTANCE.—Of the assistance authorized by subsection (a)—

(1) $4,000,000 shall be for refugee education assistance programs; and

(2) the remainder shall be for community development projects that are selected in consultation with truly representative leaders of South Africans disadvantaged by the apartheid system, that are under the leadership and control of such disadvantaged South Africans, and that are not conducted by or through organizations in South Africa financed or controlled by the Government of South Africa.

(c) REPORTS.—Not later than the end of each calendar quarter, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report setting forth—

(1) the names and a description of the recipients of assistance that are described in subsection (b)(2);

(2) the amounts of assistance granted to each such recipient; and

(3) who was consulted in selecting such recipients.

(d) EFFECTIVE DATE.—This section shall apply with respect to assistance in fiscal year 1987 and thereafter.

SEC. 6. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) DEFINITIONS.—For purposes of this section, the terms "aircraft" and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

SEC. 7. PROHIBITION WITH RESPECT TO NATURAL RESOURCES IN NAMIBIA.

(a) PROHIBITION.—No United States person may, directly or through another person—

(1) search for, take, extract, mine for, process, refine, sell, export, distribute, purchase, import, or use any natural resource situated in or originating from Namibia; or

(2) otherwise remove any natural resource from Namibia.

(b) TERMINATION OF RESTRICTIONS.—The provisions of this section, and all regulations, licenses, and orders issued under such provisions, shall terminate if—

(1) the President certifies that Namibia has achieved internationally recognized independence in accordance with United Nations Resolution 435, adopted by the United Nations Security Council in 1978; and

(2) the President submits that certification, and the basis for the certification, to the Congress.

(c) PERSONS HELD LIABLE BY FUTURE NAMIBIAN GOVERNMENT.—It is the policy of the United States that any United States person that is sued by the future lawful government of an independent Namibia for damages resulting from activities described in subsection (a) that are carried out before that government assumes authority, will receive no assistance from the United States in defending against any liability for such damages and will receive no compensation or reimbursement from the United States Government for any damages assessed or paid on account of such liability.

(d) DEFINITION.—For purposes of this section, the term "natural resource" means oil, gas, and minerals.

SEC. 8. REGULATORY AUTHORITY.

The President shall issue such regulations, licenses, and orders as are necessary to carry out this Act. The President shall issue such regulations not later than 90 days after the date of the enactment of this Act.

SEC. 9. ENFORCEMENT AND PENALTIES.

(a) AUTHORITY OF THE PRESIDENT.—Subject to subsection (b), the President shall take the necessary steps to ensure compliance with this Act and any regulations, licensees, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders. In ensuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena and attendance and testimony of witnesses

and the production of all books, papers, and documents relating to any matter under investigation.

(b) ENFORCEMENT OF PROHIBITION ON FOREIGN BANKS.—The Comptroller of the Currency, in the case of a Federal branch or agency, and the Board of Governors of the Federal Reserve System, in the case of any other branch or agency, shall take the necessary steps to ensure compliance with section 2(a)(2), including revoking any existing authority of any foreign bank subject to the prohibition in section 2(a)(2) to establish or operate a branch or agency in the United States.

(c) PENALTIES.—

(1) FOR PERSONS OTHER THAN INDIVIDUALS.—Any person, other than an individual, that knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $500,000.

(2) FOR INDIVIDUALS.—Any individual who knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(d) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person commitss a violation under subsection (c)—

(A) any officer, director, or employee of such person, or any natural person in control of such person, who willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who willfully carried out such act or practice,

shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(2) RESTRICTION ON PAYMENT OF FINES.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(e) SEIZURE AND FORFEITURE OF AIRCRAFT.—Any aircraft used in connection with a violation of section 6 or any regulation, license, or order issued to carry out that section shall be subject to seizure by and forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 10. NEGOTIATIONS; REPORTS TO CONGRESS.

The President shall, by means of both bilateral and multilateral negotiations, including through the United Nations, attempt to persuade the governments of other countries to adopt restrictions on activities with respect to South Africa consistent with the provisions of this Act. The President shall submit annual reports to the Congress on the status of negotiations under this section. Each such report shall include a description of—

(1) the extent to which other countries have adopted restrictions consistent with the provisions of this Act; and

(2) the extent to which nationals of other countries have complied with any such restrictions, or have taken actions to diminish the impact on South Africa of the provisions of this Act.

SEC. 11. REPORT TO CONGRESS WITH RESPECT TO DIVESTITURE; TERMINATION OF PROVISIONS OF ACT.

(a) DETERMINATION OF MET CONDITIONS.—If the President determines that the conditions set forth in subsection (d) have been met, the President may submit that determination, and the basis for the determination, to the Congress.

(b) REPORT BY THE PRESIDENT.—If a determination has not been submitted to the Congress under subsection (a) before May 31, 1988, the President shall, before June 30, 1988, report to the Congress on whether the Government of South Africa has met the conditions set forth in subsection (d). If the President determines that the conditions have not been met, the President shall include in the report his recommendations as to whether United States persons should be required to divest themselves of their investments in South Africa.

(c) CONGRESSIONAL ACTION TERMINATING PROVISIONS OF THE ACT.—Upon the enactment of a joint resolution approving a determination of the President under subsection (a) or (b) that the conditions set forth in subsection (d) have been met, the provisions of this Act, and all regulations, licenses, and orders issued to carry out this Act, shall terminate.

(d) STATEMENT OF CONDITIONS.—The conditions referred to in subsections (a) and (b) are that the Government of South Africa—

(1) has freed Nelson Mandela and all political prisioners, and has entered into good faith negotiations with truly representative leaders of the black majority for a new political system; or

(2) has totally dismantled the apartheid system.

SEC. 12. DEFINITIONS.

(2) IN GENERAL.—Subject to subsection (b), for purposes of this Act—

(1) UNITED STATES PERSONS.—The term "United States person" means any United States resident or national and any partnership, corporation, or other entity organized under the laws of the United States or of any of the several States, of the District of Columbia, or of any commonwealth, territory, or possession of the United States.

(2) INVESTMENT IN SOUTH AFRICA.—The term "investment in South Africa" means—

(A) a commitment of funds or other assets (in order to earn a financial return) to a business enterprise located in South Africa or owned or controlled by South African nationals, including—

(i) a loan or other extension of credit made to such a business enterprise, or security given for the debts of such a business enterprise;

(ii) the beneficial ownership or control of a share or interest in such a business enterprise, or of a bond or other debt instrument issued by such a business enterprise; or

(iii) capital contributions in money or other assets to such a business enterprise; or

(B) the control of a business enterprise located in South Africa or owned or controlled by South African nationals, in cases in which subparagraph (A) does not apply.

(3) SOUTH AFRICA.—The term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(4) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as such ownership or control is determined under regulations which the President shall issue.

(5) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

(6) SOUTH AFRICAN NATIONAL.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(7) CONTROL BY SOUTH AFRICAN NATIONALS.—South African nationals shall be presumed to control a business enterprise or foreign bank if—

(A) South African nationals beneficially own or control (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise or bank;

(B) South African nationals beneficially own or control (whether directly or indirectly) 25 percent or more of the voting securities of the business enterprise or bank, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(C) the business enterprise or bank is operated by South African nationals pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise or bank are also members of the comparable governing body of a South African national;

(E) South African nationals have the authority to appoint a majority of the members of the board of directors of the business enterprise or bank; or

(F) South African nationals have the authority to appoint the chief operating officer of the business enterprise or bank.

(8) CONTROL BY UNITED STATES PERSONS.—For purposes of paragraph (2)(B), a United States person shall be presumed to control a business enterprise if—

(A) the business enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(B) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the United States person;

(C) the United States person has the authority to appoint a majority of the members of the board of directors of the business enterprise; or

(D) the United States person has the authority to appoint the chief operating officer of the business enterprise.

(9) LOAN.—The term "loan" includes an extension of credit as defined in section 201(h) of the Credit Control Act (12 U.S.C. 1901(h)).

(10) BANK.—The term "bank" means—

(A) any depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A));

(B) any corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.);

(C) any corporation having an agreement or undertaking with the Federal Reserve Board under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.); and

(D) any bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)).

(11) POLITICAL PRISONER.—The term "political prisoner" means any person in South Africa who is incarcerated or persecuted on account of race, religion, nationality, memberhsip in a particular social group, or political opinion, but the term "political prisoner" does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

(b) ADDITIONAL DEFINTIONS.—For purposes of—

(1) section 2(a)(1)(C)—

(A) the term "energy sources" includes both mineral and nonmineral fuel resources, including solar, geothermal, fossil, nuclear, electrical, and synthetic fuel energy resources;

(B) the term "development" includes those activities conducted to make energy sources available or usable, including drilling and the construction or other preparation of facilities or other means for the removal or conversion to usable form of any energy source;

(C) the term "production" includes those activities conducted for the removal or conversion to usable form of any energy source, including refining, milling, any other processing, generation, transmission, and storage; and

(D) the term "services" includes construction, engineering, design, management, and maintenance services; and

(2) sections 2(a)(2) and 9(b), the terms "foreign bank", agency", "branch", "Federal agency", and "Federal branch" have the meanings given those terms in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 1301(b)).

SEC. 13. APPLICABILITY TO EVASIONS OF ACT.

This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations.

SEC. 14. CONSTRUCTION OF ACT.

Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in section 12(a)(3)(C).

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Does the gentleman offer his first or second amendment?

Mr. BURTON of Indiana. My first amendment, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: In section 5(b), insert the following after paragraph (2): No such assistance may be used to support, directly or indirectly, the African National Congress or any organization or institution affiliated therewith, until such time as the controlling body of the African National Congress no longer includes members of the South African Communist Party.

POINT OF ORDER

Mr. SOLARZ. Mr. Chairman, I am under the impression that under the rule, this amendment is not in order and if it has not been made in order by the rule, then it is not in order and should be ruled out of order.

The CHAIRMAN. The Chair would make an inquiry of the maker of the amendment, was the amendment printed in the RECORD of June 17, 1986?

Mr. BURTON of Indiana. Yes, the amendment, I believe, was, and it was numbered amendment No. 1.

□ 1355

The CHAIRMAN. Does the gentleman from New York [Mr. SOLARZ] have a further point of order on the amendment?

Mr. SOLARZ. Mr. Chairman, if the Chair will bear with me for a moment, my understanding is that when the gentleman from Indiana [Mr. BURTON] appeared before the Committee on Rules, the gentleman asked for three amendments to be made in order, one of which was the one the gentleman is offering now. The Committee on Rules specifically indicated that it was not making that amendment in order.

I further understand that during the debate on the rule, the gentleman from Indiana complained that if the rule were adopted, he would be precluded from offering the very amendment the gentleman is offering now.

Mr. BURTON of Indiana. Mr. Chairman, I did not make any specific mention of any particular amendment. I was upset that one of my amendments was not allowed to be presented.

But, Mr. Chairman, may I speak on this point, please? I want to speak to determine whether or not it is in order.

The CHAIRMAN. The gentleman from Indiana may proceed.

It would be helpful to the Chair, and to the membership, to know, if this amendment that the gentleman is now offering was the exact amendment that is printed in the RECORD.

Mr. BURTON of Indiana. Mr. Chairman, it is the exact amendment No. 1 printed in the RECORD.

The CHAIRMAN. The gentleman may address the point that the gentleman from New York raised, if he chooses.

Mr. BURTON of Indiana. Mr. Chairman, I presented my amendments to the Committee on Rules in the order in which they would amend the bill, and it is in the order in which I inserted them into the RECORD.

At the time I left the Committee on Rules to insert my amendments in the RECORD, I was under the clear impression that all three amendments would be made in order because this was supported by the chairman of the Committee on Foreign Affairs and was part of a bipartisan agreement.

After inserting all three amendments into the RECORD in the order in which they were presented to the Committee on Rules, I was informed much later that only two of my amendments would be made in order. But I was not told that they would be specified by the order in which they appeared in the RECORD.

The Committee on Rules did not bother to inquire as to whether I had already put my amendments in the RECORD or in what order. I assumed that they were aware of my presentation and the order that I followed.

The House has voted for a rule making my first two amendments in the RECORD in order. The intent of the Committee on Rules no longer matters; the will of the House is paramount on this point. The rule has been adopted.

Mr. SOLARZ. Mr. Chairman, I thank the Chair for his indulgence.

I am informed that when this rule was brought up in the Committee on Rules yesterday, the gentleman from Mississippi [Mr. LOTT] specifically asked why this amendment which the gentleman from Indiana now proposes to offer, which the gentleman had asked the Committee on Rules to make in order, was not being made in order by the rule which the Committee on Rules was in the process of adopting, and which it did adopt.

In other words, Mr. Chairman, as I understand it, the legislative history of this rule, both in committee and on the floor, makes it clear that this particular amendment was not supposed to be made in order.

The other amendments the gentleman from Indiana has relating to the Sullivan principles and some other matter were to be made in order. But this one was not to be made in order.

I believe that we would be doing violence to the intent of the Committee on Rules and of the House if we now permitted an amendment to be offered which the rule was designed to preclude.

The CHAIRMAN. Does the distinguished gentleman from Pennsylvania [Mr. WALKER] wish to be heard on this point?

Mr. WALKER. Mr. Chairman, it is my understanding that the rule we adopted allows the gentleman from Indiana [Mr. BURTON] to offer amendment No. 1. That is specific to the rule. That is what the Chair has to rule upon.

If the gentleman has amendment No. 1, as printed in the RECORD, before us, that is the only issue before the Chair. What went on in the Committee on Rules is not the issue before the Chair. In fact, the rule was adopted by

the whole House at this point, in specifically stated language.

And so, for the gentleman from Indiana to have a favorable ruling of the Chair, all he has to be able to show is that his amendment was printed in the RECORD and it is amendment No. 1. That is the basis under which the Chair must rule. I thank the Chair for its indulgence.

The CHAIRMAN. The Chair will listen to the gentleman from Pennsylvania [Mr. GRAY] on this issue.

Mr. GRAY of Pennsylvania. Mr. Chairman, it is my understanding that the gentleman from Indiana asked for three amendments and that the Committee on Rules provided a rule for two specific amendments to be offered.

It is also my understanding that the particular amendment that is being suggested now by the gentleman on the floor is one that was not approved by the Committee on Rules and, in fact, the transcript of the conversation between the Republican Members and the Democratic Members, the minority and the majority, clearly shows that it is not the intention of the Committee on Rules to provide a rule for this particular amendment, but to provide a rule for the other two amendments that the gentleman offered.

I know it is a little bit confusing because earlier today during the debate on the rule, we heard language, Mr. Chairman, that the gentleman was denied his rights, his legislative rights, when, in fact, two of three amendments were approved by the Committee on Rules. This one, as I understand it, specifically was refused by the Committee on Rules.

In a colloquy between a Member of the minority side and the Chair, this was specifically pointed out.

Mr. BURTON of Indiana. Mr. Chairman, it was my intention to comply with the rule as passed by this House. The amendments are numbered; they were numbered before the Committee on Rules ever made a decision and they were filed with this House and printed in the RECORD that way.

The CHAIRMAN. To conclude the discussion, the distinguished gentleman from New York [Mr. SOLARZ] is recognized.

Mr. SOLARZ. Mr. Chairman, I want to thank the chairman very much for his extraordinary indulgence. I know he has given us ample opportunity to speak to this question and I very much appreciate it.

I want to suggest to the Chairman, before he makes his final ruling on this issue, that when the Committee on Rules fashioned this rule, it obviously decided not to grant an open rule. In deciding which amendments to make in order and which amendments not to make in order, Mr. Chairman, it was clear that the Committee on Rules was governed by considerations other than the amount of time it would take to debate each individual amendment.

Now, my very good friend, the gentleman from Indiana [Mr. BURTON], came before the Committee on Rules to ask that three separate amendments be made in order. I do not think the gentleman would deny that.

The Committee on Rules, in its wisdom, decided to make two of the three amendments in order. We have to then ask the question, why did they give the gentleman from Indiana the right to offer two amendments, rather than three amendments? It was not because they thought the third amendment would take up too much time; it was because they did not believe it was appropriate for the third amendment to be offered.

The third amendment is the amendment that the gentleman now proposes, and I would like, Mr. Chairman, if I may, to yield to the very distinguished chairman of the Committee on Rules, the gentleman from Florida [Mr. PEPPER], who can perhaps explain this matter more effectively than I.

The CHAIRMAN. The Chair would observe, first, that happily the Chair controls the time, and second, this is a matter of clearly some confusion to a number of the Members and there is not a record before the Committee of the Whole other than the rule and the House Record itself, in which the gentleman printed some amendments.

While the Chair is willing, if the Members insist, to permit several others to vent their views on this matter, the Chair is prepared to rule.

Mr. SOLARZ. Mr. Chairman, if I may yield to the gentleman from Florida [Mr. PEPPER], the distinguished chairman of the Committee on Rules——

Mr. WALKER. Mr. Chairman, regular order.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. PEPPER], the distinguished chairman of the Committee on Rules.

□ 1405

Mr. PEPPER. Thank you, Mr. Chairman.

When the committee heard yesterday the request for a rule on this bill, we considered the matter in the Democratic caucus, and it was determined there that two of the amendments offered by the gentleman from Indiana other than the three—he offered three—but we rejected one of his proposed amendments, the one dealing with communism, but allowed the other two.

The gentleman raised the question when he was still in the chair, when we came back to vote at 2:30 on the rule, and he asked if his three amendments were approved; we said only two of them. And he said, "Why was one left out?" The gentleman from South Carolina [Mr. DERRICK] said, "Matter of judgment." I am sure the distinguished gentleman will remember that.

Then later the gentleman from Indiana came to me and protested that we left out his third amendment dealing with the communistic question: "Why did you leave that out?" I said that was our decision. We thought that was the proper thing to do.

So the gentleman protested to me personally against our leaving out the very amendment. It was not included by the Rules Committee. Maybe we should have more carefully defined the two that we allowed, but I thought the gentleman clearly understood which two of his amendments we approved, and he complained to me about our rejecting the third amendment. It was not the intention of the Rules Committee that that amendment be included in the rule.

Mr. LOTT. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The distinguished gentleman, a member of the Rules Committee, wishes to be heard?

Mr. LOTT. I wish to be heard on the point of order, Mr. Chairman.

The CHAIRMAN. To conclude debate, then, on the point of order, the distinguished gentleman may proceed.

Mr. LOTT. I thank the Chairman very much.

Mr. PEPPER. Mr. Chairman, may I have just one word? Would you allow me just one word?

To the distinguished member of the Rules Committee, the gentleman from Mississippi [Mr. LOTT], after the Rules Committee had indicated its decision, he offered this particular amendment about communism, and it was defeated by the Rules Committee in the determination, as the gentleman will remember, in the final decision of the committee.

Mr. LOTT. Having been recognized by the Chair, I would like to speak on this issue, and speak to that particular point.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. If the gentleman will withhold, that request to revise and extend should not include the debate on the point of order.

Mr. LOTT. Mr. Chairman, I wish to be heard in support of the right of the gentleman from Indiana to offer his first amendment printed in yesterday's RECORD.

The facts are these. The gentleman did appear before the Rules Committee and asked for three amendments to be made in order. He was preceded by the distinguished chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], who voiced support for making all

three Burton amendments in order, as well as several other amendments.

During his testimony, the gentleman from Indiana said the following, which can be found at page 14 of our committee transcript:

> The first amendment prohibits any U.S. taxpayer dollars from going to the African National Congress.

Mr. BURTON went on to explain his other two amendments. Following his testimony, he went to the floor and filed his amendments in the same order in which he presented them to the Rules Committee, since he was led to believe that all three would be made in order under the rule since they were supported by the Foreign Affairs Committee chairman as part of an agreement with the minority, and I clearly was under the impression that all amendments that were requested before the Rules Committee would be made in order; but when the rule came out, of course that was note the case.

Following the testimony, the committee recessed to reconvene one-half hour later, at 5 p.m. Only then was a rule passed out in which it was revealed that only two amendments would be made in order by Mr. BURTON—the "first" amendment and the "second" amendment in quotes, and that is what it said; first amendment, second amendment—printed in the June 17 CONGRESSIONAL RECORD.

I would maintain that the Rules Committee made a mistake in drafting this rule, and the Chair is constrained to interpret the rule as it stands and as it is read, and not take into account what the intention of the committee may have been.

I would emphasize, Mr. Chairman, that there is no deception here or duplicity on the part of the gentleman from Indiana in placing his amendments in the RECORD in this order; this is the order in which he presented them to the Rules Committee and the order in which the amendments were put in the RECORD. The transcript of the Rules Committee hearing supports this quite clearly.

I would also point out that in the past, the Rules Committee has been very explicit in indicating which amendments it is making in order. Right now, the Rules Committee is in effect in recess, waiting for the gentleman from Michigan [Mr. BROOMFIELD] to bring his substitute to the Rules Committee so that we can see exactly what the substance is of the substitute on SALT II.

In House Resolution 456, for instance, the rule on the trade bill, we placed the amendment in the rule in the order in which they would amend the bill and specified for each which title and part of the bill they amended. The Rules Committee could have done this with this rule but it did not. It was hasty and it was sloppy and it made a major mistake. But the House has just today adopted a rule which clearly specifies that the first two Burton amendments in yesterday's RECORD are in order.

It is now only the intent of the House that matters. The House has voted to make the first two Burton amendments in order, and the Chair is obliged to rule in favor of the expressed will of the House as reflected in the vote adopting the rule on this bill.

I thank the Chair.

Mr. PEPPER. Mr. Chairman, may I be recognized?

The CHAIRMAN. To conclude debate on the point of order, the distinguished chairman of the Rules Committee, Mr. PEPPER, is recognized.

Mr. PEPPER. Mr. Chairman, I am sure that my distinguished colleague on the Rules Committee and friend, the gentleman from Mississippi, does not fail to recall that after the motion was made by the gentleman from South Carolina that the rule be reported, the question arose as to whether or not the particular amendment that is in question now offered by the gentleman from Indiana was included.

He was advised and the committee was advised that it was not included. Then the gentleman from Mississippi offered an amendment that it be included and there was a vote. The gentleman from Mississippi asked for a record vote; there was a record vote, and the vote was seven noes to two ayes. So it was rejected specifically by the Rules Committee.

Not only that, but the staff of the Rules Committee notified the staff of the gentleman from Indiana as to what the Rules Committee's action was. So there was no misunderstanding; maybe we should have delineated more carefully, and we will try to profit by this experience in the future, but there was no misunderstanding by the gentleman from Indiana or, I believe, by the distinguished gentleman from Mississippi as to what the action of the committee was.

Mr. LOTT. Mr. Chairman, if I could be heard briefly, further, in support of the gentleman from Indiana and in response to the chairman of the Rules Committee.

The CHAIRMAN. The gentleman will be recognized to close argument on the point of order.

Mr. LOTT. I will try to be brief and I will close, but I would like to speak to the particular point the chairman referred to. I, in fact, did offer an amendment to try to make all three Burton amendments in order; and as a matter of fact tried to read for the Rules Committee into the RECORD the exact language of the amendment, but it was said, "Oh, no, no, no, that's not necessary."

I really was not aware of which one of these amendments was which. Regardless of that, the Rules Committee just made a judgment call; "Yes, we'll allow these two but not that one," and I thought that was very questionable.

All of that is irrelevant now. The mistake was made; no matter how it occurred, and the House has voted on the rule.

The CHAIRMAN (Mr. TRAXLER). The Chair is prepared to rule.

On the basis of the language contained in House Resolution 478 and the CONGRESSIONAL RECORD of June 17, the Chair finds that there is no ambiguity, and that under the rule the first amendment printed by the gentleman from Indiana is to be in order along with the second amendment; and the committee has made his first amendment which is printed in the RECORD of June 17, in order.

The Chair has no other question on that point, and therefore cannot go to events that occurred in the Rules Committee nor what the intention may have been of the Rules Committee relative to the order of several amendments that the gentleman presented in the Rules Committee.

The Chair cannot rule on the basis of the good faith effort of the gentleman from Indiana to comply with the request of the Rules Committee.

Therefore, it is the decision of the Chair based upon the rule and upon the CONGRESSIONAL RECORD of June 17, 1986, that the amendment is in order, and the gentleman may proceed with his amendment.

The gentleman from Indiana [Mr. BURTON] has 7½ minutes, under the rule, and there are 7½ minutes allocated to the gentleman from Michigan [Mr. WOLPE], in opposition.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill authorizes $25 million: $4 million for "refugee education assistance" and $21 million for "community development assistance."

The bill spells out very carefully that this money should have nothing to do with the South African Government.

My amendment would stipulate equally carefully that our money shall not be used by the African National Congress, as long as that organization is intimately associated with the South African Communist Party.

No one is saying that this money will necessarily go to the ANC. On the other hand, there is nothing in this bill to stop the money from going directly to the ANC or to an organization directly controlled by the ANC.

Joe Slovo, who is second in command of the ANC's military wing Umkhonto We Sizwe, or "Spear of the Nation" is a Communist.

In the Rules Committee one Member voiced skepticism with my contention that a significant number of the ANC executive committee are members of the South African Communist Party. He wanted evidence, so here is that evidence: at the second national conference of the ANC in Kabwe, Zambia, June 16 through 23, 1985, a new ANC national executive council was chosen, consisting of 30 members. Of these, at least 19 and possibly up to 25, are known Communists.

Traditionally, the president of the ANC, who is now Oliver Tambo, is not a member of the South African Communist Party [SACP]. But the secretary general of the SACP is always a member of the ANC executive. Mr. Moses Mabhida, who held this post, died on March 8 of this year.

In addition to Solvo and Mabhida, we have the names of an positions of 17 other members of the ANC executive committee who are Communists, including the ANC's secretary and deputy secretary general and the senior commanders of its military wing.

I would like to submit the list, which was compiled from South African intelligence and other sources by the staff of the Subcommittee on Security and Terrorism of the Senate Judiciary Committee, for the RECORD at this point:

(A) At the Second National Conference of ANC at Kabwe (Zambia 16-23 June 1985) a new ANC-national executive was chosen, consisting of 30 members. Of these, at least 19 and possibly up to 25, are known Communists, although it is not in all cases possible to give documentary proof of the SACP membership since SACP does not disclose its membership lists. It is however known that traditionally the president of ANC (O. Tambo) is not an SACP-member, but the secretary-general of SACP is always a member of ANC Executive. Mr. Moses Mabhida, who held this post, died on 8 March 1986.

(B) Of members of ANC executive, following are known Communists:

Alfred Nzo (Secretary general, second in command).

Steve Dlamini, president of ANC-aligned SA congress of trade unions.

Chris Hani, political commissar of Umkhonto We Sizwe.

Pallo Jordan, senior member of ANC department of information and publicity.

Moses Mabhida, secretary general of SACP now deceased.

Mac Maharaj, member of political and military committees.

Cassius Make, senior commander of Umkhonto We Sizwe.

Henry Makgothi, secretary of education department.

Thabo Mbeki, secretary for publicity.

Francis Meli, editor of Sechaba (ANC's official monthly).

Joe Modise, commander of Umkhonto We Sizwe—armed wing.

Anthony Mongalo, ANC-representation in East Germany.

John Nkadimeng, chief secretary of SACTU, chairman of political committee.

Aziz Pahah, senior member in London office.

Mzwai Piliso, special aide to O. Tambo.

Reg September, former London representative at HQ, now in Lusaka.

Joe Slovo, second in command of Umkhonto We Sizwe.

James Stuart, at HQ in Zambia.

Dan Tloome, deputy secretary-general and deputy treasurer-general.

In any case, we need not look only to the membership of the ANC to discover its Communist affiliations.

The most important indication of the ANC's Communist control is in its own declared ideology and policies.

For example, the ANC-SACP alliance supports the Soviet invasion of Afghanistan. In 1981 the ANC executive member Moses Mabhida stated: "We express our full solidarity with the Afghanistan People's Democratic Party—we fully understand and support the timely assistance of the Soviet Union, and call upon progressive forces throughout the world to consolidate the ranks of the anti-imperialist forces." [London, July 30, 1981.]

The political report of the ANC's June 1985 conference is pure Soviet line. The report articulates the ANC's view of the world under the headings "Anti-Imperialist Victories" and "U.S. Offensive."

I would like to read some excerpts from the ANC report:

The Vietnamese Liberation Movement had finally won victory in 1975 with the * * * humiliating flight of the Americans remaining in South Vietnam. The Shah of Iran * * * was swept out of power by the masses in 1979. In the Western Hemisphere, progressive changes took place in Nicaragua and Grenada with the victories of the Sandinista and the New Jewel Movement.

The report goes on to justify or endorse the military crackdown in Poland, the Soviet occupation of Afghanistan, the Communist Sandinistas in Nicaragua, the Communist guerrillas in El Salvador, the Polisario Front in Morocco, and the Palestinian Liberation Organization.

The 36-page report mentions the United States and imperialism over 30 times and identifies the United States throughout as leading the "global offensive of imperialism." The Soviet Union is mentioned 10 times: eight emphasizing the Soviet Union's role as enemy of the United States, once as a victim of Nazi Germany, and once as savior of the "democratic and anti-imperialist revolution of Afghanistan."

The report also identities "Zionist Israel" as "the proxy of United States imperialism."

It doesn't seem to me to be knee-jerk anticommunism to say that, while the ANC was once a legitimate, Black Nationalist organization, it is now a typical Soviet-backed "liberation" movement, committed to a Soviet agenda.

I really do not see how anyone who loves freedom or who wants to help anyone in South Africa would support a group that seems to take some of the most repressive regimes on Earth as its role models.

It is also hard for me to understand why well-meaning Members of Congress would be fooled by the ANC in exactly the same way they were fooled by the Sandinistas in Nicaragua, the Vietcong in Nicaragua, the MPLA in Angola, Frelimo in Mozambique, and even by Fidel Castro in Cuba.

I wonder how many times Communists will be able to surround themselves with a veneer of democratic supporters and say they are nationalists and have liberals in the West swallow the idea hook, line, and sinker.

If my colleagues, such as Mr. WOLPE and Mr. GRAY do not support the ANC, I would be happy to hear it. If that is the case, they should have no problem with my amendment.

If they do support the ANC, I would like to hear why they do not think they are being fooled again into building legitimacy for an organization which is no more democratic that the movements and governments that it so lavishly praises and have inflicted so much misery on so many people.

□ 1415

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Michigan [Mr. SILJANDER].

Mr. SILJANDER. I thank the gentleman for yielding.

Mr. Chairman, just to make sure that I understand what the gentleman is attempting to do precisely with his amendment, I understand that the bill now before us allows specific funds to be appropriated for organizations in South Africa.

Mr. BURTON of Indiana. That is correct.

Mr. SILJANDER. The gentleman's amendment then suggests or directs that none of these funds could be used for the ANC, the African National Congress, is that correct?

Mr. BURTON of Indiana. So long as they are inundated by the Communist Party.

Mr. SILJANDER. But in the documentation the gentleman is suggesting that out of the 30 members, how many of the members are members of the Communist Party?

Mr. BURTON of Indiana. We have documentation that 19 members are Communists, members of the South African Communist Party, and we believe that as many as 25 of the 30 are Communists.

Mr. SILJANDER. Well, this gentleman would like to go on record: I support the amendment of the gentleman, but I also would like to go on record as saying that there are those factions in the African National Congress that are not Communists that

are certainly seeking after freedom; but based on the documentation of the gentleman, I would be very concerned about American taxpayers' dollars, when my farmers are in serious trouble in western Michigan, using taxpayers' dollars to fund an organization that had any elements of the Marxist-Leninist nature.

So I appreciate the amendment of the gentleman. It seems rather appropriate at least to protect the taxpayer dollars.

The ANC can be what it wishes, but I think we have an option not to send our taxpayer dollars to groups that have that orientation.

Mr. BURTON of Indiana. I thank the gentleman, and, Mr. Chairman, I reserve the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Chairman, the gentleman used my name, and he is not going to yield?

Mr. BURTON of Indiana. I think that Mr. WOLPE might be able to yield some time to the gentleman.

Mr. WOLPE. Mr. Chairman, I yield 3 minutes to my distinguished colleague from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. I thank the Chairman, Mr. WOLPE, and also my colleagues.

Mr. Chairman, it is unfortunate that a Member of the House would refer to me by name and then not pay the courtesy of allowing me to ask him a question with regard to the use of my name.

Let me just simply say I did not hear specifically how my name was used or in what context. But I would like to address the fundamental basis of the gentleman's argument; that is that we cannot do anything against apartheid because of communism. He say that he has documentation which, by the way, brings to mind the mysterious documents referred to by P.W. Botha at the announcement of his government's new emergency restrictions. The gentleman from Indiana says that there are persons on the board of the ANC who are documented Communists. I must say that his position to this is positively ludicrous. Is he willing to support apartheid because there may be so-called communists in the ANC? The issue is not communism, it is apartheid. Nelson Mandela has said that he is not a Communist. At his trial he said:

> Our fight is against real, and not imaginery hardships. Basically we fight against two features which are the hallmarks of African life in South Africa. These feature are poverty and lack of human dignity, and we do not need communists or so-called "agitators" to teach us about these things.

We must avoid the side issues. Going off on these tangents does not help. The ANC was founded in 1912—long before the Russian revolution, decades before Chairman Mao established the People's Republic of China, long before there was a Communist Cuba. Who were the ANC's agitators then? Who was prompting them to assert their dignity? The ANC receives assistance from countles religious organizations around the world. Does that make them a religious organization? How on earth can the struggle in South Africa be dismissed as "communist led?"

Is Desmond Tutu, Communist? Allan Boesak? Beyers Nawde? South African Council of Churches? Dr. Mottana? How may excuses are going to be found to appease apartheid? It seems to me. Mr. Chairman that this position is yet another diversionary tactic to maintain the status quo and to avoid "rocking the Botha."

The CHAIRMAN. The time of the gentleman has expired.

The gentleman from Michigan [Mr. WOLPE] has 4½ minutes remaining.

Mr. WOLPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee will accept the amendment because it is, frankly, a meaningless amendment. There is no assistance in the body of this act that was ever contemplated to be directed to the African National Congress.

The purpose of this legislation, however, is to do whatever we can to press the South African Government to begin to negotiate with the African National Congress and with other representative black leaders of the population.

So our acceptance of this amendment should not be construed as indicating that we believe the African National Congress does not have a role to play, a critical role to play in the negotiating process. In fact, one of the ironies of this amendment, to show how really extreme it is in its conception, the administration itself has called upon direct negotiations between the South African Government and the African National Congress, in recognition that it is the African National Congress that is far and away the most popular political force within South Africa.

Nor should our acceptance of this amendment indicate any endorsement of the view that the African National Congress is dominated by Communists. Again the administration has testified to this point that, while there are some Communists that are affiliated with the African National Congress, in no way is it Soviet-dominated or Communist-inspired.

Let me say, however, that it is the kind of effort that so frequently, I think, can create a self-fulfilling prophecy. We need to begin to recognize that it is apartheid itself that is the cause of the expansion of communism within that region, and every time this kind of amendment is offered up, what we do, I think, is to call into question our basic commitment to our opposition to apartheid. I think it is unfortunate. But the amendment is meaningless. The committee will accept it.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. President, I agree with the gentleman that the amendment is entirely meaningless.

I would like, however, to make two observations. According to this amendment no assistance can be given to the ANC so long as there are members of the South African Communist Party in its governing body.

Does the gentleman from Indiana know that there are Communists in the Italian Parliament, that there are Communists in the French Parliament, that there are Communists in the Japanese Parliament, that there are Communists in the parliaments of some of the other countries most closely allied with the United States? Is the gentleman going to offer an amendment to the DOD bill saying we should withdraw American troops and military assistance from any government in which Communists participate around the world? I rather doubt that he will. I do not see the gentleman offering an amendment which says that no assistance may be provided to South Africa so long as there are racists in the South African Government. But lo and behold, because of some hypothetical possibility that aid could go to the ANC, we have an amendment like this saying no aid can go to that organization because there may be a few Communists in it. This is exactly the kind of thinking which subjects the House to a degree of skepticism on the part of the American people with respect to our wisdom. But because it is meaningless, and there was no intention to provide any aid to the ANC anyway, I agree with the chairman we might as well accept it and get on with the far more serious issues that confront this House.

Mr. WOLPE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

□ 1430

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be

taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 178]

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Badham
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chapman
Chappell
Chappie
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dioguardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

□ 1440

The CHAIRMAN. Four hundred eleven Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Indiana [Mr. BURTON] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 365, noes 49, not voting 19, as follows:

[Roll No. 179]

AYES—365

Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Badham
Barnard
Bartlett
Barton
Bateman
Bates
Bedell
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonker
Borski
Bosco
Boucher
Boulter
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chapman
Chappell
Chappie
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daschle
Daub
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dioguardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Fascell
Fawell
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Ford (MI)
Fowler
Franklin
Frenzel
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Gray (IL)
Green
Gregg
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Petri
Pickle
Porter
Price
Pursell
Quillen
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Rudd
Russo
Sabo
Saxton
Schaefer
Scheuer
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stenholm
Strang
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler

Udall	Weber	Wortley
Valentine	Whitley	Wright
Vento	Whittaker	Wyden
Visclosky	Whitten	Wylie
Volkmer	Williams	Yatron
Vucanovich	Wilson	Young (AK)
Walgren	Wirth	Young (FL)
Walker	Wise	Young (MO)
Watkins	Wolf	Zschau
Waxman	Wolpe	

NOES—49

Ackerman	Ford (TN)	Morrison (CT)
Akaka	Frank	Owens
Barnes	Garcia	Perkins
Beilenson	Gonzalez	Rahall
Bonior (MI)	Gray (PA)	Rodino
Boxer	Hawkins	Roybal
Burton (CA)	Hayes	Savage
Clay	Howard	St Germain
Collins	Hoyer	Stark
Conyers	Lehman (FL)	Stokes
Crockett	Leland	Studds
Dellums	Lowry (WA)	Towns
Dymally	Markey	Weiss
Edwards (CA)	Matsui	Wheat
Evans (IL)	Mikulski	Yates
Fazio	Mineta	
Foglietta	Mitchell	

NOT VOTING—19

AuCoin	Foley	Rangel
Breaux	Fuqua	Schneider
Chandler	Grotberg	Vander Jagt
Cheney	Guarini	Weaver
Coyne	Latta	Whitehurst
Davis	Lundine	
Dowdy	O'Brien	

□ 1455

Messrs. MICA, CARPER, and BATES changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Insert the following after section 7 and redesignate the succeeding sections and references thereto, accordingly:

SEC. 8. EXEMPTION FOR CERTAIN COMPANIES.

(a) EXEMPTION FOR COMPANIES COMPLYING WITH SULLIVAN PRINCIPLES.—The prohibitions contained in this Act shall not apply with respect to any business enterprise located in South Africa which, in the operation of that business enterprise, implements those principles set forth in subsection (b).

(b) STATEMENT OF PRINCIPLES.—The principles referred to in subsection (a) are the following:

(1) DESEGREGATING THE RACES.—Desegregating the races in each employment facility, including—

(A) removing all race designation signs;

(B) desegregating all eating, rest, and work facilities; and

(C) terminating all regulations which are based on racial discrimination.

(2) EQUAL EMPLOYMENT.—Providing equal employment for all employees without regard to race or ethnic origin, including—

(A) assuring that any health, accident, or death benefit plans that are established are nondiscriminatory and open to all employees without regard to race or ethnic origin; and

(B)(i) implementing equal and nondiscriminatory terms and conditions of employment for all employees, and (ii) abolishing job reservations, job fragmentation, apprenticeship restrictions for blacks and other nonwhites, and differential employment criteria, which discriminate on the basis of race or ethnic origin.

(3) EQUITABLE PAY SYSTEM.—Assuring that the pay system is equitably applied to all employees without regard to race or ethnic origin, including—

(A) assuring that any wage and salary structure that is implemented is applied equally to all employees without regard to race or ethnic origin;

(B) eliminating any distinctions between hourly and salaried job classifications on the basis of race or ethnic origin; and

(C) eliminating any inequities in seniority and ingrade benefits which are based on race or ethnic origin.

(4) MINIMUM WAGE AND SALARY STRUCTURE.—Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families.

(5) INCREASING BLACKS AND OTHER NONWHITES IN CERTAIN JOBS.—Increasing, by appropriate means, the number of blacks and other nonwhites in managerial, supervisory, administrative, clerical, and technical jobs for the purpose of significantly increasing the representation of blacks and other nonwhites in such jobs, including—

(A) developing training programs that will prepare substantial numbers of blacks and other nonwhites for such jobs as soon as possible, including—

(i) expanding existing programs and forming new programs to train, upgrade, and improve the skills of all categories of employees, including establishing and expanding programs to enable employees to further their education and skills at recognized education facilities; and

(ii) creating on-the-job training programs and facilities to assist employees to advance to higher paying jobs requiring greater skills; (B) establishing procedures to assess, identify, and actively recruit employees with potential for further advancement;

(C) identifying blacks and other nonwhites with high management potential and enrolling them in accelerated management programs; and

(D) establishing timetables to carry out this paragraph.

(6) IMPROVING LIFE OUTSIDE THE WORKPLACE.—Taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health, including—

(A) providing assistance to black and other nonwhite employees for housing, health care, transportation, and recreation either through the provision of facilities or services or providing financial assistance to employees for such purposes, including the expansion or creation of in-house medical facilities or other medical programs to improve medical care for black and other nonwhite employees and their dependents; and

(B) participating in the development of programs that address the education needs of employees, their dependents, and the local community.

(7) FAIR LABOR PRACTICES.—Implementing fair labor practices, including—

(A) recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity;

(B) refraining from—

(i) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization under this paragraph,

(ii) dominating or interfering with the formation or administration of any labor organization or sponsoring, controlling, or contributing financial or other assistance to it, except that an employer may permit employees to confer with the employer during working hours without loss of time of pay,

(iii) encouraging or discouraging membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other condition of employment,

(iv) discharging or otherwise disciplining or discriminating against any employee who has exercised any rights of self-organization under this paragraph, and

(v) refusing to bargain collectively with any organization freely chosen by employees under this paragraph; and

(C)(i) allowing employees to exercise rights of self-organization, including solicitation of fellow employees during nonworking hours, (ii) allowing distribution and posting of union literature by employees during nonworking hours in nonworking areas, and (iii) allowing reasonable access to labor organization representatives to communicate with employees on employer premises at reasonable times where there are no other available channels which will enable the labor organization to communicate with employees through reasonable efforts.

(8) ACTIVITIES OUTSIDE THE WORKPLACE.—Taking reasonable measures to extend the scope of influence on activities outside the workplace, including—

(A) supporting the unrestricted rights of black businesses to locate in urban areas;

(B) influencing other companies in South Africa to follow the standards of equal rights principles;

(C) supporting the freedom of mobility of black workers to seek employment opportunities wherever they exist, and making provision for adequate housing for families of employees within the proximity of workers' employment; and

(D) supporting the recission of all apartheid laws.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The Chair will inquire of the gentleman from Indiana [Mr. BURTON] whether this is the second amendment made in order by the committee and printed in the Journal.

Mr. BURTON of Indiana. Mr. Chairman, it is.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] will be recognized for 7½ minutes and the gentleman from Michigan [Mr. WOLPE] will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is straightforward. It would exempt any company operating in South Africa, either American, foreign, or South African, from the provisions of the bill, if it abides by the Sullivan principles.

This bill has $21 million in it for community development. Well, the Sullivan signatories have contributed $115 million to date for projects in health, education, housing, and better living conditions for nonwhite South Africans.

In December 1984, 284 U.S. corporations had direct investments in South Africa, and 123 of those, employing 70 percent of the work force in the U.S. companies, were Sullivan signatories.

As of October of last year, there were 240 U.S. corporations, of which 178, or 74 percent of our corporations, are Sullivan signatories.

These corporations have provided over 1,000 scholarships to blacks, spent millions on black education and development. This bill would effectively force these corporations to leave South Africa.

Now I think we have to ask ourselves, what is our goal here. Is it to make South Africa ungovernable, as the ANC has stated it would like to do, or is it to help speed up the breakdown of apartheid through constructive change.

Do we wish to simply destroy the economy of South Africa? Over 350,000 blacks from neighboring countries work legally in South Africa, while another 1.5 million come in illegally.

The economies of at least 14 nations in Africa remain substantially dependent on economic relations with South Africa. These nations hypocritically support sanctions that they would never implement themselves.

In fact, a majority of blacks of South Africa itself say that they oppose the economic boycott of South Africa.

In a poll conducted in March by the Institute for Sociological and Demographic Research of the Human Sciences Research Council among 1,338 blacks in urban areas found that 67.7 percent opposed a world economic boycott.

When the question was changed to ask if they would support sanctions if it meant losing their jobs, the number opposed to sanctions increased to 73.8 percent.

Since this bill would, as it stands, affect all corporations in South Africa, my amendment would provide a strong incentive for all corporations, South African or foreign, to comply with the Sullivan principles.

I believe this would be a very constructive development and would urge adoption of the amendment.

□ 1505

Mr. WOLPE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment is virtually identical to one that was proposed last year during the consideration of the antiapartheid legislation then, that was overwhelmingly defeated on a bipartisan vote because Members of this body understood that this ran directly contrary to the whole thrust and intent of the sanctions legislation.

The effect of this amendment would be to really substantially weaken the sanctions that are in the bill. The issue that is involved in the struggle against apartheid is not workplace conditions, and while it is certainly true that the Sullivan code companies, at least several of them, that are involved in South Africa made a very positive contribution in the workplace sphere to labor-management relationships, and to improved conditions of life for their specific workers, it is not true that that kind of economic investment and activity is moving South Africa away from apartheid. In fact, all of the economic industrialization that has occurred in the recent decades has been accompanied by increased repression and the consolidation of the totalitarian regime, not the reverse.

We need to understand that there are somewhere in the neighborhood of 50,000 employees that are employed in the Sullivan code firms, American firms. There are some 24 million South Africans that are black, some 4 million South Africans that are colored or Asian. To think that 95 percent of the American debate focuses upon the 50,000 workers is ludicrous on its face when we are really excluding consideration of the impact of apartheid upon the 26 million people in that country that just happen not to be white.

Reverend Sullivan himself, the architect of the Sullivan code, has endorsed virtually everything that is in this bill. He has gone even further; he has said that if apartheid is not dismantled within 1 year, by May 1987, that he himself would come out for total disinvestment.

It is not that the Sullivan code companies have not done good; it is that the struggle against apartheid is no longer a struggle for desegregated workplaces or improved working conditions, it is a struggle for political rights.

Mr. BURTON of Indiana. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Michigan [Mr. SILJANDER].

Mr. SILJANDER. Mr. Chairman, on August 1, 1985, Mr. WOLPE, on the floor of the Congress, said, "I cannot tell you how proud I was personally as an American, as a Member of this institution, to see the House and Senate conferees, on a totally bipartisan basis, express a commitment to move in a new direction in our relationship towards South Africa."

In that conference report, Mr. Chairman, were the Sullivan principles, made essentially mandatory, and so many on the other side stood up to say that it was a great day in American history, that this was a bipartisan effort and they were proud to stand up for the Sullivan principles. They were not inconsistent last year; why are they now inconsistent this year? I think that the thinking is rather inconsistent, and the policy.

Mr. WOLPE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Chairman, God has been good to me. God has been exceedingly good to me. He has allowed me to stay in this Congress long enough to see a remarkable transfiguration take place.

Last week it was manifested in the housing bill, when all of those who are bitterly opposed to housing legislation stood up and offered amendment after amendment speaking in the name of the tenants that they denied for so many years.

Today we see another manifestation of that miraculous transfiguration where those who had no concern at all about blacks in South Africa rise in defense of the 50,000 black employees saying we love you, we want to protect you, the devil with the others. Don't you know that this is exactly what happened during the civil rights decade?

Mr. Chairman, I want to see these transfigured personalities who are so sympathetic to blacks hear the benefit of my praise for them.

It is just like the civil rights decade. You go into a Southern town and the white bosses trotted out five black people who had jobs. They said, "We want to protect your jobs. Don't let these others come down here demonstrating and acting simple, because if they do, you will lose your job."

Of course those blacks said, "We don't want to lost our jobs."

The civil rights decade was a deliberate, mean-spirited attempt to drive a wedge between the black community. It is not going to work. It did not work then, and it is not going to work in South Africa. People are concerned about the freedom of a people, and when they face that kind of crucible, that severe test, they are willing to bear the pain, willing to bear all the sufferings necessary so that they can be regarded as human beings with full dignity.

It is a bad amendment. This transfigured friend of black South Africans offers you a bad amendment, and I would urge the defeat without even

much more discussion on it. It does not merit much more.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, there are a multitude of approaches to solving this very complex problem in South Africa. One of them is to help the blacks have better employment conditions and better living conditions, as well as the political problems that they face, and to adopt the Sullivan principles which have been heralded around the world as a step in the right direction by American companies, and to apply those principles, to South African companies cannot be a step in the wrong direction.

The analogy that the gentleman used about Southern America in the fifties, forties, and thirties I do not think is correct.

Mr. WOLPE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Chairman, I urge a "no" vote against this amendment. It sounds good, it looks good, but it is not good. Let me tell you why:

Leon Sullivan, who is the author of the Sullivan principles, lives in my district. I have known him since the age of 9. Last year he said that he supported the Anti-Apartheid Act of 1985 which we passed in Congress. This year he supports the Anti-Apartheid Act of 1986 in its entirety. The gentleman, however, by this amendment is saying that those companies that sign the Sullivan principles should be exempted from sanctions.

Dr. Sullivan, himself, would not support this amendment, and he is the author of the principles in question.

When I was in South Africa in January, we talked with the majority population and they said, "Look, the companies are not complying with the Sullivan Code as they should." Leon Sullivan has said that they are not complying as they should. However, my major criticism of this amendment is that the issue is not Sullivan principles, the issue is not supply-side diplomacy, it is not the loss of jobs; it is a loss of life, the loss of human freedom, and the loss of justice.

Mr. Chairman, I urge a "no" vote.

Mr. SILJANDER. Mr. Chairman, may I inquire how much time we have on this side?

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] has 3 minutes remaining, and the gentleman from Michigan [Mr. WOLPE] has 2½ minutes remaining.

Mr. SILJANDER. I thank the Chair.

Mr. Chairman, I yield 1 minute to my colleague, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank my friend for yielding, and I would like to say that I think that there is a great deal of merit in his amendment. You know, I think that there are two ways to move a nation. You can push them, you can punish them, or you can persuade them and pull them, and I am reminded that in our country we have tried to give some economic stimulus to the minority community with our 8(a) programs and with our set-aside programs, and I like the idea of trying to help people rather than damage economies, and I think that we have a real chance of putting South Africa, white and black, into recession, or possibly into a depression.

I think that the Sullivan principles have merit and that they have been identified as being very important, at least in the initial stages of this struggle, and I think that the idea that Mr. BURTON has put forth has great merit, because it persuades people to do something in a positive fashion, and I think if we continue down the path we are going down, we are going to see a depression for both communities, black and white, in South Africa.

I thank the gentleman for yielding.

Mr. WOLPE. Mr. Chairman, to close the debate, I yield the remainder of my time to the distinguished gentleman from the District of Columbia [Mr. FAUNTROY].

The CHAIRMAN. The gentleman from the District of Columbia [Mr. FAUNTROY] is recognized for 2½ minutes.

□ 1515

Mr. FAUNTROY. Mr. Chairman, simply stated, this amendment deserves the same fate that it experienced last year when it was brought up. It needs to be recognized that it is an effort simply to gut this legislation. This amendment deserves to be defeated.

The issue here is not the fate of some 50,000 blacks who work for United States firms in South Africa. The issue is whether or not we are going to take a stand against apartheid.

The gentleman from Indiana suggests that American firms have contributed $150 million to self-help programs in South Africa. He ought also to point out that American firms have paid $4.6 billion in taxes to the apartheid regime in South Africa. What we are saying in this legislation is no new business, no more loans, no more development of companies that underpin this vicious regime, no increased tax revenues from foreign firms.

I urge you to vote no on this amendment now.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank my colleague for yielding.

Is it true that Dr. Leon Sullivan, himself the author of the Sullivan principles, is opposed to this amendment?

Mr. FAUNTROY. It is certainly true.

Mr. CONYERS. Mr. Chairman, I thank the gentleman.

Mr. BURTON of Indiana. Mr. Chairman, I want to close the debate on my amendment, if the gentleman has other Members who want to speak on it.

Mr. WOLPE. Mr. Chairman, I yield back the balance of my time.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, there are thousands of blacks who work in American companies that work under the Sullivan principles. I have been to South Africa. Their plight is much better than those of their counterparts who work in South African companies.

Now, I cannot for the life of me see why we would not want to apply the Sullivan principles to South African companies to encourage them to make the working conditions for the blacks in those companies better.

This amendment, in my opinion, does not have a downside. It has only an upside. It is going to encourage South African companies to use their resources to help the blacks who work in their companies, just like the American companies that have plants in South Africa.

I have heard the arguments from my colleagues and the analogies that they have used. I do not agree with them.

This is a step in the right direction. It is not an overall solution. Apartheid needs a great deal more work to be done. We are going to have to continue pressure on the South African Government, but this is one step toward an overall solution and I urge you to support this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 268, not voting 15, as follows:

[Roll No. 180]

AYES—150

Applegate	Broomfield	Coats
Archer	Brown (CO)	Cobey
Armey	Broyhill	Coble
Badham	Burton (IN)	Coleman (MO)
Bartlett	Byron	Combest
Barton	Callahan	Craig
Bateman	Campbell	Crane
Bentley	Carney	Dannemeyer
Bereuter	Chappell	Daub
Bilirakis	Chappie	DeLay
Boulter	Clinger	DeWine

Dickinson	Lewis (FL)	Rowland (CT)
Dixon	Lightfoot	Rudd
Dornan (CA)	Livingston	Saxton
Dreier	Loeffler	Schaefer
Duncan	Lott	Schuette
Eckert (NY)	Lowery (CA)	Shaw
Edwards (OK)	Lujan	Shumway
Emerson	Lungren	Shuster
Evans (IA)	Mack	Siljander
Fawell	Madigan	Skeen
Fiedler	Marlenee	Slaughter
Fields	McCain	Smith (NE)
Franklin	McCandless	Smith, Denny (OR)
Frenzel	McCollum	Smith, Robert (NH)
Gallo	McEwen	Smith, Robert (OR)
Gekas	McMillan	Snyder
Gingrich	Meyers	Solomon
Gregg	Michel	Spence
Gunderson	Miller (OH)	Stangeland
Hall, Ralph	Monson	Stenholm
Hammerschmidt	Montgomery	Strang
Hansen	Moore	Stratton
Hendon	Moorhead	Stump
Hiler	Morrison (WA)	Sundquist
Hillis	Murphy	Sweeney
Holt	Myers	Swindall
Hopkins	Nielson	Tauke
Hunter	Oxley	Taylor
Hutto	Packard	Thomas (CA)
Hyde	Parris	Vucanovich
Ireland	Pashayan	Walker
Johnson	Petri	Whitehurst
Kasich	Porter	Whittaker
Kemp	Quillen	Whitten
Kindness	Regula	Wolf
Kolbe	Ridge	Young (FL)
Kramer	Ritter	Zschau
Lagomarsino	Roberts	
Leath (TX)	Rogers	
Lewis (CA)	Roth	

NOES—268

Ackerman	Daschle	Hayes
Akaka	de la Garza	Hefner
Alexander	Dellums	Heftel
Anderson	Derrick	Henry
Andrews	Dicks	Hertel
Annunzio	Dingell	Horton
Anthony	DioGuardi	Howard
Aspin	Donnelly	Hoyer
Atkins	Dorgan (ND)	Hubbard
AuCoin	Downey	Huckaby
Barnard	Durbin	Hughes
Barnes	Dwyer	Jacobs
Bates	Dymally	Jeffords
Bedell	Dyson	Jenkins
Beilenson	Early	Jones (NC)
Bennett	Eckart (OH)	Jones (OK)
Berman	Edgar	Jones (TN)
Bevill	Edwards (CA)	Kanjorski
Biaggi	English	Kaptur
Bliley	Erdreich	Kastenmeier
Boehlert	Evans (IL)	Kennelly
Boggs	Fascell	Kildee
Boland	Fazio	Kleczka
Boner (TN)	Feighan	Kostmayer
Bonior (MI)	Fish	LaFalce
Bonker	Flippo	Lantos
Borski	Florio	Leach (IA)
Bosco	Foglietta	Lehman (CA)
Boucher	Foley	Lehman (FL)
Boxer	Ford (MI)	Leland
Breaux	Ford (TN)	Lent
Brooks	Fowler	Levin (MI)
Brown (CA)	Frank	Levine (CA)
Bruce	Frost	Lipinski
Bryant	Garcia	Lloyd
Burton (CA)	Gaydos	Long
Bustamante	Gejdenson	Lowry (WA)
Carper	Gephardt	Luken
Carr	Gibbons	MacKay
Chapman	Gilman	Manton
Clay	Glickman	Markey
Coelho	Gonzalez	Martin (IL)
Coleman (TX)	Goodling	Martin (NY)
Collins	Gordon	Martinez
Conte	Gradison	Matsui
Conyers	Gray (IL)	Mavroules
Cooper	Gray (PA)	Mazzoli
Coughlin	Green	McCloskey
Courter	Guarini	McCurdy
Coyne	Hall (OH)	McDade
Crockett	Hamilton	McGrath
Daniel	Hatcher	McHugh
Darden	Hawkins	McKernan
McKinney	Rinaldo	Synar
Mica	Robinson	Tallon
Mikulski	Rodino	Tauzin
Miller (CA)	Roe	Thomas (GA)
Miller (WA)	Roemer	Torres
Mineta	Rose	Torricelli
Mitchell	Rostenkowski	Towns
Moakley	Roukema	Traficant
Molinari	Rowland (GA)	Traxler
Mollohan	Russo	Udall
Moody	Sabo	Valentine
Morrison (CT)	Savage	Vento
Mrazek	Scheuer	Visclosky
Murtha	Schroeder	Volkmer
Natcher	Schulze	Walgren
Neal	Schumer	Watkins
Nelson	Seiberling	Waxman
Nichols	Sensenbrenner	Weaver
Nowak	Sharp	Weber
Oakar	Shelby	Weiss
Oberstar	Sikorski	Wheat
Obey	Sisisky	Whitley
Olin	Skelton	Williams
Ortiz	Slattery	Wilson
Owens	Smith (FL)	Wirth
Panetta	Smith (IA)	Wise
Pease	Smith (NJ)	Wolpe
Penny	Snowe	Wortley
Pepper	Solarz	Wright
Perkins	Spratt	Wyden
Pickle	St Germain	Wylie
Price	Staggers	Yates
Pursell	Stallings	Yatron
Rahall	Stark	Young (AK)
Ray	Stokes	Young (MO)
Reid	Studds	
Richardson	Swift	

NOT VOTING—15

Chandler	Grotberg	O'Brien
Cheney	Hartnett	Rangel
Davis	Kolter	Roybal
Dowdy	Latta	Schneider
Fuqua	Lundine	Vander Jagt

□ 1530

Mr. MARTIN of New York and Mr. NICHOLS changed their votes from "aye" to "no."

Mrs. HOLT changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. Is this amendment No. 4 that was printed in the House RECORD?

Mr. DELLUMS. That is correct, Mr. Chairman, in the nature of a substitute.

The CHAIRMAN. The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DELLUMS: Strike all after the enacting clause and insert the following:

SECTION 1. PROHIBITION ON INVESTMENTS IN SOUTH AFRICA.

No United States person may, directly or through another person, make or hold any investment in South Africa.

SEC. 2. PROHIBITION ON IMPORTS AND EXPORTS FROM SOUTH AFRICA.

(a) IMPORTS.—Notwithstanding any other provision of law, no article which is the growth, produce, or manufacture of South Africa may be imported into the United States, except for those strategic minerals of which the President certified to the Congress that the quantities essential for military uses exceed reasonably secure domestic supplies and for which substitutes are not available.

(b) EXPORTS.—

(1) GENERAL RULE.—No goods, technology, or other information subject to the jurisdiction of the United States may be exported to South Africa, and no goods, technology, or other information may be exported to South Africa by any person subject to the jurisdiction of the United States. The prohibition contained in this paragraph shall apply to goods, technology, or other information of any kind, which is subject to controls under the Export Administration Act of 1979, the Arms Export Control Act, the Atomic Energy Act of 1954, or any other provision of law.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply to exports described in section 6(g) of the Export Administration Act of 1979.

SEC. 3. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by a foreign air carrier called, directly or indirectly, by the Government of South Africa or by South African nationals.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) DEFINITIONS.—For purposes of this section, the terms "aircraft" and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958.

SEC. 4. PROHIBITION ON IMPORTATION OF KRUGERRANDS.

No person may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

SEC. 5. ENFORCEMENT; PENALTIES.

(a) AUTHORITIES OF THE PRESIDENT.—The President shall take the necessary steps to ensure compliance with the provisions of this Act and any regulatons, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with such provisions, regulations, licenses and orders. In ensuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and production of all books, papers, and documents relating to any matter under investigation.

(b) VIOLATIONS.—Any person that knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall—

(1) if other than an individual, be fined not more than $500,000; and

(2) if an individual, be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(c) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who willfully ordered,

authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who willfull carried out such act or practice.

shall, upon conviction, be fined not more than $250,000, or imprisoned not more than five years, or both.

(2) RESTRICTION OF PAYMENT OF FINES.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d) SEIZURE AND FORFEITURE OF AIRCRAFT.—Any aircraft used in connection with a violation of section 3 of any regulation, license, or order issued to carry out that section shall be subject to seizure by the forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds from the sale thereof, and the remission of mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 6. REGULATORY AUTHORITY.

The President may issue such regulations, licenses, and orders as are necessary to carry out this Act.

SEC. 7. DEFINITIONS.

For purposes of this Act—

(1) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) UNITED STATES.—The term "United States person" means any United States resident or national and any partnership, corporation, or other entity organized under the laws of the United States or of any of the several States, of the District of Columbia, or of any commonwealth, territory, or possession of the United States.

(3) INVESTMENT IN SOUTH AFRICA.—The term "investment in South Africa" means—

(A) a commitment of funds or other assets (in order to earn a financial return) to a business enterprise located in South Africa or owned or controlled by South Africa nationals, including—

(i) a loan or other extension of credit made to such a business enterprise, or security given for the debts of such a business enterprise;

(ii) the beneficial ownership or control of a share or interest in such a business enterprise, or of a bond or other debt instrument issued by such a business enterprise; or

(iii) capital contributions in money or other assets to such a business enterprise; or

(B) the control of a business enterprise located in South Africa or owned or controlled by South African nationals, in cases in which subparagraph (A) does not apply.

(4) SOUTH AFRICA.—The term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(5) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as such ownership or control is determined under regulations which the President shall issue.

(6) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

(7) SOUTH AFRICAN NATIONAL.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(8) CONTROL BY SOUTH AFRICAN NATIONALS.—For purposes of paragraph (3)(A), South African nationals shall be presumed to control a business enterprise if—

(A) South African nationals beneficially own or control (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise;

(B) South African nationals beneficially own or control (whether directly or indirectly) 25 percent or more of the voting securities of the business enterprise, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(C) the business enterprise is operated by South African nationals pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of a South African national;

(E) South African nationals have the authority to appoint a majority of the members of the board of directors of the business enterprise; or

(F) South African nationals have the authority to appoint the chief operating officer of the business enterprise.

(9) CONTROL BY UNITED STATES PERSONS.—For purposes of paragraph (3)(B), a United States person shall be presumed to control a business enterprise if—

(A) the business enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(B) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the United States person;

(C) the United States person has authority to appoint a majority of the members of the board of directors of the business enterprise; or

(D) the United States person has authority to appoint the chief operating officer of the business enterprise.

SEC. 8. APPLICABILITY TO EVASIONS OF ACT.

This Act shall apply to any United States person who undertakes or causes to be undertaken any transaction or activity with the intent to evade the provisions of this Act or any regulation, license, or order issued to carry out this Act.

SEC. 9. EFFECTIVE DATE.

The provisions of this Act shall take effect 180 days after the date of the enactment of this Act.

Mr. DELLUMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. DELLUMS] will be recognized for 30 minutes, and a Member opposed to the amendment will be recognized for 30 minutes.

Will those gentlemen who are opposed to the Dellums amendment kindly stand so the Chair can designate?

Is the gentleman from Washington [Mr. BONKER] opposed to the amendment?

Mr. BONKER. I advise the Chair that I oppose the amendment.

The CHAIRMAN. Then the Chair will recognize the gentleman from Washington [Mr. BONKER] for 30 minutes in opposition to the Dellums amendment.

Does the gentleman from Washington wish to yield any of his time or share any of his time?

Mr. BONKER. Mr. Chairman, I would yield half the allotted time, 15 minutes, to the gentleman from Michigan [Mr. SILJANDER].

The CHAIRMAN. The time in opposition will be equally divided between the gentleman from Washington [Mr. BONKER] and the gentleman from Michigan [Mr. SILJANDER].

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, do I understand that the process that has just taken place has given the minority side one-quarter of the time.

The CHAIRMAN. The Chair would counsel the gentleman from Pennsylvania in regard to his inquiry that the rule provides that a Member will be recognized in opposition. The gentleman from Washington [Mr. BONKER] was recognized in opposition, and he shared his time with your side.

□ 1540

Mr. WALKER. In other words, the minority, though, was not recognized for the purposes of opposition. Is that correct?

The CHAIRMAN. The Chair would state that the procedures of the House are governed by its rules, but more importantly in this instance, by the rule adopted by the House as reported from the committee.

Mr. WALKER. I thank the Chair.

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] is recognized for one-half hour in support of his amendment.

Mr. DELLUMS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Ms. MIKULSKI].

Ms. MIKULSKI. Mr. Chairman, I rise in support of the complete divestment of the United States from South Africa and in support of the substitute offered by the gentleman from California [Mr. DELLUMS].

Mr. Chairman, it is appropriate that today's vote on South African sanctions in the House of Representatives comes so soon after the 10th anniversary of the Soweto massacre in South Africa. Two days ago black South Africans protested the evil of apartheid by staying away from work. Their deafening silence was heard around the world. Today we step forward to declare America's total opposition to the oppression, inhumanity and injustice that is apartheid.

Apartheid enslaves black South Africans. It is evil. The United States has been an accessory to this evil because the President and this Congress refuse to cut all United States ties to South Africa.

Some say total divestment will lead to more suffering for the black laborers in South Africa who may lose jobs. In truth, complete divestment will affect only 1 percent of the labor force. And the suffering resulting from divestment is meaningless compared to the suffering black South Africans endure now.

The issue in South Africa is not standard of living. The issue is freedom. Freedom to speak, freedom to vote, freedom to assembly, freedom from arbitrary arrest, police terrorism, and torture.

Mr. Chairman, we speak out today to free South African blacks from political persecution. We also speak out today to free America from our history of racial injustice, and from our present policy of "constructive engagement." The struggle against apartheid is as important to the well-being of this nation as it is for the lives of our sisters and brothers in South Africa.

It is for that reason that I will vote for total divestment, and I strongly urge my colleagues to do likewise.

Mr. DELLUMS. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, I would begin this important debate on this amendment by indicating that I assume, and in fact, would stipulate that each Member of this Congress opposes the system of apartheid in South Africa.

I would further assume and further stipulate, Mr. Chairman, that each and every Member of this body, irrespective of their political party or philosophical frame of reference, would like to end this madness. Thus, the question before the body, Mr. Chairman, is how do we accomplish that.

There is clearly, at this particular point in the debate, no need to reiterate the oppression and the resulting horror of death and imprisonment that results as the reality that is unfolding in South Africa at this moment.

Thus, I choose to speak to the issue of what do we do.

I begin by pointing out to my colleagues that the issue here is not whether there shall be sanctions or not sanctions because, No. 1, we have established clearly in the body politic that sanctions are an appropriate instrument of foreign policy in this country.

Second, I point out to my colleagues that last year, the House of Representatives invoked some form of sanctions against South Africa; the U.S. Senate invoked some sanctions against South Africa; the President of the United States invoked some watered-down sanctions against South Africa. So the issue is not whether we should go forward with sanctions; the question is: What are appropriate sanctions at this particular moment, given what is unfolding in South Africa at this time?

The sanctions contained in the bill before us, Mr. Chairman, while I believe are a step forward, in my humble opinion, are inadequate in response to what is evolving in South Africa at this very moment.

It is indeed an incremental step. It has been referred to by a number of people who have preceded me to the floor of this body as a measured step.

I simply suggest that this incremental measured step allows the Government of South Africa to adjust rather than to bring extreme pressure to try to end the death and the suffering and the human misery that is the reality in South Africa.

I, therefore, offer this amendment in the nature of a substitute to the bill, H.R. 4868. The major thrust of this bill is to call for immediate divestment and total embargo against the Government of South Africa, comprehensive sanctions against South Africa, not an incremental step, not a measured step, but an all-out, powerful, aggressive statement.

Why, Mr. Chairman? For two very important reasons. No. 1, I believe that it is a moral and political imperative that the Government of the United States make a powerful, clear, clean, unambiguous, uncomplicated, unequivocal statement about the deteriorating situation that unfolds in South Africa at this moment.

That is a statement that we should make to ourselves as a Nation, a statement we should make to the people of South Africa, and a statement we should make, indeed, to the entire world.

First, Mr. Chairman, to ourselves. We are a multiracial Nation. We are a Nation of blacks and whites and browns and reds and yellows. We are a Nation that went through pain and suffering and sorrow as we attempted to invoke civil and human rights in this country; as we attempted to struggle to say to millions of human beings in America and around the world, that people can function and flower and grow and realize their fullest and total potential as human beings beyond race, beyond sex, beyond class, and beyond age.

We fought in this country. People died and people went to jail. People's careers were broken as a result of that effort. So we must be internally consistent, Mr. Chairman. There must be some internal integrity to the statement made.

We cannot be progressive at home and reactionary abroad or vice versa. Foreign and military policy have an intimate relationship. They are mirror images of each other.

We cannot be in bed in some fashion with the evil and the horror and the oppression of South Africa, and adequately and profoundly and morally and ethically say to the millions of human beings in this country, that race is no longer a factor, that we are equal human beings.

So we must make this statement to ourselves because there is healing and progress that must take place in this country.

I suggest that the struggle against apartheid in South Africa is as much alleviating oppression in this country as it is about a statement we make with respect to South Africa.

I said, Mr. Chairman, that we must make this statement to South Africa and to the world. We heard earlier a number of statements about communism, Mr. Chairman. We have had a discussion on the floor of communism day after day in the 16 years that this gentleman has been in the Congress.

I think that there is no question about where the majority of the body politic is with respect to that issue. It is no secret what America feels about communism. That is not a question.

But what is at question is how does America feel about apartheid in South Africa? It is not enough to stand up and say what you oppose. We must also say what we stand for, Mr. Chairman.

If we say that we stand for Democratic principles; if we say that we stand for a commitment to human rights, civil rights, a commitment to a constitutional form of government, a respect for human life and human dignity, the quality of human beings, then that says very powerfully and very loudly to the South Africans and to the world community, that we opposed apartheid.

□ 1550

Not only do we stand in opposition to it, but we attempt to stand as a beacon of freedom and justice in the world.

I would suggest that it is hypocritical and contradictory to assert that we must be the beacon of freedom; and when it comes to opposing apartheid in South Africa, we come to the podium with trembling feet and trembling hands. We must stand loudly and powerfully.

So the first reason why I offer these powerful sanctions against South Africa is that we must make the statement, we must cleanse ourselves in this country, and we must assert our role in the international community as a nation committed to the dignity of people, to freedom of human beings, to the concept of human rights; not as an abstract idea but as a reality.

That is our destiny, that is our role, that is our profound obligation.

I would suggest, Mr. Chairman, that America's greatest export is not its sophisticated technology, not its nuclear missiles, but our commitment to human rights, and our commitment to democratic principles and our commitment to the respect for human life.

The second reason, Mr. Chairman, that I assert these sanctions and I believe that this is a statement we must make—is because I think that we at this particular moment in history must make the strongest, powerful statement that we can make and hopefully the most effective.

None of us in this room, on any of the measures we act, not one measure that we act upon in this Congress can say with clear certainty that what we do will change things, but we operate within an environment of judgment. We all must do this.

I assert that judgment at this point and suggest that we must go all the way with these sanctions against South Africa. That is the only thing that they can hear. It is the only hope for us to have, to hope for a peaceful solution in South Africa.

Some will argue that these sanctions are too strong a response. We already have complete sanctions against five nations; but what would be our response in order to let the world know that we abhor what is happening in South Africa?

Maintain the status quo? That is clearly unacceptable. Make a powerful statement with respect to sanctions? Or declare war against these people? That would be strong, but I am not advocating that because I have attempted for 16 years to raise my voice as an advocate of peace and nonviolence.

So I am not advocating on the one hand maintaining the status quo, nor on the other hand engaging in war; so the alternative left is to invoke powerful sanctions against South Africa.

Some will argue that it is too expensive, that some American corporations will lose money as a result of divestment response. We ostensibly went to war in Vietnam in the name of democracy and freedom and dignity. We brought back thousands of young Americans in body bags. What price tag do we place on war? How much money do we add up to become the sum amount of money that was extracted from America as the result of the death of thousands of American people?

We have taken our commitment to democracy all the way out, to war; risking our young lives, and someone can tell me that we are not prepared to risk a few dollars from American corporations in the name of freedom and democracy? I am prepared to debate you on that question: If we can sacrifice our young sons to fight and die in the name of freedom, some American corporation can certainly lose a few dollars as America attempts to make a very powerful statement, short of the insanity of war and the cruelty of death and destruction on the battlefield as we speak to freedom and democracy.

Third point. It will harm blacks, Mr. Chairman. It will harm blacks. If we invoke divestment and total embargo, some black people in South Africa will lose their jobs.

No. 1, you could have argued that slavery could have been justified on the grounds that thousands of black people lost their jobs; but I would suggest to you that unemployment is not an adequate argument in support of slavery; and it is an inept, inadequate, unfortunate argument in support of continuing to live in bed with apartheid.

Second argument, Mr. Chairman, black people are suffering now in South Africa and there is no time limit on it. If there is some inconvenience with respect to employment, my black brothers and sisters in South Africa have said on more than one occasion that they are prepared to endure that misery on a time-limited basis, but they are not prepared to go on ad infinitum, well in to the future, continuing to have their spirits crushed as human beings.

I would suggest, Mr. Chairman, Members of this body, human beings do not live by bread alone; that there are spiritual values, the right to stand as a dignified human being, the right to stand as an equal person. I stand here on the floor of Congress as a black American, asserting my right to assert my point of view. Why? Because I have that right. Not true for black people in South Africa.

I would suggest that wherever you are on the political spectrum, you should join me in this effort not to make a statement that is measured; not to make an incremental step; not to make a step that is a political step, but to make the statement at this point based upon what is right.

Twelve months ago I made this argument. I said to you then I wanted to defeat the committee effort because it was not strong enough. History has recorded that this gentleman was corrected in that respect. So now we simply take another step forward—while it is forward it is not powerful enough.

There are voices of young people and not-so-young people all over this country who have raised their voices for divestment and for total embargo. Corporations, some of them, have already made this statement. A number of universities have taken that leap.

And so we back away from that, Mr. Chairman? This is where leaders should reside, not where mirrors aggregate. We should be at some point willing to assert our responsibility to assume leadership when it is a moral and political imperative.

Mr. Chairman, why not other nations? That is the fourth argument. Why choose South Africa? There are other countries that are oppressed on the basis of human rights. I agree; do not challenge that assertion.

I am simply saying that it is my hope and my dream and my vision for the future—maybe a world that this gentleman would never see: a world that is peaceful, a world that is committed to human rights, a world that says, "Every human being on this planet has control over their human destiny."

It is not enough for the left to challenge the right and the right to challenge the left. A commitment to human rights is a commitment that transcends the narrow confines of ideology. So let us not use that as a framework for not voting to stop this madness in South Africa to the extent that we hope that we can, simply because some other nations—I would say to my colleagues, "Bring the bill, bring the bill that challenges human rights violations in other countries."

At this moment we are confined with this piece of legislation. If we brought a bill to deal with education and somebody said "Well, you're not dealing with housing and you're not dealing with this and that and the other," you would see that as an absurd argument. I see that as an absurd argument at this point.

The issue before us is South Africa; we have a responsibility to address it. When the issue is some other nation on the floor of Congress, then let us address that. That is a flimsy argument, Mr. Chairman.

Let me simply say to my colleagues: This is an important issue. To summarize, we need to make this statement for two reasons; our own internal integrity, to assert our role in the world as a nation committed to democratic principles and human rights, and finally we must say as strongly as we can to South Africa: We will not prop up this madness; that we step away, Mr. Chairman, we step away dramati-

cally, we step away with anger, we step away with great concern because we respect human life on this planet, in this country, and in South Africa.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. DURBIN). The gentleman from California [Mr. DELLUMS] has consumed 16 minutes.

The Chair recognizes the gentleman from Washington [Mr. BONKER], for 15 minutes.

Mr. BONKER. Mr. Chairman, I want to take a moment to commend my colleague from California [Mr. DELLUMS] for an excellent statement; moving, eloquent, and speaks I think to what he says is the horror and repression in South Africa today.

I strongly support his concerns and at the same time oppose his amendment. It is time for Congress to speak out loudly and clearly about apartheid in South Africa. I suggest, though, that the vote in favor of the committee bill is the best approach to this issue.

This legislation that is embodied now in the bill that is before the House was sponsored by Congressman GRAY of Pennsylvania; my colleagues on the committee, Mr. SOLARZ, and Mr. WOLPE, who is chairman of the Subcommittee on Africa.

□ 1600

They have been prominent leaders on this issue, and they have put forth good, realistic, practical and, I would imagine, effective legislation. The sanctions proposed in H.R. 4868 are sufficient. They were very carefully drafted. They were the result of a series of hearings by two committees and the full committee on the various types of legislative sanctions to be offered by the committee.

We also considered the Dellums legislation that is now the subject of the amendment before the body. But the full committee felt that the legislation that is in the committee bill would more likely gain House approval and would more likely gain multilateral approval by our European allies and others, while they probably would not endorse all-out disinvestment as proposed by the gentleman from California.

Mr. Chairman, the Committee on Foreign Affairs bill offers the kind of response that is tailored to the present situation in South Africa. The bill significantly strengthens the current sanctions without presenting South Africa with this total and immediate ultimatum.

The Foreign Affairs Committee bill proposes a series of sanctions designed to maximize United States economic leverage while it still exists there against the South African Government by providing incentives for that Government to move toward majority rule.

Mr. Chairman, when we look at the amendment before us, we have to ask ourselves some realistic questions. The gentleman from California says that sanctions are now an integral part of the U.S. foreign policy. Well, this is far more than a trade embargo, a great deal more than just another round of sanctions. This is disinvestment. This calls upon all United States businesses who are involved in South Africa, however they have been disposed toward apartheid, to shut down their offices and their plants within 90 days and pick up and move out.

It is hardly realistic that U.S. businesses who have extensive involvement there can meet that timeframe. And what about the 80,000 black employees of the U.S. businesses there? They are thrown out of work immediately without any time to adjust to this new reality. What about the American families and the homes and investments they have there?

I agree we have got to sharply curtail United States economic interests in South Africa, but let us be realistic about the timeframe in which that can be achieved.

Mr. Chairman, I would also ask about the extraterritorial implications of this amendment. What about computer firms in the United States who are sending components to a firm in France and they, in turn, are doing business with South Africa? Are we going to deny the potential markets that exist in Europe and Japan and Asia simply because those countries might be doing business in South Africa? Is this going to be another situation where we extend our extraterritorial reach to a point where it is going to provoke European allies and deny us potential markets, not in South Africa but in these countries, and throw up, again, the question of being an unreliable supplier? And what about possible litigation? The Government is forcing businesses to shut down in 90 days. Are there going to be possible suits against the United States for economic losses incurred? Mr. Chairman, we have to ask ourselves, will total disinvestment work? We want our economic sanctions to be effective. Will they be effective, or will the French and the Japanese and others just move in and pick up where we left off, much as was the case when we attempted a grain embargo on the Soviet Union and then again under the Reagan administration a total embargo on the construction of the pipeline which made possible economic benefits for other countries?

Then, Mr. Chairman, we have to ask whether or not other nations are going to join us in this effort so that they are effective?

When the situation in Rhodesia was brought to the United Nations and there were collective economic sanctions imposed over a period of time, they were effective. I think we have got to do more than just take unilateral action. But it requires multilateral action so that we can bring the economic sanctions to bear upon the Government of South Africa where they will be effective.

Simply shutting down the shops and moving out would not make the policy effective.

So I would hope that the legislation would include some provision that would involve the Europeans and others to join in collective action against that country for its apartheid policies.

Mr. Chairman, I think we ought to ponder very carefully the amendment before us. It is not as though it is the only alternative we have to send a message to South Africa. We have the committee product, which was brought to us by prominent leaders in this House on the South African issue. It is sufficient to send the message. It will be effective. It is tailored in such a way that we will make this legislation effective. But if we go to far, I think we risk a failure on the House floor that would send the wrong message to South Africa and the world community.

So, Mr. Chairman, I urge that my colleagues oppose the Dellums amendment and support the committee bill.

Mr. Chairman, House consideration this week of H.R. 4868, the Anti-Apartheid Act of 1986, is extremely timely. As many speakers have observed, this week marks the 10th anniversary of the uprising in Soweto. In the last decade, thousands have given their lives and tens of thousands more have been arrested fighting the abhorrent apartheid system. Since the Government's renewal of the state of emergency last week, more than 30 people have died and the Government has arrested and detained an estimated 2,000 to 4,000 labor and political leaders. We must ask ourselves: What actions can we take—even if they be more symbolic than substantive—to help avert further bloodshed and contribute to a nonviolent transition to black majority rule?

More often than not the imposition of trade and investment embargoes hurt the U.S. economy and our own workers more than the economy of the targeted nation. We have seen this in the grain and oil and gas embargoes against the Soviet Union. Even in such instances as Nicaragua, where American exporters had little to lose, sanctions have not had the intended effect: If anything, terminating our commercial relations with Managua has forced the Sandinistas further into the Soviets' arms. It is an unfortunate commentary that increasingly we are witnessing the use of economic sanctions to try to salvage failed diplomatic initiatives. As example after example shows, economic embargoes rarely alter the behavior of foreign governments and tend to have a negative impact on our own economy. Moreover, although this administration heartily condemned the use of economic

sanctions by its predecessor, it has selectively switched its position.

The legislation before us today, which proposes tougher economic sanctions against South Africa, is the result of mounting frustration over the administration's failed political and diplomatic efforts in southern Africa generally and in South Africa in particular. While its ineffective policies toward Nicaragua and Libya led to the imposition of economic boycotts against them, the administration persists in its opposition to the congressional calls for similar measures against South Africa.

South Africa is precisely the type of case in which the symbolic importance of sanctions supersedes their negative impact on our economy. The administration's refusal to take more than a defensive posture toward the Botha regime and serve as an apologist for apartheid compel the Congress to call for tougher measures. Rather than distancing our country from the practice of apartheid, the administration's tacit support for Pretoria has made us an accomplice in the deaths and spreading violence. An administration which does not hesitate to invoke trade embargoes against Nicaragua and Libya should not shy away from the proposals contained in H.R. 4868. The sanctions set forth in this bill are far weaker than those in place now against Libya and Nicaragua, and, indeed, a number of American banks and businesses have already begun to reduce or remove their presence in South Africa.

In just 4 years, United States investment in South Africa has plunged from an all time high of $2.6 billion in 1981 to $1.3 billion in 1985. In 1984, 7 United States companies withdrew from South Africa; last year 38 formally withdrew; and 10 more have announced plans to end their direct investment in South Africa this year. At the present time, one-half of all United States banks operating in South Africa prohibit loans to the Government, and one-fourth deny loans to both the Government and private sector. Such figures are hardly surprising when viewed against the overall state of South Africa's economy: Growth has slowed from an annual average of 6 to 7 percent in the late 1970's to less than 1 percent; unemployment is running at some 30 percent; and the value of the rand has plunged to less than one-half of its value in 1982. Even excluding exchange rate fluctuations, the earnings of American companies in South Africa have been sliced by about one-third since 1984. Whether or not we pass this bill, this self-initiated trend is likely to continue and the pace may even quicken.

Mr. Chairman, the Foreign Affairs Committee and especially its Subcommittees on Africa and International Trade have worked on related legislation for more than 5 years. In 1985, we came very close to enactment of the conference report on the predecessor to H.R. 4868. This year, we have conducted extensive hearings on sanctions legislation. I wish particularly to commend my colleagues on the committee, Mr. WOLPE and Mr. SOLARZ, as well as Mr. GRAY, who have worked tirelessly to keep this issue before us.

It is time to set aside reservations about the effectiveness of economic and trade sanctions and to make a strong statement against apartheid. As Bishop Desmond Tutu said last month:

There is no absolute guarantee, obviously, that sanctions will topple apartheid, but it is our last nonviolent option left, and it is a risk with a chance.

The CHAIRMAN. The gentleman from Washington [Mr. BONKER] has consumed 7 minutes.

Mr. SILJANDER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I listened a few moments ago and heard the gentleman from California describe his amendment as the tough approach and as the honest approach, and he is right. And I think that we ought to look at it that way because, if you are someone on this floor who is presenting an argument here today that sanctions really work, then the honest approach is really the Dellums approach, because if sanctions work as a policy then it seems to me what Mr. DELLUMS is saying is, "Let's do it right and let's do it now."

That is what the advocates across the country are saying, people on college campuses are saying, "Do it now."

Mr. DELLUMS comes to us and says very honestly that is his approach.

So maybe in this House that is what we ought to do from time to time, take the tough, honest approach immediately on some of these issues.

If you want to send a message to South Africa, as I just heard discussed a moment ago, then if we are really in the business of sending messages, why not send a tough message? Why would you settle then for a wishy-washy message? Why not send the toughest possible message if you are going to take that particular approach?

It seems to me that what we are doing here is talking about a wishy-washy incremental approach versus an approach that is at least tough and honest.

Mr. DELLUMS very honestly says that his approach would cause hardship in South Africa. He knows that. The committee comes to us today, and they try to sidestep that whole issue. They do not really want to admit to some of those kinds of problems with their particular bill. This is the tough approach, this is the honest approach. It seems to me that when we get to a final passage vote, we ought to do the job of trying to make certain that the House is faced with that choice, with the choice of really doing something or doing something wishy-washy that may end up doing nothing.

I would have to say that, if this particular amendment got to the final passage, I would vote against it; but I think I am going to vote for the Dellums' approach at this point because it is the tough approach and the honest approach.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. I thank the gentleman for yielding time to me.

Mr. Chairman, I simply want to commend the gentleman from California for an eloquent statement on behalf of his amendment.

Mr. Chairman, I rise in support of the Dellums substitute.

Mr. Chairman, we can no longer allow apartheid to exist. Today the House of Representatives must confront the crisis situation that exists in South Africa and must pass meaningful legislation that will compel that nation to grant fundamental rights to black citizens. If we fail to do so, it is certain that injustice, senseless killings and oppression of black South Africans will continue. It is also certain that black South Africans will continue to battle against this illegal and immoral treatment.

We can no longer sit and watch 22.7 million black South Africans be subjected to racism and second class citizenship by the minority 4.7 million whites in that nation. The harsh reality of that situation demands action on our part. With each passing day, the situation worsens and every moment that we hestitate means another life snuffed out, another deprivation of freedom and another day of rioting.

Mr. Chairman, more than 1,600 people have died in South Africa in 2 years of protest against apartheid. In 1986, the violence has continued to escalate:

On February 15–18 at least 22 people died in Johannesburg's Alexandra Township.

On May 12 clashes between radicals and conservatives at Crossroads Squatter Camp outside Cape Town left 44 dead.

On May 19 South Africa launched raids into Botswana, Zambia and Zimbabwe on alleged bases of the African National Congress.

On June 9 additional violence took place at the Crossroads Camp.

On June 12 Prime Minister Pieter Botha again imposed a nationwide state of emergency under which:

Government security forces are allowed to jail anyone incommunicado in the interest of public safety for up to 2 weeks;

Prisoners are not permitted reading matter and may not whistle or sing;

Security forces are empowered to impose martial law anywhere, prohibit acess to any area and prevent right of way;

Forces may search buildings and vehicles and seize anything;

The South African courts are barred from intervening;

The police, without giving reason, may close off areas, temporarily close businesses, confine people to their homes, bar nonresidents from certain areas and bar anyone from bringing any object into any area;

The press is prohibited from printing the names of detainees, may not film or photograph a public disturbance, strike or boycott without police permission and may not publish anything that threatens harm or loss to anyone or his or her family;

The police may also bar the media from reporting on the conduct of the security forces in maintaining public safety.

This brutal oppression and deprivation of rights imposed by the South African Government will no longer be tolerated by its black citizens. Nor should it be tolerated by the people of the United States and the international community.

It is apparent that the "constructive engagement" approach advocated by the Reagan administration has not worked, will not work and that America must take a new and more aggressive approach toward the South African Government in order to end apartheid.

Mr. Chairman, the amendment offered by the Representative from California, [Mr. DELLUMS], provides the Congress with an opportunity to take such decisive action. By prohibiting U.S. citizens from making or holding any investment in South Africa; by banning exports and imports from South Africa; by withholding landing rights of South Africa aircraft; by prohibiting the importation of krugerrands and disallowing any tax credits of deductions for income, war profits or excess profits taxes paid or accured to South Africa, Congress will send a forceful message to Pretoria that apartheid will not be tolerated.

This action must be taken now. We no longer have time to engage in leisurely debate. Today, black South Africans are fighting for their lives. They are fighting against violence and unjustified killings by government police against unarmed black citizens. They are fighting for the right to live in their homeland and not be relegated to satellite black townships. They are fighting for the right to live, work and raise their families free of oppression. We have moral obligation to assist them in this battle for fundamental rights.

If we fail to meet this obligation, the possible ramifications are frightening. The nation of South Africa teeters on the edge of a bloody revolution, which, once it begins, may be impossible to stop. Therefore, it is essential that we take a stand on this issue to stem the tide of violence and oppression that is consuming the nation of South Africa.

Today, a choice must be made. I strongly urge you to vote for this amendment.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO Mr. Chairman, I rise to commend the gentleman from California for an eloquent statement. I think all of us on this House floor today have been moved by his eloquence. I also would like to commend the gentleman from Pennsylvania for his position on this issue. I urge acceptance by the House of the Dellums amendment.

Mr. Chairman, the time has come! The time is now!

The time has come for the United States of America to take a firm and positive stand to end the abhorrent system of apartheid in South Africa. That is why, as an original cosponsor, I rise in strong support of the Dellums amendment to ban all United States investment in South Africa, as contained in H.R. 997.

President Reagan continues to oppose strong economic sanctions, accepting the South African Government's contention that such measures would hurt those who most need our help. Our State Department has taken the position that such sanctions would not promote United States goals in South Africa and would serve only to encourage intransigence, rather than moderation, by white and black leaders.

Let us look, then, at what has been happening in South Africa while we have followed the administration's policy, so mistakenly called constructive engagement. The past year has seen a rising tide of violence in which more than 600 South Africans, nearly all of them black, have lost their lives. The white majority government last year imposed a state of emergency and has now once again taken even more human rights away from a population that even President Reagan describes as being caught in the throes of a civil war. Freedom of the press has all but disappeared and the most evil deeds of the security forces are hidden from international scrutiny. The chances for a peaceful transition to a democratic majority government are steadily diminishing. If events continue to unfold as they have over the past year. Chaos lies ahead.

The administration's policy, far from being constructive, has allowed the South African Government to pursue its destructive course with what certainly seems to be the tacit support of the United States.

The beleaguered majority of the South African people know what is at stake. They have called on us for help. They have asked us again and again to use our economic strength to put pressure on the oppressive minority government. They have told us that they are willing to suffer now, in the short run, so that their children may have a chance for freedom as full citizens of a new South Africa.

Mr. Chairman, we have an obligation to help these people. It is an obligation born of our own national commitment to freedom. Let us no longer hide behind the pretext that we are saving the black majority from the consequences of putting economic pressure on their government. As the Rev. Allan Boesak told us recently:

"When we the South African people have had enough we will let you know."

But, until then, let us answer their cries for the assistance they know may cause them pain but which they also know will help them to emerge from their long night of bondage.

The time has come. It is now. Tomorrow may well be too late.

Mr. Chairman, I urge all of my colleagues to support this legislation. Let this be the day when we say to the oppressive South African regime, enough is enough. The time has come for a change, and we will not rest until apartheid ends and democracy is born in South Africa.

Mr. DELLUMS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, I would like to pay tribute to the gentleman from California for his rhetorical eloquence and to the gentleman from Pennsylvania for his parliamentary creativity.

Mr. Chairman, I think we face two issues today in considering this legislation. The first is whether we should or should not impose sanctions against South Africa, and second, if we should impose sanctions against South Africa, what kind of sanctions should we impose? I think that the debate on this legislation so far and the votes which have been taken make it abundantly clear that a substantial majority of our colleagues believe that we have a far better chance of facilitating peaceful change in South Africa by increasing American economic pressure against the government of that country than by maintaining a policy of benign neutrality and neglect.

Consequently, the only issue really left for us to decide is, what kind of sanctions we should impose, whether we should impose the tough but limited sanctions of the bill or whether we should vote for the tougher comprehensive sanctions contained in the substitute offered by the gentleman from California?

I believe that this is a good bill. Indeed, I am one of the sponsors of it. But I also believe that the substitute is better. And I would hope that the House will approve it for the following reasons: I think that South Africa as we speak hovers on the abyss of a civil war. I agree with the report of the Eminent Persons Group to the Commonwealth countries that, in the absence of sanctions, we may witness in South Africa the worst bloodbath since the Second World War.

I think it is clear that sanctions are designed not to bring the Government of South Africa to its knees but to bring the Government of South Africa to its senses. Sanctions are a form, if you will, of political shock therapy. And if we are going to administer shock therapy, it is better to administer a stronger than a weaker shock.

Now I did not always feel this way. Last year when the gentleman from California offered his amendment, I voted against it. But I changed my mind on the basis of what has happened over the course of the last few weeks. I have changed my mind because of the South African raids against Zambia, Zimbabwe, and Botswana.

I changed my mind because of the reimposition by the South African Government of the state of emergency.

I changed my mind because dozens of additional blacks have been killed by the security forces of South Africa.

I changed my mind because the Government of South Africa continues to refuse to release Nelson Mandela and the other political prisoners from jail. I changed my mind because the Government of South Africa categorically

and contemptuously rejected the proposals of the Eminent Persons Group, speaking on behalf of the Commonwealth countries, to enter into a process of negotiations with the recognized black leadership of the country.

Ladies and gentleman, if we do not act soon and act as strongly as we possibly can, the point of no return may be reached.

I saw President Kaunda of Zambia a year ago in Lusaka. He told me that unless the Government of South Africa were willing to sit down within the next year with the legitimate representatives of the black majority, that in his view more people would be killed.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BONKER. Mr. Chairman, I yield 1 minute to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

President Kaunda told me, in the absence of such a development, the number of people killed when the South African volcano exploded could be 10 times the number who lost their lives in the civil war in Zimbabwe. Forty thousand were killed in that conflict. We are talking, then, about the lives of hundreds of thousands of people, and unless the Government of South Africa moves quickly to enter into negotiations and release Mandela from prison, it may be too late. We may not have the luxury of coming back here a year or 2 or 3 years from now to impose this stronger form of sanctions because by then it may be too late.

So if the votes are not there for the substitute, so be it. I think it is still a good bill; I will support the bill. But if we really want to accomplish what we are trying to accomplish, I think we have a better chance of doing it with the substitute.

Mr. SILJANDER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Chairman, the previous speaker in the well talked in glowing terms about the Eminent Persons Group that made some recommendations. I might point out to the gentleman that the Executive order imposed by the President of the United States last year goes beyond what the Eminent Persons Group recommended.

I happen to have here in front of me the bank loans, the ban on Krugerrands, the computer equipment, the nuclear materials technology, or, importation of South African military equipment.

□ 1615

The overall conclusion is that the President, through his Executive order, was much stronger than the recommendations of the Eminent Persons Group to which the gentleman alluded.

So I would just like to point out to my colleagues that less than 9 months ago the President of the United States took positive action. I submit to you that we ought to let the actions the President has taken have a chance to work while, at the same time, trying to impose whatever pressure this body can do through the rhetoric and the legislative proposals we have made.

But we are on the right track, and we ought to compliment the President and try to work with him in bringing about positive changes in South Africa.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Michigan.

Mr. SILJANDER. Mr. Chairman, is the gentleman saying essentially that the Eminent Persons Group, what they suggested in terms of economic sanctions or economic penalties toward the Government of South Africa are essentially incorporated in the President's Executive order?

Mr. BURTON of Indiana. As a matter of fact, the President has gone further. He dealt with the South African Government more strongly than the Eminent Persons Group recommended.

Mr. SILJANDER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the mere title of H.R. 4868, the Anti-Apartheid Act of 1986, would suggest that anyone who opposes this legislative effort is a friend of aparthied. In reality, aparthied and racial discrimination are antithetical to all of our views of liberty, justice, and equality under law. The question then, is not whether aparthied is right or wrong, but it is how to help bring about a peaceful change in South Africa. It is my opinion that this legislation will not achieve that goal, and ultimately will not be in the best interest of the people of South Africa, or the United States for that matter.

H.R. 4868 was jointly referred to the Ways and Means Committee for consideration of the trade related portions of the legislation. Although the bill specifically calls for an import ban on only four South African products—coal, steel, uranium ore, and oxide—language contained in section 2 of the bill would essentially amount to a near total trade embargo. Section 2(a)(1)(B) of H.R. 4868 states that "no U.S. person may, directly or through another person * * * make any investment in South Africa." "Investment in South Africa" is defined as "a commitment of funds or other assets * * * to a business or enterprise located in South Africa or owned or controlled by South African nationals, including—a loan or other extension of credit made to such a business enterprise." Since almost all trade is conducted on a letter of credit basis, this has the practical effect of eliminating trade between the United States and South Africa. Not only would this be a unilaterally protectionist action that is GATT illegal, but if South Africa elected to respond by banning the export of certain strategic minerals to the United States, the defense capabilities of our Nation would be seriously threatened.

The United States is entirely import dependent on several strategically critical minerals that are located in only two places in the world, South Africa and the Soviet Union. Ever since Soviet leader Leonid Brezhnev announced in 1973 that "our aim is to gain control of the two great treasure houses upon which the West depends—the energy treasure house of the Persian Gulf and the mineral treasure house of Central and Southern Africa," the Soviets have been stepping up their support for several terrorist groups in their bid to gain control of the region. If the Soviets are successful in their efforts to control these critical minerals upon which the United States is now 100 percent import dependent, our technological capabilities as well as our defense industry will be severely threatened. We will be subject to Soviet economic blackmail and will either have to pay exorbitant prices or be denied access to these minerals entirely.

Positive changes are taking place in South Africa, and they will continue. One of the most recent and progressive examples of this was the Government's sweeping decision to abolish the pass laws that previously restricted movement of blacks in South Africa. Within the last year, the Government of South Africa has also abolished provisions against interracial marriage, integrated it's universities, opened downtown commercial business districts to businessmen of all races, and generally moved in a direction toward a more racially integrated society. Although these reforms may not go far enough and are not coming fast enough to please some critics, legislation such as H.R. 4868 will only reverse this trend by removing the positive American influence.

The American firms operating in South Africa stand in the vanguard of those who promote the continued advancement of the political and economic aspirations of all South Africans. Operating under the Sullivan principles, the majority of American firms have dedicated themselves to the dismantling of apartheid and the promotion of equal rights for nonwhite South Africans. To date, American firms have spent more than $140 million adding classrooms to schools, building health centers, awarding scholarships, and otherwise assisting their black employees.

In direct opposition to these positive efforts, stand the efforts of those who counsel and proclaim that the best way to effect change in South Africa is to detach ourselves, disinvest, and declare economic warfare upon those beleaguered people. While I am certain that those who favor disinvestment are well-motivated, I am equally certain that their advice is ill-founded. Such actions would be strongly deterimental to the South African economy. We must ask, "Who will pay the costs of such actions?" What the proponents of divestment do not seem to comprehend is that their actions would cause great hardship to those

they intend to help. Without exception, proposals for divestment, if enacted will lead to greater black unemployment, greater black hardship, and, perhaps, even to more violence and bloodshed in that troubled area. To those who doubt this, I proffer the insight of Mrs. Lucy Mvubelo, general secretary of the 15,000-member Black Union of Clothing Workers and vice president of the Trade Union Council of South Africa: "Who will suffer [from divestment]? Clearly, the greatest hardships would fall on my people, the black people. They will be the first to lose their jobs. They will be left to die of starvation. They will be the first to die in a revolution."

The troubles which face South Africa are many and varied. Working between leftwing and rightwing extremists, the moderates in South Africa, in both the Government and private sector, have worked on behalf of the peaceful evolution of a system in which all South Africans, regardless of race are free to participate on equal measure. For South African extremists who advocate violence, the economic chaos resulting from Western divestment would serve as fuel for their murderous fire.

A second area of trade restrictions contained in the bill is directed at Namibian natural resources. Since most of Namibia's $12.4 million in exports to the United States qualify as natural resource exports, this would have the practical effect of banning most imports from that economically struggling country. The real question in regards to Namibia, however, is why it has been included in this legislative effort. If the objective, as stated in the bill title, is to end apartheid, there is no reason to include Namibia, since there is no apartheid in Namibia.

In its first year, the Namibian Transitional Government for National Unity has abolished apartheid, moved forward toward total national reconciliation, and labored to remove all remaining vestiges of residual discrimination. The Transitional Government of National Unity provides representation for Namibians of all races and their six major political parties. To punish this Government, as this legislation would do, impedes the establishment of an autonomous government in Namibia and strengthens the position of SWAPO, the Communist terrorist group that has continually sabotaged the hopes of the Namibian people for peaceful and democratic transition to complete independence.

Proponents of this legislation claim that they have included Namibia to help bring about independence in that country. They would like to see South Africa break it's economic and military ties with Namibia. Considering that South Africa gives Namibia some $600 million annually in economic support, an amount that equals 60 percent of Namibia's annual budget, and protects it from the Cuban aggressors that illegally occupy Angola, a South African pullout would certainly doom the future of a democratic Namibia. The void created by a South African pullout would be quickly filled by the Soviet-backed SWAPO terrorists and the Cuban mercenaries currently in Angola. The Transitional Government in Namibia has made great strides toward democracy and independence, why would anyone want to undermine these positive gains and leave the future of this country in the hands of the Communist aggressors?

Those Members in support of this bill say that the United States can only have a positive influence on South Africa if we discontinue our support for the economic advancement of the South African and Namibian people. The proponents of this bill are wrong. The blacks that have suffered under apartheid want us to be an active and positive influence in the region. They desire our involvement in developing their economic power as well as their political and civil rights. Mr. Mangosuthu Buthelezi, the elected chief of the 6 million member Zulu tribe in South Africa recently counseled that:

The actual implementation of the disinvestment campaign would be useless unless it hurt the economy, and if it hurt the economy blacks would suffer more than whites. The disinvestment campaign is not only detrimental to the interests of black South Africans, but ultimately detrimental to the interests of blacks in the whole of the subcontinent.

The black people of South Africa do not want us to abandon them to economic ruin. In a recent poll of 1,338 urban blacks in South Africa, the question was asked, "Should the outside world apply an economic boycott (sanctions) against South Africa?" Over 67 percent of those polled replied, "No." Contrary to what the proponents of this bill claim, black South Africans do not want to lose their jobs, they do not want to starve, and they do not want to see their nation abandoned to a violent revolution.

In conclusion, although H.R. 4868 would have the net impact of banning almost all imports from South Africa and many from Namibia, there were no hearings held in the Ways and Means Committee to consider the trade-related ramifications should this become law. Even though the administration, in letters from the Secretary of State and the Secretary of Commerce, strongly expressed its opposition to H.R. 4868, they were not given the routine opportunity to present testimony before the Ways and Means Committee. In an effort to meet the Democrat leaderships' timetable for consideration of H.R. 4868 on the floor of the House of Representatives, the normal legislative process was circumvented and no hearings were held. Thus, not only do I oppose the content of H.R. 4868, but I am also opposed to the manipulation of the legislative process for purely political motives.

Mr. SILJANDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is not really the 50,000 or 80,000 black workers alone in United States firms in South Africa that I stand in opposition. That has been alluded to several times on the floor, and I quite agree that that is not the issue. Rather it is the 22 million human beings that are under the bond of apartheid that we stand in opposition to both substitutes.

Mr. GRAY of Pennsylvania, Mr. WOLPE and Mr. SOLARZ late last year during the debate on the conference report spoke in quite glowing terms of that specific conference report.

For example, Mr. SOLARZ said, "Mr. Speaker, this is an extraordinary significant achievement. For the first time since the establishment of apartheid in 1948, 37 years ago, the United States will be going on record as making clear our opposition to apartheid by deed as well as by word."

Mr. GRAY of Pennsylvania at that same time said, "Constructive engagement is clearly neither the will of the American people, nor the rising international tide in opposition to apartheid. I commend the House and the Senate conferees for the leadership they have shown. I trust that this bipartisan, bicameral position makes it clear that the urgency of implementing a new enlightened South African policy is indeed justified."

I could also quote Mr. WOLPE saying similar comments, but I think that makes the point. They all, Mr. Chairman, alluded the agreed conferee report that was passed indeed by the House and by the Senate.

It is no coincidence that Ronald Reagan implemented every single aspect of that same conference report in his Executive order, the same conference report as alluded to by Mr. GRAY of Pennsylvania, by Mr. SOLARZ, by Mr. WOLPE and others in such glowing terms.

For example, Mr. WOLPE said he was proud to stand up and be an American in this institution for such a bipartisan effort. Well, that is all well and good. But Mr. SOLARZ was on this floor not too many hours ago saying it is time after 5 years we abandon constructive engagement. Well, where has the gentleman been over the last year? Constructive engagement justifiably and gladly has been tabled, has been eliminated, and now we are in a mode called active engagement.

Let us be clear for all the Members who are listening. I appreciate Mr. DELLUMS of California for his honesty. I sincerely mean that. I do not agree philosophically with the gentleman from California, but the gentleman's approach is one of integrity and honesty.

The approach taken by Mr. GRAY of Pennsylvania and others, while I do not agree with either, equally embragoes United States firms and other firms in South Africa. The difference is it is in a slight different mode.

So for any of us to suggest that somehow the Gray of Pennsylvania bill is less worse or less powerful than the Dellums approach, I think, is frankly unjustified. The Gray of Pennsylvania approach last year, while some of us thought it was tough, nowhere smacks of the intensity of the antibusiness approach of the Gray of Pennsylvania bill of this year. It is far more extreme and far more devastating than the Gray of Pennsylvania bill of last year.

So let us not muddy the water by comparing Mr. DELLUMS' approach with Mr. GRAY of Pennsylvania's approach, as though Mr. GRAY of Pennsylvania's is somehow a moderate approach to the situation.

Now whether United States firms stay or remain, that may not even be an issue to really ending the death in South Africa. Fifty U.S. companies have left of late, but the killings have increased.

We have essentially banned all bank loans to South Africa, but yet the killings continue.

We have initiated the Sullivan principles and four other sanctions by President Ronald Reagan's Executive order, yet the killings still continue.

So I think the issue is fairly clear. If someone could convince me that the DELLUMS approach or the GRAY of Pennsylvania approach, whichever, that both engage in extreme embargoing of South Africa, if someone could demonstrate in a clear way how that would stop the killings and somehow promote a peaceful transition to majority rule, a new constitution which offers freedom and hope for the oppressed majority in that country, I would stand on the floor of this House supporting my friend, the gentleman from California [Mr. DELLUMS] or the gentleman from Pennsylvania [Mr. GRAY] with all the great enthusiasm that I could possibly muster.

That is really the issue at hand.

Mr. SOLARZ did say one thing I agree with. The issue is not what type of sanctions, but what kind of sanctions. Yet, we have not demonstrated at this point whether sanctions in fact will stop the killings or promote or push or encourage the minority white racist government into any constructive discussions or changes. If they can demonstrate that they are willing to change based on sanctions or you can demonstrate to me that there would be a hope for peaceful transition in that country, I would stand again in unity with the gentleman from California [Mr. DELLUMS].

Mr. Chairman, I reserve the balance of my time.

Mr. BONKER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MICA], a member of the committee.

Mr. MICA. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the committee-passed legislation, and very reluctantly oppose the pending substitute.

I might say that every single point that the gentleman from California has made regarding the conditions, the situation, and the problems is absolutely correct. But I must say that the subcommittee chaired by Mr. WOLPE has had numerous hearings on this subject, and truly attempted to write a piece of legislation that I, as a senior member of the Committee on Foreign Affairs, feel that we should support.

I might say, incidently that I will oppose all weakening amendments.

It takes measured steps in response to a very serious problem. It was done with thought. It was done with reason. It was done with rationale.

The bill does contain some very steep sanctions, and I know this bill almost divides the House in half. The substitute that we are debating would probably mean that we would not have a realistic approach, in my humble assessment. The bill sends the message through measured steps, such as banning importation of certain materials, denying landing rights on South African airports, prohibiting United States business activity in energy in certain areas, bars United States firms from mining and exporting natural resources in Namibia.

But it has one special provision. It does have the carrot approach that, if indeed South Africa reverses its policies, we can make the appropriate changes.

In the substitute, it would take legislative changes.

I think that America, in essence, to follow the direct approach, would probably doing something that if we could envoke would be correct, but since we cannot we would be shooting ourselves in the foot again.

□ 1625

So I support the committee amendment, oppose the substitute, will oppose all weakening amendments, but I think we need that carrot, we need the balanced approach, and we need something realistically we can try to bring into being.

I commend the gentleman for the substitute. I guess I could say if South Africa were a state, a territory or a possession and we could pass a law and prohibit apartheid as of midnight tonight or this very instant, we would pass it overwhelmingly in this body. But dealing in foreign affairs, international affairs, we have tried to go as far as we realistically think we can.

Mr. Chairman, I urge Members of the House to reject the pending amendment, even though I support the goals stated therein, and to keep this harsher approach, frankly, in reserve, for what I hope not be necessary later action.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, as an original sponsor of H.R. 4868, the anti-Apartheid Act of 1986, I rise in strong support of the Dellums amendment, and if his amendment is not adopted—I hope it will be—then I will vote for final passage.

Mr. Chairman, on this 10th anniversary of the Soweto uprising, we find ourselves at a critical and unfortunate crossroads in terms of our South Africa policy. Ten years after Soweto, change in South Africa has been too little, too slow, and sadly, perhaps too late. Some of the trappings of apartheid have been removed or modified. But the institution of apartheid remains as firmly entrenched as ever.

Last year this body provided the leadership that was needed on this issue by passing the Anti-Apartheid Act of 1985 which I supported. That action ultimately led to the President's Executive order imposing certain sanctions on South Africa. Unfortunately, recent events have clearly demonstrated that those sanctions are inadequate and in desperate need of strengthening. Today's bill—hopefully as modified by the Dellums amendment—makes those necessary changes.

I do not operate under the illusion that these economic sanctions will necessarily result in the elimination of apartheid.

I do operate under the belief, however, that sanctions are the last defense against a potential bloodbath in South Africa and are, therefore, in our political and moral best interests.

That conclusion is supported by the findings of the British Commonwealth's Eminent Person's Group. After extensive factfinding in South Africa, the group's recently released report notes:

"We are convinced that the South African Government is concerned about the adoption of effective economic sanctions," and that sanctions may offer the last opportunity to "avert the worst bloodbath since World War II."

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts [Mr. CONTE] has expired.

Mr. SILJANDER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. I thank the gentleman from Michigan.

Mr. Chairman, as Bishop Tutu recently noted,

> There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk worth taking.

I wrote to Bishop Tutu in October of 1984 to congratulate him on receiving the Nobel Peace Prize. Since that time, over 1,500 people have died in apartheid-related violence, and over 40,000 people have been arrested on political charges. Last week, a state of emergency was imposed that is tantamount to martial law. This is not change; this is retrenchment. We have imposed the strongest of sanctions on Libya because of its support for terrorism. We have imposed the strongest of sanctions in the past on other governments with whom we have deep dis-

agreements on policy. If we fail to impose the strongest of sanctions on South Africa it would represent the worst kind of double standard in our foreign policy. It would be a double standard with potentially grave consequences for the United States and South Africa. I urge my colleagues to support this last, best hope for nonviolent change in South Africa.

Mr. Chairman, I went to South Africa 27 years ago. I have visited Soweto and other places in South Africa. I saw how those people were corralled, not let on the streets of Johannesburg and Pretoria and other places in South Africa. I came back and I spoke against apartheid 27 years ago. And here we are, in 1986, and nothing has changed.

The gentleman from California is absolutely right. This is no time for timidity. This is time to get to the jugular vein. This is time to do something that will wake up the South African Government before we have bloodshed running rampant all over the streets of South Africa, thousands and thousands of innocent people dead in that country. We must stand here in the well today and do something that will restore the dignity of man, who has been deprived of that dignity long enough. It is time to act today. The sanction bill here is a movement forward. But it does not have the wallop, it does not have the shock to South Africa that we need, that we have in the Dellums amendment. I hope that the majority of this Congress today will stand up and have the guts to vote for the Dellums amendment.

The CHAIRMAN pro tempore. The Chair will inform the Members that the gentleman from California [Mr. DELLUMS] has 7 minutes remaining, the gentleman from Washington [Mr. BONKER] has 4 minutes remaining, and the gentleman from Michigan [Mr. SILJANDER] has 3 minutes remaining.

Mr. DELLUMS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. LELAND], the chairman of the Congressional Black Caucus.

Mr. LELAND. Mr. Chairman, I stand here in complete support of the Dellums amendment, and I would like to commend the gentleman from California for having the courage to stand before this body in a very difficult situation, where his colleagues, whom he has ultimate faith in to offer the kind of approach that they feel is necessary but rather he would then venture to do, as he has done, and that is by principle offer the severest possible sanctions against South Africa.

I would like to associate myself with all of the remarks that the gentleman from California has put forward.

I would like to commend the gentleman from Pennsylvania [Mr. WALKER] for having the forthrightness and also the courage to stand against his colleagues on the other side of the aisle, to say indeed that what the gentleman from California [Mr. DELLUMS] is doing is the honest approach. Indeed it is.

People have died and suffered unnecessarily. It is time now that all of the good-thinking countries of this world should isolate South Africa for what it is, not do business with it to encourage the economic growth that it is experiencing right now, but rather indeed to impose the worst kinds of sanctions in order that human dignity can be restored to those majority black people who have suffered so greatly.

Mr. Chairman, there are not enough words that can adequately express the moral outrage I feel over the fact that in the late 20th century, the worth of human life is still judged by the color of one's skin. In South Africa this is a judgment that is made daily to the detriment of the majority of the South African population. It is a judgment that has imprisoned thousands in the past 4 days. It is a judgment that has resulted in the killing of over 1,600 men, women, and children in the past 2 years.

The people of the United States over the past 24 months have stood up and voiced opposition to the continued brutal policy of apartheid in South Africa. Their voices have spurred our Government to speak out against apartheid. But rhetoric alone will not save South Africa. It is one thing to say apartheid is repugnant and morally wrong. It is another to actively demonstrate our repulsion to such a system. Today, we in the House of Representatives have the opportunity to demonstrate to the American public that we have taken their words seriously and are willing to concretely back up the words of condemnation against South Africa's brutal policy of apartheid.

That is why I stand before you today, and ask that you join me in supporting a measure that will help the South African people in their quest to dismantle apartheid. I ask you to join me in supporting the amendment offered by the gentleman from California, Mr. DELLUMS.

Quiet diplomacy has not worked, does not work, nor will it ever work. The United States must embark on a course which will lead to true negotiations. The amendment offered by Mr. DELLUMS, which prohibits making or holding any investment in South Africa and the importation or exportation of goods from South Africa, is such a course. It is not, as some have claimed, a radical proposal. It is, in fact, a very moderate response to the continued violence and oppression in South Africa.

As Americans—a people founded on democracy and freedom—we cannot continue to do business with a nation which fails to recognize the humanity of over 22 million lives. America stands for justice. But in continuing to remain an economic presence in South Africa, we stand on the side of the South African Government. We do not stand on the side of justice.

Many in the present administration have stated that it is naive and morally cleansing to call for economic sanctions but that their enactment would not have a positive effect in dismantling apartheid. I believe this is a dangerous rationale for our continued involvement in the South African economy. Economic sanctions are the most rational, peaceful means of influence the United States possesses. I am not naive enough to think that the enactment of economic sanctions alone will bring about an immediate end to apartheid. I do know, however, that whatever tiny and cosmetic changes made by Pretoria in the past have resulted from economic pressures placed by those within and outside of South Africa. I hope my colleagues are not naive enough to think that our economic presence in South Africa does not help strengthen the South African economy and in turn its government concept and pace of reform. Because it does.

I am appalled by those who justify their lack of support for sanctions by stating they don't want to hurt black South Africans. This is ludicrous for two reasons. First of all, the sheer number of black South Africans employed by American corporations is not that great—the Investor Responsibility Research Center placed the number at 66,000 last year, out of 8 million black workers in South Africa. Second, respected people such as the Rev. Alan Bosak and Bishop Tutu, although prohibited by South African law to advocate economic sanctions, have made it clear to the American public that they support these nonviolent measures.

If we want to continue to be the bastion of democracy, we must stand up for democracy in South Africa. We must say no more investments in South Africa, no more to quiet diplomacy, and no more to apartheid.

I urge my colleagues to support this amendment.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I have heard a lot about communism today, and I think it would be interesting to strike the parallels between nazism and apartheid.

It was the former Prime Minister of Africa Voerwoerd who was the architect of apartheid in the 1940's, who also said, "Any further admission of Jews into South Africa will lead to the defiling of our white race."

So I think it would be interesting to make a comparison between the race laws of South Africa and the anti-Semitic race laws of Nazi Germany.

No. 1, South Africa prohibits mixed marriages, forbids intermarriages between whites and nonwhites, and provides that any such mixed marriages contracted outside of South Africa are null and void.

In Nazi Germany, they had the Nurenberg law that said marriages between Jews and citizens of German or kindred blood is forbidden.

Another law that is part of the South African Industrial Conciliation Act denies the right of nonwhites to employ whites in South Africa. Section 3 of the Nazi Nuremberg laws state that Jews are not permitted to employ female citizens of German or kindred blood as domestic servants.

No. 3, on February 7, 1978, South Africa's Government confirmed that its Homeland Citizens Act, with its associated legislation, would be used to deprive all black South Africans of their South African citizenship, a process still in existence. This includes a permanent denial of voting rights to blacks and also the denial of them to the right to occupy office.

The parallel in Nazi Germany was the Nazi Reich citizenship law of 1935 which stated that a citizen of the Reich can be that subject only who is of German or kindred blood.

Now, Mr. Chairman, the world had no conscience when 6 million Jews were demeaned and murdered. We cannot wait again. The time is now. Vote for the Dellums amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman from Michigan [Mr. SILJANDER] yield 1 minute of his remaining time to me?

Mr. SILJANDER. Mr. Chairman, I would be more than thrilled to yield to the gentleman from California [Mr. DELLUMS] 1 minute of my time.

I want it stated, however, to go down in your record book.

Mr. Chairman, I yield back the balance of my time.

Mr. DELLUMS. Mr. Chairman, I would like to reserve that 1 minute for the purpose of closing the debate later.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Chairman, we are not here today to send signals; we are not here today to make statements; we are not here today to send any messages. We do not work for Conrail, we do not work for IBM, and we certainly do not work for Western Union. We are here today as Members of Congress, and our task is to enact legislation that will have a direct and intended impact on problems of great concern that affect our country.

So the issue today with South Africa is not an issue of jobs, it is not an issue of economics, it is an issue of justice and freedom that we are addressing in the Hall today.

To turn our backs on the oppressed in South Africa would historically be recorded as a dark day in this House.

The issue requires the strongest legislative act that we can in fact develop, and I recommend that the Dellums substitute be that legislation.

Mr. BONKER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I rise in reluctant opposition to this amendment.

Mr. Chairman, what type of action is most appropriate today? Do we want to make a statement, create a symbol, or to write law? The fact is that, in spite of the intentions and actions of the past in this House, we have not put into statute the policy that we would like followed in South Africa. Whatever occurs here today will have a dramatic effect.

The question is whether or not we want to take business concerns that have been operating in good faith and legally, and to dramatically impose upon them a forced sale in terms of their assets; in other words, we have not sent the proper signals, in law and now we are proposing to in fact require an action that I think would be precipitous.

We must provide a reasoned opportunity. The fact is that by providing the 1-year period in which we can muster support, we will in fact involve our allies. It came, I think, as no surprise last week that Britain is waiting for United States action. They are waiting to follow and to work with us. But if we take precipitous action, we will not provide the type of leadership that is necessary to most effectively change the situation. If we write off, in essence, United States and allied business concerns in South Africa. It causes serious problems.

We are in an excellent position to help provide a peaceful end to the insanity of apartheid. The United States is the second largest investor in South Africa, United States investments cover highly sensitive areas, computer nuclear technology, oil refining, transportation, other key economic ventures. Strong economic sanctions by the United States will help persuade the South African Government to enter into political negotiations now to bring a peaceful end to apartheid and to release the political prisoners.

We have the economic clout, but we have to use it properly. We have to act like a leader in terms of bringing along the British, the French, and the other governments that are investing there, not to just pass a symbol to the other body, where it will languish. The committee legislation will become law and should be acted upon.

Mr. Chairman, many examples illustrate the need for this action. Police that came in the dark of the night and force hundreds of men and women to leave their frightened families and to go and be interrogated about their political beliefs, their friendships and acquaintances, and anything else which the police were interested in knowing about them. Those who are arrested can be held indefinitely without any charges ever being filed. They can be held without any right to talk to a lawyer or a family member or friend or anyone else who could intervene on their behalf with the authorities. Journalists are forbidden to photograph, record, or report any act of opposition or civil unrest or to disseminate any information which could be construed by the Government as being subversive. To do anything or to commit any act outside the scope of the Government's approval was to risk imprisonment or worse. Indeed the eyes of the media are poked out and no uncensured information is available.

Mr. Chairman, perhaps this sounds like a description of Nazi Germany in the 1930's or the Soviet "gulag" described by Solzhenitsyn or some other familiar example of a totalitarian regime. In fact, it is a description of South Africa in 1986; a nation that stands on the brink of a terrible civil war. Like all totalitarian regimes, it cannot enjoy the popular support of the people so it imposes its will by force. The reimposition of the state of emergency by the South African Government last week is only the latest example in a series of acts by a government that refuses to search for constructive and peaceful change.

One fact is unmistakably clear; the days of apartheid in South Africa are numbered. Apartheid is much more than just a political system which is imposed by one group upon another. It is a profound repudiation of human dignity and justice which does not merit sanction from any quarter. It is preposterous to suggest that a nation which institutionalizes such an order is a nation which respects democracy and democratic values.

What can we as Americans do to express our rejection of apartheid as well as our hopes for a peaceful solution to the problems confronting South Africa today?

Certainly the legislation which we are considering today, H.R. 4868, the Anti-Apartheid Act of 1986, presents a responsible approach to this issue. H.R. 4868 prohibits new loans to and investments in South Africa and imposes a broad array of economic sanctions which would become effective immediately. This legislation also contains provisions for lifting these sanctions if and when the South African Government takes substantive action to abolish apartheid or to release black political prisoners and to begin good-faith negotiations to end apartheid.

The bill prohibits the importation of South African uranium, coal, and steel into the United States and specifically prohibits the use of United States technology and information for the exploration and development of new energy resources in South Africa. H.R. 4868 would also ban mining by United States firms in Namibia, a territory currently occupied and controlled by South Africa. Finally, this legislation would also ban United States investments in South African computer businesses and on computer exports to South Africa after 1 year unless the Government dismantles apartheid or

releases the nation's political prisoners—including Nelson Mandela—and begins good-faith negotiations with representatives of South Africa's black majority.

Mr. Chairman, at the end of 1984, direct United States investment in South Africa totalled $1.8 billion. While this constitutes only about 1 percent of all United States foreign investment, the United States is the second largest foreign investor in South Africa and United States investments there are highly sensitive because they include computers, nuclear technology, oil refining, transportation, and other important economic ventures.

President Reagan insists that the imposition of economic sanctions against South Africa by the United States would hurt the very people that our policy is supposedly trying to help; that is, the black majority. But let's look at the facts. United States firms there employ only about 70,000 black workers, or less than 1 percent of the total black work force in South Africa. Economic sanctions would certainly not hurt South Africa's 3 million unemployed black workers or the millions of blacks subsisting on barren plots in the "homelands." Moreover, it is the black people of South Africa themselves who are calling the United States and other nations to impose sanctions to hasten the end of apartheid. A London Sunday Times poll in August 1985 found 77 percent support for sanctions among urban blacks. The nation's major black political organizations, including the African National Congress [ANC], the Pan-Africanist Congress, the United Democratic Front, the Congress of South African Trade Unions, and others are united in calling for sanctions. It is not the black majority but the white minority which enforces apartheid that stands to lose the most if apartheid is not abolished and sanctions are imposed.

While economic sanctions alone may not end apartheid, they are nevertheless very significant in sending a very clear message from the people of the United States to the Government of South Africa; that message is "apartheid must go."

The President continues to urge Congress to support his administration's policy of so-called constructive engagement. But let's review what has happened during the past 5½ years under this policy. The crisis in South Africa is worse than ever. The death toll has risen to an average of more than five people per day. Many of these who have been killed are children. Government troops occupy the townships and are exercizing more unrestrained powers than ever before. The Government has not only made matters much worse within South Africa but has exported its violence outside of the country in a campaign to destabilize independent states in the region such as Lesotho, Botswana, Zambia, and Zimbabwe. Despite good intentions, it is time for the Reagan administration to concede that its policy of constructive engagement has been a failure. It has not encouraged moderation and reform but has been a device to pursue "business as usual" with the South African Government and has encouraged the intransigence of those who support apartheid. The system of governance is at fundamental odds with the basic values of our Nation. It indeed is time to act and reflect those values in our national economic policies and United States relations with South Africa.

Mr. Speaker, nearly 25 years ago, President John F. Kennedy told us that "those who make peaceful change impossible make violent change inevitable." President Kennedy's warning is very timely today. Ultimately, it must be the people of South Africa, black and white, who will work out their nation's future destiny. Let us hope that it is not too late for the people of South Africa to spare themselves a cataclysm of violence and further bloodshed. I urge my colleagues to join me in supporting H.R. 4868.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. I thank the gentleman for yielding time to me.

Mr. Chairman, greed for power, greed of such oppressive weight that it crushes an entire people is pushing South Africa toward catastrophe. The people of that country hold their meetings over the coffins of the dead. There they plan the next collective scream of pain, of protest, of anger. And they build more coffins. While the dust of Soweto boils under the bare feet of the thousands who will now be free at any cost, the white people still take their tea on the grass. But now the fighting is not so far away. The tea cups rattle. The dust cast up by the black feet of Soweto settles on the windows of white Johannesburg. Soon the white people will also be meeting over coffins.

And here we talk. Our discussions are paced as though there is time. Shall we work through American corporations in South Africa to foster improved treatment of black workers? Should we send a message of concern by selecting a sanction or two to illustrate our displeasure with apartheid? And surely we can't disinvest. Our companies are our instrument for effecting peaceful change. Besides, Mr. Shultz thinks disinvestment is a copout. We can't set ourselves up for criticism like that can we?

My friends, the discussion is hollow. It echoes in our hall because the hall is empty. While we were taking our toast and tea the crowd took to the streets with clubs and rocks. Petit concessions meted out to stave off the inevitable will now slow nothing. Rather, that taunting, if it is to continue, will only goad the oppressed to pursue their freedom with greater zeal. The catastrophe is not tomorrow. It is now. The soldiers are holding their hands over the camera lenses, but no matter. It has started. If there is any forceful enough action we can take—and there may not be—we must take it now. Do not vote for mild action. It is meaningless. Today we must take the strongest action at our disposal. Congressman DELLUMS has offered us that action. Through our vote today we will join the inexhorable march to freedom in South Africa, or we will take a last sad stand with the defenders of apartheid.

Mr. DELLUMS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in support of H.R. 4868, the Anti-Apartheid Act of 1986.

Less than a year ago, this House took action to demonstrate how repugnant the system of apartheid is to us. Since that time, and especially in the last weeks, the situation in South Africa has deteriorated dramatically. The country now exists in a state of emergency. As many as 4,000 antiapartheid activists have been detained without trial. Sharp restrictions have been placed on the press. Winnie Mandela is once again under guard. With words and actions, President Botha has proclaimed his allegiance to apartheid and his absolute opposition to change.

In this tragic situation, there are those who argue that now is not the time to act, that we have tried before and our efforts have failed. Mr. Chairman, that position is absolutely wrong. Half-hearted measures and slaps on the wrist were doomed to failure, especially when the policy of so-called constructive engagement masks a continuing flirtation with those who practice apartheid. Until we end that flirtation, until we recognize that that engagement is broken, we will not have acted strongly enough.

This legislation says what we must say to the South African Government, strongly and in a way that cannot be misunderstood. It demands that the South African Government begin good faith negotiations with black leaders and free its political prisioners, Unless Pretoria takes those steps, sanctions will be imposed. It could be no more clear-cut. It could be no more direct. It could be no more pointed.

And it is no more than morality, decency, and humanity demand.

The Reverend Alan Boesak, the antiapartheid leader, has said the South African Government's recent actions are "not a sign of power, but a sign of weakness." I would add that if we fail to pass this bill, that, too, would be a sign of weakness. To refuse to speak out for our Nation's fundamental values, to resist taking a stance against one of the most vicious systems the world has ever known, would be an almost unparalleled act of moral weakness and political cowardice.

I urge my colleagues to stand up for the values we believe in and to vote for the Anti-Apartheid Act.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in support of the Dellums substitute, and congratulate my friend from California for his leadership on this issue.

Apartheid is a moral abomination. We all agree.

But what shall we do about it?

We have the ability to bring the full weight of American political, economic, and social pressure to bear upon the South African Government. We have this ability; we also have the responsibility to use it.

I join with my distinguished colleague Mr. DELLUMS in saying we must do all we can to end apartheid.

How can we not? How can we stand by and not act?

H.R. 4868 is a good bill. I congratulate those who worked to craft the bill and bring it to the floor.

The Dellums substitute improves the committee bill, however, and I urge my colleagues to support it.

Yes, the Dellums substitute is a dose of strong medicine. And that is precisely what is needed at this moment of extreme tension and danger.

Does anyone truly think that gentle persuasion and subtle signals will resolve the problems in South Africa?

As Archbishop Tutu said this week:

There is no room for neutrality. When you say you are neutral in a situation of injustice and oppression, you have decided to support the status quo * * * Are you on the side of oppression or liberation? Are you on the side of death or life? Are you on the side of goodness or of evil?

I urge a "yes" vote on the Dellums substitute.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Chairman, I rise in support of the Dellums substitute to H.R. 4868 because it is the right thing to do.

More than any other Nation in the world, the United States should understand the evil of apartheid. It has known it and felt it. The United States overcame blatant racism and oppression because blacks and whites of good will joined together to do the right thing. Some have argued that apartheid should not be disturbed because the interests of the United States are best served by supporting the current regime. Others have said it is easier to work with the 4 million whites than it would be to work with the 24 million blacks who constitute a majority. Still others have claimed that it is politically difficult to dismantle apartheid. To each of those persons, I would share the words of an old, English Methodist Minister who on one occasion said:

Cowardice asks the question, is it safe?
Vanity asks the question, it is popular?
And expediency asks the question, is it politic?
But, conscience asks the question, is it right?

The right thing for America and the world to do in South Africa is to stand for the same basic, Democratic freedoms that we now take for granted. Presently, that means we must isolate South Africa. Many in the world community are beginning to move in that direction. I urge this House to do the right thing and vote for the Dellums amendment.

□ 1640

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. WHEAT].

Mr. WHEAT. I thank the gentleman for yielding to me.

Mr. Chairman, I rise today in support of the amendment in the nature of a substitute offered by the gentleman from California [Mr. DELLUMS].

Mr. Chairman, today we are assembled on the floor of the House to determine the next logical step in the evolution of U.S. policy toward South Africa. Nearly a year ago, this body spoke out clearly and with overwhelming conviction condemning the racist regime in South Africa. The President's Executive order imposing limited sanctions against South Africa was a clear result of our action in this House. It was a small step in the right direction. Today, the world awaits word whether the United States will take the next step in making a fundamental change in our policy with a government created by, based on, and committed to racial repression.

Thanks to the determination of this House to put American support behind the oppressed rather than the oppressors, the President's 5-year policy of "constructive engagement" with the South African regime is dead and buried. Only a few weeks after the President inexplicably hailed South Africa for an American-style end to racial segregation—a solution apparent to no one but him—the President once again beat Congress to the punch by signing an Executive order imposing limited sanctions. To be sure, the action was a significant development, underlined by Pretoria's reaction of shock, anger, and defiance.

But the sanctions, announced at once with fanfare and apologies, do not represent a fundamental change in U.S. policy toward South Africa. Nor do they effectively promote a meaningful evolution in the South African political system. On the contrary, they continue the President's practice of attempting to reform the South African system by working entirely within it and honoring its rules. "Active constructive engagement", as the President has dubbed his new policy, is simply a new name for an old face, just as Pretoria's knee-jerk gestures of reform in South Africa represent a repackaging of apartheid.

Constructive engagement, whether active, inactive, or comatose, is still a policy that captures the attention and interest of only a small, privileged minority of South Africans. U.S. policy today still relies on white-led change, as designed and defined by a regime that is becoming more embattled by the day. It has encouraged and indulged the government's divide-and-rule tactics, leading the regime, its victims, and the international community to believe that, whatever the rhetoric emanating from Washington, American prestige is on the side of the Pretoria government. This policy ignores the needs, the politics, and the passions of the black majority in South Africa. It will continue to fail.

The Eminent Persons Group, composed of seven of the Commonwealth's most distinguished statesmen, has completed its 3-month effort aimed at finding a basis for negotiations between the South African Government and black leaders. They have issued a report of their findings, and their findings are grim.

The group's report reinforces what many of us already know, and what must be by now painfully apparent to the Reagan administration. The Eminent Persons Group found that, and I quote, "while the government claims to be ready to negotiate, it is in truth not yet prepared to negotiate fundamental change, not to countenance the creation of genuine democratic structures, not to face the prospect of the end of white domination and white power in the foreseeable future".

Even more troubling is the government's naive confidence that, after 18 months of the worst violence and unrest in South African history, it can control the situation indefinitely by force. My colleagues, such confidence is pure fantasy. The following words from the Commonwealth Group's report put the regime's intransigence in stark perspective:

Although the government's confidence may be valid in the short term, but at great human cost, it is painly misplaced in the longer term. South Africa is predominantly a country of black people. To believe that they can be indefinitely suppressed is an act of self-delusion.

In spite of the obvious justice and overwhelming international support for the cause of black South Africans, during this debate we will again be treated to the same tiresome exhortations and dire warnings about the necessity to stand by "our friends," the brutal South African regime, to protect South Africa from the onslaught on communism.

How long must this country be duped into supporting "friends" who profess hatred of the evils of communism, who vow to fight for the preservation of freedom and liberty, and who then proceed to crush freedom and liberty for the many in order to protect if for the few? With friends like these, we create bold enemies among people, who will inevitably control their own destinies. Don't we ever learn? Haven't we read this book before?

This country must stand for freedom and against oppression, whether oppression comes from the left, right, or somewhere in between. Human beings stripped of their dignity, deprived of basic human rights, and crushed when moved to dissent, care little about the political banner of their friends. They ask only for our support, for a clear, convincing, and sustained effort to assist them in their struggle. Time is quickly running out for us to join in that struggle. We can't afford to be left behind.

The Dellums amendment proposes new sanctions, including complete divestment of United States companies from South Africa and a trade embargo, which will place the United States unequivocably on the side of justice and equality for the majority in South Africa. It is the next logical step in the evolution of U.S. policy toward South Africa.

Whenever talk of divestment arises, there are those who suggest that neither the American people or the South Africans support this

measure. Divestment legislation has been passed in 17 States and 60 cities. Over 80 colleges and universities have adopted policies restricting investments in and purchases from companies with South African ties. Last year, 28 of the nearly 300 businesses in South Africa left, and for the first time in decades, not a single U.S. company started a new operation in that country.

The American people are clearly ready to stand for freedom and against oppression regardless of the economic costs. The same message is heard from South Africa where 70 percent of all blacks support sanctions against South Africa. In the words of Bishop Desmond Tutu, "We are suffering already. To end apartheid, we will support sanctions even if we have to take on additional suffering."

There are those who argue that divestment is too strong an action, that instead we should support the Sullivan Principles, as they were intended, to make U.S. corporations a positive force for change. But black leaders are vehement that the Sullivan Principles have little impact on the apartheid system. In the words of Nobel Laureate Peace Prize winner Tutu, "We do not want apartheid ameliorated or improved. We do not want apartheid made comfortable. We want apartheid dismantled. We don't want our chains loosened. We want them removed."

While these sanctions alone cannot guarantee positive change within South Africa, they represent the few tools available to the United States to convince the white regime that apartheid will only be sustained at great cost to all South Africans. The Eminent Persons Group, warning of impending violence that could take the lives of millions in South Africa, has pointed to international economic sanctions as the only measures that can be taken to compel the ruling minority to negotiate with black leaders for a new South Africa. Let this House once again provide the leadership lacking in the administration. Please support the Dellums amendment.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Dellums amendment.

Mr. Chairman, the President prohibited business activities by American businesses in Libya.

It was a response to terror.

I supported that response.

There was no absolute guarantee it would work but action was mandatory.

This amendment is a response to another form of pervasive terror—a terror that has taken the lives of innocent thousands and threatens to enguli an entire nation in unimaginable bloodshed.

Swift, stern economic action is the only hope to change the course of events in South Africa.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. I thank the gentleman for yielding time to me.

Mr. Chairman, The Dellums substitute puts an end to gradualism in dealing with apartheid. The step-by-step policies of the past have failed; constructive engagement or the more recent active engagement will be equally ineffective in the future.

The only message the minority government of South Africa understands is action, decisive action. Words, threats, or intentions to do something in the future are meaningless for that government. They will not end apartheid until the economic cost of continuing it is too great to bear.

Even if, as the oppostion of this substitute claims, economic sanctions do not bring an end to apartheid, America, by imposing these tough sanctions, at least, will no longer be a silent partner in the oppression. Our hands will be clean; we will have told the oppressed blacks of South Africa that America has taken a decisive step for their freedom.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES. I thank the gentleman for yielding time to me.

Mr. Chairman, today I rise to express my support for the Dellums amendment to H.R. 4868.

I also want to express my anger and deep concern over the deteriorating plight of blacks in South Africa. Reports I have seen indicate that the apartheid regime of South Africa is now responsible for over 2,000 people losing their lives simply because they wanted to struggle for basic human rights and basic freedoms. Over 36,000 blacks have been arrested, most of whom committed no crime but to voice their opposition to apartheid.

Not only has the South African Government brutalized its own citizens, it has also carried out brutal military attacks against its neighbors—the independent nations of Zambia, Botswana, and Zimbabwe.

This year during the State of emergency in South Africa, the black death rate has almost doubled, from 70 people per month to over 130 per month.

South African leaders claim many of these people were killed by black vigilantes. The reality of this is that the South African Government has sponsored and assisted these black vigilantes with their murdering of peacefully antiapartheid protesters.

It is clear to me, and I believe it should be clear to a majority of our colleagues that the United States has not used its influence to bring about meaningful change in South Africa. The Reagan administration, in proposing limited sanctions in place of the House and Senate passed H.R. 1460, has only contributed to the plight of blacks in South Africa. I dare say, if blame is to be laid for the continuing deaths of antiapartheid protesters in South Africa, those who have not strongly denounced the continued abuse of power by the South African Government are as much to blame as that Government itself.

Mr. Chairman, our administration, our Government, our Nation, must take a strong stand in opposing apartheid. We cannot continue to aline ourselves with the atrocities taking place in South Africa. It is time we give notice, not only to our colleagues in the other body, not only to the Reagan administration, but also to the world community, that this Chamber, this U.S. House of Representatives, is on record as supporting the strongest possible sanctions against the apartheid regime of South Africa. I urge my colleagues to support the strengthening amendments offered by our colleague RON DELLUMS.

In supporting these amendments, we state to the world that the United States will not tolerate South Africa's inhuman acts any longer. Again, I urge you to support the strengthening amendments offered by Mr. DELLUMS.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding time to me.

Mr. DELLUMS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. I thank the gentleman for yielding me this time.

Mr. Chairman, just days after the 10th anniversary of the uprising in Soweto, I thought it would be interesting to note that during the outbreak of our own country's war for independence that Benjamin Franklin liked to equate those who equivocated on the issue with a bird known as the mugwump. This bird had the strange characteristic of sitting on the fence with his mug on one side and his wump on the other.

Referring to these creatures, both beast and man alike, Franklin noted that when the fighting would start, both ends would get shut off. Just as with Ben Franklin's mugwumps, the time has once again come for our Nation to openly and publicly take a stand on the side of justice. When apartheid falls, and it will fall, the actions we take today will decide where we stand not only with the new Government, but in the eyes of all those who seek justice in the world. We can either march with the cause of freedom and equality or have our honor smeared in the ashes of a cruel and barbaric regime.

The choice is ours. I urge my colleagues to get off of the fence and vote for immediate and complete sanctions.

Mr. BONKER. Mr. Chairman, I yield 30 seconds of my time to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the gentleman for yielding me this time.

Mr. Chairman, I, in turn, yield 30 seconds to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. I thank the gentleman for yielding me this time.

Mr. Chairman, I strongly support the Dellums substitute. If that fails, I will support the substitute that comes from the committee.

I was elected to public office before World War II; elected at a white primary. I can consider that experience. I also consider the experience of Prime Minister Nakasone, who recently told me, "If I took a different position with regard to international trade, I would not be here."

I think the same situation probably exists in South Africa. So we should send the strongest possible message. We ought to do the very strongest thing we can, to do what we can to the end of preventing a bloodbath.

I urge all the Members to vote for the Dellums amendment. If that passes or fails, let us pass the bill.

Mr. DELLUMS. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. OWENS].

Mr. OWENS. I thank the gentleman for yielding time to me.

Mr. Chairman, I want to thank the gentleman from California [Mr. DELLUMS] for offering a substitute which demonstrates dramatically the life and death nature of today's debate.

Time is running out. The fascist, barbaric Government of South Africa is now setting the stage for the final solution to this problem of guaranteeing minority rule and minority privileges. The Botha regime has thrown out some members of the press and strict censorship has been imposed on the remaining media representatives. The eyes of the civilized world have been punctured. We will not be allowed to see the final extermination of million of blacks. Soweto and all of the other segregated black townships are now being transformed into the concentration camps of the 1980's. Once before in the 1930's and early 1940's the civilized world permitted the murder of millions—and the excuse then was that "we didn't know." This time, as the ideological sons of Adolf Hitler escalate their dirty work we cannot say that "we didn't know." We do know that every human right is being violated in South Africa. We do know that mass murder is being committed daily. Every American should try to do something to stop this carnage. Certainly every Congressman should vote today to take at least one more step forward against the unjust Government of South Africa. The committee sanctions bill before us is far too weak. The Dellums substitute is the more adequate and necessary step against genocide. The South African Government has thrown down the gauntlet, a challenge to the whole civilized world. By voting strong sanctions we rise to answer this challenge. History is watching the House of Representatives at this moment. If we fail to vote to stop the greatest bloodbath of this century it is probable that we will be viewed by our grandchildren with eternal contempt. Let us vote today to block further mass murder. Let us vote today to advance the cause of decency, freedom, and civilization.

Mr. BONKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to remind my colleagues that the issue is not whether or not we are sending a message to South Africa. Both the committee bill and the Dellums amendment send strong messsages.

The issue is whether we go with sanctions in the committee bill or total disinvestment in the Dellums bill which would call upon all American businesses to shut down in 90 days.

I strongly urge my colleagues to do the sensible thing and stay with the committee bill.

Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise against the substitute of the gentleman from California. I think the committee bill does the job in the sense that the United States is making a strong statement.

The substitute is a straight, economic matter. I think that rather than legislate disincentives by way of requiring disinvestment, the companies that are there, which have demonstrated a reasonable amount of good faith in dealing with South Africa, will make the necessary economic judgments on remaining there. It is a question of honest difference of opinion as to whether or not all of that can be done in 180 days, which is what the substitute would require.

Simply put, that difference in judgment, which the committee amendment says is that what we need to do here is indicate that we are not moving forward with any new investment. That the companies that are there and which have been operating, as I say, in reasonably good faith; especially those trying to abide by the principles. They will make their own economic decisions with respect to what is happening in South Africa. I do not think they need the push that this substitute would require right now.

Therefore, I would urge my colleagues to vote against the substitute and support the committee bill.

Mr. KEMP. Mr. Chairman, last week, Crossroads was the scene of tragic violence. Radical forces waged war on blacks striving to better themselves and their families. Many died. Many more were injured.

Similarly, the ANC has announced the goal of "making the country ungovernable" through a campaign of agitation, sabotage, and terrorism. Hundreds of blacks have been killed to frighten others away from any contact with governmental or business institutions working for peaceful change.

Moderate blacks have rejected the ANC's campaign of violence, because, as Karen Elliot House writes, they don't "believe it makes sense to destroy the country in order to inherit the ruins a little faster."

I fear for the future of all South Africans if the flames of violence, hatred, and injustice spread. I would ask all my colleagues to look into your hearts, and ask yourself what impact the sanctions contained in the Dellums amendment will have on the people we seek to help. Lives are at stake here. We have a grave responsibility to act with compassion, sensitive to the historical and cultural complexity of South Africa, and to the practical effects of our acts.

In our impatience with the pace at which apartheid is being dissolved, the United States imposed economic sanctions against South Africa just 6 months ago. I myself voted in favor of last year's conference report, sharing with the great majority of my colleagues a large measure of frustration and a sense that we needed to register our deep-felt protest against the evil and the injustice of apartheid in that land.

But before we plunge headlong down the sanctions road, as the amendment under discussion would have us do, it is imperative that we stop and assess what we have done.

Since we imposed sanctions against South Africa, its economy has been very hard hit by a debt crisis. Last year, the rand fell from $1.30 to just 36 cents in value, and has made only a modest recovery. New lines of credit have dried up, as major lending institutions have refused to renew loans, for fear that international sanctions and internal violence would weaken the economy. This is a stunning and, in my view, detrimental development that can only hurt the people of South Africa and weaken the prospects for peaceful change.

And what has been the effect upon the government in South Africa? By all reports, the international sanctions campaign has served to harden the attitudes of those in power and on the extreme right, and to raise unrealistic expectations among those aspiring to power. Between these two poles are the great majority of South Africans, of all colors and creeds, who are watching as the prospects for their freedom, justice, and future erode.

The short lesson is that economic warfare may have some utility against enemies in wartime; but judging from the record in South Africa, it will only cause violence and anarchy.

If our objective here is to encourage the peaceful and total end of apartheid, for which I hope and pray, then we must ask how a destroyed economy can possibly further this goal.

The stark demographic realities of South Africa make sustained economic growth along the lines of the Sullivan principles an imperative. Each year, 250,000 people come out of the countryside into the city, sometimes camping at settlements like Crossroads to await work. That means that each year, there are one-quarter of a million new entrants into the work force, and one-quarter of a million new

jobs must be created. Where are those jobs to come from if the economy is receding?

Without new jobs, black unemployment will soar. Without economic growth, the existing enormous gaps in education, housing and the quality of life will only worsen. Already, we can see the beginnings of this deterioration, as South Africa struggles against the harmful effects of a precipitous drop in the value of the rand, the drying up of foreign capital and markets, and declining confidence fueled by the disinvestment campaign. And in a situation of a destroyed economy, the economically weak suffer the most, and anarchy ensues.

South Africa's human resources are the key to its future wealth and prosperity. They are also the key to the future health of South Africa's society, and the peaceful evolution of that society into a democracy.

It should be self-evident that hurting South Africa's economy will not improve the quality of life in South Africa. Nor will contracting opportunities raise prospects for greater equality or social cohesion. If we truly care about achieving a peaceful end to apartheid, then we must come to terms with what will work.

Contrary to the belief of those promoting disinvestment, the real key to ending apartheid lies in South Africa's modern capitalist economy. As Paul Johnson argues in his masterful commentary article, "It is the nature of capitalism to destroy apartheid, and that is precisely what it has been doing."

This is so because the ethical underpinnings of a vibrant free enterprise economy are antithetical to racism. The corollary to this is that a growing industrial society in South Africa will, of its own dynamic, force changes in political ideology. We need to exert our influence to encourage power sharing and negotiations between all citizens. It seems to me that we should be promoting measures to encourage and accelerate this essential change, not measures to retard it.

And if we are serious about advancing freedom and human rights in the world, we must acknowledge that our policy toward South Africa does not operate in a vacuum. Fundamental to the advancement of human rights is an international environment in which freedom and democracy can flourish, secure against totalitarian challenges. Our national security and the security of the free world are essential to the preservation and advancement of individual rights. Those who assert that the promotion of human rights can be separated from national security requirements are simply wrong. If we care about human rights, we must also care about the strategic interests of the free world. And so, our policy toward South Africa must be measured against this yardstick as well.

The whole of the region of Southern Africa is caught up in a major Soviet expansion effort. Cuban forces in Angola, Soviet advisors in Mozambique, and Marxist-Leninst terrorist groups throughout the region attest to the major investment of resources the Soviets are making to destablize the region and bring it under Soviet control.

A weakened South Africa, embroiled in violence and civil war, threatens the stability and security of the whole of Southern Africa. From the standpoint of the defense of the west, a strong South Africa is an indispensible ally. And the security of the Western world is not a minor consideration in the calculation of freedom.

I understand the intent of the sponsor of this amendment to make a moral statement against the reprehensible aparthied regime in South Africa. I am fully and deeply in agreement with that moral statement.

But what may be intended as a compelling moral statement may be morally unacceptable in its practical consequences. Judging from the record, economic sanctions against South Africa fall squarely within this fold. To the extent the sanctions in this bill might help foster an economic climate in which violence is likely to grow, we would be undercutting the prospects for peaceful evolution to a fair and just society. And we would be jeopardizing the stability and security of the entire region.

I will not be satisfied until the day the aparthied system an affront to black and white alike collapses. We can welcome a fully free and democratic South Africa into the fold of free nations. If freedom is to be extended to South African blacks, the government and well-meaning people in South Africa will need all the assistance they can get to lay the conditions for a peaceful and successful transformation of their society. But this bill will not bring us closer to that day; it will ony serve to delay it further.

I urge my colleagues to vote against this unwise legislation.

Mr. FRENZEL. Mr. Chairman, the substitute amendment of the gentleman from California [Mr. DELLUMS] is said by some Members to be too strong. Full disinvestment is too radical, to rash, and not practical.

I believe that those descriptions are accurate, but that they apply equally to the committee bill, H.R. 4868. Mr. DELLUMS' substitute has about the same effect as the bill he is amending. The difference is that the Dellums is more open and straightforward.

What has not been said through this entire debate is that no sanction is going to repeal apartheid political statements by this House will not immunize South Africa against the threatened blood bath.

The letter of Secretary of State Shultz, which went unnoticed by our Foreign Affairs Committee because it held no hearing and took no testimony on its bill, warned that comprehensive sanctions were more likely to encourage extreme reviews in South Africa.

The Dellums amendment is extreme. So is the committee bill. Both will have similar effects. Both are likely to cause bloodshed rather than prevent it.

Because of the similarity, I take no position on the Dellums amendment. Either way the bill is dangerous and should neither be passed nor enacted.

Mr. WEISS. Mr. Chairman, it has been 10 years since a group of peaceful marchers at Soweto in South Africa were fired on by police. In those 10 years, the Government of South Africa has steadily taken an ever harder line. Hundreds more have died. Millions continue to be subjected daily to the degradation of official, institutionalized racism.

The situation in South Africa is now far more serious than it was when we last debated this issue. The police enjoy sweeping emergency powers of unprecedented extent. One South African commentator has written that South Africa has "crossed the line that separates authoritarian from totalitarian societies. South Africa is today a country without a free press, without the rule of law, without the full protection of the courts and without the basic human rights to speak freely, to assemble, or to protest."

This week, President Reagan personally called once again for "restraint." South African President Botha rebuffed that plea, as he had rebuffed the appeals for dialog from the Commonwealth eminent persons group. So much for constructive engagement.

Some people say we should oppose strong sanctions because sanctions will hurt South African blacks. Let's listen to what black leaders say about that.

The Reverend Allan Boesak said recently, "South Africa wants the world to believe it does not give in to pressure, that they are not afraid of sanctions or isolation. They say, 'if you do it to us, then you will see what we will do to blacks.' " Reverend Boesak continued, "Don't worry. We will decide when we have suffered enough and then we will tell you so. Don't worry that we suffer because of the joy they get out of apartheid." Bishop Desmond Tutu has also called for international sanctions, and he has done so at great personal risk to himself.

We must respond to these calls for action, and we must do so decisively. This may be the last hope for peaceful change in South Africa. Reverend Boesak also said, "If there is no international pressure on Pretoria, South Africa will explode. The trade unions, the UDF, all the major churches are all clear about economic pressure. They support it. It is clear they are of one mind with the people."

It is in our hands to respond to this call. I urge my colleagues to support strong sanctions today.

Mr. EDGAR. Mr. Chairman, enough is enough.

One year ago we passed legislation here imposing tough sanctions on South Africa's racist Government.

We stood up and said that we shouldn't allow new United States bank loans to the South African Government.

We stood up and said that we shouldn't sell the South African police and military United States computers used to enforce the outrageous laws of apartheid.

I was also proud to stand with a number of our courageous colleagues and call for the withdrawal of all United States investment in South Africa. We argued that to be serious about ending racism in South Africa means ending United States trade with that country.

But when we stood up for human rights, we were told to sit down. Between the intransigence of the Senate and a last-minute maneuver by the President, the result was a "compromise" bill of much weaker sanctions which gave the South African Government yet another opportunity to demonstrate progress in ending apartheid.

This is not a time to say "I told you so." But when the President announced his weaker sanctions package last year, my colleague and friend Republican BILL GRAY rightly de-

scribed it as "meaningless and full of loopholes."

He was right. We've already given the South African Government enough time. In the past year, things have gotten worse, not better. More South African blacks have died, more violence has occurred, and the Government has only made cosmetic changes in its racist policies.

It's time to stop equivocating.

I'ts time to stop waiting for the minority white racist Government to make a peaceful transition to majority rule.

The question is not whether we can achieve change without violence. There is already violence that has killed hundreds in South Africa over the past 2 years.

The question is whether we can continue the morally bankrupt policy of propping up the South African Government and its economy while they continue to deny basic human rights to the black majority.

Mr. Chairman, we are not debating some antiseptic foreign policy or strategic goal. We have before use the cause of humanity, and it is worth remembering what President Abraham Lincoln said at a time when our own Nation was struggling with slavery. President Lincoln said that the great principle which keeps our Nation alive is "that sentiment of the Declaration of Independence which gave liberty not alone to the people of this country, but hope to all the world. For all future time. It was that which gave promise that in due time the weights would be lifted from the shoulders of all men, and that all should have an equal chance."

We have an opportunity today to deliver on the promise of the Declaration and the hopes it has raised for over 200 years in this country and around the world. Let us not forget why that same President called the United States the "last best hope of mankind."

I urge my colleagues to stand with me today in fulfilling that hope by supporting this bill, legislation that will:

One, prohibit new loans to the South African Government;

Two, prohibit new direct or indirect investment in South Africa;

Three, bar the import of South African steel, coal, and uranium into the United States; and

Four, bar investment in South African computer businesses.

I also urge them to join me in voting for the Dellums amendment to withdraw all United States investment in South Africa. It is time to admit the truth about South Africa—half-measures have not worked and incremental changes have not led to real change. It's time for us to take the next step and withdraw our economic support for racism. It's time to admit that the only acceptable step for us to take is not to participate in apartheid at all.

Mr. Chairman, I urge my colleagues to support H.R. 4868 and the Dellums amendment.

Mr. KOSTMAYER. Mr. Chairman, I rise in strong support of H.R. 4868, the Anti-Apartheid Act of 1986, introduced by my colleague, BILL GRAY of Pennsylvania. And I strongly endorse the substitute amendment offered by the gentleman from California, RON DELLUMS, which was introduced as H.R. 997 and which the House has agreed to. This action puts the House of Representatives on record in solid and meaningful opposition to the policies of the racist South African Government.

I have joined with 45 of my colleagues in cosponsoring Mr. DELLUMS' measure which passed the House without voiced opposition and which imposes the toughest possible sanctions and sends the strongest possible signal to South African President P.W. Botha that his bloody imposition of another state of emergency will not be tolerated by the United States without an appropriate response.

We have taken action that, if enacted into law, would effectively end all United States business involvement in South Africa. The measure bars all U.S. investment and ends all U.S. exports to that nation while permitting the importation only of those materials that the President certifies to the Congress are vital to our national security.

This measure would take effect 180 days after becoming law and would also close many of the loopholes in the current ban on the importing of Krugerrand gold coins into the United States. Additionally the measure would deny landing rights in the United States to South Africa Airways.

I visited South Africa last January as part of a delegation led by the distinguished chairman of the House Budget Committee, Mr. GRAY. I saw then, as millions of Americans have seen on their television screens, the need for America to align itself, without delay, with the forces of change and justice in that nation. For far too long we have done too little to encourage the peaceful transition to majority rule. With each passing day, the tide of violence rises and threatens to sweep away any chance either for peaceful change or for a multiracial democratic society in South Africa.

I am deeply saddened by the action taken by my own country at the United Nations in vetoing a Security Council resolution that would have imposed limited economic sanctions on South Africa. The action taken by the House in support of the Dellums amendment helps in compensating for that tragic mistake.

I regret the position against meaningful sanctions by our own President and his stated intention to veto this significant measure passed by the House. I am hopeful that we will override the President's veto, provided the Senate also acts to move decisively against injustice and racism in South Africa.

Mr. Chairman, the vast majority of the American people recognize the need to actively respond to the legitimate yearning for change on the part of the black majority of South Africa. A catastrophic tragedy is unfolding in that unhappy nation with very negative ramifications for the United States if the President does not act swiftly against apartheid as we have done in the House.

The CHAIRMAN. All time for debate has expired on the Dellums substitute amendment.

The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. DELLUMS].

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

□ 1650

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. NATCHER] having assumed the chair, Mr. TRAXLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, pursuant to House Resolution 478, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4868, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 350, PROVIDING CERTAIN CONDITIONS FOR ADHERENCE TO SALT AGREEMENTS

Mr. HALL of Ohio from the Committee on Rules, submitted a privileged report (Rept. No. 99-645) on the resolution (H. Res. 479) providing for the consideration of the concurrent resolution (H. Con. Res. 350) providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT ON TOMORROW AND FRIDAY DURING 5-MINUTE RULE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary be permitted to sit on tomorrow, Thursday, June 19, 1986, and on Friday, June 20, 1986, while the House is reading for amendments under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SISTER MARY BONITA WILLOW RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues that Sister Mary Bonita Willow, president of Felician College, located in the 11th Congressional District of Illinois which I am honored to represent, will be retiring on July 31, after 23 years of dedicated service to this educational institution.

Sister Mary Bonita, a native Chicagoan, attended St. Hyacinth's Elementary School and Good Counsel High School, and received her bachelor's and master's degrees, as well as her doctorate from Loyola University in Chicago. She came to Felician College as an instructor and registrar in 1956, and in 1963, she became president of the college.

During the last 23 years, Sister Mary Bonita has been the guiding force at Felician College, and has compiled an outstanding record of achievement as President. Her dedication to the highest standards of excellence in the academic, social, and spiritual development of each student, has been a source of strength and inspiration for the entire Felician College community.

An active participant in many civic and community affairs, Sister Mary Bonita has also received several awards, grants, and scholarships. Her tireless efforts on behalf of the college and in the community, are truly most worthy of recognition, and she has deeply touched and enriched the lives of all those who have had the opportunity to know her and her service to the church.

Mr. Speaker, upon her retirement, Sister Mary Bonita Willow will remain active in Felician College, as president emeritus. I join with her many friends and colleagues, who will be honoring her at a luncheon reception at the Starlight Inn in Schiller Park on June 22, in wishing her abundant good health and much success in all of her future endeavors in her service to the church and the college to which she has dedicated her life for almost a quarter of a century.

A statement prepared by Felician College listing the many accomplishments of Sister Mary Bonita as president of the college follows:

SISTER MARY BONITA WILLOW RETIRES AS PRESIDENT OF FELICIAN COLLEGE, ACCOMPLISHMENTS MARK DISTINGUISHED CAREER

On July 31, 1986, Sister Mary Bonita Willow will retire from her position as President of Felician College. Through years of dedicated leadership, she has bestowed upon the College a legacy rich in scholarly accomplishment, institutional enhancement, and spiritual and moral strength. Though no list of Sister Mary Bonita's accomplishments could be complete, the highlights of her years of administrative leadership include:

The establishment of the Phychoeducational Center to provide diagnostic and remedial services for children with learning disabilities.

The transition of Felician College from Sisters' College, to a college accepting lay women, and then to coeducational institution of higher learning.

The successful guidance of the College through its North Central Association Self-Study, which led to full accreditation of Felician College by the NCA.

The achievement of continued North Central Association accreditation for a period of seven years.

The acceptance of foreign students through the acquisition of U.S. Office of Education permit.

The formation of an Adult Education Program for Indochinese refugees.

The development of Adult/Continuing Education—a program of informal education experiences which permits non-traditional students to earn academic credit, to study for career advancement, or to achieve personal enrichment.

The establishment of a Lay Advisory Board and the addition of lay members to a Board of Trustees formerly composed entirely of members of the Felician Sisters' Community.

The launch of a major fund-raising activity, the Theater Dinner Benefit, at which the Cor Mariae Award was presented to certain distinguished individuals.

The addition of the Annual Art Festival as a major cultural event which draws exhibitors and visitors locally and nationally.

The establishment of the Felician College Student Senate organization—the general governing body representing the students.

The initiation of English as a Second Language (ESL) programs on an extended campus basis.

The inauguration of Felician College as a College Entrance Examination Board-approved center for the College Level Examination Program (CLEP).

The establishment of a broad program of campus ministry—a service reaching a greater number of students, faculty, and staff and expanding to areas beyond the College community.

The progression of the College to embrace a diversity in student enrollment—coeducational, racially integrated, foreign and native, varied in both background and levels of academic preparation.

The addition of the full-time administrative positions of Business Officer, Academic Dean, Dean of Students, and Development Director.

The establishment of the Department of Development/Public Relations to support the goals of the College with regard to fundraising and internal and external publicity.

The organization of an Administrative Council and a Faculty Council to facilitate the flow of decision-making within the College.

The establishment of the Annual Recognition Dinner to formally honor those persons who, in various ways, contribute to the development of the College.

The introduction of courses in Basic Alcoholism Counseling, in cooperation with the Central States Institute of Addiction, and the subsequent establishment of the Associate in Applied Science degree in Basic Alcoholism Counseling.

The enhancement of institutional growth by expanding College services to the community through the Suzuki Program in piano and violin and the Orff musical instruction program.

The foundation of the Sister Mary Innocenta Memorial Fund to serve as a basis for College endowment.

The establishment of an official publication, the College newsletter SHARING, to highlight accomplishments, developments, and significant events.

The inauguration of a five-year Strategic Long-Range Plan.

The initiation of the Doctor of Humane Letters Honorary Degree.

The administration of those mechanics within the College which were primarily responsible for the development and enrichment of the Felician College Library.

The demonstration of unique leadership skills in four specific administrative areas: superintendence, facilitation, development, and policy-formation.

The establishment of the Alpha Iota Psi Chapter of Phi Theta Kappa, the national honor society for students in two-year colleges.

The renovation of College physical facilities providing for development office, additional faculty offices, and bookstore.

As President Emeritus, Sister Mary Bonita will remain active in the Felician College community.

METHANOL: THE FUEL OF THE FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 60 minutes.

Mr. WISE. Mr. Speaker, this is the first of what I believe will be several special orders that I will be taking to talk about methanol.

Methanol is an alcohol fuel. It is derived from many, many areas, but primarily natural gas or coal, and is what I call "the fuel of the future."

I would like to give a general overview of where the development of this fuel stands, and touch on the legislation now pending in this Congress.

Perhaps the most significant issue with respect to the development of methanol as an alternative fuel is a virtually inexhaustible supply of coal which exists in the United States. All reports indicate that there are hundreds of years of available coal from the known deposits that are identified.

In view of this it makes sense to avoid the serious economic disruption

which would result from an interruption of supplies of oil from foreign sources or from a precipitous increase in the price of that fuel.

This becomes particularly important when we recognize that methanol is not some exotic fuel, some synthetic fuel that requires a large Government subsidy, something that is way in the indefinite future. Methanol is something that is here today and now. Something, for instance, that is readily produced and is already being produced in large quantities for chemical purposes for the use of chemical plants and indeed in the production of many chemical products.

Methanol is readily available. It is easily transportable, and would be equally useful in developing power for stationary powerplants, fuel cells, or for vehicles.

Some people say, "Well, is methanol used in vehicles now?" Anybody who watched the Indianapolis 500 recently saw methanol in use. Methanol was used by all the automobiles that participated in that race. Why is methanol so popular there? Because of high octane, because of its energy value, and because of the fact that it is also safer—it is not as volatile as gasoline.

So methanol has immediate application. Indeed, there are automobiles today running on methanol. The State of California runs a fleet of several hundred automobiles that are fueled with methanol, and indeed they are already installing a series of fueling stations so that the cars can be driven away from the main base. The Bank of America runs several hundred cars on methanol.

Methanol is a fuel that is not only for the future, but one that is used today. About a year ago I drove a methanol-powered vehicle for a week at our mobile office.

□ 1700

So I drove a methanol-powered vehicle in my own district for a week, provided by the Ford Motor Co. and the Celanese Corp.

An important point to remember is that adjustments to the economy and to the functions of our industry cannot be made overnight. Significant changes in the automobile industry require lead time of approximately 5 years. That means that automobile manufacturers and people making investments in methanol must be planning now.

There is every reason to believe that changes in the infrastructure required to make an alternate fuel available throughout large portions of the United States would take this long or longer. Appropriation for worldwide shortages of petroleum products, the sharp increases of the prices of these products, predicted in some quarters to be likely as early as the 1990's should be in now.

So we must in Congress also be taking some steps. I hope during other special orders to be talking about what is needed to make methanol a reality, but let me just paint the picture for you of where we are today.

Methanol, as I said, is already a viable fuel. It is already in production, because methanol is produced by many chemical companies for chemical purposes.

As I mentioned, there are automobile fleets that are actively burning methanol.

The technology for making methanol from natural gas or from coal has been with us for a long time. The Eastman Kodak Co. in Tennessee, for instance, makes methanol from coal. Of course, methanol has long been made from natural gas.

Methanol is as cheap or cheaper than gasoline. It takes more methanol to power a vehicle, but what it takes is cheaper and so it takes about 1.7 gallons of methanol for every 1 gallon of gasoline, but even with gasoline costs staying somewhere around a dollar a gallon, the equivalency point is reached.

Methanol does not require large Government subsidies. Some say, well the Synthetic Fuels Corporation was ended by this Congress. Did that also end methanol? Not at all. Methanol will make it in the private sector. Many others are interested in methanol, too. Research is occurring in many countries and I predict that within 15 years many of the automobiles will be powered by methanol.

What does need to be done? Well, one thing that needs to be done is to get predictability to those we are asking to take the chance to build methanol powered vehicles.

So this Congress needs to be signaling clearly that methanol is a fuel that we will recognize.

One need is for the auto industry to meet the combined average fuel economy, the CAFE standard of 27.5 miles per gallon imposed by the Federal Government.

Legislation that I have introduced would give a certain credit, legislation I might add that I have authored and my colleague, the gentleman from Indiana [Mr. SHARP] would give a certain credit toward an automobile company meeting its CAFE requirements for every vehicle produced that is capable of operating on methanol.

H.R. 3355 and H.R. 2955 would provide this incentive. This would encourage the production of methanol fuel and the building of methanol fuel stations.

It would also encourage the development of dual fuel capability, that is a car that could burn gasoline and methanol interchangeably.

Is that something far in the future? Not at all. Those cars already exist. I drove one several weeks ago in Detroit. Ford Motor Co. in conjunction with the Celanese Corp. already has such a car in operation.

So I urge my colleagues that we make the next few months a time to concentrate our focus on methanol and what needs to be done, not a lot of tax dollars spent, not huge tax breaks, but simply encouragement, a small tax incentive to permit automotive manufacturers and methanol producers to proceed.

In future special orders, I will concentrate on both these bills in detail, the clean air aspects of methanol, what the introduction of methanol in the marketplace would mean to Appalachia and the coal industry and upon other subjects that show a great deal of promise from the fuel of the future.

As I say, if you are looking to see whether methanol is some kind of indefinite pie in the sky fuel of the future, simply look at the Indianapolis 500 and see it already in application. Look at the many other applications of methanol that will be made. Look, for instance, at what I believe you will soon be seeing in New York City where 100 taxicabs will soon be driven fueled by methanol.

So for a fuel that is made in America from American resources, from a variety of resources, a fuel that is energy-efficient, a fuel that is so clean that it meets the EPA standards for cleaner than gasoline is, a fuel that is cheaper than existing fuel sources powering our automobiles, methanol is one to look at and I do hope that in the next few months this Congress will be turning its attention to methanol.

I thank the body very much and look forward to discussing methanol more in the future.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. WISE. I am happy to yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman and commend him for discussing this question of methanol.

I recall during the gasoline crunch a number of years ago when the Nation and the Congress was inclined toward an energy independent Nation, methanol came into the forefront. Many people have experimented and spent huge sums of money to develop it.

At that point in the city of New York we had a number of taxis, some of which were in my district, that were using methanol and using it very effectively, getting more mileage, which was a godsend at the time, and clearly with lower emissions than the standard gasoline.

Hopefully, there will be a new thrust in this area, because we never know when the fortunes of the OPEC nations will reverse themselves and we will find ourselves dependent upon foreign sources of fuel.

I commend the gentleman for his comments and bringing up the issue.

Mr. WISE. Mr. Speaker, I thank the gentleman very much for his contribution.

As I say, I was delighted to learn that apparently some of those taxicabs will be returning in some of the discussions I have had.

Mr. SHARP. Mr. Speaker, I want to thank my colleague from West Virginia for his leadership on the methanol issue and his efforts in obtaining this special order. He has been instrumental in promoting ways to make greater use of America's coal resources, and he is one of a small group of Members of Congress who recognized early on the value methanol has as a transportation fuel.

Methanol is the liquid fuel of the future, but today's vehicles run on gasoline or diesel fuel. This fact is a result of a historical coincidence, not a technical evaluation that gasoline is the best transportation fuel.

Early vehicles could run on a variety of fuels including gasoline, kerosene, ethanol, methanol, and benzene. An accidental discovery of crude oil at Spindletop, TX, provided gasoline costing pennies a gallon at just the time motor vehicles were replacing horses. The rest is history; gasoline is the fuel of today.

Gasoline, however, has problems. We are dependent on a volatile region of the world for a large part of our supply. Price fluctuations have ravaged consumers. Emissions have caused smog and fouled our cities.

Because methanol can be made from domestic gas or coal, using it in our cars can displace significant quantities of imported petroleum. And by displacing gasoline and diesel fuel, it can eliminate smog in the 20th century.

Methanol is also safer than gasoline and diesel fuel and is free of benzene, a known carcinogenic compound found in gasoline.

The Government has a role to play in the replacement of gasoline by methanol. Despite current low prices of oil, the basic causes of the energy crises of the 1970's have not changed. This Nation is still a net energy importer and will continue to be one for the foreseeable future. Because automobiles use 40 percent of the oil consumed in this country, replacing petroleum-based fuels with methanol can enhance our energy security and our balance of trade.

Methanol use can also mean U.S. jobs. When methanol can be produced competitively from coal, conversion of just 20 percent of U.S. automobiles would create a market for an additional 300 million tons of coal per year.

Methanol cannot be used—except blended in low levels with gasoline—in today's vehicles. Today's vehicles have been optimized for 60 years to run on gasoline.

A "chicken-and-egg" problem prevents the market from choosing methanol. Auto manufacturers will not mass produce methanol-fueled vehicles until there is widespread demand, which requires a distribution and sales system for fuel methanol; and fuel marketers will not establish the retail fuel distribution system until there are cars to use the fuel.

To correct this problem the Fossil and Sythetic Fuels Subcommittee is considering H.R. 3355. This bill is based on 6 years of review and analysis including:

Methanol test fleets operated by the Bank of America;

A 500-car test fleet operated by the State of California;

Hearings and testimony; and

Comments from auto and fuel manufacturers.

H.R. 3355 has three major parts. First, it establishes a Federal demonstration fleet. The Federal Government purchases a large number of vehicles each year for its own use. Starting in 1989, 5,000 of these vehicles would be methanol vehicles. Second, the bill offers a CAFE [corporate average fuel efficiency] incentive to automobile manufacturers to produce vehicles capable of running on methanol. Third, the bill requires that after 1991 buses purchased with Federal assistance for use in Clean Air Act nonattainment areas be methanol powered.

H.R. 3355 will be marked up shortly. It provides the necessary balance of inexpensive demonstration and regulatory reform to allow methanol to compete on an equal basis with gasoline. It has wide bipartisan support.

Even Detroit has finally recognized what the Indy 500 racers have known for years. H.R. 3355 is supported by the three major U.S. auto manufacturers—GM, Ford, and Chrysler. Only a couple of months ago the vice chairman of General Motors told America's refiners, "We are betting on methanol as the gasoline of the 21st century."

Congress must do its part to work with the auto and fuel industry to assist in the necessary transition to methanol. I urge my friends in the Congress to join us in hastening the coming of a clean, safe, domestic fuel—methanol.

GENERAL LEAVE

Mr. WISE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from West Virgina?

There was no objection.

THE GREAT SURGE OF ILLEGAL ALIENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. RUDD] is recognized for 5 minutes.

Mr. RUDD. Mr. Speaker, the greatest surge of illegal aliens in the history of our country, the United States, is pouring across our Nation's southern border. Over 2 million will be detained this year, 1.8 million were detained last year and double that amount entered through the border. So it is expected that perhaps another 2 million this year will not be identified and will remain in this country.

Some say that as much as 10 percent of our population is now made up of illegal aliens. We are too prone to believe that with all of the publicity on the beautiful Statue of Liberty that all of the people who immigrate to our country come through New York City or Boston, but this is to let you know of the tremendous surge of people coming across our southern border who have no documentation whatsoever and are beginning to pose a real problem to the security of our Nation.

Mr. Speaker, no country in the world has allowed so many to infiltrate our borders as we have done. This poses a great threat to our entire economic system, allows for a tremendous amount of drugs to enter our country illegally and take jobs away from our own citizens.

Something must be done about this. It is an outrageous situation and if an omnibus immigration bill does not pass in this Congress, then we will need to do everything in our power including what every other country is already doing to protect their borders and that is to use our military forces, if needed.

I am introducing a bill today that would allow Federal agencies to request help from the President when the President does certify that our borders are out of control. My hope is that my bill will provide the impetus to prompt timely action on the omnibus immigration bill. I have placed a caveat in the legislation that if the immigration bill does pass Congress, then the bill to which I and the cosponsors on the bill have placed in the hopper today will not take effect.

We, in Congress, must take action or this country will be brought to its knees by the chaos resulting from illegal immigration.

THE FIRST ITALIAN-AMERICAN SUPREME COURT JUSTICE

(Mr. BIAGGI asked and was given permission to address the House for 1 minute.)

Mr. BIAGGI. Mr. Speaker, I wish to commend President Reagan for his historic nomination of Judge Antonin Scalia of the U.S. Court of Appeals to be an Associate Justice of the Supreme Court.

President Reagan has etched a permanent place in our Nation's history for any number of reasons—yet none will be more enduring that his bold and pioneering selections for the Supreme Court.

The President selected the first woman for the Supreme Court with Justice Sandra Day O'Connor.

With the nomination of Judge Scalia we are now on the threshold of having our first Italian American Supreme Court Justice.

Judge Scalia is an outstanding nominee—who happens to be Italian American. He is a renowned legal scholar—a

judicial activist in short a respected jurist with impeccable credentials.

Judge Scalia is also a first generation Italian American and father of nine children.

As an Italian American I feel a special pride. Our community has always advocated for consideration and representation based on merit.

In this instance, President Reagan has responded with a most meritorious nomination—Judge Antonin Scalia. I hope he is quickly confirmed.

THE WAR ON DRUGS—A LOSING BATTLE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, illegal drugs have become, at least in one respect, like the weather. Everyone talks about it, but nothing effective is being done about it. We are losing this war and in massive terms.

Within the past year, the annual amount of cocaine illegally smuggled into this country has multiplied fivefold. For the last full year, the records indicate that 125 tons of this pernicious stuff has found its way into our illegal drug markets. With it has come incalculable damage to the health, sanity, and well-being of the tragic addicts of this narcotic.

It has created soaring, vicious crime statistics. Addiction to crack creates instant criminals who are so driven by their need for the drug that violent behavior occurs when the crack supply is threatened whether by law enforcement officers or by friends. This is indicated by the increase of crack-related homicides.

Nor is cocaine the only controlled substance whose use and importation is growing. The current drug crisis has just exploded with the advent of crack, a new, highly potent, relatively cheap form of cocaine. The easy availability of this purer cocaine mix and its low price seems to be a direct result of the dumping of huge amounts on the American market.

The tremendous increase of cocaine delivery is occurring during the time of the greatest effort ever made on the part of the U.S. Government to interdict the movement of drugs and to invest sums of money to encourage governments in South America to destroy crops in the field.

Unfortunately, there is considerable evidence that many narcotic exporting countries have no real intention of killing this lucrative trade. Perhaps, there is even reason to believe that some of our Government officials are winking at illicit drug traffic because it is seen as a means of bailing out nations which are deeply in debt to the United States.

Without commenting on such a cynical view, it is obvious that the United States has created no economic disincentives to nations which whether willingly, or not, are the major sources of the narcotics infecting our young people.

When one considers that the cost of caring for and policing against drug addicts and apprehending their suppliers has been placed as high as $26 billion annually, it is irrational not to offer both positive and negative inducements to these countries of origin.

To that end I am preparing to introduce a bill tomorrow to penalize countries which do not cut the amount of export of native-grown narcotics by stopping all sources of U.S. Government moneys to those governments.

The bill will provide: That any nation which is an identified source of narcotics according to reports already required of the Attorney General and the Secretary of State and which fails to reduce the export of illegal narcotics to the United States by at least 10 percent per year beginning in fiscal year 1987 shall be immediately cut off from access to direct funds from the U.S. Government until that nation comes into compliance.

I am taking one more step in order to underline not only the gravity of the situation, but to urge that this administration show its commitment to the world that we will stop this illegal activity and stop it now.

□ 1715

Mr. Speaker, I am preparing letters to the President and the Vice President urging them to deploy all National Guard and Reserve units—who are beginning their summer maneuvers—to the Mexican border for summer duty.

Since 1981, when the Congress relaxed the law to allow the military to assist domestic law enforcement, the legal authority has existed for the President to marshal our armed services to participate in stemming this criminal invasion. We finally have the means to mount a two-pronged attack on drug smuggling, sanction nations which fail to cooperate in eradicating the plague of drugs and at the same time, use our available manpower to shut off one of the main routes for illegal drug smuggling.

It seems the height of foolishness for our Reservists and Guard to run mock wargames against each other when we are engaged in a real war with a real enemy intent on destroying our populace.

Newsweek of June 16, 1986, quotes Detroit Police Inspector Joel Gilliam, "In 1941 the Japanese bombed Pearl Harbor and we went to war. Today, little white packets are being dropped on this country and nobody gives a damn."

All of our law enforcement officers and agents feel that they are under siege from this influx. The Border Patrol has said that an army is needed to stop drug smuggling in its tracks. We have that Army. We have plans to have it in the field somewhere this summer. Why not put the war and the Army together and convince these countries once and for all that we mean business?

When do we finally face the gravity of the problem and meet it with all our available national resources? While we drag our feet, each day hundreds of new users, mostly children and the young, begin the long spiral down into their own personal hell. Would any of us want to face them or their loved ones and try to answer the question, "Why didn't you stop this?" The time has come to commit the Nation to a war against this evil. Please join me in making a start with this bill.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GROTBERG (at the request of Mr. MICHEL), for today, and until further notice, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

Mr. JEFFORDS, for 60 minutes, on June 25.

(The following Members (at the request of Mr. GLICKMAN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STOKES, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS, prior to the vote on the Dellums amendment to H.R. 4868 in the Committee of the Whole today.

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. BADHAM.

Mr. PORTER.

Mr. HORTON.

Mr. COURTER.

Mr. DORNAN of California.

Mr. YOUNG of Florida.

Mr. GUNDERSON.

Mr. LAGOMARSINO in three instances.

Mr. LIVINGSTON.
Mr. GOODLING.
Mr. WYLIE.
(The following Members (at the request of Mr. GLICKMAN) and to include extraneous matter:)
Mr. SWIFT.
Mr. PEPPER.
Mr. LEVINE of California in two instances.
Mr. MARKEY.
Mr. NOWAK.
Mr. LIPINSKI.
Mr. TALLON in two instances.
Mr. HEFTEL of Hawaii.
Mr. BOLAND.
Mr. RANGEL.
Mr. STOKES.
Mr. FOLEY.
Mr. ATKINS.
Mr. FLORIO in two instances.
Mr. KLECZKA.
Mr. HUBBARD.
Mr. LELAND.
Mr. GEPHARDT.
Mr. FORD of Michigan.
Mr. SOLARZ.
Mr. DORGAN of North Dakota.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2057. An act to establish the President's Council on Health Promotion and Disease Prevention; to the Committee on Energy and Commerce.

S.J. Res. 290. Joint resolution to designate July 4, 1986, as "National Immigrants Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 18 minutes p.m.), the House adjourned until tomorrow, Thursday, June 19, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3742. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1987 for purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

3743. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 6-176, "Equitable Tax Relief Act of 1986," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3744. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 6-177, "Youth Residential Facilities Licensure Act of 1986," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3745. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 6-178, "Juvenile Protective Act of 1986," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3746. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 6-179, "Capitol Court Designation Act of 1986," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3747. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 6-175, "Boxing and Wrestling Commission Act Amendment Act of 1986," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3748. A letter from the Commissioner, Rehabilitation Services Administration, Department of Education, transmitting an evaluation of the Centers for Independent Living Grant Program, pursuant to 29 U.S.C. 796e(e)(2) (Public Law 93-112, section 711(e)(2) (98 Stat. 31)); to the Committee on Education and Labor.

3749. A communication from the President of the United States, transmitting certification that the conditions set forth in the President's 1981 AWACS Communication to the Senate have been met (for sale to Saudi Arabia), pursuant to Public Law 99-83, section 131(b) (99 Stat. 209) (H. Doc. No. 99-235); to the Committee on Foreign Affairs and ordered to be printed.

3750. A letter from the Acting Assistant Secretary for Health, Department of Health and Human Services, transmitting notification of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3751. A letter from the Acting Commissioner of Social Security, transmitting notification of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3752. A letter from the Clerk of the House, transmitting the annual compilation of personal financial disclosure statements filed with the Clerk of the House of Representatives, pursuant to Public Law 95-521, section 103(d)(1) (H. Doc. No. 99-236); to the Committee on Standards of Official Conduct and ordered to be printed.

3753. A communication from the President of the United States, transmitting notification of his designations of the Chairman and Vice Chairman of the International Trade Commission, pursuant to 19 U.S.C. 1330(c)(1); to the Committee on Ways and Means.

3754. A letter from the Comptroller General, General Accounting Office, transmitting the results of the reviews of the independent certified public accountants' audits of the fiscal year 1984 and 1983 financial statements of the National Credit Union Administration's operating and share insurance funds and the Central Liquidity Facility (GAO/AFMD-86-45), pursuant to 31 U.S.C. 9106(a); jointly to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. H. Res. 479. Resolution providing for the consideration of H. Con. Res. 350, a concurrent resolution providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise. (Rept. 99-645). Referred to the House Calendar.

Mr. MITCHELL: Committee on Small Business. H.R. 4260. A bill to provide the Small Business Administration continuing authority to administer a program for small innovative firms; with amendments (Rept. 99-646). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. KAPTUR:

H.R. 5046. A bill to provide for certain transportation of cargo of the Department of Defense; jointly, to the Committees on Armed Services, and Merchant Marine and Fisheries.

By Mr. MONTGOMERY (for himself and Mr. HAMMERSCHMIDT):

H.R. 5047. A bill to amend title 38, United States Code, to eliminate gender-based language distinctions in title 38, United States Code, and to make technical corrections in that title; to the Committee on Veterans' Affairs.

By Mr. RUDD (for himself, Mr. NIELSON of Utah, Mr. DORNAN of California, Mr. GINGRICH, Mr. DIOGUARDI, Mr. STUMP, Mr. BROWN of Colorado, Mr. OXLEY, Mr. SILJANDER, Mr. MYERS of Indiana, Mr. SCHAEFER, Mr. DANNEMEYER, Mr. HUNTER, Mr. SKEEN, Mr. MILLER of Ohio, Mr. BURTON of Indiana, Mr. SOLOMON, and Mr. ARMEY):

H.R. 5048. A bill to amend title 10, United States Code, to authorize certain additional assistance to be provided by the Department of Defense for civilian law enforcement purposes related to border protection; jointly, to the Committees on Armed Services, and the Judiciary.

By Mr. SENSENBRENNER:

H.R. 5049. A bill to require the Environmental Protection Agency to clean up hazardous wastes at the Sheboygan Harbor site in Wisconsin; jointly, to the Committees on Energy and Commerce, and Public Works and Transportation.

By Mr. JONES of Oklahoma (for himself, Mr. ROSTENKOWSKI, Mr. JACOBS, Mr. GEPHARDT, Mr. FOWLER, Mr. DONNELLY, Mr. COYNE, Mr. GIBBONS, Mr. ARCHER, Mr. DAUB, Mr. GREGG, Mr. PICKLE, Mr. PEPPER, Mr. ROYBAL, Mr. STARK, Mr. FORD of Tennessee, Mr. DOWNEY of New York, Mr. GUARINI, Mr. PEASE, Mr. MATSUI, Mr. ANTHONY, Mr. FLIPPO, Mr. DORGAN of North Dakota, Mrs. KENNELLY, Mr. DUNCAN, Mr. VANDER JAGT, Mr. FRENZEL, Mr. MCGRATH, Mr. JENKINS, Mr.

RANGEL, Mr. ANDREWS, Mr. APPLEGATE, Mr. ARMEY, Mr. ASPIN, Mr. BARTON of Texas, Mr. BIAGGI, Mr. BLILEY, Mr. BOEHLERT, Mr. BONIOR of Michigan, Mr. BONKER, Mr. BORSKI, Mr. BOUCHER, Mr. BROWN of California, Mr. BRYANT, Mrs. BURTON of California, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CARNEY, Mr. CHAPPIE, Mr. CHAPMAN, Mr. CHAPPELL, Mr. CLAY, Mr. COATS, Mr. COBEY, Mr. COLEMAN of Texas, Mr. COMBEST, Mr. CONYERS, Mr. COUGHLIN, Mr. CROCKETT, Mr. DAVIS, Mr. DELLUMS, Mr. DEWINE, Mr. DIOGUARDI, Mr. DREIER of California, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. ENGLISH, Mr. ERDREICH, Mr. FAZIO, Mr. FIELDS, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. GAYDOS, Mr. GEJDENSON, Mr. GLICKMAN, Mr. HAYES, Mr. RALPH M. HALL, Mr. HENRY, Mr. HORTON, Mr. HOWARD, Mr. HUTTO, Mr. JEFFORDS, Ms. KAPTUR, Mr. KILDEE, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEHMAN of California, Mr. LELAND, Mr. LEVINE of California, Mr. LIGHTFOOT, Mrs. LLOYD, Mr. MCCANDLESS, Mr. MCCURDY, Mr. MCEWEN, Mr. MCHUGH, Mr. MADIGAN, Mr. MANTON, Mr. MARKEY, Mr. MICA, Mr. MITCHELL, Mr. MOAKLEY, Mr. MORRISON of Connecticut, Mr. MORRISON of Washington, Mr. MRAZEK, Mr. MURPHY, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. REID, Mr. RINALDO, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. ROGERS, Mr. ROSE, Mr. ROTH, Mr. ROWLAND of Connecticut, Mr. SAXTON, Mr. SCHEUER, Mr. SCHUMER, Mr. SHAW, Mr. SHUMWAY, Mr. SKELTON, Mr. SMITH of Florida, Mr. SMITH of New Hampshire, Mr. SPRATT, Mr. STALLINGS, Mr. SWEENEY, Mr. SWINDALL, Mr. SWIFT, Mr. SYNAR, Mr. TAUKE, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. UDALL, Mrs. VUCANOVICH, Mr. WATKINS, Mr. WAXMAN, Mr. WEAVER, Mr. WHITEHURST, Mr. WILSON, Mr. WISE, Mr. WOLF, Mr. WOLPE, Mr. WORTLEY, Mr. YATRON, Mr. YOUNG of Missouri, Mr. BERMAN, Mrs. SCHROEDER, Mr. THOMAS of California, Mr. LENT, Mr. KINDNESS, Mr. WILLIAMS, Mr. BROYHILL, Mr. MAZZOLI, Mr. MARTINEZ, Mr. EDGAR, and Mrs. BOXER):

H.R. 5050. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such act, to provide for more prudent and effective management of the title II trust funds, and for other purposes; to the Committee on Ways and Means.

By Mr. WIRTH (for himself, Mr. LEACH of Iowa, Mr. GINGRICH, and Mr. ROEMER):

H.R. 5051. A bill to authorize funding for research on the potential atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges, and to establish a commission to study such consequences and their implications for U.S. defense policy; jointly, to the Committees on Armed Services, Science and Technology, and Energy and Commerce.

By Mr. FAUNTROY (for himself, Mrs. HOLT, Mr. PARRIS, Mr. BARNES, Mr. HOYER, and Mr. WOLF):

H.J. Res. 659. Joint resolution designating July 4, 1986, as "July 4th Family Celebration Day"; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California (for himself, Mr. RANGEL, and Mr. GILMAN):

H.J. Res. 660. Joint resolution to require that alkyl nitrites and their isomers be treated as a drug for purposes of the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

By Mr. PASHAYAN (for himself and Ms. OAKAR):

H.J. Res. 661. Joint resolution designating the month of October, 1986 as "National Ceramic Arts Month"; to the Committee on Post Office and Civil Service.

By Mr. SWEENEY (for himself and Mr. MAVROULES):

H.J. Res. 662. Joint resolution expressing the support of Congress for the Advanced Technology Bomber; to the Committee on Armed Services.

By Mrs. BOXER:

H. Con. Res. 359. Concurrent resolution expressing the sense of the Congress that the Equal Employment Opportunity Commission should not take more than 60 days to review and act upon charges filed under title VII of the Civil Rights Act of 1964 by 2,000 or more employees against an employer with which they are engaged in a labor dispute affecting commerce; to the Committee on Education and Labor.

By Mr. MCCOLLUM (for himself, Mr. WYLIE, and Mr. ROEMER):

H. Res. 480. Resolution to provide for the consideration of the bill (H.R. 20) to amend the definition of a bank for purposes of the Bank Holding Company Act of 1956; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 704: Mr. DAUB and Mr. MCGRATH.

H.R. 1156: Mr. KILDEE.

H.R. 1309: Mr. MCDADE, Mr. OBEY, Mr. ROYBAL, Mr. GRAY of Illinois, Mr. FASCELL, Mr. RINALDO, Mr. SMITH of Florida, Mr. GONZALEZ, Mr. ROEMER, and Mr. BONKER.

H.R. 1398: Mr. VISCLOSKY.

H.R. 1769: Mrs. LLOYD.

H.R. 2902: Mr. KLECZKA.

H.R. 4029: Mr. WAXMAN.

H.R. 4075: Mr. SWIFT.

H.R. 4300: Mr. DE LUGO, Mr. LELAND, and Mr. DURBIN.

H.R. 4391: Mr. LOWRY of Washington.

H.R. 4424: Mr. TOWNS, Mr. BEVILL, Mr. PENNY, and Mr. YOUNG of Florida.

H.R. 4435: Mr. LOWRY of Washington.

H.R. 4633: Mr. APPLEGATE.

H.R. 4655: Mr. MONSON and Mrs. MARTIN of Illinois.

H.R. 4669: Mr. DELAY.

H.R. 4671: Mr. WILLIAMS, Mr. LANTOS, and Mrs. BOXER.

H.R. 4722: Mr. DYMALLY, Mr. PERKINS, Mr. RODINO, Mr. ROSTENKOWSKI, Mr. FUQUA, Mr. DE LUGO, Mr. BUSTAMANTE, Mrs. BURTON of California, Mr. DE LA GARZA, Mr. JACOBS, Mr. LELAND, Mr. MITCHELL, Mr. FAUNTROY, Mr. GARCIA, Mr. ROE, Mr. TOWNS, Mr. SMITH of Florida, Mr. FUSTER, Mr. PEPPER, Mr. TRAFICANT, Mr. DELLUMS, Mr. MARTINEZ, Mr. BERMAN, Mr. DORGAN of North Dakota, Ms. KAPTUR, Mr. HENDON, Ms. MIKULSKI, Mr. SOLARZ, Mr. RAHALL, Mr. MOLINARI, Mr. BARNES, Mr. ACKERMAN, Mr. SCHEUER, Mr. CROCKETT, Mr. FISH, and Mr. TORRICELLI.

H.R. 4744: Mr. UDALL.

H.R. 4820: Mr. DE LA GARZA.

H.R. 4872: Mrs. BURTON of California.

H.R. 4886: Ms. MIKULSKI and Mr. SMITH of Florida.

H.R. 4908: Mr. ACKERMAN, Mr. BEDELL, Mr. BARNES, Mr. BEILENSON, Mr. BEREUTER, Mr. BONIOR of Michigan, Mr. BONKER, Mr. BUSTAMANTE, Mr. CROCKETT, Mr. DE LUGO, Mr. DIXON, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. FAZIO, Mr. GILMAN, Mr. GUNDERSON, Mr. HORTON, Mr. KASTENMEIER, Mr. LELAND, Mr. LEVINE of California, Mr. LIPINSKI, Mr. MCKINNEY, Mrs. MEYERS of Kansas, Ms. MIKULSKI, Mr. MITCHELL, Mr. MORRISON of Connecticut, Mr. ROBINSON, Mr. STUDDS, Mr. TORRICELLI, Mr. WEAVER, Mr. WILLIAMS, and Mr. WORTLEY.

H.R. 5035: Mr. BENNETT, Mr. GRAY of Illinois, Mr. NELSON of Florida, Mr. FASCELL, Mr. FAUNTROY, Mr. LIPINSKI, Mr. DYMALLY, Mr. WORTLEY, Mr. FOGLIETTA, and Mr. DE LA GARZA.

H.J. Res. 231: Mr. DORNAN of California, Mr. O'BRIEN, Mr. DAUB, Mrs. BENTLEY, Mr. LEWIS of Florida, Mr. TAYLOR, Mr. KOSTMAYER, Mr. HOYER, Mr. VANDER JAGT, Mr. HUTTO, Mr. FRENZEL, and Mr. BOEHLERT.

H.J. Res. 429: Mr. DYSON, Mrs. HOLT, Mr. KASTENMEIER, Mrs. JOHNSON, Mr. HENDON, Mr. ACKERMAN, Mr. ATKINS, Mr. CARNEY, Mr. BLILEY, Mr. BROWN of California, Mr. YOUNG of Florida, Mr. DASCHLE, Mr. DELLUMS, Mr. DOWDY of Mississippi, and Mr. DARDEN.

H.J. Res. 552: Mr. FOGLIETTA, Mr. FEIGHAN, Mr. GILMAN, Mr. MOORE, Mr. LELAND, Mr. KOLTER, and Mr. DYSON.

H.J. Res. 590: Mr. FASCELL, Mr. HILLIS, and Mr. PICKLE.

H.J. Res. 607: Mr. BADHAM, Mr. FAWELL, Mr. MONSON, Mr. PACKARD, Mr. TRAFICANT, Mr. VALENTINE, and Mr. VOLKMER.

H.J. Res. 611: Mr. BERMAN, Mr. WOLF, Mr. WYLIE, Mr. MOLLOHAN, Ms. MIKULSKI, Mr. WALKER, and Mr. SHUMWAY.

H.J. Res. 643: Mr. WEBER, Mr. FAZIO, Mr. DAUB, and Mr. BLILEY.

H.J. Res. 656: Mr. MICHEL, Mr. LOTT, Mr. KEMP, Mrs. MARTIN of Illinois, Mr. LAGOMARSINO, Mr. LEWIS of California, Mr. BARNARD, Mr. CHANDLER, Mr. REGULA, Mr. GINGRICH, Mr. WALKER, Mr. KASICH, Mr. SOLOMON, Mr. COURTER, Mr. SLAUGHTER, Mr. SENSENBRENNER, Mr. HYDE, Mr. BURTON of Indiana, Mr. SILJANDER, Mr. TAYLOR, Mr. BROYHILL, Mr. DORNAN of California, Mr. BADHAM, Mr. MYERS of Indiana, Mr. KINDNESS, Mr. LUNGREN, Mr. GUNDERSON, Mr. DUNCAN, Mr. WHITTAKER, Mr. TAUKE, Mr. BARTON of Texas, Mr. COBEY, Mr. COLEMAN of Missouri, Mr. RUDD, Mr. BROWN of Colorado, Mr. BLILEY, Mr. BATEMAN, Mr. WOLF, Mr. GREGG, Mr. SNYDER, Mr. COATS, Mr. SPENCE, Mr. MCCAIN, Mr. QUILLEN, Mr. PORTER, Mr. MCGRATH, Mr. BILIRAKIS, Mr. CAMPBELL, Mr. GILMAN, Mr. HILLIS, Mr. CONTE, Mr. THOMAS of California, Mr. WEBER, Ms. FIEDLER, Mr. MOLINARI, Mr. GRADISON, Mr. KRAMER, Mr. MCDADE, Mr. SHUSTER, Mr. HAMMERSCHMIDT, Mrs. HOLT, Mr. DICKINSON, Mr. IRELAND, Mr. MOORE, Mr. SHAW, Mr. LEWIS of Florida, Mr. SCHULZE, Mr. CRANE, Ms. SNOWE, Mr. HUNTER, Mr. CHAPPIE, Mr. LOEFFLER, Mr. SUNDQUIST, Mr. PETRI, Mr. FIELDS, Mr. ROGERS, Mr. HOPKINS, Mr. STRANG, Mr. OXLEY, Mr. NIELSON of Utah, Mr. CALLAHAN, Mr. HORTON, Mr. ECKERT of New York, Mr. BROOMFIELD, Mr. PASHAYAN, Mr. MILLER of Ohio, Mr. DEWINE, Mr. YOUNG of Alaska, Mr. CRAIG, Mr. BOEHLERT, Mr. COUGHLIN,

Mr. STUMP, Mr. MARTIN of New York, Mr. EDWARDS of Oklahoma, Mr. WHITEHURST, Mr. HENDON, Mr. MACK, Mr. YOUNG of Florida, Mr. ARCHER, Mr. LUJAN, Mr. FAWELL, Mr. DAUB, Mr. DELAY, Mr. SCHAEFER, Mr. SAXTON, Mrs. SCHNEIDER, Mr. JEFFORDS, Mr. ROWLAND of Connecticut, Mr. FRENZEL, Mr. PURSELL, Mrs. MEYERS of Kansas, Mr. ZSCHAU, Mr. MONSON, Mr. HARTNETT, Mr. SMITH of New Hampshire, and Mr. ARMEY.

H. Con. Res. 26: Mr. MOLLOHAN.

H. Res. 468: Mr. LEHMAN of Florida, Mr. BLILEY, Mr. DERRICK, Mrs. HOLT, Mr. MORRISON of Connecticut, Mr. HUTTO, Mr. LEWIS of Florida, Mr. ANDREWS, Mr. REGULA, Mr. HENRY, Mr. SMITH of Florida, Mr. LEVINE of California, Mr. WILSON, Mr. MICA, Mr. HORTON, Mr. HYDE, Mr. MARTINEZ, and Mr. VALENTINE.

H. Res. 471: Mr. ACKERMAN, Mr. GARCIA, Mr. NELSON of Florida, Mr. YOUNG of Florida, Mr. CHAPPELL, Mr. MITCHELL, Mr. STENHOLM, Mr. MORRISON of Connecticut, Mr. LEWIS of Florida, Mr. HENRY, Mr. ROWLAND of Georgia, Mr. WILSON, and Mr. ROBINSON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

395. By the SPEAKER: Petition of Mr. Erich Weiszkirchner, et al, of Austria, relative to the removal of the Navajo and Hopi residents from their homeland; to the Committee on Interior and Insular Affairs.

396. Also, petition on the City Council of Monterey Park, CA, relative to cities that are declaring themselves sanctuaries for illegal aliens; to the Committee on the Judiciary.

397. Also, petition of the City Council of Conneaut, OH, relative to "Save American Industry/Jobs Day"; to the Committee on Post Office and Civil Service.

398. Also, petition of the Board of Lake County Commissioners, Painesville, OH, relative to "Save American Industry/Jobs Day"; to the Committee on Post Office and Civil Service.

399. Also, petition of the Association of Southeast Asian Nations, Washington, DC, relative to the Pease amendment to the Comprehensive Trade Policy Reform Act of 1986; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H. CON. RES. 350

By Mr. BROOMFIELD:

—Page 3, beginning in line 19, strike out "NUMERICAL" and all that follows through the end of line 20 on that page, and in lieu thereof insert "PROVISIONS."; and

Page 3, beginning in line 21, strike out all that follows the word "adhere" through the end of line 25 on page 3, and in lieu thereof insert "to the provisions of the SALT agreements as long as the Soviets do likewise.".

SENATE—*Wednesday, June 18, 1986*

(Legislative day of Monday, June 16, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer today will be offered by Rev. Howard Merchant, minister of Spring Road Christian Church, Lanett, AL. Reverend Merchant is sponsored by Senator HEFLIN.

PRAYER

The Reverend Howard Merchant, minister, Spring Road Christian Church, Lanett, AL, offered the following prayer:

Let us pray.

Heavenly Father, we thank You for the United States of America, for an abundance of natural resources, for great government, for industrious people, and for Your tremendous blessings, which together, have enabled us to become the land of the free.

We thank You for the firm moral and spiritual truths upon which we are founded. Principles which cause us to look up and acknowledge You as Creator and Sustainer of life * * * which help us to know the worth of each and every person * * * which make it possible to have government by people and for people * * * which enable us through free enterprise to lay hold of great resources, and with the intelligence of our minds and the labor of our hands to produce that which supplies our needs and the needs of millions of people throughout the world * * * principles which present Jesus Christ as Your son and the Savior of men and give us the opportunity to become a part of His church.

We confess to You this morning that we are discarding some of these principles and in so doing are becoming morally and spiritually bankrupt. We are turning inward rather than upward. We find ourselves in personal and national sin and unable to cope with our problems. Hear our prayer! Forgive our sins and help us to build on those eternal principles that make men and nations strong.

We pray for our citizens. May we hold high Your word so that it will shine brightly in our land. Bring us together. Help us to be one.

We thank You for elected officials and for all people in government. We are grateful for their abilities, their knowledge, their experience, and for their willingness to give themselves. Guide them with Your wisdom. Help them to know right and to do right. Keep them in Your care. We pray also for their families, their wives and husbands, their children, and others in their circle of love. Guide them with Your love.

This morning we ask You to give wisdom and strength to this Senate so they can accomplish today's work in a manner that is good for America and in a way that brings honor to You.

We pray in Jesus name. Amen.

RECOGNITION OF ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator SIMPSON, is recognized.

PRAYER OF VISITING CHAPLAIN

Mr. SIMPSON. Mr. President, we thank our visiting Chaplain from Alabama for his very thoughtful remarks today.

SCHEDULE

Mr. SIMPSON. The convening hour, of course, was 9 a.m. We have the two leaders under the standing order. The leaders' time has been reserved for a later time today.

There are special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, HEINZ, LEAHY, CHAFEE, BUMPERS, QUAYLE, MELCHER, MCCONNELL, and LEVIN.

There will be routine morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

At the conclusion of routine morning business, the Senate will resume the unfinished business, which is H.R. 3838, the tax reform bill. Votes can be anticipated throughout the day.

It is the majority leader's intention to complete action on the tax bill by the close of business today, which would mean a rather long day once again.

It is necessary that we complete our work on that. There is much to be done in conference, the transitional rules to be determined there, a few dozen from each body, maybe a hundred or so from here, 200 or 300 of those which will be necessary to be resolved. We will move forward to conclude our work on that today. The leader will intend to do that.

I reserve the remainder of the time and yield the floor to my friend from Rhode Island, after the Democratic leader is recognized.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished Democratic leader, the Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. I thank the Chair.

THE CONGRESSIONAL RECORD

Mr. BYRD. Mr. President, I will say a very few words about a matter. In many ways I see the Senate as an institution that is deteriorating. I have been a Member of this body for 28 years. I have been on the Hill for 34 years. I noted this morning that the Senate portion of the CONGRESSIONAL RECORD is quite limited. It runs from pages S 7623 to S 7690 (Daily Edition). Mr. President, that is just 67 pages. Then, there appears this notice: "Incomplete record of Senate proceedings. Except for the following matter Senate proceedings for today will be continued in the next issue of the RECORD."

Mr. President, I can understand a situation like this when the Senate is about to go into a long recess, and the Senate stays in very late, and when there are a lot of tables and other complicated matter placed in the RECORD. That was not the case here. The Senate did not go into recess last night for a period of a week or 10 days. It went out late—something, I suppose near 1 a.m. this morning, and returned at 9 a.m. this morning.

But it was not a complicated RECORD. The Government Printing Office simply is not doing the job that it ought to do. I suppose the Government Printing Office, like other agencies and programs that are Federal in nature, has suffered some reductions in funds because of budgetary cuts. But in my judgment there is no excuse for this. I have a little institutional knowledge after having served here for these many years. I can remember when I first came here. It would have shocked every Member of the Senate to have seen a CONGRESSIONAL RECORD of only 67 pages, with the remainder to be printed in the next issue of the RECORD.

What is wrong?

I have seen a deterioration in the work down at the Government Printing Office for quite some time. They

need to do better proofreading down there for one thing. I know as a Senator I probably give them more problems than any other Senator because I work late, and I work early here. And I go over my transcripts carefully.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BYRD. The fault is not here with the Official Reporters. The fault is down at the Government Printing Office. There is just no excuse for the CONGRESSIONAL RECORD not to have had all of yesterday's Senate proceedings in it this morning when that RECORD was delivered to our offices.

The statements that were made, for example, on the amendment by Mr. PRYOR having to do with the steel industry are not in this RECORD this morning.

□ 1010

They are not in this RECORD. That is how I came to know it.

Mr. LONG. Will the Senator yield?

Mr. BYRD. Yes.

Mr. LONG. Mr. President, the Senator from Louisiana wanted to review some of the debate. Not that he participated in it, but he wanted to review some of the statements that were made and what Senator from which States voted for the motion to table and what Senators voted against it. It was not available. So he did get the clerk to go back and get the rollcall votes so he could find out. But we should not have to do that. It should have been available here. There was not that much to print.

Mr. BYRD. Exactly. There have been requests this morning for my comments of last night. I did not speak from a written statement. It was past midnight. I have had need today for a transcript of my remarks. I do not have it. The RECORD is not there.

In the RECORD this morning, I see that the House proceedings are reported in full. They run from pages H3679 to H3856 (Daily Edition). Well, that is almost 200 pages, lacking a little bit. But the Senate with only 67 pages in the RECORD? It just does not make sense.

Mr. LONG. Was that an unusually long session for the House of Representatives yesterday?

Mr. BYRD. No.

Mr. LONG. Did the House go out late last night?

Mr. BYRD. No. The House did not go out late. It startles me, and it is a difficult exercise to comprehend, the difficulties that would cause the Government Printing Office to be able only to print 67 pages of the Senate debate of yesterday, 67 pages.

As I indicated before, if there were a lot of complicated tables and reading matter inserted into this RECORD, that would be one thing. But this is straight copy for the most part. As I look through it, it seems to me it is straight copy, straight typewritten copy.

It is not important only to the Senate as an institution, but it is important to others who depend on the RECORD, scholars, agencies. They do not know what happened yesterday. The committees cannot follow the debates. It is important for the committees, for the agencies downtown, it is important for all agencies in our Government, to say nothing of the people all over America who constitute the most important agency or department of all. It is important for them to have the full Senate debates. There is no excuse for this situation.

RECOGNITION OF SENATOR CHAFEE

The PRESIDING OFFICER (Mr. GRASSLEY). Under the previous order, the Senator from Rhode Island is recognized for a period not to exceed 5 minutes.

REAFFIRMING THE VALUE OF SALT ARMS LIMITS

Mr. CHAFEE. Mr. President, once again I am joining my distinguished colleagues, Senators HEINZ, BUMPERS, and LEAHY, in submitting a resolution that reaffirms the value of the SALT II interim restraint.

I must say, Mr. President, it is a coincidence, and a happy one, that today is the seventh anniversary of the signing of the SALT II accords in Vienna, which signing of accords was conducted by President Carter and Mr. Brezhnev, from the Soviet Union.

As we submit this resolution, Mr. President, the situation we face is markedly different from what we have faced before. In the past, interim restraint was hanging by a thread until the President, recognizing the value of the SALT II limitations, decided to remain within them. This last-minute resurrection of SALT, reminiscent of the perils of Pauline, made all of us who supported effective arms control very anxious, but, at the end, very happy.

As you will recall, it was unclear whether the President was going to decide to abide by the SALT II restraints, which required, as one of the options, the dismantling of two Poseidon submarines. The President did go through with that dismantling, although, as I mentioned, he kept us very nervous until he made his decision.

The events of the last few weeks indicate that, as we go forward into the future months, perhaps we are not going to see that happy ending, which is why we are today offering this resolution.

The administration has made various announcements—not the President, he has been guarded in his language; others in the administration—which language the President has not contradicted, saying that SALT is "dead", that it is torn up, that we are through with it, that it is abandoned, that it is fatally flawed.

We believe that if we refuse to abide by the restraints of SALT II, we will deal a serious blow to United States-Soviet arms control.

We recognize the validity of administration claims that there are flaws in the SALT II framework. No one is denying that. But to say that it is fatally flawed and to end U.S. adherence to it because of that to me is a grievous error and would be a grievous error.

As I have said many times before on this floor, despite its problems, the SALT II interim restraints have accomplished two tremendously important tasks:

First, it has held a lid on the arms race. The Soviets have had to dismantle launchers in order to comply with SALT II and so has the United States. We have dismantled. We have dismantled a total of three submarines so far and we have to dismantle more to remain in compliance in future years.

That is the first thing. It has placed a lid on the arms race.

Second, SALT II has kept alive new and more effective arms control prospects.

The resolution we are submitting states that it is against the national security interests of the United States to abandon SALT by exceeding the agreement sublimits on missile launchers. As you know, in the SALT agreement there are limitations for land-based missiles, limitations for bombers, limitations for submarine-launched missiles. These are what we call the sublimits. We believe that these should be adhered to.

In his recent announcement regarding SALT, the President stated his intention to abandon those sublimits later this year when the 131st B-52 armed with cruise missiles is deployed.

Since he also announced that for military and economic reasons he was proceeding with the dismantling of two Poseidon submarines this month, effectively keeping us in compliance with SALT, we have several months to go before the final decision is made on SALT.

□ 0910

We have several months to go before the final decision is made on SALT. The President, in his press conference a week ago, I believe, was very constructive on this matter. He pointed out the importance, the fact that he was in compliance with the SALT II restraints. He indicated that much would depend in future months on what the Soviets did. He did not completely abandon SALT II. What we are disturbed about, of course, is the state-

ments that have emerged from his administration since then and prior thereto.

In this resolution, we acknowledge that SALT interim restraint is far from perfect. We make clear our support for efforts to pursue the resolution of the concerns that all of us have over Soviet noncompliance with some features of SALT. There are two clear Soviet noncompliances with SALT: First, the failure to observe the restrictions on encryption in the testing of their missiles. Second, the Soviets have, indeed, deployed a second new intercontinental ballistic missile; namely, the SS-25, which is contrary to the provisions of SALT II. These are serious violations. They compromise the integrity of the interim restraint and they poison the environment for successful future arms negotiations.

Nonetheless, is it in our best interest—after all, that is what we are interested in, the best interest of the United States. Is it in our best interest because of these violations by the Soviets of SALT II to say we are through with the agreement, abandon it? We are convinced that if that took place, we would be the losers. Removal of all the restraints of SALT II would mean that the Soviets would be free to proceed with the increased warheads on, for instance, the SS-18, while it would take us much longer to catch up.

As our resolution states, however, the appropriate response to these problems is not a complete abandonment of SALT. The fact remains that under SALT, the Soviets have removed more than 1,000 missiles from their arsenal, while we have removed fewer than 100. The key numeral sublimits of SALT, which are the heart of the agreement and which have successfully held back an unrestrained arms race, have not been violated by either side. As so many supporters of arms control have pointed out in the last few weeks, it is pointless and dangerous to throw away this central aspect of SALT while we have nothing better with which to replace it. If we discard mutual restraint on those sublimits, there is a significant chance that the Soviets will seize the opportunity to race out ahead of us—employing their so-called hot arms production lines—and begin a costly new arms race.

Our resolution, which I hope will gain significant support from the rest of the Senate, is a simple expression of our belief that, for the present, we should stick with SALT. It is not a declaration that we should be satisfied with SALT interim restraint. To the contrary, the legislation contains an explicit expression of our belief that both countries should continue—and intensify—their efforts in Geneva to agree upon substantial and verifiable reductions in their nuclear forces. It calls upon the Soviets to take positive steps to resolve our serious concerns about their violations of SALT. Most importantly, however, it states our firm belief that if we break out of SALT now, abandoning the sublimits that have been scrupulously observed by both sides, we will jeopardize not only the future of arms control, but also the national security of the United States.

I recognize that my time is up, Mr. President.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for a period not to exceed 5 minutes.

WHY WE MUST LEARN TO LIVE WITH NUCLEAR WEAPONS

Mr. PROXMIRE. Mr. President, the most dangerous myth on Earth is the nonsense perpetrated jointly by the Soviet Secretary General of the Communist Party and the President of the United States that we can somehow banish nuclear weapons or make them obsolete. Why is this myth advanced by the world's two most powerful leaders so dangerous? It is because the myth lulls people, especially the American people, into the futile hope that somehow, nuclear weapons will disappear and mankind can then live in peace. The grim fact is that nuclear weapons are here to stay. We must acknowledge that fact. We must learn to live with it. We must take the painful, careful steps necessary to preserve peace in a nuclear armed world.

Today we are haunted by the nightmare threat of a nuclear war. Our top scientists have warned us that a nuclear war would utterly destroy civilization and would very possibly sound the death knell for mankind as a species. So, of course, we yearn with all our heart for an end to this terrible cataclysmic threat. When both the top leaders of the two superpowers hold out the vision of a nuclear-free world, each of us wants with all our hearts to believe them.

Human life is our ultimate, our supreme value. Every human being has a powerful instinct for self-preservation. Most of us have an even stronger drive to preserve the lives of our own children. Nuclear weapons threaten these precious human lives. Indeed, nuclear weapons threaten all human life. So why should we settle for anything less than the total, final, absolute end to nuclear weapons? Why should we not applaud Gorbachev and Reagan and wish them Godspeed in their mission to abolish nuclear weapons forever and the sooner, the better?

Here is why: The toughest and cruelest challenge we can face in life is the challenge to accept reality in its grimmest and most painful form. Every person should accept, and most do accept, the sure reality of our own death. Such an acceptance is a sign of maturity. This generation must accept a new and even grimmer reality: the reality of permanent nuclear weapons.

No weapon that was more efficient and deadly than its predecessors has ever been banished or become obsolete except through the development of even more deadly and destructive weapons. Certainly nuclear weapons could disappear, if the superpowers eventually replace them with a still more devastating weapon, like an antimatter bomb. The antimatter bomb would achieve the release—that is the explosion—of all the energy in a unit of matter. Pound for pound, it could have far more times explosive power than the hydrogen bomb. The antimatter bomb could, indeed, make nuclear weapons obsolete. The new explosive would be cheaper, smaller, and all but certain to achieve the capacity of ending all life on Earth.

Obviously, this is not what Reagan or Gorbachev had in mind in calling for an end to nuclear weapons. President Reagan would rely on a defense against nuclear weapons—a defense he calls the strategic defense initiative (SDI) or star wars. In the many months, since the President of the United States has said that SDI or star wars would make nuclear weapons obsolete, how many scientists or military experts have agreed? Have any of the hundreds of persons under the direct and immediate control and direction of the administration repeated this ridiculous myth—that SDI or star wars will make nuclear weapons obsolete? If so, this Senator has not heard them.

How about the equally far-out dream of Secretary Gorbachev that the superpowers should negotiate nuclear weapons away forever in the next 14 years; that is, by the year 2000? Even in the monolithic dictatorship that is the Soviet Union, no other Soviet personage, military or diplomatic, has repeated this absurd fiction.

The fact, Mr. President, is that nuclear weapons are here to stay. The sooner we accept this and reconcile ourselves to this absolute reality, the sooner we can begin to develop the kind of realistic arms control agreements with mutual reduction of nuclear arms. We can then proceed with detailed, meticulous verification, including unannounced international, on-the-spot inspection. We can follow up that verification with a greatly strengthened joint United States-Russian consultative commission. To do this, we can build on the present Standing Consultative Commission that has in past times enjoyed some

success in stopping violations of arms control agreements or in satisfactorily explaining alleged violations that appeared to be but, after discussion, were found to be in accordance with the agreements.

Such arms control progress could never totally eliminate nuclear weapons or every threat of nuclear war. But it would constitute a vast improvement over the present situation, which is rapidly becoming an all-out nuclear arms race. And it might begin a gradual progression based not on myths but on truth—that it is true, in fact, that a nuclear war can never be won at any time by anyone and therefore must never be fought.

WHY S. 430, IF ENACTED, WOULD BRING BACK BRIBERY

Mr. PROXMIRE. Mr. President, this is the fifth in the series of talks I have been giving against S. 430—the bring-back-bribery bill. Earlier this month, the Senate Banking Committee held an extensive hearing on S. 430. The committee is obviously preparing to try to advance this bill on the floor of the Senate a little later this year, possibly this month. Mr. President, this bill poses a major danger to this country's foreign policy and to its integrity. That is a serious charge. The charge is justified. Here's why:

In 1977, this Senator drafted the Foreign Corrupt Practices Act. The Senate passed the act unanimously. The act flatly and effectively outlawed the bribery of foreign agents by American corporations. Until 1977, bribery of foreign agents had not been a crime in this country or in any other country. The Foreign Corrupt Practices Act changed that.

Did it work? It did, indeed. Just prior to the enactment of the bill, there had been a widespread series of shocking bribes paid by American corporations to foreign officials in Japan, Italy, the Netherlands, and a number of other countries. Those bribery scandals stopped and stopped cold in 1977 when the Foreign Corrupt Practices Act became law.

In the nearly 9 years that have elapsed since the enactment of that law, there have been no scandals. Did this FCPA law adversely affect our exports? No way. In the 2 years immediately after the enactment of the law—the period when any adverse effect could have been expected—did American exports fall? No. Now, get this: They increased not by 2 or 3 percent, but by a whopping 11 percent.

But is it not possible that the Foreign Corrupt Practices Act did reduce exports but that factor was overwhelmed by other influences? A distinguished scholar at the University of Southern California examined that possibility in meticulous detail and found that the FCPA had no adverse effect on our trade.

Mr. President, how can I say that the bill the Senate will be voting on later this year will gut the Foreign Corrupt Practices Act? Do not the authors of the amendment say they simply want to modify the present law? Do they and every witness who appeared before the Banking Committee this month in favor of S. 430 not say that the Foreign Corrupt Practices Act is a good law but they just want to make it better with S. 430? They do, indeed. But just consider what S. 430, the Bring-Back-Bribery Act, does in three respects.

First, it specifically legalizes payments including obvious bribes by corporations to foreign officials that represent "a token of esteem" or a "return for hospitality received." There is no dollar limit set for such legalized bribes; not $1,000, not $10,000 not a $100,000. And there is no generalized limitation specifying that the payment has to be nominal. This is the loophole through which the New York Times has said you could fly a Lockheed.

Second, the heart of the Foreign Corrupt Practices Act makes a corporation official subject to criminal prosecution if his corporation pays a bribe from a fund over which that corporation has authority and the corporation official had "reason to know" that the bribe was being paid. S. 430, the bring-back-bribery bill, knocks out the "reason to know" provision.

Now, get what S. 430 substitutes for "reason to know." It makes it unlawful for a corporation executive to "expressly authorize or direct" or "by a course of conduct" to approve a payment to a foreign official for the purpose of making a sale. How unrealistic can you get? No corporation official is going to write his foreign agent a note to tell him to pay Prime Minister Jones a $1 million bribe. That is not the way it is done. As a former SEC Commissioner testified this language would bring back the environment of "do what you have to do, but don't tell me about it." And as Ted Sorenson, a top aide to President Kennedy put it, it brings back the "knowing wink" and the "pregnant nod."

Third, Mr. President, S. 430 would destroy the force of the crucial provision in the Foreign Corrupt Practices Act that requires corporations "to keep accurate books and records according to reasonable standards." Oh, sure the requirement is left in the law. But S. 430 pulls the enforcement teeth. Here is how: The bring-back-bribery bill knocks out the criminal penalty for violation of this provision and leaves only a civil penalty.

Why is that so bad? Because false records can conceal bribes from the board of directors and the government. And we are talking about big money here and big temptation. A bribe can bring hundreds of millions of dollars in sales. The FCPA law has worked because its violation could bring ruin to the corporation official who violates it. Why should not the deliberate, calculated, knowing violation by a company's management of its legal duty to have an accounting system in place that can prevent the building of off-the-record slush funds continue to have criminal penalties?

That is not the only assault on the accurate records provision of the Foreign Corrupt Practices Act of S. 430. The present law requires a corporation to keep its books in enough detail to "accurately and fairly reflect the transactions and disposition of the assets of the issuer." This prevents our large corporations from hiding illegal payments in miscellaneous accounts. S. 430 would free corporate officials from being responsible for accurate records on payments that are not material. Put that little nugget in your pipe and smoke it.

What does it mean? It means that if a corporate official wants to conceal a $25,000 bribe in a miscellaneous account he can do so and probably get away with it. It would be much more difficult to find such payments hidden in corporate books. A lower corporate official might be quite willing to take such a risk if it would win a big contract and help his career. Top management would no longer fear criminal penalties for inadequate accounting systems—even if the inadequacy were willful. They would have less of an incentive to find out what might be hidden in accounts labeled miscellaneous.

Mr. President, make no mistake about it—a vote for S. 430 is a vote to bring back bribery and absolutely gut—tear the heart right out—of a Foreign Corrupt Practices Act that has served this country well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 0920

Mrs. HAWKINS. Mr. President, I ask unanimous consent that the quorum call be suspended.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection? Without objection, it is so ordered.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. The Senator from Florida (Mrs. HAWKINS) is recognized.

DRUGS: THE SOVIET PRESS CHANGES ITS TUNE

Mrs. HAWKINS. Mr. President, this is my 215th statement before the Senate on drug abuse and narcotics trafficking. Drugs are a worldwide problem. Few nations are free of the scourge and the hardships that follow in the wake: Physical and psychological damage, family breakup, economic disruption, and corruption of institutions. The more open societies, those that espouse Democratic principles, have probably been harder hit than totalitarian countries. In an open society, an individual has a greater measure of freedom. In a closed society, the individual is restricted and his movements and activities are more limited. By the very nature of a dictatorship, it is more difficult for its population to use drugs or to sell them.

It is with a great deal of interest that we note the growing drug problem in the Soviet Union. It has been rather generally known that Soviet troops in Afghanistan are heavily using drugs. Young soldiers, far from home, resented by the Afghans they are there ostensibly to help and in a strange land without a clear-cut and honorable mission, take drugs to vent their frustration. But drug use back home in the Soviet Union, to whatever extent it exists, has been a closely held state secret.

The Soviet press has changed its tune. It has stopped portraying drug addiction as a product of decadent capitalism, and has acknowledged that there is a significant drug problem in the motherland.

The Soviet youth newspaper in a Sunday edition observed that "drug addiction is a new problem for us." The newspaper took its readers behind the scenes of Soviet youth culture and described a world of white powder concealed in toothpaste tubes, pill popping, and glue sniffing. It discussed the horrors of drug addiction and the agonies of cold turkey, the withdrawal process.

Part of the article dwelt on poppy poaching, an "in" thing to do for many Soviet youths. Carloads of young people head for the poppy fields as soon as the first blossoms open. Poppy seeds are the source of opium, and its byproducts—codeine, morphine, and heroin. Then begins a Soviet version of cops and robbers as the youths elude the guards and loot the poppy fields. There is a sense of danger, the element of risk, a challenge that spurs the young people on with the added reward of sampling forbidden fruit. The youths return to their villages as conquering heroes.

The Soviets are concerned about this new threat to their society. They acknowledge that the problem of drugs has grown more acute since the crackdown on vodka sales and alcoholism. Two months ago the Moscow City Council called for a "struggle against drug addiction" and urged law enforcement officials and medical authorities to cooperate in identifying potential drug addicts. Shortly thereafter the Moscow city youth newspaper published accounts of a young man whose drug addiction drove him to robbery and mugging to support his habit, and of another youth who tried to commit suicide by drinking large quantities of vodka when his drug supply was cut off.

Another newspaper carried the story of a young man being arrested on the Moscow streets for selling hashish disguised as a popular brand of cigarettes.

Drug abuse is not a creature of a democratic society or a totalitarian society. Its roots lie in human frailty and the greed of those who would profit from the weakness of others. The Soviets have to deal with their problem and we have to deal with ours. Unfortunately, we share the same problem, and there are no simple solutions.

□ 0930

RECOGNITION OF SENATOR HEINZ

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania [Mr. HEINZ] is recognized for not to exceed 5 minutes.

(Mrs. HAWKINS assumed the chair.)

NUCLEAR ARMS CONTROL

Mr. HEINZ. Madam President, nuclear arms control between America and the Soviet Union is a vital concern to all of us, and today Congress and the American people are facing crucial choices about our arms control policy.

For 5 years, America under President Reagan has stayed within the numerical limits of the SALT treaty. Those limits cap the number of missiles that both sides can have. The limits both sides have respected over the past 5 years are the only rule book we have that regulates the nuclear forces of the United States and the Soviet Union. I don't think we should throw those rules away until we have something better.

I join the President in calling on the Soviet Union to clean up their act, to stop their violations of the SALT treaty. And I support United States responses that make military sense, that force the Soviets to pay the price for breaking their word. The Midgetman missile and the advanced cruise missile are such responses.

But I believe that we should continue observing the numerical SALT limits as long as the Soviets continue to do so. Because these limits serve our security interests by limiting Soviet nuclear forces, they are the only starting point we have for the negotiated deep reductions in nuclear weapons we now seek with the Soviets.

I think a majority of the Senate agrees with me on this, and today I join three of my colleagues in offering a bipartisan sense of the Senate resolution supporting continued U.S. compliance with the numerical limits of SALT.

Madam President, the Soviets continue to increase their forces even with SALT, and the Senate is very concerned about this. In the Department of Defense 1986 annual report entitled "Soviet Military Power," they say that the Soviets could field 20,000 strategic warheads by 1995, just 9 years from now, without SALT restraints. That is 5,000 more than they could if both sides continue observing the current ceilings.

There are some people in the Pentagon who say that there is no military reason for the Soviets to build and deploy more warheads. This assessment overlooks a crucial consideration—the strategic defense initiative, which some people call star wars. If I were a Soviet general and I were worried about an American missile shield, among the first things I would want to do is add to my offensive forces by adding the maximum number of nuclear warheads.

The Soviets are in a position to add rapidly to their forces. The Soviets have more missile production lines and programs than we do. They have three times the lifting capacity, or missile throw weight, than we do. If they decide that a new arms race is the best way to prepare for American star wars defenses, they are in a better position to race.

The SALT rule book does more than limit numbers. It helps both sides count the others' forces, by prohibiting concealment of offensive force developments. Once the United States declares the SALT limits dead, the Soviets could hide their nuclear force developments without breaking any rules, because there would be no rules.

To throw away the numerical ceilings we have both been complying with makes no military sense. It makes no political sense. It makes no negotiating sense. The crucial decision on breaking through the SALT ceilings will not come until this fall. The President has made it clear that he has more time to make a final decision. I hope the Soviets change their ways in the meantime. But if they do not, I urge the President to make the right decision, the decision he has made several times before, to keep the United States under the numerical limits of SALT, as long as the Soviets do.

To me, it is impossible to see how, if we get into an arms race with the Soviet Union, we can ever bring about the arms control reductions that we say we seek.

RECOGNITION OF SENATOR LEAHY

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont [Mr. LEAHY] is recognized for not to exceed 5 minutes.

SAVING SALT—IT'S UP TO CONGRESS

Mr. LEAHY. Madam President, I commend the distinguished Senator from Pennsylvania and the distinguished Senator from Rhode Island for their comments. I know that the distinguished Senator from Arkansas [Mr. BUMPERS] will speak on this subject.

By announcing his intention to scrap the SALT II limits at the end of this year, President Reagan has sparked a political firestorm.

The outcry from our European allies was immediate and intense. Here at home, Republicans and Democrats in Congress and national security experts around the country have criticized the President's decision to abandon the only remaining limits on the offensive nuclear arms race.

At a time when the Soviets were suffering an enormous political blackeye from the Chernobyl disaster, the President had handed them a propaganda bonanza that puts the United States on the defensive at the arms talks in Geneva.

Many of us in Congress had hoped the President would realize that he was given bad advice by Secretary Weinberger, Richard Perle, and other ideological opponents of arms control in his administration. Disappointingly, in his June 11 press conference, the President would not back off from his stand.

□ 0940

Thus far, the President has chosen to ignore the clear position of Congress, the American people, and our NATO allies.

Congress cannot stand by while the arms control process collapses. The stakes are really too important. If necessary, fortunately, we will have to have a showdown with the President.

For the last 3 years, a bipartisan group—Senators BUMPERS, CHAFEE, HEINZ and I—have worked to reaffirm the Senate's support for continuing the SALT limits, which any objective observer has to know favor the United States far more than the Soviets. Twice, amendments we offered urging the President to stay with the existing limits passed this body overwhelmingly. In April, we sent a letter to the President signed by over 50 Senators of both parties urging him to continue his policy of abiding by the numerical ceilings of SALT. The Democratic Minority Leader, Senator BYRD, and the senior Democrat on the Armed Services Committee, Senator NUNN, sent similar letters. Over half of the House of Representatives also wrote the President of their support for not undercutting the SALT II Treaty.

Over the last few days, this same bipartisan group has sought to send a message to the President that would avoid a confrontation between the President and Congress on this issue. We met with the President's National Security Adviser, Admiral John Poindexter, for a considerable period of time. Unfortunately, the President's position has remained the same.

Working with other Senators, Republican and Democratic, we have developed a strategy for providing a voice for Congress on the most important national security issue facing the Nation today. First, we will seek a strong show of support in the Senate by a vote on a resolution affirming that observing the numerical limits of existing strategic arms agreements is in the national interest. It is our hope * * * though, in my case, only a faint one * * * that such a renewed demonstration of the Senate's views will yet influence the President to turn back toward arms control and away from those who want an unrestrained arms race.

Should that approach fail, it is my intention and the intention of many of my colleagues in the Senate, to go on to that showdown with the President. We are already working on an amendment that will prohibit by law the President from simply dumping the numerical ceilings of SALT. I believe we can win a vote on such a binding amendment, though it will be much more difficult.

I realize that this would be a serious step—one which still can be avoided. Perhaps the only thing worse than legislating defense and arms control policy would be the complete breakdown of not only existing limits on the arms race, but also the breakdown for any meaningful progress in the stalled Geneva talks. As I have stated time and again on the floor of the U.S. Senate for the past 3 years, keeping the interim restraint policy intact until a better agreement is negotiated actually enhances our national security interests.

Since entering office, President Reagan has showed great statesmanship in putting aside his inflammatory campaign rhetoric about the SALT II Treaty, ignoring the advice of his hardline advisers, and putting America's national security interests ahead of some narrow political agenda.

Let us hope that the President can be convinced to change his recent decision, so Congress will not have to legislate our national security policy, and more importantly, so the United States, the Soviet Union, and the rest of the world would not be gripped in a never-ending, totally-escalating nuclear arms race, one that neither side wins, one that does not enhance the security of our Nation, one really that threatens the security of not only our Nation and the Soviet Union but the rest of the world.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR BUMPERS

The PRESIDING OFFICER (Mr. HEINZ). Under the previous order, the Senator from Arkansas is recognized for 5 minutes.

THE SALT II TREATY

Mr. BUMPERS. Mr. President, I have been reading a book called "The March of Folly: From Troy to Vietnam," by Barbara Tuchman, a great American historian who makes history read like a novel. The theme of this book is that for 4,000 years man has been trying to govern himself, and for 4,000 years he has been shooting himself in the foot. Ms. Tuchman catalogs the history of events through that 4,000 year period, but she only blames the mistakes, the follies, on the leaders who refused to listen to alternative voices. If there were no alternatives presented at the time, it is not counted in this book as folly.

But even when the Trojan horse was left outside the fortress in Troy, and the Greeks hid behind the islands making everybody think they had left, there was one man who stood up and said, "You know those thieving, lying, conniving Greeks, that horse is not left there for anything that is going to benefit Troy." But he lost the argument, and they let the horse in, and the rest is history.

Dwight Eisenhower said, "Don't ever get bogged down in a war in Asia," and so we go in Vietnam and 10 years later after the horrible loss of lives and resources we pulled out of Vietnam.

Barbara Tuchman concludes that the ultimate folly is about to occur, that we are marching almost in lockstep toward the ultimate folly of the mutual destruction of the Soviet Union and the United States and probably the entire Northern Hemisphere, and the only thing on God's green Earth that restrains us right now is this unratified SALT II treaty. It is unratified. But it constrains them and it constrains us.

I have been trying to understand the rationale of this decision on our part to scrap that treaty. They say it is bad because it has not been ratified. It was not ratified, not because it was a fatally flawed treaty. It was not ratified, first of all, because of the distrust of the administration that negotiated it. We did not have the votes in this body to ratify that long before Afghanistan was invaded and the invasion of Af-

ghanistan killed any slender chances that treaty might have had.

But who is it that does the ratifying? Why is it just a bad precedent to continue living with an unratified treaty? It was this body that did not ratify the treaty because of political events and probably because of a lack of political courage. Nobody wanted to go home and say in a very controversial thing "Yes, I voted to ratify that treaty."

But last year this body voted for virtually the same resolution we are introducing here today, saying let us stay within it because it is all we have.

Last year this body voted 90 to 5 for a resolution almost identical to this.

Incidentally, SALT II was not a fatally flawed treaty. Do you realize under SALT II we did not have to count our forward base systems, our airplanes in England that are equipped with nuclear weapons; we did not have to include any airplanes that are equipped with nuclear weapons on aircraft carriers within easy striking distance of the Soviet Union; we did not have to include any of the French or British forces that are nuclear, their submarines, and so on.

So Richard Perle says the Soviets are in violation. Well, they are. But what is the relevant question? What kind of violation is it? Is it militarily significant, and if it is, is it significant enough to scrap the only semblance of restraint we have on the nuclear arms race? And if it is not militarily significant, what is the rationale? The other day, someone asked Perle if he realized that they are meticulously staying within the SALT limits and they are dismantling SS-11's in order to do it, and we know that they have dismantled over 500 weapons over the past several years and will have to dismantle 10 times more than we will over the next 18 months. And they are prepared to do it.

But he says those SS-11's do not amount to anything.

Let me ask you this, What would you think Richard Perle would say if they were not dismantling them? They would not be militarily insignificant to him then.

Others say, well, all SALT II has done is allow both sides to continue building weapons, adding more warheads. And that is true. Usually, they do not say both sides. They just say the Soviet Union and, yet we have 12,000 warheads today, a lot more than we had when SALT II was first negotiated.

The Soviet Union has 10,000 and I doubt that anybody in America is sleeping any better because we have not had 2,000 more warheads than they have. One thousand is enough on both sides to start the nuclear winter.

And without SALT, what do you do? The Soviet Union has 10,000 nuclear warheads. You scrap SALT II and by 1991 they will have 15,000.

We are reaching the outer limits right now of what anybody can do on warheads and launchers under SALT II. What a terrible time to dismiss that. Even the SDI Program, if it were ever deployed, is threatened because of this. Obviously, they are going to continue building more warheads without SALT and SDI would have a more difficult time and meeting that kind of a threat.

Let me ask my colleagues and the American people what would be the response in this country if Secretary Gorbachev had just made the same announcement that President Reagan did. What if Secretary Gorbachev said the race is on, forget the treaty, we are not dismantling anything else?

What if you were Gorbachev's military adviser? What would you tell him?

The PRESIDING OFFICER. The 5 minutes have expired.

Mr. BUMPERS. I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. What if you were Gorbachev's adviser and you saw the President say, "Come this fall we are going to break out of this treaty," what would you tell him?

One thing that nobody talks about is this: They say well, the Russians are cheating a little now. They are, and we know it. If you break out of SALT II, which demands certain kinds of conduct on their side and on our side that both sides can verify, you will not know anything about what is going on in the Soviet Union. They have been concealing everything. What is now the deployment of the SS-25's and encryption of telemetry in the Soviet Union are violations, though they are not hurting us very much. Everybody admits that.

□ 0950

But when you scrap SALT II, all you do is legalize those violations, and you say do anything you want. You are not going to be able to verify anything once you scrap this treaty.

The President says we are going to not abide by the treaty, but we are going to constrain ourselves. If you were in their shoes, would you really believe that if you do not have the treaty? Are you going to build trust when there is nothing to build trust on?

And how about the fact that our 14 NATO allies, every single one of them, disagree with this. The linchpin of Soviet foreign policy is to drive a wedge between the United States and our NATO allies, and we're playing right into it. Here we are making one of the most critical decisions we have ever made with which every single ally we have disagrees.

Mr. President, I am not through but I will quit because I do not want to take other Senators' time. But I do want to say one thing. After reading "The March of Folly," we may proceed, as Barbara Tuchman has said, in going right down the road toward the ultimate folly.

But if we survive it and historians 4,000 years from now write a similar book, I do not want to be written and said there was no alternative, that nobody raised their voice against the ultimate folly.

Mr. President, I send a resolution to the desk on behalf of myself, Mr. LEAHY, Mr. CHAFEE, and Mr. HEINZ. And ask unanimous consent that it be printed in the RECORD. I hope we can get a good debate on this very quickly.

S. RES. 431

Whereas, it is in the national interest of the United States to continue the policy of not undercutting existing strategic offensive arms agreements; and

Whereas, the Senate supports the President's recent decision to order the dismantling of older launchers as the eight Trident submarine commenced sea trials; and

Whereas, the Senate also supports the President's efforts to pursue the resolution of concerns over Soviet noncompliance with strategic arms control agreements, particularly the encryption of telemetry and the deployment of the SS-25, both clear violations of SALT II provisions; and

Whereas, Soviet violations of existing strategic offensive arms agreements weaken the integrity of those agreements and the positive environment necessary for successful negotiation of new agreements; and

Whereas, the Senate believes there are appropriate, proportionate responses to Soviet violations which can be implemented without abandoning existing strategic offensive arms agreements; and

Whereas, the Senate is concerned about the continuing Soviet buildup in strategic nuclear warheads, which will add significantly to the number of nuclear warheads deployed by the Soviet Union; and

Whereas, the Senate believes that the Soviet ability to deploy substantially more nuclear warheads would be enhanced by the absence of an interim restraint framework; and

Whereas, the Soviet Union has to date dismantled hundreds of operational missile launchers, and would have to dismantle hundreds more over the next few years, to stay within the numerical limits of existing strategic arms agreements; and

Whereas, ending the U.S. no-undercut policy has the potential for igniting an unlimited nuclear arms race; and

Whereas, the Senate also believes that both the United States and the Soviet Union should intensify their efforts at the Geneva arms negotiations to agree upon substantial and verifiable reductions in their nuclear forces: Now therefore be it

Resolved, that it is the sense of the Senate that

(1) It is currently against the national security interests of the United States to abandon existing strategic offensive arms agreements by exceeding the numerical sublimits therein as long as the Soviet Union remains within these sublimits; and

(2) The Soviet Union should take positive steps to resolve U.S. concerns about Soviet violations of existing strategic arms agreements in order to maintain the integrity of

those agreements and to strengthen the positive environment necessary for the successful negotiation of a new agreement; and

(3) The Congress and the President should continue to review the policy of mutual adherence to the numerical sublimits on launchers of strategic nuclear delivery systems, how such adherence serves U.S. security interests, the significance of both Soviet compliance and non-compliance with existing strategic offensive arms agreements, and the advisability of taking appropriate, proportionate responses to Soviet violations.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized for not to exceed 5 minutes.

AGRICULTURE TRADE AND EXPORT POLICY

Mr. MELCHER. Mr. President, the National Commission on Agricultural Trade and Export Policy met yesterday and is meeting today to unveil for public discussion their draft recommendations on this very serious subject.

Last year, Congress asked that such a commission be put together in a bipartisan manner to meet, deliberate, and discuss with other people in the United States and abroad what this country can do to expand its agriculture exports. We are lacking a good, solid trade policy in this country, and we have been for well over a decade. So it should be a bipartisan effort, a joint effort of all Americans to make sure that we do have a firm, well-understood export policy on agricultural commodities from this country.

Mr. President, I participated in one of the panel discussions offering a critiquing on what the Commission has recommended. The panel that I participated in had to do with developing countries. And that is a very significant point in any agricultural trade policy that leads toward more of our agricultural commodities being shipped abroad.

I have to commend the Commission on several points. First of all, the Commission made it very clear that it is food first, that food is necessary for developing countries in many instances and if there is a shortage of food—a lack of adequate nutrition in the country—you cannot start anything without getting the proper energy into the people of the country. So food does come first. They recognize that and suggest it become a dominant part of our agricultural trade policy as well as a dominant part of our foreign policy concerning developing countries.

Second, I commend the Commission for very strongly urging the President to do what he is required to do under law, specifically under the farm bill that we passed last year, and that is to appoint a highly qualified person to be his, the President's, Special Assistant on Agricultural Trade and Food Assistance.

We passed the bill last December. That slot still has not been filled by the President. It has been neglected for the past 6 months. It should be immediately filled to assist the President and to assist this entire country in coming out of the doldrums on a very lax and very much dwindling agricultural trade. Developing countries, to some people mean countries so small they do not mean much to us. But they mean a whole lot to us in many ways. One of the ways they mean a whole lot to us is that collectively they import a lot of our food commodities, our surplus commodities. Nothing could be better than to help this serious situation which we have in the farm country by improving the agricultural exports so that we start to utilize some of the staggering surplus commodities that we now have in our country which is depressing not just the price domestically, but is depressing the price throughout the world for these surplus commodities.

Just as the President is slow in making this appointment, so too is the entire administration slow in recognizing that part of our dilemma, if it is going to be solved, has to be addressing the situation on how we utilize the surplus commodities in developing countries that are short of food.

I repeat, Mr. President, taken collectively, this represents a vast open market to the United States. We have a lot of tools to use in promoting our trade, in promoting the programs that are already in our law that assist on disposal of surplus commodities from the United States in a worthwhile manner that helps both the developing country and the United States; not the least of which it helps is the farm producer himself, because by removing part of the surplus commodities from our Federal storage, we start the turnaround in how prices can improve for those various commodities.

Mr. President, I hope the recommendations of this national commission will be heard and heard first of all loud and clear right in the White House itself by President Reagan and that he starts action immediately to give us a turnaround in utilizing this abundance that America has in agricultural commodities.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR McCONNELL

The PRESIDING OFFICER (Mr. PRESSLER). The Senator from Kentucky is recognized under a previous order.

TORT REFORM LEGISLATION

Mr. McCONNELL. Mr. President, if there is an issue concerning the American people more today than the liability insurance crisis, it does not come to mind readily. And in response to this crisis, I have introduced the Litigation Abuse Reform Act of 1986. It sets limits on the fees attorneys can receive for liability lawsuits, sets a cap on pain and suffering awards and, in general, discourages people from bringing frivolous lawsuits.

As you can imagine, those groups that profit from the current tort system oppose my legislation quite strongly. In fact, my encounters with these various groups have been a lot like the debate on the budget earlier this year and our current debate on tax reform. On those bills, which involve a lot of figures and data because they deal directly with our financial and fiscal processes, I have been impressed with how much statistics can be used to support and legitimize opposing views on the same issue.

The same is true with my tort reform legislation. I have been amazed that officials of various special interest groups have, in media debates with me, claimed that awards for liability lawsuits have not been on the increase.

□ 1000

Of course, common sense alone argues that this is not the case. We have had a huge increase in the number of lawyers in the last 15 years, and we also had a social trend reflected in our public policy where people seem to believe we can have a riskless society. The result is what I saw as judge executive of Jefferson County, KY, where the number of lawyers increased dramatically over a 7-year period, many of them handling entirely frivolous lawsuits.

While common sense argues strongly that there has been an increase in awards for liability lawsuits the fact remains that special interest groups say it is not so. Here in the Senate we take statistics into account as just one of many factors that influence our final decisions on each issue. Perhaps the biggest factor of all is the response we get from those people we represent. Certainly our political system was constructed to encourage responsiveness and do it in such a way as to keep us in favor with the people back home.

So what do the people we represent say about the liability insurance crisis and tort reform? What they say, Mr. President, according to a Lou Harris poll made public last week, is by a margin of 69 to 24 the people of this country believe it is too easy to sue for damages. By a margin of 63 to 25 people believe cash settlements for many cases have been excessive and 80 percent think lawyers looking for big

contingency fees is a major part of the liability insurance rate explosion. Lawyers are not the only ones to blame, Mr. President. Seventy-seven percent believe people looking for big judgments are also to blame in this crisis.

Finally, 62 percent believe our laws allow excessive settlements and by a margin of 65 to 23 percent people favor a system in which there would be a $150,000 cap on awards for pain and suffering while allowing full coverage for long-term medical expenses and lost earnings.

Mr. President, I can urge with different groups about who is responsible for the liability increases, and that argument can go on for quite some time. The end result, however, could well be more one of confusion than clarity. What I prefer—and what I strongly suggest my colleagues prefer as well—is that we look at what the people we represent believe. The question is do we or do we not need tort reform? It is quite clear that the people of America believe that we do.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under a previous order the Senator from Michigan, Mr. LEVIN, is recognized for not to exceed 5 minutes.

Mr. LEVIN. I thank the Chair.

SAVE AMERICAN JOBS AND INDUSTRY

Mr. LEVIN. Mr. President, earlier this month the Senate adopted a resolution which designated June 21 as "National Save American Industry and Jobs Day."

As is normally the case with such resolutions, a good deal of it was rhetorical—we praised American workers, we praised American industry and we asked the President to call upon the people of this country to observe the day with appropriate ceremonies and activities.

But in this particular resolution, we went a step further. Within the rhetoric was an argument, an analysis of why American industries and American jobs were being threatened. The resolution recognized that the level of imports now entering this country is having a detrimental effect on the manufacturing industries of the United States. And it also offered an explanation for those high levels: "The United States maintains a policy of allowing the products of foreign industries to be sold in the United States with few restrictions." As a result, the resolution notes that "in many cases, the retail price of imported goods is artifically low due to subsidies by foreign governments."

Well, we do not subsidize our industries in the way our competitors do. We pursue the naive and persistent belief that somehow if we support "free trade" then other nations will as well. But it just has not worked that way: We open our markets and foreign nations close theirs; our industries fail and theirs expand; our workers are threatened with unemployment and lower wages, theirs negotiate for lifetime job security.

Mr. President, the administration—and the Congress—have failed to recognize the new reality of foreign trade practices and its effect on American workers and American industry.

But some have recognized a new reality. In Michigan, for example, where the iron, steel, auto, and forest industries have been hard hit by our failure to develop a trade policy, people are organizing.

In Neguanee and Ishpeming in the Upper Peninsula, in the down river areas outside Detroit, across the entire State, people are joining together to observe National Save American Industry and Jobs Day.

The coalition which created this day and plans to mark it with rallies and meetings across the country hopes that their effort will help build a national consensus on ways to deal with America's industrial decine.

But I would submit that this coalition itself is evidence that the consensus is already being built. The coalition contains a consensus: it is made up of American labor—particularly the United Steelworkers of America—and a variety of small and large businesses—as well as members of the clergy and public officials.

I find the willingness and ability of American labor and industry to join together in this effort to be a hopeful sign. It suggests that they recognize reality—they recognize that there is more that unites them then separates them, they recognize that they do have a common interest and common destiny.

Now if labor and management can only get Government to join in that recognition, then we will be able to develop a policy and build a program which will redeem the faith of our people and restore the future to our basic industries. I am please to join in the Save American Industry and Jobs Day and I pledge to work with the people who are participating in it to build a better future.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. BYRD. I yield 3 minutes, Mr. President, to the distinguished Senator from Hawaii.

Mr. MATSUNAGA. I thank the distinguished minority leader for yielding.

INTERNATIONAL SPACE YEAR IN 1992

Mr. MATSUNAGA. Mr. President, in the aftermath of the *Challenger* tragedy, the Titan and Delta explosions, the Rogers Commission report, the apparent grounding of manned and unmanned space flights for at least 1 year, perhaps 2 years, a dangerous mood of near despair has settled over our Nation's space community. The mood is dangerous, Mr. President, because we cannot turn our space program and space policies off and on like a spigot. The space age is the age of long lead times. Missions take years and often decades to develop. Thus, even in NASA's darkest moments, and especially in those moments, it is vital to maintain our Nation's leadership in space exploration by setting inspiring goals and making known our commitment to pursue them. If we do not, young engineers and scientists will seek careers elsewhere, and when the time comes to gear up again, our Nation will find itself without the resources necessary to maintain its place in the vanguard of space exploration. The United States, which more than any other nation has identified its destiny with a vision of the future, will find itself helplessly recoiling from the future as others move ahead.

Mr. President, we are already moving in that backward direction. Only 2 days ago, it was reported in London that the Soviet Union has forged ahead of the United States in certain space activities by 10 years. The lifetime of a graduate student in one of the space sciences is about 5 years. Most of those students earn their degrees by working on upcoming space missions that carry over into their professional careers. Many of our Nation's most prominent planetary scientists began their careers as graduate students working on the Voyager mission launched in 1977, that reached Jupiter in 1979, Saturn in 1981, passed Uranus early in 1986, and is continuing to send back invaluable data on its historic journey.

But what of America's next generation of space scientists, who will design the missions that carry us into the 21st century? If we are to regain world leadership on the space frontier, then even as we correct flaws in our space program, we must set goals that continue to fire the imagination of those upon whom we must depend in the future, or else we risk losing their interest and engagement.

It is in that context, Mr. President, that a joint resolution I introduced last year with the cosponsorship of the distinguished Senator from Utah

[Mr. GARN] takes on special relevance. The resolution called upon the U.S. Government to take advantage of an unusual convergence occurring in the year 1992; 1992 is the 500th anniversary of the discovery of America by Christopher Columbus and it is also the 35th anniversary of the International Geophysical Year, or IGY, which launched the space age with the first manmade satellites. Our resolution proposed that the United States take the lead in linking the closely related 1992 commemorative themes of discovery and space exploration by initiating plans for an international space year, or ISY, in 1992. With the able support and assistance of the distinguished Senator from Indiana [Mr. LUGAR] chairman of the Senate Foreign Relations Committee, our resolution was reported favorably by the committee and passed by the Senate. Then, through the leadership of the distinguished Senator from Washington [Mr. GORTON] key provisions of our resolution were included in the 1986 NASA authorization bill—notably a requirement that NASA initiate "interagency and international discussions" for an international space year and report its findings to Congress by May 1986.

That report has been duly filed, Mr. President, and it is my distinct pleasure and honor to offer that report for the RECORD today, and I ask unanimous consent that it be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. MATSUNAGA. The report includes summaries of the strongly supportive responses from nations and organizations queried by NASA. The responses become even more impressive when we recognize that, due to an impending deadline, those queried were given less than 2 weeks to respond. NASA concludes its report with a recommendation that the United States pursue the goal of an ISY in 1992.

It is noteworthy, Mr. President, that the report was submitted to Congress not by NASA but by the White House, and that it was accompanied by a personal letter of support from President Reagan, which I also ask unanimous consent to include in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit No. 2.]

Mr. MATSUNAGA. President Reagan endorses the ISY concept and directs NASA to move ahead with efforts to realize it internationally, in close association with the National Academy of Sciences. I applaud the President on his endorsement of this forward-looking proposal, even as he is absorbed with the immediate problems facing our space program.

An International Space Year in 1992 consisting of coordinated space missions of all the major space powers could prove to be the most dramatic event of the modern space age. It will remind all the peoples of the world that our fate on the space frontier is intertwined and that no single nation of our tiny microbe of a planet can hope to conquer the limitless cosmos alone. It will set space exploration on a new and more exciting and hopeful course. I congratulate President Reagan for asserting American leadership in this dramatic undertaking and I pledge to assist his efforts in every way I can.

EXHIBIT 1

REPORT TO THE CONGRESS ON INTERNATIONAL SPACE YEAR IN 1992

INTRODUCTION

This report is submitted to the Congress pursuant to Section 115 of the NASA Authorization Act for Fiscal Year 1986, which requests the President ". . . to submit to the Congress at the earliest practicable date, but not later than May 1, 1986, a report on any action taken with respect to the establishment in 1992 of an International Space Year. Such report shall include descriptions of possible international missions and related research and educational activities and such other activities as the President may deem appropriate." Additional guidance on steps to be taken is provided in the report of the conferees on the NASA Authorization for Fiscal Year 1986, ". . . the Administrator of NASA in association with other relevant public and private agencies, should initiate interagency and international discussions that explore the opportunities for an ISY in 1992. Such discussions should address possible missions and research and educational activities of an international character, including the possible inclusion of current plans and programs into an ISY framework. . . ."

INTERAGENCY WORKING GROUP ON ISY 1992

Pursuant to the mandate of the Congress to initiate interagency discussions, an informal interagency working group was convened by NASA to consider possible missions and research and educational activities appropriate to an ISY. The working group considered a variety of potential themes and concepts, including comments and suggestions submitted by officials of foreign national space agencies and national and international non-governmental organizations. It is the consensus of the working group and essentially all respondees that:

An ISY in 1992 is a highly appropriate way to commemorate the 500th anniversary of Columbus' discovery of the New World;

An ISY at that time could be very useful to facilitate optimum coordination on an interdisciplinary basis among the large number of U.S. and foreign space research and flight projects extant by 1992;

Planning for activities to be carried out under the aegis of an ISY in 1992 should give emphasis to:

Discovery—with a focus on science such as conducted during the highly successful International Geophysical Year (IGY), 1957-1958;

Exploration—involving the human imperative to seek new worlds in the sense of Columbus and other explorers, including the astronauts;

The practical Utilization of Space for Humanity; and

Education—that seeks not only to contribute to human understanding but also to involve the public in various aspects of an ISY. Additional important aspects are educating the public about the benefits of space activities, and using space capabilities such as communications satellites to educate the public and to involve the public in the ISY.

To gain the widest possible acceptance and support, specific activities and events planned for ISY 1992 should reflect the capabilities of the developed industrialized countries as well as the capabilities and aspirations of the developing countries. This objective would be best achieved by adoption, for planning purposes, of an overarching theme for ISY such as "Understanding and Utilizing Space for Humanity."

The Interagency Working Group suggests a sub-theme of "Understanding the Earth as a Planet" to be carried out as a central ISY activity on the model of the IGY. This theme combines science, applications and education in a strong exploration and discovery motif. Studies of the Earth over the past thirty years have revealed an unexpectedly complex and dynamic world. Recent research has also shown the fundamental interactions among components of the Earth and their profound effects on Earth history and evolution. Now, with new scientific insight and technology, we can gain a deeper understanding of the Earth as a Planet and of the consequences of global change for humanity. By 1992 we will be ready to achieve continuous, global observations of the Earth from space and from networks of Earth-based stations. The new data will also show us how, through our own economic and technological activity, we are now contributing to significant global change on the Earth within the span of a few human generations. The study of the Earth as a Planet will be one that can include developing as well as developed countries, and hence has wide appeal.

INTERNATIONAL CONSULTATIONS

Messages were sent to space officials of 28 countries and four major international organizations active in space matters to inform them of the proposal for an International Space Year in 1992 and to solicit their comments and suggestions. Answers were received from over 70 percent of the agencies contacted. The response was overwhelmingly positive—ranging from initial endorsement, noting requirements to consult with other ministries and national scientific advisory bodies, to full endorsement, with constructive suggestions for potential themes and concepts for an ISY and assurances of active participation in planning and implementation.

CONSULTATIONS WITH U.S. NONGOVERNMENTAL SPACE ORGANIZATIONS

In compliance with the request of the Congress to consult with relevant public and private agencies, similar messages were sent to 23 U.S. non-governmental organizations active in space matters. The response received was likewise overwhelmingly positive, offering many suggestions for specific activities, and noting strong interest in participating in the process of planning and preparing for an ISY in 1992.

RECOMMENDATION

It is recommended that the United States pursue the establishment of an International Space Year in 1992 along the lines indicated above through appropriate interna-

tional fora such as the Committee on Space Research (COSPAR), its parent body the International Council of Scientific Unions (ICSU), and the International Astronautical Federation (IAF). It is also recommended that the United States National Academy of Sciences be requested to play a key role in focusing discussion within the United States' scientific community regarding the scientific content of an ISY and in carrying the United States' proposal to the appropriate international scientific bodies. If such an International Space Year is pursued, it is important that the United States exercise continuing leadership to assure that the objectives of the ISY are consistent with the intent of Congress and with United States space policy.

MEMBERSHIP OF INFORMAL INTERAGENCY WORKING GROUP FOR PLANNING AN INTERNATIONAL SPACE YEAR (ISY) IN 1992

Agency for International Development.
Department of Defense.
Department of the Interior/U.S. Geological Survey.
Department of State.
Joint Oceanographic Institutions, Inc.
National Academy of Sciences.
National Aeronautics and Space Administration (Chair).
National Commission on Space.
National Oceanographic and Atmospheric Administration.
National Science Foundation.
Office of Science and Technology Policy.
U.S. Information Agency.

EXHIBIT 2

To the Congress of the United States:

I am pleased to submit the attached report on the desirability of establishing an International Space Year in 1992. The year 1992 will be very special indeed. It will mark not only the 500th anniversary of Christopher Columbus' historic voyage of discovery, but also it will be the 35th anniversary of the International Geophysical Year, which ushered in the space age.

A major objective of an International Space Year should be to maximize, through international cooperation, the achievements and benefits of the current and prospective space programs of the participating world community. Such efforts should emphasize the involvement of both the developed countries and the developing countries in ways that demonstrate the benefits to everyone from discoveries in space science and the practical utilization of space.

In consulting the space agencies of other nations, the National Aeronautics and Space Administration found substantial international support for the idea of an International Space Year.

I am directing NASA to continue to lead an interagency effort to develop the idea of an International Space Year so that the United States will be fully prepared to move this concept forward internationally. I would also expect the National Academy of Sciences to play a key role in focusing discussion within the United States' scientific community regarding the scientific concept of an International Space Year.

RONALD REAGAN,

THE WHITE HOUSE, *May 15, 1986.*

RECOGNITION OF SENATOR QUAYLE

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana [Mr. QUAYLE] is recognized for 5 minutes.

WHY NOT ADHERE TO ALL OF SALT?

Mr. QUAYLE. Mr. President, everybody knows that the Soviet Union is violating and has violated the SALT II treaty. The question is what we are going to do about it. Many are now saying that what we ought to do is have Congress force the President to abide by certain limits, limits that are very helpful to the Soviet Union and, quite frankly, very detrimental to the United States. Others feel that the way they will really get the Soviet Union to comply with this treaty is we just keep on complying.

We have already tried that. It has not worked. We have had compliance, they have not. We have had a one-way street and what the President intends to do is end the one-way street and put the arms control processes on a level playing field, where when we sign on to an agreement, the agreements are going to be adhered to, that we have a proposal out there that can be negotiated and that when we ratify a treaty that is violated only by the Soviet Union, that is very unsound. That is a decision made by the President that I strongly support.

What do the President's critics want us to do: Focus on what they are marketing as SALT II's "major" limits. Which limits are these? Conveniently, the only three SALT II limits that the Soviets have not yet clearly violated but precisely the ones that the Reagan administration's planned strategic modernization is certain to bump up against.

Mr. President, we have a contract, we have an agreement. We should not allow one side unilaterally to determine what components of that agreement are going to be complied with. Any time you have an agreement, there is the art of compromise, there is the art of negotiation. Obviously, some things are good, some things are bad, some are in between, but on the whole, it is balanced. This thing was not balanced to begin with, but now it is going to be even more unbalanced if we allow the Soviets to pick and choose the portions of the agreement they want to live up to.

As I have explained before, the Soviets key SALT violations concern the agreement's prohibitions against flight testing more than one new type of land-based ICBM. In direct violation of this limit, the Soviets are now deploying the mobile SS-25, a missile that will seriously complicate our ability to retaliate against, and thus, to deter a Soviet attack.

The Soviets also have begun flight testing a followon to the SS-18, which will be accurate enough to destroy even the superhardened silos proposed for MX. Finally, to mask these violations, the Soviets have repeatedly violated SALT II's prohibition against excessive encription of flight test data transmissions.

What do many of the President's critics make of these violations? Apparently, like Soviet cheating on the Backfire bomber, the prohibited Soviet deployment of the SS-16, and the breaching of SALT II's strategic nuclear delivery vehicle limits, they are too minor to deserve attention.

What really matters in their eyes are not these broken limits, but what limits the Reagan administration might break. The SALT 820 sublimit on land-based MIRV'd ICBM's matters because of the administration's desire to deploy 100 MX, which would put us 30 missiles above this limit.

Similarly, the SALT limit of no more than 1,200 MIRV'd ICBM's and submarine-launched MIRV'd ballistic missiles is important because of the administration's plans to modernize our submarine missile boat fleet now requires us to prematurely retire Poseidon boats and Minuteman III's.

Finally, SALT limits that include bombers carrying long-range air-launched cruise missiles matter because these limits will bar the administration from modernizing our B-52 fleet as planned.

Never mind that deploying 100 MX was the recommendation of the Scowcroft report that these same critics praised and held to administration to secure development of a small ICBM. Never mind that the Trident and ALCM carrying bomber are the very type of survivable, second-strike weapon systems that these critics praised as being sensible. Never mind that everyone knew that SALT II would expire in 1985. Now that the Reagan administration is following through with these commitments, these deployments are dangerous because they violate SALT II.

Mr. President, this Senator is on record as desiring to have a proportional response. The President has made a proportional response. Now people are saying the President should not abandon the SALT agreement.

□ 1030

But there are a lot of problems with deploying a small ICBM, particularly in the near term; we will be years behind, and again we are allowing the Soviet Union to determine which parts of that agreement they want to breach, and then we will go ahead and breach them as well. What is the SALT connection here? When asked what we should do about Soviet violations, SALT supporters, most of whom support this small ICBM, answer, "Deploy this small missile now." The problem is that we cannot.

Again, I get back to the basic premise that either this treaty is a good treaty on its face, the Senate ought to call it up and ratify it, or it is not. And if it is not, then we ought to go back, as the President has done, to the negotiation tables, clear the decks, and begin serious negotiations for arms reduction, not arms escalation as has been allowed under SALT II. This is precisely what the President wants to do, and I do not believe allowing the Soviet Union to pick and choose which parts of that treaty they like and make us abide by it is a very productive way to get arms reduction, in which everybody is genuinely interested.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for morning business. The majority leader is recognized.

TAX REFORM ACT OF 1986

Mr. DOLE. Mr. President, I will just take a few minutes. I know we want to not only start on the tax reform bill today but finish the tax reform bill today. There is going to be every effort made to do that. I would serve notice on my colleagues that we would like to obtain time agreements on amendments. We are in the 9th day now, with up to about 60 hours of time spent on this bill. It is a very important piece of legislation. Certainly everybody recognizes that. In fact, it is revolutionary in some aspects. We have reached the point now where I am being asked by Members on both sides, "Why don't we finish this bill?" I am certain it would be fine with the distinguished chairman, Senator PACKWOOD, and the distinguished leader on the other side, Senator LONG. So we are going to try to accommodate Senators today, thus, I urge my colleagues who have amendments to present them. We have wasted a lot of time waiting for Members to come to the floor to speak. We are going to know in advance what the amendments are, so everybody will be alerted, and hopefully adjust their plans accordingly because this is a matter of great priority.

It is my understanding the Senator from Maine [Mr. MITCHELL] will be prepared as soon as the two leaders conclude their remarks to lay down his amendment. Hopefully we could have a time agreement. This amendment is a major amendment. It deals with the rates. After that amendment is disposed of, it might move rather quickly. We have a couple Senators, I think one on each side, who have sons or daughters participating in graduation ceremonies starting tomorrow sometime, so I really hope we can complete action sometime tonight.

Mr. BYRD. Mr. President, I ask the distinguished majority leader if he will yield briefly on this subject.

Yesterday, in our Democratic conference, I found a considerable number of Senators who even now—as of yesterday certainly—have been unable to get the information they need from the Joint Committee on Taxation. This is not said in criticism of the joint committee, nor was what was said in the conference in criticism of the joint committee. There are still some problems. I hope the distinguished majority leader and the distinguished manager of the bill, Mr. PACKWOOD, will be aware of that problem. I asked yesterday that the names of those Senators on my side of the aisle who are still having some difficulty in getting this information be taken down. I have those names and I will be glad to supply them to the managers on both sides so that they would not only be aware of the problem that still exists, and which does delay Senators in preparing and bringing their amendments to the floor, but also perhaps the managers could be helpful in talking to the joint committee—as I say again there is no criticism of the joint committee—in the effort to try to speed up the information. I have no doubt, once that information is in the hands of Senators, the distinguished majority leader's desire to complete action on this bill will come rather quickly. I join with him in sharing the hope that action will be expedited. There is no attempt on any side that I know of to just purposefully delay action on the bill.

Mr. DOLE. In fact, I had one Member on the Senator's side mention that to me last night, so I went to the Joint Tax Committee staff and in this particular case the staff member who was responsible was unavailable yesterday. But he will have the information this morning.

Mr. BYRD. I thank the Senator.

Mr. DOLE. When we find out I am certain the managers will be very happy to expedite it. I think some feel that members of the Finance Committee have a priority. I do not believe that is the case.

Mr. BYRD. I thank the majority leader for his understanding and consideration.

PRODUCT LIABILITY LEGISLATION

Mr. DOLE. Mr. President, for the past 2 weeks, we have been wrestling with a major reform issue—a long overdue overhaul of the Tax Code. Although it may not seem like it, tax reform remains our top priority. But there is another reform issue that is heading toward us like a freight train. I am talking about product liability.

Wherever I go these days—and many of my colleagues have told me the same story—someone has buttonholed me on product liability. And it is not only doctors, lawyers, and insurance agents. It is farmers, mayors, pregnant women, nursery school principals—they have all voiced their concerns with insurance.

Mr. President, I was privileged early this morning to testify on product liability as it relates to aviation before the Aviation Subcommittee chaired by my colleague from Kansas, Senator NANCY KASSEBAUM. I know we are dealing with product liability, professional liability, in comprehensive terms before the Commerce Committee. Senator KASSEBAUM was trying to and will highlight throughout hearings today what this particular problem has meant to the aviation industry. It has almost meant the collapse of the aviation industry in our State.

Since 1978, there has been an alarming nationwide decline in the manufacturing of general aviation aircraft. Six years of declining sales have trimmed the Kansas work force at Cessna, Beech Aircraft Corp., and Gates Learjet Corp., from a peak of 25,700 in late 1979 to about 10,650 today. Those are grim figures, Mr. President.

Recently, Cessna was forced to lay off an additional 900 employees, the sharpest reduction in its industry. According to company officials, the layoffs are a result of a decision by Cessna to immediately stop producing its smallest plane; the single- and multi-engine piston-powered aircraft that are the backbone of its learn-to-fly operations.

But the real villain, according to the experts, is the skyrocketing costs of product liability. Because these costs must be tacked on to the price of their product, today's buyer must pay more than $70,000 per airplane in insurance costs alone.

SKYROCKETING INSURANCE COSTS

Although business aviation's safety record continues to improve, the industry's product liability insurance bill has climbed an average of 500 percent per company since 1981. Clearly, something is out of whack here. Beech Aircraft Co. alone, shelled out more than $20 million to insure itself against product liability claims in 1985.

In my view, aviation is a natural candidate for Federal reform of the standards applied in product liability cases. General aviation products are federally regulated in design, production, and maintenance. Pilots and mechanics are regulated through training, licensing, and operating procedures; and our air traffic control system is federally controlled. Since we regulate this industry heavily, it seems to me it makes sense to create a uniform standard that also gives the aviation industry equal treatment under the law.

That is why I cosponsored the General Aviation Liability Standards Act

of 1986, which I believe will go a long way toward addressing one of the most serious concerns of the aircraft industry.

Mr. President, the state of the general aviation industry is grave. We cannot wait another year, or 2 years, to address this problem because many of these manufacturers simply will not last that long. I do not know if a consensus can be reached on the overall question of product liability this session. But as it affects general aviation, I believe we can and should enact legislation this year.

Mr. President, it does seem to me we have a responsibility here, and I want to commend my colleague, Senator KASSEBAUM, for moving as quickly as she can. She will be working with Senator DANFORTH and others on the Commerce Committee, members on both sides of the aisle, to see if we cannot agree on some comprehensive product liability proposal, or at least address the problem in the aviation industry.

THE FEDERAL TELECOMMUNICATIONS POLICY ACT OF 1986

Mr. DOLE. Mr. President, I am going to introduce today for appropriate reference, which will be the Commerce Committee, S. 2565, legislation consolidating in the Federal Communications Commission all Federal telecommunications policy, including the AT&T and GTE consent decrees, which have governed the telephone and telecommunications industries in the United States since 1982.

Although the bill is somewhat lengthy, it is quite simple in its thrust. It takes the operable provisions of the two decrees, charges the FCC to issue regulations incorporating these provisions, and empowers the Commission to administer them. When I say operable, I mean those provisions of the decrees that are still in effect.

The AT&T now primarily restricts the seven regional Bell operating companies from manufacturing and operating outside their franchised areas. They cannot compete in new markets without Justice Department review and court approval.

□ 1040

Therein lies the rub. Major public policy questions now arise with respect to whether these companies should be allowed to diversify and expand in order to meet the rapidly changing telecommunications industry. These policy questions go far beyond antitrust considerations. They affect foreign trade, jobs, and consumer choice. They fundamentally affect the future of high-tech America.

I am not certain what the answers to these questions ought to be. And this bill does not provide any answers. But I am certain about who ought to be making the decisions—the FCC, which is the regulatory agency created by the Congress many years ago. It has the staff and the technical resources for effective, continuing oversight.

If the FCC fails to do the right thing, Congress can make corrections, as we did in 1984 when we partially jettisoned the FCC access charge plan. But if the court goes too far, there is nothing we can do. That is the fundamental flaw in telecommunications policy making today. This bill is designed to cure that flaw by restoring policymaking to Congress and to the FCC.

This is not to denigrate the role of the Federal courts or the Justice Department in the slightest. On the contrary, our system of justice and administration of antitrust laws has been served in exemplary fashion in the enforcement of these consent decrees. But these enforcement resources are finite and limited. Let us face it. They have other priorities and responsibilities. Congress never intended that the antitrust enforcement machinery be used for the long-term, day-to-day regulation of industries.

THE ANTITRUST DECREE

The decree is written in rather stark fashion; telephone company activities are either prohibited or permitted. But in the complex telecommunications industry reality tends to be painted more often in shades of gray. The expert regulatory agency has the resources to address these subtleties—and on a continuing basis.

This decree is unique in the annals of antitrust jurisprudence. It sets up a separate regime of Federal telecommunications regulation that competes with an already established Federal agency—the FCC. I am all for competition, but not between government entities. In this case the competition has mired the industry in confusion. And the court, unlike the FCC, cannot legitimately take into account such things as our trade balance, national security, and local service in administering its regulations.

Nor was the current situation even contemplated in the original decree that was negotiated between the Justice Department and AT&T in 1981. The waiver procedure utilized by Judge Greene was created by him subsequently. The result is the Justice Department and the court are now fully engaged in micromanagement of this basic industry. This bill will eliminate this bizarre situation and, once again, consolidate Federal communications regulation under the FCC.

WHAT THE BILL DOES AND DOES NOT DO

There is no question that it is within the power of the Congress to legislate the scope and jurisdiction of the various regulatory agencies. Authorizing legislation has been consistently passed and upheld over the years since the first agency, the ICC, was created at the turn of the century. S. 2565 is a specific charge to the FCC. I will insert at the conclusion of my remarks a memorandum, prepared by my staff in conjunction with the Justice Department, which addresses the constitutional questions involved.

I would also make clear that this bill does not affect the jurisdiction of the Federal courts. The original consent decrees would still be pending in Judge Greene's court. However, upon enactment, the parties to the decree would move to vacate the decrees, and we would expect the court to issue such an order.

After such an order is granted, the courts would, of course, retain jurisdiction to enforce the antitrust laws, in this industry as in others, against any future violations of the law.

ELECTRONIC PUBLISHING

Mr. President, I invite special attention to the area of electronic publishing. Currently, the AT&T decree restricts AT&T's ability to enter into the electronic publishing business. In devising this provision, Judge Greene was concerned about the potential of AT&T to use its market power in long distance to impede the free flow of ideas. In other words, he felt this necessary in order to protect the first amendment concerns of those who disseminate printed news in this country.

At the time the consent decree was entered, it was not necessary for Judge Greene to specifically extend the electronic publishing prohibition to the regional bell operating companies. Those companies were not allowed to provide information services, which includes electronic publishing.

My bill adopts this scheme as well. Here as in other areas, the bill makes no judgment as to how or when the electronic publishing prohibition should be lifted. I leave that to the Congress and the FCC to address at a later date.

During the past week and a half, my staff and I have been meeting with representatives of the American Newspaper Publishers Association in order to more fully understand their possible concerns with this legislation. While I may have been naive in trying to enlist their support for our efforts, the exercise has helped narrow the questions that remain to be resolved.

My reading of the first amendment might lead to a result which places no restrictions on the dissemination of information by any entity, but I nevertheless have much sympathy for what Judge Greene was trying to accomplish. In order for this legislation to pass, I believe we may have to specifically address the limitations on electronic publishing as they apply to the BOC's. We will have to grapple with the difficult task of determining just what "electronic publishing" should mean. As part of my statement, I in-

clude a definition of "electronic publishing" which I believe would preserve and protect legitimate first amendment concerns. This is a narrower definition than that which presently exists in the decree, but one which I feel could be extended well into the next decade.

Electronic publishing means the provision of information which is disseminated to an unaffiliated person through some electronic means and has a substantial portion of its content devoted to the dissemination of news and editorial opinion, that dominant interexchange carriers or their affiliates, or class I local telephone companies, have, or have caused to be, originated, authorized, compiled, collected, or edited or in which they have a direct or indirect financial or proprietary interest.

In any event, distinguishing information services from electronic publishing will be difficult, and I encourage those who have an interest in resolving that question to continue to discuss the issue. My definition may not be perfect, but I feel we can protect legitimate first amendment concerns without carving out unnecessarily broad prohibitions of the dissemination of commercial information.

PROTECTING THE CONSUMER

What about the consumer? Over the long run, by trying these regulations to the public interest standard, the bill creates a regulatory environment that should ensure high quality telephone service at low rates. I believe the ratepayer will be the prime beneficiary of this legislation and their interests will be fully protected.

At the same time, the bill allows the FCC to prevent the phone companies from monopolizing nonregulated businesses. This bill does not forget the importance of competition to all consumers.

THE START OF THE PROCESS

In closing, I want to stress that this bill is an attempt to deal fairly and quickly with this matter. I have discussed this matter with Senator DANFORTH, the distinguished chairman of the Commerce Committee. I am assured that Senator DANFORTH shares my interest in this subject, and that he shares my view that the Federal judiciary is not the place to decide telecommunications policy in this country. The distinguished chairman has begun an inquiry into this area, and has asked interested parties to comment on a series of questions in an effort to determine the best course to follow.

During the course of the Commerce Committee proceedings, I am certain that there will be many suggestions as to how the telecommunications industry ought to be structured. Several industry leaders have expressed specific ideas to me already, and I am sensitive to the need to thoroughly examine these issues.

But I reiterate my strong interest in enacting legislation this year. Congress has abdicated the role of making telecommunications policy for too long. We have established an expert agency to set telecommunications policy. Plain and simply, the FCC is the place to make telecommunications policy, with Congress playing an active oversight role.

I intend to seek passage of this bill before the 99th Congress comes to a close. I realize that this is a daunting task, but I am convinced that a consensus approach can be developed which will allow that result.

Mr. DANFORTH. Mr. President, I welcome Senator DOLE's participation in the issue of the restrictions currently faced by seven of our Nation's telecommunications companies, the seven regional Bell operating companies. The question of whether these companies should be permitted to expand and diversify, certainly one of the most crucial communications issues facing us in the next decade, now is in the Federal courts.

I share Senator DOLE's concern that the courts may not be the right place for these decisions.

Congress created an expert agency, the Federal Communications Commission, to regulate communications and to face the tough issues presented by a dynamic and essential industry. We should consider whether the FCC is the more logical place for decisions to be made regarding restrictions and regulation of the regional Bell operating companies. Whether these telecommunications companies should be permitted to manufacture equipment or provide long distance or information services—activities from which they are barred under the AT&T divestiture decree—are questions of telecommunications policy, not merely antitrust policy. The effects of these restrictions on trade, technological innovation, labor, and universal telephone service all must be considered.

Recently, I requested formal comments from all interested parties on these questions. I asked generally whether legislation is needed, and, if so, what that legislation should look like. I also asked for comments on a number of specific concerns, such as the effect the amendment or removal of the restrictions would have on issues like trade and consumer well-being. I expect to receive those comments by July 3.

I am very pleased to have Senator DOLE's active involvement in this policy matter. I invite all those who are submitting comments at my request to expand their remarks to encompass the provisions of the Dole bill. I am confident that our mutual efforts will permit the Senate to make a timely determination of what is the right forum for these telecommunications decisions and how best to carry out the goals of the Communications Act.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD the bill and a section-by-section analysis of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Telecommunications Policy Act of 1986".

TITLE I

SEC. 101. PURPOSE OF LEGISLATION.

In order to ensure the orderly and competitive development of this Nation's telecommunications industry, the Congress deems it necessary and appropriate for the Federal Communications Commission, in accordance with the public interest as set forth in title II of the Communications Act of 1934, as amended (47 U.S.C. 201-224), to promulgate and implement the regulations set forth in title II of this Act.

TITLE II

SEC. 201. ADOPTION BY COMMISSION OF REGULATIONS CONCERNING CLASS I AND CLASS II LOCAL TELEPHONE COMPANIES AND DOMINANT INTEREXCHANGE CARRIERS.

Within thirty (30) days after the date of this Act, the Federal Communications Commission shall, without regard to the procedures otherwise required by sections 551-559 and 701-706 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), adopt the following regulations concerning Class I and Class II local telephone companies and dominant interexchange carriers (as defined in such regulations), and publish such regulations in the Federal Register:

"PART A—DEFINITIONS

"SEC. 1. GENERAL DEFINITIONS.

"For the purpose of these regulations, unless the context otherwise requires—

"(a) 'Carrier' means any person deemed a carrier under the Communications Act of 1934 or amendments thereto, or, with respect to intrastate telecommunications, under the laws of any State.

"(b) 'Class I local telephone company' means any telephone company and any entities directly or indirectly owned or controlled by such telephone company or affiliated through substantial common ownership that, individually or together with such entities, was serving more than ten million five hundred thousand (10,500,000) telephone access lines on January 1, 1985.

"(c) 'Class II local telephone company' means any domestic telephone company, which provides regulated wireline exchange telecommunications and exchange access services, and its affiliated domestic telephone companies that, individually or together with its affiliate domestic telephone companies, was serving more than five million (5,000,000) and less than ten million five hundred thousand (10,500,000) telephone access lines on January 1, 1985, and any entity directly or indirectly owned or controlled by such telephone company or affiliated through substantial common ownership, but shall not include any parent company of such telephone company or any affiliate of such parent company not having an ownership interest in a domestic telephone company.

"(d) 'Commission' means the Federal Communications Commission.

"(e) 'Customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, but does not include equipment used to multiplex, maintain, or terminate access lines.

"(f) 'Dominant interexchange carrier' means any carrier and its affiliates, other than a Class I or Class II local telephone company, that the Commission has defined as a 'dominant carrier' pursuant to 47 C.F.R. Part 61, and that, for the last fiscal year ending prior to January 1, 1985, received annual revenues of over ten billion dollars ($10,000,000,000) from the offering of domestic message toll service, as defined in 47 C.F.R. § 31.510.

"(g) 'Electronic publishing' means the provision of any information that dominant interexchange carriers or their affiliates have, or have caused to be, originated, authored, compiled, collected, or edited, or in which they have a direct or indirect financial or proprietary interest, and that is disseminated to an unaffiliated person through some electronic means.

"(h) 'Information' means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

"(i) 'Information access' means the provision of specialized exchange telecommunications services by a Class I or Class II local telephone company in an exchange area in connection with the origination, termination, transmission, switching, forwarding, or routing of telecommunications traffic to or from the facilities of a provider of information services. Such specialized exchange telecommunications services include, where necessary, the provision of network control signaling, answer supervision, automatic calling number identification, carrier access codes, testing and maintenance of facilities, and the provision of information necessary to bill customers.

"(j) 'Person' means any individual, partnership, firm, corporation, association, or other business or legal entity.

"(k) 'Technical information' means intellectual property of all types, including, without limitation, patents, copyrights, and trade secrets, relating to planning documents, designs, specifications, standards, and practices and procedures, including employee training.

"(l) 'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(m) 'Telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.

"(n) 'Telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.

"SEC. 2. DEFINITIONS RELATING TO CLASS I LOCAL TELEPHONE COMPANIES.

"For the purpose of part B of these regulations concerning Class I local telephone companies, unless the context otherwise requires—

"(a) 'Affiliate of a dominant interexchange carrier' means any organization or entity that is under direct or indirect common ownership with or control by a dominant interexchange carrier or is owned or controlled by another affiliate of such company. For the purposes of this paragraph, the terms 'ownership' and 'owned' mean a direct or indirect equity interest (or the equivalent thereof) of more than fifty (50) percent of an entity. 'Subsidiary of a dominant interexchange carrier' means any organization or entity in which a dominant interexchange carrier has stock ownership, whether or not controlled by a dominant interexchange carrier.

"(b) 'Exchange access' means the provision of exchange services for the purpose of originating or terminating interexchange telecommunications. Exchange access services include any activity or function performed by a Class I local telephone company in connection with the origination or termination of interexchange telecommunications, including but not limited to the provision of network control signaling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities, and the provision of information necessary to bill customers. Such services shall be provided by facilities in an exchange area for the transmission, switching, or routing, within the exchange area, of interexchange traffic originating or terminating within the exchange area, and shall include switching traffic within the exchange area above the end office and delivery and receipt of such traffic at a point or points within an exchange area designated by an interexchange carrier for the connection of its facilities with those of the Class I local telephone company. Such connections, at the option of the interexchange carrier, shall deliver traffic with signal quality and characteristics equal to that provided similar traffic of any dominant interexchange carrier or other nonaffiliated interexchange carrier, including equal probability of blocking, based on reasonable traffic estimates supplied by each interexchange carrier. Exchange services for exchange access shall not include the performance by any Class I local telephone company of interexchange traffic routing for any interexchange carrier.

"(c) 'Exchange area' or 'exchange' means a geographic area established by a Class I local telephone company in accordance with the following criteria:

"(1) any such area shall encompass one or more contiguous local exchange areas serving common social, economic, and other purposes, even where such configuration transcends municipal or other local governmental boundaries;

"(2) every point served by a Class I local telephone company within a State shall be included within an exchange area;

"(3) no such area which includes part or all of one standard metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States) shall include a substantial part of any other standard metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States), unless the Commission shall otherwise allow; and

"(4) except with approval of the Commission, no exchange area located in one State shall include any point located within another State.

"(d) 'Information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(e) 'Interexchange telecommunications' means telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas or a point outside an exchange area.

"(f) 'Transmission facilities' means equipment (including without limitation wire, cable, microwave, satellite, and fiberoptics) that transmit information by electromagnetic means or which directly support such transmission, but does not include customer premises equipment.

"SEC. 3. DEFINITIONS RELATING TO CLASS II LOCAL TELEPHONE COMPANIES.

"For the purposes of part C of these regulations concerning Class II local telephone companies, unless the context otherwise requires—

"(a) 'Affiliate' or 'affiliates' means any organization or entity in which, directly or indirectly, a parent company of a Class II local telephone company has any ownership or equity interest or control.

"(b) 'Affiliated interexchange carrier' means any interexchange carrier that provides domestic interexchange telecommunications and that was acquired by the parent of a Class II local telephone company during the calendar year ending December 31, 1983.

"(c) 'Exchange access' means the provision of exchange services for the purposes of originating or terminating interexchange telecommunications. Exchange access services include any activity or function performed by a Class II local telephone company in connection with the origination or termination of interexchange telecommunications, including but not limited to the provision of network control signaling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities, and the provision of information necessary to bill customers. Such services shall be provided by facilities in an exchange or serving area for the transmission, switching, or routing, within the exchange or serving area, of interexchange traffic originating or terminating within the exchange or serving area, and, except as provided in section 10(b)(2) of these regulations, shall include switching traffic within the exchange area above the end office and delivery and receipt of such traffic at a point or points within an exchange or serving area designated by an interexchange carrier for the connection of its facilities with those of the Class II local telephone company. Such connections, at the option of the interexchange carrier, shall deliver traffic with signal quality and characteristics equal to that provided to similar traffic of any dominant interexchange carrier or any IOC, including equal probability of blocking, based on reasonable traffic estimates supplied by each interexchange carrier. Exchange services for exchange access shall not include the performance by any Class II local telephone company of interexchange traffic routing for any interexchange carrier, except that tariffed routing of traffic among multiple points of presence designated by an interexchange carrier (solely at the option of such carrier) within an exchange or serving area

based on the destination of such traffic outside a Class II local telephone company's facilities (but not routing of traffic among trunk groups from an end office or access tandem to a point of presence or any routing beyond such points of presence) shall not be considered interexchange traffic routing. There shall not be more than one point of presence of any interexchange carrier at any physical location.

"(d) 'Exchange area' or 'exchange' means those geographic areas established by a Class II local telephone company within which such company has the facilities and capability (on the schedule set forth in section 10(b) of these regulations) to provide traffic switching above end offices and delivery and receive of such traffic at a point or points designated by an interexchange carrier within such exchange areas for the connection of its facilities with those of the Class II local telephone company. Additional or different exchange areas shall be established by Class II local telephone companies in the future, with the approval of the Commission, when and where the foregoing criteria are met. In addition to the foregoing, each Class II local telephone company exchange area shall meet the following criteria:

"(1) any such exchange area shall encompass one or more contiguous local exchange areas serving common social, economic, or other purposes, even where such configuration transcends municipal or other local governmental boundaries, and shall take into consideration Class I local telephone company exchange areas and associated serving areas;

"(2) no such area which includes part or all of one metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States) shall include a substantial part of any other metropolitan statistical area (or consolidated statistical area, in the case of densely populated States), unless the Commission shall allow; and

"(3) except with approval of the Commission, no exchange area located in one State shall include any point located within another State.

"(e) 'Exchange telecommunications' means:

"(1) telecommunications between points within an exchange or serving area;

"(2) telecommunications between or among a point or points within a Class II local telephone company exchange or serving area and either—

"(a) a point or points within another Class II local telephone company exchange or serving area,

"(b) a point or points within the serving area of any IOC, or

"(c) a point or points within an exchange area of a Class I local telephone company if the Class II local telephone company exchange or serving area(s) and the IOC serving area are associated with the Class I local telephone company exchange area as of the date of these regulations; and

"(3) telecommunications between a point or points within a Class II local telephone company exchange or serving area and a point or points within an IOC serving area which has been associated with such Class II local telephone company exchange or serving area with the approval of the Commission as permitted by section 3(g) of these regulations.

"(f) 'Independent operating company' and 'IOC' mean any carrier, other than a dominant interexchange carrier, or a Class I or Class II local telephone company, providing exchange telecommunications and exchange access service.

"(g) 'Information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include (1) any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service, or (2) the provision of time, weather, and such other similar audio services that are offered by any Class II local telephone company as of the date of these regulations.

"(h) 'Interexchange telecommunications' means telecommunications between a point or points located in one exchange or serving area (as defined herein or as established by a Class I local telephone company as of the date of these regulations) and a point or points located in one or more other such areas or a point outside such an area: *Provided, however,* That telecommunications between or among a point or points within a Class II local telephone company exchange or serving area and either—

"(1) a point or points within another Class II local telephone company exchange or serving area,

"(2) a point or points within the serving area of any IOC, or

"(3) a point or points within an exchange area of a Class I local telephone company, if the Class II local telephone company exchange or serving area(s) and the IOC serving area have been associated with the Class I local telephone company exchange area as of the date of these regulations or thereafter, shall not be interexchange telecommunications: *And provided further,* That, with the approval of the Commission, a Class II local telephone company may associate the serving areas of other IOCs with its exchange or serving areas, and in such cases telecommunications between a point or points within the Class II local telephone company exchange or serving area and a point or points within the associated IOC serving area shall also not be interexchange telecommunications.

"(i) 'Parent company of a Class II local telephone company' and 'parent company' mean the parent company of a Class II local telephone company and its affiliates.

"(j) 'Serving area' means (1) a geographic area, not within an exchange area, in which a Class II local telephone company does not have the facilities and capability identified in section 3(c) of these regulations but in which it provides exchange telecommunications and exchange access services, provided that all Class II local telephone company geographic areas associated with a single Class I local telephone company exchange area as of the date of these regulations, may be combined into a single Class II local telephone company serving area, and (2) a geographic area in which an IOC provides exchange telecommunications and exchange access services.

"(k) 'Telecommunications service group' means that portion of the headquarters service affiliate of a Class II local telephone company the exclusive function of which is to provide administrative, network, engineering, marketing, service, financial and other support to a Class II local telephone company.

"(l) 'Transmission facilities' means equipment (including without limitation cable, microwave, satellite, and fiberoptics) that transmits information by electromagnetic means or which directly support such transmission.

"PART B—REGULATIONS CONCERNING CLASS I LOCAL TELEPHONE COMPANIES

"SEC. 4. EQUAL ACCESS.

"(a) Each Class I local telephone company shall provide to all interexchange carriers and information service providers exchange access, information access, and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price to that provided to dominant interexchange carriers and their affiliates.

"(b) Each Class I local telephone company shall take the following actions to ensure such equal access:

"(1) On and after September 1, 1986, each end office of each Class I local telephone company shall offer such equal access, upon bona fide request. Nothing in these regulations shall be construed to permit a Class I local telephone company to refuse to provide to any interexchange carrier or information service provider, upon bona fide request, exchange or information access superior or inferior in type or quality to that provided for a dominant interexchange carrier's interexchange services or information services at charges reflecting the reduced or increased cost of such access.

"(2)(i) Notwithstanding subsection (b)(1), in those instances in which a Class I local telephone company is providing exchange access for Message Telecommunications Service on the date of these regulations through access codes that do not permit the designation of more than one interexchange carrier, then, in accordance with subsection (b)(1), exchange access for additional carriers shall be provided through access codes containing the minimum number of digits necessary at the time access is sought to permit nationwide multiple carrier designation for the number of interexchange carriers reasonably expected to require such designation in the immediate future.

"(ii) Each Class I local telephone company shall, in accordance with subsection (b)(1), offer as a tariffed service exchange access that permits each subscriber automatically to route, without the use of access codes, all the subscriber's interexchange communications to the interexchange carrier of the customer's designation.

"(iii) At such time as the national numbering area (area code) plan is revised to require the use of additional digits, each Class I local telephone company shall provide exchange access to every interexchange carrier, including any dominant interexchange carrier, through a uniform number of digits.

"(3) Notwithstanding subsections (b)(1) and (b)(2), with respect to access provided through an end office employing switches technologically antecedent to electronic, stored program control switches or those offices served by switches that characteristically serve fewer than ten thousand (10,000) access lines, a Class I local telephone company may not be required to provide equal access through a switch if, upon complaint being made to the Commission, the Class I local telephone company carries the burden of showing that for particular categories of services, such access is not physically feasible except at costs that clearly outweigh potential benefits to users of telecommunications services. Any such denial of access under the preceding sentence shall be for the minimum divergence in access neces-

sary, and for the minimum time necessary, to achieve such feasibility.

"(c) Each Class I local telephone company shall take the following additional actions:

"(1) Each Class I local telephone company shall file with the Commission tariffs for the provision of exchange access, including the provision by each Class I local telephone company of exchange access for any dominant interexchange carrier's interexchange telecommunications. Such tariffs shall provide unbundled schedules of charges for exchange access and shall not discriminate against any carrier or other customer.

"(2) Each tariff for exchange access shall be filed on an unbundled basis specifying each type of service, element by element, and no tariff shall require an interexchange carrier to pay for types of exchange access that it does not utilize. The charges for each type of exchange access shall be cost justified and any differences in charges to carriers shall be cost justified on the basis of differences in services provided.

"(3) Except as otherwise authorized by the Commission prior to the date of these regulations, and notwithstanding the requirements of subsection (c)(2), from the date of these regulations until September 1, 1991, the charges for delivery or receipt of traffic of the same type between end offices and facilities of interexchange carriers within an exchange area, or within reasonable subzones of an exchange area, shall be equal, per unit of traffic delivered, or received, for all interexchange carriers: *Provided, however,* That the facilities of any interexchange carrier within five miles of any dominant interexchange carrier's class 4 switch shall, with respect to end offices served by such class 4 switch, be considered to be in the same subzone as such class 4 switch.

"(4) Each Class I local telephone company offering exchange access as part of a joint or through service shall offer to make exchange access available to all interexchange carriers on the same terms and conditions, and at the same charges, as are provided as part of a joint or through service, and no payment or consideration of any kind shall be retained by a Class I local telephone company for the provision of exchange access under such joint or through service other than through tariffs filed pursuant to this subsection (c).

"(d)(1) Nothing in these regulations shall be construed to require a Class I local telephone company to allow joint ownership or use of its switches, or to require a Class I local telephone company to allow co-location in its building of the equipment of other carriers. When a Class I local telephone company uses facilities that (A) are employed to provide exchange telecommunications or exchange access or both, and (B) also are used for the transmission or switching of interexchange telecommunications, then the costs of such latter use shall be allocated to the interexchange use and shall be excluded from the costs underlying the determination of charges for either of the former uses.

"(e) Nothing in these regulations shall either require a Class I local telephone company to bill customers for the interexchange services of any interexchange carrier or preclude a Class I local telephone company from billing its customers for the interexchange services of any interexchange carrier it designates: *Provided, however,* That when a Class I local telephone company does provide billing services to an interexchange carrier, such Class I local telephone company may not discontinue local exchange service to any customer because of nonpayment of interexchange charges unless it offers to provide billing services to all interexchange carriers; *Provided further,* That such Class I local telephone company's cost of any such billing shall be included in its tariffed access charges to such interexchange carrier: *And provided further,* That if a Class I local telephone company provides such billing services to a dominant interexchange carrier pursuant to this subsection, it shall include upon the portion of the bill devoted to interexchange services the following legend:

"This portion of your bill is provided as a service to [name of dominant interexchange carrier]. There is no connection between this company and [name of dominant interexchange carrier]. You may choose another company for your long distance telephone calls while still receiving your local telephone service from this company.

"(f) Whenever, as permitted by these regulations, a Class I local telephone company fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of any dominant interexchange carrier, nothing in these regulations shall prohibit such Class I local telephone company from collecting reduced charges for such less-than-equal exchange access to reflect the lesser value of such exchange access to the interexchange carrier and its customers compared to the exchange access provided to any dominant interexchange carrier: *Provided, however,* That whenever, as permitted by these regulations, a Class I local telephone company fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of any dominant interexchange carrier, the tariffs filed for such less-than-equal access shall reflect the lesser cost, if any, of such access as compared to the exchange access provided to such dominant interexchange carrier.

"SEC. 5. NONDISCRIMINATION.

"No Class I local telephone company shall discriminate between dominant interexchange carriers and their affiliates and their products and services, and other persons and their products and services in the: (1) procurement of products and services; (2) establishment and dissemination of technical information and procurement and interconnection standards; (3) interconnection and use of the Class I local telephone company's telecommunications service and facilities or in the charges for each element of service; and (4) provision of new services and the planning for and implementation of the construction or modification of facilities, used to provide exchange access and information access.

"SEC. 6. LINE-OF-BUSINESS RESTRICTIONS.

"(a) No Class I local telephone company shall, directly or through any affiliated enterprise:

"(1) provide interexchange telecommunications services or information services;

"(2) manufacture or provide telecommunications products or customer premises equipment (except for provision of customer premises equipment for emergency services); or

"(3) provide any other product or service, except exchange telecommunications and exchange access service, that is not a natural monopoly regulated by tariff.

"(b) The restrictions imposed upon Class I local telephone companies by subsection (a) shall be removed by the Commission upon a showing by a petitioning Class I local telephone company, that there is no substantial possibility that the petitioning Class I local telephone company could use its monopoly power to impede competition in the market it seeks to enter: *Provided, however,* That insofar as any Class I local telephone company is, as of the date of these regulations, authorized to engage in activity otherwise prohibited by subsection (a), by virtue of a line-of-business waiver granted by the district court in *United States* v. *Western Electric Co.*, No. 82-0192 (D.D.C.), pursuant to section VIII(C) of the Modified Final Judgment in that case, such Class I local telephone company may continue to engage in such activity under the terms and conditions of such waiver.

"(c) Notwithstanding the provisions of subsection (a)(2), each Class I local telephone company shall be permitted to provide, but not manufacture, customer premises equipment.

"(d) Nothing in these regulations shall be deemed to prohibit a Class I local telephone company from producing, publishing, or distributing printed directories that contain advertisements and that list general product and business categories, the service or product providers under these categories, and their names, telephone numbers, and addresses.

"SEC. 7. MISCELLANEOUS PROVISIONS CONCERNING CLASS I LOCAL TELEPHONE COMPANIES.

"(a) Except as otherwise authorized by the Commission prior to the date of these regulations, there shall be no joint ownership of facilities, but appropriate provision may be made for sharing, through leasing or otherwise, of multifunction facilities so long as the separate portion of each Class I local telephone company is ensured control over the exchange telecommunications and exchange access functions.

"(b) Class I local telephone companies may collectively support and share the costs of a centralized organization for the provision of engineering, administrative and other services that can most efficiently be provided on a centralized basis. Class I local telephone companies shall collectively provide, through a centralized organization, a single point of contact for coordination of Class I local telephone companies to meet the requirements of national security and emergency preparedness.

"SEC. 8. PROVISIONS CONCERNING RELATIONSHIPS BETWEEN DOMINANT INTEREXCHANGE CARRIERS AND CLASS I LOCAL TELEPHONE COMPANIES.

"(a) No dominant interexchange carrier shall acquire the stock or assets of any Class I local telephone company.

"(b) Until September 1, 1987, any dominant interexchange carrier or its affiliates shall, upon order of any Class I local telephone company, provide on a priority basis all research, development, manufacturing, and other support services to enable such Class I local telephone company to fulfill the requirements set forth in sections 4 through 7 of these regulations. No dominant interexchange carrier or its affiliates shall take any action that interferes with the Class I local telephone companies' requirements of nondiscrimination, as established by section 5 of these regulations.

"(c)(1) No dominant interexchange carrier shall engage in electronic publishing over its own transmission facilities: *Provided, however,* that nothing in these regulations shall preclude a dominant interexchange carrier

from offering electronic directory services that list general product and business categories, the service or product providers under these categories, and their names, telephone numbers, and addresses; or from providing the time, weather, and such other audio services as were offered as of August 24, 1982, to the geographic areas of the country receiving those services as of that date.

"(2) Upon application of a dominant interexchange carrier to the Commission, subsection (c)(1) shall cease to have any force or effect after August 24, 1989, unless the Commission finds that the public interest clearly requires its extension.

"PART C—REGULATIONS CONCERNING CLASS II LOCAL TELEPHONE COMPANIES

"SEC. 9. SEPARATION BETWEEN CLASS II LOCAL TELEPHONE COMPANIES AND AFFILIATED INTEREXCHANGE CARRIERS.

"(a) Except as otherwise authorized by the Commission prior to the date of these regulations, the parent company of a Class II local telephone company shall maintain total separation between itself and any affiliated interexchange carrier, as follows:

"(1) no Class II local telephone company shall directly or indirectly transfer to or obtain from any affiliated interexchange carrier any assets, operations, or line of business, except as provided in subsections (d) and (e) of this section;

"(2) no parent company of any Class II local telephone company shall, under any circumstances, maintain for any affiliated interexchange carrier and any Class II local telephone company (A) common directors, officers, employees (other than the Chief Executive Officer and President of the parent company of a Class II local telephone company), (B) common facilities or assets, or (C) common books of accounts, costs, or expenditures;

"(3) in no event shall a parent company of a Class II local telephone company directly or indirectly provide to, or utilize for the benefit of, any affiliated interexchange carrier any proprietary Class II local telephone company telecommunications information, including but not limited to nonpublic Class II local telephone company customer information or nonpublic network engineering information;

"(4) neither a Class II local telephone company, nor its telecommunications service group (nor such group's successors), shall directly or indirectly provide any administrative, engineering, research and development, or similar services to any affiliated interexchange carrier, nor shall such affiliated interexchange carrier directly or indirectly provide any such services to any Class II local telephone company or such telecommunications service group (or its successors);

"(5) all financing of any affiliated interexchange carrier shall be provided directly by the parent company of the Class II local telephone company with which such interexchange carrier is affiliated, any financing affiliate wholly owned by such parent company, or by unaffiliated sources;

"(6) Class II local telephone companies and any affiliated interexchange carrier shall not jointly provide telecommunications or information services or jointly own the assets used to provide such services; and

"(7) an affiliated interexchange carrier shall (A) obtain all services, information, and products from other affiliates of the parent of a Class II local telephone company (other than Class II local telephone companies, or the telecommunications services group or its successors) only pursuant to contracts, and on terms and conditions no more favorable than such services, information, and products are offered to Class II local telephone companies and (B) bear the fully allocated cost of any services, information, and products obtained from any such affiliate that are not offered by that affiliate to Class II local telephone companies.

"(b) No officer or employee of a Class II local telephone company nor of a parent company of such Class II local telephone company who has direct or indirect managerial or operational authority over a Class II local telephone company shall also have any such authority with respect to an affiliated interexchange carrier: *Provided, however,* That this requirement shall not apply to the Chief Executive Officer and the President of any parent company of such Class II local telephone company.

"(c) An interexchange carrier affiliated with a Class II local telephone company may not be identified with, nor may its services be marketed or identified in connection with, any Class II local telephone company or the services offered by any Class II local telephone company, except that a Class II local telephone company may inform its subscribers in a nondiscriminatory manner of the services offered by interexchange carriers. Nothing contained herein shall prevent an affiliated interexchange carrier and a Class II local telephone company from each separately being identified with the parent company of such Class II local telephone company.

"(d) Nothing in subsection (a) or (b) above shall prohibit a parent company of a Class II local telephone company from:

"(1) transferring to any affiliated interexchange carrier the assets, stock, operations, or telecommunications or information services of—

"(A) any company that was affiliated with the parent company of a Class II local telephone company on January 1, 1985, and that on that date was an authorized domestic satellite carrier;

"(B) any company that was affiliated with the parent company of a Class II local telephone company on January 1, 1985, and that on that date provided packet switching services as a value-added network carrier;

"(C) any affiliate of the parent company of a Class II local telephone company that provides only interexchange telecommunications or information services, customer premises equipment (but not the manufacture thereof or research and development therefor), or unregulated exchange telecommunications or information services;

"(D) any affiliate of the parent company of a Class II local telephone company not providing goods or services to a Class II local telephone company; or

"(E) any other affiliate of the parent company of a Class II local telephone company, subject to the approval of the Commission (except for any domestic interexchange operations or facilities of any Class II local telephone company serving the State of Hawaii, which operations or facilities shall not be transferred pursuant to this subsection (d)(1)(E)); or

"(2) consolidating in a newly created affiliate the assets, stock, operations, or services of any affiliated interexchange carrier and—

"(A) any company that was affiliated with the parent company of a Class II local telephone company on January 1, 1985, and that on that date was an authorized domestic satellite carrier;

"(B) any company that was affiliated with the parent company of a Class II local telephone company on January 1, 1985, and that on that date provided packet switching services as a value-added network carrier;

"(C) any affiliate of the parent company of a Class II local telephone company that provides only interexchange telecommunications or information services, customer premises equipment (but not the manufacture thereof or research and development therefore) or unregulated exchange telecommunications or information services;

"(D) any affiliate of the parent company of a Class II local telephone company not providing goods or services to a Class II local telephone company; or

"(E) any other affiliate of the parent company of a Class II local telephone company, subject to the approval of the Commission.

"(e) Any assets, stock, operations, or services of any affiliate of the parent company of a Class II local telephone company transferred or consolidated pursuant to subsection (d)(1) or (d)(2) above shall not include any such assets, stock, operations, or services that were at any time owned, operated, conducted, or offered by such Class II local telephone company as a regulated exchange or exchange access service.

"(f) Nothing in subsection (d) shall prohibit a parent company of a Class II local telephone company from transferring any unregulated exchange telecommunications services or customer premises equipment from such Class II local telephone company.

"(g) A parent company of a Class II local telephone company shall submit an annual written report to the Commission, accompanied by an affidavit of its Chief Executive Officer and of its President, setting out a summary of the transactions described by this section 9 and attesting to such parent company's compliance with these regulations, and shall provide all further information concerning such transactions as may be requested by the Commission.

"SEC. 10. EQUAL ACCESS.

"(a) Each Class II local telephone company shall provide to all interexchange carriers and information service providers exchange access, information access, and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price for all interexchange carriers and information service providers, including any information services of a Class II local telephone company.

"(b) Each Class II local telephone company shall take the following actions to ensure such equal access:

"(1) Each Class II local telephone company shall, as promptly as possible, and in no case more than twelve (12) months after receipt of a written request from any interexchange carrier other than a dominant interexchange carrier, offer to all interexchange carriers exchange access on an unbundled, tariffed basis, that is equal in type and quality to that provided for the interexchange telecommunications services of any dominant interexchange carrier, or any IOC, through its end offices that employ switches technologically capable of providing equal exchange access or for which the capability of providing equal exchange access or for which the capability of providing equal exchange access is commercially available to any Class II local telephone company, consistent with the following:

"(A) each Class II local telephone company shall offer equal exchange access through its end offices employing (i) 1-ESS

(Electronic Switching System) switches, DMS-100 (Digital Multiplex System) switches, or other electronic stored program control switches, other than those referred to in subsections (ii) and (iii) below, technologically capable of providing equal exchange access, no later than the date of these regulations; (ii) GTD-5 (General Telephone Digital) switches no later than January 1, 1987; and (iii) 1-EAX and 2-EAX (Electronic Automatic Exchange) switches no later than September 1, 1987;

"(B) no later than September 1, 1987, equal exchange access shall be offered through end offices serving at least two-thirds of the exchange access lines provided by all Class II local telephone companies: *Provided*, That (i) a Class II local telephone company need not offer equal exchange access through an end office if, because of changed circumstances that could not reasonably have been foreseen, it is no longer economically feasible to install at that end office a switch technologically capable of providing equal exchange access, and (ii) if any nonaffiliated manufacturer of switches shall fail to provide to the Class II local telephone companies the hardware and software necessary to provide equal exchange access, the two-thirds amount shall be reduced to that extent; and

"(C) no later than December 31, 1990, equal exchange access shall be offered through all end offices serving greater than ten thousand (10,000) exchange access lines: *Provided*, That a Class II local telephone company need not offer equal exchange access through such an end office if, because of changed circumstances that could not reasonably have been foreseen, it is no longer economically feasible to install at that end office a switch technologically capable of providing equal exchange access.

Nothing in these regulations shall be construed to permit a Class II local telephone company to refuse to provide to any interexchange carrier or information service provider, upon bona fide request, exchange or information access superior or inferior in type of quality to that provided for the interexchange services or information services of a dominant interexchange carrier, or any IOC at charges reflecting the reduced or increased cost of such access.

"(2) Notwithstanding subsection (b)(1), a Class II local telephone company shall not have the obligation to provide the facilities and capability for switching interexchange traffic above an end office if the end office is located in such Class II local telephone company's serving area, or to transport such traffic between the end office and a point or points within the serving area designated by an interexchange carrier other than by direct Class II local telephone company transmission facilities. A Class II local telephone company shall use its best efforts to obtain from other carriers those functions that such Class II local telephone company is not obligated to provide under the preceding sentence.

"(3)(A) Notwithstanding subsection (b)(1), in those instances in which a Class II local telephone company is providing exchange access for Message Telecommunications Service as of the date of these regulations through access codes that do not permit the designation of more than one interexchange carrier, then, in accordance with the schedule set out in subsection (b)(1), exchange access for additional carriers shall be provided through access codes containing the minimum number of digits necessary at the time access is sought to permit nationwide, multiple carrier designation for the number of interexchange carriers reasonably expected to require such designation in the immediate future.

"(B) Each Class II local telephone company shall, in accordance with the schedule set out in subsection (b)(1), offer as a tariffed service exchange access that permits each subscriber automatically to route, without the use of access codes, all the subscriber's interexchange communications to the interexchange carrier of the subscriber's designation.

"(C) At such time as the national numbering area (area code) plan is revised to require the use of additional digits (but in no event earlier than the schedule set out in subsection (b)(1)), each Class II local telephone company shall provide exchange access to every interexchange carrier through a uniform number of digits.

"(4) No Class II local telephone company shall be required to provide equal exchange access through an end office employing switches of the technology known generically as step-by-step, if (a) such Class II local telephone company complies with the requirements of subsection (b)(1), and (b) at all end offices employing electromechanical (including step-by-step) switches such Class II local telephone company offers a commercially available trunkside interconnect arrangement to all interexchange carriers, unless such access is not physically possible except at costs that clearly outweigh potential benefits to users of telecommunications services. Each Class II local telephone company shall provide to the Commission such information as it may request concerning any such analysis.

"(c)(1) Each Class II local telephone company shall file tariffs for the provision for exchange access, including the provision by such Class II local telephone company of exchange access for any affiliated interexchange carrier's interexchange telecommunications. Such tariffs shall provide unbundled schedules of charges for exchange access, and shall not discriminate against any carrier or other customer.

"(2) Each tariff for exchange access shall be filed on an unbundled basis specifying each type of service, element by element, and no tariff shall require an interexchange carrier to pay for types of exchange access that it does not utilize. The charges for each type of exchange access shall be cost justified and any differences in charges to carriers shall be cost justified on the basis of differences in services provided.

"(3) Except as otherwise authorized by the Commission prior to the date of these regulations, and notwithstanding the requirements of subsection (c)(2), from the effective date of the tariffs referred to in subsection (c)(1) until September 1, 1991, the charges for delivery or receipt of traffic on the same type between end offices and facilities of interexchange carriers within an exchange area, or within reasonable subzones of an exchange area, shall be equal, per unit of traffic delivered or received, for all interexchange carriers: *Provided, however*, That the facilities of any interexchange carrier within five (5) miles of a Class II local telephone company switch performing a class 4 function shall, with respect to end offices served by such switch, be considered to be in the same subzone as such switch.

"(4) Each Class II local telephone company (and affiliate thereof) offering exchange access as part of a joint or through service shall offer to make exchange access available to all interexchange carriers on the same terms and conditions, and at the same charges, as are provided as part of a joint or through service, and no payment or consideration of any kind shall be retained by a Class II local telephone company for the provision of exchange access under such joint or through service other than through tariffs filed pursuant to subsection (c)(1).

"(d)(1) Subject to the provisions of sections 11 and 12 of these regulations, these regulations shall not require a Class II local telephone company to allow joint ownership or use of its switches, or to require a Class II local telephone company to allow co-location in its building of the equipment of other carriers. When a Class II local telephone company uses facilities that (A) are employed to provide exchange telecommunications or exchange access or both, and (B) are also used for the transmission or switching of interexchange telecommunications, then the costs of such latter use shall be allocated to the interexchange use and shall be excluded from the costs underlying the determination of charges for either of the former uses.

"(2) Nothing in these regulations shall either require a Class II local telephone company to bill customers for the interexchange services of any interexchange carrier or preclude a Class II local telephone company from billing its customers for the interexchange services of any interexchange carrier it designates, provided that when a Class II local telephone company does provide billing services to an interexchange carrier, such Class II local telephone company may not discontinue local exchange service to any customer because of nonpayment of interexchange charges unless it offers to provide billing services to all interexchange carriers. Such Class II local telephone company's cost of any such billing shall be included in its tariffed access charges to such interexchange carrier. If a Class II local telephone company provides billing services to any affiliated interexchange carrier, it shall include upon the portion of the bill devoted to interexchange services the following legend:

"This portion of your bill is provided as a service to [name of the affiliated interexchange carrier]. You may choose another company for your long distance telephone calls while still receiving your local telephone service from this company.

"(3) Whenever, as permitted by these regulations, a Class II local telephone company fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of any dominant interexchange carrier or IOC, nothing in these regulations shall prohibit such Class II local telephone company from collecting reduced charges for such less-than-equal exchange access to reflect the lesser value of such exchange access to such interexchange carrier and its customers compared to the exchange access provided to any other dominant interexchange carrier or IOC.

"SEC. 11. NONDISCRIMINATION.

"No Class II local telephone company shall discriminate between the interexchange telecommunications services, information services, or customer premises equipment of its parent company (including any information services offered by the Class II local telephone company itself) and the interexchange telecommunications services, information services, or customer premises equipment of other persons in the:

"(a) establishment and dissemination of technical information and interconnection standards;

"(b) interconnection and use of the Class II local telephone company's exchange telecommunications or exchange access services and facilities or in the charges for each element of service; and

"(c) provision of new exchange access and information access services and the planning for and implementation of the construction or modification of facilities used to provide exchange access and information access.

"SEC. 12. LINE-OF-BUSINESS RESTRICTIONS.

"(a)(1) No Class II local telephone company shall provide interexchange telecommunications services or own, individually or jointly with its parent company or any other person, facilities that are used to provide such services: *Provided, however,* That nothing in these regulations shall prohibit a Class II local telephone company serving the States of Alaska or Hawaii from providing telecommunications services between Hawaii and Alaska, respectively, and points outside of the United States, and owning the assets necessary to provide such services, if such Class II local telephone company or its affiliate is providing such services as of the date of these regulations.

"(2) Notwithstanding subsection (a)(1), a Class II local telephone company's capacity for interexchange switching and interexchange transmission in facilities in service on January 1, 1984, or in a Class II local telephone company's construction program as of January 1, 1983, and in service by January 1, 1987, may be leased by such Class II local telephone company to any interexchange carrier (or any successor) with which such Class II local telephone company was, as of January 1, 1983, providing interexchange telecommunications services jointly or on a joint through or concurring tariff basis, for the provision of interexchange telecommunications services by such carrier. Any such leases shall ensure that such Class II local telephone company retains control of sufficient switching and transmission capacity to provide exchange telecommunications and exchange access services in accordance with the requirements of these regulations.

"(3) Nothing in these regulations shall prohibit a Class II local telephone company, in any location in which it has assets subject to subsections (a)(2) for which it has not recovered its capital investment and for which the leases described in subsection (a)(2) are not in effect, from replacing an existing agreement with a Class I local telephone company or dominant interexchange carrier with an agreement with an interexchange carrier (other than an affiliated interexchange carrier) that will permit the recovery of the net book value of such capital investment and the costs thereof, including a return on debt or equity, so long as that agreement terminates when such net book value has been recovered.

"(4) In the event that the arrangements described in subsections (a)(2) and (a)(3) are not in effect, each Class II local telephone company shall make its interexchange routing and transmission capacity provided by assets subject to subsection (a)(2) available to all interexchange carriers on nondiscriminatory terms and conditions, and may expand and modernize (but not replace) such interexchange routing and transmission facilities if it offers to make available such expanded or modernized capacity to all interexchange carriers on nondiscriminatory terms and conditions.

"(5) Nothing in subsection (a)(2), (a)(3), or (a)(4) shall preclude, either explicitly or implicitly, any Class II local telephone company or parent company thereof from pursuing appropriate remedies before regulatory bodies and elsewhere to recover such Class II local telephone company's financial investment in the assets subject to subsections (a)(2).

"(b)(1) No Class II local telephone company shall provide information services or own jointly with its parent company or any other person facilities that are used to provide such services.

"(2) Notwithstanding subsection (b)(1), a Class II local telephone company may provide information services through a separate entity (either an incorporated subsidiary or an unincorporated division having separate books of account and reporting directly to the chief operating officer of such Class II local telephone company) that obtains from such Class II local telephone company telecommunications services, telecommunications facilities (including the right to colocate its equipment in buildings used to provide exchange telecommunications), and billing services, only to the extent that such services and facilities are made available to other persons pursuant to tariffed and unbundled schedules of charges and in accordance with the requirements of section 11 of these regulations, and obtains administrative and other services (including the use of Class II local telephone company maintenance and installation personnel) from such Class II local telephone company (A) only on the same terms that such services are obtained by nonaffiliated persons, and (B) in other cases only at fully allocated costs. No such separate entity shall to any extent own or control facilities used to provide regulated exchange telecommunications or exchange access services, have personnel who simultaneously market both regulated exchange telecommunications or exchange access services and information services, or directly or indirectly obtain proprietary Class II local telephone company marketing, customer, or network engineering information.

"(3) The limitations of subsections (b)(1) and (b)(2) shall expire:

"(A) upon a showing before the Commission by a Class II local telephone company that there is no substantial possibility that it could use its monopoly power to impede competition in the information services market it seeks to enter; or

"(B) whenever and to the extent that the Commission relieves a Class I local telephone company of the provisions of section 6 of these regulations, either (i) throughout a State, in which case the limitations of subsections (b)(1) and (b)(2) shall not apply to the information services of a Class II local telephone company within such State, or (ii) in any Class I local telephone company exchange area, in which case the limitations of subsections (b)(1) and (b)(2) shall not apply to the information services of a Class I local telephone company within any Class II local telephone company exchange or serving area, if telecommunications between such Class II local telephone company exchange or serving area and such Class I local telephone company exchange area are not interexchange telecommunications.

"(c) Insofar as any Class II local telephone company is, as of the date of these regulations, authorized to engage in activity otherwise prohibited by subsection (a) or (b), by virtue of section V(D)(3)(b) of the final judgment in *United States* v. *GTE Corporation,* No. 83-1298 (D.D.C.), such Class II local telephone company may continue to engage in such activity under the terms and conditions upon which it could lawfully engage in such conduct as of the date of these regulations.

"SEC. 13. MISCELLANEOUS PROVISIONS CONCERNING CLASS II LOCAL TELEPHONE COMPANIES AND THEIR AFFILIATES.

"(a) Until December 21, 1994, except with the approval of the Commission, no parent company of a Class II local telephone company shall acquire a direct or indirect equity interest in (or the equivalent thereto), whether or not controlling, or the assets of, any carrier, other than an affiliated interexchange carrier (as defined by these regulations), providing interexchange telecommunications services in the United States.

"(b) Subsection (a) shall not prohibit the insurance subsidiaries of the parent company of a Class II local telephone company, if any, and the pension and profit-sharing trusts of such a parent company and its subsidiaries, from acquiring, or holding for investment purposes, interests in the assets, stock, or other beneficial interests in any organization to the extent permitted by the laws governing investments of insurance companies and pension and profit-sharing trusts.

"(c) Subsection (a) shall not prohibit the acquisition by the parent company of a Class II local telephone company, by purchase or other form of transfer, of (1) assets used to provide exchange telecommunications which shall only incidentally be used to provide interexchange services, or (2) an interexchange carrier that obtains less than five (5) percent of its gross telecommunications revenues from telecommunications services between points within the United States.".

SEC. 202. REMEDY FOR VIOLATIONS OF COMMISSION REGULATIONS.

If it appears to the Commission at any time that any person subject to any provision of any regulation promulgated pursuant to section 201 has failed to comply with such provision, or that any person has violated any provision of any such regulation, the Commission may, after notice and opportunity for hearing, direct such person to comply with, or to cease and desist from violating, any provision of any such regulation, and may order or impose such further remedy provided in title V of the Communications Act of 1934, (subchapter V of chapter 5 of title 47 of the United States Code), as the Commission may deem appropriate.

SEC. 203. MODIFICATION OF, EXEMPTION FROM, AND WAIVER OF COMMISSION REGULATIONS.

(a) The Commission may modify or rescind any provision of any regulation promulgated pursuant to section 201, and in connection with such modification or rescission may expressly permit any action or course of conduct theretofore prohibited by such provision, if, after notice and an opportunity for hearing, the Commission determines that such modification or rescission would be in the public interest.

(b) The Commission may by rules and regulations or, upon application of any interested person or on its own motion, by order, after notice and opportunity for hearing, in whole or in part exempt any person or class of persons from the application of any provision of any regulation promulgated pursuant to section 201, or waive the application

of any such provision to any action or course of conduct proposed to be taken or engaged in by any person or class of persons, if the Commission determines that such exemption or waiver would be in the public interest.

SEC. 204. EFFECT OF COMMISSION REGULATIONS.

Any action or course of conduct expressly permitted by any provision of any regulation promulgated pursuant to section 201, or by any order issued by the Commission pursuant to such regulations, or by any action of the Commission pursuant to section 203, shall not, with respect to the person or class of persons expressly permitted to take such action or engage in such conduct, be deemed to violate any provision of any final judgment or decree entered before the date of this Act by any court of the United States in any case arising under the antitrust laws of the United States.

MEMORANDUM CONCERNING FEDERAL TELECOMMUNICATIONS POLICY ACT OF 1986

PURPOSE

In the early 1980s, consent decrees entered in the AT&T and GTE antitrust cases gave the U.S. District Court for the District of Columbia significant continuing regulatory authority over AT&T, the local Bell telephone operating companies (BOCs), GTE (including its long-distance subsidiary, Sprint), and the local GTE telephone operating companies (GTOCs). The purpose of the Bill is to place the responsibility for the continuing matters covered by the two decrees in the Federal Communications Commission (FCC), the federal agency that has traditionally had comprehensive regulatory responsibility for the telecommunications industry.

OVERVIEW OF BILL

The Bill would direct the Commission to adopt regulations identical in substance to the principal continuing provisions of the AT&T and GTE consent decrees. The provisions (i) require the BOCs and GTOCs to provide *equal access* to long distance ("interexchange") carriers and *not to discriminate* between interexchange carriers, (ii) restrict the *lines of business* into which the BOCs and GTOCs may enter, and (iii) govern the relationship between AT&T and the BOCs and between GTE and the GTOCs.[1]

The Bill grants the Commission explicit "cease and desist" power to enforce the regulations. The Bill would empower the Commission to grant waivers and exemptions from the regulations when the Commission finds, after notice and hearing, that the public interest would be served. It is anticipated that requests for waivers will be made, for example, by BOCs and GTOCs seeking to enter lines of business not permitted by the regulations. In this respect the Bill again parallels the consent decrees, which provide that the court may grant waivers of the line of business restrictions in the decrees. The effect of the Bill would be to give this responsibility to the Commission in view of its specific expertise in this area. The Bill provides that any action expressly permitted by the Commission exemption or waiver may be undertaken notwithstanding the consent decrees.

The Bill also empowers the Commission to modify or rescind provisions of the regulations if it determines, after notice and hearing, that to do so would be in the public interest. The consent decrees, on which the regulations are directly based, were drafted in light of then existing circumstances in the telephone industry. That industry is in a period of extremely rapid change, and the Bill gives the Commission power to respond to such changes. The Bill provides that any action expressly permitted by a Commission modification or rescission may be undertaken notwithstanding the consent decrees.

It is anticipated that, after enactment of the Bill and adoption of the regulations, motions will be made to vacate the consent decrees as superfluous and inconsistent with the regulatory authority given to the Commission. Such motions should, under established principles of law, be granted by the court.

CONSTITUTIONALITY

There is, of course, no doubt about the power of Congress, under the Commerce Clause, to authorize the Commission to regulate local telephone companies and inter exchange carriers in the manner provided in the Bill. As noted, provisions of the Bill would be applicable only to AT&T, GTE, the BOCs, and the GTOCs. There is no doubt that Congress may distinguish these entities, by virtue of their greater size, from their competitors in the industry.

The question may arise whether the Bill is constitutionally infirm because one of its intended effects is to displace executory decrees of a federal court. The answer is that Congress may, by enacting otherwise valid legislation, deliberately change the substantive law governing a particular activity, and such a change may oblige the courts to modify existing decrees. *Pennsylvania* v. *Wheeling & Belmont Bridge Co.*, 59 U.S. (18 How.) 421 (1855) (final decree ordering removal of bridge as an obstrution of navigation could not be carried out after enactment of statute declaring bridge lawful); *System Federation* v. *Wright*, 364 U.S. 642 (1961) (consent decree prohibiting employer from discriminating against nonunion employees could not be carried out, and had to be modified, after passage of legislation permitting union shop in railroad industry); cf. *United States* v. *Schooner Peggy*, 5 U.S. (1 Cranch) 103 (1801).

In *Environmental Defense Fund* v. *Costle*, 636 F.2d 1229, 1240-41 (D.C. Cir. 1980), the court of appeals summarized the law as follows:

"[S]ound exercise of judicial discretion may require that terms of a consent decree be modified when there has been a significant change in the circumstances obtaining at the time the consent decree was entered. This change in controlling circumstances may result from a change in controlling law, including changes brought about by subsequent legislation. . . . Clearly, the strongest evidence of congressional intent to supersede the [consent decree] would be an explicit declaration of such an intent in the language of the new legislation. . . . [I]f a congressional intent to supplant the [consent decree] is a 'necessary implication' of the provisions of the [new legislation], we would have to find that appellants are correct in arguing that the [consent decree] must be vacated. Alternatively, evidence of congressional intent may be provided by clear statements in the legislative history."

Although the Bill imposes its own procedures, renders much of the AT&T and GTE consent decrees superfluous, and prohibits enforcement of the decrees to bar conduct expressly permitted by the Commission, the Bill would not itself modify or vacate the decrees but would leave such matters to the courts. Some cases suggest that legislation purporting to deprive the courts of the power to decide how the Bill affects the decrees would pose constitutional problems. See *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872); *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (2d Cir. 1948); cf. *United States* v. *Sioux Nation*, 448 U.S. 371, 427 (Rehnquist, J., dissenting). The Bill would not do this.

DETAILED ANALYSIS OF THE BILL

The Bill would transfer regulatory authority over the matters covered by the substantive provisions of the AT&T and GTE decrees to the Commission. The only exceptions would be the matters listed below at pages 9 to 10.

The Bill is not an amendment to the Communications Act of 1934 (1934 Act). The Bill would give the Commission all necessary jurisdiction to adopt, administer, enforce, modify, or rescind regulations paralleling the decrees, and thus may result in an expansion of the Commission's jurisdiction in some respects. For example, limitations placed on the Commission's jurisdiction under the 1934 Act by 47 U.S.C. 152(b) would not apply to the Commission's jurisdiction under the Bill. Similarly, the Bill would give the Commission power to regulate activities of the BOCs and GTOCs (such as their entry into unregulated businesses) that it may lack power to regulate under the 1934 Act. The Commission's jurisdiction is expanded, however, only to the extent necessary to empower it to adopt, administer, enforce, modify, or rescind provisions paralleling the substantive provisions of the decrees. Therefore, while the Commission may eliminate restrictions applicable to AT&T, the BOCs, and the GTOCs when it finds that the public interest would be served, the Bill would not confer on the Commission any new authority (which it does not possess under the 1934 Act) to impose new restrictions other than those mandated by the Bill on those entities.

The Bill would achieve its objectives by (a) directing the Commission to adopt regulations identical in substance to the operative portions of the decrees, (b) empowering the Commission to remedy violations of the regulations, (c) providing that the Commission may modify or rescind, and may grant exemptions and waivers from, the regulations if it finds the public interest would be served, and (d) providing that any act or course of conduct expressly permitted by the regulations or by a Commission exemption, modification, or waiver shall not be deemed to violate any provision of the decrees.

The Bill's term "Class I local telephone company" includes (by virtue of the size limitation) only the BOCs; the term "Class II local telephone company" includes only the GTOCs; the term "dominant interexchange carrier" includes only AT&T; the term "parent of a Class II local telephone company" applies only to GTE; the term "affiliated interexchange carrier" applies only to GTE Sprint; the only entity described by the phrase "any company that was affiliated with a Class II local telephone company on January 1, 1985, and that on that date was an authorized domestic satel-

[1] The regulations would apply to all "Class I" and "Class II" local telephone companies (as defined); at the present time, only the BOCs are large enough to fit the definition of Class I and only the GTOCs are large enough to fit the definition of Class II. The regulations also define the term "dominant interexchange carrier"; only AT&T is large enough at this time to fit this definition.

lite carrier" is GTE Satellite; and the only entity described by the phrase "any company that was affiliated with a Class II local telephone company on January 1, 1985, and that on that date provided packet switching services as a value-added network carrier" is GTE Telenet.

1. Outline of the bill

a. Section 101 states the purpose of the legislation, which is to help to ensure the orderly and competitive development of the Nation's telecommunications industry by centralizing in the Commission the regulation of the industry. This section also indicates that the regulations are based on, and should be implemented in accordance with, the public interest standard of the common carrier provisions of the Communications Act.

b. Section 201 requires the Commission to adopt the regulations set out in detail in the Bill. Part A of the regulations contains definitions (with some definitions of the same terms differing as applied to Class I and Class II local telephone companies, because of differences in the *AT&T* and *GTE* decrees); Part B contains regulations identical in substance to the operative portions of the *AT&T* decree; and Part C contains regulations identical in substance to the operative portions of the *GTE* decree.

c. Section 202 provides the remedies for violations of the regulations promulgated by the Commission pursuant to Section 201. The district court now has civil and criminal contempt power to redress violations of the decrees. In order to ensure that the Commission has power to enforce its regulations that is as nearly identical as possible to the power of the district court, the bill would explicitly give the Commission the power to issue cease-and-desist orders as well as the power to impose any of the other remedies available to it in dealing with common carrier violations of the Communications Act and the Commission's regulations thereunder.

d. Section 203 empowers the Commission to modify, rescind, or provide exemptions from or waivers of the regulations promulgated pursuant to Section 201. The purpose of this section is to make it clear that, notwithstanding the congressional direction to adopt the regulations, the Commission may, after notice and hearing, modify or waive the regulations in order to narrow their scope when further circumstances persuade the Commission that the public interest would be served by doing so.

e. Section 204 provides that conduct that is expressly permitted by the regulations promulgated pursuant to Section 201, whether as promulgated, as modified or rescinded, or is expressly permitted by an exemption or waiver granted by the Commission, shall not be deemed to violate any existing antitrust consent decrees. This provision makes clear that the decree court may not, in the future, enforce the decrees to prohibit any conduct expressly permitted by the Commission.

2. Differences between the bill and the AT&T and GTE decrees

a. An important difference between the language of the Bill and the language of the consent decrees is that, as explained above, the Bill uses general terms rather than proper names.

b. The Bill omits those portions of the AT&T decree that have already been satisfied and that would be unnecessary after the transfer of authority to the Commission. These provisions include: Part I(A) (AT&T Reorganization); Part II(C) (BOC submissions of procedures for ensuring compliance with non-discrimination); Part III(A) (applicability and effect), Part IV (compliance); Part VI (visitorial provisions); Part VII (retention of jurisdiction); Part VIII(B) ¶2 ("yellow pages" transferred to BOCs); Part VIII(G) (distribution of assets at reorganization), Part VIII(H) (BOCs' debt ratios at reorganization); Part VIII(I) (court retains *sua sponte* remedial jurisdiction); Part VIII(J) (plan of reorganization to be approved by court); Appendix A (list of BOCs); and Appendix B ¶(A)(1)(1) (certain equal access requirements to be satisfied by September 1, 1984 and September 1, 1985).

c. The Bill also omits those portions of the *GTE* decree whose requirements have already been satisfied and those portions that would be unnecessary after the transfer of authority to the Commission. These provisions include: Part III (applicability); Part V(D) (estoppel effect of government actions under the decree); Part V(E) (GTE to file compliance report prior to decree's effective date); Part VII(A) (retention of jurisdiction and additional government relief); Part VIII(B) (compliance); Part IX (visitorial provisions); Part X (effective date); Part XI(A) (government's burden of proof in seeking further relief, and decree does not immunize GTE from antitrust laws); Appendix A (list of GTOCs); Appendix C (list of BOCs); and Appendix B (equal access; GTE required to file requests for waiver from FCC orders).

d. In four places, the Bill includes the language "except as otherwise authorized by the Commission prior to the date of these regulations" in order to make it clear that the Bill does not override Commission orders entered subsequent to the decrees.

e. The line-of-business waiver provisions in the regulations required by the Bill include "grandfather" clauses that would permit the BOC- and GTOC-affiliated beneficiaries of waiver orders under the decrees to continue to operate their businesses under the terms and conditions of those waivers.

Mr. DOLE. Mr. President, I understand that the distinguished Senator from Ohio [Mr. METZENBAUM] would like to be heard on the referral of the bill, as to where this matter will be referred, and that he is on his way to the floor to make that statement.

We have tried now for about 10 days to bring in all the parties. I am not an expert in this area, but I am an expert in knowing that it is not always possible around this place to get the interested parties together.

I have read different accounts about how we have been mousetrapped and stunned and other things about which I have no knowledge.

In any event, my basic view is that there is no reason for the court to engage in many of its activities when we have a Federal agency called the Federal Communications Commission, which has the expertise and the resources, and I believe that is the central thrust of this legislation.

I commend Judge Greene for his action in the past, but now I believe it is time to restore the Federal Communications Commission to its rightful place in this particular area.

□ 1050

Mr. President, I yield to the distinguished Senator from Ohio who has a question about the committee of jurisdiction of the bill I have just introduced.

Mr. METZENBAUM. Has the bill been introduced as of yet?

Mr. DOLE. Yes; but it has not been referred.

Mr. METZENBAUM. I want to say that bill, as I understand it, would take away from the court its jurisdiction in connection with the AT&T antitrust case.

I have some real difficulty at any time the U.S. Congress is taking away from a judicial arm of Government a matter that is presently before it and whether it be AT&T or X, Y, Z, or whatever, that would concern me much.

My understanding is that the referral will, in due course, be made to the Commerce Committee. I have no objection to that.

But I think that as the matter progresses and if the Commerce Committee should see fit to report it out and recommend it for passage, I would hope that the manager of the bill and the majority leader would see fit to work with me and others of us who do have some concern about the principle—I am not sure about the ultimate result—but about the principle of taking a pending case away from the courts. I am not asking for any commitment but I am saying that we do not have that much time left in the session. If this bill is going to be able to proceed, it is going to have to be worked out and have to meet the approval of the parties on all sides.

I would hope that the majority leader would see fit to at least keep his mind open on that subject and see if we can work it out if the Senator from Ohio and others on the Judiciary Committee deem it appropriate.

Mr. DOLE. I thank the Senator from Ohio and I would indicate in our section-by-section analysis, we hope we have addressed that question and we will place that in the RECORD and give the Senator an opportunity to see it.

I have also discussed, based on the Senator's earlier questions, referral to the Committee on the Judiciary. I have a letter from the distinguished chairman of that committee saying at this time he does not see any need for that. Certainly if there is some question which should arise in the Commerce Committee hearings, I would be happy to meet with the chairman, the Senator from Ohio, and see what we could do. I do not foreclose that possibility, but obviously the Senator from Ohio could have other ways to reach the same result if he felt there was some need to have it referred to the Committee on the Judiciary.

Mr. METZENBAUM. I think as long as the manager of the bill understands that there is a concern, I am not saying exactly where I will come down finally on the issue, but at this point I do have a concern and, therefore, I wanted to advise the Senator from Kansas of my thoughts and concerns so that we can get back to the subject at a later point.

Mr. DOLE. I thank the Senator from Ohio and I ask unanimous consent that the letter from the distinguished chairman of the Committee on the Judiciary be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 12, 1986.

Senator HOWARD METZENBAUM,
Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR HOWARD: I am writing to advise you of my current thoughts about the proposed telecommunications bill which Senator Dole plans to introduce. On Wednesday afternoon, June 11, at the hearing of judicial nominations, you asked me to talk to Senator Dole about the interest of you and other members in having that bill referred to the Judiciary Committee as well as to the Commerce Committee. I indicated that I would talk to Senator Dole about the matter, and I have done so.

Historically, all aspects of legislation concerning the structure of the telecommunications industry have been referred only to the Commerce Committee. Those matters have always been thoroughly reviewed by the Commerce Committee. Therefore, I am not inclined to initiate a request for referral of the bill to the Judiciary Committee at this time. I anticipate that the Commerce Committee, which has primary jurisdiction over this matter, will give careful consideration to issues relating to competition in the telecommunications field, as they have in the past. As you know, the Commerce Committee has always discharged its responsibility to consider all the effects of such legislation on competition policy, and I have spoken with the chairman to ensure that the Commerce Committee will do so in this instance.

If the Commerce Committee does not, however, give sufficient consideration to the competition issues involved in this bill, then I will consider steps to ensure a review of these issues by the Judiciary Committee.

With kindest personal regards and best wishes,

Sincerely,

STROM THURMOND, *Chairman.*

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will state the unfinished business of the Senate.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the internal revenue laws of the United States.

The Senate resumed consideration of the bill.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1100

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

AMENDMENT NO. 2091

(Purpose: To provide a third rate bracket for individual taxpayers at 35 percent)

Mr. MITCHELL. Mr. President, in my behalf and on behalf of Senators BURDICK, CRANSTON, GORE, HARKIN, LEVIN, SARBANES, and SIMON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. SIMON, Mr. SARBANES, Mr. LEVIN, Mr. HARKIN, Mr. GORE, Mr. CRANSTON, and Mr. BURDICK, proposes an amendment numbered 2091.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 2847, strike "Act." and insert "Act.

Notwithstanding any other provision of this Act—

(1) Subsections (a), (b), (c), and (d) of section 1, as amended by section 101(a), are amended to read as follows:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $27,000	14% of taxable income.
Over $27,000 but not over $55,000.	$3,780, plus 27% of the excess over $27,000.
Over $55,000	$11,340, plus 35% of the excess over $100,000.

"(b) HEADS OF HOUSEHOLDS.—There is imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $22,000	14% of taxable income.
Over $22,000 but not over $45,000.	$3,080, plus 27% of the excess over $22,000.
Over $45,000	$9,290, plus 35% of the excess over $45,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $16,500	14% of taxable income.
Over $16,500 but not over $33,500.	$2,310, plus 27% of the excess over $16,500.
Over $33,500	$6,900, plus 35% of the excess over $33,500.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS; CERTAIN ESTATES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and

"(2) every estate taxable under this subsection with respect to taxable years ending less than 2 years after the date of the death of the decedent,

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $13,500	14% of taxable income.
Over $13,500 but not over $27,500.	$1,890, plus 27% of the excess over $13,500.
Over $27,500	$5,670, plus 35% of the excess over $100,000.

(2) Section 1, as amended by section 101(a) is amended by striking out subsection (g) and redesignating subsection (h) as subsection (g).

(3) Section 151(f), as amended by section 103(a), is amended by striking out paragraph (4).

(4) Section 401 of the Act shall read as follows:

"SEC. 401. MODIFICATION OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS.

(a) REDUCTION IN EXCLUSION TO REFLECT REDUCTION IN RATES.—Section 1202(a) (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "22.9 percent (36.47 percent in the case of taxable years beginning in 1987)".

(b) CONFORMING AMENDMENTS.—

(1) Section 1202(c) (relating to transitional rule) is hereby repealed.

(2) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "77.1 percent (28/33 in the case of a corporation)", and

(B) by adding at the end thereof the following new sentence: "In the case of any taxable year beginning in 1987, this paragraph shall be applied by substituting '63.53 percent' for '77.1 percent'."

(3) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(4) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(5) Section 57(a), as added by section 1101, is amended by adding at the end thereof the following new paragraph:

"(6) CAPITAL GAINS.—

"(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure.

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—The tax on the long-term capital gain on rights to royalties paid under leases and assignments binding on September 25, 1985, by a limited partnership formed on March 1, 1977, which on October 30, 1979, assigned leases and which assignment was amended on April 27, 1981, shall not exceed 20 percent."

(5) Section 402 of the Act is null and void.

Mr. MITCHELL. Mr. President, this amendment will make this tax bill meaningful for middle-income Americans. It will fulfill the missing promise of the Finance Committee bill by extending to middle-income taxpayers the real tax relief which the bill promises to all but delivers only to the rich and the poor.

Compared to the Finance Committee bill, my amendment will provide greater average tax relief to 95 percent of all taxpayers, which includes families in all income groups with incomes below $75,000.

It will reduce the maximum tax rate paid by approximately 80 percent of all taxpayers.

It will more than double the amount of tax relief going to those American families who earn between $30,000 to $40,000. This group needs tax relief. Yet it would fare worse than any others under the Finance Committee bill.

These objectives would be accomplished by reducing the lowest rate from 15 percent to 14 percent and by establishing a third rate at 35 percent. This would replace the five rate schedule in the Finance Committee bill which results from the complicated and perverse phaseouts of the lower tax rate and personal exemptions. My amendment would eliminate these phaseouts and substitute for them a straightforward three rate schedule of 14 percent, 27 percent, and 35 percent.

Since the bill was reported from the committee last month, it has been hailed as a great achievement that will restore fairness and integrity to our tax system.

As one of the so-called core group of committee members who worked with Chairman PACKWOOD to put the measure together and get it to the Senate floor, I support the bill. It is a significant improvement over the present tax system and has many features which should commend it to all Senators and all of the American people.

But it has one major deficiency which can be corrected and should be corrected before the bill is enacted by the Senate. My fellow Senators, I say we should beware of any major legislation whose support is said to be so fragile that it must be rushed through the Senate without amendment, or without change of any kind.

Unless we change this bill, when the American people understand all of what it does, new doubts will arise about the fairness of the tax system.

When Americans learn that the bill puts factory workers, nurses, and secretaries whose taxable income is $17,600 a year in the same tax bracket as those earning $200,000 a year, or $2 million a year, will they call that reform? I do not think they will.

When Americans discover that 359,000 individuals with incomes of more than $200,000 a year will get an average tax cut of almost $53,000 a year from this bill, will they think that is fair? I do not think they will.

And when Americans find out that up to 30 percent of taxpayers with incomes between $20,000 and $50,000—that is about 15 million American families—could see their taxes go up from this bill, will they approve? I do not think they will.

My amendment gives the Senate an opportunity to prevent that disillusionment. It will correct the major omission in this bill by providing tax relief to middle class Americans.

My amendment would provide the average family with less than $75,000 of annual income greater tax relief than the committee bill. Since over 95 percent of American families have income less than $75,000, the overwhelming majority will benefit from my amendment. Much of that additional relief would be targeted to families in the $30,000 to $40,000 income category, because they receive the least of any group from the committee bill.

My amendment increases middle-income tax relief and still permits substantial tax reduction for those with high incomes. High income persons who have paid taxes at high rates in the past are due some relief. My amendment gives it to them without providing the very wealthiest Americans an enormous and unneeded windfall.

A third rate will not penalize those high-income people who have already been paying their fair share. They will still get a big tax cut.

What my amendment does is straightforward. It adds a third rate of 35 percent, lowers the bottom rate from 15 percent to 14 percent, and retains the differential treatment of capital gains so as to prevent capital from being subjected to the hidden higher rates in the committee bill.

The committee bill eliminates millions of very low-income Americans from the tax rolls, because we recognize that we should not ask people to pay taxes when their earnings barely cover their most basic needs.

It increases the personal exemption, because we realize that a couple with four children faces higher financial burdens than a couple without children.

The restoration of a third rate would recognize that somebody with an annual income of $2 million can afford to pay taxes at a higher rate than somebody with an annual income of $22,000.

Many supporters of the committee bill are concerned about the large amount of tax reduction given to high-income earners compared to that given middle-income taxpayers. They rationalize this outcome by arguing that it is better than the present system.

But it is against the inequities and absurdities in the present system that Congress and the American people are rebelling. That is why some of us on the committee pushed for a major reform bill. And it is the promise of

real reform that has given this bill the momentum it has.

Our current tax system needs reform because it has become unfair. It is unfair for the most part because it has allowed a large number of taxpayers, concentrated in the high-income groups, to shield their incomes from the taxes that everyone else has to pay.

In this bill, we take the bold and necessary action of closing tax shelters, reducing the number of special tax breaks and imposing tough minimum taxes. I support that action.

Most middle-class taxpayers have been laboring under the impression that if the tax shelters were closed and the loopholes eliminated, all other taxpayers would benefit.

They will be surprised to learn that despite the steps we have taken to curb excesses and distortions in the system, this bill will not make the groups which have taken the greatest advantage of the system pay more.

□ 1120

That is because after closing the shelters the committee bill then gives the revenue recaptured from that closing, and more, back to the same high-income groups.

Not only will they be surprised, many middle-income Americans will be shocked when they learn that this bill causes their taxes to increase.

One of the myths about this bill is that it cuts everybody's taxes. That is a refrain we have also heard over and over. It is also not true.

There is no evidence to support that claim. What evidence exists is directly to the contrary. In a letter dated June 10 to Senator LEVIN, the Joint Tax Committee estimated that nearly 15 million taxpayers with incomes between $20,000 and $50,000 a year will pay more in taxes as a result of this bill. That represents 30 percent of all taxpayers in that income category.

It is true that the Joint Tax Committee cautioned against the likelihood of error in that estimate. Thus the estimate cannot be regarded as precise, or anything even close to precise.

But of that estimate it should be noted, first, that the estimate may be on the low side as well as on the high side. There is no way of knowing for sure, but the number of middle-income taxpayers whose taxes increase might be even more than 15 million.

Second, even if the estimate is high by a large factor, there will still be many millions of middle-income American families whose taxes increase as a result of the committee bill.

And third, this estimate is the only one we have. It may be flawed, but it is better than nothing. And even with its limitations, even if it is off by a high factor, it should effectively dispel the myth that under the committee bill, everybody's taxes will be cut. They will not. We should acknowledge that.

Mr. President, I ask unanimous consent that the letter to Senator LEVIN and its accompanying data be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT COMMITTEE ON TAXATION,
Washington, DC, June 10, 1986.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your letter of May 14, 1986, asking for various statistics related to the individual income tax provisions of the Finance Committee bill.

Table 1 shows the figures produced by our computer analysis on the number of taxpayers with tax increases and decreases under the bill, relative to present law. We believe that these figures suffer from flaws, described more fully below, that are sufficiently serious that we are unwilling to stand behind them as a statistically valid projection of the number of taxpayers with tax increases and decreases under the bill.

Table 2 shows the number of returns projected to claim the deductions for consumer interest, two-earner couples, State and local sales taxes, and medical expenses under present law in 1988. Also shown are the average deductions projected to be claimed on each return in the income class that itemizes and claims that particular deduction. It should be emphasized that the figures for the interest deduction are the result of an arbitrary division of nonbusiness, non-mortgage, interest between consumer interest and investment interest and may be misleading if used to judge the impact of the bill on particular taxpayers.

Table 3 contains distributional data on the deductions for IRAs claimed under present law. Because of data limitations, these figures are for 1984 rather than projected to 1988 like the other distributional data we have prepared and use adjusted gross income rather than economic income to classify tax returns.

Table 4 shows the percentage distribution by income class of the estimated tax reduction under the bill.

Although the figures in Table 1 are a by-product of the computer analysis used to produce our distributional data, we believe they contain serious flaws. Estimates of the number of returns with tax increases or decreases are very sensitive to small changes in tax calculations for individual taxpayers, so that items which lead to only small inaccuracies in average tax cuts could have a substantial effect on estimates of "winners and losers." The statistical problems include:

(1) A number of income, deduction, and credit items are imputed to the individual returns on our sample of tax returns. These imputations, while accurate on average, do not take account of possible relationships with many other tax items affected by the proposals. Thus, the number of winners and losers could be affected, for example, if those taxpayers who lose the two-earner deduction are more likely than average to use income averaging. Any such relationship is not reflected in the estimate of the two-earner deduction attached to particular returns in the sample, and, thus is not taken into account in producing the figures shown in Table 1.

(2) A number of pertinent items are omitted from our distributional data because we lack reliable sources. For example, omitted are such items as depreciation, and contributions to 401(k) plans and educational assistance plans. While the omission of these data has only a minor effect on the estimated average tax changes by income class, it could have a substantial effect on particular individuals and, thus, on estimates of the number of winners and losers.

(3) The relatively small size of our sample of tax returns for each income class may be a serious limitation on the accuracy of estimates of winners and losers.

In sum, our data base for estimating the income distribution effects of comprehensive tax proposals has certain limitations. While we believe that these have only a small effect on the accuracy of figures showing average effects by income class and other distribution data you have seen, they may seriously distort, in an unknown fashion, analyses of the number and type of taxpayers receiving tax increases.

Sincerely,

DAVID H. BROCKWAY.

TABLE 1.—TAXPAYERS WITH INCREASES AND DECREASES IN TAX LIABILITY UNDER H.R. 3838[1]

[Tax year 1988]

Income class (thousands)	Number of taxpayers[2] (thousands)	Percent of total	Number with tax increase (thousands)	Percent of total	Average increase	Number with tax decrease (thousands)	Percent of total	Average decrease
0 to $10	41,651	31.6	1,797	1.4	$186	12,533	9.5	$−162
$10 to $20	27,877	21.1	4,788	3.6	202	19,660	14.9	−315
$20 to $30	26,121	19.8	6,717	5.1	339	17,925	13.6	−383
$30 to $40	15,727	11.9	5,247	4.0	525	10,146	7.7	−529
$40 to $50	8,652	6.6	2,510	1.9	799	6,056	4.6	−820
$50 to $75	7,686	5.8	2,431	1.8	1,552	5,198	3.9	−1,218
$75 to $100	1,793	1.4	665	.5	3,189	1,116	.8	−2,724
$100 to $200	1,758	1.3	646	.5	7,605	1,086	.8	−6,239
$200 plus	655	.5	291	.2	50,030	359	.3	−52,535

TABLE 1.—TAXPAYERS WITH INCREASES AND DECREASES IN TAX LIABILITY UNDER H.R. 3838[1]—Continued

[Tax year 1988]

Income class (thousands)	Number of taxpayers [2] (thousands)	Percent of total	Number with tax increase (thousands)	Percent of total	Average increase	Number with tax decrease (thousands)	Percent of total	Average decrease
Total	131,919	100.0	25,092	19.0	1,343	74,079	56.2	−816

[1] See text for substantial shortcomings of these data.
[2] Filers and Nonfilers. Includes tax returns with no change in liability.
Joint Committee on Taxation June 6, 1986.

TABLE 2.—RETURNS AND AVERAGE DEDUCTIONS UNDER PRESENT LAW FOR SEVERAL MAJOR DEDUCTIONS REPEALED BY SENATE FINANCE COMMITTEE BILL

[Tax year 1988—dollar amounts in millions]

Income class	Returns (thousands)	Average nonmortgage and noninvestment interest expense	Returns (thousands)	Average two-earner deduction	Returns (thousands)	Average sales tax deduction	Returns (thousands)	Average medical expense deduction
0 to $10,000	1,174	$1,239	1,109	$305	1,628	$206	1,415	$2,298
$10,000 to $20,000	4,431	1,061	3,142	342	5,261	291	3,674	2,634
$20,000 to $30,000	10,961	1,144	9,190	622	11,919	402	6,667	2,055
$30,000 to $40,000	9,205	1,317	7,610	876	9,968	475	4,729	1,957
$40,000 to $50,000	5,767	1,562	4,337	1,129	6,357	571	2,638	2,088
$50,000 to $75,000	5,414	2,027	3,293	1,352	6,096	687	2,068	1,931
$75,000 to $100,000	1,297	2,318	875	1,651	1,596	868	515	2,951
$100,000 to $200,000	1,050	3,909	645	2,042	1,366	1,039	344	4,350
$200,000 plus	331	11,561	203	2,360	438	1,517	75	7,910
Total	39,631	1,638	30,403	935	44,630	531	22,127	2,224

Joint Committee on Taxation, June 6, 1986.
Note.—Averages take account only of those returns claiming deduction.

TABLE 3.—PAYMENTS TO INDIVIDUAL RETIREMENT ARRANGEMENTS 1984

Adjusted gross income [Thousands of dollars]	Number of returns [millions]	Percentage distribution	Amount [billions of dollars]	Percentage distribution
Less than $10	0.7	4.6	1.1	3.2
$10 to $20	2.2	14.6	4.0	11.0
$20 to $30	3.0	19.3	5.8	16.3
$30 to $40	3.2	20.5	7.1	19.8
$40 to $50	2.3	15.0	5.9	16.5
$50 to $75	2.6	16.7	7.5	20.9
$75 to $100	0.7	4.5	2.2	6.1
$100 to $200	0.5	3.6	1.7	4.7
$200 and above	0.2	1.0	0.5	1.4
Total	15.4	100	35.8	100

Joint Committee on Taxation.
Source: Advance IRS Data.

TABLE 4.—DISTRIBUTION OF TAX REDUCTION UNDER SENATE FINANCE COMMITTEE BILL, 1988

[1986 levels]

Income class	Percentage distribution of tax reduction
0 to $10,000	6.3
$10,000 to $20,000	19.6
$20,000 to $30,0000	17.1
$30,000 to $40,000	9.8
$40,000 to $50,000	11.1
$50,000 to $75,000	9.6
$75,000 to $100,000	3.5
$100,000 to $200,000	6.9
Over $200,000	16.1
Total	100.0

Mr. MITCHELL. The perception that high-income persons can use the tax system to legally avoid paying their fair share of taxes is broadly shared. And it is accurate. We knew it was happening even if we were not always sure exactly who benefited and by how much. But at least we knew that even if some people did invest to shelter income from taxes, they were doing it in some generally useful manner, such as to subsidize low-income housing, or to increase energy supplies, or to spur research and development.

This bill removes that factor. It will no longer encourage taxpayers to channel investment in certain directions and not others. In place of the distortions under the current system, a rate of 27 percent on incomes of $20,000, $200,000, and $2 million alike makes it certain that high-income persons will be able to avoid paying a fair share of taxes, but with no incentive to invest in any specific way.

Let me make it clear that I favor the removal of the distortions. I do not favor the enormous reduction that goes to a handful of high-income persons and the little that goes to the middle class.

This bill must also be viewed in a larger context of what has been happening to the Federal tax system as a whole.

The committee bill will also accelerate a dramatic two-decade-old shift in the tax burden. Between 1966 and 1985, the lowest one-tenth of taxpayers have seen their overall tax burden rise by 30 percent. At the same time, the top one-tenth of taxpayers have seen their overall tax burden fall by 16 percent.

The movement of the tax burden down the income scale now resting on the shoulders of the middle class, has accelerated sharply since 1981. At least until the committee bill, the income tax has been based on ability to pay. As it has been cut, all other Federal taxes, which are not based on ability to pay, have been increased.

In 1981, we cut the income tax significantly, reducing the top rate from 70 percent to 50 percent. In 1983, we increased the Social Security payroll tax. It is now levied on the first $42,000 of income. Both the amount subject to tax and the payroll tax rate are, of course, still rising.

Since 1981, Federal excise taxes have been increased on beer, wine, gasoline, cigarettes, trucks, trailers, tires for highway vehicles, air passenger tickets, international departures, domestic cargo, sport and fishing equipment, bows and arrows, pistols, revolvers, ammunition, telephone taxes, and many other items.

Virtually every Federal tax that is not based on the ability to pay has been increased during the past 5 years. Meanwhile, the only tax that is based on ability to pay, the income tax, has been and will be further cut. The inevitable effect is to shift the tax burden down the income scale onto the backs of the middle class, and that is who pays the taxes in this country.

Wealthy people pay excise taxes too, but an extra 5 cents on a gallon of gasoline hurts a lot less if your income is $150,000 than it does if your income is $15,000.

The combination of payroll and excise tax increases since 1981 has caused the 1981 income tax cut to vanish for the vast majority of working Americans. But the 1981 cut in the top tax rate gave the wealthiest taxpayers a major reduction whose benefits are still very real.

The bill before us continues that pattern. Many families with income between $20,000 and $50,000 will actually pay higher taxes. Most will get a cut. But it will not be much. For those families whose income are between $30,000 and $40,000, it will average $129. Nobody earning under $40,000 a year would get a tax cut above $186.

But the bill gives an average reduction of almost $6,000 to those making over $200,000 a year.

That average cut includes the large number of high-income persons who will experience a tax increase because they have avoided tax liability in the past by sheltering their income.

If you look at just those persons at the highest-income category who will get a tax cut, their reduction is on average almost $53,000. That is $53,000 per taxpayer in the highest income category.

Meanwhile, American families, the millions of them who earn between $30,000 and $40,000, many of them will see their taxes go up and the cut for that group on average will be $129.

What does tax reform mean for most people? The enormous majority of taxpayers do not use tax shelters or accounting techniques to reduce their taxes. Their taxes are withheld at the source, from their paychecks. For most people, to mean anything, a tax cut must mean an increase in take-home pay.

So what does this bill do for take-home pay? Well, those who make over $200,000 a year will get three times more take-home pay, in percentage terms, than those making between $30,000 and $40,000. That is in percentage terms. In dollars, of course, the difference is much greater.

As this chart demonstrates, the committee bill will raise after-tax, take-home pay by four-tenths of 1 percent, on average, for people earning between $30,000 and $40,000.

That is this bar shown in red.

On a $500 paycheck, that comes to $2. But for those taxpayers with incomes of $200,000 or more, in this last box, the tax bill provides an average increase in after-tax money of 1.4 percent, more than three times as high a percentage as the middle-income group.

Mr. President, I ask unanimous consent that a copy of this chart be printed in the RECORD at this point.

Mr. LONG. Mr. President, reserving the right to object, ordinarily, I would like to agree, but that chart cannot be reduced for the RECORD under our rules, unless the Senator has a set of numbers to offer for the RECORD. I am sorry it cannot. I would like to see the rules amended so that chart can be reduced, because I think it makes the Senator's argument.

Mr. MITCHELL. I ask unanimous consent that a table showing these figures be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 3838, Senate Finance Committee bill—Percentage change in "take-home pay"

Income class:	Percentage
$0 to $10,000	0.9
$10,000 to $20,000	1.4
$20,000 to $30,000	.9
$30,000 to $40,000	.4
$40,000 to $50,000	.9
$50,000 to $75,000	.6
$75,000 to $100,000	.8
$100,000 to $200,000	.8
$700,000 plus	1.4

Mr. MITCHELL. This next chart demonstrates the extent to which my amendment will increase after-tax take-home pay for every family whose income is less than $75,000 a year. Each of the green bars represents the increase under the committee bill. Each of the blue bars represents the increase under my amendment. As I said, in each category under $75,000 a year, and there are six categories listed, my amendment provides more tax relief than does the committee bill. That can be seen by looking at the comparable bars in each income category—zero to $10,000 a year, $10,000 to $20,000 a year, $20,000 to $30,000, $30,000 to $40,000, $40,000 to $50,000, and $50,000 to $75,000. In each of those categories, my amendment provides more tax relief than does the committee bill. The increase is more pronounced in the income category of $30,000 to $40,000 a year, where my amendment more than doubles the relief provided in the bill.

I ask unanimous consent that a table showing this comparison in figures be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 3838, SENATE FINANCE COMMITTEE BILL—PERCENTAGE CHANGE IN "TAKE-HOME PAY"

	Finance Committee	Mitchell amendment
Income class:		
$0 to $10,000	0.9	1.2
$10,000 to $20,000	1.4	2.0
$20,000 to $30,000	.9	1.4
$30,000 to $40,000	.4	1.1
$40,000 to $50,000	.9	1.1
$50,000 to $75,000	.6	.7
$75,000 to $100,000	.9	.6
$100,000 to $200,000	.8	.6
$200,000 plus	1.4	−.7

Mr. MITCHELL. Mr. President, I have previously distributed to each Senator four tables prepared by the Joint Tax Committee. They compare the effects of the committee bill and my amendment on each income class. They are entitled "Dollar Change in Tax Liability;" "Percentage Change in Tax Liability;" Change in After Tax Income;" and "Distribution of Tax Reduction."

I ask unanimous consent that these four tables be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COMPARISON CHARTS

[Dollar change in tax liability]

Income class (in thousands)	Finance tax cut	Mitchell tax cut	Difference in tax cut	Mitchell cut as percent of finance
$0 to $10	$43	$46	$3	107
$10 to $20	181	230	49	127
$20 to $30	186	281	95	151
$30 to $40	129	287	158	222
$40 to $50	337	445	108	132
$50 to $75	305	362	57	119
$75 to $100	564	519	−45	92
$100 to $200	810	450	−360	56
Above $200	5,892	−3050	−8942	−52
Total	215	229		

PERCENTAGE CHANGE IN TAX LIABILITY

Income class (in thousands)	Finance percent change	Mitchell percent change
$0 to $10	−63.0	−71.7
$10 to $20	−20.1	−26.5
$20 to $30	−8.1	−13.0
$30 to $40	−5.0	−10.4
$40 to $50	−6.6	−9.0
$50 to $75	−3.9	−4.6
$75 to $100	−3.3	−3.0
$100 to $200	−3.8	−2.4
Above $200	−4.7	+2.5
Total	−6.4	−6.8

CHANGE IN AFTER-TAX INCOME

Income class (in thousands)	Finance gain	Mitchell gain	Difference
$0 to $10	0.9	1.2	0.3
$10 to $20	1.4	2.0	0.6
$20 to $30	0.9	1.4	0.5
$30 to $40	0.4	1.1	0.7
$40 to $50	0.9	1.1	0.2
$50 to $75	0.6	0.7	0.1
$75 to $100	0.9	0.6	−0.3
$100 to $200	0.8	0.6	−0.2
Above $200	1.4	−0.7	−2.1
Total	0.9	0.9	

DISTRIBUTION OF TAX REDUCTION

Income class (in thousands)	Percent of taxable returns	Percent distribution of tax reduction Finance	Percent distribution of tax reduction Mitchell
$0 to $10	11.3	6.3	6.3
$10 to $20	23.3	19.6	22.4
$20 to $30	24.0	17.1	24.0
$30 to $40	17.5	9.8	17.6
$40 to $50	10.4	11.1	13.2
$50 to $75	8.7	9.6	10.0
$75 to $100	2.0	3.5	2.7
$100 to $200	2.0	6.9	3.8
Above $200	0.7	16.1	*
Total	100	100	100

Mr. MITCHELL. What these tables all show, what they demonstrate conclusively, Mr. President, is that for persons in every income category below $75,000 a year, and that includes over 85 percent of American families, my amendment provides a greater re-

duction in tax liability than does the committee bill.

Stated another way, families with incomes below $75,000 a year will get a larger tax cut under my amendment than they will under the committee bill.

As each table demonstrates, the effect is most pronounced in the $30,000 to $40,000 income categories, where the reduction in tax liability is more than doubled.

What these figures make clear is the need to adjust the committee bill to provide greater tax relief for the middle class. The same conclusion is evident if one looks at the benefits under the committee bill in terms of distribution of population.

About 650,000 taxable returns are filed by persons making over $200,000 a year. They account for about one-half of 1 percent of all taxpayers; yet this group would receive over 16 percent of the tax cut under the committee bill by 1988. Specifically, 650,000 individuals will share $4.6 billion in tax cuts in 1988.

This next chart demonstrates tax relief under the committee bill by population group. On this end of the chart, we see that the one-half of 1 percent—indeed, it is slightly less than half a percent—of all American taxpayers whose incomes exceed $200,000 will receive over 16 percent of the relief provided by the committee bill.

The next category is taxpayers in the income bracket of $75,000 to $200,000 a year. They comprise a little over 4 percent of all taxpayers. Under the committee bill, they get 10.4 percent of all the relief. If these two highest income categories are combined, we see that less than 5 percent of all taxpayers will receive nearly 27 percent of the relief provided by the committee bill.

In contrast, here we see that 61 percent of all taxpayers have incomes between $20,000 and $75,000 a year. Yet this 61 percent of middle-income taxpayers would receive just over 47 percent of the tax cut in the Finance Committee bill. My amendment would correct this by giving each income class a share of the tax cut that is roughly proportionate to its share of the population.

Mr. SARBANES. Would the Senator yield for a question on this chart?

Mr. MITCHELL. Yes; I yield.

Mr. SARBANES. What percent of the taxpayers have incomes of $200,000 or more?

Mr. MITCHELL. One-half of 1 percent of all taxpayers have incomes of $200,000 or more.

Mr. SARBANES. One-half of 1 percent?

Mr. MITCHELL. Actually, it is a little less than one-half of 1 percent.

Mr. SARBANES. And under the bill before us, less than one-half of 1 percent of the taxpayers will receive 16 percent of the tax relief in this bill?

Mr. MITCHELL. The Senator is correct.

Mr. SARBANES. Then what percent of the taxpayers are between $75,000 and $200,000?

Mr. MITCHELL. That is just over 4 percent of all taxpayers in the category $75,000 to $200,000.

Mr. SARBANES. And they will receive over 10 percent of the tax relief?

Mr. MITCHELL. 10.4 percent, that is right. So the combination of these two represents less than 50 percent of the taxpayers and they will receive 27 percent of the relief provided by the committee bill.

Mr. PACKWOOD. Mr. President, will the Senator answer a further question?

Mr. MITCHELL. Yes, Mr. President.

Mr. PACKWOOD. The Senator indicated that roughly one-half of 1 percent of the taxpayers over $200,000 will get 16 percent of the cut.

Mr. MITCHELL. That is correct.

Mr. PACKWOOD. What percent of the tax do they now pay?

Mr. MITCHELL. I believe it is about 20 percent. The Senator, I am sure, has the precise figure there.

Mr. PACKWOOD. Under our bill, it is about 22.2 percent. I did not want to leave the misimpression that somehow, they were not paying income taxes.

Mr. MITCHELL. No; I have not said that, Mr. President, and do not want to leave the impression that I mean that. My remarks were devoted to the distribution of the cut under the committee bill.

This next chart shows that, under my amendment, what I regard as a disproportion would be corrected by giving each income class a share of the tax cut that is roughly proportionate to its share of the population.

The taxpayers in the above $75,000 income class—and that is represented by these two bars, $75,000 to $200,000 and $200,000 and above—who account for a little less than 5 percent of all taxpayers, would receive 6.5 percent of the tax cut instead of the 27 percent in the committee bill. The 61 percent of taxpayers with incomes between $20,000 and $75,000 a year would, under my amendment, receive nearly 65 percent of the tax cut as compared with just under 48 percent in the committee bill. That is a much more fair result.

I think these charts are significant, so let me go back to the first one again and repeat some of the figures.

This shows the percentage of taxpayers in each income class and how much tax relief that class will get under the committee bill.

□ 1140

As we can see, of all taxpaying units—and those are some individuals, some couples filing joint returns, some heads of households—34 percent of all of those taxpaying units report income of less than $20,000 a year. That 34 percent of taxpayers get a little less than 26 percent of the total tax relief under the committee bill.

The next bar shows that 61 percent of all taxpayers report income between $20,000 and $75,000 a year. That 61 percent of taxpayers get a little over 47 percent of the relief under the committee bill. And next, as I pointed out earlier, the 4 percent of taxpayers in the category $75,000 to $200,000 get 10.4 percent of the relief under the committee bill. And finally, the one-half of 1 percent of taxpayers who have income over $200,000 get over 16 percent of the relief under the committee bill.

Now, the next chart shows how my amendment would shift more of the relief to the middle class. The 34 percent of taxpayers who report income of less than $20,000 a year would have their share of tax relief increased from just about 26 percent to just under 29 percent, a modest increase. But in the next income category, $20,000 to $75,000, the 61 percent of taxpayers who have incomes in that category will get nearly 65 percent of the relief compared to just under 48 percent under the committee bill.

Now, this is the major effect of my amendment, the shifting of relief into this middle-class group.

Finally, under my amendment, the 4 percent of taxpayers whose incomes are between $75,000 and $200,000 a year will get 6.5 percent of the relief compared to the more than 10 percent under the committee bill.

Now, this highest income category, the one-half of 1 percent, whose incomes are over $200,000, will as a class get a slight tax increase under my amendment instead of getting 16 percent of the tax decrease.

Mr. President, I ask unanimous consent that copies of tables showing these effects in figures be inserted in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—H.R. 3838, COMMITTEE BILL—TAX RELIEF BY INCOME CLASS

	Percent relief	Percent of population
Income:		
$0 to $20,000	25.9	34.0
$20,000 to $75,000	47.6	61.0
$75,000 to $200,000	10.4	4.0
$200,000 plus	16.1	.5

TABLE 2.—MITCHELL AMENDMENT—TAX RELIEF BY INCOME CLASS

	Percent relief	Percent of population
Income:		
$0 to $20,000	28.7	34.0
$20,000 to $75,000	64.8	61.0
$75,000 to $200,000	6.5	4.0
$200,000 plus	(1)	.5

[1] This group would not receive a tax increase.

Mr. MITCHELL. So as I said, the effect, the intention of my amendment, is to shift the benefits of tax relief to the middle class.

As to the effect on the highest income category, a more detailed explanation is necessary. According to a recent study by the Joint Tax Committee, the one-half of 1 percent of taxpayers with incomes over $200,000 consists of about 650,000 tax paying individuals. Contrary to common perception, not all of them extensively shelter their income from taxation. According to the Joint Tax Committee, somewhere between a third and a half of them use passive losses to shelter their income extensively. The remainder, somewhere between a half and two-thirds of them, do not.

Under the committee bill, the group that shelters income and pays little or nothing in income taxes will experience a tax increase. The group that does not shelter their income will get a big tax cut. And I am talking now about those in the highest income category. But those in that category who get a tax cut, under the committee bill, their tax cut will be $53,000 for each taxpayer.

Under my amendment, there will be no change in the basic outcome—those who have sheltered their income will have their taxes increased; those who have not will get a tax cut.

The difference will be in the amounts of both. The increase in taxes on those who have sheltered their income from taxes in the past will be somewhat larger under my amendment than under the committee bill, reflecting the difference between a 27-percent top rate and a 35-percent top rate.

And the cut in taxes for those who have not sheltered their income from taxes will still be large—a rough estimate—and we are unfortunately not yet in receipt of final estimates on this—is that it would be an average cut of around $35,000 per individual. But it would not, of course, be as large as the average cut for this group in the committee bill.

The combination of these two factors—a larger increase in taxes for those higher income persons who have sheltered their income from taxes in the past, and a smaller tax cut for those high income persons who have not sheltered their income in the past—produces a slight aggregate increase in taxes for this income class of $200,000 and above. But, those individuals in that category who ought to get a tax cut—those who have not extensively sheltered their incomes in the past—they will still get a tax cut, and it will still be a big one. It will not be as big as the cut in the committee bill.

I hope that before this debate is over, those who oppose my amendment will explain to the Senate and to the American people why they feel it is necessary to give such a tremendous reduction in taxes to the very wealthiest of Americans. Why should the top one-half of 1 percent of income earners get 16 percent of all the tax relief in this bill?

As I said earlier, the same problem exists beyond the top one-half of 1 percent.

Almost 132 million individuals and households will file tax returns by 1988. Just under 5 percent—4 million of them—will report incomes over $75,000 a year. This small group will get nearly 27 percent of the total tax cut in this bill. Let me repeat that—27 percent of all tax relief under the committee bill will go to the wealthiest 5 percent of Americans.

Again, I ask—why is that necessary?

Again I ask—is that fair to the middle income, working Americans, especially the 15 million middle-income families who may see their taxes go up? I don't believe it is.

Should millions of American families who earn between $20,000 and $50,000 pay higher taxes so a handful of the wealthiest Americans can get a $53,000 tax cut? I do not think they should.

I also ask: how about the middle class? Does anyone in this room care about the middle class? Those with high incomes have been able to use the complicated mechanisms of the Tax Code to reduce, in some cases to eliminate, any tax liability. Those with low incomes have rightfully been the beneficiaries of many Government programs, but those in the middle, the vast majority of working Americans, generally make too little to effectively avoid paying taxes. And, they make too much to qualify for most Government programs. All they do is pay their taxes, which pays their Government's bills. They ask: "How about us? Does anyone care about the middle class?" Too often the answer is silence, and unfortunately that, to a large extent, is the answer which this bill gives.

□ 1150

The bill helps those with low incomes. It helps those with high incomes. It does too little for those in the middle. That can be changed by acceptance of the modest revisions which my amendment would make to the bill.

Tax reform rested in part on the belief that many high-income persons were not paying their fair share of taxes under the current system.

The idea was that if everyone paid a fair share, we could give a tax cut to the wealthy who have not abused the system, as well as cutting rates for middle and lower income taxpayers.

But instead of staying with that principle—of fairly compensating everyone whose rates have been high because some have not paid their fair share—this bill takes the revenue raised by getting rid of tax shelters and uses it, and more, to overcompensate those with the highest incomes.

In this bill, most of the middle class gets a little tax cut while many of them—as many as 15 million of them—the income group between $20,000 and $50,000, will pay more in taxes.

I do not think that is fair.

Mr. President, another myth about this bill is that it contains only two tax rates, 15 percent and 27 percent. But the advertised two rate structure in the committee bill does not exist. For a family of four, there are, in fact, five marginal tax rates in this bill: 15 percent, 27 percent, 32 percent, 32.4 percent, and 27 percent.

That is because the bill phases out the 15 percent rate and the personal exemptions for higher income groups. The stated purpose of this is to make the wealthy pay a fairer share. But the objective is not achieved, and the effect is to create hidden marginal tax rates of 32 percent and up for some people on part of their income.

As can readily be seen from the next chart, the five rates result from the phaseout at high income levels of the 15 percent rate and the $2,000 personal exemption.

Under the Finance Committee bill, the benefits of the 15 percent tax rate on the first $29,300 of income are recaptured as the adjusted gross income of a family exceeds $75,000. This is accomplished through a 5-percent adjustment to the tax rate for income between $75,000 and $145,320 on a joint return. For single individuals, the adjustment occurs between $45,000 and $87,240 of income.

So, for a family of four, on income between $75,000 and $145,320, the tax rate is 32 percent.

The committee bill would also recapture the benefits of the $2,000 personal exemption for the taxpayer and each dependent. This occurs on family adjusted gross income between $145,320 and $185,320. It is accomplished through a 1.35-percent adjustment to the tax rate for each personal exemption claimed by the taxpayer. For single individuals, the personal exemption recapture occurs between $87,240 and $127,240 of income.

So, for a family of four, on income between $145,320 and $185,320, the marginal tax rate is 32.4 percent. On that family's income above $185,320,

the rate drops back down to 27 percent.

Mr. President, I ask unanimous consent that a copy of this chart be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

H.R. 3838.—Senate Finance Committee bill marginal tax rates

[Family of 4, filing joint returns, in percent]

Income:	Rate
0 to $13,000	0
$13,000 to $42,300	15.0
$42,300 to $75,000	27.0
$75,000 to $145,320	32.0
$145,320 to $185,320	32.4
Over $185,320	27.0

Mr. MITCHELL. Mr. President, the committee included these recapture provisions to prevent the tax cut for the highest income persons from being even larger than it is in the bill.

The committee was motivated by good intentions. But the result—a decline in the marginal tax rate as income increases—would be poor public policy.

I repeat that the result of these recapture provisions for a family of four would be to impose a 32-percent marginal tax rate on adjusted gross income between $75,000 and $145,320, and a 32.4-percent marginal tax rate on adjusted gross income between $145,320 and $185,320. but when family adjusted gross income exceeds $185,320 the marginal tax rate goes back down to 27-percent.

In theory, such adjustments may appear defensible. But in practice they just will not work. How can we call this tax reform when it includes provisions that reduce marginal tax rates as income rises?

However complicated and unfair our income tax system has been, it has never contained a provision in which marginal tax rates decline as income rises. Yet, if we pass the committee bill unchanged, that is what we will have.

This anomalous result would not occur under my amendment. The 15-percent rate would be replaced by a 14-percent rate and the phaseouts of the lower tax rate and the personal exemption would be replaced by a third rate at 35 percent.

The phaseouts are the contradictory result of a needlessly complicated way of trying to ensure that high-income people pay a fairer share of the total tax burden. The phaseouts of the 15-percent rate and the personal exemption were necessary because the authors of the bill tried to achieve two objectives which are mutually exclusive: The first is to maintain the fiction of a top rate of 27 percent, because that has enormous political appeal. The second is to prevent the bill from being so disproportionately favorable to the wealthy, in comparison with other taxpayers, that it could not be justified.

That is why the phaseouts of the 15-percent rate and personal exemptions were written into the bill.

But they do not achieve either objective. For a family of four, the real top marginal rate in this bill is 32.4 percent, not 27 percent. And despite the phaseouts, the bill is still disproportionately favorable to the wealthy.

The top rate issue is obscured by a misleading comparison that has been made. Over and over again, we have been told that the bill cuts the top rate from 50 percent to 27 percent. The committee report says it on page 38. The chairman of the Finance Committee said it here on the Senate floor on June 4. The majority leader said it here on the Senate floor on June 4. Other supporters of the bill have said it many times.

□ 1200

But that statement makes a comparison between the top marginal rate under current law, which is 50 percent, and the top effective rate in the bill, which is 27 percent. It is a classic example of comparing apples and oranges, of comparing two different sets of figures which are not truly comparable.

That is because the marginal rate and the effective rate are two different things. The marginal rate is the tax rate which applies to the last dollar of earnings after all deductions, exemptions, and exclusions have been taken. The effective rate is the rate that is actually applied to the total of one's earnings—it can be calculated by dividing total taxable income by total taxes paid. The result is the effective tax rate on that taxpayer.

Under current law, the top marginal rate is 50 percent. But the top effective rate is not and cannot be 50 percent since income up to $175,250 is taxed at a rate less than 50 percent. In most cases, the current law effective rate is far less than 50 percent, depending upon one's income and tax status.

In the committee bill, the top marginal rate for a family of four is 32.4 percent. Thus, the true comparison, the valid comparison is between the top marginal rates of 50 percent under current law and 32.4 percent under the committee bill.

The political necessity of insisting that the top rate in the bill does not exceed 27 percent has forced its supporters to make this comparison which is inaccurate and misleading. That may explain the necessity for doing so but it does not justify it.

There is a more simple and more effective way to ensure the fair result that the committee was seeking when it wrote in the recapture provisions of the lower rate and the personal exemption. That is to go back to what President Reagan suggested when he first proposed tax reform, and that is enact a three-rate schedule with a 35 percent top tax rate, and do away with the complicated phaseouts of the lower rate and the personal exemption.

That way, a single person with $45,000 in income will not be paying a higher marginal tax rate than one earning $120,000, which they will be under the committee bill. That way large families will not be penalized by having their tax rates increased according to the number of children they have, which they will be under the committee bill.

My amendment offers a simple, fair, and effective way to make certain that all Americans pay taxes in accordance with their ability to pay.

That is at the heart of fairness in tax reform.

Mr. President, before I conclude I want to respond to an argument that has recently been made in opposition to my amendment. That argument is that my amendment will hurt small business.

If that were true it would concern me deeply, for I recognize and value the role of small business in our society. But it is not true. In fact, the opposite is true.

Small business will be helped by my amendment. By permitting middle-income taxpayers to keep a larger share of their income, small business will be helped. Small businessmen and women will have more after-tax dollars to put back into their businesses.

My amendment provides more tax relief than does the committee bill for all income classes below $75,000. That includes approximately 95 percent of all taxpayers and most small businesses.

According to the most recent analysis of Internal Revenue Service data, 79 percent of all small businesses have net income of less than $50,000 a year. Ninety-two percent of all small businesses have net income of less than $100,000 a year. Clearly, then, the overwhelming majority of small business men and women would receive more tax relief under my amendment than they would under the committee bill.

Small businesses would also enjoy a lower tax burden under my amendment compared to the tax burden that the committee bill would impose on large corporations. A small businessman who makes a profit of $100,000 and files a joint return with a standard deduction would owe a tax of $24,290 under my amendment. In contrast, the large corporation that competes with the small businessman would owe a tax of $33,000 on the same net income.

Under my amendment, an individual operating a small business would not

reach an effective tax rate as high as the large corporation until his income exceeded $395,500. At that point, of course, most businesses would be operating in corporate form and be subject to the corporate tax provisions of the law.

I say to my colleagues before we finally vote, let us look closely at what this bill does. Over the next 5 years, it shifts $100 billion in taxes from individuals to corporations and raises $50 billion more by eliminating deductions and shelters of various kinds. But it is revenue neutral overall. That is, it will not raise more money than the current system raises.

What that means, of course, is that middle-income taxpayers—the working people whose taxes are withheld from their paychecks, the working men and women who cannot and do not take tax-deductible lunches or attend tax-deductible seminars in far-away places—those middle-class Americans have been among those paying this $150 billion in the form of higher taxes to make up for nonpayers in the corporate and individual high-income groups.

So the bill raises billions by closing tax shelters. But then it gives that revenue, and more, back to those with incomes over $75,000 a year, thus ratifying the effect of the current system if not the form.

That makes no sense. It is not fair. It is not good tax policy. It does not give working people the tax cut they need and deserve.

How does the bill do this? First and foremost, it prevents the use of special provisions in the tax laws to lower the taxes owed on unrelated income.

In its first full year, the bill will grant $28.5 billion in tax relief to individuals. That sum will permit an average reduction of tax liability of $215 for all taxpayers. But that average hides some very big differences in tax relief for different taxpayers.

It does not reveal, for example, that families, earning between $30,000 and $40,000 will get an average cut of $129. It does not reveal that someone earning $480,000 a year and currently paying at a 31-percent rate will get a tax cut of $36,000. It does not show that 359,000 very wealthy Americans will receive a real bonanza with an average cut of nearly $53,000.

The tax preferences and special treatments which this bill rightly repeals were not created to give a tax break to high-income persons. They were created to encourage certain kinds of investment, just as the home mortgage interest deduction exists for the purpose of encouraging widespread homeownership.

Over the years, Congresses have tried to devise ways to encourage people to invest their money voluntarily for what were believed to be desirable purposes, in the hope that private spending and private initiative would serve larger national goals more efficiently than direct Government action.

So Congresses have granted special tax treatment for investments in low-income housing, for donations to private charitable institutions, for donations to institutions of higher education, and a wide variety of similar purposes. But all of these were meant to benefit the Nation. Although it may have become the effect, it was not the intent to give a tax break to the wealthy. That was not the purpose of these various deductions and preferences.

□ 1210

Now it has become obvious that these preferences do not all work as intended and they are now being repealed. They too often become simply ways to avoid taxes.

So it is right and logical to repeal them. But it is not right and logical to say that repealing them somehow punishes the wealthy unfairly, so unfairly that they must be given even more benefits.

So it is right and logical to say that high-income people who have paid their fair share of taxes, who have not used tax loopholes—and that is the majority of those persons—deserve relief from high rates. My amendment would give them relief. Nobody is talking about raising tax rates. I favor reducing tax rates. My amendment would cut the top marginal tax rate from 50 percent to 35 percent.

That is a one-third reduction in the top rate. It is what President Reagan proposed to do. So by no stretch of the imagination is it a radical or a punitive or an unfair proposal. In fact, it gives the wealthy a much bigger tax cut than working people got in the 1981 tax cut.

It does not give those with the highest incomes as big a cut as does the committee bill. That is one difference. The other is that my amendment gives twice as much tax relief to middle-income taxpayers as does the committee bill.

If, as I believe and has been said many times, the bargain struck by this bill is to exchange deductions for lower rates, then we should remember that the rich are not the only ones whose deductions are eliminated in this bill.

The State sales tax deduction and the deduction of interest on consumer and auto loans are eliminated by this bill. The IRA deduction and the medical deduction are both sharply curtailed. These are deductions important to middle-income taxpayers. But the bill cuts them back, along with the shelters that gave a tax advantage to the wealthy.

The money raised by eliminating these deductions comes from middle-income families as well as from the wealthy. The bill, however, gives a disproportionate share of it back to the wealthy, and too little of it back to those in the middle class.

The bill is advertised as asking people to give up the deductions they use so everyone can pay less. It is advertised as getting rid of special interest loopholes that favor some taxpayers above others. It is advertised as fair tax reform.

But as it stands, it is only partly fair.

My amendment would complete the unfinished work of the committee. It would make the bill fair to the middle class. Then it would truly be tax reform.

I urge my colleagues to support this amendment.

Mr. BYRD. Will the distinguished Senator yield?

Mr. MITCHELL. Yes; I yield the floor.

Mr. BYRD. Will the Senator yield?

Mr. MITCHELL. Yes.

Mr. BYRD. Mr. President, I compliment the distinguished Senator, who is a member of the Finance Committee, on his very erudite and cogent presentation of his amendment here today.

I compliment the committee, which voted out the bill by a vote of 20 to nothing. It is a good bill. It reverses the trend, that we have known for all too long, of placing the burden of the paying of taxes, the heavy burden, on the middle class. That is the class that has borne the lion's share of the tax burden.

The bill also makes some very long overdue improvements in the Tax Code. And the bill moves toward a greater fairness in its treatment of the middle class and the lower income groups. Six million taxpayers have been dropped from the tax roles. So this is a good bill. The American people see it as tax reform. And it is tax reform.

I compliment the members of the committee and the managers on both sides for the skill and very professional handling of the bill in the committee and on the floor. They are all to be highly commended. The bill does move us far in the direction of greater fairness.

But I see in the distinguished Senator's amendment a step that is being taken that I think is needed. It moves us in the direction of even greater fairness toward the middle class. It would make a good bill a better bill.

Mr. President, I have listened to the distinguished Senator as he has explained his amendment. I commend him on the dedication and the sense of purpose that is shown here. It is obvious that he has spent hours and hours in the preparation of this amendment and in preparing for the explanation of it on this floor.

I ask unanimous consent that I may be added as a cosponsor of the amendment. As I have listened to the distinguished Senator—and I have studied his amendment before today, and have looked with considerable favor on it—I do not think it takes anything away from the work of the committee. The committee has done a good job. But the bill is not perfect, and I do believe that this amendment is needed to ensure more fairness to the middle class in this country, which I believe has been long overdue. It is a fairer tax break for middle America. And for that reason, I ask that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, the Senator's name will be added as a cosponsor.

Mr. SARBANES. Will the Senator yield?

Mr. MITCHELL. I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I want to commend the distinguished Senator from Maine for a very powerful, reasoned, and cogent presentation of a very important, in fact, fundamental aspect of this bill. What the Senator from Maine has outlined very skillfully is the distribution of the tax benefits contained in the committee bill.

Now the committee bill seeks to do some worthwhile things, but in the course of closing a number of tax loopholes and then redistributing the revenue, the committee bill is too heavily weighted toward a tax break for those with very large incomes—in particular, above $200,000 a year—and too little weighted toward the middle class, people between $20,000 and $50,000 of income.

In fact, some people above $200,000 will receive a tax cut in an amount larger than middle-class incomes. In other words, the tax cut provided under this bill for people at the upper end of the scale in amount will be larger than the total income of people in the $20,000 to $50,000 range.

I agree with the Senator from Maine that that is not a fair allocation of the tax relief provided for in this legislation and that it makes sense to shift the distribution in a more advantageous way for middle-income people.

As I understand it, that does not mean that wealthy people who have not been taking advantage of shelters will not get a tax cut. And I ask the Senator from Maine, is that not correct?

Mr. MITCHELL. The Senator is correct.

Mr. SARBANES. They will only receive a tax cut somewhat less in its magnitude. As I understand the figures, the average would be, instead of $53,000 in a tax cut, $35,000.

Mr. MITCHELL. $53,000 is a precise figure. The $35,000 is a rough estimate. We have not been able to get a precise estimate on this. It will still be very substantial, but it will be less than $53,000.

Mr. SARBANES. So that, in part, you still have a large tax cut for high-income people who have not been sheltering their income.

The second thing the Senator's amendment would do, is, of course, for those who have been sheltering their income, who would pay something of a tax increase under the committee bill, they will pay a somewhat larger tax increase under this proposal.

The consequence of doing this is to provide significant improvements in the tax relief for middle-income people, as I understand it, particularly for those in the range of $30,000 to $40,000. And I ask the distinguished Senator from Maine, in this effort to benefit the middle class, what range of incomes is it that will be the principal beneficiaries?

□ 1220

Mr. MITCHELL. The income class $30,000 to $40,000 is the category which fares the worst under the committee bill with an increase in percentage terms in after-tax take-home pay of four-tenths of 1 percent. That is the lowest of any income category of all, as this chart, which is entitled "Percentage Increase in Take-Home Pay" demonstrates. As the Senator will note, the one in red is the category $30,000 to $40,000. That is an increase of four-tenths of 1 percent in take-home pay. By contrast, the group in the $200,000 and above category receives an increase of 1.4 percent, which is more than three times as large in percentage terms, and of course in dollar terms it is very much larger.

Mr. SARBANES. If the Senator will yield for a question about that chart, because I know it is going to be contended that the wealthy pay large amounts in taxes. Therefore, when they get a tax cut, the dollar amount of that cut will be large so that if you are using dollar figures to make the comparison, somehow it is thrown out of proper balance or proportion because the wealthy to begin with, if in fact they pay taxes at any significant amount—and some do not, of course—may pay a large amount. But this chart deals with percentages, as I understand it.

Mr. MITCHELL. The Senator is correct.

Mr. SARBANES. What that chart shows, as I perceive it, is that people with incomes above $200,000 a year under the bill as before us from the committee will in fact receive the largest percentage increase in take-home pay.

Mr. MITCHELL. That is correct; equaled only by the category $10,000 to $20,000, which is approximately 1.4 percent as well. Every other income category, as this chart demonstrates, has a smaller percentage increase in take-home pay.

Mr. SARBANES. And the people between $30,000 and $40,000 which is approximately the median income, or perhaps just above the median income in this country—the median income being that income at which 50 percent of the population is below and 50 percent is above. So we are really talking now right in the middle of the middle class. And that group receives what? What is the figure? They really are less than half of virtually any other income class, and clearly about one-third to one-fourth of what the upper income people are receiving.

Mr. MITCHELL. In that income category, I want to emphasize that this is family income. Many people in this category are families with two spouses working earning an average $30,000 or $40,000. They will receive an increase in take-home pay in percentage terms of four-tenths of 1 percent. In dollar terms in that category there will be an average tax cut of $129. Some of them will experience tax increases. Others will receive reductions greater than $129 but not greater than $186. When the entire category is combined the net effect on all will be an average tax cut of $129 which represents a four-tenths of 1 percent increase in take-home pay.

Mr. SARBANES. What is the percentage of the people in excess of $200,000?

Mr. MITCHELL. That is a 1.4-percent increase in take-home pay, and that is more than three times as much.

Mr. SARBANES. Three-and-a-half times the $30,000 to $40,000 figure.

Mr. MITCHELL. That is correct.

Mr. SARBANES. What is the figure for the $20,000 to $30,000 and the $40,000 to $50,000 on either side of that?

Mr. MITCHELL. The $20,000 to $30,000 is approximately nine-tenths of 1 percent and the $40,000 to $50,000 is approximately nine-tenths of 1 percent as is $75,000 to $100,000.

Mr. SARBANES. So the people above $200,000 a year receive an increase 50 percent more in take-home pay than the people $20,000 to $30,000, $40,000 to $50,000 or $75,000 to $100,000.

Mr. MITCHELL. And zero to $10,000 as well in percentage terms.

Mr. SARBANES. Mr. President, I think this chart, and this exchange once again underscores a very important point which the very able Senator from Maine has made to this body; that is, that the way the tax relief has been distributed under the bill, a disproportionate share of that is going to people with incomes above $200,000—in other words, the wealthiest people at the expense, in effect, of middle-

income people. And the thrust of the Senator's amendment, which I very strongly support, is to allocate this distribution in such a way that the middle-income people will receive a larger share of tax relief provided by this legislation.

The Senator's amendment—and I ask the Senator—preserves the efforts in the committee bill to close out loopholes and to eliminate tax shelters; does it not?

Mr. MITCHELL. Indeed, it does. As a member of the committee who worked with the chairman, whom I previously commended for that effort, I supported those provisions, do support them, and do not intend to change them.

Will the Senator permit me to make an additional comment because I have just received additional tables from the Joint Tax Committee which further support the point that I have been making this morning. I just received three additional tables. Let me, if I may, if the Senator will permit me, make reference to them, and I will ask unanimous consent that they will be inserted in the RECORD. Two of them show the distribution of the Finance Committee bill, and my amendment on taxpayers with tax shelters losses and those without tax shelter losses.

I requested this information to show that my amendment will still provide relief to the highest income persons who have not sheltered their income in the past. My amendment will, in effect, give them a 3.5-percent reduction in taxes.

When I got this information, I was a little surprised by some of the figures that were revealed.

For example, as I said earlier, between half and two-thirds of the taxpayers with incomes over $200,000 have not sheltered their income and have not extensively sheltered income in the past. Of these individuals, just over 400,000 of them will receive a tax reduction in their tax liability of almost 11 percent. When we compare these high-income individuals without tax shelters, when we compare them to other income groups, it is interesting that the above $200,000 group will receive a larger percentage tax cut than all other income groups between $20,000 and $200,000. That is one of the effects as demonstrated by these two tables which I ask unanimous consent to insert in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DISTRIBUTION OF RETURNS AND TAX LIABILITY FOR TAXPAYERS WITH AND WITHOUT PASSIVE LOSSES UNDER THE SENATE FINANCE COMMITTEE BILL, 1988

Income class (thousands)	Percentage change in tax liability				
	Committee bill				
	All returns (percent)	Taxpayers with passive losses		Taxpayers without passive losses	
		(thousands)	(percent)	(thousands)	(percent)
0 to $10	−63.0	49	(1)	41,602	−60.6
$10 to $20	−20.1	311	−7.1	27,566	−20.1
$20 to $30	−8.1	603	13.7	25,518	−8.4
$30 to $40	−5.0	645	25.5	15,082	−5.9
$40 to $50	−6.6	460	11.3	8,192	−7.3
$50 to $75	−3.9	741	16.8	6,945	−5.6
$75 to $100	−3.3	320	18.5	1,473	−6.8
$100 to $200	−3.8	419	13.5	1,339	−8.0
$200 plus	−4.7	238	7.1	417	−10.5
Total	−6.4	3,786	10.7	128,134	−8.8

[1] Tax liability is less than zero under present law and under alternative proposal. Percentage change would be in excess of 100 percent.
Joint Committee on Taxation, June 18, 1986.

DISTRIBUTION OF RETURNS AND TAX LIABILITY FOR TAXPAYERS WITH AND WITHOUT PASSIVE LOSSES UNDER THE SENATE FINANCE COMMITTEE BILL AND UNDER THE ALTERNATIVE PROPOSAL, 1988

Income class (thousands)	Percentage change in tax liability					
	Committee bill	Alternative proposal				
	All returns (percent)	All returns (percent)	Taxpayers with passive losses		Taxpayers without passive losses	
			(thousands)	(percent)	(thousands)	(percent)
0 to $10	−63.0	−71.7	39	(1)	41,612	−69.8
$10 to $20	−20.1	−26.5	311	−15.4	27,566	−26.5
$20 to $30	−8.1	−13.0	597	6.9	25,524	−13.3
$30 to $40	−5.0	−10.4	645	18.0	15,082	−11.2
$40 to $50	−6.6	−9.0	460	7.5	8,192	−9.7
$50 to $75	−3.9	−4.6	741	15.5	6,945	−6.3
$75 to $100	−3.3	−3.0	318	17.3	1,475	−6.2
$100 to $200	−3.8	−2.4	418	15.8	1,341	−6.7
$200 plus	−4.7	−2.5	237	14.8	418	−3.5
Total	−6.4	−6.8	3,766	14.8	128,155	−9.9

[1] Tax liability is less than zero under present law and under alternative proposal. Percentage change would be in excess of 100 percent.
Joint Committee on Taxation, June 17, 1986.

Mr. MITCHELL. I also received just this morning an additional table from the Joint Tax Committee, and this produces more information demonstrating that the highest income earners will receive disproportionate tax cuts under this bill, and this table measures the percentage change in Federal income and Social Security tax liability. This information shows Federal Social Security payments and Federal income tax payments. It shows measured by that standard that the income group over $200,000 will on average receive a tax cut under the committee bill of 4.4 percent. That is a higher percentage tax cut than any other income group between $30,000 and $200,000.

That bears repeating. If you include the effect of Federal Social Security tax payments, every income group from $30,000 up to $200,000 will receive a smaller percentage tax cut than those persons with incomes over $200,000.

I ask unanimous consent, Mr. President, that this table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DISTRIBUTIONAL INFORMATION FOR THE COMMITTEE BILL AND POSSIBLE AMENDMENT

Income class	Percentage change in Federal income and Social Security tax liability	
	Committee bill	Alternative proposal
0 to $10,000	−19.9	−20.7
$10,000 to $20,000	−12.9	−16.8
$20,000 to $30,000	−5.7	−9.1
$30,000 to $40,000	−3.1	−6.5
$40,000 to $50,000	−4.0	−5.5
$50,000 to $75,000	−2.5	−3.0
$75,000 to $100,000	−2.4	−2.1
$100,000 to $200,000	−3.3	−2.0
$200,000 plus	−4.4	2.3
Total	−4.6	−4.8

Source: Joint Committee on Taxation. June 18, 1986.

Mr. MITCHELL. These merely add to the overwhelming evidence which demonstrates beyond any doubt that this bill is a lot for the poor, a lot for the rich, and little for the middle class. My amendment has one purpose and one purpose only; that is, to give tax relief to the middle class of America who most need it, most deserves it, and does not get it under the committee bill.

Mr. SARBANES. Will the Senator yield further? I think the tables to which the Senator has just made reference which I just received copies of are extremely important in making the case which the Senator presented to his colleagues this morning.

As I understand it, under the committee bill taxpayers with passive losses—in other words, those taxpayers who have been taking advantage of various shelters—above $200,000, will pay an increase in taxes of 7.1 percent. But this increase is less than will be paid by any taxpayer with incomes above $20,000 to $200,000 who has been using passive losses. In other words, the people at the very top get the maximum percentage advantage. Also with respect to those taxpayers who have been not taking passive losses, in other words, they are going to receive a tax cut. The committee bill would give those above $200,000 10½ percent of percentage cut while people at $30,000 to $40,000 will get only 5.9 percent; people from $40,000 to $50,000, 7.3 percent; $50,000 to $75,000, 5.6 percent; $75,000 to $100,000, 6.8 percent.

□ 1230

Someone has to explain to me why it is sensible, reasonable, fair, to give a larger percentage cut. I am not talking now about dollar amount; I am talking about percentage cut—to give a larger percentage cut to the people above $200,000 a year than those between $20,000 and $40,000 a year. Why should people above $200,000 a year get a percentage cut of 10.5 and families with incomes between $30,000 and $40,000 a year get a percentage cut of 5.9 percent?

The amendment of the Senator from Maine would alter this distribution. He would still get a percentage cut, the taxpayer above $200,000, who was not taking advantage of tax loopholes. They would get a 3.5-percent cut, but people between $30,000 and $40,000 would get an 11.2-percent cut.

We can deal with other income classes as well, but I want to focus just on those two in order to draw the sharp difference between the committee bill and the amendment of the Senator from Maine.

Under the committee bill, a family earning between $30,000 and $40,000, not taking advantage of passive losses, will get a cut of 5.9 percent.

I hope the Senator from Maine will follow me as I go through these figures to make sure that they are accurately presented.

This is under the committee bill which we are seeking to amend.

A family of $30,000 to $40,000 not taking advantage of these passive losses would get a tax cut of 5.9 percent in percentage terms.

A taxpayer over $200,000 a year gets a cut of 10.5 percent, almost double in percentage terms the cut received by the middle-income family with $30,000 to $40,000.

Under the amendment of the Senator from Maine, which redistributes the way the tax relief is provided—it maintains the other aspects of the bill but redistributes—the middle-income family at $30,000 to $40,000 would receive a tax cut of 11.2 percent, and those taxpayers without passive losses, with incomes above $200,000, would receive a tax cut of 3.5 percent.

I submit it is far more equitable. It makes better tax policy. It is a more reasonable social policy. The middle-income families at $30,000 to $40,000 should get the 11.2 percent cut and people above $200,000 a 3.5-percent cut. They are still getting a cut. That is the amendment of the Senator from Maine.

The committee arrangement skews it the other way and, in fact, turns it on its head, gives the $30,000 to $40,000 people a 5.9-percent cut and those above $200,000 a year almost double that at 10.5 percent.

I did not contrast in percentage terms, let alone the absolute dollar figures that the Senator made reference to earlier, in which people above $200,000 will get a tax cut which in dollar amount is larger than the income of middle-class people. I just dealt with the percentage terms. I commend the Senator from Maine and strongly support the amendment.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I wish to lend my strong support to the amendment of the distinguished Senator from Maine.

This amendment goes far in spreading the benefits of tax reform to America's middle-income earners. It goes without saying that the efforts that went into the Finance Committee proposal are generally applauded, but the committee proposal falls short on an important aspect of tax reform; providing the maximum amount of tax relief possible to middle-income Americans.

It has been stated this morning on the Senate floor that the Finance Committee proposal provides what can be viewed as an unfair windfall for wealthy Americans. Nearly 25 percent of the tax cuts in the Finance Committee proposal go to persons earning more than $100,000. Indeed, taxpayers earning in excess of $200,000, as has been stated, would receive over 16 percent of the individual tax cuts provided by the committee proposal. Yet individuals in the $200,000 plus income group account for only 0.7 of 1 percent of all the tax returns filed with the Internal Revenue Service.

In addition to receiving a disproportionate share of tax cuts, these high-income earners receive tax benefits of far greater value than middle-income earners. Those earning more than $200,000 would receive an average tax cut of 4.7 percent. That is almost a 5-percent tax cut for those earning more than $200,000.

This may not seem like much of a tax cut, but it adds up to a very substantial savings for the upper-income taxpayers making over $200,000, or, as some would say, a very substantial tax savings for wealthy Americans.

The Finance Committee proposal is likely to save those earning over $200,000 an average of nearly $6,000 in taxes compared to present law.

What happens to middle-income Americans at the same time?

Well, the savings that middle-income taxpayers realize pale in comparison to what their richer brethren receive.

Under the bill proposed by the committee, the $30,000 to $40,000 income group receives only a $129 tax cut.

Even more startling is the huge windfall extended to some high-income earners under the committee proposal.

I think we all applaud the closing of loopholes which takes place in the committee bill. This is highly commendable. But the committee's proposals do not go far enough to ensure a more uniform effective tax rate for high-income earners.

The committee literally goes overboard, in my judgment, for some high-income earners.

How does this work? Presently, one-third of those who earn more than $200,000 have an effective tax rate above 30 percent. The committee proposal establishes an average effective tax rate for this income group of slightly over 21 percent.

So the one-third with the above 30 percent effective rate under current law would experience tax reductions of at least 29 percent, almost 30 percent tax reductions.

Do not misunderstand. I do not begrudge any American a tax cut. But, on the average, such high-income earners would receive tax reductions of $52,000.

□ 1240

Quite clearly middle-income families come out on the short end of the committee proposal. This is simply not fair. We can and must correct this imbalance and provide greater tax relief for middle-income taxpayers. As my distinguished colleague from Maine [Mr. MITCHELL] has pointed out, the most equitable means of achieving this goal is with a third tax rate for high income persons.

The Mitchell amendment will provide greater tax relief to all taxpayers who earn below $75,000. This group represents more than 95 percent of all taxpayers. Again, compared to the Finance Committee proposal, the Mitchell amendment which I am supporting today would more than double the amount of tax relief going to those in the $30,000–$40,000 income group.

In short, Mr. President, the conclusion is inescapable that this amendment favors middle-income earners. This provision was in both the administration's original tax reform proposal submitted to the House of Representatives and the House-passed tax reform bill. Both of these tax reform proposals contain a third rate for high income individuals. This reflects a conscious decision to retain a high degree of progressivity in our Tax Code. This was a wise decision.

This reflects a taxing philosophy that has been well settled in this country now for many years.

The principle of a progressive tax structure has been the bedrock on which our Tax Code in this country rests. This is one reason that people in this country have willingly come forward and paid their taxes. There is no doubt that if a substantial number of people in this country decided that they were going to cheat on their income taxes, they would not get caught. There is no way the Internal Revenue Service has the resources to make sure that people pay the amount of taxes thay are obligated to pay under the Tax Code. We rely, in the United States, on our citizens' voluntarily paying their taxes.

What we have seen over the past few years is an erosion in this principle of a progressive tax structure. Over the last 20 years, those taxpayers with the lowest income levels saw ther overall tax burden increase 30 percent. At the same time, our highest income earners, some one-tenth of all taxpayers, saw their overall tax burden drop 16 percent. No wonder the people of this country have come to lose faith in the tax system.

There is no wonder that we are starting to see the development of a cash economy as a means to avoid paying taxes.

While individual tax rates have tended to decline in recent years, other taxes have increased. Excise taxes on tobacco and alcohol have increased. Airline and telephone excise taxes have increased. Payroll taxes have increased to the point that most middle-income Americans really experienced no tax cut following the great tax cut bill of 1981. What they really saw was a decrease in their take-home pay, because what little tax cut they got was more than eaten up in the increase of the payroll tax or the increase in their Social Security taxes.

These excise taxes and payroll taxes are highly regressive and they hit hardest at middle-income earners. I submit that we must reverse this trend if we are to deliver on the real promise of tax reform for middle-income earners.

We have promised middle-income taxpayers twice in the last 5 years that they were going to see a reduction and a substantial reduction in the taxes that they pay. We had better deliver on it, Mr. President, on this go-around, because Congress and the administration did not deliver on it in 1981.

We must ensure that tax reform brings true tax relief to this important group of taxpayers.

The Senator from Maine has offered an amendment that I think will curb a tax windfall that high-income earners will enjoy under this bill. This amendment spreads the benefits of tax reform to those most deserving of such relief, middle-income earners. It is a fair amendment. It is an amendment I urge my colleagues to support.

Many have come to me and have said, "Yes, I think the Senator from Maine has a commendable amendment, one that does help middle-income taxpayers," I shall address my remarks to the Senator from Maine.

These colleagues say, "We are concerned about what happens to small business under the Mitchell amendment." I bow to no one in my concern about small business. I have served on the Small Business Committee for a number of years in this body. I think small business is the last bastion of real free enterprise in this country. That is where the real innovation comes from these days in the American economy, small business. So I address this question to my friend from Maine:

Just how does small business fare under the Mitchell amendment? Is there any legitimacy to the apprehension that small business would be unfairly damaged if we placed a third bracket on this tax reform bill, which would more fairly spread the tax burden across the board and more fairly put it on upper-income taxpayers?

Mr. MITCHELL. There is no basis to that assertion. Small business will be helped by my amendment. Small business men and women will have more after-tax dollars to put back in their business. As the Senator has noted, my amendment provides increased tax relief for all income classes below $75,000. That includes approximately 95 percent of all taxpayers and most small businesses.

According to a recent analysis of Internal Revenue Service data, 78 percent of all small businesses have net income of less than $50,000 a year.

□ 1250

Nineteen percent of all small businesses have net income of less than $100,000 a year. These are small businesses which are not incorporated or are taxed as individuals. That was the issue raised with respect to small business.

I do want to say that earlier in my remarks I used a figure of 7, 9, and 92. I was incorrect because that figure is 7, 8, 91. Not a material difference but I think the record should be clear. So very clearly the overwhelming majority of small business men and women in this country will receive more tax relief under my amendment than they would under the committee bill.

Mr. SASSER. I thank the distinguished Senator from Maine.

I wish to commend the Senator from Maine for offering this very worthwhile amendment today. I think that the amendment offered by the Senator from Maine is critical if we are going to emerge from this debate on the Senate floor with a tax reform bill that is truly fair and equitable to all taxpayers and gives to middle-income taxpayers the relief and fairness and equity to which I think most of my colleagues would agree they are entitled.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am pleased to rise to cosponsor and support the Mitchell amendment. The tax bill before us purportedly strives for the average American. On both counts this bill would be far better if the Mitchell amendment were adopted. First, tax equity. I have noted that the distinguished chairman of the Finance

Committee is always careful when talking about how taxpayers fare under this bill to say that "on average" people are better off. He recognized that there will be winners and losers under this bill. Last week, I brought to the attention of the Senate information which was provided me by the Joint Committee on Taxation which raises serious questions about how many people may be getting tax increases in each income category as a result of this bill. This information is not perfect, we are told, but it is the best information that is available. It also happens to be the only information that is available on this point from this committee. And it provides striking evidence of the need for the Mitchell amendment to pass if the bill before us is to be true to its own goals.

Here are the estimates. Twenty-five percent of the taxpayers making between $20,000 and $30,000 a year could receive tax increases under the committee bill. Their average tax increase could be about $340. Also based on this same information that we received from the Joint Tax Committee, 33 percent of the taxpayers making between $30,000 and $40,000 a year could get tax increases under this bill. Tax increases, I emphasize, not tax cuts. Tax increases under this bill for roughly 33 percent of the taxpayers between $30,000 and $40,000 a year. Their average tax increase would be about $525.

Now, those two narrow groups alone represent 12 million American taxpayers. That is a starkly different picture than what most people have about the impact of this tax bill. I have read recently about one of our colleagues who was talking about the tax bill in his home State and after he described it he found that almost everybody raised their hands in support of the tax bill. I wonder if the support among those people and the public in general would be as evident if the followup question was asked: "How many of you support this bill if there is a chance that 1 out of 3 or 1 out of 4 of you would actually get a tax increase instead of a tax cut?"

Mr. President, while 25 to 33 percent of middle-income people could get a tax increase under this bill, the data from the joint committee indicates that more than half of the taxpayers making over $200,000 will get a tax cut averaging $52,000.

Now, that is an extraordinary figure on which we ought to focus. While this data indicates that from 25 to 33 percent of middle-income America could get a tax increase under this bill, over half of the wealthiest among us, those earning over $200,000, could get a tax cut which averages $52,000. I am wondering just how many of the people who are clammering for the passage of this legislation the way it is drafted would believe that giving a tax increase for a significant number of people who are middle-income Americans at the same time we are giving a huge tax cut to a majority of the wealthiest among us is equitable or reasonable.

Now, some, Mr. President, will argue that the data which we received from the Joint Tax Committee is shaky. They will argue that the Joint Tax Committee stated that it could not stand behind that data. But that data is either valid and therefore significant and disturbing or there is no valid data, and that is significant and disturbing because it would mean that we are legislating in the dark. It would mean that we do not know how many loose cannons there are on the deck of the tax reform bill. In any event, as I have indicated, it is the only data we have.

Mr. President, we have to correct this clear unfairness to middle-income America. The Finance Committee's report indicates that under the committee bill the $20,000 to $30,000 income group would receive 8 percent of the tax cut and the $30,000 to $40,000 income group would receive 5 percent of the tax cut. With the Mitchell amendment, this division would change from 8 to 13 percent for the $20,000 to $30,000 group and from 5 to 10 percent for the $30,000 to $40,000 group. At the same time, the over $200,000 income category would receive an overall tax increase of 2½ percent but those taxpayers making over $200,000 a year but who do not shelter large amounts of income would still receive substantial tax cuts due to the dropping of the maximum rate from the current 50 percent to the 35 percent in the Mitchell amendment.

So the Mitchell amendment will significantly correct a fundamental inequity in this bill, that it increases the taxes on a significant number of middle-income taxpayers at the same time that a majority of the wealthiest taxpayers may be receiving enormous tax cuts.

Mr. President, just a word on the tax relief aspect of this bill. We have heard over and over again that the goal of this bill is to provide tax relief for low-income people and to ease the tax burden on middle-income folks. If that is true, then I find it hard to believe how the proponents of the committee bill could oppose the Mitchell amendment because the Mitchell amendment does a better job in achieving those goals. It is a better deal for taxpayers making less than $75,000 a year. For example, the committee bill cuts the average tax liability of taxpayers making under $10,000 a year by 63 percent. The Mitchell amendment cuts their taxes by almost 72 percent. The committee bill cuts the average tax liability of taxpayers making between $10,000 and $20,000 by 20 percent. The Mitchell amendment cuts it by about 26 percent.

□ 1300

As I have indicated earlier, the Mitchell amendment offers substantially more tax relief for middle-income taxpayers making between $20,000 to $40,000 a year than does the committee bill.

During the debate on several of the amendments last week, some Members opposed those amendments on the grounds that they would reduce the taxes on some upper-income individuals and pay for those tax reductions by increasing taxes on some middle-income people. The Mitchell amendment reflects these concerns for the middle-income taxpayer.

Some have argued that the Mitchell amendment violates the principles of tax reform. How? Does it weaken the long overdue minimum tax on profitable corporations and wealthy individuals? No. Does it stake tax rates too high by going to a 35-percent maximum rate? Only if you believe that Ronald Reagan proposed rates too high when he authored a tax reform plan with a maximum 35-percent rate. Does it increase the tax burdens on low-income taxpayers? No, it reduces them relative to the committee bill. Does it reopen the many loopholes which the committee's bill closes? No; it does not.

The Mitchell amendment is far more consistent with the goals of equity land tax relief than the committee's bill and for that reason should be adopted.

I commend my friend from Maine for his amendment. It is thoughtful, it is moderate, it does not soak the rich at all. It does justice to every American, be they working people of low income, middle income, or the wealthiest among us. It is universal in its fairness and far more fair to middle-income America than is the committee bill, which disproportionately hurts middle-income America compared to the wealthiest among us.

Mr. President, I ask unanimous consent that a table showing taxpayers with increases and decreases in tax liability under H.R. 3838 be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—TAXPAYERS WITH INCREASES AND DECREASES IN TAX LIABILITY UNDER H.R. 3838 (INCLUDING LEVIN COMPUTATIONS) [1]

[Tax year 1988]

Income class [thousands]	Number of taxpayers [2] [thousands]	Percent of total	Percent same	Number with tax increase [thousands]	Percent with increase	Percent of total	Average increase	Number with tax decrease [thousands]	Percent with cut	Percent of total	Average decrease
0 to $10	41,651	31.6	65.7	1,797	4.3	1.4	$186	12,533	30.3	9.5	−$162
$10 to $20	27,877	21.1	12.4	4,788	17.1	3.6	202	19,660	70.5	14.9	−315
$20 to $30	26,121	19.8	5.7	6,717	25.7	5.1	339	17,925	68.6	13.6	−383
$30 to $40	15,727	11.9	2.2	5,247	33.3	4.0	525	10,146	64.5	7.7	−529
$40 to $50	8,652	6.6	1.1	2,510	29.0	1.9	799	6,056	69.9	4.6	−820
$50 to $75	7,686	5.8	.8	2,431	31.6	1.8	1,552	5,198	67.6	3.9	−1,218
$75 to $100	1,793	1.4	.8	665	37.0	0.5	3,189	1,116	62.2	0.8	−2,724
$100 to $200	1,758	1.3	1.6	646	36.7	0.5	7,605	1,086	61.7	0.8	−6,239
$200 plus	655	0.5	.8	291	44.4	0.2	50,030	359	54.8	0.3	−52,535
Total	131,919	100.0		25,092		19.0	1,343	74,079		56.2	−816

[1] See text for substantial shortcomings of these data.
[2] Filers and nonfilers. Includes tax returns with no change in liability.
Source: Joint Committee on Taxation. June 6, 1986.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Tennessee.

Mr. GORE. Mr. President, I should like to express my strong support for the Mitchell amendment, and I compliment the Senator from Maine for crafting and offering this amendment. It furthers our common objectives during this endeavor, and I intend to support it very strongly.

Mr. President, I believe in tax reform for one simple reason—to make the Federal Tax burden fairer and easier to bear for the majority of Americans.

The Finance Committee bill is a good start in this direction. It is much simpler and more equitable than the current Tax Code, and I wish to add my comments to those which have been expressed to the chairman and the ranking minority member and all members of the Finance Committee for coming up with the bill we have before us. But this bill can be improved, and in one important aspect, the bill has failed to live up to its goal of fairness for all Americans.

As the proposal now stands, taxpayers with an annual income of $30,000 to $40,000 would receive less than half the amount of tax relief promised to every other income group. By adding a third tax bracket of 35 percent for wealthy taxpayers, the Mitchell amendment would provide this needed tax relief for those who need it most—the middle class.

In our society, we believe that every person should pay his or her fair share, and a progressive system is an essential element of this fairness.

By overlooking the needs of a substantial number of middle-income taxpayers, the Senate bill weakens that principle. Under the Finance Committee version, a single person with a taxable income of just $17,600 would pay the same rate as a millionaire. So would a couple making $30,000.

As a result, the Finance bill would give the lion's share, a disproportionate share, of tax relief to the ones who need it least. The top one-half of 1 percent of all taxpayers would receive 16 percent of the bill's tax cut. These are the same affluent Americans who have already seen their tax burden drop by 16 percent over the past 20 years—while taxes for lower- and middle-income earners have been rising.

The standard argument in rebuttal of this point is that the upper-income groups will get more absolute relief because they are paying more to begin with. However, as the figures from the Joint Tax Committee demonstrate, this top one-half of 1 percent will get not only more relief in absolute dollars but also on a percentage basis. That is wrong.

Let me repeat: I think this is a great bill. I intend to vote for it, but it can be improved, and the pending amendment will be a major improvement in terms of tax equity and fairness.

The Finance Committee bill offers a historic opportunity to restore fairness to the Tax Code. However, as written, the bill stops short of its most important stated objective—the goal of fairness that has been the driving force behind the tax reform movement for the last 2 years. Without the Mitchell amendment, the middle class will continue to suffer, receiving fewer benefits from the committee bill than any other income group. By supporting the Mitchell amendment, we can extend that promise of fairness to all Americans, and rescue the middle class from an unfair share of the tax burden.

Let me reiterate a few points:

First, this amendment does not raise taxes. It reduces taxes on individuals from a top rate of 50 percent down to 35 percent.

Second, those taxpayers in high-income brackets who have not been sheltering income will still receive a tax reduction under this amendment. Those who have been sheltering a good deal of income and would pay higher taxes under the committee bill will, under this amendment, pay somewhat more in taxes than they would under the committee bill. That is not unfair.

Third, under the committee bill, those taxpayers who have not been sheltering income—at an income level of $200,000-plus—will get a tax deduction of 10.5 percent, while the taxpayers in the middle-income group who have not been sheltering income—a group making between $30,000 and $40,000 per year—would get a tax cut of 5.9 percent. The Mitchell amendment reverses those two figures. In other words, it would give a proportionately higher reduction to middle-income Americans and a proportionately lower reduction to the wealthiest Americans who have not been sheltering income, and an increase on the wealthiest Americans who have been sheltering a good deal of income.

Frankly, Mr. President, I have seldom seen an amendment offered which has stronger arguments on the merits going for it. For Senators who are interested in tax fairness and tax equity and who are interested in passing a bill that works and that is fair, the Mitchell amendment is essential.

I am going to be interested to hear what arguments are raised against it. But the arguments in favor of it are so ovewhelming that I simply want to close by expressing the hope that we will not see Senators feel that they have to support the committee bill no matter what, even when an amendment is proposed which clearly improves the bill.

So I want to close by strongly urging my colleagues on both sides of the aisle to support this amendment, to take a good finance bill and support it substantially by improving its ability to reach the goal of tax fairness and equity.

□ 1310

Mr. PACKWOOD. Mr. President, we have heard lots of statistics thrown around today, high income, low income, absolutely a welter of statistics that I doubt anyone who is watching this or listening, has been able to digest, so I simply want to take a very few things and try to make them clear so we are not fooling ourselves, let alone the public.

Let us not be confused by the fact of the "rates" and I put that in quotes.

What the tax rate is, 15 percent, 35 percent, 45 percent, 100 percent, is not the critical element in determining how you tax people or upon whom the taxes fall.

I can give you classic examples of that in the House bill and in the Senate bill. The House bill, in terms of its corporate minimum tax "rate", has a 25-percent tax rate. It raises $8 billion. The Senate bill has a 20-percent minimum tax corporate rate and it raises $35 billion. The rate is irrelevant if you have no base upon which you levy the tax. A 100-percent tax on nothing is still nothing, and a 10-percent tax on $100 is still $10.

And do not be confused by those people who are going to tell you that they are not going to change the rates; that they are just going to change the break points. Here I want to interject to say in fairness to my friend from Maine, that he is not attempting to con anybody into saying he is changing the break points or something like that, and I also want to compliment him on his fairness as we have been moving long. He was one of the original core group of Senators who sat down with me. There were only seven of us when we started on this, and from the very day we started, he indicated he was going to present this third-rate amendment, the high-rate amendment. "Third rate" has a wrong connotation. It is an amendment for a higher third rate.

He told us all along he was going to do it. He said, "I will withhold until I get to the floor. I am going to vote for the bill, whether or not my amendment is adopted. I do not think it is fair because it does not tax the rich."

He has been a gentleman all along and has never blind-sided us.

Senator MITCHELL, I appreciate that very, very much.

But you want to be careful of people who are going to raise the rates if they are not going to levy the tax on anything, and you want to be careful of people who say, "I am not going to change the rates; I am just going to change the break points."

We had several examples of that. A break point is simple where one rate leaves off and the next rate starts. For example, let us say you have a 15-percent rate on the first $20,000 of income. Beyond that, you have a 27-percent rate for income over $20,000; $20,000 is the break point.

Well, you can raise a lot more money if you simple say "We are going to change the break point for the 27 percent rate from $20,000 to $10,000. You will pay 15 percent on the first $10,000 and 27 percent for anything over that."

You have not changed the rates but you have dramatically increased the quantity of taxes that you are going to collect.

What happens when we get the rates—and again—distinguish rates from the amount of taxes you collect—high enough? Then the rich claim they are deterred from undertaking activities that we regard as socially useful. And because we have the rates so high, we then, for one reason or another, give into one exemption or deduction after another in order to encourage the activity that we want to encourage without lowering the rates.

Mr. President, somehow the rich and the clever in the history of this world seem to thrive and survive, and it does not seem to matter if it is a left-wing government or a right-wing government, a Facisist government or a Communist government, or a conservative government or a liberal govrnment, they somehow get through.

The princes of privilege make it. The Tallyerands exist throughout history.

My gosh, Talleyrand, born into gentry, beheads Louis XVI, as I recall, during the French Revolution—is that not right, Senator MOYNIHAN?—and participates in the revolution, gets rid of the king, joins the assembly, overthrows the government, and when the revolution is over, ends up serving as the secretary of state of Louis XVII, whose father's head he cut off, and finally dies rich, as ambassador to England.

Those people have existed throughout history. I am not concerned about them. I appreciate them. But they are going to make it. This bill is not designed for those people.

What we have tried to do in this bill is to close the tax loopholes that allow the very rich to pay no taxes and allow General Electric and General Dynamics to pay no taxes. Then we said, having closed all those loopholes, and having shifted $100 billion of taxes off of individuals and onto business, "let us now lower the rates and let us agree that we have first managed to close most of the loopholes." We have not closed them all, unfortunately, because we did not quite have the votes to close them all, but we closed most of them.

So we are not going to have many stories of 1,300 people making over $200,000 a year paying no taxes; General Electric, which had billions of dollars in profits, paid no taxes. Those stories are gone.

And then we said, let us put the rates at 15 percent and 27 percent, and for those people who legitimately earn incomes of $50,000 or $75,000, or $100,000 or $125,000, we will tax them at 27 percent. These people are earning their money legitimately. They are not earning it through loopholes, tax dodges, devices, and cleverness.

It is interesting that BILL BRADLEY is the father of the idea and it was Ronald Reagan, I guess, who listened to BILL BRADLEY who said, "Let's get the rates down." I sense a certain "deja vu" in Senator MITCHELL's amendment but it is more Walter Mondale than it is BILL BRADLEY. It is to raise the rates on the rich.

Now the Senator from Maryland, Senator SARBANES, in a colloquy with the Senator from Maine, indicated when Senator MITCHELL concluded: "Now, isn't it true that you raised the rates but you have still eliminated the loopholes?" That is not true. The biggest loophole for the rich is back. It is capital gains now that we put the rates up to 35 percent. That is a higher rate than most people are willing to take and still invest in risky ventures, providing so-called venture capital. So we have brought the capital gains differential back. It is the biggest single loophole for the income class above $200,000. So pretty soon we find ourselves chasing our tail around the tree. We raise the rates, so we are going to get the rich but now that we have raised the rates high enough that the rich will not invest and contribute and do the things we want, we are going to give them exemptions so they never have to pay the highest rate. Then, because the exemptions make our income tax wrong, allows too many people over $200,000 to not pay as much taxes as we think they should, we raise the rates again and then we raise the deductions. This bill has just the opposite philosophy. We have tried to unscrew the corkscrew and bring everything down.

I will make you this bet, Mr. President: Those who want tax shelters, loopholes, exemptions, and privileges returned have not given up on this bill. They may have given up in the Senate but they are girding their loins for the conference with the House. We are going to have arguments that we must put passive losses back in for low-income housing, passive losses for solar energy, passive losses for whatever it may be, because we will not do those things without the tax benefits from those losses. And those who make the investments in those projects are among the wealthiest people in our Nation.

When we put this capital gains provision back in, if we do as Senator MITCHELL has done, you can be assured that the benefits of the capital gain provision, by and large, are not going to flow to those who make $10,000 or less, or $20,000 or less, or $30,000 or less.

□ 1320

Now, a few statistics—because, as anyone knows, you have lies, damn lies, and statistics which we always use, and we are all guilty of it—so just to put it in perspective—which show that one-half of 1 percent of the taxpayers in this Nation get 16 percent of

the tax cut. They pay 22 percent of the taxes. Five percent, the upper 5 percent, of the taxpayers in this country get 29 percent of the tax cut. They pay 46 percent of the taxes.

Or, let me phrase it in a slightly different way. If we made no change in the law, just kept the current law, those who make $100,000 to $200,000 would pay 11.8 percent of the taxes. Under our bill, they pay 12.1 percent of the taxes. Those who make $200,000 or more, under the present law, pay 21.8 percent of the taxes. Under our bill, they pay 22.2 percent of the taxes.

What I fear is that this Trojan horse amendment, once it is dragged into the courtyard and its belly opened, is going to be a front for every special-interest group—and there are a number that are supporting it, ironically, because they regard it as the opening wedge for them to come tumbling forth out of the horse, also, and say, "Please now give us our special exemption because you have raised the rate too high to invest in low-income housing or to provide venture capital or to contribute to charity," or whatever it might be. And that is why this is such a critical amendment.

Now, we heard a lot about progressivity today, and I am intrigued. I will not bother to read the names—and everyone is not guilty of it—but most, I will wager, of those who will vote for the amendment of the Senator from Maine also voted for the tax cut in 1981 that lowered the top rates from 70 to 50 percent. Remember, everybody got the cut across the board. First, we went to the top rate of 50 percent, and then we cut everybody's taxes below that 10 percent, 10 percent, and 5 percent. I will wager that most of the people that argue about progressivity and the fact that we ought to be more progressive voted for that amendment in 1981, which was the President's 1981 tax plan.

Second, let us take a look at just some of the votes we have had in the last few days, if you want to talk about progressivity.

The most regressive tax we probably have in this Nation is the sales tax. In the Finance Committee bill, we eliminated the deduction for the sales tax because we did not want to encourage this regressive tax. We had to fight as to whether or not that deduction should be kept or not. Most of those who have argued here today for progressivity voted to keep the deduction for the sales tax or spoke for keeping the deduction for the sales tax, thereby encouraging States to continue it. So if they were worried about progressivity, I did not find it in the sales tax debates.

Last night, we had a vote on whether or not to continue a particular tax break principally for retained Federal employees; others get it, but principally Federal employees get the break. The method of paying for tax break, which affects about a million people—was to change the break point and would have affected 20 million people to pay for it. We were going to lower the amount in that amendment at which the 27-percent rate started. We were going to increase the taxes on the middle-income taxpayer in order to provide an exception for a relatively small number of people.

I am going to state a hypothesis that I cannot prove. I think many of the people that support a higher amendment do so not because it gives them any psychic pleasure or because they want to sock it to the rich. Unfortunately, there are not enough rich in this country to run all of the programs we would like to run if we used all of their income. I do not have the figures for 1985, but for 1984, if we confiscated—confiscated, took it all—all of the income of those who make over $100,000 a year, it would raise about $90 billion to $100 billion, once. That is because nobody would ever earn over $100,000 again if they had given it all to the Government.

I really suspect, Mr. President, that those who support a higher rate for the rich—not higher taxes for the rich, Mr. President, a higher rate for the rich—do it so that they can increase the taxes on the middle class to produce sufficient money to run the social welfare schemes that they want to experiment with on this Nation. And since the rich do not have enough money to run those schemes, the only place where you can get enough money is from the middle class. And the only way you can justify raising the taxes on the middle class is to raise the rates on the rich so that you can pretend you are taxing the rich more.

We have had rates as high as 94 percent on the rich, then 70 percent, then 50 percent. I defy anybody in this Senate to introduce me to very many rich people that ever paid 94 percent or 70 percent or 50 percent. And, under Senator MITCHELL's amendment, I defy you to find me very many that will pay 35 percent. Because between investing in capital stock and municipal bonds and maybe low-income housing, they are not going to pay 35 percent. They are not going to pay 25 percent. We will be lucky if some of them pay anything, because we will have given them the tax dodges to escape paying taxes again.

Mr. President, the middle-income taxpayer in this country, in some people's image, may have straw in his teeth and mud on his boots, but he is no hick. He understands the Government better than we think. He understands that the only way to give him or her a tax cut is to give the rich a tax cut—not a rate increase on the rich, a tax cut. And that is what we have done in this bill.

Roughly 85 percent of the families in America will be paying taxes at a rate of about 15 percent on their incomes. And I use the term "rate" there exactly. A family of four will have to be making in excess of $42,300 a year before they move into the 27 percent bracket.

On the average—and I again emphasize "average," because no one is exactly average—but on the average, on the average, Mr. President, all middle-income taxpayers get a tax cut. Are there some who will not? Yes. I can conjure a situation of a young boy or a young girl living at home, age 20, paying no rent to their parents, Mom and Pop provide their food, they are making $16,000, $17,000, $19,000 a year, and they have no expenses. They buy a $20,000 car, pay $2,000 down, and finance $18,000 of it at 15-percent interest charges. They pay out $2,700 a year on their car and that will no longer be deductible. And it is conceivable that there may be some people in some situations, who may pay, maybe, more taxes.

But if you mean the average Jane working in the grocer chain or the average Joe working in the shoe store who does not itemize—they may or may not be married—if they are making the median income in this country, for a family, they are making around $23,000 or $24,000, if they do not itemize—and 60 percent of the people in this country do not itemize now and under this bill we estimate 80 percent will not itemize—they are going to get a tax cut.

And no matter how you twist and screw and scrunch these figures they are going to get taxed. So while I have great admiration for my good friend from Maine, I hope that his amendment will be defeated for two reasons: One, all it does is give us an excuse to eventually, as we have tried to do several times in this body while considering this bill, raise the taxes on the middle-income taxpayer through some artifice or device that does not really raise the rates but indeed raises their taxes. First it encourages us to do that. Second, Mr. President, it will encourage us to start to put back in the deductions, exemptions, and privileges for the very rich that we have gotten rid of in this bill. We have made a start in the right direction. This is the most extraordinary piece of tax reform legislation since the initial code was passed in 1913. If we adopt the amendment of the Senator from Maine, we will be starting right back up the stairstep of escalating rates, increased privileges, escalating rates, and increased privileges until we are right back where we were at a 50- or 70- or 94-percent rate not too many years ago.

Mr. LONG. Will the Senator yield?

Mr. PACKWOOD. Yes.

71-059 O-87-37 (Pt. 10)

Mr. LONG. Mr. President, let me endorse what the Senator said in his statement. I agree.

I want to make reference to where we have been. When the Senator from Louisiana came here in 1948 we had a tax rate of 82 percent. We went after some relief from the wartime rate of 94 percent. The Korean war came along right behind that, and the rate went back up to 91 percent. Then it continued at 91, 92 percent up through 1953, and 1954. We did not get that rate down until John Kennedy was President in 1964. So I came here in 1948. The rate was in the 80's, and then moved shortly into the 90-percent range in 1950, and stayed up there. Just I imagine, 16 years when we had the Korean war behind us, but notwithstanding that it stayed up there at that 90 percent for 16 years.

As the Senator so well points out, we were not collecting any 94 percent. During that wartime and during the period that we piled up what is now $1 trillion in these pension funds, we had the largest accumulation of capital on God's green Earth. It all started because in the beginning executives were putting the money there rather than having the Government tax it all the way by the corporations setting up pension funds for executives, and then labor demanded the right to be in on it. So labor got in on the pension program with all of these enormous amounts of money which you could legitimately do. Nobody is against people saving money and putting it in pensions, and people will feel you should not tax somebody that goes into those pension funds paid for by the employer. So huge amounts of money were piled up there.

Incidentally, it did not take somebody passing some gimmick through the Congress. The tools were already there. Private foundations and people were putting in large amounts of money in private foundations that they themselves controlled. And they could deduct the money they put into it as a charitable gift—profitsharing, and goodness knows what else. But there are now 50,000 tax lawyers out there. The Government has 500. They have 50,000. They outnumber us 100 to 1. The heck of it is by and large their lawyers are better qualified than ours. Their lawyers learned that business working for the Government, then went to work for private enterprise, and put that expertise to work representing private clients.

What the Senator is trying to do is to have a tax law that would encourage people to put the money to work where it would serve the best purpose for the economy, create jobs, create opportunities, and stop this money being invested in tax shelters, but being invested where it would do the most good.

I agree with the Senator. I can recall the frustrating fight we had up until President Kennedy got it down or recommending getting it down to 65. We managed to get it down to 77 percent. Then in 1965 we managed to get it down to 70 percent. We fought in 1969 for earned income. We finally got it down to 50 percent, but it remained for President Reagan to come in for us to pass a big bill which I am happy to say the Democrats helped prepare. We added the amendment that got us down to a 50-percent rate immediately for personal income.

But that took a long hard struggle. And every step of the way, until we got the capital gains down and the individual tax, which the public applauded, a lot of Senators were too timid to vote for it, but when they saw it helped the economy, created jobs, created opportunity, and gave everybody a chance to move forward they wanted to work and take full advantage of the opportunities available to them. The country prospered. Everybody prospered in the country because there were investments, jobs, economic opportunity for all.

That has more to say for it than the frustrating thing of putting it all in the personal exemption; trying to cut the rates instead of an amendment which was agreed to here on the floor—put all in the increased personal exemption.

So no progress was made toward getting the rates down. I hope very much the Senator's effort to get the rates down will succeed.

Is it not true that the tax structure as it affects rank and file Americans by categories will be even more progressive when this bill becomes law than it is today?

Mr. PACKWOOD. By more progressive, if the Senator means will the upper-income groups pay more than they pay now percentagewise, the answer is "Yes."

Mr. LONG. They will pay a larger share of the overall taxes collected by way of income tax than they do now?

Mr. PACKWOOD. That is correct.

Mr. LONG. So while they receive about a 5-percent tax cut, that will not be as much as the average for the other categories on down the line. The largest tax cut in percentage terms of course will go to those in the bottom, and some deserve a 100-percent tax cut.

Mr. PACKWOOD. It is overwhelming, and if the Senator means the zero to $10,000 bracket, this bill removes everybody from the tax roll below the poverty line. They are paying income taxes now. It is outrageous. We take 6.5 million people off the tax rolls altogether. They get a 100-percent cut.

Mr. LONG. The largest tax cut falls in the category just above that.

Mr. PACKWOOD. For families of four, $10,000 to $20,000, and next biggest cut is $20,000 to $30,000.

Mr. LONG. I thank the Senator.

Mr. PACKWOOD. I thank my good friend.

Mr. SIMON, Mr. GRAMM, and Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, and my colleagues in the Senate, I rise in support of the Mitchell amendment.

Let me make a few general comments about the bill before I talk about the amendment. I am slightly leaning toward voting for it. I have made no commitments. I have to say as of right now I think it is the kind of bill that ought to pass 52 to 46. It should not pass 100 to nothing as some people are talking about. One of the problems is on the graph next to Senator MITCHELL where the top one-half of 1 percent gets 60 percent of the benefits from this tax, the top 5 percent gets 27 percent of the benefits.

I am also concerned about something I discussed briefly, informally, with the Senator from Illinois. That is the total elimination of the investment tax credit. My instinct is we are going to be back here in 3 or 4 years from now putting it back in. I have been one to criticize corporations for not paying their fair share. I strongly support the minimum part of this.

I also have some concerns when our good colleague who has done a very effective job on this, the chairman of the Finance Committee, says, on the average middle-income people are going to pay less taxes. It is like the old story of the man who is 6 feet tall, and someone said, "How deep is that river?" And he said, "On the average it is 3 feet deep." And he walked to the center of the river and drowned. There are going to be some people drowning in the middle of the river who are middle-income people.

What it does long term I have real questions about. I have done what probably a lot of the rest of you have done and asked as I went around Illinois what should I do, how should I vote on it? I posed the question. I spoke to about 200 CPA's in Chicago. I posed the question how I should vote on the bill. By raising hands they voted about 2 to 1 that they would vote for the bill. I asked the second question, do you think it will help the long-term economy of this country? And by about 3 to 2 they voted that they felt it would not help the long-term economy of this country.

□ 1340

I do not know whether they are right or wrong, but it is one of the things I am weighing through the entire debate.

Finally, on the negative side, and there are a lot of positives, too, one of the things that really concerns me is what was brought up by our colleague, Senator DOMENICI, yesterday in one of the finest speeches I have heard in my 12 years in Congress talking about where we are going on revenue and the fiscal policy of this country.

I believe, overwhelmingly the No. 1 problem in this Nation today is our indebtedness, our fiscal policy, a $200 billion deficit. Because of that I voted for the Gramm-Rudman-Hollings bill.

But for us to massively reform the tax structure and not pay any attention whatsoever to this deficit I think is not sound policy. I think we ought to be paying attention to it.

So those are my concerns.

Well, there are a lot of positives, too.

Mr. President, let me pay tribute to a really fine Senator.

I would like to speak to an important feature of the Senate tax reform bill and in so doing acknowledge a highly significant achievement of the minority leader of the Senate Finance Committee, the distinguished Senator from Louisiana, Senator RUSSELL LONG.

Members of the Senate are familiar with the illustrious career of Senator LONG. Perhaps one of the most significant, far-reaching achievements of his tenure in this Senate has been his campaign to further distribute business ownership opportunities for millions of American worker and managers through the use of ESOP's or employee stock ownership plans. Recent estimates by the National Center for Employee Ownership state that over 7 million workers working at over 7,000 American corporations now share in the ownership of their businesses as a direct outgrowth of Senator LONG's initiatives with ESOP's and related pension investments.

This is an enormous contribution to the American economy that the Senate should recognize.

Employee ownership is an idea that strengthens our free enterprise system. By encouraging more of our citizens to share in the opportunities of ownership, we are unlocking the entrepreneurial spirit that is a part of the character of all Americans—not just a privileged few.

I am glad to report to you today that the important work that Senator LONG has begun within in the employee ownership field will be continued, further strengthened and improved through this tax bill before us today.

One of the improvements offered by Senator LONG that I would like to speak to regarding this bill is a provision that my colleagues and I from the congressional populist caucus have taken particular interest in which also responds to some of the concerns about ESOP's raised by our friends in the labor movement and in the press. This provision, chapter X section Y, explicitly recognizes and encourages the promotion among other ESOP forms of fully democratic ESOP's where managers and workers alike share equal voting control over the affairs of their corporations. These fully democratic corporations, examples of which can be found in the great State of Connecticut where 200 members of UAW Local No. 1827 and local management joined together to avoid a possible plant closing to form the Seymour Specialty Wire Co., and in the great State of West Virginia where the United Auto Workers and the Republic Container Corp., have formed a new democratically structured firm representing positive examples of this model of democratic ESOP ownership. These models can only further strengthen the ESOP idea.

I want to make clear that with this amendment there will remain several roads to ESOP ownership, including partial, as well as full ownership, by employees. Even within this category of democratic ESOP's that the Finance Committee has included in this bill we should be open to various technical interpretations of how to achieve this democratic objective over time.

What is most important, however, is that we recognize the significant contribution which this amendment and the overall ESOP idea has contributed to the strength of our country. For this we owe a debt of gratitude to one Senator RUSSELL LONG.

In this bill, that ESOP program is improved. We permit more democracy in the ESOP plan. I commend my colleague.

There are a lot of other good things, including the 6 million people in the lower income groups that will be taken off the tax rolls.

Getting to the Mitchell amendment, there is one part of the amendment I am not fond of, the capital gains part. I am not opposing capital gains. I happen to believe, however, that a 6-month capital gains like we have does not make sense at all. We ought to have 5-year capital gains. That makes sense. Then we encourage the long-term investment.

Why do I favor the Mitchell amendment?

I favor the Mitchell amendment basically because I guess I am a little old-fashioned. I really believe in a progressive income tax. We are moving away from it, steadily. Not just in this bill. We moved away in past years, in 1981, in that tax bill, and prior to that we were moving away from it.

A lot of people in my State of Illinois, in the State of Mississippi, the State of Louisiana, the State of Maine, the State of Rhode Island, the State of Texas, and the State of Tennessee—they wonder why they should have to pay the same rate as people who make millions.

Let me give you a very personal illustration. If I told you the name of a person who came into my office, everyone of you would recognize his name. He is one of America's business leaders. He was in my office talking about a problem in Illinois. When we finished, I turned to him and I said, "How should I vote on the tax bill?" He said, "Do you mean as it is right now?" And I said, "That is right." He was silent for a moment and he said, "I think I would vote against it." I said, "Why?" He gave me a couple of reasons.

One of the reasons he gave me was this:

> My income is about $1.5 million a year. My accountant figured my tax for last year, what it would be, and I would gain an extra $250,000. If you want to give me $250,000, I will take it. But, with a country with a $200 billion deficit, I really do not think it makes sense to give me $250,000.

And I do not think it makes sense either.

The Mitchell amendment does not stop that completely, but it helps.

The argument against the Mitchell amendment, and I have great respect for the Finance Committee, is basically the old argument that if we raise rates we will have greater push for getting exclusions back. The history of this is very interesting. At one point we had a 90-percent tax rate and then they said, "Let us lower it and then we will reduce the pressure for exemptions." So it was lowered to 70 percent.

Do you know what happened? We got more exemptions in it. Then my friend and colleague, and your former colleague in the House, Mr. President, Bill Broadhead, who was on the Ways and Means Committee, said, "Let us reduce it to 50 percent. Then there is not going to be any pressure for exemptions." We reduced it to 50 percent, not with my vote. We reduced it to 50 percent and got more exemptions.

Now we are pulling it down to 27 percent and the argument is pressures are going to be off to have exemptions.

If we pass this and the President signs it, and I have every reason to believe that is what is going to happen, 1 year from now we are going to be back here with all kinds of pressures for exemptions.

I remember a story printed in one of the Chicago newspapers where they had illegally, I believe, obtained a tape by three lobbyists, how they killed a bill in the State legislature, talking about $30,000. They talked about one State legislator who took $200 for a vote. One said, "Why would a billionaire be interested in taking $200 for a vote?" The other lobbyist said, "How do you think he got to be a billionaire?"

The reality is, no matter what rate you set, people are going to want those exemptions. I do not think moving

away with a progressive tax is going to help on that at all, even though in this bill it helps some.

There is a second reason I am for this, a very fundamental reason.

We have a declining middle class in our country and that is not a healthy thing. For the first time since the Great Depression we have a declining percentage of Americans owning their own homes. We are escalating the differences in income. The difference between the top 10 percent and the bottom 10 percent in our country now is a 14-to-1 ratio. Of all the Western democracies, only France has a greater ratio than that.

In West Germany, for example, the difference between the top 10 percent and the bottom 10 percent is about 5 to 1. In Japan it is less than 5 to 1.

I think it is not a healthy thing to have a shrinking middle class.

It is interesting as you read in history Plato and all the others who warned us about having too many rich and too many poor. We have developed in this country in a very, very healthy way a substantial middle-income group. I do not like to see trends that shrink that middle-income group. I do not believe it is healthy for this country.

I have, I think—and my colleagues may differ with this as this is no scientific analysis—the belief that in the last few years I have heard more class-versus-class talk in our political circles than I have ever heard before. People say, "We have to stop the rich people," this kind of thing. I really do not believe that is healthy. I think we move away from that by having a tax system that is progressive, that is fair, that encourages middle-income America. The Mitchell amendment moves in that direction. I believe it is a sound amendment.

I recognize the political realities; it is probably going to be defeated. But I am going to be very proud to vote for it because I think it represents what we ought to represent to the people. I commend him for offering it. I am proud to be a cosponsor. I hope my colleagues will give serious consideration to the Mitchell amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in opposition to the amendment.

Mr. President, in this amendment we are choosing whether we want a tax reform package that will create wealth or one that will redistribute wealth.

□ 1350

I am for this bill, even though there are still things in it that I think are unfair. I do not want to drag the old dead cat back across the table on sales taxes not being deductible and income taxes being deductible; I hope to get that fixed. But I am for this tax reform bill because it represents a fundamental change in American tax policy.

Our distinguished colleague from Illinois makes a point that we have had arguments for exemptions, for the allowance of tax avoidance. We have, and we have had them for a long time, and I do not suspect they are going to go away. But why have we had some of them in the post-World War II period? We have had them because Members have argued that the economy was not performing.

Our whole problem in the post-World-War II period is that we have had confiscatory marginal rates that have depressed the incentive to invest, that have limited our ability to create jobs and economic growth and opportunity for our people. So, in trying to deal with that problem, we have created a Tax Code that is full of provisions that grant special privileges and special treatment all in the name of creating incentives.

Every year, I see when reports on tax returns come out, some so-called public-interest group—they are special-interest groups, but they call themselves public-interest groups—points out how there are those people who pay no taxes. When you go back and look at why they are not paying taxes, they are not paying taxes because they are taking advantage of loopholes that we created to try to provide economic growth.

Mr. President, I am so strongly for this bill because, for the most part, we undo all that. We go back and eliminate tax avoidance provisions, and we lower marginal rates. When all those tax breaks and tax avoidance provisions were written, they were written by politicians. So they responded not to economic forces but to political forces.

One of the driving forces in creating investment in America today is the force of avoiding taxation. The beauty of the bill that is before us is that by eliminating so many of these provisions and lowering the marginal rate, capital will now be invested under this bill in creating new jobs so that the driving force will be economic development and productivity, not tax avoidance.

There is a lot of discussion about who will be affected in this bill, who is going to gain and who is going to lose. To put that into prespective, the big winner in this bill, aside from the 5 million working poor who will pay no taxes—I rejoice in the fact that a Government that talks constantly about helping poor people is finally doing something for the working poor—will be the American family.

The big winner in this bill is going to be the family where there are a husband and wife working, they have a couple of children, they own their own home, they do not have a CPA to plan out a system of trying to lower their effective tax rate, they give a little money to the church and school, and that is about it. They are going to be the big winners under this bill.

Who is going to be the loser? The truth is that in terms of taxpayers, there are not going to be any losers to speak of. The reason I say that is we get this idea that if someone makes a whole bunch of money and they do not pay a lot of taxes, they get to keep all the money that they earn. That is not true.

To avoid taxes is very expensive. It costs you a lot of money to use tax shelters. It costs you a lot of freedom in tying up your income in tax avoidance schemes. You are paying in many cases, 20 to 30 percent on the dollar in terms of lost earning power to avoid a dollar in taxation. So, while people with high incomes are going to pay more taxes under this bill, they are also going to spend a lot less money trying to avoid taxation. They are going to put their income into ordinary investments and pay taxes on it and they are going to benefit.

The real losers are going to be people in businesses that have sprung up because of the presence of tax avoidance incentives in the Tax Code. I think that is unfortunate. I wish our transition rules were longer than they are to allow them to transition out of it. But the reality is that the American people will gain from this bill because it will generate more incentives for economic growth. Our investment will go not into areas to avoid taxation, but into areas to create jobs and economic growth.

I am sure the Senator from Maine is very sincere, but the Mitchell amendment is the same old siren song: Let us take something away from one group and give it to another group. Let us redistribute wealth. I submit, Mr. President, that that program is a proven failure. I submit that this bill—the Packwood bill, the Long bill—is an effort to create wealth, not to redistribute it. We want to create more wealth. We want to make the pie bigger rather than debate about how we are going to cut it up. We have spent too much time in this country debating how we are going to slice the pie. I think one of the lessons of the past few years, one of the lessons of the tax cut, is that when we focus on trying to make the pie bigger, everybody gets more pie.

I think we have a fair proposal before us. I think the Mitchell amendment is a move back to a failed policy, to a repudiated policy of redistributing wealth.

I urge my colleagues to stay with the Packwood bill, to vote this amendment down, and let us create wealth and jobs and economic growth so that people pay more taxes because they earn more income. Let us not slow eco-

nomic growth and prevent citizens from having higher incomes so they can pay more taxes. The choice is growth or income redistribution—that is what this amendment is about.

Since our whole purpose in tax reform is to make the tax system fairer and more efficient in terms of creating economic growth, I urge my colleagues to vote "nay" on this amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I shall restrict my remarks to that feature of the amendment of the Senator from Maine [Mr. MITCHELL] that restores the differential between capital gains and ordinary income. I think it is important to remember that that differential between capital gains and ordinary income was eliminated in the committee bill.

Let us briefly review the bidding. The committee bill was truly revolutionary in that it eliminated practically all shelters—those devices whereby taxpayers receive special deductions that caused certain portions of their income not to be taxed. Further, the committee bill reduced the number of tax brackets from the current 14 to 2—15 percent and 27 percent; that is all. Six million taxpayers would be eliminated from the tax rolls; 80 percent would be paying at 15 percent. The personal exemption for lower- and middle-income taxpayers would be $2,000. Finally, and most significantly, the difference in the treatment between capital gains and ordinary income would be eliminated.

The committee bill thus achieves all three goals we sought when we embarked on tax reform: Simplicity, fairness, and economic efficiency.

What do we mean by economic efficiency? We mean by economic efficiency that individuals and corporations will spend their money for what they believe are the most productive purposes—not enticed by some tax reasoning that lures them into investments that make little sense except for the tax savings incurred thereby and the sheltering of some income.

□ 1400

I believe it is important to know that the committee bill is a total departure from the past so-called tax reform measures—and we have seen a host of them come through here in the past 10 or 15 years—which tinkered with the Internal Revenue Code. They canceled this deduction and that deduction and they added this incentive and subtracted that incentive, and they adjusted this rate up and that rate down, and they juggled the capital gains rate and they changed the amount of the individual exemption. That is what the House bill does. The House bill does this tinkering. The House bill retains capital gains. The House bill has four brackets: 15 percent, 25 percent, 35 percent, and 38 percent for individuals. The House bill does not deal with the most egregious shelters. The House bill is tax revision, not tax reform, and that is exactly what the Mitchell amendment does. It is tax revision, not tax reform. The amendment of the Senator from Maine increases the number of brackets by adding a third at 35 percent.

The Senator from Maine spends a good deal of time discussing the fact that some of the very rich will receive a tax cut of $53,000, and that is true. Some few will receive such a cut because they are currently paying at the top rate and thus they are paying a great deal of taxes. Indeed, to receive a tax cut of $53,000 under the committee bill, the taxpayer would have to be currently paying $1,127,000 in taxes, assuming the 4.7-percent average cut for those over $200,000.

Furthermore, if the rich are receiving 10 percent of the total tax cut, as has been stated on the floor, then I think the proponents of this amendment should at least acknowledge that the group that is receiving 16 percent of the total tax cut is currently paying 22 percent of all taxes. The important point I wish to make is that under current law, because of the shelters and because of capital gains, 67 percent of the rich—60 percent of those are now paying less than 20 percent of their income in taxes. In other words, although the top rate is 50 percent, they are not paying it. Sixty-seven percent are paying less than 30 percent of their income in taxes, and 43 percent of the very rich—43 percent of all those with incomes over $200,000—are paying less than 20 percent of their income in taxes. Between shelters and capital gains, they avoid taxes and they cruise along very happily at rates far below the maximum, which is 50 percent.

Now, the committee amendment eliminates all that. But by restoring the differential between capital gains and ordinary income, the Senator from Maine is leading us into that old quagmire from which we are trying to extricate ourselves. Much of the artful dodging that now takes place under our code will once again be encouraged. Deal after deal will be structured to be a capital gain. The 25-percent bracket will be reserved for those who are ignorant of the bonanza labeled "capital gain."

Now, one final point. Our Nation has, over the history since the Internal Revenue Code came into effect in 1913, been blessed with a population that traditionally has paid its taxes. Now, it is no secret that compliance with the Internal Revenue Code has been slipping to a discouraging and alarming degree during the past 10 or 15 years.

Now, why is this so? Why have taxpayers no longer been paying with a high compliance rate, obeying the law, filing their taxes properly, the way they used to? There are two reasons, I believe. First is the intense irritation by taxpayers against a code that permits some people to pay very little or no tax while the ordinary citizen, usually because of withholding on his or her wages, must pay his or her fair share. So that is the first reason compliance has failed, because of these shelters, because of capital gains out there which permit the rich not to pay to the extent they ought to be paying.

Now, the second factor that has caused slippage in compliance is that the IRS agents are able now to audit less than 2 percent of all returns. Now, why is this so? Why are so few returns being audited? So few returns are being audited because the agent's time is consumed to a considerable extent in trying to determine whether a transaction by these wealthy taxpayers is a capital gain or is ordinary income. It is estimated by Treasury officials that 20 to 30 percent of the time of the IRS agents is devoted to this complex task of trying to figure out whether the taxpayer has capital gain or has ordinary income. Thus, the fact that, in the committee bill, we have eliminated the differential between ordinary income and capital gains means the IRs agents' time will be freed up so therefore they can devote it to auditing more of the tax returns that are now filed.

There is no question, when there is an increased percentage of audits, there is going to be greater compliance. I think it is a fact that if most taxpayers realize they are going to be audited or might be audited, it certainly increases the chances for compliance.

Now, the Mitchell amendment retreats from all this by restoring the capital gains differential because the amendment of the Senator from Maine provides all the manipulations inherent with capital gains including providing another form of shelter for the rich. That is what capital gains are. I do hope that this amendment is defeated.

The PRESIDING OFFICER. Is there any other Senator seeking recognition?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am rising to join my colleague, the Senator from Maine, and to speak in support of his amendment. Before I do that, Mr. President, I should like to share some thoughts perhaps with my colleagues because I have not yet done so with respect to this tax bill.

I would like to join many of my colleagues in offering congratulations to the Finance Committee, to the leadership of that committee, to Senator PACKWOOD and our own distinguished senior Senator from Louisiana and former chairman, for having accomplished something remarkable in bringing this tax bill not only as far as it is today but bringing it to the floor at all.

What the Finance Committee succeeded in doing was rising above a lot of traditional currents and trends that move through this institution and took a long view of tax reform and, in doing so, did justice to the process of the Senate as well I think as give life to the hopes of a lot of people who for a long time have been working for a fairer tax structure. As a result of their leadership, we are only now nearing a very historic moment and we are today debating and able to debate a very worthy and important and genuine tax reform bill.

□ 1410

We know what this bill does. It lowers the burden of income taxes on all Americans. As many have said, it removes 6 million working poor from those rolls.

The bill imposes an inescapable minimum tax, to make sure that no profitable corporation or individual with an economic income will escape taxation. It is a bill that I think we all believe will reduce the distortions on our Tax Code, on our economy, by closing loopholes and putting an end to the proliferation of tax shelters and the unproductive investment.

I am pleased with that, as many of my colleagues are, and it has created its own momentum. But I think the measure before the Senate is also significant because it includes provisions that will increase tax enforcement itself and reduce the opportunity for people to be able to cheat and not pay by raising the penalties for tax fraud and improving the information sharing between States and with the Federal Government, as well as institute a public awareness campaign and voluntary disclosure program which will increase tax compliance.

This is not a part of the bill that has received a lot of attention, but I think it is a part of the bill that deserves great attention, because it is a critical part, by reinstituting a notion of fairness in our system and giving people a belief that all share equally in the burden.

Last year, during the debate, I had the privilege of working with the chairman on an amendment that I hope helped to bring about an awareness of the notion of tax compliance. I think the experience in the State of Massachusetts has helped to prove that it does make a difference.

So, by lowering rates, closing loopholes, imposing a stiff minimum tax, and improving the enforcement of tax laws, this bill lays a new foundation for Americans to have faith in a system in which they have lost faith and to feel better about Government.

It is a simple fact that for most Americans, the most direct and personal way in which they deal with the Federal Government is the payment of taxes on April 15. I think most of them would be willing to give their fair share, in the spirit of Oliver Wendell Holmes, who said, "Taxes are the price we pay for civilized society."

However, our income tax system has become so replete with problems that many Americans have come to identify more closely with the old nostrum that an honest man is one without an opportunity to steal. I think our people and our Nation and all of us deserve better, and I think we are receiving better with respect to this bill.

A final comment on this bill, before I talk about the amendment: I think that just as important as what this bill does is what it does not do. It does not impose new taxes on the employee benefits earned by millions of middle-class American workers. It does not eliminate the deductibility of State local income and proper taxes. It does not eliminate the deduction for home mortgage interest. It does not eliminate the research and development tax credit. It does not wipe out the ability of public agencies of State and local government to issue tax-exempt debt. Even in the more controversial area of IRA's, the bill preserves full deductibility for all Americans—approximately half of all households and the majority of low-income households—who are not covered by pension plan.

So I think that to many observers, perhaps the most remarkable aspect of this bill is the extent to which it preserves legitimate and meritorious and popular, commonly used deductions, while at the same time dramatically lowering tax rates.

Mr. President, that is why I say this bill is an excellent bill. But I have agonized for a long time over the issue of the Mitchell amendment, and I have come to the conclusion that, while this bill indeed is an excellent bill, there is one aspect about it that, if changed, would make it perhaps even better and even more in the tradition of fairness, fundamental fairness, as well, even of simplicity, which everyone has said is at the center of this effort.

Let me say also that I have no illusions about the possibilities and difficulties that this amendment faces. So I recognize that the vote I am making is perhaps a message vote, but I want to send a particular message, and that is why I have chosen to support the Mitchell amendment.

I heard the Senator from Texas a few moments ago say that this represents the old and now discarded notion about redistributing rather than creating wealth. He says that somehow this bill is going to create a new rate which is not going to permit us to create wealth but, rather, simply redistribute it.

I think the issue in this bill and the issue we have been debating now for 2 weeks, whether in committee or on the floor or in private, is what is the nature of fairness. How do you effect fairness in the tax bill, and how do you simultaneously create wealth?

It is interesting to note that this ibll does not create a new third rate. In fact, you could call this a truth-in-advertising amendment, because what it really does is reduce the fourth rate of the current bill to a legitimate, openly understood, openly exposed third rate; and Americans should make no mistake about the fact that the Finance Committee bill which we are debating does not have simply two rates. It is not simply 15 percent and 27 percent. It is 15 and 27 and 32 and 32.4; and if you are lucky enough to have earnings over $200,000 or more, it drops back down to 27 percent, and you are totally outside the area of the reduced deductions.

Moreover, the issue is, How do you create wealth in a fair manner? The amendment offered by Senator MITCHELL is not a redistribution amendment in the purest sense. It is an effort in the same way as the original proposal of the President, as the original proposal of Senator BRADLEY in the fair tax plan. It is the same concept of how you create wealth. Unlike the hidden third rate in the committee bill, it does so without vanishing mysteriously after the $150,000 level of annual income.

I also heard the Senator from Texas say that this is the same old siren song: You take away from one group and give to another, and that is a critical point that is significant enough to be justification not to support the Mitchell bill.

Well, every person who supports this bill is supporting the theory of taking away from one group and giving to another. When the Senator from Texas votes for this bill, he will be voting to take about $100 billion from the current tax burden of individuals and place that tax burden on the corporations. That is a redistribution. That is a transfer, and it is revenue neutral within the context of past tax experience.

So is the Mitchell amendment revenue neutral. In fact, it has the effect of putting more money into the hands of the middle class in order to spur consumption to a greater degree than it would under the original Finance Committee version.

Without the changes by this amendment we will have altered the fundamental American principle based on the traditional value that taxation ought to be somewhat progressive and somewhat based on ability to pay. Without the changes by this amendment, the Tax Reform Act we are debating will refute—in the case of many taxpayers, in fact, it will reverse—that long-standing principle of progressivity. For the first time, our Tax Code will contain a provision which reduces the tax rate as income goes up.

□ 1420

Under the Finance Committee bill a firefighter or a nurse or a police officer would pay at the same rate of tax as an enormously wealthy Wall Street arbitrager and a two-income family with a taxable income of over $52,000 incredibily would pay even more.

This is simply unfair. I think it is contrary to a fundamental notion of fairness as well as simplicity that is at the center of this effort which we have all been making. In short, the Mitchell amendment replaces the hidden and the aribitrary top rate in the committee bill with a consistent openly honestly applied 35-percent rate, and a 35-percent rate, and I hope people take note of this, is not a resurgence of the old you've-got-to-soak-the-rich or hit the rich in an effort to redistribute.

It is the very same top rate proposed by President Reagan in his original bill. It is the very same top rate proposed by one of the principal advocates of tax reform in the Senate, the Senator from New Jersey, in his fair tax plan, which coincidentally for the 2 years or longer that he has been struggling to get tax reform on the floor, has been a three-rate concept, with a top rate of 35 percent.

While the committee bill slightly reduces taxes paid by middle-class Americans, it also dramatically reduces the taxes paid at the upper level. Under the Finance Committee proposal, more than 300,000 households earning over $200,000 will enjoy a tax cut at the average of $52,000 that we have been hearing in the course of this debate.

It seem to me on averge, when considering the effects of both Social Security and income taxes, that the over-$200,000-a-year households average tax cut of about 4.7 percent, and that exceed the average tax cut of any family between the $30,000 and $200,000 range, not in amount of money, not in that false measurement because people have more money and you suddenly reduce their taxes so they get a bigger whack and it looks easy to be able to whack them, but in percentage there is a differential.

The question has to be asked how in the name of fairness, how in the name of reform can we tell a whole group of middle Americans, "Sorry, folks, you are actually going to have an increase in some of your taxes" while at the same time we are saying it is OK to have a $53,000 cut instead of just giving a $35,000 cut? How is it when you consider where tax rates were just a very few years ago, 70 percent and higher, and we came down to 50 percent, that we can suddenly complain that 35 percent which is a 15-percent reduction from the current 50 percent maximum is too much to ask people at this higher level to be paying?

This is not a sock-the-rich. This is President Reagan's plan. This is a plan that is geared to the effort to try to guarantee that there really is fairness, that we are not asking middle Americans to once again bear that burden.

Finally, with respect to this amendment, I suggest that for those middle Americans, if you vote for the Mitchell amendment you are able to return to most of them 100 percent more tax savings than they get under the current Finance Committee bill, 100 percent more in tax savings.

What is the price of that? The price of that is saying to some people who have not sheltered their income at the upper level and earn more than $200,000 that they will have a tax cut of $35,000 approximately, instead of some $52,000 or $53,000.

I think that that is particularly critical in view of the Joint Tax Committee letter to Senator LEVIN and their caveat about accuracy notwithstanding, which showed that a million middle-income Americans may experience a tax increase. One out of every three median income taxpayers in my State could experience a tax increase according to these statistics.

That, Mr. President, is why I feel compelled to vote for the Mitchell amendment, notwithstanding a very serious misgiving, and I want to state that misgiving. I share with the members of the Finance Committee and I share with my colleague from Massachusetts, who sends a similar message I think in a different way, a concern about the capital gains exclusion. We sat on the Small Business Committee recently and listened to testimony from entrepreneurs and venture capitalists and many others all of whom pointed to the Stagger amendment experience and to the significance increase in capital investment over the years.

I believe, as I think many people have come to believe, that the broad-based capital exclusion that we have had over the past years is outworn, that there is no way to justify the 6 months in many cases or even the scope of its exclusion, mining, timber, real estate, other kinds of entrepreneurial activities which are not part of the job creating venture capital base that we are really talking about in terms of capital formation and job creation.

So, Mr. President, I understand, sympathize, and recognize that this committee wants to go to the conference with a bill that clearly makes a Senate statement about capital gains. I join with that Senate statement with respect to capital gains and have a reservation about the notion that an 8-percent differential will maintain something of that exclusion at least in its old form but at the same time, Mr. President, I believe this country has a vital need to have some kind of differential with respect to legitimate business creation, job creation. I hope that the Senate, or in conference it will be possible to fashion that kind of solution and to create the ability to be able to have a true differential for real job creation that will not throw the system into the same old sheltered context which we are trying to move away from.

So my message regarding the Mitchell amendment is that in the name of fairness, in the name of not hitting the middle class and asking them to bear an unfair burden, in the name of the progressive principle that I think we have all adhered to for a long time, I intend to vote for that amendment and urge colleagues to join with me in doing so.

Thank you, Mr. President.

Mr. BUMPERS. Mr. President, first of all, under the able leadership of the Senator from Oregon, the Finance Committee has done for the most part an excellent job of bringing to this body genuine tax reform, and I applaud its effort. The committee and its chairman have my sincere gratitude and I believe the gratitude of the Nation.

Second, I have deliberated at length on the Mitchell amendment. I want to say, first of all, I intend to vote for the bill whether the Mitchell amendment passes or not. I know what the votes are around here. The Mitchell amendment probably is not going to pass.

But I also feel very strongly that we are going to vote on a bill very close to the Mitchell amendment when the conference committee comes back here with the final bill. I will be very much surprised if this bill comes back with only two tax rates in it. I will be surprised if some other things have not been changed in the bill and some of the changes that I would anticipate that will be made in conference are very much along the lines of the Mitchell amendment.

I hear people say that you ought to vote for this bill as it is because the people who do not get quite as much out of the bill are not the ones who pay attention, that the guy out there who has been talked about so much here, who makes between $20,000 and $40,000 a year, does not really care

what anybody else gets from the bill. If seven-tenths of 1 percent of the people of this country are going to get over 16 percent of the benefits of this tax bill, they say the people making under $40,000 a year really do not care. That may be true.

Most people I know in this country making $40,000 a year are too busy trying to keep body and soul together to worry about the complexity of this tax bill. They will take whatever they get and be happy and be pleased if they come out ahead.

But I never will forget my departing address to the Arkansas Legislature the day I left the Governor's office in my State. I told the legislature:

> Do not forget the millions of people in this State who do not have anybody out in those hallways lobbying for them. You are the only lobbyists they have and they depend on you to do what is right and fair and equitable. They do not ask for any special privileges but they hope that you will protect them against discrimination and unfairness and give them a fighting chance maybe to someday join the wealthy.

So it is here today.

I have concluded that the people who the Mitchell amendment would help are not out in the reception room off the Senate floor or the hallways of this Capitol Building.

□ 1430

The people of Arkansas elected me in 1974 and 1980. And my guess is, if you were to ask them why they elected me and you, it was because they were depending on you and me to do what was right for them.

You can defeat this amendment, as some people say we should defeat all amendments. I must say I have never understood the logic of plopping a 1,497-page bill on my desk and saying, "no amendments." I know that a lot of the members of the committee who did not know all of what was in this 1,497-page bill, and I can assure you the other 80 Members of this body did not know.

But, in any event, the bill does some things that ought to be done. It takes 6 million people from the lower income rungs off of the tax rolls totally. This is a big step in the right direction. The bill closes those loopholes that cause economic decisions to be made not on the basis of whether something should be done or not be done because it has economic value, but because you can save some tax dollars.

The bill does, however, create some rather perverse and interesting, and I think unintended, results. For example, when you eliminate the deductibility of consumer interest expense, as this bill does, you are saying to people who have a home with enough equity in it that they can float a second mortgage: "No, you cannot go buy that $20,000 automobile on time any more and deduct the interest costs on your tax return. But if you want to go put a second mortgage on your home for $20,000 and pay cash for the car and then deduct the interest on that second mortgage, that is fine."

Now that is fine for homeowners who can float a second mortgage. It is not so good for people who do not have that much equity in their home and it is not so good for people who rent and do not even own a home. This seems rather perverse to me.

I might also say, I did not vote for the 1981 "supply-side" tax bill. Eleven Senators stood on the floor of the Senate and said, "If you pass this tax bill, you are going to create staggering budget deficits." Eighty-nine Senators voted aye and we created staggering deficits. And I did not vote for that bill because about 37 percent of the benefits of that tax bill went to the wealthiest 4 percent of the people in the country. The same people that the Mitchell amendment is trying to help today were being treated the same way then; they aren't getting their fair share of the tax cuts under either bill.

So I voted no in 1981. I have not read David Stockman's recent book because I knew he was lying at the time about the potential deficits, and I took an awful lot of heat for saying it. This time I will vote for the bill because it will not create deficits and it is much fairer to the poor.

But, this amendment addresses what I think is the most significant problem with this tax bill. In order to understand what the Mitchell amendment does, you should go back to the 1981 tax bill and see what happened then to the wealthy taxpayer and see whether or not you want to compound the same problem in this bill.

We have been moving away from a progressive tax system in this country for many years now. In 1981, that tax bill said if you make $100,000 a year—and that included 1.9 percent of all taxpayers of the country—you got a yearly tax cut of $5,822. And if you made $10,000 a year—which was just about $3,000 less than the median family income in my State at that time, maybe a little more, if you made $10,000 a year or less, that represented 32 percent, or a 16 times greater number, of taxpayers in the country—you got an $83 tax cut for the year.

Mr. President, a Congressional Research Service study of 1981 reached an even more troubling conclusion. It found that the tax cuts for the very wealthy were even more out of proportion. It found that joint filers earning more that $100,000 a year got a tax cut in 1981 of $3,678, while joint filers earning $10,000 got a tax increase.

Let me repeat that for emphasis. If you made $100,000 a year in 1981 under that tax bill, you got a yearly tax cut of $3,678. But if you made $10,000 a year, you got a tax increase for the year of $67.

Do my colleagues know that? Do my colleagues care?

And the study found that joint filers with income of $15,000 got a tax cut of $62. The study found that joint filers earning $150,000 a year got a tax cut of $6,229. Joint filers making $500,000 a year got $25,000 per year in tax cut.

Do you know what that translates into? That means that under the tax bill in 1981 the taxpayer making $500,000 a year got a tax cut 411 times greater—411 times greater—than the tax cut for poor stiff making $15,000 a year.

It ought to be obvious that when you cut taxes by percentages, when you talk about percentages, you must bear in mind that a 3-percent tax cut for somebody making $200,000 a year is $6,000, and 3-percent tax cut for somebody making $10,000 a year is $300.

In 1985, the House Budget Committee found that the net effect of changes in the tax law since 1981 are largely responsible for the fact that between 1981 and 1983 there was a 1.4-percent increase in the share of after-tax income received by the top one-fifth of all the income earners in America and there was a decline in the after-tax income for all the four lower fifths of income distribution. I knew the 1981 tax cut would have that effect and that is one of the reason I voted against it.

Since the 1981 tax bill, we have done something that we have not done before in the history of this country. We have required people who are living on incomes below the poverty level to pay taxes.

In 1984, for example, the official poverty level was $10,612. But people earning as little as $8,785 had to pay taxes. As a matter of fact, they had to pay taxes on 17.2 percent of their income.

Now, in this bill we are giving people who earn over $200,000 a year a tax cut of almost $6,000 a year and we are cutting the taxes of the person making $10,000 a year by $43 a year.

□ 1440

If you want to translate that into a little more dramatic figure, that means that the person making $200,000 a year is getting a tax cut that is 137 times as great as the tax cut for the person making $10,000 a year. And I ask you, who do you think needs a tax cut more?

Mr. President, statistics are pretty boring. I guess if you feel strongly about an issue, statistics come alive a little more. But as I reviewed those statistics, I know full well that the Mitchell amendment is going to be defeated. I suppose we can say it is very easy to vote against it and forget it, and when the bill comes back from conference you can say, "Well, the

conference is going to fix it up." I hear that privately up and down the corridors. "Don't worry about it. Vote against all amendments and they will fix it up in conference."

We could have passed this tax bill the first day and just said "Take it to conference." I will not, however, abdicate my responsibilities to address inequities or other wrongs in this tax bill. I don't want to depend on that conference committee to do 'right' "—as we say in Arkansas. But the temptation to let the conference help the middle-class is well nigh irreversible.

When you look at the cold figures, you realize what has been happening to the tax policy in this country since 1981, and you look at the fairness of these changes.

There is not one single fair-minded person in America who could argue with the fairness of the Mitchell amendment. You can argue that we ought not to tinker with this bill and we ought to let it go to conference.

You can make all of those kinds of arguments but you cannot argue that the key element of tax reform is fairness. You cannot argue that the Mitchell amendment does not bring a quality of fairness to this bill that is now absent.

So, Mr. President, I have been on the losing side a lot of times. And I will cast my lot for the losing side today because I believe that it is infinitely fair to do it.

I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I made a lengthy opening statement, and I have no intention or desire to prolong this debate. So I will not repeat all, or even much, of what I said in the opening statement. I do want to respond to some of the comments made by the chairman of the committee, and the other opponents of my amendment, because I believe some of the statements made require a response.

The first point I want to make is that my bill does not raise tax rates. In his remarks, the chairman of the Finance Committee used the phrase, "Raise the rates on the rich, sock it to the rich, if you raise the rates so high we will then give into exemptions."

I emphasize the obvious. My amendment will lower the top tax rate from 50 percent to 35 percent. If my amendment is adopted the top tax rate in this country will be about one-third of what it was a few decades ago. It will be one-half of what it was 5 years ago. And it will be about one-third lower than the current top rate.

So my amendment does not raise any tax rates. It lowers the tax rates. And as for socking it to the rich, under my amendment those persons who earn over $200,000 a year who have not extensively sheltered their income from taxes in the past will get a tax cut on average of $35,000 apiece. That is a tax cut of $35,000 apiece.

So I emphasize, I am for reducing tax rates, and my amendment would significantly reduce tax rates below current law.

In his response, the chairman pointed out accurately that the top 1½ percent of taxpayers now pay just over 20 percent of all income taxes. That is true. But it does not justify the provisions in the committee bill. And it results from the fact that the percentage of national income being received by the highest income groups is rising rapidly, and is now at an all-time high.

A recent analysis by the Joint Economic Committee using Census Bureau data found that from 1979 to 1984, average family income for the poorest one-fifth of the American families declined by 24 percent after adjustment for inflation.

The same study found that in 1984 the bottom 40 percent of all American families by income class received 16 percent of national income. The bottom 40 percent of Americans by income class received 16 percent of national income, the smallest share for that group since the Census Bureau began collecting such information.

In contrast, in that same year of 1984, the top 20 percent of the population received 43 percent of national income, the highest amount for that group since the Census Bureau began collecting such information.

So we have a dramatic and continuing trend in our society in which the share of income received by those at the bottom declines while the share of income received by those at the top increases, and is now at an all-time high. And the gap between the higher and lower income groups has increased on an after-tax basis which is, of course, the most significant measure.

In the decades of the 1980's, in this decade, all income groups in America except the top one-fifth had less after-tax income than they did in 1981 when this decade began.

The top one-fifth increased their after-tax income in this decade in the 1980's. Every other group of American families, 80 percent of them, have seen their after-tax income decline in the 1980's. That, of course, counts for, and explains the proportion of tax paid by the respective groups.

Mr. President, a lot has been said here about me and my amendment. The chairman of the committee called it a Trojan horse, a front for special interest groups. He is apparently more aware of groups supporting my amendment than I am.

□ 1450

I have a list of 600 groups which he has assembled to oppose my amendment.

I have a list of those who support it and it is a blank page.

In terms of interest groups, I do not think there is any comparison.

The Senator from Texas said my amendment is the same old siren song. It is redistributing the wealth.

The Senator from Rhode Island said that my amendment leads us into a quagmire and represents the same old failed policies.

Well, I would like to ask them when just a few months ago President Reagan proposed the same thing that I am now offering as an amendment, did the chairman of the Finance Committee get up and accuse President Reagan of presenting a Trojan horse?

Did the chairman of the Finance Committee accuse President Reagan of being a front for special interest groups?

Did the Senator from Texas accuse President Reagan of singing the same old siren song?

Did the Senator from Texas accuse President Reagan of wanting to redistribute the wealth?

Did the Senator from Rhode Island accuse Senator Reagan of leading us unto a quagmire?

Did the Senator from Rhode Island accuse President Reagan of proposing the same old failed policies?

How is it, I ask my colleagues, that when President Reagan just a few months ago proposed just what I am now proposing they stood and praised him, and they told the Senate and the American people what a great thing the Prsident was offering? Indeed, the Senator from Texas today made the almost identical statement as that which the President made when he made his proposal.

Now, just a few months later, when I come before the Senate and I offer to the Senate exactly what the President had proposed, a three-rate schedule with a top rate of 35 percent, it is no longer good for America; it no longer will promote economic development; it no longer will increase benefits. Now all of a sudden the very same proposal is a Trojan horse, a front for special interest groups, the same old siren song, redistributing the wealth, leading us into a quagmire, the same old failed policies.

Mr. LONG. Will the Senator yield for a question?

Mr. MITCHELL. Yes.

Mr. LONG. But President Reagan's plan was not going anywhere. To get the bill through the House, President Reagan had to promise to veto the

bill. So it got over here and we looked at President Reagan's plan and the committee staff talking to the assistants to Senators on the committee where hearing from the legislative assistants speaking for their Senators on the Finance Committee, saying, "You just do not understand. Our bosses do not want this 35-percent rate badly enough to knock out the capital gains. They do not want it badly enough to do what you are proposing to do to the realtors. They do not want it badly enough to take off these deductions."

Then when the chairman of the committee said, "One of the committees supported that part," someone else said, "How about the 27-percent rate? Does that have enough appeal to you to be willing to knock out these deductions?"

At that point, they said, "Wait a minute, that sounds interesting."

That is how the committee was sold, 20 members.

At that point, the Senator from Maine seemed to like the idea, saying "If you are willing to give us the 27-percent rate, at that rate, I think maybe we would be willing to knock out capital gains," which we did.

So it is not true that President Reagan's plan, dealing with the reputation of the Great Communicator behind it, was adrift, it was not only adrift, but it was on the beach and stranded. It was only when the President came up with the 27-percent proposal that people said, "Wait a minute. We might be able to give up the deductions if you are talking about the 27-percent rate."

Does the Senator have any doubt where President Reagan stands today, whether he is endorsing the position of the chairman of the committee for the 27-percent rate supported by the majority, or the 35-percent rate?

Mr. MITCHELL. No, I have no doubt about that.

Mr. LONG. If the Senator wants to invoke the name of the Great Communicator, I would like to think he could realize that the Great Communicator is capable of learning something just like the rest of us are.

Mr. MITCHELL. I have a somewhat different recollection of the history as to how this bill got out of the Finance Committee that involved a lot more than just the 27-percent rate. There were amendments affecting certain segments of our economy, which were important to some members. I do not recall them rushing forward to embrace the bill until they were incorporated, and that includes all of us.

I also recall extensive discussion dealing with the 26, 27, 28, and 29, and the 27 was the compromise to achieve several conflicting objectives.

The only point I wanted to make in my remarks was that all of the comments directed to the proposal which I have now made were strangely absent from the persons who now make the comments when President Reagan made the proposal some months ago. It struck me as kind of interesting. Perhaps the Senator does now share my view of that, but I thought it was worth commenting on.

I would like to conclude with a few arguments concerning the 27-percent rate.

In the first place, this bill does not have a 27-percent top rate. It has a 32.4-percent top rate, as I described clearly in my opening remarks. It is a five-rate proposal in which the margin of tax rates is 15, 27, 32, 32.4, and then back to 27 percent.

The fiction of the 27-percent rate was, of course, necessary to be presented in order to gain and retain political support. I commend supporters of the bill for doing that very skillfully.

Now they say nothing can be changed, it is a delicate compromise and it would fall apart.

I believe there is no basis for that argument. I yield to no one in my support of tax reform. I was and I continue to be an earlier and stronger supporter of tax reform than most of the interest groups and the Senators who have now adopted this argument.

It is true that we struggled for weeks in the committee before agreement could be reached on the bill, and the low tax rate was, in fact, an important galvanizing factor.

But this is not the committee. We are on the floor of the Senate to face the future course of our tax system and our Nation. We have had several days of debate and several amendments have offered. It is now clear that the Senate will not substantially deviate from the essential elements of the bill approved by the committee. Tax reform is secure. It will pass the Senate by an overwhelming margin as it should and I will support it.

We are not left with this one major issue before the bill is approved and sent to conference with the House. Will the Senate support this amendment?

If the Senate favors a more equitable distribution of the benefits of tax reform, it will support my amendment.

If the Senate believes the American middle class should share in the benefits of tax reform, it will support my amendment.

If the Senate believes that the wealthiest in America should not disproportionately benefit from this tax bill, it will support my amendment.

This is not a special-interest amendment. It is not contrary to the principle of tax reform. It is a pro tax reform amendment. It will enable us to achieve the real promise of tax reform, which is to provide for a fairer system that levies taxes according to the ability to pay.

There is no basis for the argument that the 27-percent rate in and of itself is essential.

My amendment would impose a 35-percent tax rate on less than 5 percent of all taxpayers and it will provide greater tax relief for 95 percent of Americans who earn less than $75,000 a year.

If anyone believes that an amendment to more than double the tax relief of middle-income Americans by imposing a 35-percent tax rate only on those whose incomes are in the top 5 percent will undermine tax reform, then I do not believe they understand tax reform. Maybe they do not understand the amendment.

It will reduce the after-tax liability of all income groups whose earnings are below $75,000 a year.

It would double the tax cutting to those American families who earn between $30,000 and $40,000.

□ 1500

It is achieved by imposing a 35 percent rate on the highest 5 percent of income.

Before I close, Mr. President, I want to respond to one comment made by the chairman of the Committee on Finance. I do not take issue with most of what he said, but I take very, very strong issue with what he said when he announced that he was going to present to the Senate a hypothesis which he acknowledged he could not prove, but nonetheless, the hypothesis fails. His hypothesis was that this amendment is a scheme to raise taxes on the middle class.

I want to say that I have been involved in this for several years. I offer this amendment out of deep personal conviction and it never occurred to me until the moment he made that statement that an amendment which is designed to reduce tax liability on the middle class, to double tax relief for the middle class, somehow represents an effort to increase taxes on the middle class. There is no basis to that.

This amendment has one objective and one objective only. That is to increase the amount of tax relief that goes to middle-class Americans—to increase the amount of tax relief that goes to middle-class Americans who do not get it under the committee bill. The committee bill helps the poor, it helps the rich; it does little or nothing for the middle class. My amendment is intended to correct that omission.

I will be interested, when the conference report returns and it has a three-rate schedule with a top rate over 30 percent, to see what all of these Senators are going to say about that, those who have opposed my amendment today, those who have argued that "a three-rate schedule with a maximum rate of 35 percent is a Trojan horse," "a front for special interest groups," "leading us into a quagmire," "the same old siren song," and all the other pejorative comments made about it. I

shall watch with interest what those Senators say and how they vote when this comes back from the conference with precisely that.

That is what several Senators have told me, I am sad to say. Numerous Senators have said to me, "We think your amendment makes sense; it is more fair. But we promised not to vote for any amendments, and besides, the conference is going to fix it all up." The mythical, mystical belief that the conference is going to fix it all up and ultimately do what it is that I am proposing to do here today. If anyone believes that to be the case, what sense does it make to vote against this amendment now if you believe, as I do, that when the conference report returns, you will be voting for that support which will include a schedule similar to what I have today proposed?

No one has yet explained that to me. Perhaps someone will before we finally vote.

In conclusion, Mr. President, I want to say again that my amendment reduces tax rates. My amendment gives everybody a tax cut who would get a tax cut under the Finance Committee bill. My amendment has one purpose and one purpose only. That is to make the tax system more fair, more effective, and, most importantly, to provide meaningful tax relief to the millions of Americans in the middle class who will not get it under the Finance Committee bill.

For the 15 million American families who earn between $20,000 and $50,000 a year, whose taxes will go up under the committee bill, I say let us make it so they get a cut like everyone else.

For the many more millions of American families who will get some tax relief under the bill but who will get a very minor amount—on between $30,000 and $40,000, an average of $129—I say let us give them relief that is meaningful.

If the Senate believes in a more fair system, in a more effective system, and most importantly, if the Senate thinks we ought to do something for the middle class in America, then it will support my amendment.

How about the middle class, I repeat? The very wealthy have been able to avoid paying taxes by using the Tax Code. The very poor have been the beneficiaries of Government programs, as they rightly should. The middle class has not had enough income to avoid paying taxes, has had to much income to qualify for the benefits of Government programs.

All the middle class has done is pay the bills—the bills that are not paid by the wealthy, who avoid taxes, and to provide the benefits for the very poor. The middle class of America can look at this bill and say, once again, Congress concerned itself with the very poor; Congress concerned itself with the very rich; Congress did nothing for the middle class.

I say the middle class, for once, finally, in this Government ought to have a fair share of what is occurring. The only way to do that is to adopt my amendment to provide for the middle class the same kind of relief that this tax bill provides to the very wealthy and the very poor.

(Mr. GORTON assumed the chair.)

Mr. SARBANES. Will the Senator yield?

Mr. MITCHELL. Yes, I yield.

Mr. SARBANES. The fact of the matter is that the Members of the U.S. Senate would get a larger percentage cut—I ask the Senator whether this is correct: Will not the Members of the Senate get a larger percentage cut in their income taxes than the middle-class people in the $20,000 to $50,000 range?

Mr. MITCHELL. Generally, yes, Mr. President, that will be true.

Mr. SARBANES. I think that is unfair. I think this bill has many strong provisions in it, but this bill has to be, in effect, redirected in such a way that the benefits that are received by the middle class, which is, after all, in effect the backbone of the economy, are proportionately greater than what is being given to the people at the top end of the income scale.

Sixteen percent of the benefits in this bill go to one-half of 1 percent of the taxpayers. The people at the top are getting a 10.5-percent cut, those who have not been using tax shelters. They are getting a 10.5-percent cut—percentage, now—in their income taxes. The people in the $30,000 to $40,000 range are getting about half of that, a 5.9-percent cut in their income tax.

The amendment of the very able Senator from Maine would correct that situation. The people at the top would still get a tax cut, those who have not been taking advantage of shelters.

They would still get a reduction in their taxes but under his amendment, it would run at about 3.5 percent, and the people in the $30,000 to $40,000 range would get a reduction of about 11 percent.

I think it makes far more sense, is more equitable, is better tax policy, is more sensible than middle-class people—people in the $30,000 to $40,000 range—should get a better percentage cut in their taxes than the people at the very top of the income scale. I cannot for the life of me see the justification for providing a greater benefit—a greater benefit—under the bill to the very wealthy than we provide to those who are really the backbone of the economy. That is the middle class.

Mr. President, I very strongly commend the Senator from Maine for offering this amendment and for presenting most cogent and forceful arguments on its behalf.

I thank the Senator for yielding.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

□ 1510

Mr. DOLE. Mr. President, I would hope we could dispose of this amendment. We have been on it now over 4 hours and I do not quarrel with those who feel strongly about the amendment. I feel strongly about the bill. Many of us would like to get to voting on the bill.

We had five votes yesterday. I think the first vote was about 4 o'clock. The day before we had one vote. Last Friday we had two votes. We have been proceeding at a snail's pace on this legislation. We have a whole lot of other things to do before June 27. We have attempted to be very generous in our recess schedule, but in order to accommodate everybody's recess schedules, we are going to have to do something else yet this week.

We have a supplemental that must be done. I am advised that we should do the housing bill; a lot of people cannot close their loans, and there are two or three other items which, I am told by the committee chairmen involved, have some time-sensitive problem. So, I would hope that we could conclude debate on this amendment. It seems like 4 hours and 20 or 30 minutes should be adequate. I hope the amendment is defeated or tabled.

I listened very carefully. I have the greatest respect for the Senator from Maine [Mr. MITCHELL]. I know he is sincere in his efforts, but I also believe in what Senator PACKWOOD had to say, and that is I do not care what may have been presented earlier. I think the Senator from Louisiana was right. The bill that was presented earlier was not going anywhere. Senator PACKWOOD and others came up with one that has three rates—a corporate rate and two individual rates. That has been the magic which held this bill together in the Finance Committee, where the vote was 20 to 0 and where I think the vote on the floor, if we could get to it, will be unanimous, I hope, or nearly unanimous. So, it just seems to me that we need to move on.

TOP TAX RATE

Mr. President, even when we all agree on the need for much lower income tax rates, there is less than perfect agreement on where the top rate should end up. But one thing is clear—the "magic" in the Finance Committee bill lies in the exceptionally low tax rates it achieves: The so-called 15-27-33 combination. If we are serious about moving this historic bill, we ought to think long and hard before tampering with its low-rate structure.

Now, some may say there is nothing sacrosanct about a top tax rate of 27 percent for individuals. But that rate stood the test of fire in the Finance Committee and proved to be a winner. Getting the maximum rate below 30 percent, and closer to 25 percent than to 30 percent, proved the key to winning Member support for eliminating the wide array of deductions and special preferences that had to be tackled in order to have a serious tax reform bill. Without these low rates—and I think Chairman PACKWOOD would agree—tax reform would not have had the stunning success it had in the Finance committee.

WHY TAX REFORM WORKS

Mr. President, the process of legislating tax reform has always been a delicate one, because we had to link the traditional, loopholes-closing tax reform movement with the new drive for low, low tax rates to improve economic efficiency. I do not need to remind my colleagues of how many times tax reform has been declared dead and buried over the past year. Each time, whether in the House or the Senate, tax reform came back to life. But there were many close calls—and some extraordinary measures had to be taken to keep the patient alive.

But now tax reform is, as I have said, on a roll—it has extraordinary momentum behind it. Why is that? In my view it is the very low tax rates that Chairman PACKWOOD has produced in his bill. The payoff from these radical rate reductions is so attractive to so many people, that special breaks, privileges, or preferences just doesn't seem so important any more. Raise the rates, and you have to start fighting off the dogs and cats all over again. We've got a great thing going here: Let us not throw it away for the sake of a symbolic gesture toward the outmoded ideology of high tax rates.

Mr. President, some Members contend that higher tax rates are the only way to tax the well-to-do. But that argument already has been proven wrong. Chairman PACKWOOD has made the point time and time again in this debate—high tax rates are an illusion because everyone with any skill at financial planning finds a way to avoid them. And the means they use are legal: We have given them the tools, by chipping away at the tax base in order to promote social and economic policies of one kind or another.

Now, we are continuing a process begun in 1982: A process of removing the many special tax breaks, exemptions, and preferences the wealthy use to avoid paying their fair share of tax—and to avoid the high tax rates that, as I say, are set in the law but do not really bite the way they're supposed to. It is time for the ideologues who support high tax rates to realize that their own goals are better advanced by ending special privileges and cutting rates. In my view, lower tax rates make for a fairer, more progressive tax system. Many others agree. In discussing the effects of the 1981 tax cut, Dr. Martin Feldstein cites a study by Lawrence Lindsay of the National Bureau of Economic Research. Feldstein interprets that study to mean that "only among taxpayers whose initial marginal tax rates exceeded 50 percent was there evidence that the rate reduction did not reduce Federal revenue at all." In layman's language, that means there is strong evidence that the tax cuts did pay for themselves in the top-income levels. Upper-income taxpayers paid at least as much in taxes after rates were reduced, as they did with higher rates and plenty of opportunities to shelter income.

This bill cuts taxes for the average working man and woman. It is progressive. It takes 6½ million low-income taxpayers off the tax rolls. And it does all of this while driving tax rates lower than they have been in many, many years. That is the kind of success we should not tamper with.

Mr. President, I have advised the Sergeant at Arms to make the cots available sometime after dark so that people can rest during the night. But we are going to try to finish this bill and not be on it again after this session ends sometime tonight or tomorrow. Otherwise, it seems to me we will be here until the middle or latter part of next week.

I can already hear those clamoring to get out a day early next week: "Why not leave on Thursday or Wednesday instead of Friday," which is always nice to do. But I would suggest to those who may have that in mind, please help us speed up the process. Yesterday I said this is like watching grass grow. Today I think it is like watching paint dry. Tomorrow I will have something else, if we are still here tomorrow.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I hope with my remarks I can help make the grass grow a little more quickly. I want to be very brief and heed the remarks of the majority leader so we may press on to a vote on this amendment and move toward that hour at which we could have final passage of this very important piece of legislation.

I have listened to my good friend and colleague from Maine, who makes a very effective case. I think all of us recognize him as one of the most thoughtful Members of the U.S. Senate. He is certainly one of the most articulate.

By bringing this amendment, forward, he has contributed a great deal to the debate of the tax bill, to the public understanding of tax policy. I share a concern that he has, that we make certain, when the final product that emerges from the conference committee is presented, we treat fairly those middle-income Americans who have borne the brunt of paying the cost of Government year-in-and-year-out, who have paid the highest rate and yet who have received the fewest benefits, have had the fewest provisions that enable them to shelter their income.

I hope the bill will treat them fairly. I think there are some problems in the draft now before us in that regard. The Senator from Maine has done us all a service in pointing out the problems as they exist.

Mr. President, I have done a lot of thinking about this amendment. I have tried to view it with an absolutely open mind. I must say, regrettably, I come to the conclusion I cannot support the amendment. I do not think this is the way to deal with the problem. I have this concern I want to share with my colleagues.

One of the things we have tried to do in the tax reform bill now before us is get away from the idea of tax shelters, the special breaks that encourage people in this country to make investment decisions not on the basis of productivity, not on the basis of where their money ought to be invested to produce the greatest return, to improve the efficiency of our productive process in this country, so that we can compete with those in other nations and get this trade imbalance turned around which threatens the well-being of future generations of Americans.

One of the ways we can best discourage tax shelters in a complicated Tax Code, so that people will make a decision about investments based upon real productivity rather than upon tax benefits, is to make sure the top marginal rate is kept low enough that people will make their investments on that basis; they will not sit back and shop around for some sort of tax advantage; they will say to themselves, "Well, since the top rate is only 27 percent, it is not worth my time to worry about tax shelters. I am going to go out and make investments which make sense in terms of the real chance for economic and productive success." The low marginal rate is a much better protection against tax shelters than any kind of labyrinth of rules and regulations we can possibly write.

There are some difficulties in this bill. For example, the way so-called passive income is counted. We have a situation in which some people may invest their dollars in, let us say, real estate investments, for example, and suffer real out-of-pocket economic losses.

We are not talking about paper losses generated for the purpose of reducing taxable income. We are talking

about real economic losses. They may suffer real economic losses and not be able to take the full deduction for their losses when they come to the time to fill out their tax returns. So already we have problems.

I was speaking to a group just the other day. They said, "We know that we must get productivity up; we must be able to compete in world trade. We are concerned about the cost of capital. We are concerned, now that we have given up under this bill so many of the incentives for saving and investment and capital formation, that what may happen down the line is Congress, after wiping out many incentives for saving and investment, will turn around and then increase little by little that marginal rate until we reach the point that the cost of capital in the United States is so high we really will be priced out of the world marketplace."

Mr. President, that is a real concern. We must think not only what is fair in terms of tax policy. We have to think about providing jobs and an opportunity to work for our children and grandchildren.

Recently, studies have indicated, for example, that the marginal cost of capital in Japan for a new business enterprise is only about 40 percent as much as the marginal cost of capital in the United States.

What are the input costs of the product? You have the raw materials, you have the wages, and you have the cost of capital, what you have to pay to borrow the money to get the business enterprise going. We are not going to be able to compete with other countries if the cost of capital in this country is far too high compared to the cost of capital there.

We have a tax bill which takes away many of the investment tax credit incentives for savings and investment. Those sorts of actions increase the cost of capital and make us less competitive. But, on the other hand, in this bill, there is a carefully-crafted balance. In order to offset that negative effect, we have reduced the top marginal rate of taxation to 27 percent. Now, if we come along and, in addition to removing items which lower our cost of capital, like the investment tax credit, increase the top marginal rate back up to 35 percent, within the framework of this bill in which we are now working, I am very concerned, Mr. President, that we may have the effect of pricing ourselves out of the world market once again in terms of the impact on cost of capital.

But I also come back to that other point. Mr. President, if we start pushing the top marginal rate of taxation back up again through amendments like these and others that may be offered later on down the line, even though they may have a very worthy goal—and I agree with the goal of trying to do even more to help the middle-income Americans who deserve and merit our help—I am afraid we wll set in motion a process of building back into the Tax Code all sorts of special exemptions and incentives that we will decide, year in and year out, are necessary to channel investment back into worthy areas, areas of importance to our national security.

□ 1520

Every time we raise that tax rate another point or two or three or five, we increase the need to try to provide special incentives to channel investment into certain areas; and before we know it, we will be back to the problem we are trying to address and try to write tax shelters back into the code, and we will be back where we started before we had this proposal before us.

We will be in a situation where millions of Americans will once again be making their investment decisions not on the basis of what makes sense economically but where they can get the greatest tax breaks.

As I said in the debate on other amendments, the greatest protection we have in this bill against unwarranted tax shelters is the low marginal rate of taxation at the top that will make it unnecessary and, in fact, counterproductive for taxpayers to try to shop around for tax shelters.

I urge my colleagues to think seriously about that point and help us move to true tax reform, and put this country on the basis of true investment decisions and enhance our ability to compete in the world markets.

Therefore, reluctantly, while I am in sympathy with many of the arguments the Senator from Maine has advanced so ably, I will oppose this amendment, and I will vote for the motion to table.

Mr. DOLE. Mr. President, I wonder whether we might get a time agreement on when we might vote on the motion to table. Three-thirty?

Mr. HARKIN. I would like 10 or 15 minutes.

Mr. DOLE. Three-thirty-five?

Mr. HARKIN. Senator MITCHELL would want to be the last speaker.

Mr. MITCHELL. How about 3:45?

Mr. BYRD. Will the distinguished majority leader let me get back to him on that? I will get it on the hotline. I shall be back within a short time and let him know.

Mr. DOLE. I hope we can get a time certain, so that we can plan the next amendment. The Senator from Iowa needs 10 or 15 minutes, and the Senator from Maine indicated he was finished.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I rise in support of the amendment offered by my colleague from the State of Maine. I am proud to cosponsor his amendment. It is well crafted in adjusting the benefits of the bill in a fair manner. It provides that Americans with middle incomes receive a real break in their taxes by shifting benefits to then from the very wealthy who are scheduled to receive a giant windfall in this bill passes in its present form.

The merit of this amendment is that it adds a measure of progressivity to the bill. By providing for a more equitable distribution in the reduction in the rates, this amendment is in keeping with the "ability to pay" tax policy we have been trying to fashion over the last 40 years. The premise of progressivity is that those with higher incomes are better able to bear the tax burden, since more of their income can be used for discretionary or nonessential purposes. The Mitchell amendment is a move in that direction.

We have heard all about tax reform, tax reform, tax reform, as if those words were self-describing. You do not have to say anything else—tax reform describes the bill. Well, tax reform does not necessarily describe this bill.

Is this bill better than what we have right now? This Senator feels that this bill is a marked improvement over the tax system we now have. Is this tax bill before us really fair, equitable, and does it encompass the idea of progressivity? No, it does not. It does broaden the base, but it does nothing about addressing the issue of progressivity, which is the essence of the amendment offered by the Senator from Maine.

Over 95 percent of all taxpayers would gain by the Mitchell amendment; 95 percent of all taxpayers will pay less taxes. Those in the middle-income level gain the most. Only the well off lose and only the very wealthy will pay a significantly higher tax. With the adoption of this amendment, we will have real tax reform that the Congress and the Nation should be proud of.

The amendment is straightforward. A 35-percent rate is created. And the money that it generates would go to two uses: lowering the 15-percent rate to 14 percent and, creating an incentive for investment, a lower rate for gains on the sale of investments.

Both are very important for equity, fairness, and for the promotion of investment that will make our economy grow.

Now, some may say, a 1-percent reduction in the tax rate is not much, the average person will barely notice. I take issue with that. Let me provide a couple of examples of just how important it is to the average taxpayer.

Let us say we have a couple with a $19,000 income, which is not too far below the national median. For these folks, any sum is important. This amendment will save them $100. An-

other couple making $29,000 would save $200. I think they will notice $200. Where is this money coming from? It is mainly coming from those whose incomes are more than $200,000 per year.

Under the bill before us, not everyone will gain. I think there is a misconception about this bill on that point. A lot of people think that everybody, every person, is going to get their taxes cut under this bill. That is not so. The Joint Tax Committee provided Senator LEVIN with a computer analysis estimating that 16 million taxpayers with incomes of $10,000 to $40,000 per year will pay a tax increase averaging about $360 per taxpayer. I wonder how many Americans know or have checked to see whether their taxes will go up under this bill. There are about 16 million of them out there who are going to pay higher taxes. Who are these people? They are average Americans. I do not have a complex computer run, but we basically know who they are. They are people who are investing in IRA's, couples without children who both work and therefore lose the marital deduction. They are citizens who feel that a $360 increase in taxes is a big increase

There are going to be millions of Americans who will see their taxes increased under the bill before us. The Mitchell amendment would take care of that.

The $200 that our $29,000 couple would receive under the Mitchell amendment would make up for the immediate loss of the deductibility of a $1,300 IRA payment that this couple had taken away under the committee bill.

So for anyone who is interested in helping those middle-income people who no longer will get the deductibility for their IRA's, the Mitchell amendment would make up for a lot of the loss of deductibility of those IRA's.

The Mitchell amendment takes some of the money from the wealthy and distributes it down to those in the middle. It will reduce the number of people in the middle-income brackets who will get a tax increase and it will also increase the tax for the average taxpayer.

This amendment would make the effort at tax reform complete. I think it is a final step in what we have to do here to really introduce a measure of progressivity into the broadening of the base we have done, and I hope the Senate will support it.

Under the tax bill, the average taxpayer in the $200,000-plus income category gets a large tax break—$5,900. But averages sometimes hide more than they reveal. According to the Joint Tax Committee, there will be some in the over $200,000 income bracket who will be losers. They say that they are going to get a $50,300 tax increase. Does anyone here really believe that people who are making over $200,000 a year are now going to pay $50,300 more in income taxes? What these people have been doing in the past is sheltering their income. Since this committee bill does away with a lot of those shelters, it is assumed that the very wealthy are going to have to pay $50,000 more in taxes. But the committee bill did not do away with all tax shelters. The upper-income taxpayers will simply find someplace else to invest their money.

What the committee bill has done is said to these high-income people: "Look, the money you didn't pay in taxes before, you were able to invest in a shelter and get a pretty nice rate of return—let's say 10-percent or 8-percent return on the money that you didn't have to pay in taxes."

□ 1530

The committee bill has closed those loopholes, those shelters, but there are other shelters that a person making over $200,000 can use. They can still take the money and invest it in municipal bonds. That is nontaxable. It is just that the rate of return will not be 8 or 9 or 10 percent; it may be 3 or 4 or 5 percent. Or as we found out in the last few days we have some oil and gas shelters still left in the committee bill, and perhaps that individual making over $200,000 who now sees he may have to pay $50,000 more in taxes will use those. Believe me, is not going to pay it in taxes. They are going to invest it in an oil and gas tax shelter or invest it in municipal bonds or they will find some other loophole that will allow them to continue sheltering their money.

On the other side, we have people making over $200,000 a year who get an average tax cut. Hold on to your hats on this one. There are people making over $200,000 a year who will get a $52,500 tax cut under this bill.

Now, I do not know how other Senators may feel, but I do not know people making over $200,000 a year who need a $52,000 tax cut. That is twice as much money, almost twice as much money as what the median income is for all American families which I think is around $27,000 a year. That is what they make in a year. The committee bill is going to give a number of individuals who make over $200,000 a year, 52,000 bucks in tax cuts, almost twice as much as what the average family even makes in 1 year.

These are the same people, I might point out, who also received a huge tax break in the 1981 tax bill when their top tax rate was brought from 70 percent to 50 percent. Now, under this bill they are scheduled to receive another huge cut.

The Mitchell amendment says to this, "No, we are not going to give them that kind of a big tax cut." They are still going to get a tax cut, but not $52,000 on a $200,000 income.

The Mitchell amendment says that the person who is making that much money should be paying more per dollar of added income than the couple that makes $40,000 a year. How much does the Mitchell amendment cost those who make that kind of money? Well, for those families with a taxable income between $55,000 and $185,000, it costs them less than $300 for every $10,000 net income. In other words, if you are making $150,000 a year and you go out and you make $10,000 more, you pay $300 more in taxes. Big deal. Big deal.

I tend to think that they can afford that small amount of progressivity.

Now, when you get over $185,000 in taxable income, the Mitchell amendment says that you pay $800 more for each added $10,000 in income. In other words, if I made $200,000 a year, and I now make $10,000 more than that, I would pay an additional $800 on that $10,000, or 8 percent. Again I do not believe that this is unduly burdensome on those who are making those kinds of incomes.

I would just point out that in 1980 those individuals making that much money were paying a 70-percent marginal rate. All the Mitchell amendment calls for is a 35-percent rate, half of what they were paying in 1980. So I really do not see the Mitchell amendment as being outrageously oppressive on those whose incomes are over $185,000 a year.

I think the very wealthy can afford to pay that additional $300 to $800 per added $10,000 of income. I will tell you they can afford it far more than the alternative, which is not to pass the Mitchell amendment and see the husband and wife with $29,000 income pay an extra $200 a year. That is really the tradeoff. You either say to those who make over $185,000 a year that you are going to pay $300 or $800 more for each $10,000 of income you earn or you are going to say to the couple making $29,000 a year, you pay $200 more a year in taxes. So that is really the tradeoff between the Mitchell amendment and staying with the committee bill.

Now, I want to talk a little bit about simplification. We have heard a lot about simplification and tax simplification does not really depend on the number of rates. We have 11 brackets now. The bill brings us down to two rates. Senator MITCHELL pointed out that there are really going to be four or five different rates rather than two rates. That does not make any difference. You can have 50 rates and if you could go into the table and find out what your income is, multiply it by a certain percentage and pay the tax on that, that is pretty simple.

Simplification does not really depend on how many brackets you have. What really matters is how many loopholes and shelters and things you have.

I would again say that the committee bill does a very good job in getting rid of those shelters and loopholes. But it should not depend just on the number of brackets. What the Mitchell amendment does, if you are really interested in simplification, is to makes the structure simple. He breaks it down to basically two rates, and that is it.

If simplicity is really the game that you want, then the Mitchell amendment is really the simplest of all.

The Senate bill is about 1,500 pages long. Adding an extra set of rates will not add one additional page to the length of the tax bill.

The next thing I think that we ought to talk about is the capital gains exclusion. It gives some added incentive to invest, and I strongly support that incentive.

Really what we are talking about here is what those with a lot of money do with the extra money that they earn.

Well, 40 years ago, debates were held on this Senate floor—I have read some of them; they are pretty interesting—talking about progressivity in the Tax Code. At that time arguments were made that those who make over $200,000 a year or so can take that extra money that they have and they can do a couple of things with it. They can go out and buy Rolex watches for $5,000, they can buy $200 bottles of wine, they can buy luxury yachts, they can buy tailormade suits that cost $1,000. In other words, they can engage in conspicuous consumption, and before we had a progressive income tax that is exactly what was going on. The very wealthy were engaging in the grossest form of conspicuous consumption.

Basically what the Senate and House said at that time was look, we are going to have a progressive tax system. If you want to buy Rolex watches and if you want to buy $200 bottles of wine, if you want to have thousand-dollar tailormade suits, if you want to travel first class, if you want to engage in conspicuous consumption, fine, but we are going to tax you more on that. But if you will take the extra amount of money that you have and invest it in America, invest it in jobs, invest it in industry, invest in things that are going to produce income, then we are going to give you a better tax on that.

And I think that has been the wisdom of the capital gains exclusion.

I would be the first to admit that it got out of hand. We start giving capital gains exclusion to almost everything. But that does not take away the wisdom of having somewhat of a lower rate for those people in the upper-income brackets who take their money and invest in America, rather than taking their money out and using it for conspicuous consumption, and again that is really what the Mitchell amendment does. It says that those who invest their money in America, who invest in long-term gains, are going to get a little bit better tax break than those that go out and spend it on conspicuous consumption, and I think that is very important that we have a productive investment incentive in this tax bill because it will encourage investment in America.

Last, Mr. President, let me just say in closing that on this idea of the tax bill not being open to any amendments and tearing it apart, we are coming to the close really of the major amendments. There may be some minor ones offered. I have a minor amendment myself that I will be offering. I hope it is accepted. It is not as big an amendment as this.

But this amendment will take the committee tax bill, which I grant is a good tax bill, much better than what we have, and it will do the one thing that is missing in that bill and will make it a really good tax bill for middle-income Americans, because it will introduce that measure of progressivity that is so missing in the tax bill that we have before us.

Again, I wonder is it too much to ask of those who make over $185,000 a year to pay an additional $800 per $10,000 of income so that those middle-income Americans, those who are making $20,000, $30,000, $35,000, $40,000 a year get a little bit better shake out of this bill than what they are getting?

I hope that every American understands and knows that there are about 16 million of you out there who are going to pay higher taxes under this committee bill unless the Mitchell amendment is adopted.

If the Mitchell amendment is adopted, we really will have a good and fair broadened based tax bill but a tax bill that is progressive, a tax bill that helps middle-income people, a tax bill that is simple and a tax bill that does provide for a productive investment incentive which I think is sorely needed in our economy today.

So, Mr. President, I sincerely urge adoption of the Mitchell amendment to make this bill a really good tax bill.

● Mr. MATHIAS. Mr. President, I shall not vote to table the amendment offered by the Senator from Maine [Mr. MITCHELL]. This amendment has several beneficial features, but one stands out in importance.

This amendment would reinstate the differential between the taxation of capital gains and the taxation of other income. This amendment, by proividing a capital gains exclusion of 22.9 percent, will reaffirm a principle our Tax Code has long recognized: that the risks involved in capital investment justify a distinction in tax treatment when gains result. Morever, the amendment will assure that middle-income taxpayers who face a 27-percent tax rate under both this amendment and the committee bill will retain an incentive to engage in long-term investment activities.

I want to emphasize once again that the lower tax rate for long-term capital gains income is not a tax shelter. It rewards successful investment decisions; it does not provide an incentive to failure in the marketplace. It does not distort economic activities, but simply provides an added incentive to enter into risky ventures. This incentive is essential to a strong, growing and competitive economy.

I commend Senator MITCHELL for including this important feature in his amendment. Other features can be considered and altered if the amendment survives. No further consideration can be given if the amendment is tabled. Many Senators have spoken of the importance of the capital gains differential; now is the time to back up that talk with our votes. I believe this amendment could make a substantial improvement in the bill as reported and urge my colleagues not to table it.●

● Mr. BIDEN. Mr. President, I support the Mitchell amendment because it will increase the progressivity of the bill.

The amendment will reduce the maximum tax rate paid by about 80 percent of all taxpayers. It will provide greater average tax relief to all taxpayers in the below $75,000 income group which comprises over 95 percent of all taxpayers.

The amendment will help even more low-income taxpayers than the committee bill. This amendment would reduce the tax liabilities of all taxpayers with incomes below $10,000 by 71.7 percent, significantly more than the 63 percent of the committee bill. What this means in human terms is that more families at or near the poverty level will have more money for the necessities of life.

At a higher income level—$30,000–$40,000—the amendment provides a tax cut of 10.4 percent on average, more than double the committee's 5-percent reduction in tax liabilities for that income group. These taxpayers, who were treated most unfairly in the committee proposal, will receive a more equitable share of the benefits of this bill.

Mr. President, I ask that a series of three tables showing the effects of this amendment be printed in the RECORD at this point.

The tables follow:

COMPARISON CHARTS

DOLLAR CHANGE IN TAX LIABILITY

Income class (in thousands)	Finance tax cut	Mitchell tax cut	Difference in tax cut	Mitchell cut as percent of Finance
$0 to $10	$43	$46	$3	107
$10 to $20	181	230	49	127
$20 to $30	186	281	95	151
$30 to $40	129	287	158	222
$40 to $50	337	445	108	132
$50 to $75	305	362	57	119
$75 to $100	564	519	−45	92
$100 to $200	810	450	−360	56
Above, $200	5,892	−3,050	−8,942	−52
Total	215	229		

PERCENTAGE CHANGE IN TAX LIABILITY

Income class (in thousands)	Finance percent change	Mitchell percent change
0 to $10	−63.0	−71.7
$10 to $20	−20.1	−26.5
$20 to $30	−8.1	−13.0
$30 to $40	−5.0	−10.4
$40 to $50	−6.6	−9.0
$50 to $75	−3.9	−4.6
$75 to $100	−3.3	−3.0
$100 to $200	−3.8	−2.4
Above $200	−4.7	+2.5
Total	−6.4	−6.8

CHANGE IN AFTER-TAX INCOME

Income class (in thousands)	Finance gain	Mitchell gain	Difference
0 to $10	0.9	1.2	0.3
$10 to $20	1.4	2.0	.6
$20 to $30	.9	1.4	.5
$30 to $40	.4	1.1	.7
$40 to $50	.9	1.1	.2
$50 to $75	.6	.7	.1
$75 to $100	.9	.6	−.3
$100 to $200	.8	.6	−.2
Above $200	1.4	−.7	−2.1
Total	.9	.9	

Mr. BIDEN. Viewed from another perspective, the Mitchell amendment will provide about 53 percent of the bill's tax reduction to people in the income groups under $30,000. Another 41 percent would go to taxpayers with incomes between $40,000 and $75,000.

The changes proposed by the Mitchell amendment will eliminate many inequalities in the distribution of tax reduction by the committee bill. It will redistribute the tax burden, and placing it a little more on those with greater ability to pay.

The Mitchell amendment will not slow down tax reform. In fact it is consistent with other significant tax reform proposals, including the President's (3 rates, 15, 25, and 35 percent) and the Bradley-Gephardt proposal (3 rates, 14, 26, and 30 percent.)

The President described his proposal as one "based on the principles of simplicity and fairness, opening the way to a generation of growth." The Mitchell amendment is no less simple, fair, and economically sound.

In fact, neither the third marginal rate in this amendment, nor its 35 percent level, are that different from the committee bill, which could have as many as four effective marginal rates. What is different is the distribution of the benefits of tax reduction. The benefits under the Mitchell amendment go more to the middle and lower income people who are working hard to raise a family and save a little for their children's education.

This amendment make this bill's tax structure more in the mold of historic American tax policy. At the same time it will create a broader tax base and lower rates that can provide greater fairness and promote economic growth. Far from reducing the drive for tax reform this year, I believe the Mitchell amendment will increase its chances for passage by providing greater tax relief for a majority of lower and middle income American taxpayers.●

● Mr. CRANSTON. Mr. President, the amendment offered today by the Senator from Maine [Mr. MITCHELL] addresses the critical weakness of the tax reform bill's tax rate structure.

That critical weakness is the point at which the tax rate jumps from 15 to 27 percent.

Under the committee's bill, the 27-percent tax rate begins at a taxable income of $17,600 for an unmarried individual living alone. The gross earnings of the individual could be as low as $22,600. That is a stiff tax on a person of modest means.

People living with incomes teetering on the brink of the 27-percent rate will not be recompensed as well as others will for giving up the major tax deductions which the committee eliminated in the bill in order to pay for the top rate of 27 percent which will be levied against the highest incomes as well as modest incomes.

The chart Senator MITCHELL has displayed on the floor of the Senate illustrates dramatically just how unfairly families and individual with relatively modest incomes suddenly will be subject to a sharp increase in their income tax rate under this bill.

The issue presented by Senator MITCHELL goes directly to the heart of the theory of the tax reform bill.

The idea, as we have been told, was for everyone to give up their tax deductions—IRA deductions, the working spouse deduction, the sales tax deduction, the nonitemizer's charitable contribution deduction, the personal interest expense deduction, the miscellaneous expense deduction, the floor of the medical expense deduction increased to 10 percent of gross income, and in exchange for this surrender of existing tax deductions there would be a reduction in tax rates which would more than make up for the loss of the deductions.

That is the theory of tax reform.

It's a good idea.

But, the committee in carrying out its plan, I believe, made a technical policy error.

The committee found it could lower the top rate to 27 percent for the richest taxpayers only if those at the lower end of the income scale paid 27 percent, too.

So the technical problem became a tax policy problem when the committee accepted the judgment that the overall benefits of tax reform justified providing almost no benefit to those taxpayers in the $20,000 to $30,000 income bracket.

These are the individuals and families who are struggling hardest to get ahead against some of the toughest odds.

They are the families who find their incomes are inadequate to qualify for a mortgage on the home of their dreams.

They are the families who quickly find that the student financial aid offices at colleges and universities have little to offer them.

They have too much to be "poor" and not enough to assume the debt-load to pay for college educations for their children.

There should be some better form of progressivity in tax reform.

Progessivity can be accomplished by changes in the rates, or by various base-broadening approaches which result in a progressively heavier tax burden although the rates remain unchanged.

Several of the earlier tax reform plans presented to Congress did provide for modified flat rates but achieved what seemed to me to be a better balanced tax burden by income class.

I do not agree that it is necessary to subject the middle class to a tight tax rate structure in order to protect them against the possibility that Congress will reopen loopholes for the wealthy.

It seems to me to be possible to encourage tax reform for its own sake, too.

Why do we have to reward rich people so lavishly in order to get them to give up their tax advantages?

Equity requires that we ask the most wealthy individuals in our society to pay more at a higher rate.

The amendment offered by the Senator from Maine will do that.

And I support his proposal.●

● Mr. LEAHY. Mr. President, I rise today to support Senator MITCHELL's amendment to make the Senate Finance Committee tax-reform bill more progressive and to cut taxes for the middle-income Vermonters.

Mr. President, Chairman PACKWOOD, Senator LONG, and all the members of the Finance Committee deserve our thanks for bringing this important tax-reform legislation to the floor of the Senate.

The bill they wrote goes a long way toward increasing tax fairness, removing 6 million working, poor Americans

from the tax rolls. At a time when more than one-half of all Americans require professional help to prepare their tax returns, the Finance Committee bill also promises to make our complicated tax system more simple.

Mr. President, the people of Vermont elected me to represent them in the Senate and not merely to rubberstamp legislation written by the committees of the Senate, no matter how thoughtful or beneficial that legislation might be. That is why I refused to join the coalition of Senators opposed to any amendments to the tax-reform bill. I support the Finance Committee's tax-reform bill and I will vote for its passage. But, I believe that some changes are needed to improve it.

Most importantly, the progressivity of our tax laws must be preserved, to ensure that no American is asked to pay more than his or her fair share.

Mr. President, progressivity—the idea that each should pay taxes according to his or her ability—has been one of the fundamental principles of our Government since the earliest days of the Republic. In 1785, Thomas Jefferson wrote:

> Another means of lessening inequality, is to exempt all from taxation below a certain point, and to tax the higher portions of property in geometric progression as they rise.

More than 200 years ago, Jefferson correctly observed that equality of opportunity and equality under the law depends on a progressive tax system.

Unfortunately, the Finance Committee tax-reform bill does not go far enough in maintaining our progressive tax system. Under the Finance Committee bill, the largest tax break would go to taxpayers earning more than $200,000, or less than one-half percent of the population. A recent Treasury Department study found that 30,000 individuals in this highest income class paid no taxes at all.

Yet, the Finance Committee bill would lower taxes for this group as a whole even further, while providing much more modest tax relief for the majority of Vermonters and the majority of Americans.

This anomaly occurs because the Finance Committee bill contains only two marginal tax rates of 15 and 27 percent. As a result, families with income of more than $29,000 would pay taxes at the same marginal rate as millionaires and even billionaires.

We will have greatly sacrificed the principle of progressivity, if we vote to tax the average family of four in Vermont at the same rate as millionaires. This is simply unfair.

The amendment sponsored by Senator MITCHELL would correct this inequity, by adding a top rate of 35 percent for taxpayers with income of more than $68,000. Mr. President, I would like to remind my colleagues that President Reagan's tax-reform proposal calls for a top tax rate of 35 percent, beginning at $54,000 of income. Under current law, the top rate is 50 percent.

Mr. President, Senator MITCHELL's amendment would still substantially reduce taxes for taxpayers earning more than $68,000—from a top rate of 50 percent to a new top rate of 35 percent—but would reduce taxes for these well-off Americans in line with the tax relief provided to middle-income Americans.

Most importantly, the Mitchell amendment would cut taxes even further for middle-income Vermonters. The 15-percent, bottom tax rate in the Finance Committee bill would be reduced to 14 percent. More than 80 percent of all Vermonters would pay 15 percent in taxes under the Finance Committee bill. Under the Mitchell amendment, they would pay only 14 percent.

Senator MITCHELL's amendment would cut taxes for the average Vermont family by $120, in addition to the already great tax relief provided in the Senate Finance Committee bill. At the same time, the Mitchell amendment keeps the remainder of the Finance Committee's remarkable tax reform bill intact.

The central difference is that greater tax relief is provided to working Vermonters, middle-income Vermonters, and young Vermont families just starting out.

Senator MITCHELL's amendment would cut taxes for the vast majority of Vermonters and foots the bill by scaling back tax cuts for the 1 percent of all Vermonters who earn more than $68,000.

Mr. President, this is not a Robin Hood scheme to rob the rich to cut taxes for the poor. Since 1980, the top tax rate paid by high-income taxpayers has been reduced from 70 percent to 50 percent. Under the Finance Committee bill, that top rate would drop to 27 percent. Under the Mitchell amendment, the top tax rate for upper-income Americans would be 35 percent, as under the President's plan. Cutting the top tax rate in half is not my idea of soaking the rich.

There are countless reasons to bring the top tax rate down: To discourage tax sheltering and tax evasion, and to promote investment and economic growth, to name just a few. But, if we are going to reduce taxes and truly reform our tax system, we should reduce taxes in keeping with our 200-year-old tradition of progressivity. Tax cuts for the wealthy should be proportionate to the tax relief provided for the majority of working Vermont families.

The Finance Committee's tax reform bill goes a long way toward tax fairness. Mr. President, the Mitchell amendment takes tax reform one step further.

Tax reform must be fair, and to be fair it must be progressive.

Mr. President, I ask unanimous consent that a series of tables appear in the RECORD.

The tables follow:

COMPARISON CHARTS

DOLLAR CHANGE IN TAX LIABILITY

Income class (in thousands)	Finance tax cut	Mitchell tax cut	Difference in tax cut	Mitchell cut as percent of Finance
$0 to $10	$43	$46	$3	107
$10 to $20	181	230	49	127
$20 to $30	186	281	95	151
$30 to $40	129	287	158	222
$40 to $50	337	445	108	132
$50 to $75	305	362	57	119
$75 to $100	564	519	−45	92
$100 to $200	810	450	−360	56
Above, $200	5,892	−3,050	−8,942	−52
Total	215	229		

PERCENTAGE CHANGE IN TAX LIABILITY

Income class (in thousands)	Finance percent change	Mitchell percent change
$0 to $10	−63.0	−71.7
$10 to $20	−20.1	−26.5
$20 to $30	−8.1	−13.0
$30 to $40	−5.0	−10.4
$40 to $50	−6.6	−9.0
$50 to $75	−3.9	−4.6
$75 to $100	−3.3	−3.0
$100 to $200	−3.8	−2.4
Above $200	−4.7	+2.5
Total	−6.4	−6.8

CHANGE IN AFTER-TAX INCOME

Income class (in thousands)	Finance gain	Mitchell gain	Difference
$0 to $10	0.9	1.2	0.3
$10 to $20	1.4	2.0	.6
$20 to $30	.9	1.4	.5
$30 to $40	.4	1.1	.7
$40 to $50	.9	1.1	.2
$50 to $75	.6	.7	.1
$75 to $100	.9	.6	−.3
$100 to $200	.8	.6	−.2
Above $200	1.4	−.7	−2.1
Total	.9	.9	

DISTRIBUTION OF TAX REDUCTION

Income class (in thousands)	Percent of taxable returns	Percent distribution of tax reduction (Finance)	Percent distribution of tax reduction (Mitchell)
$0 to $10	11.3	6.3	6.3
$10 to $20	23.3	19.6	22.4
$20 to $30	24.0	17.1	24.0
$30 to $40	17.5	9.8	17.6
$40 to $50	10.4	11.1	13.2
$50 to $75	8.7	9.6	10.0
$75 to $100	2.0	3.5	2.7
$100 to $200	2.0	6.9	3.8
Above $200	0.7	16.1	(1)
Total	100	100	100

[1] This group would not receive a tax cut.

As can be seen from the above table, in 1988 the Senate Finance Committee bill would give the above $200,000 income class, which comprises just 0.7 percent of all taxpayers, 16 percent of the tax reduction provided to individuals in the bill. In other words, those 651,000 individuals would take $4.6 billion of the $28.5 billion in tax reduction slated for 1988.

Taxpayers with incomes above $75,000 make up just less than 5% of all taxpayers who file taxable returns. Yet, these individuals would claim 26.5% of the tax reduction in the bill for 1988.

The Mitchell amendment would correct these inequities by providing each income group with a share of the tax cut that relates to the number of taxpayers in the group. As a result, the 5% of the taxpayers making over $75,000 would share in 6.5% of the tax cut compared to 26.5% in the Committee bill. The $20,000 to $50,000 income group, which makes up 52% of all taxpayers would claim 55% of the tax cut compared to only 38% in the Committee bill.●

Mr. LAUTENBERG. Mr. President, I rise to support the amendment of my colleague from Maine.

Mr. President, I support tax reform.

Before going forward, I want to applaud the work of my colleague from New Jersey, Senator BRADLEY, and the work of the chairman of the Finance Committee, Senator PACKWOOD, and the ranking Democrat, Senator LONG. Were it not for their leadership and statesmanship, we would not be where we are today: on the brink of passing real tax reform for millions of Americans.

I applaud their work. But, I must say, I take special pleasure in the accomplishment of my colleague, Senator BRADLEY. Mr. President, Senator BRADLEY has been the conscience of this tax reform effort. It is his consistency of principle that has kept the effort on target. It is his persistence that has kept it going. He has received a great deal of credit for his work. And, Mr. President, it is well-deserved.

Mr. President, the amendment of the Senator from Maine improves the bill before us. It enhances the work that's already been done.

The amendment doesn't open a loophole that the committee closed. It doesn't restore a credit that the committee removed.

It doesn't make the tax law more complex. It makes the tax law simpler.

It doesn't make the tax law more unfair than already it is. It removes unfairness that would remain, even with the reforms before us.

Mr. President, I have seen people in the halls, on the floor, even the fellow running the subway to the Hart Building—they're all wearing buttons that say: 15/27/33. That's supposed to refer to the rates in the bill. 15/27/33. That's the battle cry. It's on buttons everywhere.

Mr. President, the buttons are wrong. The buttons should read 15, 27, 32, maybe 32.4, 27, and then 33 for corporations. Of course, that would mean bigger buttons, or smaller print. But, those are the real rates in the bill.

That's an important point. It's an important point that has been downplayed. The top rate for individuals is not 27 percent. It's 32. As the 15-percent bracket is phased out, as personal exemptions are phased out, middle income taxpayers will pay around 32 percent. Then the rate goes back down.

What does this mean?

It means that a wealthy person will pay a lower rate than a middle-income person. It means that middle-income people get the least out of tax reform.

The Senator from Maine has laid out the impacts of the rate structure of the committee bill. But, some are worth repeating.

A family in the $30,000 to $40,000 income class gets an average tax cut of 5 percent. But a family in the $40,000 to $50,000 class gets more. It gets a 6.6-percent cut.

Other effects are even more telling. A family making over $200,000 will get an average tax cut of 4.7 percent. That's a cut almost 50 percent bigger than the cut people get in the $50,000 to $75,000 class. They get a 3.9-percent cut.

In sum, the middle class gets shortchanged by this tax reform bill.

For the first time, this Nation would have a higher marginal tax rate for the middle class, than for the wealthy.

Mr. President, this isn't a matter of just numbers. It is a matter of justice. It's a matter of fairness.

Through our Tax Code, American citizens pay to support this democracy. That's our obligation. Everyone should pay their fair share. Working men and women of America accept that.

And they've been disgusted by our tax laws because that hasn't been the way it's worked. Some people do not pay their fair share. They use loopholes to avoid tax.

This tax reform bill is supposed to change that. It's supposed to restore fairness. And it goes a long way toward that goal. But, not all the way.

Mr. President, what's fair?

What's fair is to let poor people keep more of what they earn than people who aren't poor. What's fair is to let middle-income taxpayers keep a bigger part of what they earn, than high-income people.

Every American is willing to pay his or her fair share of tax. But, the tax dollars saved by a middle-income person would go for a new refrigerator * * * maybe to pay for a doctor bill * * * to help pay for a child's education. It won't pay for all of it. A family still has to scrape and save and borrow. But, it helps. And we should give them that help.

Under the bill before us, the average person in the $30,000 to $40,000 class gets an extra $129. The person earning between $100,000 and $200,000 gets and extra $810. Now, who needs the money more? That family making $30,000 to $40,000 may be living in a small row house in Rahway, NJ. Maybe their refrigerator is on its last leg. Maybe they haven't had a vacation in years. Maybe they need a new car.

Now, what about that family earning $100,000 to $200,000? Maybe they redid their kitchen last year. They go skiing every winter. They go to a house at the shore every summer. Do they need the bigger tax cut than the family earning one-fourth of what they earn? I say no. They don't need it. And it isn't fair to give it to them.

Mr. President, this bill transfers $100 billion in tax burden from individuals to corporations. That's a $100 billion tax cut. It does it by closing corporate loopholes. It does it by making corporations pay their fair share. But where does that $100 billion go? Under the committee bill, not enough of it goes to the middle class.

This bill would also close many of the loopholes used by individuals. It would take away deductions that are quite defensible. Deductions of the sales tax. Deductions for contributions to IRA's. But, they are taken away, in exchange for the promise of lower rates. They are taken away in exchange for simplicity and fairness. The committee bill is fairer than current law, but we can do better.

Mr. President, a progressive tax system is fair. The Mitchell amendment would restore progressivity to our Tax Code. We should recognize that today is the day to vote for progressivity in the Tax Code. This bill will be the high water mark for quite a while. Because, one way or another, this Congress has to raise new revenues, to reduce the deficit. And when we raise new revenues, it is questionable whether Congress will soon open up the income tax system. New revenues may instead come from other sources, regressive sources. Congress will look at options like user fees, or excise taxes, which hit middle-income people harder than the wealthy in our society. So, in the future the tax system could well be less progressive.

THE MITCHELL AMENDMENT

The amendment by the Senator from Maine would make sure that middle-income people get the largest share of the tax cut. It sets up a true three-rate structure of 14, 27, and 35 percent. Mr. President, look back at the original proposal of my colleague from New Jersey. Senator BRADLEY's tax reform bill, S. 409, of which I am cosponsor, had a true, three-rate structure. The more one earned, the higher rate one paid. It didn't have the system in the Finance Committee bill, where wealthy people pay a lower rate than middle-income people. It had a top rate higher than one in the Finance Committee bill.

The first bracket in the Mitchell amendment would be lower than the first bracket in the Finance Committee bill. It would reduce the tax rate paid by roughly 80 percent of all taxpayers.

It would double the amount of tax relief going to people in the $30,000 to $40,000 income class. Instead of $129, people would get an average $287.

It would also increase the tax relief for upper-middle-class people. That's important too. People in the $40,000 to $50,000 class. People in the $40,000 to $75,000 class. They, too, would do better. These are people who are comfortable. But, if they have to send a child through college, if they care for a elderly parent, they don't have it easy. They deserve a bigger cut.

Now, who pays more? On average people in the $75,000 to $100,000 class would get a cut of about $45 less under the Mitchell amendment than under the Finance Committee bill. Now, for a person making that much money, $45 isn't much. Besides, that person will still get a tax cut of over $500.

People over $100,000 but under $200,000 would also get a tax cut. But about half of what the committee would give them. For those people too, the difference won't change their lives. The smaller cut for them won't mean nearly as much as the bigger cut to the middle-income taxpayers.

People making over $200,000 would on average get a tax increase. But, that's an average. What's important is that if a person earning over $200,000 did not use tax shelters, he or she will also get a tax cut. About one third of people in the top income class are paying over 30 percent right now. They're already paying their share. They get a tax cut. It's the people who have used loopholes to avoid tax who will pay more. And they should.

Mr. President, people who oppose this amendment say that it will kill the bill. It will tear apart the coalition that supports the bill.

Well, who is on that coalition?

Some of the members are corporations. This amendment doesn't touch the corporate rates, but corporations are sticking with the official position: no amendments.

But, I've spoken to the heads of some major corporations in New Jersey. Corporations that belong to the coalition. And, I asked them, as individuals, as private citizens, as private citizens who enjoy great wealth, did they think the wealthy could afford to pay a rate that's still 15 percent below the top rate today? I asked them if they thought that a 35-percent rate was fair? I asked them if it was fair, especially if it would mean more tax relief to the working men and women of the middle class.

And, Mr. President, do you know what they said? They said it was fair. It was the right thing to do.

It is the right thing to do.

Mr. President, I applaud the work of my colleague from Maine. He has done a fine job in preparing this amendment. It improves upon the work that's been done. It would make a good bill even better. It would make our tax system fairer. It would make tax reform a better deal for the middle income people of this country—middle-income people who pay the bulk of the taxes—the people who have for too long paid more than their fair share—because others did not.

□ 1540

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I move to lay the amendment of the Senator from Maine on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon [Mr. PACKWOOD] to table the amendment of the Senator from Maine [Mr. MITCHELL]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 29, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—71

Abdnor	Garn	McConnell
Armstrong	Glenn	Moynihan
Baucus	Goldwater	Murkowski
Bentsen	Gramm	Nickles
Boren	Grassley	Packwood
Boschwitz	Hart	Pell
Bradley	Hatch	Pressler
Chafee	Hatfield	Proxmire
Chiles	Hawkins	Pryor
Cochran	Hecht	Quayle
Cohen	Heflin	Roth
D'Amato	Heinz	Rudman
Danforth	Helms	Simpson
DeConcini	Humphrey	Stafford
Denton	Johnston	Stevens
Dixon	Kassebaum	Symms
Dodd	Kasten	Thurmond
Dole	Kennedy	Trible
Domenici	Laxalt	Wallop
Durenberger	Long	Warner
East	Lugar	Weicker
Evans	Matsunaga	Wilson
Exon	Mattingly	Zorinsky
Ford	McClure	

NAYS—29

Andrews	Harkin	Mitchell
Biden	Hollings	Nunn
Bingaman	Inouye	Riegle
Bumpers	Kerry	Rockefeller
Burdick	Lautenberg	Sarbanes
Byrd	Leahy	Sasser
Cranston	Levin	Simon
Eagleton	Mathias	Specter
Gore	Melcher	Stennis
Gorton	Metzenbaum	

So the motion to lay on the table amendment No. 2091 was agreed to.

□ 1610

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. If the minority leader would withhold for a moment, the Senate will be in order.

The Democratic leader.

Mr. BYRD. Mr. President, I thank the Chair.

I take this opportunity to ask the distinguished majority leader what the program is for the rest of the day and tomorrow. In doing so, may I say that I have discussed the possibility of an agreement on this side, which would possibly see us—we hope—out this evening no later than 7 o'clock and perhaps with a final vote on this bill tomorrow, somewhere between 3 and 4 o'clock in the afternoon. I have one other checkpoint that I have to clear.

What would be the leader's reaction in any event as to the program for the rest of the day, tomorrow, and Friday?

Mr. DOLE. Mr. President, if the distinguished minority leader will yield——

Mr. BYRD. Yes, Mr. President.

Mr. DOLE. If, in fact, we could reach an agreement on passage, I have discussed this with the distinguished chairman of the committee—Mr. PACKWOOD. He would be very willing not to stay in late this evening, probably come in fairly early tomorrow morning, probably have the final vote between 3 and 4 tomorrow.

I would be prepared to even sweeten that a little bit, if it would offer encouragement to anyone, to suggest that we will not be in on Friday unless there is some need to act on the supplemental. If that is the case, it is hoped it might be disposed of on a voice vote and not entail everyone's being present. I am in the process of checking that with the distinguished chairman of the Committee on Appropriations.

Mr. BYRD. I thank the distinguished majority leader. We will resume our efforts on this side.

Mr. CHAFEE. Mr. President, I wish to ask the distinguished minority and majority leaders a question, if I may.

If there is no preference between 3 and 4, why not choose 3? I think it would be a convenience for a lot of people to be here and, indeed, have it not later than 3.

The difference seems to evade me fairly completely. There are some who may have appointments elsewhere who have a desire to be someplace other than here. If it could be no later than 3 tomorrow, I, for one, would find that a convenience.

Mr. BYRD. Mr. President, I hope that it could be no later than 3 tomorrow, or even earlier. It is a little early at this point to begin slicing the

cheese quite so thinly. One objection will keep us from getting it for tomorrow at all.

I am just trying in good faith to see what the situation is.

May I ask those on my side of the aisle, how many amendments are there that Senators may wish to offer and what is their identification? If it is possible to get a time agreement, would Senators be willing to indicate how much time would be agreeable?

May I have the floor for that purpose, Mr. President? Would the Chair protect me in that?

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. I yield, Mr. President.

Mr. BYRD. I thank the Chair and I thank the Senator from Rhode Island.

Senator HEFLIN has an amendment, is that correct?

Mr. HEFLIN. I might and I might not. I shall be glad to discuss it with the leader.

Mr. MOYNIHAN. Is the leader asking for amendments?

Mr. BYRD. Yes, Mr. President.

Mr. MOYNIHAN. There will be an amendment that will be offered from here.

□ 1620

Mr. METZENBAUM. Mr. President, we have a number of amendments still left, but I am pleased to say we have worked out a number of them—one with Senator MOYNIHAN. We are trying to work one out with Senator EXON and Senator ZORINSKY. We are trying to work one out with Senator DOLE. There is another one with Senator ARMSTRONG in which Senator DOLE has an interest as well. We are making at least a little headway on several of those. I am frank to say that as I stand here and we try to make some progress, there are new amendments being floated around where people are suggesting new concepts, new ideas, new special provisions. And it is difficult to discuss that subject with them while at the same time we try to proceed. We have been waiting all day. I have been ready all day to move as soon as the floor was open to do so. We are ready to move as soon as the floor is open this afternoon. But I cannot give the Senator an exact number. I can say that it is not impossible we could conclude tonight, although I do not know that we can be done by 7:30, but we might be able to. Quite often I find that when I talk for 5 minutes somebody else thinks it is a subject that warrants a half-hour of debate, and I respect them for that. So that I do not know, I do not believe it an unreasonable hour to shoot for, 3 or 4 o'clock tomorrow afternoon. We will not be able to do much work in the morning. There are some heavy committee hearings in the morning. But the Senator from Ohio wants to cooperate, he wants to wrap this up and pass the bill and wants to give just a modest amount of time to the various amendments that I still have pending.

Mr. BYRD. I thank the Senator from Ohio.

Mr. FORD. Mr. President, I am one of the parties attempting to work out one situation with Senator METZENBAUM. It looks like that probably is out of the way. I would like to reserve the right to introduce an amendment. There may be some agreement with the leadership as to what might be done in conference. That would satisfy me. But I would like to reserve the right to offer a couple of small items, nothing very large—just a million a year, something like that.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Kentucky.

Mr. HEFLIN addressed the Chair.

Mr. BYRD. May I say that we will continue to work with Senators and hopefully within a short time perhaps we can have something to offer. In any event, I will get back to the majority leader.

Mr. DOLE. I did not state the alternative. I only stated the good side. I think the alternative should be stated so the Members will know the option. We are not doing it to punish anyone but we do have—I think we are making movement now. It might be hard to detect by anyone on the outside but I think there is movement. It would seem to me we ought to continue to push ahead on the bill. I have discussed this with the managers, particularly Senator PACKWOOD, and he would like to go, unless we can reach some agreement, rather late into the evening. So we will on this side, if the minority leader will check on that side in addition, check with the Appropriations chairman. Maybe we can get together privately in maybe an hour. I can check with the Senator.

Mr. BYRD. Very well. I thank the Senator.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I will take just a very few minutes.

I would like to bring to the attention of the Senate and to the conferees that will be appointed a provision that has just come to my attention in the tax bill. I do not intend to offer an amendment, but I do think it does deserve some discussion. I hope the conferees can correct this because to me it really goes to the issue of inherent fairness. This is the issue of whether or not the Internal Revenue Service should be a bounty-hunter or whether or not the Internal Revenue Service should work on a commission. I have been given today an article that appeared in Forbes magazine in June 1986 which, in effect, states that the Internal Revenue Service will in essence be working on a commission as the result of a little noticed item in this Senate Finance Committee tax bill. The measure states that "a portion of the Internal Revenue Service annual budget would come from the penalties and the interest that the Service's agents collect. The more the agents collect the more they would be able to spend on enforcement."

Now, that hits me as being inherently unfair. A great number of dangers could arise as a result of putting them on a commission basis. I am not sure what this is called. It may be called the tax administration trust fund. But you could see that revenue agents might be given quotas or, on the other hand, the issue of promotion may well be measured by the number of penalties that they impose in their review of taxpayer returns.

It could well be that the staffing of the Internal Revenue Service as to the number of secretaries or the number of members of staff might depend upon how effective they carry out this provision. There is always danger in regard to this. As we move forward with either Gramm-Rudman-Hollings or with some other measure, in the event that Gramm-Rudman-Hollings is declared to be unconstitutional, it may well be that you would be forced to cut and therefore, to make up for the cut in the Internal Revenue Service. It could well be that there could be an increased pressure to impose penalties or to interest. There could also be the issue arise in regard to Internal Revenue agents, that is, in regard to their COLA's, their cost-of-living increases that might or might not be granted if Gramm-Rudman or some other type of deficit reduction plan was adopted. It might mean that this could become an issue.

Now, I have real questions as to the constitutionality of such a provision. I look at this sort of like I did upon the old justice of the peace system. Many States had a justice of the peace system which existed entirely on the number of fees that it collected. If a person was charged in a criminal case, the justice of the peace did not collect any fee unless he found the accused guilty. On the other hand, if someone brought a case in the civil division of the justice of the peace courts, the only way the justice of the peace could collect compensation was that he had to find in favor of the plaintiff, the one who brought the suit, in order to be able to collect the court costs.

Now, you had all sorts of abuses which occurred in the States. The U.S. Supreme Court finally ruled that that was an inherently unfair system and held that system unconstitutional. At one time we had a situation in my State in which a game warden was also a justice of the peace. The game

warden would go out into the fields dressed as a hunter, with a shotgun, in his hunting cap and his hunting coat. He would go out and catch somebody, bring them to his house, take off his hunting cap, his hunting coat, put up his gun, and then assume the position of being the judge.

□ 1630

That is somewhat similar to where the Internal Revenue Service would be acting under this provision relative to that matter.

I am also told that one time we had a justice of the peace who would not dismiss a case. He would say, "Well, the parties agree they made a mistake." He never would dismiss a case until the court costs were paid. There was not such a thing as dismissing it without court costs. He would say, "If you split the fees, we will dismiss the case."

That sort of thing, to me, is inherently unfair.

I have some other questions relative to the constitutionality of this issue. We have the provision that says that no money can be spent out of the Treasury without appropriations, and the appropriation process may have some difficulty pertaining to fees and penalties that might be imposed.

It seems to me that we need to talk of this issue. I do not think we need to have an Internal Revenue Service in which various heads of departments are telling their agents to "sic them," to go out there and get them and impose penalties or impose interest, unless the facts and the law and the regulations desere it and it is done on the merits, not where there is some incentive for promotion or some incentive for the protection of COLA's or some incentive for a secretary or various other aspects, or where there could be some personal interest.

So it seems to me that inherent fairness should prevail here. I hope that as the conferees look at this, they will look at it very carefully and will eliminate this. I do not think it should be in the bill in that manner.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in Forbes magazine in June 1986, entitled "The Taxman as Bounty Hunter."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TAXMAN AS BOUNTY HUNTER

(By Laura Saunders)

Should the IRS work on commission? That, in essence, would be the effect of a little-noticed item in the Senate Finance Committee's tax reform bill. The measure states that a portion of the IRS' annual budget would come from the penalties and interest the Service's agents collect. The more the agents collect, the more they would be able to spend on enforcement.

The idea behind the measure is that, unlike most government agencies, the IRS raises more money than it spends. "The yield is about $10 of revenue for every dollar spent, and revenues from compliance have been flat since 1982," says Fred Goldberg, former IRS chief counsel and now a partner at Skadden Arps Slate Meagher & Flom. The larger the proceeds reinvested in enforcement, the bigger the take.

Several years ago an IRS study estimated the "tax gap" of revenues owed but not paid at $90 billion, with only about 10% of that due from criminal tax evaders. The Joint Tax Committee estimates that the IRS will bring in about $5 billion a year in new revenues by 1991 if the measure flies. Small wonder that IRS Acting Commissioner James I. Owens told a group of CPAs last month, concerning the tax bill as a whole, "I don't beat around the bush. We like it."

What's more, Congress has added or beefed up over 50 penalties since 1982 (FORBES, *Apr. 7*). Already the agents are not hesitating to apply them. Gerald Portney, a former top IRS official who is now a partner with Peat Marwick, notes that on the subject of penalties "there is a major war between the Service and the public."

Can you imagine how nasty the war could get once the IRS has a direct stake in the outcome?

Mr. BOSCHWITZ. Mr. President, I rise to continue the colloquy that began last Friday with respect to the deductibility of passive losses.

I say to my friend, the chairman of the Finance Committee, that Senators continue to come and give me statements to put in the RECORD about this and continue to make statements on the floor. This is a kind of informal colloquy that goes on each day.

So I now ask unanimous consent to place in the RECORD a statement by Senator GARN and a statement by Senator LEAHY.

PASSIVE LOSSES

● Mr. GARN. Mr. President, I want to add my support to those statements that have been made regarding the unfairness and inequity of one important provision of the current tax bill now being considered by the Senate. While I do support the bill and intend, at this stage, to vote for final passage, the bill as reported by the Senate Finance Committee contains a provision which would not allow legitimate, economic real estate losses to be claimed against other income such as wages, salaries, commissions, or portfolio income. The bill does allow certain "active" real estate owners to deduct up to $25,000 in real estate losses against income. The Finance Committee phases out this exception when the "active" real estate owner's income reaches $100,000 and completely eliminates it for owner's with incomes of $150,000 and above. However, the so-called passive losses incurred mainly by limited partnership investments, would be prohibited from being claimed against other income.

My concern with this provision, Mr. President, is with the effect this provision will have on future losses from business activities and investments that were entered into prior to the effective date of this bill. To me, any Federal legislation that retroactively implements a law can do more harm than good. It dosen't make sense to me for Congress to literally "change horses in mid-stream" with legislation, whether the subject of the legislation is tax reform, cost-of-living adjustments, or Federal retirement benefits.

It simply is not fair for Congress to adopt legislation that changes the rules for those playing the game, in this case those involved with investment and security. We have tried to encourage such activity with past legislation, and now, instead of grandfathering those who have made past decisions based on the integrity and trust of the U.S. Congress, we are about to place all future and past transactions under the same playing rules. I reiterate, Mr. President, this is unfair and unfortunate.

It was impossible that those investing in existing limited partnerships could have reasonably anticipated the new game plan as contained in the Finance Committee bill. "Passive loss" provisions were not proposed by the Treasury Department, they were not included in the President's recommendations, they were not included in the House tax bill, and they were not included in Senator PACKWOOD's original recommendations to the Finance Committee in April. Rather, they were first proposed in late April and adopted several weeks later by the committee. They have certainly taken a "fast track" to this point, where they are again on the verge of being unanimously approved. Since the path has been so fast, investors had little forewarning that substantial changes were forthcoming.

The retroactive application of the "passive loss" rules will have harsh effects on investors, according to an investor from my own State. Many investors in existing partnerships have legally binding obligations to make additional cash contributions in 1987 and subsequent years. The Finance Committee bill places these investors in the untenable position of having to fulfill legal commitments even though the tax benefits associated with this commitment are substantially below that which was reasonably anticipated when the commitments were entered into. In other words, the rules of the game are being changed by and for only one of the players, while the other players must adhere to all original agreements.

This same principle applies with the investment community of this country. Retroactive application of the "passive loss" rules will harm and discourage present and potential investors and could also harm both banks and the U.S. Treasury. Based on the committee's retroactive treatment of these provisions, investors may not

take their obligations seriously in the future. Such action could force these partnerships to default on their loans, creating potential problem loans for banks or forcing the Government to pay off Government guarantees of loans made to finance investments in low income projects. This is the wrong signal to send to the financial community.

I understand a solution to the phaseout situation has been recommended by the real estate industry, which would eliminate the phaseout provision of the committee bill for all taxpayers actively involved in real estate investments without distinction of their income level. I would recommend this solution to my colleagues, especially those who will constitute the anxiously awaited and already infamous House/Senate conference on the tax bill, as a possible alternative to the current Finance Committee bill.

Mr. President, let me again reiterate my overall support for this bill. It has its few blemishes, as does any legislative initiative. But on the whole, it is a decent bill. I cannot say enough for the distinguished chairman of the Finance Committee, Senator PACKWOOD, for fashioning a bill that reduced individual rates down to two, with the top rate being 27 percent, while ensuring that all taxpayers pay their fair share of taxes. However, it is my hope that the conferees on the bill will seriously consider the dramatic effects and unfair nature of the retroactive "passive loans" rules as contained in the Finance Committee bill and take whatever measures are necessary to avoid this potentially adverse situation from becoming worse. As I mentioned, retroactivity provisions of Federal legislation are generally bad news for the country—they do more harm than good—and I would hope this bill would emerge from conference with a more favorable treatment for those well-intentioned investors who made legal investments prior to this year.●

● Mr. LEAHY. Mr. President, Chairman BOB PACKWOOD and Senator RUSSELL LONG and all the members of the Finance Committee deserve our thanks for producing a bill to clean up our tax laws and make them more fair for working Vermonters and working Americans.

Currently, more than one-half of all Americans must seek professional help to prepare their tax returns. The Finance Committee tax reform bill should make filing returns simpler for the majority of Americans, by eliminating dozens of tax forms.

The bill also goes a long way toward increasing tax fairness for working families, especially those near the poverty line, struggling to make a better life for themselves.

All of us support these aspects of the Finance Committee tax reform bill. Certain provisions of the bill concern me, however, due to the detrimental effect they will have on Vermont's economy. I speak of the provisions which would treat all rental housing as tax shelter property, and do so retroactively.

We, in the Senate, are attempting to put the finishing touches on a massive effort to make our tax laws more fair. Yet, the provisions of the tax reform bill affecting real estate investments are fundamentally unfair, because they take effect retroactively.

Congress has made major changes in the Tax Code 6 years in a row. The result: Instead of making investment decisions based on sound business judgment, leaders in business and industry have been forced to cope with annual changes in our Nation's Tax Code which affect the way they conduct their affairs.

Even worse, the Finance Committee tax reform bill would make major changes in our tax laws, affecting business decisions and investments which have already been made. This must not be allowed. We cannot change the rules in the middle of the game. Business people had no way of anticipating the sweeping changes in the tax reform bill and should not be penalized for making critical business decisions based on current law.

Mr. President, earlier this year the Senate unanimously adopted a resolution opposing any retroactive tax changes. I supported that resolution. In talking with business people and investors in my State and across the Nation, I have learned that they are perfectly willing to adjust to changes in our tax laws. But the business community needs to know the rules, in order to plan accordingly and create economic growth and jobs.

The retroactive committee provisions are unfair. They are bad for business and bad for the economy. The conferees on the tax reform bill should keep the commitment both Houses of Congress made earlier this year—that the tax reform legislation which ultimately becomes law will contain no retroactive provisions.

The effective date of the real estate provisions is not the only threat created by this bill to the economy of Vermont. In addition, the substance of those retroactive real estate provisions are well intended, but overly broad. The Finance Committee bill intends to deal a harsh blow to real estate tax shelters. Tax shelters have been abused, Mr. President. You know it and I know it. Tax shelters ought to be closed and closed tight.

However, the bill also unintentionally slams the door on legitimate real estate investments that strengthen our Nation's supply of affordable housing, especially rental housing.

In Vermont, there is a terrible shortage of affordable housing, at a time when growing numbers of Vermonters are finding economic opportunity within our borders. Young people used to leave Vermont to pursue careers in urban areas. Now, those jobs are available in Vermont, but we cannot build homes and apartments to house young families.

The real estate provisions of the tax reform bill define the development or management of all rental property as a tax shelter. Members of the committee justify this tough tax treatment of rental property, citing examples of abuses, including empty skyscrapers in Dallas and Los Angeles—investments which meet no real economic demand, but which are motivated only by tax avoidance.

Mr. President, there are no empty skyscrapers in Vermont. But, we do have hundreds of young families in search of safe, decent, and affordable housing.

The rental property provisions will worsen the housing shortage in Vermont, by discouraging builders and realtors from building and marketing rental housing. How many Americans could afford to build or buy a home, if interest on the mortgage were not deductible? The same is true of those who build and manage rental property in Vermont. If they cannot deduct the interest on loans to build rental housing, they simply will not build it.

Or, worse yet, what rental housing is built could become absolutely unaffordable. Higher costs will be passed on to consumers, who, in my State, are largely young people just starting out. They don't stand a chance.

The rental real estate changes are overly broad. To correct one inequity, we have created another. Yes, get rid of tax shelters. But the bill ultimately approved by Congress must not lump tax shelters with real housing needs and treat both alike. Vermonters cannot afford to pay any more for housing.

One solution which has been proposed is to permit investors with a working interest in rental property to deduct actual costs and losses, such as interest expenses. Only those who take the risk of investing would be entitled to deduct the costs of that investment. At the same time, real estate tax shelters would be effectively eliminated. This proposed remedy gets rid of the bath water, but saves the baby.

There is real feeling in this country that true tax reform is about to take place. The euphoria will be short lived, however, if we don't come to grips with the inequity in the provisions of the bill affecting the availability of affordable housing in States like Vermont. I urge the conferees on the tax reform bill to correct these problems.●

Mr. BOSCHWITZ. Mr. President, these are the 21st and 22d Senators to

speak on the deductibility of so-called passive losses; the retroactive—as the term is used—provisions of this bill. There are still about a dozen Senators to go, and I invite their statements or invite them to come to the floor, and I will share the continuing growth in the number of Senators who feel this way with the chairman of the Finance Committee.

Mr. President, on another subject, I am most enthusiastic about the vote that just took place, 71 to 29. I think the Senate has very decisively spoken that there should only be two tax rates and that top rate should be 27 percent.

I am going to submit for the RECORD a number of articles that show that the lower the tax rate goes, the more the people in the highest income brackets pay. Indeed, of the total taxes paid to the Federal Government, the largest portion is paid by the people in the upper-income brackets, particularly when the rates are the lowest.

The first article I submit for the RECORD is from the Wall Street Journal of August 7, 1978, written by Michael K. Evans, entitled "Taxes, Inflation, and the Rich." It traces the history of tax payments after the 1963 change in tax rates, when the top tax rate came down from 91 percent to 70 percent. It shows the payments in dollars made by people whose income exceeded $100,000—a mighty sum today and a mightier sum in 1961, 1962, 1963, 1964, and the years thereafter.

In 1961, 1962, 1963, the total dollars paid by taxpayers with incomes over $100,000 went down—went down virtually each year. Then the rates went down, and the amount that the people in these high-income brackets paid to the Federal Government went up by leaps and bounds, at a rate of approximately 22 percent to 25 percent a year.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TAXES, INFLATION AND THE RICH

(By Michael K. Evans)

Increasing numbers of economists have recently suggested that massive tax cuts would cure the ailments of the U.S. economy by increasing productivity, raising incentives and hence expanding aggregate supply. The idea of supply-side incentives has been embodied in proposals like the Steiger amendment to cut capital gains taxes and the Kemp-Roth bill for an across-the-board tax cut.

These bills, and the new supply-side thinking, raise issues that sound startling in the context of contemporary economic thought: Is it possible to cut taxes without spurring inflation? And is it possible to cut taxes, or at least certain taxes, without even reducing total revenues received by the Federal Treasury.

The historical record clearly indicates that the rate of inflation is inversely proportional to the gap between actual and maximum potential GNP. So measures that raise potential GNP would reduce inflation at the same time they increase economic growth. Measures that succeeded in expanding the gap by raising potential would clearly offer greater benefits to society than the traditional remedies of fiscal and monetary restraint, which expand the gap by reducing aggregate demand.

HOW A TAX CUT REDUCES INFLATION

In order for a tax cut to reduce inflation, it must increase maximum potential GNP faster than actual GNP. This is accomplished only by raising the investment ratio or by increasing incentives to work because a larger proportion of income will remain after taxes. Not all tax cuts accomplish this. A tax reduction of $50 per person, for example, would have no measurable effect on productivity or incentives, so it would not raise potential GNP. However, it would increase actual GNP, hence reducing the gap and raising the rate of inflation.

Thus the other extreme, a reduction in corporate income taxes or capital gains taxes would initially affect investment, thereby leading to the desired effect on productivity and total supply. While actual GNP would obviously rise because of higher capital spending, the gap would increase, thereby reducing the rate of inflation. A number of studies by Chase Econometrics and others have already shown the salutory impacts of business tax cuts.

The question of personal income tax cuts, which has become particularly relevant in view of the increased interest in the Kemp-Roth bill, is a much more difficult one to answer. While it may be theoretically appealing to argue that a reduction in personal income taxes encourages an individual to work harder and thus increase both his pretax and aftertax income, little evidence has been assembled either to support or disprove this hypothesis.

One of the major problems is measuring the amount and intensity of work offered by an individual taxpayer. However, a reasonable proxy variable is the amount of income taxes paid by this individual. Thus we can examine what happened to federal personal income taxes by income classification in the years following major tax cuts. These occurred in the mid-1920s, under Treasury Secretary Andrew W. Mellon, and in 1964-1965. It is interesting to examine both of these periods in some detail.

Before the U.S. entered World War I, the maximum tax rate on personal income was 15%, but this rate rose dramatically to a peak of 73% in 1918 and succeeding years. It was then cut to 55% in 1922 and 25% in 1926. It is instructive to learn what happened to taxes paid by millionaires—that group which has been singled out by President Carter and Treasury Secretary Blumenthal as unworthy of further tax relief. To adjust for the differentials caused by inflation, we consider those taxpayers with incomes over $300,000 in 1922 and in 1927, although even this adjustment is an understatement of the true effects of rising prices. In 1922, this group paid taxes of $77 million, while in 1927, the year after the second reduction in rates, its members paid a total of $230 million. Not only did the economy benefit significantly, but the millionaires themselves paid three times as much in taxes with lower rates.

It could be argued that the Mellon tax cut results, while instructive, are not relevant today since the institutional structure and income distribution of the U.S. economy are far different now than they were in the 1920s. However, we need not be restricted to a reading of "ancient history" in our determination of how a reduction in top bracket rates might affect overall revenues. Fortunately we can rely on the figures before and after the Kennedy-Johnson tax cuts of 1964.

As most readers will recall, the top rate was reduced from 91% in 1963 to 77% in 1964 and 70% in 1965 and later years. The figures for actual income tax paid for the period 1951-1956 for taxpayers with incomes of $100,000 or more are taken from "Statistics of Income" and are reproduced in the accompanying table.

The results are so clear-cut that it is surprising that these figures have not previously been introduced as evidence in favor of Kemp-Roth. After virtually no growth in income taxes for incomes over $100,000 for three years, actual taxes paid rose dramatically beginning in 1964 even though income was taxed at significantly lower rates. In the case of individuals earning over $1 million per year, taxes collected actually doubled in the two-year span during which the tax rates were being lowered. For income classes under $100,000, taxes either fell or rose less than the average growth in total personal income."

These results, which represent a remarkable rebuttal of those who argue that upper-income tax cuts are a "raid on the Treasury," indicate that a further reduction from 70% to 50% would not only spur economic growth and increase aggregate supply, but would actually assure the Treasury of greater tax revenues. The argument for upper-income tax cuts is almost as watertight as the argument for lower capital gains taxes.

The more extreme proponents of Kemp-Roth have sometimes seemed to suggest that this phenomenon occurs at all income levels. it does not, as can be seen by a perusal of the complete "Statistics of Income" figures, and by the fact that aggregate personal income tax collections did decline from $51.5 billion in 1963 to $48.6 billion in 1964. This should come as no great surprise: The effects on individual incentives and supply of labor are undoubtedly much greater where taxes are highest—at the upper income levels rather than for the typical wage earner.

FLEXIBILITY FOR UPPER INCOME GROUP

Furthermore, just as has been shown in recent work on capital gains taxes, upper-income individuals have far greater flexibility in arranging the income for their assets in the form of tax-free or tax-sheltered income when rax rates are at punitively high levels. The risks of unreported income become relatively much smaller when tax rates are near 100%, and the lure of diverting earnings to foreign countries becomes much greater.

Thus if the Treasury wants to collect more revenues, it will lower the highest marginal tax brackets. Only if it wants less revenue and poorer economic growth so badly that it is willing to penalize all those "millionaires" will it push for higher upper income tax rates.

After virtually no growth in taxes collected from personal incomes over $100,000 for three years, actual income taxes paid rose dramatically beginning in 1964, when personal income was taxed at significantly lower rates.

[Dollars in millions]

	1961	1962	1963	1964	1965	1966
Maximum tax rate (percent)	91	91	91	77	70	70
Taxes collected from income classes of [1]						
Over 1,000,000	342	311	326	427	603	590
500,000 to 1,000,000	297	243	243	306	408	457
100,000 to 500,000	1,970	1,740	1,890	2,220	2,752	3,176
Total	2,609	2,294	2,459	2,953	3,763	4,223

[1] Adjusted gross income.

Mr. BOSCHWITZ. Mr. President, I have a second article that I wish printed in the RECORD, entitled "The Redistributionist Tax Reduction," which appeared in the Wall Street Journal on June 26, 1984. It shows that tax payments by people in the lowest 50 percentile went down in 1982, when the tax rate went down, and that total tax payments by people in the top brackets went up. It shows that the only people who paid more taxes in 1982 when the rates came down were the 1.4 percent of all the taxpayers.

I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE REDISTRIBUTIONIST TAX REDUCTION

(By James Gwartney and Richard Stroup)

Despite the appearance already of telling analyses of 1982 Internal Revenue Service data, some observers have difficulty understanding that a roughly proportional reduction in tax rates toward the upper income brackets. Yet this is precisely what both economic theory and our experience with major rate reductions indicate. The latest cut is no exception, as we can show with a new perspective on the recently released 1982 numbers.

Contrary to the assumption of many, taxable income is not invariant to changes in tax rates. When tax rates decline, the take-home pay per dollar of additional earnings increases. Taxpayers have more incentive to earn additional income and less incentive to engage in tax-sheltering activities that now generate less tax-saving. As a result, lower tax rates lead to an expansion in the tax base.

A STRAIGHTFORWARD ANSWER

The incentive effects of an across-the-board rate reduction will differ across tax brackets. It will have a leveraged impact on the incentives of high-income taxpayers. Perhaps some numbers will make this point clear. Suppose tax rates are cut across the board by 20 percent. In the 10 percent bracket, the rate is cut to 8 percent, while a 70 percent rate declines to 56 percent. Now, consider how this proportional rate reduction affects take-home pay. People in the 10 percent bracket take home 92 cents instead of 90 cents per dollar of additional earnings, a paltry 2.2 percent increase. Clearly, this small increase is unlikely to exert a major impact on the incentive of those taxpayers to earn more taxable income. In contrast, look at what happens in the 70 percent bracket. Here the 20 percent rate reduction boosts take-home pay to 44 cents per dollar of additional earnings from 30 cents—a 47 percent increase. Taxpayers in this and other high income brackets are now permitted to keep a significantly larger proportion of an added dollar of income. Predictably, they will respond by earning more taxable income and engaging less intensely in tax-shelter activities.

How does this incentive structure affect the distribution of the tax burden across income groupings? The answer is now straightforward. Since the rates were all reduced by the same percentage, the leveraged impact of incentives means that the size of the revenue reduction will be inversely related to the changes in taxable income. If taxable income is virtually unaffected by the rate reductions, as is likely to be the case in the lowest marginal tax brackets, revenues will fall by approximately the same percent as the rates. In these brackets, a 20-percent rate cut will lead to about a 20-percent reduction in tax revenues. In contrast, in the upper income (and marginal tax) brackets where the incentive effects on take-home pay are greater, increases in the tax base will at least partially offset the lower rates. In these brackets, tax revenues will fall by less than the 20-percent rate reduction. The result—an increase in the share of taxes collected from high-income taxpayers.

The distributional effects of a tax cut can best be observed by comparing the revenues collected across the income distribution before and after the rate reduction. The accompanying table makes this comparison for the 1981-1982 data. The bottom 50 percent of income recipients paid $19.5 billion in personal income taxes in 1982, down from $21.7 billion in 1981, a 10.1 percent decline. Even though the rate reductions for taxpayers in the 50th to 75th percentiles and 75th to 98.6th percentiles were similar to the rate cuts in the lower brackets, the decline in tax revenues collected from these groups was smaller, just as economic theory predicts. For the higher income groups, an expansion in the taxable income base partially offset revenue losses due to the lower rates. Thus, tax revenues fell by smaller amounts in the upper income brackets.

The imposition of the 50-percent rate ceiling in 1982 reduced tax rates by as much as 28.6 percent (to 50 percent from 70 percent) in the highest income brackets. The top 1.4 percent of taxpayers were most directly affected by this rate reduction. At the lower rates, the taxable income of the top 1.4 percent of returns grew sharply in 1982. In fact, it grew so sharply that the tax revenues collected from this small group of high-income taxpayers increased to $60.5 billion in 1982 from $58 billion in 1981. While revenue collected from all other groups fell, the tax liability of the top 1.4 percent of income recipients increased.

Clearly, the share of taxes collected from the rich rose in 1982. The top 1.4 percent of taxpayers shouldered 21.8 percent of the tax burden in 1982, up from 20.4 percent in 1981. In contrast, the share of total income-tax revenues contributed by the lower half of income recipients fell to 7 percent in 1982 from 7.6 percent in 1981.

Unwilling to admit that incentives matter, critics have offered two alternative explanations. Some have argued that the shift in the tax burden toward the rich was the result of the 1982 recession. Of course, a recession does reduce incomes. However, there is no reason to believe that the income reductions are greater in lower tax brackets than in upper brackets. In fact, the instability of business and professional income over the business cycle would suggest the opposite, that a recession is likely to retard income in the upper brackets more severely.

The most damaging evidence against the cyclical view is provided by the 1963-65 data. During this period of economic boom, the distributional pattern emanating from an across-the-board rate reduction was identical to the pattern due to the 1981 tax cut. When the rates were reduced in 1964-65, the tax revenues collected from the top 5 percent of taxpayers rose 10.9 percent, while the revenues collected from the bottom 50 percent of income recipients fell 6.4 percent. As in 1981-82, the 1963-65 data indicate that a roughly proportional rate reduction shifts the tax burden to the rich.

Second, other critics have argued that the increase in the share of revenues collected from the rich merely reflects rising capital gains associated with the stock market boom that began in August 1982. Inspection of the data reveals that this is a "tail wags dog" theory.

Capital gains are a small part of total income. In 1981, net capital gains contributed only 1.5 percent to total adjusted gross income (AGI). Even for the top 1.4 percent of taxpayers, the capital-gains component was only 9.6 percent of AGI. Given the size of capital gains as a share of AGI, it would have taken a huge expansion in capital-gains income to explain the observed pattern of income growth across income groupings in 1982. But the actual increase in net capital-gains income was rather modest—to $32 billion in 1982 from $29.3 billion in 1981, an increase of only 9.2 percent. Of course, the major component of income is wages and salaries. This component grew substantially more rapidly in the upper tax brackets between 1981 and 1982. Clearly, it provided the major impetus for the growth of taxable income in the upper brackets.

RESPONSIVE TAX BASE

The 1982 data indicate that the tax base is quite responsive to changes in tax rates, particularly in the upper tax brackets. Given the economic environment, the responsiveness is almost surprising. After all, the rate reductions did little more than correct for bracket creep and higher Social Security taxes. In addition, the more rapid depreciation allowances provided by the 1981 legislation actually increased the attractiveness of tax-shelter investments. Finally, all the talk about higher future taxes did little to discourage the tax-shelter industry. Had it not been for the more rapid depreciation write-offs and constant threat of higher future tax rates, the tax base in the upper brackets would surely have grown by an even larger amount. Far from suggesting that the marginal rates were cut too much, the data indicate the potential of still lower marginal rates. Sens. Bill Bradley and Robert Kasten, along with Reps. Jack Kemp and Richard Gephardt, should take note and push on with their plans for genuinely lower rates.

EFFECTS OF REAGAN TAX CUT ON RICH AND OTHERS

[Dollar amount in billions]

	Income tax liability				
	Percent	1981	Percent	1982	Percent change
Income grouping: [1]					
Bottom 50 percent	7.6	$21.7	7.0	$19.5	−10.1
50 to 75 percentile	20.8	59.0	20.0	55.6	−5.8
75 to 98.6 percentile	51.2	145.4	51.0	141.3	−2.8
Top 1.4 percent	20.4	58.0	21.8	60.5	+4.3
Total		284.1		276.9	

[1] The number of returns in each income grouping was virtually identical in 1981 and 1982.

Mr. BOSCHWITZ. Mr. President, the third article appeared in the Washington Times on February 25, 1985, written by Warren Brookes. It shows people with $1 million and more in income paid 118 percent more in 1983, in dollars, than they paid in 1981 at higher tax rates.

In short, when the tax rates are lowered, the people in the highest brackets find it less useful to shelter their income, as common sense would tell us, and they do not shelter as much, and they do pay more taxes.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW LOW RATES ARE SHIFTING THE TAX BURDEN

(Warren Brookes)

This Wednesday, the Ways and Means Committee will open hearings on tax reform, including the three major proposals: Bradley-Gephardt, Kemp-Kasten, and the Don Regan Treasury plan, which is expected to be modified.

With the president making this his top legislative priority, Congress has an historic opportunity not only to make our tax system the envy of the Free World and a magnet for growth capital, but to make the system far more "progressive" by—paradoxically—lowering top marginal rates.

Legislators need not look far for statistical support for this process—the experience of the 1982 and 1983 tax cuts is well documented for them in an analysis just released by the Internal Revenue Service. It shows that the shift of the tax burden from the poor which started in 1982, continued even more strongly in 1983.

As this column was the first to point out last April, the effect of the 1982 tax cuts, which cut top marginal rates from 70 percent to 50 percent, was actually to cut the share of taxes paid by those with incomes under $20,000 by about 10 percent. And it raised the share of taxes paid by those with incomes over $50,000 by 8 percent. The share paid by millionaires jumped about 41 percent, as a whopping 55 percent more of them filed tax returns in 1982 than had in 1981.

Yet the 1983 analysis is even more impressive. In 1983, the share of taxes paid by those with income below $20,000 fell another 12 percent, and the actual taxes paid dropped 16 percent—about $6.2 billion.

Those with incomes in the $20,000-50,000 range paid more than $11 billion less taxes in 1983 than in 1982. And their share of the tax burden fell another 5 percent. Those with incomes over $50,000 paid $8 billion more in 1983, while their share of the tax burden rose another 12 percent.

The most impressive performance was in the highest tax brackets, with the million-and-over bracket increasing its total payments from $6.9 to 10.2 billion, a 47 percent increase in tax revenues, and a 54 percent increase in share of taxes paid.

In other words, in the last two years, the nation's total income tax distribution has become substantially more progressive, even as top tax rates have been reduced 29 percent.

The aggregate change from 1981 through 1983 is very impressive. The share paid by those earning less than $20,000 fell 20 percent, from 17.1 percent of total taxes paid in 1981 to 13.7 percent in 1983. The share paid by those earning more than $50,000 rose by an equally substantial 20 percent, from 32.9 percent in 1981 to 39.6 percent in 1983.

Perhaps the most potent result of the Reagan tax cuts is how successfully they have lured the superrich back into the tax base. The taxes paid by millionaires rose from $4.9 billion in 1981 (at the 70 percent top rates) to $10.2 billion in 1983, a 108-percent rise in taxes paid, at a 30 percent lower marginal tax rate!

And, in that '81-83 period, the number of millionaires paying taxes rose from 5,283 to 11,528, a 118 percent rise in the tax base of individuals with incomes of $1 million or more.

Thus, all that left-wing rhetorical garbage about the Reagan tax cuts favoring the rich was literally destroyed by the actual experience. Lower tax rates encouraged rich people to incur—and pay—tax liability, instead of sheltering their incomes.

Of course, this is nothing new. Ronald Reagan's presidential hero was Calvin Coolidge, whose Treasury secretary, the hated Andrew Mellon, cut top marginal rates from 73 percent to 25 percent, between 1921 and 1925. Under those "richman's tax cuts," the share of taxes actually paid by the richest taxpayers (over $50,000) rose from 44 percent to 69 percent, a 57-percent increase, while the share paid by the lowest earners dropped 82 percent.

In fact, in 1926, those with incomes above $50,000 paid nearly seven times as much in income taxes (69 percent) as those with the same incomes in 1963 (11 percent), even as the top tax rates had been jacked up from 23 percent to 91 percent!

In short, the effect of the massive New Deal steeply graduated tax system (14-91 percent) was to shift the total tax burden away from the rich to the poor and middle-class, as the share paid by the $10,000-50,000 brackets jumped from 27 percent in 1926 to 41 percent in 1963.

Fortunately, Americans are becoming disabused of the silly notion that high tax rates are "progressive." The experience of 1981-1983 should reinforce flattening tax rates the way the various "tax reforms" now propose.

Mr. BOSCHWITZ. Finally, Mr. President, I have another article by Warren Brookes that appeared in the Washington Times on May 5 of this year. It shows the results of 1984 as opposed to 1981. Three years of lower rates had been in effect by that time, and it shows, once again, that people with higher income pay more tax dollars when the rates go down.

I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMENTARY

(Warren Brookes)

House and Senate Democrats can hardly contain their glee at the disarray of Senate Finance Committee Chairman Robert Packwood's degenerating "tax-reform" process.

As bad as the House reform effort (H.R. 3838) was, the Senate version was getting even worse, with Finance Committee members busy drawing the Treasury Department into supporting increased consumer excise taxes on gasoline and other items just to pay off the corporate and mineral lobbies, a massive departure from President Reagan's original bill (T-2), which was infinitely better economically and fairness-wise than anything since.

Mr. Packwood, Republican of Orgeon, was right to call an effective halt to this legislative slaughterhouse and try to regroup in closed-door sessions, to see if the original idea of tax reform, lower tax rates for everyone by wiping out shelters and "preferences" for the few, can still be rescued.

The day Mr. Packwood agreed to this, the Internal Revenue Service released its preliminary analytical data on the 1984 tax returns. The data showed the latest distribution of tax payments and preferences by income class.

Mr. Packwood should be sure that every member of the Senate studies this long-delayed data—and compares it with the 1981 (pre-Reagan-tax cut) data, because it utterly confirms the necessity and the desirability of real tax reform.

In a nutshell, the 1984 tax returns reinforce the highly "progressive" trend, already well established in 1982 and 1983, with the taxes and tax share paid by the richest taxpayers continuing to soar in the face of lower tax rates—while the tax shares paid by those in the middle-to-lower brackets continued to decline.

If anything, the 1984 trends are even more startlingly "progressive." For example, in 1984, an astonishing 16,662 taxpayers reported adjusted gross incomes of $1 million or more, up an amazing 54 percent from the 10,800 in 1983, and up 278 percent from the 5,286 in 1981, before the top tax rate was cut from 70 to 50 percent.

As a result, revenues collected from this bracket have soared three-fold—from less than $5 billion in 1981 to more than $15.2 billion in 1984, as the share of the total tax burden carried by millionaires alone (now representing only 0.02 percent of the taxpayers) rose from 1.7 percent in 1981 to 5 percent in 1984, a 216-percent increase in tax share—43 percent in 1984 alone.

This represents a simply astonishing upward shift in the "progressivity" of the tax system—and in exactly the opposite direction than naysaying liberal critics had predicted. (See table.)

For example, taxpayers earning more than $100,000 increased their tax payments by a whopping 57 percent, from $43.3 billion in 1981 to $68.1 billion in 1984—and 26 percent of that came in 1984 alone!

As a result, the share of the tax burden carried by this top-income group soared from 15.2 percent in 1981 to 22.4 percent in 1984, a 47-percent increase in share, up 14 percent in 1984 alone.

By contrast, taxpayers with incomes below $25,000 (now representing 65 percent of all taxpayers) watched their tax payments fall from $74.8 billion in 1981 to $58.4 billion in 1984.

Similarly, the taxpayers in the $25,000-50,000 category, the so-called "middle class," also made out well, as their total tax payments actually dropped 3 percent, even though their share of the total number of taxpayers rose from 21.6 to 24.8 percent.

On a constant percentile basis, the tax share paid by the middle 55 percent (40th to 95th percentile) dropped 5 percent, while the top 5 percent's share of the tax burden rose 8 percent, and the top 1 percent tax share rose an astonishing 21 percent.

The reason for all this is obvious: lowering the top tax rates has the effect of slashing the value of tax shelters and loopholes, thus broadening the taxable income base, and the most "positive" effects are on those already in the highest brackets, and on the upward movement of all middle-income taxpayers.

Thus, for example, the taxable income of millionaires shot up 283 percent (1981-84), nearly 60 percent in 1984 alone, as the rates came down nearly 30 percent. For all those above $100,000, taxable income rose a whopping 82 percent 1981-84, eight times the 10-percent rise in taxable income for all those under $50,000.

In short, the effect of the Reagan across-the-board rate cuts was a tremendous broadening of the taxable income base of the wealthy, and a surprising narrowing of the tax base for the lower and middle groups, shifting the tax burden sharply upward.

This proves beyond question that the "fairest" and most "progressive" tax reform of all would be a really "clean" bill, more like T-2, but with even fewer loopholes and a top rate of no more than 25 percent.

Are you listening, Senate Finance Committee?

Mr. METZENBAUM. Mr. President, will the Senator from Minnesota yield for a question?

Mr. BOSCHWITZ. No. I will be happy to answer questions at the conclusion of my statement.

Mr. METZENBAUM. I just want to ask the Senator from Minnesota how long he is going to go on, so that we can proceed with some amendments.

Mr. BOSCHWITZ. Mr. President, this new tax bill will have the same result, because the tax rates are lowered to such a large degree that it will be fair, it will be across the board, and it will be a tax bill that will see that all Americans pay taxes as they properly should.

□ 1640

Mr. METZENBAUM. Mr. President, the hour is 4:40 p.m and I would like to point out we have been waiting all day to try to call up some of my amendments.

I am prepared to call up my amendments and proceed with them.

The first amendment I believe has been worked out.

The bill closes a loophole that has enabled some companies to increase their foreign tax credits by treating interest paid on U.S. debt as though the debt was incurred overseas.

That provision is phased in over a 4-year period for most companies and over 10 years for three oil companies.

But the bill as presently drafted completely exempts one company that has indebtedness of $600 million which includes Japanese notes and Swiss franc bonds. This is a situation of a company we all know as Avon. Avon rang the bell. Avon came calling and Avon got too much.

Mr. President, this provision totally exempts one company from the committee provisions at a cost of $10 million a year. It is not a transition rule. It is a special exception for one company.

I am pleased to report that Senator MOYNIHAN and I have discussed the subject. We are in total agreement that the intent is to phase out of that right with respect to foreign tax credits, that for a period of 5 years they would have that right and then on the basis of a 20 percent of the remainder it would be phased out over the next 5 years.

In addition to that portion of it, we are adding to the amendment some language which restores the orphan drug tax credit to the Senate bill.

I want to explain to my colleagues that this is a matter having to do with a special kind of drugs, those that are used to treat rare diseases.

Obviously, it is impossible for pharmaceutical companies to make a profit on these very seldom-used drugs. Very few people are in need of them. The demand is very small. But those who suffer from rare diseases, Mr. President, suffer no less than victims of more common maladies.

However, we cannot realistically expect drug companies to research and develop these drugs if they cannot even recoup their costs.

Although they are rare diseases, Mr. President, an estimated 8 million Americans suffer from over 5,000 separate rare diseases. Over half of these afflictions are childhood diseases. They have names like narcolepsy, ALS, better known as Lou Gerhig's disease, Ataxia, Huntington's disease, neurofibromatosis, Parkinson's disease, Wilson disease, tourette syndrome, Tay-Sachs, Prader Willi syndrome, multiple sclerosis, and thousands more.

This tax credit gives people hope, hope that they otherwise would not have. It also produces results.

I want my colleagues to note this: since the Orphan Drug Act was signed into law in 1983 nearly 100 medicines have been developed to treat rare diseases. Most of these drugs are being used to treat childhood diseases that were heretofore fatal. One drug has been approved to treat cystic fibrosis. Others treat hereditary metabolic disorders. Another drug has been developed to treat tourette syndrome.

I believe that the progress that has been made in the orphan drug field by reason of the special consideration that we have given in the past very much merits to our giving the same consideration in the future.

I might say that I am pleased about the fact that Senator KASSEBAUM, Senator HATCH, Congressman WAXMAN, and a number of others who have been active and interested in the health field have seen fit to indicate their support of this effort.

Clearly the law is now working as it was intended. Under the Orphan Drug Act any pharmaceutical company which develops an orphan drug is allowed a credit equal to 50 percent of the cost in any taxable year of conducting human clinical tests on designated orphan drugs. The rest of the cost can be deducted.

The provision also contains language which corrects a technical error in the original law.

I have copies of documents from the Food and Drug Administration and the Department of Treasury which explain this error and endorse the approach we are taking today. I ask unanimous consent that those documents be printed in the RECORD at this time.

There being no objection, the documents were ordered printed in the RECORD, as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES, FOOD AND DRUG ADMINISTRATION,

Rockville MD, June 10, 1985.

Hon. HENRY A. WAXMAN,
Chairman, Subcommittee on Health and the Environment, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. WAXMAN: The Secretary has asked me to respond to your letter of May 17 regarding coverage for antibiotic drugs for rare diseases under the Orphan Drug Act and expansion of that Act to cover medical devices. In the interest of meeting your timetable for House action on pending amendments to the Orphan Drug Act, this response will address the antibiotic question only and medical devices will be the subject of a followup letter.

We agree that the Congress should enact a technical amendment to the Orphan Drug Act specifically to include drugs approved under section 507 (antibiotics) of the Federal Food, Drug, and Cosmetic (FD&C) Act. Currently, drugs may be designated for rare diseases or conditions only if they are approved under section 505 (new drugs) of the FD&C Act or section 351 (biological products) of the Public Health Service Act.

We are not aware of any reason why antibiotics should be distinguished from other drugs for purposes of orphan drug development and have always taken the view that Congress clearly intended that antibiotics be included under the Orphan Drug Act. Antibiotics were included, for example, in the survey study of orphan drugs conducted by the House Subcommittee on Health and the Environment, as reported in the Preliminary Report of the Survey on Drugs for Rare Diseases, dated March 8, 1982. This survey provided data concerning the characteristics of orphan drugs to assist members of the House in their consideration of the original Orphan Drug Act. As you correctly point out, we have already designated two antibiotics as orphan drugs under that Act. These designations were based upon our understanding of Congressional intent. A technical amendment to the Orphan Drug Act to reflect this view is clearly warranted.

We are sending a similar letter to Representative Madigan.

Sincerely yours,

FRANK E. YOUNG, M.D., Ph.D.,
Commissioner of Food and Drugs.

MEMORANDUM

MARCH 8, 1982.

For: Harold Hirsch, Bruch Davie, Harry Graham.

From: Fairlea Sheehy FAS Office of Tax Legislative Counsel.

Subject: Technical Correction Concerning the Orphan Drug Act (Code Section 44H).

A technical issue has arisen regarding the tax credit under Code section 44H, enacted by the Orphan Drug Act in January 1983. The Orphan Drug Act amends the Food and Drug Act to allow the designation of certain drugs as "orphan drugs," and to provide manufacturers of such drugs with certain benefits, administered by FDA. The Orphan Drug Act also amends the Code to provide a tax credit equal to 50 percent of certain expenses incurred in testing an orphan drug. To be eligible for orphan drug designation, such drugs must be of the type approved either under section 505 of the Food and Drug Act or, if the drug is a biological product, licensed under section 351 of the Public Health Services Act.

When addressing the tax credit (set forth under Code section 44H), the statute mistakenly omits reference to biologics. In section 44H(b)(2)(A), clinical testing eligible for the credit is defined as human clinical testing

(i) carried out under a section 505(i) exemption,

(ii) occurring after designation as an orphan drug and before the application under section 505(b) of the Food and Drug Act is approved, and

(iii) conducted by a taxpayer who has received orphan drug designation.

The statute omits reference in (ii) above to section 351 of the Public Health Services Act, creating an erroneous inference that biologics may not be eligible for the tax credit.

We recommend that a technical correction be made to clarify that the definition of clinical testing expenses eligible for the tax credit includes biologics licensed under section 351 of the Public Health Services Act. This correction could consist of inserting the phrase "or a license with respect to such drug is issued under section 351 of the Public Health Service Act" after the word "Act" in Code section 44H(b)(2)(A)(ii)(II).

We appreciate your attention to this matter. A copy of appropriate sections of the Orphan Drug Act is attached for your convenience.

Mr. METZENBAUM. Mr. President, this is an excellent addition to the bill. I am very pleased to have been able to work it out with the distinguished Senator from New York. The original law was a bipartisan effort. This is a bipartisan effort and I think we are truly doing a humane and necessary act in putting this orphan drug portion into the bill, while at the same time correcting the provisions pertaining to Avon.

Mr. MOYNIHAN. Mr. President, as early as 1982 Avon incurred substantial indebtedness, in reliance on current law, in order to diversify from its historic cosmetics and fashion jewelry business. The transitional rule provided by the bill only recognized this reliance, and no more. An increase in the level of Avon's debt in the future will be fully subject to the other provisions of the bill.

The bill is based on the proposition that debt should be allocated proportionately to all assets in a corporate group; it is from this rule that Avon is excepted, so that the debt will not be allocated to Avon's foreign assets.

It is clear that Avon's foreign activities have no relation to Avon's current debt. Debt incurred when the foreign operations were begun (in 1914 for Canada and the 1950's for the rest of the world) has long since been paid off. In 1981–1985 alone, Avon repatriated to the United States a net amount of cash which exceeded Avon's entire foreign investment. This business simply does not need debt to support it.

On the other hand, Avon's new health care business does require debt, and it was for this very purpose that the debt was incurred. The facts could not be more obvious. Apparently no other taxpayer has come forward with this same problem where the bill obviously should not apply, so a specific rule for Avon was written. The transitional rule recognizes that Avon's situation was simply not an abuse and that the bill was aimed at other factual settings.

Other corporations, much larger than Avon, also received relief from the group-wide allocation rules, but because they are so large and so few, it was possible to write their rule in a way which did not identify them. Avon is, to my mind, more deserving of relief than these other companies.

Mr. President, I urge that the Avon transitional rule be retained.

AMENDMENT NO. 2093

(Purpose: To decrease the amount of indebtedness to which an exception to the allocation of interest rules applies.)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk in behalf of myself, Senator KASSEBAUM, and Senator HATCH, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] for himself, Mrs. KASSEBAUM and Mr. HATCH, proposes an amendment numbered 1093.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1812, line 13, strike "$600,000,000" and insert "the applicable dollar amount".

On page 1812, after line 23, insert:

For purposes of this paragraph, the in term "applicable dollar amount" means $600,000,000 in the case of taxable years beginning in 1987 through 1991, $500,000,000 in the case of the taxable year beginning in 1992, $400,000,000 in the case of the taxable year beginning in 1993, $300,000,000 in the case of the taxable year beginning in 1994, $200,000,000 in the case of the taxable year beginning in 1995, $100,000,000 in the case of the taxable year beginning in 1996, and zero in the case of taxable years beginning after 1996.

At the end of title XVII, insert the following new section:

SEC. —. EXTENSION AND MODIFICATION OF CREDIT FOR EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES.

(a) EXTENSION OF CREDIT.—Section 28 is amended by striking out subsection (e).

(b) CLINICAL TESTING.—Subclause (II) of section 28(b)(2)(A)(ii) is amended—

(1) by inserting "or 507" after "505(b)", and

(2) by inserting "or if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act," after "Act,".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to amounts paid or incurred after December 31, 1982.

Mr. METZENBAUM. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, the Internal Revenue Code as we have redrafted it so extensively does retain the credits for research and development, and this is in that family of incentives which I think is very much in consonance with the purposes of the committee.

Mrs. KASSEBAUM. Mr. President, I am joining Senator METZENBAUM in cosponsoring the pending amendment, which will extend the tax credit available for clinical testing of orphan drugs.

Orphan drugs refer to drugs for the treatment of rare diseases and conditions. The term "orphan" highlights the fact that high development and drug approval costs coupled with a small market for their use give these drugs limited commercial value. In the past, even when a promising treatment had been discovered, it was not always made available because of the substantial financial loss which would be incurred by its manufacturer.

I first became interested in the particular problems faced by individuals with rare diseases and conditions when individuals representing the Committee To Combat Huntington's Disease visited my office in 1981. Huntington's Disease, which affects approximately 14,000 persons nationwide is a genetic disorder which manifests itself in adulthood. It is characterized by jerky movements and mental deterioration. Children of sufferers have a 50/50 chance of contracting the disorder.

In the years in which I have been involved with this issue, I have become aware of a number of rare diseases—such as ALS (or Lou Gehrig's disease), which affects 9,000 people and tourette syndrome, which affects about 100,000. Even though the number of

people afflicted with each condition is small, the combined population when all rare diseases are considered runs into the millions. In terms of total impact, the numbers are much higher as one realizes that the tragedy of this situation rests not only with the victims, but also with their families.

The tax credit provision, which would expire next year without this extension, was one of several steps taken by the Orphan Drug Act of 1982 to provide incentives for the development of orphan drugs. The purpose of the credit was to partially offset the financial loss entailed in developing and producing these drugs.

I think it is important to emphasize that we are not talking about giving drug manufacturers a lucrative tax break to help them make bigger profits. Rather, the purpose of the credit is simply to assist them in moving toward breaking even when they decide to go ahead with a drug which will have a small potential market. Nor are we talking about a huge tax expenditure, as the estimated value of this credit is $7 to $8 million per year.

This modest investment pays enormous dividends. The effectiveness of the Orphan Drug Act has been amply demonstrated in the 3½ years since its enactment. To date, 98 drugs have been designated as orphan drugs under the provisions of the act. Many thousands of individuals have benefited directly from the availability of new treatments, while countless others feel new hope that some help might be made available to them in the future.

It seems to me that when we find something that works, we should stick with it. I am extremely pleased that this amendment is acceptable to the managers of this legislation. It represents yet another important step toward improving the lives of countless Americans afflicted with rare diseases and conditions.

Mr. HATCH. Mr. President, I am pleased to rise to lend my strong support to a provision of the amendment proposed by Senators METZENBAUM and KASSEBAUM which would restore the orphan drug tax credit to H.R. 3838, the Senate version of the Tax Reform Act of 1985.

You will recall that the Orphan Drug Act was enacted in January 1983. At that time there were only 34 orphan drugs on the market. By 1985, when the act was reauthorized, an additional 54 drugs had been designated as orphan drugs and were either under development or already approved. No one can deny that the Orphan Drug Act has made a tremendous difference in the development of drugs for rare diseases and benefited those citizens afflicted with rare diseases.

A key reason for the success of the act in promoting the development of new orphan drugs by industry is the incentive provided to the pharmaceutical industry by the tax credit for clinical research. Remove this credit and you remove much of the incentive for orphan drug development, it's as simple as that.

We must remember that an orphan drug, even with benefits available under the act, it not expected to be profitable by the drug company that develops it. Industry has used the incentive provided by the orphan drug tax credit to continue developing orphan drugs. I believe the credit should be restored to H.R. 3838 to ensure the continued success of the orphan drug program.

AMENDMENT NO. 2094

(Purpose: To permit taxable not-for-profit corporations engaged in the gathering and distribution of news and other information to report income from such services to members and non-members on a consolidated basis)

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 2094 to amendment numbered 2093.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place at the end of the amendment, add the following language:

§ . **Deductions incurred by certain membership organizations in transactions with members.**

(a) Section 277(b) of the Internal Revenue Code of 1954 is amended by adding the following new paragraph:

"(4) which is engaged primarily in the gathering and distribution of news to its members for publication."

Mr. MOYNIHAN. Mr. President, section 277 was added to the code in 1969 to prevent certain taxable membership organizations from providing goods or services to members at below cost and offsetting the losses from that activity against income from nonmembers or investment income.

The need for specific exceptions for certain organizations from the application of the provisions of section 277 of the code was recognized at the time of its addition to the code in 1969. Among those exceptions was a limited exception for taxable membership organizations which provide "loss leaders" in competition with profit making organizations which provide the same type of "loss leaders." An example of the type of organization for which this exception was designed is the American Automobile Association, which must set its dues at the same loss level as the charges set by its profit making competitors and, therefore, needed the income received from nonmembers, such as income from the sale of travel advertisements, to offset the losses.

It has come to my attention that other similar organizations that have expanded or revised their business activities, now find themselves subject to the section 277 restrictions and operating at a competitive disadvantage vis-a-vis businesses that are operated as regular corporations.

The Associated Press [AP] is a taxable nonprofit membership cooperative devoted principally to the gathering and dissemination of news. It is subject to Federal income tax and specifically to the provisions of section 277 of the code.

Other news organizations against which AP competes are entitled to pool revenues and expenses regardless of their source. One of its major competitors, a foreign-owned agency, integrates its news and financial information services and pays taxes on the net results. About 94 percent of its worldwide revenues comes from its direct sales of financial information to financial institutions.

Like many other news organizations, in recent years AP has expanded its information distribution activities beyond the traditional newspaper and broadcasting industries. AP now derives revenues from domestic nonmedia companies and from distributing financial information abroad. In order to compete on an equal footing, it is essential that the AP be permitted to pool its income and expenses from all sources and pay tax on its consolidated earnings. Under current law, AP cannot compete on the same basis as its competitors. My amendment would simply eliminate a competitive disadvantage and allow AP to compete on the same basis as others.

It is my understanding there is no objection to the proposed amendment on the part of the committee or the Treasury. I would ask that the amendment be accepted by the distinguished Chairman of the committee and agreed to without objection.

Mr. President, this is almost by way of a technical amendment. It enables the Associated Press to receive the same treatment under section 277 of the code that the American Automobile Association receives. The outlays are minimal, somewhere between $3 million and $5 million over a 5-year period depending on what the corporate tax rate will be, perhaps 3 million for the 5-year period if we get to keep our 33 percent rate.

There is not to my knowledge any controversy on the matter.

I move adoption of the second-degree amendment.

The PRESIDING OFFICER. If there be no further debate, the ques-

tion is on agreeing to the amendment of the Senator from New York.

The amendment (No. 2094) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2093) as amended, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. D'AMATO assumed the chair.)

□ 1710

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WALLOP). Without objection, it is so ordered.

AMENDMENT NO. 2095

(Purpose: To provide for the treatment of certain services performed for certain Indian tribal governments under the Federal Unemployment Tax Act)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2095.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I will explain the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . APPLICABILITY OF UNEMPLOYMENT COMPENSATION TAX TO CERTAIN SERVICES PERFORMED FOR CERTAIN INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—For purposes of the Federal Unemployment Tax Act, service performed in the employ of a qualified Indian tribal government shall not be treated as employment (within the meaning of section 3306 of such Act) if it is service—

(1) that is performed—

(A) before, on, or after the date of the enactment of this Act, but before January 1, 1988, and

(B) during a period in which the Indian tribal government is not covered by a State unemployment compensation program; and

(2) with respect to which the tax imposed under such Act has not been paid.

(b) DEFINITION.—For purposes of this section, the term "qualified Indian tribal government" means an Indian tribal government the service for which is not covered by a State unemployment compensation program on June 11, 1986.

Mr. ARMSTRONG. Mr. President, this is an amendment which seeks to resolve an inequity which has developed over the last couple of years involving two Colorado Indian tribes. They are caught in one of those rare catch-22 situations, involving, in this case, the Federal unemployment tax.

As we all know, unemployment compensation is governed under State law. In the State of Colorado, for reasons which I will not burden the Senate with at this moment, it was decided that members of these Indian tribes would not be eligible for unemployment compensation. So the State of Colorado, properly, I think, if they are not going to be covered, said, "All right, we are not going to assess them the State unemployment compensation tax."

Regrettably, the Federal Government, for whatever reason, went ahead and assessed the tax. Now these Indians have run up a back bill of some $600,000 for insurance on a program for which they have never been and are not now legally eligible.

The reason why this comes to the floor at this particular time under this particular bill is simply that the IRS says if we do not do something by the 30th of June they are going to seek to enforce this judgment against the two tribes which have asked me to look at it. It seems to me this is equitable. I believe it has been cleared by the staff on both sides. Unless there is further discussion, I will simply ask my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the Senator say what the cost of this amendment will be?

Mr. ARMSTRONG. $600,000.

Mr. METZENBAUM. I am not certain that I understood what the problem is between the Indian tribes. Is it between them or is it between the Indian tribes and the State?

Mr. ARMSTRONG. I will say to my friend from Ohio the problem is that here are Indian tribes that the State has decided are not eligible for unemployment compensation so the State has not charged the State portion of the unemployment compensation tax. But the residual portion, the Federal portion, has been charged. Obviously it is unfair to charge the tax for a program which the Indians are not now and never have been eligible to participate in.

Mr. METZENBAUM. Who has been charged?

Mr. ARMSTRONG. The tribes.

Mr. METZENBAUM. What are the tribes?

Mr. ARMSTRONG. The Ute Mountain Tribe and the Southern Ute Tribe. This amount covers the period from 1974 to the present. It is simply a case where it has been a legal dispute. There has not been a satisfactory way to resolve it. The justice situation is that they have not been eligible for the benefits and they should not be charged. That is the theory.

Mr. METZENBAUM. Did the Senator bring this matter up in the Finance Committee?

Mr. ARMSTRONG. I do not think we did. I think it has come to our attention since that time.

Mr. METZENBAUM. Is the $600,000 a refund? Is that what the Senator is saying?

Mr. ARMSTRONG. No; the amount has never been paid. It is the amount the IRS contends is due under the present law and which they intend to enforce, perhaps after a protracted legal battle. In my opinion, it would be nonsense to have a legal battle because it would be so costly to fight in court. In any case, it is clear to me and, I believe, to other Senators, that the tribes should in no way be responsible to pay the cost of the programs for which the members are not eligible.

Mr. METZENBAUM. Is there anything in the amendment other than that which the Senator has described which would affect others?

Mr. ARMSTRONG. No. The purpose of the amendment is just what I have described. It is simply to say that any past employment will not be treated as employment for the purposes of this act. It says that starting in January 1988 either the State has to get them in or they have to get them out. They have to resolve it as a policy matter from this point forward. The amendment is very narrowly drawn.

Mr. METZENBAUM. Mr. President, will the Senator agree that I may have a short quorum call in order that I may discuss this amendment with the staff?

Mr. ARMSTRONG. Of course.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1720

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I say to my distinguished colleague from Colorado that I have read the amendment. I have no objection.

Mr. ARMSTRONG. Mr. President, I thank the Senator. Unless there is further discussion, I am ready for the question.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2095) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2096

(Purpose: To amend section 1402(e) of the Internal Revenue Code of 1954 to modify the conditions under which a member of the clergy may receive an exemption from the tax imposed under chapter 2 of subtitle A of the Internal Revenue Code of 1954, to permit a member of the clergy to revoke an exemption received under such section under certain circumstances, and to make a technical correction with respect to the adjustment for windfall benefits provided under section 215(a)(7) of the Social Security Act)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2096.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following:

SEC. . EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR CERTAIN CLERGY.

(a) CONDITIONS FOR RECEIVING EXEMPTION.—

(1) IN GENERAL.—Section 1402(e)(1) (relating to exemption from tax on self-employment income of certain ministers, members of religious orders, and Christian Science practitioners) is amended—

(A) by inserting "in person" after "filing an application", and

(B) by inserting "and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the church or order that he is opposed to such insurance" after "Act)".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to applications filed after September 30, 1986.

(b) REVOCATION OF EXEMPTION.—

(1) IN GENERAL.—Nowwithstanding section 1402(e)(3) of the Internal Revenue Code of 1954, any exemption which has been received after December 20, 1977, under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of subtitle A of such Code), if such application is filed—

(A) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

(P) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

Any such revocation shall be effective (for purposes of chapter 2 of subtitle A of the Internal Revenue Code of 1954 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1) of such Code. If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of subtitle A of such Code (notwithstanding paragraph (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to service performed (to the extent specified in such paragraph) in taxable years ending on or after the date of the enactment of this Act and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such paragraph) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. . TECHNICAL CORRECTION TO THE ADJUSTMENT TO PREVENT WINDFALL BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.

(a) COMPUTATION OF PRIMARY INSURANCE AMOUNT UNDER CURRENT LAW.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (B)(i) by striking out "service)" and inserting in lieu thereof "service, calculated with reference to subparagraph (F))"; and

(2) by adding at the end thereof the following new subparagraph:

"(F) For an individual, who on January 1, 1984, was an employee of a nonprofit organization which (on December 31, 1983) had in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954, the proportionate number of years of noncovered service performed after 1956 shall in no event include those years of noncovered service with such nonprofit organization during which such nonprofit organization had in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954, regardless of whether the individual's signature appears on the list of concurring employees filed (or deemed to have been filed) by such organization under such section 3121(k).".

(b) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—Section 215(d)(5)(B)(ii) of such Act is amended by striking out "service)" and inserting in lieu thereof "service, calculated with reference to subsection (a)(7)(F))".

(c) RETROACTIVE APPLICABILITY.—The amendments made by this section shall be effective as if enacted with the amendments made by section 113 of the Social Security Amendments of 1983.

Mr. ARMSTRONG. Mr. President, this amendment has been discussed with Senators on both sides. It is a subject that is familiar to Senators.

This is a subject that has been brought to my attention by the Church Alliance and which we discussed in the Finance Committee. Somehow, because questions were raised about it at the time, it did not get taken care of. I think there is no controversy, but the essence of the problem is as follows:

We had an amendment in 1983 in the Social Security amendments which created a so-called antiwindfall provision aimed at certain tax-exempt employees who had joined Social Security, then withdrawn and instituted a replacement pension plan. Many of these employers were brought back into the Social Security system by the mandatory coverage provisions of 1983. The antiwindfall provisions reduced Social Security benefits by up to one-half of private pensions. However, the language used inadvertently, I think, was broad enough to cover those individuals who elected not to join Social Security even though their employers did, and whose employers dropped out.

What this means is we have a group of ministers who dropped out and who would like to have the privilege, upon reflection, of rejoining the Social Security system. Ministers are considered to be self-employed and are generally subject to Social Security tax on their self-employment income with respect to services performed in their religious capacity. They can file an application under section 1402(e) of the Internal Revenue Code and avoid Social Security taxes. Once this is done, the election is binding for all taxable years and may not be revoked.

The people who brought this to my attention are simply asking for a second window period that will expire at the same time the minister files his or her tax return for the tax year following the date of enactment of this

exemption so it is for people who opted out and want to opt back in.

Mr. President, unless there is further discussion, I ask for the adoption of the amendment.

Mr. METZENBAUM. Mr. President, I said to my friend from Colorado, I had no fault to find with the previous amendment. Surely I can understand it and I had no problem with its presentation.

This is a 5-page amendment, an important amendment. I have not had an opportunity to read it yet. I do not think any other Senator has had a chance to read it.

Mr. ARMSTRONG. This was proposed in the Finance Committee, of which the Senator is not a member. It is something a number of members of the Finance Committee are familiar with but if it is the Senator's desire to take some time to look at it, that is perfectly acceptable to me.

Mr. METZENBAUM. Mr. President, I suggest that we not tie up the Senate while we study the implications of this amendment and try to understand it. I suggest to the Senator from Colorado that the amendment be set aside, with the understanding that at some later point, we can come back to it; that rather than hold the Senate's work from going forward, we set this amendment aside and let us take a look at it.

Also, I think we would like some people over here from Social Security to tell us exactly what their point of view is on this amendment.

Mr. ARMSTRONG. Mr. President, I have no particular objection to that but I think we need not make it unnecessarily complex.

I note the presence on the floor of the Senator from New Hampshire. I think it is his intention to offer an amendment. I would be glad, if it would be an accommodation to the Senator from Ohio, to set this amendment aside until after the consideration of the next amendment and proceed that way.

Mr. METZENBAUM. I do not want to take it as an accommodation. It is not a personal accommodation. I think it is an accommodation to all Members of the Senate that they be informed as to what they are being called upon to pass.

As the Senator from Colorado pointed out, the amendment was discussed in the Finance Committee. It is obvious the Finance Committee did not adopt the amendment. I think that would warrant some inquiry as to why they decided not to and why, in the late hours of the tax bill, we are called upon to adopt this amendment.

Mr. ARMSTRONG. Mr. President, if that is addressed to me as a question, I would be glad to answer it.

Mr. METZENBAUM. Certainly.

Mr. ARMSTRONG. In fact, it was the opinion of a number of those who sat in on the discussion of the tax bill in the Finance Committee in both the open and closed session, that it had been adopted. In fact, it was my expectation up until a few minutes ago that this probably could be handled as a technical amendment. However, since there was no doubt as to whether or not it had really been acted on by the committee, rather than try to whistle it through as a technical amendment, we thought we would bring it up an let everybody take a look at it. At the time it was brought up, somebody raised a question and staff does not believe it was technically accepted.

Mr. PACKWOOD. If the Senator will yield, Senator ARMSTRONG is correct. It was presented in the committee. I thought it was not accepted. Staff thought it was gaveled down and not accepted. I am not going to quarrel with the staff. We were doing lots of amendments. Things slip between the cracks. But it was presented and we did not think it was accepted.

Mr. METZENBAUM. I just say to the manager of the bill as well as to the Senator from Colorado, I am not saying I oppose the amendment. I am saying I do not know what is in the amendment. I do not want to be under pressure. I am under pressure to call up my amendments, which I am trying to do. I am trying to negotiate amendments, one with the Senator from Colorado and myself. If we can consider this later, before the bill is disposed of, I am happy to bring the amendment to the floor. I may or may not be opposed to it. At this time, I ask unanimous consent that the amendment be set aside.

Mr. ARMSTRONG. Until when, Mr. President? Until following disposition of the next amendment?

Mr. METZENBAUM. I do not think it would be necessary to continue the same procedure.

Mr. ARMSTRONG. I have no objection to that.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HUMPHREY. Mr. President, I am prepared to propose a unanimous-consent request. Before doing that, I want also to say that the principal parties have been consulted with and are in agreement with what I am about to propose.

Mr. President, I ask unanimous consent that it be in order to offer a resolution welcoming the Afghan Alliance to Washington and that debate thereon be limited to 5 minutes; then a rollcall vote be in order immediately following the 5 minutes of debate.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I beg the Senator's pardon, I was engaged in a conversation with another Senator.

Would the Senator repeat the request?

Mr. HUMPHREY. I shall be glad to, Mr. President.

I ask unanimous consent that it be in order to offer a resolution welcoming to Washington the Afghan Alliance, who met with President Reagan on Monday and have been meeting with the congressional leadership the balance of the week; that debate on the resolution be limited to 5 minutes, with a rollcall vote to follow, assuming the yeas and nays are ordered immediately following the 5 minutes' debate.

Mr. BYRD. Mr. President, if the Senator would leave out the rollcall and establish that by a show of seconds subsequent to the request.

Mr. HUMPHREY. I am sorry, Mr. President, I did not hear the Senator. Is he objecting to a rollcall vote?

Mr. BYRD. No, Mr. President, I am not. If the Senator would just ask for a vote within 5 minutes and get the rollcall by a show of seconds, not by unanimous consent.

Mr. HUMPHREY. I make that change in my request, Mr. President.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

WELCOME TO THE AFGHAN ALLIANCE

Mr. HUMPHREY. Mr. President, on behalf of Senators DOLE, BYRD, HATCH, DIXON, RUDMAN, HOLLINGS, DENTON, DECONCINI, NICKLES, ZORINSKY, TRIBLE, EXON, HAWKINS, SIMON, PRESSLER, LEVIN, GRASSLEY, GORTON, GORE, BRADLEY, PRYOR, INOUYE, D'AMATO, WALLOP, MOYNIHAN, THURMOND, CHAFEE, and myself, I send a joint resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the joint resolution.

Mr. DODD. If the Senator will yield, would he add my name as a cosponsor?

Mr. HUMPHREY. I ask unanimous consent to add to that list of cosponsors Senator DODD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A Senate joint resolution (S.J. Res. 365) welcoming the Afghan Alliance.

Mr. HUMPHREY. Mr. President, since 1979 the Soviet Union has waged bitter war, in a systematic attempt to depopulate and Sovietize the innocent nation of Afghanistan. During this time, the people of that proud, rugged land have courageously fought to resist their consolidation into the Soviet empire. I ask today that we pay tribute to the people of Afghanistan by warmly welcoming their represent-

ative who is currently on an official visit to Washington. Prof. Burhanuddin Rabbani is leading a delegation of leaders of the seven party resistance alliance, the Islamic Unity of Afghan Mujahideen. For more than 6 long years, the Mujahideen have bravely resisted subjugation by the most aggressive, expansive, and brutal empire in the world today. In support of the Afghan Resistance Alliance, I offer this joint resolution, reaffirming our support for the valiant struggle of the Afghan people and welcoming Professor Rabbani on his first official visit to the United States.

The human cost of this extraordinary bravery has been staggering. At least 1 million Afghans are dead or wounded, many of them women and children savagely maimed for the purpose of intimidating others into submission. Over 5 million Afghans have fled into exile, and make up the largest refugee population in the world today. An estimated 2 million more have faced violent internal dislocation. Incredibly, Mr. President, 8 million people of a pre-invasion population of approximately 15 million have been killed, wounded, or violently uprooted by Soviet forces. The situation is so grim that the latest report by the United Nations' special rapporteur on the human rights situation in Afghanistan, Dr. Felix Ermacora, sounds a dire warning to the world:

> Continuation of the military solution will, in the opinion of the special rapporteur, lead inevitably to a situation approaching genocide, which the traditions and culture of this noble people cannot permit.

And yet, in spite of the sustained horror engendered by a Soviet presence of some 120,000 troops, the Afghans fight on, and have vowed to do so until the Soviets withdraw from their country. Our guests, Professor Rabbani and the delegation of three other resistance leaders, symbolize this dedication. His people want only to be left alone to live their traditional lives in a manner determined by themselves. As a nation committed to freedom and self-determination, we must do everything in our power to help them achieve these goals. One way to do so is to publicize the war and the atrocities perpetrated by Soviet occupation forces. We must reiterate, in the strongest terms, the U.N. General Assembly's seven resolutions calling for the immediate withdrawal of Soviet troops.

Another way to support the Afghan cause is to generate support and legitimacy for the resistance in the nations of the free world and in the various international fora dedicated to the principles we share with the Afghans. The resistance helped pave the way for this support on May 16, 1985, when they took the historic step of forming the Islamic Unity of Afghan Mujahideen. On that date, a unified coalition of major Afghan resistance organizations overcame their traditional ethnic and political rivalries in order to battle the Soviets more effectively. Protracted conflict has brought home the need for cooperation in the diplomatic as well as the military sphere. Modern warfare is fought not only on battlefields, but in the capitals of nations.

For this reason, Professor Rabbani and his delegation will meet this week with President Reagan and Senior American officials. This is an historic mission, Mr. President, the first official meeting between the President and the spokesman of the group which is the legitimate representative of the Afghan people. Now that a significant degree of unity has replaced age-old rivalries in Afghanistan, the onus is on friends of the Mujahideen to support their cause in the international arena. This resolution and our warm reception of Professor Rabbani will go far in assuring the Afghans that we are behind their cause 100 percent.

Expressions of solidarity, however, are helpful, but not enough. We must urge that the Kabul regime's seat in every responsible forum be replaced by that of the Islamic Unity of Afghan Mujahideen, the only truly legitimate representative of the Afghan people. With resistance unity on the rise, symbolized by Professor Rabbani's high-level visit to Washington, we can no longer make excuses about the resistance being too disorganized to recognize. It is time to include the alliance in any process leading to a political settlement of the war. Indirect talks between the Kabul regime and Pakistan have dragged on for 4 years without agreement on the issues of vital concern to the people of Afghanistan, one-third of whom, it should be remembered, are refugees in neighboring countries. It is also time, Mr. President, once and for all, to close our Embassy in Kabul. Our mission there is the single largest hindrance to any attempt to gain international legitimacy for the Afghan people, for who will take us seriously in this matter while we fly our flag over Kabul every day in recognition of the Democratic Republic of Afghanistan? The Soviet-backed regime is in no way democratic, hardly a republic, and only marginally Afghan. The only thing it is for sure, in fact, is illegitimate.

I hope, Mr. President, that spokesman Rabbani's visit will spur us to right these wrongs and lend our full support to the Afghan people and their legitimate representatives in the Islamic Unity of Afghan Mujahideen. That is the intent of this joint resolution.

□ 1730

Mr. President, I do not think there is a Senator in the Chamber or listening who needs to be filled in on any of the details about the atrocities attendant with the Soviet invasion and occupation of Afghanistan. It is a shameful and disgraceful matter, and we and other countries who value freedom must do all in our power to assist the freedom fighters in Afghanistan to bring such pressure to bear on the Soviets that they will withdraw their troops and leave that country to find its own destiny and to live in peace and freedom. A significant development in that respect occurred, Mr. President, a year and half ago when seven of the principal Afghan political parties agreed to form an alliance to further, through diplomatic and other means, the Afghan cause. This week President Reagan welcome the current spokesmen for Afghan alliance to Washington.

He met with them officially in the White House. Senator BYRD, I understand, recently entertained them. Senator DOLE and I will have a reception for them tomorrow. These leaders are involved in many important public meetings here in Washington this week. The point is this, Mr. President. By inviting these Afghan leaders to Washington, President Reagan has raised substantially the international standing of the Afghan alliance and once again heightened the importance of their cause.

Mr. President, I think it is so important that this joint resolution not appear to be just a routine piece of Senate business that I ask at this point for the yeas and nays on the joint resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, unless other Senators wish to address the issue, I would yield whatever time remains to me and move passage of the joint resolution.

The PRESIDING OFFICER. All time having been yielded back, the question is on passage of the joint resolution. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Alabama [Mr. DENTON] and the Senator from Florida [Mrs. HAWKINS] are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama [Mr. DENTON] and the Senator from Florida [Mrs. HAWKINS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—98

Abdnor	Bentsen	Boschwitz
Andrews	Biden	Bradley
Armstrong	Bingaman	Bumpers
Baucus	Boren	Burdick

Byrd	Hatfield	Nickles
Chafee	Hecht	Nunn
Chiles	Heflin	Packwood
Cochran	Heinz	Pell
Cohen	Helms	Pressler
Cranston	Hollings	Proxmire
D'Amato	Humphrey	Pryor
Danforth	Inouye	Quayle
DeConcini	Johnston	Riegle
Dixon	Kassebaum	Rockefeller
Dodd	Kasten	Roth
Dole	Kennedy	Rudman
Domenici	Kerry	Sarbanes
Durenberger	Lautenberg	Sasser
Eagleton	Laxalt	Simon
East	Leahy	Simpson
Evans	Levin	Specter
Exon	Long	Stafford
Ford	Lugar	Stennis
Garn	Mathias	Stevens
Glenn	Matsunaga	Symms
Goldwater	Mattingly	Thurmond
Gore	McClure	Trible
Gorton	McConnell	Wallop
Gramm	Melcher	Warner
Grassley	Metzenbaum	Weicker
Harkin	Mitchell	Wilson
Hart	Moynihan	Zorinsky
Hatch	Murkowski	

NOT VOTING—2

Denton	Hawkins

So the joint resolution (S.J. Res. 365) was passed, as follows:

S.J. RES. 365

Whereas more than one hundred and twenty thousand Soviet troops currently remain in Afghanistan as a result of their illegal invasion in December of 1979;

Whereas these forces have decimated the nation of Afghanistan directly causing: the largest refugee population in the world, with three million Afghans living in exile in Pakistan; over one million war-related casualties; the internal displacement of hundreds of thousands of Afghans; and deprivation and suffering for the majority of Afghanistan's population;

Whereas the most recent United Nations Human Rights Commission report concludes that the continuation of a military solution in Afghanistan will "lead inevitably to a situation approaching genocide";

Whereas the international community has repeatedly condemned the continued Soviet occupation of Afghanistan and has in seven resolutions approved by the United Nations General Assembly called for "the immediate withdrawal of foreign troops from Afghanistan";

Whereas the Afghan Mujahideen have valiantly resisted the Soviet forces for more than six years, and have inspired freedom loving people throughout the world with their courage and determination;

Whereas on May 16, 1985, the Afghan resistance took an historic step by forming the Islamic Unity of Afghan Mujahideen, representing a unified coalition of the major Afghan organizations dedicated to ending the Soviet occupation;

Whereas during the week of June 15, 1986, the current spokesman of this alliance will travel to the United States on behalf of the Afghan people to meet with the President and senior American officials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) reaffirms its support for the valiant struggle of the Afghan people; and

(2) welcomes the delegation of the Islamic Unity of Afghan Mujahideen led by Spokesman Burhanuddin Rabbani on the occasion of his first official visit to the United States of America.

□ 1750

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill (H.R. 3838).

AMENDMENT NO. 2096

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer an amendment on behalf of Senator GLENN and myself which I believe has been agreed to by the chairman of the——

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the amendment of the Senator from Colorado is the pending business.

Mr. METZENBAUM. Mr. President, I ask unanimous consent——

Mr. SIMON. Mr. President, the amendment of the Senator from Colorado is not pending?

The PRESIDING OFFICER. It has to be temporarily laid aside until the Senate takes up another amendment.

Mr. SIMON. Mr. President, I ask unanimous consent that it be set aside, if the Senator from Colorado has no objection, and take up this other amendment that has been agreed to.

Mr. ARMSTRONG. Mr. President, first, I ask if we could have order in the Chamber, and second——

The PRESIDING OFFICER. The Senator is correct. Would Senators please cease conversations? Would staff cease conversations?

Mr. ARMSTRONG. Second, Mr. President, as far as I know, the amendment which is pending, the amendment I have offered, has been agreed to by members of the committee staff on both sides. I know of no objection to it.

It was laid over temporarily so the Senator from Ohio could take a look at it. I see the Senator is here.

Does the Senator have an objection to my amendment?

Mr. METZENBAUM. I do not know, because I am frank to say to the manager of the bill as well as the Senator from Colorado that there are so many new amendments flying around these halls at this moment that it is almost impossible to keep track of what people are coming up with. I do not spend 1 minute but what someone walks over and says, "I have an amendment that does this or that." You do not want to be discourteous so you take a moment to talk to them.

I am frank to say I have not had a chance to look at the Senator's amendment at all. I do think some of the language in it is particularly broad from what I did see of it.

I say to the Senator, yes, indeed, I do. I would suggest that we continue to set it aside until we decide whether or not it really makes sense to try to make a decision. And I will suggest the colleague from Colorado do just that.

I ask unanimous consent that it be temporarily set aside.

Mr. MOYNIHAN. Without meaning to object, Mr. President, would the Senator withhold so I might make a statement on behalf of the matter?

The PRESIDING OFFICER. The Senator from New York.

Would the Senator withhold? Could we have order in the Senate, please? Senators and staff take conversations to the cloakrooms. It is difficult enough to conduct the business of the Senate in these circumstances without the noise. Could we have order in the Senate, please?

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, the Senator from Colorado, as you know, is the distinguished chairman of the Subcommittee on Social Security of the Committee on Finance. I serve as his loyal opposition and colleague and in these matters as ranking minority member.

The amendment he has offered is a matter that has been under consideration in our committee for a very long while. He spoke of an inadvertence in earlier legislation which is exactly my understanding.

The amounts involved are de minimus. It is arguable that it will gain money for the fund. In any event, given the size of the Social Security fund the question of revenue cannot be an issue to this Senator. I do not think it should be to this Senate. It is a possibility we will gain some small sums. It is negligible in the context of the financial stability of the matter.

I say to the Senator from Ohio that this is a matter that may be new to him and he has every right to inquire. It is not new to the Subcommittee on Social Security.

On this side, speaking for myself, in any event this Senator fully supports the amendment.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from New York for his expression. I think he summed it up well.

I am not aware of any controversy. We are not trying to short-circuit the Senator from Ohio.

All Senators face the same problem in dealing with a complex bill and it is difficult to keep track of all the amendments.

Let me just sum it up in 10 seconds for the Senator. We have granted previously the right of some people to opt out of the Social Security system with

71-059 O-87-38 (Pt. 10)

the proviso that if they did so it was irrevocable.

Our amendment simply opens a window for a brief period of time for those who have reconsidered, to let them back into the system where they really should have been in the first place.

We are talking about a group of ministers and for tax reasons, policy reasons, and humanitarian reasons we think it is well justified.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I yield.

Mr. METZENBAUM. I do not know to whom this amendment applies. I read on the first page and I do not have to go beyond that to see that it relates to exemption from tax and self-employment income—of whom?

Mr. ARMSTRONG. Clergymen.

Mr. METZENBAUM. Just a moment. Certain ministers, members of religious orders, and Christian Science practitioners. I do not know just what that means, certain ministers—which certain ministers?

I looked in the amendment. I do not think I see any further definition. It says members of religious orders. I do not know exactly what that means. I guess all of us who are members of some religious group might claim we are a member of a religious order, although I do not know that is a fact. And Christian Science practitioners. I do not understand just how far that goes.

All I am saying to my colleague is as I understand this amendment he is providing a window that I do not know whether it is 1,000 or 100,000 people who can now claim to come into the Social Security system, never having paid a penny previously into the Social Security system, and will obtain all of the benefits of anybody else who is covered by Social Security.

I do not know what the Social Security people have said about this. But I would guess that the Social Security Administration has a position on it. What I am saying to the Senator this evening is that I hear the majority leader, I hear the manager of the bill and I hear everybody else saying how soon are we going to get out of here, when are we going to finish? This was an amendment that was in the Finance Committee. The Senator is on the Finance Committee. It could have been taken up at a point and given the due deliberation to which it is entitled.

□ 1800

But we are called upon to act on a 5-page amendment.

Mr. MOYNIHAN. Mr. President, I guess I must ask that we have order.

The PRESIDING OFFICER. The Senator from New York is correct.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, we are called upon to act on a 5-page amendment. I am very candid in saying that I have read a few lines on the first page, but I have not been able to read the balance of it. I want to be up front about it. I am not going to stand here this evening and accept any amendments without full debate and without having an opportunity to know what we are putting into the bill.

So if we are going to press for an Armstrong amendment and somebody else's amendments—and I hear of a number of others, and I will not bring up their names—I believe that the hope of getting out of here by tomorrow afternoon at 3:30 will go by the boards.

I thought what we were going to be doing this evening was take up some amendments I heretofore announced on several occasions I would bring up. And I am prepared to bring them up and I am prepared to debate them and I am prepared to win or lose them.

But, instead of that, I have spent almost the last 2 or 3 hours on doing nothing except finding out about Armstrong amendments, about an amendment from the Senator from Connecticut, and I understand there is another amendment possibly from the other Senator from New York. I understand there may be an amendment from one of the Senators from Hawaii. I understand some other Senators have amendments they are talking about.

We are not going to be out of here tomorrow afternoon at 3:30 and we are not going to be out of here on Friday if we just keep finding more and more new amendments. The Senator from South Carolina has come to me this afternoon with three separate amendments.

So I am not making an issue with the Senator from Colorado. I am not saying his amendment is a bad one. I am saying I do not know what is in that amendment and until I do know, I am not willing to have it adopted by unanimous consent. Therefore, I would strongly urge, Mr. President, unanimous consent that it be set aside until the next amendment and possibly, after doing so, we can see exactly what we are talking about.

Mr. ARMSTRONG. Mr. President, who has the floor?

The PRESIDING OFFICER. The amendment has been set aside. The Senator from Illinois has the floor.

Mr. ARMSTRONG. I beg the pardon of the Chair. I thought the amendment of the Senator from Colorado was the pending business. Under what terms had it been set aside?

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that it was set aside by unanimous consent and no business has intervened. The business that was conducted was on the Afghanistan joint resolution and not on the amendment.

Mr. ARMSTRONG. I thank the Chair.

Under the previous unanimous-consent agreement, would the Armstrong amendment recur after the Simon amendment?

The PRESIDING OFFICER. It would, upon disposition of the Simon amendment.

Mr. ARMSTRONG. Mr. President, it would be my thought to let us go ahead and take the Simon amendment and, in due course, this will recur.

I would just say to my friend from Ohio that I can understand his concerns. This is an amendment which is sell documented, which is well known to the Finance Committee, and which arrived at the floor under the representation of the Senator from Colorado and also of the Senator from Oregon, the chairman of the committee, as having thought it was, in fact, adopted. Only out of an abundance of a desire to disclose have we offered it as a separate amendment. It is endorsed by and agreed to by both the chairman and ranking member of the full committee and the chairman and ranking member of the subcommittee of jurisdiction.

So, after we dispose of the Simon amendment, I would hope we would just take it up and if there are questions to be answered, we will be happy to try to do so.

Mr. MOYNIHAN. Mr. President, would the Senator from Colorado add the Senator from New York as a cosponsor?

Mr. ARMSTRONG. I would be honored to do so, and I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor. Does the Senator from Illinois yield to the Senator from Ohio?

Mr. METZENBAUM. Would the Senator yield to me without losing his right to the floor?

Mr. SIMON. I yield with that understanding.

Mr. METZENBAUM. Mr. President, I want to say to the Senator from Colorado that I am not sure I am opposed to his amendment. I do not know if I am. But if I am crowded to the point that you ask the Senate to vote on it without giving us a chance to find out what is in it, then I would take the floor and hold it until such time as we find out. I hope that does not develop.

I am trying to be reasonable with you and I hope you will be reasonable with those of us who have an interest in your amendment.

Mr. ARMSTRONG. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. ARMSTRONG. Will the Senator from Illinois yield to me?

Mr. SIMON. I yield to the Senator from Colorado and then I want to proceed with my noncontroversial amendment.

Mr. ARMSTRONG. Mr. President, I just say to my colleague from Ohio that I have been trying to be accommodating. It is a simple matter. I have explained it two or three times. It is well understood. If he has objections to it, that is his right. If he wants a vote on it, that is fine.

It is like every other amendment. It is like the amendments which have been offered and will be offered by the Senator from Ohio. I do not see any reason why he would be against it. I would be amazed, upon reflection, if he is.

But I do want to go ahead and dispose of it after the amendment of the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 2097

(Purpose: To ensure that any carrybacks resulting in rebates to steel corporations are committed to plant modernization)

Mr. SIMON. Mr. President, I offer this amendment on behalf of myself and Senator GLENN.

The PRESIDING OFFICER. The clerk will report.

Mr. SIMON. It is an amendment that we had on the floor last night.

The PRESIDING OFFICER. Will the Senator withhold until the clerk reports?

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. GLENN, proposes an amendment numbered 2097.

Mr. SIMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 1534, insert after line 25 a new subsection (f) into Section 212 of the bill which reads as follows:

(f) Any amount determined under this section must be committed to reinvestment in, and modernization of the steel industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of workers.

On page 1535, subsection (f) of Section 212 shall be redesignated as subsection (g).

The PRESIDING OFFICER. Will the Senator suspend? There is a good deal of conversation on the floor. The Senator from Illinois is entitled to be heard to explain his amendment.

Mr. SIMON. I thank the Chair.

This is very simple. I do not see the chairman of the Finance Committee on the floor right now, but he has indicated to me that this is an acceptable amendment.

What this amendment does is simply say that the money that the steel companies get as a result of the steel provision has to be invested in steel in this country. It is a matter that Senator GLENN and I discussed on the floor last night. I know of no opposition to it.

Mr. GLENN. Will the Senator yield?

Mr. SIMON. I am pleased to yield to the Senator from Ohio.

Mr. GLENN. Mr. President, this is an amendment that was agreed to by Senator PACKWOOD last night. Everyone was in complete agreement on it. It was a matter of getting the staff to look at it and coming back and choosing either Senator SIMON's or my own as to which amendment we were going to cosponsor. His was picked as more direct and to the point. I am glad to support it. I do not believe there is any opposition. I am happy to recommend its passage. We will be happy to have a voice vote on it.

The PRESIDING OFFICER. Is there further debate?

Mr. SIMPSON. Mr. President, on behalf of the manager of the bill on this side of the aisle, I am advised that this amendment has been accepted and can be addressed through a voice vote if that is the request.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2097) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the Armstrong amendment.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, I would like to compliment the members of the committee——

The PRESIDING OFFICER. The Senator is informed that the question recurs on the Armstrong amendment.

Mr. LAXALT. Mr. President, I ask unanimous consent that Senators INOUYE and LAXALT be permitted to make statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, I wish to commend the members of the Finance Committee for the obviously good work that they have done in producing what I think probably is one of the most historic pieces of legislation that I have seen since I have been here.

□ 1810

Of course, as everyone else has said, I want to particularly commend the distinguished chairman, BOB PACKWOOD. He has held this package together with great skill and great efficiency, and also Senator LONG for his outstanding leadership for many years.

I happen to share the goal of making the Federal income tax system fair and simple and encourage economic growth.

However, Mr. President, there was one provision in the bill which the Senator from Hawaii, Senator INOUYE, and I believed to be counterproductive—specifically, the proposed limitation on deduction of business-related expenditures for business meals and entertainment.

Statistics that I have seen demonstrate that the proposed limitations will have a devastating impact on establishments and workers in the restaurant, hospitality and entertainment industries. According to the National Restaurant Association, up to half a million, 500,000 people could lose their jobs. A lot of these people—the waiters and waitresses, the busboys and dishwashers—are people in the income range whom we presumably are trying to protect with a lower tax rate. Lower tax rates mean nothing, Mr. President, if you do not have a job.

In addition, Mr. President, any reduction in the tax rate of legitimate business meals and entertainment—and I stress the word legitimate—would seriously handicap the hospitality industry in its competitive struggle for business marketing dollars with advertising media and other promotional activities. I believe that business dollars spent in an industry that facilitates marketing should not be any less deductible than marketing dollars spent in any other manner.

(Mr. WARNER assumed the chair.)

Mr. President, limiting deductibility of business meal and entertainment expenses to 80 percent sets an extremely dangerous precedent.

Senator ARMSTRONG before the committee spoke at length about this, and I thought very effectively.

Once Congress determines business entertainment expenses are no longer 100-percent deductible, how long will it be before it imposes similar limita-

tions on the deductibility of other legitimate expenses? Where will this Congress eventually draw the line?

Despite the fact that some expenses are ordinary and necessary costs of doing business, we run the danger of saying some costs are more legitimate than others, that the marketing of a product is less legitimate than its production, that a desk job or manufacturing job is more legitimate than a sales job. These are dangerous distinctions to make, distinctions that are unfair and that undermine one of American industry's greatest advantages in competing both here and abroad—its ability to market a product or service.

The distinguished Senator from Hawaii, Senator INOUYE, and I intended to offer an amendment, Mr. President for full restoration from 80 percent to 100 percent.

However, at the request of the members of the hospital industry, and the various unions that are involved, we have decided not to offer this amendment. And I hope the Finance Committee chairman, Mr. PACKWOOD, would direct his committee staff to monitor the employment effects of this provision of the bill, and urge the restaurant, hospital, and entertainment industries to do the same.

Essentially, we have been confronted with this argument and no one knows the answer. We believe that reducing the deduction to the 80-percent level will necessarily result in a negative impact upon the various industries involved.

The Finance Committee people believe and many of our colleagues concur—no, that does not necessarily apply because the very thrust of this piece of legislation is to spur economic growth, the economy generally will be awash in new dollars which will result in savings from the lower tax rate, and because of that, a direct increment of that activity will be the industries that we feel will suffer.

We disagree. But we do not know, and neither does the Finance Committee. So we feel that it would be very important for private industry, as it will do, to monitor closely the effect upon the industry involved of the reduction in the deductibility here during the course of the coming year, and we hope that the Finance Committee and other affected committees will do the same.

Senator INOUYE and I are gravely concerned about the employment impact and the continued economic viability of restaurants and the hospitality and entertainment industries, and we ourselves will be watching developments closely. We hope we are wrong and the Finance Committee is right.

Mr. President, I would like to take a moment to commend the thousands of people across the country who have been actively involved in efforts to retain full deductibility of these legitimate business expenses.

Our respective offices have literally been flooded by thousands of people directly or through associations who feel strongly about this particular deduction.

These individuals represent such diverse interests as performing arts groups, convention and visitors bureaus, local restaurant and hotel associations, economic development groups, college sports teams and travel and tourism centers to name a few.

These people have worked tirelessly for many months trying to convince us all that what the Senate is about to do will have an immediate and adverse impact on the hospitality industry and on the Nation's cultural and economic well-being. We have heard from the mayors of Atlanta, Omaha, and New Orleans about how the 80-percent limit on deductibility will affect their cities. We have received letters from several cultural groups ranging from the Denver Center for the Performing Arts to the Boise Arts Council that describe how this proposal will undermine our cultural institutions.

We have heard from bartenders in Altoona, PA—advertising firms in Little Rock, AR—the Convention and Visitor Bureau in Topeka, KS. These people represent a wide cross section of the American public. Whether their concern is the future of their own job, the profitability of their restaurant, the economic future of their city, they have all taken the time to advise us of their stake in the resolution of this issue.

Mr. President, I could provide a list of all the individuals and associations who have taken part in this effort to retain full deductibility, but it would take me some time. Suffice it to say that we have received communications from virtually every State in the Union from Oregon to Texas, from Maine to Florida.

We have heard from over 250 convention and visitors bureaus—200 chambers of commerce—hundreds of performing arts groups, including symphonies, operas, theatres, and advocacy groups—hundreds of auditorium managers—over 50 sports teams—150 athletic directors—180 economic development commissions and downtown associations—hundreds of food, service and equipment suppliers—the restaurant and hospitality associations in every major city in the United States and 30 other travel and tourism associations.

We received a magnificent letter from Coach Wilkinson in the great State of Oklahoma indicating that he felt the impact upon their sports program would be very detrimental if we went forward with the is 80-percent reduction.

Other groups who have been involved include local urban leagues, hotel/restaurant employee unions, retail associations, corporations, athletic fundraising groups, the National Fisheries Association, the American Society of Association Executives, the National Restaurant Association, the American Hotel and Motel Association, the Travel Industry of America, the MainStreets Coalition, and the Convention Liaison Council.

The reasoning to this laborious detail in recounting these is to indicate to all these various groups that they have contacted us, we have listened, and we have considered.

I could go on, but I think this gives my colleagues a fair idea of the support that exists throughout the country for full deductibility. These people have made it clear that this proposed limitation has more to do with jobs, economic vitality, and the quality of life in our cities than with any perceived abuses that we have heard about with respect to this issue. I wish to acknowledge these groups for their fine work.

And finally, Mr. President, I want to acknowledge the splendid cooperation and support of the distinguished Senator from Hawaii, Senator INOUYE, and John Hardy of his staff.

I do not know of anybody in this institution who has over the years worked more laboriously to protect the hospitality industry. His State of Hawaii, like mine, Nevada, has, as the essence of their industry, hospitality, and he has worked very capably and well.

It has been a very distinct honor and pleasure for this Senator once again to be associated with him in this cause.

I thank the Chair.

I now yield the floor to Senator INOUYE.

□ 1820

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to join my distinguished friend from Nevada in this noble and worthy effort.

Mr. President, under the bill we are considering, 80 percent of business meal and entertainment expenses are deductible. Current law, of course, allows 100 percent deductibility for these expenses, if they are legitimate business expenses.

The logic of the proposed change to existing law escapes me. In the commercial world, business marketing expenditures have long included the costs of business meals and entertainment along with such costs as market research, advertising and sales promotion, et cetera. In other words, these are the tools of the trade to businessmen and women; and those tools help generate business and produce income.

It seems to me that these activities are either legitimate business activities, and therefore tax deductible in their entirety; or they are not legitimate business activities, and therefore entirely nondeductible. What is the basis in logic for saying that 80 percent of a meal is related to business, and 20 percent is not.

It seems to me that illogical distinctions are no substitute for vigorous enforcements of the tax laws.

I also believe that reducing the deductibility for business meals will not only handicap businessmen and women, it will have a devastating effect on restaurants and their employees.

The Japanese or German business man will continue to be able to write off his entertainment expenses; while his American counterpart will have to compete over a fast food counter.

And, according to statistics I have seen, if we adopt the provisions under consideration, there will be:

A $56 billion decline in total business meals outlay over 5 years; permanent loss of 40,000 jobs. Many of those jobs are held by the least skilled and least employable in our work force; $7 billion to the Federal/State entitlement systems (unemployment insurance, et cetera).

Mr. President, last September, the Australian Government enacted legislation completely eliminating the deductibility of business meal and entertainment expenses. I realize the measure we are considering only eliminates 20 percent of that deductibility. Nevertheless, I think the Australian experience has some relevance to the proposal before us. In Australia:

Within 3 months restaurant sales dropped 30 percent compared with 1984.

Over 10,000 people lost their jobs as a result of the new law.

Peripheral industries were hurt as well. Restaurant purchases of fish fell 11 percent, flowers 12 percent, laundry services 16 percent, wine 9 percent, and poultry 6 percent. The oyster industry collapsed completely.

Many large corporations reduced their travel and entertainment budgets and merely shifted their business promotional dollars to advertising.

Mr. President, in my view, reason and economics tell us to leave the present law unchanged. Being a political realist, however, I know this is not in the cards.

Initially, the senior Senator from Nevada and I had hoped to mitigate the adverse economic effects which we feel will result from the provisions in the bill. The compromise we had planned to offer would have:

Retained the current 100-percent deductibility for business meals; and that would have included all food and beverages provided in a business context, including business receptions, banquets and business sales suites as well as miscellaneous food and beverages provided as a part of conventions, seminars, and business meetings.

Retained the current 100-percent deductibility for intercollegiate athletic events, plays, ballet, dance and choral performances, concerts, recitals, and operas.

Limiting deductibility could have an adverse financial effect on these worthwhile activities, without any corresponding benefit, such as an appreciable increase in revenues for the Treasury. Moreover, to limit the tax deductibility of these cultural activities seems to be at cross purposes with congressional efforts to encourage and promote them through the National Foundation on the Arts and Humanities.

Raise the top corporate tax bracket from 33 percent to 34 percent, to ensure that our amendment is revenue neutral.

We have met with leaders of the industry, and in view of the political climate they have no interest in requesting that we proceed with this compromise. So, the Senator from Nevada and I will not offer it.

Nevertheless over the next year we intend to watch the effects of this provision very closely.

AMENDMENT NO. 2096

The PRESIDING OFFICER. The question recurs on the pending business.

Mr. METZENBAUM. Mr. President, is the pending business the Armstrong amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Mr. President, I am not sure that I understand the amendment in its entirety, but I am also aware of the fact that representations have been made both by the majority and the minority of the committee dealing with Social Security in the Finance Committee. On that basis, I have no objection to the Senator proceeding.

AMENDMENT NO. 2096, AS MODIFIED

Mr. ARMSTRONG. Mr. President, I thank the Senator. I ask unanimous consent that I may address the Senate for an additional moment concerning a modification of the amendment.

The effect of the modification is to include language suggested by the Senator from Louisiana [Mr. LONG], who wants to be sure that the people who are affected are put on notice of the grounds for which the exemption was obtained in the first ground, religious ground, and that the decision they are making is irrevocable.

Mr. President, I do not think this changes the outcome to any extent. It does fulfill something that is worthy, to be sure that someone does not come back later and say, "I did not know I was doing that, and I did not know that was the effect of it."

Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2096) as modified, is as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR CERTAIN CLERGY.

(a) CONDITONS FOR RECEIVING EXEMPTION.—

(1) Section 1402(e)(1) (relating to exemption from tax on self-employment income of certain ministers, members of religious orders, and Christian Science practitioners) is amended by inserting "and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the church or order that he is opposed to such insurance" after "Act").

(2) Section 1402(e), as amended by paragraph (1) of this subsection, is further amended—

(A) in paragraph (1) by striking out "Any individual" and inserting in lieu thereof "Subject to paragraph (2), any individual",

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) VERIFICATION OF APPLICATION.—The Secretary may approve an application for an exemption filed pursuant to paragraph (1) only if the Secretary has verified that the individual applying for the exemption is aware of the grounds on which the individual may receive an exemption pursuant to this subsection and that the individual seeks exemption on such grounds. The Secretary (or the Secretary of Health and Human Services under an agreement with the Secretary) shall make such verification by means of in-person or telephonic communication with the individual.".

(3) The amendments made by paragraphs (1) and (2) shall apply to applications filed after September 30, 1986.

(b) REVOCATION OF EXEMPTION.—

(1) Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1954, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of subtitle A of such Code), if such application is filed—

(A) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

(B) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

Any such revocation shall be effective (for purposes of chapter 2 of subtitle A of the Internal Revenue Code of 1954 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for

all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of subtitle A of such Code (notwithstanding paragraph (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(2) Paragraph (1) shall apply with respect to service performed (to the extent specified in such paragraph) in taxable years ending on or after the date of the enactment of this Act and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such paragraph) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

Mr. ARMSTRONG. Mr. President, with that word of explanation, I thank all Senators.

The PRESIDING OFFICER. If there is no Senator seeking recognition, the question is on agreeing to the amendment of the Senator from Colorado, as modified.

The amendment (No. 2096), as modified, was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on the committee amendment. The Chair recognizes the Senator from Ohio.

Mr. GLENN. Mr. President, I want to make a statement not directly addressing any particular amendment at the moment. Is that in order?

The PRESIDING OFFICER. Yes.

Mr. GLENN. Mr. President, I rise to express my concern regarding the retroactivity of certain parts of this bill. I do not have an amendment to offer to this because I am aware that an amendment that addresses this particular issue would not have much chance of adoption at this time. But I want to be on record before the Senate and before the people of this country as expressing my views on this.

Mr. President, I feel, as preface to my remarks, that the Finance Committee and its chairman, the ranking minority member, indeed all members, should be commended for having produced the most radical revision of the Tax Code in a long, long time; in fact, the only major revision in at least 32 years.

Perhaps the most important aspect of this bill is that it will encourage more and more business decisions to be made on the basis of their economic merit rather than on tax considerations. There is no econometric model that can figure how much this will help the economy, but I believe that this feature is one of the sleepers in the bill. It is likely to help the economy more than we can say for certain at the present time.

Mr. President, when I first arrived in the Senate some dozen years ago, I worked with then Senator Muskie on trying to get zero based budgeting concepts in place here on the Hill.

□ 1830

At that time, we figured that there were some $126 billion that went into revenue forgone because of certain tax preferences, or because of deductions of one kind or another that were tax preferences or exemptions or incentives. In the intervening years, we now estimate that at the present time, we lose in tax revenues some $400 billion per year. That is a tremendous increase, and it was long overdue to be corrected. That is what this bill basically does. It says we are going to cut back on those tax preferences, we are going to cut back on those incentives, and we are going to lower the tax rates. They have to go in tandem or it does not work right and will not be accepted by the American people. I agree with the basic philosophy behind the bill.

We have been told that the bill treats real estate unfairly; and indeed, in some respects, it does. However, even real estate executives I have spoken with afirm that the bill will eventually do much good. It will discourage real estate investments whose major attraction is the tax losses they generate, and will encourage investments that have economic merit, not tax merit.

There is one major aspect of this bill that disturbs me. In several instances, the bill reaches back and imposes a new, sometimes high tax burden on transactions that have already taken place.

In other words, people made their investments with good faith in this Government that certain tax laws were there and those tax laws were in place and they could rely on the good faith of their Government that those were the tax laws they were making those decisions under. I speak from personal experience. In the days before I was in the Senate, I was in the business world, in international business and starting some entrepreneural type businesses in this country with several partners, I know what it's like to sit down and figure your bank loan, what it is going to cost you, your likely revenue, the tax implications. Sometimes those tax implications are the margin of profitability, the margin of whether your investment is worthwhile, the margin as to whether you will succeed or you will fail.

So people over the past several months have said, "OK, that is fine, I cannot wait any longer, I have to make a business decision, I have to go ahead," and they took the tax law, not knowing whether we were going to pass a tax law this year or not. They made their business decisions and now in some areas, at least, there is doubt whether they will be able to make it if certain parts of this bill are retroactive back to January 1. Now, the committee has tried to ferret out all these areas where transition rules would apply that would help people in that particular situation. That is commendable to do that. But I think for something as complex as this bill we are working on, it may be impossible to correct all of those things in the bill that may have some unfairness attached to them.

This retroactive feature of the bill goes against normal procedures and it is particularly onerous to the real estate people who have recently invested in limited partnerships, and things like that that have been not only in law but encouraged in law in times past.

In some cases, the bill could impose a heavy penalty on persons like these who relied on existing law to make substantial financial commitments.

In each Tax Code revision we have passed going at least as far back as 1954, Congress has been careful to write transition rules that do not leave investors high and dry with investments that no longer made any economic sense. Congress has also done the same thing when it has liberalized the Tax Code; it has enacted antichurning rules so that people who invested using the existing Tax Code can't take advantage of more liberal rules and convert their old investments to the new rules. The bill before us, in fact, expands the coverage of antichurning rules so that taxpayers cannot take investments that they are depreciating under existing law, and convert them to the modified, more beneficial accelerated cost recovery system.

Mr. President, let me be direct about this. I support this bill, but I have grave reservations about how it treats people who have made financial commitments using existing law. where they were trusting that that was the law that their business would be treated under.

I would like to see an effective date as the date of enactment, or even next January, so people can plan what they

are going to do under the new tax law, particularly for such provisions as the investment credit repeal, and for prospective investments in real estate or other tax shelters. In some instances—for example, where a community has worked for years and even enacted new taxes, to finance a municipal project like a stadium that will now be denied tax-exempt financing under this bill—I would like to see even more lenient transition rules in cases like that. I would like to see the investor protected—especially investors who are required to pay assessments on their investment for the next several years—so that the new Tax Code does not put them into a financial bind.

Mr. President, I wanted to join in some of the colloquy regarding retroactive features in the bill. I know Senator BENTSEN felt strongly about this and made a statement on the floor yesterday. I had planned to be here to match my statement with his so we could have a united stand on this, even though I did not have an amendment to submit.

It seems to me that businesses, whether businesses or individuals, who are trying to make their investments or take care of their own economic welfare, could not operate just on rumors that a tax bill might come through this year. They could not wait. They went ahead. They committed themselves. Now we say, "Weren't you foolish to trust your Government? Weren't you foolish to make an investment under a tax law when there was some rumor abroad that that tax law might be changed and that that change in the tax law might well be the difference between having a viable business or going into bankruptcy."

So in effect, we are saying to at least some of these people, "We may pull the rug out from under you."

We know there are changes here, there are changed numbers. I wish that in a more perfect world, we had the votes here, on the Senate floor, to make the effective date of this bill the date of enactment for everyone. That way, it would be more fair.

I have been told if we did that, the reduction in revenue to be realized under this would be on the order of $27 to $50 billion of revenue not received. That, of course, makes it onerous as far as getting that passed on the floor, and I am under no illusions that it could be passed this evening. But to me, it would be fair if we could do that.

We pride ourselves that this bill is going to be fair, it treats everyone more fairly than in the past, it cuts out all those unfair incentives, tax loopholes we talk about. But fairness to me also means being fair in treating the people who made investments under existing law, treating them fairly also. They could not wait. They went ahead.

I think where this bill does not have a transition rule to deal with every situation, we should have locked this in so that the date of enactment should be the date of effectiveness of this bill and not go back 6 months or a certain period of time and change tax laws, in effect, on people who had their trust in existing tax law and trust in their Government that they were operating under an investment policy that would continue at least for them.

I think they are being dealt with unfairly. I hope that in conference, if there is an opportunity there to correct some of this or to change the date of enactment, the date of effectiveness of this bill, that could be done.

I thank the Chair.

CAPITAL HOLDING COMPANY

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the 1984 tax bill allows life insurance companies to take a special 20-percent deduction to reduce their tax liabilities. Because of the overall corporate rate reduction in this bill, the committee sensibly decided to repeal this special deduction beginning in 1987.

According to the committee report "despite the elimination of this special deduction, the maximum marginal tax rate applicable to life insurance companies will decline under this bill."

All well and good, and I commend the committee for that action. But as has become apparent in recent days there is always an exception, and this bill has that exception for one company.

One company under the provisions of the bill will qualify for special transition rule providing that the value of certain deductions will not decrease as a result of lower rates.

The committee report states:

A special rule is provided in the case of a life insurance company owning the stock of another corporation through a partnership, which stock was acquired on January 14, 1981.

That is obvious that that is specific, it is carved out for one company. The report continues to read as follows:

This company's deduction will be determined as if the amendments to the corporate tax rates had not been enacted, but rather, present law rates remained in effect."

In other words, for this one company, we are going to make believe the bill before us had not been enacted. This is truly creative.

AMENDMENT NO. 2098

(Purpose: To strike out a special rule relating to small insurance company deductions).

Mr. METZENBAUM. Mr. President, I consider that creative legislating, but I did not consider it to be good legislating. Therefore, I send an amendment to the desk which, I am pleased to announce, has already been agreed to and it is my understanding that it will be accepted. I think that it will not totally eliminate the problem created by the tax bills special provision, but it will go a long way toward doing it. It will pick up about $3.9 million out of the approximate $5.2 million that otherwise would have been handed as a gift to this one particular company.

□ 1840

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2098.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1927, beginning with line 5, strike out all through page 1927, line 9, and insert in lieu thereof the following:

(B) by adding at the end thereof the following: "For purposes of determining taxable income, the amount of any income, gain, loss, or deduction attributable to the ownership of such stock shall be an amount equal to 46 times the amount of such income, gain, loss, or deduction, divided by 36.8."

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, it is my understanding that this amendment has now been cleared on both sides of the aisle. I want to point out to Members of this body that the language of the Finance Committee would have meant something in the area of $5.2 million, as I understand it, loss of revenue. This will pick up that which amounts to about $3.9 million or perhaps only half of the whole $5.2 million. There is not much question that it picks up at least half and maybe two-thirds of the entire loss that otherwise would occur under the committee amendment. I think it is a fair compromise and hope it will be accepted.

□ 1850

I want to point out that what we are doing is tightening the rules with respect to the special provisions of this legislation for one company.

Mr. SIMPSON. Mr. President, on behalf of the chairman of the committee, the managers, I believe this has been cleared on this side of the aisle, and it is acceptable. I have no objection, and we may proceed with a voice vote, if that is the Senator's desire.

Mr. BRADLEY. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2098) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1900

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX BILL PENSION PROVISIONS CAN CAUSE PROBLEMS FOR SMALL BUSINESS

Mr. DIXON. Mr. President, the Finance Committee package makes a lot of changes in the pension area. These changes are designed to reform the pension area and to make it more likely that employees will actually receive a pension. The provisions, if enacted, will likely result in increased levels of coverage and participation for employees of large firms.

These same provisions, however, could have exactly the opposite effect for employees of small firms. They could cause many small employers to cancel their pension plans, and they could prevent many employers from offering their employees pension coverage at all. The net result might therefore be fewer employees with retirement coverage, not more.

Many of the arguments which proponents of the pensions changes make for the Finance Committee sections on pension integration, vesting, and participation apply only to larger employers. The impact of these same provisions on small employers has yet to be fully considered by Congress. As a brief look at the pension problems from the small business point of view will indicate, though, there are good reasons to be concerned.

According to one recent survey, approximately 1 out of 4 small firms currently provides a pension plan to their employees. For the 3 out of 4 small firms not providing pensions, the cost of setting up such a plan was the principal reason for not providing that benefit.

The pension provisions in the Senate bill will, in all likelihood, not reduce small business pension costs. Rather, they will probably make pension costs even higher, particularly those provisions relating to limiting the integration of pension plans with Social Security, expanding the coverage under plans, and mandating 5-year "cliff" vesting.

Mr. President, recent studies by the Employee Benefit Research Institute provide additional evidence on the likely impact of the Senate bill on small employers. The institute estimates that had 5-year cliff vesting been in effect in 1985, an additional 1.9 million employees would have been covered, at a total annual cost of between 2 and 7 percent of total private pension plan contributions, or between $1.4 and $4.7 billion.

Now these are large numbers, but it could be argued that the cost is not unreasonable given the number of additional employees who would get pension coverage. As the institute points out, however, this average figure masks a much more serious problem. According to the study:

> For some employers, however, with young work forces and high turnover, the cost could reach as high as 40 percent of current contributions.

This description reads like a definition of many small business employee profiles, since the labor market for small business is characterized by a high turnover rate and a high proportion of young workers. Further, it provides a compelling demonstration of the disincentives the committee provisions will almost certainly create for a great many small businesses.

I know the Finance Committee has labored long and hard to bring this bill to the Senate, and I am truly amazed at the amount they have been able to accomplish. Their task has been both extremely complex and controversial, but they have produced a great deal of needed fundamental reform and simplification of our tax structure. Because of the great scope of the committee's efforts, however, I wonder whether the pension area was able to get the attention it deserves.

I would note that only 1 day of hearings was held on these pension changes by the Finance Subcommittee on Savings, Pensions, and Investment Policy, the subcommittee with jurisdiction over this area. Not all witnesses who wanted to testify in person before the committee were able to do so. As I understand it, none of the nationally recognized small business organizations were able to appear before the subcommittee. The Senate Labor Committee has not had an opportunity to examine the issues, nor has the Senate Small Business Committee.

Congress spent almost an entire decade to research, draft, and enact ERISA—the basic piece of pension law that governs this area, Mr. President. Substantial policy changes to that law, like those in the Senate Finance package, require more than a single day of hearings.

It seems to me that it might be much better to delete these proposals, in order to provide an opportunity for more comprehensive and deliberate consideration of the issues involved. I am sure my colleagues do not want to do anything that could adversely affect the prospects of small business employees for receiving pensions—most people in America work for small businesses—and that could cause dramatic new cost burdens on small business.

At a minimum, I hope the Finance Committee will take the opportunity, during the forthcoming House-Senate conference on the tax bill, to consult with small business and bring back a conference package that meets the committee's legitimate objective of broadening pension coverage while addressing small businesses' legitimate concerns regarding the potential for greatly increased cost burdens. These two objectives are not inconsistent. In fact, unless the cost concerns are satisfactorily addressed, I am afraid that any pension changes we might enact will not be ultimately successful. They simply will not result in a greater opportunity for pension coverage for American workers, which is what we all want, if they impose cost burdens that cause many small businesses to drop existing pension plans, or to not offer pension benefits to their employees.

□ 1910

Mr. President, I yield the floor.

I would be glad, if the Presiding Officer cares for me to do so, to suggest the absence of a quorum.

I do, Mr. President, suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I do not know if anybody has any more amendments. I encourage my colleagues, if they have amendments, that this would be a good time to offer them. We have not yet been able to agree on going out early this evening and voting on a time certain tomorrow, but we have not given up on that. If we do not work it out fairly soon, it will no longer be early.

We hope to have a little conference on that in a few minutes in the distinguished minority leader's office. But, in the meantime, if there are amendments to be brought up, it seems to me it would be an appropriate time to do it, or we could get unanimous consent that there be no further amendments. I will not make that request.

Does the Senator from Ohio have an amendment?

Mr. METZENBAUM. The Senator from Ohio has several amendments, but I think the time of the body would be better served as we attempt to work matters out. We have three amendments. Two of them I think we are rather close to working something out on. The third one, we may have to go with, and maybe one or two others.

But, the point is, we have, as I think the leadership knows, worked out a number of amendments this afternoon that have been accepted. I am waiting to hear from Senator EXON and Senator ZORINSKY in connection with one, Senator CHAFEE is waiting to get some numbers in connection with his amendment. We are trying to figure out whether we can work that out. We are trying to get the exact figures with respect to the Denver and Rio Grande amendment. So I just say to the leader that we are trying to move along as promptly as possible. In many instances, it is a matter of not being able to get the numbers.

Mr. DIXON. Will the majority leader be kind enough to yield for a question?

Mr. DOLE. I am happy to do so. I would like to indicate that the Senator from Kansas, Senator KASSEBAUM, has a technical amendment. That is in the process of being put together.

Mr. METZENBAUM. Is it indeed technical?

Mr. DOLE. I think, in essence, it is. But I want you to check it. It would be technical for me; it might not be for you.

Mr. METZENBAUM. I thank the Senator.

Mr. DOLE. If Senator KASSEBAUM offers it, it would be technical, as far as I am concerned.

Mr. DIXON. Will the majority leader be kind enough to yield for a question?

Mr. DOLE. I yield.

Mr. DIXON. Mr. President, I know a great many Members have complained to the majority and the manager about the fact that they cannot get the necessary information from the Joint Tax Committee. My friend, the distinguished senior Senator from Alaska, Senator STEVENS, and I have an amendment in which we are joined by the distinguished ranking member on the Finance Committee, Senator LONG of Louisiana. We believe it is a revenue-neutral amendment.

I think I could say that we would be prepared to go forward anytime. In fact, may I say to the majority leader, so far as I am concerned, if it would accommodate the purposes of the senior Senator from Alaska, we would be prepared to go forward tonight. But we simply cannot get a response from them.

We assert it is revenue neutral, but I wonder whether we have run into the problem of the distinguished manager of the bill or somebody contending otherwise. You can understand our dilemma.

I visited on the last rollcall with the Senator from Alaska. I have talked, over the last few days, with the distinguished ranking member on our side, who is the father of the whole ESOP concept. This touches on that question. We are just kind of in a dilemma here.

Mr. DOLE. I understand that a letter has been forwarded to the distinguished Senator from Illinois.

I think, in some cases, it is not that the purpose is not received, it is that it is not the right response. Some Members said, "Well, our amendment is revenue neutral." And the Joint Committee says, "No, it costs $100 million." They got a response, but they did not get the response they wanted.

I do not know how we are going to clarify that. There are several of those outstanding, where people say, "I haven't gotten a proper response." Well, they mean that they have not gotten the one they wanted. They got the best judgment. It may not be true in your case.

Mr. DIXON. May I say to the majority leader, we do not have a response. I am not trying to pick on the committee. I know they are busy. But we have been a number of days in the process of trying to get a response. I must say to the majority leader, as of this hour, the distinguished Senator from Alaska and myself have not received a response, nor has our staff people. If there is one somewhere, it has not got to us.

Mr. DOLE. If you hang on a minute, we may have a response. It is on an ESOP amendment.

Mr. DIXON. Yes.

Mr. DOLE. That would be under "E"?

Mr. DIXON. It would be under "E."

Mr. DOLE. Or "SOP." [Laughter.]

Mr. DIXON. Well, the only point I want to make is I think we could accommodate the majority leader to be ready anytime if we had that letter.

Mr. DOLE. Well, we will continue searching for it.

Mr. DIXON. I thank the majority leader.

RECESS UNTIL 8 P.M.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess until 8 p.m.

There being no objection, at 7:16 p.m., the Senate recessed until 8 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. MURKOWSKI].

□ 2000

Mr. DOLE. Mr. President, we have been meeting in the office of the distinguished minority leader—myself; the chairman of the committee, Senator PACKWOOD; the minority leader, Senator BYRD; the ranking Democratic Member, Senator LONG; and Senator BRADLEY—trying to determine the course to follow for the remainder of this evening and the remainder of the week, or tomorrow, or whatever.

It is my hope that we will finish this bill this week, not next week. I think the distinguished minority leader is going to meet with the Democratic Members, and we hope to meet with as many Republican Members as we can round up in the next few moments and lay out the matters discussed in the meeting with respect to the treatment of transition rules, how many other nontransition-type amendments there would be, if we can get time agreements on the amendments, and then make a judgment on whether we should stay all night or half the night tonight, tomorrow, Friday, Saturday, Sunday, into next week.

We have a lot of things to do other than this tax bill. We are on the 9th day, probably up to 70 hours now, on the tax bill; and it seems to me that we have about reach the point where we need to take some decisive action on the bill itself. So, if there are amendments, this would be an opportune time for someone who has one. We understand there are about 27, if you count amendments on both sides of the aisle. This would be a good time for Members to stand up and offer the amendments.

So I will suggest the absence of a quorum. I hope that any Senator on either side who has an amendment will be here to argue that amendment. We would protect those who are in meetings. There would not be a record vote until the minority leader gave an indication.

Mr. BYRD. Mr. President, if the majority leader will yield, I ask the Senators on my side of the aisle who have amendments to come to my office by 8:15, which is 15 minutes from now, so that we can have a discussion and see if there is a way in which Senators may be able to call up their amendments and have adequate time in which to discuss them, so that we can have some indication of when we will finish action on the bill.

So I urge Senators on my side of the aisle to come to my office by 8:15, if they have amendments.

Mr. EXON. Mr. President, will the Senator yield?

Mr. DOLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to bring some good news to the embattled majority leader.

I think some progress is being made. There have been ongoing discussions the last 2 or 3 days between myself and Mr. METZENBAUM with the respect to an amendment that I think has been resolved.

I am delighted to see the chairman of the Finance Committee here. We have an amemdment that I think can be approved by voice vote in a quick fashion. So it appears that one of the amendments is out of the way.

ORDER OF BUSINESS

Mr. EXON. Mr. President, if there is no more business to be transacted at this time with regard to the bill before us, I ask that I be able to proceed as in morning business for at least 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIFTY-FIVE-MILE-PER-HOUR SPEED LIMIT

Mr. EXON. Mr. President, I ask unanimous consent that the name of the Senator from Arizona [Mr. GOLDWATER] be added as a cosponsor of S. 2325, the bill I introduced with regard to raising the 55-mile-per-hour speed limit to something that is reasonable and proper.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, with regard to the speed limit bill, there seem to be a number of speed limit bills being introduced at this time. I think this is the measure that is going to come to the attention of the U.S. Senate and the House of Representatives very soon.

I should simply like to say that there is more violation of the Federal 55-mile-per-hour speed limit bill than any other bill that was ever enacted by the Congress of the United States. There is wholesale violation all across this land.

The Secretary of Transportation has recently seen fit to penalize two States. I think that is very unfortunate for those two States, because they just happened to have been caught and are going to have some of their highway money taken away. I suspect that if the facts were known, the drivers in those States basically are not traveling any faster than the drivers in other States.

I point out that we have a great fallacy in the 55-mile-per-hour speed limit bill. The fallacy is that the Federal highway money would not be taken away unless more than 50 percent of the people in those States were speeding—if and when they are caught. If anybody was serious about the enforcement of a 55-mile-per-hour speed limit, they would never have enacted such a penalty provision in the law in the beginning.

I traveled to a nearby State over the last weekend, and I found exactly the same situation there that I find clear across this land, including Nebraska—that, by and large, with perhaps some very few exceptions, the enforcement agencies are not issuing tickets until somebody goes 65 miles per hour or more. That is on both interstate roads and primary and secondary roads.

It is one of the greatest questions of our time, Mr. President, that we have a speed limit bill that was enacted, and necessarily so, when we had a shortage of oil. There was a national emergency. There is no shortage of oil today. Yet, we have a Federal speed limit bill that supposedly restricts to 55 miles per hour those driving on a high speed, two-lane highway, in one direction. Also, not only is that interstate road built for speed, but also, it has controlled accesses to it.

Anyone who understands the basic reason for highway safety would have to agree that it is ridiculous to enforce a speed limit such as that on that high-speed road and have same speed limit on roads that are one lane in each direction, where every tenth of a mile you come within the possibility of death by passing another car by 3 feet.

I hope we can have a reasonable, rational approach to this. If so, we can have legislation that will allow the people of the United States of America to obey the law—a reasonable, operable law as I have suggested in my bill, now cosponsored by Senator GOLDWATER, that provides for a 70-mile-per-hour optional speed limit, at the option of the States on the Interstate Highway System, while maintaining the 55-mile-per-hour speed limit on all the other roads.

If we have something like that and if it is enforced, we will see a decline in the highway deaths; because, sooner or later, the secret is going to crop out that we do not have effective enforcement of the 55-mile-per-hour speed limit on 90 percent of all the roads in this country, which are the primary and secondary roads, where the 55-mile-per-hour speed limit should be enforced. I think this is not only a safety matter but also a matter of common sense

I yield the floor.

□ 2017

EXTENSION OF HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. GARN. Mr. President, I ask unanimous consent that the Senate now turn to Calendar Order No. 686 which is House Joint Resolution 652, temporary extension of certain housing programs.

Mr. BYRD. Mr. President, this matter has been cleared by all Senators on this side of the aisle and we are ready to proceed. There is no objection.

Mr. GARN. I thank the distinguished minority leader.

I believe the joint resolution is at the desk.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2099

(Purpose: To provide for a short-term extension of the authorization for the Federal Housing Administration, and other programs until July 25, 1986, and to temporarily delay the June UDAG awards pending enactment of legislative improvements)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 2099.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all following the resolving clause and insert in lieu thereof the following:

SECTION 1. Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "July 25, 1986".

SEC. 2. Notwithstanding any other provision of law, competitions for grants under section 119(d)(1) of the Housing and Community Development Act of 1974, for cities not described in the first sentence of subsection (i) of such section and urban counties, shall not be concluded, and awards granted thereunder prior to July 25, 1986, unless legislation amending the selection limitations and criteria weight of such section is enacted into law and made applicable to such competitions.

Mr. GARN. Mr. President, we find ourselves today again confronting the need to take action on maintaining the operating authority of the Federal Housing Administration so that this federally sponsored institution may continue to function in its crucial role in fostering and encouraging the housing recovery. Very frankly, I am at a loss to provide any good reason why we have placed ourselves in this position so frequently in the past few months, not to mention the serious hardship and disruption these authorization and funding lapses have inflict-

ed on program participants. But until we are successful in our efforts to complete action on a housing authorization bill, it appears that we have no other alternative.

Mr. President, the action I am seeking today is to provide the FHA with yet another short-term extension of authorization, and thereby permit resumption of the operations of this very valuable and necessary program. Our failure to complete final action on the housing authorization bill, however, makes necessary our repeated use of this short-term "fix" to permit, if for only a few weeks, continued home sales. Although this is a temporary extension, it will permit the FHA to complete processing on $4 billion of pending loan guarantee applications, directly involving approximately 70,000 home purchases.

I want to assure all Members of my determination to conclude our long overdue consideration of the housing authorization bill. Continued inaction is far too destructive to our shared goal of housing recovery to justify the turmoil we have engendered. I wish that this measure provided the FHA sufficient legislative and budget authority to efficiently operate through the next fiscal year. That, sadly, is impossible to enact at this point, but to allow my disappointment to frustrate any action on needed legislation to resume temporary resumption of FHA operations would be even more repugnant and intolerable.

The amendment that I am offering, and hope will pass and speedily be enacted into law enable the FHA to guarantee loans until July 25, 1986. It will also delay the currently pending UDAG round to allow us sufficient time to enact a package of improvements in how such grants are awarded. Unfortunately, without further action on the authorization bill, or on the supplemental appropriations bill currently in conference, this does represent only a limited solution to the problems confronting families seeking FHA home loan guarantees. But it is all that I, after consulting my colleagues, feel that we can pass this time.

Mr. President, to further clarify what exactly is accomplished by my amendment, allow me to explain what the UDAG provision entails. The amendment simply mandates that the currently pending UDAG round not be concluded, that the processing of applications currently on hand be fully processed and analyzed, but that the final decision on awards be withheld until legislation is enacted and made applicable to these proposals. This legislation is the basic change in the selection criteria currently pending in the housing authorization bills, one of which has passed the House and another which is awaiting floor debate in the Senate. Similar legislation was also agreed to by the conferees on the urgent supplemental appropriations bill this morning. This reform will establish a "two-pot" formula whereby 35 percent of the available funds will be awarded on the basis of project merit alone.

Let me make absolutely clear, I am determined to see enacted the reforms in the UDAG Program as soon as possible. Furthermore, the provisions of my amendment are in no way intended to permit the Department to cancel or suspend the pending consideration of UDAG applications, or to open up this round to further applications. Such a result would only frustrate our urgent need to proceed with the functions of this program with a minimum of disruption. My amendment specified that the planned June round be held in abeyance no longer than July 25, because I believe that we can ill-afford to subject the UDAG Program to the interminable delays that have been inflicted on the FHA program. The July 25 date provides a reasonable period of time to expect Congress to take final action on the long-overdue housing authorization legislation. We have no justification for further delay, and I urge adoption of the amendment.

I would just simply state this is an extension of FHA authority until July 25. They have been out of authority since June 6, which has been irresponsible in my opinion.

We need to get FHA back in business. This will at least do it until July 25.

Mr. LAUTENBERG. Mr. President, I rise to engage the distinguished chairman of the Banking, Housing, and Urban Affairs Committee in a colloquy regarding the Urban Development Action Grant Program.

Mr. President, the chairman of the Banking Committee brings to the floor legislation critical to the Federal Housing Administration's ability to insure mortgages for millions of Americans. Like most Members of the Senate, I have been receiving phone calls from constituents trying to close on a home and finding the FHA office they are dealing with unable to do so. Unless we extend the authorization for the FHA, this condition will continue.

Therefore, Mr. President, I strongly favor the immediate simple extension of the FHA's authority.

House Joint Resolution 652, as presented to the Senate, contains an extension of the FHA's authority until July 25, 1986. I support that provision. The resolution also contains a section, section 2, delaying the next round of UDAG grants until July 25, 1986 or until the selection criteria for UDAG grants is changed to give greater weight to project quality versus demographic factors.

Mr. President, I recognize that many Senators of both parties favor this selection criteria change and believe it is essential to the viability of the Urban Development Action Grant Program. I have not supported this legislation, to make these changes to the selection criteria. But, I do recognize they enjoy a strong majority in both the House and Senate and may be necessary if the UDAG Program is to survive. However, like those seeking changes in the selection criteria, I too have a major problem with the administration of the UDAG Program.

On June 6, Mr. President, the Secretary of Housing and Urban Development canceled a $9 million UDAG project in Jersey City, NJ, because the developer of the project could not certify that future tenants of the development would not come from New York City. The Secretary took this action pursuant to a policy directive—note I did not say regulation—that he issued in January 1985. The policy directive states that projects without identifiable tenants are presumed to be pirating jobs from neighboring communities if the project is within a 50-mile radius of another UDAG-eligible community. There does not have to be a finding of actual pirating. The burden is on the applicant for assistance to prove that he is not pirating. The developer is therefore guilty until proven innocent.

This discriminatory policy will be tested in the courts.

Mr. President, what has been the impact of this policy? Has New Jersey been truly injured under this policy? Indeed it has. Jersey City has lost a valuable grant of Federal assistance. Jersey City, a community with serious economic problems in community development and housing, was counting on the tax dollars generated by that UDAG grant, which was in the form of a loan, and the repayment of that loan for other development opportunities.

In the next UDAG round, whenever it takes place, New Jersey has several grants pending. None of those grants are from cities in the immediate vicinity of New York or Philadelphia, even though cities like Camden, Paterson, Jersey City, Hoboken, Newark, and Elizabeth have been major UDAG recipients in the past and are among the poorest cities in the Nation. Developers are bypassing New Jersey because they cannot afford to contend with this policy.

Mr. President, I am aware of provisions in law which deny Federal assistance to States and localities if they fail to comply with Federal law. What is so objectionable about the Secretary's policy is that it denies Federal assistance just because a city happens to be within 50 miles of another city. That is no basis on which to exclude cities from Federal benefits. Most major cities in New Jersey are now ex-

cluded from the UDAG Program because they are within 50 miles of Philadelphia or New York.

Mr. President, the next order of business to come before the Senate after the tax bill could be S. 2507, the Housing Act of 1986. That bill contains a provision, section 143, which puts into statute the discriminatory policy directive of Secretary Pierce. It is my hope that the Senate will deal with this issue in the context of that legislation in a manner in keeping with the historical congressional concern for preventing the pirating of jobs from one area to another.

Mr. President, I would say to the distinguished chairman of the Banking Committee that I had hoped to address this issue as soon as possible, even on House Joint Resolution 652. Understanding his desire to move this bill quickly and without complications, I will withhold until S. 2507 comes before the Senate.

I would ask the chairman of the Banking Committee if I can expect serious consideration of this issue. It is not fair to exclude a State from this program. My colleagues who have major metropolitan areas in or next to their States may well find themselves facing the same problem now experienced by New Jersey.

Mr. GARN. The interest of the Senator from New Jersey in HUD's implementation of section 119(h) of the UDAG statute is well-established. This matter has been debated before the Appropriations Committee.

The provision in S. 2507 is identical to a provision in the House version of housing legislation. As the Senator points out, the Senate will shortly have an opportunity to address this issue when S. 2507 comes before the Senate.

Mr. President, I would say to my colleague from New Jersey that he has made his views on this subject clear and that I will work with him to attempt to craft an amendment to S. 2507 which will satisfy all parties to what has been a divisive dispute.

I cannot guarantee that this matter will be easily resolved, but I can assure the Senator that he will have his day in court and get very serious consideration of such an amendment to resolve this dispute.

Mr. LAUTENBERG. Mr. President, I thank the chairman of the Banking Committee for that assurance. This is a matter of great importance to New Jersey and to the UDAG Program. I look forward to working with him to resolve this most difficult issue.

Mr. THURMOND. Mr. President, I rise in support of Senator GARN's amendment to House Joint Resolution 652, and commend him for his outstanding leadership on this issue. On June 6, 1986, I was pleased to join the distinguished Senator from Utah in sponsoring an amendment to the urgent supplemental appropriations bill which would extend the authorization for the Federal Housing Administration [FHA] until July 25, 1986. Unfortunately, that legislation was sent to conference and has not yet been enacted into law. Thus, it has become necessary for us to pursue other legislative alternatives in order to allow the FHA to operate which will facilitate home ownership for thousands of Americans.

Mr. President, the Garn amendment will extend the operating authority of the FHA until July 25, 1986. I am hopeful that by that date Congress can agree on a permanent authorization for the FHA program. In addition, the Garn amendment specifies that no urban development action grant [UDAG] funds are to be spent prior to July 25, 1986, unless a new distribution formula for that program is enacted into law. Today a House-Senate conference committee approved a UDAG formula change and this provision will ensure a more equitable distribution of future UDAG funds.

Mr. President, again I want to commend my distinguished colleague from Utah, Senator GARN, for his able and tireless efforts as chairman of the Banking, Housing, and Urban Affairs Committee, and particularly for the superb job he has done with this legislation. The amendment he offers is a sound one and I urge my colleagues to swiftly adopt it.

● Mr. BRADLEY. Mr. President, nearly 10 years ago, Congress made a commitment to stimulate our Nation's decaying urban areas through the use of the Urban Development Action Grant Program [UDAG] administered by the Department of Housing and Urban Development. This national commitment to urban renewal is not unlike, though far less costly than, the national commitment to the Nation's farmers. Furthermore, the UDAG Program works. There is substantial evidence that the UDAG Program has promoted economic growth in distressed areas of this country. In a 1984 Government Accounting Office [GAO] survey of 12 UDAG projects located in Illinois, New York, and Ohio, the GAO reported that over 90 percent of the anticipated new jobs from UDAG projects were actually realized. And there is abundant evidence in New Jersey that the UDAG Program has spurred a tremendous amount of private investment wherever the grants have been awarded.

The policy directive announced in 1985 by Secretary Pierce on job pirating has jeopardized this successful program's use in New Jersey—primarily because of an accident of geography. New Jersey is the most densely populated State in the country. Two-thirds of our population lives in close proximity to New York City; the bulk of the rest of our population is immediately adjacent to Philadelphia.

The Secretary's new policy denies UDAG grants that have the potential of affecting jobs in other UDAG eligible areas within a 50-mile radius. Mr. President, that ruling virtually eliminates the eligibility of most of the urban areas in northern New Jersey which desperately need UDAG grants. And it similarly precludes the cities of Camden, Trenton, and Atlantic City in southern New Jersey. This is absurd.

This divisive provision recently resulted in the cancellation of a $9 million UDAG award to Jersey City because the developers were unable to prove that the Jersey City project would have no impact on New York City UDAG jobs. Instead of promoting private development, this policy now retards development in my State. Developers cannot risk the last minute cancellation of financing due to application of the pirating provision. The Housing Act of 1986 proposes to codify this policy.

Mr. President, there is no such thing as pirating jobs within a single, unified, metropolitan area. I share the concern of my esteemed colleague from New Jersey that the Senate should address this matter in debating the Housing Act. I thank the distinguished chairman of the Banking Committee for agreeing to work toward a resolution of the issue.●

Mr. GARN. I'll be pleased to work with the Senator from New Jersey.

I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 2099) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I ask that we adopt House Joint Resolution 652, as amended.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 652) was read the third time.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution (H.J. Res. 652) was passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. I thank the distinguished minority leader.

Mr. BYRD. I thank the distinguished Senator.

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

THE MODIFICATION OF GENERAL UTILITIES BILL OF 1986

Mr. SIMON. Mr. President, I rise today to comment on legislation that will modify the so-called general utilities doctrine.

BACKGROUND ON THE GENERAL UTILITIES DOCTRINE

This doctrine arose from a 1935 Supreme Court case that held that a corporation does not recognize gain on the distribution of appreciated property. The doctrine was codified in 1954, and various exceptions to the doctrine have been enacted since 1954. However, the doctrine continues to substantially prevail in liquidation and taxable acquisition transactions. As a consequence, a liquidating corporation and a target corporation in a taxable acquisition can generally avoid tax on appreciated assets. Also, in certain cases, a corporation that makes a distribution in a partial liquidation can avoid tax on appreciated assets.

CURRENT PROPOSALS TO MODIFY GENERAL UTILITIES

The House's tax reform bill of 1986 (H.R. 3838) would repeal the general utilities doctrine for: First, liquidations (Code section 336) and second, sales followed by liquidations (Code section 337). Thus, corporations would recognize gain on the distribution of appreciated assets in a liquidation transaction and in the sale of appreciated assets followed by liquidation. There would be relief from the repeal to the extent a corporation's stock is held by shareholders who own more than 10 percent of the stock. For example, if the stock of a corporation is held equally by 10 shareholders, there is no corporate level tax, except for recapture items, but if the stock is held equally by eleven shareholders, there is a complete corporate tax on appreciated property.

Senator PACKWOOD's proposals for tax reform would have repealed the general utilities doctrine along the lines of the House bill; however, there would have been a different relief measure. The corporate level tax would not have applied to corporations with a value of less than $5 million, and the relief would have been phased out for corporations with a size between $5 and $10 million. The Senator's proposal for repeal is not included in the Senate Finance Committee's bill.

At the Senate Finance Committee discussions of the Packwood proposals, the Treasury seemed to oppose the repeal of general utilities unless there was an "escape hatch." By this the Treasury presumably meant that it should be possible for an acquiring corporation that purchases a target's assets to take a carryover basis—that is, the target's basis—for such assets, even though the consideration paid is cash, in which case the target has no taxable gain. Thus, the potential taxable gain is carried over to the acquiring corporation. It would appear that with the presence of such an "escape hatch" there would be no taxes paid by target corporations in acquisition transactions, because a carryover basis would always be elected, unless the target had net operating losses. This is because the tax cost of a step-up in basis for the target's assets would not be offset by the future tax benefits to the acquiring corporation.

Although several Senators on the Finance Committee opposed repeal of the general utilities doctrine in the liquidation and acquisition contexts, at least one Senator on the committee, who is opposed to complete repeal, indicated that he might be persuaded that inventory gains should be subject to taxation.

SUMMARY OF THE BILL

Under the bill, the general utilities doctrine is modified to provide that a corporation recognizes gain with respect to appreciated property except for the disposition in a complete liquidation—whether by distribution or by sale of assets followed by distribution—of good will and of land and buildings, except for full recapture of depreciation used in the active conduct of a corporation's trade or business.

The nonrecognition treatment is available only if the parties enter into an agreement that allocates the purchase price among the assets sold. This will prevent the Treasury from being whip-sawed by preventing the seller and purchaser from taking inconsistent positions.

Items taxed: Under this rule the items that would be taxed in a liquidating sale or distribution include: inventory, equipment, intangibles such as patents, passive assets such as portfolio stock, passive real estate, and all depreciation taken on buildings used in the active business.

Untaxed items: In not taxing good will and land and buildings used in the active conduct of a trade or business, this proposal would avoid the potential harsh effects of double taxation in a corporate liquidation or taxable acquisition, while preventing the use of such transactions for purposes of tax avoidance.

Replacement for sections 311, 336, and 337: As indicated below, the above rule is implemented by making minor amendments to sections 311, 336, and 337.

Repeal of the collapsible corporation provision: The overly complex collapsible corporation provision—which is designed to prevent the use of corporations to convert what would otherwise be ordinary income into long term capital gains—is repealed even if the long term capital gain preference is retained. Thus, this is a major simplification. However, if the long term preference is retained there should be a rule that would treat certain corporate capital assets as ordinary income assets if such assets would have such character in the hands of a substantial shareholder.

Intermediate position: This position is somewhere between the House bill and the Senate Finance Committee's bill. It is a position around which a consensus can and should be built.

Sound tax policy: Although this proposal may not be perfect, it clearly moves in the direction of a sounder tax policy for liquidations and taxable acqusitions. Therefore, we should move to adopt it now.

Effective date: In order to give taxpayers time to adjust to this provision and the Internal Revenue Service time to issue temporary regulations, the provisions are effective for transactions taking place after December 31, 1986. The Service is required to issue temporary regulations on which taxpayers can rely by November 30, 1986.

Revenue effect: This provision should produce substantial revenues, and I have requested that the joint committee prepare a revenue estimate as soon as possible.

Section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS

A. Section 101. Section 101 amends section 311 to provide that a corporation that distributes appreciated property recognizes gain. No loss is recognized.

The present exceptions in section 311 for (1) distributions to pay death taxes, (2) distributions to certain private foundations, and (3) distributions by regulated investment companies are retained, but the exception for the distribution of stock of certain subsidiaries is deleted.

The Secretary is given regulatory authority to carry out the purposes of this amendment.

B. Section 102. Section 102 amends section 336 to provide that a corporation that distributes property in a complete liquidation does not recognize gain with respect to good will and land buildings used in active conduct of the corporation's trade or business (as defined in section 355(b)) (such land and buildings are hereinafter referred to as "active land and buildings"). No loss is recognized. The Treasury is given broad regulatory authority.

C. Section 103. Section 103 amends section 337(a) to provide that in the case of a sale followed by liquidation, all within one year, no gain is recognized on the sale of good will

or active land and buildings. Losses, if any, are allowed on all assets. In order to qualify for the nonrecognition treatment provided for in section 337(a), section 337(b) requires that the parties enter into an allocation agreement. The Bill retains the provisions of section 337 relating to (1) section 332 and 333 liquidations, (2) liquidations of affiliated groups, (3) the treatment of minority shareholders, and (4) involuntary conversions.

The Secretary is given broad regulatory authority under the amended section 337.

D. Section 104. Section 104 repeals the collapsible corporation provision.

E. Summary. Under this Bill there is a parity of treatment of current and liquidating sales and distributions of appreciated property by corporations. This structure (1) is much more rationale than the present scheme, (2) prevents avoidance of reasonable taxes in liquidations and taxable acquisitions, without imposing a harsh penalty tax, (3) represents sound corporate tax policy, and (4) will generate substantial revenues. It should, therefore, be adopted.

Mr. President, I have an amendment at the desk that I am not going to call up, but I hope it will be considered by the conference. It is in regard to the general utilities doctrine. I ask unanimous consent that at the end of my remarks two articles be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SIMON. Mr. President, one of the things that has concerned me for some time is the tendency for us to increasingly use the capital of our country for companies simply to acquire other companies rather than for research and productivity.

Something is wrong when it is more profitable to explore for oil on the floor of the New York Stock Exchange than it is in Alaska and Illinois and the other States represented here on the floor of the Senate. That is probably an inappropriate example right now because of the price of oil. But any number of examples can be used.

We have been absorbing too much capital in simply having companies gobble up other companies. That is not good for the country. Part of the reason for that is the tax laws of this country. I hope as this bill moves to conference that that will be looked at.

Part of the problem has been taken care of. Part of the problem is caused by our deficits and I believe that the passage of Gramm-Rudman-Hollings has indicated that we are going to reduce those deficits and has sent the stock market up. As the stock market has gone up, the appeal of people to buy stocks and buy companies that are undervalued has diminished. So we have partially solved the problem.

But there is another problem yet, and that is the general utilities doctrine. That is repealed in the House bill.

I do not suggest that it should be fully repealed but I think somewhere between the present law and where the House is is desirable. We should not have tax-driven mergers and acquisitions. We should not have a subsidy in fact for that kind of thing.

What I suggest, in my opinion, the items that would be taxed in a liquidating sale or distribution would include inventory, and I would point out I am told that in the discussion of this in the Finance Committee my distinguished colleague, Senator BENTSEN, suggested inventory should be taxed, equipment, intangibles such as patents, passive assets such as portfolio stock, passive real estate and all depreciation taken on buildings used in the active business. Not taxed under my amendment, under my proposal, is goodwill, land and buildings used in the active conduct of a trade or business.

Frankly, this suggestion came from one of the top tax experts in this country, Prof. Samuel Thompson, whose knowledge is very impressive.

I have talked about this with members of the Joint Economic Committee. I have talked to other tax experts. They suggest the approach that I have here is a sound one.

I recognize it is, however, complicated enough and controversial enough that it does not make sense to bring it up for a vote before this body.

I would add one other thing that is important in this, and that is when one company acquires another company, there has to be an allocation agreement between the two companies. Right now, what happens is that the Federal Government and the taxpayers of this Nation get whipsawed between the two companies. One company sets values of whatever they may be on, whether it is equipment or goodwill or whatever, and the other company takes totally different values and the taxpayers lose in the long run.

I am not calling up this particular amendment. I think it does make sense. I would urge the staff of the Finance Committee that is listening to me here now, and I would urge members of the Finance Committee who will be on that conference committee, to take a look at it.

The fundamental underlying principle I believe is sound and that is tax laws should not encourage mergers, one company gobbling up another company.

I am willing to do everything I can to encourage and give tax breaks to companies that provide research, that add to the productivity of the Nation, but not one company gobblying up another.

EXHIBIT 1

GENERAL UTILITIES REPEAL: IS TAX REFORM REALLY GOING TO PASS IT BY?

(By George K. Yin)

Is Congress really going to pass up the opportunity to repeal the *General Utilities* doctrine [1] as part of tax reform this year? Indications are that Congress may do just that. To the casual observer, this would seem to be a surprising turn of events. For in a year when, to Congress' great credit, we may finally be able to achieve a semblance of true tax reform, *General Utilities* repeal would appear to be a natural piece of any tax reform puzzle. Certainly, the doctrine has long been the target of tax reformers.[2] Moreover, repeal would further at least two tax reform principles: equity and simplicity in addition, repeal has good bloodlines, having been included in both the Bradley-Gephardt and Kemp-Kasten tax reform bills.[3] On a more practical level, at a time when Congress will have to take extremely difficult political votes involving items such as the restriction of IRAs, the nondeductibility of sales taxes, and the elimination of the capital gains preference, can it really pass up the revenue generated by a repeal of *General Utilities*?

But, to paraphrase Professor Blum, we know that the General has impressive troops.[4] Indeed, as the congressional tax-writing committees quickly discovered in their consideration of tax reform, every preference in the Code has its constituents and supporters. In the case of *General Utilities*, the troops happen principally to be owners of closely held businesses that have greatly appreciated in value over the years. Moreover, in view of the $10 million exception in Senator Packwood's original proposal to repeal *General Utilities*, we now that the affected businesses are not insignificant in size.[5] In other words, the troops are exactly the type of people who have little trouble in making sure their grievances are known by members of Congress.

The proposed dramatic reduction in the top individual marginal income tax rate to 27 percent should help to assuage all but the greediest of the troops. Beyond that, each member will have to weigh the benefit of preserving a limited tax preference such as *General Utilities* against the cost of eliminating or restricting a popular, widely used deduction such as the sales tax or IRA deduction. It would certainly seem that, so long as the Congress insists upon "revenue-neutral" proposals, repeal of the doctrine would be largely free money for any member with the foresight and acumen to raise the issue.

In this article, I have not attempted to rehash all of the many arguments in favor of repealing *General Utilities*.

They have been ably set forth elsewhere.[6] Instead, in an effort to review the bidding

[1] *General Utilities and Operating Co.* v. *Helvering*, 296 U.S. 200 (1935).

[2] Almost as soon as its codification in 1954, reformers have been calling for repeal of the *General Utilities* rule. *See*, e.g., Lewis, "A Proposed New Treatment for Corporate Distributions and Sales in Liquidation," House Committee on Ways and Means, 3 Tax Revision Compendium 1643 (1959) (hereinafter cited as Lewis).

[3] S. 409, 99th Cong., 1st Sess. (1985) (Bradley-Gephardt), section 416, S. 1006, 99th Cong., 1st Sess. (1985) (Kemp-Kasten), section 412.

[4] *See* Blum, "Behind the *General Utilities* Doctrine, or Why Does the General Have So Much Support from the Troops," 62 Taxes 292 (May 1984) (hereinafter cited as Blum).

[5] *See* footnote 19, *infra*, and accompanying text.

[6] See American Law Institute, *Federal Income Tax Project Subchapter C* (1982) at 102-19 (hereinafter cited as ALI Study); Lewis *supra* note 2; Wolfman, "Corporate Distributions of Appreciated Property: The Case for Repeal of the *General Utilities* Doctrine," 22 San Diego L. Rev. 81 (1985) (hereinafter cited as Wolfman); Shube, "Corporate

on this important issue. I have tried to identify the principal arguments in favor of *preserving* the doctrine—indeed, perhaps the very arguments that may have convinced the Finance Committee to drop repeal from its tax reform package—and have analyzed the validity of each. My conclusion is that any tax reform effort enacted by Congress this year would be improved if *General Utilities* repeal is included as part of the package.

A. BACKGROUND

As a result of the Deficit Reduction Act of 1984, the *General Utilities* doctrine now stands for the proposition that a corporation does not recognize any gain or loss on the liquidating distribution of property to its shareholders, and in certain sales pursuant to a liquidation.[7] The doctrine is statutorily embodied in sections 336, 337, and 338 of the Internal Revenue Code.[7]

The Bradley-Gephardt and Kemp-Kasten tax reform bills both proposed to repeal the doctrine.[8] Curiously, neither the Treasury Department's November 1984 tax reform proposals[9] nor the President's May 1985 tax reform recommendations[10] contained the proposed repeal. Recent proposed legislation involving concern about so-called "hostile takeovers" has also included partial repeal of the doctrine.[11]

The House Ways and Means Committee's tax reform markup document of last fall did not initially include *General Utilities* repeal.[12] Towards the end of its markup, however, the Ways and Means Committee agreed to an amendment that repealed the doctrine, reportedly as a revenue-raising offset to the preservation of certain oil and gas tax preferences.[13] Sections 331-335 of H.R. 3838, as reported by the House Ways and Means Committee, would repeal the doctrine, with an exception for certain closely held corporations.[14]

On the Senate side, repeal of the doctrine has been simmering for several years. In September 1983, the staff of the Senate Finance Committee, in its preliminary report to revise Subchapter C of the Code, recommended repeal of the doctrine, with a possible phase-in of the change over a number of years.[15] At the October 1983 hearing to review the recommendations contained in the preliminary report, a number of witnesses addressed the proposed *General Utilities* repeal.[16] In may 1985, the staff issued its final report on the Subchapter C revisions, which again recommended repeal but with a permanent exception for corporations under $2 million in value.[17] During the September 1985 hearing concerning the final staff report, the issue of *General Utilities* repeal and the adequacy of the proposed exception were two of the principal items of focus.[18]

The first markup document proposed by Senator PACKWOOD in connection with the Senate Finance Committee's consideration of tax reform recommended repeal of the *General Utilities* doctrine, generally along the lines of the May 1985 final staff report, except that the permanent exception from repeal was expanded to apply to corporations up to $10 million in value.[19] As we all know, the initial markup document was subsequently withdrawn by Senator PACKWOOD and he substituted a far more dramatic proposal to reform our federal tax system. Ironically, in the process of marking up and eventually approving the chairman's truly historic tax reform effort, the Finance Committee dropped the repeal of *General Utilities* from its bill.[20]

The exact reason for the Finance Committee's action may never be completely known.[21] Perhaps, it simply reflected the general attitude of the committee to be somewhat more generous towards the corporate sector than either the House or the President's proposal.[22] Perhaps, the decision was more deliberately made, manifesting some principled concern that the doctrine should not be repealed. Perhaps, the doctrine was mistakenly thought to provide a needed tax benefit to the utility industry, or to the military establishment.

Whatever the reason, the issue will, of necessity, surface again in conference. The following analyzes the principal arguments that may have convinced the Finance Committee, in its deliberations, to drop the proposed repeal from its tax reform bill.

B. ANALYSIS OF ARGUMENTS IN FAVOR OF PRESERVING THE GENERAL UTILITIES DOCTRINE

1. The *General Utilities* doctrine should be preserved because it represents a system of partial integration of the corporate and individual income taxes.

This argument has sometimes been articulated as a principal reason for retaining the *General Utilities* rule.[23] It necessarily assumes, however, that integration and the elimination of the corporate income tax is a current tax policy goal of Congress. Although some might contend that the sweeping changes enacted by Congress in the 1981 Act evidenced a desire to achieve a *de facto* elimination of that tax, Congress's subsequent actions in 1982 and 1984 would certainly seem to belie that theory.[24] Moreover, all of the current tax reform proposals, including the Finance Committee's bill, would shift a greater portion of the overall federal income tax burden to the corporate

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Income or Loss on Distributions of Property: An Analysis of *General Utilities*," 12 J. of Corp. Tax. 3 (Spring 1985) (hereinafter cited as Shube); ABA Section of Taxation Task Force Report, "Income Taxation of Corporations Making Distributions With Respect to Their Stock," 37 Tax Lawyer 625 (Spring, 1984) (hereinafter cited as Task Force Report); Blum, *supra* note 4; Block, "Liquidations Before and After Repeal of *General Utilities*," 21 Harv. J. on Legisl. 307 (Summer 1984); Senate Committee on Finance, "The Subchapter C Revision Act of 1985; A Final Report prepared by the Staff," 99th Cong. 1st Sess. S. Prt. 99-47 (May 1985) (hereinafter cited as Final Report); Senate Committee on Finance, "The Reform and Simplification of the Income Taxation of Corporations; A Preliminary Report prepared by the Staff," 98th Cong. 1st Sess., S. Prt. 98-95 (September 22, 1983) (hereinafter cited as Preliminary Report);' Ginsburg, "Taxing Corporate Acquisitions," 38 Tax L. Rev. 171 (1983). *Compare* Nolan, "Taxing Corporate Distributions of Appreciated Property; Repeal of the *General Utilities* Doctrine and Relief Measures," 22 San Diego L. Rev. 97 (1985) (hereinafter cited as Nolan); Beck, "Distributions in Kind in Corporate Liquidations; A Defense of *General Utilities*," 38 Tax Lawyer 663 (Spring 1985); and Hawkins, "A Discussion of the Repeal of *General Utilities*," 37 Tax Lawyer 641 (Spring 1984) (hereinafter cited as Hawkins).

[7] As amended by the Deficit Reduction Act of 1984, section 311(d) of the Code now provides that a corporation generally must recognize gain on the distribution of appreciated property to its shareholders. Thus, the application of the *General Utilities* rule is now generally limited to liquidating distributions of property with respect to stock and certain liquitating sales.

[8] See footnote 3, supra.

[9] "Tax Reform for Fairness, Simplicity, and Economic Growth: The Treasury Department Report to the President" (November 1984) (hereinafter cited as Treasury Department November 1984 Proposals).

[10] "The President's Tax Proposals to the Congress for Fairness Growth, and Simplicity" (May 1985) (hereinafter cited as President's May 1985 Tax Reform Proposals).

[11] See S. 632, 99th Cong., 1st Sess. (1985) (Senator Chafee), S. 420, 99th Cong., 1st Sess. (1985) (Senators BOREN and NICKLES).

[12] See Joint Committee on Taxation, "Tax Reform Proposals in Connection with Committee on Ways and Means Markup" (JCS-44-85), September 26, 1985.

[13] See "House Panel Cuts Oil, Gas Tax Breaks, But Far Less Than Rostenkowski Asked," Wall St. J., November 21, 1985 at 3; "Compromise on Oil Preferences Reached," 29 Tax Notes 775 (November 25, 1985).

[14] H.R. 3838, as reported by the House Ways and Means Committee, would exclude the corporate recognition of gain or loss in a liquidation or liquidating sale to the extent the corporation's stock consists of "qualified stock." In general, "qualified stock" is defined as stock held by a person other than a corporation if the person held such stock for at least five years and, at all times during the five-year period, the person owned at least 10 percent of the corporation. H.R. 3838, 99th Cong., 1st Sess. (1985), section 331(b).

[15] Preliminary Report, *supra* note 6, at 76-77, 65-66. The phase-in would have involved a gradual increase of the corporate capital gains tax over a 12-year period.

[16] *Reform of Corporate Taxation: Hearing Before the Committee on Finance, United States Senate*, 98th Cong. 1st Sess. (October 24, 1983), S. Hrg. No. 98-556 (herein after cited as 1983 Hearing).

[17] Final Report, *supra* note 6, at 52-54. The exception provided shareholder-level relief in the case of corporate gains on capital assets with a holding period of five years or more. Full relief was provided for corporations valued at $1 million or less; partial relief was provided for corporations between $1-2 million in value.

[18] *See* "Senate Finance Subcommittee Considers Subchapter C Reform," 29 *Tax Notes* 13 (October 7, 1985).

[19] *See* Joint Committee on Taxation. "Tax Reform Proposals in Connection with Committee on Finance Markup" (JCS-8-86), March 18, 1986 at 50-51. Similar to the final staff report, full relief was provided for corporations valued at $5 million or less, with a phase-out of the relief for corporations between $5-10 million in value. *Id.*

[20] *See* Joint Committee on Taxation. "Summary of Tax Reform Provisions in H.R. 3838 as ordered reported by the Senate Finance Committee" (JCS-5-86), May 12, 1986.

[21] According to news reports, during the brief public markup when *General Utilities* repeal was discussed, Senator Bentsen objected to the proposed repeal because it would discourage entrepreneurs from operating businesses in corporate form. *See* "Finance Discusses Capital Gains and Insurance Provisions," 31 *Tax Notes* 331 (April 28, 1986). This concern is discussed in the text at argument 9.

[22] Reportedly, the House bill would increase the tax burden of the corporate sector by approximately $140 billion over five years, the President's proposal by about $120 billion, and the Senate bill by about $100 billion. *See* "Finance Committee Bill Would Raise Business Taxes Less, Differently Than House Bill," BNA *Daily Tax Report* (May 9, 1986) at G-2.

[23] *See*, e.g., Nolan, *supra* note 6, at 100-01.

[24] According to the Joint Committee on Taxation, by FY 1983, the corporate income tax receipts, as a percentage of total federal government receipts, had shrunk to 6.2 percent. *See* Joint Committee on Taxation, "Study of 1983 Effective Tax Rates of Selected Large U.S. Corporations" (JCS-40-84), November 28, 1984. The Tax Equity and Fiscal Responsibility Act of 1982 began to reverse that trend, by increasing receipts from business by an estimated $102 billion over the five-year period, 1983-87. *See* Joint Committee on Taxation, "General Explanation of the Revenue Provisions of the Tax Equity and Fiscal Responsibility Act of 1982" (JCS-38-82), December 31, 1982, at 455. The Deficit Reduction Act of 1984 increased budget receipts by an estimated $51 billion over the four-year period, 1984-87, from a combination of the corporate and noncorporate sectors. *See* "General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984" (JCS-41-84), December 31, 1984, at 1235.

sector.[25] That is not terribly indicative of a goal of integration.[26]

Nevertheless, even assuming that we are all closet integrationists, one must question whether retention of the *General Utilities* doctrine enhances that goal, and provides a system of integration, partial or otherwise. A system of integration would generally require corporate-source earnings to be attributed to shareholders, to be taxed at their top marginal tax rates.[27] It is evident that the *General Utilities* rule, as exemplified in a liquidating sale of assets under section 337 of the Code, would be deficient as a system of integration in at least two respects. First, because the corporation's basis in its assets will often be different from the shareholders' basis in the stock of the corporation, the amount of corporate-level gain that is exempted in the transaction will not necessarily be reflected in the shareholder-level tax (if any) that is incurred. Second, assuming that there is still a preference for capital gains and that section 331 of the Code remains, the liquidating distribution would generally produce, at, a most, a preferred capital gains tax at the shareholder level.[28]

Finally, it might be appropriate to question whether the *General Utilities* rule represents a "system" at all.[29] *General Utilities* permits certain corporations in certain prescribed circumstances to achieve a preferred tax result. It generally does not apply to nonliquidating distributions.[30] It does not even apply to all liquidations, only to those satisfying the specific Code requirements.[31] Further, as to those liquidations to which it does apply, only certain types of property qualify for the benefit.[32] Are these the characteristics of a carefully delineated "system" of integration?

In short, it is difficult to see how the *General Utilities* doctrine can be viewed as effecting a system of partial integration. For committed integrationists, it would probably make much more sense to repeal the doctrine and apply the revenue raised towards implementing gradually a true system of partial or full integration.[33]

2. A corporation does not realize any gain or loss on the distribution of appreciated property.

According to this argument, although the *General Utilities* doctrine is embodied in the Code as a nonrecognition rule, it simply reflects the fact that there is no realization of gain or loss by a corporation on its distribution of property. Proponents of this view note that pre-1954 Treasury regulations established this "no realization" concept.[34]

Perhaps the short answer to this argument is section 311(d) of the Code, as amended by the 1984 Act. Surely, if a corporation does not realize any gain or loss on the distribution of its property to its shareholders, it would not matter whether the distribution is a liquidation or nonliquidating one. Yet, Congress quite clearly indicated in 1984 that almost all ordinary distributions of appreciated property are realization and recognition events.[35] Moreover, even opponents of *General Utilities* repeal in a liquidating context have not questioned the propriety of repeal in a nonliquidating setting.[36]

A further point is that the realization concept is only a rule of administrative convenience, and does not rise to the level of constitutional (or comparable) proportions.[37] Of necessity, it involves a balancing between administrative concerns and competing policy interests. For example, so long as assets remain in the hands of the same corporate taxpayer, it is administratively advantageous to avoid the necessity of adding up accrued gains and losses in those assets for purposes of computing the taxpayer's taxable income for the taxable year. Hence, such a computation is ordinarily not required. Even in this case, however, where there is no transfer or other disposition of the taxpayer's assets, it is not unprecedented for Congress to require the realization and recognition of gains and losses, at least where there are overriding policy considerations.[38]

In contrast, when the taxpayer's assets are transferred or otherwise disposed of, including distributed out of corporate solution, the difficulty in calculating accrued gains and losses is largely eliminated. Hence, the administrative concern is significantly lessened. Further, in the case of a distribution out of corporate solution, a significant policy consideration in favor of realization and recognition treatment is the fact that the distribution represents the last chance to recognize gain on the corporate appreciation of the assets.[39] This suggests that the distribution should be treated as a realization event.

Finally, it is important to note that realization (or the lack thereof) is clearly not an issue in a section 337 liquidating sale. In that case, there is manifestly a realization event; it is only the statutory provision that permits the nonrecognition of the gains and losses realized. Section 337, of course, came into the Code because of *Court Holding Company*[40] and *Cumberland Public Service Company*[41] which, taken together, emphasized the pre-1954 unequal treatment of liquidations followed by shareholder sales, on the one hand, and corporate sales followed by liquidations, on the other. In order to conform the latter situation to the apparent result mandated in the former case, Congress enacted the section 337 nonrecognition provision. It would seem equally consistent with overall tax policy for Congress to conform the former situation to the latter; that is, because a corporate sale followed by a liquidation is a realization and recognition event for the corporation, a liquidation followed by a shareholder sale should similarly be a corporate realization and recognition event.

3. Repeal of *General Utilities* unfairly increases the tax burden on liquidating corporations.

Let us concede that *General Utilities* repeal would increase the tax burden on liquidating corporations. At current law tax rates, assuming a taxable shareholder and no corporate recapture tax liability, a liquidation will result in, at most, a 20 percent tax.[42] Repeal of *General Utilities* would increase that burden to a maximum of 42.4 percent.[43] If the shareholder is tax-exempt or recently inherited his stock, current law would permit the liquidation to be totally tax-free. Repeal of *General Utilities* would increase that burden to 28 percent. Moreover, under just about any of the revised rate structures now being considered by Congress, *General Utilities* repeal would result in a significant tax boost from current law.

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[25] *See* footnote 22, *supra*.

[26] Of course, elimination of corporate tax preferences is not necessarily inconsistent with integration. It would eliminate the thorny problem of whether to pass through corporate tax preferences to shareholders. *See* McLure, *Must Corporate Income Be Taxed Twice?* (1979) at 92-145 (hereinafter cited as McLure); Sheppard, "Corporate Tax Integration, The Proper Way to Eliminate the Corporate Tax," 27 *Tax Notes* 637 (May 6, 1985) at 644-45.

It should also be noted that the proposal to enact a dividends paid deduction, which was contained in the President's plan and preserved, although scaled back, in the House bill, was not included in the Senate Finance Committee bill. *See* Joint Committee on Taxation, "Summary of Tax Reform Provisions in H.R. 3838 as ordered reported by the Senate Finance Committee" (JCS-5-86), May 12, 1986.

[27] *See* McLure, *supra* note 26, at 3. Pechman, *Federal Tax Policy* (4th Ed., 1983) at 174-75; McLure, "integration of the Income Taxes Why and How," 2 J. of Corp: Tax 429, 442 (Winter 1976).

[28] *See* McLure. "Integration of the Income Taxes: Why and How," 2 J. of Corp. Tax 429, 442, (Winter 1976). Note that the President's May 1985 tax reform proposals would have permitted a dividends paid deduction with respect to liquidating distibutions but only if the distributions would be taxed as dividends to shareholders. *See* President's May 1985 Tax Reform Proposals. *supra* note 10, at 123.

An additional deficiency in the use of *General Utilities* as a system of integration is the failure to provide special rules for foreign and other tax-exempt shareholders, *Id.* at 125-29.

[29] *See* Wolfman, *supra* note 6, at 85; Shube, *supra* note 6. at 63

[30] *See* footnote 7, *supra*.

[31] For example, liquidating sales outside the 12-month period specified in section 37 would not be protected by *General Utilities*

[32] For example, section 337 generally does not apply to sales of inventory, except for inventory sold as part of a "bulk sale." I.R.C. section 337(b).

[33] This is not a totally implausible combination. For reasons described below, the repeal of *General Utilities* loses a small amount of revenue initially but then raises ever increasing amounts the longer it has been in effect. Thus, the combination of *General Utilities* repeal with a phased-in system of partial integration may, in fact, offset one another.

For example, the phased-in dividends paid deduction in the House bill would result in a revenue loss of about $800 million in FY 1989 and about $1.2 billion in FY 1990. In those same years, the repeal of *General Utilities* would raise about $1.0 billion and $2.0 billion, respectively. *See* H. Rep. No. 99-426, 99th Cong., 1st Sess. (1985) at 68-69. Further, the *General Utilities* estimate includes the cost of the relief provision for closely held corporations. Presumably, once a partial integration system is wholly or substantially phased in, the relief proposal could be eliminated. *See*, generally, Final Report, *supra* note 6, at 68.

[34] *See* Treas. Reg. 118. sec. 39.22(a)-20 (1939 Code); *cf* Task Force Report, *supra* note 6, at 638-39 (Minority Report); Hawkins, *supra* note 6, at 641.

[35] I.R.C. section 311(d)(1).

[36] *See*, e.g., *1983 Hearings*, *supra* note 16 (testimony of John S. Nolan).

The irony of this is not lost on careful students of the corporate tax law, for the *General Utilities* case only involved a *nonliquidating* distribution. Hence *General Utilities* has already been effectively repealed, with relatively little controversy. It is only the continuing vitality of the emanations of the case, which provisions were enacted in 1954, which is still at issue.

[37] *See* Chirelstein, *Federal Income Taxation* (4th Ed. 1985), at 69.

[38] *See*, e.g., I.R.C., section 1256 (special mark-to-market rules for tax straddles); I.R.C., section 951 (special Subpart F rules).

[39] See Preliminary Report, *supra* note 6, at 91.

[40] *Commissioner* v. *Court Holding Co.*, 324 U.S. 331 (1945).

[41] *United States* v. *Cumberland Public Service Co.*, 338 U.S. 451 (1950).

[42] This is, of course, the current maximum capital gains tax for individuals.

[43] This results from a 28 percent corporate capital gains tax combined with a 20 percent maximum individual capital gains tax on the net distributed proceeds.

It should be noted, however, that the increased tax burden will not be any greater than the overall tax burden of operating, nonliquidating corporations. For example, a sale of a long-held capital asset by a nonliquidating corporation followed by a distribution of the proceeds to the taxable shareholders of the corporation (presumably as a dividend) results, at current law rates, in an overall maximum tax burden of 64 percent.[44] If the distribution somehow qualifies for capital gain treatment at the shareholder level, the overall tax burden will still be 42.4 percent.[45] When contrasted with the normative tax rate incurred by operating corporations generally, it is evident that the General Utilities rule simply permits a preferential tax rate to apply to liquidating transactions.

The question, therefore, is not whether General Utilities repeal increases the tax burden of liquidating corporations; rather, the question is whether such an increase is fair and appropriate. Stated another way, what is the policy reason for preserving the preferential tax rate of liquidating corporations? During the hearings on tax reform, it was asserted at various times that oil and gas tax preferences are essential for national security;[46] that preferences for capital intensive industries are needed to enhance international competitiveness;[47] that real estate preferences are important to keep rents low;[48] and that preferences for banks are necessary to keep down interest rates.[49] What is the compelling policy reason for favoring dead corporations?

One apparent effect of *General Utilities* is in the area of corporate acquisitions. The Treasury Department has previously indicated that in its view, recent corporate acquisition activity is *not* primarily tax-motivated.[50] Some current news stories might seem to question that conclusion.[51] Regardless of whether Treasury's view is correct, few could dispute that the *General Utilities* doctrine is not neutral, and that to the extent it bears any influence at all on acquisition and merger activity, it operates as a force in favor of such activity.[52] It is difficult to see how the current Congress would want to preserve the *General Utilities* tax preference for this economic effect.[53]

Some might argue that the policy reason for preserving *General Utilities* is analogous to the policy reason for section 1014 of the Code.[54] But, of course, an individual's death is a final act that is generally involuntary; further, death might be viewed as the classic situation where nontax factors outweigh (indeed, subsume) tax considerations. Neither statement may be true in the case of a liquidating corporation. The recent liquidation of Mesa Petroleum Company may be an example of a voluntary, incomplete death motivated, to some extent, by tax advantages.[55] There is "life after death," at least in the case of a corporation.

Others might argue that aside from the policy rationale, the increased tax burden in a liquidation is unfair because it is greater than if the taxpayer had operated his business in non-corporate form, such as a sole proprietorship or a partnership. (Note that under this theory, the taxpayer presumably should never pay any corporate tax.) But, of course, regardless of whether the taxpayer could have operated his business in non-corporate form, the fact is, he didn't. In the game of chess between the taxpayer and the IRS, the taxpayer always plays white; he sets the facts and the IRS must react to them. Once those facts are set, the taxpayer should at least have to bear the burden of accepting them.

Finally, consider the fellow who is able to sell his appreciated business completely tax free under current law, in part as a result of the General Utilities doctrine. Should a tax system that believes in each person paying his "fair share" countenance this result, regardless of whether the assets of the business are land, buildings, or inventory? Is the concern voiced by Senator Danforth at the Senate Finance Committee markup about the wealthy no longer paying any taxes any less legitimate because the tax preference originated from a Supreme Court case?

In short, repeal of General Utilities would increase the tax burden on liquidating corporations, but not more than the tax burden imposed on operating corporations generally. To the extent the current tax preference for liquidations is without a rational policy basis, this increase would seem to be an appropriate and desirable step.

4. Repeal of General Utilities does not raise any revenue.

It is often assumed that the political attraction of the tax reform bill is to the dramatic lowering of the corporate and individual marginal tax rates, and the ending of tax preferences is, therefore, a revenue-driven necessary evil to accomplish the political goal. Following this assumption, proponents of General Utilities sometimes assert that repeal of the doctrine would not raise any revenue and thus is not politically necessary. (This position is occasionally taken even though it is contended, almost in the same breath, that repeal would also unfairly raise the taxes of liquidating corporations.) According to this view, if General Utilities were repealed, corporations would forego liquidating transactions, or would restructure them as tax-free reorganizations, and the total General Utilities tax would prove to be exremely modest indeed, the proposal might even be a revenue-loser because of the lost corporate recapture tax and shareholder tax revenue that results from a liquidation under current law.

This position, of course, overlooks the principal revenue-raising aspect of *General Utilities* repeal: the further restriction or elimination of the ability to obtain a tax-free step-up in basis in the liquidating corporation's assets. It may be true that in the short term, some transactions will be either deferred or restructured to avoid the *General Utilities* tax. But in the long term, this will result in significant revenue savings from diminished depreciation and amortization deductions.

This point is illustrated by the "tax expenditure" estimates prepared annually by the Joint Committee on Taxation.[56] For the five-year period 1987-91, the tax preference created by the *General Utilities* doctrine is estimated to decrease corporate and individual income tax liabilities by $26.1 billion.[57] Of the 133 separate tax expenditure items listed by the Joint Committee, this is the 22nd largest, and is comparable to the amount listed for the inside buildup on life insurance and annuity policies and the use of the completed contract method of accounting. It exceeds items such as the use of percentage depletion in the oil and gas industry; the special capital gains treatment for timber, the rehabilitation tax credit, the special bad debt reserve rules of financial institutions, the exclusion of capital gains on home sales for persons 55 or over; the exclusion of interest on state and local government industrial development bonds; the exclusion of interest on state and local government bonds for owner-occupied and rental housing; the credit for child care expenses; the exclusion of Workmen's Compensation benefits; and the exclusion of premiums on group-term life insurance.[58] The doctrine is

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[44] This is based on a 28 percent corporate capital gains tax plus a 50 percent maximum individual ordinary income tax on the net distributed dividend. Note that if the sale of the asset produces ordinary income at the corporate level, the total tax burden could be as high as 73 percent (46 percent corporate tax plus 50 percent individual tax on net proceeds).

[45] See footnote 43, supra.

[46] See "Senate Finance Committee Hears Energy Testimony," 28 Tax Notes 389 (July 22, 1985).

[47] See "Panelists Split Over Reform's Effect on International Competitiveness," 28 Tax Notes 388 (July 22, 1985).

[48] See "Finance Committee Looks at Impact of Reform Plan on Real Estate," 28 Tax Notes 385 (July 22, 1985); "Reagan's Reform Proposal Will Raise Rents, Reduce Housing Construction, Homebuilders Say," 28 Tax Notes 238 (July 15, 1985).

[49] See "Bankers Argue Against Tax Reform Proposal. Claiming High Effective Tax Rate," 28 Tax Notes 604 (August 5, 1985).

[50] See, e.g., *Hearing before the Subcommittee on Taxation and Debt Management of the Senate Finance Committee on Hostile Takeovers*, 99th Cong., 1st Sess. (April 22, 1985) (statement of Ronald Pearlman, Assistant Secretary (Tax Policy), Department of the Treasury).

[51] See, e.g., "Pending Tax Change Snares Some Corporate Acquisitions," *Legal Times*, February 3, 1986, at 1; "Merger Lag Is Linked to Doubts on Tax Law," *New York Times*, February 3, 1986, at D-1; Collinson and Fitzsimmons, "Tax Revision vs. Takeovers," *Wall St. J.*, April 16, 1986, at 32; Canellos, "Tax Bill," *National Law J.*, February 24, 1986, at 17.

[52] See Kiefer, "An Economic Analysis of the Effects of the Finance Committee Staff Proposal to Revise Subchapter C of the Internal Revenue Code on Incentives for Corporate Reorganization," Congressional Research Service, Library of Congress (October 23, 1985). The report indicates that the proposal to repeal *General Utilities* could be expected to reduce somewhat the number of liquidations and mergers or acquisitions in the extractive industries, inventory-intensive industries, industries with substantial intangible assets such as the insurance industry, and similar businesses with appreciating real property. *Id.* at CRS-69.

[53] Two bills introduced last year aimed at discouraging so-called "hostile takeovers" were S. 632, introduced by Senator Chafee, and S. 420, introduced by Senators Boren and Nickles Comparable legislation was also introduced in the House last year. *See also* statement of Senator Danforth at the 1985 Hearing to consider proposals to revise Subchapter C of the Code, where he emphasized the value of maintaining a neutral set of tax rules in the merger and acquisition area. *See Hearing before the Subcommittee on Taxation and Debt Management of the Committee on Finance on the Subchapter C Revision Act of 1985*, 99th Cong., 1st Sess. (September 30, 1985) (hereinafter cited as *1985 Hearing*).

[54] *Cf.*, e.g., Hawkins, *supra* note 6.

[55] See Meadows, "The Master at Work," *Forbes* (October 7, 1985) at 100; "Mesa Petroleum Plans a Switch to Partnership," *Wall St. J.*, August 27, 1985, at 3. *See also* Mesa Limited Partnership Registration Statement Under the Securities Act of 1933. Form S-4 (as filed with the Securities and Exchange Commission on September 3, 1985) at 27-33. *Cf.* "The Latest in Tax Relief: Committing Corporate Suicide," *Business Week* (January 14, 1985) at 116.

[56] *See* Joint Committee on Taxation, "Estimates of Federal Tax Expenditures for Fiscal Years 1987-1991" (JCS-7-86). March 1, 1986.

[57] *Id.* at 12. The estimate prepared in April 1985 was $60.9 billion over the five-year period, 1986-90. *See* Joint Committee on Taxation, "Estimates of Federal Tax Expenditures for Fiscal Years 1986-1990" (JCS-8-85), April 12, 1985, at 14. No explanation was provided as to why the two estimates are so dramtically different.

[58] *See* footnote 56, *supra*. By way of contrast, termination of the general revenue sharing program

clearly a tax preference of some consideration proportion.

Even the revenue estimate for the repeal of *General Utilities* is a not insignificant $2.2 billion over the five-year period 1986-90.[59] This is despite the fact that, as discussed above, repeal of the rule produces a slight revenue loss in the early years of the revenue-estimating window.[60] Beginning around the third year after repeal, the effect of the diminished depreciation and amortization deductions results in ever increasing amounts of revenue pick-up. Thus, unlike certain other tax proposals being considered by Congress, *General Utilities* repeal is a "back-loaded" proposal which produces the bulk of its revenue in the out years. For a Congress concerned with the long-term revenue effects of tax reform, it should be reassuring to have a proposal like *General Utilities* repeal as part of the overall package.

5. Repeal of *General Utilities* is an unfair and retroactive change, because it defeats the reasonable expectations of taxpayers when they incorporated years ago.

This argument raises several issues. First, it is unclear to what extent it is reasonable to assume that taxpayers were even aware of the *General Utilities* rule at the time of incorporation. For taxpayers generally familiar with the double taxation of corporate earnings, *General Utilities* probably represented an unknown aberration to the normative rule.

Even for those apprised of the rule, is it fair to assume that the existence of the rule played a critical role in the incorporation decision? Many taxpayers likely based their decision to incorporate on more immediate tax and nontax concerns than the tax consequences upon liquidation.[61]

Finally, for those few taxpayers who genuinely factored the *General Utilities* doctrine into the incorporation decision, what were their "reasonable expectations" anyway? Would it have been reasonable for a taxpayer incorporating in 1970 to have assumed a maximum tax of 20 percent on liquidation when the maximum individual capital gains tax at the time was 45 percent?[62] Would it have been reasonable for the same taxpayer to have assumed that liberalized depreciation rules would be enacted in subsequent years, or that the marginal corporate income tax rate would be significantly reduced, as now appears to be the case?[63] Should the taxpayer have assumed that the myriad of other corporate tax changes since 1970, both favorable and unfavorable, would have taken place? It seems fair to say that the only "reasonable expectation" of a taxpayer is the fact that the tax laws will change before his business is terminated.

6. Repeal of *General Utilities* is inconsistent with section 351 and may result in the double taxation of pre-incorporation gain.

Section 351, of course, permits certain taxpayers to form a corporation in a completely tax-free manner. Gain or loss realized on the transfer of assets to a corporation is allowed to go unrecognized if the requirements of the Code section are satisfied. The policy justification for this is presumably to facilitate the incorporation of assets. Proponents of keeping *General Utilities* contend that, in order to facilitate the disincorporation of assets, a non-recognition rule is similarly justified in a corporate liquidation. Moreover, proponents argue that repeal of the doctrine may unfairly result in the double taxation of pre-incorporation gain.

Under section 351, the "price" of a tax-free transfer is, in essence, a "double deferral." The transferee corporation obtains a carryover basis in the property transferred equal to the transferor's basis in the property.[64] In addition, the transferor obtains the same basis in the stock of the transferee received.[65]

As a result, the incorporation of appreciated property may potentially result in the double taxation of any pre-incorporation gain. But it is precisely this exacting "price" that permits a section 351 transfer to be tax-free. The taxpayer, in moving from a "one-tax" world to a "double tax" regime, is permitted to defer recognizing gain on the transfer, but with the knowledge that the deferred gain will likely be recognized at some point in the future. Indeed, the deferred gain may be recognized twice. Thus, the potential for tax avoidance is minimized.[66]

Contrast the case of a liquidation. In this case, the taxpayer is moving from a "double tax" world to a "one-tax" environment. Thus, if the liquidating transaction is permitted to be completely tax-free, the result will be fraught with tax avoidance possibilities.[67] By definition, no more than one of the two gains not recognized can be preserved, either in the form of a carryover or substitute basis rule. The other potential gain will be lost forever.[68] The existence of complex anti-tax avoidance rules, such as the liquidation-reincorporation rules and the collapsible corporation provisions, make it clear that this concern is not simply a theoretical one.

Hence, even if the policy behind disincorporation transactions were as strong as the policy for facilitating incorporations, a liquidating transaction cannot be a fully tax-free event in the manner of section 351. At a minimum, one of the potential gains in the liquidation must be recognized at that time, with the other deferred by means of a carryover or substitute basis rule.[69]

Finally, the potential of taxing twice pre-incorporation gain is not unique to the repeal of General Utilities. As described above, it is inherent in the scheme of section 351. Any appreciated property that is incorporated under section 351 and is subsequently sold in a nonliquidating transaction by the corporation may result in double taxation of the pre-incorporation gain. If this is viewed as a significant problem, it could be avoided by permitting taxpayers the election of recognizing gain in the incorporation transfer. This would eliminate the deferral now permitted by section 351, but would avoid the possibility of taxing twice pre-incorporation gain.

7. Repeal of General Utilities will have a disproportionately adverse impact on small, closely held businesses.

At both the 1983 and 1985 hearings on the Senate Finance Committee staff proposals to revise Subchapter C of the Code, the issue regarding the impact of General Utilities repeal on small, closely held corporations was repeatedly raised.[70] The substance of the testimony was that a "double tax" on the long-held assets of a small business at the time of its liquidation was simply too high a price to extract.[71] In addition, there was testimony that the adverse impact of General Utilities repeal would fall disproportionately on closely held businesses; presumably, large, publicly traded corporations undergo liquidating transactions relatively rarely, and when they do, they are better able to plan around the General Utilities tax.[72]

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would save about $22 billion in direct expenditures over the five-year period, 1987-91. Termination of all federal subsidies to business, including the Small Business Administration (SBA), the Export-Import Bank, and the Rural Electrification Administration (REA) would save only $17.5 billion over the same period. Elimination of all Amtrak subsidies would save only $3.2 billion over five years. *See* Congressional Budget Office, *Reducing the Deficit: Spending and Revenue Options* (March 1986) at 127, 140, 162.

[59] H. Rept. No. 99-426, 99th Cong., 1st Sess. (1985) at 69. This estimate includes the relief provision provided by the House for closely held corporations.

[60] The House bill's repeal of *General Utilities* would lose a small amount of revenue in the first two years after repeal, and then raise revenue during the balance of the five-year period. *Id.*

[61] *See 1985 Hearing, supra* note 53 (testimony of Peter Faber).

[62] See Treasury Department's "Report to Congress on the Capital Gains Tax Reductions of 1978" (September 1985) at 37. This rate represents the maximum marginal individual tax rate on long-term capital gain in 1970, taking into account the interaction of the alternative tax, the minimum tax, and the maximum tax. During the period 1954 through 1978, the maximum rate on such gains varied between a low of 25 percent and a high of 58.5 percent in 1972.

[63] The President's May 1985 tax reform proposals contained a provision to recapture the "windfall" gains of taxpayers resulting from the significant reduction in marginal tax rates. *See* President's May 1985 Tax Reform Proposals, *supra* note 10, at 192. This proposal was widely criticized, even by tax reform supporters, and it has not been included in either the House or Senate bills. See "CEO's Praise Administration Reform Plan but Urge Larger Dividends Paid Deduction," *27 Tax Notes* 1201 (June 10, 1985). This is obviously a case of "heads, I win, tails, you lose." A proposal adverse to taxpayers is apparently unfair because it defeats their "reasonable expectations;" on the other hand, a proposal favorable to taxpayers cannot be taken away from them, even though it was entirely unexpected.

[64] IR.C., section 362(a).

[65] IR.C., section 358(a)(1).

[66] *See* Final Report, *supra* note 6, at 66-67.

[67] Id.

[68] The corporate level gain can be preserved by requiring the shareholder to take a carryover basis in the assets distributed equal to the corporation's basis in the assets. In that case, however, the shareholder level gain will be lost. Alternatively, the shareholder level gain can be preserved by requiring the shareholder to take a substitute basis in the assets distributed equal to the shareholder's basis in the stock of the corporation. This, however, will result in loss of the corporate level gain.

[69] The Senate Finance Committee staff proposals to revise Subchapter C would permit a greatly liberalized section 333 provision to serve as a form of relief from the *General Utilities* repeal. Under the staff proposals, an election could generally be made to defer recognizing the shareholder level gain in a liquidation, but only if the shareholder obtains a substitute basis in the property distributed. For reasons described in the text, at least one of the gains must be recognized at the time of the liquidation, and the staff proposals would require recognition of the corporate level gain. *See* Final Report, *supra* note 6, at 53-54.

[70] See, e.g., 1983 *Hearing, supra* note 16 (testimony of John S. Nolan); 1985 *Hearing, supra* note 53 (testimony of Edwin S. Cohen on behalf of U.S. Chamber of Commerce); see also Final Report, *supra* note 6, at 63.

[71] Id.

[72] See 1983 *Hearing, supra* note 16 (testimony of John S. Nolan). It is unclear how accurate this statement is. For example, the author understands that certain of the "transition rules" included in H.R. 3838, as reported out by the House Ways and Means Committee, provide relief from the repeal of *General Utilities* for large publicly traded corporations. *See also* the anecdotal evidence contained in the articles cited in footnote 51. *supra.*

This argument was apparently of some concern to both the Senate Finance Committee and the House Ways and Means Committee because each of their versions of General Utilities repeal contained a relief proposal for closely held corporations. The Senate proposal provided relief limited to corporations below a certain economic size.[73] The House version provides relief for corporations whose shareholders are long-term holders of closely held stock.[74] For each, if the relief is applicable, the "double tax" burden on long-held gains in a liquidation is largely, if not wholly, eliminated.[75] Obviously, to the extent the "small business" argument is a valid concern, appropriate relief from the repeal of General Utilities can be fashioned.

The effect of any such relief provision, however, is to create a bias in favor of those closely held corporations that qualify under the rule. A fundamental question, therefore, is whether such a mechanism is an effective and efficient way to provide a subsidy to small businesses, assuming that is the overriding congressional policy goal.

As discussed earlier, General Utilities provides a tax preference only for certain liquidating transactions structured in certain ways. Any relief from the repeal of General Utilities may, therefore, only benefit the same limited transactions. A similarly situated small business corporation may not benefit from the tax subsidy at all unless its liquidating transaction complies with the specific Code requirements. This would seem to be a fairly arbitrary method of providing a tax benefit to a group of intended beneficiaries.

More importantly, why should the tax preference arise only at the time of liquidation? If the goal is to provide a subsidy for small business corporations, would it not make more sense to foster the formation and growth of such businesses rather than their liquidation and sale?[76] In addition, subsidizing the liquidation of such corporations would seem to encourage their acquisition—a questionable side-effect from a policy standpoint.

In summary, if *General Utilities* is intended to be a tax preference for small businesses, it would make far better sense to repeal the preference (thereby eliminating the subsidy for large as well as small corporations) and to earmark any revenue raised to the development and operation of those small businesses. A logical method of doing so might be to reduce the graduated corporate income tax rates.[77]

8. Repeal of *General Utilities* will inappropriately bias transactions to be stock sales rather than asset sales.

If section 337 were repealed, a liquidating sale of assets for cash would trigger the *General Utilities* tax. An asset transfer could avoid this result only if it were restructured as a "C" or, perhaps, an "A" reorganization, both of which require a certain amount of stock as consideration.[78]

In contrast, a sale of stock for cash would not trigger any *General Utilities* tax so long as a section 338 election were not made. Thus, proponents of *General Utilities* would contend that repeal of the doctrine creates a bias in favor of stock acquisitions as opposed to asset acquisitions. In a world of contingent liabilities, this is viewed by proponents as an inappropriate interference with the optimal structuring of corporate acquisitions.[79]

Of course, this is not a new concern. Current law has long maintained this discontinuity between asset and stock sales. For example, an asset sale for cash under present section 337 will trigger recapture tax liability whereas a stock sale for cash will avoid that liability if no section 338 election is made. Current proposals to revise Subchapter C are based, in part, upon an effort to resolve some of the inconsistencies in this area.[80]

Nor is this a particularly critical concern. After all, what is at issue is whether gain or loss should be recognized in an asset sale for cash. The realization concept already operates to defer the realization and recognition of accrued gains and losses until a "realization event" occurs. What could be a more prototypical realization event than a sale of assets for cash?

Proponents of *General Utilities* might contend, nevertheless, that there should not be disparate rule in the case of stock sales. This is true. A simple method of conforming the two transactions would be to require a mandatory section 338 election in the case of stock sales. (It might be appropriate to liberalize the "B" reorganization rules at the same time to conform them more closely to the "A" and "C" reorganization requirements. This would permit stock acquisition to be tax-free in approximately the same types of circumstances as asset acquisitions under current law.) After all, with the mechanism of section 338 established, it is not completely clear that a stock sale for cash should continue to permit the deferral of the corporate level tax.[81]

Are there less draconian solutions to the problem? Of course. Elective carryover basis mechanisms can be devised for asset acquisitions.[82] The key point is simply not to overstate the significance of the problem articulated. The discontinuity of stock and asset sales is a longstanding issue with multiple possible solutions.

9. Repeal of *General Utilities* will further discourage the formation of "C" corporations.

As noted above, the only reported reason for not repealing *General Utilities* that was mentioned during the brief public markup of the issue by the Senate Finance Committee was the concern that businesses would be discouraged from utilizing the corporate form.[83] (Presumably, this concern was directed at discouraging "C" corporation status.) It is hard to believe that this was a serious factor in convincing the committee to drop *General Utilities* repeal. For the committee bill contains a far more dramatic provision to discourage "C" corporation status—the proposed shifting of rates so that the maximum individual income tax rate will be less than the maximum corporate income tax rate.[84] This shift in rates will largely eliminate one of the principal tax factors favoring "C" corporation status—the deferred tax on retained earnings.[85] Surely, if the committee were truly

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[73] See Joint Committee on Taxation, "Tax Reform Proposals in Connection with Committee on Finance Markup" (JCS-8-86). March 18, 1986, at 51.

[74] See footnote 14, supra.

[75] The House bill would provide an exemption at the corporate level. Thus, for example, if Ma and Pa have each owned 50 percent of the stock of Corner Grocery Store, Inc. for over five years, there would generally be no gain or loss recognized by the corporation in a liquidating of sale, similar to present law. Ma and Pa would, of course, each recognize gain or loss on the receipt of the liquidating proceeds. See H.R. 3838 as reported by the House Ways and Means Committee, sections 331 and 332.

The Senate proposal would have provided relief at the shareholder level, in the form of a basis adjustment to the shareholder's stock. Thus, in the above example, the corporation would have to recognize gain or loss in the liquidation under the Senate proposal; however, Ma and Pa's basis in the corporation's stock would be adjusted upward in the liquidation which would, in general, eliminate the shareholder level gain or loss. See Joint Committee on Taxation, "Tax Reform Proposals in Connection with Committee on Finance Markup" (JCS-8-86). March 18, 1986, at 51; Final Report, supra note 6, at 65, 239-41.

[76] I borrow here from the words of Jim Lewis of over 25 years ago. *See* Lewis, *supra* note 2, at 1647.

[77] Both the House and Senate bills would retain a graduated corporate income tax rate for small corporations. In the House bill, the benefit of the graduated rate structure would be phased out and eliminated for corporations with taxable income in excess of $365,000. H. Rept. No. 99-426, 99th Cong., 1st Sess. (1985) at 232-33. The Senate bill would phase out the benefit and eliminate it for corporations with taxable income of $350,000 or more. Joint Committee on Taxation, "Tax Reform Proposals in Connection with Senate Finance Committee Markup" (JCS-8-86). March 18, 1986, at 45.

An alternative approach would be to dedicate some or all of the revenue to a direct spending program benefiting small business. As noted above in footnote 58, the *General Utilities* tax preference costs more than the entire federal subsidy to the SBA and a number of other programs benefiting small business.

[78] R.C., sections 368(a)(1)(A).

[79] The existence of contingent liabilities may, of course, make a stock acquisition undesirable from a business standpoint.

[80] *See* ALI Study, *supra* note 6; Final Report, *supra* note 6.

There is also some irony in this concern. Both the American Law Institute study and the Senate Finance Committee staff final report recommended rules to conform the net "inside" basis of a subsidiary's assets to the parent corporation's "outside" basis in the subsidiary stock. *See* ALI Study, *supra* note 6, at 51-66; Final Report, *supra* note 6, at 54-55, 237-39. The purpose of the rules was to eliminate some of the discontinuities between asset sales and stock sales under current law. The proposals have generally not been greeted with enthusiasm by the professional community, many of whom have indicated that elimination of the discontinuities was not worth the additional administrative costs and complexity. *See*, e.g., *1985 Hearing, supra* note 53 (testimony of Frank J. O'Connell, Jr., on behalf of the American Institute of Certified Public Accountants) Nevertheless, much of the same professional community is contending that unless the carryover basis stock sale/asset sale problem can be resolved, *General Utilities* should not be repealed.

[81] A full description of this proposal is, unfortunately, beyond the scope of this article. I intend to develop it further in a future article. *Cf.* Thigpen. "Section 338 and Afterwards: Rethinking One-Level Treatment of the Sale of the Business." 2 Amer. J. of Tax Policy, p. 173 (Spring 1983).

[82] This has been affectionately referred to as "section 338A" in the professional community, perhaps because of the noble lineage of its companion provision. The Senate Finance Committee staff proposals in Subchapter C also provide guidance in this area.

[83] *See* footnote 21, *supra.*

[84] Under the Senate bill, the maximum corporate income tax rate would be 33 percent and the maximum individual income tax rate would be 27 percent. Even when the phase-out of the 15 percent rate and the personal exemption applies for high-income individuals, the maximum tax rate for them would not be higher than 32 percent. *See* Joint Committee on Taxation, "Summary of Tax Reform Provisions in H.R. 3838 as ordered reported by the Senate Finance Committee" (JCS-5-86), May 12, 1986.

[85] Deferral would presumably not be lost entirely because of the existence of a graduated income tax rate structure for small corporations. *See* footnote 77, *supra.* Thus, it would still be possible under the Senate bill for some income of a corporation to be taxed at a lower rate than if the income were taxed to the individual owners of the corporation.

concerned about the potential discouragement of the use of "C" corporations, it would not have proposed the rate structure that it has.

Even if it is assumed, nevertheless, that the potential discouragement of "C" corporations was a factor in the committee's decision, it is unclear to what extent *General Utilities* repeal would have an effect on that issue. Current law, of course, already contains a bias against "C" corporation status. All other things being equal, the double taxation of the earnings of "C" corporations provides a disincentive to use that form of business organization as opposed to using the partnership form or to electing "S" corporation status. *General Utilities* repeal may increase that bias with respect to a liquidation, but the bias already exists in the operation of a business.

The key point, however, is that all other things are often *not* equal. From a non-tax standpoint, the concept of limited liability may be a determining factor in deciding between the corporate and partnership form. Further, the ability to transfer freely business interests may also be an important consideration. For these and other reasons, several witnesses at the 1983 Subchapter C Hearing concluded that the partnership form of doing business is not a satisfactory alternative to the corporation in most commercial and industrial pursuits.[86] In addition, business reasons may preclude the ability of an enterprise to satisfy one or more of the "S" corporation requirements.

From a tax standpoint, although the deferral advantage would be largely lost, other factors would continue to exist. For example, in the foreign area, entity classification would continue to be important for a number of reasons, including the availability of a foreign tax credit under sections 901 and 902, and potential Subpart F consequences.[87]

A final point is that entity classification is not exactly a settled area. Proposals have been floated over the last few years to reclassify certain types of large partnerships as corporations of tax purposes.[88] Undoubtedly, those or similar proposals will continue to attract attention if the disparate tax treatment of similarly situated businesses operating in different forms is viewed as problematic.

C. CONCLUSION

In his press conference following the Senate Finance Committee vote on tax reform, Senator Packwood indicated that the House bill has many desirable reforms to which the Senate may be willing to agree, and that a proper marriage of the two bills would produce a final product superior to either one. Let us hope that one of those desirable House reforms is the repeal of *General Utilities*. Let us hope that the Senator who managed, against great odds, to resurrect tax reform for another day will resurrect this important reform in conference.

[86] *See 1983 Hearing, supra* note 16, at 330 (testimony of Raymond Plank, Chairman and Chief Executive Officer, Apache Corporation), 360 (testimony of George Slocum, Executive Vice President and Chief Financial Officer, Transco Energy Co.), and 521-25 (testimony of David Glickman).

[87] *See* Mentz, "Foreign Entity Characterization: To Be or Not To Be," 39 N.Y.U. Inst. on Fed. Tax. (Part 1) 32-1, 32-10—32-13 (1981).

[88] *See* Preliminary Report, *supra* note 6, at 80 (proposal to treat limited partnerships with publicly traded partnership interests as associations taxable as corporations); Treasury Department November 1984 Proposals, *supra* note 9, Vol. 2 at 146 (proposal to treat limited partnerships as corporations for tax purposes if, at any time during the taxable year, the partnership had more than 35 limited partners).

AN ANALYSIS OF THE PROPOSAL TO REPEAL GENERAL UTILITIES WITH AN "ESCAPE HATCH"

(By Samuel C. Thompson, Jr.)

INTRODUCTION

In *General Utilities Operating Co.* v *Helvering*, 296 U.S. 200 (1938), the Supreme Court held that a corporation does not recognize gain on the distribution of appreciated assets to its shareholders. The *General Utilities* doctrine was codified in 1954 for both liquidating and nonliquidating distributions. There has been a substantial erosion in this nonrecognition treatment since 1954, particularly in the nonliquidating context and Congress is currently considering the repeal of the *General Utilities* doctrine in the corporate liquidation and sale context.

The Tax Reform Act of 1985, H.R. 3838, which was passed by the House in December 1985, would repeal the doctrine subject to certain exceptions and relief measures, and Senator Packwood's proposals (Tax Reform Proposals in Connection with Committee on Finance Markup, March 18, 1986) (hereafter the "Packwood proposals") would also have eliminated the doctrine with certain exceptions and relief measures, and would have gone a step further than the House bill by replacing the current reorganization provisions with the rules governing mergers and acquisitions that are provided in the Subchapter C Revision Bill of 1985, a report prepared by the staff of the Senate Finance Committee on May 21, 1985. These new rules divide both taxable and nontaxable mergers and acquisitions into "qualified asset acquisitions" and "qualified stock acquisitions," which are referred to jointly as "qualified acquisitions."

Although the Packwood proposals to repeal *General Utilities* and to adopt the qualified acquisitions rule are not included in the Senate Finance Committee's bill, which adopts the "27 Percent Solution" the House proposal for repeal of *General Utilities* will have to be addressed at the conference, and the qualified acquisition rules will continue to be on the legislative agenda (possibly even at the conference), because these rules are thought by many to be inextricably linked to the repeal of the *General Utilities* doctrine.

This linkage between the repeal of *General Utilities* and the adoption of the qualified acquisition rules was made clear at the Senate Finance Committee's discussion on April 22, 1985, of the Packwood proposals. During the discussion, Roger Mentz, the Assistant Secretary of Treasury for Tax Policy, seemed to say that the Treasury would support the repeal of the *General Utilities* doctrine, provided an "escape hatch" can be put in place to avoid the corporate level tax that otherwise would result from such repeal. As will be seen below, one "escape hatch" would be the adoption of the qualified acquisition rules because they would allow an asset acquisition, even for all cash, to be structured as a "carryover basis" transaction in which the acquiring corporation takes a carryover basis for the target's assets and the target does not recognize gain or loss.

The purpose of this article is to examine the proposal to repeal the *General Utilities* doctrine and to adopt the new qualified acquisition rules as the "escape hatch." The conclusion reached is that the *General Utilities* doctrine needs modification but not complete repeal and that the qualified acquisition "escape hatch" is unneeded and should be rejected in favor of a revision of the current acquisitive reorganization rules.

Many of the ideas discussed here are developed more fully in an article by the author entitled "A Suggested Alternative Approach to the Senate Finance Committee Staff's 1985 Proposals for Revising the Merger and Acquisition Provisions," which will appear in an issue of the Virginia Tax Review that is currently in press.

BACKGROUND OF GENERAL UTILITIES DOCTRINE

In the corporate liquidation and sale context, the *General Utilities* doctrine is embodied in Internal Revenue Code ("Code") sections 336, 337, and 338, which provide that except for the recapture of depreciation and certain other items, and the recovery of tax benefits (all referred to here as "recapture items"), a liquidating or target corporation does not recognize gain or loss (1) on the distribution of its assets in liquidation (Code section 336), (2) on the sale of its assets followed by a liquidating distribution, all within 12 months pursuant to a plan of liquidation (Code section 337), and (3) upon the election by an acquiring corporation that has purchased at least 80 percent of a target's stock, to step up the basis of the target's assets (Code section 338). Thus, in each of these liquidating and sale transactions, there is a shareholder level tax,[1] a limited corporate tax on recapture items, and a cost basis for the assets of the liquidating or target corporation.

ILLUSTRATION UNDER CURRENT LAW AND UNDER UNQUALIFIED REPEAL

The effect of the *General Utilities* doctrine under present law can be illustrated by this simple example. Assume that a sole shareholder formed a corporation 20 years ago and contributed $100K (K=$1,000) to the corporation. The shareholder's current basis for his stock is $100K. The corporation acquired a rental building and has been in business of operating the building at all times. The building currently has a fair market value of $1.1 million. The basis for the building is $100K and there are no other assets or liabilities. There is no potential recapture of depreciation under section 1250 with respect to the building.

An acquiring corporation is interested in acquiring either the building or all the stock for $1.1 million. The shareholder is considering one of the following three transactions: (1) a liquidation of the corporation with a transfer of the building to him followed by a sale of the building by him to the acquiring corporation for $1.1 million (assume that the *Court Holding* doctrine would not apply to impute the sale to the corporation), (2) a sale by the corporation of the building to the acquiring corporation for $1.1 million followed by a distribution by the corporation of the $1.1 million in liquidation, and (3) a sale of the stock to the acquiring corporation for $1.1 million, after which the acquiring corporation could make a section 338 election to step up the basis of the building from $100K to $1.1 million.

Assuming that the corporation is not collapsible,[2] the tax consequences of the three potential transactions are the same:

[1] Except in a liquidation where the shareholder qualifies for nonrecognition treatment under section 333, in which case the shareholder takes a substituted basis for the assets distributed.

[2] A collapsible corporation (see Code section 341), in general, is one that is used for the purpose of

(1) there is no tax at the corporate level on (a) the liquidation (Code section 336), (b) the sale followed by liquidation (Code section 337), (c) the section 338 election after the purchase of the stock, and

(2) the shareholder has a $1 million capital gain (a) on the liquidation (Code section 331) and no further gain on the subsequent sale because he takes a fair market value basis for the building under section 334(a), (b) on the receipt of the $1.1 million proceeds in the liquidation (Code section 331) after the sale by the corporation, and (c) on the sale of his stock for $1.1 million (Code sections 1001, 1221, and 1222).

Thus, under current law the shareholder will have a tax liability of $200K (20 percent capital gains tax) on the sale of the corporation's assets or stock, and there is no corporate tax.

If the *General Utilities* doctrine is repealed without a relief measure, there would be a corporate level tax in each of the three transactions. In each case the corporation would have under current law a capital gain of $1 million and would incur a tax of $280K (28 percent capital gains tax). As a result of this tax, the shareholder would have under each of these three transactions an amount realized of $820K (i.e., $1.1 million less $280K) and a capital gain of $720K, resulting in a shareholder level tax of $144K (i.e., 20 percent of $720K).[3] Thus, as a result of repealing *General Utilities*, the total tax from the sale or liquidation is increased from $200K to $324K (i.e., $280K corporate level tax and $144K shareholder level tax).

REPEAL IN H.R. 3838

The Tax Reform Act of 1985 would repeal the *General Utilities* doctrine in the sale and liquidation context (i.e., Code sections 336, 337, and 338) with exceptions for section 332 liquidations and liquidations pursuant to reorganization transactions and with relief from the corporate level tax in certain cases. Under the bill, there is relief from the repeal (i.e., the corporate level tax does not apply) for the assets of an active business corporation (other than inventory, capital assets held for less than six months and recapture items) to the extent such assets are attributable to the shares held by individual shareholders who have owned more than 10 percent of the stock of the corporation for more than five years.

Thus, in the above example of the corporation engaged in the rental real estate business with a sole shareholder who has held his shares for 20 years, assuming the corporation is an active business corporation, there would be no corporate level tax in any of the three disposition transactions. On the other hand, if, for example, the shares were held equally by at least 11 different shareholders there would be a full corporate level tax of $280,000 in each of the three transactions. Also if, for example, there was one 50 percent individual shareholder who had held his shares for at least five years and the other shares were held by shareholders who held less than 10 percent of the stock, there would be a tax at the corporate level on 50 percent of the corporate gain, or a tax of $140K.

There is nothing in the House bill that says who bears the burden of a partial corporate level tax, but this could present a state corporate law question of whether all the shareholders should bear the corporate tax burden in the form of reduced distributions or just the non-10-percent shareholders whose shares have in essence triggered the corporate tax.

The House bill retains the collapsible corporation provision, Code section 341, and there is no "escape hatch" (as distinguished from the relief measure for 10 percent shareholders of active corporations) for avoiding the corporate level tax that is otherwise triggered by repeal of the *General Utilities* doctrine.

The House bill would generally be effective for liquidation and sale transactions taking place pursuant to plans adopted after November 20, 1985.

PACKWOOD PROPOSALS

Repeal of *General Utilities*—Senator Packwood's proposals (which as indicated above are not included in the Senate Finance Committee's bill) would generally have followed the House rule regarding repeal of the *General Utilities* doctrine. However, there would have been a different relief measure for small corporations, one that ws first set forth in the subchapter C Revision Bill of 1985.

Under the Packwood proposals, in the case of corporations with a value that does not exceed $5 million, there would have been an increase in the basis of the shareholder's stock (but not exceeding the fair market value of the stock) for his ratiable share of the corporation's taxable gain from the disposition of long held capital assets less the corporate tax attributable to such gain.

This provision can be illustrated by reference to the above example of the corporation engaged in the rental realty business. There the corporation had a $1 million capital gain (which we will assume is from a long held capital asset) and would incur a tax of $280K. Consequently, in each of the three possible transactions, the basis adjustment to the shareholder's stock would have been $720K (i.e., $1 million gain less $280K tax). The shareholder thus would have increased the basis in his stock from $100K to $820K. As pointed out above, assuming a full corporate level tax, the shareholders' amount realized in each of the three disposition transactions would be $820K (i.e., the value of the building, $1.1 million, less the corporate level tax of $280K). Under the Packwood proposals, the shareholder's in this case would have no taxable gain from the disposition of his stock; the effect of the adjustment would be to shift the single shareholder level tax of current law to a single corporate level tax.

This relief measure would have been phased out for corporations with a value between $5 and $10 million.

The Packwood proposals would repeal the collapsible corporation provision but would adopt the shareholder favoring provision that is contained in the Subchapter C Revision bill of 1985. Under this provision if a corporate capital asset would in the hands of a substantial shareholder be an ordinary income asset, then it is recharacterized as an ordinary income asset in the hands of the corporation.

Qualified acquisition escape hatch.—In addition to repealing the *General Utilities* doctrine, Senator Packwood proposed that the merger and acquisition provisions of current law be replaced by the qualified acquisition provisions of the Subchapter C Revision Bill of 1985. Basically, under these provisions, acquisitive transactions would be divided into "qualified asset acquisitions," which without regard to the consideration paid by the acquiring corporation, and "qualified stock acquisitions" which would encompass all acquisitions of at least 80 percent of a target's stock within a 12-month period, without respect to the consideration paid by the acquiring corporation.

Thus, the qualified asset acquisition would encompass the present section 337 transaction, the present merger reorganization under section 368(a)(1)(A), the present forward subsidiary merger under section 368(a)(2)(D), and the present straight and triangular stock for asset reorganization under section 368(a)(1)(C). The qualified stock acquisition would encompass the present qualified stock purchase under section 338, the present straight and triangular stock for stock acquisition under section 368(a)(1)(B), and the reverse subsidiary merger under section 368(a)(2)(E). Thus, qualified acquisitions would encompass the present forms of taxable and nontaxable acquisitive reorganizations.

There are independent corporate level and shareholder level consequences of having a transaction characterized as a qualified acquisition.

At the corporate level the general rule is that the acquiring corporation takes a carryover basis for the target's assets and the target does not recognize gain. However, an election can be made to have the acquiring corporation take a cost basis for the target's assets, in which case the target recognizes taxable gain as a result of the repeal of the *General Utilities* doctrine.

Even in a case where a cost basis election is made, however, the parties can elect to have the target's nonamortizable intangibles, such as good will and going concern value, transferred to the acquiror at a carryover basis, in which case the target does not recognize gain with respect to such items.

This elective carryover basis treatment that is available in qualified acquisitions is an "escape hatch" for avoiding the corporate level tax that would otherwise be due as a result of repeal of *General Utilities*.

At the shareholder level, the target shareholders have nonrecognition treatment on the exchange of stock of the target for stock of the acquiring corporation (or of stock of a direct or indirect parent of the acquiring corporation). This nonrecognition treatment is available without respect to the amount or nature (i.e., voting and nonvoting stock) of the stock paid in the transaction. Thus, the continuity of interest doctrine of current law is repealed. As a consequence, for example, a five percent shareholder of a target, such as the taxpayer in

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converting ordinary income into capital gain. If a corporation is collapsible, the shareholder realizes ordinary income rather than long term capital gain on a liquidation or sale transaction and the corporation cannot take advantage of a section 337 nonrecognition sale.

[3] In the liquidation transaction the corporate level tax of $280K would have to be paid by the shareholder under the transferee liability provisions, thus the shareholder would take the building subject to a corporate tax liability of $280K and would, therefore, have an amount realized on the liquidation of $820K and a capital gain in the liquidation of $720K. Under section 334(a) the shareholder's basis for the building would, however, be the fair market value of $1.1 million. In the corporate sale followed by liquidation transaction, the corporation would have to pay the $280K capital gains tax and would distribute to the shareholder the $820K after-tax proceeds. In the purchase of stock transaction a rational acquiring corporation would pay the shareholder only $820K for the stock because, as a result of making the section 338 election, the target corporation will have a $280K tax liability. Under section 338(b) the target's basis for the building would be $1.1 million (i.e., the $820K paid to the shareholders, plus the $280K corporate tax).

Kass v. Commissioner, 60 T.C. 218 (1973), could exchange her target stock for stock of the acquiring corporation and receive nonrecognition treatment even through all of the other shareholders of the target receive cash for their target stock.

Analysis of repeal of *General Utilities* with an escape hatch. As pointed out above, Roger Mentz, the Assistant Secretary of Treasury for Tax Policy, seems to support the repeal of *General Utilities* provided an "escape hatch" can be put in place to avoid the corporation level tax. As an alternative to the "escape hatch" contained in the qualified acquisition rules, a more focused "escape hatch" would be to retain the present reorganization provisions and to adopt a rule that would permit an otherwise taxable purchase of a target's assets to be completed as a carryover basis transaction with the target not recognizing gain or loss. This option is currently under study by the ABA Tax Section. In either case, the target corporation could avoid a tax in a liquidation or sale transaction by having the acquiring corporation take a carryover basis for the target's assets.

If *General Utilities* is repealed with a carryover basis "escape hatch," I predict that there will be virtually no taxable acquisition transactions in which the target recognizes gain except in situations where the target has losses to offset the taxable gain. This is because the tax benefits to be realized by the acquiror from a step-up in basis of the target's assets will rarely, if ever, offset the tax liability that will be immediately due at the time of the acquisition. Any transaction for which there is no relief and in which both parties are well advised will be effectuated as a carryover basis acquisition. It is ironic that the repeal of *General Utilities* with an "escape hatch" would not subject liquidating sales to taxation but rather would merely force most acquisitions (except where the target has sufficient losses or where a relief measure applies) to be completed on a carryover basis. In fact, rather than repealing *General Utilities*, the presence of the carryover basis "escape hatch" will effectively extend the nonrecognition rule of *General Utilities* to all acquisitions except where the target has losses that can offset the tax.

One reason Congress has proposed the repeal of *General Utilities* is the expected revenue pickup. I question the accuracy of this judgment, because in making the revenue estimate it is necessary to take account of the reduction in tax revenues that would result from the complete elimination of taxes that otherwise would be collected in section 337 and 338 transactions under current law. My instincts tell me that the revenue loss each year from recapture, and other taxes that would be collected under present law but will not be collected with the repeal of *General Utilities* coupled with an "escape hatch," will outweigh the revenue gained from placing most transactions on a carryover basis, thereby reducing future depreciation and other deductions. If this is so, then the repeal of *General Utilities* with an "escape hatch" could lead to a collection of less rather than more revenues. Also, if the continuity of interest doctrine is repealed, as would be the case with the adoption of the qualified acquisition provisions, there would be a further expansion of the availability of nonrecognition treatment for the swap of stock, and this will undoubtedly lead to a further erosion of revenues. Also, such an expansion would run counter to the policy underlying the like-kind exchange provision, section 1031.

As a broader policy matter, one should inquire into the possible effects of forcing practically all acquisitions into a carryover basis mold. This means, of course, that acquirors will pay more taxes because of the carryover basis for the target's assets even though the acquiror pays cash for the target's assets. As a consequence, most acquirors will be willing to pay less than they otherwise would for assets for which they take a cost basis. However acquirors that have net operating losses or that expect losses from unrelated activities should be willing to pay more than other acquirors because the losses can shelter the greater amount of income resulting from the carryover basis for the target's assets.

This means that with a carryover basis "escape hatch," it will be more difficult for newly formed and small acquiring corporations to compete in the market for target companies. Thus, I am confident that the repeal of *General Utilities* with an "escape hatch" will lead to more conglomeration and make it more difficult for small firms to enter a market through the acquisition route.

AN ALTERNATIVE APPROACH

The current structure of taxable sales and liquidations and nontaxable acquisitive reorganizations should be retained, with the following modifications.

First, the acquisitive reorganization provisions should be amended to set forth uniform continuity of interest, boot allowance, and other rules for the various forms of reorganization. The starting point for the revision should be the ABA's Reorganization Recommendations, which is known as the Narrow Project.

There is no rational justification for having a voting stock requirement in the stock for stock reorganization, under section 368(a)(1)(B), the stock for asset reorganization under section 368(a)(1)(C), and the reverse subsidiary merger under section 368(a)(2)(E), and only a stock requirement in the merger under section 368(a)(1)(A) and the forward subsidiary merger under section 368(a)(2)(D). Also, there is no justification for (1) a flat prohibition against all boot in a stock for stock (B) reorganization; (2) an allowance of as much as 20 percent boot in a stock for asset (C) reorganization, depending on the amount of liabilities taken over; (3) an allowance of 20 percent boot in a reverse subsidiary merger under section 368(a)(2)(E); and (4) an allowance of 50 percent and possibly more boot in an (A) reorganization and a forward subsidiary merger under section 368(a)(2)(D). These different requirements are indefensible, and the statute should be amended to set forth uniform requirements for each form of acquisitive reorganization. Also, there should be a minimum amount of consideration that is underlying voting common stock of the acquiror or of its direct or indirect parent corporation.

Specific rules should be provided for determining the impact on the continuity of interest requirement of pre- and post-reorganization sales. In order to prevent the evasion of the boot limitation rule by having a small corporation that is the real target act as the acquiring corporation, a reverse acquisition rule should be adopted that would treat such a small corporation as the target and the larger nominal target as the acquiring corporation. The "substantially all" test for the (C) reorganization should be measured immediately before the reorganization, and the test should be eliminated for the forward and reverse subsidiary mergers. Also section 351 should not be available in transactions that take the form of acquisitive reorganizations.

Turning to taxable liquidations and sales, in the case of corporate distributions under section 336, corporate sales followed by liquidations under section 337, and elections under section 338 to step up the basis of a target's assets after a stock acquisition of the target, the *General Utilities* doctrine should be modified to provide for taxation at the corporate level on all property, except for goodwill and land and buildings used in the active conduct of a trade or business. There should, however, be full recapture of depreciation on such buildings.

The case for not taxing goodwill is the strongest; it is nonseverable and nonamortizable and to tax it would impose a harsh penalty on liquidations. But there are also strong reasons, mainly the need to avoid a harsh penalty, for not taxing actively used land and buildings. Under this alternative proposal, inventory and equipment gains would be subject to full taxation in liquidating transactions. Also, there would be full taxation of all passive assets.

Under current law, LIFO reserves are subject to taxation, and equipment is subject to recapture of depreciation. Thus, the principal effect of this suggested change is to extend the recognition rule to (1) all inventory and other ordinary income items, (2) any section 1231 gains from the disposition of equipment, (3) all depreciation taken on real estate (not just the excess of accelerated depreciation over straight line, as under section 1250), and (4) any gain inherent in passive assets.

These are sensible changes. It is difficult to defend the present nonrecognition treatment for inventory gains; and the suggestion with respect to equipment represents a small change because rarely does equipment appreciate above its original cost. Passive assets should be taxed on liquidation, because otherwise there is a tax incentive for a corporation to accumulate its earning in passive assets until final liquidation, at which time the corporation is not taxed on the appreciation and the shareholder receives capital gains rather than dividends.

In order to prevent the government from being whipsawed in transactions involving the sale of corporate assets where the purchaser and seller allocate the purchase price in a different manner, as a condition to the nonrecognition treatment for the selling corporation, there should be a requirement that the parties enter into an allocation agreement to which both are bound. The agreement would be filed with the Service.

The Senate Finance Committee's bill adopts a requirement that the allocation of basis rules set forth in the proposed and temporary regulations under section 338(b) be applied in section 337 sales. These regulations are sound and should be extended to section 337 sales. The bill also authorizes the Treasury to require an allocation agreement in a sale of assets transaction. As indicated above, this also is sound.

Because of the full taxation of inventory and other ordinary income items, under this proposal, the collapsible corporation provision should be repealed. However, a shareholder favoring provision, similiar to the one discussed above, should be adopted.

Under this proposal there would be no special relief for closely held corporations such as that provided in both the Tax Reform Act of 1985 and the Paperwork proposals.

This proposal would increase the revenues from sales and liquidation transactions without creating major distortions in the acquisition process.

SUMMARY

I believe that this alternative proposal is one around which a consensus could be built. Most of the objections to the repeal of *General Utilities* has centered on the assertion that it would be unfair to tax appreciated land and buildings held by a corporation. Senator Bentsen made his point on April 22. 1986, doring the discussions of the repeal of *General Utilities* before the Senate Finance Committee. The Senator, however, indicated that he might be willing to support a repeal of *General Utilities* for inventory gains. This proposal effectively addresses the concerns expressed by Senator Bentsen and others.

Also this proposal addresses each of the 11 detailed reasons for change given in the Subchapter C Revision Act of 1985 for adoption of the qualified acquisition rules:

First, there would be a uniform "boot" standard.

Second, there would be a uniform voting common stock requirement.

Third, the restraints on the use of grandparent stock would be eliminated.

Fourth, the forward and reverse subsidiary mergers would have the same requirements.

Fifth, the "substantially all" anomaly would be eliminated.

Sixth, strip down transactions would be allowed in each form of reorganization.

Seventh, any continuing uncertainty between the overlap between (C) and (D) reorganizations can be resolved.

Eighth, the uncertainty in the application of the continuity of interest doctrine would be eliminated.

Ninth, the uncertainty surrounding the business enterprise doctrine could be eliminated by codifying the essential elements of the regulations. The business purpose doctrine should not be eliminated in the merger and acquisition context while it pervades all other aspects of the federal income tax law.

Tenth, as a result of beefing up of the continuity of interest doctrine, the anomalies resulting from the linkage between the shareholders level consequences and the corporate level consequences should be eliminated.

Finally, the adoption of uniform standards for each form of reorganization and the requirement of an allocation agreement in a sale of business should substantially reduce any whipsaw possibilities.

In conclusion, the *General Utilities* doctrine should be modified and the reorganization provisions should be rationalized as proposed above.

Mr. SIMON. I see the distinguished chairman of the Finance Committee has walked onto the floor here. I hope he and others will take a good look at this suggestion.

Mr. President, if no one else wants the floor at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 2020

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, since no one is asking for the floor—or if the chairman of the Finance Committee is, I will yield to him. I just wanted to speak for 3 minutes on the question of retroactivity, but it is not an urgent thing. I am sure he has heard it before. So I would be pleased to yield if we can make some progress.

Mr. PACKWOOD. I would appreciate your yielding. The Senator from Ohio has an amendment which is acceptable. It is our present intention to try to go on and we would like to dispose of amendments if we can.

Mr. SIMON. Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2100

(Purpose: Relating to mutual life insurance companies)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I hope, if Senator ZORINSKY and Senator GRASSLEY are within range of my voice, that they would promptly come to the floor because I know they have an interest in this amendment which I believe has now been agreed to.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2100.

On page 1929, before the period on line 9 add ", and before January 1, 1992".

Mr. METZENBAUM. Mr. President, the 1984 tax bill completely changed the life insurance tax rules. One provision prevented companies from zeroing out taxes because of tax-exempt investment income. A second provision prohibits the full deductions for policyholder dividends.

Physicians Mutual was exempted from those provisions by being characterized as a casualty company for tax purposes. But there was a price. One stock subsidy was to be treated like a mutual life company so that the new rules would apply to that subsidy. That price disappears under this bill.

This amendment sunsets the new special treatment that that company receives and it sunsets it in 5 years. In other words, at the end of 5 years, the benefits that are provided for under this bill would no longer be operable.

Mr. President, it is my understanding that this amendment is acceptable to the two Senators from Nebraska, the Senator from Iowa, and I think the manager of the bill. If any of them are to be heard on it, fine. If not, I am prepared to act.

Mr. EXON addressed the Chair.

Mr. PACKWOOD. Mr. President, before the Senator from Nebraska speaks, the amendment was considered in committee. We found it acceptable and we are delighted on this side to accept the amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I wish to thank the Senator from Ohio, the chairman of the committee, Senator GRASSLEY of Iowa, and my colleague, Senator ZORINSKY, and the staffs of all of those individuals for coming to a reasonable compromise on the matter of the Physicians' Mutual Insurance Co. of Omaha, NE.

Basically, this is a relatively small company in the industry. But they found themselves, because of a fluke or twist in the law, being taxed differently than all of their competitors. We hope that this can be resolved over the next few years.

I appreciate the courtesy and the understanding of my friend and colleague from Ohio, with whom I have been working very diligently. Sometimes we have been arguing over the past few days over this amendment. But it just shows what can happen when men of good will, who are trying to carry out their duties the best they can, come together in a compromise. And we have reached a compromise which I think is reasonable and fair to all.

I only hope that if and when this bill passes, as I am sure it will, and when we get into conference with the House of Representatives on this matter, that the amendment that is about to be agreed to will be held by the Senate conferees.

Mr. President, I want to again thank all for their consideration to myself, to my colleague, Senator ZORINSKY, and to Senator GRASSLEY who carried this amendment for us in the committee.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, if I might have the attention of the manager of the bill, Senator PACKWOOD, I have just been brought a message that Senator ZORINSKY is racing to get back. He will be back in about 10 minutes. I wonder if he would find it disturbing if we agree that we would lay this matter aside for this temporary recess that I understand the majority leader is going to request.

Mr. PACKWOOD. We are going to take the amendment.

Mr. METZENBAUM. I understand. I think we wanted to make a speech in support of it.

Mr. PACKWOOD. Why can we not just take the amendment and agree by unanimous consent to let him put his

remarks in just prior to the acceptance of the amendment?

Mr. METZENBAUM. I think that will be all right.

Mr. President, I ask unanimous consent that the remarks of the Senator from Nebraska, Senator ZORINSKY, be printed in the RECORD prior to the vote in connection with this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I rise in support of the compromise amendment for Physicians Mutual of Omaha. The Finance Committee bill simply let this insurance company be taxed like all of its competitors. The compromise does not alter this result.

Physicians is a small insurance company and because of the quirk in the tax laws, it paid 2½ times the taxes it would have paid were it taxed like similar insurance companies. The Finance Committee recognized and rectified this inequity. I believe that the compromise amendment will not prevent the intent of the original bill from being carried out.

I would like to thank Senator GRASSLEY of Iowa, for his help in the Finance Committee, and Senators EXON and METZENBAUM in reaching this compromise.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2100) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 2130

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

Mr. DOLE. Mr. President, it is now 9:30 and I would hope that we could get back to work on the pending business. What is the pending business? It has been so long since we have done anything on it, I forget.

The PRESIDING OFFICER. The pending business is the committee substitute to H.R. 3838.

Mr. DOLE. That is the tax reform bill? [Laughter.]

The PRESIDING OFFICER. That is the tax reform bill.

Mr. DOLE. According to the statistics, we have been on this bill now for 9 days, 69 hours, and some minutes. It is now 9:30 Wednesday evening. It would be my hope that we could reach some agreement when we are going to dispose of this bill. If there is a tendency not to dispose of it, then we ought to find out.

But in my view, there are not that many amendments on either side of the aisle. And I am not casting any aspersions. I think there are some on each side that feel strongly about their amendments and they ought to be offered and we ought to be voting up or down. Some may carry; some may not carry.

I think the problem is in the transition rules and I understand there are a couple hundred of those floating around. If we were to vote on each transition rule, and go through the clearance process, which is cleared by the majority and minority and the Commissioner [laughter] we could be here for a long, long time.

So I suggest that we decide. We are prepared to move ahead. We have had our group meeting. I think the general feeling on this side of the aisle is that 9 days is about enough. I think the House took 2 days to pass their tax bill. They have a Rules Committee and are not subject to delay and amendments. They have so many hours, closed rules, and all those things. We, fortunately, do not have that.

So we are not quarreling with anyone. We would just like to get on with the business, stay in for a few more hours tonight and dispose of 10 or 15 amendments tonight, or at least see if they are going to come up, and then work on it tomorrow and Friday and, if necessary, on Saturday.

Mr. RIEGLE. Will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. RIEGLE. I just want to say that I think most people here that I have talked to agree that we ought to wind our way through the amendments as rapidly as we can and try to solve the question of the transition rule matter.

I was looking to see how long it took us in 1981 when we had the major tax legislation at that time. That bill was on the floor 3 weeks. We had 108 votes; not all record votes—many were—but others by voice vote. But we actually took 108 amendments to votes during the 3-week period.

This bill is far more complicated than that one, I think it is fair to say. So, I think we are actually making pretty good progress. I think we have come quite far already, though we are obviously not done. And I think we will get this thing done, at least I hope we will, faster than we managed to do in 1981 with a bill less complicated than this.

So, I guess I just want to add my voice to yours and to others to say that I do not see anybody that really feels differently. I cannot find anybody that does not want to, in fact, get through this bill and get to final passage and get the matter into conference. Certainly, that is this Senator's view.

Mr. DOLE. I am not suggesting anyone has a different view. I am just suggesting we are not doing it. And 1981, that was a long time ago. That was a very complicated bill, as I recall—I managed that particular bill—because there were a lot of additions on the floor. I think on this bill, we are sort of moving in the other direction. I am not certain 1981 was tax reform. This is tax reform. We were adding a lot of things in 1981.

But we are down to about, I think, 27 or 30, 35 amendments, which really are not very many amendments on a tax bill. You have just indicated 100-some votes on that particular bill. We only had 14 votes and I think 33 amendments were disposed of.

But I do believe we have sort of reached a point where I think everybody would like to get on with it, if we could work out some program on transition rules. If not, maybe we ought to file cloture. Maybe that is the quickest thing to do. At least we would have cloture invoked on Friday. That would take care of some of the amendments that are still floating around.

Mr. MELCHER. Will the majority leader yield?

Mr. DOLE. I would be happy to yield the floor.

Mr. MELCHER. Yield for a question?

Mr. DOLE. Yes.

Mr. MELCHER. We seem to get to this stage on a major bill when we spend many hours palavering over how we are going to wrap up the bill. I have been in two meetings on our side; one lasted an hour and another lasted an hour and 15 minutes, and I just left that meeting.

Is it the intention of the managers of the bill to be present when we offer amendments? I have an amendment. Rather than talk about what time we need, I would rather be utilizing time offering the amendment, debating the amendment, and seeing what happens to it.

Mr. DOLE. I am on the committee. I can stand-in for the manager until he arrives.

Mr. MELCHER. I will be ready in just a moment.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 2150

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2101

(Purpose: To allow a 30-percent capital gains exclusion for the sale of farm property by an individual actively engaged in the trade or business of farming to include deferred foreign income of U.S. shareholders of controlled foreign corporations in the computation of alternative minimum taxable income)

Mr. MELCHER. Mr. President, I have an amendment which I am going to briefly describe and shortly offer and distribute to both sides for their perusal. Let me utilize this time by describing what the amendment is about and why I think it is important to have it considered on this tax bill.

I have directly spoken about the changes that the bill before us would make in consideration of what taxes would be paid by agriculture, and have dwelt on it for some time. I shall not repeat all of what I previously stated.

This amendment goes to one of those items that is changed in the bill before us. That is capital gains.

Capital gains advantages for agriculture are rather obvious, and they were placed in the Tax Code for very important tax policy reasons.

When land is sold, for instance, there is an allowance for capital gains. This bill would remove that. That removes a tax advantage for landowners.

Also, there is the case of owners of small tracts of timberland, so-called woodlot owners. Capital gains for them is also of some significance, and has been built into the Tax Code. It would be changed by this bill, repealing it.

First of all, in the case of agriculture, agriculture producers have not had a very happy time during the past several years, with very low income and many of them being liquidated. In their case, most of their retirement opportunities are involved in the sale of their land when they do retire.

For those who are engaged in agriculture, we would like to see that that opportunity for retaining capital gains in the sale of their land would be permitted.

Briefly, the amendment would fit into the Tax Code if this bill is enacted in such a way that it would come out with the same amount of advantage in capital gains as if the present law and code were not changed.

The same is true for those owners of timberlands. The amendment is drafted in such a way that the same advantage in capital gains would be allowed for them as is in current law.

What is the offset? The offset to make the amendment revenue neutral involves a question of deferred profits held by multinational corporations abroad.

Under current law, multinational corporations may retain their profits abroad, deferring bringing them back to the United States and, therefore, deferring the tax that would be collected on those profits. It can be done for this year, for next year, or for any number of years. Obviously, that type of deferral, bringing back the profits and subject then to taxation only when they are brought back to the United States, is a tax advantage.

My amendment addressed this in one way. It changes one part of the law. That is, it reinstates a procedure where the multinational corporation may continue to defer their profits as they see fit in order to avoid taxation in any given year, and leave them abroad as long as they want.

But each year they do so they must use that then as a preference item on the minimum tax reporting.

Does this raise additional revenue? Yes, it raises about $600 million or $700 milion over the coming 5 years, and would make the amendment revenue neutral.

Is it legitimate to look at this as an offset? I believe it is. After all, the corporate tax on the profits made abroad by the multinationals will be reduced from a level of 46 percent down to 33 percent effective in 1988. That is, in effect, a windfall for a multinational, leaving the profits abroad, not subject to U.S. taxation until they are returned here. Therefore, when they are returned here the tax would be in 1988, which would not be uncommon and would be attractive to multinationals that are making profits abroad. Bringing them back in 1988, the corporate tax applicable would be only 33 percent. So it is a windfall.

The amendment would change that only to the degree that it would require the multinational choosing to do that—they still cannot do it—to then list it as a preference item on the 20-percent minimum tax. That is a feature of this new bill.

Mr. President, I believe there is merit to this amendment. In the case of the agricultural producers, this would be some relaxation in the way that the bill treats agriculture producers. In the case of the woodlot operators who are cutting their trees and selling them off for purposes of their income, it would give them some equity and some fairness in the treatment of their livelihood.

I must state that that is rather significant. Seventy percent of the timber that is harvested in the United States is from private land. The retention of the capital gains tax for them is a very significant feature.

The American Society of Foresters, a very renowned society of professional foresters in the United States, has written to each of us stressing the importance of maintaining the private woodlot operators, providing them equity in the treatment in this tax bill, and are in support of this type of amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

SALT II

Mr. STEVENS. Mr. President, President Reagan's recent statement that the United States may not be bound by SALT II limits when the 131st B-52 bomber is equipped with cruise missiles late this fall unless there is progress in Geneva is correct. To this point, our policy has been to walk the extra mile with SALT II compliance. And, we have not violated the spirit of SALT II to date. The decision whether to do so depends upon the Soviets, in my opinion.

On May 27, the President said:

> In sum, we will continue to exercise the utmost restraint, while protecting strategic deterrence, in order to help foster the necessary atmosphere for significant reductions in the strategic arsenals of both sides. This is the urgent task which faces us. I call on the Soviet Union to seize the opportunity to join us now in establishing an interim framework of truly mutual restraint.
>
> Finally, I want to emphasize that no policy of interim restraint is a substitute for an agreement on deep and equitable reductions in offensive nuclear arms, provided that we can be confident of Soviet compliance with it. Achieving such reductions has received, and continues to receive, my highest priority. I hope the Soviet Union will act to give substance to the agreement I reached with General Secretary Gorbachev in Geneva to achieve early progress, in particular in areas where there is common ground, including the principle of 50 percent reductions in the strategic nuclear arms of both countries, appropriately applied, as well as an interim INF agreement. If the Soviet Union carries out this agreement, we can move now to achieve greater stability and a safer world.

□ 2200

Mr. President, as I have stated, as I have expressed privately in the Senate and elsewhere for some time now, the Soviets have already tacitly indicated that SALT II is not the basis for an ongoing agreement. Negotiations in Geneva are not being pursued to fix SALT II so the United States will accept it. Both sides in Geneva are pursuing a new relationship between the superpowers that can be achieved only by an agreement which will radically reduce nuclear arms and lower tensions in Europe and throughout the world.

We have almost exhausted the patience of each nation because of the curious twists of interpretation the Soviets have given to recent treaties.

The SS-25 is an example of flagrant disregard of the only one new type of ICBM provision of SALT II, and they ignore the prohibition against encryption of telemetry data every time they test a missile.

The violation of the ABM treaty posed by the construction of the

phased array radar at Krasnoyarsk is also illustrative of the pattern of Soviet violations. I understand, as the Senator from Alaska, why the Soviet Union constructed the radar at Krasnoyarsk rather than on the periphery of their country as the ABM treaty requires. It is due to the cost of construction on permafrost land, land similar to much of the northern parts of my home State of Alaska. It is rational to want to build one radar at Krasnoyarsk rather than two more expensive radars on the periphery of the Soviet Union.

The Soviets could have, and should have, consulted with us prior to breaking ground on the Krasnoyarsk radar to determine if their desire to build that radar at Krasnoyarsk could be accommodated under the ABM treaty. If it could not be accommodated, they might have pursued an amendment to that treaty to allow for construction at Krasnoyarsk—thereby avoiding the problem of installing radars in an extremely harsh northern environment.

The military significance of the radar facility at Krasnoyarsk is that it may be—and probably is—a battle management radar, clearly a most serious violation of the letter and the spirit of the ABM treaty. To maintain the credibility of arms control agreements with the Soviets, we, of necessity, look to their prior record: The Krasnoyarsk radar is important because such a unilateral Soviet interpretation of agreements clouds the potential of significant progress in Geneva.

Many have postulated that the Soviet Union will take advantage of the United States abandonment of SALT II restraints to significantly build up their land-based nuclear forces because they have hot production line and we do not. This is flawed logic. The Soviets have no incentive to build more ICBM's than they need to cover the United States' hard targets. Presently, we have between 1,000 and 1,200 hard targets—that is, ICBM silos and command and communication facilities. With their 1,396 ICBM's, with at least 6,418 warheads, the Soviets already have enough land based ICBM's to destroy all our hard targets. Any additional Soviet ICBM production would constitute costly, unnecessary, overkill capability. Second, international public reaction to a Soviet breakout would be universally negative—particularly after Chernobyl. Finally, President Reagan has called upon the Soviet Union to join the United States in exercising "truly mutual restraint" until an agreement to reduce radically the nuclear arsenals on both sides can be reached in Geneva.

Ken Adelman, Director of ACDA, recently wrote an article for the New York Times which reviews these factors. I ask unanimous consent it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. STEVENS. As the Nuclear and Space Arms Talks in Geneva have evolved, Mr. President, my belief that the SALT II accord no longer serves as a basis for a rational relationship has been reinforced. In the last year, both the United States and the Soviet Union tabled proposals that seek dramatic reductions in nuclear weapons. Both sides have made the intellectual transition from SALT-dominated limits on future growth in offensive systems to the more desirable goal of meaningful reductions. Our negotiators and the Soviets no longer talk about how much growth to allow—they are talking about destroying existing weapon systems.

I am optimistic that the Soviet proposals tabled over the past few weeks indicate that the Soviets are also approaching these negotiations seriously. An opportunity for a truly significant agreement is emerging. As our Senate observer group has visited Geneva, the Soviet delegation there has joined us and the U.S. negotiators in private talks, primarily social in nature I admit. But we have learned firsthand that the Soviet team are skillful, well-trained representatives of the Soviet position. The negotiations will continue to be long and difficult negotiations, but I am now optimistic there will be an agreement in Geneva—and it will have nothing to do with SALT II adherence.

EXHIBIT 1

[From the New York Times, June 15, 1986]

WHY MR. REAGAN IS RIGHT ABOUT SALT

(By Kenneth L. Adelman)

WASHINGTON.—Bertrand Russell once remarked that we often defend most passionately those opinions for which we have the least factual basis. It is difficult to find any other way to explain the torrent of emotion that has greeted the President's decision that we are no longer bound by the second stategic arms limitation accord.

Even on its face, the case against the President's decision looks dubious at best. After all, the Senate Armed Services Committee ageed unanimously in 1979 that SALT II was not in the country's "national security interests." The treaty was never ratified. It never had the force of law. It never subsequently gained the support needed for ratification. The chief prediction of its critics—that it would permit a vast modernization and expansion of Soviet strategic forces—has come true, in spades. On top of all this, the Soviet Union is violating the central provisions of the agreement.

What could be more clear-cut? Why do critics say that the United States should continue to abide unilaterally by SALT II?

First, Soviet violations are alleged to be "peripheral." The President's critics would like to have it both ways. When SALT II was up for ratification in 1979, its supporters commonly cited three provisions as its main advantages: the numerical limits (on warheads-per-launcher and overall launchers); the prohibition on a second new type of land-based intercontinental missile; and the restraints on encoding test data. The Soviets are completely contravening the provisions on new missiles and encoding, and they have exceeded the limit on missile launchers. Provisions hailed as central when SALT II was being sold cannot be considered "peripheral" now that the Soviets are violating them.

Second, the Soviet violations are sometimes said to be "ambiguous" or unimportant. The new, SALT-violating SS-25 missile is not in any sense marginal. It is one of two powerful new land-based strategic missiles that the Soviets are now adding to their arsenal. In short, a major portion of the current Soviet buildup of land-based missiles is occurring in clear contravention of SALT II. The violation is clear since the throw-weight, or payload, of the SS-25 missile is not, as some critics continue to claim, just "slightly" greater than its alleged predecessor, the SS-13, but roughly twice that—clearly beyond the 5 percent increase permitted by the treaty. In addition, the Soviets' scrambling of their test signals is seriously impeding verification.

Third, it is sometimes claimed that the Soviets have dismantled 1,000 or more systems to comply with SALT. This is contradicted by the fact that the Soviets themselves claim to have dismantled only 540 weapons under SALT. More important, what the critics' figures really demonstrate are not the quantitative limits on the Soviet arsenal but the vast qualitative growth of the Soviet arsenal under the treaty. The Soviets dismantled more during SALT than the United States did because they built faster and modernized much more than we did. The majority of silos said by the critics to be dismantled became the homes of new, vastly more powerful missiles. The figures are less a testimony to SALT's effectiveness than a measure of what it failed to control.

Nor should we attribute the dismantling of any Soviet systems solely or even mainly to SALT. When new Soviet systems come on, old, obsolescent systems generally go. For example, 650 SS-4 and SS-5 medium-range missiles—unconstrained by any arms accord—were dismantled by the Soviets after the SS-20, a far more potent threat, came on stream. The claim that the Soviets' decisions to dismantle weapons during the period of SALT were necessarily due to SALT is a case of misplaced causality.

Fourth, critics claim that without SALT II the Soviets will vastly increase their warheads and accelerate the arms buildup. Projections of large increases in Soviet warheads—beyond the considerable increases already anticipated under SALT—are easily made on paper. In reality, such changes are neither quick nor cheap—nor necessarily even militarily useful. For example, some critics claim that the Soviets would put 20 or 30 warheads on the SS-18 missile, instead of 10. But this is likely to undermine, if not preclude, the SS-18's main mission—that is, to destroy our missiles in their silos.

The basic notion that SALT is significantly constraining the Soviet buildup now, or would do so in the future, is an illusion. It presumes future compliance with critical provisions, when we already have seen clear and major violations of key parts of the treaty. Even while adhering to terms of SALT II, the Soviets have nearly doubled their strategic warheads, from 5,000 to 9,200. Under SALT II, the number could rise further to 12,000 by 1990. With or without SALT II, we envision a 5 to 7 percent

growth in Soviet strategic investment every year as far ahead as we can see. With or without SALT II, we envision an all-new Soviet land-based missile force in the next decade.

If this is constraint, it is hard to envision a lack of constraint. With their defense spending running at 15 to 17 percent of their gross national product, the Soviets already have their accelerator near or on the floor.

Ironically, many of the critics who now base so much of their argument on predicting increases in Soviet warheads beyond those envisioned by SALT II (which did not explicitly limit warheads) used to tell us that warheads don't count. Back in the 1970's, when the United States enjoyed a 3-to-1 advantage in warheads, many of these same critics were arguing that "strategic superiority" and numbers of warheads were "meaningless" and could be bargained away without risk to United States security.

Fifth, it is argued that the President's decision is bad for our alliances. Despite extensive Administration consultations with the allies, there have been some allied disagreement and some adverse effects on allied public opinion. We naturally regret this. As the reasoning for the President's decision and the facts become better known, we hope this will change. We hope our allies' concerns will be alleviated.

But short-term popularity cannot be the criterion by which we judge the wisdom of policy. Our overriding concern must remain long-term strategic safety and genuine arms control. Continued adherence to an ineffective and unratified treaty that our adversary is seriously violating is not cost- or risk-free either. As the President has said, what is needed are real reductions. Only this will ultimately provide a solid basis for mutual restraint.

Sixth, it is alleged that what the Administration wants is an "all-out arms race." This is simply false. Anyone who reads the President's decision and listens to what he is saying will see that he has provided a clear new formula for restraint that will be more effective than SALT. The President pledged, for example, that we will not increase launchers or ballistic missile warheads above Soviet levels. This is a serious pledge, one that creates real costs for a Soviet buildup and provides real rewards for Soviet reductions and restraint—just as genuine arms control should do. It is verifiable and do-able. In contrast, continued unilateral observance of SALT II in the absence of Soviet compliance would merely reinforce the dangerous idea that Soviet violations can easily be tolerated. It would also likely encourage even further violations and convince the Soviets to continue their drive for military superiority.

As the President has repeatedly made clear, what we want above all are serious negotiations in Geneva leading to agreements with which the Soviets will comply—to equitable and verifiable reductions in American and Soviet nuclear arsenals.

TAX REFORM ACT OF 1986

The Senate continued with consideration of the bill.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, is the amendment of the Senator from Montana pending?

The PRESIDING OFFICER. There is no amendment pending.

Mr. MELCHER. Will the Senator from Oregon yield?

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2101

Mr. MELCHER. Mr. President, I believe my amendment is at the desk.

The PRESIDING OFFICER. The amendment has been submitted. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an amendment numbered 2101.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1582, beginning with line 3, strike out all through page 1585, line 3, and insert:

SEC. 401. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS OTHER THAN CERTAIN GAINS OF FARMERS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS FROM SALE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—If for any taxable year a qualified farmer has any qualified farm net capital gain, 30 percent of such gain shall be a deduction from gross income."

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means an individual—

"(i) who is actively engaged in the trade or business of farming, and

"(ii) the taxable income of whom for the taxable year (after application of this section) is $100,000 or less.

"(B) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis.

"(2) QUALIFIED FARM NET CAPITAL GAIN.—The term 'qualified farm net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taken into account only gain or loss from the sale or exchange of property used in the taxpayer's trade or business of farming.

"(3) FARMING.—The term 'farming' has the meaning given such term by section 2032A(e)(4) and (5), including the carrying on of the trade or business of aquaculture on a farm, and timber milling operations.

(b) CONFORMING AMENDMENTS.—

"(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

"(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "100 percent (28/33 in the case of a corporation)", and

"(B) by adding at the end thereof the following new sentence: "In the case of any qualified farmer with respect to whom a deduction is allowable under section 1202, this paragraph shall be applied by substituting '70 percent' for '100 percent' with respect to any qualified farm net capital gain.

"(2) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(3) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(4) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202 and inserting in lieu thereof the following new item:

"Sec. 1202. Deduction for capital gains from sale of certain farm property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1978, after line 24, insert the following:

"(6) CAPITAL GAINS.—

"(A) QUALIFIED FARMERS.—In the case of a qualified farmer (within the meaning of section 1202(b)(1)), an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure.

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or

business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5)).

On page 2271, line 19, insert "(reduced by the amount of any deduction under section 1202(a) allocable to such gain)" after "income".

On page 1960, between lines 15 and 16, insert:

"(7) CERTAIN INCOME OF UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a United States shareholder of a controlled foreign corporation for any taxable year described in section 951(a), the subpart F income of such corporation for the taxable year of such corporation with or within such taxable year of the shareholder ends shall include all income of such corporation not otherwise treated as subpart F income, reduced by any deductions which (under regulations) are properly allocable thereto.

"(B) TERMS.—For purposes of this paragraph, the terms 'United States shareholder', 'controlled foreign corporation', and 'subpart F income' have the meanings given such terms by subpart F of part III of subchapter N of chapter 1.

Mr. MELCHER. Mr. President, earlier, I explained the broad outlines of this amendment and I shall briefly repeat them so we can have discussion with any Member of the Senate, but more particularly with the distinguished chairman and the distinguished ranking member of the committee. The amendment does two things that alleviate some of the problems in this bill as it affects, one agriculture, and, second, those private individuals who own small acreages of timberland, so-called woodlot operators.

Agriculture people have been suffering. This amendment would allow the same equivalent treatment in capital gains for agricultural producers. First, it is excluded to those who are actively engaged in agriculture and whose income is less than $100,000. That same application goes to the woodlot operators in the very small sawmills which frequently are connected with the small woodlot operation.

It is a fair amendment, a fair treatment for these two classes of Americans who are, right now, suffering rather desperately because of tough economic times.

□ 2210

Capital gains provisions have long been in the code. They have been long recognized as good tax policy, particularly for these two groups. I think it is fair to retain them. However, in offering the amendment, it is necessary to have an offset, and I will briefly describe that offset.

My amendment would change one feature of the treatment of multinational corporations, those U.S. corporations that operate both here and abroad or conceivably could only operate abroad but are a U.S. corporation.

It would change one item. Under the present law and under the conditions and terms of the Senate committee tax bill, these multinational corporations can defer profits made abroad, leaving them abroad and defer paying taxes until such time as it is advantageous to them to repatriate the money, bring it back to the United States and use it. Whenever that is done and in whatever particular year it is, of course, those profits are subject to tax.

My amendment would change one feature. It would change the feature that if the multinational corporation deferred profits, leaving them abroad for any year, they must report that as one of the preferences on the preference list for the minimum tax.

I suspect to Senators like myself who do not serve on the Senate Finance Committee it sounds like that does not do very much. Well, it collects enough taxes each year so that it is a wash for the amendment. In other words, this change for the multinational corporations on their deferral requires, if they choose to defer their profits abroad, that they report them as a preference item on their minimum tax. That does make the amendment wash.

Two points on why I think this is justified as it affects the multinationals. First of all, corporate taxes will be reduced from 46 percent to 33 percent under the terms of the Senate Finance Committee bill as it now stands. Now, that is quite nice, if you have some deferred profits abroad or you choose to defer your profits and leave them overseas for 1986 and 1987 and then return them in 1988. The rate then would be 33 percent. That is a gain of 13 percent, first of all. That is not a bad windfall. That is a pretty good windfall.

Second, it would seem to me that in order to make this a preference item on the minimum tax is only logical if we believe the minimun fax is fair and reasonable to apply to corporations. I happen to think that is one of the better features in the Senate Finance bill. I think requiring this provision would make it even better.

Two points on what it does then for the people in agriculture and the people owning small pieces, privately owned, of forest land in this country. It would permit those small woodlot operators as well as the farmers to continue the present capital gains. I think that is meritorious because in both instances these are two parts of the American economy that are suffering right now because their prices are low, and leaving this for them would make this a better bill from their standpoint.

It is reasonable to attempt to do that because these are downtrodden industries right now. We want them to recover. Most of them have huge debts. If they are going to pay off the principal on those debts, it is necessary to make some profits. In the case of the woodlot operators it means that capital gains from trees and logs that are harvested off those woodlots will be treated just as in the present code. That will give these operators some opportunity to recover, some opportunity to pay off any debt they may have, to pay off the principal and become more economically secure than if we allow a repeal of the capital gains as is in the bill at present.

Mr. President, I would ask the chairman of the Finance Committee, who understands all sides of this, to give me his guidance on the amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. MATHIAS). The Senator from Oregon.

Mr. PACKWOOD. One of the interesting things about being chairman of the Finance Committee is that amendments come up that you have not seen before, or at least you have not seen the method of financing, and I am going to have to rack my brains now because it has been at least 10 years since we have seriously debated the subject of deferral of foreign source income. I think it was still when Senator Hartke was a Senator from Indiana and we had some major battles on this floor on the subject. It is that part I want to delve into because I want to know if the facts are as I remember them from a decade ago.

First, on the deferral of foreign source income, is it used almost exclusively by American companies that go overseas for the purpose of being in foreign markets and they do not to any significant degree export their products back to the United States?

Mr. MELCHER. It is true to the extent that the multinational part of their manufacturing is overseas, but in many instances a lot of it is overseas and perhaps all of it.

Mr. PACKWOOD. This is what I remember from 10 years ago, U.S. companies went overseas for the very same reason that Honda and Volkswagen came to the United States. They came here to expand their market. A decade ago it was an absolute axiom that companies did not tax the overseas income. We did not. They did not. We taxed it only when it was repatriated. Most other countries did not even tax it when it was repatriated because they wanted to encourage their companies to operate in foreign countries. U.S. business operating abroad also encourages the exports of U.S. goods by an large you will bring in your parts from the United States even if you were assembling overseas.

I am curious if that is still the general pattern of American companies that operate overseas using deferral.

Mr. MELCHER. I believe the chairman is correct. The deferral is only taxed when it is brought back to the United States. This amendment would only touch that when it is brought back. Of course, it remains optional when they want to bring it back.

Mr. PACKWOOD. I understand that. I am trying to find out because, as I say, it has been a decade since I have been involved in this subject, since we had major fights on the Senate floor. Most of the American companies that are overseas that are manufacturing overseas are manufacturing for the foreign market. Clearly, they have to repatriate their profits from time to time or their shareholders get very upset because they cannot pay their shareholders any of that money if they keep it overseas. So at some stage they bring it back.

Most of them keep their capital overseas for some period of time to build up their business, to expand their market, to get a greater share of the foreign market.

Now, that was a decade ago. Is that still the situation today?

Mr. MELCHER. Each company would do as they please. Some of these companies, of course, sell both abroad and here.

Mr. PACKWOOD. Let me give the Senator a specific example.

Mr. MELCHER. All right.

Mr. PACKWOOD. There is a company in Oregon called Cascade Corp. that makes hydraulic lift trucks and sells them to Clark, sells them to Japanese companies, sells them all over the world. They have at least, I will say, half a dozen or perhaps more manufacturing facilities around the world. They do not bring the parts back to the United States that they manufacture, and many of the subparts are made in the United States and go to their plants, but they are there to serve German lift trucks, Japanese lift trucks, Australian lift trucks. The Cascade Corp. repatriates from time to time profits back, but, on the other hand, it keeps profits overseas as it expands its plants, adds new employment, and brings more parts over.

Under the Senator's amendment, would the Cascade Corp. be required to pay taxes on the profits it is using overseas to build up its business even if it has not brought the profits back to the United States?

□ 2202

Mr. MELCHER. Only if they were subject to a minimum tax; but if they were subject to a minimum tax, it would be required under the amendment to list this as one of the preferences.

Mr. PACKWOOD. I understand that. But we require in our bill that when they bring it back, it is subject to the minimum tax.

The Senator from Montana has been involved in this more recently than I have. It is my understanding that even to date, with most American companies that decide to go overseas, they have to borrow to have capital overseas, to build plants; and their principal interest in being overseas is to penetrate the foreign markets.

(Mrs KASSEBAUM assumed the chair.)

Mr. MELCHER. Let me add this comment: The company the Senator is describing may be entirely an overseas company that does not sell its product here, but there is a whole host of companies that sell abroad—Zenith, for example, with plants in Mexico or Southeast Asia.

Mr. PACKWOOD. The company I am talking about is headquartered in Portland, OR, and operates all over the world and does not bring its parts back here. It sells them overseas.

Take anolther example—Techtronics, one of Oregon's larger employers. They have a lot of joint venture arrangements with companies overseas, where they are in an overseas market. They had a heavy penetration when they first started out years ago in oscilloscopes. They have branched off in hundreds of other electronics. But they are not manufacturing overseas for the purpose of coming back to the American market.

Both Techtronics and Cascade Corp. a decade ago very clearly proved that if they lost the deferral on foreign-source income, they would have to close their foreign operations. If they could not defer it, if they could not use it to build up their companies, if they had to pay a tax on it right then, they could not operate overseas, especially in competition with other companies from other countries which not only are allowed to defer foreign-source income, but also pay no tax on it when they repatriate it.

Is that still basically the tax situation throughout the world vis-a-vis these multinational corporations and their deferred income?

Mr. MELCHER. I respond this way: I cannot recite what corporations from abroad, foreign corporations that invest here—what their tax obligation is in their home country. I do not know. But I can state that his understanding of what the situation is for the two companies he has mentioned is correct. However, it should be pointed out that domestic companies in the United States may not defer their income. They must pay it in the particular year they make it, and they still stay open and they have competition.

However, the point of the amendment is not to repeal this opportunity for deferring foreign income for the companies that he has mentioned and other multinationals. The point of the amendment, I can tell the distinguished chairman, is only to require, for any year that it is deferred, that it is one of the preference items for the minimum tax, and that is if they pay the minimum tax.

Mr. PACKWOOD. Madam President, in this case, I have to oppose the amendment. This was the situation a decade ago. We have not had hearings on it or studied it since then. The Senator from Montana is unaware of what the tax situation is.

Here is what American companies face, whether Cessna, Techtronics, Cascade Corp., or Caterpillar: They go overseas to compete, they put up plants, and they are competing with identical types of companies from Germany, Great Britain, Japan.

At least a decade ago, all those foreign countries not only allowed their companies to keep their profits overseas to build up the business, which helped the native country that the business came from, but in most cases, this same company did not have to pay taxes when they repatriated their profits. Most countries felt it so critical to get their companies involved in the market overseas that they gave this advantage to the company to do it.

The Senator's amendment has the effect of taxing income before it is even brought home to the United States. Under this amendment, Caterpillar or Techtronics or Cascade will not be able to compete with another foreign company, if that other company has the advantage of deferring its income, and perhaps never paying a tax on it. Most of these American companies that are overseas are what we call net export earners for the United States. They sell overseas and repatriate profits. They do not keep the profits overseas forever. They cannot. The stockholders get very angry, because you cannot pay dividends on them until you bring them back.

So not only are they net earners for the United States—they have to be in the market—they are net dollar earners for the United States just on the sheer profits they make overseas. But, second, they are a net export earner because of the U.S. parts and U.S. products that they ship from the United States to the factories overseas.

So, much as I sympathize with what the Senator from Montana wants to do, and much as I sympathize with the plight he is talking about in terms of capital gains for farmers, although we have eliminated capital gains for everyone else in this bill, I am reluctant to start down this path on a subject that is of critical importance to that portion of American industry that is involved in overseas competition.

Considering the fact that we have not discussed this on the floor of the Senate for a decade and we have not had hearings in the Finance Committee for 4 years and do not know at the moment what the status is of the foreign tax situation in other countries with respect to their national companies, I will, at an appropriate time, move to table this amendment. But I will not do so until the Senator finishes.

Mr. MELCHER. Madam President, I appreciate what the distinguished chairman of the committee has stated, that he does not recall this coming up in the last 10 years. But I must remind the distinguished chairman that the foreign tax rules and the tax bills passed in 1982 and in 1984 were tightened up because of abuse.

What we are addressing here is not so much abuse. What we are addressing here is, simply, how is a minimum tax going to work? It is one of the best features in this tax bill. There are some very basic flaws in the bill as it is presented, but this is the minumum tax on corporations that are profitable. It is one of the best features of the bill.

It simply says that there will be a 20-percent tax. If you make some money, you are going to pay a 20-percent tax. That is not unreasonable, because if they did not use a minimun tax and presumably did not have too many writeoffs, they would pay 33 percent. You will tax individuals making $40,000 at 27 percent.

So if the minimum tax on corporations is to be 20 percent on the profits they make, it seems to me that it is only wise and necessary to apply this type of application of a consideration, of a reporting.

□ 2230

If the multinational company wants to defer profits, all right, they ought to be able to continue to defer them.

The tax preference items that are in the bill are for real property, No. 1, the excess of accelerated over straight line depreciation; No. 2, for certified pollution facilities; No. 3, in the case of certain financial institutions their excess bad debt deductions over the amount of those deductions computed on the basis of actual experience; No. 4, percent depletion to the extent of adjusted for the property; and No. 5, 1846 of the corporation's net capital gain.

This would simply be No. 6, add if you want to leave your profits overseas it becomes one of those preference items.

Now, that to me seems to make the 20-percent minimum tax equitable on this particular point for multinationals.

On the question of have we discouraged Caterpillar or Zenith or any of the rest of them, two companies in Oregon that the distinguished chairman mentioned, I do not think so. I do not think so.

We have just stated what the minimum tax would be. We still have preference. They can defer the profit and they can have them return home at the rate of 33 percent, which is, after all, 13 percent less than the 46 percent now in the code.

But they must report it on the minimum, and if they use the minimum tax, it must be one of the preference items. That is fair enough. That is equity.

Treatment to make the minimum tax equitable and fair and workable for multinationals does brings in more revenue. What that revenue would do would bring some equity and fariness to our agricultural people and to woodlot operators.

Now, is this such a great bill that we do not want to extend equity and fairness when we can on both sides of the amendment?

I would hope that the amendment can be approved.

I shudder, I fear the motion of the distinguished chairman when he says the motion will be to table. But I think it would be a shortsighted view for the rest of us here to vote with the chairman in this case.

The amendment is actually a wash. It is good from both points. It will make the minimum tax on profitable corporations more equitable and fair, more responsible. We can balance with the rest of the corporations that operate here in the United States and pay their tax at 33 percent. It will do something about the windfall that is built in, inherent in the Senate bill, simply by reducing the rates. After all, when you reduce the rates from 46 to 33 percent, that is a windfall if you have been deferring, as you may, and you may continue to do so under the bill, deferring your profits, leaving them abroad, bringing them back when it is advantageous.

Now, I am quite familiar with the situation that many corporations cannot defer. They do not have the choice because they need the cashflow and in those instances they probably are not real highly profitable corporations that are operating abroad.

But there are very highly profitable U.S. corporations operating abroad for reasons other than what is in the best interests of the United States.

A great number of people have lost their jobs when a corporation moves abroad to take advantage of some tax gain over there and perhaps some cheaper labor, not to move closer to the market but to take advantage of those two cost items, cheaper taxes, cheaper labor.

That hurts the economy of the United States. If they are a profitable corporation and if that is what they do, that is their right. I lament the fact that they do move out of the United States, but I am not critical of them for making a business judgment and deciding on their own what they want to do.

What I seek to do in the amendment is only leaving their options on the tax deferral, but simply say that if you do leave it over there report it as a preference item as part of the minimum.

They can still take their option then whether they want to use the minimum tax or pay the higher rate of 33 percent, which is a feature in the Senate tax bill.

Let me just add one further comment. In dealing with the people who are benefited by the other side of the amendment, true, the capital gains is not left for anybody else. That is true. That is the way the bill is. But these are two special items out in rural America. These are two special groups in rural America, the basic industry of agriculture, the very backbone of the economy, and they have been suffering. Those people who own the trees, that operate these woodlots are also suffering because the forest products industry simply has not been doing too well. This year has been a little bit better. We hope it will last throughout the whole year. They have been walking on a tightrope.

If capital gains is removed, it hurts both groups. I do not believe it is worth holding up or causing that harm to these two groups of industrious Americans, not assisting them, making tax policy that is harmful for them when we can adjust very simply by improving the features of the minimum tax that now is as I have earlier stated one of the better parts of the tax bill.

Mr. CRANSTON. Mr. President, I support the amendment of Senator MELCHER to provide a 30-percent exclusion of capital gains for proceeds from the sale of farms and timber from small timber lots.

This is appropriate treatment for farmers and small timber lot owners.

They realize gains infrequently. The value of their land and timber is hit by inflation and major economic upheavals totally outside their control.

Favorable long-term capital gains tax rates for these transactions will greatly help a very hard-pressed section of our economy. They depended upon capital gains treatment in the past and fairness says it should be continued.

I urge adoption of the amendment.

Mr. PACKWOOD. Madam President, I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 2240

Mr. PACKWOOD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Madam President, I ask unanimous consent to temporarily lay aside the pending Melcher amendment for no more than 10 minutes so that we might consider an amendment to be offered by the Senator from Kansas and the Senator from Oklahoma, Senator KASSEBAUM and Senator BOREN, and at the end of the consideration of that amendment, or of the 10-minute period, whichever comes sooner, we return to the tabling motion existing on the Melcher amendment and that it be in order to put in another quorum call, if necessary.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

(Mr. RUDMAN assumed the Chair.)

Mr. BYRD. Mr. President, does the Senator from Oklahoma seek the floor?

Mr. BOREN. Mr. President, I think the Senator from Kansas is preparing to send the amendment forward on behalf of herself and the Senator from Oklahoma.

Mr. BYRD. Mr. President, will the Senator from Kansas yield just 20 seconds to me?

Mrs. KASSEBAUM. I am happy to yield to the Democratic leader.

Mr. BYRD. I thank the distinguished Senator.

I just discussed this with the respective cloakrooms and they intend to inform Senators that there will be another rollcall vote. That will occur shortly.

I ask unanimous consent that the time I consumed not be taken out of the Senator's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2102

(Purpose: To change the effective date relating to repeal of expenditures by farmers for clearing land, to strike out the debt to equity limitation with respect to discharge of qualified farm indebtedness, and to change the effective date of the amendments relating to discharge of farm indebtedness)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself, Mr. BOREN, Mr. DOLE, Mr. ABDNOR, Mr. NICKLES, Mr. GRASSLEY, Mr. ZORINSKY, Mr. SYMMS, Mr. DURENBERGER, and Mr. BOSCHWITZ, proposes an amendment numbered 2102.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 1713, strike out lines 15 through 17 and insert in lieu thereof the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

On page 1722, strike out line 8 and insert in lieu thereof "or business, and".

On page 1722, line 13, strike out the comma and "and" and insert in lieu thereof a period.

On page 1722, strike out lines 14 through 16.

On page 1723, strike out lines 12 through 14 and insert in lieu thereof the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness occurring after April 9, 1986.

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. President, this is a simple amendment which I believe is noncontroversial. The Finance Committee bill recognized the unfairness of current tax law which encourages America's farmers to file for bankruptcy rather than renegotiating their debt. A restructured debt would leave the farmer liable for income taxes under the cancellation of indebtedness income provisions of section 108 of the Internal Revenue Code.

When a debt is forgiven, tax liability is created. Most businesses avoid this liability by making an election under the Tax Code to reduce the basis of their depreciable assets. Farmers, however, are precluded from making such an election because their primary asset, farm land, is nondepreciable. In short, the present Tax Code provision has a discriminatory impact on farmers in relation to other businesses.

The impact of this unequal treatment is significant. Because of the potential tax liability, a well-advised farmer with cash flow problems will consider filing for bankruptcy protection instead of seeking a restructured debt. The Finance Committee recognized that this was not good public policy. We should encourage renegotiation of debt and we should discourage bankruptcy filings. The committee bill attempts to do this by agreeing that qualified farm indebtedness which is forgiven should not be included in the farmer's gross income so long as the farmer is willing to write down the basis of his taxable assets. The committee language, however, limits this provision to those farmers who are have a debt-to-asset ratio of at least 7 to 3.

My amendment would strike this limitation. Mr. President, it does not make sense to limit this tax fairness provision to farmers who are already 70 percent leveraged. To do so would undermine the very goal we are seeking to reach—to keep farmers on the farm and out of the bankruptcy court. Farmers with a cash-flow problem should not be judged, for tax purposes, on a debt-to-equity balance sheet basis. Qualified farmers who seek to renegotiate their debt and who are willing to write down the basis in all taxable assets should be able to use this tax provision.

Mr. President, there is broad agreement on the need for the committee provisions and this amendment. I urge its approval.

Mr. ABDNOR. Mr. President, I am happy to join my distinguished colleagues Senators KASSEBAUM and BOREN, in cosponsoring legislation which addresses a serious discrepancy in the Tax Code.

Mr. President, we are all well aware of the many problems facing this country's farmers and ranchers. In many cases, these problems stem from circumstances which are beyond their control. The amendment we are introducing today deals with a provision in the Tax Code over which Congress does have control.

This is an issue which has been brought to my attention, not only by farmers and ranchers, but also by a host of tax accountants and lawyers in South Dakota who handle farm and ranch clients.

The need for this legislation is more apparent now than ever. Foreclosures and bankruptcies are becoming increasingly commonplace in the farm sector. And the ripple effect is far reaching. Small communities and the entire agricultural economy are suffering immensely as a result of depressed agricultural eanings.

Mr. President, this amendment attempts to improve agricultural earnings by rectifying a glaring shortcoming in the Bankruptcy Code as it affects farmers and ranchers faced with bankruptcy. It gives farmers and ranchers an incentive to do the honorable thing and avoid bankruptcy without fear of adverse tax consequences.

In addition, in the event of a negative cash-flow but positive balance sheet, it gives both farm borrowers and lenders an incentive to develop a work out plan for the borrower which will allow him to cash-flow.

The discrepancy is the result of a peculiar inconsistency between the cash flow insolvency test of the Bankruptcy Code and the balance sheet insolvency test of the Internal Revenue Code.

Currently, a borrower may be technically insolvent under the Bankrupt-

cy Code and eligible for bankruptcy by virtue of his inability to meet current liabilities. However, he may have a solid balance sheet, have considerable net worth, and therefore, be solvent under the Internal Revenue Code.

This is where the discrepancy alluded to earlier comes into play. Because the Internal Revenue Code taxes any cancellation of indebtedness as long as the borrower has a positive balance sheet, the borrower is encouraged to take bankruptcy before he normally would under the Internal Revenue Code insolvency test.

The tragedy is that he and his lender have no incentive to restructure debt when doing so would intensify his cash-flow problem by giving him a immediate tax liability. The only way the borrower may escape taxation on cancellation of indebtedness is to take bankruptcy.

Mr. President, I commend my colleagues on the Finance Committee for their work in correcting this problem. This legislation is a cost-effective method of assisting farmers, ranchers, and lenders in developing meaningful debt work-out plans.

THE TAX REFORM AMENDMENT TO PROVIDE TAX RELIEF FOR FARMERS WHO RESTRUCTURE THEIR DEBT

Mr. ZORINSKY. Mr. President, I am pleased to join my colleagues, Senators KASSEBAUM and BOREN, in offering this amendment which allows farmers to restructure their debt without dire tax consequences. The amendment removes a provision of the committee bill which would have severely limited tax relief for farmers whose debt is forgiven by a lender.

Under current law, if a farmer and his lender work out a plan whereby the lender writes off a portion of the farmer's debt, the portion that is written off is treated as income to the farmer. This can create very large tax liabilities precisely at the time when the farmer's cash-flow is extremely poor.

Two exceptions to this law allow a taxpayer to avoid incurring a tax liability from the discharge of indebtedness. If a farmer is insolvent, or if the discharge is part of a plan devised through bankruptcy proceedings, then no tax liability will result. Unfortunately, most farmers don't meet the insolvency test despite the fact that they may have little or no cash. This is because their land counts as an asset in determining insolvency. Other businesses can discount the value of their assets when they want to be declared insolvent. However, land cannot be discounted and farmers, therefore, cannot meet the insolvency test.

Thus, if a lender and a farmer wants to restructure the farmer's debt, only bankruptcy remains as a protection from the taxman. A well-advised farmer with cash-flow problems should consider filing for bankruptcy before seeking to restructure his debt. Some alternative! Filing for bankruptcy is expensive and often results in the farmer losing his farm. Thus, the Tax Code had the perverse effect of preventing farmers from restructuring their debt so that they can regroup and continue farming.

This problem has hampered FmHA programs aimed at restructuring the debt. During fiscal year 1985, the FmHA established the Debt-Adjustment Program [DAP], whereby FmHA provided loan guarantees and a 2-percent interest write-down for lenders who agreed to write-down 2 percent of the interest or 30 percent of the principal for their farm borrowers. Only a handful of people were able to utilize the principal write-down for two reasons. First, regulatory policy penalized banks for writing down principal. Second, tax consequences for the borrower were too steep. I have worked with the Senate Banking Committee and the bank regulators to ease the first problem. I believe recent action taken by those regulatory agencies will help. However, the tax consequences remain a problem.

The Finance Committee recognized this problem and included a provision in the tax reform bill to help farmers in this situation. Unfortunately, the committee provision does not target the relief where it will help most. The committee language limits the relief to those farmers who have a debt-to-asset ratio of at least 7 to 3. It is very unlikely that farmers in this category will survive financially even with this tax relief. Thus, the committee's provision excludes the very farmers that have the greatest chance of benefiting from the debt restructuring.

Our amendment corrects the committee bill by removing the debt-to-asset ratio test. Thus, farmers with the greatest chance of surviving financially will be able to restructure their debt. Farmers with a cash-flow problem should not be judged, for tax purposes, on a debt-to-equity balance sheet basis. Qualified farmers who seek to renegotiate their debt will now be able to enter negotiations with lenders.

Mr. President, the farm economy is in a shambles. Our policies must take a long-term view of if they are to be of any help. This amendment takes the long-term view by allowing farmers to weather a temporary financial crunch so that they might farm another day. It is a worthy amendment and I urge the support of my colleagues.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to add Senator EXON as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. I yield to Senator BOREN.

Before I do, I would just like to say that Senator DURENBERGER, Senator GRASSLEY, Senator DOLE, and others on the Finance Committee, worked very hard on this provision. I certainly appreciate the help of Senator BOREN, and others, as well, in trying to redefine it in a way that I think makes it much more constructive.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I wish to thank my colleague from Kansas for the excellent presentation which she has just made and for her leadership on this particular amendment. When we had this matter before the Finance Committee, the Senator from Kansas suggested this change, and now she is completing the suggestion by a fully workable proposal.

All of us in this body know about the plight of the American farm. We have had an increase in the bankruptcy rate and the foreclosure rate among the family farms in the southern plains region of 400 percent in just the last 5 years. Fully 70 percent of the family farmers in that region of the country are this year experiencing negative cash-flow.

Mr. President, this has caused much more land to be forced out of the market as the rate of foreclosure is mounting, and it is collapsing land values. It has put us in a vicious cycle.

Over the past 4 years in parts of the Great Plains States, it has not been unusual for land values to plunge by as much as 60 percent. This means that the assets from the balance sheets are becoming more and more inadequate. Bank examiners come in and require additional collateral with declining land values. Farmers cannot come up with additional collateral, and we have another round of foreclosures, putting more land on the market and further driving down land values. Obviously, this is a formula for disaster in the agriculture sector of this country if we do not do something to turn it around.

We tried, in a bipartisan effort, to get something done to restructure the agriculture debt in this country to save those farmers who had a chance to make it. In the course of coming up with a program, we have provided a Farm Home Administration program that the banks can participate in by writing down as much as 30 percent of the value of the principal of a loan in order to restructure that loan and give the farmer a chance to make it.

As the Senator from Kansas has just explained, ironically, here we have a farmer who is totally broke, who has a negative cash-flow. The local bank decides to participate with the Government in this program which we have created to write down, let us say, 30 percent of the principal of that loan,

and now, ironically, under IRS regulations, that 30 percent of the principal which is written off to save the farmer from insolvency now becomes taxable income to the farmer under the rules and regulations that we have.

What this amendment will do is simply allow the farmer to accept the restructuring to keep from going bankrupt, to keep from being another victim of foreclosure without having to pay a tax when he is least likely to have real income and no cash-flow at all. It is being paid for by providing that we no longer give benefits to those who are spending money to break out highly erodible land. This is sound conservation policy. The amendment makes sense both from the point of view of the farmer avoiding insolvency and from the point of view of encouraging sound conservation policy.

I wish to commend again the Senator from Kansas for her leadership. I see the Senator from Minnesota, who serves with us on the Finance Committee. He has been very active on this measure, as well.

I also ask unanimous consent that the Senator from Montana [Mr. MELCHER] be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise to join my colleagues in cosponsoring this amendment. I have been on the floor a number of times in the last 10 days talking about the plight of the American farmer. We all know, I believe, that one out of six medium-sized farmers and one out of five large farmers in America today are either in bankruptcy or courting bankruptcy with debt-to-asset ratios in excess of 70 percent. It is critically important to provide strong encouragement for lenders in America to restructure farm debt.

□ 2250

Section 706 of the bill as originally drafted would severely diminish the Finance Committee's purpose in adopting the amendment because the provision would not become effective until the date of the bill's enactment. As all of you know the crisis in rural America is not going to start in August or September. It is happening today. Many families cannot wait another day to restructure their debt let alone delay such action for months until we adopt tax reform legislation.

Mr. President, the amendment before us would make section 706 of the Finance Committee bill retroactive to April 9, the day that the committee adopted this amendment. By moving the date back we will be effectuating the committee's purpose in adopting this provision. And as my distinguished colleague from Missouri, Senator DANFORTH, noted during the discussion in the Finance Committee, it would be an absurd situation if farmers who had their indebtedness written down because they could not pay, would be taxed in the process of restructing their debt.

I hope, Mr. President, and I say to my colleagues that in conference we can do even better, we can take this back to January 1, and provide relief for even more of the farmers who were in the process of restructuring their debt prior to making decisions about planting.

Meanwhile, I compliment my colleague from Kansas for her initiative, my colleague from Oklahoma, the distinguished majority leader and the others who have joined in making this a reality.

The PRESIDING OFFICER. Is there further debate?

Mr. FORD. Mr. President, I ask the sponsors of the bill if I may be added as a cosponsor of this amendment and congratulate them for this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 2102) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I believe there is a motion pending to table.

AMENDMENT NO. 2101

The PRESIDING OFFICER. The pending business is the motion of the Senator from Oregon [Mr. PACKWOOD] to lay on the table the amendment of the Senator from Montana [Mr. MELCHER].

The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Montana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Florida [Mrs. HAWKINS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER (Mr. TRIBLE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—63

Armstrong	Hatch	Nunn
Bentsen	Hatfield	Packwood
Biden	Hecht	Pell
Boschwitz	Heinz	Proxmire
Bradley	Helms	Quayle
Chafee	Hollings	Riegle
Chiles	Humphrey	Rockefeller
Cochran	Kassebaum	Roth
D'Amato	Kennedy	Rudman
Danforth	Kerry	Simon
Dixon	Lautenberg	Simpson
Dole	Laxalt	Specter
Domenici	Long	Stafford
Durenberger	Lugar	Stevens
Eagleton	Mathias	Symms
East	Mattingly	Thurmond
Garn	McClure	Trible
Glenn	McConnell	Wallop
Gramm	Metzenbaum	Warner
Grassley	Moynihan	Weicker
Hart	Murkowski	Wilson

NAYS—32

Abdnor	Dodd	Levin
Andrews	Evans	Matsunaga
Baucus	Exon	Melcher
Boren	Ford	Mitchell
Bumpers	Gore	Nickles
Burdick	Gorton	Pressler
Byrd	Harkin	Pryor
Cohen	Heflin	Sarbanes
Cranston	Inouye	Sasser
DeConcini	Kasten	Zorinsky
Denton	Leahy	

NOT VOTING—5

Bingaman	Hawkins	Stennis
Goldwater	Johnston	

So the motion to lay on the table amendment No. 2101 was agreed to.

□ 2310

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader.

Mr. BYRD. Mr. President, the Senate is not in order. The majority leader is about to propound what I think will be a very important unanimous-consent request. I hope all Senators will listen so we may know exactly what he will say.

The PRESIDING OFFICER. The Senate will be in order.

The distinguished majority leader.

Mr. DOLE. Mr. President, I am not quite prepared to propound that request, but I thought I would indicate to Members that we are not going to stay much longer this evening. As I understand it, there will be one additional amendment either laid down or at least discussed. Maybe in the meantime, I could be going over the Republican list and the Democratic list of the distinguished minority leader.

I must say the number of amendments seems to grow rapidly. At 8 o'clock there were 20-some. Now we are up to 50-some.

On the other hand, even though there is a large number, I have been working on this side and many have agreed to 10 minutes, 20 minutes, 2 minutes. So they are not going to take a great deal of time unless there are rollcall votes on each.

On the Democratic side, there are—we each have about 30, I guess. It is hopeful we can reduce the time on some—90 minutes, 2 hours, 40 minutes, 2 hours, 1 hour. I hope most of these can be disposed of with 15 minutes on a side.

I think what might be the best way to follow this, if there is another amendment about to be laid down, is to give us a few minutes just to discuss—we may want to wait until morning to propound this request. It may take that long to put it all together. If we can reach some agreement maybe we can do it this evening.

I have had an indication from both managers of the bill that they do not want to proceed much longer this evening. I would guess tomorrow morning, we would come in—there are 10 special orders. We would like to be on the bill by 10, there are 10 special orders; maybe we can come in at 8:45.

I would say that tomorrow, if those who have special orders are not here on time, we are not going to extend the time beyond 10 o'clock.

□ 2320

This morning we did not get on the bill until about an hour late because many who had special orders were justifiably tired and they did not make it quite on time. But I think in fairness to the managers, we would like to be on the bill itself by 10 tomorrow, so hopefully those who have special orders can try to be here on time, including the leader. This leader was late this morning.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. LONG. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. BYRD. Mr. President, I urge that we do everything in our power to get this agreement tonight so that all Senators will understand what the program is for tomorrow, what will happen on Friday, if anything, and what will happen on Monday, and when we will have a final vote on this bill. I have spent hours on this matter. The majority leader has spent hours on this matter. Other Senators have worked with me. Other Senators have worked with the majority leader. I would urge that we not wait until morning to get this, if we can get it. Senators are here. Most Senators on my side of the aisle know what is in the agreement. I hope we would go forward after a short time which the majority leader has suggested and try to get the agreement tonight. I make that request most respectfully.

Mr. DOLE. I certainly hope that can be done. But I have been notified by at least one Member on this side we are not going to get an agreement. So it depends on what happens there. I would be happy to yield to the distinguished Senator.

Mr. LONG. Mr. President, I was going to suggest that it might help if the distinguished leader would simply call off the names of the Senators who had in mind offering amendments. Those who are here would then know whether they are on the list, and if they are, they can go home this evening knowing they will still be protected by the time they get back tomorrow.

Mr. DOLE. That is a good suggestion. I can go through it quickly.

Mr. LONG. Just tell what the amendment is going to be, and name the Senators.

Mr. DOLE. Let us start on the Republican side: HEINZ/BOREN, modified depreciation preference for the minimum tax offset; GRASSLEY, 10 minutes, subdividend; GRASSLEY, 20 minutes, require that employees continue to earn pension credits if they work past age 65; DOLE, allow business expense deduction for seriously handicapped employees; EVANS, 10 minutes, definition of gas guzzler; ARMSTRONG, miscellaneous regulated investment companies; EVANS/GRAMM, sales tax—deduct percent of excess of sales taxes.

Mr. BYRD. Mr. President, may we have order in the Senate? I am trying to keep up with the majority leader with the time provisions.

The PRESIDING OFFICER. Will the majority leader suspend for a moment. The Senate is not in order. The Democratic leader cannot hear. Other Senators also wish to hear the majority leader. We will not proceed until the Senate is in order.

Mr. DOLE. I thank the Presiding Officer.

MATTINGLY/STEVENS, 5 year moratorium on changes in the tax law; GRAMM, no use of tax revenues for deficit reduction; EVANS, extend time period for study of Medicaid Aid to Families with Dependent Children; HUMPHREY, change order of persons required to report real estate transaction; WILSON, unitary taxes; DOLE, apply inhabitant rule for Virgin Islands on a prospective basis only. I do not even know what that does; CHAFEE, disallow tax benefits on barrier island; HATCH, exempt foreign insurance reserves from the minimum tax; STEVENS, exempt native Alaskans from tax on reindeer income; STEVENS, 1984 Act technical correction; SYMMS, 20 minutes, restore blender fuel tax credit for Ethanol; SYMMS, 20 minutes, lower the temperature for geothermal properties qualifying for the energy tax credit; DURENBERGER, allow Great Northern Iron Ore Trust to be taxed as a trust; SYMMS, allow charitable deduction for sports tickets; D'AMATO has withdrawn his amendment.

Mr. SYMMS. Will the Senator yield?

Mr. DOLE. Yes.

Mr. SYMMS. On that last amendment, on the Symms amendment, the correct way to write that would be to allow for charitable deductions for 501(c) college athletic booster clubs. It is not actually a ticket.

Mr. DOLE. OK. D'AMATO, 20 minutes, IRA amendment: MCCLURE/SYMMS, 20 minutes to permit IRA's to invest in gold and silver coins; COCHRAN, allow institutional mutual funds to charge larger investors at more favorable rates than smaller investors; STEVENS/DIXON on ESOP amendment; DOMENICI, five amendments not identified; STEVENS, nine amendments. I think some of those have been referred to but there may be additional; ARMSTRONG, indexing capital gains; DURENBERGER, write-down farm loans. That may have been covered in the amendment just adopted. PACKWOOD and LONG, a technical amendment; MITCHELL, low-income housing; DODD, 90 minutes, permit life insurance companies to consolidate fully their tax returns—

Mr. DODD. If the leader will yield, that can be 15 minutes.

Mr. DOLE. Fifteen on a side?

Mr. DODD. Fifteen altogether.

Mr. DOLE. HARKIN, 1 hour, permit persons over 55 who actively engage in farming or another business to sell such farm or business; LEVIN, 40 minutes relating to medical expenses and consumer interest deduction, also 20 minutes on question of final passage; SASSER, 30 minutes, apply Regulatory Flexibility Act to both interpretive and legislative rules of the IRS; BAUCUS, 2 hours, farmer carryback investment tax credit; DECONCINI, 2 hours, raise the lower breakpoints; BUMPERS, 30 minutes to provide checkoff for organ transplants. This is, I think, a duplicate: DIXON/STEVENS on ESOP's. "STEVENS to offer," it says; GLENN, 1 hour relating to retroactivity provisions; LAUTENBERG, 40 minutes relating to radon mitigation.

Mr. LAUTENBERG. Will the majority leader yield? I think I can dispose of my amendment in less than 15 minutes.

Mr. DOLE. I will just put 20. Any of the others who can do it in less time, it will be helpful. MATSUNAGA, 30 minutes, tax treatment of medical malpractice self insurance pools, 30 minutes to exclude income from convention and trade show activities, and 1 hour relative to life insurance; ZORINSKY, 45 minutes, repeal cash accounting for farmer corporations with revenues in excess of $100 million; FORD, 30 minutes, capitalization of utilities' interest expense; HEFLIN, tax related; MELCHER relating to capital gains. That is the one I think we just disposed of, is that correct?

Mr. MELCHER. If the majority leader will yield, that one has been disposed of. I am down there for one more and 30 minutes will be sufficient.

Mr. DOLE. OK.

Mr. MELCHER. Thirty minutes equally divided.

Mr. DOLE. Right. CHILES, sense-of-the-Senate or other type of amendment relating to budgetary effects of the tax bill; Senator LONG, vote on ESOP issue; MOYNIHAN relating to foreign area section 902/312; METZENBAUM, four amendments not identified; PRYOR, modify "installment sales"; KASSEBAUM/BOREN, restructuring farm loans. That is the one just adopted. And RIEGLE, sense-of-the-Senate.

Mr. LEAHY addressed the Chair.

Mr. DECONCINI. Will the majority leader yield?

Mr. DOLE. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the majority leader for yielding to me to add one more, if the leader will, to that list, a Leahy amendment for satellite investment tax credit. If I may have the leader's attention.

Mr. DOLE. Yes.

Mr. LEAHY. If we could add a Leahy amendment for satellite tax credit, and I would be happy to do it in 20 minutes.

Mr. DOLE. Twenty minutes.

Mr. DECONCINI. Will the majority leader yield?

Mr. WARNER addressed the Chair.

Mr. DOLE. That has been added.

Mr. LEAHY. I thank the Senator.

Mr. DOLE. I yield. The Senator from Utah I think had an amendment.

Mr. GARN. Yes, Mr. Leader. It would be an investment tax credit on copper, 20 minutes total equally divided.

Mr. DECONCINI. Will the majority leader yield?

Mr. DOLE. The Senator from Arizona.

Mr. DECONCINI. Mr. Leader, I need 10 minutes on two amendments: one, installment sales equally divided, and one on technical research corporation equally divided.

Mr. DOLE. Is that in addition?

Mr. DECONCINI. That is in addition, yes.

Mr. DOLE. To the one on which the Senator had 2 hours?

Mr. DECONCINI. That is right.

Mr. DOLE. Does the Senator need 2 hours for that?

Mr. DECONCINI. Yes.

Mr. WARNER. Yes.

Mr. WARNER addressed the Chair.

Mr. FORD. Will the majority leader yield?

Mr. DOLE. What was the third amendment?

Mr. FORD. Will the majority leader yield?

Mr. DOLE. Yes, to the Senator from Kentucky.

Mr. FORD. Get me down for 30 minutes for commitment. I think that might be handled by a colloquy and my 30 minutes will not be required. I just want to keep it on there in case. But I think it would be very easy for us to develop a colloquy and not use that 30 minutes.

□ 2330

Mr. DOLE. I thank the Senator from Kentucky.

Mr. WARNER. Mr. President, I have an amendment on communications satellite, occasioned by the shuttle disaster; 15 minutes to a side.

Mr. DOLE. Thirty minutes equally divided, communications satellite.

Mr. MURKOWSKI. I have three amendments, one affecting——

Mr. BYRD. Mr. President, we cannot hear what the Senator is saying. We can hear, but we cannot understand.

The PRESIDING OFFICER. The Democratic leader is correct. The Senate is not in order. Will Senators who are talking please suspend their conversations?

Mr. MURKOWSKI. Mr. President, I have three amendments that I would like to add to the list. I have given them to the clerk. They are not on the list. They have been added within the last 15 minutes.

Mr. BYRD. Mr. President, I wonder if I might make a suggestion to the distinguished majority leader.

Senators may not know that the amendments we are identifying and trying to get time agreements on are nontransitional amendments. As to the transitional amendments, I believe that the majorty leader would have some explanation of what is expected on those.

Mr. DECONCINI. Mr. President, will the majority leader yield on that point?

Mr. DOLE. I yield to the Senator.

Mr. DECONCINI. The ones I mentioned are transitional amendments. Those two I just put down for 10 minutes each are transitional, so far as I am concerned—only if we do not take up transitional amendments en bloc.

Mr. DOLE. The distinguished chairman of the committee will be here in a moment. I would like him to comment on the transitional rule. He and Senator LONG, I think, are in agreement on that. But I defer to the manager of the bill. The amendments I would like to have now are nontransitional in nature.

Mr. DOMENICI. The majority leader can change mine and strike three of the Domenici amendments. There will only be two; I will take 15 minute on each. There are five listed, and there will only be two, 15 minutes each—one on potash and one on equalizing the revenues year over year, as the bill currently has the ups and downs with taxes. I will join Senator GRAMM in that.

Mr. CRANSTON. I have two achievements, 5 minutes each. One is on computer software royalty income, one on scientific instrument depreciation.

Mr. DOLE. Does the Senator from Hawaii have an additional amendment?

Mr. MATSUNAGA. I will not be offering the third amendment mentioned. That will save an hour. On the other two amendments, 10 minutes each would be sufficient.

Mr. DOLE. So the third amendment would be deleted. There would be 10 minutes equally divided on the others?

Mr. MATSUNAGA. Equally divided.

Mr. METZENBAUM. Mr. President, it seems to me that it would be helpful to us if those who have amendments would have the amendments available sometime in advance of their being called up, so that we will not have to delay the proceedings to find out what the amendment contains. I urge the staff of the majority and the minority to try to facilitate the procedure.

Mr. DOLE. In addition to that, if the Senator from Ohio will be in a position to identify his four amendments—we have four amendments by the Senator from Ohio, and we do not know what they are.

Mr. METZENBAUM. They will be along the lines of amendments I offered heretofore, which would be to eliminate some of the egregious aspects of the transition rules.

Mr. DOLE. Does the Senator from New Jersey have an additional amendment?

Mr. LAUTENBERG. Just the one we discussed earlier.

Mr. McCONNELL. Mr. President, will the majority leader yield?

Mr. DOLE. There will be an additional amendment by the Senator from South Dakota on an airline.

I yield to the Senator from Kentucky.

Mr. McCONNELL. I should like to add two amendments—Brown Foundation and parimutuel wagering.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. STEVENS. There has been some discussion of transitional rules and

transitional provisions. As I understand it, a Senator would have to offer an amendment, if the committee does not intend to include a transitional provision in whatever transitional package the committee intends to offer. Is that correct?

Mr. DOLE. I yield to the chairman to respond.

Mr. PACKWOOD. It was our intention to not offer a transitional package. We will be offering a technical correction package, and anyone can see it ahead of time. We will try to keep it genuinely technical.

The reason why we do not want to accept any more transitional amendments is this: One, almost everything I can conceive of that is transitional is in conference, for a number of reasons. First, many of them are on passive losses. The House has almost no limitation on passive losses, and we have significant limitations.

Another significant issue is the bond provisions. They have an entirely different approach to bonds than we do, and many of our transitions are bond rules. Those are in conference.

Third, there is a difference in time. Their bill was passed 8 months ago, and they have different effective dates. Many have transitions for effective dates.

So there is almost nothing that cannot be subject to conference on transition. Therefore, Senator LONG and I would prefer that you give us the list of transitions, and we will take them to conference and consider them as honestly as possible and argue for as many as we can that have merit. But if they are offered on the floor as transition amendments and defeated on the floor—I say this as to transition amendments, not substantive amendments—then the likelihood of success in conference is small.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the Senator from Alaska.

Mr. STEVENS. I understand that there are 175 transition provisions in the bill now. All of them would also be in conference under the concept that the Senator from Oregon just mentioned. We could delete all those then. Is that right? We could delete all those, so those not in the Finance Committee could go to conference equally with the others.

Mr. PACKWOOD. To explain the situation again: We had, as of yesterday morning, about 146 transitional requests that had been filed after the bill had come to the floor. I do not mean filed before the bill was drafted or before it actually got to the printing clerk. I mean after it got to the floor. And this was yesterday morning.

As best I can tell, another 100 or 200 transitional requests have come in since, and they will be coming in at the rate of 20, 30, 40, or 50 a day, or an hour.

We had many transitional requests from Senators prior to the drafting of the bill. As I recall, there are transitional rules involving 53 Senators in the bill. Some Senators had none, for some reason.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. DECONCINI. What about an amendment that is revenue neutral, that you would not disagree with, that your staff and the Joint Tax Committee would agree is revenue neutral? Would the Senator consider that as a transitional amendment?

□ 2340

Mr. PACKWOOD. It depends whether it is a substantive amendment or not.

Mr. DECONCINI. If it was not a substantive amendment going to rate changes or bracket changes.

Mr. PACKWOOD. Transitional. I think like Senator LONG that maybe we are changing the law and trying to ease the passage where we would roughly change the law, but the Senator from Connecticut has an amendment involving the insurance company consolidation. It is revenue neutral. It is substantive. It is not a transitional rule.

I am not quite sure exactly what category the Senator from Arizona falls in.

Mr. DECONCINI. If I can take a minute, the installment sales.

Mr. PACKWOOD. What?

Mr. DECONCINI. Installment sales change in the bill that would have no revenue impact.

Mr. PACKWOOD. My hunch is installment sales—does it relate to bonds at all?

Mr. DECONCINI. Yes.

Mr. PACKWOOD. That would be a substantive amendment.

Mr. DECONCINI. What about a technical corporation amendment changing from a nonprofit taxable corporation to a nonprofit untaxable corporation so when you make that change there would not be a tax on the change in the two entities that are operated, owned and managed by the same people?

Mr. PACKWOOD. That sounds to me like the Senator is not asking for relief because of the change of law. What he wants is relief from the present law.

Mr. DECONCINI. Fine.

Mr. President, I have two amendments to add back on that are no longer transitional.

Mr. STEVENS. If I could continue my inquiry, I have sent today to the chairman of the committee a request that I received from a company in my State today. To my knowledge there are about four copies of this bill in Alaska. Our people, 4,500 miles away, are still studying this bill.

There seems to be some indication that we should have presented the amendments to the bill before we even knew what it was. We are still studying this bill.

This is the first revenue act since 1954 that changed this part of the code.

If you look at the last part of your report, you will see the committee opted not to delineate for the Senate in accordance with the rules of the Senate the changes in existing law.

That puts the burden on us to determine what are the changes in existing law.

I intend, unless there is some information coming from the committee, to read through each of the transition provisions in the bill—there are 175 of them—to ask the chairman to tell me who offered that section, what is the revenue loss, and what did the person who offered the amendment suggest as a revenue-raising measure to offset that loss.

That is the burden they place on us now as we offer amendments on the floor. There are 175 of them. I am sure the chairman can tell us the answer to every one of those questions. He is a very capable man and has done a great job on this bill. But the burden placed on those of us who seek to protect our States now after we have seen the bill is different from those who tried to protect their States in the committee.

This is the first of these acts since 1954.

My State is going to be heard on the floor of this Senate. I want everyone to understand that we are going to get some answers. For instance, let me read you. It says the project described in this subparagraph is exempted if the project involves production platforms for offshore drilling, oil and gas pipelines to shore, process storage facilities, and a marine terminal, and at least $900 million of the costs of such projects were incurred before September 26, 1985.

You look at that and you think you know it is only Alaska where you have $900 million costs offshore.

I am sure the chairman would tell you that is not in Alaska.

Mr. PACKWOOD. I can give the Senator a list I have given to other Members of transitions that were in the bill, what they cost, and the reasons for them.

Mr. STEVENS. Who offered them and what revenue did they raise to offset them?

Mr. PACKWOOD. There was revenue that was raised to offset them. When the committee put the bill together to make it revenue neutral on everything in the bill, not just transition rules, everything in the bill, whether sales tax deductions or IRA's

or capital gains was all bunched together. We did not look at transitional rules apart and separate. The whole bill was put together and made revenue neutral.

Mr. STEVENS. But the chairman will admit that if I now offer an amendment to protect such a platform of my State, I have to raise revenue; right?

Mr. PACKWOOD. As does anyone else, including myself, who offers any amendment, whether it is transition rule or anything else?

Mr. STEVENS. If you are in the committee, you do not, you lumped it in with the overall revenue-raising measures of the committee. Therefore, there is a double standard on the floor of the Senate. The double standard is we have to raise revenue and you did not if you agreed to it in committee.

Furthermore, I have tried to find out the votes in the committee, Mr. President.

Under the rules of the Senate, any amendment that is sent to the floor of the Senate must record the votes in committee, as I understand it. As I understand it, they have waived that provision in terms of this report. But where are the votes from the committee?

Mr. DECONCINI. Will the Senator from Alaska yield?

Mr. PACKWOOD. I am a little confused.

So the Senator is talking about the votes on sending the bill out?

Mr. STEVENS. I am talking about the votes on what that amendment was for, what the vote was on adding the amendment on adding production platform that pertains to one such platform in the United States when there are many in similar circumstances.

Mr. PACKWOOD. The Senator is aware, I am sure, the Appropriations Committee works the same way. You go through hundreds of amendments in the committee. My hunch is you do not require a vote on everything in the Appropriations Committee. Someone says, "I would like to offer an amendment." You say, "I accept it." You do not find out every vote when nobody asks.

Mr. STEVENS. I find no votes in the Finance Committee. Show me one vote on the bill reported out on amendments in the Finance Committee. Was there one voted out and what was the vote taken in committee?

Mr. PACKWOOD. I do not have the committee list with me tonight.

Mr. STEVENS. There was none reported; were there any?

Mr. PACKWOOD. There were all kinds of votes on this bill.

Mr. STEVENS. Then they should have been reported, Mr. President.

The time has come for us to understand again that it is 22 years since this Code was changed. It should not be done in a hurry. It should not be done without us understanding whether there is some similar concept in our State that needs the protection of these transitional measures.

All I am asking is fairness. That is all I am asking, and I think the Senate should demand no less.

Mr. DOLE. Mr. President, are there any other——

Mr. METZENBAUM. I want to say to the leader I have four amendments that have to do with transition. One of those four may have to do with the provision in the bill pertaining to voluntary disclosure of your tax in order to gain amnesty. We may want to offer an amendment in connection with that that may be one of the four.

Mr. PACKWOOD. Voluntary disclosure is that?

Mr. METZENBAUM. A provision in the bill that provides if you walk in, no matter how you gained the money, whether it was legally or illegally, you walk in and tell the Tax Commissioner that you want to pay your taxes that you immediately gain amnesty as far as the question of taxes are concerned.

Mr. DIXON. That is criminal?

Mr. METZENBAUM. That is correct.

All I am saying, Mr. President, I am not attempting to debate the merits of it, but to say that one of my amendments may deal with that subject.

Mr. DOLE. Does the Senator from Arkansas have an amendment?

Mr. PRYOR. Mr. President, may I ask a question of the chairman of the Finance Committee, the Senator from Oregon?

Mr. DOLE. I yield for that purpose.

Mr. PRYOR. If I could address the simple question: Will the Members of the Senate be able to see a list of the technical corrections before we vote on final passage? If the answer is affirmative, when and how long will it be prior to that vote—2 minutes or 2 days, 2 hours, or what?

Mr. PACKWOOD. The answer is affirmative. It depends on the amendment we adopt. If there are literally technical mistakes as we go along, I promised a number of Members they will have them. I assure you, I am going to hold very tightly to the limit that these are technical. There is not going to be any transition in these amendments and there is not going to be any substantive changes in the technical amendments. They will be designed to correct errors.

I can give you a specific example that will be an error.

There should have been in the bill a transitional rule involving Charleston Boat Basin. We had adopted it. The money is in it. It was there and in the Legislative Counsel's office. They simply dropped it out of the drafting. They sent us a letter saying, yes, it is there, the money was there. That is a technical error.

Mr. PRYOR. I appreciate the chairman.

Now, if I could ask the majority leader one question and then I will sit down—it is late. Is it possible that it looks like we will have now about 75 issues or amendments—is it possible, one, that we might take the special orders of Thursday and move those at the end of the legislative day and start our debate on the tax bill, let us say, at an earlier period when the leaders may decide?

Mr. LEAHY. Eight o'clock.

Mr. PRYOR. Or in fact I might suggest to the leader in 11 minutes it will be no longer today and we might do those in about 11 minutes or so.

Mr. DOLE. It is only about 9 o'clock in California.

Mr. PRYOR. I would think that might be a suggestion we should consider.

Mr. DOLE. We have considered that, I discussed that with the minority leader earlier. We did not want to do it without giving notice to Members on each side that that might be a policy we would adopt. That might be a consideration we could do tomorrow and give us another hour because the amendments are coming pretty fast. We may need that hour.

I want to yield to the distinguished Senator from Louisiana as he might propound a question.

Mr. LONG. I would hope, Mr. President, we would be able to know what amendments are going to be offered. For example, the Senator from Ohio indicates he wants to offer four amendments. I think it would be good if he specify the four he has in mind so those who might want to oppose the amendment will know what they are.

Mr. METZENBAUM. I am still working out with some Members the compromise, so I know where I am.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. LONG. It seems to me we ought to have a unanimous consent so we know what the amendments are.

Mr. DOLE. That is correct. I agree with that.

Let me yield to the Senator from Oklahoma.

Mr. NICKLES. I thank the majority leader.

I think this may be handled basically as a technical, but I am not sure, so on behalf of myself and Senator BUMPERS, we have one dealing with REA, a safe harbor leasing amendment of 5 minutes.

□ 2350

Mr. DOLE. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just discovered that tax amnesty is in this bill. The Senator from Ohio indicated he might offer an amendment to

strike that; but, if he does not, I will. I am not interested in debating it at length, but I am just opposed to tax amnesty and I will offer an amendment to strike it.

Mr. DOLE. We will add that to our list.

Mr. DOMENICI. Will the distinguished majority leader yield?

Mr. DOLE. I am happy to yield to the Senator from New Mexico, the chairman of the Budget Committee.

Mr. DOMENICI. Mr. President, I would like to call to the attention of the Senator from Alaska—could I have your attention?

Mr. STEVENS. You have my undivided attention, I might say.

Mr. DOMENICI. Senator, I want to share with you what I think the situation is with reference to the tax neutrality of one of your amendments, if you have one. You indicated that for you to offer an amendment similar to the one you read that might apply to your State, that you are burdened with finding a revenue offset. I would like to explain to you what I think the rule is and how we are in this situation.

Actually, you do not have to do that.

Mr. STEVENS. Mr. President, let me inquire of the Chair if that is the case. I had inquired and I understood I do.

Mr. DOMENICI. Let me tell you why and let me tell you how you get out from under it. It is just a 303 section of the Budget Act, nothing more and nothing less than that. It says if you bring a tax bill to the floor that raises or lowers revenues in 1987, if you bring it here and there is no budget resolution in place, then, if you change that bill up or down, you need a waiver. It is a 51-vote waiver.

The purpose of it is nothing more and nothing less than for the year 1987 to recognize that the bill itself has already changed the tax base, in this case by $22 billion high in the first year. And we just happened to put into law that if you want to change that, you need a waiver. But the waiver is the same waiver by vote that you would need to pass the amendment. It is 51 votes. It is only for the year 1987. There is no requirement of that type in the outyears.

The distinguished chairman wants us to understand that if we changed the bill from its current tax neutrality, we are raising or lowering the tax base of the revenues for the country. That is a substantive argument. The argument on the waiver applies only to 1987. It is a 51-vote waiver. It has nothing whatsoever to do with how this bill is going to come out when it comes from the House. It is only on that very simple basis that we happened to say in the Budget Act many years ago, not Gramm-Rudman, that if you want to change a tax bill which itself changed the base, you need a waiver if the Senate has granted a waiver for the bill when it came here.

And we did all that. That is it, plain and simple. I do not think it is unfair. If you need $20 million, you ask the Senate to waive it for you and, if they want to waive it, they can waive it. It is the same number of votes that you will need to win your amendment.

Mr. STEVENS. Mr. President, I thank the Senator from New Mexico.

I still make my point that if I were on the committee I would have added my project to this project describing offshore drilling and I would not need a waiver.

Mr. DOLE. The leader has the floor.

I will just say we offered some that were not accepted. I do not want to leave the impression that the managers took every transition rule we recommended to the committee. I do not think it works that way on our committee or any other committee.

We had some—in fact, I can recall a couple that this Senator had that were accepted and then the Senator called me personally and said, "You can't do that."

Mr. STEVENS. Mr. President, I do not suggest that that is the case. I do not suggest that everything that the distinguished majority leader wanted he got, or the Senator from Oregon.

I just suggest that, as I read this, I do not know what project that is. There are 175 such items. I do not know why I could not offer an amendment to add my project and change that on page 1502 to say "two projects that are described in this subparagraph," and add mine, and then find out what the revenue loss is for the two of them.

You know, on this revenue loss thing I have been getting in the last few days, it is not to exceed $5 million or not to exceed $10 million, but I have got to raise that money over the amount. I am sure we talked about that before, both the distinguished majority leader and the chairman of the committee. That puts a burden on us that you all did not have. And I think we need some time to be able to figure out how to do that and survive.

And, with due respect to my friend from New Mexico, I do not want to have to have two votes on my amendment, one to waive it and the other to pass it. But that is the situation, as I understand it, unless I offer an amendment that, within its terms, raises the money.

And the Senator from New Mexico would agree, I guess, if I had an amendment that, on its face, was revenue neutral, I do not have to have a waiver.

Mr. DOMENICI. I would agree, I say to my friend from Alaska, that I do not believe it is necessarily so that you need two votes. If this body wants to grant you a waiver for $5 million, which nobody has asked for around here, on something that is legitimate, and you get the 51 votes, I do not believe they are going to make you have the next vote. They are going to accept it.

Mr. STEVENS. We will wait and see what happens.

But first I want an explanation of the projects that are in the bill. And I say to the majority leader, whenever he is ready, I will start through the bill and we will just find out who put these in there and what do they cost and what is the offsetting revenue. Fair is fair, as far as I am concerned.

Mr. DECONCINI. Will the majority leader yield?

Mr. DOLE. Let me yield first to the distinguished Senator from Oregon.

Mr. PACKWOOD. As I said, I would be happy to sit down with my friend from Alaska and go over the list that is in there and explain why they were put in and what they cost. Several other Senators asked for that, I believe, and we have given it to them. The Senator from Michigan and the Senator from Ohio, I gave them the list. It is not a secret list. It is available if anybody wants to see it. If you want it, I will be happy to provide it to you.

Mr. STEVENS. Let us put it in the RECORD, if it is available. Let us put it in the RECORD and indicate who offered the amendment, what does it cost, and what is the project, and what is the company involved.

If you look at the bill, it says:

> A project is described in this subparagraph if such project involves a fiber optic network of at least 20,000 miles, and
>
> before September 26, 1985, construction commenced pursuant to the masterplan and at least $85 million was spent on construction.

Who is that? Who offered it? What does it cost? Those are the questions you ask me when I offer an amendment. Why should I not know about these? And I think the country ought to know who offered them and what do they cost.

Again, that is what you have asked me. And your committee has asked me for 10 days now about that reindeer amendment, for instance.

Mr. President, all the reindeer in Alaska are not worth more than about a million dollars. And the committee just told me the revenue loss from an amendment to take care of a problem, because they are not tribally owned, they are owned by a corporation now pursuant to an act of Congress, is a $10-million loss—a $10-million loss on a herd of reindeer that is not worth more than a million dollars.

Now, I have to deal with that committee. You know, I am getting a little fed up with it. And I am going to find out how these other people dealt with it on these 175 amendments. It may take a little time, but the country has got the time. I always heard that is what happened in the Senate. Remem-

ber the person who said, you know, that it is the place to cool things off. It is like pouring coffee in a cup. Then you pour a little bit into the saucer and, when it cools off, you drink it. And I am going to be ready to drink this bill when it is cooled off a little bit and I am cooled off a little bit in terms of the way we have been treated here this past 10 days.

Mr. DECONCINI. Will the majority leader yield for a simple question?

Mr. DOLE. Yes.

Mr. DECONCINI. Are we going to have any more votes tonight?

Mr. DOLE. I inquire of the Senator from Washington if he is prepared to lay down his amendment?

The answer is there will be no more votes this evening, but there may be an effort to reach an agreement on this. So I would not want anybody to leave if they have an interest in this.

□ 2400

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. SARBANES. Will the majority leader withhold that request so I can make a comment?

Mr. DOLE. I yield the floor.

The PRESIDING OFFICER. The Senate is not in order.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend until the Senate is once again in order.

The Senator from Maryland.

Mr. SARBANES. Mr. President, if I could have the attention of the distinguished Senator from Alaska, for just a moment.

The PRESIDING OFFICER. The Senate is not in order.

Mr. BYRD. May we have order so the distinguished Senator from Maryland may be heard?

The PRESIDING OFFICER. The Senate is not in order. Those Senators who wish to speak are asked to retire to the cloakroom. The Senators in the well carrying on conversations also are invited to leave the Chamber.

The Senator from Maryland.

Mr. SARBANES. I say to the Senator from Alaska that last night when we were considering the amendment with respect to the Federal employees we got a sermon from the distinguished Senator from Missouri that the approach to this tax bill was entirely different from any other tax bill that had come before the Senate. The Senator told us at the time "If you believe"—I am quoting from page 14151 of the RECORD—

> that the point of taxation is to take care of every group, and I am not putting down those interest groups, but if you believe that the point is to take care of them one after another as they come through the door, vote for this amendment and then the next amendment and then the next amendment and then the next amendment and then the next amendment because there is no end to it.
>
> Once you say, "yes" to one group you can never ever say "no" again.

This was Senator DANFORTH making this point.

> Mr. President, I only have one more point to make, and it is a practical one, a practical question. It is this: You do not put together an effort like this without supporters. You cannot do it without supporters. Boy, do we have them. Some 700 organizations came together in support of this bill, some 700 of them, diverse groups, from the League of Women Voters, to the American Association for Retired People, to the liquor industry.

I want to ask the manager of the bill, did this bill change the taxes on the liquor industry in any way?

Mr. PACKWOOD. Not that I recall. Does the Senator have anything specific?

Mr. SARBANES. That is my understanding, that it did not.

Mr. PACKWOOD. There was one time a consideration of the elimination of excise taxes, but that is gone.

Mr. SARBANES. So the Senator from Missouri then went on and said:

> It could not be a more diverse group, and all of them said the same thing. They said, "We do not agree with every detail in this bill. We do not agree with some of the things you have done. We do not agree with what you have done with real estate or what you have done to the IRA's or what you have done to the State sales taxes. We do not agree with this, that, or the other things in the bill, but the bill is right, the bill is right. For once you are doing the right thing in the Congress of the United States. The bill is right and we will stick with you." * * *

What we are being told is when you come in with any amendments, that is all for special interests. But 700 groups got behind the committee and said, we are for this bill and we do not want it changed, including, we were told last night, the liquor industry. All of a sudden this group and a lot of other groups shed any connotation of being a special interest. There was no change in the bill in taxes on the liquor industry, and I am not suggesting there should have been. But because this group backs the bill, they shed the special interest label; yet anyone who is concerned with offering what I consider to be legitimate amendments was portrayed as only arguing for the special interests.

Of course many groups said they were going to stick with the bill. They had been adequately covered in the bill. I do not have all the 700 groups, but my interest in this point was awakened when the Senator from Missouri made reference to the liquor industry, and that is why I asked the chairman the question whether their taxes were affected in this bill. They are not affected in this bill. Is it any wonder that they are supportive of the bill?

I only make the point because we were being put down last night because we were offering what I thought was a perfectly reasonable amendment with respect to 20 million Americans, who are going to, in effect, be subject to double taxation. Their concerns about the impact of this legislation were perfectly reasonable concerns and ought not to be dismissed as special interests.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Let me assure the Senator from Maryland there are lots of special interest groups involved in this, the National Coalition of American Nuns, Sisters of Humility of Mary, National Women's Political Caucus, American Association of Retired Persons, and lots of other special interest groups who are supporting this bill without amendments, or at least without any major amendments to the substance of the rates and what we are trying to do in this bill.

I say to my good friend from Maryland almost all of this group came together after the bill was written, and had relatively little input into the bill because there was only 12 days from the time we started until we finished. And the reason they came together on this bill afterward is because when they saw it they thought to themselves, although it is not everything I want—I will accept it. The American Electronic Association certainly is not wild about the elimination of capital gains. The Senator from California had a letter from them last night, but they support the bill as it is because they said on balance it is good for America.

When we wrote the transition rules, we tried to set standards. One, no tampering with passive loss rules; two, no attempt to evade the minimum tax rules, and I think there are no transition rules that have violated either of those two precepts.

(Mr. ABDNOR assumed the chair.)

Mr. PACKWOOD. Then we came to a third standard. We were changing the law from the existing law to a new law, and in doing that, were we doing some unfairness to some organizations? Whether it be the Sisters of Humility of Mary, or the National Association of Manufacturers. And if so, would it be fair to give them a transition so that they are not unfairly disadvantaged through no fault of their own? Is that a subjective judgment? I suppose it is when you are trying to determine if we treated them fairly. But did we have standards? You bet we did. We turned down transition request after transition request from members of the committee, Republican and Democrat alike, who wanted to violate the passive loss rules or the minimum tax rules. Those were ironclad standards.

So there is a symmetry to it. Did we make some mistakes? Probably. Is it a good bill for this country? You bet it is. Was the amendment offered last night by Senator TRIBLE and others relating to the retired Federal employees an evil amendment? Of course it was not. There was a group that wanted to be taken care of who lost something in the bill like people who lost capital gains, like those who wanted charitable deductions above the line lost something in the bill, and like those who wanted to keep the investment tax credit had lost something in the bill.

But on balance, for this country, this bill is a good bill. And lots of groups who would like something more for their own particular interest have cast that aside for the greater good and I hope the Senator will do the same thing.

Mr. SARBANES. I think the chairman has made a perfectly reasonable response. But that was not what we heard last night from his colleague in the course of getting a sermon about the fact that those of us who are not on the committee are seeking to achieve changes in the bill with respect to a particular matter—the exact process that the members of the committee went through. When the members of the committee went through that process, in some instances they decided to do the things and in other instances they decided not to do the things. So they made a judgment on the merits of the proposition that was before them.

□ 0010

A special burden is being placed on other Members of the Senate now trying to deal with the Finance Committee bill. Any change that you seek to make, in effect has a negative connotation to it as being special pleading.

I want the chairman to read this statement that was made last night.

Mr. PACKWOOD. We were talking about the retired——

Mr. SARBANES. We were being told that the Senate ought not to make choices.

Mr. PACKWOOD. In the amendment last night you had a choice and the choice was to tax about 20 million Americans, roughly, in the middle or slightly upper-middle class, to raise their taxes a bit to keep the retirement system for Federal employees as it is now. That was a choice.

Mr. SARBANES. No.

Mr. PACKWOOD. About 85 percent of those affected are Federal employees.

Mr. SARBANES. No, sir. There are about 19 million Americans affected. Most of them are State and local employees, firemen, teachers, policemen, all across the country. The Federal employees are, in fact, a small percentage of the total number.

Mr. PACKWOOD. I should have said public employees, not Federal employees.

We made a choice. These was nothing, I hope, no evil motive attributed to those who wanted to make a choice or those who said let us keep it the way it was. The choice was as it was with the IRA votes and all the other votes we took in the committee and many on the floor, "did we want to raise the taxes of many, many Americans for the sake of a lot fewer Americans?"

The choice was made last night, which was no, that if this bill has any extraordinarily great virtue, it is the fact that it lowers the rates an extraordinary amount for millions and millions of people and now with each amendment we have to consider, where they are to be revenue neutral, shall we increase the taxes on some of those people or in some cases all of the people?

Some of the amendments that will be proposed are to eliminate indexing, and so on, to pay for something. Those are honest choices, fair choices, tough choices.

There is nothing evil about them. But they are choices that have to be made.

If we are going to give back deductions for capital gains, if we are going to give back the present retirement system that now exists, if we are going to give back the investment tax credit, then let us be serious about it, we are going to raise taxes a great deal on a lot of people.

Mr. SARBANES. It was not the chairman's debate on that amendment that I took issue with. What I took issue with is the statement that I quoted, which, in effect, took the approach that while the members of the committee had engaged in this very process of weighing the merits of a proposal before them without having to carry the burden of responding to special interests, on the floor this matter was being cast in a different perspective.

Mr. PACKWOOD. You make me feel very bad now because at your request we put in the Owings Mill town center, Harbor Place, and the Baltimore stadium in the transition rules.

Mr. SARBANES. Yes, that is correct.

Mr. PACKWOOD. And we bore the burden of raising the money for your transition.

Mr. SARBANES. You were able to do it in the course of constructing the package.

Mr. PACKWOOD. We took care of a lot of Members. We raised the money. We did not put the burden on you to raise the money and now we get kicked for taking care of special interests.

Mr. SARBANES. All I am talking about is the assertion made last night by the Senator from Missouri. The statement that—and it was not the chairman's statement—the statement that in effect, that anyone proposing any amendments was carrying water for special interests.

It was not the chairman who quoted to me the liquor industry being behind this bill.

Mr. PACKWOOD. I am not sure what you conclude from it. The Sisters for Mary are behind it also. What is the conclusion of that? Have they both been taken care of?

Mr. SARBANES. The conclusion is what the chairman said earlier, that we should consider the amendments offered on their merits when they came before us, and not have to carry the burden that somehow, because you offered an amendment you are, doing something wrong or improper.

The chairman does not believe that, as I understand the statement he just made.

Mr. PACKWOOD. I think there is nothing improper about presenting two choices to the Senate and saying if you want to tax some people for the benefit of other people, that is the business of Government.

Mr. MELCHER. Would the Senator from Maryland yield?

Mr. SARBANES. I yield.

Mr. LONG. Will the Senator yield?

Mr. PACKWOOD. I yield the floor.

Mr. LONG. Mr. President, I want to ask the distinguished chairman if this is not the case. Any time a great number of people come in—and I do not care who they are, they could be the Society of Jesus, just anybody—and they applaud something and urge you to pass a bill just the way it is, you have a right to assume that it is to their advantage to do so, even if they are only working for a higher power.

Most people in this country are motivated by who they are, what they are, and how they view the situation. I do not know any of us who can claim any particular advantage to say we speak for the people, or speak for the general interest. My Bible tells me, judge not lest ye be judged. But if someone tells you to pass something, it is par for the course that that person finds it to their advantage, all things considered, to be for it.

I would like the Senator from Alaska to hear my next point, if I might have his attention.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. Mr. President, it was not the idea of the Senator from Louisiana that we ought to have the budget process that we have. This Senator has found it inconvenient, as many other Senators have found the budget process from time to time. But we have to live with it whether we like it

or not. Sometimes it does not work out to our advantage.

Under the budget rules and procedures, we were required to obtain a waiver from the Senate. The matter would be referred to the Budget Committee, and they would recommend a waiver if they thought it appropriate.

The Budget Committee did recommend a waiver for the bill we presented to them. This had to be a balanced bill, from the point of view of the Budget Committee, for us to obtain a waiver.

The Budget Committee did not waive points of order on the amendments. That being the case, minus a waiver, Senators would have to have revenue-neutral amendments. Alternatively, they could ask the Senate for a waiver, as the chairman of the Budget Committee indicated, and perhaps the Senate would agree to it.

May I say to my very able friend from Alaska, we on the Finance Committee did not create that situation. We found it that way. If the Senator wants to offer an amendment and ask for a waiver, who knows what may happen? As far as this Senator is concerned, he is not going to object to it. We have to take whatever procedure they give us. I did not ask for the waiver in the first instance, but the chairman is required to. The bill could not have been considered unless the Senate did grant a waiver. At that point, we had a revenue-neutral bill.

□ 0020

We did not have to, but the chairman suggested in the course of putting that bill together that, from a particular point forward, he would urge that the bill should be revenue neutral. So we did impose that requirement on ourselves at one point. On the transition rules, we did say, here is a group of rules that will cost about $5 billion, and the chairman asked us, how are we going to raise the $5 billion? As a group, we did undertake to raise the $5 billion.

The rule as imposed on the committee was somewhat different from that which affects individual Senators. We did not make it that way. That is the Budget Committee's way of doing business. They recommended that we have a waiver for the bill, but they did not propose a waiver for the individual amendments.

Mr. STEVENS. Mr. President, I understand what the Senator has just said. I think the dialog that was just held between the Senator from Maryland and the Senator from Oregon is indicative of the problem I have on this bill now and some people indicate that I somehow or other am holding it up. I am not holding it up. I just want some answers to some questions, and I think I can get them.

Last week, when we sought to preserve the right for the 3-year recovery rule for public employees, I took pains to point out that the moneys that were paid into the pension funds we were talking about were after-tax dollars. They were not dollars that were deductible because of the contribution. We are not talking about the IRA's or the 401(k)'s. We are talking about the pension fund and retirement funds. Those are after-tax dollars. The rule has allowed them to collect that money back in the first 3 years after they retired.

The Senator from Oregon tells us that somehow or other, we have decided to shift the burden of taxation to other people. Those people have already paid their taxes on the money we were trying to protect. The way the Finance Committee rule comes out is once you retire now under these programs, notwithstanding what the governments involved have told you all your career, somebody figures out what your actuarial life expectancy is and you will recover over the period of that life expectancy a proportion of the money tax free, the money you contributed to the fund, and the balance will be the money that comes from the fund itself.

The Senator from Oregon thinks that is fairer and it is fairer under the burden—I heard the argument made last night. It missed me like a streetcar going past, because these people had already paid the taxes on the money they contributed to the fund. All they are asking for is to get it back. Under our rules in the past, they were allowed to do that tax free. Somehow, he came up with figures that showed they are all rich fellows, even though we know the average is $12,000 a year. Twelve thousand is what these people get.

That is settled. I am not going to fight that again. But what it has made me do is the experience I have had in dealing with these little matters I am trying to deal with in my State—and I tell the Senator from Louisiana I am not sure I am going to offer any of those amendments because the circumstances are that the chairman tells me they are in conference anyway and fair is fair, as I said. He says these are going to be protected. I just want to know why these other fellows go into the conference totally protected with their amendments in the bill, 175 of them, when we do not even know who they are.

I want to start reading them. I would like to have my friend tell me who they are. Who are these people that have these projects that we do not name in the bill?

He says in the Appropriations Committee, we do these things. When we appropriate money for a project in Louisiana, we say where it is, who owns it, and if there is going to be a contract let for it, we say who the contractee is. We are not saying this is a project that is described in this paragraph that could fit almost anything. But you all know who they are. I do not know who they are. I do not know why I cannot try to fit some of my projects into these exemptions already in this bill. If I can, I am going to try, OK?

Again, I offer to my good friend from Oregon the suggestion that if his committee wishes to list these projects, the identity of the project for the RECORD and how much the revenue loss is and who offered them, I will be glad not to go through the bill one by one. Otherwise, we will go through the bill one by one and he has the right to refuse to answer the question if he does not want to.

Mr. PACKWOOD. No, Mr. President; I told you I did not say the Appropriations Committee lists the projects, where it is. I do not recall in your Appropriations Committee your saying this is the project for Senator LONG, this is the project for Senator MURKOWSKI. Are those in your appropriations bills?

Mr. STEVENS. No, Mr. President; it lists the projects for Alaska, the projects for Louisiana. This just says a project is described in subparagraph (C), (D), or (E), which before March 1, 1986, was publicly announced by a political subdivision of a State for renovation of an urban area within its jurisdiction.

You all know what that applies to. I do not know what it applies to and I do not think John Q. Citizen knows what it applies to.

Mr. SIMPSON addressed the Chair.

Mr. STEVENS. I have the floor, Mr. President.

Mr. SIMPSON. Would the Senator yield for a question?

Mr. STEVENS. Yes, Mr. President.

Mr. SIMPSON. Mr. President, I am very interested in this debate and it is fascinating—and a little heavy. I have been here 7½ years. I have watched with total admiration as the Senator from Alaska does his work in the U.S. Senate. It should leave us all absolutely envious. Because I have seen him with his extraordinary skills insert more pieces of legislation into various bills for his State than any person that I have ever met in this place.

I think the people of Alaska should be proud of that; that is why they return him here, only one of the reasons.

I have seen him work hard on the Appropriations Committee. I am not on the Appropriations Committee, but I have seen pieces of legislation come from that committee which were literally larded with material that had to do with the State of Alaska.

I am not going to get into one with the Senator from Alaska because he is a pretty feisty cookie; but I can tell you if they wanted a bear to represent

them in Alaska, they hired a grizzly. That is TED STEVENS.

I think that is great, but I do not think you can come in here and have a debate that has to do with talking about things and costs and so on when I have seen things come here under the direction of the Senator from Alaska which were of tremendous cost—railroads, unified commands. There is no limit to the extraordinary ways—he is the envy of us all.

I have seen him produce the most novel legislation, the most extraordinary legislation. I have seen condition upon condition come from wherever this remarkable gentleman plies his trade, project after project, waiver after waiver.

Mr. STEVENS. Mr. President, could the Senator get to the question? I want to telephone the President—I think I have the floor. I say to my friend, I am waiting for the question.

I never can remember offering on the floor of the Senate any project for Alaska that did not say it was for Alaska, did not say what it would cost, and was not prepared to defend the fact that I had offered it. You tell me then who offered these amendments and what do they cost. That is all I am asking.

I appreciate what the Senator from Wyoming is saying and I believe I was sent here to represent my people. I am trying to do that.

We have been denied certain amendments here in the last 10 days under certain rules that have been presented. Now I want to know how these other amendments got in here.

I think that is fair. I thank the Senator from Wyoming for his compliments, but, again, if you can find one amendment that I have ever offered for Alaska that did not describe that it was in Alaska, did not say what it would do, and was not prepared to say what it would cost, I will apologize to the Senate and to the Senator. This is not that case and I shall be happy to read some of these to the Senator if he has not read them.

Let us take this one "(i) the project involves a joint venture between a utility company and a paper company for a super calendar paper mill, and at least $50 million were incurred with respect to such project before March 1, 1986."

It does not say who offered it, what State it is in; it does not say what the company is; does not say what the revenue loss is. I challenge you to find ever that I ever did that.

I appreciate what the Senator is saying, but let us not mistake the fact that advocacy for your State is one thing.

□ 0030

This kind of a description in a bill is another thing, particularly when I am told as I presented some of the items that I have for review that "We are sorry, we are sorry, those have revenue losses." There has been no mistake in ours. We said what projects they were, what company was involved, what State was involved, and we said what we thought the revenue loss was according to the joint committee.

Mr. SIMPSON. Mr. President, my comments are based on admiration for the extraordinary skills of the Senator from Alaska, which I have watched. What I am saying too is that at least with myself when I find someone else doing something that I do not like—I often find that it is something I do myself and something I do not like to be doing. I do not see how else one can quite get that worked up. I guess for myself I find when I really get worked up I am plying that trade and pretending I am not. That is me speaking for me.

Mr. STEVENS. Is the Senator suggesting that somehow or other this Senator from Alaska has suggested similar things for the Senate? I do not quite understand the drift of this question I am getting. I will be happy to respond to my friend from Wyoming because if the Senator from Wyoming is suggesting that I ever offered an amendment of this type, then I would say that perhaps he owes this Senator an apology.

Mr. SIMPSON. Mr. President, I do not believe I do. I can recall many occasions when things came out of the areas of the Senator's jurisdiction which were puzzling, unexplainable, and really in many cases a kind of pork by the metric ton.

Mr. STEVENS. Just name one, for instance, I would ask my good friend.

Mr. SIMPSON. I can think of a railroad.

Mr. STEVENS. The railroad bill was before this Senate.

Mr. SIMPSON. Yes; I can think of——

Mr. STEVENS. It was delayed considerably and passed and my State paid a considerable amount of money to take over that liability from the Federal Government. It is now being run by the State as the Alaska Railroad. The Federal Government wanted to get rid of that railroad. We had that bill before us for a long time. I introduced the bill. Everybody knew who the bill was for. It passed the House and it passed the Senate. No one ever suggested to me that somehow or other I was seeking some special benefit for the State of Alaska in doing so. We paid for it.

Mr. SIMPSON. I think we paid for it, too, Mr. President, as I recall.

Mr. STEVENS. That is right, the Federal Government paid for it in the beginning and managed it for about 40 years and was suffering a severe loss when we took it over.

Mr. SIMPSON. I guess, Mr. President, I would just leave it here in this debate that we at least know that the match is even in every way when we are talking about what you can get in and what you can get out of this system. I have no further, actually, question at all.

Mr. STEVENS. I thank the Senator from Wyoming for his suggestions. If he somehow or other is suggesting that somehow or other this Senator has offered similar amendments, then I suggest again that he ought to review his comments, and I will be happy to address him tomorrow on that, Mr. President, because, again I say, I will be glad to start tomorrow if the Senator from Oregon would rather. It is late. It is 12:30, but I think we are entitled to know who offered the amendments, what State are they in, what is the revenue loss, what is the company involved, at least.

Mr. PACKWOOD. The Senator will find the entire list in the RECORD of June 10, CONGRESSIONAL RECORD of June 10.

Mr. STEVENS. All the information I requested?

Mr. PACKWOOD. I am not sure that the names of each individual are there any more than the names appear in the appropriation bill, but if the Senator means how much they cost, who they affect, what State they are in; yes, they are all there.

Mr. STEVENS. Mr. President, I shall be glad to check that RECORD and ask the Senator from Oregon further questions tomorrow about it if it is not adequate.

Mr. DOLE. Is there anything else to add to the list?

Mr. BRADLEY. I say to the leader, "I was thinking of several amendments," but I will not.

Mr. DOLE. We do have one addition, Senator ARMSTRONG dealing with provisions of pages 1026 and 1027 of the committee report, 30 minutes equally divided. As I understand, we will not be able to get consent from the Senator from Alaska. Can we get consent tonight that only those amendments that have been identified be offered?

Mr. STEVENS. As I understand, the Senator wants a unanimous-consent agreement only on the amendments so far identified? Would he include any amendment to strike any provision of the bill?

Mr. DOLE. Right, if we know precisely what portion the Senator would strike.

Mr. STEVENS. If the Senator includes any amendment to strike any provision of the bill, I have no objection to the agreement.

Mr. DOLE. It could be more than one amendment.

Mr. STEVENS. As I read it, it could be about 175 at least.

Mr. DOLE. The Senator can strike them all at once.

Mr. STEVENS. I could. I do not think I would get very far.

Mr. DOLE. I have been advised the Senator from Washington [Mr. GORTON] has an amendment on cooperatives, 20 minutes equally divided.

Mr. PACKWOOD. Mr. President, I do not know what is on the list but I know the Senator from North Carolina [Mr. HELMS] wants to reserve one.

Mr. DOLE. His is on here.

Mr. PACKWOOD. His is on there. And Senator D'AMATO.

Mr. DOLE. D'AMATO is on the list.

Mr. STEVENS. I want to say to the majority leader I do not have any objection to that list of amendments. As a matter of fact, I think as I stated it is pretty wide open. The amendment are really not identified, so if the majority leader wants to ask unanimous consent they be the only ones so long as we are able to strike any provision in this bill to which we object, I do not see any problem.

Mr. DOLE. Does the distinguished minority leader—I was about to propound a request for the amendments identified, which I have gone over one at a time. We would not attempt at this time to lock in any time agreement for each amendment. I hope we will not need 2 hours or 1 hour, whatever the request has been, but I would like to get some agreement that only those amendments identified—and I guess the additional request "plus any motion to strike on amendment."

Mr. STEVENS. Strike any provision of the bill.

Mr. DOLE. Strike any provision of the bill be in order.

Mr. BYRD. Mr. President, most of the amendments on this side have been identified. As a matter of fact, time limitations have been submitted in connection with most of them. I would say that there were several on the list that have been given to me by the distinguished majority leader that have not been identified.

Mr. DOLE. We have now identified the amendment, I might say, of Senator DOMENICI. I think that was the only one other than—and three of the amendments of the Senator from Alaska have been identified. We do not have identified the amendment of the Senator from Ohio [Mr. METZENBAUM] or the Senator from Michigan [Mr. RIEGLE]. His is a sense-of-the-Senate. So, there are six Stevens amendments not identified. I think they are the only ones.

Mr. BYRD. As I indicated, I say most of the amendments on this side have been identified.

Mr. DOLE. Right.

Mr. BYRD. I think we should identify all amendments on both sides. Senator LONG is not here, the manager on this side. But the distinguished Senator from New Jersey is here, Mr. BRADLEY. I would be hesitant in view of the fact that Mr. LONG said that he specifically wanted the subject matter—I understood him to say that—subject matter meaning the definition of the amendment—on all amendments on this side and the other side. I want to accommodate the distinguished majority leader. I wonder, could we do this, lock in the amendments that are identified?

□ 0040

Mr. DOLE. Mr. President, it does not appear that we are going to reach an agreement tonight, but we will be in at 9:30 tomorrow. It will be my intention to be in all day tomorrow, all day Friday, all day Saturday.

IMPACT OF TAX REFORM ON THE CHRISTMAS TREE INDUSTRY

Mr. KASTEN. Mr. President, I am deeply concerned about the potential impact of the termination of capital gains to several industries in our Nation. One which will carry a heavy burden is the domestic Christmas tree industry.

Since 1944, the domestic Christmas tree industry has grown from an infant to an industry which employs over 100,000 Americans. The growth is attributed directly to Congress' recognizing the need to provide incentives for long-term risk taking.

In 1944 Congress recognized that producing Christmas trees is a long-term, highly risky provision. To encourage domestic production of these trees, and help stem the flow of foreign produced trees, Congress granted capital gains treatment to the Christmas tree industry. Capital gains and the ability to write off expenses on a current basis have been the principal causes of the improved health of this industry.

This industry is predominately made up of "Mom and Pop" operators; mainly farmers who have some land that is not used for producing other materials. It is not an industry made up by multilaterals and conglomerates.

My concern is that if the Senate, or the conference, adopts a provision to reinstate capital gains treatment, that the Christmas tree industry rightfully belongs in this category of operations. Producing these trees is a long-term venture. It is highly risky.

It is my hope that if such a change is made here in conference that Christmas trees produced by individuals on private lands receive capital gains designation.

The impact to the Treasury will be minimal, but the impact to these small farmers will be tremendous.

CAPITAL GAINS AND SMALL TIMBER GROWERS

Mr. HEFLIN. Mr. President, over the past few weeks, this body has debated the work of the Senate Finance Committee on numerous tax questions and issues. We are considering a monumental work in reforming the tax laws. Chairman PACKWOOD and the Finance Committee have done a top-flight job of wrestling with very complicated issues and simplifying them to relieve millions of Americans of excessive tax burdens. I join in commending the chairman and the members of the committee for their diligence, initiative and backbone. The pressures have been enormous, I know.

But, I am concerned about the proposal's change which would tax long-term investments—capital gains as we have known them for decades—at the same rates as ordinary income. I am concerned that in our zeal to maintain the 15-percent and 27-percent rates we may do damage to the vehicle—the capital gains differential—that has fostered development of new industries, created jobs, and increased the competitiveness of U.S. industry.

The Finance Committee took a positive first step in maintaining the corporate capital gains differential for long-term investment. But individuals investing in long-term capital assets would not receive the reward of this lower tax rate for their time and trouble. In fact, their taxes would increase very substantially compared with present law—at a minimum, a 35-percent increase, and in some cases as much as a 168-percent increase.

This will surely create problems for our economy, for new businesses and for investment in long-term capital assets which are risky at best.

A major industry in Alabama is timber. Timber is a long-term capital asset—it takes 20 to 50 years to grow to maturity. In my State there are more than 386,000 owners of private forestlands—more than 19.7 million acres. The majority of these owners are small landowners, less than 100 acres. Removing the tax differential capital gains has provided would be a real hardship for these timber growers. It could mean the difference between replanting after harvest and not replanting trees—which was the case in our country before capital gains treatment of timber was enacted in 1944.

Over the past four decades, forestry in the United States has come a long way, largely as a result of the incentive provided timber owners by the capital gains tax differential. I am fearful that we could return to an era of harvesting without replanting that was so prevalent before 1944.

Timber growing is a classic example of a risky, long-term, liquid investment. Timber owners face the threat of fire, wind damage, insects and disease—and in the South the pine bark beetle is now taking a heavy toll. The investment is both long-term and illiquid since trees cannot be harvested and sold until they are mature—20 to 50 years. What incentive is there to

plant trees, care for them for decades, and then face dramatically higher taxes on the income received, which may be forthcoming once in a lifetime?

Alabama's timber resource is the basis for a flourishing forest products industry. The manufacture of wood products and pulp and paper provide employment for 50,000 people and payrolls of more than $1 billion annually. Shipments of Alabama forest products are in excess of $3 billion annually. In our rural communities timber is the economic backbone. So there is reason for concern about the impact of eliminating the capital gains differential for individuals as it affects timber growing and other long-term investments.

Timber growers are questioning the fairness of changing the rules in the middle of the game. Without capital gains, they say, they will not be able to afford to replant trees when they are cut. Many say it will cripple forestry on private nonindustrial ownerships.

The top capital gains tax rate under present law is 20 percent. Eliminating the capital gains differential would raise the rate to 27 percent, the same as the top rate on ordinary income. But with surcharges the rate can go as high as 32 percent. Let me give you an example of how a couple filing a joint return would be affected who have a pre-capital gains taxable income of $20,000. In that tax bracket their present capital gains tax rate would be 7.2 percent. Under the proposal we are considering their new rate on long-term investment income would be 15 percent—that's an increase of 108 percent in taxes. If their tax bracket is lower, their percentage increase in taxes would be even higher—up to 168 percent. Timber owners can honestly say they cannot afford to grow trees.

Capital gains has been part of the Tax Code since 1921. It has a proven track record in stimulating new enterprises and in encouraging people to take risks in the interest of moving our economy forward. Growing long-term forest crops is the kind of risk investment in the public interest that capital gains was designed to encourage.

Let's be cautious and consider how this action would affect basic industries and thousands of individuals in our States. In our country we have more than 7.5 million owners of timberlands. Let's make sure we don't destroy private forestry and other long-term enterprises that contribute so heavily to our economy and to our quality of life.

Thank you, Mr. President.

INVESTMENT TAX CREDIT CARRYOVERS

Mr. SYMMS. Mr. President, I rise today to highlight an inequity in H.R. 3838 the Tax Reform Act of 1986. I would hope that the conferees can remedy this situation in the final version of the bill.

Under current law, unused investment tax credits [ITC] can be carried back 3 years and forward 15 years to offset regular tax liability. The Senate bill would disallow the use of carryovers against the alternative minimum tax [AMT].

Provisions limited to certain industries and companies provide, in effect, for a refund of unused ITC's at a cost of $500 million, thereby, eliminating the problem for those companies. The policy reflected in the exception is sound. Exclusion of equally deserving companies from relief against this manifestly unfair denial of the use of ITC carryovers against AMT is unwarranted.

The AMT rate of 20 percent would apply against a much broader base creating a tax liability as great or greater than the regular tax for many corporations. The AMT would become the primary tax, supplanting the regular tax.

Over the years, the ITC has been an incentive upon which corporations have relied as they made capital investments in plant and equipment. The ITC, thereby, created millions of new jobs. In doing so, the corporations anticipated their taxes would be reduced by the ITC. To enact a substitute tax law without allowing the use of ITC carryovers is inherently unfair and amounts to retroactive repeal of the ITC. The AMT should not jeopardize those jobs by impairing the incentive relied upon when the investments were made.

The purpose of the AMT is to "minimize the number of high-income corporations paying little or no tax as a result of heavy utilization of the tax preference included in the AMT tax base." That stated purpose does not reach tax liability reduced through the use of an ITC carryover. Since the bill does not generally apply ITC carryovers to offset the AMT, most taxpayers will be retroactively denied the use of those previously earned carryovers. Statistical analysis indicates that the AMT could apply to a taxpayer with ITC carryovers even if the taxpayer had use to tax preference items.

This inequity would be eliminated if the ITC is made applicable to the AMT. The credit against the AMT could be limited to the same percentage of AMT as will be allowable against the regular tax, thus assuring corporations would pay tax.

I encourage my colleagues to take notice of this anomaly and correct this defect in the conference committee.

INCOME AVERAGING AND AGRICULTURE

● Mr. ABDNOR. Mr. President, I wish to make a few comments regarding the amendment adopted last night concerning income averaging and agriculture. Given the extreme volatility of farm income, it is essential that farmers be permitted to retain income averaging.

A quick review of the changes in net farm income over the years illustrates my point. In 1971 net farm income amounted to $15 billion. Just 1 year later, it climbed 30 percent to $19 billion. This fluctuation, though large, is dwarfed by the 76-percent growth in 1973 income to a level of $34.3 billion. Over 3 years, net farm income had jumped 127 percent, while total personal income for all Americans rose 23 percent, a rate only one-fifth as much.

This rate of growth in net farm income sounds pretty good. But look what happened in the following 3 years. In 1974, farm income fell 21 percent to a level of $27 billion. The 6-percent decline in 1975 brought net farm income down to $25 billion. This was followed by a 20-percent plunge in 1976, which left net farm income at $20 billion. Over these 3 years net farm income dropped 41 percent. Meanwhile, U.S. personal income increased 20 percent in the same period.

Nor has this situation stabilized in recent years. Net farm income fell almost $10 billion in 1983. In 1984 net farm income increased to $34 billion, and then fell to $27 billion in 1985. Clearly, the Tax Code should take this erratic income pattern into account if it is not to be arbitrary.

Mr. President, I ask unanimous consent that the following table on farm income be inserted in the RECORD at this time.

NET FARM INCOME IN CURRENT DOLLARS

Year	Net farm income (billions)	Percent change from previous year
1971	$15.0	
1972	19.5	30.0
1973	34.4	76.4
1974	27.3	−20.6
1975	25.5	−6.6
1976	20.2	−20.8
1977	19.9	−1.5
1978	27.4	35.6
1979	31.7	15.7
1980	20.2	−36.3
1981	29.8	47.5
1982	24.6	−17.4
1983	15.0	−39.0
1984	34.5	130.0
1985	27.0	−21.8

Source: U.S. Department of Agriculture.

Mr. President, the extreme fluctuations in farm income are much more pronounced than those anywhere else in the economy. Part of this instability is due to commodity cycles and the vagaries of the weather. Flooding and drought from one year to the next can devastate the farm economy.

However, much of the problem is right here in Washington. Changing foreign policy, for example, led to the imposition of the infamous 1980 grain embargo. An overexpansion monetary policy in the late 1970's pushed inflation and interest rates sky high, imposing a crushing burden on American

agriculture. Though inflation has since collapsed, interest rates remain much too high on agricultural loans.

Yet another threat is protectionism, which is about to rear its ugly head again soon in the Senate. As usual, we can expect retaliation to come from foreign governments reacting to our trade restrictions. And it burns me up that this retaliation will fall first and foremost on agriculture, just as it has in the past. The world's finest and most productive farmers do not deserve this unfair treatment.

Another factor generating instability in agriculture is the value of the dollar on foreign exchange markets. In recent years a strong dollar has penalized farmers by making their exports more expensive. This has been a depressant of farm income in a fiercely competitive world market.

No other industry is subject to so many sources of instability. The result is a pattern of income over time that fluctuates much more sharply than that of most taxpayers. We need safeguards for farmers built into this tax reform bill.

Mr. President, income averaging provides a degree of insurance against the unpredictable—a cost of doing business unique to American agriculture.

I commend my colleagues for their adoption of this amendment.●

TAX REFORM BENEFITS AGRICULTURE

● Mr. HELMS. Mr. President, I strongly support the tax reform concept now before the Senate. This legislation presents the Senate with a historic opportunity to achieve true tax reform for the first time in many decades.

Many well-deserved accolades have been directed to the members of the Finance Committee. Chairman BOB PACKWOOD, Senator RUSSELL LONG, and the distinguished majority leader, Senator DOLE, are perceived—correctly—as having brought about an almost miraculous feat in bringing together an impressive coalition of support for this legislation. I wish them well as the debate proceeds in the Senate, and as the final version of H.R. 3838 is developed in conference with the House of Representatives.

President Reagan's commitment to simplifying and reforming our Tax Code was the forerunner of the tax reform bill now before us.

Mr. President, I have strongly supported reforming the Tax Code for many years. In 1982, I introduced legislation that would have established a single income tax rate of 10 percent on all income. Ultimately, I hope that a 10-percent top marginal tax rate can be achieved. It would greatly benefit our economy.

In the meantime, the legislation before the Senate would, for the first time in many decades, reduce the top marginal tax rate below 50 percent. This means that for the first time since World War II, individuals will have the assurance that they can keep more of every dollar of income that they earn than the Federal Government will take from them in income taxes.

This will have profound positive impacts on our economy. The prospect of income—not tax avoidance—will be the prevailing motivation for investments. Enterprises will shift their emphasis from the arcane rules of tax law and accounting to the business of economic efficiency and creation of wealth, to the benefit of both the economy—and the Federal Treasury.

Indeed, tax reform will be good for the longrun health of every sector of the economy. In particular, it will greatly aid the agricultural sector, which has been one of the more prominent bastions of tax shelters in recent years.

In 1982, for example, 18 billion dollars' worth of net farm losses were reported for tax purposes, including billions reported by individuals with large off-farm incomes. Indeed, the Department of Agriculture reports that in 1982, "If farm income had not been taxed and farm losses had not been used to reduce taxes on other income, the U.S. Treasury would have been $3.8 billion richer."

Mr. President, it may be of interest to identify some of the provisions of the Finance Committee's bill that I view as positive for agriculture:

First. The investment tax credit [ITC] is repealed. While the ITC has benefited many farmers investing in machinery and equipment, an unintended effect has been to distort investment decisions by offering an upfront "carrot"—a tax credit of up to 10 percent on machinery and equipment items. The ITC's repeal will enhance the prospect that purchasing decisions in the future will be based on economic fundamentals, instead of tax considerations.

Second. The depreciation period for single-purpose agricultural structures is extended from the current 5 to 10 years. By extending the depreciation schedule to a timespan that comes closer to approximating the productive life of such structures as hog confinement buildings, this provision will help to ensure that investments will be based on pure economics, versus the advice of a tax lawyer.

Third. Limits are placed on the value of depreciable farm property loans financed with tax-exempt bonds. Farmers have been distressed by recent reports of the formation of large commercial enterprises financed by tax-exempt bonds. The use of tax-exempt bonds to finance large commercial agricultural ventures creates added competition for the American farmer—at taxpayers' expense—and cannot be justified.

Fourth. Farmers who use cash accounting and prepay many of their expenses to defer tax liability will be unable to deduct more than 50 percent of their total expenses until the year they use the supplies. By prepaying many of their imput expenses, some farmers are able to defer tax liability on income for a year. This deferral amounts to an interest-free loan from the Federal Government. This amendment takes the first step toward limiting the practice fof tax-liability deferral under cash accounting.

Fifth. Passive-loss farming will be phased out. Losses from investments in which an individual does not materially participate in management can no longer be deducted against other sources of income under this measure. This will strongly militate against the practice of "tax-loss farming" enterprises in the United States.

Sixth. Charging all land-clearing expenses against current-year income will no longer be allowed—instead, land-clearing expenditures must be capitalized over a longer period. Current-year expensing for soil and water conservation projects would be allowed if the projects are in accordance with specifications of the Federal Soil Conservation Service or a comparable State authority. This will further the conservation goals of the Food Security Act of 1985, which took major steps to conserve our Nation's soil resource.

Seventh. The reduction of tax rates to 15 and 27 percent is the most beneficial provision of all for agriculture. This will be of long-term benefit to farm families and will sharply cut the value of any tax break, simply because the incentive to shelter income will be less.

Mr. President, not every aspect of this measure is perfect, but the Finance Committee's bill is an excellent product and deserves the Senate's overwhelming support.●

● Mr. DURENBERGER. Mr. President, I rise today to address two additional provisions of the tax bill which would unfairly penalize State and local governments. I refer to the unfair and unnecessary elimination of 401(k) plans for State and local government employees and the adjustment of the benefit limits under section 415 of the Internal Revenue Code as they apply to early retirement.

Neither of these provisions has the kind of intergovernmental impact that the elimination of tax-exempt bonds or sales tax deductibility do. However, they are part of the multipronged Federal assault which States and local governments are now under and which I am trying to halt and will continue as I have with tax exempts and tax deductibility.

First, let me explore the elimination of 401(k) plans. If the Senate's version of tax reform is enacted, State and

local employees will be the only group of employees in the country who will not be able to use this very popular savings incentive.

Earlier this year the President signed a law creating a new civil service retirement system. Included in that new system is a 401(k) plan similar to many private sector plans. Currently, private and nonprofit employees are allowed 401(k) plans. If these plans are available to private, nonprofit, and Federal employees it seems only fair that they be available to State and local government employees so they too can plan and save effectively for their futures.

A 401(k) plan, or cash or deferred arrangement [CODA], allows an employee to elect to have a portion of his compensation contributed to a profit-sharing or stock bonus plan in lieu of salary. The employee contribution is treated most commonly as a pretax reduction in salary, which is then paid into the plan by the employer on behalf of the employee. The employee defers income tax on the 401(k) plan until withdrawal.

Although 401(k) plans are relatively new, several States and local governments have adopted them. By eliminating 401(k)'s for State and local employers, the Federal Government will have made it that much more difficult for these employers to attract qualified personnel. In addition, State and Federal employees often work together. It is clearly unfair to allow Federal employees a thrift plan like a 401(k) while denying the same option to their State and local counterparts.

It has been incorrectly argued that 401(k) arrangements are duplicative since other tax-favored elective contributions plans, such as State-deferred compensation plans under section 457, are available to the public sector. This argument is simply not true.

The truth is that 401(k) plans are both different and, in many ways superior to, 457 plans. Amounts deferred under 457 plans remain subject to the claims of the general creditors of the employer, while 401(k)'s are held in trust solely for the benefit of participants; 401(k) plans are subject to discrimination tests, resulting in benefits being available to both higher and lower paid employees; 457 plans are generally utilized by higher paid employees.

Equally important, 401(k) plans allow loans and hardship withdrawals while 457 plans significantly limit access to funds. Finally, 401(k) plans can be rolled over into another plan if the employee changes jobs. The same is not true for 457 plans.

This means State and local government employees are left with inferior pension plans. The provisions affecting section 415 benefit limits do nothing to help.

As you know, the tax reform bill would adjust the benefit limits under section 415 of the Internal Revenue Code as they apply to early retirement. Anyone retiring before age 65 would, under the present provision of the bill, be considered an early retiree, as opposed to the current law limit of age 62.

Under current law, there is a floor below which such reductions cannot be made, but the bill would do away with this protective floor.

It is the new limitations under section 415 which cause such a serious problem for State and local governments and their employees. For example, many governments allow a worker to retire after 30 years of service, better known as 30-1 years-and-out programs. If an employee joined the work force of city X at age 25 and stayed until 55, under current law the maximum benefit would be $75,000; however, under our bill it would drop to $38,700. A very severe decrease.

Not only is this change unfair to the workers, it poses a dilemma in many States that have either constitutional or statutory prohibitions against diminishment of employee benefits. In other words, it cannot be done.

These changes will also cause funding problems. As you know, employers must fund pension benefits for their employees many years in advance of actual retirement. Otherwise, after an employee retires, whether the pension could actually be paid would depend on the circumstances of the government. Most of the pension reform at the State and local level over the past decade has been to improve the funding of out-year liabilities.

For the pension benefit to be meaningful to the worker, it must keep pace with wages which are generally part of the formula on which a benefit is calculated. Even the current 415 limits do not provide an adequate base upon which to calculate future benefits. For example, under a standard salary progression, a 22-year-old, $20,000 per year worker could expect to receive at age 62 a $150,000 annual benefit from a typical defined benefit plan—with $150,000 having the purchasing power of a $17,000 benefit today. For funding purposes, however, the employer must assume that this individual's benefit will never exceed $90,000.

So, not only does the provision have the immediate effect of reducing benefits to unrealistically low levels, but it exacerbates an existing problem of funding future retirement benefit needs.

I should add here that, as you know, there is a special exception in the bill to the early retirement reductions in the case of qualified police, firefighter, and correctional officers' plans. Unfortunately, as drafted, it is unclear if it will serve its intended purpose. The definition of a qualified plan is one which covers all full-time employees of a police or fire department. However, the best majority of such departments have separate plans for their uniformed police and firefighters. The civilian employees of such departments are covered under a different plan. Thus, the exception must be clarified so that it will apply to the very people it is meant to protect.

Mr. President, it seems clear that these provisions of the committee's tax-reform package penalize State and local employees. The unique nature of State and local retirement plans must be taken into account when the conferees address this issue. Moreover, an adequate benefit floor must be retained at age 55 to ensure a fair benefit for "early" retirees and an appropriate base that is indexed to inflation must be set at age 65 so that, when actuarially reduced, benefits do not become unrealistically low.

Given the many other impediments created both in this bill and on the regulatory and budget fronts an understanding of the intergovernmental implications associated with these changes is very important. I hope the conferees will be mindful of these implications as they proceed to craft a compromise tax bill.●

TAX FAIRNESS FOR SMALL BUSINESSES

● Mr. BUMPERS. Mr. President, last August I held a series of hearings in Arkansas on the potential impact of the tax reform legislation on small business and I said then that I would not support any tax reform bill which is not fair to small business. I am happy to say that this bill is fair to small business and as the ranking Democratic member of the Senate Small Business Committee I commend the Senate Finance Committee for taking the interests of small business into account in crafting this legislation.

Most of the Nation's small businesses are unincorporated and this bill would dramatically lower their tax rates. There are nearly 13 million unincorporated small businesses. There is no more important issue for these small businesses than low tax rates. They rely on retained earnings to expand their businesses and they are much less able to generate the capital necessary for expansion with the current high tax rates. Of course, tax rates also are reduced dramatically for the 2 million incorporated small businesses in this bill.

In addition, the tax reform bill would permit small businesses to expense up to $10,000 in equipment purchases each year, double the current limit, and would give all businesses more favorable depreciation schedules for such investments above this limit. The loss of the investment tax credit will be felt by many small businesses, but the reduction in tax rates and

these provisions on expensing and depreciation should more than offset the tax advantages afforded by the investment credit for most small businesses.

All self-employed small business men and women also would be permitted to deduct up to one-half of the cost of their health insurance for themselves and their spouse and dependents, a provision which partially offsets the advantages of fringe benefits provided by corporations.

The Senate Finance Committee bill can be improved. I regret that it does not include the simplified inventory accounting system proposed in the House tax reform bill. I oppose its requirement that certain inventory costs be capitalized for retailing firms with gross income of more than $5 million, a provision which will create endless paperwork for many small businesses. I hope that the differentials between individual and corporate tax rates do not create perverse incentives. Finally, I regret that even more tax relief was not afforded to incorporated small businesses in the tax rate structure adopted in the bill, an issue which I have raised in a Senate resolution. In particular, the $100,000 threshold for the recapture of the benefits of graduated rates is much too low and cuts the benefits of lower tax rates in half for businesses earning between $100,000 and $1 million.

These issues do not, however, overshadow the fundamentally sound provisions in the bill for most small business. Low and graduated tax rates are crucial and this bill delivers the lowest top tax rates we have had in 50 years. In a business climate with low tax rates, small businesses can prosper and grow into the large businesses which will restore America's competitiveness and generate economic growth for all to benefit from in our country.●

SPECIAL PROVISIONS IN TRANSITION RULES FOR TOYOTA

● Mr. METZENBAUM. Mr. President. one of the more outrageous provisions in this bill is a special benefit written in for Toyota, the Japanese auto giant which is reaping huge profits from the United States' imbalance of trade with Japan.

Toyota has decided to build an assembly plant in Kentucky. Not a car manufacturing plant, but an assembly line operation in which autoworkers, aided by highly sophisticated computers, will assemble parts which have been made in Japan by Japanese autoworkers.

Now Toyota argues that it deserves special tax breaks because it will create thousands of jobs in an area which now has high unemployment. This is a laudable goal—but already estimates of the number of production jobs in the plant have dropped from 3,000 to 2,000 and Toyota already has announced that at least 600 of those jobs will be filled by Japanese workers brought here to operate the facility.

Even more insulting, the construction phase of the project, which could involve up to 4,000 workers, is being undertaken under totally unacceptable ground rules set by Toyota and its Japanese contractor. According to Robert Georgine, president of the Building and Construction Trades Department of the AFL-CIO, Toyota is demanding that contractors and workers agree to special contract language before they are even permitted to bid on the work. This language, Georgine has charged, would totally undercut the protections guaranteed to American workers and unions under established American labor laws.

Just a few weeks ago a committee of this body heard the Assistant Secretary of Commerce testify that the Japanese Government is refusing to permit American contractors to bid on work in that country—yet here we have the U.S. Senate proposing to give a Japanese contractor and a Japanese auto manufacturer exemptions worth at least $37 million, by the Finance Committee's own estimate, so that American dollars can flow into their pockets.

We must not underwrite the efforts of foreign companies to undermine our labor laws. We must not contribute American tax dollars to enrich our competitors overseas.

If Toyota wishes to open a plant here, it is welcome—but not at the expense of waiving the new depreciation schedules which the Finance Committee says are essential, and not at the expense of restoring for this company the investment tax credit which the Finance Committee says provides inequitable and unfair benefits to business.

The rules that are appropriate for American companies are appropriate for Toyota as well, I hope this provision is dropped in conference.●

UNITARY TAX AMENDMENT (NO. 2080)

● Mr. MATHIAS. Mr. President, I support Senator WILSON's amendment to prohibit the use by States of the worldwide unitary method of calculating income for tax purposes.

Over the past week we have been debating the merits of the tax bill. However, there is an important tax issue that is not addressed by this otherwise comprehensive proposal. That issue is embodied in the President's bill on the worldwide unitary tax system, which is now pending in the two writing committees of Congress. Senator WILSON's amendment is identical to the President's proposal.

The worldwide unitary method, currently practiced by a handful of States, encompasses the entire worldwide income of an affiliated multinational group of corporations in calculating the State income taxes of one or more of the affiliates located within the taxing State. By contrast, the Federal Government, and the great majority of the States, tax only income generated within the States, treating the transfer of income from foreign affiliates as an arm's length transaction between separate business entities.

The efforts by some States to extend their tax jurisdiction beyond even our national boundaries have spawned an international tax version of the Tower of Babel, impeding the smooth flow of commerce. This creates friction with our major trading partners overseas, all of whom use the arm's length rather than the worldwide unitary approach in taxing foreign source corporate income. There have been official complaints through diplomatic channels from nearly all of our trading partners in recent years. Last summer the British Parliament enacted special retaliatory legislation empowering the Prime Minister to withhold important tax benefits that the U.S.-based corporations currently enjoy under the United States-United Kingdom bilateral tax treaty, if the unitary method is not dropped by the five States now employing it. Passage of this amendment will prevent these threats of retaliation from becoming a reality.

This amendment would in no way limit the right of a State to impose whatever level of taxation it chooses on business that is conducted within its jurisdiction. The amendment's only aim is to make sure that the States, in deference to our federal system of government and to internationally recognize tax norms, apportion only the income that is earned within their boundaries or that derives from outside operations with a direct connection to in-State operations. A special provision of this amendment allows the Internal Revenue to provide increased assistance to the States, sharing information now available to the Federal Government, to assure the States that their corporate taxpayers are not shifting revenues to avoid State tax liability.

This amendment is identical to a bill which we introduced last December, S. 1974, that was drafted by the Treasury Department at the instruction of the President. It has the full support of the administration. Indeed, after basic tax reform, this is the administration's highest legislative priority in the tax area.

Passage of this legislation is essential to protect U.S. companies from unjustified taxation of foreign source income. It is also justified because it will not inhibit Senate revenue efforts but will end the over-reaching that has caused foreign policy problems for the United States and may cause retaliation against U.S. corporations by our major trading partners.

Finally, Mr. President, this amendment is revenue neutral; it does not

affect Federal tax revenues at all. But because it amends the Internal Revenue Code, it would fit comfortably within the overall tax reform proposal before us. I hope my colleagues will have serious consideration to incorporating this amendment in the bill we are now debating.●

IMPACT OF THE TAX BILL ON THE NATION'S HANDICAPPED

● Mr. WEICKER. Mr. President, as chairman of the Subcommittee on the Handicapped, I have listened to the debate this past week on tax reform with special concern for the impact the proposed changes will have on 40 million disabled Americans.

Although all taxpayers will benefit from a proposed maximum tax rate of 27 percent, individuals with disabilities and their families will also benefit from at least three other provisions in the Senate Finance Committee proposal which fosters employment opportunities and enables individuals to remain in their home environment, thus avoiding unnecessary costly public residential settings. I commend the committee on its efforts to assist the Nation's disabled population through proposed changes in our tax structure.

The bill before the Senate will reauthorize the architectural barriers removal deduction and a modified targeted jobs tax credit. It also will, for the first time, amend the medical expense deduction to allow disabled individuals or their parents to deduct the expenses for removing architectural barriers in their home.

The architectural and transportation barriers removal tax deduction allows a taxpayer a deduction of up to $35,000 for expenses incurred in removing architectural or transportation barriers to make a place of business accessible to disabled individuals. This Tax Code provision, first enacted in 1976, has provided many new opportunities for disabled Americans and has brought us closer to our national goal of a barrier-free environment.

The targeted job tax credit allows employers a tax credit of 50 percent of the first year's wages—up to $3,000—when they employ individuals who are economically disadvantaged, including the disabled. The credit provides disabled individuals opportunities for employment which they might not otherwise be afforded, and which will enable them to become independent taxpayers. A recent national survey by Louis Harris & Associates found that two-thirds of all disabled Americans between the ages of 16 and 64 are not working. The targeted jobs tax credit is an essential part of our congressional response to this serious problem.

Further, the bill contains a modification of the medical expense deduction which will allow, for the first time, coverage for expenses incurred in the removal of architectural barriers in the home. This modification is consistent with efforts to help disabled individuals remain in a home environment and to avoid unnecessary and costly public residential facilities.

This change will benefit disabled individuals nationwide and begins to establish support within the Tax Code for disability-related expenses as a subset of the medical expense deduction.

However, in addition to medical expenses above the national average, persons with disabilities have disability-related expenses they face every day in order to live more independently. In a recent national survey of over 200 families, the average costs on an annual basis associated with raising a handicapped child were $5,280. These extra costs included the purchase and maintenance of special equipment, adaptive aids and devices, speech, physical, and other types of therapy, special transportation, and respite care, in addition to barrier removal expenses. To raise a child with a disability to the age of 18 without an adjustment for inflation would cost a family $95,000, in addition to the costs associated with any child to cover food, clothing, and shelter. Families of moderate income frequently suffer more than low-income families because they are ineligible for State or Federal assistance, yet they can't afford the large expenditures needed to help their children.

Adults with disabilities have a similar dilemma. With the assistance of a personal care attendant, many disabled adults are able to function more independently, be employed, and pay taxes. Although the medical expense deduction will allow the deduction of the total cost of nursing home care, it does not allow disabled individuals to deduct the cost of the personal care attendant who is the only reason they remain in their own home and in the community rather than in more costly and restrictive nursing home or institutional settings.

These disability-related expenses are not frivolous. They are life sustaining. They are not by choice, but by necessity. The clarification of the medical expense deduction to include these types of disability-related expenses is consistent with Federal policy which otherwise seeks to assure that people with disabilities are able to live within their homes and their communities.

Therefore, I am concerned that the bill before the Senate raises the threshold above 5 percent of adjusted gross income before an individual may count medical expenses as a deduction. It is my fear that such a change will decrease the attention of many disabled individuals to chronic medical needs because of the burden of personal expense. Ultimately, they will become more dependent rather than independent in their lifestyles as medical concerns go unattended. While it is true that people with severe disabilities will still be likely to meet the higher threshold, they will nonetheless be forced to spend a greater percentage of their income on necessary medical and disability-related expenses. Additionally, they may well become more reliant on the Federal and State governments to address their medical needs through such entitlement programs as Medicaid and Medicare.

This proposed change is an example of false economy. The supposed tax savings will be more than offset by increased dependence on Federal medical assistance programs. Rather than assist individuals and families to survive the struggle at home, we will bear greater costs in more restrictive publicly financed hospitals and institutions.

I attach for the RECORD a letter from over 20 national disability organizations who express grave reservations about this proposed amendment to the Tax Code.

I hope that my colleagues who will participate on the conference committee will consider these concerns as they attempt to resolve differences between the House and Senate versions of the tax reform measure. The maintenance of the current 5-percent threshold and a further clarification of the disability-related expenses as a part of the medical expense deduction makes sound economic sense. The Tax Code should be consistent with all other Federal policy that seeks to promote human potential rather than dependency for disabled Americans.

The letter follows:

CONSORTIUM FOR CITIZENS WITH DEVELOPMENTAL DISABILITIES,
June 16, 1986.

DEAR SENATOR WEICKER: The undersigned member organizations of the Consortium for Citizens with Developmental Disabilities wish to express our grave concern about the change in the floor for medical deductions contained in the Senate Finance Committee's tax reform package. People with disabilities and their families are usually among those who experience catastrophic medical costs (defined as more than 5 percent of their annual income according to a recent National Center for Health Services Research study). However, individuals with disabilities, as opposed to those faced with unexpected illness or trauma, experience this burden every day of their lives. The presence of a lifelong handicapping condition usually in and of itself presents a financial catastrophe which demands the best efforts of the individual and their family, and the best possible support of the government. Part of that support has been the availability of the medical deduction.

The ways in which individuals with disabilities have accessed the medical deduction to help them maintain as independent a life style as possible have diversified significantly in recent years. Technological advances and attitudinal changes have increasingly fostered support of the person within their own home. This trend continues to

prove much less costly than the alternative of institutional care which is frequently dependent upon federal subsidy. Families have made their homes more barrier-free. Services have been purchased for children with therapeutic needs extending beyond the capability of a school system or the limited coverage of a family's insurance policy. Communication and transportation aids have provided new possibilities for the worker with disabilities. Certain aspects of allowable nursing services have helped families remain intact and kept individuals out of inappropriate and frequently inhumane custodial care.

We clearly recognize that those who do in fact spend more than 5% of their earnings on medical and disability related expenses constitute a smaller portion of the population than those who do not have such great needs. Moreover, we understand that a significant lowering of the overall tax rates will proportionally lower the value of the medical deductions. However, we continue to affirm that those who experience catastrophic expenses should be accorded as much relief as possible. For, it is through sustaining these costs that individuals with disabilities and their families relieve society and the federal government of potentially even greater burdens associated with their care.

The undersigned national organizations strongly urge that, as the process of reform continues, individuals with disabilities and their families be given the consideration and support to which they are entitled. Within conference we are requesting that you support maintaining the floor as it stands in current law, thereby assuring that those most at risk are adequately protected.

Sincerely,

American Association on Mental Deficiency, American Foundation for the Blind, American Physical Therapy Association, Association for Retarded Citizens of the United States, Center for Law and Social Policy, Epilepsy Foundation of America, Mental Health Law Project, National Alliance for the Mentally Ill, National Association of Developmental Disabilities Councils, National Association of Private Residential Facilities for the Mentally Retarded, National Association of Private Schools for Exceptional Children, National Association of Protection and Advocacy Systems, National Easter Seal Society, National Mental Health Association, National Society for Children and Adults with Autism, The Association for Persons with Severe Handicaps, United Cerebral Palsy Associations, Inc.●

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAVE AMERICAN INDUSTRY AND JOBS DAY

Mr. SPECTER. Mr. President, on June 21, 1986, "National Save American Industry and Jobs Day," business executives, union members, political leaders, and thousands of other citizens will join in recognizing the importance of maintaining a healthy and growing industrial base as a means for providing jobs and economic growth. The U.S. steel industry and United Steelworkers of America have played leading roles in organizing these events.

The American steel industry was the seventh largest industry in the United States during 1985, paying out nearly $7 billion in wages and salaries. However, faced with increasing penetration of subsidized and dumped foreign imports, and eroding profitability, domestic production has fallen and many plants have been forced to close their doors.

Foreign steel imports constituted over 25 percent of domestic consumption in 1985, up from only 14 percent a decade earlier. While we have entered into voluntary export restraint agreements with our trading allies, these agreements have been undermined by transshipment of steel products through nonmember nations and weak enforcement of current trade laws.

The evidence is plain that enormous quantities of dumped and subsidized products, and goods which violate the customs laws, are entering this country every year. Equally clear is that the current laws prohibiting such imports are not being effectively enforced.

Illegal dumping, subsidy, and customs fraud have cost hundreds of thousands of Americans their jobs in recent years. Yet present laws prohibiting dumping, subsidy, and customs fraud have been little if any help to the critically injured American industries. Proceedings brought before the International Trade Commission typically consume months or even years, by which time dumpers have captured new markets and gathered huge ill-gotten profits.

Recently, I reintroduced the Unfair Foreign Competition Act, S. 1655, which would give American industries direct access to Federal courts to promptly halt the harmful import of dumped and subsidized products. It would also apply to products entering the United States in violation of Customs Department regulations.

American industry will receive justice when laws can be enforced through the judicial process and there is not a situation where American industry is sacrificed on the altar of politics and foreign policy. We desperately need the vigorous private enforcement this bill would spur if we are to successfully chart a course between the grave dangers of increased protectionism and the certain peril which would result from unabated illegal foreign imports.

We must work together to foster the long-term international competitiveness of our steel industry. It is not enough to guarantee fair and free trade and a level playing field. Increased investment in modern plant and equipment and research of new technologies must be undertaken in order to maximize worker output and retain our position in the global market.

We have before us a transition rule in the tax bill that will assist the industry in these efforts, allowing it an extended carryback of its earned but unused investment tax credits and requiring that revenues generated from this transition rule be used only for modernization. In addition, through the Keyworth initiative and continuation of the 25-percent research and development tax credit, the Federal Government has expressed its commitment to working with industry to stimulate the R&D necessary to achieve and maintain technical equality with our foreign competitors.

Revitalization of the steel industry and its success in future years also depends to a great extent upon the shape of the labor management relationship in the steel industry. Competitive adjustment on the home front has given rise to innovative labor contracts, giving employees greater responsibility and reducing labor costs.

Continued cooperative efforts are vital to industry and labor. U.S. steelworkers can return American steel to a position of prominence in domestic and world markets.

The economic health of the American steel industry is critical to our national interest, serving defense and basic infrastructure needs. It is our joint responsibility—labor, management, and Government—to work together to ensure that there is a future for domestically produced American steel. Although this is not an easy task, I am committed to doing what is necessary to ensure that real action is taken to save the American steel industry and jobs.

P.W. BOTHA'S SPEECH TO THE PARLIAMENT OF SOUTH AFRICA

Mr. HELMS. Mr. President, the events in South Africa are exceedingly grave. The South African Government has decreed a state of emergency, and moved with broad powers to protect life and property. The suspension of normal freedoms is never a step to be cheered, but sometimes the alternatives are far worse.

The policy of apartheid is one that has failed. The South African Government has taken major steps to abolish those aspects of its laws which have been criticized as being unjust. The way is certainly not yet closed to more fundamental reforms.

Yet, Mr. President, there are those who are not seeking democratic reforms, who instead are using "racism"

as a code word to establish a Socialist world order. They are not seeking to overthrow the whites; they are seeking to establish Socialist or Communist social systems to enslave both blacks and whites.

This is quite clear from the nature of the violence that is taking place in South Africa. Most of the violence is perpetrated by blacks against blacks, so it is obvious that the violence is not race-related. What it is, is violence of Communists and Marxists against those who do not wish to accept Communist leadership.

Since the beginning of March, attacks by Marxists who happen to be black against blacks who reject their leadership have resulted in the destruction by firebombs of 1,125 homes of blacks, damage to 347 black business premises, and damage to 11 black churches. What is far more barbaric, however, is that 284 black people have been killed since March 1 by black radicals using the so-called necklace method—hanging tires soaked in gasoline around the necks of victims and burning them.

This has not happened by accident. There are those in South Africa who are posing as humanitarians interested in ending apartheid, but are actually Communists seeking to impose a Communist system. The talk about apartheid may be justified in itself; but it is being used as bait to lure South Africa to destruction.

Mr. President, the South African Communist Party [SACP] is the controlling element of the African National Front [ANC], which many Americans innocently believe to be a benevolent political organization. These illusions are dispersed by a document of the SACP, which originated in the politbureau of the SACP, and was distributed to key operatives of the SACP in May of this year. It clearly outlined the methods to be used to create unrest and violence. The document is significant, in that a majority of members of the national executive committee of the ANC are members or supporters of the SACP.

Mr. President, on June 12, Mr. P.W. Botha made a major address to the three houses of the South African Parliament in which he outlined the reasons for proclaiming the state of emergency, and in which he revealed the intelligence information and the secret document of the SACP. Those who are interested in the South African situation should read the speech by the State President of South Africa very carefully, as well as the SACP document.

Mr. President, I ask unanimous consent that the speech of Mr. Botha and the accompanying document be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY STATE PRESIDENT P.W. BOTHA DURING A JOINT SITTING OF THE THREE HOUSES OF THE SOUTH AFRICAN PARLIAMENT ON JUNE 12, 1986

On the 4th of March of this year in Parliament, I announced the lifting of the state of emergency in the few areas where it still applied. I indicated then that the situation had improved sufficiently to allow me to lift the state of emergency and that existing legislation would be revised during the current session of Parliament to provide the authorities with the statutory powers required to effectively protect life and property.

I further indicated that it was the objective of the government to deal with continuing instances of unrest without subjecting the population to the inconvenience of a state of emergency.

The necessity for such legislation is no longer a debating point—it is a fact. Everything points to the fact that now and in the foreseeable future, there will be a requirement for such legislation. Unfortunately that legislation is not available at this stage.

Since, then, that is to say, since March 1986, the sporadic instances of violence have once again begun to increase, and have taken on such proportions that I am of the opinion that the ordinary laws of the land at present on the statute book, are inadequate to enable the Government to ensure the security of the public and to maintain public order.

In fact, the Government possesses intelligence regarding plans which have been made by radical and revolutionary elements for the coming days, which pose real danger for all population groups in the country.

The greatest reponsibility of any government is the security of the inhabitants of the country.

REFORM

Since I became Prime Minister, more has been done in all spheres of life than most people considered the Government willing or able to do.

Far-reaching reform initiatives have been undertaken to improve the living conditions of people and to give substance to the Government's point of view that all people should be accorded political participation at all levels of decision-making which affect their lives.

These include the following:

Establishment of the Development Bank of Southern Africa;

Expansion of the Small Business Development Corporation;

Drastic reform in the field of labor relations;

The adopting of a new constitution as a broadening of democracy;

The abolition of discriminatory measures;

The granting of freehold property rights to black communities;

The new urbanisation policy;

The willingness to negotiate with all South Africans on political reform, for example, within the President's Council and the National Council which is to be established;

Steps taken with regard to the citizenship of blacks; and

Projects to upgrade education and to provide housing.

These steps by the Government form part of the reform process. Despite the Government's commitment to negotiation for a new South Africa, in which the reasonable aspirations of all its citizens would be satisfied, violence has continued and even increased.

WORK OF DESTRUCTION

Violence has also increased in white areas. The largest increase occurred however in black communities where violence has been imposed on decent members of the black community by faceless so-called "comrades". This action, encouraged by the ANC and its followers, has made the burning of innocent people who disagree with them, a daily occurrence.

During the period 1 March to 5 June alone, 284 black people where violently killed by radicals—172 of them by means of the barbaric so-called "necklace" method. In some areas, this led to retaliation by black groups.

Since the beginning of March, black on black violence has led to:

The destruction or damaging by fire bombs of 1,125 homes;

Damage to 347 business premises; and

Damage to 11 church buildings used by blacks.

It is clear that black revolutionaries do not enjoy the spontaneous support of the majority of blacks and that they consequently resort to these methods of intimidation in order to gain control. These revolutionaries are controlled by a power clique which is typical of Marxist regimes and which is interested only in a violent takeover of power.

The Government has, after thorough consideration and with due regard to the economic, political and security implications, taken certain security actions.

In this climate of increasing violence, it is not possible for the reasonable majority to continue the search for a peaceful and democractic solution.

The Government is well-aware of the fact that stricter security action will elicit strong criticism and even punitive measures from the outside world. The implications and the price of these have also been taken into account.

The call for sanctions presently heard in the USA, is a cynical political move to buy black votes in the USA at the expense of job opportunities for black people in the Republic of South Africa.

UNDERMINED ATTEMPTS

This Government has, at high cost, ensured that the principle of justice was advanced in this country. We have all too often experienced how organizations and even governments in the free world undermine our efforts by extending naive moral, political and material support to the forces of revolution, and this despite the fact that the ANC and its followers stated unequivocally that they are committed to revolutionary violence.

Dr. Henry Kissinger made the following meaningful remark in this regard in his book "Years of Upheaval."

"When the crying need is for an assertion of authority, our advice usually dilutes it. And hard-pressed governments beset by an implacable domestic enemy are often reduced to paralysis by advice which they know is dangerous if not disastrous but which they know is dangerous if not disastrous but which they dare not reject. This was the fate of Nguyen Van Thieu, as it was later of the Shah of Iran."

I wish therefore to say forthrightly to the outside world: We have seen clearly what happened in Angola, as well as in Vietnam,

Nicaragua, Kampuchea, Afghanistan and Iran.

We will consequently not allow our heritage of more than three hundred years to be placed needlessly on the altar of Chaos and decay.

No responsible government can allow the indefinite disruption of normal political and economic activities in its country by extra-parliamentary and violent actions.

The Government appeals for national and international understanding for the strict actions which have been decided upon and again confirms its commitment to the principle of the broadening of the democracy in the Republic of South Africa.

CONSTITUTIONAL

At the same time, the Government wishes to confirm that constitutional reform will be realized in an evolutionary and constitutional manner.

The purpose is to create a situation of relative normality so that every citizen can perform his daily task in peace, business communities can fulfill their role and the reform programme to which the Government has committed itself can be continued.

Such a programme will be directed towards accommodating the aspirations and expectations of all South Africans in a new constitutional dispensation.

COMMUNIST PARTY

The serious concern with which the South African Communist Party and its proven pawn the ANC, view the Government's reform initiatives, is for example evident from a discussion during the ANC's national conference last year. It was inter alia alleged that:

"The danger of introduction of reformist illusions among sections of our people remains. We must pay constant attention to this development, expose and challenge these machinations from all directions. The need to cement the unity of the broad democratic movement, and to broaden as well as deepen its base is made the more imperative by the urgent task we face of defeating the enemy's new offensive."

It is thus clear that reform unanimity on democratic objectives and the establishment of a peaceful community pose a threat to them. Indeed, in some of the most recent documents being circulated by the ANC, it is said that 16 June should be utilised as "the mightiest demonstration yet of our people's resolve to bring the ruling class to its knees."

In order to oppose the Government's reform initiatives, radical and revolutionary groups have since 1985 committed themselves to rendering the RSA "ungovernable" and Government institutions "unworkable".

The ANC, the UDF and other radicals and anarchists are planning large-scale unrest in the interior during the period 16 to 18 June 1986, which will commence with demonstrations and marches to main centres.

They wish to support these actions by acts of sabotage and terror. According to their planning, certain identified points will serve as gathering places from where further disruptive action will be launched. If these actions are performed, it would lead to destruction of property and loss of life.

Radical elements claim that their acts of resistance will take place peacefully. That is cheap propaganda. The Government has the facts at its disposal and is aware that much more is being planned.

In a greater effort, they further intend to undermine Government institutions and to establish so-called "alternative structures" on a wider basis. These structures include so-called "people's courts" and actions by the "comrades".

This type of practice has already caused much suffering in black communities.

FURTHER INFORMATION

It is accepted practice that information obtained by the intelligence community is not, as a rule, brought to public attention. However, by way of the highest exception, I am today prepared to make available documentary material which clearly sets out the strategy, objectives and planning of the SACP, and from which it is inter alia evident that the ANC is only a front. This document of the Communist Party will be made available to honourable members.

The document to which I wish to refer, originated in the Politbureau of the SACP and was distributed in May this year in SACP circles with the purpose of establishing policy guidelines by June 20, according to which discussions could take place and which would have to be executed by the ANC.

The strategy contained in this document is significant, if account is taken of the fact that the majority of members of the national executive committee of the ANC, are members or supporters of the SACP.

The SACP, as a proven instrument of the U.S.S.R., in the above mentioned document confirms its overall strategic objective with the ANC's so-called revolution, I.E. As ". . . a stage towards the struggle for social emancipation in the epoch of the world transition from capitalism to socialism and within the context of the struggle against imperialism". The term "socialism" is used here as synonymous with the term "communism".

Against the background of these strategic objectives, the SACP in the document in question, points out a number of objectives which should be applicable in any discussion or negotiation between the ANC and other groups in the RSA, namely:

Firstly: The aim of the violent take-over of power must not be diluted or abandoned. The SACP warns that such discussions can be to the advantage of Western Governments and South African business people, and I quote: "We must not play into their (the liberal bourgeoisie and their like-minded imperialist friends') hands by working out compromises . . . which constitute a retreat from the mail aims of the National Democratic Revolution."

Even the desire to project an image of reasonableness to the outside world should not divert the ANC and the SACP from the aforementioned strategic objectives.

Secondly: Discussion by interest groups with the ANC and the simultaneous intensification of the ANC's violence, must according to the SACP, serve to create division in the so-called ruling class and in white ranks. In this regard it is stated:

". . . we are justified in helping by all means (including talks) to advance the process of breaking the cohesion and unity of the ruling class . . ."

Thirdly: "True negotiation", as the SACP puts it, can only take place when opposition to the SACP and the ANC has been dismantled by revolutionary violence. Everyone involved in discussions with the ANC, should be thoroughly aware of this approach.

The ANC has on various occasions emphasized that it is not interested in the renunciation of violence, but that it will continue its onslaught until the take-over of power by violence has been achieved.

It should be clear that there is no question of a desire on the part of the ANC to bring about peace. Indeed, unrest must be further stimulated, the economy must be weakened and terrorist acts, which will claim the lives of more innocent black and white citizens, must increase. Neither is there any question of sharing power with any internal group or an intention to that effect. Even the visits of radical groups such as COSATU and the UDF to the ANC are not viewed as recognition of the existence of other power groups, but as demonstrations of subservience to the ANC.

Some people, such as the UDF and even members within the ANC, hold the opinion that the freedom charter represents the ultimate objective of the revolutionary onslaught and represents the basis for political stability. This is not correct and I wish to remove this illusion.

The SACP describes the freedom charter in this document simply as, and I quote ". . . broad popular guidelines which describe the main contents of the people's power in the immediate aftermath of a victory of the National Democratic Revolution. It is not a programme for a socialist South Africa but, depending on the social forces which come to power, it can become the starting point for creating conditions which would lead to a socialist transformation". It is evident from this, that the Freedom charter is only the starting point for the SACP.

The Communist Party elucidates the freedom charter in practical terms, as follows: ". . . liberation implies a massive redistribution of wealth and cannot have much meaning without the undermining of the economic hold over the means of production, which is exercised by the existing ruling class without (at a political level) creating a state form in which the working people are dominant. This implies more than an alteration in voting arrangements".

"Meaningful exercise of people's power during the interim phase is inconceivable in a situation in which the army, the police force, the state bureaucracy, the communication media, etc., etc. remain substantially in control of the existing structures".

In my address on 17 April, I elaborated on the SACP's domination of the ANC structure. This is again confirmed by the document in question when it is stated that: "It is also necessary to reflect on the profile of the party in the liberation alliance whose public head is correctly the ANC . . .".

The time has arrived for the ANC to incisively investigate its relationship with the SACP, the infiltration of its structures by the SACP, as well as its identification or not with the ideology and planning of the SACP, and to state clearly its findings to the world.

As matters now stand, the two organizations are now so interwoven that no-one can enter into discussions with the ANC, without the knowledge that he is probably also in discussion with the SACP.

A futher important aspect which I want to emphasise in this regard, is that the SACP—and as stated before also the ANC—has at no stage accepted the sincerity of the motives of visiting groups.

Although the ANC immediately realised the possibilities of exploiting discussions to its own advantage, the SACP nonetheless finds it necessary to issue the following warning:

". . . the liberal bourgeoisie seek to destroy the position of the ANC as head of the National Democratic Revolution and equate it with other groups on an equal footing. This is accompanied by persistent efforts to break the alliance between the ANC and the

SACP and between the ANC, the Soviet Union and the world progressive movements, as well as determined attempts to rid the ANC of its anti-imperialist content".

This then is the background against which violence and unrest are planned and perpetrated.

STATE OF EMERGENCY

The objective to extend the violence country-wide, which I have explained, is accompanied by active attempts to realise it. I was indeed advised by security experts that the entire republic is a target area and that the security of the state could be at stake.

The occurrence and increase of violence as perpetrated by persons and organisations, is in itself in my opinion of such a nature and extent that it seriously endangers the security of the public and the maintenance of public order.

Circumstances have furthermore arisen in the Republic of South Africa which pose a threat to the entire public, as well as to public order. Because I am thus of the opinion that the ordinary laws of the land are inadequate to enable the Government to ensure the security of the public and to maintan public order, I have decided to declare a national state of emergency, including the self-governing national states.

This state of emergency is applicable as from today. Regulations which accompany it, have been issued and will be published in the Government Gazette.

These measures are not aimed at the normal activities of law-abiding citizens. It is specifically aimed at the protection of their interests and to neutralise those who want to destroy everything.

I therefore make an appeal to all peace-loving South Africans to continue their daily task to the advantage of our country.

We can expect in the financial and economic fields that the immediate reaction abroad will be negative. Consequently, temporary tension can be expected in the financial markets.

Recent tendencies in the exchange rate and interest rate pattern have probably already partially taken account of these expected adjustments.

I wish to warn against over-reaction in this field.

The extent to which the rand for example drops in circumstances such as the present, is certainly not the only and final measure of the present or future economic capability of our country. Our exporters should continue to utilize the low value of the rand on the export markets of the world to their own advantage. In this manner employment opportunities are created and maintained and valuable foreign exchange is earned for South Africa.

We can properly develop the great economic potential of the country only if we maintain law and order in the Republic of South Africa.

The private sector plays a key role in creating prosperity.

Workers who want to work must be protected and the property and assets of investors must be safeguarded.

The business world expects this much of the Government.

For this reason, these measures should soon also act to the advantage of the national economy as a whole.

In the meantime, we will continue to support the economy in a sound manner with appropriate fiscal and monetary measures.

I accordingly trust that the private sector will utilize the talents, skills and means at their disposal, also under these difficult circumstances, to establish a prospering economy in which all the peoples of South Africa can share.

Many people have suffered severely as a result of the unrest situation. The Government has full understanding of the dire circumstances into which they have been forced by the perpetrators of violence.

I wish to plead with you to ensure that, under the hopefully shortlived, but even more difficult circumstances now facing you, our children, our building blocks and hope for the future, are not exposed to further physical and spiritual destruction.

Help us to ensure their future.

Our country can offer a safe and prosperous future to those who want to build and work in peace. Let us make our country free of violence.

SACP DIRECTIVE/DISCUSSION DOCUMENT

The Politburo of the South African Communist Party (SACP) is currently (May 1986) circulating a directive/discussion document on negotiations to its members in order to promote uniformity on this issue throughout their ranks and to foster a similar approach within the ranks of the ANC. The document originated from an extended politburo meeting with members of the Central Committee in March 1986 where a decision was taken to provide more systematic theoretical guidelines on certain vital questions/problems which have been highlighted by the current situation in South Africa.

DISCUSSION DOCUMENT (SACP)

1. It is universally acknowledged that our situation is pregnant with the prospects for change. The use of brute force, combined with attempts at reformist diversions designed to avoid real change, are visibly failing. The resistance is not being subdued. Instead, more and more people are being awakened to political life.

2. The political statement circulated by the Central Committee after our last plenary session touches on these developments in greater detail and forms part of the background to this discussion document.

3. Our liberation front is becoming increasingly accepted as more than an agitational opposition; it is regarded by a large slice of the world and, more importantly, by the majority of our people, as the immediate alternative power to racism and exploitation. The heightened tempo of the conflict and the prospects which are emerging for radical transformation demand continuous attention to our organisational, agitational and mobilising tasks both in the military and political spheres as part of the unfolding revolutionary process. These developments also require reflection on a number of problems relating to the strategy and tactics of the revolutionary transformation which may previously have been in the realm of speculative debate but which have now assumed an immediate significance.

4. Party cadres at different levels of the liberation structures have of course participated in the process of elaborating answers to questions which changing reality is increasingly posing. It has obviously become more urgent than ever for the party as a collective to reflect more deeply than it has managed to do in the recent period on some of the problems raised by the changing situation.

5.1 The strategic objectives defined in our programme, party constitution and other basic documents remain valid. These documents define the main content of our National Democratic Revolution and describe it as a stage towards the struggle for social emanicipation in the epoch of the world transition from capitalism to socialism and within the context of the struggle against imperialism. The dominant role of the working class at this stage of the struggle is stressed.

5.2 The freedom charter provides broad popular guidelines which describe the main content of the people's power in the immediate aftermath of a victory of the National Democratic Revolution. It is not a programme for a Socialist South Africa but, depending upon the social forces which come to power, it can become the starting point for creating conditions which would lead to a socialist transformation.

5.3 Our broad strategy for achieving people's power is to mobilise the masses for a seizure of power through a combination of political action and armed struggle in which partial and general uprisings will play a vital role in the developing stages of people's war.

6. Paragraph 5 very briefly summarises and describes the main beacons of our struggle. But the tactical journey toward these beacons must be influenced by the continuously changing and developing situation. And, as we have already emphasised, events of the last twenty months have resulted in a very significant transformation of the balance of class and national forces involved in our struggle.

7. There has already been an immeasurable strengthening of the revolutionary forces. Organisationally, this expresses itself primarily in the enormous growth in the popularity, reputation and status of the ANC led liberation alliance. This alliance attracts varying degrees of allegiance and support from the masses organised at local, regional and national level and from the organised working class. Roughly speaking, this sector as a whole encompasses the content of the main revolutionary forces as organised contingents. In class terms the core of those contingents are the urban and rural working people in alliance with other classes and strata among the nationally oppressed majority such as the black petty bourgeoisie whose objective interests will be served by the revolutionary transformation envisaged by the liberation alliance.

8. In addition the struggle in our country is creating a situation in which the white power bloc is beginning to lose its cohesion. Sections of the ruling class in the imperialist countries, which were previously quite ready to underpin the apartheid system, are also beginning to lose faith in its capacity to protect their interests. Sensing the inevitability of change, important sectors of the white power bloc and some imperialist strata are themselves beginning to seek a transformation involving mainly the extention of varying forms of political democracy within the framework of capitalism. Recognition by powerful segments of our ruling class (and some of their imperialist allies) that they can no longer continue ruling in the old way obviously favours the revolutionary forces; it brings to the fore the need to intensify the politico diplomatic terrain of struggle so as to weaken still further the cohesion of the forces ranged against us.

9. Thus, there are emerging in South Africa what Lenin called (in relation to the February 1917 Russian Revolution) "dissimilar currents, heterogenous class interests, contrary political and social stirrings", as objective factors in deepening the enemy crisis, fragmenting its previously monolithic character and therefore objectively strengthening the prospects of a radical

breakthrough. On the face of it there appears to be a proliferation of new groupings which consider themselves to be part of the forces for change but which cannot necessarily be embraced as part of what we regard as the revolutionary forces. By far the most important class grouping which falls into this category is what one might call (for want of the better phrase) the "liberal" bourgeoisie. It is the representatives of the latter and their like-minded imperialist friends which triggered off the current series of talks and dialogue with the ANC. Many issues going to the very root of the politics and economics of an immediate transformation have been a subject of discussion with these forces and of continuous speculation in the international and South African media.

10. Let us be clear. The "liberal" bourgeoisie seek transformations of the South African society which go beyond the reform limits of the present regime but which aim to preempt the objectives of the revolutionary forces. Old style apartheid no longer serves their class interests. In addition, external pressures triggered off by an unending people's resistance, are taking a terrible toll of their existing and potential economic interests. It is clear that the new found political liberalism of a significant section of the bourgeoisie (represented by the signatories to the FCI Business Charter) has, as its primary objective, the saving of capitalism implying, by and large, the retention by them of the ownership of all or most of the means of production. Their business charter, which in certain respects proclaims the same liberties as the freedom charter, understandably incorporates clauses such as "everyone has the right to own property, alone as well as in association with others . . . and everyone has the right freely to employ labour and to own or manage a business in accordance with the rights and principles set out in this charter". And, (as we shall see later) the other side of the same coin is the fear of a revolutionary takeover and, therefore, an attempt to avoid majority rule in its true meaning.

11. In other words, the liberal bourgeoisie seek a February but, understandably, in a way which would prevent it from moving into an October. Their strategy for achieving this objective has been clearly articulated by them.

11.1 They seek transformation through negotiation and not the kind of conflict which would culminate in a revolutionary seizure of power. Lenin said of the Russian liberal bourgeoisie that it "does not demand the overthrow of the Tsarist Government . . . it is striving to effect as peaceful a deal as possible between the Tsar and the revolutionary people . . . a deal which would give a maximum of power to itself, the Bourgeoisie, and a minimum to the revolutionary people . . . the proletariat and the peasantry"

11.2 To implement this tactic they, together with their external allies, can be expected to attempt to push the revolutionary forces into negotiation before they are strong enough to impose their basic objectives. The intention is to defuse the people's struggles and to force a compromise based on existing power relationships.

11.3 A vital element of their strategy is to prevent effective majority rule so as to keep the national forces divided. For example Gavin Relly, one of the most influential signatories to the business charter casts doubts on the advisability of having a single directly elected assembly, supports the perpetuation of tribal power centres such as the homelands and states that "An immediate handing over of power on the basis of one man one vote would result in political chaos and economic retreat."

11.4 Consistent with the above is the insistence by the Rellys and the Van Zyl Slabberts that there must be a break by the ANC with the Communist party and that in any case the ANC must be regarded as only one of the many organisations among the black forces when it comes to a round table settlement discussion. Van Zyl Slabbert's report-back to Botha about his discussions with the ANC reveals another level of his approach. He described the ANC following among the people as a "myth" and asked for permission to see Barnard (the head of national intelligence) in order to discuss proposals (with security implications which he felt could "draw the teeth" of the ANC).

12. We have devoted space to the problem of the liberal bourgeoisie because it helps to highlight with greater clarity a number of questions related to the character of our revolution. More particularly:

12.1 Our situation differs from the situation facing the Russian Bolsheviks in 1905 and in the period prior to February 1917. In our case the white bourgeoisie (including its political liberal segment) is in power: It is the ruling class. Therefore we must resist any confusion between the National Democratic Revolution (whose content is spelt out in our programme, in the ANC strategy and tactics, etc) and the classical constituents of bourgeois democratic revolutions. The unique and atypical form which South African capitalism has developed (based on colonialism of a special type) has placed on the agenda A struggle for national and political demands which are usually associated with the historic struggle waged by the bourgeoisie at the dawn of capitalism against fuedalism. These demands have become known as bourgeois democratic rights.

12.2 In any case (in contrast to 1905 and February 1917) no sector of our bourgeoisie (with the exception of the tiny weak black bourgeoisie) supports the struggle for bourgeois democratic rights in their true meaning. As we have seen they remain opposed to the very starting point of bourgeois democratic rights IE majority rule, one man one vote in a united national state. Despite a great deal of rhetoric on questions of democracy their ultimate solutions are always qualified by references to group rights which, in the South African context, implies various forms of protection of the accumulated privileges of the white group.

13. Our characterization thus far of the liberal bourgeoisie does not however dispose of the question completely. A serious revolutionary movement always tries to divide the enemy and to broaden the base of opposition to the main enemy. This implies the need for ever-widening varieties of opposition some of which may not be motivated by revolutionary intentions. In this connection we must also bear in mind the danger of the potential growth, in the strength of out-and-out nazi forces such as AWB, HNP, Treurnichts CP (and their vigilante offshoots) and the possibility of an undisguised military dictatorship. Also we must not underestimate the counter revolutionary offensive against freedom movements orchestrated by the Reagan administration. On the other hand a political re-adjustment in the ruling power block which favours its liberal bourgeoisie wing would undoubtedly create better objective conditions for the continuing struggle by the revolutionary forces to achieve the aims of the National Democratic Revolution. Tactically, what flows from this?

13.1 On the one hand we are justified in helping by all means (including talks) to advance the process of breaking the cohesion and unity of the ruling class and to isolate and weaken its most racist and politically reactionary sector.

13.2 On the other hand, without blurring some very important distinctions between liberal bourgeoisie and their more reactionary class brothers.

13.2.1 We must expose their objective of co-opting forces from among the oppressed in order to frustrate the achievements of the main aims of the National Democratic Revolution.

13.2.2 We must not play into their hands by working out compromises (or being seen to work out compromises) for some hypothetical negotiating table which constitute a retreat from the main aims of the National Democratic Revolution. Nor must a genuine desire to project a public image of "reasonableness" tempt us to paddle softly on the true nature of the Liberation Alliance and its revolutionary socio-economic objectives.

13.2.3 At the same time we must not mechanically dig in our heels against any future possibility of negotiation or compromise with other forces. We must remember that virtually all revolutionary struggles in the post war period (Algeria, Vietnam, Angola, Mozambique etc) reached their final climax at the negotiating table. But the question of negotiation usually arises at a time of a major revolutionary climax involving the transfer of power based on the massive strength of the people's offensive. At such a stage we have to judge what interim compromises are historically justified and take the people with us. The main thrust of our present strategy remains a revolutionary seizure of power. Premature speculation about possible compromises in order to tempt broader forces such as the liberal bourgeoisie on to our side, may serve to blunt the edge of the people's revolutionary militancy.

14. Another question which requires special attention is how to harmonise and achieve a correct balance between the imperatives of class alliances and the independent role of the working class and its political vanguard. In the area of mass organization the answer is less problematic. The emergence of a strong trade union movement which is both independent of and part of the broad alliance of revolutionary forces creates a workers' constituency with enormous potential for acting at the mass level in defence of workers' interests both economically and politically. The trade union movement does not and cannot carry out the functions of the political vanguard of the working class. This is the role of the party of the working class, which we are. In the alliance headed by the ANC we represent both the short and long term political and social aspirations of the working class. We have always believed that our party can only carry out its historic mission by ensuring that its vital role in the alliance does not result in a negation of its role as a public independent vanguard of the working class. In this connection we must consider the following:

14.1 We continue to face the old problem of party work always being pushed into second place because of the necessary involvement of virtually all our talented personnel in other structures of the liberation

alliance. This continues to limit our capacity for the independent spread of working class perspectives in the struggle and hinders the strengthening of the party organizationally. If no effective steps are taken to deal with this weakness, the party will not be able to carry out its historic mission.

14.2 It is also necessary to reflect on the profile of the party in the liberation alliance whose public head is correctly the ANC. The question which needs to be addressed is: To what extent has it become accepted as a permanent feature of the alliance that the party is not a participant as a party in the activities and relations of the alliance with other forces? This question recently came under consideration in the preparations for the meeting with COSATU. After prior discussion which included an informal canvassing of the views of some of the COSATU delegation it was decided that the party should not be seen to be having an independent presence in the talks. Without questioning the correctness of the decision on this specific occasion it has become important to open up this problem for reflection and discussion especially in relation to the status and role of the party in our future serious negotiating process. It is also necesary to reflect on the extent to which the party should (like SACTU) develop publicly-expressed independent relationships with selected working class groupings.

14.3 Making the formal profile of the party more visible will not, on its own, give it the capacity to preform its historic mission. In the end, it is the party's strength on the ground and more especially, its organised presence among the black working class, which counts.

15. The situation has shot into greater prominence than ever before the question of the character of the interim phase of people's power. We have partly touched upon this in reference to the role and objectives of the liberal bourgeoisie. The series of talks on which the alliance has correctly embarked demand from us more precise formulations than are contained in the broadly stated objectives of the freedom charter. Understandably, there is increasing pressure for answers to questions which relate to the interim phase of people's power. It has clearly become necessary to elaborate more detailed approaches to matters such as the relationship between private and public property in the interim phase. These approaches must be guided by the following general considerations:

15.1 On the one hand, as clearly spelt out in our programatic documents, the immediate attainment of the socialist revolution is not on the agenda. This does not mean that we are putting it off but, to quote Lenin's words, we "are taking the first step towards it in the only possible way, along the only correct path, namely the path of a democratic republic."

15.2 On the other hand, liberation implies a massive redistribution of wealth and cannot have much meaning without the undermining of the economic hold over the means of production which is exercised by the existing ruling class and without (at a political level) creating a state form in which the working people are dominant. This implies more than an alteration in voting arrangements. Meaningful exercise of people's power during the interim phase is inconceivable in a situation in which the army, the police force, the state bureaucracy, the communication media etc. remain substantially in the control of the existing structures. It is only a provisional peoples government which can take measures which will ensure the possibilities of a real exercise of democracy.

16. In conclusion it is necessary to stress that the talks which have taken place have undoubtedly served to enhance the unity of the democratic forces and to weaken the cohesion of the enemy both at home and abroad. Indeed this area of the politico-military terrain of struggle needs to be pursued with even greater vigour. We must however make sure that the whole membership of the liberation movement and the people generally are kept fully informed about the nature of the talks so as to avoid misunderstanding and distortion of their real nature.

The emphasis of the struggle rests on the rising momentum of the people's offensive which must be intensified with the object of wining people's power. The issue of future negotiations (to be distinguished from the talks) must always be dealt with in a manner which will not serve to divert or defuse this momentum. We must continue to make clear that our "bottom line" for negotiation is the transfer of political power to the majority in one united democratic South Africa.

This objective should however not divert us from creating the broadest possible front of struggle around immediate basic demands such as the release of political prisoners, troops out of townships, dismantling apartheid, legalizing the anc and so on. The winning of these demands may create a better climate for negotiations but cannot in itself be regarded as a bargaining chip for slowing down or suspending the people's offensive.

BALTIC STATES TRIBUTE

Mr. PRESSLER. Mr. President, this month we pay tribute to the citizens of the Baltic States. These noble people enjoyed a brief period of freedom between World War I and World War II. The peoples of the Baltic States lost their freedom to a joint Nazi-Soviet occupation of Lithuania, Latvia, and Estonia.

Once the Soviets conquered these small republics, they began a ruthless campaign to destroy their cultures in an effort to extinguish any hope that the Baltic peoples could be independent again. The Lithuanians, Latvians, and Estonians suffered tremendously from the brutal Soviet purges. Hundreds of thousands were shipped off to certain death in Siberian slave labor camps. The Soviets established puppet governments and annexed the Baltic States into the U.S.S.R.

Ojars Kalnins, in an article entitled "The Holocaust Hasn't Ended," gives us this perspective on what it is like to be a victim of Soviet oppression:

In the early morning of June 14, 1941, two heavily armed agents of the Soviet security police invaded the home of a Latvian in Soviet occupied Riga. They ordered him out of bed and informed him that he was to be immediately deported to Soviet Russian as an "undesireable" element.

They gave him 15 minutes to pack. He was not even allowed to say goodbye to this wife, who was paralyzed and thus unable to go with him. "Her heart rending screams are still sounding in my ears," he later stated in a letter to the Latavian minister in Washington DC. He was one of the lucky few to survive the Soviet-Nazi alliance to destroy the Baltic people. His wife was not. Although she lived through the first Soviet occupation of Latvia, she was later killed by the Nazis.

Even though the Soviets have tried to russianize these conquered countries, the peoples in the Baltic States have maintained a strong sense of heritage and a desire for independence.

Through the love of country and the determination of the human spirit, the peoples of the Baltic States continue to oppose the Soviet yoke of oppression. Their actions have given the free world an example to live up to. As free people, we can learn from the citizens of the Baltic States that freedom is a value which is difficult to obtain, easy to lose, and difficult to recover once lost.

Today the Soviet oppression continues. But so, too, does the struggle of the citizens of the Baltic States to recover sovereignty and independence for their nations. It is our moral obligation as free people to continue to deny recognition of the Soviet occupation of these countries and to demand their freedom.

SENATOR KASSEBAUM SPEAKS ON SOUTH AFRICA

Mr. DOLE. Mr. President, I want to commend my colleague from Kansas, Senator KASSEBAUM, for her excellent statement yesterday morning about the tragic situation in South Africa.

As usual, she has cut through a great deal of the rhetoric surrounding this very complex issue and laid out a framework for looking at this issue that makes sense.

U.S. VOICE MUST BE STRONG AND CLEAR

The United States has a vital role to play in the effort to bring about an end to apartheid. Our public posture has to be strong and clear—we condemn apartheid; we demand its end; and we demand that the process of dismantling apartheid accelerate, beginning now. There is no need to equivocate on these demands. There is no justification for equivocating on these demands.

Obviously the President, as our Nation's spokesman, must take the lead in this important effort. He, alone, can speak for us all, and I look forward to hearing from him further on this issue. But he cannot speak alone. All of us in public life have the responsibility to make clear that Americans are united in their aversion to apartheid and their demand that it end. And all of us have the equal responsibility to make sure that we don't undermine our moral stance on this issue by trying to twist or use it for partisan gains.

POLICY MUST NOT BE LIMITED TO RHETORIC

Nor can our policy end with just rhetoric and demands. We have not met our moral responsibility and our responsibility as a great and free Nation, one that espouses liberty for all, just by condemning apartheid. Above all, we cannot meet our responsibility by making eloquent speeches, on one hand, and then picking up our marbles and going home, on the other.

WHERE DO SANCTIONS TAKE US?

The call for sanctions is a tempting one. Admittedly, it is one way to express the outrage we all feel. Admittedly, it might have a shock effect on the South African Government.

But let us pause to consider the critical question which Senator KASSEBAUM raised: Will it work? Will the shock lead to South African reform, or just to a circle-the-wagons round of repression? Will it lead to dialog among whites and blacks, or a tighter drawing of the lines of racial separation? Will it help South Africa's blacks, or just add a new dimension to their misery? Will it prevent a new bloodbath, or actually hasten its beginning? Will it improve the chances for a peaceful, democratic solution, or will it dash those hopes once and for all.

THE STAKES ARE HIGH

Human lives—thousands of them, black and white—may depend on our answers to these questions. That is not just rhetoric. It is a fact, a fact that should give us all pause.

There are no easy answers. There are no quick fixes.

My Kansas colleague, by her words and her example, calls upon us to deal with this issue with the seriousness, the creativity, the nonpartisanship and the statemanship that the stakes demand. In the days ahead, let's not forget her counsel.

UNITED STATES-SOVIET RELATIONS: THE VIEWS OF THE DEMOCRATIC LEADER, SENATOR ROBERT C. BYRD

Mr. HART. Last evening, the distinguished Senate Democratic leader addressed the Women's National Democratic Club on the subject of United States-Soviet relations. Senator BYRD demonstrated once again his thorough and sensitive understanding of foreign policy and American security interests.

The Democratic leader has a hardheaded, realistic understanding of the Soviet system and its leadership. In his remarks, he urges the administration to look behind the public relations veneer of the Soviet leadership and move aggressively toward arms control negotiations that are in our mutual, pragmatic self-interests. As Senator BYRD notes: "We have allowed the Soviets to adopt a public posture of pursuing peace and a public tone of reasonableness that obscures a less than forthcoming private posture at the tables in Geneva." And he asks General Secretary Gorbachev to agree to a definitive summit schedule without delay.

At the same time, Senator BYRD is right to caution that the cacophony of anti-Soviet rhetoric and the confusion of views within the administration are damaging America's security interests and harm the propects for any progress in arms control.

I hope his words are heard and heeded in the councils of the Pentagon and the State Department, and the Oval Office.

I congratulate the Democratic leader not simply for the eloquence of his words but the steadfastness of his work. He has played a major role in sensible efforts toward strategic modernization. He has enabled House and Senate Members from both parties to contribute their expertise as advisers to the ongoing arms control negotiations. He has reminded all Americans that the Democratic Party believes in both peace and strength. And he has helped move the administration toward meaningful and mutually beneficial arms control.

I ask unanimous consent that the full text of Senator BYRD's remarks be placed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATE DEMOCRATIC LEADER ROBERT C. BYRD BEFORE THE WOMAN'S NATIONAL DEMOCRATIC CLUB, JUNE 17, 1986

This is a time of unusual opportunity to rethink, reinvigorate and rechart our basic relationship with the Soviet Union. As with all relationships and opportunities, the chemistry of its timing is delicate and important. There is a new and vigorous leadership with Mr. Gorbachev at the helm in Moscow.

I led the first delegation from the Senate to meet with Mr. Gorbachev last September. Do not let the razzle-dazzle of the new Soviet p.r. operation fool you—he is not a closet Democrat who shares the values that you and I were raised under. He is in a very real sense, new wine in an old bottle. I concluded, after three-and-one-half hours of discussions with him that he seems able, is articulate, and has a versatile personality. He can be somewhat engaging as well as challenging. He can be arrogant, and he can be charming. He presents an impressive amount of personal confidence and control, and is animated and alert. He tends to elaborate on his points, rather than truncate his discussion, as when he took one-and-one-fourth hours to rebut my remarks, point by point.

This, of course represents a significant departure from the style of previous Soviet leaders, who were more formal and less versatile in their dealings with the West. Although this style may give the impression of greater openness or flexibility in issues, compared to his predecessors, he has not yet displayed radical departures on substance from his predecessors. Yet, he is new, and his regime has just begun. We are in fact, witnessing a series of new arms control proposals from the Soviets, and even officials of this Administration have characterized them variously as "interesting," "tantalizing" and "fascinating."

There is mounting concern that the Administration has displayed unusual ineptitude in its recent approaches to the Soviets. This is particularly true in regard to the SALT II no-undercut policy. It seems to me that the Administration simply must exercise much more discipline over the cacophony of intramural factions that are vying for the President's ear and for the President's mouth.

The American administration must be able to speak with one voice, fashion understandable policies that has coherence, and proffer proposals on arms control and other matters that are reasonable and attempt to bridge the difficult asymmetries between our respective systems and military arsenals.

Mr. Gorbachev should realize that he ought not try to out wait the Reagan Administration in the hopes of a better deal of arms control in the future. I said this to him directly last September, in the hopes that the Democratic Leader of the Senate and seven other Senators would be appropriate messengers on this subject. I am hopeful that he will realize this, because the longer he waits, the more complex the arms race becomes and the more difficult it will be to reach agreements.

As many of you may know, at the beginning of the 99th Congress I suggested to the President that the Senate needed to have a more active role in the arms control process. He liked the suggestion and a Senate observer group has been appointed to attend the talks, monitor them, and report back to the Senate. I believe that this has been a constructive step, promoting the understanding of Senators of the particulars of negotiations.

I believe that there are a variety of mutual tracks that can be explored—in the fields of cooperative actions in the sciences and education: in space exploration: and in reducing the incidents of terrorism—that can be taken with the Soviet Union. While all these tracks can be explored at once, it is vital that progress be made on the central issues of arms control, and war and peace, before great progress can be made. On the other hand, it is also true that successful cooperative ventures can help to produce a better atmosphere within which the big issues can be addressed. We in the Senate are ready to do our part.

One of the most important differences between Gorbachev and Brezhev, whom I met in 1979, is Gorbachev's understanding of the benefits of the manipulation of public perception and public relations.

To date, the Soviets have used their test ban proposal, our SALT II posture, and the accident at Chernobyl (calling the accident a demonstration of why arms control is so important) to good p.r. advantage. They are meticulously putting forth a progressive image and we are letting them get away with it without an adequate public rebuttal.

We have allowed the Soviets to adopt a public posture or pursuing peace and a public tone of reasonableness that obscures a less than forthcoming private posture at the tables in Geneva.

The challenge to this Administration is to find a way to stop the public posturing and focus attention on the real business of arms control negotiations in Geneva.

Personally, I would like to see the President quiet the disparate voices in his Administration as one step toward avoiding handing the Soviets any more avenues

which they can exploit. As long as they can make mileage by scoring p.r. points in the media, they will not get down to serious bargaining.

For the part of Mr. Gorbachev, if he were to agree to set a definite summit schedule now, it would go a long way toward putting the Administration into a new mode. For a summit deadline would force the bureaucracies on both sides to reassess their positions on arms control and other matters, and the course of reconstructing the Soviet-American relationship would be put on a sounder footing. Therefore, Mr. Gorbachev can exert a very positive influence on current events simply by agreeing to a summit date. I have attempted to make this point at every opportunity, and I do hope that the message falls on receptive ears. I am pleased to see that the President has written to the Soviet leader to urge a meeting between Secretary Shultz and Minister Shevarnadze for the purpose of setting the agenda for a summit.

No one can reasonably doubt that the Soviets will remain anything other than our principal adversary for the foreseeable future. Nevertheless, the possibilities of developing and deepening the constructive aspects of our relationship should be fully explored. The Soviets need to reduce defense spending as much as we do. Their economy is not in the best shape. Their computer and information industries are outdated and falling steadily behind ours. Their communications and control systems—as revealed by the Chernobyl disaster—are antiquated and in need of major overhaul and renewal.

They need progress on an arms control agreement to obscure some of these failures. These are far more driving requirements than any particular human personality, and they give some hope for constructive action on the arms control front.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid befor the Senate messages from the President of the United States submitting a treaty which was referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:21 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2798. An act to amend title 38, United States Code, to prohibit discrimination in employment because of the status of certain individuals as a member of a reserve component of the Armed Forces or as a member of the National Guard;

H.R. 4116. An act to extend and improve the Domestic Volunteer Service Act of 1973;

H.R. 4384. An act to amend title 38, United States Code, with respect to veterans' readjustment appointments; and

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

At 4:18 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4175. An act to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission;

H.R. 4463. An act to establish programs to promote effective schools and to encourage joint parent-child educational approaches, and for other purposes; and

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2798. An act to amend title 38, United States Code, to prohibit discrimination in employment because of the status of certain individuals as a member of a reserve component of the Armed Forces or as a member of the National Guard; to the Committee on Veterans' Affairs.

H.R. 4116. An act to extend and improve the Domestic Volunteer Service Act of 1973; to the Committee on Labor and Human Resources.

H.R. 4175. An act to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission; to the Committee on Commerce, Science, and Transportation.

H.R. 4463. An act to establish programs to promote effective schools and to encourage joint parent-child educational approaches, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 4384. An act to amend title 38, United States Code, with respect to veterans' readjustment appointments; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2095. A bill to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act (Rept. No. 99-324).

EXECUTIVE REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

George R. Salem, of Virginia, to be Solicitor for the Department of Labor;

Robert E. Windom, of Florida, to be an Assistant Secretary of Health and Human Services;

David Lowenthal, of Massachusetts, to be a member of the National Council on the Humanities for a term expiring January 26, 1992; and

Peter R. Greer, of Maine, to be Deputy Under Secretary for Intergovernmental and Interagency affairs: Department of Education

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE:

S. 2565. A bill to ensure the orderly and competitive development of the telecommunications industry; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN:

S. 2566. A bill to encourage the safe use of all-terrain vehicles and improve congressional oversight of the regulatory activities of the Consumer Product Safety Commission regarding such vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS (by request):

S. 2567. A bill to reduce the cost and improve the administration of the Food Stamp Program and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CHAFEE:

S. 2568. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of business development companies; to the Committee on Finance.

By Mr. WEICKER (for himself and Mr. GRAMM):

S. 2569. A bill to clarify the ownership of certain historic shipwrecks in State waters; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S.J. Res. 364. A joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. DOLE, Mr. BYRD, Mr. HATCH, Mr. DIXON, Mr. RUDMAN, Mr. HOLLINGS, Mr. DENTON, Mr. DECONCINI, Mr. NICKLES, Mr. ZORINSKY, Mr. TRIBLE, Mr. EXON, Mrs. HAWKINS, Mr. SIMON, Mr. PRESSLER, Mr. LEVIN, Mr. MCCLURE, Mr. SYMMS, Mr. EAST, Mr. QUAYLE, Mr. GRASSLEY, Mr. GORTON, Mr. GORE, Mr. BRADLEY, Mr. PRYOR, Mr. INOUYE, Mr. D'AMATO, Mr. WALLOP, Mr. MOYNIHAN, Mr. THURMOND, Mr. CHAFEE, Mr. DODD, Mr. KASTEN, Mr. LAUTENBERG, and Mr. MATTINGLY):

S.J. Res. 365. A joint resolution welcoming the Afghan Alliance; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BUMPERS (for himself, Mr. LEAHY, Mr. CHAFEE, and Mr. HEINZ):

S. Res. 431. A resolution supporting the numerical sublimits of existing strategic offensive arms agreements; to the Committee on Foreign Relations.

By Mr. DOLE:

S. Con. Res. 150. A concurrent resolution expressing concern over the conditions of ethnic Albanians living in the Socialist Federal Republic of Yugoslavia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 2565. A bill to ensure the orderly and competitive development of the telecommunications industry; to the Committee on Commerce, Science, and Transportation.

(The remarks of Mr. DOLE and the text of the legislation appear earlier in today's RECORD.)

By Mr. KASTEN:

S. 2566. A bill to encourage the safe use of all-terrain vehicles and improve congressional oversight of the regulatory activities of the Consumer Product Safety Commission regarding such vehicles; to the Committee on Commerce, Science, and Transportation.

ALL-TERRAIN VEHICLE USER SAFETY ACT

Mr. KASTEN. Mr. President, the number of people killed or injured each year in accidents associated with all-terrain vehicles or ATV's is growing at an alarming rate. In order to address this serious sefety problem, I am today introducing the All-Terrain Vehicle User Safety Act. There will be some who do not find this bill to their liking, either because it goes too far or because it does not go far enough. But I believe we must begin to address this issue

It is estimated that ATV sales last year totaled 780,000 units, an increase of 574 percent over 1980 sales figures of 136,000 units. By the end of last year there were approximately 2.5 to 2.6 million ATV's in operation, 95 percent of which were produced by four Japanese companies. Although most ATV's are used solely for recreation, some of these highly versatile vehicles are used in farming, ranching, and industry.

But the increasing popularity of ATV's has been accompanied by an alarming increase in deaths due to ATV accidents. According to recent statistics assembled by the CPSC, at least 415 people have died in ATV-related accidents between 1982 and 1985. Even more tragic, 46 percent of those who died were under 16 and 22 percent were under 12 years old. In the State of Wisconsin, 25 people have died in ATV related accidents, the third highest statewide toll in the country. The figures for many other States are not much better as can be seen from the State-by-State table which I ask unanimous consent to have inserted in the RECORD at this point in my statement.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

State-by-State breakdown of deaths associated with ATV's [1]

[January 1, 1982—January 31, 1986]

State:	*Toll*
Alaska	16
Alabama	8
Arkansas	19
Arizona	8
California	30
Colorado	1
Connecticut	1
Florida	13
Georgia	3
Iowa	6
Idaho	4
Illinois	9
Indiana	9
Kansas	10
Kentucky	4
Louisiana	20
Massachusetts	7
Maryland	1
Maine	8
Michigan	19
Minnesota	18
Missouri	7
Mississippi	19
Montana	3
North Carolina	6
North Dakota	6
Nebraska	3
New Hampshire	8
New Jersey	5
New Mexico	6
Nevada	2
New York	26
Ohio	10
Oklahoma	2
Oregon	5
Pennsylvania	20
Rhode Island	1
South Dakota	3
Tennessee	3
Texas	12
Utah	12
Virginia	9
Vermont	3
Washington	3
Wisconsin	25
West Virginia	2

[1] Based on data provided by the Consumer Product Safety Commission.

Mr. KASTEN. Mr. President, moreover, this death toll is accelerating. Of the people who died in ATV-related accidents between 1982 and 1985, 40 percent died in 1985 alone.

The CPSC also estimates there were 185,000 injuries related to all-terrain vehicle accidents between 1982 and 1985. And like the death toll, the number of injuries per year is growing. In 1985 alone, 85,900 injuries were associated with ATV-related accidents, a 34-percent increase over 1984, a 30-percent increase over 1983, and a 1,000-percent increase over 1982.

Finally, in comparison to other motorized recreation vehicles, accidents involving ATV's apparently result in a higher percentage of serious injuries. In 1984 the CPSC estimates that ATV-related accidents accounted for 66,596 hospital-treated injuries of which 13.5 percent resulted in hospitalization. For mini or trail bikes, the CPSC estimates there were 33,636 injuries of which 5.1 percent resulted in hospitalization. For snowmobiles, the CPSC estimates 8,076 hospital-treated injuries with a 10.4-percent hospitalization rate.

Recognizing that all-terrain vehicles represented a potential product safety hazard, the U.S. Consumer Product Safety Commission announced a seven-point plan to address the problem in April 1985. The plan created an ATV task force to conduct a preliminary hazard analysis; perform an analysis of ATV's and ATV accidents; hold public hearings; monitor ATV industry education efforts; share information with other governmental bodies and ATV user groups; monitor development of any voluntary industry safety standards for ATV's; and publish an advanced notice of proposed rulemaking regarding ATV's. To date the CPSC has conducted six public hearings around the country, met frequently with representatives of the ATV industry, investigated several hundred ATV-related accidents, and initiated a number of studies. A preliminary report by the ATV task force is expected by September 30, 1986

Mr. President, I commend the CPSC for its ongoing effort to address potential safety problems associated with ATV's. The Commission and its staff have worked closely with industry, consumers, and the Congress.

In the effort to reduce the number of deaths and injuries associated with all-terrain vehicles, the CPSC has been joined by the ATV industry. The industry has printed and distributed thousands of copies of a brochure entitled "Tips for the ATV Rider" which contains valuable information on safely riding all-terrain vehicles. Other educational efforts by the ATV industry have included an extensive ATV rider course, public service advertising, a toll-free phone number for ATV safety advice, and several other safety brochures including one intended for children. The industry is also considering voluntary product and labeling guidelines.

But despite the efforts of the CPSC and the ATV industry, the deaths and injuries associated with ATV's have continued and increased. And although the solutions now being considered by the CPSC and the ATV industry may ultimately result in dramatically fewer deaths and injuries, it seems clear that immediate action—the kind provided for in the bill I am introducing today—must be taken if we are to begin reversing the grisly trends I have described. Moreover,

there is reason to believe that it may be several years before the safety efforts of the CPSC and the ATV industry are fully realized.

Mr. President, the bill I am introducing today, the All-Terrain Vehicle User Safety Act, is simple and explicit, so that it can be implemented without delay. All ATV's manufactured or imported into the United States and all AVT's sold by dealers in the United States must display four warning labels. These labels are to be permanently affixed to each vehicle in prominent locations. The labels warn that ATV's are not designed to carry passengers, should not be operated on paved surfaces, should not be operated without a helmet and protective equipment, and should be operated by a child only with adult supervision. In addition, this last label must also specify the minimum recommended age of the operator of the vehicle and such recommended age may not be less than 14. The format of the labels, which is described and depicted in the bill, consists of a warning symbol and the word "warning" followed by the warnings summarized above.

In addition to requiring labels, the bill also requires the CPSC to continue and complete within 6 months the advanced notice of proposed rulemaking proceeding regarding ATV's. At that time the CPSC is required to notify Congress of whether it intends to initiate a formal rulemaking. The All-Terrain Vehicle User Safety Act would remain in effect until an ATV rule developed by the CPSC took effect or until 1 year after the CPSC notifies the Congress that no rule regarding ATV's is necessary.

Mr. President, it is ironic that a vehicle with which so many people find enjoyment and relaxation, should be associated with so many injuries and deaths. The All-Terrain Vehicle User Safety Act will permit the millions of ATV riders to continue riding while taking steps to insure that they can do so safely. I hope my colleagues will join me in seeking expeditious enactment of this important legislation.

I ask to have the text of my bill, a section-by-section analysis, and a letter I recently received from acting CPSC Chairman Anne Graham reprinted in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "All-terrain Vehicle User Safety Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the number of deaths and injuries associated with all-terrain vehicles has increased substantially in recent years;

(2) many of these deaths and injuries have involved persons under 14 years of age;

(3) many of these deaths and injuries resulted from the misuse of such vehicles or lack of knowledge about the proper usage of such vehicles; and

(4) improved safety warnings concerning the proper usage of such vehicles could reduce the number of deaths and injuries associated with such vehicles.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "all-terrain vehicle" means an engine-driven device which has a net weight of 600 pounds or less, which has a width of 50 inches or less, which is equipped with a seat designed to be straddled by the operator, and which is designed to travel on 3 or more low-pressure tires;

(2) "Commission" means the Consumer Product Safety Commission;

(3) "dealer" means any person who offers for sale an all-terrain vehicle after selling or offering for sale five such vehicles in the previous twelve months; and

(4) "low-pressure tire" is a tire which has a minimum width of six inches, which is designed to be mounted on a rim with a maximum diameter of 12 inches, and which is designed to be inflated with an operating pressure not to exceed ten pounds per square inch as recommended by the manufacturer.

ALL-TERRAIN VEHICLE WARNINGS

SEC. 4. (a) It shall be unlawful for any person to manufacture or import for sale or distribution, or for any dealer to sell, within the United States any all-terrain vehicle unless such vehicle bears the labels specified in subsection (c) of this section. Such labels shall be permanently affixed to any such vehicle as specified in subsection (b) of this section.

(b) The labels required by this section shall be affixed to any all-terrain vehicle so that they are easily visible to the operator while operating such vehicle, except that the label regarding the minimum recommended age of the operator of such vehicle shall be located on the seat of such vehicle.

(c) The labels required by this section shall—

(1) be legible;

(2) be at least 3 inches long on each side;

(3) have black boldface capital characters no smaller than 12 points on a white background except for the word "warning," the exclamation point, and the triangle which shall consist of white boldface capital characters no smaller than 18 points on a red background; and

(4) have the following wording and format:

!WARNING

PASSENGERS WILL REDUCE BALANCE AND CONTROL

OPERATOR ONLY

NO PASSENGERS

!WARNING

USE ON HARD SURFACE MAY CAUSE SEVERE INJURY

OFF THE ROAD USE ONLY

!WARNING

OPERATION WITHOUT HELMET CAN RESULT IN SEVERE INJURY

WEAR PROTECTIVE EQUIPMENT

!WARNING

LACK OF SUPERVISION WHEN CHILDREN OPERATE THIS VEHICLE MAY RESULT IN SERIOUS INJURY

ADULT SUPERVISION REQUIRED THIS MODEL SHOULD NOT BE OPERATED BY CHILDREN UNDER AGE—

The blank space in the preceding label shall be filed with the minimum recommended age of the operator of the all-terrain vehicle, but in no instance shall such minimum recommended age be less than 14.

(d) It shall be unlawful for any person to manufacture or import for sale or distribution within the United States any all-terrain vehicle unless such person has provided to the Commission examples of the labels required by this section.

ENFORCEMENT, REGULATIONS, AND CONSTRUCTION

SEC. 5. (a) A violation of section 4 or regulations promulgated pursuant to this Act shall be considered a violation of section 19 of the Consumer Product Safety Act (15 U.S.C. 2068).

(b) The Commission shall, in accordance with section 553 of title 5, United States Code, promulgate such regulations as it may require to implement section 4 of this Act.

(c) Nothing in this Act (other than the requirements of section 4 of this Act and this section) shall be construed to limit, restrict, or expand the authority of the Commission with respect to the issuance or enforcement of consumer product safety rules.

PREEMPTION

SEC. 6. (a) No State or locality shall require that any label relating to the use of all-terrain vehicles, which is inconsistent with the labels required by section 4 of this Act, be affixed to any such vehicle.

(b) Nothing in this Act shall relieve any person from liability at common law or under State statutory law to any other person.

REPORT

SEC. 7. The Commission shall continue its proceedings pursuant to the Advanced Notice of Proposed Rulemaking regarding all-terrain vehicles (50 Fed. Reg. 23139 (May 31, 1985)). Within six months after the date of enactment of this Act, the Commission shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the findings and conclusions of such Advanced Notice of Proposed Rulemaking. If the Commission finds that a rulemaking is warranted under the Consumer Product Safety Act (15 U.S.C. 2051 et. seq.), the

Commission shall promptly initiate a rulemaking regarding such vehicles. If the Commission determines that a rulemaking is not warranted, the Commission shall include in the report required by this section the reasons for such determination. If, after initiating a rulemaking regarding such vehicles, the Commission determines not to issue a rule, the Commission shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives of such determination.

EFFECTIVE DATE

SEC. 8. This Act shall take effect ninety days after the date of its enactment. The provisions of this Act shall expire on the effective date of a Commission rule as described in section 7 of this Act or one year after the Commission notifies the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that no rulemaking is warranted or no rule will be issued, as provided in section 7 of this Act.

ALL-TERRAIN VEHICLE USER SAFETY ACT

SECTION-BY-SECTION ANALYSIS

Section 1—Short Title

This Act may be cited as the All-terrain Vehicle User Safety Act.

Section 2—Findings

Congress finds that the number of deaths and injuries associated with ATVs has increased, many of the dead and injured have been children, many of the deaths and injuries occurred because of improper usage of ATVs, and improved instructions regarding ATV usage could reduce the number of deaths and injuries.

Section 3—Definitions

The terms "all-terrain vehicle," "Commission," "dealer," and "low-pressure tire" are defined.

Section 4—All-terrain Vehicle Warning

Manufacturers, importers, and dealers of ATVs are required to permanently and prominently affix four warning labels to their ATVs. The labels warn against carrying passengers on an ATV, operating an ATV on a paved surface, operating an ATV without the proper protective equipment, or allowing a child to operate an ATV without adult supervision. The adult supervision label must also specify the minumum recommended age of the operator of the ATV and such age may not be less than 14.

Section 5—Enforcement, Regulations, and Construction

A violation of this Act shall be considered a violation of section 19 of the Consumer Product Safety Act (CPSA). Any person who knowingly violates section 19 of the CPSA may be subject to civil penalties and any person who knowingly and willfully violates section 19 after being notified of noncompliance may be subject to criminal penalties. Violation of section 19 may also be restricted by an injunction issued by a U.S. District Court.

The Consumer Product Safety Commission (CPSC) may, in accordance with section 553 of the Administrative Procedure Act, promulgate regulations to implement the labeling requirements of section 4 of this Act.

Section 6—Preemption

No state or locality may require any label on an ATV which conflicts with the requirements of section 4 of this Act. This Act does not relieve any person of liability to any other person.

Section 7—Report

The CPSC is required to continue and complete its Advanced Notice of Proposed Rulemaking Proceeding regarding ATVs within six months and report the conclusions of the proceeding to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce. The report must also indicate whether the CPSC intends to initiate a formal rulemaking regarding ATVs.

Section 8—Effective Date

The Act shall take effect ninety days after the date of its enactment. The Act shall expire on the effective date of a CPSC rule regarding ATVs or one year after the CPSC notifies the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce that no rulemaking or mandatory rule regarding ATVs is warranted.

U.S. CONSUMER PRODUCT SAFETY COMMISSION,
Washington, DC, June 13, 1986.

Hon. ROBERT KASTEN,
Chairman, Subcommittee on Consumer, Senate Committee on Commerce, Science and Transportation, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: Thank you for your letter of June 9, regarding the Commission's rulemaking proceeding concerning all-terrain vehicles (ATVs), and your request for comments on former Commissioner Staler's letter on the subject. Since your appearance before the Commission last September in Wisconsin, the Commission has made significant progress in its ATV investigation. I greatly appreciate your involvement and your continuing interest in finding solutions to ATV safety-related problems, and welcome this opportunity to provide you with a progress report. As it will show, a number of the inferences and conclusions drawn in Mr. Statler's letter are misplaced or inaccurate.

You have inquired as to the Commission's timetable. As you will recall, in April 1985, the Commission commenced a formal rulemaking proceeding for ATVs by voting to issue an advanced Notice of Proposed Rulemaking (ANPR). A special Task Force was assembled comprised of key staff from all of the relevant technical and legal directorates. The Commission directed the Task Force to undertake the technical work necessary to identify factors contributing to ATV accidents, as well as remedies that could reduce or eliminate the safety hazards associated with these vehicles. Given the substantial number of injuries and deaths associated with ATVs, the Commission sought to establish the earliest possible date for completion of this work. It unanimously agreed that the Task Force would submit its final report no later than September 30, 1986.

To date, the Commission has committed substantial monetary and staff resources to this investigation, and the work of the ATV Task Force is proceeding on schedule. To ensure speedy progress, the Commission voted last summer to make ATVs a priority project for FY 1986. Similarly, with a view toward ensuring full and effective implementation of the Commission's decision, it has given ATVs priority status again in FY 1987.

The scope of the Commission's ATV investigation is necessarily broad and far-reaching. We know of a general accident scenario typically involving one or more of the following: loss of control, tipping or overturning of the ATV, and the rider being thrown from the vehicle. We know that a large number of the injuries and deaths involve young children. But neither the Commission nor independent experts in vehicular dynamics have been in a position to confidently identify the critical causative factors which contribute to these accidents, injuries, and deaths—particularly those factors relating to the performance and handling characteristics of ATVs and the behavior of ATV riders.

Thus, while the magnitude and severity of hazards associated with ATVs have been identified, an analysis of these accidents and the identification of specific causal factors has been more time intensive, requiring the active participation of technical staff from an unusually diverse group of professional fields.

The Task Force has drawn on the contributions of the engineering, epidemiological, medical, and human factors staff to develop a hazard analysis of ATVs which includes:

The development of test procedures which will evaluate the critical characteristics of the performance and handling of ATVs—procedures which address such broad issues as dynamic stability and vehicle control, and which require extremely extensive efforts to obtain objective, quantifiable data;

The analysis of data from statistically valid surveys which depict the characteristics of both the ATV and the ATV rider, as well as events leading to the accident;

The analysis of a survey studying consumers' use and exposure to ATVs;

The medical evaluation of the nature and severity of ATV injuries;

The completion of hundreds of on-site, in-depth investigations of ATV accidents;

The completion of studies of the size, placement, and number of labels and warnings on ATVs;

The initiation of studies of the factors such as training and educational materials that influence a user's ability to learn the basic skills necessary to safely ride an ATV; and

The initiation of studies to evaluate factors that influence a rider's ability to maintain control of an ATV under certain terrain conditions.

As a result of the Commission's work over the past year, its understanding of these technical and behavioral issues has been significantly advanced. This is a noteworthy accomplishment for what is perhaps the most technically complex product safety issue in the Commission's history. In addition, the Commission has conducted six public hearings in cities across the United States, and has obtained testimony from public officials, medical experts, engineers, ATV accident victims, and representatives of rider organizations on issues ranging from state and local regulation of ATVs to the improvement of ATV education and training efforts. The Commission has also issued a number of safety alerts advising consumers of safe riding practices.

In sum, over the past year the Commission has marshalled every resource at its disposal to obtain the data necessary to resolve this serious safety issue effectively and expeditiously. Until these data are obtained and analyzed, action of the type suggested in former Commissioner Statler's letter is, at best, premature. Indeed, were his sugges-

tions acted upon now, it is likely that the technical evidence necessary to support them would be undermined by legal challenges to any proposed rule, thereby defeating the Commission's safety efforts.

You have asked for the Commission's most recent data regarding the number of deaths and injuries associated with ATVs. I have enclosed a copy of a memorandum from the Epidemiology Directorate to the Commission containing the most recent authoritative data. Another memorandum on the same subject will be presented to the Commission toward the end of this month, and I will forward a copy to you as soon as I receive it.

As a final matter, you have asked me to identify where I disagree with Mr. Statler's letter. Beyond what I have already noted, let me add that some of Mr. Statler's points are simply inaccurate. Mr. Statler incorrectly states that Commission research indicates safety differences in the performance characteristics of 3-wheeled versus 4-wheeled ATVs. The performance characteristics of both types of vehicles are currently being evaluated following steady-state steering tests under snow, sand, and hard-pack conditions, and the Task Force currently has obstacle encounter testing underway. Until these data are analyzed there is simply no factual basis for any claim that one type of vehicle is safer than the other. Similarly, Mr. Statler discusses as an absolute count statistics that are, in fact, estimates derived from the Commission's National Electronic Injury Surveillance System (NEISS). These errors appear to be attributable to the fact that Mr. Statler failed to follow CPSC's Congressionally-mandated clearance procedures and issued his letter without the benefit of technical and legal staff review.

On the other hand, and for reasons unfortunately not made clear by Mr. Statler, there is evidence that the Commission's sense of urgency regarding this important safety issue does not appear to be shared by the ATV industry. For example, the industry asserted that it would train 42,000 ATV riders in an instruction program in 1985. The Specialty Vehicle Institute of America's own statistics, however, indicate that, at most, 5,000 riders were trained, and the industry has only recently formulated plans to improve the availability of its training program.

Equally disturbing is the pace of the industry's progress on critical sections of a nationally recognized voluntary safety standard that it began developing apparently in response to the Commission's decision to issue an ANPR. The key provisions of the standard which address dynamic stability, such as the establishment of test procedures and pass/fail criteria, were only begun in the spring of this year, and, to date, no schedule for the inclusion of the dynamic stability testing in the standard has been set. Although the first phase of the voluntary standard, which addresses such issues as the standardization of controls, labelling, categories of vehicle use and recommended user ages, was scheduled for implementation this fall, due process delays inherent in the voluntary standards process may push back this date. The Commission has at various times appropriately brought these matters to the attention of the industry. Most importantly, industry's progress, or lack of progress, on these fronts will be taken into consideration when the Commission deliberates on its course of action this September.

For your further information, I am also enclosing copies of recent meeting logs between Commission staff and industry representatives, and the preliminary hazard survey.

As I noted at the outset, I appreciate the opportunity to provide you with this update of ATV-related activities. I know that you share the Commission's safety concerns, and if I can provide any further information on any aspect of the Commission's ATV activities, please contact me.

Sincerely,

ANNE GRAHAM,
Acting Chairman.

By Mr. HELMS (by request):

S. 2567. A bill to reduce the cost and improve the administration of the Food Stamp Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP AND COMMODITY DISTRIBUTION AMENDMENTS

● Mr. HELMS. Mr. President, on behalf of the administration, I send legislation to the desk to modify the Food Stamp Program. I am pleased to offer this legislation because it will save an estimated $350 million in Food Stamp Progam spending for fiscal year 1987—a target consistent with the President's budget.

This legislation focuses on inefficiency and abuse in the administration of nutrition-related Federal assistance programs. At this point, Mr. President, let me outline for the record how several key prongs of the administration's approach will save tax dollars by increasing efficiency and tightening standards, which should improve the Food Stamp Program for both taxpayers and recipients.

THE OPTIONAL NUTRITION ASSISTANCE GRANT PROGRAM

Mr. President, the linchpin of the administration's proposal is that it will establish optional nutrition assistance grants, thus permitting State agencies to operate their own low-income nutrition assistance grant programs rather than the current Federal Food Stamp Program. This was the primary recommendation of the President's Task Force on Food Assistance in its January 1984 report.

State agencies would thereby have the option of being provided first-year funding equivalent to the value of overall State benefits during the preceding fiscal year, plus the administrative costs for the previous fiscal year. They would be given flexibility in implementing their own programs, but would be required to submit a plan for Federal approval.

The objective is to provide State agencies with the latitude to experiment with, and discover, more innovative and efficient methods of providing nutrition assistance. Because this would be optional, State agencies opting not to take the independent route would remain in the regular Food Stamp Program.

EMPLOYMENT AND TRAINING PROGRAM

Mr. President, the administration proposes to amend the Food Stamp Act to tighten work requirements and add specific performance standards for State agencies administering Federal employment and training programs. This proposal would establish clear performance standards for employment and training program operation by State agencies.

The Federal performance standard currently can be no higher than 50 percent of nonexempt persons; the States have a certain degree of flexibility, specifically depending on cost and level of voluntary participation by exempt persons. The proposed legislation sets uniform nationwide performance standards designed to encourage State agencies to match Federal efforts to ensure success of the program. The goal is to help certain food stamp participants secure steady employment through job training—but this noble objective will not be realized unless State agencies are held to a specific standard. These targets would begin at 25 percent of persons who are required to meet the act's work requirements in fiscal year 1987, moving up to 50 percent in fiscal year 1988 and 75 percent in fiscal year 1989. Because State agencies may have continued latitude—as to which components of the employment and training program to emphasize—the State-Federal relationship would continue to provide State flexibility even at the higher performance standards.

Second, the proposal caps Federal funding of State employment and training programs at $30 million in fiscal year 1987. State agencies exceeding this amount would be reimbursed at the customary 50-percent rate for administrative expenses.

Finally, the legislation would require program applicants, who are subject to the work requirements, to meet minimum job search requirements. Currently such requirements pertain only to program participants, not applicants, unless the State agency makes such a requirement. This provision would guarantee that able-bodied persons seeking food stamp assistance have an obligation to seek employment.

Fully implemented, this proposal would save an estimated $66 million in fiscal year 1987, according to the Department of Agriculture.

STATE AGENCY LIABILITY

The administration proposes to amend the Food Stamp Act's error rate liability system to make State agencies more accountable for errors exceeding the 5-percent threshold. Currently, State agencies surpassing the 5-percent threshold are penalized with a commiserate reduction in Federal funding for administrative costs.

As administration figures show, this method is ripe with inequities.

Mr. President, the proposed new method would tie liability directly to incorrect issuances above 5 percent. For instance, a State agency with a 6-percent error rate would owe the Federal Government a sum equivalent to 1 percent of the food stamp issuance in that State. An 8-percent error rate would precipitate a 3-percent—of State food stamp issuance—penalty, and so on.

This assures that error costs—resulting in faulty eligibility determinations or overpayments—would be absorbed by the State agencies responsible. States share program costs for error rates in the AFDC and Medicaid programs—and actual error rates are lower in those programs.

Given that State agencies are in the best position to control errors, it is only fair that they share in error costs. Having them do so is a powerful incentive to improve efficiency, thereby cutting error costs and restoring public confidence in the program.

Administration estimates indicate this reform could save up to $109 million by fiscal year 1990.

FEDERAL FUNDING OF EXCESSIVE STATE AGENCY ADMINISTRATIVE COSTS

The administration proposes to establish 25-percent Federal funding of State agencies' administrative costs—in the Food Stamp Program—that exceed 175 percent of median per-recipient costs. Currently, State agencies not subject to error rate incentives or sanctions receive a minimum of 50 percent Federal funding for most of their administrative costs. This 50-percent level of funding currently applies to all administrative costs, no matter how high in relation to the size of the State's caseload. This system provides no incentive for State agencies to implement effective administrative procedures. After all, the current reasoning goes, as long as Washington shares the resulting financial burden of poor management, what is the incentive not to retain inefficient administrative practices?

The administration's proposal would change all this. The Department would initiate a per-recipient target cost, thereby putting State agencies on notice that the Federal Government will no longer help absorb the high cost of future poor management decisions.

INCOME EXCLUSION FOR ENERGY ASSISTANCE PROGRAMS

This provision would amend the Food Stamp Act to allow Federal energy assistance payments—provided only to public assistance or general assistance recipients—to be continued as income for food stamp purposes.

Currently, State and local energy assistance payments are also excluded if they can be verified to be used only for energy assistance and are therefore strictly seasonal. Determining whether this is the case is a cumbersome procedure, the ostensible purpose of which is to prevent overlap between State/local payments and Federal assistance.

Mr. President, there is a better way.

The administration's legislation is intended to make clear the difference between households receiving energy assistance and similarly low-income households not receiving it. Food stamp administrators could more reliably calculate income that is truly available to all households for the purchase of food.

The administration estimates this reform would save $78 million in fiscal year 1987.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

This reform would amend the Agriculture and Consumer Protection Act of 1973 to stabilize elderly participation in the Commodity Supplemental Food Program by admitting only those who are already participating in fiscal year 1986. The Commodity Supplemental Food Program was intended to provide commodities to low-income women, infants, and children.

Another section of this reform would alter the criteria for administrative funding for the Commodity Supplemental Food Program [CSFP] by eliminating unnecessary administrative payments based on surplus commodities.

An additional reform would limit new agencies to areas in which no Special Supplemental Food Program for Women, Infants, and Children [WIC] already exists. The combined effect of these provisions is to eliminate duplication between CSFP and other food programs.

Mr. President, the administration's bill, the Food Stamp and Commodity Distribution Amendments of 1986, is designed to improve program management, increase State agency flexibility, and cut program losses and costs.

Mr. President, the administration proposes a number of other changes in the operation of the program designed to improve and, in many cases, simplify its administration. I ask unanimous consent that the transmittal letter from Secretary of Agriculture Richard E. Lyng, the proposed legislation, and a section-by-section summary provided by the Department of Agriculture be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Stamp and Commodity Distribution Amendments of 1986".

INCOME EXCLUSION FOR ENERGY ASSISTANCE PAYMENTS

SEC. 101. Section 5(d)(11)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11)(B)) is amended by inserting immediately after "impracticable to do so" the following—

"*: Provided,* That such payments made under State or local laws shall not be excluded from income if they are available only to households receiving benefits under a public or general assistance program or another basic assistance program comparable to general assistance (as determined by the Secretary)".

RETENTION OF 18 PERCENT EARNED INCOME DEDUCTION

SEC. 102. Effective may 1, 1986, paragraph (2) of section 1511 of the Food Secruity Act of 1986 (Public Law 99-198), and the amendments made thereby, are repealed.

RETENTION OF COMBINED EXCESS SHELTER EXPENSE AND DEPENDENT CARE DEDUCTION AT PRESENT LEVELS

SEC. 103. Effective May 1, 1986, paragraph (3) of section 1511 of the Food Security Act of 1985 (Public Law 99-198), and the amendments made thereby, are repealed.

DEDUCTION OF SHELTER EXPENSES AND ENERGY ASSISTANCE PAYMENTS

SEC. 104. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)), as amended by this Act, is further amended by—

(1) inserting in the fifth sentence immediately after "In computing the excess shelter expense deduction under clause (2) of the preceding sentence," the following: "expenses for heating or cooling shall not be considered as shelter expenses to the household to the extent the household receives a payment or to the extent a payment is made on behalf of the household under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. § 621 et seq.). In computing the excess shelter expense deduction under clause (2),";

(2) inserting in clause (C) immediately before the period, "except that expenses for heating or cooling shall not be considered as shelter expenses to the household to the extent the household received a payment under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. § 621 et seq.)"; and

(3) striking the sentence which begins with "If a State agency elects to use a standard utility allowance that reflects heating or cooling costs," and the three sentences following that sentence and inserting in lieu thereof the following: "If a State agency elects to use a standard utility allowance, the State agency must develop and use a separate utility allowance for households which receive payments or on behalf of whom payments are made for heating and cooling expenses under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. § 621 et seq.). The State agency shall develop such separate standard utility allowance taking into consideration payments made under the act referenced in the preceding sentence, as prescribed by the Secretary.".

REPEAL INCREASES IN RESOURCE LIMITS

SEC. 105. Effective May 1, 1986, paragraph (1) of section 1514 of the Food Security Act of 1985 (Public Law 99-198) and the amendments made thereby, are repealed.

INCLUSION OF AMOUNTS RECEIVED UNDER JOB TRAINING PARTNERSHIP ACT OF 1982

SEC. 106. Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by—

(1) striking "for dependents less than 19 years of age" and inserting in lieu thereof "as specified in paragraph (d)(7) of this section"; and

(2) adding immediately before the peiod at the end thereof "and all other allowance and payments under such Act shall be considered unearned income".

EMPLOYMENT AND TRAINING PROGRAM

SEC. 107. (a) Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d) is amended by—

(1) in paragraph (1)(A), redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and inserting a new clause (ii) as follows:

"(ii) refuses to participate in job search activities at the time of application as prescribed by the Secretary;";

(2) striking in clause (B)(i) of paragraph (4) ", and the State agency shall retain the option to apply employment requirements prescribed under this clause to program applicants at the time of application"; and

(3) amending subparagraph (J) of paragraph (4) to read as follows:

"(J) In each month, each State agency shall meet standards which prescribe the minimum percentage of all participants, other than those exempt from participation under paragraph (d)(2) of this subsection but including those exempted by the State agency under subparagraph (D), who must participate in the employment and training program selected by the State agency. Such minimum shall be 25 percent for fiscal year 1987, 50 percent for fiscal year 1988 and 75 percent for fiscal year 1989 and each fiscal year thereafter. Notwithstanding the provisions of this subparagraph and subparagraph (D), all applicants, except those exempt under paragraph (d)(2), shall participate in the job search activities prescribed by the Secretary under clause (d)(1)(A)(ii).".

(b) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking in paragraph (h)(1) "$50,000,000" and inserting in lieu thereof "$30,000,000".

INTERNAL REVENUE SERVICE ACCESS TO RETAIL FOOD STORE INFORMATION AND REQUIRED SUBMISSION OF EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL SECURITY NUMBERS

SEC. 108. Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c) is amended by—

(1) inserting "(1)" in the second sentence after "except that such information may be disclosed to and used by";

(2) inserting immediately before the period at the end of the second sentence "and (2) the Internal Revenue Service"; and

(3) adding at the end thereof the following new sentence: "Regulations issued pursuant to this Act shall require that an applicant retail food store or wholesale food concern provide the Employer Identification Number assigned to the applicant by the Internal Revenue Service or, if the applicant has not been assigned an Employer Identification Number, the social security number or numbers of the officers and owners of the applicant retail food store or wholesale food concern.".

INTEREST ON CLAIMS AGAINST STATE AGENCIES

SEC. 109. Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)) is amended by inserting a new sentence at the end thereof, as follows:

"If a State agency does not pay a claim established by the Secretary under this Act within thirty days from the date on which the bill for collection was mailed to the State agency, the State agency shall be liable for interest on such claim accruing from the date on which the bill for collection was mailed to the State agency.".

FRAUD CLAIMS REPAYMENT

SEC. 110. Section 13(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(1)(A)) is amended by striking in the last sentence "thirty" and inserting in lieu thereof "ten".

COMPUTER FRAUD PENALTIES

SEC. 111. Section 15(b) of the Food Stamp Act of 1977 (7 U.S.C. 2024(b)) is amended by—

(1) in the first sentence of paragraph (1)—

(A) striking "or authorization cards" the first time that phrase appears and inserting in lieu thereof", authorization cards or an access device";

(B) inserting after "a value of $100 or more" the following "or if such access device is used to obtain or causes to be issued any payments, allotments, benefits, money, goods or other things of a value of $100 or more,";

(C) inserting after "a value of less than $100" the following "or if such access device is used to obtain or causes to be issued any payments, allotments, benefits, money, goods or other things of value of less than $100,"; and

(2) adding a new paragraph (3) as follows:

"(3) As used in this section the term "access device" means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under this Act or regulations issued pursuant to this Act.".

FEDERAL FUNDING OF EXCESSIVE STATE AGENCY ADMINISTRATIVE COSTS

SEC. 112. Effective October 1, 1986, section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by—

(1) striking out "which costs shall include" in the first sentence and inserting in lieu thereof "but not more than 25 per centum of any such costs which are determined by the Secretary to be excess administrative costs under paragraph (2). Administrative costs shall include";

(2) striking in material preceding the proviso in the first sentence "(1)", "(2)", "(3)", and "(4)" and inserting in lieu thereof "(i)", "(ii)", "(iii)", and "(iv)" respectively;

(3) inserting "(1)" after "(a)";

(4) adding at the end of paragraph (1) (as redesignated by the preceding subsection), new paragraphs (2), (3) and (4) as follows:

"(2) For purposes of applying the 25 per centum limitation prescribed in paragraph (1), the excess administrative costs of any State agency to which such limitation applies means that portion of the State agency's per recipient administrative costs (as determined pursuant to paragraph (3)) that exceed 175 per centum of the national median of per recipient administrative costs for all State agencies.

"(3) For purposes of this subsection—

"(A) a State agency's per recipient administrative costs in a fiscal year shall be determined by establishing the ratio of the amounts expended by such State agency during such fiscal year for allowable program administrative costs (other than costs which are shared in excess of 50 per centum under the proviso of the first sentence of paragraph (1) and subsection (g) and costs funded under subsection (h)) to the average monthly number of individuals receiving food stamp benefits in the State in such year;

"(B) the national median of the per recipient administrative costs of all the State agencies for a fiscal year shall be determined by establishing the median of such costs for the most recent four-quarter period preceding the fiscal year concerned, (with respect to which the Secretary determines that sufficient data are available to reasonably establish such median, taking into consideration both the States' need for advance notice in order to make fiscal planning decisions, and the benefits to the Federal and State governments of employing the most recent data in order to reflect progress made by other States in reducing per recipient administrative costs), adjusted by the change in the GNP deflator (as defined in subparagraph (C)) if the latest quarter in such four-quarter period is not one of the three quarters immediately preceding the start of such fiscal year; and

"(C) the 'change in the GNP deflator' for any fiscal year concerned in subparagraph (B) means the ratio of (i) the gross national product implicit price deflator, measured for the second quarter of such fiscal year, published by the Bureau of Economic Analysis, Department of Commerce, before August 31 of such fiscal year, to (ii) such deflator, as so measured, for the four-quarter period selected for purposes of such subparagraph (B).

"(4) The Secretary may, on the basis of projected excess administrative costs, adjust a State agency's letter of credit to reflect the amount of administrative funds the Secretary expects the State agency will be entitled to receive under this subsection.".

ELIMINATION OF ENHANCED FUNDING FOR FRAUD INVESTIGATIONS AND PROSECUTION AND AUTOMATED DATA PROCESSING COSTS

SEC. 113. (a) Section 16(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) as so designated by section 112 of this Act, is further amended by striking out *"Provided,* That" and all that follows through "and is further authorized" and inserting in lieu thereof *"Provided,* That the Secretary is authorized to pay each State agency not less than (A) 75 per centum through March 31, 1987, (B) 70 per centum from April 1, 1987 through September 30, 1987, (C) 65 per centum from October 1, 1987 through March 30, 1988, (D) 60 per centum from April 1, 1988 through September 30, 1988, (E) 55 per centum from October 1, 1988 through March 30, 1989, and (F) 50 per centum beginning April 1, 1989, of the costs of state food stamp program investigations and prosecutions. The Secretary is further authorized".

(b) Section 16(g) of the Food Stamp Act of 1977 (7 U.S.C. 2025(g)) is amended by inserting immediately after "75 per centum" the following "for the period through March 31, 1987; 70 per centum from April 1, 1987 through September 30, 1987; 65 per centum from October 1, 1987 through March 30, 1988; 60 per centum from April 1, 1988 through September 30, 1988, 55 per centum from October 1, 1988 through March 30, 1989 and 50 per centum beginning April 1, 1980".

STATE AGENCY LIABILITY

SEC. 114. Section 16(d) of the Food Stamp Act of 1977 (7 U.S.C. 2025(d)) is amended by—

(1) striking paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Beginning October 1, 1986, if a State agency's payment error rate for any fiscal year exceeds 5 per centum, the Secretary shall, except for good cause shown, reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a) by an amount equal to the value of all food stamp coupons erroneously issued less 5 per centum of the value of all coupons issued in that fiscal year and less any amount payable as a result of the use by the State agency of correctly processed infomation received from an automatic information exchange system made available by any Federal department or agency. To the extent a State agency's liability as determined under the preceding sentence exceeds the State agency's federally funded share of administrative costs for that fiscal year, the State agency shall, upon demand by the Secretary, pay the excess amount to the Secretary.";

(2) striking the first sentence of paragraph (4) and inserting in lieu thereof "The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the State agency's payment error rate and the value of erroneously issued coupons for which the State agency may be liable under paragraph 2 of this subsection.";

(3) amending paragraph 5 to read as follows:

"(5) If the Secretary determines that a State agency owes an amount to the Secretary under paragraph (2), the State agency may seek administrative and judicial review of that determination, pursuant to section 14.";

(4) in paragraph (6) striking "paragraphs (2) and (3)" each time that phrase appears and inserting in lieu thereof "paragraph 2"; and

(5) redesignating paragraphs (4), (5), and (6), as amended by this section, as paragraphs (3), (4), and (5), respectively.

FEDERAL FUNDING FOR PUERTO RICO'S NUTRITION ASSISTANCE PROGRAM

SEC. 115. Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "for the fiscal year ending September 30, 1986," and all that follows through "September 30, 1990," and inserting in lieu thereof "for each fiscal year".

THE OPTIONAL NUTRITION ASSISTANCE GRANT PROGRAM

SEC. 116. (a) The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding a new section 21 at the end thereof as follows:

"NUTRITION ASSISTANCE GRANTS

"SEC. 21. (a) A State may, subject to the provisions of this section elect to operate a low income nutrition assistance program in lieu of the food stamp program established under this Act. Any State which elects to operate a low income nutrition assistance program under this section or which elects to resume operation of the food stamp program shall give preliminary notice of such election to the Secretary by April 1 of the fiscal year preceding the fiscal year in which it wishes such election to take effect or at such later time as the Secretary deems feasible.

"(b)(1) The amount of the grant each State agency shall be eligible to receive under this section in any fiscal year in the sum of:

"(A) the total dollar value of all benefits issued by the State agency during the fiscal year preceding the fiscal year for which the grant is made, adjusted periodically as determined appropriate by the Secretary, to reflect changes in the Consumer Price Index for all urban consumers for food at home published by the Bureau of Labor Statistics and unemployment data for the State, and such other factors as the Secretary deems appropriate; and

"(B) the amount of funds paid to the State agency under subsection 16(a)(1) of this act for administrative costs in the previous fiscal year, adjusted to reflect changes in administrative costs, as determined appropriate by the Secretary.

"(2) The Secretary shall pay to each eligible State at such times and in such manner as the Secretary may determine, the amount to which the State is eligible under subsection (b)(1).

"(3) The Secretary shall, upon the request of any State operating an assistance program under this section, make available to the State, coupons having a face value equal to all of the State's nutrition assistance grant under this section or, as determined by the State, a portion of that grant. Notwithstanding the provisions of subsection 7(a), any State operating an assistance program under this section may use the coupons obtained pursuant to this subsection for the purposes of such program. The Secretary shall only be required to furnish coupons such as those used in the Food Stamp Program, pursuant to Section 7(c). The Secretary may charge the State for providing such coupons, but such charges may not exceed the face value of the coupons plus the actual cost of printing and providing such coupons to the State. When such coupons are used in a State's low income nutrition assistance program, the Secretary shall establish procedures for the use and redemption of such coupons which are consistent with other sections of the Act.

"(c)(1) To be eligible to receive a payment under this section, each State shall have a plan approved by the Secretary at such time and in such form as prescribed by the Secretary. At a minimum, the plan shall:

"(A) designate a single State agency responsible for the administration of the nutrition assistance grant program;

"(B) assess the food and nutrition needs of needy persons residing within the State;

"(C) describe the assistance to be provided and the persons to whom such assistance will be provided;

"(D) comply with all the program requirements prescribed by the Secretary for the purpose of assuring that assistance is provided to the most needy persons in the State;

"(E) provide that, in the operation of the nutrition assistance program there shall be no discrimination on the basis of race, sex, religious creed, national origin, or political beliefs; and

"(F) include other information as required by the Secretary.

"(2) States shall make the plan prescribed by this subsection available for public inspection and comment.

"(d) Payments to the States shall be expended only in the fiscal year in which the funds are distributed or the following fiscal year.

"(e) States shall make all records concerning a program operated pursuant to this section available to the Secretary and the Comptroller General for examination and copying, on or off the premises.

"(f) If the Secretary finds that there is substantial failure by a State to comply with the requirements of this section, regulations issued pursuant to this section or the plan approved under subsection (c), the Secretary may take one or more of the following actions:

"(1) terminate payments until the Secretary is satisfied that there is no longer failure to comply;

"(2) withhold payments until the Secretary is satisfied that there is no longer failure to comply, at which time the withheld payments may be paid;

"(3) refer the matter to the Attorney General with a request that injunctive relief be sought; and

"(4) refer the matter to the Attorney General with a request that an action be commenced.

"(g)(1) States receiving payments under this section shall provide for a biennial audit, conducted in accordance with the standards of the Comptroller General, of expenditures for the provisions of assistance under this section and, within 120 days of the end of each fiscal year in which an audit is conducted, report to the Secretary the findings of such audit. States shall make the audit report available for public inspection.

"(2) Within 120 days of the end of each fiscal year, States shall prepare an activities report comparing actual expenditures with the plan submitted in accordance with (c)(1) of this section. States shall made the activities report available for public inspection.

"(h) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets, or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.".

"(b) Section 2 of the Food Stamp Act of 1977 (7 U.S.C. 2011) is amended by striking out "a food stamp program is", and inserting in lieu thereof "nutrition assistance programs are.".

"(c) Section 3(n) of the Food Stamp Act of 1977 (7 U.S.C. 2012(n)) is amended by adding before the period at the end thereof "or a nutrition assistance program under section 21 of this Act.".

"(d) Section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)) is amended by striking "the provisions" and inserting in lieu thereof "sections 2 through 19".

ALLOW STATE AGENCIES TO COLLECT SOCIAL SECURITY NUMBERS IN FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS AND COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 117. (a) Section 4 of the Agricultural and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by—

(1) redesignating subsection (a) as paragraph (a)(1) and

(2) inserting a new paragraph (a)(2) as follows:

"(2) In carrying out the food distribution program on Indian reservations, the Secretary shall require, as a condition of eligibility for participating in such program, that each household member furnish to the State agency the social security account number or numbers of such member. The

Secretary and State agencies are authorized to use such account numbers in the administration of such program.".

(b) Section 5(e) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end thereof the following: "In carrying out the commodity supplemental food program, the Secretary shall require, as a condition of eligibility for participating in such program, that each household member furnish to the State agency the social security account number or numbers of such member. The Secretary and State agencies are authorized to use such account numbers in the administration of such program.".

COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 118. (a) Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note), as amended by this Act, is further amended by—

(1) in subsection (a)—

(i) striking "(1) may institute two pilot projects directed at low-income elderly persons, including, where feasible, distribution of commodities to such persons in their homes; and (2)";

(ii) striking "sum of (A)" through "program participants" and inserting in lieu thereof "amount appropriated for the commodity supplemental food program";

(2) amending subsection (f) to read as follows:

"(f) The Secretary shall not approve or fund any commodity supplemental food program or any additional sites in an existing program which would operate in areas served by the Special Supplemental Food Program for Women, Infants and Children (WIC) authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786)." and

(3) repealing subsection (g).

(b) Section 1562(d) of the Food Security Act of 1985 (Pub. Law 99-198) is repealed.

(c) Notwithstanding any other provision of law, in implementing the commodity supplemental food program under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note), the Secretary of Agriculture shall allow those agencies distributing agricultural commodities to low-income elderly persons under such programs as of December 23, 1985, to continue distributing commodities to such low-income elderly persons as received commodities during fiscal year 1986.

IMPOSITION AND AUTHORIZATION FOR USE OF FEES IN PROCESSING CONTRACTS

SEC. 119. In carrying out the program required by section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e), or any similar program through which the Secretary may enter into agreements with private companies under which commodities are processed into end products and sold to eligible recipient agencies, the Secretary is authorized to prescribe and collect fees from private companies which apply to enter into agreements with the Secretary, in order to recover the cost of carrying out such a program. Such fees collected shall be deposited into a special account and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary and State agencies in carrying out the program. The Secretary is authorized to contract with a private or public organization to administer the program and may use fees collected under this provision for such purpose.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

SEC. 120. Section 204(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

SECTION-BY-SECTION SUMMARY—FOOD STAMP AND COMMODITY DISTRIBUTION AMENDMENTS OF 1986

INCOME EXCLUSION FOR ENERGY ASSISTANCE PAYMENTS

Section 101 would amend Section 5(d) of the Food Stamp Act to specifically deny income exclusion of energy assistance payments that are provided only to public assistance (PA) or general assistance (GA) recipients. The proposal would provide an additional statutory tool for assuring that State and local payments excluded as energy assistance are in reality energy assistance payments.

Currently, all Federal energy assistance payments are excluded as income for food stamp purposes. State and local energy assistance payments are also excluded if designated as energy assistance by State and local legislative bodies and determined by the Secretary as actually being for the purpose of energy assistance and being provided for seasonal needs. The Department has established a five-pronged test for determining whether a State or local payment can be excluded as energy assistance. Thus, a lengthy and complex determination must be made program by program, often repeated annually. This complicated procedure has had to be established to prevent State agencies from labeling portions of existing regular PA or GA payments or periodic increases in those payments as energy assistance. If State agencies could do this, they could pass on some of their assistance costs to the Federal Food Stamp Program, as follows: Regular PA or GA payments or increases count as income for food stamp purposes, so households which receive them receive reduced food stamp allotments since the PA or GA payments are partially available to purchase food. But, if State agencies can get part of their PA or GA payments, and part of all of periodic increases excluded as energy assistance, recipients' food stamp allotments would not be reduced, thus necessitating less frequent or smaller PA/GA increases or even reductions. It is not the purpose of the Federal Food Stamp Program to subsidize or supplant States' assistance to their households.

The proposal would simplify and standardize the determination of whether State or local payments called energy assistance should be excluded as income by instituting a clear-cut test—if only PA or GA recipients receive the increased payments, they will be included as PA or GA income rather than being excluded as energy assistance. The proposed test is an appropriate one in that energy assistance for low income households would logically be available to all households that have similar income regardless of income source. There are no measurable savings associated with this provision since it is similar to current policy.

RETENTION OF 18 PERCENT EARNED INCOME DEDUCTION

Section 102 would repeal Section 1511 of P.L. 99-198 to eliminate the increase to 20 percent in the earned income deduction scheduled for May 1, 1986, and to retain the current 18 percent earned income deduction. This deduction is for the expenses of earning income—taxes, other mandatory salary deductions, and work expenses such as transportation or uniforms. Current data suggest that average work expenses of food stamp households are about 15 percent of earned income. Thus, a deduction set at 18 percent is adequate to cover the average work expenses of households participating in the Food Stamp Program. Nevertheless, P.L. 99-198 contained an amendment raising the deduction to 20 percent of earnings. Retaining the 18 percent deduction instead of increasing it as of May 1, 1986, is estimated to save $23 million in Fiscal Year 1986 by preventing the increase from becoming effective for the last five months of the fiscal year and $57 million in Fiscal Year 1987.

RETENTION OF COMBINED EXCESS SHELTER EXPENSE AND DEPENDENT CARE DEDUCTION AT PRESENT LEVELS

Section 103 would amend Section 5(e) of the Food Stamp Act to repeal two amendments contained in P.L. 99-198 that affect the excess shelter expense/dependent care deduction beginning May 1, 1986.

First, P.L. 99-198 increased the cap on the shelter deduction to $147 per month for the 48 contiguous States and the District of Columbia, $256 for Alaska, $210 for Hawaii, $179 for Guam, and $109 for the Virgin Islands. These limits compare to the current limits of $139, $233, $192, $163, and $99, which went into effect October 1, 1985, and would remain in effect until April 30, 1986. The proposal would retain the current limits through the end of the fiscal year, when they would be adjusted in accordance with established procedures. The most recent data on characteristics of food stamp households (February 1983) show that the average shelter deduction for households claiming the deduction (73.5 percent of all households) is $100—$39 below the current cap. Thus, the deduction is clearly sufficient for the average food stamp household. Raising it above current limits, as P.L. 99-198 did, provides households with the highest shelter costs with an extra subsidy of housing expenses through Federal funds appropriated for food assistance. The proposal would result in $14 million in food stamp savings from May 1-September 30, 1986, and $34 million in Fiscal Year 1987.

Second, the proposal would rescind the separation of the dependent care deduction from the excess shelter expense deduction, which is to occur May 1, 1986. Currently, the dependent care deduction is available to households who have that type of expense either alone or in combination with the shelter deduction; in either case, it is capped at $139. P.L. 99-198 separated the deductions and capped the dependent care deduction at $160 permanently. The proposal would prevent those changes from occurring and retain the current law.

By separating the dependent care deduction from the shelter deduction, P.L. 99-198 added to the problem of proliferating deductions. The 1977 reforms reduced the total number of deductions to only three. Nine years later, on May 1, 1986, there will be five deductions. Each additional deduction is a step away from the commitment to a simplified net income determination. The proposal would reduce the number of deductions to four—the status quo since 1979. The current dependent care deduction is simpler for State agencies to administer than that contained in P.L. 99-198. Currently, if a households' dependent care costs are $139 or more, there is no need to calculate or verify the household's excess shelter expenses. After May 1, 1986, both deductions will have to be calculated, multiplying the potential for error. Finally, the dependent

care deduction is claimed by few households—only 1.7 percent in February 1983. But the amendments in P.L. 99-198 affecting it would cost $9 million during the last five months of Fiscal Year 1986 and $21 million in Fiscal Year 1987. The proposal would avoid these cost increases.

DEDUCTION OF SHELTER EXPENSES AND ENERGY ASSISTANCE PAYMENTS

Section 104 would amend Section 5(e) of the Food Stamp Act to eliminate from consideration as shelter expenses for purposes of determining the excess shelter expense deduction any expense met by payments made under the Low Income Home Energy Assistance Act (LIHEAA). Under the proposal, such expenses would not be deductible whether the LIHEAA payment was made in cash directly to the household or paid to a third party, such as an energy supplier. The proposal is intended to restore consistency to the treatment of expenses met with LIHEAA payments.

Under both the LIHEAA and the Food Stamp Act, all LIHEAA payments are excluded from being considered as income. This income exclusion would be retained under the proposal. The proposal changes the treatment of expenses met with LIHEAA payments in the calculation of the excess shelter expense deduction. Currently, if the payments are in cash, expenses met by this excluded income are counted as household expenses in determining the household's shelter deduction. Counting payments as expenses results in further additional net income reductions and allotment increases for households receiving LIHEAA. Additional inconsistencies are introduced with the treatment of expenses met by LIHEAA payments made in the form of vendor payments to third parties. These are not considered to be household expenses of purposes of determining a household's shelter deduction. This is in accordance with a 1981 amendment to the Food Stamp Act and the principle of logic that no deduction should be provided to a household when no expense has been by the household. Nevertheless, in 1982, the United States Court of Appeals for the Eighth Circuit upheld an adverse decision on the policy (*Schmiege* v. *Noot and Block*). Because of that decision and the findings of two District Courts in the Ninth Circuit, recipients of third-party LIHEAA payments in the States of the Eighth Circuit and in Idaho and Montana can have LIHEAA program benefits counted as expenses in the calculation of their shelter deduction. As a result of a recent decision by the Ninth Circuit Court of Appeals, this practice will soon be expanded to the other eight States of the Ninth Circuit.

The proposal would eliminate all of these inconsistencies—between recipients and nonrecipients of LIHEAA payments, between recipients of cash LIHEAA payments and third-party LIHEAA payments, and between recipients of third-party LIHEAA payments in Eighth and Ninth Circuit States and recipients of such payments elsewhere. It would invalidate the rulings of the Eighth and Ninth Circuit Courts and support the Department in any future cases. The proposal would also simplify the calculation of the shelter deduction for LIHEAA recipients. Allowing a shelter deduction when no energy expense is incurred results in a subsidy for other household costs using Federal food assistance funds. It diverts the net income calculation process from its intended purpose—determination of a household's ability to meet its food needs using its own resources. (Note: The proposal would not affect the calculation of the shelter deduction for LIHEAA households based on other shelter expenses.) By establishing equity in the handling of all LIHEAA benefits, the proposal would result in an estimated $68 million savings in the Food Stamp Program for Fiscal Year 1987.

The proposal would also require State agencies that elect to establish a standard utility allowance (SUA) for heating/cooling expenses to also establish a special SUA for households that receive either cash or third-party LIHEAA payments but also pay some heating or cooling expenses out of their own funds. P.L. 99-198 required State agencies to offer a SUA to households that receive assistance under the LIHEAA if they offer one to other households. P.L. 99-198 permitted but did not require State agencies to develop a special SUA for households who only pay a portion of their heating/cooling costs from their own funds because the remainder is met with LIHEAA funds. Permitting such households to claim the full SUA available to households who receive no energy assistance would be equivalent to permitting the LIHEAA households to claim a shelter deduction due to expenses met by the LIHEAA. Thus, this proposal is necessary in tandem with the first proposal in this section to establish equitable treatment of households that do receive LIHEAA assistance with households that do not benefit from such assistance.

REPEAL INCREASES IN RESOURCES LIMITS

Section 105 would repeal Section 1514 of P.L. 99-198 to retain the current resources limits. Effective May 1, 1986, P.L. 99-198 would raise the limit for most households from $1500 to $2000 and extended the higher limit of $3000 for households of two or more persons at least one of whom is elderly to an elderly person living alone. The proposal would delete these changes before they are implemented. The P.L. 99-198 resources amendment will result in less-needy households qualifying for Federal food assistance. The Food Stamp Program's resource limits are currently higher than the limits of most other assistance programs. The current limits are not unduly restrictive for most needy households since a household's home, personal belongings, and most vehicles are exempt from the resources test. February 1983 data show that 76.9 percent of households have no countable resources, that average resources per household are only $55, and that households with elderly members have average resources of $143. By preventing the changes scheduled to take place on May 1, 1986, from occurring, the proposal would also prevent $23 million in cost increases for May 1-September 30, 1986, and $77 million for Fiscal Year 1987.

INCLUSION OF AMOUNTS RECEIVED UNDER JOB TRAINING PARTNERSHIP ACT OF 1982

Section 106 would amend Section 5(l) of the Food Stamp Act to include as income all amounts provided under the Job Training Partnership Act of 1982 (JTPA), P.L. 97-300, when determining food stamp eligibility and benefit levels. P.L. 99-198 amended the Food Stamp Act to require JTPA earnings to be considered as earned income for food stamp purposes except for JTPA earnings received by dependents under age 19. Under the JTPA, all other JTPA payments are currently excluded from being considered income for purposes of the Food Stamp Program. JTPA payments are provided in forms other than earnings, including training allowances, cash payments for supportive services, and needs-based payments. These payments, as well as the earnings of dependents under age 19, are provided in cash which the recipients may use for any purpose, including the purchase of food. There is no inherent difference between JTPA payments and any other income that is included for food stamp purposes. Indeed, other training allowances (but not reimbursements), needs-based payments (AFDC, SSI, etc.), and income of 18-year-old earners are included. (Note: JTPA and all other earnings of students under 18 years old are excluded under Section 5(d)(7) of the Food Stamp Act. This would not be changed by this amendment.) In certain situations, JTPA payments may replace other income which is fully countable, such as AFDC grants.

For all of these reasons, the proposal would delete the income exclusions for all JTPA payments and JTPA earnings. The proposal would establish consistency in the treatment of households receiving different types of JTPA payments as well as with other households with similar total incomes that do not receive JTPA payments. Continuing this inconsistent situation cannot be justified since total household income is the basic financial determinant of the amount of food assistance needed. The proposal is estimated to save $10 million in Fiscal Year 1987.

EMPLOYMENT AND TRAINING PROGRAM

Section 107 would amend Section 6(d) of the Food Stamp Act to make three changes in the work requirements contained in P.L. 99-198.

First, the proposal would require program applicants subject to the work requirements to meet job search requirements. Currently, prior to implementation of the employment and training program provisions included in P.L. 99-198, job search is required of program participants but only of applicants if their State agency elects to require job search of applicants. P.L. 99-198 established job search as one of the components State agencies can select for the employment and training programs but retained the State agency option to require job search of applicants.

The Act, by requiring job search of applicants only upon State agency election to do so, insures that many able-bodied persons seeking governmental food assistance have no statutory responsibility to search for work. There are no excess Federal resources available to aid those who, while able to help themselves, are unwilling to do so. By requiring job search of applicants, the proposal reflects the commonly-accepted belief that employable people requesting aid have the obligation to reduce or eliminate the need for that aid by working. The proposal would reduce program costs by increasing the income of applicants, thus making them ineligible or eligible for smaller allotments. The savings estimated for this proposal are included in the net savings projected for the following proposal.

Second, the proposal would set specific, escalating performance standards for State agencies' operation of their employment and training programs. P.L. 99-198 required the Secretary to establish the standards for placements in employment and training programs that State agencies must meet in order to avoid withholding of Federal funding. The performance standard set by the Secretary can be no higher than 50 percent of nonexempt persons and can vary by State depending on factors of cost and the degree

71-059 O-87-40 (Pt. 10)

of voluntary participation of exempt persons.

The proposal sets uniform nationwide performance standards of 25 percent of participants subject, by statute, to the work requirements for each month of Fiscal Year 1987, 50 percent monthly during Fiscal Year 1988, and 75 percent monthly beginning October 1, 1988. These standards would encourage all State agencies to make equal efforts to assure the success of the new employment and training program. The program has an admirable purpose—to help certain food stamp participants move into regular employment by providing training and experience and improving their employability—but this purpose will not be realized unless State agencies are held to a specific standard. The proposal would provide this standard in a rational way. By beginning at a low level—25 percent of persons who must meet work requirements under the Act—and gradually escalating to a reasonable proportion of that population—three-fourths—the standards should be readily met by State agencies. Even when the standard reaches 75 percent, in Fiscal Year 1989, State agencies would retain substantial flexibility since they could select among a broad array of components of the employment and training program for placing covered individuals. In addition, the 75 percent performance standard provides State agencies flexibility to grant exemptions from their employment and training programs to 25 percent of covered persons by category, individually, or geographically. By assuring the success of the employment and training program, the proposal is estimated to produce net savings of $66 million in Fiscal Year 1987, with the savings increasing to $167 million by Fiscal Year 1989.

Third, the proposal would limit Federal funding of State agencies' employment and training programs to $30 million in Fiscal Year 1987. If a State agency has costs beyond its share of the amount allocated for Fiscal Year 1987 or for subsequent years, such additional costs would be reimbursed at the normal 50 percent rate.

INTERNAL REVENUE SERVICE ACCESS TO RETAIL FOOD STORE INFORMATION AND REQUIRED SUBMISSION OF EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL SECURITY NUMBERS

Section 108 would amend Section 9(c) of the Food Stamp Act to permit the Internal Revenue Service (IRS) to have access to the information retail stores are required to submit to the Department under this subsection. Such access has been requested by IRS to assist them in conducting both audits of specific retailers and surveys in geographic areas. The information which would be made available would be data on gross sales and food sales.

The proposal would also require retailers to provide the Department with their Employer Identification Numbers (EIN) or, for firms with no employees, their Social Security Numbers (SSN). One of these numbers would be needed by IRS to use the data obtained under the disclosure proposal and will be used by the Department in deterring retailer abuse. This is because a single EIN is assigned to an employer by IRS for all of his business of similar nature. Thus, a retail food store owner would have one EIN for all of his branches whatever their locale. Only if the retailer went out of business completely would the EIN be returned, with a new one issued if the retailer subsequently returned to the food store business and applies for an EIN. SSNs, too, are assigned once to an individual with the intention that they are retained for life. This continuity over time and between locations offered by both EINs and SSNs would be very helpful to the Department in tracking previously disqualified retailers or retailers previously found to be violators. These numbers could be the basis for a tracking network to be made available to all of FNS' Regional Offices for purposes of assigning escalated (double or permanent) disqualification periods to previously disqualified retailers or denying authorizations to proven violators who have escaped disqualification. The proposal would also help control spurious sales of firms for purposes of avoiding disqualifications or civil money penalties since failure to acquire a new EIN would be evidence that the sale was not bona fide.

INTEREST ON CLAIMS AGAINST STATE AGENCIES

Section 109 would amend Section 13(a) of the Food Stamp Act to state specifically in the statute that the Department's past-due claims against State agencies draw interest from the date of billing. The interest would be computed at rates prescribed by the U.S. Department of Treasury under the Federal Claims Collection Act, and would not apply if the Department receives payment in full within 30 days of the billing.

The proposed clarification is needed due to recent adverse rulings in three court cases in New York, Pennsylvania, and Oklahoma. Still another case involving this issue has been filed against the Department by West Virginia. The adverse decisions found invalid the current policy of charging interest on State agency debts due to lack of specific authority in the Food Stamp Act.

Charging interest is a legitimate means to encourage prompt payment of debts. Debts owed by State agencies for losses incurred in operating the Food Stamp Program can be substantial. Charging interest on these debts is a means to discourage dilatory judicial appeals (since interest accrues during the appeal process). It may also hasten collection of the sometimes large amounts owed to the Federal government by State agencies. Interest is charged on certain State agency debts under the Social Security Act. For example, 42 U.S.C. 418(j) authorizes the Social Security Program to collect interest from States and 42 U.S.C. 1396 b(d)(5) does the same for the Medicaid Program. Thus, there is a precedent, as well as need, for including the specific authority to levy interest charges against State agencies in the Food Stamp Act.

FRAUD CLAIMS REPAYMENT

Section 110 would amend Section 13(b) of the Food Stamp Act to change the time period during which households may select a method for repaying claims for the overissuances caused by household members disqualified for fraud or intentional misrepresentation. Currently, such households have 30 days after their State agency requests them to choose a repayment method to do so. During this time, the household opts to repay in cash either in a lump sum or installment payments or to have the overissuance recouped automatically through reduction of the household's food stamp allotment. Since thirty days is an unnecessarily long period for households to choose how to repay amounts owed the Food Stamp Program due to fraud, claims collection are unduly delayed.

The proposal would cut 20 days off the delay in beginning fraud claims collection. It would help maximize fraud claim collections since collection actions could begin closer to the time that claims are established when households are more likely still to be participating and, thus, more likely to repay the claim. The General Accounting Office in recommending the proposal that collections might be increased an estimated 8 percent. Also, the proposal would bring this period into line with both AFDC's minimum period and other timeframes applicable to households; i.e., 10 days for reporting changes and 10 days for providing verification after a change is reported.

COMPUTER FRAUD PENALTIES

Section 111 would amend Section 15(b) of the Food Stamp Act to add the term "access device" to clarify that computer food stamp fraud is subject to the same penalties as fraudulent abuse of food stamps or authorization cards used to obtain food stamps. Currently, Section 15(b) contains criminal penalties for knowing use, transfer, acquisition, alteration, or unauthorized possession of "coupons or authorization cards". In the past, all food stamps benefits were provided in the form of "coupons" or food stamps. This is still the case for the vast majority of benefits: however, the Department is conducting a demonstration project testing providing benefits via electronic benefit transfer. The nearly 4,000 food stamp households involved in the project are not issued paper food stamps but have benefit acounts to which access is obtained by means of a plastic, magnetic-strip identification card. An evaluation of the project could result in the Department determining that wider application of such a computerized system is appropriate for the Food Stamp Program. Also, in some areas of the country, State or local agencies use on-line issuance systems that do not require an authorization card for food stamps to be issued. Instead of an authorization card, food stamp households have an identification card that allows the issuing agent to access a computer in order to determine the proper amount of benefits to be issued. It is important that abuse of computerized benefits or on-line systems be punished by the same serious penalties as any other food stamp violations. The proposal would act as a deterrant against food stamp computer fraud.

FEDERAL FUNDING OF EXCESSIVE STATE AGENCY ADMINISTRATIVE COSTS

Section 112 would amend Section 16(a) of the Food Stamp Act to establish 25 percent Federal funding of State agencies' administrative costs that exceed 175 percent of median per-recipient costs. Currently, if a State agency is subject to neither error-rate incentives nor liabilites, it receives a minimum of 50 percent Federal funding of nearly all of its administrative costs. The Federal share of certain automatic data processing (ADP) and fraud investigation/prosecution costs is 75 percent. The 50 percent funding level applies to all other administrative costs, regardless of how high they may be in relation to the size of the caseload. Thus, State agencies that implement ineffective administrative procedures or retain inefficient administrative practices are able to share the financial burden of poor management equally with the Federal government.

The proposal would curtail existing incentives to ineffective/inefficent management. Before the end of a fiscal year, beginning in Fiscal Year 1986, the Department would publish a target per-recipient cost for the next fiscal year. This prospective announcement of the target cost will enable State agencies to implement cost-saving measures

immediately, if necessary, to reduce their per-recipient costs. For each fiscal year, the target would be 1.75 times the median administrative cost per recipient, excluding ADP and anti-fraud costs funded at a rate above 50 percent and costs associated with State agencies' employment and training programs, for the most recent four quarters for which sufficiently complete data is available. If the four-quarter base period being used is one year old or more, the data will be adjusted by the change in the gross national product (GNP) implicit price deflator from the base peiod to the second quarter of the year to which the limit applies. The Department would have the authority to estimate each State agency's per-recipient administrative cost quarterly. If it is estimated that a State agency will exceed the target cost, the excess costs would be funded at 25 percent while all costs below the target would continue to be funded at 50 percent. After the end of each fiscal year, the Department would compare a State agency's actual per-recipient cost to the quarterly estimates and pay the State agency any additional amount due or establish a claim for any amount overpaid during the fiscal year.

The proposal is not expected to affect very many State agencies—based on current cost patterns, only three State agencies would lose any Federal funding. However, it is an important proposal in that it would put State agencies on alert that the Federal government is not going to share equally in the cost of future questionable management decisions. The proposal is estimated to reduce Federal costs $4 million in Fiscal Year 1987.

ELIMINATION OF ENHANCED FUNDING FOR FRAUD INVESTIGATIONS AND PROSECUTIONS AND AUTOMATED DATA PROCESSING COSTS

Section 113 would amend Sections 16(a) and (g) of the Food Stamp Act to gradually reduce so as to eliminate by April 1, 1989, the enhanced funding currently available to State agencies for their costs of investigating or prosecuting fraud and for planning, designing, developing, or installing ADP and information retrieval systems. Enhanced Federal funding of 75 percent for fraud investigations and prosecutions was authorized by the Food Stamp Act of 1977 as an incentive for State agencies to pursue and reduce fraud. Enhanced ADP funding (75 percent) was added to the Act by the 1980 amendments to encourage State agency automation. The number of fraud investigations and individuals disqualified as the result of fraud prosecutions more than doubled between Fiscal Year 1982 and Fiscal Year 1985; presumably enhanced Federal funding has played a part in the increase. But there are other fiscal incentives for State agencies to pursue fraud vigorously, such as decreased error-rate liability and 50 percent retention of recoveries of amounts lost through fraud. State agency automation has progressed admirably and assuredly enhanced Federal funding has played a role. However, the bulk of automation is completed. At the most, three State agencies have made no progress in automation. At least 45 State agencies are fully automated or will be by mid-1989. Any remaining State agencies have partially automated systems or are in the planning or development stages.

The proposal recognizes that, although enhanced funding of specialized activities can be important in encouraging State agencies to take steps that need to be taken, the time should come when State agencies accept the fiscal responsibility for their fair share of continuing these beneficial practices. The proposal would slowly decrease enhanced funding beginning on April 1, 1987, when 70 percent Federal funding would be available. Every six months thereafter Federal funding would be decreased five percentage points until April 1, 1989, when Federal funding would be 50 percent as it is for all other Stage agency administrative costs. The two-year phase-in period will provide State agencies the opportunity to secure any additional State funding that will be necessary and, in the case of ADP funding, complete ADP start-up activities while Federal funding at an enhanced rate is yet available.

The proposal is estimated to save $2 million in the last six months of Fiscal Year 1987 when 70 percent Federal funding will be provided, $12 million in Fiscal Year 1988 when 65 percent funding will be provided for the first six months and 60 percent for the last six months, and $23 million in Fiscal Year 1989 when enhanced funding (55 percent) will be available for the first six months.

STATE AGENCY LIABILITY

Section 114 would amend Section 16(d) of the Food Stamp Act effective October 1, 1986, to revise the error rate liability system so that State agencies would bear the fiscal responsibility of their errors in excess of the 5 percent threshold. The proposal would establish issuance levels in a State as the key factor in calculating the State agency's error-rate liability. Currently, State agencies whose error rate for ineligibility (payments to ineligible households) and overissuances (overpayments to eligible households) exceed 5 percent incur liability as follows: State agencies with error rates above 5 percent receive a 5 percent reduction in their Federal funding of administrative costs for each full or partial percentage point their error rates exceed 5 percent, up to 8 percent. At 8 percent, the reduction is an additional 10 percent for each full or partial percentage point of error. For example, a State agency with a 5.55 percent error rate would receive a 5 percent reduction, a State agency with a 7.91 error rate would receive a 15 percent reduction, and a State agency with an 8.23 error rate would have its administrative funding reduced 25 percent.

The current liability scheme, by tieing error rate liability to administrative costs, bears no relation to the true cost to the Federal government of total errors or to each State agency's contribution to error-rate losses. The current liability formula can result in a State agency with .01 percentage point higher than another State agency receiving a much greater reduction in Federal funding; e.g., a 7.99 percent error rate produces a 15 percent reduction; a 8.00 error rate results in a 25 percent reduction. This effect would be exacerbated if the State agency with the slightly higher error rate was one that had higher than average administrative costs, especially if such costs arose partially from error-reduction efforts. The proposal would be a rational means for rectifying both problems by pegging liability to erroneous issuances above 5 percent. For example, a State agency with a 6 percent error rate would owe the Federal government a sum equivalent to one percent of the food stamp issuance in the State and a State agency with an error rate of 7.5 percent would have liability equal to 2.5 percent of its issuances. The proposal would assure that the cost of excessive errors resulting in incorrect eligibility determinations or overpayments will be borne by the State agencies with excessive errors in equitable proportions. Actual error rates are lower in the AFDC and Medicaid programs, where States share program costs.

It is equitable to have State agencies share in the costs of errors as they have the responsibility of administering the Food Stamp Program and are, thus, in a position to control errors. The error rate dropped from 10.4 percent in the first half of Fiscal Year 1981 to about 8.4 percent in Fiscal Year 1983, a reduction of nearly 20 percent in two years. But the error rate is still unacceptably high, costing U.S. taxpayers $900 million in 1983. By improving program administration, the amount of dollars spent in error can be reduced and public confidence in the program can be increased.

Requiring State agencies to pay for the full cost of errors above 5 percent is expected to produce savings of $11 million in Fiscal Year 1987 and $11 million in each following year through error reduction. In Fiscal Year 1989, the savings are expected to rise to $44 million when $33 million in increased collections from State agencies with excessive error rates is added to $11 million from error reduction. By Fiscal Year 1990, the full effect of the proposal will be recognized in savings estimated to be $109 million—$98 million from increased collections and $11 million from error reduction due to improved program administration.

FEDERAL FUNDING FOR PUERTO RICO'S NUTRITION ASSISTANCE PROGRAM

Section 115 would amend Section 19(a) of the Food Stamp Act to re-establish Federal funding to the Commonwealth of Puerto Rico for its Nutrition Assistance Program at $825 million annually. P.L. 99-198 increased funding levels to $852.75 million for Fiscal Year 1987; $879.75 million for Fiscal Year 1988; $908.25 million for Fiscal Year 1989; and $936.75 million for Fiscal Year 1990. These increases were unnecessary, unduly inflate Federal costs, and therefore should be rolled back.

In the case of the Commonwealth of Puerto Rico's block grant for food assistance, the Federal government delegated control over Puerto Rico's food assistance program to the Commonwealth. The Commonwealth gained flexibility to design its own program, including determining the means for providing assistance (i.e. cash). It was intended that the Commonwealth of Puerto Rico would use the flexibility afforded by the block grant to tailor eligibility cut-offs and/or benefit levels to stay within the $825 million Federal funding limit. The Federal government cannot curtail costs in Puerto Rico, as it can in the 53 Food Stamp Program areas through changing eligibility or benefits. The only means to accomplish budgetary restraint in the case of Puerto Rico is through limiting funding. The proposal would result in $27.75 million savings in Fiscal Year 1987, $54.75 million in Fiscal Year 1988, $83.25 million in Fiscal Year 1989, and $111.75 million in Fiscal Year 1990.

THE OPTIONAL NUTRITION ASSISTANCE GRANT PROGRAM

Section 116 would amend the Food Stamp Act to permit State agencies to elect to operate low-income nutrition assistance grant programs in lieu of the national Food Stamp Program. Currently, only the Commonwealth of Puerto Rico is authorized to operate a nutrition assistance program of its own design in place of the Food Stamp Program. The Commonwealth of the Northern Mariana Islands operates a nutrition assistance program with Federal funding; howev-

er, the authority for the program is under legislation separate from the Food Stamp Act.

A State agency exercising its option to operate its own nutrition assistance program would be provided first-year funding equivalent to its administrative costs for the previous fiscal year plus the value of benefits issued in the State during the preceding fiscal year. The administrative portion of the grant would be adjusted to reflect changes in the costs of program administration. The benefits portion would be adjusted on the basis of changes in food prices, unemployment levels, and the number of individuals in the State living below the poverty line, as well as any other factors established by the Secretary. Adjustments in the benefit portion of the grant would be made at least annually, but could be made more frequently on a determination of the Secretary that an adjustment is needed and sufficient information to make an adjustment is available. The State agency could use each year's funds in the year they are provided or the next year.

While State agencies electing to operate nutrition assistance programs would have considerable latitude in designing their programs, they would have to submit a plan for the Secretary's approval. The plans would include assessments of the food and nutrition needs of the States' low-income residents and a description of the assistance to be provided and the people to be assisted. The plans would have to comply with the Secretary's requirements designed to assure that assistance is provided to the States' most needy residents. Each State agency would be required to prepare an annual activities report on the expenditures of its nutrition assistance program. Appropriate safeguards against the misuse of grant funds are also provided in the proposal. State agencies would be permitted to consider the value of nutrition assistance grants provided to households as income for purposes of their AFDC programs, just as they are now permitted to consider food stamp allotments as income. A State agency could request and be furnished Federal food stamps for use in providing benefits under its nutrition assistance program.

The proposal is offered in order to provide State agencies with the opportunity to experiment with potentially more effective and efficient approaches to nutrition assistance. Since it would be optional, State agencies that do not desire or are not equipped to attempt new program design would be able to continue in the national Food Stamp Program. The proposal would offer maximum State agency flexibility combined with appropriate Federal oversight.

ALLOW STATE AGENCIES TO COLLECT SOCIAL SECURITY NUMBERS IN FOOD DISTRIBUTION PROGRAMS ON INDIAN RESERVATIONS AND THE COMMODITY SUPPLEMENTAL FOOD PROGRAM

Section 117 would amend sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 to require that household members in the Food Distribution Program on Indian Reservations and the Commodity Supplemental Food Program (CSFP) provide their social security numbers as a condition of eligibility. This would enable States and Indian Tribal Organizations operating these two programs to effectively detect and prevent dual participation. Individuals may not participate in both the Food Stamp and Food Distribution Programs or the CSFP and the Special Supplemental Food Program for Women, Infants and Children (WIC Program) simultaneously. Collection of social security numbers is already required in the Food Stamp Program and is proposed in the WIC Program.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Section 118 would amend section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612 note) by deleting the authority of the Secretary to continue service to the elderly through pilot projects. Under subsection (c) of this section, the three sites serving the elderly on December 23, 1985, would be permitted, beginning Fiscal Year 1987, to serve only those low-income elderly persons who were being served during Fiscal Year 1986. Effective October 1, 1986, no new participants would be added, even to replace those who leave the program.

Section 118 further amends section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) by changing the administrative funding formula for the CSFP. Under current legislation, in addition to base grants which are drawn from 15 percent of the program appropriation, States receive funding in the amount of 15 percent of the value of all commodities which they receive without charge or credit from the Department and distribute to participants. The amendment would remove the administrative funding attached to such donated commodities. Program administrative funding would be restricted to 15 percent of the annual program appropriation.

Section 118 would amend section 5(f) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) by deleting the mandate that the Secretary approve applicants of additional CSFP sites in areas in which the program does not currently operate to the full extent that funding permits. In its place, the proposal would establish a prohibition against Departmental approval or funding of new CSFP programs or sites in an existing program which would operate in areas already served by the WIC Program. This amendment is intended to prevent further program overlap and thus to achieve greater administrative efficiency.

Section 118 would amend section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) by deleting subsection (g) which allows CSFP local agencies that have received more funding than is necessary for service to women, infants, and children to commence service to low income elderly persons, with the Secretary's approval. The Department proposes limitations on commodity distribution to the elderly through the CSFP system since such activity duplicates other nutrition programs benefiting the elderly, including Congregate Nutrition Services and Home Delivery Nutrition Services administered by the Department of Health and Human Services, as well as the Department of Agriculture's Food Stamp Program and commodity distribution through food banks.

IMPOSITION AND AUTHORIZATION FOR USE OF FEES IN PROCESSING CONTRACTS

Section 119 refers to section 1114(a)(2) of the Agriculture and Food Act of 1981, 7 U.S.C. 1431(e) and would allow the Secretary to impose a user fee upon private companies contracting with the Secretary for the processing of commodities. The amount of the fee would be determined as appropriate by the Secretary and would serve to defray the costs of administering and monitoring the operations of the National Commodity Processing Program.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

Section 120 would repeal section 204(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note), as amended. This would result in the elimination of authorization for funds to be appropriated to assist States and emergency feeding organizations with costs incurred in the distribution of commodities donated under the Temporary Emergency Food Assistance Program. Repeal of section 204(c) would also result in the elimination of the Secretary's authority to reallocate unused funds, the requirement for a State to match a portion of the Federal funds made available on a dollar for dollar basis, the restriction which prohibits a State from charging for commodities made available to emergency feeding organizations, the requirement for funds to be allocated to the States on an advance basis, and the requirement that States pass on at least 20 percent of their allocation to emergency feeding organizations.

The program operated successfully (e.g., achieving peak levels of butter and cheese distribution) for over one year with no Federal financial support for administrative expenses. The Federal government already contributes heavily to the program costs, spending over $900 million in Fiscal Year 1985 to purchase commodities, process them into forms suitable for household distribution, and ship them to States. Program administration would be strengthened if States would assume this small portion of program costs.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, April 15, 1986.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a bill to amend the Food Stamp Act of 1977, as amended; the Agriculture and Consumer Protection Act of 1973; and the Temporary Emergency Food Assistance Act of 1983. Also enclosed is a section-by-section analysis explaining the provisions of the bill.

The bill contains proposals that support the President's Fiscal Year 1987 Budget by achieving an estimated $350 million in Food Stamp Program savings for Fiscal Year 1987. Approval of four of the proposals would prevent increases in program costs included in the Food Security Act of 1985, P.L. 99-198, which are scheduled to go into effect May 1, 1986. Maintaining the earned income deduction, excess shelter expense deduction, dependent care deduction, and assets test at their current levels would save an estimated $69 million in Fiscal Year 1986 and $189 million in Fiscal Year 1987 without decreasing any participants current benefits.

Two other proposals would produce as estimated $78 million in savings in Fiscal Year 1987 and are offered to establish consistency between the treatment of households receiving payments under the Low Income Home Energy Assistance Act and the Job Training Partnership Act and low-income households that do not receive either kind of income. The proposals would enable Food Stamp Program administrators to calculate more accurately the income that is truly available to all households for the purchase of food.

A seventh proposal would add specific performance standards for State agencies ad-

ministering the new Employment and Training Programs established by P.L. 99-198. The performance standards included in this bill are necessary to assure that the Federal administrative funding is used effectively by State agencies to train food stamp recipients for work and/or place them in jobs. The proposal would also provide estimated net savings of $66 million in Fiscal Year 1987.

Three other food stamp proposals would amend current provisions on Federal funding of State agencies' administrative costs for estimated savings of $17 million in Fiscal Year 1987. These three proposals would gradually eliminate enhanced funding for fraud investigations and prosecutions and automation which has essentially served its purpose, reduce Federal funding of excessive State agency administrative costs, and tie error-rate liability to the cost of overissuances rather than to administrative funding. Similar proposals are being made for the Aid to Families with Dependent Children and Medicaid programs.

The remaining food stamp proposals in the bill would improve program management, deter fraud and waste, and enhance State agency flexibility. Among them is a proposal to establish optional nutrition assistance grants. This proposal recognizes that many State agencies are especially attuned to both the nutrition needs of their low-income residents and the best means of meeting those needs.

Taken together, the food stamp proposals in this bill would achieve the laudable goals of improving program management, increasing State agency flexibility, combating program losses, and reducing program costs. We urge rapid enactment of these proposals.

Provisions are also included in this bill which address the Commodity Supplemental Food Program (CSFP). They would eliminate unnecessary administrative payments based on surplus commodities, require the collection of Social Security Numbers, stabilize elderly participation in the program by permitting participation only for those people participating this fiscal year, and limit new agencies to areas in which no Special Supplemental Food Program for Women, Infants and Children (WIC Program) exists. These provisions are directed toward elimination of duplication between CSFP and other food programs such as the WIC Program and the Elderly Feeding Program.

Other provisions include the requirement of Social Security Numbers for participation in the Food Distribution Program on Indian Reservations, the imposition of user fees upon private companies participating in the National Commodity Processsing Program, and the elimination of administrative funds for the Temporary Emergency Food Assistance Program.

A similar letter is being sent to the Speaker of the House.

The Office of Management and Budget advises that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

RICHARD E. LYNG, *Secretary.*●

By Mr. CHAFEE:

S. 2568. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of business development companies; to the Committee on Finance.

TAX TREATMENT OF BUSINESS DEVELOPMENT COMPANIES

Mr. CHAFEE. Mr. President, today I am reintroducing a bill to amend subchapter M of the Internal Revenue Code affecting business development or venture capital companies. This legislation was passed twice by the Senate in 1982, but unfortunately was dropped in the conference with the House. Now, I am happy to report, an identical bill, H.R. 1658, has been introduced by three members of the House Ways and Means Committee, Congressman GUARINI, Congressman STARK, and Congressman FRENZEL.

The Subcommittee on Select Revenue Measures of the Committee on Ways and Means held hearings on this bill on June 9-10, 1986. At those hearings the Treasury Department testified in favor of the legislation, with three technical changes. I have made the three changes suggested by the Treasury and am introducing the legislation today with those three suggested modifications.

The bill I am introducing today would amend present law to provide that any domestic corporation that registers as a business development company under the Investment Company Act of 1940, as amended by the Small Business Incentive Act of 1980, would be eligible for the tax treatment applicable to regulated investment companies [RIC's]. Thus, business development companies could both elect to register with the Securities and Exchange Commission under the streamlined procedures provided by the 1980 act and be treated as a RIC for Federal income tax purposes. This bill would apply to taxable years beginning on or after the date on enactment.

Six years ago, Congress passed the Small Business Investment Incentive Act of 1980, Public Law 96-477. This law enables public venture capital companies and small business investment companies [SBIC's] to avoid complex regulation under the Investment Company Act of 1940 and, instead, elect simplified treatment as business development companies [BDC's].

To claim this exemption from rules of the 1940 act, BDC's must comply with certain requirements insuring they are investment in and providing substantial management assistance to small growing companies. The 1980 act is particularly well suited to the unique regulatory needs of venture investing, unlike the Investment Company Act of 1940, which was originally designed to regulate mutual funds before the existence of the modern venture industry.

This law will not be fully utilized, however, until a conforming amendment is added to subchapter M of the Internal Revenue Code. This part of the Code allows investment companies to pass earnings through to their shareholders without first paying taxes on them. Currently, an investment company must be regulated under the old 1940 act to qualify for such tax treatment.

Since SBIC's and venture capital companies that take advantage of the new 1980 securities law will not be registered under the 1940 act, they will not be able to utilize the conduit tax treatment in subchapter M.

Subchapter M should be amended, therefore, to provide the same tax treatment to BDC's under the new law as those companies regulated under the old one, or else the new Securities Act will be ineffective.

The bill, we introduce today would provide such tax treatment. I ask unanimous consent, Mr. President, that the text of our bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF BUSINESS DEVELOPMENT COMPANIES.

(a) IN GENERAL.—Subchapter M (relating to regulated investment companies and real estate investment trusts) of chapter 1 of subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new part:

"PART IV—PROVISIONS WHICH APPLY TO BUSINESS DEVELOPMENT COMPANIES

"Sec. 860A. Tax treatment of business development companies.

"SEC. 860A. TAX TREATMENT OF BUSINESS DEVELOPMENT COMPANIES.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the provisions of parts I and III of this subchapter shall apply to a business development company which would be a regulated investment company but for the requirements of section 851(a), as if such company were registered as a management company under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2). When used other than in this section, the term 'regulated investment company' shall be deemed to include a business development company which would be a regulated company but for the requirements of section 851(a), as if such company were registered as a management company under such Act.

"(b) Definition of Business Development Company.—For purposes of this section, the term 'business development company' means any domestic corporation which is a business development company within the meaning of section 2(a)(48) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-2(a)(48))."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end thereof the following new item:

"PART IV. PROVISIONS WHICH APPLY TO BUSINESS DEVELOPMENT COMPANIES."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable

years beginning on or after the date of the enactment of this Act.

By Mr. WEICKER (for himself and Mr. GRAMM):

S. 2569. A bill to clarify the ownership of certain historic shipwrecks in State waters; to the Committee on Energy and Natural Resources; to the Committee on Energy and Natural Resources.

ABANDONED SHIPWRECK ACT

● Mr. WEICKER. Mr. President, I rise today to introduce legislation for myself and Mr. GRAMM which concerns the ownership of certain historic shipwrecks in State waters. The bill would assert U.S. title to certain abandoned historic shipwrecks in State waters and then transfer that title to the appropriate State. Currently, any abandoned shipwreck comes under the jurisdiction of international admiralty law, which applies the finders keepers rule of salvage to shipwrecks in State, Federal, or international waters. This has proven ineffective in managing some valuable wrecks.

Since the passage of the Submerged Lands Act of 1953, States have held title to the lands and natural resources within 3 miles of their coasts. Legal controversy over whether or not that included title to shipwrecks has caused confusion about whether State or Federal authorities have jurisdiction over historic shipwrecks in State waters. There was, therefore, a need to clarify the uncertainty over who should manage historic shipwrecks in State waters.

Three groups have demonstrated a keen interest in historic shipwrecks, which has added to the confusion over jurisdictional rights and resulted over the years in a number of lawsuits. The largest group is the sport diving community, which desires unrestricted access to shipwrecks for recreational purposes. The next largest group is composed of the professional salvors, who often spend much time, effort, and money to locate and recover wrecks that may be commercially valuable. Finally, there are the marine archeologists, who want to see historical artifacts used for cultural education purposes. The groups have often been in conflict with each other, and this bill attempts to resolve their disputes and provide a reasonable management scheme for historic shipwrecks.

It is important to note that only shipwrecks in a State's waters that are included in or determined eligible for inclusion in the National Register of Historic Places are covered by this legislation. The Advisory Council on Historic Preservation is directed to publish guidelines to assist States in developing legislation and regulations for management of shipwrecks in their waters.

Virtually every other nation has such legislation for historic shipwrecks in their waters. Twenty-six States in the United States already have legislation that provides for protection of historic artifacts and compensation for private sector recovery. Our legislation not only assures the State of the title and historical preservation of these shipwrecks, but guarantees that anyone who engages in the recovery of a shipwreck covered under the provisions of this act shall receive compensation for their activities.

Many of you may think that this only pertains to coastal States or States surrounded by large bodies of water. However, this pertains to us all. When a ship is wrecked and abandoned, all its contents aboard become a frozen record of that particular era. When that wreck is discovered, it is as if we have dug up a time capsule. And the contents in that capsule represent a bit of history that can help us better understand past eras and events. In these cases, much care must be taken when exploring and salvaging these remnants of the past. And those who recover these historical shipwrecks and their artifacts should be compensated for their work.

I want to emphasize the urgency in passing this bill. First, it clearly delegates authority to the States for historic shipwrecks in their waters. It also provides for the protection of natural resources and habitats in areas where historic shipwrecks are explored and salvaged. Finally, it encourages each State to allow for recreational diving and exploration of shipwreck sites and appropriate private or public sector recovery of artifacts in their waters.

Mr. President, this bill is virtually identical to H.R. 3558, which was reported out of the House Merchant Marine and Fisheries Oceanography Subcommittee on March 18 of this year. It is the culmination of years of revision and controversial testimony from numerous hearings. I believe that we finally have a bill all parties can agree to.●

By Mr. THURMOND:

S.J. Res. 364. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT PROVIDING FOR FORFEITURE OF OFFICE BY GOVERNMENT OFFICIALS AND JUDGES CONVICTED OF FELONIES

Mr. THURMOND. Mr. President, today I am introducing a proposed amendment to the Constitution which would require forfeiture of office for Federal judges and certain other officers of the United States upon conviction of a felony.

Mr. President, I believe that the citizens of our country will agree that those who have been convicted of felonies should not occupy positions of trust and responsibility in our Government. Under current Constitution law, however, it is possible for certain officers of the United States who are appointed by the President with the advice and consent of the Senate to continue to receive a salary after such a conviction. In order to remove these officers from the Federal payroll, if they are unwilling to resign, it is necessary that they be impeached, a process which can occupy valuable time and resources of the Congress.

The Congress now has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. However, when the courts of the Nation have found an official guilty of a serious crime, it should not be necessary for Congress to retry the official prior to his or her removal from the Federal payroll.

The constitutional amendment which I am introducing will provide that any officer of the United States who is appointed by the President and confirmed by the Senate, upon conviction of a felony and exhaustion of all direct appeals, shall be removed from office and shall lose all salary and benefits arising from service in such office.

Mr. President, I urge my colleagues to carefully consider this proposal and ask that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 364

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE -

"Any officer of the United States appointed by the President with the advice and consent of the Senate, upon conviction of a felony and exhaustion of all direct appeals, shall forfeit office and all prerogatives, benefits, or compensation thereof."

ADDITIONAL COSPONSORS

S. 329

At the request of Mr. HECHT, the name of the Senator from Arizona [Mr. GOLDWATER] was added as a cosponsor of S. 329, a bill entitled the "Highway Speed Modification Act of 1985."

S. 519

At the request of Mr. EVANS, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1288

At the request of Mr. DANFORTH, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1288, a bill to amend the Tariff Schedules of the United States regarding the classification of television apparatus and parts thereof.

S. 2181

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2181, a bill entitled the "Construction Industry Labor Law Amendments of 1986."

S. 2209

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2266

At the request of Mr. WALLOP, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of S. 2266, a bill to establish a ski area permit system on national forest lands established from the public domain, and for other purposes.

S. 2325

At the request of Mr. EXON, the name of the Senator from Arizona [Mr. GOLDWATER] was added as a cosponsor of S. 2325, a bill to permit a maximum speed limit of 70 miles per hour on any route within the National System of Interstate and Defense Highways.

S. 2344

At the request of Mr. EXON, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2344, a bill to amend title 10, United States Code, to authorize limited use of commissary stores by members of the Selected Reserve.

S. 2401

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Mr. MATHIAS] was added as a cosponsor of S. 2401, a bill to prohibit the manufacture or distribution in, or the importation into, the United States of certain firearms.

S. 2494

At the request of Mr. BRADLEY, the name of the Senator from Maryland [Mr. MATHIAS] was added as a cosponsor of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

SENATE JOINT RESOLUTION 256

At the request of Mr. TRIBLE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 256, a bill designating August 12, 1986, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 343, a joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 345, a joint resolution to designate the week beginning November 9, 1986, a "National Reye's Syndrome Awareness Week."

SENATE JOINT RESOLUTION 356

At the request of Mr. MATHIAS, the name of the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 356, a joint resolution to recognize and support the efforts of the United States Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy.

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. HART, the name of the Senator from Utah [Mr. HATCH], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Concurrent Resolution 131, a concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the release and safe passage of Naum Meiman and Inna Kitrosskaya-Meiman.

SENATE CONCURRENT RESOLUTION 148

At the request of Mr. SYMMS, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Concurrent Resolution 148, a concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union.

SENATE RESOLUTION 419

At the request of Mr. GORTON, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Resolution 419, a resolution to express the sense of the Senate regarding the Federal tax exemption of Blue Cross and Blue Shield Plans.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Utah [Mr. HATCH], the Senator from Georgia [Mr. MATTINGLY], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 1823

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of amendment No. 1823 intended to be proposed to S. 100, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

SENATE CONCURRENT RESOLUTION 150—EXPRESSING CONCERN OVER THE CONDITION OF ETHNIC ALBANIANS LIVING IN YUGOSLAVIA

Mr. DOLE submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 150

Whereas there are more than two million ethnic Albanians living within the borders of the Socialist Federal Republic of Yugoslavia;

Whereas ethnic Albanians constitute one of the largest ethnic groups within Yugoslavia;

Whereas there are reports that several hundred ethnic Albanians have been killed in communal violence and the Government's eforts to control it;

Whereas there is evidence that several thousand more have been arrested by the Yugoslav Government for expressing their views in a non-violent manner;

Whereas most political prisoners within Yugoslavia are ethnic Albanians;

Whereas many of those arrested have been sentenced to harsh terms of imprisonment ranging from one to fifteen years;

Whereas many ethnic Albanians have been denied access to full economic opportunities because of alleged "Albanian nationalist" activities;

Whereas Amnesty International, a respected international human rights organization, has published allegations of torture and assassination of ethnic Albanians in exile by the Yugoslav secret police;

Whereas the Socialist Federal Republic of Yugoslavia is a signatory to the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Final Act;

Whereas one of the provisions of the Act states that "the participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them full opportunity for the actual enjoyment of human rights and

fundamental freedoms and will, in this manner, protect the legitimate interests in this sphere;"

Whereas the Government of the Socialist Federal Republic of Yugoslavia has failed to protect fully the rights of ethnic Albanians, in accordance with its obligation under the Act;

Resolved by the Senate, the House of Representatives concurring, That Congress:

(1) is deeply concerned over the political and economic conditions of ethnic Albanians in Yugoslavia and over the failure of the Yugoslav Government to fully protect their political and economic rights;

(2) urges the Government of the Socialist Federal Republic of Yugoslavia to act so as to ensure that human rights and fundamental freedoms as expressed in the Helsinki Final Act and the Concluding Document of the Madrid CSCE Follow-Up Meeting are respected in regard to persons from all national and ethnic groups in Yugoslavia;

(3) calls upon the Government of the Socialist Federal Republic of Yugoslavia to review in a humanitarian spirit the cases of all ethnic Albanians currently imprisoned on political charges and to release all of those who have not used or advocated violence;

(4) requests the President of the United States to direct the Department of State to convey the contents of this Resolution to the appropriate representatives of the Government of the Socialist Federal Republic of Yugoslavia.

Mr. DOLE. Mr. President, I rise today to submit a concurrent resolution expressing the concern of the Congress about the conditions of ethnic Albanians residing in Yugoslavia. Congressman DIOGUARDI of New York has introduced a similar resolution in the House, and I am pleased to be working with him to focus attention on this important matter.

Mr. President, there are approximately 2 million ethnic Albanians living in Yugoslavia, making them the third largest ethnic group in that country. They have extensive ties of ancestry and common culture with the growing ethnic-Albanian community in the United States.

Regrettably, the Yugoslav Government has not granted to the Albanian community the full protection of their political and economic rights. While many ethnic groups in Yugoslavia have suffered at the hands of the government, the Albanian community has been singled out for particularly harsh treatment.

Under the guise of responding to the greatly exaggerated threat that ethnic Albanians might try to assert political independence from Yugoslavia, the government in Belgrade has arrested thousands of Albanians, hundreds this year alone, often for doing no more than peacefully expressing their commitment to the preservation of Albanian culture. In fact, the Helsinki Commission and other knowledgeable, independent observers have reported that more than one-half of all political prisoners in Yugoslavia are Albanian.

And when arrested these ethnic Albanians face the harshest kind of penalties. Prison sentences of from 1 to 15 years are common for offenses that may be no more than holding up a placard at a public gathering pledging to uphold elements of Albanian culture.

Many Albanians have also been fired, or denied access to particular jobs, because in some way they have expressed their Albanian heritage or manifest some element of Albanian culture. A number of university professors, for example, have been fired solely for teaching courses on Albanian history or culture.

Finally and most disturbing of all, hundreds of ethnic Albanians have died in recent years as a result of communal strife and the government's often violent efforts to put down communal unrest. These dead have become martyrs within the ethnic Albanian community. Even admitting that the government's actions in all cases were not unprovoked, the strong evidence is that the government has vastly overreacted, as part of a conscious campaign to stamp out any sign of Albanian ethnocentrism or any inclination for ethnic Albanians to develop a stronger political self-identification.

Mr. President, as I noted, the Albanian populations is not the only group that suffers. But it appears that it may well be the group that suffers the most.

For that reason, I believe we have a responsibility to express our deep concern about the plight of these suffering people, in the hope that the influence we can bring to bear will encourage the Yugoslav Government to meet its solemn commitments under the Helsinki accords to grant ethnic Albanians—and all other ethnic groups in Yugoslavia—their full rights and freedoms.

Mr. President, I send the concurrent resolution to the desk and ask for its appropriate referral.

SENATE RESOLUTION 431—SUPPORTING NUMERICAL LIMITS OF EXISTING STRATEGIC ARMS AGREEMENT LIMITS

Mr. BUMPERS (for himself, Mr. LEAHY, Mr. CHAFEE, and Mr. HEINZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 431

Whereas, it is in the national interest of the United States to continue the policy of not undercutting existing strategic offensive arms agreements; and

Whereas, the Senate supports the President's recent decision to order the dismantling of older launchers as the eighth Trident submarine commenced sea trials; and

Whereas, the Senate also supports the President's efforts to pursue the resolution of concerns over Soviet noncompliance with strategic arms control agreements, particularly the encryption of telemetry and the deployment of the SS-25, both clear violations of SALT II provisions; and

Whereas, Soviet violations of existing strategic offensive arms agreements weaken the integrity of those agreements and the positive environment necessary for successful negotiation of new agreements; and

Whereas, the Senate believes there are appropriate, proportionate responses to Soviet violations which can be implemented without abandoning existing strategic offensive arms agreements; and

Whereas, the Senate is concerned about the continuing Soviet buildup in strategic nuclear warheads, which will add significantly to the number of nuclear warheads deployed by the Soviet Union; and

Whereas, the Senate believes that the Soviet ability to deploy substantially more nuclear warheads would be enhanced by the absence of an interim restraint framework; and

Whereas, the Soviet Union has to date dismantled hundreds of operational missile launchers, and would have to dismantle hundreds more over the next few years, to stay within the numerical limits of existing strategic arms agreements; and

Whereas, ending the U.S. no-undercut policy has the potential for igniting an unlimited nuclear arms race; and

Whereas, the Senate also believes that both the United States and the Soviet Union should intensify their efforts at the Geneva arms negotiations to agree upon substantial and verifiable reductions in their nuclear forces: Now therefore be it

Resolved, That it is the sense of the Senate that—

(1) It is currently against the national security interests of the United States to abandon existing strategic offensive arms agreements by exceeding the numerical sublimits therein as long as the Soviet Union remains within these sublimits; and

(2) The Soviet Union should take positive steps to resolve U.S. concerns about Soviet violations of existing strategic arms agreements in order to maintain the integrity of those agreements and to strengthen the positive environment necessary for the successful negotiation of a new agreement; and

(3) The Congress and the President should continue to review the policy of mutual adherence to the numerical sublimits on launchers of strategic nuclear delivery systems, how such adherence serves U.S. security interests, the significance of both Soviet compliance and non-compliance with existing strategic offensive arms agreements, and the advisability of taking appropriate, proportionate responses to Soviet violations.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

MITCHELL (AND OTHERS) AMENDMENT NO. 2091

Mr. MITCHELL (for himself, Mr. SIMON, Mr. SARBANES, Mr. LEVIN, Mr. HARKIN, Mr. GORE, Mr. CRANSTON, Mr. BURDICK, Mr. SASSER, and Mr. BYRD) proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 2847, strike "Act." and insert "Act.

Notwithstanding any other provision of this Act—

(1) Subsections (a), (b), (c), and (d) of section 1, as amended by section 101(a), are amended to read as follows:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $27,000	14% of taxable income.
Over $27,000 but not over $55,000	$3,780, plus 27% of the excess over $27,000.
Over $55,000	$11,340, plus 35% of the excess over $100,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $22,000	14% of taxable income.
Over $22,000 but not over $45,000	$3,080, plus 27% of the excess over $22,000.
Over $45,000	$9,290, plus 35% of the excess over $45,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $16,500	14% of taxable income.
Over $16,500 but not over $33,500	$2,310, plus 27% of the excess over $16,500.
Over $33,500	$6,900, plus 35% of the excess over $33,500.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS; CERTAIN ESTATES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and

"(2) every estate taxable under this subsection with respect to taxable years ending less than 2 years after the date of the death of the decedent,

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $13,500	14% of taxable income.
Over $13,500 but not over $27,500	$1,890, plus 27% of the excess over $13,500.
Over $27,500	$5,670, plus 35% of the excess over $100,000.

(2) Section 1, as amended by section 101(a) is amended by striking out subsection (g) and redesignating subsection (h) as subsection (g).

(3) Section 151(f), as amended by section 103(a), is amended by striking out paragraph (4).

(4) Section 401 of the Act shall read as follows:

"SEC. 401. MODIFICATION OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS.

(a) REDUCTION IN EXCLUSION TO REFLECT REDUCTION IN RATES.—Section 1202(a) (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "22.9 percent (36.47 percent in the case of taxable years beginning in 1987)".

(b) CONFORMING AMENDMENTS.—

(1) Section 1202(c), (relating to transitional rule) is hereby repealed.

(2) Section 170(e)(1), (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "77.1 percent (28/33 in the case of a corporation)", and

(B) by adding at the end thereof the following new sentence: "In the case of any taxable year beginning in 1987, this paragraph shall be applied by substituting '63.53 percent' for '77.1 percent'.

(3) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(4) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(5) Section 57(a), as added by section 1101, is amended by adding at the end thereof the following new paragraph:

"(6) CAPITAL GAINS.—

"(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—for purposes of this subparagraph, the term 'farm insolvency transaction' means—

(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure.

but only if the farmer is insolvent immediately before such transaction.

(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5)).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—The tax on the long-term capital gain on rights to royalties paid under leases and assignments binding on September 25, 1985, by a limited partnership formed on March 1, 1977, which on October 30, 1979, assigned leases and which assignment was amended on April 27, 1981, shall not exceed 20 percent."

(5) Section 402 of the Act is null and void.

SIMON AMENDMENT NO. 2092

(Ordered to lie on the table)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the end of title III, insert the following new subtitle:

Subtitle E—Corporate Distributions

SEC. 641. MODIFICATION OF THE GENERAL UTILITIES DOCTRINE FOR CURRENT DISTRIBUTIONS.

(a) AMENDMENT TO SECTION 311 RELATING TO CURRENT DISTRIBUTIONS OF PROPERTY.—Section 311 is amended to read as follows:

"SEC. 311. TAXABILITY OF CORPORATION ON DISTRIBUTION.

(a) DISTRIBUTIONS OF APPRECIATED PROPERTY.—If—

(1) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which subpart A applies, and

(2) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution.

(b) LIABILITY IN EXCESS OF BASIS.—For purposes of this section, if any property distributed is subject to a liability, or the shareholder assumes a liability of the distributing corporation in connection with the distribution, the fair market value of such property shall be treated as not less than the amount of such liability.

(c) LOSS NOT RECOGNIZED.—No loss shall be recognized to a corporation on a distribution of property with respect to its stock.

(d) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 1986.

SEC. 642. AMENDMENT TO SECTION 336 RELATING TO LIQUIDATION DISTRIBUTIONS.

(a) TREATMENT OF DISTRIBUTION IN COMPLETE LIQUIDATIONS.—Section 336 is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) DISTRIBUTIONS OF APPRECIATED PROPERTY IN COMPLETE LIQUIDATIONS.—

(1) IN GENERAL.—If—

(A) a corporation distributes property in a complete liquidation, and

(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distribution corporation),

then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) any gain on goodwill and other nonamortizable intangible assets, and

(B) any gain on land and buildings (except for any gain on buildings attributable to recapture of depreciation, which shall be determined in all cases under section 1245) used in the active conduct of a trade or business meeting the requirements of section 355(b).

(b) LIABILITY IN EXCESS OF BASIS.—For purposes of this section, if any property distributed in the liquidation is subject to a liability, or the shareholder assumes a liability of the liquidating corporation in connection with the distribution, the fair market value of such property shall be treated as not less than the amount of such liability.

(c) STOCK IN SUBSIDIARIES.—If the property distributed is stock in a subsidiary of the distributing corporation, the exception provided in subsection (a)(2)(A) shall apply only if the distributing corporation meets the ownership requirements of section 1504(a)(2) with respect to such subsidiary and elects to treat the distribution as a distribution by the subsidiary of all its assets in complete liquidation.

(d) REQUIREMENT OF AN ALLOCATION AGREEMENT.—In the case of a distribution to which this section applies, rules similar to the rules in section 337(b) shall apply if the distributee disposes of the distributed property within 10 years of the date of the distribution.

(d) LOSS NOT RECOGNIZED.—No loss shall be recognized to a corporation on the distribution of property in complete liquidation.

(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 1986, except for such transactions that are completed pursuant to plans of complete liquidation adopted before the date of enactment of this Act.

SEC. 643. AMENDMENTS TO SECTION 337 RELATING TO SALES IN CONNECTION WITH CERTAIN LIQUDAITONS.

(a) TREATMENT OF CERTAIN COMPLETE LIQUIDATIONS.—Subsection (a) of section 337 is amended to read as follows:

"(a) GENERAL RULE FOR COMPLETE LIQUIDATIONS.—If, within the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain shall be recognized to such corporation from the sale or exchange by it within such 12-month period of—

(1) goodwill and other nonamortizable intangible assets, and

(2) land and buildings (except for any gain attributable to recapture of depreciation as determined in all cases under section 1245 on such buildings) used in the active conduct of a trade or business meeting the requirements of section 355(b)."

(b) REQUIREMENT OF AN ALLOCATION AGREEMENT.—Subsection (b) of section 337 is amended to read as follows:

"(b) REQUIREMENT OF AN ALLOCATION AGREEMENT.—In order to qualify for the nonrecognition treatment provided for in subsection (a), the seller and purchaser must enter into an agreement, to which they both agree to be bound, that allocates the purchase price to the various assets sold."

(c) STOCK IN SUBSIDIARIES.—Subsection (f) of section 337 is amended to read as follows:

"(f) STOCK IN SUBSIDIARIES.—If the property sold or exchanged is stock in a subsidiary of the selling corporation, subsection (a) shall apply only if the selling corporation meets the ownership requirements of section 1504(a)(2) with respect to such subsidiary and the purchasing corporation makes (or is deemed to have made) an election under section 338.

(d) REGULATORY AUTHORITY.—Subsection (g) of section 337 is amended to read as follows:

"(g) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(e) REPEAL OF SECTION 341.—

(1) Section 341 is hereby repealed.

(2) Paragraph (1) of section 337(c) is hereby amended to read as follows:

"(1) LIQUIDATIONS TO WHICH SECTION 333 APPLIES.—This section shall not apply to any sale or exchange following the adoption of a plan of complete liquidation, if section 333 applies with respect to such liquidation."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1986, except for sales made pursuant to plans of complete liquidation adopted before the date of enactment of this bill.

SEC. 104. AMENDMENT TO SECTION 338 RELATING TO CERTAIN STOCK PURCHASES TREATED AS ASSET ACQUISITIONS.

(a) Subsection (i) of section 338 is amended to read as follows:

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and sections 336 and 337, including—

(1) regulations to ensure that the purpose of this section to require consistency of treatment of stock and asset sales and purchases may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations),

(2) regulations providing for the coordination of the provisions of this section with provisions of this title relating to foreign corporations and their shareholders, and

(3) regulations providing that if a purchasing corporation fails to make an election under this section (and is not treated as having made such an election), a disposition within 5 years of the acquisition date of the stock of any corporation owned (directly or indirectly) by the target corporation with respect to which the ownership requirements of section 1504(a)(2) are met (either by the target corporation or a directly or indirectly owned subsidiary of the target) shall be treated as a sale of all of such subsidiary's assets in a single transaction to which section 337 does not apply."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after the date of enactment of this Act.

METZENBAUM (AND OTHERS) AMENDMENT NO. 2093

Mr. METZENBAUM (for himself, Mrs. KASSEBAUM, and Mr. HATCH) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1812, line 13, strike "$600,000,000" and insert "the applicable dollar amount".

On page 1812, after line 23, insert:

For purposes of this paragraph, the term "applicable dollar amount" means $600,000,000 in the case of taxable years beginning in 1987 through 1991, $500,000,000 in the case of the taxable year beginning in 1992, $400,000,000 in the case of the taxable year beginning in 1993, $300,000,000 in the case of the taxable year beginning in 1994, $200,000,000 in the case of the taxable year beginning in 1995, $100,000,000 in the case of the taxable year beginning in 1996, and zero in the case of taxable years beginning after 1996.

At the end of title XVII, insert the following new section:

SEC. —. EXTENSION AND MODIFICATION OF CREDIT FOR EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES.

(a) EXTENSION OF CREDIT.—Section 28 is amended by striking out subsection (e).

(b) Clinical Testing.—Subclause (II) of section 28(b)(2)(A)(ii) is amended—

(1) by inserting "or 507" after "505(b)", and

(2) by inserting "or if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act," after "Act,".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to amounts paid or incurred after December 31, 1982.

MOYNIHAN AMENDMENT NO. 2094

Mr. MOYNIHAN proposed an amendment to amendment No. 2093 proposed by Mr. METZENBAUM (and others) to the bill (H.R. 3838), supra; as follows:

At the end of the amendment add the following language:

§ —. Deductions incurred by certain membership organizations in transactions with members.

(a) Section 277(b) of the Internal Revenue Code of 1954 is amended by adding the following new paragraph:

"(4) which is engaged primarily in the gathering and distribution of news to its members for publication."

ARMSTRONG AMENDMENT NO. 2095

Mr. ARMSTRONG proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . APPLICABILITY OF UNEMPLOYMENT COMPENSATION TAX TO CERTAIN SERVICES PERFORMED FOR CERTAIN INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—For purposes of the Federal Unemployment Tax Act, service performed in the employ of a qualified Indian tribal government shall not be treated as employment (within the meaning of section 3306 of such Act) if it is service—

(1) that is performed—

(A) before, on, or after the date of the enactment of this Act, but before January 1, 1988, and

(B) during a period in which the Indian tribal government is not covered by a State unemployment compensation program; and

(2) with respect to which the tax imposed under such Act has not been paid.

(b) DEFINITION.—For purposes of this section, the term "qualified Indian tribal government" means an Indian tribal government the service for which is not covered by a State unemployment compensation program on June 11, 1986.

ARMSTRONG (AND MOYNIHAN) AMENDMENT NO. 2096

Mr. ARMSTRONG (for himself and Mr. MOYNIHAN) proposed an amendment, which was subsequently modified, to the bill (H.R. 3838), supra; as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR CERTAIN CLERGY.

(a) CONDITIONS FOR RECEIVING EXEMPTION.—

(1) Section 1402(e)(1) (relating to exemption from tax on self-employment income of certain ministers, members of religious orders, and Christian Science practitioners) is amended by inserting "and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the church or order that he is opposed to such insurance" after "Act)".

(2) Section 1402(e), as amended by paragraph (1) of this subsection, is further amended—

(A) in paragraph (1) by striking out "Any individual" and inserting in lieu thereof "Subject to paragraph (2), any individual",

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) VERIFICATION OF APPLICATION.—The Secretary may approve an application for an exemption filed pursuant to paragraph (1) only if the Secretary has verified that the individual applying for the exemption is aware of the grounds on which the individual may receive an exemption pursuant to this subsection and that the individual seeks exemption on such grounds. The Secretary (or the Secretary of Health and Human Services under an agreement with the Secretary) shall make such verification by means of in-person or telephonic communication with the individual.".

(3) The amendments made by paragraphs (1) and (2) shall apply to applications filed after September 30, 1986.

(b) REVOCATION OF EXEMPTION.—

(1) Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1954, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of subtitle A of such Code), if such application is filed—

(A) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

(B) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

Any such revocation shall be effective (for purposes of chapter 2 of subtitle A of the Internal Revenue Code of 1954 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of subtitle A of such Code (notwithstanding paragraph (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(2) Paragraph (1) shall apply with respect to service performed (to the extent specified in such paragraph) in taxable years ending on or after the date of the enactment of this Act and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such paragraph) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SIMON (AND GLENN) AMENDMENT NO. 2097

Mr. SIMON (for himself and Mr. GLENN) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1534, insert after line 25 a new subsection (f) into Section 212 of the bill which reads as follows:

(f) Any amount determined under this section must be committed to reinvestment in, and modernization of the steel industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of workers.

On page 1535, subsection (f) of Section 212 shall be redesignated as subsection (g).

METZENBAUM AMENDMENT NO. 2098

Mr. METZENBAUM proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1927, beginning with line 5, strike out all through 1927, line 9, and insert in lieu thereof the following:

(B) by adding at the end thereof the following: "For purposes of determining taxable income, the amount of any income, gain, loss, or deduction attributable to the ownership of such stock shall be an amount equal to 46 times the amount of such income, gain, loss, or deduction, divided by 36.8."

TEMPORARY EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

GARN AMENDMENT NO. 2099

Mr. GARN proposed an amendment to the joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; as follows:

Strike all following the resolving clause and insert in lieu thereof the following:

SECTION 1. Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "July 25, 1986".

SEC. 2. Notwithstanding any other provision of law, competitions for grants under section 119(d)(1) of the Housing and Community Development Act of 1974, for cities not described in the first sentence of subsection (i) of such section and urban counties, shall not be concluded, and awards granted thereunder prior to July 25, 1986, unless legislation amending the selection limitations and criteria weight of such section is enacted into law and made applicable to such competitions.

TAX REFORM ACT OF 1986

METZENBAUM AMENDMENT NO. 2100

Mr. METZENBAUM proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1929, before the period on line 9 add: ", and before January 1, 1992".

MELCHER AMENDMENT NO. 2101

Mr. MELCHER proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1582, beginning with line 3, strike out all through page 1585, line 3, and insert:

SEC. 401. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS OTHER THAN CERTAIN GAINS OF FARMERS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS FROM SALE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—If for any taxable year a qualified farmer has any qualified farm net capital gain, 30 percent of such gain shall be a deduction from gross income."

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means an individual—

"(i) who is actively engaged in the trade or business of farming, and

"(ii) the taxable income of whom for the taxable year (after application of this section) is $100,000 or less.

"(B) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis.

"(2) QUALIFIED FARM NET CAPITAL GAIN.—The term 'qualified farm net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taken into account only gain or loss from the sale or exchange of property used in the taxpayer's trade or business of farming.

"(3) FARMING.—The term 'farming' has the meaning given such term by section 2032A(e) (4) and (5), including the carrying on of the trade or business of aquaculture on a farm, and timber milling operations.

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "100 percent (28/33 in the case of a corporation)", and

(B) by adding at the end thereof the following new sentence: "In the case of any qualified farmer with respect to whom a deduction is allowable under section 1202, this paragraph shall be applied by substituting '70 percent' for '100 percent' with respect to any qualified farm net capital gain.

(2) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(3) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B) or (C)" both places it appears and inserting in lieu thereof section 1211(b)".

(4) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202 and inserting in lieu thereof the following new item:

"Sec. 1202. Deduction for capital gains from sale of certain farm property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1978, after line 24, insert the following:

"(6) CAPTIAL GAINS.—

"(A) QUALIFIED FARMERS.—In the case of a qualified farmer (within the meaning of section 1202(b)(1)), an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5)).".

On page 2271, line 19, insert "(reduced by the amount of any deduction under section 1202(a) allocable to such gain)" after "income".

On page 1960, between lines 15 and 16, insert:

"(7) CERTAIN INCOME OF UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a United States shareholder of a controlled foreign corporation for any taxable year described in section 951(a), the subpart F income of such corporation for the taxable year of such corporation with or within such taxable year of the shareholder ends shall include all income of such corporation not otherwise treated as subpart F income, reduced by any deductions which (under regulations) are properly allocable thereto.

"(B) TERMS.—For purposes of this paragraph, the terms 'United States shareholder', 'controlled foreign corporation', and 'subpart F income' have the meaning given such terms by subpart F of part III of subchapter N of chapter 1.".

KASSEBAUM (AND OTHERS) AMENDMENT NO. 2102

Mrs. KASSEBAUM (for herself, Mr. BOREN, Mr. ABDNOR, Mr. GRASSLEY, Mr. DOLE, Mr. ZORINSKY, Mr. SYMMS, Mr. DURENBERGER, Mr. NICKLES, Mr. DENTON, Mr. FORD, and Mr. EXON) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1713, strike out lines 15 through 17 and insert in lieu thereof the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.".

On page 1722, strike out line 8 and insert in lieu thereof "or business, and".

On page 1722, line 13, strike out the comma and "and" and insert in lieu thereof a period.

On page 1722, strike out lines 14 through 16.

On page 1723, strike out lines 12 through 14 and insert in lieu thereof the following:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness occurring after April 9, 1986.".

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding a hearing on Wednesday, June 25, 1986, in Senate Russell 385, at 10 a.m., on H.R. 1344, a bill to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for the other purposes. Those wishing additional information should contact Peter Taylor or Michael Mahsetky of the committee at 224-2251.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. COHEN. Mr. President, I would like to announce that the Subcommittee on Oversight of Government Management will hold a hearing on S. 2214, a bill proposing that civil penalties be the exclusive remedy for knowing and willful violations of the financial disclosure provisions of the Ethics in Government Act of 1978, on June 25, at 2 p.m. in room 342 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Thursday, July 31, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen

Office Building, Washington, DC 20510.

Testimony will be received on S. 2159, to designate the Big Sur National Forest Scenic Area.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Friday, July 18, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC 20510.

Testimony will be received on S. 2506, to establish a Great Basin National Park in the State of Nevada, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, Room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 5 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. MATHIAS. Mr. President, I would like to announce that the Subcommittee on Governmental Efficiency and the District of Columbia of the Governmental Affairs Committee will hold a hearing to take a comprehensive look at the future direction of the Chesapeake Bay Cleanup Program.

The hearing will be held on Tuesday, June 24, 1986, from 9:30 am to 12 noon in room SR-301 of the Russell Senate Office building.

For further information, contact Monica Healy on 224-8873 or Sandi Muschette on the subcommittee at 224-4161.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, June 25, 1986, at 9:30 a.m., to conduct a business meeting.

On the legislative agenda, the committee will be considering S. 1787 and other legislative proposals to amend the campaign finance laws; an original bill to authorize appropriations for the Federal Election Commission for fiscal year 1987; S. 2255, a bill dealing with official mail costs; an original bill that would amend 2 U.S.C. 58a in order to authorize the Senate Sergeant at Arms to pay for State long distance telephone charges based on the amount of time the service is used; two printing resolutions for the House of Representatives (H. Con. Res. 288 and H. Con. Res. 301); an original resolution to amend rule XXXV of the Standing Rules of the Senate so that the chairman of the Ethics Committee can give notice in the CONGRESSIONAL RECORD of approval of foreign travel by a Member, officer, or employee after the foreign travel has concluded; and several original resolutions to pay gratuities to survivors of deceased Senate employees.

Administrative business is also scheduled to be considered.

For further information concerning this meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, July 23, 1986, at 9:30 a.m., to receive testimony on Senate Resolution 330, to establish a Special Committee on Families, Youth, and Children.

This resolution was introduced on February 3 of this year by Senators DENTON and MOYNIHAN. I am pleased to be a cosponsor of this legislation along with 12 more of our colleagues.

Members of Congress and other interested organizations and individuals who wish to testify or submit a statement for the record are requested to contact John Childers, staff director of the Rules Committee, at 224-0299.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 18, to conduct a hearing to consider the nomination of Evelyn Queen, to be an associate judge of the Superior Court of the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Agriculture be authorized to meet during the session of the Senate on Wednesday, June 18 until 1:00 p.m. in order to conduct a hearing on the following nominations:

Kalo A. Hineman, to be Commissioner of the Commodity Futures Trading Commission.

Kathleen Lawrence, to be Under Secretary for the Small Community, and Rural Division, U.S.D.A.

Kenneth Gilles, to be Assistant Secretary of Agriculture, for Marketing and Inspection Services, U.S.D.A.

Robert W. Beuley, to be Inspecter General, U.S.D.A.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, June 18, to conduct a meeting on general aviation product liability laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 18, in executive session, to discuss pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Civil Service, Post Office and General Services of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, June 18, 1986, in order to conduct a hearing on Postal Rate Communication Study.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 18, in executive session, to mark up the fiscal year 1987 Department of Defense, Military Construction, and Department of Energy National Security Programs authorization bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRESSIONAL CALL TO CONSCIENCE

● Mr. MATTINGLY. Mr. President, I rise to join many of my colleagues and the Union of Councils for Soviet Jews in speaking on behalf of an estimated 350,000 Soviet Jews who are refused the right to emigrate from the Soviet Union. I speak today, as I did last year, as a part of the 1986 Congressional Call to Conscience in an effort to focus attention on the plight of these brave prisoners of conscience. It is our hope that such attention will somehow improve the chances for freedom of those in spiritual and physical exile in the Soviet Union.

The release of Anatoly Shcharansky in February was an encouragement to those of us who have long advocated the emancipation of Soviet refuseniks. We who had the opportunity to meet with Natan will not soon forget him—5 feet tall, but a true giant of a man—and the message he carries for his countrymen who remain trapped in institutionalized oppression. That meeting, juxtaposed against another event which took place here on Capitol Hill, just 2 months after Shcharansky's release, hit home again the stark reality of the scope of the denial of human rights in the U.S.S.R. For a full day, the reading of the "refusenik roll call" echoed through the Cannon Rotunda. One after another, the names of vast numbers of Natan's kinsmen were recited in what became almost a haunting dirge. But interspersed between the groups of names, the hopeful declaration "Next Year in Jerusalem" rang out. We must not lose sight of that hope, Mr. President, the hope of freedom and emigration which sustains the Soviet prisoners of conscience. Nor can we forget the individual lives which stand behind the names on the roll.

I want to tell my colleagues about one Soviet family, the Davidovitch family. Gennady Davidovitch, with his wife Sophia, their sons Alexander and Yevgeny, and Gennady's mother Luba Ginsburg, live in Moscow. In 1979 the family applied for permission to join Luba's sister Rebecca in Jerusalem. That request was refused on an unknown pretext in February of that year, as were subsequent applications. And although invitations have been sent by Rebecca to her family, they have never arrived.

As is so often the case, the official refusal of the emigration request was not the only response the Davidovitch family received from Soviet officials. Gennady was demoted from his position of senior researcher to that of an ordinary engineer; his pay was cut by more than half. Sophia, who had been a radio engineer, was fired from her employment. In an effort which demonstrates their resolve, today the Davidovitch family is studying Hebrew. But the circumstances of their lives make this difficult. Out of necessity, most of their time and energy must be devoted to ekeing out a living.

My message to the Davidovitch family is simple: persevere. Persevere in your resolve to attain your emancipation. Persevere in the exercise of your faith. Persevere in your study of Hebrew. We have heard your plea and we stand together with you, hoping that, in fact, "Next Year in Jerusalem" you may live freely with your loved ones.

Mr. President, once again I implore the Soviet Government to put an end to the bondage of the Davidovitch family and thousands of other refusenik families. At the very least, officials should honor the provisions of the Helsinki Final Act which allow for the freedom of emigration. It is a basic human right.

I hope we will all recommit ourselves, during this 1986 call to conscience, to break through the wall of inhumanity and oppression. Until there is change of attitude, demonstrated by action, within the Soviet Government, we must continue speaking out in behalf of those whose voices are being silenced by an intransigent bureacracy; whose rights are being violated; and whose only crime is the desire to practice their religion freely and be united with their families.●

ROBERT F. JACKSON RETIRES

● Mr. LUGAR. Mr. President, I ask that my colleagues in the Senate join me in saluting a man who has contributed more than 40 years of dedicated service to the State of Indiana through the planning and development of our water resources. This man is Mr. Robert F. Jackson, who is retiring at the end of July as assistant director of the department of natural resources' division of water.

In his unusually long service to the State, Robert Jackson has strengthened many programs for the continued development, protection, and preservation of water resources. He has devoted conscientious attention through his many diverse roles which have proved beneficial to the people of Indiana and the betterment of these vital resources.

His contributions to the State of Indiana have been many. Mr. Jackson began his career in 1946 as an engineering staff member of the Indiana Flood Control and Water Resources Commission, where his first duty was to compile detailed topographical information on potential flood control reservoirs. Within the next 19 years, his industriousness and outstanding leadership abilities enabled him to work as head of all field surveying activities, leader of the commission's flood control planning section, and finally, as head of its planning division in 1962.

When the Indiana Department of Natural Resources was formed in 1965, Robert Jackson, as assistant chief of the division of water's planning branch, used his extensive knowledge and experience to help build the framework of the division into the successful and integral part of the IDNR as we know it today. In 1967, he was promoted to director of the division of water, a position which he served for 16 years.

Throughout the years, Mr. Jackson has been involved in projects such as the Small Watershed Program which ranked third in the Nation; all eight of the U.S. Army Corps of Engineers flood control and multipurpose reservoirs; many U.S. Geological Survey programs; regulation of construction in floodways; flood plan management, and much, much more.

Robert Jackson has faithfully fulfilled his roles in an attempt to help create a greater, more productive Indiana through his work in water resources. For this reason, I ask my colleagues to commend Mr. Jackson for his many years of dedicated service to the Indiana Department of Natural Resources, and wish him the best retirement possible.●

ITALIAN INDEPENDENCE DAY

● Mr. SIMON. Mr. President, earlier this month was Italian Independence Day. June 2, 1986, marked the 40th anniversary of Italy's transition to a democratic state. It is an opportunity to praise the cultural and social contributions that the Italian people have made to our country.

The more than 12 million Italian-Americans have helped strengthen and build the United States. Their strong emphasis on the family and hard work provided an example for all Americans. Italian-Americans have built stable and cohesive neighborhoods which enhance our cities, and many aspects of Italian art, language, and cuisine have become an integral part of our evolving American culture. The Italian immigrants who came to this country worked hard, and contributed much to earn the respect they command today.

Italian-Americans as Lee Iaccoca, Mario Cuomo, and Geraldine Ferraro have made measurable contributions to our country. Lee Iaccoca saved the Chrysler Corp. from near bankruptcy and has generously served as chairman of the Statue of Liberty/Ellis Island restoration effort. Mario Cuomo has become a national leader and served as one of our Nation's most active audable Governors. Geraldine Ferraro broke new ground by becoming the first woman to run for Vice President

of the United States on the ticket of a major political party. These are a few of the Italian-Americans who have enriched the political, social, and economic life of our country.

Italian-Americans provide a strong link to Italy and help educate other Americans about Italy's contributions to our culture. They are always generous and willing to share the best of their traditions with others. Let us take this day to congratulate them for their achievements, as well as thank them for their impressive contributions to America and American culture.●

THE THRESHOLD TEST BAN TREATY AND PEACEFUL NUCLEAR EXPLOSIONS TREATY

● Mr. SIMON. Mr. President, on December 12, 1985, the UN General Assembly voted 121 to 3, with 24 abstentions, to take advantage of article II of the 1963 Limited Test Ban Treaty relating to the cessation of all nuclear weapons test explosions. Article II allows any party to the treaty to propose an amendment to convert the Limited Test Ban Treaty to a Comprehensive Test Ban Treaty. If one-third of the 112 signatories agree, a conference must be held to consider the amendment.

A comprehensive test ban conference would be convened by the three "depository governments," the United States, U.S.S.R., and United Kingdom. Such a conference should have been held a long time ago, and would be unnecessary if the Reagan administration agreed that resuming test ban talks were in our national interest. Sadly, the administration can't bring itself to enter into discussions on this subject, and so the international community might move us forward in a surge of legitimate concern.

The Limited Test Ban Treaty was a step toward sanity, but we have yet to take that larger step. The Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976 have not been ratified by the United States. There simply are no good reasons not to do so. President Reagan ought to submit these treaties for ratification, and allow the Joint Consultative Commission, established in article V of the Peaceful Nuclear Explosions Treaty, to work out any compliance problems as the negotiators intended.

The Reagan administration insists that these treaties are unverifiable as negotiated, and have offered to have Soviet observers monitor one of our underground tests at the Nevada Test Site in lieu of immediate ratification. It is troubling to hear the administration use the alleged absence of adequate verification techniques as the major stumbling block to ratifying the Threshold Test Ban Treaty. Not only do most seismologists the world over disagree with this bleak assessment, but the treaty itself covers this contingency: Paragraphs 1 and 2 of the treaty's protocol call for just such an exchange of technical data and calibration tests to ensure confidence with the treaty's terms. By not ratifying this treaty, the administration is losing the opportunity it claims is needed to monitor Soviet tests with high accuracy.

Mr. President, I don't always agree with UN resolutions, but this one is right on target. The world needs a Comprehensive Test Ban Treaty. I sincerely believe the United States is simply delaying the inevitable. A total ban will come sooner or later. The danger of delay is that while we put off the world community, more and more governments will push ahead and develop their own nuclear weapons. This is not in anyone's interest.

Mr. President, I ask that the UN resolution, a letter of support signed by numerous American experts, and a factsheet about article II of the Limited Test Ban Treaty be printed in the RECORD.

The material follows:

[General Assembly, 40th session, agenda item 50]

CESSATION OF ALL TEST EXPLOSIONS OF NUCLEAR WEAPONS

(Ecuador, Indonesia, Kenya, Mexico, Peru, Sri Lanka and Yugoslavia)

The General Assembly:

Bearing in mind the determination proclaimed since 1963 by the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water,[1] to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Bearing also in mind that in 1968, the Treaty on the Non-Proliferation of Nuclear Weapons[2] recalled such determination and included in its article VI an undertaking by each of its Parties to pursue negotiations in good faith on effective measures relating to cessation of the nuclear-arms race at any early date,

Recalling that in 1965, in its resolution 2028 (XX), unanimously approved on 19 November of that year, it had stressed that one of the basic principles on which the treaty to prevent the proliferation of nuclear-weapons should be based was that such treaty, which was then going to be negotiated, should embody an acceptable balance of mutual responsibilities and obligations of the nuclear and non-nuclear powers,

Recalling also that the Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, in its Final Declaration approved by consensus on 21 September 1985, expressed its deep regret that a comprehensive multilateral nuclear test ban treaty had not been concluded so far and called for urgent negotiations and conclusion of such a treaty as a matter of the highest priority,

Noting that article II of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water provides a procedure for the consideration and eventual adoption of amendments to the Treaty by a Conference of its Parties,

Recommends that States Parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water carry out urgent consultations among themselves as to the advisability and most appropriate method to take advantage of the provisions of its article II for the conversion of the Partial Nuclear Test Ban Treaty into a comprehensive nuclear test ban treaty.

GENERAL ASSEMBLY,
40th session, December 12, 1985.
Plenary Meeting: Meeting No. 113, Vote No. 3, Item No. 50.
Subject: Cessation of all test explosions of nuclear weapons.

Recorded vote; 121 yes, 3 no, 24 abstain: Resolution 40/80B

Y—Afghanistan	Y—Democratic Yemen
Albania	—A—Denmark
Y Algeria	Y Djibouti
Y Angola	Dominica
Y Antigua-Barbuda	Y—Dominican Republic
A Argentina	Y—Ecuador
—A—Australia	Y—Egypt
—A—Austria	Y—El Salvador
Y—Bahamas	Y Equatorial Guinea
Y Bahrain	Y Ethiopia
Y Bangladesh	Y—Fiji
Y Barbados	—A—Finland
—A—Belgium	N France
Belize	Y—Gabon
Y—Benin	—Gambia
Y—Bhutan	Y—German Democratic Rep.
Y—Bolivia	—A—Germany, Federal Rep. of
Y—Botswana	Y—Ghana
Y—Brazil	Y—Greece
Y Brunei Darussalam	A Grenada
Y—Bulgaria	Y—Guatemala
Y—Burkina Faso	Y Guinea
Y—Burma	Y—Guinea-Bissau
Y Burundi	Y Guyana
Y—Byelorussian S.S.R.	Y Haiti
Y Cameroon	Y—Honduras
—A—Canada	Y—Hungary
Y—Cape Verdi	—A—Iceland
Y—Central African Republic	Y—India
Y—Chad	Y—Indonesia
Y—Chile	Y—Iran (Islamic Rep. of)
China	Y—Iraq
Y Colombia	—A—Ireland
Y Comoros	—A—Israel
Y Congo	—A—Italy
—Costa Rica	Y—Ivory Coast
Y Cuba	Y Jamaica
Y—Cyprus	—A—Japan
Y—Czechoslovakia	Y—Jordan
Y Democratic Kampuchea	Y—Kenya

Counting only states party to the PTBT. (indicated by bar —)
The Vote is: 80 yes, 2 no, 21 abstain

Y—Kuwait	Y Saint Vincent—Grenadine
Y—Lao P.D.R	—A—Samoa
Y—Lebanon	Y Sao Tome and Principe
Y Lesotho	Y Saudi Arabia
Y—Liberia	Y—Senegal
Y—Libyan Arab Jamahiriya	Y Seychelles
—A—Luxembourg	Y—Sierra Leone
Y—Madagascar	Y—Singapore
—Malawi	Solomon Islands
Y—Malaysia	Y Somalia
Y Maldives	—South Africa
Y Mali	—A—Spain
Y—Malta	Y—Sri Lanka
Y—Mauritania	Y—Sudan
Y—Mauritius	Y Suriname
Y—Mexico	Y—Swaziland
Y—Mongolia	—A—Sweden
Y—Morocco	Y—Syrian Arab Republic
Y Mozambique	Y—Thailand
Y—Nepal	Y—Togo
—A—Netherlands	Y—Trinidad and Tobago
—A—New Zealand	Y—Tunisia
Y—Nicaragua	—A—Turkey
Y—Niger	Y—Uganda
Y—Nigeria	Y—Ukrainian S.S.R.
—A—Norway	Y—Union of Soviet Soc. Rep.

[1] United Nations, "Treaty Series," vol. 634, No. 9068, p. 326.

[2] Resolution 2373 (XXII), annex.

Counting only states party to the PTBT. (indicated by bar —)
The Vote is: 80 yes, 2 no, 21 abstain—Continued

Y Oman	Y United Arab Emirates
Y Pakistan	—N—United Kingdom
Y—Panama	Y—United Republic of Tanzania
Y—Papua New Guinea	—N—United States
Y Paraguay	Y—Uruguay
Y—Peru	Vanuatu
Y—Philippines	Y—Venezuela
Y—Poland	Y Viet Nam
A Portugal	Y Yemen
Y Qatar	Y—Yugoslavia
Y—Romania	Y—Zaire
Y—Rwanda	—A—Zambia
Y St. Christopher and Nevis	Zimbabwe
Y Saint Lucia	

Non-members of the UN Party to the PTBT: San Marino, South Korea, Switzerland, Taiwan, Tonga.

OLAFUR RAGNAR GRIMSSON,
President,
Parliamentarians for World Order,
New York, NY, April 1985.

DEAR DR. GRIMSSON: We have had an opportunity to look over the materials the Parliamentarians for World Order have prepared on the idea of transforming the Limited Test Ban Treaty into a comprehensive test ban via an amendment. We find this to be an extremely interesting and promising approach to the vital goal of ending the testing of nuclear weapons.

When the Limited Test Ban Treaty was negotiated in Moscow, we in the Kennedy Administration anticipated that a comprehensive test ban would be one of the next orders of business. Twenty-two years of intermittent negotiations have yielded some progress toward a comprehensive test ban but no conclusive results. Meanwhile the prominence and urgency once accorded this crucial measure has diminished. This situation should not be allowed to deteriorate further.

In our view, prompt activation of the amendment procedure of the Limited Test Ban Treaty would help to reverse this trend. It would give substance to the spirit of the Treaty's preambular words:

"Seeking to achieve the discontinuance of all test explosions for all time (and) determined to continue negotiations to this end."

Should any Governments be willing to take the initiative in convening an amendment conference, we would be willing to support such an effort to achieve new progress.

Sincerely yours,

George Ball, Abram Chayes, Harlan Cleveland, Carl Kaysen, John Kenneth Galbraith, Roswell Gilpatric, Averell Harriman, Arthur Schlesinger, Jr., Herbert Scoville, Jr., Glenn Seaborg, and Jerome Wiesner.

ARTICLE II: THE LEGAL STEPS TO A CTB CONFERENCE

UNGA resolution 40/80B draws the attention of the world community to the amendment provisions contained in Article II of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and under Water (Document II). In the consultations that the resolution recommends, nations wishing to see the convening of a conference to consider converting the Treaty into a CTB will need to address the legal requirements of the amendment procedure. Parliamentarians Global Action has commissioned Abram Chayes, Felix Frankfurter Professor of International Law at Harvard University and one of the original drafters of the 1963 Treaty, to elaborate on this subject. We summarize here the main conclusions of this study (available from Global Action):

Any one or more of the 112 States Party to the Treaty (Document I) can advance an amendment proposal by submitting it to the Depositary Governments (the UK, USA, and USSR) who are required to circulate it to all States Party to the Treaty.

There are no legal constraints upon the substance of the amendment, but it is suggested that the Treaty be extended to cover underground testing by annexation of a protocol, and that amendment to the original text of the Treaty be confined to a brief reference to the protocol as an integral part of the Treaty.

An amendment conference must be convened if one-third (38) of the Parties wish to consider the proposed amendment. In requesting that Depositary Governments convene the conference, Parties are indicating only that the substantive matters raised by the proposal are, in their view, suitable for negotiation by all Parties.

The purpose of the amendment conference is to decide on the form and substance of an amendment, if any. While agreement by consensus would be ideal, Article II calls for approval by voting. An amendment is adopted if it gains the support of a majority of all Parties, including the votes of the three Depositary Governments. It enters into force for all Parties when it has been ratified by such a majority.

States Party to the Treaty can, thus, engage in follow-up action to resolution 40/80B in many different ways:

They can co-sponsor an amendment proposal.

They can join in requesting that a conference be convened.

They can participate in negotiations before and during an amendment conference.

They can vote for a CTB.

One would have to look back to 1968 and the negotiation of the Non-Proliferation Treaty to find a multilateral conference devoted to the negotiation of a nuclear weapons issue in which so many nations could play such an active role.●

THE BUMPER IMPROVEMENT ACT OF 1985

● Mr. DANFORTH. Mr. President, in April 1985, I introduced on behalf of Senators PACKWOOD, GORTON, LAUTENBERG, and myself, S. 862, the Bumper Improvement Act of 1985. This legislation would require the National Highway Traffic Safety Administration [NHTSA] of the Department of Transportation [DOT] to reinstate the 5-mph bumper standard, which it lowered in May 1982. The pre-1982 standard required that all cars sold in the United States have bumpers able to withstand 5-mph collisions without damage to safety-related and sheet metal parts of the automobile or to the bumper itself. NHTSA asserted that reducing the standard from 5 mph to 2.5 mph and entirely eliminating the requirement that the bumper itself be capable of withstanding damage at a specified speed would lower sticker prices and improve fuel economy.

Mr. President, there is no evidence that NHTSA's promised savings from the reduced bumper standard have occurred. The Senate Commerce Committee, which I chair, has received overwhelming evidence, however, showing that a lowered standard is very costly to consumers. I summarized this evidence for the record at the time of the Bumper Improvement Act's introduction, and I would like to update it with the latest test results from the Insurance Institute for Highway Safety [IIHS].

These IIHS tests show that only 9 of the 23 tested cars sustained no damage in the simplest tests, which involve front and rear impact against a flat-barrier. All 23 cars were damaged in amounts ranging from around $100 to well over $1,000 in two other 5-mph tests, the front-angle-barrier and the rear-pole. I ask unanimous consent that the IIHS press release describing its tests and a summary of the test results be printed in the RECORD in their entirety.

The press release follows:

HIGHER NEW CAR PRICES NO GUARANTEE OF GOOD BUMPERS

WASHINGTON, DC, May 7, 1986.—Only 9 of the 23 cars recently tested by the Insurance Institute for Highway Safety in 5 mph crashes sustained no damage in the simplest tests, the front and rear flat-barrier tests. All 23 cars were damaged—some of them extensively—in two other 5 mph tests, the front-angle-barrier and the rear-pole.

The 23 cars (see attached list) all are 1986 models. They are popular small two-door cars with base sticker prices under $10,000. But damage amounts in the Institute's 5 mph tests were not related to car sticker prices. The base price of a 1986 Ford Escort is in the $6,000 range, and this car sustained the least damage ($361) in the four tests. In contrast, 3 of the 12 cars with more than $1,000 damage (Mazda 626, Chrysler Laser, and Nissan 200SX) cost more than $9,000. Other highlights of the Institute's 1986 low-speed crash tests include the following:

The car with the best results in all four tests was the Ford Escort with $361 damage. The car with the worst results was the Yugo GV with $2,197 damage.

Two cars, the Volkswagen Scirocco and Yugo GV, had more than $500 damage in the front and rear flat-barrier tests. Only 9 of the 23 cars had no damage in these tests—compared to a few years ago when all cars were required by federal standard to withstand the same tests without any damage at all.

Damage to the 23 cars in the front-angle-barrier test varied by more than 900 percent. The Volkswagen Scirocco had the least damage; the Nissan 200SX had the most.

Most of the cars that performed well in the flat-barrier tests also had the least damage in the front-angle test. But that wasn't always the case: The car with the most damage in the angle test, the Nissan 200SX, was one of the 9 cars with no damage in the flat-barrier tests.

Many of the 1986 cars tested are essentially unchanged from the previous model year. Among these, 3 of the 4 with the most frequent insurance claims for collision damage to the 1985 model also had extensive damage to the corresponding 1986 model in

the front- or front-angle-barrier crash tests (Nissan 200SX, Mitsubishi Cordia, and Volkswagen Scirocco).

The car with the worst performance in the rear-pole test, the Subaru DL 3-door, had eight times as much damage as the car with the best performance, the Chevrolet Chevette.

The damage amount for each car model in each test, plus total damage amounts, are shown on the attached table. Broadcast-quality videotape available on request. To obtain a ¾-in. tape, or for further information, call Brian O'Neill at 202/333-0770.

DAMAGE REPAIR COSTS [1] 5 MPH CRASH TESTS 1986
SMALL 2-DOOR CARS

[Insurance Institute For Highway Safety]

Make and model	Base price (Feb. 15, 1986)	Front into barrier	Rear into barrier	Front into angle barrier	Rear into pole	Total damage in all tests
Ford Escort	$6,052			$192	$169	$361
Mazda 323	5,645			240	153	393
Toyota Celica	9,398			176	254	430
Plymouth Colt	5,633			319	224	543
Chevrolet Chevette	5,645			417	149	566
Toyota Tercel	5,598			291	319	610
Toyota Corolla	8,408			399	364	763
Renault Alliance	5,999			466	385	851
Nissan Pulsar	8,749	$97		506	283	886
Dodge Charger	6,787	113	$91	500	183	887
Volkswagen Scirocco	9,980	320	348	94	214	976
Mitsubishi Cordia	8,949	125		608	306	1,039
Honda Civic	5,649		155	426	543	1,124
Volkswagen Jetta	8,325	135	170	533	429	1,267
Mazda 626	9,245		42	515	771	1,328
Chrysler Laser	9,364	175	104	426	710	1,415
Chevrolet Sprint	5,380	92	164	454	715	1,425
Nissan Sentra	5,649	147	338	463	496	1,444
Nissan 200SX	9,549			884	592	1,476
Volkswagen Golf	7,350	86	269	543	644	1,542
Isuzu I-Mark	7,149	72	155	484	833	1,544
Subaru DL 3-Door	7,960	179		745	1,124	2,048
Yugo GV	3,990	256	399	686	856	2,197

[1] Repair costs are rounded to the nearest dollar. Estimates were prepared in April 1986 by two independent damage appraisers using ADP Collision Estimating Services with a labor rate of $20 per hour. Criteria for bumper face bar damage were adapted from the U.S. Department of Transportation part 581 Bumper Standard in effect September 1, 1979–July 6, 1982.

Mr. President, as I pointed out at the time of the Bumper Improvement Act's introduction, this problem is compounded by the fact NHTSA does not provide information to consumers about the relative performance of bumpers on cars. NHTSA promised to provide consumer information over 4 years ago, but to date there has been little progress.

Mr. President, we must take action to ensure that automobile bumpers are not merely ornaments. The Bumper Improvement Act would accomplish that by requiring DOT to reinstitute the pre-1982 5 mph standard and allowing DOT to further strengthen the bumper standard—beyond 5 mph—if it is appropriate to do so.●

NATIONAL AGRICULTURAL EXPORT WEEK

● Mr. HELMS. Mr. President, both Houses of Congress have approved a joint resolution designating this week as National Agricultural Export Week.

The designation of National Agricultural Export Week signifies the importance of exports to American agriculture. As has been emphasized on this floor many times during past months, economic recovery in rural America is predicated on a strong recovery of our agricultural exports.

Mr. President, in conjunction with the observance of National Agricultural Export Week, the National Commission on Agricultural Trade and Export Policy is releasing its final report this week. A briefing on the report will be held in room 332 of the Russell Senate Building on Thursday, June 19, at 10 a.m. As Senators will recall, Congress created this Commission in 1984 to emphasize the importance of our agricultural exports and to explore avenues to expand U.S. farm exports.

Mr. President, I commend the Chairman of the National Commission on Agricultural Trade and Export Policy, Dr. Ken Bader, for his leadership in bringing together this final report, along with the members of the Commission, most of whom represent various agricultural interests from across the country. I also commend the members of the Commission staff, for their fine efforts in coordinating the Commission's activities during the past 18 months.

As a member of the Commission, for purposes of the record, I would offer a few comments on the Export Commission's final report.

While probably no one will endorse every line and title of the Commission's report, I do strongly support the general thrust of its recommendations. There are several specific aspects of the report of special significance:

First, the importance of agricultural trade to the Nation: More than $300 billion worth of agricultural exports have been shipped from the United States during the past decade. Nearly $1 trillion worth of economic activity can be attributed to our agricultural exports during this period. Clearly, this demonstrates the importance of our farm exports not only to American agriculture, but the entire country.

Second, United States domestic agricultural policy: The report properly recognizes the often detrimental role that our domestic agricultural policy has played in curbing U.S. agricultural exports. In addition, it cautions against precipitous policy actions that could virtually destroy our farm exports. Specifically, the report states, "* * * Congress must resist pressures to achieve solutions to our Nation's agricultural problems through resort to high-price support policies and autarkic measures designed to require adjustments in acreage and production to serve domestic demand solely. Such policies would be ruinous for our agricultural industry."

Third, aggressively meet and counteract foreign unfair trading practices: The Commission's report stands fully behind a "get-tough" trade policy with other nations. I support this policy direction, particularly in dealing with the agricultural trading practices of the European Community and other entities that employ predatory trading mechanisms.

Mr. President, the Commission deserves praise for its restraint in refusing to join those who would provide preferential export treatment to those nations whose very existence is committed to the destruction of our Republic. The Commisison has appropriately recommended consideration of methods to expand United States-Soviet trade, predicated on the improvement of Soviet emigration policy.

Mr. President, the National Commission on Agricultural Trade and Export Policy's final report makes a worthwhile contribution in the agricultural trade and export policy arena. I commend it to the review and consideration of the Members of the Senate.●

CATTLEMEN RIDE IN THE DUST OF THE DAIRY COW

● Mr. WALLOP. Mr. President, the U.S. livestock industry, especially the cattleman, proud and independent, has avoided annual treks to the trough in search of Federal subsidies. America's cattlemen have stood firm in their position—the marketplace should decide the worth of a product, not the Government.

During this past year, cattlemen existed through the worst farm credit crisis ever, lived with grasshopper infestation and weather conditions that reduced their supply of cattle feed, and still during this unstable year the cattlemen remained confident they would survive. But just as the livestock industry was inching its way toward a minimal profit in the marketplace, the value of their cattle dropped.

Instead of profits, cattlemen experienced losses due to an unusually large amount of subsidized Canadian beef imports which drove prices down. Then the final blow was struck. USDA, under the Dairy Termination Program, introduced over 1½ million dairy cows into the market. In 1 week, beef producers lost an estimated $25 million on cattle taken to market. The value of the entire beef cattle inventory dropped $2 billion during that dreadful week.

The livestock industry had a new obstacle to overcome—Congress had buckled to dairy lobbyists at their expense. Instead of eliminating artificial incentives which authorized the Government to pay dairy producers not to produce. In 1984, $1.6 billion of taxpayers money went toward milk reduction, but instead milk production increased. Congress chose to create a new and better dairy incentive program by adding an amendment to the 1985 farm bill authorizing the Federal Government to buy dairy cows for the

sole purpose of reducing milk production. This decision turned the dairy industry into a profitable new game.

At this time the Department of Agriculture has paid 156 farmers over $1 million each, has paid some 12,000 dairy farmers over $100,000 each for the slaughter of their dairy herds. One farmer got paid $9.9 million for his herd.

It is not difficult to understand why the Irish conglomerate, Mastock Corp., is planning on opening a new dairy production unit and with tax exempt bonds no less.

Mr. Don Butler, president of the National Cattlemen's Association in the May 16, 1986 edition of the Beef Business Bulletin, said:

• • • The whole-herd buyout is a clear example of the folly of Government subsidy programs and the havoc wreaked when Government interferes in free markets. The beef cattle industry has been irreparably damaged by the buyout program. We cannot and will not tolerate future Government programs that damage cattlemen while supporting another commodity.

Cattlemen had but one choice, leave the ranch and head to Washington to mount a fight against the dairy industry and to protect his right to operate an unsubsidized business.

The cattlemen won the first round. The Federal Government admitted the dairy buyout program was poorly handled and assured cattlemen further purchases of dairy cows would be conducted in an orderly marketed manner. In addition, USDA would promote exports to prevent additional surpluses.

Mr. President, I ask that two very informative articles by Warren Brookes, appearing in the June 16 and June 18, 1986, issues of the Washington Times, be printed in the RECORD. The articles clearly outline why Congress is capitulating to the dairy industry's demands at the livestock industry's expense.

I cannot believe it is the intent of Congress to force the cattlemen to spend more time in Washington, instead of tending to their business, because Congress does not have the courage to lower dairy price supports and produce a market-oriented policy for the dairy program.

The articles follow:

[From the Washington Times, June 16, 1986]

A MILK BATH FOR THE TAXPAYERS?

(By Warren Brookes)

This is the 50th annual Dairy Month, but consumers and taxpayers should not be celebrating, as another congressional milk-support boondoggle is unraveling before our eyes.

In Macon, Ga., Mastock Corp., an Irish dairy conglomerate, is opening a massive new production unit. It soon will be buying up calves and heifers for freshening into a very high-yield operation which will not only be financed by tax-exempt industrial bonds, but also will cash in on this year's $2 billion-plus in federal milk subsidies.

Yet Mastock will also be helped competitively by taxpayers paying some $1.82 billion for the purpose of "buying out" (slaughtering) some 850,000 cows, supposedly to cut production by 11 billion pounds.

The theory behind this "buy-out" was that it would stop the huge buildup of more than 3 billion pounds of rotting surplus milk products (dried milk, butter, and cheese) in government warehouses. But, so far, that buildup is continuing, as the industry replaces low-yield cows and herds sent to tax-financed slaughter with higher-yield production facilities like Mastock.

The dairy-herd buy-out program is also turning into an economic nightmare for the virtually unsubsidized U.S. livestock industry, especially the cattlemen. They were already in a market slump of historic proportions, and have now been hit by tax-supported slaughter and marketing of an additional 33,000 cows a week over and above the normal 55,000 a week.

While cow meat doesn't compete with fed-cattle beef, it does directly impact the sale of beef for hamburger and frankfurters. Cattlemen say the program is costing them $25 million a week.

This might all be worth it, if the buy-out really did cut total dairy production by helping marginal producers leave the business "whole." But, because dairy support prices were kept at the excessively high $11.60 per hundred-weight level that produced the surpluses in the first place, there is every indication that milk production will stay high, as yields per cow are pushed still higher.

In fact, during the first full month of the buy-out (April) total production was 12.7 billion pounds, up 5 percent over that in April 1985. During the first six months of the fiscal year, Oct. 1 to May 9, Commodity Credit Corp. net "removals" from the market were 9.5 billion pounds, up 38 percent from 1985.

Since the entire FY 1986 CCC net purchases were estimated at only 11 billion pounds, the dairy budget will be busted hard, with the Congressional Budget Office now estimating 14.8 billion pounds, and the trend indicating 16-17 billion.

In fact, Congress just approved an emergency supplemental request to expand the CCC's credit authority from the massive $25 billion limit it has already exhausted.

As one U.S. Department of Agriculture official admitted, "Even though about 20 percent of the dairies are marginal and in trouble, it looks as if there is still plenty of profit in dairy production."

The respected Food and Agricultural Policy Research Institute of Iowa State University and the University of Missouri predicts that despite the herd buy-out, milk production will be up 4.3 percent this year, and up another 6 percent by 1989, with subsidy costs continuing well above $2 billion a year.

The bottom line is that there are at least 20,000-25,000 more dairy farms than demand can support. Why? Since 1970, dairy-farm labor productivity has risen a huge 270 percent, and milk output per cow has risen 45 percent, but the number of dairy farms has only dropped 15 percent.

Congress, by capitulating to the dairy industry's demand to keep support prices high, has simply ensured profitable incentives that will circumvent the program, and keep too many producers.

If, instead, it had gone along with the administration's recommendation to reduce support prices immediately to $9.60 per hundredweight, or below current market levels, the industry would have been forced to adjust its production to the market. And consumers, taxpayers, and cattlemen would have benefited enormously.

[From the Washington Times, June 18, 1986]

RUNAWAY FARM SPENDING

(By Warren Brookes)

A special internal analysis for the Department of Agriculture obtained by this column shows that so far, the Dairy Herd Buyout program has paid 156 farmers more than $1 million each, for a total of more than $340 million for this tiny group alone.

According to the USDA Office of General Counsel, one farmer hit the jackpot to the tune of $9.9 million in the tax-financed slaughter of his entire dairy herd, in a program paying 12,000 dairy farms an average of nearly $105,000 each to get out of business.

This is but another example of the huge bonanza created by Congress in the 1985 Food Security Act, which was supposed to cost $52 billion over three years (FY 1986-88), but is now headed for at least $70 billion to $75 billion, at present spending levels.

Even as the House-Senate Budget Conference has been trying to shake the administration down to fund defense spending with a tax increase, spending on farm programs is soaring out of control at *double* the congressionally approved levels.

A confidential June 6 Congressional Budget Office analysis of outlays through the first seven months of FY 1986, shows total Agriculture spending running at a historic $30.77 billion annual rate, a stunning 98 percent above the August 1985 Concurrent Resolution approved level of $15.55 billion, and nearly 21 percent ahead of the 1985 record of $25.6 billion. Agriculture alone accounts for 120 percent of the total budget outlay overage of $11 billion projected for this year. (See charts.)

By comparison, current defense outlays are only 0.8 percent ($2.4 billion) above budget, and only 6 percent ahead of last year, while defense budget authority is actually down $15.7 billion, or 5 percent below budget-resolution levels.

More troubling, the present level of farm payments means that the $23.6 billion already approved for FY 1987 is at least $3 billion to $6 billion below the present "exposure" or liability of the taxpayers on commodity "deficiency payments," which could hit $10 billion in FY 1987, up from less than $2 billion in 1984.

Deficiency payments to corn and wheat farmers are made on the difference between the market price or loan rate (price at which the Commodity Credit Crop. will mortgage any crop) and the so-called "Target Price."

In 1984, the average deficiency payment on corn was 43 cents (on a target price of $3.03 and a market price of $2.60 a bushel), and some 55 percent of all corn acreage was participating in the program, producing a total deficiency payment of about $1.8 billion.

But in 1986, under the new law, loan rates have been reduced to $1.92, which has allowed the market price to fall to about $2 a bushel. Thus the deficiency payment this year will be about $1.03 a bushel, more than double the last bill—and, not surprisingly, participation in this program has shot up to

85 percent—and well over 90 percent in the main corn states.

This means that this year the deficiency payments on corn could easily exceed $7 billion, three to four times their 1984 level.

The same situation holds in wheat, where the deficiency payment has shot up from $1 to a projected $1.98 a bushel, and participation from 61 percent to 81 percent, leaving a total exposure in this year's crop at close to $3.5 billion, more than triple the 1984 level of $1.1 billion. For corn and wheat alone, total deficiencies and loan forfeits could hit $11 billion to $12 billion, four times their total levels in 1984.

These skyrocketing subsidies explain why contrary to the public perceptions, real per-capita income in the nine Grain Belt states has risen nearly 10 percent faster than in the nation as a whole, with Nebraska having the highest per-capita income rise in the country last year, 9 percent, compared with 5.3 percent nationwide. In fact, since 1982, real per-capita income in the Farm Belt has risen 9.4 percent, compared with 8.4 percent for the nation, and nearly three times as fast as it did (3.7 percent) in the last three Carter years, 1977-1980.

And why not?

In Nebraska this year, corn farmers will receive more than $750 million in deficiency payments, up from $206 million in 1984, and more than nine times the level of subsidies in 1978!

In supposedly hard-pressed Iowa (where per-capita income has risen about on a par with that of the nation as a whole) corn deficiency payments alone could reach $1.5 billion, up from less than $470 million in 1984, and again nearly nine times their 1978 levels.

In fact, in the Iowa 6th Congressional District of Democratic Rep. Berkely Bedell, one of the coauthors of the 1985 Food Security Act, corn deficiency payments could easily top $440 million, not to mention another $10 million to $15 million in dairy subsidies.

In spite of this appalling influx of subsidies, Iowa Sen. Charles Grassley on June 6 tried to get the Senate to pass an amendment to the Supplemental Appropriation Bill to take an additional $531 million out of Conrail profits (sic!) to "restore the Gramm-Rudman cuts in the FY 1986 payment schedules"

Mr. Grassley's state alone will consume close to $2 billion in direct agricultural subsidies this year, for an average subsidy of nearly $18,000 per farm. Yet he complained, "The farm programs were the only income support programs to absorb cuts under GRH."

Thankfully, Democratic Sen. Howard Metzenbaum of Ohio turned his highly trained wrath on Mr. Grassley's proposal and embarrassed the Iowa senator into withdrawing it, temporarily.●

CORPORATE RESPONSIBILITY IN MINNESOTA

● Mr. BOSCHWITZ. Mr. President, today I wish to bring to the Senate's attention a column by Mr. Dick Youngblood, respected veteran business writer at the Minneapolis Star and Tribune. Mr. Youngblood's article recognizes the many corporations in Minnestoa that donate a percentage of their earnings, before taxes, to promote the arts, as well as social and educational programs.

Minnesota is fortunate to have so many socially conscious corporations, especially in light of the fact that, nationwide, corporate philanthropy is declining. Corporate responsibility is taken seriously in Minnesota. This year, 76 of our corporations donated 5 percent of their pretax profits as compared to 54 companies just last year. This is a remarkable figure.

I have always firmly believed that citizens should return something to their community and it is heartening that so many of my State's major corporations practice this same philosophy.

I ask that Mr. Youngblood's article be printed in the RECORD.

The article follows:

IN CORPORATE GIVING, MINNESTOA RANKS WITH THE BEST

(By Dick Youngblood)

James Joseph, president of the Council on Foundations in Washington, D.C., calls the Twin Cities "the model of what corporate responsibility can and should be."

The numbers would tend to support that observation: Thursday at the Hyatt Regency Hotel in downtown Minneapolis, 115 Minnesota companies will be honored by the business community for having contributed 2 to 5 percent of their pretax profits to charity.

The 1986 total compares with 98 companies given so-called "Keystone" awards last year by the Greater Minneapolis Chamber of Commerce, the St. Paul Area Chamber of Commerce and the Minnesota Association of Commerce and Industry.

Even more impressive, the number of companies contributing 5 percent of pretax profits jumped to 76 this year from 54 last year. The number on the 2 percent list declined to 39 from 43 a year earlier.

Heading the 5 percent list is Dayton Hudson Corp., the state's granddaddy of corporate social responsibility, which will be given special recognition tomorrow for having contributed 5 percent of pretax earnings for 40 consecutive years.

Even as the business community risks dislocated joints to give itself this well-deserved pat on the back, however, Joseph will be in town to take some of the fun out of it by reminding the corporate leaders that a sorrowful amount of need remains despite their laudable efforts.

Joseph, an undersecretary of the Interior in the Carter administration, will be the keynote speaker at the Keystone awards program. His message, he indicated in a telephone interview, will be a mite disturbing: "There remains in this country a poor, restless and desperate underclass (of) 33 million Americans who live below the poverty line."

Unless both business and the government reevaluate their responsibilities to the nation's poor, he said, the result could be social and economic disruption that would threaten the entire society.

If that won't take the crisp out of your awards-luncheon salad, I don't know what will.

Which raises the question of how American corporations, even those that are generous contributors, are responding to a growing need for food, clothing, shelter and other basic necessities left by sharp cuts in federal funding for social welfare.

On the national level, it appears, the answer is "not much." That, at least, was the messsage heard recently by the Conference Board, the business sponsored research organization, when it surveyed 330 major companies to see how their philanthropic priorities had changed with the federal budget cuts.

The Conference Board found that one-third of the companies it surveyed were shifting their contribution programs to emphasize such basic needs as food and housing. But most said they were maintaining their traditional giving patterns, which have focused on education and the arts.

As a result, the New York Times reported recently, the percentage of total corporate contributions for health and human services has continued a downward trend begun in the mid-1970s, even though the total continues to rise with the general rise in business giving.

The record in Minnesota is more encouraging. Four years ago, for example, General Mills raised the proportion of its contributions to health and social services from 30 to 40 percent, said James Shannon, executive director of the General Mills Foundation Contributions to this critical area thus totaled about $5.1 million in 1985, when the emphasis was on emergency food shelves health care and drug rehabilitation.

Over at Pillsbury Co., said Carol Truesdell, vice president for community relations, similar trends are underway, in fact, Pillsbury was a catalyst in the 1982 formation of Minnesota Food Share, the network of emergency food shelves and has been a mainstay in supporting that system ever since. Last year 34 percent or $2.7 million, of Pillsbury's total contributions went to health and welfare, up from 29 percent $1.7 million the year before.

The Dayton Hudson Foundation is taking a different tack, said its chairman, Peter Hutchinson. "We're focusing on long-term solutions to poverty, in areas we know something about." Thus, a significant commitment has been made to employment readiness and job training, Hutchinson said.

Last year, 16 percent ($8.5 million) of Dayton Hudson's contributions went to health and human services, compared with 40 percent ($6 million) the year before.

In short, the overall direction of corporate giving in Minnesota is running counter to the national trend. In fact, an organization called the Philanthropy Project has produced data showing that Minnesota corporations are steadily raising the proportion of their giving to agencies serving the poor.

In 1982, for example, 33 donors gave 28 percent of their contributions, or $33 million, to benefit the disadvantaged, said Jon Pratt director of the Minneapolis-based Philanthropy Project. By 1984, the proportion was up to 30 percent, or $37 million, from 40 companies and foundations.

Information for 1985 is incomplete, said Pratt, but he estimated that the share earmarked for the disadvantaged had risen to "at least 35 percent. The Philanthropy Project, is a research and advocacy organization supported by nearly 100 nonprofit agencies.

Nationally, there seemed to be several reasons for corporate resistance to changing the focus of philanthropy.

"Companies say they want to be compassionate, but they do not want to end up 'owning' this country's human-services problems," Kathryn Troy, author of the Conference Board study, told the New York Times, "While some are redirecting their contribution efforts, many resent being pulled into large-scale social service investments."

I detected no similar resentment in recent conversations with corporate contributions executives here. There was, however, a lot of frustration over the fact that even their increased giving to the disadvantaged won't be enough to solve the problem.

"When we got started (with Minnesota FoodShare), we thought we'd be dealing with a short-term emergency that would soon fade," said Truesdell. "But the need increased and the government funding decreased, and now we've got not a temporary problem, but an institutionalized one. It's scary."

By most accounts, corporations and foundations in this great land of ours contribute upward of $8.6 billion to charity each year. "It's a little hard to make up $200 billion in budget cuts with $8.6 billion, no matter how efficiently you spend," Pratt observed dryly.

Troy said the responses to her Conference Board survey indicated that many executives believe that business is being asked to finance programs that are rightly the responsibility of government. Thus, Hutchinson and Truesdell said, the urgent need is to mount a broad national debate about how to divvy up those responsibilities.

All of which brings us back to Joseph, whose speech tomorrow is titled "Corporate Philanthropy and Public Need: The Unfinished Agenda."

The nation's founders, in the Preamble to the Constitution, committed this nation to "promote the general welfare," he said. "There's nothing said about it being the sole responsibility of the private sector—or the government, for that matter," he said.●

FAIRNESS TO TAX SHELTER INVESTORS

● Mr. BUMPERS. Mr. President, I believe in the long run the provisions of the tax reform legislation curtailing tax shelters will be beneficial to the industries in which tax shelters currently exist. By curtailing the incentives which drive tax shelters we can save these industries from themselves, from spiraling prices and large accounting and legal fees. But, moving to a system which is based more on economic rather than tax considerations is made unnecessarily painful by the inadequate transition rules in the Senate Finance bill.

Let me be clear on this. I did not vote for the excessive tax incentives in the 1981 tax bill that are behind the explosion in tax shelters. I knew at the time that these incentives would generate unprecedented Government budget deficits and lead to self-defeating speculation by tax shelters investors. But, I did not prevail in opposing the 1981 tax bill. It became law and in reliance on it thousands of investors did precisely what Congress and the President had wanted them to do, they invested in the industries favored by the accelerated depreciation schedules and lower capital gains tax rates.

These investors did what the Government wanted them to do and now, with stunning suddenness and no warning, we are now tearing up the implicit contract we made with these investors by denying them the returns they expected when they made their investments.

They were responding to the fact that we have had a tax system with a very high top marginal tax rate. Taxing any individual at 70 cents on the dollar or even 50 cents on the dollar creates a powerful urge to structure one's portfolio to reduce the amount of income that is taxed at this rate. That is understandable and that is why I supported the drop in the 70-percent marginal tax rate in 1981 to 50 percent. That is why I support further reductions in this top marginal tax rate in this bill. But, reducing the tax rate itself will take much of the incentive out of investing in tax shelters in the future without directly denying current investors a reasonable return on their investments.

No one assumes that the tax law will remain unchanged forever. We've had seven major income tax bills in my two terms in this body. But, the changes in this bill are radical, without precedent, and fundamental. They constitute a complete reversal of existing policies and they permit no room for adjustment in the terms of an existing investment. This is not fair. It borders on outright confiscation of existing assets.

The rationale for the Finance Committee's decision is clear. It is not fair to lower tax rates for well-to-do individuals by 46 percent without also curtailing the tax provisions which permit these individuals to reduce their taxes. Without curtailing tax shelters, the 27-percent tax rate would provide individuals in this income class with a windfall gain. Indeed, the immediate effective date for the lower tax rates in this bill and the 4-year phasein of the limits on deductions for investment losses will partially offset the disruption from the tax reform bill.

There are, however, tens of thousands of investors who will suffer a substantial tax increase even with the lower tax rates and who will suffer significant investment losses due to the rapid phasein of the investment loss restrictions. The so-called 5-year phaseout actually phases out loss deductions in 4 years and the phaseout is heavily front loaded.

Every investor in a tax shelter will suffer to some extent, indeed, it is the randomness of the impact of this provision which is particularly unfair. The impact on an individual taxpayer will depend on when he or she invested in the tax shelter, the extent to which it highly leveraged, and the taxpayers overall tax situation. The tax reform bill is like a bowling ball and the ten pins are the investors.

Transitions are difficult in many areas of policy. The transition from an inflation drugged society to one with low inflation has been painful. But in this case, the transition is artificial, it is based on our choices here and we have the ability to cushion that transition and to make it fairer or harsher.

It is not just a matter of fairness that we provide adequate transition time for tax shelter investors. We undermine confidence in the tax system when we treat people this way. These investors trusted in our fairness in responding to the incentives we created for them. Now we are penalizing them for having trusted us. Indeed, we are penalizing those individuals who were the most responsive to the laws we have adopted. We are penalizing those taxpayers who were the most creative and energetic, the doers, the builders, the risktakers, the entrepreneurs. We have lured them into a trap and now we are closing the door on them.

Under the rules of the debate on the tax reform bill, there are no realistic options for amendments on this issue to this bill. I can only entreat the members of the Finance Committee who will sit in the Conference Committee to do all that is possible to keep faith with the investors who have responded to the incentives which we, in this Congress, gave them only 4 years ago.●

SANCTIONS VS. APARTHEID—UNDERSTANDING SOUTH AFRICA

● Mr. LEVIN. Mr. President, almost daily since June 9 I have stood in this well and I have talked about and deplored the tragic impositions of inhumanity of the South African Government on its black majority. I have talked about police complicity with the vigilantes in crossroads, the ominous state of emergency, the unprecedented detentions, the callous and deliberate killings of men, women, and children, and the continuing tragedy of the imprisonment of Nelson Mandela.

And, Mr. President I have said that the United States should impose sanctions against South Africa forthwith. I have called on Chairman LUGAR of the Foreign Relations Committee, as have other colleagues, to move the legislation imposing sanctions against South Africa to the top of the committee's agenda, and I have urged the majority leader, Senator DOLE, to move the Senate to that legislation as soon as it is reported out of committee.

However, Mr. President words far more eloquent and far more compelling than mine on the issue of sanctions were recently spoken by Nobel Peace Prize winner Bishop Desmond M. Tutu during his recent commencement address at Hunter College in New York City. He said:

* * * seventy percent of blacks supported sanctions against the Government. Blacks are saying . . . we are suffering already. To end it, we will support sanctions, even if we have to take on additional suffering. Our

people have shown they mean business by their use of consumer boycotts.

He went on to say:

You hear people say sanctions don't work • • • if they don't work, why oppose them so vehemently? If they don't work why did Margaret Thatcher apply them to Argentina during the Falkland war? Why did the United States apply them to Poland and to Nicaragua? Why was President Reagan so annoyed that his European allies did not want to impose sanctions against Libya? If sanctions are so ineffective, why does the United States still maintain a blockade of Cuba? Yet we have all this wonderful sophistry when it comes to South Africa.

Mr. President, the complete text of Bishop Tutu's remarks, which appeared in the June 16, 1986 New York Times are as follows:

Mr. President, I would also ask to have printed in the RECORD an article which appeared in the Washington Post this morning by columnist Haynes Johnson. Mr. Johnson concludes his historic and persuasive piece entitled, "Understanding South Africa" by saying:

• • • the question about U.S.-imposed economic sanctions is not that they might hurt blacks. The question is how a great power claiming world moral leadership can continue to do business with a government that deserves condemnation and should be made to pay a price for actions outside the pale of acceptable human behavior.

The articles follow:

[From the New York Times, June 16, 1986]

SANCTIONS VS. APARTHEID

(By Desmond M. Tutu)

A clear message resounds in recent surveys in South Africa in which more than 70 percent of blacks supported sanctions against the Government. Blacks are saying: "We are suffering already. To end it, we will support sanctions, even if we have to take on additional suffering."

Our people have shown they mean business by their use of consumer boycotts. Last year, organizations representing more than 12 million South Africans called for sanctions and economic pressure. These are not insignificant actions or irresponsible bodies or individuals.

I must ask, To whom is the international community willing to listen? To the victims and their spokesmen or to the perpetrators of apartheid and those who benefit from it?

I would be more impressed with those who made no bones about the reason they remain in South Africa and said, honestly, "We are concerned for our profits," instead of the baloney that the businesses are there for our benefit. We don't want you there. Please do us a favor: get out and come back when we have a democratic and just South Africa.

It is true that many foreign corporations in South Africa have introduced improvements for their black staff. They now have a better chance of promotion. They get better salaries. But these improvements have come about largely through the pressures of the disinvestment campaign. American companies, especially, have begun to speak out more forth-rightly against apartheid than has been there wont, and they would be the first to admit that they got a considerable jog to their consciences from the disinvestment campaign.

There has been progress, but we do not want apartheid ameliorated or improved. We do not want apartheid made comfortable. We want it dismantled.

You hear people say sanctions don't work. That may be so. But if they don't work, why oppose them so vehemently? If they don't work, why did Margaret Thatcher apply them to Argentina during the Falkland war? Why did the United States apply them to Poland and to Nicaragua? Why was President Reagan so annoyed that his European allies did not want to impose sanctions against Libya? If sanctions are so ineffective, why does the United States still maintain a blockade against Cuba? Yet we have all this wonderful sophistry when it comes to South Africa.

I am unaware of anything that has changed in South Africa without pressure. Changes in the sports policy were due to pressure from the sports boycott and not because there had been a change of heart on the part of white sports administrators.

We hear some say that sanctions will destroy the South Africa economy and leave us with a financial morass. My response is that the ball is surely in the South African Government's court. Its decisions about the future of the country will determine whether sanctions should be invoked or not. I certainly do not want to destroy a land I love passionately. But if the South African Government remains intransigent and obstinate, then sanctions or no sanctions the economy will be destroyed in the wake of the violence, bloodshed and chaos that will ensue if a full-scale civil war breaks out.

There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left, and it is a risk with a chance. President Reagan's policy of constructive engagement, and similar efforts to persuade white South Africans who support apartheid to change, have failed dismally. Let's try another strategy.

There are those who are not ashamed to argue that if they pull out others will come in to exploit black South Africa. The moral turpitude of that argument is quite breathtaking. We are not asking people to make economic or political decisions. We are asking for a moral decision.

There is no room for neutrality. When you say you are neutral in a situation of injustice and oppression, you have decided to support the unjust status quo. Are you on the side of injustice? Are you on the side of oppression or liberation? Are you on the side of death or of life? Are you on the side of goodness or of evil?

[From the Washington Post, June 18, 1986]

UNDERSTANDING SOUTH AFRICA

(By Haynes Johnson)

Of South Africa it can be said that there are no surprises, only inevitabilities.

For decades, nothing new has emerged about the deadly issue dividing that beautiful but troubled land into armed racial camps inexorably bent on each other's destruction. It springs from the ancient notion of master-slave relationships that has always produced violent conflict and revolution.

There is nothing new either about the way the world increasingly has reacted to the looming tragedy at the tip of the African continent. For decades, the South African government's unyielding policy of apartheid, or separation of the races, has been bitterly denounced worldwide. And for just as long, the government's pig-headed reaction has always been the same: to become more stubbornly repressive in rejecting anything that might ease the conflict. No matter how many tentative moves it has made toward reform, its basic policy has always been to maintain at all costs absolute control by the minority white population.

But it is news when the president of the United States, even if motivated by the best of intentions, seems to misunderstand that nation's history or misreads it in deciding how the United States should respond to this latest and gravest crisis.

Ronald Reagan has opposed economic sanctions against South Africa, saying these would hurt the besieged black majority that the United States seeks to support. By this reasoning, such sanctions could harden the government's attitude and lead to harsher measures against blacks. This analysis completely ignores the way that the South African government has behaved repeatedly in each of its racial crises since World War II—violently, viciously, repressively.

This pattern was established long before the uprising of blacks in Soweto 10 years ago this week.

In the early 1950s, for example, a series of fatal riots led native blacks to organize a campaign of passive resistance. The reaction of the regime headed by Prime Minister Daniel F. Malan was a massive and oppressive clampdown. Stern new laws and regulations expanded color bars on the statue books. "Pass laws" were enacted to control blacks' movements even more rigidly. Complete freedom of movement was denied them; the government dictated where blacks must live, where they might go, how and why they might travel and how long they might be out at night without special permission.

The government defended these totalitarian steps. In the words of Malan's secretary of native affairs, they were deemed necessary to eliminate "stresses and strains which would inevitably lead to conflict unless very careful control were exercised."

That control meant abrogation of basic democratic rights for everyone. White opponents of the regime were suppressed as well as blacks and "coloreds," those of mixed blood. The government took upon itself the power of entry into private residences at any time of the day or night without a warrant. Parents were denied the right to decide the type of school their children would attend. A series of new laws delegated judicial powers to ministers and bureaucrats to ensure even tighter control.

Now, more than 30 years later, the reaction of President P. W. Botha's government to blacks' newest drive for equality has been depressingly and predictably the same.

The world watches another massive government clampdown. Once again, a virtual state of martial law exists. Once again, citizens' rights have been suspended. Once again, the knock sounds on the door in the middle of the night, and dissenters and suspected "subversives" are led away by authorities. Censorship of the media is virtually total. And, once again, these police-state trappings are justified by the reasoning of decades past.

When the Malan government imposed its policies of the iron fist, it pronounced them necessary in the name of security and control. When the Botha regime imposed similar acts, it employed the same sort of rhetoric to justify them: The stability of the state must be preserved. Stripped of niceties, that means, of course, that control by whites must be maintained.

Given such a history, the question about U.S.-imposed economic sanctions is not that they might hurt blacks. The question is how a great power claiming world moral leadership can continue to do business with a government that deserves condemnation and should be made to pay a price for actions outside the pale of acceptable human behavior.●

NATIONAL DAY OF PRAYER

● Mr. ARMSTRONG. Mr. President, the 1986 National Day of Prayer was the 34th consecutive year of observance.

National days of prayer have been a part of our country's heritage since 1775 when it was first declared by the Continental Congress. Our first President, George Washington was one of the major influences in establishing prayer as a daily practice in the United States. President Reagan proclaimed May 1, 1986, as the National Day of Prayer to encourage all Americans to participate in a day of unified prayer.

We must remember that the purpose for the National Day of Prayer is to give thanks to the Lord and to acknowledge our dependence upon Him. The need to recognize moral values and work for the public awareness of these values is imperative.

The National Prayer Committee is an independent, nongovernmental, nonprofit group which strives to make the Nation aware of the National Day of Prayer and to encourage citizen involvement at all levels.

All around the country the National Day of Prayer activities were scheduled in large and small communities. To give my colleagues an idea of some of the activities that occurred, I will briefly describe some of the events that were organized by Mrs. Bill Bright, the chairman of the National Day of Prayer Committee.

In Fort Smith, AR, the color guard of the Air National Guard, the mayor, six pastors representing 19 churches, and school children were to meet on the courthouse lawn for a rally at noon on the National Day of Prayer. Five hundred people were expected at the celebration prayer rally in the central square of Portland, OR.

From Memphis, TN where "Circle the City in Prayer" was sponsored, to Sacramento, CA where 1,000 lay leaders were to pray at the Convention Center—the National Day of Prayer was in celebration. From Las Vegas, where 500 bumper stickers with "Take 5 at 12" were distributed—to Hartford, CT, where an evening prayer rally was scheduled, citizens were participating in the National Day of Prayer.

Fire stations were to blast their sirens at noon calling the people to pray, and radio stations were to be playing the National Anthem at noon. Youth groups took National Day of Prayer table-top tents to restaurants and businesses. In Decatur, IL, the National Day of Prayer was to begin with a Veterans' Day Parade ending at noon downtown with a city observance.

Mr. President, it is plain to see that the National Day of Prayer was extremely successful all around the country. Its most important message was given to us by God, and it is up to us to carry that message. As 2 Chronicles 7:14 says, "If My people, who are called by My name, will humble themselves and pray and seek My face and turn from their wicked ways, then I will hear from heaven and will forgive their sin and will heal their land."●

NAUM AND INNA MEIMAN: BEHIND CLOSED DOORS

● Mr. SIMON. Mr. President, my friends, Naum and Inna Meiman, are locked inside the gates of the Soviet Union. The Soviet Government will not grant permission to emigrate to this elderly and sick couple.

Naum once did mathematical calculations which were considered State "secrets." This was 25 years ago. These calculations are of no importance today. Inna is critically ill with cancer and the Soviet doctors have told her that there is little more that they can do. Sometimes she receives chemotherapy, but they often run out of the medicine.

Keeping the Meimans inside the Soviet Union is a blatant violation of human rights and is so slowly murdering Inna Meiman.

I strongly urge the Soviets to allow the Miemans to go to Israel.●

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask the distinguished minority leader if he is in a position to confirm the following nominations on the Executive Calendar: Calendar 879, under Navy; Calendar 880 through 887, under the Air Force; Calendar 888 through 893, under the Army; Calendar 894, under the Navy; and all nominations placed on the Secretary's desk, with the exception of the Foreign Service nomination of Edwin G. Corr.

Mr. BYRD. Mr. President, I beg the majority leader's pardon. I have been distracted.

I ask the distinguished majority leader if I understood him correctly. Did he indicate that the following nominations—and I will identify them by their calendar order—would be put before the Senate if there is no objection on this side: beginning with Calendar No. 879 on page 3, going through the rest of that page; all of page 4; all of page 5; all of page 6; all of page 7; all of page 8; all of page 9, and all of page 10, except for the final nomination listed on page 10?

Mr. DOLE. That is correct.

Mr. BYRD. There is no objection on this side, Mr. President.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the Senate go into executive session in order to consider the nominations just identified, that they be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 5081, to be Chief of Naval Operations, a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Adm. Carlisle A.H. Trost, [redacted] / 1120, United States Navy.

IN THE AIR FORCE

The following-named officer, under the provisions of title 10, United States Code, section 8034, to be Chief of Staff, U.S. Air Force:

Gen. Larry D. Welch, [redacted] FR, U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Gen. Charles A. Gabriel, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. John T. Chain [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Robert H. Reed, [redacted] FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Thomas H. McMullen, [redacted] FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. George L. Monahan, Jr., [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601 and additional duty as

senior U.S. Air Force member, Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711:

To be lieutenant general

Maj. Gen. Carl R. Smith, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William E. Thurman, xxx-xx-xxxx xxx-... FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert L. Schweitzer, xxx-xx-xx... xxx-..., age 57, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Ballantyne III, xxx-xx-x... xxx-..., U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Paul S. Williams, Jr., xxx-xx-xxxx xxx-..., age 56, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3036 to be assigned as Chief of Chaplains, U.S. Army:

Chaplain Brig. Gen. Norris L. Einertson, xxx-xx-xxxx, U.S. Army.

The following-named Army Medical Corps officers for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611, 612, 615, 616, and 617:

To be permanent major general

Brig. Gen. Robert H. Buker, xxx-xx-xxxx, Medical Corps, U.S. Army.

Brig. Gen. John E. Major, xxx-xx-xxxx, Medical Corps. U.S. Army.

Brig. Gen. Philip K. Russell, xxx-xx-xxxx, Medical Corps, U.S. Army.

To be permanent brigadier general

Col. Richard D. Cameron, xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. James H. Rumbaugh, xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. Richard T. Travis, xxx-xx-xxxx, Medical Corps, U.S. Army.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent major general

Brig. Gen. Bernard Loeffke, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Jackson E. Rozier, Jr., xxx-xx-x... xxx-..., U.S. Army.

Brig. Gen. Jack D. Woodall, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Thomas A. Sands, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Robert M. Bunker, xxx-xx-xxxx xxx-..., U.S. Army.

Brig. Gen. Richard E. Stephenson, xxx-xx-x... xxx-..., U.S. Army.

Brig. Gen. Charles M. Murray, xxx-xx-xxxx xxx-..., U.S. Army.

Brig. Gen. Charles E. Honore, xxx-xx-xxxx xxx-..., U.S. Army.

Brig. Gen. Leo M. Childs, xxx-xx-xxxx, U.S. Army.

Brig. Gen. John R. Greenway, xxx-xx-xxxx xxx-..., U.S. Army.

Brig. Gen. Charles B. Eichelberger, xxx-... xxx-xx-x..., U.S. Army.

Brig. Gen. William A. Roosma, xxx-xx-x... ..., U.S. Army.

Brig. Gen. Raphael J. Hallada, xxx-xx-xxxx xxx-..., U.S. Army.

Brig. Gen. Teddy G. Allen, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Gerald P. Stadler, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Frederick M. Franks, Jr., xxx-... xxx-xx-x..., U.S. Army.

Brig. Gen. Michael F. Spigelmire, xxx-xx-x... ..., U.S. Army.

Brig. Gen. William H. Reno, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Wilson A. Shoffner, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. William S. Flynn, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Raymond E. Haddock, xxx-xx-x... xxx-..., U.S. Army.

Brig. Gen. Willard M. Burleson, Jr., xxx-... xxx-xx-x..., U.S. Army.

Brig. Gen. David M. Maddox, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Howard D. Graves, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. Dennis J. Reimer, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Ronald K. Anderson, xxx-xx-xx... xxx-... U.S. Army.

Brig. Gen. James W. Crysel, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Gordon R. Sullivan, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. William H. Riley, Jr., xxx-xx-xx... xxx-... U.S. Army.

Brig. Gen. Samuel N. Wakefield, xxx-xx-xx... xxx-... U.S. Army.

Brig. Gen. Glynn C. Mallory, Jr., xxx-xx-xx... xxx-... U.S. Army.

Brig. Gen. Calvin A.H. Waller, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. Billy M. Thomas, xxx-xx-xxxx, U.S. Army.

Brig. Gen. James W. Wurman, xxx-xx-xxxx xxx-... U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Jonathan T. Howe, xxx-xx-xxxx xxx-.../1110, U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, SENIOR FOREIGN SERVICE

Air Force nomination of Frank W. Pate, which was received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Michael F. Chorvat, and ending Jerald L. Whitmore, which nominations were received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Maj. David W. Arnett II, xxx-xx-xxxx and ending Maj. Carol M. Hannon, xxx-xx-xxxx, which nominations were received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Kel Oliver Christianson, and ending Brian Edward O'Connor, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Thomas G. Abbott, and ending Joel D. Worley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Larry K. Arnold, xxx-xx-xxxx and ending John B. Toussaint, xxx-xx-xxxx which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Army nominations beginning Johnny R. Abbott, and ending Guy R. Zoller, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Army nominations beginning Don C. Breland, and ending Richard P. Prior, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

Marine Corps nominations beginning Richard D. Allen, and ending Frank Yohannan, which nominations were received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Marine Corps nominations beginning Raymond Adamiec, and ending Mark D. Ziobro, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 0050

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

RECESS UNTIL 9:30 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until 9:30 a.m. today, Thursday, June 19, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I also ask unanimous consent that sometime during the day, if possible, the following Senators be recognized for special orders for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, STEVENS, MURKOWSKI, GORE, HUMPHREY, MELCHER, PRESSLER, BUMPERS, and EXON.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following morning business, the Senate will resume consideration of H.R. 3838, the tax reform bill. Hopefully I would say we may reach an agreement later in the morning so at least we could nail down the number of amendments. If we could do that, then we could plan when we might have final passage and other things I know the distinguished minority leader and Members on both sides are eager to know about.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I share the hope of the majority leader.

Mr. DOLE. I think it is fair to say we can expect rollcall votes throughout the day on Thursday, and at that point, although subject to change, unless there is some agreement we will probably have a late night session. Hopefully we can reach an agreement and we will try that later this morning.

RECESS UNTIL 9:30 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 9:30 a.m. today, Thursday, June 19, 1986.

The motion was agreed to; and, at 12:51 a.m., The Senate recessed until today, Thursday, June 19, 1986, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 18, 1986:

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 5081, to be Chief of Naval Operations, a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Adm. Carlisle A.H. Trost, xxx-xx-xxxx / 1120, U.S. Navy.

IN THE AIR FORCE

The following-named officer under provisions of title 10, United States Code, section 8034, to be Chief of Staff, U.S. Air Force:

Gen. Larry D. Welch, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Gen. Charles A. Gabriel, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. John T. Chain xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Robert H. Reed xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Thomas H. McMullen, xxx-xx-xxxx xxx-... FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. George L. Monahan, Jr., xxx-... xxx-xx-x... FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601 and additional duty as senior U.S. Air Force member, Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711:

To be lieutenant general

Maj. Gen. Carl R. Smith, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. William E. Thurman, xxx-xx-x... xxx-... FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert L. Schweitzer, xxx-xx-xxxx xxx-..., age 57, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Ballantyne III, xxx-xx-x... xxx-... U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Paul S. Williams, Jr., xxx-xx-xxxx xxx-..., age 56, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3036 to be assigned as Chief of Chaplains, U.S. Army:

Chaplain Brig. Gen. Norris L. Einertson, xxx-xx-xxxx, U.S. Army.

The following-named Army Medical Corps officers for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611, 612, 615, 616 and 617:

To be permanent major general

Brig. Gen. Robert H. Buker xxx-xx-xxxx, Medical Corps, U.S. Army.

Brig. Gen. John E. Major xxx-xx-xxxx, Medical Corps, U.S. Army.

Brig. Gen. Philip K. Russell xxx-xx-xxxx, Medical Corps, U.S. Army.

To be permanent brigadier general

Col. Richard D. Cameron xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. James H. Rumbaugh xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. Richard T. Travis, xxx-xx-xxxx, Medical Corps, U.S. Army.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent major general

Brig. Gen. Bernard Loeffke xxx-xx-xxxx, U.S. Army.

Brig. Gen. Jackson E. Rozier, Jr., xxx-xx-x... xxx-... U.S. Army.

Brig. Gen. Jack D. Woodall xxx-xx-xxxx, U.S. Army.

Brig. Gen. Thomas A. Sands, xxx-xx-xxxx, U.S. Army.

Brig. Gen. Robert M. Bunker, xxx-xx-x... xxx-... U.S. Army.

Brig. Gen. Richard E. Stephenson, xxx-xx-x... xxx-... U.S. Army.

Brig. Gen. Charles M. Murray, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. Charles E. Honore, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. Leo M. Childs xxx-xx-xxxx, U.S. Army.

Brig. Gen. John R. Greenway, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. Charles B. Eichelberger, xxx-xx-x... U.S. Army.

Brig. Gen. William A. Roosma, xxx-xx-x... xxx-... U.S. Army.

Brig. Gen. Raphael J. Hallada, xxx-xx-xxxx xxx-... U.S. Army.

Brig. Gen. Teddy G. Allen xxx-xx-xxxx, U.S. Army.

Brig. Gen. Gerald P. Stadler xxx-xx-xxxx, U.S. Army.

Brig. Gen. Frederick M. Franks, Jr., xxx-... xxx-xx-x... U.S. Army.

Brig. Gen. Michael F. Spigelmire, xxx-xx-... xxx-... U.S. Army.

Brig. Gen. William H. Reno, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Wilson A. Shoffner, xxx-xx-xxxx xxx-..., U.S. Army.
Brig. Gen. William S. Flynn, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Raymond E. Haddock, xxx-xx-x... xxx-..., U.S. Army.
Brig. Gen. Willard M. Burleson, Jr., xxx-xx-x..., U.S. Army.
Brig. Gen. David M. Maddox, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Howard D. Graves, xxx-xx-xxxx xxx-..., U.S. Army.
Brig. Gen. Dennis J. Reimer, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Ronald K. Anderson, xxx-xx-xx... xxx-..., U.S. Army.
Brig. Gen. James W. Crysel, xxx-xx-xxxx, U.S. Army.
Brig. Gen. Gordon R. Sullivan, xxx-xx-xxxx xxx-..., U.S. Army.
Brig. Gen. William H. Riley, Jr., xxx-xx-x... xxx-..., U.S. Army.
Brig. Gen. Samuel N. Wakefied, xxx-xx-x... xxx-..., U.S. Army.
Brig. Gen. Glynn C. Mallory, Jr., xxx-xx-xx... xxx-..., U.S. Army.
Brig. Gen. Calvin A. H. Waller, xxx-xx-xxxx xxx-..., U.S. Army.
Brig. Gen. Billy M. Thomas, xxx-xx-xxxx, U.S. Army.
Brig. Gen. James W. Wurman, xxx-xx-xx... xxx-..., U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Jonathan T. Howe, xxx-xx-xxxx xxx-.../1110, U.S. Navy.

IN THE AIR FORCE

Air Force nomination of Frank W. Pate, which was received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Michael F. Chorvat, and ending Jerald L. Whitmore, which nominations were received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Maj. David W. Arnett II, xxx-xx-xxxx and ending Maj. Carol M. Hannon xxx-xx-xxxx, which nominations were received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Kel Oliver Christianson, and ending Brian Edward O'Connor, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Thomas G. Abbott, and ending Joel D. Worley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Air Force nominations beginning Larry K. Arnold, xxx-xx-xxxx and ending John B. Toussaint, xxx-xx-xxxx which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

IN THE ARMY

Army nominations beginning Johnny R. Abbott, and ending Guy R. Zoller, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Army nominations beginning Don C. Breland, and ending Richard P. Prior, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

IN THE MARINE CORPS

Marine Corps nominations beginning Richard D. Allen, and ending Frank Yohannan, which nominations were received by the Senate on May 28, 1986, and appeared in the CONGRESSIONAL RECORD of June 2, 1986.

Marine Corps nominations beginning Raymond Adamiec, and ending Mark D. Ziobro, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 5, 1986.

EXTENSIONS OF REMARKS

INTRODUCTION OF THOMAS P. O'NEILL, JR., SPEAKER OF THE HOUSE OF REPRESENTATIVES, PRINCIPAL SPEAKER AT NEW YORK UNIVERSITY 154TH COMMENCEMENT, JUNE 5, 1986

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. FOLEY. Mr. Speaker, the Speaker of the House, the Honorable THOMAS P. O'NEILL, JR., was recently honored with an honorary doctor of laws degree on the occasion of the 154th commencement of New York University, the Nation's largest private university. The Speaker delivered the commencement address on that happy occasion and in an important speech argued persuasively for the preservation of our arms control agreements and a renewed Federal determination to improve higher education in America. He reiterated his lifelong view that those who reach the top of the ladder should not pull it up behind them but rather lend a hand to those still climbing.

The Speaker appeared at the invitation of our former colleague and my friend, Dr. John Brademas, whose tireless and effective efforts since he took over the presidency of New York University have been rewarded by the visible growth of that fine institution into a national and international leader in many areas of academic endeavor. I am pleased to submit for the RECORD copies of the Speaker's address and the introductory remarks of Dr. Brademas.

INTRODUCTION OF THOMAS P. O'NEILL, JR., SPEAKER OF THE HOUSE OF REPRESENTATIVES, PRINCIPAL SPEAKER AT NEW YORK UNIVERSITY 154TH COMMENCEMENT, JUNE 5, 1986

Mr. BRADEMAS. Commencements at New York University are always special occasions. But today takes on added lustre—and much personal significance for me—because of the presence of our distinguished speaker this morning.

As some of you know, before my rebirth at New York University, I spent over a quarter of a century of my life in national politics. * * * One of the reasons I found service in Congress so exhilarating and gratifying was the presence of leaders there like our honored guest.

He first came to Capitol Hill 34 years ago as the successor to a young man who had just won a seat in the Senate, John F. Kennedy. I entered the House of Representatives six years later, in 1959, on the eve of that same young Senator's bid for higher office still. It was, I recall well, a time of great promise and optimism in our land.

As I look back on that period, it seems natural that our speaker and I would have been drawn together. We were both of immigrant heritage—his Irish, mine Greek. In our youth we had seen our families struggle—as many of your parents and grandparents here today struggled—to attain for their sons and daughters an education that would open the doors of opportunity to a better life.

Both of us witnessed first-hand the effects of discrimination. He could remember the help-wanted signs in Boston that read: "Irish-Catholics need not apply." I could remember my father's telling me how the Ku Klux Klan in Indiana boycotted his restaurant business.

Our Speaker's politics, like mine, were shaped by a belief in the positive power of government, indeed the obligation of government, to be the servant of people, to expand their opportunities to improve their lives.

Our careers in the House of Representatives also followed similar tracks, although he clearly survived longer and moved higher!

Within the leadership of the House, we moved in parallel. As he rose in 1973 to become majority leader and then four years later, became Speaker, so too I became chief deputy majority whip and then the majority whip. By 1977 he was the Speaker of the House and leader of our party there and I, in the number three position in the House hierarchy, was his lieutenant. For the ensuing four years, we worked together to craft what I like to think were responsible and effective policies across a range of important national issues: energy, education, environment, trade, budget and tax policies.

Next year, having set the record for longest consecutive service as Speaker in the nation's history, he will retire from the House of Representatives. The House and our country will be the poorer for his leaving.

Allow me, by way of introduction, to tell you briefly what I believe our distinguished guest has contributed to American political life.

First, he has added character. He is a man of deep convictions and strong emotions who has never been afraid to show them. The threads of family, religion and politics are firmly fused in his life and from them he has woven a public style devoid of artifice or trappings. What you see is what you get!

Second, he leaves an impressive legacy of legislative achievement, perhaps the most important of which is the rejuvenation of Congress as a co-equal branch in our constitutional system.

Third, he has by word and action, made honorable the vocation of electoral politics. With the many troubles that threaten democratic institutions here and abroad these days, he is convinced that indispensable to keeping a society free and open is political engagement. Our distinguished guest today knows that what has kept the American nation free from both anarchy and tyranny is the practice of politics—of the zestful competitiveness of people and ideas.

Ladies and gentlemen, I present to you my former colleague and leader, my valued mentor, my dear friend, the Speaker of the United States House of Representatives, the Honorable Thomas P. O'Neill, Jr.

REMARKS OF SPEAKER THOMAS P. O'NEILL, JR., NEW YORK UNIVERSITY COMMENCEMENT, JUNE 5, 1986

Thank you John for your very kind remarks. I am very pleased to be here at New York University's one hundred and fifty-fourth commencement and the tenth commencement to be held in Washington Park. It is a particular honor to receive this degree along with such distinguished fellow honorees. From this podium I am viewing a truly impressive sight, the graduating community of the largest private university in America.

John, I thought you had your hands full when you had to whip two hundred and eighty House Democrats, but that was nothing in comparison to your new duties as leader of this great university.

You and your graduates have much to be proud of today and much to celebrate today. This is a day for the university to honor academic accomplishment. It is also a day for graduates and their families to give thanks not only for the academic achievement today's degree represents, but also for the financial achievement that made it possible to receive the degree.

I understand that eighty percent of NYU students receive some financial aid and seventy percent have jobs as well as studies to attend to. You worked hard for your degrees, you deserve all the honor and praise we can give you for your achievement. Congratulations.

When John was my colleague in Congress, college exams were just as hard but paying tuitions was a lot easier. John's career in Congress spanned the years of a rising Federal commitment to higher education from the National Defense Education Act in 1958 to the Middle Income Student Assistance Act 1978, the Federal Government promoted greater access to American colleges.

Over the last five years Congress has had to fight the administration to maintain support for student assistance. Each year the administration tries to cut student aid and each year Congress prevents it from happening. This year the administration called for a 28% cut in aid to higher education. They will not get it. I must say that I find it both incredible and inexcusable that many of you have had to worry about whether or not the Federal Government would maintain its commitment to higher education throughout your years at this university.

The greatest investment this Nation can make is in education. Our greatest resource is our people and our greatest hope in a highly competitive world economy is the educated minds of our citizens. Your president, John Brademas, has asserted that "the quality of our schools, colleges, and universities directly affects both the health of our economy and the security of our Nation." I believe that maintaining that quality is a major responsibility of the Federal Government.

The reason Federal aid to higher education is under such intense pressure is not just because some powerful people want to reduce the role of the Federal Government,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

it is just as much the result of a severe Federal budget crunch.

These huge budget deficits are the direct consequence of the failure of the massive supply side tax cuts of 1981 to generate adequate revenues to pay for the biggest peacetime military buildup in American history. The Economist magazine has described the budget fiasco as an attempt to "rearm through tax cuts."

Since these cuts were enacted in 1981, Congress has passed revenue increases in 1982, 1983, and 1984. Congress has also slowed down the defense buildup and limited domestic expenditures. Political scientist Norman Ornstein has described congressional deficit reduction efforts as an "approximation of congressional government, that defied conventional wisdom in an election year by slowing defense expenditures and raising taxes to reduce the deficit."

Now we are in another election year and Congress has defied conventional wisdom once again. The Democratic House just passed a budget resolution that reduced the 1987 budget deficit by seven billion dollars below Gramm-Rudman targets and twenty-three billion dollars below the President's proposed budget.

The major target of cuts in this year's budget just as in last year's budget is the Pentagon. The President's request this year for a thirteen percent increase in defense spending was reduced to a 1% increase in the Senate and a decrease in the House.

By its actions last year and this year Congress is making it clear that the defense buildup cannot continue to be paid for with borrowed money. The budget deficit has transformed our Nation from the world's largest creditor nation to the world's largest debtor nation between the freshman and junior years of the class of 1986. It is shameful that we are spending 142 billion dollars this year on interest for the national debt, ten times more than we are spending on education. The administration must come to its senses and realize that if it wants a defense buildup it must be willing to ask Congress for the money to pay for it.

Budget deficits have preoccupied the Congress over the last several years, but the deficit is not the most critical problem facing the Nation. Maintaining world peace and avoiding nuclear war is our most serious challenge.

New York's senior Senator, PAT MOYNIHAN, in a commencement address here two years ago stated that the accumulation of unimagined levels of nuclear weapons was the "central concern of mankind."

Today the U.S. and Soviet arsenals have nearly twenty thousand nuclear warheads ready to be launched in case of nuclear war.

The United States does not have all these weapons because we want to use them. Clearly, we never want to use them. We have them as a deterrent to make sure that the Soviets do not use them or even threaten to use them.

The missiles from the Trident submarine could wipe out the forty largest cities in the Soviet Union. In a letter to the President in March of 1984, Brent Scowcroft, Chairman of the President's Commission on Strategic Forces, noted that "only a small number of nuclear weapons are required to inflict unbelievable damage on civilian populations."

The recent explosion at Chernobyl is a stark and tragic reminder of the awful consequences of an overdose of radiation. If an accident at one plant in one country can cause the contamination that this caused need we imagine what an exchange of twenty thousand nuclear weapons would cause.

I have seen an atomic weapon exploded in the atmosphere. Over thirty years ago, soon after I was elected to Congress, I went to a nuclear test in Nevada. It was unforgettable. My deepest desire is that no American of your generation or any future generation will see what I saw.

The late President John F. Kennedy served for a thousand days but he succeeded in getting the Soviets to agree to ban nuclear tests in the atmosphere, in space, and in the ocean. It was an important achievement.

Since that agreement, the United States has made several arms control agreements with the Soviet Union. We have sought these agreements because we believed that they reduced the risk of nuclear war. By reducing this risk, these agreements enhance our national security.

Last week, the administration announced that by the end of this year it would cease to abide by the SALT II agreement. In addition, Defense Secretary Weinberger advocated an end to compliance with the 1972 Antiballistic Missile Treaty if it prevented development of the "star wars" defense system.

With this announcement, the administration has taken its foot off the brakes of nuclear arms deployment and is about to press down on the accelerator of nuclear arms production.

I believe that unless dramatic progress is soon realized at the arms talks in Geneva we are about to witness an expensive and threatening new chapter in U.S.-Soviet relations.

Before the administration announced its intention to discard the limitations of SALT II, Edward Warner, a retired Air Force officer and Rand Corporation analyst wrote in the Washington Post that "both sides are going to spend billions to acquire weapons that will do no more than prolong the current strategic stalemate."

According to President Reagan's commission on strategic forces, SALT I was a "partial freeze" on nuclear weapons development and SALT II "extended the freeze." Nonetheless, a very significant modernization of U.S. strategic forces was permitted under SALT II and has been underway since the treaty was signed.

The administration blames Soviet violations of the agreement for its announcement that it intends to stop complying with SALT II. However, a distinguished professor at this university, McGeorge Bundy along with Robert McNamara, George Kennan, and Gerard Smith wrote in Foreign Affairs that "sweeping charges of Soviet cheating on arms control agreements are clearly overdone."

A majority of the Members of the Senate and the House wrote the President this spring urging continued compliance with the SALT treaties. The House letter pointed out that since the SALT process began in 1973 "the Soviet Union has been forced to dismantle over 500 operational launchers including 14 yankee-class missile submarines" while we have had to dismantle only two operational submarines.

If our national security requirements call for a change in SALT limitations then General Brent Scrowcroft's observation that SALT II specifically contemplated the negotiation of extensions of agreements with improved terms would seem to provide the context for necessary adjustments and amendments.

Based on Defense Secretary Casper Weinberger's comments last weekend it seems that the abandonment of the SALT II limitations is just a prelude to abrogation of what the Scrowcroft Commission described as "one of the most successful arms control agreements": The Antiballistic Missile Treaty.

Experts estimate that if the administration gets its way development of star wars will cost one trillion dollars between 1990-1999. Americans will be paying for a huge expenditure that according to Professor Bundy is one that cannot achieve its stated goals of making nuclear weapons "obsolete and impotent."

I believe it is time to bring some common sense to the debate on arms control. The Trident 2D, the B1 bomber, the Stealth bomber and cruise missiles are very powerful and very real deterrents to Soviet aggression or attempts at nuclear blackmail. They help preserve our freedom and the freedom of our allies. They are part of our modernized nuclear weapons arsenal that is currently being deployed or about to be deployed. We are currently spending nearly forty billion dollars a year on strategic nuclear forces. I believe that is more than enough to meet the Soviet challenge.

Nuclear weapons are expensive to develop and to maintain. It is particularly unwise to change our policy on arms control when we do have not a plan to pay for an unrestrained nuclear arms race. Arms control agreements save money, casting them aside costs money—lots of money—money that this administration wants to borrow from future generations.

The administration's announcement on SALT II is bad from an arms control standpoint, it is bad from a budget standpoint, and it is bad from the standpoint of world opinion. It is the wrong announcement, made at the wrong time for no apparent reason. I sincerely hope that in the next six months the American people will demand measurable progress towards a new arms control agreement in Geneva and a reaffirmation of continued compliance with SALT II. This recent announcement must be reconsidered.

New York University is a great university in a great world city. The relationship between the city of New York and this university is an important one. I have found that universities thrive in cities and cities with great universities thrive. Cities are agents of change in a society, universities help us to understand and to cope with change. New York University is a school of opportunity in a city of opportunity.

It has been fifty years since I graduated from college and fifty years since I first was elected to public office. I believe my education opened up the doors to a long and satisfying life in public service. I had no plans to make politics my lifetime's work as I am sure few of you do. I hope you are attracted to public life and that many of you will actually become participants in it.

If you do seek elective office you will grow in many ways you cannot forsee and you will help people who need your help. Please find the time to make a difference in the public life of your city, State, and Nation. You will never regret it and who knows, some day you may become the president of the largest private university in America! As you leave today, follow President John Kennedy's advice: "The future belongs to those who seize it."

Good luck and thank you.

COMMUNIQUE OF THE UNITED NICARAGUAN OPPOSITION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LIVINGSTON. Mr. Speaker, the leaders of the United Nicaraguan Opposition [UNO] recently reaffirmed their commitment "to the Nicaraguan people to obtain their liberation." After a series of meetings on how to achieve Nicaragua's liberation, UNO released a communique outlining its organization and structure, a political analysis on the role of UNO in the current situation, and responding to recent allegations of arms and drug trafficking, terrorism, and the mishandling of resources.

As we approach another debate on the issue of aid to the Nicaraguan democratic resistance, I urge my colleagues to review the following UNO communique.

The document follows:

MIAMI, FL, *May 29, 1986.*

[Original version in Spanish]

Communique

Unidad Nicaraguense Opositora (UNO) (United Nicaraguan Opposition) reaffirms its commitment to the Nicaraguan people to obtain their liberation, and values with deep respect the sacrifices of those who fight within the national territory, by military or civic means, so that this commitment becomes a reality.

The end to the Nicaraguan diaspora will arrive with the national reconciliation. Until that day arrives, UNO urges the authorities of the countries where there are Nicaraguan refugees and exiles to consider favorably their immigration and work status.

Directors Alfonso Robelo, Adolfo Calero and Arturo J. Cruz, assisted by Leonardo Somarriba, General Secretary, and Evenor Valdivia, Coordinator, have concluded a series of working sessions during which the principles, objectives and organization of UNO were discussed. The Directorate had the benefit of information and advice procided by organizations and individuals at private meetings.

The Agenda consisted of three parts:

I. Internal Organization and Structures.

II. Political analysis and the role of UNO in the current situation.

III. Allegations on arms and drug traffic, terrorism and mishandling of resources.

The following resolutions were made:

I. INTERNAL ORGANIZATION AND STRUCTURES

1. All political, political-military, as well as labour and business organizations forming the Alliance have confirmed their recognition of the Directorate as the body responsible for conducting the struggle to achieve peace and democracy in Nicaragua.

2. The Directorate is a collegiate body of three equals. For purposes of protocol, an order of precedence was established which will rotate every month and has begun with Director Alfonso Robelo.

3. The Directorate has established a functional and democratic decision making procedure in order to improve the effectiveness of the organization. This procedure takes into consideration the fundamental objectives of the struggle, the equal authority of the Directors, and assures fairness and expediency.

4. The organization will immediately establish a Consultative Assembly integrated by political, labour and business organizations representative of the Nicaraguan civil society. This consultative body will assure a democratic process. The Permanent Advisory Council has been re-structured and is now integrated by eleven notables. We will request the participation of qualified Nicaraguans for membership in commissions and working groups.

5. The General Secretariat is the body responsible for inplementing the policies and directives of the organization. Its internal structures have been strengthened to increase its effectiveness in the areas of national affairs, international relations, and financial and administrative controls.

6. The autonomy and objectivity of the Human Rights Commission will also be strengthened by incorporating three non-Nicaraguan members of proven humanistic vocation, to its Board of Directors. Preferably, one Latin American, one North American, and one European will be invited to participate.

7. UNO will persist in seeking ways to unite with other organizations and well known figures of the Nicaraguan resistance movement.

8. Regarding military matters, the integration of all rebel forces into one armed organization under the civilian authority of UNO, has been established as an objective, so that no member of the Alliance has an army. To reach this objective, the following has been decided:

(a) To constitute a Military Commission headed by the Directorate that will include the commanders of the three fronts: UNO-SOUTH, UNO-FDN and UNO-KISAN.

(b) To create a Secretariate for Military Affairs, within the General Secretariat, headed by a qualified civilian who will be the liaison between the Directorate and the military structures.

(c) To consolidate into one structure the support services of the individual war fronts.

(d) The use and display of UNO symbols and emblems by all forces.

(e) To continue offering general education courses, and classes in civic duties and respect of human rights, complementary to military instruction.

II. POLITICAL ANALYSIS

With respect to the role of UNO in the current political situation, a posture was agreed to, which is reflected in the following:

1. UNO reiterates its support of the proposal made by six Nicaraguan political parties to the Sandinista Regime and endorsed by the member organizations of Coordinadora Democratica Nicaraguense (Nicaraguan Democratic Coordinating Organization), as well as exile organizations. This proposal would serve to initiate a process of national reconciliation and democratization.

2. UNO reasserts its two track policy—civic and armed—as the means to force the Sandinista Regime into a real solution. Therefore, UNO considers that aid for military purposes is vital. Consequently, in the event a peace agreement is reached, UNO demands that aid for political action, for non-lethal materials and for defensive weapons, be maintained until there is unequivocal verification that peace has been secured.

3. UNO expresses confidence in the four Central American governments that have been democratically elected and have assumed a central role in seeking a democratic solution guaranteeing peace in Nicaragua and not a mere truce. The latter would only ensure consolidation of the repressive military regime.

4. UNO considers that its objectives and ideals for Nicaragua coincide not only with the democratic spirit of the peoples of the hemisphere, but also with their geopolitical interests and their right to a common defense of the security of the Central American Isthmus. At the same time, UNO reaffirms its nationalism and independence, while acknowledging with gratitude the support it has received from the United States and the peoples of the free world.

5. Because it is congruent with its own policies, as mandated by Nicaraguan interests, UNO shares the position of the U.S. Administration supporting a solution to the conflict in Central America, within the context of the Contadora Agreement, that is comprehensive, simultaneous and verifiable.

III. PRESS ALLEGATIONS

1. The news media have disseminated publications attacking UNO, on arms and drug traffic, terrorism, and misappropriation of funds. Such allegations are totally unfounded as has been demonstrated in public reports by U.S. government officials. It is sufficient to read objectively the following documents to conclude that the insinuations of improper use of funds are without merit:

a. Memorandum dated April 1, 1986 from Ambassador Robert W. Duemling to Under-Secretary of State for Latin American Affairs, Mr. Elliott Abrams. Ambassador Duemling is the Director of Nicaraguan Humanitarian Assistance Office (NHAO), the bureau of the State Department that is in charge of administrating the aid.

b. Letter of April 4, 1986 from Under-Secretary Abrams refuting Senator Tom Harkin, in which he attests the correct use of funds and the integrity of the Directors and officials of UNO.

c. Article written for the May 4, 1986 Editorial Section of The Miami Herald, and reprinted in several other newspapers, in which Mr. Abrams reiterates his confidence in UNO as the vehicle of the resistance in the struggle for democracy.

2. Contrasting with the abundance of irrefutable evidence attesting to UNO's correct handling of the resources, no one has ever produced a single shred of evidence to support the allegations. Likewise, those who have slung a litany of malicious insinuations regarding arms and drug traffic—and terrorism—have been unable to present any evidence to support their allegations.

UNO publicly challenges its detractors to back up their allegations or otherwise to retract publicly as would be fitting of honest persons.

3. The slanderous campaign originated with the distortions of the U.S. General Accounting Office (GAO) report, dated March 5, 1986. The GAO only pointed out that NHAO, which is the agency responsibile for the administration of the aid, cannot fully establish, according to its own standards, a complete audit trail for purchases outside the United States. The Nicaraguan Resistance Movement should not be blamed for this limitation, and it is reprehensible to use this to discredit UNO. Since this difficulty does not exist for transactions within the United States, GAO was able to conduct a complete audit of the operations in New Orleans, where everything was found to be in order.

Even though UNO is not responsible for the limitations of agencies of the United States government, it is urging the adoption of appropriate measures to prevent being

questioned in the future due to causes beyond its control. Along those lines, UNO has indicated, in letters mailed to NHAO and GAO, dated May 19 and May 26, respectively, the need to demarcate areas of repsonsibility. UNO considers that primarily, it should be the responsibility of U.S. agencies to ensure the effectiveness of appropriate verification mechanisms. UNO will continue, however, to maintain its own parallel controls.

4. UNO, as a public Nicaraguan organization, reasserts its responsibility to continue handling everything related to the liberation effort, applying the highest standards of conduct and procedures. In that spirit, UNO reiterates its willingness to accept, and welcomes, the necessary scrutiny on the part of the contributors and of appropriate Nicaraguan organizations.

5. UNO has adopted measures to strengthen its internal structure regarding management, control, and auditing. In addition, UNO requests from the Nicaraguan professional associations that they submit list of candidates to form a Commission consisting of one lawyer, one manager/administrator, and one public accountant, not associated to UNO, to review and make recommendations on the resource collection mechanisms, the acquisition and use of good and services, and appropriate information systems. This report will be made public.

The spirit of the meetings has been to reassert a clear definition of the alliance with respect to its structures and functioning in order to better reach its objectives, on which the directors are in complete agreement.

God willing, we will save Nicaragua!

ADOLFO CALERO.
ALFONSO ROBELO.
ARTURO J. CRUZ.

AMBASSADOR ADELMAN ON THE SALT DECISION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. COURTER. Mr. Speaker, there has been a great deal of confusion and uncertainty in the wake of the President's decision on the SALT II Treaty and the administration's subsequent statement. Of course, many SALT supporters simply do not want to understand the administration's logic. But for those of my colleagues who truly want to compehend the logical foundation for the President's decision, the following essay by ACDA Director Kenneth Adelman in the New York Times should be very useful.

Ambassador Adelman very forcefully and methodically explodes the dominant misconceptions about the SALT agreements and the United States-Soviet military balance. His central point is that the SALT agreements exerted little or no downward pressure on Soviet strategic offensive and defensive forces. In fact, Soviet strategic warheads nearly doubled under SALT, and they could increase to more than 12,000 by 1990 under the terms of the treaty.

It must be understood that the SALT agreements do not represent "arms control" in any meaningful sense. They are merely cosmetic agreements that left us in a more precarious national security position than we would have been in had they never been negotiated. I commend Ambassador Adelman's fine essay on this subject to the attention of my colleagues.

[From the New York Times, June 15, 1986]

WHY MR. REAGAN IS RIGHT ABOUT SALT

(By Kenneth L. Adelman)

WASHINGTON.—Bertrand Russell once remarked that we often defend most passionately those opinions for which we have the least factual basis. It is difficult to find any other way to explain the torrent of emotion that has greeted the President's decision that we are no longer bound by the second strategic arms limitation accord.

Even on its face, the case against the President's decision looks dubious at best. After all, the Senate Armed Services Committee agreed unanimously in 1979 that SALT II was not in the country's "national security interests." The treaty was never ratified. it never had the force of law. It never subsequently gained the support needed for ratification. The chief prediction of its critics—that it would permit a vast modernization and expansion of Soviet strategic forces—has come true, in spades. On top of all this, the Soviet Union is violating the central provisions of the agreement.

What could be more clear-cut? Why do critics say that the United States should continue to abide unilaterally by SALT II?

First, Soviet violations are alleged to be "peripheral." The President's critics would like to have it both ways. When SALT II was up for ratification in 1979, its supporters commonly cited three provisions as its main advantages: the numerical limits (on warheads-per-launcher and overall launchers); the prohibition on a second new type of landbased intercontinental missile; and the restraints on encoding test data. The Soviets are completely contravening the provisions on new missiles and encoding, and they have exceeded the limit on missile launchers. Provisions hailed as central when SALT II was being sold cannot be considered "peripheral" now that the Soviets are violating them.

Second, the Soviet violations are sometimes said to be "ambiguous" or unimportant. The new, SALT-violating SS-25 missile is not in any sense marginal. It is one of two powerful new land-based strategic missiles that the Soviets are now adding to their arsenal. In short, a major portion of the current Soviet buildup of land-based missiles is occurring in clear contravention of SALT II. The violation is clear since the throwweight, or payload, of the SS-25 missile is not, as some critics continue to claim, just "slightly" greater than its alleged predecessor, the SS-13, but roughly twice that—clearly beyond the 5 percent increase permitted by the treaty. In addition, the Soviets' scrambling of their test signals is seriously impeding verification.

Third, it is sometimes claimed that the Soviets have dismantled 1,000 or more systems to comply with SALT. This is contradicted by the fact that the Soviets themselves claim to have dismantled only 540 weapons under SALT. More important, what the critics' figures really demonstrate are not the quantitative limits on the Soviet arsenal but the vast qualitative growth of the Soviet arsenal under the treaty. The Soviets dismantled more during SALT than the United States did because they built faster and modernized much more than we did. The majority of silos said by the critics to be dismantled because the homes of new, vastly more powerful missiles. The figures are less a testimony to SALT's effectiveness than a measure of what it failed to control.

Nor should we attribute the dismantling of any Soviet systems solely or even mainly to SALT. When new Soviet systems come on, old, obsolescent systems generally go. For example, 650 SS-4 and SS-5 medium-range missiles—unconstrained by any arms accord—were dismantled by the Soviets after the SS-20, a far more potent threat, came on stream. The claim that the Soviets' decisions to dismantle weapons during the period of SALT were necessarily due to SALT is a case of misplaced causality.

Fourth, critics claim that without SALT II the Soviets will vastly increase their warheads and accelerate the arms buildup. Projections of large increases in Soviet warheads—beyond the considerable increases already anticipated under SALT—are easily made on paper. In reality, such changes are neither quick nor cheap—nor necessarily even militarily useful. For example, some critics claim that the Soviets would put 20 or 30 warheads on the SS-18 missile, instead of 10. But this is likely to undermine, if not preclude, the SS-18's main mission—that is, to destroy our missiles in their silos.

The basic notion that SALT is significantly constraining the Soviet buildup now, or would do so in the future, is an illusion. It presumes future compliance with critical provisions, when we already have seen clear and major violations of key parts of the treaty. Even while adhering to terms of SALT II, the Soviets have nearly doubled their strategic warheads, from 5,000 to 9,200. Under SALT II, the number could rise further to 12,000 by 1990. With or without SALT II, we envision a 5 to 7 percent growth in Soviet strategic investment every year as far ahead as we can see. With or without SALT II, we envision an all-new Soviet land-based missile force in the next decade.

If this is constraint, it is hard to envision a lack of constraint. With their defense spending running at 15 to 17 percent of their gross national product, the Soviets already have their accelerator near or on the floor.

Ironically, many of the critics who now base so much of their argument on predicting increases in Soviet warheads beyond those envisioned by SALT II (which did not explicitly limit warheads) used to tell us that warheads don't count. Back in the 1970's, when the United States enjoyed a 3-to-1 advantage in warheads, many of these same critics were arguing that "strategic superiority" and numbers of warheads were "meaningless" and could be bargained away without risk to United States security.

Fifth, it is argued that the President's decision is bad for our alliances. Despite extensive Administration consultations with the allies, there have been some allied disagreement and some adverse effects on allied public opinion. We naturally regret this. As the reasoning for the President's decision and the facts become better known, we hope this will change. We hope our allies' concerns will be alleviated.

But short-term popularity cannot be the criterion by which we judge the wisdom of policy. Our overriding concern must remain long-term strategic safety and genuine arms control. Continued adherence to an ineffective and unratified treaty that our adversary is seriously violating is not cost- or risk-free either. As the President has said, what is needed are real reductions. Only this will

ultimately provide a solid basis for mutual restraint.

Sixth, it is alleged that what the Administration wants is an "all-out arms race." This is simply false. Anyone who reads the President's decision and listens to what he is saying will see that he has provided a clear new formula for restraint that will be more effective than SALT. The President pledged, for example, that we will not increase launchers or ballistic missile warheads above Soviet levels. This is a serious pledge, one that creates real costs for a Soviet buildup and provides real rewards for Soviet reductions and restraint—just as genuine arms control should do. It is verifiable and do-able. In contrast, continued unilateral observance of SALT II in the absence of Soviet compliance would merely reinforce the dangerous idea that Soviet violations can easily be tolerated. It would also likely encourage even further violations and convince the Soviets to continue their drive for military superiority.

As the President has repeatedly made clear, what we want above all are serious negotiations in Geneva leading to agreements with which the Soviets will comply—to equitable and verifiable reductions in American and Soviet nuclear arsenals.

TWO VIEWS ON TORT REFORM

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. PORTER. Mr. Speaker, concern over the availability and affordability of liability insurance is growing daily in America as private businesses, municipalities, religious institutions and schools face rapidly increasing premiums. We should not underestimate the scope and importance of this liability crisis which is shaking the very foundations of American business, government and voluntarism. I urge that we pass immediate, substantive legislation to restore balance to our liability system.

Recently, two particularly interesting and informative commentaries on the current crisis have come to my attention. The first, a letter I received from a distinguished constituent of mine, Mr. Ernest Palmer, Jr., a respected attorney from Chicago, outlines his views on the problems that the insurance industry is experiencing in providing liability insurance. He concludes that Federal action on tort reform is the most viable answer to the problem. The second is an article authored by Richard A. Epstein, James Parker Hall professor of law at the University of Chicago. Mr. Epstein, in the article which appeared in the Chicago Tribune, asserts that high insurance premiums are caused not by greedy insurance companies, but by poor tort laws which allow unduly high awards to be paid to plaintiffs.

It is a pleasure for me to share their views with my distinguished colleagues in the House:

LETTER FROM ERNEST PALMER, JR.

It would be a mistake for the Congress to think that a majority of the lawyers in this country are on the side of the trial lawyers with respect to the abuse of the law of Torts. I certainly don't blame the insurance industry.

The courts and legislatures have been creating new grounds for suits which go far beyond the concept of negligence. Parties to litigation only minimally responsible for the damage have been forced to pay 100% of the damages and big litigation expenses when not liable.

Punitive damages have become atrocious.

We certainly don't want Federal control over the insurance industry and the industry should remain exempt from anti-trust laws under the McCarran-Ferguson Act.

The abuses of tort law have however gotten to the point where the Federal government had best impose some limits in an area where state law previously prevailed."

[From the Chicago Tribune, May 30, 1986]

SHOOTING THE INSURANCE MESSENGER

(By Richard A. Epstein)

Today tort reform is everybody's business. Doctors still worry about malpractice, and manufacturers about product liability. But in recent months tort reform has been high on the agendas of local governments, day care centers, recreational facilities and religious institutions. Insurance policy cancellations and whooping premium increases often take place across the board. Puzzled institutions that have never been sued now suddenly learn that they have become uninsurable. Calls for reform are on everyone's lips—but reform of what, tort or insurance?

Many people think some tort reform is needed, although there is wide disagreement as to what and how. More ominously, many influential figures, most notably Gov. Mario Cuomo of New York, have linked tort reform to increases regulation of the insurance industry. Cuomo claims that for too long liability insurance has been sold at "artificially" low prices by companies eager to reap large returns on their invested premiums. The recent radical decline in interest rates is now said to induce companies to scramble for premium increases to cover prospective claims. Public inspection of insurance industry books, and public restrictions on insurance practices, whether to terminate coverage or to increase premiums, is offered as a public antidote to industry abuse.

This call for regulation proposes a cure for a nonexistent disease. Liability insurance is sold in a highly competitive market, which works to keep insurance rates low. Only direct government regulation keeps rates artificially low. Customers facing high rates and steep increases today should hardly be comforted by knowing that they might have been forced to pay artificially higher rates last year. The absence of a long-functioning insurance cartel to raise prices is hardly a social problem. There is no evidence of collusion in the present rate increases, and the widespread withdrawal from whole lines of business is hardly a way for insurers to reap monopoly profits.

We must look elsewhere to explain the disruption of insurance markets. That place is the tort system. As a first approximation, we should expect premium increases to track parallel increases in tort awards and settlements, including the hefty costs of defense and coverage disputes. Some consumer advocates have noted that the median award, measures in constant dollars, has risen very little in 10 years. So what? If the median claim closed for $25,000 last year, it will still close for $25,000 if two new claims are added, one $10,000 and the other for $10 million. Yet the new big claim drives up the average award—and total cost—dramatically.

It also is said that the number of claims has not increased more rapidly than the population in the last several years. The evidence has proved elusive, but it is hardly conclusive. Even if total claims have not increased, the claims mix has changed radically. Fewer claims are brought by one automobile driver against another. More claims are increasingly brought against the providers of various goods and services now experiencing the insurance crunch in cases with a full panoply of technical issues. Often injured parties sue multiple defendants, creating procedural complications that drive up defense costs further. There is little mystery here. The total cost of running the system has mounted sharply. Either premiums must increase, or coverage must be curtailed, or both.

Most critically, the past is only prologue for the insurance future. There is a chance that damage awards might double in the next five years, just as they have increased sharply in the past. There is a chance that the scope of liability may be expanded across the board. How then should insurance be priced? Normally, an insurance company diversifies its book of business; that is, it plays one risk off against another. But here if the insurer guesses wrong, it loses up and down the line. It is in the same predicament as a bookie who cannot cover his bets. Staying out of the market becomes an act of self-defense. Staying in the market requires a healthy premium hike to offset the insurer's risk of the systemwide loss.

Direct regulation of insurance rates and renewals will not cure the problem of cost or of availability. West Virginia has been plunged into a crisis because the threat of heavy-handed legislative restriction has led companies, fearing de facto confiscation of their assets, to threaten to cancel policies on a wholesale basis. Such legislative intervention only aggravates the problem. If insurance companies are not allowed to terminate current risks, they will become far more reluctant to take on new business.

Public safety, too, is at risk. The state can guarantee all private parties an unconditional right to purchase liability insurance at below-market rates; or, worse still, it can provide such insurance through a subsidized state plan. In so doing, however, it compromises the loss-prevention function that voluntary insurance markets serve. Once protected from both liability losses and insurer scrutiny, insureds will have an even greater incentive to undertake risky activities at the expense of innocent strangers. A private insurance market functions to cull out the good from the bad risks by denying coverage to the latter. Regulation unwisely protects bad risks in the false hope of making insurance available to good risks.

Insurance companies make future markets in the domain of risk. In setting premiums today the companies are telling us what they think they will have to pay three, five or seven years from now for accidents they insure today. The latest round of premium increases and cancellations is a clear but pessimistic prediction, made by parties with every financial incentive to get it right. The proposals to replace competitive insurance markets with direct regulation make sense—but only if the right response to bad news on the tort front is to shoot the messenger.

IN HONOR OF MILDRED AND HERMAN ROSENSTEIN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Mildred and Herman Rosenstein, who are very dedicated, active residents, of my 27th Congressional District in California. Millie, a very special woman, was recently recognized as the Democratic Woman of the Year—44th Assembly District by the Los Angeles County Committee—Democratic Party at the 22d Annual John F. Kennedy Memorial Dinner. Herman Rosenstein was recently recognized as one of the few remaining members of the brave group known as the Lincoln Brigrade, veterans of the Spanish Civil War as they celebrated their 50th anniversary.

Millie was born and educated in New York City. As a young adult she was a trade union rank-and-file activist with the United Office and Professional Workers.

In 1941 she married Herman Rosenstein. They have two wonderful children, Frances Rosenstein-Alexender, and Paul Rosenstein. Millie became very involved as a community activist, in the peace movement and with the local school's parent teachers association.

Soon after moving to Los Angeles, Millie became active in local Democratic politics and served at various times on the executive boards of both the West Beverly Democratic Club and the Alta Loma Democratic Club. All of her adult life has been dedicated to peace, human rights and political activism.

In 1981 she and Herman moved to Santa Monica and joined the Santa Monica Democratic Club. From 1983 through 1986 she served as president. For the past 2 years she has served as a member of the State committee of the California Democratic Party. Mildred has served two terms on the Santa Monica Commission on the Status of Women and as a member of the Santa Monica Renters Rights Steering Committee.

Mr. Speaker, I ask that you and my distinguished colleagues in the House of Representatives join in wishing Mildred and Herman Rosenstein good health and many years of continued contributions to our community and our Nation.

Mr. Speaker, I also ask for unanimous consent to include a recent article which appeared in the Santa Monica Evening Outlook, highlighting Herman's involvement with the Lincoln Brigade.

LINCOLN BRIGADE—VETERANS OF SPANISH CIVIL WAR LOOK BACK, MARK 50TH ANNIVERSARY

(By Saul Rubin)

It's been 50 years since Irving Goff and his small band of guerillas armed themselves with explosives and prepared to cross the Guadalquivir River in Spain one morning to battle Spanish fascist forces.

But the way Goff became wide-eyed and animated the other day while recounting the episode at his Venice apartment, his thin arms pulling hard on imaginary oars as he described the tense river crossing into enemy territory, you woud think it was only yesterday.

If Goff's experiences in the late 1930s have left a lasting impression it is easy to understand why. After all, the two years Goff spent in Spain along with over 3,000 other Americans battling to save the Spanish Republican government is the stuff from which adventure novels are and have been made.

In all, over 40,000 volunteers from 52 countries took up arms in the summer of 1936 in the Spanish Civil War to help Spanish Loyalists battle a revolt led by General Francisco Franco's fascist forces.

After almost three years of fighting that claimed thousands of lives, including almost half of the American volunteers, democracy in Spain was dead and the world was on the brink of a second major war.

So on this Memorial Day as Americans honor their war dead, Veterans of the Abraham Lincoln Brigade, as the American volunteers in the Spanish Civil War were called, are in the midst of a year-long celebration marking the 50th anniversary of their historic effort in Spain.

The occasion is being marked by commemoration ceremonies, trips to Spain by the 300 or so remaining Brigade members and added publicity about the Brigade that has crystalized distant memories for surviving members, who number around 60 in Southern California.

For Goff, and fellow Brigade member Herman "Gaby" Rosenstein, 71, of Santa Monica, the war against fascism in Spain was the opening round of WW II.

Their primary purpose was not only to save democracy in Spain but to abruptly stop any plans for world domination by Adolph Hitler and Benito Mussolini, who backed the Spanish fascist forces with equipment and thousands of their own troops.

"Discussions about Hitler and rise of fascism in Europe was street talk—everybody knew about it and at the time there was overwhelming support for the Spanish Democratic Republic against Franco," said Goff, now 74 and a retired salesman.

And as members of two distinct New York Jewish neighborhoods—Rosenstein from Queens and Goff from Coney Island—the two were also motivated by fears of what the rise of fascism meant to the European Jewish community.

"Every Jew knew at that time that Hitler was taking the Jews off to concentration camps," Rosenstein said.

So Rosenstein and Goff headed to Spain, fueled by a passion for what they believed was politically and morally correct and swimming in a spirit of adventurism.

For Rosenstein, who had never traveled further than New Jersey, and for Goff, who had never seen a mountain until he was smuggled over the Pyrenees from France into Spain with other Brigade recruits, the Spanish Civil war was bound to be an eye-opening experience.

Two days after arriving in Spain, Goff, whose only experience shooting weapons was at a target gallery in Coney Island, blew up his first train. During the Spanish Civil War Goff would become an explosives expert and experienced guerilla fighter, training that would come in handy during WW II when he joined the OSS, the U.S. Army's office of Strategic Service which specialized in clandestine operations.

And one morning when it became necessary Goff became a boat designer after the vessel that he and his group of guerillas were planning to use to cross the Guadalquivir River and into enemy lines sank as Goff tested it out.

"I said look, I'll build the boat. Not that I was a boat builder, but all I did was remember all the boats in Central Park," Goff said.

So Goff traced a crude design of the row boat that he and his friend used to rent in New York with spare change and took it to a carpenter in a small Spanish town.

"It looked like he had the tools of Jesus Christ the tools were so ancient," Goff said. Still using Goff's design, the carpenter built a small row boat which was corked with old clothes and sealed with tin from marmalade cans.

"We went whoosh, right across in that thing," Goff said, whacking one hand over the over for emphasis.

Once over enemy lines, the group rigged the rail line with explosives, crossed back and waited for a train to come a few hours later carrying supplies for the fascist forces.

"We stood there and watched the train come by. It was tense. We had glasses on the train and then pow! The thing exploded and we were leaping all over the place," Goff said.

For Resenstein, who joined one of the many Brigade "shock troops" whose mission was to openly engage fascists forces in battle, the only clandistine operation he engineered came when he secretly arranged to make the trip to Spain.

The son of a garment worker and the youngest of five children, Rosenstein secured a bookkeeping job during the difficult Depression years. But Rosenstein couldn't help noticing the rise of the Nazi-oriented German Bund Party in his own neighborhood.

"I was speaking around the neighborhood against war and fascism. There were many fights that took place in the streets of Queens. Crosses were burned nearby."

So Rosenstein resolved to go to Spain, but was opposed by his mother.

"My mother said it was a good thing I was working, why didn't somebody else go? So she sent my passport back to Washington," Rosenstein said.

Rosenstein was able to get another passport by using his mother's maiden name of Klein and then left several letters with a friend in Cleveland and told her to mail one every two months to his mother so she would think he was there. Soon, he was on his way to Spain.

Although Rosenstein's first battle was a relatively light skirmish that he called a "romp, like a Boy Scout maneuver," he vividly recalls some grueling battles when he had several "close calls."

During one battle, Rosenstein's and about 100 other Brigade members were pinned down by fascist forces. When it become clear that they were surrounded, the Brigade commander ordered everyone to run.

"We ran when they were about 30 yards from us. They were a little surprised but we started to run and they started to fire. And we were up and down, up and down—I don't think more than 12 guys got out of that," Rosenstein said.

Rosenstein said there was never any thought of surrendering because fascist forces had a policy of killing all Brigade members.

"When I got out I had to take a rest for awhile and I got into this foxhole. As I took my poncho off I noticed there were holes through both sides of it and there were holes through the pockets. The guy running

behind me later said that to get his mind off of what was happening he said he watched me running and watched the bullets go through my poncho."

It was times like that that gave Rosenstein pause about his role in Spain, but he managed to stay to the bitter end and returned to the U.S. with other Brigade members to a hero's welcome.

Dispite the warm greeting when they returned, Brigade members did not find the going easy after their return. Brigade members were suspected of being communist sympathizers because Russia had also supported the Spanish Loyalists.

After the war Brigade members were blacklisted by government officials during the McCarthy years.

"We had the distinction of being on a proscribed list twice—first as the Abraham Lincoln Brigade and last as the Veterans of the Abraham Lincoln Brigade," Rosenstein said with a smile.

VIEWS OF PRESIDENT AZCONA OF HONDURAS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LAGOMARSINO. Mr. Speaker, President Jose Azcona of Honduras visited Washington recently, and while he was here, he gave an address before the Organization of American States. His remarks offer a thoughtful and thorough analysis of the progress and problems experienced by the nations of Central America. I urge my colleagues to consider carefully the views of President Azcona:

ADDRESS BY PRESIDENT AZCONA

Mr. Chairman, Honorable Representatives, Mr. Secretary General: Please allow me to address my first words with the warm greetings from the people and Government of Honduras. I cannot find better surroundings to deliver my message of peace and solidarity, at these times of difficulty for the political stability and economic progress of our nations, than this House of the Americas, discreet witness of the triumphs and dramas in the history of our Continent.

Mr. Chairman: I come from a country located in the center itself of Central America, from that narrow isthmus binding the two continental masses of the New World, with some of its countries now shaken by violence. From that paradoxical Central America, where, as it serves as the stage of the internal drama of its peoples, diplomatic relations are maintained among all of its countries, and their leaders gather together in cordial and frank meetings, as evidenced by our recent summit in Esquipulas. From a Central America which, in spite of going through the most serious crisis of its history, has been able to consolidate, in four of its nations, democratic, pluralist and participative governments. In short, I come from that Central America which finds itself struggling between freedom and totalitarianism.

It is then understandable that an area with such characteristics has become a matter of concern for other American States, leading first to the constitution of the Contadora Group, and then to the Lima Group. The existence of these two Groups has given way to both severe and unjustified criticism to the inter-American system, the same system which, with great perseverance has been being conformed and perfected since the days of Valle and Bolivar. As former Colombian President, Carlos Lleras Restrepo very accurately pointed out, one thing is the inter-American system as a set of principles, guidelines and juridical commitments, and another is the Organization of American States (OAS), the main but not the sole agency for the application of the system. In this regard, action of the Contadora Group has not taken place beyond the inter-American system.

The reason why these four Latin American nations, Colombia, Mexico, Panama and Venezuela, decided to engage in a process of good will or mediation, inspired in continental solidarity principles, is a question of great importance now, when following three years of negotiations, Contadora has on its own established next June 6 as the date on which the countries of the area shall proceed to sign the Act for Peace and Cooperation in Central America.

There is no doubt that, after 1982, perhaps as a result of the traumatic experience suffered with the South Atlantic crisis, the OAS goes through a period characterized, on the one hand, by its timorousness to act as an organization, and, on the other, by the marked skepticism of its member countries to entrust the OAS with the problems affecting their most vital interests. Also, it cannot be forgotten that last December, prior to the approval of the Cartagena Protocol, the OAS was suffering from structural imperfections, which could paralyze any peaceful solution procedure. It is then probable that, under such circumstances, and in an effort to find a Latin American solution to the Central American crisis, the four Contadora countries decided to adopt the leading role now being performed and which my Government is the very first to acknowledge.

However, the result of such efforts, under the context of an international treaty, is still uncertain, due to the limitations introduced by the Government of Nicaragua. Peace demands sacrifices, a permanent demonstration of good faith, and mutual trust. Without such requirements, even the most finished juridical instrument will lack operativeness.

A crucial element to help restore confidence in the compliance of the obligations derived from the Act, is the functioning of international checking mechanisms. At no time may the parties have an option to the control and supervision of agreements. I am completely certain that, in spite of the costs that may be incurred, the international community shall cooperate in the financing of mechanisms for peace. Such costs are minimum when compared to military expenditures and the consequences of an eventual international confrontation.

From this tribune of the American Continent, Honduras reasserts its unbendable disposition for negotiating and its best efforts to execute the agreements included in the Act. Our delegates have submitted specific proposals on those issues still pending and, accordingly, there would be no reason whatsoever for a given Central American country to close the avenues of understanding.

It has been said repeatedly that there are three types of problems in Central America; the domestic ones, which, in an open confrontation, destroy their own national societies; the bilateral ones, as corollary of domestic conflicts and which bring about international tensions; and those problems derived from the opposition of political ideologies characterized with a multilateral nature, since they affect the whole area, because of extraregional hegemonic States' participation.

It is my belief that each Government must have at least the moral integrity to assume the responsibility of any conflicting situation caused by its own actions. Also, other Governments should not be blamed for the insurrection of their people fighting for betrayed ideals or claiming defeated aspirations.

It has been accepted worldwide that each country has the right to choose its own way of political, economic and social organization. But such right is not exclusive of a group of persons who consider themselves especially enlightened, nor of any State which believes itself to be predestined to lead the future of humanity. Thus, as long as there are Governments refusing to acknowledge that freedom is a consubstantial value to the human person, there will always be a conflict between those who deny freedom to men and those who fight for their self-determination.

Due to its central geographic location, Honduras has traditionally been the victim of the internal conflicts of its surrounding countries. Aware of this fact, we encourage dialogues of national reconciliation leading to democratic, representative and pluralist systems. Democracy is an essential requirement for peace.

On the other hand, the revolutionary opposition groups fighting against some of the governments in the area, are a permanent cause for tensions among the States.

The presence of such groups on the border between Honduras and Nicaragua, causes constant friction in the relations between both countries, as the length of the border, the wild and desolated nature of most of the region, and the small size of the Honduran Army, make a complete vigilance along such line very difficult.

I have said before, and I would like to repeat it now, that I do not believe that the Government of Honduras should devote its limited human and financial resources to the task of becoming a guardian in charge of the security of other governments.

The first duty of a nation is to provide protection to its people and its institutions from any domestic or foreign threats. Honduras would not be in a position to fulfill such obligation if it had to displace all of its forces to one of its three bordering lines.

Such an effort would, furthermore, be useless, as there is no conflict whatsoever between Honduras and Nicaragua and, consequently, I can guarantee that the Honduran territory will not be used as a launching platform for attacks against any neighboring state, whether by irregular forces or by armies from third countries.

We wholly respect the principle of nonintervention and the right to self-determination of the peoples, even though we understand that the obligation to respect such a right is mainly a national one, since the peoples' only way to express their will is through the exercise of free and honest suffrage, fundamental principle of all democratic systems.

The rulers of Nicaragua have chosen the way of their revolution, which, according to impartial observers, leads to Marxism-Leninism. I hope it will not be said that my words possess an interventionist tint; they merely represent an opinion generally found in the American Continent and are based on the history of our Organization. In fact, in 1962, when the Cuban revolution

proclaims itself as Marxist and endeavors to cover with its tentacles the Caribbean Basin, the Government of Venezuela, now a member of the Contadora Group, at that time headed by that paladin of democracy, President Rómulo Betancourt, encouraged the holding of the VIII Consultative Meeting of Ministers of Foreign Affairs. One of the declarations of that meeting emphatically says that "the adhesion of any member of the Organization of American States to Marxism-Leninism is incompatible with the inter-American system, with the principles and purposes of this system".

Why, then, should these lapidary ideas, which seem to exclude any possibility of peaceful coexistence between democracy and communism be expressed? Because at that time the expansionist intentions of Marxist systems were fully believed in and new and old coined democracies did not consider themselves bound to woo, with gentle words, those governments which deceitfully sought to facilitate their own destruction.

Notwithstanding its democratic vocation, Honduras is able to coexist with systems of different ideological patterns. At the present time, it is useless to wonder if a Central American democratic country can or not coexist with a Marxist-Leninist-tailored nation. On the contrary, if, for the first time in several decades, democracies are the majority, what we must ask ourselves is whether a Marxist-Leninist country can coexist with democracies.

However, at the same time, my Government hopes that the way of leading the destinies of such nations will not have a negative influence on the freely chosen way of living of the Honduran people. It so happens that, much too frequently, the domestic individual problems I mentioned before spill over the nation's own borders into neighboring countries. Such is practically what has been the case with thousands of native Nicaraguan Miskito Indians, who every day seek refuge in Honduras.

In spite of the economic and social problems brought about by the refugees, my country, instead of generating them, would much rather be the recipient of such homeless population, fleeing from their land with just their poverty and sorrow. We, Hondurans, are awaiting for the governments which proclaim their unconditional advocacy to the Nicaraguan system, to evidence such support in a practical fashion, by opening their territories to the citizens of that country wishing to leave it in search of new horizons. This would prove to be a demonstration of real American solidarity, so much in need nowadays.

In the meantime, Honduras will continue enduring the burden imposed by its humanitarian feelings and afforded by the climate of liberty and democracy our country enjoys. However, circumstances make us seek a policy of voluntary repatriation, that may eventually limit our role to that of a country of transit and temporary shelter. The success of such policy would prove that the conditions which originally caused the exodus of all these unfortunate Central Americans, have improved.

Mr. Chairman: In this era it is also paradoxical that when man, although at the regrettable expense of precious human lives, has been able to explore both into the sidereal space and the microcosm of the atom, terror, in its most savage and primitive form, has come to be regarded as a policy of State. Once again, my Government wishes to reiterate its repudiation to terrorism, whoever its perpetrators or abettors may be. I feel that there does not, nor may not exist a cause to justify man to lower himself to this most coward and cruel way of violence. What concerns us most, as a former Honduran President once said is that "there is no immunization against the scourge of terrorism". Terrorists act indiscriminately against the whole population, taking advantage of the system of guarantees established in democratic countries.

The time has come for the anti-terrorist conventions to stop being dead letter, as well as for the joining of efforts from democratic countries, so that the international community may not allow the impunity of such fanatic criminals.

Mr. Chairman: As I mentioned before, just three days ago the Presidents of the countries of the Central American Isthmus met at the city of Esquipulas, Republic of Guatemala.

In the calm environment of the monastery where the meeting took place, we held a sincere and cordial dialogue, as expected from leaders of brotherly countries, united by history and by the awareness of sharing a common destiny.

The Esquipulas meeting was an additional effort to find a peaceful and negotiated solution to the problems of the Isthmus, such as the one we trust to achieve with the signing of the Contadora Act next June 6. The not too distant future will show us if our efforts proved to be successful. I believe, however, that whatever the result may be, the conviction remained that leaders are transitory and that the only lasting value are the Central American peoples, bound eternally by the memories of Morazán, Cañas and Barrios.

Mr. Chairman: We cannot oversee our continent's difficulties, nor the financial crisis of our Organization, but there certainly exists a new and enlivening spirit in the Americas. The Cartagena Protocol, once it comes into effect, will provide us with a revitalized and functionally structured Organization and, most fortunately, the turn of our countries towards democracy, will make its principles and purposes effective.

We must not forget that, whatever the outcome of the Contadora Act and the limitations of this Organization, the OAS continues to have the competence and the authority to undertake and resolve any controversy arising in our Continent.

If in June, 1979, the XVII Consultative Meeting, which today remains open, was empowered to condemn the Somoza dictatorship which during four decades oppressed Nicaragua and shamed the American Continent, one must wonder why the OAS should today not have the same moral authority to demand from the Nicaraguan government full compliance with the political commitments proclaimed in its letter of July 12, 1979 to the OAS.

The last five-year period, both in South and Central America, has stood out by the return to the rule of law, with the logical rejection of the unbridled arms race and the *de facto* governments that once dominated the American Continent's scene. This is a very hopeful sign for the future of our peoples and for the outlook of our Organization.

When man is free to choose his own destiny; when those who rule and those who are ruled are aware that only law is above all; when justice is applied with wisdom and impartiality when the States waive their aspirations to achieve aggressive power hegemony; when one ultimately lives in a real and true democracy, there need not be unsolvable problems, neither for men nor for nations.

Let us all work for a peace based on justice, and we shall fulfill the dreams and aspirations of the Fathers of our nation, aimed to make from the American Continent the land of hope.

Thank you very much.

CHARLES W. LEWIS MIDDLE SCHOOL HONORS "CHALLENGER"

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. FLORIO. Mr. Speaker, on January 28, 1986, the entire Nation was plunged into a deep mourning as the *Challenger* space shuttle exploded, causing the deaths of seven crew members. Our Nation will long mourn the passing of Commander Francis R. (Dick) Scobee, Michael John Smith, Ellison S. Onizuka, Judith Arlene Resnick, Ronald Erwin McNair, Gregory Bruce Jarvis, and teacher Christa McAuliffe. In associating themselves with the *Challenger* mission, these seven men and women answered a call beyond duty and will always be remembered for their dedication and their selflessness.

The *Challenger* accident, while interrupting, for a time one of the most productive engineering, scientific, and exploratory programs in our Nation's history, produced a sense of loss and sadness which was felt in Government offices, in factories, in homes, and schoolrooms across the Nation. I want to direct the attention of my colleagues to a very meaningful event that was organized by the sixth grade students of the Charles W. Lewis Middle School in Blackwood, NJ.

In order to show their sense of loss and express their appreciation to the commitment the *Challenger* seven made to our Nation and to our future generations, the students, led by teacher Susan Genzer, devoted their Arbor Day celebration to the memory of the *Challenger* crew. A courtyard at the school was dedicated and students helped the teachers in planting a garden of seven rhododendron, seven azaleas, and an evergreen to symbolize the seven astronauts and their dreams. Seven students were selected to read their original poems.

I want to commend the C.W. Lewis Middle School students for their efforts and bring to the attention of my colleagues the seven original poems written by students Holly Fretz, Chris Stewart, Heather Protich, Wanjiko Harling, Chris Costello, Chris Alfe, Diane Zappas, and Anthony Renzulli. I congratulate these students for their work and their dedication.

The poems follow:

DISASTER BEFORE OUR EYES

(By Holly Fretz)

Her life was pledged to teaching,
She was very eager to learn,
When the shuttle trip was mentioned,
She knew, this would be her turn.

So many teachers entered,
The odds grew very high.
But, Christa longed to go,
And won her chance to fly.

She studied for the trip,
She practiced with the crew.
Everyone was very proud,
Their belief in the project grew.

Finally, the day arrived,
The newsmen were there to write,
A story of a teacher,
The first to go into flight.

No one expected tragedy,
No one expected tears,
But, Christa entered bravely
For she had very few fears.

She gave her life so she could learn,
A lesson for us all.
We give her thanks, praise and honor,
Her sacrifice was far from small.

HEROES

(By Chris Stewart)

Seven brave citizens, of a great nation.
Picked space as their chosen vocation.
They wanted to learn, one wanted to teach.
They would not let dreams be out of their reach.
Their lives made us proud, Their death brought us tears.
But history is made only when we overcome our fears.

HEROES OF THE COSMOS

(By Heather Protich)

The Challenger mission was ready for flight.
Everything look like it was going just right.
It reached for the heavens with thunder and smoke.
And for no good reason the right booster broke.
The explosion in the sky on that bitter January day
Makes us all wonder why things happen that way.
It disappeared in a second as Challenger blew apart,
But the lives of these heroes will forever live in our heart.

POEM

(By Wanjiko Harling)

A million eyes began to stare
As the space shuttle launched into the air.
People were joyous all around the U.S.
For at that moment space travel seemed at its best
But all those joyous people didn't expect
The terrible, frightful mishap that occurred next.
There was a big explosion, a huge ball of flame,
Why? was the question, what was the blame?
The seven astronauts are now gone but their memory will stay,
For a tree will be planted in honor of them on Arbor Day.

COUNTDOWN TO DISASTER

(By Chris Costello and Chris Alfe)

Crowds gather at a safe distance—
Eyes stare at the towering station,
The countdown reaches "T" minus sixty
Sixty seconds that had to feel like years to the crew on board.
Four, three, two, one, engines roar—
The glistening force causes hair to stand on end.
"Blast-Off", heard from ground control,
Blast-off, Blast-off, Blast-off,
The sonic roar turns to kittens purr as people strain their eyes to see
The shuttle in the light blue sky
But something went wrong—
White, puffy smoke filled the sky above.
They stopped the music, stopped cheering—
Mouths open wide.
The biggest shuttle disaster just occurred.

LOST IN THE STARS

(By Diane Zappas)

The shuttle lifted off,
Went up in the breeze.
When families of astronauts,
Gave each other a squeeze.
Flickering flames with ash and destruction
Soon came up in their eyes—consumption.
Everyone started to weep in decision.
Was this a mistake?
On part of the mission?
Cameras flung to them
As they weeped in sorrow.
For Christa and six others
Were lost in the stars.

HEROES

(By Anthony Renzulli)

They came by the hundreds—the adventurous ones,
Risking their lives for everyone.
Seven were chosen with courage and drive,
They trained and prepared for the day to arrive.
To make a voyage for the good of our race,
Regardless of the danger they may have to face.
The moment arrived, all systems were ready,
The astronauts braced their nerves—oh so steady!
The rockets fired, with smoke and exhaust,
It looked to be a perfect lift off,
Then all of a sudden, to everyone's surprise,
There came an explosion, there, high in the sky.
Their mission was needed, but, oh, what a cost!
For at once we all knew, this brave crew was lost.
We'll remember this crew as heroes, it's true,
These men, these women—the Challenger crew.

THE SPECIAL ONES

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. BOLAND. Mr. Speaker, last Sunday, the Nation observed Father's Day, an occasion when families pay special tribute to special men. Father's Day is really about families, and the acts of devotion, commitment, and sacrifice necessary to maintain them and to help their members reach their fullest potential.

For most of us, the demands of our own families are challenged enough. However, some in our midst, the truly special ones, are able to look beyond the needs of their own families, see other families struggling with the burdens they did not create, and try to help them. In the June 16 Boston Globe, columnist Mike Barnicle describes one of these special people, our own Speaker Tip O'Neill, and the Speaker's efforts in Massachusetts to bring public resources to bear on behalf of retarded children and their families.

I commend Mr. Barnicle's column to the attention of my colleagues.

[From the Boston Globe, June 16, 1986]

FATHER OF A MOVEMENT

(By Mike Barnicle)

In the afternoon a breeze blew across the soccer field where the mother and father had spread a blanket out on the thick green lawn just at the point where the flat edge of the field ended and began to slope gently up a small hill that was completely enveloped in shade. Their son sat stiffly in a chair with wheels and all three watched two teams of girls playing soccer on the sun-drenched grass.

The sun was high and hot but could not make it over the big shoulder of treetops that stood between them and the red brick buildings off in the distance. So they looked cool and felt refreshed as a soft wind bent the branches of the tall pines.

"Is he having a good time?" the parents were asked.

"He's having a great time," the mother said. "We decided to do something special today, it being Father's Day and all."

"How old is your son?" the father was asked.

"He's 28," he answered.

The man, boy really, was born profoundly retarded. Each Sunday the parents make the trip to the Fernald School in Waltham to be with their only child even though he really does not know whether they are there with him or not.

Yesterday, one of those days when the American greeting card industry claps its hands over people's spending habits, was no different. The mother and father arrived just before 1 o'clock and took the boy for a walk around the grounds before stopping at a field across from the Shriver Center for their picnic.

The son wore a white shirt, blue pants and no expression on his face. His mother had purchased a white sailor's hat to shield her boy's face from the sun and now the hat sat proudly on his head.

Both parents shared a tunafish sandwich. In between bites of their sandwich, each took a turn feeding the son a spoonful of raspberry Jell-O from a plastic container. The son ate the Jell-O with some difficulty that neither the mother or father seemed to notice because they were just glad for the day, the sun and the time spent with the boy who shared their love.

"It was hard at first," the father said. "We wanted to take care of him at home but that was impossible. Then, after we decided to place him in an institution there was all this guilt.

"I used to come out and see him and go home that night and cry and cry and cry. It would have been different if we had other kids but we don't. We were afraid to after he was born."

"It took awhile to get used to the fact that we couldn't really take care of him at home," the mother added. "And it took awhile to realize that he's really better off here. Plus things have changed out here. It's not like it was 26 years ago. It's the difference between night and day."

For some reason, the mother's remarks triggered the image of Thomas P. O'Neill, Speaker of the United States House of Representatives. He is just starting to ease off the stage of public life now after 50 years in the business of politics and there is a seemingly endless round of times, testimonials and tributes being strung together for this man who many think of only in terms of power or presidents or public issues like taxes, war, peace, budgets and partnership.

But one of the items that stands out in the man's mind as something he'd be willing to be remembered for has to do with a day like yesterday and another set of parents with a retarded son. It has to do with a night nearly 40 years ago when O'Neill came home from the State House to find a neighbor, an Edison worker, standing in the kitchen of O'Neill's home on Russell Street waiting to ask the public man's help for a retarded child.

O'Neill walked the few doors to the man's home. There, he saw that the couple had two retarded children in addition to three others, normal. All the wife could do with the two who were cheated by nature was keep them locked in the kitchen all the day long. O'Neill left the house, got in his car with the father and drove out to the Dever School where he demanded that the director find beds for his friend's two children.

Next morning, he went to the State House, a building whose very foundation is a deal, and jockeyed, lobbied and coaxed many others until a majority stood together behind more money for the retarded and the places that cared for them. "I couldn't believe the conditions," O'Neill still says.

And now, on a Father's Day afternoon four decades later, the parents of an only child whose mind has been locked for the 28 years of his life, enjoyed the day together because love conquers any genetic deficiency. And somewhere else, far from the Fernald School, a man named Thomas P. O'Neill strolled a fairway with a smile and a 3 iron, never really getting his due for all the ways he has improved the lives of so many he never even met along the road.

THE GREAT PEACE MARCH

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. MARKEY. Mr. Speaker, I would like to call to the attention of my colleagues the drive and dedication of a small group of people who are walking across America in the name of peace.

This group has received little press coverage over the past few months. It has had to surmount formidable financial setbacks in the early stages of its journey. Its members have given up their homes, their jobs—their normal lives—to march through America's cities and towns as a voice for nuclear disarmament.

Despite these hardships, the Great Peace March is alive and well. It stands as a symbol that the quest for world peace must begin at home in America. And it must begin now, with a comprehensive test ban as the first important step. As Dwight D. Eisenhower once said, "I like to believe that people in the long run are going to do more to promote peace than are governments. Indeed, I think that people want peace so much that one of these days governments had better get out of their way and let them have it." Today is that day.

The destination of the Great Peace Marchers is Washington, DC. Let us help them and many others realize their goal by enacting binding comprehensive test ban legislation before they arrive in the Nation's Capital.

I would like to bring to the attention of my colleagues a letter that I received from Laura Monagan, one of the several hundred Great Peace Marchers who have forged ahead despite the collapse of any formal support. They are proceeding hand-to-mouth, buoyed by their conviction that only by sowing personal witness in opposition to the nuclear arms race will that race ever end.

The letter follows:

el cinco de mayo 1986.

DEAR FOLKS: California, Nevada, Arizona, Utah. The Great Peace March lives and will enter its fifth state at the end of this week. We unintentionally won independence from Pro Peace in Barstow, Ca. when D. Mixner announced the bankruptcy of the organization, and we have now reorganized and regrouped under the name The Great Peace March for Global Nuclear Disarmament. Our morale is high, our goals and efforts to achieve them are increasingly well-defined, and we maintain faith in the importance of our cross-country trek.

The last leg of the trip brought us through southern Utah, an area where residents received high levels of radiation during the above-ground testing at the Nevada Test Site during the 1950's. Over the past thirty years, many families have experienced an unusually high number of cancer-related deaths, (especially leukemia), which are thought to have been caused by exposure to radiation from the testing. One woman in Las Vegas told me that as a girl, she and the other children were taken outside to the schoolyard to watch the mushroom clouds rise from the test site. The Downwinders, named for their location downwind from the test site, have formed support groups to gain some legal clout and to insist that the government make reparations for illness caused by the testing. Since testing moved underground, the contamination of air, soil and water has stopped, we are told, but one finds it hard to believe that a nuclear explosion inside the earth creates no radiation seepage into the surrounding area.

As a group, the Great Peace March feels that a ban on testing is the critical first step toward disarmament, so many of us went to the test site to demonstrate against further testing. We set a new record for the largest number of demonstrators on the site in its history. Several marchers, in an act of civil disobedience not sanctioned by the March, but supported by many marchers, crossed "the white line" onto the test site property and allowed themselves to be arrested. They rejoined us at the end of their 6-day sentences.

Our daily routine has stabilized, and our obligations fall into two general categories: "walk" or "work." Walking, of course, means taking on the 15-20 mile daily march. In Utah, the scenery is gorgeous—mountains green with sage, towns surrounded by horse farms, big blue skies overhead, winding country roads—so the march is quite pleasant.

For most, working means at least one day per week on kitchen duty, preparation and restoration of campsites, transportation of support vehicles, or loading and unloading of equipment. For me, work means meeting with the half-dozen children, ages 11 and 12, to help them with their studies. They have established a study circle of their own accord, inspired perhaps by the realization that to fall behind in their schoolwork on the march might mean repeating a grade upon returning to school. They work with materials from their home schools; I help with new lessons and concepts, correct completed work, give an occasional review or quiz (again, at student request!), and arrange for an occasional field trip. It's quite a challenge for all of us to acclimate to this very unstructured environment, and I find it interesting that the school structure which the children have chosen for themselves is so similar to that of our traditional schools. Perhaps it will evolve into some thing more daring as the weeks continue, but for now I'm proud of them for their ingenuity and motivation.

Our community has begun to come together in a pattern that reminds me of the circles made by raindrops on a pond. The smaller circles of friends form and then intersect with other circles. We are drawn together by conversation on the march, shared work responsibilities, the locality of our tent neighborhoods, interest in music or politics or children, in short, all of those things that attract and bind friends. It is the night-and-day nature of our co-existence on the march that allows lifetime friendships to form in a matter of a few weeks. We have problems and disagreements, of course, but the underlying goals of nuclear disarmament and proceeding to Washington keep all else in perspective.

Musical ideas and lyrics arrive in my head very freely in this environment, usually in the early morning, so I frequently spend the first hour or so on the walk organizing some new melody or lyrical structures. Fellow marchers tell wonderful life stories that lend themselves to song, and our life in the outdoors provides moods for music such as the wake-up song, in Calypso rhythm, which came to me one morning as a single brush stroke, and which a group of us performed at 5:00 a.m. to awaken the camp. Both performance and piece received favorable reviews.

The reaction of local residents in the towns we've passed through has been varied. We've been warmly embraced, showered, fed and thanked; we've been ogled and frowned upon; we've been quizzed and questioned, but I think that once we've spent some time with the residents and shared concerns and conversations about the nuclear issue, they have found us less threatening than expected. We have been largely successful in getting people to think about the nuclear issue, and whether they be for or against nuclear disarmament, most people express respect for our determination and commitment.

So, the Great Peace March continues a few weeks behind schedule and far less grandiose than originally planned, but I wish each of you could spend a few days with us to see the group of dedicated people you helped bring together. I am infinitely grateful to all of you for your support and your contributions that brought me here.

Please spread the word that we are still on the road and on the way to D.C.!

Love,

LAURA MONAGAN.

A SALUTE TO ROBERT BOND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. STOKES. Mr. Speaker, I would like to take this opportunity to salute a gentleman from my district who has made tremendous contributions to the people of the neighborhoods of Cleveland, OH.

Mr. Speaker, Robert L. Bond, Executive Director of the Greater Cleveland Neighborhood Centers Association has, since 1939, devoted his life to giving yound people and families "a sense of hope", often in environments where hopelessness is the order of the day. While times have changed significantly since Robert Bond began working in the neighborhood settlement-house field, the needs of those he helps have remained the same. The social services and recreational and educational programs offered by the Cleveland centers are essential to the poor and disadvantaged citizens who otherwise could not afford them.

Mr. Speaker, Robert Bond, through his work, has made a lasting impression on all those who have known and worked with him. I salute him on his contributions to the community and the settlement-house field and ask that the following article detailing his life and career be inserted in the RECORD.

The article follows:

WHY ROBERT L. BOND IS SETTLED IN HIS WAYS

(By William F. Miller)

In his early days in Cleveland, when Robert L. Bond retired for the night, he gave the keys to a settlement house gymnasium to the manager of Chin's Red Dragon Restaurant so the Chinese waiters and kitchen staff could play basketball at 2:30 a.m., after they got off work.

While Bond and his family slept in a small house behind the Goodrich-Gannett Neighborhood Center, then at E. 31st St. and Superior Ave., the sound of bouncing basketballs could be heard until nearly dawn.

It was all part of the seven-day-a-week job of running a community center in a Cleveland neighborhood in the 1950's.

Now, Bond is the veteran executive director of the Greater Cleveland Neighborhood Centers Association, the largest voluntary private social agency in Ohio.

He has been working in the neighborhood settlement house field since 1939 when, as a graduate student at Columbia University, he helped immigrants learn to read and write English in the Henry Street Settlement House on New York City's Lower East Side. The teeming tenement neighborhood was the first American stop for poor Irish, Jewish, and later, Italian immigrants and others after they passed the Statue of Liberty.

Bond said his biggest thrill is meeting successful adults who looked as teen-agers like they were heading for prison, but who then got straightened out at neighborhood centers.

"Giving young people and young families a sense of hope is the best thing we do," said Bond. "We try to talk them into going back to school, to learn skills and to show them that life does not have to be a dead end."

Bond's association is the coordinating arm for some of the funding, administration, social programs, and staff training of 25 centers and social organizations. It also is an advocate for public funding and services for neighborhoods.

The philosophy of the settlement house movement is that social workers can do best when they live and work in neighborhoods, close to those they are trying to help. The movement began in England in 1884 when Canon Samuel Barnett, an Anglican minister, brought students from Oxford and Cambridge universities to "settle in" in the East End of London and work with the poor; hence the origin of the term "settlement house."

Times have changed, and there are no social workers living in settlement houses here. But the job is getting done, Bond said.

The association is celebrating the 90th year of the settlement house movement in Cleveland. Goodrich-Gannett, now at 1368 E. 55th St., was the city's first settlement house, and it has been getting star billing in community salutes.

The neighborhood centers association and its affiliates, with a $12.6 million annual budget, employ 516 people and serve 60,000 yearly. Last year, United Way provided $2.6 million of the budget.

The Cleveland centers provide a range of social services and recreational and educational programs, mostly for the poor who could not afford them otherwise. Some centers take children to camp in the summer; others take entire families on weekend outings. There are day-care centers for children and activities for the elderly.

Bond refutes those who say neighborhood centers have outlived their time.

"With the breakup of families . . . there is even a greater need for social services in the neighborhoods," he said. "My greatest concern now is, what is going to happen to the children when we have babies having babies?

"As Cleveland moves from an industrial base to a technical society, there is a need to help those left behind who dropped out of school and are functionally illiterate. Centers are needed to help the ever-increasing aging population. Studies have shown that seniors who are involved in programs and socialize, rather than staying locked in their rooms, are healthier and say out of nursing homes much longer."

Most of the neighborhood centers are in Cleveland. Bond said they are needed in the suburbs, too.

"Surburban residents may be economically better off, but many still have the same emotional problems and often need social services as badly as those in the inner city," he commented.

Bond is working to implement a social services study program this fall in conjunction with the Cleveland schools' Law and Public Service Magnet High School.

Foundation support is being sought, he said. "The whole idea is to get those students who live in the inner city to eventually become social workers and return to the inner city to help those living there."

Bond, the son of immigrants, was born 68 years ago in the Bronx. His father had escaped czarist Russian and made his way to New York.

Bond served in the Army Air Forces in World War II, seeing action in North Africa and Europe. Earlier, he received degrees from Michigan State University and Columbia. He met his wife, Anna, while they were at the Henry Street Settlement House; they have been married 45 years. Anna Bond has had a distinguished career as a social worker and college professor.

After the war, the couple began working in Riverside, Calif., recruiting Hispanics and blacks to help them build by hand an adobe settlement center. It is still in operation, and the program director is a woman they helped when she was a child.

A son, Brooks, an architect in Denver, and a daughter, Lynne, an associate professor of psychology at the University of Vermont, were born in Riverside. After four years, the Bonds moved to New Orleans for a year. In 1951, they came to Cleveland, where son Gary was born; he is now a college student in Atlanta.

The Bond children spent their early years in settlement houses. Bond said he decided they needed a change when his daughter complained that he was spending more time with the settlement kids than he spent with his own children. The family eventually moved to a home in Cleveland Heights.

"It got so that the only time the family could be together without interuption was to get in a car and drive away for a while," Bond said.

He does not have to take to the highways now, but still, his workdays often stretch into the evenings. He has headed the neighborhood centers association since its formation in 1963.

Bond is a lean man who looks like he has never spent much time at the dessert table. His secret for keeping weight off? "I worry a lot," he said.

Tennis has kept him agile. He enjoys books and participation in a monthly poker game that started even before his arrival here 35 years ago.

With cuts in federal funding, the going will be even tougher for neighborhood centers, Bond observed.

"No matter what Washington does, people still need help, and we have got to be there to help," he said.

TABULATION OF 1986 QUESTIONNAIRES

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. HUBBARD. Mr. Speaker, each year I distribute a questionnaire throughout the First Congressional District of Kentucky in an effort to provide my constituents an opportunity to voice to me their opinions about issues of importance to western Kentucky and the Nation.

Earlier this year, on February 10, I distributed my 1986 questionnaire, and over 34,000 western Kentuckians completed and returned their responses to my office. The responses were tabulated by my staff and by college students at Murray State University and the community colleges at Henderson, Hopkinsville, Madisonville, and Paducah, KY.

The results of the questionnaire will be published in the near future. However, I would like to take this opportunity to thank the students for their hours of effort in scoring the questionnaires, and I want to express my appreciation to the faculty members who devoted their time in overseeing the tabulations at their respective institutions. Indeed, their assistance with the tabulations of the thousands of responses has been invaluable.

The following are the names of the faculty, students and others who helped my staff and me with the tallying of the 1986 questionnaires:

Murray State University: Dr. Mark Wattier, assistant professor, Department of Political Science and Legal Studies; Ken Grambihler, instructor, Department of Political Science and Legal Studies; Angie Aull; Reese Baker; Jennifer Bell; Alan Brown; Kimberly Cantrell; Mark Casper; Chad Cochran; Stacey Elgin; Kerry Garner; Lisa M. Glass; Jesse T. Hicks; Shaw-

nee Hill; Todd Hill; Carl Howes; Carlos Lowe; Alison Marshall; Paul Movilleseaux; Greg Norsworthy; Roda Poeppelmeyer; Dena Scearce; Stephen Schneller; Tony Wafford; Stacy Weaks; and Jeff VanWay.

Henderson Community College: Brent Smith, instructor of history and political science; Mark Beals; Clara Bertinelli; Mary Estelle Biccum; Albert Bingemer; Mary Beth Byrne; Dee Ann Conn; William Cowan; Tony Dowell; Robert Eldeth; Darla Finley; Bruce Gibson; Daron Jordan; Jane Kuykendall; Mary Ann McBride; Marian Mills; Lisa Nelson; Helen O'Daniel; Paula Pierson; Rebecca Pippin; Kevin B. Schwallier; Mandy Wilson; Debbie Winters; and Lisa Winters.

Hopkinsville Community College: Don Hoover, associate professor of history and political science; Arthur B. Elliot, Jr.; Steve Grace; Jim Harnage; Rubin E. Jones, Jr.; Regina McGinnis; Todd Morris; C. Richard Tomberlin; and Edward Wayne West.

Madisonville Community College: Tim Cantrell, chairman of social sciences; Diana Cantrell; Jackie Armstrong; Barry Franklin; Dawn Long; Kelli D. Mayhugh; Doris A. Miller; James K. Ramsey; Marie Ramsey; Roger Rhye; Michael L. Rust; Mary Beth Shelton; and Leroy Veazey.

Paducah Community College: Dr. Chun Ro, chairman, Division of Social Sciences, Business and Related Technologies; Denny Alvey; Vaneece Alvey; Travar Beardsley; Jno Benard; Pam Blaine; Teresa L. Blair; Meg Coplen; Penny Cox; Jeff Doom; Steven Allen Driver; Andy Fleming; Leigh Ann Fowler; Donnie Fritts; Shari Fritts; Michell Goins; Mike Gordon; Michael A. Griffin; Teresa Gross; Bill Hagan; Robert Ham; Rhonda L. Kinnis; Col. Tom Martin; Denise Melloy; Steven Melloy; John E. Myers; Kim Oswalt; Deloris Paddock; Christie Scarbrough; LaRhonda Scott; Jodi Shoulders; Todd Taber; Holly Taylor; Joe Tietyen; Todd Turley; and Mark Vandiver.

TRIBUTE TO PAT ROONEY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LAGOMARSINO. Mr. Speaker, it is my privilege today to pay tribute to one of my constituents, Patrick Rooney, on the occasion of his retirement after 36 years as an educator.

Pat Rooney came to California from Nebraska, earning his doctorate from the University of Southern California in 1959. He began his career with the Ventura schools in 1965 after leaving his job as superintendent of the Moreno Valley Unified School District in Riverside County. Before that he had been a teacher, principal, and assistant superintendent in Downey, CA.

During his 21 years as superintendent of the Ventura Unified School District, Pat Rooney has guided the district through the challenging era that followed the passage of Proposition 13 in 1973; in addition to the major challenge his administration also coped successfuly with the unification of five school districts into the existing Ventrua Unified School District; the development of a voluntary desegregation program; and attempts at district reorganization, which ultimately led to the adoption of the middle school concept.

In his tenure Rooney has been given strong support by district teachers and administrators and a committee of them has been formed to establish an endowed scholarship fund in his name at the University of Southern California.

Over the years Pat has lived his philosophy of committing himself to a stand and not allowing political winds be a factor; respecting people and their points of view and explaining to those he could not agree with and admitting when he was wrong. He stated at one point that one should keep in mind that material blessings are inseparable from spiritual blessings and that spiritual life is simply the way in which we order our material lives * * * the really good things being inside not outside the man.

In accordance with these precepts Pat worked actively with the Salvation Army, the Boy Scouts, the Special Olympics and all the good causes of the Rotary Club. He is a doer.

Pat was honored by the Junior Chamber of Commerce as Ventura's Man of the Year and was honored at numerous banquets since his announcement of his retirement, which will be effective on June 30.

I ask my colleagues to join me in wishing Pat a happy and active retirement.

JIM MACK: THE NATIONAL MACHINE TOOL BUILDERS ASSOCIATION'S ABLE ADVOCATE

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. WRIGHT. Mr. Speaker, the Metal Working News recently ran an article by Mark Sfiligoj which will, I believe, be of interest to our colleagues.

The piece deals with a man we all know, Jim Mack, head of the National Machine Tool Builders Association here in Washington.

Sfiligoj writes of the skills and accomplishments of Mack in glowing terms, but those of us who know Jim do not feel the profile is exaggerated. Mack is indeed a wealth of information about the needs of machine tool companies both large and small but additionally, helpful and courteous even to those of us only peripherally involved with this problem.

Mack is a founding member of the Invest to Compete Alliance, an organization of industries, associations, and individuals deeply concerned about legislation that affects America's ability to compete abroad. He has been a particularly able spokesman and advocate of an economic climate that spurs our Nation's productivity.

Jim Mack strikes me, Mr. Speaker, as an excellent and effective spokesman for that industry which is so vital to our national competitiveness. I agree with the Metal Working News, the industry is lucky to have him.

JAMES MACK: NMTBA'S WEAPON IN WINNING INDUSTRY PROTECTION

(By Mark Sfiligoj)

WASHINGTON.—With one large victory on machine tool import relief behind him, National Machine Tool Builders' Association chief lobbyist James Mack is gunning to win equally imposing victories on the battlefields of tax reform, product liability and trade law reform.

To be sure, there are plenty of mines to step around on those fields, too, but then as recently as a few weeks ago not many observers were holding out much hope that the NMTBA's petition for import relief had any firepower left in it.

"I must say the job the NMTBA did on this, particularly Jim Mack—of working both with the administration and on the Hill and to sustain it for the length of time they did—was absolutely a brilliant job," said Houdaille Industries' John Latona, who knows something of the difficulties involved in trying to obtain import relief for machine tools. Houdaille, which early in the decade took on a high profile in trying to win some protection for the machine tool industry, lost the battle and ended up winding down its participation in the machine tool industry itself.

Not one to beat his own drum, Mack in an interview last week typically passed off credit for the machine tool import relief action to the various legislators and administration officials who pushed for a decision on the case.

"We recognized from the outset that the 232 standard was very difficult to make," he said. "But if the statute had any meaning to it at all, machine tools fit that statute like a glove."

NEGOTIATIONS

Technically, Reagan has delayed a decision on the 232 itself pending the results of negotiations for voluntary restraints on imports from four targeted countries, Japan, West Germany, Switzerland and Taiwan. But "at least we got it moving to where it's being negotiated," Mack said.

Fellow lobbyists who know him—and there appear to be few that don't—credit perhaps above all his eye and aptitude for detail and his dogged, albeit quiet, behind-the-scenes determination for his successes.

"He's indomitable, a first-rate lobbyist," said Bruce Hahn of the National Tooling and Machining Association. "Because of him the NMTBA is a major player on tax reform," he added.

"I think they built the Hart (Senate office) building around him," commented Rick Norment, executive director of the American Gear Manufacturers' Association, referring to Mack's long hours on Capitol Hill.

When he's not visiting government officials in person he's talking to them on the phone. NMTBA colleague Charles Pollock tells of the time the NMTBA's switchboard broke down and Mack promptly commandeered the phone in the elevator, riding up and down while placing his calls.

Pollock and Hahn add that Mack was also one of the first people to begin pushing for product liability reform, long before others recognized there was a problem.

Mack, who has a law degree from the University of Wisconsin, joined the NMTBA in 1975 following stints as a lobbyist for Illinois Tool Works Inc. and as a former campaign manager for former Illinois governor Richard Ogilvie.

In fact, he's also the NMTBA's secret weapon on ensuring that the new McCormick Place annex will be ready in time for the International Machine Tool Show in September. Pollock revealed. Seems that a former governor by the name of Ogilvie now runs McCormick Place.

SEVENTY-FIVE YEARS OF GREATNESS—A TRIBUTE TO GREAT LAKES NAVAL TRAINING CENTER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. PORTER. Mr. Speaker, our former colleague, Bob McClory, who so capably represented the area in which Great Lakes Naval Training Center is located, has drafted a very informative tribute in commemoration of Great Lakes' diamond anniverary celebration.

As we know, Congressman McClory served in this body for 20 years, 1963–83, during which period he maintained a continuing interest in the growth and welfare of Great Lakes. As the Representative in Congress serving the area of Lake County which includes this naval base, I have endeavored to provide my continuing support.

I am attaching to these remarks a personal tribute which he composed for presentation to Rear Adm. R.L. Hazard, commander of the Great Lakes Naval Training Center and commandant of the 9th Naval District.

Mr. Speaker, let me add a personal salute to Admiral Hazard and to the men and women at Great Lakes on the occasion of the 75th anniversary of the largest and greatest naval training center in the world.

Congressman McClory's tribute follows:

SEVENTY-FIVE YEARS OF GREATNESS—A TRIBUTE TO GREAT LAKES NAVAL TRAINING CENTER

The largest naval training center in the world is located at Great Lakes, Illinois, which is celebrating its Diamond Anniversary throughout 1986. Dedicated way back on October 28, 1911 when President William Howard Taft journeyed to North Chicago, Illinois for the dedicatory ceremonies, the Naval Training Center at Great Lakes has continued to serve the ever-expanding and multiple services of the Navy throughout this 75-year period.

As we commemorate the founding of this great military base, it is well for the Members of Congress to recall that the demand for an expanded United States Navy was the natural aftermath of the Spanish-American War. The late former Congressman George Edmond Foss, whose district included the area in which Great Lakes Naval Training Center is located and who served in the U.S. House from 1895 to 1913 and again from 1915 to 1919, with the assistance of the U.S. Navy, investigated 37 different sites around Lake Michigan. Congressman Foss finally succeeded in having the training center located along the western shore of Lake Michigan in his Congressional district. Although the Congress declined to appropriate funds for the purchase of the original 172 acres, this dilemma was resolved when the Merchant Club of Chicago through its Chairman, Graeme Stewart, came to the rescue by raising $175,000 which thereafter resulted in the purchase of the original tract of land upon which the Naval Station was then established.

Of special interest is the historic fact that President Theodore Roosevelt signed the bill which authorized the construction of the original buildings at Great Lakes which eventually became the largest naval training center in the world. Even before the formal dedication of Great Lakes, Rear Admiral Albert A. Ross raised the flag on the newly acquired site on July 1, 1905. Admiral Ross' role has been immortalized by the designation of the hub or center of Great Lakes as Ross Field where troop review and other ceremonies take place, as well as by Ross Auditorium where significant indoor events are held.

Throughout 1986 Great Lakes' Diamond Anniversary will be observed with many formal and commemorative events. The Waukegan-Lake County Chamber of Commerce, cooperating with the Friends of Great Lakes Navy Base, are participating in the organization of many of these activities. The regional President of the Navy League of the United States, Jim Hotham, is the overall chairman of the 75th Anniversary Committee.

Members of the Congress may take justifiable pride in the growth and development of Great Lakes Naval Training Center where the largest number of navy recruits receive their boot camp or basic training and where the various service schools have been established for instructing the men and women of the Navy in the modern technology of military preparedness on which a substantial responsibility for our national security depends.

Great Lakes has many more heroes who have trained there and have rendered outstanding service to the Nation. Captain William Moffett built the aviation program at Great Lakes which continues its important mission based primarily today at the nearby Glenview Naval Air Base. Lt. Commander John Philip Sousa played an extremely important role at Great Lakes. After leaving his civilian concert band, he trained 14 regimental bands at Great Lakes with musicians numbering 1,500 and it is reported that on several occasions all 1,500 played together on Ross Field.

Great Lakes Naval Training Center has a special distinction in the role it has played in the integration of the races in the United States Navy. This program began back in 1942 when Doreston Carman, Jr. reported at Great Lakes as the first Black for training. A few years later a rule was established whereby at least one Black was included in every company trained at this station. Black Naval officers were soon commissioned at Great Lakes, and it was during my service in the U.S. House of Representatives that one of the newer and larger service school barracks was dedicated and named in honor of Doreston Carman, Jr.

The late former Congressman Ralph Church and our former colleague, Marguerite Stitt Church, provided erstwhile support for Great Lakes and its development during their long service in the U.S. House. As my successor for the area in which Great Lakes Naval Training Center is located, Congressman John Porter has devoted close attention to the needs and aspirations of Great Lakes, and his critical position on the House Appropriations Committee affords an excellent opportunity for tangible Congressional support. Finally, I feel it is extremely important to recall that the relationship of the men and women of the Navy as well as the non-military personnel at Great Lakes Naval Training Center with the surrounding civilian communities, has been exemplary. The communities of North Chicago, Lake Bluff and Waukegan, particularly have always extended a warm welcome to the personnel at Great Lakes and there has been the most cordial relationships between the Great Lakes Naval Training Center command and the officials of Lake County and of the municipalities in the area.

Let me recall one other personality who contributed so much to the reputation of Great Lakes during his service as Commandant of this great naval training center. I refer to the late Admiral Draper Kauffman, who promoted the interests of an integrated navy and of a solid-based relationship with the surrounding civilian community in a manner which has had an enduring effect from which all have benefitted. Indeed, while Admiral Kauffman was devoting himself to these special interests of the Navy, his wife, Peggy Kauffman, concerned herself effectively with the environmental problems of Great Lakes and of the surrounding area with additional tangible results which have been most beneficial.

At this special hour it is of the greatest significance that Admiral R.L. Hazard, Commander of Great Lakes Naval Training Center and Commandant of the Ninth Naval District, has undertaken to commemorate this Diamond Anniversary of Great Lakes in a most effective manner. I feel privileged myself to be invited to participate in the events on Thursday, July 3, where again I will witness the graduates of the Recruit Training Program pass in review on Ross Field. I am confident that all of my former colleagues in the U.S. House of Representatives will appreciate being reminded of this event, especially our colleagues from the states of Ohio, Wisconsin, Michigan, Indiana and Illinois. All who represent these states are included in the area served by the Ninth Naval District and they will all want to recall and perhaps in one way or another participate in the events of 1986 at Great Lakes.

For its Diamond Anniversary celebration, Great Lakes Naval Training Center has adopted the very appropriate theme, "75 Years of Greatness."

POPPERS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LEVINE of California. Mr. Speaker, today I am introducing, with my distinguished colleagues Congressman RANGEL, chairman of the Select Committee on Narcotics, and Congressman GILMAN, ranking minority member, legislation which would halt the open, over-the-counter sale of "poppers." "Poppers," the street name for alkyl nitrite inhalants, is a drug sniffed or inhaled by teens and adults for a quick rush or high. Poppers are currently being sold in record stores, head shops, and bars as room odorizers or liquid incense. Teenage and adult users purchase small vials of the nitrite liquid, and then sniff or inhale the fumes.

The prescription drug amyl nitrite, one member of the alkyl nitrite chemical family, has been used as an inhalant for heart pa-

tients for over a century. Originally regulated as a prescription drug, amyl nitrite was converted to an over-the-counter drug in 1960. However, sales of amyl nitrite for nonmedical use mushroomed, and in 1968 amyl nitrite was again restricted to prescription sales. When amyl nitrite was again restricted, sales of other alkyl nitrites such as butyl nitrite, isobytal nitrite, and secondary butyl nitrite took over the market. Because these products are sold as room odorizers or liquid incense they are not monitored by the FDA and in fact receive little Federal regulation.

Although alkyl nitrite inhalants are marketed as room odorizers they actually have a foul smell which is not desirable as a room freshener. Further, as I mentioned, alkyl nitrite room odorizers are not sold at the grocery store with other room fresheners, rather are marketed in record stores and head shops, which cater to a teenage clientele, and in some bars and bookstores. We should all be deeply concerned that the legal availability of poppers glamorizes and legitimizes drug abuse to teens, and leads to harder drug abuse. Data compiled by the National Institute on Drug Abuse indicates that the heaviest period of first use of poppers among graduating high school seniors is in the 9th and 10th grades. Additionally, poppers are used extensively within the gay community.

A number of studies have examined the health consequences of alkyl nitrite inhalant use. Side effects include: facial dermatitis, eye irritation, delirium, confusion, headaches, nausea, vertigo, weakness, tolerance, profound hypotension, and transient electrocardiographic changes. These side effects usually clear up if poppers use is discontinued. A more serious side effect of poppers use is methemoglobinemia, an impairment of the blood to carry oxygen to the brain and tissues. Methemoglobinemia, induced by the ingestion of isobutyl nitrite, resulted in the death of a Washington, DC, man in 1980.

Additionally, recent studies indicate a connection between poppers use and the development of Kaposi's sarcoma, an otherwise rare cancer which is occurring frequently in AIDS victims. This is of particular concern considering the high rate of poppers use within the gay community.

Of further concern for individuals in AIDS high risk groups, are the results of a recent study which indicates that inhalation of isobutyl nitrite may further impair the ability of AIDS victims to fight off infectious diseases such as the tuberculosis-related bacteria which are among the leading killers of victims of AIDS.

Several States and locales including Connecticut, Georgia, Massachusetts, Tennessee, Utah, Delaware, Arkansas, Maryland, and Wisconsin have taken the lead in banning or restricting sales of various alkyl nitrite products, and it is time these dangerous drugs also receive Federal scrutiny.

Currently, room odorizers containing volatile nitrites are considered hazardous substances, as defined by the Federal Hazardous Substances Act, and are labeled to warn against ingestion, prolonged inhalation, and skin and eye contact, and also about flammability.

This regulation is not enough. A warning not to inhale a product marketed for inhalation is at best hypocritical, and at worst perhaps an unintended endorsement to the teen market.

The legislation I am introducing today simply requires that the FDA regulate alkyl nitrite sales, as they currently regulate amyl nitrites. This legislation takes this approach in order to remove poppers from open sales without making criminals out of the users.

The problem with amyl nitrite abuse was identified in 1968 and dealt with. Now it is time to close the loophole that permits the open sale of other alkyl nitrites. I am including a copy of my resolution to be printed in the RECORD:

H.J. RES. —

Joint resolution to require that alkyl nitrites and their isomers be treated as a drug for purposes of the Federal Food, Drug, and Cosmetic Act

Whereas alkyl nitrite inhalants known as "Poppers" are being used by teenagers and adults as a drug of abuse;

Whereas there are severe health effects from nitrite use, including eye irritation, delirium, confusion, headaches, vertigo, profound hypotension, transient electrocardiographic changes, and methemoglobinemia—the impairment of blood cells to carry oxygen to the brain and tissues;

Whereas the use of alkyl nitrite inhalants has been linked to developments of Karposi's sarcoma, a virulent form of cancer suffered primarily by AIDS victims;

Whereas deaths to nitrite ingestion have occurred; and

Whereas although alkyl nitrites are used as a drug of abuse they are not subject to regulation as drugs since they are sold as room odorizers;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That alkyl nitrites and their isomers shall be treated as a drug for purposes of the Federal Food, Drug, and Cosmetic Act.

THE SECRET WAR IN CENTRAL AMERICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LAGOMARSINO. Mr. Speaker, when critics of the administration's policy in Central America complain about American actions in the region, they usually make their arguments as though U.S. policy developed in a vacuum. They fail to acknowledge the fact that U.S. actions are a counter to a determined and continuing armed attack against our allies in the region. Focusing precisely on this point, noted law professor John Norton Moore has written a comprehensive article on the facts and legal implications of Nicaragua's aggression against its neighbors. Professor Moore's article is summarized in an April 1986 American Bar Association report. I urge my colleagues to give careful consideration to Professor Moore's assessment of the elements of international law represented by the actions of Nicaragua in Central America and United States policy in reaction to them. The summary follows:

THE SECRET WAR IN CENTRAL AMERICA

It is a pity that John Norton Moore's encyclopedic article, "The Secret War in Central America and the Future of World Order" (American Journal of International Law, January 1986, Vol. 80, No. 1), was not available before the recent debate in the House on President Reagan's request for aid to the contras. Moore's article—85 pages long, supported by 344 footnotes—is by far the most comprehensive treatment of the subject that this reviewer has come across. It is also, by a substantial margin, the longest article that the Journal of International Law has ever published. It deals with all aspects of the problem and provides heavily documented answers to all the questions that were the subject of the recent congressional debate. The article is must reading for everyone who pretends to have an informed opinion on Central America.

John Norton Moore has served as counselor on international law to the Department of State, as a United States ambassador to the Third United Nations Conference on the Law of the Sea, and as special counsel for the United States in the Nicaragua case before the International Court of Justice. He is at present the director of Center for Law and National Security at the University of Virginia and chairman of the ABA Standing Committee on Law and National Security.

Moore starts his article with the observation that the "core principle of modern world order is that aggressive attack is prohibited in international relations and that necessary and proportional force may be used in response to such an attack. He believes that the United States would have been better advised to pursue the proceedings of the International Court of Justice in the case brought against it by the Nicaraguan government. This, despite the fact, or, rather precisely because of the fact that he is "convinced that Nicaragua's principal objective in going to the Court was to reap a propaganda victory."

Before proceeding to his basic argument under international law, Moore first establishes the central facts in the case. He warns that the issue cannot be couched simply in terms of Nicaragua versus the United States because what is involved is the broader issue of the right of national defense against secret or indirect aggression and the right of collective regional defense under Article 51 of the UN Charter and Article 3 of the Rio Treaty.

Is the hostility of the Sandinistas towards the United States a product of an unfriendly American attitude towards those who overthrew the Somoza regime? Nothing could be further from the truth, according to Moore. He points out that the U.S. cut off military assistance to Somoza in 1977; that it initiated the 1979 OAS resolution, calling on the OAS member states to recognize the Nicaraguan insurgents; that during the first two years of the Sandinista government the U.S. gave it $118 million in economic assistance, and, in addition, supported $292 million in World Bank and Inter-American Development Bank loans to the Nicaraguan government; that in August of 1981 President Reagan offered to renew economic assistance in exchange for Sandinista termination of support for the Salvadoran guerrillas; that there was no significant military opposition to the Sandinistas until the spring of 1982, over a year and a half after they had opened a sustained secret war against El Salvador. In October of 1982,

the U.S. and eight other democratic governments in the Americas joined in the San Jose Declaration which made a proposal outlining the essential conditions for peace in the area, with primary emphasis on free elections and human rights. The Sandinistas refused to even meet with the group spokesmen.

As late as June 1984, Moore notes, Secretary of State Shultz visited Managua to propose discussions, and U.S. Ambassador Shlaudeman in fact held nine meetings with the Sandinistas. But it was all to no avail because the Sandinistas from the first were ideologically committed to the establishment of a totalitarian regime; to the proposition that U.S. imperialism was the source of all evil, and that the enemies of the United States were therefore its allies; and to the objective of "a revolution without frontiers."

Even before they took power in Nicaragua, the Sandinistas issued a joint statement on March 6, 1978, with the Democratic Front for the Liberation of Palestine attacking "yankee imperialism and the racist regime of Israel," as well as the Nicaraguan government. To consummate this relationship, Yasir Arafat in July of 1980 made a "state visit" to Nicaragua for the purpose of formalizing full diplomatic ties.

Not merely did the Sandinista regime go out of its way to underscore the fact that all enemies of the United States are, by virtue of that fact, friends of the Nicaraguan government, but in UN voting they have outdistanced all the other Soviet satellites in their support of the Soviet line and in their opposition to all initiatives supported by the United States. In January of 1982, when delegates from the Polish labor movement Solidarity were touring Latin America, they were refused permission to enter Nicaragua. Obviously in solidarity with the Soviet Union, the Sandinista government, although it is Marxist-Leninist, threw its recognition to Taiwan rather than to the People's Republic of China.

The recounting of these facts makes nonsense of the charge that we have not given diplomacy a sufficient chance in Central America. They also suggest commitment to a policy which is being determined by Moscow and Havana. Certainly the record of exchange visits and military assistance tend to confirm this assumption. In addition to the one million pounds of war material which, according to various intelligence estimates, entered Costa Rica from Cuba during the six to eight weeks before the end of the Nicaraguan war in 1979, there has been massive confirmation of the continuing military buildup in Nicaragua, and of Nicaraguan involvement in the training, arming and direction of Salvadoran guerrilla and of guerrilla bands in Honduras, Guatemala and Costa Rica.

Moore points out that whereas the UN Charter specifically permits collective defense to deal with armed aggression, the Rio Treaty, on which the defense of the inter-American system is based, goes beyond the UN Charter in "creating a legal obligation . . . to assist in meeting the armed attack." (Emphasis added.) It specifies that "each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfillment of the obligations contained in the preceding paragraph" and it specifies that these self-defense measures shall be valid "until the Security Council of the United Nations has taken the measures necessary to maintain international peace and security."

Moore points out that the Rio Treaty is as applicable in dealing with secret aggression as it is in dealing with conventional aggression. If it were not, he says, we would be encouraging "conflict and 'indirect' aggression by convincing states that such aggression is free from substantial risks: if it works, they will win; if it fails, there is no significant risk and they can try again."

As to the requirement of "Proportional" response, Moore says, "it is difficult to understand how a response in kind that is considerably more restrained than the attack and that has not yet stopped the attack is somehow disproportionate. As we have seen, Cuba and Nicaragua are not bound by any such constraints as limit the U.S. response. Most importantly, the contras' response meets the test of proportionality, for it has blunted the attack, but not yet ended it."

Moore points out that, while the Sandinistas (and their clients, the FMLN insurgents in El Salvador) have repeatedly spurned calls for free elections and guarantees of human rights, the contras for their part have repeatedly called for internationally observed free elections and have even agreed that the commandantes should continue in power while such elections are held. In their "Document on National Dialogue of the Nicaraguan Resistance," which was promulgated on March 2, 1985, the contras spoke of "Suspension of armed activities, with a cease fire in situ; lifting of the state of emergency; absolute freedom of expression and assembly; general amnesty and pardon for political crimes and related crimes; entry into effect of the right of asylum and habeas corpus . . ." To all of which the Sandinistas have replied with a cold "nyet."

As for the case brought by Nicaragua before the International Court of Justice, Moore believes that the handling of this case by the Court may be regarded as "one of the greatest failures of adjudication in history" in that it "actually gives assistance to a nation engaged in and ongoing armed attack against its neighbors!" In its handling of the case, said Moore, "the Court is severely risking both its own integrity and the rule of law."

These are strong words, but Moore presents an impressive array of facts in support of this finding. First he notes that the Court's jurisdiction is based on the consent of the parties to the dispute. Secondly he notes that the Court lacks jurisdiction because Nicaragua had never accepted the Court's compulsory jurisdiction, as is required of any plaintiff before the Court. He refers to the "remarkable assertion by the Nicaragua in oral argument that its acceptance of the jurisdiction of the Permanent Court must have been lost at sea in World War II." This argument, he said, "in the fact of no supporting evidence and 40 years of failure to rectify the problem, is an insult to the judicial process." He notes that the Court entertained the request for $375 million in alleged damages for contra attacks (which is slightly over one-third of the amount of damage inflicted on El Salvador by the Nicaraguan-supported guerrillas)—despite widely accepted support for the proposition that a complainant should not be permitted to recover damages if that complainant has been guilty of identical violations. He notes that "to go forward in the absence of El Salvador and the other states attacked by Nicaragua would prejudice the rights of those absent states," and that the Court order had the effect of impairing the right of self-defense against an ongoing armed attack. Such an order, he said, could not be made without a prior determination of the facts establishing who is attacking and who is defending. As matters stand, he said, Nicaragua is in the ridiculous position of attempting to persuade the world that "it all started when he hit me back."

This brings us back to the nature of secret war. In his closing paragraphs John Norton Moore states:

The strategy of covert and combined political military attack that undergrids this secret war is a particularly grave threat to world order. By denying the attack, the aggressors create doubts as to its existence; and by shielding the attack with a cloud of propaganda and misinformation, they focus world attention on alleged (and sometimes real) shortcomings of the victimized state and the permissibility of defensive response. The result is a politically "invisible attack" that avoids the normal political and legal condemnation of aggressive attack and instead diverts that moral energy to condemning the defensive response. In a real sense, the international immune system against aggressive attack becomes misdirected instead of defensive response.

Aggressive attack—particularly in its more frequent contemporary manifestation of secret guerrilla war, terrorism and low intensity conflict—is a grave threat to world order wherever undertaken. That threat is intensified, however, when it is a form of cross-bloc attack in an area of traditional concern to an opposing alliance system. That is exactly the kind of threat presented by an activist Soviet-bloc intervention in the OAS area.

The remedy for strengthening world order is clear: return to the great vision of the founders of the UN and OAS Charters. Aggressive attack, whether covert or overt, is illegal and must be vigorously condemned by the world community, which must also join in assisting in defense against such attack. At a minimum, it must be understood that an attacked state and those acting on its behalf are entitled to a right of effective defense to end the attack promptly and protest self-determination.

Meanwhile, the apparatus of a totalitarian police state is rapidly being put in place, including a Cuban-style international security system down to the block level. The labor movement has been suppressed. Attacks on the church and religious freedom have become routine. Attacks on the semi-autonomous Indians of the Atlantic region, including mandatory relocation, have been on a genocidal level. The state has been replaced by the Sandinista Party. The right of habeas corpus has been revoked and people are subject to stand trials by "people's courts." No wonder that, despite the tendency of Central Americans to stay put under previous tyrannies, at least 120,000 Nicaraguans had fled the country by the end of 1984.

The congressional debate about Central America has strangely omitted the Cuban-Nicaraguan secret war against neighboring states. Congress has debated contra assistance as though it arose in a vaccum rather than as a reluctant defensive option against a determined and continuing armed attack. This article should be read to return the debate to the real world. —DAVID MARTIN.

JOSEPH LARIO, CITIZEN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. FLORIO. Mr. Speaker, the people of southern New Jersey were saddened to learn of the passing of Joseph Lario of Pennsauken, who died last week.

Joe Lario was a distinguished citizen who gave so much to his community. He was active in the volunteer fire department, senior citizens organizations, parish council, and many other organizations.

I extend my deepest sympathy to Joe's wife, Edith, and family. He will be missed very much.

An obituary from the Courier-Post follows:

JOSEPH LARIO, VOLUNTEER FIREMAN, EX-PRESSMAN

PENNSAUKEN.—Services will be Monday for Joseph Lario, a retired newspaper pressman whose community activities included 48 years of service as a volunteer fireman.

Mr. Lario, who was 75, died Wednesday at Burdette Tomlin Memorial Hospital in Cape May Court House. He had lived in Pennsauken for 35 years.

He was a retired journeyman printer who had worked at the Courier-Post, the Philadelphia Inquirer, the Philadelphia Daily News, the Philadephia Bulletin, the Philadelphia Record and the Philadelphia Public Ledger.

He was a lifetime member of the International Printer and Graphic Communications Union.

Mr. Lario was recognized for his volunteer service in the community in 1980 when he was named "Senior Citizen of the Year" by the township.

For 15 of his 48 years with the Delaware Gardens Fire Co., Mr. Lario was the company's brigade secretary. He was a lifetime member of the Firemen's Relief Association and the New Jersey State Firemen's Association.

Robert Burgin, a former deputy chief of Delaware Gardens until his recent retirement, said Mr. Lario was a "very quiet" person who spoke more through deeds than with words.

"He was a hard worker for his family," Burgin said. "He was well liked by everyone. I'd known him since we were kids."

Mr. Lario was a member of the township environmental committee and the senior citizen's committee, and was assistant senior citizen's coordinator for the township. One of his campaigns was for lowered water and sewer rates for low-income senior citizens in the township.

Mr. Lario helped start the Pennsauken Town Watch program and also belonged to the Camden County Tax Advisory Council.

He was a member of the state senior citizens executive board, and was a trustee and delegate of the New Jersey Federation of Senior Citizens. He also had been chairman of the legislative committee on that board.

Mr. Lario was an editorial consultant for Senior Power, a newspaper primarily for senior citizens. He also was a member of the Pennsauken School Board advisory committee. He had been president of the Half-Century Jets Senior Citizens Club.

Mr. Lario was a member of St. Cecilia's Church and parish council in Pennsauken. He had been an usher at the church since 1940.

He is survived by his wife, Edith (nee Mateak); three daughters, Josephine Cheesman of Indiana, Emma Raco of California and Edith Tamburro of Marlton; a son, Cmdr. Joseph Lario Jr. of Virginia Beach, Va.; a brother Judge Anthony Lario of Cherry Hill; two sisters, Rose Rizzi of Haddonfield and Mary Labascio of Westmont; 24 grandchildren; and six great-grandchildren.

A Mass of Christian Burial will be offered at 10 a.m. Monday at St. Cecilia's Church, Camden Avenue and 48th Street, Pennsauken. A viewing will be held at the church from 7 p.m. to 9 p.m. Sunday.

Entombment will be in Calvary Mausoleum.

Donations may be made to St. Cecilia's Church.

ROTH ADDRESSES WISCONSIN BANKERS ASSOCIATION

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. KLECZKA. Mr. Speaker, on June 17, our colleague from Wisconsin, TOBY ROTH, addressed the convention of the Wisconsin Bankers Association in Green Bay. His remarks were concerned with the importance of developing a banking system which is equipped to function in an increasingly competitive financial marketplace. I commend his remarks to my colleagues' attention.

Mr. ROTH's speech follows:

SPEECH BY REPRESENTATIVE TOBY ROTH, WISCONSIN BANKERS ASSOCIATION, TUESDAY, JUNE 17, 1986, GREEN BAY, WI

I appreciate having this opportunity to address you this morning.

My perspective is that of a person who is caught in the middle of a sharp and complicated debate; of a Member of Congress who is often amazed at the diversity of opinions not just among different types of financial institutions, but among different types of banks. I hope I can convey to you where I think this debate is leading Congress and the Banking Committee.

Your program indicates that the title of my talk is, "The 99th Congress: Review and Preview". This title conveys the impression that we have been somewhere and are going somewhere. That may not qualify as truth in advertising. Perhaps a better title, where banking is concerned, would be "The 99th Congress: "Where We Should Be Going and Soon."

In addition to sketching the record of the committee and prospects for the future, I would be remiss if I did not then address myself to where we ought to go. There is, alas, a world of difference.

The record of the House of Representatives in this Congress on banking legislation leaves something to be desired, and it has been a frustrating experience for many of us. I believe the vast majority of members of the Banking Committee are deeply committed to moving down the road to meaningful reforms in our banking system. I hope conditions will soon be right for congressional action on the legislative issues about which you in the banking community have been so concerned.

One of the reasons I sought membership on the Banking Committee was my belief that it was potentially one of the most important committees of Congress. We have the opportunity to modify decades-old banking laws to make them consistent with today's economic realities. We have the obligation to establish some rules of the road to govern the development of financial services in a new era.

To this point, we have not met our obligations nor taken advantage of our opportunities. The record, it seems to me, is clear.

First, we have let the Supreme Court and State legislatures establish national policy on the subject of regional interstate banking. I applaud what the State of Wisconsin has done in this area, and I applaud the WBA for helping the legislature craft a fair piece of legislation.

But—and I know some in the audience will disagree—we need a national banking policy, not one in which accidents of geography govern the development of such a key industry. Congress should be a player in this process, and we must more forcefully seize the opportunity.

About a year ago, the Banking Committee approved an interstate banking bill. It contained a controversial five-year trigger for interstate banking. But it also contained a number of other provisions concerning community benefit, concentration and safety and soundness standards which are important and should be enacted. I think the bill is better with the trigger, but it's an important bill without it.

Second, we have allowed the Supreme Court to establish the legality of entities known as nonbank banks.

On the same day we approved an interstate banking bill last year, the Banking Committee approved the Financial Institutions Equity Act, H.R. 20, a bill to prevent the chartering of new nonbank banks. Since that time, this measure has been languishing in the House Rules Committee.

Recently, I joined with a large number of my Banking Committee colleagues in urging the Rules Committee to free the nonbank bank bill for a vote in the House.

Unfortunately, only a week ago, the majority members of the Rules Committee caucused and overwhelmingly voted against clearing the bill for House floor consideration. It is unfortunate that parliamentary procedures can permit a caucus of nine Members of the House to stifle the will of an entire committee and deny the House the opportunity to vote on a high priority issue.

I consider closing the nonbank bank loophole to be a high priority of the Banking Committee. Those who argue on behalf of nonbank banks do so in the name of competition. It's hard to be against competition. But to me competition is something which should be fair.

One of my colleagues on the Banking Committee is fond of saying that something that looks like a duck, walks like a duck and quacks like a duck is most likely a duck. Well, if something looks like a bank and acts like a bank, it ought to be regulated as a bank.

Using loopholes in the law to establish hybrid institutions to compete for an existing bank's business, to use the Federal insurance system and to have access to the Federal payments system—and to avoid regulation as a bank—is not fair.

Nonbank banks may or may not be a threat to the safety and soundness of the banking system. They are most certainly a threat to fair competition. They amount to nothing less than the avoidance of laws which regulate interstate banking. Unless

Congress acts to close the door, I can envision the Comptroller of the Currency going into the fulltime business of chartering nonbank banks.

More than anything else, nonbank banks—especially those established by nonbanking financial institutions—are symbolic of the inequities which exist in today's banking laws.

In addressing the foregoing issues, interstate banking and nonbank banks, I have given you the legislative record of the Banking Committee up until this week.

We truly stand at a crossroads. We have had endless days of hearings on other, critical, issues which affect financial institutions. In those hearings we have addressed at great length the multitude of problems exist in banking today and we have heard countless suggestions about how to deal with them.

But as you are so well aware, there is a quantum leap from talking—"to acting."

There is, to use the overworked phrase, a window of opportunity right now which might not exist much longer. Whether we enter through that window depends on the willingness of our chairman and the chairman of the Senate Banking Committee to cooperate.

On the House side, we are in the process of considering two measures which can open the door to compromise between the two Houses. One is the so-called "regulators" bill, which expands the emergency acquisition authorities under the Garn-St Germain Act of 1982. The second is a measure aimed at recapitalizing the Federal Savings and Loan Insurance Corporation.

These bills address the current and potential problems of the insuring funds. They provide a starting point from which we can develop comprehensive banking legislation.

Most people are in agreement that we need to at least continue the current emergency acquisitions provisions of Garn-St Germain. And, given the problems of energy and agriculture banks, expansion of those authorities, at least to some degree, seems a prudent step.

Further, most people agree that we need to give FSLIC the resources to meet its obligations. FSLIC's callable resources today total about $6 billion. This is hardly sufficient to meet future obligations which could total $25 billion.

I think, then, both the House and Senate will be favorably disposed to variations of these two legislative initiatives. And there is reason to believe that Chairman Garn won't settle for just this. He has been preaching expanded powers and other banking reforms for almost four years, and I fully expect that he will push the Senate to produce something resembling a comprehensive bill again this year.

Will we finally yield to the requirements of a 1980s financial system?

I am optimistic, given the strong will of members of the Banking Committee to take a positive role.

The question is more than just an academic exercise engaged in by Members of Congress, lobbyists and interested professionals. It is a question which bears directly on the future vitality of our banking system.

The long term question is not "How can we add a regulation here and eliminate a regulation there?" It is "How can we make banking a viable entity into the 1990s?" This is a question we have avoided answering so far. But we are not going to strengthen our network of financial institutions by paying lip service to its needs.

Stephen King, the horror story writer, has written a novel called "Thinner." In the book, the lead character is placed under a curse. Every day he loses weight and with it, strength. The novel is the story of how he tracks down the man who put the curse on him—and how he convinces him to lift the curse.

There is a striking parallel between the Stephen King novel and our banking industry. Banks are becoming less and less profitable each year. Each year they are losing strength. There is a curse on banks in the form of restrictive bank charters, and banks are going to keep on getting thinner until it is lifted.

It is true that most banks are today profitable and well-managed. It is equally true that bank profitability is in a precipitous decline, and it affects banks large and small, as well as those that are well run and those that are poorly run.

According to the Comptroller of the Currency, the return on assets of the 4,200 national banks with assets under $300 million declined last year for the sixth consecutive year. Only one bank in 8 has earnings that can be characterized as high. Almost 40 percent of the Nation's smallest banks lost money last year.

The situation for larger banks is not any better. Most continue to experience flat earnings. Several are losing money.

Many banks, large and small, have loan portfolios which feature bad energy and agriculture loans, or excessive lending to less developed countries.

There can, of course, be a significant difference between a bank which is not generating adequate earnings and one that is in financial difficulty. But the number of banks not generating adequate income is growing, and that should indicate serious problems down the road.

Simply put, unless banks have an alternative to the route they are following today, the problems are going to get worse instead of better. And enhancing the power of the regulators is not the total answer, in my opinion.

We can do all we want to make it easier for healthy banks to take over failing banks, or to implement regulations which will prevent banks from doing undue damage to themselves.

But new regulation or reregulation can only go so far. It doesn't really do much to encourage growth. It is just preventive medicine.

The answer lies in its profitability. Banks are businesses. Profit is considered an acceptable goal of business, including banks.

Congress, as much as considering regulatory action, should be considering ways to allow banks to return to profitability.

From my perspective, a key to renewed profitability is diversification.

Banks face competition from every corner. Other companies are solving profitability problems by diversification into the financial services industry. For example, the John Hancock Life Insurance Company has moved from selling life and health insurance to dealing in mutual funds, stock brokerage, tax shelters, realty services, pension fund management, financial planning and consumer banking services.

Under the current rules, what is good for nonbanking financial firms is bad for bank profitability.

Twenty years ago, banks supplied more than 85% of the short term credit needs of corporate business. Today banking supplies under 70% because corporate borrowers are relying more on the commercial paper market.

Smaller banks are facing serious problems as well. Business failures and agriculture problems as well as problems with consumer loan portfolios are dragging many small banks down.

Banks, simply put, have nowhere to turn. Diversification has to become a two way street. Without diversification, shrinking profitability is going to remain a nagging problem.

To regain its strength, the banking industry must be given a reasonable right to do what Sears does, what John Hancock does, what Merrill Lynch does.

There are limits to what banks should be allowed to do because of their unique role in our economic system. But allowing the banking industry to enter banking-related businesses which are certainly no more risky makes sense.

It seems to me that if we are going to spend most of our time trying to save banks from themselves, then in the end we are not going to have much of an industry to regulate.

Our ultimate goal must be the development of a banking system which promotes economic freedom and promotes competition while at the same time enhancing economic stability.

This, to me, is the direction we should be heading, and we still have a chance to get where we should be going.

Let me make a candid observation from my vantage point about your industry. You quite frankly sometimes are having trouble selling your point of view in Congress. Never have I seen an industry which is so divided within itself. It's difficult, for example, for me to believe that there are banks which can belong to four different trade associations, each with a different point of view on one particular issue.

The securities industry doesn't have that problem, nor do the consumer groups that lobby Congress on banking issues. Some of us who consider ourselves friends of the banking industry would appreciate it a great deal if some sort of consensus could be developed on at least a few issues. The process of legislating is easier when we can start negotiating from several points of agreement.

In the next two months we will have an opportunity to create order out of a chaotic financial system. In time, we will almost certainly have to face reality. But time is not on our side.

LUCIAN C. WARREN HONORED BY SIGMA DELTA CHI

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. NOWAK. Mr. Speaker, it is a distinct privilege for me to join his many well wishers in congratulating Lucian C. Warren, former Washington bureau chief of the Buffalo News, on his induction into the Hall of Fame of the Washington Chapter of the Society of Professional Journalists (Sigma Delta Chi).

Having known Lu Warren for many years in his capacity as an energetic and tireless reporter and as a professional journalist who served as the president of both the National

Press Club and the Gridiron Club, I know that this latest honor is richly deserved.

Though retired from the News, Lu continues to contribute periodically to its pages as well as writing for other publications.

I would like to share now with my colleagues the following column written by Murray B. Light, editor of the News, commenting on Lu Warren's latest recognition in the paper's June 7, 1986 editions:

HALL OF FAME IS FITTING TRIBUTE TO WARREN

The retired Washington Bureau chief of The Buffalo News last Wednesday was accorded one of journalism's most significant honors. Lucian C. Warren was formally inducted into the Hall of Fame of the Washington Chapter of the Society of Professional Journalists/Sigma Delta Chi.

Warren served as bureau chief in Washington for The News from 1968 until 1978 but has continued to write specials for us as well as a monthly feature on various subjects related to the Washington scene. He also writes for other publications now.

We've always been gratified to hear the high praise heaped upon Warren by other Washington-based newsmen. He is highly thought of professionally and personally. Symbolic of this are the honors his peers have accorded him through the years.

They elected him president of the National Press Club in 1955, chairman of the Senate and House press galleries and president of the prestigious Gridiron Club in 1975. Now secretary of the Gridiron Club, the semiretired Warren is one of the most powerful men in an organization most Washington-based journalists would hope to become members of some day. The club roster is limited to 60 active members—very few when considering the many hundreds of newspapermen in the capital.

A native of Jamestown, Warren and his wife, Cassy, still are regular visitors to the Chautauqua Institution each summer. Their permanent residence is in a beautiful, somewhat remote Maryland area, a wonderful haven from the hectic pace of Washington.

The Hall of Fame is very selective in its choices. Inducted with Warren this year were Roger Mudd, NBC correspondent; Hugh Sidey, Time magazine White House correspondent, and David Broder, Washington Post political writer and columnist.

Upon learning of Warren's latest honor, I sent the following message:

"I was delighted to hear of your selection for the Sigma Delta Chi Hall of Fame. It is well-deserved recognition of your distinguished career as a Washington journalist.

"Recognition by your peers always is the pinnacle of a man's career. This honor is a fitting tribute to a journalist, colleague and friend whom I always have held in highest esteem. . ."

SUPPORT FOR THE ANTI-APARTHEID ACT OF 1986

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. DIXON. Mr. Speaker, today, I voted in support of the Anti-Apartheid Act of 1986, a bipartisan measure which I strongly believe is the only just and fair choice before us. Members of Congress are in a position to steer our policy toward South Africa in a new direction by voting for an end to United States investment in South Africa, an end to United States bank loans, and an end to apartheid. We have before us a bill that will send a moral message to the South African Government that our country stands up against South Africa's apartheid policy, and deplores the ongoing violence against South Africa's black majority.

Several days ago, people throughout the free world commemorated the 10th anniversary of the Soweto demonstration. But 10 years after Soweto, the conditions of South Africa's black majority has deteriorated. Americans are dismayed that South Africa remains rigidly unyielding in abandoning its racial policy of apartheid.

Rather than a move toward the principles of democracy, Pretoria has imposed a nationwide state of emergency, giving its security forces sweeping powers. This newest emergency bars all of South Africa's people—blacks, whites, and colored—from peacefully commemorating the 10th anniversary of Soweto. Over 2,000 antiapartheid activists have been detained without charge, gatherings are forbidden, and a total blackout on news coverage and censorship forbids the truth from being reported.

The time has come for Congress to chart a new course in the direction of our policy with Pretoria. President Reagan's 5-year-old policy of "constructive engagement," has failed to turn around Pretoria's policy of terror, racism, and aggression against South Africa's black majority and its neighboring countries. The most recent report by the British Commonwealth's Eminent Persons Group, which attempted to mediate the crisis, showed that the South African Government has left few choices but the imposition of economic sanctions to pressure the South African Government into ending apartheid. There is a terrible tragedy in the making in South Africa and we cannot afford a bandaid approach of quiet diplomacy.

Americans are watching with outrage over the Pretoria Government's blatant disregard for justice and equality. Pretoria's latest action obviously sends a clear message to President Reagan, that it rejects "constructive engagement." Regardless of Reagan's appeal or the strong condemnation expressed by leaders throughout the world, the recent deteriorating situation in that country leads me to believe that South Africa will do anything to hold onto power, advance the cause of apartheid, and continue to deny South Africa's 23 million black majority equal justice and freedom.

Where is justice? Where is our moral outrage? Where is the right to peacefully demonstrate against apartheid and its discriminatory policies that clearly violate every aspect of the principles of democracy by which our Nation was founded? America will not remain a silent witness to Pretoria's reign of violence and terror, but must speak out and take a strong stand against apartheid.

When it comes to the administration's policy in South Africa and Soviet-backed countries like Cuba or Nicaragua, Reagan continues to push a double standard. While endorsing economic sanctions against these countries, Reagan is soft on condemning Botha and refuses to speak out in support of stronger economic sanctions for South Africa, instead of the watered-down sanctions he enacted under the Executive order last year.

I believe the debate should not be on whether sanctions should be imposed, but on which sanctions will be most effective in pressuring the South African Government into dismantling apartheid and negotiating with leaders of that country's black majority.

The Dellums substitute admendment invokes immediate and total sanctions, which bans all imports, exports and investments in South Africa and calls for a complete disinvestment of all United States assets currently in South Africa. This stronger measure would have an immediate, far-reaching effect to end the suffering of hundreds of innocent men, women and children, and takes away the "carrot" approach to our foreign policy. We are saying "no more, Pretoria—no more."

There are profound moral issues at stake, and I believe the Antiapartheid Act sends this message. We must convey to South Africa and our allies that we will not economically support apartheid. Some members may argue that this measure is too strong or too weak, but I believe we should view this measure as a new direction in our policy toward South Africa.

DR. ROBERT E. TAYLOR RETIRES FROM THE NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. GOODLING. Mr. Speaker, for those Members of Congress who have not had the pleasure of meeting Bob Taylor, it is merely a factual statement to note that a career of nearly 40 years in vocational education, including 25 at the Ohio State University, has brought Dr. Taylor worldwide recognition for his contributions to vocational education and to the National Center for Research in Vocational Education, which he founded in 1965.

On June 30, 1986, Dr. Taylor will move with his wife to their ranch in New Mexico to enjoy a well-earned retirement. However, for those of us who have worked with Bob Taylor over the years, no amount of distance or any absence from Colombus will ever diminish the recognition of his enormous contribution to the field of vocational education and the many students who have benefited from his efforts.

As the ranking Republican member of the subcommittee that has jurisdiction over the vocational education authorizing statute and the Congressman who presently represents him, we have come to know Bob quite well. When we think of Bob Taylor, the most striking characteristic that comes to mind is his incredible enthusiasm for the national center and the mission he has created for it. His energy and tireless efforts combined with his ability to efficiently manage that large enterprise has won the respect and admiration of

everyone who understands the field of vocational education. Not only has Bob Taylor thoroughly covered the Halls—and innersanctums, we might add—of Capitol Hill, but he has created such a first class operation at the national center that only those of us who visited the center and benefited from one of Bob Taylor's marathon briefing sessions at the university can truly appreciate what this one individual has accomplished.

Although we will miss our close working association with Bob Taylor, we will always value the contributions he has made to helping all of us who care about a top quality Federal effort in assisting the States and local education agencies with their goal to develop a first-rate vocational education program in this Nation.

We wish Bob Taylor well as he seeks the new vistas that lie ahead. My good friend Congressman WYLIE, joins me in wishing Bob Taylor a happy retirement.

GIVE THE CONSUMER A BREAK ON REFINANCING

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. ST GERMAIN. Mr. Speaker, lower interest rates have been a boon to consumers, allowing many of them to refinance their homes and escape the heavy burden of high-interest mortgages.

But for some, the boon is turning into a boomerang because the delays in processing the consumer's refinancing application has resulted in the commitment for refinancing to expire and thereby forcing the consumer to accept a higher interest charge on his mortgage than should be the case. Many lending institutions in Rhode Island and around the country make commitments on refinancing packages for 45 or 60 days. Then when that period ran out, the financing institution was freed from their commitment—threw out the contract—and socked the consumer with higher interest rates and other costs. This situation is occurring today at greater and greater volume.

When the processing delays are not the fault of the borrower, financial institutions should continue to honor their original commitments regardless of whether the time has run out on the contract. Consumers have already paid a heavy price for their home mortgages during the recent prolonged era of high interest rates. They shouldn't be required to pay another toll because of the inefficiencies of the home mortgage lending industry.

Mr. Speaker, financial institutions spend millions and millions of dollars on public relations and advertising each year. So it is surprising that they are willing to throw away so much good will by playing on technicalities to escape these home mortgage refinancing commitments.

The smart institutions are going to give the consumer a break by providing for a "grace" period while the processing is being finished. Mr. Speaker, I'm interested to see whether we have more smart than simply greedy financial institutions across the land.

THE STATE OF THE PHILIPPINES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, this is the fourth of an insightful 10 article series on the Philippines written by George Chaplin, the editor-in-chief of the Honolulu Advertiser. This installment discusses the Catholic Church in the Philippines, its influence on the press, opinions on the Communist insurgency, and relationship with the former Marcos and current Aquino administrations.

The article follows:

[From the Honolulu Advertiser, May 21, 1986]

FREE PRESS: THE CATHOLIC CONNECTION

(By George Chaplin)

MANILA.—The day after 2 million Filipinos turned out for the 1983 funeral of slain Benigno "Ninoy" Aquino, the Marcos newspapers came out with a top Page 1 headline: Man killed by lightning.

What is described as the largest funeral attendance in history was ignored for the story of one of those at the services who had climbed a tree and been struck by a lightning bolt.

Editor Felix Bautista of the Catholic newspaper Veritas, who was telling us of this, said: "Cardinal (Jaime) Sin said this will never do. We must have a paper that tells the truth about the Marcos government. He called together some Catholic businessmen and they said 'Okay, but you have to be the publisher.'

"Sin said yes, but his lawyer found a regulation that Sin could not be in a commercial firm, but there could be a close church connection—so the church is the paper's distributing point."

Bautista said it was started as a Sunday paper and soon because a habit "since people were hungry for stories the crony papers wouldn't carry."

Veritas now comes out on Tuesday and Friday. It's distributed nationally, and before the revolution "when we had to use Philippine Air Lines, owned by Marcos people, there were so many times when our circulation department was told, 'Sorry, we can't take your papers.'"

The current circulation "is between 50,000 and 60,000, having fallen a bit because the other newspapers were reinstated after Marcos and given press freedom."

Q: Were it not for the church, would President Aquino be in power?

A: Most credit goes to Raio Veritas. It was on the air continuously reporting on election fraud, etc. When (Defense Minister Juan Ponce) Enrile and (Constabulary chief Fidel) Ramos broke with Marcos, it was Radio Veritas that first announced it and repeated it every half-hour.

It was also Radio Veritas that broadcast Cardinal Sin's appeal: "Help our friends, stop the tanks with your bodies." If Sin hadn't (taken to the air), it would have been easy for Marcos to pulverize the camps (Aguinaldo and Crame). All Ramos and Enrile had were 300 soldiers.

When Marcos declared martial law in 1972, thousands were jailed. Everyone was scared stiff. There was no voice left. In 1974 Sin (then bishop) was transferred to Manila, where Cardinal Santos was a sick old man. The people's reaction: Sin who? How can someone named Sin be a bishop?

Sin jokes about his name. He went to the cemetery to see his parents "the original Sins." When he was little he was just "a venial (or small) Sin." After his death he'll probably be "a mortal Sin." He once chiled Imelda Marcos for visiting him in "the house of Sin."

But he's essentially a very serious man. He immediately spoke up against martial law. He made speeches, but the crony papers didn't print them. So he called a press conference and his words went out all over the world.

American newspaper stories were xeroxed here by the hundreds of thousands and distributed. This annoyed Marcos. Sin was regarded as the only person with the courage to tell the truth about Marcos.

Sin was made a cardinal by Pope Paul VI. Imelda called him and said she wanted to be his sponsor at the consistory (the solemn meeting convoked and presided over by the pope at which Sin would join the other Roman Catholic cardinals).

Sin said sorry. But Imelda said she would be there and so she whistled up a DC-10 and took 300 people to Rome and put them in the top hotels. Sin was upset.

At the Vatican she asked for a seat at the ceremony. That, said Sin, was not so bad.

But last year when Archbishop Ricardo Vidal of Cebu was elevated to cardinal, she took two planeloads to Rome and simply overwhelmed the poor cardinal. She gave a reception at the Excelsior (Hotel) and Vidal attended. Sin pointedly was in the U.S. at that time.

The worst thing she did was to go to the pope and insist that Sin be transferred to Cebu and Vidal to Manila. He refused to accede to her request.

If Imelda wanted to see Sin, he'd see her. She'd talk as much as six hours straight and he'd be bored stiff. But his answer was always no.

For example, after the February election when a church paper was to be issued against the election fraud, she asked Sin not to permit it.

He said he had only one vote, that it was a decision of the (conference of) bishops. Imelda went into tantrum and threw herself on the floor.

Cardinal Sin suggested she go to the Contemplative Sisters (a Carmelite order) and pray with them.

Instead, she went at 2:30 a.m. to see Vidal, who was president of the bishops conference. She made the same request of him (to bottle up the critical pronouncement) and he said it's too late, a statement is being prepared by a committee of three.

Q: And during the revolution itself?

A: In the streets after the cardinal called for people, in the first hour there were 10,000, in three hours 100,000, and the next morning 2 million protesting.

Q: What of the church's earlier relationship with Marcos?

A: In 1965 when Marcos first ran for office, Cardinal Santos knew that Marcos had made a deal with the Church of Christ which had iron control over a claimed membership of 4 million, but was not really Christian and didn't recognize Christ as God. Marcos told them, support me and I'll back you.

Cardinal Santos called on Catholics to vote against Marcos, but he got nowhere and Marcos won by the largest landslide in Filipino history.

Q: If in 1965 people were unresponsive to the appeal of the church, why just the opposite 20 years later?

A: The martial-law years brought people closer to the church. Before martial law, if a citizen had some trouble and needed help, he would go to the police chief or mayor or governor. When martial law was declared, he couldn't go to them because they were in cahoots with Marcos, who was running roughshod over the people. So he went to his parish priest, who in turn went to the bishop, and the bishop to the authorities because the church has a lot of clout.

Q: How is the church using its clout today?

A: Sin had made two statements. The first is that people should support the temporal order, with the church staying in the background. The church will not lead in temporal matters unless laymen are unwilling to do it.

Sin convinced the pope that he was acting not on a political but a moral issue, in a fight between the forces of good and evil.

The pope doesn't have much credibility when he tells priests not to get into politics, because look at Poland. The pope objects when liberation theology is associated with Marxism but it's okay when using democratic and peaceful means.

Sin's second statement was that he would follow a policy of constructive critical cooperation. Sin believes that all traces of the structure of dictatorship should be torn down so a fresh start can be made. But Sin says he's a pastor of everybody and that if he had excluded the Marcoses, where could they have gone?

Q: What's the role of the so-called "Jesuit Mafia?"

A: Cory Aquino has always been a devout Catholic. Her spiritual advisers have always been Jesuits. In Boston, when she heard about (the assassination of) her husband, she ran to a Philippines Jesuit there at the time.

Ateneo University in Quezon City has 8,000 students. Its president is Father (Joaquin) Bernas, an NYU graduate. He's close to Cory, a respected adviser who writes a lot of her speeches. It's the most prestigious school in the country and most of her top advisers come from there.

The finance minister, (Jaime) Ongpin, is from Ateneo. So is (Aquilino) Pimentel (who has the local government portfolio). Also the governor of the Central Bank, (Jose) Fernandez. And Teddy Locsin, her information minister, who was an Ateneo graduate before going to Harvard Law School. And some others.

Q: What of the pre-Marcos rallies and the activities he directs from Hawaii?

A: There's every indication the pro-Marcos group has considerable funding. Considering how impoverished the people are, if I'm jobless and I have children to feed (and if) there's a demonstration at the American Embassy and I'm offered 100 pecos ($5), I'd demonstrate until doomsday. In the revolution, I was acting on principle. Now, I'm acting on economic necessity.

Q: Is there a chance Marcos will return?

A: Marcos has dreams of being a Napoleon who returns from Elba. Given the government's popularity, Cory's widespread support, I don't think so.

Q: What about the communist threat?

A: In the early '50s, when (the late president Ramon) Magsaysay was faced with the Huks knocking on the gates of Manila, he instituted a policy of talking with them. They came down from the hills and he said, I'll give you money and land. It worked.

Q: Does Cory have the same kind of credibility?

A: Yes. I think she can be reasonably successful (in appealing to the insurgents to come in) because, by and large, they are not doctrinaire communists, not diehard followers of Marx. They are in the hills because the only way to fight a dictator was with a gun.

Q: What about radical priests? What of Father Conrade Balweg (who joined the communists and their military arm, the New People's Army, but has now split off and formed his own outfit, the Cordillera People's Liberation Army)? He's a folk hero. Why should he surrender?

A: There are 6,000 priests in the Philippine Islands, about a half of them foreign missionaries. Cardinal Sin's theory is that you can count on the fingers of one hand the number of priests who have made the hard decision to turn their backs on their faith and become communists.

A lot of priests are sympathetic to the NPA (New People's Army). One reason is that if you're in NPA country and in opposition, you're dead. On the other hand, if you support the NPA the military will go after you.

A priest was awakened to give the last sacraments to a dying man, an NPA man shot by the military. When the military heard they went after the priest. So he has to stay away from them, he has to join the NPA.

Most priests were in social action centers, working with American Catholic Relief. Catholics in the Philippines are different in a sense from other places. A Gallup Poll concluded that this is the most church-going society in the world. Filipinos more than any other take religion more seriously. And they accept that you can't be a Catholic and a communist at the same time.

SIN: "THEY WERE CHEATING"

(By George Chaplin)

MANILA.—Now that democracy, however shaky, has been restored in the Philippines, Cardinal Jaime Sin wants more lay involvement in government, with the Catholic clergy maintaining a low profile in the background.

In an interview in his official residence, the Villa San Miguel, Sin, who's Archbishop of Manila, said, "We interfered in the election because there was a moral aspect. They were cheating."

On the current economic problems, he declared "they cannot be solved in a day. Marcos took our money. We have no money."

"Marcos' life has been one of continuous lies," said the cardinal. "He can observe no consistency. He now says he didn't steal from the government. But the Salonga Commission (on good Government) has proof."

Imelda Marcos, said Sin, doesn't like him, but used to visit him frequently, once as late as 3 a.m. On that occasion, he added, the guard would not admit her, and told her not to come at night. He said whenever she came she was the one who did the talking.

Even now, said Sin, people from the KBL (Marcos' party) come to tell him their problems. So "my house becomes a linkage so we can help toward peace. My house is open to all."

The cardinal said he asked Marcos why call a snap election when his term was to end in 1987. "Marcos said arrogantly that we will have an election and it will show that the people like me."

Q. Will Cory Aquino prevail?

A. I think so. We will be helping. But we don't like to be known as partisan citizens. The moment the church becomes partisan and marries a party, the church becomes a widow in the next generation. Pluralism in government is healthy.

Q. What of the problems of communism?

A. They were training in the hills for years, preparing to overthrow Marcos. But then two military leaders helped Cory and the moderates win and saw to it that Marcos left. The communists don't know what to do now. That's why they're reacting (with military action).

Not all in the NPA (New People's Army) are communists. Some people who went to the hills are coming down. In Cebu, 200 surrendered. During Easter mass in the Coliseum here in Manila, 14 rebels turned in their weapons. But the problem can't be solved in a day.

Liberation theology is good as long as it is not ideological. It's good because we're going against the root causes of evil—against selfishness, pride, arrogance.

The distribution of wealth is not equitable. "I was going to a bookstore in Rome and I said to someone we have to solve poverty. One man said that to solve poverty, you kill the rich. A second man said, why not kill the poor and there would be no problem." We can't accept any such rationale (but he added that this kind of analysis which can lead to violence, surfaces among some liberation theologists in Latin America).

Q. What about priests and the NPA?

A. In my own archdiocese in Manila, no priest has gone over to the NPA. In the rural areas, anyone can come to a priest and he will not investigate whether he's NPA or not. He will help, like an agent of the Red Cross. Only a handful of priests are hard-core NPA, but they believe in God, they're not communists.

Q. In the social realm what's the church doing?

A. We work for housing for the poor, for food. We've encouraged laymen to set up base Christian communities (to help those in need).

We hope for more U.S. aid for education, food and development.

In recent weeks Cardinal Sin has received honorary degrees from the University of San Francisco—conferred at his Manila villa—and from Georgetown University, the University of Houston and the Yale School of Divinity (described in the official publication of the Manila archdiocese as "the bastion of Protestant thought in America."

Sin, now 57, was born in the central Philippines, in part a descendant of Chinese traders. He is theologically conservative, especially on such issues as divorce, abortion and the use of contraceptives.

Divine and natural laws, he told us, are the best ways to solve such problems.

SALT II: THE FACTS AND THE LOGIC

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. IRELAND. Mr. Speaker, over the past several months and particularly the last few weeks, Congress has focused on the issue of how we should respond to Soviet noncompli-

ance with arms control treaties. I welcome this as a healthy development.

Thus far, congressional spokesmen have been almost universally critical of the President's decision no longer to be bound by the unratified treaty. Their recurring themes are remarkably monotonic—indeed these speakers appear to be reading from the same sheet of music, and they are all in the wrong key. However, Congress' contribution has been particularly helpful insofar as it has concentrated on what course of action promotes U.S. national interest. The facts which the critics most often recite as proof positive of their attention to detail are often misleading, and the conclusions and interpretations drawn from those details are one-sided or incomplete. Moreover, there are many other relevant issues which have not yet been addressed but which should be factored into our important decisions about the future United States approach to arms control. Nonetheless, these presentations afford us a good starting point for the major debate in which, I believe, this country should now be engaged.

We are obviously at a turning point in the history of arms control, but this has been assiduously and deliberately ignored since 1984. For several years we have been well aware of Soviet violations and possible violations of numerous accords, yet there has been no burning discussion over the meaning of these developments: What are the Soviet objectives? Do Soviet actions fit together in a recognizable pattern to achieve strategic advantages? How best might the United States respond, in order to discourage additional noncompliance and protect United States and allied security interests? Since 1984 there has been universal unwillingness to address these very emotional issues in an objective, analytical manner. We have congratulated ourselves on investigating Soviet activities, but the more uncomfortable and contentious issue of what to do about these activities remains. Therefore, I enthusiastically welcome this debate even if I do not agree with the course it has taken thus far. I believe the effect of compliance problems on our security and on prospects for arms control is one of the most important issues facing the West. The outcome of this debate could either preserve or destroy our children's future.

Now that the President's decision has crystallized the issue, I hope we will have a discussion which is as constructive and wide-ranging as possible. Congress should be a vigorous participant in this debate and assume leadership in educating and involving the public. In doing so, it is essential that we establish what the facts really are and that we examine thoroughly and objectively their possible implications.

I would like to contribute by presenting an overview of the arguments thus far, highlighting some of my differences with them and mentioning other issues which have not yet been raised.

As a starting point, critics of the recent Presidential decision to abandon formal acceptance of SALT II have questioned both the existence of Soviet violations and the military significance of these alleged activities. Some imply that they have no more basis for believing the President than they have to accept the Soviet countercharges. Several observations are relevant here.

First, the administration has gone to unprecedented lengths to document its case and to make this material available to Congress. In addition to releasing the unclassified judgments, the executive branch prepared special secret-level reports detailing the legal and factual basis for each decision. Although specifics of higher classification are omitted, in all but a few cases, which rely heavily on specially compartmented information, restrictions and information availability do not substantially affect one's understanding of the problem. The administration's arms control compliance reports are generally available to interested Members of Congress who wish to take the time to review the facts.

Second, it is not true that there is dissent within the administration regarding the overall seriousness of the compliance problems facing us, as opposed to the details. Agreement on the details of these issues were hard fought over a long period of time by numerous agencies. A democratic and free society should expect that when debating issues of such complexity and significance, various offices may have differed in their recommendations on the nuances and certitude to be assigned to individual conclusions—some recommending a harsher judgment, some a more lenient interpretation. We might even wish to encourage such differences as a means of arriving at the truth. Nonetheless, considerable consensus on most issues appears to have emerged from this process. And in general, no department which participated in the process doubts that we face a pattern of serious violations and compliance problems both within individual treaties and across a large percentage of the postwar arms agreements upon which we have relied heavily for our security. Contrary to popular belief, the Joint Chiefs of Staff believes compliance violations as a whole—and a number of them individually—are of major military significance.

Third, it seems significant that for a year and a half virtually no Member of Congress saw fit to question the administration's compliance findings and judgments. The noncompliance determinations became controversial only after a decision was made to do something about them. Up until recently the administration's reports encountered scarcely any dissent. The administration has continuously and invariably stated its willingness to gather additional information on issues relating to compliance judgments. It is prepared to reexamine, and if necessary amend, previous judgments when new evidence is found. Two such issues of continuing concern are the Threshold Test Ban Treaty and the range of the Backfire bomber.

This once more highlights the fact that these reports were prepared in a very careful and laborious process, with all expert opinions taken into consideration. Recommendations presented to the President on the 20 identified compliance issues were finalized only after thousands of hours of analytical work occupying employees of five different departments for more than a year. Most important, evidentiary standards were extremely high—in practice, virtual certitude was needed on both legal and factual grounds before a violation was assumed. It should be noted that the standards that evolved were much higher than was envisioned when the agreements were negotiated and much higher than we can realistically hope to achieve in most cases under either current or prospective treaties. Despite this, we have publicly announced 11 arms control violations.

I would note in conclusion that most compliance and noncompliance discussions center on only three fully confirmed treaty violations—the Krasnoyarsk radar falling under the ABM Treaty and the SS-25 ICBM and encryption practices falling under SALT II. Most critics have ignored eight other confirmed Soviet violations of various arms treaties as well as nine additional Soviet practices judged to range from ambiguous but worrisome situations to probable violations. I should note here that no one has accorded the administration the praise it deserves for transcending the violation or no violation dichotomy; that simplistic patter of thinking partially explained prior failure to investigate many of these issues seriously or to alert the public to the risks the United States faced even when there might be insufficient evidence to be certain of a violation. To avoid either understating or overstating any case, and to give the public a more realistic appreciation of verification difficulties, the administration has sought to distinguish carefully the relative strength of the evidence available on each compliance issue. As the numbers indicate, compliance issues and associated U.S. security risks come in shades of gray as frequently as they come in black or white. Yet they should not for this reason be ignored.

Four violations of this treaty and four other sets of suspicious activities, plus numerous problems under eight other arms agreements, should in themselves cause Congress to question the integrity of SALT II. To place the fate of the treaty in still clearer perspective, my colleagues should also remember that we are dealing with a document spurned by a Democratic-controlled Senate and which, had it been ratified, would have expired 6 months ago. SALT II was not a great bargain to begin with, and most freely admit that SALT II's alleged advantages have been diluted by Soviet behavior. The administration has pursued at Geneva an entirely different approach centering on actual reduction of warheads, the President has termed the new initiation START missile throw-weight. Even in the absence of Soviet provocations, it is time for a new and meaningful approach to arms control.

Let us proceed to the core issue—how do we protect our national security interests and the face of proven Soviet violations. What role might SALT Treaties and the Geneva negotiations play in this overall strategy?

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. ANDREWS. Mr. Speaker, I rise today to continue the Congressional Call to Conscience Vigil, a daily reminder of the plight of Soviet Jews.

As a member of the Congressional Caucus on Soviet Jewry, I am personally committed to the cause of those who suffer religious persecution within the Soviet Union. Like other causes, ours has moments of triumph and times of despair. It also has long periods of simply waiting and remembering.

Earlier this year, when Anatoly Shcharansky was unexpectedly released by the Soviets on the very day I spoke before the Houston Action for Soviet Jewry, I shared one triumphant moment that has provided many of us with the inspiration to continue our struggle. I will never forget our hope that night, and my deep satisfaction at meeting Mr. Shcharansky when he later received the Congressional Gold Medal.

Today, however, we must also remember the many Soviet Jews who have not been so fortunate. One such "refusenik" is Vladimir Raiz, a molecular biologist and Hebrew teacher in the forefront of the Jewish cultural movement. Mr. Raiz and his wife Karmella, a concert violinist, have applied numerous times for exit visas for their family since 1972. They have been continuously refused.

The reason given for the refusal of Vladimir and Karmella's initial request for "state interest" in Mr. Raiz' work at the Institute of Molecular Biology. Following his application, however, Mr. Raiz was fired from his position. He has had great difficulty in finding gainful employment for the past 14 years.

Together with his wife and sons, Moshe and Shaul, Mr. Raiz has been subjected to repeated injustices. The Raizes have been the targets of slanderous articles in the Soviet press as well as raids by the KGB, and have had personal property and Hebrew teaching materials confiscated.

Recent visitors to the Soviet Union report that the family lives under virtual house arrest. Their home is bugged, and it has been more than 3 years since they have received mail from abroad.

Vladimir's movement are constantly monitored. He has been beaten on the street on numerous occasions, and has recently received a letter drafting him into the Red Guard, despite his age.

Karmella, although still a member of the symphony, is not allowed to travel abroad. She was recently forced to explain to authorities even the biblical names she had chosen for her children.

Like other refuseniks, the Raizes suffer these daily injustices solely because of their religious beliefs. They are isolated, humiliated, and treated as outcasts from society. Still, they go on. Still they hope for freedom.

Here in America, we too hope and remember.

SAVE AMERICAN INDUSTRY AND JOBS DAY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. FORD of Michigan. Mr. Speaker, on Saturday I will have the privilege of joining community leaders, small business owners, teachers, steelworkers, and others in observing Save American Industry and Jobs Day. This rally will take place in Ecorse, MI, in the district of my colleague and good friend, Congressman JOHN DINGELL.

Ecorse and the surrounding communities in the 15th and 16th Districts know all too well the costs of imports. It is a very simple formula: Imports cost jobs. Congressman DINGELL and I have carried this message to Washington. Unfortunately, it has fallen on deaf ears in the Reagan administration.

The time is now to take action to address our current trade problems. It is clear that the Reagan administration has failed to address these problems. Our trade deficit has skyrocketed from $25 billion in 1981 to $148.5 billion last year. But instead of responding to our trade problems using the full force of our existing trade laws, the administration has done little more than negotiate with our trading partners. While the administration negotiates, however, American jobs and our manufacturing base are moving overseas.

Auto workers, steelworkers and small businessmen in my district know all too well the price of this trade deficit. Each $1 billion in our trade deficit costs the United States approximately 25,000 jobs. Since 1981 our Nation has lost 3 million jobs because of our trade deficit. The days are long gone when a young man or woman could get a job in an auto or steel plant right out of high school, buy a new car within a year and then think about buying a house and starting a family.

The administration continues to drag its feet on the trade crisis confronting the United States. Over $50 billion of our 1985 trade deficit is composed of trade with Japan. And nearly half of this amount consists of automobiles and auto parts. Yet, what has the administration done to address this problem?

During both the 97th and 98th Congresses, the House passed domestic content legislation. But, faced with adamant opposition from the administration, these bills were never reported by committee in the other body. Enactment of domestic content legislation would have provided import relief for our auto industry and, most importantly, its workers.

The House also passed a bill in 1984 containing tough steel import quotas that was adamantly opposed by the President. As a result, it was watered down to next to nothing before it was enacted.

The time for timid negotiations and unenforcable trade agreements is over. Now we need action. The House passed a trade bill on May 22 that, if enacted, should provide real relief for American industries and workers.

First, the House-passed bill will require the President to take mandatory action against countries that undertake unfair trade practices and have excessive trade surpluses with the United States. This provision would require the President to negotiate with certain nations to reduce their trade surpluses in 1987 by 10 percent from their 1985 trade surpluses with the United States and 10 percent in each succeeding year. If this provision were to take effect today, three nations—Japan, Taiwan, and West Germany—would be required to reduce their surplus with the United States. Japan alone ran up a $51-billion trade surplus with the United States.

The second major provision of the House bill would specify that the denial of internationally-recognized workers' rights is an unreasonable trade practice. This would permit the President to take retaliatory action against countries which violate international labor standards such as collective bargaining, child labor laws, and health and safety standards. Korean and Taiwanese auto companies compensate their workers with pay and benefits at the rate of $1.75 per hour. These manufacturers are then able to undercut prices on American-built cars. While we cannot increase the wage levels of these nations, we can push them to recognize basic rights of workers.

In the area of steel imports, H.R. 4800 would put real teeth into the voluntary restraint agreeements negotiated with 17 other nations and the EEC. Under the current system, these nations are able to circumvent the limits imposed by these agreements.

Of course, the President has threatened to veto this bill just as he has other trade initiatives of the House. We cannot, however, slow our efforts to save American industry and jobs.

YURY SHUKHEVYCH—A PRISONER OF CONSCIENCE

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. MICA. Mr. Speaker, every Member of this House is aware of the Soviet Union's record on human rights. Each of us has time and again been made aware of the plight of Jewish refusniks, Christian activists, dissidents, and those who take part in non-Russian national movements. Yet, there comes a time when a case appears that transcends even the level of human rights violations to which we have sadly become accustomed. Such a case is that of Yury Shukhevych.

Mr. Shukhevych is innocent of any crime, even the broad Soviet category of political crime. In Soviet eyes his crime was the misfortune of being born the son of a Ukrainian freedom fighter. His father, Roman Shukhevych, was commander of the Ukrainian Insurgent Army, which fought the Germans in World War II and continued to fight for the political independence of his nation against the Soviets until he was killed by the latter in 1950. Yury Shukhevych was arrested in 1948 at the age of fifteen and sentenced to 10 years hard labor. On the day of his release in 1958 he was rearrested and sentenced to another 10 years. In 1972 he was arrested yet again and sentenced to 10 years hard labor and 5 years internal exile. Now in his fifties

Yury Shukhevych has known only 3½ years of freedom since his adolescence.

Yury Shukhevych's only "crime" was his refusal to denounce his father, whose name was—and to a large extent still is—synonymous with the Ukrainian struggle against Soviet imperialism. Because of the harsh conditions of his imprisonment, he is now totally blind. Yet, so great is the importance the Soviet Government attaches to his case that it has issued a forged recantation denouncing the Ukrainian struggle for self-determination and the memory of General Roman Shukhevych.

The Shukhevych case has long received the attention of international human rights organizations such as Amnesty International, which has designated Yury Shukhevych a prisoner of conscience and issued numerous urgent appeals and special actions on his behalf.

While Yury Shukhevych has become a symbol of human rights violations in the Soviet Union, there are also numerous other cases which deserve our attention and support. An estimated 40 percent of all political prisoners in the U.S.S.R. are Ukrainians. Among the best known are Danylo Shumuk, Amnesty International's most senior prisoner of conscience; Ukrainian Helsinki Group leader Mykola Rudenko and his wife Raisa; the poets Ivan Svitlychny and Irena Ratushynska; philologist Vitaly Shevchenko; journalist Yury Badzio; and others who, like them, have been adopted by Amnesty International. And there are, in addition, thousands of others, known and unknown, who have been jailed for their beliefs—Ukrainians, Jews, Russians, Crimean Tatars, Balts, and all the rest—whose repression remains an affront to the entire civilized world.

SOWETO'S ANNIVERSARY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. RANGEL. Mr. Speaker, the 10th anniversary of the Soweto rebellion is upon us, and we would be wise to consider how present conditions compare to the conditions of 1976. Has South Africa embarked upon a reformist path? Or is it still heading toward a conflagration of horrifying proportions?

The answer to these questions is that the white minority government has done little to assuage the legitimate rage of the nonwhite majority. Certain symbolic reforms have been undertaken such as the abolishment of the archaic miscegenation and pass laws. Also, prior to the latest declaration of a state of emergency, President P.W. Botha unleashed a propaganda campaign which contained promises of continued reform.

Unfortunately, the much-publicized reforms are a veneer created to hide the lack of real reform in South Africa. We should not be fooled by Botha's publicity stunts. His real intentions are evident by his lack of tolerance for dissent, and by the Government's use of deadly force to disperse protesters.

South Africa 10 years after Soweto is a country still in the throes of repression and rebellion. The Government has not yielded to pressure from its black citizens, and blacks have continued to push for freedom. The country has not changed, and the pressure from within continues to build.

Mr. Speaker, let us hope that South Africa's troubles end soon without bloodshed.

[From the Washington Post, June 16, 1986]

A BITTER ANNIVERSARY IN SOUTH AFRICA

(By William Raspberry)

The government of South Africa will survive this day—the 10th anniversary of the Soweto uprising. But the means it has chosen to do so—the most thoroughgoing repression in its history—raises a far more fundamental question: Can South Africa survive this government?

President P.W. Botha's regime has run out of ideas, options and the necessary resolve to work out of its desperate situation. It may finally have run out of time as well.

For a long time, the government survived through the combination of black patience and white concessions that again and again turned out to be too little too late. But patience is an increasingly scarce commodity, and there is very little more to be delivered by way of cosmetic concessions. It is no longer, as the Rev. Allan Boesak said here nine days ago, a question of whether apartheid can be reformed or modernized or streamlined or beautified. "Apartheid," he told the annual dinner of TransAfrica, "can only be irrevocably eradicated."

For a long time, there were options for reform: local self-government of the townships, some sort of federation in which whites would share political power, an expansion of educational and economic rights to ease the transition to power sharing. But the options have evaporated.

Some Americans, startled recently by the antigovernment violence of the Afrikaner right wing, are now voicing sympathy for the Botha government, gripped as it is between the radicals of the right and the radicals of the left. Boesak said we shouldn't be "hoodwinked" into believing that the Nazi-like violence of the right forces new options on the government.

"What essentially is the difference between the right wing and the South African government? They are not fighting about the right of black people to participate in democratic elections; they are not fighting about the redistribution of the land; they are not fighting about the right of every black child to have a decent education; they are not fighting about issues of redistribution of the wealth of the country that we with our blood and sweat and tears have built up. They are not fighting about these crucial issues.

"So what are they fighting about? Nothing that matters to you or me."

The fight is over how best to maintain the power and privilege of white people. And that is also the point of the newly intensified repression designed to prevent today's commemoration of the 1976 Soweto demonstrations that ended in the death of some 500 blacks at the hands of the government.

The government hopes—absurdly—to forestall violence by preventing demonstrations and even church services on this bitter anniversary, by making arrests under special emergency laws, by jailing the black leadership.

The more likely outcome is to turn what might have been peaceful demonstrations into open warfare between blacks who are out of control because their leaders are in jail and whites who are out of control because the government has exhausted its moral authority.

Even if the government succeeded in limiting today's demonstrations, it wouldn't matter. The crucial fact is that the South African government is running out of time. And so is the American government.

President Reagan is still trying to nudge his South African counterpart into behaving more decently while it talks of reform. There was a time when that might have made sense.

The far more urgent question now is: What side is America on? Pretoria obviously thinks it knows the answer. It sees in the Reagan administration a sympathetic friend.

Boesak is convinced that it needn't be so, that President Reagan could, if he were to see the situation with sufficient clarity, save the South African government from its own folly.

"Virtually by lifting one finger, the United States can change the course of history in South Africa," said Boesak, now free on condition that he not discuss disinvestment. What could America do? "It can stop protecting South Africa every time the United Nations tries to do something, it could take our real leaders seriously—not with meaningless words of moral indignation but with nonviolent pressure to push the South African government to the point where they understand that what is necessary is fundamental change."

Black South Africans will not easily or quickly win the war that is all but officially under way in that strife-torn land. But neither will white South Africans have peace so long as the Botha government remains in power.

South Africa, already out of options, is quickly running out of time as well.

THE FEDERAL—STATE MARITIME TRAINING PARTNERSHIP

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. McKERNAN. Mr. Speaker, as an original cosponsor, I am pleased that the House yesterday passed H.R. 4175, a bill to authorize appropriations of maritime programs for fiscal year 1987. In my view, the U.S. merchant marine is an essential element of our national security which assures rapid deployment and resupply of U.S. Armed Forces and insures the continued viability of our economy. From this perspective, the programs administered by the Maritime Administration are crucial.

A key aspect of this bill is that it provides for the maintenance of the State maritime academy system. Mr. Speaker, this Nation's maritime training institutions, such as the Maine Maritime Academy, are at a critical crossroad. Long-range decisions must be made relative to the Federal Government's commitment to a relationship established by the Maritime Academy Act of 1958 and the Maritime Education and Training Act of 1980.

Unfortunately, fiscal constraints in the past few years have led to a decrease in Federal support for these institutions, which has threatened the quality of training provided.

Through innovation, the Maine Maritime Academy, and similar institutions, have adapted to changing circumstances in a way that has enabled them to keep their programs strong. The funding level provided in the bill represents an absolute threshold below which these institutions can no longer remain viable.

The high caliber of our maritime manpower is the key to our maritime strength. It is because schools like the Maine Maritime Academy provide the necessary education and training to maintain this high caliber that I believe our State maritime academy system should be viewed as an integral component of our merchant marine.

In conclusion, Mr. Speaker, if the State maritime academy system is to continue in any recognizable form, the provisions contained in H.R. 4175 are necessary. Therefore, I commend my colleagues' vote to ensure that the Federal-State maritime training partnership remains close and mutually beneficial.

McDONALD AWARD TO JOHN WANER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to recognize Mr. John Waner as recipient of the Ray McDonald Community Achievement Award for March sponsored by the staff of the Midway Sentinel. His outstanding involvement in the construction and real estate industries, plus academic achievements, and community dedication, make Mr. Waner deserving of this notable award.

Mr. Waner has been an important asset to the U.S. Government through the construction and real estate industries. Mr. Waner served in advisory positions to four U.S. Presidents, and has directed the Federal Housing Administration and the Department of Housing and Urban Development. He has also participated in numerous labor organizations within the construction industry.

Beyond career development, Mr. Waner has served as a trustee to Lewis University where he received an honorary doctorate of humanities degree. He continued his dedication to education by sponsoring youth activities and scholarships.

His community involvement shows his extensive dedication and participation in the Chicago area; including founder and first president of the Midway Kiwanis Club, chairman of the board of Garfield Ridge Trust Savings Bank, and director of Time Savings & Loan.

Let us congratulate Mr. John Waner for his active involvement to enrich and improve the southwest side of Chicago.

FHA EXTENSION

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. DYSON. Mr. Speaker, I rise today to ask my colleagues to support legislation I have introduced which would provide permanent authorization to the FHA Single Family Housing Mortgage Insurance Program. As you know, congressional authority for this program has expired six times since the beginning of the current fiscal year on October 1, 1985.

Once again on June 6, this program's authority expired causing continued uncertainty in the housing finance markets. Last Thursday, we passed an extension for the program to be authorized until July 25, 1986. The Senate must agree to this resolution and it must be signed by the President. Presently, we are unsure when the Senate may consider a similar extension. But if and when they do, it still must be signed into law by the President. And when this is accomplished, the program will only last another month before another extension is required.

Meanwhile, the entire housing industry waits and suffers. I am sure that other Members have been receiving the same complaints that I have from those affected by this problem. Every day 10,000 mortgages are being delayed because this program has not been reauthorized. These short term extensions are creating unnecessary anxieties for those Americans who are either purchasing, selling, or, refinancing their homes. In a market where interest rates are rising, this can mean thousands of dollars more for the home buyer at the time of settlement.

Each time a delay occurs, it not only erodes confidence in the system, but also hurts countless individuals. The entire network of people involved in a home sale are affected if a settlement date is postponed indefinitely. Bankers, mortgage companies, movers, third parties and numerous others are having their schedules interrupted because of these unnecessary delays.

I strongly believe it is time for Congress to restore confidence and stability to this program which has assisted millions of Americans to purchase homes for which they might otherwise not have been qualified. The FHA Single Family Housing Program is a proven program that works and Congress should allow it to function uninterrupted.

The legislation I have introduced would grant permanent authorization to the FHA's Section 203(b) Single Family Housing Program. There is no reason to allow this program to become embroiled in controversy after another 2 or 3 weeks. My bill, if adopted, would augment the recent action taken by Congress which requires the Secretary of Housing and Urban Development to notify the appropriate committees of Congress each month of projected shortcomings in the cap authorization limit on the amount of loan guarantees made under this program. This recent action also requires the Secretary to request a cap limit on the loan guarantees which would be sufficient for the entire fiscal year. Upon passage of my bill, we would ensure continuity and stability in this program and remove the weekly and monthly crisis periods of uncertainty homeowners and purchasers have been experiencing this year.

I urge my colleagues to join me in support of this legislation so we can permit the housing industry to continue providing mortgage money to the millions of Americans who wish to move into a new home.

H.R. 2602

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. SWIFT. Mr. Speaker, I rise in support of legislation today introduced by my distinguished colleague from Maryland, BEVERLY BYRON. H.R. 2602 would require Federal agencies to reinstate to his or her job an employee who has been suspended or terminated, if the regional Merit Systems Protection Board rules in favor of the employee, even if the agency appeals the ruling to a higher administrative body.

I represent Blaine, WA, a small town next to the Canadian border. Last year I was contacted by U.S. Border Patrol employees in Blaine who were concerned about problems they were epxeriencing within their sector.

In April 1985 one Border Patrol agent was fired from his job, the following August another agent was fired, and a third suspended for 50 days. Several more agents were given disciplinary suspensions for a variety of reasons.

These agents may have deserved a "wrist slapping" and tighter supervision, but the actions taken by the Border Patrol Administration were not in line with the infractions, they were unfair and extremely punitive. Within the ranks of the Border Patrol it was said these agents were used as "examples" to others, as well as to pay for past mistakes that could not be proven at this time.

Even though the administrative law judges in Seattle ruled that all three agents should never have been terminated and should be reinstated to their positions, two of the Border Patrol agents were left without pay and health benefits while the Border Patrol appealed the decision. That lasted from the beginning of August 1985 until the last week of May 1986 when the U.S. Merit Systems Protection Board upheld the Seattle administrative law judge's decision to reinstate them with full payment of back wages. The third agent, recently forced to retire, is still waiting for a decision by the U.S. Merit Systems Protection Board even though an administrative law judge ruled that he too, should have been reinstated after a 30-day suspension. This agent was terminated on April 26, 1985, and the judge's decision was announced on September 10, 1985. It is now 9 months after that decision, and 14 months after his termination—and still no end in sight.

As illustrated in the case of my three Border Patrol agents, the agency had the power, money, and time to outlast its employees. Passage of this bill will help equalize this disparity.

I believe this legislation will not only help Federal employees regain a sense of fairness, but will also save the Federal Treasury millions of dollars in back salary awards when the higher administrative body upholds a favorable regional ruling. While we are trying to find ways to bring the Federal budget in balance, passage of this bill would help to end some of the waste that exists in the Federal budget.

I strongly urge my colleagues to support H.R. 2602 to prevent this bureaucratic tyranny in the future.

W.B. MACKALL—A LIFE OF DEDICATED SERVICE TO AMERICA'S VETERANS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. YOUNG of Florida. Mr. Speaker, W.B. Mackall, special assistant to the Director of the Veterans Administration Medical Center at Bay Pines, retires at the end of this month after 40 years of dedicated service to our Nation's veterans.

It was in 1946 that I first met Mack as we both worked at the Veterans Administration regional office, which was then housed at the Don Cesar Hotel on Pass-A-Grille Beach. Most appropriately, it was at the same location that many of his friends gathered May 31 to thank this special American for four decades of service to the Florida Department of Veterans Affairs and the Veterans Administration.

We joined together to honor Mack for a seemingly endless list of achievements that have helped improve care and services to Tampa Bay area veterans. Mack and I have had the opportunity over the years to work together on many projects. Recently we persuaded the Veterans Administration to expand the National Cemetery at Bay Pines, and just last month we successfully joined forces to win approval for an affiliation between the Veterans Administration Medical Center at Bay Pines and the University of South Florida College of Medicine. This agreement will result in an even higher quality of medical care for veterans at Bay Pines by bringing to Pinellas County some of our Nation's best doctors and specialists.

However, it is the special role W.B. Mackall played in helping fulfill a need for a new medical center at Bay Pines for which I will be forever grateful. The idea of building a new hospital at Bay Pines to replace the existing crowded and antiquated hospital was just a dream when this Congressman was sworn into Congress. Shortly thereafter, we planned our strategy to win approval of our $110 million request for a new hospital. By 1976, President Ford signed our appropriations bill into law. Ground was soon broken and in March 1983, I stood proudly with W.B. Mackall as we dedicated the 520-bed replacement hospital. There were many ups and downs during the 9 years we worked together to provide for Florida's veterans the best medical facility available anywhere in our Nation. When we would encounter a setback, and there were many, Mack was always there to keep me going.

W.B. Mackall will always be a special person in the hearts of Florida veterans. He has contributed so much time and energy on their behalf. Most importantly, though, Mack is their friend. He is never too busy to stop and talk or share a story with the veterans at the hospital, nursing home, or domiciliary. Mack's kind and caring spirit is what makes him such a special man.

Mr. Speaker, I am proud to have worked with W.B. Mackall these past 40 years to provide for the needs of our Nation's veterans, and I am honored to be able to call Mack a friend whose support and encouragement has always been an inspiration.

When W.B. Mackall retires later this month, the Veterans Administration and the staff, volunteers, and patients at Bay Pines will lose a unique individual. I join with them today in saying thank you to this special friend of so many veterans for his unselfish and tireless work and to wish him and his wife Julia as much happiness in their well-deserved years of retirement as Mack has provided us these past four decades.

LUCRETIA MARCIGLIANO: A WOMAN WITH VIGOR AND VIRTUE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. SOLARZ. Mr. Speaker, Lucretia Marcigliano is no ordinary advocate of public education. For 34 years, Lucretia has demonstrated a remarkable and inspiring commitment to improving the quality of education in Brooklyn. It is with great pleasure and pride that I rise today to share with my colleagues a brief description of the extent and fruits of this commitment.

Many people shy away from what is often the bureaucratic befuddlement of New York City's Board of Education. However, Lucretia maintains an insatiable desire to transcend existing standards and to implement innovative programs.

While some people understandably grew frustrated and developed a fatalistic attitude about overcrowded and vandalized schools in the Bay Ridge community, Lucretia grew invigorated and was determined to open a new school. In many respects, Bay Ridge's P.S. 314 embodies her devotion.

But Lucretia has not limited her energy to Bay Ridge. She serves on the curriculum committee for the 21 elementary and 6 junior high and intermediate schools in Bay Ridge, Bath Beach, Bensonhurst, Borough Park, Dyker Heights, and Flatbush.

Lucretia clearly has an instinct for recognizing opportunity and potential, as well. Inspired to expand her understanding of education and to enhance her contribution to the school board, she pursued a bachelor's degree from Brooklyn College. But she did not merely attend evening classes. She graduated with cum laude distinction in 1977.

I would like to share with my colleagues an article which recently appeared in Newsday entitled, "34-Year School Board Vet Ready for More." This article vividly conveys Lucretia's energy and accomplishments; she is a loyal and indispensable friend of Brooklyn's school system.

34-YEAR SCHOOL BOARD VET READY FOR MORE

(By Merle English)

If Lucretia Marcigliano had her way, every child would have an education.

Marcigliano, a grandmother, is an advocate for children, and she cites as proof her longevity as a member of Community School Board 20, where she has wielded influence continuously for 34 years.

She says her greatest achievement in all those years was in getting a new school, PS 314, built in Bay Ridge four years ago.

The school replaced two overcrowded and vandalized ones, which had no gym or auditorium and where children ate in a boarded up basement. In a 25-year struggle to get the school, she made appeals on radio and even called President Jimmy Carter.

She has held every position on the board, including president three times. She is currently second vice president, chairman of committees on attendance, planning and design and the lunch program.

And she is on the curriculum committee for the 21 elementary and six junior high and intermediate schools in her district, including Bath Beach, Bay Ridge, Bensonhurst, Borough Park, Dyker Heights, and Flatbush.

"God put me on this earth to make sure that every kid gets an equal chance to be educated," she said during a conversation shortly before the recent school board elections.

This particular round at the polls, in which she was among 21 candidates vying for nine spots, was difficult for Marcigliano, because an attack of bronchitis curtailed the door-to-door campaign she has waged for every term, and she was terrified of losing the seat she has held since 1952.

Although some of her opponents were "people who had never come to a school board meeting," she was concerned that, despite her record, she would be defeated by the other candidates' spending power.

With the energy she could muster, and help from family friends and other supporters, she sought votes by phone. The election results showed that voters wanted her back for yet another term.

"I love being a member of the school board," she said of the effort. "If I lose my seat the children will lose one of their best friends."

It all began for the Brooklyn-born, Bay Ridge resident when she was a member of the Young Democrats Club in 1952. A Democratic district leader submitted her name for consideration to fill the unexpired term of a board member.

She got the job and was reappointed for successive terms. When the school system was reorganized in the 1960s, she was elected and has kept her seat since.

To give depth to the stands she takes on education, Marcigliano earned a bachelors degree from Brooklyn College at night, graduating cum laude in 1977, the same year as the youngest of her three children, Michael.

She believes school buildings should be utilized around the clock. "Why can't people go in and learn how to run a computer at midnight." She believes she should be on the Board of Education. "I would be a great mover, because I know the mechanics since 1952."

A supporter, Irene Solow, prasied Marcigliano. "If it wasn't for Lucretia some kids wouldn't have lunch," Solow said. "She's dedicated to the children in District 20. God bless you, Lucretia."

"I am for kids," Marcigliano said, tears welling up in her eyes. "My role is to be an activist for children, to see that they get the best education possible. I am there for no other reason."

GEN. WILLIAM A. "ART" BLOOMER

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. BADHAM. Mr. Speaker, as a member of the Armed Services Committee, it is my distinct pleasure to honor Gen. William A. "Art" Bloomer, a distinguished U.S. Marine Corps officer, upon his retirement from active duty. General Bloomer has served for the past 2 years as commander, Marine Corps Air Bases, Western Area and commanding general of Marine Corps Air Station, El Toro. Two of the facilities within his command—El Toro MCAS and Tustin MCAS (H)—lie within my district in California and are a very important and integral part of the community.

During his more than three decades in the Marine Corps, General Bloomer has had a broad range of experiences. These range from service as a project test pilot at the prestigious Patuxent River Naval Air Test Center to his 330 combat missions in the skies over Vietnam.

The experiences include graduation with distinction from the Naval War College, command of the Marine Composite Reconnaissance Squardron aboard the carrier U.S.S. *Midway,* service as chief of staff for the Second Marine Aircraft Wing and as commanding general of the Fifth Marine Amphibious Brigade.

And the experiences also include service here on Capitol Hill, where he served as special assistant and Marine Corps aide to two Secretaries of the Navy and as legislative assistant to the commandant of the Marine Corps.

For his military prowess, General Bloomer is the recipient of the Legion of Merit, the Distinguished Flying Cross, the Bronze Star Medal with Combat "V," 17 Air Medals and the Republic of China Kuang Hua Medal.

To the people of my district, however, Art Bloomer is known for his desire and willingness to make the Marine Corps a good neighbor to the burgeoning new communities growing up around the bases. This isn't always an easy task, given the challenge of operating high-performance jets and large helicopters in the midst of suburban America. Often, I am sure, the job of balancing our Nation's vital defense needs with the important needs of those living near the air stations because as large a challenge as Art Bloomer faced in his military career.

Mr. Chairman, I offer my highest commendation to Gen. Art Bloomer for his long and distinguished career in the service of our country. His contributions have been many and have made a difference. Upon his retirement, the Marine Corps will be losing one of its truly good men.

PATRICK BUCHANAN SPEAKS ABOUT NICARAGUA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. DORNAN of California. Mr. Speaker, I rise today to express my support for Pat Buchanan's comments about the critical situation confronting us today in Nicaragua. The speech was delivered outside the White House in Lafayette Park on Sunday, June 8.

Mr. Speaker, I would particularly like to associate myself with the comments that Mr. Buchanan makes about the importance of the House vote coming up later this month. To delay aiding the Democratic resistance further, which seems to be the conscious effort of the liberals in Congress, plays right into the hands of the Communist Sandinista leaders who have stolen a legitimate revolution away from the people of Nicaragua. The Nicaraguan Communists need more time to fully consolidate their choke-hold on the entire country. It has only been a consequence of the pressure brought to bear on the Sandinistas by the Contras which has temporary forestalled this tragic consolidation.

Today more that 11,000 political prisoners are testimony to the unpopularity of the direction the Nicaraguan revolution—toward a Soviet military proxy in the Caribbean. Mr. Speaker, does this great body lack the will and courage to defend democracy, human rights and our own security so close to our borders? I urge my colleagues to learn from our mistakes of the past—Cuba and Eastern Europe, Afghanistan, Angola, Cambodia, and Vietnam—and dispense with this syndrome of paralysis which plaques effective foreign policy. With this hope in mind, I am submitting the comments of Mr. Buchanan to the CONGRESSIONAL RECORD in a continuing effort to underscore the importance of this issue. His comments follow.

STATEMENT OF PATRICK J. BUCHANAN

Welcome to Washington.

Because so many superior speakers follow me today, my remarks will be brief.

I know that I speak for our President, Ronald Reagan, when I tell you that you are needed, needed today in this capital city.

Not only to stand up for the Freedom Fighters of Nicaragua.

But, as Cuban Americans, to stand as living witnesses to one of the great mistakes of American history—a mistake that must not be repeated in Central America.

Twenty-five years ago, 1,400 men of Brigade 2506 went ashore at the Bay of Pigs. They had come home to liberate their country from a traitor-tyrant, a home-grown fascist named Fidel Castro who had sold out their revolution to a foreign power and an alien ideology.

The men at the Bay of Pigs were defeated. But not by Fidel Castro. They were defeated because the nation that armed and trained and equipped them was confused and divided about the nature and character of the Castro regime. Brigade 2506 was defeated at the Bay of Pigs—because the Government of the United States suffered a failure of nerve.

In 1961, the men who went ashore at the Bay of Pigs knew better than the men in Washington the gravity of the threat that Fidel Castro and his Soviet patrons posed to the Western Hemisphere. And, today, the peasant soldiers of the Democratic Resistance understand better than most members of Congress the immense stakes involved in the battle for Nicaragua.

Today, we are here to petition Congress not to permit what happened to Cuba to happen to Nicaragua. Not to permit Central America to be delivered up to Communism—as Central Europe was delivered up decades ago and Southeast Asia in our own time.

In two weeks, the House will cast what the New Republic has called one of the most decisive votes of the decade.

The narrow question that will be answered is whether the United States will renew military assistance to the embattled Freedom Fighters of Nicaragua.

But when the House votes "yea" or "nay" to military aid for the Contras, it will give America's answers to others questions—answers for which the whole world is waiting.

The House will tell us whether the Contras are the next fighting ally of the United States to be abandoned in the field. The House will tell us whether a Communist future is certain for the Nicaraguan people—or whether freedom will be given a second chance. The House, in that vote, will tell us whether the United States is as resolute and determined to preserve freedom and liberty on the North American continent—as the Soviet Union is determined to advance Communism right on the doorstep of the United States.

Ultimately, the House vote will tell us whether this generation of Americans has learned from the mistakes of four decades—or whether we intend to reenact those mistakes, again and again—until, eventually, our own turn comes.

If freedom is to survive, then free men—Americans especially—must dispense with their illusions and face reality.

The war between that pervasive modern tyranny, rooted in Communist ideology, and free societies built upon Judaeo-Christian values, is a war to the finish. It cannot be brokered out of existence. There is no Big Deal waiting out there to be cut—that will bring an indefinite truce or a generation of peace.

The Ortega Brothers and Tomas Borge are not in the banana—export business; they are in the revolution export business. Men who worship power, who have sacrificed thousands of their countrymen to the temporal gods of revolution are not going to be talked out of their perverted faith by the blandishments of Western diplomats or the bribes of Western capitalists.

In Central America, Fidel Castro, the Soviets and the Sandinistas are going for a military victory. Castro has provided thousands of military advisers; the Soviets have provided a half billion in mortars, tanks, and helicopter gunships. Their intent is clear: Convert Nicaragua into a permanent Soviet beachhead, a privileged sanctuary for export of terror, subversion and revolution, north and south, into the Americas.

For two years, as the largest military machine Central America has ever seen has been assembled, piece by piece, in Nicaragua, Congress has simply watched, refusing to provide the Freedom Fighters a single rifle or a single bullet.

And, yet, in those two years, the volunteer ranks of the Freedom Fighters have continued to grow. Today, nearly 25 thousand men and women—the greatest peasant army Central America has ever seen—have ex-

pressed a willingness to fight and die for freedom, if only the United States will provide them the weapons to fight and win.

Our hope lies in the spirit that sent those men and women into the hills. We cannot turn our back upon them—and remain true to all that is best in our tradition.

And so, we need your support. Only a handful of votes stands between the President and a great Bipartisan victory in the House. The tide is with us. Two years ago, military aid won 118 votes; last year, 180, this spring, 210. With a handful of additional votes, the United States—both great political parties—can send—in the clear—a message to the Soviet Union and Fidel Castro that Central America is off limits to the Warsaw Pact, that in the Western hemisphere, the Brezhnev Doctrine does not apply.

This is the Western hemisphere, the New World. We are, all of us, Americans—the political descendants and heirs of Washington and Jefferson, of Bolivar and Marti. What are Communists doing swaggering around on the mainland of the Americas? We would not permit political criminals to hijack an airliner, why then, do we permit them to hijack an entire country?

The Sandinistas are an illegitimate government. They seized power through force, fraud and deceit; they hold power only through military violence and Gestapo tactics.

Like Fidel Castro, they lied when they said they had come to liberate their country. All along, they intended to establish a more perfect tyranny, to betray the rebellion to a foreign power, to impose upon their countrymen an odious and alien ideology no self-respecting people has ever freely chosen.

When the Nicaraguan people rose up against Somoza, they did not vote to censor their press or smash their unions, or persecute the Indian population, or subjugate their Church. They did not vote to invite in thousands of Russians, Cubans, Bulgarians, East Germans, Iranians, Libyans and PLO—to convert their country into a terrorist base camp. The Nicaraguan people never elected to cast their lot with the Warsaw Pact or become a Central American appendage of the Soviet Empire.

Nicaragua is today under a foreign occupation—and the United States not only has the legal right, but a moral duty, to help the people of Nicaragua throw off this colonial bondage, and once again join the family of free American states.

And with your help, we shall prevail.

REFORM OF IRS AUDITING

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. HORTON. Mr. Speaker, this week as our companion body continues its deliberations on tax reform, I would like to make my colleagues aware of another type of reform desperately needed inside the Internal Revenue Service. The issue concerns auditing, and how the IRS approaches the elderly they choose to audit.

On May 21, I received a letter from a constituent and friend of mine, Mr. William V. Sergeant. In that letter, Mr. Sergeant explained that his 71-year-old father, after being notified in a form letter that he was being audited, took his own life on April 15, the day his taxes were due.

I knew Verne Sergeant personally. In fact, I had the honor of attending a church service with him 1 month before his death. He was a man in excellent condition—both physically and mentally. He had had previous dealings with the IRS, all of which were decided favorably.

Verne's family and friends used him as a resource on many matters, from farming to financial advice. Those who knew him could not say enough good things about him. He was a lifetime member of his church, and a 50-year member of the National Grange. He was one of those rare individuals who always went that extra yard, plowing neighbors' driveways, delivering groceries for the elderly.

After the letter from the IRS stating it was auditing his 1983 tax return, his life began to fall apart. His personality changed; he lost his appetite; he became obsessed with the audit, spending hour after hour poring over his financial records. He continued to spend hours looking at his books, even though he had done nothing illegal.

On Tuesday, April 15, the day taxes are due, Verne Sergeant took a shotgun and committed suicide. In the note he left beside his body, he "thought I could remember." He said he loved his family and wished he had done things differently.

Just 2 weeks before his death, he was making plans for the future. He had scheduled a fishing trip with his 16-year-old grandson on April 19, which would have been his 72d birthday.

No one is claiming that the notice of an audit actually "caused" his death. He had cooperated with the IRS in the past to clarify income tax matters, and had solved these problems. A few years ago, the IRS told him he had not paid any taxes on the airplane he owned. Fortunately, Verne had never owned an airplane. He laughed this problem off, and the matter was settled within days.

Mr. Speaker, the moral of this story is quite clear. We have here a 71-year-old man in excellent mental and physical condition who simply was not able to handle the pressure brought on by the uncaring efforts of the IRS to audit his taxes. Clearly, if an innocent man in excellent health would resort to killing himself as a result of an audit, are there not thousands of less able, less fortunate elderly in this country who would have similar fears?

Although I have no simple answers for this problem, I can only hope that the Internal Revenue Service will be made more aware of the personal trauma it can induce by a simple letter, and take steps necessary to soften the blow of a potential audit.

The death of Verne Sergeant was senseless. If this tragedy can make the IRS more aware of the damage it can cause by an act as simple as an audit notice perhaps something positive will emerge from his death.

TRIBUTE TO JOHN J. BUCKLEY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. ATKINS. Mr. Speaker, I rise to pay tribute to Mr. John J. Buckley of Lawrence, MA, a public servant of great distinction.

John Buckley began his career in government service after being recognized for his outstanding leadership in the U.S. Army, where he served for 6 years and was elevated to the rank of major.

He was elected to the office of mayor of the city of Lawrence in 1951 and served as mayor 14 consecutive years. During those 14 years as mayor, he was faced with seemingly insurmountable problems. Shortly after taking office, several major mills closed their doors leaving 20,000 people jobless overnight, causing nationwide attention to this problem and attracting such quotes as, "grass will grow on the streets of Lawrence," from noted journalist Edward R. Murrow.

Mayor Buckley immediately put into effect a plan known as "Operation Bootstrap," a public-private partnership with the goal of attracting new industry. From that point on, this much publicized plan, which was heralded throughout the Nation, changed Lawrence's reputation from a one industry community to a reborn city of diversified industry.

In 1961 Mayor Buckley was also elected to serve on the Governor's council and served in this post under two Governors until 1964.

From 1965 until 1968 John Buckley served as northeast representative for the Economic Development Administration.

In 1969 he became register of deeds for the Fifth Essex District.

In 1971 John Buckley returned, after a resounding victory, to serve again as Lawrence's mayor for 6 years. In that time he planned and organized a program for Lawrence's revitalization.

Mayor Buckley served as the State president of and national director of the Ancient Order of Hibernians. He was also recognized by his peers, the mayors of Massachusetts, and elected by them to serve as president of the Massachusetts Mayors Association. Further, he was chosen by the United States Conference of Mayors to serve on their advisory committee and the executive committee.

In 1983, John Buckley won an unprecedented victory to return again as mayor of the city of Lawrence.

For over four decades John Buckley's leadership and outstanding service to his community, county, State and country have been marked by dedication, compassion and honesty. He is a shining example of all that is good and right in public service.

John Buckley, a man for all seasons, is a man of the people working for the people. The seeds which he has planted in the city of Lawrence in the Merrimack River Valley will bear fruit for generations to come.

TENANT MANAGEMENT

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. GEPHARDT. Mr. Speaker, I regret that unavoidable business out of town made it necessary for me to miss several important votes during consideration of the housing bill. But I want to state publicly my pleasure in the fact that we have just passed a housing bill that gives residents of public housing the opportunity to assume increased independence and responsibility in the management of their homes.

The Fauntroy tenant management amendment, adopted virtually unanimously, is a clear statement of the conviction of the Members of the House of Representatives that residents of public housing have both the desire and the ability to assume a more active and productive role in creating decent living conditions for themselves and their children.

The Cochran Gardens Tenant Management Corp., in my hometown of St. Louis has already proven what can be done through the dedication and determination of a group of public housing residents. With the leadership and inspiration of Bertha Gilkey, president, the Cochran Gardens Tenant Management Corp., took a housing project riddled with vandalism, crime, and high vacancy rates and turned it into a clean, safe, and pleasant environment in which residents are proud to live.

And in the process they are providing residents jobs and valuable work experience. They have created 350 new jobs through the establishment of maintenance and renovation crews, day care services, a full health clinic, a community center, and a catering service. Most recently, they have obtained a cable television contract to bring cable service into public housing throughout the city. In addition, they have created 700 new units of low-income housing, through joint ventures employing public housing residents.

In all of this they have worked in close cooperation with local labor unions. Union members trained and supervised the resident employees and, through JTPA programs, provided apprenticeship training for hard core unemployed youth as glazers, carpenters, and electricians. No jobs were lost, and no public employees were displaced.

The Cochran Gardens Tenant Management Corp., and similar groups across the country, serve as shining examples of what can be done when government and labor work together with the people to provide opportunity. It is my hope that the tenant management provisions just passed will encourage similar cooperative efforts in other communities to provide residents of public housing with the opportunity to improve the quality of their lives.

AFRICAN FAMINE, RECOVERY AND DEVELOPMENT FUND ACT

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. LELAND. Mr. Speaker, it was with great pleasure that I recently joined several of my colleagues in introducing the African Famine, Recovery and Development Fund Act (H.R. 4865). As the chairman of the House Select Committee on Hunger, I have been deeply involved with efforts to assist the African countries hard hit by recent drought and famine. The drought has ended, and a little more food is being harvested, but the root causes of this tragedy remain largely unaltered. There is a tendency to relax assistance efforts after some degree of success has been experienced with emergency measures. There exists a real danger of delegating the followup procedures and long-term policy changes to a level of lesser importance when the harsh edge of a disaster has softened.

This bill will ensure continued United States Government assistance to vulnerable African nations by establishing an African famine, recovery and development fund to allow support for long-term agricultural recovery and development programs, including support for policy reforms and agricultural research for small farmers. These efforts are central to Africa's efforts to achieve food self-sufficiency.

To achieve environmentally sound and sustainable development, special emphasis must be placed on the small farmer and women farmers frequently overlooked by the aid programs. It is widely agreed that in Africa nearly everything depends on the growth of the small farm. Agriculture is the engine of nonagricultural growth in Africa. Fortunately, most African governments are altering economic and agricultural policies which have favored the urban consumers at the expense of rural farmers. The United States should be ready to respond generously to nations willing to take the domestic political risk and turn their emphasis away from the cities and industries to the farms and rural areas.

Africa's economies are staggering under the weight of foreign debt. The amounts owed to governments and commercial banks do not approach what is owed by Latin American nations, but if African governments are forced to repay these debts as scheduled, little opportunity for progress remains. The money and human resources needed to service their debt erode Africa's capacity to recover. The United States Government can surely devise programs to use a portion of repayments received to finance development programs that would help keep African economies functioning during the next few crucial years.

The underlying causes of the development crisis facing the sub-Saharan are multiple, are vastly complicated and are not easily going to be corrected. But we must start and start now. The alternative is the prospect of the horrible famine of 1983–86 becoming the ongoing reality for millions of people residing in the sub-Sahara. The African Famine, Recovery and Development Fund Act is a start.

PROHIBIT DISINVESTMENT OF SOCIAL SECURITY TRUST FUNDS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. FRENZEL. Mr. Speaker, yesterday, the gentleman from Oklahoma [Mr. JONES] and the gentleman from Texas [Mr. ARCHER] introduced H.R. 5050, a bill to prohibit future disinvestment of Social Security trust funds. I commend these efforts and join them as a cosponsor.

When the Treasury allowed disinvestment in the fall of 1984, legitimate questions about the security of the funds were raised. Current and future beneficiaries, along with the more than 100 million Americans who pay Social Security taxes, joined in criticizing a use of the trust fund for purposes never intended.

H.R. 5050, a product of the Social Security Subcommittee of the Ways and Means Committee, would prevent future disinvestment. That's why I joined Congressmen JONES and ARCHER as a sponsor.

It would also establish the Social Security Administration as an independent agency. That is a more controversial feature, but I believe the Congress anticipated this development when it approved taking Social Security expenses off-budget.

Broad-based confidence in the Social Security system is critical. H.R. 5050 will help preserve and enhance confidence. I commend it to all Members.

PERSONAL EXPLANATION

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 1986

Mr. DORGAN of North Dakota. Mr. Speaker, on June 17, 1986, for rollcall No. 168, I was unavoidably detained. Had I been present I would have voted "yea."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL

RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 19, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 20

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on miscellaneous public land bills, including S. 2266, S. 2287, S. 2320, S. 2351, S. 2466, S. 1019 and H.R. 2182, S. 2483, and S. 2532.
SD-366

Judiciary
To hold hearings on S. 2323, to exempt from the antitrust laws any joint agreement or action by persons in the television broadcast industry to alleviate the negative impact of violence in television broadcast material.
SD-628

10:00 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To continue oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and prosecution of certain tax cases.
SD-215

Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings to review the progress of this year's Administration refugee policies.
SD-226

JUNE 23

10:00 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To resume oversight hearings to review activities of the Internal Revenue Service and the Department of Justice relating to the investigation and prosecution of certain tax cases.
SD-215

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review budget requests for the Department of Energy's Office of Energy Research and the Office of Environment, Health and Safety.
SD-366

JUNE 24

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1903, and a related measure to improve the safe operations of commercial motor vehicles.
SR-253

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings to review the Chesapeake Bay cleanup program.
SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

Joint Economic
To hold hearings to review alternative policies for managing the international debt crisis.
2203 Rayburn Building

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.
SD-366

Judiciary
Constitution Subcommittee
To hold hearings on the issue of eminent domain.
SD-430

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 489 and H.R. 3174, bills to allow members of the armed forces to bring claims for damages against the United States for personal injury or death arising out of medical, psychological, or dental care furnished by a Department of Defense hospital.
SD-226

2:30 p.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2522 and H.R. 4378, bills to govern the placement of additional commemorative works within the National Capital Region of the National Park System.
SD-366

JUNE 25

9:30 a.m.
Rules and Administration
Business meeting, to mark up S. 1787, to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns, and related proposals, an original bill authorizing funds for fiscal year 1987 for the Federal Election Commission, H. Con. Res. 288, to authorize the printing of additional copies of a certain committee print, H. Con. Res. 301, to authorize the printing of additional copies of a certain Presidential Message, to resume mark up of S. 2255, to prohibit the expenditure of Federal funding for Congressional newsletters, and other pending legislative and administrative business.
SR-301

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
Business meeting, to consider S. 1225, to revise certain provisions of the Atomic Energy Act of 1954 regarding liability of nuclear accidents.
SD-406

Judiciary
Security and Terrorism Subcommittee
To hold oversight hearings on the activities of the U.S. Marshal Service, Department of Justice.
SD-226

Labor and Human Resources
Business meeting, to resume consideration of S. 1815, to prohibit any employer from using any lie detector test or examination in the workplace, either for pre-employment testing or testing in the course of employment.
SD-430

Select on Indian Affairs
To hold hearings on H.R. 1344, to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas.
SR-385

2:00 p.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2214, to make a civil penalty the exclusive penalty for violations of the financial disclosure provisions of the Ethics in Government Act of 1978.
SD-342

Judiciary
To hold hearings on pending nominations.
SD-226

Labor and Human Resources
Handicapped Subcommittee
Business meeting, to mark up S. 2515, authorizing funds for fiscal years 1987, 1988, 1989, and 1990 for programs of the Rehabilitation Act of 1973.
SD-4300

JUNE 26

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.
SR-253

Finance
International Trade Subcommittee
To hold hearings on S. 1292, to revise certain provisions of the Tariff Act of 1930 in order to apply countervailing duties with respect to resource input subsidies, and section 502 (Natural Resource Subsidies) of S. 1356, Trade Law Modernization Act of 1985.
SD-215

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on certain provisions of S. 2403, to improve access to health insurance coverage for Americans.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Edward V. Hickey, Jr., of Virginia, to be a Federal Maritime Commissioner.
SR-232A

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

Environment and Public Works
To hold hearings to review acid rain and related air pollution issues.
SD-406

4:00 p.m.
Select on Intelligence
Closed business meeting, to consider pending calendar business; to be followed by a closed hearing on intelligence matters.
SH-219

JULY 15

9:30 a.m.
Commerce, Science and Transportation
To resume hearings on S. 1310, Clean Campaign Act of 1985.
SR-253

10:00 a.m.
Energy and Natural Resources
To hold hearings on the nominations of A. David Rossin, of California, to be an Assistant Secretary of Energy for Nuclear Energy, Marshall A. Staunton, of California, to be Administrator, Economic Regulatory Administration, Theodore J. Garrish, of Virginia, to be Federal Inspector, Alaska Natural Gas Transportation System, and Richard H. Francis, of Virginia, to be President, Solar Energy and Energy Conservation Bank.
SD-366

JULY 16

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To hold oversight hearings on barriers to children's health care.
SD-430

JULY 17

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2417, to provide for the establishment of an independent commission to study and make recommendations regarding the management of aviation safety.
SR-253

Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2412, to withdraw and reserve certain public lands.
SD-366

JULY 18

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2506, to establish a Great Basin National Park in the State of Nevada.
SD-366

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2407, the Animal Drug Amendments and Patent Term Restoration Act of 1986.
SD-430

JULY 22

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on barriers to agricultural trade.
SR-332

Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 230, to relieve the city of Dickinson, North Dakota of all obligations incurred in a contract entered into with the Secretary of the Interior concerning construction of certain facilities under the Reclamation Authorization Act of 1975, S. 252, to provide for the construction, operation, and maintenance of the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri River Basin Program, South Dakota, and S. 1704, to increase the authorization of appropriations for the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska.
SD-366

2:00 p.m.
Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.
SD-430

JULY 23

9:30 a.m.
Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.
SR-301

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JULY 24

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1026, to implement the policies of the proposed Continental Scientific Drilling Program of the United States relating to Earth science research and technological development.
SD-366

JULY 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JULY 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review the response for home health care services.
SD-430

JULY 30

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2159, to designate the Big Sur National Forest Scenic Area in California.
SD-366

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-3660

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 13

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

JUNE 19

2:00 p.m.
Foreign Relations
Western Hemisphere Affairs Subcommittee
To hold a closed briefing on the current situation in Mexico.
S-116, Capitol

JUNE 25

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

SENATE—*Thursday, June 19, 1986*

(Legislative day of Monday, June 16, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Come unto me all ye that labor and are heavy laden, and I will give you rest.—Matthew 11:28.

Gracious God, kind Heavenly Father, there are many tired people here today. Weary in body, mind, and emotions, exhaustion threatens. Yet, there is no escape from the legislative burden which weighs so heavily. Nerves are raw, tempers are edgy, irritability lies close to the surface, harsh words come easily, and the work will not go away. Cover this place with Your peace—fill hearts with Your love—infuse our souls with patience—surprise us with the reality of Your presence. Manifest Yourself in ways which will defuse the explosive potential seething within us. Give each of us grace to come to You in the midst of the pressure and find the rest of God. In Jesus' name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

THE SENATE AGENDA

THE CHAPLAIN'S PRAYER

Mr. SIMPSON. Mr. President, again we deeply appreciate the words of our Senate Chaplain, Richard Halverson, as he seems to so beautifully address the tenor of the moment in this place. And he was quite dramatic, I thought, this morning. Words were used like "seething" and "explosive"—and I actually listen to those because I have such great admiration for this man—and "exhaustion threatens," if I remember the exact phrases. And, indeed, that is true.

PERSPECTIVES

But, I also always try to keep it in perspective. We really do not kill ourselves around here. When we leave town, our staff manages to find diversions throughout the city that seem to please them. And I always say to my fine people—and they are superb—I say, "Remember, now"—when we go off on a 10-day recess or a month or 2 weeks—"remember that when we get to one of those situations where we are doing three long shots in a row at night until about 2 in the morning."

They say, "Oh, we will; we will remember that." But they do not.

Then along comes, in the midst of something where we have Monday off and do not come in until Tuesday at 2 and go off at Friday, and suddenly we have three nights in a row where we kind of plow the Earth for a while, which is what we are supposed to do—it is called legislating—and, by gad, you know, they have some feeling about that. And we do, too. And we get ornery. And we are ornery. I have proven that time and again. I do cross the line between good humor and smart alec and recognize that in myself.

But really, we are a very privileged group of human beings. And when we have to act like draft horses instead of show horses, it is a little tough for us. But it sure will not hurt us at all, not a bit, to do a little heavy lifting and windows and haul trash and answer the ad. So that is what we are up to.

And this fine majority leader is going to push us on. And the only thing that ever seems to make a difference in that exercise is the advent of Friday. Friday seems to focus our interest and attention. And Friday is coming. My hunch is that we will see some unanimous-consent agreement worked up where we will get our work done, whether it is 75 amendments or 8 amendments.

I was fascinated last night as some of the principals, as we are known in the trade to our staff, rather than Senators, suddenly shoveled their amendments through the back door as it was amendment discussion time, saying, "get this up to the desk." And, of course, the principal is unaware that their fine staff has shoveled them into five new amendments which they do not know the text of or the content of. But it is good for the cause. So we are sorting through those. There will probably be 120 some time during the day.

And then the principals, as they are known, will grab their staff in Chambers and say, "What is this? Where did it come from? Why am I going to haul the water on it?" And that will take place today and tomorrow and we will reach some kind of an appropriate agreement, maybe with a time certain for a vote, and do our business. And we will.

But, again, it is always focused by the "Friday focus," as I call it. It is always more fun to manage a bill if you start on a Wednesday here. Never start on a Monday. Too much time to be overly creative. And we certainly see a good deal of that on this.

But, in all great seriousness, this is a most important piece of legislation. I do not think there is anyone that doubts that. It has a fine bipartisan flavor to it, to watch Senator PACKWOOD, Senator LONG, Senator BRADLEY, Members of both parties working so hard to get to a result and have a major turning point in our tax laws which are bloated and riddled with special considerations.

And so here we are. And the interesting part of it, of course, that we must hurdle is that everyone says it is a marvelous bill: "Thank you for what you have done. I surely support it. I'm ready to get to a vote. I only want to make a few changes." And on and on. It is called the "Yes, but" syndrome. "Yes, I like it, but I just have a clarification" or something.

□ 0940

So if we could override the "yes, but" syndrome, we will get to this conclusion of a very critical piece of legislation which will go to conference, and in conference, you know, hold on tight. But I know BOB PACKWOOD, I know Senator LONG, and I know DANNY ROSTENKOWSKI. I know the President. I know JIM BAKER. And they are not going to let this thing sink. It will not sink. It is our job then to move this part of the package on. We are going to do that. We are going to do that very swiftly within the next few legislative hours.

SCHEDULE

Mr. SIMPSON. So, to just review the bidding of the day, we have the morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 2 minutes. At the conclusion of routine morning business we will resume consideration of H.R. 3838, the tax reform bill. Rollcall votes obviously are expected throughout the day, into the evening, and thereafter.

The following Senators will be recognized under the special orders for a period not to exceed 5 minutes each, if time permits: Senators HAWKINS, PROXMIRE, STEVENS, MURKOWSKI, GORE, HUMPHREY, MELCHER, PRESSLER, BUMPERS, and EXON. If they are not

here during that period of time, perhaps we can accommodate them at another time during the day so that we can do our business.

With that, I will yield 1 minute of the leader's time to Senator COCHRAN to insert a statement in the RECORD.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from Mississippi is recognized.

HALEY BARBOUR

Mr. COCHRAN. I thank the distinguished acting majority leader for yielding leader time to me.

I rise this morning to commend the President for his appointment of Haley Barbour as Director of the White House Office of Political Affairs. Haley Barbour is from my State of Mississippi. He is a good friend of mine. He is very talented. I know he will bring to this job the same kind of expertise and skill that he has brought to the other tasks he has had, positions of responsibility in the Republican Party, as a lawyer, and as a committed citizen.

He has a distinguished career as a young man. After graduation from the University of Mississippi School of Law in 1973, he began serving as executive director of the Mississippi Republic Party, and he served in that capacity for 3 years.

In 1978 I was fortunate to have him serving as chairman of my steering committee in my campaign for the U.S. Senate. In 1976 he served President Gerald Ford as his campaign director in the Southeastern States.

He is a member of the Republican National Committee now having served in that capacity for the past 2 years. He is a good lawyer, and I know he will serve the President with distinction in this new capacity.

I congratulate the President for selecting Haley Barbour for his important job.

Mr. President, I thank the distinguished acting leader.

Mr. SIMPSON. I thank the Senator from Mississippi.

I, too, know Haley Barbour. He has a splendid record. We are glad to have him there.

I reserve the balance of the leader's time, and yield to my friend from Wisconsin, Senator PROXMIRE.

Mr. PROXMIRE. Mr. President, I appreciate that very much. I see the distinguished Senator from Florida on the floor. I think her special order preceded mine, so I will be happy to yield to her.

I would like to ask unanimous consent that the time of the minority leader be reserved for his use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with statements therein limited to 2 minutes each.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized, for a period not to exceed 5 minutes.

NEW APPROACH TO PROBLEMS ALONG THE SOUTHWEST BORDER

Mrs. HAWKINS. Mr. President, the word "crisis" is overworked these days. It has been used so extensively to describe conditions and situations that we need a new word—"supercrisis," calamity, or something like that. Whatever that new word is could be used to describe appropriately the scene on the Mexican border. Drug smuggling, arms trafficking and illegal immigration have reached a stage beyond "crisis" proportions. Drugs being smuggled across the border are at record highs. Some 427,000 persons were apprehended last year trying to cross the border illegally. The Immigration and Naturalization Service says for each person who is caught, another two or three make it through to the United States. Crime follows in the wake. Aliens without papers and proper documentation usually have no jobs or means of livelihood. Many resort to crime in order to survive.

It is against this background that our Government has concluded that something has to be done and it has to be done now. In the near future hundreds of Federal officers will be sent to Texas, New Mexico, Arizona, and California to help with the border problem. This is no fragmented, Band-Aid approach. It will be a closely coordinated effort on the part of several Federal agencies.

Assistant Treasury Secretary Francis A. Keating II, is head of an interdepartmental task force which is planning the operation. He understandably is close-mouthed about the details at this time. The Southwest border initiative does not wish to tip its hand and alert drug traffickers in advance. But the enterprise will be similar in certain respects to the South Florida Drug Enforcement Task Force, which has been functioning so effectively under Vice President BUSH. The Southwest border initiative will combine the resources and assets of various Federal agencies to fight drug trafficking and illegal immigration. And it will equip local law enforcement organizations with the most modern equipment and sophisticated devices. The Southwest effort owes its existence in part to the south Florida task force and its crackdown on drug trafficking. Smugglers have found it difficult to do business in Florida, the cost is high and the losses are great. In recent months they have shifted their operations to Texas, Arizona, New Mexico, and California where it is easier to move drugs across the border.

Mexico has become the largest supplier of heroin, marijuana, and illegal amphetamines to the United States. Mexico's economy is in a slump, largely as a result of the decline in oil prices. Unemployment is rampant. Our Immigration and Naturalization Service forecasts that 1.8 million illegal immigrants will cross the border this year, half again as many as last year. The head of the U.S. border patrol, Roger Brandemuhl, describes the Southwest border as "a monster that is growing, feeding upon itself."

The lead agency in this new antidrug effort will be the Customs Service, whose Chief, William von Raab, has minced no words in expressing his unhappiness about what is going on along the border. It is a "horror story" is the way Commissioner Von Raab describes the drug trafficking and violence taking place there. Corruption at all levels of the Mexican Government is a major problem and is a barrier to effective law enforcement. The drug smugglers call the tune and Mexican officials dance to it. Governors of two Mexican states have been linked to traffickers and a relative of the Mexican President is rumored to be involved with smugglers. Every time we try to get some help from Mexican officials in trying to stop drug trafficking, they go into a Mexican hat dance.

I, for one, welcome this new Southwest border initiative. And I hope it turns out to be the answer to the thorny problem of drugs, violence, crime, and illegal immigration along the Mexican border.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

THE CHAPLAIN'S PRAYER

Mr. PROXMIRE. Mr. President, I, too, want to comment on the prayer by the Chaplain. As I told the Chaplain the other day, his prayer starts the Senate off on a very high plane. We go downhill after that, I am afraid. I particularly appreciate his reference to the fact that with the short tempers under these circumstances harsh words come easily, as he put it. It was a beautiful phrase, a phrase I hope all

of us will remember, and restrain ourselves.

VULNERABILITY OF SPACE TECHNOLOGY MAKES STAR WARS A LOSER

Mr. PROXMIRE. Mr. President, last Sunday in the New York Times an article by William Broad spelled out in detail the consequences of recent space disasters on the SDI or star wars program. Broad's article reveals a recognition by the top research experts in the program that the tragic explosion of the *Challenger* shuttle on January 28, and the explosion of a Titan 34D rocket on April 18 will seriously delay the massive star wars program.

Here is why: A costly and essential requirement of the SDI program is to lift the enormous hardware of a medium-sized SDI project into space. Broad reports that here is what the official star wars estimates show: First, they show the present technology is grossly inadequate. The cost would be between $87 billion to $174 billion. The time required to do the job is even worse. If we assume the capacity for shuttle flights doubles from the present most optimistic forecast of 12 flights a year to 24 flights a year—the time it would take to lift this hardware into orbit would be 58 years! Those were the estimates before the *Challenger* disaster.

So obviously we will need a far more advanced and expensive space transportation system for SDI deployment.

Broad reports that the Defense Department has begun lobbying for an enormous, new rocket or "space truck." Of course, the costs would be colossal. Broad quotes top star wars officials as estimating between $20 billion and $40 billion investment as the cost of the necessary new space transportation system before the country can begin to "realize lower operating costs." All this must come in a technology which, as we press ahead, we can expect to bring its share of costly and delaying crashes and explosions before we prove and establish it. Every setback, and there will be many of them, may mean a year or two of delay. Every setback will mean billions more in cost.

Mr. President this colossal space transportation program comes on at a time when there is huge backlog demand for increased space for military space programs more immediate and urgent than SDI, and for other nonmilitary high priority space programs. Space experts expect that for the next few years the available money will not even go into research for the giant space truck lifters. For the next few years the money will go into the so-called midsized vehicles to lift satellites into space. Competition will also come from the multibillion dollar new space station and the new spaceship that will cost $3 billion for research alone.

Mr. President, as time goes on, the serious questions about the cost of the star wars program increase. As we learn more about the fragility and vulnerability of our relatively simple shuttles and rockets, the always long shot prospect of a successful space defense against nuclear missile attack becomes increasingly dim. We are beginning to realize that SDI represents a very high risk and a very, very long shot bet. It demands that the Congress toss a trillion dollars or more on the table with 1 chance in 100 or 1 in 1,000 or more that we can win. This comes at a time when in spite of all our earnest intentions with Gramm-Rudman, the Federal deficit moves relentlessly ahead with 1986 as still another year of a budget deficit in excess of $200 billion. For us to consider this star wars gamble has always been irresponsible. But now that we have been reminded of the high risks involved in space technology by the *Challenger* crash and the Titan explosion, and now that we have been once again made aware in the nuclear tragedy in Chernobyl of the unreliability of nuclear technology, we should walk away from this long shot roll of the dice. Safety and life will come far more surely from painstakingly negotiated and verified arms control agreements than from star wars.

Mr. President, I ask unanimous consent that the article in the June 15, 1986 edition of the New York Times to which I have referred be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 15, 1986]

REVERBERATIONS OF THE SPACE CRISIS: A TROUBLED FUTURE FOR "STAR WARS"—OFFICIALS SAY PROBLEMS ARE MINOR, BUT OTHERS CITE WIDE DISARRAY

(By William J. Broad)

The Challenger disaster and a series of other major setbacks in the American space program have damaged President Reagan's antimissile plan in ways that are far more serious and extensive than has generally been realized, according to scientists and aerospace analysts.

Officials of the program, formerly called the Strategic Defense Initiative and popularly known as "Star Wars," deny that there is serious damage, saying that any problems are minor and that the program as a whole is moving ahead vigorously.

PLANS FOR GIANT NEW ROCKET

But during more than two dozen interviews with a wide range of aerospace experts both inside and outside the Government, analysts said the grounding of the nation's space shuttles and expendable rockets had thrown a schedule of complex space-based experiments into confusion and disarray, sending shock waves through space research programs across the country and demoralizing some scientists in the antimissile program.

Another repercussion of the aerospace crisis, they say, is its effect on a controversy over whether the Government should start now to develop a giant new unmanned rocket—far larger than the shuttle—that would be needed in the 1990's to lift thousands of antimissile weapons, sensors and various aiming and tracking devices into space.

The crippling of the nation's rocket power, the analysts add, underscores the need for the enormous battery of space vehicles that will actually lift the proposed defensive system into place. Even before the shuttle disaster, "Star Wars" officials estimated that the deployment undertaking was big enough to require up to 5,000 launchings of shuttles or shuttle-sized rockets.

In general, some analysts say, setbacks in research, transport and morale could result in a crucial losses for the antimissile plan. Senator William Proxmire, Democrat of Wisconsin, a critic of "Star Wars," suggested that the aerospace crisis had already contributed to "a loss of political momentum" in the program.

"There's been a tendency to race and push this program as far as possible," Senator Proxmire said. "Defense officials realize it's very unlikely that the next President, whether Republican or Democrat, will be as big an S.D.I. enthusiast as Reagan."

Whatever the ultimate impact on the program, many aerospace experts agree that the crisis could hardly have come at a worse time. After maturing for years in laboratories on earth, "Star Wars" research had reached a point where it was ready to burst into the heavens in some of the most spectacular experiments of the space age. The explosion of the shuttle Challenger, along with three other launching failures involving Titan and Delta rockets, have brought these plans to an abrupt halt.

Whereas delays might be bearable in a world of unlimited time and money, some experts said postponements could be a major setback in the world of Washington politics.

Senator Proxmire said the perception of crisis in the "Star Wars" program was one reason why 48 senators recently signed a letter calling for sharp cuts in the Administration's proposed $5.4 billion antimissile budget for next year.

SCHEDULING DELAYS AND TECHNOLOGY LEAPS

Other experts outside the "Star Wars" program say delays in the schedule resulting from the launching failures will almost certainly be great. "It could be as much as two years," said John E. Pike, director of space policy at the Federation of American Scientists, a private, nonprofit group in Washington that is skeptical about the antimissile plan.

Although conceding that minor damage has been done to the program, "Star Wars" officials say most of the problems associated with space setbackss will vanish with the renewal of shuttle and rocket flights, allowing space-base experiments to resume.

"The advance of technology is inexorable," said Dr. Gerold Yonas, chief scientist of the antimissle program.

Dr. Yonas stressed that any delays in space-based experiments had to be seen in relation to the overall research program, which he said was forging ahead. "We're making steady progress in many important areas," he said.

Other "Star Wars" officials dismissed questions of lost momentum, Lieut. Col. Lee

De Lorme of the Air Force, director of public affairs for the Pentagon's antimissile program, said, "Some charges from critics are not worth addressing because they're without substance."

In contrast to program officials, some scientists who are part of the program said they have been demoralized by the delays.

"Part of the strategy was to do significant experiments before Reagan left office," said Dr. George Chapline, a key researcher in the antimissile program at the Lawrence Livermore National Laboratory in California. But he said that hope was "fading," a fact he said he and his colleagues found "depressing."

The recent string of aerospace disasters started Jan 28 the $1.2 billion Challenger exploded 74 seconds after liftoff, killing seven astronauts, destroying a $100 million satellite, and grounding the nation's shuttle fleet for at least 18 months, until July 1987. Privately, officials of the National Aeronautics and Space Administration say the next launching is likely to be put off until 1988.

"We're going to have to delay and push back many of the programs we had planned for the shuttle," including antimissile tasks, Defense Secretary Casper W. Weinberger said two days after the Challenger explosion. Some small military payloads could be put on expendable rockets, he said, "but a lot of the experiments were configured to the size and shape of the shuttle."

The next aerospace accident occurred April 18, when a Titan 34D rocket exploded after liftoff from the Vandenberg Air Force Base in California, destroying a secret military payload. It was the second Titan failure in a row. Then, on May 3, a Delta rocket failed about 71 seconds into the flight.

A LAUNCHING SQUEEZE EVEN BEFORE THE CRISIS

"We were suffering from a shortage of lift capability" even before the disasters, Lieut. Gen. James A. Abrahamson of the Air Force, director of the antimissile program, told a group of business executives in May.

For the moment, the crisis has halted the nation's ability to lift major satellites into orbit and stopped its scientific tests in space.

Rocket power is no small part of the antimissile vision. By official "Star Wars" estimates, deploying what the Government calls a medium-sized defensive system in space could take up to 58 years and cost from $87 billion to $174 billion if the task was undertaken with existing rockets and space shuttles. This estimate assumes the nation has the capacity for 24 shuttle flights a year, which, before the accident, was the most optimistic prediction for the shuttle's flight pace. Today, experts say the most optimistic forecast is 12 flights a year.

Aerospace experts say one way to gauge the effect of the crisis on the "Star Wars" research program is to look at the way the program had begun to rely on space experiments, especially right before the Challenger disaster.

No known antimissile experiments had been carried out by the shuttle until its 18th flight, in June 1985, during which a beam from an earth-based laser was bounced off a special mirror aboard the shuttle Discovery. After that test, however, fully half of the six shuttle flights before the Challenger explosion carried either minor "Star Wars" experiments or civilian tests with results that were studied by the Pentagon's antimissile program.

Starting in 1986, the pace of testing was to have accelerated considerably, according to a schedule made public last year by NASA. The NASA plan said six major "Star Wars" shuttle tests, as well as "a variety of cabin and potential get-away special experiments," were scheduled to occur between 1986 and 1988.

"Star Wars" officials say that there were such schedules but maintain that they were tentative at best. Aerospace experts, on the other hand, have accused the program's officials of rewriting schedule history to try to play down the aerospace problems.

All agree, however, that preparations both major and minor antimissile tests were picking up rapidly before the Challenger crash.

For small "Star Wars" payloads, a new handling installation was recently opened at the Cape Canaveral Air Force Station in Florida, adjacent to the shuttle launching pads at the Kennedy Space Center. Known as the Space Experimentation Center, the military installation includes a laboratory for visiting scientists, a training area for astronauts, and a clean room for payload assembly, checkout and storage.

"We have a center, but we're on hold," said Maj. Marcia A., Thornton of the Air Force, deputy director of the Space Experimentation Center, with headquarters at Patrick Air Force Base nearby.

"We'll probably have six experiments in the first year the shuttle is flying again," she said, discussing the cargo manifest. "But that estimate may be wrong because it depends on the manifest, which is a mess."

The first large test of 1986 was to have occurred in July during the first shuttle flight from the Vandenberg Air Force Base in California, which recently completed a $2.8 billion military launching pad.

Vandenberg was to send shuttles into orbit about the earth's poles, which is not possible from the Kennedy Space Center. Polar "Star Wars" tests are crucial since, in a war, a space-based defense would have to find and destroy enemy warheads streaking over the North Pole towards the United States.

A key experiment was to have involved the Cryogenic Infrared Radiance Instrument for the Shuttle. The instrument, referred to as Cirris, is a super-cooled infrared sensor meant to gather data about the earth's aurora and other natural glows. If not countered, such radiations might blind the anti-missile program's "eyes" in space.

The Air Force has said, however, that it might mothball the Vandenberg installation until 1991, when a replacement for the shuttle Challenger could become available.

"We're just rolling with the punches," said Lieut. Darrel Wright of the Air Force Geophysics Laboratory, a sponsor of the Cirris experiment, which is at Hanscom Air Force Base in Massachusetts.

One option under study is to fly Cirris on a shuttle launched into an semi-equatorial orbit from the Kennedy Space Center, although this prospect leaves researchers glum. Dr. Allan J. Steed, director of the Center for Space Engineering at Utah State University, which built Cirris, said: "Auroral measurements would be severely handicapped from the Cape. It will be depressing if we have to abandon the polar orbit."

According to the NASA plan, the big "Star Wars" shuttle test of late 1986 was to have involved pointing a laser beam and using it to track targets, including satellites and rockets. Such laser tests, known as Tracking and Pointing Experiments or T.P.E., were expected to be quite showy; some critics have called them "publicity stunts." Whatever their merit, the tests have been delayed.

Experts say it is hard to say how long the delay will last because of the chaos in the program and the fact that "Star Wars" officials often try to keep tentative schedules and technical details of future tests secret, even from Government experts.

"It's been difficult to extract their space-based plans," said Dr. Arthur F. Manfredi Jr., an aerospace analyst at the Congressional Research Service of the Library of Congress.

According to the industry newsletter Military Space, the Pentagon's first tracking and pointing mission has been pushed back until October 1988, indicating "that the first major S.D.I. experiment will fly before the next U.S. Presidential election."

Experts are divided on whether the pace of delayed space-based experiments will be sufficient to keep the antimissile program on schedule.

"I'm a technological optimist," Dr. Manfredi said. "If we're back in the shuttle business by late 1987, that gives S.D.I. four or five years" for research before a decision is made on whether to deploy an antimissile system.

According to optimistic predictions, "Star Wars" payloads will be given top military priority once the shuttle fleet is again on its feet. Some aerospace experts note, however, that the military has a growing backlog of other critical payloads waiting, such as communication and spy satellites.

"The question," said Dr. Robert Jastrow, a geophysicist at Dartmouth College and a prominent proponent of the antimissile plan, "is whether S.D.I. tests will get high enough priority to keep the program on schedule."

Milton R. Copulos, the senior aerospace analyst at the Heritage Foundation, a conservative research institute in Washington, said, "A lot of stuff is going to be backlogged, no question about it."

Last week, General Abrahamson, the "Star Wars" director, told some of the program's scientists that the grounding of the shuttle fleet "isn't immediate threat" to the program. "It isn't a crippling effect for right now," he said.

Aware that pressures will mount in the future, Pentagon officials have lobbied for an expanded shuttle fleet. On Feb. 19, Defense Secretary Weinberger told the House Foreign Affairs Committee that a shuttle to replace Challenger was crucial for antimissile testing.

But some experts say the rate of future shuttle flights, no matter how big or small the nation's fleet, will probably be slower than expected, putting a crimp in testing for the space-based antimissile program.

"SPACE TRUCK" PLANS: GIANT HIGH-TECH ROCKET

If, in the mid-1990's, the Government decides to go ahead and build an antimissile system, the Pentagon will need something other than the shuttles to lift thousands of space sensors and weapons into orbit. "Star Wars" officials drew this conclusion when they made their estimate that up to 5,000 shuttle flights would be needed to deploy an antimissile system in space.

The Pentagon has thus begun lobbying for a gigantic new highly advanced rocket, or "space truck," that is much bigger, cheaper and more reliable than the shuttle. The goal is to slash the cost of lifting payloads into space, making it at least 10 times cheaper than with the manned shuttles. Achieving this goal, however, will itself be expensive because—as "Star Wars" officials

themselves say—a revolution in the structure and operations of the aerospace industry will be needed to create the rocket, reducing reliance on manpower and increasing the roles of computers and robots.

A leading candidate for the "space truck" is known as the Shuttle-Derived Vehicle, or S.D.V. This technological giant would be similar to a shuttle in that it has an external fuel tank and twin booster rockets. The difference is that the shuttle would be replaced by a huge unmanned payload carrier. According to Martin Marietta, the mostly reusable Shuttle-Derived Vehicle could ferry up to 150,000 pounds of cargo into orbit, more than three times the shuttle's lifting capacity. Other proposed new boosters would lift even more.

"Star Wars" officials say they are optimistic about the chances for a quick start on this type of big cargo ship, even though it will require a huge investment.

"The costs are going to be staggering," Col. George Hess of the Air Force, a senior "Star Wars" official, told an industry symposium in April. "You're looking at a $20 billion to $40 billion investment by this country to get to the point where you can realize lower operating and life-cycle costs."

The feasibility of building such a big rocket is already under intense study by NASA and the Defense Department. The first phase of this 26-month study is to be delivered to the White House National Security Council "shortly," according to Darrell R. Branscome, a special assistant to the director of NASA's shuttle program.

But aerospace experts see problems on the horizon. One is that big new boosters will have to compete with the need for many billions of dollars to rebuild the shattered space program.

"I don't think you're going to see a new start on a big booster anytime soon," said Mark R. Oderman, vice president of the Center for Space Policy Inc., a consulting concern based in Cambridge, Mass. "The near-term dollars will go into replacing the shuttle and buying shuttle-compatible launchers. The future push will be for mid-sized vehicles" that the Air Force wants for lifting medium-weight satellites into space.

Already, there are signs of deep divisions in the White House over whether and how to buy a Challenger replacement, the cost of which has been estimated at $2.8 billion.

In addition, a big new booster will have to compete against two new projects proposed by President Reagan: an $8 billion space station and a 21st-century spaceship that could take off from a runway and fly into orbit. The plane will demand research outlays alone of some $3 billion in the near future.

One solution to the Government's booster challenge, according to Mr. Copulos of the Heritage Foundation, is for the antimissile program to seek the aid of the private sector in trying to cut the cost of launching large payloads. "If the money is there from private sources, they should do it," he said. "It's very possible and it requires a considerable amount of free enterprise."

A difficulty with any plans for developing large "Star Wars" boosters is what one NASA official calls the "uncertainty" factor. By the 1990's, a need for large boosters may or may not materialize, depending on whether the Government decides to deploy an antimissile system.

TRYING TO CUT COSTS AS UNCERTAINTY GROWS

"The question," Philip E. Culbertson, NASA's general manager, told Congress last year, "is how to develop a system to handle that kind of uncertainty while at the same time trying to drive its cost down."

In addition, critics of the "Star Wars" program said the recent string of launching failures has increased the uncertainty surrounding the big new booster. Senator Proxmire said the crisis will "increase the time, cost and risk" of developing a big new booster. "At best," he said, "it will mean some postponement, perhaps a long one."

In contrast, some "Star Wars" proponents say the crisis could have positive effects, nothing that the evolution of booster technology can be aided by mistakes. "The more information we gain about failures, the better we can improve reliability," said Dr. Peter E. Glaser, vice president of Arthur D. Little, a research concern in Cambridge, Mass.

No matter how much is learned, the prevailing view is that the cost of the education will be great. Aviation Week and Space Technology, a respected industry journal and firm supporter of the "Star Wars" plan, recently published an editorial saying the aerospace difficulties revealed a "quality control crisis developing within NASA, the Air Force, and the U.S. aerospace industry." It added there was "a lot of work to do in pulling the U.S.'s space act together before we take it on the road to the stars."

If the recent aerospace crisis increases the costs of future space transportation, it will have a direct bearing on a set of standards for the antimissile program known as the "Nitze criteria," named after Paul H. Nitze, the Government's senior arms control adviser. Last year he said, in essence, that antimissile defenses should cost less than Soviet countermeasures to thwart them.

In practice, this means that defensive weapons in space must be "survivable," a goal that calls for such things as heavy shielding to protect battle stations from attack and powerful jets to move them during space wars. Both those precautions mean defensive weapons will have to become heavier—and thus costlier to lift into orbit.

In Congressional testimony last year, General Abrahamson, the "Star Wars" director, reflected on the survivabililty challenge. "That is a very tough criteria in the whole research program," he said, "and space transportation is a large factor in that."

More recently, in April, General Abrahamson suggested that the Nitze criteria be replaced by a less rigorous formula: that defenses simply be "affordable."

A BLOW TO THE IMAGE OF INVINCIBILITY

The effect on morale is perhaps the most complex of all issues raised by the Challenger crash. Some proponents of the "Star Wars" program say they are depressed by recent developments, some program officials seem defensive, and still other advocates of the program seem almost philosophical, trying to find positive lessons.

Dr. Jastrow, the Dartmouth professor, said the crisis pointed up the problems inherent in firing any rocket, whether it is carrying astronauts or nuclear warheads. "It reflects on the vulnerability of offensive arms," he said. "Missiles are inherently fragile. With the shuttle, all it took was a faulty gasket to destroy this enormously expensive vehicle."

Whatever the merit of such arguments, there is little doubt that advocates of the "Star Wars" program were inspired by the achievements of the space shuttle before the crisis. Even President Reagan, in an address to the National Space Club last year, hailed the challenge of the "Star Wars" plan, adding later in the speech that "the grandeur of the space shuttle taking off and then landing after a successful mission has been a source of inspiration to America."

Today, the loss of the shuttle is said to be having an unsettling effect on Capitol Hill. One Senate aide summed up what he called a new mood. "Challenger and Chernobyl have stripped off some of technology's mystique," he said. "The message is that we're still pioneers. It's going to be a long time until we're star warriors."

The aide added, "They say they can deploy radars the size of football fields, but right now they can't even put up an armchair."

An official in the Congressional Budget Office described the Washington mood this way: "The accidents have thrown everybody's vision into confusion. There's a lot of chaos. Having talked to these S.D.I. people, and seen the budget environment, the current technology and so forth, it's hard to see Congress coming up with a full commitment to S.D.I."

THE SPACE SHIELD PLAN: "STAR WARS," 3 YEARS LATER

On March 23, 1983, President Reagan called on American scientists to find ways to erect a missile defense shield to render nuclear weapons "impotent and obsolete."

In the months that followed, his proposal, formally called the strategic defense initiative and popularly called "Star Wars," began to be described as one of the biggest research projects of all time, a five-year, $26 billion undertaking that rivaled the Manhattan Project for the atomic bomb and the Apollo program to put men on the moon.

Today it is estimated that "Star Wars" research alone will not be completed before the mid-1990's, and cost at least $90 billion. Experts outside the Government have estimated that building an antimissile system could cost $1,000 billion or more.

The space "shield" would not really be a shield but rather a complex network of orbiting and earth-based systems, including laser beams, particle beams, electromagnetic "slingshot" rail guns and sensing, tracking and aiming devices, all requiring extraordinary coordination by humans and computers.

One of the most ambitious defensive systems now envisioned by military planners, out of the many possibilities under consideration, calls for a complex, seven-layered system that would consist of thousands of satellites with weapons intended to furnish nearly perfect nationwide protection.

□ 0950

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that Congress is serious about reducing the deficit. The truth is that Lewis Carroll, who wrote "Alice in Wonderland," had our number when he penned the line, "The rule is, jam tomorrow and jam yesterday, but never jam today." We are always going to reduce the deficit—next year.

This is a harsh judgment and one I do not make lightly. After all, Congress last year passed the Gramm-Rudman legislation, which established

a schedule for reducing the deficit to zero by 1991. Given that this law has been on the books for less than a year, why do I believe that the large deficits will continue?

First, look at how the economy is performing. Despite lower interest rates and a fortuitous drop in oil prices, the economy is not doing that well. The result is going to be higher deficits. For fiscal year 1986—the first year of Gramm-Rudman—the deficit is likely to set a new record by exceeding the previous high of $212 billion.

Second, this new record will be established while the economy is performing sluggishly but is not in a full-blown recession. We have yet to find a cure for the business cycle which means that we will have another recession any year now. In fact, we are much more likely to have one long before we balance the budget. And when that recession hits, the deficit will skyrocket, Gramm-Rudman or no Gramm-Rudman.

Finally, the deficit targets we established are running afoul of political reality. The administration is stonewalling against any additional revenues. Defense spending, as opposed to authority to spend, will continue to increase because the Pentagon has a purse stuffed with past appropriations. And both Houses of Congress demonstrated during the debate over the 1987 budget that the fire has gone out of the effort to cut domestic spending.

Where do we go from here? The arithmetic is appalling. The fiscal year 1986 deficit will be around $220 billion even though the economy grew during 1985 and 1986. To bring it down to $144 billion in fiscal year 1987 means a reduction of about $76 billion. Before fiscal year 1981 this Government never had a total deficit that large and here we are casually assuming a reduction of that size.

Experience teaches us that a reduction of that size is unrealistic. We may be able to project a deficit of $144 billion in fiscal year 1987, but making that projection a reality will not happen.

RECOGNITION OF SENATOR HUMPHREY

The PRESIDING OFFICER. Under the previous order the Senator from New Hampshire is recognized for not to exceed 5 minutes.

ALLIANCE FOR AFGHANISTAN

Mr. HUMPHREY. Mr. President, this week we here in the country are honored by the visit of the representatives of the Alliance for Afghanistan who have come to this country at President Reagan's invitation to meet with him at the White House on Monday. I salute the President for extending this invitation to these courageous leaders.

The President has unquestionably raised the standing of the alliance and the struggle of the people of Afghanistan in the eyes of the American people by this invitation. Of course, he has done that in many ways, but this week by the invitation to these leaders. Indeed, he has raised the standing of the alliance as a political body and a legitimate entity in the eyes of many nations in the world.

Mr. President, the struggle of the Afghan people is by now well known to the people of our own country. Before the Soviets invaded in 1979 there were approximately 15 million persons living in Afghanistan. Today, approximately one-third of that number, 5 million, have fled their country, living in exile. They today constitute the largest single group of refugees in the world. In addition to those who fled, nearly 1 million of the 15 million have been killed or wounded. That includes women and children. The war in Afghanistan is brutal. It is inexcusable. We and other nations who are concerned about freedom must do all that we can, not only in terms of bringing to bear military pressure but economic pressure and diplomatic pressure as well.

On that point of diplomatic pressure, the President has brought a new pressure to bear by inviting these leaders to Washington and raising their standing in the eyes of the world.

Mr. President, the majority leader and I this morning will be hosting a reception for the Afghan leaders in the majority leader's office, S-230, between the hours of 11 and 12 o'clock. We urge all Senators to attend by way of showing solidarity for the Afghans.

I want to take this occasion before relinquishing the floor, Mr. President, to thank my colleagues for having yesterday passed a resolution welcoming the Afghan leaders and encouraging them in their struggle. It is worth observing that that resolution passed by a vote of 98 to 0.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order the Senator from Montana is recognized for not to exceed 5 minutes.

TAX REFORM ACT

Mr. MELCHER. Mr. President, as we consider the tax bill here in the Senate, it is significant that few of the taxpayers across the country have actually zeroed in on just how the tax bill will affect them next year.

What everyone should remember is this, that the tax bill for all taxpayers, if enacted into law by the Senate, will mean an increase in their taxes for next year.

Second, about one-third of the middle class will find that their tax bill will be higher, their tax obligations will be higher, for not only 1987 but 1988 and in the years beyond that.

As to agriculture and other basic industries of this country, they are not well served by this tax bill at all. They will find that their taxes have been increased because some of the deductions that have been built into the code are repealed.

One of those is capital gains. Last night we made an effort here on the Senate floor to modify the tax bill as it affects capital gains for the farmers and ranchers of this country, and also those people who own some timberland; that is, small woodlots, as they are called across the country. After all, 70 percent of the forests of this country are not national forests. They are privately owned and the bulk of them are privately owned by individuals who own a small acreage of timberland.

Capital gains for them is very important as it is for agriculture and the other basic industries. We only had 32 votes on that amendment last night. I think, Mr. President, that that points out that it is an uphill battle to change any of the features in this bill. Nevertheless, we feel compelled to make solid attempts to modify the bill to make it more workable, more equitable and fair.

Beyond that, we are trying to do something to help the economy of this country by helping our basic industries. Agriculture is on the ropes. The forest products industry is just teetering. Mining is going down the tube. These are industries on which the whole economy is built.

So it behooves us—in fact, we have a real responsibility—to attempt to make changes in the bill that would be more favorable, more reasonable, more equitable.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR STEVENS

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized.

TONGASS NATIONAL FOREST

Mr. STEVENS. Mr. President, I rise today to discuss a flyer which has been received in my office. It is one which is most misleading. I think other Members of the Senate and the Congress may receive a copy of it. I think it is important for us to call it what it is.

It is a flyer that has been sent by the Wilderness Society to raise money to stop logging in the Tongass Nation-

al Forest which was set aside in order to preserve a portion of Alaska for the purpose of assuring sustained yield production of timber from that forest.

It so happens that a considerable portion of that forest has been withdrawn as wilderness.

This flyer which has now come to us indicates "America's national wealth, the Tongass National Forest."

Mr. President, it has a picture of Mt. McKinley National Park and Wonder Lake in front of it. It has the word "sold" stamped on it, which indicates somehow or other that logging is going on in the area of Mt. McKinley and Wonder Lake, which is totally false.

□ 1000

That is a national park. There is no logging going on there.

The next picture is entitled "Mismanagement and Waste in the Tongass," and it talks about logging the 800-year old Sitka spruce and hemlock trees in a rain forest. As a matter of fact, those are photographs of redwood logs from California on trucks on a California highway. To assert that that is logging, again, in the Tongass National Forest is absolutely false.

If you look at the rest of it, you will find that there are photographs talking about stopping the cutting of timber, which is critical to wildlife, and there are pictures of moose and caribou. There are no caribou in southeastern Alaska in the Tongass forest at all. There are about, I think, some 100 moose in all of southeastern Alaska and they are not in the area that logging takes place in the Tongass National Forest.

The impact of this appeal to the public and appeal to Congress to stop logging in the area that is still designated for logging within the Tongass National Forest on behalf of this national organization—again, Mr. President, using subsidized mail to send it all, subsidized by the taxpayers at a nonprofit rate, an appeal for money, sending out false assertions—I think is the most blatant thing that I have seen so far in this overall battle with this national organization.

I appeal to Members of Congress who get this brochure to look at it and realize that you are not seeing pictures of southeastern Alaska's forests at all; you are seeing photographs of the national parks in Alaska in which there is no logging. You are seeing photographs of caribou which generally reside in the northern part of Alaska. Certainly none of them are in the Tongass National Forest.

I have made statements before about the use of nonprofit mailing rates to raise money to lobby. That is what this is. This is another example of a total abuse of the rates that were set up for the Boy Scouts, the Girl Scouts, the Red Cross, and other charitable organizations, who perform very wonderful services for our country; then to have the Wilderness Society take a nonprofit rate and send out an appeal for funds to lobby Congress to change the designation of those areas that are set aside for logging in the Tongass National Forest—at least those that are not reserved for national purposes.

Mr. President, we do not know how to combat this sort of thing. It is difficult, if not impossible, representing a State that is 4,500 miles away, to try to have our voices heard in response to national organizations like this that flood the mails with propaganda that is false. I call upon the leaders of the Wilderness Society to come forward and explain why they are sending out to the public and particularly to Congress a brochure which contains these false representations and false assertions concerning our State.

Mr. President, I would like to have this printed in the RECORD, but unfortunately, the RECORD does not print photographs. The falsity in this is in fact in the designation of the photographs.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. What is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time allocated to morning business has expired.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will state the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the internal revenue laws of the United States.

The Senate resumed consideration of the bill.

Mr. DOLE. The pending business is tax reform. I understand Senator PACKWOOD is on his way, Senator LONG will be here in about 5 minutes. In the meantime, I yield to the junior Senator from Alaska 5 minutes.

Mr. MURKOWSKI. Mr. President, I thank the distinguished majority leader for yielding me 5 minutes to go into my special order.

RECOGNITION OF SENATOR MURKOWSKI

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

THE TONGASS NATIONAL FOREST

Mr. MURKOWSKI. Mr. President, I commend Alaska's senior Senator [Mr. STEVENS] for pointing out vividly the misinformation contained in the Wilderness Society's most recent brochure concerning the Tongass National Forest. These pictures certainly emphasize how much misinformation there is on the issue. It is indeed unfortunate that there is no reference to accuracy here nor reference to the reality that of 17 million acres of timberlands in the southeastern part of our State, approximately 12 million are in a wilderness or conservation status. There are only 5 million out of the 17 that are available for cutting. It is the plan of the environmental groups to maintain their effort to curtail any timber harvesting in that part of the State.

UNITED STATES-JAPANESE TRADE

Mr. MURKOWSKI. Mr. President, the purpose of my special order this morning is to continue the issue of United States-Japanese trade. As you know, our current trade deficit with Japan is approaching $50 billion, and we are seeing for the first time a deficit in the services areas. A deficit of up to $2 billion is anticipated. Services trade includes banking, insurance, construction, transportation, and professional services.

In the past 5 years, we have seen the Japanese Government make six different proposals to address the trade imbalance, but the problems have gotten worse. My Foreign Relations Subcommittee on East Asia and Pacific Affairs has held hearings, and we heard shocking testimony about our inability to gain access to Japanese markets in banking, insurance, securities, and so forth. We have discussed solutions earlier. I believe, Mr. President, we must initiate an effective strategy. I suggest the following.

One, we must decouple Japanese Government and industry. Until we do this, even our large corporate giants will be overwhelmed by the powerhouse Japanese Government which provides endless protection for Japan's firms. We must have consistency and accountability in our own policies. We must maintain this consistency in dealing with our friends from Japan. We have various agencies involved—the Executive Office, State Department, Commerce Department, our Special Trade Representative. But when it comes to accountability, Mr. President, that is hard to find under our current policy.

Our policy needs to focus on outcomes. We need to determine specifically, whether the results satisfy frustrations of U.S. businesses and work-

ers—whether there's success to our efforts. I think we can achieve these goals with a straightforward and basic three-step philosophy.

First, we must aggressively apply the rules that are now on the trade books. The complex and arcane world of U.S. trade law has a rule for virtually every problem, but we have to enforce them.

Second, we have to expand the rules to cover countries and areas not covered now. Those rules must include the service industries, which are not covered under GATT.

Third, we must convert our market resources into bargaining leverage. Let me give an example.

For years, we have imported cars from Japan. We are the largest customer for Japanese manufactured goods. It is appropriate, Mr. President, that a portion of those cars go in ships that involve American labor. We have been able to leverage this recently, and now there are four ships being built and, although these ships are being built in Japan, they will employ American seamen.

□ 1010

Basically, we have used the leverage that we get from our market power. To keep the U.S. market for its cars, Japan must allow us to participate in the carriage of those automobiles. We have other items that we can leverage, Mr. President. Look at the fisheries of our north Pacific coast. Japan continually comes in and requests allocations of bottom fish. These allocations, Mr. President, should be based on the willingness of Japan to give us market access.

We have seen the effort to export Alaskan oil. That is an item of leverage as well. Japan and other East Asian countries crave a long-term supply of oil. We can leverage this demand into market access for a range of manufactured goods and services.

Another thing, Mr. President, that we can do with our neigbors in Japan is to encourage them to buy other raw materials from North America, particularly the United States. Each year they buy more coal from Canada, less from the United States, yet we are their very best customer. They continue to have unlimited market access, yet we have limited access to the Japanese markets.

Mr. President, we must not forget that we exercise power through what we consume as well as what we produce. As I have said, we are the largest free market in the world. That is our most potent weapon in the battle to gain market equity. It is time to change our market approach. We must send a clear and unmistakable message to our trading partners. If you want to prosper through access to U.S. markets, you must remove your trade barriers to U.S. goods and services.

Mr. President, I am not ready to surrender to the calls of protectionism. I want to make that very clear. This is a weapon of last resort that is sure to invite retaliation. We have the power to open the doors of the Japanese markets and those of our other friends in Asia, and we must initiate these changes. We can only do it through consistency and a very, very clear message which demands openness and fairness.

Mr. President, I thank the majority leader for yielding me time so that I might make my statement this morning.

HOUSE ACTION ON CONTRA AID

HOUSE FINALLY TO ACT

Mr. DOLE. Mr. President, next week at last—at long, long last—the Speaker of the House will keep his promise and let the House vote on an aid package for the democratic resistance in Nicaragua, the so-called Contras. At least that is what the Speaker is saying this week.

ONE MORE CHANCE FOR THE SANDINISTAS

Those of us with long memories recall that the Speaker made his commitment to have this vote as part of a last ditch effort to block House approval of an aid package back in April. The argument then was: Let's give the peace process—the Contadora process—time to work. Let's not play the Contra card if we don't need to. That was April.

And let us remember that plea was made in the face of what to most people was already a clear-cut record of Nicaraguan treachery—a record of Nicaraguan invasions of its neighbors; a record of Sandinista scuttling of one peace effort after another; a record of Managua stonewalling each time we tried to engage in direct, serious negotiations; a record of closer and closer ties between Ortega's government and its mentors in Moscow and Havana.

Our President's critics said:

> But set that aside, let's give Ortega and his crowd one more chance. Let's give peace one more chance. And if it doesn't work—if the Sandinistas don't respond to our concerns—then we'll admit the facts; we'll rally behind you, Mr. President; we'll acknowledge that we have to support the Contras as the only avenue left open to try to achieve our legitimate goals in Latin America.

That is what the President's critics said then.

Well, we have given the peace process yet another chance to work. We have had another intensive round of negotiations, and we have had a new deadline for the signature of an agreement—that was June 6. And we have also had the standard charges from the President's opponents that somehow it is Ronald Reagan who is the bad guy; it is President Reagan who does not really want a peace agreement; it is our President who is trying to block it.

MORE MONTHS OF SANDINISTA TREACHERY

Those are the charges. But what are the facts?

The facts are that, just like so many times before, it is the Sandinista who torpedoed the peace process. It is the Sandinistas leadership that refused to sign any kind of workable document dealing with the real threat in Central America—the threat of Nicaragua's virtual alliance with Moscow and Havana. Its reckless military buildup; its aggression against its democratic neighbors; and its support for subversion throughout the region. It is Daniel Ortega and his crowd who have used these months that we have given them, not to pursue a negotiated peace but to accelerate their military strength and lay the groundwork for new aggressions in the hemisphere.

And now we have the latest two bits of news. Yet another shipment of Russian arms arrives in Nicaragua, and the Soviets are flying planes around the country on reconnaissance missions, helping the Sandinistas put down the activities of the democratic resistance.

PATIENCE, PEACE, AND A TIME FOR DECISION

Mr. President, patience is great. We have gotten very good at showing our patience with Nicaragua's evils and Ortega's lies.

Peace is great, too. We are all for it. The President is for it. The democracies of Central America are for it. And the Contadora countries are still trying to find a way to peace, no matter how many roadblocks Ortega puts in their way.

Now there is only one missing piece in the puzzle, only one player in the drama who does not seem to want peace.

Next week the House is going to have a chance—at least I hope they are—to send one of two messages to the Managua regime.

It can send the message that, yes, once again we are going to reward the Sandinistas for their attacks against their neighbors, their military buildup, their alliance with the Soviet Union and Cuba and their suppression of freedom at home. We are going to give them yet another "one more chance." We are going to give them more time to build up militarily and crack down politically. We are going to turn our backs on Ronald Reagan, and put our hopes on the good intentions of Daniel Ortega.

Or the House can send a different kind of message. A message of American unity, unity behind the President, unity in support of democracy in Central America, unity behind the concept that the Nicaraguan people deserve liberty, no less than the other people of this hemisphere.

The House has delayed much too long its decision on what kind of message it wants to send. It is time for the Speaker, the leadership, and all the Members of the House to stand up and be counted.

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I understand there is an amendment ready to be laid down. We are on the tax bill. I would again congratulate the managers of the bill and indicate to them we have now considered the bill for 10 days, we have consumed 73 hours and 41 minutes, we have had 15 rollcall votes, 36 amendments, 17 were agreed to, 2 were rejected, 11 were tabled, 5 were withdrawn, and 1 was a committee substitute, which is pending.

I do not really see any reason for any unanimous-consent agreement. It is ridiculous. We were up to 75 amendments. So why have an agreement. Why not have 200 amendments.

Mr. PACKWOOD. Eighty-three.

Mr. DOLE. Eight-three; eight more since 10 of 10, so there really is not any reason to have any agreement. I think we will just stay here and we stay here and we stay here all weekend if necessary to whittle down this pile of amendments and see how many Members really want to offer amendments. Otherwise, if we enter into this time agreement, we will be on this bill after the recess, or we will not have a recess, one or the other.

AMENDMENT NO. 2104

(Purpose: To allow a taxpayer to deduct 60 percent of that portion of the taxpayer's State and local sales taxes in excess of the taxpayer's State and local income taxes, to require a TIN for certain minors, and to modify the hedging exception for certain dealers)

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I send an amendment to the desk on my behalf and on behalf of Senators ABDNOR, GRAMM, CHILES, GORTON, PRESSLER, SASSER, DODD, and JOHNSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] for himself, Mr. ABDNOR, Mr. GRAMM, Mr. CHILES, Mr. PRESSLER, Mr. SASSER, Mr. DODD, and Mr. JOHNSTON, proposes an amendment numbered 2104.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1415, beginning with line 10, strike out all through page 1416, line 4, and insert:

SEC. 135. DEDUCTION FOR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Paragraph (4) of section 164(a) (relating to deduction for taxes) is amended to read as follows:

"(4) 60 percent of the excess (if any) of—

"(A) State and local general sales taxes paid or accrued by the taxpayer during the taxable year, over

"(B) State and local income taxes paid or accrued by the taxpayer during the taxable year."

(b) SPECIAL RULE FOR TAXES IN CONNECTION WITH ACQUISITION OR DISPOSITION OF PROPERTY.—Section 164(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN NONDEDUCTIBLE TAXES.—In the case of any tax which is paid or accrued by the taxpayer in connection with the acquisition or disposition of any property and with respect to which no deduction is allowed under this chapter, such tax shall—

"(A) in the case of the acquisition of property, be included in the basis of such property, and

"(B) in the case of the disposition of property, allowable as a deduction in computing the amount realized on such disposition."

On page 1589, between lines 8 and 9, insert:

SEC. 423. EXCEPTION OF CERTAIN DEALERS FROM THE HEDGING TRANSACTION EXCEPTION.

(a) IN GENERAL.—Section 1256(e) (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR DEALERS.—Paragraph (1) shall not apply to any transaction entered into by a dealer, other than a dealer in agricultural or horticultural commodities (except trees which do not bear fruit or nuts)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to positions established after December 31, 1986.

At the appropriate place in title V, insert the following new section:

SEC. . TINS REQUIRED FOR DEPENDENTS CLAIMED ON TAX RETURNS.

(a) IN GENERAL.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(e) FURNISHING NUMBER FOR CERTAIN DEPENDENTS.—Any person making a return in which is claimed a dependent (as defined in section 152) who has attained the age of 5 years shall include in such return such identifying number as may be prescribed for securing proper identification of such dependent."

(b) PENALTY FOR FAILURE TO SUPPLY TIN.—Section 6676 (relating to failure to supply identifying numbers) is amended by adding at the end thereof the following new subsection:

(e) PENALTY FOR FAILURE TO SUPPLY TIN OF DEPENDENT.—If any person required under section 6109(e) to include the TIN of any dependent in his return fails to comply with such requirement, such person shall, unless it is shown that such failure is due to reasonable cause and not willful neglect, pay a penalty of $5 for each such failure.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

SALES TAX DEDUCTIBILITY

Mr. EVANS. Mr. President, in our drive to simplify our Federal tax system, we have discriminated against many States by denying citizens the right to deduct their State and local sales taxes. This discrimination most greatly impacts Washington, Wyoming, Tennessee, South Dakota, Nevada, Texas, Alaska, Florida, and Louisiana. But it exists in virtually every other State in the Nation.

I rise to offer an amendment for myself and Senators GORTON, ABDNOR, GRAMM, CHILES, PRESSLER, SASSER, and DODD to help cushion this inequity. This amendment allows an individual taxpayer to deduct 60 percent of State and local sales taxes paid in excess of State and local income tax. This ensures that property and income tax will remain fully deductible, but will also provide some relief to citizens of States that rely heavily on sales taxes.

Mr. President, I wish to offer my sincere appreciation to Chairman PACKWOOD, Senator LONG, and other members of the Finance Committee in their willingness to fashion this compromise amendment. From my perspective, this is the most significant improvement to the tax bill during its consideration on the Senate floor. And I might add that $2 billion is not expensive when dealing with equity between States and paying for it by increased compliance and closed loopholes.

I had withdrawn my previous amendment in search for a more suitable source of revenue—and we have found it. The revenue offset comes from two sources:

First, 85 percent of the revenue comes from increased compliance ensuring the validity of dependents claimed on tax returns. Those taxpayers claiming a dependent must display on their return an identifying number verifying the deduction.

Second, the remaining revenue is raised by modifying the so-called hedging exception which allows dealers in certain stocks, bonds, and metals, for example, gold—to indefinitely delay the payment of taxes by constantly offsetting any gains they have by losses in the same kind of property. In other words, dealers would be treated like all other investors—losses on a property could only be taken when gains are actually realized on the same property.

Mr. President, I have shared the responsibility of keeping this tax reform bill from being carelessly amended. However, we have devised this amendment which corrects a terrible inequity. We have corrected this gross inequity without doing damage to any portion of this bill or elements which many so rightly wish to protect.

While this amendment does not fully restore the sales tax deduction,

an option I prefer, it does provide relief to those States most severely and inequitably impacted.

This amendment, coupled with assurances from Chairman PACKWOOD that he will do his utmost to see that any vestiges of discriminatory treatment between types of State and local taxes eligible for deduction are removed in conference with the House, gives me a renewed optimism that full deductibility will be the end result.

We started 2 weeks ago seeking 86 percent deductibility of sales tax. Today, we can deduct 60 percent of sales tax with a strong likelihood of 100 percent coming from conference.

Mr. President, the action taken by the Senate this morning represents a large step forward in making a good tax bill that much better. This is clearly a victory for the States and reaffirms Alexis de Tocqueville's summary of the U.S. Constitution to which I wholeheartedly agree,

"Division of authority between the Federal Government and the States—the government of the States is the rule; the Federal Government the exception."

Mr. President, I hope we can promptly move ahead on what I believe to be an appropriate and acceptable amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I think this is a good amendment. I am delighted we can move part way toward helping to solve this sales tax problem. I think the method of funding is fair. From my standpoint, I am prepared to accept it. I know Senator LONG will soon be here. I hope we would very expeditiously handle this amendment.

□ 1020

Mr. GRAMM. Mr. President, I want to thank our distinguished colleague, the chairman of the Finance Committee, for accepting the amendment and for working with us in such good faith on this problem.

This amendment at least partially rectifies one of the great inequities of this bill—in fact, the only real inequity left in the bill—and that inequity comes from the fact that if you pay property taxes at the State or local level, if you pay income taxes at the State or local level, you can deduct those taxes from your income tax; but if you pay sales tax, you cannot.

What we have here is a provision at the State and local level. I think it is a move toward equity and strengthens our position in conference. I hope we will ultimately get full deductibility, where we treat sales taxes like income taxes and property taxes.

We gain the revenue to make this improvement in two simple ways. No. 1, we require people who are listing deductions in terms of dependents to give the Social Security number of those dependents so that we are sure the same number is not claimed twice. That is the enforcement aspect. Second, we modify a provision in the Tax Code known as the "hedging transaction exception" to ensure that the loss and gain are brought together and claimed at once. I think these are both important compliance procedures.

I again thank my colleague, the distinguished chairman of the committee, for helping us deal with a problem that faces the States that do not have income taxes but have sales taxes and recognizes the principle, as old as the Republic, that it is not the duty of the Federal Government to pick and choose among State and local revenue sources.

Mr. GORTON. Mr. President, I join my colleague from Washington and my colleague from Texas in advocating the adoption of this amendment. I thank the distinguished chairman of the Finance Committee, our neighbor, for his understanding.

I do want to put on the record, in connection with the condition of the bill as it came from the committee, that the discrimination which has been keenly felt by our States was not the work of the distinguished chairman of the Finance Committee, whose position has been all along that there should not be discrimination.

Mr. PACKWOOD. I thank my good friend. As he is aware, I started out with a provision that had no discrimination, and I tried to sell that to the committee, and it did not work. I am glad this amendment helps alleviate that.

I hope that in conference we can go the full way toward eliminating any discrimination between the different methods of taxation that the States use to raise their revenues.

Mr. GORTON. It is exactly those sentiments that I wanted to make sure appear in the RECORD. My full understanding is that this was not something the Senator from Oregon was trying to pull off and to victimize others.

It is the most important single issue in this entire bill with respect to those States which are totally or primarily sales tax States. Getting 60 percent of what we started out to gain at this time is an immense triumph for justice and for fair dealing and for our constituents.

I cannot say how profoundly grateful I am to the Senator from Oregon for his understanding and his willingness to work with us on this subject.

Mr. President, I am tremendously pleased by the action taken here today with regard to the deductibility of State and local sales taxes. This body has taken a significant step toward resolving the single most unjustifiable provision in the Senate Finance Committee tax reform bill by allowing individuals to deduct 60 percent of the amount by which their State and local sales taxes exceed their income taxes.

The committee bill would have repealed the sales tax deduction entirely, while preserving the deduction for other State and local taxes—most importantly, income taxes. This would have grossly violated the principle of federalism by injecting the influence of the Federal Government—through the Federal Tax Code—into the tax structures of State and local governments throughout the country. Many, if not all, of the Members of this body recognize and object to such an invasion of States rights, including the distinguished chairman himself, and I am confident that there will be general agreement, therefore, that this action improves the bill tremendously.

The issue of the deductibility of State and local taxes in tax reform was first raised by the Treasury Department's initial tax reform proposal. This proposal would have repealed the deductibility of all State and local taxes, across the board. While many considered this proposal unacceptable, it was, nevertheless, fundamentally fair to the 50 States. It did not treat different types of State and local taxes unevenly—it did not discriminate arbitrarily among them. It is largely for this reason that my distinguished colleague and good friend, Senator EVANS, and I, along with a bipartisan group of Senators, have worked so hard to ensure that all State and local taxes be treated equally.

This fundamental fairness argument is one reason—an overwhelming reason—for retaining the deductibility of State and local sales taxes. There are also others. The sales tax deduction is the most popular deduction in the Tax Code. It was claimed on 33.5 million returns in 1983, more than the deductions for charitable contributions, property taxes, income taxes, and home mortgage interest. Moreover, the deduction is of vital importance in easing the financial burden of providing important State and local government services, most notably law enforcement and education. Finally, the repeal of the sales tax deduction alone would almost certainly have generated far less revenue for the Treasury than is currently estimated had States shifted to still-deductible income, property, and business taxes as a result.

The action we have taken tonight does not completely restore fairness, unfortunately, but we are assured by the chairman of the Finance Committee that he and the other conferees will do their utmost in working toward preserving a conference report that is completely nondiscriminatory in this

respect. I believe this is essential if we are to avoid picking, in an arbitrary fashion, winners and losers among the States, and I thank the Senator for his efforts and assurance on the issue.

Mr. GORTON. I thank the Senator for his amendment and the explanation. As the Senator knows, the discriminatory fashion in which the committee bill treats State sales taxes has been my principal concern with this bill from the start. I am glad to see that we are taking a step in the direction of rectifying that. This amendment, by partially restoring the sales tax deduction, is a step in the right direction, and I support it.

I still believe, however, that even with this amendment we will not have a completely fair situation. Those States which rely relatively heavily on the sales tax will still be disadvantaged in comparison to those which rely relatively heavily on the income tax. My State, which has no income tax at all, in an extreme example of this. I would hate to see the bill come back from conference with this same problem.

What assurances can the chairman of the Finance Committee give that I will not be faced with such a situation in the conference report?

Mr. PACKWOOD. I can assure the Senator from Washington that I will do my utmost to see that any vestiges of discriminatory treatment are removed in conference.

I intend to go into conference with the position that, whatever final agreement we reach, it will not treat sales taxes differently from income taxes with respect to deductibility; and that the residents of States which rely on the sales tax revenues will have all of the deductibility benefits which accrue to other types of taxes. I will make this my highest priority in conference.

Mr. GORTON. I thank the Senator.

Mr. LONG. I believe this is the amendment the chairman showed me. Is that correct?

The Senator nods, so that is correct.

Mr. President, if the chairman wants to go along with this amendment, I am willing to do so. I must explain, however, that this amendment does not do anything for Louisiana, because Louisiana raises its money from mainly two tax sources—an income tax and a sales tax. We have very little property tax. Accordingly, the tradeoff in the amendment really does not do much to help us with our problem.

If we accept the amendment, I hope that when we go to conference, the chairman of the committee and those who think as he does will be conciliatory, and try to consider the problem of some of us who do not receive much out of this amendment. I hope that the chairman will try to make it work out as suggested a few moments ago, toward complete tax neutrality.

I can understand that the bill might raise some money in the sales tax deduction area. On the other hand, we in Louisiana, like other States, while we are willing to cooperate, do not want to pay more than our share. I hope the chairman will work it out in conference so that it will be that way.

Mr. ABDNOR. Mr. President, I want to commend the Senator from Washington and the Senator from Texas for the effort they have put forth in this amendment and their insistence in making sure that it came about.

I am delighted to have had a small part in it, in working with them.

I do not want to talk a good thing to death. I know a good thing when I see it, but the very inequity we spoke of all along has now come a step toward being a much fairer measure for all.

I say to the Senator from Louisiana, who has been kind enough to accept this amendment, that the only way some States have to raise revenue to run government is through a sales tax. If we are not able to have some kind of deduction for that, I guess we are dictating to the States how they should go about raising their revenue.

This means a great deal to my State, which would have nothing otherwise as a deduction for running the government. I am sure the Senator from Louisiana would not want that.

Mr. President, ever since introduction of H.R. 3838, Members adversely affected by the sales tax provision in the bill have been working diligently to arrive at a compromise on this issue. The tax bases of the States adversely affected by H.R. 3838 are so diverse that it was not easy forging an acceptable middle ground. However, in the spirit of compromise, we have developed a solution which I believe addresses to some extent the problems each of our States has with the sales tax deductibility provision of H.R. 3838.

Mr. President, while I must admit that I much preferred the solution which we discussed on the floor of the Senate Thursday evening of last week, I am willing to support and cosponsor this compromise in hopes that the distinguished Finance Committee chairman will be able to improve upon this amendment in conference with the House. I still insist that it is grossly unfair to States like South Dakota which have no income tax and rely exclusively on sales tax to run government that the deduction for this tax be even partially disallowed. But I guess this is the best we can do for now.

The people of South Dakota happen to have chosen the sales tax as a means to raise revenue, to run State and local governments. It has worked, and it is consistent. It is not up and down, like it would be if we tried an income tax.

The average sales tax deduction for South Dakota's itemizing taxpayers in 1985 amounted to $505. And it has been estimated that loss of the sales tax deduction would cost South Dakota taxpayers approximately $17 to $20 million. That probably does not sound like a lot of money in most States but I assure you that in South Dakota it is. I do not think you can single out South Dakota taxpayers and tell them you cannot take this deduction, and, even more fundamentally than that, that you cannot raise your revenue and run your government this way.

Mr. President, our amendment would restore 60 percent of the deduction for State sales tax. The price tag on this amendment is $2 billion, considerably less than previous approaches to the problem.

My concern is for a level playing field. I do not believe taxpayers in States such as South Dakota should be penalized for their geographic location. The legislation we send to the President, whether a result of floor action or conference, should establish equity across all State boundaries, and I encourage the distinguished chairman to do his best to ensure that full sales tax deductibility be retained.

I thank the chairman and the minority member of the committee for accepting this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LONG. Mr. President, I believe there are three Senators on this side of the aisle who would like to come to the Chamber and take a close look at the amendment before we vote on it. I expect to vote for the amendment. In order to protect their rights, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, in addition to thanking Senator GORTON for everything he did to call this to our attention, I want to emphasize the work that Senator ABDNOR did in helping us work out a solution to this problem. He has been diligent in calling this to my attention day after day and hour after hour. He has definitely watched out for the interests of his State, and he is to be commended.

Mr. CHAFEE. Mr. President, having been in on part of the negotiations for this sales tax amendment, I should like to say that no group of Senators could have worked harder to represent their States than Senators GORTON, EVANS, ABDNOR, and GRAMM.

I particularly want to call attention to the work that Senator ABDNOR did. He was extremely persistent in fostering this, and I think great credit goes to him, along with Senators GORTON, EVANS, GRAMM, and others.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call theroll.

□ 1030

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise in support of the amendment that has been submitted by the Senators from Washington, South Dakota, Florida, Texas, and Connecticut.

I see the distinguished junior Senator from Washington is on the floor. If I could have his attention, I would like to clarify a few points about this amendment.

This amendment preserves intact the Finance Committee's decision that the deduction for State property taxes and local property taxes shall remain inviolate.

Mr. GORTON. Mr. President, if the Senator will yield, he is entirely correct.

Mr. MOYNIHAN. And that this amendment likewise preserves the inviolability of the deduction of State and local income taxes, which is a principle already in the bill.

Mr. GORTON. The Senator is correct.

Mr. MOYNIHAN. Then, for those States where sales taxes are higher than income taxes or where there may be no income tax, it permits a deduction of 60 percent of the sales tax.

Mr. GORTON. The Senator is not quite correct. The remainder of the remarks are correct.

Mr. MOYNIHAN. The excess above where there is 60 percent.

Mr. GORTON. Exactly. It is not so much the sales tax of the State is higher. It is something which is exercised by each individual taxpayer. They simply get 60 percent of the excess of the sales tax payments over his income tax payments, if any.

Mr. MOYNIHAN. And where there is none, then 60 percent of the sales tax.

Mr. GORTON. The Senator is correct.

Mr. MOYNIHAN. It is my understanding that part of the revenue for this amendment is raised by addressing an interesting aspect of our society, if not our Tax Code; namely, the growing practice of separated or divorced parents both claiming the children of the marriage as dependents. The amendment requires that the Social Security number of dependent children 5 years or older be filed on the tax return on which they are claimed as dependents. This attends to a compliance problem where there are separated or divorced parents, each of whom may be taking the dependents' exemption; is that the case?

Mr. GORTON. The Senator is correct as is the case where it is approximately 80 percent.

Mr. MOYNIHAN. And then another feature is with respect to the hedging exemption in commodities trading——

Mr. GORTON. That is correct.

Mr. MOYNIHAN [continuing]. Which is a matter about which many will have reservations.

If I can address the chairman and the ranking member, it appears to me that we have worked this out through reason and without shouting at an early morning hour, as compared to many other proposals. We seem to have worked out a very credible and sensible measure, which advances our goal of preserving the full deduction for all State and local taxes—income, property and sales. We brought this bill to the floor with 87 percent of our goal. I would think that with today's amendment we are now about 90 percent there. We have the remainder to do in the conference committee.

I believe this is an excellent measure, and I congratulate the Senators from Washington, the junior Senator from Texas, and the chairman, who have worked this out patiently and deliberately behind the scenes. Today with this positive advance, I have hopes.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, let me also thank the distinguished Senators for their amendment.

Earlier they had proposed an amendment pertaining to the same subject. I thought there were problems of how they chose to pay for it. They managed now to pay for this amendment with increased compliance. I think it is a much better way to pay for it. They have also reduced the amount of deduction. I think that reduces the total cost.

Let me also say that I appreciate their willingness to work on this matter. Also on our side Senator CHILES has said how important this is to him on a daily basis, as well as Senator BENTSEN.

So I thank them as well as the distinguished Senators from Washington and Texas. I think this is a good amendment.

Mr. SASSER. Mr. President, a great deal of the debate on this tax reform package has centered on the issue of fairness. We are all interested in modifying the Tax Code to make it simpler. We have heard how the committee's package will give us a much fairer Tax Code. Yet, there is one glaring omission in this parade of fairness.

I am referring to the committee's proposal to eliminate the deduction for State sales taxes. The sales tax is the only State or local tax which is deemed not worthy of a deduction under the Finance Committee proposal. There is certainly nothing fair about this. Indeed, it is patently unfair to single out the sales tax deduction in this way.

This proposal is also unfair as it singles out for economic punishment those States which rely on sales taxes for much of their revenue. It is no secret that my home State of Tennessee would be hard hit by elimination of the sales tax deduction. Sales taxes account for 58 percent of all State revenues collected in Tennessee. Only one other State, Washington, gets a higher portion of its revenue from sales taxes.

Quite clearly, the sales tax deduction means much to Tennesseans. This deduction was worth $585 per itemizing household in Tennessee in 1985. And it is worth noting that the deduction for sales taxes is taken by more taxpayers than any other deduction. Some 33.5 million tax returns claimed the sales tax deduction in 1983.

If this deduction is repealed, Tennesseans will lose 48 percent of their total savings from the deduction allowed for State and local taxes. This is the third highest loss among all States. Individuals in States with no sales tax would not lose a dime's worth of value. Can the advocates of this proposal explain to me the equity of this situation?

My concerns over the elimination of the sales tax deduction are not simply parochial, Mr. President. This idea is not only bad news for Tennessee, it is bad public policy for America. Imposing a limit on a deduction for State taxes marks a substantial intrusion by the Federal Government into the fiscal integrity of State and local governments. Selective repeal such as contained in this bill is even more odious. Targeting only the sales tax deduction for elimination undermines the right of State and local governments to determine for themselves their sources of revenue.

Moreover, the Finance Committee proposal will result in imposing a tax upon a tax. When State sales taxes are paid by a family, that money is no longer available to a household. That money should no longer be considered part of a family's income. Yet, the committee's proposal abandons this time-honored principle. I urge my colleagues to think long and hard about abandoning this important concept.

This proposal is also bad public policy as it jeopardizes public education in many States. Sales tax revenues provide a major share of State funds for public education. Almost

half of Tennessee's sales tax revenues, 46 percent to be precise, go to support public education. Clearly, eliminating the State sales tax deduction will undermine educational advancement in Tennessee.

Finally, Mr. President, it is worth noting that the deduction for State sales taxes is not an abusive loophole crying out for reform. I can think of no one who would pay more in State sales taxes in order to shelter income from Federal taxation. These are not voluntary payments cleverly made to lower Federal tax liability. Sales taxes are compulsory payments. The sales tax is not the type of abuse tax reform should rightly focus on.

Mr. President, I urge my colleagues to join in our efforts to adopt this important amendment.

● Mr. DURENBERGER. Mr. President, I reluctantly rise in support of the amendment offered by my distinguished colleague from Washington. My reluctance is based on my belief that this amendment does not really address the basic issue that I hope will be resolved in conference. And that issue is whether the Federal Government should make distinctions between the various ways that our 50 States choose to finance the needs of their citizens.

There are three defects in this amendment that should not go unnoticed. First, it expresses the Federal Government's preference for State income, real property, and personal property taxes over sales taxes. I think that is wrong from an intergovernmental perspective, especially when we remember that the sales tax is the No. 1 revenue source for funding the State and local governments of the country.

Second, the relief provided by this amendment is skewed in favor of just a few States—those most reliant on sale taxes. It affords little or no benefit to the 35 States that spread their tax base more evenly between sales, income, real property, and personal property taxes. And I think that represents bad fiscal policy for State governments, for it discourages State governments from diversifying their tax base and instead encourages them to narrow that base.

Let me give you an example: This amendment will provide a clear and direct benefit to Texas and Washington which have no income taxes, but do have high sales taxes. However, for the citizens of Minnesota, which has a diversified tax base, there is no economic benefit gained by this amendment. That's because, my State relies more on income taxes than sales taxes, and therefore, it will be a very rare case where a citizen of Minnesota would pay more in sales tax than income taxes.

I also think it is bad fiscal policy to encourage States to narrow, instead of diversify, their tax base. As my colleagues in the hard-hit energy producing States of Louisiana and Texas are learning, overreliance on one type of tax—the severence tax on oil in their case—can cause a State fiscal disaster when economic conditions change. I do not believe that we in Washington, who set the worst example of fiscal irresponsibility, should be sending a signal to the States to narrow their tax bases and risk future budgetary imbalance. That's what this amendment does.

Mr. President, last week we passed a resolution directing the conferees to seek to restore the full deductibility of State sales taxes. I know that Chairman BOB PACKWOOD has grappled for months with the problem of finding a way to address the issue of State tax deductibility in a fair and equitable way. Having seen how the distinguished Senator from Oregon miraculously brought tax reform back from the brink, I am convinced that he will work his magic once again in conference and will ultimately find a way to resolve this issue that is fair to all States.

Finally, I must express my concern as to how the authors of this amendment propose to pay for partial restoration of the sales tax. The amendment would require that children age 4 or older register with the Social Security system and obtain a Social Security number in order for their parents to claim a dependent deduction for them. I recognize that this so-called "compliance" measure will deter people from claiming dependent deductions for phantom children.

However, I wonder if this will not be perceived by our Nation's citizens as just one more step in the direction of Big Brother government from Washington. Registering with Social Security has always been a right of passage for young people entering the work force for the first time. Receipt of the card has always meant that a citizen has joined the social insurance program and has become a contributor to that system, and an ultimate beneficiary of that system. Today, when the promise of a Social Security is severely in doubt for many of today's young workers, it seems ironic to require infants to sign up to help the IRS enforce the tax laws.

Yet by the action we take today if we adopt this amendment, a Social Security card is being transformed into a form of National Identity Card. In the past, there has been a heated debate as to whether it would infringe individual liberties and the right to privacy to institute a National Identity Card. Often the debate has centered around the problem of illegal aliens in the work force. So far, we have rejected the idea of instituting such an identification system.

Too often, in the name of complying with the tax laws, we have adopted laws which the public view as an unnecessary and unwarranted burden. Remember automobile recordkeeping rules and withholding on dividends and interest? I fear that the public clamor this provision could set off—especially among civil liberterians—may come back and force us to reconsider this decision.

I would suggest that my colleagues not dismiss this issue lightly.●

STATE SALES TAX DEDUCTION

Mrs. HAWKINS. Mr. President, I want to express my support for the Evans committee compromise obtained on the State sales tax deduction. I continue to believe however, that the merits of the case obligate the Senate conferees to press for the full 100-percent deduction rather than settling for a 60-percent deduction rate.

As Senate consideration of the reform proposal continues I would like to bring to the attention of my colleagues that the reduction of the State sales and local tax deductions is absolutely unfair. The Packwood proposal is revolutionary in its sweeping changes and it brings simplicity to our current Tax Code, but it should ensure fairness. By denying the full 100-percent deduction for the State sales tax many Floridians will be asked to sacrifice their deduction while other States with an income tax will still be able to keep their deduction. This provision hits Floridians especially hard, and it is discriminatory.

Over 50 percent of the revenues collected in Florida come from the sales tax. The sales tax is the primary source of funding for many of the Government services offered by the State. Millions of retirees residing in Florida depend on the sales tax deduction in caluclating their fixed pensions. By eliminating the sales tax a number of these people on fixed incomes will suddenly lose precious hundreds of dollars causing chaos to many of the States elderly.

Although I am a supporter of the Packwood proposal in general, I must assure Floridians that this provision to reduce the sales tax deduction will be addressed equitably by Senate conferees. Mr. EVANS and many of us fighting to retain the full 100-percent deduction must now settle for 60 percent sales deduction. Florida with no income tax is being penalized for running a tight financial revenue ship. States with lavish Tax Codes are rewarded, especially those with an income tax while Florida is forced to relinquish its main State tax deduction. This is not fair and I hope that the members of the Finance Committee see fit to correct this issue in conference committee action.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, later today I will be sending to the desk an amendment which I believe will be accepted and which we are working with the senior Senator from Texas on.

Mr. MOYNIHAN. Mr. President, will the Senator from Rhode Island yield?

Mr. CHAFEE. I am glad to yield.

Mr. MOYNIHAN. I wish to note that my distinguished friend and chairman of the Subcommittee on Water Resources, the Senator from South Dakota, was also a cosponsor of the amendment we had before us.

Mr. CHAFEE. Mr. President, I reinforce what was said about the Senator from South Dakota, Senator ABDNOR. He certainly worked hard on this prior amendment dealing with the sales tax.

COASTAL BARRIER RESOURCES

Mr. CHAFEE. Mr. President, as I mentioned, I will be sending later to the desk an amendment which I believe will be accepted. We are working with the senior Senator from Texas on it now.

During this interim, I thought I would explain briefly to the Senate what this amendment does.

This is an amendment that does not cost money, happily. Indeed, it yields the Treasury some $10 million over the 5-year period.

What it does is it would eliminate or reduce certain tax benefits that currently promote development on undeveloped barrier islands, beaches, and spits that comprise the coastal barrier resource system.

These areas, Mr. President, are dynamic beach systems with dune ridges just behind the beach, interior lowlands, and bayside wetlands. Barrier islands and beaches are so named because they create a barrier to protect the mainland and its associated aquatic systems which are rich in fish and wildlife. They have behind these beaches lagoons, estuaries, and marshes which are protected from the direct attack of the ocean waves, storms, and hurricanes. The barriers themselves provide essential habitat for fish and wildlife. Their beaches and associated aquatic areas are resting places for millions of migratory waterfowl, shorebirds, raptors, reptiles, amphibians, and small mammals that live in the ponds in back of the barrier beaches.

These coastal barriers also are highly unstable and highly susceptible to hurricanes and other storms of great force. Geologic processes are constantly eroding the physical composition of these areas, and man's efforts to stablize the islands' movements to protect what man has built, these protection devices, in addition to being almost hopeless, I might say, are extremely costly.

□ 1040

Because these valuable and unstable natural resources were being developed at an alarming rate, Congress established the coastal barrier resources system in 1982, just 4 years ago. And we passed that legislation to prevent the Federal Government from subsidizing the development of the undeveloped areas of beaches along the Atlantic and the gulf coast.

The 1982 Coastal Barrier Resources Act ended Federal spending for the development of 186 such areas encompassing some 670 miles of barrier beaches.

Let me briefly explain this, Mr. President. There are along the Atlantic coast and the gulf coast some 1,800 miles of these barrier islands and beaches. It roughly breaks down into a third of those beaches are almost developed. In other words, Atlantic City being a case in point. With all the buildings there, it is not wild barrier beach anymore.

In addition, there are about one-third of those islands that are under protection here.

Mr. President, because the managers of the bill as a whole have an amendment that they choose to accept and since this amendment I have deals with something in the future, I would yield now to the distinguished chairman of the Finance Committee.

AMENDMENT NO. 2104

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I know of no other objections to the amendment and I think we are ready to vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2104) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. I thank the Chair.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

COASTAL BARRIER RESOURCES

Mr. CHAFEE. Mr. President, as I was mentioning, there are about 1,800 miles of barrier beaches along the Atlantic and the gulf coasts. Of course, some 600-plus miles are already developed. So we cannot do anything about saving them. Some 600-plus miles are currently under protection of either the Fish and Wildlife Service, the Federal Government Park System, State and local park systems, or perhaps the Audubon Society, or something like that. There remains some 600-plus miles which are in private ownership which have not been developed. The objective of the act that we passed in 1982 was to preserve those remaining 600-plus miles to the extent we could.

Now if the Federal Government had the money, we would have bought those barrier beaches and islands that are undeveloped. But, unfortunately, we do not have that money.

So what we did was provide that the Federal Government would not subsidize the development of those barrier beaches. Now, how did we do this? We did it by saying no Federal money could be spent to build bridges, for example, to those barrier islands; or no Federal money could be spent to build highways on those barrier beaches or islands; or sewer systems. No Federal money except for very limited purposes, such as lifesaving equipment, could be spent on those barrier island beaches.

Mr. President, in addition, we had one other feature that was important. The Federal Government, which as you know is in the flood insurance business, would not provide any flood insurance for new structures built on those undeveloped beaches and islands. In addition, those buildings that are already on these undeveloped beaches and islands—in other words, in the undeveloped part, there are some houses, very few but some, and those houses, to a considerable degree, already have Federal Government flood insurance. What we did was to say that that flood insurance would remain in force but you only receive one bite from the apple. And if a storm should wash away your house, you could collect your flood insurance but not get more for future building.

Now that act was a great success and is a great success. It has served to protect these fragile high-hazard areas which serve the natural interests by conserving natural resources and wildlife as well as preserving human property and human life.

In addition, they save the American taxpayer literally millions of dollars which were going for disaster payments to those who did build houses on those beaches.

When we enacted that Coastal Barrier Resources System Act of 1982, there were at least 45 cosponsors of that legislation who are still in this Senate today. That shows the popularity of that act.

But, Mr. President, we left one Federal benefit untouched, and that is the tax benefits. And what we seek to do by the amendment that I will be sending to the desk later today, and hope it will be adopted and accepted by the leaders here, would close these remaining tax loopholes which would foster the development of the 186 units that remain on these coastal barrier beaches.

In other words, the 670 miles of undeveloped beach obviously is not contiguous. It is not a series of solid strips. There are sections here undeveloped and then developed and then another section is undeveloped. And there are some 186 of these separate units that have been delineated by the Department of the Interior.

The amendment which I will submit will not apply to any new areas that might be added to the coastal barrier system in the future years. In other words, we have a study ongoing by the Department of the Interior to see whether new sections could be added to the barrier beaches that we are now protecting. Some we might have missed when we did this 4 years ago. If additional sections are added to these beaches through recommendation of the Secretary of the Interior, those sections would have to be adopted by this Congress. And then, if we wanted to give them this tax protection that we are working on in this legislation, we would have to pass that separately, as well.

In other words, we are not extending these Tax Code provisions to sections that are not included in the beaches now.

The amendment would not eliminate deductions for ordinary and necessary business expenses that are incurred on these undeveloped areas. It would not eliminate the ability of businesses to recover their capital expenditures in a straight-line depreciation method. It would not limit deductions for interest or for State and local taxes for businesses in the designated area. Only the accelerated cost recovery—in other words, the accelerated depreciation—and other special tax incentives would be reduced or eliminated under this legislation.

This is what it would do. Our amendment would not allow preferential tax treatment for industrial development bonds to fund facilities located in or used on 186 units in the barrier islands system.

Currently, on these sections, State and local governments can now use tax-exempt development bonds to replace the Federal funds that were forbidden in 1982. These bonds are often the impetus to go from scattered low-density development to intensive high-rise development on these barrier beaches. Industrial development bonds or high-density development of these areas should not be given Federal tax preference.

What we are trying to do, in other words, Mr. President, is not have the Federal Government foster the development on these barrier islands and beaches that remain undeveloped. State and local Governments could continue to use tax-exempt development bonds for certain types of projects, such as repair or replacement, but not expansion of the State roads that exist there.

Our amendment would also eliminate casualty loss deductions for structures that are built or rebuilt after July 1, 1986.

□ 1050

If you build after July 1st of this year, you are on your own. You take your own risk, and if a storm washes away your building, you cannot deduct it as a casualty loss either on individual income tax or on your corporate tax. Private landowners can now deduct from their Federal income taxes the cost of storm and erosion damages which exceed 10 percent of their adjusted gross income. These are obvious Federal subsidies. We just do not think we should have a Federal subsidy to encourage the development on these beaches. The prospective removal of this deduction would place the burden of risk on new builders where it belongs. In other words, if they want to take a chance, that is their business, but the Federal Government should not stand behind them and pay for it in the indirect ways now as done under the income Tax Code.

The amendment, as I mentioned, eliminates within these coastal barrier beaches the undeveloped sections accelerated cost recovery, the exceptions to the at-risk rule, and expensing of depreciable assets. If a developer wants to depreciate this building, he can do so on the straight-line method, but not on the accelerated cost recovery.

Senator STAFFORD is a cosponsor with me and others on this piece of legislation. I hope that Senators who have been listening to this, viewing it, or have studied it will join with me in giving this further protection to these fragile barrier beaches, and islands which mean so much to the wildlife and to the recreation of millions of Americans.

Mr. President, I suggest the absence of a quorum.

Mr. LAUTENBERG. Mr. President, before we go into a quorum call——

The PRESIDING OFFICER. The Senator from New Jersey.

Will the Senator from Rhode Island withhold his quorum call?

Mr. CHAFEE. I will.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank the Senator from Rhode Island.

AMENDMENT NO. 2105

(Purpose: To clarify that amounts paid for necessary home improvements to mitigate harmful levels of radon gas exposure qualify for the tax deduction for medical care expenses)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2105.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title XVII, insert the following new section:

SEC. . HOME IMPROVEMENTS TO MITIGATE HARMFUL LEVELS OF RADON GAS EXPOSURE QUALIFY FOR MEDICAL CARE EXPENSE TAX DEDUCTION.

(a) FINDINGS.—The Congress finds that—

(1) indoor air contamination has become the focus of increasing concern among public health officials in the United States.

(2) the problem of harmful indoor radon gas contamination has been found in areas throughout the United States and has been estimated by the Federal Centers for Disease control to be responsibile for as many as 5,000 to 30,000 lung cancer deaths annually in the United States,

(3) mitigation of harmful indoor radon gas exposure is necessary to protect the health of residents,

(4) mitigation of harmful indoor radon gas exposure prevents increased risk of lung cancer, and

(5) mitigation of harmful indoor radon gas exposure can be costly, imposing excessive financial burdens on homeowners.

(b) HOME IMPROVEMENTS TO MITIGATE HARM LEVELS OF RADON GAS EXPOSURE TREATED AS MEDICAL CARE EXPENSES.—For purposes of section 213(d)(1) of the Internal Revenue Code of 1954 (defining medical care) amounts paid for necessary home improvements to mitigate measured harmful levels of radon gas exposure shall be treated—

(1) as expenses paid for medical care, and

(2) in the same manner as amounts paid for other home improvements which qualify as expenses paid for medical care.

(c) EFFECTIVE DATE.—Subsection (b) shall apply to taxable years beginning after December 31, 1985.

Mr. LAUTENBERG. Mr. President, before describing my amendment, I want to applaud the work of my colleague from New Jersey, Senator BRADLEY, and the work of the chairman of Finance Committee, Senator PACKWOOD, and the ranking Democrat, Senator LONG. Were it not for their leadership and statesmanship, we would not be where we are today: On the brink of passing real tax reform for millions of Americans.

I applaud their work. But, I must say, I take special pleasure in the accomplishment of my colleague, Senator BRADLEY. Mr. President, Senator BRADLEY has been the conscience of this tax reform effort. It is his consistency of principle that has kept the effort on target. It is his persistence that has kept it going. He has received a great deal of credit for his work. And Mr. President, it is well deserved.

AMENDMENT DOES NOT ADDRESS BASIC PRINCIPLES OF BILL

Mr. President, I have discussed this amendment with my distinguished colleague from New Jersey, and the chairman of the committee. I do not intend to seek a vote on the amendment. But, I do want to take a few minutes of the Senate's time to discuss the amendment, and the important issue that it addresses.

Mr. President, the amendment I offer does not stray from the principles of reform. It does not add back a loophole that the committee closed. It does not raise rates that the bill lowers. It does not restore a credit that the bill repeals.

The amendment simply clarifies existing law—existing law on medical deductions. Under existing law, taxpayers can deduct medical care expenses. That is, expenses for the diagnosis, treatment, or prevention of disease. The bill preserves that deduction. It raises the floor, so a taxpayer must have medical expenses greater than 10 percent of adjusted gross income, instead of 5 percent.

But, the medical care deduction is retained. The committee made the judgment that substantial health-related expenses should be deductible. The Tax Code has been used to help Americans bear the cost of preventing and treating illness and disease. The Tax Code would continue to be so used.

My amendment would clarify what qualifies as a deductible medical care expense. It provides that necessary home improvement expenses, incurred to remove measurably harmful levels of cancer-causing radon gas, qualify as deductible medical expense.

Mr. President, I note that the bill already includes one clarification of medical deductions related to home improvements. The bill provides that capital expenses incurred to make a residence suitable for a handicapped person, are deductible. So, widening doorways for a person in a wheelchair would qualify. That clarification makes sense. I do not take issue with it.

I note that it is there so it is clear that the bill does address the scope of the medical deduction. My amendment does not break new ground. It does not open up an area that is beyond the limits of the bill.

THE RADON PROBLEM

Mr. President, the Environmental Protection Agency estimates that the residents of 1 million homes face the health threat of radon gas. Exposure to high levels of radon gas has been clearly linked to lung cancer.

Radon gas seeps up from the ground below. It comes from uranium deposits. Radon creeps up and gets trapped in a home. And when it gets trapped and accumulates, it threatens residents with an increased risk of lung cancer.

Of the roughly 1 million homes likely affected, many have not been identified. In fact, less than 1 percent have been identified. But, we do know that a good number of these homes are in Pennsylvania, New Jersey, and New York. They sit on a geological formation known as the Reading Prong.

But radon contamination is by no means a regional issue. Testing has shown elevated levels of radon in homes in 45 States, from California to Florida to Maine.

Radon has contaminated homes in the Pacific Northwest. That, I am certain, is a matter of concern to the chairman of the committee. In fact, concern in that area has prompted the Bonneville Power Administration to distribute radon monitors to homeowners in its service area.

Radon gas is measurable. The threat is measurable. Mr. President, there are radon gas exposure levels for uranium miners. Those levels are set so miners do not get lung cancer. The EPA and Center for Disease Control are working on advisory guidelines for homeowners. There are reliable instruments that measure radon gas. A homeowner can put one in place and measure the gas levels.

The CDC states that radon gas exposure is the No. 2 cause of lung cancer, second only to smoking. The threat of disease is real. These projections are not based on laboratory tests on rats. They are based on actual studies done on humans exposed to radon gas. These are sound scientific studies, which have been duplicated throughout the world. Radon contamination is dangerous. And it must be prevented.

And it can be prevented. Radon gas can be reduced in a home to safe levels. A homeowner can mitigate the threat by making certain improvements. In some cases, a ventilation system will do. In other cases, a more complex heat exchanger will do. On average, the EPA estimates that it will cost $1,500 per home to vent the radon gas, and to make homes safe.

Mr. President, that expense should qualify as a deductible medical expense.

STATUS OF CURRENT LAW

Mr. President, it is my position that under current law, radon mitigation expenses would in fact qualify as deductible medical expenses.

The law provides that home improvement expenses can be deducted, if they are incurred for the treatment, or prevention of disease. A person with a back ailment can deduct the cost of a swimming pool—if needed for rehabilitation. A person can deduct the cost of a device to flouridate their water—to prevent tooth decay. In one case, the IRS ruled that a homeowner could deduct the cost of stripping lead-based paint from the walls as high as a small child could reach. That was done to prevent lead poisoning.

□ 1100

It is reasonable to assume that if deductions are allowed in those cases, they should be allowed in the case of radon mitigation.

But, I must concede, there are no cases or rulings, directly on point. I have sought a clear statement from the IRS, but that has not been forthcoming. Taxpayers have no assurance that the IRS will not disallow deductions for home improvements.

That is why this amendment is necessary. It clarifies the law.

REVENUE ESTIMATE

Mr. President, because current law should cover these expenses, I would argue, there should be no revenue impact.

However, the counsel to the Joint Committee on Taxation disagrees. He asserts the law is extended. Based on his judgment, the committee estimates that this amendment would reduce revenues by $100 million over 5 years.

I do not accept that judgment. Certainly, no court should presume that this Senate accepts that judgment, simply because that estimate is made.

CONCLUSION

In sum, Mr. President, this amendment would clarify the law on medical deductions. It would let homeowners deduct the cost of removing the threat of lung cancer caused by radon gas. Roughly 1 million homeowners are affected. Clarifying the law is of critical importance to these homeowners. It is consistent with the basic policy of the medical care deduction. It will let taxpayers to bear substantial expenses necessary to treat or prevent disease or illness.

As I said, Mr. President, I do not intend to seek a vote on this amendment. I intend to introduce a free-standing bill today, incorporating this clarification. But, I did want to bring this to the attention of the Senate, and particularly to the attention of the chairman of the committee. I know my senior colleague, Senator BRADLEY, is well aware of the problem I have addressed. So, indeed, are my colleague from Maine, Senator MITCHELL, and my colleague from New York, Senator MOYNIHAN, who sit with me on the Environment and Public Works Committee.

The PRESIDING OFFICER (Mr. HECHT). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, this issue burst upon the national scene in early 1970. Before that we did not care or think much about the environment. The result of the environmental movement was the enactment of a whole series of laws that dealt with cleaning up the pollution of our land—the Clean Air Act, the Clean Water Act,

the Solid Waste Disposal Act, and a number of other laws, the purposes of which were to clean up the environment.

Mr. President, the environment which these laws were aimed at was outside the home. It was the clearest, most vivid form of pollution—air, water, land.

The environmental problems of the 1980's and 1990's will be indoor pollution, indoor pollution that increasing amounts of research demonstrate is as serious a problem as some of the outdoor environmental problems that we faced in the 1970's. It is to the problem of indoor pollution that my distinguished colleague, Senator LAUTENBERG, addresses himself.

You cannot be a Senator from New Jersey, a Representative from New Jersey, a resident of New Jersey, and not have serious concern about the effect of radon gas on the health of the citizens of our State. It is a serious problem. It is a problem that has increased as we have come to know more about it.

I would like to salute my colleague, Senator LAUTENBERG, who has been a strong, strong advocate about trying to solve the problem of radon gas. He has exerted real leadership on the Environment and Public Works Committee, which is the committee which has jurisdiction over the environmental aspects of this issue. Now he comes to the Finance Committee with what I think is a meritorous suggestion. When you have a home which has radon gas there must be structural changes in that home if you are mitigating the effects of that radon gas. His suggestion to treat the correction of that problem as a medical deduction and allow that to be a medical deduction on the same grounds that you allow any present change to be a medical deduction, to me merits a very careful evaluation.

I hope that the chairman will be able to respond positively to both Senator LAUTENBERG's request and also the strong feeling that I have about the need to look at whether a medical deduction could not be expanded to take into consideration the threat of radon gas posed to our citizens. I might say not only in New Jersey, but increasingly, as we know more about radon, across this land.

I salute my colleague for bringing the issue before the Senate, and second his effort. I would say in my meetings across the State of New Jersey, this is a major concern to our people and I hope we will be able to resolve this issue in the near future.

Mr. PACKWOOD. Mr. President, both Senators from New Jersey bring forth very valid problems. When we think of medical costs, in most of our minds we probably never thought of radon gas coming into the problem. It never occurred to me until the Senators brought it to my attention. I can assure the Senators we will have hearings on this matter. We will have a great number of hearings involving Medicaid and Medicare, and this will be part of those hearings.

Mr. LAUTENBERG. I thank the distinguished chairman for his recognition of this problem and his promise of hearings. I also thank my senior colleague from New Jersey for recognizing this problem and thank him also for his leadership role in this matter, and his support continually on issues that we face in our State.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Louisiana.

Mr. LONG. Mr. President, at this point I believe it would be well to put the Senate on notice of the attitude that we expect to take with regard to accepting amendments that have not been cleared on this side. If a Senator is seeking to clear an amendment, he should speak personally to the minority manager or, in his absence, to the acting manager who occupies the desk where I now stand. Prior to speaking to the manager, the Senator or his staff should provide a copy of the proposed amendment to the minority staff of the Finance Committee. That staff is at my side at this moment.

Mr. President, I just want to remind Senators of what the clearance process requires. The minority manager of the bill will be constrained to object to accepting amendments by unanimous consent when those amendments have not been properly cleared on this side. It is easy enough, if this side is willing to agree to it, to obtain clearance. It is necessary for Senators to understand, however, that if we are taken by surprise, we are going to object. If the amendment has been cleared and we think the amendment is meritorious, we will not object.

With that understanding, I hope Senators and their staffs will be on notice that we do not expect to consider amendments sight unseen, and when we do not know what they are.

Mr. DOLE. Mr. President, the Senator from Louisiana is exactly right. Every time a Member tells me that they have an amendment which has been cleared, I ask them, "Cleared with whom?"

□ 1110

They ought to clear it with the chairman, the ranking member, then clear it with the Commissioner. We have to serve the Commissioner, too.

Mr. LONG. Mr. President, I want to make it clear that when someone shows the Senator from Louisiana an amendment, speaking here for the minority on the Finance Committee, the Senator should not expect us to clear that because it might appeal to him. If there is somebody on the committee he thinks might object to it, he should notify them. If there is someone not on the committee that has reason to think might object to it, he should feel an obligation to notify them about the matter. As the Senator does on his side of the aisle, the minority leader, Mr. BYRD, would be inclined on our side of the aisle to run the hotline and invite all Senators to object if they want to object to the amendment before we agree to it.

My reason for doing this is to identify sponsors and supporters of the concept of encouraging the use of techniques of finance that broaden the base of ownership, and particularly those techniques which promote employee stock ownership. I am happy to report that 71 Senators have so identified themselves by joining with me as original cosponsors of this amendment and I invite others to do so if they so desire.

Mr. DOLE. Mr. President, the chairman will be here momentarily, but I think the thing we would like to have—we had all these winners last night. We have 90 of them here. Everybody wants to offer something; nobody is on the floor to offer an amendment. It seems to me we are going to have a bill or we are not going to have a bill. We are going to grind away and grind away. I hope Members on either side—I am not directing this at anybody. There are all kinds of amendments here, 80-some. We have disposed of one or two. I know the managers would like very much to keep grinding away. We have four or five pages of amendments.

I had hoped we would have people standing in line to offer their amendments.

EMPLOYEE STOCK OWNERSHIP PLANS

Mr. LONG. Mr. President, since the Senator makes that point, I have notified leadership on both sides of the aisle and I have discussed this matter with most individual Senators, that I would like to have a vote on what is in the committee amendments with regard to employee stock ownership.

The reason I say that is that employee stock ownership will be a contested item in the conference. The House seems to be looking in the opposite direction to the Senate. Both committees would raise revenue from employee stock ownership by cutting back on the tax credit provided for employee stock ownership plans, what we call the PAYSOP, the one-half of 1 percent of payroll that can be claimed as a credit against taxes when set aside for employees. In the Senate bill, I am told that the net gain in revenue would be $2.1 billion.

I would be happy to provide for the RECORD all the information that supports the committee position and the side that the Senator from Louisiana

takes. If someone wants to debate the other side, I put them on notice.

Aside from that, assuming there is no one who wishes to discuss the matter, the Senator from Louisiana will be ready to vote at any point.

Mr. DOLE. I think I am a cosponsor of that amendment or would like to be.

Mr. LONG. I am happy to have the Senator as a cosponsor.

Mr. DOLE. That would be a good idea. We should alert Members that we are having votes today and if they come on the Senate floor and we remind them if they have an amendment to offer, maybe we can stir up some business.

Mr. LONG. Just so Senators might know, I would like—if someone wants to object, then I shall withhold, but otherwise, I would like to ask unanimous consent that on the section of the bill dealing with employee stock ownership, sections 1271 through 1275, there be a rollcall vote ordered on those sections. That can be found from page 2173 to 2187 in the bill.

The PRESIDING OFFICER. Is there objection to dividing that part of the amendments out?

Without objection, it is so ordered.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1120

Mr. CHILES. Madam President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

Mr. CHILES. Madam President, I am delighted to see the Senate take the action it has this morning in regard to the sales tax amendment. The people from Florida have felt that this was a basic problem in the bill as it came out of committee. It allowed a deduction if you had a State income tax or for State property tax but did not allow a deduction if you were one of those States that was frugal enough you did not have to have a State income tax but you had a sales tax.

Florida collects over 50 percent of its money in taxes from a sales tax. We have in our constitution a prohibition against a State income tax, and we feel it should not be the policy of the Federal Government to say to the State and local governments how they should collect their local revenue, what tax is better than another.

Under the system of federalism, that certainly should be left to the States, but if you are going to discriminate in your tax policy and say you cannot have a credit, then you are trying to tell States what they should be doing.

We are delighted to see an amendment that allows a 60-percent credit. I wish it was 100 percent. I think it would be much fairer if it was 100 percent rather than 60 percent. But at this stage 60 percent is a lot better than nothing, and so compared to what we had, it is a step forward. I hope that it also helps our conferees recognize that we should not be discriminating, differentiating between taxes.

The House has no provision that prohibits the deduction for State sales tax, and I hope that the conference would come out that way. But this is a positive action on the part of the Senate. It is a recognition that those States which have their principal source of collection from the sales tax are entitled to be able to deduct that and from the standpoint of Florida it makes it a better bill and fairer to Florida.

As I say, I look forward to the final product allowing a 100-percent deduction because we should not be discriminated against as to whether or not we have a sales tax. But this is a positive step and I am delighted to see the Senate take it this morning.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Madam President, recently I sent to Members of the Senate a letter inviting them to join in sponsoring a proposal to improve employee stock ownership plans [ESOP's] and to make them more broadly available to Americans. I would like to read my letter into the RECORD. It is rather brief.

DEAR COLLEAGUE: I am writing to invite you to join me in sponsoring a bill improving employee stock ownership plans (ESOPs). The provisions of this bill were approved by the Finance Committee as part of the tax reform bill soon to be considered by the Senate. The purpose of introducing the bill is to identify sponsors and supporters of the Committee-approved amendments which tend to advance the idea of broader ownership—and employee stock ownership in particular. By contrast, the House bill looks in the opposite direction—toward phasing out those provisions of tax law which would help workers to own a "piece of the action."

During the tax bill's consideration, it is my intention to call for a vote on the Committee's ESOP provisions. It is my hope that you will agree to join me in cosponsoring these improvements to the law and that I might count on your support when I bring this matter to a vote.

Attached is a summary explanation of the bill which, in addition to improving ESOPs, adds $2.1 billion to federal revenues over the FY 1987-1991 period.

As the tax reform bill will be considered by the Senate quite soon, I would be most grateful if you could provide a prompt response.

Please direct your response and questions to Jeff Gates, counsel to the Finance Committee (4-5315).

With every good wish, I am

Sincerely yours,

RUSSELL LONG.

Mr. President, let me just state that enclosed was a memo succinctly outlining the amendments:

ENCOURAGE SALES TO ESOPS AND REDUCE ESTATE TAXES

Allow an exclusion from an estate for 50 percent of the proceeds realized on an estate's sale of stock to an ESOP.

FACILITATE ESOP FINANCING

Permit a corporate deduction for dividends used to repay ESOP loans.

SIMPLIFY ESOP LENDING

Extend 50 percent bank interest exclusion to loans matched by contributions of stock to an ESOP; extend exclusion to loans by mutual funds.

ENCOURAGE EMPLOYEES TO INVEST IN THEIR COMPANY

Allow an additional $2,500 401(K) contribution provided the funds are invested in employer stock in an ESOP.

ENCOURAGE FUNDS TO BE RETAINED AS AN EMPLOYEE BENEFIT

Provide an exemption from the proposed 10 percent excise tax on pension plan asset reversions to the extent reversion amounts are transferred to an ESOP.

ESOPS AS A TECHNIQUE OF FINANCE

Exempt ESOP's from excise tax on early withdrawals from pension plans.

ADVANCE EXPIRATION OF TAX CREDIT ESOP'S

Advance the expiration date from December 31, 1987 to December 31, 1986.

□ 1130

Madam President, I ask unanimous consent to have printed in the RECORD further material explaining in detail how these particular provisions would work.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL AND CLARIFYING AMENDMENTS

ESOP ROLLOVER

Clarify that in the case where an employer has only one class of stock, the plan must sell at least 30 percent of total shares but need not sell more than 30 percent in order to qualify for the rollover. Companies with more than one class of stock would continue to be subject to a rule requiring sale of 30 percent of total value of all stock of the company unless the ESOP acquires 30 percent of the shares of each class of stock.

PUT OPTION FOR STOCK BONUS PLANS

Extend the ESOP put option requirement to stock bonus plans.

ESOP ALLOCATIONS

Amend the prohibited group definition in section 415(c)(6) to conform to the definition of highly compensated employee in the chairman's proposal.

DISTRIBUTIONS ON PLAN TERMINATION

Allow distributions upon termination of an ESOP or a 401(K) plan; alternatively,

allow shares to be sold and the proceeds transferred to another plan.

DISTRIBUTIONS AND FORM OF PAYMENT

Shorten the period over which distributions may be made and modify the put option rules.

INTENT OF CONGRESS

Add to the U.S. Code a statement of congressional intent similar to that adopted in the tax reform of 1976 stating: "The Congress has made clear its interest in encouraging employee stock ownership plans as a bold and innovative technique of finance for strengthening the free private enterprise system. The Congress intends that such plans be used in a wide variety of corporate financing transactions as a means of encouraging employers to include their employees as beneficiaries of such transactions. The Congress is deeply concerned that the objectives sought by this series of laws will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of employee stock ownership trusts and employers to take the necessary steps to utilize employee stock ownership plans in a wide variety of corporate transactions, and which otherwise impede the establishment and success of these plans".

EXPLANATION OF THE ESOP AMENDMENTS IN THE TAX REFORM ACT OF 1986

Encourage Sales to ESOP's and Reduce Estate Taxes.—The amendment allows an exclusion from an estate for 50 percent of the proceeds realized on an estate's sale of stock to an ESOP, thereby allowing an executor to reduce taxes on an estate by one-half by selling the decedent's company to an ESOP or to a worker-owned cooperative. Under the amendment, certain penalties apply if any portion of the assets attributable to employer securities acquired in such a sale accrue or are allocated for the benefit of a decedent who makes such a sale or a family member of the decedent or any person owning more than 25 percent of the stock of the corporation.

As with the previous provision, this amendment was sponsored by 49 Members of the Senate in 1983, including 14 Members of the Finance Committee, and was approved by the Committee in 1984. This amendment should encourage sales of companies to employee stock ownership plans. In addition, it should help reduce estate taxes. The only real purpose of the estate tax is to break up large accumulations of capital. Tax relief is appropriate for the estates of those who assist others in accumulating capital—particularly when they help those who helped them accumulate that capital.

Facilitate ESOP Financing.—As added by the Deficit Reduction Act of 1984 (DEFRA), present law permits an employer to deduct the cost of dividends paid with respect to stock of an employer that is held by an ESOP, but only to the extent that the dividends are actually paid out currently to employees or beneficiaries as taxable income.

In order to accelerate the repayment of ESOP loans, the amendment permits a deduction for dividends on employer securities if such dividends are used to make payments on an ESOP loan. This amendment was sponsored by 49 Members of the Senate in 1983 and approved by the Finance Committee in 1984. The amendment also enables employees to more quickly begin receiving company dividends as those ESOP loans would be more rapidly repaid. Thus, this provision should have a positive effect on employees' identification with their employer, with corresponding effects on motivation, dedication, productivity, profitability and tax revenues.

In addition, this provision should enable employees to benefit from the widespread practice of companies repurchasing their stock. Because ESOP dividends are not now deductible until stock is allocated to employee's accounts as an ESOP loan is repaid, companies are encouraged to repurchase their stock without an ESOP and retire the shares, thereafter having to pay no dividends. This provision should make it more likely that such stock repurchases will be financed using ESOPs as the technique of finance.

Under the current law, such dividends are deductible with respect to employer stock allocated to participants' accounts as of the date of distribution, but only to the extent that such dividends are paid out currently to employees. Under this bill, an ESOP company could claim a deduction for dividends paid on either allocated or unallocated employer securities, but only to the extent those dividends are used to repay an ESOP loan incurred to acquire the employer securities on which such dividends are paid.

Simplify ESOP Lending.—Under current law, banks, insurance companies and commercial lenders making ESOP loans may exclude from their income one-half of the interest earned on such loans. This provision was sponsored by 49 Members of the Senate and enacted as part of the Deficit Reduction Act of 1984. The provision is intended not only to encourage ESOP lending by existing commercial lenders but also is intended to encourage those with money to lend to enter into the lending business solely for the purpose of making ESOP loans.

This amendment expands on this concept in two respects: First, the provision designating which lenders are eligible for the 50 percent interest income exclusion on ESOP loans is amended to include loans by regulated investment companies (better known as mutual funds). The amendment intends that the tax treatment accorded such interest income be permitted to "flow through" to shareholders of the mutual fund under rules analogous to the treatment of tax-exempt income paid on certain Government obligations.

Second, the bill provides that the exclusion is also available with respect to a loan to a corporation to the extent that, within 30 days, employer securities are transferred to an ESOP in an amount equal to the proceeds of the loan and such contributions are allocable to participants' accounts within one year after the date of the loan. In addition, the original commitment period of the loan is not to exceed seven years.

Under these "immediate allocation" loans, companies would be permitted to borrow money on favorable ESOP-related terms, provided such loans are matched by a contribution of employer securities to the ESOP which are allocable to employees' accounts within one year after the date of the loan. This provision is designed to enable companies to borrow money and immediately allocate the stock to employees' accounts instead of requiring a more complex ESOP loan with employee allocations and employee dividend payouts delayed until the ESOP loan is repaid.

This amendment is necessary if leveraged ESOPs are ever to become commonly used by major companies. Such employers are generally unwilling to utilize ESOP financing for several reasons, including the drawback that the modest interest savings are often insufficient to offset the balance sheet impact of an ESOP loan. At the same time, however, this amendment reflects the philosophy of leveraged ESOP financing by encouraging the use of a company's credit for employees by encouraging companies to borrow to buy a block of stock for employees (much as in a leveraged ESOP).

Extending the interest exclusion to loans by regulated investment companies is advisable as mutual funds have now become a major new source of funds, with assets skyrocketing to more than $80 billion from just $20 billion since the ESOP loan provision was enacted in 1984. In addition, this source of funds should provide additional competition among lenders for ESOP loans—with a positive effect on interest rates for ESOP companies. Thus, in addition to the competition from those lenders who engage solely (or predominately) in ESOP lending, competition for such loans will be provided by mutual fund lenders plus lending provided by banks, insurance companies and other commercial lenders who engage in both ESOP loans and other types of commercial loans.

Encourage Employees to Invest in their Company.—The committee amendment reduces from $30,000 to $7,000 the maximum amount that employees can otherwise contribute to a cash or deferred arrangement (401(k) plan). The amendment also allows an additional $2,500 contribution to 401(k) plans, provided the additional funds are invested in employer stock in an ESOP.

In order for this additional $2,500 limit to be permitted, the 401(k) plan is required to allow all eligible participants to direct that up to $2,500 of elective deferrals be invested in employer securities (but not more than 25% of pay). Thus, in order for any participant in a 401(k) plan to be able to contribute in excess of $7,000, each participant in the 401(k) plan must be permitted to invest in employer securities in the employer-sponsored ESOP (i.e., they must be permitted to direct their first dollar of contributions into the ESOP).

In addition, any employer securities allocated to the account of a participant whose elective deferrals for a year exceed $7,000 are required to remain so allocated during the three-year period beginning with the year following the year in which the employer securities are allocated to a participant's account. Otherwise, the securities are treated as if they were distributed.

Encourage Funds to be Retained as an Employee Benefit.—The amendment also provides an exemption from the proposed 10 percent excise tax on pension plan asset reversions to the extent that amounts that would otherwise be reversion amounts are transferred to an ESOP. Thus, under this provision, employers with excess assets in a defined benefit plan would be permitted to access that cash for corporate purposes without imposition of the 10 percent reversion excise tax provided the cash is used to buy employer securities in trust for employees.

This should help mitigate the fears of those who worry that the proposed reversion excise tax may lead to less adequate funding under defined benefit pension plans because, with this relief available, employers could recover the excess funds for corporate purposes provided the funds are first used to acquire employer stock in trust for employees. Similarly, this provision enables

employers to make excess pension plan assets less attractive (and less accessible) to corporate raiders and leveraged buyout experts. At the same time, as with the 10 percent excise tax on such reversions, this provision should encourage employers to recover such excess assets through a reduction in future contributions rather than through a termination of the defined benefit pension plan.

This relief from the reversion excise tax is appropriate because the funds are being retained in trust for employers to provide benefits for employees in the form of employer securities.

Under the amendment, the amount transferred from the defined benefit plan to the ESOP may be immediately allocated under the plan to ESOP participants, subject to the dollar limits on annual additions under section 415. Alternatively, the amount transferred may be held in suspense account pending allocation (provided allocations are made no more slowly than ratably over a seven-year period). Or the funds transferred may be used to repay an ESOP loan (including interest). Similarly, stock may be held in a suspense account when reversion amounts are utilized to repay an ESOP loan (including interest) provided allocations from the suspense account are made no more slowly than ratably over a seven-year period. Annual additions to employees' accounts for purposes of Section 415 shall be no greater than the cost of the shares to the ESOP.

The amount transferred is not includible in the income of the employer. Thus, the provision does not require an additional deduction under Section 404 for the assets transferred from the defined benefit plan to the ESOP because the amount transferred is not treated as a reversion subject to inclusion in the employer's income but, instead, is treated as a trust to trust transfer of plan assets. The provision is not intended to make any inference concerning the transfer of assets from one qualified plan to another, whether or not such plan has been terminated.

Dividends paid on employer securities held in the suspense account are deductible when either (a) applied to repay an ESOP loan, or (b) paid out currently to plan participants and beneficiaries proportionate to their account balances (attributable to such amounts) on the date such dividends are distributed.

Amounts held in the suspense account and required to be allocated are required to be allocated to participants' accounts before any other employer contributions to the ESOP are allocated. In other words, during the period that reversion amounts are held in a suspense account, the employer is not permitted to make additional contributions to the ESOP to the extent that the contributions, when added to the amount required to be allocated from the suspense account, will exceed the overall limits on annual additions under a defined contribution plan if allocated to participants' accounts. Thus, for example an employer could continue to make contributions to another employer-sponsored defined contribution plan provided the amount contributed, when combined with amounts allocated from the ESOP suspense account (i.e., no less than one-seventh of the total of such amounts), do not exceed the limitation provided under Section 415.

Amounts transferred to a suspense account that (due to the limitations on contributions and benefits under section 415) cannot be allocated to participants' accounts within seven plan years (including the plan year in which such amounts were transferred to the plan) must revert to the employer and will be subject to the 10 percent excise tax in the year in which such reversion occurs.

ESOP's as a Technique of Finance.—The amendment also exempts ESOP's from the proposed 15 percent additional income tax on distributions from qualified plans prior to age 59½. In order to recognize that ESOP's are both a technique of corporate finance and an employee benefit plan. The Committee amendment distinguishes ESOP's from employee benefit retirement plans. The amendment recognizes that retirement is but one of many events that can trigger a distribution of benefits provided under an ESOP. The exemption applies to distributions to the extent that, on the average, a majority of the plan's assets have been invested in employer securities for the five years immediately preceding such distribution. Special rules apply for amounts transferred or rolled over from other plans.

This amendment recognizes that to treat ESOP's as conventional retirement plans would be inconsistent with Congressional intent encouraging their use as a technique of finance. In addition, because this amendment substantially shortens the period over which ESOP accounts must be paid out to departing employees, applying such a tax on required distributions would be harmful to ESOP participants.

Scheduled Expiration of Tax Credit ESOP's.—Under current law, employers may claim a tax credit of up to one-half of one percent of payroll provided such funds are used to acquire employer securities for participants' accounts in a tax credit ESOP (better known as a PAYSOP). In order to provide additional incentives for the use of ESOP's as a technique of corporate finance, and in order to make the ESOP amendment have a positive effect on revenues, the amendment advances by one year (to December 31, 1986) the expiration of the payroll-based tax credit ESOP. As a consequence, this amendment causes the overall ESOP amendment to gain approximately $2.1 billion in Federal revenues in fiscal years 1987-1991.

TECHNICAL AND CLARIFYING AMENDMENTS

ESOP Rollover.—Under current law, if after sale to an ESOP or a worker-owned coop, the ESOP or coop holds 30 percent of the stock of a company, the selling taxpayer can defer recognition of capital gain tax on such sale, provided the proceeds from the sale are invested ("rolled over") in securities of another operating company. This amendment clarifies that the plan or coop must hold 30 percent (by number) of the shares of the stock of the company in order for the selling shareholder to qualify for rollover treatment.

Put Option for Stock Bonus Plans.—Under current law, if a stock bonus plan allows a cash distribution and an employee elects stock, the employee has a put option to the employer on stock received that is not readily tradeable. On the other hand, however, if the plan allows only a stock distribution, then the employee has no put option.

This amendment corrects this anomaly by requiring that stock bonus plans meet the put option requirements now allocable to ESOPs.

ESOP Allocation.—The amendment modifies the prohibited group definition in section 415(c)(6) to conform to the definition of highly compensated employee in the Finance Committee proposal, thereby applying a uniform definition of highly compensated employee.

Distribution on Plan Termination.—Current law requires the employer to maintain a tax credit ESOP until 84 months after the last date stock is allocated. This rule dates from the tax credit ESOP's origins when it was tied to investment and the 84-month requirement limited distributions to employees for 84 months to coincide with the seven-year recapture period on qualifying investments under the investment tax credit provisions of the Internal Revenue Code.

Thus, this amendment allows distribution upon termination of a tax credit ESOP. Alternatively, the amendment allow shares to be sold and the proceeds transferred or rolled over to another plan.

Distributions and Payment.—Current law permits distributions from ESOPs to be deferred until normal retirement age or longer if the employee has not yet separated from service or does not yet have ten years of service. The employer is required to provide a put option on distributions of stock that are not readily tradable. Installment payments under a put option are currently permitted over a five-year period from date of exercise provided a reasonable rate of interest is provided. A ten-year payment schedule is permitted provided adequate security and a reasonable rate of interest are provided, and provided that date is not later than the date an ESOP loan is repaid.

The amendment substantially shortens the distribution period and amends the put option provisions to protect employees without endangering employers. In addition, the amendment recognizes that employers must be permitted an extended period of time to make large payments and that requiring more rapid payment may jeopardize the company and undermine the value of accounts for other employees (for example, if the company encounters liquidity problems due to the need to make large payments to participants). Similarly, the amendment recognizes that enabling a sponsoring employer to disregard "loan shares" enables the employer to plan its ESOP loan repayment schedule (i.e., without liabilities triggered by stock repurchase obligations).

The Committee also recognizes that requiring security for such payments could endanger the company financially (e.g., if an employer's unpledged assets are sufficient to provide such security). The Committee also believes such security is inappropriate because it entails substantial additional administrative expense (e.g., UCC filings) and elevates employees to the status of a secured creditor. In addition, the Committee previously indicated (under the Revenue Act of 1978) that no security was required for payments limited to five years duration.

The amendment provides that unless a participant otherwise elects in writing, distributions must commence not later than one year after the later of the plan year (1) in which the participant terminates employment due to retirement, disability or death, or (2) which is the fifth year following the participant's separation from service (provided the participant does not return to service with the employer prior to that time). In no case, however, are distributions required to be made until the plan year following the plan year in which an ESOP loan is fully repaid.

For all such distributions, the amendment requires that distributions be paid out over no longer than five years provided however that for account balances in excess of

$500,000, distributions may be extended an additional year for each $100,000 in excess of $500,000, but in no case longer than ten years. For these purposes, the account balance would not include any loan shares (i.e., stock acquired with an ESOP loan that is not yet repaid in full).

In the case of a total distribution of employer securities to a participant that are put to the employer, the amendment provides that the employer must pay the option price to the participant in substantially equal annual payments over a period not exceeding five years and beginning not more than 30 days after the exercise of the put option. The employer is not required to provide security with respect to such installment payments but is required to credit a reasonable rate of interest with respect to the outstanding balance under such installment payments of the option price. In the case of a put option exercised as part of an installment distribution, the employer is required to pay the option price within 30 days after the exercise of the option.

Intent of Congress.—The amendment also adds a statement of Congressional intent with respect to employee stock ownership plans. The statement points out that the Congress in a series of laws, and in this bill, has reflected its interest in encouraging ESOPs as a bold and innovative technique of corporate finance for strengthening the private free enterprise system. The statement describes the policy of the Congress that ESOPs be used in a wide variety of corporate financing transactions in order to encourage the participation of employees as beneficiaries of such transactions.

The statement makes clear the Congressional concern that the policy articulated by the Congress will be made unattainable by regulations and rulings that (1) characterize ESOPs as conventional retirement plans, (2) reduce the freedom of ESOPs and employers to take the necessary steps to utilize ESOPs in a wide variety of corporate financing transactions, and (3) impede the establishment and success of these plans.

The laws that reflect Congressional interest in ESOPs as a technique of finance include the Regional Rail Reorganization Act of 1973, the Employee Retirement Income Security Act of 1974 (ERISA), the Trade Act of 1974, the Tax Reduction Act of 1975, the Tax Reform Act of 1976, the Revenue Act of 1978, the Regional Rail Reorganization Act Amendments of 1978, the Small Business Development Act of 1980, the Chrysler Loan Guarantee Act of 1980, the Northeast Rail Service Act of 1981, the Economic Recovery Tax Act of 1981, the Trade Adjustment Assistance Act Amendments of 1983 and the Deficit Reduction Act of 1984.

Due to the Committee's approval of amendments changing the philosophy of many employee benefit plans, this amendment restates the purpose of ESOPs as a technique of corporate finance and an employee benefit plan under ERISA designed to create a stock ownership interest for employees, thereby distinguishing it from other employee benefit plans which have as their primary purpose retirement income security.

Subject to the fiduciary standards of ERISA, the amendment intends that ESOPs be widely utilized as a technique of finance in a wide variety of corporate transactions, including transactions financing new capital as well as those structured to transfer ownership of existing capital. To that end, leveraged ESOPs are intended to encourage plan sponsors to utilize corporate credit (for example, to pledge corporate assets) in such a fashion that employees have access to nonrecourse corporate debt (i.e., no personal liability for employees or the plan) for the acquisition by the plan of employer securities.

Plan sponsors are encouraged to utilize dividends paid on such securities to repay ESOP loans and to provide an ownership income for participants and beneficiaries. Similarly, rights acquired by the plan as dividend rights on employer securities may be held by the plan for the benefit of employees.

The Committee is concerned that the ERISA regulatory agencies, in an attempt to treat ESOPs as conventional retirement plans under ERISA, may preclude employers from utilizing ESOPs as a financing technique and may preclude employees from becoming the beneficiaries of transactions that may otherwise be structured to transfer substantial employer ownership to non-employee investors. The Committee recognizes that an ESOP's participation in such transactions may be dependent upon participation by equity investors. Thus, in determining the fair allocation of equity among investors, consideration should be given to the fact that an ESOP generally acquires its shares in return for nonrecourse notes or for debt secured by the employer while other investors generally invest cash, provided, however, that in no case should an ESOP pay more than fair market value for employer securities it acquires.

Mr. President, this amendment is in large part, a restatement of a similar intent of Congress provision enacted as section 803(1) of the Tax Return Act of 1976. The intent of this amendment is to indicate that ESOP financing must be sufficiently flexible to accommodate the vast variety of situations in which it can be utilized to acquire stock for employees. Similarly, as a technique of finance, ESOP financing must be able to accommodate changing circumstances.

For example, under more traditional financing techniques, circumstances often arise in which a company sells the assets acquired with a loan in order to prepay the loan extended to acquire those assets. Similarly, in the case of an ESOP loan, prepayment may be appropriate. For example, in the case of the sale of substantially all of the stock of a company while an ESOP loan is being repaid, it clearly makes sense to allow the sale of stock acquired by the ESOP and use of the proceeds to more rapidly repay the outstanding ESOP loan. There undoubtedly are other cases in which prepayment of an ESOP loan is likewise in the interest of plan participants and this should be accommodated in order for ESOPs to operate as an effective and realistic technique of corporate finance.

It should also be kept in mind that the principal purpose of an ESOP is to acquire and hold employer securities for employees. It is not the intention that ESOPs become pawns of the vagaries of the stock market. Their purpose is not to create a situation in which fiduciaries feel obligated to divest the plan of its investment in employer securities due to temporary fluctuations in price. The goal is to create companies in which an employee stock ownership trust holds employer equity for employees. Thus, the goal is to create a plan which invests in employer securities for employees, not a plan which speculates in those securities—buying in order to sell and selling in order to buy.

In a similar vein, it should be pointed out that it is not at all uncommon or undesirable for individual fiduciaries selected by the board of directors to be responsible for managing a company's ESOP. IN connection with their role of managing the ESOP, these fiduciaries, who may also be corporate officers or directors, are also charged with making investment decisions such as participation in acquisitions by the plan, the distribution of plan benefits (subject to the plan provisions and ERISA) and the determination of the manner in which stock in the ESOP is voted. In making these decisions, fiduciaries are charged with operating in the best interest of plan participants keeping always in mind that the primary purpose of ESOPs under ERISA is to provide for employees a stock ownership interest in their employer.

Mr. LONG. Madam President, I should like to have printed in the RECORD at this point an amendment I have prepared which would make some technical corrections and simply supplant the existing provision in the bill so that we could vote on it. I am not going to do it that way. But I do want to have the amendment printed, so that those interested in this subject can see the names of the Senators. They are as follows: Mr. LONG, for himself, and Mr. ABDNOR, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BURDICK, Mr. BYRD, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EVANS, Mr. FORD, Mr. GLENN, Mr. GORE, Mr. GRASSLEY, Mr. HARKIN, Mr. HART, Mr. HATCH, Mr. HATFIELD, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LAXALT, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MELCHER, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. QUAYLE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENS, Mr. SYMMS, Mr. TRIBLE, Mr. WARNER, Mr. WILSON, and Mr. ZORINSKY.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 2014, beginning with line 1, strike out all through page 2015, line 15, and insert:

"(5) ADDITIONAL $2,500 FOR EMPLOYER SECURITIES.—

"(A) IN GENERAL.—If a plan described in section 4975(e)(7) or which meets the requirements of section 409 includes a qualified cash and deferred arrangement and allows each participant in such plan to elect to have the lesser of $2,500 or the limitation with respect to a participant under section 415(c)(1)(B) of elective deferrals for any taxable year invested in employer securities, then the limitation under paragraph (1) for an individual shall be increased by an amount equal to the lesser of—

"(i) the amount of the individual's elective deferrals for such year invested in employer securities, or

"(ii) $2,500.

"(B) SECURITIES MUST REMAIN IN PLAN FOR AT LEAST 3 YEARS.—If the elective deferrals of any participant exceed the limitation under paragraph (1) for any taxable year by reason of subparagraph (A), then employer securities allocated to such participant for such taxable year by reason of subparagraph (A) (in an amount equal to such excess) must remain so allocated—

"(i) during the 3-taxable year period beginning with the taxable year following the taxable year in which the securities are so allocated, or

"(ii)) if earlier, until the date on which—

"(I) such employee separates from service, or

"(II) the securities are sold in connection with the sale of the employer (or a member of the same controlled group)

"(C) DISTRIBUTION IF SECURITIES NOT ALLOCATED.—If employer securities described in subparagraph (B) cease to be allocated to the participant at any time during the 3-taxable year period described in subparagraph (B), then such securities shall be treated for purposes of this chapter as having been distributed to such participant as of the date on which such securities are no longer allocated to the participant's account.

"(D) EMPLOYER SECURITIES.—For purposes of this paragraph, the term 'employer securities' has the meaning given such term by section 409(1).

On page 2122, beginning with line 23, strike all through page 2123, line 6, and insert:

"(C) CERTAIN PLANS.—Any distribution made to an employee from an employee stock ownership plan defined in section 4975(e)(7) or which meets the requirements of section 409 to the extent that, on average, a majority of assets in the plan have been invested in employer securities (as defined in section 409(1)) for the plan year and the 4 preceding plan years preceding such distribution.

On page 2132, beginning with line 24, strike out all through page 2133, line 19, and insert:

"(3) EXCEPTION FOR EMPLOYEE STOCK OWNERSHIP PLANS.—If, upon termination of a qualified plan—

"(A) any amount is transferred from such plan to an employee stock ownership plan described in section 4975(e)(7) or which meets the requirements of section 409,

"(B) within 90 days after transfer (or such longer period as the Secretary may prescribe), such amount is invested in employer securities (as defined in section 409(1)) or used to repay loans used to purchase such securities,

"(C) that portion of such amount as is not allocated under the plan to accounts of participants in the plan year in which such transfer occurs is—

"(i) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over a period not to exceed 7 years, and

"(ii) when allocated to accounts of participants under the plan, is treated as an employer contribution for purposes of section 415(c), except that—

"(I) the value of the employer securities attributable to each such allocation shall not exceed the value of such securities as of the time such securities were credited to such suspense account, and

"(II) no additional employer contributions shall be permitted to an employee stock ownership plan described in subparagraph (A) of the employer before the allocation of such amount, and

"(D) at least half of the participants in such qualified plan are participants in such employee stock ownership plan (as of the close of the 1st plan year for which an allocation of such securities is required),

such amount shall not be includible in the gross income of the employer if, under the plan, such employer securities must remain in the plan until distribution to participants in accordance with the provisions of such plan."

On page 2173, beginning with line 14, strike all through page 2187, line 14, and insert:

Subtitle C—Changes Relating to Employee Stock Ownership Plans

SEC. 1271. STATEMENT OF CONGRESSIONAL POLICY.

(a) CONGRESSIONAL POLICY.—The Congress, in a series of applicable laws and in this Act, has made clear its interest in encouraging employee stock ownership plans as a bold and innovative technique of finance for strengthening the free provate enterprise system. It is the policy of the Congress that such plans be used in a wide variety of corporate financing transactions as a means of encouraging employers to include their employees as beneficiaries of such transactions. The Congress is deeply concerned that the objectives sought by the series of applicable laws and this Act will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans under the Employee Retirement Income Security Act of 1974, which reduce the freedom of employee stock ownership trusts and employers to take the necessary steps to utilize employee stock ownership plans in a wide variety of corporate transactions, and which otherwise impede the establishment and success of these plans.

(b) APPLICABLE LAWS.—For purposes of this section, the term "applicable laws" means the Employee Retirement Income Security Act of 1974, the Regional Rail Reorganization Act of 1973, the Trade Act of 1974, the Tax Reduction Act of 1975, the Tax Reform Act of 1976, the Revenue Act of 1978, the Regional Rail Reorganization Act Amendments of 1978, the Small Business Development Act of 1980, the Chrysler Loan Guarantee Act of 1980, the Northeast Rail Service Act of 1981, the Economic Recovery Tax Act of 1981, the Trade Adjustment Assistance Act Amendments of 1983, and the Deficit Reduction Act of 1984.

SEC. 1272. TERMINATION OF EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 41(a)(2) (defining applicable percentage) is amended—

(1) by striking out "1986, or 1987" and inserting in lieu thereof "or 1986", and

(2) by striking out "1988" and inserting in lieu thereof "1987".

SEC. 1273. ESTATE TAX DEDUCTION FOR PROCEEDS FROM SALES OF EMPLOYER SECURITIES.

(a) IN GENERAL.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the qualified proceeds of a qualified sale of employer securities.

"(b) QUALIFIED SALE.—For purposes of this section, the term 'qualified sale' means any sale of employer securities by the executor of an estate to—

"(1) an employee stock ownership plan—

"(A) which meets the requirements of section 409, or

"(B) is described in section 4975(e)(7), or

"(2) an eligible worker-owned cooperative (within the meaning of section 1042(c)).

"(c) QUALIFIED PROCEEDS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified proceeds' means the amount received by the estate from the sale of employer securities at any time before the date on which the return of the tax imposed by section 2001 is required to be filed (including any extensions).

"(2) PROCEEDS FROM CERTAIN SECURITIES NOT QUALIFIED.—The term 'qualified proceeds' shall not include the proceeds from the sale of any employer securities if such securities were received by the decedent—

"(A) in a distribution from a plan exempt from tax under section 501(a) which meets the requirements of section 401(a), or

"(B) as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(d) WRITTEN STATEMENT REQUIRED.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) unless the executor of the estate of the decedent files with the Secretary the statement described in paragraph (2).

"(2) STATEMENT.—A statement is described in this paragraph if it is a verified written statement of—

"(A) the employer whose employees are covered by the plan described in subsection (b)(1), or

"(B) any authorized officer of the cooperative described in subsection (b)(2),

consenting to the application of section 4979A with respect to such employer or cooperative.

"(e) EMPLOYER SECURITIES.—For purposes of this section, the term 'employer securities' has the meaning given such term by section 409(1)."

(b) CONFORMING AMENDMENTS.—

(1) Section 409(n)(1) is amended—

(A) by inserting "or section 2057" after "section 1042",

(B) by inserting "or any decedent if the executor of the estate of such decedent makes a qualified sale to which section 2057 applies," after "securities" in subparagraph (A)(i) thereof, and

(C) by inserting "or the decedent" after "taxpayer" in subparagraph (A)(ii) thereof.

(2) Sections 4979A is amended—

(A) by inserting "or section 2057" after "section 1042" in subsection (b)(1) thereof, and

(B) by inserting "or section 2057(d)" after "section 1042(b)(3)(B)" in subsection (c) thereof.

(3) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Sales of employer securities to employee stock ownership plans or worker-owned cooperatives."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act with respect to which an election is made by the executor of an estate who is required to file the return of the tax imposed by the Internal Revenue Code of 1954 on a date (including extensions) after the date of the enactment of this Act.

SEC. 1274. PROVISIONS RELATING TO LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) DEDUCTION FOR DIVIDENDS PAID TO REPAY LOANS.—

(1) IN GENERAL.—Paragraph (2) of section 404(k) (relating to dividend paid deductions) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by inserting at the end thereof the following new subparagraph:

"(C) the dividend with respect to employer securities is used to make payments on a loan described in section 404(a)(9)."

(2) CONFORMING AMENDMENT.—Section 404(k) is amended by adding at the end thereof the following new sentence: "Any deduction under paragraph (2)(C) shall be allowable in the taxable year of the corporation in which the dividend is used to repay the loan described in such paragraph."

(b) SECURITIES ACQUISITION LOANS.—

(1) APPLICATION TO INTEREST RECEIVED BY PIC.—

(A) IN GENERAL.—Section 133(a) (relating to exclusion for interest on certain loans used to acquire employer securities) is amended by striking out "or" at the end of paragraph (2), by inserting "or" at the end of paragraph (3), and by adding at the end thereof the following new paragraph:

"(4) a regulated investment company (as defined in section 851),".

(B) CONFORMING AMENDMENT.—Section 852(b)(5) is amended by adding at the end thereof the following new subparagraph:

"(C) INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES.—For purposes of this paragraph—

"(i) 50 percent of the amount of any loan of the regulated investment company which qualifies as a securities acquisition loan (as defined in section 133) shall be treated as an obligation described in section 103(a), and

"(ii) 50 percent of the interest received on such loan shall be treated as interest excludable from gross income under section 103."

(2) SECURITIES ACQUISITION LOAN.—Section 133(b)(1) (defining securities acquisition loan) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, the term 'securities acquisition loan' means—

"(A) any loan to a corporation or to an employee stock ownership plan to the extent that the proceeds are used to acquire employer securities for the plan, or are used to refinance such a loan, or

"(B) any loan to a corporation to the extent that, within 30 days, employer securities are transferred to the plan in an amount equal to the proceeds of such loan and such securities are allocable to accounts of plan participants within 1 year of the date of such loan, except that this subparagraph shall not apply to any loan the original commitment period of which exceeds 7 years.

For purposes of this paragraph, the term 'employer securities' has the meaning given such term by section 409(1)."

(c) EFFECTIVE DATES.—

(1) DIVIDENDS.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—

(A) The amendments made by subsection (b)(1) shall apply to loans used to acquire employer securities after the date of the enactment of this Act, including loans used to refinance loans used to acquire employer securities before such date if such loans were used to acquire employer securities after July 18, 1984.

(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1954, as added by subsection (b)(2), shall apply to loan refinancings after the date of the enactment of this Act.

(C) Section 133(b)(1)(B) of the Internal Revenue Code of 1954, as added by subsection (b)(2), shall apply to employer securities transferred after the date of the enactment of this Act with respect to any securities acquisition loan incurred after July 18, 1984.

SEC. 1275. REQUIREMENTS FOR EMPLOYEE STOCK OWNERSHIP PLANS.

(a) DISTRIBUTIONS ON PLAN TERMINATIONS PERMITTED.—

(1) IN GENERAL.—Paragraph (1) of section 409(d) (requiring that employer securities must stay in the plan) is amended by striking out "or separation from service" and inserting in lieu thereof "separation from service, or termination of the plan".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan terminations after December 31, 1984.

(b) DISTRIBUTION AND PAYMENT REQUIREMENTS.—

(1) IN GENERAL.—Section 409 (relating to qualifications for employee stock ownership plans) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DISTRIBUTION AND PAYMENT REQUIREMENTS.—A plan meets the requirements of this subsection if—

"(1) DISTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—The plan provides that, unless the participant otherwise elects, the distribution of the participant's entire account balance in the plan will be commenced not later than 1 year after the close of the plan year—

"(i) in which the participant separates from service by reason of the attainment of normal retirement age under the plan, disability, or death, or

"(ii) which is the 5th plan year following the plan year in which the participant otherwise separates from service, except that this clause shall not apply if the participant is reemployed by the employer before such year.

"(B) EXCEPTION FOR CERTAIN FINANCED SECURITIES.—For purposes of this subsection, the account balance of a participant shall not include any employer securities acquired with the proceeds of the loan described in section 404(a)(9) until the close of the plan year in which such loan is repaid in full.

"(C) LIMITED DISTRIBUTION PERIOD.—Unless the plan provides that participant may elect a longer period, the plan may provide that a participant shall receive the distribution described in this paragraph over a period not longer than the greater of—

"(i) 5 years, or

"(ii) in the case of a participant with an account balance in excess of $500,000, 5 years plus 1 additional year (but not more than 5 additional years) for each $100,000 or fraction thereof by which such balance exceeds $500,000.

"(2) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the dollar amounts under paragraph (1)(C) at the same time and in the same manner as under section 415(d)."

(2) CONFORMING AMENDMENT.—Section 409(a)(3) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (o)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions attributable to stock acquired after December 31, 1986.

(c) PUT OPTION REQUIREMENTS.—

(1) PAYMENT REQUIREMENT.—

(A) IN GENERAL.—Subsection (h) of section 409 (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraphs:

"(5) PAYMENT REQUIREMENT FOR TOTAL DISTRIBUTION.—If an employer is required to repurchase employer securities which are distributed to the employee as part of a total distribution, the requirements of paragraph (1)(B) shall be treated as met if—

"(A) the amount to be paid for the employer securities is paid in substantially equal periodic payments (not less frequently than annually) over a period beginning not later than 30 days after the exercise of the put option described in paragraph (4) and not exceeding 5 years, and

"(B) there is reasonable interest paid on the unpaid amounts referred to in subparagraph (A).

For purposes of this paragraph, the term 'total distribution' means the distribution within 1 taxable year to the recipient of the balance to the credit of the recipient's account.

(6) PAYMENT REQUIREMENT FOR INSTALLMENT DISTRIBUTIONS.—If an employer is required to repurchase employer securities as part of an installment distribution, the requirements of paragraph (1)(B) shall be treated as met if the amount to be paid for the employer securities is paid not later than 30 days after the exercise of the put option described in paragraph (4)."

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to distributions attributable to stock acquired after December 31, 1986, except that a plan may elect to have such amendment apply to all distributions after the date of the enactment of this Act.

(2) PUT OPTION REQUIREMENT EXTENDED TO STOCK BONUS PLANS.—

(A) IN GENERAL.—Section 401(a)(23) is amended to read as follows:

"(23) A stock bonus plan shall not be treated as meeting the requirements of this section unless such plan meets the requirements of sections 409(h) and (o), except that in applying section 409(h) for purposes of this paragraph, the term 'employer securities' shall include any securities of the employer held by the plan."

(B) EFFECTIVE DATE.—The amendment made by this subsection shall apply to distributions attributable to stock acquired after December 31, 1986.

(d) NONDISCRIMINATION REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 415(c)(6) is amended by striking out "the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)" and in-

serting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 415(c)(6) is amended by striking out clauses (iii) and (iv) thereof.

(B) Subparagraph (C) of section 415(c)(6) is amended by striking out "the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1986.

Mr. LONG. Madam President, we now have 10 million employees who own stock in the companies for which they work. It has been projected that sometime in the next 10 years, there will be more employees who own stock in their companies than there will be members of labor unions.

There is no conflict here. Many members of labor unions are some of the strongest supporters of employee stock ownership but this is an indication that the idea of an employee owning a piece of the action is catching on and moving forward. It is well to note that this is moving. The more people see it, the more it is liked by the employees and employers. It brings a better understanding and a new mood of cooperation and sympathy and agreement between management and labor. It works to the mutual advantage of both.

I have made many speeches on this subject, but I will not incorporate them in the RECORD at this point. If any of my colleagues are interested in these speeches, I will be happy to supply them.

I thank my colleagues for the support they have provided. I particularly thank the Senator from Montana [Mr. BAUCUS] for his valuable contribution on two amendments in this package which are his handiwork. I appreciate very much his interest and his contribution and his active support of employee stock ownership.

Mr. President, I will be retiring at the end of this Congress. Since 1973 I have engaged in a legislative labor of love concerning employee stock ownership—believing that we in the Congress have an obligation to expand capital ownership opportunities to as many Americans as possible, and particularly expand those opportunities to working Americas. With that in mind, I have sponsored a series of amendments over the years designed to advance this idea through the use of this technique of corporate finance known as the employee stock ownership plan.

I am happy to report that, although there is much yet to be done, ESOP's are beginning to have an impact—with more than 10,000,000 employees now participating in ESOP's in more than 7,000 corporations nationwide.

Mr. President, I am convinced that this Nation and this Nation's economy would be much improved if we in the Congress made a point of ensuring more widespread participation in capital ownership. We would have a far more equitable system, a far more productive and competitive economy, and an economic system that those we oppose would find far more difficult to attack.

It is my hope that all Members of the Senate will join me in support of this amendment. In contrast to what the sponsors of this amendment propose, the House bill looks in the opposite direction—toward phasing out those provisions of tax law which help workers to own "a piece of the action." It is to the advantage of working Americans that the Senate insist on retaining those provisions and retaining the Finance Committee amendment in its conference with the House.

Mr. President, employee stock ownership is perhaps the most bipartisan issue I have ever encountered. Expanded capital ownership is a political rainbow that can be painted in any color the occasion calls for. Democrats, for example, may prefer to think of the advantages of cutting the working man in on a piece of the action. Republicans, on the other hand, may prefer to point out how ESOP's can help make every man a capitalist. Both are equally true.

Yet employee stock ownership is in no sense a single-issue concept. Expanded capital ownership is only one aspect and, some might argue, not the most important aspect of the ESOP concept. I believe this Nation needs incentives for expanding capital ownership. I believe that broadened capital ownership should be a goal of this Nation's economic policy.

For those of you who know the history of my father, Huey Long, it should come as no surprise that I view ESOP's as a type of populism without Robin Hood—a way to expand ownership without taking away from current owners. We do not need to redistribute the wealth of current owners; what we need is a way to expand the ownership of future wealth—wealth that does not yet have owners.

Yet ownership is but one aspect of the many reasons I and others continue to advocate incentives for broadening capital ownership and employee stock ownership in particular. Let me mention just a few of the many new political issues that can be addressed by this new concept in finance. For example, ESOP's offer:

A new approach to fostering human dignity and autonomy.

A new theory about motivation, dedication and productivity.

A new way to stimulate international competitiveness.

A new definition of economic opportunity.

A new approach to management theory.

A new hope for labor-management relations

A new strategy for union organization.

A new focal point for a progressive agenda.

A new economic model for the United States to advocate in its foreign relations.

A new way to work toward an economic counterpart to political democracy.

A new concept in social and economic justice.

A new approach to privatization of government-owned enterprise.

A new way to structure mergers, acquisitions and leveraged buyouts.

A new way to think about retirement policy.

A new way to respond to the competitive reality of deregulation.

A new hope for bipartisan economic solutions.

A new way to avert plant closings.

A new way to structure State-level economic incentives.

A new way to influence the economic development agenda of a city, State or region.

A new way to relieve fiscal pressures—such as taking pressure off Social Security.

A new way to influence income flows.

A new way to influence environmental issues, for example, by encouraging local versus absentee ownership.

A new approach to small business continuity.

A new approach to estate planning.

A new way to promote respect for private property.

A new way to foster community cohesiveness.

A new way to finance Government contracts.

A new way to finance public services.

A new approach to providing public funding for privately-owned ventures.

And, for the philosophically minded, a new way to move from status, for example, slave, serf and worker, to contract, for example, employee and employee-owner.

What is the key political message in all this? In its most basic sense, ESOP's are about participation—and participation is the very heartbeat of a democracy.

That is why the ESOP concept is—and will remain—so potent. Denial of the opportunity for participation is denial of human dignity and democracy. It simply will not work.

Encouraging the use of financing techniques that expand capital ownership can only result in a better America. That approach can create econom-

ic autonomy and personal dignity and foster social and cultural harmony.

In addition, such an approach would engender a renewed respect for private property, and a sense of thankfulness and gratitude for this wonderful Nation in which we live.

Our tax system can both impoverish people and empower them. My hope is that our tax system will no longer impoverish anyone. This bill goes a long way toward achieving that laudable goal. It is my hope that a time will come when the tax system can be used to empower everyone as well. The ESOP amendments in this bill, when combined with those enacted previously, will help move us in that direction.

Mr. BAUCUS. Mr. President, I very strongly support the amendment offered by the Senator from Louisiana.

We all know that the Senator from Louisiana often makes a point by telling a story. I would like to try to make a point by giving a little history lesson.

The last time we overhauled the Tax Code was 1954. That was quite a year.

Eisenhower was President.

Joe DiMaggio was married to Marilyn Monroe.

And Senator RUSSELL LONG was serving his first term as a member of the Senate Finance Committee.

As I understand it, at that time he offered several amendments, including an amendment to increase the personal exemption and an amendment to close loopholes involving stock dividends.

So the Tax Code of 1954 not only had Senator LONG's fingerprints on it, but also every tax bill since has had his signature on it.

That has been all to the good.

Through three decades, Senator LONG has had one of the toughest jobs in the country: Raising revenue to support the necessary functions of our Government.

He has discharged that responsibility with tact, talent, and tenacity.

As our distinguished majority leader said in his first speech upon succeeding Senator LONG as chairman:

> Senator LONG's power is derived, not from his position with the majority, nor even from his mastery of the legislative process alone. His power derives from his absolute command of the field of finance, and his absolute professionalism in leading others less versed than he.

One of Senator LONG's most important legislative contributions has been to expand the ownership of the Capital.

Former Treasury Secretary William Simon recently wrote:

> Perhaps the most important reason why Americans should remember this great man with gratitude is that for many years, without much publicity, Mr. LONG has been a dedicated and effective champion of expanding the distribution of private property ownership among the people of the United States.

Senator LONG has accomplished this by promotion employee stock ownership plans.

Why are ESOP's so valuable? People work harder when they know that there is a direct connection between their performance and their pay.

As a result, we can increase our economic productivity by giving American workers a greater stake in their companies' profits. ESOP's do that! They make employees of their companies!

As a result, companies that provide ESOP's frequently have:

Higher productivity; they have better labor/management relations; and they have better cash flow.

For years, Congress has recognized the utility of ESOP's, and enacted tax provisions that encourage their use.

The Finance Committee bill that we are considering today contains several such provisions.

In addition, the committee bill includes the statement that:

> The Congress has made clear its interest in encouraging employee stock ownership plans as a bold and innovative technique of finance for strengthening the free enterprise system.

□ 1140

Given the important role ESOP's can play promoting U.S. competitiveness, I believe it is important for the entire Senate to affirm this statement.

That would be a fitting tribute to Senator LONG.

Some years ago, the Senate charged a special committee to select the five most distinguished Senators in U.S. history. The five were Henry Clay, John Calhoun, Daniel Webster, Robert LaFollette, and Robert Taft.

Each had served on the Finance Committee, three as chairman.

Senator LONG has carried on their tradition.

Edmund Burke once said:

> An ability to preserve, and an ability to improve, taken together, would be my standard of a statesman.

As much as any person who has ever served in this Chamber, RUSSELL LONG meets that definition.

As a tribute to his long and diligent work, I urge my colleagues to support this amendment.

Mr. PACKWOOD. Madam President, having worked with Senator LONG on this issue for many, many years, this is not an issue where everyone should share credit. This is one where he should have sole credit. We would not have ESOP's in the law today but for RUSSELL LONG. They would be in the law 2 years and dropped but for RUSSELL LONG; they would be in the law 4 years and dropped but for RUSSELL LONG.

I hope now they have been in the law long enough that when he leaves the Senate we no longer will have debates about dropping them. They have been the bulwark of capitalism. They should be continued and expanded.

I hope when the debate on this amendment is done we will have a rollcall vote 100 to nothing so we can stand behind this amendment when we go to conference.

Mr. BAUCUS. Madam President, if the Senator will yield, I think the Senator made a very important statement. Not only has Senator LONG been the initiator of ESOP's, he has been the Senator who prevailed and persevered so the provisions are deeply embedded in the code and part of American life.

I agree with the final point the chairman made, namely, that now we all know that ESOP's are firmly in the code, firmly a fabric of American life and no longer hear some folks saying, "When Senator LONG leaves, we don't have to worry about ESOP's any more."

I think the Senator from Louisiana has made a major contribution. ESOP's are going to make the America of the next century a very strong, competitive country. Without this concept and concepts similar to it, it is the judgment of this Senator that the country would be dramatically worse off.

I thank the Senator.

Mr. LONG. Madam President, I thank my colleague for his kind words that he said about me.

The Senator should not, however, be disappointed if this does not receive 100 votes.

It has always been my thought on an amendment if I have 51 votes plus the strong support of the committee chairman, that is all I really need.

I thank the chairman and also thank Senator BAUCUS for his kind words.

Mr. PACKWOOD. Madam President, when RUSSELL LONG was chairman, you did not need 51 votes. If you had RUSSELL LONG you won.

I would like to think the same would be true here.

Mr. LONG. I thank the chairman.

Mr. HATFIELD. Mr. President, I rise today to join my good friend from Louisiana, Senator LONG, the ranking member of the Finance Committee, in cosponsoring this divided portion of the Finance Committee amendment concerning employee stock ownership plans, or "ESOP's." It is my hope that the conferees will insist upon the Senate provisions and insist that current law regarding ESOP's be maintained as permanent provisions in the Internal Revenue Code.

Since 1973, I have been a strong supporter of the use of the ESOP, which I believe is the most important innovation in investment finance developed in decades. The Finance Committee amendments would further the two basic objectives of the current ESOP provisions: First, to provide companies with an additional and less-expensive

means of financing corporate development, thereby building a property stake for the company while raising dividend income for stockholders; and, second, to provide an effective means for employees to become owners of stock and expand stock ownership in this country.

Mr. President, ESOP's contribute greatly to diversifying capital stock ownership, to enabling citizens to participate directly in the profitability of their employers and to providing a convenient and available source of capital for companies seeking to expand. Ultimately, it is my hope that these stock ownership plans will promote economic prosperity for employers and employees and will lead to a more stable national economy.

I need not describe specifically the provisions contained in the Finance Committee bill. However, one of the amendments to the ESOP provisions is the inclusion of a statement of congressional intent explaining in part the rationale for these amendments. I wholeheartedly concur with this statement and restate it here:

The Congress has made clear its interest in encouraging employee stock ownership plans as a bold and innovative technique of finance for strengthening the free private enterprise system. The Congress intends that such plans be used in a wide variety of corporate financing transactions as a means of encouraging employers to include their employees as beneficiaries of such transactions. The Congress is deeply concerned that the objectives sought by this series of laws will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of employee stock ownership trusts and employers to take the necessary steps to utilize employee stock ownership plans in a wide variety of corporate transactions, and which otherwise impede the establishment and success of these plans.

It is the unanimous opinion of the Finance Committee and myself and others that it is appropriate to expand on the current incentives that advance the idea of broader capital ownership, and employee stock ownership in particular, and to make such incentives a permanent part of the Internal Revenue Code. Consequently, I urge support for this resolution.

Mr. President, my support for the ESOP provisions and this resolution would not be complete without paying special tribute to my dear friend from Louisiana, Senator LONG, who has been the leading advocate for ESOP's. Senator LONG's motivation in advocating the establishment of ESOP's is not partisan, nor is it political. As is characteristic of the senior Senator from Louisiana, his purpose is simply to bring out the best in our free enterprise system to grant to those who work to make our economy succeed the opportunity to share in that success.

As it is mine, the dream of Senator LONG of the future of America pictures our Nation as once where the wealth is reasonably spread among all Americans. It is a dream of simple and basic equity.

This will be Senator LONG's last tax bill, one which, if adopted, will be the crown jewel of a career distinguished for its number of significant accomplishments. If these provisions are preserved at conference and their permanence in the code is maintained, then my good friend from Louisiana may take great pride and satisfaction that he has left a legacy to the American people which will advance economic growth for years to come.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor this ESOP resolution, and I intend to vote for it enthusiastically. But more important, I am proud to join my colleagues in saluting an old friend, a Senator without parallel, a man whose grand vision of opportunity for all has guided his entire public life.

This resolution endorses the Finance Committee's provisions regarding employee stock ownership plans—legislation I was proud to cosponsor when it was first introduced in 1983. But what I want to say goes far beyond those specifics, for they are only the tip of the iceberg.

They represent an idea about our country, an idea that is rooted in the belief that national greatness can only be obtained when every citizen is a beneficiary of the blessings of America, an idea that is premised on the understanding that a strong democracy cannot endure a permanent division between haves and have nots, an idea that has found its fullest expression in the belief that it is the supreme responsibility of Government to advance real opportunity for all.

RUSSELL LONG has pursued this vision with remarkable success throughout his long and remarkable career—a career which surely will not end next January.

I have been honored to serve with RUSSELL LONG for over two decades. For all those years, he has graced this Chamber with his vision, his intellect, his wit, and his friendship. I commend him for his outstanding public service to the people of Louisiana and to all the people of America. He ranks with the greatest Senators who have ever served in this body, and we shall miss him in the years and the debates to come.

Mr. ROCKEFELLER. Mr. President, I rise in support of this amendment, and wish to commend my distinguished colleague from Louisiana [Mr. LONG] for all he has done over a period of many years to encourage employee ownership of American industry. No one in Congress knows more about the issue of employee stock ownership plans [ESOP's] than Senator LONG, and his advocacy has enormously increased public awareness of their value to workers and companies alike. His leadership will be deeply missed when he leaves the Senate, but his vision will guide those of us who share it for years to come.

I have long believed that ESOP's are an important and innovative way to improve industrial relations and strengthen business performance. I have been tremendously impressed with the experience in West Virginia of Weirton Steel—the largest employee-owned company in the country. Four years ago, this plant was slated to close down, eliminating more than 7,000 jobs and thoroughly ravaging the economy of the surrounding area. The workers and residents of Weirton were determined to prevent this catastrophe and, as Governor, I was privileged to work with them. The key to saving the mill was the establishment of an ESOP, which enabled the workers to buy the plant.

Now, instead of an idle facility, Weirton boasts one of the only profitable steel companies in the country. Recently, the company was able to distribute $20 million—about one third of its 1985 profits—to the more than 8,000 workers covered by its ESOP. In an industry suffering from massive cutbacks in production and steady losses of employment, Weirton's success is truly stunning.

The ESOP at Weirton represented much more than a technique of financing the purchase of the mill: it was the cornerstone of a far-reaching cooperative effort by labor and management to make—and keep—the operation profitable. Workers are extensively involved in decisions at Weirton—at all levels of the organization from the shop floor to the board room. Constructive labor-management relations won't insulate Weirton from the many problems plaguing the steel industry, but I'm convinced they can make a big difference. The ESOP and the style of management it encouraged at this company, in my view, have strengthened the workers' stake in the operation and helped to make it such a financial success.

Not all employee-owned companies have done as well as Weirton, of course, but I think the track record of plants that were saved from shutting down through employee buyouts is quite good. Based on past experience, there's every reason to hope that interest in ESOP's will continue to grow—and provide benefits to a wider segment of American industry.

Currently, close to 7,000 companies in this country have ESOP's covering more than 10 million workers. The majority of cases—unlike Weirton's—do not involve a company in danger of closing. Typically, ESOP's have been used either to sell closely-held compa-

nies to employees when the owner decides to retire or as a way to raise capital for the company.

I welcome these developments because the companies transferred to the workers tend to be healthy ones—and I know that's a trend Senator LONG has consistently sought to encourage. Under the pending bill, for example, when a business is sold to the employees, up to 50 percent of the proceeds can be excluded from the former owner's estate. As I understand them, the tax proposals tend to be refinements of existing incentives to establish ESOP's—and are paid for by repealing a tax credit that companies with ESOP's now claim.

From the examples I'm familiar with, I consider ESOP's a valuable financial benefit. The evidence suggests even lower paid workers accumulate significant amonts from such plans. Relatively few ESOP's are established in place of a pension plan, and it doesn't appear that employees are generally required to sacrifice wages in return for an ESOP. Where ESOP's represent a good deal for workers, we should want to see them flourish. And where ESOP's can help us transform our industrial landscape by fostering better labor-management relations and impressive improvements in productivity, we should welcome their growth. I commend Senator LONG for his vision on this issue and for his tremendous dedication to it. I am pleased to join him in support of this amendment, and look forward to seeing these ideas advance.

SENATOR RUSSELL LONG: THE CHAMPION OF ESOP'S

Mr. SASSER. Mr. President, I rise to commend our distinguished colleague, Senator RUSSELL LONG, for his untiring work in promoting the concept of employee stock ownership plans [ESOP's].

The senior Senator from Louisiana has many, many legislative achievements to his credit. But perhaps none is dearer to him that that of employee stock ownership plans. He knows that this concept is one that truly provides for the democratic ownership of capital in this country. He knows that ESOP's are a vehicle whereby American workers can more fully share in the economic fruits of their labor.

So it is fitting that we honor Senator RUSSELL LONG today for the work that he has done for the American people by being the champion of employee stock ownership plans.

ESOP's are a most encouraging trend in American business—one that is saving thousands of jobs and giving millions of American workers the opportunity to gain direct ownership of the companies that employ them. The growth of ESOP's has been remarkable over the last few years. As of 1985, nearly 10 million American workers had enrolled in these plans. The number of new plans being created is increasing at a 10-percent annual rate. At that rate, it is estimated that 25 percent or more of all U.S. workers will own part or all of their companies by the year 2000.

ESOP's offer several important benefits. First, they give employees the chance to share in company profits. Second, as part owners of the companies that employ them, workers enjoy a new sense of pride in their work. "If you waste time," says one ESOP employee, "you're only wasting your own money." Finally, in cases of failing plants and companies, ESOP's give employees the opportunity to buy out the companies and save their jobs. William F. Whyte of Cornell University estimates that ESOP-financed worker buyouts have saved 50,000 jobs since the early 1980's.

A recent case in my native State of Tennessee exemplifies the potential benefit of ESOP's. North American Rayon Corp. announced last year that it would close its facility in Elizabethton, TN, and terminate the employment of 1,300 people working there. Reacting to this announced closing, representatives of the United Textile Workers of America successfully negotiated with North American Rayon to keep the plant open. They also struck a deal which allows the workers at Elizabethton to buy the company through the means of an ESOP. The turnaround at the Elizabethton facility since the announced closing has been remarkable. Nearly 200 new employees have been hired and production has increased.

In announcing the creation of the ESOP to employees, North American Rayon plant manager, Jack Conley, stated:

> Yesterday you worked to make money for someone else. Today, you work to make money for yourselves.

His statement captures the powerful incentive of an ESOP. And it is why I believe ESOP's can do a lot to improve productivity and the quality of work in American industries.

The people of Elizabethton and the rest of the country are indebted to RUSSELL LONG for the work he has done for them on ESOP's.

EXPANDED CAPITAL OWNERSHIP AND THE IDEOLOGICAL HIGH GROUND

● Mr. LUGAR. Mr. President, I strongly support the employee stock ownership concept for Americans and as it relates to American foreign policy. Last fall I spoke at length in this Chamber on the virtues of ESOP's and the importance of American export of the ESOP concept. Thanks to the Presidential Task Force on Project Economic Justice we are establishing a comprehensive strategy and policy framework for encouraging the use of the employee stock ownership plan and other expanded ownership vehicles within Central America and the Carribean Basin. This effort involves a growing awareness that both peace and freedom result from justice, and that a just free enterprise system is the only truly effective answer to the false promise of Marxism. In order to deal with the causes, and not just the symptoms, of economic justice, we must connect workers to property and power; we must promote a free enterprise version of economic justice. And, in particular, we must encourage self-help and worker ownership for the people of Central America and the Carribean.

A principal aim of expanding capital ownership in the region is to develop a broadened political constituency among workers in support of private enterprise as the best means to accelerate economic development and political self-determination. A new constituency must be created for free enterprise and against collective and state ownership of industry and agriculture. Popular political support for free, private enterprise is essential not only to secure political stability and democratic processes, but to increase economic productivity and local capital formation. The ESOP concept is an effective tool that the United States can export in support of the free enterprise version of economic justice.

Finally, it is a privilege to note again that the primary champion of employee stock ownership in Congress is my venerable colleague, Senator RUSSELL LONG. To Senator LONG belongs much of the credit for the promise and popularity of the ESOP concept. His constant and creative leadership will be a continuing inspiration.●

Mr. MATSUNAGA. Mr. President, I rise in strong support of the amendment offered by my dear friend, the distinguished senior Senator from Louisiana [Mr. LONG]. As an early convert to the merits of employee stock ownership plans [ESOP's], I am convinced that Senator LONG has laid the ground work for a workers' capitalism in America, and that he will go down in history as the father of one of the greatest democratizing movements in this country.

Mr. President, no one has done more to encourage employee stock ownership plans [ESOP's]—and thereby advance the cause of workers' capitalism—than our former chairman of the Finance Committee, RUSSELL LONG. Thanks in large measure to Senator LONG's vision and leadership, ESOP's have proven to be an effective means of enhancing business development and productivity while encouraging employee ownership participation in the American free enterprise system. The provisions under current law which encourage the development and growth of ESOP's, as well as the provisions in the Finance Committee tax

reform bill pending before us, are evidence of Senator LONG's success in this regard.

Mr. President, the Long amendment now under consideration includes a statement of congressional policy which I commend to my colleagues. Employee stock ownership plans are held to be a bold and innovative tool of corporate finance for the purpose of strengthening the private free enterprise system. It is stated that the policy of the Congress is that ESOP's be used in a variety of financing transactions in order to encourage the participation of employees as beneficiaries of such transactions.

The Long proposal makes a number of changes in the tax treatment of ESOP's which advance the idea of broader capital ownership and employee stock ownership, as follows:

First, it permits a deduction for dividends on employer securities if such dividends are used to make payments on an ESOP loan;

Second, it permits a partial exclusion from an estate for the proceeds realized on an estate's sale of employer securities to an ESOP;

Third, it expands the deduction for dividends paid on ESOP stock to apply to dividends that are used to repay ESOP loans;

Fourth, it exempts ESOP's from the excise tax on early withdrawals from pension plans;

Fifth, it allows an additional $2,500 401(k) contribution if the additional funds are invested in employer stock in an ESOP; and

Sixth, it provides an exemption from the proposed 10-percent excise tax on pension plan asset revisions to the extent revision amounts are transferred to an ESOP.

I urge my colleagues, in tribute to the distinguished senior Senator from Louisiana, to support the Long amendment to strengthen the hand of the Senate tax reform conferees on the ESOP issue.

Mr. BYRD. Mr. President, I am pleased to join my good friend and colleague, Senator RUSSELL LONG, in supporting the Finance Committee-approved employee stock ownership plan [ESOP] provisions of the tax reform bill.

These provisions enhance and expand a proven program. When I say a proven program I know whereof I speak. It is a program which distributes the wealth and which embodies the best concepts of a democratic society, that of participation, involvement, and ownership, with each participant, through joint ownership, entitled to a portion of the profits derived from his labors. The Weirton Steel Corp., located in Weirton, WV, that is—the largest wholly employee-owned company in the Nation and is a prime example of the successful utilization of the ESOP concept. Because of the employee stock ownership plan, the 8,400 employees of Weirton Steel, who stood to lose their jobs in 1982, when National Steel announced it would sell the plant to its employees or close the plant, are continuing to hold jobs and to contribute to tax revenues of the State of West Virginia and the Nation.

Absent the ESOP program, these steelworkers would not have the jobs that they hold today. Not only that, but the city of Weirton would be a ghost town and the reverberations of that shutdown would have been felt not only through the northern panhandle of West Virginia but also in the adjoining States of Pennsylvania and Ohio and all throughout the State of West Virginia.

So, we in West Virginia know whereof we speak when we speak of ESOP and we know who is the father of the program—Senator RUSSELL LONG.

He has now, and he always will have, the gratitude and the affections of the citizens of West Virginia for his role in the creation of the Weirton Steel Corp., one of the largest employers in West Virginia.

Through earlier Federal legislation sponsored by Senator LONG to create a tax deductible financing technique—and I was proud that Senator LONG asked me to join as a cosponsor—the Weirton employees were able to purchase their plant, and, through sacrifice and determination and hard work, to keep it operating. Not only is Weirton Steel operating; it has also shown a profit each quarter for the nine consecutive quarters since the new company was established. In Weirton, we saw a community and labor and management working together, all sacrificing but coordinating their efforts and cooperating to come together in a very successful effort: the ESOP Weirton Steel Co.

The company is revitalizing itself by continued investment in new equipment and processes so that it can continue to be competitive in world steel markets in the future.

In March of this year the company distributed its first profit-sharing funds—amounting to more than $20 million—to 8,400 employees who are also plantowners.

We owe a tremendous debt of gratitude to Senator LONG. The ESOP program is fair. It is forward looking. It is effective.

I fully support the program. I fully support the strengthening of it as it benefits its participants. But not only does it benefit its participants, it continues to enhance Federal revenues, it continues to enhance State revenues, and it does these things by keeping its employee owners working and paying taxes who might otherwise be a financial burden to our society.

I join again in thanking Senator LONG, and I urge our colleagues to vote unanimously to support this program.

Mr. SIMON. Madam President, will the minority leader yield?

Mr. BYRD. Yes, I yield to my friend from Illinois [Mr. SIMON].

Mr. SIMON. I simply join and associate myself with his remarks.

Yesterday on the floor I made a few remarks about ESOP and Senator LONG's contribution.

I think it is a tremendous program and a tremendous contribution.

If you walk down the streets even in New Orleans or Baton Rouge or Carbondale, IL, or a street in West Virginia, I do not think the average person would know anything about an ESOP. It is one of these things that is somewhat technical in nature and yet it just really does make a tremendous contribution to this Nation.

One of the great tributes we are going to pay RUSSELL LONG is not simply with words that we give here but in the years to come to make sure that we preserve, strengthen, enlarge, and enhance ESOP.

I think we are going to do it. I could not agree more with what the minority leader has to say.

I am proud to be serving just 2 years in the same body with RUSSELL LONG.

□ 1150

Mr. BYRD. Mr. President, I thank the very distinguished Senator from Illinois for his constructive and concisive remarks and comments. I am sure that all of us share his gratitude and admiration for our distinguished friend and colleague, Senator RUSSELL LONG.

Mr. PACKWOOD. Vote

The PRESIDING OFFICER. The question is on agreeing to division 1. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—99

Abdnor	DeConcini	Hart
Andrews	Denton	Hatch
Armstrong	Dixon	Hatfield
Baucus	Dodd	Hawkins
Bentsen	Dole	Hecht
Biden	Domenici	Heflin
Bingaman	Durenberger	Heinz
Boren	Eagleton	Helms
Boschwitz	East	Hollings
Bradley	Evans	Humphrey
Bumpers	Exon	Inouye
Burdick	Ford	Johnston
Byrd	Garn	Kassebaum
Chafee	Glenn	Kasten
Chiles	Goldwater	Kennedy
Cochran	Gore	Kerry
Cohen	Gorton	Lautenberg
Cranston	Gramm	Laxalt
D'Amato	Grassley	Leahy
Danforth	Harkin	Levin

Long	Nunn	Simon
Lugar	Packwood	Simpson
Mathias	Pell	Specter
Matsunaga	Pressler	Stafford
Mattingly	Proxmire	Stennis
McClure	Pryor	Stevens
McConnell	Quayle	Thurmond
Melcher	Riegle	Trible
Metzenbaum	Rockefeller	Wallop
Mitchell	Roth	Warner
Moynihan	Rudman	Weicker
Murkowski	Sarbanes	Wilson
Nickles	Sasser	Zorinsky

NOT VOTING—1

Symms

So division 1 was agreed to.

□ 1210

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, is there an amendment about to be offered?

Mr. DURENBERGER. No, not an amendment, but there are some comments I would like to make on the bill.

Mr. DOLE. I would say to all my colleagues, when amendments come up, if we can get a time agreement quickly, we can really move along. We are down to 90-some amendments now.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, let me first say that it feels pretty good to be one of 99 of my colleagues saluting the contributions that our esteemed colleague from Louisiana has made to the ownership of business enterprise in America through employee stock ownership plans.

Also let me say that I regret not being able to be on the floor earlier this morning during the discussion over the issue of the deductibility of State and local taxes.

A statement on State and local tax deductibility was introduced on my behalf. I was unable to attend this morning's discussion because I was involved in chairing nominations hearings in the Finance Committee at the time. Had I been able to be here, I would have expressed my concern, Mr. President, for the fact that in the amendment——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. We cannot hear the Senator who is speaking.

The Senator from Minnesota.

Mr. DURENBERGER. I thank the Chair and I thank my colleagues as well.

Had I been here, I would have expressed first my concern about the fact that the amendment as offered and agreed to continues the basic point on discrimination in the bill against certain forms of State and local taxes. It was for that reason that I appreciated the colloquy that those who proposed the amendment entered into with the chairman of the Senate Finance Committee.

There has been a great deal of confusion on the part of a lot of people, including some of us on the Finance Committee, as to whether or not there was a policy being articulated in the Finance Committee bill on the issue of deductibility of State and local taxes and, if so, within that issue of deductibility whether or not there were a majority of members of the Finance Committee who favored discrimination against one or another form of taxation.

I appreciated very much the fact that the chairman of the Senate Finance Committee, to whom it has on occasion been attributed the discrimination in favor of income and property taxes and against sales taxes, had the opportunity during the course of that debate to indicate that the chairman of the Finance Committee, as Senator from a State which is selective in its utilization of tax sources and as a neighbor of a State which is also very selective in its use of tax resources, that it was his view, and hopefully as chairman of the conference committee that it was his view, that the public policy in this country is that the Federal income tax should not discriminate as against a source of State or local taxation.

In addition to that, Mr. President, I rise to remind my colleagues that we have debated over the last 10 days some relatively important issues. One of these issues was brought to us by our colleague from Ohio. In the course of that debate, it got us started on a course of changing one element of the tax bill before us that I think we do not really understand all the ramifications of. I am talking about the change in the threshold of deducting medical expenses.

There are a lot of statistics being thrown around. I will have a chart with statistics on it behind me only because, as I go through my concern with what the Finance Committee has done, we cannot keep people from charts. But I trust, Mr. President, that we in this room and others understand that behind the numbers we talk about in tax reform are real people.

I will begin my comments with the example of a young man by the name of Robert Davis and his young son Bobby.

Robert Davis is married and the father of two children, one of whom is 1 and the other is 6 years of age. Robert Davis is college educated. He is the sales manager for a computer company. He has a mortgage on a home in Severna Park, MD. Robert Davis is a middle-class American with what to most people appear to be the good life and a relatively secure future. All this would be true except that Bob Davis and his family live every day on the edge of a potential financial disaster due to the illness afflicting his son.

□ 1220

Robert Davis' son, Bobby, is 6 years old. He has a rare, life threatening form of epilepsy. With every seizure he has, little Bobby's brain function and nervous system are impaired. At 6 years of age, Bobby has had 35 seizures since he was 3 months old, and as as result, he now functions at the level of a 1-year-old child.

Little Bobby Davis goes to a special school to teach him skills he has lost as a result of seizures. His mother stays at home full-time to provide the constant care and training her son requires.

In addition to the emotional pain and suffering that his illness has caused Bobby Davis' family to bear, there is the constant fear of being financially bankrupted by the medical cost of treating these constant seizures.

The Robert Davis family is, as I said, a middle-class American family. Yet, because the employment-based insurance policy Mr. Davis has does not cover preexisting conditions such as the one his 6-year-old has, Bob Davis must pay a large proportion of his income for an additional health insurance policy and for uninsured, out-of-pocket, medical expenses.

In addition to his employer-based insurance, which covers his other family members, Bob Davis pays $460 a month for a health insurance policy for Bobby. The policy has a $2,000 deductible and limited, fixed payment benefits for episodes of illness.

Each of Bobby's illness episodes is expensive. He spends 2 to 4 days in the hospital each time in an intensive care unit. This costs the family between $1,200 and $1,600 per day. An extended stay in the hospital would financially ruin the family. They have no savings, no investments, no sheltered income. They would lose their home, their cars, and other assets, and, then, finally, after they were indigent, they would qualify for Medicaid and receive medical benefits under Maryland's Medicaid Program.

Currently, the Davis family receives some financial relief through the itemized medical deduction in the Federal Income Tax Code. Last year, the Davis family spent over $5,000 in itemized medical expenses, 6 percent of their gross income. This year, they anticipate itemized medical expenses equal to 8 percent of their gross income. This is a family struggling against barriers to health insurance access, and they are currently holding their own.

But, increasing the medical itemized expense threshold from 5 to 10 percent of adjusted gross income would be a catastrophe for the Davis family.

These medical expenses for their son's epilepsy treatments are not discretionary expenditures. This family cannot decide to spend less because their itemized deduction has been eliminated. By eliminating or reducing access to the itemized deduction, we are taking money out of the pocket of this family—a family which is already paying for a large part of the U.S. health care system through their taxes and employer-based insurance. They are paying for a medical system that they cannot use without paying even more for supplemental health insurance premiums, and paying 8 percent of their adjusted gross income in addition, out of their pockets, with after-tax dollars.

The economic cost of little Bobby's illness does not end there, however. There are many other costs that do not show up as health insurance premiums or itemized deductions. The Davis family spent $1,000 last year for diapers for their 6-year-old son. Mrs. Davis has no opportunity to work even part time. They must purchase equipment to prepare specially blended food for their son, and they have purchased a special vehicle to transport him to the hospital when he has a seizure, an event which has occurred once every 5 weeks for the past 5 years.

Mr. President, the situation facing the Davis family is not unique. Sixteen million American families spend 5 percent or more of their annual incomes on out-of-pocket medical expenses; 18 percent of these families are headed by someone over 64 years of age, in spite of the medicare benefits for which they are eligible.

For the elderly, spending on nursing home care represents the largest single out-of-pocket medical expense. These costs loom as an ever-present threat to the financial security of the elderly and their families. Studies indicate that a third of all elderly households would be improverished within 13 weeks if one member were forced to reside in a nursing home.

While current tax law provides some tax relief for seniors faced with large out-of-pocket expenses, raising the medical itemization deduction from 5 to 10 percent would cause many elderly an even greater financial burden than they already carry.

Consider the situation of an elderly couple with one member afflicted with Alzheimer's disease, no longer an uncommon situation. Victims of Alzheimer and may require some nursing home care off and on during the year. A typical elderly couple in this situation might have an adjusted gross income of $20,000 from pension, dividend, and interest income, and they could easily have $6,000 per year in out-of-pocket medical expenses for nursing home care.

Under current law, this couple can deduct $5,000 of the $6,000 they spend out of pocket.

Under the Senate Finance Committee tax bill, however, they could deduct only $4,000 of the $6,000 they spend for the nursing home care they need.

Comparing their actual Federal tax liability reveals how hard this elderly family would be hit:

Under current law, their tax liability would be $983.

But, under the Senate's tax bill, their tax liability would increase to $1,425, a 51-percent increase in their Federal taxes.

Mr. President, I think this is a cruel trick to play on the elderly of our country in the name of tax reform.

The Senate has achieved, in tax reform, a fairer and more equitable system of taxation for this Nation. But, this effort is not without flaws, as these two examples demonstrate.

In particular, I believe that the Senate Finance Committee erred in raising the threshold of out-of-pocket expenditures for medical expenses which qualify for a deduction.

It is for that reason that many of us supported an amendment proposed by the Senator from Ohio [Mr. METZENBAUM] earlier this week to move us back in the direction of current law on the medical deduction. He got us to 9 percent, as I understand it, and I trust the conference will head us as close to 5 as we can get.

Under current law, and the House version of H.R. 3838, taxpayers can deduct out-of-pocket medical expenses for themselves, their spouse, and dependents, above 5 percent of adjusted gross income. But, the Senate tax reform bill raises that threshold for the deduction to 10 percent of adjusted gross income.

I feel strongly that Senate conferees should agree with the House on this issue.

In taking this position, I understand that the Senate tax reform bill represents a trade off between special tax treatment for certain private spending decisions and simply putting more money in the pockets of individual taxpayers.

But, the advantage of providing Americans greater choice in allocating their resources is not relevant to the realities of involuntary medical expenses—of an extraordinary nature—which come as the result of catastrophic illness or diability.

One need simply look at the consequences of this change in the deduction for health expenses for one American family to realize its importance.

A recent study released by the National Center for Health Services Research indicates that 16 million—or 20 percent of all American families—have out-of-pocket medical expenses greater than 5 percent of family income. Eleven million of these families now receive relief from taxes through the tax deduction. I should note that the lions' share is the middle-income families whose lives might be ruined without that relief.

□ 1230

Over 75 percent, Mr. President, of the people taking this particular deduction now, that is, a limitation of 5 percent of adjusted gross income—meaning you have to have more than 5 percent of your income going into medical expenses—75 percent of those people are in low- or middle-income categories. Forty-six percent are in the middle-income category, from $20,000 to $40,000 a year.

These are not expenses which taxpayers or their families can control. And, moving the threshold for their deduction will bring them even greater hardship. This is a point made by the statistics on a second chart I have which indicates that 11 million American families now come under the 5-percent threshold, but only 7 million would meet the test at 10 percent in the tax bill. That means 4 million American families will lose the deduction under this change. But, worst of all, the actual dollars in tax relief for those still able to take the deduction at 10 percent will be greatly decreased. Whereas, under current law, total tax relief is $3.7 billion next year, under the Senate tax reform bill it will drop to $1.9 billion—a loss to those 4 million families as well as the 7 million still receiving the tax break of $1.8 billion.

Mr. President, tax reform is meant to free up the economic potential of the American taxpayer, not place additional burdens on a 6-year old still in diapers or on his family.

I suggest that the health deduction should not be tampered with in this tax reform process, and am hopeful that my colleagues, the Senate conferees will restore this inequity in negotiations with our colleagues from the House.

Mr. President, our distinguished chairman, BOB PACKWOOD, more than any other Member of Congress, has stood by the tax treatment of health benefits which provide an incentive for employer-based health insurance. The importance of health plan membership is unquestioned.

But for those whose health insurance does not cover extraordinary out-of-pocket expenses, or for those who lack insurance—37 million Americans—this deduction is a lifeline which helps protect the financial stability of their families.

I strongly believe Mr. President, the 5-percent threshold must be maintained, and I am confident that the tax bill which ultimately emerges from conference committee will main-

tain that threshold which is so essential to so many American families.

Mr. ZORINSKY. Mr. President, I intend to offer an amendment to close an egregious loophole that has existed in the Tax Code since 1976. This loophole enables large farming corporations with annual sales of a billion dollars or more to take advantage of an accounting technique intended solely for small family farmers.

In 1976, Congress determined that farming corporations should report their income under the accrual accounting method. This method more accurately reflects income because it matches the expenses of raising crops or animals with the income that is realized when those crops or animals are sold. Because the accrual method requires some amount of skilled accounting assistance, however, Congress recognized that it would be fairest to exempt small operations and family-owned farms from the requirement. Accordingly, these taxpayers were permitted to remain on the cash accounting method.

Unfortunately, a number of large agricultural corporations have been able to fashion their corporate structures to fit within the literal language of the exception. The unintended result is that these conglomerates are entitled to employ the cash method of accounting and in effect receive a tax-free loan from America's taxpayers—including the small family farmers this provision was designed to benefit.

These large corporations, through manipulation of the cash method, have in many instances been able to defer all of their Federal taxes. Under cash accounting, an agricultural corporation can deduct its expenses as the crops or animals are raised, and recognize its income only later when they are sold. When it comes time to recognize the income, these corporations simply expand their production, thereby generating enough new deductions to offset the income. Because cash accounting encourages overproduction in this way, it drives down the market prices of the farm commodities these large corporations produce. The most troubling aspect of the loophole is that this price depression strikes directly at the small farmer—the individual Congress intended to help, not hurt, with this provision.

There is another aspect of this that troubles me. One of the fundamental concepts of this tax bill has been the idea that business should be able to compete on a level playing field. If we fail to close this loophole, however, we will be sending the message to American businessmen that although we like the concept of a level playing field as a theoretical matter, we are not prepared to put it into practice. We will be sending a message that if you are large and powerful, you need not worry about being required to operate on a level playing field. We will be sending a message that, if you are large and powerful, you can expect to keep your special rules. We will be sending a message that if you are not large and powerful, beware; we will take away your special rule. Keep in mind that only a handful of agricultural corporations are able to take advantage of the loophole I have described. The rest of their competitors must play by the rules of accrual accounting. Surely this kind of competitive advantage for the large and powerful is not the result we sought when we determined to reform the tax laws of this country.

A lot has been said about the fairness and integrity of this bill and about the willingness of this Senate to do the right thing. It would be unfortunate if we were to undermine this support by turning away from America's small farmers and blinking our eyes at this egregious loophole.

Mr. President, I believe the distinguished chairman knows that I view this issue as a serious one. I am extremely disappointed that the Tax Code, as revised by the Senate's tax reform bill, would continue to allow a handful of billion-dollar corporations to benefit from a special rule designed to help small traditional family farms.

□ 1240

Nevertheless, I understand that the distinguished chairman is committed to tax reform and that he firmly believes the cause of tax reform will be best served if we adopt the Finance Committee bill without a great deal of amendment.

I would like to refer briefly to an article in a recent journal concerning the illustration of the existence of this current law. Actually, it classifies some corporations, many of which exceed $100 million in gross annual sales. Because they are owned by a family or an individual, they list them under family farms. Since they are a family farm under that definition, they are allowed to utilize the cash accounting system.

Most reasonable observers would not call Hudson Foods a family farm. It is based in Rogers, AR. It is the country's 17th largest poultry producer. In the fiscal year that ended last September 28, Hudson earned $85 million on sales of $185 million. It went public in February, raising $21.3 million.

This is not exactly your basic family farm. The Internal Revenue Service, not always a reasonable observer, does think so, and as a result, Hudson was able to defer $7.6 million, its entire Federal tax bill, last year under long-standing IRS rules. Deferral can be rolled over more or less indefinitely.

Hudson is not a fluke. It is done by the law. Other agri-industrial complexes, including $1.1 billion—in sales—Tyson Foods and privately held Perdue Farms, whose estimated sales are $74 million annually, also routinely receive tax breaks originally intended for family farms.

How do they do this? I quote from an article by Ruth Simon, entitled "Fun and Games with Chicken Feed."

By qualifying under some rather arcane rules that allow "family farms" to use cash accounting instead of the accrual accounting the IRS requires most companies to use when computing taxable income. The rules date from 1919, when the Treasury concluded farmers weren't sophisticated enough to use accrual accounting and said they could use cash accounting instead. Big farmers didn't abuse the provisions, because taxes were low. Besides, there weren't many big farms.

The choice of cash or accural is especially important for livestock farmers because such production costs as feed are incurred well before the livestock is sold.

Consider a chicken farmer. Accrual accounting would require him to report a portion of his feed inventories at the end of each year, while not permitting him to expense the feed until the bird was actually sold. The theory is that the feed is an integral part of the cost of producing the bird. Accrual accounting says income and expenses should be matched, so feed costs should not be deducted until revenue is received.

Cash accounting, in contrast, allows the farmer to report cash expenses and receipts when they actually occur. That means the farmer can immediately deduct the feed as an expense, but he doesn't have to report the chickens as income until they are sold. Expensing in the current period while deferring income to a later period amounts to a tax-free loan to the farmer from the Treasury. The bigger and more profitable the farm, the larger that tax-free loan tends to be.

Mr. President, there are many theories concerning what happens to the chicken business in the event that cash accounting is taken away from these huge businesses, businesses in excess of $100 million annual sales. Well, I still believe in free enterprise, and I say that if there is a demand for chickens, somebody will produce chickens, whether it be a huge conglomerate using cash accounting or a huge corporation using accrual accounting. But the fact remains that as long as human beings consume chickens, someone will sell chickens.

The argument that the chicken industry will be completely devastated and completely destroyed, and that thousands of chicken farmers who depend on the conglomerate granddaddy in providing chicken feed will completely disappear, under the cash accounting system, is a falsified argument.

To begin with, the smaller chicken farmers who depend on the big chicken man to buy the feed under cash accounting will be able to take cash accounting for themselves, if they are owned by an individual who owns over 51 percent of the company, under current tax law.

There is something wrong about saying that an individual who sells in excess of $100 million worth annually of chicken sales is a family farmer. This is not the intent of the 1919 bill, and I do not think it should be continued in current tax law.

However, I understand that in this particular legislation we are talking about on the floor, which is the tax reform package, it comes once in a long lifetime. I think it is very important to this country.

Various coalitions have built up in this body, which I am afraid does not afford an equal opportunity for legislation of this type to be considered adequately. For example, right away you buck up against 20 individuals known as the Finance Committee, who have a pact to avoid any type of amendments which may develop to be controversial.

I do know that many of my colleagues in this body are deeply involved in their States with chicken farmers, and I know that many States have chicken people who use cash accounting, and many States have chicken people who use accrual accounting. The differential between the two does create an inequity and an unequal playing field in the business environment.

I think we will have to come to grips with it one day on the floor of the Senate. Unfortunately, I do not think today is the day. I do not think this particular tax reform package is the place to do it, because there are too many bonds that have been created in order to preserve a very fragilly constructed package. I would have liked to offer this in companionship as an offset to some piece of legislation so that it could go as a package.

□ 1250

Unfortunately, this will be freestanding. Maybe it is not unfortunate, because it would just accrue to the Treasury of the United States and help reduce the deficit of this Nation. I will introduce this hopefully at a later time this year on a different piece of legislation.

But since there are these alliances built throughout this body that will vote against this type of legislation, regardless of the merit of this legislation, I feel at a future date we will have a better chance and the better ability for understanding within this body as to the inequities that are created by labeling someone who does over $100 million in business as a family farmer under an antiquated law which enables him to borrow money theoretically from the Federal Government at no interest while the taxpayers of this country have to pick up the differential.

So in that regard I inform the distinguished chairman of the Finance Committee that due to my high regard for him and my appreciation for his efforts in attempting to get this bill through the Senate, whether we finish it this week or next week, I do not want to add to the animosity that does exist within this Chamber in various areas to highten the emotion and the tensions by bringing this amendment at this particular time. Therefore, I will not offer my amendment on the tax reform package.

But I would say this, Mr. President: I think more will be said about this in the future. I think many people misunderstand what this does in creating inequities in the marketplace in addition to what financial obligations the taxpayers have to assume to make up the differential.

Just as an illustration, if this were to pass at the $100 million threshold, in other words if we called everybody who grosses under $100 million in chicken sales annually as family farmers, and eliminate the ones over $100 million sales, this would save $500 million over the next 5 years for the taxpayers of America. That is what the Joint Committee on Taxation gave us as a cost differential when we made the request.

If we took that threshold down to $50 million and said you are a family farmer if you are under $50 million, this would then save $700 million over a 5-year period. If we took it down to $10 million—many farmers today, let me tell you, in my State of Nebraska think someone that does over $10 million sales annually in farming is in the big league. I happen to agree with those people that someone who does over $10 million today in farming is in the big league if they sell more than $10 million gross sales. If we had this threshold in this legislation, it would then save the taxpayers $900 million over a period of 5 years.

With that, I thank you very much, Mr. President, and I relinquish the floor.

Mr. BRADLEY. Mr. President, let me thank the distinguished Senator from Nebraska for his very persuasive case. I personally agree with his views about cash accounting and particularly cash accounting by very large farms as opposed to the small family farm.

I know the Senator is strongly committed to defending the family farm and is an extremely effective advocate. Indeed, he is a member of the Agriculture Committee. I assume we will have his continued advocacy.

I also appreciate his willingness not to offer the amendment on this bill.

Mr. ZORINSKY. I thank the Senator.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum. I withhold.

Mr. LEVIN. Mr. President, is there a pending amendment?

The PRESIDING OFFICER. Other than the committee amendment, there is no amendment pending.

Mr. LEVIN. Mr. President, I wonder if I could ask my friend from New Jersey a question about the deduction of the interest on consumer loans.

We have a rather unique situation in this bill now which is that the interest on consumer loans is not deductible. That is the way the committee report starts out. It just makes a flat statement that consumer interest is not deductible. But then we find out that there is an exception to that rule that in fact if the loan is secured by a home, then the interest on the loan is in fact deductible, which creates an anomaly, an unusual situation.

My friend from New Jersey has a very keen sense of justice. I do not have to give him a sermon on treating people equally who are in the same position. Indeed, this is one of the hallmarks of the bill which my friend has been so involved in creating.

Take three people who live in three homes side by side. You have family A. They live in a home and they have been there a long time. They built up some equity in that home. Let us say they have $10,000 or more in equity in that home. Family B lives in the same home exactly next door. It is precisely the same home. They have the same income, but they just moved into that home. They do not have any equity built up. They put a few thousand dollars down and their total equity might be $2,000. And then you have family C that lives in the third house on that block, same style home, same income, but they rent the home. They are renters.

Now, family A can buy a car and all they have to do is give a second mortgage on the home to the finance company for that car, and they are in a position where they can then deduct the interest. They do not even have to refinance the home. All they have to do is give a second mortgage and have it recorded, as I understand the language in the bill. Family B, the same income, same home, cannot do it because their equity is not enough. They cannot deduct the interest on that car loan. Family C rents. They cannot deduct the interest either, although they have the same income, the same home.

So we treat them differently, although I think we should treat them the same by any sense of justice. There is no reason that I can think of at least that has been offered yet on this floor as to why it is that we would allow one family to deduct the interest on an education loan, for instance, just because they happen to have equity in their home, whereas another family that has a smaller amount of equity could not deduct the interest on the education loan and a renter cannot

deduct the interest on an education loan.

I wonder whether or not the Senator can give us the logic behind this, if there is any, and if there is not whether or not there is going to be an effort to correct this in the conference with the House of Representatives.

Mr. BRADLEY. Mr. President, let me say to my distinguished friend from Michigan, who I know is a champion of justice and equity in all aspects of Federal policy, that I think that his concern demonstrates some of the conflicting results when you do a tax reform bill of this dimension. The conflict is between the apparent inequity that he described between someone who rents and someone who owns a home, and the desire to keep the home almost inviolate in thinking through this tax reform bill, this debate we had on the floor a couple days ago when there was an attempt to modify the provision on the refinancing of a home so that you could only use the proceeds for any refinancing for a home-related addition, improvements, or for medical or education.

The problem that you run into there is the problem of the family who is lower middle income, who has no stocks, no bonds, no financial assets and whose only equity is in a home. It was felt by the committee and I think by the Senate during the debate that that family ought to have the right if it chooses in a moment of emergency to refinance, use the proceeds in any way that they choose, and continue to get the tax deduction for the interest.

For example, one of the hypothetical circumstances was a mother and a father who have a son or a daughter who is trying to buy their first home and who cannot make the down payment.

□ 1300

The family then refinances, ups their mortgage from maybe $60,000 to $70,000, gives $10,000 to their son or daughter. It was felt that to come into that family's personal affairs as it relates to their home and ability to refinance and say, "No, you can't do that; we in the Federal Government limit it only to specific kinds of uses of that additional cash from the refinancing" was not really a proper way to go.

In fact, one Senator characterized the home as "the home is your castle" and this is a kind of imposition and violation of my right to do whatever I want with my home.

Mr. LEVIN. That is not the issue. No one suggested that that is a solution.

Mr. BRADLEY. No; I am explaining the conflict. The ideal situation is you have eliminated consumer interest and, therefore, you want to close every possible loophole that consumer interest might flow through, a consumer interestlike deduction.

That ran headlong into the desire on the part of the committee to protect the feeling most Americans have which is the home is your castle. And in the battle between those two conflicting objectives, the result was that you deny consumer interest deductions but you do not deny the right of a family to refinance for whatever circumstances they choose, whether it be to finance the downpayment on a child's home or problems with their parents in need for cash or small business crisis or whatever.

I am the first to admit to the Senator that that is not an airtight elimination of the deduction.

Mr. LEVIN. Or an equitable one. Is it an equitable one?

Mr. BRADLEY. I would also concede to the Senator the renters would have a greater problem because they do not have equity in their home.

Mr. LEVIN. Is it equitable that somebody who rents a home cannot deduct the interest on an education loan, while somebody who owns a home can? What is the logic? What is the relevance?

Your answer is, Well, heck, we have got to protect that home. I am not arguing with that. I am not suggesting that we open up family life and look at the proceeds of a mortgage. That is not the issue.

The issue is whether or not you eliminate the deduction of interest on that education loan for the person who has only a little equity in their home and whether or not you eliminate the deduction of the interest on an education loan, for instance, of a renter. That is the issue that you have not faced. You cannot duck that by saying, "Well, gee, we can't eliminate it for the homeowner with big equity. There is no way to do that fairly." Of course, there is no way to do that fairly. Let us protect that home. I have no problem with that.

The question you have to face is where it leaves you, because you are not allowing the same deduction for people who have little equity in their home or for the renter. It is completely illogical.

There is no reason why we should say the interest on an education loan taken out by somebody with little equity in their home should not be deductible, while somebody with big equity in their home should have interest deducted. There is no logic to that. It is a strawman argument to tell us why the person with big equity should be able to deduct that interest.

I agree 100 percent that that person should be able to deduct interest. But why should not those others be able to deduct the interest equally?

You say equality and fairness is the hallmark of this bill, and there is a very deep flaw when you are dealing with people with little equity in their home who are trying to borrow money to get a kid through college and with a renter who is trying to borrow money to get a kid through college.

You tell those people, "Hey, sorry, you can't deduct the interest. You can't deduct that." But the person next door who owns the house, they can deduct the interest on the unrelated education because you are afraid of violating the sanctity of their home. I could not agree with you more about not violating the sanctity of their home.

Mr. BRADLEY. Let me respond to the Senator to say that the whole intent of the committee was to protect the right of the family with a small equity in their home if they chose to refinance and be able to use that money in any way they would like.

Now, the Senator said——

Mr. LEVIN. I gave you the situation where the family has a $5,000 equity in the home they are in now. They have a $5,000 equity and they are going to buy a car—a car; nothing to do with a home. With a $5,000 equity, if it is a $10,000 car, you cannot deduct the interest on that car loan. "Sorry. You only got $5,000 equity in your home."

The person says, "So what? My neighbor can deduct the interest on the car loan."

And your answer to him is, "But he has got a $10,000 equity in his house," to which the person has got to scratch his head and say, "What does that have to do with anything?"

Mr. BRADLEY. The person with the small equity might choose to refinance and increase their mortgage.

Mr. LEVIN. I say the equity is $5,000. You cannot refinance and pick up more than $5,000. There is only a $5,000 equity and there is a $10,000 car, so that person cannot borrow $10,000 more and deduct the interest on that car payment.

Mr. BRADLEY. It is true, I say to the Senator, that different homes have different values. And if you are going to protect the right of anyone, along the lines of a home is your castle, to refinance, someone who has a more valuable home would be able to refinance at a higher amount.

Let me point out to the Senator, when it comes to renters, the fact of the matter is that most renters do not itemize. The fact of the matter is you have 64 million people out there that do not itemize. Now many, many, many of them are renters. Many of them will also benefit from the lower tax rates that are in this bill. Most of them will particularly benefit from the increased exemption and the increased standard deduction.

Mr. LEVIN. What does that have to do with the inequity I am raising? The inequity I am raising is that that renter in that same home with that same income is not able to deduct the

interest on a car loan or on an education loan. It is illogical to say, "But that renter is maybe going to benefit from other provisions in the code."

What I am saying is that renter cannot deduct interest on the same are loan as his neighbor can deduct the interest on because his neighbor happens to have a $10,000 equity.

Then I gave you the third situation which you have not answered at all, which is the home with only $5,000 in equity. Now, sure, he can refinance the home, but he does not get enough for the car. So, therefore, he has to borrow money and his interest is not deductible.

I think it is useful for the committee to acknowledge there is an injustice here that has been created and it would be your efforts to cure this in conference rather than to try to talk about other provisions in the Tax Code.

I mean there is a total illogic and a total disconnect here, as far as I can see.

Mr. BRADLEY. Well, let me say to the distinguished Senator that I appreciate his concern. If you were going to carry it to one logical conclusion or the other, it would be to go with his position, which is to allow consumer interest——

Mr. LEVIN. For all or none.

Mr. BRADLEY. For everyone, or to close it off for everyone. And in order to close it off, what I am trying to explain——

Mr. LEVIN. I am not suggesting you close it off. I am saying allow it for everyone.

Mr. BRADLEY. No; you have a choice. Your position is you allow it for everyone. The position of the committee is you do not violate the right of a homeowner to refinance their home and use the proceeds in any way that they choose. Those are two different ways of answering that question.

The Senator is asking me if the conference will restore this question to some kind of equity as he perceives it. And your equity would be achieved only if you allow consumer interest for everyone, as I understand it.

I think that if you were admitting there is another logical position, which is you allow consumer interest for no one, I think——

Mr. LEVIN. Unless. No; it is not no one. It is not no one.

Mr. BRADLEY. Consumer interest for no one.

Mr. LEVIN. Unless.

Mr. BRADLEY. And that means plugging up the ability to refinance based upon the equity of your home.

I am saying to the Senator, I understand his conflict. The committee came out with a bill that I think went halfway, or three-quarters of the way. Again, I point out to the Senator that most renters do not itemize. I would simply say that the overall effect of the bill cannot be discounted.

But let me tell you that I am sympathetic to your case and my sense is that this would clearly be an issue in conference.

Mr. LEVIN. Let us assume for the moment——

Mr. CHAFEE addressed the Chair.

Mr. LEVIN. Mr. President, if I could just pursue one additional question.

Let us assume that 20 percent or 30 percent of the renters itemize and 50 percent of the homeowners itemize. Now, you are left in an unusual situation that 30 percent of the people who have just as much claim to deduct the interest on a consumer loan as a person who owns the home, just as much claim in justice, are denied that deduction in this bill.

□ 1310

Now, you can say that it is only a minority of renters who are treated unjustly; that only maybe 30 percent of the renters who are treated unjustly, or whatever number, itemize. That is a pretty significant number.

Mr. BRADLEY. Will the Senator yield? I know the Senator from Rhode Island wants to get into a colloquy, and I will yield to him to get into this in a second. We cannot take any open exclusion, deduction, or credit and assert that if you lose this deduction, credit, or exclusion, if you lose consumer interest, somehow or another this whole bill can be characterized as unjust or inequitable.

Mr. LEVIN. I did not say that. I characterized this provision.

Mr. BRADLEY. My point is you cannot view this provision in isolation. You have to view this provision as part of the total fabric of the bill which, as the Senator knows, makes major strides forward, particularly as this Senator is concerned about.

Mr. LEVIN. I am happy to yield to my friend from Rhode Island.

Mr. CHAFEE. Mr. President, the point I would make here is when we did this bill, we had to make choices. The choice that all Americans want, like motherhood and apple pie, is the deductibility for the interest on their home loans. I do not think the Senator from Michigan is suggesting we do not have that.

Mr. LEVIN. That is right.

Mr. CHAFEE. It has been in the code since 1913. There is no point in suggesting we will take it out. Indeed, in Treasury 1, the President did not have it there. There is a firestorm across the Nation of objections to that by homebuilders, realtors, homeowners, all the itemizers in the Nation and the nonitemizers just as well because they look forward to the day. And I think it is right to have it.

Mr. LEVIN. So do I.

Mr. CHAFEE. That is one other factor that has caused the United States to have the highest percentage of individual homeowners in the world.

Then we get to the next part. What about the deductibility of the interest on consumer goods, and consumer interest? That is what the Senator from Michigan is concerned about. He says there is a dichotomy here. The person who has the home may deduct the interest on his mortgage. If he wants to go out and buy a boat or an automobile, he can increase the mortgage on his home and therefore interest on that is deductible. And the fellow who does not have enough equity in his home cannot receive the deductibility of his interest. Fair enough. We looked at that.

What did we find? In order to have the deductibility of consumer interest it would cost $28 billion over the 5-year period. What is the result of that? The result of that would be rates would have to be increased, and so we made a decision. The decision was we would not allow the deductibility of consumer interest. Was it totally fair? We thought it was a good tradeoff, a wise tradeoff, and to get the rates down. The driving engine of this entire bill is the hold rates for individuals and corporations.

Mr. LEVIN. I wonder if my friend might answer a question on that.

Mr. CHAFEE. Sure. I would like to conclude one statement.

President Kennedy said "The world isn't totally fair." That is a fact. If you look at it this way, maybe it is not totally fair. The fellow who goes out and has $5,000 equity in his home, I question whether he is buying a $10,000 automobile. But nonetheless, maybe that is the way he wants to run his affairs. In that case, he does not as the Senator pointed out get the deductibility on the interest on his mortgage. Here is another point we took up.

You know in this bill you get deductibility on the mortgage and not only on your principal home but another home. I thought that is going too far. Certainly for the first home, that is motherhood, that is God Bless America. But the second home I do not think is quite necessary. So I proposed deductibility of the interest on the original principal residence; no question that is right. That is good. But why in the world should we have deductibility of interest on another home? Why not take that money, what you gain by ceasing that, ending that provision in our bill, and set that money aside for the individual to have at least up to that amount of deductible interest? Looking at the total there was not much there. The estimates showed us that we come up with something like $500 an individual, if you allow them the deductibility for all consumer interest in lieu of the second home. Therefore, we felt it was so tiny

that it was not worth going ahead with it.

Mr. LEVIN. Getting back to the point of my question, what it comes down to is that the reason you have this anomaly that is going to be created if this bill passes and the conference adopts it is to raise revenue from these folks who have low equity in their homes or who are renting. The bottom line is you are trying to raise some revenue from them. You are raising it in an unjust way because there is no logical reason to treat those three families differently on their consumer loans. There is no logical reason to treat those three American families differently on their consumer loans. There is only a practicality; that is, you had to raise some revenue from those folks. That is why we are treating them differently. In my book, that is why we are treating them unjustly.

No one is talking about that first family and saying they cannot deduct the interest on their home mortgage or they cannot refinance. That is not the issue. We should focus on the issue. The issue is that once we decide to protect that, and I happen to concur totally in that decision, there is no logic, there is no justice in telling the family next door that has not owned this home as long and therefore has less equity when it comes to financing an education loan or an education for their kids they will not be able to deduct the interest on that loan. And that has to leave them scratching their heads and saying, "What does that have to do with how much equity I have on the home, whether or not I can deduct the interest on a consumer loan to get a kid through college?" There is no logical connection in that result. The only reason you are doing it is because you want to raise some revenue so you can reduce some rates. That is the reason we are perpetrating this injustice. I think that is what it clearly comes down to.

I have one specific question also for either one of my friends; that is this: The committee made an assumption as to the percentage of consumer loans that would be secured by real estate. In order to reach a certain number as to how much money this would raise you had to make a certain assumption, that 10 percent of consumer loans on education, autos, or whatever, would be secured by a second, third, fourth, fifth, sixth mortgage on a home, whatever, or that 20 percent of those loans would be secured at 30 percent. There had to be some assumption made in that regard.

I am wondering whether either of my friends are in a position to tell me how that assumption is and how it was reached.

Mr. BRADLEY. Let me respond to the distinguished Senator by saying that the assumptions are in a computer model of the Joint Tax Committee. Frankly, I am not a software expert. I do not know what these assumptions are. They have formulas for all aspects of the Tax Code, and its interaction with the economy. That is what the computer spewed out.

Mr. LEVIN. What was the conclusion of the computer, 10 percent of consumers loans would be added onto, rolled into existing mortgages, 20 percent, 30 percent?

Mr. BRADLEY. I say to the Senator I do not have that number right now. We can see if we can get it. I would like to see it. I think on one level the Senator has an accurate concern about the abstract equity, consistency, and logic of the bill that we are enacting, whether we should have all consumer interest, whether we should have part, whether we can refinance the home, spend the money and still deduct the interest. I understand that.

What I want to try to do is to reassure. Keep in mind the family that we are talking about, and that we are concerned about—the family that makes under $30,000 in income. This is the family that will probably have a mortgage, own a home, and have a mortgage with probably 10, or 15 years left. They do not make a lot of consumer purchases. One of the studies actually that I see by the UAW characterized a typical family's expenditures. And they described that family as buying a new suit for father once every 2 or 3 years, two to three dresses for the mother every 4 years, a refrigerator every 10 years, a television every 15 years, and what do those facts reveal? They reveal that the family does not buy a whole lot, and they do not have a lot of consumer interest.

Mr. LEVIN. Or credit cards.

Mr. BRADLEY. Or credit cards. Also, if you combine the fact that the family does not have a lot of consumer interest with the fact the great majority of families in that position do not even intemize, you are then left with, well, do you eliminate the consumer interest deduction even if it is 90 percent eliminated or 80 percent eliminated, given what the Senator said about the ability to refinance?

□ 1320

If you say that, no, you are not going to do that, you come up with the $10 to $26 million. My concern is once you do that, you are then in a situation of lowering the exemption, lowering the standard deduction, and the family that you are trying to help will end up being hurt by this very process.

What I am trying to do is to try to reassure the Senator that as it affects that real life family out there as opposed to the hypothetical situation the Senator has developed or as opposed to an abstract interest in the equity in all individual aspects of the Tax Code, he should be reassured.

Let me also say to the Senator that the rationale for disallowing consumer interest deduction was a basic one. What the country needs is greater savings. As a result of the greater savings, you will have a drop in interest rates.

So you have a basic macroeconomic rationale for this, and you have at least the Senator's concerns already considered by the committee in its enactment of the bill.

Mr. LEVIN. I thank both my friends. Let me assure you that the families I have described are not theoretical. They are real. These are real people. Families that earn $30,000 do borrow money for a car; they do borrow money for a kid's education. They do have money owing to credit card companies that they are paying interest on. Those are real, live families. When it comes down to finding out that with this bill, if passed in its present form, that a person next door who happened to have lived there longer can deduct that interest, but they will only have a $5,000 equity, I am telling you that there will be a keen and accurate sense of injustice in this country. It cannot be corrected. It would be corrected by treating everybody who has interest that they are paying on consumer loans the same, whether or not they have big equity in their homes, little equity or rental. We have to treat people the same.

This provision in the bill is not just or logical.

I do thank my friend for engaging in this colloquy. It has been enlightening to me.

I also appreciate the conclusion which your software reached in that computer as to the percentage of consumer debt or consumer loans, either one, which will be deductible, or the interest will be deductible. There is a percentage where it will not be. You had to have some kind of conclusion when you reach $28 billion. That is based on a conclusion that 20 percent, 30 percent, or 40 percent of those people will fold those loans into their mortgage, whatever percentage it is. I would appreciate those percentages.

Mr. BRADLEY. I will say I will certainly try to obtain those numbers for the Senator.

Getting back to his conclusion on a family with $5,000 equity and a family with $10,000 equity and where they might finance with the family having $10,000 in equity having a somewhat better deal, let me say in that same neighborhood today I think there is an outrage about the tax system that treats equal incomes differently. One family can be earning $25,000 and the family that is in the first home will be earning $25,000 and they can pay dramatically different taxes.

I will say to the Senator I was in New Jersey on a talk show one afternoon and a person called up and said

the tax reform sounded good. I asked, "Why?"

The person said, "I pay an effective tax rate of 38 percent. My next door neighbor, who makes the same income I do, pays an effective tax rate of 6 percent and he thinks I am stupid because I do not want to spend all of my time figuring out how to avoid paying taxes."

He then went on and said, "But I am a chemist. I like doing what I do best in the laboratory. If we have a system where equal incomes pay equal tax, I can do that."

My only point is to say to the Senator who is concerned about equity that the biggest inequity that we have in the tax system today is that people making the same amount of income do not pay the same tax. That brings disrespect for Government and I think disrespect for the Democratic Party.

Mr. LEVIN. The whole point of this colloquy is to show that people with the same incomes will pay different taxes under this bill. In my situation, houses A, B, and C, they all have the same income but they will pay different taxes because you allow the house with big equity to deduct the interest but you do not allow the house with little equity to deduct interest, speaking about the consumer loans, and you are not allowing the renter to deduct.

You are violating your own rule, which is people with the same amount of income should pay the same tax. This provision reaches exactly the opposite on consumer loans, where one is deductible and the other is not.

Mr. BRADLEY. Let me say finally to the Senator, and he may like to respond, a lot of the people you are concerned about, the income class you mentioned, now are in the high rate of 28 percent. They will be in a lower rate. My only point is we have to look at the total picture.

I will try to get the Senator's numbers for him. I respect his concern.

Mr. LEVIN. Again, I thank my friend from New Jersey and Rhode Island for participating.

Mr. CHAFEE. Let me make one other point, Mr. President. One solution would be to allow everyone a lump sum for everything, and they could use it however they want, for loans, for homes, consumer goods, whatever they want. That is a possibility. That was suggested and rejected.

There is the feeling that the viability of the home mortgage interest deduction is so ensconced in our code and the American ethic, and I believe rightfully so. I think it is a major factor for people to own their own homes, which I believe is good for the country.

Mr. LEVIN. I could not agree more.

Mr. CHAFEE. So that got rejected. Then there comes the other possibility, about the consumer interest rate, and you get so high on the rate you lose the purpose of the bill.

Maybe it is as the Senator from Michigan is suggesting, unfair.

All I can say is I personally believe that the primary objective of achieving the lower rates is a worthwhile goal and, fortunately, we have achieved it here.

I will finally point out that when you are at the 15 percent tax rate, the value of the deductibility of the interest is greatly increased, if that is any solace.

Mr. LEVIN. I think it is clear that we have to keep the low rates. My point is that there are a number of ways that create injustices to get there. This is one of them.

Mr. CHAFEE. I find the word "injustice" a little too strong.

Mr. LEVIN. But realize the price we are paying to get to those low rates. We are paying a very important price. In this case it is injustice, not a strong word, to describe a situation where you have three people with the same income and the same households, some of whom can deduct interest on an education loan and some who cannot.

□ 1330

That is not too strong a word for that. I think it is an accurate word. It is a moderate word, but I think it is also an accurate word, the point being that to get to those lower rates, we are paying some prices. One of the prices here is a very unequal and unfair conclusion.

Again, I thank my friend from Rhode Island.

Mr. CHAFEE. Mr. President, I am not quite willing to concede the work "injustice," because the very facts the Senators present, three people with the same income, side by side. There is the capability certainly in existence for them to pay down their mortgage if they so choose. Obviously, they have the same income. You can say some person has had his house for 20 years, the other person just moved to town, the price of real estate is high—yes, you can choose all kinds of examples. But I think under the circumstances the Senator outlines, probably the people would end up in about the same situation, borrowing on the equity loan.

Mr. LEVIN. Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am looking at the list of amendments that the majority and minority leaders put together last night. I realize all of these will not be offered. Senator LONG and I are sitting here waiting as managers of the bill for the majority and the minority to vote on amendments. The longer we wait, I think the more negative the attitude of Senator LONG and myself might become about the amendments.

I shall not read the names, but I shall go down the list and give an idea: Subsidiary dividends; change the definition of a guzzler to unloaded weight; no use of tax revenues for deficit reduction; unitary taxes; exempt foreign insurance reserves from the minimum tax; ESOP amendment—that is a different ESOP amendment; potash; indexing capital gains; write down farm loans; Anchorage pension—and so on and so forth.

Mr. President, we are prepared to deal with all these. We would like to deal with them, vote them up or down. Maybe some are acceptable, though we are not accepting transition amendments. If someone gives us a package of those, we will take them to conference. We have yet to see a transition request that is not conferenceable. But we are prepared to consider those amendments and deal with them if Senators would bring them to the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, there is no amendment pending, is there?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. If there is no amendment pending, I ask to speak out of order.

If any Senator comes to the floor and wishes to have the floor to call up an amendment, I shall be very happy to yield the floor for that purpose.

If there is a Senator who wishes to have the floor or wishes to come to the floor with an amendment, I say again I shall be glad to yield for that purpose because it is important, I think, that progress be made on the bill. But if there is no Senator seeking recognition for such a purpose, I would like to make use of this time rather than just expend it in a quorum call.

ATROCITIES IN AFGHANISTAN

Mr. BYRD. Mr. President, earlier this week I met with leaders of the Afghan resistance. Later today, I will have the benefit of the Pakistani Foreign Minister's views on the Afghan situation. It is clear to me that, despite Soviet claims of progress at the recent U.N.-sponsored peace talks, the situation in that sad country remains very grave. Despite the brutality of the Soviets—and the acceleration of Soviet warfare against the people of Afghanistan—the resistance fighters told me and other Senators who were present with me as we met with the several leaders of the resistance that the spirit of the people of Afghanistan remains unbroken.

Mr. President, the United States ratification of the Genocide Convention will permit the United States a much stronger hand in confronting the Soviet Union on the vital matter of its activities in the Nation of Afghanistan. The reality of Soviet behavior in Afghanistan seems to amount to the crime of genocide as defined in that convention. Now that the United States will shortly become a full party to that treaty, I think we can operate with a more credible and stronger hand in bringing the case against Soviet activities in that country before the world community.

Mr. President, despite the public relations blitz by the new Gorbachev leadership to portray itself as reasonable and flexible in its approach to the West, and despite hints and indications given here and there that Mr. Gorbachev is on the verge of making a major change in Soviet policy toward Afghanistan, no substantial change in Soviet policy or practices has yet appeared. Sooner or later, flashy new Soviet imagery must give way to practical changes in policy leading to a more constructive, humane, and productive path.

To help bring that about, I hope the Moslem nations of the world will take a new look at what is going on in Afghanistan and what is happening to their brothers there. Also the world press—and that includes not just the European press but also the United States media—ought to do everything they possibly can to portray to the world the brutalities and savagery that are being conducted by the Soviet invaders in Afghanistan because if the devastation of that country, the brutality that is being shown to the citizens there, could be brought to the center of the world stage, then I have no doubt that there would be a different future and a better outlook for that ravaged country.

Mr. President, I think it is important to give the Soviets every opportunity to meet us halfway on the outstanding issues which divide our two nations. I have made every effort to do what I can to help produce a better atmosphere and mechanisms for reducing misunderstandings and for developing arrangements and agreements on arms control matters and regional disputes where our interests clash with those of the Soviets. I led a bipartisan Senate delegation to meet with Mr. Gorbachev last September. I have proposed that Mr. Gorbachev be invited to address a joint session of the Congress when he visits this Nation, provided that an address by President Reagan to the same joint session be televised unedited not only to the United States of America, but also to the people of the Soviet Union.

Mr. President, let me say again that I shall be happy to relinquish the floor to any Senator who wishes to call up an amendment. Until that time comes, I shall proceed; otherwise, there would just be a quorum call.

Nevertheless, Mr. President, we must continue to impress upon the Soviets how repugnant their activities in Afghanistan are to us.

Most recently, General Secretary Gorbachev took the opportunity provided by his address to the Twenty-seventh Communist Party Congress to say, "We should like, in the nearest future, to withdraw the Soviet troops stationed in Afghanistan at the request of its government." He went on to claim that there was agreement with the puppet regime in Kabul on a schedule for that withdrawal, and to remind his audience that "it is in our vital national interest that the U.S.S.R. should always have good and peaceful relations with all its neighbors."

It is difficult to cultivate good relations when you are engaged in the wholesale massacre of unarmed civilians in a neighboring country. I look forward to the day when the glimmers of hope for a change in Soviet policy raised by Mr. Gorbachev's words are translated into action, into reality, into military withdrawal from that very unhappy and unfortunate faraway country. So far, unfortunately, only expectations have been raised.

The action by the Senate to approve the Genocide Convention for ratification, then, provides the United States with the opportunity to raise, for the first time as a signatory, the issue of Soviet violations of the Genocide Convention in Afghanistan. In his report of November 5, 1985, to the U.N. General Assembly on the "situation of human rights in Afghanistan," the special rapporteur of the Commission on Human Rights described the situation during the fifth year of Soviet occupation of Afghanistan in these words:

> The government, with heavy support from foreign troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations * * * It appears that in the course of operations all kinds of sophisticated weapons, in particular those that have a heavy destructive and psychological effect, are being used. The target is primarily the civilian population, the villages and the agricultural structure.

The report continues:

> As a result, not only individuals, but whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged.

The report cites "the use of anti-personnel mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children." The report notes that the war is characterized by:

> The most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units. The demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul.

Mr. President, this independent account by the United Nations conforms to the Genocide Convention's definition of that crime in article II, as the willful act of destroying in whole or part a national, ethnical, racial, or religious group by:

First, killing members of the group; second, causing serious bodily or mental harm to members of the group; third, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; fourth, imposing measures intended to prevent births within the group; and fifth, forcibly transferring children of the group to another group.

The U.N. report substantiates the fact that the Soviet Union and its Afghan puppets are engaged in acts which seems to satisfy the elements of this definition of the crime of genocide. In fact, the report demonstrates that the Soviets in Afghanistan are engaged in many practices which, under the convention, appear to amount to the crime of genocide.

The concurrent resolution I am today submitting recognizes that the Soviet actions in Afghanistan may constitute the crime of genocide against the Afghan people, and calls upon the Secretary of State to investigate whether the Soviets are in fact violating their obligations under the Genocide Convention by virtue of their cruel warfare against the Afghan people.

In addition, the concurrent resolution urges the Secretary of State to review the U.S. policy that affords diplomatic recognition to the puppet regime in Kabul. There may be sound reasons for this, but I believe it is time for the Secretary of State to conduct a thorough review of whether a continu-

ation of this policy is appropriate. The Soviet Government is at war with the people of Afghanistan, and the so-called Government of Afghanistan is nothing but a Soviet sham.

I do recognize that we are looking forward to the possibility that the Soviets will pull their military forces out of Afghanistan and the Afghan Government that comes to power in the wake of that withdrawal will be the beneficiary of guarantees by both superpowers—and that that government will be independent and neutral and truly represent the whole of the Afghan people Obviously, an American presence is needed for such gurantees, and one might argue that a continued presence such as the one that now exists is therefore appropriate to that long-term goal.

Nevertheless, Mr. President, the entire concept of diplomatic relations in the context of Afghanistan today strikes me as questionable. I believe the question should be thoroughly reassessed by the executive branch on an expedited basis.

Finally, the concurrent resolution recognizes the need for material support for the people of that war-ravaged country, a renewed effort to encourage Soviet withdrawal and a political solution to the stalemate, and a renewed commitment to informing the world of the situation in Afghanistan.

I believe this concurrent resolution is entirely in keeping with the President's state of the union promise to the people of Afghanistan that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom." In 1984, I submitted the first successful Senate resolution calling for essential food and medical assistance for the people of Afghanistan. I believe that this new concurrent resolution is an appropriate outgrowth of that earlier effort.

I would point out, Mr. President, that this will be the first action to be taken by the United States in regard to the terms of the Genocide Convention. I can think of no more appropriate subject for the first action to follow ratification of the convention than the plight of the heroic people of Afghanistan.

When I led the first Senate delegation to meet Soviet General Secretary Gorbachev last September, we found the subject of Afghanistan to be the most contentious and emotionally volatile issue in our discussions. Since that time, we have heard persistent stories of increased Soviet willingness to reach an accommodation on the Afghanistan question. It would be a mistake for the Soviet leadership to believe that talk about solutions will reduce the outrage of the world community. As long as Soviet troops commit atrocities against the Afghan people and continue to occupy that long-suffering country, freedom-loving peoples will decry these actions and will be moved to help the Afghan people.

As participants in the Genocide Convention, we are now in a much better position to join in condemning Soviet actions which, as described in the report to the U.N. General Assembly, amount to a calculated effort to destroy the Afghan people. The concurrent resolution I submit today will permit the Senate to make an appropriate statement on this matter. I ask unanimous consent that its full text be printed at the conclusion of my remarks, and of course I expect its appropriate referral. I urge all my colleagues to join in cosponsoring the concurrent resolution.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 151

Whereas the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

Whereas the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized prinicples of international law;

Whereas the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985 report to the General Assembly, concludes that "whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged" and that "[t]he Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations" including "use of anti-personal mines and of so-called toy bombs;" and "the indiscriminate mass killings of civilians, particularly women and children";

Whereas the Special Rapporteur also concludes that the war in Afghanistan has been characterized by "the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units" and that "[t]he demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul";

Whereas the United Nations General Assembly, in a recorded vote of 80–22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed "profound distress and alarm" at "the widespread violations of the right to life, liberty and security of person, including the commonplace practice of tortune and summary executions of the regime's opponents, as well as increasing evidence of a policy of religious intolerance";

Whereas, in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that "The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops" and that "Continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit."

Whereas the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the U.S.-Soviet bilateral relationship in many fields of great importance to the global community;

Whereas the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

Whereas President Reagan, in his February 4, 1986 State of the Union Address promised the Afghan people that, "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom . . ." Therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SEC. 1. The United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(a) the appropriate provisions of material support;

(b) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

(c) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(d) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(e) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

SEC. 2. The Secretary of State should (a) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute

the crime of Genocide, he shall report his findings to the President and the Congress, along with recommended actions; and,

(b) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

Mr. BYRD. Mr. President, I ask unanimous consent that an appropriate article from the New York Times of June 18, 1986, be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. MAY ESTABLISH AFGHAN REBEL TIES

(By Richard Halloran)

WASHINGTON, June 17—A senior Administration official said today that President Reagan held open the possibility that the United States would extend diplomatic recognition to the Afghan rebels if they acquired "more of the attributes of a government."

The official's stand on the issue was noticeably different than that taken publicly Monday by the White House spokesman, Larry Speakes, after Mr. Reagan met with four leaders of an Afghan rebel coalition based in Pakistan.

Mr. Speakes said the President had told the Afghan delegation, led by Burhanuddin Rabbani, that it would be "premature" for the United States to extend such recognition now.

The Administration official repeated that point today but told a group of reporters that Mr. Reagan had "encouraged" the Afghans. The official said the use of the word "premature" should not be taken as a polite way of saying "forget it."

The official said Mr. Reagan supported the Afghan leaders' demands that negotiations over the withdrawal of Soviet forces from Afghanistan be between "the warring factions"—the Afghan rebels and the Soviet Union.

Instead, what diplomats call "proximity talks" have been held in Geneva between representatives of the Afghan and Pakistani Governments. The delegates do not meet face to face, but their views are conveyed by a United Nations official.

REBELS MEET WITH SENATORS

On Capital Hill, the Afghan delegation met with Senator Gordon J. Humphrey, Republican of New Hampshire, who generally agreed with their position on both issues. A spokesman said the Senator favored closing the United States Embassy in Kabul, the Afghan capital, and expelling Afghan diplomats from Washington.

The spokesman also said Senator Humphrey felt that the rebel leaders should be included in the negotiations sponsored by the United Nations.

The Afghan delegation also met with Senator Bill Bradley, Democrat of New Jersey, who repeated his support for their movement and the recognition of the rebels as the "sole legitimate representative of the Afghan people."

A spokesman for the Senator said Mr. Bradley had long felt that the rebels should become members of the Islamic Conference Organization and should take the Afghan seat at the United Nations. He also reiterated the Senator's position that no settlement of the Afghan issue should be made without the rebels' consent.

The Administration official briefing reporters on the rebel leaders' meetings with the President on Monday and with lower-level officials today laid out several "attributes of a government" that the President would consider in his decision on diplomatic recognition.

One would be greater cooperation among the rebels, the official said. Ever since Soviet troops swept into Afghanistan in late 1979 in an effort to keep in power a Government friendly to Moscow, the Moslem rebels have found it difficult to work together

A second criterion, the official said, would be greater rebel control over Afghan territory. In the guerrilla war being fought there, neither the Soviet Union nor the rebels have firm control over large sectors of the country.

In that connection, the Afghan leaders renewed their request for anti-aircraft weapons with which to drive off Soviet helicopters and aircraft. The Administration official said he would not discuss "covert" operations—meaning the supply of American weapons to the rebels—but said a sound antiaircraft defense was crucial to the control of territory.

ELECTION PLAN IS CITED

The Administration official noted that the coalition planned to hold elections in Afghanistan and the Afghan refugee camps in Pakistan next fall to form a deliberative council

The official emphasized that Mr. Reagan had encouraged the rebel leaders to seek "greater international visibility." He suggested that the United States would find it easier to extend diplomatic recognition if the rebel coalition gained wider acceptance and did not appear to be a proxy of the United States.

He also said United States officials, had suggested that the rebel leaders make a greater effort at the United Nations and at Islamic conferences to cultivate nonaligned nations that might be sympathetic to their cause.

The official noted, with evident approval, that the rebel coalition planned to open an office in New York. In addition, about 40 Afghan refugees are scheduled to arrive in the United States this week for medical treatment.

DEEPER EXCHANGE IS SOUGHT

The rebel delegation's visit to the United States and the meeting with Mr. Reagan should be seen as part of a process of widening the rebels' international image, the official said. He said the Administration favored a "deeper exchange of political views" between the rebels and Administration officials.

Mr. Reagan, in his meeting with the rebel leaders, "completely ruled out separate deals with Moscow" in which an arms agreement, for instance, would be reached in exchange for a halt to American support for the rebels, the official said.

He said that anxiety had swept through the refugee camps in Pakistan whenever the Afghans, who are often isolated from political and diplomatic developments elsewhere, suspected that the United States and the Soviet Union might reach an agreement at their expense.

RIFT IN REBEL ALLIANCE

ISLAMABAD, PAKISTAN, June 17.—The Afghan rebel alliance split publicly today over the question of identification with the United States.

Two Moslem leaders rebuked four other rebel chiefs for meeting in Washington with President Reagan.

In Kabul, the Afghan Government criticized Mr. Reagan for meeting with the guerrillas and said the United States supported terrorism.

Gulbuddin Hekmatyar, leader of the Hezbi-Islam guerilla group, and Raul Saiaf, head of another small insurgent group, issued a statement saying the trip to Washington has not been approved by the rebel alliance.

Other guerrilla commanders said the visit had the support of the collective leadership.

Mr. Saiaf and Mr. Gulbuddin insisted that insurgents should not be identified with the United States

"Decisions of a sensitive nature should be made keeping in view the objects of the Afghan resistance movement and not creating any misunderstanding," their statement said." The future of the seven-party alliance can be secured by this way."

Mr. Gulbuddin asserted that the commanders who went to Washington had done so in a "private capacity." He called their visit a threat to rebel unity.

Officials of the four groups whose leaders made the trip rejected the criticism and defended their American ties.

"It was a very intelligent decision to go," said Masood Kalili, political director of the Jamiat-Islami insurgents. "We cannot fight the Russians without friends."

Guerrilla officals outside the fundamentalist groups led by Mr. Gulbuddin and Mr. Saiaf said today that the decision to visit Washington had been made at an alliance meeting and the five of the seven leaders had approved.

Mr. BYRD. I see my friend from Illinois seeks recognition and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I thank the distinguished minority leader, Mr. President.

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

CUSTOMS VALUATIONS VERSUS INCOME TAX VALUATIONS: ABUSES CAN BE PREVENTED WHILE ENSURING FAIRNESS

Mr. DIXON. Mr. President, it was my hope and expectation that a colloquy might take place on the floor of the Senate with regard to the transfer prices for imports which is the subject of section 981 of the tax bill. This subject is discussed on pages 418 and 419 of the Finance Committee report on the tax reform bill.

The relationship between prices established for purposes of customs duties as contrasted to prices for goods established for purposes of Federal income taxes was not considered by the House of Representatives at any point in its consideration of H.R. 3838. Nor, indeed, do I recall any hearings before the Senate Finance Committee on this subject.

The relationship between prices established for purposes of import duties and prices established in connection

with the marketing of imported goods by U.S. corporations is an entirely appropriate subject for this body to consider in connection with the reform of our Federal income tax laws. There can be no question but that abuses have occurred in the past.

Some U.S. companies importing goods from overseas affiliates have utilized inordinately low valuations for purposes of the payment of tariffs on such imported goods. Then, the same companies established excessively high prices for purposes of reducing income tax liability on the marketing of such imported goods.

The legislation before us very appropriately seeks to curtail such practices and to require arm's length pricing of goods, both for customs and income tax purposes. I do not disagree with that objective in any sense.

The committee report cites the Brittingham case. Another case, the Ross Glove case, also has a significant bearing on this subject and would appear to support the position which was to have been embodied in the colloquy; namely, that the bona fide value of goods for customs purposes is an important factor in the establishment of the pricing of goods for income tax purposes.

Mr. President, the purpose of the colloquy that I had intended to support would have simply declared a truism: The bona fide valuation of goods for customs purposes should be deemed an important factor in the pricing of goods for income tax purposes. That is all.

My remarks here today, however, are neither a colloquy nor an effort to amend the bill. Rather, I am simply trying to express my understanding of what is or should be intended with regard to arm's length establishment of prices of goods for income tax purposes which have been imported and upon which duty has been paid on the basis of a fair valuation of such goods for customs purposes.

□ 1350

Mr. President, I wonder whether the distinguished manager of the bill wants me to yield to him or suggest the absence of a quorum.

Does the distinguished manager of the bill intend to go forward, or shall I suggest the absence of a quorum?

Mr. PACKWOOD. Let me say once more what Senator LONG and I have said: We are waiting for amendments, and we are ready to go forward. With each passing hour, I suppose, our tolerance level of accepting amendments that we might accept becomes slightly less tolerable.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we have been here all day. Yesterday, I heard there were 90 amendments. So far, the only amendment we have had has had to do with taking some language out of the bill and putting it back—the same language.

I have not heard one substantive amendment that has come to the floor today. I cannot understand what we are waiting for.

I say to the manager of the bill that maybe we are ready for third reading. Maybe we should just go ahead and pass the bill. The Senator from Ohio is not standing in the way, notwithstanding the fact that I still have amendments. The fact is that I think we have spent a lot of time putting this bill together. It is not a perfect piece of legislation. As you well know, I have attacked some of the provisions as being special privilege for the few and being unfair to the rest of the taxpayers, and I believe that to be the fact. But what I now see happening is that everybody either has a new transition rule that they do not want to call a transition rule or, if they do not want to call it that, they have some new provision they want to put in, and I do not see them on the floor.

I say to the managers of the bill that maybe they should consider taking a position that they are not going to take any more amendments, put together a group of 51 Senators who will turn down all amendments, regardless of the merits.

I think that the overall good that comes from passing this legislation far outweighs the necessity of adopting any particular amendment. I am saying that notwithstanding the fact that the Senator from Ohio does have some additional amendments that he expects to bring to the floor.

I tried to facilitate the process yesterday. I have tried to move forward the last several days and have not tried to hold up the managers. I am trying to say that it is disturbing. It is now almost 2 o'clock, and not one amendment of any consequence has been brought to the floor. I think it is high time we move on.

Obviously, procedures are available to delay. But the best way to see that we pass this bill is to have a coalition of 51 Members who would vote down any amendment; and I publicly say to the Senator from Oregon that I would be happy and privileged to be one of those 51 Members. I think we should get on with the business.

Mr. PACKWOOD. Mr. President, I appreciate very much what the Senator is saying. I think that among some of the amendments there may be a meritorious one. The frustration is that most are not even written up.

I would be willing, if I could see the amendments, to look at them and have, say, a half hour or an hour time limit. Members will not bring up the amendments, and I do not know what they are, and I do not want a time limit on an amendment I have not seen. There may be something of import in an amendment, and we may have 2½ minutes to a side, and that will not be enough time to explain the amendment.

I sympathize with the Senator. I think there are one, two, or three good amendments. But we cannot get anything.

Mr. METZENBAUM. I say to the manager of the bill that I do not doubt that with 90 amendments, there may be 1, 2, or 3, 10, 20, or 30; but while you are evaluating those 90 amendments, there are about 110 this morning.

Mr. PACKWOOD. This morning the majority leader said 80 had come in, about 10 minutes to 10.

Mr. METZENBAUM. That is the way it is going to continue to be. Therefore, I think it is a burden that the Finance Committee chairman should not be called upon to bear—that is, to say that this is good, but somebody over here, I or some other Senator, may decide it is not so good. As a matter of fact, we then find ourselves debating this measure ad infinitum.

That is why I think we should shut the door down and pass the bill. You could pass it today if you put together a coalition of 51 Senators who say no more amendments, regardless of whether they are good, bad, or indifferent.

Mr. PACKWOOD. Senator LONG and I could sit here and ask for third reading, and the clerk would call the roll, and on comes the vote. That would be regarded as bad faith. Either the vote would go "No" or, if it were passed, someone would move to reconsider and say, "That wasn't part of the agreement, and I was supposed to be notified."

I do not know at this point just where to go.

Mr. METZENBAUM. I understand what would happen if the Senator attempted to go to third reading. Some would be very upset about that.

What I am suggesting is that the Senator from Oregon is the manager of the bill, part of the majority party—and I am not saying this critically. I am saying that if he took the position that there will be no more amendments, regardless of their method, the overall need to pass this legislation is more important than any single amendment that might be offered by me or Senator LONG or by any other Member of this body, and I

think you could put together 51 Members who would vote that way.

□ 1400

Mr. PACKWOOD. The way we test that, if my distinguished colleague would be willing to do it, is put forth a Senate resolution that there be no more amendments without a rollcall and see what happens.

Mr. METZENBAUM. I do not think it is appropriate for the Senator from Ohio to make this effort. I say this to the Senator from Oregon, I will be very happy to join as his first cosponsor of such resolution.

Mr. DIXON. Mr. President, may I say to the distinguished manager of the bill—I see he is occupied with the distinguished manager on our side. I will pause a moment, Mr. President, if it is all right with you, while they complete their conversation.

May I say to the distinguished manager of the bill that as I have indicated on prior occasions yesterday and last night, both to the distinguished manager on the majority side and the distinguished manager on the minority side, the distinguished Senator from Alaska and myself have an ESOP amendment in which we are joined by the distinguished manager on the minority side. The consequences so far as revenue are concerned are minimal.

We would argue with what the Joint Tax Committee has done. But notwithstanding that, we are going to provide for a little revenue in connection with what I have already shown the distinguished manager when I came over to see him a moment ago, and probably a deferral of an effective date that will do the job. I would hope we can do that in short order.

The dsitinguished senior Senator from Alaska is out of pocket somewhere and I cannot find him right now. We have met earlier today.

But I would hope that some time in reasonably short order this afternoon we could be prepared to offer this amendment, and I want the manager to know that I am diligently working on bringing that to a reality in short order.

Mr. PACKWOOD. I appreciate that and hope the Senator is successful.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NICKLES) The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I know a number of my colleagues have been asking me if I could give them any idea what is going to happen today and during the remainder of the week.

I am just not quite in a position to do that. I was not here when the distinguished Senator from Ohio suggested that maybe we should just say this is the end, no more amendments.

It is very difficult to enforce obviously and it would take a majority to demonstrate for some period of time that we are willing to dispose of amendments. But that could lead to other problems and people might decide they might like to talk 2 or 3 days about the bill unless you agree to their amendment.

There are a lot of pitfalls. We are not trying to coerce anyone or pressure anyone.

But it would seem to me that we do have a responsibility. There are scores of amendments and they come from both sides. I think there are more on this side than that side. So we are not choosing up sides here.

But I think there are a number of us who would like to bring this to a halt, say, "OK, we have an agreement; we are going to vote at 2 o'clock." In the meantime, maybe we could do something else.

What I would intend to do in about 30 minutes is maybe sneak off to the minority leader's office if he is there and suggest a course of action to him.

I would hope that during that period others would come to the floor. This would be a good time to make a record that you thought about offering an amendment, but decided not to, get it in the Record, so it will be noticed in conference.

I think we could dispose of a number of these just with statements or maybe colloquies that at least would indicate that it would be a conferenceable item.

There is not much going on here now.

We really do not want to repeat tonight what happened the last two nights. At least, I would rather not stay until 12:30 or 1 a.m. But again I think there is a desire to at least do something definitive that will permit us to say OK, at a time certain this is going to end, and I do not believe that is asking too much. We have not said what time or even what day but at a time certain this will be the end, if we can work that out. Again I would urge Members who have a different view maybe they ought to be on the floor at 3 o'clock. We may try to propound some agreement about that time and that would give everybody at least an hour's notice, if they want to object or if they insist on offering their amendments or whatever, but right now there is nothing happening.

Mr. DECONCINI. Mr. President, I am ready to offer an amendment.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. I have asked our cloakroom to put out the word to our colleagues on this side of the aisle to please come over to the Senate floor to work out their amendments to avoid getting caught without enough time in the last minute. I do not know when the last minute might occur but there is going to be a last minute at some point and if Senators just wait for other Senators to go forward someone is going to get caught in that last-minute jam. I have seen it happen before. I just put out the word, and I hope it will help.

I have an amendment which I am ready to call up so that I start the process myself.

Mr. DOLE. Good. I yield the floor.

Mr. BYRD. The distinguished Senator from Arizona has come over in response to the call, and I yield to him first and then I will go ahead.

□ 1410

Mr. DECONCINI. Mr. President, I say to the leader that I would be more than happy to wait for his amendment.

Mr. BYRD. No, please go ahead.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I yield to the Senator from Ohio.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2106

(Purpose: To express the sense of the Senate on transition rules)

Mr. METZENBAUM. Mr. President, I am about to send a sense-of-the-Senate resolution to the desk and ask for its immediate consideration. It really refers only to the fact that the conference committee, when they report back, would be good enough to tell us the name of the business concern or group receiving a special or unique treatment in the bill and the reason for the special or unique treatment and the cost of the special or unique treatment.

Mr. President, I send the amendment to the desk. It is my understanding the manager of the bill is prepared to accept it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2106.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

SEC. . SENSE OF THE SENATE ON TRANSITION RULES.

It is vital for the Senate to be fully informed about every matter that comes before it, therefore, it is the sense of the Senate that the conference report on H.R. 3838 contain—

"(1) the name of business concern or group receiving a special or unique treatment in the bill;

"(2) the reason for the special or unique treatment;

"(3) the cost of the special or unique treatment.".

Mr. METZENBAUM. Mr. President, I have pretty much explained this. I think, when the conference committee reports back, all of us will want to know what is in the matter, why it was done, and what the cost will be.

I want to make it very clear, in that connection, with the handling of the bill on the floor, that information was not immediately available when the bill came to the floor. But the chairman, the manager of the bill, as well as the entire staff, has been extremely cooperative in providing the information. But, by our own inability to get the necessary information there was some delay.

All I am doing in connection with this particular sense-of-the-Senate resolution is indicating to the conference committee, when it comes back, to tell us what the facts are so we will not have to delay passage.

Mr. PACKWOOD. Could I ask a question? When I talked to the Senator from Ohio about this, I did not quite understand. Is this a change of the Senate rules?

Mr. METZENBAUM. No, just a sense-of-the-Senate resolution. There was some talk on our part about changing the Senate rules. The Senator from Ohio saw that that was a matter of great moment and it would have to be cleared in a number of places. This is just a sense-of-the-Senate resolution, merely indicating that we would like to get that information and hope that the conference committee would be guided by that.

Mr. LONG. If the Senator will yield to me, I read a statement on the floor a short time ago—I do not think the Senator was here at the time—where the Senator from Louisiana indicated that we, speaking for the minority, did not propose to accept amendments unless our staff had a chance to look them over, as well as the manager of the bill.

While the Senator did show me the courtesy of discussing the amendment with me, I would appreciate it very much if he would allow sufficient time for our staff to focus on it.

Mr. METZENBAUM. I apologize. As a matter of fact, the manager on the minority side is 100 percent correct. It was an oversight on my part. I did talk to you about it when I was proposing a change in the rules, and I failed to come back with the sense-of-the-Senate resolution.

Mr. President, I suggest the absence of a quorum.

Mr. DECONCINI. Will the Senator withhold that?

Mr. METZENBAUM. Sure.

Mr. DECONCINI. May I proceed with my amendment?

Mr. METZENBAUM. Of course.

Mr. DECONCINI. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, is there a pending amendment now from the Senator from Ohio?

The PRESIDING OFFICER. There is an amendment from the Senator from Ohio.

Mr. LONG. Would the Senator be willing to temporarily lay his amendment aside until we have a chance to do our staff work?

Mr. METZENBAUM. Mr. President, I ask unanimous consent that my amendment, a sense-of-the-Senate resolution, be temporarily laid aside in order that the Senator from Arizona may be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. METZENBAUM. Mr. President, I wish to express my great appreciation to the Senator from Arizona. He has certainly been very courteous and cooperative.

Mr. President, my sense-of-the-Senate amendment is pending now and has been cleared by both sides. I modified the amendment—one word was crossed out by mistake, the word "each"—by just reinserting the word "each."

I think we are ready to act in connection with the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2106), as modified, reads as follows:

Insert at the appropriate place in title XVII the following new section:

SEC. . SENSE OF THE SENATE ON TRANSITION RULES.

It is vital for the Senate to be fully informed about every matter that comes before it, therefore, it is the sense of the Senate that the conference report on H.R. 3838 shall contain—

"(1) the name of each business concern or group receiving a special or unique treatment in the bill;

"(2) the reason for the special or unique treatment; and

"(3) the cost of the special or unique treatment.".

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2106), as modified, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Conclusion of late proceedings.)

AMENDMENT NO. 2107

(Purpose: To lower the maximum individual tax rate to 26 percent, to increase the income to which the 15 percent rate applies, to repeal the foreign tax credit and foreign income deferral, and to increase the rate of the minimum tax)

Mr. DECONCINI. Mr. President, I thank the Chair and I thank my friend from Ohio.

Mr. President, shortly I intend to send an amendment to the desk which will make some radical changes and, I think, radical improvements for middle-income taxpayers while, at the same time, improving the U.S. productive capacity and capability.

First, I would like to explain and outline this amendment. But, even before I do that, Mr. President, I want to say that, as to the Finance Committee bill that is before us here, though there is certainly a lot of questions on the transition rules and the fairness and the equity on that part of it, indeed, this is a tremendous step. As I have said before to the distinguished chairman of this committee and the ranking member, both privately and on the floor here, they did a tremendous job of bringing out a bill eliminating as many of the loopholes in the deductions that are here. And, though I think many of us feel they could be corrected and be more fair and offer amendments, this is a milestone in tax legislation.

This amendment that I will send to the desk shortly will raise the breakpoint at which taxpayers move from the 15-percent bracket into the 27-percent bracket. Specifically, that breakpoint will be increased by 20 percent. For married couples filing jointly, that means that the breakpoint is increased from $29,300 to $35,160; and for a single filer, the breakpoint will be increased from $17,600 to $21,120.

So that means that, under the present Senate Finance bill, a married couple filing jointly would start paying the 20 percent on any income over $29,300. This particular amendment would change that. That means they would not pay the 27 percent until they reached $35,160, and the same example holds true on the single filer.

Mr. President, I ask unanimous consent that a comparative table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SUMMARY OF DeCONCINI AMENDMENT

	Breakpoint for top bracket	
	Finance plan	DeConcini amendment
Single filer	$17,600	$21,120
Joint filer	29,300	35,160
Head of household	23,500	28,200
Married filing separately	14,650	17,580

Mr. DECONCINI. Second, my amendment would lower the top rate for individuals from the Finance Committee reported 27 to 26 percent. The Joint Committee on Taxation informs me that lowering the top rate to 26 percent and raising the breakpoint by 20 percent will cost approximately $75 billion over a 5-year period.

One of the many complaints that we have heard on this floor time and time again is that this bill does not do enough for the middle-income taxpayer with incomes between $20,000 and $40,000. This amendment substantially improves the condition for these taxpayers.

While I have not been able to obtain a distribution breakdown, clearly my amendment benefits the middle-income taxpayer. Under this amendment, the middle-income taxpayer filing jointly would pay 15 percent on the first $35,160 of taxable income. The bill as written would push them into the 27-percent bracket at $29,300. Single filers, the same type of example, would not pay 27 percent until their taxable income tops $21,120 while under the bill they would be paying 27 percent on anything above $17,600. This bracket shift in conjunction with the lowering of the top rate from 27 percent to 26 percent is a significant improvement.

Mr. President, my colleagues may now be asking themselves: Well, where is the Senator from Arizona going to get that $75 billion? Well, I believe I found a reasonable source for this revenue.

First, I would shift the foreign tax credit to a deduction, a move that will raise $68 billion over 5 years. Second, I will raise the corporate and individual minimum tax by 1.25 percent, which raises $7 billion over 5 years.

I would like to briefly discuss the reasons I have chosen to shift the foreign tax credit to a deduction. For too long, America has been sending its capital and its productive capacity overseas. And the U.S. Tax Code, far from discouraging this flight, is to some extent encouraging it. In 1981, new U.S. direct investment abroad totaled $9.6 billion. Last year U.S. direct investment abroad increased by an additional $19.1 billion. Mr. President the situation is getting worse and if this tax bill passes as is, the problem is going to compound, continue, and get worse.

The flight of U.S. capital into foreign investment is worsening our already devastated balance-of-payments. The current balance of payments deficit outstrips anything this country has seen before. Ten years ago, in 1975 to be exact, this country had a trade surplus of $8.9 billion. Imagine a trade surplus of $8.9 billion. In 1981, at the beginning of this administration, we had a trade deficit of $28 billion, and last year, 1985, we had a trade deficit of $127 billion.

I believe we can look at Great Britain as an example of what happens when a country experiences a tremendous outflow of capital. The British economy at the turn of the century found themselves in the position we are increasingly finding ourselves in today. The result: Britain lost its capital base. I would not like to see history repeat itself in the United States today. I am fearful that is where we are headed.

This country has always been a producing nation. But U.S. production capacity has fallen drastically. We are importing far more than we are exporting. One explanation for the dramatic change in our trading situation is that we are simply not manufacturing the products needed for export. The reason? We are sending our manufacturing capital overseas, and we are encouraging that capital flight through the Tax Code. Every dollar that U.S. industries invest overseas in plants, factories and the like is a dollar not invested in this country.

Up to now, our answer to this worsening balance of payments has been to continue to print money to pay our overseas debts. Simple arithmetic tells us that we cannot continue to print money without risking a return to the double digit inflation of the late 1970's and early 1980's or worse. Instead of producing goods for export, we are printing dollars for export. And, if we are not careful, the United States could become a nation of investment bankers and McDonald's employees, not that there is anything wrong with those employees, but that is not what makes a great nation economically.

One way we can begin to address this problem is by converting the present foreign tax credit to a deduction. By allowing a deduction for foreign paid taxes, rather than a credit, we maximize gain for the United States and minimize encouragement of capital flight.

Certainly this may be considered a radical approach. But, the present system has done little to improve America's competitive position. Furthermore, I believe this change is both rational and fair. Presently, taxes paid by corporations to foreign governments, other than income taxes, are not creditable but are deductible if they are a business expense. I believe that these foreign income taxes are exactly that, a cost of doing business in foreign countries and a deduction is the appropriate way to go. That is what we do today. If you have taxes in your business, you get to deduct them as an expense and cost of doing business. That is what we should be doing here.

Treasury, I, and the President's tax proposal, while not taking this approach, did seek to modify the foreign tax credit by proposing a per-country limit on foreign tax credits. Likewise, during consideration of the 1975 tax bill, the Senate voted to end a procedure known as deferral, where you could put off these tax benefits. However, the provision was dropped in conference, I am sorry to say. Deferral allows U.S. firms with foreign subsidiaries to defer the payment of U.S. taxes until the income is received by the U.S. parent in the form of dividends from that overseas company that they own. My amendment would also eliminate deferral in order to avoid a wholesale avoidance of repatriation by U.S. corporations in response to the change of the credit to a deduction.

One of the questions we must ask ourselves in this debate is the following. Does the United States have the primary right to tax its citizens, or do we want to give up that right to foreign countries? Foreign tax credits give that right away. Much like the Federal Government has retained its primary right to tax by allowing the deductibility of State and local taxes but not a credit—you cannot credit your income tax for those taxes that you pay to other jurisdictions—for them, the Federal Government should do the same for foreign countries. Not only will we retain this right for ourselves, but we will improve the American economy.

Mr. President, the tax bill before us is a giant step in the right direction. I believe my amendment will make it better. By providing greater relief to middle-income Americans without breaching the 15/27/33 rates in the bill, we can have the best of all possible worlds.

Mr. DECONCINI. Mr. President, at this time I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2107.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1371, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $35,160	15% of taxable income.
Over $35,160	$5,274, plus 26% of the excess over $35,160.

On page 1371, strike out the matter between lines 14 and 15, and insert:

"If taxable income is	The tax is:
Not over $28,200	15% of taxable income.
Over $28,200	$4,230, plus 26% of the excess over $28,200.

On page 1372, strike out the matter preceding line 1, and insert:

"If taxable income is	The tax is:
Not over $21,120	15% of taxable income.
Over $21,120	$3,168, plus 26% of the excess over $21,120.

On page 1372, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $17,580	15% of taxable income.
Over $17,580	$2,637, plus 26% of the excess over $17,580.

On page 1372, strike out the matter following line 18, and insert:

"If taxable income is	The tax is:
Not over $6,000	15% of taxable income.
Over $6,000	$900, plus 26% of the excess over $6,000.

At the end of title IX, insert the following new section:

SEC. . REPEAL OF FOREIGN TAX CREDIT AND FOREIGN INCOME DEFERRAL.

(a) REPEAL OF FOREIGN TAX CREDIT.—Subpart A of part III of subchapter N of chapter 1 (relating to foreign tax credit) is hereby repealed.

(b) REPEAL OF FOREIGN INCOME DEFERRAL OF CONTROLLED FOREIGN CORPORATIONS.—Section 952(a) (defining subpart F income) is amended to read as follows:

"(a) IN GENERAL.—For purposes of this subpart, the term 'subpart F income' means, in the case of any controlled foreign corporation, any income of such corporation not described in subsection (b), reduced (under regulations) by any deductions (including taxes) properly allocable to such income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1956, strike "20 percent" and insert "21.25 percent".

Mr. DECONCINI. Mr. President, to continue just slightly on the basis that I believe the credit should be deductions as any other business expense, I know the arguments that will be put forward. One of them, of course, is we have done this a long time, that this is double taxation, that these taxes have been paid overseas to overseas governments and now you are asking them to be only deducted. But in fact, that is what we have. It works well in the fact that we pay our State and our local taxes, and we do not get a credit on our income tax. We get to deduct them. I for the life of me do not know why foreign overseas investments should be treated in any other way.

Let me just repeat a couple of points here on the break point moving from the 15-percent bracket, and increasing that by 20 percent. I went over the single filer, I went over the joint filer. Let me just say that heads of households under the Finance Committee bill at $23,500 would pay 15 percent, and below that. Anything above $23,500, the 27 percent starts to be paid. This amendment before us today by this Senator would increase that from $23,500 to $28,200.

A married couple filing separately, the 15 percent would apply to $14,650 under the present bill before us. Under the amendment from the Senator from Arizona, that would be increased to $17,580. It seems to me that the cost of business for taking away this tax credit of foreign income tax and changing it to a tax deduction is well worth it when you think about the tremendous impact this bill will have on those in the range of $20,000 to $40,000. It puts 20 percent more into the 15-percent bracket—not in numbers but in dollars. And this to me makes the bill fair to those people who are going to receive some benefit, and do receive some benefit even under the present Finance Committee bill but is going to receive a 20-percent better benefit under here without taking it away someplace else. I think the corporations and individuals that get a tax credit now ought not to be treated like any other business in the country, and should only be entitled to a deduction.

□ 1430

Mr. PACKWOOD. Mr. President, I would like to ask a few questions of the Senator from Arizona to make certain how the amendment works.

Let us assume a 50-percent tax rate, for purposes of the illustration. Under present law, if a company in the United States had $2,000 income upon which they paid tax, they would pay $1,000 tax. Are we OK so far? I want to make sure that our facts are followed as I use this example.

Mr. DECONCINI. Go ahead.

Mr. PACKWOOD. They pay $1,000 tax. The present law says that a company that operates partially in the United States and partially overseas would pay no more total tax than if they operated only in the United States.

My first question is, do you agree with that premise or do you want them to pay more taxes because they operate overseas in addition to the United States?

Mr. DECONCINI. They would pay more taxes under this amendment.

Mr. PACKWOOD. Here is what my good friend is now saying. Take the example of the company operating in the United States alone, with $2,000 income at 50-percent tax rate. They pay to the Government $1,000 and keep $1,000. We have encouraged, however, American companies to go overseas and compete in foreign markets. As I indicated last night in discussing the amendment of the Senator from Montana on taxing deferred foreign source income, almost all American companies that go overseas to compete do not go overseas for the purpose of sending goods back to the United States. That is a very, very small part of our imports. If we have foreign competition, the problem is foreign-owned company competition, not American-owned companies overseas.

Quite obviously, U.S. parts are shipped overseas and assembled and, in many cases, by U.S. personnel. We wanted to encourage this.

Under the present law, picture this situation. First I will use the example of the American company solely within the confines of the United States that makes $2,000, at 50 percent tax, $1,000 going to the Government.

Now assume you have an identical company but it operates partially here and partially in Great Britain. Say it is IBM and we will use the same $1,000 in comparison.

Let us say they make $1,000 in the United States and $1,000 in Great Britain. Great Britain's tax is 50 percent.

On the $1,000 they made in Great Britain, they paid Great Britain $500.

The way you calculate the tax in the United States is to take their worldwide income, which is $2,000, $1,000 in Great Britain and $1,000 here. To calculate the tax on this worldwide income of $2,000, you say what would the tax be if they made all the money in the United States at 50 percent? It would be $1,000. But then you allow a credit for the $500 they have already paid in taxes to Great Britain. So the company has made $2,000, $1,000 here and $1,000 in Great Britain. They paid $500 to Great Britain and they paid $500 to the United States. They paid $1,000 taxes on $2,000 income and they have paid no more taxes and no less than a company that operates in the United States that makes $2,000.

It is not a tax dodge. They have made $2,000 and have had to pay $1,000 in taxes.

I do not think my good friend from Arizona would deny the right of the United States to tax Honda, Toyota, Phillips, or any of the other companies that operate in the United States, nor do I think he would deny Great Britain the right to tax American companies that operate in Great Britain.

His issue is how we should treat a company that operates overseas in terms of their tax credit against U.S. taxes. Let Great Britain tax what they want, but how do we treat this tax paid to Great Britain in the United States.

Let me take the example I used before to show the change. A company making $1,000 in the United States and $1,000 in Great Britain.

Mr. President, I yield the floor for a moment to the Senator from Maryland, who has some very distinguished guests to introduce.

The PRESIDING OFFICER. The Senator from Maryland.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. MATHIAS. Mr. President, the Senate is honored today by having a visit by the President of the European Parliament and a distinguished group of members of the European Parliament, who are visiting the United States.

Under the rules of the Senate, it is a great privilege to welcome them here. I ask unanimous consent that the Senate stand in recess for 3 minutes in order that the Members of the Senate can welcome the Members of the European Parliament.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon at 2:36 p.m., the Senate recessed until 2:39 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. NICKLES].

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, now that I understand the full import of what the Senator from Arizona is about to do to American foreign trade, I simply am constrained to speak a bit further about what this is going to do.

□ 1440

Realize that the principal American companies that are successfully competing overseas put plants overseas, just for the same reason that Honda builds a plant in the United States: They build it because they want to be near the market. We have American companies all over the world that are in the German market, that are in the Spanish market, they are in the United Kingdom market. They build those plants there. They are net export earners for the United States. They help our balance of trade in two ways.

First, they help because in many cases, components are made in the United States and shipped to these countries for assembly. Sometimes it is because the countries have a domestic content law and they have to be assembled there, but for a variety of reasons. That helps our balance of trade.

Second, when the company brings the profits that it makes back to the United States, they pay a tax on it. They can defer their income, but eventually, they have to bring it back to the United States, because if they do not, they cannot declare it as dividends. If they just keep it overseas and never declare it as dividends, their shareholders get somewhat unhappy after a while.

What the Senator from Arizona would succeed in doing is driving every American company that operates overseas successfully, that helps our balance of trade, off foreign shores onto the U.S. shores. They would have to try to compete by exporting and that is the area where we have been losing.

This is why it would happen. I want to go back to the example I used: An American company in the United States making $2,000, pays 50-percent tax; $1,000 to the Government, $1,000 the company keeps. Take exactly that same company. That company says to itself, "In order to capture part of the British market, we are going to move part of our operation overseas because we don't think we are going to be able to compete in the British market if we don't get into the country. We'll have our plant there."

The same company now operates in Britain and in the United States. It makes $1,000 in the United States, it makes $1,000 in Britain. Britain levies a 50-percent tax—$500. The United States Government calculates the tax on the American company by taking its worldwide income—it adds up everything it made in the United States and everything it made in Britain. That is $2,000. It say, "The tax on that is 50 percent, which is $1,000. But we will let you credit the tax that you paid overseas against your U.S. tax".

The company has not cheated the Government. It has still made only $2,000—$1,000 here, $1,000 in Britain. It has paid $1,000 in total taxes.

What the amendment of the Senator from Arizona would do is this: You take the $1,000 of income you made in the United States, you take the $1,000 of income you made in Great Britian, you pay your $500 tax in Great Britain. You add up all of your worldwide income for United States purposes—$2,000. You made $1,000 here, $1,000 in Britain. He would then have you deduct the tax that you made in Great Britain. You would deduct the $500 from the $2,000. You now have $1,500 left. Upon that $1,500 he would levy the 50 percent U.S. tax, $750. So this company, having made $2,000 total—$1,000 in Britain, $1,000 over here—would pay $1,250 in taxes instead of $1,000 in taxes. Had this company operated totally in the United States it would have paid only $1,000 in taxes.

What is going to happen to the IBM's of the world, the Techtronics and the Cascade Corp.? These companies who operate in a foreign country in order to serve a market overseas helps our balance of trade and helps our exports and brings money back. These companies will not be able to afford to continue to operate overseas if they have to pay infinitely more taxes than if they had operated solely in the United States.

Second, if they operate only in the United States, they are trying to compete in foreign markets by exports from the United States instead of being in the foreign market. That is where we have not been nearly as successful. What the Senator from Arizona is doing is talking about making our balance-of-trade deficits not $150 billion but $200 billion or $250 billion by punishing the most successful companies in America, the ones who have learned they can go head to head with the Japanese in an Australian market or the Germans in the Brazilian market because they locate plants there.

They are not going to be able to compete in those markets from the United States. His amendment is going to reduce the total profits of the company, the total money that will come back to the United States in taxes; it is going to worsen the balance of trade. How does that possibly help this country?

I am not prepared to move to table now, because others may wish to say something on it, but, Mr. President, this is the worst amendment we have had placed before us. This amendment is good. If you are really interested in helping, to drive our balance of trade up, drive our taxes down, and put people out of work—the Senator from Arizona can support it if he wants, but I cannot see how any American can benefit under this tax structure.

Mr. DECONCINI. Mr. President, I have the greatest respect for my good friend from Oregon. I happen to disagree with him here. We are faced here with a deficit in our trade of $127 billion, for several years now well over $100 billion. The Senator from Oregon makes my case: Do we want those jobs overseas? Or do we want those jobs in the United States?

This does it. It forces the companies that cannot make it overseas by having to take taxes that they pay overseas as a business expense and only as a deduction on their income tax that they pay in the United States instead of a credit.

Let me point out not only do a lot of these overseas companies make the $2,000 in the United Kingdom, as the Senator from Oregon says, but they may make another $2,000 in some country where the tax rate is, say, 32 percent. So if they pay a 50-percent tax rate, or let us use the hypothetical: Country A, where a multinational U.S. corporation does business, has a 60-percent income tax rate.

That company makes money there and it has to pay 60 percent. It could only get a credit for up to the 50 percent because that is what the law is and that is what the maximum rate is in the United States. That same company does business in country B, that has, let us say, a 32-percent or 30-percent tax rate. So again, they get a tax credit for that 30 percent that they pay.

Now go back to country A. They had a 10-percent unused tax credit because they cannot get more than what the

maximum rate is in the United States, which is 50 percent now. Under the bill that the Senate committee has produced, it is 33 percent, but 50 percent for our argument. There is 10 percent more.

They get to take that 10 percent, add it to country B, where this low rate was 32, and take it off at 42 as a tax credit.

That is not fair. Not only is that not fair, it encourages our companies in this country to go offshore. Whom do they employ when they go offshore? It would be nice if they employed or the major portion of their employees were American. They are not; they are foreign nationals, obviously so, often by law, but also by preference and for economic reasons.

That is one of the reasons they are there. Why should they not work in this country? Why should they not be encouraged to stay here and put Americans to work?

The Senator from Oregon says this is the worst thing he ever saw. I say the worst thing I ever saw is a deficit that is climbing at $127 billion per year and more and more jobs are being exported not goods. How are we going to export goods from this country if we do not manufacture them here, if it is not necessary that you do the maximum amount of production right here, within our own borders and boundaries?

Getting away from that argument—and I am more than happy to continue to debate it because I think the jobs argument for doing and building and manufacturing the products here far exceeds the argument that the good Senator from Oregon has, that we are going to make the deficit go up. I do not know how much higher the deficit can go than $127 billion in 12 months.

□ 1450

That is how much more we are paying than we are receiving. To me, that is bad. And look at the figures just quickly of how that has gone up. Ten years ago, in 1975, the country had a trade surplus of $8.9 billion. That means we were producing jobs. We were exporting far more than we were importing and less jobs were overseas in that same year. In 1981, just 6½ years ago, we had a trade deficit of $28 billion. That was really a disaster. We thought, where are we going with a $26 billion deficit. In 1985, as I pointed out, it was $127 billion, almost $100 billion more in the period of 6 years.

But getting to the argument of what this tax bill should do, and then I am prepared to go ahead and vote because I know the Senator has 78 other amendments and I am sure he would like to vote, look at the fairness of it. This idea of two tax rates is good. It is one that I have proposed and offered legislation on for a long time. I really think it creates incentive and it lowers the rate to a number of people. The 15-percent rate is a good beginning rate, and I encourage that and I am thankful that the Finance Committee had the courage to adopt it. My quarrel is that the people in the $20,000 to $40,000 rate ought to be increased. The way to do that is to raise that breakpoint, and that is what this amendment does. This money that we are going to recapture by no longer letting American corporations get a credit on their taxes that they pay overseas—still a deduction, still a business expense like any other business expense, and any other taxes they pay in the State of Arizona or anyplace else they get to deduct as a business expense so we are not eliminating it but it is no longer a tax credit—is going to be used to help the single taxpayer who now at $17,600 gets to pay 15 percent. And if he is over that it kicks into the 27 percent. That is going to be raised to $21,120.

I do not know what could be fairer. I do not know what could be more important for this country not only for trade, because jobs would be more likely to be created here, productivity would go up here, but the country is going to get more taxpayers into the 15-percent tax bracket and at the same time give a little incentive to the top bracket in bringing it down 1 percentage point.

So I only suggest to my colleagues, No. 1, this is a good bill, as I have said. The Senator from Oregon, as I have said, deserves and has my great admiration for putting it here. I am not here to gut this bill. I am not here proposing amendments that destroy it. I am here to make it better. I also happened to come across an idea that I believe has a lot of merit and that is to have jobs in the United States instead of overseas.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I rise to oppose the amendment of the Senator from Arizona, and I am not sure that everybody understands exactly what is taking place. First of all, just the mere fact that the sums involved are, as I understand, in the neighorhood of some $60 billion over 5 years—if the Senator from Arizona wishes to correct me on the exact amount, I would be glad to hear it.

Mr. DECONCINI. If the Senator will yield, I am advised by the Joint Tax Committee it is approximately $68 billion.

Mr. CHAFEE. $68 billion. Now, that money is coming from U.S. corporations, and it is coming from U.S. corporations that are able to remain competitive in the United States and in the world market because they have some international operations. This will affect all the companies that do some business abroad, some manufacturing abroad, even for parts that are integral to the unit that they produce in the United States and assemble in the United States. So it applies to the IBM's, it applies to the Fords, it applies to the Cross Pen Co., from my State that has a unit in Ireland. What I think is terribly important to remember at this point, Mr. President, is that there is some suggestion that the foreign country can impose an ultra stiff tax at a very high rate and then that U.S. company pays it and comes back and can take all that as a credit against the U.S. tax. I should like to clarify this point if I might, Mr. President.

The overseas taxes that are paid by the U.S. corporations can only receive a credit against their U.S. taxes on the same basis as their U.S. taxes would have been. In other words, if the country overseas levies a 70-percent tax rate, those total dollars paid cannot be brought back as a credit against U.S. taxes. The taxes can only be a credit at the same rate that the U.S. company is paying taxes in the United States, 46 percent or 40 percent or whatever it might be.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. DECONCINI. What the Senator has said is correct, that you can only deduct, my understanding is, what the maximum rate is already. But if that same company also does business in another country that has a rate of, say, 30 percent, then the maximum they could deduct out of that country would be 30 percent but they can take the difference between the 50, the maximum in the United States, and the 70 they have to pay in the foreign country, which is another 20 percent, add it to the low tax country and get a full 50 percent there. That is unfair and in my opinion this bill addresses that problem.

Mr. CHAFEE. That may be. That may be. As I understand, the Senator is correct. The point is the U.S. company has found it profitable for their overall operations to have some ventures abroad. They would not be there just to pay taxes. They are there because they are making a profit, and that profit returns to the United States and helps maintain their competitive position. The passage of this amendment would impede, indeed be devastating. As the chairman of the Finance Committee has so ably pointed out, we have enough trouble trying to remain competitive in the world today, and thank goodness we have some companies that are returning money to the United States because they are able to remain competitive. Let us not do anything to kill that competitive edge that they have succeeded in attaining.

So I very strongly hope that should the Senator from Oregon, the chairman of the committee, move to table this amendment, the tabling motion will succeed.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment of the Senator from Arizona, my friend and a person whom I respect highly.

I should like to make several points. First, this is not the ordinary, small, pick-up amendment. This is an amendment that can cost $75 billion—$75 billion.

Now, the second point I wish to make is that the foreign tax credit is simply a way to prevent the same income from being taxed twice by two governments with equal claims to tax.

If I am an American firm and I operate in Great Britain or Japan or Germany, they have a right to tax me because I am operating in that country. The United States has a right to tax me because my home office is here. The foreign tax credit is not a loophole. It is a way of offsetting taxes paid in one jurisdiction against taxes owed in another jurisdiction. In short, it is a way of assuring stability in a world trading and financial system. If we decided to eliminate foreign tax credits worldwide, you would have a situation where one country would be preying on another, manipulating tax rates, et cetera, and the result would be a serious downturn in world trade, which I do not think the distinguished Senator from Arizona would like to see.

The third point is that there is little question a $75 billion increase in taxes, 68 of which are on our most effective exporters and international competitors, there is little doubt that if they are taxed another $68 billion they are not going to do as well and the trade deficit is going to go up—I would argue up substantially.

□ 1500

Two final points, addressing two of the points offered by the distinguished Senator from Arizona.

A major energy company does not build a coal-fired generating plant in Mexico because of the foreign tax credit. They build that plant in Mexico because there is a demand and they can make money. The foreign tax credit is a way of stabilizing the international trading system and encouraging investment and encouraging trade.

The last point: The Senator from Arizona was concerned about one country having a higher tax rate than another and the parent company offsetting the lower tax rate against worldwide income. If that were his concern, he could have proposed a per-country limit on foreign tax credits. Of course, that presented a problem. That did not raise $75 billion.

I understand the motivation for changing the foreign tax credit to a deduction, but I hope we reject that, because it will increase the trade deficit. In my view, it will also make the foreign international trading system much less stable and lead to a dramatic downturn in world trade.

Mr. DECONCINI. Mr. President, I am prepared to move ahead.

I do not know how much worse our trade deficit could be. Maybe we can have a $200 billion or $300 billion trade deficit every year. Maybe the copper industry in Arizona will shut down completely, and in the rest of the country.

We used to be the biggest copper producer in the United States. We were one of the largest copper producers in the world, and we no longer are. Maybe steel will get worse if this amendment is adopted. Maybe there will be more foreign automobiles and television sets and other high tech business.

I submit that this amendment will encourage very strongly American industry to make things in the United States and export and compete, and at the same time give a tax break to those in the $20,000 to $40,000 income bracket. To me, that makes sense, when we are faced with a $127 billion trade deficit.

We are told that this bill is good, that we are going to make things better. I do not see anything in this bill that will help except the incentive of having lower rates. That is likely to help, but no one has said that would wipe out a $127 billion deficit in 1985, which is projected to be the same in 1986.

We have an opportunity to do a couple of things: One is to put more people into the 15-percent bracket, roughly 20 percent dollarwise into the 15-percent bracket, to lower the maximum 27 percent bracket to 26 percent; No. 2, to encourage jobs to come back to the United States, to encourage companies here not to invest overseas, because if they do, it takes all their taxes they pay over there, and get them a tax credit they have to pay here. They can only use it as a deduction.

Being a citizen of the United States is worth something. When you are overseas and are in trouble, who comes to get you if things turn in the wrong direction politically or economically? The United States does. How many millions of people want to be in this country? It is worth paying something for, particularly if you encourage jobs and manufacturing productivity in this country.

● Mr. LEVIN. Mr. President, I agree with Senator DECONCINI that the tax reform bill before us disfavors many middle income taxpayers and should be modified in order to do that. It was for that reason that I strongly supported the Mitchell amendment which was offered yesterday. However, there was a crucial difference between the Mitchell amendment and the amendment before us right now. The Mitchell amendment not only improved the tax treatment of middle income taxpayers, but it also improved the progressivity of the entire bill. The DeConcini amendment improves the tax treatment of middle income taxpayers, but at the expense of progressivity because it lowered the maximum rate from 27 to 26 percent instead of increasing it from 27 to 35 percent, as did the Mitchell amendment.

I would also like to compliment the Senator for looking to the foreign tax credit as a revenue source for his amendment. Clearly, this has been an area of abuse. The ambiguity between what is a royalty payment and what is an income tax is a particular matter of concern. This issue deserves attention standing on its own and should not be tied to the issue of the maximum rate.●

Mr. PACKWOOD. Mr. President, the Senator from Arizona is 100 percent wrong. What this amendment is going to do is drive foreign investment down in the United States, drive tax collections down in the United States.

This is a subject the Finance Committee has had hearings on over the years. I have yet to find an American company that went overseas for the fun of it. You have cultural differences, language differences, currency differences. It is more difficult to operate overseas and in the United States than just in the United States. It is much more difficult to operate in the United States, Germany, Great Britain, Japan, and Zambia, with all the cultural differences and language differences. They would rather operate here and export overseas. That is the easiest thing to do, but it does not work. We have discovered that it is much better to sell overseas when our plants are there.

Let us take my favorite example, Tektronix, an electronic company in Portland, OR. Let us say it employs 1,000 people. It actually employs multithousands.

They say to themselves: "We have been exporting, but gradually we are losing our export market to companies located in the country we try to export to."

So, let us say they put a plant in Japan, and that plant employs 1,000 people, and they sell from that company to the Japanese market. Very little comes back to this country from our American companies overseas.

Those 1,000 employees in Japan provide another 100 or 200 jobs at the headquarters in Portland, OR, that would not exist but for the plant being

in Japan. If you close the plant in Japan and try to manufacture everything in Portland and export it, you will not succeed, and you are going to lose the 200 jobs the Japanese plant has created as secondary employment in Oregon.

That is going to happen to International Harvester, Caterpillar, General Electric, IBM—any company that operates overseas divisions, if you force them to do that. They are going to lose markets and employment, and we will lose taxes.

Mr. President, I move to lay on the table the amendment of the Senator from Arizona, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. DANFORTH). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Arizona. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 7, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—92

Abdnor	Glenn	Mitchell
Andrews	Goldwater	Moynihan
Armstrong	Gorton	Murkowski
Baucus	Gramm	Nickles
Bentsen	Grassley	Nunn
Biden	Harkin	Packwood
Bingaman	Hart	Pell
Boren	Hatch	Pressler
Boschwitz	Hatfield	Proxmire
Bradley	Hawkins	Pryor
Bumpers	Hecht	Quayle
Byrd	Heflin	Riegle
Chafee	Heinz	Rockefeller
Chiles	Helms	Roth
Cochran	Humphrey	Rudman
Cohen	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
Denton	Kerry	Specter
Dixon	Lautenberg	Stafford
Dodd	Laxalt	Stennis
Dole	Leahy	Stevens
Domenici	Levin	Thurmond
Durenberger	Long	Trible
Eagleton	Lugar	Wallop
East	Mathias	Warner
Evans	Matsunaga	Weicker
Exon	Mattingly	Wilson
Ford	McClure	Zorinsky
Garn	McConnell	

NAYS—7

Burdick	Hollings	Metzenbaum
DeConcini	Inouye	
Gore	Melcher	

NOT VOTING—1

Symms

So the motion to lay on the table amendment No. 2107 was agreed to.

□ 1530

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, may we have order?

Mr. DOLE. Mr. President, I indicated a little bit before 3 that I hoped by 3:30 we would be able to make some announcement about the remainder of today, tomorrow, and thereafter.

We are in the process on this side—I have asked that it might be done on the other side—of going back to each Senator who has indicated they have one or more amendments to see if we can reduce that list.

It seems to me that perhaps if we can do that, we might be able to plan on where we are going from here. I am advised by the chairman that he plans to be here tomorrow. There will be votes tomorrow. We will be in this evening.

I would like to make that effort. Again, after we have been able to go through on our side, then I will go to the distinguished minority leader and try to sit down with him and say, OK, we have been able to reduce ours by 10, 15, hopefully 50 amendments. If that is the case, then we might be in a little better position to reach some agreement.

We have been in late 2 nights running. I think there are a lot of Members who would like to not stay so late this evening.

But let me visit with the distinguished minority leader hopefully by 4:15. Then we can come back.

Mr. BYRD. Mr. President, I will be happy to visit with the distinguished majority leader.

The PRESIDING OFFICER. Will the minority leader withhold? The Senate is not in order.

The Democratic leader.

Mr. BYRD. Mr. President, on our side, Members are coming to the floor, and are being urged to try to work out their amendments so they do not get caught, as I said earlier today, in a last-minute jam. I do not know when that last-minute jam might occur. Whether it is tomorrow or Monday or whatever, there will be a last-minute jam. If Senators on both sides do not call their amendments up, at the last minute—whenever it comes—there will be some Senators who have amendments and who will want some time on them.

We are doing all we can on this side to cooperate. I am pleased with the fact that several Senators on this side have offered amendments, and others are ready to offer amendments.

We will continue to work in that direction. I will be glad to meet with the majority leader.

Mr. DOLE. I thank the distinguished minority leader.

There is still another option; that is, not to offer the amendment. That is the preferred option on both sides. On this side this thing is going so smoothly we would like to complete it, or at least get to third reading by tomorrow afternoon, or midafternoon. And I know many of the amendments are important. But the idea, as has been suggested on both sides, is that there will be no more amendments. And we will start the tabling process. But that sounds good at first. When you start to think about it a while, somebody may not like that. They might decide, well, if you table my amendment, I will have one more. And we will not vote on that one today or tomorrow.

So we want to try to work out a little friendlier way to do this. Also, if anybody has any suggestions about how to bring this to an end, we have a suggestion box in the back. [Laughter.]

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. PACKWOOD. Mr. President, will the majority leader respond? Will there be any possibility—and I will ask the minority leader also—of at least a unanimous consent that we not consider amendments not filed past a certain time?

The reason I ask that is we may be able to get a time agreement on all kinds of amendments if we know what they are. I am a little reluctant to agree to a time agreement. You might get an amendment that relates to the Tax Code. Well, most of them do. But if we could have them filed, I think we can make some progress.

Mr. DOLE. I think that is an excellent idea.

Some indicate to me they have amendments, and when I ask when they will bring it up, they say maybe tomorrow. Well, maybe if they are ready to do it, if they would at least file, that would give the managers an opportunity to take a look at the amendment. Then we may be able to decide if we want to accept it. We may decide that we cannot accept it. Then they may decide to modify it. But maybe that is the request we can entertain a little later.

Mr. BYRD. Mr. President, the distinguished manager of the bill directed his remarks in part to me.

We will be happy to explore that possibility over here. It is a good suggestion. We will get back to the majority leader on the matter.

AMENDMENT NO. 2109

(Purpose: To allow individual retirement accounts to acquire certain gold and silver coins issued by the United States)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of myself, Senator SYMMS, and Senator HECHT, and ask for its immediate consideration.

□ 1540

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] for himself, Mr. HECHT, and Mr. SYMMS, proposes an amendment numbered 2109.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2143, between lines 16 and 17, insert the following new section:

SEC. . ACQUISITION OF GOLD AND SILVER COINS BY INDIVIDUAL RETIREMENT ACCOUNTS

(a) IN GENERAL.—Section 408(m) (relating to investment in collectibles treated as distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION FOR CERTAIN COINS.—In the case of an individual retirement account, paragraph (2) shall not apply to any gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31 or any silver coin described in section 5112(e) of title 31."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions after December 31, 1986.

Mr. McCLURE. Mr. President, the amendment offered by myself for Senator SYMMS and cosponsored by Senator HECHT will allow legal tender gold and silver coins minted by the United States to be used as IRA investments.

On October 1 of this year the U.S. Treasury will make available to the general public, for the first time in many years, gold and silver bullion coins. These coins are the result of many years of hard work by myself and others in this body. There will be four gold bullion coins and one silver coin. The gold will be denominated in 1 ounce, one-half ounce, one-quarter ounce, and one-tenth ounce. The silver will be 1 ounce.

Mr. President, many predict there will be great demand for these coins. Some estimate that most of the market currently held by foreign coins, such as the South African Krugerand, Canadian Maple Leaf, and Mexican Libertad, will be replaced by the U.S. coins. I am also confident that many individuals who have never invested in coinage will invest in the U.S. coins.

Many citizens have expressed a great desire to buy these gold and silver coins as investment tools for individual retirement accounts. However, in the Economic Recovery Tax Act of 1981 a provision was added to prohibit investment in collectibles. There was concern that investors would want to hold their collectibles making it difficult to police whether or not the investment existed.

Mr. President, we have taken care of this concern with our amendment by limiting the coinage investment to only the gold and silver coins under title 31, section 5112. In addition, we have limited the investment to only individual retirement accounts. Therefore if an individual wanted to invest in the gold and silver coins, such investment would have to be held by a trustee and could not be held by the individual investor. We felt this was a good compromise to avoid any concern that existed in 1981.

This amendment provides investors with another alternative. In addition, gold and silver has always been a popular investment and Americans should be given the opportunity to choose what they want as an investment.

Mr. President, the Joint Committee on Taxation has reviewed this amendment and determined that it is revenue neutral and will not cost the Treasury any money. It does not change who is eligible to invest in IRA's or change any of the rules governing control over IRA investments. It simply allows U.S.-minted gold and silver coins to be used as IRA investments. All the rules that apply to other IRA investments will also apply to the gold and silver coinage.

The mining industries in the United States have been in a depressed state for many years. In my State of Idaho thousands have lost their jobs due to low prices and subsidized foreign imports. I have no illusion that this amendment will solve all problems in the hard rock mining industry. However, this amendment not only makes economic sense but will provide some relief for these depressed industries by increasing the demand for these precious metals.

Mr. President, an important aspect of this amendment that is not evident on its face, is that the gold to be used in minting these coins must come from certified domestic sources. Therefore, it is impossible for investors to purchase South African gold as an IRA investment. In addition, the silver to be used must come from U.S.-stockpiled silver. This will avoid any concern some may have over foreign sourced metals being used.

Mr. President, this amendment is simple and straightforward. It provides another opportunity for Americans to invest in U.S.-minted gold and silver coins. I encourage my colleagues to support this amendment.

Mr. SYMMS. Mr. President, the joint committee estimates that this amendment has no revenue impact. The amendment is important to the mining industry in my State which is currently in a severe depression. The American silver industry has been on its back due to increased world production and reduced silver consumption. Since 1977, world silver demand is down 99 million ounces while the total world supply has increased by 25 million ounces. The amendment will increase the demand.

The amendment will only allow for the deposit of U.S. 1-ounce, half-ounce, quarter-ounce and tenth-of-an-ounce gold bullion coins and a new 1-ounce silver coin. These U.S. coins will be minted by the Treasury beginning October 1.

The most important thing to keep in mind is that the amendment has no revenue impact. Without any cost, we can help a depressed industry that just wants to get back on its feet. There are very few amendments that have this dual benefit.

The provision will broaden the options investors face when they are considering IRA's. Again, there is no cost—this only allows the individual an option to invest some of his IRA funds in U.S. gold and silver coins if so desired.

The amendment requires that the coins be held by a trustee, just as any other asset in an IRA.

Finally, I want to say that this amendment will help the silver industry get back on the road to prosperity. The biggest problem for silver is the current lack of demand at a time of world oversupply. We can begin to stimulate demand without any cost to the Treasury.

I would ask my colleagues to support this amendment.

Mr. McCLURE. Mr. President, I am prepared to answer any questions anyone might have.

Mr. BENTSEN. Mr. President, we have no objection on this side.

Mr. McCLURE. Mr. President, I ask unanimous consent that Senator EXON be added as cosponsor.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, am I correct in my understanding that this has no revenue impact?

Mr. McCLURE. It has no revenue impact, according to the Joint Committee on Taxation.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2109) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTI-APARTHEID ACTION ACT OF 1986

Mr. KENNEDY. Mr. President, the House of Representatives has done the bold thing and the right thing on South Africa, and I intend to do all I can to see that the Senate follows suit.

In unequivocal terms, the House bill puts the United States squarely on the side of racial justice and human rights in South Africa. We have had enough timid responses and halfway measures from Congress and the administration. Apartheid is the problem and divestment is the answer.

For too long, we have permitted inaction in Washington to be misread as acquiescence in Pretoria. In effect, the United States has become the accomplice of apartheid. It is time now for the administration to match its action with its rhetoric. As the cochairman of the British Commonwealth Mission has succinctly put it, we are not trying to bring South Africa to its knees, but to its senses.

There is distressing irony in the events that took place yesterday. At the very moment the House was giving its answer to the violence of recent weeks in South Africa, President Reagan's representative at the United Nations was giving a different answer—by vetoing a Security Council resolution calling for sanctions against South Africa.

It is bad enough that the administration rejects United States economic sanctions against South Africa. It is far worse for the administration to do South Africa's dirty work at the United Nations by blocking international sanctions.

The administration's policy of constructive engagement has been tested and found wanting. Now, a new day is dawning in American policy toward South Africa, and I hope that the administration will decide to be part of it.

Before Congress adjourns this year, I intend to see that the Senate votes on the bill enacted by the House. To this end, along with Senators CRANSTON and WEICKER, we will be introducing a separate Senate bill identical to the measure adopted by the House. This bill will be referred to the appropriate committee or committees of jurisdiction in the Senate, and the committees will have ample opportunity to consider this historic measure.

But to insure that Senate committee consideration does not become a pretext to bury the legislation, I also intend to take appropriate steps to place the actual House-passed bill directly on the Senate calendar when it arrives from the House of Representatives.

I hope that our Senate committees will consider this legislation and recommend it to the full Senate. But if they do not, the steps I am taking today will ensure that we still have the opportunity to take up the House-passed bill in its own right and on its own merits, and not just as an end-of-session rider to other legislation.

Before yesterday, few believed that the House of Representatives would adopt legislation calling for United States divestment from South Africa. Today, there are few who believe that the Senate will approve such far-reaching legislation. By September, we shall find out.

Mr. President, I do welcome the opportunity to cosponsor this legislation which passed the House successfully, and which will now be offered by the Senator from California.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the House yesterday fired a shot against apartheid heard around the world.

It has declared, loud and clear, that just as America once said: "You can't do business with Hitler," America is now saying: "You can't do business with apartheid."

Now the Senate must back up this brave declaration.

Just as loudly and clearly. I am delighted that Senator KENNEDY, Senator WEICKER, and I are, joined together once again in this battle.

Because I believe even a single day should not pass after House passage of the Anti-Apartheid Act of 1986 without supportive action by the Senate, and because I believe that the Senate today, like the House yesterday, must send a message to South Africa and the world that the United States will not directly or indirectly, support or condone apartheid in any way, shape, or form—morally, politically, or economically.

Along with Senator KENNEDY and Senator WEICKER, I am today introducing, the historic antiapartheid sanctions measure which passed the full House without opposition yesterday.

I believe we have a moral obligation to act on this issue and to address the grave crisis confronting the people of South Africa.

The land of South Africa lies many thousands of miles away. But today our hearts are with those who are engaged in the struggle for survival, the struggle for freedom.

Together, we believe in freedom. We believe in democracy. We believe in dignity and the rights of men and women. As Americans, we recognize our national security interest in seeing a free and democratic state emerge from the repressive Pretoria regime.

The cynical among us have already concluded that the Senate will do nothing. But I am hopeful. I refuse to accept the harsh judgment that this distinguished body will not act on one of the great moral issues of our time.

I have heard it said that to take any action would be counterproductive. But we know that the voices of the oppressed cry out to us for leadership.

I have heard invoked generic principles against trade sanctions; I have heard quibbling and equivocating. But I know that we must not trifle with evil. I know that we cannot equivocate in the face of a new Hitler. I know that we cannot quibble and remain inactive in the face of the threat of a new genocide of men, women, and children.

Mr. President, we are on the brink of a terrible, terrible bloodbath in South Africa. Thousands of lives are at stake. The freedom and security of brave leaders like bishop Tutu and Alan Boesak hang in the balance.

We who have the power to act against this evil must do so. We must do so in the name of humanity. We must do so in our own hardheaded national security interests.

I have pressed this issue repeatedly from my positions on the Committees on Banking and Foreign Relations. I was honored last year to serve as floor manager of the bill which passed the Senate with more than 80 votes.

In the hours and days ahead I pledge to do all in my power to inform, influence, and persuade my colleagues to see that we do act, and that we do adopt, the strongest possible sanctions against the apartheid regime.

I will fight as hard as I can for the strongest possible bill in this body. And I believe the measure we are advancing today should be the point of departure for a prompt debate by the full Senate.

□ 1550

Mr. President, I send our bill to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill follows:

S. 2570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Anti-Apartheid Action Act of 1986."

SECTION 1. PROHIBITION ON INVESTMENTS IN SOUTH AFRICA.

No United States person may, directly or through another person, make or hold any investment in South Africa.

SEC. 2. PROHIBITION ON IMPORTS AND EXPORTS FROM SOUTH AFRICA.

(a) IMPORTS.—Notwithstanding any other provision of law, no article which is the growth, produce, or manufacture of South Africa may be imported into the United States, except for those strategic minerals of which the President certified to the Congress that the quantities essential for military uses exceed reasonably secure domestic supplies and for which substitutes are not available.

(b) EXPORTS.—

(1) GENERAL RULE.—No goods, technology, or other information subject to the jurisdiction of the United States may be exported to South Africa, and no goods, technology, or other information may be exported to South Africa by any person subject to the jurisdiction of the United States. The prohibition contained in this paragraph shall apply to goods, technology, or other information of any kind, which is subject to controls under the Export Administration Act of 1979, the Arms Export Control Act, the Atomic Energy Act of 1954, or any other provision of law.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply to exports described in section 6(g) of the Export Administration Act of 1979.

SEC. 3. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by a foreign air carrier called, directly or indirectly, by the Government of South Africa or by South African nationals.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) DEFINITIONS.—For purposes of this section, the terms "aircraft" and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958.

SEC. 4. PROHIBITION ON IMPORTATION OF KRUGERRANDS.

No person may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

SEC. 5. ENFORCEMENT; PENALTIES.

(a) AUTHORITIES OF THE PRESIDENT.—The President shall take the necessary steps to ensure compliance with the provisions of this Act and any regulatons, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with such provisions, regulations, licenses and orders. In ensuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and production of all books, papers, and documents relating to any matter under investigation.

(b) VIOLATIONS.—Any person that knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall—

(1) if other than an individual, be fined not more than $500,000; and

(2) if an individual, be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(c) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who willfull carried out such act or practice.

shall, upon conviction, be fined not more than $250,000, or imprisoned not more than five years, or both.

(2) RESTRICTION OF PAYMENT OF FINES.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d) SEIZURE AND FORFEITURE OF AIRCRAFT.—Any aircraft used in connection with a violation of section 3 of any regulation, license, or order issued to carry out that section shall be subject to seizure by the forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds from the sale thereof, and the remission of mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 6. REGULATORY AUTHORITY.

The President may issue such regulations, licenses, and orders as are necessary to carry out this Act.

SEC. 7. DEFINITIONS.

For purposes of this Act—

(1) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) UNITED STATES.—The term "United States person" means any United States resident or national and any partnership, corporation, or other entity organized under the laws of the United States or of any of the several States, of the District of Columbia, or of any commonwealth, territory, or possession of the United States.

(3) INVESTMENT IN SOUTH AFRICA.—The term "investment in South Africa" means—

(A) a commitment of funds or other assets (in order to earn a financial return) to a business enterprise located in South Africa or owned or controlled by South Africa nationals, including—

(i) a loan or other extension of credit made to such a business enterprise, or security given for the debts of such a business enterprise;

(ii) the beneficial ownership or control of a share or interest in such a business enterprise, or of a bond or other debt instrument issued by such a business enterprise; or

(iii) capital contributions in money or other assets to such a business enterprise; or

(B) the control of a business enterprise located in South Africa or owned or controlled by South African nationals, in cases in which subparagraph (A) does not apply.

(4) SOUTH AFRICA.—The term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(5) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as such ownership or control is determined under regulations which the President shall issue.

(6) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

(7) SOUTH AFRICAN NATIONAL.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(8) CONTROL BY SOUTH AFRICAN NATIONALS.—For purposes of paragraph (3)(A), South African nationals shall be presumed to control a business enterprise if—

(A) South African nationals beneficially own or control (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise;

(B) South African nationals beneficially own or control (whether directly or indirectly) 25 percent or more of the voting securities of the business enterprise, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(C) the business enterprise is operated by South African nationals pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of a South African national;

(E) South African nationals have the authority to appoint a majority of the members of the board of directors of the business enterprise; or

(F) South African nationals have the authority to appoint the chief operating officer of the business enterprise.

(9) CONTROL BY UNITED STATES PERSONS.—For purposes of paragraph (3)(B), a United States person shall be presumed to control a business enterprise if—

(A) the business enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(B) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the United States person;

(C) the United States person has authority to appoint a majority of the members of the board of directors of the business enterprise; or

(D) the United States person has authority to appoint the chief operating officer of the business enterprise.

SEC. 8. APPLICABILITY TO EVASIONS OF ACT.

This Act shall apply to any United States person who undertakes or causes to be undertaken any transaction or activity with the intent to evade the provisions of this Act or any regulation, license, or order issued to carry out this Act.

SEC. 9. EFFECTIVE DATE.

The provisions of this Act shall take effect 180 days after the date of the enactment of this Act.

Mr. WEICKER. Mr. President, today Senators KENNEDY and CRANSTON and

I introduced legislation imposing economic sanctions on the Government of South Africa.

This legislation is identical to that which passed the House of Representatives unanimously yesterday.

Last month, we introduced legislation to impose limited sanctions and among other proposals, mandate a deadline for disinvestment from the South African computer industry if certain conditions are not met.

That initial bill is probably more acceptable politically to the U.S. Senate than total disinvestment. But I join many of my colleagues in believing that only total disinvestment and a withdrawal of American subsidization of apartheid will frame the sort of commensurate response demanded by the situation in South Africa.

What is that situation? It is very clear Mr. President.

One thousand seven hundred dead in 21 months, most of them black and most of them killed by security forces or the so-called vigilante forces that operate with the support of police.

In the region, South Africa has conducted raids on Zambia, Botswana, and Zimbabwe, extending and intensifying the radicalization of its opponents to the entire region.

Representatives of the 49 nations of the British Commonwealth, known as the Eminent Persons Group, ended their peace mission with a grim warning:

> For all the people of South Africa and of the subregion as a whole, the certain prospect is of an even sharper decline into violence and bloodshed with all its attendant human costs. A racial conflagration with frightening implication threatens. The uncoordinated violence of today could become in the not too distant future a major armed conflict spilling well beyond South Africa's borders.

No one questions the immorality of apartheid. Last September, President Reagan said:

> America's view of apartheid is simple and straightforward. We believe it is wrong. We condemn it. And we are united in hoping for the day when apartheid is no more.

I was pleased to read that the President backed up this sentiment with a call to South African President Botha urging restraint upon the anniversary of the Soweto uprising.

And what was Mr. Botha's response? In short, he thumbed his nose at President Reagan, closing the door to personal diplomacy and narrowing the options of those of us who seek a peaceful solution to this crisis.

Mr. President, the future of South Africa is on the horizon. We can approach that horizon, that place where majority will rule just as surely as the Sun rises and sets, as a friend to the people of South Africa or a friend to racist and temporary occupants of Pretoria. The choice is ours.

Several years ago, in testimony before the House of Representatives, Bishop Tutu said:

> America is a great country, with great traditions of freedom and equality. I hope this great country will be true to its history and its traditions, and will unequivocally and clearly take its stand on the side of right and justice in South Africa . . . we shall be free, and we will remember who helped us to become free.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

THE UNITED STATES AND MEXICO

Mr. BENTSEN. Mr. President, last week, I addressed the Senate concerning Mexico's financial crisis and talked about its being part of a broader political crisis for that country. Recent events in the United States have made it even more difficult to play the constructive neighborly role I believe we should be playing as Mexico works to resolve its most urgent political problems.

Mexico-bashing seems to be the latest fad in Washington. Several people recently have raised their voices and pointed their fingers at Mexico. A good many of the criticisms have been proven false and many of them have been retracted. But other accusations remain—disputed, unsubstantiated, but nevertheless poisoning our bilateral relations. The chorus of criticism is drowning out the individual voices calling for cooperation and calm. Yet it is only in an atmosphere of quiet trust that we can make any serious progress toward resolving these current problems.

No useful purpose is served by these strident attacks. Mexican officials, whose integrity or legitimacy has been questioned, are thrown on the defensive and embroiled in controversy, thus making it harder for them to make the courageous decisions which are necessary for Mexico's recovery.

These kinds of criticisms have aroused the fierce national pride, the fervent nationalism of Mexicans. That makes it harder for that nation to accept even the most helpful suggestions from the United States.

What would you do if you were the Chief Executive of another country, if you were the Chief Executive of Mexico, and all of a sudden you were under attack by the big neighbor to the North? You would resent it, you would react to it, you would respond to it. You would find it more difficult to operate from your own political base in your own country.

The only ones benefiting from these attacks are those on the left who promote anti-U.S. sentiments and now have a more receptive audience.

I was delighted to see some of the members of the administration speak up on this point. I think it is important that the President, the Secretary of State, and other officials indicate our sympathy with the problems, the economic problems, that are serious to Mexico and, in turn, serious to us.

Mexico is not the Philippines, nor is President de la Madrid President Marcos. Like it or not, the Institutional Revolutionary Party, PRI, dominates the politics of Mexico but it dominates it through a democratic process—that is quite rare in the developing—that includes regular elections and changes in those who hold power. Like it or not, we are going to have to work with President de la Madrid and we are going to have to do it for another couple of years if we are to have any joint solutions to our common probems.

Like it or not, another man will become President in 1988 after regular elections and we shall have to learn to deal with him.

We are not always going to find that our policies are in concurrence or agreement. That is the way it is between two major nations living side by side as neighbors.

This is a tough time for Mexico. It is a time when we should offer understanding and cooperation on the problems that we all agree exist.

It is not Mexico's fault that the price of oil has fallen or that oil is a major part of their economy.

In that regard, I am concerned about the departure of former Finance Minister Silva Herzog, a man for whom I had the greatest respect. He was unflinching in supporting the traditional means for resolving Mexico's financial disputes and paying its debts. I earnestly hope that his successor, Mr. Gustavo Petricioli, and other Mexican officials can work with the International Monetary Fund to bring about a satisfactory resolution of the payments problems.

The Mexican deficit is running about 12 percent of their GNP and the idea of some is that they ought to cut that in half and get it down to 6 percent. Mr. President, can you imagine what it would mean to the United States if we tried to cut our deficit as related to the GNP by one-half in 1 year? There is no way we could do it. We would have absolute chaos in this country. We cannot expect that of Mexico. Somewhere in between, we can find resolution of that so they can continue to make the progress they have made in paying on that debt.

At the present time, it is the poor people of Mexico who are suffering because of the lingering economic problems. All you have to do is drive down Reforma; and stop at a stoplight and watch the kids who climb up on the fenders of your car to wipe your windshield in hopes that you will hand

them a few pesos. They are looking for work.

Mr. BRADLEY. Would the Senator yield for a question only?

Mr. BENTSEN. I am happy to yield to my friend from New Jersey.

Mr. BRADLEY. I not only support the Senator's statement, but let me applaud the statement. Is it not true that it is not only the poor people of Mexico who are being hurt by current debt policies, and is it not also United States workers who lose their jobs because the export market in Mexico for United States goods has dried up?

Mr. BENTSEN. There is no question about that. All you have to do is go along that border and see on our side—the highest unemployment in the United States today is down in south Texas on the Mexican border. It is 22 percent. That is in metropolitan areas. I can show you a county, which includes Laredo, TX, that has a 36-percent unemployment rate. That is the highest in the Nation.

We share their problems. They spill over, one on the other.

Mr. BRADLEY. I have read the statistic that, because of the debt policy of the current administration—that being, pushing countries such as Mexico into deep recessions by cutting imports, stimulating exports to the United States and elsewhere.

The result of that policy has been a loss of United States jobs, numbering 400,000 jobs lost in the export sector alone, because Mexico and other countries in Latin America do not have the resources to buy exports. Then we have our banks that tell the Mexicans, "Divert your resources that you would use to produce goods and sell domestically in Mexico to Mexicans and sell those goods in the United States or elsewhere in order to get the dollars to repay the debt."

Mr. BENTSEN. That is correct. I have heard those same numbers and it gives me great concern. Obviously, it is adding to our own unemployment problem.

Mr. BRADLEY. And the number of jobs lost in the United States because of those imports from Mexico and other Latin American countries that have been required by banks is 600,000 jobs. So we are talking about a job loss in the United States of 1 million because of the debt policy of this administration. Let me tell the Senator I applaud him for calling for a change in this policy of austerity and challenging the people of Latin America to a growth policy.

□ 1600

Mr. BENTSEN. I share the idea that we have to see growth, and that is the way for them to ultimately get out of it and resolve their debt problems and see that they create employment in their country. One of the other problems we run into, of course, is that we are seeing countries like Japan with an incredible trade surplus and a big credit surplus. They are now the number one creditor in the world. Japan buys only 8 percent of the manufactured products of the lesser developed countries, while this country buys 62 percent of those products, and Europe buys 27 percent of them. They ought to take some of that burden off of us and increase their buying of manufactured products from those areas.

Another problem in Mexico is that not only are the poor suffering but the middle class is being absolutely decimated in Mexico today.

So we share many of Mexico's problems and concerns, not just across the border and along that border but throughout the United States. I think it is time that we curb the invective; that we cut back on the kind of attacks being made on the leadership of Mexico and try to find ways in a more calm atmosphere and a more cooperative atmosphere of a mutual and joint resolution of those problems.

Mr. HARKIN. Will the distinguished Senator yield?

Mr. BENTSEN. I will be delighted to yield.

Mr. HARKIN. I thank the distinguished Senator for yielding. I had not anticipated his remarks. I happened to be sitting here listening to them. I compliment the Senator from Texas for a very profound statement. It is very true that our destiny in this country is inextricably intertwined with the destiny of Mexico. I agree with what the Senator from Texas has said about the situation in Mexico and about how we ought to perhaps not be so anxious to be pointing our fingers at individuals in Mexico and at their government but, rather, ought to be seeking ways of working with them to relieve their debt burdens so that our two great nations can once again enjoy the type of interchange in our economies that will prove beneficial to both Mexico and the United States. I compliment the Senator from Texas for a very, very eloquent statement.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I congratulate the senior Senator from Texas on his statement dealing with Mexico. He has spent a great deal of time considering and dealing with the problems of Mexico and is indeed the leading authority here on our relationships with Mexico. We all look to him for guidance on these matters. I for one have been enlightened by what he had to say and appreciate the thoughtful statement he made. I should like to congratulate him.

Mr. BENTSEN. I thank my friend from Rhode Island.

Mr. HELMS. Mr. President, I do not propose to impinge upon the time of the distinguished managers of the tax bill, which, after all, is what we are here about, but I did not hear my good friend from Texas allude to the drug problem as is amplified by the corruption in Mexico. Now, there are some of us who are disturbed by the lack of interest in controlling that drug problem. There are both drugs and corruption in the United States, but we are trying to do something about it. Testimony showed that corruption in Mexico reaches to the highest levels of the government. There are also some of us who are worried about pumping billions of U.S. tax dollars into a Socialist economy, into a Socialist government which is a one-party government. All that does is hurt the Mexican people not help them. Now, I share the Senator's affection for the Mexican people; they are decent, hard-working people, and I think they need and deserve a chance to evaluate what is going on down there. Certainly, I believe the American people deserve to know what the problem is and why it exists and why it has grown to such enormous proportions. But Mexicans are afraid to talk about it in their country, and some Americans don't want to hear about it.

So I agree with the underlying thesis of the Senator's remarks, but I cannot agree with him that we should just proceed to do what we have done in the past to pump money in there when actually the flight of capital is a measurement of the lack of confidence of the Mexican people in their own government.

It is a valid subject for conservation at another time. I would be delighted to discuss it, not debate it, with the able Senator from Texas, whom I admire very much. But as I said at the outset, I do not propose we take a great deal of time when we are into consideration of the tax bill, but I thank the Chair.

Mr. BENTSEN. Mr. President, if I might just respond.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I would say to the distinguished Senator from North Carolina, I obviously have been concerned about the drug problem wherever it emanates. I know that many drug dealers have used Mexico as a trampoline to bounce drugs from Colombia into Mexico and into the United States. I also know what a strong feeling of nationalism that Mexico has, as have we. They have a great sensitivity to public criticism from their neighbor from the North.

I also know that to an incredible degree they have allowed our drug enforcement officials to work in Mexico. Now, that is something really new for Mexico, to allow our people to come into Mexico and work within that country, yet they have done it to try

to cooperate with us. If we considered the reverse situation and thought of our accepting a very substantial number of their officers crossing our border and trying to enforce the law in our country, it would be awfully tough for us to swallow.

We will never get them to do all the things just as we would do them. I understand that. But they have done some things that are unprecedented in trying to control the drug menace. I also know that they have lost a great many of their drug enforcement officials, who have been killed in action trying to accomplish some of the objectives. I think we have to keep those things in mind as we try to work out our differences with them.

Mr. HELMS. If the Senator will yield, of course we do. I agree with that. But, on the other hand, I wish the Senator could have heard the testimony by the Commissioner of Customs for the U.S. Government, the DEA officials who testified that the smuggling is so bad that Mexican police cars are escorting the drug traffickers to our borders with the blue lights and the sirens. That does not sound very much like cooperation to me, I say to the Senator. And I might add that the testimony of the Commissioner of Customs on the situation in Mexico has never been retracted or proven false, despite dubious reports to the contrary.

I say again that I want to work with the Mexican people. I wish them the best. But at the same time I think the best interest of the United States lies in our making sure that the American people understand both sides of this.

Mr. BENTSEN. I think he is also the same Customs official whose accusation against a Mexican Governor, of growing marijuna on his ranches was proven erroneous. I also saw a situation down in San Fernando, where I used to have a house—that is about 100 miles south of Brownsville—where a number of Federal Mexican officials were killed in a shootout with smugglers when they tried to apprehend them. The drug smugglers killed many of the Mexican officials who were in that encounter. So we can sit here and trade success and failure stories at great length. But I would say to my distinguished friend, I can cite some of the same things in our country. I can look at the situation of how we handled an acknowledged Russian spy in our country, how we delayed in his apprehension and how he escaped. I have concern about how that was done, and yet I do not blame the leadership, I do not blame the President.

□ 1610

I think President de la Madrid has an incredible problem on his hands. The problem is due partly to previous administrations, and to the price of oil. I think it is going to be a tough situation for Mexico, and I do not think it will be resolved overnight.

I believe that we make our situation and President de la Madrid's situation more difficult with public attacks on Mexico.

I was born near that border, and I know the sensitivity they have toward their big neighbor to the North and how they recoil from the criticisms and how their people rally around their leaders in that country when that happens.

I know the attacks of the extreme left down there and how they are looking for ways and means of fanning the anti-U.S. sentiment that is among some people down there.

I will be delighted to discuss this at length.

TAX REFORM ACT OF 1986

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2111

(Purpose: To provide that certain deductions and credits not be allowed for expenditures within the Coastal Barrier Resources System and for other purposes)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. EVANS). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 2111.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle B of title VII, insert the following new section:

SEC. . REDUCTION OR DENIAL OF CERTAIN TAX PREFERENCES FOR PROPERTY AND ACTIVITIES WITHIN UNITS OF THE COASTAL BARRIER RESOURCES SYSTEM.

(a) LIMITATION ON DEDUCTIONS.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280J. EXPENDITURES WITHIN UNITS OF THE COASTAL BARRIER RESOURCES SYSTEM.

"(a) COMPUTATION OF DEPRECIATION AND AMORTIZATION DEDUCTIONS.—Any deduction allowable under this chapter for depreciation or amortization for amounts paid or incurred for property used predominantly within a unit of the Coastal Barrier. Resources System shall be computed under the alternative system of depreciation under section 168(g).

"(b) CERTAIN DEDUCTIONS DISALLOWED.—None of the following deductions shall be allowed:

"(1) EXPENSING OF DEPRECIABLE ASSETS.—Any deduction allowable under section 179 for property used predominantly within a unit of the Coastal Barrier Resources System.

"(2) CASUALTY LOSSES.—Any deduction allowable under section 165 with respect to any casualty or disaster loss in connection with any property within a unit of the Coastal Barrier Resources System.

"(c) For purposes of this section, the term 'units of the Coastal Barrier Resources System' means those undeveloped coastal barriers located on the Atlantic and Gulf coasts of the United States that are identified and generally depicted on the maps that are entitled 'Coastal Barrier Resources System', numbered A01 through T12 (but excluding maps T02 and T03), and dated September 30, 1982 and the maps designated TO2A and TO3A, dated December 8, 1982 under the Coastal Barrier Resources Act of 1982, as amended (16 U.S.C. 3501 et seq.)."

(2) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding after the item relating to section 2801 the following new item:

"Sec. 280J. Expenditures within units of the Coastal Barrier Resources System."

(3) EFFECTIVE DATES.—

(A) IN GENERAL.— Except as provided in this paragraph, the amendments made by this subsection shall apply to amounts paid or incurred after December 31, 1986, in taxable years ending after such date.

(B) TRANSITION RULE.— The amendments made by this subsection shall not apply to property—

(i) the construction or reconstruction of which began before July 1, 1986, or

(ii) which was acquired pursuant to a binding contract between the taxpayer and an unrelated person which was in effect on July 1, 1986, and at all times thereafter.

(b) APPLICATION OF AT-RISK RULES.—

(1) IN GENERAL.— Section 465(c) (relating to activities to which at-risk limitations apply) is amended by adding at the end thereof the following new paragraph:

"(8) Special rules for property located, or used, in a unit of the Coastal Barrier Resources System.—In the case of an area designated as a unit of the Coastal Barrier Resources System under section 280J(c)—

"(A) paragraph (3)(D) shall not apply to real property located within such unit,

"(B) for purposes of paragraphs (4) and (5), the term 'equipment leasing' shall not include the leasing of property to be predominantly used within such unit, and

"(C) for purposes of paragraph (7), the term 'excluded business' shall not include any activity which is conducted within such unit."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to losses occurring after December 31, 1986.

(c) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN GOVERNMENTAL OBLIGATIONS.—

(1) IN GENERAL.—Section 103(b) (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(19) Bonds used to finance facilities in a unit of the Coastal Barrier Resources System.—Paragraphs (4), (5), and (6) shall not apply to any obligation issued as part of an issue any portion of which is to be used for any facility located in a unit of the Coastal Barrier Resources System (within the meaning of section 280J(c))."

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by this subsection shall apply to obligations issued after December 31, 1986, unless issued pursuant to an inducement resolution adopted on or before July 1, 1986.

(B) EXCEPTIONS.—The amendment made by this subsection shall not apply to obliga-

tions issued for any of the following projects, but only if the obligations issued therefor are consistent with the purposes of the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 note):

(i) the establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(ii) the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or publicly-operated roads, structures, or facilities.

(iii) nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

Mr. CHAFEE. Mr. President, this amendment extends protection to those fragile islands along our Atlantic and gulf coasts which we call barrier islands or beaches.

As perhaps the Chair will recall, in 1983 we enacted measures to protect those valuable islands. There are about 1,900 miles of barrier islands and beaches along the Atlantic coast and the gulf coast. Of those, one-third are already considered developed. Another one-third of those are under protection in some form, be it the Federal Government, Fish and Wildlife, the Audubon Society. One-third of those islands have been designated by the Department of the Interior as undeveloped barrier islands.

In 1983, what we did was to say that no Federal funds could be spent to assist in the development of those islands. In other words, there could be no Federal funds for roads there, there could be no Federal funds for bridges, there could be no Federal funds for sewage plants, nor could there be any flood insurance provided for those who build in the future on those islands. That has succeeded in deterring development along those fragile sections. There are 186 sections in all, constituting some 600-plus miles.

What this amendment would do would be to go further to protect those islands against development. There are five features of this amendment.

First, it provides that there can be no accelerated depreciation used by developers who construct on the barrier islands and beaches. They can receive straight-line depreciation but not accelerated depreciation.

Second, there can be no expensing of what we call depreciable assets. Under the code, a small business, for example, can expense up to a certain amount of depreciable assets. This amendment would remove that provision on those facilities on these barrier islands constructed in the future—not those existing now—and only permit depreciation.

There would be no casualty loss deduction on property that is constructed in the future, after July 1, on one of these barrier beaches or islands. In other words, if you want to build a house there, it is your business; but if you lose it by a storm or something else, the Federal Government is not going to step in and say that you can have a deduction on your income tax.

Four, there is no exception to what we call the at risk rules for real estate. This is a technical term, and I do not want to get into all the definitions and nuances of it, but the at risk rule helps developers. We have tightened up on it in this amendment, and the at risk rule would not be permitted on these barrier beaches and islands.

Five, the tax exempt status in connection with industrial development bonds could not be used for new construction. If a county, city, or town wanted to use industrial development bonds to build a road or a sewage plant, they could not do so. If they wanted to use it for replacing an existing bridge or repairing a road that is there, that is all right, but not for a new one.

Mr. President, I want to clarify that these rules apply for the future. They do not affect any of the buildings that are already there. In other words, in the undeveloped barrier islands there are some homes, there is some development. It is not all raw land. There are some facilities, but not enough to qualify it as undeveloped.

Mr. President, I know there is some opposition to this, and I am prepared to hear that opposition.

In 1983, probably the finest step forward in the environmental field that we took was the protection of these valuable islands, which are important to the wildlife, to the ecology, to the bird life, and to human life, as a protection along our shores. They have been devastated in many instances. One-third of them are gone, but thank goodness, the U.S. Congress saw fit to act in 1983 to protect those areas as best we could.

If we had the money, we would buy them, but unfortunately we do not have the money, so we have taken the Federal Government out of the business of subsidizing the development. This is another step in taking the Federal Government out of the business of subsidizing it through the Tax Code.

Mr. DODD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. CHAFEE. I will take a question. I know that the Senator from South Carolina wishes to speak, but the Senator from Connecticut has a question.

Mr. DODD. Mr. President, I commend the Senator from Rhode Island for this amendment.

He is absolutely correct that along our shorelines in the United States, the east and west coasts, we have done a tremendous job in preserving for future generations an irreplaceable asset of this country which is delicate and fragile. Excessive development could destroy that delicate balance.

If I correctly understand the amendment, there is nothing in the amendment that would prohibit a developer from going in to develop on private property on these shorelines. The only thing the amendment does is remove the Federal Government from subsidizing the infrastructure that would create greater possibilities for the development to occur. Is that generally the thrust?

Mr. CHAFEE. That is correct, with one exception, and that is for the individual house owner as opposed to the developer through some business. The individual homeowner would not be permitted to have a casualty loss deduction if he suffers a loss to the home through a storm.

Mr. DODD. But nothing in this amendment would prohibit a developer from developing private property on these islands, except that the Federal Government would not assist in the subsidizing of the development.

Mr. CHAFEE. The Senator from Connecticut is right. I appreciate his support.

Mr. President, I ask unanimous consent to add the names of Senator STAFFORD and Senator KERRY as cosponsors.

The senior Senator from Massachusetts indicated that he was interested in it, and I should have notified him that we are bringing it up.

I have discussed this with the Senator from Texas [Mr. BENTSEN], with whom we worked very closely when we passed this legislation in 1983. He is not objecting to this. It is my understanding that the senior Senator from Louisiana finds this acceptable. I do hope that it will receive favorable consideration.

Mr. DODD. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I appreciate that.

Mr. THURMOND. Mr. President, I oppose this amendment, and I am authorized to say that the Senators from Alabama [Mr. DENTON and Mr. HEFLIN]; the Senators from Georgia [Mr. NUNN and Mr. MATTINGLY]; the Senators from North Carolina [Mr. HELMS and Mr. EAST]; the Senator from Texas [Mr. GRAMM], and others join in this expression of objection to this amendment.

□ 1620

Mr. President, the distinguished Senator from Rhode Island has offered this amendment to the tax bill which could adversely affect development in coastal areas of my State and many other States. The amendment would go beyond the current Senate tax proposal to limit the use of tax

provisions related to commerce in coastal barrier areas.

The 1982 Coastal Barrier Resources Act designated 176 coastal areas as being ineligible to receive Federal grants relating to development, such as those of sewage treatment, highways and bridges, also VA and FHA insured mortgages and Federal flood insurance. The act mandated the Department of the Interior to report to Congress concerning the changes to the act.

The draft report recommended wide changes to the system, including expanding the coastal barrier umbrella to over 7 million acres. The Interior report will be ready for congressional consideration later this year.

Mr. President, there has been no final report. I hold in my hand the draft report. Certainly the Members of Congress have a right to consider the report when it comes in. After all, as I stated, this will involve 7 million acres. That is a lot of land to be involved.

Now, the owners of property in the coastal barrier areas have already been affected to a great extent. One hundred sixty-seven coastal areas are now ineligible for the matters that I just stated. They cannot get Federal grants for sewage treatment plants, highways, and bridges. They cannot get any Federal assistance for VA and FHA insured mortgages and Federal flood insurance. Now if this amendment would pass it would punish these landowners still more. How far do we want to go in punishing people?

Mr. President, I urge every Member of the Senate to oppose this amendment on coastal barriers. In the first place, it has no place in this tax bill. I have gone along with Senator PACKWOOD on this matter and voted against all amendments, and I am convinced that this amendment is offered here to affect this tax bill.

This amendment could take hours and hours, maybe days and days because a great many of us feel very strongly about it.

Now we think the matter should be brought up later and then it could be considered carefully by the appropriate committees and Congress could take proper action.

But to bring it up on this tax bill which concerns so many important matters and which could delay this tax bill for days and days we feel would be very unwise.

Mr. President, I want to say furthermore the Department of the Interior study and report on changes to the coastal barrier system will not be available until later at which time Congress can consider it.

This draft report here recommended, for instance, that 62,697 acres in the State of South Carolina may be eligible for incorporation into the coastal barrier system and 13.3 miles of coastline in the coastal barrier system.

Before changing the Tax Code relative to coastal barriers should not Congress have the advantage of reviewing this report and evaluating the implementation of the Coastal Barriers Resources Act?

The final report will also address the use of tax incentives and their significance in coastal barrier areas.

Completion of this report has taken several years and has included public hearings and a lengthy comment period. Why circumvent this careful and deliberate public process?

Next, Mr. President, the current Senate tax proposal already severely limits the use of the Tax Code to encourage development in any part of the country, including coastal barriers. There is no evidence to demonstrate that further Tax Code changes will indeed provide any further level of protection for coastal barriers. Additionally, there is no evidence to support that those specific provisions in the proposed Chafee amendment are somehow responsible for development in coastal areas and next, Mr. President, commerce in coastal areas should not be discriminated against.

The concept of the Chafee amendment came from Senator CHAFEE's bill, S. 1839, which, removes the use of certain tax provisions for activities in so-called environmentally sensitive zones. Yet this Chafee amendment to the tax bill only relates to coastal barrier areas. Certainly, activities related to exploration and development of natural resources near wilderness areas and national parks as outlined in S. 1839 pose more serious environmental questions than the carefully limited development, limited already due to the Coastal Barrier Resources Act and other Federal and State protection laws for some coastal barrier areas.

Mr. President, the Chafee amendment is premature at this time. Careful congressional consideration of the Coastal Barrier Resources Act should take place before tinkering with its complexity.

Mr. President, as I state, a large number of Senators are vitally interested in this matter and it could take hours and days to consider this matter. I would hope the Senator would consider withdrawing this amendment so that careful consideration can be given to it and then Congress would be in a position to take appropriate action.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I would point out something I should have noted in my original remarks, and that is as follows: There are the concerns that the Senator from South Carolina raised about the report of the Interior Department about possible future additions to these barrier beaches and islands to the undeveloped sections and recommendations that they be included under the same protection that we are now giving under the 1982 law to those undeveloped sections. He is absolutely right that such a report is provided for in the 1982 act. We asked the Interior Department to study the situation further and that possibly there are other sections that should be added.

In anticipation of that, my amendment that I sent forward to the desk specifically provides that any sections that are added in the future could only receive the protection of this amendment if the amendment were passed subsequently to protect them. In other words, the amendment only applies to those sections that are already designated undeveloped area beaches. It does not apply to any additions that might come along and clearly those circumstances could only be added not by some study from the Interior Department but by a vote of Congress.

I stress to the opponents of this measure that if there are any subsequent additions that come about through a vote of Congress my legislation that I am presenting today would not cover those sections. It would only cover those that are already designated, the 176 units that the distinguished Senator from South Carolina referred to, those that are there now.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me.

Mr. President, the able Senator from South Carolina [Mr. THURMOND] adequately described the nature of the opposition to this amendment. In the first place, this is in the middle of a tax bill that I assume all of us want to pass as soon as possible. I have had some doubt about that as I watched some lengthy speeches during the past few days.

In any case, Mr. President, I will have to join the Senator from South Carolina in cautioning that if the Senator from Rhode Island persists in this amendment, there will be a great deal of enlightening debate that may take days or longer.

Furthermore, Mr. President, this involves changing the rules in the middle of the game for an enormous number of people.

□ 1630

I do not think we want to do that on a tax bill. In North Carolina, this amendment could ultimately affect over 235,893 acres. How many people this would affect, I simply do not know.

But I wonder if the Senator from Rhode Island would agree that it

would be appropriate for these people who will be affected, or who perceive that they will be affected, to have a chance to testify before his committee and to analyze precisely what the impact will be. All of us want to do the right thing about various matters. The Senator is very much interested in this kind of legislation. I am interested in various kinds of legislation.

The Senator from Oregon, the distinguished manager of this bill, knows that I have a hat full of amendments that I would be delighted to offer. But I told him at the outset—and I think he will verify what I have said—that I am going to withhold because I want a tax bill. I do not want this bill to be a vehicle for my personnel interests. I want tax reform. And I do not think we are going to get it with amendments like this.

I wonder if the Senator would consider withdrawing his amendment, with the understanding that a hearing will be held and that the matter will be studied under somewhat more appropriate circumstances. I mean no disrespect to the Senator. He knows that.

Mr. CHAFEE. Mr. President, the Senator from North Carolina said that we are changing the rules in the middle of the game. I would stress that under the amendment I have presented it is prospective. In other words, it does not apply to somebody who has a house there now. If you have a house there now and the house is washed away, on a barrier island or a beach, you are entitled to a deduction as a loss on your income tax statement. So it goes for a developer. If his building is there already, he can take accelerated depreciation. It is prospective.

Nonetheless, I recognize the situation here. I know that the Senators from South Carolina and North Carolina both have supported this effort when we formed those barrier islands and beaches. I remember an excellent speech that the Senator from South Carolina gave when we passed that barrier islands land legislation. I also remember the distinguished senior Senator had no objections and indeed might have been a cosponsor by the time we finished. I cannot recall. But, in any event, he certainly did not object.

In that spirit, and recognizing that none of us want to hold up this tax bill and we want to achieve the goal, which is passage, at least in this instance, passage of the protection for these islands in the future through the Tax Code sections that I delineated, I would be willing to withdraw my amendment.

I hope that both Senators and those other Senators that they mentioned would cooperate in trying to find a solution to this matter. We have a serious problem. It is true that we have given a good deal of protection through the steps we have taken. But these islands are important to the whole Nation.

After all, I come from a State that has them, so I have as deep a concern as anybody, as the Senator from North Carolina has, likewise.

Mr. PACKWOOD. Mr. President, I thank the Senator from Rhode Island, because I can verify tht there are four or five others who would be coming to speak at some length on his amendment. It is not just the Senator from South Carolina and the Senator from North Carolina.

We are rounding, I think, the final turn on this tax bill. I very much appreciate it. I can guarantee him there will be hearings. But, in the spirit of comity, if he is willing to take it down, it means a great deal.

Mr. CHAFEE. Hearing the chairman of the committee state his willingness to have hearings on this is certainly encouraging to me.

Mr. President, I ask unanimous consent that I may be permitted to take down the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Rhode Island for taking down his amendment so Congress can further consider this important matter.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2112

(Purpose: to provide for the indexing of trade or business property sold by individuals age 55 or older and to impose a tax on mergers involving corporations of more than $250,000,000)

Mr. HARKIN. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. ANDREWS, Mr. MELCHER, and Mr. PRESSLER, proposes an amendment numbered 2112.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of subtitle A of title VII, insert the following new section:

SEC. . INDEXING OF BASIS OF TRADE OR BUSINESS PROPERTY SOLD BY INDIVIDUALS AGE 55 AND OVER.

(a) IN GENERAL.—Part IV of subchapter 0 of chapter 1 (relating to special rules for determining basis) is amended by redesignating section 1060 as section 1061 and by inserting after section 1059 the following new section:

"SEC. 1060. BASIS OF TRADE OR BUSINESS PROPERTY SOLD BY INDIVIDUALS AGE 55 AND OVER.

"(a) GENERAL RULE.—If an individual has attained age 55 before the sale or disposition of any qualified trade or business property, the basis of such property solely for purposes of determining gain (but not loss) from such sale or disposition shall be increased by an amount equal to the product of—

"(1) the portion of the adjusted basis of such property (determined without regard to this section) which bears the same ratio to such adjusted basis as—

"(A) $500,000, bears to

"(B) the total sales price of such property, multiplied by

"(2) the inflation adjustment.

(b) REDUCTION IN $500,000 LIMIT.—The $500,000 amount in subsection (a)(1)(A) shall be reduced (but not below zero) by the amount by which the total sales price, when added to the aggregate sales price of all qualified trade or business property previously sold or disposed of during the taxable year, exceeds $1,000,000.

(c) QUALIFIED TRADE OR BUSINESS PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified trade or business property' means any real property located in the United States—

"(A) which on the date of the sale or disposition was owned by the taxpayer and was being used for a qualified use by the taxpayer or a member of the taxpayer's family, and

"(B) during the 13-year period ending on the date of the sale or disposition there have been periods aggregating 10 years or more during which—

"(i) such property was owned by the taxpayer and user for a qualified use by the taxpayer or a member of the taxpayer's family, and

"(ii) there was material participation by the taxpayer or a member of the taxpayer's family in the operation of the farm or other trade or business.

"(2) QUALIFIED USE.—The term 'qualified use' has the meaning given such term by section 2032A(b)(2).

"(3) MATERIAL PARTICIPATION.—The term 'material participation' has the meaning given such term by section 469(d)(2), except that a taxpayer shall not be treated as materially participating in the operation of a farm or other trade or business to the extent the taxpayer participates in the operation of the farm or other trade or business though an agent.

"(d) INFLATION ADJUSTMENT.—For purposes of this section, the inflation adjustment with respect to any sale or disposition of any property in any calendar year is the percentage (if any) by which—

"(1) the CPI for the preceding calendar year, exceeds

"(2) the CPI for the calendar year in which the holding period of the taxpayer with respect to such property begins.

For purposes of this subsection, the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year."

(b) REDUCTION IN AMOUNT TO WHICH SECTION 2032A APPLIES.—Section 2032A(a) (relating to valuation of certain farm, etc., real property) is amended by adding at the end thereof the following new paragraph:

"(3) REDUCTION FOR BASIS ADJUSTMENT.—The applicable limit under paragraph (2) shall be decreased by the aggregate amount of increases in the decedent's basis in property under section 1060 in connection with the disposition by the decedent of qualified trade or business property (within the meaning of section 1060(c))."

(c) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1060 and inserting in lieu thereof the following new items:

"Sec. 1060. Basis of trade or business property sold by individuals age 55 and over.
"Sec. 1061. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or dispositions after December 31, 1986, in taxable years ending after such date.

At the end of subtitle D of title VI of the Committee amendment, insert the following:

SEC. . IMPOSITION OF MERGER TAX.

(a) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting at the end thereof the following new subchapter:

"SUBCHAPTER G—ACQUISITIONS TAX

"Sec. 4499. Imposition of tax.
"Sec. 4499A. Acquisitions to which subchapter applies; controlling interest.
"Sec. 4499B. Definitions and special rules.

"SEC. 4499. IMPOSITION OF TAX.

(a) TAX IMPOSED.—If, during any 18-month period, a controlling interest in any entity (or portion thereof) is acquired in an acquisition to which this subchapter applies, an excise tax is hereby imposed on such acquisition.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be 1.1 percent of the value of the consideration furnished by the acquiring entity in connection with the acquisition.

(c) TAX PAID BY ACQUIRING ENTITY.—The tax imposed by subsection (a) shall be paid by the acquiring entity.

"SEC. 4499A. ACQUISITIONS TO WHICH SUBCHAPTER APPLIES; CONTROLLING INTEREST.

"(a) ACQUISITIONS TO WHICH SUBCHAPTER APPLIES."—This subchapter shall apply to any acquisition in which the acquired entity, as of the time of the acquisition, has assets with a value of at least $250,000,000.

"(b) CONTROLLING INTEREST.—For purposes of section 4499, the term 'controlling interest' means the acquisition of—

"(1) at least 50 percent of the voting stock of the acquired entity,

"(2) voting stock of the acquired entity—

"(A) having a value at the time of acquisition of not less than $125,000,000, and

"(B) representing at such time at least 35 percent of the voting stock of the acquired entity, or

"(3) in the case of an acquisition of assets, assets having a value at the time of acquisition of not less than $125,000,000.

In the case of entities other than corporations, rules similar to the rules of paragraphs (1) and (2) shall apply under regulations prescribed by the Secretary.

"SEC. 4499B. DEFINITIONS AND SPECIAL RULES.

"(a) ACQUISITIONS WHERE ACQUIRED ENTITY HAS SUBSTANTIAL NET OPERATING LOSSES.—The tax imposed by this subchapter shall not apply to the acquisition of any entity if such entity incurred—

"(1) a net operating loss (within the meaning of section 172(c)) for the taxable year preceding the taxable year in which the acquisition occurs equal to at least 3 percent of the value of such entity's assets as of the close of such preceding taxable year, or

"(2) an aggregate net operating loss for the 4 taxable years preceding the taxable year in which the acquisition occurs equal to at least 10 percent of the value of such entity's assets as of the close of the taxable year preceding the taxable year in which the acquisition occurs.

For purposes of this section, the net operating losses of any related group of which the acquired entity is a member shall be treated as net operating losses of such entity.

"(b) ENTITY.—For purposes of this subchapter, the term 'entity' includes corporations, partnerships, trusts, and individuals."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 is amended by inserting after the item relating to subchapter F the following new item:

"SUBCHAPTER G—ACQUISITIONS TAX"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Mr. HARKIN. Mr. President, I offer an amendment which will, if passed, be of great benefit for farmers and small business people. I am pleased that Senator ANDREWS and Senator MELCHER are cosponsoring the amendment.

I would also like to note that the amendment has the support of the Small Business Legislative Council, a coalition of nearly 90 associations who represent a diverse range of industries which primarily represent primarily small businesses. it is also supported by the American Agriculture Movement, the National Association of Wheat Growers, the National Cattleman's Association, National Corn Growers Association, National Farmers Organization, National Milk Producers Federation, and the National Pork Producers Council.

Mr. President, this amendment very simply provides for a once-in-a-lifetime option for the owners of small businesses and farms to sell their farms without being taxed on more than the real gain on the sale.

For many low- and moderate-income Americans the proceeds of the sale of a small business or small farm really represents the bulk of their retirement income. Our Tax Code properly provides for a variety of retirement programs. However, in the real world many farmers and small business people have all their equity wrapped up in their business and farm. That really represents the bulk of their retirement program; that is, when they sell that farm or that small business.

This amendment that I am offering is very similar to the once-in-a-lifetime provision that homeowners have when they can sell their home after age 55 without being taxed on the gain in the value of that home. And like the home loan provision, my amendment provides that the individual selling the farm or the small business must be age 55 or older.

I also provide in my amendment that the owner, the person who is selling the farm or the small business, must have owned and operated that farm or small business for at least 10 years, and I say operated. I mean they have to have been actively engaged in the day-to-day operation of the farm or of that small business for at least 10 years.

The main thrust of the amendment is that it allows an adjustment in the purchase price for inflation. I might also add that we have put a cap on it. We have capped it at $500,000. In other words, the basis will not be adjusted above $500,000 and it would phase out or begin to phase out at $1 million. So beginning at $1 million, it would phase out $1 for each $1, and it would be phased out at $1.5 million.

Basically, here is how the amendment would work. Let us say an individual bought a farm in 1969 for $100,000 and sold that farm this year in 1986 for $500,000. Let us also assume realistically as the case may be here in this example that the Consumer Price Index has gone up 300 percent since 1969. So the basis of that farm at the time of sale this year under my amendment would not be $100,000, but it would be adjusted upward to $300,000 to take into account the increase in inflation over that period of time.

So the farmer who sold that farm would pay taxes not on the $400,000, but would pay taxes on the $200,000 real gain in the value of the property of that farm.

In this example that I have provided the farmer would pay a tax of about $54,000. On the other hand, without this amendment and if we stick with the committee bill with the provision as it is right now, that farmer will be taxed at rate of about $108,000 on the sale of that small farm.

So you can clearly see that this is a very high tax at the very time in life when the farmer or the small business person is getting ready to retire, and is selling that farm or small business to provide for their retirement income.

I would also point out that under the present situation, those individuals who sell a farm or small business can take advantage of the exclusion for capital gains. However, we know that under the committee bill that is done away with.

So the tax rate for this farmer or small business person has effectively been increased from 20 percent to 27 percent. In other words, to be very clear about it, that small farmer or small business person who is selling that property and getting ready to retire under present law would have the capital gains rate, and would pay an effective rate of 20 percent. Under the committee bill, they would pay an effective rate of 27 percent.

So for that individual their taxes are going to go up considerably for them when they get ready to retire. That really is the effect of what is happening in this bill.

Mr. President, this amendment provides for real fairness for a category of people in our society who may on paper have accumulated considerable wealth but it is really only on paper and that paper evaporates very rapidly when they sell that business or small farm and get ready to retire.

I also point out that this is a group of Americans while they seem to have some wealth in a small business the average income they earned on that business or farm really has not been that much over their lifetimes. I am talking about the individual who owns the small grocery store, the dry cleaning establishment, maybe the drug store, maybe it is a shoe repair shop, maybe it is a small clothing store in a small town, or small private entrepreneurs who are out there, mostly family businesses and again who have not made a lot of money. They do not get a lot of income. But they build up equity in their businesses and now they are getting ready to retire. Yet they find when they sell that business they are paying an exorbitant rate of tax not on the real value of that business but, of course, on the inflated value of that business.

There is kind of a funny anomaly here. Under the present bill, if the individual farmer or small business person were to die and leave the farm or small business to his or her heirs, then the heirs do not have to pay any taxes on the increase in the value of that business or property. But if the individual wants to retire and sell that business to retire, then they are taxed on the inflationary gains.

So it is kind of an odd anomaly that we have here where that farmer or small business person, if they die, get a great tax advantage. If they do not die, and they sell it, then they are whacked with taxes. That is sort of an odd kind of a structure it seems to me, that they have to die to take advantage of a kind of nice, little tax situation that is in the Tax Code right now.

I wanted to point that out because I think it is important. It is important because many of these people are getting ready to retire, and their retirement is wrapped up in that small business or that farm. That really is the reality of the situation. We may wish it were otherwise but quite frankly it is not. They find themselves hit with large taxes when they get ready to sell that business.

I might point out another example of how this might work. Let us say an individual bought a business in 1969, again paid $200,000 for it, let us say it is a small dry cleaning establishment. Let us say this family operated this small dry cleaning establishment since 1969. The kids have grown up. They have left home. They went to engineering school. They became computer operators and computer engineers. They have no interest in running the dry cleaning establishment. So the husband and wife sell the dry cleaning establishment to provide for retirement. Let us say they will sell it this year for $500,000. The Consumer Price Index since 1969 has gone up 300 percent. They bought it for $200,000. Under my amendment the adjusted basis then would be $600,000 to take into account the effects of inflation.

But under my amendment, the cap applies at $500,000. The adjustment cannot go over $500,000. The way my amendment is drafted they will not be allowed to take a loss. So there is no kind of a rebate or anything that they can get back. So it is capped at $500,000. So what it means is, in this example, they would pay zero taxes. They would not get anything back. They would pay zero taxes.

Under the committee bill as it is now constituted that same husband and wife, same dry cleaning establishment, same set of circumstances, selling it, getting ready to retire would be hit with a tax bill of $81,000 which is really a heavy hunk of money for an elderly couple who have spent their lifetime building up the small business or farm and now want to retire.

So, again, Mr. President, I think this really provides for a small amount of fairness to a category of people in our society who have not really accumulated a lot of wealth. These are not big people. These are not big megabucks corporations but they are the small businesses that we see in our towns of 5,000, 10,000, 50,000 people, the main street businesses, and also those family farmers, a lot of whom are going out of business right now, a lot of whom are being hit with these big tax bills. They find they are forced out of agriculture for economic reasons. Yet, if they sell their farm now, they are going to get hit with really a tremendous tax bill.

This would provide just a little bit of relief for those small operations. Again, I point out that we limit it only to $500,000.

Mr. President, to pay for this we have looked to a source of revenue which I believe will not be onerous.

□ 1650

It will not hit anybody really hard. And I think it will have a beneficial impact on our society. The Joint Committee on Taxation says we need $2.5 billion to pay for this amendment. So we looked around and asked where we could raise $2.5 billion where it really would not hurt anyone and where we might get some kind of balance and have a residual and good effect on our society.

What my amendment proposes is that an excise tax be placed on mergers and acquisitions where the value of the acquired company is $250 million or more. We are not talking about small mergers. And we are not talking about a big tax. It is not a 20-percent tax. It is not 10 percent. It is not 8 percent. All we are talking about is a 1.1-percent tax to pay for this provision which will allow farmers and small businesses to have some decent retirement when they sell their businesses and not get whacked with a big tax bill.

We are asking that a 1.1-percent excise tax be placed on mergers and acquisitions having a value over $250 million.

Mr. President, we have seen a tremendous growth in these acquisitions in recent years. In 1985, a record $180 billion was spent on mergers, up 47 percent from the previous year. That previous year of 1984 was also a record. Since 1980, the 10 largest acquisitions in history have occurred, and the five largest non-oil acquisitions all occurred in 1985.

In 1985, there were 22 mergers worth over $1 billion. In contrast, in 1980 there was only one such merger.

Mr. President, quite frankly, I am concerned about this, and many in Congress are concerned about it also. This merger phenomenon is having a dramatic impact not only on the financial community but on the American public as a whole.

Although takeovers bring millions of dollars to corporate raiders, millions of dollars to stock speculators, millions of dollars to lawyers and investment bankers, the excesses of takeovers cause substantial injury to the economy by draining corporation resources needed for productive investment. The merger frenzy has put pressure on management to focus only on short-term gains, distracting them from the productive operations of the company, forcing them to ignore the interests of employees, customers, and local communities. Many Fortune 500 companies have incurred substantial debts in order to avoid takeovers. The Federal Reserve estimates that the debt to equity ratio among nonfinancial corporations increased 12 points in 1984 placing many firms in a very precarious financial position.

I would point out that two of the controversial transition rules that were provided by the Finance Committee in this bill gave tax relief to companies that had been very strong but were dramatically weakened by merger activity.

The committee bill provides very generous transition rules to companies which were weakened because of merger activity.

We heard the debate on the Phillips Petroleum Co. It was pointed out that prior to the takeover attempt this company, which I am told is a very good corporate citizen of the State of Oklahoma, had one of the lowest debt-to-equity ratios in the oil industry, about 30 percent.

But in the process of fighting the takeover, that company increased its debt-equity level from 30 percent to 80 percent. I believe that is really damaging.

As a consequence, there will be less money for exploration; more importantly, if the oil industry continues to go through difficult times, this company could go under. Seven thousand employees have already been let go.

So from the national perspective, the Phillips Petroleum Co. shift from a healthy company to one in considerable difficulty, means that banks all over the country may suffer, suppliers may suffer. It means that if we have a serious recession we could see a number of major companies go into bankruptcy.

So, Mr. President, what I am saying is that this amendment providing for a 1.1-percent excise tax on mergers and acquisitions over $250 million is not going to stop all the mergers and acquisitions. It may not have prevented Phillips Petroleum Co.'s takeover bid. But it might just tend to slow it down ever so slightly.

It would have, I think, the effect of making the Tax Code slightly, very slightly, more negative toward mergers than the present code is. Only slightly, I say, because the bill still maintains a number of special provisions that are very beneficial to many giant acquisitions.

Nevertheless, I believe my amendment would represent a very positive improvement to the Tax Code, again by making the Tax Code just slightly more negative toward mergers and acquisitions than it is at the present time.

Given the huge profits that are made upon the initial acquisition of a company, looking at the tens of millions that are often spent to hire those who specialize in these activities, I do not believe that placing a 1.1-percent tax will place any dramatic hold on these companies, but it might create a small disincentive which I think would be very helpful.

My amendment says that we place a 1.1-percent tax on these acquisitions over $250 million and use these funds to allow small business people and farmers who sell their business or farm assets after years and years of active ownership to avoid being taxed just for the inflation that has occurred.

So, Mr. President, we are just talking about a shift in priorities. That is clear. If you are interested in spending capital to buy huge corporate entities rather than using those funds to create a new capacity for family farmers and small businesses, then you would obviously oppose my amendment.

But I hope that those who understand the need to encourage our family farmers or small businesses, who are concerned about the reduced output in performance in corporate America brought on by giant acquisitions and mergers, I hope those individuals will support my amendment.

Mr. President, in summing it up, by supporting this amendment we get two good balances. We help those small business people and farmers actively engaged in their business, about ready to retire, over age 55, who have been actively involved in the business for over 10 years, get a once-in-a-lifetime—just once is all they can use it—to get a small adjustment in their basis so that when they do retire they are not cast to the poorest.

Again, we are only asking for a 1.1-percent excise tax on mergers and acquisitions over $250 million.

So we can strike two good blows here. We can do a lot for those people we always say are the backbone of America, those individuals, those couples, those families who have worked those farms, who have provided for our small business and entrepreneurial spirit in this country. They really are the backbone of this country. So we can strike a blow for them by supporting this amendment. It is small. It is not that big. But believe me, it will do a lot to help a group of Americans who are not really helped very much by this tax bill.

Second, we can strike a blow to try to slow down ever so slightly this mania of mergers and acquisitions that we have going on in this country, to try to say that the Tax Code will be slightly more negative toward those giant mergers and acquisitions.

So, Mr. President, I am hopeful that Senators will support this amendment. As I said, it is nothing big. It does not change any rates. It does not do anything to mess up the Tax Code. But, it sure does a lot for the small business people and small farmers.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I am very pleased and honored to be a cosponsor of this amendment. The principal sponsor is the distinguished Senator from Iowa, Senator HARKIN, who has just spoken in favor of the amendment.

I want to add my endorsement to the comments he has just made. I want to subscribe to those comments and add a few of my own.

□ 1700

There are a number of different retirement programs that individual Americans are able to seek out and employ for their retirement years. Some of us—perhaps, all of us—seek Federal annuity plans, contribute during our employment here, and that is matched by Uncle Sam. Hopefully, it will provide a comfortable retirement for us. For some other working Americans, it is investment during their working years, whether it is in savings accounts or stocks and bonds or various other ways of putting aside money during their working years to be utilized during their retirement.

Now we come to a group such as farmers and ranchers who, during their working years, continually invest in their farm or ranch. Then there are small business people who, during their working years, continually invest in their small businesses.

By doing so, they make the farm more efficient or the ranch more efficient or their small business a better small business and more profitable—at least, that is the hope.

Then, when they reach retirement age, the natural thing in the course of events is to sell the farm or the ranch or the small business and take those proceeds, worked up during their working life and from those proceeds, they hope they will have a comfortable retirement.

That is the American way, Mr. President. It is a good method. Under the laws that exist today, there would be some advantage to the farmer or rancher or to the small business person in terms of the Tax Code, because it has been our policy for a great number of years to allow capital gains on those sales when they are made so the tax bite will not be so big.

Let us review that. We contribute—I am speaking about us, Senators and employees of the Senate and other Federal employees—during our working years into a retirement plan and it is taxed as we earn it. Our contribution is taxed, but nevertheless, it is set aside and it is matched by some money out of the Treasury, so it is available when we retire and start drawing it out.

Other retirement programs are similar, whether they are State or municipal. They are very similar to that. And many private retirement plans are very similar to that.

For farmers and ranchers, it is absolutely essential that we recognize that when they make their money during

the good years and put some investment into improving their place—improving their land or improving their buildings—that investment is to help them two ways: Help them become more efficient during their working lifespan and also to create the capital so that, when they sell out, they will have some opportunity to have adequate funds for their retirement years.

It is the same for small business. They are one and the same.

If we are going to change the tax policy now, as this bill does, and repeal the capital gains, then something ought to be done to address how we make sure that we are treating fairly and equitably farmers and ranchers when they sell out or the small businessmen when they sell their businesses.

So, Mr. President, the Senator from Iowa [Mr. HARKIN] has put together a very sound method of doing so. I fully subscribe to it. I think it is very important and a very significant step in making an adjustment in this bill that is entirely worthwhile.

All across America, we have millions of small business people who should be treated equitably on this matter. All across America, we have farmers and ranchers who need to be treated fairly and equitably on this retirement proposal. This is no more and no less than the same procedure that we have created and which is already in the Tax Code on the sale of one residence per household, per person, during their lifetime in order to get the advantage of holding on to some of the accrued capital through inflation or improvements that have been acquired in a residence.

I think the amendment is eminently fair, I think it is very reasonable and very necessary. I hope that the Senate can agree to it.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I rise in opposition to the amendment and to disagree with the philosophy.

Several months ago, when the Finance Committee was considering—we did not do anything about it, but we were considering eliminating the deduction of excise taxes for large companies, companies that would be involved in mergers, perhaps.

The Senator from Iowa referred to excise taxes as regressive. As a matter of fact, there have been many references recently to excise taxes as regressive by a fair number of Members. Yet he proposes to finance this amendment by an excise tax which, if it is regressive, means that every company that merges—although he set a $250 million threshold. Unfortunately, or perhaps fortunately for America, in today's business world, that is not a large merger. We have seen mergers in the billions of dollars, not just millions.

Second, it presumes ipso facto that mergers are bad. I am not here to pass judgment on whether they are or not. We have had some debate about hostile takeovers, but he is not talking about hostile takeovers; he is talking about friendly mergers between friendly companies and in essence saying, "bad." Not only is this not bad, but we will finance it with what most people have called the most regressive taxes, excise taxes, pass them straight through to the customer.

I hope the Senate will stand in opposition to this amendment. At the appropriate time, I shall move to table it when there is no more discussion.

Mr. BUMPERS. Mr. President, I rise to support the amendment of the Senator from Iowa. I recognize that others can have serious disagreement with it. You might even claim this is micromanagement. But I will never forget when I first came to the Senate, we passed a tax provision that allows homeowners who are over 55 years of age to sell their homes and not pay the full capital gains tax on the home. For many people in that age category, if they have had a home or a farm for 10 years, the value of that home has increased rather dramatically due to inflation over a period of years. That is not so much true of farms anymore. As a matter of fact, farm values have declined over 25 percent in the last 3 years. But it certainly increased in value dramatically prior to this.

□ 1710

With the current provision on home sales we wanted to give those people who were reaching retirement age an opportunity to sell their homes without having to pay an exorbitant capital gains tax on the increased value with the sale proceeds they could turn around and buy a smaller retirement home. A lot of people moved to retirement areas. Some people moved into condominiums. So what we said is if you had owned a home for a certain number of years you can, one time in your life, and only one time, sell your home and not pay the full capital gains tax.

Now, not to have done that would have resulted in a lot of cases similar to the following example. Say a couple in 1950 bought a home for $50,000. They reach retirement age and they want to move away to a retirement village or to a retirement community or to a condominium downtown. Let us assume that that $50,000 home in 1950 has now appreciated in value over a 30-year period of $200,000, a $150,000 paper gain, and under the law, until we provided for the special exclusion, that couple would have had to pay probably $30,000 in capital gains, almost $30,000. And so we said it is not fair for somebody to have a home that has appreciated from $50,000 to $200,000 and then tax them $30,000 so that they cannot even buy anything like as nice a home for their declining years as they have just sold. The special exclusion would reduce this tax to $4,000–$5,000.

I voted "Aye" for that provision because I thought it was compassionate, I thought it was a sensitive concern for the elderly as they reach retirement age. What the Senator from Iowa is trying to do here might not be exactly the same if you just want to use cold logic, but I can tell you one thing, you could not help a group of people who need it more.

In my State, do not act like you want to buy a farm unless you really want to buy it, because you will have a lot of people lining up to sell you their property. I know a U.S. Senator who has a farm that he would just love to get rid of. I am just waiting for somebody to make an offer. Even with that, I promise you I will receive an awful lot less than I could have gotten for that farm 4 or 5 years ago.

But be that as it may, here is a very small advantage and a limited advantage farmers and small businesses. This is not to benefit the big people. Even with land values as they are in my State right now, if you owned anything more than 500 acres, this provision is not going to be applicable to this because this has a $500,000 limitation on it.

This amendment is an opportunity to do something for small farmers and small business, and I personally think that the revenue-raising provision of this amendment is also appropriate.

So we can do two things. We can help small business and we can help farmers who are so desperate for this help. We have thousands of farmers in my State who are desperate to sell their land and get out of the farming business because they find it no longer possible to farm at a profit. But they want to take that money and either use it for retirement, purchase another business, or do something else, and this is an opportunity to help them get out of the farming business as graciously as possible. It will show that we are still concerned about them.

Now, Mr. President, so far as the merger part of this is concerned, I do not mind telling you I do not like huge mergers. I am not saying they are all bad. But I have watched so many mergers that cost billions and billions of dollars and have taken money from banks and other financial institutions to finance, and the merger has no economic or commercial or socially redeeming value to the Nation. It is just the big gobbling up the big and getting bigger. I personally do not think the antitrust laws of this country are

being enforced, but that is a separate subject.

I will say there ought to be some threshold beyond which we will not allow a merger to take place without some penalty, and I think this is a very sensible and suitable way to impose some restraint.

So for all of those reasons, Mr. President, I strongly urge my colleagues to support this amendment.

Mr. President, I see the distinguished chairman of the committee coming on the floor and I do not know whether anybody else wishes to speak. I will either suggest the absence of a quorum or give him an opportunity to move to table the amendment.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to this amendment. Let me say to my distinguished friend, the Senator from Iowa, that never, either in my previous profession or this profession, have I met a more tenacious fighter than he, and in this case a more tenacious fighter than the family farmer. And it is because I recognize that that I made sure as we deliberated this tax reform bill I consulted with him, and I want to thank him for his contributions to this bill because I think they are significant and I think the result is a tax reform bill that helps the family farm.

Mr. President, we have to realize the tax reform bill before us is of great benefit to the family farmer. With the help of the Senator from Iowa, I became aware of an agricultural tax reform committee that was formed in 1985, a group of grassroots, broad-based individuals organized to study agriculture tax shelters, and there was a group of Iowa, farm organizations, commodity groups, rural communities, environmental organizations. They studied the issue for a year, had a conference and at the end of that conference one of the participants, Dr. Harold Breimeir of the University of Missouri, summarized the seminar by saying:

> There is no chance of preserving family farming if tax rules are not changed. There is no point in even trying unless the tax matter is addressed and corrected.

Frankly, it is because of the work of groups such as this that I think we have produced a tax reform bill that eliminates the bulk of those tax shelters, the bulk of those tax shelters which have led to overproduction and to falling commodity prices. I think it is because we have taken these actions that another agricultural group, the Center For Rural Affairs in Walthill, NE, issued a report called "The Impact Of The Finance Committee Tax Bill On Family Farming And A Comparison With The House Bill To Current Law." And this group said:

The Senate Finance Committee tax bill would improve farm profits and enhance the long-term viability of family farming by eliminating farm tax shelters.

I ask unanimous consent that their full report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

IMPACT OF THE FINANCE COMMITTEE TAX BILL ON FAMILY FARMING AND A COMPARISON WITH THE HOUSE BILL AND CURRENT LAW

The Senate Finance Committee tax bill would improve farm profits and enhance the long term viability of family farming by eliminating farm tax shelters. Agriculture is a tax shelter industry. It offers investments through which taxpayers can understate income or create losses for tax purposes, where real economic losses do not exist. This attracts investment dollars to agriculture-dollars which increase production, add to surpluses and lower prices paid to farmers. It also changes the rules of competition. It is not enough to be efficient to compete in agriculture today. One must be able to competitively exploit the tax code. That grants an advantage to large operations, corporate farms and investors with the capital and high bracket incomes to most effectively farm using the tax code. Moderate sized family farmers and beginning farmers are placed at an unfair competitive disadvantage. Finally, the tax code induces individual family farmers to make decisions that collectively reduce opportunity for people in agriculture. When farmers make money, the tax code tells them to take on more debt to expand. The results are higher farm failure rates in the bust years, overproduction, and fewer opportunities for young people to enter agriculture as land and markets are absorbed by expanding farms.

SUBSIDIES TO CAPITAL—INVESTMENT CREDIT AND ACCELERATED DEPRECIATION

Current Law—Ten percent investment credit; farm equipment, grain bins and single purpose agricultural structures (confinement and dairy buildings) are depreciated over five years, 150 percent declining balance. Up to $5,000 of depreciable property can be expensed (immediately deducted).

Finance Committee Bill—Eliminate investment credit; $10,000 expensing; depreciate farm equipment and grain bins over five years, 200 percent declining balance (200 percent declining balance would make more of the writeoff available in the first three years). Single purpose agriculture structures would be depreciated over 10 years, 200 percent declining balance.

House Bill—Eliminate investment credit; $10,000 expensing; depreciate farm equipment over ten years, 200 percent declining balance.

Recommendation and Rationale—Either bill is an improvement over current law, though we prefer the House provision because the depreciation schedules are more reflective of useful life. Reducing subsidies to replace farmers (labor) with capital would slow the growth in farm size and the resulting reduction in the number of farms and loss of opportunity for beginning farmers. Eliminating investment credit and lengthening depreciation on single purpose agricultural structures would reduce investment and increase long term profitability of meat and milk production. Research by Oklahoma State University Economist Luther Tweeton indicates that hog producers would receive more after tax income over a five year period if these provisions were eliminated. Investment credit and rapid depreciation of structures also contribute to dairy surpluses by subsidizing the establishment of new dairies by as much as $350 per cow capacity. Reducing these tax incentives would strengthen the competitive position of family farmers because the breaks are worth most to large operations owned by high bracket taxpayers. The benefit to a high bracket investor is two and one half to five times greater per hog than to typical family farmers.

CAPITAL GAINS

Current Law—Individual capital gains are 60 percent tax exempt. Corporate capital gains are taxed at 28 percent. The entire sale price of raised breeding and dairy stock is capital gain.

Finance Committee—Tax individual capital gains as ordinary income (27 percent top rate) and corporate capital gains at 28 percent, versus the 33 percent top rate. The entire sale price of raised corporate breeding and dairy stock sales would be capital gain, if the corporation is eligible to use cash accounting.

House Bill—Individual capital gains would be 42 percent tax exempt. Corporate capital gains would be taxed at 28 percent. Only a portion of the sale price of breeding and dairy stock would be capital gain. An amount equal to the deductable costs of raising such stock would be ordinary income.

Recommendation and Rationale—Either bill would be an improvement over current law, though neither is perfect. The most accurate measure of income would be to adjust the asset's purchase price for inflation to compute capital gain and then tax the gain as ordinary income. However, if capital gains are indexed, a higher tax rate should be created for high income people. Otherwise, it would increase the deficit and/or shift tax burdens off of the wealthy who receive most capital gains and on to moderate income taxpayers. If gains are not indexed, steps should be taken to protect low income taxpayers who might be taxed on nominal capital gains where no real gains exist (real gain is appreciation beyond the general rate of inflation). For example, real land prices have fallen to their levels of over a decade ago in many areas. Financially strapped farmers who sell such land to meet debt obligations could be hit with a big tax bill on nominal gains, even though they have negative incomes and received no real gain.

Nonetheless, changing current law is necessary. The tax favored treatment of capital gain grants a competitive advantage in the land market to high bracket taxpayers over family sized farmers. The capital gains exemption encourages land speculation by largely exempting speculative profits from taxation. This worsens the boom bust cycle in the land market. In the boom years speculative buying pushes the price of land beyond its income producing potential. Then, only those who need not pay for land by farming it can afford it. According to the USDA report "Effects of Tax Policy on American Agriculture," rapidly appreciating land worth $2,200 per acre to a 16 percent bracket farmer is worth $3,200 dollars to a 50 percent bracket taxpayer (almost 50 percent more) because of the capital gains exemption. However, when times turn bad and appreciation slows, tax induced investment flees the farmland market, busting land prices and the collateral of family

farmers and ranchers. The same 50 percent bracket taxpayer could justify a bid of only $2,000 per acre if appreciation slowed to four percent, according to USDA.

Would eliminating the capital gains exemption now further depress land prices? Not necessarily, because the tax motivated speculative buyers are largely out of the market. A tax break on capital gains does nothing to support land prices unless land offers capital gains or at least the expectation of capital gains. Today land is yielding capital losses. Eliminating the favored treatment of capital gains would reduce the potential for reinflating land prices once the farm economy strengthens. But at that point the damage of falling land prices will have been done. Tax driven reinflation would only make it harder to pay for land by farming it and increase the severity of the next boom/bust cycle.

Capital gains treatment of raised breeding stock should be eliminated. Current law turns every breeding and dairy animal into a potential tax shelter by allowing deduction of 100 percent of the cost of production, but taxing only 40 percent of the sale price. The result is over production and a competitive advantage to high bracket taxpayers. A 20 percent bracket calf producer would be better off without the capital gains exemption if its elimination resulted in a $2.50 per hundred pounds increase in the price of feeder calves. However, a 50 percent bracket investor would need a $10 price increase. For a 20 percent bracket milk producer, the needed price increase is 19 cents per hundred pounds of milk versus 77 cents for 50 percent bracket taxpayers. For hog producers, the needed price increases are 48 cents and $1.98.

TAX EXEMPT BONDS

Current Law—Tax exempt financing of farmland is allowed only for first time farmers—farmers who have never owned more than 15 percent of the median land holdings within their county or land worth more than $125,000. Land loans are limited to $250,000. Used equipment and breeding/dairy stock cannot be financed with tax exempt bonds except that a de minimis amount may be purchased in conjunction with land. Depreciable property loans are limited to $40 million per borrower. The tax exemption on industrial development bonds would end this year.

Finance Committee Bill—Farmers would be allowed to own up to 30 percent of median land holdings and still receive land loans. Farmers who previously owned more than 30 percent, but lost it in an insolvency proceeding would be eligible. Farm depreciable property loans would be limited to $250,00 per borrower. Up to $62,500 of used depreciable property could be financed by first time farmers independent of land purchases. Agricultural bonds would be terminated at the end of 1988.

House Bill—Same as current law except that the termination date would be extended to 1988 and banks would not be able to deduct interest paid on deposits used to purchase tax exempt bonds.

Recommendations and Rationale—Tax exempt bonds are not a good way to finance government programs, but if they are used they should help non-wealthy people get into agriculture. The Senate provision to allow farmers who lost their land to receive financing to start over would be a positive step in that direction. However, the provision must be drafted to ensure that it works for insolvent farmers who sold their land or turned it back to the lender, rather than losing it in foreclosure. The language should state that farmers would not be determined ineligible under the first time farmer test by virtue of land formerly held and lost or sold while the farmer was insolvent or had debts in excess of 70 percent of assets.

The Finance Committee took a very positive step by allowing first time farmers to finance used equipment with tax exempt bonds. Most beginning farmers can't afford new equipment. The Finance Committee also took steps to more effectively target tax exempt bonds by capping the amount of farm depreciable property that could be financed with tax exempt bonds at $25,000 per borrower. That will prevent multimillion dollar loans to large corporate hog and dairy operations. That could be improved by requiring that applicants personally operate the farm and own land worth no more than the national median value of land and buildings per farm. Furthermore, the first time farmer rule should be tightened to disqualify applicants who seek low interest loans to buy land to add to large family landholdings. Currently, such applicants are personally eligible if the family land is not in their name, as in the case of many young family members. Rather than enhancing opportunity in agriculture, that reduces opportunity by subsidizing the concentration of land in large holdings of wealthy families.

Also in need of change is the House provision denying bank deductions for interests on deposits used to purchase tax exempt bonds. That would effectively deny tax exempt finance to small farmers. Small loans do not justify the costs of advertising a bond issue on Wall Street. Several states have gotten around this problem by allowing a bank seeking low interest funds for a small farmer to itself purchase the tax exempt bond to finance the farmer. This means to make tax exempt bonds work for small farmers would end if banks could not deduct the interest. An exception should be created in the House Bill for loans to first time farmers.

LIMITS ON CASH ACCOUNTING

Current Law—Farm syndicates (investors not involved in management) deduct inputs when consumed, rather than when purchased.

House Bill—Syndicates deduct inputs when consumed and capitalize costs of raising orchards, breeding/dairy cattle and horses. Nonsyndicates could elect to deduct such costs but those who do would use straightline depreciation on farm assets and development costs would be recaptured as ordinary income upon sale. Assets with a preproductive period of less than two years, such as sheep and hogs, would be treated as under current law.

Finance Committee—Same as current law, except that no more than 50% of total farm deductions, including interest and depreciation, could consist of unconsumed supplies such as feed, seed and fertilizer purchased for use in future years.

Recommendations and Rationale—Neither bill effectively addresses the impact of cash accounting in stimulating farm size growth and overproduction. The Finance Committee Bill limitation on deductions for future years' inputs is a sound concept. However, the limit is too high to affect more than a few cases. It would require tax shelter cattle feeders to place cattle on feed early enough in the year to consume half of the feed by year's end. Cash accounting is an issue for future tax bills.

PASSIVE LOSS LIMITS

Current Law—No restriction.

House Bill—No restriction but some passive losses in excess of investment would be considered tax preferences for the minimum tax.

Senate Bill—Losses from investments in which the taxpayer does not materially participate in management could not be deducted from other sources of income, with the exception of passive losses from oil and gas investments. The limits on deduction of losses from rental property are more restrictive. Even if the landlord materially participates in management, he/she could deduct losses of no more than $25,000. If the landlord's income exceeds $150,000, no rental losses could be deducted even with material participation. No losses could be deducted by any landlord who does not materially participate.

Recommendations and Rationale—The Finance Committee provisions should be adopted. The House minimum tax provisions could be easily avoided by many tax shelter investers. The Finance Committee provisions would get the uninvolved tax shelter investor out of agriculture, such as the New York stock broker feeding cattle he/she has never seen. Though this is a good provision, it would not by itself solve the whole problem. Nonfarmers who oversee and manage their farm operations need not labor on the farm to deduct the losses. Without other reforms, the tax code would still encourage over production, corporate farming and bigger and fewer farms.

TAX RATES

Current Law—For a farm family with three children, income of up to $8,870 is untaxed. Income from there to $11,130 is taxed at the 11 percent rate, income up to $13,400 at 12 percent, income up to $18,040 at 14 percent, income up to $22,460 at 16 percent, income up to $27,000 at 18 percent, income up to $31,740 at 22 percent, income up to $37,460 at 25 percent and income up to $43,120 at 28 percent.

House Bill—For a family with three children, income up to $14,800 would be untaxed. Income from there to $37,400 would be taxed at 15 percent.

Finance Committee Bill—For a family with three children, income up to $15,000 would be untaxed. Income up to $44,000 would be taxed at 15 percent.

Recommendations and Rationale—Comprehensive tax reform does not necessarily offer farmers tax relief. However, it does offer the opportunity to get rid of the negative impacts of tax shelters without necessarily increasing farm tax burdens. Tax reform is good for family farming.

OTHER PROVISIONS.

Income Averaging—Both bills would eliminate income averaging. That would penalize farmers with volatile incomes. Under the Finance Committee Bill, a farm family of five with an income alternating between 0 and $40,000 per year would pay 2½ times the tax as a family of five earning $20,000 each year. income averaging should be retained for taxpayers with volatile incomes. The revenue loss could be substantially reduced by preventing its use by taxpayers with steadily rising incomes.

Land Clearing and Conservation—Both bills would eliminate deductions for land clearing and deny the conservation deduction unless the expense is part of a soil conservation plan approved by the U.S. Soil Conservation Service. Current law allows deduction of any earth moving expense as a conservation deduction. The tax break has been claimed for costs of developing highly

erodible land for cultivation. In addition, both bills would deny the capital gains exemption on sales of wetlands and highly erodible land converted to cultivation after the effective date of the Act. These provisions would discourage development of new cropland and thereby reduce long term surpluses, soil erosion and destruction of wildlife habitat.

Health Insurance—The Finance Committee Bill would allow farmers to deduct half of their health insurance premiums, which would provide equity with employees who receive health insurance as a tax exempt fringe benefit.

Insolvent Farmers—The Senate Bill would allow farmers with debts in excess of 70 percent of assets to be considered insolvent and therefore exempt from taxation of loan writedowns.

Corporate Tax Rates—Both bills would continue the graduated corporate tax rates which allow large farmers and investors to avoid the progressivity of the tax code by splitting income between the low personal bracket and the low corporate bracket. Once incorporated, large farms must reinvest earnings in expansion to avoid double taxation. This breeds concentration and reduces opportunity for beginning farmers. This is an issue for future tax bills.

FUN AND GAMES WITH CHICKEN FEED

(By Ruth Simon)

Most reasonable observers would not call Hudson Foods a family farm. Based in Rogers, Ark., Hudson is now the country's 17th-largest poultry producer. In the fiscal year that ended last Sept. 28, Hudson earned $8.5 million or sales of $185 million. It went public in February, raising $21.3 million.

Your basic family farm? The Internal Revenue Service, not always a reasonable observer, thinks so. As a result, Hudson was able to defer $7.6 million, its entire federal tax bill, last year under long-standing IRS rules. This deferral can be rolled over more or less indefinitely.

Hudson is not a fluke. Other agri-industrial complexes, including $1.1 billion (sales) Tyson Foods and privately held Perdue Farms (estimated sales, $740 million) also routinely receive tax breaks originally intended for family farms. How? By qualifying under some rather arcane rules that allow "family farms" to use cash accounting instead of the accrual accounting the IRS requires most companies to use when computing taxable income. The rules date from 1919 when the Treasury concluded farmers weren't sophisticated enough to use accrual accounting and said they could use cash accounting instead. Big farmers didn't abuse the provision, because taxes were low. Besides, there weren't many big farms.

The choice of cash or accrual is especially important for livestock farmers because such production costs as feed are incurred well before the livestock is sold.

Consider a chicken farmer. Accrual accounting would require him to report a portion of his feed inventories at the end of each year, while not permitting him to expense the feed until the bird was actually sold. The theory is that the feed is an integral part of the cost of producing the bird. Accrual accounting says income and expenses should be matched, so feed costs should not be deducted until revenue is received.

Cash accounting, in contrast, allows the farmer to report cash expenses and receipts when they actually occur. That means the farmer can immediately deduct the feed as an expense, but he doesn't have to report the chickens as income until they are sold. Expensing in the current period while deferring income to a later period amounts to a tax-free loan to the farmer from the Treasury. The bigger and more profitable the farm, the larger that tax-free loan tends to be.

In 1976 the Treasury argued that agribusinessmen were equipped for the rigors of accrual accounting. Treasury tried to limit cash accounting to farmers grossing less than $1 million annually. That sent the big livestock producers squawking to their congressmen, who chickened out. Even a farm grossing $1 billion or more could be a "family farm," Congress said, if at least 50 percent of its stock was controlled by a single family. It also carved out exceptions for individuals, partnerships and Subchapter S corporations and for farm corporations controlled by two or three families.

Hudson Foods Chairman James Hudson played those loopholes with the skill of Stephane Grapelli on jazz violin. Hudson, a former Ralston Purina executive, and two other investors bought the business from Ralston Purina in 1972. Hudson bought out his co-investors in 1984, and took the farm public in February.

But note the key: Hudson Foods has 12 million shares outstanding. James Hudson owns outright 7 million of those shares, 58 percent, and has the right under a revocable proxy to vote an additional 3 million shares owned by his family and company executives. With Hudson effectively controlling 10 million shares—83 percent of the common—Hudson Farms can do several more public offerings and still qualify as a "family farm."

Hudson cheerfully agrees "it's been a long, long time" since he drove a tractor. But, he says, "Farming, as defined in the tax code, is the production of farm products. It doesn't matter whether you ride a tractor or a horse." In other words, says Hudson, all farmers are created equal and should be treated equally by the IRS.

Springdale, Ark.-based Tyson Foods, the nation's second-largest poultry producer (after ConAgra), is also proving adept at playing by the family farm rules. This $1.1 billion agricompany contracts out chicken production to thousands of small farmers, and it derives more than 60 percent of its revenues from such "further processed products" as Chicken McNuggets and frozen dinners.

To remain a family farm—but also raise public equity—Tyson recently reincorporated in Delaware, where it can issue two classes of stock. The Tyson family will trade its 55 percent Class A holding for restricted Class B shares that carry ten votes each. Outside shareholders can keep the Class A shares or swap them for Class B, which pays a lower dividend. If only the Tysons make the switch, they will control 92 percent of the voting rights—far above the magic 50 percent minimum. Any new stock issued by Tyson will be of the Class A variety.

Important? It is to Tyson. Tyson earned $35 million in the fiscal year that ended Sept. 28. Cash accounting allowed it to defer about $26 million in taxes. That amounted to 78 percent of Tyson's 1968 federal tax bill.

"We consider ourselves as an umbrella over about 6,000 farms and farm families," says Chairman Don Tyson, defending his use of the family farming rules. "If we didn't have this kind of situation, we couldn't protect those 6,000 farmers."

But do family farmers need such protection? The fact is, cash accounting often works against farmers by making cattle, hogs and certain orchards attractive tax shelters and by encouraging overproduction. "I've seen too many instances where egg producers or others on a cash basis will expand their operation to avoid paying income tax," says Agriculture Secretary Richard Lyng, who was briefly on Hudson Foods' board. "That kind of tax policy has caused family farmers a lot of trouble."

Chuck Hassebrook of the Center for Rural Affairs in Walthill, Neb. agrees. "Cash accounting," he warns, "really distorts supply and demand." And Tyson may soon freeze the amount it defers because tax factors are warping its business decisions.

This seems like just the kind of loophole genuine tax reform should plug. Indeed, the Administration's reform proposals would have limited cash accounting to companies with less than $5 million in gross receipts. But the big farmers and their lobbyists squawked as in 1976, and congressmen again clucked. Reforming farmers' cash accounting was one of the first proposals to be dropped last year by congressional tax writers.

Mr. BRADLEY. So the bill before us is good for the family farm, and I thank the Senator from Iowa for his contributions in helping us make sure it was good for the family farm.

Mr. HARKIN. Will the distinguished Senator yield on that point?

Mr. BRADLEY. I yield for a question.

Mr. HARKIN. I thank my friend from New Jersey for his very kind remarks on my behalf. With the exception of those remarks, I do not want to agree with everything that the distinguished Senator just said.

□ 1720

First of all, I want to compliment the Senator from New Jersey, as I said the other day, not just for this tax bill but for the years of working in the vineyards to get the kind of support we need to get this kind of tax reform bill through Congress.

Surely, there is no individual in the United States who has devoted more time, effort, and intellectual energy to this endeavor than has the Senator from New Jersey. I think this is the fruit of his many years of laboring in the vineyards to get this kind of bill on the Senate floor.

When the Senator from New Jersey first approached me several weeks ago, when the bill was coming out of the committee, I must say that I was at first a little apprehensive. I was a little skeptical that any tax bill coming out of the Finance Committee would really help family farmers. This is my 11th year in Congress, and I have not seen one tax bill yet that came through that really helped what we consider to be family farmers and that would really help to put agriculture on an even keel and would not give people incentive to invest in certain areas.

I have to admit that when the Senator from New Jersey first approached me, I was a little skeptical, and I think he detected that. But I took the information he had, went through it with my staff, we contacted both groups he mentioned, at the University of Missouri and the Center for Rural Affairs in Nebraska, and, by gosh, he is right—this is a good bill for family farmers. I will go further than that: It is a very good bill to get agriculture back on the kind of even keel we want. That is why I will support this bill and why I was proud to sign the letter with the Senator from New Jersey saying that this bill is in the best interests of the family farmers. That is not to say, however, that a slight modification might not also help a little more.

I understand the Senator's position. I appreciate his yielding.

I just want to make one other point, if the Senator will allow me, and that is on the excise tax issue, on the mergers and acquisitions.

I have made the statement before that excise taxes are regressive, and generally broad-based excise taxes are regressive, but they do not need to be.

This tax is very narrowly defined. It is not a broad-based excise tax. It probably would not hit more than 100 or 150 transactions a year. As a matter of fact, it is probably less than they pay the lawyers to get involved in these mergers and acquisitions, and is easily administered. So, it is not a broad-based excise tax that is regressive. If you had a luxury tax, I do not think that would have to be regressive, and I do not think this excise tax is regressive, because it is narrowly defined.

Again, as the distinguished chairman of the committee said, not all mergers are bad. Well, perhaps not all mergers are bad, but there are a lot of things we tax that are not bad. I am not saying that we are taxing something that is bad We are taxing an activity which usually provides a windfall to a lot of people to provide a little retirement income for a person selling his small business or farm.

I thank the Senator from New Jersey.

Mr. BRADLEY. Let me say, in response to the kind remarks of the Senator from Iowa, that I can appreciate his help in making sure that this is a good bill for family farms.

In the last sentence of the letter from the Tax Committee in Iowa, they say this, and its says it all:

> In our opinion, the action of the Senate Finance Committee in regard to tax policy is keyed to a healthy rural economy and will detemine whether our sons and daughters will get the farm.

So I think that says it all about this bill and what it means for the family farm.

I know that the Senator from Iowa says: "Couldn't we have just a little bit more, even though it is the best bill in a generation for the family farm?"

I say to the Senator from Iowa that I think he has gotten a little bit more. We have income averaging, which is one of the things he is interested in. We have a special provision on debt forgiveness for family farms, which I think is something of interest to him. We retained some cash accounting, which is not as relevant but is somewhat relevant.

So I hope he will withdraw the amendment. The concern is that once you have adjusted the basis for farms, I know what is going to happen. There is going to be another amendment come along to adjust the basis for stocks, another amendment to adjust the basis for other capital assets.

So I am afraid that I will have to say that I hope we will reject the Senator's amendment, because I think this would be the beginning of a number of amendments that would attempt to adjust the basis. While I would like to do everything I could to help the family farm, I think that in this bill the family farmer has done very well.

So I urge that we reject the amendment of the Senator from Iowa.

Mr. PACKWOOD. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing on the motion to table the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Arizona [Mr. GOLDWATER], the Senator from Idaho [Mr. MCCLURE], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 35, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—60

Armstrong	Dole	Hawkins
Baucus	Domenici	Hecht
Biden	Eagleton	Heinz
Bingaman	East	Helms
Boschwitz	Evans	Humphrey
Bradley	Garn	Kassebaum
Chafee	Glenn	Kennedy
Cochran	Gore	Kerry
D'Amato	Gorton	Lautenberg
Danforth	Gramm	Laxalt
DeConcini	Hart	Lugar
Denton	Hatch	Mathias
Dodd	Hatfield	Matsunaga
Mattingly	Quayle	Stevens
McConnell	Rockefeller	Thurmond
Moynihan	Roth	Trible
Murkowski	Rudman	Wallop
Packwood	Simpson	Warner
Pell	Specter	Weicker
Proxmire	Stafford	Wilson

NAYS—35

Abdnor	Ford	Metzenbaum
Andrews	Grassley	Mitchell
Bentsen	Harkin	Nickles
Boren	Heflin	Nunn
Bumpers	Hollings	Pressler
Burdick	Inouye	Pryor
Byrd	Johnston	Riegle
Chiles	Kasten	Sarbanes
Cohen	Leahy	Sasser
Cranston	Levin	Simon
Dixon	Long	Zorinsky
Exon	Melcher	

NOT VOTING—5

Durenberger	McClure	Symms
Goldwater	Stennis	

So the motion to lay on the table amendment No. 2112 was agreed to.

□ 1750

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I will take just a second.

Mr. President, I am advised by the distinguished chairman of the committee, Senator PACKWOOD, that we are making real progress on the bill. We have made an effort on this side, which has been a successful effort, to go back to each of our colleagues and suggest—unless it is some really important, important, important amendment—that we forego it, particularly if it is something we can deal with in the conference. I am advised by the chairman that we are down to what?

Mr. PACKWOOD. Nine amendments. On all of the transitional amendments on this side, the Members indicated they would give us a list to take to conference and not take them up here. We are within shooting distance of finishing.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. Mr. President, we on this side have certainly been trying to cooperate with the distinguished majority leader in determining what amendments remain, and whether or not time limitations can be gotten on amendments. We have urged our Senators to call them up, and we have been successful in doing that.

I believe the time has come when the Senate ought to know what the program is going to be for tonight, whether or not we are going to be acting on this measure tomorrow, and whether or not we can possibly agree to a time limitation.

I would like to agree to a time for the final vote. Let it be Monday, Tues-

day, or whatever. But I believe we should try to get a time limitation.

The distinguished chairman says they are down to nine amendments on his side. I do not dispute the chairman's word. I would like to see that on paper. I would like to identify the amendments, and let us see how many amendments we have. Let us see if we can arrive at a time limitation for a final vote, setting a definite time on a definite date, with no more amendments to be called up other than those that may be listed or filed at a particular time.

We were up until 1 o'clock last night, we were up until 1 o'clock the night before, and I do not know whether we are going to be able to go to 1 o'clock tonight.

I feel that there is an inclination on my side of the aisle to come to some agreement as to a final day and time for a vote. We cannot do that until we know how many amendments really remain and what those amendments are. My colleagues on this side seem to be very agreeable to trying to reach a time agreement limitation on their amendments.

As a matter of fact, last night when we laid everything in the RECORD, most of the Senators on this side were not only willing to identify their amendments but also were willing to agree to a time limit. Many of them were exceedingly liberal, it seems to me, in reducing their time.

So I would respectfully say to the distinguished majority leader, if we can get together in the next 10 or 15 minutes to see if it is possible Senators will know what we are going to do tonight.

Some of our colleagues on both sides of the aisle do not want rollcall votes this evening. Some on both sides of the aisle do not want rollcall votes tomorrow. But I know the distinguished majority leader has a responsibility to press this legislation. We all have that responsibility.

Let us see if we can get together, and determine a time and day. It seems to me that the Senate will pass this bill, whether it is tomorrow, or whether it is Monday or Tuesday and pass it—as I said early on, maybe I was a little overenthusiastic and too optimistic in saying I would expect we would vote 100 to nothing for it. I am not sure I would bet on that today. But I am sure the Senate is going to give this bill in the final analysis a whopping vote.

If Senators have an opportunity to call up their amendments, I hope they will respond to the opportunity. It seems to me that if we can agree to this, get the bill out, get a good vote on it, the chairman and the ranking manager will have accomplished their goal, the majority leader and I and all Senators will have accomplished ours in getting the bill passed, but we do need to sit down this evening and work this out. Perhaps we can do it right here on the floor, but we need to find out what the remaining amendments are.

Let us see if there are nine amendments. Let us see how many there are on this side, and see when we might bring this whole thing to a close.

I thank the majority leader.

Mr. DOLE. Mr. President, I thank the minority leader. I will have staff put together a list of the amendments that remain on this side. That will not take over 15 or 20 minutes. I know there are Members who have to leave. In fact, we have had a couple of Members who had to leave and will miss votes.

I know Members have engagements. This Senator had a plane at the airport to take me to New York until about a half hour ago, and I said forget it. I was advised by the chairman that we are going to work tonight and tomorrow.

So what we might do is compile an updated list, get our staff and the minority staff to do that right now, come back to the floor in 15 minutes, 20 minutes, identify the amendments, and maybe at that time it would be in the spirit of generosity to move some Members to take theirs off the list.

Then if we get down to a manageable number—when we had 90 amendments if did not seem to make any sense to try to get an agreement. But we have one now that is going to be disposed of in 5 minutes.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I will yield.

Mr. BYRD. I feel that there is a tendency on this side, and a willingness to say what amendments there are right now. There are some Senators who have amendments, but who may not call them up, and who may be willing to settle for a colloquy.

It is 6 o'clock, and at least on my side of the aisle, if the majority leader will try to see what Senators still have amendments, we have 23 listed there. But some of them are probably not going to be called up. I cannot presume to speak for any Senator. But if the majority leader will agree, at least I would like to try to see what Senators on this side have to say.

Mr. DOLE. I am happy to do that right now.

Mr. BYRD. Yes.

Mr. EXON. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I am happy to yield for a question while I am obtaining a list of the amendments.

Mr. EXON. Can the majority leader advise me or bring me up to date on what is the situation with regard to the supplemental appropriations? I understand the conference has ended. As we know, that resolution is important to many of us, particularly in the agricultural States because of what is paid out for the deficiency payments. The court systems to some extent are handicapped at this time.

Is it correct that matter has to go back to the House of Representatives first? Is there any chance that we could act on that? I would presume that if the House has to act first, I am asking has he been in contact with the House, are they going to be able to pass that before they go out so that we might be able to act on that before we adjourn for the weekend if and when we do? If so, does the majority leader have any direct information from the White House as to whether or not the President is going to carry out his threat to veto the bill primarily because of the amendments that we passed with regard to the REA.

Mr. DOLE. Let me respond. The Senator is right. It is very important to all of our States, particularly the farm States.

The PRESIDING OFFICER (Mr. TRIBLE). Will the majority leader suspend? The Senate is not in order. Those staff members on the Republican side that are standing will either take their seats or leave the Chamber at once.

□ 1800

Mr. DOLE. The Senator is correct, that it is a very important supplemental. I am advised the House will not act until the first of the week. We will not get it until Tuesday or Wednesday.

I cannot respond as far as whether or not the bill will be vetoed. I have been trying to reach a certain person at the White House to see if I can get a reading on that. I am unable to do that. I share the views the Senator has just expressed, that the payments are not being made. It is going to be not only an inconvenience but in some cases real distress for farmers throughout the country. And others, I might add.

Mr. EXON. I thank the majority leader. I appreciate very much the fact that he does agree. I assume that means if and when the House gets around to passing this measure, it will receive top priority in its consideration here.

Mr. DOLE. That is another reason we want to dispose of the tax bill, so we do not have to worry about two big bills, which one will have priority. If we can dispose of this tonight or tomorrow we do not have to worry about what is coming up next week.

Mr. EXON. If we do not complete this, will the distinguished majority leader set this aside and take up the supplemental as a higher priority?

Mr. DOLE. That would be my present intent, unless we got close to passing this bill.

Mr. President, I would like the distinguished minority leader to ask the Members on his side what amend-

ments there are, if he is willing to do that, to run a check on his side. I will be prepared to do the same on this side.

Mr. RIEGLE. Will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. RIEGLE. My amendment will take only 5 minutes. I will be happy to offer it now while this is going on or defer to the will of the majority leader.

Mr. DOLE. A 5-minute time agreement?

Mr. RIEGLE. Yes.

Mr. DOLE. The Senator can have it all.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. BYRD. Mr. President, I want to respond to the distinguished majority leader. Will the Senator yield?

Mr. RIEGLE. I will yield, of course.

Mr. BYRD. Mr. President, I commend the Chair in maintaining order.

Mr. President, first let me say I think Senators need to know what is going to happen on the transition rules and also there will certainly be a reluctance to agree on the terms, unless we know precisely what the amendments are on the other side. There is an amendment or so floating around that would probably make it extremely difficult to complete action on this measure tomorrow or Monday or Tuesday or Wednesday or Thursday or Friday of next week.

Mr. PACKWOOD. Will the Senator yield?

Mr. BYRD. Yes.

Mr. PACKWOOD. Would it be possible to get a unanimous-consent agreement that only those amendments that will be filed at the desk by 9 o'clock tonight will be considered? At least then we will know what is potentially going to be offered. I am fully aware of some amendments that will be at that desk that will not be offered. I am not asking at this stage for a unanimous-consent agreement on time. But that takes care of 80 percent of the amendments, that people are not going to offer them.

Mr. BYRD. Mr. President, that will not resolve this problem. If that amendment is filed at the desk, there will not be any inclination to move forward on some of these others. I think we ought to know whether or not that amendment is going to be filed, and whether or not there is going to be action on it.

If this will help, the following amendments are listed, may I say to the distinguished majority leader and to the chairman of the committee, and are by the following Senators.

First, I am stating these as amendments which can probably be worked out and may not take much time:

An amendment by Mr. MOYNIHAN relating to the foreign area section 902/213; an amendment by Mr. PRYOR, who is here on the floor, modify installment sales, land.

If I am misstating with respect to any Senator's intentions, I am sure that such Senator will speak now.

An amendment by Mr. LEAHY, satellite investment tax credit; an amendment by Mr. DECONCINI, installment sales; an amendment by Mr. DECONCINI, Technology Transfer Corporation; an amendment by Mr. SASSER, apply Regulatory Flexibility Act to both interpretive and legislative rules of IRS; an amendment by Mr. MATSUNAGA, tax treatment, medical malpractice. That has been listed for 10 minutes.

An amendment by Mr. MATSUNAGA, to exclude the income from convention and trade show activities, already listed at 10 minutes; an amendment by Mr. FORD, capitalization of utilities' interest expense, already listed for 30 minutes; an amendment by Mr. CRANSTON, computer software royalties, down to 5 minutes; an amendment by Mr. GORE, thermal steam transfer facility; an amendment by Mr. ZORINSKY and Mr. BOREN, Internorth; an amendment by Mr. BYRD, UMWA pensions; an amendment by Mr. BOREN, installment sales; an amendment by Mr. KENNEDY, Columbia Point; an amendment by Mr. HEFLIN concerning the IRS, and also an amendment by Mr. HEFLIN which is a technical amendment.

These amendments I have listed, I am advised, are amendments where little time will be required or the authors may be able to work out the amendments. Mr. MITCHELL is listed but that one has been worked out.

I have listed a number of amendments out of the 23 that really amount to not a great deal of time and which probably can just be worked out.

Mr. DODD. Will the minority leader yield?

Mr. BYRD. I yield.

Mr. DODD. I did not know whether the leader read my name.

Mr. BYRD. Mr. DODD is listed with an amendment, but I did not list it as one of the amendments that can be worked out or requires just a small amount of time. Mr. DODD is here and he can speak.

Mr. DODD. I will not be offering that amendment, so you can reduce the list by at least one.

Mr. LEVIN. I also have an amendment there and I would be happy to withdraw it. But I would like 10 or 15 minutes to debate the bill before the final passage.

Mr. BYRD. Mr. LEVIN withdraws his.

Mr. DIXON. Mr. Leader, it has been suggested that the amendment that I have on that list is a duplicate of an amendment that should be on the Republican list that Senator STEVENS had, where I am a cosponsor with Senator STEVENS. So there is that duplication.

Mr. BYRD. I thank the distinguished Senator from Illinois.

Well, there you have it, may I say to the distinguished majority leader and the distinguished managers. But we will have to know the identity of the amendments on the other side or there will be more amendments than I have enumerated.

The PRESIDING OFFICER. The Democratic leader has the floor.

The Senate is not in order.

□ 1810

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that the time being taken here not be charged against the amendment of Senator RIEGLE.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I believe the distinguished Senator from Connecticut had something to say.

Mr. DODD. Just out of curiosity, Mr. President, will it be necessary for those who may not have amendments we care to offer, and without delaying this process at all, to hold some time, whether it is 5 minutes or 10 minutes, at the conclusion of the amendment process just to be able to make some comments about the bill generally at the end? Should that be written into a request for time, along with amendments?

I ask that question of the minority leader.

Mr. BYRD. Mr. President, let me respond to the Senator by saying that there is no request presently being propounded. We are merely trying to make visible those amendments which are on our side which are going to be called up and which may be worked out in a little time. No agreement is being propounded yet.

Mr. DODD. Let me further inquire, if such an agreement is reached, I just make the request that some time be held out so we would have at least some period so we could make some comments generally about the bill before its passage.

Mr. BYRD. The Senator's request will certainly be kept in mind. He will be fully protected.

I would like to yield to Mr. LEAHY, Mr. President, under the same condition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I have an amendment there on communications satellites. I believe from a conversation I had last night, it is the same one that the distinguished senior

Senator from Virginia [Mr. WARNER] has. I advise the two leaders if it is the same, the two of us would combine that and one or the other drop off, or just combine and make it into one. I am trying to check with the distinguished Senator from Virginia now. If it is the same, I would be perfectly willing to combine with him.

Mr. BYRD. I thank my distinguished friend.

Mr. PRYOR. Mr. President, would the distinguished minority leader yield?

Mr. BYRD. Mr. President, under the same conditions, I yield to the Senator from Arkansas.

Mr. PRYOR. My comment is more generic than on a specific amendment. I hope I could get the attention of the distinguished majority leader here.

I thank the majority leader and I thank the minority leader for yielding. I want to take just a moment to talk about something we talked about when we deal in public works projects. That is something called the benefit-cost ratio. I submit to my colleagues this evening, it is 6:15, we have been up until 1 o'clock two nights in a row. We have been in session 40 hours the first 2½ or 3 days of this week already.

I just want to ask this question: Does our staying up and working on these amendments and on this legislation—do the benefits of staying around here until 1 a.m. every night justify the costs? That is my question.

We were here, for example, Tuesday night until 1 a.m. Mr. President, we voted on four amendments—four amendments—after 7 p.m., each of those nights. On Tuesday night we voted at 8:30 p.m., at 10:06 p.m., and at 12:14 a.m. Then last night we stayed until 1 a.m.; we voted on one at 10:53 p.m.

Mr. President, do the benefits justify the cost?

Mr. LONG. Mr. President, how much was achieved after midnight last night, I want to ask the Senator?

Mr. PRYOR. Mr. President, I respond to my friend from Louisiana by saying that there is something mystical that starts happening around here when the Sun goes down. It is mystical and whatever it is, I say to my friend the majority leader, we all started getting mad at ourselves last night and we are going to do that same thing again tonight. We are tired and we are pretty—we are tired. I do not think the benefits justify the cost. I hope that we shall adopt the Riegle amendment or defeat the Riegle amendment and go home and come back at 7 o'clock in the morning, get some sleep and I think we will make more sense around here.

This is absolutely crazy, our staying around here until 1 o'clock in the morning to vote one time and maybe two times a night. I hope that thought will register and that it will be received in all good humor.

Mr. BYRD. Mr. President, I yield to the distinguished majority leader so he may respond.

Mr. DOLE. All things considered, I think there is a heavy cost-benefit ratio. I have not had many experiences with tax bills, but sooner or later, you just have to pass it. You can push and push. I think last night—well, I have had better evenings, but I think we did make some headway. Everybody sort of got it out of their system. We said, does anybody have any amendments and I will be darned, we got 80 of them overnight. Everybody cleaned out their desks and brought them over here. That is the minus.

I think now we have reached a point where we are down to—we say—10 amendments. I do not think that is right. It is probably 5 or 6. We are within striking distance. I think even on the other side we are within striking distance of wrapping up this bill, if not tonight, by early tomorrow afternoon.

I do not know. It is a tough call. But let us face it—and I am not being critical of anybody: We do not like to vote on Monday. We do not want to vote until after 2 o'clock on Tuesday, we do not want to vote on Friday. So we work a halfday Tuesday, maybe all day Wednesday, maybe all day Thursday. And sometimes we have to go late to compensate for it.

I would say, if we still had 90 amendments, the Senator is exactly right. There was not any benefit, there was a lot of cost. I know a lot of Members have important engagements tonight. I had one, I do not have it any longer. I just said, "I will stay here."

I would like to yield to my distinguished chairman if the distinguished minority leader will allow me to yield to him.

First, I think this is good news on our side. TED STEVENS has nine amendments; Senator MATTINGLY has one. Senator HATCH has one that is worked out. Senator ABDNOR has one that is going to be contested, with 30 minutes. Senator MCCONNELL has two that may be contested.

Mr. BYRD. Would the distinguished majority leader allow me to suggest that those amendments be identified, because it is important that we know what they are?

Mr. President, may my rights be protected?

The PRESIDING OFFICER. That is the unanimous consent.

Mr. DOLE. We do not have the Stevens amendments identified. We have the three on reindeer income, Alaskan Native Corporation, then there is an ESOP amendment with the Senator from Illinois. The Hatch amendment is on ERISA.

Mr. PACKWOOD. That has been cleared on both sides.

Mr. DOLE. Senator MATTINGLY on a 5-year moratorium, that would be the sense of the Senate. Senator ABDNOR is a Mesabi (?) Airlines amendment. Senator MCCONNELL, parimutual betting and the Brown Foundation. I assume those will be contested.

Senator HELMS on aborted fetus, Senator ARMSTRONG on mutual funds, and there are two or three or four others that may just be a matter of a brief colloquy.

I think we are in the homestretch.

Mr. PACKWOOD. Mr. President, would the minority leader yield to me?

Mr. BYRD. Mr. President, I yield. I ask unanimous consent that I may yield without losing my right to the floor. I do not intend to hold the floor very long.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I would like to renew the possibility of a time agreement. I know what some Members are afraid of: You agree to a time limit and out pops an amendment everybody wishes they had not agreed to a time limit on. I know a number of amendments the majority leader read on our side will not be offered. They have said they would not be offered if they knew I was opposed and I know the ones I am going to oppose.

□ 1820

If we had a unanimous consent that no amendments could be considered that were not filed—I am not saying there is any time limit on what is filed—could not be considered that are not filed at the desk by 8 o'clock and if we had an agreement that we would meet tomorrow and vote tomorrow starting early, I would be satisfied to go out tonight with those two agreements. But that means we could all come here in the morning and see what amendments are there, and I think with that we will dispose of 9 or 10 or 11 amendments tomorrow and have a chance of either finishing tomorrow or finishing at a time certain Monday.

Mr. PRYOR. If applause were permitted on this floor, I would stand and applaud but I say thank you and I hope that suggestion will be accepted.

Mr. BYRD. Mr. President, I certainly want to do everything I can to get all Members out this evening, and I will be happy for us to talk about this. There is an amendment that has been identified that creates problems and we do not want—let me lay it all out while I am here. There are other Senators who have amendments that I did not identify because I simply went down the list of those which can be worked out without much time or on which little time will be requested if they cannot be worked out.

Mr. BAUCUS has an amendment and is on the floor. On this list I would say that it indicates that there are 2 hours on the farmer carryback ITC amendment. May I ask the distinguished Senator, does he still want 2 hours or can that time be reduced?

Mr. BAUCUS. Mr. Leader, that amendment is still going to be offered but the time can be reduced.

Mr. BYRD. The amendment has been offered?

Mr. BAUCUS. I still intend to offer the amendment.

Mr. BYRD. Very well.

Mr. BAUCUS. The time can be reduced.

Mr. BYRD. Very well. I thank the distinguished Senator. Then, Mr. BUMPERS has an amendment to strike the amnesty provisions in the bill. Now, I did not list that one earlier because I have already indicated the limitations. And then, an amendment by Mr. MELCHER relating to capital gains in agriculture with revenue offsets and deferral of income. That is listed as 30 minutes, but the distinghished Senator is here. I have the list, 30 minutes on an amendment by Mr. MELCHER.

Mr. MELCHER. That is correct, I would inform the minority leader.

Mr. BYRD. I thank the distinguished Senator. Mr. CHILES has a sense-of-the Senate amendment relating to budgetary effects of the tax bill, with no time listed on that amendment. I believe Mr. CHILES indicated last evening it would not take long. I thought he said something like 1 hour at the most, perhaps, but I would not want to tie him in with a restriction which may be erroneous. Mr. METZENBAUM has an amendment on voluntary tax disclosure for amnesty. I yield to Mr. METZENBAUM.

Mr. METZENBAUM. I thank the minority leader. I am pleased to say that several of my amendments have been adopted during the day by agreement. We have negotiated them. I have one additional amendment with Senator CHAFEE. We worked that out. We have come to a compromise on it. I think that will not take us more than about 10 minutes at the maximum, 5 minutes on a side.

But I would like to add one other thing. In seeking a unanimous-consent agreement, I strongly urge the majority leader and the minority leader and the manager of the bill it might be helpful if, before doing that, Senator HELMS were given an opportunity to call up his amendment. I understood he was going to call it up. He is not going to call it up at all? Then if not, no problem.

Mr. BYRD. I also am told, Mr. President, that Mr. BAUCUS may have one or two second-degree amendments to the Bumpers amendment. Is there a time limit which the distinguished Senator would suggest or not?

Very well. There is no suggested time limit at this point.

Mr. President, I am about to yield the floor. I feel very encouraged, may I say, by the responses, and I think if we could proceed with an amendment at the moment, perhaps we could get an agreement that would see us out tonight and hopefully not have more than one or two rollcall votes tomorrow, with no more amendments to be offered than those that have been identified, with a time certain to vote certainly early next week, Monday or Tuesday.

Mr. DOLE addressed the Chair.

Mr. BYRD. Mr. President, I yield the floor. I thank all Senators.

The PRESIDING OFFICER. The order of business will be to return to the Senator from Michigan who has an amendment pending. In order to divert from that we would have to have unanimous consent.

Mr. RIEGLE. I certainly withhold without losing my right to proceed for any comment that the majority leader wishes to make or if he wishes the floor at this time.

Mr. SIMPSON. Mr. President, may I just——

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has surrendered the floor for the purposes of the leader to speak. He will regain the floor once that time passes.

Mr. SIMPSON. If I might just respond to my friend from Arkansas [Mr. PRYOR], a lovely friend of mine who came here when I did. I was assigned the task by the majority leader of trying to arrange the calendar for what we do here—which is sometimes hard to describe. But in the course of that, we arranged the most extraordinary calendar that I think we have ever had in any election or nonelection year.

We had the February Presidents' Day recess, an Easter recess, a Memorial Day recess, and a July Fourth recess, which goes from June 27 to July 14—which has never happened in the history of this body—an August recess which starts on August 15 and goes through Labor Day, until September 7, and on October 3 the Chambers will be exited regardless of what happens on the floor because it is an election year.

That I think is an extraordinarily generous schedule. I share that. Others on the other side of the aisle also worked with that.

If we have irritation and a touch of madness at this hour of our dealings, it should be with our staffs who keep cooking this stuff up, who have been dragging stuff around in their hip pockets for about a year-and-a-half and finally say, "This is it; please get this." Last night we asked for the various amendments. Some shred of paper dropped from the ceiling that had five amendments for Senator so and so. He did not even know what they were.

And so in the morning hour, if we could look at the list of amendments, I think that would be critical to us. We really should not be hard on ourselves. We should be hard on our staffs who continue to feed the stuff in and cook the stuff up in the back rooms. If they could stay here and we could go sleep, I think that would be good. They are up in shifts.

I just conclude by saying I think the majority leader has been very kind to us. We do not do any heavy lifting on Mondays or Fridays. We do not do windows. We do not haul trash. And we get paid 75,000 bucks a year for doing that. And on the occasions when we do get to go two nights, three nights, it is tough, and I am fractious too. I am sitting now next to my colleague from Alaska, and I unloaded a barrel on him last night. I need to sit with him and try to resolve that, and I will do that because that is the way we must do our work. The only thing that ever saves us is the Friday syndrome. Every bill should be started on a Wednesday because Friday is the only thing that ever makes us push toward getting our work done. I hear what my colleague is saying, but we really are a rather privileged group. I am not saying that in any kind of reaction to my friend from Arkansas, but just to share how we worked this schedule out, and it is the most generous one in our history—and still it is not good enough. I thank the Senator for yielding.

□ 1830

Mr. RIEGLE. Mr. President, does the majority leader wish me to yield?

Mr. DOLE. I apologize to my friend from Michigan.

The PRESIDING OFFICER. If the majority leader will suspend, the Senate is not in order.

Without objection, the Senator from Michigan yields.

Mr. DOLE. Without it coming out of the Senator's time.

Mr. President, I want to indicate that we are going to meet now with the minority leader. I am very much encouraged. I think we have reached the point in the tax bill where things are coming together.

I hope we can come back here in 20 minutes and propound the unanimous-consent request that only those amendments that have been filed at the desk by, say, 9 o'clock this evening will be considered. Then Members on both sides will know what they are dealing with.

If someone tosses an amendment up in the air, it is like a turkey shoot. We do not know what is in the amendment. That would be unfair, particularly to the managers.

It is the intention of the chairman that we continue. If Members want to dispose of some of these easy amendments, we can do a lot of that this evening, and tomorrow there would be votes, and we would hope to finish tomorrow by midafternoon. There is no reason why we cannot finish. We are down to hardly anything.

AMENDMENT NO. 2114

Mr. RIEGLE. Mr. President, I have an amendment at the desk, which I will ask the clerk to read, on which we have a unanimous-consent agreement that there will be only 5 minutes. At this time, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Will the Senator suspend until the clerk has had an opportunity to report the amendment?

Mr. RIEGLE. Of course.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 2114:

At the appropriate place add the following:

It is the sense of the Senate that the Senate conferees on the Tax Reform Act of 1986 give the highest priority to increasing the tax cut for all middle income Americans.

Mr. RIEGLE. Mr. President, on this amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan is now recognized for 5 minutes.

Mr. RIEGLE. I thank the Chair, and I thank my colleagues. I may not have to take the full 5 minutes.

Mr. President, the amendment has been read. It is only one sentence long. It addresses the question of how the middle-class taxpayers of this country will ultimately do in this tax bill. I offer this amendment at this time because we have two very complex bills coming from the different bodies. Our bill is long, with many items, as is the bill from the House, and they are quite different in many respects. When we get to conference, those two versions will have to be ironed out, and because of that, there will be a number of items that not only have to be dealt with, but also, I think there will be a number of things for the conferees to keep track of.

The PRESIDING OFFICER. Will the Senator suspend? The Chair cannot hear the Senator. We will not proceed until the Senate is in order.

The Senator from Michigan.

Mr. RIEGLE. Mr. President, in talking to colleagues on both sides of the aisle, I think this sense-of-the-Senate resolution expresses what I am hearing from my colleagues, and that is that there is a concern that we be sure that the middle class receives the proper treatment in this tax bill.

Mr. MOYNIHAN. Mr. President, I cannot hear the Senator from Michigan.

The PRESIDING OFFICER. The point raised by the Senator from New York is well taken. The Senate is not in order. There are at least four groups of Senators observed by the Chair who are now engaged in animated conversation. Those Senators are respectfully asked to retire to the cloakroom.

The Senate is not in order. We will not proceed until the Senate is in order.

The Senator from Michigan.

Mr. RIEGLE. I thank the Chair. I think what we are seeing here is that the earlier effort to try to negotiate time agreements and work out amendments is now moving ahead, so there are a variety of conversations going on, with the purpose in mind of getting that unanimous-consent agreement. So I understand why there is so much activity at this time.

Mr. President, I think this amendment emphasizes what I am hearing colleagues on both sides of the aisle say, and that is that there is a concern that we try to do more with respect to tax relief for the middle class, and the feeling that we can, and the place to do that is in conference.

The format I am using is the same as the one that was used in the IRA sense-of-the-Senate resolution. We say in this instance:

It is the sense of the Senate that the Senate conferees on the Tax Reform Act of 1986 give the highest priority to increasing the tax cut for all middle-income Americans.

That is very compatible with the previous sense-of-the-Senate resolution which was adopted with respect to IRA's, because one of the ways I think we can do what this amendment addresses is with some measure of the IRA restoration, which I hope will be forthcoming.

So I hope the Senate will support this amendment. I think it will be a helpful one to the conferees and to the conference, and I think it will be one that middle Americans will be very grateful for.

I yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I wholeheartedly support this amendment, and I hope it will be adopted on a rollcall vote unanimously.

Mr. RIEGLE. I thank the chairman of the committee.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBURGER], the Senator from Idaho [Mr. MCCLURE], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—94

Abdnor	Glenn	Metzenbaum
Andrews	Gore	Mitchell
Armstrong	Gorton	Moynihan
Baucus	Gramm	Murkowski
Bentsen	Grassley	Nickles
Biden	Harkin	Nunn
Bingaman	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Bumpers	Hecht	Pryor
Burdick	Heflin	Quayle
Byrd	Heinz	Riegle
Chafee	Helms	Rockefeller
Chiles	Hollings	Roth
Cochran	Humphrey	Rudman
Cohen	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kassebaum	Simon
Danforth	Kasten	Simpson
DeConcini	Kerry	Specter
Denton	Lautenberg	Stafford
Dixon	Laxalt	Stevens
Dodd	Leahy	Thurmond
Dole	Levin	Trible
Domenici	Long	Wallop
Eagleton	Lugar	Warner
East	Mathias	Weicker
Evans	Matsunaga	Wilson
Exon	Mattingly	Zorinsky
Ford	McConnell	
Garn	Melcher	

NAYS—1

Goldwater

NOT VOTING—5

Durenberger	McClure	Symms
Kennedy	Stennis	

So amendment No. 2114 was agreed to.

□ 1850

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. president, may we have order?

The PRESIDING OFFICER. The Senate is not in order. Those Senators engaged in conversation are asked to take their seats.

The majority leader.

Mr. DOLE. Mr. President, let me indicate to my colleagues that we have met in the minority leader's office and are going back in about 10 minutes. We think we may be able to put to-

gether a little deal that everybody may be fairly satisfied with.

But, in the meantime, I think it is our hope that we just continue to do business and paricularly those where the amendments can be agreed to. We will be back to you as quickly as we can.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I hope that the amendments that can be agreed to without rollcall votes this evening would be pressed. It would seem to me there might be several disposed of.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator form Washington.

Mr. EVANS. Mr. President, I have two amendments which have been cleared on both sides. I do not think either one should take more than 1 minute or so.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Washington.

AMENDMENT NO. 2118

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Washington.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] proposes an amendment numbered 2118.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the appropriate place, insert the following new section:

SEC. . QUALITY CONTROL STUDIES.

"Section 12301 of the Consolidated Omnibus Reconciliation Act of 1985 is amended—

(1) in subsection (a)(3), by striking out "of enactment of this Act" and inserting in lieu thereof "the Secretary and the National Academy of Sciences enter into the contract required under paragraph (2)";

(2) in subsection (c)(1) by striking out "18 months after the date of enactment of this Act" and inserting in lieu thereof "6 months after the date on which the results of both studies required under subsection (a)(3) have been reported"."

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Washington.

Mr. EVANS. Mr. President, I rise to offer an amendment making technical corrections to the AFDC/Medicaid quality control section of the reconciliation measure we passed earlier this year.

Quality control is a system used to measure State performance in administering Federal income assistance programs. In addition, it is used to impose large fiscal penalties against States when their error rates in program administration exceed federally established tolerance levels.

Because of the considerable and compelling evidence suggesting that our existing quality control procedures provide neither an accurate nor equitable measurement of State performance we included a provision in reconciliation authorizing HHS and the National Academy of Sciences to conduct comprehensive studies of the Federal quality control system

The studies were to be 1 year in duration with the results to be reported to Congress no later than December 31, 1986. Because reconciliation was passed much later than anticipated, this existing deadline would give NAS and HHS only a few months to complete the studies. My amendment would rectify this unintended situation by making the 1-year period commence when NAS and HHS enter into the contract for the studies. This amendment would ensure that they have ample time to complete the comprehensive review we have authorized.

Mr. President, earlier this year on the reconciliation bill we passed a measure which would authorize a study on Medicaid and AFDC in terms of the error rates. That study was to take a year. But unfortunately the bill took so long to get passed that we need now to just change the dates so that the year starts running from the time the study started instead of the time the bill passed.

This has been cleared on both sides. I believe it is acceptable to both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 2118) was agreed to.

AMENDMENT NO. 2119

(Purpose: To amend the gas guzzler tax provisions of the Internal Revenue Code)

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] proposes an amendment numbered 2119.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2584, line 16, strike out the words "IN GENERAL." and insert in lieu thereof "IN GENERAL. (i)"

On page 2584, after line 20 insert the following: "(ii) Clause (ii) of section 4064(b)(1)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight." "

"(iii) Section 4064(b)(5) is amended to provide that the definition of "manufacture" shall not include any "small manufacturer" as defined in section 4064(d)(4) who becomes a manufacturer solely by reason of lengthening an existing automobile."

"(C) The amendments made by clauses (ii) and (iii) of Subparagraph (A) shall apply only to automobiles manufactured after October 31, 1985."

Mr. EVANS. Mr. President, I am offering an amendment which clarifies two different definitions contained in the gas guzzler tax provisions of current law.

The gas guzzler tax was enacted in 1978 to encourage manufacturers to make fuel-efficient automobiles. In conjunction with safe standards, the gas guzzler tax provisions have helped us move toward our real goal of a truly fuel-efficient fleet of automobiles on the Nation's highways.

Automobiles to which the tax applies are defined in part by gross vehicle weight. Under current law, passenger vehicles in excess of 6,000 pounds gross vehicle weight are not considered automobiles for purposes of the gas guzzler tax provisions.

This amendment would close a loophole in determining gross vehicle weight that has been used by some manufacturers to avoid since 1978 the application of this tax to their heavier cars. By clarifying that the term gross vehicle weight means unloaded gross vehicle weight, it will prevent taxpayers from avoiding the application of these provisions to a vehicle that is below the weight threshold as manufactured, and thus subject to the provisions, but above the weight threshold when loaded with passengers and luggage. This will rectify a current inequity where certain manufacurers are able to avoid paying the tax by taking advantage of the loophole but other, similarly situated manufacturers pay the tax which Congress intended for them to pay.

A second definitional modification provided in this amendment is to refine the meaning of "manufacturer" under the gas guzzler tax provisions. Under current law, a number of small businesses engaged in converting standard luxury cars into stretch limousines have been determined to be "manufacturers." As a result these converters have been subject to the possibility of double taxation: once on the original production automobile, and again on the final product. Yet, these converters do not have the capability of affecting gas mileage because they do not modify the engine, drive train or other related mechanical part. They merely lengthen a car on which any gas guzzler tax which would apply should have paid. The modification made by the amendment would relieve

these mostly small businesses from potential tax liability.

I want to note for my colleagues that the amendment I am proposing takes a much more equitable approach to this question than is taken in the House bill because it applies only to automobiles manufactured after October 31, 1985, and is thus prospective rather than retrospective.

Mr. President, this would be a prospective—and I emphasize the word "prospective"—correction of a loophole in the law relating to the gas mileages which I think quite honestly needs to be closed. It has been checked with both sides, and I believe it is acceptable. In the past, automobiles of 6,000 pounds and over were not considered to be automobiles and were thus exempt from some of the requirements for fuel efficiency. A few automobiles manufacturers found it to their advantage to escape the law on automobiles that were heavy but not quite 6,000 pounds by merely loading the car with "Refrigerator" Perry, and a few of his colleagues and a few sacks of cement in the back to make the car over 6,000 pounds. But by doing that, they escape any penalty by missing gas mileage requirements.

This amendment would correct it. It has no fiscal impact because it is prospective and not retrospective. It ensures that a limousine manufacturer does not get taxed twice by exempting those manufacturers of stretch limousines from the provisions of this amendment.

I believe it has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

Mr. BENTSEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I withdraw the reservation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 2119) was agreed to.

Mr. EVANS. Mr. President, I move to reconsider the votes by which the amendments were agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2120

(Purpose: To provide for an effective 15-year carryback of existing investment tax credit carryforwards of farmers)

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I send an amendment to the desk on behalf of myself, Mr. ABDNOR, Mr. GRASSLEY, Mr. ZORINSKY, Mr. HARKIN, Mr. MELCHER, Mr. DOLE, Mr. SYMMS, Mr. HEFLIN, Mr. PRYOR, and Mr. BENTSEN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for himself and Mr. ABDNOR, Mr. GRASSLEY, Mr. ZORINSKY, Mr. HARKIN, Mr. MELCHER, Mr. DOLE, Mr. SYMMS, Mr. HEFLIN, Mr. PRYOR, and Mr. BENTSEN, proposes an amendment numbered 2120.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, insert the following new section:

SEC. 213. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF QUALIFIED FARMERS.

(a) GENERAL RULE.—If a taxpayer who is a qualified farmer makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1954 made by such taxpayer on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be equal to the smallest of—

(1) 50 percent of the portion of the taxpayer's existing carryforwards to which the election under subsection (a) applies,

(2) the taxpayer's net tax liability for the carryback period (within the meaning of section 212(d) of this Act), or

(3) $750.

(c) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1954, or

(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period.

(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) QUALIFYING FARMER.—The term "qualified farmer" means any taxpayer who, during the 3-taxable year period preceding the taxable year for which an election is made under subsection (a), derived 50 percent or more of the taxpayer's gross income from the trade or business of farming.

(2) EXISTING CARRYFORWARD.—The term "existing carryforward" means the aggregate of the amounts which—

(A) are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1986 (determined without regard to the limitations of section 38(c) of the Internal Revenue Code of 1954), and

(B) are attributable to the amount of the investment credit, determined under section 46(a) (or any corresponding provision of prior law) with respect to section 38 property which was used by the taxpayer in the trade of business of farming.

(3) FARMING.—The term "farming" has the meaning given such term by section 20321(e) (4) and (5) of such Code.

(4) TENTATIVE REFUND.—A rule similar to the rule of section 212(h) of this Act shall apply.

(e) RESTRICTION ON ACQUISITION OF CERTAIN LAND NOT TO APPLY TO QUALIFIED REDEVELOPMENT BONDS.—Section 103(b)(5)(f), as added by section 1501(c) of this Act, is amended by striking out "Paragraph (16)" and inserting in lieu thereof "Paragraph (16)(A)(ii)".

Mr. BAUCUS. Mr. President, there have been several amendments offered in the last day or two attempting to give some relief to farmers. Most of those amendments have not passed because of the difficulty in finding a good——

The PRESIDING OFFICER. Will the Senator refrain for a moment so we can get order in the Chamber? Staff will please retire and be seated so there will be order in the Chamber.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Chair.

Various amendments have been offered in the last 2 days attempting to give some relief to farmers. Most of those amendments have not passed because of the difficulty of finding an acceptable revenue-raising offset. The amendment that I am offering partly, or perhaps entirely, alleviate that problem. This amendment provides a limited investment tax credit carryforward for farmers. That costs $200 million over 5 years.

We offset this cost, Mr. President, by closing an unintended loophole in the Finance Committee bill.

Under current law, industrial development bonds can be utilized only when not more than 25 percent of the proceeds are used to acquire agricultural land. In addition, none of the proceeds, of IDB's can be utilized to acquire agricultural land, unless it is for a beginning farmer. In the committee bill, we established new rules for a kind of bond known as a tax-increment financing bond. These are used for redevelopment, shopping centers, and so forth. In drafting that provision, we unwittingly opened up a loophole permitting TIF bonds to be used for agricultural land. Therefore, the bill makes IDB proceeds not only for the beginning farmers' program, but for all farmers. That was unintended.

Mr. President, I think we do not want to open up this loophole. With the huge commodity suplus we have in America today, we should not be subsidizing the expansion of large existing operations, that is one reason why the prices are so low and why farmers' incomes are so low.

We raise the $200 million by closing that loophole. The $200 million would then go to farmers, enabling them to carryback their unused ITC's.

It works out that, because of the $200 million limitation, farmers can only carryback 50 percent of their unused ITC's and the upper dollar limit must be $750 per farmer. That is not very much, Mr. President. It is not very much compared to the provision in the committee bill which gives unused ITC carrybacks to the steel industry. That provision cost about $500 million. Some steel firms might be getting refunds in the amount of $10 million, $20 million, maybe up to $50 million. The limit in this is only $750 per farmer.

I suggest it is a good amendment. Farmers are very heavily capitalized, compared with the income that they earn, or theoretically could earn. Combines are expensive, tractors are expensive. Also, during the last few years, they have been basically unable to utilize ITC's in the current law because they have had no income.

This amendment allows farmers to carryback over several years. If we can do it for steel, we certainly can do it for farmers. We know the steel industry is in tough shape. That is why we here in the Senate voted to keep that provision in the law. I voted for it. I think the steel industry needs it. But I think also the farmers need unused ITC's to carry them back in the same way that we have in the steel industry.

Mr. President, I can explain it in more detail if other Senators wish. Essentially this is something that our farmers need, and we found a way to pay for it in a way that does not hurt anybody.

The PRESIDING OFFICER. Is there further debate?

● Mr. ZORINSKY. Mr. President, 2 days ago, this body approved a special tax provision for the steel industry. That provision allows steel companies to apply part of their investment tax credits [ITC] against taxes paid in previous years. I am pleased today to join in offering an amendment to extend this treatment to farmers. Our amendment provides needed tax relief for our agricultural economy.

Mr. President, farming is an extremely capital intensive industry. With the high level of mechanization used on today's farms, very few workers are needed to plant and harvest most of our crops. As in any capital intensive industry, the ITC was used to purchase and modernize equipment. Under the tax reform bill, however, the ITC is eliminated effective January 1, 1986. To ease the transition, any credits already earned may be carried forward for 15 years at 70 percent of their value.

Steel companies, however, are given the option of applying these credits against taxes paid in previous years at 50 cents on the dollar. This provision was added by the committee and survived a separate vote by the entire Senate. Our amendment simply gives farmers this same option, with a limit of $750 in any 1 year. This amounts to $200 million worth of tax relief over the next 5 years.

We pay for our amendment by closing a loophole for a special type of tax-exempt bond. Congress intended for these bonds to be used to redevelop blighted urban areas. First time farmers could also use these bonds to finance the purchase of farm land. The tax reform bill creates a loophole, however, which would allow investors who are not first time farmers to use these bonds to finance farmland purchases. Our amendment would simply close that loophole so that the bill conforms with current law.

Mr. President, H.R. 3838 is a good bill. It brings us much closer to a fair and efficient tax system. Room for improvement still exists however. With our amendment, the tax bill better addresses the needs of our crippled farm economy and I urge my colleagues to give the amendment their support.

● Mr. PRYOR. Mr. President, I support the amendment of the Senator from Montana [Mr. BAUCUS]. This amendment will allow those persons engaged in farming to carry back to previous taxable years some of their unused investment tax credits.

Mr. President, the agricultural sector of our economy is in need of help, and since the Congress decided to allow steel companies to use these credits, farmers should also be allowed to do the same. This is only fair.

I strongly support this amendment and urge its adoption.●

Mr. MELCHER. Mr. President, I am pleased to join with my colleague from Montana, Senator BAUCUS, as a cosponsor of this amendment which will permit farmers and ranchers to cash out part of their unused investment tax credits.

Farmers and ranchers haven't had enough income in recent years to really get the advantage that was supposed to come from the investment tax credit. As a result, today there are $3 billion in unused investment tax credits being carried by farmers and ranchers. The bill we are considering both repeals the investment tax credit for the future and takes away 30 percent of the unused investment tax credits held by farmers and ranchers. This is a bad deal all around for agriculture. It seems only tax equity to allow those in agriculture to get some relief as the steel companies get in this bill.

This amendment will make the bill a little more fair for agriculture by permitting farmers and ranchers to trade in up to $750 of their unused investment tax credits for cash. This cash-out provision was included in the bill for steel companies and I think that permitting hard-pressed and cash-short farmers and ranchers to have a little of the same benefit is a definite improvement in the committee bill.

Mr. BAUCUS. Mr. President, Senator DURENBERGER asked that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Will the Senator from Montana yield for a question? Will he tell us how much this costs, and whether it is revenue neutral?

Mr. BAUCUS. It is revenue neutral. It is $200 million that was found in the Finance Committee bill because the Finance Committee bill unknowingly opened up a $200 million loophole. I, like the Senator from Ohio, like to close loopholes. We are closing this loophole, and applying that $200 million to the farmers who basically are in dire straits.

Mr. METZENBAUM. I thank the Senator.

Mr. ABDNOR addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABDNOR. Mr. President, I am very pleased to be a cosponsor of this amendment. I commend the Senator from Montana for his hard work in finding a place to make this amendment revenue neutral.

Mr. President, early in the Finance Committee's deliberations over tax reform, a concept which holds great appeal for the farmers of America was considered. That is the idea, as the Senator from Montana said, of allowing those with carried forward investment tax credits to redeem them for cash at a discounted rate.

□ 1910

Because farmers have suffered from very low earnings in recent years, they have not been able to utilize investment credits they have earned with the purchase of machinery and equipment in earlier years when more profitable times allowed them to do so. According to the bill under consideration, their credits will be discounted, but they will not be entitled to redeem them for cash.

Mr. President, I must admit I was delighted when I heard that the Finance Committee was initially considering redeeming ITC's for cash. There could be no greater shot in the arm for agriculture than the cash infusion brought about by cash redemption. Regrettably, the cash redemption approach was not retained as a provision in the Finance Committee's final draft, H.R. 3838. It would have been a godsend for agriculture.

However, a special cash-out rule has been provided the steel industry based on the argument that the steel indus-

try is chronically distressed and will not be able to apply the investment credits steel companies have earned to reduce future tax liability. Mr. President, the same argument applies with even greater urgency to farmers. Agriculture is a depressed industry, and farmers are starved for cash to keep their operations running. USDA estimates that farmers are carrying $3 billion in unused investment tax credits.

Maybe $3 billion does not seem to be very much to some, but I will tell you that it means a great deal to the farmers of this country.

Mr. President, in this day and age, cash-flow is the operative rule in maintaining a viable farm operation. The amendment under consideration does not provide the cash-flow relief I had hoped it would at the outset. Quite frankly, there are not a whole lot of revenue raisers left. Two nights ago, I had hoped we could offer an amendment which would have provided about $10,000 worth of cash-flow relief per farm operator. Unfortunately, the revenue offset we had in mind has since been used.

The fact that we are willing to reduce this amount to $750 should indicate to the Senate how important we think even a small amount can be to farmers.

Mr. President, the amendment we offer is a scaled-down version of what we had originally envisioned. Despite that, this amendment still serves a vital role in helping ease the stress in the farm sector. I submit to this body that anytime we can offer farmers a cash injection of this sort, regardless of the amount, we are providing a practical solution to their problems. I do not need to elaborate on the statistics which point to the gravity of the situation in the farm sector. I assure you that the Farm Belt is every bit as depressed as any sector of our economy. And like steel and like energy, farmers are victims of circumstances largely beyond their control.

Mr. President, what we are suggesting is that agriculture be accorded transitional treatment similar to that granted the steel industry. In the same way that steel is basic to this country's international competitiveness, so is agriculture. No sector of our economy is more basic to the long-term prosperity of our country and no institution is more fundamental to the fiber of this Nation than agriculture.

Mr. President, I am firmly convinced that a cash redemption transition rule which is targeted at bona fide family farmers will do this tax bill and this Nation a great service. And, Mr. President, this amendment is directed at bona fide, full-time family farmers. Only those who have derived 50 percent or more of their gross income in the form of earned income derived from the trade or business of farming would be eligible to redeem their unused investment credits.

Further, eligibility would be limited to credit earned on property primarily used in the business of farming. Credits would be redeemed at 50 percent of their current value, with the recoverable amount per operator per year capped at the amount afforded by the revenue offset. Any excess amount would be carried forward according to the rules generally applicable under H.R. 3838.

Mr. President, the price tag for this amendment will be offset by strengthening the eligibility requirements for usage of IDB's by agricultural enterprises. The proposed offset would prevent all but first-time farmers from using IDB bond proceeds to purchase agricultural land.

Currently, language in the Finance Committee bill allows usage of IDB proceeds for purchase of farmland by individuals who do not meet the first-time farmer test. The committee language, therefore, circumvents a restriction in present law which prevents Federal tax subsidies from being used to finance the expansion of large, existing operations. Our amendment would restore the present law restriction to the committee bill. This raises approximately $200 million over 5 years, $200 million which could assist in improving the cash-flow picture for this country's farmers.

Mr. President, this is a good amendment, a needed amendment. It is one that will offer relief. I urge adoption of the amendment.

Mr. BENTSEN. Mr. President, we all know it has been quite a long time since farmers have earned a profit. I hope that this can be utilized in the farming community. I know of no objection on our side.

Mr. PACKWOOD. Mr. President, we find the amendment very satisfactory and hope the Senate will vote for it unanimously.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2120) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2121

(Purpose: To provide a transitional rule for estate and gift tax treatment of disclaimers of property)

Mr. METZENBAUM. Mr. President, I wish to refer to that provision of the bill which will enable some taxpayers to claim $136 million in tax refunds. We have looked at this provision and have done so in cooperation with the Senator from Rhode Island, who is much more familiar with the subject than I am and was the individual who had sponsored the amendment in the committee, I believe.

We have now been able to work out an amendment that I believe will resolve the problem.

Frankly, I do not believe that we should overturn Supreme Court decisions retroactively. The amendment I am about to send to the desk which would affect the provision presently in the bill, would provide relief only to those taxpayers who have relied on a decision by a district court.

It would not provide relief to those who failed to act in accordance with IRS regulations after the court of appeals upheld them.

Mr. President, I believe this is a fair compromise.

Mr. President, the provisions of the bill involved about $136 million of lost revenue. The amendment that has been worked out in compromise does not save that great an amount. It only saves about $10 million. But the Senator from Ohio has not offered amendments in the past based upon the dollar amount, but, rather, on what seems to be a fair and reasonable approach to the problem.

The way this amendment now would fall, it would protect those who had relied upon an earlier court decision and would not provide protection to those who failed to act after the court decision had been handed down.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. CHAFEE, proposes an amendment numbered 2121.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2432, beginning with line 15, strike all through page 2433, line 12, and insert:

With respect to an interest in property created by a gift, devise, or bequest made before November 15, 1958, a disclaimer by a person of such interest (in whole or in part) shall not be treated as a transfer for purposes of chapters 11 and 12 of subtitle B of the Internal Revenue Code of 1954 if such disclaimer satisfies the requirements set forth in Treasury Regulation Section 25.2511-1(c) as in effect at the time the disclaimer was made. For purposes of this section, the requirement of such regulation that the disclaimer be made within a reasonable time after knowledge of the existence of the transfer shall be satisfied if such disclaimer was made in writing before December 9, 1980, and no later than a reasonable time after termination of all interests in such property prior to the disclaimed interest.

Mr. CHAFEE. Mr. President, I have just been informed that Senator LONG has a problem with this amendment. I ask unanimous consent that we might temporarily set this amendment aside and take up other amendments. Hopefully this can be resolved.

Mr. President, I thought everything was straightened out. The amendment that was adopted in the committee was far broader than this amendment. In other words, this amendment cuts back on what we adopted in the committee.

I have been informed of Senator LONG's concern and, therefore, would ask unanimous consent that we postpone this and take it up at a future time.

Mr. METZENBAUM. Mr. President, I have only been concerned about moving forward with this, because I hear the Senator from Rhode Island is about to leave for a great occasion, the wedding of his daughter. Will he be able to remain until we dispose of this, or, if we have not disposed of it by that time, could he represent to the Senate that the amendment was satisfactory?

□ 1920

Mr. CHAFEE. He can certainly represent this amendment is to my satisfaction. I want this important amendment, but I find other matters of greater urgency at the present time, so I would appreciate it if the Senator could represent my views, which he is very familiar with. I am in complete accord with the amendment he has submitted.

Mr. METZENBAUM. Mr. President, I join the Senator from Rhode Island in asking unanimous consent to set this amendment temporarily aside until the next amendment on the calendar is disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2122

(Purpose: To encourage Physicians' and Surgeons' Mutual Protection and Interindemnity Arrangements or Associations)

Mr. MATSUNAGA. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA), for himself, Mr. INOUYE, Mr. CRANSTON, Mr. WILSON, and Mr. SYMMS proposes an amendment numbered 2122.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

On page 1955, between lines 3 and 4, insert the following:

SUBTITLE D—MISCELLANEOUS PROVISIONS

SEC. 1031. PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.

(a) IN GENERAL.—Section 821 (relating to mutual insurance companies), as amended by section 1024(c)(2), is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.—

"(1) TREATMENT OF ARRANGEMENTS OR ASSOCIATIONS.—

"(A) CAPITAL CONTRIBUTIONS.—There shall not be included in the gross income of any eligible physicians' and surgeons' mutual protection and interindemnity arrangement or association any initial payment made during any taxable year to such arrangement or association by a member joining such arrangement or association which—

"(i) does not release such member from obligations to pay current or future dues, assesements, or premiums; and

"(ii) is a condition of precedent to receiving benefits of membership.

Such initial payment shall be included in gross income for such taxable year with respect to any member of such arrangement or association who deducts such payment pursuant to paragraph (2).

"(B) RETURN OF CONTRIBUTIONS.—

"(i) IN GENERAL.—The repayment to any member of any amount of any payment excluded under subparagraph (A) shall not be treated as policyholder dividend, and is not deductible by the arrangement or association.

"(ii) SOURCE OF RETURNS.—Except in the case of the termination of a member's interest in the arrangement or association, any amount distributed to any member shall be treated as paid out of surplus in excess of amounts excluded under subparagraph (A).

"(2) DEDUCTIONS FOR MEMBERS OF ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—

"(A) PAYMENT AS TRADE OR BUSINESS EXPENSES.—To the extent not otherwise allowable under this title, any member of any eligible arrangement or association may treat any initial payment made during a taxable year to such arrangement or association as an ordinary and necessary expense incurred in connection with a trade or business for purposes of the deduction allowable under section 162, to the extent such payment does not exceed the amount which would be payable to an independent insurance company for similar annual insurance coverage (as determined by the Secretary), and further reduced by any annual dues, assessments, or premiums paid during such taxable year. Such deduction shall not be allowable as to any initial payment made to an eligible arrangement or association by any person who is a member of any other eligible arrangement or association on or after the effective date of the Tax Reform Act of 1986. Any excess amount not allowed as a deduction for the taxable year in which such payment was made pursuant to the limitation contained in the first sentence of this subparagraph shall, subject to such limitation, be allowable as a deduction in any of the 5 succeeding taxable years, in order of time, to the extent not previously allowed as a deduction under this sentence.

"(B) REFUNDS OF INITIAL PAYMENTS.—Any amount attributable to any initial payment to such arrangement or association described in paragraph (1) which is later refunded for any reason shall be included in the gross income of the recipient in the taxable year received, to the extent a deduction for such payment was allowed. Any amount refunded in excess of such payment shall be included in gross income except to the extent otherwise excluded from income by this title.

"(3) ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—The terms 'eligible physicians' and surgeons 'mutual protection and interindemnity arrangement or association' and 'eligible arrangement or association' mean and are limited to any mutual protection and interindemnity arrangement or association that provides only medical malpractice liability protection for its members or medical malpractice liability protection in conjunction with protection against other liability claims incurred in the course of, or related to, the professional practice of a physician or surgeon and which—

"(A) was operative and was providing such protection, or had received a permit for the offer and sale of memberships, under the laws of any State prior to January 1, 1984,

"(B) is not subject to regulation by any State insurance department,

"(C) has a right to make unlimited assessments against all members to cover current claims and losses, and

"(D) is not a member of, nor subject to protection by, any insurance guaranty plan or association of any State."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made to and receipts of physicians' and surgeons' mutual protection and interindemnity arrangements or associations, and refunds of payments by such arrangements or associations, after the date of the enactment of this Act, in taxable years ending after such date.

Mr. MATSUNAGA. Mr. President, I rise to offer a narrow, noncontroversial and revenue neutral amendment to encourage the growth and continued development of physicians' and surgeons' mutual protection associations. These associations are comprised of doctors who insure themselves in order to overcome the high costs and unavailability of medical malpractice insurance protection.

My amendment, which is cosponsored by a bipartisan group consisting of Senators INOUYE of Hawaii, CRANSTON and WILSON of California, and SYMMS of Idaho, would reorder the tax treatment of member contributions in accordance with a mechanism negotiated with the Department of the Treasury in 1984. This reordering would encourage expanded membership in these pooled insurance funds. Expanded membership would provide lower cost malpractice insurance to these professionals which would create the following advantages to all Americans during the present liability insurance crisis:

First, it would reduce the pressure to raise medical fees; second, it would encourage a greater number of physicians to establish and retain existing competitive private practices; third, it would allow physicians to purchase sufficient amounts of malpractice protection; and fourth, it would encourage physicians to monitor the quality

of medical care provided by members of their associations since they have a direct and personal stake in successful malpractice claims.

Mr. President, while recognizing the need for the system, many physicians have been reluctant to join the medical malpractice insurance pools because policyholders are required to make a substantial initial payment of capital, upon joining an association, in addition to paying the annual premium. This initial payment is required because the associations are self-insured and must, therefore, create a funding reserve sufficiently large to cover the actual risks of the associations' members.

Under current law, only premiums paid for physician malpractice insurance are deductible in the year they are paid or incurred. The premiums for commercial insurance tend to be substantially larger than premiums payable to the association, and the deductions of those premium payments to commercial insurers are larger. No deduction is allowed, however, for a contribution to the capital of the association. These capital contributions are arguably also taxable as income to the association in the year received or accrued.

To encourage membership in these associations and to provide tax treatment which is balanced and comparable to the treatment of commercial mutual insurers, a solution was negotiated with the Department of the Treasury and the predominant commercial malpractice insurers. This solution, which is embodied in the amendment, matches the recognition of income in the same year that a deduction is taken and is completely revenue neutral. Revenue neutrality is accomplished by limiting the deductions allowed the physicians on their initial capital contributions made to the association. Those deductions can be no greater than those available for premium payments to commercial insurers for comparable coverage—deductions which are already being taken.

In fact, the provisions of the amendment should actually increase revenues after the first several years, since subsequent deductions for the payment of assessments to the self-insurer will, on the average, be 40 percent less than comparable commercial insurance premiums.

By way of background, Mr. President, the amendment was passed by this body last year as part of the Deficit Reduction Act of 1984. It was, however, dropped in conference with the House for reasons unrelated to the merits of the proposal.

The amendment proposes the following changes in the Internal Revenue Code of 1954:

First, the gross income of such associations would not include any payment made by a member of a qualified capital contribution upon joining the association.

Second, a member would be permitted a deduction for his qualified capital contribution to the association as an expense incurred in a trade or business. That annual deduction would be allowed only to the extent of the amount which would be payable to an independent insurance company for similar coverage. That amount would be reduced further by any annual dues to the association or premiums paid during that taxable year. Any excess payments not allowed as a deduction in the year paid could be carried forward and deducted in any of the taxpayer's 5 succeeding taxable years.

Third, the exclusion from the association's gross income would not apply to the extent the member deducts his contribution to capital as a trade or business expense. That income would be taxable to the association.

Fourth, the amount of the capital contribution refunded to a member if he terminates membership in the association would be included in the member's gross income when received to the extent a prior deduction was obtained for the contribution.

Fifth, these rules would apply only to existing associations which provided medical malpractice liability protection prior to January 1984.

Sixth, the provision would apply to payments made to, and receipts of, mutual protection associations made after the date of enactment.

Mr. President, as a result of the escalation of jury awards in medical malpractice litigation, the cost of medical malpractice insurance coverage has skyrocketed. One sensible and constructive response to the crises caused by this cost escalation has been the adoption of special State insurance laws permitting the establishment of doctor-controlled mutual protection organizations to reduce risks and to lower the cost of malpractice protection. I encourage my colleagues, as they did in 1984, to take the lead in promoting this sensible reform by adopting this amendment.

Mr. President, this amendment has been discussed with the floor managers on both sides and with the joint committee and with Treasury. There are no objections to the amendment.

Mr. WILSON. Mr. President, I rise to commend and support my friend from Hawaii. The amendment he is offering will be of help not only to physicians in his State but to those in mine and elsewhere throughout the Nation where physicians are facing a real crisis in terms of their ability to find liability insurance. The inevitable consequence of that crisis, if left unaddressed, is a real problem for their patients and a problem for them in providing medical care at costs that are affordable.

What the Senator from Hawaii has offered here in terms of the possibility of self-insurance is, I think, very much the answer. I commend him and I see no reason not to afford this opportunity to physicians.

This amendment has been tightly crafted so it is not possible for it to become a shelter. I think the Senator is very much on the right track. I join him in urging its adoption.

I thank the Chair.

The PRESIDING OFFICER. Is there further debate?

Mr. FORD. Mr President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1930

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2121

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the pending Matsunaga amendment be temporarily laid aside in order that we might take up the Metzenbaum amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question recurs on the Metzenbaum amendment.

Mr. METZENBAUM. Mr. President, we have now been informed that the amendment that I offered has been cleared with the ranking minority member. I think it is cleared also with the manager of the bill. It is my understanding that the Senator from Rhode Island, who is the original proponent of the language in the measure, is prepared to speak to the subject, and I yield to him.

Mr. CHAFEE. Mr. President, the Senator from Ohio is correct, and I am prepared to accept the amendment proposed by the Senator from Ohio. I would ask passage now.

The PRESIDING OFFICER. Is there further debate? If there is no further debate. the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2121) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me urge my colleagues who may not be on the floor but within their offices that the managers of the bill are very pleased to do business. We are trying to avoid rollcalls for convenience of our Members. What we are doing now, we have the staff putting together the total list of amendments, and that ought to be ready momentarily, but in the meantime we hope that Members would come to the floor, particularly with those amendments that have been designated as "probably can be worked out" by the managers. So I would urge my colleagues to help us bring this to a close. I understand there is an amendment about to be offered and I thank my colleagues. In the meantime I suggest the absence of a quorum.

Mr. BUMPERS. Will the majority leader withhold for just a moment?

Mr. DOLE. Yes.

Mr. BUMPERS. Did I understand the majority leader to say he is trying to leave a window here for Members, not to take rollcalls for the next little bit?

Mr. DOLE. Yes.

Mr. BUMPERS. Is it the majority leader's intention to later in the evening possibly take two or three rollcall amendments?

Mr. DOLE. Maybe one.

Mr. BUMPERS. Does the majority leader have one in mind?

Mr. DOLE. No. Any one that comes up.

Mr. BUMPERS. I thank the leader.

AMENDMENT NO. 2122

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. I ask for a vote on the amendment pending, which I offered.

The PRESIDING OFFICER. Is there further debate on the pending amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2122) was agreed to.

Mr. MATSUNAGA. I move to reconsider the vote by which the amendment was agreed to.

I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1940

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2108

(Purpose: To provide that certain expenses of a private foundation in removing hazardous substances shall be treated as qualifying distributions for purposes of section 4942 of the Internal Revenue Code of 1954)

Mr. McCONNELL. Mr. President, I have an amendment at the desk on behalf of myself and my colleague from Kentucky [Mr. FORD]. It is amendment No. 2108, and I ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for himself and Mr. FORD, proposes an amendment numbered 2108.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title XVII insert the following new section:

SEC. . CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTIONS.

(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 1982, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1954 shall be reduced by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) LIMITATIONS.—Subsection (a) shall apply only to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facility by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) HAZARDOUS SUBSTANCE.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

Mr. McCONNELL. Mr. President, the amendment I am offering today is identical to the one I offered with Senator FORD last September to the Superfund reauthorization bill. It was adopted by unanimous consent on September 20, 1985. The amendment will encourage the voluntary cleanup of a hazardous waste site by the Louisville-based Brown Foundation, while also ensuring that the foundation can continue its generous charitable contributions over the longterm. I am offering the amendment again today given the delay in seeking a resolution of the differences between the House and Senate Superfund bills and recognizing the foundations' needs for certainty in its long-range planning for charitable disbursements.

The James Graham Brown Foundation is a tax-exempt, nonprofit corporation which has donated in excess of $68 million to charitable causes since 1954. In 1969, the founder bequeathed the foundation a wood preserving company which included three operating plants in Live Oak, FL; Brownsville, AL; and Louisville, KY. All of the assets of the plants were liquidated between 1969–80.

In 1983, the foundation was advised by EPA that prior operations at the Live Oak, FL; plant may have resulted in the discharge of hazardous substances, specifically the creosote used in preserving the wood. Following notification, the foundation entered into a voluntary consent order with EPA and the State of Florida to investigate the extent of the pollution and possible cleanup actions at the Live Oak plant. In addition, the foundation voluntarily began investigations of potential pollution at the two other sites located in Alabama and Kentucky. The studies are still underway and the foundation anticipates that it will pay its fair share of any necessary cleanup activities.

At this time actual cleanup costs at the three plants are not known; but, based on EPA's prior experience, I understand the costs could be in the range of $20 to $100 million. By comparison, the assets of the foundation are in the range of $135 to $150 million. While it is the intention of the foundation to fulfill its responsibilities for cleanup, its assets must be preserved so that it can continue its many other charitable activities.

The problem, Mr. President, arises from the fact that section 4942 of the Internal Revenue Code requires the foundation to annually disburse charitable payments which are qualifying distributions equivalent to at least 5 percent of the fair market value of its assets. For the past few years, this has resulted in a requirement of $6 to $8 million in disbursements each year. The combination of this requirement and the potentially substantial clean-

up costs could result in the foundation seriously depleting its corpus. This would not only threaten the foundation's ability to support worthy charitable activities in Kentucky and seven other States, but would also threaten the very existence of the foundation.

In order to prevent this dire possibility, our amendment provides that the cleanup expenditures sustained by the foundation will constitute charitable payments for the purposes of the qualifying distribution requirements of section 4942 of the IRC. Its voluntary cleanup expenditures are consistent with other charitable contributions because they provide for the general welfare, lessen the need for Government action and funding and provides for the maintenance of public works. Several points are relevant to this amendment:

It cannot be used by an entity to avoid Superfund obligations—it is narrowly drafted to the factual situation and unique problem confronted by this particular foundation which will not recur.

Unlike a for-profit corporation, the foundation cannot benefit from deducting cleanup costs as business expenses.

It results in no loss of tax revenues to the U.S. Government. In fact, it encourages the voluntary cleanup being taken by the foundation and thereby saves the Government substantial Superfund expenditures and related administrative and legal costs. Furthermore, the foundation's voluntary actions will result in cleanup activity being accomplished more quickly and effectively than could be done by the Government.

Without this amendment, Mr. President, the foundation could be forced to sell assets in order to cover its cleanup costs and, in addition, still meet the IRS charitable disbursement requirements. This untimely forced sale will result in failure to recover the true value of these assets and will substantially reduce the income which would be available for future charitable gifts. The foundation has been an exemplary citizen in its voluntary approach to fulfilling its responsibilities. Neither it nor the charities which benefit from its generous giving should be punished by an inconsistent application of our Federal laws, and I urge adoption of the amendment.

Mr. President, this is a narrowly-drafted amendment and encourages voluntary cleanup at no cost to the Government, with regard to a charitable foundation. The amendment has been cleared on both sides of the aisle, and it is my understanding that there is no objection.

Mr. FORD. Mr. President, I join my colleague in offering this amendment. This is an outstanding foundation, and adoption of the amendment would give them an opportunity to do what should be done, without cost to the Federal Government.

I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2108) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2123

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for himself and Mr. DIXON, Mr. SIMON, and Mr. MURKOWSKI, proposes an amendment numbered 2123.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1664, between lines 8 and 9, insert the following:

Subtitle H—Certain Diesel Fuel Taxes May Be Imposed on Sales to Retailers

SEC. 571. TAX ON SALES TO RETAILER.

(a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(n) TAX ON DIESEL FUEL FOR HIGHWAY VEHICLE USE MAY BE IMPOSED ON SALE TO RETAILER.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The tax imposed by subsection (a)(1)—

"(A) shall apply to the sale of diesel fuel to a qualified retailer (and such sale shall be treated as described in subsection (a)(1)(A)), and

"(B) shall not apply to the sale of diesel fuel by such retailer if tax was imposed on such fuel under subparagraph (A).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED RETAILER.—The term 'qualified retailer' means any retailer—

"(i) who elects (under such terms and conditions as may be prescribed by the Secretary) to have paragraph (1) apply to all sales of diesel fuel to such retailer, and

"(ii) who agrees to provide a written notice to each person who sells diesel fuel to such retailer that paragraph (1) applies to all sales of diesel fuel by such person to such retailer.

Such election and notice shall be effective for such period or periods as may be prescribed by the Secretary.

"(B) RETAILER.—The term 'retailer' means any person who sells diesel fuel for use as a fuel in a diesel-powered highway vehicle. Such term does not include any person who sells diesel fuel primarily for resale.

"(C) DIESEL FUEL.—

"(i) IN GENERAL.—The term 'diesel fuel' means any liquid on which tax would be imposed by subsection (a)(1) if sold to a person, and for a use, described in subsection (a)(1)(A).

"(ii) EXCEPTION.—A liquid shall not be treated as diesel fuel for purposes of this subsection if the retailer certifies in writing to the seller of such liquid that such liquid will not be sold for use as a fuel in a dieselpowered highway vehicle.

"(3) FAILURE TO NOTIFY SELLER.—

"(A) IN GENERAL.—If a qualified retailer fails to provide the notice described in paragraph (2)(A)(ii) to any seller of diesel fuel to such retailer—

"(i) paragraph (1) shall not apply to sales of diesel fuel by such seller to such retailer during the period for which such failure continues, and

"(ii) any diesel fuel sold by such seller to such retailer during such period shall be treated as sold by retailer (in a sale described in subsection (a)(1)(A)) on the date such fuel was sold to such retailer.

"(B) PENALTY.—For penalty for failing to notify seller, see section 6652(j).

"(4) EXEMPTIONS NOT TO APPLY.—

"(A) IN GENERAL.—No exemption from the tax imposed by subsection (a)(1) shall apply to a sale to which paragraph (1) or (3)(A) of this subsection applies.

"(B) CROSS REFERENCE.—

"For provisions allowing a credit or refund for certain sales and uses of fuel, see sections 6416 and 6427."

(b) PENALTY.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 501, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FAILURE TO GIVE WRITTEN NOTICE TO CERTAIN SELLERS OF DIESEL FUEL.—

"(1) IN GENERAL.—If any qualified retailer fails to provide the notice described in section 4041(n)(2)(A)(ii) to any seller of diesel fuel to such retailer, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by such retailer with respect to each sale of diesel fuel to such retailer by such seller to which section 4041(n)(1) applies an amount equal to 5 percent of the tax which would have been imposed by section 4041(a)(1) on such sale had section 4041(n)(1) applied to such sale.

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'qualified retailer' and 'diesel fuel' have the respective meanings given such terms by section 4041(n)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

At the appropriate place, add the following new section as follows:

"SECTION . SPECIAL ESOP REQUIREMENTS.—

"(a) IN GENERAL.—Subsection (a) of Section 401(a)(29) of the Internal Revenue Code of 1954 (relating to qualified pension, profit sharing and stock bonus plans) is amended by inserting at thereof the following new sentence: The requirements of subsection (e) of section 409 shall not apply to defined contribution plans established by an employer whose stock is not publicly traded and who publishes a newspaper."

(b) Section 409(1) of the Internal Revenue Code of 1954 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) NONVOTING COMMON STOCK MAY BE ACQUIRED IN CERTAIN CASES.—Nonvoting common stock of an employer whose stock is not publicly traded and who publicly shall be treated as employer securities if an employer has a class of nonvoting common stock outstanding and the specific shares that the plan acquires have been issued and outstanding for at least 24 months."

(c) EFFECTIVE DATES.—The amendment make by subsection (a) shall be effective December 31, 1986. The amendment made by subsection (b) shall apply to acquisitions of securities after December 31, 1986."

Mr. STEVENS. Mr. President, this is one of the amendments I have asked to reserve the right to offer. It is offered by me together with Senator DIXON, Senator SIMON, and Senator MURKOWSKI.

It deals with the subject of ESOP's and the passthrough of voting rights.

In 1981, by a vote of 94 to 3, we adopted the same type of amendment, generically, as an amendment to the Economic Recovery Act.

□ 1950

That provision was dropped in conference.

Since then there has been a lot more discussion of the passthrough requirement, and I think that its effects are widely known.

Without this amendment, what happens is that local businesses where the employers are really anxious to pass on to their employees ownership of a small entity are not able to maintain control of their company during their lifetime and the passthrough amendment is necessary in order to permit the employer to continue to have control and yet through the generosity of the ESOP concept establish the employees as the successors to the company.

That, Mr. President, prevents those local personally held type corporations from being bought up by chains, and I think it is a good thing to assure that these companies can be locally owned and wholly controlled and to encourage employers to use the ESOP mechanism to pass on to the employees the benefits of the overall ESOP Program.

I am not sure how many Members of the Senate are really aware of the total work that the Senator from Louisiana [Mr. LONG] has done in this area of ESOP's. But he has become a legend in his own time in my State because there are a considerable number of ESOP's that have been established in our State. One in particular is a small family-owned newspaper owned by a very good friend of mine. It is in Fairbanks. It is the Fairbanks Daily News Monitor.

The amendment that is before the Senate now is different from that which was offered in 1981 because it is my understanding that the Senator from Ohio has objected to the broad version of the prior amendment, and Senator from Illinois has urged me in the interest of time to deal with the problem that is a great problem, the newspaper problem.

This amendment applies to all newspapers similarly situated in the United States. It is not covering a newspaper in Illinois and one in Alaska. It deals with the ESOP questions and voting right passthrough for all newspapers provided they are not held by corporations that are publicly traded.

I think under these circumstances, and I am talking about the circumstances of this bill before the Senate, not the circumstances economically, but the circumstances that we face, it is probably better to get the amendment adopted and cover the area that we know that is a real difficult area in the ESOP application passthrough voting rights and deal with the overall question again later.

It would be my intent to do so. I hope that there is no misunderstanding about that.

I do think that we ought to quote from Senator LONG's comments following the passage of my amendment in 1978. He said again when it was passed in 1981. I quote from his statement at that time. He said:

Last year as part of the Revenue Act of 1978 Congress provided for the passthrough to plan participants the voting rights in certain situations, closely held employer's stock held in profit-sharing plans, stock bonus plans, money purchase plans, and employee stock ownership plans (ESOPs).

This is a very ill-advised decision. We held no hearings on this question and did not give the business community any opportunity to advise Congress on how they perceived the issue. In fact, only the Treasury Department actually demanded the passthrough of these voting rights. This winter I, and most other Members of Congress, received letters from other constituents that all opposed this position to the Revenue Act of 1978. I would estimate that perhaps as many as 300 letters and telegrams have reached me recently.

Since that time, we have tried to change that provision and that is what this amendment would do. It would amend the amendment of the Revenue Act of 1978 and alleviate the problems created by that passthrough amendment.

I am hopeful that the Senate will adopt it. I want to explain the first part of the amendment. Due to the problem of dealing with the revenue raising provisions staff has advised me we now are told that the loss of this amendment is less than $5 million. There is a provision in the House bill that is not in the Senate bill. It provides the collection of diesel fuel excise tax. It raises $5 million during the fiscal years 1986 to 1991, and we have included that provision which is in the House bill as the revenue offsetting mechanism for the amendment that the Senator from Illinois and the Senator from Alaska have offered.

I ask unanimous consent that there be printed in the RECORD at this point the comments from the House bill explaining the $5 million that was raised by the diesel fuel excise tax which is the beginning portion of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RAISES $5 MILLION DURING FISCAL YEARS 1986–1991

I. COLLECTION OF DIESEL FUEL EXCISE TAX (SEC. 1351 OF THE BILL AND SECS. 4041 AND 6652 OF THE CODE

Present law

An excise tax of 15 cents per gallon is imposed on the sale of diesel fuel for use in a diesel-powered highway vehicle (sec. 4041(a)(1)). The tax is imposed and collected at the retail level, and is scheduled to expire after September 30, 1988. Revenues from this tax are deposited in the Highway Trust Fund.

The excise tax (9 cents per gallon) on gasoline for highway vehicle use is imposed and collected at the manufacturer's level (sec. 4081).

Reasons for change

Since there are many more retail outlets for diesel fuel sales than diesel fuel wholesalers, the committee concluded that allowing the tax to be imposed and collected by the wholesaler (or manufacturer for direct sales) upon the sale to the retailer will reduce the tax administrative burden on the numerous retail diesel fuel outlets and reduce the tax collection and enforcement costs to the Internal Revenue Service. Consequently, fewer taxpayers will be involved in filing excise tax returns.

Explanation of provision

The bill provides that the excise tax on diesel fuel for highway vehicles may be imposed on the sale to the retailer by the wholesaler (jobber) or by the manufacturer where the sale is direct to the retailer.

This applies to the sale of diesel fuel to a "qualified retailer," defined as any retailer who (1) elects to have this provision apply with respect to all sales of diesel fuel to such retailer and (2) agrees to provide a written notice to whoever sells diesel fuel to such retailer that such an election has been made concerning application of the diesel fuel tax.

If a retailer required to notify the seller of diesel fuel fails to do so, the retailer is then liable for payment of the tax for the period for which the failure continues. Failure to provide the required written notice to the diesel fuel seller, unless shown to be due to reasonable cause and not to willful neglect, will result also in a penalty. This penalty is to be paid by the retailer with respect to each sale of diesel fuel to the retailer and is equal to 5 percent of the excise tax amount involved.

Effective date

The provision applies to sales of diesel fuel (for use in highway vehicles) after the first calendar quarter beginning more than 60 days after the date of enactment.

Revenue effect

This provision will increase net fiscal budget receipts by $5 million in 1986, and by negligible amounts each year thereafter.

Mr. STEVENS. Again, I thank my good friend from Illinois for working

with me on this matter, and I thank our good friend from Louisiana for all the work that he has done over the years to make this concept one that is a viable one and one that means so much to the people in the small areas such as many of the small communities of my State.

Mr. DIXON. Mr. President, I express my personal appreciation to my warm friend, the senior Senator from Alaska, for his cooperation over a period of several years in our attempt to accomplish the purposes that are being accomplished by this amendment tonight.

I express my profound appreciation to the father of the ESOP concept, the distinguished senior Senator from Louisiana, Senator LONG, for his help over the years on this and his continuing advice.

I thank the Senator from Ohio, Senator METZENBAUM, and the manager of the bill, and the majority leader for their cooperation in helping us to craft an amendment on a narrow basis that takes care of closely held newspapers owned by families who want to pass along stock to their employees without giving up control of their newspapers.

This is, as my distinguished friend from Alaska suggested, revenue neutral by virtue of the adoption of a revenue provision concerning the collection of petroleum taxes that is in the House bill agreed to by the industry. There is no controversy at all about it. There is a $5-million gain to the general revenue fund by virtue of the passage of this amendment.

I do express, Mr. President, to everyone concerned on behalf of the newspaper in my State beneficially affected, my profound appreciation for their cooperation.

Mr. President, this amendment is based on legislation that my distinguished colleagues, Senators STEVENS and LONG, and I introduced last year—S. 628. It is designed to help remove obstacles to the formation of employee stock ownership plans by certain closely held corporations.

The obstacle was created by the Revenue Act of 1978. It required passthrough voting on major corporate issues by any defined contribution plan—whether an ESOP or a profit sharing plan—which acquired employer stock after 1979. The requirement affects only closely held companies; publicly traded companies must pass through the vote on all issues.

The provision was adopted without hearings, based on a Treasury Department recommendation. No one, including business, labor, or the ESOP community, had an opportunity to comment or recommend changes to the provision.

The 1978 law resulted in severe problems for many small closely-held, family-owned businesses that want to share ownership with their employees. The voting stock and voting rights passthrough requirements can, in cases where there is high employee turnover, cause such a broad dispersal of stock among former employees that a small or family-owned business may become publicly owned against the will of those who formed it.

The voting rights requirement may cause additional special problems for closely held companies, as the example of a small publishing company in my home State of Illinois will illustrate. This company has outstanding voting and nonvoting stock. Its corporate treasury contains shares of nonvoting stock which would be available for the formation of an ESOP but for the voting rights and voting passthrough requirements of current law.

However, this company is unable to issue any new voting stock, either for ESOP formation or for any other purposes, because of an agreement made at the insistence of some of its creditors. Thus, the company is effectively prevented from forming a tax-qualified ESOP because current law conflicts with the company's need to satisfy its lenders' requirements.

Closely held companies such as this one can be made subject to restrictions against the issuance of new voting stock. Such stipulations are frequently made by lenders to small business who want to ensure that control of the corporation will remain in the hands of those who control it at the time the agreement to extend credit is made. Alternatively, the corporation may wish to obtain additional financing through the issuance of voting stock to limited numbers of new stockholders. These new stockholders, in order to be assured that their share of control in the company will not be diluted, may condition their purchase of stock on an agreement that the company issue no new voting stock thereafter.

In either situation, Mr. President, the company, in order to obtain needed financing through debt or issuing new stock, must respond to the demands of lenders or prospective shareholders. Obviously, in such cases the corporation is effectively prevented from forming tax-qualified ESOP's by the need for an infusion of capital. In a period of high interest rates, such a situation imposes especially severe burdens on closely held businesses.

In essence, the voting passthrough and voting stock requirements applicable to ESOP's under current law prevent many small business owners from offering their employees a share in the growth of their companies. Not surprisingly, business groups indicate a sharp decline of interest in ESOP's among closely held companies since those requirements were imposed in 1978. The express intent of Congress to avoid unduly burdensome requirements for closely held companies has, in practice, been frustrated.

In 1981, the Senate attempted at least a partial remedy of this situation. By a vote of 94 to 3, we adopted an amendment offered by Senator STEVENS which would have repealed the voting passthrough requirement for closely held companies. Unfortunately, this amendment was dropped in the conference with the House of Representatives.

Mr. President, this amendment makes no changes in ESOP requirements as they apply to publicly traded companies and its application to closely held companies is more limited than I would prefer. However, it does provide a test of this important change.

In its current forms it repeals the current voting passthrough requirement as it applies to a limited class of closely held companies and permits the use of nonvoting stock.

There is nothing intrinsically wrong with stock that lacks voting power, so long as that fact is reflected in the valuation of the stock. Moreover, as I stated earlier, there are many cases in which such nonvoting stock is the only stock available for acquisition by the ESOP.

Further, the main Treasury rationale was that the voting requirement would have a positive impact on employee productivity. A 1981 survey of 228 ESOP companies by the Journal of Corporation Law at the University of Iowa, however, concluded just the opposite. It found that "the survey results do not reveal a relationship between voting rights and improved productivity; therefore, the new voting rights requirements may, unjustifiably, compel changes in existing ESOP's and serve as a deterrent for companies that are considering the adoptions of an ESOP."

The amendment is designed to prevent manipulation and abuse by requiring that nonvoting stock must have been issued and outstanding at least 24 months before the ESOP will be able to own it. This requirement, coupled with the extensive requirements relating to fair valuation in the Internal Revenue Code and ERISA, should provide more than adequate protection for all employees of these few eligible companies.

Mr. President, I believe this is a reasonable measure. I urge my colleagues to support this modest but important amendment.

Mr. President, the ESOP changes Senator STEVENS and I have proposed are financed by a modest change in the diesel fuel tax collection, currently the collection of diesel fuel excise tax occurs at the retail level. I propose to allow the imposition of the diesel fuel excise tax on the wholesaler level.

This limited amendment is voluntary for retailers. The retailer is the

one who will decide whether or not to apply this provision to all sales of diesel fuel. He will not be forced to switch from his present form of tax collection.

The retailers are presently carrying the burden of tax collection. Because there are a much larger number of diesel retail outlets than wholesalers, the administrative process is complicated.

By incorporating this provision, administrative complexity will be decreased. Not only will fewer taxpayers be involved in filing tax returns, but the tax collection and enforcement costs to the IRS will be reduced.

Furthermore, adopting this provision will result in a $5 million increase in the net fiscal year budget in 1986. Increases will continue each consecutive year.

This amendment was drafted by the IRS for inclusion in the House bill. The service believed the issue could be handled by regulation, but has never done so. It is time for the Senate to move in and adopt this amendment that would permit the tax to be imposed and collected by the wholesaler.

This is a reasonable amendment. It is in the House bill. It is supported by petroleum marketers and wholesalers and was not opposed in the House by the IRS. I urge its adoption.

I thank the Chair and yield back the remainder of my time.

Mr. BRADLEY. Mr. President, the record of the senior Senator from Louisiana, Senator LONG, is filled with many distinguished accomplishments. None has possibly touched the lives and welfare of working Americans more than his leadership in fostering industrial democracy. In championing employee stock option programs, commonly known as ESOP's, Senator LONG has provided a unique opportunity for workers and their employers to join cooperatively to conserve jobs.

Traditionally, a company faced with insolvency would have no choice but to declare bankruptcy or curtail its operations, throwing its employees out of work, out of medical coverage, out of pension plan coverage. Senator LONG recognized many years ago the turmoil that this industrial strife was causing for workers and their families. He found a number of situations in which workers were willing—and anxious—to participate in saving their companies and their jobs.

Out of this came an idea that workers should be encouraged to become owners and managers of their workplace, rather than merely employees. This philosophy not only meets the economic needs of troubled companies, but it provides the mechanism for achieving a more efficient workplace and more constructive and democratic labor-management relationship. Giving workers a stake in the success of their companies provides a unique opportunity for working people to cope with industrial change and competitive disadvantages. In a period of rapid industrial change and intense international competition, such as we are experiencing today, ESOP's offer a practical solution for many troubled companies.

Senator LONG is to be congratulated for his steadfast leadership in fostering participatory democracy in the industrial workplace.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2123) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2124

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER] proposes an amendment numbered 2124.

Mr. SASSER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title V insert the following new section:

SEC. . APPLICATION OF THE REGULATORY FLEXIBILITY ACT TC THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 7805 of the Internal Revenue Code of 1954 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(e) RULE MAKING.—The provisions of secton 553 of title 5, United States Code (without regard to the exception for interpretative rules) shall apply to all rules and regulations prescribed by the Secretary under this section or any other provision of this title."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any rule or regulation prescribed after the date of the enactment of this Act.

Mr. SASSER. Mr. President, the amendment I offer today is rather simple. My amendment seeks to lessen the regulatory burden placed on small business by the Internal Revenue Service. Those interested in lessening the regulatory burden on small business will be attracted to this amendment. Those of my colleagues interested in making our tax system simpler for small business will be interested in this amendment.

The amendment that I am offering achieves these goals by extending coverage of the Regulatory Flexibility Act to regulations issued by the Internal Revenue Service. As my colleagues will recall, this important act was passed 5 years ago. The fundamental goal of the Regulatory Flexibility Act is to ensure that Federal regulation is imposed on small businesses only to the degree necessary to meet the real goals of the legislation under which the regulations are promulgated.

I think we all know that regulations issued by the IRS have an enormous impact on small business. Indeed, I would wager that of all Federal agencies, the IRS has the greatest impact on the day-to-day operations of a small business. Unfortunately, the IRS has avoided compliance with the Regulatory Flexibility Act by arguing that IRS regulations are generally interpretive, and as such exempt from the act's coverage.

Well, I think the unfortunate results of the IRS's policy on this act are easily seen. My colleagues will recall the regulatory nightmare surrounding the automobile recordkeeping rules; the fire storm of protest and indignation that this occasioned in the small business community all across the length and breadth of this Nation. When issuing rules to implement this statutory mandate, the IRS did not determine what impact these rules and regulations would have on small business, the resulting chaos and consternation among small business owners could have been predicted. Had the IRS used the tools of the Regulatory Flexibility Act, we may have avoided that particular case of excess government regulation.

This is but one example of excessive regulatory burdens placed on small business which might have been avoided. Other cases include rules determining which business establishments were subject to new tip income reporting and withholding; rules relating to the eligibility and amounts for the targeted jobs tax credit; regulations relating to pension plans and profit-sharing. The list goes on and on.

And make no mistake about it, in the wake of this massive tax reform bill, we are likely to see a virtual avalanche of regulations flowing from the Internal Revenue Service impacting on small business.

So clearly, it is time to end the often arbitrary distinction between interpretive and legislative and to bring some regulatory relief to small business.

Before going any further, let me answer the question that I suspect some of my colleagues might be asking themselves; What is the cost of this amendment? Well, I am pleased to announce that this amendment is revenue neutral. It does not affect revenues at all. It deals solely with the administrative practices of the Internal Revenue Service.

In fact, Mr. President, those of our colleagues who have steadfastly clung to the worthy tax reform principles, embodied in the Finance Committee's proposal, should be attracted to this amendment.

Extending the Regulatory Flexibility Act to the Internal Revenue Service has been a top priority for small business for many years. They view this act as a means of simplifying their taxes. Now if that is not the very essense of true tax reform, then I do not know what is. A simplified tax system is what many in our small business community are looking for in this tax reform bill.

The chief counsel for the Small Business Administration's Office of Advocacy, Mr. Frank Swain, has repeatedly called for an extension of the Regulatory Flexibility Act's provisions to the Internal Revenue Service.

Several of the small business organizations have worked for years to extend the Regulatory Flexibility Act to the IRS. As far back as 1982, for example, the National Federation of Independent Business appeared before the Senate Judiciary Committee urging IRS compliance with the Regulatory Flexibility Act. The National Federation of Independent Business has been joined by the National Small Business Association, Small Business United, the Small Business Legislative Council, and other groups in this effort. These groups are working hard in support of my amendment. And I submit their message is crystal clear. By requiring the Internal Revenue Service to comply with the Regulatory Flexibility Act, the Senate will ensure that the promise of tax reform will be kept for the millions of small business owners who have supported tax reform.

I would also point out, Mr. President, that this proposal has a lengthy legislative history. The proposal has been discussed before the Senate Finance, Judiciary, and Small Business committees and the House Ways and Means and Small Business Committee. In this session of Congress, legislation introduced by the ranking member of the Small Business Committee, Senator BUMPERS and by my good friend from Montana, Senator BAUCUS as well as my own legislation contain this proposal. Moreover, several of the State White House Conferences on Small Business have called for extending the Regulatory Flexibility Act to the IRS. I anticipate this will be a major topic of discussion at the White House Conference later this year.

Some of my colleagues will protest that this amendment would simply put too great a burden on the Internal Revenue Service. Well, I do not buy that argument at all. Other Federal agencies with heavy regulatory workloads are finding that compliance with this act is relatively painless, and they also find that it brings great goodwill among the small business community for their agencies.

The Environmental Protection Agency, for example, has made enormous strides in complying with this act. In the words of Mr. Frank Swain, the Environmental Protection Agency is "A lead agency in the implementation of the Regulatory Flexibility Act."

Now I would submit that if an agency such as the Environmental Protection Agency, with its complex rules and regulations, can comply with this act, I do not see why we should have any special or particular or peculiar concerns about the Internal Revenue Service. Quite frankly, the Office of Advocacy at the Small Business Administration stands ready, willing and able to work with the IRS in ensuring the orderly formulation of rules under this act.

So, Mr. President, I return to my initial point. This is a very simple amendment. It seeks to lessen the regulatory burden imposed on small business by the Internal Revenue Service. It is just that simple. And many small businesses across America believe that is what tax reform is all about. Quite frankly, I agree with them. The promise of tax reform is a promise of a simpler tax system. My amendment is an important step in fulfilling that promise for our small business community. So I urge my colleagues here this evening to join me in keeping the promise of a simpler tax system for America's small businesses.

(Mr. ABDNOR assumed the Chair.)

Mr. PRYOR. Mr. President, I strongly support the amendment of the Senator from Tennessee, [Mr. SASSER]. This amendment extends the provisions of the Regulatory Flexibility Act to regulations issued by the Internal Revenue Service [IRS]

Mr. President, we all know the reason for the Regulatory Flexibility Act—to ensure that Federal agencies take the needs of small businesses into account in issuing regulations. These small employers very often face lengthy and confusing regulations. They don't have the time or the manpower to interpret and adhere to these often complex rules. Therefore, under this act agencies must consider factors involving small businesses.

The problem, however, is that this act does not apply to regulations of the Internal Revenue Service. Having this act on the books, but exempting regulations of the IRS makes little sense as far as the small business community is concerned. These tax regulations are often very confusing and I've heard from many small businesses that have found themselves in violation of some rules simply because they didn't know of their existence, or the regulation was confusing.

I commend the efforts of the Senator from Tennessee and I urge the Senate to adopt this amendment. Extending this act to Treasury regulations will be very helpful to the thousands of small businesses in Arkansas and around the country.

● Mr. WEICKER. Mr. President, as chairman of the Senate Small Business Committee, I am pleased to rise in support of the amendment offered by the Senator from Tennessee. This amendment will rectify an unfortunate situation, under which the Internal Revenue Service continues to ignore the provisions of the Regulatory Flexibility Act of 1980. The congressional intent however, called for the IRS, along with every other Federal agency prior to promulgating regulations, to consider the regulatory impact of such regulations on small businesses.

Mr. President, the Regulatory Flexibility Act was intended to force departments and agencies to analyze the impact of proposed regulatory activities on small businesses, and when possible, to tailor alternative regulatory and paperwork requirements to fit the resources of small firms. While it is often the business of government to regulate companies, to the extent possible, it should be fully aware of the impact its regulations will have on those it supervises.

By its very terms, however, the act only applies to regulations on which public comment is required by the Administrative Procedure Act. Unfortunately, under the A.P.A. interpretative rules do not require notice and comment procedures, and the IRS takes the position therefore, that it falls outside the context of the act when it issues such interpretative letters, which are a mainstay of the agency. The IRS has concluded that it need not comply with the provisions of the Regulatory Flexibility Act.

Well, nothing could be further from the intent of Congress. No Federal agency has as large a regulatory impact on small business as the Internal Revenue Service. Every time the IRS issues a new regulation or a new interpretative letter, small businesses across the country are affected. And yet, if the IRS promulgates its change in procedure in the form of an interpretative letter, it can ignore the mandate of the Regulatory Flexibility Act and proceed without regard to the impact on small businesses, and without first attempting to devise simpler, or less burdensome provisions. The IRS, which can readily disrupt the planning and operation of a small business with the shortest interpretative letter, should be complying with the Regulatory Flexibility Act. That was the intent of Congress back in 1980, and it's a shame that we have to

revisit the act today to make that point crystal clear.

And so, I urge the Senate to support this amendment in order that the IRS, the agency that most affects the small business community by its various pronouncements must fully comply with the letter and spirit of the Regulatory Flexibility Act.●

● Mr. BUMPERS. Mr. President, I rise this evening to speak in support of the amendment offered by my friend from Tennessee which would apply the provisions of the Regulatory Flexibility Act of 1980 to the Internal Revenue Service. I commend Senator SASSER for offering this important piece of legislation, which would represent a significant savings, in both time and money, to small business entities nationwide. It is time the IRS is held accountable for the burdens it imposes on small business.

The Regulatory Flexibility Act [RFA] was adopted in 1980 as an amendment to the Administrative Procedures Act, and requires all Federal agencies to analyze the impact their rules and regulations will have on small business, small organizations and small governments. The purpose of the act was to ensure that regulators do not unfairly burden small entities disproportionately by imposing the same regulations—which often have onerous paperwork requirements—in the same way on all entities, large and small, without regard to size. Congress in 1980 recognized that such unnecessary and overly burdensome regulations often adversely affected competition in the marketplace and created entry barriers in many industries which discouraged small business innovation and restricted improvements in productivity.

Although the Regulatory Flexibility Act was intended to apply to all agencies which publish a general notice of proposed rulemaking pursuant to the Administrative Procedures Act, some agencies have concluded that they do not fall under the purview of the act. One such agency is the Internal Revenue Service.

The unpleasant truth, Mr. President, is that the IRS believes it is above the Regulatory Flexibility Act. Because the IRS considers the majority of its rules to be of an interpretative nature, it has determined that the regulatory flexibility requirements applicable to legislative rules should not apply to its regulations. As a result, nearly all tax regulations escape scrutiny under RFA standards, creating an extreme hardship for many small concerns. For example, last year I heard from thousands of small business in Arkansas which foresaw a terrible burden would be placed on them if the new automobile record-keeping requirements were applied uniformly to all businesses. Had the IRS gone through the procedures required by the Regulatory Flexibility Act, it would likely have seen the impractical nonsense of the auto log regulation, and this proposal might never have seen the light of day.

It is obvious to me that new IRS regulations are likely to have a disproportionate effect on small businesses and should be subject to the notice and reporting requirements of the RFA if the intent of that act is to be upheld. I believe it is time Congress acted to close this loophole in the RFA to obligate the IRS to consider alternate means of achieving its regulatory objectives, which will reduce the disparities in economic impact between large and small entities. This bill has been offered several times in the past and has always met with approval in the Senate. Unhappily, it has been bitterly opposed by the Treasury Department. I hope my colleagues will again vote for this bill so vital to small business.●

Mr. SASSER. Mr. President, does the distinguished Senator from New Jersey want to speak on this amendment?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, let me say I have some concern about the amendment offered by the Senator from Tennessee. The amendment requires the Internal Revenue Service to perform a number of time-consuming analyses. My concern is that now the Internal Revenue Service is so backlogged that it cannot get interpretive rulings to small businesses now. Many of them are operating in the dark. I think this amendment would simply increase that backlog, increase demands on the Internal Revenue Service which is already overburdened. I think the result would be counterproductive. I do not think it would lighten the burden for small business people. To the contrary, I think the result would be they would be much more in the dark.

Honest people disagree. I must also tell the Senator the view that I have expressed is clearly the view of the Internal Revenue Service. They do not want to have additional burdens imposed upon them.

I rise simply to make that statement so that the RECORD will reflect that there is another opinion about how this amendment will affect small business people.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise enthusiastically in support of this amendment. I do so because I think we need to send a signal to the Internal Revenue Service that a regulation is a regulation. There is an old story from down on the farm that you may have heard. If it walks like a duck and if it talks like a duck, it is a duck. But in the case of the Internal Revenue Service, if it walks like a duck, and if it quacks like a duck, the Internal Revenue Service sometimes says that it is not a duck.

An extension of legislation passed by this body, we would call a regulation. For most every department of the administrative branch of Government what should look like a regulation, read like a regulation, and regulate like a regulation is a regulation, except when it comes to the Internal Revenue Service.

So, this legislation will rectify that, and make the Regulatory Flexibility Act applicable to the Internal Revenue Service as it ought to be so that they cannot hide behind some sort of twisted rationale as they are now able to do.

There should be no bureaucracy in the Federal Government that is immune from the basic protection for American citizens. And to some extent, to a considerable extent, Mr. President, the Internal Revenue Service falls into that category, that they are a sacred cow, that somehow they can operate and are answerable only unto themselves.

This amendment will help change this. The Senator from Tennessee is extending a greater deal of protection to American taxpayers, and he is doing it by simply having this agency operate within the same bounds as most other agencies in the administrative branch of Government. I compliment him for this move that is going to bring this protection to the American people.

● Mr. GRASSLEY. Mr. President, I am happy to support the amendment by Senator SASSER that would fully apply the Regulatory Flexibility Act to the regulations of the Internal Revenue Service.

My Judiciary Subcommittee on Administrative Practice and Procedure has jurisdiction over the Administrative Procedure Act, which we amended with the "Reg Flex" Act in 1980. We in the Congress recognized that the most dynamic sector of our economy—small business—was too often crippled by senseless Federal regulation and paperwork.

The Reg Flex Act ensures that Federal agencies analyze the economic effects of their proposed regulations—especially as they impact on small business.

The Reg Flex Act has worked well over the past 6 years for our Nation's small businesses and entrepreneures. At one agency, however, the congressional goal of more enlightened and less burdensome rules has not been realized.

You see, the Internal Revenue Service, unlike all other Federal agencies, does not follow the analysis require-

ments of the Reg Flex Act. The IRS is exempt, because they characterize most tax regulations as "interpretive," and thus not covered by the APA or by the Reg Flex Act.

As our recent experience with the so-called "auto log" rules show, the agency and the public would benefit from a serious analysis of the proposed IRS rule, and alternatives to it.

The IRS could have avoided a lot of problems for itself—not to mention American small businesses—had it first done a regulatory analysis of the "auto log" rule.

I support this amendment, because it puts aside arbitrary distinctions between "interpretive" and "legislative" rules and uses the Reg Flex Act as it was intended. This will make for better, more thought-out regulations—ones worthy of the public's support.

Again, I commend the sponsors of the amendment.●

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah——

The PRESIDING OFFICER. I am sorry. There is an amendment pending.

Mr. HATCH. I believe we can accept the amendment shortly.

Mr. SASSER. May I say to my friend from Utah that I am all for moving the adoption of our amendment and accept it also.

Mr. HATCH. I did not realize the parliamentary situation. This will take about a minute. I will be happy to withdraw it. Let me withdraw it.

Mr. SASSER. Will the Senator withhold for about 2 minutes?

Mr. HATCH. I will be glad to and then we will get this taken care of.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would like to respond to the Senator from Tennessee and the Senator from Iowa.

I understand that small businesses are impacted by Government regulations. Government regulations are written to interpret the laws that we write. The clearer we write the laws, the less need there is for detail and, as the Senator points out, sometimes contradictory regulations.

The fact of the matter is that this is your typical predictable IRS-fashioned amendment. The fact of the matter is the IRS is now overloaded. They only audit 1 percent of all the returns in this country. They have had a budget cut.

We ask them to put out public interpretations to advise all segments of the population. And we cut their budget.

Mr. President, I would simply say that I think the result of imposing these additional analyses on the Internal Revenue Service will not be any lightened burden for small business but will be more delay and more delay and more delay before they get the kind of interpretive rulings that they need in order to function.

Mr. President, I think this is an unfortunate amendment. But I understand it is widely supported. I simply would like to offer my objection to this amendment, and hope that it is lost somewhere between here and conference.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I first express my appreciation to my distinguished friend from Iowa for his kind and gracious remarks. I must say that I appreciate very much his support of this amendment. I think it reflects the traditional concerns of the Senator from Iowa for small business in general and for small business in the State of Iowa in particular.

I will respond just briefly to my able friend from New Jersey. If the Internal Revenue Service is too busy to issue appropriate interpretative rules to the small business communities across the country, if it is too busy to effectuate the provisions of this act as all other agencies have, then the Internal Revenue Service I would submit is simply too busy. Perhaps we ought to address the problem of additional staff, or additional funding, or address some means by which the IRS can fulfill its obligations under the statutes of the United States.

Mr. President, this amendment has been approved by the distinguished chairman of the Senate Finance Committee, and also the able ranking member from Louisiana. And I might include the fact that our distinguished friend from Ohio has also looked on this amendment with favor.

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Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LONG. Mr. President, may I ask the distinguished Senator if he is likely to have any problems in his committee, if the members of his committee would accept the amendment?

Mr. HATCH. No; I do not think there will be any problems with the amendment.

Mr. LONG. All right.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Tennessee? If not, the question is on agreeing to the amendment.

The amendment (No. 2124) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2131

(Purpose: To make parallel amendments to the Employee Retirement Income Security Act of 1974)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. KENNEDY, and Mr. METZENBAUM, proposes an amendment numbered 2131.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2032, line 14, insert "or section 204(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1354(g))" after "1954".

On page 2073, between lines 17 and 18, insert the following new subsection:

(d) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

"(2) A plan satisfies the requirements of this paragraph if it satisfies the requirements of subparagraph (A), (B), or (C).

"(A) A plan satisfies the requirements of this subparagraph if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(C) A plan satisfies the requirements of this subparagraph if—

"(i) the plan is a multiemployer plan (within the meaning of section 414(f) of the Internal Revenue Code of 1954), and

"(ii) under the plan an employee who has completed at least 10 years of service has a nonforfeitable right to 100 percent of the

employee's accrued benefit derived from employer contributions.".

(2) REPEAL OF CLASS YEAR VESTING.—Subsection (c) of section 203 of such Act is amended by striking out paragraph (3).

(3) CONFORMING AMENDMENTS.—

(A) MINIMUM VESTING STANDARDS.—Section 203(c)(1)(B) of such Act is amended by striking out "5 years" and inserting in lieu thereof "3 years".

(B) BENEFIT ACCRUAL REQUIREMENTS.—Subsection (i) of section 204 of such Act (29 U.S.C. 1054(i)) is amended to read as follows:

"(i) CROSS REFERENCE.—

"For special rules relating to plan provisions adopted to preclude discrimination, see section 203(c)(2).".

On page 2073, line 18, strike out "(d)" and insert in lieu thereof "(e)".

On page 2141, between lines 9 and 10, insert the following new subsection:

(c) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is amended to read as follows: "(2)(A) For purposes of paragraph (1), the present value shall be calculated—

"(i) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(ii) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under clause (i)).

"(B) For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 205(g) of such Act (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3)(A) For purposes of paragraphs (1) and (2), the present value shall be calculated—

"(i) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(ii) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under clause (i)).

"(B) For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

On page 2141, line 10, strike out "(c)" and insert in lieu thereof "(d)".

Mr. HATCH. Mr. President, the amendment that Senators KENNEDY, METZENBAUM, and I are offering today is a housekeeping measure.

It would ensure that the changes which we are making in Federal pension policy through amendments to the Tax Code are reflected in the Employee Retirement Income Security Act of 1974 [ERISA].

My colleagues who are not pension law experts may not realize that ERISA and the Tax Code contain several provisions which are the same, and the two statutes must be read together for an accurate statement of the law. Because of this relationship, one statute cannot be amended without consideration being given to the impact such changes may have on the other.

To preserve this symmetry, the amendment we are offering today simply conforms ERISA, where necessary, to the changes H.R. 3838 makes to the Tax Code provisions governing pension plans. The amendment is technical in nature and, as I understand, is without opposition.

As the chairman and ranking member of the Committee on Labor and Human Resources, we feel it is important that ERISA be conformed to the retirement policy changes being made in H.R. 3838 to ensure that plan sponsors and plan participants are not confused with regard to their rights and obligations under the law. I hope my colleagues will join me in supporting this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2131) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESOP'S AS A TECHNIQUE OF CORPORATE FINANCE

Mr. LONG. Mr. President, the Senate acted twice today with regard to employees stock ownership plans.

I would like to include in the RECORD, not necessarily with reference to either of those two amendments, but just for the edification of the Senate and those who would like to know more about the employees stock ownership plans, a statement entitled ESOPs as a Technique of Corporate Finance.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ESOP PROVISIONS OF THE TAX REFORM ACT OF 1986

Mr. LONG. Mr. President, H.R. 3838, the Tax Reform Act of 1986, contains several amendments that provide incentives for broadening capital ownership through employee stock ownership plans. The employee benefit plans, more commonly known as ESOPs, are intended to be utilized as a corporate financing technique to enable employees to gain a capital interest in their employer through the plan's purchase of employer stock.

The ESOP provisions in H.R. 3838 are a clear signal of continued congressional approval of the use of ESOPs. Indeed, more than approval, we mean to encourage American businessmen to use ESOPs in many ways, including leveraged buyouts. The act provides, for example, an extension of the current tax deduction for ESOP dividends to situations in which those dividends are used to repay ESOP loans.

The purpose of these amendments is to encourage the growth of ESOPs in order to broaden capital ownership and particularly to create a stock ownership interest for employees, whose dedication and motivation is so crucial to increasing the productivity of our economic system. The use of ESOPs as a technique of corporate finance furthers these goals.

To date we have witnessed a steady growth in the number of companies adopting ESOPs, a trend due in part to the congressional intent reflected in incentives provided for utilizing ESOPs as a technique of finance. Since the passage of the Regional Rail Reorganization Act of 1973, the Congress has repeatedly expressed its interest in encouraging ESOPs as an ownership-broadening method for companies to finance their capital requirements and transfers in ownership.

Other laws expressing that congressional intent include the Employee Retirement Income Security Act of 1974, the Trade Act of 1975, the Tax Reduction Act of 1975, the Tax Reform Act of 1976, the Revenue Act of 1978, the Regional Rail Reorganization Act Amendments of 1978, the Small Business Development Act of 1980, the Chrysler Loan Guarantee Act of 1980, the Northeast Rail Service Act of 1981, the Economic Recovery Tax Act of 1981, the Trade Adjustment Assistance Act Amendments of 1983 and the Deficit Reduction Act of 1984.

Because of this unique purpose that ESOPs serve, special provisions were included in the Employee Retirement Income Security Act of 1974 [ERISA] to distinguish ESOPs from other employee benefit plans. We are beginning to see the results of those legislative efforts today in expanding capital ownership and in increasing productivity. Accordingly, an aim of the legislation before us is to continue the congressional tradition of vigorously promoting growth in the number and uses of ESOPs.

As to leveraged buyouts, the Nation has witnessed a dramatic increase in the role of such transactions as a method of transferring ownership of income-producing capital assets. For example, mergers and acquisitions totaled $35 billion in 1980, skyrocketing to $175 billion by 1985. Since a primary objective of ESOPs is to advance broader capital ownership and employee stock ownership in particular, these transactions provide a tremendous opportunity for ESOPs to make significant progress toward achieving their primary goal. Accordingly, one goal of the provisions of H.R. 3838 is to provide an incentive for American businessmen to use ESOPs in structuring leveraged buyout transactions so that employees in the affected companies will become the beneficiaries of those transactions.

These transactions utilize enormous amounts of capital financing tax benefits (for example, deductions for depreciation, interest, etc.). Some would argue that regardless of who owns the enormous amounts of income-producing capital transferred in such transactions and regardless of who benefits from the ownership of the capital financed with those tax benefits, lever-

aged buyouts are per se desirable, efficient and good for the economy. That may or not be the case and certainly reasonable people can disagree on that point.

Yet I cannot help but believe that those transactions would be far more desirable, result in far more efficiency and do much more good for the economy if they were structured in such a way that the employees in those companies were allowed to become substantial beneficiaries of those transactions. The only corporate financing technique able to accomplish that goal is the employee stock ownership plan, and it is my hope that the ESOP amendments in this legislation will provide additional encouragement for such transactions to be structured to include ESOPs.

On that point, I would like to take this opportunity to address a point of view that is at odds with the historical congressional support for the broad use of ESOPs in corporate finance and with the purpose of the ESOP amendments in H.R. 3838, the Tax Reform Act of 1986. Specifically, I am referring to the point of view that the fiduciary provisions of ERISA may be incompatible with the use of ESOPs in leveraged buyout transactions.

I disagree with those who hold that view. The fiduciary provisions of ERISA must be interpreted in such a way as to accommodate the unique purposes of ESOPs as stated in ERISA. ESOPs were intended by the Congress as a technique of finance to acquire the stock of an employer and to hold that stock in trust for employees of the employer.

This purpose, which is distinct from the primary purpose of many other employee benefit plans of providing retirement benefits, was clearly stated not only in ERISA but in various subsequent legislation enacted by the Congress. The ERISA fiduciary rules are sufficiently flexible to accommodate the distinctive financing purpose of this special employee benefit plan. The fiduciary rules should not be intepreted to thwart the congressional policy—which in this legislation is restated as the national policy—of encouraging the use of ESOPs as an ownership-broadening technique of corporate finance.

Administrative action limiting this policy would conflict with the congressional direction provided in section 803(H) of the Tax Reform Act of 1976 which clearly indicates that ESOPs objectives should not be made unattainable by regulatory actions that, "* * * treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of employee trusts and employers to take the necessary steps to implement the plans, and which otherwise block the establishment and success of the plans." The intent of Congress provision in this legislation restates and updates this congressional direction to once again indicate that national policy favors the use of ESOPs as a technique of finance.

It is clear that effective use of ESOPs in leveraged buyout transactions depends on ESOPs having the flexibility to compete with other techniques of corporate finance. In short, ESOPs cannot be unduly burdened with regulations that artificially restrict the free market forces at play in buyout transactions and that tie the hands of company management and ESOPs so that ESOPs cannot effectively compete in the market place in which leveraged buyout transactions occur.

Mr. President, in light of: (1) the special provisions in ERISA that recognize the difference between ESOPs and traditional retirement plans; (2) the special laws that Congress has passed encouraging the use of ESOPs as a technique of corporate finance; and (3) the clear legislative mandate in, among other places, section 803(H) of the Tax Reform Act of 1976 and this legislation, it is clear that no special provisions need be added to ERISA to ensure that neither the executive branch nor the courts defeat the purpose of these or prior ESOPs amendments by interpreting and applying the fiduciary provisions of ERISA in a way that would make it difficult for ESOPs to participate in leveraged buyout deals.

Far from being incompatible, the provisions of ERISA are carefully drafted so that they do not inhibit the use of ESOPs financing in corporate transactions, including leveraged buyouts. These leveraged buyout transactions present a great opportunity for employees to share in capital ownership. ESOPs provide employees with the financial capability to effectively and successfully acquire large holdings of employer stock.

Of course, ESOPs trustees must act prudently in the transactions they undertake on behalf of ESOPs beneficiaries. As long as it can be demonstrated that the terms of an ESOPs transaction are at least as favorable to the ESOPs as an arm's length transaction between independent parties, an independent fiduciary is not required.

As long as the fiduciaries are careful in reviewing the transaction to ensure that it is fair to the ESOPs, including an economically realistic review of differences in consideration given by the ESOPs for its stock versus the consideration given by other investors, there is nothing in ERISA that prohibits ESOPs participation in leveraged buyout transactions provided the ESOPs pays no more than fair market value for the stock it acquires.

Congressional intent is clear that the primary purpose of ESOPs is to acquire stock of the employer and not to provide retirement benefits. Leveraged buyout transactions provide ESOPs with an opportunity to do that in such a way that the ESOP can gain a major stake in the employer.

ERISA expressly authorizes the acquisition and holding of employer stock by ESOPs, and any agency interpretation of ESOPs trustee fiduciary duties that would thwart these purposes would be inconsistent with the clear intent of ERISA. In short, no legislative modification of or exemption from ERISA's fiduciary provisions is needed to ensure that the goals of both present ESOPs law and pending ESOPs amendments in H.R. 3838 can be fully achieved.

Indeed, this question of ESOPs and ERISA enforcement is not new. This question was raised, as I mentioned earlier, in 1976 when Congress was deliberating on the Tax Reform Act of 1976. At that time, Congress, announced that executive and judicial branch actions would be inconsistent with Congressional intent if, as stated in the Conference Committee Report on the Tax Reform Act of 1976 (H.R. Rep. No. 1515), they make "it virtually impossible for ESOPs, and especially leveraged ESOPs, to be established and function effectively." Similarly, in 1980, the Senate Finance Committee published a Committee Print entitled "Employee Stock Ownership Plans—An Employer Handbook". In that handbook, the Committee documented the Congressional position on ESOPs and ERISA enforcement. That report contains a careful analysis of the law and explains how Congress intended ERISA fiduciary provisions to be applied to ESOP transactions. Congressional intent on this issue is quite clear.

Certain excerpts from this Finance Committee Handbook are as follows:

(Staff of Senate Finance Committee, 96th Cong. 2d Sess., Employee Stock Ownership Plans—An Employer Handbook (Comm. Print 1980)).

Like all qualified plans, an ESOP is subject to the fiduciary responsibility provisions of ERISA and the "exclusive benefit of employees" requirement under the Code.

Specifically, the ESOPs must satisfy the requirements of ERISA section 404(a)(1), which imposes upon fiduciaries the standard of discharging their duties under the plan ". . . solely in the interest of the participants . . . and for the exclusive purpose of providing benefits to participants . . ." In addition, the "prudent man" standard of ERISA section 404(a)(1)(B) is applicable to ESOPs fiduciaries, and the ESOPs loan and stock purchase exemptions from the prohibited transaction provisions of ERISA section 406 must be met when the ESOPs acquires employer stock.

In applying these fiduciary standards to an ESOP, it is important to understand the purposes of an ESOP as an employee benefit plan and the basis on which it is recognized for tax-qualified status. In the Revenue Act of 1921, stock bonus plans (the basic element of an ESOPs) were first granted (along with profit sharing plans) tax-exempt status. It was not until the Revenue Act of 1926 that such status was extended to pension plans. The purpose for which stock bonus plans were granted tax-exemption was to encourage corporations to provide stock ownership interests to their employees. Providing retirement benefits for employees has always been a secondary purpose for the establishment of a stock bonus plan. In Revenue Ruling 69-65, the Internal Revenue Service stated that the purpose of a stock bonus plan is ". . . to give the employee-participants an interest in the ownership and growth of the employer's business . . ." The existing regulations under Code section 401(a), in defining the three categories of qualified plans, specify retirement benefits as a feature of pension plans, but not as a feature of profit sharing plans and stock bonus plan (except that benefits may be deferred until retirement). There appears to be no requirement under the Code section 401(a) that a stock bonus plan be a "retirement plan."

It may be argued that ERISA, in stating the objective of protecting retirement security of employees, has not imposed the standard of providing retirement benefits as the objective of all qualified employee benefit plans. However, there are specific references under ERISA to a different standard being applicable to different types of plans.

The definition of "pension plan" in section 3(a) of ERISA recognizes that a "pension plan" is one which "provides retirement income to employees or results in a deferral of income by employees for periods extending to the termination of covered employment or beyond." Section 402(b)(1) of ERISA requires ". . . a procedure for establishing and carrying out a funding policy and method consistent with the objectives of the plan . . ." (not the objective of retirement security). Section 404(a)(1)(B) of ERISA sets out the prudent man standard as one applicable to ". . . the conduct of an enterprise of a like character and with like aims." The legislative history of ERISA recognizes ". . . the special nature and purpose of employee benefit plans . . ." and ". . . the

special purpose . . ." of certain individual account plans which are designed to invest in employer securities. In addition, the definitions under ERISA Section 407(d)(6) and Code section 4975(d)(7) specify that an ESOP is ". . . designed to invest primarily in qualifying employer securities . . ." The recognition of an ESOP as an employee benefit plan which may borrow to acquire employer stock further demonstrates Congressional intent an ESOP is an employee benefit plan which may borrow to acquire employer stock further demonstrates Congressional intent that an ESOP is not primarily a retirement plan, but rather has as its primary objective the providing of stock ownership interests for employees.

This recognition by Congress of the special purposes of an ESOP does not exempt the ESOP from the general fiduciary standard of ERISA, but rather requires that the interpretation of these standards must be based upon the ESOP objective of providing stock ownership for employees. Retirement benefits may be provided to employees through their stock ownership acquired under an ESOP, but the fiduciaries are primarily directed to provide stock ownership (rather than retirement benefits) for employees in a manner consistent with the fiduciary duties under Title I of ERISA.

Accordingly, it would appear that a prudent ESOP fiduciary, subject to fiduciary duties under ERISA section 404(a)(1), is one which prudently acquires and holds, and in some cases distributes, employer stock for the benefit of participants (and their beneficiaries), prudently using debt financing where appropriate, in a manner consistent with the plan documents and the provisions of title I of ERISA. In order to avoid having ESOPs acquisitions of employer stock be prohibited transactions under ERISA Section 406 and Code 4975, the special exemptions under ERISA Section 408 must also be complied with by the ESOP fiduciaries.

ESOP purchases of employer stock must comply with the "exclusive benefit of employees" requirement under Code section 401(a), as well as the "exclusive purpose" and the "solely in the interest of the participants" requirements of ERISA section 404(a)(1)(A). In Revenue Ruling 69-494, the Internal Revenue Service outlined various investment requisites under the exclusive benefit rule which should be satisfied when a qualified employees' trust invests funds in employer securities. That ruling recognized that the exclusive benefit requirement with respect to investments does not prevent others from also deriving some benefit from a transaction with the trust, as a seller would make employer stock available to the trust only if there was a benefit to him by selling. Accordingly, before ERISA, the Internal Revenue Service established the following "safe harbor" investment test which must be met for a purchase of employer stock to comply with the exclusive benefit requirements:

(1) The cost must not exceed fair market value at the time of purchase;

(2) A fair return commensurate with the prevailing rate must be provided;

(3) Sufficient liquidity must be maintained to permit distributions in accordance with the terms of the plan; and

(4) The safeguards and diversity that a prudent investor would adhere to must be present.

With respect to an ESOP, it appears that only the "fair market value" and "prudent investor" requirements are applicable. Revenue Ruling 69-65 specifically exempts stock bonus plans (and presumably any ESOP) from the requirement for a fair return on employer stock. The ESOP is likewise exempt from the diversification of investments requirement under ERISA Section 404(a)(2), as an "eligible individual account plan" to the extent of investments in employer securities.

Therefore, an ESOP's acquisition of employer stock from the employer corporation, or from an existing shareholder, would satisfy the exclusive benefit requirement of ERISA and Code section 401(a), so long as the investment is one that is prudent for an ESOP fiduciary and the purchase price does not exceed fair market value. Section 408(e) of ERISA, which provides for an exemption from the prohibited transaction rules for the acquisition of employer stock from a party in interest, appears to require a purchase price equivalent to the fair market value of the stock.

Without the special exemptions provided in ERISA section 408 and Code section 4975(d), ESOP financing transactions might be prohibited transactions under ERISA section 406(a) and Code section 4975(c). Congress, however, recognizing the special purposes and objectives of an ESOP, as both an employee benefit plan and a technique of corporate finance, included exemptions for certain transactions from the general prohibited transactions rules.

Section 406(a)(1)(A) of ERISA and Section 4975(c)(1)(A) of the Internal Revenue Code include as a prohibited transaction a ". . . sale or exchange . . . of any property between a plan and a party in interest (or a disqualified person). . . ." Without an exemption, an ESOP (or any other eligible individual account plan) would be prohibited from acquiring employer stock from the employer corporation or from any shareholder who is a party in interest. . . . However, ERISA section 408(e) and Code section 4975(d)(3) provide exemptions that permit the acquisition of employer stock by an ESOP from a party in interest (or a disqualified person) so long as the purchase price constitutes "adequate consideration" and no commission is charged with respect to the transaction.

"Adequate consideration" is defined in ERISA section 3(18) in a manner which generally restates the requirement for "fair market value" set forth in Revenue Ruling 69-494. Where there is a generally recognized market for employer stock, adequate consideration is the price prevailing on a national securities exchange (if applicable), or the offering price established by current bid and asked prices quoted by independent parties. Where there is no generally recognized market for employer stock, adequate consideration is fair market value, as determined in good faith and in accordance with generally accepted methods of valuing closely-held stock and in accordance with regulations to be promulgated by the Secretary of Labor.

It is important to note that the Internal Revenue Service, in the self-dealing regulations for private foundations states that a good faith effort to determine fair market value is ordinarily shown where (a) the person making the valuation is not a disqualified person and is both competent to make the valuation and is not in a position to derive an economic benefit from the value utilized, and (b) the method utilized in the valuation is a generally accepted method for valuing for purposes of arm's length business transactions where valuation is a significant factor.

Therefore, the valuation of employer stock is the most significant aspect of ESOP transactions when there is no generally recognized market for employer stock and a valuation by an independent appraiser, experienced in valuing closely-held corporations, is essential for alleviating the potential liabilities for prohibited transaction excise taxes. Presumably, traditional IRS guidelines for valuation in estate tax matters, as set out in Revenue Ruling 59-60, will be the basis for Department of Labor regulations defining fair market value under ERISA.

Section 406(a)(1)(B) of ERISA and Code section 4975(c)(1)(B) include as a prohibited transaction any ". . . direct or indirect . . . lending of money or other extension of credit between a plan and a party in interest (or disqualified person) . . . ." Without an exemption, this provision would prohibit any debt financing for the acquisition of employer stock by an ESOP, where a party in interest extends credit through a direct loan, a loan guarantee or an installment sale.

However, ERISA section 408(b)(3) and Code section 4975(d)(3) provide an exemption from the prohibited transaction rules, available only to an ESOP and not to other eligible individual account plans, which permits an ESOP to borrow money involving an extension of credit from a party in interest to effect its acquisitions of employer stock. It is this exemption that distinguishes an ESOP from other plans which invest an employer stock and characterizes an ESOP as a technique of corporate finance.

The following conditions are imposed by ERISA for the ESOP loan exemption:

(a) The ESOP must satisfy the statutory definition of ERISA section 407(d)(6), Code section 4975(e)(7) and IRS regulations;

(b) The loan must be primarily for the benefit of participants;

(c) The interest rate must be reasonable; and

(d) Any collateral given by the ESOP to a party in interest must be limited to qualifying employer securities.

In addition, further guidelines have been established in regulations promulgated by the Internal Revenue Service (and the Department of Labor) through an interpretation of the term ". . . primarily for the benefit of participants. . . ." Certain of the additional conditions for the ESOP loan exemption are clear from legislative history relating to the ESOP financing concept (both before and after ERISA) and from the regulations issued by the Department of Labor. The following additional requirements are included in the regulations and must be satisfied in order to exempt an ESOP debt financing transaction from the general prohibited transaction rules.

(1) The loan (or other extension of credit) must be for the purpose of acquiring employer stock or repaying a prior exempt loan and must be based on equitable and prudent financing terms. The interest rate must not be so high that plan assets might be drained off, and the terms of the loan must be as favorable to the ESOP as the terms resulting from arm's length negotiations between independent parties.

(2) Any collateral pledged by the ESOP (whether or not pledged to a party in interest) must be limited to the shares of employer stock acquired with the proceeds of that loan or freed from prior encumbrance by the proceeds.

(3) In general, any shares of employer stock given as collateral by the ESOP must

be released from pledge on a pro-rata basis as loan principal is repaid.

(4) The liability of the ESOP for repayment of the loan must be limited to contributions received from the employer corporation (other than contributions of employer stock) and to earnings on trust assets, including dividends on employer stock.

(5) The lender must have no recourse to assets held in the ESOP other than employer stock remaining pledged as collateral.

If an ESOP debt financing transaction fails to satisfy the conditions for the exemption, a prohibited transaction may result under Code section 4975. In that event, the initial 5 percent per year excise tax would be imposed on any disqualified person extending credit to the ESOP, with the additional 100 percent tax being imposed if the transaction is not corrected. For purposes of the excise tax, the entire loan principle may be the amount involved, or the amount involved may be limited to that portion of the loan (or interest thereon) which causes the prohibited transaction to occur. Correction may require adjustment in the terms of the ESOP loan or, in some situations, rescission of the transaction. The regulations promulgated by the Internal Revenue Service and the Department of Labor deal with this issue on a more in-depth basis.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2132

(Purpose: Relating to the definition of real estate broker for reporting purposes.)

Mr. HUMPHREY. Mr. President, on behalf of Senators HEINZ, MATTINGLY, EAST, HECHT, NICKLES, LAXALT, HAWKINS, and LEAHY, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY], for himself, Mr. HEINZ, Mr. MATTINGLY, Mr. EAST, Mr. HECHT, Mr. NICKLES, Mr. LAXALT, Mrs. HAWKINS, and Mr. LEAHY, proposes an amendment numbered 2132.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. LONG. Mr. President, objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The assistant legislative clerk read as follows:

On page 1623, strike lines 18 through 23 and insert:

"(A) the title company,

"(B) the mortgage lender,

"(C) the settlement attorney or other person responsible for closing the transaction,

"(D) the seller's broker,

"(E) the buyer's broker, or

Mr. HUMPHREY. Mr. President, this amendment has been discussed with managers on both sides of the aisle and it has been cleared on both sides of the aisle.

Mr. President, essentially the amendment would relieve realtors of responsibility which the bill places on them to report the sales transactions involving real property. Both sides have agreed to accept the amendment. I do not think further debate is necessary.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2132) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2134

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 2134.

Mr. BRADLEY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1401, between lines 13 and 14, insert the following:

(e) EMPLOYEE NOTIFICATION.—The Secretary of the Treasury is directed to require, under regulations, employers to notify any employee who has not had any tax withheld from wages that such employee may be eligible for a refund because of the earned income credit.

Mr. BRADLEY. Mr. President, this amendment is very clear. It simply says the Internal Revenue Service should study ways to ensure that eligible taxpayers file a return claiming the earned income tax credit even where those employees are not subject to withholding.

I think it has been cleared on both sides.

Mr. PACKWOOD. Yes, Mr. President.

Mr. LONG. Yes, Mr. President.

Mr. PACKWOOD. Mr. President, I want to emphasize again that this is an amendment that, under normal circumstances, you could almost call technical, but because we want to make sure that a technical amendment is nothing but technical, we asked the Senator to take it out and offer it as an amendment. It is a perfectly fine amendment. I hope it passes.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2134) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT OFFICER. What is the will of the Senate?

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate at the outset if we can get this agreement, there will be no more votes tonight. If we cannot, then the managers want to plow ahead.

Am I correct?

Mr. PACKWOOD. You have got it.

Mr. DOLE. Mr. President, let me go through the entire agreement, which will take a minute or two.

□ 2040

Mr. President, let me repeat now, if we can obtain this agreement, there will be no more rollcall votes tonight. If we cannot, there probably will be, if that is an inducement.

Mr. President, let me go through the entire agreement and then answer if any body has questions. Let me also state before I start down this long list of amendments—and it is long—that in visiting with the chairman of the committee—I have not had a chance to visit with Senator LONG—I think about 80 percent of them are going to go very quickly, so I do not want to discourage anyone when you hear the list. I will propound the entire unanimous-consent request and then I will ask the Chair to rule on the request.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the following amendments be the only amendments in order to H.R. 3838 with the exception of the committee substitute.

I further ask unanimous consent that any rollcall votes ordered on Friday, after the fourth rollcall vote of the day, or Monday of next week, if H.R. 3838 is the pending business, be postponed to occur beginning at 10 a.m. on Tuesday, June 24, in the order in which the yeas and nays are ordered excluding the vote on the committee substitute or final passage.

I further ask unanimous consent that final passage occur on H.R. 3838 no later than 4 p.m. on Tuesday, June 24, and that paragraph 4 of rule XII be waived.

Now, these are the amendments: First, Senator PACKWOOD and Senator LONG, a technical amendment; Senator MELCHER relating to capital gains in agriculture with revenue offset from foreign deferral of income; Senator CHILES—did we do that?

Mr. MELCHER. Will the majority leader yield?

Mr. DOLE. I will be happy to yield to the distinguished Senator from Montana.

Mr. MELCHER. Revenue offset is the amendment we tried last night. I said at the time I would replace that with another. I cannot give the majority leader that citation right now. I hope that does not make any difference.

Mr. DOLE. Would it be capital gains?

Mr. MELCHER. It would be on capital gains.

Mr. DOLE. So it will relate to capital gains in agriculture.

Mr. MELCHER. That is correct. I thank the majority leader.

Mr. DOLE. Senator CHILES, sense of the Senate or other type relating to the budgetary effects of the tax bill; Senator LEAHY, satellite communications; Senator BUMPERS, strike amnesty provisions in the bill; Senator BAUCUS, second-degree amendments to Bumpers' amnesty amendment; Senator MOYNIHAN, relating to foreign area section 902/312; Senator PRYOR, modify installment sales; DECONCINI, installment sales; BOREN, installment sales; DECONCINI, Technology Transfer Corporation; MITCHELL, low-income housing; MATSUNAGE, exclude income from convention and trade show activities; FORD, capitalization of utilities interest expense; CRANSTON, computer software royalty income; CRANSTON, ordinary loss treatment for non pro rata stock surrenders; GORE, thermal steam transfer facility, Coffee County, TN; Senator QUAYLE, transition rule; Senator DURENBERGER, iron ore trust; Senators HEINZ and BOREN, modify depreciation preference for minimum tax; Senator MATTINGLY, ITC clarification; Senator JOHNSTON, transition rule for minority U.S. shareholders of a passive foreign investment company in existence on January 1, 1986, controlled by a foreign revocable trust; ZORINSKY and BOREN, Internorth; Senator BYRD, UMWA pensions; Senator BYRD, a flood control amendment. Is that et cetera?

Mr. BYRD. Yes. It will be flood related. It will certainly only pertain to West Virginia if I offer it at all.

Mr. DOLE. Right. But it is in that area.

Mr. BYRD. Yes.

Mr. DOLE. It is either flood control or et cetera.

Mr. BYRD. Yes.

Mr. DOLE. Senator KENNEDY, Columbia Point; Senator HEFLIN, IRS commissions; Senator HEFLIN, a technical amendment; Senator DOLE, allow business expense deduction for seriously handicapped employees; Senator MATTINGLY, 5-year moratorium on changes in tax law; Senator STEVENS, exempt Native Alaskans from tax on reindeer income; Senator STEVENS, 1984 act, technical correction dealing with Alaska Native Corporation's net operating losses; Senator STEVENS, amendments striking various provisions in the bill; Senator STEVENS, exempting Native corporations from book income in certain instances;

□ 2050

Senator DOMENICI—a potash amendment.

Senator DOMENICI and Senator GRAMM—no use of tax revenues for deficit reduction.

Senator ARMSTRONG—indexing capital gains.

Senator GARN—investment tax credit on copper.

Senator MATHIAS—Senator PACKWOOD will explain that before the request is made.

Senator ABDNOR—Mesabi Airlines.

Senator MCCONNELL—parimutuel betting.

Senator WILSON—one, child support; two, irrevocable trust elections; three, excise tax on pension reversion; four, deductibility of expenses of the performing arts; five, non-pro rata stock surrenders.

Senator ARMSTRONG—dealing with provisions of pages 1026 and 1027 of the committee report.

Senator ARMSTRONG—miscellaneous investment company changes.

Senator ROTH—methanol blender.

Senator MOYNIHAN—six amendments: one, definition of a finance company; two, hydroelectric projects; three, supplemental student loans; four, fiscal year partnership; five, capital gains, six, common paymaster rule.

Senator GRASSLEY—two technical amendments: No. 1, Ruan Trucking; No. 2, Teleconnect.

That is all I have on my list.

Senator LONG. Mr. President, if we are going to vote on these, I feel compelled to offer my amendment on burial insurance policies.

Will the Senator include that?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, reserving the right to object, Mr. MOYNIHAN has an additional amendment—hedging exemptions.

Mr. DOLE. I am advised that we also left out the Gorton amendment on research cooperatives.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. LONG. Mr. President, I send an amendment to the desk. I am not calling it up.

Mr. BYRD. My President, further reserving the right to object, Mr. LEVIN and Mr. DODD withdrew their amendments earlier today and asked for time to speak on final passage. In view of the fact that they withdrew their amendments and asked for time, instead, to speak on final passage—I think each asked for circa 15 minutes.

Mr. PACKWOOD. I am confused. They are not asking for time immediately prior to final passage, for each to have 15 minutes, are they?

Mr. BYRD. They wanted 15 minutes each to speak on final passage. I do not think they would want the last half hour, or some such. But perhaps we could put the time in for them, in view of the fact that they withdrew the amendments.

Mr. DOLE. Mr. President, I ask unanimous consent that there be 15 minutes for the distinguished Senator from Michigan [Mr. LEVIN] and 15 minutes for the distinguished Senator from Connecticut [Mr. DODD] sometime during the day on Monday or Tuesday.

Mr. BYRD. Monday or Tuesday—that would be fine.

The second-degree amendments listed for Mr. BAUCUS to the Bumpers amnesty amendment may not be technically germane to the Bumpers amnesty amendment in the first degree.

Mr. DOLE. They would relate to the Bumpers amendment. Is that right?

Mr. BYRD. Could we find out whether the amendments relate to the Bumpers amendment? Otherwise, there is really no clear identification of the amendments.

Mr. President, it is my understanding that the Baucus amendments would relate to the amnesty amendment offered by Mr. BUMPERS, although they may not be technically germane.

Mr. LONG. Mr. President, a lot of amendments are relative but not germane under the precedents of the Senate. I would think that if the Senator tells us it is relevant to it and has

to do with the subject, that would be adequate.

Mr. DOLE. Mr. President, the Baucus amendments, which are second-degree amendments, relate to the Bumpers amnesty amendment. I add that to the list.

Mr. BYRD. Mr. President, on the Mitchell low-income housing amendment, there would be 2 hours for debate. The distinguished Senator from Maine [Mr. MITCHELL] and others who are going to be supportive of the low-income housing amendment would want to debate the amendment on Monday, with the understanding that the vote would be put over until Tuesday. They would like to have up to 2 hours.

Mr. LONG. Does that mean 1 hour on each side?

Mr. BYRD. No.

Mr. LONG. It means 2 hours on that side?

Mr. BYRD. They expect to use about 2 hours, but they would not want to lock in a time agreement. They would want to do it on Monday, with the understanding that the vote, if ordered by rollcall, would go over until Tuesday.

Mr. LONG. I hope they will not insist on speaking 2 hours on that amendment, because at this stage of the game, that is a long time for an amendment.

Mr. DOLE. I might say as to that amendment that I have an interest in it.

As I understand it, the chairman and the ranking minority member are about to reach an agreement. One way to ruin an agreement is to talk 2 hours. they might have second thoughts.

Mr. LONG. This late in the game, if you have to have 2 hours to explain an amendment, there must be something the matter with it.

Mr. DOLE. In any event, we could provide that on Monday they would not take——

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. HECHT). The Senate will be in order.

Mr. DOLE. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. MATSUNAGA'S convention amendment would include a revenue offset relating to time of payment for private foundation excise tax. Someone might want to know about that.

□ 2100

Mr. DOLE. An amendment by Senator LAUTENBERG pertaining to insurance matters.

Mr. BYRD. Mr. President, I have no other comments to make with the exception of two.

One is that Senators will note that there are no time limitations on any one of the amendments identified. I hope we will have a good-faith understanding on all sides that Senators who call up their amendments understand that if they take very much time, they are going to be taking time possibly away from another Senator who may wish also to call up his amendment and have a little time to debate.

My proposal would be in the absence of a time limitation on any amendment either that we have a general time limit for debate with a minimum time on any amendment of say 30 minutes equally divided.

Mr. DOLE. Maximum.

Mr. BYRD. Or that we just go on good faith because Senators have stood on this floor today and indicated, most of them, the amount of time they would want on their amendments, and the time that they stated we all I think understood would be the maximum.

I feel that this agreement being what it is and it having taken so many hours of both leaders' time, both managers' time and all Senators' time, they have been very well kept up to date with respect to the identification of the amendments. They have had plenty of opportunities to offer their amendments, to identify their amendments, to state what their time limit would be. I would be willing in this instance taking a little gamble to just go on good faith that Senators will call up their amendments on both sides, if we can urge them to come to the floor, call up their amendments in time so there will not be a last-minute rush.

Would the distinguished majority leader and managers feel that we could operate on that basis in this instance?

Mr. DOLE. I would say I would leave it up to the managers. But it would seem to me that a number of these amendments that I am familiar with are not going to take much time at all. I would hope that no one will want 2 hours or 3 hours or whatever on an amendment. I would guess the managers could always, if they recognized that, shut off debate with a tabling motion. I think we can work it out.

Mr. PACKWOOD. I would also say anybody who simply does not come and call up his amendment and wants to jam it in 15 minutes before with no debate is less likely to get his amendment passed than they are if they come 3 or 4 hours early with some discussion.

Mr. BYRD. Very well. I think there is a pretty good understanding.

There is only one other proposal I would make to the distinguished majority leader, and that is that noting that the request provides for rollcall votes to begin at 10 a.m. on Tuesday and that there be final passage at 4 p.m. on Tuesday, taking into consideration that the usual Democratic and Republican conferences will require 2 hours consecutively, that means that there will only be 4 hours for rollcalls on Tuesday. I would be willing, if the distinguished majority leader would be willing, to not have those conferences on Tueday. I would feel much better about having the additional 2 hours for rollcall votes that may have been stacked rather than wait until 4 p.m. and then find we have to have six rollcall votes or seven or eight that may have been stacked.

Mr. PACKWOOD. I would suggest something further. There is no reason why we cannot move to 10-minute rollcalls if we have six or seven in a row or even 5-minute rollcalls if we are all here.

Mr. BYRD. Could we then get that into the request now that votes after a first rollcall vote, any votes subsequent immediately thereon to follow on in a stacked fashion would be limited to 10 minutes each?

Mr. DOLE. I make that request. I add that to our request.

I also indicate that on Tuesday, which is the policy luncheon time, I think we left it up to either side if they want to have the policy luncheon and run back and forth. I am not able to discuss that with the policy chairman, Senator ARMSTRONG, but it may be we will want to have ours and come in and out for votes.

I think the Senator is right. We need to use the time, so we will not be in recess from 12 to 2 on Tuesday.

Mr. BYRD. That will be fine.

I appreciate the distinguished majority leader's response. I think that solves it.

Mr. STEVENS. Mr. President, will the leader yield if he is through there?

Mr. BYRD. I have one other request and that is that Mr. HART have 5 minutes for debate at some point on Monday or on Tuesday on final passage.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. DOLE. Let me yield to the Senator from Maine and then the Senator from Alaska, and then the Senator from Montana.

Mr. MITCHELL. I want to offer this. In the interest of expediting final consideration I had asked 2 hours to be equally divided on my amendment. I would be prepared, in view of the large number of amendments, to be of assistance to reduce that to an hour equally divided, if no one else objects to that.

Mr. DOLE. The Senator indicated to the chairman he would do that on Monday.

Mr. MITCHELL. Yes, I am willing to do it Monday afternoon at a time that would be convenient.

Mr. PACKWOOD. That is perfect.

Mr. DOLE. We modify the 2-hour request to 1-hour equally divided on a

Mitchell-Cohen amendment on Monday.

Mr. BYRD. Mr. President, as far as I know on this side of the aisle we are ready now to agree.

Mr. DOLE. Let me yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the distinguished majority leader.

I had extra amendments that I have not listed yet about which I just want to ask the manager of the bill, the distinguished Senator from Oregon and chairman of the committee. Now, I have submitted to the committee over the last few months the request on the Endicott project that is located on the North Slope of Alaska and also a request to extend the provision of the 1984 act pertaining to interest during construction on the Alaska National Gas and Transmission System.

It is my understanding that in the technical provisions that those will be contained and they are deemed now technical and they will not require amendments. Is that correct?

Mr. PACKWOOD. I cannot answer the Senator's question right now. I will try to find out. I do not want to mislead the Senator by taking a guess.

Mr. STEVENS. I ask that two more amendments be added to the list to be qualified, one on the Endicott project, and one on the Alaska Natural Gas Transmission System.

May I make a similar request to the chairman. I requested a colloquy pertaining to construction of two major portions of a new project for the North Slope of Alaska, one being constructed in Oregon and one in Washington. If that colloquy is approved it is my understanding we would not need an amendment or a technical provision. Is the chairman familiar with that?

Mr. DOLE. Can we add those to the list?

Mr. PACKWOOD. I did not hear the Senator's question.

Mr. STEVENS. I was asking another. The Senator indicates the first two I mentioned are in all probability in the technical list. I do not want to pin him down. I want to reserve the right to offer an amendment if they are not. That is all.

Mr. PACKWOOD. I think the Senator better reserve his right. The technical list has to be agreed on by Senator LONG and myself. We are prepared to suggest they are technical. I do not want the Senator to lose his right to offer them

Mr. STEVENS. I state to the distinguished chairman I have not mendtioned the amendment on the project I have discussed with him, the two portions, one being built in Portland and the other in Seattle. The site preparation has not commenced as required by the report. If that colloquy is approved, I am informed I do not need an amendment. If it is not, I will need another amendment.

So I would inquire of my friend if he is familiar with that now. Could he tell me?

Mr. PACKWOOD. I am not familiar with it now. I think it better to reserve the amendment until we resolve it.

Mr. STEVENS. I ask then to reserve the other amendment dealing with the question of the lack of advance preparation on the sites north of the Arctic Circle for a project that has been underway a substantial period of time in preconstruction in Portland and Seattle.

□ 2110

Mr. DOLE. That would be one amendment.

Mr. STEVENS. That is the three that I am talking about in addition.

Mr. DOLE. Could you go over those three again so we could have those?

Mr. STEVENS. One is the Endicott project, one is the Alaska National Gas transitional provision, and the third is a colloquy pertaining to a project, I believe it is Arco's project, north of the Arctic Circle that is being prefabricated in Washington or Oregon.

Mr. DOLE. I would add those three, in addition.

Mr. STEVENS. I might say again, if they are in, I will not need the time to offer the amendments at all.

Mr. DOLE. In addition, Senator HEINZ indicates he has an Equimark amendment.

Mr. MATTINGLY. Mr. President, reserving the right to object, would the leader or the manager of the bill put in the unanimous consent agreement that bringing up the Mattingly sense-of-the-Senate resolution in reference to the 5-year moratorium, which is being held at the desk, be the first amendment on Tuesday?

Mr. DOLE. I think we can work that out without putting it in the request.

Mr. MELCHER. Will the majority leader yield?

Mr. DOLE. I am happy to yield to the Senator from Montana.

Mr. MELCHER. If I understood—it is a little complicated—but if I have understood the list of amendments, there are about 40 amendments; is that correct?

Mr. DOLE. Sixty-one.

Mr. MELCHER. Pardon me?

Mr. DOLE. I think we are back up to 61. They are coming in pretty fast here. The staff is still awake. That is the problem. I think it is 61.

Mr. MELCHER. Sixty-one.

And we are going to assume that about 30 of them may need rollcalls.

Mr. DOLE. Excuse me?

Mr. MELCHER. Are we to assume that about half of them would need rollcalls?

Mr. DOLE. I would doubt it. Again, I would leave it to the manager, but I would think many of them are not going to take 2 minutes, I would bet, if they take any time at all. I know of a dozen that are not going to be offered in that list. I have talked to Members who say they are not going to offer them. They want to keep them on the list for good luck. [Laughter.]

Mr. MELCHER. There would only be four rollcalls tomorrow, but we do not know when those rollcalls would occur, do we?

Mr. DOLE. We will try to do it early, I think a number of Members on both sides would like to leave here tomorrow at a reasonable time. We have had a tough week. If we can get this agreement, I would hope maybe no later than 2 or 3 o'clock tomorrow.

Mr. PACKWOOD. In terms of votes, you may be right. But, to the extent that we have amendments that are reasonably agreed to and people are willing to stay, I would just as soon knock out 10 or 15 if we can, if they do not require rollcalls, tomorrow.

Mr. MELCHER. Yes, 10 or 15 on tomorrow.

Mr. PACKWOOD. I would like to add, I think a number of these will be agreed upon. I hope we do not use up votes on the ones that are agreed upon, because we only have four votes and we might as well use those for something that is really controversial and get those out of the way.

Mr. MELCHER. Might I ask the majority leader, when does he plan on coming in tomorrow? I am trying to get an idea whether it is conceivable that, in 3 days, with the third day ending at 4 and the first day, hopefully, ending early, whether we can even handle all of those amendments. Some of us might not be able to bring amendments up.

Mr. DOLE. I am advised now that I have spoken incorrectly. There are 64 amendments. There were three that slipped in while we were talking. [Laughter.]

We have Friday, if we are in from say, 10 to 6, and Monday we are in from 10 until midnight, and Tuesday we start at 8 and go to 4, that would be 29 hours. That would average out to a half-hour per amendment.

But many of them are going to go in 5 minutes; many of them are just going to go with no time at all.

Mr. MELCHER. That would be 29 hours, but that would include the voting time, too.

Mr. DOLE. That does not count time for rollcalls. We have agreed, after the first rollcall, any other rollcalls would be 10 minutes in length on Tuesday.

Mr. MELCHER. Well, I am sorry I could not have offered my amendment today, but I was caught in a bind of trying to clear where the revenues would be and what the figures would be, and that takes a little time.

If I could ask the majority leader and the distinguished manager of the bill if it seems reasonable to be assured that there will be about 30 minutes sometime late Friday or Monday to offer an amendment.

Mr. DOLE. We will put it in the agreement that you have 30 minutes.

Mr. MELCHER. Then I have only one more request, and that is for 10 minutes for sometime on Tuesday for a discussion.

Mr. DOLE. Before or after final passage?

Mr. MELCHER. Before final passage.

Do I understand that is agreeable, I ask the majority leader?

Mr. DOLE. Yes.

Mr. MELCHER. I thank the majority leader.

Mr. DOLE. Mr. President, I am also advised that we have an additional Wilson amendment—that is about seven Wilson amendments—on unitary tax. I understand, if that is on the list, there will be a request from the distinguished minority leader that we add an unlimited number of Baucus amendments to the Wilson amendment dealing generally with the same subject.

Mr. BYRD. Mr. President, if I may respond, the answer is in the affirmative. And they would not necessarily be germane, which would mean that it would knock out the whole agreement, because we cannot say that a Senator can bring up an unlimited number of amendments and still say there is going to be a final vote at 4 o'clock on Tuesday. But that is what I have to say for the RECORD, and with the understanding that that would be part of the request, I say to the distinguished majority leader.

Mr. DOLE. I will make that a part of the request, that there be an unlimited number of Baucus amendments to the Wilson amendment dealing generally with the same subject, unlimited second-degree amendments.

□ 2120

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Are we in recess now or just having a social hour?

[Laughter.]

Mr. DOLE. It is very important.

The PRESIDING OFFICER. The Senate is in session.

Mr. LONG. It seems to me if we are not going to do business we ought to put a quorum call in.

Mr. MELCHER. Will the majority leader yield.

Mr. DOLE. I am happy to yield.

Mr. MELCHER. I want to clarify a couple of points. I think he and I understand what we are agreeing to but I do not believe the Parliamentarian did. I checked with him. My request was that my amendment would be assured, that is a guaranteed time 30 minutes, either Friday if we are ready, or Monday. Is that correct?

Mr. DOLE. That is correct.

Mr. MELCHER. Friday if it is ready, or Monday.

Mr. DOLE. That is my understanding.

Mr. MELCHER. Second, that I would have 15 minutes for a discussion of the bill itself prior to voting on Tuesday.

Mr. DOLE. Does the Senator mean not immediately prior to final passage?

Mr. MELCHER. Not immediately prior but that I would be assured on Tuesday that I would be recognized for 15 minutes. The Parliamentarian stated it in such a way that it was clear that I would be recognized.

Mr. DOLE. That is no problem. I think the 30 minutes which would be even prior to final passage ought to be left to the managers of the bill and the leaders.

Mr. MELCHER. Yes.

Would the majority leader yield further?

Mr. DOLE. I am happy to.

Mr. MELCHER. Is there an amendment that is called a unitary tax amendment to be offered?

Mr. PACKWOOD. Let me clear that up. I am trying to get a hearing on unitary tax, and trying to accommodate some Members. If they bring up the unitary tax, there is not going to be any hearing. I am going to do the best I can to defeat it, if unitary tax is brought up.

Mr. MELCHER. That puts myself and my colleague, Senator BAUCUS, in a bind. We have to discuss that unitary tax proposal in the time between now and 4 o'clock on Tuesday.

Mr. PACKWOOD. I would suggest the Senator reserve his rights on it. I am going to support an effort if it is brought up to table the unitary tax, and there will be no hearings on the unitary tax at all if it is brought up.

Mr. MELCHER. I think it would turn everything topsy-turvy here, and we would not have any amendment offered. We would be talking about the very boring subject of unitary tax.

I ask the Parliamentarian, reserving my right to object again, Mr. President, we do not have to reserve rights to discuss an unpalatable amendment, do we? I am asking. We would not have to reserve rights to discuss at length the very unpalatable amendment?

The PRESIDING OFFICER. No Senator is guaranteed a right to debate in the face of an order for a vote at a time certain.

Mr. BYRD. Would the Chair respond?

The PRESIDING OFFICER. No Senator is guaranteed the right to debate a matter in the face of an order for a vote at a time certain.

Mr. BYRD. Unless that is included in the request. The request has not yet been agreed to.

Mr. MELCHER. Would the majority leader yield?

Mr. DOLE. I am happy to.

Mr. MELCHER. Will the Democratic leader repeat that?

Mr. BYRD. I understand the Chair to say when there is an agreed time for final vote no Senator can be guaranteed a time for debate prior to that final vote if he waits until that hour.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Which is correct, and I am saying that the agreement has not been entered into yet. I believe the Senator can expect time to speak on this measure before the final vote. I think the request will protect him, and I will do everything I can. But the Senator's question right at this moment I think is being propounded in the context of a possible amendment by Senator WILSON dealing with the unitary tax. I think the Senator has indicated by the question, if that amendment is called up, the Senator and other Senators would want to talk I believe he said at 4 o'clock on Tuesday, which indicates to me that the agreement would not fly if that amendment is on the list.

But may I say this, that in the—if the Senator will yield—will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. There is a provision in this agreement that if the unitary tax amendment is called up, and if Senator BAUCUS—and we may include Senator MELCHER—calls up an unlimited number of amendments, not any one of which would necessarily be germane or relevant which in effect means that the agreement would be off insofar as the final vote is concerned. I believe the Senator is protected.

Mr. MELCHER. I would like to be included with Senator BAUCUS on that.

Mr. BYRD. There is one final cautionary note. I would say, that if that unitary tax amendment were to be adopted, then the recourse of the Senators would be a filibuster to try to prevent passage of the bill. I do not think that would be successful. I hope that by this conversation it is indicated that if the unitary tax amendment is going to be called up there will be strong support against that amendment on both sides of the aisle so that this agreement which has been laboriously worked out will be kept and will be effectively effectuated.

Mr. DOLE. I can assure the distinguished Senator that is the case. We are not going to get into that thicket. We are about to put something together. I will move to table it myself.

Mr. MELCHER. I thank the distinguished majority leader and the distinguished Democratic leader.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HEFLIN. Will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. HEFLIN. Just out of caution, I would like to reserve 5 minutes to speak on a bill in the event, and this is a precaution.

Mr. DOLE. The Senator has two amendments.

Mr. HEFLIN. I am talking about the end, two or three have gotten 15 minutes at the end.

Mr. DOLE. I would be happy to include for the Senator from Alabama 5 minutes, and for the Senator from New York 10 minutes.

Good news! The unitary tax is off. Also take off the unlimited number of second-degree Baucus amendments to the Wilson amendment dealing generally with the same subject. We will make it possible for the Senator from Montana to sleep better tonight.

Mr. MELCHER. I thank the leaders.

Mr. BYRD. We agree to that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. The whole thing is agreed to. There will be no more votes tonight.

The agreement is as follows:

Ordered, That during the consideration of H.R. 3838, an act to reform the internal revenue laws of the United States, the following amendments be the only amendments in order, with the exception of the committee amendment.

Packwood: Technical amendment;

Melcher: Relating to capital gains in agriculture 30 minutes to be offered on Friday or Monday;

Chiles: Sense of Senate or other type relating to the budgetary effects of the tax bill;

Leahy: Satellite Communication Corporation;

Bumpers: Strike amnesty provisions in bill;

Baucus: 2d degree amendments relating to Bumpers amnesty amendment;

Moynihan: Relating to foreign area section 902/312;

Pryor: Modify installment sales land:

DeConcini: Installment sales;

Boren: Installment sales;

DeConcini: Technology transfer corporation;

Mitchell: Low-income housing, 1 hour debate, equally divided, to be offered Monday, June 23;

Matsunaga: Exclude income from convention and trade show activities;

Ford: Capitalization of utilities interest expenses;

Cranston: Computer software royalty income;

Cranston: Ordinary loss treatment for non-pro-rata stock surrenders;

Gore: Thermal steam transfer facility in Coffee Co., Tenn.

Quayle: Transition rule;

Durenberger: Great Northern Iron Ore Trust;

Heinz/Boren: depreciation preference;

Johnston: Transition rule for minority U.S. shareholders of a passive foreign investment company in existence on Jan. 1, 1986 and controlled by a foreign revocable trust;

Zorinsky/Boren: Internorth;

Byrd: UMWA pensions;

Byrd: Flood related;

Kennedy: Columbia Point;

Heflin: IRS/Commissions.

Heflin: Technical in nature;

Dole: Allow business employees deduction for seriously handicapped employees;

Mattingly/Stevens: 5-year moratorium on changes in tax law;

Stevens: Exempt native Alaskans from tax on reindeer income;

Stevens: 1984 Act, technical correction dealing with Alaskan Native Corporation's net operating losses;

Stevens: Amendments striking various provisions in the bill;

Stevens: Exempt native corporations from book income tax;

Stevens: Endicott Project;

Stevens: Alaskan Natural Gas Transmission System;

Stevens: Arco project north of Arctic Circle;

Domenici: Pot ash;

Domenici/Gramm: No use of tax revenues for deficit reduction;

Armstrong: Indexing capital gains;

Garn: Investment tax credit on copper;

Mathias: (Packwood to describe);

Abdnor: MASABA airlines;

McConnell: Pari mutuel betting;

Wilson: Child support;

Wilson: Irrevocable trust elections;

Wilson: Excise tax on pension reversion;

Wilson: Deductibility of expenses of the performing arts;

Wilson: Non-pro-rata stock surrenders;

Armstrong: Dealing with provisions on Pages 1026 and 1027 of committee report;

Armstrong: Miscellaneous regulated investment companies changes;

Roth: Methanol Blender;

Moynihan: Definition of Finance Company;

Moynihan: Hydro-Electric projects;

Moynihan: Supplemental Student loans;

Moynihan: FY partnerships;

Moynihan: Capital gains;

Moynihan: Common paymaster rule;

Moynihan: Hedging exemption;

Gorton: Research Co-ops;

Lautenberg: Insurance interests;

Long: Funeral insurance policy;

Grassley: Ruan trucking;

Grassley: Teleconnectors;

Heinz: Eqimark.

Ordered further, That any rollcall votes ordered on Friday, after the 4th rollcall vote of the day, or Monday, June 23, if H.R. 3838 is the pending business, be postponed to occur beginning at 10:00 a.m. on Tuesday, June 24, in the order in which the "yeas" and "nays" are ordered, excluding the vote on the committee substitute or final passage.

Ordered further, That final passage occur on H.R. 3838 no later than 4:00 p.m. on Tuesday, June 24, 1986.

Ordered further, That Senator DODD and Senator LEVIN have 15 minutes each on Monday and Tuesday to speak on the bill; that Senator MELCHER be recognized on Tuesday, June 24, 1986, for 15 minutes to speak on the bill; that Senator HEFLIN have 5 minutes to speak on the bill; that Senator MOYNIHAN have 10 minutes to speak on the bill; and that Senator HART have 5 minutes to speak on the bill.

Ordered further, That the first vote ordered on a previous day will occur at 10:00 a.m. on Tuesday, June 24, 1986, be 15 minutes in duration, and all subsequent such votes be 10 minutes.

The PRESIDING OFFICER. The time requested is agreed to.

Mr. DOLE. There will be no more votes tonight but if there are Members who can have amendments that can be taken I think the distinguished chairman, Senator LONG, will stay here for another 15 minutes maybe. We will come in tomorrow at what time?

Mr. PACKWOOD. I am ready. There is no limit on how long we can stay tomorrow night so long as we have Members whose amendments we think we can take. We will come in any time tomorrow morning. We will go on as long as we can take care of Members.

Mr. DOLE. I think we are on the bill by 10.

I alert Members that we will probably be on the bill by 10 o'clock. There may be votes starting at 11:30 to 12 o'clock. We hope to finish voting by 2 o'clock or 2:30. Then we will continue to work on the bill throughout the afternoon.

VIRGIN ISLANDS INHABITANTS

Mr. DOLE. Mr. President, the Finance Committee bill closes a loophole under the so-called mirror tax system which arguably exempts U.S. corporation qualifying as an inhabitant of the Virgin Islands from tax in both the Virgin Islands and the United States. It is unclear whether this is possible, but at least one case, *Danbury* v. *United States*, indicates that it may work.

The changes in the mirror tax system included in the Finance Committee, however, are fairly complex, and apply retroactively to all open years and may potentially have unintended adverse effects on inhabitants of the Virgin Islands. While I certainly support closing any loophole that would allow avoidance of both United States and Virgin Islands tax, I am concerned that the retroactive changes in the mirror system may create hardships for some taxpayers who, for example, have substantial operations in the Virgin Islands, rather than for those who just route their investment portfolios through the Virgin Islands to obtain a tax shelter.

Therefore, I had intended to offer an amendment to make the Finance Committee's rule on this issue prospective, with no inference as to what present law provides. However, since the House bill has a similar provision but with a prospective effective date, I have concluded that we should save time now by leaving resolution of this issue to conference. I would add, however, that the revenue impact for this amendment would have been negligible, according to the staff of the Joint Committee on Taxation.

PROBLEMS IN THE TAX REFORM BILL

Mr. HEFLIN. Mr. President, the Senate will soon vote on historic legislation to overhaul our Nation's tax laws. There have been many favorable remarks made about this bill during the Senate debate and I have agreed with much that has been said. There is no doubt but that the bill will go far toward truly reforming our tax system making it fairer and simpler for most taxpayers. However, this bill contains numerous deficiencies which I want to call to the attention of my colleagues. Hopefully, many of these problems will be addressed by the conferees on the tax reform bill.

One of the most glaring problems I find in this bill, and one that has only been slightly addressed on the floor of the Senate, is the creation of a conflict of interest between Internal Revenue agents and the people they are to serve. The bill establishes the Tax Administration Trust Fund which provides, basically, that a portion of the Internal Revenue Service's annual budget and budget increase would be provided by this fund. Moneys in the fund would come from penalties and interest revenue agents impose and collect from the taxpayers.

Since, in many instances, tax penalties are imposed or waived within the discretion of the Internal Revenue Service personnel, taxpayers will conclude that penalties will not be waived or lessened, in order to build up the fund.

A recent issue of the Forbes magazine discusses this apparent conflict of interest and quotes a former IRS official as saying that a major war already exists between the IRS and the public as to the imposition of penalties and interest, and concludes that the situation could become much worse if the IRS has a direct stake in the outcome and is, in effect, working on a "commission basis." In my judgment this is simply an issue of fairness and I would hope the conferees on the tax bill would strike this onerous provision from the final bill.

Another problem in the tax reform bill is the imbalanced treatment of capital gains and losses. In prior years capital gains were given special tax treatment which reduced the maximum tax rate on such gains to 20 percent. The current bill eliminates this special treatment and taxes capital gains at ordinary income rate. However, the deduction for capital losses is still limited to $3,000 per year for individuals. The bill should treat capital losses as ordinary losses. This would allow the full amount of the loss to be deducted in the year incurred. Without this, the bill changes the tax from one on income to one on receipts. It taxes the receipt of earned income with only a limited deduction for losses. In practice, this change will restrict the investment in startup companies and other high risk ventures. Capital gains and losses should be treated equally if we wish to tax capital gains fully, then the losses should also be fully deductible.

Another problem I see in this bill is its requirement that all personal service corporations convert to a calendar tax year. This provision would create compliance logjams for taxpayers, their lawyers and accountants as well as the IRS. By forcing all corporations to change their tax year to the calendar year it would become impossible for the tax advisors for these corporations to adequately prepare the tax returns for these companies. The only revenue resulting from this provision would be derived from forcing taxpayers to file their tax returns earlier than presently required. This one-time acceleration is spread out over the 5-year budget period. There is little or no continuing savings because there is no real abuse as suggested by the committee report. Neither is there a proper rationale for distinguishing service corporations from other corporations in this ill-conceived provision. Furthermore, since these corporations are presently required to file estimated tax returns then there is little or no income tax deferred by these companies.

I am also concerned with the retroactive effect of this bill. Historically, most pieces of enacted tax reform legislation have been written meticulously to apply only to future transactions, even where problems or loopholes were being corrected. Transactions that have been entered into prior to well-announced effective dates have been protected from changes. The reasons are simple: basic concepts of finance and equity to people who have acted in good faith and reliance on existing tax provisions, to insure that business will be able to plan long-term decisions, nonretroactivity has always been one of the basic rules of the game. The Senate Finance Committee's bill violates this longstanding principle of fairness and equity.

Yet another problem involves nondeductibility of an employee's business expenses. When individuals incur expenses in the production of income, the expenses should be deductible before taxing the income. The current tax reform bill before the Senate attacks this principle. Reducing the deduction for meals and entertainment will hurt the outside salesperson who, unlike the owner of a corporation, will not be reimbursed by his employer. The floor of 1 percent of adjusted gross income further reduces the deductibility of "ordinary and necessary expenses" investment expenses, professional dues, small tools purchased by the construction worker, and professional magazines purchased by the college professor are all necessary expenses incurred in the production of income. These will not be deductible against income which was generated by these expenses. Accountant and attorney fees incurred in income-tax preparation will not be deductible. Will this encourage taxpayers to see professional help when needed? I think not. This will lead to greater noncompliance. If we must reduce individuals deductions, are we attacking the correct one? The income-producing deductions as opposed to the voluntarily deductions? No one can argue that there are no abuses in these areas, but this is not the way to achieve reductions of these abuses? I think not. The taxpayers we are hurting are the very ones who need help—middle income Americans.

Mr. President, although the members of the Finance Committee deserve our congratulations for their monumental effort at reforming our tax system I do believe the provisions I have discussed today are problems which must be changed. I urge the conferees to address these issues and take the steps necessary to correct them.

RETROACTIVE REAL ESTATE

Mr. KASTEN. Mr. President, I am deeply concerned about the provisions in this bill which have the effect of making parts of this law retroactive.

As one of the leading voices in the Senate against making retroactive changes in the Tax Code, I believe there are some provisions of this law which unfairly single out a few individuals to pay an especially heavy burden.

The only truly equitable way to change our law is to make it prospective. We should not penalize those who have made decisions in good faith that the law will not be changed retroactively. We should not penalize those who have invested their money where Congress encouraged investment.

Specifically, I am deeply concerned about some of the transition rules for the real estate industry and the ability of those involved in active real estate investments to write off actual cash losses.

The people who are in the business for legitimate business reasons, and not as a tax dodge, should not be singled out by rules that apply to no one else.

Mr. President, over a third of all Senators have already joined me by cosponsoring S. 2108, a bill to prevent retroactive changes in the Tax Code.

We were successful in making most of the provisions of the Finance Committee bill prospective. For that reason we have not pressed S. 2108. I believe it is clear, however, that there is very strong sentiment in the Senate that this bill should not have retroactive effects.

It is my hope that during the Conference with the House that these provisions can be favorably resolved.

The cosponsors of S. 2108 are:

Senators Abdnor, Boren, Cohen, D'Amato, Denton, Domenici, East, Grassley, Hatch, Hecht, Heflin, Hollings, Murkowski, Pressler, Simon, Symms, Trible, Zorinsky, Andrews, Cochran, Cranston, DeConcini, Dodd, Boschwitz, Garn, Gore, Hawkins, Heinz, Helms, McClure, Nickles, Quayle, Specter, Thurmond, Wilson.

Mr. HATCH. Mr. President, I want to applaud the floor managers of H.R. 3838, for their courage and wisdom in bringing true tax reform before the Senate. Because of their leadership, this body may be able to achieve a goal many of us thought unreachable only a short time ago.

As chairman of the Committee on Labor and Human Resources, I must express some reservations about one important piece of the bill, the 150 odd pages dealing with employer-sponsored retirement and employee benefit plans. I am concerned that with regard to several of the provisions in this area, we are being asked to leap before we have a clear understanding of just where we will land.

For example, concerns have been raised that we unintentionally may be limiting the actual funding of pension plans beyond what we realize and that we may be discouraging defined benefit plan formation in small businesses.

There is also concern that we may not totally grasp all of the consequences of several of the proposed policy changes. For example, we may be reducing too drastically the benefits available to early retirees at a time when early retirement is so prevalent and often encouraged in the labor force.

Mr. President, I have no intention at this time of proposing any substantive changes to H.R. 3838. Overall, the bill represents a constructive improvement. But I do hope my colleagues will consider one recommendation. Since the passage of the Employee Retirement Income Security Act [ERISA], Congress has changed Federal retirement policy in what often seems to be a piecemeal fashion. In fact, we have changed the law in this area five times in the last 4 years. I will admit that as chairman of the Committee on Labor and Human Resources, I share some responsibility for this pattern.

A better approach, I believe, would be for Congress to reconsider the basic purpose of our pension policies, take the necessary time to understand the problems facing both single and multiemployer plans, and then work to develop a comprehensive solution. By doing so, we can provide plan sponsors with more reliable guidance and participants and beneficiaries with a more secure future. But if we continue in our current pattern, we could begin to discourage the continued maintenance of pension plans and plan formation.

Mr. KASTEN. Mr. President, I rise to comment on one aspect of the tax reform bill not before the Senate that is of special interest to many of my constituents. I refer to the provisions that effect agriculture.

Wisconsin is the Nation's eighth largest farm State. It has about 80,000 farms, of which roughly 35,000 are full-fledged commercial operations. Agriculture in Wisconsin is the foundation for an agribusiness industry that encompasses fertilizer and machinery manufacturers, wholesalers and retailers, businesses in small towns all across the State, and almost as many cheese processing plants as there are in all other States combined.

Agriculture provides Wisconsin with tens of thousands of jobs. The farm is the foundation of much of our economy—and is an important part of our heritage as well.

Mr. President, the farms in Wisconsin are almost all small to mid-sized family operations. On these farms, the farm provides farm families with most of their income and the family itself provides most of the labor.

On a dairy farm (and most commercial farms in Wisconsin are dairy farms) that labor must be supplied 7 days a week, 365 days a year. Crop plantings can be delayed; harvests can be adjusted; but cows must be milked every day.

These farm families face a lot of competition these days. They face competition that has in large measure been generated by the Tax Code that we are now attempting to reform. The current Tax Code is generous to agriculture. I believe it is excessively generous.

Incentives to increase capital investment are good—they are necessary—for most of the economy, but this is not true for agriculture. Agriculture has too much productive capacity now. This excessive productive capacity has driven down prices for virtually all commodities, but especially for meat and milk; the foundation of Wisconsin's agriculture.

The incentives we have for increased capital investment and additional expansion in agriculture are offered across the board, to everyone. But in the nature of things these incentives are most useful to farmers—and nonfarm investors—who have money to spend on buying additional farmland, breaking out new farmland, and building new farm structures and livestock.

The vast majority of my farm constituents do not have money to burn, even in good times. In this time of depression in agriculture, Wisconsin family farmers are barely getting by.

Subsidizing unneeded additional capital investment in agriculture is not just bad policy, it is grossly unfair to thousands of family farmers whose whole way of life is bound up in the land.

Mr. President, the tax bill which we have been considering over the last 2 weeks makes great strides toward rectifying this mistaken, unfair trend in the Tax Code. On the whole, the Finance Committee bill, if enacted, would be a boon to family farm agriculture.

By lowering tax rates and coming down hard on tax-shelter farming, the Finance Committee bill gives a break to family farmers, while discouraging excess investment in farming.

It does this in several ways.

First, by lowering tax rates, the Finance Committee bill would drop many farmers from the tax roles entirely, at least until the farm economy turns around. In addition, the increase in the personal exemption to $2,000 will benefit thousands of farm families, as will the larger standard deduction—$5,000 for married taxpayers filing jointly, $4,000 for heads of household.

Second, the Finance Committee bill would allow farmers and other self-employed persons to deduct one-half of their health insurance premiums. I believe this overdue step represents equity for farmers who have long been burdened with higher health insurance premiums than most workers.

Third and perhaps the most important way in which this tax reform legislation helps the family farmer is this: This bill takes bold steps to remove from the Tax Code incentives for excess capital investment and expansion in agriculture.

The large operations—the 1,000-cow dairy farm factories, the 10,000-hog confinement operations, the gigantic investor-finance cattle feedlots that have sprung up in some part of the country in recent years—will no longer have the multiple advantages over the family farmer that we have provided through the Tax Code.

All this means is that people who wish to invest in agriculture to make a profit may still do so. We want them to do so—that is what the free enterprise system is all about.

But those who have invested or are thinking of investing in agriculture because of the tax consequences of such investment will find that farming the Tax Code no longer pays.

The Finance Committee bill does this in the following ways:

The repeal of the investment tax credit removes a tax break that has been used most heavily by large livestock/oriented farms. Though the I.T.C. subsidies of up to 10 percent of cost have been granted to buildings, milking parlors, machinery, and other capital investment—and it's not the hard-pressed family farmers who have been making all these investments, it is the operators of the very largest farms. Just as in our farm programs, the largest subsidies have been going

to those farmers who do not need the help.

Scrapping the I.T.C. is thus a step toward a level playing field for the family farmer.

So too is the provision in the Finance Committee bill that would lengthen the depreciation schedule on single-purpose farm structures from 5 years to 10 years. A 10-year write-off is not ideal—I would prefer the 13-year depreciation period included in the House tax bill.

But longer writeoffs for milking parlors, hog confinement facilities, and similar structures are absolutely necessary to deter the addition of still more excess, price-depressing productive capacity to agriculture.

The most remarkable step the Finance Committee bill takes to help the family farmer is the set of provisions restricting the deductibility of passive losses. Under these provisions, passive losses would be deductible only from income derived from similar activity.

Though these provisions would be phased in over 5 years, they represent a massive blow to tax-loss farming operations. I remind my colleagues once again that these tax-shelter operations are concentrated in the livestock sectors of the farm economy.

The restrictions on passive losses removes perhaps the strongest incentive for doctors, lawyers and the idle rich to dump money into tax-loss cattle-feeding and drylot dairy operations—a long-overdue break for the family farmers now forced to compete with such operations.

The Finance Committee bill by repealing the deduction for land clearing expenses, general earth-moving, and the cost of land preparation for center-pivot irrigation, also removes incentives to bring new land into production—an important step at a time when there is too much land being farmed already.

Other provisions in this legislation that remove incentives to crop new land would tax proceeds from the sale of highly erodible lands and converted wetlands as ordinary income—not as capital gains. Further, the Finance Committee bill would allow expenses for soil and water conservation to be deductible only if they apply to activities that are part of a plan approved by the soil conservation service.

These provisions are worthy of special note, because they complete the work that the Senate started in the conservation title of the farm bill last year. That title denied farm program benefits to farmers who break out highly erodible land or convert wetlands to cropland. In addition, the conservation title required all farmers now cropping highly erodible land to have a conservation plan, approved by the local soil conservation district, by 1990, and to implement that plan by 1995.

It has been clear to this Senator for some time that the tax benefits of speculating on the sale of "improved," highly erodible cropland and wetlands were at least as important as the availability of farm program benefits as a motivation for plowing up such land.

In the conservation title of the farm bill we barred farmers who break out highly erodible land or fill in wetlands from getting deficiency payments and Farmers Home Administration loans. In the Senate Finance Committee tax reform bill we ensure that the Government will not be encouraging this kind of thing through the Tax Code.

Mr. President, these provisions of the farm bill are not just important to today's family farmers—they represent a solid victory for the cause of conservation. In a very real sense, this is everyone's cause—ours, our farmers, and generations yet to come as well.

Mr. President, I do not contend that this bill is perfect as it relates to agriculture. There are some things I wish we could add.

For example, the bill could have gone farther to discourage excess investment in agriculture by placing limits on cash accounting for the largest farms.

By allowing even huge corporate-type operations to deduct expenses immediately, and not taxing increases in their inventories, the Senate bill misses an opportunity to stop an abuse of the Tax Code that encourages large farms to get even larger.

Cash accounting was originally allowed for farmers because it was felt that they lacked the resources to handle the paperwork burden of accrual accounting. This argument is still valid for many family farms; and for these farms, cash accounting remains an important financial management tool.

But for operations like the dairy farm factories planned by the Irish firm Masstock International in Georgia, or for an outfit like Perdue Farms—estimated sales: $700 million—the argument is ridiculous.

The Finance Committee bill does disallow deductions for prepaid expenses above 50 percent of all cash method expenses. While this is a good idea, the 50 percent figure is too high to be effective.

The bill also errs in continuing to allow immediate deductions of expenses for raising livestock—as well as orchards and vineyards. Immediate deductibility of preproductive expenses is of some use to midsized family farmers. But it is of far greater use to the very largest farms. The House provision, which requires that many of these expenses be capitalized, is preferable.

A final note on this tax bill's impact on agriculture: by prohibiting any farmer to have more than $250,000 in tax-exempt financing obtained through industrial development bonds for the purchase of depreciable agricultural property, this bill accomplishes the purpose of legislation that I introduced last April.

That legislation, S. 2273, would have barred foreign firms from access to tax-exempt financing for farming operations in this country. The Finance Committee provision allows such a low amount of tax-exempt financing to be available that no foreign firm of any size would derive any benefit from pursuing such financing to help them start farming operations in this country.

The dairy farmers of my State were rightly outraged by the news last winter that the Irish firm Masstock International was planning to invest $35 million—an enormous sum by the standards of agriculture—to start up to 10 2,000-cow dairy operations in central and southern Georgia.

They believe—and I agree—that it is ludicrous to have a dairy program designed to pay some farmers to leave the industry—that is, the whole-herd buy-out, while Federal tax policy works in the other direction, by encouraging and actually subsidizing foreign investors in their efforts to expand milk production.

Mr. President, the farmers of my State are not antiforeign by any stretch of the imagination. The key consideration for them is simple—we have more than enough milk already in this country and we don't need the Government subsidizing the production of still more milk through the Tax Code.

I am pleased that in this respect and others the Finance Committee bill goes so far to discourage unneeded capital investment in agriculture. I believe history will record that we did more to help family farmers in this tax bill than we did in any of the farm bills Congress has passed recently.

So I am delighted to support the agriculture-related provisions of this tax bill, and I hope the Conference Committee will as well.

Mr. MURKOWSKI. Mr. President, as I have said before I support this tax bill because it in large part accomplishes the goal of simplifying our tax laws and makes them fair and equitable to all Americans.

As a number of Senators have recently stated, certain aspects of the bill will apply major new tax law changes to business transactions entered into before the enactment of this bill. In particular, the Senate Finance Committee chose to:

Retroactively repeal the investment tax credit to January 1, 1986; make losses from existing passive real estate investments nondeductible; apply new depreciation methods to existing investment properties; and eliminate the

tax-exempt status of certain bonds already issued.

Mr. President, let me be clear. I support the policy behind these changes. Business decisions should be made on the basis of economics, not tax considerations. These major changes to established tax rules are consistent with that policy. Nevertheless, the retroactive application of these new major tax law changes to existing investments creates specific problems and I hope the chairman will make every effort to remedy this situation in the conference committee or in a possible committee amendment made at the conclusion of debate by making these changes apply to future transactions.

Legally binding transactions entered into in good faith reliance on existing tax laws have traditionally been protected from future tax law changes. Not only was this done in the interest of fairness, but also to assure that people in business could feel confident to make long-term business decisions.

For example, when the Tax Equity and Fiscal Responsibility Act of 1982 changed the way corporations account for interest on obligations after 1982, it specifically exempted obligations entered into before that date. Tax bills in 1984, 1981, 1980, 1976, and 1954, among others, recognized this basic principle of responsible change.

I recognize that the new tax bill attempts to mitigate existing investments by phasing in the repeal of the investment of tax credit, nondeductions for passive real estate losses, and new depreciation methods. And, I am pleased that the committee tried to recognize that changes in the tax-exempt status of some bonds should apply only to those bonds issued after the enactment of this bill. But, let me illustrate two specific concerns that I hope the Finance Committee will address.

In February 1986, the city of Anchorage, AK, issued $57 million in tax exempt bonds to buy pensions for its municipal employees. However, 1 month later on March 14, 1986, the city learned through a joint statement by Chairman PACKWOOD and Chairman ROSTENKOWSKI that the new pension bonds would be affected retroactively in proposed tax legislation. In the Senate tax bill, the city's pension bonds stand to lose their tax-exempt status.

Mr. President, this example points out the basic problem of retroactivity: Anchorage complied with existing tax law all the way down the line in preparing to issue its bonds in 1985. Immediately before Anchorage went public, the House eliminated the tax-exempt provision—but made it retroactive, thus undoing all the proper steps Anchorage had taken to comply with the law. Fortunately, the House corrected the problem with a transition rule and we need to maintain this rule in conference or to include it in a Senate Finance Committee amendment should the committee propose an amendment to this bill following the tax debate.

Another example of problems caused by retroactivity involves contracts between United States shipping lines and the Japanese to build ships to transport cars to the United States. I have pushed this matter hard with the Japanese—through my sense of the Senate resolution, Senate Resolution 223, and through direct discussions at the highest levels of the Japanese Government.

The car carriers mean additional jobs for U.S. seamen. Four agreements have been reached to date with Toyota, Nissan, and Honda. United States shipping lines will build the ships in Japanese yards, and the ships will be crewed by United States seamen. An average of 20 new jobs will be created with each vessel.

These carrier contracts make great sense: We are Japan's best automobile customer—over 2.3 million Japanese cars will be imported to the United States this year. For the first time we are making progress in getting a portion of the transportation service trade for these vehicles—and we want more car carriers built and manned by U.S. crews.

The United States shipping companies have been negotiating in the free marketplace with the Japnaese: None of the car carriers will receive a dime of subsidy from our Government. The cost of each contract ranges between $20 and $25 million, and I know for a fact that the Japanese have negotiated tight deals.

But, Mr. President, I am informed that the U.S. shipping lines now will be seriously affected under the Senate tax bill because of the retroactive application of the investment tax credit rule. The shipping lines spent months negotiating these agreements with Japan, and the negotiations were based on existing tax law. Suddenly, after the agreements are approved, the shipping lines find that they will not realize the full value of their negotiated agreements.

The investment tax credits for the shipping lines were integral to these agreements. The credits were to be used to offset costs of providing liability coverage to the U.S. crews that will be used to man the vessels.

This retroactive application of our tax law could hurt U.S. business and could cost maritime jobs at a time when we must find jobs, not lose them.

Mr. President, the issue before us is not whether to allow new changes in our tax laws but whether we should affect those who have already entered into existing transactions.

I ask for nothing more than that stated by the chairmen of the Senate Finance Committee and the House Ways and Means Committee on March 15, 1985, in a joint statement in preparation for congressional consideration of tax reform proposals as follows:

> Any changes contemplated by the current proposals will be prospective in their application . . . we believe that it is important to try to provide a measure of certainty to the marketplace as to the tax treatment of completed transactions.

The new tax bill should protect not undermine those people who have made good faith commitments under current tax laws. Mr. President, I am not inclined to support an amendment on retroactivity, should one be offered this week. I want to support the chairman's approach of having the strongest possible Senate bill when he begins to negotiate with House conferees. However, I urge the Finance Committee and Senate conferees to consider those owners, investors, and citizens who have made long-term lawful commitments.

● Mr. PACKWOOD. I would like to ask the Senator from Montana to clarify one thing for me. Isn't it true that the amendment addresses the use of land after redevelopment and provides that after redevelopment, the land may not be used for farming? The amendment does not restrict what purposes land in a blighted area is used for before redevelopment. Thus, if the general conditions for designating blighted areas are satisfied, some undeveloped parcels, formerly used for agricultural purposes, may be included in a blighted area.

● Mr. BAUCUS. Yes.●

TRANSITION RULE FOR MINORITY U.S. SHAREHOLDERS OF A PASSIVE FOREIGN INVESTMENT COMPANY IN EXISTENCE ON JANUARY 1, 1986 AND CONTROLLED BY A FOREIGN REVOCABLE TRUST

● Mr. JOHNSTON. Both the House and Senate Finance Committee versions of H.R. 3838 contain provisions requiring U.S. persons who own shares in passive foreign investment companies [PFIC's] to recognize currently their pro rata share of the PFIC's income for the year, regardless of how small their interest in the PFIC may be. These minority shareholders must either pay tax currently, or defer the tax and pay interest to the Government as consideration for the right to defer tax payment.

The apparent impetus behind the PFIC proposal was a perceived abuse involving U.S. control of many PFIC's. The proposed PFIC rules would, however, improperly penalize current minority U.S. shareholders who have invested in reliance on current law and who do not control—by vote or value—their PFIC.

The following transition rule would amend section 925(d) of the Senate Finance Committee's version of H.R. 3838 to provide existing—as of January 1, 1986—minority U.S. sharehold-

ers of a PFIC which is controlled by a foreign revocable trust an additional 5 years to phase into the new PFIC rules.

TRANSITION RULE—AMENDMENT TO SECTION 925(D)

Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1985. *However, in the case of a passive foreign investment company formed before January 1, 1986 if on January 1, 1986 and continuously thereafter a majority (by vote and value) of the stock of such company was held directly (or indirectly through applying paragraph (2) of section 958(a)) by a revocable trust created February 16, 1981, by a nonresident alien of the United States, the amendments made by this section shall apply to taxable years beginning after December 31, 1989.*●

● Mr. METZENBAUM. Mr. President, earlier today the Senate voted to support the ESOP provisions in this bill. My vote should not be interpreted as supporting every ESOP provision in this bill. For some time I have been very concerned about protecting the rights and interests of workers in ESOP transactions.

The legislative history under title I of ERISA requires that leveraged ESOP transactions be given special scrutiny under the fiduciary rules in title I to ensure that the interests of participants in the ESOP be protected. No valuation methodology or construct should be applied in the determination of fair market value that would permit an ESOP to pay more for employer stock than a third-party investor in an arm's-length transaction, or that will permit any other party in the transaction to receive more than that party would be entitled to receive in an arm's-length arrangement. For example, if an ESOP were to purchase all of the common stock of an employer, the ESOP should pay no more for the common stock than what the common stock could be sold for to an arm's-length investor.

Recently, in several cases in which fairness to the participants in the valuation of the ESOP stock was at issue, the Department of Labor has intervened to protect participants' interests. Naturally the investment bankers who put together these transactions were upset.

The Finance Committee has included in its bill language purporting to express the concern of Congress that the Federal agencies that enforce ERISA are treating ESOP's as conventional retirement plans and thus thwarting their use as corporate financing tools. However, such a statement of concern cannot be construed to create new authority on the specific issue of how the stock ought to be valued in these transactions.

I know the language included in the Finance Committee bill before us today was not intended to prevent the Department of Labor from exercising its legitimate and congressionally mandated responsibility to protect the interests of ESOP participants. Indeed, any attempt to so deprive the Department would be both an inaccurate statement of congressional intent and an unsuccessful attempt to circumvent the legitimate jurisdictional prerogatives of the Labor Committees of both Houses. Moreover, no hearings, studies, or systematic analyses of the position of the regulatory agencies support the view that the DOL regulatory policies have interfered with capital financing transactions.

Nearly 3 years ago, the Department of Labor become more active in enforcing its responsibilities under title I with respect to the use of ESOP's. This effort appears to have been, at least in part, a response to a report of the General Accounting Office issued in 1980. In that report, the GAO concluded that the Department of Labor needed to enforce title I more aggressively to fulfill its statutory mandate of protecting plan participants. Since then, the Department has initiated a number of investigations concerning the use of ESOP's, resulting in the issuance of several enforcement-related opinion letters establishing procedural and substantive precedents under title I.

Congress can hardly relax certain of those precedents without first conducting a full and open examination that focuses on the enforcement positions of the Department of Labor as well as the Internal Revenue Service. It seems apparent that the growing use of ESOP's could have a substantial effect on the economy, tax revenue, and employee benefits. Before we continue to throw tax breaks at ESOP's as the Finance Committee has done in the bill before us, serious attention should be given to the impact on plan participants of the previously granted incentives to sellers.

It is clear that interpretations of the fiduciary responsibility provisions of title I should stem from title I and its legislative history and not from any statement of general corporate finance objectives. The aforementioned provisions exclusively govern the conduct of fiduciaries in the determnination of fair market value of assets acquired by ERISA-covered plans. Title I of ERISA applies these fiduciary standards not only to retirement plans but to all employee benefits plans, including health insurance plans as well as pension plans. Thus, any argument that the fiduciary rules should be different for ESOP's because they are not "conventional retirement plans" seriously mistates current law.

The Committee on Labor and Human Resources has jurisdiction over title I, including the use of ESOP's and the responsibilities of fiduciaries with respect to valuations under ERISA. Comprehensive hearings and oversight findings by this committee would obviously have to precede any new statements of congressional intent with respect to those issues.

No one disputes the value of the ESOP as a corporate financing device. However, it is equally clear that the ESOP's legal status as an employee benefit plan subject to the fiduciary requirements of title I of ERISA requires special care on the part of plan fiduciaries when financing transactions are put together.●

□ 2130

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond the hour of 9:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, there will be no further action on the bill tonight.

THE ADMINISTRATION SPEAKS ON ARMS CONTROL

Mr. DOLE. Mr. President, within the past 24 hours, the President and two of his principal national security advisers—the Secretaries of State and Defense—have made important statements on U.S. arms control policy.

THE PRESIDENT'S SPEECH

The President, of course, spoke today at Glassboro, NJ, which 19 years ago was the site of the Johnson-Kosygin summit. In his Glassboro speech, the President reaffirmed his commitment to a dual policy of: First, restraint in developing new nuclear weapons, and second, a continued search for a nuclear arms reduction agreement. Implicitly taking note of his recent decision on SALT, the President urged that we "leave behind efforts to seek only limits on the increase of nuclear arms, and seek instead actual arms reductions."

Giving substance to this renewed commitment, the President welcomed the most recent Russian arms control proposal in Geneva, noting that—while we cannot accept it in toto—it "could represent a turning point" and create "an atmosphere • • • that will allow for serious discussion." The President also stretched out a hand of cooperation to Soviet General Secretary Gorbachev, urging that agreement be reached soon on the timing of the next summit.

LETTER FROM SECRETARIES SHULTZ AND WEINBERGER

Nearly simultaneously, I have received a second important statement of administration policy in a letter from Secretary of State Shultz, and

Secretary of Defense Weinberger. Their letter urges that the Congress not take any precipitous action on the SALT compliance question which would undermine our country's negotiating position in Geneva, or at a summit, should the Soviets respond positively to the President's newest summit initiative.

The Shultz-Weinberger letter is a concise and cogent argument against the kind of action that is already under consideration in both Houses of Congress—action which would force the President to comply with the provisions of a treaty which was never ratified; which would have expired had it been ratified; which the Soviets have violated, and are continuing to violate every day; and which has served as a framework for a massive Soviet arms build-up, not a blueprint for the reduction of nuclear arms, which is the real goal of arms control.

Let me quote one passage which expresses the essence of the message in the letter:

> We are writing to express our deep concern regarding congressional efforts • • • which would have the effect of undercutting the President's May 27 decision on U.S. interim restraint policy, and would signal the Soviets that they need not take seriously their arms control obligations.

THE ROAD TO NUCLEAR ARMS REDUCTIONS

Mr. President, I urge all of my colleagues to give the most careful consideration to the President's speech, and to the Shultz-Weinberger letter. By pursuing the course the President has laid out, and heeding the very sound advice from these two senior Cabinet members, we will help maintain the strongest possible negotiating posture in Geneva, and in our other contacts with the Soviet Union. And we will maximize the chances we have to achieve real nuclear arms reductions.

Mr. President, I ask unanimous consent that the full texts of the President's speech and the Secretaries' letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF REMARKS BY THE PRESIDENT TO THE 1986 GRADUATING CLASS OF GLASSBORO, NJ, HIGH SCHOOL, JUNE 19, 1986

Governor Kean, President Beach, Superintendent Mitcho, Principal Holland, ladies and gentlemen—and especially you, the Glassboro High School Class of 1986, it is an honor to join you today for this commencement ceremony—an event that marks your coming of age and means so much to you and your families. And I know you want to join me in congratulating your principal, Roy Holland, on 11 years of outstanding service.

But what I have to say today I have come to say to you, the students of Glassboro High School who are about to graduate. Mothers and fathers, families and friends—you have our permission to eavesdrop. But you must understand that this is between us—one who has seen more than seven decades of American life, and the bright young people seated before him, who have not yet seen all of two.

Glassboro High School Class of 1986: If we had time today, I might talk with you about good citizenship, all that we've been trying to achieve in Washington, or even the things I think we both enjoy—things like football games and going to the beach.

It's hard for you to believe that grownups, parents, etc., can understand how you feel and what it's like to be your age. When you get to be parents yourselves, you'll be surprised how clear your memories will be of these days at Glassboro High. You'll remember how you felt about things, about successes, and, yes, disappointments. You'll discover as you get older that certain things are so much a part of your life that you'll remember them always, and high school is one. But as I was saying, it's in the very nature of time that it runs on more quickly than any of us would wish, and I must compress all that I want to say into a few brief and fleeting minutes. Perhaps that in itself represents one of the lessons that I can impart—the preciousness of each moment.

And if you are ever a commencement speaker, try to keep in mind the importance of brevity in a speech. You know every generation is critical of the generation that preceded it and feels it must discard many of the mores and customs of those who had gone before. Our generation felt that way and so will yours. But in casting aside the old, don't throw out the values that have been tested by time just because they are old. They are old because their value was proven over the years and, yes, the centuries.

Now, I know that in recent days you've been bidding farewell to your teachers and friends, and I wonder whether you've noticed as you've done so that this time of year tends to bring out some old and familiar phrases—phrases like, "The future belongs to you," and, "You are the hope of tomorrow."

I must tell you that each of these phrases speaks deep truths: You are the future. Oh, the phrases may sometimes sound worn; perhaps because you have already heard them so many times. And they can seem inadequate to your parents and me because we want to tell you all that we have learned. We want to paint for you our own experience so vividly that you will be able to avoid our heartaches while you double and redouble our joys. Then we find we have nothing at our disposal but words, weak and feeble instruments, that cannot possibly carry the full weight of our meaning.

Still we must try—every modicum of knowledge that can be truly and rightly transmitted from one generation to the next can prove invaluable. So it is that I want to speak to you about this Nation of which you will so soon become the leaders—in particular, about those qualities of our national life that we Americans have always cherished in our own country and hoped to extend to all the world: freedom and peace. Perhaps you could think of our talk on this matter as writing a high school essay, an essay on peace—one last assignment before we let you go.

English teachers sometimes suggest opening essays vividly, with a dramatic scene or story that helps to set the tone. It so happens that you and I have just such a dramatic story at hand. For 19 years ago—the very year before most of you were born—Glassboro received a visit from the President of the United States.

In June of 1967, President Johnson flew from the White House to Glassboro—just as I have done today—to hold a summit meeting with Soviet Premier Kosygin. The meeting was scheduled to last 1 day. But the two men talked for more than 5 hours, then held a second meeting 2 days later. If you were to research the meeting in your school library, you would find that U.S. News wrote, "Among the problems they discussed were some of the world's biggest: Vietnam, the Middle East, and the proliferation of nuclear weapons."

Today, historians have concluded that the Glassboro Summit was not, in fact, one of the most momentous—no major breakthroughs were made or agreements reached. Nevertheless, the two men met. They were frank. They worked to understand each other and to make themselves understood. In this alone, I would submit, they taught us a great deal.

Let us then remain mindful of that Glassboro Summit of 19 years ago. And let us remember that as we look back upon the Glassboro Summit, others—perhaps 19 years in the future—will look back upon us. It is my fervent hope that they will say we worked to break the patterns of history that all too often resulted in war—that we reached for accord, that we reached for peace. Hope finds its expression in hard work, so let us move on to the body of our essay and the tasks of analysis and organization. Let us begin by considering our attitude toward our country and ourselves.

Certainly the American story represents one of the great epics of human history. Yet ours is a story of goodness as well as of greatness. After World War II, our goodness received a dramatic manifestation in the Marshall Plan—the vast program of assistance to help war-ravaged nations recover from World War II. And we can be proud that we helped restore not only our allies but those who had been our enemies as well. Pope Pius XII said of us then, "The American people have a genius for splendid and unselfish action and into the hands of America, God has placed the destinies of afflicted humanity." And in our own times, the United States continues to bear the burdens of defending freedom around the world. Listen to the words of former Prime Minister of Australia John Gorton: "I wonder if anybody has thought what the situation of comparatively small nations would be if there were not in existence the United States . . . if there were not a great and giant country prepared to make those sacrifices."

Do we have faults? Of course. But we have as well the courage and determination to correct them. Consider the darkest blot upon our history, racial discrimination. We fought the Civil War and passed the Thirteenth and Fourteenth Amendments to bring slavery to an end. Discrimination still made itself felt, but so did the American sense of decency and this ultimately gave rise to the Civil Rights movement. Sweeping legislation was passed to ensure that all Americans, regardless of race or background, would be able to participate fully in the life of the Nation. Today bigotry has been beaten down but not yet destroyed; it falls now to you to carry on the battle. So fight racism. Fight anti-Semitism. Fight in all its variations the bigotry and intolerance that we Americans have worked so hard to root out.

I make much of all we have done to combat discrimination in our country because it seems to me of central importance

to our essay on peace. Here in this green and gentle land people of all nations—people of all races and faiths—have learned to live in harmony to build one Nation. Nor is the story over. Listen indeed to this roll of some of your schoolmates: born in India, Sajad and Khatija Bilgrami; born in China, Wun Ting Geng; born in Japan, Tomoko Sasaki; and born in Laos, Bounmy Chomma, and Rasami Sengvoravong and Sisouva Phatsodavong.

If ever in coming years you grow disillusioned with your Nation—if ever you doubt that America holds a special place in all the long history of humankind—remember this moment and the names I have just read. Then you will understand—then you will find new strength—then you will know how it is that we Americans can look to all the other peoples of this planet with self-confidence and generous friendship.

Call it mysticism if you will; I have always believed there was some divine plan that placed this great land between the two oceans to be found by people from every corner of the Earth who had that extra love of freedom and that extra ounce of courage to leave friends and homeland to seek this blessed place.

This brings me to the international scene and our relations with the Soviet Union. It is important to begin by distinguishing between the peoples inside the Soviet Union and the government that rules them. Certainly we have no quarrel with the peoples—far from it. Yet we must remember that the peoples in the Soviet Union have virtually no influence on the government.

There's a little story that indicates what I mean. It seems an American and a Soviet were having an argument about who had more freedom. "I can march into the White House," the American said, "find the President's office, and say, 'President Reagan, I don't like the way you're running our country.'" The Soviet said, "Well, I can do that." The American said, "You can?" He said, "Yes, I can walk into the Kremlin, to General Secretary Gorbachev's office, and say, 'Mr. General Secretary, I don't like the way President Reagan's running his country.'" You know, I told that story to Mr. Gorbachev in Geneva. Thank goodness he laughed.

We must remember that the Soviet government is based upon and drawn from the Soviet Communist Party—an organization that remains formally pledged to subjecting the world to Communist domination. This is not the time to delve deeply into history, but you should know that emergence of the Soviet Union is in many respects an expression of the terrible enchantment with the power of the state that became so prominent in the first half of our century. In his widely-acclaimed book, *"Modern Times,"* Paul Johnson has argued just this point—that modern ideologies had exalted the state above the individual.

This rise of State power affected my life as it did the lives of many of your parents and nearly all your grandparents. In the late 1920's, I graduated from high school full of hope and expectation—like you today. Then, just as I had established myself in a career—just as my generation had established itself—we were at war. We fought valiantly and well, but not without a sense of all that might have been. In the end representative government defeated statism—indeed, Japan, Germany, and Italy, once our deadly enemies, all soon became thriving democracies themselves and are now our staunch allies. But not the Soviet Union. There statism persists.

What then are we to make of the Soviet Union? My own views upon the character of the regime are well-known, and I am convinced that we must continue to speak out for freedom, again and again making the crucial moral distinctions between democracy and totalitarianism. So, too, I am convinced that we must take seriously the Soviet history of expansionism and provide an effective counter.

At the same time, we must remain realistic about and committed to arms control. It is indeed fitting to pay particular attention to arms negotiations in these days, for if the Soviet Union proves willing, this can represent a moment of opportunity in relations between our nations.

When I met Mr. Gorbachev last November in Geneva, he and I agreed to intensify our effort to reduce strategic arms. We agreed on the next steps—negotiating a 50 percent reduction in strategic nuclear forces, and an interim agreement to cover intermediate-range missiles. And we both spoke of the ultimate goal of eliminating all nuclear weapons.

By November 1st, we had presented new strategic arms reduction proposals designed to bridge the gap between earlier Soviet and American proposals. Our proposal would have achieved a 50 percent reduction in strategic nuclear forces in a manner both equitable and responsible. Then, in mid-February we proposed a detailed, phased approach for eliminating an entire class of weapons—the so-called long-range intermediate range weapons, or I.N.F.'s—by 1990. And we repeated our offer of an "open laboratories" exchange of visits to facilities performing strategic defense research. Until recently, the Soviet response has been disappointing in a number of ways.

But in recent weeks, there have been fresh developments. The Soviets have made suggestions on a range of issues, from nuclear power plant safety to conventional force reductions in Europe. Perhaps most important, the Soviet negotiators at Geneva have placed on the table new proposals to reduce nuclear weapons. We cannot accept these particular proposals without change, but it appears that the Soviets have begun to make a serious effort.

If both sides genuinely want progress, then this could represent a turning point in the effort to make ours a safer and more peaceful world. We believe that possibly an atmosphere does indeed exist that will allow for serious discussion.

I have indicated to General Secretary Gorbachev my willingness for our representatives to meet to prepare for the next summit. The location is unimportant. What matters is that such a meeting take place in mutual earnestness so that we can make progress at the next summit.

Certainly Mr. Gorbachev knows the depth of my commitment to peace. Indeed, when we went to Geneva my advisors told me that if we could achieve nothing but an agreement to meet again—if we could do no more than that—then all our work would have been worthwhile.

On the first day of meetings, Mr. Gorbachev and I took a little walk together. He happened to mention that there was a great deal in the Soviet Union he wanted me to see; I answered that I wished he could visit the United States. Next thing you knew, we had agreed to meet here in 1986 and in the Soviet Union in 1987. Now, that wasn't so hard, was it?

In this essay on peace, then, we can assert that the time has come to move forward. Let us leave behind efforts to seek only limits to the increase of nuclear arms and seek instead actual arms reductions—the deep and verifiable reductions that Mr. Gorbachev and I have agreed to negotiate. The goal here is not complicated. I am suggesting that we agree not on how many new, bigger, and more accurate missiles can be built but on how to reduce and ultimately eliminate all nuclear missiles.

Let us leave behind, too, the defense policy of Mutual Assured Destruction—or MAD, as it's called—and seek to put in its place a defense that truly defends. Even now we are performing research as part of our Strategic Defense Initiative that might one day enable us to put in space a shield that missiles could not penetrate—a shield that could protect us from nuclear missiles just as a roof protects a family from rain.

And let us leave behind suspicion between our peoples and replace it with understanding. As a result of the cultural exchange agreement Mr. Gorbachev and I signed in Geneva, the Soviet Union has already sent to our Nation the Kirov Ballet and an exhibition of impressionist paintings. We in turn will send to the Soviet Union scholars and musicians—indeed, the Russian-born American pianist, Vladimir Horowitz, has already performed in Moscow. And we hope to see a large increase in the number of everyday citizens traveling between both countries—just last week at the White House I met high school students your age who will visit the Soviet Union this summer. Surely it is in our interest that the peoples in the Soviet Union should know the truth about the United States. And surely it can only enrich our lives to learn more about them.

This brings us at last to our conclusion—if I may, then, a few final thoughts. From the heart. I have tried to speak to you today of freedom and peace because as your President it is my duty to do so, and because in my lifetime I have seen our Nation at war four times. During the Second World War, hundreds of thousands of Americans died—including friends and relatives of mine, including friends and relatives of your families. Perhaps some of you have pictures in your homes of great-uncles you never knew, soldiers who fell fighting. The Soviets suffered even more painfully than we. As many as 20 million people in the Soviet Union died, and the western third of the country was laid waste—parallel, if you will, to the destruction of all the United States east of Chicago.

All the world has cherished the years of relative peace that have followed. In the United States, we have seen the greatest economic expansion and technological breakthroughs known to man—the landing on the Moon, the development of the microchip. But our greatest treasure has been that you, our children, have been able to grow up in prosperity and freedom.

It falls to us now—as it soon shall fall to you—to preserve and strengthen the peace. Surely no man can have a greater goal than that of protecting the next generation against the destruction and pain of warfare that his own generation has known.

There can therefore be no more important task before us than that of reducing nuclear weapons. I am committed—utterly committed—to pursuing every opportunity to discuss and explore ways to achieve real and verifiable arms reductions. What our two nations do now in arms control will determine the kind of future that you—and, yes, your children and your children's children—will face. So I have come here today to say

that the Glassboro Summit was not enough, that indeed the Geneva Summit was not enough—that talk alone, in short, is not enough. I have come here to invite Mr. Gorbachev to join me in taking action—action in the name of peace.

My friends, let us dare to dream that when you return for your own son or daughter's graduation, you will do so in a world at peace, a world that celebrates human liberty, and a world free from the terror of nuclear destruction. And let us work—first my generation, then soon, very soon, your own—to make that dream come true.

But again, mere words convey so little. There are moments, indeed, when those of my generation fear that your youth and health and good fortune will prove too much for us—too much for us who must tell you that good fortune is not all that life can present; that this good fortune has come to you because others have suffered and sacrificed; that to preserve it, there will come times when you, too, must sacrifice. Then our fears are dispelled. It happens when we turn from our own thoughts to look at you. We see such strength and hope. Such buoyancy, such goodwill, such straightforward and uncomplicated happiness. If we listen, before long we hear joyful laughter.

We know that God has already blessed you and that America has already imprinted the love of peace and freedom on your hearts. We look at you, and no matter how full our own lives have been, we say with Thomas Jefferson, "I like the dreams of the future better than the history of the past."

THE SECRETARY OF STATE,
Washington, June 18, 1986.

Hon. ROBERT DOLE,
U.S. Senate.

DEAR SENATOR DOLE: We are writing to express our deep concern regarding Congressional efforts to require the maintenance of our nuclear deterrent force on the basis of standards in the outdated and violated SALT II Treaty, rather than looking toward our current and anticipated security requirements. We are particularly concerned by Congressional resolutions which would have the effect of undercutting the President's May 27 decision on U.S. interim restraint policy and would signal the Soviets that they need not take seriously their arms control obligations and commitments of our forward-looking policy of restraint.

With his May 27 decision, the President sought to substitute a relevant and operational foundation of restraint for one which was not working. This policy would be undercut by resolutions which ignore the obvious shortcomings of the SALT regime and require U.S. compliance with a Treaty, or selected parts of it, that was never ratified, has already expired, and which the Soviets continue to violate. Such an act by the Congress would be unprecedented. It would confirm to the Soviet Union that they could pick apart arms control agreements and discard limitations they find inconvenient.

The past has not provided real solutions to the pressing need for meaningful arms control agreements. No policy of interim restraint can become an adequate substitute for an agreement on significant reductions in offensive nuclear arms—one which provides for reductions in crucial indicators of strategic strength and enhances stability. Such reductions remain our top arms control priority. The SALT II Treaty did not mandate such reductions. It allows substantial increases in nuclear forces.

The U.S. and the Soviet Union have every incentive to fulfill the promise the Geneva negotiations offer for radically reducing offensive nuclear weapons and the risk of nuclear confrontation. As these negotiations continue, we must be united in encouraging the Soviets to give substance to the pledge General Secretary Gorbachev made with the President to seek early progress, particularly in areas of common ground, including the principle of 50 percent reductions in nuclear arms. We note that the Soviets have made some proposals subsequent to the President's decision and we are carefully examining them to determine whether they might contribute to the common ground.

We ask that you support the President in his recent decision. A demonstration of support for the President's May 27 decision will strengthen our position to obtain radical reductions in offensive nuclear arms and ensure U.S. and Allied security, as well as demonstrate that Soviet cheating is simply unacceptable.

Sincerely yours,

GEORGE P. SHULTZ.
CASPAR W. WEINBERGER,
Secretary of Defense.

ADDRESS BY SENATOR LUGAR ON CENTRAL AMERICA

Mrs. KASSEBAUM. Mr. President, I would like to include in the RECORD the thoughtful perceptive remarks on Democracy and Central America given by Senator LUGAR at the National Press Club on June 17.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

DEMOCRACY AND CENTRAL AMERICA

(A Speech By Senator Richard G. Lugar, Chairman, Senate Foreign Relations Committee)

Seventeen months ago, I addressed this club as the new Chairman of the Senate Foreign Relations Committee. Many political and foreign policy commentators suggested then, that foreign policy debate was unfortunately fractious in Congress and with the Administration, because the Foreign Relations Committee had lost much of its sense of direction and confidence, and thus its prestige and power.

The Committee began the 99th Congress with a series of well attended and well reported hearings reviewing the overall direction of American foreign policy. A spirit of boldness combined with Senatorial comity developed in those hearings. The Committee has proceeded to establish a strong record of bipartisan leadership on a large majority of tough foreign policy issues.

We passed the first foreign aid bill in four years with 75 votes on the Senate floor. We reasserted the Committee's policy making powers by shaping and approving a number of funding authorization bills. We are monitoring closely the work of United States arms control efforts in Geneva in preparation for managing the ratification of a treaty on the Senate floor. We believe that we have worked successfully with President Reagan to bring constructive change to American foreign policy in South Africa and in the Philippines.

We have not achieved, however, the bipartisan success that we must have if we are to be successful in our foreign policy toward Nicaragua. We need to do better.

I believe there is a way to build the necessary consensus in Congress and with the President to bring democracy to Nicaragua. This would further the democratic gains already achieved in El Salvador, Guatemala, Honduras, and Costa Rica, and enhance prosperity in all of Central America.

The Nicaraguan debate currently languishes in Congress. It will be back and forth between both houses and the White House until we are able to agree, as Americans, on what objectives are attainable, and on the means we have and are willing to use to obtain those objectives.

On March 27, I was the manager of legislation on the Senate floor that authorized $100 million of military and humanitarian aid over eighteen months to the forces fighting the Sandinista regime of Nicaragua. The $70 million of military assistance would not be available until attempts to bring the Contras and the Sandinistas to the negotiating table had failed, or having taken on such negotiations, all reasonable prospects of success had ended. The Senate bill provided a time limit of roughly 100 days for the negotiating track to succeed.

The House of Representatives did not take definitive action, but during the March debate, a majority of members seemed pointed toward humanitarian assistance only.

The Senate legislation passed by a vote of 53-47 with 11 Republicans voting "no" and 11 Democrats voting "yes." A degree of bipartisanship was apparent, but I had hoped for a much broader consensus. I believe that many Democratic Senators shared that aspiration. Lengthy negotiations with Senate Democratic Leader Robert Byrd of West Virginia and Senator James Sasser of Tennessee encouraged Majority Leader Robert Dole and me to believe that over two-thirds of the Senate might be prepared to adopt a strong consensus policy. I hope that this will be the case in subsequent votes.

A growing problem for such consensus building is that Senators have been casting votes on the Nicaraguan issue for several years, in addition to earlier votes on El Salvador policies. Many Senators have been voting "no" for so long that it is difficult for them to rationalize, and to explain to constituents, that they are now in favor of policies which involve risks and expenses in Central America.

Furthermore, the safest political course for any legislator has been to note that a majority of the American people are not aware of the contending parties in Central America, and want only to make certain that American miliary forces are not committed there. Every poll shows, by substantial majorities, American voters oppose military and even economic assistance to friendly forces in Latin America.

At the same time, however, American citizens and most of their legislators are united on the proposition that neither Nicaragua nor any other Central American country should become a military base for the Soviet Union, a second Cuba in our hemisphere.

It is ironic that a few Senators who regard Contra aid as provocative and militaristic have no trouble saying they would advocate something far more drastic such as the use of American troops under certain cases. Yet, those who argue that the Contras have acted as a "spur" for the Nicaraguan government to invite the intervention of the Soviets and their bloc allies into the country simply do not know their chronologies. Events in Nicaragua have unfolded according to a logic of their own. American policy tried to stake out its goals under the Carter administration, but could not compel the

Sandinistas to forget their ideological commitments just because we were willing to forget ours.

In earlier years, the Administration argued for Contra aid to interdict supplies coming out of Nicaragua to insurgent guerilla forces battling the democratic government of El Salvador and Guatemala. This year, the Administration's objective does appear to be clearly, a change of government in Nicaragua. Assistance to the Contras, the Administration argues, will force the Marxist Sandinistas to negotiate the terms of a new constitution, and then agree to free and fair elections for a government which has the democratic consent of the governed.

Our country has been confused about our objectives and our prospects for success. Sharp divisions in the Congress reflect that public mood.

For too long, the United States took the path of least resistance in its Central American policies. This meant regarding as normal and acceptable, without comment or criticism, governments which had come to power by irregular means, ruled without reference to law or human rights, and which denied large segments of the community an opportunity to participate in both public life and the rewards of economic activity. The United States followed this unfortunate policy under the guise of anti-Communism.

This was certainly the case for many years in Nicaragua. But one has to ask whether the way to make up for this record is to begin to practice non-intervention now, so that the Sandinistas, like Somoza, can benefit from a new era of American complicity. If we owe a debt to the Nicaraguan people, we should pay it in the currency of our own discomfort, not theirs.

The Nicaraguans have a long historical memory. So do their neighbors. It is the role of the United States in the past, rather than the present, which dominates the minds of Sandinistas, and to a very great degree, other Latin American countries. The Sandinistas broadcast rumors of imminent invasion daily. Other Central and South American nations that have no affinity for the Marxists in Nicaragua are nonetheless extremely sensitive to the possibility, however remote, of American military intervention. The presidents of the new South American democracies in Argentina, Uruguay, and Brazil have expressed to me their opposition to American military intervention and the severe political reactions within their countries that such American action would incite.

In due course, the United States opposed the Somoza regime, but many American liberals and church people who have taken a strong interest in Nicaragua believe that the Contras are composed of Somoza remnants who are eager to establish another repressive right wing regime.

Furthermore, the liberals believe that the poorest people in Nicaragua are now receiving some long delayed attention. This notwithstanding, an estimated 500,000 Nicaraguans, not oligarchs but primarily Moskito Indians, farmers and shopkeepers, have fled from the country. The less than 3 million who remain are growing poorer still.

Liberal humanitarians argue that continued United States pressure through aid to the Contras ensures a continuing decline in standard of living and continued abnormal allocation of scarce economic resources to a large Nicaraguan military establishment. Yet, the Nicaraguan army is apparently larger than those of all its neighbors combined; and let the record show, it was organized and grew during the period in which the United States aided the Sandinistas. It continues to buy or borrow offensive and defensive Soviet bloc and Cuban arms.

Leaving aside, for the moment, any deficiencies in the specifics of the policy argued by President Reagan and a majority of Senators, the only other rival congressional policy is one which provides for a defensive quarantine of Nicaragua. The assumptions of this containment policy are that surrounding countries would be assisted in defending their borders, and that Nicaragua should assume a massive direct strike of American forces if the Sandinistas tried to base Soviet troops or offensive aircraft and submarines.

In the meanwhile, the Sandinistas would be left to stew in their misery with human rights suspended for ordinary people. This policy assumes disastrous internal experiences and pressure from Central American neighbors would lead toward Nicaraguan democratization and a rejoining of the family of democracies.

Some variations of this quarantine policy assume continued U.S. food and clothing appropriations for an estimated 15,000 Nicaraguan freedom fighters who now reside outside Nicaragua. Other variations simply leave the Contras to do the best they can without any further American government ties.

This rival policy argument presumes that the Cubans and the Soviets would leave things alone. However, the reasons for any automatic Soviet laissez faire are not apparent. Even in the midst of difficult domestic times, the Soviets continue to subsidize Cuba at an annual cost of approximately $3 to $4 billion. For projects which cause anxiety for us, less than two hours flight time from our borders, Soviet support has been enthusiastic and generous to a fault.

Many supporters of the quarantine policy are not deeply wedded to the concept. After I returned from the Philippines with the American election observer group, and even more after Mrs. Aquino assumed power in the Philippines, the cry went up, "Let's have a Philippine success in Nicaragua."

At the time, I tried to point out potentially similar pathways. The Administration indicated that my "free and fair election ideas," derived from recent adventures in Manila, were interesting, but not especially welcome as a distracting avenue of action. Secretary George Shultz offered calm but firm advice that the President had a bill on which he wanted an up or down vote in the Senate.

So with the strong help of Secretary Shultz, Admiral John Poindexter, Majority Leader Bob Dole, and the President's personal phone calls, we ground out a 53–47 vote in the Senate to save the President's legislation a few days after it had been defeated 222–210 in the House, and was absolutely dead in the water. Unfortunately, the House leadership saw no need to act further for a while. With March 31 past, no more money of any kind is available to the Contras. That remains the case today.

I am still convinced that our objective in Nicaragua should be to build the circumstances which will make it possible, some day, to observe a democratic election preceded by the restoration of civil liberties; true freedom of the press to cover the candidates, issues, and procedures of the election; and freedom for candidates to roam the whole country without harassment and intimidation. Prior to that time, a constituent assembly or constitutional convention should be elected in similar open circumstances to draft a democratic constitution similar to those of Costa Rica, Guatemala, El Salvador, or Honduras.

This is the kind of policy goal the American people can understand and support. It was clear after the events in the Philippines that the American people were genuinely excited about how the United States had helped encourage the resurgence of democracy in a troubled nation. After the strong public disagreements over the Vietnam War and the frustrations over Iran, the American people saw in our strong support for democracy in the Philippines a foreign policy that made them proud.

We must have equal pride in the idealism of our Nicaraguan policy. We want the Soviets, the Cubans, the East Germans, the Bulgarians, and their ilk to get out of Nicaragua and to stay out for our own valid national security reasons.

We also want a new government in Nicaragua that cherishes freedom, and that builds democratic institutions. We want to assist only those Nicaraguans who share our idealism, and our pride in a foreign policy that can be sustained through many years.

A democratic Nicaragua will not be a threat to its neighbors or a security threat in our hemisphere. A democratic Nicaragua would finally make it possible for economic progress to resume in all of Central America. Without threats of continued civil wars, the United States could initiate the second major facet of a Central American policy: the generous economic assistance to friends who are close neighbors and whose remarkable democratic achievements in the past five years alone merit our enthusiastic political and economic support.

Parenthetically, let me comment that we must adopt that second stage of economic assistance policy toward the Philippines in a timely and generous manner now. That democracy is a triumph for the Filipino people and for us. Both countries have won a major foreign policy victory. We must consolidate that gain.

All of the things which a democratic Nicaragua will accomplish need to be balanced against what will happen without it. To quote President Oscar Arias of Costa Rica, "There will never be peace in Central America as long as there is a Marxist regime in Nicaragua with the characteristics of the nine commandantes." This means that if there is no democratic Nicaragua, every other Central American democracy will feel the need to be more heavily armed and militarized than would otherwise be the case. A quarantine or the containment of a Marxist Nicaragua, therefore, is a far less simple solution for the other Central American democracies than the many advocates of that policy claim.

The steps we must take to set up the final stage of free and fair elections for a democratic Nicaragua are a balanced combination of diplomatic and military elements.

Even while we have been debating Central American issues in the Congress, extraordinarily talented and courageous presidents have been elected in four neighboring countries. Vinicio Cerezo, the new President of Guatemala, is determined to push for a Central American parliament. Oscar Arias, the new President of Costa Rica, is determined to press for democratic elections of all members of that Parliament, including those to be elected in Nicaragua. President Duarte in El Salvador and President Azcona in Hondu-

ras are equally eager to press for a democratization timetable in Nicaragua, in addition to sound verification procedures to monitor the reduction of Nicaraguan military forces and withdrawal of all foreign military elements.

These four Presidents have kept the United States informed of their plans and aspirations. We have been well represented in that planning by Assistant Secretary of State Elliott Abrams and special Ambassador Phil Habib, who had barely finished his own diplomatic observation in the Philippines when he was called by President Reagan to proceed to Central America.

On the day that President Arias was inaugurated in Costa Rica, I sat with Presidents Cerezo, Azcona, Duarte and Febres Cordero of Ecuador, Vice President Bush and Phil Habib around a breakfast table in San Jose. The conversation on our mutual objectives was direct and constructive. Later, I visited with President Arias and his wife at their residence. I believe that I have a good understanding of what each wants to achieve.

If Nicaragua poses a security problem for the United States, the Sandinistas pose a more immediate and dangerous threat to Central American democracies. The democracies need peace to undertake desperately needed economic growth measures. They need security from insurgent guerrilla attacks.

The romance of revolutionaries attacking right-wing authoritarian governments is over. It is perverse nonsense when the governments are headed by distinguished democrats such as Duarte, Cerezo, Arias, and Azcona. They and not the Marxists are the ones legitimately fighting for religious and civil liberties, land reform, judicial reform, and economies which will merit new investment capital. The four have told President Daniel Ortega of Nicaragua, face to face, that a Marxist totalitarian government at the throat of Central America will not do. The Central American Presidents have delivered that message in forceful and extended conversations.

There is no point in underestimating the task before us and our Central American allies. Marxist governments typically do not permit themselves to be voted out of office in free elections. They abolish civil rights, curtail a free press, harass religious expression, build ridiculously outsized armed forces, and deliberately subvert their neighbors. The Sandinistas themselves have coined the phrase "revolution without frontiers."

Unfortunately, every successive internal change in Nicaragua since 1979 has narrowed the space for political pluralism and dialogue. This was emphatically the case even during the 18 months in which the Carter administration bent over backwards to be helpful and comprehending. Today, of course, all measures are attributed to a supposedly imminent U.S. invasion, or to our assistance to the armed opposition.

Before Phil Habib took his first trip to Central America in the early Spring of this year, he told me and others that he could not negotiate a successful formula for the future of Central America unless the Congress voted military assistance to the Contras. He still believes that, and so do I.

The Marxists in Nicaragua know that the Contras are a military threat. Given the fragile economic underpinnings of their regime, the Marxists face internal destabilization long before military defeat. They show no signs of embracing democracy and free and fair elections for the good of the people and the prosperity of their country. They must be compelled to face negotiations with the Contras and with neighboring states who insist upon democracy.

Let me underline the obvious, again. Military assistance to the Contras is the essential factor for any reasonable hope of successful negotiations.

The American people have been skeptical about the Contras. In addition to alleged ties with Somoza's national guard, public charges have been made that some Contra elements have engaged in drug dealing and other criminal activity. Secretary Abrams has been active in spurring Contra leadership reform. Senators Nancy Kassebaum, Warren Rudman, Sam Nunn, and Bill Cohen were successful during Senate debate in demanding greater accountability by the Contras, and the unification of their efforts toward assurances of legal and democratic procedures.

If the Contras are not as strongly for democracy, for civil rights, and for legal procedure as we are, they will become irrelevant. The American people and the Central American democracies will not back any Nicaraguan freedom fighters who have any other agenda than a passion for democracy. The Contras need to know that. I am spelling it out clearly, again, today. I want to see much more evidence that the Contras can articulate loudly and clearly the constitution that they want to cherish and for which they are willing to risk their lives with our assistance.

Even while Congress has debated these issues and while aid to the Contras has been cut off for the last eleven weeks, substantial progress has occurred in reform of the Contras, and in discussion by the Contadora countries, the support group, and Central American countries about the fate of Nicaragua.

The United States government has taken the Senate legislation seriously. Phil Habib has been active and successful in bringing about new support for the United States positions.

Habib's success has, in fact, set off alarm bells among some members of Congress and the Administration sufficient to surface a Department of Defense publication entitled "Prospects for Containment of Nicaragua's Communist Government." The paper argues that a Contadora Treaty might be signed soon that would be deficient in enforcement mechanisms against insurgency and military buildup, and which would leave Marxist Nicaragua unchanged internally despite all of the discussion of democratization.

The Defense Department report cites other treaties violated routinely by Marxist governments that should not have been trusted because they never intended to abide by any inconvenient treaty provisions. It estimates that in three years, with no Contras still available, the United States would be asked by Honduras and Costa Rica for assistance in containing the Nicaraguan menace. The upgrading of the military forces of friendly Central American countries would cost $1.5 billion. The estimated annual cost of U.S. containment forces would be $7.2 to $9.1 billion to quarantine Nicaragua.

Thus some Defense Department analysts began to argue that the Contadora process was getting out of hand and that Latin American countries, simply weary of the whole process, might throw in all their cards, sign a document, and leave themselves and the U.S. open to an ongoing, expensive debacle.

Washington abounds with partisans who are convinced that diplomacy will not make it in Nicaragua. Many others are convinced that the Contras are unworthy of military support or incapable of effecting a successful military effort.

I contend that neither the Contadora process nor Phil Habib plus the Central American democratic presidents are likely to bring about free and fair elections in Nicaragua without military assistance to the Contras. And the Contras are unlikely to reach the bargaining table without very sophisticated alliances with the Central American countries and the most skillful of diplomatic efforts by Elliott Abrams and Phil Habib.

Only a combination of diplomats, presidents, and Contras has a high probability of getting the job done with a minimum of intervention by the United States in Latin American affairs, a very important requirement by Latins, and with a minimum of financial and military support commitments by the United States, a very important domestic political requirement.

I have Congressional friends who want the Senate Foreign Relations Committee to investigate alleged drug dealing by the Contras. Others want to investigate Phil Habib for his alleged willingness to terminate aid to the Contras if a satisfactory Contadora treaty is signed.

Without demeaning any of these friendly suggestions, they are reminiscent of earlier demands on my Committee. At that time, some wanted investigations of scandalous financial dealings by Ferdinand and Imelda Marcos. Others questioned whether U.S. Ambassador to the Philippines Stephen Bosworth, was so pro-opposition that President Marcos was being undercut even as Marcos claimed that he was trying to protect our bases against the Communist New Peoples Army.

My advice then and now is to keep all tracks clear for the main chance. The main chance is democracy through free and fair elections, freedom of speech, freedom of religion, freedom of the press, freedom to congregate and campaign, justice in the courts, and free enterprise. The United States must position itself for that chance just as we did in the Philippines.

I witnessed the November 3, 1985, presidential election in Guatemala. It was an election that could be replicated in Nicaragua with a few months of preparation. The heartbeat of Latin America is democracy, not Marxism. Every Latin yearns for the dignity of self expression. That means the right to vote secretly and to know that the vote is correctly counted as a part of national decision making for leadership and the proper democratic checks and balances on that leadership.

This belies the notion of many cynics of the right and the left that Central Americans are not "ready" for democracy, or that some sort of dictatorship, benevolent or well-intentioned, is preferable to the imperfections and difficulties of an open political system.

When Vice President Bush, Ambassador Lou Tambs, Elliott Abrams, Phil Habib, and I marched behind the American flag into the San Jose soccer stadium for the Costa Rican Presidential Inauguration, the stands erupted in a spontaneous demonstration for the United States of America. The applause continued for our 200 yard procession and was recorded by live television throughout Central America. By contrast, the Nicaraguan ambassador marching behind the flag

was booed. That too was noted and recorded.

Outgoing President Monge and incoming President Arias both told me in separate conversations that people all over Costa Rica had watched on cable television the experiences of our election observer delegation in the Philippines, and my reports to the American people.

They pointed out that Costa Ricans had come to a new appreciation of the willingness of the United States to support democracy, even against an authorization regime which claimed to be anti-Communist.

In that spirit, I count upon liberal friends in Congress who were enthusiastic about democracy in the Philippines to demonstrate a similar commitment for Nicaragua. We should demand of Managua nothing less than we did of Marcos.

Marcos with all his faults permitted lively opposition newspapers. Even in the highly flawed 1984 election, genuine opposition parties won 30 percent of the seats in the National Assembly, and the government faced a serious parliamentary opposition. The Catholic Church and its radio station, *Veritas*, were a major force rallying in democratic opinion. Marcos may have miscalculated monumentally, but he did call for a special election, and invited observers from the United States to validate his anticipated landslide victory.

No such circumstances are presently available in Nicaragua. The opposition is fighting for its life. In the 1984 Nicaraguan elections, the major presidential candidate of the opposition felt obliged to withdraw because of threats to his safety and that of his followers. The radio station of the Catholic Church has been silenced, and the principal daily, *La Prensa*, strongly censored. Ortega and Borge have suppressed civil liberties, and locked up and tortured more political prisoners than Marcos, whose country is 18 times as large. Unlike Marcos, however, Ortega and Borge are unlikely to respond to any challenge which the United States raises to their democratic bona fides.

Those liberals who insist that it is naive or simply inappropriate to ask a Marxist government to open up its systems are wrong. They are as wrong as those conservatives who argued only yesterday that a democratic system was a luxury which the government of El Salvador, fighting for its life against Communist guerrillas, simply could not afford.

The American people do not support the idea of Americans engaged in war in Central America. The American people do support democracy. They should reasonably anticipate that this will require our support of Nicaraguans who are willing to fight for freedom and a democracy which they must define explicitly. It will also require support of diplomacy with democratic governments in Central and South America who want to assist negotiations now, and are willing to stand with us as guarantors of the new democratic order as it is established by Latin Americans for Latin Americans.

The United States of America has enjoyed success in working with those who cherish political freedom to regain that freedom from authoritarian governments of the right. It is equally important that we assist those who are striving for freedom against dictatorships of the left. I believe that this universal fight for democratic institutions deserves bipartisan support. I am certain that Americans want a common sense sorting out of what we should do in Nicaragua. I hope that I have provided a good measure of that common sense today.

NATIONAL ICE CREAM MONTH

Mr. THURMOND. Mr. President, the Washington, DC, ice cream party, which is being held today and sponsored by the International Association of Ice Cream Manufacturers, is but the beginning of a month-long promotion of America's favorite dessert and snack food. Eating ice cream is a fun way to beat the summer heat.

The ice cream manufacturers' importance to Americans cannot be understated. The United States is the largest consumer of ice cream and related products in the world. Over 881 million gallons of ice cream were enjoyed by Americans last year. It is eaten by young and old, in the north, south, east, and west, and enjoyed by all. As an ice cream aficionado, I was pleased to be designated the honorary cochairman by the International Association of Ice Cream Manufacturer's Ice Cream for America Program.

Congress recognized Americans love for ice cream products and designated the month of July as National Ice Cream Month and the second Sunday in July as National Ice Cream Day.

Ice cream is a good, wholesome product that merits special recognition by Congress and the American people. Today, we again thank the 18,000 people employed in the production of this classic American dessert and snack food, and look forward to many more dips and scoops in the years to come.

TRIBUTE TO JOHN F. WATKINS

Mr. HEFLIN. Mr. President, the history of the State of Alabama has been filled with the labor, guidance, and care of many outstanding men. Through times of uncertainty and hardship these men have risen to every challenge. Their efforts have helped to support and strengthen all citizens.

John F. Watkins, who retired last month as the executive director of the Alabama League of Municipalities, has been one of Alabama's greatest, most dedicated servants. John joined the league in 1956 as a staff attorney, and, then, was elected executive director in July 1965. For 21 years he has tirelessly worked to lead Alabama through times of turbulence and transition. His presence and involvement have had a tremendous impact on the current outlook, and hope for prosperity of the people in my State. He has helped to bring Alabama within reach of great future goals and accomplishments.

Additionally, the invaluable friendship which John has long provided has been a source of steady support for myself as well as countless others. I have heard it said that a man is rich, indeed, if he has one friend in whom he can trust and confide. Well, if that is true, John Watkins is wealthy beyond imagination, for he has many such friends.

On May 19, I was honored to be one of several speakers at John's retirement dinner. During the ceremony, I was greatly moved by the eloquence and accuracy with which each speaker described the example which John has set. I believe that this great example should be shared with everyone and ask unanimous consent that the attached speeches, which were given at this retirement dinner, as well as a letter from Governor Wallace, be printed in the CONGRESSIONAL RECORD.

Mr. President, I commend the efforts and achievements of my good friend, John Watkins. His has done a great service to his State and his Nation. I know that many will remain mindful of his tremendous contributions and achievements.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT AT RETIREMENT DINNER BY MAYOR GUTHRIE SMITH OF FAYETTE, AL, SENIOR PAST PRESIDENT OF AL LEAGUE OF MUNICIPALITIES

It is my distinct honor and pleasure, tonight, to pay special tribute to a distinguished gentleman who has a proven record of dedicated efforts and success in upgrading the quality of municipal government in Alabama.

In preparation of my remarks, I found that words seem inadequate for me to properly express our appreciation in the manner this man so richly deserves. Be that as it may, I shall give it my very best effort.

Exactly twenty one years ago, in May 1965, the Alabama League of Municipalities assembled in Mobile for our annual convention. A decision of major importance was made on that occasion.

Alabama municipal officials unanimously promoted our League Staff Attorney, John Watkins, to the leadership position of Executive Director.

At that same meeting, held in the Admiral Semmes Hotel, a minor event took place when the convention very graciously elected me President of the League.

John, here we are in Mobile again, 21 years later.

A lot of water has swiftly flowed under the bridge during this period, bringing forth more gray hair to both of us.

Regrettably for the Alabama League, you are now hanging up your hat as Executive Director while I am still striving to become a better mayor and pay my civic rent.

It seems only yesterday that John Watkins first assumed the giant leadership and policy making task of Executive Director of the Alabama League of Municipalities.

John, we expected much from you as our Executive Director, and tonight I proudly report that you have far exceeded the demands we placed on you as our leader. You have always been far out front leading and challenging all of us to work harder and use our collective influence to better serve those whom we represent.

Your administration has kept pace with the many changes taking place in Alabama and our nation. Technological and sociological changes have been reflected in the increased complexity of municipal government.

Accordingly, the method of operation of the Alabama League changed under your direction.

John, you led the way in streamlining our standing committee assignment to better serve our needs in organization and setting specific goals each year. I know it has been your desire to get all municipal officials involved in a joint, unified effort to further the cause of municipal government. Through your expert leadership and wide use of committee assignments you now have more municipal officials involved in the big picture of local government than at any other time in the history of our League. I salute you for this major achievement.

Many sections of the Code of Alabama, and very significant amendments to our Alabama Constitution, reflect the wisdom and tenacity of John F. Watkins in helping provide our municipal operation with a legal environment that is second to none anywhere in the country. John, we would never even attempt to put a price tag on your tremendous value to our cities and towns throughout your years of service with the League. But if we ever did, the state-shared revenues that we receive as the direct result of your vast knowledge and your dogged efforts in the legislature would quite literally amount to millions and millions of dollars annually.

Early in John's term he realized how inadequate our rented headquarters building on Hull Street in Montgomery was. He marshaled the forces of Alabama municipal officials, convinced us to buy the land and erect our present League headquarters building one block from the state capitol. In October 1970 we moved into that building, completely debt free, because each municipality paid its proportionate share of the cost. Not only was this a financial bargain but it enhanced the Alabama municipal image by placing our fine headquarters building near the center of our state governmental complex.

This is just another example of John's fine, timely leadership.

In short, the underlying theme to John's 21 years leadership has been the promotion and protection of the interests of municipal government in Alabama. We are eternally grateful to you for your always urging us to continually watch for the pitfalls that sometimes face us at the state and national levels.

Your charming and beautiful wife, Ruth, is loved and admired by all of us, who are your municipal family. Ruth, you have spent many lonesome hours home while John was away so much attending meetings and working for all of us in Alabama municipal government. Your sacrifice and support during those time consuming years smoothed the rough road John sometimes had to travel. We thank you for your devotion and support which loaned John to us as our leader in our search for solutions to major municipal problems so important to us and all citizens whom we represent. We thank you, Ruth, and we love you.

In my estimation, John is really too young to retire, but this is his decision and we must abide by it. When I reach his age I'm sure I, also, will seriously consider retiring.

He has always been acutely aware of his age. For instance, Ruth told me about an occasion once in his early youth when his family was seated around the dinner table. The visiting preacher pushed his chair back with obvious satisfaction. He turned to John at the table and inquired, "how old are you, John?"

"That is difficult to say," was John's answer. "According to my latest school tests I have a psyschologicl age of eleven and a moral age of ten. Anatomically I am seven and mentally I am nine. But I suppose you are referring to my chronological age. I am eight but nobody pays much attention to that these days."

John has always exercised brevity in answering all questions as illustrated by his reply to the visiting preacher.

How times have changed since you were eight, John. When John Watkins speaks now everyone pays attention and listens. From years of study, research and on the job experience, words of wisdom and sound municipal advice flow freely from his great mind and intellect. His valued judgement is not only highly respected by us in Alabama but his expertise in the field of municipal government is well known and valued at the national level. His many committee assignments and service on the Board of Directors of the National League of Cities are proof positive.

During the past 29 years it has been my distinct honor and pleasure to work closely with our Man of the Hour—John Watkins.

I have become a better municipal official, because of his influence. Also, I have seen, first hand, the tremendous impact, for good, John's leadership has had in furthering the cause for better municipal government in Alabama.

All Alabama citizens, whom we represent, are better served and owe John Watkins a debt of gratitude for a job well done.

Quite frankly, I have always found John to be knowledgeable, dependable, conscientious, efficient, of great character and integrity and always an inspired leader. He is fiercely dedicated to the high role of municipal government and is never afraid to express himself in an articulate manner.

What more can one say about another human being?

We will miss you, John and Ruth, but we will always carry with us such fond memories, which time can never erase.

Whatever direction life takes you, we wish you both continued good health, happiness and success.

STATEMENT BY MAYOR HAROLD SWEARINGER OF PINE HILL, AL, PRESIDENT OF AL LEAGUE OF MUNICIPALITIES

John, how does one put into words all the things you mean to the Alabama League of Municipalities, its member cities and towns and its officials. I have thought long and hard on what to say on this mementous and historic occasion and adequate words still have not come to me. However, since it is my honor and privilege to have the closing remarks of tribute from the League on this signal occasion I will endeavor to express what is surely in the hearts of all of us here tonight.

It is a mark of this man that he told us last July he would be retiring this May. He saw to it that there was plenty of time for a smooth transition of duties and responsibilities within the organization. My year as president has brought to me, in the most vivid way possible, just what John Watkins means to the Alabama League of Municipalities. As I said in my report to the convention this morning, this man has been the heart and soul of the Alabama League of Municipalities these past 21 years he has served as our Executive Director. I had never fully realized, before this year what an enormous role he has played in making the Alabama League the premier municipal league in all this great land of ours.

In his remarks, Guthrie made brief reference to the number of changes brought about in Alabama law for the betterment of our municipalities under the leadership of this man. We could not begin to list them all but I calculate that under his leadership there have been at least 135 or more actions taken by the Alabama Legislature that affect our cities and towns. These laws range over the entire spectrum of municipal government, including but not limited to, elections, courts, police powers, licenses and taxes, state shared revenue, incorporations, annexations, forms of government, duties and qualifications of municipal officials, finance and borrowing powers, municipal boards and many, many other areas affecting our cities and towns. I would like to make note of just a few of the more significant laws passed during this time.

We can look back to 1967 and the Constitutional Amendment to raise the debt limit to 20% of the market value of property, and then acts, too involved to detail, to liberalize our annexation procedures. Others were those allowing cities to levy a sales tax paralleling the state sales tax and also allowing the state to collect the tax for us, a law providing for non-partisan municipal elections that has had a very positive effect on the municipal election process, an act to limit the amount of recovery in tort claims against municipalities, the constitutional amendment to set up eight classes of municipalities by population, the authorization in 1977 of an interim committee on municipal government and its extension by subsequent acts including the just adjourned session, laws affecting state revenues shared with municipalities, and last but by no means least, the recent act giving municipalities a share of the Oil & Gas Trust Fund revenues. Each of you would probably come up with a different list but I think that these serve to demonstrate the tremendous gains made by our municipalities through legislation at the state level. And though he would quickly deny it, it has largely been accomplished through the efforts of John Watkins and the perception of the Alabama League of Municipalities that he has cultivated with our lawmakers and with those who have occupied the governors chair.

In another vein, John was most instrumental in working with NLC to get Federal Revenue Sharing enacted. This has been a boon to every municipality, not only in Alabama but all across our nation. Frankly, I think that the Congress should vote to extend Federal Revenue Sharing this year as a tribute to John Watkins.

John, your contribution to citizens of the cities and towns of this great state has been enormous. We deeply appreciate what you have accomplished on our behalf and wish for you and Ruth, Godspeed on the road ahead.

STATE OF ALABAMA,
GOVERNOR'S OFFICE,
Montgomery, AL, March 25, 1986.

Mr. JOHN F. WATKINS,
Executive Director, Alabama League of Municipalities, Box 1270, Montgomery, AL.

DEAR JOHN: Over the last many years, you and I have witnessed a great number of people appear on and depart the public scene in our state capitol. All of them, of course, made some contribution but some more than others. I consider you at the top of the latter category.

You will recall that our relationship began back in the 1940s when you worked with Ed Reed. Ed was a capable man with

brilliant judgment, as prime example of which was his having you to assist him. John, during these intervening years I have observed your devoted and tireless efforts on behalf of the cities of Alabama. I have seen how you unselfishly gave of your personal time, away from your family, in order to benefit others. You have made many friends over those years, more than you perhaps know, and I am proud to be one of them. I suppose if I were asked to describe my relationship with you, my description would first include integrity but most of all I would say "He's my friend."

John, you have contributed much to this fine state and region through your years with the Alabama League of Municipalities and it has been my great personal privilege to have known and worked with you all this time. I thank you for your service and hope that you, Ruth, and your family will enjoy a long, healthy, and happy time in your retirement.

Your friend,

GEORGE C. WALLACE.

A TRIBUTE TO JOHN F. WATKINS, BY SENATOR HOWELL HEFLIN

CONVENTION OF THE ALABAMA LEAGUE OF MUNICIPALITIES, MAY 19, 1986

Church reformer Martin Luther in his work, "Table Talk;" said: "A faithful and good servant is a real Godsend, but truly tis a rare bird in the land."

John Watkins, you are truly a rare bird in the municipal land.

John Watkins, you have been a faithful and good servant to all our cities and towns.

Gathered here tonight are many fellow servants to pay tribute to a man to whom we are all in great debt. We use the word "servant," not to indicate any subservience, but as a status of equality, for we are all fellow servants in the vineyards of government. We are indebted to you, John Wakins, for so many things that it would be impossible for us to enumerate them all.

For 21 years, from 1965 to 1986, you have been one of Alabama's greatest servants as executive director of the Alabama league of Municipalities. These years signify 21 years of strife, change, progress, growth, and advancement. Through them all, your sound and reasonable counsel has saved Alabama from much hardship and violence. Changes in industry, agriculture, and society have shifted the concerns and issues important to us all. However, your leadership has provided cities and towns with essential guidance during a time which has been marked by such great transition. Because of your tireless, devoted service throughout this period of uncertainty and change, Alabama's municipalities have emerged stronger, more unified, and uniquely prepared to face the challenges and demands of the future.

Alabama is a better place to live because of you.

For all this, we are in your debt.

The Alabama League of Muncipalities is a vibrant and strengthened organization that facilitates interaction between all municipal officials in solving problems and achieving common goals, and educates municipal officers as to their duties and functions. The league is outstanding and effective because of your service.

You have served the league well. For this we are all in your debt.

The people of our communities, our State, and our Nation have benefited because of the many contributions you have made to all units of government. While your major leadership has been in the field of municipal government, your ideas, suggestions, contributions, and acts of leadership have made our State and Nation more responsive to the needs of our people, who are the sole proprietors of government in a democracy.

For this we stand in your debt.

While we owe you much for the accomplishments of your office, we are even more indebted because of your great friendship. The time, advice, and support that you have given us when helping with our individual or political problems, as well as your understanding of our weaknesses and strengths, makes all of us feel close to you. You have made all of us better servants of the people.

For this, we, your fellow servants, will always be in your debt.

I am personally indebted to you for a long-standing friendship that dates back to school days. Though most here tonight have not had the privilege of a similar length of friendship; nevertheless, I am sure the intensity and the endearment of their feelings is best expressed by joining me in affectionately calling you a "dear old friend."

While the leaders of municipal government have gathered here to pay tribute and wish you well, I somehow believe that in the heavens above there are many departed fellow servants who are looking down and wishing you the best in your upcoming retirement years. I somehow hear in the distance the voices of Eddie Reid, Jess Lanier, Josh Sellers, Albert Boutwell, John Gaither, John T. Reed, Doug Moore, and Patricia McKenzie, as well as many others, who join with me, and with those present, tonight, in paraphrasing a portion of the 21st Verse of the 25th Chapter of Matthew—

* * * Well done, thy good and faithful servant.
Thou hast been faithful over many things * * *
Enter thou into the joy of our Lord.

Your beloved wife Ruth has been your and our fellow servant. Her service to the league, our cities and towns, and government, at every level, has been magnificent and most beneficial. But, we love you, Ruth, the most for the support that you have given our dear old friend John. You have stood by him in sickness, in health, comforting him and making him a great leader. You bear the name of the most devoted woman in the Old Testament. The words of Ruth to Naomi come to mind when we think of your love and devotion for John:

* * * Entreat me not to leave thee, or to return from following after thee: for whither thou goest, I will go; and where thou lodgest, I will lodge: thy people shall be my people, and thy God my God: Where thou diest, will I die, and there will I be buried: * * *

Ruth, we are indebted to you, for you, likewise, have been a faithful and good servant.

You have given me the license to paraphrase the Bible. Please allow me the right to paraphrase an old Irish prayer which seems to me to express for all present the affection and well-wishing that each of us holds for John and Ruth.

May the road rise to meet you.
May the wind always be at your back.
May the sun shine warm on your face.
And may the rains fall soft on your fields.
And during the remainder of your days,
May the good Lord hold you,
Dear old friend John and your beloved Ruth,
In the hollow of His hand.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:01 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1106. An act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the U.S. Claims Court.

At 12:53 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; with an amendment, in which it requests the concurrence of the Senate:

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 19, 1986, she had presented to the President of the United States the following enrolled bill:

S. 1106. An act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the U.S. Claims Court.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2184. A bill to authorize appropriations to the National Science Foundation for the fiscal year 1987, and for other purposes (Rept. No. 99-325).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 2572. An original bill to provide economic support for the November 15, 1985, agreement between the Government of Ireland and the Government of the United Kingdom, and for other purposes (Rept. No. 99–326).

By Mr. THURMOND, from the Committee on Judiciary, without amendment and with a preamble:

H.J. Res. 297: A joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

S.J. Res. 256. A bill designating the August 12, 1986, as "National Neighborhood Crime Watch Day."

S.J. Res. 274. A joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend."

S.J. Res. 362. A joint resolution to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk Driving Awareness Week."

S.J. Res. 363. A joint resolution to designate July 2, 1986, as "National Literacy Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

D. Lowell Jensen, of Virginia, to be U.S. district judge for the northern district of California;

Leon B. Kellner, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years;

Jerome G. Arnold, of Minnesota, to be U.S. attorney for the district of Minnesota for the term of 4 years;

Andrew J. Maloney, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years;

Paul R. Nolan, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years; and

Donald W. Wyatt, of Rhode Island, to be U.S. marshal for the district of Rhode Island for the term of 4 years.

By Mr. THURMOND, from the Committee on the Judiciary:

Report to accompany the nomination of Daniel A. Manion (with additional and minority views) (Exec. Rept. No. 99–16).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral: Alan D. Breed, John W. Kime, Robert L. Johnson.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. DENTON, from the Committee on Armed Services:

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Frank B. Kelso II, [redacted]/1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 610, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Kendall E. Moranville, [redacted]/1310, U.S. Navy.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. WEICKER, Mr. BRADLEY, Mr. LEVIN, and Mr. SPECTER):

S. 2570. A bill entitled the Anti-Apartheid Action Act of 1986.

By Mr. BUMPERS (for himself, Mr. BIDEN, Mr. SARBANES, Mr. HECHT, Mr. KERRY, Mr. METZENBAUM, Mr. SIMON, and Mr. KENNEDY):

S. 2571. A bill to establish the National Nuclear Reactor Safety Study Commission; to the Committee on Governmental Affairs.

By Mr. LUGAR from the Committee on Foreign Relations:

S. 2572. An original bill to provide economic support for the November 15, 1985, agreement between the Government of Ireland and the Government of the United Kingdom, and for other purposes; placed on the calendar.

By MR. HEINZ (for himself, Mr. SPECTER, Mr. ABDNOR, Mr. PRESSLER, Mr. BYRD, Mr. ROCKEFELLER, Mr. FORD, Mr. HEFLIN, Mr. SIMON, Mr. PELL, Mr. STENNIS, Mr. LAUTENBERG, and Mr. MATTINGLY):

S. 2573. A bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims; to the Committee on Environment and Public Works.

By Mr. HEINZ (for himself, Mr. SPECTER, Mr. ABDNOR, Mr. PRESSLER, Mr. BYRD, Mr. ROCKEFELLER, Mr. FORD, Mr. SIMON, Mr. PELL, Mr. HEFLIN, and Mr. MATTINGLY):

S. 2574. A bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself and Mr. MATHIAS):

S. 2575. A bill to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER (for himself, Mr. BAUCUS, Mr. DOLE, Mr. CHAFEE, Mr. HEINZ, Mr. CHILES, Mr. ANDREWS, Mr. ABDNOR, Mr. MITCHELL and Mr. BENTSEN):

S. 2576. A bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted medicare claims; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. BRADLEY, Mr. MOYNIHAN, Mr. HEINZ, and SPECTER):

S. 2577. A bill to insure that amounts paid for home improvements to mitigate air contaminants such as radon gas qualify for the tax deduction for medical car expenses; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. MOYNIHAN):

S. 2578. A bill to provide, through greater targeting, coordination, and structuring of services, assistance to strengthen severely economically disadvantaged individuals and families by providing greater opportunities for employment preparation, which can assist in promoting family economic stability; to the Committee on Labor and Human Resources.

By Mr. SPECTER (for himself and Mr. MOYNIHAN):

S. 2579. A bill to amend part A of title IV of the Social Security Act to promote the transition of severely economically disadvantaged individuals to unsubsidized employment.

By Mr. HELMS (for himself, Mr. EAST, and Mr. ARMSTRONG):

S.J. Res. 366. A joint resolution to disapprove the Act of the District of Columbia Council entitled the "Prohibition of Discrimination in the Provision of Insurance Act of 1986": to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, Mr. SASSER, and Mr. PROXMIRE):

S. Con. Res. 151. A concurrent resolution expressing the sense of the Congress on United States policy toward Afghanistan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. WEICKER, Mr. BRADLEY, Mr. LEVIN, and Mr. SPECTER):

S. 2570. A bill entitled the "Anti-Apartheid Action Act of 1986"; to the Committee on Finance.

(The remarks of Mr. CRANSTON and Mr. KENNEDY and the text of the legislation appear elsewhere in today's RECORD.)

By Mr. BUMPERS (for himself, Mr. BIDEN, Mr. SARBANES, Mr. HECHT, Mr. KERRY, Mr. METZENBAUM, Mr. SIMON, and Mr. KENNEDY):

S. 2571. A bill to establish the National Nuclear Reactor Safety Study Commission; to the Committee on Governmental Affairs.

NATIONAL NUCLEAR REACTOR SAFETY STUDY COMMISSION ACT

Mr. BUMPERS. Mr. President, I rise today to introduce legislation to establish an independent 12-member Commission of distinguished experts to study the Chernobyl nuclear accident and a broad range of domestic nuclear safety issues.

The accident at the Chernobyl nuclear powerplant appears to have been the most serious to date in the world use of nuclear power. Reported deaths from the accident now total 26. Hun-

dreds of people were hospitalized and over 100,000 initially evacuated. Additional evacuations of between 20,000 to 80,000 people were carried out last week. Radioactive releases have contaminated surrounding farmlands and spread beyond Soviet boundaries to other countries. There is no doubt that the accident will have profound international and domestic implications for nuclear power.

With respect to our domestic nuclear reactors, the accident raises several questions. Is an accident as serious as Chernobyl possible in the United States? What actions have we taken to prevent core meltdown accidents and to minimize their consequences, and are these actions adequate? If such an accident occured, would existing emergency evacuation plans adequately protect public safety? I would like to have some credible answers to these questions. Many of our constituents would as well.

At present, the public is receiving its information on the Soviet accident and its domestic implications in a piecemeal fashion, primarily from the media or interest groups at either end of the nuclear spectrum. Industry groups led off with an "it can't happen here" response, emphasizing the design differences between the Chernobyl reactor and most domestic reactors. Much has been made of the lack of a massive containment structure to prevent release of dangerous radiation at Chernobyl. Yet, the Chief of the Nuclear Regulatory Commission's reactor systems division said recently: "I'm not convinced personally that even if Chernobyl had a containment it would have been able to contain that event." (Washington Post, June 1, 1986.) An emphasis on containment structures also raise concerns about the Nation's reactors which lack such structures, particularly our defense production reactors, one of which—the Hanford N-reactor—also has a graphite core. Antinuclear groups have already called for a shutdown of our defense reactors.

The Nuclear Regulatory Commission, the governmental body responsible for ensuring the safety of our nuclear power plants, is divided in its response to Chernobyl. The majority of the Commissioners, focussing on what knowledge we do have about the containment design differences between Chernobyl and most U.S. plants, have testified:

Because of the significant differences between the commercial nuclear plants in operation in the United States and the Chernobyl nuclear facility in the Soviet Union, it is difficult to identify at this time any specific lessons to be learned from this accident that might be applicable to the plants we regulate. (Statement of Chairman Nunzio J. Palladino, Subcommittee on Energy and Power, Committee on Energy and Commerce, May 22, 1986.)

Commissioner Asselstine, a frequent dissenter on the NRC, testified that his fellow Commissioners had missed the broader lessons of the Chernobyl accident for nuclear safety.

To me, the lessons of Chernobyl are simple and straightforward. Given the uncertainties in containment and plant performance, the occurrence of a severe core meltdown accident over the next 20 years is unacceptable. That was the judgment of the President's commission on the Three Mile Island accident six years ago, and it is no less true today. We should return to the safety philosophy espoused by the Kemeny Commission at that time—to pursue all practical measures both to prevent core meltdown accidents from occurring and to minimize their consequences should one occur. (Statement of Commissioner James K. Asselstine, before the Subcommittee on Energy Conservation and Power, Committee on Energy and Commerce, May 22, 1986.)

Commissioner Asselstine's statement alludes to one of the basic questions I would hope this study commission would address. If indeed a U.S. type containment structure would not have prevented the release of radioactivity from the severe core meltdown at Chernobyl, the next question is, What is the probability of a core meltdown at a U.S. reactor? Interestingly, the NRC testified 1 month prior to Chernobyl that under its most recent "probalistic risk assessment," a population of 100 reactors operating over 20 years would have a cumulative probability for such an accident of 45 percent. In post-Chernobyl testimony, however, the NRC reduced this estimate to one chance in eight or 12 percent. An independent assessment of the risk of core meltdown and a discussion of the acceptability of that risk would be an appropriate component of the Study Commission's report.

I would also like the Study Commission to review the safety and management improvements which were recommended after the Three Mile Island accident and assess both the status of their implementation and their effectiveness. Since Chernobyl, the nuclear industry has pointed to the post-TMI safety improvements as further proof that a Chernobyl-type accident cannot happen here. Yet, prior to Chernobyl, many in industry complained that the post-TMI actions were costly and unnecessary.

The adequacy of our existing emergency evacuation plans is another source of concern to me and I have found information on that issue conflicting and confusing. An obvious lesson to be drawn from Chernobyl, is that we must be able to evacuate people living near nuclear plants, moving them quickly out of the path of any radioactive releases. It is hard to imagine how people living near some of our nuclear facilities, particularly those located near major metropolitan centers such as Indian Point (New York City), Zion (Chicago), and Limerick (Philadelphia), could be quickly evacuated. The appropriate size of the emergency evacuation zone should also be reexamined in light of the data on radioactive releases we have and will obtain from the Soviet Union.

Current U.S. evacuation plans call for the evacuation of a 10-mile radius around a nuclear plant while the Soviets evacuated an 18-mile zone. In addition, the Soviets recently ordered evacuations from additional areas, involving some 20,000 to 80,000 people, as a result of the Chernobyl accident.

I am well aware that the responsible Federal agencies have initiated internal reviews of relevant safety issues, and that Congress is performing its oversight function in a vigorous fashion. These efforts are essential and useful exercises. Nevertheless, I believe that an independent and comprehensive study of the Chernobyl accident and domestic nuclear power safety issues is clearly in order. Nuclear safety is a highly technical issue as well as highly charged emotional issue, and it is often difficult to find the truth between the assurances of the nuclear industry and the accusations of those opposed to nuclear power. The dissension within the Nuclear Regulatory Commission on basic safety questions only adds to the difficulty of this task. With the hope of providing the public with the most useful, unbiased information possible, I have introduced this legislation to create an independent Commission of 12 distinguished experts to study the Chernobyl accident and a broad range of domestic nuclear safety issues and report their findings to Congress and the President.

Mr. President, my cosponsors and I stand ready to work with other Senators, and particularly the distinguished chairman and members of the Environment and Public Works Committee on this legislation, which I hope will receive prompt consideration. The questions I and others have raised deserve the thoughful attention of independent experts. In 1979, President Carter appointed a similar commission to study the issues raised by the accident at Three Mile Island. The resulting Kemeny Commission report has been an important source of public information and policy recommendations. We learned a great deal from the TMI accident and I believe that the public would again be well served by a review of domestic nuclear safety issues in light of the lessons to be learned from the Chernobyl accident. I urge the Senate to support this legislation.

In short, Mr. President, I think we have dwelled entirely too much on the fact that our nuclear program is safer than the Soviets' and that is not really the relevant issue. The relevant issue is: Are our nuclear power plants as

safe as they can be and as safe as they should be?

When the shuttle exploded, it was my belief, which on hind-sight was rather naive, that NASA would do an indepth, inhouse study to determine what their safety precautions were and where they failed and so on.

I applaud the President for not accepting that idea and appointing a blue ribbon panel to investigate the entire thing. We now know that the blue ribbon panel appointed by the President brought to this Nation shocking revelations which we would have never received had it not been for that panel.

We now have five Nuclear Regulatory Commissioners, all of whom are political appointees. I think, in light of the Chernobyl accident and the fact that in 1985 the nuclear power industry in this country had the worst record of safety mishaps since TMI in 1979, it is altogether appropriate that the President and the leaders of both Houses appoint a 12-person blue ribbon panel and take such time as is necessary to reasure the people of this country that we are doing everything we can to make our nuclear power plants as safe as possible, including not only the safety of the reactors but out evacuation plans.

Mr. President, I ask unanimous consent that the bill, which I will now send to the desk, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Reactor Safety Study Commission Act."

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress makes the following findings:

(1) The accident at the Chernobyl nuclear power plant in the Soviet Union has raised questions regarding the design, management and regulation of domestic nuclear reactors and the likelihood of a severe reactor accident occurring in the United States;

(2) More information is needed about the causes of the Chernobyl accident and the design of the reactor and the reactor enclosure before comparisons can be made with domestic nuclear reactors;

(3) Various federal and industry studies of domestic nuclear safety issues are planned or in progress in response to the Chernobyl accident, but no comprehensive study is planned to provide the general public with information about the Chernobyl accident and its implications with regard to the safety of domestic nuclear reactors, including the adequacy of existing emergency evacuation plans;

(4) The public interest would be served by an independent report on the causes and consequences of the Chernobyl accident coupled with a comprehensive review and comparative study of the design, management, and regulation of nuclear reactors in the United States.

(b) The purpose of this Act is to establish a national commission which shall report to Congress and the President on the Chernobyl accident and domestic nuclear reactor safety.

NATIONAL COMMISSION ON U.S. NUCLEAR REACTOR SAFETY

SEC. 3. (a) ESTABLISHMENT.—(1) There is established the National Commission on U.S. Nuclear Safety. The Commission shall be composed of 12 members—

(A) four of whom shall be appointed or designated by the President;

(B) two by the Majority Leader of the Senate;

(C) two by the Minority Leader of the Senate;

(D) two by the Speaker of the House of Representatives; and

(E) two by the Minority Leader of the House of Representatives.

(2) The members shall be drawn from among distinguished experts in the fields of nuclear physics, engineering, health sciences, emergency planning, law and government. The members shall not be officers or employees of the Federal Government.

(3) The President shall designate a Chairman from among the members of the Commission.

(b) FUNCTIONS.—(1) The Commission shall—

(A) review all available information pertaining to the causes and consequences of the accident at the Chernobyl nuclear reactor;

(B) compare Soviet reactor design and safety standards with those applicable to commercial U.S. reactors and U.S. government defense production reactors;

(C) review and evaluate the management and regulation of nuclear reactors in the United States, including—

(i) the adequacy of applicable U.S. safety standards, and the likely effectiveness of these standards in the event of a severe nuclear accident such as an accident involving a core meltdown or a core meltdown combined with an explosion, with particular emphasis on events of the severity of the Chernobyl accident;

(ii) the adequacy of applicable standards and plans for emergency evacuations in the event of a severe nuclear accident, including an evaluation of the status of "source term" research and safety implications of changes in the estimated "source term";

(iii) a comparison of design and safety standards applicable to the plutonium production reactors operated by the Department of Energy and those applicable to commercial reactors regulated by the Nuclear Regulatory Commission;

(iv) the implementation by the Nuclear Regulatory Commission and commercial nuclear utilities of regulatory changes and safety improvements recommended after the accident at Three Mile Island and the adequacy of those improvements;

(v) the effectiveness of utility self-regulation and self-study including the Institute for Nuclear Power Operations (INPO), the Industrial Degraded Core Rulemaking Program (IDCOR) response to the NRC's Severe Accident Policy, and the Babcock and Wilcox Owners Group study.

(D) recommend improvements in licensing and related regulatory practices.

(2) The Commission shall report its findings and recommendations to the President and the Congress within one year after the date of enactment of this Act.

(c) COMPENSATION. —Members of the Commission shall be compensated at the rate equivalent to GS-18 on the Civil Service scale of compensation, unless they already receive compensation from the United States government. All members shall be allowed travel expenses, including per diem in lieu of expenses, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707).

(d)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) The Secretary of State, the Secretary of Energy, and the Nuclear Regulatory Commission shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

(d) AUTHORIZATION.—There are hereby authorized to be expended not more than $1,000,000 for the Commission.

(e) TERMINATION.—Unless otherwise extended, the Commission shall terminate 60 days after submitting its final report.

By Mr. HEINZ (for himself, Mr. SPECTER, Mr. ABDNOR, Mr. PRESSLER, Mr. BYRD, Mr. ROCKEFELLER, Mr. FORD, Mr. HEFLIN, Mr. SIMON, Mr. PELL, Mr. STENNIS, Mr. LAUTENBERG, and Mr. MATTINGLY):

S. 2573. A bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims; to the Committee on Environment and Public Works.

By Mr. HEINZ (for himself, Mr. SPECTER, Mr. ABDNOR, Mr. PRESSLER, Mr. BYRD, Mr. ROCKEFELLER, Mr. FORD, Mr. SIMON, Mr. PELL, Mr. HEFLIN, and Mr. MATTINGLY):

S. 2574. A bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims; to the Committee on Environment and Public Works.

DISASTER RELIEF LEGISLATION

● Mr. HEINZ. Mr. President, today along with my colleagues Senators SPECTER, PRESSLER, ABDNOR, BYRD, ROCKEFELLER, FORD, PELL, STENNIS, LAUTENBERG, MATTINGLY, SIMON, and HEFLIN, I am introducing two bills to improve the Federal Government's capability to assist municipalities and people victimized by natural disasters.

One bill would mandate and continue the current policy by means of which the Federal Emergency Man-

agement Agency [FEMA] provides assistance for 75 percent of all damages sustained by local communities for public works, such as roads, bridges, sewer and water systems, with States and localities providing the remaining 25 percent. This essential source of public assistance is now being jeopardized by an arbitrary rulemaking proposed by FEMA. On April 18, FEMA published proposed regulations that would reduce the Federal share of public assistance from 75 percent to 50 percent and would deny eligibility for assistance to communities in which the total damages in the State were less than $1 per capita.

These reductions would drastically limit both the number of instances and the amount of funds which would be provide to communities hit by disasters. Under the $1 per capita threshold, the last six Presidentially declared disasters in Pennsylvania would not have qualified for a disaster declaration and corresponding FEMA assistance. The last disaster that would have qualified for assistance under this restriction would have been the Johnstown flood in 1977.

Pennsylvania is by no means the only State which would be affected. Nationwide, 61 of the last 111 Presidentially declared disasters would have been ruled ineligible for assistance. Kentucky reports that it would never have received Federal public assistance had these rules been in effect when the Disaster Relief Act was enacted in 1974. The new formula would have reduced by 73 percent the number of recent disaster declarations in FEMA Region V, which includes the States of Illinois, Indiana, Ohio, Michigan, and Wisconsin.

The second bill would address comprehensively the type and manner of FEMA disaster assistance. It would clarify such matters as removal of debris, provision of temporary housing, and availability of information to disaster victims.

Mr. President, I know all too well from personal experience how important this type of assistance can be to localities and their citizens. In the past year, several areas of my home State of Pennsylvania have been devastated by a series of tornadoes and floods. During this period, a total of 187 municipalities in Pennsylvania experienced in excess of $15 million in eligible damages and received more than $10 million in public assistance from FEMA. Reducing the Federal share to 50 percent would have cost the Commonwealth an additional $4.1 million for public assistance in 1985. Furthermore, under the restrictive $1 per capita standard, none of these disasters would have qualified for public assistance, leaving the State and local governments to shoulder the entire $15 million in damage to public property.

Last May, tornadoes in northwestern Pennsylvania killed 65 people, destroyed or damaged over 800 homes, and caused an estimated $250 million in damages. Fortunately, in that instance, the President quickly issued a Federal disaster declaration, enabling my constituents and their local governments to take advantage of Federal disaster programs. As a result, affected areas and individuals received a total of $4.7 million in assistance from FEMA.

By codifying FEMA cost-sharing practices, we can ensure that the Federal Government will continue to protect those units of government in the weakest condition—small towns devastated by disasters. Whole communities would be ghost towns today were it not for public assistance provided by FEMA in the wake of natural disasters.

Mr. President, I urge my colleagues to support these two important pieces of legislation, and I ask that these two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES.

The purposes of this Act are—

(1) to help insure that Federal assistance available under the Disaster Relief Act of 1974 is distributed to eligible individuals, State and local governments, and non-profit organizations in a timely, non-discriminatory, and consistent manner; and

(2) to establish cost sharing guidelines for programs established by such Act that will—

(A) provide more timely assistance to disaster victims,

(B) provide fixed standards for use by all Federal, State, and local emergency management officials in determining eligibility for and amounts of such assistance, and

(C) avoid uncertainty and confusion concerning cost sharing when Presidential disaster declarations are made.

SEC. 2. ESTABLISHMENT OF COST SHARING FORMULAS.

Title IV of the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.) is amended by adding at the end the following new section:

"FEDERAL SHARE OF ASSISTANCE

"SEC. 420. (a)(1) The Federal share of assistance under section 402 or 403 of this Act—

"(A) shall be at least 75 percent of the actual cost of providing assistance under such section, and

"(B) shall be made only on condition that the remaining portion of such cost is paid from funds made available by a State or local government.

"(2) Where a State or local government is unable immediately to pay its share the President is authorized to advance to such government such 25 percent share, and any such advance shall be repaid to the United States.

"(b) The Federal share of assistance under sections 404, 407, and 413 shall be equal to 100 percent of the actual cost of providing assistance under such sections.

"(c) No State shall be ruled ineligible to receive assistance under subsections (a) and (b) of this section by virtue of an arithmetic formula based on income or population if such State has qualified for Federal disaster assistance within the past 24 months."

S. 2574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES.

The purposes of this Act are to provide for—

(1) more effective utilization of State and local resources in disaster relief efforts;

(2) the immediate establishment of disaster assistance centers following a Presidential declaration of a major disaster under the Disaster Relief Act of 1974;

(3) availability of adequate and timely information to disaster victims regarding assistance available under such Act;

(4) removal of debris under such Act in a manner that protects the public health and safety;

(5) provision of temporary housing assistance under such Act in a timely and reasonable manner;

(6) increases in the maximum value of individual and family grants under such Act to reflect increases in the cost-of-living;

(7) reimbursement of State and local governments under such Act within a reasonable time after the submission of all necessary documentation;

(8) prompt assistance under such Act to all who are eligible for relief; and

(9) improvement in the practical and fiscal relationships that exist between Federal, State, and local emergency management officials.

SEC. 2. AUTHORIZATION OF DISASTER ASSISTANCE CENTERS.

Section 303 of the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.) is amended by adding at the end the following new subsection:

"(d)(1) The Federal coordinating officer shall, as soon as is practicable after a Presidential declaration of a major disaster, establish local disaster assistance centers.

"(2) Disaster assistance centers shall—

"(A) gather and disseminate information regarding Federal, State, and local assistance programs,

"(B) accept applications for such programs, and

"(C) counsel individuals, families, and businesses concerning all available Federal, State, or local assistance for which they may be eligible.

"(3) The Federal coordinating officer shall ensure that, to the greatest extent practicable, disaster assistance centers shall be staffed with persons recommended by the State coordinating officer.".

SEC. 3. CLARIFICATION OF RESPONSIBILITY TO REMOVE CERTAIN DEBRIS AND DYING TIMBER.

Section 403 of the Disaster Relief Act of 1974 is amended—

(1) by redesignating subsection (b) as subsection (c), and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) The President shall ensure that debris shall be removed from any area on private property that is within 200 feet off a residence situated on such property.

"(2) Trees that are dying shall be considered debris eligible for removal from residential lots when such trees are situated within 200 feet of a residence.".

SEC. 4. TEMPORARY HOUSING ASSISTANCE IMPROVEMENTS.

Section 404 of the Disaster Relief Act of 1974 is amended by adding at the end the following new subsection:

"(e)(1) Within 20 days after a Presidential declaration of a major disaster, persons living in the affected area who qualify for temporary housing assistance under this section shall be identified and provided at least two offers of such assistance.

"(2) Applicants for temporary housing assistance under this section shall be informed of—

"(A) all available forms of such assistance,

"(B) any specific criteria which must be met to qualify for each type of assistance that is available, and

"(C) any limitations which apply to each type of assistance.

"(3) Offers of assistance under this section shall—account for—

"(A) the location of and travel time to—

"(i) the applicant's place of business; and

"(ii) schools which the applicant or members of the applicant's family who reside with the applicant attend;

"(B) the applicant's need for access to—

"(i) the site of a home or place of business whose destruction or damage is the result of the major disaster which created the applicant's need for assistance under this section: and

"(ii) crops or livestock which the applicant tends in the course of any involvement in farming which provides 25 percent or more of the applicant's annual income; and

"(C) the applicant's desire to remain in the same community.

"(4) An offer of assistance under this section shall remain available for acceptance for 60 days after the date on which such offer is made.

"(5)(A) If an applicant's eligibility for assistance is withdrawn after two offers of assistance have been made to such applicant, or if an offer of assistance is withdrawn after the 60 day period referred to in paragraph (4)—

"(i) the applicant shall, upon request, be granted a hearing to show cause why such eligibility for assistance of offer of assistance should not be withdrawn;

"(ii) the procedures for such hearing shall be the same as those which apply in a hearing to dispute a proposed termination of or eviction from temporary housing assistance and shall be fully explained to the applicant; and

"(iii) the applicant shall be given assistance in preparing for and presenting arguments at such hearing.

"(B) A final determination on any withdrawal of eligibility or an offer of assistance shall be made within ten working days after the date on which a hearing is requested under this paragraph."

SEC. 5. INCREASE IN AMOUNTS OF INDIVIDUAL AND FAMILY GRANTS.

Section 408(b) of section 601 of the Disaster Relief Act of 1974 (Public Law 93-188; 42 U.S.C. 5121 et seq.) is amended by striking "$5,000" and inserting "$7,500".

PROCESS IN CERTAIN GRANTS OF ASSISTANCE

Subsection (a) of section 601 of the Disaster Relief Act of 1974 is amended—

(1) by inserting "(1)" after "(a)", and

(2) by adding at the end the following new paragraph:

"(2) Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State or local government or to an eligible non-profit organization shall be completed within 60 days after the date on which an applicant submits a claim after completion of the approved work.●

● Mr. FORD. Mr. President, I wish I could say that I am pleased to join my friend from Pennsylvania in sponsoring these two bills, but I cannot. The reason for my displeasure is that there should be no need for such legislation. If there were only one role for the Federal Government after providing for the national defense, it should be disaster assistance to the States. But the Federal Emergency Management Agency—created to come to the rescue of the States in time of catastrophe—wants to cut back drastically on the assistance it provides. That is shameful.

So, you see why I take no pleasure in sponsoring this legislation. It is introduced only to prevent FEMA from making a serious mistake. The Agency's proposed rule would be devastating to Kentucky, Pennsylvania, Illinois, Indiana, Ohio, Michigan, and Wisconsin. However, I also suspect it would be just as harmful to States of the Midwest and the Great Plains, which regularly are hit by tornados—to California, which is hit by mudslides and brushfires every year—to the Gulf and Atlantic Coast States regularly lying in the path of hurricanes.

In fact, Mr. President, if the legislation we are introducing today is not signed into law before FEMA's proposed rule becomes final, every State in the Union will run the risk of being unable to respond adequately if hit by a natural disaster. I commend the Senator from Pennsylvania [Mr. HEINZ], for recognizing the potential danger of FEMA's rule, and for taking action to prevent it; and I hope my colleagues will join us in this effort.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join today with my colleague from Pennsylvania [Senator HEINZ] in introducing legislation to retain current Federal Emergency Management Agency policy on disaster relief.

In May, the Federal Emergency Management Agency issued draft regulations on disaster relief which, unless Congress intervenes, will become effective in October. The purpose of these regulations is to save FEMA money. The impact of the regulations is to make many communities suffering natural disasters ineligible for Federal assistance.

Mr. President, of the last 111 Presidential declarations of disasters, only 61 would be eligible for assistance under the new FEMA rules. Those found eligible for assistance would find themselves called upon to cover a far higher percentage of the cleanup and rehabilitation costs. FEMA would establish a scale of ability to pay based on per capita income. The fairness of such a sliding scale is worthy of debate and should, if it is to be implemented at all, be done legislatively and not by regulation.

To provide an example of the impact of these new regulations in New Jersey, I asked my State Office of Emergency Management to compare the cost to communities devastated by the 1984 spring floods. Passaic County, NJ had $1,664,000 in damages. After the Presidential declaration of disaster, the Federal Government paid $1,247,000 with the local match being $416,000. Under the new regulations, the local share would be $1,013,000, with FEMA covering $650,000.

Mr. President, historically, natural disasters have not been considered to be the fault of local communities and the Federal Government has attempted to quickly provide emergency relief. Until recently, the Federal Government covered 100 percent of disaster relief costs. In order to control costs. FEMA, without legislative mandate, began the 75/25 percent match with localities. That practice has not proven to be burdensome in most circumstances. Now it appears that FEMA wants to shift the burden of disaster relief primarily to States and localities.

Mr. President, the bill we are introducing will, for the first time, put in statute the 75/25 percent matching requirement. The bill will prevent FEMA from imposing, by regulation, the per capita scale which would rule States and localities ineligible for relief. The bill will prevent FEMA from adopting a 50/50 percent match.

Mr. President, as ranking minority member of the Environment and Public Works Committee's Subcommittee on Regional and Community Development, I will push for hearings on this issue. Disaster relief is one of the basic functions of Government. I strongly favor efforts to reduce unnecessary Federal spending, but I do not support efforts to save money at the expense of communities devastated by floods, hurricanes, coastal storms and other natural disasters.

I am pleased to be an original cosponsor of this legislation and urge its swift consideration and adoption.●

By Mr. LEAHY (for himself and Mr. MATHIAS):

S. 2575. A bill to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; to the Committee on the Judiciary.

ELECTRONIC COMMUNICATIONS PRIVACY ACT

Mr. LEAHY. Mr. President, today I am introducing the Electronic Communications Privacy Act with Senator

MATHIAS. The need for this legislation to update our legal privacy protections and bring them in line with modern telecommunications and computer technology is clear if we consider some simple illustrations.

In the first example, two business people are discussing their company's sensitive financial data over the telephone. Unknown to them, a competitor is using a phone tap to listen in on their conversation. Across town, a police officer has a hunch that Jane Doe is involved in drug trafficking. He goes to the Post Office and tells the postal clerk that he wants to intercept, open and read Ms. Doe's mail, and then have it resealed and delivered.

We would all agree that the competitor eavesdropper's conduct is wrong and the policeman's conduct is wrong. Their conduct is also illegal.

Now let me change the scene just a little and remind my colleagues that each example is probably going on somewhere in the United States right now.

Instead of the two business people discussing financial matters over the telephone, they use a video teleconference system which displays their data on their video screens. The same data is picked up by their competitor. Instead of going to the Post Office, the police officer goes to an electronic mail company. Ms. Doe is a user of the system and the officer asks to see all of Ms. Doe's messages.

The only real difference between the eavesdropper's and the policeman's conduct is that in the second example, traditional telephone or mail communications have been replaced by one of the great technological innovations available in America today. Many of our constituents who use those new forms of technology in their homes and in their businesses would be surprised to learn that the same conduct is not clearly illegal once the electronic component is added to the story.

The Electronic Communications Privacy Act is designed to update our law to provide a reasonable level of Federal privacy protection to these new forms of communications. It is the culmination of 2 years of hard work. I want to commend the Senator from Maryland, the chairman of the Senate Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks for his support and his efforts in developing this legislation.

I also want to congratulate Congressman BOB KASTENMEIER and Congressman CARLOS MOORHEAD, the chairman and ranking minority member of the House Judiciary Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice. The Congressmen and their staffs saw the House Judiciary Committee unanimously pass this landmark legislation last week.

Mr. President, let me just briefly describe the limitations of current law and the development of this legislation. The Federal wiretap statute, title III of the Omnibus Crime and Safe Streets Act of 1968 is our primary law protecting the security and privacy of business and personal communications.

Eighteen years ago, when title III was written, Congress could not appreciate—or in some cases even contemplate—telecommunications and computer technology we are starting to take for granted today: electronic mail, computer-to-computer data transmissions, cellular telephones, paging devices, and video teleconferencing. Lawmakers in 1968 could not imagine the extensive use of computers for the storage and processing of information which has put a wide range of personal and business records, including health, financial, and other records, "on-line," or the ready availability of electronic hardware, including high-technology video and radio surveillance systems, making it possible for overzealous law enforcement agencies, industrial spies, and just plain snoops to intercept the personal or proprietary communications of others.

Nor could Congress envision the dramatic changes in the telephone industry which we have witnessed in the last few years. Today, a phone call can be carried by wire, microwave, or fiber optics. Even a local call may follow an interstate path. And an ordinary phone call can be transmitted in different forms—digitized voice, data or video. In addition, since the divestiture of AT&T and deregulation, many different companies, not just common carriers, offer a wide variety of telephone and other communications services.

When Congress enacted title III, it had in mind one kind of communication—voice—and one kind of transmission—a transmission via a common carrier analog—or regular voice—telephone network. Congress chose to cover only the "aural acquisition" of the contents of a common carrier wire communication. The Supreme Court has interpreted that language to mean that to be covered by title III, a communication must be capable of being overheard.

Title III of the Omnibus Crime and Safe Streets Act is hopelessly out of date. It applies only to interceptions of voice communications transmitted via common carrier. It does not cover data communications. It does not specify whether or how communications made using electronic pagers or the private transmissions of video signals like those used in teleconferencing are protected.

Our 2-year effort to deal with this gap between the law and technological innovation began in 1984 when I asked the Attorney General whether he believed interceptions of electronic mail and computer-to-computer communications were covered by the Federal wiretap laws.

The Criminal Division of the Department of Justice replied that Federal law protects electronic communications against unauthorized acquisition only where a reasonable expectation of privacy exists. Underscoring the need for this legislation, the Department concluded: "In this rapidly developing area of communications which range from cellular nonwire telephone connections to microwave-fed computer terminals, distinctions, such as—whether there does or does not exist a reasonable expectation of privacy—are not always clear or obvious."

Hearings in the 98th Congress held by Senator MATHIAS and myself in the Senate Judiciary Committee and by Congressman KASTENMEIER in the House Judiciary Committee demonstrated the scope of these problems and the need to act. We began working with the Justice Department and many individuals, businesses, industry groups, and civil liberty groups. Those groups were concerned primarily about the need to update the law to better protect communications privacy. They also pointed out that the absence of such privacy protections may be inhibiting further technological development in this country and that enactment of such privacy protections will encourage the full use of modern computer technology available in America today.

During those discussions, two things became very clear. First, the need to address unauthorized acquisitions of information is very real. Communications companies have been faced with Government demands, unaccompanied by a warrant, for access to the messages contained in electronic mail systems. And the unwanted private intruder, whether a competitor or a malicious teenager, can do a great deal of damage before being discovered—if he or she is ever discovered. Second, encryption is not the answer. It can be broken. More importantly, the law must protect private communications from interception by others.

The product of our discussions with the Department of Justice and private groups interested in promoting communications privacy, while protecting legitimate law enforcement needs and promoting technological innovation, was S. 1667, which Senator MATHIAS and I introduced last September. Congressmen KASTENMEIER and MOORHEAD introduced identical legislation in the House.

Shortly thereafter, the Office of Technology Assessment issued its report, "Electronic Surveillance and Civil Liberties." Again, the need for

this legislation was underlined. OTA concluded that a message sent by means of an electronic mail system could be intercepted and that its contents could be disclosed to an unintended snoop. The Office of Technology Assessment study also concluded that current legal protections for electronic mail are "weak, ambiguous, or nonexistent," and that "electronic mail remains legally as well as technically vulnerable to unauthorzed surveillance."

Since that time, the Subcommittee on Patents, Copyrights, and Trademarks and the House Judiciary Committee's Subcommittee on Courts, Civil Liberties, and the Administration of Justice have held extensive hearings on the legislation. During those hearings, the Department of Justice and radio hobbyists raised some concerns about the bill. Those concerns are addressed in this new version of the Electronic Communications Privacy Act we are introducing today. This is the same language that the House Judiciary Committee passed by a vote of 34 to 0 last week.

The bill will extend coverage of title III of the Omnibus Crime and Safe Streets Act beyond only voice communications to include video and data communications. It recognizes that private carriers and common carriers perform so many of the same functions today that a distinction between privacy standards is not warranted. The bill also creates penalties for the unauthorized access of electronically stored information if that information is obtained or altered.

In order to address radio hobbyists' concerns, we modified the original language of S. 1667 to clarify that intercepting traditional radio services is not unlawful. Under this revised electronic communications privacy bill, cellular phones, private and public microwave services and voice or display pagers are protected against interception. Cordless telephones and tone-only pagers are not.

The Electronic Communications Privacy Act provides standards by which law enforcement agencies may obtain access to both electronic communications and the records of an electronic communications system. These provisions are designed to protect legitimate law enforcement needs while minimizing intrusions on the privacy of system users as well as the business needs of electronic communications system providers.

At the request of the Justice Department, we strengthened the current wiretap law from a law enforcement perspective. Specifically, we expanded the list of felonies for which a voice wiretap order may be issued and the list of Justice Department officials who may apply for a court order to place a wiretap. We also added a provision making it easier for law enforcement officials to deal with a target who repeatedly changes telephones to thwart interception of his communications, and created criminal penalties for those who notify a target of a wiretap in order to obstruct it.

The bill creates a statutory framework for the authorization and issuance of an order for a pen register. It also creates civil penalties for the users of electronic communications services whose rights under the bill are violated. Finally, it preserves the careful balance governing electronic surveillance for foreign intelligence and counterintelligence purposes embodied in the Foreign Intelligence Surveillance Act of 1978. And it provides a clear procedure for access to telephone toll records in counterintelligence investigations.

Mr. President, the subcommittee staff has prepared a more detailed summary of the bill. I ask unanimous consent that the summary, along with the text of the bill, be printed in the RECORD following my remarks.

From the beginning of our history, first-class mail has had the reputation of preserving privacy while promoting commerce. It is high time we updated our laws so that we can say the same about new forms of technology which are being used side by side with first-class mail. A broad coalition of businesses, industry groups, civil liberties groups, and privacy groups are asking us to do that by enacting the Electronic Communications Privacy Act. The Department of Justice also strongly supports this legislation, and I look forward to working with my colleagues to see it passed and signed into law this year.

In closing, let me just thank the staff who have worked so hard, not only in drafting a good bill, but in working together until they successfully addressed the concerns raised during the hearings. The bill now enjoys the broadest possible support and is ready for prompt passage in the House and Senate, thanks to their efforts.

There being no objection, the previously mentioned material was ordered to be printed in the RECORD, as follows:

S. 2575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Communications Privacy Act of 1986".

TITLE I—INTERCEPTION OF COMMUNICATIONS AND RELATED MATTERS

SEC. 101. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

(a) DEFINITIONS.—Section 2510(1) of title 18, United States Code, is amended—

(A) by striking out "any communication" and inserting "any aural transfer" in lieu thereof;

(B) by inserting "(including the use of such connection in a switching station)" after "reception";

(C) by striking out "as a common carrier"; and

(D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: ", but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended—

(A) by inserting "or other" after "aural"; and

(B) by inserting ", electronic," after "wire".

(4) Section 2510(8) of title 18, United States Code, is amended by striking out "identity of the parties to such communication or the existence,".

(5) Section 2510 of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following:

"(12) 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title);

"(13) 'user' means any person or entity who—

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in such use;

"(14) 'electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

"(15) 'electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

"(16) 'readily accessible to the general public' means, with respect to a radio communication, that such communication is not—

"(A) scrambled or encrypted;

"(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

"(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

"(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

"(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary service, the communication is a two-way voice communication by radio;

"(17) 'electronic storage' means—

"(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

"(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

"(18) 'aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.".

(b) EXCEPTION WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—

(1) Section 2511(2)(d) of title 18, United States Code, is amended by striking out "or for the purpose of committing any other injurious act".

(2) Section 2511(2)(f) of title 18, United States Code, is amended—

(A) by inserting "or chapter 121" after "this chapter"; and

(B) by striking out "by" the second place it appears and inserting in lieu thereof ", or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing".

(3) Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

"(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

"(ii) to intercept any radio communication which is transmitted—

"(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

"(II) by any governmental, law enforcement, civil defense, or public safety communications system, including police and fire, readily accessible to the general public;

"(III) by a station operating on a frequency assigned to the amateur, citizens band, or general mobile radio services; or

"(IV) by any marine or aeronautical communications system;

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communications Act of 1934; or

"(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

"(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station, to the extent necessary to identify the source of such interference; or

"(v) for other users of the same frequency to intercept any radio communication made through a common carrier system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled encrypted.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register (as that term is defined for the purposes of chapter 206 (relating to pen registers) of this title);

"(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service; or

"(iii) to use a device that captures the incoming electronic or other impulses which identify the numbers of an instrument from which a wire communication was transmitted.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended—

(A) in each of sections 2510(5), 2510(8), 2510(9)(b), 2510(11), and 2511 through 2519 (except sections 2516(1) and 2518(10)), by striking out "wire or oral" each place it appears (including in any section heading) and inserting "wire, oral, or electronic" in lieu thereof; and

(B) in section 2511(2)(b), by inserting "or electronic" after "wire".

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "and electronic communications" after "wire".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and electronic communications" after "Wire".

(4) Section 2510(5)(a) of title 18, United States Code, is amended by striking out "communications common carrier" and inserting "provider of wire or electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "any communication common carrier" and inserting "a provider of wire or electronic communication service" in lieu thereof;

(B) by striking out "of the carrier of such communication" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": *Provided*, That said communication common carriers" and inserting ", except that a provider of wire communication service to the public" in lieu thereof.

(6) Section 2511(2)(a)(ii) of title 18, United States Code is amended—

(A) by striking out "communication common carriers" and inserting "providers of wire or electronic communication service" in lieu thereof;

(B) by striking out "communication common carrier" each place it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(C) by striking out "if the common carrier" and inserting "if such provider" in lieu thereof.

(7) Section 2512(2)(a) of title 18, United States Code is amended—

(A) by striking out "a communications common carrier" the first place it appears and inserting "a provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that wire or electronic communication service" in lieu thereof.

(8) Section 2518(4) of title 18, United States Code, is amended by striking out "communication common carrier" and inserting "provider of electronic communication service" in lieu thereof.

(d) PENALTIES MODIFICATION.—(1) Section 2511(1) of title 18, United States Code, is amended by striking out "shall be" and all that follows through "or both" and inserting in lieu thereof "shall be punished as provided in subsection (4)".

(2) Section 2511 of title 18, United States Code, is amended by adding after the material added by section 102 the following:

"(4)(a) Except as provided in paragraph (b) of this subsection, whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

"(b) If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication, then—

"(i) if the communication is not the radio portion of a cellular telephone communication, the offender shall be fined under this title or imprisoned not more than one year, or both; and

"(ii) if the communication is the radio portion of a cellular telephone communication, the offender shall be fined not more than $500 or imprisoned not more than six months, or both.

"(c) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted to a broadcasting station for purposes of retransmission to the general public is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.".

(e) EXCLUSIVITY OF REMEDIES WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2518(10) of title 18, United States Code, is amended by adding at the end the following:

"(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.".

SEC. 102. REQUIREMENTS FOR CERTAIN DISCLOSURES.

Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3)(A) Except as provided in subparagraph (B) of this paragraph, a person or entity providing an electronic communication service to the public shall not willfully divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

"(B) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

"(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

"(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

"(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

"(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.".

SEC. 103. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) IN GENERAL.—Any person whose wire, oral, or electronic communication is intercepted, disclosed, or willfully used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) COMPUTATION OF DAMAGES.—The court may assess as damages in an action under this section whichever is the greater of—

"(1) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(2) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other provision of law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.".

SEC. 104. CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.

Section 2516(1) of title 18 of the United States Code is amended by striking out "or any Assistant Attorney General" and inserting in lieu thereof "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division".

SEC. 105. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

(a) WIRE AND ORAL INTERCEPTIONS.—Section 2516(1) of title 18 of the United States Code is amended—

(1) in paragraph (c)—

(A) by inserting "section 751 (relating to escape)," after "wagering information),";

(B) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(C) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relation to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),";

(D) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity)," after "1952 (interstate and foreign travel or transportation in aid of racketeering enterprises),"; and

(E) by inserting ", section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud)," after "section 1963 (violations with respect to racketeer influenced and corrupt organizations)";

(2) by striking out "or" at the end of paragraph (g);

(3) by inserting after paragraph (g) the following:

"(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

"(i) the location of any fugitive from justice from an offense described in this section; or"; and

(4) by redesignating paragraph (h) as paragraph (j).

(b) INTERCEPTION OF ELECTRONIC COMMUNICATIONS.—Section 2516 of title 18 of the United States Code is amended by adding at the end the following:

"(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.".

SEC. 106. APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(b) REIMBURSEMENT FOR ASSISTANCE.—Section 2518(4) of title 18 of the United States Code is amended by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance".

(c) COMMENCEMENT OF 30-DAY PERIOD AND POSTPONEMENT OF MINIMIZATION.—Section 2518(5) of title 18 of the United States Code is amended—

(1) by inserting after the first sentence the following: "Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered."; and

(2) by adding at the end the following: "In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonable available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.".

(d) ALTERNATIVE TO DESIGNATING SPECIFIC FACILITIES FROM WHICH COMMUNICATIONS ARE TO BE INTERCEPTED.—(1) Section 2518(1)(b)(ii) of title of the United States Code is amended by inserting "except as provided in subsection (11)," before "a particular description".

(2) Section 2518(3)(d) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "there is".

(3) Section 2518 of title 18 of the United States Code is amended by adding at the end of the following:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

"(i) in the case of an application with respect to the interception of an oral communication—

"(I) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(II) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(III) the judge finds that such specification is not practical; and

"(ii) in the case of an application with respect to a wire or electronic communication—

"(I) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(II) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

"(III) the judge finds that such purpose has been adequately shown.

"(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order.".

(4) Section 2519(1)(b) of title 18, United States Code, is amended by inserting "(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)" after "applied for".

SEC. 107. INTELLIGENCE ACTIVITIES.

(A) IN GENERAL.—Nothing in this Act or the amendments made by this Act constitutes authority for the conduct of any intelligence activity.

(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978; or

(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.

SEC. 108. MOBILE TRACKING DEVICES.

(a) IN GENERAL.—Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Mobile tracking devices

"(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

"(b) DEFINITION.—As used in this section, the term 'tracking device' means an electronic or mechancial device which permits the tracking of the movement of a person or object.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Mobile tracking devices.".

SEC. 109. WARNING SUBJECT OF SURVEILLANCE.

Section 2232 of title 18, United States code, is amended—

(1) by inserting "(a) PHYSICAL INTERFERENCE WITH SEARCH.—" before "Whoever" the first place it appears;

(2) by inserting "(b) NOTICE OF SEARCH.—" before "Whoever" the second place it appears; and

(3) by adding at the end the following:

"(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice of attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

"Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.".

SEC. 110. INJUNCTIVE REMEDY.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2521. Injunction against illegal interception

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following:

"2521. Injunction against illegal interception.".

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

(2) the date two years after the date of the enactment of this Act.

TITLE II—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

SEC. 201. TITLE 18 AMENDMENT.

Title 18, United States Code, is amended by inserting after chapter 119 the following:

"CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

"Sec.
"2701. Unlawful access to stored communications
"2702. Disclosure of contents.
"2703. Requirements for governmental access
"2704. Backup preservation.
"2705. Delayed notice.
"2706. Cost reimbursement.
"2707. Civil action.
"2708. Exclusivity of remedies.
"2709. Counterintelligence access to telephone toll and transactional records.
"2710. Definitions.

"§ 2701. Unlawful access to stored communications

"(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

"(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

"(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is electronic storage in such system shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

"(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(A) a fine of not more than $250,000 or imprisonment for not more than one year, or both, in the case of a first offense under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than two years, or both, for any subsequent offense under this subparagraph; and

"(2) a fine of not more than $5,000 or imprisonment for not more than six months, or both, in any other case.

"(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

"(1) by the person or entity providing a wire or electronic communications service;

"(2) by a user of that service with respect to a communication of or intended for that user; or

"(3) in section 2703 or 2704 of this title.

"§ 2702. Disclosure of contents

"(a) PROHIBITIONS.—Except as provided in subsection (b)—

"(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

"(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission for (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(b) EXCEPTIONS.—A person or entity may divulge the contents of a communication—

"(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

"(2) as otherwise authorized in section 2516, 2511(2)(a), or 2703 of this title;

"(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

"(4) to a person employed or authorized or whose facilities are used to forward such communications to its destination;

"(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

"(6) to a law enforcement agency, if such contents—

"(A) were inadvertently obtained by the service provider; and

"(B) appear to pertain to the commission of a crime.

"§ 2703. Requirements for governmental access

"(a) CONTENTS OF ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of a non-voice wire communication or an electronic communication, that is in electronic storage in an electronic communications system for 180 days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than 180 days by the means available under subsection (b) of this section.

"(b) CONTENTS OF ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

"(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant;

"(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena; or

"(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

"(2) Paragraph (1) is applicable with respect to any electronic communications that is held or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriberr or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(c) RECORDS CONCERNING ELECTRONIC COMMUNICATIONS SERVICE OR REMOTE COMPUTING SERVICE.—A governmental entity may require a provider of electronic communications service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) without required notice to the subscriber or customer if the governmental entity—

"(1) uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury subpoena;

"(2) obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant; or

"(3) obtains a court order for such disclosure under subsection (d) of this section.

"(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State.

"§ 2704. Backup preservation

"(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

"(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

"(3) The service provider shall not destroy such backup copy until the later of—

"(A) the delivery of the information; or

"(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

"(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than 14 days after the governmental entity's notice to the subscriber or customer if such service provider—

"(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

"(B) has not initiated proceedings to challenge the request of the governmental entity.

"(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

"(b) CUSTOMER CHALLENGES.—(1) Within 14 days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

"(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

"(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

"(2) Service shall be made under this section upon governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term 'delivery' has the meaning given that term in the Federal Rules of Civil Procedure.

"(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

"(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

"(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

"§ 2705. Delayed notice

"(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

"(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed 90 days; if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

"(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed 90 days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the sub-

poena may have an adverse result described in paragraph (2) of this subsection.

"(2) An adverse result for the purposes of paragraph (1) of this subsection is—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

"(4) Extensions of the delay of notification provided in section 2703 of up to 90 days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) or (c) of this section.

"(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first class mail to, the customer or subscriber a copy of the process or request together with notice that—

"(A) states with reasonable specificity the nature of the law enforcement inquiry; and

"(B) informs such customer or subscriber—

"(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

"(ii) that notification of such customer or subscriber was delayed;

"(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

"(iv) which provision of this chapter allowed such delay.

"(6) As used in this subsection, the term 'supervisory official' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

"(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) destruction of or tampering with evidence;

"(4) intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"§ 2706. Cost reimbursement

"(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

"(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

"(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

"§ 2707. Civil action

"(a) CAUSE OF ACTION.—Any provider of electronic communication service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In a civil action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discoverd or had a reasonable opportunity to discover the violation.

"§ 2708. Exclusivity of remedies

"The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

"§ 2709. Counterintelligence access to telephone toll and transactional records

"(a) DUTY TO PROVIDE.—A Communications common carrier or an electronic communication service provider shall comply with a request made for telephone subscriber information and toll billing records information, or electronic communication transactional records made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the carrier or provider to which the request is made that—

"(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—No communications common carrier or service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

"§ 2710. Definitions for chapter

"As used in this chapter—

"(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; and

"(2) the term 'remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following:

"121. Stored Wire and Electronic Communications and Transactional Records Access . . . . . 2701".

SEC. 202. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

TITLE III—PEN REGISTERS

SEC. 301. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS

"Sec.
"3121. General prohibition on pen register use; exception.
"3122. Application for an order for a pen register.
"3123. Issuance of an order for a pen register.
"3124. Assistance in installation and use of a pen register.
"3125. Reports concerning pen registers.
"3126. Definitions for chapter.

"§ 3121. General prohibition on pen register use; exception

"(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveilliance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register by a provider of electronic or wire communication service—

"(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

"(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service, or with the consent or the user of that service.

"(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined under this title or imprisoned not more than one year, or both.

"§ 3122. Application for a order for a pen register

"(a) APPLICATION.—(1) An attorney for the Government may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

"(2) Unless prohibited by State law, a State investigative or law enforcement officer may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register under this chapter, in writing under oath or equivalent affirmantion, to a court of competent jurisdiction of such State.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

"§ 3123. Issuance of an order for a pen register

"(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register within the jurisdiction of the court if the court finds that the attorney for the government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register is to be attached;

"(B) the identity, if known, of the person who is the subject of the criminal investigation;

"(C) the number and, if known, physical location of the telephone line to which the pen register is to be attached; and

"(D) a statement of the offense to which the information likely to be obtained by the pen register relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the installation and use of a pen register for a period not to exceed 60 days.

"(2) Extensions of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The period of extension shall be for a period not to exceed 60 days.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER.—An order authorizing or approving the installation and use of a pen register shall direct that—

"(1) the order be sealed until otherwise ordered by the court; and

"(2) the person owning or leasing the line to which the pen register is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or the existence of the investigation to the listed subscriber, or to any other person, unless othewise ordered by the court.

"§ 3124. Assistance in installation and use of pen register

"(a) IN GENERAL.—Upon the request of an attorney for the government or an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

"(b) COMPENSATION.—A provider of wire communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

"§ 3125. Reports concerning pen registers

"The Attorney General shall annually report to Congress on the number of pen register orders applied for by law enforcement agencies of the Department of Justice.

"§ 3126. Definitions for chapter

"As used in this chapter—

"(1) the term 'communications common carrier' has the meaning set forth for the term 'common carrier' in section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h));

"(2) the term 'wire communication' has the meaning set forth for such term in section 2510 of this title;

"(3) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register;

"(4) the term 'pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted, with respect to wire communications, on the telephone line to which such device is attached, but such term does not include any device used by a provider of wire communication service for billing, or recording as an incident to billing, for communications services provided by such provider; and

"(5) the term 'attorney for the Government' has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

"(6) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

"206. Pen Registers ..... 3121".

SEC. 302. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any pen register order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this title; or

(2) the date two years after the date of the enactment of this Act.

A SUMMARY OF THE ELECTRONIC COMMUNICATIONS PRIVACY ACT

The Electronic Communications Privacy Act amends Title III of the Omnibus Crime Control and Safe Streets Act of 1968—the federal wiretap law—to protect against the unauthorized interception of electronic communications. The bill amends the 1968 law to update and clarify federal privacy protections and standards in light of dramatic changes in new computer and telecommunications technologies. Originally introduced in the Senate as S. 1667 by Senators Leahy and Mathias, and H.R. 3378 by Congressman Kastenmeier and Moorhead, the bill has gone through a substantial revision as a result of negotiations with affected industry groups and the Department of Justice. On June 11, the House Judiciary Committee unanimously reported the product of these negotiations which has been reintroduced as H.R. 4952. The Justice Department strongly supports this legislation. Highlights of the bill follow:

Currently, Title III covers only voice communications. The bill expands coverage to include video and data communications.

Currently, Title III covers only common carrier communications. The bill eliminates that restriction since private carriers and common carriers perform so many of the same functions today that the distinction no longer serves to justify a different privacy standard.

At the request of the Justice Department, the bill continues to distinguish between electronic communications (data and video) and wire or oral communications (voice) for purposes of some of the procedural restrictions currently contained in Title III. For example, court authorization for the interception of a wire or oral communication may only be issued to investigate certain crimes specified in Title III. An interception of an electronic communication pursuant to court order may be utilized during the investigation of any federal felony.

Certain electronic communications are exempted from the coverage of the bill including the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit; tone only paging devices; amateur radio operators and general mobile radio services; marine and aeronautical communications systems; police, fire, civil defense and other public safety radio communications systems; the satellite transmission of network feeds; the satellite transmission of satellite cable programming as defined in Section 705 of the Communications Act of 1934; any other radio communication which is made through an electronic communications system that is configured so that such communication is "readily accessible to the general public," a defined term in the bill.

The term readily accessible to the general public does not include communications made by cellular radio telephone systems; therefore, the bill continues current restrictions contained in Title III against the interception of telephone calls made on cellular telephone systems. However, the criminal penalty for an unlawful interception of a cellular phone call is reduced from the current five-year felony to a six-month petty offense.

The bill expends the list of felonies for which a voice wiretap order may be issued. It also expands the list of Justice Department officials who may apply for a court order to place a wiretap.

The bill creates a limited exception to the requirement that a wiretap order designate a specific telephone to be intercepted where the Justice Department makes a showing that the target of the wiretap is changing telephones to thwart interception of his or her communications.

The bill makes it a crime for a person who has knowledge of a court authorized wiretap to notify any person of the possible interception in order to obstruct, impede or prevent such interception.

Title II of the bill creates parallel privacy protection for the unauthorized access to the computers of an electronic communications system, if information is obtained or altered. It does little good to prohibit the unauthorized interception of information while it is being transmitted, if similar protection is not afforded to the information while it is being stored for later forwarding.

The bill establishes criminal penalties for any person who willfully accesses without authorization a computer through which an electronic communication service is provided and obtains, alters or prevents authorized access to a stored electronic communication. The offense is punished as a felony if committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain; otherwise it is punished as a petty offense.

Providers of electronic communication services to the public and providers of remote computing services to the public are prohibited from willfully divulging the contents of communications contained in their systems except under circumstances specified in the bill.

The contents of messages contained in electronic storage of electronic communications systems which have been in storage for 180 days or less may be obtained by a government entity from the provider of the system only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent state warrant.

The content of messages stored more than 180 days and the contents of certain records stored by providers of remote computer processing services may be obtained from the provider of the service without notice to the subscriber if the government obtains a warrant under the Federal Rules of Criminal Procedure or with notice to the customer pursuant to an administrative subpoena, a grand jury subpoena, or a court order based on a showing that there is reason to believe that the contents of the communication are relevant to a legitimate law enforcement inquiry. Provisions for delay in notice are also included.

Civil penalties are created for users of electronic communications services whose rights under the bill are violated.

The bill creates a statutory framework for the authorization and issuance of an order for a pen register based on a finding that such installation and use is relevant to an on going criminal investigation.

Mr. MATHIAS. Mr. President, today I am pleased to join with the junior Senator from Vermont, [Mr. LEAHY], to introduce the Electronic Communications Privacy Act of 1986. This legislation is an essential element in our efforts to strengthen the protection of Americans' right to privacy in an era of ever more pervasive electronic communications media.

The bill we introduce today is a revised version of S. 1667, which Senator LEAHY and I introduced on September 19, 1985. It is also identical to H.R. 4952, as unanimously approved earlier this month by the Judiciary Committee of the House of Representatives.

This bill has the same goal as S. 1667: To protect the privacy of Americans against unwanted and unwarranted intrusions. It adopts the same means to that goal: An updating of the 1968 Federal wiretap statute to bring fully within its ambit new communications technologies—including electronic mail, cellular telephone, and data transmissions between computers—that have transformed the ways in which Americans share information with each other and with the world. But our earlier bill has been improved by the process of hearings in both the Senate and the House, and extensive negotiations among interested parties in Government, private industry, and civil libertarians. The result is a bill that should enhance privacy protection, promote the development and proliferation of new communications technologies, and respond to the legitimate needs of law enforcement.

Technological advances are fast obliterating the distinctions among voice, video, and data transmission. Deregulation has made less meaningful the distinction between common carrier and private communications systems. And new means of sending and storing information are blurring the line between data in transmission and information in temporary electronic storage. This legislation responds to these developments by protecting the privacy of information in any electronic form, while it is in transmission or temporary storage, and without regard to the medium of its transmission. While the bill retains a few distinctions between the treatment of conventional telephone conversations and transmissions by other media, these differences appear reasonable and do not seriously detract from the principle of adapting the law to the technology of the present and future, rather than the past.

The Electronic Communications Privacy Act of 1986 specifies the circumstances under which law enforcement agencies may seek to intercept eletronic communications or intrude into incidental electronic communications storage facilities. It also outlaws those intrusions unless undertaken pursuant to a warrant, and prohibits computer hacking directed against electronic communications systems if the result is to obtain, alter, or prevent access to a communication stored in the computer. The bill provides standards for third-party access to other data held by the operators of electronic communications services, and gives the customer of the service a civil remedy if these standards are not followed. Finally, this bill makes necessary improvements in the existing wiretap law to enhance the availability, usefulness

and accountability of this key law enforcement tool. A more detailed discussion of the provisions of the Electronic Communications Privacy Act may be found in the summary that Senator LEAHY and I have inserted today in the CONGRESSIONAL RECORD.

Mr. President, the principles underlying this bill have long been supported by privacy advocates and by the affected communications industries, which know that business growth and continued innovation depend upon customer confidence that unauthorized snooping will be deterred and punished. That support continues, and has been strengthened by the improvements made in the bill in the legislative process in the other body. The administration in general, and the Attorney General in particular, have also been on record for a long time in support of the need to bring the wiretap laws up to date with modern technology. Attorney General Meese, when he appeared before the Judiciary Committee on January 29, 1985, seeking confirmation for the post he now holds, told the committee that one of his highest priorities as the chief law enforcement officer of the land would be "the safeguarding of individual privacy from improper governmental intrusion." During the same proceeding, he specifically noted electronic surveillance law as an area where new technology demanded updating. Given the Attorney General's strong views on privacy protection, I am particularly pleased to report to the Senate that the bill we introduce today has the vigorous and active support of the Department of Justice, not just as a general concept, but as a fully articulated legislative package. While negotiations with the Justice Department about this bill have been lengthy; they have resulted in a bill that the Department embraces as a vehicle for carrying out the Attorney General's commitment to protect the privacy of Americans.

Mr. President, the bill we introduce today adds to S. 1667 the useful improvements crafted by our colleagues in the House of Representatives, particularly Representative ROBERT KASTENMEIER, chairman of the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, and Representative CARLOS MOORHEAD, that subcommittee's ranking minority member. I urge Senators to examine this legislation, to suggest any further refinements that may be necessary, and to join with me and with Senator LEAHY to see that it is speedily enacted into law.

By Mr. DURENBERGER (for himself, Mr. BAUCUS, Mr. DOLE, Mr. CHAFEE, Mr. HEINZ, Mr. CHILES, Mr. ANDREWS, Mr. ABDNOR, Mr. MITCHELL and Mr. BENTSEN):

S. 2576. A bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims; to the Committee on Finance.

MEDICARE TIMELY PAYMENT AMENDMENTS

Mr. DURENBERGER. Mr. President, I rise today to introduce the "Medicare Timely Payment Amendments of 1986." This bill amends title XVIII of the Social Security Act to require Medicare to pay hospitals, doctors, and other health care providers promptly for services rendered to program beneficiaries as well as reimburse beneficiaries quickly when they file claims personally. My colleagues Senators BAUCUS, DOLE, BENTSEN, CHAFEE, HEINZ, CHILES, ANDREWS, ABDNOR, and MITCHELL are joining me in sponsoring this measure. S. 2576 is a companion to a bill of the same title being introduced today in the House of Representatives by Congressmen GRADISON and STARK and several of their colleagues in the Ways and Means Committee of the House.

Mr. President, S. 2576 deals with a problem faced by Medicare beneficiaries—and a lot of hospitals and physicians—who are being "held up" by the Federal Government.

It deals with a 93-year-old woman in Windom, MN, and an 81-year-old woman in Mountain Lake, MN, and a hospital in Crookston, MN—all of whom, right now, are being held up by the Federal Government.

Here's how the Government's scam works.

On December 24 of last year, a 93-year-old woman from Windom, MN, was admitted to her local hospital for draining of a breast cyst and a related biopsy. She was in the hospital until January 9 of this year when she was released. The charges by this woman's physician amounted to $900 which she submitted to Medicare in early February. In good faith, she paid the doctor the $900, assuming that she would be promptly paid by Medicare. As of today, more than 4 months after her bill was submitted, she still hasn't been paid.

Or, consider the case of an 81-year-old woman from Mountain Lake, MN, who is still waiting for the $300 she is owed by Medicare for minor surgery she had done—and paid for out of her own pocket—last October 15.

Or, consider the effect of what are now routine payment delays by Medicare on the cash flows of already hard pressed rural hospitals which depend on Medicare for a majority of their patient income.

Take the case of Riverview Hospital in Crookston, MN, as just one example.

As recently as October of last year, the percentage of Medicare accounts receivable at Riverview, which were still unpaid 30 days after being submitted for payment, were 52.6 percent.

By April of this year, that percentage had jumped to 75.2 percent. More than three-fourths of Medicare receivables, in other words, are more than 30 days past due.

For the Crookston, MN, hospital, Medicare's record on very long payment delays is even worse—and getting worse all the time.

Last October, the percentage of Medicare receivables which were more than 90 days past due was 29.8 percent. But, by April of this year, that percentage had grown to 48.6 percent.

Almost half of Medicare's accounts with this hospital, in other words, were more than 90 days past due.

Unfortunately, these examples are not the exception—they're the rule.

Medicare's reimbursement for hospital services, part A, has gone from a national average payment within 9.3 days in 1983, to 19.1 days this April.

Actual payment to doctors and beneficiaries filing their own claims (part B) has gone from an average of 12.9 days in 1983 to 25.9 days in April of 1986.

And, those averages do not include the estimated 2.5 days that claims take to get to the Medicare insurance carrier and the 2.5 days the check takes to get from the payer back to the hospitals, doctors and beneficiaries.

And, things are only getting worse.

It is my understanding that the Health Care Financing Administration wants to go from the current average turnaround of 19.1 days for hospitals and 25.9 days for physicians up to a standard of 27 days for both parts A and B claims in the near future.

This policy of delaying payments to Medicare providers and beneficiaries—where intermediaries and carriers are simply piling up bills they have been ordered not to pay—is patently unfair.

It means that older Americans—and their doctors and hospitals—are having to wait months and months for payments—simply because some "budget rowdy" in the Office of Management and Budget has figured out that the Federal Government makes money from the interest on unspent funds in the trust fund when Medicare doesn't pay its bills.

This is spent money, owed for services rendered. It is illegal for you or me to "float" money by issuing a check that is not covered by an adequate bank balance. It bounces—it gets sent back with an ugly note. If you do it intentionally, or over and over again, you go to jail.

But, Medicare does this same sort of thing every day—as a matter of policy.

It is time that this official Government policy of holding people up is brought to a halt.

Today, I am joined by several of my colleagues in the Senate, and Congressmen BILL GRADISON and PETE STARK in introducing S. 2576 which we

believe will do just that—bring to a halt an official Government policy that would get you or me thrown in jail.

This bill, would require the Health Care Financing Administration to have its intermediaries and carriers make good on its bills within 22 days, or the Government will have to pay interest on what it owes.

This legislation will lead to fairer treatment to the patients and providers who do business with Medicare in good faith and expect to receive the same treatment in return.

It is the only fair thing to do.

But, this measure is equally important for another reason.

We are going through a period of dynamic and rapid change in the health care system—change which is driven in large measure by Medicare payment reform.

Hospitals are now paid for services on a schedule of set fees for each diagnosis—the so-called prospective payment system.

Eventually, other health care providers—doctors, skilled nursing facilities, and home health care agencies—will be brought under this type of payment system.

We may not pay them all on a per-case basis—they may be paid through vouchers given to beneficiaries—but, the point is that these changes are encouraging all health care providers to act in a more efficient, businesslike manner.

This process of reform will not work without the cooperation of the providers and beneficiaries who are having their lives altered by some very necessary change.

DRG's, in particular, could not have been put in place without the active cooperation of hospitals. And, the next steps in reform will require a similar spirit of cooperation.

But, if doctors and other health care providers aren't even paid in a timely, businesslike fashion, how can we request them to do likewise?

Mr. President, I should add in conclusion that S. 2576 is identical to its House companion with the exception that it does not include a House bill provision which preserves periodic interim payment [PIP] for hospitals.

Under PIP eligible hospitals receive a biweekly payment based on its estimated annual cost of Medicare utilization in lieu of payment per billed claim. PIP has been available to qualifying hospitals since 1968 but would be dropped by regulations proposed on June 3 by the Secretary of Health and Human Services.

My Senate colleagues and I chose to remain silent on PIP in S. 2576. However, I am sure it will be a pivotal issue for us when the Senate Finance Committee deliberates on Medicare prompt payment in the budget reconciliation markup.

S. 2576 will make sure that the Medicare system holds up its end of the bargain, in what can, and must be, a cooperative effort to reshape the health care system in America.

Mr. President, I ask that the text of the bill, a bill summary, and a chart illustrating the change over time in the average number of days it takes Medicare to pay to beneficiaries, hospitals and doctors, be printed in consecutive order in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Timely Payment Amendments of 1986".

SEC. 2. PROMPT PAYMENT BY INTERMEDIARIES UNDER PART A.

Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph: "(2)(A) Each agreement under this section shall provide that, in cases of claims for which payment is not made on a periodic interim payment basis under section 1815(a)—

"(i) if payment is not issued and mailed (or otherwise transmitted) within 22 calendar days after the date on which a clean claim is received, interest or the claim shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made;

"(ii) within 22 days after the date a claim for payment under this part is received, the agency or organization shall notify the entity submitting the claim of any defect or impropriety in the claim (including the lack of any required substantiating documentation) or circumstance requiring special treatment that prevents the claim from being treated as a clean claim and prevents timely payment from being made;

"(iii) if notice required under clause (ii) is not provided on a timely basis with respect to a claim and payment is subsequently made on the claim, interest on the amount determined to be payable shall be paid (at the rate described in clause (i)) for the period beginning on the day after the required notice date and ending on the date on which payment is issued and mailed (or otherwise transmitted) or the date the notice is provided, whichever date is earlier; and

"(iv) the agency or organization will be reimbursed under the agreement for the amount of interest paid under this subparagraph from amounts made available for Federal administrative costs of the Secretary in carrying out this part.

"(B) In this paragraph, the term 'clean claim' means a claim which meets the requirements of section 1814(a)(1) and any other requirements of this title for payment under the part.".

SEC. 3. PROMPT PAYMENT BY CARRIERS UNDER PART B.

Section 1842(c) of the Social Security Act (42 U.S.C. 1395u(c) is amended—

(1) by insert "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

"(2)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide, in the case of claims for which payment is not made on a periodic interim payment basis described in section 1815(a)—

"(i) if payment is issued and mailed (or otherwise transmitted) within 22 calendar days after the date on which a clean claim is received, interest on the claim shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made;

"(ii) within 22 days after the date a claim for payment under this part is received, the carrier shall notify the entity submitting the claim of any defect or inpropriety in the claim (including the lack of any required substantiating documentation) or circumstance requiring special treatment that prevents the claim from being treated as a clear claim and prevents timely payment from being made;

"(iii) if notice required under clause (ii) is not provided on a timely basis with respect to a claim and payment is subsequently made on the claim, interest on the amount determined to be payable shall be paid (at the rate described in clause (i)) for the period beginning on the day after the required notice date and ending on the date on which payment is issued and mailed (or otherwise transmitted) or the date the notice is provided, whichever date is earlier; and

"(iv) the carrier will be reimbursed under the contract for the amount of interest paid under this subparagraph from amounts made available for Federal administrative costs of the Secretary in carrying out this part.

"(B) In this paragraph, the term 'clean claim' means a claim which meets the requirements of this title for payment under this part.".

SEC. 4. EFFECTIVE DATE.

(a) PROMPT PAYMENT.—The amendments made by sections 2 and 3 shall apply to claims received on or after September 1, 1986.

(b) REVISION OF INTERMEDIARY AGREEMENTS, CARRIER CONTRACTS, AND REGULATIONS.—The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this Act on a timely basis.

THE "MEDICARE TIMELY PAYMENT AMENDMENTS OF 1986"

BACKGROUND

The Department of Health and Human Services has pursued budget savings by instructing Medicare carriers and intermediaries to slow down their claims processing. Just thirty-six months ago, it took an average of 9.3 days to process Part A hospital bills and 12.6 days to process a Part B claim for physician's services. Currently, the average turn-around time for Medicare claims is 19.1 days for hospitals' claims and 25.9 days for doctors' claims. And now the Department has told the carriers and intermediaries that the standard should be almost one

month to process a claim for services rendered to a Medicare beneficiary.

THE "MEDICARE TIMELY PAYMENT AMENDMENTS OF 1986"

What does this bill do? This bill simply requires that claims be issued and mailed within 22 calendar days, or else interest will be paid by the government in addition to the payment for the service.

Specifically, the bill requires—for both Part A fiscal intermediaries and Part B carriers—that:

(1) each carrier and intermediary shall issue and send out to providers and beneficiaries the payments that are owed by Medicare within 22 calendar days after it receives a proper claim, or else it must also pay the provider interest for the number of processing days by which it exceeded the deadline—the same interest that the Prompt Payment Act requires the government in other cases of late payment;

(2) if a provider or beneficiary submits a claim with inadequate information (in other words, something that is not a "clean claim"), the carrier or intermediary must notify the provider of the defect in the claim within 22 calendar days or else the carrier will be required to pay interest on the number of days by which the final payment or notice to the provider exceeded the 22-day deadline;

(3) the interest will be paid from the administrative funds of the Department.

The House companion to this bill differs only in that it addresses periodic interim payments to hospitals (PIP) while the Senate bill is silent on the issue.

MEDICARE AVERAGE CLAIMS PROCESSING DAYS FOR HOSPITAL CARE (PART A) AND FOR PHYSICIAN SERVICES (PART B)

	Hospital payment (part A)	Physician payment (part B)
September 1983	9.3	12.6
September 1984	10	14.5
September 1985	15.6	20
February 1986	16.7	20.3
March 1986	19.1	25.9
Health Care Financing Administration proposed standard	27	27

Mr. DOLE. Mr. President, I am pleased to join with Senator DURENBERGER and the bipartisan group of my distinguished colleagues to introduce this bill today. The Medicare timely payment amendment is intended to correct a very real problem. The goal of this proposed legislation is simple and fair—prompt payment for services rendered. All this bill does is to require that the Medicare Program restore its policy of paying bills in a timely fashion, so that hospitals, physicians, skilled nursing facilities, suppliers, and other health care providers are paid in a reasonable time period. And beneficiaries may also expect prompt payment for bills they paid as well. That's the simple part. The Medicare Program contractors, those companies that actually process and pay the bills, will not be ordered by this Government to intentionally slow down payments without the Government sharing in the cost of payment delays. And that's the fair part.

We do have a deficit that needs to be faced straight on. And this is one Senator who knows we have to make some hard choices. But we cannot allow those who provide health care services or those Medicare beneficiaries who dug into their pockets to pay their medical bills on time to bare the brunt of poor policy—we cannot support a policy of slow downs in payment intended only for short-term savings.

This bill makes sense and, while we may find opportunities to refine the language, our intention is clear—the Medicare Program will pay its bills on time.

Mr. BAUCUS. Mr. President, today I am pleased to join with my colleague from Minnesota, Senator DURENBERGER, and a bipartisan group of Senators to introduce a bill to require that Medicare bills be paid on time.

The Medicare Timely Payment Act of 1986 sends a strong message to the Department of Health and Human Services [HHS] and to the Office of Management and Budget that Congress wants Medicare bills paid faster.

This legislation requires Medicare to pay its bills within 22 days. And, if HHS continues to pay Medicare bills late, our bill requires that interest be paid on any claims that are paid beyond the 22-day limit.

During the same 22-day period, HHS would be required to direct its claims processing contractors to determine whether there are any flaws or errors in the submitted claim. In other words, we are also establishing a deadline for reviewing claims to ensure that they are error-free. Medicare beneficiaries and health care providers should not be forced to wait and wait only to find out that their claims need to be corrected before Medicare agrees to pay its bills.

This bill reverses the administration's deliberate effort to slow down Medicare payments in order to save money for the Federal Government. Right now, HHS can take as long as it wants to pay its health care bills without regard to the hardships caused by their delays and without paying a price for lateness.

I doubt that there is a single Senator who has not heard from Medicare beneficiaries, doctors, local hospital administrators, and many others who are fed up with late Medicare payments. And I know of no Senator who considers the deliberate payment slowdown to be a legitimate way for the Federal Government to achieve budget savings in the Medicare Program.

A few weeks ago, I joined the distinguished Senator from Florida [Mr. CHILES] and a bipartisan group of over 15 Senators in a Senate resolution calling on HHS to speed up the payment process. That resolution also calls on the Senate to adopt legislation to ensure that health care bills are paid promptly if HHS continues its policy of slowing down Medicare claims.

Today, we are here to offer the Senate a legislative means to speed up Medicare payments if HHS fails to take action on its own.

The administration's payment slowdown has caused Medicare beneficiaries—30 million American seniors—to wait for many weeks, or even months, for Medicare to pay its share of their health care bills. Similarly, hospitals, doctors, and other health care providers are often forced to wait for unreasonable amounts of time for Medicare payments.

The message that this bill sends to HHS is: "pay on time, or pay the price."

It's time for Medicare to face up to the same real world penalties for late payment of bills that apply to the average American. When the average American fails to pay his bills on time, he must pay interest. In other words, there is a price to be paid for untimely payment.

It's time for the Federal Government to stop short-changing the elderly, the doctors, the hospitals, and other health care providers by delaying their Medicare bills and earning interest on the money owed to American citizens.

FURTHER IMPROVEMENTS ARE NEEDED

The Medicare Timely Payment Act establishes a much-needed standard for payment promptness, but this bill, like all legislation, can also be improved.

First, I am deeply concerned about the administration's June 3 regulatory proposal to completely eliminate the Periodic Interim Payment Program (PIP). This program provides certain hospitals with the option of receiving regular, biweekly payments. I have no doubt that the Finance Committee will take a hard look at this proposal before any decision is made on the future of this important payment program.

Stable, predictable cash-flow is particularly important for small rural hospitals, home health agencies and other health care providers that serve disproportionately large numbers of Medicare patients.

Regular Medicare payment can often be a question of survival for these institutions. And rapid changes in Federal payment policy must not be allowed to threaten the very existence of these financially vulnerable health care providers.

When the Finance Committee meets this year to mark-up health legislation, I intend to offer an amendment to ensure that the periodic payment program remains available for small rural hospitals. And I will be working with my colleagues on the committee to identify other circumstances where

the periodic payment option should be continued.

Second, I believe that the Finance Committee needs to examine carefully the source of funding for the interest payments required by this legislation.

Our bill requires that the interest on late payments come from the amounts provided to the Secretary for Federal Medicare management costs. But, I am sure that it is not the intention of the sponsors of this bill to allow these interest obligations to weaken the ability of HHS to properly administer the Medicare program.

I hope that HHS and the Office of Management and Budget will work closely with us to identify an appropriate way to fund the required interest payments without jeopardizing the smooth administration of the Medicare program.

Finally, I recognize that timely claims processing involves many complications that may not be fully addressed in this legislation. For example, some Medicare claims must be reviewed by health care professionals for the medical necessity of the services provided. In other cases, it is necessary to track down private insurers who are responsible for payment before Medicare pays the rest of the bill.

It is certainly not our intention to sacrifice necessary payment safeguards in the effort to speed-up the payment process. In fact, many of these safeguards exist because of previous Congressional directions to HHS to make sure that Medicare is only paying bills for which the Federal Government is responsible.

Again, I believe that, working cooperatively, we can address these issues and balance the need for payment safeguards with the strong intent of the sponsors of this legislation to get Medicare's bills paid on time.

CONCLUSION

Mr. President, it disturbs me that it may take an act of Congress to ensure timely payment of Medicare claims. It should not be necessary. But legislation will be necessary if the Federal Government continues to delay payment of the money owed to its own citizens as a way to cut the budget.

Payment delay undermines the confidence of the American people in the fairness of Government. It creates needless anxiety, frustration and hardship. And it puts the interest of government ahead of the interest of American citizens—those for whom Government exists to serve.

I look forward to working with my colleagues and with the administration to restore confidence in the Medicare Program by ensuring that timely payment becomes a reality.

Mr. CHAFEE. Mr. President, I am pleased to join in the introduction of the Medicare Timely Payment Amendments of 1986. This legislation addresses a particularly disturbing problem that has been going on for over 1 year.

Medicare provides health care services to the majority of elderly individuals in the United States. Many elderly individuals in this country would be virtually without health care services with the Medicare Program.

Yet, we constantly forget that the Medicare Program depends on the good faith participation of health care providers—hospitals, doctors, nurses, nursing homes, and others. We can agree to pay for a wide variety of medical services for the elderly; however, unless physicians, hospitals, and other health care professionals provide their services, the program is meaningless.

For over a year now I have been receiving letters from hospitals, physicians, and visiting nurses in my State complaining about the length of time it takes to be reimbursed from Medicare. There are many theories as to why this has occurred, but I am not concerned about who is at fault. I am concerned about making this program responsive to those who have agreed to participate.

What has happened is that the number of days it takes for Medicare to reimburse health care providers or elderly beneficiaries has been substantially increasing over the past 2 years. This legislation would correct this problem by requiring that Medicare pay all of its claims within 22 days or pay interest penalties.

Let me give you a particularly appalling example of the effects of delayed Medicare reimbursement.

More than a year ago, Dr. Joseph Ruisi wrote a letter to me explaining his problems with delayed reimbursement. Here is an excerpt from that letter:

"In August of 1984, I voluntarily agreed to accept assignment for all Medicare claims for one year and thus became a participating physician. I did this in good faith and primarily to assist my elderly clientele. Prior to signing this agreement, I was interviewed by a representative of the Medicare carrier in Rhode Island who assured me that by being a participating physician my claims would be processed expeditiously and that I could expect reimbursement approximately every two weeks.

"Within a matter of weeks after signing this agreement, I became aware that our cash flow was reduced nearly to zero. This was an alarming experience. I talked to the fiscal intermediary in the State and told them that unless payments from Medicare were received at regular intervals, after our claims had been forwarded to Medicare, I would be forced to close our office. This actually took place. My office was closed on December 31, 1984, because of no 'cashflow.'

"Since the closing of my office, we have continued to service our former clients by giving them copies of their records and recommending physicians they might call to continue their services for medical needs."

What happened to this physician is unconscionable and unnecessary. How can we expect health care providers to participate in Medicare if we do not reimburse them in a timely manner? We are not talking about inappropriate reimbursement, we are talking about reimbursement that is legitimately due to these providers.

This problem is not limited to those who provide health care services to the elderly, it also affects some Medicare beneficiaries directly. My colleague from Minnesota has outlined some particularly disturbing examples of the effects of delayed reimbursement to Medicare beneficiaries.

I urge my colleagues in the Senate to join this effort to correct this problem. As Congress continues to reform and restructure the Medicare Program it is essential that we keep in mind our goals of high quality of care, fair administration of benefits, appropriate payment of benefits and a speedy and fair resolution of disputes. The Medicare Timely Payment Amendments of 1986 will further these goals.

Mr. CHILES. Mr. President, I am pleased to cosponsor the Medicare Timely Payment Amendments of 1986 along with Senators DURENBERGER, BAUCUS, HEINZ, ABDNOR, and ANDREWS.

The bill would require that Medicare claims, once they are submitted to Medicare carriers and intermediaries for processing, are paid within 22 days of receipt. Some additional time would be allowed, if necessary, to complete claims which are submitted without appropriate or complete information. If more information is needed to complete a clean claim, however, the contractor would still be required to notify the person submitting the claim of the need for more information within the same 22-day period. Once the claim is complete, it must be paid under the same timely payment standard. If claims are not paid according to this standard, an interest penalty would be paid. The interest penalty would be the same amount specified in Government procurement law, such as the Prompt Payment Act and the Contract Disputes Act.

Mr. President, I actually hope that it will not be necessary to enact this legislation. I hope that the Health Care Financing Administration and the Office of Management and Budget will find a way together, without legislation, to reverse a misguided policy of deliberate delay in payment of Medicare claims—a policy which has caused hardship for thousands of Medicare beneficiaries, prompted physicians to give up on the Medicare participating

physician program, and sent physicians, home health care agencies, medical equipment supplies, and other smaller health care providers running to the bank to borrow money to keep their businesses going.

That is what I found during I held in Jacksonville, FL, to explore this situation. Medicare beneficiaries were having to wait for up to 4 and 6 months to get reimbursement of claims filed. Physicians who normally would allow beneficiaries to wait for Medicare reimbursement before collecting large medical bills were now telling them that they could not wait anymore and they'd have to pay before Medicare came through. Providers were having to take out bank loans to cover their office cash-flow problems as they waited months for Medicare reimbursement for services long ago provided to beneficiaries.

Two weeks ago, on June 4, 1986, I introduced a resolution, Senate Resolution 420, calling upon the Health Care Financing Administration to reverse its claims payment slowdown policy. The resolution, which now has 23 cosponsors, further expressed the sense of the Senate that if the policy was not reversed, the Senate should pass legislation to require prompt payment. This bill follows up on that commitment, and serves as a continued demonstration of our concern about this policy.

Mr. President, as I pointed out in my statement on the Senate floor 2 weeks ago, this slowdown policy has been pursued for two reasons: One, claims held over and not paid until the next fiscal year will not show up in the budget now, but later. If the time claims are kept on hand before they are paid is gradually increased, as has been HCFA's policy, you can keep on showing false budget savings over a long period of time—3 years. Two, the longer claims are held before they are paid, the longer the Medicare money stays in the trust fund earning interest. The administration's own testimony indicated a plan to "save" Medicare about $130 million this year in this way. But these "savings" are hardly worth the hardship, bad feelings, and distrust of the whole Medicare Program which this policy has engendered. This is not the kind of price we want to pay for what are largely false savings in the first place.

There have been some hopeful signs in recent days. Since the hearing I held in Florida, the administration has released $15 million in additional administrative funds from a contingency fund to help contrators build back up to a point where they can begin to take care of some of the millions of claims which have been sitting in boxes waiting to be processed and paid.

This morning at a hearing before the Small Business Committee a representative from the Health Care Financing Administration finally acknowledged that they had underestimated the number of claims which would have to be processed this year by about 21 million claims. There is now a new HCFA "goal" of processing most clean claims within 27 days.

If that goal can be met, it is better than current policy which sets an "average" claim turnaround time of 30 days but still leaves thousands and thousands of claims pending for many months. But it is still a far cry from the performance of 2 years ago, when claims were paid, on average, within 12.5 days.

Mr. President, I hope the administration will continue to take a hard look at this situation. All claims must be paid promptly, whether we determine a fair standard of promptness is 27 days, 22 days, or 12 days. In the meantime, we will continue to do all we can here in Congress to ensure that a timely standard is met.

Mr. MITCHELL. Mr. President, today I join with my colleagues Senators DURENBURGER and BAUCUS in cosponsoring the Medicare Timely Payments Amendments of 1986.

This legislation addresses an issue of serious concern to Medicare providers and beneficiaries by requiring timely payments to be made by Medicare fiscal intermediaries and carriers.

The Health Care Financing Administration has implemented a policy to deliberately slowdown Medicare payments to beneficiaries and providers who submit claims for covered medical services. These deliberate delays by the administration are causing great hardship to many, including small hospitals and rural clinics which are already experiencing cash flow problems under Medicare.

Home health agencies who contract with Medicare are also affected by this delay in payment at a time when the administration is attempting to implement other reductions in reimbursement for home health care. These providers, who are operating on a narrow margin, cannot afford a delay in reimbursement.

Low and middle income elderly beneficiaries will perhaps be hurt most by the delay in payments. Many of the Nation's elderly live on extremely modest fixed incomes. Health care consumes a disproportionate share of their income, and many cannot afford to pay for physician's visits without prompt Medicare reimbursement.

The administration has openly admitted that the longer a Medicare claim is held before it is processed, the longer the money stays in the Medicare trust fund. The interest earned as a result of this slowdown is estimated by the administration to be about $130 million this year.

We can assume therefore, that the $130 million in interest earned by the administration represents an equal cost to providers who will have to borrow that amount to remain financially solvent while they are waiting for their delayed payments.

The funding for administrative costs of the Medicare Program has indeed been reduced in recent years, including the 4.3 percent sequester under Gramm-Rudman. There has, however, been money available this year in a special Medicare contractor contingency fund, which could have been released to help meet the claims processing crisis. It was not until congressional pressure was applied to HCFA that the funding was released.

The legislation we introduce today will require the Health Care Financing Administration to issue and mail Medicare payments for "clean claims" within 22 days of their receipt.

Failure to issue the payment within 22 days will result in interest penalties to be paid to the provider or beneficiary.

The bill also requires a prompt notfication of 22 days to providers of any defect or impropriety in the claim or circumstance requiring special treatment that prevents the claim from being tested as a clean claim and prevents timely payment from being made.

This legislation will require the Federal Government to deal with Medicare providers and beneficiaries in a fair and equitable manner. We cannot allow our small, rural hopitals, home health agencies, and elderly Medicare beneficiaries to bear an unjust financial burden as a result of this HCFA policy.

I urge my colleagues to join with me in supporting this important piece of legislation.

Mr. BENTSEN. Mr. President, I am pleased to join my colleague from Minnesota, Senator DURENBERGER as a cosponsor of S. 2576, a bill designed to require timely payment of claims under the Medicare program.

Having spoken at some length on this matter on June 4 of this year, I would simply reiterate my believe that the Federal Government, as purchaser of health services for more than 31 million Americans, has a responsibility to be fair in its dealings with beneficiaries and providers of care.

Mr. President, officials with the administration have instructed Medicare carriers and intermediaries to delay payment of claims and to allow backlogs to develop as a budget savings device. The Office of Management and Budget estimates this deliberate slowdown policy will earn about $130 million in interest payments for the Federal Government in 1986. One hundred and thirty million dollars is a great deal of money—particularly in light of the fact that it represents a dollar for dollar loss for the benefici-

ary, physician, home health agency, hospital or other service provider who is being denied prompt payment.

Beneficiaries and the providers of care are being forced to wait for weeks and sometimes months before being reimbursed for the bills they have paid or the services they rendered. Administration officials tell us that slowdowns are needed to save money, but as a former businessman, I have a hard time understanding a policy that permits the Federal Government to delay payment of its bills for as long as 6 months. In my view, deliberate withholding of payment for that long is tantamount to taking an unauthorized loan from the elderly, the disabled, physicians, small hospitals, home health agencies, equipment dealers and others who are not being paid on time.

Mr. President, S. 2576 is a good first step. I am well aware that a clever budgeteer could subvert the intent of prompt payment by remitting claims to the beneficiary or provider for "additional information"—a process that could delay payment for an excessive period of time. For that reason, I would like to see the language of the bill made more precise with respect to the procedures we expect carriers and intermediaries to follow in meeting the 22 day processing requirement. For example, it is critical that claims be logged in at the time they are received by the intermediary; that billing be permitted at regular intervals; and that the practice of rejecting claims for lack of sufficient information be monitored carefully. These details can be addressed during mark-up of the bill in the Finance Committee later this year.

Let me turn, for a moment, to a second concern that is closely related to the issue of prompt payment. I understand that legislation similar to S. 2576 will be introduced in the House of Representatives by Congressman GRADISON.

The House measure is expected to include a provision blocking implementation of the regulation published by the Health Care Financing Administration that would abolish periodic interim payments [PIP] in 1987. S. 2576 is silent on this proposal, but silence should not be interpreted as concurrence in the judgment that PIP is expendable. When the Finance Committee takes up this bill, I intend to raise the question of whether PIP might be needed to ensure financial stability among the more vulnerable providers such as home health agencies, small and disproportionate share hospitals, and other providers whose reimbursement continues to be cost based. Moreover, I am reluctant to agree to termination of PIP without evidence that the administration is prepared to comply with the letter and the spirit of prompt payment. In the absence of such evidence, it might be more prudent to phase out periodic interim payments of the larger institutions.

Mr. President, it is time to overturn a policy that is threatening to undermine much of the effective reform that we have achieved in the Medicare Program over the last 3 years. I urge my colleagues to join with us in support of S. 2576.

By Mr. LAUTENBERG (for himself, Mr. BRADLEY, Mr. MOYNIHAN, Mr. HEINZ, and Mr. SPECTER):

S. 2577. A bill to insure that amounts paid for home improvements to mitigate indoor air contaminants such as radon gas qualify for the tax deduction for medical care expenses; to the Committee on Finance.

RADON MITIGATION CLARIFICATION ACT

● Mr. LAUTENBERG. Mr President, today I introduce legislation—the Radon Mitigation Clarification Act of 1986—to clarify the law on the deductibility of medical care expenses. It would make it clear that a taxpayer can deduct, as a medical care expense, necessary home improvement expenses, incurred to remove measurably harmful levels of cancer-causing radon gas.

Mr. President, I am pleased to be joined in introducing this legislation by Senators BRADLEY, MOYNIHAN, HEINZ, and SPECTER.

Mr. President, I offered the text of this bill as an amendment to the tax reform bill earlier today. The chairman of the Finance Committee assured me that the committee would hold hearings on this matter. With that assurance, and the expression of interest by my colleague, Senator BRADLEY, I agreed to withdraw the amendment.

Radon contamination of the home is a serious problem. Radon gas poses the greatest threat of lung cancer to Americans, next to smoking. Radon gas contaminates roughly 1 million homes. The residents of those homes will have to take measures—in many cases, expensive measures—to reduce radon levels in their homes in order to safeguard their health. These expenses are health-related and they should qualify as deductible medical care expenses.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radon Mitigation Clarification Act of 1986."

SEC. 2. FINDINGS.

The Congress finds that—

(1) indoor air contamination has become the focus of increasing concern among public health officials in the United States,

(2) the problem of indoor radon gas contamination has been found in areas throughout the United States and has been estimated by the Federal Centers for Disease Control to be responsible for as many as 5,000 to 30,000 lung cancer deaths annually in the United States,

(3) mitigation of indoor radon gas exposure is necessary to protect the health of residents,

(4) mitigation of indoor radon gas exposure prevents increased risk of lung cancer, and

(5) mitigation of indoor radon gas exposure can be costly, imposing excessive financial burdens on homeowners.

SEC. 3. HOME IMPROVEMENTS TO MITIGATE HARMFUL LEVELS OF RADON GAS EXPOSURE QUALIFY FOR MEDICAL CARE EXPENSE TAX DEDUCTION.

(a) IN GENERAL.—For purposes of section 213(d)(1) of the Internal Revenue Code of 1954 (defining medical care) amounts paid for necessary home improvements to mitigate measured harmful levels of radon gas exposure shall be treated—

(1) as expenses paid for medical care, and

(2) in the same manner as amounts paid for other home improvements which qualify as expenses paid for medical care.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years beginning after December 31, 1985.●

By Mr. SPECTER (for himself and Mr. MOYNIHAN):

S. 2578. A bill to provide, through greater targeting, coordination, and structuring of services, assistance to strengthen severely economically disadvantaged individuals and families by providing greater opportunities for employment preparation, which can assist in promoting family economic stability; to the Committee on Labor and Human Resources.

S. 2579. A bill to amend part A of title IV of the Social Security Act to promote the transition of severely economically disadvantaged individuals to unsubsidized employment; to the Committee on Finance.

EMPLOYMENT ASSISTANCE LEGISLATION

Mr. SPECTER. Mr. President, today, my distinguished colleague Senator MOYNIHAN and I are introducing major welfare reform legislation to help get people off the welfare rolls, and place them on the pay rolls. This legislation is geared to turning existing government policy away from breaking up the family, and will implement policies which will help strengthen the family unit: Our bills, the Opportunities for Employment Preparation Act and the Aid to Families and Employment Transition Act will give poor people a needed "hand up" instead of the traditional "handout."

This legislation targets severely economically disadvantaged families, and assists them in obtaining employment preparation and support services which would promote family economic stability. The priority population for

this initiative is Aid to Families with Dependent Children [AFDC] beneficiaries, and unemployed two-parent families where the principal wage earner has not had steady employment for over 2 years.

Recently, particular concerns have been raised about the plight of the black family in America. On February 4, 1986, at a press conference in my Washington office, my good friend, Rev. Leon H. Sullivan, founder and chairman of OIC of America, discussed his concern about the decline of the black family, and the increasingly negative impact of unemployment, teenage pregnancy, female headed households, poverty, and existing Government policies on this problem. I offered my assistance in helping promote pro-family policies by developing legislation which would enable poor black, Hispanic, and other needy families to gain greater access to employment preparation opportunities. Subsequently, my office worked with OIC and the National Urban League to develop the legislation which Senator MOYNIHAN and I are offering today.

I unveiled the concept of this package at the OIC 22d Annual Convocation in San Antonio, TX, on Monday, May 26, 1986, at a joint press conference with Rev. Sullivan and John E. Jacob, president of the National Urban League, both of whom endorsed the concept. Mr. Jacob views my legislation as an initiative which addresses the gross misapplication of the Nation's resources, both financially and humanwise. He expressed the view that my initiative would help the United States take advantage of the Human resources that we have in the Nation.

Rev. Sullivan, who has long been the Nation's foremost expert in job training, hails this initiative as an important step in helping to strengthen needy families and aiding them in becoming financially independent.

Today, more than ever before, poor black, Hispanic, and white families are in need of a hand up. As chairman of the Senate Juvenile Justice Subcommittee, and cochair of the Senate children's caucus and I know what growing up in poverty does to our children—our next generation—our future leaders:

First. Twenty percent of the children growing up in America—over 14 million children, are growing up in poverty.

Second. In female-headed households, more than 50 percent of all children are poor.

Third. Female-headed households rose from 4.5 million in 1960 to 10.1 million in 1985.

Fourth. Female-headed households are likely to remain poor for longer periods than two-parent families.

Fifth. Almost half of all black families are headed by women; the poverty rate of black female headed households is 67 percent.

Sixth. Although black female headed families constitute only 4 percent of the population, they constitute 33 percent of all poor households that remain in poverty for more than 8 consecutive years.

Poverty has special disadvantages for children because its effects are cumulative. A child born into poverty will have difficulty acquiring the skills that could enable him or her to eventually break out of the cycle of poverty.

If these children—our children are to have a chance to break out of this cycle of poverty, their parents must be given the opportunity to earn their own way with skills and jobs.

Encouraging strong and stable families has long been regarded as an important Federal policy goal. In reality, however, Federal policy has been passive, if not downright destructive in the face of some problems currently affecting the family unit. Despite a social policy which favors economic self-sufficiency for most persons, no serious large scale effort has been made to help long-term Aid to Families with Dependent Children [AFDC] adults benefit from mainstream employment training and education programs which would help them to qualify and compete for jobs that would enable them to support their families.

AFDC was established as part of the Social Security program during the Depression to provide cash benefits to impoverished mothers, most of whom were widows raising children in the absence of a male breadwinner. The program is a Federal/State initiative with the Federal Government paying about 55 percent of the costs.

Contrary to popular myths, many welfare mothers are highly motivated and want to support themselves, but work programs and employment training initiatives must provide adequate support services such as child care, transportation to work or to training, and remedial education in basic skills. Essentially what is needed is a combination of counseling, training, social support services, and work experience which meet the needs of the trainee, and which prepares her for employment. And this program must reach down further than the cream of the crop to help long-term welfare and long-term unemployed families. To be effective, we must reach those families who remain untouched by the employment training activities taking place in this country, and who are therefore at a very high risk for long-term dependence on government assistance.

In addition, as we seek to help families become independent, we must remove barriers created by government, which require that families be broken apart before the government will provide income assistance. Currently, 24 States deny AFDC benefits to families with an able-bodied father in the household. Such regulations have a devastating effect on black and other minority families where high unemployment rates, and the decline of industry make it extremely difficult for unskilled and semiskilled males to provide adequate support. My legislation addresses these issues.

These bills, the Opportunities for Employment Preparation Act and the Aid to Families and Employment Transition Act, are a three-part initiative. The opportunities for Employment Preparation Act amends the Job Training Partnership Act to establish a "feeder" system utilizing community-based employment training programs like OIC, the National Urban League, SER-Jobs for Progress, United Way of America, 70,001, the National Puerto Rican Forum, and the National Council of LaRaza, to conduct outreach and provide preemployment services which will enable long-term AFDC recipients and long-term unemployed participants from two parent families to have greater access to, and benefit more fully from, employment preparation opportunities available through the Job Training Partnership Act [JTPA], adult and vocational education programs, or other educational preparation which can lead to employment.

The outreach and feeder system is based on the OIC model, and will offer a range of services which include:

Skills assessments for participants.

Registration with the Bureau of Employment Security.

An 8-week internship for participants with no work experience, or who wish to try a different type of work setting. The internship is preceded by a structured search and interview process.

Educational preparation and basic skills development to increase literacy and computational skills.

Programs to strengthen the attitude and motivation of youth toward the world of work.

Parenting, home and family living skills and nutrition and health education targeted to teenage parents.

Guidance and counseling to assist participants with occupational choices and with the selection of employment preparation programs.

Counseling and information and referral to assist participants experiencing personal or family problems, which may cause severe stress, and lead to poor performance, or dropping out of training.

Following the preemployment program, participants will be able to go on to employment training, including vocational and adult education, community college programs, or other postsecondary programs. Another skills assessment will be conducted, and the

participant can then participate in on the job training [OTJ] and other appropriate services available under the Job Training Partnership Act.

The Aid to Families and Employment Transition Act amends title IV of the Social Security Act to provide that AFDC beneficiaries making the transition to unsubsidized employment shall have the first year of salary excluded from determination of AFDC eligibility. Further, AFDC benefits will not be forfeited in a family where a second parent returns to the household, if at least one parent participates in an employment preparation program.

In addition, it provides that persons making a transition to unsubsidized employment shall maintain medicaid coverage until eligible for an employer health plan, or for a period not to exceed 15 months.

Mr. President, this legislation seeks to assist AFDC and long-term unemployed families off the welfare rolls, and place them on the pay rolls. This package is geared to turning the effect of existing government policy away from breaking up the family, and provide a means to implement policies which help strengthen the family unit.

Mr. President, in fiscal year 1985 the Federal share of the AFDC program was approximately $9 billion dollars. The Department of Health and Human Services projects that the Federal tab will total $9.3 billion in fiscal year 1986. According to the National Conference of State Legislatures combined spending for welfare totals approximately $63 billion. This plan will use existing funds and will be cost neutral.

Our Nation cannot afford the long-term costs of failing to create training and employment opportunities for the poor. The only way America will be able to continue to compete in the world's markets if it makes maximum use of a productive, trained work force. A better trained, more highly skilled work force would mean spending fewer Federal dollars on welfare programs while returning higher tax revenues.

Mr. President, the task before us is clear. We must provide greater opportunities for training, embrace policies which help create employment, and strengthen efforts to equalize opportunities so that poor families can get a hand up instead of being forced into receiving a hand out. This legislation which Senator MOYNIHAN and I are introducing today is a vital first step in that process.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Opportunities for Employment Preparation Act of 1986".

SEC. 2. It is the purpose of the amendments made by this Act to provide, through greater targeting, coordination, and structuring of services, assistance to strengthen severely economically disadvantaged individuals by providing greater opportunities for employment preparation, which can assist in promoting economic family stability.

SEC. 3. Section 4 of the Job Training Partnership Act (hereafter referred to in this Act as the "Act") is amended by adding at the end thereof the following new paragraph:

"(29) The term "severely economically disadvantaged" means individuals—

"(A) who receive benefits under a State plan approved under part A of title IV of the Social Security Act, relating to aid to families with dependent children, for a period of 2 years prior to the date on which the determination is made and includes individuals who are parents of young children who have left the household of the family, lived separately from the family, and returned to the family unit; and

"(B) who have been unemployed or who have been without city employment for a period of 2 years prior to the date on which the determination is made.

SEC. 4. (a) Section 104(b) of the Act is amended—

(1) by redesignating clauses (7) (8), (9), and (10) as clauses (8), (9), (10), and (11), respectively; and

(2) by adding after clause (6) the following new clause:

"(7) a description of the procedures and methods of carrying out the outreach and training activities for severely economically disadvantaged individuals required by section 109;".

(b) Part A of title I of the Act is amended by adding at the end thereof the following new section:

"TARGETED ASSISTANCE FOR SEVERELY ECONOMICALLY DISADVANTAGED INDIVIDUALS

"SEC. 109. (a) The job training program in each service delivery area shall establish a feeder system utilizing community based organizations such as OIC, the National Urban League, the National Council of La Raza; and 70,001 to conduct outreach and provide preemployment services to severely economically disadvantaged individuals in order to provide such individuals greater access to and benefit more fully from employment opportunities available under this Act and to prepare such individuals for gainful employment.

"(b) The outreach and feeder system established by subsection (a) of this subsection shall include—

"(1) skills assessment for participants;

"(2) registration with the Bureau of Employment Security;

"(3) preemployment training including an eight week internship;

"(4) employment training including vocational, adult, and community college and other postsecondary programs;

"(5) on-the-job training and other employment preparation activities available under this Act.

"(c)(1) Preemployment training required by clause (3) of subsection (b) shall include structured search for an 8 week internship with a private or public agency. Each participant must search and interview for placement from a list of options provided by community based organizations. The internship shall be designed for program participants with no previous work experience, or who need or wish to try a different type of work setting. Preemployment services provided shall include—

"(A) educational preparation and basic skills development to increase literacy and computational skills;

"(B) Program developed to strengthen the attitude and motivation of youth to achieve and succeed in the world of work;

"(C) guidance and counseling to assist participants with occupational choices and with the selection of employment preparation programs;

"(D) counseling and information and referral to assist participants experiencing personal or family problems, which may cause severe stress, and lead to poor performance or dropping out of the program; and

"(E) parenting, and home and family living skills, including nutrition and health education, targeted to teenage parents.

"(2) Participants in training activities under this section shall receive supportive services, including child care and transportation assistance, notwithstanding any other provision of this Act relating to cost limitations or expenses.

"(d) The performance standards for the program authorized by this section shall be the performance standards prescribed for youth under section 106(b)(2) of this Act.

"(e) Notwithstanding any other provision of law, unless enacted in the express limitation of this subsection, the amount of any benefits received under this Act (including scholarships and educational assistance) participants in the program authorized by this section shall not result in the loss of or the decrease in any other benefits (including AFDC and food stamps) to which the recipient is entitled under any provision of Federal law.".

(c) Section 121(b) of the Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) The plan shall include a description of the agreement between the private industry council, the public welfare or public assistance agency of the State, and the designated community based organizations involved in the targeted assistance required by section 108, together with the manner in which the State will coordinate vocational education, adult education, other training programs authorized by Federal law, and employment preparation programs to benefit the participants of the program authorized by section 109.".

S. 2579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Aid to Families and Employment Transition Act of 1986.".

SEC. 2. AFDC EARNED INCOME DISREGARD FOR SEVERELY ECONOMICALLY DISADVANTAGED INDIVIDUALS.

Section 402(a)(8)(A) of the Social Security Act is amended—

(1) by striking "and" at the end of clause (vi); and

(2) by inserting after clause (vii) the following:

"(vii) notwithstanding clause (v), shall disregard—

"(I) the income of any child, relative, or individual specified in clause (ii) that is derived from a program established pursuant to the amendments made by the Opportunities for Employment Preparation Act of 1986, and

"(II) the income of an individual specified in subclause (I) that is derived from unsubsidized employment obtained pursuant to the program specified in such subclause, for the 12-month period following the initial placement of the individual; and.".

SEC. 3. MEDICAID COVERAGE FOR SEVERELY ECONOMICALLY DISADVANTAGED INDIVIDUALS.

Section 402(a)(37) of the Social Security Act is amended—

(1) by inserting "(A)" after "(37)"; and

(2) by adding at the end the following:

"(B) provide that, in any case where a family would cease to receive aid under the plan but for subclause (II) of paragraph (8)(A)(viii), such family shall continue to be eligible for medical assistance under title XIX for the period beginning with the first day of the 12-month period specified in such subclause and ending with the earlier of (i) the date on which the family becomes eligible to participate in a group health plan maintained by an employer, or (ii) the last day of the 3-month period immediately following such 12-month period.".

SEC. 4. AFDC COVERAGE FOR CERTAIN 2-PARENT FAMILIES.

Section 402 of the Social Security Act is amended by adding at the end the following:

"(i) The term 'dependent child' shall, notwithstanding section 406(a), include a needy child who meets the requirements of section 406(a)(2), who lives with both parents, and at least one of the parents is a participant in a program established pursuant to the amendments made by the Opportunities for Employment Preparation Act of 1986 or is in the 12-month period specified in subsection (a)(8)(A)(viii)(II).".

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall become effective on the date of the enactment of this Act.

(b) EXCEPTION.—If a State agency administering a plan approved under part A of title IV of the Social Security Act or under title XIX of such Act demonstrates, to the satisfaction of the Secretary of Health and Human Services, that it cannot, by reason of State law, comply with the requirements of an amendment made by this Act to which the effective date specified in subsection (a) applies, the Secretary may prescribe that, in the case of such State, the amendment will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending more than 30 days after the date of the enactment of this Act. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

By Mr. HELMS (for himself, Mr. EAST, and Mr. ARMSTRONG):

S.J. Res. 366. Joint resolution to disapprove the act of the District of Columbia Council entitled the Prohibition of Discrimination in the Provision of Insurance Act of 1986; to the Committee on Governmental Affairs.

DISAPPROVING AN ACT OF THE DISTRICT OF COLUMBIA COUNCIL

● Mr. HELMS. Mr. President, I rise today along with Senators EAST and ARMSTRONG, to introduce a resolution to disapprove D.C. Law 6-170, called "Prohibition of Discrimination in the Provision of Insurance Act of 1986."

Mr. President, I ask unanimous consent that the text of my proposed resolution be printed in the RECORD at this point.

Mr. President, on May 27, the D.C. Council passed a law prohibiting health, disability or life insurers in the District of Columbia from any AIDS, ARC or HTLV-III testing or using any test result to deny, amend, cancel, or refuse to renew a policy. The law also prohibits an insurer from asking an applicant his/her occupation, sex, sexual orientation, marital status or age for the purpose of determining the probability of the individual contracting AIDS. For 2 years, insurers are prohibited from raising rates of those who test positive for the presence of any probable causative agent of AIDS, ARC or the HTLV-III infection.

Now, Mr. President, let me say at the outset: AIDS is not about civil rights, political clout or "sexual orientation." AIDS is a disease and should be veiwed for what it is. The homosexual rights crowd has managed to twist the AIDS issue into one of civil rights. In an August 2, 1985, Washington Post article, Gary McDonald, executive director of the AIDS Action Council, was quoted as having said:

We have to wear down the old stereotypes, and it is a burning irony that it will take AIDS to do that. . . . But after thousands of men like Rock Hudson, men you thought you knew, go on TV, it's going to get harder to tell those old faggot jokes about swishy limp-wristed men. I'm sorry it's going to take so many dead men to make that point.

The AIDS disease does not have any civil rights, Mr. President, and legislators shouldn't be snookered into thinking that it does. It is a disease, Mr. President, a disease which is killing thousands of Americans each year; a disease which threatens the lives of millions more.

According to a report released by HHS on June 12, 1986, there are 21,517 reported cases of AIDS. Blacks and Hispanics represent 39 percent of the total cases. Women, reporting no history of IV drug abuse represent half of the 1,400 cases in women. Three hundred and four cases have been reported in infants and children under age 13. Between 2 and 3 percent of cases have occurred in transfusion recipients of hemophiliacs.

Mr. President, the report goes on to reveal that by January 1986, there were 9,000 reported deaths attributable to the AIDS virus with 9,000 deaths projected for 1986.

And, according to the report's projections, the number of cases and the number of deaths will skyrocket. By 1991 there will be 196,000 cases. New cases diagnosed for that year will reach 74,000. AIDS will claim the lives of 125,000 Americans by 1991 and take the lives of 54,000 more during the year for a total of 179,000 deaths as Americans ring in 1992. By 1991, there will be more than 3,000 cases in infants and children exposed to the virus during pregnancy or shortly after birth, compared to about 300 to date.

The point, Mr. President, is this: AIDS is a health issue, and the health, life and disability insurers should be allowed to treat it as such. The life insurer can ask about, or require, testing an applicant's high blood pressure, diabetes, cancer, allergys, anemia, alcohol, drug abuse, paralysis and heart attacks, just to name a few. Yet under the D.C. law, the insurer is not allowed to ask anything about the applicant's possibility of developing AIDS.

And who will be harpooned in the pocketbook? Not the insurance industry, Mr. President. The increased cost will be passed on to other policyholders in the form of higher premiums—the policyholders who may already have higher premiums because of being at risk of developing cancer, or at risk of a heart attack. Now, because of the D.C. AIDS law, they will have an even higher premium because someone else is at risk of contracting AIDS. This is unfair Mr. President.

The D.C. AIDS bill sets a dangerous precedent for the rest of the country. It prohibits all AIDS, ARC, or HTLV-III infection testing and it prohibits adjusting premiums for those who test positive. This goes far beyond any other jurisdiction in the country.

Congress has the authority—and the duty to countermand this obvious injustice. My resolution will restore to insurers the right to treat AIDS like they would treat any other high risk disease, and will allow them to adjust premiums accordingly.

Mr. President, I ask unanimous consent that the text of the D.C law be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD as follows:

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

(To prohibit health, life, and disability insurers in the District of Columbia from discriminating in the provision of insurance coverage or benefits on the basis of any test to screen for the probable causative agent of AIDS, ARC, or HTLV-III infection, and to prohibit any exclusion of benefits because the insured develops AIDS, ARC, or the HTLV-III infection)

Be it enacted by the Council of the District of Columbia, That this act may be cited as

the "Prohibition of Discrimination in the Provision of Insurance Act of 1986".

SEC. 2. Definitions.

For the purposes of this act, the term:

(1) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

(2) "ARC" means AIDS-related complex as defined by the Centers for Disease Control of the United States Public Health Service or, during any period when the Centers for Disease Control have not issued a definition, by the District of Columbia Commission of Public Health.

(3) "District" means the District of Columbia.

(4) "Health maintenance organization" means a public or private organization that is a qualifying health maintenance organization under federal regulations, or has been determined to be a health maintenance organization pursuant to regulations adopted by the State Health Planning and Development Agency of the District of Columbia.

(5) "HTLV-III" means human T-lymphotropic virus, type-III.

(6) "Mayor" means the Mayor of the District of Columbia.

(7) "Insurer" means any individual, partnership, corporation, association, fraternal benefit association, nonprofit health service plan, health maintenance organization, or other business entity that issues, amends, or renews individual or group health, disability, or life insurance policies or contracts, including health maintenance organization membership contracts, in the District. The term "insurer" shall include Group Hospitalization and Medical Services, Incorporated.

SEC. 3. Application of the act.

The requirements of this act shall apply to the practices and procedures employed by insurers and their agents and employees in making determinations about any individual or group policy or contract of health, disability, or life insurance.

SEC. 4. Prohibited actions.

(a) An insurer may not deny, cancel, or refuse to renew insurance coverage, or alter benefits covered or expenses reimbursable, because an individual has tested positive on any test to screen for the presence of any probable causative agent of AIDS, ARC, or the HTLV-III infection, including, but not limited to, a test to screen for the presence of any antibody to the HTLV-III virus, or because an individual has declined to take such a test.

(b)(1) In determining whether to issue, cancel, or renew insurance coverage, an insurer may not use age, marital status, geographic area of residence, occupation, sex, sexual orientation, or any similar factor or combination of factors for the purpose of seeking to predict whether any individual may in the future develop AIDS or ARC.

(2) In determining rates, premiums, dues, assessments, benefits covered, or expenses reimbursable, or in any other aspect of insurance marketing or coverage, an insurer may not use age, marital status, geographic area of residence, occupation, sex, sexual orientation, or any similar factor or combination of factors for the purpose of seeking to predict whether any individual may in the future develop AIDS or ARC.

(c) No health or disability insurance policy or contract shall contain any exclusion, reduction, other limitation of coverage, deductibles, or coinsurance provisions related to the care and treatment of AIDS, ARC, HTLV-III infection, or any illness or disease arising from these medical conditions, unless the provisions apply generally to all benefits under the policy or contract.

(d) No life insurance policy or contract shall contain any exclusion, reduction, or other limitations of benefits related to AIDS, ARC, HTLV-III infection, or any disease arising from these medical conditions, as a cause of death.

SEC. 5. Permissible use of tests for ratemaking purposes.

(a) In addition to the prohibitions set forth in section 4, an insurer, during the period of 5 years from the effective date of this act, may not:

(1) Require or request any individual, directly or indirectly, to take any test to screen for the presence of any probable causative agent of AIDS, ARC, or the HTLV-III infection, including, but not limited to, a test to screen for the presence of any antibody to the HTLV-III virus;

(2) Require or request any individual, directly or indirectly, to disclose whether he or she has taken such a test, or to provide or authorize disclosure of the results of the test, if taken by the individual; or

(3) Consider in the determination of rates, premiums, dues, or assessments whether any individual has taken such a test, or the results of the test, if taken by the individual.

(b)(1) Following the period of five years from the effective date of this act, an insurer may apply to the Superintendent of Insurance for permission to increase rates, premiums, dues, or assessments, or impose a surcharge, for individuals who test positive for exposure to the probable causative agent of AIDS. An insurer, in its application, shall identify the test it proposes to use to identify exposure to the probable causative agent of AIDS.

(2)(A) The Superintendent of Insurance, upon receipt of an application described in paragraph (1) of this section, shall first request the District of Columbia Commissioner of Public Health to determine whether the test proposed by the applicant is reliable and accurate in identifying exposure to the probable causative agent of AIDS.

(B) If the District of Columbia Commissioner of Public Health determines that the test is not reliable and accurate, the Superintendent of Insurance shall deny the application.

(C) If the District of Columbia Commissioner of Public Health determines that the test is reliable and accurate, the Superintendent of Insurance shall review the application further and may approve the proposed increase or surcharge if he or she determines that it is fair, reasonable, nondiscriminatory, and related to actual experience or based on sound actuarial principles applied to analyses of a substantial amount of scientific data collected over a period of years.

(D) Upon approval of an application for an increase or surcharge, an insurer may subsequently request or require individuals to take the test specified in its application and may impose the surcharge or increased rates, premiums, dues, or assessments upon those who test positive and those who decline to take the test.

SEC. 6. Diagnosis of AIDS.

(a) Nothing in this act shall be construed as preventing or restricting insurers or their agents or employees from following standard procedures for determining the insurability of or establishing the rates or premiums for new applicants diagnosed by a licensed physician as having AIDS, provided that the procedures:

(1) Apply in the same manner to all other new applicants within the same category of insurance;

(2) Are justified on the basis of actuarial evidence; and

(3) Comply with other laws and rules of the District.

(b) An insurer may request or require a new applicant to take a test otherwise prohibited by this act if:

(1) The test is administered by a licensed physician as a required element of a diagnosis of AIDS; and

(2) Other symptoms of AIDS, as specified by the Centers for Disease Control of the United States Public Health Service, are present to the degree that a licensed physician determines that administration of the test is medically indicated.

SEC. 7. Restrictions on disclosure.

No insurer may request or require an individual to take a test or series of tests pursuant to sections 5 or 6 unless:

(1) The insurer agrees not to disclose the fact of the testing or the test results to any person except as required by law, or as authorized by the individual in writing; and

(2) The individual provides his or her informed consent by signing and dating a statement or agreement, which identifies the specific test or tests to be performed and identifies the person or persons to whom disclosure is authorized.

SEC. 8. Contestability.

An insurer may contest the validity of a policy or contract that was issued, amended, or renewed in a period in which the determination provided in section 5(b) of this act is not in effect for a period of up to 3 years from the date of issuance, amendment, or renewal, if the basis for contesting the validity is that the insured knowingly failed or refused to disclose to the insurer that he or she had AIDS at the time of issuance, amendment, or renewal.

SEC. 9. Special enforcement provisions.

(a) Any practice that circumvents or contravenes or results in a circumvention or contravention of the provisions of this act or rules issued pursuant to this act is a violation of this act.

(b) Each day that a violation continues shall constitute a separate violation. The Corporation Counsel, in seeking penalties for each day of a continuing violation, shall establish to the satisfaction of the Superior Court of the District of Columbia that a violation occurred on each day for which the penalty is sought.

(c) An insurer or its agent or employee who violates any provision of this act or rules issued pursuant to this act shall be subject to a civil penalty of not less than $1,000 or more than $10,000 per violation in the case of insurers, and not less than $50 or more than $300 in the case of agents or employees.

(d) Whenever it appears to the Mayor that an insurer or its agent or employee has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this act or rules issued pursuant to this act, the Mayor shall request the Corporation Counsel to bring an action in the Superior Court of the District of Columbia for penalties and other appropriate relief. Relief may include an injunction commanding compliance with this act and rules issued pursuant to this act. Upon proper showing, a temporary or permanent restraining order shall be granted without bond.

(e) Any person injured by a violation of this act or rules issued pursuant to this act

may bring an action for damages and other appropriate relief in the Superior Court of the District of Columbia in lieu of pursuing administrative remedies.

SEC. 10. Rules.

The Mayor shall issue proposed rules, within 90 days of the effective date of this act, to implement the provisions of this act. The proposed rules shall be submitted to the Council of the District of Columbia ("Council") for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not disapprove the proposed rules by resolution, within the 45-day review period, the proposed rules shall be deemed approved. The Council may approve or disapprove the proposed rules, in whole or in part, by resolution prior to the expiration of the 45-day review period.

SEC. 11. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).●

ADDITIONAL COSPONSORS

S. 1627

At the request of Mr. STEVENS, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1627, a bill to provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government.

S. 1761

At the request of Mr. STAFFORD, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 1761, a bill to amend the Atomic Energy Act of 1954, as amended, to establish a comprehensive, equitable, reliable, and efficient mechanism for full compensation of the public in the event of an accident arising out of activities of Nuclear Regulatory commission licenses or undertaken pursuant to the Nuclear Waste Policy Act of 1982 involving nuclear materials.

S. 1822

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1822, a bill to amend the Copyright Act in section 601 of title 17, United States Code, to provide for the manufacturing and public distribution of certain copyrighted material.

S. 2050

At the request of Mr. STAFFORD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2050, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

S. 2083

At the request of Mr. STAFFORD, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2083, a bill to amend the Toxic Substances Control Act to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in the Nation's schools, to mandate abatement of hazardous asbestos in the Nation's schools in accordance with those standards, to require local educational agencies to prepare asbestos management plans, and for other purposes.

S. 2401

At the request of Mrs. KASSEBAUM, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2401, a bill to prohibit the manufacture or distribution in, or the importation into, the United States of certain firearms.

S. 2479

At the request of Mr. TRIBLE, the names of the Senator from Alabama [Mr. DENTON], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2494

At the request of Mr. BRADLEY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2533

At the request of Mr. DIXON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2533, a bill to amend the Food Stamp Act of 1977 and the Temporary Emergency Food Assistance Act of 1983 to alleviate hunger among the homeless by improving certain nutrition programs, and for other purposes.

SENATE JOINT RESOLUTION 143

At the request of Mr. GORE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to authorize the Black Revolutionary War Patriots Foundation to establish a memorial in the District of Columbia at an appropriate site in Constitution Gardens.

SENATE JOINT RESOLUTION 354

At the request of Mr. CHILES, the names of the Senator from Louisiana [Mr. JOHNSTON], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 354, a joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week".

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. STEVENS, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Rhode Island [Mr. PELL], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 145, a concurrent resolution to encourage State and local governments and local educational agencies to require quality daily physical education programs for all children from kindergarten through grade 12.

SENATE CONCURRENT RESOLUTION 148

At the request of Mr. SYMMS, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Concurrent Resolution 148, a concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union.

SENATE RESOLUTION 420

At the request of Mr. CHILES, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Resolution 420, a resolution to express the sense of the Senate regarding prompt payment of Medicare claims.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. PRYOR], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 424, a resolution commending Colonel Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

SENATE RESOLUTION 429

At the request of Mr. DURENBERGER, the name of the Senator from Vermont [Mr. LEAHY] was added as as a cosponsor of Senate Resolution 429, an original resolution increasing the limitations on expenditures by the Select Committee on Intelligence for the procurement of consultants.

AMENDMENT NO. 2059

At the request of Mr. STEVENS, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Amendment No. 2059 intended to be proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

SENATE CONCURRENT RESOLUTION 151—EXPRESSING THE SENSE OF THE CONGRESS ON UNITED STATES POLICY TOWARD AFGHANISTAN

Mr. BYRD (for himself, Mr. SASSER, and Mr. PROXMIRE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 151

Whereas the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

Whereas the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

Whereas the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985 report to the General Assembly, concludes that "whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged" and that "[t]he Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations" including "use of anti-personal mines and of so-called toy bombs;" and "the indiscriminate mass killings of civilians, particularly women and children";

Whereas the Special Rapporteur also concludes that the war in Afghanistan has been characterized by "the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units" and that "[t]he demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul";

Whereas the United Nations General Assembly, in a recorded vote of 80-22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed "profound distress and alarm" at "the widespread violations of the right to life, liberty and security of person, including the commonplace practice of torture and summary executions of the regime's opponents, as well as increasing evidence of a policy of religious intolerance";

Whereas, in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that "The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops" and that "Continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit."

Whereas the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the U.S.-Soviet bilateral relationship in many fields of great importance to the globe community;

Whereas the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

Whereas President Reagan, in his February 4, 1986 State of the Union Address promised the Afghan people that, "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom. . .";

Therefore, be it

Resolved by the Senate (the House of Representatives concurring).

SECTION 1. The United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(a) the appropriate provisions of material support;

(b) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugess in safety and dignity;

(c) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(d) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(e) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Sovet Union among the American people and the Congress.

SEC. 2. The Secretary of State should

(a) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of Genocide, he shall report his findings to the President and the Congress, along with recommended actions; and,

(b) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

EVANS (AND OTHERS) AMENDMENT NO. 2104

Mr. EVANS (for himself, Mr. ABDNOR, Mr. GRAMM, Mr. CHILES, Mr. GORTON, Mr. PRESSLER, Mr. DODD, and Mr. JOHNSTON) proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 1415, beginning with line 10, strike out all through page 1416, line 4, and insert:

SEC. 135. DEDUCTION FOR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Paragaph (4) of section 164(a) (relating to deduction for taxes) is amended to read as follows:

"(4) 60 percent of the excess (if any) of—

"(A) State and local general sales taxes paid or accrued by the taxpayer during the taxable year, over

"(B) State and local income taxes paid or accrued by the taxpayer during the taxable year."

(b) SPECIAL RULE FOR TAXES IN CONNECTION WITH ACQUISITION OR DISPOSITION OF PROPERTY.—Section 164(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN NONDEDUCTIBLE TAXES.—In the case of any tax which is paid or accrued by the taxpayer in connection with the acquisition or dispositor of any property and with respect to which no deduction is allowed under this chapter, such tax shall—

"(A) in the case of the acquisition of property, be included in the basis of such property, and

"(B) in the case of disposition of property, allowable as a deduction in computing the amount realized on such disposition."

On page 1589, between lines 8 and 9, insert:

SEC. 423. EXCEPTION OF CERTAIN DEALERS FROM THE HEDGING TRANSACTION EXCEPTION.

(a) IN GENERAL.—Section 1256(e) (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR DEALERS.—Paragraph (1) shall not apply to any transaction entered into by a dealer, other than a dealer in agricultural or horticultural commodities (except trees which do not bear fruit or nuts)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to positions established after December 31, 1986.

At the appropriate place in title V, insert the following new section:

SEC. . TINS REQUIRED FOR DEPENDENTS CLAIMED ON TAX RETURNS.

(a) IN GENERAL.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(e) FURNISHING NUMBER FOR CERTAIN DEPENDENTS.—Any person making a return in which is claimed a dependent (as defined in section 152) who has attained the age of 5 years shall include in such return such identifying number as may be prescribed for se-

curing proper identification of such dependent."

(b) PENALTY FOR FAILURE TO SUPPLY TIN.—Section 6676 (relating to failure to supply identifying numbers) is amended by adding at the end thereof the following new subsection:

"(e) PENALTY FOR FAILURE TO SUPPLY TIN OF DEPENDENT.—If any person required under section 6109(e) to include the TIN of any dependent in his return fails to comply with such requirement, such person shall, unless it is shown that such failure is due to reasonable cause and not willful neglect, pay a penalty of $5 for each such failure.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

LAUTENBERG AMENDMENT NO. 2105

Mr. LAUTHENBERG proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place in title XVII, insert the following new section:

SEC. . HOME IMPROVEMENTS TO MITIGATE HARMFUL LEVELS OF RADON GAS EXPOSURE QUALIFY FOR MEDICAL CARE EXPENSE TAX DEDUCTION.

(a) FINDINGS.—The Congress finds that—

(1) indoor air contamination has become the focus of increasing concern among public health officials in the United States,

(2) the problem of harmful indoor radon gas contamination has been found in areas throughout the United States and has been estimated by the Federal Centers for disease control to be responsible for as many as 5,000 to 30,000 lung cancer deaths annually in the United States,

(3) mitigation of harmful indoor radon gas exposure is necessary to protect the health of residents,

(4) mitigation of harmful indoor radon gas exposure prevents increased risk of lung cancer, and

(5) mitigation of harmful indoor radon gas exposure can be costly, imposing excessive financial burdens on homeowners.

(b) HOME IMPROVEMENTS TO MITIGATE HARMFUL LEVELS OF RADON GAS EXPOSURE TREATED AS MEDICAL CARE EXPENSES.—For purposes of section 213(d)(1) of the Internal Revenue Code of 1954 (defining medical care) amounts paid for necessary home improvements to mitigate measured harmful levels of radon gas exposure shall be treated—

(1) as expenses paid for medical care, and

(2) in the same manner as amounts paid for other home improvements which qualify as expenses paid for medical care.

(c) EFFECTIVE DATE.—Subsection (b) shall apply to taxable years beginning after December 31, 1985.

METZENBAUM AMENDMENT NO. 2106

Mr. METZENBAUM proposed an amendment, which was subsequently modified, to the bill (H.R. 3838), supra; as follows:

Insert at the appropriate place in title XVII the following new section:

SEC. —. Sense of the Senate on Transition Rules.

It is vital for the Senate to be fully informed about every matter that comes before it, therefore it is the sense of the Senate that the Conference Report on H.R. 3838 shall contain—

"(1) the name of each business concern or group receiving a special or unique treatment in the bill;

"(2) the reason for the special or unique treatment; and

"(3) the cost of the special or unique treatment.".

DECONCINI AMENDMENT NO. 2107

Mr. DECONCINI proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1371, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $35,160	15% of taxable income.
Over $35,160	$5,274, plus 26% of the excess over $35,160.

On page 1371, strike out the matter between lines 14 and 15, and insert:

"If taxable income is	The tax is:
Not over $28,200	15% of taxable income.
Over $28,200	$4,230, plus 26% of the excess over $28,200.

On page 1372, strike out the matter preceding line 1, and insert:

"If taxable income is	The tax is:
Not over $21,120	15% of taxable income.
Over $21,120	$3,168, plus 26% of the excess over $21,120.

On page 1372, strike out the matter between lines 10 and 11, and insert:

"If taxable income is	The tax is:
Not over $17,580	15% of taxable income.
Over $17,580	$2,637, plus 26% of the excess over $17,580.

On page 1372, strike out the matter following lines 18, and insert:

"If taxable income is	The tax is:
Not over $6,000	15% of taxable income.
Over $6,000	$900, plus 26% of the excess over $6,000.

At the end of title IX, insert the following new section:

SEC. . REPEAL OF FOREIGN TAX CREDIT AND FOREIGN INCOME DEFERRAL.

(a) REPEAL OF FOREIGN TAX CREDIT.—Subpart A of part III of subchapter N of chapter 1 (relating to foreign tax credit) is hereby repealed.

(b) REPEAL OF FOREIGN INCOME DEFERRAL OF CONTROLLED FOREIGN CORPORATIONS.—Section 952(a) (defining subpart F income) is amended to read as follows:

"(a) IN GENERAL.—For purposes of this subpart, term 'subpart F income' means, in the case of any controlled foreign corporation, any income of such corporation not described in subsection (b), reduced (under regulations) by any deductions (including taxes) properly allocable to such income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1956, strike "20 percent" and insert "21.25 percent".

McCONNELL AMENDMENT NO. 2108

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the appropriate place in title XVII insert the following new section:

SEC. . CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTIONS.

(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 1982, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1954 shall be reduced by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) LIMITATIONS.—Subsection (a) shall apply only to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facility by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) HAZARDOUS SUBSTANCES.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

McCLURE AMENDMENT NO. 2109

Mr. McCLURE (for himself, Mr. HECHT, Mr. SYMMS, and Mr. EXON) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2143, between lines 16 and 17, insert the following new section:

SEC. . ACQUISITION OF GOLD AND SILVER COINS BY INDIVIDUAL RETIREMENT ACCOUNTS

(a) IN GENERAL.—Section 408(m) (relating to investment in collectibles treated as distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION FOR CERTAIN COINS.—In the case of an individual retirement account, paragraph (2) shall not apply to any gold coin described in paragraphs (7), (8), (9), or (10) of section 5112(a) of title 31 or any silver coin described in section 5112(e) of title 31)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions after December 31, 1986.

McCONNELL AMENDMENT NO. 2110

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the appropriate place in title XVII, insert the folowing new section:

SEC. . CERTAIN GAMBLING WINNINGS SUBJECT TO WITHHOLDING.

(a) IN GENERAL.—Sectin 3402(q) (relating to extension of withholding to certain gambling winnings) is amended by adding at the end thereof the following new paragraph:

"(8) WITHHOLDING ON PARIMUTUAL POOLS.—In the case of winnings from a wagering transaction described in paragraph (3)(C)(ii), paragraph (1) shall be applied by substituting '15 percent' for '20 percent'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

CHAFEE (AND OTHERS) AMENDMENT NO. 2111

Mr. CHAFEE (for himself, Mr. DODD, Mr. STAFFORD, and Mr. KERRY) proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the end of subtitle B of title VII, insert the following new section:

SEC. . REDUCTION OR DENIAL OF CERTAIN TAX PREFERENCES FOR PROPERTY AND ACTIVITIES WITHIN UNITS OF THE COASTAL BARRIER RESOURCES SYSTEM.

(a) LIMITATION ON DEDUCTIONS.—

(1) IN GENERAL.—Part IX of the subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280J. EXPENDITURES WITHIN UNITS OF THE COASTAL BARRIER RESOURCES SYSTEM.

"(a) COMPUTATION OF DEPRECIATION AND AMORTIZATION DEDUCTIONS.—Any deduction allowable under this chapter for depreciation or amortization for amounts paid or incurred for property used predominantly within a unit of the Coastal Barrier Resources System shall be computed under the alternative system of depreciation under section 168(g).

"(b) CERTAIN DEDUCTIONS DISALLOWED.—None of the following deductions shall be allowed:

"(1) EXPENSING OF DEPRECIABLE ASSETS.—Any deduction allowable under section 179 for property used predominantly within a unit of the Coastal Barrier Resources System.

"(2) CASUALTY LOSSES.—Any deduction allowable under section 165 with respect to any casualty or disaster loss in connection with any property within a unit of the Coastal Barrier Resources System.

"(c) For purposes of this section, the term 'units of the Coastal Barrier Resources System' means those undeveloped coastal barriers located on the Atlantic and Gulf coasts of the United States that are identified and generally depicted on the maps that are entitled 'Coastal Barrier Resources System', numbered A01 through T12 (but excluding maps T02 and T03), and dated September 30, 1982 and the maps designated T02A and T03A, dated December 8, 1982 under the Coastal Barrier Resources Act of 1982, as amended (16 U.S.C. 3501 et seq.)."

(2) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding after the item relating to section 280I the following new item:

"Sec. 280J. Expenditures within units of the Coastal Barrier Resources System."

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in this paragraph, the amendments made by this subsection shall apply to amounts paid or incurred after December 31, 1986, in taxable years ending after such date.

(B) TRANSITION RULE.—The amendments made by this subsection shall not apply to property—

(i) the construction or reconstruction of which began before July 1, 1986, or

(ii) which was acquired pursuant to a binding contract between the taxpayer and an unrelated person which was in effect on July 1, 1986, and at all times thereafter.

(b) APPLICATION OF AT-RISK RULES.—

(1) IN GENERAL.—Section 465(c) (relating to activities to which at-risk limitations apply) is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULES FOR PROPERTY LOCATED, OR USED, IN A UNIT OF THE COASTAL BARRIER RESOURCES SYSTEM.—In the case of an area designated as a unit of the Coastal Barrier Resources System under section 280J(c)—

"(A) paragraph (3)(D) shall not apply to real property located within such unit,

"(B) for purposes of paragraphs (4) and (5), the term 'equipment leasing' shall not include the leasing of property to be predominantly used within such unit, and

"(C) for purposes of paragraph (7), the term 'excluded business' shall not include any activity which is conducted within such unit."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to losses occurring after December 31, 1986.

(c) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN GOVERNMENTAL OBLIGATIONS.—

(1) IN GENERAL.—Section 103(b) (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(19) BONDS USED TO FINANCE FACILITIES IN A UNIT OF THE COASTAL BARRIER RESOURCES SYSTEM.—Paragraphs (4), (5), and (6) shall not apply to any obligation issued as part of an issue any portion of which is to be used for any facility located in a unit of the Coastal Barrier Resources System (within the meaning of section 280J(c))."

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by this subsection shall apply to obligations issued after December 31, 1986, unless issued pursuant to an inducement resolution adopted on or before July 1, 1986.

(B) EXCEPTIONS.—The amendment made by this subsection shall not apply to obligations issued for any of the following projects, but only if the obligations issued therefor are consistent with the purposes of the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 note):

(i) the establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(ii) the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or publicly-operated roads, structures, or facilities.

(iii) nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

HARKIN (AND OTHERS) AMENDMENT NO. 2112

Mr. HARKIN (for himself, Mr. ANDREWS, Mr. MELCHER, and Mr. PRESSLER) proposed an amendment to the bill (H.R. 3838), supra, as follows:

At the end of subtitle A of title VII, insert the following new section:

SEC. . INDEXING OF BASIS OF TRADE OR BUSINESS PROPERTY SOLD BY INDIVIDUALS AGE 55 AND OVER.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for determining basis) is amended by redesignating section 1060 as section 1061 and by inserting after section 1059 the following new section:

"SEC. 1060. BASIS OF TRADE OF BUSINESS PROPERTY SOLD BY INDIVIDUALS AGE 55 AND OVER.

"(a) GENERAL RULE.—If an individual has attained age 55 before the sale or disposition of any qualified trade or business property, the basis of such property solely for purposes of determining gain (but not loss) from such sale or disposition shall be increased by an amount equal to the product of—

"(1) the portion of the adjusted basis of such property (determined without regard to this section) which bears the same ratio to such adjusted basis as—

"(A) $500,000, bears to

"(B) the total sales price of such property, multiplied by

"(2) the inflation adjustment.

"(b) REDUCTION IN $500,000 LIMIT.—The $500,000 amount in subsection (a)(1)(A) shall be reduced (but not below zero) by the amount by which the total sales price, when added to the aggregate sales price of all qualified trade or business property previously sold or disposed of during the taxable year, exceeds $1,000,000.

"(c) QUALIFIED TRADE OR BUSINESS PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified trade or business property' means any real property located in the United States—

"(A) which on the date of the sale or disposition was owned by the taxpayer and was being used for a qualified use by the taxpayer or a member of the taxpayer's family, and

"(B) during the 13-year period ending on the date of the sale or disposition there have been periods aggregating 10 years or more during which—

"(i) such property was owned by the taxpayer and used for a qualified use by the taxpayer or a member of the taxpayer's family, and

"(ii) there was material participation by the taxpayer or a member of the taxpayer's family in the operation of the farm or other trade or business.

"(2) QUALIFIED USE.—The term 'qualified use' has the meaning given such term by section 2032A(b)(2).

"(3) MATERIAL PARTICIPATION.—The term 'material participation' has the meaning given such term by section 469(d)(2), except that a taxpayer shall not be treated as materially participating in the operation of a farm or other trade or business to the extent the taxpayer participates in the operation of the farm or other trade or business through an agent.

"(d) INFLATION ADJUSTMENT.—For purposes of this section, the inflation adjustment with respect to any sale or disposition of any property in any calendar year is the percentage (if any) by which—

"(1) the CPI for the preceding calendar year, exceeds

"(2) the CPI for the calendar year in which the holding period of the taxpayer with respect to such property begins.

For purposes of this subsection, the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-

month period ending on September 30 of such calendar year."

(b) REDUCTION IN AMOUNT TO WHICH SECTION 2032A APPLIES.—Section 2032A(a) (relating to valuation of certain farm, etc., real property) is amended by adding at the end thereof the following new paragraph:

"(3) REDUCTION FOR BASIS ADJUSTMENT.—The applicable limit under paragraph (2) shall be decreased by the aggregate amount of increases in the decedent's basis in property under section 1060 in connection with the disposition by the decedent of qualified trade or business property (within the meaning of section 1060(c))."

(C) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1060 and inserting in lieu thereof the following new items:

"Sec. 1060. Basis of trade or business property sold by individuals age 55 and over.

"Sec. 1061. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or dispositions after December 31, 1986, in taxable years ending after such date.

At the end of subtitle D of title VI of the Committee amendment, insert the following:

SEC. . IMPOSITION OF MERGER TAX.

(a) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting at the end thereof the following new subchapter:

"SUBCHAPTER G—ACQUISITIONS TAX

"Sec. 4499. Imposition of tax.

"Sec. 4499A. Acquisitions to which subchapter applies; controlling interest.

"Sec. 4499B. Definitions and special rules.

"SEC. 4499. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—If, during any 18-month period, a controlling interest in any entity (or portion thereof) is acquired in an acquisition to which this subchapter applies, an excise tax is hereby imposed on such acquisition.

"(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be 1.1 percent of the value of the consideration furnished by the acquiring entity in connection with the acquisition.

"(c) TAX PAID BY ACQUIRING ENTITY.—The tax imposed by subsection (a) shall be paid by the acquiring entity.

"SEC. 4499A. ACQUISITION TO WHICH SUBCHAPTER APPLIES; CONTROLLING INTEREST.

"(a) ACQUISITION TO WHICH SUBCHAPTER APPLIES.—This subchapter shall apply to any acquisition in which the acquired entity, as of the time of the acquisition, has assets with a value of at least $250,000,000.

"(b) CONTROLLING INTEREST.—For purposes of section 4499, the term 'controlling interest' means the acquisition of—

"(1) at least 50 percent of the voting stock of the acquired entity,

"(2) voting stock of the acquired entity—

"(A) having a value at the time of acquisition of not less than $125,000,000, and

"(B) representing at such time at least 35 percent of the voting stock of the acquired entity, or

"(3) in the case of an acquisition of assets, assets having a value at the time of acquisition of not less than $125,000,000.

In the case of entities other than corporations, rules similar to the rule of paragraphs (1) and (2) shall apply under regulations prescribed by the Secretary.

"SEC. 4499B. DEFINITIONS AND SPECIAL RULES.

"(a) ACQUISITIONS WHERE ACQUIRED ENTITY HAS SUBSTANTIAL NET OPERATING LOSSES.—The tax imposed by this subchapter shall not apply to the acquisition of any entity if such entity incurred—

"(1) a net operating loss (within the meaning of section 172(c)) for the taxable year preceding the taxable year in which the acquisition occurs equal to at least 3 percent of the value of such entity's assets as of the close of such preceding taxable year, or

"(2) an aggregate net operating loss for the 4 taxable years preceding the taxable year in which the acquisition occurs equal to at least 10 percent of the value of such entity's assets as of the close of the taxable year preceding the taxable year in which the acquisition occurs.

For purposes of this section, the net operating losses of any related group of which the acquired entity is a member shall be treated as net operating losses of such entity.

"(b) ENTITY.—For purposes of this subchapter, the term 'entity' includes corporations, partnerships, trusts, and individuals."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 is amended by inserting after the item relating to subchapter F the following new items:

"SUBCHAPTER G. ACQUISITIONS TAX."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

McCONNELL AMENDMENT NO. 2113

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the appropriate place in title XVII, insert the following new section:

SEC. . CERTAIN GAMBLING WINNINGS SUBJECT TO WITHHOLDING.

(a) IN GENERAL.—Paragraph (1) of section 3402(q) (relating to extension of withholding to certain gambling winnings) is amended by inserting "(15 percent in the case of winnings described in subparagraphs (B) and (C)(ii) of paragraph (3))" after "20 percent".

(b) WINNINGS SUBJECT TO WITHHOLDING.—Paragraph (3) of section 3402(q) is amended by striking out "$5,000" in subparagraph (B) and inserting in lieu thereof "$2,500".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

RIEGLE AMENDMENT NO. 2114

Mr. RIEGLE proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place add the following:

It is the sense of the Senate that the Senate conferees on the Tax Reform Act of 1986 give the highest priority to increasing the tax cut for all middle income Americans.

ZORINSKY AMENDMENT NO. 2115

(Ordered to lie on the table.)

Mr. ZORINSKY submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

On page 1918, after line 20, insert the following:

SEC. 990. EQUITABLE TREATMENT OF CERTAIN FOREIGN EXPROPRIATION LOSSES.

(a) IN GENERAL.—In the case of a seizure of the assets of a corporation in December 1985 pursuant to Peruvian Presidential Decree No. 035-85-EM—

(1) for purposes of section 165 of the Internal Revenue Code of 1954, any loss shall be considered to have been sustained during the taxable year including December 1985,

(2) notwithstanding subsection (b) of section 165 of such Code, the basis for determining the amount of the deduction for any loss under subsection (a) of such section shall be equal to the amount of the net loss from the seizure as described in the parent corporation's Form 10-K filed with the Securities and Exchange Commission for calendar year 1985 increased by the estimated recoveries by insurance or otherwise, and

(3) to the extent that the parent corporation recovers from insurance or otherwise an amount in excess of such estimated recoveries, the amount equal to such excess shall be taxable at the rates in effect in calendar year 1985.

(b) INCREASE IN CIVIL FRAUD PENALTY FOR UNDERPAYMENTS OF TAX.—Paragraph (1) of section 6653(b) (relating to fraud), as amended by section 503(a) of this Act, is amended—

(1) by striking out "75 percent" in subparagraph (A) and inserting in lieu thereof "85 percent", and

(2) by striking out "50 percent" in subparagraph (B) and inserting in lieu thereof "60 percent".

D'AMATO AMENDMENT NOS. 2116 AND 2117

(Ordered to lie on the table.)

Mr. D'AMATO submitted two amendments intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

AMENDMENT NO. 2116

On page 1523, between lines 11 and 12, insert the following new paragraph:

(29) CERTAIN PROJECT CONSISTING OF A SPORTS AND ENTERTAINMENT FACILITY AND MULTI-USE DEVELOPMENT.—The amendments made by section 201, and subsection (c) of this section, shall not apply to any property which is part of project consisting of a sports and entertainment facility and a mixed-use development if either—

(A) the sports and entertainment facility—

(i) is to be used by both a National Hockey League team and a National Basketball Association team,

(ii) is to be constructed on a platform utilizing air rights over land acquired by a State authority and identified as Site B in a report dated May 30, 1984, prepared for a State urban development corporation, and

(iii) is eligible for real property tax, and power and energy benefits pursuant to the provisions of State legislation approved and effective on July 7, 1982; or

(B) the mixed-use development—

(i) is to be constructed above a public railroad station utilized by the national railroad passenger corporation and commuter railroads serving two States, and

(ii) will include the reconstruction of such station to make it a more efficient transportation center and to better integrate the station with the development above, in accord-

ance with reconstruction plans prepared in cooperation with a State transportation authority.

AMENDMENT No. 2117

On page 2847, strike "Act" and insert "Act.

Nowithstanding any other provision of this Act—

(1)(A) Sections 1201 and 1202 of the Act are null and void.

(B)(i) Part I of subchapter A of chapter 1 (relating to tax imposed on individuals) is amended by adding after section 3 the following new section:

"SEC. 4. INCREASE IN TAX TO REFLECT LIMITATION ON DEDUCTIBILITY OF INDIVIDUAL RETIREMENT CONTRIBUTIONS.

"(a) GENERAL RULE.—The amount of the tax imposed by section 1 (determined without regard to this section) shall be increased by the amount determined under subsection (1).

"(b) AMOUNT OF INCREASE.—The amount determind under this subsection is equal to—

"(1) the excess of—

"(A) the tax liability of the taxpayer for the taxable year computer without regard to the deduction allowable under section 219, over

"(B) such tax liability computed with regard to such deduction, reduced by

"(2) 15 percent of the amount of the deduction allowable under sector 219.

"(C) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRIBUTIONS TO SECTION 501 (c) (18) plans.—The amount of any deduction allowable under section 219 shall not take into account the portion of such deduction attributable to a qualified retirement contribution described in sector 219(e)(2) (relating to contributions to section 501(c)(18) plans).

"(2) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b)."

(ii) The table of sections for part I of subsection A of chapter 1 is amended by adding after section 3 the following new section:

"Sec. 4. Increase in tax to reflect limitation on deductibility of individual retirement contributions."

(iii) The amendment made by this subparagraph shall apply to taxable years beginning on or after January 1, 1987.

(2)(A) Section 1222(c)(1) of the Act is null and void.

(B) Sector 72(b), as amended by section 1222(c)(2) of the Act, is amended by adding at the end thereof the following new paragraph:

"(5) APPLICATION WITH SUBSECTION (D).—This subsection shall not apply to any amount to which subsection (d)(1) (relating to certain employee annuities) applies."

(C) Section 72(e)(8)(D), as added by section 1222(c)(3)(A), is amended by striking out "In the case of a plan which on May 5, 1986 separation withdrawal of employee contributions before separation from service, subparagraph" and insert "Subparagraph".

(3) Section 55(b)(1)(A) (defining tentative mining tax), as amended by section 1101(a), is amended by striking out "20 percent" and inserting in lieu thereof "23.1 percent".

EVANS AMENDMENT NOS. 2118 AND 2119

Mr. EVANS proposed two amendments to the bill (H.R. 3838), supra; as follows:

AMENDMENT No. 2118

At the appropriate place, insert the following new section:

SEC. . QUALITY CONTROL STUDIES.

"Section 12301 of the Consolidated Omnibus Reconciliation Act of 1985 is amended—

(1) in subsection (a)(3), by striking out "of enactment of this Act" and inserting in lieu thereof "the Secretary and the National Academy of Sciences enter into the contract required under paragraph (2)";

(2) in subsection (c)(1), by striking out "18 months after the date of enactment of this Act" and inserting in lieu thereof "6 months after the date on which the results of both studies required under subsection (a)(3) have been reported"."

AMENDMENT No. 2119

On page 2584, line 16, strike out the words "IN GENERAL." and insert in lieu thereof "IN GENERAL. (i)"

On page 2584, after line 20 insert the following:

"(ii) Clause (ii) of section 4064(b)(1)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight." "

"(iii) Section 4064(b)(5) is amended to provide that the definition of "manufacture" shall not include any "small manufacturer" as defined in section 4064(d)(4) who becomes a manufacturer solely by reason of lengthening any existing automobile."

"(C) The amendments made by clauses (ii) and (iii) of Subparagraph (A) shall apply only to automobiles manufactured after October 31, 1985."

BAUCUS (AND OTHERS) AMENDMENT NO. 2120

Mr. BAUCUS (for himself, Mr. ABDNOR, Mr. GRASSLEY, Mr. ZORINSKY, Mr. HARKIN, Mr. MELCHER, Mr. DOLE, Mr. SYMMS, Mr. HEFLIN, Mr. PRYOR, Mr. BENTSEN, and Mr. DURENBERGER) proposed an amendment to the bill (H.R. 3838), supra; as follows:

AMENDMENT No. 2120

At the end of title II, insert the following new section:

SEC. 213. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF QUALIFIED FARMERS.

(a) GENERAL RULE.—If a taxpayer who is a qualified farmer makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1954 made by such taxpayer on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) AMOUNT.—For purposes of the subsection (a), the amount determined under this subsection shall be equal to the smallest of—

(1) 50 percent of the portion of the taxpayer's existing carryforwards to which the election under subsection (a) applies,

(2) the taxpayer's net tax liability for the carryback period (within the meaning of section 212(d) of this Act), or

(3) $750.

(c) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1954, or

(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period.

(d) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

(1) QUALIFIED FARMER.—The term "qualified farmer" means any taxpayer who, during the 3-taxable year period preceding the taxable year for which an election is made under subsection (a), derived 50 percent or more of the taxpayer's gross income from the trade or business of farming.

(2) EXISTING CARRYFORWARD.—The term "existing carryforward" means the aggregate of the amounts which—

(A) are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1986 (determined without record to the limitations of section 38(c) of the Internal Revenue Code of 1954), and

(B) are attributable to the amount of the investment credit determined under section 46(a) (as any corresponding provision of prior law) with respect to section 32 property which was used by the taxpayer in the trade or business of farming.

(2) FARMING.—The term "farming" has the meaning given such term by section 20321(a) (4) and (5) of such Code.

(4) TENTATIVE REFUND.—A rule similar to the rule of section 212(h) of this Act shall apply.

(e) RESTRICTION ON ACQUISITION OF CERTAIN LAND NOT TO APPLY TO QUALIFIED REDEVELOPMENT LANDS.—Section 103(b)(5)(f), as added by section 1501(c) of this Act, is amended by striking out "Paragraph (16)" and inserting in lieu thereof "Paragraph (16)(A)(ii)".

METZENBAUM (AND CHAFEE) AMENDMENT NO. 2121

Mr. METZENBAUM (for himself and Mr. CHAFEE) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2432, beginning with line 15, strike all through page 2433, line 12, and insert:

With respect to an interest in property created by a gift, devise, or bequest made before November 15, 1958, a disclaimer by a person of such interest (in whole or in part) shall not be treated as a transfer for purposes of chapters 11 and 12 of subtitle B of the Internal Revenue Code of 1954 if such disclaimer satisfied the requirements set forth in Treasury Regulation Section 25.2511-1(c) as in effect at the time the disclaimer was made. For purposes of this section, the requirement of such regulation that the disclaimer be made within a reasonable time after knowledge of the existence of the transfer shall be satisfied if such disclaimer was made in writing before December 9, 1980, and no later than a reasonable time after termination of all interests in such property prior to the disclaimed interest.

MATSUNAGA (AND OTHERS) AMENDMENT NO. 2122

Mr. MATSUNAGA (for himself, Mr. INOUYE, Mr. CRANSTON, Mr. WILSON, and Mr. SYMMS) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1955, between lines 3 and 4, insert the following:

Subtitle D—Miscellaneous Provisions

SEC. 1031. PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.

(a) IN GENERAL.—Section 821 (relating to mutual insurance companies), as amended by section 1024(c)(2), is amended by redesignating subection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.—

"(1) TREATMENT OF ARRANGEMENTS OR ASSOCIATIONS.—

"(A) CAPITAL CONTRIBUTIONS.—There shall not be included in the gross income of any eligible physicians' and surgeons' mutual protection and interindemnity arrangement or association any initial payment made during any taxable year to such arrangement or association by a member joining such arrangement or association which—

"(i) does not release such member from obligations to pay current or future dues, assessments, or premiums; and

"(ii) is a condition precedent to receiving benefits of membership.

Such initial payment shall be included in gross income for such taxable year with respect to any member of such arrangement or association who deducts such payment pursuant to paragraph (2).

"(B) RETURN OF CONTRIBUTIONS.—

"(i) IN GENERAL.—The repayment to any member of any amount of any payment excluded under subparagraph (A) shall not be treated as policyholder dividend, and is not deductible by the arrangement or association.

"(ii) SOURCE OF RETURNS.—Except in the case of the termination of a member's interest in the arrangement or association, any amount distributed to any member shall be treated as paid out of surplus in excess of amounts excluded under subparagraph (A).

"(2) DEDUCTION FOR MEMBERS OF ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—

"(A) PAYMENT AS TRADE OR BUSINESS EXPENSES.—To the extent not otherwise allowable under this title, any member of any eligible arrangement or association may treat any initial payment made during a taxable year to such arrangement or association as an ordinary and necessary expense incurred in connection with a trade or business for purposes of the deduction allowable under section 162, to the extent such payment does not exceed the amount which would be payable to an independent insurance company for similar annual insurance coverage (as determined by the Secretary), and further reduced by any annual dues, assessments, or premiums paid during such taxable year. Such deduction shall not be allowable as to any initial payment made to an eligible arrangement or association by any person who is a member of any other eligible arrangement or association on or after the effective date of the Tax Reform Act of 1986. Any excess amount not allowed as a deduction for the taxable year in which such payment was made pursuant to the limitation contained in the first sentence of this subparagraph shall, subject to such limitation, be allowable as a deduction in any of the 5 succeeding taxable years, in order of time, to the extent not previously allowed as a deduction under this sentence.

"(B) REFUNDS OF INITIAL PAYMENTS.—Any amount attributable to any initial payment to such arrangement or association described in paragraph (1) which is later refunded for any reason shall be included in the gross income of the recipient in the taxable year received, to the extent a deduction for such payment was allowed. Any amount refunded in excess of such payment shall be included in gross income except to the extent otherwise excluded from income by this title.

"(3) ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—The terms 'eligible physicians' and surgeons' mutual protection and interindemnity arrangement or association' and 'eligible arrangement or association' mean and are limited to any mutual protection and interindemnity arrangement or association that provides only medical malpractice liability protection for its members or medical malpractice liability protection in conjunction with protection against other liability claims incurred in the course of, or related to, the professional practice of a physician or surgeon and which—

"(A) was operative and was providing such protection, or had received a permit for the offer and sale of memberships, under the laws of any state prior to January 1, 1984,

"(B) is not subject to regulation by any State insurance department,

"(C) has a right to make unlimited assessments against all members to cover current claims and losses, and

"(D) is not a member of, nor subject to protection by, any insurance guaranty plan or association of any State."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made to and receipts of physicians' and surgeons' mutual protection and interindemnity arrangements or associations, and refunds of payments by such arrangements or associations, after the date of the enactment of this Act, in taxable years ending after such date.

STEVENS (AND OTHERS) AMENDMENT NO. 2123

Mr. STEVENS (for himself Mr. DIXON, Mr. SIMON, and Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1664, between lines 8 and 9, insert the following:

SUBTITLE II—CERTAIN DIESEL FUEL TAXES MAY BE IMPOSED ON SALES TO RETAILERS

SEC. 571. TAX ON SALES TO RETAILER.

(a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(n) TAX ON DIESEL FUEL FOR HIGHWAY VEHICLE USE MAY BE IMPOSED ON SALE TO RETAILER.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The tax imposed by subsection (a)(1)—

"(A) shall apply to the sale of diesel fuel to a qualified retailer (and such sale shall be treated as described in subsection (a)(1)(A)), and

"(B) shall not apply to the sale of diesel fuel by such retailer if tax was imposed on such fuel under subparagraph (A).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED RETAILER.—The term 'qualified retailer' means any retailer—

"(1) who elects (under such terms and conditions as may be prescribed by the Secretary) to have paragraph (1) apply to all sales of diesel fuel to such retailer, and

"(11) who agrees to provide a written notice to each person who sells diesel fuel to such retailer that paragraph (1) applies to all sales of diesel fuel by such person to such retailer.

Such election and notice shall be effective for such period or periods as may be prescribed by the Secretary.

"(B) RETAILER.—The term 'retailer' means any person who sells diesel fuel for use as a fuel in a diesel-powered highway vehicle. Such term does not include any person who sells diesel fuel primarily for resale.

"(C) DIESEL FUEL.—

"(1) IN GENERAL.—The term 'diesel fuel' means any liquid on which tax would be imposed by subsection (a)(1) if sold to a person, and for a use, described in subsection (a)(1)(A).

"(11) EXCEPTION.—A liquid shall not be treated as diesel fuel for purposes of this subsection if the retailer certifies in willing to the seller of such liquid that such liquid will not be sold for use as a fuel in a dieselpowered highway vehicle.

"(3) FAILURE TO NOTIFY SELLER.—

"(A) IN GENERAL.—If a qualified retailer fails to provide the notice described in paragraph (2)(A)(ii) to any seller of diesel fuel to such retailer—

"(i) paragraph (1) shall not apply to sales of diesel fuel by such seller to such retailer during the period for which such failure continues, and

"(ii) any diesel fuel sold by such seller to such retailer during such perlod shall be treated as sold by such retailer (in a sale described in subsection (a)(1)(A)) on the date such fuel was sold to such retailer.

"(B) PENALTY.—For penalty for failing to notify seller, see section 6652(j).

"(4) EXEMPTIONS NOT TO APPLY.—

"(A) IN GENERAL.—No exemption from the tax imposed by subsection (a)(1) shall apply to a sale to which paragraph (1) or (3)(A) of this subsection applies.

"(B) CROSS REFERENCE.—

"For provisions allowing a credit or refund for certain sales and uses of fuel, see section 6416 and 6427."

(b) PENALTY.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 501, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FAILURE TO GIVE WRITTEN NOTICE TO CERTAIN SELLERS OF DIESEL FUEL.— "(1) IN GENERAL.—If any qualified retailer fails to provide the notice described in section 4041(n)(2)(A)(ii) to any seller of diesel fuel to such retailer, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by such retailer with respect to each sale of diesel fuel to such retailer by such seller to which section 4041(n)(3) applies an amount equal to 5 percent of the tax which would have been imposed by section 4041(n)(1) on such sale had section 4041(n)(1) applied to such sale.

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'qualified retailer' and

'diesel fuel' have the respective meanings given such terms by section 4041(n)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

At the appropriate place, add the following new section as follows:

"Section—Special ESOP Requirements

"(a) IN GENERAL.—Subsection (a) of Section 401(a)(29) of the Internal Revenue Code of 1954 (relating to qualified pension, profit sharing and stock bonus plans) is amended by inserting thereat the following new sentence; The requirements of subsection (e) of section 409 shall not apply to defined contribution plans established by an employer whose stock is not publicly traded and who publishes a newspaper."

(b) Section 409(1) of the Internal Revenue Code of 1954 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) NONVOTING COMMON STOCK MAY BE ACQUIRED IN CERTAIN CASES.—Nonvoting common stock of an employee whose stock is not publicly-traded and who publishes shall be treated as employer securities if an employer has a class of nonvoting common stock outstanding and the specific shares that the plan acquires have been issued and outstanding for at least 24 months."

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall be effective December 31, 1986. The amendment made by subsection (b) shall apply to acquisitions of securities after December 31, 1986."

SASSER (AND OTHERS) AMENDMENT NO. 2124

Mr. SASSER (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. ANDREWS, and Mr. GRASSLEY) proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place in title V insert the following new section:

SEC. . APPLICATION OF THE REGULATORY FLEXIBILITY ACT TO THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 7805 of the Internal Revenue Code of 1954 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(e) RULE MAKING.—The provisions of section 553 of title 5, United States Code (without regard to the exception for interpretative rules) shall apply to all rules and regulations prescribed by the Secretary under this section or any other provision of this title."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any rule or regulation prescribed after the date of the enactment of this Act.

ABDNOR AMENDMENT NO. 2125

(Ordered to lie on the table.)

Mr. ABDNOR submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

On page 1514, line 9, strike out "or".

On page 1514, line 17, strike out the period, and insert in lieu thereof a comma and "or".

On page 1514, between lines 17 and 18, insert the following new subparagraph:

(D) the airline signed an aircraft purchase agreement on January 20, 1986, for 7 aircraft, with the financing contingency removed no later than February 7, 1986, the estimated cost of each aircraft is $2,900,000, and all 7 of the aircraft were delivered before May 23, 1986, and were placed in service by May 27, 1986.

On page 1416, between lines 4 and 5, insert:

SEC. 136. REPEAL OF TAXES OF SHAREHOLDER PAID BY CORPORATION.

Section 104(e) (relating to taxes of shareholder paid by corporation) is amended to read as follows:

"(e) TAXES OF SHAREHOLDERS PAID BY CORPORATION.—If a corporation pays a tax imposed on a shareholder on his interest as a shareholder, and if the shareholder does not reimburse the corporation, then no deduction shall be allowed with respect to such tax to the corporation or to the shareholder."

CRANSTON AMENDMENT NO. 2126

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . TREATMENT OF COMPUTER SOFTWARE ROYALTIES FOR PURPOSES OF SUBCHAPTER S.

Paragraph (d)(3)(D) of section 1302 of the Internal Revenue Code of 1954, as amended (defining passive investment income) is amended—

(1) by striking out "and" at the end of subparagraph (D)(iv);

(2) by striking out the period at the end of subparagraph (D)(v) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph (D)(vi) to read as follows:

"(vi) Exception for active business computer software royalties are defined by section 543(d). The term 'passive investment income' shall not include royalties as defined by section 543(d)(1) through (4).".

CRANSTON AMENDMENT NO. 2127

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the appropriate place in the amendment, add the following new section:

"SEC. . NON-PRO RATA STOCK SURRENDERS.

"(a) GENERAL RULE.—Section 165 (relating to deductibility of losses) is amended by redesignating subsection (l) as subsection (m) and inserting in lieu thereof the following new subsection (l):

"'(l) TREATMENT OF CERTAIN STOCK SURRENDERS.—Where a taxpayer transfers less than all of the taxpayer's stock in a corporation directly to that corporation as a surrender of shares—

"'(1) No loss shall be allowed at the time of the surrender;

"'(2) The transfer shall be treated as a contribution to the capital of the corporation; and

"'(3) The taxpayer's basis in the surrendered shares shall be added to the taxpayer's basis in the shares of the corporation held by the taxpayer immediately after the transfer.'

"(b) TECHNICAL AMENDMENT.—Subsection (e) of Section 1016 (relating to adjustments to basis) is amended by adding the following at the end thereof—

"'(3) For treatment of certain surrenders of stock, see section 165(l).'

"(c) EFFECTIVE DATES.

"(1) Subject to the provision of paragraph (2), the amendments made by this section shall be effective with respect to transfers occurring after the date of enactment.

"(2) In the case of a surrender of stock with respect to which—

"(A) the surrendering stockholder's interest in the voting stock of the corporation immediately after the surrender was at least five percent less than the stockholder's interest immediately prior to the surrender:

"(B) the surrendering stockholder suffered an economic loss as a result of the surrender; and

"(C) the surrender took place before August 28, 1979

the surrendering stockholder shall be entitled to claim a loss under section 165(c)(2) measured by reference to the stockholder's basis in the surrendered shares.".

HEINZ AMENDMENT NO. 2128

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

On page 1432, strike lines 6 through 9, and insert:

"(2) 5-YEAR AND 10-YEAR PROPERTY.—Except as provided in paragraph (3), in the case of 5-year and 10-year property, the applicable depreciation method is—

"(A) the 200 percent declining balance method,

"(B) switching to the straight line method—

"(i) in the case of 5-year property, in the 2nd taxable year following the taxable year in which the property was placed in service, and

"(ii) in the case of 10-year property, in the 5th taxable year following the taxable year in which the property was placed in service.

On page 1958, line 21, strike the end period and insert ", except that the recovery period under section 168(g)(2)(C), shall be applicable recovery period under section 168(c).

MATSUNAGA AMENDMENT NO. 2129

Mr. MATSUNAGA proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the end of title XVII, insert the following:

SEC. . SPECIAL RULE FOR EDUCATIONAL ACTIVITIES AT CONVENTION AND TRADE SHOWS.

(a) CERTAIN EDUCATIONAL ACTIVITIES TREATED AS CONVENTION AND TRADE SHOW ACTIVITIES.—Section 513(d)(3)(B) (relating to qualified convention and trade show activity) is amended by inserting after "industry in general" the following: "or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(b) QUALIFYING ORGANIZATIONS.—Section 513(d)(3)(c) (relating to qualifying organization) is amended by striking out "501(c) (5) or (6)" and inserting in lieu thereof "501(c)(3), (4), (5), or (6)" and by inserting before the period at the end thereof the following: "or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to activities in taxable years beginning after the date of enactment of this Act.

ROTH (AND OTHERS) AMENDMENT NO. 2130

(Ordered to lie on the table.)

Mr. ROTH (for himself, Mr. SYMMS, and Mr. CHAFEE) submitted an amendment intended to be proposed by them to the bill (H.R. 3838), supra; as follows:

On page 1725, beginning with line 4, strike out all through page 1727, line 8.

On page 1903, lines 5 and 6, strike "December 31, 1986" and insert "November 1, 1986".

HATCH (AND OTHERS) AMENDMENT NO. 2131

Mr. HATCH (for himself, Mr. KENNEDY, and Mr. METZENBAUM) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2032, line 14, insert "or section 204(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g))" after "1954".

On page 2073, between lines 17 and 18, insert the following new subsection:

(d) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

"(2) A plan satisfies the requirements of this paragraph if it satisfies the requirements of subparagraph (A), (B), or (C).

"(A) A plan satisfies the requirements of this subparagraph if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) A plan satisfies the requirements of this subparagraph if an employee who has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined, under the following table:

"Years of service:	*The nonforfeitable percentage is:*
3	20
4	40
5	60
6	80
7 or more	100.

"(C) A plan satisfies the requirements of this subparagraph if—

"(i) the plan is a multiemployer plan (within the meaning of section 414(f) of the Internal Revenue Code of 1954), and

"(ii) under the plan an employee who has completed at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.".

(2) REPEAL OF CLASS YEAR VESTING.—Subsection (c) of section 203 of such Act is amended by striking out paragraph (3).

(3) CONFORMING AMENDMENTS.—

(A) MINIMUM VESTING STANDARDS.—Section 203(c)(1)(B) of such Act is amended by striking out "5 years" and inserting in lieu thereof "3 years".

(B) BENEFIT ACCRUAL REQUIREMENTS.—Subsection (1) of section 204 of such Act (29 U.S.C. 1054(i)) is amended to read as follows:

"(i) CROSS REFERENCE.—

"For special rules relating to plan provisions adopted to preclude discrimination, see section 203(c)(2).".

On page 2073, line 18, strike out "(d)" and inset in lieu thereof "(e)".

On page 2141, between lines 9 and 10, insert the following new subsection:

(c) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is amended to read as follows:

"(2)(A) For purposes of paragraph (1), the present value shall be calculated—

"(i) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(ii) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under clause (i)).

"(B) For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 205(g) of such Act (29 U.S.C. 1055(g)(3)) is amended to read as follows:

(3)(A) For purposes of paragraphs (1) and (2), the present value shall be calculated—

"(i) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(ii) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under clause (i)).

"(B) For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

On page 2141, line 10, strike out "(c)" and insert in lieu thereof "(d)".

HUMPHREY AMENDMENT NO. 2132

Mr. HUMPHREY proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1623, strike lines 18 through 23 and insert:

"(A) the title company,

"(B) the mortgage lender,

"(C) the settlement attorney or other person responsible for closing the transaction,

"(D) the seller's broker,

"(E) the buyer's broker, or

MATTINGLY AMENDMENT NO. 2133

(Ordered to lie on the table.)

Mr. MATTINGLY submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

Insert at the appropriate place in title XVII, the following new section:

SEC. . MORATORIUM ON TAX LEGISLATION.

(a) FINDINGS.—The Congress finds that—

(1) constant and conflicting policy changes in the Internal Revenue Code of 1954 (herinafter referred to as the "Tax Code") make it difficult for individuals to properly plan for the future,

(2) constant and conflicting policy changes by the Congress retard capital formation by increasing the risk of a project,

(3) constant and conflicting policy changes by the Congress place undue burdens on individuals and businesses by requiring utilization of financial resources to anticipate such changes and modifications in the Tax Code,

(4) the Internal Revenue Service is drained of limited resources in trying to adapt to changes in the Tax Code,

(5) one of the greatest burdens placed upon small businesses is the completion of paperwork to comply with the Tax Code, and constant changes by Congress unnecessarily compound this paperwork burden,

(6) any tax reform legislation passed by the Congress should stimulate economic growth, encourage investment, promote capital formation, expand job opportunities, and encourage savings, and

(7) the American taxpayer deserves certainty in the tax treatment of economic decisions.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the provisions of the Internal Revenue Code of 1954 which are added or amended by this Act remain unchanged for at least 5 years in order to provide stability for the American taxpayer and the private sector.

BRADLEY AMENDMENT NO. 2134

Mr. BRADLEY proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1401, between lines 13 and 14, insert the following:

(e) EMPLOYEE NOTIFICATION.—The Secretary of the Treasury is directed to require, under regulations, employers to notify any employee who has not had any tax withheld from wages that such employee may be eligible for a refund because of the earned income credit.

LONG AMENDMENT NO. 2135

(Ordered to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

On page 2610, between lines 17 and 18, add the following new paragraph:

(4) Section 7702(e)(2) is amended—

(A) by striking out "and" at the end of subparagraphs (A),

(B) by striking out the period at the end of subparagraph (B), and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

"(i) has an initial benefit of $5,000 or less,

"(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

"(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract."

WILSON AMENDMENT NO. 2136

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

On page 1413 of the amendment, strike out line 24 and insert in lieu thereof the following: "employer, and"

"(4) EXPENSES FOR OBTAINING TEMPORARY EMPLOYMENT.—The deductions allowed by part VI (sec. 161 and following) which consist of agency fees directly related to the seeking of employment of limited duration in the taxpayer's present trade or business, under regulations to be prescribed by the Secretary."

LEAHY AMENDMENT NO. 2137

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the appropriate place, insert the following:

Amend section 202(b)(2) by inserting after "Paragraph (1)" the following: "and subsection (d) (other than paragraphs (9) and (13) thereof)".

Amend section 202(d)(13) to read as follows: "(13) CERTAIN SATELLITES.—The amendments made by section 201 shall not apply to any satellite or other spacecraft with respect to which—

"(A) the taxpayer entered into written binding contracts with respect to 3 satellites before September 26, 1985, the third satellite is the subject of a joint venture, and the total cost of the 3 satellites is approximately $400,000,000, or

"(B) by an order adopted on July 25, 1985, the Federal Communications Commission granted the taxpayer an orbital slot and authorized the taxpayer to launch and operate 2 satellites with a cost of approximately $120,000,000, or

"(C) the International Telecommunications Satellite Organization or the International Maritime Satellite Organization entered into written binding contracts prior to May 1, 1985."

QUAYLE AMENDMENT NO. 2138

(Ordered to lie on the table.)

Mr. QUAYLE submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

At the end of subtitle H of title IX, insert the following new section:

SEC. . ATHLETES COMPETING IN CHARITABLE SPORTING EVENTS.

(a) IN GENERAL.—Section 7701(b)(4)(A) (defining exempt individual) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or" and by adding after clause (iii) the following new clause:

"(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(k)(2)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 19, in order to conduct a closed executive session, and to receive an intelligence briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PACKWOOD, Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 19, to hold an oversight hearing on the Chernobyl accident and implications for the domestic nuclear industry,

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICE

Mr. DURENBERGER, Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 19, in executive session, to markup the fiscal year 1987 Department of Defense, Military Construction, and Department of Energy National Security Programs Authorization bills,

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, June 19, 1986, in order to conduct a hearing on the Prompt Pay Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 19, to conduct a hearing on the nomination of Lawrence Gibbs to be Commissioner of the Internal Revenue Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 19, in order to consider the nomination of Lawrence Gibbs to be Commissioner of the Internal Revenue Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL ICE CREAM MONTH

● Mr. KERRY. Mr. President, one of the most successful and enjoyable American products receives its due national recognition during the month of July. That's because we get to celebrate July as "National Ice Cream Month."

As an ice cream lover myself, I can attest to the fact that ice cream has achieved a status in the American consumers' minds unlike that of almost any other product. Many people consider it a reward food. Others think of it as a treat or a pleasurable indulgence. Some even think the cool and refreshing qualities of ice cream are good for coping with stress and anger.

Its richness and marvelously varied flavors and forms are a testament to American ingenuity. Over the past 10-15 years, the ice cream industry has witnessed a rebirth in its innovativeness as it seeks to meet the demand for quality products that American consumers have come to expect. This is one industry that's not endangered by foreign competition.

I am proud to point out that Massachusetts and the rest of the New England area have the singular distinction of being the highest per capita production area of ice cream products in the country. In 1984, that figure was 23 quarts per capita. Compare that to the national per capita production figure of 15 quarts and you can see which area of the country is helping provide a lot of ice cream for the American people. My home State of Massachusetts ranks sixth in the Nation in ice cream production. Massachusetts ice cream manufacturers produced nearly 47 million gallons of ice cream in 1984.

We salute the ice cream manufacturers in the United States for the delicious products they produce and all of us get to enjoy.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee has received a request for a determination under rule 35, for Mr. Alex Netchvolodoff, a member of the staff of Senator JOHN

C. DANFORTH, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad-Adenauer-Stiftung, from June 21 to June 28, 1986.

The committee has determined that participation by Mr. Netchvolodoff in the program in the Federal Republic of Germany, at the expense of the Konrad-Adenauer-Stiftung, is in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under rule 35, for Mr. M. Graeme Bannerman, a member of the Committee on Foreign Relations staff, to participate in a program in the People's Republic of China and Tibet, sponsored by the United States-China Friendship Program in conjunction with the United States-Asia Institute, from June 29 to July 17, 1986.

The committee has determined that participation by Mr. Bannerman in the program in the People's Republic of China and Tibet, at the expense of the United States-Asia Institute, is in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under rule 35, for Ms. Annie Lesher, a member of the staff of Senator DAVID PRYOR, to participate in a program in Taipei, Taiwan, sponsored by Tamkang University, from July 1, to July 10, 1986.

The committee has determined that participation by Ms. Lesher in the program in the Republic of China, at the expense of Tamkang University, is in the interest of the Senate and the United States.●

U.S. SCIENTISTS ON STAR WARS

● Mr. JOHNSTON. Mr. President, in his now famous "Star Wars" speech of March 23, 1983, the President said:

I call upon the scientific community in our country, those who gave us nuclear weapons, to turn their great talents now to the cause of mankind and world peace to give us the means of rendering these nuclear weapons impotent and obsolete.

Recently, the scientific community has responded to the President's call. It has come as a crescendo of voices echoing across the country, united in their certainty that Star Wars cannot possibly make nuclear weapons "impotent and obsolete;" united in their skepticism, if not outright opposition to the Star Wars Program, and united in their belief that this dangerous, wasteful program should be cut back and converted into a true, exploratory research program.

A few days ago, my colleague, BILL PROXMIRE, circulated a list of 6,500 scientists and engineers at 110 colleges, universities, and other institutions in 41 States, who oppose SDI. The list includes 15 Nobel laureates and a majority of the faculty from the top 20 physicis departments in the Nation.

Today, Senator EVANS and I met in a press conference with a group of five distinguished scientists who transmitted to us an "Open Letter to Congress" signed by over 1,600 scientists expressing their serious concerns over the Star Wars Program. I especially want to thank the five scientists who came to deliver this open letter from their colleagues to the Congress. I also want to thank them for their efforts in educating legislators and the public on this critical issue.

I do not exaggerate at all in saying these five scientists constitute a national asset in and of themselves.

Carson Mark, Ph.D., was the theoretical division leader in charge of new weapons design from 1947-73 at Los Alamos Scientific Laboratory.

Robert W. Wilson, Ph.D. of AT&T Bell Labs received the Nobel Prize in physics for the discovery of the cosmic black body background radiation from the "Big Bang."

John Backus, MS, is an IBM Fellow and is the inventor of "Fortran," and recipient of the National Medal of Science from President Ford.

Daniel S. Fisher, also of AT&T Bell Labs, was chosen by Science Digest as one of the 100 brightest U.S. scientists under 40.

Pierre Hohenberg is the head of the Theoretical Physics Department at AT&T Bell Labs.

The 1,600 signatories on the open letter to Congress have a very special credibility on the subject of Star Wars. These are scientists from the major weapons laboratories and high technology centers across the Nation such as Los Alamos, Livermore, Lincoln Labs, Jet Propulsion Laboratory, Bell Labs, Sandia, Aragonne, Mitre, Ratheon, and Boeing. These are the same Government and industrial laboratories who have created the technology upon which our national defense depends. Many signatories are current or former directors in these labs.

It is fortunate, indeed, Mr. President, that these scientists have stepped forth. As a U.S. Senator, I do not think I am telling any closely held secrets when I say that the Star Wars program is a difficult subject matter for my colleagues and me. It is loaded with exotic technologies. The vocabulary is daunting enough—words like "smart rocks," "rubber mirrors," and "electromagnetic rail guns"—are mystifying for most Senators.

We have to look to the scientists in this country who work in exotic technologies for advice on quesitons such as:

Can Star Wars make nuclear weapons impotent and obsolete?

Will the system work reliably?

Can the Russians fool this proposed astrodome in space with decoys, punch holes in it or evade it with countermeasures?

What will Star Wars cost?

We must rely on our scientists for answers to these questions.

What these 1,600 laboratory scientists have to say about Star Wars is as important as their identity. I urge you to study their open letter which I am enclosing in the RECORD.

Note especially that they urge the Congress "to limit the SDI to a scale appropriate to exploratory research." They do not question the need for exploratory research.

I know the Senate is already listening to the scientific community. Forty-eight Senators have now signed a bipartisan letter that I originated with five of my colleagues: Senators PROXMIRE, CHILES, CHAFEE, EVANS, and MATHIAS questioning the need for any further explosive growth in funding for the SDI. Of course, research on anti-ballistic missile technology must continue, but it must be a realistic program. By heeding the concerns expressed by scientists such as these who signed this open letter to Congress, I believe the Congress can fashion a realistic ABM research program.

Perhaps the White House is also at last listening to the scientific community. On June 3, 1986, the President sent a special message to Congress on strategic modernization that dwelled at length on SDI. Nowhere in this message is there any longer the claim that the Star Wars Program will one day render nuclear weapons impotent and obsolete.

I commend these 1,600 scientists. It would have been much easier for them to sign nothing, to say nothing, to do nothing. But they obviously care about our national security, about real security and the sensible use of our defense resources. I ask that the following documents be printed in the RECORD at this point—the "Open Letter to the U.S. Congress" dated June 19, 1986; the statements of Senator DANIEL EVANS, Senator JOHN BACKUS, Daniel S. Fisher, J. Carson Mark, and R.W. WILSON; the respective biographies of the five scientists who presented their open letter; and a State-by-State list of the Government labs and industrial labs where the signatories are currently or formerly employed. I should note that this State-by-State list of labs also includes individual contacts and their telephone numbers.

The material follows:

AN OPEN LETTER TO THE U.S. CONGRESS

June 19, 1986.

We, the undersigned scientists and engineers currently or formely at government and industrial laboratories, wish to express our serious concerns about the Strategic Defense Initiative (SDI), commonly known as "Star Wars". Recent statements from the Administration give the erroneous impression that there is virtually unanimous sup-

port for this initiative from the scientific and technical community. In fact the SDI has grown into a major program without the technical and policy scrutiny appropriate to an undertaking of this magnitude. We therefore feel that we must speak out now.

The stated goal of the SDI is developing the means to render nuclear weapons "impotent and obsolete". We believe that realization of this dream is not feasible in the foreseeable future. The more limited goal of developing partial defenses against ballistic missiles does not fundamentally alter the current policy of deterrence, yet it represents a significant escalation of the arms race and runs the serious risk of jeopardizing existing arms control treaties and future negotiations. Furthermore, in view of the international economic competition faced by the U.S., it should be asked whether the country can afford the diversion of resources, especially scientific and technical manpower, that the SDI entails.

The Congressional Office of Technology Assessment has raised serious questions concerning the scope and scale of the present SDI effort. We urge the Congrss to head these concerns and to limit the SDI to a scale appropriate to exploratory research, while assessing the costs, the risk and the potential benefits of the program in comparison with alternative strategies for strengthening the overall security of the nation. Top priority must be given to this task before the momentum inherent in a program of such magnitude makes this venture irreversible.

[This statement reflects the values of the signatories and not those of the institutions with which they are affiliated.]

PRESENTATION OF SDI PETITION TO CONGRESS

(Statement of Senator Daniel J. Evans)

I am pleased today to accept on behalf of the United States Senate an open letter to Congress signed by more than 1400 scientists and engineers. In the letter, the signatories express concern that we may be moving ahead too quickly with SDI research and that the program has not received the kind of "technical and policy scrutiny appropriate for an undertaking of this magnitude." These are concerns I share.

I welcome this expression of concern from the scientific community because I believe that SDI can benefit from a healthy dose of skepticism. When the skeptics are as distinguished a group as that represented here, we should all take note.

Congress has budgeted roughly $5.5 billion for SDI research in the Department of Defense and Department of Energy budgets since the program was started in fiscal year 1984. For FY 1987 Congress is being asked to spend approximately $5.4 billion in the combined DoD/DoE budget for SDI. I do not believe we will continue to have a responsible, manageable research effort if we elect to spend as much in the next year on SDI as we have spent in the last three years. A highly accelerated research program will inevitably result in waste, overburdened management, and incomplete technical scrutiny.

I recognize that this country has undertaken vast and intense research efforts in the past. Proponents of a fast-paced SDI program regularly cite the Apollo program and the Manhattan project to justify their funding requests. Yet, while the nation stood foursquare behind Manhattan and Apollo, we have no consensus on SDI.

I confess to technical optimism. If we can walk on the moon, we can do anything. But we must not attempt to do everything. We must begin now to formulate our strategic policy for the years to come. It is imperative in a time of scarce financial resources that we develop a plan for the future that is coherent, comprehensive, and consensual. Looking ahead, I am convinced that technology can light the way to a more healthy and secure world. But we must recognize that the boundless creativity of the human mind can conceive equally well technologies of prosperity and technologies of ruin.

Clearly, there are powerful reasons to conduct a healthy ballistic missile defense research program. We cannot afford to ignore the significant strategic defense efforts of the Soviet Union. They continue to devote a large portion of their scientific resources to exploring the technologies we are assessing under SDI. We also cannot afford to ignore the possibility that changing technology will cause us to change our thinking about strategic questions.

But these possibilities do not militate in favor of a precipitously paced program. We need look no further than the waste and abuse in recent military spending to find reasons for prudence in SDI funding.

I am pleased that those most capable of assisting the Congress and the Nation in addressing the technical questions raised by SDI are expressing themselves here today. The program must continue to be subject to critical evaluation from a broad spectrum of technical perspectives. That assessment will in turn help us make sound policy judgments. I hope that those who have signed this letter—and others in the scientific community—will continue to contribute their expertise and continue to express their concerns.

STATEMENT OF R.W. WILSON

The strength of the United States ultimately depends on our economic success. In recent years, more than half of our economic growth has been attributed to technological innovation. It is disturbing to learn that although our R&D efforts are about twice those of Japan, half of ours is directed to military goals. In government sponsored R&D where much of our basic research is done, more two thirds is military and that fraction is expected to increase to three quarters as the SDI program builds up. Since our future developments depend on the results of our current research, this does not bode well for our long term economic strength.

In principal, military R&D could be increased without reducing the civilian effort. In practice, though, the two compete for the same people, and with the Gramm-Rudman-Hollings restrictions on the federal budget they also compete for the same money. As an astronomer, I see the national observatories being cut back to the point that their function is seriously impaired and individual academic investigators find the competition for NSF grants greatly increasing. Money for proposals related to SDI is readily available. I can only assume that this same mechanism for forcing people into SDI research applies in other, more economically significant fields with which I am less familiar.

People will argue that SDI will have technological fallout of economic value. I argue that a large SDI program is a very inefficient way to obtain that fallout. I have spent my professional career at Bell Laboratories which is often cited as an exemplary R&D institution. The approach to research which has worked so well at Bell Labs is to maintain small efforts in many fields, some only peripherally related to the main goals of the organization, but to concentrate most of the effort on the important goals. A well designed SDI research program will have almost as much technological fallout as the massive R&D program that the administration proposes.

In closing, let me say that if I expected that SDI would greatly reduce or eliminate the world wide threat of nuclear weapons any time soon, I would advocate that the U.S. accept the economic consequences of diverting a significant fraction of our R&D effort to that goal. But since I think that the time before SDI increases our security will be decades, if ever, it would be foolish for us to devote a large effort to SDI. Indeed, except for political purposes it is usually not useful to undertake large demonstrations early in the research leading to a new development. SDI is in an early research phase and the program should be limited in size to avoid a large amount of waste.

STATEMENT OF J. CARSON MARK

I was working at Los Alamos before it was shown that a nuclear explosion could be realized. From that time until retiring in 1973 I was continuously engaged in improving the design of nuclear weapons—increasing their yields, reducing their cost in fissile material, making them smaller, and lighter, and more rugged and more adaptable. A great deal was accomplished, and progress along these lines continues. These developments were intended for "defense"; but their most evident effect has been to enhance our ability to inflict damage.

Naturally, others have felt impelled to equip themselves in similar fashion, and they, too, have accomplished a great deal. The result of all this technical virtuousity has been an accelerating erosion of national security—for us as well as others. In 1945 our security against any external threat was impregnable. Today we are more exposed to external threat then ever before.

Each of the superpowers is now able to destroy the other. By intensive applications of technology, the two have reached a stage at which they can only survive together or perish together. Technology has contributed to the second alternative and can no doubt contribute more. Certainly, as applied to the development of weapons, technology has not contributed much—nor does it seem likely to be able to contribute much—to providing an acceptable basis for mutual survival.

Nevertheless, it is now proposed that by a truly massive technological effort—the SDI—we can restore our security. Were that feasible it would indeed be an attractive prospect; but there are many technical reasons to doubt its feasibility. For one thing, whether destined for "success" or not, if persisted in the SDI cannot fail to inspire efforts on the part of others either to emulate it or to override it. It is almost certainly a much simpler technical task to counter an SDI system than to establish a fault-free system in the first place. To a considerable extent, then, the status quo would be maintained, though on a more edgy level. Neither would successful emulation lead to a very different situation. Presumably everyone would then be secure, much as a man in a well-designed bunker may be secure from hostile artillery fire—though perhaps not from cyanide dropped down the ventilators. He would be secure, but in a state of watch-

ing and waiting for his adversary to start something. That is the sort of security which can be achieved by purely technical means.

What is really "impotent and obsolete" about Star Wars is the supposition that enough sufficiently exotic weapons systems can establish security as every man in the street would like to think of it. The SDI bids fair to constitute a monstrous technical effort in the name of "security." So, in its day, was the Maginot Line; and so, before that, was the Great Wall of China. It is not the way to go. For real security one wants, not a new way of glaring at each other's silos, but a new way of ensuring that we survive together. If taken literally and implemented straightforwardly, the sharp reduction in nuclear stockpiles, for which on June 11, 1986, both Reagan and Gorbachev expressed a deep desire, would be a hopeful first step.

STATEMENT OF JOHN BACKUS

Installing a Star Wars system means putting a large fleet of our space weapons over the Soviet Union. The Soviet Union will then be forced to put its own armada in space over the United States.

The weapons and sensors in a Star Wars system will be controlled by a computer as directed by a program. This battle program, in order to respond in a few seconds to the launch of an enemy missile, must be able to carry out an attack without human intervention.

A space battle program is vast, complex, and subject to errors; to be reliable, it must first be tested in millions of real-world situations. But for Star Wars, these real world situations occur in nuclear war, so such a program can never be properly tested and cannot be reliable.

After Chernobyl, we must think about the battle program that the Soviets might produce for their Star Wars system. The safety of the world would depend on that immense program. A single error in either their program or ours could cause an unprovoked attack and initiate a devastating computer controlled war.

I have spent my professional career studying the difficulties of programming. Based on that study I consider it impossible to produce a completely reliable battle program. Many other programming professionals take this same view. And none of us want it confirmed by the installation of Star Wars and a consequent global war.

I call on our military leaders to listen more carefully to these professionals; if they do, they will realize that it is impossible to count—as we must count—on the reliability of battle programs for space.

I call on our political leaders to recognize the total insecurity of a United States that has Soviet weapons hovering over it, a hostile armada controlled by an unreliable program, an armada that will surely be there if we pursue Star Wars.

STATEMENT OF DANIEL S. FISHER

The Strategic Defense Initiative has aroused an unprecedented level of concern among the scientific and technical community in this country. This widespread groundswell of anxiety cuts across traditional political and professional lines.

Yet the Administration does not seem to have listened to the very engineers and scientists upon whom President Reagan called to lead the effort to develop a shield against nuclear attack. Indeed, the critics of SDI have been characterized by leading Administration spokesmen as a "few diehards" who are "politically motivated" and do not represent mainstream views.

Last winter, a group of us working at Bell Labs felt compelled to make an effort to remedy this situation. Accordingly, we drafted an open letter to Congress with the aim of publicly expressing our grave misgivings and emphasizing some of the problems and dangers inherent in the Strategic Defense Initiative.

The Open Letter urges Congress to heed these concerns and to limit the SDI to a scale appropriate to exploratory research while assessing the costs, the risks, and the potential benefits in comparison with alternative strategies for strengthening the security of the nation.

In the past twelve weeks, over 1600 scientists and engineers from 26 government and 52 industrial labs around the country have signed the petition. Included in this group are many of the most distinguished members of the technical community. I regret to say that many other individuals have been afraid to publicly express their views by signing the letter because of legitimate fears of reprisals.

The Strategic Defense Initiative has been advertised to the public as a program to develop the means to render nuclear weapons "impotent and obsolete." We believe that realization of this dream is not feasible in the foreseeable future. This conclusion is based on collective experience with large scale technology and basic technical sense. It would thus be imprudent to accept this goal as a cornerstone of U.S. strategic policy.

On the other hand, the more limited goal of developing partial defense ballistic missiles cannot fundamentally alter our reliance on the current policy of Mutually Assured Destruction. However it would represent a significant escalation of the arms race.

We are thus faced with a sharp contrast between Mr. Reagan's seductive dream and reality; a contrast between a perfect shield and a leaky Star Wars system which would not protect the people of this land.

We urge Congress to weigh carefully the SDI option—a long and expensive route ridden with pitfalls—against other more rational paths to a secure world.

BIOGRAPHIES

PIERRE C. HOBENBERG

(Organizer)

Born: 10/3/34.

Ph.D. 1962 Physics, Harvard University.

AT&T Bell Labs (currently Head of Theoretical Physics Department).

Member NSF Materials Research Advisory Committee 1981-86.

Vice President for Physical Science, New York Academy of Sciences 1986.

DANIEL S. FISHER

(Organizer)

Born: 11/21/56.

Ph.D. 1979 Physics, Harvard University.

AT&T Bell Labs, Member of Technical Staff 1979-present.

Chosen by Science Digest magazine (Dec. 1984) as one of 100 brightest scientists under 40 (in U.S.).

J. CARSON MARK

Born: 7/6/13.

Ph.D. 1938 Mathematics, University of Toronto.

Los Alamos Scientific Laboratory 1945-73; Theoretical Division Leader 1947-73 in charge of new weapons design.

Currently: consultant at Los Alamos and on many government boards, including (since 1976) Advisory Committee on Reactor Safeguards of the Nuclear Regulatory Commission.

JOHN BACKUS

Born: 12/3/24.

MS 1950 Mathematics, Columbia University.

IBM 1950-present.

Currently: IBM Fellow, IBM Almaden Research Center. Inventor of Fortran (1957).

AM Turing Award 1977 (highest computer science honor).

National Medal of Science 1975 (President Ford).

Member, National Academy of Science.

Member, National Academy of Engineering.

ROBERT W. WILSON

Ph.D. 1962 Physics, California Institute of Technology.

AT&T Bell Labs, currently Head of Radio Physics Research Department.

Nobel Prize in Physics, 1978 (co-discoverer of cosmic black body background radiation from the Big Bang).

Member, National Academy of Science.

GOVERNMENT LABS (Symbol*)—INDUSTRIAL LABS (Symbol)

ARIZONA

Flagstaff: *Lowell Observatory.

Phoenix: Harrington Research.

CALIFORNIA

Albany: *U.S. Department of Agriculture; *U.S. Department of Interior.

Anaheim: Beckman Instruments, Inc.

Berkeley: *Lawrence Berkeley Lab: Owen Chamberlain, William Fisk. Libby Lab: *Superconducting Supercollider.

Garden Grove: Perkin-Elmer.

Livermore: *Lawrence Livermore Lab: Hugh DeWitt.

Los Angeles: Information Sciences Institute; White Memorial Medical Center.

Menlo Park: SRI International; *U.S. Geological Survey.

Mountain View: California Biotechnology; Sun Microsystems.

Palo Alto: Hewlett-Packard; Schlumberger-Doll Research; Spectra Diode; Siltec Corporation; Silicon Graphics; *Stanford Linear Accelerator; Xerox Palo Alto Research Center: Donald Smith; Zoecon Corporation.

Pasadena: Phytogen; *Jet Propulsion Laboratory.

Redondo Beach: T.R.W.

San Carlos: Varian/EIMAC.

San Jose: IBM Almaden Research Center: John Backus.

Santa Barbara: EG&G Energy Measurements.

Saugus: Allen E. Seward Engineering Geology.

Thousand Oaks: Amgen.

COLORADO

Boulder: National Center for Atmospheric Research.

Denver: *U.S. Geological Survey: Robert Moench.

CONNECTICUT

Ridgefield: Schlumberger-Doll Research: Larry Schwartz.

DELAWARE

Wilmington: DuPont de Nemours Experimental Station: Gilbert Sloan.

FLORIDA

Patrick Air Force Base: *Air Force Technical Application Center: Robert Zavaldi.

ILLINOIS

Argonne: *Argonne National Laboratory: Albert Crew.
Batavia: *Fermi National Laboratory: Joseph Lach.
Chicago: Travenol Laboratories.
Naperville: AT&T Bell Laboratory.
Northbrook: IMC R&D Laboratories.

IOWA

Ames: *NADC.

KANSAS

Salinas: Land Institute.

MARYLAND

Baltimore: Space Telescope Science Institute.
Bethesda: *National Institute of Health: Marshall Nirenburg.
Gaithersburg: *National Bureau of Standards.
Rockville: ORI Inc.

MASSACHUSETTS

Bedford: Mitre Corporation.
Brookline: Boston Electronic Corporation.
Lexington: Evans, Griffiths and Hart: Timothy Hart. Raytheon Company.
Lincoln: MIT Lincoln Laboratory.

MICHIGAN

Ann Arbor: Organization Control Service.
Detroit: Ford Motor Company: Seymour Newman.

MONTANA

Hamilton: Ribi Immunochem Research: Edgar Ribi.

NEW JERSEY

Annandale: Exxon Research and Engineering.
Highland Park: Kesler Engineering.
Holmdel: AT&T Bell Laboratories: Robert W. Wilson (Nobel).
Murray Hill: AT&T Laboratories: Pierre Hohenberg; Kenneth Thompson.
Princeton: E.R. Squibb & Sons.
Red Bank: Bell Communications Research.
Somerville: R.C.A.

NEW MEXICO

Albuquerque: *Sandia National Laboratories.
Los Alamos: *Los Alamos National Laboratories: J. Carson Mark (ret.).
Sunspot: *Sacramento Peak Observatory.

NEW YORK

New York: R.A. Fischer Company Inc.; Population Council; Proctor & Gamble; Raytheon Company.
Pearl River: Lederle Laboratories.
Rensselaer: Sterling-Winthrop Research Institute.
Rochester: Eastman Kodak Research Laboratories.
Rye: Sloan Kettering Institute.
Schenectady: General Electric Corporate R&D.
Upton: *Brookhaven National Laboratories: Gearhart Friedlander.
Webster: Xerox J.C. Wilson Center for Technology: William Anderson; George Vineyard.
White Plains: Rohrer Group Incorporated.
Yorktown Heights: IBM J.T. Watson Research Center: Ted Schultz (150 signatures).

NORTH CAROLINA

Research Triangle Park: Wellcome Research Laboratories.

OHIO

Columbus: Batelle Columbus Laboratories; Biotechna Diagnostics.
Huber Heights: Universal Energy Systems.
Shaker Heights: Standard Oil Company Research Center.

PENNSYLVANIA

Bethlehem: Fuller Company.
Philadelphia: Fox Chase Cancer Center.
Pittsburgh: Graphic Arts Technical Foundation.
Spring House: Rohm and Haas Company.

TENNESSEE

Oak Ridge: *ATDD/NOAA: Dennis Baldocchi. *ATDL.

TEXAS

Dallas: Sun Oil Company.
Houston: *NASA: Jack Kerrebock (formerly NASA).
Texas Instruments: Douglas Verret.

VIRGINIA

Charlottesville: National Radio Astronomy Observatory.
McLean: SC&A Inc.: Sanford Cohen.

WASHINGTON

Seattle: Boeing Aerospace Co.; Boeing Artificial Intelligence Center: Doug Schuler. Fred Hutchinson Cancer Research Center; John Fluke Manufacturing Co., Inc.

DISTRICT OF COLUMBIA

E.P.A. Office of Radiation Programs: *Naval Research Laboratories; *National Science Foundation; *Smithsonian Institution.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, June 13, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-37, concerning the Department of the Army's proposed Letter(s) of Offer to Kuwait for defense articles and services estimated to cost $70 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 86-37]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Kuwait.

(ii) Total Estimated Value:

	Million
Major defense equipment [1]	$0
Other	70
Total	70

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Six hundred eighty-five 5-ton trucks, support, diagnostic test equipment, and concurrent spare parts.

(iv) Military Department: Army (UHL).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: June 13, 1986.

POLICY JUSTIFICATION

KUWAIT—5-TON TRUCKS

The Government of Kuwait has requested the purchase of 685 5-ton trucks, support diagnostic test equipment, and concurrent spare parts. The estimated cost is $70 million.

This sale will contribute to the foreign policy and national security goals of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

Kuwait needs these trucks to provide improved mobility for its self-defense forces and to enhance the Kuwait contribution to the Gulf Cooperation Council regional defense organization. Kuwait will have no difficulty absorbing these trucks into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the AM General Corporation of Livonia, Michigan.

Implementation of this sale will require the occasional deployment to Kuwait of three U.S. Government personnel for customer assistance visits (estimated four, two-week visits).

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

NAUM AND INNA MEIMAN: DAY BY DAY

● Mr. SIMON. Mr. President, Naum and Inna Meiman sit in their Moscow apartment, living each day with the hope that the Soviets will finally relent and grant them permission to emigrate to Israel.

Inna has cancer of the neck that has reduced her days to painful confinement. Naum, a brilliant mathemetician and physicist, can no longer practice has craft as he was fired over 10 years ago when he applied to emigrate. In the Soviet Union, once you are fired because you have applied to emigrate, you will most likely never be allowed to work in your field again.

Naum and Inna are an elderly, harmless couple. The cost to the Soviets in releasing the Meimans is negligible. The positive publicity the Soviets will receive is considerable.

I strongly urge the Soviets to allow the Meimans to emigrate to Israel.●

EXTENSION OF MANUFACTURING CLAUSE OF COPYRIGHT ACT

● Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleague from South Carolina in cosponsoring S. 1822, legislation to extend the manufacturing clause of the Copyright Act.

The manufacturing clause first appeared in 1891, when the domestic printing industry was in its infancy. It provides that material that is preponderantly of a nondramatic literary nature and is written in English by an American author or by an author domiciled in the United States must be printed in the United States or Canada in order to be entitled to the full and unqualified protection of U.S. copyright laws. The manufacturing clause, which is now due to expire on June 30, 1986, has been extended several times, most recently in 1982.

It is time the United States stood strong and sent a message to those of our trading partners that are stealing our technology and using high tariffs to block the entry of U.S. goods. It is also critical that we act to preserve U.S. jobs. For far too long, this Nation and our creative and working people have been hurt by the unfair and predatory trade practices of other countries. The extension of the manufacturing clause will provide needed protection for our workers, particularly those in the printing trades. Without this clause, it is projected that 300,000 jobs would be lost. We simply cannot afford this magnitude of loss.

Mr. President, this legislation gives other countries an appropriate time period to change their predatory practices and to provide copyright protection to the works of U.S. authors. If our trading partners are serious about upgrading their standards and begin to engage in fair trading practices this legislation will not adversely affect them.●

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY JURISDICTION BILL

● Mr. DECONCINI. Mr. President, on Tuesday of this week I joined my distinguished colleague, the senior Senator from Arizona, in introducing a bill to grant the Salt River Pima-Maricopa Indian community jurisdiction for criminal misdemeanor offenses committed within the reservation boundaries by individuals who are not Indians or members of the Salt River Pima-Maricopa Indian community.

This proposed bill has the support of the Governor and the attorney general of Arizona. The cities of Scottsdale, Mesa, Tempe, and Phoenix also have endorsed the legislation. The bill addresses the critical need for local governments like the Salt River Pima-Maricopa Indian Community Council to have the jurisdiction and ability to deal with law enforcement within their territorial areas. The unanimous support of the neighboring municipalities for this proposed bill underscores the importance of this principle to all local governments.

The Salt River Indian community governs itself responsibly and maintains a judicial system which meets all commonly accepted standards of fairness. It has had in place for years a government with a reliable system of checks and balances. Yet, the community is unable to prosecute those persons who are not members of the tribe and who commit misdemeanors in violation of the tribe's criminal ordinances. The proposed bill will enable the community to enforce its criminal misdemeanor ordinances without regard to whether the offender is a member of the tribe or is an Indian. This proposed grant of jurisdiction would not diminish State jurisdiction.

I urge my colleagues to recognize the importance of this measure to the community and its neighbors in their efforts to maintain law and order in their communities.●

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, apparently there has been some uncertainty. There will be no more votes tonight. We will have our wrap-up in about 1 minute.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 2240

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAX REFORM BILL

Mr. DOLE. Mr. President, first, let me thank all my colleagues on both sides of the aisle for their cooperation. This is a rather extensive consent agreement but I believe it will ensure that we will pass this bill with an overwhelming margin on Tuesday afternoon at 4 o'clock. That will be a tribute not only to President Reagan, who initiated tax reform, but also to the distinguished chairman of the committee [Mr. PACKWOOD], the distinguished leader on the Democratic side [Mr. LONG], and many others on both sides who have worked on a totally bipartisan basis.

I am pleased to know that we do have the agreement, that we are prepared to move forward tomorrow. I have been cautioned by my colleagues that there are a number of our colleagues on both sides who cannot be here tomorrow. There will not be any more than four rollcall votes but we are not going to punish anybody by having four rollcall votes. We do not need to have votes, but there will be no more than four.

On Monday, there will be no record votes but there will be a number of votes, I assume, starting Tuesday, and it is going to be a very busy day on Tuesday. There will be no time set aside for policy luncheons. If we have a policy luncheon by either party, we will still be answering rollcalls or making votes during that 2-hour period.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished acting minority leader if he is in a position to confirm the following nominations of the Executive Calendar:

Calendar No. 854, Dorcas R. Hardy; Calendar No 896, Robert E. Windom; Calendar No. 897, David Lowenthal; Calender No. 898, Peter R. Greer; and Vice Admiral Moranville, and Vice Admiral Frank Kelso reported from Armed Services Committee today.

Mr. MATSUNAGA. We have no objection on this side, Mr. President.

Mr. DOLE. I thank the distinguished acting minority leader [Mr. MATSUNAGA].

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session in order to confirm the nominations just identified.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. DOLE. Mr. President, I ask unanimous consent that the nominations be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Dorcas R. Hardy, of California, to be Commissioner of Social Security.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Robert E. Windom, of Florida, to be an Assistant Secretary of Health and Human Services.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

David Lowenthal, of Massachusetts, to be a member of the National Council on the Humanities.

DEPARTMENT OF EDUCATION

Peter R. Greer, of Maine, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education.

IN THE NAVY

Vice Adm. Frank B. Kelso II to be admiral.

Vice Adm. Kendall E. Moranville to be admiral.

Mr. DOLE. I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

DORCAS HARDY'S NOMINATION AS COMMISSIONER OF SSA

● Mr. RIEGLE. Mr. President, I rise to speak on the pending nomination of Dorcas Hardy to the position of Commissioner of the Social Security Administration. I have reservations about the nomination of Ms. Hardy to serve in this capacity and I want to share those concerns with my colleagues.

Over the last few years we have slowly been making progress in insulating the Social Security programs from the political arena. I have long felt that the Social Security Retirement, Survivors, Disability, and Health Care Programs were too important to constantly be dragged through the political controversies of the moment. One of the ways we sought to achieve this important insulation was to remove Social Security from the unified Federal budget. After several years of seeking that objective, we were successful in the Social Security Amendments of 1983, in enacting provisions that would remove the OAS, DI, and HI trust funds from the unified budget effective in fiscal year 1993. Not feeling satisfied with that long delay, we fought for the immediate removal of the OAS and DI trust funds and were successful in including provisions to this effect in the Gramm-Rudman legislation.

Another way we are working to insulate Social Security programs from the politics of the moment, is by attempting to enact legislation to remove the Social Security Administration from the Department of Health and Human Services, establishing SSA as an independent agency. I am the cosponsor of two bills this Congress, S. 17, introduced by Senator MOYNIHAN, and S. 122, introduced by Senator PRYOR, which would accomplish this objective. It is my understanding that the House Subcommittee on Social Security recently reported out similar legislation.

In addition to these important goals, I recently cosponsored S. 2542, introduced by Senator MOYNIHAN, designed to improve the management of the Social Security trust funds assets to prevent their inappropriate use as was the case this winter—and at earlier periods—during debt limit crises.

So Mr. President, the Congress is moving in the direction of pulling Social Security out of the political arena, and it is because of the potential of jeopardizing the progress we are making in this area that causes me concern with regard to the nomination of Dorcas Hardy to be the top ranking Social Security Administrator.

Many of us are aware of the allegations that have been raised against Ms. Hardy during the Senate review of her nomination to the position of Commissioner. Those allegations, while troubling if true, are not now as unsettling as what we do know as accurate. We do know that in fulfilling her role as Assistant Secretary for the Office of Human Development Services [OHDS] in HHS she consistently cast a political shadow over the programs and personnel she was entrusted to administer. In testimony before the House Subcommittee on Government Operations—investigating alleged improprieties in her management of OHDS—Ms. Hardy said that she had been trying to advance the goals of a "conservative opportunity society" for 5 years, but had met resistance from the "liberal welfare state" proponents at HHS.

When she assumed office as Assistant Secretary at Human Development Services, Ms. Hardy instituted a new procedure of "administrative review" which allowed her top staff to identify proposals that would bypass the competitive peer review process that assigns funding priorities. This procedure was finally discontinued this year after an investigation and hearings by the House Subcommittee on Government Operations. As a result of these practices and others, Ms. Hardy apparently so politicized the grant awards process that it has been reported to me that many respected professionals will no longer apply for funds, and have withdrawn from participating in the peer review process.

In an area of more immediate concern to me, when questioned about the delay in promulgating regulations implementing the Dependent Care Block Grant Program—which established the "latchkey" child care and Information and Referral programs—Ms. Hardy testified that "we" do not believe these programs to be necessary, and did not seem concerned that despite that opinion, they were mandated by law. When called to testify before the Subcommittee on Children, Committee on Labor and Human Resources, to defend her actions in this area, Ms. Hardy choose instead to issue a rather perfunctory, nondescript statement.

The Commissioner of the Social Security Administration may be facing difficult times and may be forced to make critical decisions if the proposed staff reductions and often discussed district office closing are implemented. It is my hope that these policies will not be implemented for Federal budgetary purposes outside of SSA, and if implemented, will be handled in such a way that does not adversely affect Social Security beneficiaries.

Mr. President, currently 37 million Americans receive benefits from our Social Security System. For millions it is a vital link assuring their basic survival. It has a budget in excess of $200 billion per year, and is by far, the single largest and thereby most complex set of programs administered by the Federal Government. The public's confidence in Social Security can only be assured if the program is administered in a fair, nonpartisan fashion. It is my hope that the highly charged political environment characteristic of Ms. Hardy's tenure as Assistant Secretary in HHS, will not be transferred to her new post at the Social Security Administration. The millions of disabled and elderly Americans who depend on their benefit checks, as well as the tens of millions of working men and women who contribute into the Social Security System, deserve nothing less.●

DR. ROBERT WINDOM

● Mrs. HAWKINS. Mr. President, it is a pleasure for me today to express my strong support for Dr. Robert Windom who has been nominated by President Reagan to fill the position of Assistant Secretary for Health. On June 18, the Senate Labor and Human Resources Committee approved Dr. Windom's nomination; and today I am recommending him to the full Senate, hoping he will soon be confirmed.

The post of Assistant Secretary for Health is one of far-reaching scope and responsibility. It requires medical knowledge, of course. But the person who fills this position must also be creative and compassionate. He must be

able to lead and to be flexible. And he must be able to act quickly. Our Nation's health is very much in his hands.

Bob Windom's many accomplishments demonstrate that he is equal to the task presented to him. It is these accomplishments and also my personal knowledge of Bob Windom, both as a doctor and as a human being that inspired me to nominate him for this important position.

I would like to list some of those accomplishments for you. Bob graduated from Duke University Medical School in 1956. As you know, I have had the opportunity to examine the Duke Hospital up close lately. So I know Bob was well educated.

In the years that followed, Bob has served as president for the Florida Heart Association, the Sarasota County Medical Society, the Florida West Coast Academy of Medicine, and the Florida Medical Association.

In addition to teaching internal medicine at the University of South Florida, Bob hosts a weekly TV show, "Medical Viewpoint" on channel 40 in Sarasota.

I would like to take a moment and tell you about a very special project that Bob has been involved in promoting * * *. Bob helped start the Senior Friendship Center Health Clinic in Sarasota where retired doctors and nurses help the poor and others who are outside the mainstream of health care. This has proved a popular idea. It has spread across the west coast of Florida and Bob says he'd like to see it spread nationwide. I share in that vision.

Bob has been presented with the Outstanding Citizen of Sarasota Award. He has also been named "the Patriot of Sarasota."

As a U.S. Senator, it has been my responsibility and my privilege to recommend dozens of men and women for positions in the administration and the judiciary. I have learned that it is not an easy job, but what it often comes down to is looking for qualities of leadership. As with my other nominees, I am sure that Bob Windom has what is needed to lead our Nation's premiere health and medical research agencies.

Mr. President, I appreciate the expeditious nomination of Dr. Robert Windom for the position of Assistant Secretary for Health and I am looking forward to his confirmation by the Senate.●

NOMINATION OF PETER R. GREER

Mr. MITCHELL. Mr. President, I support the nomination of Peter R. Greer to be Deputy Under Secretary of Education for Intergovernmental Relations.

Since 1979, Mr. Greer has served as the superintendent of the Portland Public School System in Portland, ME. During his tenure in Portland, Mr. Greer effected a number of innovative changes in the educational program from grades K–12, including the implementation of programs in the teaching of both the Russian and Chinese languages.

Earlier in Mr. Greer's career he served as the associate director on the National Humanities Faculty in Concord, MA. I strongly support his committment to the teaching of the humanities in our public schools.

I look forward to Mr. Greer's confirmation by the Senate and to his tenure as Deputy Under Secretary of Education for Intergovernmental Relations. I am confident that he will bring invaluable knowledge and committment to education to this position.● Mr. COHEN. Mr. President, I am pleased and proud to be able to address the Senate today on the nomination of Peter R. Greer to be Deputy Under Secretary of Education for Intergovernmental and Interagency Affairs. Mr. Greer is eminently qualified for this post and will, I know, serve in it well.

Peter Greer will come to his position as Deputy Under Secretary of Education by way of more than 20 years as an educator. He spent the first part of his career as a teacher in high school and junior high school classrooms. The last 12 years he has spent with the public school system of Portland, ME—and the last 6 of these as superintendent. Clearly, Peter Greer is an educator intimately acquainted with the art and the craft of education.

As superintendent of the Portland Public Schools, Peter Greer has successfully built a reputation for excellence in education. Over the course of his tenure, Portland students have made dramatic gains in standardized test scores. He has worked to strengthen public support for public education and has seen to the skillful husbandry of available resources. Three of his schools have been cited for excellence by the National Secondary School Recognition Program of the U.S. Department of Education.

Peter Greer has changed the shape of the Portland schools through a wide array of management and curriculum initiatives. He introduced new teacher and administrator performance standards and professional development programs for staff members. He established a junior great books program, an elementary and secondary ethics curriculum, and an elementary and secondary economics curriculum. He has seen to the revitalization of language instruction, including the establishment of a course in the Chinese language and a regional course in the Russian language.

Peter Greer's tireless work for the Portland School System has shown his commitment to educational excellence to be second to none. I am delighted that he has been given the chance to use his considerable expertise and energies in working for the betterment of education nationally. I commend him to my colleagues in the Senate and wish him well in his new endeavor.●

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow, Friday, June 20, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 2150

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. I further ask unanimous consent that following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each: HATCH, PROXMIRE, HATFIELD, GORE, MELCHER, and STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask unanimous consent that after the special orders, there be a period for the transaction of routine morning business not to extend beyond 10:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. At 10:15 the Senate will resume consideration of H.R. 3838, the tax reform bill, under previous unanimous-consent agreement and votes will occur during Friday's session.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move the Senate stand in recess until 9:30 a.m., Friday, June 20, 1986.

I thank the acting minority leader.

The motion was agreed to; and, at 9:45 p.m., the Senate recessed until Friday, June 20, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 1986:

DEPARTMENT OF STATE

James Malone Theodore Rentschler, of Pennsylvania, a career member of the senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Pleni-

potentiary of the United States of America to the Republic of Guinea.

AFRICAN DEVELOPMENT FOUNDATION

Milton Frank, of California, to be a member of the Board of Directors of the African Development Foundation for the remainder of the term expiring February 9, 1990, vice A.C. Arterbery, resigned.

PEACE CORPS NATIONAL ADVISORY COUNCIL

Calvin Henry Raullerson, of Texas, to be a member of the Peace Corps National Advisory Council for a term of 1 year expiring November 29, 1986, new position.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Adm. Francis D. Moran, National Oceanic and Atmospheric Administration, to be Director of the Commissioned Officer Corps, National Oceanic and Atmospheric Administration, vice Rear Adm. Kelly E. Taggart.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Carol Fraser Fisk, of Virginia, to be Commissioner on Aging, vice Mari P. Tolliver, resigned.

EXPORT-IMPORT BANK OF THE UNITED STATES

Simon C. Fireman, of Massachusetts, to be a member of the Board of Directors of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 1987, vice Richard H. Hughes, resigned.

IN THE AIR FORCE

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Brig. Gen. Gene A. Budig, xxx-xx-xxxx FG, Air National Guard of the United States.

Brig. Gen. Wayne O. Burkes, xxx-xx-xxxx xxx-x... FG, Air National Guard of the United States.

Brig. Gen. Charles W. Harris, xxx-xx-xxxx xxx-x... FG, Air National Guard of the United States.

To be brigadier general

Col. Patrick S. Boab, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. John D. Campbell xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Wallace P. Carson, Jr., xxx-xx-xxxx xxx-x... FG, Air National Guard of the United States.

Col. Robert J. Dwyer, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Timothy T. Flaherty, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Frank B. Holman xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Harvey D. McCarty, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Edward E. Parsons, Jr., xxx-xx-xxxx xxx-x... FG, Air National Guard of the United States.

Col. Edward J. Philbin xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Thomas J. Quarelli xxx-xx-xxxx FG, Air National Guard of the United States.

Col. LeRoy Thompson, xxx-xx-xxxx FG, Air National Guard of the United States.

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of colonel, under title 10, United States Code, section 5912:

Alley, William H., Jr., xxx-...
Ampagoomian, Barbara A., xxx-...
Appel, Ronald J., xxx-...
Barnes, Clarke C., xxx-...
Barney, Douglas C., xxx-...
Benson, Stanley L., xxx-...
Benson, William W., xxx-...
Coffman, Richard W., xxx-...
Conroy, Dennis A., xxx-...
Cook, Paul J., Jr., xxx-...
Dadd, Benjamin R., Jr., xxx-...
Danehy, Kevin R., xxx-...
Daniel, William R., xxx-...
Duffy, Dennis M., xxx-...
Duffy, Peter A., xxx-...
Gaugush, Jeffrey A., xxx-...
Hanford, Leonard D., xxx-...
Hansen, Harold D., Jr., xxx-...
Harrison, Henry S., xxx-...
Herak, James S., xxx-...
Higginbotham, Robert L., Jr., xxx-...
Hill, Byron E., xxx-...
Hugya, John A., xxx-...
Johnson James L., xxx-...
Johnson, Philip L., xxx-...
Jones, John L., xxx-...
Kirkman, Robert L., xxx-...
Kulczycki, Richard S., xxx-...
Lanier, Elton R., xxx-...
Leighton, John H., xxx-...
McCann, Joseph P., xxx-...
McDaniel, Ronald D., xxx-...
McKnight, Thomas J., III, xxx-...
Moffett, William A., III, xxx-...
Moore, Leon H., xxx-...
Mulligan, Dennis K., xxx-...
Naughton, Michael J., xxx-...
Nowak, Laurance S., xxx-...
O'Kelley, James T., Jr., xxx-...
Petersen, Roger K., xxx-...
Pierce, Darvin D., xxx-...
Polhemus, Richard J., xxx-...
Raymond, Herbert D., III, xxx-...
Richards, Robert C., xxx-...
Riggs, Robert O., xxx-...
Rodriguez, Jose E., xxx-...
Rollins, Richard G., xxx-...
Romey, Paul K., Jr., xxx-...
Rosbe, William L., xxx-...
Sherwood, Donna J., xxx-...
Singer, William R., xxx-...
Sinkinson, William R., Jr., xxx-...
Skiles, James L., xxx-...
Snyder, Joseph D., xxx-...
Southworth, Edward G., xxx-...
Speer, Thomas P., xxx-...
Stroud, Luther P., Jr., xxx-...
Suter, Ronald J., xxx-...
Wall, David F., xxx-...
Wilbourne, Frank P., III, xxx-...
Winkler, John T., xxx-...
Wise, Richard G., xxx-...
Young, William R., xxx-...

CONFIRMATIONS

Executive nominations confirmed by the Senate June 19, 1986:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Dorcas R. Hardy, of Califorina, to be Commissioner of Social Security.

Robert E. Windom, of Florida, to be an Assistant Secretary of Health and Human Services.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

David Lowenthal, of Massachusetts, to be a member of the National Council on the Humanities for a term expiring January 26, 1992.

DEPARTMENT OF EDUCATION

Peter R. Greer, of Maine, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, vice A. Wayne Roberts.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Frank B. Kelso II, xxx-xx-xxxx/1120, U.S. Navy.

The following-named officer, under the provision of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Kendall E. Moranville, xxx-xx-x.../1310, U.S. Navy.

HOUSE OF REPRESENTATIVES—*Thursday, June 19, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, keep us from all prejudice that would cloud our vision of Your created world. Teach us to be restrained in judgment about our neighbor or colleague. May we not be hasty in our conclusions and see our illusions as reality, but rather let us practice honesty and forthrightness in our attitudes and know other people as members of Your divine creation.

May Your blessing be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RIDGE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RIDGE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 260, nays 137, answered "present" 2, not voting 34, as follows:

[Roll No. 181]

YEAS—260

Akaka	Bonker	Cooper
Alexander	Borski	Coyne
Anderson	Bosco	Crockett
Andrews	Boucher	Daniel
Annunzio	Boxer	Darden
Applegate	Brooks	Daschle
Archer	Broomfield	de la Garza
Aspin	Brown (CA)	Dellums
Atkins	Broyhill	Derrick
AuCoin	Bruce	Dicks
Barnard	Bryant	Dixon
Bateman	Burton (CA)	Donnelly
Bates	Bustamante	Dorgan (ND)
Bedell	Byron	Dornan (CA)
Beilenson	Callahan	Duncan
Bennett	Carper	Durbin
Berman	Carr	Dwyer
Bevill	Chapman	Dymally
Biaggi	Chappell	Dyson
Boggs	Clinger	Early
Boland	Coelho	Eckart (OH)
Boner (TN)	Coleman (TX)	Eckert (NY)
Bonior (MI)	Collins	Edgar
Edwards (CA)	Leland	Rose
English	Levin (MI)	Rostenkowski
Erdreich	Levine (CA)	Rowland (GA)
Evans (IL)	Lipinski	Roybal
Fascell	Long	Rudd
Fazio	Lowry (WA)	Russo
Feighan	Lujan	Sabo
Fish	Luken	Savage
Flippo	Lundine	Scheuer
Florio	MacKay	Schulze
Foglietta	Madigan	Sharp
Foley	Manton	Shelby
Ford (MI)	Markey	Shumway
Fowler	Martin (NY)	Sisisky
Frank	Martinez	Skelton
Franklin	Matsui	Slattery
Frost	Mavroules	Smith (FL)
Gaydos	Mazzoli	Smith (IA)
Gejdenson	McCloskey	Smith (NE)
Gephardt	McCollum	Smith (NJ)
Gibbons	McDade	Solarz
Gilman	McEwen	Spence
Glickman	McHugh	Spratt
Gonzalez	Mica	St Germain
Gordon	Mikulski	Staggers
Gradison	Miller (WA)	Stallings
Gray (IL)	Mineta	Stark
Gray (PA)	Moakley	Stokes
Green	Mollohan	Stratton
Guarini	Montgomery	Studds
Hall (OH)	Moody	Swift
Hamilton	Moore	Tallon
Hammerschmidt	Morrison (CT)	Tauzin
Hartnett	Morrison (WA)	Taylor
Hatcher	Mrazek	Thomas (GA)
Hayes	Murphy	Torres
Hefner	Murtha	Torricelli
Hendon	Myers	Towns
Hertel	Natcher	Traficant
Hillis	Neal	Traxler
Horton	Nelson	Valentine
Howard	Nichols	Vento
Hoyer	Nowak	Visclosky
Hubbard	Oakar	Volkmer
Huckaby	Obey	Walgren
Hughes	Olin	Watkins
Hutto	Ortiz	Waxman
Jeffords	Packard	Weaver
Jenkins	Panetta	Weiss
Johnson	Pease	Wheat
Jones (TN)	Perkins	Whitley
Kanjorski	Pickle	Whitten
Kastenmeier	Price	Wilson
Kemp	Pursell	Wirth
Kennelly	Rahall	Wise
Kildee	Rangel	Wolpe
Kleczka	Ray	Wortley
Kolter	Regula	Wright
Kostmayer	Reid	Wyden
LaFalce	Richardson	Wylie
Lantos	Rinaldo	Yates
Leath (TX)	Robinson	Yatron
Lehman (CA)	Rodino	Young (MO)
Lehman (FL)	Roe	

NAYS—137

Armey	Conte	Gekas
Badham	Coughlin	Gingrich
Bartlett	Courter	Goodling
Barton	Craig	Gregg
Bereuter	Crane	Gunderson
Bilirakis	Daub	Hall, Ralph
Bliley	DeLay	Hansen
Boehlert	DeWine	Hawkins
Boulter	Dickinson	Henry
Brown (CO)	DioGuardi	Hiler
Burton (IN)	Dreier	Holt
Carney	Edwards (OK)	Hopkins
Chappie	Emerson	Hunter
Clay	Evans (IA)	Hyde
Coats	Fawell	Ireland
Cobey	Fiedler	Jacobs
Coble	Fields	Jones (OK)
Coleman (MO)	Frenzel	Kindness
Combest	Gallo	Kolbe
Kramer	Moorhead	Smith, Denny (OR)
Lagomarsino	Nielson	Smith, Robert (NH)
Latta	Oxley	Smith, Robert (OR)
Leach (IA)	Parris	Snowe
Lent	Pashayan	Snyder
Lewis (CA)	Penny	Solomon
Lewis (FL)	Petri	Stangeland
Lightfoot	Porter	Stenholm
Livingston	Quillen	Strang
Lloyd	Ridge	Stump
Loeffler	Ritter	Sundquist
Lott	Roberts	Swindall
Lowery (CA)	Roemer	Synar
Lungren	Rogers	Tauke
Mack	Roth	Vander Jagt
Martin (IL)	Roukema	Vucanovich
McCain	Rowland (CT)	Walker
McCandless	Saxton	Weber
McCurdy	Schaefer	Whitehurst
McGrath	Schroeder	Whittaker
McKernan	Schuette	Wolf
McMillan	Sensenbrenner	Young (AK)
Meyers	Shaw	Young (FL)
Michel	Shuster	Zschau
Miller (OH)	Sikorski	
Mitchell	Siljander	
Molinari	Skeen	
Monson	Slaughter	

ANSWERED "PRESENT"—2

Anthony	Miller (CA)

NOT VOTING—34

Ackerman	Downey	Oberstar
Barnes	Ford (TN)	Owens
Bentley	Fuqua	Pepper
Breaux	Garcia	Schneider
Campbell	Grotberg	Schumer
Chandler	Heftel	Seiberling
Cheney	Jones (NC)	Sweeney
Conyers	Kaptur	Thomas (CA)
Dannemeyer	Kasich	Udall
Davis	Marlenee	Williams
Dingell	McKinney	
Dowdy	O'Brien	

□ 1015

Mr. ECKERT of New York changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 365. Joint resolution welcoming the Afghan Alliance.

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes," with a Senate amendment thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "July 25, 1986".

SEC. 2. Notwithstanding any other provision of law, competitions for grants under section 119(d)(1) of the Housing and Community Development Act of 1974, for cities not described in the first sentence of subsection (i) of such section and urban counties, shall not be concluded, and awards granted thereunder prior to July 25, 1986, unless legislation amending the selection limitations and criteria weight of such section is enacted into law and made applicable to such competitions.

□ 1025

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I have an amendment at the desk.

The SPEAKER. An amendment is not in order at this time. An amendment is only in order in the event that there is no objection.

Is there objection to considering the Senate amendment in the House?

There was no objection.

Mr. WYLIE. Mr. Speaker, I have an agreement with the gentleman from Texas [Mr. GONZALEZ] that will allow me to offer an amendment.

Mr. GONZALEZ. Mr. Speaker, I yield to the gentleman from Ohio [Mr. WYLIE] for the purpose of offering an amendment.

AMENDMENT TO THE SENATE AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Speaker, I move to concur in the Senate amendment with an amendment.

The Clerk read as follows:

Amendment to Senate amendment offered by Mr. Wylie: In lieu of the matter proposed to be inserted by the Senate, insert:

SECTION 1. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking "June 6, 1986" in the first sentence and inserting "September 30, 1987".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking "June 6, 1986" in the fifth sentence and inserting "September 30, 1987".

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(3) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(e) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by strking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking "June 6, 1986" in the second sentence and inserting "September 30, 1987".

(h) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(i) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(j) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

SEC. 2. LIMITATIONS ON COMMITMENTS TO INSURE LOANS AND GUARANTEE MORTGAGE-BACKED SECURITIES.

(a) FEDERAL HOUSING ADMINISTRATION FUND.—

(1) FISCAL YEAR 1986.—Notwithstanding section 531 of the National Housing Act, the applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $57,580,000,000 of mortgage and loan principal.

(2) FISCAL YEAR 1987.—Section 531 of the National Housing Act is amended—

(A) by inserting "(a)" after the subsection designation; and

(B) by adding at the end the following new subsection:

"(b) The Secretary may enter into commitments during fiscal year 1987 to insure mortgages and loans under this Act in an aggregate principal amount that does not exceed $100,000,000,000.".

(b) GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.—Section 306(g)(2) of the National Housing Act is amended to read as follows:

"(2) The Association may enter into commitments during fiscal year 1987 to issue guarantees under this subsection in an aggregate principal amount that does not exceed $152,000,000,000.".

SEC. 3. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

SEC. 4. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1987".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

SEC. 5. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) FLOOD INSURANCE.—

(1) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(2) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(3) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(b) CRIME INSURANCE.—

(1) GENERAL AUTHORITY.—Section 1201(b)(1) of the National Housing Act is amended by striking "June 6, 1986" in the matter preceding subparagraph (A) and inserting "September 30, 1987".

(2) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1)(A) of the National Housing Act is amended by striking "September 30, 1986" and inserting "September 30, 1987".

SEC. 6. MISCELLANEOUS EXTENSIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT CLASSIFICATIONS.—

(1) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking "June 6, 1986" in the second sentence and inserting "September 30, 1987".

(2) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking "June 6, 1986" in the second sentence and inserting "September 30, 1987".

(b) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

(c) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking "June 6, 1986" and inserting "September 30, 1987".

Mr. WYLIE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The gentleman from Ohio [Mr. WYLIE] is recognized for 1 hour.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to explain to the Members what is happening here, House Joint Resolution 652 was sent over to the other body with a date to extend FHA insurance to June 27. There was an inadvertence there. It was suppose to have been July 25.

Last night the other body took up House Joint Resolution 652 and added its own amendment, which made the date July 25.

Also, in the process, the other body added a provision with reference to the UDAG program.

This Member does not think that we should add other programs to the FHA extension, so I have discussed this with the gentleman from Texas. He does not think there should be other provisions with reference to the UDAG program added to this simple extension.

The day before yesterday, I introduced House Joint Resolution 656, which would extend FHA lending authority until September 30, 1987, and also increase the credit limit for this fiscal year and provide a sufficient credit limit for fiscal 1987. The gentleman from Texas has asked if I would accept an amendment which would extend the time only to September 30, 1986, and I can understand where he is coming from.

The problem with the amendment that we now have before us with reference to extending the authority for FHA is that the credit limits were exceeded as of midnight last night, so even if we extend the authority, the credit limit is not there to make further FHA loans.

People in my district have been calling since Monday saying that there are many buyers who want FHA loans and the mortgage bankers have been calling and so forth. We have a crisis situation on our hands, Mr. Speaker. So I am pleased to accept the amendment of the gentleman from Texas which would amend my House Joint Resolution 656, to September 30 of this year, and it would, at the same time, extend the credit limit to $132 billion, which HUD says they need this year because of the heavy activity in FHA loans.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Speaker, I would like to ask of the Speaker if it would be in order for me to offer an amendment to the amendment offered by the gentleman from Ohio [Mr. WYLIE] in which the date September 30, 1987, is changed in each specific instance where that appears to September 30, 1986.

The SPEAKER. For what purpose does the gentleman from Texas [Mr. GONZALEZ] rise?

Mr. GONZALEZ. Mr. Speaker, I have an amendment to the amendment offered by the gentleman which is pending.

The SPEAKER. The gentleman from Ohio [Mr. WYLIE] has an amendment pending. He has the floor. If the gentleman from Ohio will yield to the gentleman for that purpose, the gentleman may offer his amendment.

Does the gentleman from Ohio [Mr. WYLIE] yield to the gentleman from Texas [Mr. GONZALEZ] for the purpose of offering an amendment?

Mr. WYLIE. Mr. Speaker, I yield to the gentleman from Texas [Mr. GONZALEZ], chairman of the Subcommittee on Housing and Community Development, for the purpose of offering an amendment to my amendment.

AMENDMENT OFFERED BY MR. GONZALEZ TO THE AMENDMENT TO THE SENATE AMENDMENT OFFERED BY MR. WYLIE

Mr. GONZALEZ. Mr. Speaker, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ to the amendment to the Senate amendment offered by Mr. WYLIE: On page 2, line 5, strike out "September 30, 1987," and insert "September 30, 1986".

Mr. GONZALEZ (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas [Mr. GONZALEZ] is recognized for 1 hour.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the thrust of this amendment is very simple. It just merely changes the dates appearing on the Wylie amendment from September 30, 1987, to September 30, 1986, in each instance in which the Wylie amendment has those dates of September 30, 1987, and changing them to September 30, 1986.

The gentleman from Ohio [Mr. WYLIE] has accepted the change. I merely wish to point out that it is as the gentleman from Ohio has well said. FHA lending or credit limits have been reached. There is no question that we have again what we had last month and the month before, and that is some prospective and some actual turmoil in the mortgage credit markets.

It certainly is not the desire of anybody, I know, to do that. However, we have agreed in principle, and I wanted to engage in a colloquy with the gentleman from Ohio that the agreement would be that if this general agreement on the expiration date of September 30, 1986, is agreed upon, which it has been, that there is a commitment to further stimulate, and prod, if we can, the further consideration of the authorization bill known as H.R. 1, the Housing and Community Development Act of 1985, and it was merely for that purpose.

We certainly have never felt, at least I speak for myself here, that the proper legislative way to proceed is by holding hostage any other legislative bill, and vice versa. I know there is a difference of opinion there. But this is a very, very profound and fundamental conviction on my part, because I have always had the satisfaction that good legislation can stand the test of full debate, full consideration, full amendatory processes. In this case, of course, we are faced with an emergency.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to my distinguished colleague, the gentleman from Ohio, for the purpose of a reply.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Texas knows, he does have my commitment to push for early passage of housing legislation. As a matter of fact, I talked with Senator GARN just this morning, the chairman of the Committee on Banking in the other body.

□ 1035

He indicated that he was going to do his level best to bring up the housing bill on the Senate floor after the Senate acts on the tax bill; which is likely to come today or tomorrow.

He is as committed as we are to pushing for housing legislation. You have my agreement, my assurance; I will go with you to the chairman of the Senate Banking Committee or the leadership of the Senate; whatever it takes to try to move that bill forward.

I think the gentleman from Texas [Mr. GONZALEZ] made a very cogent observation, that FHA has been held hostage, as a political football, to try to get a housing bill through. I think the extension of FHA ought to go on its own merit.

We have an emergency situation; and Mr. Speaker, I commend the chairman for his willingness to try to get this bill behind us today so that

people who are in the FHA business will have some certainty, at least until September 30 of this year.

Mr. Speaker, I would move adoption of——

Mr. GONZALEZ. Mr. Speaker, I yielded to the gentleman, and I yielded to him for the purposes of a colloquy.

The SPEAKER. Does the gentleman withdraw his amendment?

Mr. GONZALEZ. Mr. Speaker, I wish to withdraw my amendment.

The SPEAKER. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. GONZALEZ TO THE AMENDMENT TO THE SENATE AMENDMENT OFFERED BY MR. WYLIE

Mr. GONZALEZ. Mr. Speaker, I offer an amendment.

The SPEAKER. The gentleman offers a different amendment, which the Clerk will read.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ to the amendment to the Senate amendment offered by Mr. WYLIE: Strike "1987" wherever it appears and insert "1986".

The SPEAKER. The gentleman from Texas [Mr. GONZALEZ] is recognized for 1 hour.

Mr. GONZALEZ. The reason for this amendment, Mr. Speaker, is just a mere technical correction; it has no substantive change whatsoever.

We had introduced our original amendment in improper form.

Mr. WYLIE. Mr. Speaker, I would now move adoption of the Gonzalez amendment to my amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ] to the amendment to the Senate amendment offered by the gentleman from Ohio [Mr. WYLIE].

The amendment to the amendment to the Senate amendment was agreed to.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio [Mr. WYLIE].

The motion was agreed to.

A motion to reconsider was laid on the table.

Mr. WYLIE. Mr. Speaker, I move the adoption of House Joint Resolution 656, as amended by the Gonzalez amendment and the Wylie amendment.

The SPEAKER. It has already been accomplished.

Mr. WYLIE. We are finished? OK.

The SPEAKER. A motion to reconsider is laid on the table.

NATIONAL ICE CREAM MONTH, NATIONAL ICE CREAM DAY

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, ice cream has a strange mystique about it. Research has just revealed that adults will serve ice cream to the youngsters as a reward while preferring to call their own 66 percent household consumption on indulgence.

And that's a pretty good word—indulgence. But frankly, its luxury of taste belies the reasonable price for which it sells. For $2.50 you can purchase a half-gallon of pretty good ice cream and per serving that's a fine price for the nutrition and plain good eating.

I mention this in conjunction with today's Capitol Hill ice cream party sponsored by the good people at the International Association of Ice Cream Manufacturers. And of course in July we celebrate National Ice Cream Month and National Ice Cream Day on Juy 13.

Nothing could be more important for the diet than calcium—especially as we grow older and our bones need the strengthening. And I cannot think of a more pleasant way to injest this substance than through the eating of ice cream. A dozen important vitamins and minerals lurk in the frozen dessert that has topped $8 billion in retail sales in this country.

The Roman Emperor Nero began a fad for frozen delicacies when he sent runners to the Italian mountaintops to get ice so his cooks could freeze selected fruits, their juices and honey. In 1845, Nancy Johnson of New Jersey invented a hand-cranked ice cream freezer and thus began the national love affair with ice cream.

At what point in American history did this country see the highest level of individual, per capita consumption of ice cream? 1985? No—it was in 1946. There had been a dairy rationing order during World War II, and when the war was over Americans went ice cream crazy, consuming an average of 20 quarts apiece in 1946.

Ice cream is important to America's dairy farmers. Nearly 1 of every 10 gallons of fluid milk goes into the production of ice cream and related products each year. Within the dairy processing industry, about 18,000 people are employed in the manufacture of ice cream products. So you can see how important ice cream is to our dairy farmers, ice cream manufacturers, grocery stores, and neighborhood parlors.

And speaking of parlors—I hope my colleagues have a chance to come over into the Russell Senate Courtyard for our ice cream party today and have a ceremonial scoop or cone of their favorite flavor. And one last history note: Ice cream was eaten in the dish up until 1904 when the first ice cream cone was served up at the St. Louis World's Fair. It was an accident because the vendor had done land office business and used up all of his glass dishes. A fellow vendor offering a thin, wafer-like Middle Eastern pastry at his booth gave the ice cream vendor an idea—and there you have it. The first make-do ice cream cone. How good it is.

Mr. Speaker, it is my happy privilege to invite all of our colleagues and staffs to the Russell Senate Building this afternoon, where we will have our version of Ice Cream Day, and I hope that everyone will come to enjoy the national pastime.

A man once said, "The finest things in life are the love of your fellow man in your heart, electricity and running water in your house, old dogs, little children, and watermelon ice cream."

So I hope you will join us this afternoon at the Russell Senate Building to enjoy that pastime.

PROTECTING POULTRY AND EGG PRODUCERS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker and Members of the House, today I am introducting legislation which will go a long way toward granting protection to our poultry and egg producers against unreasonable delays in payment and protection for them in the event of the bankruptcy of their purchaser.

Mr. Speaker, this protection is already accorded by present law to producers of red meat, to producers of fruits and vegetables, to producers of grains. There is no logical reason why that protection should not be extended to poultry growers and egg producers as well.

So I ask your consideration of the legislation and invite your cosponsorship.

CONGRATULATING JUDGE ANTONIN SCALIA

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, I rise this morning to thank President Reagan for nominating Antonin Scalia to the Supreme Court the first Italian American to be so named, and to congratulate Judge Scalia.

And, I do so, not only by reason of ethnic pride, although proud I am.

I do so because, in choosing Judge Scalia, the President has nominated a legal scholar, a distinguished jurist, a professional of impeccable credentials—a personable consensus builder. In times when the left and right of the political spectrum are jockeying to dominate, we need men and women of brilliance to see beyond the politics of the day. I believe Judge Scalia to be such a man.

Antonin Scalia also has a family history that will bring another valuable

dimension to deliberations of the court.

The son of an immigrant—from New Jersey I might add—he treasures our precious liberties protected by the Constitution which he, as a Justice of the High Court, will work to uphold.

Indeed, he has ingrained in his very life a devotion to our constitutional history of 200 years.

For him freedom, in this land of opportunity, is a personal achievement, not an abstraction. It is his life. Through hard work, education and personal initiative, he has excelled for the benefit of our society. These are the values which guided Americans from the earliest settlers to the most recent arrivals.

Judge Scalia respects and revers a Constitution which, for 200 years, has protected the weak, promoted the strong and shielded the Republic from those who would abuse their power.

Thank you, Mr. President. Godspeed Judge Scalia.

PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 350, PROVIDING FOR CONTINUED ADHERENCE TO SALT AGREEMENTS

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 479 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 479

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 350) providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise, and the first reading of the concurrent resolution shall be dispensed with. All points of order against the consideration of the current resolution for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the concurrent resolution and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the concurrent resolution shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the concurrent resolution as an original resolution for the purpose of amendment under the five-minute rule, and said substitute shall be considered as having been read. No amendment to the concurrent resolution or to said substitute shall be in order except the amendment set forth in section 2 of this resolution if offered by Representative Broomfield of Michigan or his designee, and said amendment shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee on the Whole, but shall be debatable for not to exceed two hours, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. At the conclusion of the consideration of the concurrent resolution for amendment, the Committee shall rise and report the concurrent resolution to the House with such amendment as may have been adopted, and any Member may demand a separate vote in the House or any amendment adopted in the Committee of the Whole to the concurrent resolution or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the concurrent resolution and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. Page 3, beginning in line 19, strike out "NUMERICAL" and all that follows through the end of line 20 on that page, and in lieu thereof insert "PROVISIONS."; and page 3, beginning in line 21, strike out all that follows the word "adhere" through the end of line 25 on page 3, and in lieu thereof insert "to the provisions of the SALT agreements as long as the Soviets do likewise.".

The SPEAKER pro tempore (Mr. CARPER). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Mississippi [Mr. LOTT], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 479 is a modified closed rule providing for consideration of House Concurrent Resolution 350, a concurrent resolution providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise.

The rule provides for 2 hours of general debate on the concurrent resolution as it was amended and reported from the Committee on Foreign Affairs. The time for general debate is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

The rule makes in order one, and only one amendment. The amendment is printed in section 2 of the rule and will be in order if offered by Representative BROOMFIELD of Michigan or his designee.

The Broomfield amendment is not subject to amendment. It is debatable for up to 2 hours, with the time being equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

Under this rule, therefore, no other amendments are in order and the concurrent resolution will be reported back to the House in its present form or as amended by the Broomfield amendment. The rule also provides for one motion to recommit with or without instructions.

Mr. Speaker, the one waiver contained in this rule provides a waiver of clause 2(l)(6) of rule XI. This clause of rule XI requires that a bill or resolution may not be considered in the House until 3 days following the filing in the House of the committee report on the matter. Since the Foreign Affairs Committee report on House Concurrent Resolution 350 was not filed until Tuesday of this week, this waiver is necessary if we are to consider this matter today. I should note, however, that this waiver would not be necessary if the resolution were considered tomorrow.

Mr. Speaker, with the exception of the one waiver I have noted, this is a very simple and straightforward rule providing for timely consideration of a concurrent resolution dealing with one of the most important foreign policy and defense questions we will consider this year. Full provision has been made for consideration of an amendment to be offered by the minority. Equal time has been provided on the committee proposal and the amendment. The policy options are clear, and Members will have a straight up-or-down vote on the two positions.

Mr. Speaker, the concurrent resolution which this rule makes in order contains the following directive:

The President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise, and the President shall continue to adhere to the overall numerical limit of the SALT agreements as long as the Soviet Union does likewise.

While this portion of the resolution presents an unequivocal statement of the policy preference of the U.S. House of Representatives on the need for continued informal compliance with the SALT agreements, passage of this resolution will not bind the President. This is not a joint resolution, it is a concurrent resolution which is not presented to the President for his signature. It will not become public law.

To say that this resolution will not become law, however, should not imply any equivocation about the intent it expresses. It expresses the clear belief that some restraint on the arms race, while admittedly not perfect, is far better than unrestrained nuclear arms escalation.

Quite simply, Mr. Speaker, the SALT agreements serve the military interests of the United States. During the 5½ years of informal SALT II compliance, the treaty cost the United States nothing—only last year did we bump against the limits in the treaty. We have accomplished a nearly unprecedented military buildup while staying within the limits of these agreements.

The SALT agreements have far greater impact in restraining Soviet nuclear weapons development. To maintain informal compliance with

SALT, the Soviets ceased missile production when they reached the limits of the treaty, and have dismantled older missiles each time they have deployed new ones.

Mr. Speaker, beyond the simple defense weapons advantage which life under the SALT agreements has provided, the abrogation of the agreement can only frustrate our efforts in Geneva. Whatever one says about SALT II, it does provide a framework from which our negotiators can attempt to move downward. Once a post-SALT II arms race begins, present levels of armament would become a goal rather than a starting point for further reduction.

The abandonment of SALT II will also weaken our defense posture by undermining our NATO allies' confidence in our commitment to arms control.

Finally, Mr. Speaker, in a context that those who have worked closely on the last few Federal budgets will understand all too well, the abandonment of the SALT limits can only work to fuel defense budget requests and frustrate any hope of working toward a balanced Federal budget.

Mr. Speaker, I have been at a loss to understand the President's position in favor of abandoning the SALT limits. It is imperative that we send a very clear message, as the People's House, that abrogation of our informal compliance with agreements entered into between the Soviet Union and the last four Presidents of the United States is the wrong policy for this Nation and the wrong policy for mankind.

Mr. Speaker, this is a very straightforward and equitable rule which will expedite consideration of this issue in the House. I urge my colleagues to support the rule, and subsequently to vote in favor of House Concurrent Resolution 350.

□ 1045

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 479 is a modified closed rule providing for the consideration of House Concurrent Resolution 350, a sense of Congress resolution that the President should adhere to the SALT numerical limits and sublimits, so long as the Soviet Union does likewise.

The rule waives clause 2(l)(6) of rule XI, the 3-day availability requirement for committee reports. This report was filed Tuesday and only became available yesterday. The rule goes on to provide for 2 hours of general debate in the Committee of the Whole, with time equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The committee amendment in the nature of a substitute is made in order as an original resolution for the purpose of amendment, and it is only subject to one amendment printed in the rule, and which is to be offered by the gentleman from Michigan [Mr. BROOMFIELD] or his designee.

The Broomfield amendment will not be subject to amendment but will be subject to 2 hours of debate equally divided between the proponent of the amendment and a Member opposed thereto. Finally, the rule provides that, when the Committee rises, the previous question is ordered on the resolution and any amendment to final passage without intervening motion, except one motion to recommit, with or without instructions.

Mr. Speaker, let me commend the Foreign Affairs Committee on having the good sense this time around to report a concurrent resolution instead of a joint resolution. As you may recall, in the last Congress the committee reported a joint resolution on the nuclear freeze issue even though the precedents make clear that such sense of Congress expressions should be embodied in concurrent resolutions. So this is being done properly from that standpoint.

I also want to thank the Foreign Affairs and Rules Committees for recognizing the right of the minority to offer an alternative amendment, and for preserving our right to recommit the resolution, with or without instructions.

The Broomfield amendment or substitute, if you will, is a very straightforward one. It does, I think, exactly what we should be doing. All it would do would be to say that "the President shall continue to adhere to the provisions of the SALT agreements as long as the Soviets do likewise." Can we do otherwise?

I mean, are we going to say it is all right for the Soviets, in effect, to exceed and violate the SALT II Treaty but it is not all right for us to do it? It is a very simple, straightforward substitute that the gentleman from Michigan has.

I urge my colleagues to look at it. It is only one sentence but it is what we ought to be doing here today instead of the concurrent resolution reported by the committee.

Mr. Speaker, since I spoke strongly in favor of an open amendment process yesterday, I think I should explain my support for this less than open rule today. House Concurrent Resolution 350 is not a legislative bill that establishes national policy; instead it is a simple sense of Congress resolution that attempts to influence our strategic arms policy. The only real issues are whether you think the President and the Soviets should adhere only to the SALT numerical limits; and whether you think it is appropriate for the Congress to seem to dictate such a policy to the President.

So there aren't that many issues involved for which alternatives could be developed. Moreover, there were no other requests made to the Rules Committee for additional amendments to be made in order. So, I think in this case this modified closed rule is justified and is fair if we must have a resolution of some kind on the floor.

And I would emphasize, "if we must have a resolution." I frankly don't think this resolution is necessary or helpful, and may actually be harmful. I know this body has a long tradition of passing all manner of "sense of Congress" resolutions—even though that term, "sense of Congress" often seems to be an oxymoron when it comes to foreign policy matters. This is one of those instances.

Here we are, the House of Representatives, presuming to dictate to the President, our chief foreign policy spokesman and negotiator, that he should comply with a treaty that a Democratic President could not get ratified by a Democratic-controlled Senate as required by the Constitution. Moreover, it's a treaty the President has already certified has been violated by the Soviets.

We seem to be turning the Constitution on its head and saying, "If the U.S. Senate won't ratify SALT II, then we in the House will ram it through." That's a novel constitutional approach that's bound to set a few forefathers spinning in their graves.

Mr. Speaker, I don't want to devote more time to this than it really deserves. This resolution isn't really about forging a serious and forward-looking strategic arms policy. This is simply one more dart in the Democratic Party's campaign quiver, aimed at an administration which still enjoys enormous popularity and support from the American people. We've come to expect these little partisan dart pricks as a substitute for any substantive Democratic alternatives to administration policy. It also makes good TV filler while we're waiting around for our Budget and Appropriations Committees to report some real work back to this House.

Mr. Speaker, I'll conclude my remarks at this point before I begin to get cynical about this little exercise. I have no objection to the rule—it's fair; but the resolution it makes in order is fairly objectionable. For those of you in doubt, flip a coin and keep the change. That's the only way you'll make this whole exercise worthwhile.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule. I also would like to thank the Committee on Rules for placing in order the amendment that I am going to be offering.

Mr. Speaker, the Broomfield amendment is based upon a simple principle which recognizes that a significant violation of even one provision of the SALT II agreement is serious enough to call into question the entire agreement. In this way we are honest with the Soviets. We tell them straight out that we will not accept Soviet violations even if they affect only one part of the agreement.

The unratified SALT II agreement was crafted as a comprehensive, integrated package with interlocking components. These issues cannot be separated. Unfortunately, that's exactly what the authors of House Concurrent Resolution 350 are trying to do by limiting adherence to SALT II to only its numerical limits and sublimits.

I believe that my amendment is a fair amendment because it provides for continued adherence to all of the SALT II provisions by both the United States and the Soviet Union. Isn't this the least we should expect?

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, at a hearing 2 years ago, I asked an administration witness to name President Reagan's greatest accomplishments in the field of arms control. The witness hesitated for a few seconds and said with some enthusiasm that he could name three:

The deployment of intermediate range missiles in Europe;

Denouncing Russia for the alleged use of chemical weapons in Southeast Asia; and

Issuing a report on alleged Russian violations of existing arms control agreements; a report which the witness proudly claimed had called into question the very future of arms control.

Since that time, the list of similar administration accomplishments has grown. The State Department has developed a new legal interpretation of the ABM Treaty that could render that document meaningless; the President has rejected Soviet offers to negotiate a ban on antisatellite weapons testing; he has rejected a proposed moratorium on nuclear tests; and on May 27, he declared SALT II dead.

In his speech disposing of SALT II, the President called for mutual restraint in the arms race. He also called for 50 more MX missiles, rapid development of a small ICBM, accelerated work on the advanced cruise missile, and more money for star wars.

The good news, of course, is that the Russians are no longer violating SALT II, but that is only because there is now no SALT II to violate. It is also true, that because the Russians are no longer bound by the agreement, they may soon deploy more missiles and thousands of more warheads, and target them on America's vulnerable land-based ICMB's; they may take steps to prevent U.S. verification of their nuclear weapons activities; and they could now test-fire ICBM's in secret and without advanced notification to the United States.

For these reasons, President Reagan's decision to scrap SALT II is the greatest expression of hope and trust in Soviet intentions and restraint in the history of the nuclear age. The President has given the Russians moral and legal carte blanche to conduct their nuclear weapons policy in whatever manner they so choose.

The United States will gain nothing from this decision; but we have obtained nothing in more than 5 years from this administration's handling of arms control. We were promised peace through strength; we have been given a $200 billion deficit and nuclear anarchy.

No President can be faulted simply for failing to reach an arms control agreement with Russia. The issues are complex, and the intentions of the Soviet leadership are suspect.

But for 5 years, this administration has talked about the obstacles that exist to arms control; while doing nothing to tear them down. On the contrary, by basing America's future security on the illusion of star wars, and by preventing our negotiators from accepting major Soviet concessions in return for limits on defensive systems, we have made serious negotiations far more difficult.

Our policy toward arms control should not be driven solely by our doubts about the sincerity of the Soviet Union. Our responsibilities as a world leader demand greater imagination, and a more constructive attitude, than that.

If there is a difference between our level of commitment to peace and meaningful arms control and that of the Soviets, let us make this difference clear in every action we take. Let us challenge the Soviet Union to match our boldness, our creativity, and our determination in pursuit of equitable arms control. Let us devote our energy to breathing life into the negotiating process; not declaring dead the best efforts of earlier years.

Arms control—whether this administration believes it or not is a goal more vital than any other attainable by our Government. That is what the resolution we are considering today is all about; and that is why it should—and will—be approved in the House of Representatives today.

□ 1100

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, breaking out of SALT is a dangerous way for President Reagan to appease the conservative hardliners who seem to fear that arms control actually works. Once again, the administration's black-and-white view of our relationship with the Soviets has oversimplified a critical national security issue. We are disconnecting the brakes to the arms race for no useful purpose.

This administration claims to support arms control, but just look at the evidence. It has accelerated nuclear weapons tests at a time when the Soviets have declared a moratorium. It is planning star wars tests which put us on a collision course with the limits of the ABM Treaty. And now, it is abandoning SALT.

The President may think this shows strength. To me, it proves only his unwillingness or inability to confront our nuclear dilemma. His decision is an abrogation of responsibility to those fringe groups who oppose any agreements with the Soviets. He has chosen to ignore our national security in favor of more Soviet bashing.

SALT is not perfect—no agreement ever is. But, observation of this treaty improved the stability of the superpower relationship. It added predictability to a dangerous rivalry, it made future arms control agreements more feasible, and it established real limits on our growing nuclear arsenals.

The President charges the Soviets with violations of SALT. But he refuses to use the lines which already exist to resolve violations. He accuses them of partially coding the data of their missile tests—but fails to acknowledge that without SALT, they will be able to mask them all. And, no longer bound by strict numerical limits, the Russians will immediately be able to add warheads to their heavier missiles and expand their production lines. That won't enhance our security; it will impair it. He raises questions of Soviet compliance—and then kills the treaty himself.

In the wake of Chernobyl, the United States was clearly in a superior propaganda position. The Soviets tried to hide a nuclear disaster where we, at Three Mile Island, had made full disclosure. Yet barely 3 weeks later, when our position should have been unassailable, Mr. Reagan killed SALT and retreated from the high ground. In terms of international opinion, our President, and not Mr. Gorbachev, is left holding the bag.

The President has made a rash decision. If his first concern is America's security, he can still undo that decision. If he does not, he will find history a harsh judge of a choice which threw away arms control, unshackled the arms race, and moved us one giant step backward in our pursuit of national security.

I join my colleagues in urging the President to reconsider his decision.

Mr. DERRICK. Mr. Speaker, for the purpose of a unanimous-consent request, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas [Mr. WRIGHT].

MAKING IN ORDER CONSIDERATION OF ANY RESOLUTION PROVIDING FOR A CERTAIN ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it be in order to consider any resolution providing for an adjournment period of more than 3 calendar days during the month of July, notwithstanding any provision of Public Law 99-177.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 341, nays 74, not voting 18, as follows:

[Roll No. 182]

YEAS—341

Ackerman	Bruce	Duncan
Akaka	Bryant	Durbin
Alexander	Burton (CA)	Dwyer
Anderson	Bustamante	Dymally
Andrews	Byron	Dyson
Annunzio	Callahan	Early
Anthony	Campbell	Eckart (OH)
Applegate	Carper	Eckert (NY)
Aspin	Carr	Edgar
Atkins	Chapman	Edwards (CA)
AuCoin	Chappell	Edwards (OK)
Barnard	Chappie	Emerson
Bates	Clay	English
Bedell	Clinger	Erdreich
Beilenson	Coats	Evans (IA)
Bennett	Coelho	Evans (IL)
Bentley	Coleman (TX)	Fascell
Berman	Conte	Fawell
Bevill	Conyers	Fazio
Biaggi	Cooper	Fiedler
Bilirakis	Coughlin	Fish
Blilley	Coyne	Flippo
Boehlert	Crockett	Florio
Boggs	Daniel	Foglietta
Boland	Darden	Foley
Boner (TN)	Daschle	Ford (MI)
Bonior (MI)	Davis	Ford (TN)
Bonker	de la Garza	Fowler
Borski	Dellums	Frank
Bosco	Derrick	Franklin
Boucher	Dicks	Frenzel
Boxer	DioGuardi	Frost
Brooks	Dixon	Gallo
Broomfield	Donnelly	Gaydos
Brown (CA)	Dorgan (ND)	Gejdenson
Broyhill	Downey	Gephardt
Gibbons	McCain	Schneider
Gilman	McCloskey	Schroeder
Glickman	McCollum	Schuette
Gonzalez	McCurdy	Schulze
Goodling	McDade	Seiberling
Gordon	McEwen	Sensenbrenner
Gradison	McGrath	Sharp
Gray (IL)	McHugh	Shelby
Gray (PA)	McMillan	Sikorski
Green	Meyers	Siljander
Gregg	Mica	Sisisky
Hall (OH)	Michel	Skeen
Hamilton	Mikulski	Skelton
Hammerschmidt	Miller (OH)	Slattery
Hatcher	Miller (WA)	Smith (FL)
Hawkins	Mineta	Smith (IA)
Hayes	Mitchell	Smith (NE)
Hefner	Moakley	Smith (NJ)
Heftel	Molinari	Smith, Robert (OR)
Henry	Mollohan	Snowe
Hertel	Monson	Snyder
Hiler	Montgomery	Solarz
Hillis	Moody	Spence
Holt	Morrison (CT)	Spratt
Horton	Morrison (WA)	St Germain
Howard	Mrazek	Staggers
Hoyer	Murphy	Stallings
Hubbard	Murtha	Stangeland
Huckaby	Myers	Stark
Hughes	Natcher	Stokes
Hutto	Neal	Strang
Hyde	Nelson	Studds
Ireland	Nichols	Sundquist
Jeffords	Nielson	Sweeney
Jenkins	Nowak	Swift
Jones (NC)	Oakar	Swindall
Jones (OK)	Oberstar	Synar
Jones (TN)	Obey	Tallon
Kanjorski	Olin	Taylor
Kaptur	Ortiz	Thomas (GA)
Kasich	Owens	Torres
Kastenmeier	Oxley	Torricelli
Kennelly	Packard	Towns
Kildee	Panetta	Traficant
Kleczka	Pashayan	Traxler
Kolbe	Pease	Udall
Kolter	Penny	Valentine
Kostmayer	Pepper	Vander Jagt
LaFalce	Perkins	Vento
Lantos	Petri	Visclosky
Latta	Pickle	Volkmer
Leach (IA)	Price	Walgren
Leath (TX)	Pursell	Watkins
Lehman (CA)	Rahall	Weaver
Lehman (FL)	Rangel	Weber
Leland	Ray	Weiss
Lent	Regula	Wheat
Levin (MI)	Reid	Whitehurst
Levine (CA)	Richardson	Whitley
Lewis (FL)	Rinaldo	Whittaker
Lightfoot	Ritter	Whitten
Lipinski	Robinson	Williams
Lloyd	Rodino	Wilson
Long	Roe	Wirth
Lott	Roemer	Wise
Lowry (WA)	Rogers	Wolf
Luken	Rose	Wolpe
Lundine	Rostenkowski	Wortley
MacKay	Roth	Wright
Madigan	Roukema	Wyden
Manton	Rowland (CT)	Wylie
Markey	Rowland (GA)	Yates
Martin (IL)	Roybal	Yatron
Martin (NY)	Russo	Young (AK)
Martinez	Sabo	Young (FL)
Matsui	Savage	Young (MO)
Mavroules	Saxton	Zschau
Mazzoli	Scheuer	

NAYS—74

Archer	Courter	Hansen
Armey	Craig	Hartnett
Badham	Crane	Hendon
Bartlett	Dannemeyer	Hopkins
Barton	Daub	Hunter
Bateman	DeLay	Jacobs
Bereuter	DeWine	Johnson
Boulter	Dickinson	Kemp
Brown (CO)	Dornan (CA)	Kindness
Burton (IN)	Dreier	Kramer
Carney	Fields	Lagomarsino
Cobey	Gekas	Lewis (CA)
Coble	Gingrich	Livingston
Coleman (MO)	Gunderson	Loeffler
Combest	Hall, Ralph	Lowery (CA)
Lujan	Quillen	Solomon
Lungren	Ridge	Stenholm
Mack	Roberts	Stratton
Marlenee	Rudd	Stump
McCandless	Schaefer	Tauke
McKernan	Shaw	Tauzin
Moore	Shumway	Thomas (CA)
Moorhead	Shuster	Vucanovich
Parris	Slaughter	Walker
Porter	Smith, Robert (NH)	

NOT VOTING—18

Barnes	Feighan	O'Brien
Breaux	Fuqua	Schumer
Chandler	Garcia	Smith, Denny (OR)
Cheney	Grotberg	Waxman
Collins	Guarini	
Dingell	McKinney	
Dowdy	Miller (CA)	

□ 1125

Messrs. DORNAN of California, ROBERTS, COBLE, and SLAUGHTER, Mrs. JOHNSON, and Messrs. TAUKE, GUNDERSON, and THOMAS of California changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

IN MEMORY OF LEN BIAS

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, my community is grieving today. In a cruel twist of fate, one of the finest youths of promise from my county has been struck down in what was the happiest period of his young life. Len Bias, the star of the University of Maryland basketball team, an All American, and a graduate of Northwestern High School in Adelphi, MD, died this morning of a heart attack.

Many young athletes dream of a professional basketball career. Len Bias was about to embark on one. Two days ago, he was drafted by the Boston Celtics, the best team in basketball. In that happy time, just 48 hours ago, Len said that two of his dreams had been fulfilled. He was going to play professional basketball and he was going to play it for the Boston Celtics.

For 4 years, Len Bias led the University of Maryland basketball team. He carried the team on his broad shoulders, and he may well have been the best player in the history of the university.

As an alumna of the university, and an avid basketball fan, I came to know Len Bias. We all loved to watch Len play because of his great skill and style. And, as with everyone who knew him, I was impressed not only with his athletic ability, but with his dedication, his leadership, and his good nature.

We are not always aware of what it takes to be the best at one's chosen profession. Many who have the talent to succeed do not. Success takes more

than raw talent. It takes hard work, drive, and dedication. Len Bias had all these qualities. They set him apart from so many other young men.

Everyone in Prince Georges County was so proud of Len's achievements. One of our own had reached the pinnacle.

Mr. Speaker, it is hard for us, mere humans, to fathom a tragedy like this one. For it, there is no reason; there is no justice. A poet once expressed our feelings:

TO AN ATHLETE DYING YOUNG

The time you won your town the race
We chaired you through the marketplace;
Man and boy stood cheering by,
And home we brought you shoulder high.

Today the road all runners come,
Shoulder high we bring you home,
And set you at your threshold down,
Townsman of a stiller town.

Smart lad to slip betimes away
From fields where glory does not stay
And early though the laurel grows
It withers quicker than the rose.

Eyes the shady night has shut
Cannot see the record cut
And silence sounds no worse than cheers
After earth has stopped the ears.

Now you will not swell the rout
Of lads that wore their honors out,
Runners whom renown outran
And the name died before the man.

We will remember Len Bias, a youth of great promise, great achievement, and great character. Our hearts and our prayers are with his family and his many, many friends.

Mr. DONNELLY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Massachusetts.

Mr. DONNELLY. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to associate myself with the gentleman's moving remarks. Two days ago, Len Bias became a Boston Celtic and an adopted member of the city of Boston.

I would like to extend to the Bias family on behalf of millions of Celtics fans in Massachusetts our sincere condolences over this incredible tragedy. He was an exemplary young man who spent many of his summers in Massachusetts. A man with gifted athletic ability, but as important as that, more important than that, a very fine young man.

We extend our deepest sympathies to the family and his friends and his fans. We hope that the tradition of decency and the legacy of integrity that he leaves behind him will be remembered by all of us.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Massachusetts for his remarks.

□ 1135

PERMISSION TO INSERT IN RECORD LIST OF COSPONSORS OF HOUSE CONCURRENT RESOLUTION 350

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that I be permitted to insert in the RECORD, at the conclusion of my opening statement during general debate on House Concurrent Resolution 350, a list of those Members who have indicated their desire to be listed as cosponsors of that resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONTINUED ADHERENCE TO SALT AGREEMENTS

The SPEAKER pro tempore. Pursuant to House Resolution 479 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of House Concurrent Resolution 350.

□ 1138

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 350) providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise, with Mr. HERTEL of Michigan in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Under the rule, the first reading of the concurrent resolution is dispensed with.

Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 1 hour and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 1 hour.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FACELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the resolution that we bring to the floor today, House Concurrent Resolution 350, despite all the technicalities that we are going to hear in this lengthy debate, is really a question of common sense. Although I will not deny the fact that the technicalities and the equipment and other matters that will be discussed are important, I just say that once that has been done, you still get to a very simple question of common sense. That is represented in the "Resolved" clause of this resolution, as distinguished from the "Resolved" clause that will be submitted as an amendment by the distinguished gentleman from Michigan.

Amid its many words and clauses and findings is but one simple message: In this threatening age of possible nuclear annihilation an arms control agreement that constrains nuclear arms is better than no agreement at all.

It is better than the promise of something "better."

It is better than the runaway arms race we would have without it.

It is better because it protects important U.S. national security interests.

It may be imperfect—admittedly violated by the Soviets in some areas—but it is better than the vacuum of abrogation.

If I didn't believe these facts, I wouldn't be standing here today urging the passage of this resolution.

It is also abundantly obvious to me that the overwhelming majority of the American people see the common sense wisdom of abiding by SALT II as long as the Soviet Union does likewise.

If more compelling reasons for preserving SALT II are needed it can be found in the unanimous position of our European NATO allies. It is their verdict, forcefully expressed, that continued adherence to SALT is in the collective security interests of the Western World.

Despite these many convincing facts we hear voices of doubt and even criticism. One assertion made repeatedly, for example, is that SALT II is being eliminated so that we can get something better.

That, like the mirage, can be an alluring argument. Unfortunately, it remains a mirage.

Certainly, everyone wants to reduce nuclear weapons. If for 1 minute I thought doing away with SALT II would accomplish that goal I would be the first to urge that action.

The tragic reality, however, is just the opposite. The evidence is undeniable. Abrogating SALT II will only add to already burgeoning stockpiles of nuclear weapons.

Without SALT I, the Soviets could:

First, more than double the size of their current nuclear arsenal—from over 9,000 to 20,000 nuclear weapons;

Second, more than double the number of their current MIRV's and ICBM's—from 818 to 1,778; and

Third, add over 1,000 additional warheads to their biggest missile—the SS-18—from 3,080 to 4,212.

Maybe that's why, in response to the question as to why his administration observes the limits of SALT II, the President said:

I learned that the Soviet Union had a capacity to increase weaponry much faster than the treaty permitted, and we didn't.

How does it therefore make sense to describe as better the elusive bird

while condemning the one already in the hand?

Let us not be fooled by an illusion. Let us not go marching toward a mirage.

If reductions—truly meaningful reductions—are what we want, let them come from the already contained levels of continued adherence to SALT II.

In urging passage of House Concurrent Resolution 350, I ask you to consider the following. This resolution:

Represents a bipartisan foreign policy statement in support of arms control;

Makes continued United States adherence to SALT conditional upon Soviet adherence;

Sets forth three concrete steps to resolve Soviet noncompliance with SALT;

Demonstrates that continued Soviet compliance with SALT would force the Soviets to retire twice as many nuclear systems as the United States;

Shows that without SALT, United States verification would be more difficult and raise United States uncertainty and anxiety over enhanced Soviet nuclear warfighting capabilities.

Over the last several days we all have been besieged by the issue's often confusing numbers as well as its arcane terminology and technology. Those details are important. But overriding all of that swirl and whirl is the single but compelling reality of common sense.

If, beyond common sense, you also believe in the sense of survival, House Concurrent Resolution 350 merits your support.

I urge its passage.

I think that it would be useful to point out what the differences are between the resolution and the proposed amendment.

The resolution suggests to the President that we should continue to abide by the sublimits in SALT as long as the Soviets do so. The other matters in the SALT treaty—which was never ratified, and its term has expired—have been a matter of understanding between the superpowers to be used as a guide and within which limits we have been living.

It is also agreed that the Soviets have violated that agreement in important respects, but it is also agreed that within the sublimits, which is what this resolution addresses, neither side has violated those sublimits.

We are talking about intercontinental ballistic missiles, and submarine-launched ballistic missiles which are itemized, so that in the sublimits to which the resolution is addressed it is clear—and we have the testimony on the record—that neither side has violated the limits of intercontinental ballistic missiles carrying multiple independently targetable reentry vehicles, submarine-launched ballistic missiles carrying MIRV's, or the total of all of those. It also provides for limitation on reentry vehicles.

So we are saying that if SALT has been useful up till now, despite the violations since it was signed back in 1979, and this administration agreed, despite the violations with regard to the SS-25, encryption and other matters, that it would be useful to continue to abide by those sublimits pending the outcome of negotiations at Geneva.

The amendment to be offered is simply a restatement of the President's position on May 27. And what that position says, in effect, is that the Soviets have violated an agreement which has never been ratified and whose terms having expired anyway. On that basis, the President concludes that it is no longer useful for the United States to have an informal arrangement with the Soviet Union which keeps the limit on these items which I just mentioned, and that therefore, on May 27, SALT for all intents and purposes is dead.

Well, in a technical sense it never was alive. It never got ratified, and the term of the treaty expired. What was alive was an informal understanding between the United States and the Soviet Union, with respect to the sublimits identified in that treaty. It is those sublimits to which we would continue to abide.

What House Concurrent Resolution 350 says is that we will continue to do that only as long as the Soviets abide by those sublimits. Once they break out of that, the informal arrangement is finished.

The President, however, has decided, for whatever reason, to terminate the treaty now. He says we should be up front with the Soviets. I do not know if it is that important to be that up front with the Soviets about the matter. We do not have a treaty; we just have an informal arrangement. And we are in the process at Geneva of discussing these matters. So those who are concerned about violations would have to take the position, as I see it, embodied in the amendment of the gentleman from Michigan [Mr. BROOMFIELD], which says that you would only abide by the terms of SALT II if there is no violation.

Having said that there are violations, then there is no SALT II, and accordingly, the amendment is meaningless, because it is just a restatement of what has been said.

What it boils down to is whether you think there is some commonsense utility to maintaining Soviet limitations on intercontinental ballistic missiles and other matters which are spelled out as sublimits until we get a better treaty. But proposed treaties have been laying on the table for years. Although I support efforts to achieve deep reductions, I have some doubt about how soon that will happen. Why, therefore, should we give away something, imperfect as it is, which in some way, if only psychologically, restrains hardware and protects us in the sense that even under an informal arrangement we would not agree to be bound by that if the Soviets in any way exceed those limitations?

As a matter of fact, I will turn it around the other way. Until we get an agreement that is locked up, it seems to me that it is absolutely in our national interest, as imperfect as all of this arrangement is, that we hang on to what we have got, as long as the Soviets are willing to stay with it.

It seems to me that it does no good to suddenly try to be honest to the world and to the Soviets and say, "Well, SALT II was just some kind of a sop, and we're going to be honest about it now. We're just going to say it's dead, we don't want any informal arrangements with the Soviet Union."

We are in the midst of negotiations. I do not think that you have to be a genius to figure the Soviet response. They have already responded. They are not going to take a chance any more than we are going to take a chance. So if our posture is that they already have a new generation of missiles and we want to get our new generation of missiles on track as fast as possible, what we are saying is that we are both going to move as rapidly as we can on one hand by expanding our nuclear capability while we are negotiating at Geneva to reduce our nuclear capability, but we are going to give up this informal arrangement to which both sides are now adhering because it puts a cap on our nuclear capability.

Well, I have a hard time following that, too. I see many of my friends shaking their heads. I cannot quite follow the logic of that either. But what it boils down to ultimately is a question of common sense.

□ 1145

Neither side trusts the other side. It is not a question of suspicion. I know that. We are not going to enter into any agreement at any time ever, and neither are the Soviets, that we think might in some way endanger our national security.

So then you have to ask the question here, having lived within these limits so far and neither side having violated them, we are going to lift those limits so we can do anything we want to on either side in terms of increasing our nuclear capability. But while we are doing that, we are going to really work in Geneva to see if we cannot reduce our nuclear capability.

What we should do is what the Congress has said in the past, which is that recognizing the dubious nature of trying to maintain an agreement with

the Soviets, who will push it to the limits in terms of interpretation or outright violation, and understanding that neither side trusts the other side, when the evidence is clear that we have an informal arrangement that holds the nuclear capability on both sides at the levels which they are right now, let us keep it that way until such time as we get something better. Our security is not endangered thereby. If it were, then we have been endangering our security the entire time. I do not think that is the case, because I know that this President is just as interested in maintaining the security of the United States as all of us are. Therefore, it does become a question of common sense.

If you adopt the proposed amendment, what you say is that because there have been violations of SALT II, there is no SALT II, therefore there is no more adherence under this informal arrangement to SALT II. Ergo, it is a restatement of the President's position on May 27, which is, SALT II is dead.

So just to restate that once again, in a technical sense, yes, SALT II is dead because it was never ratified. The term within which the treaty itself was supposed to run has expired, but that is not the point.

The point is we have been living under an informal arrangement. SALT II has just been the paperwork guideline and it has been useful for that purpose.

This House has gone on record twice before in saying we should maintain that limitation. As imperfect as it is, it has worked so far, and while we strive to do better with the Soviet Union, and I applaud as we all do all the efforts being made to reduce tensions and to get in hand nuclear capability, we still have a way to go.

We need some guidelines, even if it is an informal arrangement, until we get there.

The bottom line is, why give up something that is imperfect, that people may not like for one reason or another, because "it is doing business with the Soviets, you can't trust them."

Why give up that imperfect relationship right now for something that does not exist?

So I would urge my colleagues to think about the fact that under the sublimits of the SALT agreement, which we now observe through an informal understanding with the Soviet Union, we limit to 820 the intercontinental ballistic missiles carrying multiple independently targetable reentry vehicles. We limit 1,200 ICBM's and submarine-launched ballistic missiles carrying MIRV's or 1,320 ICBM's carrying MIRV's, plus the submarine-launched missiles carrying MIRV's, plus heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

Now, let us follow the argument that is being made that, well, we ought to just abolish those limitations, let the Soviets grab their best hold, we will grab our best hold and we will just have a nice good old-fashioned arms race and go just as hard and as fast as we can in order to prove our nuclear capability. As Winston Churchill said, "We have got so much capability"—even in those days—"that any additional will be simply for the purpose of making the rubble bounce."

Well, making the rubble bounce might attract some people. I must tell you, it does not attract me. The cost is phenomenal. The danger is incredible, and we all know what it means; but in a very short period of time the Soviets could more than double their MIRV'd ICBM's without this informal limitation. They could more than double their ICBM's and SLBM's in combination and they could more than double the three in just a very short period of time, and as you know, if the Soviets perceive any danger, they will pay any price, just as we would.

The difference is that they have the hot production line capability to do it in a short period of time, and we would be playing catch up. I do not think that is a good posture.

So, Mr. Chairman, I would hope that we would support the resolution and vote against the amendment. What the resolution says is let us continue within the informal arrangement of the sublimits that we now have been working with; the amendment, on the other hand, just says SALT II limits are dead, let us, therefore, go for a big arms race.

Mr. Chairman, I include the following list of cosponsors of House Concurrent Resolution 350:

COSPONSORS OF HOUSE CONCURRENT RESOLUTION 350

Daniel B. Fascell, Gary Ackerman, Bill Alexander, Michael Andrews, Les Aspin, Chester Atkins, Les AuCoin, Michael Barnes, Berkley Bedell, Anthony Beilenson, Charles Bennett, Howard Berman.

Sherwood Boehlert, Edward Boland, David Bonior, Don Bonker, Robert Borski, Douglas Bosco, George Brown, Terry Bruce, Albert Bustamante, Beverly Byron, Tony Coelho.

Jim Cooper, Lawrence Coughlin, George Crockett, Norman Dicks, Thomas Downey, Mervyn Dymally, Lane Evans, Walter Fauntroy, Vic Fazio, Hamilton Fish, Thomas Foglietta, Thomas Foley, William Ford, Barney Frank.

Bill Frenzel, Robert Garcia, Sam Gejdenson, Richard Gephardt, Bart Gordon, Bill Green, Tony Hall, Lee Hamilton, Cecil Heftel, James Howard, Frank Horton, William Hughes, James Jeffords.

Nancy Johnson, Walter Jones, Paul Kanjorski, Robert Kastenmeier, Barbara Kennelly, Dale Kildee, Gerald Kleczka, Peter Kostmayer, Tom Lantos, Jim Leach, Richard Lehman, Mickey Leland, Sander Levin, Mel Levine.

Cathy Long, Mike Lowry, Matthew McHugh, Stewart McKinney, Thomas Manton, Matthew Martinez, Robert Matsui, Nicholas Mavroules, Dan Mica, Barbara Mikulski, Norman Mineta, Joe Moakley, Jim Moody.

Robert Mrazek, Stephen Neal, Henry Nowak, Mary Rose Oakar, James Oberstar, John Edward Porter, Nick Rahall, Martin Olav Sabo, James Scheuer, Claudine Schneider, Patricia Schroeder, Charles Schumer, John Seiberling.

Lawrence Smith, Stephen Solarz, John Spratt, Gerry Studds, Esteban Edward Torres, Bob Traxler, Morris Udall, James Weaver, Pat Williams, Timothy Wirth, Jim Wright, Gus Yatron.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, once again the House is legislating arms control positions. Not content to let the President conduct his own negotiations with the Soviet Union, the House is again placing us in the untenable position of negotiating with ourselves on what an appropriate American arms control position should be.

But then this is not surprising. President Reagan has shocked the arms control world by having the nerve to say that he will not force our Nation to abide by an arms control agreement that the Soviet Union is breaking. For some reason this appears to be a tough pill for some of my colleagues to swallow. In fact, I can hardly wait to hear the supporters of this resolution explain to us how the Soviet Union isn't really violating the Salt II agreement, and even if it is, these violations aren't important. I would like to see them apply the same logic to Chernobyl.

The Soviet Union's new and clearly prohibited, second ICBM, the SS-25, is strictly forbidden by the SALT II agreement. Yet the Soviet Union has already deployed over 70 of them. And the SS-25 is a state of the art, mobile missile that is a serious breach of Soviet SALT II commitments.

Another major example of Soviet noncompliance is continued Soviet encryption of missile test data. This too is a serious, militarily significant violation of the SALT II agreement. The ability to accurately read key elements of Soviet test data is an indispensable part of the treaty's verification provision, and the inability to do so compounds the difficulty of identifying other potential violations by the Soviet Union.

It seems to me that the President is being criticized simply for having the nerve to tell the Soviets that we will not continue to adhere to an arms control treaty that they seem bent on breaking. Some of my colleagues who support this resolution seem to think that unless the Soviets violate every provision of the agreement, we should continue to adhere to it and ignore things like the SS-25 and encryption.

Arms control positions like this seriously undermine the credibility of those of my colleagues on the other side of the aisle who claim they are in favor of equitable, verifiable arms control reductions. Paying lip service to these terms is simply not enough.

There is no doubt that the President's action ups the arms control ante. But as far as I am concerned, he is doing it with kid gloves. He has told the Congress, the Soviets, and the American people, that the United States is providing the Soviet Union with a "window of opportunity" in which to either do something about its SALT II violations or get serious at the arms reduction talks in Geneva. Frankly, I think most Americans expect the Soviet Union to back up their public relations statements with concrete actions. Now is the time for the Soviets to do it. I think we would all agree with President Reagan that we should have nuclear arms reductions below SALT II ceilings.

Mr. Chairman, this resolution is unnecessary and sends confusing signals to both the American people and our negotiators in Geneva. The only people who will get the real message are the Soviets, and the message will be that arms control in the United States is a bitterly partisan issue with Congress and the President moving in opposite directions. Unfortunately, I am afraid that people watching us today can only sit back and wonder why Congress seems bent on forcing the President to adhere to an expired agreement which Congress itself failed to ratify and the Soviets continue to violate.

Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, I want to first of all thank the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Arizona [Mr. MCCAIN] for letting me speak first, after our ranking member on Foreign Affairs, because I want to take this time to set up a framework for the rest of this debate.

I am just finishing a paper analyzing the March debate on Nicaragua, which is entitled, "Left Wing Ideology and the Soviet Threat to America," that is illustrated by the House of Representatives March debate on Nicaragua. That 76-page analysis looks at the underlying intellectual and psychological basis of the McGovern-Carter-Mondale foreign policy world view.

Today's debate is a continuation of that remarkably inaccurate and misinformed left wing assault on President Reagan and the roots of American national security.

That may suggest, and I direct this at both the chairman of the Foreign Relations Committee and the chairman of Armed Services Committee, I find it amazing that the Democratic leadership would bring to the House floor a resolution which says on page 3:

(6) the Administration contends that the Soviet Union has violated some of the provisions of the SALT agreements that do not deal with numerical sublimits by taking such steps as deploying more than one new type of ICBM, exceeding the limit on strategic nuclear delivery vehicles, and excessively encrypting telemetry;

And I would ask either the chairman of the Foreign Relations Committee or the chairman of the Armed Services Committee, are you willing to tell this House that Soviet violations of SALT II are only contentions? Are you willing to say, I say to either of these gentleman, are you willing to stand up and say to this House, the Soviets have not violated SALT II, it is only a contention, because I hear all sorts of my activists on the left who walk in and say to me, "Oh, that's an allegation."

So I challenge you, are you willing to say it is only an allegation that the Soviets have violated encryption?

Are you willing to say it is only an allegation that the Soviets have built an extra large radar system in Siberia?

Are you willing to say it is only an allegation that there is a new missile system, or a citation from ACDA Report in December:

While the SNDV aggregate varied from near 2,504 to approximately 2,540 during the last year, the best U.S. estimate of strategic nuclear delivery vehicles is approximately 2,520.

Now, would the distinguished chairman of the Armed Services Committee later on like to report to us that is not true? Because let us get to the heart of what the American left is doing here.

The fact is the Soviets are systematically violating SALT II on the grounds that matter to them.

The American left, which has lost two Presidential elections on foreign policy, the Carter-Mondale world view, which last time carried one State, still controls the House, still dominates the key committee and as a result brings to the floor an act of government, not a student resolution at a university, but an act of government.

□ 1200

What does that act of government say? It says that even if the Soviets violate the treaty, we will legally constrain the American Government. We will say basically that Gorbachev, who we cannot restrain, can selectively do that which he wants to; but Reagan, who we can constrain, we will stop.

First of all, it violates all of Jimmy Carter's promises, and Lord knows, Jimmy Carter was hardly the strongest President we ever had, but Carter did promise again and again in 1979 that, "The Soviets know that if we ever detect any violation of the SALT agreement that that would be a basis on which to reject the treaty in its entirety." This is Jimmy Carter.

A violation of this part of the agreement which we would quickly detect would be just as serious as a violation of the limits on strategic weapons themselves.

When your President who set a model for modern weakness in foreign policy, when your President promised that if the Russians violated SALT II we would do something, and you move to legally block the President of the United States, do you not think it sort of comes across as being even systematically weaker than James Earl Carter? Does that not bother you a little bit?

Let me carry you a stage further, because I find the drafting of this remarkable.

You say on the cover of your resolution:

Providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise.

I would beg you: How can you possibly structure this debate taking only the parts the Russians do not cheat on, ignoring the parts the Russians cheat on, and then punishing the American Government for responding to Soviet cheating? How can you possibly design an entire resolution around crippling the American argument while not dealing with the Soviet problem, because the difficulty the American left faces is simple: The only arms that we can control in the House of Representatives are those of the United States. We have no capacity in the House of Representatives to control Soviet armament or Soviet weapons or Soviet buildup.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 additional minutes to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding this additional time to me.

So, Mr. Chairman, I would say to my friends on the left, ask yourself what you are teaching. Several of you got up and were very angry when the French showed weakness over Libya. You spoke strongly about how the French should have courage; yet your very own report suggests that European timidity over the Russians is grounds for America to do nothing. The very weakness which you cheerfully yelled at when the American public was outraged about Qadhafi you now encourage by saying to the Europeans, "Prove that you are timid and we will be weak."

The American left teaches the Soviet leadership that to cheat selectively is smart because somebody in America will always only select out those things which the Soviets do not

do badly. The American left is teaching our European allies that any act of strength by America will be undermined, attacked, and sometimes legally destroyed by the American left.

Finally, I would say to my colleagues, this is not a game. This is the Government of the United States of America. This is not a simple resolution of piety at some college. This is the serious business of legislation. I would urge every American citizen to read in context this debate, to ask yourself, why did the left systematically select only those areas the Soviets did not cheat on? Why is the left systematically crippling America's ability to respond? Why does the left have a world view in which somehow Gorbachev is reasonable and Reagan unreasonable, in which somehow the KGB can be explained away but the CIA is dangerous.

I would close by quoting Anatoly Shcharansky:

> No amount of bargaining, of give and take, of mutual concessions, can take the place of trust. Experience has taught the Jews of the Soviet Union, has taught me while I was in the camps struggling against the KGB, that lesser demands and fewer expectations lead to a situation where our aggressors feel that they should be rewarded for cosmetic concessions.

To vote for this resolution is to vote for cosmetic concessions to the Soviet Empire.

Mr. BROOMFIELD. I would inquire of the Chair as to how much time we have consumed thus far.

The CHAIRMAN. The gentleman for Michigan [Mr. BROOMFIELD] has 48 minutes remaining.

Mr. BROOMFIELD. Mr. Chairman, I yield 8 minutes to the gentleman from Arizona [Mr. MCCAIN], a member of the Committee on Foreign Affairs.

Mr. McCAIN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to this resolution and I must first of all express my admiration for the chairman of the Committee on Foreign Affairs, who has done such an outstanding job as chairman.

However, I paid very careful attention to his opening statement and I find his logic extremely curious. The chairman made the assertion that neither nation's security is endangered while there is adherence to this treaty.

How in the world, Mr. Chairman, can anyone's security be assured when there are continued violations of an agreement, selectively choosing one part of an agreement that is an adherence by the Soviet Union and, therefore, forcing this Nation to adhere to all parts?

Let us make one thing perfectly clear here: The United States up to this time has not violated SALT II. It is the Soviet Union that has violated SALT II, not the United States of America. It is curious logic to assume that when one portion of a treaty is adhered to that, therefore, we can ignore all other aspects of it. I do not believe that this treaty was negotiated or agreed to, at least in principle, with only one part of it being operative; nor would any of the negotiators either at that time or now agree that selective violations are acceptable.

There is no doubt even among supporters of the resolution that the Soviets are violating the treaty commitments. In an interview earlier this year, Chairman ASPIN of the Committee on Armed Services, when asked if the case the administration had been making for these Soviet violations is a good one, he responded, and I quote: "They have got a case."

He then went on to say:

> The compliance issues are a real concern. I think Soviet behavior is responsible to a large extent for the failure of arms control to work in the way that people wanted it to work.

Last April, when asked whether the Soviet SS-25 missile violated SALT II, former Secretary of Defense Harold Brown stated:

> The Soviets say it is variant of the SS-13. Well, it is not. The U.S. Government, and I agree, believe it to be a new design.

It is obviously a new missile:

Congressman SOLARZ and others were sufficiently concerned about Soviet IBM violations and encryption violations for missile testing last year to write to Secretary Gorbachev. Remember him? He is the candid, progressive guy who is going to tell us all about Chernobyl some day. In the letter that Congressman SOLARZ signed it told Mr. Gorbachev that "adherence to existing treaties is a necessity in order for future agreements to be possible."

What should our response be to these violations? Some say we should take the problem to the Standing Consultative Commission. Remember, you will be hearing a lot about that body during this debate. It is the bilateral body in which both sides agree to provide, on a voluntary basis, such information as either party considers necessary to assure confidence in compliance with the obligations assumed, meaning the SALT treaty.

There have been a dozen SCC meetings since President Reagan came to office. In a dozen meetings, each lasting between 4 weeks and 4 months, the Soviets have failed to provide the information necessary to allay the fears of the administration, Harold Brown, and a large number of Congressman. You will hear the "Take it to the SCC" refrain many times today; in fact, it is part of the resolution you are asked to pass. It is a siren song, "We will be asked to continue to negotiate while the Soviets continue to violate."

We know from experience that raising Soviet violations at the SCC is not the answer. Unable to resolve these violations with the Soviets, should we pursue a policy of proportionate response? Would that not take us over the treaty limits? The answer is "no."

The Joint Chiefs of Staff considered a fully funded strategic modernization program by itself to be an appropriate and a proportionate response. As we all know, Congress has consistently refused to fully fund that program. Last year, the House fought tooth and nail over 50 MX missiles, a fraction of the number President Carter proposed to deploy. This year we will go through our perennial denunciation of star wars research and we will probably cut its funding by some 40 percent. In short, Congress has denied the administration this simple response to Soviet violations. Other methods have been tried to end violations, including direct, personal appeals to Soviet leaders. I mentioned the letter that 23 of our Democratic colleagues sent to Secretary Gorbachev regarding Soviet violations.

□ 1210

They told Mr. Gorbachev that if the problem were not resolved, "It will have serious consequences for the future of arms control."

Let me tell you the response that they got from that letter, just one paragraph from it, to indicate the dedication that the Soviets have to resolving these violations.

Let me quote from the response to the letter sent by the gentleman from New York [Mr. SOLARZ] and our Democratic colleagues. The Soviet spokesman said:

> The Soviet Union strictly complies with its international obligations, including those assumed under the agreement with the United States on the limitation and reduction of strategic arms. Violation of the letter and spirit of the agreements reached, attempts to circumvent or undermine them by new military programs, refusal to ratify the agreements already signed. This is, as is known, not our policy.

Of course, then, the gentleman from New York [Mr. SOLARZ] answered by saying:

> The reply merely rehashes existing Soviet positions and does not appear to open any new ground. I am not content with this reply. Clearly, the Soviets still avoid coming to grips with the problem.

So how are we coming to grips with the problem today; by basically endorsing Soviet violations.

The authors of this resolution have also avoided coming to grips with the problem of Soviet violations.

The "numerical limits" and "sublimits" in the resolution are the fruits of that search. If you vote for this resolution, you are saying that despite two overwhelming votes of confidence in President Reagan, he should continue to abide by elements of a treaty he has consistently called "fatally flawed," that a year ago, in June, he warned

the Soviets of the consequences of further Soviet violations.

Despite a Democratic President's failure to persuade a Democratic Senate to ratify the treaty, the United States is asked to continue to adhere to a portion of it. Your vote would come in spite of President Carter's statement that "the Soviets know that if we ever detect any violation of the SALT agreement, it would be a basis on which to reject the treaty in its entirety." You would vote for the resolution despite the fact that while the United States has strictly observed SALT II's letter and spirit, Moscow has violated it again and again.

We should ask ourselves this simple question: Have the Soviets violated the treaty? If your answer is yes, you should at least support the Broomfield amendment which, despite the characterization of the chairman, is that the United States will adhere to the treaty in its entirety as long as the Soviet Union adheres to it in its entirety.

I find nothing wrong nor objectionable about that. I think the United States should adhere to the SALT treaty, but it has to be in the entirety, and not selected parts.

Let me repeat: You will be accepting Soviet cheating.

In closing, I ask those who accept that cheating, how many new Soviet missiles, how many new Soviet IBM's, how much Soviet encryption will it take before you allow the United States to respond?

Let me ask, finally, if we are not allowed to respond effectively to Soviet violation, how can we be expected to meaningfully negotiate and sign another arms control treaty?

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, before we can have this debate today, it is important to define this debate. No one comes to this floor suggesting that the Soviets have not pushed this treaty to its limits. Indeed, I do not come to the floor suggesting that the Soviets have not pushed this treaty beyond its limits.

The notion has entered this Chamber that arms control is a gift to the Soviet Union, a concession to the Soviets, something that we have bestowed upon them. Indeed, nothing could be further from the truth.

Arms control, this treaty, and the sublimits of this treaty are of mutual advantage. For all of its flaws, for all of our disappointment in not getting real reductions, the fact remains that there have been real benefits.

We have avoided allowing the Soviets to get into a position of a first-strike capability. Through all the tensions we have seen real dismantling of Soviet weapons.

These reasons I know you have heard before. These are not new. The basic argument remains, beyond mutual benefits, beyond real reductions, the principal reason for adhering to this treaty, for keeping to the sublimits is another point, not addressed here yet today, and it is the national security of our country.

Renounce this treaty and one nation will have the ability to break away. One nation will have the ability for dramatic expansion of its forces to obtain real advantage in the short term. That nation is not the United States.

The danger to our country today is not merely the weapons that the Soviet Union possesses, but their ability for a dramatic expansion of weapons in the future.

End this treaty, and the Soviets have the ability to build three times as many submarines in the decade ahead; twice as many bombers; indeed, the ability to enter into production more ICBM's of newer varieties than our country.

That is the sad reality. So, my friends, unless you are prepared to unleash a new giant, lifted of all restraints, a dangerous and powerful adversary of the United States into the world arena with no restraints, no limits upon their forces, then preserve these sublimits.

The choice, I would suggest to you, is simple: Vote to preserve these sublimits or come to this floor and tell us what new systems you are prepared to build and how you would pay for them.

For all of its failings the SALT treaty is a treaty within a treaty. We are left with sublimits that mean less Soviet forces in the future, and not more.

I ask that we adhere to those sublimits. Deny the Soviets the ability to use their production capacity. Deny them the arms that they can bring to this confrontation or come here and suggest what arms you will bring to a new arms spiral and how you would pay for them.

I thank the gentleman for yielding me the time.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], a member of the Committee on Foreign Affairs.

Mr. SOLOMON. Mr. Chairman, I thank the distinguished ranking Member for yielding time, and I rise in the strongest possible support of the President of the United States of America, for the Broomfield substitute, and against this resolution.

The argument that a failed, flawed, violated, unratified, and expired treaty should now become an object of veneration—the shrine at which the devotees of arms control fetishes must bow—is conspicuous proof, in and of itself, of the intellectual bankruptcy to which the pathological critics of the Reagan administration have been reduced.

The political implications underlying this resolution are too trivial to warrant discussion on the floor of the House, except to point out that this resolution makes no reference to the fact that the SALT process has failed to restrain the nuclear arms race. This resolution makes no mention of Soviet violations of both SALT I and SALT II, and, finally, this resolution completely ignores the problem of verification, or more particularly, the reality of Soviet duplicity—a fact of life we were reminded about at Chernobyl a few weeks ago.

But in a larger sense, Mr. Chairman, the real problem I have with this resolution is that it is part and parcel of an ongoing effort that seeks to make arms control, for its own sake, the overriding issue on the United States-Soviet agenda.

I would remind the members of a brilliant memorandum on arms control that was composed by Bernard Baruch in 1961. Listen to these words: "There is no more dangerous conception than this which misconstrues the arms race as the cause rather than a symptom of the tensions and divisions which threaten nuclear war. If the history of the past 50 years teaches us anything, it is that peace does not follow disarmament—disarmament follows peace."

Mr. Chairman, this resolution leads us straight into the kind of illusory thinking and muddled policies that Bernard Baruch warned us against. Its implicit premise is that American strategic planning should be made dependent on Soviet compliance with SALT II. Never mind the repeated violations the Soviets have committed in the past—the restraint they can now be expected to demonstrate is to be the principal criterion for determining America's strategy for survival.

I would suggest that if the Soviets are truly interested in demonstrating the kind of restraint on which a meaningful arms reduction agreement could be based—if they are truly interested in reducing the kinds of tensions and divisions that Bernard Baruch was talking about—they can begin inside their own empire. Why not ask the Soviets to show a little retraint in their indiscriminate obliteration of the people of Afghanistan? Why not ask the Soviets to show a little restraint in their colonizing of Ethiopia, the most impoverished country in Africa? Why not ask the Soviets to show a little retraint in their treatment of Andrei Sakharov?

No, this resolution would rather play a numbers game. But a sham agreement can only produce a sham peace. We can talk with the Eastern Europeans about sham peace. They well remember how the Soviets enslaved them while we disarmed in the 1940's. We can talk with people in Asia and Africa whom the Soviets enslaved while we disarmed in the 1970's.

Mr. Chairman, a legitimate arms control process cannot exist in a vacuum, despite what this resolution would have us believe. Arms control negotiations must be seen against the full context of United States-Soviet relations and the serious issues that divide us.

This resolution is a free-floating and ill-conceived attempt to influence those negotiations by ignoring the larger realities of today's world.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. HYDE], a member of the Permanent Select Committee on Intelligence, as well as the Committee on Foreign Affairs.

Mr. HYDE. Mr. Chairman, the real issue here is when you have an international agreement on life-and-death issues and one side massively violates the agreement, what do you do to try and enforce discipline? What incentives do you employ because the ink on the agreement clearly is not enough?

We have here an unratified, expired, massively violated nontreaty which has failed to constrain the Soviets in any particular where they did not want to be constrained.

The notion that treaties or agreements restrain the Soviets is superstition, dear to the hearts of the so-called arms control intellectuals, of which not a few in this body claim membership.

May I parenthetically comment on the remarks of the last speaker. It is an interesting treadline. You cut defense, you cut defense, and then you say, "My God, we have got to appease the Soviets. We cannot keep up. We cannot build submarines like they can."

Cut the defense budget and then plead impotence! That is their formula.

The successors of Woodrow Wilson, of which there are many spiritual descendants here, thought the League of Nations was the answer to world wars, the Kellogg-Briand Pact, the United Nations, let us try world federalism, Yalta, Helsinki, SALT I, the Antiballistic Missile Treaty, and now the preferred paper document—I will not elevate this to the dignity of "paper tiger," I will say SALT II is a paper pussycat—have in their minds helped to keep the peace.

□ 1220

This is a myth, a superstition, and one more confirmation, really, that the capacity of the left in this Chamber for self-deception is infinite.

The bottom line in arms control ought to be missile warheads. They do the damage; they pose a first strike threat, but SALT II, that sacred document which we are enshrining today and lighting votive lights before, does not even address warheads. It only limited launchers.

How has SALT II constrained the Soviets? Their force has grown from 5,000 warheads to 9,000 warheads today. In years to come under SALT II, they could load another 5,000 warheads on permitted launchers. Some constraint.

So Russia has nearly doubled their missile warhead total under SALT II, and they can reach 180 percent of their 1979 total. Can a treaty, even if it was observed faithfully, which permits such a Soviets buildup be worth anything? We need to jettison SALT and negotiate a new treaty that reduced warheads and provides for verification.

In Geneva we are trying to do this; while here the arms control intellectuals are shouting "To the rear, march!"

This resolution is an attempt to bring the dead to life. This is Easter. SALT was murdered by the Soviets when they developed the SS-25, when they encrypted their telemetry, and in case we just did not get the message—some of us are slow learners—they buried the ABM Treaty at Krasnoyarsk.

Who was the object of the collective outrage of the left? Ronald Reagan, not Mikhail Gorbachev. The Russians have shredded the treaty; we today are in compliance, and the "blame America firsters" are directing their wrath at Ronald Reagan. One is tempted to say "So what else is new?"

The President said a year ago we would "go the extra mile." And with what result? 72 SS-25's, continued encryption, and the Krasnoyarsk radar—goes on and on, and many more.

When do you people on the left propose that we stop being patsies for Gorbachev? European reaction—God, that terrifies you. They are still mad about Grenada and Libya. They are always mad at us except on D-day.

Now to those who insist that all that stands between us and an all-out arms race, "my God they can gear up their assembly line"—what happened to your argument on redundancy? Why, I have heard the chairman of this committee, whom I admire so much, say "We can bomb them off the globe 10 times over—they can bomb us. So what do we care if they are going to pour their scarce resources into redundant weapons?" It just does not add up.

The unassailable fact is, the vast buildup of Soviet forces predicted by some in the absence of SALT is already occurring under SALT.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 additional minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman from Michigan.

Now who is serious about arms control? That is a phrase that has rung in my ears since I first came into this Chamber. "The President isn't serious about arms control." But which of us wants to gloss over massive violations of existing agreements? If you are serious about arms control, you ought to re-read President Carter's words in his press conference in 1979 when he said, "Any violation would entitle us to reject the whole treaty."

Why do you now move to the left of Jimmy Carter? That takes some maneuvering, I must say.

Serious arms control means serious responses to serious violations of treaty obligations. Today we ratify the dubious title we earned yesterday. Never let serious legislation get in the way of raw partisan politics.

Now, this resolution is not responsible; it sure is not accurate, and it is not constructive. We are talking about an unratified, expired, massively violated nontreaty that deals only with sub limits and numerical limits. Why not qualitative limitations? Why do you gloss over the fact that they have introduced a brand new intercontinental ballistic missile which violates the SALT treaty? You do not talk about that.

As a matter of fact, it killed you to even mention that they violated the treaty, because you disassociate yourself from those charges. You say "the administration contends that the Soviet Union has violated some of the provisions of SALT." God knows, you do not contend it. You would not touch that with a 20-foot pole.

The administration, the hated administration.

Why do you deceive people? In your paragraph 5 you say, among the great accomplishments of the SALT treaty that the Soviets have been required to dismantle 14 Yankee-class nuclear missile carrying submarines. Well, you do not mention that some of those have been reconfigured as attack or long-range cruise missile submarines. Why do you not mention that?

You do talk about the United States and the Soviet Union having not undercut numerical sub limits of the SALT agreement. Big deal.

What about the qualitative violations? Well, you could go on and on with this resolution. It is an effort to kibbitz, at our arms control meetings in Geneva, it is looking over our negotiator's shoulders; it is a restraint on the flexibility and the freedom the President needs to get serious about arms control. This is not a serious resolution. It is raw politics. It is inaccurate; it is misleading, and it is harmful to the defense of our country.

I say that, never questioning the motives of my friends; only their infinite capacity for self-deception.

Now, I yield to my friend, one of the great defense intellectuals, the gentleman from Washington, NORMAN DICKS.

Mr. DICKS. I want to compliment the gentleman for not being too inaccurate, Mr. Chairman.

There is one point I would like to make. The gentleman said that there is no limitation on warheads in this agreement. That is not correct. Under

SALT II, there is a limitation of 10 warheads on MIRV'd systems. Plus there is a limitation on the number of MIRV'd systems which has an indirect relationship to the number of warheads that can be deployed.

Mr. HYDE. The gentleman agrees that they have increased—just a moment, now, it is my time, and I will yield to you at my pleasure—do you agree that they have gone from 5,000 to 9,000 warheads under SALT and they can go another 5,000?

Mr. DICKS. Yes, but without SALT——

Mr. HYDE. You said yes?

Mr. DICKS. Without SALT——

Mr. HYDE. Did you say yes.

Mr. DICKS. They can go up 8,000-plus warheads——

Mr. HYDE. But, sir, redundancy!

Mr. DICKS. And that is why we are here today, because the military absurdity of taking off these limits which have always been supported by the Joint Chiefs of Staff up to this last event.

Mr. HYDE. If I may recapture my time, Mr. DICKS, are you not one of the advocates of the "We can bomb them off the face of the Earth already. They can bomb us, so why do we need any more?" Is not that your school of thought?

Mr. DICKS. No, I do not belong to that club.

Mr. HYDE. You do not. Do you reject that?

Mr. DICKS. Not necessarily, but I do not belong to that club.

Mr. HYDE. Thank you. Thank you for your contribution.

Mr. Chairman, I yield to my friend from Long Island.

Mr. DOWNEY of New York. I thank the gentleman for yielding.

Mr. Chairman, I think one of the points that needs to be stressed is that under SALT II, the Soviet warhead number could grow; there is no question about that. Without the SALT II——

Mr. HYDE. And has.

Mr. DOWNEY of New York. And has, and without the SALT II constraints, it can grow even more dramatically. Let me give you some of the numbers.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HYDE. Will the gentleman yield me an additional 30 seconds?

Mr. LAGOMARSINO. Mr. Chairman, I yield 30 additional seconds to the gentleman from Illinois.

Mr. HYDE. I would appeal to those of you who really are serious about arms control, and understand what is at stake, that you would consider Mr. BROOMFIELD's substitute, which looks at the treaty in its totality and says, "as long as they adhere to it we will adhere to it."

That is a new word for you on the left, it is called reciprocity. I wish you would think about it, because it is intellectually honest. It is not serious arms control to permit the Soviets to pick and choose what provisions they will obey and what they will not obey.

The CHAIRMAN. The Chair will state that the gentleman from Florida [Mr. FASCELL] has 40 minutes remaining and the gentleman from California [Mr. LAGOMARSINO] has 29½ minutes remaining.

Mr. FASCELL. Mr. Chairman, I yield 13 minutes to the distinguished gentleman from Indiana [Mr. HAMILTON] the chairman of the Permanent Select Committee on Intelligence.

Mr. HAMILTON. Mr. Chairman, I rise in strong support of House Concurrent Resolution 350 providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise.

This resolution sends an important signal to our own Government as well as to the Soviet Union about the importance of maintaining and strengthening arms control agreements. It signals our concern about the necessity of resolving together with the Soviets our differences on critical compliance issues.

Mr. Chairman, there are several reasons why the United States should continue to adhere to the terms of SALT II.

First, the Soviets have been significantly restrained by the SALT agreements. SALT II establishes equal limits on total numbers of United States and Soviet launchers with multiple warheads and strategic bombers armed with air-launched cruise missiles. It freezes the number of allowed warheads per missile. It establishes restrictive sublimits on Soviet multiwarhead missiles, those which concern the United States the most. Every time the Soviets introduce a new missile, they are obligated under SALT II to retire one as well. If ratified, the treaty also would have established an equal, overall limit on the total number of United States and Soviet strategic bombers and missile launchers.

Second, the Soviets are in a much better position than the United States to increase rapidly the size and megatonnage of their nuclear arsenal. SALT II is in the United States interest because Soviet missile production lines remain open. According to open testimony by the CIA, the Soviets could add 12,000 new warheads by the mid-1990's. They could more than double the size of their present force if they break out of SALT II. Over time, the Soviets could also put up to 20 or 30 warheads on each of their heavy missiles. This would give them a much greater capacity to attack U.S. targets. It is unlikely that the United States could keep pace with such a Soviet buildup without enormous, further increases in defense spending. Abandoning SALT II will lead to a renewed arms race between the two superpowers. The structure of strategic arms control supported by four Presidents over 15 years, will be destroyed.

Third, the end of SALT II and a renewed arms race means that a space-based missile defense cannot work. Regardless of present assessments of its feasibility, a missile defense cannot work if you don't limit the number of missiles. This is the judgment of the Congressional Office of Technology Assessment and several experts, including former and present Reagan administration Defense Department officials. The Reagan administration implicitly acknowledges this conclusion when it proposes deep missile cuts in Geneva as part of its proposal for an unrestricted strategic defense initiative [SDI]. Without missile limits, SDI cannot work. Without SALT II there would be no limits.

Fourth, a world without SALT would make U.S. monitoring and verification more difficult. The end of SALT II would free the Soviets from the obligation not to conceal activities relating to SALT II provisions from U.S. national technical means, which monitor Soviet military activities. The Soviets could adopt camouflage and reception techniques now prohibited by the treaty. They could cover over their missile silos or actively conceal the locations of their mobile ICMB's. If we no longer require the Soviets to give advance notification of tests and to avoid concealment activities, the threat of a surprise Soviet attack will increase. Our knowledge of Soviet overall deployments will be reduced. United States uncertainty and anxiety over Soviet nuclear warfighting capabilities will grow.

Fifth, there are likely to be serious political consequences if SALT II is abandoned. The Geneva talks will suffer a big setback. So will the broader United States-Soviet relationship, which the administration has spent the past 2½ years trying to improve. The end of SALT II will be deeply divisive in Congress, and will lead to serious differences within NATO, playing into the hands of Soviet efforts to split the alliance.

COMPLIANCE ISSUES

Mr. Chairman, there are also questions about Soviet treaty violations. They deserve serious scrutiny when cited by the President as his justification for terminating U.S. compliance with SALT II limits.

I wish to focus here on the three key cases—the encryption of ballistic missile telemetry, the SS-25 missile, and the Krasnoyarsk radar—which, in the President's words, are "particularly disturbing." A close look reveals that they continue to be the subject of debate both within and outside the ad-

ministration, and that they are not the clear violations that the President and some of his advisers suggest.

ENCRYPTION OF BALLISTIC MISSILE TESTS

The SALT II Treaty prohibits the encoding of ballistic missile test data in situations where it "impedes verification of compliance with the provisions of the treaty." Encryption in other instances is specifically permitted, and the treaty spells out no criteria for determining when encryption impedes the verification of compliance.

The administration charges that the Soviets have engaged in extensive encryption of missile test signals. It alleges that by doing so they have violated SALT II because the practice prevents the United States from verifying the critical performance characteristics of Soviet missiles as governed by the treaty. The Soviets, in fact, engaged in encryption of telemetry prior to signing of SALT II, but have increased the level of encryption since that time.

The Soviets have denied that they have encrypted signals that are essential to verification, and have said they will supply the data needed by the United States if the administration will only state precisely which signals it needs to analyze Soviet missiles. The United States has rejected this offer, noting that to do so would reveal too much about U.S. intelligence collection capabilities.

We do not want to indicate to the Soviets what our intelligence capabilities are. But in refusing their request, we deny them the information they say they need to comply with the terms of the treaty. While we have reached a diplomatic impasse in the Standing Consultative Commission [SCC] created for resolving treaty disputes, charging the Soviets with a clear violation should not be our response. What we have is not an open and shut case of Soviet noncompliance. Instead, it is a case where treaty language is not as precise as it should be.

One must also question the administration's assessment that encryption "impedes" our verification of SALT II when the President simultaneously charges the Soviets with other violations of the treaty such as the SS-25. The encryption problem does not call for heated public diplomacy, but for resolving the issue through the procedures set forth in the treaty, via the SCC, to correct the obvious ambiguities in treaty language.

THE SS-25 MISSILE

As to the SS-25, SALT II limited both the United States and the Soviets to only one "new type" of light intercontinental ballistic missile [ICBM]. The 10-warhead MX and SS-24 were designated as the new type of permitted missile by the United States and Soviets respectively.

The treaty also barred the testing or deployment of any ICBM whose reentry vehicle [RV] weight is less than 50 percent of the throw-weight of the missile itself. This treaty provision was designed to prevent the rapid addition of warheads to existing single warhead missiles.

First, the administration charges that the Soviets' testing and deployment of the SS-25 single warhead ICBM violates the new type rule contained in SALT II because its throw-weight exceeds that of its claimed predecessor, the SS-13, by more than the 5 percent permitted in the treaty.

Second, the administration charges that the SS-25 violates the SALT provision prohibiting an ICBM whose RV is less than 50 percent of the missile's throw-weight.

The Soviets claim that the SS-25 is not a new missile, but a permitted modernization of the SS-13—A single-warhead ICBM deployed since 1969. They charge, in the case of the 5 percent rule, that the United States has understated the throw-weight of the SS-13, and overstated the throw-weight of the SS-25, thereby incorrectly making the SS-25 appear heavier than the SS-13 by more than the permitted 5 percent. The Soviets contend that the SS-13 includes a guidance system and penetration aids on its third stage which the United States has failed to include in its estimates.

The Soviets also state that the administration has incorrectly included in its calculation of SS-25 throw-weight equipment which is used only in test flights and is not present in the normal SS-25 deployment, thus making the throw-weight appear larger than it is in the operational missile.

If the underestimate of the SS-13 and overestimate of the SS-25 are taken into account, the Soviets claim that the SS-25 is within the permitted 5 percent variation. Moreover, if the test equipment is not included in the SS-25, they maintain that the weight of SS-25 reentry vehicle is more than 50 percent of the missile's throw-weight and therefore is not a SALT II violation.

The SALT II Treaty's provisions which define a "new" ICBM are complicated and at times ambiguous. They are subject to differing interpretation. Even Secretary Shultz, while calling the SS-25 a new type, admitted that the United States might not have a solid case when he stated:

> There are questions about whether in a purely technical sense it fits within treaty language as might be interpreted by a lawyer.

The administration has a tough call here, but in my view, it does not reasonably add up to an unequivocal violation. The treaty is just not as clear as we would like on what constitutes a new missile under SALT II. Instead of acknowledging that we have some tough differences to resolve regarding the throw-weight of the SS-25 and its relationship to that of SS-13, the administration has chosen to charge the Soviets again with a clear violation. I believe there is still room for substantive discussion in the SCC to try and resolve these differences.

THE KRASNOYARSK RADAR

Even though the Krasnoyarsk compliance issue relates to the ABM Treaty, the President has chosen to use it as one of his justifications for scuttling SALT II. This radar, the President maintains, is just further evidence of a pattern of Soviet arms control violations. It too is an issue that has generated considerable controversy among experts.

Large phased-array radars are essential components of antiballistic missile [ABM] systems. They can perform sophisticated tracking with great accuracy at ranges of several thousand miles. The ABM Treaty prohibits the construction of these radars for nationwide ABM purposes or for ICM early warning except at locations along the periphery of the national territory and oriented outward. Phased-array radars are permitted for space tracking and intelligence gathering purposes.

The United States charges that the Krasnoyarsk radar's location 800 miles inland and its outward orientation over northeastern Siberia constitute a violation of the ABM Treaty. The Soviets insist that the radar's purpose is for space tracking and verification purposes, not early warning or ABM defense as the United States suggests. The United States does not accept this argument.

Experts are in disagreement over whether the Krasnoyarsk radar is intended for use as part of a nationwide ABM system. Those who think it is not for that use cite its capabilities and lack of defenses as evidence of their view. Other experts believe that while the radar may not be for ABM purposes, it can serve as an ICBM early warning radar and therefore is a technical violation since it is too far inland and oriented over the Soviet landmass.

Controversy over this facility arises because the United States cannot be certain what the Soviets will use the radar for. While the treaty permits large phased-array radars for some purposes and not for others, it spells out no clear criteria for distinguishing between them. Thus, because the ABM Treaty did not delineate fully how these large radars were to be identified and regulated, we are faced with some ambiguity as to how these radars are to be verified under the treaty.

Recent Soviet offers and statements by United States officials suggest that

both sides may be moving closer to a window for resolving this issue if we seize the opportunity. Ambassador Nitze recently stated that he felt the Krasnoyarsk facility was an early warning radar. While it would still be a technical treaty violation if this is true, its military significance vis-a-vis the ABM Treaty would be greatly diminished.

The Soviets for their part also appear to recognize that Krasnoyarsk is a political liability they could do without. Their recent offers to clear up ambiguities in the ABM Treaty and to halt construction at Krasnoyarsk if the United States does likewise at two of its phased-array radar sites in Greenland and the United Kingdom shows, at the very least, some flexibility in their previous positions. Diplomacy should exploit these recent developments, and the SCC should be given the mandate to press ahead for common ground to resolve this dispute.

CONCLUSION

These charges of treaty violations by the administration are serious matters. The question we must answer is whether the evidence warrants an abandoment of SALT numerical limits and verification procedures that benefit U.S. security. I believe the answer to this question is no.

The evidence is not clear that the Soviets are engaged in a methodical, well-planned breakout of SALT II or any other treaty. Many actions have been taken by the U.S.S.R. to comply with SALT. The administration itself admits that many of the compliance issues identified by the President hold little if any military significance.

The evidence is also not clear that the Soviets are violating every bedrock arms control provision negotiated, or that they are engaged in a premediated pattern of violations. In a report on Soviet noncompliance Mr. Kenneth Adelman notes: "* * * the Soviets have adhered to many if not most provisions of the treaties to which they are a party."

Rather, we are faced with selected instances in which the Soviets have chosen to push to the limit ambiguous or lenient provisions in their interpretation of arms control treaties.

There is no doubt the United States intends to do or is doing the same in some areas.

The real lesson these issues teach us is that we must be exceedingly careful in drafting future agreements. We must not let important details of verification provisions be left until the final hours of a negotiation before they are addressed.

Resolving compliance issues requires a serious, balanced approach in the SCC accompanied by a desire to resolve the issue in question. The administration has not shown that it is pursuing this course. Compliance issues must be handled with accuracy and care because, if exaggerated, they will destroy any prospects for a new agreement and undermine all existing agreements. Morever, without SALT II in place we can no longer raise SALT II compliance issues of concern to us. The Defense Department has said that the President's May 27 decision removes SALT II compliance issues from the SCC agenda.

I believe that sticking with SALT II serves U.S. interests. SALT II preserves important constraints on Soviet weapons, improves our ability to resolve questions about Soviet compliance, and increases prospects for future arms agreements at Geneva. Without SALT II, we are likely to experience an accelerated arms race, greater uncertainty about Soviet intentions, and an escalation of tension between the superpowers. We will be less secure.

The President has now declared the SALT treaties dead, and says that he favors instead a "reduction" in arms. There is no evidence, however, that any kind of new agreement is going to be reached. The choice before us is between SALT II or no treaty, between some limits or no limits. It is not between SALT II and another treaty calling for reductions. Abrogation of SALT II will make it less likely that a new agreement can be reached. We must not throw away an arms agreement we have in hand—however imperfect—for the hope of an arms agreement which remains beyond our grasp.

Mr. Chairman, I urge my colleagues to vote for this resolution.

□ 1230

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON] a member of the Committee on Foreign Affairs.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Chairman, I am always amazed at my colleagues on the other side of the aisle, particularly today my colleague from Indiana, because they continue to give the benefit of the doubt and choose to listen to the Soviet Union and their excuses instead of the President of the United States, whom the American people believe in.

In the last poll in this country over 70 percent of the people believe President Reagan is an honorable man, doing an honorable job and he is honest. Yet the gentleman in the well prior to me indicated that there is doubt about the Soviets violating the encryption of their missiles, there is doubt about the Soviet Union violating the SALT II Treaty with the deployment of SS-25's, there is doubt about them violating the ABM Treaty with the new radar facility in Siberia. Who do you believe? Do you believe the President of the United States, or do you believe the Soviet Union? I choose to believe the President of the United States, as do the American people.

Why is it that you continue to make excuses for the Soviet Union when they violate these treaties?

This report, which was sent to us by the President, whom I believe, says they are violating the Chemical, Biological, and Toxin Weapons Treaty of 1972, and it spells out why; it says they are violating the Limited Test Ban Treaty, and it spells out why; it says they are violating the Threshold Test Ban Treaty, and it spells out why; it says they are violating the Helsinki Final Act, and it spells out why. This says they are violating the SALT II, and it spells out why, and yet you come to this well and continue to make excuse after excuse for the Soviet Union.

If you look back at treaties that have been made after the Korean war, the 1973 Paris peace accords, agreement after agreement, the Communist bloc violates those treaties.

□ 1245

Yet my colleagues, many of whom I admire, on the other side of the aisle continue to make excuses for the Soviet Union and the Communist bloc. My question is: Why do you do that?

Now a logical alternative to this legislation is what the ranking Republican Member, the gentleman from Michigan [Mr. BROOMFIELD], has proposed. If the Soviets live up to the provisions of SALT II, we will live up to them; if they do not, we will not.

As the gentleman from Illinois so eloquently stated a while ago, that is called reciprocity, and there is nothing wrong with that. My colleagues, it is time to put confidence in the President of the United States and this administration, instead of trusting blindly the Soviet Union. It is time to have reciprocity.

Mr. FASCELL. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just say I hope the time has arrived in this debate when we can stop using words like "deception" and "fraud" and a "Communist," or by some way stating the facts that we are less desirable.

I am ready to contend that all the gentlemen on that side are true red blooded Americans.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong support of House Concurrent Resolution 350, which calls for the United States to continue to adhere to the terms of SALT II as long as the Soviet Union does likewise.

President Reagan's recent announcement that the United States will end its 7-year-old policy of informal compliance with the terms of the unratified SALT II Treaty is a major dis-

appointment to millions of Americans and to our NATO allies. Predictably, the Soviet Union has announced that if the United States exceeds the SALT II limits later this year, it will do so as well. The President's announced decision thus sets the stage for a new acceleration in the arms race between the two superpowers.

While SALT II has not been a perfect vehicle for stopping the arms race and while there have been a number of alleged Soviet violations of the treaty, the fact remains that as long as both the United States and Soviet Union informally complied with most of the provisions of the treaty we have been able to avoid a totally unrestrained arms race.

It is totally uncharacteristic of American policy under any recent administration—either Democratic or Republican—for the United States to walk away from an agreement which has been in our national interest. It is disturbing to contemplate that this policy has been pronounced by an American President who in more than 5½ years now has not come close to successfully negotiating even one new arms control agreement. Indeed, the President implores Congress to support a new and unprecedented arms buildup.

What does the President offer instead of continued compliance with SALT II? He says that he not only wants to limit nuclear weapons but wants an agreement with the Soviets to actually abolish existing weapons systems. The President is looking for what he calls "a better deal."

Mr. Chairman, who doesn't want a better deal? Who wouldn't prefer an agreement which actually abolished existing weapons on both sides rather than just limiting the numbers of new weapons which could be built in the future? The fact is that we are not even close to concluding any agreement with the Soviet Union which would achieve these desirable objectives. Abandoning SALT II does not lead to the President's goal of arms reductions but instead sets the stage for an unrestrained arms buildup by both sides.

Has informal compliance with SALT II been in our national interest? The answer is undoubtedly "yes." Let's look at the facts.

Since 1973, the SALT accords have led the Soviet Union to dismantle 541 missiles and bombers, while requiring the United States to dismantle only 48 missiles. Between now and the end of 1987, SALT II compliance would compel the Soviet Union to dismantle 316 additional missiles and bombers, while requiring the United States to dismantle 32 missiles. By 1994, the Soviet Union would be limited to about 14,200 nuclear warheads under SALT II, compared with about 13,700 for the United States. If the treaty is abandoned, however, both sides may feel compelled to double their nuclear arsenals with the Soviets holding an incredible 27,700 nuclear warheads and the United States an incredible estimate of 26,200 warheads. Over the next 10 years, continued observance of SALT would lead the Soviets to retire some 1,200 launchers with 4,000 warheads—over twice the number of United States launchers. Clearly, the number of existing warheads on both sides is far too high. But setting limitations on how many new systems and warheads can be built as well as some minimal reductions in existing systems is an essential condition which results in actual reductions and works toward even further reduction and delivery systems.

Mr. Chairman, our differences with the Soviet Union are deep and profound. But the essential fact remains that we must live together on this planet. We must not give up the initiative which our Nation has always eagerly assumed to search for ways to live in peace with those who would be our adversaries. The American people, in every opinion poll which has ever been conducted on the subject, support the proposition that effective arms control is a goal worth pursuing.

I've joined with our colleague, Congressman NORM DICKS, and others, in sponsoring H.R. 4919, a bill which would prevent outlays for weapons deployments which would exceed the SALT II limits as long as the Soviets abide by these limits. The President and his advisers must understand just how strongly the American people feel about this most important matter. Arms control is a goal worth pursuing. There is really no viable alternative to SALT II compliance that make sense in today's world.

I hope that the President will reconsider his decision to abandon SALT II. Abandoning even informal compliance with the only effective strategic arms control agreement we have with the Soviet Union will not lead to a safer world and is certainly not in the best interest of our national security.

Mr. FASCELL. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, today, I rise in support of House Concurrent Resolution 350 which urges the President to continue to adhere to the SALT limits.

As Chairman of the House Armed Services Panel on Arms Control, I have always been and will continue to be a strong supporter of President Reagan's effort to maintain a credible nuclear deterrent and his effort to bring about a mutual and verifiable arms reduction agreement with the Soviets. I truly believe that this administration is committed to arms control and to achieving success in Geneva. When we discuss arms control and deterrence, we are not talking about two mutually exclusive concepts. In fact, the pursuit of arms control and the task of maintaining a credible nuclear deterrent are integral components of national security. Neither total reliance on arms control alone, as some would argue, nor abandoning arms control in favor of a strategic buildup as others propose, can exclusively be the foundation of our national security. The pursuit of arms control and the need for a necessary and credible nuclear deterrent must constantly be brought into balance, and that is really what the focus of our debate on this resolution is—balance.

I will be the first to admit that SALT has proven to be an imperfect process and as chairman of the House Armed Services Arms Control Panel I won't make excuses or apologies for Soviet violations. They are wrong. However, it is my firm belief that abandoning interim restraint at this time will only endanger our ability to maintain an effective deterrent by jeopardizing the gains we have made in strategic modernization over the last 5 years—something which I have supported and I think that this administration should be proud of. I have made the point from time to time to my liberal colleagues that they cannot allow themselves to operate within a vacuum of arms control. It is critical to measure how an arms control treaty impacts our ability to deter. Ironically, in the case of the administration's decision to abandon interim restraint, it is they who are operating within this vacuum by not carefully measuring what the impact of scrapping SALT will do to the ability of our strategic forces to deter the Soviets.

If we abandon SALT limits, it is not Soviet security which suffers—it will be American security. According to our own intelligence, in the absence of SALT the Soviets could place over 14,000 warheads on existing ICBM's. That's without deploying a single new missile. And what occurs if the Soviets decide to accelerate their strategic programs far beyond the SALT limits? In the near term, the Soviets have more than double the ability to escalate their existing production lines. Furthermore, what would be the constraints on the Soviets not to add additional systems to their arsenals, which are now forbidden under SALT?

Let me remind some of my colleagues on the other side of the aisle about the difficulties we have had in getting systems such as MX, Trident, and B-1 through Congress. I know, because I have been with you in those battles to get the funding for these important and necessary programs. With Gramm-Rudman hanging over our heads do you really think it's going to be easier? Right now, we are working on a defense bill which is below last year's funding level and quite frankly, I don't see much growth, if any, in the near future. The Soviets unfortunately don't have to worry about domestic programs, stretched defense dollars, or deficit reduction. These are problems of democracies and not totalitarian regimes. Giving the Soviets the incentive to accelerate the arms race will be a far costlier proposition to us than it will be to them.

In addition, the SALT agreements have required the Soviets to dismantle around 500 operational launchers, which include 14 Yankee class submarines, and in the next 2 years, the Soviets will be required to dismantle two times as many launchers as the United States. I know that some of you would argue that these systems would be replaced without SALT anyway because of their marginal military value. But

before you say it, I would urge you to look at the Secretary of Defense's 1986 posture statement and the DOD publication which is released every year on Soviet military power. They indicate that these Soviet systems still pose a credible threat to the United States. They are listed in those publications along with more modern Soviet systems. There are no asterisks which indicate that these systems are of "little military value."

I believe that this President is committed to arms control and I do support the efforts of our negotiators in Geneva. The President's decision to agree with the Soviets to abide by the SALT limits has been to our advantage and I believe that this decision demonstrates that the President is sincere about wanting to obtain a real arms reduction agreement. After 2 days of hearings which I chaired before the House Armed Services Arms Control Panel on this important issue, I would be reluctant to say that SALT is dead. I believe that the administration is maintaining some flexibility on this issue and it would not surprise me to see us remain within the SALT limits until this time next year if the President decides to retire one of two Poseidons which are scheduled to be retired in the fall. And that is why I think that this resolution is timely and needs our support. Congress has an obligation to let the President know where it stands on this important issue before any final action is taken. As someone who has backed the President on many arms control issues in the past, I feel that it is particularly important to give him some friendly advice. Let's maintain that balance between the need for a viable arms control objective and credible nuclear deterrent which together provide a foundation for our national security. Don't scrap SALT.

Mr. BROOMFIELD. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, the distinguished chairman of the Committee on Foreign Affairs seems to think someone was questioning patriotism.

Let me make this very clear. Patriots can be wrong. Patriots can be misinformed. Patriots can just plain be dumb.

Stanley Baldwin was a patriot; he was wrong. Neville Chamberlain was a patriot; he was wrong.

Mr. Chairman, it is the gentleman's committee that uses "contends" to describe the administration's serious statements about the Soviet Union. It is the gentleman's party's Intelligence Committee's chairman who just read a long list of explanations and excuses for Soviet behavior.

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I thank the distinguished chairman of the Committee on Foreign Affairs for yielding this time to me.

I rise in support of the resolution, and I do so for one reason only. I believe that it is in the best interests of the United States of America.

□ 1455

I think that for all their imperfections, the SALT II agreement has served us well. It has caused the Soviets to dismantle far more in the way of weaponry than it has caused the United States to dismantle. If we abandon SALT II, the Soviets will almost certainly be able to add weaponry far faster than we can.

Let me deal with the problem of the violation of SALT II, and it is a serious problem. As we know, that issue centers around the Soviet effort now in process to deploy a Midgetman and the attendant related violations, particularly dealing with the encryption of data primarily in the testing of the Midgetman.

I would consider that a most serious violation if it were not for the fact that since 3 years ago, the spring of 1983, it has been firm United States policy to commit an identical violation. From the point where the President accepted the recommendations of the Scowcroft Commission, and when this Congress inferentially did so by its actions on the MX, we have said that we are going to produce a mobile missile, our Midgetman, in addition to the MX, and that thus we shall have two missiles, two new missiles, not one new missile, exactly the same thing that the Soviets are doing with respect to their Midgetman, the SS-25, in addition to the solid fueled SS-24.

So it seems to me that if that and the related violations that the Soviets have engaged in, in order to lend an air of plausibility to the Midgetman as not being a violation of the SALT II agreements, if that is our problem, then it seems to me the way to deal with that problem is to engage in consultation with the Soviet Union as specifically called for by these agreements and negotiate an arrangement where they can have their Midgetman and we can have our Midgetman without a SALT violation, because we want one just as they want one.

Again, I would say, Mr. Chairman, there is one reason and one reason only for supporting this resolution. It is not because anyone here wants to forgive the Soviet Union, it is not because anyone here wants to be nice to Gorbachev, it is not because we have any sympathy for their regime. It is for one reason and one reason only, and that is that it has been in the best interest of the United States to have this limitation on the numbers of weapons, and it will continue to be in the interest of the United States to have that limitation. It is, therefore, an act of folly for us to repudiate those limitations, and we shall pay very dearly for it if that repudiation sticks.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. COURTER], a member of the Committee on Armed Services.

Mr. COURTER. I have been listening to some of this debate, and I think the message if this resolution is passed is just a remarkable message to the Soviet Union. What it says to the Soviet Union and their negotiators in Geneva now is the fact that the House of Representatives is not concerned about violations of arms control agreements.

A number of speakers on one side of the aisle, the proponents of the resolution, admit the fact that the Soviet Union has violated SALT II, has violated arms control agreements, all at the same time we are negotiating a new arms control agreement.

If, therefore, it is OK for the Soviets to violate this one while the United States complies with this one, the message in Geneva is as you are negotiating strategic arms reduction talks, as you are negotiating intermediate nuclear range reduction talks or space and other types of weapons and strategic defense, it will be OK if you violate that one because you violated this one and we did nothing ourselves.

I think if you believe in arms control, that is precisely the wrong message to give to the Soviet Union today.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

As an arms control observer to those talks, I think the gentleman's comments are right on target. This resolution we have before us today, about which I have serious reservations, ties the President's hands and, I think, to that extent, the negotiators' hands in Geneva, in such a way that there is no incentive for the Soviets to bargain with us in good faith. That restraint I think will be put on if this resolution passes, and I think that that is a very important factor for all of us to consider as we vote on this thing. It sounds good, the lingo sounds good, but we are going into a very sensitive time in those negotiations, and this just may play havoc with them.

Mr. COURTER. I thank the gentleman for his contribution.

If you are really serious about getting some sort of progress in Geneva with regard to strategic arms, the message you have to give the Soviet Union is the fact that compliance and verifi-

cation and both sides sticking to an agreement is important.

This is the absolute and wrong message. The simple message by the House of Representatives, if this resolution passes, is that cheating is not important, we do not care if the Soviet Union cheats, we are not going to do anything about it, we are not going to be able to modernize differently, we have to comply with the treaty that they are violating. I think it is important to give the message that cheating is important, it is significant and it affects things. We cannot be unilaterally required to comply with an agreement that the Soviet Union is snubbing its nose at. It is as simple as that.

And, also, let us look at SALT II. First of all, SALT II I think everybody recognizes in this Chamber is a nonagreement; it was never ratified by the Senate; it was never passed by the Senate Armed Services Committee. Before the invasion of Afghanistan, the other body's Armed Services Committee voted on whether to ratify SALT II, and the answer was 11 noes and zero yeas.

A treaty that was never ratified, No. 1; a treaty that had been ratified would have expired, No. 2; and a treaty in which the Soviets are not complying with the agreement. They are violating this. And yet we are saying that irrespective of the fact that it was never ratified, irrespective of the fact that if ratified it would be expired, irrespective of the fact that they are not complying with the terms of that agreement, they are cheating, it does not make any difference to us, we do not care, we are going to go along with it and sacrifice is going to be our own security.

Finally, the issue of Soviet violations. I suppose if you really do not believe the Soviet Union has violated any of these term—and some in this body do, I clearly know that most do not—maybe you could take the arguments that we should comply with the agreement even though not ratified and even though it would have been expired. But for those people who know deep in their hearts that the Krasnoyarsk radar in the ABM Treaty, even using the Soviet definition of what it is, and the Soviets are saying it is not a violation because it is an early warning radar, but early warning radars have to be on the periphery of the Soviet Union, facing outward, not inward, facing the Soviet Union, so by their very own definition, the Krasnoyarsk radar is an important and terrible violation of ABM and SALT II. But irrespective of that, this resolution says the United States has to comply. I think that is absolutely wrong.

Just a couple other violations. The SS-16 was not mentioned. We believe it is a violation. At the present time, the Soviets are in violation of the threshold on strategic nuclear delivery vehicles. The treaty said 2,500, to be reduced in 1981 to 2,250. They have over 2,500. We have 1,900-plus. Violation after violation after violation. Let us not give the message that cheating is not important to the House of Representatives.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. YOUNG].

Mr. YOUNG of Missouri. Mr. Chairman, I rise in support of House Concurrent Resolution 350, a resolution expressing the sense of Congress that the United States continue to adhere to the weapons limitations of the SALT agreements.

In the past few weeks, we have been hearing conflicting signals from the administration that there may be a shift in U.S. arms control policy. Such a shift would have immense military, budgetary, and diplomatic implications for the United States.

No one contends that the SALT documents are perfect. But for the time being, it is the only constraint at all on the arms race. Since 1972, the Soviets have removed over 1,000 land-based ballistic missiles and over 240 submarine-based missiles on 14 Yankee-class submarines earlier than they would have without SALT. By 1990, they will be required to remove another 500 to 600 ballistic missiles.

On the U.S. side, we have removed from service 320 land-based missiles, over 500 submarine-based missiles, and 11 ballistic missile submarines to comply with the SALT agreements.

Abandoning the SALT agreements will undoubtedly trigger a new and dangerous arms race that will be extremely costly for both sides. Additionally, the impact on the United States budget would be enormous in attempting to match any increase in Soviet nuclear forces above the current spending levels.

As billions are spent on new weapons, Congress would be faced with the choice of adding even more to the deficit, making further reductions in domestic programs, seeking additional revenues—or a combination of all three—to pay for the dramatic increase in defense spending.

Whatever mix of new weapons the United States would have to build, it is clear that abandoning the SALT documents would lead to a massive renewed nuclear arms race between the two superpowers that I am sure both countries would not want to pay for.

Without SALT, by the mid-1990's both sides could more than double their strategic nuclear arsenals. Currently, the Soviets have more active production lines for strategic forces. They are producing eight major new strategic systems, including two new ICBM's, two new bombers, two new SSBN's—ballistic-missile submarines—and two new SLBM's—sea-launched ballistic missiles.

In contrast, the United States is only producing three such systems—one new ICBM [MX], one new bomber and one new submarine. Without SALT, Soviet deployment of strategic weapons could grow by 65 percent by the end of 1989 compared with a United States growth of only 45 percent thus placing the United States at a serious military disadvantage for nearly a decade.

Furthermore, if SALT II is abandoned, the Soviets would rapidly be able to place many more warheads on their existing missiles—by 1989 they could add nearly 7,000 ICBM warheads without deploying a single additional missile. This would more than double their current force of 6,690 warheads.

However, if SALT II remains in force, the total warheads on each side would increase slightly over the next decade, and would remain roughly equal in number.

Finally, terminating SALT would have extremely detrimental consequences in the international community.

The announcement by the administration of ceasing adherence to the SALT II treaty has elicited negative reaction among our allies. The statement has already increased anti-American feelings in Europe over nuclear issues, and should the administration follow through with the decision, many experts believe that it would profoundly harm the NATO alliance.

Mr. Chairman, the people in my district, like people throughout the country, are concern as never before over the threat of a nuclear war. The concern in our country over this issue was recognized when over 200 Members of Congress and 53 Senators, of both political parties, urged the President to continue to abide by the SALT agreements.

Clearly, the voice of Congress should be heard on this pivotal issue. I urge passage of this vital resolution.

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, the very existence of this debate today is a measure of our Government's failure to provide the American people with the substantive arms control progress they so clearly desire, and so clearly deserve.

Three years after this body passed a resolution calling for a complete halt to the nuclear arms race followed by deep reductions in nuclear arsenals, and 7 years after the numerical limits of SALT II were agreed to in Vienna, we are reduced to debating whether even these modest limitations on the

71-059 O-87-47 (Pt. 10)

growth of nuclear arsenals should be maintained.

What is going on here? In surveying this administration's arms control record, I am reminded of the words of the historian Tacitus, who said of the conquering Roman legions, "They made a desert, and called it peace."

Time and again this administration accelerates the arms race, and calls it arms control.

This Orwellian equation has been resorted to so often over the past 6 years that President Reagan apparently can no longer tell the difference between the two.

How else can one explain the administration's cynical attempt to tie the recent Soviet offer in Geneva—many months in the making—to the President's surprise announcement of his intent to break the bounds of the SALT II limits?

Judging from his remarks at his last news conference, President Reagan apparently believes that his arms buildup has, for the first time, frightened the Russians into proposing reductions.

According to President Reagan:

Now we have the first Soviet leader to my knowledge that has ever voluntarily spoken of reducing nuclear weapons, and we want to follow up on that.

If President Reagan really believes this, then he has wasted 6 years of his Presidency. The truth of the matter is that 7 years ago yesterday, President Carter and Chairman Brezhnev signed a "joint statement of principles and basic guidelines" for subsequent negotiations.

I commend this document to some of my more conservative colleagues. In it the two leaders committed their nations to pursue "significant and substantial reductions in the numbers of strategic offensive arms." That, I repeat, was 7 years ago.

The irony in this administration's fervent characterization of SALT II as "fatally flawed," for its failure to reduce nuclear weapons, is that this alleged defect could have been remedied simply and quickly along the lines endorsed by the Senate Foreign Relations Committee during the ratification debate in 1979—namely; steady percentage annual reductions in the limits and sublimits of SALT II, including the ceiling of 308 on Soviet heavy missiles.

In fact, if President Reagan had done this in 1981, he would already be well on the way to achieving his announced objective of deep reductions in the nuclear missile forces on both sides. For example, a 7-percent annual reduction in the SALT limits would cut in half the Soviet strategic missile force in 10 years.

In fact, this result could have been achieved without further extensive negotiation, because it relies upon the already agreed SALT II framework.

Now, having wasted 6 years in fruitless negotiation to generate a new strategic framework on which to base reductions, the administration proposes to compound that failure by destroying what remains of the old framework.

It seems as though some in this administration regard perpetuation of the SALT II limits as a kind of continuing testimonial to their own failure to produce something better—hence their unseemly haste to dump SALT on the ash heap of history.

The nominal explanation for this behavior is said to be Soviet "violations" of the SALT II treaty.

On the one hand, the administration says that preserving the limits of a treaty which the Soviets are only partly observing represents "partial adherance to a contract," which is said to be "unacceptable."

On the other hand, the administration argues that SALT II is just an invalid expired treaty that was never ratified, and therefore, the President's plan to exceed the limits would not violate any existing contractual agreement with the Russians.

Not only is this now-you-see-it, now-you-don't attitude toward SALT II astoundingly hypocritical, but it is also irrelevant. Let us stipulate that the SALT II treaty was never ratified and that the date of its expiration has passed. All the arguments that we have been hearing along those lines are completely beside the point.

The issue is this: The administration has failed completely to negotiate any limitations whatsoever on qualitative improvements in the Soviet nuclear arsenal. That failure alone has increased the danger of preemptive and accidental war, and resulted in a grothesque expenditure of funds for the development of new nuclear weapons which nobody wants.

Will this body now permit the administration to compound its error by removing the last remaining restraints on the quantitative arms race, driving our national budget further and further into the red as we respond to the inevitable political demands for equality with increases in Soviet nuclear forces.

A decade ago, when I joined this body, the very officials who are now telling us that Soviet numerical superiority in a no-SALT world won't matter they blanketed the land with shrill warnings that Soviet superiority in all sorts of arcane measures of strategic power could be the cause of national catastrophe.

Moreover, while I am not a believer in SDI, for those of my conservative colleagues that are, I would only note that the administration's decision to free the Soviets from the SALT II limits would permit a massive proliferation of missiles and warheads which would undercut whatever feeble effectiveness a first generation SDI system might attain.

If the debate in recent weeks has shown anything, it has shown that this administration has a rotating wardrobe of strategic rationales which puts Imelda Marcos to shame.

To draw an analogy from my own experience, the administration's explanation of its SALT policy as a response to peripheral Soviet "violations" makes about as much sense as the NRC Commissioners someday appearing before my subcommittee and explaining that because a few nuclear powerplants have experienced minor radiation leaks, they have decided that reactor containment domes are no longer effective and should be abolished.

I urge my colleagues to vote for this resolution, and to cosponsor the binding legislation on this same issue offered by our colleague from the State of Washington, NORM DICKS.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, in large part, we are engaged in a debate today about a specific and yet a generality, because in part what we are asking is: Shall this House take control of U.S. foreign policy?

Additionally, what we are asking is: Shall the President be rendered impotent in the implementation of foreign policy?

If you take what happened yesterday and look at what is happening today, that is literally what we have decided to do on the House floor. Think about the last 2 days. Yesterday we passed the most extreme leftwing position on South Africa that we could possibly pass, and we now have the left wing in this Congress glowing in that passage. And let us understand what that did. Let us understand that one of the things that that particular position did was enforce South African censorship of the press, because under the bill that we passed yesterday, the press of this country is not going to be permitted to operate in South Africa.

□ 1310

Imagine that. That is what we passed as the foreign policy of this country yesterday as imposed by this House. Today, today we bring another example of extreme leftwing positions to the floor. The argument thus far on this resolution has contained large doses of the "blame America first" rhetoric: The Soviets cheat and we blame ourselves. The Soviets cheat so we ignore that cheating and demand that the United States unilaterally adhere to a failed treaty.

What a joke that makes of the mutual verification that we have often heard about on this House floor as being the position of the Congress.

What a joke. When we discover that they are cheating, we try to find ways to explain away that cheating.

This resolution does just that, and in this debate, we have had proponents of the resolution coming to the floor to do just that. Let us understand what this resolution would impose upon the United States as our foreign policy toward the Soviet Union. They arm; we are alarmed. They squeeze; we appease. They cheat; we retreat.

That is a recipe for disaster. That is a recipe for permitting the totalitarians who run the Soviet Union to have free reign in the world. That is a recipe for a future that a free people can never accept.

Turn down this sincere but sincerely wrong resolution.

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just cannot resist commenting on the gentleman's recipe for disaster. I just thought I would never be in this House long enough to ever hear him admit that.

I suppose if you live long enough, you can hear anything.

Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. I thank the gentleman for yielding me this time.

Mr. Chairman, it has never been difficult to list the flaws of SALT. But reciprocity as a principle is no substitute for substantive, legally binding agreements. It is a prescription for suspicion, for unraveling the currently existing arms control regime.

All of us should understand that to abandon SALT is to forsake what little nuclear restraint the superpowers have observed in the last decade.

Here, the distinction we must be concerned with is that between parity and security. We can have parity at current levels of armaments, at higher, or at lower. The question is where we can best have security.

There is growing consensus in America, led by President Reagan on the right and arms control activists on the left, that greater security rests at lower levels of parity.

But the problem of abandoning SALT is that it gives rise to the prospect of a new arms race. Without SALT limits, or successful negotiation of a new treaty, parity can only be assured at higher levels of armaments.

The Congressional Budget Office estimates that the Soviets can double the number of warheads by 1992. The administration itself has admitted that without SALT II limits, as many as 5,000 new warheads would be likely to enter the Soviet arsenal by 1994.

How, opponents of this resolution must ask, Does this increase our national security?

Mr. Chairman, one of the most naive notions in the current arms control debate is that the next treaty will be far removed from SALT II. Anyone with any experience in arms control understands that, while a new approach may go beyond SALT II, it will have to include most of the ingredients of that agreement. SALT II is imperfect, but it is better than nothing and, more importantly, is an essential building block for more comprehensive agreements. SALT II may have ambiguities, but let us not lose sight of the fact that its definitions as well as its limits are in final measure pluses, not minuses. They represent the beginnings of rational man's efforts to control irrational forces.

It is time to shelve the destabilizing rhetoric of recent Presidential campaigns and get down to the serious business of serious arms control.

Throwing pepper on SALT simply has the effect of spicing up international relations. Instability becomes an even greater hallmark of the nuclear age.

Finally, a word about Chernobyl. All Americans recognize Soviet handling of this particular tragedy reflects poorly on the Soviet state. Yet, it should give us little solace. If there is any lesson we ought to draw in this debate, it is that accidents can happen. There is no perfect control of the nuclear beast. How can we possibly be more secure if we by our actions give the Soviets license to develop more missiles aimed at us and deprive them of incentives to reduce their current levels of armaments? In an accident-prone age, the issue isn't simply parity; it's safety.

Nothing could be more tragic than if we allow SALT to represent a respite of the arms race. SALT should be understood as the beginning of the end of the arms race, not a footnote to the ending of civilized discourse, to the jeopardy of life itself.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding to me.

Mr. Chairman, I want to place in the RECORD at this point something that I contributed to the House back in December 1982, that is, a compilation of 67 Soviet violations up through December 1982. This is more than 3½ years ago.

I took this list to our National Security Adviser to the President, who was then Bill Clark. I asked him to sanitize it even though most of it was extracted from Senate and House records and the Washington Post and the New York Times and Los Angeles Times. I wanted to make sure that I was not releaking something that should not be there. All the information was culled from the public record. It took 3 days for the National Security Council and the Departments of Defense and State to sanitize it. Then I put it into the RECORD on December 16, 1982.

It was not commented upon much because I know some people think the arms control process is inviolate at all costs no matter how much the other side lies or cheats or obfuscates or encrypts. I just want to make this point and I will make it again later in the debate.

The point is that in the Senate, in 1979, prior to the Afghan genocide and slaughter, the Senate bragged that they had a breakthrough, a major breakthrough that they made the Soviets sign an agreement that it was a serious violation to encrypt missile test data. Then comes this new ICBM and they begin encrypting, coding, cheating on their technology as they tested it. Now that there is clear evidence of Soviet violation of this provision, the Senate, which had said that provision alone was worthy of dumping the treaty, the liberals in the Senate and this House are saying, "Oh, it is not that important."

You cannot have it both ways. Men and women, children are still having their hands and limbs blown off with weapons designed like toys in Afghanistan which we must recall is the main reason this treaty was never ratified.

Mr. Chairman, at this point I would like to resubmit my old list of 67 Soviet violations of all the treaties over our recent lifetime.

[From the Congressional Record, Dec. 16, 1982]

THE NUCLEAR FREEZE DEBATE

Mr. DORNAN of California. Mr. Speaker, I find myself in the closing days of the 97th Congress again in a very frustrating situation because of the last hour and so many of my distinguished colleagues on the House floor desiring to pay respect to some of my hard-working colleagues who are retiring from distinguished service here. I should take the full 60 minutes of this special order because of the critical nature of the subject, the value or feasibility of a nuclear freeze, and past Soviet arms control behavior.

Instead I will endeavor to go speedily through information that I would like to make available to the Members and include an open letter that I wrote to one of the more talented actors in the America firmament of film stars, not our great President, but that fine citizen of Connecticut and California, Mr. Paul Newman. In my letter to Paul I enclosed 67 instances of Soviet violations and deceptions of arms control treaties that are not generally known by even our brightest citizens. The nuclear freeze this summer and fall was based on so much misguided idealism, bad information augmented by deliberate disinformation by citizens not of the United States, that I cannot fault Mr. Newman and other concerned Americans who operate virtually in the blind. The freeze was defeated in Arizona and the vote was close only in California because of the efforts to get the truth out to

the American public by well-informed private citizens such as Mr. Martin Coleman from Pacific Palisades. So here are the facts, folks. No more claims of naivete will be accepted.

Mr. Speaker, the nuclear freeze issue and movie star Paul Newman's naive claims on Soviet treaty compliance prompted me to direct my staff to study Soviet arms control behavior. This research led to an open letter to Mr. Newman which includes a documented partial list of Soviet violations, deceptions, and other measures to circumvent arms control agreements, tonight, this information is being submitted to the RECORD.

U.S. Government policy has been to either deny or accept these constant Soviet efforts to evade arms control limitations. I am urging President Reagan to release any information of Soviet arms control "violations" that will not compromise our intelligence-gathering procedures. It is my belief that if the American people are given the facts, they can informatively evaluate the Soviet past as a guide to help determine the future course of U.S. foreign policy.

America should have realistic expectations about the value of arms control in meeting U.S. national security requirements. Arms Control has three main objectives for the United States: First, lower the chance of war; second, reduce the devastation of war; and third, reduce military budgets. Unfortunately, these objectives can conflict with each other. Giving away a needed system in an arms control agreement may reduce the military budget, but increase the chance of war due to unpreparedness. Agreeing to build a defensive system may lower the chance of war and devastation of war, but it can increase the military budget.

The United States has increased defense needs due to the documented massive Soviet military buildup. This can be countered by reducing Soviet offensive threats and/or by increasing U.S. defenses. Arms control attempts to reduce U.S. defense needs by reducing the Soviet threat. If the Soviets have no desire to reduce their military threat to the United States, a good arms control agreement will be difficult to negotiate and have limited utility. Arms control is only possible in areas where both sides are interested. Limiting the possiblities of accidental war is in both nation's interest and hence agreements in this area are attainable and useful.

The Reagan administration's attempts to achieve worthwhile arms control agreements show good faith and our willingness to reduce—not merely freeze—the defense needs of both sides. Unfortunately, if you look at past Soviet arms control behavior, the possibilities for many mutually beneficial agreements appear remote.

The Soviets have different objectives in arms control than the United States. Rather than use the process to allow for reductions on both sides, the Soviets see arms control as a way to obtain unilateral advantage. Talks are often used as a trap to delay or retard American counters to Soviet actions. Talks can be a stalling tactic. Promising an agreement can help the anitdefense groups in the United States.

The Soviets attempt to reduce those categories of arms where the United States has the advantage.

Agreements are signed with every intention of cheating where possible and using all carefully worded loopholes to the utmost advantage.

An agreement may be reached with the United States to stop our momentum in a certain area, luring us into a false sense of security, with every intention of breaking out of the agreement when it appears they can catch up or pass us in doing so. The Soviets did this when they broke the moratorium on testing nuclear weapons in the atmosphere in September 1961.

Another reason for arms control, in the Soviet view, is for information gathering. The Soviets never issued a data base in the SALT I process. A data base is simply a fair statement of what armaments they have. The Soviets learned what we thought they had be negotiating on the basis of U.S. figures.

The point is, it is difficult to get a worthwhile agreement under these circumstances. A good, verifiable, enforceable agreement is desirable. An agreement that lacks any one of these three key elements is not worth the paper it is written on. The naive belief that a nuclear freeze with the U.S.S.R. would make the world safer is not based on these realities but on wishful thinking. A nuclear freeze that is not based on equality lacks all three elements essential for a desirable agreement.

Let us briefly analyze the problem of verifying a freeze.

To put it simply, it is easier to hide than to find—deception, camouflage, mobility, a closed society, the small size of nuclear weapons, and the ability to store components of a nuclear weapon—which could be quickly assembled for a launch—makes adequate verification by national technical means extremely difficult.

An immediate freeze agreement, even if it was verifiable and enforceable, would not be a good idea because of the adverse military imbalance.

Soviet missile advantages are actually understated. So-called experts look only at deployed, SALT-counted launchers. The Soviets have thousands of additional nondeployed ICBM's that could attack the United States.

The point is, although deployed Soviet ICBM numbers appear to remain constant—only the deployed missiles are remaining constant. Nondeployed missiles can be fired and the Soviets are building 200 ICBM's every year. We are building none.

Comparing U.S. static numbers to U.S.S.R. static numbers is also misleading because Soviet ICBM's are generally larger and more capable—that is, more warheads—than U.S. ICBM's.

Although most people do not see the SS-20 ICBM as a threat to the United States, this missile has the capability to hit America, according to former Secretary of Defense Melvin Laird. There are 340 SS-20 launchers deployed with 3 warheads each and at least 1 reload per launcher.

The limited antiballistic missile defense capability around Moscow further increases the Soviet missile advantage. Soviet ABM (antiballistic missle) capable SAM's—surface to air missiles—also reduce U.S. missile penetration capability. Remember, the United States has no ABM's. None.

First strike advantage: Most if not all U.S. ICBM's can today be destroyed by only 25 percent of the deployed Soviet ICBM force. Hence if a war started, the Soviets would have a lot more power than appears on the surface—and the United States would have much less.

Mr. Speaker, Soviet submarine missile strength is also underestimated. The United States has 520 SLBM's (submarine launched ballistic missiles) in the active fleet. The U.S.S.R. is only allowed 950 SLBM's under SALT but actually has more because older SLBM's of the U.S.S.R. are not counted.

The U.S.S.R. also has 50 nuclear-powered and 20 diesel-powered subs that carry cruise missiles. That's right, Mr. Speaker, cruise missiles. Most of these are nuclear capable and could be used against the territory of the United States, but are not considered strategic and are ignored in SALT agreements.

The majority of Soviet SLBM's (SS-N-8 and SS-N-18's) have ranges that allow the subs to launch from protected waters so that it is nearly impossible for U.S. ASW (antisubmarine warfare) to neutralize or destroy them.

The Soviets have over 80 ballistic missile carrying subs and over 150 subs that carry some kind of ballistic missile or cruise missile. The United States has less than 100 nuclear- and diesel-powered attack submarines to hunt down those Soviet subs.

The United States has only 32 ballistic missile carrying subs and no, repeat no, cruise missile subs capable of attacking the Soviet Union. Only 19 of our ballistic missile subs may be out of port at any one time—to be hunted down by over 190 Soviet attack submarines.

Contrary to popular beliefs, the Soviets also have a bomber advantage.

U.S.S.R.: 150 long-range Bear and Bison strategic bombers; 180-plus long-range Backfire strategic bombers (the Soviet B-1); 80-plus other Bear and Bison long-range aircraft; and 740-plus Badger and Blinder medium-range bombers.

United States: 213 B-52's armed for nuclear strategic missions (only some 60 are actually on ground alert with a chance to survive a first strike) and 6 FB-111 medium-range fighter-bombers, actually designed as an all-purpose tactical air command fighter.

What could have been:

B-1 PROCUREMENT PROGRAM, AIR FORCE ESTIMATE

	Buy	Deliveries
Fiscal year:		
1977	3	
1978	5	
1979	13	1
1980	27	4
1981	42	15
1982	48	40
1983	48	48
1984	48	48
1985	6	48
1986		36
Total	240	240

The Soviet bomber advantage is even greater than these numbers because of the asymmetry in air defense. We cannot stop most of their bombers although our Air National Guard and Air Reserve pilots are top notch, as good as active duty pilots. There are simply not enough fighter jocks to go "up and at 'em."

In the 3 years following ratification of the ABM Treaty in 1972, the United States phased out the bulk of its continental air defenses. The Department of Defense stated that with only limited ABM deployment allowed, the utility of air defense in a major attack on the United States is restricted. Our SAM defenses were deactivated years ago and only a token force of 6 USAF squadrons, 108 obsolescent F-106 interceptors, plus some 200 Air National Guard and Canadian aircraft, as Secretary of Defense Donald Rumsfeld said, to "insure the sovereignty of our air space in peacetime." The last SAM site dedicated to the defense of

the continental United States was withdrawn from Florida in 1979, just when Cuba was increasing its capability to threaten the southern United States with its new Mig-27 fighter bombers.

The point is hundreds of Soviet bombers are a serious threat to the United States and our allies. The bombers would be essentially unopposed in the United States. It has been estimated that, God forbid it, if war were to strike, almost one-half of the radioactive contamination of the United States would result because the United States has abandoned its air defenses and most Soviet bombers could penetrate unopposed to their targets. Restoration of even a rudimentary air defense would eliminate most of this potential contamination.

In contrast, there are some 10,000-plus SAM launchers and 2,500 interceptor aircraft deployed in the U.S.S.R. These air defenses are continually being modernized.

The effectiveness of the U.S. bomber force depends upon how it is designed to penetrate these Soviet defenses. Because the B-52 has a declining expectancy of penetrating the Soviet air defenses, the B-1 Peacemaker II was specifically designed for this penetration mission. A problem, of course, is that since President Carter killed the B-1, we will not have a new bomber, the B-1B until 1986. While the B-52 must carry us through this decade of vulnerability, the young crews have told me personally that it would be suicide to go into combat in a B-52, virtual U.S. kamikaze missions. Now a brief look at the asymmetry in civil defense.

The importance the Soviets attach to this program is indicated not only by the amount of resources devoted to it, but by the appointment of a Deputy Minister of Defense to head the program. And that was some 10 years ago.

The scope of the civil defense program is such that a very high Soviet official said:

"In our country, there is not one economic branch or area of social endeavor that is not in one way or another associated with civil defense."

The source for this quote is the "Civil Defense Review" hearings by the civil defense panel of the Subcommittee on Investigations of the Committee on Armed Services (U.S. House of Representatives, 1976, p. 191).

The Soviets protect 10 to 15 percent of their people in cities of over 25,000 population with blast shelters. The Soviets plan to evacuate and disperse their unprotected population that is in potential target areas. The evacuees will live in their assigned resettlement area where they will be fed and either provided with a fallout shelter or put to work building an expedient one. Contrary to Soviet propaganda which claims a war is not survivable, translated Soviet civil defense manuals say that this evacuation and dispersal of people can reduce deaths in a nuclear war to 3 to 4 percent of the population.

The Soviets also plan to take strong measures to better protect their industry. Boeing Aircraft Co. ran tests of these measures from translated Soviet civil defense manuals. Boeing found that packing critical machinery in sandbags would be fully adequate for Soviet factories since it would protect against fire, debris, and anything but a direct nuclear explosion—up to 80 psi in that awful nuclear effects lingo.

As far as the recovery asymmetry, it was calculated that the Soviets could recover from a nuclear war, war initiated by the Soviets after taking these civil defense measures, in 2 to 4 years—it would take the United States 3 to 6 times longer to recover.

The casualty asymmetry is also frightening. The United States would lose 10 to 30 times as many people in such a Soviet initiated war as the U.S.S.R. The exact difference is unknown but there is no doubt though that the Soviets would have millions less die than the United States because they have a civil defense program and we do not, even though they start with a current population of 267½ million citizens to our current 232½ million—35 million more citizens than the United States.

The main point of all this comparison between the United States and U.S.S.R. is too show that the United States which had parity with the U.S.S.R. if not superiority when the SALT process began—has fallen behind. The SALT I "freeze" did not prevent the Soviet buildup. The SALT II call for equal levels of "strategic nulcear delivery vehicles" or launchers did not and could not stop or even slow the Soviet buildup across the whole range of conventional and nuclear weapons.

Mr. Speaker, the arms control approach of the past that compared forces on the basis of launchers is fatally flawed as candidate Reagan said in the 1980 Presidential race. The number of launchers on both sides is meaningless. Counting 318 heavy Soviet ICBM launchers such as the SS-18 as equal to 318 U.S. Minuteman launchers is like having a naval agreement and allowing the Soviets 318 aircraft carriers and allowing the United States 318 coastal PT boats.

This whole arms control approach fails to recognize the dynamics of the offense versus the defense, ignores the fact that the Soviets do not keep these agreements very well, and has limited the ability of the United States to defend itself in the ABM Treaty.

Yes, the United States should do everything possible to attempt to reduce or take away the Soviet military threat—through negotiations—but the threat is real and growing every day. We must act to reduce the threat by maintaining an adequate defense, as we talk, talk, talk, honestly and vigorously in attempts to reduce the threat.

Mr. Speaker, history is our only guide to the future and those who ignore history are condemned to relive it, especially painful and bloody history. The record shows arms control as practiced by the United States over the last 10 years failed to check the ongoing awesome Soviet military buildup. The well-intentioned freeze advocates remind me of Neville Chamberlain's naive offer of the Sudetenland to Hitler in 1938. "Peace for our time" was proclaimed, followed shortly by World War II. "Peace through strength" can be the only way to insure survival of the free world as we move through the unchartered and incredibly dangerous times ahead.

I recommend to my colleagues that they read my letter to Mr. Newman including the partial list of Soviet violations included in my remarks at this point.

OPEN LETTER TO PAUL NEWMAN

Dear Paul, while most people realize that the Soviet Union cannot be trusted to keep arms control agreements, it is understandable why you feel the Soviets abide by treaties. If one were to look only at official U.S. statements on Soviet violations, it may appear that the U.S.S.R. has a good track record in complying with arms control agreements. There are three main reasons why this false impression has persisted and why people of good will such as yourself have been taken for a ride.

First, in order to obtain Soviet agreement on a Standing Consultative Commission (SCC) for airing alleged SALT violations, the U.S. had to agree that the proceedings would be "confidential." Hence, open official U.S. disclosure of Soviet SALT violations is rare.

Second, U.S. intelligence agencies often feel that it is best not to "go public" with successfully determined information of Soviet military activities. Announcing our knowledge of those activities may lead to changes in Soviet camouflage, concealment, and deception (CCD) procedures which could reduce our ability to ferret out such activities in the future.

Third, if an administration supports an arms control agreement, an announcement of Soviet violations would be an admission of a failure in its arms control policy, and hence call into question the success of its overall foreign policy. This leads administrations, Republican or Democratic, toward a policy of ignoring or, much worse, explaining away Soviet violations. For example, according to the U.S. Arms Control and Disarmament Agency (ACDA), the Soviets proposed and the U.S. accepted a "Mistakes Understanding" concerning any violations of the Threshold Test Ban Treaty. The understanding was that "one or two slight, unintended breaches per year" are not to be considered violations.

For these three reasons, there are few official and public U.S. Government documentations of Soviet arms control violations. One does not need to look very hard though, to find numerous reports of Soviet violations, deceptions, and calculated measures to circumvent arms control limitations. Soviet activities have been uncovered by many officials, both in and out of our government. So that debate on the value of arms control can be based on reality and not on naive misperceptions, I am enclosing a partial list of Soviet "violations" that have been reported publicly. In addition, there are many violations that are known only by intelligence officials. And obviously, there are additional violations that are unknown even to Allied intelligence officials, i.e. cases where the Soviets have cheated so cleverly that they have not been caught. After all, our intelligence forces are not perfect.

The following list gives a short description of Soviet Violations, Deceptions, and calculated measures to Circumvent arms control limitations (VDC's) and lists sources that report or discuss the specific Soviet action and/or capability. For more information on a particular Soviet VDC, see the relevant arms control agreement and the sources.

The list is organized as follows: Soviet VDC's are presented; then VDC's of other arms control agreements are outlined.

Note that each VDC is numbered for reference purposes only. The numbers represent different types of VDC's, not the total quantity of all VDC's. For example, violation number one mentions the illegal deployment of 18 SS-9 ICBM's. Each SS-9 was a separate violation, for a total of 18 violations.

SALT

Violation: (1) SS-9: illegal deployment of 18 SS-9 heavy ICMBs at Tyuratam test range during SALT I. This violated the SALT I limitation on ICBM launchers.

Source: David S. Sullivan, Soviet SALT Deception, Coalition of Peace Through Strength, 1979, p. 7; Senator Jake Garn, "The Suppression of Information Concerning Soviet SALT Violations by the U.S. Gov-

ernment," Policy Review, No. 9, Summer 1979, p. 23; Senator Gordon J. Humphrey, "Analysis and Compliance Enforcement in SALT Verification," International Security Review, v. 5, Spring 1980, p. 4; "Soviet Violations of Arms Control Agreements," National Security Record, No. 45, May 1982, The Heritage Foundation, p. 2; Senator Steven Symms, Congressional Record, May 27, 1982, p. S 6357.

Violation: (2) SS-11: deployment of this missile at a SS-4 Medium Range Ballistic Missile (MRBM) site is an instance of attempted deception and is a violation of the SALT I Treaty.

Source: Humphrey, p. 6; "Soviet Violations of Arms Agreements," p. 2; Sullivan, p. 7.

Violation: (3) SS-16: deployment of 40-220 of these mobile ICBMs violates SALT II Provisions banning mobile ICBMs and violates SALT II limits on Strategic Nuclear Delivery Vehicles (SNDV's).

Source: Humphrey, pp. 5, 7, 12; Sullivan, Soviet SALT Deception, p. 4; David Sullivan "A SALT Debate: Continued Soviet Deception," Strategic Review, v. 7, Fall 1979, p. 32, David Sullivan, "Lessons Learned From SALT I and II: New Objectives for SALT III," International Security Review, Vol. VI, No. III, Fall 1981, pp. 362, 368; "Soviet Violations of Arms Agreements," p. 2; Garn, p. 31; Michael Getler, "Government Experts Challenge Reports of Soviet SALT Violations," Washington Post, April 9, 1982; Secretary of State Cyrus Vance, "SALT ONE: Compliance," The Department of State Selected Documents, No. 7, February 1978, p. 10; "Soviets Violate SALT II," Human Events, April 17, 1982, p. 3.

Violation: (4) SS-17: this ICBM was one of the heavy missile replacements for the light SS-11 ICBM. The SS-17 carries four times the warheads of a SS-11 and three to four times the throw weight. These replacements violate SALT I provisions prohibiting replacement of light ICBM launchers with heavies.

Source: "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 365; Lawrence K. Orr, "Soviet Violations of SALT I," Issues in Brief, November 16, 1979, pp. 2, 3, 4; Michael B. Donley, ed., The SALT Handbook, The Heritage Foundation, 1979 p. 62; M. Stanton Evans, "How We Ignore Moscow's Treaty Violations," Human Events, June 19, 1982, p. 7; Garn, pp. 14-20; Soviet SALT Deception, p. 3; Humphrey, p. 7.

Violation: (5) SS-18: encoding of telemetry for this missile violates the agreements in both SALT I and SALT II to refrain from interfering with national technical means of verification.

Source: Soviet SALT Deception, p. 7; "Soviet Violations of Arms Agreements," p. 2.

Violation: (6) SS-18: Rapid reload and refire exercises for the SS-18 have been reported; these exercises violate SALT II provisions prohibiting rapid reloads for ICBM's.

Source: Symms, p. S 6357; Clarence A. Robinson, Jr., "Soviet SALT Violations Feared," Aviation Week, September 22, 1980.

Violation: (7) SS-19: this ICBM was one of the heavy replacements for the light SS-11 ICBM. The SS-19 carries six times the warheads and three to five times the throw weight of a SS-11. Deployment of the SS-19 violates SALT I provisions prohibiting replacement of light ICBM launchers with heavies.

Source: Donley, p. 62; Orr, pp. 2-4; "Lessons Learned From SALT I and II: New Objectives for SALT III." p. 361; Evans; "Soviet Violations of Arms Agreements," p. 2; Vance, p. 5; Robert J. Einhorn, "Treaty Compliance," Foreign Policy, Winter 1981-82, p. 30; Geoffrey Levitt, "Problems in the Verification and Enforcement of SALT Agreements in Light of the Record of Soviet Compliance With SALT I," Harvard International Law Journal, Vol. 22, No. 2, Spring 1981, pp. 385-386; Garn, pp. 14-20; Soviet SALT Deception, pp. 1-3, 5; Humphrey, pp. 3, 4, 7, 8, 14.

Violation: (8) reintroduction of ICBM equipment to deactivated complexes: these measures violate dismantling or destruction requirements of the SALT Treaties.

Source: Humphrey, p. 13; Air Force magazine, January 1979, p. 18; "Soviet Violations of Arms Agreements," p. 2.

Violation: (9) SS-NX-19: this sea launched cruise missile (SLCM) has had its telemetry encoded during tests which violates the agreements in both SALT I and SALT II forbiding interference with the national technical means of verification of the other party.

Source: Symms, p. S 6357; David S. Sullivan, The Bitter Fruit of SALT: A Record of Soviet Duplicity, Texas Policy Institute, (reprinted in the Congressional Record; May 13, 1982, p. S 5178.)

Violation: (10) SS-NX-20: encoding of telemetry for this sea launched ballistic missile (SLBM) violates both the SALT I and SALT II accords on non-interference with national technical means of verification.

Source: "Soviet Violations Feared;" Daniel Southerland, "Are Soviets Violating SALT II Guidelines?" Christian Science Monitor, May 12, 1982, p. 1; Symms, p. S 6357.

Violation: (11) excess old ICBM launchers were not dismantled as required with additional deployments of new SLBM launchers. In 1976 the Soviets admitted they were over the SALT I freeze limit and acted to rectify the situation after much delay. This violation consisted of going over the SALT I freeze limit by 41 launchers.

Source: Orr, pp. 2, 6; "Soviet Violations of Arms Agreements," p. 2; Humphrey, pp. 4-13; Soviet SALT Deception, p. 7; Garn, p. 21; Levitt, p. 390; Vance, p. 7.

Violation: (12) III X launch control silos: the Soviets built 150-200 of these silos in violation of the SALT I freeze on ICBM launchers.

Source: Vance, pp. 4-5; Levitt, p. 386; Clarence A. Robinson, "Soviet Violations Detected," Aviation Week, October 21, 1974; Colin Gray, "SALT I Aftermath: Have the Soviets Been Cheating?" Air Force magazine, November 1975; Garn, p. 22; Humphrey, p. 8; "Soviet Violations of Arms Agreements," p. 2; Orr, pp. 2-3.

Violation: (13) over SALT I limits on nuclear ballistic missile submarines (SSBNs): the Soviet violated the SALT I limit of 62 SSBNs. Some sources say the Soviets have more than 68 strategic submarines.

Source: Orr, pp. 2, 6; "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 7; Soviet SALT Deception, p. 4.

Violation: (14) SS-N-12: deployment of this sea launched cruise missile (SLCM) violates the protocol to the SALT II Treaty which prohibits deployment of SLCMs with ranges over 600 kilometers.

Source: The Military Balance 1982-1983, The International Institute for Strategic Studies, London, 1982, lists two range figures for this SLCM: 550 kilometers and 1,000 kilometers; perhaps there are two versions of this SLCM.

Violation: (15) SS-N-3: deployment of this SLCM violates the protocol to the SALT II Treaty which prohibits deployment of SLCMs with ranges in excess of 600 kilometers.

Source: The range of this SLCM is 840 kilometers according to Donley, p. 132.

Violation: (16) development of a tactical ABM has violated the ABM Treaty.

Source: Humphrey, p. 2.

Violation: (17) ABM radars on Kamchatka: this 1975 deployment violated the ABM Treaty of 1972. The Soviet Union merely informed the U.S. that Kamchatka had always been an ABM test site, and deployment of ABM radars at ABM tests sites was allowed. The problem here was that the Soviet Union did not tell the U.S. that Kamchatka was an ABM site when the ABM Treaty was signed.

Source: Garn, p. 25; Vance, p. 6; Orr, p. 10; Levitt, p. 383; Humphrey, p. 3; "Soviet Violations of Arms Agreements," p. 2; Soviet SALT Deception, p. 5; William R. Van Cleave, "SALT on the Eagle's Tail," Strategic Review, Spring 1976, p. 50.

Violation: (18) blinding U.S. satellites with ground based lasers: this violates the SALT provisions that prohibit interference with national technical means of verification.

Source: Levitt, p. 388; Vance, pp. 9-10; Orr, pp. 5, 12; Philip J. Klass, "Anti-Satellite Laser Use Suspected," Aviation Week, December 8, 1975, p. 12.

Violation: (19) SA-2: tests of this surface to air missile (SAM) in an ABM mode has violated the ABM Treaty.

Source: Garn, p. 26; Melvin Laird, "Arms Control: The Russians are Cheating," Reader's Digest, December 1977. (Laird was Nixon's first Secretary of Defense.)

Violation: (20) failure to dismantle excess ABM test range launchers as required by the SCC violated the ABM Treaty.

Source: Soviet SALT deception, p. 7; Humphrey, p. 2; Levitt, pp. 389-390; Vance, p. 6.

Violation: (21) testing a movable ABM: these tests violate the ABM Treaty.

Source: Garn, p. 25; Vance, p. 10; Orr, p. 9; Laird, p. 4; "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 2; Van Cleave, p. 50.

Violation: (22) deployment of ABM battle management radars: introduction of these radars violates the ABM Treaty.

Source: Orr, p. 9; "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 2.

Violation: (23) SA-5: tests of this SAM in an ABM mode has violated the ABM Treaty.

Source: Humphrey, p. 2; Soviet SALT Violations Feared;" Soviet Violations of Arms Agreements," p. 2; Levitt, p. 381; Orr, pp. 8-9; John D. Lofton, "Top Military Man at SALT Calls it Quits," Battle Line, July 1979; Robert Hotz, "The Case Against Kissinger," Aviation Week, December 8, 1975; Vance, p. 10; Einhorn, p. 30; Garn, p. 26; Laird.

Violation: (24) SA-10: tests of this SAM in an ABM mode has violated the ABM Treaty.

Source: Humphrey, p. 2.

Violation: (25) Backfire: this bomber (which is not counted as a heavy bomber in the SALT II Treaty) has carried the AS-6 strategic (range over 600 kilometers) air launched cruise missile (ALCM); this violates the SALT II provision that prohibits non-heavy bombers from carrying strategic ALCMs.

Source: "Soviet Violations of Arms Agreements," p. 3; "Soviet SALT Violations Feared," Getler; Donley, p. 123.

Deception: (26) SS-11: deployment of this missile at a SS-4 MRBM site is an instance of attempted deception.

Source: Humphrey, p. 6; "Soviet Violations of Arms Agreements," p. 2; Soviet SALT Deception, p. 7.

Deception: (27) SS-16: this mobile ICBM was tested at night (in 1976) for deception purposes. Tests of the SS-16 have occurred above the arctic circle (not a common practice) to conceal information from U.S. monitors.

Source: Soviet SALT Deception, p. 4; Garn, p. 31; Getler; "A SALT Debate: Continued Soviet Deception," p. 32; Southerland, pp. 1, 14; "Soviets Violate SALT II," p. 3; "How Russia Hides Its Missiles," Foreign Report, published by the Economist newspaper limited, London, March 5, 1981, p. 3; "Lessons Learned From SALT I and II: New Objectives for SALT III," pp. 362, 368; Orr, p. 12.

Deception: (28) encoded telemetry: many Soviet missile tests have used this illegal (according to SALT) deception to make it difficult to determine the size number, and type of warheads.

Source: for reports of encoding (or encryption) of telemetry for the SS-18, SS-NX-19 and SS-NX-20 see Soviet SALT Deception, p. 7; "Soviet Violations of Arms Agreements," p. 2; Symms, p. S 6357; The Bitter Fruit of SALT: A Record of Soviet Duplicity, (in the Congressional Record, May 13, 1982, p. S 5178); Southerland, p. 1; "Soviet Violations Feared."

Deception: (29) the Soviet Union falsified the number of SSBNs and SLBMs deployed and under construction at the time of the SALT I freeze.

Source: Humphrey, p. 4; Soviet SALT Deception, p. 3; "A SALT Debate: Continued Soviet Deception," pp. 31-32; "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 362.

Deception: (30) AS-3 and AS-6: Under SALT II, bombers that carry strategic ALCMs must be counted under Multiple Independently targeted Reentry Vehicles (MIRV) limits. The Soviets deceptively made the claim that none of their ALCMs had strategic range, so none of their bombers are counted as MIRVed. This claim is false since the AS-3 and AS-6 ALCMs are both strategic.

Source: Donley, p. 126; Soviet Military Power, the Department of Defense, p. 61; "Soviet Violations of Arms Agreements," p. 3.

Deception: (31) Bear: 105 of these heavy bombers are configured to carry the AS-3 strategic ALMC. The Soviets deceptively claimed no MIRVed heavy bombers in the SALT II data exchange.

Source: Sullivan, in the Congressional Record, May 13, 1982, p. S5179; Symms, p. S6357.

Deception: (32) concealment of missiles as they leave production plants: this deception circumvents SALT I and SALT II provisions that prohibit certain deliberate concealment measures.

Source: "Soviet Violations of Arms Control Agreements," p. 2; Humphrey, p. 5; "How Russia Hides its Missiles," p. 3.

Deception: other measures to interfere with national technical means of verification include:

Deception: (33) dummy roads, facilities, equipment, and lauch sites.

Source: Orr, p. 10; Jack Anderson, "Soviet Subterfuge a SALT Concern," Washington Post, May 23, 1979; "How Russia Hides Its Missiles," p. 2.

Deception: (34) restriction of electronic emissions for air defense radars to prevent interception of data.

Source: Anderson; Orr, p. 10.

Deception: (35) covered submarines with tarps to conceal the SLBM launcher count.

Source: Orr, p. 10; Evans; "How Russia Hides Its Missiles," pp. 2-3; Levitt, p. 389; Humphrey, p. 5; Soviet SALT Deception, p. 4; "Soviet Violations of Arms Agreements," p. 2.

Deception: (36) tunnels to conceal over 20 submarines.

Source: "Soviet Violations of Arms Agreements," p. 2; Soviet SALT Deception, p. 4; Humphrey, p. 5; "How Russia Hides Its Missiles," p. 2.

Deception: (37) camouflaged factories producing missile and submarine components.

Sources: Orr, p. 10; Garn, p. 30; "How Russia Hides Its Missiles," p. 3; Levitt, p. 388; Clarence A. Robinson, Jr., "Soviets Hiding Submarine Work," Aviation Week, November 11, 1974; Humphrey, p. 5; Soviet SALT Deception, p. 4; "Soviet Violations of Arms Agreements," p. 2.

Deception: (38) camouflaged missile launching sites.

Source: Levitt, p. 388; Vance, pp. 7-8; "How Russia Hides Its Missiles," p. 2; Garn, p. 30; Orr, p. 10.

Deception: (39) construction of dummy submarines.

Source: Garn, p. 30; Evans; "How Russia Hides Its Missiles," p. 2; Humphrey, p. 5; Soviet SALT Deception, p. 4; "Soviet Violations of Arms Agreements," p. 2.

Deception: (40) in addition to sending encoded telemetry back from their missiles, (see number 28) the Soviets may have sent deceptive uncoded telemetry.

Source: Edward J. Epstein, "Soviet Missiles Can Fool Monitors," Wall Street Journal, October 18, 1982.

Deception: (41) refusal to give data in SALT I: this deceptive uncooperative behavior allowed the Soviets to later argue that some alleged violations were based on "faulty" U.S. data. (e.g. see number 17).

Source: according to national security advisor Henry Kissinger's White House press briefing on SALT I, June 15, 1972, "the Soviet Union has been extremely reluctant to specify precise numbers . . ." see SALT I Reconsidered, Institute of American Relations, 1979, p. 77 for these remarks.

Deception: (42) SSBN geographical asymmetry farce: the Soviet Union demanded and was granted the right to build more SSBNs than the U.S. during the SALT I freeze on total ICBM and SLBM launchers. This demand was accepted on the basis of a deceptive claim. The U.S. based some SSBNs overseas. The Soviets claim they should be given more submarines since U.S. submarines could hit Soviet targets while near their bases and Soviet submarines could not hit U.S. territory while near their bases. Soon after the SALT Treaty, the Soviets began testing a new long range SLBM which allows them to hit the U.S. while near home bases. Since the U.S. subsequently withdrew its submarines from overseas bases, the geographical asymmetry is actually the other way.

Source: Soviet SALT Deception, pp. 3-4; "Lessons From SALT I and SALT II: New Objectives for SALT III," p. 362; "A SALT Debate: Continued Soviet Deception," p. 32; Donley, p. 83; the U.S. no longer has overseas home basing of SSBNs according to Senior Chief Riccio, Office of Naval research.

Deception: (43) Backfire: the Soviet Union has been deceptive in describing this bomber as medium range, in its claims that the Backfire does not have and will not be given the capability to strike targets in the U.S., and in the production rate. There is no doubt that the Backfire bomber (which can be refueled inflight) can attack targets in the U.S.

Source: Soviet SALT Deception, p. 7; Humphrey, p. 6; SALT II Reference Guide, The White House, Spring 1979; "Lessons Learned From SALT I and II: New Objectives for SALT III," pp. 364, 368; "A SALT Debate: Continued Soviet Deception," p. 37.

Deception: (44) camouflage, concealment, and deception of ABM deactivization: these measures violate the SALT provisions that prohibit interference with national technical means of verification.

Source: Soviet SALT Deception, p. 7; Humphrey, p. 2; "Soviet Violations of Arms Agreements," p. 2.

Circumvention: (45) SS-7: large numbers of old SS-7 heavy missiles at an unidentified installation circumvents the SALT I provisions requiring destruction or dismantling of old systems as they are replaced.

Source: Soviet SALT Deception, p. 7; Air Force magazine, September 1979, p. 24; Humphrey, p. 6.

Circumvention: (46) SS-16: tests of this mobile ICBM circumvented Brezhnev's pledge to Nixon that the Soviet Union would not deploy a mobile ICBM.

Source: Soviet SALT Deception, p. 4; Garn, p. 31; "How Russia Hides Its Missiles," p. 2; "A SALT Debate: Continued Soviet Deception," p. 32; "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 362; Getler; Orr, p. 12; Garn, p. 31; Humphrey, p. 5.

Circumvention: (47) SS-18: simulated tests of this missile with more than ten warheads circumvents the SALT II limit of ten warheads on an ICBM.

Source: William E. Jackson, Jr., quoted by Southerland, p. 14.

Circumvention: (48) SS-20: the Soviets have circumvented the SALT agreements with this missile which is called an intermediate range ballistic missile (IRBM) but which has ICBM range. The range of this missile (over 5,500 kilometers) should qualify it as an ICBM under SALT definitions. Encryption of the telemetry data in tests of this missile also circumvents the SALT agreements.

Source: "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 5; Symms, p. S 6357; Levitt, p. 387; Vance, p. 10; Orr, p. 5; Laird.

Circumvention: (49) extra missiles have been stored: when the Soviet Union has replaced old missiles, it has kept them as a strategic reserve. This circumvents the stipulations of the SALT agreements which call for dismantling or destruction of ICBM launchers when replaced by new SLBM launchers.

Source: "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 368; "Whither Arms Control?-II," Wall Street Journal, May 20, 1982, p. 26; Soviet SALT Deception, p. 7; Humphrey, p. 5; "Soviet Violations of Arms Agreements," p. 2; see also the Harold Brown Department of Defense Reports which mention these extra missiles.

Circumvention: (50) Hotel SSBN: these submarines circumvented the SALT I Treaty; although equipped with SLBMs, these submarines were not counted under SALT limits.

Source: for a description of these submarines see Donley, pp. 93-101; the Military Balance 1982-83; or Jane's Fighting Ships.

Circumvention: (51) Golf Ballistic Missile Submarine (SSB): these submarines also circumvented the SALT I limits; although these submarines carried SLBMs, they were not counted toward the Soviet limit of 62 ballistic missile submarines.

Source: for a description of these submarines see Donley, pp. 93-101; the Military Balance 1982-83, or Jane's Fighting Ships.

Circumvention: (52) Cruise Missile Submarines (SSGN and SSG): the Soviets have 50 nuclear powered and 20 diesel powered cruise missile submarines that have circumvented the SALT limits. Most of these cruise missiles are nuclear capable.

Source: Soviet Military Power, p. 40; Donley, p. 132; "Soviet Violations of Arms Agreements," p. 3; "Lessons Learned From SALT II: New Objectives for SALT III," p. 368.

Circumvention: (53) development of two new ICBMs: SALT II only allows the deployment of one new ICBM. These developments then circumvent the SALT Treaty. Deployment of course would violate the treaty.

Source: William E. Jackson, Jr., p. 14.

Circumvention: (54) concealment of missiles as they leave production plants: this deception circumvents SALT I and SALT II provisions that prohibit certain deliberate concealment measures.

Source: "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 5; "How Russia Hides Its Missiles" p. 3.

Circumvention: (55) Anti-Satellite weapons (ASATs): these ASATs circumvent the SALT provisions that prohibit interference with national technical means of verification.

Source: Vance p. 10; Levitt, p. 388; Clarence A. Robinson, Jr., "Soviets Push for Beam Weapon," Aviation Week, May 2, 1977.

Circumvention: (56) Bear: Navy versions of this strategic heavy bomber circumvent SALT II limitations. While these aircraft are not counted, hundreds of junked B-52s are counted.

Source: Donley, p. 109; Soviet Military Power, p. 47; *Soviet SALT Deception*, p. 10.

Circumvention: (57) testing illegal ABM radars (high powered) and developing illegal exotic technologies (e.g. beams and lasers) circumvents the ABM Treaty which prohibits the deployment of these measures.

Source: Orr, p. 8; Evans; Garn, p. 24; Henry S. Bradsher, "Soviet ABM Setup Has Pentagon Concerned," Washington Star, February 16, 1977; Levitt, p. 384; Clarence A Robinson, Jr., "Further violations of SALT Seen," Aviation Week, February 3, 1975; Clarence A. Robinson, Jr., "Soviets Push for Beam Weapons," Humphrey, p. 2; Van Cleave, p. 50

OUTER SPACE TREATY

Circumvention: (58) Fractional Orbital Bombardment System (FOBs): this is SS-9 heavy ICBMs at the Tyuratam test range were designed to become a FOBs upon launch. This capability circumvented the Outer Space Treaty provisions prohibiting weapons of mass destruction in space.

Source: Soviet SALT Deception, p. 7; Humphrey, p. 6.

ATMOSPHERIC TEST BAN MORATORIUM OF 1958

Violation: (59) over 30 Soviet tests were conducted in the atmosphere in less than two months (beginning September 1, 1961.)

Source: Kathleen Teltsch, "U.N., 87-11, Appeals to Soviet on Test," *New York Times*, October 28, 1961.

1962 CUBAN MISSILE CRISIS AGREEMENT

Violation: (60) a few of the violations of the agreement which prohibits the stationing of offensive arms in Cuba are: ballistic missile submarines visiting Cienfuegos harbor; nuclear capable MIGs being given to Cuba; and a Soviet combat brigade stationed in Cuba.

Source: There are numerous reports of these Soviet and Cuban activities; a few of these sources are: "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 7; *Soviet SALT Deception*, p. 8; *Air Force* magazine, September 1979, p. 22.

THRESHOLD TEST BAN TREATY

Violation: (61) the Soviets have made many tests in violation of the 150 kiloton limit.

Source: Einhorn, p. 31; "Soviet Violations of Arms Agreements," p. 1; "Soviet SALT Violations Feared;" Humphrey, p. 7; Rowland Evans and Robert Novak, "Violations of the Test Ban?" *Washington Post*, September 1979; *Soviet SALT Deception*, p. 8.

1973 AGREEMENT BETWEEN THE U.S.A. AND THE U.S.S.R. ON THE PREVENTION OF NUCLEAR WAR

Violation: (62) the Soviet Union failed to consult with the U.S. concerning the Arab-Israeli 1973 War and threatened to use force against a U.S. ally (i.e. Israel); these actions were violations of this Agreement.

Source: "Soviet Violations of Arms Agreements," p. 2.

MUTUALLY BALANCED FORCE REDUCTION TALKS (MBFR)

Deception: (63) Soviet deception and fabrication of Warsaw Pact force levels at these negotiations is the norm.

Sources: Soviet SALT Deception, p. 7.

BREZHNEV'S SS-20 PLEDGE

Violation: (64) Brezhnev's March 1982 pledge to freeze Soviet deployments of SS-20s was nothing more than a propaganda ploy since the Soviet Union has deployed since the Soviet Union has deployed 40-50 SS-20 since that time and continues to introduce new SS-20 launchers at a rate of one every five days.

Source: Secretary of Defense Weinberger announced this in an October 1982 issue of Il Tempo, an Italian newspaper; see also the Washington Post, October 16, 1982 for this report.

GENEVA PROTOCOL

Violation: (65) Soviet use of lethal nerve gas on populations in Afghanistan violates this Treaty.

Sources: "Soviet Violations of Arms Agreements," p. 3; Chemical Warfare in Southeast Asia and Afghanistan, U.S. Department of State; Gloria Duffy, "Chemical Warfare: The Cloud of Doubt," Christian Science Monitor, January 26, 1982, p. 23.

BIOLOGICAL WEAPONS CONVENTION (BWC)

Violation: (66) a 1979 anthrax epidemic (fatal to thousands) in Sverdlovsk, USSR, gives evidence that this Convention has been violated. An accidental explosion at a military installation that had been a suspected biological weapons production plant caused the epidemic. The Soviets deny this, but refuse to have discussions with the U.S. concerning this violation.

Sources; Einhorn, p. 32.

BIOLOGICAL WEAPONS CONVENTION (BWC)

Violation: (67) the U.S. has put before the U.N. evidence collected in Southeast Asia that lethal chemical and biological warfare toxins have been used by Soviet supplied Vietnamese troops on people in Laos and Cambodia. Use of these toxins called "yellow rain" and "white rain" violate the BWC.

Sources: "Soviet Violations of Arms Agreements," p. 3; Chemical Warfare in Southeast Asia and Afghanistan, Einhorn, p. 32.

Mr. LAGOMARSINO. Mr. Chairman, I rise today in opposition to House Concurrent Resolution 350 because it is based on faulty assumptions and does not serve our Nation's best interests.

It is important to remember that the SALT II Treaty was never ratified and would have now expired.

It is clear beyond a doubt that the Soviets have violated SALT II and other arms control agreements and are continuing to do so. Examining SALT II alone, there are at least four clear major violations. The Soviets are: producing the SS-25 ICBM; exceeding the strategic nuclear delivery vehicle limit; encrypting telemetry; and concealing the association between a missile and its launcher. Any one of these violations could be grounds for cancellation of the agreement. In 1979, President Carter stated that a violation of any important part of the agreement, as each of these noted violations are, " * * * would be a basis on which to reject the treaty in its entirety."

House Concurrent Resolution 350 cannot meaningfully restrain Soviet forces nor can it bring the Soviets back into compliance with its past commitments. It can hurt our own and our allies' national security and future arms control agreements. First, it keeps us from continuing the strategic modernization we need to maintain a credible defense against the growing, unchecked Soviet threat. Second, this legislation can send exactly the wrong signal to the Soviet leadership. If we are unwilling to maintain deterrence or take appropriate actions in response to Soviet noncompliance, our credibility at the arms negotiation table will be endangered and our ability to secure fair, equal agreements will be lessened.

Since entering office, President Reagan's message has been one of restraint and reductions. He has continuously proposed strategic arms reduction talks [START]. Despite all the flagrant Soviet violations of SALT, the President "went that extra mile" last month when he retired the two older Poseidon submarines so that a new Trident vessel would not exceed any of the SALT limits. However, the Soviets have made no policy changes and continue to improve their arsenal at our expense. The Soviets must be shown that we are serious about our defense and keeping arms control agreements mutually beneficial. The conversion of the 131st B-52 into a cruise missile launcher is scheduled for later this year. During this interim

period, the ball is in the Soviet's court. Should they decide not to seriously address our arms control concerns, we must take the measures necessary for our defense whether or not they strictly adhere to SALT II.

Poorly focused, one-sided restraint is not real arms control. The big buildup some are predicting without SALT has been going on under SALT and continues. Our willingness to counter these Soviet violations will bring them back to the negotiating table and will enhance genuine, mutual restraint.

House Concurrent Resolution 350 seeks to place unacceptable, unilateral and dangerous constraints on the United States and gives the Soviets an unchecked advantage. Therefore, I urge my colleagues to stand up for America's defensive concerns and join me in voting against this resolution.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, June 18, 1986.

DEAR MEMBER: For nearly five years, as a framework for interim restraint while negotiations proceeded on real reductions, the President promised first not to undercut the flawed SALT II Treaty if the Soviets exercised comparable restraint, and later "to go the extra mile" in the face of clear and critical Soviet violations of the treaty. In view of Soviet failure to respond, the President has finally decided that it is no longer appropriate to base our force planning on the terms of the unratified and expired SALT II agreement which the Soviet Union continues to violate.

I write to urge you to give your full support to the President's decision on Interim Restraint and SALT, and I urge you to reject, as contrary both to our national security and to our negotiations in Geneva, the proposed House Resolution that would hold the President to the SALT sublimits conditional upon future Soviet behavior.

The President's decision comes at the end of a long and sometimes rancorous national debate on the merits of the SALT accords. It also follows upon serious and lengthy efforts on the U.S. government's part to bring the Soviet Union back into compliance with its arms control obligations—efforts to which the Soviet Union has offered no constructive response. These efforts have so far proved to be largely in vain.

Throughout this debate, all Americans have been united in at least one hope: that Soviet behavior would improve. Now both sides can agree perhaps on at least one fact: no such improvement has been seen.

I strongly believe the President's decision to be the best course both for our national security and for the future of arms control. However, there have been initial objections and questions, which I would like to answer here.

(1) Will ending SALT permit a large expansion of Soviet forces beyond that already envisioned under SALT? A careful look at the evidence suggests the answer is clearly no.

The "warm production lines" that critics say would produce more missiles in the absence of SALT limitations would in fact be used to produce the SS-18 replacement and the SS-X-24 already projected under SALT, and the SS-25 in violation of SALT II.

Even under SALT, the Soviets can increase their stock of total warheads from roughly 9,000 to 12,000 by 1990. Under SALT the Soviets are already expected to build over 700 new missiles by 1990. Without SALT further increases would be marginal at most.

With Soviet defense spending running at 15% to 17% of GNP, even these increases will likely butt up against resource constraints (e.g., skilled manpower and high-grade materials).

Current projections with SALT already take into account additional warheads on replacements to the SS-17 and SS-19. Many putative increases in warheads (e.g., putting 20+ warheads on the SS-18) predicted in the absence of SALT are improbable for military and technical reasons, especially in the short run.

With our without SALT, retirements of old systems will probably continue for reasons of military efficiency and effectiveness. (For example, some new SS-X-24 missiles will be deployed in existing silos.) The Soviets may choose to retire some older systems more slowly without SALT. But the relatively small number of older, less capable systems at issue here are a minor concern when set beside the vast increases in new Soviet weapons projected, once again, with or without SALT.

There is generally much less short-term flexibility in both nations' strategic planning than the critics' worse-than-worst-case projections suggest. And there is no guarantee, given the current Soviet compliance record, that the Soviets will not violate the treaty further when it becomes expedient to do so.

A central point that critics of the President's decision seem to be missing is this: the vast buildup of Soviet forces now predicted by some in the absence of SALT is already occurring under SALT. SALT is providing no better than an illusion of restraint. Ironically, many of the disturbing projections now cited to describe Soviet behavior without SALT were originally developed assuming SALT limits would stay in place. Closing our eyes to this situation only permits the Soviet Union to redefine what is acceptable behavior under SALT. This cannot be viewed as an effective restraint except upon ourselves and the confidence we have in Soviet compliance with future agreements.

(2) Are the violations of SALT II serious and clear-cut? They are.

In 1979, treaty defenders hailed the restraints on telemetry encoding and on the second new type of ICBM as central treaty provisions. So important was the telemetry provision that the Senate Foreign Relations Committee approved 15–0 an understanding to the Resolution of Ratification specifying that "any practice . . . including but not limited to the failure to transmit relevant telemetric information" which impeded verification would, if raised and not resolved in the Standing Consultative Commission, be grounds for the U.S. "to exercise all other available remedies, including but not limited to the right to withdraw from the Treaty."

Obviously, the telemetry provision was taken very seriously at the time: indeed, a major selling-point of SALT II was that it would permit us to know more about Soviet forces than we could without it; that is no longer true. Now this provision is said by some to be "peripheral." We cannot accept this.

By the same token, the SS-25 accounts for a major portion of the current Soviet ICBM buildup. Its throwweight is roughly twice that of the SS-13, well beyond the treaty-permitted 5%. These violations, in combination with the Soviet violation of the overall SNDV limit, are very clear and bear on what were originally understood to be central provisions of the Treaty.

(3) Does the Administration have a workable formula for encouraging mutual restraint and serious negotiations—an alternative to unilateral compliance with a treaty that the Soviets are violating? We do.

In addition to affirming that the United States will exercise "utmost restraint" in our force decisions, the President has pledged not to increase warheads and SNDVs above the Soviet levels. This is a serious pledge. By gearing our force decisions to the reality of the Soviet threat, we are providing real costs for a Soviet buildup and real rewards for Soviet reductions and restraint. We are also providing the Soviets with an incentive to get down to serious bargaining about real reductions in weapons.

On the other hand, to continue to observe unilaterally an unratified treaty that the Soviets are seriously contravening merely reinforces the dangerous idea that Soviet violations can and will be tolerated. Such a course would entail serious costs and risks of its own: it would countenance further Soviet violations and undercut the basis for future arms control agreements.

Congressional action in opposition to the President unfortunately cannot slow the Soviet buildup. Nor can it bring the Soviet Union into compliance with existing arms control treaties.

What Congress can do is remove from the President's hands a major incentive for restraint and serious bargaining by the Soviet side. It is our profound conviction that this will be the consequence of the Resolution now before the House.

Free and vigorous debate over public policy issues is a democracy's life-blood. But the moment eventually comes—especially in foreign policy—when a decision must at last be made, when democracy's chorus must speak firmly with one voice. Now is such a moment. It is critical in facing and negotiating with the Soviet Union that this nation be able to present a strong, united front. It is impossible that every detail of every policy satisfy every citizen. And in dealing with a foreign adversary, the time comes when we must set aside our long and bitter differences on this issue and stand together behind the President.

Sincerely,

KENNETH L. ADELMAN.

□ 1320

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I rise in support of the resolution. I do not think that anyone here seriously wants anyone to be in noncompliance. The question is: How do we bring the Soviets into compliance? What will bring them there?

In my mind, the best way to do that is to focus the world's attention on their noncompliance and our compliance. By doing that we will, in my mind, because the Soviets are so much more concerned about world opinion than they perhaps are negotiating with us as to what their image is in regard to this issue.

Withdrawing our compliance with SALT II is like telling the world that the United States talks a good line about peace and arms control but is not really serious about it.

We run a serious risk, especially with the Third World countries and Europe, which the Soviets have eagerly been courting and want on their side on this issue. By abandoning SALT II, we are playing right into the Soviets' hands.

And let us face it, compliance with SALT II is more difficult for them, and has been more difficult for them, than it is for us.

In addition to that, their production lines are warm, and they are ready to produce. We are not in that situation.

So it seems to me on all sides of the issue that the best decision that we have to bring about compliance is to harp on their noncompliance and to continue to bring ourselves and keep ourselves in compliance.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I think that it is important to take a quick look at what has happened since we signed SALT II. The Soviets since 1979 have deployed two new ICBM's and one mod, the SS-19, and have deployed two new missiles, the 24 and the 25. They have deployed three new classes of ballistic-missile submarines, two new bombers, and what is more important than all of that is that the growth of their warheads has gone from 5,200 to 9,200.

When we talk about first-strike capability, which always seems to be a point of contention on this House floor, they have predominantly developed first-strike capability in the growth of these warheads, which have gone from 5,200 to 9,200.

In addition to developing 3 new types of ICBM's, 3 new classes of ballistic-missile submarines, 2 new bombers, and having the incredible warhead growth from 5,200 to 9,200, and having the capability even under SALT II to grow all the way to 12,000 to 14,000 warheads, they cheat. On top of all of this, they want to cheat.

Let us take a look at a couple of the violations. The SS-25: There are very, very few experts anywhere in the world who will argue that the SS-25 is not a clear violation of SALT II, that in fact the SS-25 is without question a new missile system.

Encryption: What does encryption mean? It means our ability to be able to determine what the Soviets are doing with our national technical means. When they block our ability to observe what they are doing, then we cannot tell the kind of systems that they are developing. Somebody argued that they could put another few warheads on the SS-18; because we limit it to 10 under the treaty, they could expand it to 13 or 14. If we cannot read their systems, we cannot even determine whether they are in fact violating just the 10-warhead limit in the SALT II Treaty.

The Krasnoyarsk radar: Everybody hears Gorbachev make a big deal about our SDI Program. The Krasnoyarsk radar is located in the middle of that country in clear violation of our SALT I agreement. There is not an expert that I know anywhere in the world who dismisses the fact that this is a clear violation and is designed to give them a nationwide ABM system.

So, you have all of this incredible Soviet growth, the capability to go from 9,200 warheads to 14,000 warheads under the provisions of SALT II, and on top of that they are building a new missile that violates the agreement, they are deploying radars that are a clear violation of SALT I, they are encrypting their signals so we cannot tell other things that they are doing to cheat, and on top of it, they have exceeded the overall strategic delivery vehicle limits of SALT II.

I understand when this resolution was initially drafted, it essentially said, "We'll pay attention to the treaty if they'll pay attention to the treaty within the numerical limits." But you see, that had to be changed. Why? Because the Soviets have exceeded the numerical limits under SALT II. They have gone from about 2,504 nuclear delivery vehicles to 2,520.

What we have here is a resolution that cannot even speak to the integrity of the overall treaty, because the Soviets have violated that. So we have to resort to sublimits, even though they violate the total number of nuclear delivery vehicles permitted under SALT II.

What does the gentleman from Michigan [Mr. BROOMFIELD] want to do? He says that we will adhere to the treaty. What does the President want to do? We will abide by the treaty if the Soviets stop cheating. Even though this will not achieve a significant slowing of the arms race, we are still going to adhere to the treaty if the Soviets will stop cheating. And then, at the same time we will negotiate at Geneva on our START proposal, so that we can reduce the number of nuclear weapons.

To conclude: SALT II was designed to reduce the number of nuclear weapons. It has not done it. We need to have an arms control agreement that can be verified, that we can determine that the Soviets are not cheating, and that reduces the number of nuclear weapons. At least let us vote for the amendment of BILL BROOMFIELD, because it says that we will abide by SALT II, we will be fair, as long as the Soviets are, and if they are going to cheat, my goodness, what does that say about our ability to do anything in this world with our adversary?

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of this resolution urging the President to abide by the SALT II limitations.

I recognize that we can't honor an arms control agreement that does not protect the security of our Nation. I understand that a misstep in negotiations can have dire consequences. I know that our dealings with the Soviet Union are made more difficult by bitter years of enmity and distrust. Yet, even accepting these facts, progress toward arms control in the past 6 years has been abysmally slow. Not one new arms agreement has been signed; none appears to be in the offing.

I agree the SALT Treaty is not a perfect treaty. It does not actually reduce the numbers of nuclear weapons or bar progress toward new and even more destructive weapons. But it does cap the numbers of nuclear weapons; it does limit the development of new types of nuclear weapons; it attempts to add a degree of certainty in our dealings with the Soviet Union.

Now, the administration proposes scrapping SALT II, arguing that the treaty is flawed and that the Soviets may have violated it. As Robert McNamara has pointed out, "Responding to Soviet violations by scrapping SALT is tantamount to reacting to an increase in the crime rate by abolishing the criminal code." That action would ensure more crime, not less. Scrapping SALT would ensure more missiles, not fewer.

The administration says SALT is not adequate—that it wants more ambitious arms reductions. I agree. But in the meantime, let's keep the controls we already have.

SALT, like any treaty, works two ways. Tossing away its limitations frees us to build weapons with which to threaten our enemies. But so too does it free them to build weapons with which to threaten us. We already have many times more weapons than we need to destroy each other, and perhaps all life on this planet. We add nothing to our security when we add to our nuclear stockpile; we detract from our security when we dispense with our treaties. I urge my colleagues to remember this, and to support this resolution.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, there have been some fairly technical terms and arguments thrown about the floor today, but I think that when you boil this argument down to its most basic elements, the decision ought to be clear.

SALT II was negotiated in the late seventies, when it was pretty well understood that the United States was negotiating from a position of weakness in terms of military strength. Anybody involved in negotiating or bargaining knows that when you walk in the room from a position of weakness, usually you get taken to the cleaners, and I think in this instance we did.

For that reason SALT II was not ratified when it came before the U.S. Senate for ratification.

□ 1330

Nevertheless, the United States made a decision to abide by the terms of SALT II and we have done that for several years; however, in the face of growing evidence of cheating on the part of the Soviets and violations of the treaty that we did not even agree to, the President announced that at some point in the future he was going to withdraw his support for SALT II and abide by the terms of SALT II.

So what we have here is a situation where the Soviets are not honoring something they agreed to and the United States is honoring something they did not agree to and finally someone is calling the bluff. Someone is saying that enough is enough.

The point has been raised that it is in the best interests of both countries to honor this treaty. If it is in the best interests of both our countries, why are the Soviets violating the treaty?

Anybody involved in labor negotiations, anybody worth his salt in representing a union or representing management or negotiating on behalf of anyone else would not dare go back to their people and say, "Look, I'm asking you to ratify a contract that you did not agree to and on which the other guys are cheating." That is precisely what this resolution asks this House to do, ratify or abide by something that you did not agree when you have clear and unmistakable evidence that the other guys are cheating. I do not think that is a wise policy for us to follow and I would hope we would reject this resolution.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise today in support of House Concurrent Resolution 350.

Mr. Chairman, this is an important resolution. It expresses the sentiment of the House that the President should continue to adhere to SALT numerical limits that have benefited U.S. national security since 1979.

The President has used as a primary justification for backing out of the SALT II limits supposed Soviet violations of arms control agreements. Two of these cases—the encryption of ballistic missile telemetry and the SS-25 missile—involve areas of significant dispute among experts. They deserve a critical look by the Congress when placed in the context of justifying the President's decision to abandon SALT weapons limits.

In the case of the SS-25 missile, the administration charges that the Soviets are deploying a new ICBM prohibited by the SALT II Treaty. They also charge that the missile violates treaty restrictions on ICBM's whose reentry vehicle weight is less than 50 percent of the weight of the missile itself.

The Soviets have argued that the United States is miscalculating the throw-weight of the SS-25 and that it is not in violation of the treaty. They cite differences in the way the two nations compute throw-weight, and claim that in each of the two instances identified by the administration, they are in compliance with SALT II.

While the SS-25 is of concern, it seems premature to label it a clear violation as the President has done. There are very real ambiguities in the SALT provisions that govern new ICBM's, and experts outside the administration have noted that the treaty's definition of throw-weight leaves considerable room for interpretation.

Similar ambiguities exist with the issue of telemetry encryption. The treaty restricts the practice of encryption in situations where it impedes verification of compliance. The United States has charged that Soviet encryption practices are increasing and that they are interfering with our ability to verify the critical performance characteristics of Soviet missiles governed by SALT II.

The Soviets argue that they are not impeding United States verification, and that if the administration will designate the information it wants, the Soviets will provide it. The United States has refused, presumably to protect intelligence collection capabilities.

Increasing Soviet encryption practices are a serious intelligence concern, but their standing as a SALT II Treaty violation is less apparent. It does not take a seasoned international lawyer to recognize that there are inherent ambiguities in SALT II's provisions dealing with encryption.

Rather than a clear violation as the President suggests, what we may have here is a situation where treaty language is not as tight as it should have been, and the Soviets decided to take advantage of it. A resolution of the issue should take place in the Standing Consultative Commission, the designated body for resolving treaty disputes. Rather than tearing up the treaty, the administration ought to be trying to make it work.

Mr. Chairman, a careful examination of these compliance cases shows that we do indeed have some serious issues of concern. It also shows, however, that they involve areas of disagreement between the treaty parties that require extended and careful negotiation before public charges of noncompliance should be levied. The SCC served this purpose well in previous administrations. We should give it the mandate to work in this one as well.

In conclusion, Mr. Chairman, I strongly urge my colleagues to support House Concurrent Resolution 350. The compliance issues identified by the President, while serious, do not justify a wholesale departure from an arms control process that has benefited overall U.S. security.

The President argues that he is abandoning SALT in order to seek dramatic future reductions in strategic nuclear forces. With no new arms control agreement on the horizon, the President's decision to dump the useful restraints provided by SALT II is hardly worth gamble.

Mr. BROOMFIELD. Mr. Chairman, to conclude our debate on this side, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, this resolution is a very, very flawed document. If SALT was a flawed arms control treaty, House Concurrent Resolution 350 is a disaster.

There are three things that are terminal as far as I am concerned. The first is that the resolution misleads. It gives the Soviets credit for dismantling weapons systems it has not dismantled and it is so wrong. "Fourteen Yankee-class nuclear missile-carrying submarines," it claims; they have not dismantled 14 Yankee-class nuclear missile-carrying submarines. They reconfigured them as attack or long-range cruise missile submarines.

My citation is page 30 of "Soviet Military Power," 1986.

Now, the wimpishness, if such a word exists; if it does not, I have just coined it—the wimpishness of paragraph 6—you fellows do not dare point a finger at the Soviets and say, "Hey, you violated the agreement!"

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. In good time, and I do have time, so I will get to the gentleman. I am looking forward to it.

Mr. AUCOIN. But on this point.

Mr. HYDE. Yes, at this point, but let me make my point and then the gentleman can attack it.

This resolution is so wimpish, that is the only word I can think to describe it, that it will not point the finger at the Soviet Union and say, "You violated the SALT Treaty."

It says "the Administration," those guys on Pennsylvania Avenue, those fellows over in the Pentagon contend that the Soviet Union has violated some of the provisions of the SALT agreements.

Oh, what a courageous stand. How bold of you to stand up and say the Soviets—well, no, you would not quite

say that, you will say that the administraton says that. You did not have even that in the resolution until we had hearings and some of us said, "My God, don't you even advert to the fact that the Soviets have some obligations under SALT?"

So that is the second terminal flaw; but the thing that is irretrievable, the thing that makes this absolutely beyond redemption is the bottom line. You are asking the President, meaning this country, to adhere to the numerical sublimits as long as the Soviet Union does likewise and to adhere to the overall numerical limit; another afterthought, I might add, of the SALT agreement, as long as the Soviet Union does likewise.

Are not qualitative restrictions important? Is not the fact that they have brought forward a new SS-25, which is in violation of the SALT II agreements, is that not significant?

If they bring on an SS-26 and an SS-27, that is not important according to this block buster of a resolution that is going to really give backbone to the arms control process?

This just says we are going to adhere to the numerical limits. Why bother? Why waste the paper? Numerical limits, not qualitative limits?

This is an embarrassment. I really mean it. It is an embarrassment.

I want to yield to the gentleman from Oregon [Mr. AuCoin], another defense intellectual from the great west coast.

Mr. AuCOIN. Mr. Chairman, I appreciate the intellectual in the well yielding to me.

Mr. HYDE. The gentleman appreciates what? I did not hear him.

Mr. AuCOIN. I appreciate the intellectual in the well yielding to me.

Mr. HYDE. Oh, I reject that notion. I am not an intellectual. I am just a fellow from Chicago trying to understand you fellows and how you stand up to the Russians.

Mr. AuCOIN. The gentleman indicated earlier in his remarks that he would at the proper moment recognize me so I could attack him. I am not really rising to attack the gentleman.

Mr. HYDE. Oh, not me, no, I would not accuse the gentleman of attacking me.

Mr. AuCOIN. Or attacking his arguments.

Mr. HYDE. Just these ideas, the verities.

Mr. AuCOIN. I want to ask the gentleman if he really means that the Soviets, really means it when he said that the Soviets did not dismantle the requisite number of submarines? Is it not true that they dismantled 13 submarines? Has not the gentleman seen the photographs of the dismantling, and was not one reconfigured to comply with SALT II? Is that not the truth? Why does the gentleman not state the facts?

Mr. HYDE. Are we all through now?

Mr. AuCOIN. I am through.

Mr. HYDE. Can we pause for a breath?

Mr. AuCOIN. Yes.

Mr. HYDE. Does the gentleman not think that it would have been intellectually honest to say in here that 14 Yankee-class nuclear missile carrying submarines, some have been reconfigured as attack or long-range missile cruise submarines?

Mr. AuCOIN. One of them.

Mr. HYDE. Well, "some" is the information I have, and it is at page 30 of the Soviet military power book put out by the Pentagon.

Mr. AuCOIN. The gentleman would shred the entire SALT Treaty.

Mr. Chairman, will the gentleman yield?

Mr. HYDE. Certainly.

Mr. AuCOIN. The gentleman would shred the entire SALT Treaty over a minuscule point of that kind?

Mr. HYDE. The SS-25 is not a minuscule point.

Mr. AuCOIN. Even reconfiguration along with the dismantling conforms with SALT II, and the gentleman knows it.

Mr. HYDE. Well, now, if the gentleman will yield back for a moment, the SS-25 is not a minuscule point and if the gentleman thinks it is, then we are talking on two different planets.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, it is interesting to note, and I respect the knowledge of the gentleman from Oregon in defense, but I remember during the MX debate the gentleman was the strongest opponent of first-strike weapons.

What have the Soviets done? They have expanded the number of warheads that they have from 5,200 to 9,200. And do you know where they put those warheads? On first-strike weapons. They put those warheads on weapons that pose the greatest threat to this country and cause the greatest amount of instability.

Now, we can also talk about what they have done with submarines, because they have deployed three new ballistic missile submarines; but first-strike weapons are what is most dangerous and they have 4,000 new warheads on first-strike weapons with three new systems. I must tell the gentleman from Illinois [Mr. Hyde], they can go to 14,000, that is an additional 5,000 first-strike weapons that the Soviets can go to under this treaty, and they are violating SALT II on top of it.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. Seiberling].

Mr. SEIBERLING. Mr. Chairman, I rise in support of the resolution.

The administration's announcement that it no longer intends to comply with the SALT II limitations on nuclear weapons has been handled in such a confusing manner that neither the reasons behind it nor the exact nature of the administration's position is clear. However, one thing is clear: If the administration maintains its position and no new arms control agreement is worked out in the very near future, the result will be a disaster for the national security of the American people.

The pretext for President Reagan's announcement that the United States intends to violate the SALT II limitations later this year was, in the President's words, that the Soviets have followed "a general pattern of * * * noncompliance with major arms-control commitments." Yet according to many of the experts, this charge is simply untrue. Nevertheless, the speakers on the other side continue to repeat this charge.

In an article printed in the Akron Beacon Journal of June 1, 1986, James McCartney, senior Washington correspondent for Knight-Ridder Newspapers, quotes the principal negotiator of the SALT II Treaty, Mr. Paul Warnke, as saying President Reagan's charge is not even plausible. Mr. Warnke said, "The Soviets have stuck by the central elements of SALT II." He went on to say that while there are legitimate questions about some of the tangential aspects of the treaty—matters that he said are on the periphery, its most important aspects, which involve numerical limits on weapons, have been faithfully observed. Mr. McCartney points out that other experts share this view. For example, he quotes a lengthy study by the Arms Control Association which observed that the administration has sent three reports to Congress on Soviet violations but that "none of these reports have noted that the Soviet Union has generally adhered to the provisions of the SALT treaties on offensive weaponry or that the Soviet Union has taken numerous actions since 1972 to remain in compliance with those treaties." Among Soviet actions the administration failed to mention in its reports were the removal of: 1,077 intercontinental ballistic missiles, 233 submarine-launched ballistic missiles, and 13 Yankee-class nuclear missile-carrying submarines.

In an article by Edwin M. Yoder, Jr., in the Washington Post of June 8, Mr. Yoder refers to the declared excuse for the breakout of SALT II as a "remarkably hackneyed one." Mr. Yoder notes that "even if the violations are substantial, and resistant to the usual consultative procedures, they need balancing against the treaty provisions

that are observed." Mr. Yoder goes on to point out that the SALT limits have worked and still are working to the advantage of the United States and to the disadvantage of the Soviet Union. Specifically, he says:

Those limits are still working. SALT II sets missile ceilings that the United States has been able to build up to, while the Soviets were forced to build down to them. The 'counting rules' make the Soviet arsenal easier to verify. And the limitation on the numbers of missiles that can be "MIRVed" (armed with multiple warheads) is advantageous, as is the limitation of "MIRVed" missiles to 10 warheads. (U.S. experts believe the Soviet monster missiles are capable of carrying more than 10. That's part of what the throw-weight debate has been about.)

In another article in the same issue of the Washington Post, David Ignatius, an editor of the Post, sets forth the Government's own statistics, supplied by the Central Intelligence Agency and the Defense Intelligence Agency, that show that with a roughly equal military budget the Soviets have been able to produce much more military hardware than the United States.

Mr. Ignatius also quotes from a study prepared by our colleague, LES ASPIN, chairman of the House Armed Services Committee, that indicates that because the Soviets have more production lines in operation, the Soviet strategic forces could grow by 65 percent by 1989, compared to only 45-percent growth by the United States, if SALT is scuttled. Mr. ASPIN notes also that the SALT Treaty forces the Soviets to retire more than twice as many missile launchers as the United States, something they would not have to do if the treaty is no longer followed.

Mr. Chairman, it seems clear that the answer to the question of whether the United States would be more secure with the SALT limitations or without them, is an unambiguous "no."

The text of the three articles referred to follows these remarks:

SOVIET ARMS-CONTROL "VIOLATIONS" MAY BE IMAGINARY

(By James McCartney)

WASHINGTON.—In announcing that the United States intends to violate the 1979 SALT II treaty later this year, President Reagan accused the Soviets of "a general pattern of . . . non-compliance with major arms-control commitments."

He cited Soviet treaty violations, in fact, as the single most significant factor in his decision to exceed treaty weapons limitations by continuing to deploy air-launched cruise missiles on B-52 bombers.

But there is substantial question about the degree of Soviet "violations."

Many arms-control specialists, including former American negotiators, do not believe that the Soviets have committed significant violations.

The principal negotiator of the SALT II treaty, for example, Paul Warnke, said after Reagan's announcement: "I don't think there is a plausible question about it. The Soviets have stuck by the central elements of SALT II."

He said there are legitimate questions about some of the "tangential" aspects of the treaty—matters that he said are on the "periphery"—but that its most important aspects, which involve numerical limits on weapons, have been faithfully observed.

Warnke is not alone in this view.

Gloria Duffy, director of the Project on Compliance and the Future of Arms Control at Stanford University, said she agrees.

According to Ms. Duffy it would probably not be an exaggeration to say that most arms-control specialists outside the administration believe the Soviets have been in substantial compliance.

How, then, to explain the administration's tough charges?

Not long ago, the privately supported Arms Control Association, which lists many former negotiators among its members, published a 68-page study of issues involved in efforts to preserve SALT II. The study examined the compliance issue in detail.

It noted that both countries had accused each other of treaty violations and made this summary of its findings:

"None of these charges are clear-cut, and all relate to complex treaty provisions that are subject to differing interpretations. While these problems should be vigorously pursued to maintain the integrity of the treaty, they cannot be resolved by public accusations that only harden positions. . . ."

The Arms Control Association study observed that the administration has sent three exports to Congress on Soviet violations, but that "none of these reports have noted that the Soviet Union has generally adhered to the provisions of the SALT treaties on offensive weaponry or that the Soviet Union has taken numerous actions since 1972 to remain in compliance with those treaties."

Among Soviet actions the administration failed to mention in its reports were the removal of:

1,007 intercontinental ballistic missiles.

233 submarine-launched ballistic missiles.

13 Yankee-class nuclear missile-carrying submarines.

The two most significant areas of possible Soviet violations of the SALT II treaty involve the deployment of a new missile, called the SS-25, in a category supposedly forbidden, and what is called the "encryption of telemetry"—an electronic technique for monitoring missile test flights.

The Soviets deny violations.

Warnke, the treaty's American negotiator, says the issues are "debatable" because of some vague treaty wording, but that in any case the alleged violations do not involve the heart of the treaty—its numerical limitations.

Jack Mendelsohn, deputy director of the Arms Control Association, who was both a SALT II negotiator and a Reagan administration arms-control negotiator, examined the administration's charges and made this observation:

"The administration has a political if not legal responsibility to establish beyond a resonable doubt the validity of its accusations . . . . The administration's case is not convincing."

A DIPLOMATIC BLUNDER

(By Edwin M. Yoder Jr.)

The Reagan administration's capacity for borrowing nuclear trouble has been exercised once again in the threat to dispense later this year with the limits of the unratified SALT II treaty.

The timing is horrible—as if some gremlins in Caspar Weinberger's shop could hardly bear the sight of the Russians stewing on the nuclear griddle after Chernobyl and had jumped to seize the spotlight for us.

Every NATO ally is alarmed and annoyed. Yet with truly sublime obtuseness, Secretary of State George Shultz dismisses this fraternal unrest as having more to do with "imagery" than with "content."

Depending on what one means by "imagery," Shultz's distinction falls somewhere between absurd and untenable. Nuclear policy, especially in matters relating to deterrence, is 80 percent a question of impressions—or "imagery," if you perfer. Despite the occasional burst of madcap talk about the feasibility of successful nuclear war, nuclear weapons exist only to prevent their own use. In that connection, "imagery" is all-important.

For Europeans, the primary value of the SALT II treaty likewise has less to do with the esoteric technical limits it imposes than with what it symbolizes. In European eyes, arms control agreements betoken that the United States and the Soviet Union, with their globe-busting arsenals, can observe modest regimes of restraint.

The untimely U.S. threat to renounce the SALT II limits seems to be the byproduct of a struggle in the administration. After strenous debate, President Reagan recently decided to observe the limits by scrapping two old nuclear submarines as the latest Trident begins seatrials. The anti-arms-control faction wanted the two Poseidons mothballed. It would appear that they extracted a presidental vow that this would be the last gesture of self-restraint—that the United States will jump the fence next December when bombers armed with new cruise missiles will enter the fleet and push total U.S. "launchers" through the SALT ceilings.

The declared excuse for a breakout, however, is a remarkably hackneyed one—Soviet "violations" of SALT II of which Perle, Weinberger & Co. have been complaining for years. One compliance issue is a Soviet missile that we call the SS-25. We claim that it is a second new heavy missile, violating SALT restraints. The Russians insist it's a remodeled SS-13.

But even if the violations are substantial, and resistant to the usual consultative procedures, they need balancing against the treaty provisions that are observed.

In the 1980 campaign, Reagan denounced SALT II as "fatally flawed." But by May 1982, he had been persuaded that it included limits of genuine value to the United States—even in the view of hard-headed military and intelligence professionals.

Those limits are still working. SALT II sets missile ceilings that the United States has been able to build up to, while the Soviets were forced to build down to them. The "counting rules" makes the Soviet arsenal easier to verify. And the limitation on the numbers of missiles that can be "MIRVed" (armed with multiple warheads) is advantageous, as is the limitation of "MIRVed" missiles to 10 warheads. (U.S. experts believe the Soviet monster missiles are capable of carrying more than 10. That's part of what the throw-weight debate has been about.)

In the event of a breakout from the SALT II limits, the Russians could more easily and quickly augment their missile-strike power. Even if this merely stacked redundancy upon redundancy, in the usual Soviet fash-

ion, it would not be reassuring to those who gauge nuclear dangers in quantitative terms.

But again, the greater danger is political. The embers of unilateralism in Europe are there to be fanned by abrupt and ill-considered changes of U.S. policy. European discontent could express itself in jeopardy to the strongly pro-NATO governments in Britain and West Germany, both of which face elections next year.

Thus the "imagery" that Shultz dismisses is terribly important. We can revoke this serious dipomatic blunder now, or pay the price for it later.

[From The Washington Post, June 8, 1986]

WITHOUT SALT, THE RACE IS ON—AND THE SOVIET UNION LOOKS LIKE THE WINNER, GOING AWAY

(By David Ignatius)

Who will fare best in a world without the constraints of the SALT II treaty? Will the United States be able to build weapons more quickly and efficiently than the Soviet Union? Or will we be running free in an arms race that we may lose?

President Reagan apparently is convinced that America can win this race and achieve greater security without SALT and its limits. Thus his surprise announcement two weeks ago that the U.S. will no longer feel bound by the "standards contained in the SALT structure" and will instead respond to the "threat posed by Soviet strategic forces."

A gloomier view of our prospects in the arms race emerges from statistics gathered by the Central Intelligence Agency and the Defense Intelligence Agency. This data, summarized in the accompanying tables, shows that with a roughly equal military budget, the Soviets have been able to produce much more military hardware than the United States.

Moscow, in other words, is likely to get more bang for the buck in the arms race that many analysts predict will follow abandonment of SALT II.

This military analysis of life after SALT offers an alternative to the moralizing, pro and con, that tends to dominate the arms-control debate. And it helps answer the one question of overriding importance in the SALT debate. Will the United States be more secure with the treaty, or without it?

Consider the CIA and DIA data, which was presented three months ago in testimony to the Joint Economic Committee. The statistics show that with slightly greater defense spending from 1974 to 1985 the Soviets were able to produce a vastly larger volume of weapons.

The adjourning table marked "Output" documents this startling gap between U.S. and Soviet arms production. From 1974 to 1985, the Soviets produced more than three times as many strategic missiles; nearly 10 times as many surface-to-air missiles; 50 times as many bombers; nearly twice as many fighters; more than three times as many helicopters; more than twice as many submarines; three times as many tanks, and 10 times as many artillery pieces.

There are many reasons for this disparity: Pentagon mismanagement, congressional meddling, the military's enthusiasm for "gold-plated" state-of-the art weapons that can only be purchased in small quantities, and the Soviet push during the 1970s to match U.S. force levels.

But the reasons for the gap matter less than the fact that it exists—and may get worse in a post-SALT era. That's because the superpower tensions that drive Soviet weapons spending may lead a skittish U.S. Congress to cut our defense budget in an effort to slow the arms race. There are already signs that President's Reagan's decision to abandon SALT may have precisely that effect. Indeed, only days after his announcement that the U.S. wouldn't feel bound any longer by SALT limits, Reagan was appealing to Congress not to cut spending for the nation's nuclear forces.

OUTPUT—U.S. & SOVIET PROCUREMENT OF MAJOR WEAPONS SYSTEMS, 1974–85 [1]

System	U.S	U.S.S.R.
ICBM's & SLBM's	1,050	3,500
Surface-to-Air missiles [2]	11,700	105,000
Long & Intermediate range bombers	8	400
Fighters	4,050	7,800
Helicopters	2,050	6,500
Submarines	44	110
Major surface combatants	98	90
Tanks	8,400	27,000
Field artillery	2,200	22,000

[1] These numbers represent gross additions to weapons inventories and do not reflect retirements because of obsolescence or SALT restraints.
[2] Does not include naval or portable SAMs.

THE FUTURE—SOVIET PROCUREMENT OF SELECTED WEAPON CLASSES

Weapon class	Estimated 1981–85	Possible 1986–90
ICBM's & SLBM's	800	[1] 700
Submarines	40	50
Tanks	12,500	18,000
Fighter Aircraft	2,400	[1] 2,000
Helicopters	2,500	[1] 2,100
Strategic Bombers	200	210

[1] Although projections suggest lower overall numbers in these categories, the missiles fighters, and helicopters the Soviets will procure during 1986–90 are more complex, capable, and costly than those purchased during 1981–85

Source. CIA & DIA.

The CIA and DIA data make clear that the Soviets are well-positioned for the new arms race. "Most Soviet weapons expected to be delivered to the Soviet forces through 1990 will be manufactured in plants already built and operating," the agencies said in their congressional testimony.

The future imbalance in U.S. and Soviet military procurement is suggested by the accompanying table labelled "The Future," which was prepared by the CIA and DIA before the administration announced its decision to abandon the SALT limits. The table projected that over the next five years, the Soviets would outproduce their already high procurement levels of the past five years in submarines, tanks and strategic bombers. They would produce only slightly fewer strategic missiles, fighters and helicopters, the intelligence agencies noted.

The picture becomes even gloomier when you assumed that both sides have abandoned SALT entirely. A report prepared last March by Rep. Les Aspin (D-Wis.), chairman of the House Armed Services Committee, does just that.

Intelligence data cited by Aspin show that, in his words, "the Soviets have two inherent advantages that would allow them to spurt forward with force increases faster than we if SALT were undercut."

These Soviet advantages include greater "throw-weight" for their missiles, which would allow them to carry more warheads with their existing arsenal of rockets, and "hot production lines" for strategic weapons. The Soviets, for example, are already producing eight major new strategic systems—two new ICBMs, two new strategic bombers, two new missile-carrying submarines and two new missiles for these subs. The U.S., in contrast, has only three such "hot production lines."

Aspin estimates that because of the production-line disparity alone, Soviet strategic forces could grow by 65 percent by 1989, compared to only 45 percent growth for the U.S., if SALT is scuttled.

The post-SALT danger to the U.S. won't come just from the new weapons the Soviets can build, but from the older ones they don't have to retire. Aspin notes that continued observance of the SALT treaty would force the Soviets to retire more than twice as many missile launchers as the U.S.

Military comparisons like these help explain why the Joint Chiefs of Staff, until recently, were skeptical—on military grounds—about the wisdom of abandoning the SALT II restraints.

The danger for the Reagan administration is that in abandoning SALT II, it could get the worst of all possible outcomes. The administration's announcement could frighten the Congress into cutting U.S. strategic programs; and it could frighten the Kremlin into stepping up Soviet arms spending. In such a world, even the Reaganites might pine for the good old days of SALT.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in strong support of the resolution before us to continue U.S. compliance with the unratified SALT II Treaty.

Some may argue that the SALT II compliance question is none of Congress' business. Under the U.S. Constitution, the conduct of foreign policy is clearly the responsibility of the President, and he is Commander in Chief of the armed services.

Respectful of the President's constitutional prerogatives, most of us in Congress still would assert our right to participate in the SALT II compliance debate.

Terminating U.S. compliance would raise the gravest questions about possible nuclear war and the survival of our Nation and, indeed, the world. That alone justifies congressional participation in the debate.

Beyond that elemental, cosmic question, there are very practical budget considerations of the sort Congress must wrestle with constantly. This very month, a conference committee is searching for a compromise on the Federal budget for fiscal year 1987.

On the matter of defense spending, there is a $35 billion difference between what President Reagan wants to spend on defense next year and what the House of Representatives is inclined to allow him to spend. If the Gramm-Rudman law kicks in next October, defense spending is likely to be $50 billion below what President Reagan feels is necessary.

An end to U.S. compliance with SALT II nuclear weapon limitations would almost surely set off an unrestrained nuclear arms race between

the United States and the Soviet Union.

In turn, the requirement for U.S. military spending would grow rapidly as each side added missile launchers and nuclear warheads to its arsenal. The Pentagon would constantly warn of the dangers of the United States falling behind in this deadly race.

But where would the money come from?

From further cuts in domestic programs? The American public seems clearly to oppose further cuts in most domestic programs. Still, some cuts would undoubtedly have to be made.

From new taxes? Americans plainly don't want higher taxes.

By borrowing the money and again creating $200 billion-plus deficits? That would be the easy, but wrong, way out.

I am again reminded of President Dwight Eisenhower's eloquent statement that—

> Every gun that is made, every warship launched, every rocket fired, signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed.

Our existing nuclear arsenal is already large enough to destroy the world many times over. The same is true of the Soviet Union's arsenal. If the United States and the U.S.S.R. discard the nuclear arms limits imposed by SALT II, every new missile launcher and warhead built beyond the former limits will constitute a theft from domestic programs, from our hopes for a balanced Federal budget, from our desires to avoid higher taxes.

And a theft, I might add, from our aspirations for a safe and sane world.

Mr. IRELAND. Mr. Chairman, before we can decide upon the proper response to treaty compliance problems, we should think about why the Soviets may be engaging in these activities and about what political and military risks they present to the West. What is the military significance of confirmed and suspected noncompliance, and can we discern a broad military strategy into which all these pieces fit? What are the less tangible political purposes and effects? Are the Soviets deliberately manipulating the arms control process in a cynical way? Should we alter our expectations about the future contribution of arms control or approach arms in a different way? Our goal must be to deny intended Soviet gains and maintain western security. Only after addressing these issues, therefore, can we determine the correct or "proportionate" response.

Yet far from examining these questions in a serious and objective manner, most individuals have cavalierly dismissed the military significance of possible and proven violations without offering a plausible Soviet motivation for breaking treaties.

For example, let us consider the SS–25 missile issue. Some people have falsely claimed that there is uncertainty over whether this missile is an illegal "new" missile under SALT II. But even if for purposes of argument we assume it is not, the SS–25 is still a violation, because it is incompatible with separate clauses governing the characteristics of permitted "modernizations." In short, you can't get away from the fact that it's a violation, one way or another. Both the clauses in question are designed to limit the "throw-weight," or payload-carrying capacity, of future missiles.

This continues a long history of Soviet attempts to expand the throw-weight advantages it enjoys over the United States, regardless of treaty intent. In the early 1970's, a primary United States motivation for seeking a SALT I Treaty was to limit the size and payload capability of Soviet missiles. The Soviets had deployed giant SS–18's posing a first strike capability against United States targets, and the United States sought to ban deployment of additional large missiles. United States negotiators swore they had succeeded in this endeavor, but when the Soviets immediately began testing the SS–19, United States officials backed down from their previous assurances to Congress that such an action would be a violation; they said that, in retrospect, the Soviets had successfully blocked the needed precision in the treaty language and negotiating record. For this and other reasons, SALT II was justified as a means to "rectify the inequities of SALT I." During SALT II, the United States eventually accepted the SS–19 as a fait accompli and codified the large Soviet throw-weight advantage as well. But they sought to prevent further expansion of that advantage by insisting, despite Soviet objections, on very strict and detailed rules governing characteristics of new and modernized missiles. These were considered a major triumph of U.S. diplomacy and a primary reason why SALT II was a much better treaty than SALT I. It is those rules which the Soviets now are violating. And we are now beginning the cycle all over again, since equal and strict limitations on throw-weight have from the outset been central to the Reagan administration's proposals for a START agreement.

Why do many consider throw-weight to be the most important tangible measure of an arms balance? Why do the Soviets persist in their drive for throw-weight advantages? Throw-weight is critical to how many warheads a missile can carry and how large these warheads may be. Thus it is a major determinant of the size and character of the threat; a dangerous inequity can develop even if the number of launchers or missiles or even warheads are equal, if one side has much more powerful missiles capable of carrying more numerous or larger warheads. Equally important, excess or unused throw-weight gives a nation the ability to "sneak out" or suddenly and overtly "break out" of treaty limits on warheads.

Indeed, it is ironic that critics questioning the significance of the SS–25 violation have nontheless indirectly trumpeted the importance of throw-weight limitations. They have done so by arguing that the United States dare not renounce SALT II in response to Soviet violations, because the Soviets could rapidly reply by adding warheads to the SS–18 missiles, the very missile which 15 years ago sparked the first United States attempts to limit throw-weight. The irony, in terms of both history and logic, is supreme. And on its own terms this is an amazing argument—the contention that the United States should not respond strongly to the SS–25 violation because if it does so, they have positioned themselves quickly to achieve superiority, in part by adding warheads illegal under SALT II. In other words, the Soviets have maneuvered us into indefinite vulnerability to blackmail. We must be careful, because if we offend the bully by fighting back, the bully will threaten us with murder, not just with a beating.

As the critics' own arguments demonstrate, this persistent Soviet drive for throw-weight advantages is very worrisome indeed. We have good cause to wonder if arms limitations are being used to deceive the United States while the Soviets amass disproportionate offensive advantages. The SS–25 violation is significant in itself because it might allow the Soviets to put more than one warhead on the highly survivable missile. But it is even more ominous as a portent of other possible violations. Many new Soviet missiles, including replacements for their largest SS–18's and SS–19's, are in development. The Soviets added throw-weight to the mobile SS–25 even though they could pay a penalty in terms of speed and maneuverability. Such penalties would not apply to silo-based missiles. Therefore, if, as it appears, the Soviet goal is to amass still further throw-weight advantages, some of the missiles on which they might most logically do so have yet to be flight tested.

Other problems with SALT II reinforce these worries. Soviet encryption practices, insofar as they deny knowledge about a missile's capabilities and the warheads it carries, enhance the U.S.S.R.'s ability to violate various limitations undetected, and in particular to disguise and exploit illegal throw-weight capability. Two other violations of SALT I and II obligations also relate to concealment and deception regarding the SS–25. Concealment of test preparation activity also may degrade U.S. ability to collect information on the missile. Soviet deployment of SS–25 ICBM's at sites where silo-based ICBM's previously were deployed could degrade our ability to count Soviet missile deployments; this violation therefore could further enhance the possibilities for cheating which have been presented by the introduction of mobile missiles.

The Soviet drive for throw-weight advantages in the offensive missile area is matched by the finding that they "may be" preparing "a base for territorial defense," thereby violating the fundamental raison d'etre of the 1972 ABM Treaty. The importance of the Krasnoyarsk radar and five others like it is that they may be intended to back up the rapidly deployable, conventional ABM system which the Soviets have been perfecting for decades. In addition, or as an alternative to an overt or covert ABM deployment, the Soviets may be able to use thousands of deployed surface-to-air missiles [SAM's], normally used against aircraft, against missiles as well. We cannot be sure whether SAM's have been illegally tested in this role over the years since the ABM Treaty was signed in 1972. Nor are we certain whether conventional ABM components violate SALT in that they are "mobile;" But we do know that clause was intended partially to

prevent a capability to "break out" the treaty quickly, and that the Soviets now might be able to field an ABM much more rapidly than they could before, whether or not lawyers consider these new components demonstrably "mobile." Taken together, these developments are judged to indicate that the Soviets may be preparing rapidly to deploy an ABM defense of its territory.

If the Soviets do so, or even if they can credibly threaten to do so, the ABM Treaty may have delivered the coup de grace to the balance of power instead of enhancing Western security. Given Soviet advantages and breakout capability on the offensive side, a credible unilateral threat on the defensive side could be the decisive tilt in the balance of power which would deflate allied resistance to Soviet demands for additional privileges. If the timid even now arguing that we can do little about blatant Soviet violations because they have acquired too many offensive advantages, what will they be saying if the Soviets in addition threaten quickly to deploy an ABM, or if we discover that they have already begun to do so?

The potential impact of Soviet biological weapons [BW] violations has also been largely ignored. For as serious as the SALT and ABM problems are, they may pale in comparison to these. Genetic engineering may allow development of weapons with "tailor made" effects so the Soviets, for example, might destroy or temporarily incapacitate the enemy without impeding their own ability subsequently to occupy the area and seize the economy intact. Moreover, BW might be used selectively without betraying the identity of the perpetrator and even without the victims' knowledge that they are under attack rather than afflicted with some strange new naturally occurring disease. These weapons, therefore, unlike nuclear weapons, may be eminently usable. The potential implications are horrifying. Perhaps precisely because no methods are readily conceived to deter the use of such weapons or to cope with their potential effects, we have largely closed our eyes to this problem. But to continue this way could mean the undoing of our civilization. And again we must stand back to take stock of arms control: What kind of motives attend the illegal development of such weapons? What kind of nation are we dealing with, and how can we prudently manage United States-Soviet relations?

Given these facts and these potential threats, how should the United States respond? Many Members of Congress have a particular definition of what is "proportionate": The Soviets develop the SS–25, so we develop the Midgetman; the Soviets encrypt their telemetry so we encrypt ours. Normally they draw the line at SDI, however, criticizing even a futuristic United States program although the Soviets are developing an option to deploy in the near term. "Proportionate response" is assumed to mean a delayed tit-for-tat, clause-by-clause reaction, a reaction focusing on selected proven violations but disregarding other known violations as well as the many activities falling under the category of possible but unproven violations. Critics of the President's decision also say the United States should not renounce violated treaties. The allies would revolt, weakening the West politically, and a spiralling arms race would develop, a race which we will lose because the Soviets have positioned themselves so they can quickly deploy many more weapons than we. Above all, the critics say, the United States should not endanger prospects for the next summit, because that summit might produce our ultimate response—another arms control agreement, one without "loopholes," one truly delivering salvation.

In reply, I would ask them to weigh several general considerations as they debate this issue:

Is it true that the Soviets are able greatly to outproduce the United States in strategic offensive weaponry? If so, is such a surge in deployment required according to their targetting doctrine and warfighting strategy? In these terms, would it be worth the economic sacrifices involved?

If we are now in a position such that the Soviets can blackmail us into ignoring treaty violations because they have developed an offensive and even a defensive breakout capability, was it arms control that got us into this mess? If so, what does that say about the past worth and future prospects of arms control? If we decide to react only minimally to possible and proven violations, will our relative power position likely deteriorate more in the future? How do we plan to improve that position?

What will be the worldwide political effects of an implicit U.S. decision that no effective and safe response is available to us? What will be the effect on our bargaining position in ongoing arms control talks? What will be the effect on the worldwide perception of the balance of power and of general United States willingness to stand up to the Soviets?

Should we respond when we confront growing military risks but we do not have the evidence definitively to prove a violation, or when some argue that treaty language may present a technical "loophole" for the Soviets? Should the existence and nature of a U.S. response be predicated primarily on legal and symbolic criteria—definitive proof of a violation under U.S. court standards, reaction largely for the sake of "doing something"—or on the military risks which such developments present for us? Can we legitimately promise future treaties without "loopholes?"

Will U.S. risks be well managed and future violations deterred if we engage in strickly tit-for-tat responses? Must "restorative" measures be accompanied by "punitive" measures so that the Soviets are worse off after they have violated treaties than they would have been if they had kept them? How does it alleviate the worsening verification problem; for example, if we retaliate by encrypting U.S. telemetry when we have nothing to hide and the information on U.S. missile characteristics probably will be published eventually anyway?

Does it destroy our credibility with the Soviets and others if we become ever more determined to negotiate additional arms control agreements after the Soviets engage in increasingly serious and blatant violations of existing accords?

These are the issues the United States faces—these are the issues which should evoke the institutional energies of Congress. For my part, I am greatly relieved that at long last there is a debate on the response problem; it is now my hope that it proceed soberly and judiciously. Response policy probably is one of the most serious issues this Congress will ever face. It should not be exploited for political purposes. Our duty is to ascertain the facts and discuss their meaning, not to engage in baseless charges and irresponsible election-year politics. Our duty is to educate our constituents and elicit their reaction, not to play on their fears and ignorance. May we discharge these obligations well.

Mr. BOLAND. Mr. Chairman, President Reagan's decision to repudiate the limits on nuclear weapons contained in the SALT agreements does not further the cause of arms control.

On this, the most important issue of our time, the Congress has a responsibility to make its position clear. House Concurrent Resolution 350 expresses the sense of Congress that the United States should continue to adhere to the numerical limitations contained in the SALT agreements, as long as the Soviets do likewise. That is a position with which I believe most Americans agree, and it is a position which I support.

The history of the world since 1945 offers convincing evidence that the United States and the Soviet Union are much better at producing nuclear arms, than at producing agreements to control nuclear arms. Against that bleak landscape of nonaccomplishment stand the SALT agreements. As imperfect as they are, they represent the only meaningful limits on nuclear weapons that we have. In my judgment, a decision by the United States to no longer be bound by those limits could only be justified if Soviet SALT violations were so serious as to threaten our security, or if it were no longer in our interest to observe the SALT ceilings. Neither of those justifications exist. There have been Soviet violations and they must not be excused.

However, we have the ability to respond in kind to those violations without disturbing the central element of SALT, the limits on weapons. Those limits work to our advantage. They have allowed us to maintain a numerical advantage over the Soviets in strategic weapons, and they have permitted us to modernize our forces without having those improvements negated by an unrestrained Soviet nulcear buildup. Repudiating the SALT agreements will inevitably result in an acceleration of the nuclear arms race, a situation that will clearly favor the Soviets. It is hard to see how our security would be enhanced by trying to match an expanded Soviet warhead construction program, and it will certainly not be enhanced when we have to address the consequences of that program.

I agree with the President that arms reduction must be our ultimate goal. But, is it more likely that we will get an agreement to reduce arms from the restricted ceilings provided by SALT, or the unrestricted ceilings that would exist in an environment without SALT? It seems clear to me that once we develop the mind-set of escalation that will result if SALT is repudiated, it will be difficult, if not impossible, to negotiate arms reduction. SALT is not, hopefully, our last arms control agreement, but it provides a logical point of departure for

achieving the next one. We can do better than SALT, but not by turning our backs on it.

I hope that the passage of House Concurrent Resolution 350 will cause the administration to rethink its stand on SALT and to redouble its efforts in Geneva. The American people want progress on arms control, not the regression that would be signaled by a repudiation of SALT.

Mr. BROWN of California. Mr. Chairman, it is clear that numerous officials in this administration have, since 1981, been engaged in a calculated campaign to undermine the arms control process and dismantle the existing arms control regime. Mr. Perle, Mr. Weinberger, Mr. Ikle, and others have never valued arms control in any form. They have worked unceasingly to persuade the public and the President to abandon the process of negotiations with the Soviets, and to race ahead with new weapons deployments in an effort to establish an illusory nuclear superiority. The decision to scrap SALT II is a triumph for these men.

The tactics used have been shrewd and insidious. This faction of arms control opponents has known that the most effective means of poisoning the arms control process is to paint the Soviets as being determined and consistent cheaters who cannot be trusted in any way. No one likes a cheater. Indeed, there can hardly be a more damning aspersion. With this fully in mind, Mr. Perle and his cohorts have created a constant flow of accusations that the Soviets have cheated on every treaty they have ever signed.

But nearly all the charges leveled against the Soviets have been groundless. Many have been completely unsubstantiated and based on misleading information. Others have rested on ambiguous or disputed treaty provisions, and simply cannot be treated as smoking gun examples of Soviet duplicity. As officials of the intelligence communities have confirmed, the Soviets have, by and large, honored the bulk of their treaty obligations. As others in this debate have explained, the Soviets have taken extensive actions to remain in compliance with existing treaties.

In the few areas where disputes about treaty violations persist, it seems entirely within reach to find solutions to such activities. But rather than trying to resolve these issues through private diplomacy, the administration has gone public with this information in an attempt to weaken popular support for the entire arms control process.

It appears that the last thing some officials in this administration want is for the Soviets to actually stop the actions which are publicized as treaty violations. This is the only explanation for why the administration has failed to make proper use of the Standing Consultative Commission [SCC].

The SCC was established in 1972 as the forum for resolving disputes over treaty compliance. It meets privately, twice a year, and has successfully worked out many cases of alleged treaty violations. According to a 1982 State Department booklet, in every case which the United States has raised within the SCC, "the Soviet activity in question has either ceased or additional information has allayed U.S. concern."

But the administration has simply failed in recent years, to use the SCC in an attempt to resolve compliance disputes. The current Commissioner of the SCC, Richard Ellis, has been discouraged by the administration from attempting to resolve cases such as the Krasnoyarsk radar, Soviet encryption, and the SS-25—the three charges being used to label the Soviets as cheaters.

The outstanding cases where the Soviets have not clearly conformed with existing arms control treaties have served a vital purpose for Mr. Perle, Mr. Weinberger, and others of their ilk. These cases are absolutely essential to their campaign against arms control in general, and against the SALT II and ABM treaties in particular.

The administration's decision to scrap SALT shows that the views of this radical group within the Pentagon have spread throughout the administration. Yet such views represent a threat to arms control, to U.S. national security, and to the future of United States-Soviet relations. They are sinister in their purpose, and should be rejected. The Fascell resolution provides us with an opportunity to do just that. I urge my colleagues to support the measure, thereby denouncing those who have been conspiring against the entire arms control process.

Mr. RUDD. Mr. Chairman, Soviet violations of SALT II have been well documented in numerous reports. This means that we are continuing our unilateral disarmament of the previous Presidential administration. Our continued adherence of SALT II legitimized Soviet failure to comply with the treaty. It freezes the United States into permanent strategic nuclear inferiority.

SALT II also represents a growing inconsistency with U.S. strategic force requirements determined by the bipartisan Scowcroft Commission. One example is the Midgetman, scheduled for deployment in the early 1990's. SALT II would prevent its deployment, a program that has been approved by Congress.

Some supporters of arms control say we must hold to SALT II to prevent Moscow from doubling or tripling its strategic nuclear forces. This assumes that arms control has had a restraining effect on Moscow—but in fact, it has not. I might also ask why the Soviets would want to expand their strategic forces if they are so interested in arms control.

We should choose here today, an option that will best serve the desire for peace by all Americans—that will bring lasting peace between the Soviet Union and the United States. Our most realistic option would allow the United States to restore the nuclear balance while reducing any political, military, or negotiating complications. This can be done by reconsidering SALT II and requiring strict Soviet compliance.

This approach places full compliance as a precondition for a U.S. no undercut policy. It also places the responsibility for the future of SALT II squarely on Moscow. It will be their choice to honor existing agreements. If they do not, then there essentially is no SALT II.

My colleagues here in the House, if we continue to comply to SALT II, we are only fooling ourselves, not the Soviets. This legislation before us today will only help the Soviets gain even more advantage.

Mr. SABO. Mr. Chairman, I strongly urge my colleagues in the House of Representatives to join me in supporting House Concurrent Resolution 350, calling on President Reagan to continue adhering to the SALT limitations as long as the Soviet Union does the same. Few issues we will consider this year will approach the importance of this one.

The President's decision to abandon the SALT II treaty—the only existing constraints on strategic nuclear weapons—is dead wrong. It will seriously weaken the entire system of arms control, carefully crafted over 15 years by four Presidents of both parties. And it threatens to unleash a new round in the dangerous arms race.

Will Congress stand for such a harmful gutting of arms control? I think not. I am optimistic that the House will adopt this resolution today, urging the President to continue to honor SALT II. And a similar measure has been introduced in the Senate.

But if this approach doesn't work, if this strong expression of Congress' concern and support for arms control fails to get the President's attention, many of us are ready to push binding legislation prohibiting deployment of weapons that breach SALT II's limits.

For 7 years the United States and the Soviet Union have observed a policy of abiding by the limitations contained in the treaty. The agreement limits the number of strategic nuclear missiles and delivery systems, such as bombers and submarines, each side can have. It also restricts the testing and deployment of new intercontinental ballistic missiles [ICBM's] and the number of warheads that can be placed on these missiles.

The SALT structure is not perfect, but it has put a cap on the nuclear arms race. To comply with the treaties, the Soviet Union has dismantled nearly 1,400 missiles and 14 submarines. The United States has dismantled 564 missiles and 11 submarines.

Continued adherence to the treaty is clearly in the security interests of the United States. It is the only constraint on the Soviet nuclear arsenal. If we abandon the treaty the Soviet Union will do the same.

The Soviets are in a better position to exploit the removal of all restraints from our arsenals. They could expand their nuclear forces much more rapidly than we can. For one thing, they have more production lines that could be accelerated. They also can more than double the number of warheads on their massive ICBM's—those most feared by the Pentagon—without building one more additional missile.

Scrapping the treaty is not in our political interests. No other country endorses the President's decision. Our NATO allies unanimously condemn it. It adds fuel to the Soviet propaganda machine that maintains that Washington is not serious about arms control. It threatens the already fragile Geneva talks and could scuttle the prospects for a second summit meeting this year.

Abandoning the treaty also is not in our economic interest; its a potential budget buster. It will accelerate a costly arms race that no one can win. Congress, and the American people, no longer have the appetite for unrestrained military spending at a time when

we are striving to get the budget deficit under control.

President Reagan justifies his decision by charging the Soviet Union with violating the treaty. While there may be merit to these charges, Moscow is observing SALT's numerical ceilings and it is questionable whether the alleged violations are of serious military significance.

Concerns about Soviet noncompliance should be addressed through existing diplomatic channels and the consideration of proportional responses. The answer is not to throw out the whole structure of arms control. As former Defense Secretary Robert McNamara put it, "Responding to Soviet violations by scrapping SALT is tantamount to reacting to an increase in the crime rate by abolishing the criminal code."

President Reagan's record on arms control is the worst of any president since the arms race began, having failed in more than 5 years to negotiate any new agreement. Now he has unilaterally decided to remove the only constraint on our nuclear arsenals and let loose an all-out competition.

The President says his goal is to achieve substantial reductions in nuclear weapons. He credits Mikhail Gorbachev with wanting the same thing. Instead of risking an intensified arms race that will be harmful to our military, political, and economic interests, let's keep the lid on the United States-Soviet competition while we pursue the deep reductions both sides say they want.

Mr. FORD of Michigan. Mr Chairman, I rise in support of House Concurrent Resolution 350, which expresses the sense of the Congress that the President should continue to adhere to the weapons limitations of the SALT treaties. I am an original cosponsor to this important resolution because it enhances vital United States national security and precludes an opportunity for the Soviet Union to increase its nuclear arsenal.

The SALT agreements have placed meaningful restrictions on increases in the nuclear stockpiles of the United States and the Soviet Union. Since 1972, the Soviets have dismantled over 1,000 ICBM's, 200 SLBM's, and 13 missile-firing submarines because of the restrictions of the SALT I and SALT II treaties. If President Reagan's decision to abandon the SALT agreements is implemented, those limits will be swept aside. The entire structure of strategic arms control, carefully laid over a period of 15 years by four Presidents—Lyndon B. Johnson, Richard Nixon, Gerald R. Ford, and Jimmy Carter—would be ended.

The Soviets could increase their nuclear arsenal much faster than the United States if SALT II limits are removed. Although the United States would be able to catch up to the Soviets eventually, it would take some years, during which the United States would be considerably threatened by Soviet nuclear arms, and a tremendous cost. If SALT II remains in force, however, the Soviets will continue to be required to adhere to its ban on increases in strategic nuclear forces and restrictions on modernization.

President Reagan contends that Soviet violations of key provisions of the SALT II and 1972 Anti-Ballistic Missile [ABM] Treaty justify his decision to abandon the SALT treaty limitations on nuclear weapons. The President claims that the Soviets have clearly violated the SALT II treaty by deploying a new ICBM, the SS-25, and by encrypting data during missile tests so that the United States could not obtain precise information on Soviet compliance with treaty limitations. The administration also contends that the construction of a new phased radar facility at Krasnoyarsk violates the restrictions of the 1972 ABM treaty.

According to arms control experts, this is just not the case. In fact, after reviewing the evidence regarding the President's allegations, the experts agree that there is insufficient evidence to support these claims. Many analysts also agree that the differences between the SS-25 missile and an earlier version are not great enough to qualify as a new missile that violates SALT II. In addition, arms control experts also maintain that encryption has not been so extensive as to prevent United States monitoring of Soviet compliance of SALT II. While some experts agree that the phased array radar at Krasnoyarsk may be a violation of the ABM treaty, they have indicated that the evidence on this matter is not clear or overwhelming.

The issue of treaty violations is obviously a complicated one. The United States and the Soviet Union have both accused each other of such actions. The administration should utilize diplomatic channels to resolve these disputes. Abandoning SALT II would simply undermine talks already underway in Geneva, and result in serious diplomatic, military, and budgetary problems for the United States. Therefore, every effort should be made by both supperpowers to avoid such a development now and in the future.

Mr. Chairman, I urge my colleagues to support this important resolution. Abandoning the SALT agreements would undoubtedly trigger a new and dangerous arms race that will be extremely costly for both the United States and the Soviet Union. The United States would need to spend billions of dollars on new weapons, and Congress would be faced with the choice of adding even more to the deficit. At the same time, Congress would be pressured to sacrifice vital domestic and education programs to pay for the drastic increase in Pentagon spending.

Mr. HUGHES. Mr. Chairman, I rise in support of this resolution to recommend our Nation's continued adherence to the weapons limitations of the SALT agreements.

Few would deny the success of the SALT agreements in restraining the nuclear arms race between our Nation and the Soviet Union—an extremely costly and dangerous race that neither side can ultimately win. The President says he wants to abandon SLAT II to work for a better treaty. This is certainly a commendable goal, but on reason to jettison SALT II before a new agreement can be developed.

Although there have been allegations that the Soviet Union has violated some technical provisions of SALT II, most of our arms control experts tell us that there is no clear evidence of any serious violation that would pose a threat to United States security. Rather, adherence to SALT II has resulted in the Soviet's dismantling 1,077 ICBM's, 245 SLBM's, and 14 nuclear submarines, while the United States, by comparison, has removed 320 ICBM's, 544 SLBM's and 11 nuclear submarines from serivce. The resolution we are now considering addresses the few issues of Soviet noncompliance by encouraging the use of the SALT Standing Consultative Commission, which has been successful in settling similar disputes under three previous administrations.

Without SALT II, we face the prospect of a new arms race that would have profoundly serious military, diplomatic, and budgetary consequences. In just a few years, and without adding a single nuclear missile, the Soviets would be able to increase the number of warheads on their existing missiles by 7,000. The United States, we are told, would probably not be able to catch up until the mid-1990's, leaving us at a serious military disadvantage for nearly a decade.

And we all know what the price of playing catch-up would be: billions would be spent on new weapons while we choose between adding to the deficit, devastating domestic programs, or raising taxes in order to cover the expense.

We would also pay a dear price in terms of our credibility as a nation of peace, for why would a nation that desires peaceful relations between the superpowers take action that is certain to trigger an increase in nuclear arms? Our NATO allies have already voiced their opposition to the abandonment of the SALT agreements; insistence on such action will surely place tremendous strains on our relations with our friends around the world.

Continued adherence to the SALT agreements is clearly in our Nation's best interests. I urge my colleagues to support this resolution.

Mr. KEMP. Mr. Chairman, the House of Representatives has debated some curious and misguided legislation in its time, but never have I seem anything so perplexing as the resolution now before us and that's why I voted against the rule.

Here is a bill that would instruct the President to observe the limits of an expired treaty that the Senate refused to ratify. What does this mean? It seems to me that the Members of this Chamber should have greater respect for the Constitution's allocation of powers.

President Reagan has declared that the SALT II Treaty limits no longer exist. He has said that our future strategic force decisions will be based upon our strategic requirements, rather than upon the provisions of an unequal and unverifiable agreement. Most importantly, he has cautioned that "we cannot impose upon ourselves a double standard that amounts to unilateral treaty compliance, and, in effect, unilateral disarmament."

Mr. Chairman, whatever fancy explanations this bill's sponsors might make, the fact is that this bill would force the United States to be bound by a treaty that the Soviets are violating. And that is unilateral disarmament, plain and simple.

On June 10 of last year, the decision was made to cut up the U.S.S. *Sam Rayburn* when we first bumped up against the SALT II MIRV ceilings. At that time, the President announced that he was "going the extra mile" to encourage the Soviets to bring their actions

into compliance with existing treaties, to end their offensive military buildup, and to enter into sincere arms control negotiations.

Unfortunately, the Soviet Union has failed to meet any one of these three conditions—Soviet arms control violations mount, its unprecedented military buildup continues, and Gorbachev has been more interested in grandstanding on Western airwaves and the pages of the New York Times and Die Zeit than in serious negotiations at Geneva.

Just the same, the sponsors of this bill would have us go yet another extra mile to encourage the Soviets to modify their behavior.

I wonder just how many extra miles they want us to go in complying with unratified agreements before they finally notice that we're getting nowhere. The SALT II treaty was rejected because it was inequitable and unverifiable. By its terms, the SALT II agreement expired in December of last year. We never ratified it—we never even came close. President Reagan rejected it as "fatally flawed" and the Senate Armed Services Committee declared that it was not in the national security interests of the United States. The Soviet invasion of Afghanistan silenced efforts to bring it to a vote. The passage of time has not improved the treaty's glaring flaws; it has only sustained the arguments of those who were against the agreement from the start.

Even so, the President decided, as a matter of Executive policy, that we would continue to adhere to SALT II's provisions "so long as the Soviets demonstrated equal restraints." After 3 Presidential reports to Congress and some 15 documented Soviet arms control violations, evidence of Soviet "equal restraint" is nowhere to be found. No one disputes that the Soviets are not honoring their part of the bargain.

Continuing to abide by SALT II does not promote beneficial arms control; it impedes its advancement. The Soviets will never have any incentive to negotiate stabilizing, equitable agreements if the unequal, unverifiable old arms control regime continues to give them an advantage. Nor will they have any incentive to correct their violations if our compliance is unilateral and we do not respond militarily to their violations.

Some have said that, whatever else we may do in response to Soviet violations, we should continue to observe SALT limits because without SALT II the Soviets could "break out" into a vastly expanded arms race. This is nonsense.

First, the Soviets would be hard pressed to engage in any major increase in force expansion: They are already expanding at a peak rate. Second, their record of violations indicates that they've never felt especially constrained by arms control agreements that conflict with their force requirements. Finally, a far more serious problem for our national security arises if we continue to be constrained by the limits of an agreement that the Soviets feel free to violate.

Just since we cut up the first Poseidon in deference to SALT, two new major Soviet violations have come to light: The deployment of the road-mobile SS-24 and—what may prove to be the most egregious violation yet—the reported testing of a follow-on SS-18—the current version of which exceeds in MIRV's and throwweight anything now existing or planned in the future for the United States. And intelligence estimates indicate clearly more violations to come—whether or not we're abiding by SALT.

Instead of clinging to the false promises of a treaty the Soviets abandoned long ago, we should stand with the President to help him meet our defense requirements and advance a positive arms control agenda.

There is much more at stake here than the question of scrapping submarines. Present plans for Midgetman development and deployment, potential modification of the MX, overall numbers of cruise missiles and cruise carriers, and other vital strategic programs are being constrained under the guidance of interim restraint, while the threat continues to grow. In addition, our reluctance to break with SALT II has adverse implications for the President's SDI, where the real promise of effective defense depends at a minimum upon some modification of the ABM Treaty—which the Soviets are also violating with impunity.

In my opinion, these artificial and unilateral arms control limits are unacceptable. We should be planning our strategic programs from the standpoint of what we need to consolidate our deterrent capability, to ensure strategic stability, and with the advent of SDI to protect the United States and its allies.

The President made the right decision. He deserves our support, not our constitutionally suspect dissent. The time has come to consign SALT II to the history books, and get on with meeting our defense requirements.

Mr. OBERSTAR. Mr. Chairman, on May 27 the President opened a new chapter in United States/Soviet arms negotiations when he announced that the United States would no longer be bound by the SALT II nuclear arms limitation treaty. This chapter is different from others, and frought with more danger, because it involves a denial of the long-held American belief that we ought to do whatever we can to ensure that nuclear weapons will never be utilized.

It was a dangerous decision; one that ignores pertinent facts of nuclear arms control; it is a decision which must be reversed.

The President cites Soviet violations as the primary reason for deciding to abandon SALT II. The administration alleges that the Soviets have deployed a new ICBM despite SALT II prohibitions on deploying more than one new strategic missile; they claim the Soviets have encoded data during missile tests so the United States could not obtain precise information on Soviet compliance with treaty limitations. In addition, the administration contends that construction of a new phased radar facility at Krasnoyarsk violates the restrictions of the 1972 ABM Treaty on such radars.

On the surface, these appear to be substantive claims. But when we delve deeper, we find that there really isn't much substance to any of those allegations.

Arms control experts outside the administration generally believe that the administration does not have a strong case with regard to the deployment and encoding accusations. Many informed U.S. arms experts contend that the differences between the ICBM missile and an earlier version are not great enough to qualify the ICBM as a "new" missile that violates the SALT II prohibition on the introduction of such weapons.

SALT II states that the radio signals sent out by missiles—their telemetry—should not be encrypted so as to impede verification of the relevant characteristics of the missile (number of warheads, throw-weight, etc.). The administration contends the Soviets have encoded almost all of their telemetry and that this impedes verification efforts, thereby violating the treaty. The Soviets argue the United States is able to monitor all these relevant missile characteristics and have asked the United States what information it is lacking. The administration, perhaps with good cause, has not supplied this information for fear of revealing U.S. surveillance capabilities. Independent experts express concern over encryption but suggest the amount of telemetry that must be freely transmitted is not clearly stated in the treaty. Paul Warnke, our chief SALT II negotiator, observes that "while the encryption language needs work, it is still fixable."

If the President's announced intention to abandon SALT II at some as yet unspecified future date is a decision based strictly on the argument of Soviet violations, then the President has failed to thoroughly ascertain the facts of his accusations.

If, on the other hand, his decision is based on the hope that a better treaty is possible, then why abandon this treaty before a new one can be agreed upon?

The President's decision is understandable only when measured against his arms control track record. After 6 years in office the President has not negotiated a single arms control agreement—the worst arms control record of any President since the nuclear arms race began; the only President not to achieve an arms control agreement.

And now he wants us to believe that noncompliance with SALT II will lead the way to a new and better arms agreement. That is a risk that we—that humanity—cannot afford to take.

A study conducted by the House Armed Services Committee revealed that the Soviets could increase their nuclear arsenal much faster than the United States if SALT II limits are removed. The Soviets have a higher capacity to produce weapons—currently two new ICBM's, two new bombers, two new ballistic submarines and two new SLBM's, are being produced. The United States, on the other hand, is producing only three such systems—one ICBM, one new bomber and one new submarine.

If we focus instead on the positive accomplishments of SALT II, we see that it has had a positive impact on our ultimate goal of controlling the arms race. The Soviets have demobilized more nuclear weapons than we have: they have withdrawn or converted 798 land-based ICBM's, 21 SSBN submarines and 233 submarine-based ballistic missiles since 1972; they have dismantled 281 ICBM's, 245 SLBM's and 15 bombers and 13 Yankee-class ballistic missile weapons that were added to the Soviet inventory, for a total of 1,360. The United States has withdrawn or converted 320 ICBM's, 400 SLBM's, and 2 SSBN's; we have

dismantled 176 SLBM's and 11 SSBN's, for a total of 909.

If we measure the President's claim of Soviet violations against the consequences of treaty abandonment, it is clear that disassociation from SALT II is not the answer. I urge my colleagues to reject the President's decision and to continue the work begun within this body to achieve substantive arms control through negotiations with the Soviet Union, rather than abandoning the only working agreement we have.

What the President fails to acknowledge is that United States noncompliance with SALT II will be countered by Soviet noncompliance; and that result is dangerous for civilization.

Mr. BRUCE. Mr. Chairman, I rise today in support of House Concurrent Resolution 350, the resolution calling upon the President to continue adherence to the SALT limits.

The administration's statements on its possible intention to exceed the SALT II limits signalled a major shift in U.S. arms control policy that has immense implications for our national security. If these intentions are implemented, it will reverse this administration's 5 years of arms control policy and unravel an entire structure of arms control carefully laid out over 15 years by four Presidents. The simple matter is that adherence to the numerical ceilings is in our national security interest. The key provisions of SALT II restrict growth of the Soviet nuclear arms. Lifting the limits will set off a round of escalating arms buildup projected to double the Soviet number of warheads from 9,000 to 20,000 targeted against the United States.

The resolution called for today is a responsible congressional statement on foreign policy. While the resolution is not binding, it is a clear statement in support of meaningful arms control. The resolution stipulates that continued United States adherence to the SALT agreements is conditional upon Soviet compliance. Failure on the part of the Soviets to adhere to the limits, frees the United States from further compliance. The resolution also takes note of the recent questionable Soviet noncompliance actions by requiring to redress Soviet violations through the SCC; to seek greater Soviet compliance through the Geneva Arms Control Talks; and to pursue resolution through Soviet noncompliance at the upcoming summit.

Mr. Chairman, we would all agree that the SALT II Treaty is not perfect. However it does place meaningful restrictions on both superpowers and has clearly restrained the arms race to make us all safer. If we abandon the treaty limits now, the Soviets would be in a better position to rapidly increase their nuclear arsenal. In order to respond, the United States would have to launch into a massive buying program causing adverse budgetary as well as military and diplomatic problems for the United States. Congress is not alone and we are joined by our allies in calling upon the President to continue his policy on arms control. Strong support now is critical to this country's long term safety and I urge my colleagues to join me in passing this resolution.

Mr. BEDELL. Mr. Chairman, I rise today in support of House Concurrent Resolution 350—a bipartisan foreign policy statement in support of international arms control between the United States and the Soviet Union. As I retire from service in this esteemed legislative body, I can think of no greater purpose that we have before us than to solve the risk posed to that of our democracy and global peace than the ever-present threat of the continuing nature of the nuclear arms race. Clearly, it remains in the best national security interests of the United States to move ahead toward ending the nuclear arms race, rather than in promoting a policy that says SALT is dead.

Before today's debate, Presidential Press Secretary Larry Speakes observed that "SALT is dead." A "SALT is dead" policy only serves to encourage our adversary to adopt a similar policy. A"SALT is dead" policy does not solve the issues associated with Soviet violations of past treaty commitments but in fact encourages the Soviet Union's distrust of United States intentions at Geneva, and prods them to exploit certain advantages available to them in a non-SALT environment. A "SALT is dead" policy rests upon the faulty assumption that the only way in which to reduce and eventually eliminate nuclear weapons rests with the development and deployment of even more nuclear weapons than those currently present in the world nuclear arsenal. For each of these reasons, it seems inherently clear to me that a "SALT is dead" policy makes no sense what so ever, and that adoption of House Concurrent Resolution 350, in its present form, does represent a positive step through which to enhance United States national security interests through continued United States adherence to SALT conditional upon similar Soviet commitment to the framework of this valuable agreement.

Mr. Chairman, the opponents of House Concurrent Resolution 350 have argued most strenuously in echoing Assistant Secretary of Defense Perle's remarks that today we shall either stand with our President or with the Soviet Union in our views toward SALT. Mr. Chairman, I find remarks such as these most distressing. Those of us who support House Concurrent Resolution 350 do not question the patriotism of that of the President or Secretary Perle, nor do we question the patriotism or the rights of our colleagues who disagree with us on the merits of House Concurrent Resolution 350 to disagree with us. Rather, we are associating ourselves in our belief that SALT II continues to be in the best national security interests of the United States, and are merely urging the President to consider our view with respect to this treaty agreement.

In this regard, I would recall that candidate Reagan cited SALT II as fatally flawed during his 1976 campaign for the Presidency and yet upon reaching office, it was President Reagan who recognized the valuable role that SALT II played to U.S. national security interests and arms control efforts in announcing his intention that the United States would continue to abide by the obligations set forth in SALT II. Supporters of House Concurrent Resolution 350 are merely asking that the President reconsider his past commitment to SALT II, and use the tools available to him in past treaty commitments, as well as those outlined in House Concurrent Resolution 350 in solving the problems associated with Soviet violations and in seeking deep reductions in the world stockpile of nuclear weapons before such reductions become an impossibility because of mutual superpower fear and mistrust of one another's intention at Geneva.

The modern poet Robert Hunter in observing the many mistakes of man has observed that, "It was later than I thought, but sooner than I knew. Now I cannot share your laughter, ship of fools." Today, the world is smaller than it has ever been before. Together, the United States and the Soviet Union can destroy the ship we call Earth, many times over. As I leave Congress, I look back in fond remembrance of our bipartisan efforts to work together in seeking solutions to the many problems confronting not only the United States but all nations on Earth. I shall remember always our successes and hope that such successes will be more common in the future. I shall also hope that when future historians look upon the actions of the 99th Congress, the last in which I shall have served, that they do not look upon the words of the poet Hunter, and apply them as an epitaph to arms control through our actions today.

Clearly, the choice is ours. We can endorse the concepts of House Concurrent Resolution 350 in nudging our national security policies back on a course toward real arms control, or we can abandon the helm and deal with the consequences of our actions in the future. In my mind, a future in which a SALT environment continues to exist holds promise—the promise of reducing nuclear weapon inventories from the ceilings established in SALT II. Once underway, such reductions hold even greater promise for the eventual elimination of all nuclear weapons inventories from the holds of our planet. On the other hand, a future in which there exists no SALT environment appears more grim—the frightening realities of increased and more sophisticated United States and Soviet nuclear weapons inventories dictates a future in which we shall continue to hold the world hostage to the threat of Armageddon. Mr. Chairman, let each of us vote our conscience but at the same time, let each of us vote for a future in which the elimination of nuclear weapons becomes a reality; not a future in which our children's children will wonder why we did not see the error of our ways. Let our vote today reflect a commitment to arms control and reduction; not a commitment to arms development and deployment. Mr. Chairman, let our vote today reflect a commitment to peace. For these reasons, I urge us all to vote in support of House Concurrent Resolution 350 as approved by the Committee on Foreign Affairs.

Mr. OWENS. Mr. Chairman, President Lincoln, in his address at Gettysburg, made the mistake of saying, "The world will little note or long remember what we say here.* * * " Although President Lincoln's modesty is surely commendable, we should not err in thinking that the world will little note what we say and do here today.

The world, particularly our allies, is watching and waiting to see just how Americans respond to President Reagan's proposal to abandon the limits of SALT. They are concerned because they are directly in the path of Soviet missiles and they fear the devastation of a nuclear war. All reasonable people

must share their concerns because nuclear war cannot be contained to some hypothetical target area.

Remaining within the constraints of SALT does not indicate that one feels that there are no problems with the current agreement. However, staying within the constraints gives the United States the moral high ground from which to guarantee that safeguards which ensure more precise verification will be put in place. SALT is not the end of the arms limitation process but the starting point from which more reliable agreements will be negotiated. Abandoning SALT is, in essence, a decision to start again and face the delays that will inevitably accompany negotiations starting from scratch.

The world will note what we say and do today. Our allies want to be able to agree with us on arms limitations. Abandoning SALT conveys the message that we are not serious about arms limitations and we really are unconcerned that the savage rain of nuclear war may fall upon this Earth. Should the horror of nuclear weapons ever be unleashed, regretting lost opportunities to limit and eventually eliminate these weapons will be irrelevant. Let us act and affirm our commitment to nuclear arms control while we have this opportunity.

Mr. PANETTA. Mr. Chairman, today we are confronted with whether we are going to allow years of bipartisan work on arms control to be thrown out the window. I am referring to arms control negotiations that began with President Lyndon Johnson, and continued through Presidents Nixon and Ford, until President Carter signed SALT II in 1979.

These four different Presidents were from both major political parties, and each saw the need for reaching arms control agreements with the Soviet Union. Now, President Reagan has announced that, beginning this fall, the United States will no longer abide by the SALT agreements.

It is said that the United States will abandon SALT because of continuing violations of the agreements on the part of the Soviet Union. And, yes, there are questions regarding Soviet actions in the areas of telemetry encryption and a second type of ICBM. But, according to experts in the field, these are close questions according to the terms of the treaty. Even those who worked on the SALT II agreement have said that certain sections of the treaty pertaining to these violations were vague. The issue facing us here today is whether we are going to take these questionable violations of vague sections of the treaty and abandon SALT altogether.

Mr. Chairman, I do not believe that these vague issues justify a renewed arms race. You do not throw the baby out with the bath water, and you do not scrap years of arms control negotiations over such minor and vague questions.

The important provisions of SALT are those provisions that limit deployment of additional weapons and warheads. And Soviet compliance in these areas is unquestionable.

SALT I and SALT II have required over the years that the Soviets remove more than 1,000 intercontinental ballistic missiles, more than 240 submarine-launched ballistic missiles, approximately 45 bombers, and 20 Yankee-class nuclear missile-carrying submarines. In the next 5 years, SALT would require that the Soviets deactivate approximately 500 to 600 missiles and launchers.

SALT has not required the United States to make nearly as many concessions as the Soviet Union. Based on SALT I and SALT II, the United States has had to deactivate 320 ICBM's, 544 SLBM's and 11 nuclear-missile carrying submarines. In fact, SALT II provided ceilings that we could build up to, while requiring that the Soviets build down to these ceilings.

Later this year, however, the U.S. will be required by SALT to make real and genuine reductions. Either we retire about 74 Minuteman III ICBM's or we cannot continue with the ongoing conversion of B-52 bombers to carry cruise missiles. And that is what is wrong with SALT II.

It is far easier to comply with SALT when it does not require anything of us.

The decision to abandon SALT is a disastrous one, from both a military and a diplomatic perspective. The abandonment of SALT will leave the Soviets free to rapidly expand on their strategic options, as they have said that they would do. And, as President Reagan himself observed last year, the Soviet Union has a much greater capacity to increase weaponry than the United States. One estimate shows that Soviet strategic forces could grow by 65 percent by 1989, compared to only 45 percent for the United States if SALT is abandoned.

Between them, the United States and the Soviet Union already have some 50,000 nuclear warheads, including 22,000 strategic weapons. But, the Congressional Research Service estimates that each side could more than double its strategic nuclear weapons by 1992 without SALT.

We also stand to lose on the diplomatic front. Already two of our staunchest allies—Great Britain and West Germany—have voiced their disappointment with the President's decision to abandon SALT. Plans for a summit between President Reagan and Soviet leader Gorbachev will certainly be threatened by the President's decision to side-step SALT.

The President has said that we ought to seek a new arms control agreement. But he has rejected the Soviet offer of a mutual testing moratorium and has continued his strong support of the strategic defense initiative. Without any common ground, how can we hope for any arms control agreement?

In short, the scuttling of SALT II benefits no one, except perhaps the Soviets who have been forced to cut back more than the United States under this agreement, and are in a better position to take advantage of the removal of SALT limitations. Abandoning SALT almost certainly guarantees a renewed arms race; one that we cannot afford. And it leaves us no forum or foundation upon which to build a new arms control agreement.

By abandoning SALT, we lose strategically and we lose diplomatically. And, in the final analysis, the world loses, too. I urge my colleagues to support House Concurrent Resolution 350 and I urge the President to continue to comply with SALT.

Mr. FRENZEL. Mr. Chairman, I am a cosponsor of House Concurrent Resolution 350, which reaffirms the House's support of the numerical limits and sublimits of SALT II.

Like other sponsors, and like the President, I would prefer deep cuts in nuclear stockpiles, and I believe the Soviets must be accountable for violations in other sections of the agreement. Nevertheless, I think it is in the interests of both countries to keep a limit on nuclear weapons.

I respect the President's feelings that the agreement, ratified or not, ought to be observed in toto by both parties. I believe he is right that the U.S.S.R. should not be allowed to violate the treaty selectively, while expecting us to observe the sections it finds attractive.

So I shall vote for the Broomfield amendment because it is a clearer statement of prudent U.S. policy. I would prefer that the Soviets be put on notice clearly that we don't believe in cheating on a treaty.

I am proud, and glad, we have observed SALT II to date. I am disappointed the U.S.S.R. has not. That disappointment makes verification the No. 1 priority in any future agreement.

However, should the Broomfield amendment fail, I believe the original version is acceptable as a statement of Congress' advice to the President. It says, in effect that the limits are worthwhile and should be observed even in isolation.

The President may ignore this advice because it is a statement more easily misunderstood than the Broomfield statement, but I think it is better policy than no limits at all.

Mr. KLECZKA. Mr. Chairman, I rise as a cosponsor of House Concurrent Resolution 350, and urge the House to adopt it.

Let me begin by stating that I agree with the President on one key point. He has said that limiting strategic arms is not enough, and that his ultimate goal is strategic arms reduction. I could not agree more. As long as our nuclear stockpiles continue to grow, we continue to court nuclear disaster.

What I cannot support is the President's curious approach to achieving these reductions. SALT II, imperfect as it is, represents the state of the art in arms control, and it has afforded a critical margin of stability over the last 7 years.

Under SALT II, the Soviets have retired some 1,200 launchers with over 4,000 warheads. The treaty has permitted the verification of Soviet strategic tests and developments, and has reduced tensions between our nations. Perhaps most important, SALT II has provided a framework for the further negotiation of arms reductions. The decision to scrap SALT II destroys this climate for negotiation, and contributes nothing to our security.

The President's decision makes no sense in a military, fiscal, or diplomatic context. Militarily, the Soviets can respond to the abandonment of SALT in one of two ways. One response would be unilateral restraint, in the absence of any commitment on the part of the United States. Even a cursory understanding of Soviet history and the arms race suggests this possibility is absurd.

The second, and likely, Soviet response will be to renew the arms race. Is this in our national interest? Recent analysis released by the Arms Services Committee suggests that the Soviets could have a significant advantage

in the short term deployment of strategic arms due to their hot production facilities and excess launcher capacity. Even if America can catch up, will a doubling or tripling of our stockpiles make us more secure?

Fiscally, a new arms race would be a fiasco. A new generation of strategic weapons will cost tens of billions over the next decade. American taxpayers deserve better than a new treadmill of defense spending that contributes nothing to our defense.

Diplomatically, the President's decision is already a failure. Not a single Western ally has supported the move, and the decision is sure to add fuel to those opponents of the NATO Alliance.

Mr. Chairman, House Concurrent Resolution 350 is a fair resolution. It recognizes possible Soviet violations of SALT II, and recommends reasonable measures to resolve these issues. It recognizes that American observance of SALT II must be based on Soviet reciprocity. But it also takes a firm stand on behalf of the SALT framework, and on behalf of America's long-term security.

Mr. Chairman, the President has said he wants arms reductions, yet he has abandoned SALT, sought more money for MX, and plans new star wars tests. In 5 years of this contorted strategy, he has nothing whatsoever to show for it. Let's do the sensible thing, and preserve SALT II.

Mr. LANTOS. Mr. Chairman, on May 27 the administration announced an ill-advised and unfortunate decison. On that day the American people were told that the U.S. Government would no longer be bound by the limits established in the SALT II agreement.

The basis for that decision, according to the administration, is that the Soviet Union has violated the SALT II provisions as well as those of the ABM Treaty. Mr. Speaker, there is considerable controversy about the accusation that the Soviets have cheated on SALT. Even if the Soviets are in partial violation of the SALT agreements, that is not the crucial issue. The key question is whether the United States stands to gain more by continuing to observe the SALT agreement or whether we will lose more by abandoning it.

Arms control is not the only area in which we have continued to observe agreements despite Soviet failure to keep the agreement fully because we are better off with a partially observed agreement than with no agreement at all. The Soviets have violated the human rights provisions of the Helsinki Accords; nevertheless, we continue to observe that agreement and we continue to press the Soviet Union to observe its provisions.

If we abandon SALT, the problems that will follow may be far greater than the consequences of potential Soviet violations. Some restraint is better than none. Arms experts outside the administration are almost unanimous in agreeing that the Soviets are in far stronger position than the United States to exploit the new nuclear arms race which will result from scrapping SALT II. Although we could catch up with the Soviets eventually, it would take many years, during which time the United States would be considerably more vulnerable than we now are. Furthermore, the cost of a renewed arms race would be tremendous.

Mr.Chairman, our allies have shown a unanimous negative reaction to the administration's announcement. Not one of our Western allies has supported the administration's announcement on abandoning SALT. Members of the European Parliament are here in Washington for our regular semiannual meetings with members of that legislative body. As chairman fo the U.S. congressional delegation, I can assure you that there is indeed serious concern—across the entire European political spectrum—about the administration's statement that the United States would no longer be bound by SALT limits on nuclear arms.

The administration's announcement could not have been more ill-timed. It came shortly after the Soviet nuclear accident at Chernobyl, which had a profoundly negative impact on European public opinion. At the very time that the Soviet Union was on the defensive, the administration took the spotlight off Soviet nuclear irresponsibility at Chernobyl and revived the perception that the United States administration is irresponsible and a danger to world peace.

The decision to abandon SALT II is hardly likely to improve relations with the Soviet Union. Now is the time to improve the atmosphere and redouble our efforts to reach a new arms control agreement.

The only criterion that we should consider in deciding whether or not to continue to observe SALT agreements is whether continued observance is in our own national interest. Technical arguments about Soviet violations are not the issue. Do we have more to gain by continuing to observe SALT or do we stand to lose more by abandoning it?

Mr. Chairman, the answer is clear and unequivocal—we must continue to observe SALT. The proliferation of nuclear weapons is the greatest single threat to our planet. Our goal must be a world free of nuclear weapons. As we work toward that end, we must be willing to take the intermediate steps that will bring us to that goal.

□ 1345

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] has 30 seconds remaining.

Mr. FASCELL. Mr. Chairman, I will just wind this up by saying that although this resolution has been attacked and disregarded and characterized in many ways, the truth of the matter is that it was worked out in a bipartisan fashion. Even the specific language that was objected to here in the well just recently was adopted by the Committee on Foreign Affairs by a vote of 29 to 11.

So, this is a bipartisan resolution which we bring to the floor, despite the criticisms, objections, reservations, characterizations, and assassinations.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the concurrent resolution is considered as having been read for amendment under the 5-minute rule. The amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the concurrent resolution shall be considered as an original resolution for the purpose of amendment, which shall be considered as having been read.

No amendments to the concurrent resolution or to said substitute are in order except the amendment printed in section 2 of House Resolution 479 if offered by Representative BROOMFIELD or his designee, which shall not be subject to amendment or to a demand for a division of the question but shall be debatable for 2 hours to be equally divided and controlled by the proponent and a Member opposed thereto.

The Clerk will designate the amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

H. CON. RES. 350

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. FINDINGS.

The Congress finds that—

(1) the constraints on growth of Soviet nuclear forces, especially those involving numerical sublimits imposed by the SALT arms control agreements serve vital United States national security interests, especially in this time of fiscal austerity;

(2) a failure to adhere to the SALT agreements would result in a significantly increased threat to the United States by allowing the Soviet Union to increase significantly the number of warheads it could have under the SALT agreements and to substitute all of its single-warhead ICBMs and SLBMs with multiple-warhead missiles;

(3) the SALT agreements provide some important measures for monitoring Soviet nuclear force developments and for verification;

(4) the United States and the Soviet Union have not undercut the numerical sublimits of the SALT agreements;

(5) although allowing for modernization under which the Soviets have removed over 800 ICBM missiles and replaced them with newer types, the SALT agreements have required the Soviet Union to dismantle over 200 ICBM launchers, over 240 SLBM launchers, and 14 Yankee-class nuclear missile-carrying submarines;

(6) the Administration contends that the Soviet Union has violated some of the provisions of the SALT agreements that do not deal with numerical sublimits by taking such steps as deploying more than one new type of ICBM, exceeding the limit on strategic nuclear delivery vehicles, and excessively encrypting telemetry;

(7) disputes over Soviet compliance with the SALT agreements could be resolved within the Standing Consultative Commission, by the on-going negotiations at Geneva, or by other means; and

(8) our European allies have expressed their special concern over the tentative decision to discontinue United States adherence to the SALT agreements in the future.

SEC. 2. CONTINUED ADHERENCE TO SALT NUMERICAL SUBLIMITS AND OVERALL NUMERICAL LIMIT.

The President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise, and the President shall continue to adhere to the overall numerical limit of the

SALT agreements as long as the Soviet Union does likewise.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows

Amendment offered by Mr. BROOMFIELD: Page 3, beginning in line 19, strike out "NUMERICAL" and all that follows through the end of line 20 on that page, and in lieu thereof insert "PROVISIONS."; and

Page 3, beginning in line 21, strike out all that follows the word "adhere" through the end of line 25 on page 3, and in lieu thereof insert "to the provisions of the SALT agreements as long as the Soviets do likewise.".

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. BROOMFIELD] is recognized for 1 hour, and a Member opposed will be recognized for 1 hour.

The gentleman from Florida [Mr. FASCELL] will be recognized for 1 hour in opposition.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is simple and to the point It states in clear terms a basic principle which I feel has the full support of the American people. If we are going to continue to support an unratified, expired arms control agreement, the least we can do is ask that the Soviet Union do the same. One-sided attempts to compel the United States to adhere in the future to the terms of the SALT II agreement, without any attempt to address the present-day violations of this same agreement by the Soviet Union, do not contribute to arms control. Such actions undermine it.

The integrity of any arms control agreement is firmly rooted in the adherence of both parties to all the treaties' provisions, and more importantly, the willingness of a country to demand that violation of such an agreement be remedied. Failing that, the agreement should be severed. We are in such a situation today. The Soviet Union has not complied with key provisions of the SALT agreements.

The United States had repeatedly asked the Soviet Union to end these violations, emphasizing the deployment of the new SS-25 and the continued encryption of test telemetry as two key areas of concern. The Soviet Union has not responded constructively, and these violations remain unchecked.

My amendment firmly establishes the absolutely necessary link between Soviet compliance with SALT II and our own adherence to this treaty. I do so in a simple and straightforward manner by stating that the United States will adhere to the SALT provisions as long as the Soviet Union continues to do likewise. It is hard for me to understand how those of my colleagues on the other side of the aisle could be opposed to this amendment.

I would hope that none of my colleagues believes that the sole basis for our adherence to SALT II is a sense of trust that the Soviets are living up to their SALT II commitments. Our experience with the Soviet Union should teach us a different lesson. Soviet secrecy demands that we constantly remind them that we will settle for nothing less than their living up to their international agreements. Chernobyl is just the most recent example of how the Soviet Union operates by a different set of standards than we do in the Western democracies.

My amendment is based upon a simple principle which recognizes that a significant violation of even one provision of the SALT II agreement is serious enough to call into question the entire agreement. In this way we are honest with the Soviets. We tell them straight out that we will not accept Soviet violations even if they affect only one part of the agreement. The SALT II agreement was crafted as a comprehensive, integrated package with interlocking components. These issues cannot be separated.

The Soviets signed the SALT II agreement and my amendment does nothing more than call on them to live up to this commitment. I do not feel that is too much to ask.

Mr. FASCELL. Mr. Chairman, I yield myself such time as I my consume.

Mr. Chairman, I will just take a minute here to simply say that the essence of this amendment was considered in committee. It was rejected by a bipartisan vote. What it does is maintain the status quo.

The gentleman's amendment has the clear effect of gutting the resoluton.

The President has announced that we should abandon SALT in the future because the Soviets have not fully complied with SALT.

This is despite the fact that:

First, the Soviet record of SALT compliance far outweighs its record of noncompliance;

Second, Soviet noncompliance has no military significance per the administration's own assessment; and

Third, there is nothing in place to replace the current agreed upon SALT verification enhancement provisions.

Under these conditions, abandoning SALT—which is the effect of the gentleman's amendment—is like responding to children misbehaving in school by closing down the school.

It is like responding to an increase in crime by abandoning the criminal code.

We don't want the Soviets to be free:

First, to more than double the size of their current nuclear arsenal—from over 9,000 to 20,000 nuclear weapons;

Second, to make United States verification more difficult and impede United States intelligence of Soviet nuclear activities; or

Third, to force us to spend billions more on defense spending.

That's what we would have without SALT. Not something "better" as promised by the administration but something worse.

We all endorse the President's objective of reductions in the already excessive nuclear arsenals of both superpowers.

Our only difference is on how we should get there.

Should we get there:

First, by enabling the Soviets to add thousands of additional nuclear weapons?

Second, by requiring the Soviets to dismantle thousands of nuclear weapons?

Common sense tells us that you don't get reductions by acquiring more when you can get some reductions now as you strive for even more reductions in the future.

That's what we now have with SALT.

Let's not leave it until we have something "better" in hand. The promise of something "better" is dependent upon Soviet cooperation—which we now don't have—and which will take years of hard negotiation to achieve.

In short, a world with SALT means reductions now and reductions later.

A world without SALT means increases now and maybe reductions later.

Few choices are so clear cut.

Vote against the Broomfield amendment.

Mr. Chairman, I yield 10 minutes to the distinguished chairman of the Committee on Armed Services, the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. I thank the gentleman for yielding this time to me.

Mr. Chairman, we are about to do something very, very stupid if we are not careful. It would not be a wise idea to pass the Broomfield substitute. It would not be a wise idea to abandon the SALT limits, as the President has announced that he would like to do.

Let me say at the outset that I believe that the Soviet Union is clearly—clearly—violating SALT II. They are violating it in terms of building the SS-25. They are violating it in terms of encryption telemetry, and they are violating it with the Krasnoyarsk radar. I know it is a debatable point and other people feel differently, but from my reading of the evidence, no question. Absolutely true. They are violating it.

But it is also absolutely, undeniably true that they have kept within certain provisions of the SALT II accords. In particular, they have kept within those sublimits, the 820, the 12 and the 1,320 sublimits, and they have kept within those limits at a certain cost to their own forces. They have, over the last year since the signing of the SALT agreement, dismantled an awful lot more submarines, missiles, than we have. Whatever HENRY HYDE may say about what they have done with the submarines, they have moved with them 14 submarines out of the ballistic missile submarine business and they have dismantled on the order of 700 launchers to stay within those limits.

We have done very little. We have so far announced the dismantling of 3 submarines, and that is going to be about 48 launchers.

So we are talking about an enormously greater cost to the Soviet Union by sticking with the SALT agreements as they have in these areas of the sublimits.

□ 1355

Not only that, but they will continue to do so. If we project the SALT agreements out to the 1990's, the Soviets will be dismantling on the order of three times the amount of equipment, of launchers and submarines and things that we will be dismantling.

As the previous numbers imply, if SALT goes away and all stops are pulled out, the Soviets can build a lot faster than we can. They have a lot more hot production lines. They are building two new ICBM's. We are building one, the MX.

They are building two new submarines. We are building one, the Trident. They are building two new bombers. We are building one, the B-1.

They could increase their forces if SALT goes away today. They could increase their forces a lot faster than we could.

They have a second way to increase their forces. They can put more warheads on their existing missiles, on the order of 2½ times as many warheads as they have on the missiles now just because they have excess throw-weights.

So what are we doing here? What are we talking about? Why are we not afraid that all of this will happen? Because, says the administration, the Soviets are not constrained by SALT. They would have dismantled, says the administration, all those missiles anyway. And they would not build up their forces as they might because, says the administration, they have all the warheads and the launchers they need now.

Now that is an amazing point of view coming from this administration. I mean, we are not talking about the New Hampshire freeze campaign here. We are talking about the Reagan administration, the Reagan administration saying that they would dismantle these submarines and these launchers in any case and they will not build up because they already have enough.

The Reagan administration is making that kind of statement. What are we talking about? The Reagan administration is talking about it. Is all of a sudden the evil empire a bunch of good guys? What is happening here?

This unrelenting buildup, all of a sudden we have got rational force planners? What is happening? Why is the Reagan administration suddenly changing its view of the Soviet Union?

Of course, it is precisely because the Soviet Union does have an unrelenting buildup that we need to keep under SALT II. It is precisely because they never throw anything away and are constantly seeking advantage by building more numerical numbers that we ought to keep the SALT II limits.

It is precisely because the Soviet Union is an evil empire that we ought to keep the SALT II limits. We would be absolutely crazy to do away with these SALT limits, absolutely nuts.

Now, look at it from our side. If you look at it from our side, in what way is it inhibiting what we want to do? Virtually nothing. Virtually nothing. We are just starting now to bump up against the SALT II limits for the first time.

I thought SALT was a pretty good treaty back in 1979. Now, looking back, it is even better. Consider this: Even after 6 years of the Reagan buildup, we are just barely bumping up against the SALT II limits; whereas the Soviets are bumping up against it substantially and consistently all the time.

This treaty is a lot better than we thought it was. It certainly is constraining the Soviet Union a lot more than it is constraining us. Are we nuts? Are we nuts to be giving away this treaty? We have to be out of our minds.

If we are not seriously bumping up against the SALT limits and the Soviets are; if abiding by the SALT II limits is not appreciably affecting us, but it just might be. Let us just take the case that maybe they would dismantle these things. We do not really know. It just might be constraining the Soviet Union. Then does it not make sense to keep these limits in existence?

Sure, they are violating the treaty. They are absolutely violating the treaty in those three important ways. We ought not stand for that and we need a response. But we need a proportionate response.

Abandoning SALT II is not a proportionate response. It is a disproportionate response and it is one where we would be shooting ourselves, not in the foot, but in the head.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I want to commend the gentleman in the well for his statement and I want to begin the discussion of Soviet cheating, and what proportional responses we might take, since it has been argued here that they have cheated.

With respect to the encryption telemetry, is it possible for the United States, if we so chose, to encrypt our own telemetry?

Mr. ASPIN. Mr. Chairman, I think that would be the exact appropriate response.

Mr. DOWNEY of New York. Is it possible also that if there is no SALT agreement, would it not be true that the Soviets could encrypt all of their telemetry, and not just that which is applicable to the agreement?

Mr. ASPIN. Absolutely.

Mr. DOWNEY of New York. Mr. Chairman, with respect to the entire issue of the SS-25, which we have heard now, is it possible for the United States to have a proportional response by building, for instance, the Midgetman missile?

Mr. ASPIN. I think speeding up the Midgetman would be the right proportionate response to the Soviet violations.

Mr. DOWNEY of New York. Mr. Chairman, the gentleman, who is the chairman of the Committee on Armed Services, has an opportunity to look at these issues carefully. We admit there may be cheating and there is a way to deal with the cheating, but there is something else here that the other side has not mentioned today and that is the sublimits and these other limits in the warheads aimed at the United States, 15,000 by the year 2000 under SALT, but it can be 25,000 without SALT.

I think the gentleman is saying that 25,000 is inimical to U.S. security interests.

Mr. ASPIN. Mr. Chairman, let me say that I think that what they are saying is that the Soviets are cheating in three important ways, so therefore, we have two choices. We either walk away from the cheating or we pull out of the SALT agreement altogether.

I am saying, yes, they are cheating on those three areas, but there is another choice. We do not have just two choices of ignoring it or pulling out of the SALT agreement altogether, especially when, in the other respect, the SALT agreement is in our national security interest because the Soviets are a dangerous country.

Mr. DOWNEY of New York. Mr. Chairman, I am not a supporter of the SDI so I do not want to be asking this question in any cute or fanciful way, but if I were a supporter of the strategic defense initiative, would I possibly be able to develop an SDI, a star wars system, if the Soviet Union was allowed an unrestrained number of warheads in which to counter?

Mr. ASPIN. Mr. Chairman, there is no question that an unrestrained number of warheads on the other side makes an SDI defense very, very, much more difficult and the administration has as much as said so, that in order to have an SDI that works, they need a reduction from present warheads, and an increase would make it all that much more difficult.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER], a

member of the Committee on Foreign Affairs.

Mr. BEREUTER. Mr. Chairman, the Broomfield amendment is being offered for the first time to correct an inadvertent error, I am sure. I need to point that out.

During the course of full committee debate, I asked the question of the gentleman from New York [Mr. SOLARZ], what his reaction would be to the very change that is now in the Broomfield amendment, adding the word "provisions," dropping out "numerical sublimits." His reaction was negative, so I proceeded to another amendment which simply would have put "numerical limits" and "sublimits" in the amendment, since the Soviets are clearly over the numerical limits in toto, although they are apparently living with the numerical sublimits.

Later, by unanimous consent, that change was made after discussion by the gentleman from New York, but I do need to clarify that this provision, the Broomfield amendment, has not been offered before, nor voted upon, nor has there been a bipartisan vote cast upon it.

Now this amendment, of course, takes into account all provisions of the SALT agreement, not simply the numerical limits or the numerical sublimits. The amendment, therefore, considers qualitative violations of the SALT agreement. Apart from the numerical limits or the numerical sublimits references, the Soviets have been violating qualitative provisions of the SALT agreement, including the deployment of a second new ICBM, the SS-25, about which there is some disagreement. Certainly, there are violations readily pointed out by many sources about the encryption violations, the encryption of information related to missile testing.

Now, these two key noncompliance issues, and I am not even talking about the major radar installation, although we could well raise that issue as well, these noncompliance issues as raised by the administration, are downplayed as unimportant by some of the supporters of House Concurrent Resolution 350.

□ 1405

However, when the SALT II treaty was concluded in 1979, its supporters hailed these agreements; and those particular provisions as to the telemetry question were considered so important that the Foreign Relations Committee of the other body stated that a violation of the encryption prohibitions would by itself constitute a reason for U.S. withdrawal from the treaty.

The SALT agreements, I would like to emphasize, are together, in total, a comprehensive and integrated package with interlocking components. Numerical and qualitative provisions and encryption violations cannot and should not be separated.

The Soviets signed that SALT agreement, actually agreements; and the amendment does nothing more than call for them to live up to their commitments to all the provisions of the SALT agreements.

By focusing only on numerical limits or numerical sublimits or even both, the impression goes across the whole world that in fact the Soviets are not violating; or if there is some better knowledge and it is understood they are violating the overall limits, it appears that the United States is simply unwilling to proceed.

Now I would like to call to the attention of the body a brief excerpt from the June 7 edition of the Economist. This is, of course, a European publication. They said:

> But the main reason for saying that the current lament for SALT II is unwarranted is that what America has just done may have the effect of pushing Mr. Gorbachev towards a new and better SALT II.

There are similar, supportive statements recently in the Financial Times, which as you all know is another European publication—the issue of June 9—and a supportive editorial from the Wall Street Journal of June 13 that makes some of the same points.

In concluding my remarks today, Mr. Chairman, I would like to say that the United States has indicated, through the President's statement, and through administrative reactions, that the United States will stay in technical observance of SALT for some months, until the United States has equipped the 131st heavy bomber for cruise missile carriage later this year.

Beyond that, the indication from the administration is that assuming no significant change in the threat we face, we would implement the Strategic Modernization Program, but the United States would not deploy more strategic nuclear delivery vehicles or strategic ballistic missile warheads than the Soviet Union.

Mr. SOLARZ. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, I think it is very interesting that so far during the course of this debate, no one has gotten up to take the position that even if the Soviet Union does adhere to all of the provisions of the SALT II agreement, we should nevertheless reject it because even in the context of Soviet compliance, the SALT II agreement is not in the national interests of the United States.

This was not always the case. There was a time a few years ago when many of my good friends on the other side of the aisle took the position that SALT II was a fatally flawed arrangement, and even if the Soviet Union adhered to literally every provision in it, it still was not in the security interests of the United States.

Today, based on the debate so far, the issue is not whether SALT II is a good agreement or a bad agreement, but whether the United States should in effect abrogate all of the treaty if we believe that the Soviet Union is violating part of the treaty.

Indeed, under the substitute which the gentleman from Michigan has offered, if the Soviets live up to all of the provisions of the SALT agreements, the President of the United States is mandated to adhere to all of the provisions of the SALT agreements; but if the Soviets should violate even a single provision of the SALT agreements under the terms of the Broomfield substitute, then the United States would be free to repudiate the entirety of the SALT agreement.

During the course of the debate, we have heard from some of our friends, particularly on the other side of the aisle, that the Soviets have in fact engaged in significant violations of the treaty. We have been told that they violated the prohibition on more than one new type of missile by building the SS-25. We have been told that they violated the prohibitions against encryption by encrypting telemetry that we need in order to verify Soviet compliance with the treaty; and we have been told that they have exceeded the overall numerical limits in SALT II by failing to put functionally relevant observable differences on 25 of their bombers that they claim they have transformed from strategic bombers into tankers, thereby putting them 25 strategic launchers over the overall limits in SALT II.

I think that we have to acknowledge that these are very serious allegations, and to the extent they are true, they clearly require a response by the United States. I have not heard anyone on this side of the aisle, throughout the course of the debate, suggest that we should ignore those putative violations, particularly should it be clearly and unequivocally established that the Soviets have in fact violated the treaty.

I would point out to my colleagues that in fact the resolution which we have under consideration today in paragraph 6 on page 3 specifically takes note of the administration's contentions that the Soviet Union has violated the treaty in these ways.

The resolution does not remain silent on that issue. We are not ignoring these putative violations of the treaty by the Soviet Union.

The resolution then goes on, in paragraph 7 on page 3, to take note of the fact that these disputes with the Soviet Union over their compliance with the treaty can potentially be resolved through the Standing Consulta-

tive Commission, which effectively enabled us to resolve comparable disputes with the Soviet Union over their compliance with SALT I in the 1970's; and if that is not a practical possibility, it indicates that we can potentially resolve these differences in the Geneva negotiations, and if that is not possible, it indicates that we can resolve the differences by other means.

What do we mean by other means? What we mean by other means is in effect that if we come to the conclusion the Soviets have violated the treaty by building more than one new type of missile, then we can build a new missile such as the Midgetman.

The Soviets are encrypting their telemetry; we can respond in a proportionate and appropriate way by encrypting our telemetry.

The resolution makes it very clear that if we believe the Soviets are violating provisions of the treaty, then we are in a position to respond in an appropriate way by not adhering to those provisions of the treaty which the Soviets are in fact violating.

The fundamental question that confronts us, therefore, is whether we should preserve parts of the agreement with respect to which the Soviets are complying simply because they are violating other provisions of the agreement.

Those of us who oppose the substitute and support the resolution believe that it is in our interests to comply with the numerical sublimits of SALT so long as the Soviets continue to do so, because so far, pursuant to those provisions, the Soviets have dismantled 541 strategic launchers while we have been obligated to dismantle only 187 strategic launchers.

Insofar as the future is concerned, the Soviets would have the potential to expand the number of warheads on their existing ICBM's by 8,492 if the numerical sublimits were abrogated, whereas we would have the potential to expand the number of warheads on our existing ICBM's if the numerical sublimits are abrogated by zero.

The reason for that is that on every one of the deployed Soviet ICBM's; the 11, the 13, the 17, the 18, the 19, and the 25, they have fewer warheads than the maximum potential which the missile will carry. Whereas on every one of our deployed ICBM's; the Titan, the Minuteman II, the Minuteman III, and the MX, we have already deployed the maximum number of warheads which the missile is capable of carrying.

□ 1415

Therefore it is very clear that, if we abrogate the numerical sublimits in SALT II, the Soviets will be able to expand their strategic forces by a substantially greater amount than we can expand our existing forces. And while nobody knows for sure whether the Soviets will do it, why take the chance? Why let them off the hook? Why give them the opportunity?

So if the substitute is adopted, in effect, the resolution will be gutted because the administration will say the Soviets are not respecting all of the provisions of the treaty, therefore we are under no obligation to comply with the provisions of the treaty, and they will abrogate the numerical sublimits.

Whereas, if the substitute is rejected and the resolution is adopted, we, in effect, will fence off that part of the SALT agreement relating to the numerical sublimits which they have been adhering to and which we have been adhering to which are in our interests, leaving ourselves free to respond in a proportionate and appropriate way to any violations of the other provisions of the treaty which we believe the Soviets may have committed.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of the amendment offered by my distinguished colleague from Michigan [Mr. BROOMFIELD].

Let me say first, Mr. Chairman, that I applaud the President for currently remaining within the limits set forth by the SALT II agreements by dismantling two Poseidon submarines as our newest Trident submarine begins sea trials. I also agree with the President that it is now time to reach a new arms control accords—agreements providing for real arms reductions.

I am encouraged with news that only recently the Soviets set forth a new arms proposal in Geneva which appears to be the most substantive and the greatest step toward compromise made by the Soviets in those arms talks to date. As we continue to seek an agreement, I agree with the thrust of the resolution before us today—we should practice restraint and continue to remain in compliance with the SALT II Treaty as long as the Soviets comply.

Mr. Chairman, having voted in favor of House Concurrent Resolution 350 in committee, it is plain that I agree with the essence of this legislation and I commend Chairman FASCELL for having introduced this type of legislation. At the same time, I am concerned that the language as it was reported from committee is somewhat restrictive in nature.

While I believe it is helpful for this body to send this message to the administration and the world—the message that we wish to continue to maintain SALT limits—I believe that by focusing exclusively on "numerical sublimits" we unnecessarily lock ourselves into narrowly focused policy. My colleagues, I'm sure, are aware that there are provisions of the SALT II agreements which have no numerical value which, nonetheless, are limits.

Mr. BROOMFIELD's amendment, then, broadens the scope of the resolution to include these qualitative arms control measures as well. Mr. Chairman, the SALT agreements are a comprehensive, treaty package with interlocking provisions. Numerical and qualitative provisions—and violations—should not be separated.

One of the arguments that some individuals use in insisting on the narrow phraseology is that in so doing we can effectively prohibit the Soviets from increasing their nuclear arsenal. Yet the SALT II agreement limits only launchers. The Soviets have, therefore, been able to add to their force more than 4,000 ballistic missile warheads since the signing of SALT II. Is that effective containment?

Mr. Chairman, you may know that when brought to the floor of the House I supported both the nuclear freeze resolution and the more recent comprehensive test ban resolution. I favor serious arms reduction and support measures which will move us toward that goal. In so doing, it is my belief that we should remain within compliance with SALT II as long as the Soviets are in compliance.

I support passage of House Concurrent Resolution 350 and strongly urge acceptance of the Broomfield amendment which improves it.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. Chairman, I cannot help but comment, I think this was covered by my colleague Mr. HYDE, on section 6 of the resolution, which was just used by my colleague from New York as a reason for us to agree to the resolution. Section six states "the Congress finds that the administration contends that the Soviet Union has violated some of the provisions of the SALT agreements." I am curious why it should not read that "the Congress finds that the Soviet Union has violated some of the provisions of the SALT treaty." All this does is say what the administration's contentions are. It is not worth the paper it is written on, obviously.

We are in a position, Mr. Chairman, that I find Orwellian and bizarre. An argument is being made that the United States of America should negotiate a treaty with the implicit understanding that, if one of the signatories, not the United States but the other signatory, violates it, then the United States should certainly not call that treaty invalid but should respond and cheat on the treaty itself.

Of course, the United States of America, we all understand, would not be the first indeed to violate the treaty, but if that treaty is violated by

the other signatory, then the United States would also violate it, but not too much, not too much, only proportionately.

We have placed ourselves in the position of asking the American people to agree to a treaty which has been consistently violated. Our response to those violations is not to say the treaty was not any good, nor that the people who are violating it are no good, but to say "Don't worry, it will be OK, American people, because we will also violate this treaty."

I do not believe that is the history of this country. I do not believe that that is what we should foist off on the American people.

I would ask my friend from Ohio, Mr. KASICH, since he is a member of the Committee on Armed Services, their allegations and agreement by the chairman of the Committee on Armed Services, I guess if the violation is encryption, then we should encrypt our missile tests, is that the situation?

Mr. KASICH. If the gentleman would yield, that is the argument, but it seems to me that if they are going to violate the agreement, while we are going to violate it too, that thereby we destroy the purpose of the treaty. The important thing is we do not want to set a precedent, it seems to me, where we argue it is OK to violate certain parts of the treaty but still leave it intact. It destroys the whole purpose of mutual trust between nations.

The Broomfield substitute is so eminently fair I cannot quite understand why it is not unanimously adopted in the House because it states, even though the Soviets can develop 5,000 additional first-strike warheads, all this says is, "Don't cheat. We will let you build more but just don't cheat beyond that." And they just do not seem to buy it. I do not understand it, it makes no sense to me when they encrypt and build radars and build prohibited missiles and on top of that have the capability to deploy another 5,000 first-strike warheads within the treaty.

Mr. McCAIN. I thank the gentleman.

On the subject of the Krasnoyarsk radar, the United States proportionate response is apparently that we should then build an ABM radar system in violation of the treaty. Is that the proportionate response there?

Mr. KASICH. If the gentleman will yield further, what I do not understand, is, we had an argument out here during the SDI debate where the proponents of SDI said, "We don't want to break out of the ABM Treaty." We spent 2 or 3 hours on the floor of this House talking about whether or not we should break out of the ABM Treaty. Now they are saying today that, if the Soviets break out of the ABM Treaty, we ought to break out of it, too. I just do not understand that. I do not understand how they can come and oppose one day breaking out and the next day argue in fact that, if they are going to violate it, we are going to violate it, too. But that is essentially what they are doing today.

Mr. McCAIN. Well, lack of time prevents the third example. But the fact here is that we have an amendment that calls for adherence to a treaty by both signatories—not by the signatories but by both of those who have negotiated and who have adhered to the treaty all these years.

Now we are asking both to adhere to it. I think the Broomfield amendment makes eminent sense, instead of placing us in the incredible experience of saying to the Soviet Union, "It is OK for you to cheat and violate but, don't worry, we will violate, too." What kind of an agreement is that?

Mr. KASICH. If the gentleman will yield further, at Geneva we are conducting talks right now to reduce nuclear weapons. How can we have any faith in negotiations when we told the Soviets, "You can go ahead and cheat?"

All the Broomfield amendment says is, we will abide by SALT II if the Soviets do. I think 99 percent of the American people frankly agree with that position, and I hope this House will.

Mr. McCAIN. I find it hard to believe that the American people will support a treaty of that nature, that lets both sides cheat and I certainly hope we can support the Broomfield amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. GILMAN], a member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD], the distinguished ranking Republican on our Committee on Foreign Affairs.

Mr. Chairman, over the years Members of this House have asked the administration to exert more of an effort on arms control matters when we thought the moment was right. They have responded well. For example, 1 year ago, we asked the administration to continue its no-undercut policy by—in accordance with SALT II—dismantling a nuclear submarine when a new one was put to sea. Just this month, a similar decision was made, under which our Government will dismantle two older submarines.

Yet we have restrained ourselves notwithstanding militarily significant violations of the SALT agreements on the part of the Soviet Union. We have done so to preserve a proper atmosphere for the negotiation of new, better arms reduction agreements.

Let us recall that the President has not said he would violate the provisions of the SALT agreement. Rather, he said he would consider doing so if the Soviets continue to violate their commitments under SALT.

Today's resolution threatens to undercut the President's ability to negotiate new agreements as well as to bring about compliance with existing ones. This resolution says, in essence, that our Nation will tolerate any current or future violations by the Soviet Union of qualitative limits as long as another kind of limit is respected by them. The problem is that the violations of the kind committed by the Soviets—new missiles, telemetry encoding, and so forth—are not easily responded to by our Government except by actions such as modernizing an additional B-52. Without some kind of response, there will be no incentive to the Soviets to stop their violations and get involved in serious arms reduction talks.

Mr. Chairman, it should surprise no one that the Soviets have come to the negotiating table with what newspaper reports say are significantly improved arms reduction proposals after—I repeat, after—the President's announcement that if Soviet violations do not cease we may modernize a few additional B-52's. Most importantly, the Soviet proposals are being discussed in private, in Geneva, rather than in the newspapers.

But I predict that if the House decides to tie the hands of the President we may well face a situation in which the negotiations in Geneva once more shift into the confrontational mode which we have seen so many times in the past.

The Broomfield amendment takes into account all provisions of the SALT agreements, not simply the numerical provisions.

Accordingly, Mr. Chairman, I urge our colleagues to support the Broomfield amendment, to preserve the President's flexibility in negotiating arms control agreements.

Mr. Chairman, I yield back the balance of my time.

Mr. WEISS. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Chairman, we are gong to pass this resolution and defeat the Broomfield amendment because the House of Representatives puts national security ahead of rightwing dogma.

For 5½ years this administration has been divided on the question of arms control, divided between those who are opposed, who believe that all arms control agreements are the ultimate sedative to American awareness, and

those who favor arms control either to appease the allies but who have been unable to achieve it. The other side sings the siren song of Soviet violations. We have addressed those Soviet violations here. They are there, they are numerous and they need to be dealt with. But they should not serve as an excuse to abandon the very important provisions of the SALT agreement that benefit U.S. security.

Without SALT, without SALT the Soviet Union can deploy 25,000 warheads by the year 2000. They can deploy 10,000 fewer with SALT. It is amazing to me that during the course of this debate we have not heard a whisper from the other side about the SS-18. Do you remember the SS-18, my conservative colleagues? You are the ones who told us that the SS-18 was the reason the SALT II agreement was fatally flawed. Indeed in Mr. Weinberger's "Soviet Military Power" in 1985 he refers to the 18, the 17, and the 19 as "the world's most modern deployed ICBM's." They are fearsome, they are awesome. And yet our colleagues on the other side want to see more of them deployed. That is crazy. We have the opportunity to reduce the risk of nuclear war, however small, by reducing and keeping a lid on Soviet first-strike warheads. Why would we want to, for goodness sake, abandon that most rational position? Why? Because there is no commitment whatsoever to arms control from this administration. What have they said on the MX missile? They told some of our colleagues who were honestly interested in working with them that, yes, we will swallow hard on that.

□ 1430

But we want Midgetman because we think that is more stabilizing, and we want you to be serious about arms control.

What did they do? The first chance they got, when they made an offer to the Soviet Union, they wanted to ban the deployment of mobile missiles, removing the opportunity to have Midgetman and have a more stabilizing deployment.

This administration's song is very simple and very clear. They see security in one way and one way only: more weapons, more weapons offensively and more weapons defensively. They ignore the possibilities that the Soviet Union is prepared, willing and able to keep up with us. Indeed, amazingly enough, they tell us now that the old weapons do not matter, and yet we do not have a plan to stop the new ones. It is the height of hypocrisy.

Yesterday the House of Representatives said to the administration, "you are wrong on South Africa." Today the House of Representatives is going to say to this administration, "you are wrong on arms control and, while we would vastly prefer to see you negotiate, it is clear that you are incapable or unwilling and we are not prepared to see American security sacrificed because of your shortsightedness."

Mr. BLOOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I would just like to point out that nobody was arguing that SALT II was flawed because of the SS-18. In fact, the SS-18 was deployed before we signed SALT II. It has been since SALT II that the Soviets have modernized the 19, the 24, and the 25.

All that the gentleman from Michigan [Mr. BROOMFIELD] is trying to say, and I want to appeal to my friends on the other side, is that even in light of the development of Soviet strategic warheads from 5,200 to a current 9,200 all the way up to a potential 14,000 warheads that we permit the Soviets to have under SALT II, all the gentleman is trying to say is we will even permit that growth, if the Soviets will just stop cheating. If you stop cheating, we will abide by the treaty. Stop your radar, stop your new missiles, stop your encryption, and we will go right along with you and abide by SALT II.

But this administration says that we want to accomplish even more. This administration says we want reductions in nuclear weapons at the START talks, and if we do not have an agreement that shows integrity on behalf of both sides, how can we have any faith in what the Soviets are going to do when we negotiate the START agreement. Let us tell them to honor the treaty and stop their cheating.

Mr. BROOMFIELD. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. ZSCHAU].

Mr. ZSCHAU. Mr. Chairman, I thank the gentleman from Michigan [Mr. BROOMFIELD] for yielding this time to me.

This administration, despite the criticisms of many people, is on the verge of a major breakthrough, in arms control. This Congress should be supporting the negotiations in Geneva rather than trying to undermine those efforts.

I think the key issue in this debate is whether what we do here in this body is going to help arms control and the negotiations taking place or whether it will be detrimental to the progress that is being made in Geneva.

We need arms control in order to have stable deterrence. We need arms control in order to make sure that any defensive systems that are ultimately deployed are able to be effective. In my view, SALT I and SALT II have been helpful in stabilizing the situation and preventing a runaway arms race over the past several years. They also provide a good foundation for future negotiations. We are now at a critical point in the process in Geneva where proposals for deep reductions have been offered on both sides. Negotiations are moving forward. What we do here should facilitate that rather than get in the way. We do not want to by our actions undermine the arms control process.

In order for the negotiations to succeed, three elements are needed.

First, we need unambiguous agreements. We have learned from the SALT agreements that ambiguities undermine the credibility of agreements. We should be cognizant of the necessity for clarity in our future negotiations.

Second, we need good verification means. The verification protocol is extremely important, and agreeing to that protocol is a critical part of the negotiations.

But third, in order to foster the mutual confidence necessary for arms control to work, there must be a history of compliance. If there are concerns about compliance on one side or the other, those concerns should be voiced. If we are suspicious that the Soviets are violating an agreement, or if the Soviets are suspicious that we are violating the agreement, then the agreement will become ineffective.

It seems to me, therefore, that rather than passing a resolution restricting the flexibility of the President in the statements he makes or how he otherwise reacts to Soviet violations of the existing agreements, Congress should be making a strong statement that it expects and it requires bilateral compliance, not merely of some terms of the agreements, but all terms of the agreements.

That is exactly what the Broomfield amendment says. It says that we, the United States, will abide by all terms of the SALT agreements if the Soviet Union abides by all terms of the agreements. In order to have confidence in the SALT agreements, in order that they continue to provide building blocks for moving ahead for deep reductions of nuclear weapons, both sides should be adhering to all terms of the prior agreements.

We should be supporting our negotiators rather than undercutting them.

I believe that without the Broomfield amendment, the message sent to the Soviet Union is that Congress will require the United States to abide by terms of an arms control agreement even if the Soviets do not. That's the wrong message to send. If that message gets transmitted to the Soviet Union, our ability to negotiate arms reduction agreements in Geneva will be undermined. Instead, we should be

sending a strong signal of support for our arms control negotiators and make it clear that we insist on bilateral compliance of all terms of arms control treaties so both parties can have confidence in them.

I urge my colleagues to support the Broomfield amendment.

Mr. LEVINE of California. Mr. Chairman, will the gentleman yield?

Mr. ZSCHAU. I yield to the gentleman from California.

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would just like to raise one question. It seems to me that the gentleman's argument is a non sequitur. On the one hand, the gentleman argues, correctly I believe, that arms control has been helpful, that arms control is important, that arms control is valuable and that, in fact, SALT, if I understood the gentleman's argument, has been helpful.

But on the other hand, the gentleman comes to the conclusion that if we do not accept this amendment, we should essentially throw the baby out with the bathwater and agree that we should walk away completely from SALT.

I guess my question it: How does that conclusion follow from these premises? If these are valuable agreements, should we not then do what we can to abide by them and maintain them?

Mr. ZSCHAU. Mr. Chairman, I believe that the President's position of saying that we are prepared to abide by the SALT agreements, the sublimits as well as the overall limits and all the terms, given that you, the Soviet Union, abide by those is the correct message to be sending at this time.

He has put them on notice, and I think properly so, that if we do not see some change in behavior, we are not going to feel restrained by the particular sublimits.

But he has not violated the treaty. He has put the Soviets on notice that we expect bilateral compliance with the agreements. I believe Congress should not be sending a different message.

Mr. SOLARZ. Mr. Chairman, may I inquire of the Chair how much time remains on both sides?

The CHAIRMAN. The gentleman from New York [Mr. SOLARZ] has 35 minutes remaining and the gentleman from Michigan [Mr. BROOMFIELD] also has 35 minutes remaining.

Mr. SOLARZ. Mr. Chairman, I yield 6 minutes to the extraordinarily distinguished, well-informed, able, and beloved gentleman from Washington [Mr. DICKS].

□ 1440

Mr. DICKS. I thank the gentleman for yielding.

I might say to my friend from New York, it was you and I who authored a letter to Mr. Gorbachev about Soviet violations about 1 year ago, so we take second to no one about that.

Mr. Chairman, today we must decide whether to support a strategic arms control policy that is clearly in our national security interests.

It is not a new policy. It is one we have observed for 5½ years during the Reagan administration. Ronald Reagan, who opposed SALT II in the campaign of 1980, made a decision that we must not undercut that treaty, that we must live with it, and he did it for a very important military reason. And may I quote the President, from the New York Times Magazine, on October 6, 1985:

> I learned that the Soviet Union had the capability to increase weaponry much faster than the treaty permitted, and we didn't.

That is why the President decided to maintain SALT II. He must have seen this chart that shows us that without the SALT II limits, the Soviets could add 8,192 warheads to their existing force structure.

And here we are, faced with Gramm-Rudman, which the President signed, faced with the President's refusal to raise taxes, faced with a situation where we do not have the resources to match this approach by taking off these ceilings.

The Soviets have made it clear that if we violate existing numerical limitations, they will regard all the provisions of the treaty as dead. This would include not only numerical limits, but also very stabilizing provisions such as the requirement to notify the United States of planned Soviet missile tests, so as to avoid accidental nuclear war based on surprise or miscalculation.

Richard Perle, Assistant Secretary of Defense for International Policy, testified that he was unconcerned, because it would not be cost effective for the Soviets to add nuclear forces. Richard Perle may be willing to depend on unilateral Soviet restraint, but I certainly am not, nor is the chairman of the House Armed Services Committee. It is hard to believe that Perle, the Prince of Darkness, a Russian basher of the first sort, is now saying, "Trust the Soviets, trust the same people who have deployed 170 divisions, deployed 50,000 tanks, deployed 300 attack submarines, not to deploy more strategic nuclear weapons." Now, that is really hard to believe, especially when the President wants to go forward with a strategic defense initiative. Because the easiest way to counter it is to add more warheads. I believe this is the most absurd, ridiculous mistake ever made by the President of the United States on a matter of national security.

Just look at these numbers. Look at those production lines. Ask yourselves: Why would we do away with ceilings that would stop this from happening?

Now, let me go back to another person for whom I have a great deal of respect, Gen. Bennie Davis, the former commander in chief of the Strategic Air Command, who was in charge of executing the SIOP, who said on March 6, 1985:

> If they were to break out of the treaty limits of SALT II, the disparity between the number of warheads held by the U.S.S.R. and the U.S. would be significant * * * any action by the Soviets which could change the nuclear balance so dramatically could adversely affect strategic stability.

Richard Nixon, in an article in "Foreign Affairs," said:

> The Soviets could attach 30 warheads to each of its 300 giant SS-18 ICBM's rather than the 10 allowed under the treaty. This would mean an increase of 6,000 warheads in the Soviet arsenal. The United States has no missiles of this size which would allow us to match such an action by the Soviets.

When all Soviet ICBM's are considered, the number of additional warheads that could be added increases beyond 8,000 warheads. The CIA estimates total Soviet forces could exceed 21,000 warheads by 1994 without the treaty.

Richard Perle testified just 2 weeks ago:

> I rather wish they would put 30 warheads on their SS-18's.

I am not sure how many other Americans are anxious to see a near doubling of Soviet nuclear forces, particularly those forces which President Reagan has time and again said present such a great threat to the United States.

In short, as former chairman of the Joint Chiefs of Staff, Gen. David C. Jones, said:

> There's not even a marginal military reason for exceeding the SALT limits.

Some argue that this will help the negotiations in Geneva. I was there when the announcement was made. It will not help those negotiations.

I hope and pray, as an observer to those talks, as an American, as a Member of Congress, that we get this arms control agreement with the Soviets. I want to see deep reductions, I want to see an INF agreement. But why would we tear up our existing arms control regime until we get that new agreement?

We would not throw out the Criminal Code when the crimes are being committed.

But as former Secretary of Defense Robert McNamara noted:

> We need an agreed-upon baseline from which to reduce. The SALT limits provide such a baseline; an unrestricted arms race would not.

This new policy would throw out the entire structure of strategic arms control, carefully laid out over a period of 15 years by four Presidents, both

Democratic and Republican; Johnson, Nixon, Ford, and Carter. They did not pursue arms control because they trusted the Russians or wanted to do the Kremlin a favor. They did it for only one reason, because they believed it to be in our security interests. They were joined in that belief by their Secretaries of Defense and the Joint Chiefs of Staff.

The administration wants a better deal. We all do. But no one is suggesting we abolish the Tax Code before we have tax reform. No one suggests we abolish the Criminal Code when the crime rate goes up. As Gen. Brent Scowcroft stated in an interview on January 21, 1985:

> There are restraints in the treaty on the Soviets, which, however modest, are better than having no restraints at all.

This is the view of our allies. Margaret Thatcher has said:

> We regard it as important that the SALT II Agreement should continue to be observed by both sides.

And West German Foreign Minister Genscher says:

> However imperfect (SALT II might be, the Federal Republic) would adhere to the agreement as long as there is no better one.

Let me now address Soviet violations. The administration has cited two violations of SALT as justification of its action. The first involves encryption of telemetry on missile tests. If in fact, they are exceeding the treaty restrictions on such encryption impeding verification, we can respond in kind.

The second major violation involves the SS-25 and whether it is a prohibited second new type ICBM. Again, assuming that the Soviets are incorrect, and it is not a permitted modernization of the SS-13, we again have a proportionate response in hand, the Midgetman missile. In my judgment, this is in our national security interests in any event.

The minority report on this resolution seeks to make a major issue out of the overall limit of 2,504 delivery vehicles. But a compilation of the Soviet SALT accountable forces included in the JCS posture statement for fiscal year 1987 yield a total of 2,477. Only when you add backfires and SS-N-5S, which are clearly not SALT accountable, do they exceed 2,504. Even if you believe ACDA, it is of minimal military significance.

The irony is that with this new policy, we no longer have to worry about violations at all. There is nothing left to violate.

This is the fatal flaw of the Broomfield amendment. It makes no distinction between a felony and a misdemeanor. Under this philosophy, we would impose the death penalty for jaywalking. It would quite clearly gut the resolution.

Let us not be foolish. We do not reject bills, because we do not like one tangential clause. We weigh the overall benefits. Let me submit that the overall policy we have followed for the last 5½ years is preferable to a leap into the unknown. We can adopt proportionate responses where violations have occurred, without abandoning our security interests. I wholeheartedly urge the adoption of the resolution and rejection of the Broomfield amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, will you not come home, Max Kampelman? We do not need you in Geneva. The House of Representatives' majority has chosen to negotiate arms reduction and arms agreements. Will you not come home, Ed Rowny? What are you doing trying to execute the directions of the President of the United States? The House of Representatives does not need you. It wants to negotiate directly with the Soviet Union. Will you not come home, Paul Nitze, and abandon your responsibilities, because as an advisor to the President of the United States, you have no role to perform; it is the House of Representatives who wants to substitute for your role as advisor to the President on disarmament.

Will you not come home, negotiators, who, first of all, went to Geneva because the House of Representatives felt it necessary that we put in place a disarmament procedure that called upon the President to proceed with talks in Geneva, to proceed with direct negotiations with the Soviet Union, but now it is saying will you not come home, negotiators, will you not come home; we do not need you. We have a Committee of the Whole of 435 Members of the House who want to go to Geneva and sit down and negotiate directly with the Soviet Union. Will you not come home, negotiators?

Mr. AUCOIN. If Kampelman did come home and our negotiators come home, how would the gentleman be able to tell the difference?

Mr. GEKAS. That is a question not worthy of response, because it is you who voted in the past in many ways and in many avenues to produce a negotiating team in Geneva, and now you want to abandon it.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. The gentleman is surely not suggesting it inappropriate for the House of Representatives to offer advice to the President, is he?

Mr. GEKAS. Offering advice is one thing. To substitute for the negotiating field is another. And I deem the resolution without the Broomfield amendment as taking the role of the President of the United States and tearing it to shreds.

Mr. SOLARZ. Mr. Chairman, I yield 5 minutes to my very good friend and our distinguished colleague, the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman for yielding.

Let me, Mr. Chairman, refer briefly to two aspects of the Broomfield amendment which I believe bear some greater scrutiny than they have received thus far. First, in terms of how realistic this amendment is, let us put together some analogies that are not in the arms control arena but which I think can help us put into context precisely how realistic this amendment might be.

By demanding Soviet compliance with all provisions all of the time, the gentleman's amendment simply sets unrealistic standards. Do we abandon, for example, the 55-mile-an-hour speed limit because some drivers abuse it? Of course not. We try to enforce it, so that we can continue to drive with reasonable safety.

Moving to another area, do we stop fishing and swimming in our lakes because some of them are polluted? Of course not. We work to reduce the pollution, so we can enjoy our lakes.

Do we close down our schools because children sometimes misbehave or do not get the kind of education that we would like in some of the schools? Of course not. We strive to teach our children to improve their behavior and we strive for the highest quality of educational excellence.

And, similarly, in arms control, Mr. Chairman, do we abandon SALT, as the gentleman's amendment effectively does, because the Soviets are violating some of its provisions while complying with most of its provisions? Of course not. Rather, we embark upon a variety of measures to make the Soviets more responsible and more accountable for their misdeeds.

Second, Mr. Chairman, let me move into the area of how our European friends and allies respond to this extraordinary important subject. I have been sitting on the floor for an hour, and I have not heard reference to the importance of this subject from the point of view of our friends and our allies in Western Europe. And yet our European allies have expressed both outrage and fear over the President's decision to abandon the SALT agreements and are deeply concerned about any type of a process such as this one which would essentially gut our commitment to SALT and begin the process of eroding the support that we have traditionally given to arms control.

This decision on May 27 to jettison SALT has badly strained U.S. relations with our European allies. The European members of NATO have been virtually unanimous in critizing the administration's announcement that it

would break away from the SALT agreements at the end of the year.

Responding to President Reagan's recent decision for example, even his close friend, Prime Minister Thatcher of Britain, said, "The SALT II Agreements should continue to be observed by both sides." And West German Chancellor Kohl has also urged the President to stay within the boundaries of the treaty.

At a recent NATO meeting of foreign ministers, allied representatives repeatedly warned that the President's decision would have serious consequences in Western Europe and strengthen the case of those arguing that the United States has no genuine interest in arms control.

The European allies, Mr. Chairman, regard the President's willingness to exceed the SALT limits as highly detrimental to their security. They fear that the President has abandoned arms control and that an all-out arms race could ensue. They fear that such an arms race increases tensions and raises the prospect of war which the Europeans fear and have good reasons to fear could be fought primarily in Western Europe. They fear that increased tensions between East and West will tend to polarize European societies, create political tensions, and undermine the necessary consensus for defense efforts. They fear that the Soviet Union, responding to an accelerated arms race, could choose to increase its intermediate range SS-20 deployments, which Europeans find particularly threatening to their security and deterrent capabilities. They fear as a consequence of abandoning SALT, the European antinuclear movement might gain new life and again directly challenge the West European and other allied governments.

In essence, Mr. Chairman, our European allies are deeply distressed by this decision, and deeply distressed they should be. This administration, we have seen, has thus far put together the most abysmal record on arms control of any administration subsequent to World War II.

This May 27 decision of the President does not serve a single American interest. It does not serve a strategic interest. It does not serve a foreign policy interest, it does not serve a security or defense interest, it does not serve a diplomatic interest. In essence, Mr. Chairman, this decision signals to the world that in the fight between the moderates in this administration and the extreme hard liners who essentially believe that any agreement that the Soviets might sign is an agreement by definition that we should not sign, it signals to the world the abandonment of any movement toward arms control and the defeat of the moderates at the hands of the extremists within the administration.

I want to commend the distinguished chairman of the House Foreign Affairs Committee for the timeliness with which he sponsored this resolution and so expeditiously brought it before the full committee and the full House for consideration. This is an important effort, because clearly there is a crying need for Congress to do all we can to ensure U.S. compliance with SALT. House Concurrent Resolution 350 represents a major bipartisan foreign policy statement in support of meaningful arms control as part of U.S. national security policy.

Mr. Chairman, this administration has not shown an adequate commitment to arms control. In fact, its record is abysmal. It has not negotiated one arms control agreement since it took office in 1981. This is the worst record of any administration since the nuclear arms race began. This already awful record was made even worse by the May 27 announcement by the Reagan administration of its intention to abandon SALT II unless the Soviets take drastic moves to improve compliance with existing treaties.

In response to the administration's announcement, the Soviet Union warned that it would abandon the SALT II treaty and other strategic accords if the United States does not comply with them.

Clearly, there are compliance problems. Soviet encryption of telemetry, production of the SS-25, and the Krasnoyarsk radar station raise serious questions about Soviet compliance which must be properly addressed. But threats to abandon SALT will not accomplish that result. Nor will it encourage any other kind of accommodation between the two superpowers. In fact, abandoning SALT undermines our own interests for the following reasons:

First, unlike the United States, the Soviets keep open their missile production lines. This means they can quickly increase the number of their warheads and we cannot quickly increase ours.

Second, the Soviets have already deactivated or destroyed more than 1,000 missiles in order to comply with SALT. The United States has had to destroy less than 100. If both sides continue to adhere to SALT, the Soviets will have to dismantle and destroy far more launchers than will we in the next several years.

So far, we have destroyed 48 nuclear launchers and have announced the destruction of 3 nuclear submarines in order to comply with SALT II limits. The Soviets meanwhile have destroyed over 400 launchers and 14 submarines.

Third, Congress has passed the Gramm-Rudman balanced budget law, which limits U.S. spending ability. The Soviet leadership has no such constraints.

Fourth, the President's unilateral decision illustrates a disturbing tendency of this administration to make significant foreign policy and arms control decisions without adequate consultation with our allies. Not a single ally has supported the President's plan to abandon the treaty, and many have soundly and justifiably criticized this decision.

Fifth, abandonment of SALT could jeopardize a second summit between President Reagan and Soviet leader Gorbachev.

If the President carries out his intention to abandon the SALT treaty, he will also abandon the moral high ground on an issue of vital interest to the United States, our allies, and the future of the world.

Those of us in Congress who are deeply committed to arms control must do all we can to ensure U.S. compliance with SALT, notwithstanding the President's misguided decision. That is why this resolution is so important. We must go on record as strongly supporting continued compliance with SALT, and we must do all we can legislatively to ensure that goal.

I urge my colleagues to reject the Broomfield amendment and support this resolution.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, in response to the gentleman from California [Mr. LEVINE], I would just like to say that he certainly approved of the President's incursion into Libya. Europe did not. We do not always resonate to the posturing that Europe takes on our national security interests, and I am glad we do not.

Second, the Broomfield amendment has more respect for the SALT Treaty than the amendment offered by the gentleman from Florida [Mr. FASCELL]. All they concern themselves with are numerical limits. This amendment by the gentleman from Michigan [Mr. BROOMFIELD] concerns the entire document.

□ 1455

To permit, as the gentleman would do, the Soviet Union to pick and choose which provisions it will choose to respond to and which it will violate, makes the whole notion of an agreement a joke. The Broomfield amendment does not gut SALT; this reinforces SALT. Have you ever heard of substantial compliance? Have you ever heard of flexible compliance?

Why should we be obligated to obey a treaty any more stringently than the Soviet Union?

Mr. SOLARZ. Mr. Chairman, may I inquire as to how much time is remaining on both sides.

The CHAIRMAN. The gentleman from New York [Mr. SOLARZ] has 24 minutes remaining and the gentleman from Michigan [Mr. BROOMFIELD] has 32 minutes remaining.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman for yielding to me this time.

Mr. Chairman, listening to the debate leads me to believe that the President of the United States, the man who occupies the Oval Office today, must be doing everything wrong. Certainly, the words we have heard uttered in this Chamber from the other side of the aisle suggest the American people do not support this President, and certainly would not support someone who is inept, who is incompetent, who has no commitment toward peace in the world.

Yet, I read an article just yesterday in the paper that the Gallup Poll has just suggested that Ronald Reagan has the strongest sustained support of the American people of any President in the history of poll taking.

That does not suggest to me that we always take polls to find out exactly what we should do, but it does suggest to me that either Ronald Reagan is doing something right or the American people have been duped and do not understand the incompetence and the ineptitude that the distinguished Members on the other side of the aisle have been able to determine.

I am not on the Foreign Relations Committee; I do not consider myself an expert in that regard. I am on the Judiciary Committee; I have practiced law. I do understand something about contracts. I do understand something about negotiation. If you go to the table and say to the person with whom you are attempting an agreement, a contract, a treaty if you will; "We will not allow violations except if you are the ones that violate, and we will go to something called quasi-violations, miniviolations, something-alleged violations," I am not going to do a very good job serving my clients.

The President of the United States and the people he sent to negotiate are in essence those representing the U.S. interests as given to them by the Constitution. What we are doing here is not doing anything to those who have violated the treaty; what we are doing is saying to our own negotiator, our President of the United States, with his constitutional powers, "We are going to wound you before you go back to the negotiating table." In some way that is going to require the other side to stop violating the treaty. It makes no sense whatsoever.

Recently I had the privilege of accompanying Yelena Bonner back to the Soviet Union. At that time, I had to remark on the fact that as she was going back she said, "From freedom to prison." I had to remark that at that time she was going back to a setting in which her Government does not recognize her legitimate rights because her husband and she have spoken out against the violations of the Helsinki accords—remember, that is another treaty the Soviets have put their signature to—she has been taken to another part of the Soviet Union and cut off from friends and family and from participating in the society of the Soviet Union.

Their system is different than ours. They differ very much in terms of their attitudes about human values. So it seems to me that we make a mistake when we go to the negotiating table if we attempt to negotiate with others by ascribing to them the very same values that we have.

What has happened here? They have violated the treaty. This resolution, if you can call it that, does everything it can to excuse those violations; the alleged violations by this administration. It suggests that we are responsible for their alleged violations. It says that if we are only a little more giving in their violations, things will be better. That makes no sense at all.

I do not care whether you are an attorney trying to represent your client or whether you are a negotiator negotiating on the part of the United States, if what you say is you will turn a deaf ear and you will close your eyes to violations of the agreement that you have with another party, you are doing a disservice to the people that you are supposed to represent.

That is what this resolution does. What the Broomfield amendment says is, "If they will follow the treaty, we will follow the treaty." That makes eminent sense in terms of law whether it is domestic or international. We should pass it. We should pass it unanimously.

Mr. SOLARZ. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of House Concurrent Resolution 350, which calls on the President to continue abiding by the numerical sublimits of the SALT II arms control agreement with the Soviet Union. I would like to commend the distinguished chairman of the Foreign Affairs Committee for his important and farsighted leadership on this matter.

Mr. Chairman, there is a tendency in the kind of partisanship that seems to have evolved from the other side to look at this issue as if it were simply a question of are you for or against the President.

It seems to me that what we are really talking about is the future of humanity. It has been some 40 years now since the atomic bombs were dropped on Hiroshima and Nagasaki. Sometimes I guess it is easy to become frustrated and weary and to decide, "Well, we are just going to move forward heedless and regardless of the consequences."

However, there is no guarantee that those 40 years will extend indefinitely for 400 years or 4,000 years, or for however long humanity has on this planet. It seems to me that we have an obligation to make sure that the steps that we take in fact move toward reducing the chances of an all-out nuclear war rather than making them more likely.

What the President's posture, in walking away from the SALT II sublimitations, does is to bring us very definitely closer to the prospect of a nuclear war.

The Reagan record in regard to arms control is not that people looking at it objectively can take much satisfaction from. When he campaigned in 1980, he already had marked the SALT II agreements as being fatally flawed. Sometime in the course of his administration he had some second thoughts about it and he stated publicly, "Well, on balance, in fact it helps the United States more than it hurts the United States national security interests."

Now, all of a sudden, he seems to have flip-flopped and switched again. Is that any reason for us, as Members of Congress and the American people to follow him in the reckless rush over the precipice? The numbers that the gentleman from Washington demonstrated with his chart quite clearly indicate that in fact breaking out from SALT II flies directly in the face of America's national interests. There is just no justification on the numbers, there is just no justification on the principles or on the theories for abandoning SALT II.

The fact is that the Russians have adhered to the sublimitations on SALT II up to this point. So have we. We ought to continue to do that, not out of a sense of partisanship, but out of a sense of decent regard for the future of humanity. This is our chance to do that. If we walk away from it, nobody is going to applaud us if we, out of a sense of zeal, feel that the Russians are taking advantage of us, in fact, overstate that position and march headlong over the precipice.

I urge adoption of the resolution offered by the gentleman from Florida [Mr. FASCELL].

President Reagan's decision to scrap the SALT II agreement may well be the most dangerous blunder he has yet made. The abandonment of SALT II will not only increase tensions with the Soviet Union and seriously damage the current negotiations in Geneva, but it will likely lead to the unravelling of the entire structure of arms control as we now know it, including the SALT I and ABM Treaties. Further, the decision to scrap SALT II will drive a wedge between the United States and our NATO allies, who have been unanimous in their strong dissent from this dangerously misguided action.

The result of this decision will be a perilous new spriral of the nuclear arms race that will further drain the limited resources of both countries and inch us closer and closer to the ultimate catastrophe of nuclear war.

The arguments in favor of keeping the SALT limits are truly overwhelming. Even those who advocate a sustained military buildup in this Nation should be able to recognize that maintaining the SALT limits is indisputably in our national interest.

To comply with the two SALT treaties, the Soviet Union has dismantled or destroyed over 1,300 systems, including 1,079 ICBM's, 245 SLBM's, 15 bombers, and 21 submarines. By contrast, the United States has dismantled or destroyed 875 systems, including 320 ICBM's, 544 SLBM's and 11 submarines.

The SALT treaties have successfully slowed the nuclear arms race by forcing both sides to

retire weaponry. But this check on the arms race would swiftly disappear should we exceed the SALT limits as the President has suggested.

If we break out of SALT II, the Soviet Union will be poised to exploit the situation by drastically increasing the number of missiles deployed and by placing a far greater number of warheads on existing missiles. The chairman of the House Armed Services Committee has noted that the Soviets have eight "hot" production lines, compared to three for the United States. This means that the Soviets could increase their warhead totals 50 percent faster than the United States over the next 4 years. If SALT II limits remain in place, however, there will be no significant change in the rate of increase of warheads for the remainder of the decade.

If we break out of SALT II, the Soviets will also be able to exploit their ability to rapidly expand the number of warheads on their existing missiles. By 1989, the Soviets could add as many as 7,000 additional ICBM warheads without deploying any additional missiles. This would more than double their current number of warheads. However, if SALT II limits remain in place, the total number of warheads on each side would remain relatively equal for the next 10 years.

In other words, the President's decision to scrap SALT will not only dangerously increase the risk of nuclear conflict, but it will provide the Soviet Union with the opportunity to exploit the situation to its own advantage.

By scrapping SALT II, the administration is sending a powerful signal that it is not really interested in cooperating to reduce nuclear arms. Rather, it is opening the door another protracted and fabulously expensive arms race. But neither the United States nor the Soviet Union can afford the consequences of this policy, which threatens to bankrupt both nations and dangerously reduce our security.

For these reasons, I strongly support the resolution of Chairman FASCELL, which calls on the President to continue observing both the numerical sublimits on each category of weapon and the overall limits on delivery vehicles, so long as the Soviets do likewise. I urge my colleagues to support this resolution and not the substitute, which will simply permit the administration to continue with its current misguided policy. And I further urge that this resolution be followed soon by binding restrictions on the administration's behavior should the President remain intransigent on this matter.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

Mr. WORTLEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from New York.

Mr. WORTLEY. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in strong support of Mr. BROOMFIELD's substitute. It recognizes what the committee bill does not. Namely, that the SALT II Treaty is a comprehensive treaty that includes more than numerical limitations.

Other key provisions of SALT II set an important limitation on the deployment of new ICBM's and ban concealment measures that deliberately impede verification of treaty compliance. The Soviet Union has violated these two provisions.

The United States has made it clear that we know about the Soviet treaty violations. We have given the Soviets time to take corrective action and show their good faith. The Soviets have not responded.

There is no doubt that the United States should continue to adhere to the SALT II Treaty as long as the Soviet Union does so. This is a reasonable and responsible position.

Accordingly, the Soviet Union has until later this year to address its treaty violations before the United States follows its lead and actually ends our compliance with SALT II limitations. This situation puts pressure on the Soviet Union to agree to a summit meeting this year to try to work out a compromise.

Unilateral compromise by the United States, as embodied in the committee's bill, simply says to the Soviets that they are free to violate whatever treaty provisions they wish because the United States will continue to adhere strictly to an unratified treaty regardless of Soviet violations.

This would make a mockery of treaties between the United States and the Soviets. It would undermine current arms reduction negotiations. And it would severely impact confidence in the effectiveness of arms limitation agreements in improving stability and security.

I urge my colleagues to approach this national security issue in a bipartisan spirit and acknowledge the importance of full treaty compliance by both the United States and the Soviet Union. Support the Broomfield substitute.

Mr. MILLER of Washington. Mr. Chairman, everybody in this Chamber wants nuclear arms reductions. Everybody wants to avoid nuclear war, but there is a certain air of unreality about this debate.

Speakers earlier, on both sides of the aisle, agreed that the Soviet Union has violated the SALT II Treaty. They violated it by building and deploying a new weapon: the SS-25. They violated it with their coding. They violating it by exceeding overall numerical limits.

What the Broomfield resolution does is send a message to the Soviet Union, and the message is: "If you keep violating this treaty, we are not going to keep abiding by it. We are going to make decisions based on our national interest. If you abide by SALT II, we will abide by it."

□ 1505

Now the specific weapons decisions are still months off, months down the road. We hope that the Broomfield resolution in effect says, "Soviet Union, stop your violation, but"—says the Broomfield amendment in effect—"we were not born yesterday. The American people do not want us abiding by treaties that work one way."

It is not a bad message, it is a pretty good message. That is why we should support the Broomfield resolution on SALT II.

Mr. BROOMFIELD. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quroum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 183]

Ackerman	Dellums	Howard
Akaka	Derrick	Hoyer
Alexander	DeWine	Hubbard
Anderson	Dickinson	Huckaby
Andrews	Dicks	Hughes
Annunzio	DioGuardi	Hunter
Anthony	Dixon	Hutto
Armey	Donnelly	Hyde
AuCoin	Dorgan (ND)	Ireland
Barnard	Dornan (CA)	Jacobs
Barnes	Dowdy	Jeffords
Bartlett	Downey	Jenkins
Bates	Dreier	Johnson
Bedell	Duncan	Jones (NC)
Beilenson	Durbin	Jones (OK)
Bennett	Dwyer	Jones (TN)
Bentley	Dymally	Kanjorski
Bereuter	Dyson	Kaptur
Berman	Early	Kasich
Bevill	Eckart (OH)	Kemp
Biaggi	Eckert (NY)	Kennelly
Bilirakis	Edgar	Kildee
Bliley	Edwards (CA)	Kleczka
Boehlert	Edwards (OK)	Kolbe
Boggs	Emerson	Kolter
Boland	English	Kostmayer
Boner (TN)	Erdreich	Kramer
Bonior (MI)	Evans (IA)	LaFalce
Bonker	Evans (IL)	Lagomarsino
Borski	Fascell	Lantos
Bosco	Fawell	Latta
Boucher	Fazio	Leach (IA)
Boulter	Feighan	Leath (TX)
Boxer	Fiedler	Lehman (FL)
Brooks	Fields	Leland
Broomfield	Flippo	Lent
Brown (CA)	Florio	Levin (MI)
Brown (CO)	Foglietta	Levine (CA)
Broyhill	Foley	Lewis (CA)
Bruce	Ford (TN)	Lewis (FL)
Bryant	Fowler	Lightfoot
Burton (CA)	Franklin	Lipinski
Burton (IN)	Frenzel	Livingston
Bustamante	Gallo	Lloyd
Byron	Garcia	Loeffler
Callahan	Gaydos	Long
Carney	Gejdenson	Lott
Carper	Gekas	Lowery (CA)
Carr	Gephardt	Lowry (WA)
Chapman	Gibbons	Lujan
Chappell	Gilman	Luken
Chappie	Gingrich	Lundine
Clay	Glickman	Lungren
Clinger	Gonzalez	Mack
Coats	Goodling	MacKay
Cobey	Gordon	Madigan
Coble	Gradison	Manton
Coelho	Gray (IL)	Marlenee
Coleman (MO)	Gray (PA)	Martin (IL)
Collins	Green	Martinez
Combest	Gregg	Matsui
Conte	Gunderson	Mavroules
Conyers	Hall (OH)	Mazzoli
Cooper	Hall, Ralph	McCain
Coughlin	Hamilton	McCandless
Courter	Hammerschmidt	McCloskey
Coyne	Hansen	McCollum
Craig	Hawkins	McCurdy
Crane	Hayes	McDade
Crockett	Hefner	McEwen
Daniel	Heftel	McGrath
Dannemeyer	Hendon	McHugh
Darden	Henry	McKernan
Daschle	Hertel	McMillan
Daub	Hiler	Meyers
de la Garza	Holt	Mica
DeLay	Hopkins	Michel

Miller (CA)	Roberts	Stenholm
Miller (OH)	Robinson	Stokes
Miller (WA)	Roe	Strang
Mineta	Roemer	Stratton
Mitchell	Rogers	Studds
Moakley	Rose	Stump
Molinari	Roth	Sundquist
Mollohan	Roukema	Sweeney
Monson	Rowland (CT)	Swift
Montgomery	Rowland (GA)	Swindall
Moody	Roybal	Synar
Moore	Rudd	Tallon
Moorhead	Russo	Tauke
Morrison (CT)	Sabo	Tauzin
Morrison (WA)	Savage	Taylor
Mrazek	Saxton	Thomas (CA)
Murtha	Schaefer	Thomas (GA)
Myers	Schroeder	Torres
Natcher	Schuette	Torricelli
Neal	Schulze	Towns
Nelson	Schumer	Traficant
Nichols	Seiberling	Traxler
Nielson	Sensenbrenner	Valentine
Nowak	Sharp	Vento
Oakar	Shaw	Visclosky
Oberstar	Shelby	Volkmer
Obey	Shumway	Vucanovich
Olin	Sikorski	Walgren
Ortiz	Siljander	Walker
Owens	Sisisky	Watkins
Oxley	Skeen	Weaver
Packard	Skelton	Weiss
Panetta	Slattery	Wheat
Parris	Slaughter	Whitehurst
Pashayan	Smith (IA)	Whitley
Pease	Smith (NE)	Whittaker
Penny	Smith (NJ)	Whitten
Pepper	Smith, Denny (OR)	Wilson
Perkins	Smith, Robert (NH)	Wirth
Petri	Smith, Robert (OR)	Wise
Pickle	Snowe	Wolf
Porter	Snyder	Wolpe
Price	Solarz	Wortley
Pursell	Solomon	Wright
Quillen	Spence	Wyden
Rahall	Spratt	Wylie
Ray	St Germain	Yates
Regula	Staggers	Yatron
Reid	Stallings	Young (FL)
Richardson	Stangeland	Young (MO)
Ridge		Zschau
Rinaldo		
Ritter		

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The CHAIRMAN. Three hundred eighty-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, as one who has worked with this administration to fulfill the Skowcroft Commision report recommendations, I rise in strong support of the committee resolution.

Mr. Chairman, we have heard many compelling arguments today based on national security to support this resolution and oppose this substitute.

Our present SALT limits are the only thing standing between us and an unrestricted nuclear arms race, and yet the men of this administration are all aligned against continuing within the limits set forth in SALT II.

This is the only administration in the past 25 years that has failed to make legitimate progress on arms control.

Look at the record:

Mr. Reagan's favorite president to invoke, John F. Kennedy reached an agreement in 1963 on the famous hot line between the United States and the Soviet Union and the far-reaching Limited Test Ban Treaty.

President Johnson brought us in 1967, the Outer Space Treaty, and the following year the Nuclear Non-Proliferation Treaty.

And under President Richard Nixon, we signed the SALT I agreement and the ABM Treaty in 1972, and in 1974 we signed the Threshold Test Ban Treaty.

President Gerald Ford's administration produced the Vladivostok Agreement in 1974 and the Peaceful Nuclear Explosions Treaty in 1976.

And the Carter administration signed the SALT II accords in June 1979.

What a contrast this administration's record is compared with those who have gone before. Those in charge of policy can present us voluminous amounts of proposals and arms control initiatives but can produce not a single agreement.

Republican and Democratic Presidents, Republican and Democratic Secretaries of Defense, Republican and Democratic National Security Advisors all saw the wisdom of reaching arms accords with the Soviets yet the people in charge today see things differently.

When reasoned argument does not sway a mind, when the facts marshalled point to an opposite conclusion, and when commonsense itself is absent, you know you are dealing with an ideologue.

And this administration has more than its fair share.

What do these ideologues believe:

Nuclear superiority is achievable and once achieved it can be put to use.

A counterforce, that is, a first strike capability, is needed and does not destabilize the strategic balance.

Arms control is nothing more than a public relations gambit whose main purpose is to manipulate the public, the Congress, and our allies.

In short, the ideologues believe that when it comes to arms control, a little is bad, but none is better.

We have heard today that SALT and arms control in general has accomplished little or nothing. Let us put that canard to rest.

The reality is arms agreements have accomplished many important goals:

Both sides have firm limits set on the number of offensive missiles that can be deployed.

Both sides have firm limits on the number of destabilizing MIRV'd ICBM's that can be deployed.

Both sides are forbidden from deploying an extensive, destabilizing, defensive system.

Both sides no longer poison the air with surface nuclear tests.

The ideologues have led us to this debate today. They have led us through a series of FITS and START's and all are leading nowhere. Their narrow, one-sided views have triumphed at every turn. The pragmatists aren't heard, in fact now they aren't even around to be heard.

There is a possible solution to the domination of policy by the ideologues. I plan to introduce shortly legislation which upgrades the General Advisory Committee, which is now an adjunct to ACDA. Under this administration, the existing Commission has become an inquisition for any ideas remotely smacking of arms control accords. Its members are in stark contract to prior administration appointees who have been centrist, bipartisan, and distinguished in their fields.

An independent Commission, composed of some of the best minds in America, focused on our strategic relationship with the Soviets will provide the much needed continuity to our policy from administration to administration.

For right now I urge my colleagues to support this resolution which sends a very clear message to the administration that the peoples' representatives will not support a run away arms race.

America desperately deserves the restoration of the bipartisan spirit that has guided our arms control and military weapons policy since the Second World War. As one who has joined with the administration in the past to find common ground, I speak out of frustration and disappointment for a clear rejection of their initiative to end compliance with SALT II.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Chairman, the prospects for strategic arms control are dreadfully bleak. The Geneva negotiations are stalemated. The Anti-Ballistic Missile Treaty [ABM], the keystone of the arms control framework created over 24 years by five Presidents, faces increasing jeopardy. And last month, the President repudiated the unratified SALT II Treaty in announcing his decision to violate its limits this year.

If there were any illusions remaining about the administration's arms control policy, they should be completely dispelled by now. President Reagan's decision on SALT II culminates a 5-year effort to dismantle a strategic arms control framework which was painstakingly built by the past five administrations. As of May 27, 14 years and 1 day after the SALT I Treaty was signed in Mosow, we are back to square 1 in our efforts to make the world a little bit safer from the threat of nuclear weapons.

The bitter irony lies in the administration's assertion that SALT II must be abandoned because of Soviet reluctance to join in a "framework of truly mutual restraint." Yet when faced with an adversary which the administration claims has been engaged in the greatest military buildup in history, the President has now determined that it is in our interest to remove the only remaining constraints on an unlimited Soviet buildup.

And there is no doubt that SALT II has constrained a Soviet strategic buildup. Since the signing of SALT II in 1979, the United States has maintained a constant level of about 1,000 strategic weapons above that of the Soviets. SALT II has forced the Soviets to remove more than 1,000 land-based missiles, 250 sea-based missiles, and a dozen submarines from its strategic arsenal while we have had to destroy less than 100.

What is more curious about the administration's decision is that abandoning SALT II will probably hurt us more than the Russians and endanger both nations. To begin with, the

Soviet Union, with its eight hot production lines and its greater throw weight advantages is in a position to quickly deploy much larger numbers of warheads than we are. Second, if both countries continue to abide by the treaty, the Soviets will have to dismantle and destroy far more launchers than we will in the next several years.

Some have argued that an arms race would break the Soviet economy. It is easy to forget, however, that the Soviet leadership need not build a political consensus to assign their military budget top priority. We, on the other hand, must deal with fiscal constraints that have forced us to cut back on important social programs to fund an unprecedented military buildup. As instances of waste, fraud, and abuse within the military establishment have come to light, growing numbers of Americans have questioned the wisdom of our defense policy.

In making the decision to break out of SALT, the administration has also blatantly ignored the advice of our NATO allies and the U.S. Congress where 221 members and 53 Senators asked the President to continue abiding by SALT. Such a step undermines confidence in the superpowers ability to restrain the arms race in even the most limited ways and makes a lie of our professed desire to end the arms race.

Finally, the decision to scrap SALT II is based on what may be a tragic miscalculation of the Soviets' probable response. Instead of correcting their violations to the treaty, the Soviets may see the lifting of the SALT II limitations in combination with an aggressive American effort to build a missile defense system as a signal to build offensive weapons as quickly as possible.

There is no question that we must respond to Soviet violations of SALT II, but the issue of treaty violations is a complex one. Both we and the Russians have accused the other of such actions. While some of the administration's claims appear to be justified, none of the alleged violations are of major military significance. The correct response, and the one taken by the four previous Presidents, is making full use of diplomatic channels to resolve disputes. If necessary we should make proportional responses that leave the substantial sections of the treaty intact while sending a message of displeasure to the Soviets concerning their violations.

This administration, however, seems more interested in challenging the Soviets to an arms race than in settling real disputes. Some of the President's key advisers seem to genuinely believe that the basic character and motivation of the Soviet regime make it impossible to work out a practical compromise.

In this view, arms control only serves to constrain us while allowing the Soviets to edge ahead of us in an escalating arms race. The ABM treaty could well be the next victim of this ideology. SALT II didn't stand in the way of a single American program and it was scrapped. The ABM Treaty stands in the way of the President's star wars pipedream—destabilizing, untested proposal that could be the most costly American program in the history of the arms race.

The strategic defense initiative [SDI] is just the latest and most extreme example of this administration's propensity to focus on nuclear superiority as a measure of America's strength. I am concerned that SDI supporters have come to see the program as a way for the United States to exploit its technological superiority over the Soviet Union and to spend our superpower rival into submission. Not only does this attitude preclude the possibility for meaningful negotiations with the Soviets, but the illusory search for superiority fuels an arms race that allienates our allies and undermines the health of our Nation.

During the past 6 years, we as a Nation have engaged in an unprecedented military buildup that has cost the Nation $1.5 trillion, more than double the defense spending total for the previous 6 years. Defense spending went up 45.8 percent after inflation from fiscal year 1979 to fiscal year 1986. At the same time, our Nation's deficit has almost tripled, rising from $73.8 billion to more than $200 billion in 1986 and the proportion of the Federal budget devoted to nondefense descretionary spending has dropped from 24.5 percent in 1980 to 17 percent in 1986.

Yet even in the face of these numbers, the administration wants to embark on a $1 trillion star wars program in the coming years. At a time when one out of every five of America's children is living in poverty such excess is shameful.

It is time to remind ourselves that we are a strong and powerful nation not just because we are able to build weapons of mass destruction. We are strong because of our commitment to democracy, to "Government of the people, by the people and for the people," as President Abraham Lincoln told his listeners in his Gettysburg Address. When we let our children suffer the indignity of poverty, ill-health and poor education, we steal not only their futures but the future of America.

I am a strong supporter of House Concurrent Resolution 350 which represents a major bipartisan foreign policy statement in support of meaningful arms control as part of our national security policy. The resolution stipulates that continued U.S. adherence to the SALT agreements is conditional upon Soviet adherence. I am also a cosponsor of legislation that would limit the deployment and maintenance of our strategic nuclear weapons consistent with existing arms limitation agreements. Both pieces of legislation explicitly reject the administration's strategic arms control policy.

The administration argues that the arms control limits imposed by SALT II chain us to agreements which are counter to our national security needs. In reality, such limits are tenuous threads which prevent an unconstrained arms race. The President's decision on SALT II has brought our arms contol policy to the foreground of the national debate. It should also force us to reexamine our definition of national security. Are we further from nuclear war then we were 6 years and $1.5 trillion ago? Are we closer to a real arms control agreement?

In the past, we have equated military spending with security. Now we must expand our definition of national security to include policies which address our educational, social and international needs. We must work for mutually beneficial arms control agreements that limit and ultimately reduce our nuclear arsenals. We must strengthen our social and educational programs so that our children can appreciate and utilize our democratic system. We must seek solutions to the crisis in the developing world so that those nations choose the West as their model. Instead of abandoning the few existing agreements we share with the Soviets, we should expand on them, seeking always to end the threat of war.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, it is high time my colleagues across the aisle asked the President and asked themselves what is the true nature of national security. I fear they have forgotten it.

The President's decision to dump the SALT Treaty is self-defeating in the extreme. It could be considered ludicrous if its consequences were not so dangerous. Letting the Soviet Union out of its obligation to keep its nuclear forces below certain levels only unties its hands. The numbers speak for themselves.

If the SALT limits were in force, the United States would be obligated to dismantle 74 Minuteman III ICBM's when it converts some of its B-52's to carry air-launched cruise missiles later this year. If, instead of dismantling the 74 ICBM's, the United States disregards the numerical limits in SALT II and keeps the missiles, the United States will gain 222 warheads—that's a 2-percent increase in the size of the U.S. strategic arsenal.

And what will the decision do for Soviet national security and Soviet force posture? Quite a lot as it happens. For starters, the U.S.S.R. has the ability immediately to convert one of its heavy ICBM's—the SS-18—from a 10-warhead missile to a 14-warhead missile. With 308 of these behemoths already deployed, that's an additional 1,232 warheads—or a 13-percent increase in strategic warheads. The new deployments represent by themselves a 7 to 1 Soviet advantage in warheads, a 9 to 1 Soviet advantage in megatonnage, and a 20 to 1 Soviet advantage in hard target kill capability. And that is just the short-term cost of this new policy. Where is the national security advantage in that, Mr. President?

Abiding by the numerical limits in SALT II as long as the Soviets will do likewise makes strategic sense—and many of our Nation's most respected military officers have told us so. Gen. Bennie Davis, commander in chief of the Strategic Air Command in March 1985, told the Congress:

"The Soviet Union, due to its production base, has an enormous capability to field systems. If they were to break out of the treaty limits of SALT II, the disparity between the number of warheads held by the Soviet Union and the United States would be significant * * *. Any action by the Soviet Union which would change the nuclear balance so dramatically could adversely affect strategic stability * * *. I have made the assessment privately today that we should abide by the SALT II limitations."

Circumstances have not changed since General Davis made that statement.

The President says the Soviets have violated certain provisions of the SALT II Treaty. And so they have. But the President proposes

that the United States scrap not those provisions, and not other provisions which might give the United States a strategic advantage, but he would give up limits in those very areas where we are least likely in the near term to compete successfully with the Soviet Union and where the consequences of such a competition promise to pose the greatest threat to strategic stability. I think the Nation is owed an explanation of the strategic rationale behind this imprudent decision.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I rise in support of the resolution.

Mr. Chairman, in considering the fate of the SALT II, I believe two critical issues must be addressed. The first is, are we more secure with the SALT limits than without? The second is, what will be the impact of abandoning the SALT limits on the U.S. position in the world and within the NATO Alliance? I think it is clear that the answers to both those questions require that we maintain our adherence to the SALT II Treaty.

To the issue of U.S. security, I echo the sentiments of many of my colleagues who have spoken today. We are more secure—dramatically more secure—with SALT than without. The SALT Treaty sets important limits on the number and type of strategic nuclear systems that each side may possess. The Soviets are far more able to break out of those limits than we are. Their missile production lines are constantly operative. Ours are not. They are unconcerned by domestic opinion. We are guided by it.

If we abandon SALT II, the Soviets surely will break out of the limits of production. And they will do so with the newest, and most destabilizing weapons in their arsenal. In testimony before the Foreign Affairs Committee on which I sit, the Arms Control and Disarmament Agency testified last week that, unconstrained by SALT, the Soviets could add 5,000 more warheads to their arsenal in the next 8 years than they would be allowed under SALT.

I need not point out that the United States, both budgetary constraints and public opinion demands of us restraint, not growth, in defense spending. A new arms race fueled by a sudden absence of control is simply not compatible with those demands—or with our national security.

On the second question, that of our position in NATO, I am greatly troubled by the prospect of turning our back on the SALT Treaty. Indeed, we may have already handed the propaganda advantage to the Soviets.

Instead of capitalizing on world discontent over the Soviets' handling of the Chernobyl disaster, President Reagan chose to announce—over the vehement protest of every one of our allies—that the SALT II Treaty is dead. There is no more divisive issue in Europe than the arms race. While we sit securely at one end of that race, our allies are caught squarely in the middle of it.

But instead of considering the impact of our allies of a precipitous decision to abandon SALT II, we ignored it. European opinion must not be so easily set-aside. In many ways, it affects our security as dramatically as any actions taken by the Soviets.

Prime Minister Thatcher, the President's staunchest ally in Europe, faces an opposition in the next British election that favors removing all American nuclear missiles from British soil: A decision which would have a clear and negative impact on our security and the alliance. If we continue to convey the impression that we are not committed to the alliance, not committed to arms control, that we prefer as one British official stated, "to believe that SALT is bad, and military build-up is good," we risk losing critical support among pro-American leaders in Europe—something that cannot help the NATO Alliance, nor the security of Europe or the United States.

American national security is made up of important components. Stability in the arms race and our international position with respect to the Soviets are among the most important of those considerations. Abandoning SALT II cannot enhance those considerations and risks crippling them. It is irresponsible to American security to declare an end to SALT II as a way to retaliate for suggested Soviet violations. Such a precipitous decision will in the end make us all less secure.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I rise in support of the resolution.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in strong opposition to House Concurrent Resolution 350. Although nonbinding on the President, House Concurrent Resolution 350 is an unwarranted and unjustified attempt to usurp the constitutionally mandated Presidential prerogative in foreign policy matters.

Arms control treaties and possible arms reduction treaties are within the purview of the President to negotiate and forward to the Senate for ratification if an agreement is reached. In this case we have the House of Representatives attempting to require the President to limit his requests for defense programs to stay within the restraints of an unratified treaty that would have expired in 1984 if it had ever been ratified and which the Soviet Union has violated since the day that it was signed.

The SALT II treaty was a poor effort to limit the incessant strategic buildup of the Soviet Union over the preceding 15 years. I believe that the provisions of that treaty were flawed from the start and never should have been agreed to by our negotiators or signed by President Carter. The Senate agreed with this assessment of SALT II by its failure to ratify the treaty in 1979.

Instead of limiting the breakneck speed of the Soviet build-up SALT II has allowed that nation to proceed with its aim of achieving strategic superiority over the free world and to put itself into a position to rapidly expand its arsenal at any moment. The verification section of SALT II was possibly the worst part of the entire document. Even the most fanatic advocate of arms treaties now agrees that the Soviets have and continue to violate several parts of the SALT II Treaty and we have been unable to even get them to admit this fact in over 5 years of negotiations at the committee set up to adjudicate complaints and violations.

The Soviets flaunt their ability to violate treaties and then to stonewall us when we complain. Our own negotiate at any price advocates would have us believe that Soviet violations are unimportant and do not threaten our security. This is such a bunch of nonsense that I will not even address it except to say that the Soviets know they are violating the treaty and they are not fools enough to risk being caught if they did not think that the potential gains from their violations were more than worth the risk. The result of the violations may not be instantly threatening or apparent, but the reality of the Soviet actions puts them several years ahead of us in developing a new generation of missiles and a new concept of missile defense.

If the United States were to dedicate itself today to catching up to the Soviet Union in strategic systems we would have to strain our budget for 10 years to do so. That is the result of SALT II and our blind acceptance of that flawed treaty's provisions while allowing the Soviets to violate it with impunity.

Mr. Chairman, SALT II is dead. It is not dead because of anything that this Congress or our President has done. It is dead because of the Soviet Union's constant and continuing refusal to live up to the terms of any treaty that it signs. Even though I believe that SALT II was not a good deal I would still be willing to abide by its restrictions if the Soviets would, too. They have not. They will not. And we cannot allow ourselves to be put in jeopardy because of adherence to a document that our adversaries are not adhering to and which put us at a disadvantage from the start.

The United States has not violated a single provision of SALT II at this time. We will not possibly exceed any limitations until late this year. The Congress has the power of the purse strings and can stop any action of the President that it wants to if enough Members disagree with the President. There is no need for the Congress to attempt this irresponsible action of presumptively second-guessing the President before any action has even taken place.

There is more than enough time for the Soviet Union to begin to negotiate in earnest and in good faith toward true arms reduction. I want arms reduction. President Reagan wants real arms reduction. General Secretary Gorbachev says that he wants real arms reduction. Now is the time and here is the opportunity. The carrot of a new and verifiable treaty is waiting for the Soviets in Geneva. The stick of a dead SALT II Treaty has now been put forth as an incentive to move forward with dispatch.

Mr. Chairman, I will not support any effort to undermine the President's authority to conduct foreign policy and negotiations with other countries. I believe that the result of passing House Concurrent Resolution 350 as it is now written would do serious harm to our constitutional form of government and lessen our chances for success at Geneva. Let us leave the mistakes of the past in the past and let us move together into a future of fewer nuclear

weapons and true verifiability so that all the peoples of the world can be more secure and less threatened by a nation which has shown contempt for anything less than a strong and united front of opposition to its uninterrupted push for power and expansion.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise in support of the resolution.

Mr. Chairman, as we discuss the issue of abandoning a very important Strategic Arms Limitation Treaty, we are forced to imagine a world without restrictions on the development, production, and deployment of nuclear weapons. We are facing a decision today of scrapping a treaty that the United States and the Soviet Union have chosen to comply with since 1979. The SALT II Treaty has kept a lid on an arms race with the Soviets. By abandoning the SALT II agreements, we are destroying the only strategic offensive weapons agreements we have with the Soviet Union and closing the door on maintaining some semblance of strategic arms control.

For 15 years, Presidents Johnson, Nixon, Ford, and Carter carefully laid out a plan for controlling a competition in strategic missiles and bombers. It is important to remember that along with restrictions on the number of offensive weapons, President Nixon managed to persuade the Soviets to sign an Anti-Ballistic Missile Treaty which strictly limits the deployment of a defensive system. If we are worried about a nuclear arms buildup by the Soviets, why would we want to destroy the only constraints placed on them to not open up their production lines?

The decision by the administration to toss aside the treaty was based on Soviet violations which, incidentally, officials in the administration do not feel are militarily significant. However, by abandoning the treaty, we remove the only vehicle we have to check on further violations of the treaty or track Soviet activities in the development and deployment of new strategic forces. Robert McNamara, Secretary of Defense in the Kennedy and Johnson administrations, said that—

Responding to Soviet violations by scrapping SALT is tantamount to reacting to an increase in the crime rate by abolishing the criminal code.

The SALT II Treaty has forced the Soviets to dismantle some 50,000 nuclear warheads, including 22,000 strategic weapons. If we tell the Soviets that we will no longer want this treaty, what will prevent them from creating new weapons without dismantling existing ones? Let's not let SALT II die and give birth to an intensifying arms race in strategic offensive and defensive weapons. Instead, let's keep the one strategic arms control agreement in existence on the books and strive for a spirit of arms reduction.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise in strong support of House Concurrent Resolution 350, the Fascell resolution in support of SALT II.

Mr. Chairman, too many times in the history of this administration we have been confronted by acts which defy rational explanation. The President's announcement that SALT II is finished is only the latest of those acts. Instead of taking the high ground in international affairs and adhering to SALT despite possible Soviet violations, the administration has chosen to try and out-do them. Rather than recognize that it is the United States which benefits from maintaining the SALT limits, not the Soviets, the administration has chosen to throw out our own national security so that it could smack the Russians on the wrist.

It is the Soviets who are ready to escalate the arms race, not the United States. It is the Soviets who will reap the propaganda advantage from the American decision to kill SALT, not the United States. By abandoning SALT, we diminish the significance of the Soviet violations which the administration claims led them to their decision. By abandoning SALT, we leave the impression that it is the Soviets, not the United States, who are truly interested in arms control. Sadly, there appears to be some truth in that impression.

The administration has caved in to the hardliners who oppose arms control simply for the sake of opposing it. By giving over the reins of policymaking to the radical right, the administration has taken an action which makes us less, not more secure. The Fascell resolution is an important first step toward restoration of some sense in U.S. policymaking. I urge every Member of the House to support it.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. CARNEY].

Mr. CARNEY. Mr. Chairman, throughout the debate Members have referred to the "treaty" as a treaty. We have referred to the SALT II Treaty as a treaty. I would just like to remind the American public that indeed we do not have a treaty because when the agreement was made between the President of the United States and the Soviet Union, it was submitted to the Senate and the Senate never ratified the agreement, so we do not have a treaty.

Indeed, the President, then Jimmy Carter, withdrew the SALT II Treaty, so we do not have the treaty that we have referred to time and time again.

A couple of years ago the President had agreed in order to maintain some type of continuity to follow the protocols of the SALT II agreement of 1979 in order to prevent runaway arms buildups between the United States and the Soviet Union while the two nations negotiated reductions of arms through the START negotiations.

We agreed that we would hold to the numerical limitations and at that time it was sensible to do so, but we also said that the Soviet Union must comply.

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Obviously, they have not. They have violated that agreement on at least three different occasions. We have not. I find it awfully difficult to go back to my constituents and say to them that we should continue to adhere to this agreement while the Soviets violate it.

It is not in the interest of our national defense to do such a thing. But more than that, it is not in the interest of our negotiating team to do that. It is a sign of weakness that our negotiating team will not be able to overcome, if we are going to continue to conform to this informal agreement while the Soviet Union violates it constantly.

So I would urge my colleagues to reject the resolution and support the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

Mr. FASCELL. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me address my colleagues who may be thinking of voting against SALT. In 1960, John Kennedy was sent to the White House in part because he tagged a Republican administration with creating a missile gap. It turns out that gap did not exist, but let me tell my colleagues something today: If we kill SALT II, my friends, by 1988 there will be a real missile gap, a gap between the Soviets actually in 1988 and what they would have had if we as Americans would have stood with SALT II.

Let me tell my colleagues about that 1988 missile gap. If we break out of SALT II, by 1988 the most it can do for us is give us 74 Minuteman missiles, which we then would not have to retire. That is only 222 warheads.

But for the Soviets, the least that the Broomfield amendment would do is let them raise their heavy ICBM warheads from 10 to 14. This will give them about 1,200 new Soviet warheads against the approximately 200 additional United States warheads by 1988.

So a "no" SALT vote will help the Soviet Union six times as much as it helps us, and those Soviet warheads, my friends, those Broomfield Republican warheads, the SS-18 warheads, are the absolute best in the Soviet arsenal, the most lethal in the Soviet arsenal and the most accurate warheads the Soviets have ever made.

If we also look at the megatonnage that the Broomfield amendment helps the Soviet SS-18's, the Soviets then get 13 times as much out of this killing of the SALT policy as we do.

Dropping SALT would be one of the bonehead plays of all time. We would shoot ourselves in the foot like no nation in history has ever done before. Compared to dropping SALT, the building of the Maginot Line was an act of military genius.

Let us not create a Republican missile gap. Let us not create any missile gap. Let us face reality. We are better off from a security standpoint with SALT II than without it. Let us protect American security by preserving arms control and passing this reduction.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding this time to me.

Mr. Chairman, in lieu of the nonyielding of my friend over there, if we break out of SALT, does the gentleman not know that the Soviets have broken out a long time ago? They have a rash of breakouts, the SS-25, encryption.

Why is the gentleman only concerned about our restraint and totally ignores their nonrestraint?

Second, the gentleman talks about a Republican missile gap. There is a missile gap. The Soviets have 308 SS-18's. We have yet to see an MX on the ground. They have 72 SS-25's. That is a brand new missile, in massive violation of SALT.

So the question of redundancy never occurs to the gentleman. They can outproduce us with more missiles. I thought we already both had enough to blow each other up.

So the gentleman's arguments are sound and fury, signifying nothing.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the gentleman for yielding this time to me, and I apologize to my colleagues for my voice.

Mr. Chairman, I frankly do not have the vaguest idea why we are here. I understand the issue, and I do not know why this House is considering it at this time. This issue was considered at length, in full debate, according to the constitutional prerogatives of the U.S. Senate and they decided not to ratify this treaty.

Now what are we doing? Years later we are coming right here on the floor of the House of Representatives, way beyond our constitutional mandate, and we are considering that we should unilaterally abide by a treaty that was rejected by the other body and we should do so in the face of flagrant violations of the Soviet Union of that same treaty which they engaged in.

Let us get some credibility here. Let us get our feet on the ground. Let us understand that we are unilaterally tying our hands behind our back, notwithstanding the fact that the Krasnoyarsk radar, the SS-25's, are violations by the Soviet Union of this treaty, notwithstanding the fact that we are going to go ahead and not worry about the Soviet Union's violations, the same country that pledged free access in and out of Berlin and then built the Berlin Wall, notwithstanding the fact that that is a country that said it would not put offensive missiles in Cuba and then turned around and tried to 25 years ago.

It is the same country that signed treaties of friendship with Hungary and Czechoslovakia and then invaded those countries. It is the same country that invaded Afghanistan and signed the Helsinki accords and proceeded since to crush human rights at home and deny thousands of their own citizens to emigrate. It is the same country that lied to us about flight 007 and lied to us about the Chernobyl disaster and expects us to believe that they have the best intentions in the world of complying with the SALT accords.

I just want to sum up by saying that we have well-intentioned people who come before this House and say, "Well, we should abide by the SALT Treaty because otherwise we are going to have nuclear proliferation." Ladies and gentlemen, we have nuclear proliferation. We have it on the other side. We do not have the MX yet. We do not have any of the missiles that we are entitled to build because the same people who are advancing this misbegotten cause today are the ones who keep us from building and keeping up with our prerogatives under the SALT Treaty.

Let us not tie our hands. Let us not unilaterally abandon the mandate that we have under the Constitution to represent our people and keep this Nation free. Let us vote down this bill today.

The CHAIRMAN. The Chair will announce that the gentleman from Michigan [Mr. BROOMFIELD] has 20 minutes remaining and the gentleman from Florida [Mr. FASCELL] has 16½ minutes remaining.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. DORNAN], a member of the Committee on Foreign Affairs.

□ 1540

Mr. DORNAN of California. Mr. Chairman, earlier in general debate, I resubmitted for our current perusal and for scholars of the future, something that I worked on for most of 1981 and 1982, my third term in this Chamber, violations by the Soviet Union of SALT I, ABM, SALT II.

I went to, with my staff aide, Senate records, House speeches, extensions of remarks, floor remarks, to glean from the public record every violation of some significance that I could possibly find. I took this document, and it had 57 violations on it, I called the Pentagon and I called my friend, then the National Security Adviser, Bill Clarke, and I asked him to look over these 57 violations to see if inadvertently I would be releaking something that should not have been put in the Senate RECORD or spoken on the Senate floor or this House Chamber that really would hurt any of our intelligence activities, to see if all of this was truly in the public record.

After 3 or 4 days, the military people at the Pentagon called me and Bill Clarke called me down to the White House, gave me back the research and said, "There is nothing in here that the American people should not know about."

Now this debate revolving around arms control in that year, building up to the nuclear freeze debate which took place in this Chamber, that I was not to be part of, reached the height of public awareness in the most unusual way. The liberals in this country, cheered on by the liberals in this House, somehow or other picked as their champion an actor, Paul Newman. That is fair; we had an actor with a pretty good career who was President of the United States then.

Our side ended up with a very decent American, another superstar, Charleton Heston. On an ABC coast-to-coast program, Charleton Heston, in a debate with Paul Newman, and all the critics on both sides said that Newman had not done his homework and that Charleton Heston had, Charleton Heston hands to actor, Paul Newman, my list of 67 violations. He said, "Paul, I think you ought to take a look at these." Paul Newman says, "Where did you get these? Mickey Mouse? There are only six or seven violations; half of them are ours, and they have all been resolved in secret in the standing consultive committee."

Now that was wrong, what Mr. Newman said. There were not 6 or 7 violations, he might have said 8, there were 67 in the public record. I certainly had not found all of them and there were lots more involving the Krasnoyarsk radar at Abalakova, which was then top secret, and other parts of telemetry encryption that was then secret.

So obviously, there were lots of violations and lots of cheating going on by the Soviet Union and here we are now, 3½ years later. I have submitted for the RECORD the original 67 violations that were put in the RECORD that I will ask in full House go into today's debate and I will catch up the gap sometime in the next month and put in 3½ years of further violations and those that have been declassified.

I ask my friends on the other side of this issue on both sides of the aisle, is there not the aspect here of a rabbit trapped in the middle of the road by the headlights of an oncoming car? Or worse yet, a rabbit trapped by a cobra, where once the cobra has fixed its gaze on the frightened little rabbit, it will do anything. It will freeze itself; it will accept any amount of terror from the other side from that cobra. I am

afraid there is no way we are going to satisfy some people in this House with blatant obvious cheating and violations by the Soviet side. But some of you are going to have to realize the merits of the Broomfield amendment.

Vote with us today. Some Republicans are going to have to come home and pass something that is meaningful here today, the Broomfield amendment, which I support.

The CHAIRMAN. The time now stands at 16½ minutes for the gentleman from Florida [Mr. FASCELL] and 16 minutes for the gentleman from Michigan [Mr. BROOMFIELD].

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut.

Mrs. JOHNSON. Mr. Chairman, I rise in opposition to the amendment and in support of the resolution.

I think it would be unwise to abandon the limit that SALT II provides for the United States and the Soviet Union. Although numerical limits are inadequate to the demands of today's world, they are the only parameters now set on nuclear weapons growth.

And they are the one way in which the SALT II agreement has succeeded in serving us. We have ample evidence that the Soviet Union, as the United States, has taken out planes to bring more modern planes into service, has decommissioned subs, and decommissioned missiles in order to stay within those SALT II limits.

Now, that is not to say that their violations are not serious, that their extensive encryption of information has not moved us into a very much more unstable environment than we have enjoyed in previous years. The violations of the SALT II agreement are important and must be dealt with, but I believe they should be dealt with in a proportional way and that eliminating the limits, the numerical limits of SALT II, is not the appropriate course for the Nation to take.

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Chairman, I rise today in strong support of House Joint Resolution 350, calling for continued adherence to the SALT Treaties. While I think we may all agree that the SALT treaties are not perfect, they have placed meaningful restrictions on the most destabilizing weapons systems, as well as establishing a number of critical verification provisions. Thus, they have provided a well understood framework for future negotiations and agreements.

In the words of Former Secretary of Defense, Harold Brown:

> This treaty and the process which produced it are extremely valuable contributions to our strategic deterrent position • • • our defenses are clearly better served with SALT II than without it.

The Soviets have traditionally relied on larger missiles and more of them to offset American technological and operational advantages. SALT is basically a series of quantitative limits, favoring U.S. qualitative advantages while restricting Soviet penchant for mass and quantity. Abandoning the SALT agreements now will undoubtedly trigger a new arms race, ultimately increasing the risk of an all-out nuclear war.

Since 1979, the Soviets have been forced to dismantle or destroy over 1,300 systems. They now have only 8 more ICBM's, 24 more strategic bombers, and 6 less SLBM's than they had in 1979, before the signing of SALT II.

Abandoning SALT would be extremely costly to both sides. However, the Soviets currently have the ability to produce 50 percent more nuclear weapons by 1989, than they now have. It would then take the United States until the mid-1990's to catch up with such a massive arms escalation.

The impact of this continued arms race on the U.S. budget would be enormous. As billions of dollars were spent on new weapons, Congress would be faced with the decision to add to the Federal deficit, or cut back further in domestic spending, or raise taxes. I do not believe that the American public is willing to financially support a new strategic arms race with the Soviets at this time.

In contention are three possible Soviet violations: the production of the SS-25, the encryption of telemetry during missile testing, and the Krasnoyarsk radar system. While we can debate all day about whether enough evidence exists to substantiate the administration's claim that the Soviets have engaged in clear violations of the treaties, we should remember the warning of General Brent Scowcroft:

> There is no question that the Soviets test the limits of any agreement • • • the most serious part is knowing what to do about it • • • they're not really significant enough in themselves to renounce a treaty • • • there are restraints in the treaty (SALT II) on the Soviets which, however modest, are better than no restraints at all.

By abandoning these treaties, it would appear that the President has lost sight of his primary "dream"—the dream of a world in which offensive weapons will be replaced by defensive weapons as the mainstay of deterrence—the dream of a "protective shield" as provided by the strategic defense initiative.

A breakout of the SALT limitations is wholly incompatible with the stated objectives of the President's SDI program—which requires limits and reductions in offensive weapons if it is to have any hope of success. It is also a contradiction of the U.S. position in Geneva where our negotiators are calling for major reductions in offensive weapons systems.

Even James Abrahamson, Director of the SDIO, told Congress that negotiated limits restricting the number of Soviet offensive weapons is necessary if the SDI defensive system is to have a chance of working.

In June 1984, the other body voted overwhelmingly to pass a resolution urging the President to continue with his policy of "no undercut" with respect to the SALT and other arms agreements. At that time, the other body found that:

> • • • it would be detrimental to the security interest of the United States and its allies and to the international peace and stability, for the last remaining limitations on strategic offensive weapons to breakdown, or lapse before replacement by a new arms control agreements.

The administration is allowing itself to become trapped by its own rhetoric. Although it has repeatedly condemned the SALT treaties, it has been unable in its almost 6 years in office to produce a replacement. This is the worst record of any administration since the nuclear arms race began.

I urge my colleagues to join with me today in support of this bill, and to reject the administration's ill-founded attempt to scrap current arms agreements.

□ 1550

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I think the real tragedy with this proposal is that it implies somehow that the Soviets have not broken the SALT agreement; and I have not met a Member of the House—maybe I have not talked to the right Member—but I have not met a Member of the House on either side who contends that the Soviets have not violated the treaty in building the 25 and the encryption of telemetry.

I read the Democrat proposal that states: The administration contends that the Soviet Union has violated the treaty. Is there any Member in the House who does not agree with that contention? That the Soviet Union has violated the SALT Treaty?

I do not think there is, and if that is the case, my question is: Why do not we, as a party that is charged by the Constitution with defending this country, make that statement? We do a tremendous disservice, no matter which side you are on; liberal, conservative, Democrat, Republican, to the defense of this country if we as a Congress that has access to all of the classified information that substantiates these violations, we do not declare to the world, to the Soviet Union and to our own constituents that yes, the Soviet Union has violated this treaty.

We are not some type of a third party, a commentator that is refereeing a battle between the President of

the United States and the Soviet Union; we are charged with defending America. Nowhere in this proposal is there any statement to the fact that in fact the Soviet Union has violated the SALT agreement. That is why we have to make it a piecemeal agreement and say: "Well, even though perhaps the administration contends they violated it, we should still stick with the sublimitations, with the sub totals."

I think it is just an absolute disgrace that this Congress cannot own up to the fact that the Soviet Union has violated this treaty, and apprise their own constituents in the Soviet Union that we cannot accept that type of activity.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I do not come here with any special credentials, but we have 300 neighbors in our soil in North Dakota; 300 Minuteman ICBM's with sophisticated Mark XII warheads, so we know something about nuclear weapons.

I can tell you that the constituents in North Dakota, and I think around the Midwest, believe that the arms race between this country and the Soviets is sheer lunacy; and if we and the Soviets survive this arms race, one day we are going to end up first in nuclear warheads and second in everything else in this world.

What we have to do is change the way we think. "The unleashed power of the atom has changed everything save our modes of thinking." Never is that more clearly demonstrated than in this type of debate. We still have people who come to the floor of this House as tank commanders saying, "We have this many tanks, they have that many tanks, if we can destroy some of them and still survive, we win."

But with nuclear weapons, both sides lose. That's one lesson we still must learn from Dr. Einstein.

My guess is that if, God forbid, we should ever have a nuclear war that destroys this world, in the final moments we will have folks muttering: "If only we had more nuclear warheads." What we need is more restraint and more arms control. That is what is necessary.

Now the question we face today is, Is SALT II useful or useless? Well, SALT II is not perfect; it has allowed for a buildup. And we should vigorously press for total Soviet compliance. However, the fact is, it also does impose some restraints on the nuclear arms race. So the question is, Is some restraint better than no restraint?

The answer ought to be, for every single man and woman in this House, a clear and resounding and loud "Yes." You bet. Some restraint is better than no restraint—especially when the Soviets will be restrained much more than the United States. We do not want this President to abandon SALT II. That is what this debate is about on the floor of the House today—not about undercutting the President or our START negotiators—and why I support the committee bill. On balance, I believe the military benefits of abiding by the SALT II limits strengthen national security.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, I find it fascinating, in listening carefully to my good friend from North Dakota [Mr. DORGAN], and I agree with him, in part.

The ironic thing is, if you look carefully at his side's amendment, it is his side that breaks down the SALT agreement into this many of this and this many of that. If you will, to use your words, change the way you think for just a moment and look at what Broomfield tries to accomplish.

Broomfield says purely and simply, "We should be for something like the SALT agreement. We should encourage the United States Government and the Soviet Union to adhere to something like the SALT agreement," but it also says when there are Soviet violations we should be free to react in a way which is the most effective in enforcing the arms control process.

I think there are two things that our friends on the left have to consider. First, yesterday this House heard powerful words about the impact our actions have on other governments. Yesterday it was the South African Government.

I think this House also has an impact on the Soviet Government. I suspect the Soviet Government has people watching this debate on C-SPAN.

If we set up the precedent that we are willing to divide the treaty despite Jimmy Carter's promises, that we are willing to divide the treaty into little bits and pieces in which we enforce the parts that we want to enforce, but we allow the Russians to break the parts they want to break, I think we send a very powerful signal to Gorbachev and the Soviet Government.

Second, if for the moderate, concerned American who really believes both in national security and in arms talks, they come to the conclusion that arms talks always mean giving away the store. Arms talks always mean one more excuse for Soviet behavior. Arms talks always mean "We're impotent, we're ineffective, we're incapable."

Then I fear that the average, reasonable American who cares about national security will come to the conclusion that in fact arms talks as handled by this Congress is a very dangerous game.

So I would just say on behalf of the Broomfield amendment, it allows everyone who wants to vote for the process of SALT to vote "yes," we want to continue the process; it allows everyone who wants to reinforce the concept that this administration should be for arms limitations to vote "yes"; but it also says if the Soviets are determined to violate the treaty, we will not allow them to pick and choose the parts that they win by, and we will not cripple the American Government in its capacity to respond.

Now in terms of both a national security argument and a serious, systematic, deliberate effort to go to arms control, I do not see how a reasonable person could vote against the Broomfield amendment.

Mr. DORGAN of North Dakota. Will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman.

Mr. DORGAN of North Dakota. Does the gentleman agree that those who are leading the fight to abandon SALT II are those who never supported SALT II in the first place?

Mr. GINGRICH. I would say that those who have led the fight to force us to confront Soviet violations; I would say to my good friend, those who used to work for Senator Jackson, a Democrat from Washington State, who were most worried with Senator Jackson about Soviet violations under SALT II are those who have been most active in making us confront what, for your friends on the left, is a very unpalatable truth; which is that the Soviet Union has been systematically and deliberately violating the treaty.

Mr. DORGAN of North Dakota. If the gentleman will yield further, the answer to that is yes; yes, those who lead the fight to abandon SALT II are those who never supported that SALT agreement in the first place.

Mr. GINGRICH. As I said on this floor earlier to my good friend, it is amazing to me that those on the left cannot hear literally the words I just said.

Those who have been consistently frightened that the Russians would cheat report that the Russians are cheating.

Mr. CARNEY. Will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman.

Mr. CARNEY. Mr. Chairman, may I ask the gentleman if he is in support of the Broomfield amendment?

Mr. GINGRICH. Absolutely.

Mr. CARNEY. The Broomfield amendment reads: The President shall continue to adhere to the provisions of the SALT agreement as long as the Soviets do.

The gentleman is saying we should continue to adhere to the SALT agreement, in toto.

Mr. GINGRICH. As long as the Soviets do.

Mr. CARNEY. I congratulate the gentleman.

Mr. GINGRICH. Thank you.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, even though the matter supposedly has been resolved in a debate between Charlton Heston and Paul Newman, I would like to, as a Member of Congress, offer my 2 cents, being a new Member, and seeing these developments over a period of time.

Without question, allegations of violations of SALT II by the Soviets is a valid concern of the opposing party, but continuous attacks on those of us on this side who take exception to the President's position as being aiding and abetting the Soviets is untrue.

It is understood that any agreement we would make with the Soviet Union we should have some grave concerns due to their regime and their past experience. However, there are two great nations involved that have the nuclear capability of blowing up this planet 10 times over. Ladies and gentlemen, this is not the time to be macho.

□ 1600

We have got to come to terms with the Soviets. We have got to learn to live with the Soviets, and we should adhere to SALT II and levy the international pressure from other nations on this very public-relations-minded administration in the Soviet Union, to make the Soviets adhere as well and give our negotiators a chance to work out a potential reprieve from some holocaust. So let us not throw out the baby with the bath water. As they say in an old statement from Ohio, "One bird in the hand is a lot better than two in the bush."

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the resolution and in support of the arms control process. Nuclear weapons are a unique phenomenon in history. They constitute the potential tools of our own destruction, for if they were to be used in the numbers and in the manner envisioned by strategic planners, they would change the nature of our planet in ways we can only imagine; no human would remain to observe the consequences. It is vitally important that we harness the impulse toward war and promote a process that controls the production and deployment of these horrible weapons that serve no useful purpose, yet loom so large. SALT I and SALT II have been far from perfect, but they constitute steps in the right direction and we should continue to adhere to their provisions.

The SALT II Treaty was signed in 1979. Although the treaty was never ratified, it has provided the framework for arms control. Both the United States and the Soviet Union have observed the numerical limits placed on missiles and delivery systems and have, in fact, dismantled more than 2,000 land- and submarine-based missiles. I agree with those who point out that the limits on weapons established in SALT II are very high. I think weapons limits should be significantly lower. Unfortunately, we are now at the point where the deployment of a single submarine exceeds the limits established by SALT II. To reach those limits, we have had to invest an enormous proportion of our resources that could have been invested in productive activities—education, medical research, the alleviation of suffering.

Every President since Lyndon Johnson has participated in the arms control process. SALT I, SALT II, the ABM Treaty and others have helped to make the arms race manageable. The SALT II Treaty, the most recent treaty negotiated, constitutes a foundation on which we must craft further arms control initiatives. The Geneva Summit was a promising sign.

We must not negotiate arms limitation agreements blindly or naively. The Soviets are a formidable adversary. Treaties must be mutual and verifiable. The SALT II Treaty includes provisions for verification and has provisions for addressing charges of treaty violations.

Arms control is in our national interest. It is in the world interest. That is why our allies have been unanimous in their support for continuing adherence to SALT II and why they have expressed such alarm over the prospect of our rejection of the treaty. They know that scrapping of the SALT II Treaty would invite the Soviets to engage in an unrestrained arms race. This would likely result in new, even more destructive Soviet nuclear system. We would have to match them, piling cost on top of instability.

Since the end of World War II, the world community has spent between $3 and $4 trillion on a nuclear arsenal that must not be used. I urge adoption of this resolution to send the signal that our country believes in arms control and wants to invest its resources in productive activities. The arms control process began before the current administration took office and must continue into the forseeable future, if we are to have a future. We must do our part for the sake of the future by expressing our support for a framework to harness the destructive power of nuclear arms. I urge adoption of the resolution.

Mr. TRAFICANT. I appreciate the statement of the gentlewoman from Ohio.

Mr. Chairman, I, too, support the chairman of the committee and his resolution and oppose the Broomfield amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. KASICH].

Mr. McGRATH. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from New York.

Mr. McGRATH. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Broomfield amendment.

Mr. Chairman, I rise in support of the Broomfield substitute, and I question the need for this entire debate at this particular point in time. I do think that White House statements in recent days have been careless and unnecessarily belligerent. In spite of those badly timed and poorly chosen comments, the underlying policy of abandoning SALT II by the end of the year is sound. We have not yet exceeded the limits set by the treaty, and plenty of time remains for serious negotiations with the Soviets.

I believe that we should give the President our full support at this point in time in the hope that his strong stand will lead to serious negotiation. The Soviets are clearly in no better position than we are economically or otherwise to pursue an all-out Arms race. We have no other opportunity on the horizon to push them toward a stronger treaty and full compliance. I cannot agree that adhering to an unratified Treaty repeatedly and openly violated by our adversaries is an option that is in our national interests.

I hope we will not have to exceed the SALT II limits in the coming months, however, I will not support a nonbinding and therefore meaningless attempt to force the President's hand. The Soviets are masters of negotiation by press release. No op-ed pages are found in Pravada and for reasons that I cannot understand, many of our citizens are reluctant to challenge official Government statements, which fall to even cursory examination. I am not going to be stampeded by their public bluster and empty promises, and I hope my colleagues will join me by supporting the Broomfield substitute.

In reviewing the information provided on SALT II over the last several weeks, I was particularly struck by a statement in support of the resolution put forward by the distinguished chairman of the House Foreign Affairs Committee. The first substantive paragraph concisely summarized significant violations of SALT II. They have built a new missile prohibited by SALT II. They have deliberately prevented verification of missile tests and their aircraft design. The next paragraph quickly dismisses those blatant violations, and informs us that our national interest is best protected by the treaty's numerical limits. Looking at the history of Soviet compliance with treaties of every type, I do not think that our national interest is protected by any treaty with the Soviet Government unless we can see first

hand whether or not the Soviets are going to adhere strictly to its terms.

Are we to come to the floor in the fall or winter and plead with the President to cling to SALT II in spite of more violations? Where do we draw the line?

The Soviets can continue to expand their strategic arsenal qualitatively and quantitatively with the limits of SALT II, and I have no doubt that they will continue to do so regardless of our intentions.

Mr. KASICH. Mr. Chairman, I think it is very important that we are abundantly clear in what we are trying to do in the Broomfield substitute. Essentially, what we say is that we will live within the SALT II agreement if the Soviets will stop cheating. That is the bottom line. I think everybody in this chamber can vote that the Soviets ought to have integrity, that they ought to have honesty, and that they ought not to cheat on this agreement. As to whether this has been a restraining influence on the Soviets, I think that is open to debate. Why do I say that? Since we signed SALT II, the Soviets have increased the number of warheads by 4,000 and have the potential under SALT to increase it by another 5,000.

So since 1979 the Soviets will increase the number of warheads in hard target kill capable systems by 9,000 warheads. Is that restraining them? It is hard for me to make an argument that it is.

Nevertheless, we are willing to live within SALT II if and only if the Soviets stop their cheating.

Mr. FASCELL. Mr. Chairman, I yield the balance of the time on this side to conclude the debate to the distinguished majority leader, the beloved gentleman from Texas [Mr. WRIGHT].

The CHAIRMAN. The Chair recognizes the distinguished majority leader of 7½ minutes.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the Broomfield amendment and in favor of the resolution. Let us understand clearly, this amendment would vitiate the resolution, render it null and void. It would say, in effect, that the technical violation of a minor provision of the treaty, of which both sides have been on occasion guilty, should nullify the treaty's important numerical weapons limitations which have been observed by both sides and on which the security of the United States and the peace of the world depend.

For the United States to doom this treaty by our unilateral decision, a course that the President has announced, and that this Broomfield amendment would encourage, would be a major foreign policy blunder and a major blow to our own national security.

It would give to the Soviet Union which, in observing the present limits, has dismantled many more weapons than we have, an excuse and a presumptive right to double the size of its current nuclear arsenal which it can do, adding as many as 10,000 more nuclear weapons to the destabilization of the world's fragile tranquillity.

Surely we do not want to do that.

And as that nuclear arms race inevitably spiralled up, it would force us then to spend many billion dollars more that we do not have on additional weapons which we presently do not need and which, in our desperate budgetary situation, we manifestly cannot afford.

So for all those reasons, it is clearly in our national interest to reject the Broomfield substitute and adopt this resolution in the hope that by doing so we can encourage the keeping of those limits by both parties that are written into the SALT agreement.

Now the President says that he is hostile to the SALT agreement, that is his word, "hostile," to the SALT agreement because he says it merely limits weapons and does not reduce them. Now does it not make sense that before we are to reduce weapons at least we have to stop increasing their number? Is that not sensible? The SALT Treaty at least is in the process of doing that.

The President says he wants to work for a better treaty. Well, that is fine, more power to him. But is that any reason to abandon a treaty that both sides have been observing before we have another one to put in its place? Something is clearly better than nothing.

Mr. Reagan says that he does not trust the Russians. Perhaps not. Is that not all the more reason to maintain some verifiable limits? If this treaty is abandoned, then we lose our existing powers of verification. It is only with those whom you trust implicitly that you do not need any agreement, any contract, any treaty. With seven Presidents of both political parties going back to Dwight D. Eisenhower, who said that the great regret of his Presidency was that he had not been able to negotiate a binding nuclear weapons limitation agreement, I have consistently supported a bipartisan role of Congress and legitimate rights of the Chief Executive in foreign policy; I still support those rights.

But the Constitution also gave specific rights and duties to the Congress of the United States. This President seems either oblivious or contemptuous of these congressional responsibilities. He spurns our friendly entreaties, he ignores our letters and petitions, he scorns our formal resolutions in the face of our bipartisan and bicameral pleas to maintain the nuclear test ban, to resubmit the SALT II Treaty for ratification, to acknowledge the budgetary impass brought about in major part by his repeated insistence on throwing more and more money at the Pentagon while building up more and more debt for our children to pay. In each of these things the President has flaunted his universal exercise of power in direct contravention of the requests of Congress.

Now, we do not seek any confrontation with the President even today. It is not our wish to embarrass him. We hope it will not be necessary to vote a formal limitation. But the President must be brought to understand the awesome gravity of this situation. This is not anything to play with.

The President must be made to understand that in the age of Gramm-Rudman, with $1 trillion already added in the last 5 years to the national debt upon the backs of our children, doubled in this administration, with a Congress that already has given to the President and the Nation more than a $1 trillion military buildup in the last 5 years, with several times more nuclear warheads already in the hands of the United States and the Soviet Union than would be enough to guarantee our mutual total annihilation; the Congress of the United States solemnly charged by the Constitution to protect the public's interests in exercising the power of the purse, is loath to start a new and ever more costly round in the leapfrogging race of nuclear weapons.

That is our message to the President today. We call upon our President, instead, to exercise his fine talents in the cause of peace, not war, to promote conciliation, not confrontation, to seek agreement with the Soviet Union, not argumentation; and to do these things in the interest of the United States and in the interest of the human race.

That is what we say in this resolution. This amendment would nullify that message. It would send the opposite message to the world, that we are ready to abandon all hope of limiting nuclear arms. And I do not think we are.

This Congress has the responsibility to say whether we are or not. This is our opportunity to say clearly, forcefully, and unmistakably that we are ready for an end to the nuclear arms race.

PARLIAMENTARY INQUIRY

Mr. BROOMFIELD. Mr. Chairman, before I call on the minority leader to wind up the debate on our side, I would like to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROOMFIELD. Mr. Chairman, under House Concurrent Resolution 350, following the vote on the Broomfield amendment, would I have an opportunity under a motion to recommit

to have 5 minutes to explain that motion with instructions?

The CHAIRMAN. Only by unanimous consent. This is a concurrent resolution under consideration and a motion to recommit would not be debatable in the House. The gentleman would need unanimous consent to have 5 minutes.

Mr. BROOMFIELD. And that motion would have to be made following the vote, is that correct?

The CHAIRMAN. Does the gentleman mean in the Committee of the Whole or in the House?

Mr. BROOMFIELD. Mr. Chairman, I would like to make it now if the Chair would agree to it. I only want 2 minutes following the vote on the Broomfield amendment to indicate what the motion to recommit would be.

Mr. Chairman, I would ask unanimous consent.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. FASCELL. Mr. Chairman, why does not the gentleman do that now?

Mr. DICKS. Reserving the right to object, Mr. Chairman, would there be 2 minutes on this side to respond?

Mr. BROOMFIELD. Absolutely, absolutely.

Mr. DICKS. Then why does not the gentleman do it now on his own time? He could explain it right now.

Mr. Chairman, I feel constrained to object.

The CHAIRMAN. Objection is heard.

Mr. BROOMFIELD. Mr. Chairman, in view of that, I do want to indicate to the Members that it will be my intention to offer a motion to recommit with instructions.

Mr. Chairman, my motion to recommit asks the Committee on Foreign Affairs to reconsider House Concurrent Resolution 350 and add language expressing the support of Congress for our negotiators in Geneva in their efforts to negotiate a strategic arms reduction agreement which will reduce strategic nuclear weapons below SALT II levels. I am very concerned that House Concurrent Resolution 350 appears to legitimize Soviet noncompliance and thus undermines the credibility of meaningful arms reduction agreements in the future.

I cannot help but feel that this will directly harm the position of our negotiators in Geneva. Since I hope this is not the intent of the sponsors of this resolution, I think it is very important that we clear up this confusion on the implications of our action today by expressing our full support for our negotiating team in Geneva.

Mr. Chairman, I yield the balance of my time to the Republican leader to conclude the debate on this side, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise in support of the amendment offered by Mr. BROOMFIELD.

The essential difference between the Broomfield amendment and the resolution is that the Broomfield amendment adheres to the principle that all parts of a treaty are to be complied with.

The resolution, on the other hand, allows the Russians to pick and choose which part of the SALT II restrictions they can violate with impunity.

Qualitative violations are to be ignored only quantitative violations count.

I hope this sort of thing doesn't spread. If it does, we'll soon have preachers telling congregations: "OK, you can ignore commandments 4, 6, and 10 so long as you comply with the rest.

The President in 1985 said he would go the extra mile for SALT II. But the sponsors of the base resolution appear ready to go not only an extra mile, but to run a marathon before they will do what he has quite correctly done—tell the world the United States is not going to continue abiding by treaties the Soviets break. We live within the letter of the law while they break the back of the law.

There is a principle involved in the President's decision—the principle of compliance and the penalties that noncompliance brings.

Contrary to what the majority leader contends relative to both sides living up to limits of SALT II, the SS-25 of the Soviets is in violation of the prohibition on a second new, land-based ICBM. The Soviet encryption of telemetry is in violation. The Soviets have also exceeded the limit on missile launchers.

These aren't minor violations, nor are they the only violations.

Some of you might say: "But in each one of those cases, there is disagreement as to the seriousness or the extent of the violation."

I am convinced the violations are important and undeniable.

But even if there were ambiguities concerning these incidents, isn't it wiser to judge then against the highest standards of treaty compliance than to wink and walk away hoping they won't happen again?

Last week a Member of the other body was quoted in the newspapers as saying that advisers to the President were—and I quote—"seeking to use militarily insignificant treaty violations" to "destroy the entire strategic framework" of the interim agreement.

"Militarily insignificant?"

A violation of a treaty is a violation. Its "significance" lies in the very fact it has happened. You need no further criteria to judge its importance. Its significance needs no qualifiers like "militarily" or "politically."

Treaty-breaking is in the Soviet Union's interest only so long as it is risk-free. They will never enter into an arms reduction treaty if they are reinforced in their current treaty-breaking behavior by American acquiesence in their blatant violations of already existing agreements.

The safety and security of the United States and its allies should not be held hostage to the fervent wishes of those who believe violated arms control treaties are better than no treaties at all.

The principle of 50-percent reductions in the strategic nuclear arms of both countries is at the very heart of President Reagan's effort to reduce arms while still protecting our national security.

That principle is threatened by allowing the Soviet Union to violate the SALT II restrictions.

If we keep on giving them every benefit of every doubt then the word "violation" loses its meaning.

The President's decision to tell the Soviets we won't tolerate violations of the interim arms agreement is not a blow against the principle of arms control—it is one of the most serious statements about the integrity of that principle ever made by an American President.

This isn't a question of those who want arms control versus those who don't want arms control.

It is a question of whether arms control treaties for the sake of arms control treaties is going to be the primary goal of our strategic nuclear policy or whether arms control is going to be a means—one among many including force modernization—by which we seek to meet our Nation's security needs.

Arms control as one means among many toward the goal of secure freedom is desirable and necessary. But arms control as an end in itself is a false idol—and it's about time its worshippers in the House realize how false it is.

We hear much about our NATO allies' criticisms of the President's decisions.

Americans from the beginning have had a "decent respect for the opinions of mankind." But there is a growing and, in my view, troubling trend in this country to be concerned more about what other countries say of our Nation's policies than of what the policies themselves seek to acomplish.

Abe Lincoln once said:

> If the end brings me out all right what is said against me won't amount to anything. If the end brings me out wrong 10 angels swearing I was right would make no difference.

Why don't we get back to that standard? Why be so concerned what others say about us but what is the right thing to do.

We in the House disagree as to what the right thing is in this as in many issues. We quite properly are debating the issue.

That is what democracy means. But let's not try to prejudge this issue because friends or foes support or are critical of a given policy.

Let's judge each policy on its merits, not on whether our Nation is going to win or lose the Miss Congeniality Award in geopolitical affairs.

Arms control by itself is not going to solve our international problems. Neither is force modernization. Neither is mutual and balanced conventional force reduction. Neither are the START talks, neither is any single all-purpose panacea for the world's ills.

What we need—and what President Reagan is providing—is a policy involving all of these and more, sometimes emphasizing one part, sometimes another.

But there is one important point here—each part has to have its own integrity, its own rules.

If these rules are broken, and we do nothing, the corrupted component of our over-all strategy becomes contaminated and it begins to infect our entire foreign policy.

So it is in everyone's interest to see to it that the SALT restrictions are bilateral in nature.

The President has pledged we won't increase launchers or warheads above Soviet levels.

The Soviets therefore have every reason to follow our lead of restraint.

But we cannot continue to hope for progress within the already-violated boundaries of SALT II.

What we need is the courage to act on violations and the good judgment to do what we have to do to protect peace and freedom.

The President's decision has provided us with both of these.

Mr. BROOMFIELD'S AMENDMENT, ADHERING AS IT DOES TO THE PRINCIPLE OF comprehensive compliance deserves our support. I urge you to join with me in voting for it.

□ 1615

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. BROOMFIELD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 222, not voting 24, as follows:

[Roll No. 184]

AYES—187

Archer	Hiler	Ray
Armey	Holt	Regula
Barnard	Hopkins	Ridge
Bartlett	Hubbard	Rinaldo
Bateman	Hunter	Ritter
Bentley	Hutto	Roberts
Bereuter	Hyde	Roemer
Bilirakis	Ireland	Rogers
Bliley	Jenkins	Roth
Boulter	Kasich	Rowland (CT)
Broomfield	Kemp	Rowland (GA)
Brown (CO)	Kindness	Saxton
Broyhill	Kolbe	Schaefer
Burton (IN)	Kramer	Schuette
Callahan	Lagomarsino	Schulze
Carney	Latta	Sensenbrenner
Chappell	Leath (TX)	Shaw
Chappie	Lent	Shelby
Clinger	Lewis (FL)	Shumway
Coats	Lightfoot	Shuster
Cobey	Lipinski	Siljander
Coble	Livingston	Sisisky
Coleman (MO)	Lloyd	Skeen
Combest	Loeffler	Skelton
Courter	Lott	Slaughter
Craig	Lowery (CA)	Smith (NE)
Crane	Lujan	Smith (NJ)
Daniel	Lungren	Smith, Denny (OR)
Dannemeyer	Mack	Smith, Robert (NH)
Darden	Madigan	Smith, Robert (OR)
Daub	Marlenee	Snyder
DeLay	Martin (IL)	Solomon
DeWine	Mazzoli	Spence
Dickinson	McCain	Stallings
DioGuardi	McCandless	Stangeland
Dornan (CA)	McCollum	Stenholm
Dreier	McDade	Strang
Duncan	McEwen	Stratton
Dyson	McGrath	Stump
Eckert (NY)	McMillan	Sundquist
Edwards (OK)	Meyers	Sweeney
Emerson	Michel	Swindall
English	Miller (OH)	Tallon
Erdreich	Miller (WA)	Tauzin
Evans (IA)	Molinari	Taylor
Fawell	Monson	Thomas (GA)
Fiedler	Montgomery	Valentine
Fields	Moore	Vander Jagt
Flippo	Moorhead	Vucanovich
Franklin	Morrison (WA)	Walker
Frenzel	Murtha	Weber
Gallo	Myers	Whitehurst
Gaydos	Nelson	Whittaker
Gekas	Nichols	Wolf
Gilman	Nielson	Wortley
Gingrich	Oxley	Wylie
Goodling	Packard	Young (AK)
Gradison	Parris	Young (FL)
Gregg	Pashayan	Zschau
Gunderson	Petri	
Hall, Ralph	Pickle	
Hammerschmidt	Porter	
Hansen	Pursell	
Hendon	Quillen	

NOES—222

Ackerman	Boucher	Dingell
Akaka	Boxer	Dixon
Alexander	Brooks	Donnelly
Anderson	Brown (CA)	Dorgan (ND)
Andrews	Bruce	Dowdy
Annunzio	Bryant	Downey
Applegate	Bustamante	Durbin
Aspin	Byron	Dwyer
Atkins	Carper	Dymally
AuCoin	Carr	Early
Barnes	Chapman	Eckart (OH)
Bates	Clay	Edgar
Bedell	Coelho	Edwards (CA)
Beilenson	Coleman (TX)	Evans (IL)
Bennett	Collins	Fascell
Berman	Conte	Fazio
Bevill	Conyers	Feighan
Biaggi	Cooper	Fish
Boehlert	Coughlin	Florio
Boggs	Coyne	Foglietta
Boland	Crockett	Foley
Boner (TN)	Daschle	Ford (MI)
Bonior (MI)	de la Garza	Ford (TN)
Bonker	Dellums	Fowler
Borski	Derrick	Frank
Bosco	Dicks	Frost
Garcia	MacKay	Schneider
Gejdenson	Manton	Schroeder
Gephardt	Markey	Schumer
Gibbons	Martinez	Seiberling
Glickman	Matsui	Sharp
Gonzalez	Mavroules	Sikorski
Gordon	McCloskey	Slattery
Gray (IL)	McCurdy	Smith (FL)
Gray (PA)	McHugh	Smith (IA)
Green	McKernan	Snowe
Guarini	Mica	Solarz
Hall (OH)	Mikulski	Spratt
Hamilton	Miller (CA)	St Germain
Hawkins	Mineta	Staggers
Hayes	Mitchell	Stark
Hefner	Moakley	Stokes
Heftel	Mollohan	Studds
Henry	Moody	Swift
Hertel	Morrison (CT)	Synar
Howard	Mrazek	Tauke
Hoyer	Murphy	Thomas (CA)
Hughes	Natcher	Torres
Jacobs	Neal	Torricelli
Jeffords	Nowak	Towns
Johnson	Oakar	Traficant
Jones (NC)	Oberstar	Traxler
Jones (OK)	Obey	Udall
Jones (TN)	Olin	Vento
Kanjorski	Ortiz	Visclosky
Kaptur	Owens	Volkmer
Kastenmeier	Panetta	Walgren
Kennelly	Pease	Watkins
Kildee	Penny	Waxman
Kleczka	Pepper	Weaver
Kolter	Perkins	Weiss
Kostmayer	Price	Wheat
LaFalce	Rahall	Whitley
Lantos	Reid	Whitten
Leach (IA)	Richardson	Williams
Lehman (CA)	Robinson	Wilson
Lehman (FL)	Roe	Wirth
Leland	Rose	Wise
Levin (MI)	Roukema	Wolpe
Levine (CA)	Roybal	Wright
Long	Russo	Wyden
Lowry (WA)	Sabo	Yates
Luken	Savage	Yatron
Lundine	Scheuer	Young (MO)

NOT VOTING—24

Anthony	Davis	Lewis (CA)
Badham	Fuqua	Martin (NY)
Barton	Grotberg	McKinney
Breaux	Hartnett	O'Brien
Burton (CA)	Hatcher	Rangel
Campbell	Hillis	Rodino
Chandler	Horton	Rostenkowski
Cheney	Huckaby	Rudd

□ 1635

The Clerk announced the following pairs:

On this vote:

Mr. Horton for, with Mr. Rangel against.

Mr. Cheney for, with Mrs. Burton of California against.

Mr. Martin of New York for, with Mr. Anthony against.

Mr. Badham for, with Mr. Rodino against.

Mr. Campbell for, with Mr. Huckaby against.

Mr. Hartnett for, with Mr. McKinney against.

Mr. BEVILL and Mr. SABO changed their votes from "aye" to "no."

Mr. KOLBE and Mr. SKELTON changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HERTEL of Michigan, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 350) providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise, pursuant to House Resolution 479, he reported the concurrent resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the committee amendment.

The committee amendment was agreed to.

MOTION TO RECOMMIT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the concurrent resolution?

Mr. BROOMFIELD. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROOMFIELD moves to recommit the concurrent resolution (H. Con. Res. 350) to the Committee on Foreign Affairs with instructions to report back the same forthwith with the following amendment:

Amendment: Page 3, after line 25, insert the following new section:

SEC. 3. SUPPORT FOR UNITED STATES NEGOTIATORS IN GENEVA.

The Congress expresses its firm support for the efforts of the United States negotiators engaged in the arms reduction negotiations in Geneva to reduce strategic nuclear weapons below SALT II limits.

The SPEAKER. The motion is not debatable.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. FASCELL. Mr. Speaker, I could not hear the Clerk in the reading of the motion to recommit, but do I understand—from what I heard—that this motion to recommit adds a new section to the bill, and does not strike out any language of the pending resolution? Is that correct?

Mr. BROOMFIELD. That is correct.

The SPEAKER. The gentleman is correct.

Mr. FASCELL. Mr. Speaker, in that case I withdraw my inquiry and say that we are happy to accept the language of the gentleman from Michigan [Mr. BROOMFIELD].

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the concurrent resolution.

The vote was taken by electronic device, and there were—ayes 406, noes 0, not voting 27, as follows:

[Roll No. 185]

AYES—406

Ackerman	Cooper	Gephardt
Akaka	Coughlin	Gibbons
Alexander	Courter	Gilman
Anderson	Coyne	Gingrich
Andrews	Craig	Glickman
Annunzio	Crane	Gonzalez
Applegate	Crockett	Goodling
Archer	Daniel	Gordon
Armey	Dannemeyer	Gradison
Aspin	Darden	Gray (IL)
Atkins	Daschle	Gray (PA)
AuCoin	Daub	Green
Barnard	de la Garza	Gregg
Barnes	DeLay	Guarini
Bartlett	Dellums	Gunderson
Bateman	DeWine	Hall (OH)
Bates	Dickinson	Hall, Ralph
Bedell	Dicks	Hamilton
Beilenson	Dingell	Hammerschmidt
Bennett	DioGuardi	Hansen
Bentley	Dixon	Hawkins
Bereuter	Donnelly	Hayes
Berman	Dorgan (ND)	Hefner
Bevill	Dornan (CA)	Heftel
Biaggi	Dowdy	Hendon
Bilirakis	Downey	Henry
Bliley	Dreier	Hertel
Boehlert	Duncan	Hiler
Boggs	Durbin	Holt
Boland	Dwyer	Hopkins
Boner (TN)	Dymally	Howard
Bonior (MI)	Dyson	Hoyer
Bonker	Early	Hubbard
Borski	Eckart (OH)	Hughes
Bosco	Eckert (NY)	Hunter
Boucher	Edgar	Hutto
Boulter	Edwards (CA)	Hyde
Boxer	Edwards (OK)	Ireland
Brooks	Emerson	Jacobs
Broomfield	English	Jeffords
Brown (CA)	Erdreich	Jenkins
Brown (CO)	Evans (IA)	Johnson
Broyhill	Evans (IL)	Jones (NC)
Bruce	Fascell	Jones (OK)
Bryant	Fawell	Jones (TN)
Burton (IN)	Fazio	Kanjorski
Byron	Feighan	Kaptur
Callahan	Fiedler	Kasich
Carney	Fields	Kastenmeier
Carper	Fish	Kemp
Carr	Flippo	Kennelly
Chapman	Florio	Kildee
Chappell	Foglietta	Kindness
Chappie	Foley	Kleczka
Clay	Ford (MI)	Kolbe
Clinger	Ford (TN)	Kolter
Coats	Fowler	Kostmayer
Cobey	Frank	Kramer
Coble	Franklin	LaFalce
Coelho	Frenzel	Lagomarsino
Coleman (MO)	Frost	Lantos
Coleman (TX)	Gallo	Latta
Collins	Garcia	Leach (IA)
Combest	Gaydos	Leath (TX)
Conte	Gejdenson	Lehman (CA)
Conyers	Gekas	Lehman (FL)
Leland	Olin	Snowe
Lent	Ortiz	Snyder
Levin (MI)	Owens	Solarz
Levine (CA)	Oxley	Solomon
Lewis (FL)	Packard	Spence
Lightfoot	Panetta	Spratt
Lipinski	Parris	St Germain
Livingston	Pashayan	Staggers
Lloyd	Pease	Stallings
Loeffler	Penny	Stangeland
Long	Pepper	Stark
Lott	Perkins	Stenholm
Lowery (CA)	Petri	Stokes
Lowry (WA)	Pickle	Strang
Lujan	Porter	Stratton
Luken	Price	Studds
Lungren	Pursell	Stump
Mack	Quillen	Sundquist
MacKay	Rahall	Sweeney
Madigan	Ray	Swift
Manton	Regula	Swindall
Markey	Reid	Synar
Marlenee	Richardson	Tallon
Martin (IL)	Ridge	Tauke
Martinez	Rinaldo	Tauzin
Matsui	Ritter	Taylor
Mavroules	Roberts	Thomas (CA)
Mazzoli	Robinson	Thomas (GA)
McCain	Roe	Torres
McCandless	Roemer	Torricelli
McCloskey	Rogers	Towns
McCollum	Rose	Traficant
McCurdy	Roth	Traxler
McDade	Roukema	Udall
McEwen	Rowland (CT)	Valentine
McGrath	Rowland (GA)	Vander Jagt
McHugh	Roybal	Vento
McKernan	Russo	Visclosky
McMillan	Sabo	Volkmer
Meyers	Savage	Vucanovich
Mica	Saxton	Walgren
Michel	Schaefer	Walker
Mikulski	Scheuer	Watkins
Miller (CA)	Schneider	Waxman
Miller (OH)	Schroeder	Weaver
Miller (WA)	Schuette	Weber
Mineta	Schulze	Weiss
Mitchell	Schumer	Wheat
Moakley	Seiberling	Whitehurst
Molinari	Sensenbrenner	Whitley
Mollohan	Sharp	Whittaker
Monson	Shaw	Whitten
Montgomery	Shelby	Williams
Moody	Shumway	Wilson
Moore	Shuster	Wirth
Moorhead	Sikorski	Wise
Morrison (CT)	Siljander	Wolf
Morrison (WA)	Sisisky	Wolpe
Mrazek	Skeen	Wortley
Murphy	Skelton	Wright
Murtha	Slattery	Wyden
Myers	Slaughter	Wylie
Natcher	Smith (FL)	Yates
Neal	Smith (IA)	Yatron
Nelson	Smith (NE)	Young (AK)
Nichols	Smith (NJ)	Young (FL)
Nielson	Smith, Denny (OR)	Young (MO)
Nowak	Smith, Robert (NH)	Zschau
Oakar	Smith, Robert (OR)	
Oberstar		
Obey		

NOT VOTING—27

Anthony	Davis	Lewis (CA)
Badham	Derrick	Lundine
Barton	Fuqua	Martin (NY)
Breaux	Grotberg	McKinney
Burton (CA)	Hartnett	O'Brien
Bustamante	Hatcher	Rangel
Campbell	Hillis	Rodino
Chandler	Horton	Rostenkowski
Cheney	Huckaby	Rudd

□ 1700

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LOTT. Mr. Speaker, under the motion to recommit with instructions which just passed, we added a new section 3, as I understand it, but we did not in any way change the prior existing section 2 which requires the President to continue to adhere to numerical sublimits on the SALT agreements as long as the Soviets do likewise; is that correct? That section in SALT II is unchanged and is still in the bill?

The SPEAKER. The gentleman is correct.

Mr. FASCELL. Mr. Speaker, pursuant to the instructions of the House, I report the concurrent resolution, House Concurrent Resolution 350, back to the House with an amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: Page 3, after line 25, insert the following new section:

SEC. 3. SUPPORT FOR UNITED STATES NEGOTIATIONS IN GENEVA.

The Congress expresses its firm support for the efforts of the United States negotiators engaged in the arms reduction negotiations in Geneva to reduce strategic nuclear weapons below SALT II limits.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the concurrent resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FASCELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. The Chair will remind Members that this is a 5-minute vote.

This vote was taken by electronic device, and there were—ayes 256, noes 145, not voting 32, as follows:

[Roll No. 186]

AYES—256

Ackerman	Boucher	Dicks
Akaka	Boxer	Dingell
Alexander	Brooks	DioGuardi
Anderson	Brown (CA)	Dixon
Andrews	Brown (CO)	Donnelly
Annunzio	Bruce	Dorgan (ND)
Applegate	Bryant	Dowdy
Aspin	Byron	Downey
Atkins	Carper	Durbin
AuCoin	Carr	Dwyer
Barnard	Chapman	Dymally
Barnes	Chappell	Early
Bates	Clay	Eckart (OH)
Bedell	Clinger	Edgar
Beilenson	Coelho	Edwards (CA)
Bennett	Coleman (TX)	English
Berman	Collins	Erdreich
Bevill	Conte	Evans (IA)
Biaggi	Conyers	Evans (IL)
Boehlert	Cooper	Fascell
Boggs	Coughlin	Fawell
Boland	Coyne	Fazio
Boner (TN)	Darden	Feighan
Bonior (MI)	Daschle	Fish
Bonker	de la Garza	Flippo
Borski	Dellums	Florio
Bosco	Derrick	Foglietta
Foley	Long	Savage
Ford (MI)	Lowry (WA)	Saxton
Ford (TN)	Luken	Scheuer
Fowler	MacKay	Schneider
Frank	Manton	Schroeder
Frenzel	Markey	Schulze
Frost	Martinez	Schumer
Garcia	Matsui	Seiberling
Gaydos	Mavroules	Sharp
Gejdenson	McCloskey	Sikorski
Gephardt	McCurdy	Sisisky
Gibbons	McDade	Slattery
Glickman	McHugh	Smith (FL)
Gonzalez	McKernan	Smith (IA)
Goodling	Meyers	Smith (NJ)
Gordon	Mica	Snowe
Gray (IL)	Mikulski	Solarz
Green	Miller (CA)	Spratt
Guarini	Mineta	St Germain
Gunderson	Mitchell	Staggers
Hall (OH)	Moakley	Stangeland
Hamilton	Mollohan	Stark
Hawkins	Moody	Stokes
Hayes	Morrison (CT)	Studds
Hefner	Mrazek	Swift
Heftel	Murphy	Synar
Henry	Murtha	Tallon
Hertel	Natcher	Tauke
Howard	Neal	Thomas (GA)
Hoyer	Nelson	Torres
Hubbard	Nowak	Torricelli
Hughes	Oakar	Towns
Jacobs	Oberstar	Traficant
Jeffords	Obey	Traxler
Jenkins	Olin	Udall
Johnson	Ortiz	Vento
Jones (NC)	Owens	Visclosky
Jones (OK)	Panetta	Volkmer
Jones (TN)	Pease	Walgren
Kanjorski	Penny	Watkins
Kaptur	Pepper	Waxman
Kastenmeier	Perkins	Weiss
Kennelly	Pickle	Wheat
Kildee	Porter	Whitley
Kleczka	Price	Whitten
Kolbe	Pursell	Williams
Kolter	Rahall	Wilson
Kostmayer	Regula	Wirth
LaFalce	Reid	Wise
Lantos	Richardson	Wolpe
Leach (IA)	Ridge	Wright
Leath (TX)	Rinaldo	Wyden
Lehman (CA)	Robinson	Wylie
Lehman (FL)	Roe	Yates
Leland	Rose	Yatron
Levin (MI)	Roukema	Young (MO)
Levine (CA)	Rowland (GA)	Zschau
Lightfoot	Russo	
Lipinski	Sabo	

NOES—145

Archer	Edwards (OK)	Lowery (CA)
Armey	Emerson	Lujan
Bartlett	Fiedler	Lungren
Bateman	Fields	Mack
Bentley	Franklin	Madigan
Bereuter	Gallo	Marlenee
Bilirakis	Gekas	Martin (IL)
Bliley	Gilman	Mazzoli
Boulter	Gingrich	McCain
Broomfield	Gradison	McCandless
Broyhill	Gregg	McCollum
Burton (IN)	Hall, Ralph	McEwen
Callahan	Hammerschmidt	McGrath
Carney	Hansen	McMillan
Chappie	Hendon	Michel
Coats	Hiler	Miller (OH)
Cobey	Holt	Miller (WA)
Coble	Hopkins	Molinari
Coleman (MO)	Hunter	Montgomery
Combest	Hutto	Moore
Courter	Hyde	Moorhead
Craig	Ireland	Morrison (WA)
Crane	Kasich	Myers
Daniel	Kemp	Nichols
Dannemeyer	Kindness	Nielson
Daub	Kramer	Oxley
DeLay	Lagomarsino	Packard
DeWine	Latta	Parris
Dickinson	Lent	Pashayan
Dornan (CA)	Lewis (FL)	Petri
Dreier	Livingston	Quillen
Duncan	Lloyd	Ray
Dyson	Loeffler	Ritter
Eckert (NY)	Lott	Roberts
Roemer	Smith, Denny (OR)	Tauzin
Rogers	Smith, Robert (NH)	Taylor
Roth	Smith, Robert (OR)	Thomas (CA)
Rowland (CT)	Snyder	Valentine
Schaefer	Solomon	Vander Jagt
Schuette	Spence	Vucanovich
Sensenbrenner	Stallings	Walker
Shaw	Stenholm	Weber
Shelby	Strang	Whitehurst
Shumway	Stratton	Whittaker
Shuster	Stump	Wolf
Siljander	Sundquist	Wortley
Skeen	Swindall	Young (AK)
Skelton		Young (FL)
Slaughter		
Smith (NE)		

NOT VOTING—32

Anthony	Fuqua	McKinney
Badham	Gray (PA)	Monson
Barton	Grotberg	O'Brien
Breaux	Hartnett	Rangel
Burton (CA)	Hatcher	Rodino
Bustamante	Hillis	Rostenkowski
Campbell	Horton	Roybal
Chandler	Huckaby	Rudd
Cheney	Lewis (CA)	Sweeney
Crockett	Lundine	Weaver
Davis	Martin (NY)	

□ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Lewis of California against.

Mrs. Burton of California for, with Mr. Cheney against.

Mr. Anthony for, with Mr. Martin of New York against.

Mr. Rodino for, with Mr. Badham against.

Mr. Huckaby for, with Mr. Campbell against.

Mr. McKinney for, with Mr. Hartnett against.

Mr. Horton for, with Mr. Rudd against.

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the concurrent resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.

Mr. MICHEL. Mr. Speaker, I ask to proceed for the purpose of inquiring of the distinguished majority whip the program for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican leader for yielding.

Mr. Speaker, this concludes the business for the week. The House will be asked to give unanimous consent when it adjourns tonight, it adjourn to meet at noon on Monday next.

On Monday we will consider 11 suspensions under the suspension rules:

S. 1073, Japanese Technical Literature Act of 1986;

H.R. 4252, Federal Fire Prevention and Control Act;

H.R. 4952, Electronic Communications Privacy Act;

H.R. 3108, amend U.S.C. title XVII re local service area of primary transmitters for low-power TV stations;

H. Con. Res. 347, sense of Congress re human rights in North Korea, and reduction of tensions on the Korean Peninsula;

H. Con. Res. 345, sense of Congress re democracy in the Republic of Korea;

S.J. Res. 361, to disinvite Chilean Tall Ship *Esmeralda* from July 4 ceremonies;

H.R. 5028, Lower Colorado River water supply bill;

H.R. 4060, Civil Service Retirement COLA, 1987;

H.R. 3006, retirement credit to National Guard technicians; and

H.R. 3559, U.S. Bicentennial Commission.

On Tuesday, June 24, the House will meet at noon. There are no bills currently scheduled under suspension of the rules, but we will take votes on suspensions ordered on Monday, June 23. Then we will consider H.R. 4210, the Export-Import Bank amendments, open rule, 1 hour of debate.

On Wednesday, and the balance of the week, the House will meet at 10 a.m. and consider an unnumbered House Resolution, military construction appropriations for fiscal year 1987.

This is the bill on which we expect the aid to the Contra issue to be debated and included in the determination of the legislation.

Also, H.R. 4613, the Futures Trading Act of 1986, open rule, 1 hour of debate; H.R. 2436, the nutrition monitoring bill, subject to a rule being granted; and H.R. 4184, the National Science Foundation authorizations for fiscal year 1987, subject to a rule being granted.

Obviously, the announcement is being made subject to the usual conditions that conference reports may be brought up and the supplemental appropriations, I might mention, is one such conference report that is expected next week.

A further program may be announced later.

It is not expected that if we complete the business I have announced that we will have a Friday session next week.

Mr. MICHEL. Mr. Speaker, one of the Members, I think, of the Committee on Small Business, indicated that there was a likelihood of a bill, H.R. 4620, the Small Business Innovative Research Program, that would be on the suspension calendar.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, the bill has been sequentially referred to another committee.

Mr. MICHEL. What was the gentleman's comment relative to next Thursday? Would that be the day for the supplemental?

Mr. FOLEY. If the program that I have announced is completed on Thursday, and we hope it will be, at that point, the House will not plan a Friday session next week.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Washington.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I am wondering what the plans are with regard to the Gramm-Rudman schedule that we are supposed to have met by the end of next week, rather than adjourn the House.

Mr. MICHEL. Mr. Speaker, there was a unanimous-consent request, I think, that was agreed to earlier in the day that, notwithstanding what the Gramm-Rudman bill called for with respect to the July recess, was negated by the unanimous-consent request made and agreed to earlier in the day. Am I in error?

Mr. FOLEY. I think that would be a parliamentary inquiry that I could not respond to.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, so we have now abrogated that discipline that is in Gramm-Rudman as well.

Mr. MICHEL. Yes, I think that is probably true.

ADJOURNMENT TO MONDAY, JUNE 23, 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

REPORT ON H.R. 5052, MILITARY CONSTRUCTION APPROPRIATIONS, 1987

Mr. HEFNER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 99-648) on the bill (H.R. 5052) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. EDWARDS of Oklahoma reserved all points of order on the bill.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4515, URGENT SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 426 ELECTRIC CONSUMERS PROTECTION ACT OF 1985

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 426) to amend the Federal Power Act to provide for more protection to electric consumers, with the House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Mr. Speaker, reserving the right to object, I assume this has been cleared with the minority.

Mr. DINGELL. Mr. Speaker, that is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees: Messrs. DINGELL, MARKEY, SWIFT, BRYANT, SHELBY, WYDEN, BROYHILL, MOORHEAD, OXLEY, and NIELSON of Utah.

□ 1720

NATIONAL SAVE AMERICAN INDUSTRY AND JOBS DAY

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 346) to designate June 21, 1986, as "National Save American Industry and Jobs Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation, I yield to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I want to congratulate the committee for passing the Senate joint resolution designating Saturday as "National Save American Industry and Jobs Day."

I think it is very important that we recognize what manufacturing has meant to this Nation. It is important to recognize that if we are to be a strong leader of the free world in the years to come, we have to have a dynamic industrial economy in this Nation, and by having this day designated, we will have an opportunity to focus on the importance of this to all Americans.

Mr. MURPHY. Mr. Speaker, on Saturday, June 21, 1986, people will be gathering at meetings in over 60 cities across this great land to commemorate "National Save American Industry and Jobs Day." This day has been set aside for all to reflect upon the dire consequences that have befallen our industrial base over the past several decades.

Cities, once made prosperous by industries such as steel, automobile, milling, and manufacturing are currently reeling from the decline in our industrial base. Jobs are lost, families are devastated and communities suffer from the economic upheaval that follows when industry disappears.

As the unemployment rate continues its roller coaster climb upward, as our imports grow and our exports shrink, we are all searching for solutions. The debate is frequently emotional, while the answers remain elusive.

Congress has been preoccupied with the economic impact of our growing trade imbalance and we have moved in several directions in an effort to help "level the playing field" and, hopefully, enhance our trading position. Still, one cannot help but wonder if a part of the answer to our trade imbalance lies here in the hands of the American people. Maybe the answer lies in helping to promote domestic production and consumption by making the public more aware of American products. This is the idea that inspired "National Save American Industry and Jobs Day," to make people more conscious of what we produce and, more importantly, who produces it.

When we purchase an American-made automobile, we protect American jobs. When we use domestic coal to produce American made steel, we save vital industries and protect their workers. When we take the time to comparison shop and in turn purchase American made products instead of their foreign made counterparts, we all help fight the battle to retain and regain our industrial strength.

An old axiom tells us that what we don't use—we lose. What is true for our own talents and skills is also true for our businesses and industries. A quick tour along the waterways of Pittsburgh will drive home the painful consequences of this lesson.

I ask every Member of the House to take some time on Saturday to consider the current plight of our industrial sector and to redouble your efforts to help to recover and grow.

Mr. ECKART of Ohio. Mr. Speaker, this Saturday, June 21, our Nation will observe "Save American Jobs and Industry Day." Let us remember on this day the 4 million Americans who have lost their jobs in the last 5 years to imports. Some 40,000 workers from northeast Ohio alone have lost their jobs in recent years as a direct result of this import invasion.

The present administration's inability to establish a sound and coherent trade policy has resulted in this economic nightmare. The United States has become a debtor nation for the first time since the Great Depression and we continue to suffer from record trade deficits. Foreign products now account for 25 percent of all goods sold in the United States today—an increase of 300 percent in the last 15 years.

Just today, I was visiting with steel workers from northeast Ohio. One of the things I found most striking in talking with them was their concern for the future of their children and grandchildren. With jobs evaporating, where, they ask me, are our children going to work?

It is imperative that we take action to correct the inequalities which permeate our global trading system today and fight to retain American jobs and a standard of living second to none. The House has passed an omnibus trade bill designed to achieve this objective. The President has threatened to veto such legislation; however, the President must understand the economic and human price of vetoing legislation which will reinstate fair trade.

The economic benefits of low unemployment and the resulting vigorous economy are tremendous. Higher employment results in more taxes paid, which enables a strong educational system for our children and provides for urgent local services, such as fire and police protection. Let "Save American Jobs and Industry Day" symbolize the commitment needed to restore fair trade and make American jobs our top priority, not our top export.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 346

Whereas the United States has been a model of economic strength throughout history;

Whereas the manufacturing industries of the United States have grown continuously, have created a high standard of living for Americans, and now generate more than $1,500,000,000,000 of the annual gross national product of the United States;

Whereas the manufacturing industries of the United States have excelled in meeting the needs of consumers in the Nation and have responded to the needs of the United States and its allies during periods of armed conflict;

Whereas the United States maintains a policy of allowing the products of foreign industry to be sold in the United States with few restrictions;

Whereas such policy has helped to improve the economies of many foreign nations, particularly the economies of underdeveloped foreign nations;

Whereas, in many cases, the retail price of imported goods is artificially low due to subsidies by foreign governments;

Whereas the purchase of imported goods by consumers in the United States is having a detrimental effect on the manufacturing industries of the United States;

Whereas the officers of many manufacturing companies in the United States are restructuring their companies at a rapid rate because of reduced demand for many of the products manufactured in the United States;

Whereas such restructuring has included the closing of many plants and the resulting loss of many jobs;

Whereas more than 8,500,000 workers in the United States are unemployed, sales of products manufactured in the United States are generally not increasing, and the rate of pay for workers who continue to be employed has become depressed;

Whereas consumers in the United States should become aware of the origin of the goods such consumers purchase and the effect of buying imported goods on the manufacturing industries of the United States; and

Whereas the accomplishments and needs of the manufacturing industries of the United States and all employees of such industries should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 21, 1986, is designated "National Save American Industry and Jobs Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a

motion to reconsider was laid on the table.

NATIONAL AIR TRAFFIC CONTROL DAY

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 188) to designate July 6, 1986, "National Air Traffic Control Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 188

Whereas July 6, 1986, marks the fiftieth anniversary of the establishment, by the United States Bureau of Air Commerce, of an airways traffic control system to assure adequate spacing between airplanes flying along established air routes and to prevent congestion at airports;

Whereas the volume of traffic using the United States Airspace System has increased one hundred eighty-fold from two hundred ninety-four thousand five hundred twenty-eight enroute flight movements in 1938, to fifty-three million three hundred twenty thousand nine hundred thirty-one total air route traffic movements in 1983;

Whereas the safety, efficiency, and technical sophistication of the United States National Airspace System is now unparalleled in the world, and the preeminence of the United States in pioneering the technology of air traffic control is universally recognized, and emulated, by other nations throughout the world;

Whereas this Nation's civil and military air traffic control personnel daily guide unprecedented volumes of traffic safely and efficiently through the National Airspace System; and

Whereas in order to increase public awareness of the excellence and preeminence of the United States National Airspace System, and because the people of the United States desire to express their gratitude and respect to the pioneers of the technology of air traffic control, and the air traffic control personnel—past and present—who have dedicated their lives and careers to development, safety, and efficiency of the National Airspace System: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 6, 1986, is designated as "National Air Traffic Control Day". The President is requested to issue a proclamation calling upon the people of the United States and upon interested associations and organizations to observe such a day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL IMMIGRANTS DAY

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 290) to designate July 4, 1986, as "National Immigrants Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 290

Whereas on July 4, 1986, the restored Statue of Liberty will be unveiled at the centennial celebration of the erection and dedication of the Statue;

Whereas the Statue of Liberty has been the symbol of freedom, hope, and opportunity for millions of immigrants over the past 100 years;

Whereas the Statue of Liberty serves as a reminder to all that the United States is a Nation of immigrants, a Nation of nations;

Whereas the Statue of Liberty is a lasting memorial to the immigrants who have made America great;

Whereas millions of immigrants settled throughout the vast territory of the United States, and supported the ideals of independence and liberty;

Whereas the torch held by the Statue of Liberty serves as a beacon of freedom that lives in the soul of every American; and

Whereas it is only fitting that when the torch is relit also be a time to honor the immigrants welcomed by the burning torch of the Lady of Liberty to a land of freedom where any dream was and is achievable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 4, 1986, the centennial-celebration of the Statue of Liberty, is designated as "National Immigrants Day", and the President is authorized and requested to issue a proclamation encouraging the people of the United States to join the President and the Congress in observance of National Immigrants Day with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL LITERACY DAY

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 429) to designate July 2, 1986, as "National Literacy Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. FLORIO. Mr. Speaker, I wanted to express my appreciation to my colleague ROBERT GARCIA, chairman of the Subcommittee on Census and Population, for bringing House Joint Resolution 429 to the floor for consideration and thus demonstrating his concern for the problem of illiteracy in our Nation. As I introduced House Joint Resolution 429 last October to designate July 2, 1986 as National Literacy Day, I hoped to call attention to the large numbers of Americans that cannot function in our society because they are illiterate. I am pleased to have gained the support of 222 of my colleagues and urge passage of this resolution.

Mr. Speaker, studies indicate that 27 million Americans cannot read a newspaper, cannot fill out a job application, cannot maintain a checkbook or understand the warning label on a bottle of medicine. In short, our Nation has 27 million people that form a class of functional illiterates that are uneducated, untrainable, and economically dependent. And these numbers are growing every year. The Department of Education estimates that, every year, 2 million more illiterates, including high school dropouts, unlettered passalong graduates and immigrants, are added to our society.

We are paying a high price in our Nation for this unfortunate deficiency. There is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money that is allocated to child welfare costs and unemployment compensation. Social and economic discrimination problems are propounded because illiteracy is highest among blacks and Hispanics. The high percentage of illiterate juveniles in criminal court indicate that illiteracy fosters crime. Of concern to our Nation's strength is the fact that illiteracy directly impacts our military capability. Millions of dollars of damage is still done to expensive equipment because many men and women in

the service are unable to read and comprehend even the simplified manuals.

The total costs related to our Nation's literacy are estimated to exceed $225 billion annually. Chronic unemployment is a further problem that illiterate individuals in our Nation need to deal with. Up to 75 percent of the unemployed lack the basic skills to get a job or be trained for a job.

Disturbingly, Federal funding for literacy programs has not been sufficient to address a problem reaching mass proportions. Federal, State, municipal, and private literacy programs have only been able to reach 4 percent of the total illiterate population. The annual amount of money spent by our Federal Government for this problem amounts to $17 per person for a total of $352 million. The Department of Education estimates that only 2 million people are reached annually by these programs.

The total cost of illiteracy to our Nation cannot be measured accurately. However, our Nation is paying dearly in lost productivity and human misery. We hear of sad stories of people suffering tragedies because they could not read: The industrial worker killed because he could not read a warning sign: the mother who gave her sick child pink detergent instead of stomach medicine because she could not decipher medicine labels; the mother who thought she was signing a routine field trip permission slip for her daughter only to discover that she had relegated her daughter to a home for the retarded.

It is for these reasons that we call attention to the problem of illiteracy in our Nation by designating July 2, 1986, as National Literacy Day. We must begin to recognize this problem in order to find solutions and obliterate illiteracy. I would like to, at this point, commend the thousands of volunteers in our Nation that are working tirelessly to help illiterate individuals in their communities. Thirty-three States have formed literacy councils and activities by volunteer organizations, colleges, and schools are increasing.

I wanted to single out one individual in particular who has worked tirelessly to focus attention on this issue. Caryl Mackin-Wagner, the executive director of Focus on Literacy in Laurel Springs, NJ, has been working hard to bring House Joint Resolution 429 to the attention of the Congress and I am hopeful that our efforts will prove fruitful today. I congratulate Caryl and the countless volunteers for their work and urge my colleagues to join me in approving this resolution.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 429

Whereas literacy is a necessary tool for survival in our society;

Whereas 35 million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are 25 million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas the annual cost of illiteracy to society has been estimated at $6,000,000,000;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare cost and unemployment compensation;

Whereas, although the largest number of adult illiterates is comprised of whites, in proportion to population size in percentages the number is higher for blacks and Hispanics, resulting in more economic and social discrimination problems;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas 1,000,000 children between the ages of 12 and 17 cannot read above a 3rd grade level and 15 percent of recent graduates of urban high schools read at less than a 6th grade level;

Whereas 85 percent of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 percent illiteracy rate among black youths is expected to increase to 50 percent by 1990;

Whereas one-half of the heads of households cannot read past the 8th grade level and one-third of mothers on welfare are functionally illiterate;

Whereas the federal, State, municipal, and private literacy programs have only been able to reach 4 percent of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the free service and help available for illiteracy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1986, is designated as "National Literacy Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL YEAR OF THE AMERICAS

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 350) to designate 1987 as the "National Year of the Americas," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 350

Whereas the tenth Pan American games will be held in Indianapolis, Indiana, in 1987;

Whereas the games will bring together more than six thousand athletes from thirty-seven national teams from the Americas to compete in twenty-seven different sports;

Whereas the games will be the largest such gathering which brings together people from Latin America, the West Indies, Canada, and the United States;

Whereas the games will symbolize both the unity and the diversity of the Americas, as well as celebrate the lasting friendship of the peoples of the Americas;

Whereas the occasion of the games provides a unique opportunity to welcome to this country the leaders and peoples of the Americas throughout the United States; and

Whereas the year 1987 can be and should be the time for a year long celebration of the peoples and cultures of the Americas: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1987 is designated as "The National Year of the Americas" and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, private organizations, and the people of the United States to observe the year with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various joint resolutions just passed.

Mr. SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

IS THE UNITED STATES REPEATING MISTAKES OF THE 1920'S?

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on the 26th of May there appeared an article in the Palm Beach Post, in Florida, entitled, "Is United States Repeating Mistakes of the 1920's?"

This article was written by a very distinguished Floridian and American, Hon. Arthur Burck, who is quite an

eminent authority in the field of mergers and acquisitions of businesses.

In the days of the very serious depression of the thirties, Mr. Burck was a member of one of the large New York law firms, and dealt primarily with the bankruptcies that were so frequent during that time. Later he was with the Securities and Exchange Commission, and his task was to advise judges engaged in reorganizations of companies' proceedings.

He is a very knowledgeable man about the economy and about the operation of the various economic forces of our country. He sees in the present many similarities to what happened in the twenties, leading up to the terrible depression of the 1930's.

I believe it would be of great profit for every Member of the Congress and indeed the citizens of our country to read this article by Mr. Burck. I have known Mr. Burck since he flew my plane, as an Air Force pilot, over Eastern Europe in 1945.

I commend this article to the consideration of my colleagues in the Congress and the country.

The article follows:

IS UNITED STATES REPEATING MISTAKES OF THE 1920'S?

Not unlike the 1920s, America's sybaritic society, understandably smug and content after four decades of prosperity and currently euphoric over soaring stock markets and declining interest rates and oil prices, is drifting slowly into troubled economic waters, impervious to dangerous shoals that lie ahead. It should never be forgotten that during the booming 1920s there were ample warnings of similar hidden dangers but an ostrich-like stance became the norm for just about everyone—government leaders, businessmen and a complacent public.

"What is necessary for a new disaster is only for memories of the last one to fade," (John Kenneth Galbraith, Harpers, November 1969), and so it is germane to review the atmosphere and attitudes that prevailed in the 1920s. Historian Edward Robb Ellis in A Nation in Torment, (1970) summarized the "Gospel of the Twenties" as "profits, power, bigness, riches, optimism and success . . . Get ahead! Make the mark of your life! Ride the gravy train!" He noted that President Warren Harding stressed "less government in business and more business in government," and President Calvin Coolidge said "the business of America is business" and "the attitudes of the chamber of commerce very accurately reflect that of public opinion generally."

Few in my generation had a broader exposure to the sweep of the Great Depression. Going to work at the age of 16 in order to continue my education, I traveled the summers of 1930 to 1936 on sales jobs that took me to a dozen states where I saw firsthand such scenes as the misery in the coal mines of West Virginia and Kentucky, the shuttered factories of Ohio and Michigan and the dust bowls that Midwestern farm states became.

Then in 1937, as a graduate of the University of Minnesota law school, I rode the caboose on a hog train to New York where I landed a job with a prestigious Wall Street law firm that soon put me to work on bankruptcy reorganizations—where the action was during those troubled times. Some years later, I joined the Securities and Exchange Commission, where for more than a decade I served as the impartial adviser to federal judges in charge of large reorganizations. And in so rehabilitating the industrial rubble left by the Depression. I became knowledgeable in the excesses of the 1920s. I likewise have witnessed the erosion of America's postwar industrial supremacy from the vantage point of specializing in mergers and acquisitons since 1953, and since then I have worked on the top-level problems of more than a thousand businesses, big and small.

Today, despite the comforting surface prosperity enjoyed by most Americans, the hard reality is that most American manufacturing industries are in trouble. Can the nation achieve lasting prosperity built primarily upon a base of defense and service industries?

The problem is compounded by the current malaise in other endangered areas, especially agriculture, banking, energy-related businesses and countless once-thriving smaller businesses that were damaged by mergermania.

The excesses of mergermania are but the tip of the iceberg in the sea of speculation that has engulfed our business and financial communities. Today's casino-like atmosphere is reminiscent of the free and easy 1920s.

When one probes behind the facade of seeming prosperity, discovery is made that in recent decades American industry has been buffetted by a series of shocks that have left countless businesses damaged, weakened or destroyed. A brief overview follows:

VICTIMS OF FOREIGN COMPETITION

Starting in the late '50s, foreign competition undermined thousands of manufacturers, big and small, and new assaults threaten many domestic industries that are still vibrant.

The tragedy is that as early as 1960 it became clear that it was only a question of time until most manufacturers would be hit by foreign invaders. Had there been early response, the damage could have been minimized. Yet many slow-moving, huge companies, such as those in autos, steel and consumer electronics, failed to react until it was too late. The principal culprit was the unwieldy size of our giant corporations, the burgeoning bureaucracies of which were incapable of coping with lean nimble and agile foreigners.

In any event, the weakening of so many of our basic industries is a factor that could leave us vulnerable. Pertinent is the following observation concerning the 1920s by Elliott Roosevelt, The Conservators (1983). "While new industries were booming during the 1920s the more basic ones—farming, mining, textiles, lumber—suffered steady declines, eventually undermining the nation's entire economic structure . . . and boom went to bust, literally overnight."

THE PERVASIVE DAMAGE OF MERGERMANIA

During recent decades, mergermania ruined or weakened tens of thousands of acquired businesses. The giants for several decades have been beating the bushes to find the most tempting takeover targets, the cream of the crop of emerging growth companies and leading independents. In other words, we have undermined a generation of our most promising companies, the industrial future of America.

In the meantime, our huge companies are bargained and sold with the same reckless abandon as poker chips at Las Vegas. Under today's lax rules, there is no more concern given to public welfare in the takeover of a billion-dollar firm than on the sale of the corner hotdog stand.

Hostile takeovers that came into vogue in the mid-1970s caused further incalculable damage: erosion of employee morale, the preoccupation of executives in either acquiring or being acquired, the focus on short-term results instead of sound long-range programs, the creation of additional dinosaur companies and the erosion of competition resulting from excessive concentration in many industries.

When the history of our times is written, the unrestrained mergers of recent decades may well replace the debacle of the stock market of the 1920s as the cataclysm most destructive to the nation's financial and economic foundations.

Some historians view the concentration of bigness during the 1920s as a factor contributing to the Depression. Thus, in The Great Depression (1984), Robert S. McElvaine wrote: "The structure of American business itself—the crown jewel of Coolidge prosperity—was another contributing factor in bringing about a collapse of that prosperity. The idealized American economy of small, freely competing units . . . was largely a thing of the past by the 1920s . . . The booming decade of the twenties saw a new headlong rush into corporate mergers."

INABILITY TO COPE WITH RAPID CHANGES

Countless firms were unable to cope with fast-changing developments such as wild fluctuations in oil prices and interest rates or volatile real estate values.

In Texas and other states of the Southwest, plummeting oil and real estate values have created a demand for bankruptcy lawyers not experienced by any region since the 1930s.

OUR AILING FARMING INDUSTRY

It was not long ago that many viewed our agriculture ("We feed the world.") as the bulwark of American prosperity. Today the plight of many Midwestern farming areas is much the same as that of the State of Iowa, which was recently described by Iowa Congressman Jim Leach as follows: "If you put the whole state up for sale today you would find it's half as valuable as it was five years ago—and that's for everything in the state . . . Iowa faces the problems of a developing country in the Third World."

Also devastated was our once-great industry for the manufacture of farm equipment, tools and supplies. Bankruptcies are rife. In recent months I have been trying to sell or merge some once-leading makers of farm tools. It is just as difficult as it was during the Great Depression.

THE SERIOUS ILLS OF OUR BANKING INDUSTRY

Bank failures in recent years have soared to the highest levels since the 1930s, reflecting in large part the adversities that have hit borrowers in the industries reviewed above. We are nearing a crisis for many of the world's largest banks that, in lemming-like fashion, lent hundreds of billion to underdeveloped foreign countries despite the huge losses on foreign loans in the Depression, repeating the unfortunate experience of bankers going back to 14th-century Florence.

Plunging oil prices make it probable that oil-exporting countries such as Mexico and Venezuela will default. When that happens, it is likely that other big debtors such as Brazil and Argentina, already struggling

under onerous debt burdens, will have an excuse to join the other defaulters, bringing to a head a problem that has been festering for some time: the likely insolvency of many of our big banks.

Two years ago, when Continental Illinois Bank threatened to go belly-up, we found that the ripples from failure of such a large bank, then the nation's eighth largest, could determine the nation's economy, and so the government had to take over. For the same reason, we now face the possibility that many of our leading banks will face nationalization.

Although some observers believe that these foreign loans could bring on a major depression (see McElvaine, The Great Depression (1984) p. 346; and Lernoux, In Banks We Trust (1984) pp. 225-249) there is probably no need to panic over the prospects of widespread nationalization. After all, in 1981 France nationalized 95 percent of its banks without much ado. Our taxpayers could eventually make a nice profit, just as we did in the Chrysler bail-out, when private ownership is restored. However, coming at a time when the nation is already burdened by budget imbalances, it is difficult to predict just what the consequences might be.

PROBLEMS IN OUR SMALL BUSINESS SECTOR

In the decade of the 1970s we lost a generation of incipient small businesses, a void that we will really feel in the years to come when these aborted entities would otherwise be reaching florescence. How did this happen? Starved for capital because of capital gains taxes as high as 49 percent until 1979, handicapped by high interest rates or even inability to borrow, submerged in bureaucratic red tape and surrounded by the burgeoning bigness of the corporate giants, the small-business sector became a victim of the continuing upheavals, recessions and inflation since 1970.

The pervasive damage flows from the reality that our innovative small business sector has provided most of the new jobs, the technology and the growth that have fueled America's postwar prosperity. Moreover, it is increasingly apparent that America's industrial future will depend upon the innovative small-business sector and not the stagnating huge companies, where hardening of the assets has become the natural disease of aging in a world of fastmoving change.

Nevertheless, despite some betterments in the 1980s, the innovative small-business sector is still in the "Third World" when it comes to government help. Abundant tax breaks and government largess still flow to the Goliaths; the Davids don't even get cut-rate slingshots.

REVIVAL OF UNSOUND AND RISKY FINANCIAL PRACTICES

The business casualties of the Great Depression were often caused by speculative practices of the 1920s that nowadays are again rife in our financial community: excessive debt, "junk bonds" (in the 1920s they were more politely called second, third and fourth mortgage bonds), and leveraged buyouts. Just as today, the '20s also had its share of speculative new stock issues and helter-skelter mergers that enriched financial opportunists, such as the empire builders who then ravaged our public utility industry. Speculation has replaced investment to the degree that the 1936 observation of John Maynard Keynes is a timely warning: "Speculators may do no harm as bubbles on a steady stream of enterprise. But the position is serious when enterprise becomes the bubble on a whirlpool of speculation. When the capital development of a country becomes a byproduct of the activities of a casino, the job is likely to be ill-done."

It should not be forgotten that the main reason for the 1929 collapse of the stock market, other than that stocks became overpriced during the euphoria of the late '20s, was the speculative overleveraging of stock purchases; i.e., stocks could be bought with little of the buyer's money, a practice that was outlawed by the "margin" requirements of the 1930's reforms.

However, in recent years the speculative practices of overleveraging and excessive debt have crept into so many sectors of our economy that some unexpected cataclysm could lead to a downward spiral of massive defaults, at a time when bank illiquidity and our national budget deficit leave little room for maneuver.

Add up all of these problems and business casualties and America faces a bleak future—unless we are able to restore financial responsibility, rehabilitate enough of our crippled businesses and propagate many new high-growth firms. These difficult tasks will require the wisdom of Solomon, the patience of Job and total dedication to the truism: "When the going gets tough, the tough get going." Those of us who struggled with the seemingly bottomless problems of the Great Depression and then the ensuing uphill challenges of World War II know that American resolve can overcome seemingly insuperable obstacles when our populace finally recognizes that there really is an emergency.

Despite our many problems, we should never forget America's towering strengths, such as our vast capital resources, our well-educated and creative labor force and, above all, our capacity to spawn and grow innovative businesses that open up new industries.

As we gird for intensified worldwide competition, we have one significant advantage over other nations: Only in America are there the overall climate and perfected techniques needed for ever-expanding entrepreneurism in both high technology areas and mundane industries. So, as our mature industries continue to lose ground to lower-cost foreign competitors, we have the innovatives means to fill the gap by expanding into new areas.

Nevertheless, because big business is still where the big money is—and big money still controls America, politically and otherwise—the thoughts and habits of America are still mired in obeisance to bigness. That is not surprising since we all grew up with the idea that bigness is as much a part of America as apple pie. And with good reason: the giant corporation served America well throughout most of our history—when we were immunized from major foreign competition by two world wars, and their recovery aftermaths, that left our industry healthy and crippled foreign competitors.

But all of that has changed in recent decades. Nevertheless, because old attitudes persist, it is understandable that the nation's compulsion for bigness had resulted in a light case of the Russian disease—i.e., the bureaucratic stagnation that is now choking the Soviet economy.

And so we continue to repeat our errors. As just one example, we encourage the big corporations to become ever bigger with the help of regressive tax laws and lax enforcement of our sieve-like antitrust laws—and the Administration is now seeking legislation that would relax further our antitrust laws.

To be sure, bigness in itself isn't bad. Many big firms are in industries where bigness is appropriate and necessary. But just as a huge truck-trailer is suitable for the New Jersey Turnpike but hardly for traversing the rush-hour traffic of downtown Manhattan, so unnecessary bigness can become a handicap in many sectors of the business world.

In view of the wreckage we now see everywhere on our industrial scene, we now have ample proof that many—perhaps most—huge industrial bureaucracies have outgrown their day of usefulness in a hotly competitive world where innovation is the name of the game.

For too long, we have worshipped gigantism and the idolatry of "economies of sale." But there are no meaningful economies of scale when products face obsolescence. In an uncertain world, the only certainty is that every product eventually will become obsolete.

The clear lesson is that in today's changed circumstances the nation is served only when there is the largest possible number of viable, independent companies engaged in vigorous competition.

Current attitudes too often ignore that in a capitalistic society as complex as ours, the free enterprise system cannot function properly without some curbs; total laissez-faire is an invitation to the morality and ethics of the jungle. We overlook that the nation has enjoyed a protracted period of economic stability because Congress in the '30s structured a remarkable wall of safeguards based on the belief that "unrestrained competition and laissez-faire had contributed heavily to the Great Depression" (Gerald Nash, The Great Depression and World War II).

However, with the passage of time, our economic "fail-safe" system has become gradually eroded by inertia and by special-interest groups raising the simplistic hue-and-cry of "deregulation." Also, regulating bureaucrats, going along with popular attitudes of the times, often become lax in enforcement (see Tolchin & Tolchin, Dismatling America: The Rush to Deregulate, 1983). Classic examples are provided by what is now happening to the banking safeguards legislated during the '30s. Loopholes galore are created by regulators at the same time that banking giants are now pressing for repeal of both federal and state laws that long have proved vital to the safety of our banking system.

Moreover, in times such as these, legislators rarely cope with new abuses that periodically surface in our free enterprise system, such as the horrendous damage of merger-mania. For example, it took Congress 20 years before it finally enacted a simple, common-sense law requiring parties merely to let the government know of larger mergers and acquisitions in advance of consummation.

The seeming helplessness of achieving any real reform in the prevailing atmosphere is reflected in my following 1984 testimony before the House Banking Committee:

"All of this could easily be stopped by Congress withdrawing the tax breaks that fuel the giant mergers. But it will not happen. I say this from having for several decades repeatedly explored the subject with government leaders and legislators, including four appearances before Senate and House groups in 1977-78. When issues collide with the power and the "deep pockets" of the corporate giants, can one blame any

legislator for tempering valor with discretion?"

HOUSE CONCURRENT RESOLUTION 350

The SPEAKER. Under a previous order of the House, the gentleman from Texas [Mr. BARTON] is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, I rise today in opposition to House Concurrent Resolution 350—resolution on continued adherence to the SALT II treaty. I was not able to vote on the measure because I am moving my family to Texas this weekend. I wish to speak today, however, to make clear my position on this important issue.

The SALT II treaty was never ratified and would have expired at the end of last year if it had been. President Reagan has called the treaty fatally flawed and I agree with this assessment. Despite this, President Reagan has gone the extra mile to comply with the provisions of the treaty. Most recently, the President has ordered the dismantling of two Poseidon submarines to stay within the SALT limits when it launches the new Trident submarines.

The U.S. record of compliance is clear. Equally clear is the record of Soviet violations of the document. President Reagan outlined some of the more blatant transgressions in a December 1985 report. These include:

Testing and deployment of the SS-25 ICBM. This is a second type of ICBM. The SALT treaty limited each side to one new ICBM.

Encryption of electronic missile data. SALT II bans encryption because it is an important means to verify compliance.

Construction of the Krasnoyarsk radar in violation of the 1972 Anti-Ballistic Missile Treaty.

As a result of this noncompliance, President Reagan has announced that he will no longer abide by the provisions of the Salt II treaty. I agree with this decision. We cannot stand by and allow the Soviets to flagrantly violate a treaty with which we are in compliance. This is dangerous for our own security and the world.

House Concurrent Resolution 350 states that the President shall continue compliance with the Salt II treaty. The authors of this resolution seem to feel that Soviet violations can be resolved through negotiations. It is interesting to hark back to the statements of President Jimmy Carter in a news conference on April 30, 1979. He stated:

I would not sign nor present to the Congress or the American people any treaty which in my opinion could not be adequately verified from the day it's effective * * *. But there is an element of rationality and stability, because the Soviets know that if we ever detect any violation of the Salt agreement, that that would be a basis on which to reject the treaty in it's entirety.

President Carter knew that Soviet violations would endanger our security. The Soviet record is clear and President Reagan's decision is the correct one.

I do support the Broomfield substitute. If we can verify Soviet compliance, and they do in fact cease violating the treaty, then the SALT treaty is worth complying with.

PROMPT PAYMENT OF MEDICARE CLAIMS

The SPEAKER. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I am pleased to cosponsor with my colleague and ranking minority member the Medicare Timely Payment Amendments of 1986. The Health Care Financing Administration has intentionally delayed claims processing time under Medicare, causing significant undue hardship for the Nation's elderly beneficiaries and providers of health care. Our bill would help to insure that Medicare beneficiaries do not suffer as a result of the Federal Government's failure to pay its obligations in a timely manner.

The fiscal year 1986 budget requested by the administration for the claims processing activities carried out by Medicare contractors was seriously deficient. The Health Care Financing Administration responded to this shortfall in funding by implementing a deliberate policy to delay claims processing and building claim backlogs. Now, Medicare beneficiaries, already strained by increasing out-of-pocket expenses, must endure additional delays in the payment of their medical bills.

In April, the Committee on Ways and Means, Subcommittee on Health held a hearing on Medicare claims processing. At that hearing, a representative of the Health Care Financing Administration clearly indicated that delaying the payment of Medicare claims is a sound public policy which results in increased interest income for the Medicare trust fund. Claims processing times have been slowed by more than 70 percent over last year—from an average of 15 days at the beginning of fiscal year 1986 to 27 days now.

What does this dramatic slowdown mean to Medicare beneficiaries? When physicians refuse to accept Medicare assignment, the patient must pay their physician bills directly and wait for Medicare to reimburse them for their expenses. Delays in claims payment can cause significant financial difficulties for beneficiaries on limited incomes. Moreover, as payment delays have increased, out-of-pocket expenses have also soared—resulting in higher and higher liability for medical services.

The Medicare timely payment amendments would require that claims which are submitted properly be paid within 22 calendar days. If the claim is not paid within 22 days, interest accrue on the amount of the claim for days beyond 22 days. Hopefully, this legislation will alleviate the financial hardship that has been faced by beneficiaries, ensure predictable cash flow for providers, and encourage Medicare assignment by providing dependable payments.

Payment delays have resulted in decreased assignment and participation rates for physicians' serivces. If a physician believes that he or she can be paid more quickly if the Medicare beneficiary is billed directly, that doctor is less likely to accept assignment. If a physician's experience with the Medicare Program has taught him or her that Medicare does not pay its bills in a timely manner, that doctor is less likely to sign a participation agreement. The Congress has supported the participating physician program on both sides of the aisle. Prompt payment is an important component of our effort to enhance the program.

I am introducing a separate bill today, the Medicare Timely Payment and PIP Amendments of 1986, cosponsored by my colleague, Mr. GRADISON, which, beyond ensuring prompt payment, would also provide a new incentive for physicians to participate in the Medicare Program by allowing that regular interim payments be made to participating physicians. That way, delays in claims processing will no longer result in cash-flow problems for participating physicians. This financial incentive for participation is likely to be strong and effective.

Both of the prompt payment bills that I join Mr. GRADISON in introducing today would also ensure that interim payments, that have historically been made to qualified hospitals, would not be discontinued as planned by the administration. This payment method has served as an effective tool to protect hospitals against interruptions in cash flow and payment delays.

Delaying claims processing is not a sound policy. It is merely a method of scrambling to compensate for poor planning. The results have not gone unnoticed. The bill which I am introducing today will prevent the Health Care Financing Administration from mandating intentional processing delays, and will bring average payment time back to historical levels.

The following are quotes from the Ways and Means Health Subcommittee's April 22 hearing on Medicare contractors and payment delays. These facts help make the case for the passage of the Medicare Timely Payment Act of 1986.

Testimony of the General Accounting Office:

The latest HCFA data shows that claims backlogs and average processing times are both increasing. Because of limits on contractor funding, HCFA is permitting contractors to slow down the average time to pay claims and to increase claims backlogs. While the average time to process a Part B beneficiary claim was 12.3 days during FY 1984, it increased to 20.3 days in January 1986. Also, average backlogs increased from 7.7 million claims in FY 1984 to 13.7 million claims in January of this year * * *.

But increased backlogs create risks and costs. Intentionally letting backlogs grow is risky because it leaves no margin for unexpected problems. Also, large backlogs and slower claims payments can increase program administrative costs because they can generate more beneficiary and provider inquiries, as well as more claim resubmissions.

Testimony of Mr. Luther Carter, vice president, Travelers Insurance:

[Y]ou are really talking about probably at least 50 days are going to elapse from the time that claim is mailed until payment is received * * *. Seven of the largest contractors have done a study which shows that allowing claims to backlog for 18 days will generate a one-time savings of $5.8 million but that is going to be offset by an annualized cost of $18.2 million. So it costs a lot of money to let claims backlog.

Testimony of Dr. William R. Felts, chairman, Council on Legislation, American Medical Association:

Delays such as now are being experienced discourage acceptance of assignment on the

very claims for which assignment may most benefit the beneficiary, and may force some physicians to reexamine the number of Medicare patients that they desire in their practice * * *.

HOWARD T. HUDSON—A PEOPLE'S JUDGE

The SPEAKER. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, it is with some sadness that I inform my colleagues that Howard T. Hudson, judge of the King City-Greenfield Justice Court in Monterey County, CA, has announced his retirement after 22 years of service. Judge Hudson is one of the finest judges I know of anywhere. For many reasons, he is no ordinary judge, and his stepping down from the bench marks the end of an era.

Judge Hudson was elected to his post in 1964. At that time, he was not an attorney, he was a farmer, Indeed, he had been farming for 20 years. At that time, there was no requirement in California that judges have law degrees. It was not until 1976 that Judge Hudson, in response to a new California law requiring that judges have law degrees, completed his degree through a correspondence law course from LaSalle University in Chicago and passed the bar.

Law degree or no, Howard Hudson has always known what it takes to be a good judge—fairness, compassion, integrity, intelligence, and basic common sense. He possesses each of these qualities in abundance, and they have served him well. Rare is the individual who has passed through his court—in any capacity—and not felt that he has been treated fairly. Those who follow the court and who have participated in the court have a tremendous amount of fondness and respect for Judge Hudson.

Judge Hudson moved with his family from Arkansas to Monterey County when he was 13 years old. His father started in California as a farmworker, and eventually father and son became partners running a family farm in the Greenfield area. Judge Hudson graduated from King City High School and studied agriculture and animal husbandry at California Polytechnic State University at San Luis Obispo, where he was valedictorian. During World War II, he piloted C–47 cargo planes in Europe.

In 1964, after deciding that he no longer wished to farm, and noting a vacancy for the judgeship in King City, Judge Hudson ran for the spot and was successful. He has been in the post ever since.

Mr. Speaker, Howard Hudson is truly a people's judge. He came from the people, and he has continued to earn the love and respect of the people who elected him. He will be greatly missed.

THE MILITARY CHAPLAINS FAITH BALANCE ACT

The SPEAKER. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes.

Mr. DE LA GARZA. Mr. Speaker, I would like to take this opportunity to say a few words in support of H.R. 1785, the Military Chaplains Faith Balance Act. This bill addresses the serious imbalance in the representation of various religious faiths among chaplains of the Armed Forces of the United States. It does so by accomplishing three goals.

First, the bill would instruct the Secretary of Defense to request appropriate leaders of underrepresented faiths to meet the needs of members of the Armed Forces of those faiths. Second, it would accept clergy members of underrepresented faiths for appointment in the Armed Forces as they become available without regard to otherwise applicable numerical limitations. And third, it would consider ordering to active duty reserve members of the Armed Forces who are designated as chaplains in order to aid in alleviating the faith imbalance.

One of the keystones of our Government since the heydays of our Founding Fathers has been the right to religious freedom. In order to be free, however, there must be ministry. This bill would ensure the exercise of these religious freedoms.

EXCHANGE RATE POLICY CANNOT RESOLVE TRADE DEFICIT ALONE

The SPEAKER. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, for years I have argued that the United States must adopt an industrial competitiveness strategy in order to become internationally competitive and to reduce our huge trade deficits. Some critics have urgued that this is unnecessary because the trade deficit has been caused exclusively by the overvalued dollar. Consequently, changes in exchange rate policy alone could resolve the trade problem. While I agree that exchange rate policy is critically important, it is not the entire answer. An article in the June 18, 1986, Wall Street Journal explains why this is so:

NEWLY INDUSTRIALIZED COUNTRIES THWART U.S. EXPORTERS' HOPES FROM LOW DOLLAR

(By Douglas R. Sease and Rose Gutfeld)

The falling dollar may be giving American exporters some relief from their Japanese and European competitors, but it isn't doing anything to stem the growing pressure from competitors in many of the so-called newly industrializing countries, or NICs.

The dollar has fallen about 30% against the Japanese yen and almost 22% against the West German mark since September when the Group of Five—the U.S., Germany, Japan, France and Britain—launched a concerted effort to lower the dollar's value. As a result of the G–5 agreement, products made in Japan or Europe today generally cost more for American consumers while U.S. products cost less abroad.

But some of the most eager and aggressive makers of steel, automobiles, machine tools and electronic products aren't in either Japan or Europe. They are in places like South Korea and Taiwan, whose currencies are more or less tied to the U.S. dollar. With their combination of cheaper labor and currencies that haven't strengthened against the dollar, manufacturers in those countries are enjoying an unprecedented demand for their products among American consumers. That's starting to worry the American companies that must compete against them.

"There's generally a lack of knowledge or a misinterpretation of the news that the dollar is down and therefore our competitiveness should be enhanced." says Robert A. Wendt, manager of economic studies for Bethlehem Steel Corp. "Currencies in Korea, Taiwan, Brazil and Venezuela remain in lock step with the dollar and we don't see any near-term relief for steel or any other commodities."

And it isn't just basic industry in the U.S. that is worried. Korea, Taiwan and Hong Kong, for example, all are pushing hard to produce increasingly sophisticated products. Korea leads the pack with such products as videocassette recorders from Samsung and Lucky-Goldstar, a spiffy small car made by Hyundai Motor Corp. and Daewoo Electronics' personal computer that rivals the capabilities of the IBM PC for hundress of dollars less.

"I've been trying to make the point to anybody who will listen" that the U.S. is beginning to fall into a trade deficit with Korea and Taiwan on electronic products, says Ralph Thomson, senior vice president for public affairs at the American Electronics Association. "I don't want to diminish the fact that G-5 has been helpful, but where's the comfort to American companies if they're still losing market share, whether it is to Japan, Korea or Lower Slobovia?"

Chrysler Corp. Chairman Lee Iacocca echoes that sentiment: "The fundamental problem of trade equilibrium doesn't get solved if American jobs get shipped to Korea instead of Japan," he says.

Concern about the industrializing countries isn't universal, however. American companies that have either located production facilities in those countries or are buying products from them are reaping big benefits. General Electric Co., for instance, buys air conditioners and consumers electronics from Korean companies for sale under its own brand. Similarly, General Motors Corp. will soon be selling a small Korean-made car and U.S. Steel Corp. plans to buy semifinished steel from Korea's big Pohang mill for further processing at one of U.S. Steel's domestic facilities.

David Munro, director of macro and international economic studies for GM, argues that products from countries like Korea are bound to grab attention, but that they are only a small part of total imports coming into the U.S. "it's certainly true that a $5,000 Hyundai automobile or a $75 Samsung black and white TV are noticeable, but they aren't a big feature of the economic landscape," he says.

MEASURES URGED

Nevertheless, the companies that are worried about these new competitors are looking for relief, mostly from the U.S. government. Stephen Cooney, an economist for the National Association of Manufacturers, contends that currencies in countries like Korea and Taiwan should be strengthened by their governments.

"We need an upward valuation to reflect the very real competitive advantages that they have gained in the past five years," he says. "The fact that they have those surpluses proves that they don't need to have their currencies at that level."

The American Electronics Association is urging the Congress and the Reagan Administration to convince government officials in

the industrializing countries to take measures to slow the rapidly rising volume of exports to the U.S., perhaps through the General Agreement on Tariffs and Trade, the nominally governing body of world trade. And Mr. Iacocca recently urged that the G-5 be expanded to a "Group of 10" or a "Group of 15" to include Taiwan, Korea and similar nations.

But there isn't much hope for any action in the foreseeable future. For one thing, it isn't likely that the Governments of these growing nations would accede to any request to strengthen their currencies against the dollar. "I've been talking to the Koreans and Taiwanese and they aren't about to jump onto a train that will take them away from their competitive advantage," concedes Mr. Thomson of the American Electronics Association.

And the U.S. government certainly hasn't any intention of pressing the point anyway. "We have no intention of interfering in those currency relationships," says Peter Allgeier, assistant U.S. Trade Representative for Asia and the Pacific. "There is no indication that . . . those governments are somehow acting in a way to maintain an unrealistic level for their currencies. Just because we have a trade deficit doesn't mean we start intervening."

DEBT A PROBLEM

One big hurdle that blocks any efforts to obtain relief for industries under pressure is the newly industrializing countries' level of international debt. Korea's debt, for example, totals nearly $50 billion and it, like other developing nations, depends on export income to service those debts. To take measures that might increase the value of their currencies and thus curb their exports would penalize them for doing what the U.S. hopes countries like Argentina and Mexico will do.

"The Mexico problem is part and parcel of this," says Robert Brusca, chief economist for the U.S. arm of Nikko Securities, the Japanese brokerage. "Those countries have to have markets to service their debts. You can't have it both ways."

Finally, even if they agreed to revalue their currencies, economists argue that it would be difficult, if not impossible, to find the correct value for the currencies based on a basket of goods and services, says GM's Mr. Munro, "but you can't do that with economies just coming out of the subsistence stage of development."

He adds that as countries such as Korea become bigger factors in international markets, their currencies, most of which aren't traded in world markets, will also become more internationalized and thus subject to market forces.

BOUND TO GROW

What's more, the problem is likely to get worse. Taiwan's trade surplus with the U.S. totaled more than $13 billion last year and Korea's amounted to $4.8 billion. As products from those countries displace higher priced Japanese or European merchandise, the trade surpluses are bound to grow. Vern Lacey, American Motors Corp's. chief economist, predicts that the combined trade surplus of Korea and Taiwan with the U.S. could in the next few years reach the $50 billion level that has so worried American industry about trade with Japan.

U.S. MERCHANDISE DEFICITS

[In billions of dollars]

	1985	1984	1983	1982	1981
Korea	4.8	4.0	1.2	0.1	0.4
Taiwan	13.1	11.1	6.5	4.5	4.3
Hong Kong	6.2	5.8	3.8	3.1	3.1
Singapore	0.9	0.4	[1] 0.9	[1] 1.0	[1] 0.8

[1] Surplus.

Note.—Figures are based on Customs Service valuations for duty purposes, except 1984–1985, which include all costs, such as insurance and freight.

Source: Commerce Department.

IN HONOR OF RICK BERG

The SPEAKER. Under a previous order of the House, the gentleman from California [Mr. LEVINE] is recognized for 5 minutes.

Mr. LEVINE of California. Mr. Speaker, I rise to inform my colleagues that Rick Berg, one of the finest employees of the House of Representatives, will leave Washington at the end of this month to enter Boalt Law School at the University of California.

Rick has been an integral member of my staff since my election to office. During that time he was one of the most versatile members of my staff. The issues he handled ranged from tax law to election law to protecting the Santa Monica Bay and other sensitive parts of California's precious seashore from offshore oil drilling. In addition, he wrote speeches and helped many of my constituents sort through the confusing maze of Federal redtape which confuses many of the most intelligent men and women in our society.

Rick also played the critical role of manager of our office softball team. As such he helped put together one of the finest teams on the Hill. His playing record was equally distinguished, marred only by a collision in the field with one of his teammates which may have maimed her for life.

His enthusiasm, commitment, and talent will be almost as difficult to replace on the softballfield as it will be in my ligislative staff.

Rick also served as my office's resident movie critic. His caustic, and occasionally accurate, reviews on the latest major, and many minor, releases were an important resource for my staff and me.

Another of Rick's responsibilities was as staff advocate for the concerns of the entertainment industry—one of the most important constituencies in my district. His ability to provide me with quick and reliable information on the concerns of that industry on a variety of subjects was particularly important to me.

I have seen few people grow and develop as quickly and spectacularly as Rick. I came to rely on him a great deal for his analysis and counsel. Whenever a difficult speech or complex case needed special attention I would call on Rick.

Rick's leaving will be a great loss. There is no question that no one person can replace him on my staff. My real regrets in his leaving are personal, however. Rick is much more than simply a member of my staff. He is a valued friend. While I envy his three additional years in Berkley and know he will be a lawyer, I deeply regret this decision to leave Washington.

I ask my colleagues to join with me in thanking Rick for his service to this institution and to wish him well in his future endeavors.

KENNETH ADELMAN DISCUSSES THE FACTS ON THE IMPACT OF NO LONGER OBSERVING SALT II

The SPEAKER. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, one of the most knowledgeable analyses I have seen on the subject of SALT II was the article that was printed in the New York Times on Sunday, June 15, 1986, by Hon. Kenneth Adelman, the Director of the Arms Control and Disarmament Agency.

Unfortunately, I was unable to participate in the SALT II debate because I was chairing the markup of the Defense authorization bill for fiscal year 1987.

Had I been able to join in the debate I would have hammered home the points Mr. Adelman made so clearly and sensibly.

The article referred to is included at this point:

[From the New York Times, June 15, 1986]

WHY MR. REAGAN IS RIGHT ABOUT SALT

(By Kenneth L. Adelman)

WASHINGTON.—Bertrand Russell once remarked that we often defend most passionately those opinions for which we have the least factual basis. It is difficult to find any other way to explain the torrent of emotion that has greeted the President's decision that we are no longer bound by the second strategic arms limitation accord.

Even on its face, the case against the President's decision looks dubious at best. After all, the Senate Armed Services Committee agreed unanimously in 1979 that SALT II was not in the country's "national security interests." The treaty was never ratified. It never had the force of law. It never subsequently gained the support needed for ratification. The chief prediction of its critics—that it would permit a vast modernization and expansion of Soviet strategic forces—has come true, in spades. On top of this, the Soviet Union is violating the central provisions of the agreement.

What could be more clear-cut? Why do critics say that the United States should continue to abide unilaterally by SALT II?

First, Soviet violations are alleged to be "peripheral." The President's critics would like to have it both ways. When SALT II was up for ratification in 1979, its supporters commonly cited three provisions as its main advantages: the numerical limits (on warheads-per-launcher and overall launchers); the prohibition on a second new type of land-based intercontinental missile; and the restraints on encoding test data. The Soviets are completely contravening the provisions on new missiles and encoding, and they have exceeded the limit on missile launchers. Provisions hailed as central when SALT II was being sold cannot be considered "peripheral" now that the Soviets are violating them.

Second, the Soviet violations are sometimes said to be "ambiguous" or unimportant. The new, SALT-violating SS-25 missiles is not in any sense marginal. It is one of two powerful new land-based strategic

missiles that the Soviets are now adding to their arsenal. In short, a major portion of the current Soviet buildup of land-based missiles is occurring in clear contravention of SALT II. The violation is clear since the throw-weight, or payload, of the SS-25 missile is not, as some critics continue to claim, just "slightly" greater than its alleged predecessor, the SS-13, but roughly twice that—clearly beyond the 5 percent increase permitted by the treaty. In addition, the Soviets' scrambling of their test signals is seriously impeding verification.

Third, it is sometimes claimed that the Soviets have dismantled 1,000 or more systems to comply with SALT. This is contradicted by the fact that the Soviets themselves claim to have dismantled only 540 weapons under SALT. More important, what the critics' figures really demonstrate are not the quantitative limits on the Soviet arsenal but the vast qualitative growth of the Soviet arsenal under the treaty. The Soviets dismantled more during SALT than the United States did because they built faster and modernized much more than we did. The majority of silos said by the critics to be dismantled became the homes of new, vastly more powerful missiles. The figures are less a testimony to SALT's effectiveness than a measure of what it failed to control.

Nor should we attribute the dismantling of any Soviet systems solely or even mainly to SALT. When new Soviet systems come on, old, obsolescent systems generally go. For example, 650 SS-4 and SS-5 medium-range missiles—unconstrained by any arms accord—were dismantled by the Soviets after the SS-20, a far more potent threat, came on stream. The claim that the Soviets' decisions to dismantle weapons during the period of SALT were necessarily due to SALT is a case of misplaced causality.

Fourth, critics claim that without SALT II the Soviets will vastly increase their warheads and accelerate the arms buildup. Projections of large increases in Soviet warheads—beyond the considerable increases already anticipated under SALT—are easily made on paper. In reality, such changes are neither quick nor cheap—nor necessarily even militarily useful. For example, some critics claim that the Soviets would put 20 or 30 warheads on the SS-18 missile, instead of 10. But this is likely to undermine, if not preclude, the SS-18's main mission—that is, to destroy our missiles in their silos.

The basic notion that SALT is significantly constraining the Soviet buildup now, or would do so in the future, is an illusion. It presumes future compliance with critical provisions, when we already have seen clear and major violations of key parts of the treaty. Even while adhering to terms of SALT II, the Soviets have nearly doubled their strategic warheads, from 5,000 to 9,200. Under SALT II, the number could rise further to 12,000 by 1990. With or without SALT II, we envision a 5 to 7 percent growth in Soviet strategic investment every year as far ahead as we can see. With or without SALT II, we envision an all-new Soviet land-based missile force in the next decade.

If this is constraint, it is hard to envision a lack of constraint. With their defense spending running at 15 to 17 percent of their gross national product, the Soviets already have their accelerator near or on the floor.

Ironically, many of the critics who now base so much of their argument on predicting increases in Soviet warheads beyond those envisioned by SALT II (which did not explicitly limit warheads) used to tell us that warheads don't count. Back in the 1970's, when the United States enjoyed a 3-to-1 advantage in warheads, many of these same critics were arguing that "strategic superiority" and numbers of warheads were "meaningless" and could be bargained away without risk to United States security.

Fifth, it is argued that the President's decision is bad for our alliances. Despite extensive Administration consultations with the allies, there have been some allied disagreement and some adverse effects on allied public opinion. We naturally regret this. As the reasoning for the President's decision and the facts become better known, we hope this will change. We hope our allies' concerns will be alleviated.

But short-term popularity cannot be the criterion by which we judge the wisdom of policy. Our overriding concern must remain long-term strategic safety and genuine arms control. Continued adherence to an ineffective and unratified treaty that our adversary is seriously violating is not cost of risk-free either. As the President has said, what is needed are real reductions. Only this will ultimately provide a solid basis for mutual restraint.

Sixth, it is alleged that what the Administration wants is an "all-out arms race." This is simply false. Anyone who reads the President's decision and listens to what he is saying will see that he has provided a clear new formula for restraint that will be more effective than SALT. The President pledged, for example, that we will not increase launchers or ballistic missile warheads above Soviet levels. This is a serious pledge, one that creates real costs for a Soviet buildup and provides real rewards for Soviet reductions and restraint—just as genuine arms control should do. It is verifiable and do-able. In contrast, continued unilateral observance of SALT II in the absence of Soviet compliance would merely reinforce the dangerous idea that Soviet violations can easily be tolerated. It would also likely encourage even further violations and convince the Soviets to continue their drive for military superiority.

As the President has repeatedly made clear, what we want above all are serious negotiations in Geneva leading to agreements with which the Soviets will comply—to equitable and verifiable reductions in American and Soviet nuclear arsenals.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, a couple of months ago, more or less, perhaps a little less, I was the only Member in the Congress on either side that I know of that protested the remarks made by the Under Secretary for Latin American Affairs of the Secretary of State, and the remarks made by the head of the Customs section who made remarks accusing the Mexican Government, and implicating the head of state of Mexico, President de la Madrid, with corruption and with being involved in the illicit drug trade that is so much besetting us on both sides of the border.

□ 1730

I cannot begin to describe the turmoil, the detrimental impact of those statements, particularly those by the Under Secretary, Elliott Abrams, because of his position. To my knowledge, it was an unprecedented remark or remarks made by an under secretary for Latin American affairs.

I explained when I got up on the House floor and suggested an apology. Well, it was not long before Mr. Reagan's administration revealed the chaotic situation that has existed from time to time on the Cabinet level when Mr. Meese, the Attorney General, who also in the Justice Department heads Customs, denied that there was any such implication or any such goings-on in Mexico. He more or less disputed and countermanded the remarks made both by the Deputy Secretary of State Abrams as well as the gentleman known as Mr. Von Raab from Customs.

Then subsequent to that, there were other remarks attributed to Cabinet and sub-Cabinet level members. In the meanwhile, the fact that the Reagan administration's actions, I will not dignify them by calling it a policy, have clearly revealed their bankruptcy, as I have stated repeatedly, with respect to Central America where, in El Salvador, we have boasted, the administration has prided itself as having been responsible for installing the regime of Gen. Napoleon Duarte, it is still far from any closer a solution that it was 5½ years ago and $4.5 billion better to our Treasury.

Now this is the smallest country in Central America, and we are no closer there to any kind of a solution to this devastating, bloody civil war that has been raging for years.

So we look at the other countries, we look at Nicaragua where the President is still insisting that we in the Congress next week appropriate and sanction $100 million while he tells us that domestically we do not even have $60 million for the homeless in America, that he can find no room in his budget recommendations for keeping alive the only shelter programs that the country has had, some for 44 years, even in a minimal way.

As a matter of fact, I believe that it is incredible that the President would insist on this continued demand, even at the time when he cannot account, none of his administrators can account for the $27 million he finagled and flummoxed the Congresss out of last year by saying that he would reduce his request to humanitarian or "nonlethal aid" in the amount of $27 million.

At this point I am including an article from the New York Times of Thursday, June 19 entitled "Who Got the $27 Million Intended for the Contras?"

WHO GOT $27 MILLION INTENDED FOR CONTRAS?

(By William Buzenberg)

WASHINGTON—Before Congress votes for more assistance to anti-Sandinista rebel forces, the Reagan Administration needs to provide answers to a number of serious questions being raised about what happened to the $27 million in tax dollars appropriated by Congress for that purpose last year.

At the request of a House Foreign Affairs subcommittee, the nonpartisan General Accounting Office subpoenaed Miami bank records to follow the paper trail of the $27 million. The money, in the form of Treasury checks, was deposited into accounts of the rebels' suppliers and brokers in Miami. The G.A.O. contends that most of that money never went to Central America.

Under the State Department-administered payment plan, the money was intended to cover receipts and invoices for the rebels' food, medicine, clothing or other nonlethal assistance. Instead, the General Accounting Office found that only a fraction of the money went to the region to cover those receipts and that most of it went to private rebel bank accounts in the Caymai Islands or the Bahamas, to private individuals or coporations in the United States and to the Honduran armed forces.

By law, the funds were supposed to be used for so-called humanitarian purposes. But because much of the money appears to have been siphoned off to other accounts not related to the receipts approved by the State Department, the G.A.O. believes it could have been used illegally for weapons or to line the pockets of rebel leaders.

The General Accounting Office and some members of Congress would like to know, for example, why the commander in chief of the Honduran military received a check for cash from one account for $450,000, and why a total of $1.5 million went to the Honduran armed forces. Was that for weapons, or for some other special arrangement between the rebels and Honduras?

The Administration's response to these disclosures has been troubling. First, it opposed the G.A.O.'s effort to subpoena Miami bank accounts, then tried to keep the information confidential. Now that the information is public, the Administration has yet to respond, insisting instead that it does not really matter where the money went after Miami as long as the goods were getting to the rebels. But some rebel groups have complained they aren't getting all of their supplies, and they themselves have blamed corrupt leaders.

Perhaps the best way to find out what has happened to the money is to follow this paper trail of the Miami accounts and compare that with the delivery of actual goods in Central America. That's what the G.A.O. wanted to do, but the State Department blocked it from pursuing leads in the region.

Various news organizations that have tried to follow this trail have made inquiries at small, storefront pharmacies and groceries that supposedly had done thousands of dollars worth of business with the rebels. Yet the store owners say they've never made out receipts for that much merchandise for the simple reason that their stores have never contained that much. Some former rebels even admit they collected blank receipts and falsely billed the State Department for payment.

This seems to be a common system used to enrich rebel leaders, but apparently it doesn't bother the Administration. When officials have been asked about these potential illegalities, they say Congress is to blame because it stipulated that the money could not go through the Central Intelligence Agency. The Administration seems to be saying that if only the funds were hidden, no one would know if money was missing or went to buy guns or bribe the Honduran armed forces—as if everything would be all right if no one knew what was happening.

It is a serious matter when the Administration ignores apparent violations of law in order to continue to carry out a policy of assistance to anti-Sandinista rebels. It is equally foolish to contend, as the Administration does, that those who want to know where the money has gone are merely playing politics. If the Administration now wants a fresh infusion of funds, it has an obligation to join Congress in trying to find the answers. In Watergate, the biggest crime was the cover-up of a smaller crime; in "contragate," word "cover-up" is just now beginning to surface.

All of a sudden, President Reagan is not interested in knowing what happened to the $27 million while insisting that we add $100 million to the coterie or this amalgam of diverse individuals who lost out in Nicaragua and are trying to come back in the name of freedom but who certainly have no support in Nicaragua because they are hiding out in Honduras. They are not fighting with the Nicaragua people's support in any segment of Nicaragua nor society, whether it is the poor peasant class or the urban working classes. On the contrary, this is where they were kicked out.

So I just cannot help but reflect on the description which history gives us of the great, great powerful Emperor of Spain, Phillip II. It was said of him that no experience of the failure of his policy could shake his belief in its essential excellence.

This, I think, describes our President to a tee today. But we live in a day and in a time when it looks as if the Congress is accepting the doctrine of presidential absolutism. We fought, in the history of our Nation, in the struggle for its beginning against monarchical absolutism only to abjectly accept Presidential absolutism, where if anyone dares get up to criticize, he is immediately labeled as a disloyal American.

The President's extravagant statements, embarrassing even to those who support him in my home State of Texas, in which he recently said, "The red tide of communism from Nicaragua is about to reach Harlingen, TX," and that Harlingen, TX, was only a 2-hour drive. That was so palpably ridiculous and out landish on its face that it has made us the laughing stock everywhere, including Harlingen, TX.

So then comes the assualt on Mexico, what some columnists are now calling Mexico beating or batting. I think the time has come when we ought to realize what a horrible powder keg we are sitting on in this new world and in our country.

Mexico is no Nicaragua and certainly no Central America, if you combine all of the Central American States in one.

Our country is oblivious to what is going on south of the border. The only time we hear the alarms is when we have the great fear expressed on this floor and elsewhere about these mobs or swarms of illegal workers crossing our border. Nobody wants to consider dispassionately and in a studied method exactly what the nature of the problem is and what its extent can possibly be. Therefore, we certainly will never, never find the solution. If we do not want to admit to the causes of a problem, how can we ever correctly find the solution?

I have been asking this for 25 years, the 25 years I have been in the Congress. My first year, I was given credit or blame, depending on the point of view, for the killing off of the bracero program. I had served in the Texas State Senate 5 years before, had fought it there, had seen the insidious impact on our side of the border of that malevolent program. It was the trading of the misery in one country with the misery on our side. It led to my introducing the first minimum wage bill in the history of the Texas Legislature.

I set a minimum of 40 cents because I had gone out to the fields and had seen these foreign workers, these aliens, braceros, protected by two powerful governments, to earn no less than 50 cents an hour while Texans, native Texans who happened to be of the same ethnic descent as the alien laborers working side by side with him in the cottonfields, in the other areas, in the plucking of those white bolls and the construction of highways, in the erection of the skyscrapers, much of their sweat and much of their blood went into that construction; but here was a native Texas worker earning as little as 26 cents an hour, unprotected by any of our political entities, while the alien bracero was guaranteed 50 cents. So I thought, well, 40 cents certainly nobody would object.

I was immediately assailed. I was called a Communist, I was called that and I was accused of introducing into Texas law the worst features of the Mexican revolutionary period and as a result got nowhere. It was not until much travail, several years later, and maybe a decade later, that finally Texas accepted a minimum wage which was below the national minimum wage and certainly has become known for its farcical pretension of being a minimum wage. But we did terminate the so-called bracero program.

Now the Mexican Government also and the officials then in power on the Mexican side were looking at it from an economic situation where they felt the bracero was importing into Mexico

millions of dollars that these workers were bringing back. So they did not want the program to end. So we have a double-front war.

The reason I am bringing this out is that we must understand that these relationships, these historical developments are not simplistic. They are involved, they are complex, but we must and will pay too heavy a price for ignorance in not dedicating ourselves to unravelling the source of the problem and having the wit and will to attack the problem and overcome it before it is too late.

Frankly, I feel it is too late. The conditions in Mexico are simply horrendous. We have an unemployment rate hovering at the 50-percent level.

Now the Mexican Government is broke. It has not even been able to pay 1 cent on the principal of its foreign, or what we call exterior debt. They have rolled over interest payments because those interest payments are going to the leading U.S. banks that have been so irresponsible as to criminally, culpably overextending themselves to the point where this overhang to those nations will never pay back that debt any more than we will pay our trillion-dollar debt, they have so overledged that they are out on a limb that represents an excess in loans never to be repaid of their capital structure.

This is the reason why in 1979 I took this floor and warned, and about the only one I heard from was the then chairman of the Federal Reserve Board who called me to have a private breakfast meeting and agreed with me and then confessed sorrowfully that there was not much he could do, which astounded me because he certainly had the power under section 14(b) of the Federal Reserve Act to do something, if he felt.

□ 1745

What he was telling me was there was not much he could do against these big banks. What is true, as sad as it is to put it in the record, everyone of these gentleman, including the present Chairman of the Federal Reserve Board, as well as former Secretary of State Henry Kissinger, go back to the payroll of these banks, principally the Chase-Manhattan, they come from there and they go back there after their so-called public service. Never once will they be willing, able, or in a position even if they were willing and able, to defend the greatest interests of the greatest number of Americans, because the public interest collides with voracious greedy appetites of these megagiant banks.

This is the issue behind the scenes with Mexico. In Latin America, and I know that the American public is generally unaware of this, our soldiers now down there in that area are called loan collectors. We are actually doing no different than what Napoleon III did when he invaded Mexico 100 and some 20 years ago.

I might say as a matter of personal note that it was my grandfather who led the charge in northern Mexico at the Battle of El Somberete that led to the defeat of that Third Imperial French Army in the northern section of Mexico, after my grandfather and his family had been forced to flee from their hometown by the invaders. He fought shoulder-to-shoulder with Benito Juarez.

Of course, history gives a lot of prominence to the battle in the south, the Battle of Pueblo. But we must never forget that the equally important Battle of El Somberete was one that decisively turned back with a rather raggedy army the great French Imperial Armies of the Third French Empire days.

We now stand in pater familia in the shoes of these colonial powers. These are the undebated issues, as in the case of the Nicaraguan revolution. It is the same thing. It is a basic economic factor.

How many Americans know? I know I have said this before in the record, that one of the leading lobbyists here for the so-called rebels or Contras, or in the unbelievable words of the President, freedom fighters, is a gentleman who, in the Somoza regime had the ownership of the Vatican bank, the Banco Ambrosiano, in Managua. Of course, they feel that unless they are restored to power and the Somoza elements are returned, they will not be made whole. So the Pope will not recognize the Nicaraguan regime, even though he has continued, and does to this day and has every day that Castro has been in power, recognized the out and out socialist regime of Fidel Castro in Cuba.

And ever since we have had a so-called Ambassador or delegate to the Vatican, Mr. Reagan has been able to wheel and deal with the Pope himself where, for exchange for information to us through the Vatican about Poland and one or two other places, he will and we will accede to having a sympathetic ear with respect to our treatment of the Nicaraguan regime.

The notion that—and the charge has been made here on this floor, I have heard some of my colleagues say so—that the Nicaraguan regime is guilty of religious persecution is so ridiculous that again we are the laughing stock of everybody else, every substantial government from Canada on down in the New World, and every government I know in the Western World.

I believe the time has come when it is important that the Congress at least finally work and base its actions on a truer perception of what this world is now in this decade, for that part of the world that we, our children, our grandchildren and great grandchildren must and are compelled by destiny to share is not the same world it was even 15 years ago, much less the world it was when President Kennedy announced the Alliance for Progress in 1961. We have failed to recognize that.

We have failed to recognize and, unbelievably, followed a course of action that is a complete turnback to the period of Calvin Coolidge in 1929, when the history clearly shows us that it was the alleviating policy of Franklin Roosevelt, who had probably the most brilliant Under Secretary for Latin Affairs ever, Sumner Wells, in his announcement of the good neighbor policy. He had hostility in this country. The oil barons of this country were still unforgiving because of the Mexican Government expropriation of what they said was their oil lands and properties.

But, nevertheless, when we were in the crisis of World War II, rather than having a hostile element, we had allies and we had the Mexican Government sending its Foreign Minister here to enter into agreements in which Mexico allied itself with the United States. It even sent military men, many of whom died. It gave permission to the American Government to draft Mexican nationals, who, at that time, were quite numerous in Southwestern United States.

I invite my colleagues some day to go across the border point, say in Laredo, and you will see from time to time in the cemeteries there flowers and little American flags showing where the remains of some of the Mexican nationals who were killed in World War II are buried.

But now, unbelievably, we are completely turning the clock around, and we have engendered the most widespread resistance and hatred toward our country, or at least the Government, as they say, that we have had and in Mexico we had not had, since the invasion by our Marines of Vera Cruz and Tampico in 1914.

I speak today because time is upon us. What is going to be our reaction when, because of the sustained efforts mostly made by some of our unofficial actions through the CIA, to destabilize—that is the word they use—the Mexican Government regime of Mr. De la Madrid for two reasons:

□ 1625

One, the debt situation. Two, and more basically, because Mexico will not yield to us on our Central American actions. Of course, no Mexican leader could and stay in power without a lot of trouble because Mexico, ever since the revolutionary period has had basic doctrines; self-determination. Outo determinacion they say in Mexico. No intervention. No intervencion.

Domestically, they had one no reelection in which every single political elective office holder is sunsetted on the length of the time that he can serve. These are basic things in the long struggle for freedom for democracy, if you please, in these countries.

What is more shameful, and what I think is an eternal blot on President Reagan's record is what we are doing to the only real democracy that we have had and still maintains itself despite our heavy pressures, in Costa Rica. Now, here is Costa Rica, next to El Salvador. Costa Rica has the highest literacy rate anywhere in Latin America. They have the freest elections, even freer than ours; because they have been so free, they will even accept on the ballot candidates from what they call the Communist Party. Incidentally, the two or three candidates that have been elected as representatives have been elected as representatives from where? From the United Fruit camps and factories. How far do they get? What big acceptance has communism gotten? Well, no more no less than the ones we had here that called themselves socialists three, four, five decades ago.

What is Costa Rica? It has some of the past presidents like Dr. Jose Figures, a great pro-American, who today will tell you in sadness that he is compelled to side with the Nicaraguan regime because America is wrong, and that he cannot defend America, even though he did all during his public actions as President of Costa Rica.

We have had our Ambassador in Costa Rica actually intervening in their domestic elections as they did earlier this year to try to compel the defeat of the successor who, nevertheless, and against the United States, heavy opposition, because let me tell you: The United States and the Ambassador said, "If you do not do this, we will suspend the aid."

At that particular point, with the coffee crop crises being what they have been, mostly because of United States action, they were over a barrel. Nevertheless, they elected freely, the very man that the United States Ambassador said, "If you do, you are going to suffer."

Why is it that this country, as small as it is, would have this tremendous record of democracy going back to 100 years-plus of free, compulsory education? Why is this shining light of accomplished democracy, real democracy, perhaps even more so than our own, why are we so set on doing them in? Why? Because they will not arm themselves. They will not create a standing army which they have not had since their 1948 revolution in which they threw out their petty bourgeoisie, their old, landed aristocracy and hemmed them in, but who still have a lot of power because they own the newspapers and the radio stations and TV stations. Those are the ones that the American Ambassador and our American officials are dealing with to try to restore them to power which they lost in the 1948 Revolution.

In other words, what I am saying is, that we are hypocritically saying that we want democracy in Central America or Latin America generally. What I am saying is that with respect to Mexico, we better not think that it is just another volatile people as a chairman of an important committee in the other body said in a quote in an article that I would like to include in the RECORD at this point. The article is in the Washington Post and appeared yesterday, Wednesday, June 18, 1986, and is entitled: "Mexican Chief's Election Fraudulent, Helms Says."

MEXICAN CHIEF'S ELECTION FRAUDULENT, HELMS SAYS

(By Mary Thornton and Joanne Omang)

Sen. Jesse Helms (R-N.C.) charged yesterday that Mexican President Miguel de la Madrid was fraudulently elected in 1982 and that his party falsified legislative election results last year by keeping two sets of election books, "one public, one private."

Helms said documents he obtained from secret sources in Mexico show De la Madrid received 39.8 percent of the vote in 1982, rather than the 71.3 percent he claimed, a difference of 7.4 million votes. The ruling Institutional Revolutionary Party (PRI) coalition received 48 percent of the Chamber of Deputies vote last year instead of the 71.1 percent announced, or 5.9 million fewer votes, Helms said.

The Mexican Embassy immediately said the charges were "groundless and most probably are intended to confuse public opinion."

In a statement, the State Department said, "We have no reason to believe such charges and have never seen any evidence to support them."

"I believe this is a scandal sufficient to impeach the legitimacy of the government," Helms said at a hearing of the Senate Foreign Relations subcommittee on the Western Hemisphere, which he chairs. He urged the Mexican government "to open up the election process to international review and inspection," and said Mexico "deserves no help from the international community until this is done."

Helms has held two previous hearings in which he accused Mexican officials of fraud, corruption and links to drug trafficking. His subcommittee has jurisdiction over U.S.-Mexican relations, and Helms has expressed concern that deteriorating economic and social conditions in Mexico could lead to widespread political unrest requiring U.S. troops to be deployed along the border.

Helms' latest charges come as Mexico is completing renegotiations to ease this year's interest payments on its $97 billion foreign debt. U.S. banks and officials are heavily involved in the talks, along with the International Monetary Fund and other multilateral lending organizations.

An aide to Helms said the secret documents, which were not made public, came from within De la Madrid's government and were written in the military chief of staff's office for circulation among top PRI officials.

Helms charged that the Mexican government keeps "a double set of books, one public, one private. One set of statistics is the Mexican election results released by the Mexican Federal Election Commission. The other set is the real election results received by the presidential chief of staff of the military. Needless to say, the second set is considered top secret in Mexico."

In a statement, the Mexican government said the presidential military chief of staff "does not take any part in the Mexican electoral process" and that votes are counted with representatives of all parties present. A Mexican official said the chief of staff office only arranges presidential trips and interviews and would have had no reason to prepare any document on election results.

White House officials said there would be no comment on Helms' charges, but intelligence sources said nothing similar to them had surfaced previously. An official of the Senate Select Committee on Intelligence said nothing resembling Helms' charges has come to committee members' attention.

No Mexican political parties have accused de la Madrid or the PRI of altering the vote count sufficiently to change a national election. They have charged instead that the PRI buys votes and has stolen provincial races.

Helms' figures indicated that under the allegedly secret vote tallies, both de la Madrid and the PRI won the elections anyway, but with pluralities rather than majorities. The military tally cited by Helms alleged that in 1982, de la Madrid's coalition received 9.26 million votes, 39.78 percent, the conservative opposition National Action Party (PAN) coalition got 8.1 million, 35.1 percent, and the leftist candidates' coalition received 4.7 million, 20 percent, with 5 percent of the ballots invalid.

Helms said the PRI "is to a great extent tied directly into the system of graft and corruption," and is maintained through "socialist methods of economic control to direct graft and corruption to the ruling circles." A more capitalistic system would enrich the Mexican people, render graft an ineffective control method, and the PRI could lose power, he said.

"If the situation in Mexico continues to be one of fraud, corruption and the strangling of democracy, then vast infusions of U.S. taxpayers' cash will only open up more opportunities for corruption and fraud . . . . If Mexico wants U.S. help, the Mexican people have no choice but to bring about fundamental political reform," Helms said.

William D. Rogers, a Washington attorney who served as assistant secretary of state for inter-American affairs in 1974 and 1975, testified at the hearing that Helms' charges will trigger anti-American demonstrations in Mexico similar to those after U.S. Customs Commissioner William von Raab testified at a Helms hearing last month that virtually all Mexican law enforcement officials are corrupt.

"I can't think of a worse place to thrash out a [U.S.] policy than this hearing room," Rogers said. "It seems to me an attack on the Mexican presidency and its honesty and candor with the Mexican people is bound to be counterproductive . . . . It drives all Mexican officials into intoxicating nationalistic resentment."

Why is this an egregious error? The basic reason is that if we, no matter how mistakenly or no matter how much ideologically we would be impelled to, attempt to continue to desta-

bilize the Mexican regime, we will actually be throwing them to the wolves. That is what we call the leftist wolves.

The Mexican President needs our help. But the Mexican people and the Mexican Government has maintained a thorough-going independence. They have never accepted bilateral aid. They have very much multinational aid through the Inter-American Development Bank, through the World Bank, and of course, at this point, the big issue is how much more the United States is going to commit in resources in order to bail out our banks. Not to help Mexico; not to recognize what it is we can do because I might say that it even would be to our self-interest because if Mexico suffers as it has been, every single one of our border points in the 2,000-mile border from Brownsville to Mexicali, shows a consequent depressed situation which continues to give us 23 to 25 percent unemployment on our United States side. It continues to give us failing businesses, not only on their side, ours too. Inevitably those human beings who are not going to tolerate starving to death and folding over and dying.

God in Heaven knows that if there are any people that are attached to their land it has been the Mexicans. I guess you could say this also of the countries south; the Guatemalans; the Hondurans; the Nicaraguans; the Salvadorans. But, no great, mass movements in the history of our country. People do not move this way except out of sheer want and sheer necessity.

The Irish did not come during the potato famine because they wanted to leave Ireland. No other sizeable segment of immigrants to our country did otherwise. What makes this different is that we are locked in, and if our national security is really at stake, this is where it is. I think that we should not stand by in the Congress and let an ideological President sacrifice us before his false god of ideology as has been the case up to now.

There are some thinking voices on our side. There have been in the past, but with respect to Mexico, there is a strange silence. I felt rather isolated as being the only single Member of the House to speak out in protest to the tremendous assaults through these officials in our Government and through the press.

□ 1805

It actually goes back to 1982. On that occasion the Mexican President visited us here, and the day that he arrived, the columnist Jack Anderson had a column in which he was accused of being corrupt. He had barely taken office, and yet here he was.

If anything, President de la Madrid has epitomized one of the cleanest, one of the most integral of political office holders or Presidents that Mexico has had. The Mexican press has been full or was full just a couple of years ago with the derelictions and the corruption of prior individuals and regimes, but in this case, the result has been that we have let a runaway agency like the CIA dictate the policies with no accountability whatsoever.

Jack Anderson's column never documented a charge. Under Secretary of State Elliott Abrams has failed to document the insinuations and the accusations.

General Gorman was the commander of the Southern Command, and startled everybody when he came out last year and the year before, before he left the command, by saying that Nicaragua was not the problem, El Salvador was not the problem, Mexico was the problem, because of its corruption.

Well, this was considered so outlandish even though it was from the lips of one of the highly placed military in our command. I cannot conceive that he would have said that without having had the explicit consent of the Commander-in-Chief.

What was his source? Why would a Southern Commander in Panama make that statement? Well, it has all come out, just like the pamphlet or the instructions printed by the CIA on how the Contras should go about knocking out the Nicaraguan regime. It goes back to the CIA.

This is pathetic, because the consequences are going to be that if it succeeds in its destabilization of the Mexican regime, it will merely knock over a friend of the United States. President de la Madrid has been very pro-American, before he became President and since he has been President. He has not done one thing that anybody could consider to be a threat to our national interest, either in utterance or action. But his sin is according to the CIA and our ideologs, such as Elliott Abrams, who comes to power by virtue of the fact that he is the son-in-law of the Commentary editor, Norman Podhoretz. They are ideologs, all of them, beginning with the woman that brought them into the scene, Ambassador Kirkpatrick—the Iron Lady.

I believe that the time has come when the Congress has got to act out some realistic perception of the world. I do not know how optimistic I am after hearing the debate or the discussion on SALT II today, and on the various and sundry defense appropriation bills that we have had. It seems as if everybody in our country is locked into a mind-set that is totally unrealistic, as we were in the sixties with respect to other parts of the world—a mindset that has Europe, for instance, a 1948 Europe; a mindset that has Latin America back 50 or 60 years ago. That world is gone forever.

I do not know which at this point is more of a powder keg. Mexico south of the border, where on future occasions I will go into detail as to the extent and nature of the problem that Mexico's economic condition poses. I will say for the record, and I have said it repeatedly, that whenever I have criticized, it is only after I have offered some suggestions.

In September 1982 was the first Mexican financial crisis, that reverberted in such a way that it shook our Secretary of the Treasury and Chairman of the Federal Reserve Board to the point where they had to suddenly find $4 billion. They still have not told us what the deal was to help Mexico through an artificial price of their oil, which we have been using, for instance, for such things as building up our reserve. But nevertheless it was at an undetermined price, because it would have brought protests from all the knowledgeable oil people because the deal was not to buy the oil, it was to find another way of giving aid to Mexico.

The net impact of that aid was to come back in the shape of interest payments of 30 and 35 percent to these biggie banks who are out on such a limb, so that again the crisis comes up. But at that time, in September, I offered a suggestion to Secretary of the Treasury Donald Regan, and a suggestion to then and still Chairman of the Federal Reserve Board Paul Volcker. In one case I never received quite an acknowledgment, and in the other, many weeks later, I received an acknowledgment, but it clearly indicated that no consideration had been given.

My suggestion was simply one that would have enabled us through our established resources to help the Mexican Government stabilize its currency without any additional particular outlay, but it would have meant much then. As it is now, there is chaos, provoking yet-to-be-determined dilemmas and problems that will have their repercussions on our side.

Will we then, given the direction the situation is unquestionably headed, and particularly with our pressure there, when it blows up, do the same thing that we have done in the Central American countries' cases? Will we be then talking, as we have not in 70 years, of having to go into Mexico physically?

I pray not, and I literally mean it, because I do believe in prayer, and I do pray, but I have great forebodings, because I see no evidence, either in the Congress, and much less in the White House, that there is any grasp or perception of reality with respect to the dimensions and the implications of the problem, any more than in Europe, where we are still spending over 55 percent of the $315 billion that the American people are being taxed for—for what—for defense, even though we

are now more insecure than we were before, for the so-called defense of Europe.

Even since 1958 our Presidents again have not been willing to accept reality, did not realize what was going on in Europe, any more than we do now, and that essentially is that we have a brandnew generation on the threshold of power that does not remember World War II. We have 300,000 of our military in Germany alone. Are we going to sit and wait until we are compelled to withdraw?

I have always felt that it was good—and this I think has been the hallmark of my role as a public elective official, particularly in a representative capacity, since I was on the city council—not to wait until you had a hot potato, but you prepared yourself and you anticipated and you had what I call anticipatory precautionary actions.

□ 1815

I have seen through the course of 33½ years in public office the success of such an approach and for that reason stand witness now to testify, to implore my colleagues, as I say, my advice to the privileged orders, because, my colleagues, we are privileged, of all of the privileged orders in our country, my words are just words of advice.

I have been willing all along to go on the record. I have not whispered it. I do not in retrospect say, well, now this is what I was saying, but did not say it. It is in the RECORD and that is the reason I am on the record today.

With respect to the unreality that I think we are going to, and to pay a very, very unnecessary price, hopefully only in treasure, not in blood, I would like to offer an article from the Christian Science Monitor of Monday, June 16, by Richard A. Nenamen, entitled "The United States and Mexico Must Work Together To Stem Economic Crisis," a very, very insightful article.

I see no reflection of this insightfulness in the discussions I have seen in or out of the committee, on or off the floor.

I am beseeching my colleagues, and particularly starting with the consideration next week of the President's resumption of his request that we send $100 million to a group that cannot even account yet, nor has the President indicated any interest in getting that accounting for the $27 million that was sent down there some time last year.

Mr. Speaker, I also include an article from the New York Times of Tuesday, June 17, by Alfred Stephen, entitled "Mexico Deserves Full U.S. Attention."

MEXICO DESERVES FULL U.S. ATTENTION

(By Alfred Stepan)

Events last week—the peso fell precipitously and Washington stepped in to try to help negotiate an emergency loan of some $5 billion—once again brought home the urgency of Mexico's economic crisis. The United States ought to be relieved that the crisis has as yet had almost no political repercussions, but this is no time to hide our heads in the sand.

For some weeks now, official Washington has been berating Mexico for the symptoms of its economic crisis—increases in drug traffic and illegal immigration. This is no help at all: Administration officials may have recognized this, for last week they spoke much less harshly than in the past. The emergency package will also be helpful in the short run, but it is not enough. We must begin to think more seriously about what we can do to help the Mexicans find new ways to shore up their faltering economic and political system.

From 1935 to 1981, the Mexican economy grew by some 6 percent a year. For the period from 1982 through 1986, Mexicans project zero growth—and they expect the minimum wage to fall to half of what it was before the crisis hit. The country's foreign debt is nearly $100 billion, and the Government is finding it impossible even to maintain interest payments. Oil revenues, which once generated 50 percent of the Government's revenue and 75 percent of its foreign exchange, have fallen by $6 billion, and political leaders are bracing for further economic deterioration.

So far, the political system has weathered the storm fairly well. The Institutional Revolutionary Party, known as the PRI, remains in control. Strikes, historically low by Latin American standards, are infrequent and largely nonviolent. There has been virtually no urban revolt—no food store sacking or bus burning—of the kind often seen in such crises.

How has the system held up? The PRI's political apparatus—for 60 years, the party has dominated Mexican politics through a combination of myths left over from the revolution and patronage politics—is working hard at damage control. Poor families receive a wide variety of subsidies equal to just about half the minimum wage per person. The exchange rate is now more than 600 pesos to the dollar, but the subway fare is only one peso. Beans, tortillas, domestic cooking fuel and other staples are heavily subsidized and widely available at state stores.

Yet even these mainstays of the political system are showing signs of increasing wear and tear. The subsidies are politically effective but extremely costly. The shrinkage of the Government's revenue base means that the PRI must either cut back further on patronage and subsidies or violate its agreements with the International Monetary Fund.

The economic, political and social perils facing the Mexicans are grave for them and grave for us. Yet few administration officials seem to have any idea of just how serious. They worry about symptoms—drugs and migration—but not about the underlying disease. When they respond at all, it is with short-term emergency bailouts. Nor do they seem to understand why Mexico's crisis should matter to us: many see Mexico as merely a sideshow to the Central American conflict.

This is a serious mistake. Certainly—because of our capacity for mutual destruction—the Soviet Union is the No. 1 country in the world for us to pay attention to. But Mexico should be No. 2.

The fall in oil prices now makes Mexico the most imperiled of the large debtors. Five of the largest banks in the United States may have put as much as half of their primary capital at risk in loans to Mexico. This would be reason enough to worry, but the United States and Mexico have even deeper ties of geography and common destiny.

The United States-Mexican border is the most important frontier in the world between a rich market economy and a poor one. No other developed country is as intimately linked to the poor as we are. England and Japan are islands; Scandinavia has historically been a world apart; France, West Germany and the Benelux nations are not islands, but they are well insulated from the third world.

The United States is not insulated, but we have been lucky—and Mexico's long-term stability has been an extremely important part of this. Mexico and the United States are bound by intricate financial ties; Mexican-Americans are the second largest minority in the United States; and we share a virtually uncontrollable 2,000 mile border. Imagine, then, what it would mean if Mexico erupted in turmoil of the kind we have seen in El Salvador, Guatemala and Nicaragua. Imagine that chaos and violence, magnified a dozen times, on our very border.

The United States simply cannot afford to stand idly by and watch Mexico take a political turn for the worse. There are things that we could be doing now that we might not be able to do later.

Militarizing the border is not the answer: that would be wildly irresponsible even if it were possible. But there is no shortage of constructive policies. In the short run, we could increase our purchases of Mexican oil—we might contract for a set amount at a fixed price to be delivered over the next year—and use it to replenish our strategic oil reserves. This would immediately relieve much of the threat of a Mexican default. In the medium run, we could lead rather than resist the voices in the developed world who urge an augmentation of World Bank and I.M.F. lending to countries like Mexico.

Finally, in the longer run, Mexico and the United States must sit down together and identify an extensive package of development projects that we could implement together to stave off the crisis that threatens us both. These should include shared water development and private sector investment projects. The United States might, for example, make a special point of promoting the Mexican cement industry. Our sharply different economic circumstances—the different mix of factors of production—would make such joint actions beneficial for both countries. Our shared destiny makes them imperative and extremely urgent

A new generation of Mexican economists and politicians is exploring such projects more seriously than ever before. We should do likewise. Whether we like it or not, we too are living under the shadow of the Mexican crisis. With a modicum of imagination and will on both sides, a solution should be within our common reach.

CONFERENCE REPORT ON H.R. 4515

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 4515) for the fiscal year ending September 30, 1986, and for other purposes:

CONFERENCE REPORT (REPT. No. 99-649)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 6, 26, 27, 38, 41, 76, 82, 90, 105, 106, 116, 117, 123, 124, 137, 146, 151, 161, 164, 169, 178, 181, 185, 193, 200, 201, 202, 203, 204, 205, 215, 217, 219, 223, and 224.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 5, 7, 8, 12, 14, 17, 37, 43, 46, 51, 52, 53, 56, 57, 61, 62, 65, 72, 85, 89, 92, 100, 102, 110, 115, 118, 119, 121, 126, 141, 142, 148, 149, 150, 152, 157, 177, 195, 196, 197, 209, 212, 213, and 220, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named insert: *$5,000,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$2,000,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For an additional amount for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under the temporary emergency food assistance program in accordance with section 204(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note), $2,437,000.

And the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named insert: *$11,100,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named insert: *$5,000,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$409,000,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

COUNTERTERRORISM RESEARCH AND DEVELOPMENT

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses for "Counterterrorism Research and Development", $10,000,000, to remain available until September 30, 1987.

And the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$30,000,000, of which $21,365,000*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named insert: *$200,000*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named insert: *$210,000*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$29,204,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$201,500,000*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$60,719,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

Of the funds which remain deferred as of the date of enactment of this Act pursuant to deferral D86-6A relating to the Department of Energy, "Fossil energy research and development", the Congress disapproves the deferral of all but $2,607,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

And the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

Of the funds which remain deferred as of the date of enactment of this Act pursuant to deferral D86-9A relating to the Department of Energy, "Energy conservation", the Congress disapproves the deferral of all but $6,556,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named insert: *$36,000*; and the Senate agree to the same.

Amendment numbered 210:

That the House recede from its disagreement to the amendment of the Senate numbered 210, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$1,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 9, 10, 11, 15, 18, 20, 22, 23, 24, 25, 28, 29, 30, 31, 32, 33, 34, 35, 36, 39, 40, 42, 44, 45, 48, 50, 54, 55, 58, 59, 60, 63, 64, 66, 67, 68, 69, 70, 71, 73, 74, 77, 78, 79, 80, 81, 84, 86, 87, 88, 91, 93, 94, 95, 96, 97, 98, 99, 101, 103, 107, 108, 109, 111, 112, 113, 114, 120, 122, 125, 128, 131, 132, 133, 134, 136, 138, 140, 143, 144, 153, 154, 155, 158, 159, 160, 162, 163, 165, 166, 167, 168, 170, 171, 172, 173, 174, 175, 176, 179, 180, 182, 183, 184, 186, 187, 188, 189, 190, 191, 192, 194, 198, 199, 206, 207, 208, 211, 214, 216, 218, 221, and 222.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVE OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
BILL CHAPPELL,
WILLIAM LEHMAN,
VIC FAZIO,
SILVIO O. CONTE,
(except for amendment No. 23),
JOSEPH M. McDADE,
JOHN T. MYERS,
LARRY COUGHLIN
(except for amendment No. 23),
JACK KEMP,
RALPH REGULA,
Managers on the Part of the House.
MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, Jr.,
JAMES A. McCLURE,
JAKE GARN,
THAD COCHRAN,
MARKS ANDREWS,
JAMES ABDNOR
(except for amendment No. 224),

BOB KASTEN,
ALFONSE D'AMATO,
WARREN B. RUDMAN,
JOHN C. STENNIS,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
LAWTON CHILES,
J. BENNETT JOHNSTON
(except for amendment No. 223),
QUENTIN N. BURDICK,
PAT LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

GENERAL SUPPLEMENTALS

CHAPTER I

DEPARTMENT OF AGRICULTURE

Amendment No. 1: Deletes chapter subheadings, as proposed by the Senate.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

Amendment No. 2: Appropriates $36,700,000 for watershed and flood prevention operations of the Soil Conservation Service as proposed by the Senate instead of $25,000,000 as proposed by the House.

These funds are provided to mitigate damage caused by heavy rains in the Western United States this past winter; to restore the emergency operations account of SCS; to provide $8,000,000 for West Virginia, as described in the Senate report (S. Rept. 99-301); and to provide $6,700,00 for Mississippi for watershed protection operations activities to repair prior year storm damage in Hinds, Rankin, and Madison counties as well as the emergency operations needs identified by SCS throughout Mississippi due to excessive rainfall in 1986.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

Amendment No. 3: Appropriates $5,000,000 for the emergency conservation program of the Agricultural Stabilization and Conservation Service instead of $10,000,000 as proposed by the House. The Senate proposed to strike this provision.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

Amendment No. 4: Deletes Senate language appropriating $11,100,000 for construction of facilities of the Agricultural Research Service. The conferees agree to the House position on Amendment No. 19 which provides $11,100,000 for the citrus canker program and also provides that the Secretary must restore the money previously appropriated for the National Soil Tilth Center at Ames, Iowa.

Amendment No. 5: Deletes chapter subheadings, as proposed by the Senate.

FOOD SAFETY AND INSPECTION SERVICE

Amendment No. 6: Appropriates $3,700,000 for the Food Safety and Inspection Service as proposed by the House instead of $4,500,000 as proposed by the Senate. The conference agreement also restores the House bill language describing the purposes for which the funds are appropriated.

The conferees agree that the funds appropriated will be used to continue all operations of the Food Safety and Inspection Service for the remainder of the fiscal year.

PACKERS AND STOCKYARDS ADMINISTRATION

Amendment No. 7: Appropriates $80,000 for the Packers and Stockyards Administration as proposed by the Senate. The House bill contained no similar provision.

REPORT ON CONTAMINATED MILK AND MILK PRODUCTS

Amendment No. 8: Deletes House language, as proposed by the Senate, which provided for a study by the Department of Agriculture on the estimated losses suffered by dairy farmers and processors as a result of contaminated milk and milk products in the States of Arkansas, Missouri, and Oklahoma. The conferees agree to delete the House language since the study has already been completed by the Department of Agriculture.

DAIRY INDEMNITY PROGRAM

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate reducing the amount appropriated for the dairy indemnity program from $10,000,000 to $9,000,000. The conference agreement also provides that $1,000,000 of the total be transferred to the Animal and Plant Health Inspection Service and the Food Safety and Inspection Service for contamination testing, and the remaining funds be transferred to the Commodity Credit Corporation. In addition, the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity payments.

FARMERS HOME ADMINISTRATION

FAMILY FARM HOMESTEAD PROTECTION

Regulations published by the Farmers Home Administration regarding implementation of the "Family Farm Homestead Protection" amendment to the 1985 Farm Bill (7 U.S.C.A. 2000) would restrict availability of the homestead option to only those homestead properties in FmHA inventory in which FmHA actually initiated the foreclosure procedures, and not to those instances in which some other entity initiated the foreclosure and FmHA bought the property at auction in order to protect its own financial interest. The clear intent of Congress in adopting the homestead provisions was that any property coming into FmHA inventory should be made available to the distressed farm owner, regardless of the circumstances which brought it into inventory, except in the case of borrowers who have attempted to defraud the agency on loans by improperly disposing of security property. The conferees will expect the agency to amend its regulations to comply with the intent of Congress.

RURAL HOUSING INSURANCE FUND

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

During fiscal year 1986, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 504 of the Housing Act of 1949, as amended, shall not exceed $11,335,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of the conference agreement is to rescind $3,000,000 of section 504 low-income housing repair loans instead of $4,480,000 as proposed by the Senate.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For loans for acquisition and development of building sites for mutual and self-help housing, $1,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $1,000,000 for site loans for mutual and self-help housing instead of $1,500,000 as proposed by the Senate. The conference agreement also adds a separate paragraph heading to clarify that these loans are to be made from the self-help housing land development fund.

DISAPPROVAL OF DEFERRAL

Amendment No. 12: Provides a technical correction, as proposed by the Senate.

VERY LOW-INCOME HOUSING REPAIR GRANTS

Amendment No. 13: Appropriates $2,000,000 for very low-income housing repair grants for the elderly instead of $3,000,000 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 14: Deletes chapter subheadings, as proposed by the Senate.

FOOD AND NUTRITION SERVICE

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For an additional amount, for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $20,000,000, to be distributed to the States under the existing fiscal year 1986 growth formula.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores House language appropriating $20,000,000 for the WIC program. The conferees are aware that the Department is considering a new distribution formula for the women, infants and children program but believe it would be improper to change formulas in mid-year. Therefore, the conferees direct that these funds be distributed based on the fiscal year 1986 growth formula currently in use. Additionally, due to uncertain fiscal constraints for fiscal year 1987, the conferees will

expect the Department to advise States to be cautious with management of caseloads so as to preclude the possibility of States having to severely cut back participation in fiscal year 1987.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

Amendment No. 16: Appropriates $2,437,000 for the temporary emergency food assistance program instead of $2,440,000 as proposed by the Senate. The conference agreement deletes Senate language which would have required that the funds be transferred from existing appropriations and that the outlay reductions resulting from such transfer equal at least $1,800,000.

Amendment No. 17: Deletes chapter subheading, as proposed by the Senate.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $5,300,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $5,300,000,000 for capital restoration of the Commodity Credit Corporation as proposed by the Senate. The conference agreement also deletes Senate language which would have provided that the Commodity Credit Corporation shall use not less than $4,000,000 worth of surplus agricultural commodities to carry out a research and development program on external combustion engines. The conferees will expect the Department to carefully review this proposal and advise the House and Senate Appropriations Committees as to its findings on the merits of using CCC commodities for this purpose.

CITRUS CANKER

TRANSFERS OF FUNDS

Amendment No. 19: Restores House language transferring funds from the Commodity Credit Corporation to the Animal and Plant Health Inspection Service to carry out the citrus canker program, but reduces the amount provided from $14,000,000 to $11,100,000. The conference agreement also provides that funds previously transferred to the citrus canker program from funds other than the Commodity Credit Corporation shall be immediately returned to the accounts from which transferred. The effect of the conference agreement is to restore $11,100,000 to the buildings and facilities account of the Agricultural Research Service for the construction of the National Soil Tilth Center at Ames, Iowa. The conferees concur in Senate report language regarding funds previously transferred to the citrus canker program.

COOPERATIVE STATE RESEARCH SERVICE

(TRANSFER OF FUNDS)

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

COOPERATIVE STATE RESEARCH SERVICE

(TRANSFER OF FUNDS)

The Secretary of Agriculture shall transfer $5,000,000 from the Commodity Credit Corporation to the Cooperative State Research Service to meet the matching funds requirement for development of an international trade center at Oklahoma State University.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores House language providing for a transfer of $5,000,000 from the Commodity Credit Corporation to the Cooperative State Research Service to meet the matching funds requirement for development of an international trade center at Oklahoma State University. The agreement also makes a technical correction to the House language by deleting several words that were unnecessary to the transfer of the funds.

AVIAN INFLUENZA

(TRANSFER OF FUNDS)

Amendment No. 21: Provides for the use of not to exceed $5,000,000 for the avian influenza program from the Commodity Credit Corporation instead of $10,000,000 as proposed by the House.

DEFICIENCY PAYMENTS

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

DEFICIENCY PAYMENTS

(a) Effective only for the 1986 crop of wheat, feed grains, upland cotton, and rice, notwithstanding any other provision of law, the Secretary of Agriculture shall make deficiency payments to producers on a farm under section 107D(c)(1), 105C(c)(1), 103A(c)(1), or 101A(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1), 1444e(c)(1), 1444-1(c)(1), or 1441-1(c)(1)), as the case may be, if the Secretary determines that—

(1) the producers on a farm are prevented from planting any portion of the acreage intended for a commodity to the commodity or other nonconserving crops because of flood, heavy rains, excessive moisture, or drought; and

(2) the farm is located in an area that the Secretary determines has been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(b) The amount of deficiency payments under subsection (a) shall be computed by multiplying—

(1) 40 percent of the projected payment rate; by

(2) the number of acres so affected but not to exceed the acreage planted to the commodity for harvest (including any acreage that the producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of flood, heavy rains, excessive mositure, or drought) in the immediately preceding year; by

(3) the farm program payment yield established for the crop for the farm.

(c) Such sums shall be deducted from crop insurance indemnity payments due as a result of such disaster.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement adopts the Senate language providing that individuals who receive advance deficiency payments but are prevented from planting their crops because of flood, heavy rains, or excessive moisture may keep their advance deficiency payments. The conference agreement modifies the Senate language to expand the coverage to those who were prevented from planting because of drought. The conference agreement further provides that such sums provided shall be deducted from crop insurance indemnity payments due to producers as a result of such disaster.

The conferees will expect the Department to provide a full and complete report on this provision, including number of producers covered, types of disasters, availability of crop insurance, and payments refunded because of insurance coverage.

PREPAYMENT OF LOANS BY RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

PREPAYMENT OF LOANS BY RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS

In the case of a borrower of a loan made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) that is outstanding on the date of enactment of this Act, the borrower may prepay the loan by payment of the outstanding principal balance due on the loan using private capital with the existing loan guarantee. No sums in addition to payment of such balance shall be charged as the result of such prepayment against the borrower, the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931), or the Rural Electrification Administration. To qualify for prepayment, a borrower shall certify that such prepayment will result in substantial savings to its customers or lessen the threat of bankruptcy of the borrower: Provided, That any regulations under this provision shall be issued and become effective within 30 days of enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement adopts the Senate language providing that borrowers of a loan made by the Federal Financing Bank and guaranteed by the Administrator of the Rural Electrification Administration may prepay their loans without prepayment penalty. The conference agreement modifies the Senate language by providing that in order to qualify for prepayment a borrower shall certify that such prepayment will result in substantial savings to its customers or lessen the threat of bankruptcy of the borrower.

New REA guarantees for refinanced loans will continue to be backed by the "full faith and credit of the United States" and would guarantee repayment of principal and interest when due, as are the existing guarantees.

The conference agreement in no way alters existing eligibility for REA loans.

EXCLUSION OF PERMAFROST SOILS FROM DEFINITION OF "WETLAND"

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that the definition of "wetland" shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils.

ELDERLY FEEDING PROGRAM

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ELDERLY FEEDING PROGRAM

For an additional amount for reimbursement at a level of 56.76 cents per meal during fiscal year 1985 and 1986, determined under section 311(a)(4) of the Older American Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal years, $8,500,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides an appropriation of $8,500,000 for the elderly feeding program and sets the reimbursement at a level of 56.76 cents per meal during fiscal years 1985 and 1986. The conference agreement deletes the language which provided that the $8,500,000 be derived by transfer from funds previously appropriated and that such transfer shall reduce outlays by at least $8,000,000 during fiscal year 1986.

CHAPTER II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Amendment No. 26: Restores the word "Including" to the heading as proposed by the House and stricken by the Senate.

Amendment No. 27: Restores language proposed by the House and stricken by the Senate which earmarks certain funds available under this head in Pubic Law 99-180 for obligation to supplement funds allocated pursuant to section 108(a)(2) and section 108(a)(5) of Public Law 99-190.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01 and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building: Provided, That the provisons of 13 CFR 314.4 and OMB Circular A-102 Attachment N are hereby waived so long as the Fairley Group Building remains in the control of the public authority and is used as a public market during the expected useful life of the building.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

EDA REVOLVING LOAN FUND PROJECTS

With regard to the language in the Conference Report for fiscal year 1986 (House Report 99-414) referring to EDA's Revolving Loan Fund (RLF) projects, the conferees, have no objection to such funds being distributed to previous RLF recipients in those cases where there has been successful performance of those awards, but preference should be given to first-time recipients of such assistance.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $10,822,000 to remain available until expended, to maintain public warning and forecast services and aircraft services.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $2,600,000 for the United States Marshals Service.

SUPPORT OF UNITED STATES PRISONERS

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $3,000,000 for support of United States prisoners in non-Federal institutions.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts two headings.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $10,000,000 to remain available until expended, for relocation of the FBI's Washington field office and rescinds funds made available for this purpose in Public Law 98-166 and Public Law 99-88.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which increases the limitation in Public Law 99-180 by $1,000,000 on receipts credited to the FBI's Salaries and Expenses appropriation from fees collected to process fingerprint identification records for noncriminal employment and licensing purposes.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $3,000,000 for the Immigration and Naturalization Service.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

Amendment No. 37: Appropriates $18,000,000 as proposed by the Senate instead of $15,500,000 as proposed by the House.

NATIONAL INSTITUTE OF CORRECTIONS

(RESCISSION)

Amendment No. 38: Deletes a rescission of $3,315,000 for the National Institute of Corrections proposed by the Senate. The House bill contained no provision on this matter.

ADMINISTRATIVE PROVISIONS

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a heading.

Amendment No. 40: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Of the funds appropriated to the Department of Justice in Public Law 99-180, not to exceed $150,000 from "Fees and Expenses of Witnesses", not to exceed $150,000 from "Salaries and Expenses, Antitrust Division", not to exceed $100,000 from Emergency Assistance in "Office of Justice Programs, Justice Assistance", and not to exceed $100,000 from the Public Safety Officers' Benefits Program in "Office of Justice Programs, Justice Assistance", may be transferred to "Salaries and Expenses, General Legal Activities" to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et. seq.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41: Deletes language proposed by the Senate which provided that not more than $90,000 of the funds appropriated to the Department of Justice under "General Administration, Salaries and Expenses" for fiscal year 1985 in Pubic Law 99-180 would be available for travel by the Attorney General.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

NATIONAL ASSISTANCE PLAN TO HALT ROCK AND CRACK COCAINE TRAFFICKING

The Attorney General as Chairman of the National Drug Enforcement Policy Board is directed to convene the Board to address on an emergency basis the crisis phenomenon that cocaine freebase, "rock" and "crack"

cocaine, have caused in communities throughout the nation.

Within 60 days of enactment, the Board is directed to report to the Congress and to develop and implement a national plan of assistance to state and local governments to halt trafficking in rock and crack cocaine; to promote effective law enforcement efforts to identify, investigate, prosecute and incarcerate perpetrators engaged in enterprises involving rock and crack cocaine; and, to foster public understanding of the dangerous effects of this substance on public health and safety.

This plan of assistance shall concentrate on methods of using existing laws in such areas as conspiracy, aiding and abetting, forfeiture, possession and trafficking to address this drug with its special potency and distribution characteristics, including the use of rock or freebase houses where the cocaine freebase is processed, distributed, and smoked. The Board's plan should also address those areas where existing law should be amended to strengthen enforcement and prosecution against rock and crack cocaine.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment revises language of the Senate Amendment which would have directed the Attorney General to develop a Model State Statute to prohibit the establishment and use of freebase houses. The substitute language agreed to by the conferees directs the National Drug Enforcement Policy Board to develop a national plan to assist state and local law enforcement agencies in dealing with the threat posed by the spreading use of "rock" and "crack" cocaine.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Amendment No. 43: Deletes a heading proposed by the House and stricken by the Senate.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$283,104,000), to remain available until expended*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides the following allowances for the components of the diplomatic security initiative:

[Amounts in thousands]

Item	Position	Amount
1. Residential Security	64	$89,248
2. Perimeter Security		68,030
3. Administration of Overseas Guards	27	10,491
4. Protection of Foreign Dignitaries	126	8,000
5. Security Training and Professionalism	97	12,000
6. Communications Security	58	32,804
7. Information Systems	53	29,899
8. Replacement of FSN's		12,000
9. Other Security Support	80	12,210
10. Technical Security	31	10,132
Subtotal	536	284,814
Undistributed reduction associated with positions		−1,710
Total		283,104

The conferees are agreed that Department of State should submit a reprogramming request to the House and Senate Appropriations Committees in accordance with said Committees' reprogramming procedures contained in Public Law 99-180 before obligating any of the funds included in the conference agreement for the alternate ADP facility.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

Provided, That $222,104,000 of this amount shall become available for obligation on September 30, 1986

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Amendment No. 46: Deletes a heading proposed by the House and stricken by the Senate.

Amendment No. 47: Appropriates $409,000,000 instead of $454,532,000 as proposed by the House and $372,125,000 as proposed by the Senate.

The conference agreement provides 133 positions and $4,000,000 for project support.

The funds provided by the conference agreement are available for construction projects as identified in the House Report to the extent available and on a priority basis subject to the reprogramming procedures contained in Public Law 99-180.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes House language making the funds for Acquisition and Maintenance of Buildings Abroad in Amendment No. 47 available by transfer from the Department of Defense or certain foreign assistance programs, and inserts Senate language providing that such funds will become available for obligation on September 30, 1986.

COUNTERTERRORISM RESEARCH AND DEVELOPMENT

Amendment No. 49: Provides language which appropriates $10,000,000 for Counterterrorism Research and Development instead of providing such funds by transfer from the Department of Defense or certain foreign assistance programs as proposed by the House and stricken by the Senate.

GENERAL PROVISION—DIPLOMATIC SECURITY PROGRAM

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

GENERAL PROVISION—DIPLOMATIC SECURITY PROGRAM

The funds made available by this chapter to the Department of State under the headings "Salaries and Expenses", "Acquisition and Maintenance of Buildings Abroad", and "Counterterrorism Research and Development" shall not be used for any purpose inconsistent with or contrary to authorizing legislation for the Diplomatic Security Program as enacted into law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

Amendment No. 51: Deletes a heading proposed by the House and stricken by the Senate.

Amendment No. 52: Appropriates $1,200,000 as proposed by the Senate instead of $13,200,000 of which $2,000,000 was to be derived by transfer from "Salaries of Judges" and of which $10,000,000 was to be derived by transfer from "Expenses of Operation and Maintenance of the Courts" as proposed by the House.

STUDY OF CONSTRUCTION OF OFFICE BUILDING

Amendment No. 53: Appropriates $1,300,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

ADMINISTRATIVE PROVISION

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATION PROVISION

Of the funds made available in title IV of Public Law 99-180, not to exceed $8,000,000 from "Expenses of Operation and Maintenance of the Courts" may be transferred to "Salaries of Supporting Personnel" and not to exceed $500,000 from "Expenses of Operation and Maintenance of the Courts" and not to exceed $2,500,000 from "Salaries of Judges" may be transferred to "Space and Facilities".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language waiving certain provisions of the Bankruptcy Amendments and Federal Judgeship Act of 1984, to permit part-time bankruptcy judges in the district of Oregon, the western district of Michigan and the eastern district of Oklahoma to continue to serve until December 31, 1986, or until such time as full-time bankruptcy judges for these districts are appointed, whichever is earlier.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

(DISAPPROVAL OF DEFERRAL)

Amendment No. 56: Inserts language proposed by the Senate which disapproves the proposed deferral D86-53 as set forth in the message of February 5, 1986, as revised by D86-53A as set forth in the message of March 20, 1986, instead of language proposed by the House and stricken by the Senate which would have disapproved only the proposed deferral D86-53 as set forth in the message of February 5, 1986.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

Amendment No. 57: Appropriates $18,800,000 as proposed by the Senate instead of $14,500,000 as proposed by the House.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate which adds language providing that notwithstanding certain provisions of Public Law 99-88 and the Board for International Broadcasting Act of 1973, amounts placed in reserve or which would have been placed in reserve in fiscal year 1985 shall be available to the Board for grants to Radio Free Europe/Radio Liberty.

FEDERAL COMMUNICATIONS COMMISSION

The conferees have not included the language contained in Senate Report 99-301 concerning the proposal of the Federal Communications Commission to allocate spectrum in General Docket No. 84-1231 through a system of random selection. The conferees believe the language of the Senate is correct, but do not feel there is a need to address this issue in this conference report. The conferees urge the Commission to resolve the pending request for spectrum in General Docket No. 84-1231 as expeditiously as possible.

SMALL BUSINESS ADMINISTRATION

ADMINISTRATIVE PROVISION

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISION

Section 18006(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "declared before October 1, 1985" and inserting in lieu thereof "which occurred prior to October 1, 1985, and with respect to which a disaster declaration application was submitted prior to October 1, 1985".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $3,900,000 for "Salaries and Expenses" to be derived by transfer from "Acquisition and Construction of Radio Facilities" and adds language increasing the limitation in Public Law 99-180 by $175,000 on receipts credited to "Salaries and Expenses" from fees from English-teaching programs.

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, MARINE CORPS

Amendment No. 61: Inserts center headings as proposed by the Senate.

Amendment No. 62: Inserts a center heading as proposed by the Senate.

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends the Department of Defense Appropriations Act, 1986 to lower the minimum floor for real property maintenance expenditures for the Marine Corps from $238,000,000 to $223,200,000.

OPERATION AND MAINTENANCE, AIR FORCE

Leased C-21 Aircraft—The conferees agree to the Senate report language concerning the possible early buy of leased C-21 aircraft if sufficient savings can be demonstrated. The conferees further agree that the Air Force should provide the same opportunity for early purchase of leased C-12 aircraft as well, as long as a similar level of savings can be achieved. The Air Force is encouraged to submit reprogramming requests as soon as possible to effect early buyout of these leased aircraft, as long as early purchase would save at least ten percent over current total program estimates (procurement and operations). Acquisition of C-21A aircraft should cost no more than $176,000,000, while acquisition of C-12's should not exceed $48,000,000. The conferees consider these amounts to be achievable. However, the conferees agree that if additional amounts are necessary a reprogramming action would be considered by the Appropriations Committees.

TENTH INTERNATIONAL PAN AMERICAN GAMES

(INCLUDING RESCISSION)

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $8,000,000 to remain available for obligation until September 30, 1987 for the Tenth International Pan American Games. The Senate amendment also rescinds $8,000,000 made available for this same purpose in the Department of Defense Appropriations Act, 1986.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(RESCISSION)

Amendment No. 65: Inserts a center heading as proposed by the Senate.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which rescinds $34,400,000 from the Procurement of Weapons and Tracked Combat Vehicles, Army account. These funds would provide part of the necessary outlay offsets to allow for additional Philippines assistance.

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which rescinds $40,100,000 from the Shipbuilding and Conversion, Navy account. These funds would provide part of the necessary outlay offsets to allow for additional Philippines assistance.

COASTAL DEFENSE AUGMENTATION

(TRANSFER OF FUNDS)

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $21,250,000 to the Coast Guard acquisition, construction, and improvements account for priority Coast Guard capital projects.

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which changes the date for completion of the air defense aircraft competition from July 1, 1986 to November 1, 1986.

The conferees agree to the Senate language which extends the legislative requirement for completion of the air defense aircraft competition to November 1, 1986. Also, the conferees agree to section 5 of amendment number 84 to remove the specific earmarking of $200,000,000 for this purpose as contained in Public Law 99-190. This action will allow the Air Force more time to evaluate contractor bids, but an expeditious pace for evaluation is encouraged. The $200,000,000 appropriated remains available to award a contract to the winner of the competition. The Air Force must submit a formal reprogramming if these funds are proposed to be used for any purpose other than the air defense aircraft competition, should contractor bids not meet Air Force requirements. Nothing in these actions precludes the Congress from considering the merit or affordability of the air defense aircraft requirement in subsequent legislation.

T-46A

The disposition of fiscal year 1986 T-46A procurement funds was addressed in the Senate version of the Military Retirement Reform bill (H.R. 4420). The conferees understand that such funds are to be withheld from obligation during the current fiscal year. This issue is to be addressed further by the conferees on the Military Retirement Reform Act.

MISSILE PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $345,400,000 to the Missile Procurement, Air Force account to initiate the Department of Defense Space Recovery Program. The funds will be used for engineering support, hardware, modifications for integrating payloads onto expendable launch vehicles, storage of existing payloads and expansion of the Eastern Space and Missile Center. Of that total, $16,000,000 will be used to fund a special classified program.

Amendments numbered 73, 78, 79 and 84 are also related to the Department of Defense Space Recovery Program.

The Senate included report language urging the maintenance of an oversight role by the Air Force in the production, assembly and launch process of the Titan 34D7 missile. This language was not contained in the House report. The conferees agree and direct the Air Force to establish and maintain an active oversight of the acceptance and assembly process for expendable launch vehicles, so that uncompromised quality is assured. This is in agreement with and in support of the findings and recommendations of the Rogers Commission report.

Section 4 of the Senate's Administrative Provisions (amendment number 79) provides that $561,900,000 of the funds made available by Section 8103 of the 1986 Department of Defense Appropriations Act would be made available for the "Complementary Expendable Launch Vehicle Program". The conferees agree to the above amount, which shall be used for the Department of Defense Space Recovery Program.

Section 4 of Chapter IIIA (amendment number 84) which provides for the authorization for obligation of certain unobligated funds, allows that $1,498,686,000 may be obligated and expended for the Department of Defense Space Recovery Program.

The conference further agree that the term "Department of Defense Space Recovery Program" use in lieu of "Complementa-

ry Expendable Launch Vehicle Program" and "Expendable Launch Vehicle Program" is not intended to expand the scope of the program as described in Senate Report 99-301.

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which rescinds $40,000,000 from the Other Procurement, Air Force account. These funds would provide part of the necessary outlay offsets to allow for additional Philippines assistance.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(TRANSFER OF FUNDS)

Amendment No. 72: Inserts center headings as proposed by the Senate.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $316,886,000 to the Research, Development, Test and Evaluation, Air Force account to initiate an expanded program for the Department of Defense Space Recovery Program. The funds will be used to begin various research and development activities relating to space launching and related systems. Of that total, $28,000,000 will be used to fund a special classified program and $56,386,000 will be used for repair to the Vandenberg Air Force Base Titan Launch Facility.

REVOLVING AND MANAGEMENT FUNDS

ADP EQUIPMENT MANAGEMENT FUND

(INCLUDING RECISSION)

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $100,000,000 to remain available for obligation until expended for the ADP Equipment Management Fund. The Senate amendment also rescinds $100,000,000 made available for this same purpose in the Department of Defense Appropriations Act, 1986.

ADMINISTRATIVE PROVISIONS

Amendment No. 75: Inserts a center heading as proposed by the Senate.

Amendment No. 76: Deletes the administrative provision proposed by the Senate which would have transferred funds from the Foreign Currency Fluctuations, Defense account to the American Battle Monuments Commisson, Salaries and Expenses account to cover exchange rate shortfalls for the Commission.

Amendment No. 77: Section 1—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. *1. Section 8051 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1211, is amended by striking out "Army, Navy, and Air Force" and by striking out the proviso and inserting in lieu thereof: "Provided, That such transfers shall not exceed $678,700,000 for Operation and Maintenance, Army; $1,301,600,000 for Operation and Maintenance, Navy; $30,100,000 for Operation and Maintenance, Marine Corps; $608,700,000 for Operation and Maintenance, Air Force; $24,300,000 for Operation and Maintenance, Defense Agencies; $19,300,000 for Operation and Maintenance, Army Reserve; $47,600,000 for Operation and Maintenance, Navy Reserve; $4,200,000 for Operation and Maintenance, Marine Corps Reserve; $14,400,000 for Operation and Maintenance, Air Force Reserve; $42,100,000 for Operation and Maintenance, Army National Guard; and $35,400,000 for Operation and Maintenance, Air National Guard".*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the Senate provision with an amendment to transfer $24,300,000 for "Operation and Maintenance, Defense Agencies". The Senate had included a transfer of $82,000,000 to "Operation and Maintenance, Defense Agencies". Of the amount agreed to, $14,000,000 applies to the Defense Logistics Agency and $10,300,000 applies to the Defense Mapping Agency and may be used only for payment of mapping and charting costs to the National Oceanic and Atmospheric Administration as directed in Senate Report 99-301.

Amendment No. 78: Section 2—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of "Sec. 3" named in said amendment, insert the following:

SEC. 2

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides multiyear contract authority for the Titan 34D7 Complementary Expendable Launch Vehicle program.

Amendment No. 79: Section 3—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 3. Section 8103 of the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended as follows: in subsection (b) insert "the Department of Defense Space Recovery Program, the Civilian Health and Medical Program of the Uniformed Services," directly following "and the Coastal Defense Augmentation account,"; and insert a new provision at the end of subsection (b) before the period, as follows,": Provided further, That $260,000,000 for the Civilian Health and Medical Program of the Uniformed Services shall be available without notification procedures otherwise required by this subsection".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment amends section 8103 of the Department of Defense Appropriations Act, 1986 to redirect funds made available in that section to the Department of Defense Space Recovery Program and the Civilian Health and Medical Program of the Uniformed Services and to allow the immediate availability of the $260,000,000 provided for the Civilian Health and Medical Program of the Uniformed Services.

Amendment No. 80: Section 4—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 4. Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army ammunitions near Checotah, Oklahoma, on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 81: Section 5—Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of "Sec. 6" named in said amendment, insert the following:

SEC. 5

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides that of the appropriations available to the Department of the Army during fiscal year 1986, an additional $3,000,000 and ammunition as necessary may be used to conduct the 1986 National Matches at Camp Perry, Ohio.

Historically, the direct appropriation for the Civilian Marskmanship Program, entitled "National Board for the Promotion of Rifle Practice, Army", has been less than $1,000,000. In addition, however, several other Army appropriation accounts have supplemented the resources of the Civilian Marksmanship Program (CMP). These additional resources have averaged $3,000,000 in recent years. Most of the additonal funding has been in support of the National Match Competition held annually at Camp Perry, Ohio. Types of support provided by other accounts include the following: ammunition, pay and allowances for civilian and military reserve personnel, travel and transportation, depot services for storage, shipping and receiving of firearms, food services, vehicle and equipment rental, fuel, medical supplies, laundry and printing. The cost of reserve personnel performing active duty training at Camp Perry during the National Matches is considered incident to their required training and would be incurred even if the matches were not held. However, many of the expenditures from other appropriation accounts are primarily in support of the Civilian Marksmanship Program.

A recent opinion of the Army's General Counsel has determined that support for the Civilian Marksmanship Program from other accounts is improper and that all expenses directly attributable to the CMP should be charged to CMP's specific appropriation. The effect of the Army's budgeting and accounting in connection with the National Matches has not reflected the federal government's total cost to support the Civilian Marksmanship Program. The action of the conferees on this amendment provides the Army with specific authority to use other appropriation accounts in support of the National Matches for 1986. However, the conferees expect that in the future, all costs associated with the Civilian Marksmanship Program (with the exception of those costs for reserve personnel active duty training) will be budgeted and funded through the National Board for the Promotion of Rifle Practice, Army appropriation account. The Department of the Army is directed to identify all amounts in other accounts in the fiscal year 1987 budget request

devoted to the Civilian Marksmanship Program and provide this information to the Committees on Appropriations of the House of Representatives and Senate as soon as practicable.

Amendment No. 82: Deletes the administrative provision proposed by the Senate which would have extended from June 30, 1986 to August 15, 1986, the period during which obligations from the Department of Defense military personnel accounts may exceed the rates established in law for such accounts.

Amendment No. 83: Deletes the administrative provision proposed by the Senate which would have rescinded $24,600,000 for university research projects at two universities.

CHAPTER IIIA

AUTHORIZATION OF CERTAIN UNAUTHORIZED APPROPRIATIONS

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

CHAPTER IIIA

AUTHORIZATION OF CERTAIN UNAUTHORIZED APPROPRIATIONS

Sec. 1. Authorization of Certain Unauthorized Fiscal Year 1986 Appropriations.

Notwithstanding section 8109 of the Department of Defense Appropriations Act, 1986 (Public Law 99-190) and except as otherwise provided in this chapter, funds appropriated or otherwise made available to or for the use of the Department of Defense by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), and which were not otherwise authorized by law, are authorized to be obligated and expended as provided in such Act.

Sec. 2. Unauthorized Appropriations.

The following programs and amounts provided in the Department of Defense Appropriations Act, 1986 (Public Law 99-190) are not authorized to be obligated or expended:

Research and Development: Air Force Space Defense System, $15,066,000. Air Force MEECN communications upgrade, $15,000,000.

Operation and Maintenance: Audit/inventory report reductions not taken in the appropriations act, $29,000,000.

Sec. 3. Prohibition and Limitation on Obligation of Funds for Certain Purposes.

MARINER FUND.—Of the funds appropriated or made available by the Department of Defense Appropriations Act, 1986, none shall be available for construction of commercial type vessels, with or without military specifications, for lease to private shipping concerns under the Mariner Fund or any other program.

Sec. 4. Authorization for Obligation of Certain Unobligated Funds.

Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), but which may not be obligated or expended for the purposes for which appropriated by virtue of section 3 of this chapter, and of the funds made available for obligation and expenditure from prior year unobligated balances by section 8103 of the Department of Defense Appropriations Act, 1986, the following amounts are authorized to be obligated and expended for the stated purposes and are subject to the same notification procedures set forth in section 8103 of the Department of Defense Appropriations Act, 1986, except for the Civilian Health and Medical Program of the Uniformed Services:

(1) for military pay, $1,599,400,000;

(2) for military retirement accrual payments, $2,156,000,000;

(3) for Coastal Defense Augmentation, $140,000,000;

(4) for the Department of Defense Space Recovery Program, $1,498,686,000;

(5) for the Civilian Health and Medical Program of the Uniformed Services, $260,000,000; and

(6) Any amounts remaining available from such funds are authorized to be obligated and expended and are available for readiness and for other purposes, including funds authorized for obligation and expenditure for purposes listed in clauses (1), (2), (3), (4), and (5) not otherwise required for such purposes.

Sec. 5. Revision of certain Provisions of Public Law 99-190.

(a) Air Defense Aircraft Competition.—The paragraph under the heading "Aircraft Procurement, Air Force" in title III of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), is amended by striking out ", of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law" in the matter preceding the first proviso;

(b) Revision of Drug Interdiction Funds.—Of funds made available in the Department of Defense Appropriations Act, 1986, Public Law 99-190, $35,000,000 made available for purchase of one AC-130H aircraft and $3,000,000 made available for P-3 aircraft modifications shall be available only for the following purposes:

(1) for HC-130 tanker, $18,500,000;

(2) for Aerostat radar, $12,000,000; and

(3) for APS-138 radar system, $7,500,000;

(c) 120mm Mortar.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986, for procurement of the 120mm mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in House Report 99-235 and Section 8095 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190); and

(d) M72E4 Lightweight Multipurpose Weapon—From the funds appropriated in the Department of Defense appropriations Act, 1986, the Army shall complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

Sec. 6. Temporary Waiver on Polygraph Examination Limitations.

In computing the number of counterintelligence polygraph examinations that may be conducted during fiscal year 1986 under section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 726), there may be excluded from such computation any polygraph examination conducted during the period beginning on the date of the enactment of this Act and ending on September 30, 1986, if such examination—

(1) is conducted by the Air Force under an authorization granted by the Secretary of Defense on November 24, 1981; or

(2) is conducted under an authorization granted by the Secretary of Defense on August 31, 1982, and is conducted on a person who is participating in a national program—

(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

(B) which is under the purview of the Director of Central Intelligence; and

(C) for which a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

AUTHORIZATION AND TRANSFER OF CERTAIN UNAUTHORIZED APPROPRIATIONS

Although the total appropriated for defense in fiscal year 1986 was substantially less than the total amount authorized, a number of appropriation accounts and several line items contained appropriations in excess of the amounts authorized. To address these differences, the Fiscal Year 1986 Defense Appropriations Act included a provision, offered in the Senate, to require subsequent authorization for certain appropriated funds. Section 8109 of the Fiscal Year 1986 Defense Appropriations Act (Public Law 99-190), was designed to accomplish this objective. Since its enactment, the interpretations of Section 8109 have varied widely, ranging from application to the statutory account levels to the various line items in the respective reports accompanying the fiscal year 1986 authorization and appropriation acts.

The conference action on amendment number 84 reflects agreement on authorization for all excess appropriations and provides for the transfer of certain appropriated funds to higher priority programs reflected in the supplemental appropriations act. The conferees agree that this language is not intended to reflect a consensus on the scope and application of authorization required for appropriations. Rather, it seeks only to achieve a resolution to the fiscal year 1986 authorized appropriations issues. The recommendations contained in this act are based on a thorough review by the House and Senate Committees on Appropriations and Armed Services of all disputed, unauthorized appropriations by taking into account the most recent available information on defense expenditures, program priorities and fiscal realities. The effect of these adjustments is neutral on the national defense function totals for budget authority and outlays. All funds contained in Public Law 99-190 were in compliance with budget resolution ceilings.

NAVAL RESERVE ON-BOARD TRAINER

The conferees agree that $6,800,000 is authorized to be obligated and expended as provided in the Department of Defense Appropriations Act, 1986 (P.L. 99-190) to procure three shipboard antisubmarine warfare training systems service test models of a modification to the AN/SQR-17A to provide onboard training capability for Naval Reserve Force ships.

CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES COST OVERRUNS

The conferees agree to earmark $260,000,000 of prior year unobligated funds specified under Section 8103 of the 1986 Department of Defense Appropriations Act for maintaining operation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). By providing this funding, the conferees eliminate the necessity of the CHAMPUS reprogramming

(FY 86-32PA) currently before the Committees.

The $260,000,000 is necessary due to an increase in both workload, defined as non-availability statements issued by the Services, and costs. For the first six months of fiscal year 1986 CHAMPUS has experienced a total 19.3 percent increase over the like period in 1985 in the number of non-availability statements issued by the Services. The greatest increase by service appears in the Navy, which increased its issuance of non-availability by 47 percent. The greatest increase by region appears in the Southeast, where non-availability statements increased 62 percent for January through March of fiscal year 1986 when compared to a like period in fiscal year 1985.

The conferees have been advised that $260,000,000 may not be enough to cover CHAMPUS costs through the end of fiscal year 1986. The Department should take management actions to contain costs. However, should additional funds be required, they should first be derived through offsets in Operation and Maintenance appropriations. Audit report reductions totaling $29,000,000 specified by the fiscal year 1986 Defense Authorization Act shall be reserved for potential further CHAMPUS costs as follows:

	Millions
AAFEES lease payments, Army	$1
Design costs of NAF projects, Army	1
Inventory control, Army	5
Small clubs, Navy	1
Inventory control audit, Air Force	10
Golf courses, Air Force	5
Small clubs, Defense Agencies	1
Inventory control, Defense Agencies	5

While the conferees provide this funding to ensure CHAMPUS claims will be paid, the Department leaves Congress with little choice but to consider changes in the way the medical programs are funded in fiscal year 1987. Difficult, but necessary modifications may include revising CHAMPUS budgeting mechanisms; revising copayment fees and the establishment of diagnostic related groups as the basis for funding medical programs.

DRUG INTERDICTION

The conferees agrees that $38,000,000 of previously appropriated funds are authorized to be obligated and expended to commence the implementation of a new drug interdiction program in the Department of Defense. Specifically, the Air Force and the Navy will participate in the implementation of a new program that has been approved by the Secretary of Defense and submitted to both the Appropriations and Armed Services Committees and to the Attorney General as the Chairman of the Drug Enforcement Policy Board in April. The funding approved for obligation in the conference report will allow for the initiation of important elements of this plan.

The conferees specifically approve the use of funds previously appropriated in Public Law 99-190 for the following elements of the new drug interdiction plan at DoD:

$18,500,000 for the procurement of one HC-130 tanker aircraft. This aircraft will replace any existing HC-130 aircraft that will be modified with F-15 radar for drug interdiction purposes;

$12,000,000 for the procurement of one aerostat radar surveillance system to be located in the Bahamas for drug interdiction and national security purposes;

$7,500,000 for the procurement of one APS-138, 360-degree radar system to be installed on a Navy aircraft for drug interdiction purposes and turned over to the U.S. Customs Service.

The conferees urge the Department of Defense to reprogram out of otherwise available unobligated funds, sufficient funds to procure two C-130 aircraft for use by the Commander-in-Chief of the Southern Command. These aircraft will serve both a national security and drug interdiction function for the Department of Defense.

The conferees anticipate favorable disposition of the Secretary of Defense's approved plan by the Drug Enforcement Policy Board in the very near future, confirming the need for this important drug interdiction program. The conferees also note that the President of the United States has recently signed a National Security Decision Directive (NSDD) that would, among other things, bring the military into the drug interdiction effort and put drug enforcement as a top national security matter. The conferees believe that the plan, as approved by the Secretary and initiated in this Act, is a compromise for the Department of Defense to assist the civilian drug enforcement effort in a responsible way and within the confines of current law, including the Posse Comitatus amendments. The conferees expect the Department to act expeditiously to implement this new plan and to complete the total drug interdiction plan over the next three fiscal years.

120MM MORTAR

The conference agreement includes bill language which restates the intention and direction of Congress concerning the procurement strategy for the 120mm mortar system. This direction was included in last year's authorization and appropriation action.

LIGHTWEIGHT MULTIPURPOSE WEAPON

The conference agreement allows the Army to proceed with its progammed procurement of the AT-4 lighweight multipupose weapon, for which $59,200,000 was appropriated in Procurement of Ammunition, Army in fiscal year 1986. The conferees recognize that this weapon is the Army's choice for a lightweight antiarmor/multipurpose weapon and there is no plan to procure any other weapon for this mission. However, the conferees believe that the Army unwisely and prematurely halted testing of the M72E4, an improved version of the current weapon which had been considered a back up to the AT-4. This was done despite instruction in the fiscal year 1986 appropriation conference report that M72E4 testing be completed and the weapon be type classified. Accordingly, the conference agreement includes bill language requiring the Army, within available funds, to complete development and operational testing, to type classify the weapon, and to acquire a technical data package. Inclusion of this provision in the law has been made necessary by the Army's disregard for last year's report language.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

Amendment No. 85: Changes Chapter number as proposed by the Senate.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that $8,200,000 of available funds be used to initiate construction of the Cooper River, South Carolina project.

FLOOD CONTROL AND COASTAL EMERGENCIES

Amendment No. 87: Reported in technical disagreement. The manager on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For an additional amount, for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $25,000,000, to remain available until expended.

Using available funds authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, the Secretary of the Army shall, in consultation with State officials of the Great Lakes region, develop emergency contingency plans to prevent or control near term flooding along the Great Lakes. The Secretary shall report to Congress within sixty days after the date of enactment of this act on the contingency plans. The Secretary is authorized to spend up to $1,000,000 for the purposes of this provision.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ADMINISTRATIVE PROVISION

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that the acquisition of buildings and facilities for the U.S. Army Engineer District, Washington, provided for in Public law 99-88, may be implemented by lease purchase contract or by any other appropriate means.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(DISAPPROVAL OF DEFERRAL)

Amendment No. 89: Deletes House lauguage and inserts language proposed by the Senate disapproving deferral of $23,156,000 of the proposed deferral D86-38. The following amounts and related projects are available for obligation: Photovoltaics—$4,019,000; Wind energy—$10,240,000; Ocean energy—$1,436,000; International solar—$762,000; Electric energy systems—$1,914,000; Energy storage systems—$1,914,000; Geothermal—$2,871,000: Total—$23,156,000.

ATOMIC ENERGY DEFENSE ACTIVITIES

(TRANSFER OF FUNDS)

Amendment No. 90: Restores language stricken by the Senate tranferring $62,000,000 proposed by the House for the Strategic Defense Initiative. The conferees agree that $30,000,000 shall be available for obligation in FY 1986 and $32,000,000 shall be available for obligation in FY 1987 only with the prior approval of the Committees on Appropriations of the House of Representatives and the Senate.

DEPARTMENT OF DEFENSE

ADMINISTRATIVE PROVISION

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

DEPARTMENT OF DEFENSE

ADMINISTRATION PROVISION

Of the funds previously appropriated or made available for research, development, test and evaluation for the Department of Defense for fiscal year 1986 pursuant to Public Law 99-190, $55,600,000 shall be available only for grants or contributions to educational institutions for research activities, construction of reserach related facilities and for other related purposes as provided in House Report 99-450 accompanying House Joint Resolution 465, Public Law, 99-190, and the Secretary of Defense shall provide these grants or contributions expeditiously: Provided, That such grants or contributions are a one time obligation and expenditure and shall not interfere with or change the existing system of other competitive reserach grants or contracts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CHAPTER V

FOREIGN ASSISTANCE

Amendment No. 92: Inserts a new chapter heading number as proposed by the Senate.

INTERNATIONAL FUND FOR NORTHERN IRELAND AND IRELAND

(TRANSFERS OF FUNDS)

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

INTERNATIONAL FUND FOR NORTHERN IRELAND AND IRELAND

(TRANSFERS OF FUNDS)

For an additional amount for the "Economic Support Fund", not less than $50,000,000, which shall be available only for the United States contribution to the International Fund established purusant to the November 15, 1985 agreement between the United Kingdom and Ireland, to be derived from funds appropriated or otherwise made available by the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), as follows: $4,900,000 by transfer from Title I of such Act, $12,350,000 of funds made available by such Act for the "Economic Support Fund", $9,100,000 by transfer from Title II of such Act, excluding funds made available for the "Economic Support Fund", $20,000,000 by transfer from Title III of such Act, and $3,650,000 by transfer from Title IV of such Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide $50,000,000 for the FY 1986 United States contribution for the International Fund for Northern Ireland and Ireland. These funds are to be provided in support of the Anglo-Irish Agreement of November 15, 1985.

The funds for the FY 1986 contribution are made available proportionately from funds in the Foreign Assistance and Related Programs Appropriations Act, 1986 (P.L 99-100) as follows:

Title I Multi-lateral Assistance	$4,900,000
Title II Bilateral Assistance:	
Economic Fund	12,350,000
Other accounts	9,100,000
Title III Military Assistance	20,000,000
Title IV Export-Import Bank	3,650,000
Total	50,000,000

The conferees agree that no single account or project should disproportionately bear the burden of these transfers and no program or account is to be eliminated. Additionally it is the intent of the bill language that direct lending for the Export-Import Bank be reduced from $1,062,270,000 to $1,058,620,000 in order to provide for $3,650,000 of appropriations to the International Fund.

DEPARTMENT OF STATE

ANTITERRORISM ASSISTANCE

(TRANSFER OF FUNDS)

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $2,739,000 for the Anti-Terrorism Assistance program, to be derived by transfer from any of the funds appropriated in the Foreign Assistance and Related Programs Appropriations Act, 1986.

ASSISTANCE FOR HAITI

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

in Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), subject to the notification process of the Committees on Apporpriations

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide to Haiti up to $21,700,000 in existing funds under Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986.

The conferees agree to an amendment to the Senate language that requires that prior to the obligation of funds provided in the bill for Haiti, the Administration is to provide a fifteen day notification to the Appropriations Committees. This language was included so that the Committees would be notified on how the funds made available for Haiti were being obligated and the source of the funds to be used.

HAITI: INTER-AMERICAN FOUNDATION PROJECTS

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:, *or the equivalent amount in local currencies, may*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The provision was revised in order to assure that the Agency for International Development would make $1.7 million in local currencies in Haiti available to the Inter-American Foundation for projects in Haiti.

It is further the intent of the conferees that these funds be used in accordance with established procedures of the Inter-American Foundation for selection of projects and management of grants. Projects to be funded by these local currencies should be jointly agreed upon by the Inter-American Foundation and the Agency for International Development.

HAITI: MILITARY ASSISTANCE

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Notwithstanding any limitations on assistance to Haiti contained in Public Law 98-473 or Public Law 99-83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: Provided, That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: Provided further, That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to release up to $750,000 in FY 1986 Military Assistance Program funds for Haiti to be used for nonlethal purposes. Although Military Assistance Program funds were provided to Haiti in FY 1986 their use was restricted to anti-narcotic and immigration purposes. It is the intent of the conferees that in lifting these restrictions the released funds be used in accordance with the following projected list, provided by the Defense Security Assistance Agency:

FY 1986 Military Assistance for Haiti

Item	*Estimated Cost*
A. Mobility: ¾ Ton Trucks	$300,000
B. Communications:	
Base Stations	6,000
Handheld "Brick" radios and spare batteries	120,000
Truck Radios	60,000
C. Logistics: Vehicles Spare Parts	60,000
D. Medical: Ambulances	34,000
E. Individual equipment:	
Fatigue Field Uniforms	110,000
Combat Boots	60,000
Total	750,000

SPECIAL ASSISTANCE TO THE PHILIPPINES

ECONOMIC SUPPORT FUND AND MILITARY ASSISTANCE

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SPECIAL ASSISTANCE TO THE PHILIPPINES

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", $100,000,000, to remain available until March 31, 1987: Provided, That this amount shall be available only for the Philippines: Provided further, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

MILITARY ASSISTANCE

For an additional amount for "Military Assistance", $50,000,000, to remain available until March 31, 1987: Provided That this amount shall be available only for the Philippines: Provided further, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide $100,000,000 in Economic Support Funds and $50,000,000 in Military Assistance to assist the new government of Corazon Aquino. Funding under both accounts has been made available until March, 1987 in order to allow sufficient opportunity for the United States to work with the new Government in the Philippines on specific program needs and priorities.

The conference agreement also requires that the Appropriations Committees be notified fifteen days in advance prior to the obligation of the supplemental funds for the Philippines. This provision was included due to the preliminary nature of the current planning under both accounts. The notification concerning the Economic Support Fund is to provide a full explanation of the obligations to take place under that account. The notification concerning the military account should indicate any changes that are being made from the following list of projected military expenditures provided by the Defense Security Assistance Agency.

Projected use of $50,000,000 supplemental funds for the new Armed Forces of the Philippines

[In thousands of dollars]

Items	
Field Communications Spares	3,500
Aircraft Tech Assistance Program	1,000
Publications	500
Dataphone Support	1,000
Mobile Training Teams/OJT	1,000
Phil Air Defense System	2,000
Tactical Communications	6,000
Engineer Equipment	5,000
2½ Ton Trucks	12,000
Shop Vans	925
Commando V-150 Vehicles	8,500
Mortar Fire Control Equipment	400
Combat Clothing & Indiv Equip	3,000
Medical/Dental Equip	3,175
POL	2,000
Total	50,000

The conferees agree to delete the Senate provision that proposed the deobligation of $29,355,000 in Foreign Military Credit Sales for the Government of the Philippines and the reobligation of the funds as straight grant Military Assistance. The conferees agree that this issue deserves further study and will be addressed further during consideration of the FY 1987 Foreign Assistance Appropriations bill.

EXPORT-IMPORT BANK OF THE UNITED STATES

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which extends the availability of direct loan authority provided to the Export-Import Bank. The Senate amendment provides that direct loan authority made available to the Export-Import Bank in FY 1986 be available until September 30, 1987.

CHAPTER VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 100: Changes chapter number as proposed by the Senate.

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSIONS)

Of the amounts of budget authority that become available during fiscal year 1986 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, not less than $5,250,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded.

Of the amounts of budget authority that become available during fiscal year 1987 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, $6,042,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded on or after October 1, 1986 and before September 30, 1987.

RENT SUPPLEMENT PROGRAM

RESCISSION

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1986 by not more than $41,390,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENTAL HOUSING ASSISTANCE

RESCISSION

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1986 by not more than $10,128,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

HOUSING PROGRAMS AND COMMUNITY PLANNING AND DEVELOPMENT

Amendment No. 102: Makes technical change in disapproval of deferrals language as proposed by the Senate.

This paragraph disapproves the five 1986 deferrals proposed by the President for housing and community planning and development programs. The Committee of Conference expects the Department to take steps to obligate these funds as soon as possible. With respect to annual contributions for assisted housing, the conferees direct the Department and the Office of Management and Budget to adhere to the 1986 program detailed in the following table. This table reflects the original intent of Congress as set forth in the conference agreement on the 1986 HUD-Independent Agencies Appropriations Act (Public Law 99-160), with adjustments made for Gramm-Rudman sequestration and other technical changes reuested by HUD. The Department is expected to utilize the regular reprogramming procedure if any changes are required to the agreed upon program contained in the table.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1986—GROSS RESERVATIONS

	Units	Per unit cost	Contract authority	Term	Budget authority
Carryover	NA	NA	$85,061,924	NA	$918,498,386
Recaptures	NA	NA	23,490,000	NA	537,525,000
Rescission of recaptures	NA	NA	−23,490,000	NA	−537,525,000
New authority	NA	NA	838,803,547	NA	9,965,607,781
Sequestered authority	NA	NA	0	NA	−428,521,134
Total available	NA	NA	923,865,471	NA	10,455,585,033
Public housing:					
Public housing	4,803	$6,526	31,346,988	30	940,409,652
Indian housing	1,921	5,580	11,239,956	28	314,718,768
Amendments	NA	NA	7,758,621	29	225,000,000
Lease adjustments	NA	NA	19,200,000	1	19,200,000
Modernization	NA	NA	72,051,000	20	1,441,020,000
Subtotal, public housing	6,724	NA	141,596,565	NA	1,940,348,420
Section 8:					
Vouchers:					
Incremental vouchers	35,449	3,769	133,607,112	5	668,035,561
Section 8 opt-outs	961	3,769	3,620,803	5	18,104,015
Public housing demolitions	2,402	3,769	9,052,007	5	45,260,037
PHA fees	NA	445	17,271,320	5	86,355,221
Subtotal	38,812	NA	163,551,243	NA	817,754,834

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1986—GROSS RESERVATIONS—Continued

	Units	Per unit cost	Contract authority	Term	Budget authority
Section 202:					
Units	11,508	6,736	77,653,686	20	1,553,073,715
Amendments	NA	NA	11,528,160	20	230,563,200
Subtotal	11,528	NA	89,181,846	NA	1,783,636,915
Existing:					
Regular	31,203	5,066	158,074,130	15	2,371,111,949
Moderate rehabilitation	9,660	6,116	59,081,820	15	886,227,300
Total, existing	40,863	NA	217,155,950	NA	3,257,339,249
Loan management	10,000	3,604	36,040,000	5	180,200,000
Property disposition	2,800	6,769	18,952,273	15	284,284,091
Conversions—section 23	792	3,369	2,667,737	15	40,016,059
Amendments:					
New/Sub. rehab	NA	NA	2,209,564	20	44,191,280
Existing	NA	NA	95,000,000	5	475,000,000
Loan management/reserve	NA	NA	128,637,312	7	419,264,185
Property disposition	NA	NA	2,000,000	15	30,000,000
Moderate rehabilitation	NA	NA	4,000,000	10	40,000,000
Subtotal, amendments	NA	NA	231,846,876	NA	1,008,455,465
Total, section 8	104,795	NA	759,395,924	NA	7,371,686,613
Total, public housing and section 8	111,519	NA	900,992,490	NA	10,312,035,033
Section 17 development	NA	NA	NA	NA	71,775,000
Section 17 rehabilitation	NA	NA	NA	NA	71,775,000
Unutilized authority	NA	NA	22,872,981	NA	0
Grand total all authority	111,519		923,865,471		10,455,585,033

Finally, the conferees direct the Office of Management and Budget and the Department to make available immediately section 108 loan guarantees in the full amount of $212,956,000 provided by the Congress for fiscal year 1986. The Administration's proposed supplemental reduction of $162,956,000 in the section 108 loan limitation has been rejected by both Houses. It is the clear and emphatic intent of Congress that these funds be made immediately available.

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the 1986 limitation on Federal Housing Administration mortgage and loan insurance commitments by $57,580,000,000 and increasing the 1986 limitation on Government National Mortgage Association guarantees of mortgage-backed securities by $49,000,000,000.

Amendment Nos. 104 and 105: Transfers $30,000,000 to salaries and expenses of which $21,365,000 is from the various funds of the Federal Housing Administration and $8,635,000 is from the section 312 rehabilitation loan fund, instead of $23,701,000 of which $15,066,000 is from the various funds of the FHA and $8,635,000 is from the section 312 fund as proposed by the House and $30,000,000 from the various funds of the FHA as proposed by the Senate.

The Committee of Conference agrees with the Senate report that aggressive action in implementing and enforcing program reforms in the Federal Housing Administration program are both overdue and very necessary. In this connection, the conferees applaud the initiative taken by the Department of Housing and Urban Development in its Single Family Task Force Report. The Department is urged to implement its recommendations speedily.

While the conference committee believes that HUD is headed in the correct direction, it is concerned that an independent program monitoring capacity has not been established in the Department to ensure that the recommendations are carried out, and that further necessary actions are taken to prevent the recurrence of scandal. Given the role of the Office of Administration in providing leadership and staff resources for the Single Family Task Force Report, the conferees believe that Office should continue that role by establishing within itself the capacity to review and monitor the implementation of the report's recommendations. In addition, the Office of Administration should continue to study, review and monitor the single family program operations—including, but not necessarily limited to—current and future FHA mortgagee monitoring and review, the review of fee appraiser assignments and performance, and the review of HUD headquarters and field office implementation of other single family policy and procedures changes that are aimed at reducing the opportunity for fraud, waste and mismanagement.

The conferees further believe there is a need for an independent and objective review outside of the Office of Housing. This is not to say that the Office of Housing is not capable of monitoring itself. Rather it will provide an additional measure of assurance to the Department and the Congress that appropriate and timely steps will be taken to provide proper internal controls. The conference committee expects that the Office of Housing will cooperate fully with the Office of Administration in carrying out this difficult assignment.

AMERICAN BATTLE MONUMENTS COMMISSION

Amendment No. 106: Restores language proposed by the House and stricken by the Senate appropriating $1,553,000 for salaries and expenses.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

CONSTRUCTION GRANTS

Of the funds appropriated in section 119 of Public Law 99-190 for necessary expenses to carry out title II of the Federal Water Pollution Control Act, an additional $1,200,000,000 is hereby made available: Provided, That the allocation of the $1,200,000,000 made available by this paragraph shall be in accordance with the formula in effect on October 1, 1984.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Although the Clean Water Act has still not been reauthorized, the conferees agree to release an additional $1,200,000,000 for the Environmental Protection Agency construction grants program. Currently over 20 states have depleted their allocation of 1986 construction grant funds and many projects are facing delays.

These funds are to be made available and expended only under the formula and other statutory provisions in effect during fiscal year 1985, without earmarkings or setasides for specific projects. In addition, these funds are to be made available for all eligible projects and categories and shall not be limited to existing phased or segmented projects through the apportionment process or other means. The conferees agree not to release the remaining $600,000,000 until after the Clean Water Act has been reauthorized.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Space flight, control and data communications" $431,000,000, to remain available until September 30, 1987: Provided, That, upon enactment into law of this Act, $5,000,000 shall be transferred to "Research and development": Provided further, That $100,000,000, to remain available until September 30, 1988, is appropriated for fiscal year 1987 for "Space flight, control and data communications", and shall not become available for obligation until October 1, 1986: Provided

further, That funds appropriated for fiscal year 1987 in the previous proviso may not be obligated until the Administrator of NASA has certified that the recommendations of the Rogers Commission have been implemented or are being implemented, or that an alternative approach satisfies the direction of the recommendation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Committee of Conference has agreed to a total of $531,000,000 for the National Aeronautics and Space Administration. This is an increase of $5,000,000 above the level proposed by the Senate. Language has been included providing for the transfer of the $5,000,000 to the Research and Development account for a flight telerobotic servicer for the space station. In the 1986 HUD-Independent Agencies Appropriations Act, $5,000,000 was provided for this activity. These additional funds will help to ensure that the United States will have a flight telerobotic servicer available for early testing on shuttle and operations on space station.

The conferees have also agreed to provide $100,000,000 of the $531,000,000 recommended as an appropriation for fiscal year 1987. These funds may not be used until the Administrator of NASA has certified that the recommendations of the Rogers Commission have been implemented or are being implemented, or that an alternative approach satisfies the objective of the recommendation.

The conferees further direct that NASA make available sufficient funds to study an alternative solid rocket booster design such as unitary case, single cast propellant, etc. The study should be completed by December 31, and the results forwarded to the Committees on Appropriations. The study should focus on relative safety, technical risk, cost, and availability issues. When a final design is selected, the Committee directs that a request for proposal for a "second source" be issued, if the agency determines that such an approach can be adopted from within available resources. NASA has stated that a second source of production of solid rocket boosters is in the national interest. Accordingly, the agency is urged to develop a method which will make available all data developed in booster redesign and requalification to any potential competition. This creates a parallel process that should enhance a second source capability.

VETERANS ADMINISTRATION

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *not less than $25,000,000 nor more than*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the VA is to utilize these additional funds to maintain the 193,941 staffing level authorized in the 1986 HUD-Independent Agencies Appropriations Act. If necessary, the VA is to utilize whatever additional funds are required to support that staffing level. The major construction funds to be transferred are to be taken from available unobligated balances in the working reserve, design fund and advanced planning fund.

Amendment No. 110: Inserts language proposed by the Senate providing that up to $6,000,000 is available for transfer to general operating expenses from construction, minor projects.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans as authorized by the Veterans' Job Training Act, as amended (29 U.S.C. 1721), $35,000,000, to remain available until September 30, 1988, and to be derived by transfer from "Construction, minor projects".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ADMINISTRATIVE PROVISIONS

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISIONS

Retroactive to October 1, 1985, all payments for appraisals performed on a contractual basis in connection with the liquidation of housing loans guaranteed, insured, or made in conjunction with loan guarantee operations shall be charged to the VA loan guaranty revolving fund.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that the additional funds made available in the general operating expenses appropriation by this provision be used for additional personnel in the loan guaranty program. This will help reduce the loan guaranty backlog caused by reduced mortgage rates.

NEIGHBORHOOD REINVESTMENT CORPORATION

Amendment No. 113: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making an additional $250,000 of funds already appropriated available for object classes other than personnel compensation and benefits.

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "July 25, 1986".

URBAN DEVELOPMENT ACTION GRANTS IMPROVEMENTS

(a) PROJECT QUALITY CRITERIA.—Section 119(d)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting a dash before "(A)";

(2) by indenting subparagraphs (A) and (B) in the same manner as subparagraphs (C) and (D), as inserted by this subsection;

(3) in subparagraph (a), by striking out "as the primary criterion,";

(4) by striking out "and" at the end of subparagraph (B); and

(5) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) the following other criteria:

"(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

"(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

"(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

"(iv) the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;

"(v) the extent to which the project will relieve the most pressing employment or residential needs of the applicant by—

"(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

"(II) retraining recently unemployed residents in new skills;

"(III) providing training to increase the local pool of skilled labor; or

"(IV) producing decent housing for low- and moderate-income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that (a) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and (b) not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

"(vi) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

"(vii) the extent to which State or local Government funding or special economic incentives have been committed; and

"(viii) the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

"(D) additional consideration for projects with the following characteristics:

"(i) projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and

"(ii) twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.".

(b) SELECTION LIMITATIONS AND CRITERIA WEIGHT.—Section 119(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall award points to each application as follows:

"(A) not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);

"(B) not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);

"(C) not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and

"(D)(i) 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or

"(ii) 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

"(4) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

"(A) 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and

"(B) 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).

"(5)(A) For each fiscal year, the Secretary shall hold—

"(i) 3 competitions for grants under paragraph (1) for cities not described in the first sentence of subsection (i) (relating to small cities) and urban counties; and

"(ii) 3 competitions for cities described in the first sentence of subsection (i) (relating to small cities).

"(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

"(i) approximately ⅓ of the funds available for such grants for the fiscal year;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.".

(c) USE OF REPAID GRANT FUNDS.—Section 119(f) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 104. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.".

(d) NONDISCRIMINATION.—Section 119(r) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(r) In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of (1) the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or (2) the type of applicant, whether such applicant is a city or urban county.".

(e) REPORTS OF COMPTROLLER GENERAL.—

(1)(A) Not later than the expiration of the 6-month period following the date of enactment of this Act and every 3 years thereafter, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974.

(B) Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties and the effect of the grants awarded on the basis of such standards and criteria on stimulating the maximum economic development activity.

(C) Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Comptroller General shall make recommendations to the Congress on whether or not other data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Comptroller General shall also make recommendations on whether or not existing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section.

(2) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1986 under section 119 of the Housing and Community Development Act of 1974, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on—

(A) the targeting of grant funds to cities and urban counties having the highest level or degree of economic distress;

(B) the distribution of grant funds among regions of the United States;

(C) the number and types of projects receiving grants;

(D) the per capita funding levels for each city, urban county, or identifiable community described in subsection (p) of such section 119, receiving assistance under such section 119; and

(E) the stimulation of the maximum economic development activity.

(f) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section. Such regulations shall be published for comment in the Federal Register not later than 60 days after the date of enactment of this Act. The provisions of section 119(d)(1)(D), section 119(d)(3), and section 119(d)(4) of the Housing and Community Development Act of 1974, shall take effect on the date of enactment of this Act.

(g) APPLICABILITY.—The amendments made by this section shall be applicable to the making of urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date on which final regulations issued by the Secretary under subsection (f) become effective. For the fiscal year in which the amendments made by this section become applicable, such amendments shall only apply with respect to the aggregate amount awarded for such grants on or after such effective date.

(h) FISCAL YEAR 1986 COMPETITIONS.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall hold—

(1) 2 competitions for grants under section 119(d)(1) for cities not described in the first sentence of subsection (i) of such section and urban counties; and

(2) 1 competition for such grants for cities described in the first sentence of subsection (i) of such section,

between April 15, 1986, and October 1, 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to accept the Senate language extending FHA mortgage insurance authority to July 25, 1986, and to make basic changes in the Urban Development Action Grant formula. On June 6 the HUD Secretary's authority to issue FHA loan commitments lapsed, imposing severe hardships on thousands of families buying homes with FHA financing. The conferees are aware that several other legislative vehicles would extend the FHA program, but felt it essential to include the extension language because of the urgency of the situation and the possibility of other bills being delayed. The combination of this extension and the increased FHA loan guarantee limitation provided in amendment number 103 will assure the continued operation of the FHA program until July 25.

The conferees also agreed to the UDAG formula change proposed by the Senate, amended to drop the "additional consideration" provision which would double project merit points for certain projects for the remainder of fiscal year 1986. This formula change is very similar to the House-passed provisions in the Housing Act of 1986 (H.R. 1), including the fundamental change to reserve 35 percent of the funds for allocation based solely on project merit.

The conferees believe the basic formula changes will lead to stronger UDAG projects overall, while still giving substantial emphasis to economic development needs in severely distressed cities and urban counties. In deciding to accept the overall UDAG formula changes, the conferees agreed to drop the provision which would double the points for certain projects in cities that had not received a UDAG grant since October 15, 1984. To reward projects because they failed to be selected for funding in three consecutive past rounds would simply divert funds from other higher ranked projects.

The conferees intend that these UDAG formula changes shall be put into effect as soon as possible. Specifically, HUD is directed to take all steps necessary in order to use these formula and criteria changes in making project selections in the next large city round currently scheduled for announcement around July 1.

CHAPTER VII

Amendment No. 115: Changes the Chapter number to VII as proposed by the Senate.

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Amendment No. 116: Deletes the heading "rescission" proposed by the Senate.

Amendment No. 117: Defers $3,000,000 in Bureau of Land Management land acquisition funds as proposed by the House instead of a rescission of these funds as proposed by the Senate.

U.S. FISH AND WILDLIFE SERVICE

Amendment No. 118: Provides no additional funds for Resource management as proposed by the Senate instead of $90,000 as proposed by the House.

The managers have no objection to the reprogramming of $90,000 from project savings at the Dismal Swamp NWR for payment to Humphreys County, Tennessee for road repairs. The managers agree that the Department should continue to seek reimbursement from the contractor, in accordance with the provisions of the contract.

Amendment No. 119: Deletes deferral of land acquisition funds proposed by the House. The managers agree that the Fish and Wildlife Service should either purchase the Tortuguero and Cartegena properties or assure that Puerto Rico will protect the natural resources there.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

For an additional amount for "Land acquisition", $2,373,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment clarifies that the appropriation of $2,373,000 for land acquisition at Atchafalaya NWR is to be derived from the Land and Water Conservation Fund.

The managers have no objection to the reprogramming of $519,000 from funds appropriated for land acquisition for the California condor at Hudson Ranch to land acquisition at the Little White Salmon National Fish Hatchery.

The managers restate their support for maintenance and recovery of a wild California condor population and restate their support for acquisition of Hudson Ranch. The managers understand that negotiations are continuing and support efforts to reach a negotiated acquisition.

NATIONAL PARK SERVICE

Amendment No. 121: Appropriates $13,470,000 for Operation of the National park system as proposed by the Senate instead of $13,900,000 as proposed by the House.

Amendment No. 122: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $3,850,000 instead of $3,420,000 as proposed by the Senate and nothing as proposed by the House. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase over the amount proposed by the Senate includes $430,000 for additional activity as a follow-on to the Reconnaissance Survey of Western Pennsylvania Roads and Sites prepared by the National Park Service in September, 1985. Included in this amount is $100,000 for resource evaluation, $180,000 for regionwide intergovernmental planning/coordination and $150,000 for a transportation corridor study.

The managers agree to a reprogramming to provide a loan of $1,435,000 to complete repairs to the Filene Center of the Wolf Trap Farm Park for the Performing Arts.

Amendment No. 123: Deletes deferral of $1,893,000 proposed by the Senate. The funds are deferred now and no separate approval is required.

The managers are concerned about the availability of funding for several urgent land acquisitions in Cuyahoga Valley National Recreation Area, Ohio. In response to those concerns, the Director of the National Park Service stated the following in a letter dated June 9, 1986: "We are pleased to advise that we will be able to provide the funding (for the Chessie System rail line) from the land acquisition account . . . Our ability to assure that funding is provided for acquisition of both the Chessie and Ohio Edison properties is dependent on both transactions being concluded before the end of this fiscal year".

Based on the Director's reassurance, the managers intend that sufficient funding be made available to cover approved appraised values for the Chessie System rail line; the Cameratta declaration of taking; the Ohio-Edison acquisition; and the Haydite and Huey acquisitions.

Amendment No. 124: Provides for the reestablishment of the Cape Cod National Seashore Advisory Commission through February 28, 1996 as proposed by the House.

Amendment No. 125: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that reprogramming procedures must be used before any funds are used to drain lakes in the Delaware Water Gap National Recreation Area.

The managers are concerned, however, that this procedure may result in increased risk to life or property in cases of immediate and urgent threat, due to the amount of time required to review and act on the reprogramming proposal. The managers expect the reprogramming procedures to be followed, except that the Director shall take every action necessary to protect life and property in cases of real and immediate threats.

GEOLOGICAL SURVEY

Amendment No. 126: Appropriates $1,400,000 for surveys, investigations, and research as proposed by the Senate. No appropriation was provided by the House. The funds are for final payment of amounts due in the National Petroleum Reserve in Alaska.

MINERALS MANAGEMENT SERVICE

Amendment No. 127: Appropriates $200,000 for leasing and royalty management instead of $800,000 proposed by the House and no funds proposed by the Senate.

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permittees with permits issued on or before September 30, 1985.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment clarifies that the data and information acquired by the Secretary are geologic and geophysical data acquired by permittees with permits issued prior to fiscal year 1986.

OFFICE OF SURFACE MINING

Amendment No. 129: Rescinds $210,000 instead of $710,000 as proposed by the House and no rescission as proposed by the Senate.

BUREAU OF INDIAN AFFAIRS

Amendment No. 130: Appropriates $29,204,000 for the Operation of Indian programs instead of $31,368,000 as proposed by the House and $26,500,000 as proposed by the Senate.

The increase of $2,704,000 above the Senate results from applying a one percent reduction to the fiscal year 1986 appropriations for general assistance (−$671,000), Indian child welfare assistance (−$147,000), and the Solo Parent program (−$1,000); and a 4.3% reduction to Indian Child Welfare Act grants (−$379,000), and social services administrative funding (−$966,000). Therefore, the reduction in fiscal year 1986 to the social services program will total $2,164,000, rather than $4,868,000, a difference of $2,704,000. The managers agree that Gramm-Rudman-Hollings reductions are to be applied equally to each line item, unless a reprogramming is submitted to the Appropriations Committees and approved.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided further, That the levels established for general assistance by Public Law 99-88 (99 Stat. 388), are the maximum allowable payments

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides that only a ceiling, not a floor and a ceiling, has been established for the level of general assistance payments. The managers expect that the Bureau will make every effort to accurately project requirements and to request reprogrammings if severe shortfalls are forecast.

Amendment No. 132: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

CONSTRUCTION

For an additional amount for "Construction", $2,500,000, to remain available until expended.

DEFERRAL

Of the funds previously appropriated under the heading "Bureau of Indian Affairs' Construction" in Public Law 98-8 (90 Stat. 20), $2,500,000 shall not become available for obligation until October 1, 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides $2,500,000 for the construction of the Rocky Boys school instead of $4,900,000 as proposed by the Senate. Funding for Two Eagle River is not provided.

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which directs that a loan be made to the Zuni tribe and that a lien be secured on trust, or other funds of the tribe, in the amount of the principal and interest of the loan.

TERRITORIAL AND INTERNATIONAL AFFAIRS

COMPACT OF FREE ASSOCIATION

Amendment No. 134: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

sections 177, 122, 221, 223, 103(k), 105(c)(2), and 105(m) of

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 135: Appropriates $201,500,000 for Compact of Free Association instead of $178,750,000 as proposed by the House and $201,550,000 as proposed by the Senate.

The increase over the amount provided by the House includes $8,000,000 to establish a Prior Service Benefits Trust Fund, $9,400,000 for construction of the Federated States of Micronesia capitol, $2,600,000 for construction of the Marshall Islands capitol, and $2,750,000 for the Enjebi Community Trust Fund, established in Section 103(k) of Public Law 99-239.

The managers have not provided funds for indefinite land use payments at this time. The managers remain committed to the payment of these debts, as specified in Section 105(n) of the Compact of Free Association Act, and expect the Department of the Interior and Trust Territory Government to complete expeditiously the determination of the exact amounts required. When the amount has been determined, the managers expect the Department to submit promptly a request for appropriation of the required amount so that the payments may be made as quickly as possible.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

, including $8,000,000 for initial capitalization of a trust fund to fund the Prior Service Benefits portion of the Trust Territory Social Security System in accordance with section 105(m) of Public Law 99-239, and $2,750,000 for the Enjebi Community Trust Fund, as authorized in Section 103(k) of Public Law 99-239, and $9,340,000, to remain available until expended, for grants and necessary expenses to the Republic of Palau, to become available for obligation upon the enactment of S.J. Res. 325 or similar legislation

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Funding has been provided for the Palau Compact, subject to enactment of the Palau Compact legislation.

The managers have provided funds for capitalization of a Prior Service Benefits Trust Fund, and for initial funding of the Enjebi Community Trust Fund established in Section 103(k) of the Compact. The managers expect the Department to submit promptly a request to fund the balance of the $10,000,000 total for the Enjebi Trust Fund. Until that request is made and approved by Congress, funds provided in this Act shall not be distributed from the Enjebi Trust Fund. With regard to the Prior Service Benefits Trust Fund, the managers are aware that the exact amount needed to provide for these payments over time has not been determined, and that the amount provided may need to be adjusted in the future. In establishing this fund, the managers expect the Social Security Administration of the Trust Territory to determine who are the eligible participants, and then allow no further enrollment or eligibility in the program; and to establish reasonable terms and conditions for the future stream of payments, including any anticipated adjustments. The Secretary of the Interior shall approve the establishment of the Fund, prior to its initiation.

Amendment No. 137: Restores language proposed by the House and stricken by the Senate and deletes language proposed by the Senate which would have provided all the Compact funding as a current appropriation, rather than establishing a permanent appropriation.

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides a permanent appropriation for the Palau Compact funding, subject to enactment of the Palau Compact legislation.

Amendment No. 139: Provides that $60,719,000 of the fiscal year 1986 Trust Territory of the Pacific Islands appropriation shall be offset against the Compact funding, instead of $50,493,000 as proposed by the House and $62,947,000 as proposed by the Senate. Included in the offset are the annual grants to the FSM ($38,763,000), Marshall Islands ($10,940,000)), and Palau ($10,084,000), and the funds for satellite communications ($932,000).

With respect to the $250,000 provided in Public Law 99-190 in the Trust Territory of the Pacific Islands account for planning for a base camp on Eneu Island, the managers intend that the contractor for these funds shall be selected by the Bikini/Kili/Ejit Local Government Council subject to the approval of the Department of the Interior.

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that Kwajalien impact payments may be used to reimburse the Department of the Army.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Amendment No. 141: Appropriates $1,700,000 for construction as proposed by the Senate, instead of no funding as proposed by the House.

It is the understanding of the managers that the Forest Service has spent $949,000 for flood damage repair projects in the Monongahela NF, WV, and that $264,000 remains to be spent in fiscal year 1986. For the Parsons Laboratory, $104,000 has been spent and $162,000 remains to be spent. The managers intend funds for the remaining projects in these two areas, totalling $426,000, to be obligated during fiscal year 1986. The balance of the funds provided shall be spent for other required flood damage repair projects in the Jefferson NF and the George Washington NF, including the Brandywine Recreation Area.

The funds provided for the Parsons Laboratory are necessary for operation in fiscal year 1986, and do not imply any decision as to disposition of the laboratory in fiscal year 1987.

The Forest Service is requested to submit promptly to the Appropriations Committees a list of flood repair projects remaining to be funded in these four locations in fiscal year 1987.

Amendment No. 142: Strikes the word "bill" and inserts the word "Act" as proposed by the Senate.

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

SECTION 1. Provisions of 7 U.S.C. 147b shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 144: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, within funds made available by this Act or any other appropriations Act, release on behalf of the United States the condition described in subsection (b) of this section with respect to the tract of land described in subsection (c) of this section: Provided, That—

(1) the State of Georgia, acting by and through the Georgia State Properties Commission, enters into an agreement with the Secretary of Agriculture stating that the State of Georgia will convey the described tract of land to Brantley County, Georgia, for consideration determined adequate by the Commission, and which consideration shall, if withdrawn from the account, be used exclusively for public purposes;

(2) the State of Georgia shall pay into the Treasury of the United States as miscellaneous receipts a sum of money which the Secretary of Agriculture deems is sufficient to reimburse the administrative costs of releasing the condition pursuant to this subsection; and

(3) the State of Georgia shall provide to the United States the fair market value of the described tract of land, as determined by the Secretary, either in cash or by exchange of lands, waters, or interest therein.

(b) The condition to be released pursuant to subsection (a) of this section is the condition found in that certain deed dated March 30, 1955, which conveys from the United States to the State of Georgia, Georgia Forestry Commission, certain real property in Ware and Brantley Counties, Georgia, and which deed was recorded on May 17, 1955, in the Office of the Secretary of State, State of Georgia, providing that the land conveyed be used for public purposes and that title to

said land revert to the United States if it is not used for public purposes.

(c) The parcel of land to which the release provided for in subsection (a) of this section is described as follows:

All that tract or parcel of land, situated, located and being in Land Lot No. 128 in the 9th Land District of Brantley County, Georgia, being 55.04 acres, more or less, and being more particularly described as follows: Beginning at the point where the centerline of the SCL Railroad tracks from Waycross to Brunswick intersects the centerline of that certain Brantley County paved road known as County Road No. 15, and thence N 08 degrees 54'00" W a distance of 97.72 feet to a point; thence, N 79 degrees 40'50" E a distance of 40.02 feet to a point; thence, N 79 degrees 40'50" E a distance of 260.03 feet to a point; thence, N 68 degrees 30'00" E a distance of 390.0 feet to a point, this point being the point or place of beginning of the tract to be released from the described condition; thence, N 13 degrees 15'00" W a distance of 701.15 feet to a point; thence, S 73 degrees 10'00" W a distance of 647.09 feet to a point; thence, N 17 degrees 13'50" W a distance of 304.91 feet to a point; thence, N 61 degrees 23'03" E a distance of 2452.76 feet to a point; thence, S 06 degrees 09'26" E a distance of 275.29 feet to a point; thence, S 07 degrees 17'36" E a distance of 442.26 feet to a point; thence, S 00 degree 30'41" E a distance of 183.67 feet to a point; thence, S 12 degrees 11'06" E a distance of 160.31 feet to a point; thence, S 05 degrees 13'46" E a distance of 390.62 feet to a point; thence, S 34 degrees 53'42" W a distance of 201.01 feet to a point; thence, S 75 degrees 01'09" W a distance of 1371.18 feet to a point; this point being the point or place of beginning of the tract.

For a more complete description of the tract, reference is hereby made to that certain plat prepared on August 4, 1985, by Harry Strickland, Brantley County Surveyor, entitled "Survey for Brantley County" which plat is on file with the Georgia State Properties Commission.

(d) Section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C 1011), shall not apply to the release provided for in subsection (a) of this section.

(e) The conveyance made pursuant to subsection (a) of this section shall reserve to the United States all gas, oil, coal and other mineral deposits as may be found in the lands conveyed by this section.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides that the United States Government can clear title to 55 acres of land to be transferred to Brantley County, Georgia. The State shall provide to the United States the current fair market value, as determined by the Secretary, either in cash or by exchange of lands, water, or interest therein. The fair market value shall be determined by the Secretary through the normal appraisal process.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 145: Disapproves all but $2,607,000 of a deferral of funds for fossil energy research and development not released as of the date of enactment of this Act, instead of $2,607,000 and those funds not released as of May 1, 1986 as proposed by the Senate, and $2,607,000 and those funds not released as of February 5, 1986 as proposed by the House.

The proposed language merely clarifies the managers' position that all deferred funds except for $2,607,000 are to be released as proposed originally by both the House and Senate.

Those funds remaining deferred include balances of $1,569,000 from prior year recoveries, $192,000 of unobligated balances, and $846,000 of section 515 deferrals.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Amendment No. 146: Deletes approval of the deferral of $36,461,000 for the Naval petroleum and oil shale reserves which was proposed by the Senate. The House bill had no such provision. The funds are deferred now and no separate approval is required.

ENERGY CONSERVATION

Amendment No. 147: Disapproves all but $6,556,000 of a deferral of funds for energy conservation not released as of the date of enactment of this Act, instead of $6,556,000 and those funds not released as of May 1, 1986 as proposed by the Senate, and all funds not released as of March 12, 1986 as proposed by the House.

The proposed language clarifies the managers' position agreeing to the Senate position to release all funds except $6,556,000.

The funds remaining deferred are unobligated balances from fiscal year 1985.

STRATEGIC PETROLEUM RESERVE

Amendment No. 148: Strikes the word "bill" and inserts the word "Act" as proposed by the Senate.

Amendment No. 149: Disapproves the deferral of $577,534,000 for petroleum acquisition as proposed by the Senate instead of $315,000,000 as proposed by the House.

Amendment No. 150: Strikes the word "bill" and inserts the word "Act" as proposed by the Senate.

Amendment No. 151: Deletes language, which was proposed by the Senate, that provides that the minimum fill rate for the Reserve be set by the fiscal year 1987 Budget Resolution.

Amendment No. 152: Deletes language proposed by the House and stricken by the Senate providing a minimum fill rate of 100,000 barrels a day.

The managers agree that the Administration should fill the Reserve at a rate which will use fully the existing capacity, as well as that capacity which will be created by new leaching activity undertaken as a result of deferral disapprovals in this legislation. The managers expect the Administration to enter into oil purchase contracts taking advantage of existing low prices or to take advantage of opportunities to enter into extended contracts at low prices and at rates that will fill the capacity at a reasonable pace.

ALTERNATIVE FUELS PRODUCTION

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,020,360,322 for alternative fuels production. No appropriation was proposed by the House. The appropriation would repay notes issued by the Secretary of Energy to the Secretary of the Treasury to repay the Federal Financing Bank for the defaulted debt on the Great Plains coal gasificatoin plant. No outlay of funds is involved.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$13,500,000: Provided, That $1,530,000 shall not become available for obligation until September 30, 1986: Provided further, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Educational Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase above the amount provided by the Senate consists of $7,700,000 for hospitals and clinics and $4,000,000 for contract health services.

The managers agree that the management fellowship program shall be developed jointly by the Indian Health Service and the Association of University Programs in Health Administration.

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

INDIAN HEALTH FACILITIES

DEFERRAL

Of the funds previously appropriated under this head, $11,665,000 shall not become available for obligation until October 1, 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that the $2,080,000 not approved for deferral shall be reprogrammed as follows: $600,000 for Chinle, AZ housing; $600,000 for Kanakanak, AK hospital; $600,000 for Sacaton, AZ hospital; and $280,000 for Tsaile, AZ housing.

SMITHSONIAN INSTITUTION

NATIONAL GALLERY OF ART

Amendment No. 156: Transfers $36,000 for salaries and expenses instead of $136,000 as proposed by the House and no funds as proposed by the Senate.

The amendment provides $36,000 for salaries for five curators for the balance of the fiscal year. No funds have been included for equipment.

CHAPTER VIII

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

Amendment No. 157: Changes chapter number as proposed by the Senate.

Amendment No. 158: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which inserts a new heading.

Amendment No. 159: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the amendment of the Senate. This amendment appropriates $2,000,000 to remain available until September 30, 1987 to support demonstration grants authorized by Section 1910 of the Public Health Service Act to improve emergency medical services for children. The House bill included no similar provision.

The conferees are agreed that all applications shall be subject to the normal peer review procedures of the Health Resources and Services Administration and that grants should be awarded competitively.

Amendment No. 160: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate. This language requires the Department of Health and Human Services to renew grants and contracts under title XV of the Public Health Service Act into FY 1987 if FY 1986 carryover balances are available. The House bill included no similar provision.

Section 124 of the FY 1986 Continuing Resolution, P.L. 99-190, prohibits the Department of Health and Human Services from terminating grants or contracts under title XV of the Public Health Service Act prior to August 15, 1986 because of a failure to reauthorize the health planning program. The language agreed to is not intended to change section 124 but clarifies that any health planning funds not expended during FY 1986 could be carried over into FY 1987 and used to fund close-out costs should the program not be reauthorized.

NATIONAL INSTITUTES OF HEALTH

Amendment No. 161: Appropriates $6,000,000 as proposed by the House for grants for Cancer Research Centers. The Senate bill contained no similar provision.

Amendment No. 162: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, amended to read as follows:

In lieu of the matter proposed by said amendment insert the following:

ADMINISTRATIVE PROVISION

Funds made available for fiscal year 1986 and hereafter to the Warren G. Magnuson Clinical Center of the National Institutes of Health shall be available for payment of nurses at the rates of pay and with schedule options and benefits authorized for the Veterans Administration pursuant to 38 U.S.C. 4107.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

Amendment No. 163: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, amended to read as follows:

In lieu of the matter proposed by said amendment insert the following:

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

SEC. 1. (a) The Administrator of General Services shall assign the property described in subsection (e) to the Secretary of Health and Human Services for transfer of such property in accordance with this section to the District of Columbia for use as a shelter for homeless individuals in the District of Columbia.

(b) Immediately after the assignment of such property pursuant to subsection (a), the Secretary of Health and Human Services shall transfer the title to such property without cost of the District of Columbia for use as a shelter for homeless individuals.

(c) The deed of conveyance for the property described in subsection (e) shall provide that, if the District of Columbia sells, leases, or otherwise transfers such property to any other person or agency, a fraction of the proceeds of such sale, lease, or transfer (as determined under subsection (d)) may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia and the remainder of such proceeds shall be paid to the Secretary of the Treasury and deposited as miscellaneous receipts of the United States.

Any sale, lease, or other transfer pursuant to this subsection shall be made after public advertising for bids or by other means designed to secure full and open competition.

(d) The fraction of such proceeds which may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia shall be determined by dividing—

(1) the number of months that such property is used as a shelter for homeless individuals in the District of Columbia pursuant to this section prior to such sale, lease, or transfer; by

(2) 120,

except that such fraction shall not be greater than one.

(e) The property to which this section applies is the property located at 425 Second Street, Northwest, in the District of Columbia, more fully described as follows:

All that parcel situated in the Northwest quadrant of the City of Washington, District of Columbia, and being a portion of District of Columbia Square Number 571, containing in their entirety former lots numbered 9 through 18, inclusive, and 22 through 26, inclusive, as recorded in Liber B, Folio 160 of the Records of the Office of the Surveyor for the District of Columbia, and lots 45 through 51 inclusive, as recorded in Liber 19, Folio 118 of the Records of the Office of the Surveyor for the District of Columbia; such land now known for purposes of assessment as Lot 820, and containing 1.16 acres of land, more or less; and more particularly described in a deed between the Reconstruction Finance Corporation and the United States of America, dated July 30, 1947, and recorded in Liber 8761, Folio 79 of the Land Records of the District of Columbia.

SEC. 2. For making a grant to the District of Columbia upon the completion of the conveyance to the District of Columbia of the property located at 425 Second Street, Northwest, in the District of Columbia, in accordance with section 1 and upon the submission of a request to the Office of Community Services, Department of Health and Human Services, by the District of Columbia, $1,500,000 for the repair and renovation of such property for use as a shelter for the homeless.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have provided an additional $1,500,000 to the Office of Community Services for the shelter for the homeless in the District of Columbia which together with funds already available provide a total of $6,500,000 for the shelter. It is not the intent of the conferees that funds provided in this Act be used to replace funds that the Administration is redirecting for the shelter renovation and repair.

Along with enabling transfer of title language provided in this Act, the conferees direct that these funds be spent immediately in order that all necessary repairs be made at the facility prior to the onset of cold weather months.

The conferees are agreed that attention shall be given to providing or promoting housing needs for people as provided in the March 1986 report to the Committees on Appropriations by the Federal Emergency Management Agency pursuant to P.L. 99-88 titled "Homelessness: The Reported Condition of Street People and Other Disadvantaged People in Cities and Counties Throughout the Nation."

DEPARTMENT OF EDUCATION

IMPACT AID

Amendment No. 164: Restores amount and language in the House bill providing $20,000,000 to remain available until expended for disaster assistance to local schools for repair or replacement of facilities damaged by natural disasters.

Amendment No. 165: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which prevents the Department of Education from implementing new regulations after March 31, 1986, insofar as the regulations pertain to fiscal year 1986.

Amendment No. 166: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which pertains to heavily impacted school districts to ensure that calculations under section 3(d)(2)(B) of Public Law 81-874 are based on actual payments to school districts rather than entitlements.

It is the intention of the conferees that in the administration of funds under Section 3(d)(2)(B) of Public Law 81-874, payments for the fiscal year 1986 should be determined according to actual payments made to the eligible districts under sections (a) and (b) instead of the district's entitlement under basic law. The Secretary should implement this provision with all possible speed.

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the Department of Education to follow State law in counting kindergarten children for the purpose of impact aid payments.

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

Effective on October 1, 1980, section 3(d)(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating subparagraph (C) as subparagraph (D), and by adding after subparagraph (B) the following new subparagraph:

"(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by country governments pursuant to state law where the remainder of such real property tax is transferred to the State."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 169: Delete heading proposed by the Senate.

Amendment No. 170: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which directs the Secretary of Education to accept an application from Preston County Board of Education, West Virginia, for disaster assistance.

Amendment No. 171: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which inserts language to relieve the Hays-Lodge Pole School District No. 509 in Hays, Montana, of liability to repay to the United States interest on funds awarded to the school district for a construction project initiated in 1975.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of matter proposed by said amendment insert the following:

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

From the amounts appropriated to carry out the Rehabilitation Act of 1973, $27,945,000 shall be made available for special demonstration projects for the severely disabled under section 311: Provided, That $8,613,000 shall be used for supported employment demonstrations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

STUDENT FINANCIAL ASSISTANCE

Amendment No. 173: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $146,000,000 for the Pell Grant Program. The House bill includes no funds for this purpose.

RELATED AGENCIES

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

Amendment No. 174: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which authorizes the transfer of up to $1,241,000 from the capital outlay account at the Home to the operation and maintenance account.

DEPARTMENT OF LABOR

ADMINISTRATIVE PROVISION

Amendment No. 175: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment amended to read as follows:

Restore the matter stricken by said amendment amended to read as follows:

DEPARTMENT OF LABOR

ADMINISTRATIVE PROVISION

No Job Corps Center operating under part B of title IV of the Job Training Partnership Act shall be closed prior to July 1, 1987.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are aware that the Labor Department has recently completed an evaluation of all 106 of the Nation's Job Corps Centers indicating wide disparities in cost and effectiveness. It is not the conferees' intent to indefinitely prohibit the closing of Job Corps Centers for any reason. The conferees recognize, however, that there may be a need to further perfect the newly developed Labor Department rating system, and therefore have recommended a temporary moratorium on the planned closing of Job Corps Centers, until at least July 1, 1987. The Employment and Training Administration is directed to continue recruitment and referral of youth to all Job Corps centers, in order to maintain average enrollments at current levels.

CHAPTER IX

LEGISLATIVE BRANCH

SENATE

Amendment No. 176: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate, and in accord with long practice under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as requested by the Senate conferees as follows:

"Delete the second full sentence on page 66 of the Senate engrossed amendments."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amendment is a technical correction which deletes a redundant sentence.

HOUSE OF REPRESENTATIVES

SALARIES, OFFICERS, AND EMPLOYEES

Amendent No. 177: Appropriates $500,000 for the Office of the Sergeant at Arms, as proposed by the Senate. These funds are for U.S. Capitol Police personnel assigned to the House rolls and are provided to avoid furloughs of current, on-board personnel and to allow existing vacancies to be filled.

CONTINGENT EXPENSES OF THE HOUSE

SPECIAL AND SELECT STANDING COMMITTEES

Amendment No. 178: Appropriates $350,000 for the House Committee on Standards of Official Conduct as proposed by the House.

JOINT ITEMS

CAPITOL POLICE

CAPITOL POLICE BOARD

Amendment No. 179: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

CAPITOL POLICE

CAPITOL POLICE BOARD

For an additional amount for the "Capitol Police Board", $13,000,000, to remain available until expended, to implement an improved security plan for the United States Capitol, after such plan shall have been approved by the Senate Committee on Rules and Administration, the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works and Transportation, and the Committee on House Administration: Provided, That upon approval of the House and Senate Committees and Appropriations, such Board is authorized to transfer to the Architect of the Capitol so much of such funds as may be necessary to enable the Architect of the Capitol to carry out appropriate projects to implement such plan, and the Architect of the Capitol is authorized to obligate and expend the funds so transferred to him to carry out contracts entered into without regard to section 3709 of the Revised Statutes, as amended: Provided further, That before any such transfer of funds to the Architect of the Capitol takes place, the House and Senate Committees on Appropriations shall review and approve detailed documentation describing the scope, cost and construction schedule of the work to be accomplished by the transfer to funds.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The funds are provided for the implementation of a plan to improve the security of the Capitol and the Senate and House office buildings, with the stipulation that these funds will not be made available for obligation until the appropriate committees of Congress have considered and approved a final plan. In presenting such plan, the Capitol Police Board is directed to arrange a schedule for Committee approvals that is compatible with the normal authorization—first, appropriation—last, sequence. The amendment contains the normal procedure for transferring project funds from the Capitol Police Board to the Architect of the Capitol to carry out appropriate projects to implement such plan, with the approval of the Committees on Appropriations.

ARCHITECT OF THE CAPITOL

Amendment No. 180: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter reposed by said amendment, insert the following:

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For an additional amount for "Office of the Architect of the Capitol, Salaries", $250,000, to remain available until expended: Provided, That these funds shall be transferred to the appropriation "Capitol Grounds", and the Architect of the Capitol is authorized to obligate and expend funds so transferred only for the detailed design and cost estimates associated with the construction aspects of the congressional joint leadership proposal to improve security of the Capitol and the House and Senate office buildings.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment provides that the funds for the design and cost estimates associated with the construction aspects of the Capitol security plan are to be transferred to the "Capitol grounds" appropriation since contractual services may be required.

WEST CENTRAL FRONT OF THE CAPITOL

Amendment No. 181: Deletes rescission proposed by the Senate.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede

and concur in the Senate amendment with an amendment as follows:

In lieu of the first sum named in said amendment, interest the following: *"$867,000"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The sum provided includes $500,000 to remain available until expended for the acquisition of books and other library materials, $120,000 for cataloging, $135,000 for deck attendants, and $112,000 for reading room personnel. These funds are sufficient to take care of the needs encompassed by the Senate floor amendment. The conferees direct that $247,000 of these funds be used to reopen the Library of Congress during evening and weekend hours. Since many users of Library facilities and material find it inconvenient or impossible to visit the collections during the current daytime schedule, the Librarian of Congress should arrange hours of operations to a more suitable schedule. If these funds are insufficient for that purpose the Library is directed to use other available funds.

CHAPTER X
DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

Amendment No. 183: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $10,400,000 by transfer.

The conference are concerned that, despite the transfer of $15,000,000 pursuant to section 1421 of the Department of Defense Authorization Act of 1986, Coast Guard personnel are not deployed as intended on Navy ships in drug interdiction areas. In fact, the number of personnel actually deployed on Navy ships ranged from 0 to 10 between March 5, 1986, and April 16, 1986. The conferees direct the Secretary of the Navy and the Secretary of Transportation to report to the House and Senate Committees on Appropriations by July 4, 1986, regarding: (1) the number of naval vessels that have been operating in drug interdiction areas since section 1421 was enacted; (2) the number of Coast Guard personnel deployed on those vessels during the past six months along with associated personnel costs; (3) plans for deploying Coast Guard personnel on naval vessels (including associated costs) for the remainder of the fiscal year; and (4) the feasibility, cost, and drug interdiction implications of deployments at the 100, 200, 300, 400, and 500 person levels for the remainder of this fiscal year.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 184: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Out of available funds, the Coast Guard shall make available not more than $750,000 for maintenance, sealing and preservation of lighthouses in the Commonwealth of Massachusetts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Out of available funds, the Coast Guard is directed to make available up to $750,000 for the maintenance, sealing and preservation of the following lighthouses in the Commonwealth of Massachusetts: Minots Ledge Lighthouse, East Chop Lighthouse, Marblehead Lighthouse, Boston Lighthouse, The Graves Lighthouse, and Thachers Island (North) Lighthouse.

The conferees have agreed to the following distribution of the fiscal year 1986 Acquisition, construction, and improvements appropriation:

Vessels	$70,300,000
Aircraft	38,000,000
Command, control and communications	7,400,000
Shore facilities and navigation aids	63,850,000
Support	18,006,000
Transfer to operating expenses	10,400,000
Total	207,956,000

With available funds, the conferees direct the Coast Guard to construct and equip a single-helicopter air facility at Newport, Oregon, including construction of the facility at Newport and necessary renovation of the parent air station at Astoria, stationing of two HH-65A helicopters, aircraft sparing and initial provisioning, and ground support equipment. The conferees expect any adjustments required to provide funding for this facility to be accomplished through the normal reprogramming process.

The conferees recognize that the Coast Guard's fiscal year 1987 acquisition, construction, and improvements budget estimate assumes the availability of $190,200,000 from the fiscal year 1986 appropriation for the coastal defense augmentation fund. However, no deferral of the coastal defense augmentation fund has been requested to make these funds available for the acquisition, construction, and improvements program and there has been no indication from the Department of Defense that such a request will be proposed. Therefore, the conferees expect the Secretary of Transportation to submit a revised budget request for fiscal year 1987 acquisition, construction, and improvements spending that will meet all existing fiscal year 1987 contractual requirements. Until such a revised request is submitted, the conferees direct the Coast Guard to reserve sufficient funds to meet the agency's fiscal year 1987 contractual requirements.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

Amendment No. 185: Conforms heading.

Amendment No. 186: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$84,250,000, of which $2,000,000 shall be derived by transfer from "Coast Guard, Retired pay", and $2,250,000 shall be derived by transfer from "Coast Guard, Research, development, test, and evaluation": Provided, That, if by July 15, 1986, the Secretary of Transportation and the appropriate governmental authorities of Dade County, Florida, have not reached agreement on the execution of a full funding contract for the project identified in Section 320 of the Department of Transportation and Related Agencies Appropriations Act, 1986, the memorandum of understanding submitted by the Metro-Dade Transportation Administration to the Urban Mass Transportation Administration on June 6, 1986, shall be deemed approved by the Secretary and shall be binding on the Department of Transportation and Metropolitan Dade County upon acceptance by the appropriate Dade County governmental authorities: Provided further, That such memorandum of understanding shall be deemed approved by the Secretary notwithstanding 42 U.S.C. Sections 4321 through 4335 inclusive, and applicable regulations

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included bill language regarding the negotiations called for in section 320 of the Department of Transportation and Related Agencies Appropriations Act, 1986, on the north and south legs of the downtown component of Metrorail in Dade County, Florida. The language provides that unless agreement on the execution of a full funding contract is reached by July 15, 1986, the June 6, 1986, memorandum of understanding submitted by the Metro-Dade Transportation Administration to the Urban Mass Transportation Administration is deemed approved. The language further waives provisions of the National Environmental Policy Act (NEPA)—42 U.S.C. sections 4321 through 4335 inclusive—only with regard to the approval of the memorandum of understanding. This reflects the conferees' belief that approval of the memorandum of understanding does not constitute a "major federal action".

The conferees included this language because the negotiations were suspended at the end of the 90-day period specified in section 320 and no agreement has been reached. The conferees intend this limited waiver to resolve the issue raised by the Department of Transportation General Counsel in a memorandum of April 9, 1986, to the UMTA Administrator and to remove what the Department states is a principal procedural barrier to approving any agreement. It should be noted that the conferees have no intention of avoiding environmental review of the project, and that Dade County is proceeding with an environmental impact statement on an accelerated schedule.

The conferees understand that negotiations on the minimum operable segment, MOS-1, of the downtown Los Angeles to San Fernando Valley Metro Rail project are continuing. With regard to this project, the conferees reiterate the language contained in section 320 of the Department of Transportation and Related Agencies Appropriations Act, 1986, and the accompanying statement of the managers. The conferees expect the Secretary and the Southern California Rapid Transit District to continue negotiations and to reach agreement as contemplated by section 320.

The Federal Aviation Administration is directed to implement the guidance included in Senate Report 98-570 found under the heading Federal Aviation Administration, Operations, within 90 days of enactment of this Act.

Amendment No. 187: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

: Provided further, That, at a minimum, the air traffic control on-board employment level shall be 14,480 by September 30, 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

In establishing a minimum air traffic control staffing level, the conferees do not intend that the FAA be limited to the 14,480 level. The conferees reiterate the language regarding air traffic controller staffing contained in House report 99-450.

RESEARCH, ENGINEERING, AND DEVELOPMENT

AIRPORT AND AIRWAY TRUST FUND

Amendment No. 188: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing $72,220,000 by transfer.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

Amendment No. 189: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate authorizing the expenditure of $5,000,000 from the Emergency Relief Fund established by section 125 of title 23 for certain activities in the State of Utah.

FEDERAL RAILROAD ADMINISTRATION

REDEEMABLE PREFERENCE SHARES

Amendment No. 190: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate clarifying the Secretary of Transportation's authority to issue fund anticipation notes, and to expend proceeds from the sale of such notes.

URBAN MASS TRANSPORTATION ADMINISTRATION

FORMULA GRANTS

Amendment No. 191: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate clarifying the distribution of formula grant funds to urbanized areas that became urbanized areas for the first time under the 1980 census.

RELATED AGENCY

PANAMA CANAL COMMISSION

OPERATING EXPENSES

Amendment No. 192: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken, amended to read as follows:

RELATED AGENCY

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For an additional amount for "Panama Canal Commission, Operating Expenses", $18,300,000, of which $17,181,000 may be available either for operating expenses or for vessel accident claims as authorized by Public Law 99-209, and $1,119,000 shall be available for payment to the Republic of Panama, pursuant to article XIII, paragraph 4(c) of the Panama Canal Treaty of 1977.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $18,300,000 for Panama Canal operating expenses. Of this amount, $17,181,000 may either be applied to operations requirements in excess of available appropriations, or to vessel accident claims. In the event legislation is enacted exempting the Commission from the March 1, 1986, fund sequester, the conferees expect this additional amount will only be available for audited, negotiated damage claims. In addition, $1,119,000 is available for payment to the Republic of Panama under the terms of the 1977 Treaty.

CHAPTER XI

DEPARTMENT OF THE TREASURY

Amendment No. 193: Deletes language proposed by the Senate which would have rescinded $912,000 for Departmental Offices.

Amendment No. 194: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $6,000,000 previously appropriated to the Federal Law Enforcement Training Center for dormitory construction will remain available until expended.

Amendment No. 195: Appropriates $500,000 for the Bureau of Alcohol, Tobacco and Firearms as proposed by the Senate.

Amendment No. 196: Inserts the word *"SECTION"* as proposed by the Senate instead of the word "Section" as proposed by the House.

Amendment No. 197: Inserts the abbreviation *"SEC."* as proposed by the Senate instead of the word "Section" as proposed by the House.

Amendment No. 198: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which mandates that the Internal Revenue Service provide certain data processing support to the Bureau of Alcohol, Tobacco and Firearms.

Amendment No. 199: Reported in disagreement.

Amendment No. 200: Deletes a provision proposed by the Senate which would have amended the Consolidated Omnibus Reconciliation Act of 1985 regarding certain insolvent taxpayers.

Amendment No. 201: Restores a provision inserted by the House and deleted by the Senate regarding the personnel level of the U.S. Customs Service.

Amendment No. 202: Appropriates $3,225,000 for the operation and maintenance of the air interdiction program of the U.S. Customs Service as proposed by the House.

U.S. POSTAL SERVICE

Amendment No. 203: Deletes a center heading proposed by the Senate.

Amendment No. 204: Deletes a provision proposed by the Senate pertaining to the naming of a Post Office building in South Carolina. The conferees are agreed, however, in urging the Postmaster General to name this post office building the "Solomon Blatt, Sr., Post Office Building" as proposed by the Senate.

Amendment No. 205: Deletes a provision proposed by the Senate. The conferees are concerned that an action taken in the Omnibus Reconciliation Act of 1985 raising postage rates for rural newspapers will have a devastating impact on these papers. Because of the serious adverse impact on these newspapers, the conferees urge the authorizing committees to take appropriate action at the earliest possible date to alleviate this problem.

GENERAL SERVICES ADMINISTRATION

Amendment No. 206: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available additional funding for the construction of a new Post Office and Courthouse Annex in Charleston, South Carolina.

Amendment No. 207: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the limitation on expenses of transportation audit contracts and contract administration in General Management and Administration.

Amendment No. 208: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in an Administrative provision which provides for the transfer of a certain parcel of federal land in New Mexico to the city of Santa Fe, New Mexico.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Amendment No. 209: Appropriates $250,000 for salaries and expenses as proposed by the Senate.

OFFICE OF PERSONNEL MANAGEMENT

Amendment No. 210: Provides for official reception and representation expenses of $1,000 instead of $2,500 as proposed by the Senate.

Amendment No. 211: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $2,000,000 from the Civil Service Retirement and Disability Fund to the Office of Personnel Management.

TITLE II

GENERAL PROVISIONS

Amendment No. 212: Deletes language proposed by the House and stricken by the Senate which would have repealed section 1013 of the Budget and Impoundment Control Act. This action is being taken based on the assurance of the Director of the Office of Management and Budget that no policy deferrals will be proposed by the Administration for the balance of the calendar year. Such action will allow the courts additional time to address this issue and for the Congress to deal with the issue in future legislation.

Amendment No. 213: Changes section number as proposed by the Senate.

Amendment No. 214: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the percentage reduction required for payments made from various receipt accounts by Public Law 99-177 (Gramm-Rudman-Hollings) shall be the same as required for all nondefense accounts. The House-passed bill has no such provision.

The managers take this section without prejudice to court cases on the provisions of the Gramm-Rudman-Hollings legislation.

Amendment No. 215: Deletes the Senate provision directing the Secretary of the Treasury to invest moneys payable to States and other localities from programs administered by the Secretaries of Agriculture and the Interior and sequestered pursuant to Section 252 of Public Law 99-177 (Gramm-Rudman-Hollings), but not cancelled under section 256(a)(2) of that Act, in interest-bearing debt instruments, such interest to be payable along with the reserved funds when such funds are released for payment.

The House-passed bill had no similar provision.

The managers agree that the sequestered funds should be released for payment within 30 days after the end of the fiscal year, so that the affected States and localities may use the funds without further delay.

INDIRECT COST OF RESEARCH

Amendment No. 216: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment, with an amendment as follows:

In lieu of the matter stricken by said amendment insert the following:

SEC. 203. None of the funds in this Act, or any other Appropriations Act for fiscal year 1986, may be used to implement changes to OMB Circular A-21 made subsequent to February 11, 1986: Provided, That this provision shall expire 60 days after the date of enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It is the conferees' intention that the OMB should work with the universities to resolve this issue within the time provided.

MEDICARE CAPITAL COSTS

Amendment No. 217: Restores language inserted by the House but deleted by the Senate which extends from September 30, 1986 until September 30, 1987 the moratorium period during which the Department of Health and Human Services is prohibited from including the cost of capital in the Medicare prospective payment system.

COMPACT OF FREE ASSOCIATION

Amendment No. 218: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

SEC. 207. Notwithstanding section 514 of Public Law 99-178, amounts appropriated by that Act for Federal financial assistance to the Trust Territory of the Pacific Islands shall be available, as would have been available had the Compact of Free Association Act (Public Law 99-239) not been enacted, until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239). Thereafter, except insofar as the Compact of Free Association Act otherwise provides, such amounts shall be available only for the Republic of Palau, but only in amounts that such Republic would have received had the Compact of Free Association Act of 1985 not been enacted.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SERVICE CONTRACT ACT

Amendment No. 219: Deletes language proposed by the Senate which would have amended section 7 of the Service Contract Act of 1965.

POWER MARKETING ADMINISTRATIONS

Amendment No. 220: Deletes language proposed by the House and inserts language proposed by the Senate restricting the soliciting of proposals, preparing or reviewing studies, or drafting proposals designed to transfer the Federal Power Marketing Administrations and the Tennessee Valley Authority out of Federal control.

COMPETITION WITH U.S. FARM PRODUCERS

GENERAL PROVISION—SEC. 209

Amendment No. 221: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides bill language prohibiting the use of U.S. bilateral assistance for programs that would be in competition with U.S. farm producers.

The conferees have agreed to include Section 209 recommended by the Senate concerning commodity exports by developing countries, however the conferees agree that this language is only intended to apply to: (1) projects or activities that are specifically and principally designed to increase agricultural exports in developing countries that can reasonably be expected to cause substantial injury to the United States exporters; (2) the production of such agricultural commodities for export that are deemed to be in direct competition with U.S. agricultural exports.

Amendment No. 222: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. The conferees agree to language proposed by the Senate dealing with the applicability of New York City Local Law 19 regulating city contractors who do business with companies that sell goods or services that originate in South Africa. The Senate amendment would allow New York City to receive its fiscal year 1986 grant awards previously approved by law. Except as to Interstate Substitute Transfer of funds for highways, the term contract shall include a contract for which the plans, specifications, or a proposed contract have been submitted for approval to the federal government by October 1, 1986.

TRADE ADJUSTMENT ASSISTANCE

Amendment No. 223: Deletes language proposed by the Senate which would amend the Trade Act of 1974.

Amendment No. 224: Deletes language proposed by the Senate which amends Section 3216(c) of title 39, United States Code. Despite a 1600% increase in the volume of incoming mail in recent years which has been accompanied by an approximate increase of 200% in mail sent out by the Members and Committees of Congress, the conferees note that there is concern regarding the current status of the franked mail appropriation level. While significant reductions in the real cost of operating the Legislative Branch have compensated for the increase in mail fees and volume, each body of Congress is making an effort to deal with the problem. The Senate calculated the amount remaining for Congressional mail and has made a mail allowance allocation to each Senator for the balance of fiscal year 1986. A bipartisan House leadership group has instituted a widespread and comprehensive program of voluntary restraint. By all accounts, both programs are working; postal officials indicate that outgoing mail volume has dropped significantly. In addition, the House, under the leadership of an ad hoc task force appointed by the Speaker and Minority Leader, attempted to establish additional reforms in the rules that govern volume mailing together with the supplemental appropriation necessary to make full payment of the postal fees. There is clearly willingness in both House and Senate to address the mail question. Since a feasible and constructive solution will require a bicameral, bipartisan agreement, the conferees recommend that the Speaker and Minority Leader of the House and the Majority and Minority Leaders of the Senate appoint a temporary joint committee or commission comprised of Members of each body to work in consultation with the Postal Rate Commission and the Postmaster General to develop a balanced proposal that will recognize the responsibility of Members of Congress to be responsive and informative to their constituencies as well as applying reasonable restraints on the use of franked mail. Such committee or commission should report its findings and recommendations to both Houses and to the committees of jurisdiction so that appropriate changes in the studies, rules, or regulations governing the respective bodies can be made effective with the 100th Congress.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for fiscal year 1986 and fiscal year 1987 recommended by the Committee of Conference, with comparisons to the fiscal year 1986 budget estimates, and the House and Senate bills for 1986 follow:

Budget estimates of new (obligational) authority, fiscal year 1986.[1]	$7,721,965,000
House bill, fiscal year 1986 (net)	1,679,485,000
Senate bill, fiscal year 1986 (net)	3,874,472,000
Conference agreement:	
Fiscal year 1986 (net)	1,698,120,000
Fiscal year 1987 (net)	−5,942,000,000
Consisting of:	
Appropriations for FY 1987	(100,000,000)
Rescission in FY 1987	(−6,042,000,000)
Conference agreement compared with:	
Budget estimates of new (obligational) authority: Fiscal year 1986	−6,023,845,000
House bill:	
Fiscal year 1986	+18,635,000
Fiscal year 1987	−5,942,000,000
Senate bill:	
Fiscal year 1986	−2,176,352,000
Fiscal year 1987	−5,942,000,000

[1] Includes $5,587,519,000 of budget estimates not considered by the House.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
SIDNEY R. YATES,
DAVE OBEY,
EDWARD R. ROYBAL,
TOM BEVILL,
BILL CHAPPELL,
WILLIAM LEHMAN,
VIC FAZIO,
SILVIO O. CONTE,
(except for amendment No. 23),
JOSEPH M. MCDADE,
JOHN T. MYERS,
LARRY COUGHLIN,
(except for amendment No. 23),

JACK KEMP,
RALPH REGULA,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, Jr.,
JAMES A. MCCLURE,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
(except for amendment No. 224),
BOB KASTEN,
ALPHONSE D'AMATO,
WARREN B. RUDMAN,
JOHN C. STENNIS,
ROBERT C. BYRD,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
LAWTON CHILES,
J. BENNETT JOHNSON,
(except for amendment No. 223),
QUENTIN N. BURDICK,
PAT LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DENNY SMITH (at the request of Mr. MICHEL), for today from 11 a.m. to 2 p.m., on account of a necessary absence.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIGHTFOOT) to revise and extend their remarks and include extraneous material:)

Mr. BARTON of Texas, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, today.

Mr. DANNEMEYER, for 60 minutes today, June 23, and June 24.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. RAY, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. DE LA GARZA, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. LEVINE of California, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. RAY, for 5 minutes, on June 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HUGHES, at the conclusion of general debate on House Concurrent Resolution 350, in the Committee of the Whole, today.

Mr. SEIBERLING, and to include extraneous material, in three instances during debate in the Committee of the Whole, today.

(The following Members (at the request of Mr. LIGHTFOOT) and to include extraneous matter:)

Mr. KOLBE in two instances.
Mr. GREEN in two instances.
Mr. GRADISON.
Mr. GUNDERSON in two instances.
Mr. PETRI.
Mr. MCCAIN.
Mr. GEKAS in two instances.
Mr. MILLER of Ohio in two instances.
Mr. GILMAN in three instances.
Mr. BROOMFIELD.
Mr. YOUNG of Alaska.
Mr. MCGRATH.
Mr. FIELDS in three instances.
Mr. LIVINGSTON.
Mr. SCHUETTE.
Mr. SMITH of New Jersey.
Mr. MCCOLLUM.
Mr. CHAPPIE.
Mr. LUJAN.
Mr. WORTLEY.
Mr. BOULTER.
Mr. PORTER.
Mr. SHAW.
Mr. HUNTER.
Mr. COATS.
Mr. LIGHTFOOT.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous material:)

Mr. LIPINSKI.
Mr. SMITH of Florida in five instances.
Mr. PEASE.
Mr. LEVINE of California.
Mr. STUDDS.
Mr. HEFTEL of Hawaii.
Mr. YATRON.
Mr. DINGELL.
Mr. DE LA GARZA.
Mr. SABO in two instances.
Mr. KOLTER.
Mr. FLORIO.
Mr. SWIFT.
Mr. LOWRY of Washington.
Mr. RANGEL.
Mr. LEHMAN of Florida.
Mr. STOKES.
Mr. EDGAR.
Mr. COELHO.
Mr. WAXMAN.
Mr. CLAY.
Mr. BRYANT.
Mr. MATSUI in two instances.
Mr. LELAND.
Mr. WOLPE.
Mr. HUBBARD.
Mr. ROYBAL.
Mr. ECKART of Ohio.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 365. Joint Resolution welcoming the Afghan Alliance; to the Committee on Foreign Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1106. An act to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 57, 59, and 13E of the Indian Claims Commission and docket numbered 13F of the U.S. Claims Court, and for other purposes.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, a joint resolution of the House of the following title:

On June 17, 1986:

H.J. Res. 131. Joint resolution to designate the week beginning June 15, 1986, as "National Safety in the Workplace Week."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, June 23, 1986, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3755. A communication from the President of the United States, transmitting a report containing projections and comparisons of United States and Soviet weapons dismantlements to not undercut existing strategic arms control agreements, pursuant to Public Law 99-145, section 1001(b) (99 Stat. 705); to the Committee on Armed Services.

3756. A letter from the Acting Secretary of Agriculture, transmitting a copy of draft legislation to repeal title V of the Housing Act of 1949; to the Committee on Banking, Finance and Urban Affairs.

3757. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the 72d annual report of the Board of Governors, pursuant to 12 U.S.C. 247; to the Committee on Banking, Finance and Urban Affairs.

3758. A letter from the Secretary of Education, transmitting a copy of the Final Regulations for Bilingual Education: General Provisions; basic programs (programs of transitional bilingual education, programs of developmental bilingual education, and special alternative instructional programs); Family English Literacy Program; Special Populations Program; Program for the Development of Instructional Materials; Edu-

cational Personnel Training Program; training development, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3759. A letter from the Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, Department of Justice, transmitting the 1985 annual report describing the activities and operations of the Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2436. A bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan; with an amendment (Rept. 99-481, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 4952. A bill to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; with an amendment (Rept. 99-647). Referred to the Committee of the Whole House on the State of the Union.

Mr. HEFNER: Committee on Appropriations. H.R. 5052. A bill making appropriations for miiitary construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes. (Rept. 99-648). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 4515 (Rept. 99-649). Ordered to be printed.

SUBSEQUENT ACTION ON REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 4260. The Committee of the Whole House on the State of the Union discharged and referred to the Committees on Armed Services, Energy and Commerce, Foreign Affairs, Science and Technology, Veterans' Affairs, and the Permanent Select Committee on Intelligence, for a period ending not later than August 1, 1986, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees under clause 1 (c), (h), (i), (r), and (u) of rule X and rule XLVIII, respectively.

H.R. 4354. The Committee of the Whole House on the State of the Union discharged, and referred to the Committee on Post Office and Civil Service for a period ending not later than July 25, 1986, for consideration of such provisions of section 11 of the amendment recommended by the Committee on Science and Technology as fall within that committee's jurisdiction pursuant to clause 1(o), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HEFNER:

H.R. 5052. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes.

By Mr. GRADISON (for himself, Mr. STARK, Mrs. JOHNSON, Mr. MOORE, Mr. DAUB, Mr. GREGG, Mr. DUNCAN, Mr. THOMAS of California, Mr. PICKLE, Mr. JONES of Oklahoma, Mr. MATSUI, Mr. TAUKE, Mr. HILLIS, and Mr. ROWLAND of Georgia):

H.R. 5053. A bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims and to retain the existing periodic-interim-payment method of reimbursing providers of services; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. STARK (for himself, Mr. GRADISON, Mr. RANGEL, Mr. COYNE, Mr. DONNELLY, Mr. COLEMAN of Texas, Mr. JACOBS, and Mr. WAXMAN):

H.R. 5054. A bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims and to retain the existing periodic-interim-payment method of reimbursing providers of services; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mrs. BENTLEY:

H.R. 5055. A bill to reduce narcotics smuggling; jointly, to the Committees on the Judiciary and Foreign Affairs.

By Mr. BRYANT:

H.R. 5056. A bill to permit registered public utility holding companies to own certain interests in qualifying cogeneration facilities; to the Committee on Energy and Commerce.

By Mr. CARPER:

H.R. 5057. A bill to provide for the temporary suspension of duty on fluazifop-p-butyl for a 3-year period; to the Committee on Ways and Means.

By Mr. COATS (for himself, Mr. SWIFT, Mr. NIELSON of Utah, and Mr. ECKERT of New York):

H.R. 5058. A bill to amend the Communications Act of 1934 to promote the increased availability of television programming through various distribution systems, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DAVIS:

H.R. 5059. A bill to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets Numbered 18-E, 58, 364, and 18-R before the Indian Claims Commission; to the Committee on Interior and Insular Affairs.

By Mr. DEWINE (for himself, Mr. FISH, Mr. GEKAS, Mr. FRANK, Mr. BOUCHER, Mr. COBLE, Mr. KASTENMEIER, Mr. MOORHEAD, Mr. HUGHES, Mr. KINDNESS, Mr. DANNEMEYER, and Mr. SENSENBRENNER):

H.R. 5060. A bill to amend title 18, United States Code, with respect to penalties for driving under the influence of drugs or alcohol in the special maritime and territorial jurisdiction of the United States, and with respect to implied consent for certain tests to determine the drug or alcohol content of blood; to the Committee on the Judiciary.

By Mr. GEKAS (for himself, Mr. FOLEY, Mr. JONES of North Carolina, Mr. JEFFORDS, Mr. PANETTA, Mr. EVANS of Iowa, Mr. HUCKABY, Mr. CLINGER, Mrs. BENTLEY, Mr. DICKINSON, Mr. CALLAHAN, Mr. NICHOLS, Mr. MCDADE, Mr. KOLTER, Mr. WALKER, Mr. YATRON, Mr. MONSON, Mr. GOODLING, Mr. MURPHY, Mr. BOEHLERT, Mr. SCHULZE, Mr. DENNY SMITH, and Mr. RIDGE):

H.R. 5061. A bill to amend the Packers and Stockyards Act, 1921, to remedy burdens on commerce in poultry, poultry products and eggs, and protect poultry sellers and growers and egg producers and suppliers, and for other purposes; to the Committee on Agriculture.

By Mr. GUNDERSON (for himself, Mr. LIGHTFOOT, Mr. JEFFORDS, Mr. COLEMAN of Missouri, Mr. PETRI, Mr. PENNY, Mr. ROTH, Mr. MORRISON of Washington, Mr. ROBERTS, Mr. WEBER, Mr. TAUKE, Mr. EVANS of Iowa, Mr. MADIGAN, Mrs. MARTIN of Illinois, Mr. LEWIS of California, Mrs. SMITH of Nebraska, Mr. BOULTER, Mr. BEREUTER, Mr. LEACH of Iowa, Mr. STANGELAND, Mr. BRUCE, and Mr. SCHUETTE):

H.R. 5062. A bill to amend the Job Training Partnership Act to encourage the delivery of services to dislocated farmers, and for other purposes; to the Committee on Education and Labor.

By Mr. HARTNETT:

H.R. 5063. A bill to amend the Tariff Schedules of the United States to provide for the continuance of the suspension of any duty on menthol feedstocks; to the Committee on Ways and Means.

By Mr. KEMP (for himself and Mr. GRAY of Pennsylvania):

H.R. 5064. A bill to provide, through greater targeting, coordination, and structuring of services, assistance to strengthen severely economically disadvantaged individuals by providing greater opportunities for employment preparation, which can assist in promoting economic family stability; to the Committee on Education and Labor.

H.R. 5065. A bill to amend part A of title IV of the Social Security Act to promote the transition of severely economically disadvantaged individuals to unsubsidized employment; to the Committee on Ways and Means.

By Mr. MCCLOSKEY (for himself, Mr. ASPIN, Mr. HERTEL of Michigan, Mr. LEACH of Iowa, and Mr. EVANS of Illinois):

H.R. 5066. A bill to amend title 10, United States Code, to establish certain requirements with respect to contracts with defense firms in which certain foreign governments own or control a significant interest, and to prohibit the award of engineer equipment acquisition contracts to firms in which the Libyan Government owns or controls an interest; to the Committee on Armed Services.

By Mr. REGULA:

H.R. 5067. A bill to amend the Social Security Act and the Older Americans Act of 1965 for the protection of the elderly in the institutionalized long-term care setting, and for other purposes; jointly, to the Commit-

tees on Ways and Means, Energy and Commerce, and Education and Labor.

By Mr. SWIFT (for himself, Mr. DINGELL, Mr. LELAND, and Mr. BRYANT):

H.R. 5068. A bill to require the Federal Communications Commission to repromulgate certain regulations to prohibit trafficking in station licenses; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself and Mr. KASTENMEIER):

H.R. 5069. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize abbreviated new animal drug applications and to amend title 35, United States Code, to authorize the extension of the patents for animal drug products; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. DANNEMEYER (for himself, Mrs. BENTLEY, Mr. COBEY, Mr. DORNAN of California, Mr. GINGRICH, Mr. LIGHTFOOT, Mr. MONSON, and Mr. SHUMWAY):

H.J. Res. 663. Joint resolution to disapprove the action of the District of Columbia Council approving the prohibition of discrimination in the provision of the Insurance Act of 1986; to the Committee on the District of Columbia.

By Mrs. MARTIN of Illinois:

H.J. Res. 664. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day," and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty; to the Committee on Post Office and Civil Service.

By Mr. BOULTER (for himself, Mr. ROBERTS, Mr. WEBER, Mr. THOMAS of Georgia, Mr. LEWIS of California, Mr. GUNDERSON, Mr. STRANG, Mr. LIGHTFOOT, Mr. SCHUETTE, Mr. STANGELAND, Mr. FRANKLIN, Mr. EMERSON, Mr. MARLENEE, Mr. DAUB, Mrs. SMITH of Nebraska, Mr. COMBEST, Mr. EVANS of Iowa, Mr. LOEFFLER, Mr. MONSON, Mr. LEWIS of Florida, Mr. CRAIG, and Mr. SUNDQUIST):

H. Con. Res. 360. Concurrent resolution to express the sense of the Congress that the Secretary of Agriculture should exercise his authority under section 1009(e) of the Food Security Act of 1985 to accept bids from the producers of agricultural commodities for diverting acreage in return for payments in kind; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII,

411. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to the Federal Reserve Board and the Federal Reserve Banks; to the Committee on Banking, Finance and Urban Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. REID, Mr. GLICKMAN, Mr. MCKINNEY, and Mrs. MEYERS of Kansas.

H.R. 1059: Mr. GEKAS.

H.R. 1402: Mrs. BURTON of California, Mr. GARCIA, and Mrs. BOXER.

H.R. 2436: Mr. HEFTEL of Hawaii.

H.R. 2462: Mr. MCDADE, Mr. BEREUTER, Mr. SKELTON, Mr. MCKINNEY, Mr. GROTBERG, Mr. MARTINEZ, Mr. HENRY, Mr. BATES, Mr. WEBER, Mr. HENDON, Mr. LAFALCE, Mrs. LLOYD, Mr. EVANS of Illinois, Mr. GALLO, and Mr. MCKERNAN.

H.R. 2902: Ms. MIKULSKI.

H.R. 3006: Mr. TRAFICANT.

H.R. 3040: Mr. DIOGUARDI.

H.R. 3042: Mr. LOWRY of Washington, Mr. KOLTER, Mr. BRUCE, Mr. ATKINS, Mr. ECKART of Ohio, and Mr. GAYDOS.

H.R. 3408: Mr. SOLARZ.

H.R. 3487: Mr. COYNE.

H.R. 3610: Mr. ORTIZ, Mr. FUSTER, and Ms. MIKULSKI.

H.R. 3661: Mr. DAUB, Mr. RITTER, Mr. SHAW, and Mr. FROST.

H.R. 3756: Mr. HORTON.

H.R. 4003: Mr. WHEAT and Ms. SNOWE.

H.R. 4054: Mr. MARKEY, Mr. MONSON, Mr. DWYER of New Jersey, and Mrs. SCHROEDER.

H.R. 4067: Mr. HUGHES, Mr. BENNETT, Mr. BILIRAKIS, Mr. GUNDERSON, Mr. BUSTAMANTE, Mr. MOAKLEY, Mr. NEAL, Mr. FISH, Mr. KILDEE, Mr. RICHARDSON, Mr. BERMAN, Mr. SWINDALL, Mr. MAVROULES, Mr. LATTA, Mr. WISE, and Mr. YOUNG of Florida.

H.R. 4197: Mr. SOLARZ.

H.R. 4247: Mr. BADHAM.

H.R.4248: Mr. CLINGER.

H.R. 4249: Mr. CLINGER.

H.R. 4250: Mr. CLINGER.

H.R. 4282: Mr. BERMAN and Mr. MARTINEZ.

H.R. 4333: Mr. HENDON.

H.R. 4368: Mr. MORRISON of Connecticut, Mrs. BURTON of California, Mr. DORNAN of California, Mr. MITCHELL, Mr. GRAY of Illinois, Mr. FAUNTROY, Mr. DOWDY of Mississippi, Mr. HOWARD, and Mrs. BENTLEY.

H.R. 4519: Mr. DOWDY of Mississippi.

H.R. 4520: Mr. DOWDY of Mississippi.

H.R. 4556: Mr. PACKARD.

H.R. 4564: Mr. DE LA GARZA.

H.R. 4609: Mr. CROCKETT, Mr. GLICKMAN, Mr. MARTINEZ, Mr. FAZIO, Mr. SCHUETTE, Mr. THOMAS of Georgia, Mr. LIGHTFOOT, Mr. JONES of North Carolina, Mr. TOWNS, Mr. TAUKE, Mr. WEBER, Mr. OBERSTAR, Mr. MORRISON of Washington, Mr. HUCKABY, Mr. GEPHARDT, Mr. FOLEY, Mr. CONYERS, Mr. WATKINS, Mr. WOLPE, Mr. PRICE, and Mr. LOWERY of California.

H.R. 4669: Mr. RICHARDSON.

H.R. 4682: Mr. NEAL and Mr. BOEHLERT.

H.R. 4714: Mr. THOMAS of Georgia.

H.R. 4783: Mr. FAZIO and Mr. MRAZEK.

H.R. 4788: Mr. KINDNESS, Mr. HUCKABY, Mr. JONES of North Carolina, Mr. LIGHTFOOT, Mr. GUNDERSON, Mr. MCCURDY, Mr. OBERSTAR, Mr. BEREUTER, Mrs. JOHNSON, Mr. COMBEST, Mr. VOLKMER, Mr. BEDELL, Mr. BREAUX, Mr. ROWLAND of Georgia, Mrs. LLOYD, Mr. WHITTAKER, Mr. HAMMERSCHMIDT, and Mr. ANTHONY.

H.R. 4838: Mrs. BOXER.

H.R. 4853: Mr. THOMAS of Georgia.

H.R. 4856: Mr. FAZIO and Mr. CLINGER.

H.R. 4879: Mr. STENHOLM, Mr. SHUMWAY, and Mr. NIELSON of Utah.

H.R. 4882: Mr. HOWARD and Mr. GARCIA.

H.R. 4886: Mrs. COLLINS, Mrs. BOXER, and Mr. SCHEUER.

H.R. 4945: Mr. YOUNG of Florida and Mr. KLECZKA.

H.R. 4952: Mr. BLILEY, Mr. WEISS, and Mr. SAVAGE.

H.R. 4984: Mr. THOMAS of Georgia.

H.R. 5046: Mr. MARTIN of New York, Mr. ASPIN, Mr. EVANS of Illinois, Mr. FEIGHAN, Mr. HORTON, Mr. HERTEL of Michigan, Mr. KLECZKA, Mr. OBERSTAR, Mr. PEASE, and Mr. SABO.

H.R. 5050: Mr. JONES of North Carolina, Mr. DOWDY of Mississippi, Mr. VOLKMER, Mr. RAHALL, Mr. STOKES, Mr. ROWLAND of Georgia, and Mr. PASHAYAN.

H.J. Res. 379: Mr. ROEMER.

H.J. Res. 385: Mr. MAZZOLI, and Mr. PERKINS.

H.J. Res. 429: Mr. GONZALES, Mr. COLEMAN of Missouri, Mr. HUCKABY, Mr. JENKINS, Mr. KANJORSKI, Mr. JEFFORDS, Mr. LAGOMARSINO, Mr. MOORE, Mr. LENT, Mr. COBEY, Mr. DURBIN, Mrs. BYRON, and Mr. HATCHER.

H.J. Res. 529: Mr. KOLTER, Mr. STOKES, Mr. JENKINS, Mr. PANETTA, Mr. MILLER of Ohio, Mr. FEIGHAN, Mr. MORRISON of Connecticut, Mr. HEFTEL of Hawaii, Mrs. MEYERS of Kansas, Mr. HAMMERSCHMIDT, Mr. YATRON, Mr. HOPKINS, and Mr. KASICH.

H.J. Res. 536: Mr. MOODY, and Mr. HANSEN.

H.J. Res. 555: Mr. WALGREN, Mr. BOUCHER, Mr. CALLAHAN, Mr. BRYANT, Mr. CARNEY, Mr. BLILEY, Mr. WILSON, Mr. AKAKA, Mr. DE LA GARZA, Mr. YATRON, Mr. FISH, Mr. DARDEN, Mr. PEPPER, Mr. BORSKI, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DOWDY of Mississippi, Mr. LANTOS, Mr. TALLON, Mr. BENNETT, Mr. DONNELLY, and Mr. GALLO.

H.J. Res. 623: Mr. ZSCHAU, and Mr. CHAPPELL.

H.J. Res. 642: Mr. DOWDY of Mississippi, Mr. BEVILL, Mrs. BOXER, Mr. MCGRATH, Mr. MACK, Mr. YOUNG of Florida, Mr. WIRTH, Mr. MACKAY, Mr. TRAXLER, Mr. ORTIZ, Mr. LIVINGSTON, Mr. STRANG, Mr. RICHARDSON, Mr. MARTINEZ, Mr. STOKES, Mr. SMITH of Florida, Mrs. HOLT, and Mr. ROSE.

H.J. Res. 649: Mr. DANNEMEYER, Mr. YOUNG of Florida, Mr. CAMPBELL, Mr. DERRICK, Mr. DINGELL, Mr. ERDREICH, Mr. GINGRICH, Mr. HATCHER, Mr. HOYER, Mr. NIELSON of Utah, Mr. RAHALL, Mr. SKEEN, Mr. SKELTON, Mr. YOUNG of Missouri, and Mr. DE LA GARZA.

H.J. Res. 656: Mr. COBLE, Mr. SCHUETTE, Mr. VANDER JAGT, Mr. MOORHEAD, Mr. LENT, Mr. COMBEST, Mr. BOULTER, Mr. EMERSON, Mr. DANNEMEYER, Mr. CLINGER, Mrs. JOHNSON, Mr. STANGELAND, Mr. RITTER, Mr. LOWERY of California, Mr. DASCHLE, Mrs. BYRON, Mr. ROBINSON, Mr. LIVINGSTON, and Mr. LIGHTFOOT.

H. Con. Res. 129: Mr. HILER, Mr. MCCOLLUM, Mr. BADHAM, Mr. SHUSTER, Mr. HERTEL of Michigan, Mr. RAHALL, and Mr. EVANS of Illinois.

H. Con. Res. 349: Mr. COURTER, Mr. WHITTAKER, Mr. EDWARDS of Oklahoma, Mr. MONSON, Mr. MCCAIN, Mr. PACKARD, Mr. BLILEY, and Mr. WORTLEY.

H. Con. Res. 351: Mr. ST GERMAIN, Mrs. BURTON of California, Mr. DOWNEY of New York, Mr. HUGHES, Mr. TRAFICANT, Mr. GALLO, Mr. KASICH, Mr. GOODLING, Mr. NOWAK, Mr. WEISS, Mr. KOLTER, Mr. SCHUMER, Mr. ZSCHAU, Mr. BUSTAMANTE, Mr. MCDADE, Mr. WOLF, Mr. KOLBE, Mr. PETRI, Mr. DEWINE, Mr. GUNDERSON, Mr. LEWIS of Florida, Mr. DIOGUARDI, Mr. RAHALL, Mr. BOEHLERT, Mrs. BENTLEY, Mr. HYDE, and Mr. ROE.

H. Res. 373: Mr. RAHALL, Mr. GONZALEZ, Ms. OAKAR, Mrs. KENNELLY, Mr. KILDEE, Mr. FOGLIETTA, Mr. PURSELL, Mr. LEACH of Iowa, Mr. FEIGHAN, Mr. BEILENSON, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. LANTOS, Mr. MINETA, and Mr. REID.

H. Res. 468: Mr. HOWARD, Mr. JONES of North Carolina, Mr. BILIRAKIS, Mr. MRAZEK, Mr. LAGOMARSINO, and Mrs. BENTLEY.

PETITIONS, ETC.

Under clause 1 of rule XXII,

400. The SPEAKER presented a petition of the House of Representatives of the Oriental Republic of Uruguay, relative to the political and military situation in Central America; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

PERCEPTIONS OF APARTHEID IN SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. RANGEL. Mr. Speaker, recent events in South Africa have brought a rush of events which heighten public concern in our Nation over the evils of the apartheid system in South Africa. The free South Africa movement in the United States stimulated sufficient public response to force the President to depart from his constructive engagement policy and enact limited sanctions against South Africa.

We in the Congress who have backed more comprehensive economic sanctions are prepared to continue to press for such sanctions. We await, with a great deal of interest, to see whether the President will in fact be willing to support the imposition of economic sanctions in response to the growing concern over the failure of the Government of South Africa to initiate the dismantling of the apartheid system.

Prof. Henry Richardson of Temple University has written for the winter edition of the Temple Review an excellent article summarizing the recent events and analyzing the implications for international law and United States policy. In his article, entitled "Perceptions of Apartheid in South Africa," Professor Richardson touches upon the legal status of apartheid, reviews recent developments, and explains their historical context as well as analyzing implications for the future, and provides us with an excellent profile of United States policy options.

To all who follow the developments in South Africa in the daily press, and also for my colleagues who perhaps are not fully aware of the historical implications and somewhat puzzled about the context in which developments are occurring, I commend to you all the article by Professor Richardson.

[From the Temple Review, winter 1986]

PERCEPTIONS OF APARTHEID IN SOUTH AFRICA

(By Henry J. Richardson III)

BUSINESS AS USUAL

There has long been an inherent contradiction in the position of mining, manufacturing, and other businesses in South Africa. They have greatly benefited from the influx control supplying African labor and artificially low wages, under apartheid, as well as the ready availability of the state's police power to suppress dissenting workers. However, businesses are threatened in their expanding need for skilled labor by apartheid restrictions on moving black workers into traditionally white-held jobs. A steady trickle of skilled white emigration abroad has not helped. Notwithstanding some recent public questioning of apartheid by a few South African magnates, such as Harry Oppenheimer of the giant Anglo-American Ltd., South Africa's key industrial combine, South African business has never before opposed the status quo. This includes the small, thin, new black South African business sector, which plays a negligible or nonexistent role in the current struggle.

But top white South African business leaders shifted their position, especially after President Botha's universally disappointing speech of August 15, 1985, where promised reform was not delivered. One unprecedented immediate result was a vast crumbling of international banking confidence, leading to a financial crisis which still reverberates. Further, against the public opposition of President Botha, a delegation of white businessmen, including the chairman of Anglo-American Ltd., met in Lusaka in September with Oliver Tambo and other ANC leaders, hosted by President Kaunda of Zambia. A main concern was the prospect of their businesses' being nationalized under an ANC-led government. No stated agreement emerged, but the fact that such a meeting was held indicates these business leaders' willingness to defy the government by negotiating with its main organized opponent, and thus indicates their loss of faith in Pretoria's competence to lead South Africa into a viable future. South Africa's major financial newspaper has called for Botha's resignation. The ANC apparently conveyed in that meeting that in its conception of the future South African economy, there was indeed room for private enterprise, but that the heights of the economy would be nationalized to better and necessarily equalize resources among the entire population.

Perceptions of a post-apartheid South African economy have for some time included the racist propaganda that a black South African government would be incapable of running the modern industrial economy bequeathed to them, and accordingly South Africa would, in the words of George Ball in a 1973 book, be turned into an "economic slum." This is heavily played on by Pretoria, and, unfortunately, similar presumptions are beginning to appear in the American press. The comparison made to problems of other African economies is specious: it ignores the benefits of apartheid and black exploitation to South Africa's economy, and it also ignores the extraordinary resources, coupled with patterns of western cooperation, which have consistently strengthened the industrial (white) sectors of the economy. Few such benefits have trickled to the black majority. Such propaganda will, unfortunately, have to be fought all the way through this economic transition phase.

However, black South Africa is moving into strictly, sometimes coercively enforced economic boycotts of local white merchants. Where some trade is absolutely necessary, the boycott has been relaxed for those merchants deemed less racist. This has accentuated the current South African economic recession, with visible numbers of white merchants going out of business.

Black demands are a mixture of those national (e.g., eliminate apartheid), and those local (e.g., better water supply and municipal services in black townships). These are coupled with the strategic demand that white merchants use their channels to Pretoria on behalf of blacks. And negotiations resulting in some of the latter actions are taking place, for example in the Port Elizabeth area. But there has also been considerable local white backlash, including advocacy of starving blacks into submission and cutting off all municipal services to the townships in retaliation.

Whether these local economic boycotts can be expanded into a coordinated national economic strategy is unclear but possible. It is equally unclear how well the fledgling local negotiations will hold up, especially since Pretoria's officials detain any representative black leader who rises to negotiate.

American corporations are now divided between those who have either already divested their South African holdings or have vastly reduced their activities and exposure there, and those—such as Goodyear—who continue to find business profitable and will stay unless the situation deteriorates well beyond the present. Those who stay will more firmly commit themselves to the Sullivan Principles, but this is increasingly beside the point. There is considerable support in black South Africa for total American divestment in full realization of some additional black economic hardship caused thereby. American corporations in South Africa are also organizing into a reformist posture against specific apartheid arrangements, but they will not lead in advocating one-man one-vote for the black majority.

The African National Congress has already said there will be a role for whites in a new South Africa. In light of recent history in Zimbabwe and all other southern African states, which have retained European investment and white settlers and business people to help run those economies, there is no reason to doubt them. The same history shows the possibility of special constitutional protection for European minority groups, with the continuing legal effectiveness of such protection depending largely upon the amount of bloodshed in opposing a black majority government coming to power, and the subsequent willingness of whites to work in good faith with that government to develop the country, rather than covertly seeking ways to return to the *status quo ante*. But these possibilities will be dashed in South Africa by attempts to impose a partition scheme on the black majority.

The partition issue looks directly to the future of South Africa as a unitary state. It has been an article of faith in Pretoria's apartheid policy that South Africa exists as several African, a lesser number of mixed-blood tribes, and one white tribe, and hence the rationale of imposing such separations. Although there are several tribes in South Africa, including under this logic at least *two* white tribes, the longstanding demand and aspiration from black South Africa generally has been to succeed to the same unitary state that South Africa currently comprises under international law. Many other African countries have tribal heritages just

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

as diverse, and they have, with greater or lesser success, melded themselves into unitary states. Their success in part depends upon the degree of outside interference, including the exploitation of internal tribal divisions by the two superpowers to score ostensible geopolitical points against the other.

Now the racist claim, long heard in white South Africa, unfortunately is beginning to appear somewhat in the American press, doubting that a black government could build a unitary state, doubting whether black South Africans are talented and sophisticated enough to govern a modern state, and suggesting various proto-apartheid federal schemes. The danger is that just as blacks are on the verge of winning their freedom, it will be circumvented by either partition or some discriminatory federal scheme sponsored by Pretoria plus conservative American and European public opinion, and that the latter will continue Pretoria's propaganda for it long after that regime has lost the credibility to make it for itself. Under the best of conditions, positive international assistance to a new government will be needed, but negative conspiracies are quite possible. A sufficiently equitable federal scheme may yet be appropriate, but only based on local conditions and majority consent, and not on presumptions about the inherent inferiority of black South Africa to run a modern state.

Economic sanctions against South Africa are, of course, a new element in the future of American business there. Their direct economic impact on South Africa is disputed, but there is little doubt they will make it more difficult for those American businesses who do stay to operate profitably. They also raise the possibility of even stronger sanctions in the near future, and implicitly call the legitimacy of the Pretoria regime in question. President Reagan managed to stave off stiffer sanctions being enacted as a federal statute, but in doing so, to gain authority for his executive order on sanctions under standing legislation, he had to determine formally, for the first time, and the public policy of the United States, that apartheid in South Africa presents a threat to U.S. foreign policy and its national economy.

Those American firms who wanted to divest probably should have done so some months ago, because now it has become a buyer's market for such assets, although sale to South African investors is still possible. The question is whether the perception of black South Africa toward U.S. policy has or will change to view the United States as on the side of those battling to overturn apartheid, rather than supporting those struggling to refine it and thus preserve white domination. The future of American business in South Africa would seem to depend on this answer.

Some new relationship will inevitably be worked out among the demands of vastly greater economic equity—including considerably increased black employment opportunities—within South Africa, black majority rule with white economic participation, the continuing ability of the mines to produce needed foreign exchange, and the establishment of new confidence factors for international lending and credit. A liberated South Africa somewhere in the future will likely call for American investment to return to help develop South African resources to benefit its people. But first, largely because of the wrong-mindedness of the U.S. policy of "constructive engagement," and corporations sticking too long with apartheid, it is likely that American business will generally have to leave South Africa, even at financial loss, in order to later return under a new government. The example of Gulf Oil in Angola shows that American corporations in Africa can be resilient in profiting under "revolutionary" regimes, provided they show basic political sagacity about events in their host country.

THE CONTROL OF LAND

Events in South Africa raise the key question of under what value system land will be controlled. Up to now, the imposed value has been the perpetuation of apartheid and white minority economic advantage and domination. Legislation such as the Group Areas Act has reserved choice land for whites, prevented black settlement or ownership of that land (except for blacks being permitted to live there as servants), and mandated government removal of black squatters which has consistently involved black misery, government coercion, and black deaths. The homelands policy, previously discussed, has produced an exploitative *de jure* partition of the country, and also operates to forcibly remove black South African citizenship. The notion of partition has been a background drumbeat in modern white South African politics, and various partition schemes have been floated for years.

Under international law, partition of a territory cannot occur without the consent of the people living in it, and this frames the fundamental issue in South Africa: who, other than white military power, will be dictating any partition arrangement? A well-grounded fear is that when Pretoria sees that it can no longer control black and/or colored South Africa, it will lead whites to retreat to predetermined choice and rich contiguous areas of land, including at least one major port, and establish it as a territorial fortress while calling for international support from American and European governments and business. Not only will the directly affected Africans have no say over such a scheme, but it promises to remove valuable and irreplaceable portions of the national patrimony from any subsequent black majority government. These or simlar events would cause continuing conflict both in South Africa and in the region, and would only intensify the current threat that South Africa poses to international peace and security.

PRETORIA'S "REFORMS"

Pretoria is now intensely struggling behind its curtain of military force and attempted news blackout with options for survival and a new footing. The white Afrikaner and English-origin communities are increasingly divided within themselves: attitudes among businesspeople have already been discussed, and more whites are either openly siding with the UDF and the ANC, or are sliding into primitive early apartheid postures calling for partition, more military force and a black bloodbath. The liberal white government opposition, in early October 1985, followed the business community's example by sending their own delegation to talk with the ANC in Lusaka. The former, however, have not supported one-man one-vote for the black majority. Other white delegations will also consult with the ANC, if they can surmount Pretoria's recent attempted prohibition of such demarches.

In this context, President Botha's speech on September 30, 1985, on policy reform was the most comprehensive to date on Pretoria's intentions toward black South Africa. It contained some new language: "I finally confirm that my party and I are committed to the principle of a united South Africa; one citizenship and a universal franchise." But his principle was immediately limited by statements indicating that those rights would be exercised in complex and undefined political structures designed to "insure that one group is not placed in a position where it can dominate other groups." This is well known code language by Afrikaners that white dominance in national affairs will be retained.

Botha proposed that South Africa evolve into a kind of federation or confederation of what he termed "units" based on geography and race. To initiate negotiations with black leaders, he said he was prepared to change the composition of the advisory President's Council—composed of some sixty representatives of political parties in the previously discussed segregated tricameral parliament—to permit blacks to offer "inquiries and the submission of proposals" to him. Further, while he spoke of a "united South Africa" he made it clear that this did not mean the dismantling of the four "homelands," and equally clear that any offer of citizenship did not imply South African political rights for those living in the "homelands."

As reported in the *New York Times*, much of what Botha said is a restatement and refining of ideas advanced since early 1985 for cautious political change, designed to replace "apartheid" with "cooperative coexistence." His agenda foresaw many "units" that would be "recognized on a geographical and group basis," including "units" for the nine million urbanized blacks in the present ghetto townships. The intention seemed to be to offer some complex form of government to which the black majority, divided as before as ethnic minorities and between rural and urban dwellers, would have a say of some kind in central government that would not impinge on white lifestyles or on white power over white destinies and economic privilege.

This speech has been dismissed by most black leaders. It provides clearest example yet of Pretoria's attempt, in superficially attractive rhetoric (e.g., "the principle of self determination of own community life . . . in culture generally"), to provide modified forms of political governance to defuse black protest and confuse international opinion by the illusion of progress, and thus claim international respectability and credit worthiness. Such proposed changes presume that Pretoria will remain in control, that it will dictate whatever political change occurs, that any negotiations with blacks will take place within hostile white co-opted and dominated arenas, that it has no intention of moving toward one-man one-vote for a national franchise but will trumpet the equivalence of isolated local franchises, that it will make permanent the forcible loss of citizenship for the approximately five million black South Africans arbitrarily assigned to the "homelands" and their continuing exclusion from South Africa's future, and that Pretoria is attempting a new version of its traditional strategy of granting the forms of black political authority while maintaining the economic and power realities of national black dependence on and control by whites through Pretoria.

White minority domination over an artifically divided black South Africa continues as the core political idea from Pretoria and

its supporters. Their concern is how white domination is to evolve from apartheid—as a particular body of legal rules—into a new structure serving the same goals. The promulgation of Botha's scheme would leave the same segregated tricameral parliament intact, and therefore continue the white pressure on coloreds and Indians to divorce themselves from the black majority and throw in their lot with whites "in the lager." So far, precisely the opposite has in fact happened with the majority of the colored domestic concerns, it has been a relatively quiet issue.

Now South Africa is arguably in, or, if present trends continue, may soon be in a pre-revolutionary situation. In response, the nature of American economic and foreign policy interests there has been revealed, as has been the depth of not only Afro-America's concern, but many other Americans' concern that apartheid be abolished and that the situation warrants economic sanctions. Issues which link American foreign and domestic concerns about South Africa have been raised, such as the effects on a U.S. army now with a substantial percentage of black troops, were it asked to take military action against blacks to save threatened South African whites. As has been noted, ingrained attitudes on race in the United States have begun to manifest themselves in media reporting and analyses of South Africa. Co-option and divide-and-conquer strategies find ready mirror images. Such attitudes are so easily recognizable because their analogs have become staples of the American political landscape, such as the early assumption—hopefully now refuted by consistently contrary statements from black South African leaders—that the majority of black South Africans would oppose U.S. economic sanctions and corporate divestment because some of them might lose their jobs or otherwise suffer economic hardship. This is the identical argument to those made by opponents of black economic boycotts, first in the South and later in the North, beginning in the 1940's.

A variation on these attitudes may have found its way into academic methodology, in that many academics have great difficulty in drawing conclusions from reasonably clear facts that political, social, and economic and even theological events and policies may be, even in part, racially motivated. Other, less damning explanations are found in economic, class, political or urban dynamic causality. The same or worse reluctance obtains in the field of international relations. The law has similar problems, but since it is charged as a discipline with managing concrete policy decisions, it has fewer escape routes.

South Africa in this regard serves two somewhat contradictory purposes: it reveals the inadequacy of the above academic reluctance; but it is also used to give the comfort of an aberrational situation. Accordingly, scholars and commentators so inclined can pronounce themselves quite sure that such trends and racism could never arise in another country, certainly not another western country (now that the other great aberration—Nazi Germany—is safely past), and certainly not in the United States. In this regard, white minority domination in South Africa has done yet another historical disservice. So much focus and energy over time on a global scale are being required for its downfall that other, less institutionalized, but nevertheless pervasive and destructive forms of racism—such as the creation in the United States of a growing black underclass, the tragedy of which has been accommodated by the concept of "structural unemployment"—have been downgraded in the priorities of total resources available to combat such tragedies.

In the future, South Africa promises to be part of the continuing educational experience that black and white America must give each other to get along in the same country, and also of the education that Afro-America must give itself. Both Americas will have to cope with the human normality of black imperfection in South Africa, of which black-on-black violence is one element. Neither Afro-America nor white America, in all their internal variations, can afford to dehumanize black South Africa by holding it up to the standard of perfection in an enormously difficult and deadly struggle. This cannot be afforded for the purposes of Pan-African pride and support, although Afro-America will be rendered more vulnerable in America by perceived black South African misdeeds. Nor can demands for black South African perfection be afforded to maintain American interests there, in trying during this period to retain the advantages of the *status quo ante* by downgrading all possibilities of black political or economic achievement. White imperfections in South Africa must also be understood, but so long as these are reflected in deadly, racially-directed, illegitimate military force to uphold minority domination, they must be understood quite differently.

Afro-America will support the liberation of South Africa into a national one-man one-vote political system or its equitable equivalent, and it will do so increasingly as a *domestic* issue. The rest of America will have to adjust to this, as a majority may already have. If majority America and the U.S. government relate to both Afro-America and majority South Africa in good and equitable faith during this already violent transition, then the United States' legitimate interests in a new South Africa will be that much better protected. One result will be better communication among all Americans.

DISCOURAGING EXCESSIVE LIABILITY CLAIMS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GREEN. Mr. Speaker, I would like to draw my colleague's attention to the following article which appeared in the Christian Science Monitor on May 16 of this year.

[From the Christian Science Monitor, May 16, 1986]

DISCOURAGING EXCESSIVE LIABILITY CLAIMS

(By Leonard M. Greene)

Even in Aristophanes' time, to "win [a] lawsuit [was to be] happy." The trouble is that the quest for happiness today is altogether out of control.

Everyone has a dead-wrong story to illustrate the madness of our litigiousness. In one case the parents of a child who chipped a tooth on a playground swing successfully sued for $1 million. Payment of the judgment was far from the conclusion of the story, however.

The real end came when the community closed the playground, insurance coverage had become prohibitive. How much of the country must be shut down because liability insurance is out of reach?

To discourage excessive liability claims, I propose reducing the actual award given the claimant when it is substantially less than the amount sought in the suit. Perhaps 10 percent of the difference between the original claim and the final award would be appropriate. When deciding on the amount for which to sue, this might incline the claimant and his or her attorney against suing as if "the sky is the limit."

Another approach is the suggestion of legislation to cap court judgments for successful litigants. The legislatures of Maryland and Washington have already enacted caps. Medical malpractice awards are capped in Indiana.

White House leaks indicate that the President, despite his belief in having states assert responsibility on social issues, is considering a national cap on liability awards of $100,000.

A panel appointed by New York Gov. Mario M. Cuomo urges a $250,000 ceiling on payments in liability actions. Penalization of "frivolous" lawsuits is also urged.

But the governor isn't convinced by the arguments for a cap. Would a cap of $250,000 sufficiently compensate for the pain or immobility or lost physical faculties that do genuinely victimize some among us?

An ambulance chaser faced with a stringent cap on the judgment that can be won in a liability suit may, of course, refrain from goading someone into filing suit. The big payoff and the prospect of a 40 or 50 percent slice of it will no longer be there to inspire the lawyer.

The drawback, however, is that restricting lawsuits this way will be on the backs of those whose lives may have been devastated and who will now not have adequate recourse for compensation.

But, in fact, the one value need not be at the expense of the other. Substantial action can be taken to discourage excessive liability claims without disadvantaging those few claimants who on an equitable basis should win very large settlements.

"MY HERO" ESSAY WINNER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to recognize a special young man who out of love and respect for his uncle received the Fenwick High School Essay Award. Keith Sommer's essay, "My Hero," is a masterpiece honoring his uncle Dan Perrino's hard work, loving care of his family, and determination to become a self-made successful businessman in the restaurant business of Chicago. Dan Perrino's Home Run Inn has been a favorite of Chicagoans for many years; which has led to the endless expansion of the restaurant since its conception in 1947.

Keith's honest and straightforward style of writing is another fine example of the outstanding students within the Fifth Congressional District of Illinois. Keith is to be commended for his imagination, coherency, and sincerity for the subject matter; as well as for his writing skills.

Not only is Keith a fine author, but he has something real to say to his uncle, his family, and to us. The love and pride he expresses for his family members are truly based on the finest ideals that have made this country strong and prosperous. The family unit is being preserved in the eyes of some of our most outstanding youth.

THE 300TH BIRTHDAY OF GLOUCESTER COUNTY, NJ

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. HUGHES. Mr. Speaker, Gloucester County, NJ, which I am privileged to represent in the Congress, has just celebrated its 300th birthday. In commemoration of this event, I am pleased to share with my colleagues an editorial which appeared in the Gloucester County Times, which describes in detail the history and tradition of this beautiful county:

300 PROUD YEARS WORTH CELEBRATING

Congratulations, Gloucester County, on your 300th birthday.

Though young by standards of world history, Gloucester County has many accomplishmnts to its credit. Though old by standards of American history, the country is vigorous and growing.

The first Europeans arrived in the area early in the 17th century. Long before these settlers reached the shores of the Delaware River, the region was inhabited by Lenni Lenape Indians, who were peaceable hunters. Both groups are part of our heritage.

Gloucester County itself was born June 8, 1686, predating the nation. Indeed, the Friends Meetinghouse in Woodbury is older than Independence Hall in Philadelphia.

Gloucester City—back in 1686 a part of Gloucester County—was the first county seat. The seat of government later was moved to Woodbury, where it remains. Courthouses representing three periods of Gloucester County history now stand in the city. The first courthouse burned.

The county played a key role in the Revolutionary War through the Battle of Red Bank, where a relative handful of patriots held off a much-larger force of Hessian mercenaries, who fought for the British. men and women from the country also fought and served elsewhere in the war for independence, as in subsequent wars to preserve our nation.

Throughout its history, farming has been an important industry in Gloucester County. Its many farms continue to make a vital contribution to the county's economy. In more recent years, the riverfront—once a place of amusement for Philadelphia residents—drew petrochemical industries. While these are in decline, industrial parks, attractive because of the transportation routes through the country and the labor pool here, have shown remarkable growth.

The county boasts two institutions of higher learning—Glassboro State College and Gloucester County College. In addition to its 13 public high schools, the county has an outstanding vocational-technical school.

It has been and continues to be home to the famous and the humble. And while the county has had its rogues, the people are its strength. All of us share in the 300 years of history celebrated this month, and we all share in the promise of the county's future.

Its problems—including dangerous toxic waste dumps, the threat of a new storage facility for additional toxic waste and the need for new water supplies—are real. But the determination of county residents and officials is more than adequate to solve the problems.

Moreover the county's resources and strengths far exceed its weaknesses, making the outlook for its next 300 years bright.

Celebrating our 300th birthday can help us understand our past, deal with the present and prepare for the future. It can increase our pride in being Gloucester Countians. And it can be fun, as birthday parties should be.

The Gloucester County Tercentennial Commission has prepared lots of ways to celebrate. Be sure to take part.

THE URGENT NEED FOR IMMIGRATION REFORM

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. SEIBERLING. Mr. Speaker, there is a growing interest by the environmental community in the fate of the immigration reform bill, H.R. 3810, currently under consideration by the House Judiciary Committee.

Many members of the environmental and conservation communities are concerned about the connection between immigration, U.S. population growth, and stress on our natural resources. On this basis—protecting the environment from the effects of overpopulation—they want us to take action this year to limit both legal and illegal immigration.

On June 5, several hundred members of a national nonprofit organization called Population-Environment Balance paid for a full-page ad in USA Today which sent a message to the Congress. The ad read, "Two-thirds of the American public think something should be done to slow population growth. Yet our policymakers in Washington are denying that the United States has a population problem (and doing) next to nothing about controlling illegal immigration, even though more than 1,800 people enter the United States illegally each and every day."

The population of our country is growing faster than that of any other industrialized nation, and immigration is becoming the main source of that growth. Population growth is getting ahead of our ability to provide needed housing, jobs, infrastructure and public services. Without a reasonably stable population, solutions to our economic, social and environmental problems are going to be much more difficult to achieve.

The chief staff executives of 10 of our Nation's leading conservation organizations are on record in favor of prompt U.S. population stabilization as a means of protecting the quality of the environment. Their organizations include the the National Resources Defense Council, the Environmental Policy Institute, the National Wildlife Federation, the Environmental Defense Fund, the Izaak Walton League of America, the Sierra Club, the National Audubon Society, the National Parks and Conservation Association, The Wilderness Society, and Friends of the Earth. Last year these environmental organizations jointly declared that: "The administration should establish formal population policies, including goals for the stabilization of population at levels that will permit sustainable management of resources and a reasonably high quality of life for all people."

Mr. Speaker, the only way to assure ourselves of a manageable-sized population in the United States, and to assure that there are enough natural resources to go around, is by limiting legal immigration and eliminating illegal immigration. Population-Environment Balance, Inc. (formerly The Environment Fund) of Washington, DC, recently released a report on the immigration-environment relationship. The executive director of Population-Environment Balance, formerly Assistant Secretary of Agriculture for forestry and soil conservation policy in the Carter administration, is M. Rupert Cutler, Ph.D. The text of that report follows these remarks. It contains some very cogent recommendations.

Let me add only that, important as it is to get immigration under control, the corollary to that is that we must do all we can to help those countries with populations undergoing overrapid growth, such as our neighbors to the south, expand their efforts for family planning programs and increasing their people's living standards. Unless they can bring their population growth under control, the United States will ultimately be inundated by illegal immigrants no matter how strong our immigration laws may be.

IMMIGRATION REFORM: A QUESTION OF NUMBERS

WHY IMMIGRATION REFORM?

According to the Census Bureau, the population of the United States increased by nearly 2.2 million in 1984. This increase was the result of 1.65 million more births than deaths and 523,000 more immigrants than emigrants. One large component of U.S. population growth, however, is completely ignored by the Census Bureau. Because there is no official count of *illegal* immigration, the Census Bureau does not include illegal immigration in its calculations of U.S. population growth.

The number of illegal aliens entering the United States each year is high. Last year the Immigration and Naturalization Service (INS) apprehended nearly 1.3 million illegal immigrants at U.S. border and interior points. Estimates of the number of illegal aliens who make it into the country vary widely. No one knows the exact number, but the Environmental Fund considers a net increase of 500,000 to 1 million to be a reasonable range. Adding these numbers to the Census Bureau figures yields a total U.S. population increase for 1984 between 2.7 and 3.2 million.

Officially, the largest single-year population increase in the history of the United States was 3.1 million in the baby-boom year of 1956. United States population growth, counting illegal immigration, is now approaching this historic high. At current fertility levels, and assuming that immigration is at the high end of The Environmental Fund's range, the population of the United States could swell to 291 million by the turn of the century—an increase of 54 million people in just 15 years. By the year

2030 the population of the United States could be 375 million—and still be growing.

If Congress were to pass legislation that significantly curtailed illegal immigration and placed a limit on legal immigration, total net immigration could be held to 500,000 a year—which is twice what it was in the 1960's. At this level, and at our current fertility rate, the population of the United States would stabilize at 278 million by the year 2025, assuring a far better future for our country.

WHAT KIND OF IMMIGRATION REFORM?

There is a need for immigration reform, but not just any immigration bill will do. The exact form the bill takes will strongly affect America's demographic (and thus its environmental and economic) future. Because of this, it is critical that the various aspects of immigration reform and control legislation—illegal immigration, legal immigration, amnesty and guest worker programs—are examined from a demographic-impact perspective.

Illegal immigration

The cornerstone of any bill that attempts to control illegal immigration into the United States must be a ban on the hiring of illegal immigrants—"employer sanctions." Other measures, such as improved border enforcement, also are important. But any bill that does not include employer sanctions will not effectively stem the flow of illegal immigration. For if it is not illegal to hire illegal aliens, then employers will continue to hire them, and people will continue to be pulled into this country by the magnet of jobs. Without employer sanctions to address the "pull-factor," illegal immigration will continue to be a major source of U.S. population growth.

Amnesty

The amnesty provisions that were present in the House-passed immigration bill of the 98th Congress—a sweeping amnesty for illegal aliens in the U.S. before January 1, 1982—would have been a demographic time bomb. Under current law, immediate relatives of U.S. citizens are admitted into the United States without numerical limitations.

Between 4.5 and 11 million illegal aliens live in the United States, and though the exact demographic result of an amnesty provision is impossible to predict, it would certainly be significant. Five years after an illegal alien becomes a permanent resident, he can petition for citizenship. If, for example, eight million illegal aliens eventually gain U.S. citizenship and each sponsored four immediate relatives, 32 million people might be legally added to this country. These immediate relatives could in turn sponsor their relatives, a process known as "chain migration."

The Environmental Fund warns against amnesty, but if Congress chooses to include amnesty in immigration reform, The Environmental Fund supports the "triggered amnesty" approach proposed by Senator Alan Simpson. Under this plan, an amnesty program could not be implemented until a Presidential Commission certifies that illegal immigration is under control.

Legal immigration

An overall ceiling on legal immigration, such as the 425,000 limit of the 98th Congress's Senate bill, is an essential component of an effective immigration reform bill. Under current law only about one half of all admissions (those immigrants admitted under the preference system) are limited by a binding ceiling. There is no limitation on the number of immediate relatives of United States citizens admitted and only a partial limitation on the number of refugees admitted. Without a overall cap on admissions, we will not be able to control the future population growth of America.

Guest workers

Guest workers are another area of demographic concern. Under the provisions of an amendment adopted by the House in 1984 (the bill itself did not pass), upward of 500,000 temporary foreign workers could have been admitted to the U.S. for up to eleven months of the year. A huge guest worker program such as this, with numbers approaching current net legal immigration levels, would introduce many more people to the United States who may set their sights on immigration—legal or illegal.

POPULATION GROWTH AND ENVIRONMENTAL QUALITY

Some argue that the U.S. has a duty to provide an escape valve for the burgeoning populations of the world by accepting anyone who wants to come. But with the world population increasing by over 80 million a year, such migration would not mitigate significantly conditions in other countries and would lower substantially the quality of life here—for all residents, including the new arrivals

Rapid population growth in a highly industrialized nation, already beset by serious environmental problems, is cause for alarm. A World Bank economist recently warned that population increases in the rich world put about eight times the pressure on world resources as do increases in the poor world. In recent years much progress has been made on many environmental quality protection fronts. Without proper immigration reform, however, future efforts to protect wildlife habitat, preserve farmland and wilderness, improve air and water quality, and provide adequate water supplies (particularly in the Southwest) may be overwhelmed by population growth.

The Environmental Fund believes that a citizenry well-informed about the effects of population growth on the quality of life will support a national population policy designed to foster a stable U.S. population.

THE STATE OF THE PHILIPPINES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, this is the third of a 10 article series on the Philippines written by George Chaplin, the editor-in-chief of the Honolulu Advertiser. This installment addresses the political, economic, and security problems facing the new Aquino administration.

The Philippine economy is in desperate need of economic assistance. The growth rate of the Philippines has been negative for the past 3 years and this trend is expected to continue. Unemployment in the Philippines is extremely high: 30 to 35 percent of the people are out of work and another 25 percent are underemployed. Seventy percent of the population is near or below the poverty level. The Philippine military is also suffering. In order to be successful, President Aquino must rectify these problems, and at the same time supervise there competing factions within the government, ranging from the anti-Marcos faction on the left to remnants of the Marcos administration on the right.

The article follows:

[From the Honolulu Advertiser, May 30, 1986]

POLITICS, SICK ECONOMY BURDEN CORY

(By George Chaplin)

MANILA.—President Cory Aquino has got to assert her leadership and start coming up with solutions to political, economic and security problems.

So says one of the several U.S. officials we interviewed in Washington and here in Manila; all spoke freely on condition they not be named. (We quote from more than one to show some differences in perpective.)

This official, who follows the situation in considerable detail, provides this overview:

On the political front, Aquino first has to maintain control over an uneasy government coalition, embracing three groups.

Those to the left of center are political purists, vociferous critics of Marcos, strong on human rights, demanding the government set up rigid standards for fairness and justice. They perceive foreign policy as being too friendly to the U.S.

The Second Group is reflected in Vice President and Foreign Minister Salvador Laurel, who's leading UNIDO, the largest party in the coalition, in the center of the spectrum.

His father was president during the Japanese occupation and he has a brother who was a governor. He's a good friend of the U.S. He subordinated his presidential ambitions to accept the number two spot.

The third group consists of remnants from the Marcos regime—Defense Minister Juan Ponce Enrile and Armed Forces Chief of Staff Fidel Ramos. They're right of center.

The left group favors amnesty and reconciliation for the insurgents. Those on the right say those are fine in principle, but an effective military is needed to hit the hard-core communists.

The left types hope to reconcile and then be able to divert a good part of the military budget to social programs. The right group wants more military budget. Laurel is going along with reconciliation, but he's against a military budget cut.

There's tension over the U.S. bases. The left wants more money (for the lease) and wants to be convinced the bases serve Filipino interests as well as American. Laurel, Enrile and Ramos know the importance of the bases. They're not playing a nationalist game of tweaking the U.S. nose.

The Center and right groups didn't approve of Aquino dissolving Parliament and suspending the constitution. They're nervous at her unlimited decree power (pending the writing of a new constitution and holding of elections).

A third problem involves jobs. There's massive unemployment. Under-employment is pervasive. Being a mayor or governor or holding other office is important, since it enables you to have money, to educate your kids. If you lose your job, there's no way to support your family.

Laurel, with UNIDO, has the largest group in the coalition. Aquino knows he wants to be president and her people don't want to let him in. There's a lot of patronage in the provinces—over 1,500 mayors,

10,000 town councillors, 42,000 village chiefs.

It was proposed there be elections this month for governors, mayors and town councillors. Aquino took power in February and (to dismantle the Marcos apparatus) she issued orders to (Local Government Minister Aquilino) Pimentel of PDP/Laban to replace the incumbents.

This infuriated Laurel (who feels patronage is being stacked against him, by the party which is smaller than his). The question is not only who is Pimentel naming, but what happens to them next year or earlier when elections are held. Laurel wants to play, but he could pull out and shatter the coalition.

Local government is very important in the Philippines. Officials have a lot of authority and affect the daily lives of people more than the president. The miliary also is upset about the way replacement of officials is being handled.

Marcos put together a local government system which included some good people who ran their offices well. He was able to attract people from different families and regions into a network supporting him.

It's time now for a change, but Pimentel is putting in some yo-yos, so the military now is dealing with Pimentel's former driver who is now a mayor.

Aquino has to keep the coalition, but also project to the people as a whole a countenance of confidence. They are looking for great things from her—jobs, handling the insurgency, brokering the politics with and between her ministers.

In economics, the Philippines is sick, while the other nations in the region are doing relatively well. The country has had three years of negative growth and probably will again this year. Per capita income in three years has dropped from $800 a year to less than $600. There are 30 to 35 percent unemployed, another 25 percent under-employed.

Finance Minister Jaime Ongpin says 70 percent of the population is living below or near the poverty level. Marcos-created monopolies stifled free enterprise. Foreign debt is $26 billion. It takes 30 percent of foreign income to service the interest on that debt.

Aquino has to reorganize the economy and dismantle the monopolies. The basic export industries are sugar, bananas, coconut and mining. Marcos put friends in charge and gave these to them. She's got to reorganize a host of state-run enterprises that were set up for cronies.

She has to stablize the exchange rate. She has to reschedule foreign debt payments. It's like giving mouth-to-mouth resuscitation to a near-corpse to get the patient off the bed and walking.

Population growth is 2.7 to 2.8 percent a year. The 55 million people are projected to be 80 million by 2000 (14 years hence). Contrast this with the 24 million in 1965 when Marcos went in.

For security, it's basic to come to grips with the communist insurgency. Homegrown opposition split off from the Moscow line in 1968. They started with a handful at the outset, today have 20,000 full-time, 15,000 to 18,000 as militia, a five-million person base in 64 of the 75 provinces.

They operate in 45 fronts in all areas, with active influence in one-third of the 42,000 villages. There's a core of highly dedicated, ruthless Leninists who were originally middle-class students and teachers, ex-priests and ex-nuns.

In 1982-83 there were 6,000 guerrillas, but they've tripled because of the Aquino death and abuses by the Philippines military, plus economic decline. Most of the guerrillas and militia are probably not ideologically committed.

Cory Aquino's task is to put together a plan that comes to grips with the insurgent threat. The NPA (New People's Army) is political as well as military. Its National Democratic Front (NDF) and other fronts are active with teachers, students, unions and farm workers.

Political proselytizing is why they're so deep into towns. They plan to use the NPA to keep the army at bay while doing political missionary work. They want to gain political power, not military power per se. They want to be able to bargain, to be in the government.

Aquino wants to try a cease-fire and amnesty, but has to have approval of the government with popular support, plus a strong economy and an effective military. Does she have what it takes to do that?

The Philippines military is sick and deformed but with a core of professionals. It was co-opted by Marcos and so lost its ability to lead and earn respect. The ability to do the basic tasks suffered severely.

It has the lowest military budget in the region. Only 44 of 248 naval ships can move. None is regarded by the U.S. Navy as seaworthy. Air force pilots lack practice for lack of fuel. Soldiers in the field lack food, uniforms, good arms. And they were abusing the local population.

Aquino has retired 23 "over-staying" generals, 16 colonels. For the first time there's a vital element of credible government. She is hard-working, decent, friendly to the U.S., wants to do the right things.

Defense Minister Enrile and Ramos, if given sufficient authority and resources, can begin to restructure the armed forces.

Cory has about a year to demonstrate to the people that she has sufficient competence to justify their confidence. Hope is important. People are in desperate straits, but they will try to endure. Filipinos are a resilient, patient people.

The extended family system provides for resilience. Everybody pitches in. Overseas remittances are important; 300,000 in the Mideast sent back home $1 billion a year. There are a million Filipinos in the U.S. and they repatriate another billion a year.

Q: Who supplies the NPA?

A: Almost all is acquired by their knocking off the poorly trained government militia. Kids are unemployed, they take their AK-47's and also knock off police stations. Generally they don't take on the army, but they have sacked regional arsenals.

There are a lot of guns in Filipino society, sort of like Abilene in the old days. Some of this is Middle Eastern because with Muslims it's part of the definition of a man to be armed.

Q: What of U.S.-Philippines relations?

A: The World War II generation of the Philippines is passing. There's a new generation. Of the 55 million people, one-third are 10 years or younger. 42 percent of the population is under 15.

Five of our eight security treaties are in Asia/Pacific—those with Japan, Korea, Thailand, the Philippines and Australia-New Zealand. The Philippines is one of a handful of nations in the region essential to our security. We have to find ways to demonstrate to the new generation that the bases serve their interests too. To do that we must provide help.

He expects that in 1991, when conditions change regarding the bases, there will be tough negotiations, it will cost us more, but they will ask us to stay.

Our aid to the Philippines is substantially less, incredibly less than what we give Pakistan, Egypt and Israel. It's an incredible bargain. There's no other military establishment that combines (Clark's and Subic's) unsurpassed strategic locations or their capabilities.

The labor force on the bases is rated the most skilled for what it does at the cheapest price anywhere in the world. We pay one-fifth to one-sixth of what it costs us in Japan and one-tenth of what it costs us in the U.S.

Aquino Has "Reasonable" Chance of Success

(By George Chaplin)

Manila.—We asked a knowledgeable American official how he sees President Aquino's chance of success.

A: If by early next year she can be in a position in which the economy has begun to show acceptable signs of growth; if the government is back in a constitutional framework; if she has had local elections; if she continues to give support to the military and its reform effort, she could be a success. The economic and military challenges are daunting, but prospects are reasonable.

Q: Is there any fear of (Defense Minister Juan Ponce) Enrile's ambitions being dangerous to the government, either through a coup or undue influence?

A: I don't see any signs. Enrile, a holdover from the previous government, is a somewhat different person in this government. Many have spent years seeing Enrile (who was Marcos' defense minister and the architect of martial law in 1972) as part of the problem, so a residue of suspicion is not surprising.

I feel Enrile wants to see the government succeed and wants to help, but he will express his own views when and if he feels the government is making a mistake.

Q: Both he and (Vice President and Foreign Minister Salvador) Laurel have been critical of Cory, particularly regarding appointments of Officers in Charge (to replace Marcos people in provincial and local offices). Is she in charge?

A: She is in charge and increasingly assertive. In addition to problems, the government has obstacles—no time to plan. One Saturday they were in the coffee houses, Tuesday they were in power.

The coalition is held together by a desire for a change and antipathy for Marcos. There are five constituencies. The two major parties, PDP/Laban and UNIDO, each has its own agenda. You expect parties to position themselves. The business community as reflected in the cabinet is the most coherent of the constituencies.

On the economic side, the government thus far has been laying out an agenda. The No. 1 job is to get the economy going again. Some in the administration are neither government type nor businessmen.

For examples, human rights lawyers (Joker Arroyo is Aquino's executive secretary; Rene Saguisag is presidential spokesman; and Jovito Salonga is head of the Commission on Good Government) are not sympathetic to the military or politicians. Her task is to have them marching together. After a few months it's not surprising there are some cracks.

Q: What cabinet people impress you?

A: (Jose) Conception, (the trade and industry minister); (Jamie) Ongpin, (the fi-

nance minister); (Ramon) Mita, the agriculture minister; Enrile, who has useful insights; and the minister of transportation (Hernando B. Perez).

Some suspicion of people toward the military goes back to martial law and there's some feeling by the military that inquiries regarding corruption and human rights will jeopardize them.

There's a period of settling in and some things are being turned upside down. They're now stripping away Marcos' apparatus. Things won't be normal until the constitution is in place and new elections take place.

The battlefield on which political fights are carried out is now within the government itself. Cory's tendency is not to form a political base. Her popularity is her base. The perception is that that's part of her power.

Q: What of the role of the Catholic church in the "Jesuit Mafia"?

A: I don't think that (Cardinal Jamie) Sin is a major advisor or ever was. He was a moral force for change. Some argued that (Cardinal Ricardo) Vidal (president of the bishop's conference), who issued strong letters after the election, played a more vital role.

Sin is not a force behind the president, but she may call him from time to time. There's no question Cory's faith is a fundamental component of her approach to government. Some clergy have been close advisers, for example Father (Joaquin) Bernas (president of Ateneo University.)

The church as an institution has played such a critical role in the last few months it can never go back to its non-secular role of 10 years ago. If it did, it would lose the left part of its spectrum.

Q: What of pro-Marcos people? Is there support in the provinces?

A: First, it's important to remember that whatever the actual margin in the election, Marcos got some millions of votes so there's some residue of support. Because of the disclosures of his hidden wealth, a lot of that support dissolved, including on the part of some members of his own cabinet.

There's tribal loyalty. Among the Ilocanos you'll find quite a bit of Marcos support. They're Ilocanos before they're Filipinos.

Political life is dominated by groups of families. It will be hard to create new centers of power. Some say the government should pursue a policy of attraction—since switching parties is a long established tradition.

Q: Ramos gets high marks from the U.S. military on having no political ambition.

A: Ramos is a highly professional officer, who sees an opportuntiy for vindication of his career.

Q: What of the secessonist movement in the south?

A: It's a lot of smoke. The leader (Reuben Canoy) got 36,000 votes in the last national election. It's not a serious move for independence in Mindanao, but it's still important for the government to uphold the law.

Q: How long will the Aquino coalition hold up?

A: For a long time unless Laurel doesn't want to be vice president any more. He's been careful not to separate himself from her (the president) personally. I think she trusts him and that the personal relationship is quite good.

Q: What of her statement that she wouldn't run for a second term?

A: A year ago she said she wouldn't run at all. She seems to be enjoying herself more.

Q: What about the economic situation?

A: The country is basically broke. They can get some help from the International Monetary Fund (IMF). Bank flexibility is required to enable the structural reform to enhance the role of the private sector and get government out. The engine has to come from the private sector and mostly the rural private sector.

Q: On the economy, is there any sign of Filipino repatriation?

A: There are tentative signs of Filipino money coming back. The peso is stable against the dollar. There's a lot of Filipino capital outside. Anybody who had surplus wealth got it out. As the economy begins to pick up and people are more confident, some money will be returning. Some already has. The best way to get it back is to establish an environment of confidence.

Q: What are the odds we'll retain the bases?

A: The best way to assure the opportunity to have access is to maintain strong relations with both the government and the people. It's important that we conduct ourselves in a way that shows we're not just interested in the bases.

There's a good shot that we can continue to negotiate for the bases, although the price will go up.

Q: What about the communists?

A: The leadership of the Communist Party is predominantly young, middle-class, university-educated. The insurgents are a dangerous problem. The mass base which gives tacit or explicit support of the NPA (New People's Army) has dropped some. The change in government has at least raised the question of whether things won't be better.

The communist use military action as a means of political control. They don't envision rolling tanks into Manila. They've deliberately left the (U.S.) bases alone since '76.

REDONDO BEACH COUNCILMAN ARCHIE SNOW OPPOSES OFFSHORE DRILLING

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LEVINE of California. Mr. Speaker, I rise to recommend to my colleagues a superb statement from Redondo Beach Councilman Archie Snow speaking on behalf of the mayor and council of Redondo Beach before the California Secretary of Environmental Affairs with regard to the Department of the Interior's proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program.

Councilman Snow's cogent arguments deserve the review of all of us. He eloquently argues that "those of us who are concerned about OCS offshore drilling feel we are being ignored." His concerns and those of the other local coastal cities deserve much more attention and consideration, particularly from an administration which claims to believe in local control.

I insert at this point in the RECORD a copy of Councilman Archie Snow's testimony:

COMMENTS FROM COUNCILMAN ARCHIE SNOW OF THE CITY OF REDONDO BEACH PRESENTED TO SECRETARY OF ENVIRONMENTAL AFFAIRS, JANANNE SHARPLESS

Madam Secretary, on behalf of the Mayor and Council of the City of Redondo Beach, I wish to present our comments regarding the Department of Interior's (DOI's) proposed five-year outer continental shelf (OCS) oil and gas leasing program.

We have repeatedly expressed concern about the negative environmental impact that this type of offshore energy production will have on Southern California, and in particular, the Santa Monica Bay. We have advocated the development of alternative and renewable sources of energy such as methanol and ethanol as a means to protect our Southern California environment.

We view the Santa Monica Bay as an endangered ecological and recreational area. Too many of our wetland habitats have been reduced or eliminated in the name of progress. The Santa Monica Bay provides recreational facilities for millions of Southern California residents who swim, boat, or fish. Offshore oil drilling will do nothing to enhance this environment. The only question is how much it will cost.

It is with particular concern, therefore, that we note in the proposed leasing program that Southern California and the Santa Monica Bay are designated for accelerated development. We in local government in Southern California have long felt that the competing and sometimes conflicting national priorities to produce energy and to protect the environment have placed our region in a classic "Catch 22" situation. Leasing in the waters off Southern California will only aggravate this problem. Offshore oil and gas production will seriously impair our efforts to achieve clear air standards because this drilling will increase vapor discharges into the atmosphere and aggravate other forms of pollution associated with such operations. The proposal to lease in Southern California comes at a time when our area is under an imposed deadline from the Environment Protection Agency to meet federal clear air standards. We fear that our environment will be sacrificed to satisfy the insatiable appetite of DOI and the oil industry for oil and gas.

The proposed OCS oil and gas leasing program adds to this concern because it leaves many questions unanswered. When and where will drilling take place? How will the crude oil and its by-products be transported? Definitive answers to these questions are currently not available. The information that is available shows that the oil industry has indicated a high degree of interest in the Southern California Planning Area. The cost benefit analysis done by DOI projects that net benefits will exceed cost by a substantial margin. In fact, the DOI proposal states that the social costs are probably overstated. We believe the risks associated with producing OCS oil and gas are understated, not overstated. The potential risks to the Southern California region in general, and the Santa Monica Bay in particular, are enormous. For this reason, we remain unalterably opposed to offshore drilling in the Santa Monica Bay and strongly urge that this area be deleted from the Southern California Planning Area.

The risks associated with offshore OCS drilling from our perspective here in Southern California may be grouped as follows:

(1) The handling OCS crude,

(2) The potential earthquake threat, and

(3) The environmental impact reporting process.

HANDLING OCS CRUDE

Transportation of Santa Barbara's heavy crude oil requires either blending of the oil with other materials, such as natural gas liquids (NGL), or the heating of the oil, so that it will flow more easily through the pipeline. Santa Barbara County is requiring that this blending with NGL be done in the proposed Southern California Pipeline System (known as the Angeles Pipeline). We believe this process presents a potentially serious public safety hazard. NGL's are highly volatile, and any pipeline breakage could lead to a critical incident. We are very concerned that the potential risks of fires and explosions be discussed and planned for early in the design process. For example, the Angeles Pipeline, a new segment of the Southern California Pipeline System, will be 130 miles long and will pass through 12 cities and 18 miles of unincorporated county areas. This pipeline must be structurally sound. Consideration must be given for the particular risks faced in densely populated areas along the proposed route.

POTENTIAL EARTHQUAKE THREAT

The main reason that the blending of crude oil with NGL is such a concern here in Southern California is the potential for a major earthquake. In an analysis prepared for the Governor's emergency task force on earthquake preparedness, a scenario was developed based on an earthquake of 8.3 in magnitude. That report indicated that in the event of such a quake, pipeline facilities would probably sustain varying degrees of damage depending on the proximity to the actual fault line and the stability of the ground on which they are built. Pipelines coming from Kern County to Los Angeles would cross the San Andreas Fault in the Tejon Pass region.

ENVIRONMENTAL IMPACT REPORTING

We do not believe that Enviornmental Impact Reports (EIR's) to date, and this includes the soon-to-be completed PAC-TEX EIR, accurately provide either the full information or proper framework for the discussion that is necessary for our region to understand the risks and to comment on them in a meaningful way. One of our biggest problems is the ambiguous language used in many of the documents, i.e., "best available control technology."

EIR's should include a requirement that public notice be given if pipeline operations will be transporting products that are more hazardous than hot crude oil diluted with liquid petroleum gases. Maximum efforts must be taken to keep any proposed pipeline route from residential areas. EIR's should also address the transportation on public highways of the sulphur and other products that are removed from the oil before it goes into the pipeline system. There should be strict adherence to air and water quality regulations.

We must work together sharing information, preparing emergency management teams, and coordinating with the oil companies and state officials. We propose that funds be made available to local jurisdictions to review and comment on EIR's relating to OCS oil and gas production and onshore transportation and refining processes and to deal with the anticipated and unanticipated costs associated with such production.

Specifically, we propose that the federal government set aside a portion of the benefits to be realized from lease sales as well as oil and gas sales as a contingency fund available to local jurisdictions for use in evaluating and dealing with the potential risks. The statistics provided by DOI in their program proposal may be useful in determining the reserve necessary to mitigate the risks associated with OCS offshore drilling. The maximum cost associated with OCS development is estimated by DOI to be approximately $158 million as of January 1987. However, it should be noted that DOI's cost-benefit analysis is based on assumptions that are currently at odds with reality. For example, crude oil prices are not $29 per barrel, or $19 per barrel; crude oil is selling for less than $15 per barrel and the price is dropping. This situation may change in the future, but the reality today is that Section 18(a)(4) of the OCS Lands Act requires that leasing activities be conducted so as to assure receipt of fair market value. Therefore, the current price of oil will most assuredly depress the fair market value of these leases. We submit that this situation makes a delay in any lease sales advisable. To do otherwise will merely add to the oil glut, encourage waste, and increase still further, the environmental risk to the area in which we live.

We have stated on previous occasions that those of us who are concerned about OCS offshore drilling feel we are being ignored. We hope that this will change in the future. We hope that our proposals will be considered in light of the enormous risks associated with the assumed benefits to be derived from OCS offshore drilling.

INTRODUCTION OF ANTI-TRAFFICKING LEGISLATION

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. SWIFT. Mr. Speaker, a year ago if you were asked how is a broadcast station like a pork belly, you would have thought the questioner was crazy. Today there is a strong and disturbing similarity. Both are being treated as mere commodities, and the special responsibilities that go with a broadcast license are increasingly being ignored by traders who have no interest in being in the broadcast business, but only an interest in trading licenses for profit.

The Committee on Energy and Commerce, on which I serve, has spent considerable time looking at the important issues raised by mergers, buyouts and takeovers in the broadcast industry. Conclusions, though, have not been easy to draw, since there are both good and bad aspects in the way the market has been working. One issue that I believe must be addressed, however, is the proliferation in the trading of broadcast licenses by people who are not primarily interested in assuming the responsibilities that go with operating a radio or television station.

More than $30 billion in deals involving broadcast stations were made last year. In part, this was due to the interaction of three FCC changes in rules. First, the FCC loosened its rules on station ownership to allow one person to own up to 12 TV stations and 24 radio stations. Second, they have liberalized the attribution rules so that a person can own a larger share of a station without being counted as an owner. Third, the FCC no longer requires an owner to hold his license for a full term.

This last change, more than any other, has encouraged the entry of what Commissioner Quello has called the fast buck artist—a properties trader more interested in short-term profits than in serving the public.

U.S. policy regarding broadcast licenses has always recognized the appropriateness of making a profit, even a very large profit, from operating broadcast facilities so long as the licensee meets his special responsibility to serve "in the public interest, convenience and necessity." Over the decades the industry has, by and large, done an exemplary job of meeting this public interest requirement while pursuing its entrepreneurial goals. There is, in fact, a ready acceptance among professionals in the field of these special responsibilities. Public interest groups and broadcasters have disagreed from time to time on whether the public service programming is of the right kind, of adequate quality or quantity, and so forth. But there has never been disagreement that the public interest responsibility is real and a major consideration for anyone who chooses to go into the broadcasting business.

This industry has always accepted its special responsibilities, but this national policy is being severely endangered by a new attitude which asserts that a broadcast station is just another commodity whose purpose for existence is to be traded for a profit, that owning a broadcast station carries with it no more social responsibility than owning a pork belly.

The impact is not limited only to reduced public service to communities of license. Another equally insidious effect grows out of this new practice. Now that licenses are treated as commodities, station prices are being driven to incredible heights. That forces all buyers, even those who are willing to accept the special responsibilities of public service to go along with a license and wish to operate a station rather than merely trade it, to take on more debt than, in fact, can be serviced if the station is to spend the necessary and even usual sums that are required for effective local public service.

Already, people in the broadcast industry are recognizing the impact these changes are having on the industry's character. Channels magazine this month reports that, with the development of media blind trusts,

The process of buying and selling TV stations has become as mundane as a real-estate transaction and as dry and simple as an oil-and-gas investment trust.

The article goes on to say that

What's disturbing about these funds * * * is not that they are designed to gather investor resources to purchase media properties but that their only goal is selling these properties after price runups.

CBS executive Thomas Leahy recently saw serious threats to the broadcast industry caused by takeovers and the buying and selling of stations for short-term profits. He said,

It seems to me that the character of our industry is changing. * * * If what we see today continues to accelerate, broadcast properties could become mere commodities to be traded as beans and cotton futures. And, somehow, that notion is at great vari-

ance with what we have always felt about the essential character of broadcasting.

Similar concerns have been raised by Gene Jankowski, also of CBS, who recently noted the destabilizing effects of FCC rule changes that make it easy to buy and sell stations rapidly, often with the result that stations take on a mountain of debt. As Mr. Jankowski noted in his speech.

If we are not careful, we could end up more concerned about serving our debt than about serving the public.

A recent editorial in Electronic Media observed that elimination of the antitrafficking rule,

Has seriously disrupted what had long been a commendably stable and successful industry. Stations are now bought and sold as if they were soybean futures or pork bellies, and a good many career broadcasters are being chewed up in the process. Perhaps in the long run the benefits of this deregulatory move will outweigh the losses. But perhaps not.

I believe it is most probably not, Mr. Speaker. Clearly, this is an issue Congress should consider. There are special problems and issues raised by trafficking in broadcast licenses and, today, I am introducing legislation that will address concerns raised about this practice.

This legislation will reinstate the so-called antitrafficking rule that says we expect a licensee to hold his or her license for a full license term of 3 years. It will not interfere with the normal course of business for any licensee. It will not affect routine license transfers, pro forma changes, or assignment of boosters and translators. Nor will this legislation interfere with the licensee who, due to unforeseen circumstances beyond his control, is forced to sell a station. It will not affect those who own stations already. It will, however, secure continuous, responsive broadcast service for the American public. I invite my colleagues to join with me in making sure the American public is not disserved by deregulation that is carried to a mindless extreme.

CHINATOWN PLANNING COUNCIL SENIOR CITIZENS' CENTER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GREEN. Mr. Speaker, today, I wish to honor an organization in my congressional district, the Chinatown Planning Council [CPC], whose Project Open Door provides immense inspiration and hope to Pacific Asian American senior citizens.

Founded in 1964, the Chinatown Planning Council was the first Chinese social service nonprofit organization in Chinatown to recognize the special problems of the Chinese community. The council's activities include planning and direct services in the fields of social service, education, housing, and health, among others.

In particular, however, the council has been a ray of hope to the senior citizens of Chinatown through their "Project Open Door." As with the rest of the United States, the Chinese-American senior citizen population has been increasing rapidly. Often the elderly in Chinatown experience language and cultural difficulties, isolation, housing, employment, and social security problems which cannot always be handled by traditional social service organizations.

In a partnership between the Federal Government and CPC, the council opened its own senior center, Project Open Door. Project Open Door not only provides social services, nutritional advice, and other assistance to seniors, but also provides a place where seniors can meet for recreational activities, cultural resources, or new friends. Project Open Door gives seniors a chance to meet with other people that have similar interests.

Too often, senior citizens live in dreary apartments by themselves with few resources. "Open Door" provides a warm, attractive setting to relax with friends, and organized activities are planned around social, cultural, and recreational interests.

I know my colleagues will join me in honoring this outstanding organization, the Chinatown Planning Council, and its senior center, Project Open Door. Without the council and Project Open Door, many Chinese-Americans senior citizens would live a life with little joy and hope.

RETIREMENT OF JOSEPH B. MOL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LIPINSKI. Mr. Speaker, it is my honor and privilege to recognize the retirement of Mr. Joseph B. Mol from the Joslyn Manufacturing Co. in Chicago. In his over 20 years of dedication to his manufacturing company, he has grown as a husband, father of three children, citizen, and as a Christian.

Mr. Mol was born on July 25, 1924 in Chicago and raised in the "Back of the Yards" area. He married Rosanna Rocca in 1950 and raised three children: Father Joseph C. Mol, Linda, and Dawn Marie.

Mr. Mol has been a patriotic and achieving man but still retained his simple outlook on life. He fought for our country in the Philippines during World War II and is a member of the Veterans of Foreign Wars. He loves his family and friends dearly, and always lends a helping hand—especially when his son was completing his priesthood.

Mr. Joseph B. Mol is an outstanding example of the fine ideals held by our working citizens. His love for God, his family, and occupation make his retirement even more special for those loving ones around him.

THE ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 18, 1986, into the CONGRESSIONAL RECORD:

THE ECONOMY

In many ways, the U.S. economy seems to be in better shape now than it has been for a long time. We have had almost four years of growth without a recession. Most Americans are better off today than they were in the 1970s. Many observers find conditions in the economy sounder than they have been for two decades or more. There are some troubling signs, but further growth is expected, at least through next year.

The unemployment rate of 7.3% is high by historical standards and is much higher in certain hard-hit industries. Nevertheless, the economy has done remarkably well creating jobs, even if it has not managed fully to accommodate the rapidly expanding portion of the population, mainly women, who want to work. More than 60% of all adults are at work, a higher percentage than at any time in the past. Inflation is under control for now. Consumer prices rose only 1.6% during the past year and actually fell dramatically during the last three months. Interest rates have also dropped significantly. And after four years in which the overvalued dollar undermined U.S. competitiveness in manufacturing, the dollar has fallen steadily for almost a year and a half.

Despite these encouraging signs, doubts about the economy's strength linger. No one thinks a recession is imminent, but there are mixed signals about where the economy is headed. Although there have been signs of stronger economic growth since the beginning of the year, that has not happened yet. So far, only the housing industry has responded strongly. The rest of the economy has remained fairly stagnant this year. Manufacturing employment has fallen, retail sales have shown no increase since December, new orders for manufactured goods fell, as did new orders for durable goods. The business failure rate is the highest since early in the Great Depression. The nation's international competitiveness shows little signs of recovering. There has not been any improvement in the trade deficit even with the fall of the value of the dollar. Federal budget deficits stubbornly persist. The federal deficit is projected at over $200 billion for fiscal year 1986, and could be even higher if lower economic growth reduces revenues. Household and corporate borrowings are also at historic highs.

Perhaps the most troubling economic trend is the lag in productivity. Productivity growth in the nonfarm business sector average a lackluster 1½% between 1983 and 1985, and industrial output fell again during the first part of this year. U.S. productivity is the weakest of all major industrial nations, for reasons not fully understood by economists.

The recent prosperity has also not been shared by everyone. The poverty rate, though still below its level in the 1950s, has risen during the last few years. Growth has been strong along the East and West coasts, but it has been much weaker in the interior of the country. Two major sectors of the economy, agriculture and energy, have been hit by declining prices. It is easy to see great distress, depression even, in the farm belt, in the oil patch and in the western mining and timber country.

Most observers think the economy will improve in the last half of this year. They base that judgment on the recent decline in interest rates, the drop in oil prices and the fall in the value of the dollar. With each of

these, however, a problem exists. Nominal interest rates have declined, but real (i.e. inflation-adjusted) interest rates remain very high compared to those in the past. The fall in the value of the dollar may not be as beneficial as many hoped. It has declined against the currencies of Europe and Japan, but it continues to rise against the currencies of Canada, Latin America and the Far East. Also, Japan is the major supplier to the U.S. of consumer goods, including microwave ovens and VCRs. Since there is no U.S. production capacity to replace these imports, a decline in the value of the dollar will probably not reduce imports from Japan or stimulate domestic production. Oil prices have fallen from $28 per barrel in November 1985 to around $15 per barrel today, but that decline has mixed consequences for the economy. The drop will increase the money consumers have to spend on goods and services, but there is an offsetting impact in the oil producing states hurt by the drop in prices. In the long run, increased domestic oil consumption from lower prices could reduce domestic production and make us more dependent on imports.

Tax and budget policies in Washington are the major uncertainties in the economy right now. It is much too early to declare victory over budget deficits, and Congess is doing the most radical rewrite of the tax code in its 72-year history. Businesses are delaying plans to invest in plants and equipment until a new tax law emerges.

The mixed economic signals make it difficult for policymakers. Some think that an economic pickup is just ahead. They point out that the economy grew at a rate of 3.7% during the first three months of this year after a disappointing 2.2% last year, and predict further growth ranging from a modest 3% to as high as 4% for the rest of the year. They reject changes in economic policy that would risk higher inflation next year. Others think that growth is always just beyond reach and feel that now is the time to step on the accelerator. That probably means a move by the Federal Reserve Board to reduce interest rates even further. Given the huge budget deficits that constrain the President and the Congress, only the Federal Reserve has sufficient flexibility to act to stimulate the economy.

My own feeling is that the best thing to do is to sit tight, at least for the time being. The economic signals are mixed, and I am not yet persuaded that we should step on the economic accelerator. Despite the persistent problems, my sense is that the economy is in reasonably good health. The underlying conditions are good, and for the present the best policy may very well be to carefully monitor our economic progress, plan for possible downturns, but hope that, aside from addressing the needs of those lagging behind, no major corrective policy becomes necessary.

GROUNDWATER CONTAMINATION

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GEJDENSON. Mr. Speaker, on June 13, 1986, the Interior Committee held a hearing in Hartford, CT on legislation I have introduced, H.R. 3906, the National Groundwater Contamination Research Act. One of the best statements at the hearing was made by Ms. Jane Shea, a homeowner on Tripp Road in Ellington, CT, whose well was closed in 1984 because of contamination by the pesticide EDB. Ms. Shea aptly described the paralyzing consequences groundwater contamination had on her entire neighborhood—frustration, anxiety, dropping property values, and concern for the health of their children.

Fortunately, the groundwater contamination problem on Tripp Road in Ellington has a happy ending. The State of Connecticut supplied bottled water to the residents and then made a $500,000 grant to the town to extend the public water main to Tripp Road. Other residents of Connecticut and the rest of the country have not been as fortunate. Their contamination problem has not been solved and they continue to suffer the health risks, emotional stress, and financial losses caused by contamination of their wells.

In Congress we often lose sight of the real consequences of problems such as groundwater contamination. I recommend Ms. Shea's testimony to other Members of Congress so they can get a complete understanding of the severe impact groundwater contamination has had on communities across the Nation. We must take strong action now to prevent more groundwater contamination from occurring in the future.

TESTIMONY OF JANE SHEA OF ELLINGTON, CT

In my hometown of Manchester, New Hampshire we were blessed with the crystal clear waters of Masabesic Lake. It has been some 30 years since I moved to Connecticut, but I can stll remember that sweet, pure taste of our famous home town water.

I thought that luxury was forever lost until we built our new home in Ellington some 14 years ago. Our well on the property is deep and productive. It produces an unfailing supply of sparkling, great tasting water—always cool and always refreshing. I cannot tell you how often our visiting friends would comment on the wonderful taste of our water.

We aren't drinking that water any more—and we haven't had a drop of it to drink during the past two years. I had never heard of EDB until an article appeared in our local paper, it announced that several wells in the adjacent town of East Windsor had been found to contain unusually high levels of the pesticide called EDB. No great alarm was raised and no specific conclusions were drawn. The matter was under study it said—and as a precaution it was suggested that the owners of those homes refrain from using their well water.

In the weeks that followed, I read with growing concern of more findings of EDB in several other area wells—and then of similar findings in Ellington as well. By now EDB was becoming a popular topic of conversation and was regularly making the news. Large scale testing had been initiated and the water on our street was tested. The wells of nearly half of the homes were found to have traces of EDB and a dozen or so had readings exceeding the threshold level of one part per billion of EDB.

I am not really sure I understand the significance of this number—but I do know that I was upset to learn that our water fell slightly above the standards established by the State authorities. It bothered me to realize that our water might not be safe to drink—we had enjoyed it for so many years and it tasted no different now than it ever did. It was frightening to learn that this most essential substance had been made useless for one's use. I could not help but wonder what effect its use had brought upon myself and my loved ones.

My first reaction was one of surprise—then disbelief—then anxiety and perhaps anger—and suspicion—especially when the answers of those who have made these doomsday pronouncements are vague—uncertain—evasive—defensive—etc. Finally you reach the awareness that the overall effect of this threat—whether genuine or not—is that your neighborhood has lost its credibility as a desirable place to live.

In the two year period while we struggled with the problem not one house in the neighborhood was sold. Realtors shunned the area, banks would not place mortgages on the properties. It did not really matter whether your well was affected or not, the general attitude was that if you don't have EDB this year, who can say you won't have it six months down the road.

In reality the entire neighborhood was faced with the threat of economic catastrophe—as well as a life threatening health hazard. And as is most often the case, the threat of monetary loss helped the people focus on the urgency of the problem.

In our neighborhood petitions were circulated—all but one of the 35 property owners on our street requested that the authorities take action to extend public water into the area. In our case it was a feasible solution since we border an area where a public water main already was in place. Other homeowners in the town made similar requests and when the local officials became aware of the significance of the problem they performed their duties with gusto.

We had meetings and more meetings of every kind and description—informational meetings with State officials, with water company people, with the local authorities, with ourselves, and with anyone else who would listen. Gradually a policy emerged whereby the State agreed to supply bottled water to all affected homeowners until a feasible solution was found. Through the diligent followup and preparation of our local officials Ellington successfully obtained a State grant for the extension of the water line to a large portion of the areas of the town where EDB had been found. In other cases filtration systems were installed to relieve the problem. Many towns were not as fortunate in finding a solution to their problem—and controversy still lingers on the size and shape of the problem.

In Ellington our problem has been solved—the water line is in—houses are selling again—new dwellings are going up—the bottled water trucks no longer ply the street. But I cannot help but wonder if all of what we have been through is not just a mild forerunner of what the future holds.

Our town water is drinkable, at least by State standards it is, but in all honesty it does not have the taste, or clarity, or satisfying quality which came from our well. Recently, I saw an article which claimed that the risks involved with EDB are far less than those contained in the chemicals used to protect the public water systems.

The common comment used throughout the hearings and meetings on the subject brought the "tip of the iceberg theory". I agree with this theory and for the sake of all of us I support the legislation on ground water research.

MEDICARE TIMELY PAYMENT AMENDMENTS OF 1986

HON. WILLIS D. GRADISON, JR.
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GRADISON. Mr. Speaker, today I am introducing, along with my distinguished subcommittee chairman, Mr. STARK and several of my other distinguished colleagues, legislation to require timely payment of properly submitted Medicare claims and to retain the existing periodic-interim-payment [PIP] method of reimbursing providers of services. A similar bill is being introduced today in the other body by the chairman and ranking minority member of the Subcommittee on Health of the Committee on Finance.

Over the past few months the volume of complaints from my constituents as well as those of my colleagues has reached a point where this matter must be addressed through legislative action. The complaints are in reaction to a policy implemented for budget reduction purposes by the Health Care Financing Administration [HCFA] which would increase the length of time to make payment on Medicare claims. Historically, such payments have been made within 2 or 3 weeks. The most recent policy being pursued by the Administration would establish 30 days as the standard length of time for making payment on claims. I understand, however, that HCFA now may be revising its standard to 27 days.

The reality is, however, that the decision to delay payment has caused a serious backlog of claims, and by the end of the current fiscal year our largest Medicare contractor, the Blue Cross and Blue Shield Association, is projecting to have nearly 4 million claims pending over 30 days.

In hearings on April 22, 1986, before the Subcommittee on Health of the Committee on Ways and Means, we reviewed the issues related to Medicare claims payments. Quite frankly, I had hoped that as a result of that hearing the message would have gotten through to the Health Care Financing Administration that continuation of the delay in payment policy is an unacceptable way to gain budget savings. What's more, it is counterproductive to efforts to encourage greater participation by physicians in the Medicare Program, and causes a financial hardship on many of the beneficiaries who submit their claims directly to the Medicare carriers. Nearly 40 percent of all part B claims are submitted by individual beneficiaries.

Not only has the payment policy continued on what, I believe, is a misguided course, but in addition, the elimination of the Medicare periodic interim payment [PIP] has been proposed in regulations published by the Secretary on June 3, 1986.

Under PIP, a large proportion of our Nation's hospitals, skilled nursing facilities, and home health agencies are paid on a biweekly installment basis in anticipation of estimated future actual payments. PIP provides a predictable, steady stream of Medicare payments and helps to minimize provider cash flow problems. The elimination of PIP, when coupled with the imposition of payment delays by HCFA, will cause special hardship for some providers as well as further dissatisfaction and complaints about Medicare payment policies.

Although my proposal would retain the existing PIP Program, this is an area that may warrant some modification by the Ways and Means Committee in view of the other payment improvements proposed in the bill. Accordingly, if these improvements are made, it may be appropriate to restrict PIP to those providers which remain under cost-reimbursement payment rules, and to hospitals which serve a disproportionate share of Medicare beneficiaries. PIP may also be necessary to ease cash flow problems for some rural hospitals.

Mr. Speaker, in my view the budget savings to be gained by delaying payment are largely illusory. The amount of time that is consumed in dealing with beneficiary and provider inquiries, as well as sorting out duplicated claims in order to avoid overpayment, add costs that could be avoided if payments were made on a timely basis.

The cheapest way to pay a problem-free claim is to pay it on time, and not to play delaying games with providers and beneficiaries.

The bill I am introducing today would be a major step toward bringing some order to the turmoil created by recent and proposed changes in claims payment procedures.

In addition to maintaining the existing PIP Program, the bill would require interest to be paid on problem-free claims if payment is not made on or before the 22d day after receipt by the Medicare intermediary or carrier. Within the same 22-day period, the intermediary or carrier would be required to notify the submitter of the claim of any defect or impropriety in the claim or any circumstance that prevents timely payment. Failure to provide such notification would cause interest to be paid on the amount of the claim approved by the Medicare Program. The interest would be calculated, beginning with "day 23," until the date payment is made for a notice is provided, whichever is earlier.

Under the bill, the source of funds for the interest payments, if such payments are triggered, would come from the amounts made available for the administrative costs of the Health Care Financing Administration.

I hope that it would not be necessary to spend any funds on interest payments. The objective here is not to pay interest. The objective is to either make timely payments, or inform beneficiaries, physicians, and other providers of services that there are problems with their claims and to let them know what they need to do to make corrections.

Mr. Speaker, in view of the wide-spread concern of Members over this matter, I would be grateful if the text of the bill could appear in the RECORD following my remarks. I welcome the cosponsorship of this legislation by my colleagues.

H.R. —

A bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted medicare claims and to retain the existing periodic-interim-payment method of reimbursing providers of services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Timely Payment Amendments of 1986".

SEC. 2. PROMPT PAYMENT BY INTERMEDIARIES UNDER PART A.

Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

"(2)(A) Each agreement under this section shall provide that, in cases of claims for which payment is not made on a periodic interim payment basis under section 1815(a)—

"(i) if payment is not made on or before the 22nd calendar day after the date on which a clean claim is received, interest on the claim shall be paid at the rate used for purposes of section 2902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made;

"(ii) within 22 calendar days after the date a claim for payment under this part is received, the agency or organization shall notify the entity submitting the claim of any defect of impropriety in the claim (including the lack of any required substantiating documentation) or circumstance requiring special treatment that prevents the claim from being treated as a clean claim and prevents timely payment from being made;

"(iii) if notice required under clause (ii) is not provided on a timely basis with respect to a claim and payment is subsequently made on the claim, interest on the amount determined to be payable shall be made (at the rate described in clause (i)) for the period beginning on the day after the required notice date and ending on the date on which payment is made or the date the notice is provided, whichever date is earlier; and

"(iv) the agency or organization will be reimbursed under the agreement for the amount of interest paid under this subparagraph from amounts made available for Federal administrative costs to carry out this part.

"(B) In this paragraph, the term 'clean claim' means a claim which meets the requirements of section 1814(a)(1) and any other requirements of this title for payment under this part.".

SEC. 3. PROMPT PAYMENT BY CARRIERS UNDER PART B.

Section 1842(c) of the Social Security Act (42 U.S.C. 1395u(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

"(2)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide, in the case of claims for which payment is not made on a periodic interim payment basis described in section 1815(a)—

"(i) if payment is not made on or before the 22nd calendar day after the date on which a clean claim is received, interest on the claim shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payment) for the period beginning on the day after the required payment date and ending on the date on which payment is made;

"(ii) within 22 calendar days after the date a claim for payment under this part is received, the carrier shall notify the entity

submitting the claim of any defect or impropriety in the claim (including the lack of any required substantiating documentation) or circumstance requiring special treatment that prevents the claim from being treated as a clean claim and prevents timely payment from being made;

"(iii) if notice required under clause (ii) is not provided on a timely basis with respect to a claim and payment is subsequently made on the claim, interest on the amount determined to be payable shall be made (at the rate described in clause (i)) for the period beginning on the day after the required notice date and ending on the date on which payment is made or the date the notice is provided, whichever date is earlier; and

"(iv) the carrier will be reimbursed under the contract for the amount of interest paid under this subparagraph from amounts made available from Federal administrative costs to carry out this part.

"(B) In this paragraph, the term 'clean claim' means a claim which meets the requirements of this title for payment under this part.".

SEC. 4. RETAINING EXISTING PERIODIC-INTERIM-PAYMENT (PIP) REGULATIONS.

The Secretary of Health and Human Services may not repeal or otherwise modify the regulations in effect, as of June 1, 1986, under title 42, Code of Federal Regulations, section 405.454(j) (relating to the periodic interim payment method of reimbursement for providers of services).

SEC. 5. EFFECTIVE DATE.

(a) PROMPT PAYMENT.—The amendments made to sections 2 and 3 shall apply to claims received on or after September 1, 1986.

(b) PIP.—Section 4 takes effect on June 1, 1986.

(c) REVISION OF INTERMEDIARY AGREEMENTS, CARRIER CONTRACTS, AND REGULATIONS.—The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this Act on a timely basis.

MINERSVILLE MINERS WIN STATE SOFTBALL CHAMPIONSHIP

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. YATRON. Mr. Speaker, I rise today to pay special tribute to the Minersville, PA, high school girl's softball team. On June 13, 1986, the "Big Blue Machine" captured the PIAA class AA State softball championship with a 7-to-1 victory over Northwestern.

The "Big Blue Machine" led by Coach Ken Schneck, are building a dynasty in class AA softball. In 10 years, they have won three State, five district, and six league titles. This year's win was particularly gratifying for the "Miners," who finished the season with a 25-to-2 record. In the championship game, they were led by Rachel Ryan's three-hit pitching performance and Denise Stephen's six-RBI day at the plate. Combined with the steller performances of the rest of the squad, the "Big Blue Machine" had all the ingredients for an impressive victory. With eight starters returning next year, I am certain that we can expect further victories from the Miners. I know that my colleagues will join me in congratulating Coach Schneck and the entire team on this outstanding achievement.

PHILIP VIALL: 1986 RECIPIENT OF THE AMERICAN INSTITUTE FOR PUBLIC SERVICE JEFFERSON AWARD

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. STUDDS. Mr. Speaker, I rise today to congratulate Philip Viall of New Bedford, MA, on being named by the American Institute for Public Service as a 1986 recipient of the distinguished Jefferson Award for Outstanding Public Service Benefitting Local Communities. The American Institute for Public Service and the Jefferson Awards were founded in 1972 to honor achievements in the field of public service in the United States. Over the years, the American Institute has recognized the dedication, sacrifice and accomplishments of dozens of American men and women. Mr. Viall is indeed a worthy recipient of this honor, having been nominated for developing and producing communications systems for severely disabled, nonvocal individuals.

Prof. Philip Viall has devoted the past 5 years of his life to providing innovative, state-of-the-art electronic communications apparatus to severely disabled, nonvocal individuals to enable them to communicate independently, some for the first time in their lives. He has volunteered his time and his professional engineering skills to the SHARE Foundation at Southeastern Massachusetts University, a nonprofit agency which he helped establish. SHARE, Society for Human Advancement through Rehabilitation Engineering, has provided custom-fabricated computerized communications systems to more than 30 profoundly disabled individuals in southern New England. Professor Viall was the man behind each system; he designed it, built it and saw that the system did what it was designed to do.

Professor Viall has touched the lives of countless individuals and by his efforts, he has significantly improved the quality of life for many people. His work with the profoundly disabled began in 1981, when with the aid of another faculty member, he devised a system to enable a 24-year-old, severely disabled, nonvocal woman to speak via a computer assisted electronic speech synthesizer. She had never before been able to speak or to make any meaningful sounds or gestures. Today she is on her way to earning a high school diploma, something which would be impossible were it not for the complex communications system which enables her to speak and write by only moving her head.

He has since designed and built systems for many children and adult nonspeaking victims of cerebral palsy. In addition, he has provided communication devices for victims of amyotrophic lateral sclerosis. These individuals can use equipment that is controlled by raising and lowering an eyebrow. For a stroke victim who does not even possess that ability, Professor Viall is now working on an eye blink controlled talking computer. Every system is different because every system recipient is different.

Not only has he labored nights, weekends and holidays without compensation, he has put money of his own into the program when fundraising efforts failed on occasion to yield enough to purchase the necessary parts and equipment.

Mr. Speaker, for his exemplary leadership and hard work in behalf of handicapped individuals, Philip Viall deserves our warm congratulations.

A TRIBUTE TO NIKOLA TESLA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GEKAS. Mr. Speaker, few people know of one of our Nation's most important scientists, Nikola Tesla. A much honored and highly respected member of the scientific community, Nikola Tesla is rarely known by the average citizen but his accomplishments are used everyday in business and industry.

Nikola Tesla began life in Serbia and immigrated to the United States in the early years of his life. He spent his working life in laboratories across the Nation, from Colorado to New York City, experimenting with electrical currents. Among his many significant accomplishments is the discovery of the practical applications of alternating currents, a landmark discovery for high voltage technology, the invention of the polyphase electric motor, the bladeless steam engine and radio guided torpedos.

His accomplishments have been recognized by prestigious institutions throughout the world including Yale, Columbia, The High Technical School of Vienna, Universities of Belgrade and Zagreb, the American Association for the Advancement of Science, American Electro-Therapeutic Association, and the American Institute of Electrical Engineers.

During his lifetime, Nikola Tesla has proven to be not only an exceptional scientist but an exceptional American. Without his accomplishments our Nation and the world would be lacking so much of the technology that has allowed us to advance into our modern society.

TITAN MISSILE MUSEUM DEDICATION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. KOLBE. Mr. Speaker, not many days ago a unique event occurred in my district. It was the dedication of the Titan II Missile Museum, in the Fifth District of Arizona. This is the first and only ICBM complex in the

world that is open to the public. The complex contains a Titan II missile housed in an actual missile silo. The Titan II Missile Museum is a tribute both to the pioneers of flight and space technology and to those dedicated men and women in the Air Force who have contributed to the national security of our country.

Originally deployed in 1963, the Titan II, the first missile to be based in underground silos, is a two stage, liquid-fuel rocket, 103 feet long and 10 feet wide. It is the largest and most powerful intercontinental ballistic missile [ICBM] ever to be in the U.S. inventory. The Titan has a range of more than 5,000 miles, depending on the payload, and its nuclear warhead may carry an estimated yield of the equivalent of 9 million tons of TNT. The service life of this missile was planned for just 10 years but nearly a quarter of a century later, the Titan is still on alert.

Site 571-7 in Green Valley is one of 54 ICBM sites being deactivated as a result of President Reagan's Strategic Modernization Program. Deactivation of the Titan began in 1982 and will continue until the last of the missiles is deactivated in 1987. The silos which remain are dismantled in compliance with the SALT I agreement and the silo cap at the Titan II Museum was built in a way that complies with the agreement.

After the missiles are deactivated they are turned over to the Aerospace Maintenance and Regeneration Center at Davis Monthan AFB, AZ. They are then processed and stored at Norton AFB, CA. These stored missiles are then available for future use in our Space Program.

The Titan II Missile Museum is the product of the persistent efforts of the Tucson Air Museum Foundation of Pima County and the Green Valley Chapter of the Air Force Association. For 3 long years, these organizations confronted a maze of bureaucratic obstacles, not the least of which were posed by the Soviet Union. For example, at one time, work was delayed while the Soviets took satellite photos of the complex to insure it was inoperable, in accordance with the SALT I agreements. The advocates of the Titan Missile Museum are to be commended for their perseverance in establishing this historic tribute despite the many difficulties they encountered.

I want to extend a cordial invitation to my colleagues and their constituents to visit this monument near Green Valley, AZ.

BEVIN POWER RECEIVES LEADERSHIP AND ACADEMIC RECOGNITION FROM VIRGINIA EDUCATION SYSTEM

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LOWRY of Washington. Mr. Speaker, I am a firm believer that we in Congress should always take the time to acknowledge the achievements our Nations' young people whenever and wherever they occur. I am proud to share with my colleages the information that on June 12, 1986, Bevin Power, the daughter of our friend Jay Power of the AFL-CIO Legislative Department, received the Student Council Association Leadership Award from the Hutchison Elementary School in Herndon, VA.

This annual award, chosen by the school faculty and principal, is given to the one student they believe embodies the all-around academic, personal, and leadership qualities necessary for both personal achievement and consistently positive interaction with the entire student body.

Bevin, who will be moving on to junior high school in the fall, attends Hutchison with some 900 fellow students. I further understand that she is the first young woman in the school's history to receive the most outstanding student honor.

To all those who know Bevin, the announcement of this award does not really come as a surprise. Bevin's many fine qualities are self-evident. She has been active in the school chorus and named to the All-Fairfax County Chorus. Bevin has played the female lead in two theatrical productions at Hutchison, as well as working in impromptu talent shows and as an announcer for official school events.

There is no doubt that her classmates, her mother, her relatives in the Power and Picket families have a right to be quite proud. Bevin has a poise, presence and maturity beyond her years. I congratulate her on her achievement, and I know it is the first of many more to come.

THE OPENING OF WEST SANDS HOSPITAL

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. SMITH of Florida. Mr. Speaker, I am pleased to announce the opening of West Sands Hospital, located in Miami, FL. The dedication ceremony will be on Thursday, June 26, with the hospital scheduled to open in mid-July. This 88-bed psychiatric center in West Dade County promises to offer the finest of care for both youths and adults. West Sands will be more than a hospital: it will be an adroitly structured community catering to the needs of individual patients.

West Sands will provide patients with a well-skilled and energetic treatment team of psychologists, social workers, psychiatric nurses counselors, teachers, and other mental health specialists—all under the careful supervision of the attending psychiatrist. Treatment at this facility will be provided in distinct areas so that those patients with unique needs may be treated without interfering with the therapeutic process of others.

In addition, West Sands is designed to assist patients in developing a sense of self-esteem and self-purpose and to encourage them in building a promising future for themselves. It is encouraging to learn of the opening of a new hospital whose personnel are eager to meet the often trying yet fulfilling challenge of reintegrating people into the community.

West Sands Hospital is a welcomed addition to the Miami community. I congratulate administrator Mr. Rea A. Oliver on the opening of West Sands and wish him and his staff the best of luck.

SALUTE TO THE COAST GUARD AUXILIARY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. DINGELL. Mr. Speaker, Michigan Gov. James Blanchard is issuing a proclamation declaring June 21, 1986 Coast Guard Auxiliary Day—1986 in the State of Michigan. I am honored to join the Governor in recognizing the commendable efforts of the Coast Guard Auxiliary to promote boating safety.

Since its founding by Congress in 1939 as an all-volunteer civilian component of the U.S. Coast Guard, the Coast Guard Auxiliary has provided voluntary assistance worth millions of dollars, and saved thousands of lives for the recreational boaters of the United States, all at little or no cost to the taxpayers. In 1982 alone, Auxiliary search and rescue efforts saved 1,122 lives and a quarter of a billion dollars worth of property. Auxiliary members willingly donate their time, boats, boating equipment, and years of expertise.

In addition to providing search and rescue services and safety and regatta patrols to aid boaters, the Auxiliary is heavily involved in providing instruction to the public, offering a course covering: safe boating principles, the legal responsibilities of the operator, boaters' language and trailering, boat handling, rules of the road, aids to navigation, piloting, marine engines, marlinspike seamanship, sailing, weather and radiotelephone. Advanced courses in navigation, meteorology, marine engines, communications and rescue operations are also available. Another invaluable service is the Courtesy Marine Examination, a free check of boats' equipment covering Federal and State safety related requirements plus additional standards recommended by the Auxiliary. This service encourages boaters to carry more safety equipment and meet higher safety standards than merely those required by State and Federal boating regulations. Boats passing the Courtesy Marine Examination receive the Auxiliary's decal, known as the "seal of safety."

It gives me great pleasure to salute and raise public awareness about the Coast Guard Auxiliary. The Auxiliary's strong commitment to promoting public safety and its selfless dedication to serving others both follow in the great traditions of our country. I am proud to see citizens so willing to help others without great fanfare. Indeed, the Coast Guard Auxiliary deserves the public's wholehearted support.

COOPERATION IS BETTER THAN CONFRONTATION

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. DE LA GARZA. Mr. Speaker, a unique thing has recently occurred in the agriculture business sector and I would like to share it with my colleagues.

In 1979 the Campbell Soup Co. found itself the victim of a boycott against its products by the Farm Labor Organizing Committee. The FLOC tried to maintain that vegetable growers who were under contract to Campbell's were not the real employers of farmworkers who picked the vegetables—that is was Campbell's Soup Co. who should be considered the employer of the farmworkers because Campbell's was purchasing the vegetables from the growers.

A commission headed by former Labor Secretary John Dunlop and organized by the National Council of Churches disagreed. The Dunlop Commission said that even though the amount of money paid by Campbell's to the growers would in turn be a determining factor in the farmworkers' pay levels—this still does not make Campbell's an employer of the farmworkers.

The commission worked out a multi-year labor contract between the growers and the farmworkers, and in a show of good will, the Campbell Soup Co. signed the documents as an interested third party.

It was not incumbent on Campbell's to enter this dispute between farmworkers and growers—but it did so out of a feeling that cooperation is better than confrontation. Campbell's third party efforts are to be commended and to all our friends at the company we applaud your actions.